

CITY OF WOODSTOCK ORDINANCE

Z#069-14
Neese Rd. Senior Living

REZONING parcels of property within the corporate limits of the City of Woodstock, Georgia from zoning category R-1 (Single Family Residential) to zoning category SL-C (Senior Living) said parcels being ±5.9 acres located in Land Lots 1172 and 1133 of the 15th District, 2nd Section, Cherokee County, Georgia, and being Map and Parcel number 15N18 144 and a portion of 15N18 147 located on Highway 92 and Neese Road, Woodstock, GA.

WHEREAS, the City of Woodstock (hereinafter sometimes referred to as the “City”) is a municipality duly formed and existing pursuant to Georgia law; and

WHEREAS, the 1983 Constitution of the State of Georgia provides for the self government of municipalities without the necessity of action by the General Assembly¹; and

WHEREAS, the City of Woodstock, Georgia, has the legislative power to adopt clearly reasonable ordinances, resolutions or regulations relating to its property, affairs and local government for which no provision has been made by general law, and which are not inconsistent with the Constitution or any charter provision applicable thereto²; and

WHEREAS, the Mayor and Council of the City of Woodstock have determined that rezoning the above identified property would be in the best of interest of the property owners of the area and of the citizens of the City of Woodstock; and

WHEREAS, said amendments are and have been accessible to members of the public who are, or may be, affected by them, said amendments having been kept and maintained for public inspection during the normal business hours at Woodstock City Hall, and notice of intent to take action having been published in the Cherokee Tribune, a newspaper of general circulation within the territorial boundaries of the municipality of the City of Woodstock, for a period of at least fifteen (15) days prior to but no more than forty-five days prior to the public hearing date; and

WHEREAS, the governing authority of the City of Woodstock has read and considered the proposed amendments;

¹ Ga. Const., 1983, Article IX, Section II, Paragraph II provides in pertinent part as follows:

“The General Assembly may provide by law for the self government of municipalities and to that end is expressly given the authority to delegate its power so that matters pertaining to the municipalities may be dealt with without the necessity of action by the General Assembly.”

² O.C.G.A. §36-35-3(a) provides the following:

“(a) The governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which are not consistent with the Constitution or any charter provision applicable thereof. Any such charter provision shall remain in force and effect until amended or repealed as provided in subsection (b) of this Code section. This Code section, however, shall not restrict the authority of the General Assembly, by general law, to define this home rule power further or to broaden, limit, or otherwise regulate the exercise thereof. The General Assembly shall not pass any local law to appeal, modify or supersede any action taken by a municipal authority under this Code section, except as authorized under Code Section 36-36-6”.

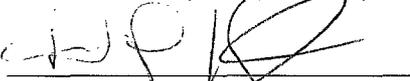
NOW THEREFORE, BE IT RESOLVED AND ORDAINED by the Mayor and Council of the City of Woodstock that the aforesaid amendments shall now and hereafter be maintained for public inspection during the normal business hours at the City Hall under the custody of the City Clerk of the City of Woodstock; and

NOW THEREFORE, BE IT RESOLVED AND ORDAINED by the City of Woodstock, Georgia, by the lawful authority vested in them that the property more particularly described on Exhibit "A" attached hereto and made a part hereof by reference is hereby designated as zoning SL-C (Senior Living) Said rezoning is defined and regulated by the City of Woodstock Land Development Ordinance and is subject to the Conditions of Zoning attached hereto as Exhibit "B" and made a part hereof by reference.

Date of Public Hearing: May 19, 2014

Advertisement: Cherokee Tribune: April 11, 2014

APPROVED, ADOPTED, AND ENACTED this 14th day of July, 2014



Donnie Henriques, Mayor
City of Woodstock, Georgia



Rhonda L. Pezzello, City Clerk
City of Woodstock, Georgia

(Municipal Seal)

Exhibit "A"
Legal Descriptions

Tract 1

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 1133 and 1172 of the 15th District, 2nd Section, Cherokee County, Georgia and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, begin at an iron pin found on the northerly right-of-way line of Georgia State Route 92 (right-of-way varies) a distance of 237.02 feet westerly as measured along said right-of-way line from its intersection with the westerly right-of-way line of Neese Road (right-of-way varies); running thence along said right-of-way line North 16 degrees 28 minutes 58 seconds West, a distance of 20 feet to a point and the TRUE POINT OF BEGINNING; from said TRUE POINT OF BEGINNING thus established, continuing along said right-of-way line the following courses and distances; South 75 degrees 14 minutes 09 seconds West, a distance of 28.74 feet to a point; along the arc of a curve to the left having a radius of 1046.45 feet, an arc distance of 45.78 feet (said arc being subtended by a chord having a bearing of South 74 degrees 30 minutes, 12 seconds, West, and a length of 45.78 feet) to a point; South 15 degrees 31 minutes 48 seconds East, a distance of 20.00 feet to a concrete monument found; South 75 degrees 03 minutes 21 seconds West, a distance of 215.18 feet to an iron pin found; thence leaving the northerly right-of-way line of Georgia State Route 92 (right-of-way varies) and running North 22 degrees 06 minutes 42 seconds West, a distance of 229.92 feet to an iron pin found; running thence North 04 degrees 24 minutes 16 seconds West, a distance of 405.74 feet to an iron pin placed on the Land Lot line dividing Land Lots 1172 and 1133; running thence along said Land Lot line, south 85 degrees 48 minutes 21 seconds East, a distance of 443.70 feet to an iron pin found; thence leaving said Land Lot line and running North 00 degrees 16 minutes 22 seconds West, a distance of 149.50 feet to an iron pin found on the southwesterly right-of-way line of Neese Road, South 40 degrees 19 minutes 20 seconds East, a distance of 28.41 feet to a point; thence leaving said right-of-way line and running South 01 degrees 02 minutes 17 seconds East, a distance of 302.23 feet to a wooden fence corner; running thence South 01 degrees 16 minutes 05 seconds East, a distance of 151.20 feet to an iron pin found; running thence South 80 degrees 19 minutes 05 seconds West, a distance of 124.14 feet to an iron pin placed; running thence South 80 degrees 19 minutes 05 seconds West, a distance of 124.12 feet to an iron pin placed; running thence South 16 degrees 28 minutes 58 seconds East, a distance of 158.62 feet to an iron pin and the TRUE POINT OF BEGINNING, said tract containing 5.23 acres as shown on that certain Boundary Survey for Neese Road Partners, LLC, Bank of Canton, a division of the Bank of Ellijay and Chicago Title Insurance Company, prepared by Woodall & Associates Land Surveying, Inc., by Timothy J. Woodall, a Georgia Registered Land Surveyor No. 3000, dated June 4, 2007, last revised June 20, 2007.

And...

Tract 2

All that tract or parcel of land lying and being in Land Lots 1133 and 1172 of the 15th District, 2nd Section of Cherokee County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin found on the westerly right of way of Neese Road a distance of 353.50 feet northerly from its intersection with the northerly right of way of Georgia Highway No. 92 (having an 80 foot right of way); thence south 83 degrees 28 minutes 85 seconds west 145.60 feet to an iron pin and fence corner found; thence north 02 degrees 31 minutes 45 seconds west 302.45 feet to an iron pin set on the westerly right of way of Neese Road; thence southerly and southeasterly along the westerly right of way of Neese Road, and following the curvature thereof, 338.80 feet to an iron pin found and the point of beginning; containing 0.67 acres and being more particularly shown on that certain plat of survey dated November 18, 1987 prepared by Adams-Sims & Associates, Inc.

Total 5.9 acres

Exhibit "B"
Conditions of Zoning

1. Applicant agrees to dedicate the necessary land to the City of Woodstock before the final plat is approved to establish a minimum of 50' Right of Way measured from the existing centerline of Neese Road along the site's entire frontage of Neese Rd.
2. Applicant agrees to shared ingress/egress through a curb cut on the applicant's land on Highway 92 with properties to the east (15N18E 075, 076) when developed to minimize the number of curb cuts along Highway 92. Applicant agrees to execute and record in the land records of Cherokee County the documentation required to grant easements for access to 15N18E 075 and 076 before any land development permits are issued.
3. Lighting fixtures shall be Dark Skies compliant.
4. Applicant agrees to submit proof of deed restriction to 55 and over and provide copies of covenants and restrictions to the Director of Community Development for review and acceptance prior to the issuance of any permits and agrees to adhere to all state and federal laws regarding age restrictions.
5. Prior to the issuance of any Certificate of Occupancy, the applicant must install, at their expense, a deceleration lane to accommodate any curb cut on Highway 92 subject to GDOT approval.
6. Offsite pedestrian improvements shall be made at the intersection of Neese Road and Highway 92 including but not limited to countdown crosswalk signalization for crossing Neese Road. Said pedestrian improvements shall be made prior to issuance of any Certificate of Occupancy.
7. Applicant is granted a variance from constructing on-street parking as required in LDO Sec. 7.747 (1).
8. Applicant is granted a variance from LDO Sec. 7.929 (2) to eliminate the requirement to install the three board white fence along Highway 92 and Neese Road. Applicant will install fencing as described in the letter dated 6/11/2014 and attached hereto as Exhibit "C"
9. Architecture shall be substantially similar to the rendering submitted 4/17/2014 and attached hereto as Exhibit "D". Applicant is not granted a variance from the building height limitation of 40 feet.
10. Applicant is granted a variance to eliminate the build-to line along Highway 92 and Neese Road and to allow parking between the building and the street.
11. The facility shall provide in perpetuity the services outlined in the letter dated 6/11/2014 and attached hereto as Exhibit "C". The premises shall be available for periodic inspection by a representative of the Woodstock Community Development Department to insure adherence to the requirements herein. Failure to maintain these services shall constitute a violation of zoning, and shall be addressed in accordance with LDO Sec. 10.200.
12. The detention area shall be constructed as described in the letter dated 6/11/2014, attached hereto as Exhibit "C", and shall be substantially similar to the schematic attached hereto as Exhibit "E".

13. There shall be no fewer than 101 parking spaces located on the property, as outlined in the letter dated 6/11/2014, attached hereto as Exhibit "C".
14. The Applicant shall adhere to the stipulations of the letter submitted by the Applicant to the City, dated 7/14/2014, attached hereto as Exhibit "F".

Applicant's Signature:  Date: 7/22/14

Company: BEVERLY J. SEARLES FOUNDATION Title: PRESIDENT

Exhibit "C"
Letter dated 6/11/2014



June 11, 2014

The Beverly J. Searles Foundation recognizes that in lieu of being within a quarter mile from a grocery store or medical facilities as provided for in the SL-C calculation for density, that services need to be accessible on-site or available via a bus service that is provided by the management of the senior housing community. The Beverly J. Searles Foundation recognizes the proximity to the First Baptist Church of Woodstock and the relative proximity to a lot of retail services on Highway 92 will satisfy the purpose and intent of the one quarter mile requirement for the proposed SL-C density.

In order to assure the city of the commitment that the foundation has to make sure its residents either have needed services on-site or access to needed services via a bus service or contracts with independent contractors, please accept the following stipulations that can be added as a condition to the zoning approval in order to achieve the proposed 21 units per acre density for the proposed 125 unit senior housing project.

- 1) There shall be at all times a 15 passenger or larger bus providing regular routes to local services such as pharmacies, grocery stores, medical facilities.
- 2) The facility will have a commercial kitchen and every resident will have included in the monthly rent at least one meal a day which will be served in the dining hall. However, each resident will also have a kitchen so that if able, a resident will be able to cook meals as they want.
- 3) The management shall contract with a Home Health Care agency or agencies that will be able to provide home based health care or assistance with daily living on an as needed basis. The
- 4) A sundry shop shall be maintained on premises which will provide the sale of everyday items such as toiletries (deodorant, toothpaste, tooth brushes, soap and similar items) and food staples (milk, fresh fruit, butter, eggs, bread, coffee, etc.).
- 5) The management will contract with third party local pharmacies to provide pharmacy delivery services to the facility. Residents will be able to have their pharmacy items delivered to the facility.
- 6) There shall be a room available on-site so that the third party home health care agency and independent physicians and/or physical therapists can meet patients on-site.
- 7) A room will be provided for an independent hair stylist to provide hair cutting for the residents.

Additionally, the applicant proposes the water quality and detention pond be a Micropool Extended Detention Pond (per GA Stormwater Management Manual) with landscaping adjacent to Highway 92. If any fencing is required, a three horse rail fence with backed wire fencing will be installed as part of the landscaping plan. The design of the pond will achieve a gently sloping stormwater facility with existing

And...

vegetation saved and landscaping provided so the view from the development will emulate a natural area that is attractive to look at.

The applicant would also like to improve upon the Highway 92 fencing requirement to create fencing and landscaping on Highway 92 that will be an entry feature and blend into the landscaping along the roadway. To that end, the applicant will agree to in lieu of the three board white fence. The Highway 92 fencing will be 6' high black wrought alumina with brick bollards no more than 8' in height every 60' to 120' depending on site constraints. There will be a brick sign post at the entrance which will be no more than 8' tall. The design shall be approved by the Community Development Director. The property will follow all applicable City and County codes relating to signage.

The development will include a wide range of elderly residents in different stages of independent and dependent living. As such, a significant number of residents will forego having cars and will use the provided bus or share rides with other residents or close by family members. The applicant has reviewed parking requirements at its other facilities and similar facilities in the metropolitan Atlanta area. Based upon the need established by the history of other projects, the proposed 101 parking spaces will be more than adequate to handle the parking needs of the residents and their guests.

The applicant agrees to these conditions becoming a stipulation on the grant of the rezoning request as presented by the applicant.

Exhibit "D"
Rendering Submitted 4/17/2014



Exhibit "E"
Schematic for Detention Pond

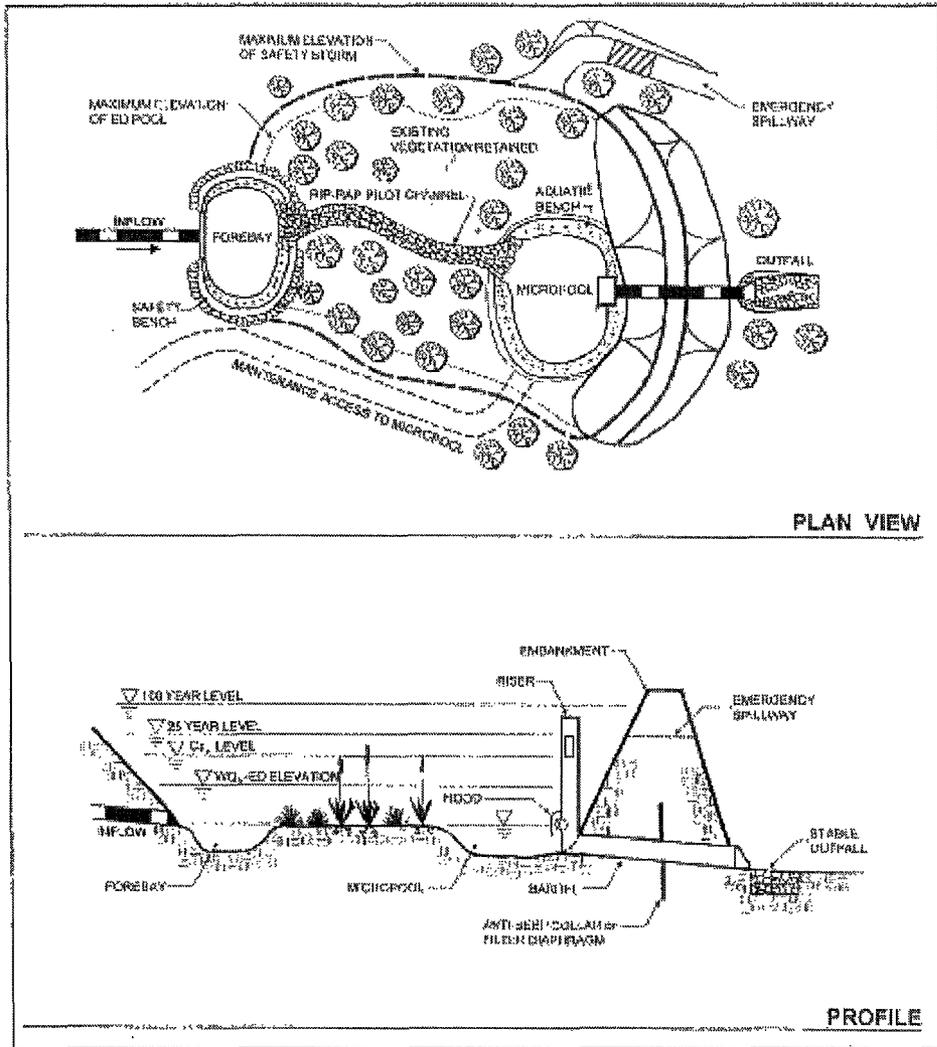


Exhibit "F"
Letter Dated 7/14/2014

SAMS, LARKIN, HUFF & BALLI
A LIMITED LIABILITY PARTNERSHIP

GABRIEL L. SALLS, JR.
JOEL L. LARKIN
PARKS E. HUFF
JAMES A. BALLI

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

570-422-7016
TELEPHONE
570-426-6583
FACSIMILE

JUSTIN H. MILKS

WWW.SLHB-LAW.COM

July 14, 2014

VIA EMAIL: keoulborn@woodstockga.gov
AND REGULAR MAIL

Ms. Katie Coulborn, Long-Range Planner
City of Woodstock
12453 Hwy 92
Woodstock, GA 30188

Re: Amended Public Hearing Application of Beverly J. Searles Foundation, Inc. for rezoning of a ±5.23 acre tract, Land Lots 1172 and 1133 of the 15th District, Tax Map 15N18, Parcels 144 and 147, Cherokee County, Georgia.

Dear Katie:

The Beverly J. Searles Foundation proposed a series of conditions in a letter dated June 11, 2014. The staff has requested that the applicant proposes certain stipulations that would help ensure compliance with an enforcement of the proposed conditions. Following is a list of additional stipulations proposed by the applicant:

- 1) The zoning conditions shall be incorporated into Covenants that will be approved by the city and filed in the real estate records of Cherokee County prior to the issuance of a building permit. The Covenant shall be in favor of the city and shall run with the land and bind subsequent purchasers.
- 2) The Lease used by the applicant and subsequent owners shall include the zoning conditions so each tenant can enforce the zoning conditions as a lease term. The form lease shall be provided to the city prior to the issuance of a certificate of occupancy and shall be submitted to the city with the Business License Renewal.
- 3) Additionally, the applicant and subsequent owner/operators shall have an exclusive contract with a third-party health care agency. The home health care agency shall have an office located on-site. The contract shall be provided to the city upon application for the Business License and every renewal of the Business License.

SAMS, LARKIN, HUFF & BALLI
A LIMITED LIABILITY PARTNERSHIP

Ms. Katie Coulborn, Long-Range Planner
City of Woodstock
July 14, 2014
Page 2

Following is a list of the proposed conditions as part of the proposed 125 unit SL-C proposal:

- 1) There shall be at all times a 15 passenger or larger bus providing regular routes to local services such as pharmacies, grocery stores, medical facilities.
 - 2) The facility will have a commercial kitchen and every resident will have included in the monthly rent at least one meal a day which will be served in the dining hall. However, each resident will also have a kitchen so that if able, a resident will be able to cook meals as they want.
 - 3) The management shall contract with a Home Health Care agency or agencies that will be able to provide home based health care or assistance with daily living on an as needed basis.
 - 4) A sundry shop shall be maintained on premises which will provide the sale of everyday items such as toiletries (deodorant, toothpaste, tooth brushes, soap and similar items) and food staples (milk, fresh fruit, butter, eggs, bread, coffee, etc.).
 - 5) The management will contract with third party local pharmacies to provide pharmacy delivery services to the facility. Residents will be able to have their pharmacy items delivered to the facility.
 - 6) There shall be a room available on-site so that the third party home health care agency and independent physicians and/or physical therapists can meet patients on-site.
 - 7) A room will be provided for an independent hair stylist to provide hair cutting for the residents.
 - 8) Additionally, the applicant proposes the water quality and detention pond be a Micropool Extended Detention Pond (per CIA Stormwater Management Manual) with landscaping adjacent to Highway 92. If any fencing is required, a three horse rail fence with backed wire fencing will be installed as part of the landscaping plan. The design of the pond will achieve a gently sloping stormwater facility with existing vegetation saved and landscaping provided so the view from the development will emulate a natural area that is attractive to look at.
-

SAMS, LARKIN, HUFF & BALLI
A LIMITED LIABILITY PARTNERSHIP

Ms. Katie Coulborn, Long-Range Planner
City of Woodstock
July 14, 2014
Page 3

- 9) The applicant would also like to improve upon the Highway 92 fencing requirement to create fencing and landscaping on Highway 92 that will be an entry feature and blend into the landscaping along the roadway. To that end, the applicant will agree to in lieu of the three board white fence. The Highway 92 fencing will be 6' high black wrought alumina with brick bollards no more than 8' in height every 60' to 120' depending on site constraints. There will be a brick sign post at the entrance which will be no more than 8' tall. The design shall be approved by the Community Development Director. The property will follow all applicable City and County codes relating to signage.

Additionally, the applicant agrees to the following recommendations of the staff:

- 1) Applicant agrees to dedicate the necessary land to the City of Woodstock to establish a minimum of 50' right of way measured from the existing centerline of Neese Road along the site's entire frontage of Neese Road.
 - 2) Applicant agrees to shared ingress/egress on Highway 92 with properties to the east (15N18E 075, 076) when developed to minimize the number of curb cuts along Highway 92. Applicant agrees to execute the documentation required to grant easements for access to said parcels before any development permits are issued.
 - 3) Lighting fixtures shall be dark skies compliant.
 - 4) Applicant agrees to submit proof of deed restriction to 55 and over and provide copies of covenants and restrictions to the Director of Community Development for review and acceptance prior to the issuance of any permits and agrees to adhere to all state and federal laws regarding age restrictions.
 - 5) Prior to the issuance of any Certificate of Occupancy, the applicant must install, at their expense, a deceleration lane to accommodate any curb cut on Highway 92 subject to GDOT approval.
 - 6) Offsite pedestrian improvements shall be made at the intersection of Neese Road and Highway 92 including but not limited to countdown crosswalk signalization for crossing Neese Road. Said pedestrian improvements shall be made prior to issuance of any Certificate of Occupancy.
 - 7) Applicant is granted variance from constructing on-street parking as required in LDO Sec. 7.741(1).
-

SAMS, LARKIN, HUFF & BALLI
A LIMITED LIABILITY PARTNERSHIP

Ms. Katie Coulborn, Long-Range Planner
City of Woodstock
July 14, 2014
Page 4

- 8) Applicant is granted variance from 7.929 (2) to eliminate the requirement to install the three board white fence along Highway 92 and Neese Road. Applicant will install fencing as described in the letter dated 6/11/2014 and attached hereto as Exhibit "C".
- 9) Architecture shall be substantially similar to elevations submitted 4/17/2014 and attached hereto as Exhibit "D". Applicant is not granted a variance from the building height limitation of 40 feet.
- 10) Applicant is granted a variance to eliminate the build-to-line along Highway 92 and Neese Road and to allow parking between the building and the street.
- 11) The facility shall provide in perpetuity the services outlined in the letter dated 6/11/2014 and attached hereto as Exhibit "C". The premises shall be available for inspection by a representative of the Woodstock Community Development Department upon request. Failure to maintain these services shall constitute a violation of zoning, and shall be addressed in accordance with LDO Sec. 10.200.
- 12) The detention area shall be constructed as described in the letter dated 6/11/2014, attached hereto as Exhibit "C", and shall be substantially similar to the schematic attached hereto as Exhibit "E".
- 13) There shall be no fewer than 101 parking spaces, as outlined in the letter dated 6/11/2014, attached hereto as Exhibit "C".

The development will include a wide range of elderly residents in different stages of independent and dependent living. As such, a significant number of residents will forego having cars and will use the provided bus or share rides with other residents or close by family members. The applicant has reviewed parking requirements at its other facilities and similar facilities in the metropolitan Atlanta area. Based upon the need established by the history of other projects, the proposed 101 parking spaces will be more than adequate to handle the parking needs of the residents and their guests.

SAMS, LARKIN, HUFF & BALLI
A LIMITED LIABILITY PARTNERSHIP

Ms. Katie Coulborn, Long-Range Planner
City of Woodstock
July 14, 2014
Page 5

The applicant agrees to these conditions becoming a stipulation on the grant of the rezoning request as presented by the applicant.

Sincerely,

SAMS, LARKIN, HUFF & BALLI, LLP


Parks F. Huff
phuff@slhb-law.com

PFH/dvm

cc: Beverly Searles Foundation, Inc.
Donnie Henriques, Mayor – via email
City Council – via email