

APPLICANT: The Arbor Companies
678-574-4994

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

TITLEHOLDER: Canton Road Development., LLC

PROPERTY LOCATION: Located on the west side of Canton Road,
south of Westerly Way.

ACCESS TO PROPERTY: Canton Road

PHYSICAL CHARACTERISTICS TO SITE: Vacant lot

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** GC/ vacant lot, Racetrac
- SOUTH:** GC/ vacant lot
- EAST:** R-20, NS/ Daycare
- WEST:** SC/ Chimney Cottages

PETITION NO: Z-25

HEARING DATE (PC): 06-03-08

HEARING DATE (BOC): 06-17-08

PRESENT ZONING: GC

PROPOSED ZONING: NRC

PROPOSED USE: Retail and Office

SIZE OF TRACT: 1.87 acres

DISTRICT: 16

LAND LOT(S): 660, 709

PARCEL(S): 45

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 3

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

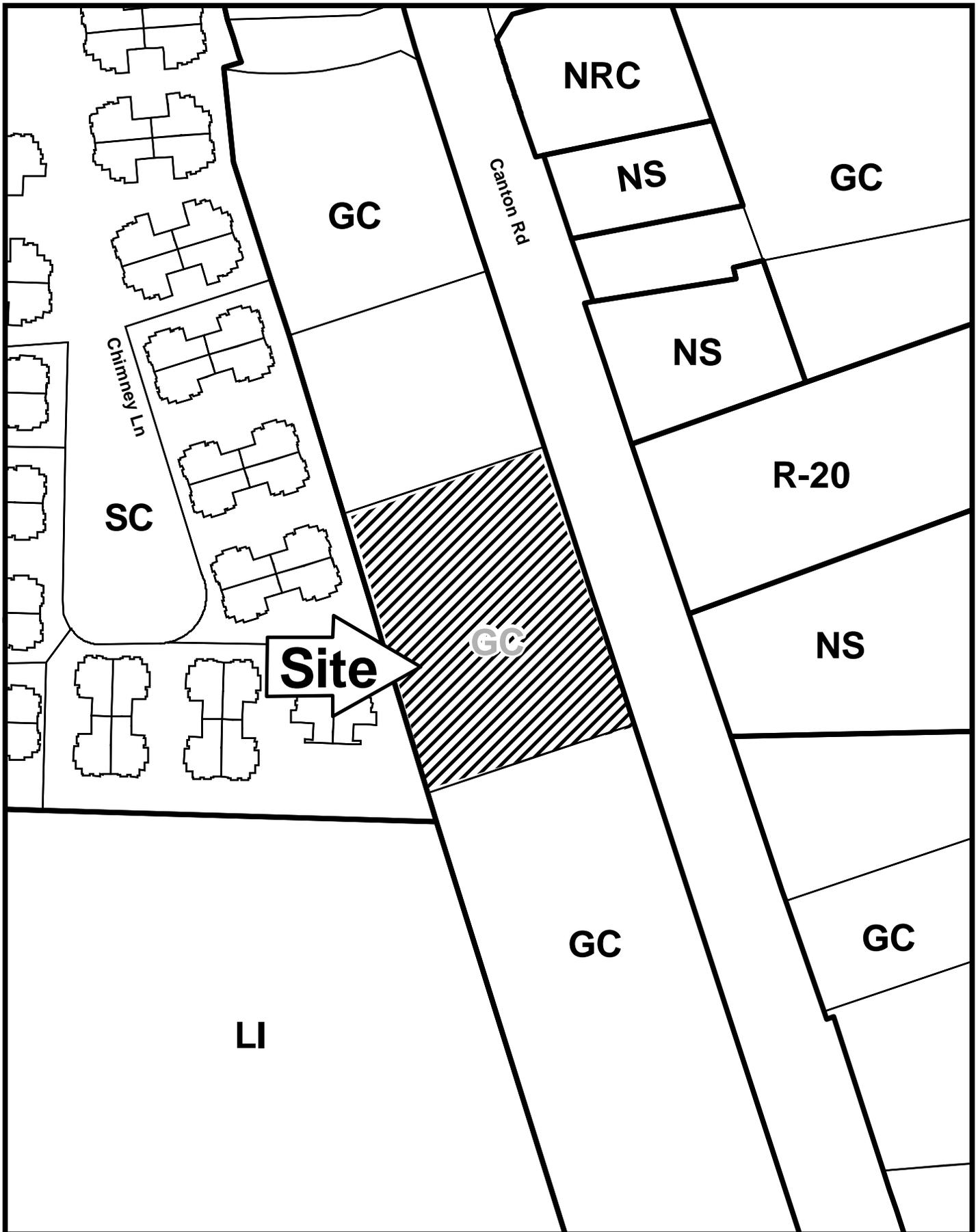
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

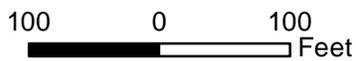
STIPULATIONS:



Z-25



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



APPLICANT: The Arbor Companies

PETITION NO.: Z-25

PRESENT ZONING: GC

PETITION FOR: NRC

PLANNING COMMENTS:

Staff Member Responsible: John P. Pederson, AICP

Land Use Plan Recommendation: Neighborhood Activity Center

Proposed Number of Buildings: 1 **Total Square Footage of Development:** 14,289

F.A.R.: 0.17 **Square Footage/Acre:** 7,641

Parking Spaces Required: 72 **Parking Spaces Provided:** 72

The applicant is requesting the NRC zoning district to develop a commercial building. The building will be one-story in height with an exterior consisting of brick, stacked stone and EFIS. The building is anticipated to be leased to retail and offices uses. The applicant has submitted a Zoning Impact Analysis, which is attached as Exhibit "A". The applicant has submitted a letter of agreeable stipulations (see Exhibit "B").

Historic Preservation: After consulting various county historic resources surveys, historic maps, archaeology surveys and Civil War trench location maps, staff finds that no known significant historic resources appear to be affected by this application. No further comment. No action by applicant requested at this time.

Cemetery Preservation: No comment.

FIRE COMMENTS:

Commercial: Fire hydrant within 500 feet of most remote part of structure.

APPLICANT The Arbor Companies

PETITION NO. Z-025

PRESENT ZONING GC

PETITION FOR NRC

NOTE: Comments reflect only what facilities appeared of record at the time of this review. Field verification required by developer.

WATER COMMENTS:

Available at Development? Yes No
Fire Flow Test Required? Yes No

Size / Location of Existing Water Main(s) 12" DI / W side Canton 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: CCWS manhole stubbed at rear property line

Estimated Waste Generation (in G.P.D.): **A D F** 1430** **Peak** 3575**

Treatment Plant: Noonday

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
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:

Pre-installed grease traps by developer required for each restaurant

**Flow based on retail; restaurants will increase this.

Notes FYI: *Inactive CCWS sewer at front property may need to be left intact*

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.

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DRAINAGE COMMENTS

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

DRAINAGE BASIN: Noonday 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).
[X] 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 existing 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 stormdrainage system.

APPLICANT: The Arbor Companies

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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

1. This site is served by the existing master stormwater detention facility located within the Chimney Cottages at Westerly Way development located immediately to the west. The design engineer must verify that adequate detention and water quality has been provided for this site as well as runoff conveyance capacity to the facility. The approved design is based on an assumed weighted curve number (CN) of 86 for this site.
2. Any current maintenance issues associated with the existing pond should be evaluated and addressed at Plan Review.

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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
Canton Road	31600	Arterial	45 mph	Cobb County	100'

Based on 2006 traffic counting data taken by GDOT.

COMMENTS AND OBSERVATIONS

Canton Road is classified is classified as an Arterial and according to the available information, the existing right-of-way does not meet the minimum requirements for this classification.

Canton Road is identified as a proposed road improvement project.

Install sidewalk, curb and gutter along the frontage.

As necessitated by this development for egress from Canton Road, a deceleration lane will be required.

Provide inter-parcel access connections to adjacent properties on the north side and the south side.

RECOMMENDATIONS

Recommend applicant consider entering into a development agreement pursuant of O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the west side of Canton Road, a minimum of 50' from the roadway centerline.

Recommend applicant coordinate with Cobb County DOT prior to development plan approval to ensure compatibility with the proposed road improvement project.

Recommend a deceleration lane.

Recommend installing sidewalk, curb and gutter along Canton Road.

Recommend inter-parcel connectivity with adjacent properties on the north and south sides of the proposed development.

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

STAFF RECOMMENDATIONS

Z-25 THE ARBOR COMPANIES

- 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 applicant's proposed use should compliment this highly commercial section of Canton Road with aesthetically pleasing, new commercial development.
- 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 is showing twice the required buffer adjoining the residentially zoned property to provide for a better transition in zoning intensity. The applicant's proposal should not affect the adjacent and nearby commercially zoned property.
- 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 delineates this property to be within a Neighborhood Activity Center.
- 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 proposal is in accordance with the *Cobb County Comprehensive Plan*, which delineates this property to be within a Neighborhood Activity Center. The proposal would be consistent with other commercial properties along Canton Road. The Applicant's proposal offers up-scale building architecture and twice the buffering, which will definitely help Canton Road redevelop in the future.

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

- Site plan received by the Zoning Division April 23, 2008, with the District Commissioner approving minor modifications;
- District Commissioner approve the final building architecture;
- Letter from Mr. Garvis L. Sams, Jr., dated May 2, 2008 (not in conflict with Staff comments);
- Fire Department comments;
- Water and Sewer comments and recommendations;
- Stormwater Management comments and recommendations;
- 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.

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.

**ZONING IMPACT STATEMENT FOR THE REZONING APPLICATION
OF THE ARBOR COMPANIES**

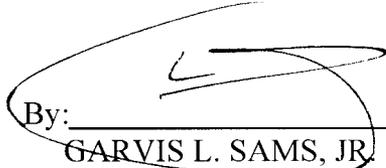
COMES NOW, THE ARBOR COMPANIES, and, pursuant to §134-121(a)(7) the Cobb County Zoning Ordinance, files this its Zoning Impact Statement, as follows:

- A. The zoning proposal will permit a use of the property which is suitable in the context of development and existing zonings along this section of the Canton Road Corridor.
- B. The zoning proposal will have no adverse effect or impact upon the exiting uses or usability of adjacent or nearby properties, the majority of which are commercial.
- C. The subject property to be affected by the zoning proposal has limited economic use as currently zoned.
- D. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.

- E. The zoning proposal is consistent with those uses and purposes contemplated under Cobb County's Comprehensive Land Use Plan and Future Land Use Map with the subject property lying and being within an existing Neighborhood Activity Center (NAC).
- F. There is no substantial relationship between the existing zoning classification of GC which limits the property in terms of its present utilization and the public health, safety and general welfare. Additionally, considered in the context of development along this section of the Canton Road Corridor, there are no established land use planning principles or political considerations which would vitiate the zoning proposal.

Respectfully submitted, this the 2nd day of April, 2008.

SAMS, LARKIN & HUFF, LLP

By: 

GARVIS L. SAMS, JR.

Attorney for Applicant

Ga. Bar No. 623950

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

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May 2, 2008

*ALSO LICENSED TO PRACTICE
IN ALABAMA

VIA E-MAIL and
HAND DELIVERY

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

Re: Application of The Arbor Companies to Rezone a 1.87 Acre Tract
from GC to Neighborhood Retail Commercial (NRC) (No. Z-25)

Dear John:

You will recall that this firm represents The Arbor Companies concerning the above-captioned application for rezoning. The application is scheduled to be heard and considered by the Cobb County Planning Commission on June 3, 2008 and, thereafter, is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on June 17, 2008.

In accordance with direction received from the County's professional staff and consistent with our ongoing dialogue with representatives of Canton Road Neighbors, Inc. and the Northeast Cobb Homeowners Group, I have been authorized by The Arbor Companies to submit this letter of agreeable stipulations which, if the application for rezoning is approved, shall become conditions and a part of the grant of the requested rezoning and binding upon the subject property thereafter. The referenced stipulations are as follows, to-wit:

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.
2. Rezoning of the subject property shall be from General Commercial (GC) to Neighborhood Retail Commercial (NRC) in substantial conformity to that certain revised

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site plan, prepared for The Arbor Companies by EMC Engineering Services, Inc., which was submitted under separate cover on April 23, 2008.

3. The total site area of the subject property (1.87 acres) shall be developed as a neighborhood retail center anchored by offices and retail shops.
4. The architectural style and composition of the neighborhood retail center shall be in substantial conformity to the architectural style and composition depicted in the revised rendering/elevation being submitted contemporaneously herewith. The building shall be of masonry components with a preponderance of brick and with equal architectural treatment and composition on all four (4) sides.
5. Entrance signage for the proposed retail center shall be ground-based, monument style, with finished materials and color being in substantial conformity to the architectural style as aforementioned. Signage in conformity with the Sign Ordinance shall be allowed on the building. There shall be no roof signs, exterior temporary signs or banners nor shall there be any flashing sign components. Temporary signage announcing the grand opening, signage indicating the coming development and signage relating to leasing opportunities shall be allowed.
6. Parking area lighting shall be environmentally sensitive, low level, shoe box luminaries fitted with non-glare lenses and cut-off shields to prevent illumination from penetrating outside the boundaries of the subject property.
7. Security lighting on the rear of 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.

The utilization of historically themed goose-neck lamps on the buildings and historically themed street lamps along the landscaped buffer adjacent to the sidewalk on Canton Road.

8. All dumpsters servicing the proposed retail center shall be enclosed with a minimum 6' high enclosure consistent with the architectural style as aforementioned on three (3) sides with an opaque wooden door on the access side which shall remain in a closed position

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except when the dumpsters are being emptied. All dumpsters shall have rubber lids to minimize noise.

9. The following otherwise permitted uses under the NRC classification shall be prohibited:
- a. Video arcades as a primary business.
 - b. Tattoo parlors and body piercing shops.
 - c. Billiard parlors.
 - d. Pawn shops, title pawn shops or checking cashing establishments.
 - e. Shooting ranges.
 - f. Houses of worship.
 - g. Wholesale establishments which sell only to businesses and not to retail customers.
 - h. Any business which principally features sexually explicit products or drug-related paraphernalia.
 - i. Car washes.
 - j. Commercial produce and agricultural product stands.
 - k. Community fairs.
 - l. Convenience food stores with self service fuel sales.
 - m. Automotive repair establishments.
 - n. Designated recycling and collection locations.
 - o. Emissions and inspection stations.

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- p. Full service gasoline stations.
 - q. Group homes.
 - r. In-home day care.
 - s. Radio, television or other communication towers with antennas, subject to Sec. 134-273.
 - t. Rest homes, personal care homes or convalescent homes.
 - u. Self service laundry facilities.
 - v. No merchandise shall be allowed to be displayed outside on the sidewalks or in the parking lots except for special events (sidewalk sales, grand openings, etc.). During these special events, merchandise shall be moved inside the retail store to which it belongs each night. All long term outside storage shall be prohibited.
 - w. There shall be no outside paging systems, phone bells, or loud speakers.
10. Deliveries to the neighborhood retail center shall be limited to the period of time between 8:00 a.m. until 9:00 p.m. on weekdays and between 10:00 a.m. and 8:00 p.m. on weekends. During the hours that deliveries are prohibited, trucks shall not be allowed to stand or park in the delivery area with running motors.
11. The submission of a landscape plan during the Plan Review process subject to final review and approval by the Community Development Agency, including the following:
- a. The formation of a Landscape Oversight Committee consisting of a representative from the Canton Road Neighbors, Inc., the Northeast Cobb Homeowners Group, a resident from the Chimney Cottages condominium community and the developer. A representative from the Community Development Department shall be an ex officio member of the Landscape Oversight Committee and shall be the final arbiter with respect to the resolution of any issues which can not otherwise be resolved.

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- b. The installation of a 40' landscaped screening buffer along the western property lines adjacent to the Chimney Cottages condominium community. Said landscaped screening buffers shall contain a preponderance of evergreen vegetation designed to screen and shield adjacent residences from the commercial utilization of the subject property.
- c. The installation of a 10' landscaped screening buffer adjacent to Canton Road.
- d. Species of vegetation which will be utilized shall be ecologically compatible to the site and appropriate for the design circumstances.
- e. Unless public safety and/or sight distance concerns dictate otherwise, said buffers shall provide a complete visual barrier to a height of 6' within two (2) years of planting.
- f. Minimum height of plant materials at installation shall be 5' for trees and 2' for shrubs.
- g. Those areas between sections of the subject property reserved for required parking, as well as public rights-of-way, shall be included in the final landscape plan. The landscaping and foliage contained within the parking islands shall consist of both upper and lower vegetative canopies.
- h. Subject to water restrictions which may be imposed by the State and/or County, all landscaping for the proposed retail center shall be professionally designed, perpetually maintained and irrigated. Any dead or irrevocably diseased vegetation shall be replaced as necessary.
- i. All landscaped and buffer areas may be penetrated for purpose of access, utilities, and stormwater management, including, but not limited to, detention/retention facilities, drainage facilities, and any and all slopes or other required engineering features.

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12. Compliance with the following recommendations from the Cobb County Department of Transportation with respect to traffic/transportation issues, as follows:
 - a. The voluntary donation and conveyance of right-of-way on Canton Road so that the County can achieve 50' from the centerline.
 - b. The installation of sidewalk, curb and gutter along the subject property's frontage on Canton Road.
 - c. The construction of a deceleration lane with an appropriate taper at the point of ingress/egress.
 - d. Providing inter-parcel access (as presently shown on the site plan) to parcels located north and south of the subject property.
 - e. Coordinating with DOT with respect to the Canton Road Improvement Project to ensure compatibility with project design criteria.
13. Compliance with the recommendations from the Stormwater Management Division with respect to the location, configuration and methodology of on site detention and water quality ponds, including, the following:
 - a. Exercising height and sensitivity with respect to downstream hydrological conditions.
 - b. An agreement to design and adhere to Best Management Practices and the construction of detention and water quality areas on site with such design and installation based upon a 100-year Stormwater Management design.
14. Compliance with recommendations from the Cobb County Fire Department as set forth in the Zoning Analysis.
15. 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.

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16. Minor modifications to the site plan, landscape plan, architectural elevations/renderings and this letter of agreeable stipulations/conditions may be reviewed and approved by the District Commissioner.

Please do not hesitate to call should you require further information or documentation prior to the formulation of your staff analysis and recommendations. With regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



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

GLSjr/jbmc

Attachment/Enclosure

- cc: Members, Cobb County Board of Commissioners – VIA Hand Delivery – w/enclosure
Members, Cobb County Planning Commission – VIA E-Mail and First Class Mail –
w/enclosure
Mr. Robert L. Hosack, Jr., AICP, Director – VIA Hand Delivery – w/enclosure
Mr. Mark A. Danneman, Manager – VIA Hand Delivery – w/enclosure
Mr. John M. Morey – VIA E-Mail - w/attachment
Mr. David Breaden – VIA E-Mail – w/attachment
Ms. Karen King, Deputy County Clerk – VIA Hand Delivery – w/enclosure
Ms. Lori Presnell, Deputy County Clerk – VIA Hand Delivery – w/enclosure
Ms. Carol Brown, President, Canton Road Neighbors – VIA E-Mail – w/attachment
Ms. Tricia Clements, President, Northeast Cobb Homeowners Group, Inc. –
VIA E-Mail – w/attachment
Mr. David Poteet – VIA E-Mail and First Class Mail – w/enclosure
Mr. Mark McClellan, President, East Cobb Civic Association – VIA E-Mail –
w/attachment
Mr. Craig M. Condra, President & CEO, The Arbor Companies – VIA E-Mail –
w/attachment

