## NOVEMBER 21, 2017 ZONING HEARING "OTHER BUSINESS" COMMISSION DISTRICT 2

## **ITEM OB-055**

To consider a site plan amendment for Feroz Ali regarding rezoning application Z-159 of 2003 (HRS, INC.), for property located on the east side of Powers Ferry Road, south of Terrell Mill Road, in Land Lots 923 and 938 of the 17<sup>th</sup> District (1445 Powers Ferry Road).

## **BACKGROUND**

The subject property was zoned to CRC in 2003 for a convenience store with fuel sales, and a carwash. That proposed plan never came to fruition and the old gas station is still on the property. The applicant came back to the Board of Commissioners in December 2016 to propose a site plan that had a 4,500 square foot building, and that plan was approved. More detailed engineering has been done and the applicant would like to revise the building further and develop a 4,200 square foot building on the property. The applicant is showing the buffer area being reduced from 30 feet to 15 feet adjacent to the condominium property. If approved, all other zoning stipulations would remain in effect.

## **STAFF COMMENTS**

**Stormwater Management:** Subject to approval of stormwater management plan at Plan Review.

<u>Cobb DOT:</u> Recommend removing and closing the southernmost entrance on Powers Ferry Road that development renders unnecessary. Recommend a deceleration lane on Powers Ferry Road for the entrance.

## **RECOMMENDATION**

The Board of Commissioners consider the request for the site plan and stipulation amendments.

## **ATTACHMENTS**

Other Business application and stipulations.

# **Application for "Other Business" Cobb County, Georgia**

(Cobb County Zoning Division - 770-528-2035)	<b>BOC Hearing Date Requested:</b> Nov. 21, 2017
Applicant: Feroz Ali (applicant's name printed)	Phone #:
Address:	E-Mail:
SAMS, LARKIN, HUFF & BALLI LLP	376 Powder Springs Street, Suite 100, Marietta, GA 30064
(representative's name, printed)  Phone #: 770-4	22-7016 <b>E-Mail:</b> phuff@slhb-law.com
(representative's signature)  Signed, sealed and delivered in presence of:  Notary Public	Min commission expres: 2-27-19
Titleholder(s): SM Lalani Properties, LLE (property owner's name p	P: WBL IONADA OF MINIOR IN BOOK
Address:	Mail:
See attached for signature. (Property owner's signature)  Signed, sealed and delivered in presence of:	
Notary Public	My commission expires:
Commission District: 2	<b>Zoning Case:</b> Z-159 of 2003 and OB #60 of 2016
Size of property in acres: 0.689	Original Date of Hearing: Nov. 18, 2003
Location: On the east side of Powers Ferry Road, (street address, if applicable; nearest in	south of Terrell Mill Road (1445 Powers Ferry Road)
Land Lot(s): 923, 938	District(s): 17th
State <u>specifically</u> the need or reason(s) for for the redevelopment of a convenience store with the redevelopment of the redev	

<sup>\*</sup>Applicant specifically reserves the right to amend any information set forth in this Other Business Application at any time during the Other Business process.

## ATTACHMENT TO APPLICATION FOR OTHER BUSINESS

Application No.: OB- SS BOC Hearing Date: Nov. 21, 2107

Applicant: <u>Feroz Ali</u>	
Titleholder: SM LALANI PROPERTIES, LLC	
PIN#: <u>17093802130</u> OCT - <b>9</b>	2017
	CERTIFICATION
	ure of Owner  d Name:    Feroz All^
Addre	ss: 1396 Manelatery of SW Lilberry at 30047
Telepl	none No.: ( <del>770</del> ) <u>378 – 29</u> 44
5	10-9-17
(Notary Seal)  (Notary Seal)	

1.

My name is	Feroz	Ali:
My name is	7.6807	44

I am the secretary, assistant secretary or other officer to

whom the operating agreement or bylaws has delegated the responsibility for authenticating records of the company, SM LALANI PROPERTIES, LLC (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 Company located in Cobb County, Georgia.

2.

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

- That signature or facsimile affixed to the Other Business Application is in fact the seal of the (a) Titleholder Company and is a true representation 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 by the Applicant is with the express permission of the Titleholder Company.

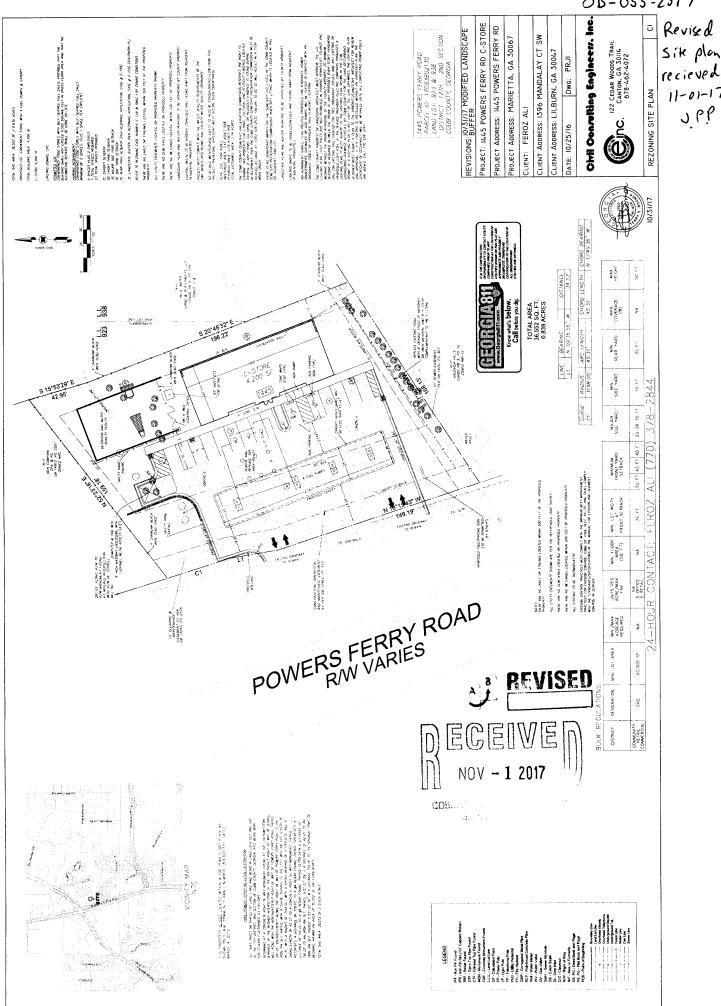
(SEAL)

Signature

Printed Name

11-01-17

JPP.



### MINUTES OF ZONING HEARING COBB COUNTY BOARD OF COMMISSIONERS DECEMBER 16, 2003 PAGE 3

#### Z-157 BWWI, INC. (Continued)

• Water and Sewer Division comments and recommendations

- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations
- 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 unanimously

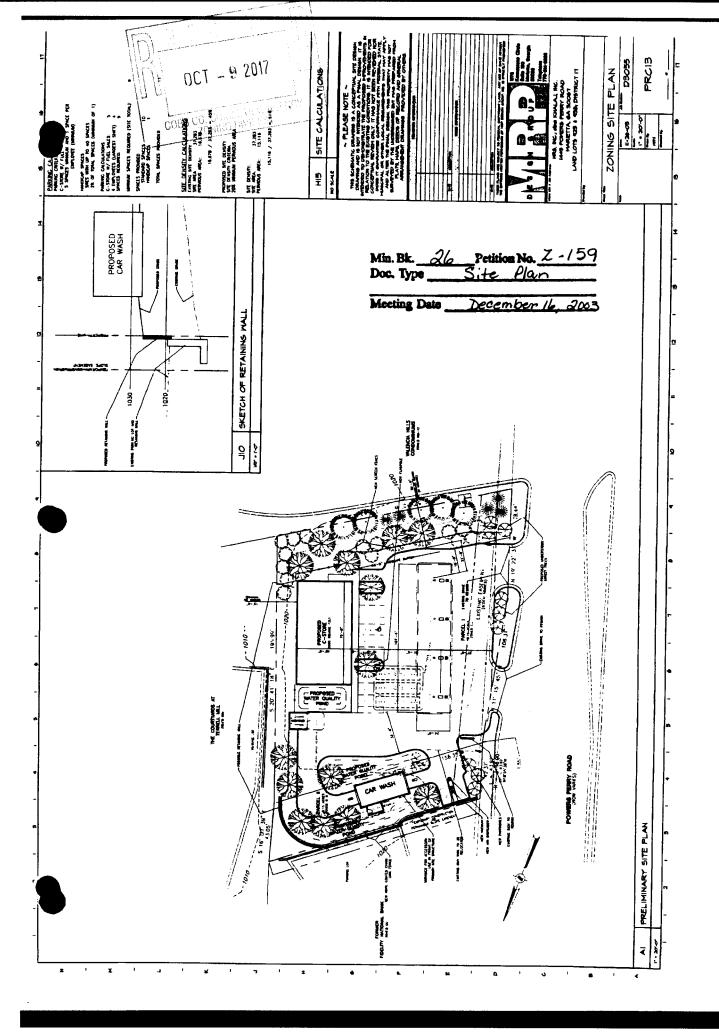
**Z-159**HRS, INC. (Motiva Enterprises, LLC, owner) for Rezoning from GC and OI to CRC for the purpose of a Convenience Store with Fuel Sales and Retail in Land Lots 923 and 938 of the 17<sup>th</sup> District. Located on the east side of Powers Ferry Road, south of Terrell Mill Road.

MOTION: Motion by W. Thompson, second by Goreham, as part of the Consent Agenda, to <u>approve</u> rezoning to the CRC zoning district subject to:

- site plan dated November 26, 2003 (copy attached and made a part of these minutes)
- letter of agreeable stipulations from Mr. William M. Lotz dated December 1, 2003 (copy attached and made a part of these minutes)
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations, except that the two existing curb cuts are allowed to remain

VOTE:

**ADOPTED** unanimously





December 1, 2003

Cobb County Planning Commission 191 Lawrence Street Suite 300 Marietta, GA 30060-1661

Dear Commissioners.

On behalf of HRS, Incorporated, Shell Oil Products U.S., and the Valencia Hills Condominium Association, MRP Design Group, Incorporated requests to be placed on the Consent Agenda for the December Planning Commission Hearing for the pending rezoning application, case number Z-159. for 1445 Powers Ferry Road (Land Lots 923 and 938, 17th District, Second Section).

Our client has agreed that the construction and operations of the facility will be in conformance with the attached zoning stipulations, dated December 1, 2003. Furthermore, we will comply with all applicable development regulations as well as the planning, water, sewer and stormwater management comments and recommendations identified in the December staff analysis. We also intend to comply with all transportation comments and requirements except for closure of the south driveway. Due to tanker truck access requirements for delivery of fuel, we respectfully request exception from this requirement.

Sincerely.

Hassan Khala

Owner HRS, Inc. Roy Babin **President** 

Valencia Hills Condominium

Association

William M. Lotz Project Manager

MRP Design Group, Inc.

1275 Kennestone Circle Suite 100 30066

Marietta, Georgia cc: Cobb County Clerk

Cobb County Board of Commissioners

Telephone (770) 514-8803

Facsimile (770) 514-0142

Internet Website mrpdesign.com

COUNTY CLERK/ASST. COUNTY CLERK DEPUTY COUNTY CLERK

COBB COUNTY, GEORGIA

Petition No. 7-159
Meeting Date 12/16/03
Continued Zoning Stipulations
referenced in Letter

## **Zoning Stipulations**

December 1, 2003

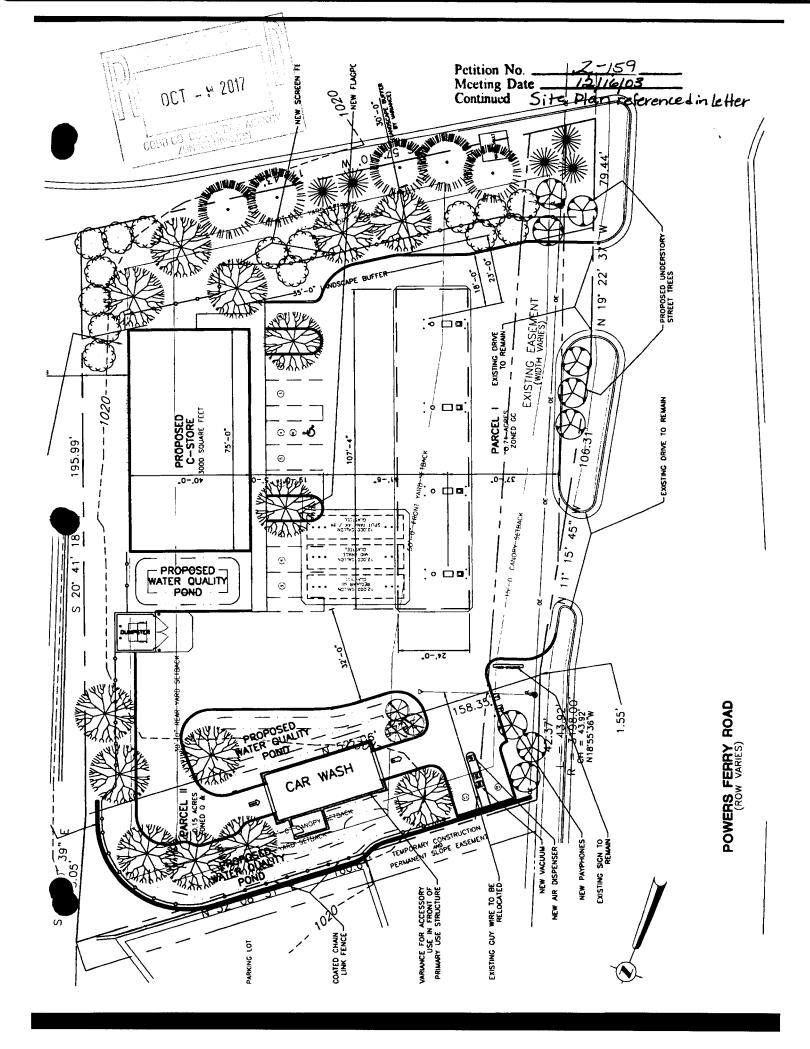
Rezoning Application, Case Number Z-159 1445 Powers Ferry Road Land Lots 923 and 938, 17<sup>th</sup> District



- 1. The proposed improvements will be generally in conformance with the Zoning Site Plan, sheet PRC13, dated November 26, 2003 and attached as Exhibit A.
- 2. The proposed improvements will comply with all applicable federal, state and county development regulations as well as the planning, water, sewer and stormwater management comments and recommendations identified in the December staff analysis.
- 3. The proposed improvements will comply with all transportation comments and requirements identified in the December staff analysis, except for closure of the south driveway.
- 4. The convenience store and car wash buildings will be constructed primarily of brick, stucco and glass, with earth tone colors.
- 5. Review and approval of the landscaping within the required landscape buffer will be by an architectural review committee made up by one representative each from the Valencia Hills Condominium Association, the developer and Cobb County Community Development Department. Agreement of the landscape materials and plan will be based on use of locally available materials as presently in use in other areas of the county.
- 6. Neon advertising signs attached to the windows shall not be allowed. Window advertising decals and posters shall not be allowed. Except for the grand opening banners and the signs as may be mandated by Shell Oil Products U.S. or future fuels suppliers from time to time, portable and temporary signs shall not be allowed.
- 7. The maximum canopy fascia height allowed is 36"; the backlit accent band will be allowed only on the north and west sides of the canopy.
- 8. Advertising signs will not be allowed on the car wash building exterior. Signage shall be limited to signs that are required for proper operation and safety of the car wash equipment.
- 9. The retail operations shall be limited to c onvenience store type retail sales as presently found in other areas of the county, including fuel sales, convenience food and beverage sales and car wash services. Third party tenants and fast food operations shall not be allowed.
- 10. The dumpster and all refuse storage containers shall be enclosed with an 8'-0" high masonry wall and equipped with lockable metal access gates. Servicing shall be requested during hours of store operation.

- 11. Delivery of fuel shall be requested during hours of store operation.
- 12. Site lighting will not exceed one-foot candle measured at the property line as required by Cobb County. Light fixtures at the south edge of the canopy shall be equipped with cut off shields to limit glare and light pollution.
- 13. Store operating hours will be 6:00 am to 11:00 pm; seven days a week. Operation of exterior store, canopy and site lights after normal operating hours will be limited to that essential for premises safety and security.
- 14. Canopy downspouts shall be piped to the proposed onsite storm sewer system.
- 15. The required buffer screening fence will be replaced with a 8'-0" tall opaque fence constructed of durable, low maintenance materials such a masonry or vinyl, with colors complementary to the store building materials. Additional fencing, to control litter and wind blown debris, shall be erected along the east and northern property lines.
- 16. The Valencia Hills Condominium Association shall maintain the option to maintain the landscaping between Baleric Drive and the landscape buffer screening fence as described in item 15.
- 17.A permanent sign and access easement shall be granted to the Valencia Hills Condominium Association for the purpose of erecting and maintaining a neighborhood entrance sign. Easement shall be located in the western portion of the 35'-0" landscape buffer, where Baleris Drive intersects Powers Ferry Road.

OCT - 9 2017



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#### **CONSENT AGENDA (CONT.)**

O.B. 60 To consider a stipulation amendment and site plan amendment for Feroz Ali regarding rezoning application Z-159 of 2003 (HRS, INC.), for property located on the east side of Powers Ferry Road, south of Terrell Mill Road, in Land Lots 923 and 938 of the 17<sup>th</sup> District (1445 Powers Ferry Road). (Continued by Staff from the October 18 and November 15, 2016 Board of Commissioners hearings until the December 20, 2016 hearing).

To approve O.B. 60, subject to:

- 1. Letter of agreeable conditions from Mr. Parks Huff dated December 12, 2016 (attached and made a part of these minutes), with the following changes:
  - A. Item No. 2, second sentence revise to read: "The landscape plan and the wall design will be subject to the review and approval of a Landscape Committee made up of one representative each from the Valencia Hills Condominium Association/Terrell Mill Community Association, the developer, and a representative from the Community Development Department."
  - B. Item No. 5 revise to read: "...approved by the District Commissioner."
- 2. Stormwater Management Division comments and recommendations
- 3. All previous stipulations and conditions, not otherwise in conflict, to remain in effect
- O.B. 77 To consider a stipulation amendment and site plan amendment for Crisp Athletic Holdings, Inc. regarding rezoning application Z-32 of 2009 (Rex E. Horney), for property located on the northwest intersection of Canton Road and Hawkins Store Road, in Land Lots 228 and 277 of the 16<sup>th</sup> District (775 Hawkins Store Road).

To approve O.B. 77, subject to:

- 1. Site plan received November 15, 2016, with the District Commissioner approving the final site plan (attached and made a part of these minutes)
- 2. Letter of agreeable conditions from Mr. Rob Hosack dated December 6, 2016 (attached and made a part of these minutes)
- 3. Use to be an athletic training facility for softball and baseball only
- 4. Stormwater Management Division comments and recommendations
- 5. All previous stipulations and conditions, *not otherwise in conflict*, to remain in effect

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Doc.	Туре		etter			******	<b>A</b> (1/1000-000/400)
Meet	ing D	ate	12-20	-10		aller yeren jezen espa	****

## 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

December 12, 2016

#### VIA HAND DELIVERY

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

Re:

Other Business Application of Feroz Ali regarding Z-159 of 2003 to Amend

Stipulations (OB #60).

#### Dear John:

I represent Feroz Ali concerning the above-captioned Other Business Application. The property was rezoned in 2003 for a proposed convenience store. Since that time, the existing convenience store has been closed and remains a vacant eyesore. My client proposes to redevelop the property for a convenience store and requests minor modifications to the zoning stipulations that were included as a condition of the zoning case. Below is a list of the proposed revised conditions:

- 1. The development will conform to the attached site plan which is the same site plan submitted to the County on October 27, 2016. The site plan includes a 3,000 square foot store with an additional 1,500 square foot retail space. The development will not include a car wash. (Exhibit "A")
- 2. There will be a thirty (30) foot landscape strip adjacent to the Valencia Hills Condominium entrance as depicted in the site plan. The landscape plan will be subject to the review and approval of a Landscape Committee made up of one representative each from the Valencia Hills Condominium Association, the developer, and a representative from the Community Development Department.
- 3. The proposed improvements will include the addition of water quality measures and the stormwater management system will comply with all current local, state and federal requirements.

Petition No. 0.8.60

Meeting Date 12-20-16

Continued

## SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

#### VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency December 12, 2016 Page 2



- 4. The following uses are specifically prohibited from the retail space: tattoo parlors, pawn shops or weapons sales.
- 5. The building architecture will be similar to the enclosed renderings (Exhibit "B"); however, the applicant will incorporate some rock into the architecture with the final architecture to be approved by the aforementioned Landscape Committee.
- 6. All other zoning stipulations contained in Z-159 (2003) and specifically contained in the agreement letter dated December 1, 2003 shall remain in effect including but not limited to hours of operation and landscaping requirements.

Please do not hesitate to contact me should you have any questions whatsoever regarding these matters.

Sincerely,

SAMS, LARKIN, HUFF & BALLI, LLP

Parks F. Huff phuff@slhb-law.com

PFH/klk Enclosures

cc: Listed on next page

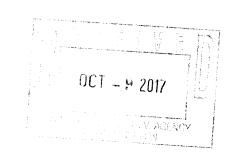
Petition No	O.B.60
Meeting Date	12-20-16
Continued	

## SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

#### VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency December 12, 2016 Page 3



cc: Members, Cobb County Board of Commissioners (via email w/attachments)

BOC Commission Assistants (via email w/attachments)

Mr. Dana Johnson, AICP, Director (via email w/attachments)

Mr. Lee McClead, Deputy Director (via email w/attachments)

Mr. Jason Gaines, AICP, Planning Division Manager (via email w/attachments)

Mr. Jason Campbell, Planner III (via email w/attachments)

Mr. Terry Martin, Planner II (via email w/attachments)

Mr. Donald Wells, Zoning Analyst (via email w/attachments)

Ms. Kim Wakefield, Zoning Analyst (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, Plan Review Engineer (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, Deputy County Clerk (via email w/attachments)

Mr. Feroz Ali (via email w/attachments)

Ms. Mary Anne Posey, President, Valencia Hills Condominium Association (via email

w/attachments)

