

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
OCTOBER 17, 2006
PAGE 4

Zoning
Conditions

Z-149

THE COLUMNS GROUP, INC. (Due to individual parcels, a complete list of titleholders is available in the Zoning Office) requesting Rezoning from RM-12 and PSC to RM-12 for the purpose of Townhouse-Style Condominiums in Land Lots 168 and 178 of the 18th District. Located at the northeasterly intersection of Veterans Memorial Highway and Brookside Village Parkway (private road).

MOTION: Motion by Lee, second by Goreham, as part of the Consent Agenda, to approve rezoning to the RM-12 zoning district subject to:

- letter of agreeable stipulations from Mr. Garvis L. Sams, Jr. dated October 11, 2006 (copy attached and made a part of these minutes)
- maximum of 10% rental units
- creation of an Architectural and Landscape Control Committee comprised of three (3) members: a representative of the Mableton Improvement Coalition, the Developer and a member of staff, to review architectural and landscaping issues; Community Development Director to have final approval
- Stormwater Management to approve placement of structures
- mandatory homeowners association
- Fire Department comments and recommendations
- Water and Sewer Division comments and recommendations
- *revised* Stormwater Management Division comments and recommendations, (copy attached and made a part of these minutes)
- Cobb DOT comments and recommendations, *with allowance for right-in/right-out access at the easternmost entrance as shown on the submitted site plan, subject to GDOT review and approval*

VOTE: ADOPTED unanimously

Min. Bk. 46 Petition No. Z-149
Doc. Type Stipulation Letter
of 10/11/06
Meeting Date 10/17/06

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW
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376 POWDER SPRINGS STREET
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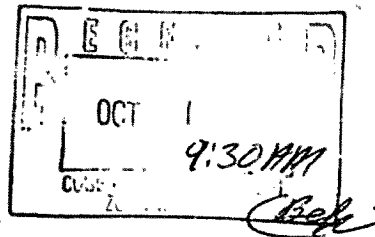
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October 11, 2006

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 The Columns Group, Inc., to Rezone a 17.65 Acre Tract
from RM-12 & PSC to Conditional RM-12 (No. Z-149)

Dear John:

As you know, this firm represents The Columns Group concerning the above-captioned Application for Rezoning. The application was heard and unanimously recommended for approval by the Planning Commission last week and placed on the Board of Commissioners' Consent Agenda for October 17, 2006.

In its recommendation for approval, the Planning Commission incorporated staff comments and recommendations, all of our agreements with the Mableton Improvement Coalition and my stipulation letters, dated September 20, 2006 and October 2, 2006, respectively. The purpose of this letter is to consolidate all of the stipulations/conditions imposed to date. The referenced stipulations/conditions 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.

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2. The rezoning of the subject property shall be from RM-12 & PSC to Conditional RM-12 and in substantial conformity to the revised site plan prepared by Planners & Engineers Collaborative which was presented to the Planning Commission and which was subsequently filed under separate cover, dated October 4, 2006. In order to reflect updated site data (see No. 3 below), a revised site plan is being filed contemporaneously herewith.
3. The subject property shall be developed for single-family attached residences for a maximum number of 167 homes. The total acreage is 17.65 acres and there is 14.84 acres which constitute the net buildable acres in view of the fact that the flood plain consists of 1.47 acres and the lake consists of 1.34 acres. Based upon the foregoing, the overall density is 11.25 homes per acre.¹
4. An agreement to preserve 3.60 acres (20.40%) as "Open Space"² which shall be in general conformity with the revised site plan. Said Open Space shall be the responsibility of the Mandatory Homeowners Association as hereinafter described with respect to the upkeep and maintenance of said Open Space.
5. The size of the homes shall range from a minimum of 1,800 sq. ft. up to 2,400 sq. ft. with each home having an attached two-car garage. The architectural style shall be traditional and the composition of the homes shall consist of a mixture of brick, stacked stone, hardy shake, or hardy plank on at least three (3) sides consistent with the elevations/renderings which were submitted under separate cover on September 20, 2006.

The rear of all of the residential units which can be seen from Johnston's Crossing Subdivision and Veterans Memorial Highway shall be screened or a mixture of architectural components as aforementioned shall be utilized.

6. An agreement to create a Mandatory Homeowners Association which shall be responsible for the upkeep and maintenance of all common areas and all landscaped areas, amenity areas, fences, lighting and streets within the proposed residential community.

¹ The subject property, presently zoned to allow a total number of 188 units (*Zoning Analysis* figures), is presently developed as Brookside Village, a condominium community which is in an extreme state of disrepair.

² The requested zoning classification does not require the preservation of open space and this figure may change slightly during the Plan Review process.

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7. A Third-Party Management Company shall be hired to manage the day-to-day operations of the Mandatory Homeowners Association, including the responsibility for all commonly owned properties and all amenities within the subject property. The Third-Party Management Company shall also be responsible for the management of all the Association monies as well as ensuring that the Association is properly insured.
8. All of the homes shall be "for sale" only. At any one time, no more than ten percent (10%) of the homes located within the residential community shall be leased and for no less than a lease term of one (1) year in duration. A recital shall be contained within the Covenants for the residential community ensuring same.
9. An agreement to record and enforce a Declaration of Covenants, Conditions and Restrictions which shall contain Covenants, Rules and Regulations applicable to the proposed residential community.
10. The proposed residential development shall contain an active amenity area containing both a swimming pool and a community clubhouse. The clubhouse, which includes a kitchen, work-out facility and meeting areas, shall be built according to the architectural style and composition as aforementioned and shall be a minimum of 2,400 square feet in size.
11. An Archaeological Reconnaissance Report was prepared by R. S. Webb & Associates and submitted under separate cover on August 24, 2006. The report indicates that the subject property does not contain any Civil War Era cultural resources. Additionally, Cobb County's Historic Preservation Planner has found no known historic resources affected by this zoning proposal and has recommended no action.
12. An agreement to set up committee comprised of the developer or its designee, a representative from the Mableton Improvement Coalition and a representative from the Community Development Agency which shall review architectural and landscaping issues. The Community Development Agency representative shall be the final arbiter with respect to any differences in opinion with a view toward ensuring that the ultimate decisions on landscaping and architecture are in substantial compliance with elements of those issues presented during the pendency of the zoning application.

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13. The submission of a landscape plan during the Plan Review process, subject to staff review and approval which shall include the following:
 - a. Entry signage shall be ground-based, monument-style, landscaped consistent with that existing entrance signage along Veterans Memorial Highway, fully irrigated and incorporated into the submitted landscape plan.
 - b. A 40' landscaped rear setback on those portions of the subject property abutting Johnston's Crossing Subdivision to the north (zoned RA-4). A 20' portion of the 40' landscaped rear setback closest to the property line shall be a maintained and landscaped tree buffer.
 - c. A 40' landscaped front setback along the subject property's frontage on Veterans Memorial Highway.
 - d. The installation of underground utilities.
 - e. Landscaping water quality ponds and detention areas so that they are attractively screened.

14. 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. Additionally, an agreement to the following:
 - a. Addressing spring activity and grading/slope issues by engaging the services of a geotechnical engineer.
 - b. Ensuring that all of the homes are located outside of Nickajack Creek's floodplain and that all homes are positioned at least three feet (3') above the 973 ft. mark.
 - c. The recognition of 50' undisturbed stream and lake buffers which shall be conveyed to Cobb County in the form of a restrictive easement to ensure that said stream buffers shall remain undeveloped in perpetuity except as otherwise may be directed by Cobb County. The 50' undisturbed stream bank buffer shall be considered a tree save area with the latitude being granted to the developer to remove dead and dying trees and undergrowth and to plant vegetative replacements except as otherwise may be directed by Cobb County.

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- d. In accordance with the Planning Commission's recommendation for approval, the Stormwater Management Division will be the final arbiter with respect to the positioning of on site detention and water quality ponds and other issues related to stormwater management.
 - e. In view of previous flooding conditions within Johnston's Crossing Subdivision, an agreement to cooperate in discussions with Cobb County, Johnston's Crossing HOA and the Mableton Improvement Coalition for a period of time not to exceed 90 days to facilitate a possible point of gated emergency access from Johnston's Crossing through the subject property to Veterans Memorial Highway.
15. Subject to recommendations from the Cobb County Department of Transportation with respect to traffic/transportational issues, including the following:
- a. The voluntary donation and conveyance of right-of-way on Veterans Memorial Highway so that the County can achieve fifty feet (50') from the centerline of same.
 - b. The installation of sidewalk, curb and gutter along the subject property's frontage on Veterans Memorial Highway.
 - c. Securing Georgia Department of Transportation permits for all work which encroaches upon the state right-of-way.
 - d. Ensuring appropriate site distance along Veterans Memorial Highway (Arterial).
 - e. With respect to the subject property's easternmost point of ingress/egress on Veterans Memorial Highway, an agreement that, if built, it shall be right-in/right-out only with respect to vehicular turning movements.
 - f. The streets within the proposed residential community shall be built to the County's Design and Detail Specifications; that is, 24' from back-of-curb to back-of-curb.
 - g. The streets within the proposed residential community shall be private and maintained by the mandatory Homeowners Association.

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- h. An agreement that the proposed residential community will not be gated.
 - i. Utilization of the River Line historic area logo on street signs and entrance monuments.
 - j. Utilization of historic names for the subdivision and the streets located therein with input from the Mableton Improvement Coalition.
16. All vacated units/buildings shall be boarded closed within thirty (30) days of vacancy and closing. Additionally, said units/buildings shall be demolished within ninety (90) days of all units being vacated and the closing taking place. Additionally, "No Trespassing" signs shall be posted on the subject property within a similar time frame as aforementioned or as soon as practical.
 17. Compliance with the Cobb County Noise Ordinance at all times during the demolition and construction phases of development in order to control early morning, late night and weekend construction hours.
 18. Compliance with recommendations from the Cobb County Water System with respect to the availability and accessibility to sewer and water, including the Water System's recommendation that the proposed residential community be master-metered.
 19. Compliance with the recommendations from the Cobb County Fire Department as contained within the Zoning Analysis.
 20. The District Commissioner shall have the authority to make minor modifications to these stipulations and the site plan as the proposal proceeds through the Plan Review process.

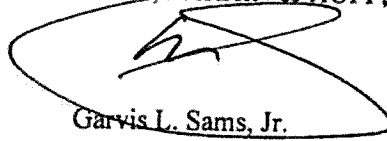
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Please do not hesitate to call should you or the staff require any further information or documentation prior to the application making its appearance on the Cobb County Board of Commissioners' Consent Agenda on October 17, 2006.

Very truly yours,

SAMS, LARKIN & HUFF, LLP



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

GLSjr/jbmc
Enclosures

- cc: Members, Cobb County Board of Commissioners (via hand delivery - w/enc.)
Mr. Robert L. Hosack, Jr., AICP Director (via hand delivery - w/enc.)
Mr. Mark A. Danneman, Manager (via hand delivery - w/enc.)
Mr. David W. Breaden, P.E. (via hand delivery - w/enc.)
Mr. John M. Morey (via hand delivery - w/enc.)
Ms. Gail K. Huff, Assistant County Clerk (via hand delivery - w/enc.)
Ms. Karen L. King, Deputy County Clerk (via hand delivery - w/enc.)
Mr. Jim Cavedo, President, Mableton Improvement Coalition (via email - w/enc.)
Ms. Robert Cook (via email - w/enc.)
Mr. Robert F. Adamson, II, President (via email - w/enc.)
Mr. Kenneth Wood, E.I.T. (via email - w/enc.)

APPLICANT: The Columns Group, Inc.

PETITION NO.: Z-149

PRESENT ZONING: RM-12, PSC

PETITION FOR: RM-12

*****REVISED*****
Min. Bk. 446 Petition No. Z-149
Doc. Type Revised
Stormwater Comment
Meeting Date 10/17/06

DRAINAGE COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Nickajack Creek FLOOD HAZARD INFO: Zone AE

- FEMA Designated 100 year Floodplain Flood.
- Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
- 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 NO POSSIBLY, NOT VERIFIED

Location: adjacent to existing lake

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

STREAMBANK BUFFER ZONE: YES 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.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads.
- 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.
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream stormdrainage system.

APPLICANT: The Columns Group, Inc.

PETITION NO.: Z-149

PRESENT ZONING: RM-12, PSC

PETITION FOR: RM-12

DRAINAGE COMMENTS CONTINUED

Petition No. Z-149
Meeting Date 10/17/06
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

Amended Comments based on revised site plan received October 11, 2006.

- This site is currently developed at Brookside Village Condominiums. There is an existing 1.4 acre lake located in the center of the site. The Cobb County Stream Buffer Map indicates a 50-foot stream buffer around the lake and along the feeder stream to the east.
The lake is proposed to be utilized as the main stormwater management facility for this redevelopment project. The dam and spillway must be brought up to current Cobb County Standards for this purpose. A dam break analysis must also be performed to determine the breach zone of this dam. All residential units must be located outside this breach zone. A second stormwater management facility is proposed just below the existing dam to provide any additional detention and water quality required for the portions of the site that will bypass the existing lake.
The site is also encumbered by floodplain. A significant portion of the existing R/W of Brookside Village Parkway and the adjacent site area below Elevation 773 is within the 100-year floodplain of Nickajack Creek. All proposed development must be located above the floodplain which is reflected on the revised site plan.