

Application for "Other Business"

Cobb County, Georgia

OB-034-296

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

BOC Hearing Date Requested: 6-21-16

Applicant: HOWIE EWE Phone #: _____
(applicant's name printed)

Address: 1328 Apple Orchard Ln. Snellville GA 30078 E-Mail: howie@sweethut.com.

HOWIE EWE Address: 1328 Apple Orchard Ln Snellville, GA 30078
(representative's name, printed)

[Signature] Phone #: 404-421-8533 E-Mail: howie@sweethut.com.
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature] commission expires: 11/13/19
Notary Public



Titleholder(s): HOWIE EWE Phone #: 404-421-8533
(property owner's name printed)

Address: 1328, Apple Orchard Ln, Snellville, GA E-Mail: howie@sweethut.com.

[Signature]
(Property owner's signature)

Signed, sealed and delivered in presence of:

[Signature] commission expires: 11/13/19
Notary Public



Commission District: 3 Zoning Case: 2169 2003

Size of property in acres: 1.23 acres Original Date of Hearing: 11-18-03

Location: 101 Townvillage Blvd.
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 571, 572, 582 District(s): 16

State specifically the need or reason(s) for Other Business: amend zoning condition.

ORIGINAL DATE OF APPLICATION: 11-18-03APPLICANTS NAME: BRIGHT-MEYERS 2001, LLC

THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS

BOC DECISION OF 11-18-03 ZONING HEARING:

BRIGHT-MEYERS 2001, LLC (David L. Varner, et al., owners) for Rezoning from **GC, OS** and **R-20** to **CRC** for the purpose of Retail in Land Lots 571, 572 and 582 of the 16th District. Located on the west side of Chastain Meadows Parkway, north of Barrett Parkway.

The public hearing was opened and Mr. John Moore, Mr. Matt Sasser, Mr. Bill Klein, Ms. Gail Burgess, Ms. Hilda Towery, Mr. Norm DeWalt, Mr. Craig Harfoot and Mr. Jim Croy addressed the Board. During presentation, Mr. Matt Sasser, Applicant's representative, orally agreed that Bright-Meyers 2001, LLC, would join the Town Center CID and would also encourage Wal-Mart to join. Following presentations and discussion, the following motion was made:

MOTION: Motion by Lee, second by W. Thompson, to **approve** rezoning to the **CRC** zoning district **subject to:**

- **site plan dated September 3, 2003, with any modifications to site layout to be approved by the Board of Commissioners (copy attached and made a part of these minutes)**
- **renderings of architecture for retail center and signage (copies attached and made a part of these minutes)**
- **letter of agreeable stipulations from Mr. John Moore dated November 14, 2003, which includes landscape plan depicting approximately 1000 trees planted on the property (copy attached and made a part of these minutes)**
- **no permits to be issued until documented proof of Applicant's closing the purchase of the existing Town Center Wal-Mart facility is provided to the Zoning Division Manager**
- **oil/water separation system to capture water runoff from the gas station area to be approved by the Stormwater Management Division prior to issuance of permits for the facility**
- **in the event the gas station facility should cease operation, the owner/applicant shall remove the gas storage tanks and restore the property**
- **Applicant/Developer to work with Stormwater Management staff relevant to stormwater remediation for detention ponds and development of Chastain Meadows flood control structure and impoundment**
- **Applicant/Developer to move excess dirt from this site to a location to the north of the property to be used for development of Chastain Meadows flood control structure and impoundment**

Z-169 Continued on next page

ORIGINAL DATE OF APPLICATION: 11-18-03

APPLICANTS NAME: BRIGHT-MEYERS 2001, LLC

THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS

BOC DECISION OF 11-18-03 ZONING HEARING (Continued):

- Applicant/Developer to participate in the Adopt-A-Mile program and provide equitable funding for the proposed Noonday Trail Project
- Level I Archeological Study to be conducted on the site
- Historic Preservation comments and recommendations
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations

VOTE: **ADOPTED** 3-2, Goreham and J. Thompson opposed

Clerk's Note: Staff was directed to review criteria for Regional Activity Center (RAC) and Community Activity Center (CAC) for possible Code Amendment based on ratio of floor area to acreage or other options. Staff was further directed to prepare a text amendment for upcoming Future Land Use Plan amendments relevant to the intensity of future zonings in the Chastain Meadow/Big Shanty/Chastain Road area.

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RELAND OF KANAWHA, INC.
 1000 WEST 10TH STREET
 SUITE 200
 KANSAS CITY, MISSOURI 64108
 TEL: 816.452.1000
 FAX: 816.452.1001

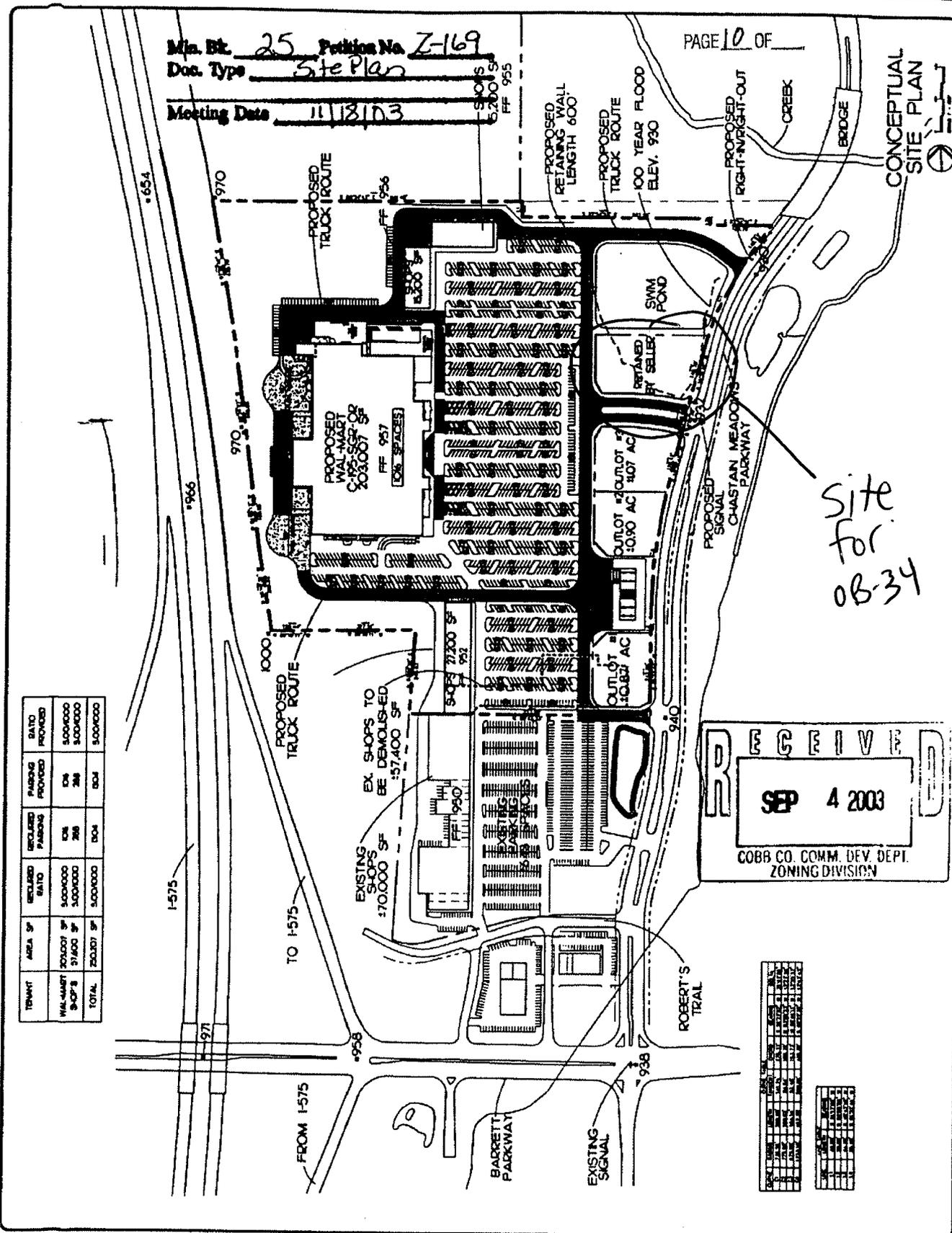
WAL-MART STORE #937 RELOCATION
 KENNESAW, GEORGIA
 1000 WEST 10TH STREET
 SUITE 200
 KANSAS CITY, MISSOURI 64108
 TEL: 816.452.1000
 FAX: 816.452.1001

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Min. Bt. 25 Petition No. Z-169
 Doc. Type Site Plan
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CONCEPTUAL
 SITE PLAN



Site for
 08-34

TENANT	AREA SF	EXISTING BLDG	EXISTING PARKING	SPACES PROVIDED	DATE PROVIDED
WAL-MART	20,000 SF	500,000	126	126	8/06/00
S-C-P'S	31,600 SF	500,000	286	286	8/06/00
TOTAL	51,600 SF	1,000,000	412	412	8/06/00

RECEIVED
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 COBB CO. COMM. DEV. DEPT.
 ZONING DIVISION

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MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP

JOHN H. MOORE
 STEPHEN C. STEELE
 WILLIAM F. JOHNSON
 ROBERT D. INGRAM
 J. BRIAN O'NEIL
 G. PHILLIP REGGS
 ELDON L. BISHAM
 MATTHEW J. HOWARD
 JERE C. SMITH
 CLAYTON O. CARMACK
 KEVIN B. CALLOCK
 ALEXANDER I. GALLOWAY III
 J. KEVIN MOORE
 RODNEY R. MC COLLOCH

SUSAN S. STUART
 DANIEL A. LANDIS
 BRIAN D. SMITH
 HARRY R. TEAR III
 W. TROY HART
 JEFFREY A. DAKE
 MELISSA W. GILBERT
 TIMOTHY W. BAILEY
 JOYCE W. HARPER
 JONATHAN H. PETCU
 AMY K. WEBER
 COURTNEY H. MOORE
 KIM A. ROPER
 TARA C. RIDGLE

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 ROBERT W. BROWN II
 JASON L. FOSS
 VICTOR P. VALMUS
 JEFFERY L. DICKERSON
 T. SHANE MAYES
 DALLAS R. IVEY
 SUZY A. LIFE
 F. MICHAEL VISCUSE
 ALLISON B. FAUST
 ANGELA H. SMITH

OPHELIA W. CHAN
 STACY L. STEWART
 OF COUNSEL:
 MICHELLE S. DAVENPORT
 JOHN L. SKELTON, JR.
 I ALSO ADMITTED IN TN
 ALSO ADMITTED IN NC
 ALSO ADMITTED IN SC
 ADMITTED ONLY IN TN
 WRITER'S DIRECT
 DIAL NUMBER

November 14, 2003

Mr. John P. Pederson
 Planner III
 Zoning Division
 Cobb County Community Development Agency
 Suite 300
 191 Lawrence Street
 Marietta, Georgia 30060-1661

Min. Bk. 25 Petition No. Z-169
 Doc. Type letter of Agreeable
Stipulations
 Meeting Date 11/18/03

Hand Delivered

RE: Application for Rezoning

Application No.: Z-169 (2003)

Applicant: Bright-Meyers 2001, LLC

Owners: The Varner Group LLLP;
 Home Center Village, LLC;
 Brumby Partners, L.P.;
 Media Investments, Inc.;
 Earl T. Leonard, Jr., as Trustee
 f/b/o Elisabeth D. Leonard under
 The 1998 Bebe Leonard Family Trust
 u/a/d July 22, 1998; and Earl T.
 Leonard, Jr., as Trustee f/b/o
 Earl T. Leonard, III, under
 The 1998 Bebe Leonard Family Trust
 u/a/d July 22, 1998

Property: 44.520± acres located on the
 westerly side of Chastain Meadows
 Parkway; east of I-575 and north of
 Barrett Parkway and Roberts Trail;
 Land Lots 571, 572, and 582,
 16th District, 2nd Section,
 Cobb County, Georgia

FILED WITH COUNTY CLERK THIS 18th DAY
 OF Nov. 2003 BY John Meane
 RE Z-169
Phil H. Nease
 COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
 COBB COUNTY, GEORGIA

Dear John:

As you know, the undersigned and this firm represent Bright-Meyers
 2001, LLC, the Applicant (hereinafter referred to as "Applicant"),

MOORE INGRAM JOHNSON & STEELE

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Planner III
Zoning Division
Cobb County Community Development Agency
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and The Varner Group, LLLP; Home Center Village, LLC; Brumby Partners, L.P.; Media Investments, Inc.; and The 1998 Bebe Leonard Family Trust u/a/d July 22, 1998, the Property Owners (hereinafter collectively referred to as "Owners"), in their Application for Rezoning with regard to a 44.520 acre tract located on the westerly side of Chastain Meadows Parkway, east of I-575 and north of Barrett Parkway and Roberts Trail, Land Lots 571, 572, and 582, 16th District, 2nd Section, Cobb County, Georgia (hereinafter the "Subject Property"). After meeting with planning and zoning staff, meetings with representatives of area subdivisions and homeowner groups, and reviewing the staff comments and recommendations and the uses of surrounding properties, we have been authorized by the Applicant and Owners to submit this letter of agreed stipulations which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property. This revised letter shall supersede and replace in full that certain letter of agreeable stipulations and conditions dated and filed October 29, 2003. The referenced stipulations are as follows:

- (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 on the Subject Property.
- (2) Rezoning of the Subject Property will be from the General Commercial ("GC"); Office Services ("OS"); and R-20 zoning categories to the Community Retail Commercial ("CRC") zoning category, site plan specific to the Site Plan prepared by Freeland and Kauffman, Inc. dated September 3, 2003.
- (3) The total site area is comprised of 44.520 acres for development of the proposed retail center.

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- (4) The proposed retail center shall be developed in two phases as follows:
 - (a) The first phase shall be the demolition of approximately 57,400 square feet of vacant retail space in the existing shopping center; and
 - (b) The second phase shall be the construction of an approximately 203,007 square foot Wal-Mart Super Center store to serve as the anchor tenant for both the existing and the proposed retail center; as well as the construction of approximately 57,600 square feet of new retail space, a portion of which shall replace the demolished space and connect to the existing development, all as more particularly shown and reflected on the referenced Site Plan.
- (5) The structures within the main portion of the proposed retail center shall consist of brick and related materials with stucco-type accents on the front and sides with block in the rear painted in a color to complement the front and shall be in substantial conformity with the renderings presented at the Board of Commissioners Zoning Hearing to be held on November 18, 2003.
- (6) Additionally, the structures to be constructed and connected to the existing retail center shall also consist of brick and related materials with stucco-type accents on the front and sides with block in the rear painted in a color to complement the front and shall be in substantial conformity with the renderings presented at the Board of Commissioners Zoning Hearing to be held on November 18, 2003.

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- (7) At the property line where the new retail center connects to the existing retail center, there shall be a zero (0) setback.
- (8) All structures erected on out parcels within the proposed retail center shall be architecturally compatible with the main center.
- (9) Entrance signage for the proposed retail center shall be ground based, monument style signage, with the finish, materials, and color being in substantial conformity to the rendering presented at the Board of Commissioners Zoning Hearing. Such signage shall contain no flashing sign components. There shall be no roof signs and no exterior, temporary signs excepting only grand opening signage, leasing signage, and signage indicating the coming development.
- (10) Off-premises signage for the proposed retail center shall be contained within the existing signage of the existing shopping center and located on Barrett Parkway, as more fully shown and depicted in the rendering presented at the Board of Commissioners Zoning Hearing.
- (11) Store signage shall not be constructed or installed on Chastain Meadows Parkway north of Noonday Creek or on Chastain Road.
- (12) There shall be no tenant vehicles or vehicles of any type parked in front of the proposed retail center containing tenant identification signage or advertising signage. This provision shall be contained within any lease between Applicant and any prospective tenant, and Applicant agrees to enforce these provisions against any tenant which violates the foregoing. Additionally, there shall be no vehicles parked in front of the proposed retail center with "for sale" signs posted thereon.

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- (13) Any roof-mounted HVAC equipment shall be screened from the frontage view by means of a continuous roof parapet.
- (14) Lighting fixtures for parking areas shall be environmentally sensitive, shoe-box style and shall be fitted with non-glare lenses and cut off shields to prevent light from extending beyond the property line.
- (15) Security lighting on the structures shall be wall packs, hooded, environmentally sensitive and shall be fitted with non-glare lenses and cut off shields to prevent light from extending beyond the property line.
- (16) All dumpsters servicing the proposed retail center shall be enclosed with a minimum six (6) foot high masonry enclosure on three sides with a solid screen gate on the access side. All dumpsters shall contain rubber lids to minimize noise. Dumpsters shall be emptied Monday through Saturday from 8:00 a.m. to 7:00 p.m. and Sunday from 2:00 p.m. to 7:00 p.m.
- (17) Minor modifications to the referenced Site Plan and these stipulations, including, but not limited to, the layout and stormwater control measures, may be approved by the District Commissioner, as needed or necessary.
- (18) Landscaping for the proposed retail center, including frontage landscaping; boulevard landscaping; parking landscaping; and building landscaping, shall be pursuant to that certain Landscape Plan, including Landscape Details and Notes, prepared by Freeland and Kauffman, Inc. dated November 12, 2003, and submitted herewith.

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- (19) The Landscape Plan for the proposed retail center shall include hedges and/or bushes below the proposed tree canopy along the development's frontage with Chastain Meadows Parkway.
- (20) All landscaping shall be guaranteed by Applicant for a period of one (1) year from installation and any dead vegetation shall be replaced by Applicant.
- (21) The proposed fueling center shall be located as shown and reflected on the referenced Site Plan. The fueling center building shall be brick on all four (4) sides, shall have brick columns to match those in the main retail center, together with a pitched roof; and in substantial conformity to that certain rendering thereof to be presented to the Board of Commissioners at the Zoning Hearing; including signage thereon reflected. The signage prohibitions herein set forth shall apply.
- (22) Products associated with the garden shop will not be stacked or stored in the front parking lot, visible from Chastain Meadows Parkway.
- (23) The automobile service center shall not have garage entrances or service areas visible from Chastain Meadows Parkway.
- (24) The employment of external audio speakers will not be permitted.
- (25) The following uses shall not be permitted upon the proposed retail center:

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- (a) Pawn shop;
 - (b) Tattoo parlor;
 - (c) Arcades;
 - (d) Adult novelty and bookstores
 - (e) Billiards and pool halls;
 - (f) Recycling locations;
 - (g) Emissions or inspection stations;
 - (h) Radio, television, and other communication towers and antennas; and
 - (i) Self-service laundry facilities.
- (26) Parking of delivery trucks of any kind for any purpose will be prohibited at the front or sides of the proposed retail center.
- (27) Semi-trailers used for any type of storage will not be located to the front of the proposed Wal-Mart building.
- (28) There shall be no semi-truck traffic for delivery purposes to the proposed retail center which shall enter from the southbound direction on Chastain Meadows Parkway.
- (29) While not required to do so, Applicant agrees to convey to Cobb County by Deed of Gift that certain tract of land comprising approximately 4.2 acres and located on the easterly side of Chastain Meadows Parkway, across from the proposed retail center. This property may be used by Cobb County for stormwater, conservation, transportation, or other Cobb County needs; excepting only, that Applicant agrees to construct, at its cost, upon said property a CCT bus stop with appropriate cover and without advertising. The area around said stop shall be landscaped. This stop shall be constructed prior to issuance by Cobb County of a certificate of occupancy for the proposed retail center.

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- (30) The existing Wal-Mart facility located in the Town Center area is under contract to be purchased by Applicant and will be closed simultaneously with the opening of the Subject Property. Applicant intends to redevelop said facility for future retail use. Applicant agrees to cooperate with the Cobb County Department of Transportation in negotiating an agreement for park and ride spaces at this facility.
- (31) Applicant will request Wal-Mart to familiarize its management with the stipulations and conditions applicable to this rezoning.
- (32) Wal-Mart agrees that it shall, through the Cobb County Chamber of Commerce, become a "Partner In Education" with Bells Ferry Elementary School.
- (33) Applicant agrees, subject to the conditions hereinafter set forth, to construct and install a sidewalk, pursuant to Cobb County Code requirements, along the northerly side of Barrett Parkway, from the current termination point at approximately Blockbuster's to the intersection of Chastain Meadows Parkway. This obligation is conditioned upon obtaining all necessary and required easements from any property owners and/or tenants along the proposed route of said sidewalk, together with all governmental approvals, including the Cobb County Department of Transportation.
- (34) All detention facilities shall comply with Cobb County Stormwater Management requirements and shall be landscaped to the exterior.
- (35) Applicant shall comply with all county development standards and ordinances relating to project improvements, including stormwater management, detention,

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hydrology, and downstream considerations, except as approved by the Board of Commissioners, Department of Transportation, or Community Development Agency, as their authority may allow.

(36) Applicant agrees to the recommendations contained in that certain traffic report prepared by Mayes, Sudderth & Etheredge, Inc. and TransCore dated October 28, 2003, which report has studied the impact of the proposed retail center on the surrounding traffic systems; such system improvements to include the following:

- (a) The proposed retail center shall have those curb cuts as shown and delineated on the referenced Site Plan, as follows:
 - (i) The main entrance shall have a boulevard style entry with ground-based, monument style signage;
 - (ii) An access point at the southernmost side of the Subject Property, adjacent to the parking area of the existing retail center, with ground-based, monument style signage;
 - (iii) Access to the out parcels shall be as shown and reflected on the referenced Site Plan together with inter-parcel access;
 - (iv) One hundred (100) percent funding of a traffic signal to be located at the main entrance of the proposed retail center and Chastain Meadows Parkway; together with lengthening the left-turn lane at the median break at the main entrance to the proposed retail center;

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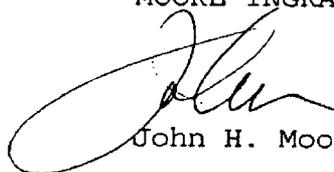
- (v) Traffic system improvements at the intersection of Chastain Meadows Parkway and Barrett Parkway, as more fully shown and delineated in the referenced traffic study; and
- (vi) All work encroaching upon state right-of-way shall require Georgia Department of Transportation approval.

We believe the requested zoning, pursuant to the referenced Site Plan, the Landscape Plan and Details and Notes therefor, and the stipulations contained herein, is an appropriate use of the Subject Property while taking into consideration the changing conditions of the area and the properties and owners thereof surrounding the proposed retail center. The proposed project shall refurbish the existing center and shall allow for the construction of a quality separate addition. The overall effect shall be a more serviceable retail center for patrons of the Town Center area. Thank you for your consideration in this request.

With kindest regards, I remain

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP


John H. Moore

JHM:cc
Enclosures

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson
Planner III
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- c: Cobb County Board of Commissioners:
Samuel L. Olens, Chairman
George Woody Thompson, Jr.
Helen C. Goreham
Joe L. Thompson
Tim Lee
(With Copy of Enclosure)
- Mr. Kent Timmerman
(With Copy of Enclosure)
- Mr. William Klein, Chastain Lakes Resident
Ms. Gail Burgess, Chastain Lakes Resident
(With Copy of Enclosure)
- Mr. Bob Fuller
Piedmont Hills Subdivision
(With Copy of Enclosure)
- Ms. Hilda W. Towery
Bells Ferry Civic Association, Inc.
(With Copy of Enclosure)
- Mr. Norm DeWalt
Northeast Cobb Homeowners Association
(With Copy of Enclosure)
- John G. Nash, Jr.
East Cobb Civic Association, Inc.
(With Copy of Enclosure)
- Bright-Meyers 2001, LLC
(With Copy of Enclosure)