

**FEBRUARY 19, 2008 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 2**

ITEM #1

PURPOSE

To consider a Settlement of Litigation proposal regarding Z-5 (PARMENTER PARKWOOD LP, LLLP) of February 20, 2007, for rezoning from OHR to CRC for retail/restaurant use located in Land Lot 985 of the 17th District at the southeasterly intersection of Powers Ferry Road and Parkwood Circle.

BACKGROUND

The subject property is zoned Office High Rise (OHR) subject to numerous conditions/stipulations that are attached. The original request for CRC was denied by the Board of Commissioners. The applicant/property owners filed a lawsuit challenging the Board of Commissioners decision. Prior to this case going to court a mediation conference was conducted and the settlement proposal was proposed. The settlement proposal is attached. The Zoning Analysis prepared for the original application is attached for your review

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners conduct a public hearing and consider the Settlement of Litigation proposal and if approved should be subject to requirements at plan review.

ATTACHMENTS

Board of Commissioners Decision
Settlement Proposal
Original Zoning Analysis

PAGE 3 OF 3

APPLICATION NO. Z-5

ORIGINAL DATE OF APPLICATION: 02-20-07

APPLICANTS NAME: PARMENTER PARKWOOD LP, LLLP

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

BOC DECISION OF 02-20-07 ZONING HEARING:

PARMENTER PARKWOOD LP, LLLP (owner) requesting Rezoning from **OHR** to **CRC** for the purpose of Restaurant and Retail in Land Lot 985 of the 17th District. Located at the southeasterly intersection of Powers Ferry Road and Parkwood Circle.

The public hearing was opened and Mr. Garvis L. Sams, Jr. addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Thompson, second by Goreham, to **reject** rezoning request.

VOTE: **ADOPTED** unanimously

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW
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376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

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SAMSLARKINHUFF.COM

December 14, 2007

*ALSO LICENSED TO PRACTICE
IN ALABAMA

VIA HAND DELIVERY

Joseph B. Atkins, Esq.
Senior County Attorney
Cobb County Attorney's Office
100 Cherokee Street, Suite 595
Marietta, GA 30090-9698

Re: Application of Parmenter Parkwood, LP, LLLP to Rezone a 1.66 Acre Tract
from OHR to CRC (No. Z-5)

Parmenter Parkwood LP, LLP, v. Cobb County, Georgia, et al.
Cobb Superior Court, Civil Action File No. 07-1-01995-42

Dear Joe:

As you know, this firm represents the applicant which is also the property owner concerning the above-captioned matters. In that regard and based upon the tentative agreement which was reached through our mediation session last week, this letter will confirm that the proposed settlement of litigation will be heard and considered by the Cobb County Board of Commissioners at its next available Executive Session on January 7, 2008.

Thereafter, assuming we have met the District Commissioner's and the Board's expectations with respect to the proposed settlement, it is my understanding that the matter will be placed on the Board's "Other Business" agenda which will immediately follow the regularly scheduled zoning hearings on February 19, 2008. It is my understanding that the subject property will need to be posted on or before January 18, 2008. Please let me know when you have had an opportunity to review these matters with Commissioner Thompson and when the notification signage is ready so that I can ensure that the property is properly posted.

The balance of this letter will serve as my client's expression with the following revised stipulations which, upon the settlement of litigation being approved, shall become conditions and a part of the requested rezoning, as amended and modified hereby, and binding upon the subject property thereafter:

VIA HAND DELIVERY

Joseph B. Atkins, Esq.
Senior County Attorney
Cobb County Attorney's Office
December 14, 2007
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1. The revised stipulations and conditions set forth herein shall replace and supercede 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 ("subject property").
2. Rezoning of the subject property shall be from OHR to CRC and shall be in substantial conformity to the site plan being filed contemporaneously herewith. However, there shall be no vehicular access to Powers Ferry Road.
3. If development of the subject property is not commenced within twelve (12) months from the date of rezoning to the Community Retail Commercial (CRC) district then, and in that event, the zoning classification of the subject property shall revert from CRC to the original Office High Rise (OHR) zoning classification.
4. The architectural style and composition of the building shall be in substantial conformity to that shown on the elevation/rendering submitted contemporaneously herewith.¹ It is understood that there may be minor modifications to the architectural style and composition such as the addition of awnings which may be reviewed and approved by the District Commissioner.
5. There shall be inter-parcel access with the adjacent parcel with the entrance to the development being located on Parkwood Circle.
6. Entrance signage shall be ground based, monument style signage with the finish, materials and colors being in substantial conformity to the architectural style as aforementioned.
7. The submission of a landscape plan during the Plan Review process subject to the Arborist's review and approval. Additionally, the applicant agrees to the following:
 - a. Landscaping along the subject property's frontage on Powers Ferry Road shall be subject to review and approval by the County's landscape architect as a part of the Plan Review process.

¹ Said architecture complements the architectural style and composition of the office building on the adjacent tract, photographs of which are enclosed.

VIA HAND DELIVERY

Joseph B. Atkins, Esq.
Senior County Attorney
Cobb County Attorney's Office
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- b. All dumpsters shall be enclosed by brick on at least three (3) sides consistent with the architectural style and composition as aforementioned. Said dumpsters shall be equipped with doors and rubber fittings to reduce noise levels and shall be located in areas which are as unobtrusive as possible.
 - c. Any detention/water quality areas which are not located underground shall be attractively landscaped and screened.
 - d. All HVAC equipment shall be screened from the frontage and side views or any view which is visible from adjacent businesses or rights-of-way. Additionally, there shall be no roof-mounted HVAC equipment.
 - e. HVAC or similar equipment shall have dampeners, as appropriate, to ensure that noise is controlled and managed.
 - f. All utilities servicing the development shall be underground.
8. Environmentally sensitive, shoe-box style lighting, themed to the architecture and styling of the buildings to be constructed, shall be utilized throughout the development. Every effort shall be made to make all lighting as unobtrusive as possible.
 9. Parking area lighting shall be a maximum height of 30' and shall be environmentally sensitive, low level, shoe-box luminaries so as to prevent illumination from penetrating outside the boundaries of the subject property.
 10. Security lighting on the buildings shall be wall-packs, hooded, environmentally sensitive and shall be fitted with non-glare lenses and cut-off shields to prevent illumination from penetrating outside the boundaries of the subject property.
 11. Compliance with the recommendations from the Stormwater Management Division with respect to the location, configuration and methodology of on site detention and water quality. Additionally, an agreement to the following:
 - a. Exercising heightened sensitivity with respect to down stream hydrological conditions.

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Cobb County Attorney's Office
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- b. An agreement to design and adhere to best management practices in the construction of detention and water quality areas on site with such design and installation based upon a 100 year stormwater management design.
 - c. The utilization of grass bio-swales and infiltration trenches within the landscaped islands located within the areas of the subject property designated for parking.
12. Compliance with the recommendations of the Cobb County Water System with respect to the availability and acquisition of water and sewer to service the subject property.
13. Compliance with the following recommendations from the Cobb County Department of Transportation:
- a. No vehicular access to Powers Ferry Road.
 - b. Any sidewalk, curb and gutter displaced or disturbed during construction shall be replaced.
 - c. Providing inter-parcel access between the subject property and the office development behind the subject property on Parkwood Circle.
 - d. Requesting a contemporaneous variance with respect to the depth of the parking spaces (from 19' to 18').²
14. Compliance with recommendations from the Cobb County Fire Department as set forth in the Zoning Analysis.
15. There shall be no outside paging systems, telephone bells or loudspeakers; excepting only low decibel outdoor music systems.

² It is the applicant's understanding that DOT has no objection to the granting of the requested parking space variances and that the Stormwater Management Department will support the variances in view of the fact that they reduce the amount of impervious surface.

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Cobb County Attorney's Office
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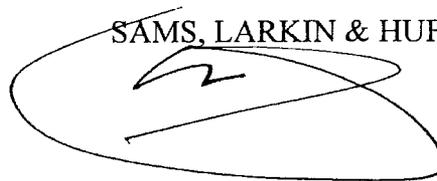
16. An agreement that there shall be outside storage such as that term is used and defined in the Cobb County Zoning Ordinance.
17. The development shall include pedestrian walkways between the proposed building and parking areas. Said pedestrian walkways shall be raised and consist of brick pavers, concrete and attendant landscaping.
18. The final site plan, final landscape plan and final architectural renderings shall be reviewed and approved by the District Commissioner who shall also have the latitude to make modifications to same during the Plan Review process.

Please do not hesitate to call should you, Commissioner Joe Thompson, the Board or staff require any further information or documentation prior to these matters being presented to the Board in Executive Session on January 7, 2008 or prior to the proposed settlement of litigation being heard by the Board of Commissioners as an "Other Business" agenda item immediately following the regularly scheduled zoning hearings on February 19, 2008.

With kindest personal regards and best wishes for the holiday season, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.
gsams@samslarkinhuff.com

GLSjr/jbmc

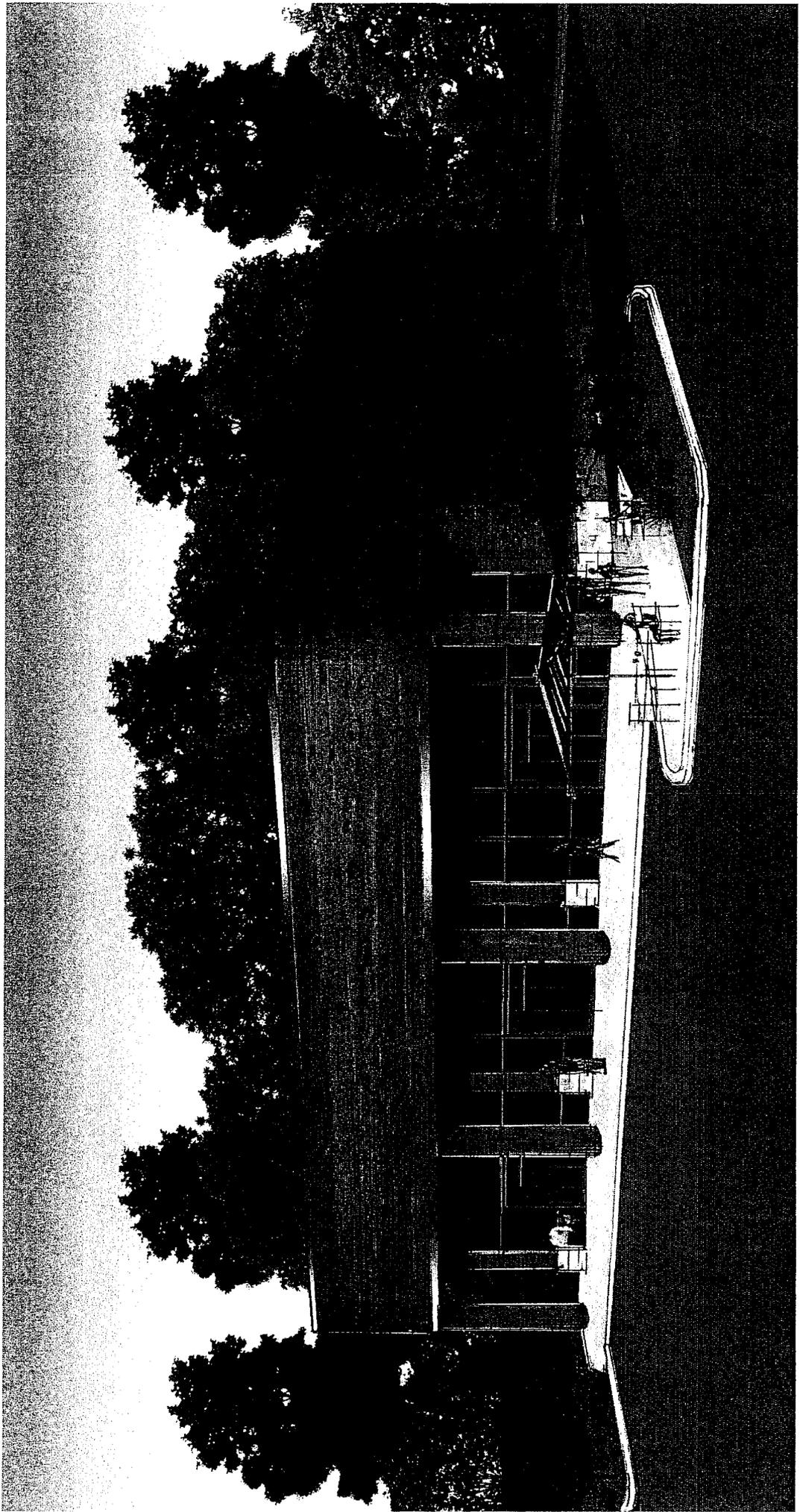
Enclosures

cc: Shown on next page.

VIA HAND DELIVERY

Joseph B. Atkins, Esq.
Senior County Attorney
Cobb County Attorney's Office
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cc: Mr. Joe L. Thompson, Commissioner – VIA Hand Delivery – w/enclosures
Mr. Robert L. Hosack, Jr., AICP, Director – VIA Hand Delivery
Mr. Mark A. Danneman, Manager – VIA Hand Delivery – w/enclosures
Michael Ahlstrom, Esquire, Mediator – w/enclosures
Dotty Bishop, Esquire – VIA Hand Delivery – w/enclosures
Ms. Carol Granger, County Clerk – VIA Hand Delivery – w/enclosures
Ms. Karen King, Deputy County Clerk – VIA Hand Delivery – w/enclosures
Mr. John C. Davidson, Parmenter Realty Partners – VIA E-Mail



APPLICANT: Parmenter Parkwood LP, LLLP
770-923-8877

PETITION NO: Z-5

REPRESENTATIVE: Sams, Larkin & Huff, LLP
Garvis L. Sams, Jr. 770-422-7016

HEARING DATE (PC): 02-06-07

HEARING DATE (BOC): 02-20-07

TITLEHOLDER: Parmenter Parkwood LP, LLLP

PRESENT ZONING: OHR

PROPOSED ZONING: CRC

PROPERTY LOCATION: Located at the southeasterly intersection of
Powers Ferry Road and Parkwood Circle.

PROPOSED USE: Restaurant and Retail

ACCESS TO PROPERTY: Powers Ferry Road and Parkwood
Circle

SIZE OF TRACT: 1.66 acres

DISTRICT: 17

PHYSICAL CHARACTERISTICS TO SITE: vacant lot

LAND LOT(S): 985

PARCEL(S): 5

TAXES: PAID X DUE _____

COMMISSION DISTRICT: 2

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH: GC/ Bank
- SOUTH: OHR/ 1000 Parkwood Circle Office Building
- EAST: OHR/ high rise office building
- WEST: CRC/ retail shopping center

OPPOSITION: NO. OPPOSED _____ PETITION NO: _____ SPOKESMAN _____

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ MOTION BY _____
 REJECTED _____ SECONDED _____
 HELD _____ CARRIED _____

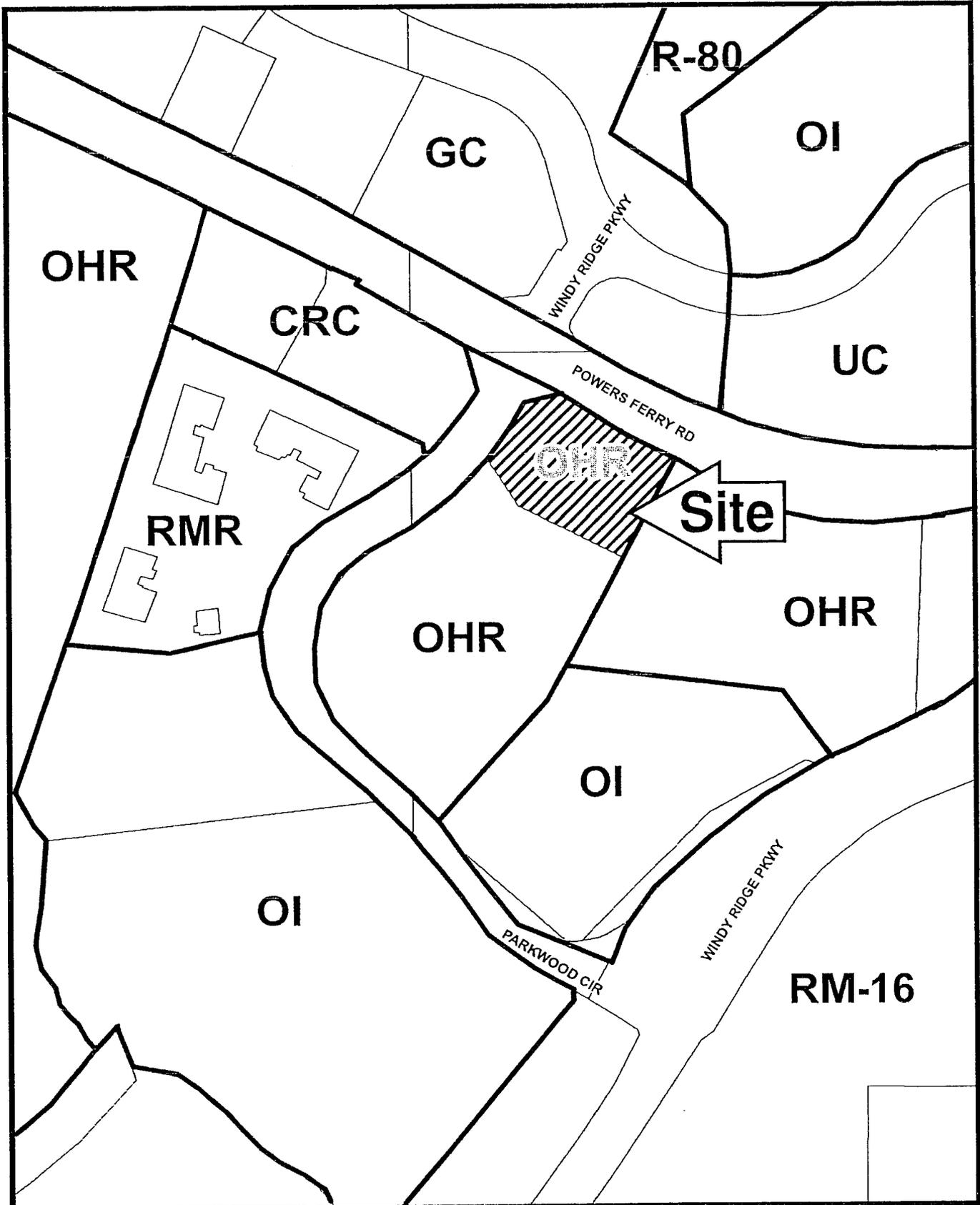
BOARD OF COMMISSIONERS DECISION

APPROVED _____ MOTION BY _____
 REJECTED _____ SECONDED _____
 HELD _____ CARRIED _____

STIPULATIONS:



Z-5



This map is provided for display and planning purposes only. It is not meant to be a legal description.



-  Draft Parcel Boundary
-  Approximate Zoning Boundary

APPLICANT: Parmenter Parkwood LP, LLLP

PETITION NO.: Z-5

PRESENT ZONING: OHR

PETITION FOR: CRC

PLANNING COMMENTS:

Staff Member Responsible: John P. Pederson, AICP

Land Use Plan Recommendation: Regional Activity Center, Sub area for Office

Proposed Number of Buildings: 1 Total Square Footage of Development: 5,940

F.A.R. 3,578 Square Footage/Acre

Parking Spaces Required: 59 Parking Spaces Provided: 85

The applicant is requesting the CRC zoning district to develop a restaurant and/or retail building. The proposed building would be one-story with a brick and/or stucco exterior. The proposed restaurant will be open seven days a week, from 10:00am to midnight. The applicant is showing contemporaneous variance to reduce the parking stall depth, from 19-feet to 18-feet. The applicant has submitted a letter of agreeable stipulations (see Exhibit "A").

Historic Preservation: After reviewing various county resources including historic and archeological resource surveys, documented Civil War trench maps, and historic aerial maps, staff finds no known historic properties affected by this application. No further comment. No action by applicant requested at this time.

Cemetery Preservation: No comment.

FIRE COMMENTS:

The applicant is responsible to ensure all Cobb County Fire and Emergency Services Code requirements are met related to this project. Plans will need to be submitted to the Cobb County Fire Marshall's Office, prior to any permits being issued.

Standard comments:

1. Provide 24-hour emergency phone number (offset in bold print on all sheets).
2. Fire Hydrant
 - a. Commercial: Fire hydrant within 500 feet of most remote part of structure.
 - b. Residential: Fire hydrant within 500 feet of structure.
3. Fire apparatus access road shall extend to within 150-feet of all portions of the facility or any portion of the exterior wall of the first floor IFC 503.1 2003 Edition. **All access roads shall have an all weather driving surface capable of supporting 75,000 pounds with an unobstructed width of not less than 20-feet, 25-foot inside turning radius, 50-foot outside turning radius and unobstructed vertical clearance of not less than 13-feet 6 inches.** Dead-end access roads in excess of 150-feet shall be provided with a turn-around IFC 503.2.5 2003 Edition. Cul-de-sac with an island: minimum 60-foot radius to outside curb, measured to inside of curb. Minimum lane width = 24-feet. Residential cul-de-sac without island: 38-foot outside radius. Commercial cul-de-sac to have a 60-foot paved radius. Hammerhead turn-around: total of 110-feet needed (45-feet + 20-foot wide roadway + 45-feet).

Additional Comments:

APPLICANT Parmenter Parkwood LP, LLLP

PETITION NO. Z-005

PRESENT ZONING OHR

PETITION FOR CRC

NOTE: Comments reflect only what facilities were in existence at the time of this review.

WATER COMMENTS:

Available at Development? Yes No

Fire Flow Test Required? Yes No

Size / Location of Existing Water Main(s): 20" DI / S side Powers Fy Rd

Additional Comments:

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

SEWER COMMENTS:

In Drainage Basin? Yes No

At Development? Yes No

Approximate Distance to Nearest Sewer: 165' N, if construction allows

Estimated Waste Generation (in G.P.D.): **A D F** 600+ **Peak** 1500+

Treatment Plant: Sutton

Plant Capacity Available? Yes No

Line Capacity Available? Yes No

Projected Plant Availability: 0 - 5 year 5 - 10 years over 10 years

Dry Sewers Required? Yes No

Off-site Easements Required? Yes* No

Flow Test Required? Yes No

Letter of Allocation issued? Yes No

Septic Tank Recommended by this Department? Yes No

Subject to Health Department Approval? Yes No

* If off-site easements are required, Developer must submit easements to CCWS for review / approval as to form and stipulations prior to the execution of easement(s) by the property owner(s). All easement acquisitions are the responsibility of the Developer.

Additional Comments:

Also, sewer aprx 830' S on Parkwood around parking deck.
Pre-installed grease trap required

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or off site easements, dedication of on and/or off site water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

APPLICANT: Parmenter Parkwood LP, LLLP

PETITION NO.: Z-5

PRESENT ZONING: OHR

PETITION FOR: CRC

DRAINAGE COMMENTS

FLOOD HAZARD: [] YES [X] NO [] POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Rottenwood Creek FLOOD HAZARD INFO: Zone X

- [] FEMA Designated 100 year Floodplain Flood.
[] Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
[X] Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.
[] Dam Breach zone from (upstream) (onsite) lake - need to keep residential buildings out of hazard.

WETLANDS: [] YES [X] NO [] POSSIBLY, NOT VERIFIED

Location: _____

- [] The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE: [] YES [X] NO [] POSSIBLY, NOT VERIFIED

- [] Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway).
[] Chattahoochee River Corridor Tributary Area - County review (____ undisturbed buffer each side).
[] Georgia Erosion-Sediment Control Law and County Ordinance - County Review/State Review.
[] Georgia DNR Variance may be required to work in 25 foot streambank buffers.
[] County Buffer Ordinance: 50' , 75' , 100' or 200' each side of creek channel.

DOWNSTREAM CONDITION

- [] Potential or Known drainage problems exist for developments downstream from this site.
[X] Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
[X] Minimize runoff into public roads.
[X] Minimize the effect of concentrated stormwater discharges onto adjacent properties.
[] Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
[] Existing Lake Downstream _____.
Additional BMP's for erosion sediment controls will be required.
[] Lake Study needed to document sediment levels.
[] Stormwater discharges through an established residential neighborhood downstream.
[X] Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream existing storm drainage system.

APPLICANT: Parmenter Parkwood LP, LLLP

PETITION NO.: Z-5

PRESENT ZONING: OHR

PETITION FOR: CRC

DRAINAGE COMMENTS CONTINUED

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all proposed site improvements to Plan Review.
- Any **spring activity** uncovered must be addressed by a qualified geotechnical engineer (PE).
- Structural fill _____ must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- Existing facility.
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site.
- Revisit design; reduce pavement area to reduce runoff and pollution.

INSUFFICIENT INFORMATION

- No Stormwater controls shown _____
- Copy of survey is not current - Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit.

ADDITIONAL COMMENTS/SUGGESTIONS

1. The existing site drains to the northwest into the existing stormdrainage system within the R/W of Parkwood Circle. The allowable discharges for this site must account for the existing downstream system capacity which must be evaluated during Plan Review.
2. Underground detention is proposed. Unless provision is made for above-ground water quality BMPs the use of approved underground filtration units will be required.

APPLICANT: Parmenter Parkwood, LP, LLLP

PETITION NO.: Z-5

PRESENT ZONING: OHR

PETITION FOR: CRC

TRANSPORTATION COMMENTS

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Powers Ferry Rd	29770	Arterial	35 mph	Cobb County	110'
Parkwood Circle	NA	Non Residential Local	25 mph	Cobb County	50'

Based on 2005 traffic counting data taken by GADOT.

COMMENTS AND OBSERVATIONS

Powers Ferry Road is classified as an Arterial and according to the available information, the existing right-of-way does meet the minimum requirements for this classification.

Parkwood Circle is classified as a Non-residential Local and according to the available information, the existing right-of-way does meet the minimum requirements for this classification.

Modify the landscaped median on Parkwood Circle and construct a left turn.

Primary access shall be by inter-parcel access.

No access to Powers Ferry Road.

RECOMMENDATIONS

Recommend a left turn lane on Parkwood Circle.

Recommend inter-parcel access.

Recommend no access to Powers Ferry Road.

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

STAFF RECOMMENDATIONS

Z-5 PARMENTER PARKWOOD LP, LLLP

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The area contains a mixture of high intensity land use types, including high rise offices, retail, residential condominiums, a bank, and apartments.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse affect on the usability of adjacent or nearby property. The applicant's proposal would be compatible with the mixed use character of the area, and would help round out the area by including additional restaurant opportunities.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which designates this property to be within a Regional Activity Center, sub area for Offices. Regional Activity Centers provide for areas that can support a high intensity of development. Mixed use developments are allowable in the Office sub area.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for approving the applicant's rezoning proposal. The applicant's proposal is located in an area that contains a mixture of high intensity land uses. The applicant's proposal would be compatible with the character of the area. The applicant proposal is consistent with the *Cobb County Comprehensive Plan*. The applicant's proposal is located at a major signalized intersection, which should reduce traffic problems.

Based on the above analysis, Staff recommends APPROVAL subject to the following conditions:

- Site plan received by the Zoning Division December 7, 2006, with the District Commissioner approving minor modifications;
- Letter from Mr. Garvis L. Sams, Jr. dated January 22, 2007;
- Fire Department comments;
- Water and Sewer comments and recommendations;
- Stormwater Management comments and recommendations; and
- DOT comments and recommendations.

The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW
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376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

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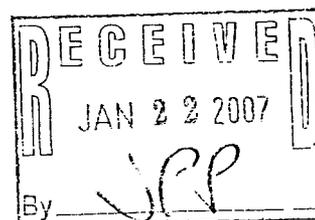
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January 22, 2007

VIA HAND DELIVERY

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
191 Lawrence Street
Suite 300
Marietta, GA 30060-1661



Re: Application of Parmenter Parkwood, LP, LLLP to Rezone a 1.66 Acre Tract
from OHR to CRC (No. Z-5)

Dear John:

You will recall that this firm has been engaged by and represents the applicant which is also the property owner concerning the above-captioned Application for Rezoning. The Application is scheduled to be heard and considered by the Cobb County Planning Commission on February 6, 2007 and, thereafter, is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on February 20, 2007.

With respect to the foregoing and consistent with discussions with the County's professional staff, this letter will serve as my client's expression of agreement with the following stipulations which shall become conditions and a part of the requested rezoning and binding upon the subject property thereafter:

1. The stipulations and conditions set forth herein shall replace and supercede 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 ("subject property").
2. Rezoning of the subject property shall be from the OHR to CRC and shall be in substantial conformity to the site plan prepared by Kimley-Horn and Associates, Inc., which was filed contemporaneously with the Application for Rezoning.

VIA HAND DELIVERY

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
Page 2
January 22, 2007

3. The total area of the subject property consists of 1.66 acres which shall be developed as a restaurant or a bank with attendant parking.
4. The proposed restaurant or bank shall have an architectural style and composition which shall be consistent with the architectural style and composition of the renderings and/or photographs which shall be submitted under separate cover.
5. There shall be inter-parcel access with the main entrance to the overall development being located on Parkwood Circle.
6. Entrance signage shall be ground based, monument style signage with the finish, materials and colors being in substantial conformity to the architectural style as aforementioned.
7. The submission of a landscape plan during the Plan Review process subject to the Arborist's review and approval. Additionally, the applicant agrees to the following:
 - a. All landscaping shall be professionally designed and maintained and appropriate for full year coverage and shall be approved by the County Arborist during the Plan Review process. The Powers Ferry Road frontage, as well as parking islands, shall be heavily landscaped and irrigated.
 - b. All dumpsters shall be enclosed by brick on at least three (3) sides consistent with the architectural style and composition as aforementioned. Said dumpsters shall be equipped with doors and rubber fittings to reduce noise levels and shall be located in areas which are as unobtrusive as possible.
 - c. Any detention/water quality areas which are not located underground shall be attractively landscaped and screened.
 - d. All HVAC equipment shall be screened from the frontage and side views or any view which is visible from adjacent businesses or rights-of-way. Additionally, there shall be no roof-mounted HVAC equipment.
 - e. HVAC or similar equipment shall have dampeners, as appropriate, to ensure that noise is controlled and managed.

VIA HAND DELIVERY

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
Page 3
January 22, 2007

- f. All utilities servicing the development shall be underground.
8. Environmentally sensitive, shoe-box style lighting, themed to the architecture and styling of the buildings to be constructed, shall be utilized throughout the development. Every effort shall be made to make all lighting as unobtrusive as possible.
9. Parking area lighting shall be a maximum height of 30' and shall be environmentally sensitive, low level, shoe-box luminaries so as to prevent illumination from penetrating outside the boundaries of the subject property.
10. Security lighting on the buildings shall be wall-packs, hooded, environmentally sensitive and shall be fitted with non-glare lenses and cut-off shields to prevent illumination from penetrating outside the boundaries of the subject property.
11. Compliance with the recommendations from the Stormwater Management Division with respect to the location, configuration and methodology of on site detention and water quality. Additionally, an agreement to the following:
 - a. Exercising heightened sensitivity with respect to down stream hydrological conditions.
 - b. An agreement to design and adhere to best management practices in the construction of detention and water quality areas on site with such design and installation based upon a 100 year stormwater management design.
 - c. The utilization of grass bio-swales and infiltration trenches within the landscaped islands located within the areas of the subject property designated for parking.
 - d. Final hydrology plans shall be subject to review and approval by the District Commissioner.
12. Compliance with the recommendations of the Cobb County Water System with respect to the availability and acquisition of water and sewer to service the subject property.

VIA HAND DELIVERY

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
Page 4
January 22, 2007

13. Compliance with the following recommendations from the Cobb County Department of Transportation:
 - a. The construction of a right-in/right-out only access point on Powers Ferry Road with a 100' deceleration lane and an appropriate taper.
 - b. Any sidewalk, curb and gutter displaced or disturbed during construction shall be replaced.
 - c. Providing inter-parcel access between the subject property and the office development behind the subject property on Parkwood Circle.
 - d. Requesting a contemporaneous variance with respect to the depth of the parking spaces (from 19' to 18').¹
14. Compliance with recommendations from the Cobb County Fire Department as set forth in the Zoning Analysis.
15. All exhaust from the restaurant shall be filtered and attenuated to minimize odors.
16. There shall be no outside paging systems, telephone bells or loudspeakers; excepting only low decibel outdoor music systems.
17. An agreement that there shall be outside storage such as that term is used and defined in the Cobb County Zoning Ordinance.
18. The development shall include pedestrian walkways between the proposed building and parking areas. Said pedestrian walkways shall be raised and consist of brick pavers, concrete and attendant landscaping.

¹ It is the applicant's understanding that DOT has no objection to the granting of the requested parking space variances and that the Stormwater Management Department will support the variances in view of the fact that they reduce the amount of impervious surface.

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VIA HAND DELIVERY

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
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19. The final site plan, final landscape plan and final architectural renderings shall be reviewed and approved by the District Commissioner who shall also have the latitude to make modifications to same during the Plan Review process.

Please do not hesitate to call should you require any additional information or documentation prior to the formulation of your recommendation to the Board of Commissioners and Planning Commission.

Very truly yours,

SAMS, LARKIN & HUFF, LLP



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GLSjr/jbmc

cc: Members, Cobb County Board of Commissioners – VIA Hand Delivery
Members, Cobb County Planning Commission – VIA E-Mail
Mr. Robert L. Hosack, Jr., AICP, Director – VIA Hand Delivery
Mr. John M. Morey, P.E. – VIA Hand Delivery
Mr. David W. Breaden, P.E. – VIA Hand Delivery
Ms. Gail K. Huff, Assistant County Clerk – VIA Hand Delivery
Ms. Karen L. King, Deputy County Clerk – VIA Hand Delivery
Mr. C. Mark McClellan, President, ECCA – VIA E-Mail
Ms. Susan Hammock, ECCA – VIA E-Mail
Mr. John C. Davidson, Parmenter Realty Partners – VIA E-Mail
Mr. Mr. Lawson Fannéy, P.E., Kimley-Horn and Associates, Inc. – VIA E-Mail