

FILE REFERENCE NO: 20050899

ORDINANCE NO: 6861

AN ORDINANCE

REZONING property in the corporate limits of the City of Marietta, Georgia, located in Land Lot 02150, Parcel 0730, 17th District, 2nd Section, Marietta, Cobb County, Georgia and being known as 560 Powder Springs Street.

WHEREAS, application has been filed by **THE PACIFIC GROUP** for rezoning property in the corporate limits of the City of Marietta, Georgia; and,

WHEREAS, following proper notice, a public hearing was held before this body; and,

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA, THAT:

Section 1: The following property to wit:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot(s) 215 and 218 of the 17th District, 2nd Section, Cobb County, Georgia and being more particularly described as follows:

Beginning at a railroad spike in curb on Gramling Street near Powder Springs Street, said point being the POINT OF BEGINNING; thence from said POINT OF BEGINNING South 45 degrees 17 minutes 35 seconds East a distance of 59.05 feet to a right-of-way concrete monument found along the right-of-way of Powder Springs Street (R/W varies); thence along said right-of-way 331.39 feet along an arc of a curve to the right, said curve having a radius of 890.13 feet and a chord bearing and distance of South 19 degrees 57 minutes 05 seconds West 329.48 feet to a point; thence North 82 degrees 17 minutes 37 seconds East a distance of 6.20 feet to a point; thence South 31 degrees 18 minutes 31 seconds West a distance of 19.75 feet to a point; thence South 31 degrees 53 minutes 11 seconds West a distance of 45.82 feet to a right-of-way concrete monument found; thence 203.16 feet along an arc of a curve to the right, said curve having a radius of 2,568.35 feet and a chord bearing and distance of South 34 degrees 11 minutes 31 seconds West 203.11 feet to a point; thence leaving said right-of-way South 89 degrees 45 minutes 19 seconds West a distance of 406.88 feet to an iron pin found (1" OT pipe); thence continue westerly along said line, a distance of 822.11 feet to an iron pin found (1-112" O.T. pipe); thence North 00 degrees 14 minutes 22 seconds East a distance of 614.27 feet to an iron

pin found (1-112" O.T. pipe); thence South 89 degrees 11 minutes 51 seconds East a distance of 828.40 feet to an iron pin found; thence South 00 degrees 16 minutes 53 seconds East a distance of 34.51 feet to a point thence North 89 degrees 43 minutes 07 seconds East a distance of 30.00 feet to a point (PK found); thence North 88 degrees 54 minutes 05 seconds East a distance of 580.96 feet to a point and the TRUE POINT OF BEGINNING.

Said tract containing 18.598 acres (810,128.9 square feet).

Section 2: The above-described property is hereby rezoned into the corporate limits of the City of Marietta, Georgia from RM-12 (Residential Multi-Family 12 units/acre) to PRD-MF (Planned Residential Development - Multi-Family).

Section 3: The following stipulation is incorporated as a condition of zoning:

- Letter of stipulations as submitted dated September 28, 2005 to Russell J. Roth, AICP, Acting Director of Planning & Zoning from Garvis L. Sams, Jr., along with the following amendments and additions:
 - 1) The three drawings are incorporated herein and the appearance is tied to what is shown in these drawings as to the townhomes, particular type of townhomes, and as to the stacked flats with the markings distinguishing the materials to be used (hardy plank, hardy shake, brick etc.). This only shows two sides. The plat provided shows one side of the stacked flats completely as a straight surface and half of both sides are straight surfaces, and that is not what is reflected in the drawing. In this case, these drawings would control and the sides would be the same as what is shown in these pictures and both the front and the back would be as shown in these pictures. In addition, there are some areas that are hidden by trees and those are brick. To the extent that there is any discrepancy, the sole determiner of what the final material will be will be the city manger. So if there is a discrepancy, it will not rest with the developer, but with the city manager.
 - 2) The chimneys are shown on the side view but not the front view, and the expectation is they would show on the front view.
 - 3) On page 3 of the letter of stipulations, item 12 should clarify that the sidewalk would not be included in the 20 feet length of the parking pad located in front of the two-car garages.
 - 4) On page 7, item 20(f) where it shows on the original, it says starts off as shown on the revised site plan. If it is actually not as shown on the revised site plan, it should state that the acceleration/deceleration lanes would extend the full length from Gramling Street along Powder Springs Street.
 - 5) On page 6, item 20(d) should state that all streets and/or alleys would meet the city street standards regardless of whether public or private streets.

- 6) On page 6, item 20(e) regarding the donation and conveyance of right-of-way so that the city can achieve 61.5 feet centerline would control over what is shown on the plat.
- 7) On page 7, item 20(g) should state that an additional turn lane on Gramling turning onto Powder Springs Street must be added. Further, the depth of storage capacity for the additional turn lane must be as required by the public works director or acting public works director,
- 8) On page 7, item 20(i) should meet city street standards in regards to the installation of private streets throughout the community.
- 9) On page 3, item 10 should read, "...shall consist of six (6) Otis Elevator Company front opening LVM 3000E Roped Hydraulic elevators or equivalent as determined by the city engineer. However, in no event shall the elevator used have a peak starting speed of 278 feet per minute or less than 80% of speed of passenger elevators used for conference center, Marietta Conference Center & Resort."
- 10) On page 8, item 23 should limit the amount of firewood for outside storage to a quarter of a cord of wood and that there be no storage of lawn/patio furnishings.
- 11) The applicant would work with Mr. Hagemann on the drip line for the tree roots to preserve the trees located between the two properties where the alley would be constructed.
- 12) On page 5(f) should state that all lighting be directed toward applicant's property and away from any other property.
- 13) In dealing with the conceptual site plan, the stipulations that have been added and are more restrictive or deal with issues that are not consistent with the site plan, the more restrictive issues and the added issues would supersede the site plan. An example of that is the four-sided architecture; the site plan does not reflect the difference in the buildings.
- 14) Should the addition of the left turn lane have to come off of the Wynhaven property or subject property, there is some latitude granted to shift the buildings to accommodate that shift in adding that left turn lane as approved by the public works director.
- 15) This motion anticipates and allows the three stacked flat condominium buildings facing Gramling to be shifted to the south, if necessary, to add a left turning lane as may be allowed and approved by the Public Works Director.
- 16) The execution of a Development Agreement on or before October 17, 2005, which will be brought before Council at the October meeting for approval.
- 17) Subject property would revert to its current zoning if not brought back with final plat approval and the development not commenced within nine months.

18) Failing the prior stipulation, that the city reserves the right and gives notice to the applicant and all others that the city would initiate rezoning to convert the property to RM-12 (Residential Multi-Family 12 units/acre).

19) The applicant would comply with all recommendations from the city Public Works Department with respect to traffic/transportation issues once a traffic study has been performed by the city, which would include the need for a signalized left turn lane if deemed necessary.

20) On page 3, item 9 should exclude the language stating that city employees be given priority to purchase the one-bedroom flat-stacked condominium. This would be a stand-alone statement referring to all stacked flat condominiums regardless of size.

21) On page 5, language should be added with respect to signage stating that all signage would comply with the City of Marietta sign ordinance.

22) The applicant would construct an additional traffic circle at the first intersection along West Gramling Street extension and that conforms to city standards. Further, the homeowners association would maintain the landscaped area in the middle of the traffic circle.

Section 4: The following variances were granted:

1. Variance from the requirement that a thirty (30) foot maximum front setback be required from the building to the back of the curb; and that if part of the building must be setback from the sidewalk, treat these portions of the building as a plaza or courtyard. No more than twenty-five (25) percent of a building frontage may be designed as a plaza or courtyard.
2. Variance from the requirement that a twenty-five (25) foot setback be required where the rear property line directly abuts a single-family residential district. Parking may occur within the required 25 foot setback as long as a screening fence or wall not less than six (6) feet in height and made of wood, stone, brick is installed within the required buffer.
3. Variance from the requirement that a 30-foot buffer be established adjacent to residential districts or uses.
4. Variance from the requirement that the development attain 50% of the possible point totals located in the Optional Elements Categories of the Design and Development Guidelines of the Commercial Corridor Design Overlay District.
5. Variance from the newly adopted requirement that open space be provided on a calculation of one (1) acre per fifty (50) units, or a waiver in open space from 7.5 acres (forty percent [40%]) to 5.5 acres (thirty percent [30%]).

Section 5: It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance.

Section 6: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

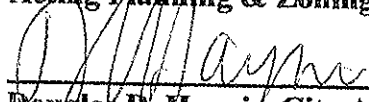
Section 7: This Ordinance shall become effective upon the signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

Final Ordinance submitted by:



Rusty Roth
Acting Planning & Zoning Director

Approved as to form:



Douglas R. Haynie, City Attorney

Approved by City Council:

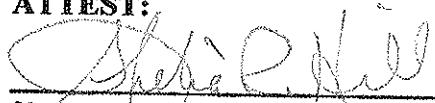
APPROVED:

DATE: September 28, 2005



William B. Dunaway, Mayor

ATTEST:



Shelia R. Hill, City Clerk

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
MICHAEL P. PRYOR
JAMES A. BALLI

OF COUNSEL
DAVID P. HARTIN

770-422-7016

TELEPHONE

770-426-6583

FACSIMILE

WWW.SAMSLARRINHUFF.COM

September 28, 2005

VIA HAND DELIVERY

Mr. Russell J. Roth, AICP
Acting Director
City of Marietta Department of Planning & Zoning
205 Lawrence Street
Marietta, GA 30060

Re: Application of The Pacific Group, Inc. to Rezone an 18.598 Acre Tract
From RM-12 to PRD-MF (No. Z2005-30)

Dear Rusty:

As you know, this firm represents The Pacific Group, Inc. ("Applicant") concerning the above-captioned application for rezoning. The application was heard and recommended for approval by the Planning Commission on September 6, 2005, tabled by the Mayor and City Council on September 14, 2005, and is now scheduled to be heard and considered for final action by the Mayor and City Council at a special called meeting today, September 28, 2005.

In keeping with our ongoing discussions with the City's professional staff, the Mayor and City Council Members, area residents and business owners, we submitted a revised site plan under separate cover on September 26, 2005. Additionally, we enclosed renderings/elevations which depicted the architectural style and composition of the townhomes and stacked flat condominiums. In that regard, enclosed are further revised renderings/elevations which more clearly show the architectural style and composition on all four sides of the townhomes and stacked flat condominiums.

The balance of this letter will serve as The Pacific Group's expression of agreement with the following revised stipulations which shall become conditions and a part of the grant of the requested rezoning, as amended and modified hereby, and binding upon the subject property thereafter:

VIA HAND DELIVERY

Mr. Russell J. Roth, AICP
Acting Director
City of Marietta Department of Planning & Zoning
September 28, 2005
Page 2

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.
2. The Applicant seeks a rezoning of the subject property from the existing RM-12 zoning classification to the PRD-MF zoning classification consistent with that certain revised site plan entitled "Redevelopment of Wynhaven Apartments, a Master Planned Residential Community", prepared for The Pacific Group, Inc. by Planners & Engineers Collaborative which was submitted under separate cover on September 26, 2005.¹
3. The specific use proposed for the redevelopment of the Wynhaven Apartment site is a fee simple, single family, master planned residential community consisting of a maximum number of 375 homes made up of approximately 135 townhomes and approximately 240 stacked flat condominiums.²
4. The townhomes shall be three (3) stories in height and shall range from a minimum of 2,000 square feet up to 2,400 square feet and beyond.
5. The architectural style and composition of the townhomes shall be consistent with the revised elevations/renderings being submitted contemporaneously herewith. The townhomes shall include front, side and rear elevations consisting of a mixture of brick, stacked stone, hardy plank and hardy plank shake as shown and designated on the revised elevations/renderings.³
6. Those townhomes which front the new West Gramling Street (as described hereinafter) as well as those townhomes situated along the southern property line of the subject property shall be rear-entry alley-loaded product (approximately forty-four [44] units).

¹ The proposed residential community will be positioned adjacent to the Marietta Conference Center and contiguous to the City Club Golf Course and will precipitate the demolition of Wynhaven Apartments which presently has 296 rental units (15.92 units per acre), a preponderance of which are in various states of disrepair.

² The revised proposal constitutes a reduction in the maximum number of units from 399 to 375 (24 units).

³ Price points of the townhomes will begin in the \$250's and range as high as the \$350's.

VIA HAND DELIVERY

Mr. Russell J. Roth, AICP
Acting Director
City of Marietta Department of Planning & Zoning
September 28, 2005
Page 3

-
7. The stacked flat condominium homes shall be four (4) stories in height (with elevators) with two (2) and three (3) bedroom homes ranging in size from a minimum of 1,200 square feet up to 1,600 square feet.
 8. The architectural style and composition of the stacked flat condominiums shall be consistent with those certain revised renderings/elevations being submitted contemporaneously herewith which reflect four (4) sided architectural treatment consisting of a mixture of brick, hardy plank and hardy plank shake as depicted on said revised elevations/renderings.⁴
 9. Each stacked flat condominium building shall have one (1) one-bedroom home at a size of 1,050 square feet for a maximum total of six (6) one-bedroom homes. Employees of the City of Marietta Services such as Fire, Police and School Teachers shall be given priority to purchase these units.
 10. The elevators within the stacked flat condominium buildings shall consist of six (6) Otis Elevator Company front opening LVM 3000E Roped Hydraulic Elevators. Each elevator will have a 3000 pound capacity and a peak starting speed of 278 feet per minute.
 11. Compliance with the sound attenuation instruction details pertaining to the stacked flat condominiums as detailed on the exhibit attached hereto and made a part hereof by reference.
 12. All of the townhomes shall have two-car garages and the parking pads in front of the garage shall be a minimum of 20' in length in order to accommodate two (2) additional cars. The garages shall be used for the parking and storage of vehicles and may not be enclosed to provide for additional residential space. A recital of this requirement shall be contained within the Covenants.

The stacked flat condominiums shall be served by underground parking and surface parking providing a minimum of two (2) parking spaces per unit with at least fifty percent (50%) of those parking spaces being located in the underground parking area. Additional guest parking provided for the entire project shall be at a ratio of 0.2 spaces per dwelling unit.

⁴ The price points for the two and three bedroom stacked flat condominiums will begin in the \$180's and range up to the \$230's.

VIA HAND DELIVERY

Mr. Russell J. Roth, AICP
Acting Director
City of Marietta Department of Planning & Zoning
September 28, 2005
Page 4

13. All of the homes shall be "for sale" only. At any one time, no more than five percent (5%) of the homes located within the townhome component and no more than five percent (5%) of the homes located within the stacked flat condominium component shall be leased and for no less than a lease term of one (1) year in duration. A recital shall be contained within the Declaration of Covenants and Declaration of Condominium ensuring same.
14. Open space/amenity area of the subject property shall consist of 5.5 acres which is the equivalent of 30% of the total site area. Said open space shall be owned, maintained and controlled by the mandatory homeowners association.
15. An agreement to create a Master Mandatory Homeowners Association which shall be responsible for the upkeep and maintenance of all common areas, landscaped areas, passive amenity areas, active amenity areas, walking trails, fences, streets and lighting within the proposed residential community.
16. A third-party management company shall be hired to manage the day-to-day operations of the Mandatory Homeowners Association. The third-party management company shall also be responsible for the management of all association monies as well as ensuring that the association itself is properly insured.
17. An agreement to record and enforce Declaration of Covenants, Conditions and Restrictions and a Declaration of Condominium which shall contain rules and regulations applicable to the residential community including, inter alia, strict architectural controls.
18. The master planned residential community shall contain a clubhouse, swimming pool, heavily landscaped community park and pocket parks, direct vehicular and pedestrian connectivity to parcels located to the south of the subject property and pedestrian connectivity to the City Club Golf Course and Marietta Conference Center all as shown on the revised site plan.
19. The submission of a landscape plan during the Plan Review process, subject to staff review and approval and including, but not limited to, the following:
 - a. The landscape plan shall be prepared, stamped and signed by a Georgia Registered Landscape Architect or a degreed horticulturist for common areas, community park, pocket parks, and the community's points of ingress/egress.

VIA HAND DELIVERY

Mr. Russell J. Roth, AICP
Acting Director
City of Marietta Department of Planning & Zoning
September 28, 2005
Page 5

- b. An agreement with the property owners to the south of the subject property to reach a mutual and beneficial agreement regarding landscape buffer issues.
- c. All utilities within the community shall be located underground.
- d. Entry signage shall be ground-based, monument style, landscaped and irrigated.
- e. Signage interior to the residential development shall be themed to the architectural style and composition as aforementioned.
- f. The installation of decorative street lights throughout the residential community which shall be themed to the architectural style as described hereinabove.
- g. Loading or service areas including refuse and recycling shall be screened and out of public view. Additionally, an agreement that such areas will not be located within 100' of the southern boundary line of the townhome component.
- h. Electric and communications transformers shall be screened from public view through below grade installation, landscaping or similar measures.
- i. All mechanical and HVAC equipment shall be behind the buildings and screened from public view through landscaping.
- j. The installation of six foot (6') wide sidewalk which will be provided along the property frontage on Powder Springs Road and along both sides of the new Gramling Street Extension as shown on the revised site plan. Where applicable, 2' grass separations shall be installed between the curb and the sidewalk. Sidewalks internal to the project will be installed in accordance with the site plan which will allow for safe and efficient pedestrian flow and which shall comply with current ADA standards.
- k. The applicant shall ensure the upkeep, health and aesthetics of the landscaping through the use of proper irrigation of plant species, regular maintenance of the landscaping and the replacement of items which may be diseased or dying.
- l. As a part of the landscape plan, the applicant shall provide a range of pedestrian amenities which shall be accessible to the sidewalk and which shall include a selection from the following: Benches, trash receptacles, public art, or other

VIA HAND DELIVERY

Mr. Russell J. Roth, AICP
Acting Director
City of Marietta Department of Planning & Zoning
September 28, 2005
Page 6

similar design features integrated into the overall design in order to enhance the pedestrian environment.

20. Subject to recommendations from the City Public Works Department and the City's Engineering Division with respect to traffic/transportational issues, including the following:
- a. The primary ingress/egress to the subject property and the main entrance to the residential community shall be located on West Gramling Street and there shall be a right-in/ right-out point of ingress/egress located off of Powder Springs Street.
 - b. West Gramling Street shall be extended as shown on the revised site plan and shall be constructed as a public road with a 50' right-of-way and a 6' wide multi-use sidewalk which will be installed along both sides of West Gramling Street Extension as shown on the revised site plan.
 - c. Between the back of the curb and the sidewalk, a 2' grass separation shall be installed.
 - d. Beginning with West Gramling Street's terminus at the south property line of the subject property, the construction of an alley which will be located within the disturbed area of the subject property running parallel to the townhomes located west of West Gramling Street which will be utilized to rear load said townhomes and which shall also serve to accommodate future residential development on the property located south of the subject property. It shall be posted along the south side of said rear alley that no parking is allowed at any time. Applicant agrees to execute an easement agreement allowing for vehicular and pedestrian access from said rear alley to the property located south of the subject property. Said easement shall include language granting the owner of property located south of the subject property the right to keep said access clear and to enforce this provision by the removal of vehicles in violation of said provision.
 - e. The voluntary donation and conveyance of right-of-way along the subject property's respective frontages in accordance with staff recommendations. More specifically, the voluntary donation and conveyance of right-of-way along Powder Springs Street so that the City can achieve 61.5' from the centerline of Powder

VIA HAND DELIVERY

Mr. Russell J. Roth, AICP
Acting Director
City of Marietta Department of Planning & Zoning
September 28, 2005
Page 7

Springs Street. Said right-of-way shall be deeded to the City of Marietta prior to land disturbance permits being issued with respect to the subject property.

- f. As shown on the revised site plan, the construction of continuous acceleration/deceleration lanes on Powder Springs Street along the subject property's entire frontage consistent with recommendations from the City's professional staff.
- g. Following the recommendation of Kimley-Horn & Associates, Inc.'s Traffic Impact Study with respect to infrastructure and street improvements.⁵
- h. Following the recommendations of the City's professional staff with respect to project infrastructure and street improvements on Powder Springs Street, West Gramling Street and West Gramling Street Extension.
- i. The installation of private streets throughout the residential community, except for West Gramling Street which shall be public and built to the City's Design and Detail specifications. ~~The private streets shall~~

VIA HAND DELIVERY

Mr. Russell J. Roth, AICP
Acting Director
City of Marietta Department of Planning & Zoning
September 28, 2005
Page 8

21. Compliance with all recommendations from the Public Works Department and the City's Engineering Division with respect to detention, hydrology and down stream considerations, including the following:
 - a. Subject to staff's review and approval regarding the location and configuration of detention and water quality ponds (whether located underground or above-ground) either on site or located with appropriate easements within adjacent property.
 - b. The installation of sewer outfall to the existing sewer through adjacent property.
 - c. The construction of additional water quality/sediment basins which shall be utilized during the construction and build out of the residential community.
 - d. Exercising heightened sensitivity with respect to sedimentation loss concerning lakes and/or down stream bodies of water. Additionally, the utilization of bio-swales to enhance water quality subject to review and approval by the City's professional staff.
 - e. Applicant shall provide easements for sewer, water, stormwater, gas, electric, cable and telephone for the potential use of the properties located south of the subject property. The Applicant shall make these easements available at no cost but shall not be responsible for the design or the installation of said adjacent utilities.
22. Compliance with all recommendations from the Parks & Recreation Department, including the construction of support poles and increasing the height of the protective nets adjacent to the Marietta City Club golf driving range.
23. There shall be no outside storage permitted within the residential community except for outside storage of fire wood and lawn/patio furnishings. There shall be no outside storage whatsoever with respect to the stacked flat condominium component.
24. All lighting within the residential community shall be environmentally sensitive, shoe-box lighting with hooded security lighting being utilized on the buildings located within the community.

VIA HAND DELIVERY

Mr. Russell J. Roth, AICP
Acting Director
City of Marietta Department of Planning & Zoning
September 28, 2005
Page 9

25. With respect to the property located at 594 Powder Springs Street, the Applicant agrees to the following:
- a. Any required retaining walls constructed along or near the subject property's southern boundary in order to provide lateral support shall be constructed of concrete and shall have a brick face for aesthetic purposes.
 - b. As mentioned hereinabove, the planting of a twenty foot (20') in width mature buffer along the common property line subject to review and approval by the City's professional staff.
 - c. All stormwater shall be detained and conveyed from the project site in a manner which equal to or less than present stormwater flows. The tie-in for the stormwater conveyance system shall not connect to the drop inlet structure presently located at 594 Powder Springs Street.
 - d. An agreement that all downspouts from the stacked flat condominium buildings on the project site shall convey stormwater into the on-site detention/conveyance system.
 - e. An agreement that the project with respect to detention, water quality and hydrological considerations shall comply with all Federal Clean Water Act Requirements.
 - f. Notice and review of all stormwater conveyance facilities with respect to 594 Powder Springs Street draining toward said property shall be presented for review by the Owner and shall receive input during the Plan Review process with the City's professional staff being the final arbiter with respect to any unresolved issues.
 - g. The foregoing stipulations/conditions shall be obviated should the 594 Powder Springs Street property be acquired in the future by The Pacific Group or related affiliate company.
26. The granting of the following contemporaneous variances and the zoning approval to be specific to the site plan submitted herewith:

VIA HAND DELIVERY

Mr. Russell J. Roth, AICP
Acting Director
City of Marietta Department of Planning & Zoning
September 28, 2005
Page 10

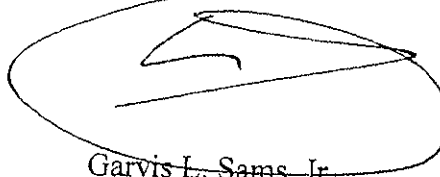
- a. A waiver from the requirement that the 30' maximum front setback be required from the building to the back-of-curb.
- b. A waiver of the requirement that a 25' setback be required where the rear property line directly abuts a single family residential district.
- c. A waiver of the requirement that the development attain 50% of the possible point totals located in the Optional Elements Categories of the Design and Development Guidelines of the Commercial Corridor Design Overlay District.
- d. A waiver from the requirement that a 30' buffer be established adjacent to residential districts or uses.
- e. A waiver from the newly adopted requirement that open space be provided on a calculation of one (1) acre per fifty (50) units, or a waiver in open space from 7.5 acres (forty percent [40%]) to 5.5 acres (thirty percent [30%]).

Please do not hesitate to call should you or your staff require any further information or documentation prior to the special called meeting later today.

With regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



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

GLSjr/dsj
Enclosures

VIA HAND DELIVERY

Mr. Russell J. Roth, AICP
Acting Director
City of Marietta Department of Planning & Zoning
September 28, 2005
Page 11

cc: Honorable William B. Dunaway, Mayor – w/enclosures – VIA Hand Delivery
Members, Marietta City Council – w/enclosures – VIA Hand Delivery
Mr. Bill Bruton, City Manager – w/enclosures – VIA Hand Delivery
Mr. Dan Conn, Department of Public Works – w/enclosures – VIA Hand Delivery
Mr. Gary Mongeon, Executive Director,
Marietta Redevelopment Corporation – w/enclosures - VIA Hand Delivery
Ms. Lynn Buffkin, Urban Planner – w/enclosures – VIA Hand Delivery
Ms. Patsy Bryan, Planning & Zoning Coordinator – w/enclosures – VIA Hand Delivery
Mr. Bill Hagemann – w/enclosures – VIA Hand Delivery
Fred D. Bentley, Jr., Esquire (Attorney for Mr. & Mrs. David Miller)
– w/enclosures – VIA Hand Delivery
Mr. Grif Chalfant – w/enclosures – VIA Hand Delivery
Ms. Andrea Hall, Vice President, Dunleith HOA – w/enclosures – VIA Hand Delivery
Mr. Woody Snell – w/o enclosures – VIA Facsimile
Mr. Mike Kilgallon – w/o enclosures – VIA Facsimile

Fee Simple Townhomes

Westside Villas
Reddington
McLaren Gates
Chattahoochee Bluffs
Riverstone
Riverwalk





FRONT ELEVATION



SIDE ELEVATION



REAR ELEVATION



Townhomes
Elevation



Redevelopment of Wynhaven Apartments
A Master Planned Residential Community
Marietta, Georgia





Townhomes
Elevation



Redevelopment of Wynhaven Apartments
A Master Planned Residential Community
Marietta, Georgia





Townhomes
Elevation



Redevelopment of Wynhaven Apartments

A Master Planned Residential Community
Marietta, Georgia





Powder Springs Street

Stacked Flats
Elevation
Building # 3



Redevelopment of Wynhaven Apartments
A Master Planned Residential Community
Marietta, Georgia



PACIFIC GROUP



City of Marietta Motion Signature

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

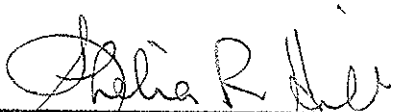
20051418

Motion to approve the Detailed Plan for the Redevelopment of Wynhaven Apartments by The Pacific Group for 560 Powder Springs Street and waive 50 % of the requirements of the alternative tree planting compliance to City of Marietta Tree Ordinance; however, the landscape improvement plan presented by Hargrove Partners dated December 20, 2005, shall be implemented by the applicant. This motion incorporates the terms and conditions of the letter from the applicant's attorney dated December 21, 2005, and the issue set forth in the letter shall be brought back to the Marietta City Council for review and approval. The applicant shall request any required easements from the Downtown Marietta Development Authority (DMDA) and/or the City of Marietta where applicable and, if necessary, this motion is subject to approval of the DMDA and/or bond counsel.

Date: 12/21/2005



William B. Dunaway, Mayor



Shelia R. Hill, City Clerk



HIGHGROVE
PARTNERS

7730 The Bluffs
Austell, Georgia 30168
Telephone: 678-298-0550
Fax: 678-298-0608

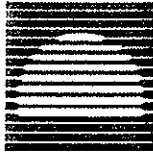
LANDSCAPE IMPROVEMENTS FOR:

Redevelopment of Wynhaven Apartments

Date: 12.20.05

QTY.	DESCRIPTION	SIZE	UNIT PRICE	TOTAL PRICE
<u>TREES</u>				
48	Nuttal Oak	4" CAL.	\$577.01	\$ 27,696.35
44	Willow Oak	4" CAL.	\$577.01	\$ 25,388.32
9	White Oak	3" CAL.	\$551.58	\$ 4,964.24
56	Sugar Maple	4" CAL.	\$1,255.57	\$ 70,312.12
46	Red Sunset Red Maple	4" CAL.	\$1,452.58	\$ 66,818.52
19	Heritage River Birch	3" CAL.	\$551.58	\$ 10,480.07
23	Fruitless Sweetgum	2" CAL.	\$514.66	\$ 11,837.09
16	Tulip Poplar	4" CAL.	\$577.01	\$ 9,232.12
24	Black Gum	3" CAL.	\$879.92	\$ 21,118.11
11	Princeton American Elm	3" CAL.	\$628.19	\$ 6,910.14
9	Shawnee Brave Bald Cypress	4" CAL.	\$577.01	\$ 5,193.07
14	Chinese Elm	4" CAL.	\$1,014.79	\$ 14,207.09
16	Village Green Zelkova	4" CAL.	\$1,014.79	\$ 16,236.67
26	Foster Holly	2" CAL.	\$514.66	\$ 13,381.06
26	Japanese Cryptomeria	2" CAL.	\$514.66	\$ 13,381.06
45	Eastern Redcedar	2" CAL.	\$405.21	\$ 18,234.45
18	Bracken's Brown Beauty Magnolia	3" CAL.	\$551.58	\$ 9,928.49
55	Choctaw Crape Myrtle	2" CAL.	\$405.21	\$ 22,286.55
53	Natchez Crape Myrtle	2" CAL.	\$405.21	\$ 21,476.13

TOTAL TREES \$ 389,081.68



PACIFIC GROUP

**TREE REPLANTING PROGRAM
REDEVELOPMENT OF WYNHAVEN APARTMENTS
21-Dec-05**

ITEM 1 - EXISTING SPECIMEN TREES TO REMOVE

21 trees (Pine, Sweet Gum, Tulip Poplar, Maple, Elm, Sycamore)

ITEM 2 - NEW TREES TO PLANT

558 New Trees
18.598 Acres
30 new trees per acre
308.1 units

249 trees at min 4" caliper

81 trees at min 3" caliper

228 trees at min 2" caliper

**ITEM 3 - REQUEST WAIVER TO NOT REQUIRE OFFSITE PLANTING
OR TREE REPLACEMENT FUND CONTRIBUTION**

NOTES:

Based upon Landscape Plan prepared by Planners and Engineers Collaborative,
dated 12-15-05, titled "Redevelopment of Wynhaven Apartments"

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI*

OF COUNSEL
DAVID P. HARTIN

*ALSO LICENSED TO PRACTICE
IN ALABAMA

770-422-7016

TELEPHONE

770-426-6583

FACSIMILE

December 21, 2005

WWW.SAMSLARKINHUFF.COM

**HAND DELIVERY &
VIA E-MAIL**

Honorable Bill Dunaway, Mayor
City of Marietta
205 Lawrence Street
Marietta, GA 30060

Re: Application of The Pacific Group, Inc. to Rezone an 18.598 Acre Tract
From RM-12 to PRD-MF (No. Z2005-30)

Dear Mayor Dunaway:

As you know, I represent The Pacific Group concerning the above-captioned matter which is scheduled for consideration tonight regarding the Detailed Plan submittal. The Pacific Group has revised its plan reducing the number of units from 375 to 235 townhomes with a commensurate reduction in density from 20.16 units per acre to 12.64 units per acre.

As previously indicated, all of the stipulations/conditions of the original rezoning, except those specific to the stacked flat condominium component, shall remain in full force and effect.

With respect to the foregoing, you will recall that one of the original stipulations/conditions of the rezoning included following recommendations from the Public Works Department and the City's Engineering Division with respect to the installation of sewer outfall to connect to existing sewer through adjacent property which is the City Club Golf Course. In our discussions with members of your professional staff, we have agreed to refine that stipulation/condition to include the following:

1. Prior to the issuance of a Land Disturbance Permit or developmental permits of any nature with respect to the subject property, an agreement will be reached between The Pacific Group and the City of Marietta regarding the exact location and configuration of the sewer outfall.
2. Work on the sewer outfall shall be undertaken on Mondays through Thursdays only, under the direct supervision of the City's Public Works Department and Parks & Recreation Department.

**HAND DELIVERY &
VIA E-MAIL**

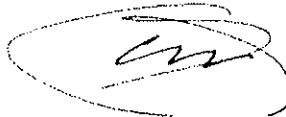
Honorable Bill Dunaway, Mayor
City of Marietta
Page 2
December 21, 2005

2. The Pacific Group shall take reasonable steps to minimize disruption to the utilization of the City Club Golf Course and golf played thereon and shall restore all areas to their previous condition once construction is completed and the sewer outfall is installed.

Please do not hesitate to call should you, Council Members or the City's staff require any further information or documentation prior to the Detailed Plan submittal being considered at tonight's meeting. With regards and best wishes for the holiday season, I remain

Very truly yours,

SAMS, LARKIN & HUFF, LLP



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

GLSjr/jbmc

cc: Members, Marietta City Council – VIA E-Mail
Mr. Bill Bruton, City Manager – VIA E-Mail
Mr. Russell J. Roth, Acting Director – VIA E-Mail
Mr. Dan Conn, Department of Public Works - VIA E-Mail
Mr. Rich Buss, Director, Parks & Recreation Department – VIA E-Mail
Mr. Gary Mongeon, Executive Director,
Marietta Redevelopment Corporation – VIA E-Mail
Ms. Lynn Buffkin, Urban Planner – VIA E-Mail
Ms. Patsy Bryan, Planning & Zoning Coordinator – VIA E-Mail
Peter Olson, Esquire (Attorney for Bill Hagemann) – VIA E-Mail
Fred D. Bentley, Jr., Esquire (Attorney for Mr. & Mrs. David Miller)
– VIA E-Mail
Mr. Grif Chalfant – VIA E-Mail
Ms. Andrea Hall, Vice President, Dunleith HOA – VIA E-Mail
Mr. Woody Snell – VIA E-Mail
Mr. Mike Kilgallon – VIA E-Mail

