

Application for "Other Business"

Cobb County, Georgia

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

BOC Hearing Date Requested: October 17, 2017

08-046-2017

Applicant: Phoenix Grp, LLC **Phone #:** (404) 786-4955
(applicant's name printed)

Address: 185 Woodlawn Way, Alpharetta, GA 30009 **E-Mail:** mdevelopmentllc@gmail.com

SAMS, LARKIN, HUFF & BALLI, LLP

by: Garvis L. Sams, Jr.

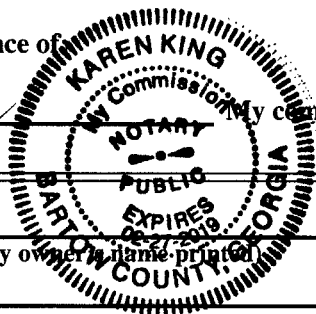
Address: 376 Powder Springs Street, Suite 100, Marietta, GA 30090

(representative's name, printed)

[Signature] **Phone #:** 770-422-7016 **E-Mail:** gsams@slhb-law.com
(representative's signature)

Signed, sealed and delivered in presence of

[Signature] **My commission expires:** 2-27-19
Notary Public



Titleholder(s): See Attached **Phone #:** _____
(property owner's name printed)

Address: _____ **E-Mail:** _____

(Property owner's signature)

Signed, sealed and delivered in presence of:

Notary Public **My commission expires:** _____

Commission District: 2 (Ott) **Zoning Case:** Z-31 of 2016

Size of property in acres: 0.662 **Original Date of Hearing:** May 17, 2016

Location: West side of Cagle Road, north of its intersection with Lower Roswell Road.
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 10 **District(s):** 1st

State specifically the need or reason(s) for Other Business: To extend the reversion clause
for eighteen (18) months.

* Applicant specifically reserves the right to amend any information set forth in this Other Business Application at any time during the rezoning process.

(List or attach additional information if needed)

ATTACHMENT TO APPLICATION FOR OTHER BUSINESS

Application No.: OB- 46
BOC Hearing Date: _____

Applicant: PHOENIX GRP, LLC
Titleholder: PHOENIX GRP, LLC
PIN#: 01001000690

PROPERTY OWNER'S CERTIFICATION

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

[Signature] 9-12-17
Signature of Owner Date
Printed Name: TEHMINA KHAKI

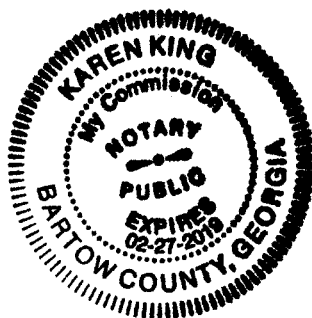
Address: 185 WOODHAVEN WAY
ALPHARETTA, GA 30009

Telephone No.: (____) _____

[Signature]
Signature of Notary Public

Date 9-12-17

(Notary Seal)



CERTIFICATE REGARDING CORPORATE AUTHORITY TO PURSUE OTHER BUSINESS

1.

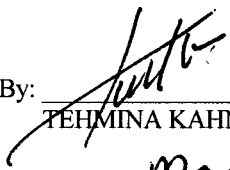
My name is Tehmina Kahn. I am the secretary, assistant secretary or other officer to whom the operating agreement has delegated the responsibility for authenticating records of the company PHOENIX GRP, LLC, a Georgia Company (the "Titleholder Company"). I am of legal age and suffer from no disabilities which would affect my competence to give this Certificate which is being given on my own personal knowledge for use with respect to the Applicant's Other Business Application regarding certain real property owned by the Titleholder/Applicant Company located in Cobb County, Georgia.

2.

In accordance with the Requirements for Completing a Cobb County Application for Other Business, I hereby attest on behalf of the Titleholder and Applicant that I have reviewed the Other Business application and related documents which are being filed simultaneously therewith on behalf of the Applicant Company (collectively, the "Other Business Application") to which this Certificate is attached and hereby certify:

- (a) That corporate seal or facsimile affixed to the Other Business Application is in fact the seal of the Titleholder Company or a true facsimile thereof; and
- (b) That the officer or other representative of the Titleholder Company who executed the Other Business Application does in fact occupy the official position indicated, that the position that the signer occupies has the authority to execute the Other Business Application on behalf of the Titleholder Company, and that the signature of said officer or other representative is genuine; and
- (c) That the execution of the Other Business Application and the filing of the Other Business Application on behalf of the Applicant Company by the officer or other representative of the Applicant Company has been duly authorized by the Titleholder Company.

PHOENIX GRP, LLC

By:  (CORPORATE SEAL)

TEHMINA KAHN

Title

Manager

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
MAY 17, 2016
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REGULAR AGENDA (CONT.)

~~Z-24 BOOS DEVELOPMENT GROUP, INC. (CONT.)~~

- ~~3. Any final site plan, landscape plan, hours of operation, building architecture, outdoor storage inclusive of enclosure of dumpster be submitted to Community Development, with final site plan approved by the District Commissioner~~
- ~~4. Lighting plan as per Code be sent to Community Development and approved by the Board of Commissioners~~
- ~~5. Staff comments and recommendations, *not otherwise in conflict*~~

~~Prior to the vote, further discussion ensued, and the following substitute motion was made:~~

~~SUBSTITUTE MOTION: Motion by Lee, second by Weatherford, to hold Z-24 until the June 21, 2016 Board of Commissioners' Zoning Hearing.~~

~~VOTE: ADOPTED 4-0, Ott recused~~

Z-31 PHOENIX GRP, LLC (owner) requesting Rezoning from R-20 to RA-5 for the purpose of Three Single-Family Residences in Land Lot 10 of the 1st District. Located on the west side of Cagle Road, north of its intersection with Lower Roswell Road. *(Previously continued by Staff from the April 1, 2016 Planning Commission hearing until the May 3, 2016 Planning Commission hearing)*

The public hearing was opened, and Mr. Parks Huff addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Ott, second by Birrell, to delete Z-31 to the R-15 zoning category, subject to:

1. Site plan received by the Zoning Division on March 14, 2016 (attached and made a part of these minutes)
2. Letter of agreeable conditions from Mr. Garvis L. Sams, Jr. dated May 10, 2016 (attached and made a part of these minutes), with the following changes:

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REGULAR AGENDA (CONT.)

Z-31

PHOENIX GRP, LLC (CONT.)

- A. Item No. 6, subset c. – add to end: *“..., subject to the Arborist’s review and approval and District Commissioner approval.”*
- B. Item No. 8, subset (a) – add to end: *“Calculation of lot sizes and setbacks to be done prior to right of way donation.”*
- C. Item No. 11, add to end: *“...October 3, 2016, October 12, 2016, and if construction is not complete in 2016, then September 21, 2017 and September 30, 2017.”*
- D. Item No. 12, strike text *“from 40 feet to 35 feet”* and replace with *“of 40 feet”*
- E. Add Item No. 16 – *“Cagle Road is to remain open during the sewer tie in construction phase.”*
3. Planning Commission comments and recommendations, *not otherwise in conflict*
4. Zoning Division comments and recommendations, *not otherwise in conflict*
5. Fire Department comments and recommendations, *not otherwise in conflict*
6. Water and Sewer Division comments and recommendations, *not otherwise in conflict*
7. Stormwater Management Division comments and recommendations, *not otherwise in conflict*
8. Department of Transportation comments and recommendations, *not otherwise in conflict*
9. Owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns

VOTE: ADOPTED 5-0

~~Z-36~~

~~BLAKE PROPERTIES, INC. (Anthony E. Bentley and Susan P. Bentley; Robert J. Van Dyke and R. Lynne Van Dyke; and Peggy Nixon, owners) requesting Rezoning from R-20 to R-15/OSC for the purpose of a Subdivision in Land Lots 342, 343 and 379 of the 16th District. Located on the east side of Knight Road, south of Blackwell Road (3592, 3610 and 3640 Knight Road).~~

~~The public hearing was opened and Mr. David Meyer and Mr. Joe Ranney addressed the Board. Following presentation and discussion, the following motion was made:~~

Min. Bk. 79 Petition No. 2-31
Doc. Type letter

Meeting Date 5-17-16

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI

SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770-422-7016
TELEPHONE
770-426-6583
FACSIMILE

ADAM J. ROZEN

SLHB-LAW.COM

May 10, 2016

VIA EMAIL:

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 Phoenix Grp., LLC to Rezone a 0.662 Acre Tract from
R-20 to R-15 (No. Z-31)

Dear John:

As you know, this firm represents Phoenix Grp., LLC ("Phoenix") regarding the above-captioned Application for Rezoning. The Application was heard, considered and unanimously recommended for approval by the Planning Commission last week on May 3, 2016. The Application is now scheduled to be heard and considered for final action by the Board of Commissioners on May 17, 2016.

In accordance with the action taken by the Planning Commission and, incorporating the agreements reached as a result of our discussions with the County's professional staff, representatives of the East Cobb Civic Association ("ECCA") and with area residents on Cagle Road, this letter will serve as Phoenix's expression of agreement with the following Revised Stipulations which shall become conditions and a part of the grant of the requested rezoning and binding upon the subject property thereafter. The referenced Revised Stipulations are as follows, to wit:

1. The revised 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.

SAMS, LARKIN, HUFF & BALLI
A LIMITED LIABILITY PARTNERSHIP

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VIA EMAIL:

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2. Except to the extent modified and revised hereinafter, the subject property shall be developed in accordance with that certain Revised Site Plan prepared by Surveys Plus, Inc., which was submitted under separate cover on March 14, 2016.
3. The construction of a maximum number of two (2) custom, quality-built single-family detached homes.¹
4. The minimum house size shall be 4,000 square feet. Both of the homes being built shall have, at a minimum, an attached two car garage which shall be used for the parking and storage of vehicles.
5. The architectural style and composition of the homes shall consist of a combination of either brick, stacked stone, cedar and/or Hardiplank shake and siding on all four (4) sides consistent the architectural renderings/elevations which were submitted under separate cover on April 1, 2016 and which are being resubmitted concurrently herewith.² In accordance with the Planning Commission recommendations, neither of the homes will have or include a vinyl component on the home's exterior.
6. The submission of a landscape plan during the Plan Review process which shall include, but not necessarily be limited to the following:
 - a. The formation of a Landscape Oversight Committee consisting of a representative from the ECCA, a representative from the Cagle Road residents group, a representative from Phoenix and a representative from the Community Development Agency. With respect to any unresolved issues, the District Commissioner shall be the final arbiter with respect to those matters.
 - b. Sodded front, side and rear yards which shall be irrigated.

¹ The subject property is located in an area under the Future Land Use Map ("FLUM") designated as Medium-Density Residential ("MDR") which recommends residential densities ranging from 2.5 to 5 units per acre.

² The specifics of the architectural style and composition of the homes on the subject property will be substantially similar to the attached.

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A LIMITED LIABILITY PARTNERSHIP

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- c. The planting of no less than six (6) hardwood trees a minimum of twelve feet (12') in height within the front yard of each home, subject to the District Commissioner's review and approval.
 - d. Any dead or irrevocably diseased vegetation and/or landscaping shall be replaced.
 - e. Phoenix shall be responsible for erecting temporary fencing along the north, south and west property lines of the subject property during the construction and buildout of the homes in order to create a clear line of demarcation between the subject property and the properties contiguous thereto.
7. Subject to recommendations from the Stormwater Management Division with respect to detention, hydrology and downstream considerations.³
- Phoenix will be installing a twenty foot (20') drainage easement which will include a pipe, thirty inches (30") in diameter. Frank Gipson, P.E., Cobb County's Manager of the Erosion Sediment Control Division, has taken the position that the stream can be piped in view of the fact that it is piped leading up the property and is piped as it leaves the property.
8. Subject to recommendations from the Cobb County Department of Transportation, including the following:
- a. The voluntary donation and conveyance of right-of-way on Cagle Road so that the County can achieve twenty-five feet (25') from the centerline of said right-of-way.
 - b. In light of the current rural-like characteristics of Cagle Road, rather than the installation of sidewalk, curb and gutter along the subject property's frontage on Cagle Road, Phoenix shall pay a fee in lieu of construction of same consistent with DOT regulations.

³ The Stormwater Management Division has stated that detention and/or water quality components will not be required in view of the fact that only two (2) homes are being constructed.

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A LIMITED LIABILITY PARTNERSHIP

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- c. Compliance with all Cobb County Development Standards and Ordinances related to project improvements.
- d. During the construction and buildout of the subject property, the driveways and properties belonging to residents on Cagle Road, including the triangular tract of land known at 671 Cagle Road, will not be utilized or encroached upon for any purposes whatsoever by construction workers, contractors or others.
- e. During the construction and buildout of the subject property, there shall be no parking of construction-related vehicles allowed on Cagle Road.
- f. All delivery vehicles, construction vehicles and worker vehicles shall be parked or utilized upon the subject property during the construction and buildout of the subject property.
- g. A "wash-station" shall be included on the subject property in order to ensure that construction worker vehicles are not allowed to track mud, dirt, construction debris and other extraneous development materials on Cagle Road.
- h. Cagle Road shall remain open to vehicular and pedestrian traffic at all times, even during such times as the construction and buildout of sewer to service the site.
9. Compliance with recommendations from the Cobb County Water System with respect to the availability and capacity of water and sewer to the site.⁴
10. Compliance with recommendations from the Cobb County Fire Department with respect to Life-Safety and Fire Prevention issues.
11. Construction hours during the buildout and development of the homes proposed for the subject property shall be from 8:00 a.m. until 7:00 p.m. Monday through Thursday; from 8:00 a.m. until 4:00 p.m. on Fridays; from 10:00 a.m. until 4:00 p.m. on Saturdays; and, there shall be no on-site construction on Sundays or nationally recognized Holidays.

⁴ Phoenix will be required to secure off-site sewer easement(s) prior to the issuance of a Land Disturbance Permit ("LDP") concerning the subject property.

SAMS, LARKIN, HUFF & BALLI

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VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
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12. The granting of the following concurrent variances:

- a. Waiving the required front setback from 40 feet to 35 feet and the rear setback from 40 feet to 20 feet.
- b. Waiving the required lot size on Lot 2 from 15,000 square feet to 13,726 square feet.

13. There shall be no deliveries to the subject property except during the hours of construction as outlined above.

- 
14. Phoenix shall have a period of eighteen (18) months from the date of approval of the rezoning by the Board of Commissioners in which to secure a Land Disturbance Permit. In the instance that such a permit is not secured, then the zoning district to which the subject property is rezoned shall revert to the subject property's original zoning classification of R-20.

15. 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. Increase the density on the site.
- b. Reduce the size of an approved buffer adjacent to property which is zoned the same or in a more restrictive zoning district.
- c. Relocate a structure closer to the property line of an adjacent property which is zoned in the same or in a more restrictive zoning district.
- d. Increase the height of a building which is adjacent to property which is zoned in the same or more restrictive zoning district.
- e. Change access locations to a different roadway.

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The proposed development constitutes a significant departure from Phoenix's original proposal; is one which is consistent with or exceeds the dictates of the County's Future Land Use Map and Comprehensive Land Use Plan; is a development which embodies the input from Staff, ECCA, area residents and the Planning Commission; and, one which is appropriate in all respects from a Land Use Planning perspective.

Please do not hesitate to contact me should you or the staff require any further information or documentation prior to this Application being heard by the Board of Commissioners next week. With kind regards, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



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

GLS/klk
Attachments

cc: Listed on next page

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SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

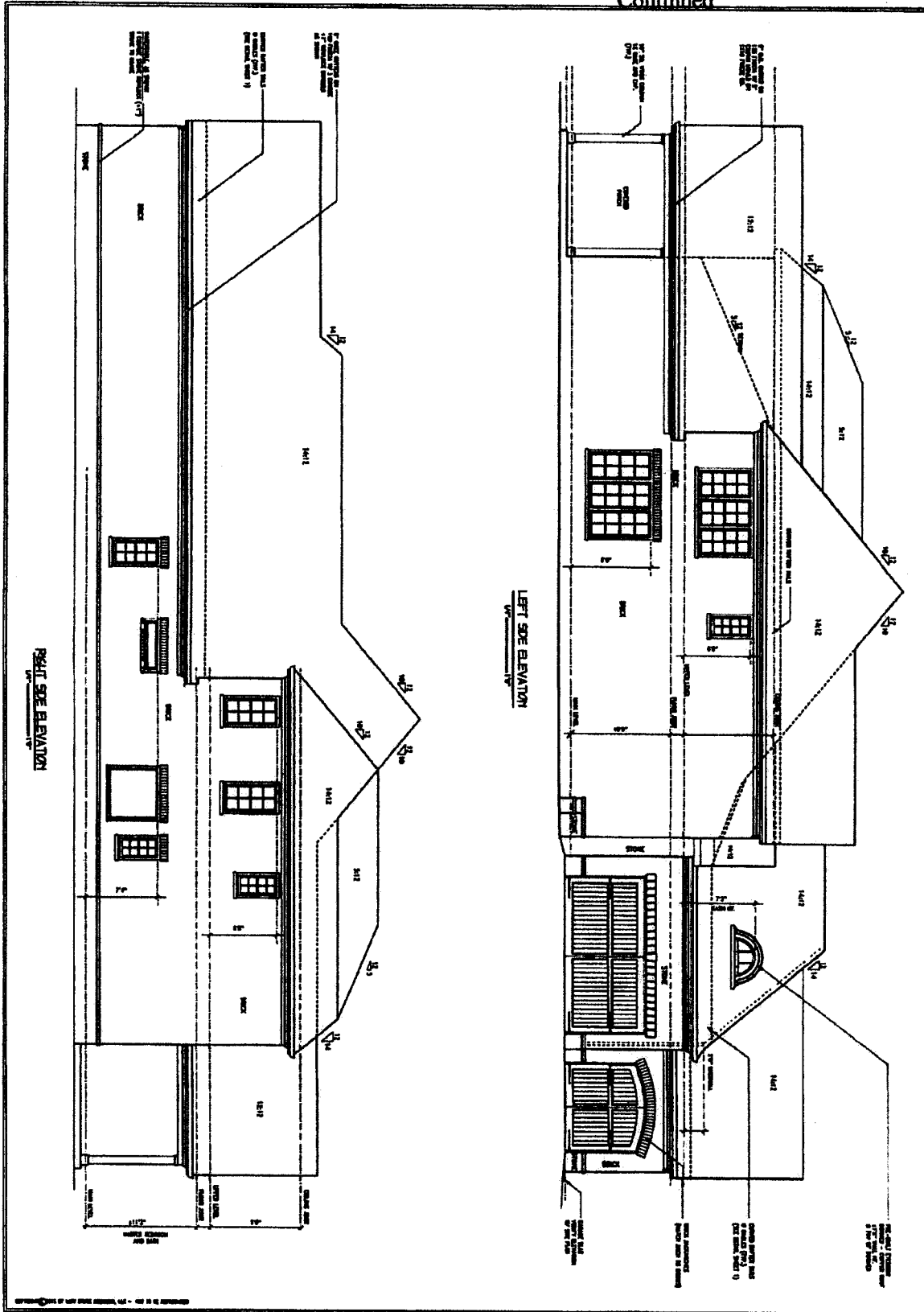
VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
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cc: Members, Cobb County Board of Commissioners (via email w/attachments)
Mr. Mike Terry, Planning Commission Chairman (via email w/attachments)
BOC Commission Assistants (via email w/attachments)
Mr. Dana Johnson, AICP Director (via email w/attachments)
Mr. Lee McClead, Assistant Director (via email w/attachments)
Mr. Jason S. Gaines, AICP, Planning Manager (via email w/attachments)
Mr. Jason Campbell, Planner III (via email w/attachments)
Mr. Terry Martin, Planner II (via email w/attachments)
Ms. Kim Wakefield, Zoning Analyst (via email w/attachments)
Mr. Donald Wells, Zoning Analyst (via email w/attachments)
Ms. Pam Mabry, County Clerk (via email w/attachments)
Ms. Lori Barton, Deputy County Clerk (via email w/attachments)
Ms. Robin Presley (via email w/attachments)
Mr. David Breaden, P.E. (via email w/attachments)
Ms. Ashley White, P.E. (via email w/attachments)
Mr. Tim Davidson, P.E. (via email w/attachments)
Ms. Trish Steiner, ECCA (via email w/attachments)
Ms. Jill Flamm, ECCA (via email w/attachments)
Mr. Peter Gross (via email w/attachments)
Mr. David Skogen (via email w/attachments)
Mr. Jack Feldman (via email w/attachments)
Mr. Donald Perryman, RLS (via email w/attachments)
Ms. Tamina Kahn (via email w/attachments)

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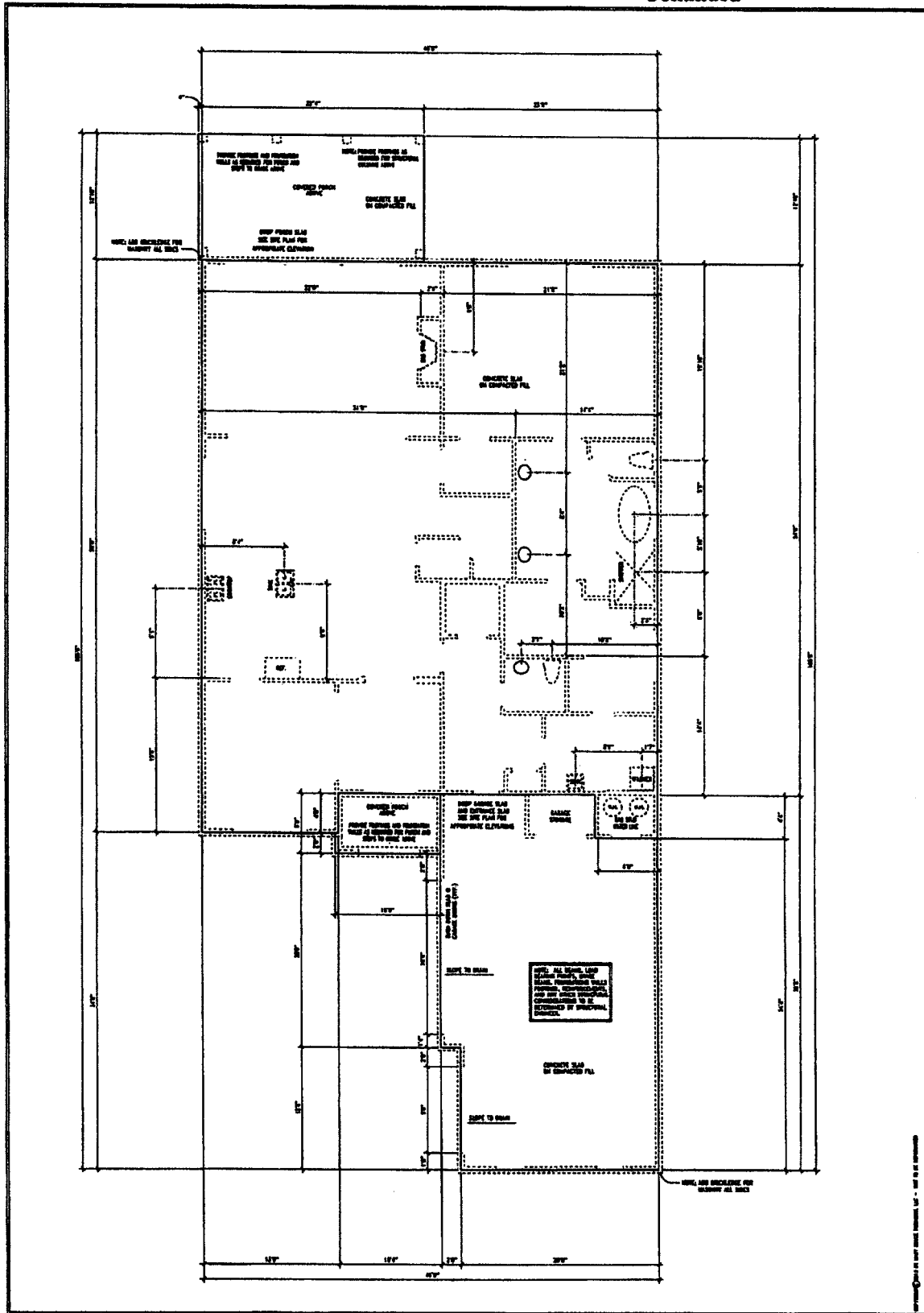


2
6/1/13

LEFT & RIGHT SIDE ELEVATIONS
 5 CABLE ROAD
 MARIETTA, GEORGIA 30067

Mary Bruce Robinson
 Phone (770) 428-8448
 mbr@marybruce-robinson.com

PHOTON GROUP, LLC

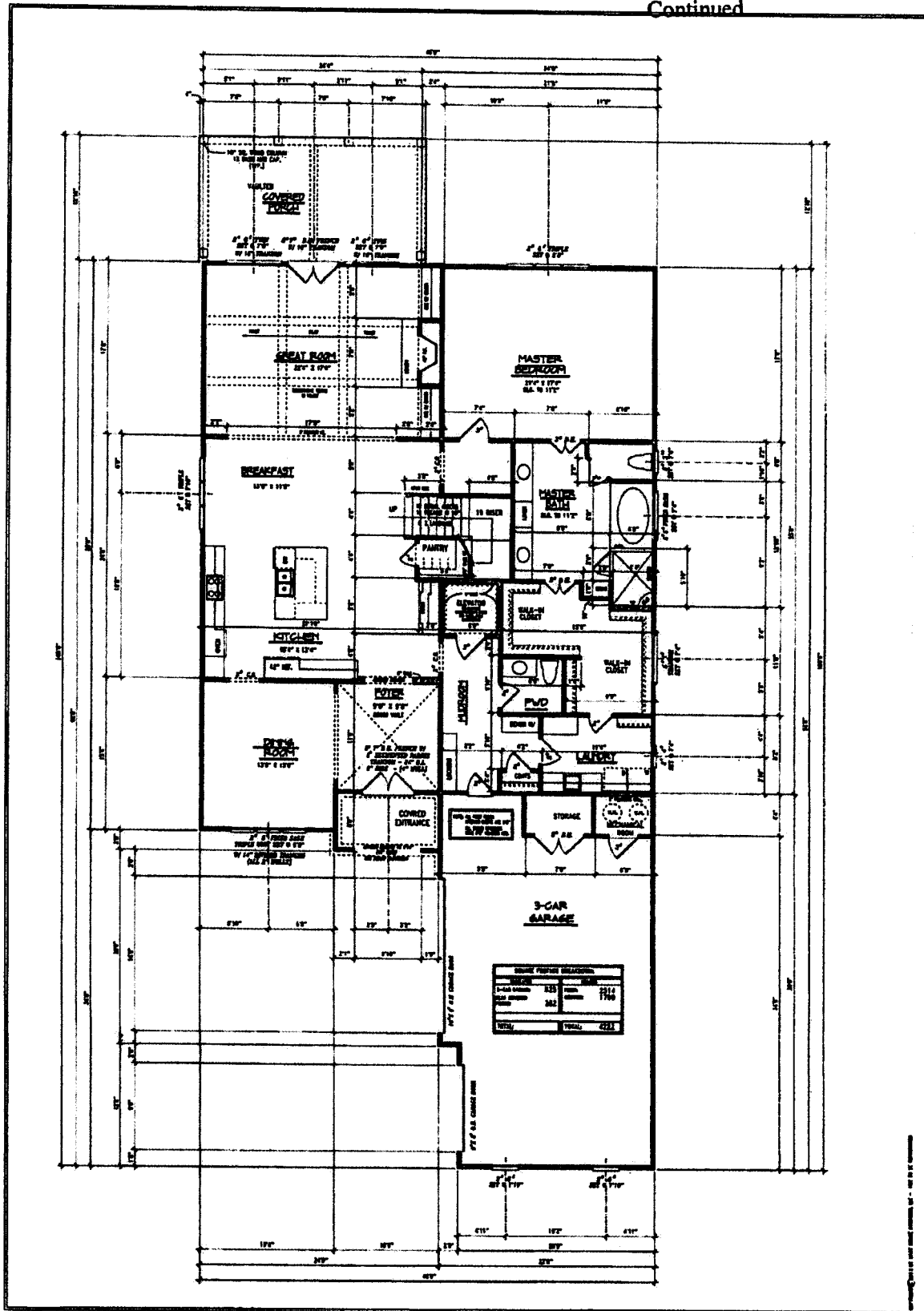


3
 5/1/13

FOUNDATION PLAN
 8 OAKLEY ROAD
 MARIETTA, GEORGIA 30066

Mary Bruce Robinson
 Phone (770) 630-6400
 mbr@marybruce-robinson.com

FLORIX GROUP, LLC



4
 5/1/13

FIRST FLOOR PLAN
 0 CIRCLE ROAD
 MARIETTA, GEORGIA 30068

Mary Bruce Robinson
 Phone (770) 680-8440
 mbr@marybruce-robinson.com

PHOTO GROUP, LLC

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