

**SEPTEMBER 15, 2015 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 3**

ITEM # 038

PURPOSE

To consider amending the stipulations for Joy Onaiwu regarding rezoning application Z-55 (Green Park PCH, Inc.) of 2015, for property located on the west side of Canton Road, south of Shallowford Road in Land Lot 132 of the 16th District.

BACKGROUND

The subject property was rezoned to Neighborhood Retail Commercial (NRC) in 2015 for a personal care home. One of the zoning stipulations limited the use of the property for the zoning applicant only (Green Park PCH, Inc.), or the property would revert to the previous zoning districts. The original zoning applicant has not purchased the property, and another personal care home would like to purchase the property for the same exact use, with the same zoning conditions, except the condition (condition #5) that limits the user from the letter of stipulations. The applicant would like to substitute their name in condition #5 and move forward with the project. If approved, all previous zoning conditions would remain in effect.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed stipulation amendment.

ATTACHMENTS

Other Business application and stipulations.

OB-038-2015

Application for "Other Business" Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2035)

BOC Hearing Date Requested: Sept. 15, 2015

Applicant: Isoken "Joy" Onaiwu Phone #: 770-712-4903
(applicant's name printed)

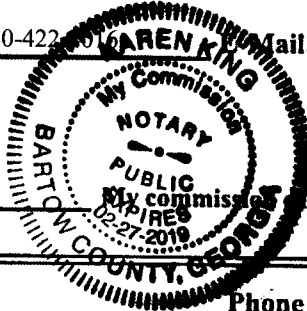
Address: 567 Delphinium Blvd., Acworth, GA 30102 E-Mail: woghis@aol.com
SAMS, LARKIN, HUFF & BALLI, LLP

by: Garvis L. Sams, Jr. Address: 376 Powder Springs Street, Ste. 100, Marietta, GA 30064
(representative's name printed)

[Signature] Phone #: 770-422-0000 E-Mail: gsams@slhb-law.com
(representative's signature)

Signed, sealed and delivered in presence of:

Karen L. King My commission expires: Feb. 27, 2019
Notary Public



Titleholder(s): Bighorn Properties LLC Phone #: 678-313-4025
(property owner's name printed)

Address: 4561 Canton Road, Canton, GA 30066 E-Mail: dmode@jhpc.com

See attached
(Property owner's signature)

Signed, sealed and delivered in presence of:

Notary Public My commission expires: _____

Commission District: 3 **Zoning Case:** Z-55 of 2015

Date of Zoning Decision: June 16, 2015 **Original Date of Hearing:** June 16, 2015

Location: Western side of Canton Road, north of Fowler Drive.
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 132 **District(s):** 16th, 2nd Section

State specifically the need or reason(s) for Other Business: Modification of stipulation number 5 of the May 13, 2015 stipulation letter.

(List or attach additional information if needed)

*Applicant specifically reserves the right to amend any information set forth in this Other Business Application, or any other portion of the Application at any time during the Other Business Process.

ATTACHMENT TO APPLICATION FOR OTHER BUSINESS

Application No.: OB- 038
BOC Hearing Date: Sept. 15, 2015

Applicant: ISOKEN "JOY" ONAIWU

Titleholder: Bighorn Properties LLC

PIN#: 16013200300

PROPERTY OWNER'S CERTIFICATION

The undersigned(s) below, or as attached, is the owner of the property considered in this application.

David Mode 7/31/15
Signature of Owner Date

David Mode

Address: 4561 Canton Road
MARIETTA, GA 30066

Telephone No.: (678) 713-4025

[Signature] 7/31/2015
Signature of Notary Public Date

(Notary Seal)

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
JUNE 16, 2015
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CONSENT AGENDA (CONT.)

~~Z-52~~ **VRE MABLETON, LLC** (4730 Floyd Road, LLC, and Betty James Barnes, owners) requesting Rezoning from **R-20** to **NRC** for the purpose of a Restaurant in Land Lot 31 of the 17th District. Located at the northwest corner of Floyd Road and White Boulevard.

To approve ~~Z-52~~ to the **NRC** zoning category, subject to:

- Site plan received by the Zoning Division on May 14, 2015, with District Commissioner approving minor modifications (attached and made a part of these minutes)
- Letters of agreeable conditions from Mr. Garvis L. Sams, Jr. dated May 14, 2015 and May 26, 2015 (attached and made a part of these minutes), with the following change to the May 14, 2015 letter:
 - Item No. 7, first sentence – strike: “wooden”
- Fire Department comments and recommendations
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations

Z-55 **GREEN PARK PCH, INCORPORATED** (Bighom Properties, LLC, owner) requesting Rezoning from **LI** and **GC** to **NRC** for the purpose of Assisted Living in Land Lot 132 of the 16th District. Located on the west side of Canton Road, south of Shallowford Road.

To approve Z-55 to the **NRC** zoning category, subject to:

- Site plan received by the Zoning Division on April 2, 2015, with District Commissioner approving minor modifications (attached and made a part of these minutes)
- Letter of agreeable conditions from Mr. Garvis L. Sams, Jr. dated May 13, 2015 (attached and made a part of these minutes)
- Fire Department comments and recommendations
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations

~~Due to opposition present, Z-62 (E-Rock Development) was pulled from the Consent Agenda, see page 8 of these minutes. Later in the hearing, it was determined that the opposition raised hand in error.~~

FRONTLINE SURVEYING & MAPPING, INC.
 3595 Canton Road, Box 518, 272, Warrenton, CA 90066
 TELEPHONE: (878) 355-9505 FAX: (878) 355-9805

FRONTLINE

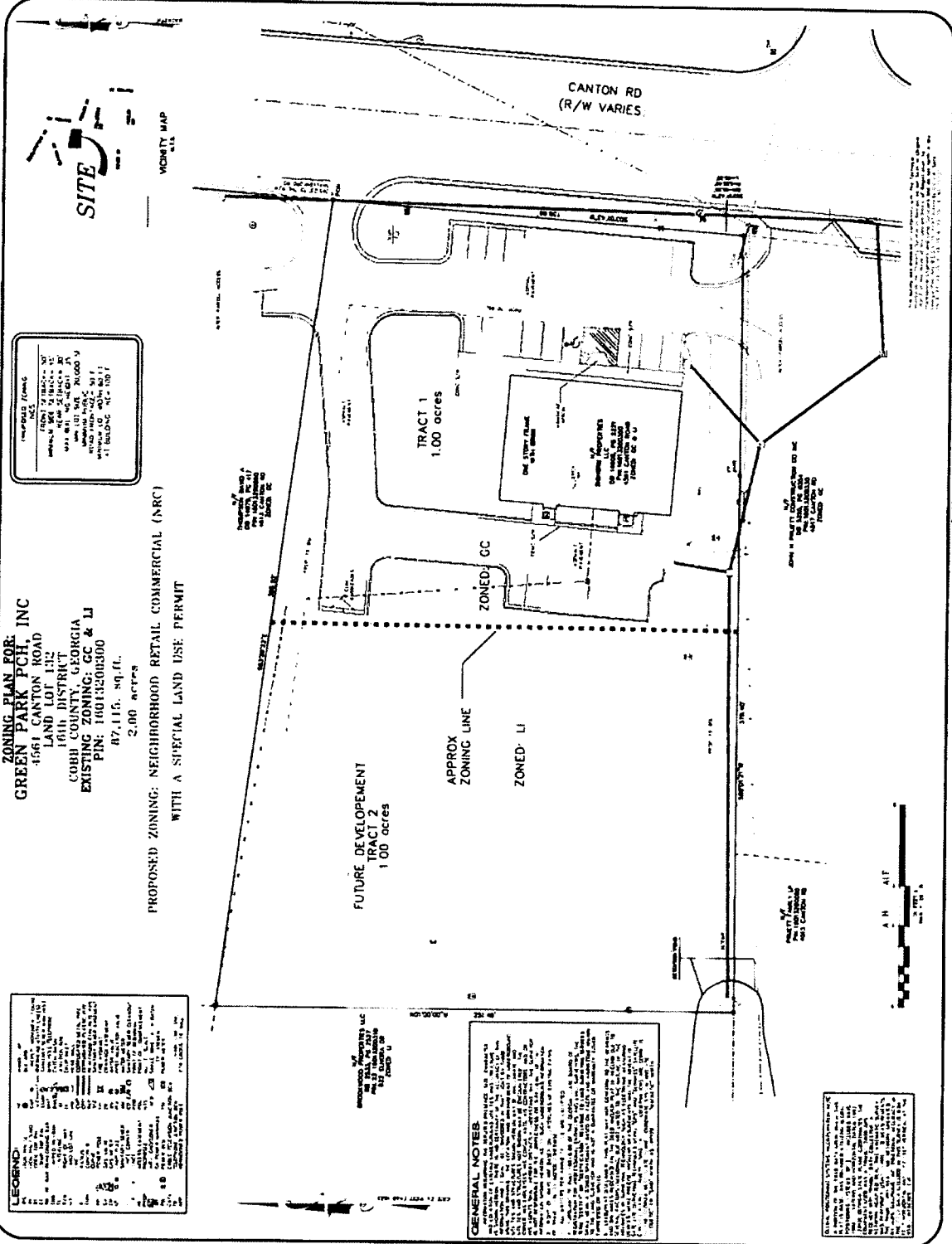
GREEN PARK PCH, INC.
 03-21/15
 1 - 25

DATE: 03-21/15
 SCALE: 1" = 25'

PROJECT: GREEN PARK PCH, INC.

DATE: 03-21/15
 SCALE: 1" = 25'

PROJECT: GREEN PARK PCH, INC.



ZONING PLAN FOR:
GREEN PARK PCH, INC.
 4561 CANTON ROAD
 LAND LOT 132
 16111 DISTRICT
 COBB COUNTY, GEORGIA
 EXISTING ZONING: CC & LI
 PIN: 16013500300
 87,115 sq.ft.
 2.00 acres

PROPOSED ZONING: NEIGHBORHOOD RETAIL COMMERCIAL (NRC)
 WITH A SPECIAL LAND USE PERMIT

Min. Bk. 76 Petition No. Z-SS
 Doc. Type site plan
 Meeting Date 6-16-15

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.

JOEL L. LARKIN

PARKS F. HUFF

JAMES A. BALLI

ADAM J. ROZEN

SUITE 100

376 POWDER SPRINGS STREET

MARIETTA, GEORGIA 30064-3448

770-422-7016

TELEPHONE

770-426-6583

FACSIMILE

WWW.SLHB-LAW.COM

May 13, 2015

VIA EMAIL

Min. Bk. 76 Petition No. Z-55
Doc. Type letter

Meeting Date 6-16-15

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
1150 Powder Springs Road, Suite 400
Marietta, GA 30064

Re: Application of Green Park PCH, Incorporated to Rezone a 2 Acre Tract from
LI & GC to NRC (No. Z-55)

Dear John:

You will recall that this firm has been engaged by and represents Green Park PCH, Incorporated ("Green Park") concerning the above-captioned Application for Rezoning. The Application is scheduled to be heard and considered by the Cobb County Planning Commission on June 2, 2015 and, thereafter, the Application is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on June 16, 2015.

During the pendency of this Application, we have had an opportunity to interface with the County's professional staff with whom we have established a meaningful dialogue. Additionally, we have been in preliminary contact with representatives of Canton Road Neighbors, Inc. ("CRN"), business owners along this section of the Canton Road Corridor and others. In that regard, this letter will serve as Green Park's expression of agreement with the following stipulations which shall become conditions and a part of the grant of the requested rezoning and which shall be binding upon the subject property thereafter. The referenced stipulations/conditions are as follows, to-wit:

1. The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned Application for Rezoning.
2. Rezoning of the subject property shall be in substantial conformity to that certain Site Plan prepared for Green Park by Frontline Surveying & Mapping, Inc., which was filed contemporaneously with the Application for Rezoning.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA EMAIL

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3. The proposal to rezone the subject property to Neighborhood Retail Commercial ("NRC") is to allow for the utilization of the subject property and the building thereon for the purposes of a Personal Care Facility with an Assisted Living component.¹
4. The architectural style and composition of the building shall remain as-built; however, there will be some interior modifications to the building to accommodate the planned use.
5. In the event that the purchaser (Green Park) has not closed on the subject property subsequent to the rezoning of same to NRC, the subject property shall revert to its present zoning classifications of LI & GC without any action being necessary on the part of the owner/seller of the subject property.²
6. The existing building located on the subject property is approximately 5,124 square feet in size which will accommodate a personal care facility which will consolidate Green Park's operations and provide a more efficient facility with the culmination of Green Park's operations within one (1) building.

The facility will specialize in the personal care of its residents which will typically include approximately sixteen (16) residents at any one time who will be monitored and attended by three (3) staff members. The facility's proposed hours of operation shall be continuous, that is, 24 hours per day, 7 days per week.³

¹ This proposal constitutes a "down-zoning" of the subject property from LI & GC to NRC and brings the subject property into compliance with its positioning on the Future Land Use Map as being a part of a Neighborhood Activity Center ("NAC").

² This stipulation/condition is a part of Green Park's contractual obligations pursuant to the purchase and sale agreement between the owner and Green Park.

³ The projected opening date of the facility is September 1, 2015 with future expansions planned on the contiguous and undeveloped portion of the property.

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VIA EMAIL

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7. Compliance with the following recommendations from the Cobb County Department of Transportation:
 - a. The voluntary donation and conveyance of right-of-way along Canton Road so that the County can achieve fifty feet (50') from the centerline of said right-of-way.
 - b. The installation of sidewalk, curb and gutter along the subject property's frontage on Canton Road.
 - c. DOT has requested the installation of a deceleration lane and an appropriate taper upon an expansion of or an addition to the proposed personal care facility. However, upon visual inspection of the subject property, there already exists a deceleration lane and taper adjacent to the subject property's point of ingress/egress on Canton Road which also serves the property which is contiguous and to the east of the subject property.
8. Compliance with recommendations from the Stormwater Management Division with respect to detention, hydrology and downstream considerations.⁴
9. A Landscape Plan shall be submitted to the Community Development Agency during the Plan Review Process subject to review and approval by the County's Arborist.
10. Exterior lighting shall remain as-constructed; however, any additional lighting or security lighting shall be environmentally sensitive in order to prevent illumination from extending beyond the boundaries of the subject property.
11. Signage for the proposed personal care facility shall consist of ground-based, monument style signage which shall be consistent with the existing as-built architectural theme. There shall be no flashing sign components and no exterior illumination by remote flood lighting.

⁴ Presently, there is an off-site, large detention pond which was designed for the subject property as well as adjacent properties which can handle stormwater management with respect to the totality of the subject property in terms of configuration and capacity.

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VIA EMAIL

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12. Compliance with recommendations from the Cobb County Water System with respect to the availability and acquisition of water and sewer to service the subject property.
13. Compliance with recommendations from the Cobb County Fire Department with respect to Life-Safety and Fire Prevention issues.
14. The District Commissioner shall have the authority to approve minor modifications as the development proposal proceeds through the Plan Review process and thereafter except for those that:
 - a. Reduce the size of an approved buffer adjacent to property that is zoned the same or in a more restrictive zoning district.
 - b. Relocate a structure closer to the property line of an adjacent property that is zoned the same or in a more restrictive zoning district.
 - c. Increase the height of a building that is adjacent to property that is zoned in the same or more restrictive zoning district.
 - d. Violate the Cobb County Zoning Ordinance.
 - e. Change access locations to different roadways.
 - f. Would be in direct conflict with, or direct contradiction to, Cobb County regulations or any of the foregoing stipulations.

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VIA EMAIL

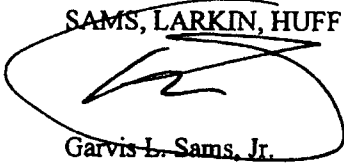
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Please do not hesitate to contact me should you or your staff require any additional information or documentation prior to the formulation of your final Zoning Analysis and Staff Recommendations. With kind regards, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



Garvis L. Sams, Jr.
gsams@slhb-law.com

GLS/klk

cc: Members, Cobb County Board of Commissioners (via email)
Members, Cobb County Planning Commission (via email)
Mr. Robert L. Hosack, Jr., AICP, Director (via email)
Mr. Dana Johnson, AICP, Deputy Director (via email)
Mr. Jason Campbell, Planner III (via email)
Mr. Terry Martin, Planner II (via email)
Ms. Kim Wakefield, Zoning Analyst (via email)
Mr. David Breaden, P.E., Cobb County Stormwater Management (via email)
Ms. Jane Stricklin, P.E., Cobb County DOT (via email)
Mr. Tim Davidson, Cobb County Water System (via email)
Ms. Charlotte A. Collins, Chairman's Assistant (via email)
Ms. Lori Barton, Deputy County Clerk (via email)
Ms. Carol Brown, Canton Road Neighbors (via email)
Ms. Kate Emefiele (via email)
Mr. Tom Peay, P.E. (via email)