

August 15, 2018

VIA HAND DELIVERY AND EMAIL

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

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RE: Z-39 (2018): Application of Mableton Center, LLC, to Rezone a 2.295 Acre Tract of land located at 6145 Mableton Pkwy., Mableton, GA (“the Property”) from “GC” and “R-20” to “NRC”

Dear John:

As you know, my firm and I represent the Mableton Center, LLC (“Mableton Center”), in regard to its Application to rezone the above-referenced property (the “Application”). The Application was presented to the Cobb County Planning Commission (“the Planning Commission”) for its recommendation on August 7, 2018. The Application is scheduled to be presented to the Cobb County Board of Commissioners for a final decision on August 21, 2018. Since the time of filing the Application, representatives of Mableton Center met with staff members from various divisions within the Cobb County Government, including but not limited to, the Cobb County Planning Department and the Cobb County Fire Department about the Application. In addition, representatives of Mableton Center also met with officials of the Mableton Improvement Coalition (“MIC”) to discuss the Application and to ensure compliance with its design standards and guidelines. Since the date of the Planning Commission meeting, MIC has submitted a stipulation letter (dated August 13, 2018), which details its recommendations for approval of the Application (“MIC Letter”).

The Property is currently split into two zoning classifications. The front part of the lot is zoned “General Commercial” (“GC”) (grandfathered) and the back part of the lot is zoned “Single-Family Residential” (“R-20”). Mableton Center’s Application requests that the County authorize the rezoning of the portion of the Property zoned “R-20” and the portion of the Property zoned “GC” to the “NRC” zoning classification in order to provide consistency and conformity for uses for both portions of the lot. The “R-20” portion is currently land-locked and, as such, is very difficult to develop under its present zoning classification.

The proposed rezoning of the Property will permit a use of the Property that is suitable to the uses and the development, including zoning classifications, of adjacent and nearby property along Mableton Parkway. The proposed rezoning will permit the entire lot to be developed in a consistent manner pursuant to the uses allowed under the Neighborhood Retail Commercial (“NRC”) zoning classification. The property which is immediately south and adjacent to the right

side of the subject property is now zoned NRC. Eventually, in order to comply with the Cobb County Comprehensive Land Use Plan and Future Land Use Map (“Future Land Use Plan”), the property which is immediately north and adjacent to the left of the subject property will be rezoned from its present zoning classification of GC to NRC, as well. Therefore, the rezoning application request will align the subject property with the neighboring properties, and it conforms to the Future Land Use Plan.

At its hearing on August 7, 2018, the Planning Commission recommended that the Application be approved in part with certain conditions. One of the conditions recommended by the Planning Commission is to rezone only the portion of the Property that is currently zoned GC to NRC and to leave the portion of the Property that is currently zoned R-20 as R-20. In addition, the Planning Commission recommended that a 25 foot landscape buffer should be required between any portion of the Property zoned R-20 and any adjacent residential property. This 25 foot buffer requirement is not part of the R-20 district regulations contained in the Cobb County Zoning Ordinance. In the MIC Letter, MIC recommends that the portion of the Property which is currently zoned R-20 be rezoned to NRC, as long as the aforementioned 25 foot landscape buffer is required, the operating hours are limited, and the use for the back portion of the Property is restricted to low intensity recreation. Mableton Center agrees with the recommendations contained in the MIC Letter, and respectfully requests that the entire parcel be rezoned to the NRC zoning classification.

In accordance with the recommendations contained in the MIC Letter, certain conditions recommended by the Planning Commission, and the conditions recommended by the Cobb County Community Development Agency, Zoning Division in its Final Zoning Staff Recommendation, my client submits this Letter of Stipulations (“Letter). Upon the approval of the Application, the stipulations contained in the Letter shall become conditions which are part of the approval of the rezoning and which are binding on the Property from the date of Approval and thereafter.

1. Mableton Center respectfully requests that the entire Property be rezoned from GC and R-20 to NRC. In addition, the Property shall be developed in accordance with the proposed site plan that will be submitted to the County prior to the Board of Commissioners’ hearing on or before August 21, 2018, as part of the Application. The District Commissioner shall approve any minor modifications to said site plan.

2. A Landscape Review Committee shall be established and shall be comprised of a representative from each of the following: Mableton Center, MIC and Cobb County Community Development Department. The Committee shall review the Landscape Plan. Final approval of the Landscape Plan shall be made by the County District Commissioner. The Landscape Plan shall include a 25 foot landscape-screening buffer adjacent to residentially zoned properties. Mableton Center agrees that it will include an 8-foot landscape enhancement strip along property’s frontage adjacent to right of way if it is feasible and will not cause a reduction in parking spaces or needed driveway space. The Landscape Plan shall follow the requirements for the Property as set forth in the “Design Guidelines for Mableton Pkwy and Veterans Memorial Hwy,” including the type of trees or other buffering that will be planted on or along the Property. Any landscaping installed pursuant to the Landscape Plan shall be maintained and kept free of invasive vines and weeds. Any dead or damaged plantings in the landscape buffers will be replaced within 90 days of Mableton Center’s notice of such status. Grass on the Property shall be cut to a height of less than twelve (12) inches.

3. An Architectural Review Committee shall be established and shall be comprised of a representative from each of the following: Mableton Center, MIC and Cobb County Community Development Department. The Architectural Review Committee shall review the elevations of the buildings and the plans for the renovation of the fence. Final approval of such elevations and fence renovation shall be made by the County District Commissioner. The Building Elevations are to be approved by the District Commissioner prior to the commencement of any work or renovations. Mableton Center intends to renovate the Property and Buildings on the Property in accordance with the Site Plan and drawings depicting the Building Elevations and materials to be used which were submitted to members of MIC and to Planning Commissioner Galt Porter prior to the Planning Commission Hearing on August 6, 2018.

4. All parking areas on the Property are to be paved and striped in accordance with Cobb County standards, and the area between the two buildings will be resurfaced. Although the Cobb County Community Development Agency Zoning Division "Final Staff Recommendation" indicates that the required number of parking spaces is 32, it appears that the actual required number is 31. This calculation is based on the size of the smaller front building, 1093.22 square feet, which requires 6 parking spaces, and the proposed use of the larger back building as a place of worship with no more than 100 seats, which requires 25 parking spaces, for a total of 31 spaces required on the Property. It is Mableton Center's intent that its Proposed Site Plan will show the required number of parking spaces needed per the Final Staff Recommendation if possible. In addition, one of the handicapped parking spaces will be relocated from the back building to the front building.

5. Mableton Center intends to use the front smaller building as either a retail or personal service related business which will serve the community or as office space. Mableton Center agrees that there shall be none of the following types of businesses permitted on the Property:

- (a) Liquor store;
- (b) Adult entertainment;
- (c) Sales of sexually explicit or drug-related paraphernalia;
- (d) Pawn shops and title pawn shops;
- (e) Gold or precious metal dealers;
- (f) Tattoo parlors;
- (g) Nightclubs;
- (h) Video arcades as a primary use;
- (i) Check cashing;
- (j) Discount sales;
- (k) Drive through windows;
- (l) Auto sales, auto parts, auto service, and used tire sales;
- (m) Taxi dispatching services;
- (n) Wholesale only sales establishments;
- (o) Gun, knife, or weapons sales;
- (p) Shooting ranges;
- (q) Firewood sales; and
- (r) Thrift stores, second hand stores, or flea markets; and
- (s) No day care facility (tutoring services for hire or on a voluntary basis and day/evening care services for children of congregants are allowed on the Property).

Mableton Center further agrees that there shall be no display of merchandise on the exterior of the Property. Outdoor storage shall only be allowed as permitted in the Cobb County Zoning Ordinance. The hours of operation and use for the front building will be related to normal business operating hours for the type of business that ultimately locates in such space. Mableton Center anticipates that the hours of operation and use for the back building will be from approximately 6:00 a.m. in the morning through approximately 10:00 p.m. at night on a daily basis.

6. One variance will be granted contemporaneously with the approval of the Application for the following: a waiver to reduce the side setback from the required 15 feet to 10 feet (existing due to location of back building) adjacent to the northern property line.

7. The Property will be renovated in accordance with the renderings shown to the Planning Commission by Mableton Center. The materials to be used to renovate the front of the front small building will be either brick, stone or simulated stone and the front elevation will reflect such material. The sides of the front small building will be renovated with a quality siding material. The fence on the Property will be renovated. The materials to be used to renovate the fence will be iron, wood or other material approved for fencing in the "Design Guidelines for Mableton Pkwy and Veterans Memorial Hwy." Mableton Center intends to remove the sliding doors on the large building in the back and to install a double entry door to the front of the building. Any renovations to the exterior of either of the buildings on the Property and to the existing fence will be done in accordance with the "Design Guidelines for Mableton Pkwy and Veterans Memorial Hwy." Mableton Center will obtain the requisite permits from Cobb County should any be required pursuant to the Cobb County Code for such renovations.

8. In regard to the undeveloped portion of the property behind the second building which is currently zoned R-20, Mableton Center does not anticipate constructing another building on such portion of the Property. However, it may decide to install additional parking a playground, or other outdoor recreational area for the use of its members which would have no adverse impact on the neighboring properties. Recreational areas which may be installed include but are not limited to basketball or volleyball courts, swing sets and sliding boards, gardens, garden or park-like sitting areas, picnic tables, and similar recreational activity centers. In no event shall any regulation athletic field be installed on the Property. There shall be no outdoor activities in the currently zoned R-20 portion of the Property from 9:00 p.m. to 8:00 a.m. each day (except for parking if spaces are added behind the existing large building). Should Mableton Center decide to either develop such area, place any outdoor recreational center in such area, or should it desire to add additional parking in the back of the larger building, then it agrees that it will abide by all Cobb County regulations in regard to such development and will seek approval from the County Arborist and the Landscape Review Committee regarding the landscaping of such area prior to obtaining permits for such development.

9. Should Mableton Center install lighting in the back portion of the property which is currently zoned R-20, such lighting shall be established in such a way that values the quiet use and enjoyment of adjacent properties and ensures that adjacent properties are not adversely affected. No direct light shall be cast upon the adjacent properties. If lighting is to be established, Mableton shall use non-glare cutoff type fixtures. Any lighting that is added to the east of the large building shall be no higher than the height of the back large building.

10. The site plan shall show that the following items depicted on the site plan submitted to the County on April 18, 2018, have been removed:

- Item C – Shed;
- Item D – Shed;
- Item E – Concrete pad;
- Item H – Shed; and
- Item I – Dock.

The site plan shall also show the location of the garbage dumpster. The location shall comply with Cobb County regulations, and its location shall not sacrifice any parking spaces. The garbage dumpster shall be placed in an enclosure which complies with Cobb County regulations.

11. All debris currently stored on the Property shall be removed within thirty (30) days of the final decision of the Board of Commissioners' on the Application.

12. Mableton Center will review and attempt to comply with the comments and recommendations provided in the Final Zoning Staff Recommendation from the County Fire Department, the Water and Sewer Division, the Stormwater Management Division, and Department of Transportation if it is feasible and possible to do so. As Mableton Center proceeds with landscaping and renovations to the existing buildings, it anticipates that it may be required to take certain actions in regard to said comments and recommendations from the aforementioned departments or divisions, such as applying for a land disturbance permit or installing water sprinklers if required by law. Mableton Center agrees to comply with any requirements necessary in order to obtain certificates of occupancy for use of the buildings and parking lot.

13. Any signs that are located on the Property shall comply with Cobb laws and regulations governing such signs and shall also comply with the "Design Guidelines for Mableton Pkwy and Veterans Memorial Hwy."

14. All building renovations, landscaping, paving, dumpster installation and fencing must be completed prior to the issuance of either the Cobb County Certificates of Occupancy for the Buildings or the required Cobb County Business License(s).

15. The District Commissioner shall have the authority to approve minor modifications to these stipulations and the site plan as the development proposal proceeds through any required processes, and thereafter. However, any modifications that increase density; reduce the size or composition of an approved buffer or land strip to adjacent property; relocate a structure closer to a property line; or increase the height of a building adjacent to property which is zoned in the same or a more restrictive zoning district.

This letter should replace any earlier stipulation letters from Mableton Center. Furthermore, we ask that this letter be included in the final application package for Z-39. This letter has been forwarded to Robin Meyer and Sonya Wheatley, members of the MIC Zoning Committee, and to Galt Porter, Member of the Cobb County Planning Commission. Should there be any questions or comments in regard to this Letter, please do not hesitate to contact me.

My client and I thank you for your time and consideration of this matter.

Best regards.

Sincerely,

BERMAN FINK VAN HORN P.C.

/s/ Lisa S. Morchower

Lisa S. Morchower

LSM:kmk

cc: Members, Cobb County Board of Commissioners (via email)
Members, Cobb Planning Commission (via email)
Mr. Dana Johnson, AICP, Director (via email)
Mr. Jason Gaines, AICP, Planning Division Manager (via email)
Mr. Terry Martin, Planner II (via email)
Mr. Donald Wells, Zoning Analyst (via email)
Ms. Sonya Wheatley, Mableton Improvement Coalition (via email)
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