

MEMORANDUM



To: Kathy Field, Director of Community Development
Carter Lucas, PE, Director of Public Works
Mark Law, Arborist
Matthew Marietta, Fire Marshal
Wade Green, Building Official

From: Robyn MacDonald, Planner, Community Development

Date: February 22, 2012

Re: Preliminary Zoning Agenda

Community Zoning Information Meeting (CZIM)

Wednesday, February 29, 2012 –
7:00 PM at City Hall in the Community Development
Conference Room

Design Review Board Meeting

Tuesday, March 6, 2012 – 6:00 PM at City Hall

Planning Commission

Tuesday, March 27, 2012- 7:00 PM at City Hall

Mayor and City Council

Monday, April 23, 2012 – 6:00 PM at City Hall



LOCATION MAP FOR RZ12-04/VC12-01

LEGEND	
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ROLADER & ROLADER
ATTORNEYS AND COUNSELORS AT LAW
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ROSWELL, GEORGIA 30077-1357
Telephone (770) 442-0330
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DONALD A. ROLADER
Don@RoladerandRolader.com

OF COUNSEL
D.W. "Pete" ROLADER

February 8, 2012

RECEIVED

FEB 09 2012

City of Milton
Community Development

Mayor and City Council
City of Milton, Georgia
13000 Deerfield Pkwy., Suite 107
Milton, Georgia 30004

RE: Application of Agile Pursuits, Inc., 0.609 acres Georgia Hwy. 9, City of Milton, Georgia;
Rezoning from MIX to C-1 and Variance request

Dear Mayor and Councilpersons:

Agile Pursuits, Inc., the Applicant, is seeking approval of this Application for Rezoning and Variance request. This letter shall be construed as the Letter of Intent for these Applications.

The property contains 0.609 acres and is presently zoned MIX in the City of Milton, Georgia. This site is located on the West side of Georgia Hwy. 9 and is an outparcel in The Shops at Windward Village, a shopping center anchored by Aldi. The general nature of the area is retail with big box stores, car washes, restaurants and national brand retailers as nearby users. This proposal provides a compatible use to existing uses in the immediate area. Applicant is requesting a change in zoning because the current MIX zoning does not list drycleaners as a stated use, even though it is a retail/service use of the property. The proposal has been approved by the Design Review Board and presently has a Land Disturbance Permit for site clearing and improvement. Changing the zoning to C-1 grants the applicant the use as a drycleaner as a permitted use in the zoning district.

Applicant requests a variance to Article 64, Section 1090 (a) to reduce the 20 foot landscape strip required in the C-1 District to a 10 foot landscape strip along GA Hwy. 9, in harmony with the landscape strips required on other outparcels in the development.

In harmony with the neighboring uses, Applicant presently proposes to construct a Tide brand drycleaner with drive through as shown on the site plan. The proposed application is in scale and harmony with surrounding uses, and will provide a marketable product in today's economy. The facility is state of the-art and contains environmentally "green" and safe cleaning systems using silicon based compounds which pose no environmental risks to the site.

RZ12-04/VC12-01

11660 ALPHARETTA HIGHWAY - SUITE 530 - ROSWELL, GEORGIA 30076

The Comprehensive Plan designates this property as mixed use. The majority of property in the immediate area is developed for intense commercial uses. This request will permit a zoning in harmony with the Comprehensive Plan, and with nearby developments. Applicant's request, therefore, is reasonable when considered with surrounding uses.

The granting of this Application will have no negative impact on adjoining or nearby properties, but should serve to increase the value of such properties. This development will not unduly tax any City of Milton services, including, but not limited to, traffic, fire and police protection, water service and garbage collection. Presently sewer is available through Fulton County. The development will have no impact on the Fulton County School System. To fail to approve these requests will be of absolutely no benefit to the citizens of Milton, Georgia while causing a severe financial burden upon the property owner and Applicant, and denying any reasonable use of the property. The surrounding area has developed with restaurants and intense retail development. The project proposed herein is consistent with development in the surrounding area.

It is the position of the Applicant that the Milton Zoning Ordinance, in zoning the property MIX while not permitting a drycleaner use is unconstitutional in that it destroys the marketability of the property and renders the property exceptionally less valuable, and such zoning therefore constitutes a taking of the property without just and adequate compensation and without due process of law in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States, as well as Article 1, Section 1, Paragraph 1; Article 1, Section 3, Paragraph 1(a); and Article 3, Section 6, Paragraph 2 of the Constitution of the State of Georgia (1983). To zone this property to any intervening category which is less than requested is unconstitutional, renders the property unusable and constitutes the taking of Applicant's property without just and adequate compensation and without due process of law in violation of the provisions of the United States and Georgia Constitutions cited in this paragraph. The same effect would be had by imposing conditions in restraint of trade, or onerous, burdensome, unconstitutional, or unnecessary conditions on the property.

The Applicant respectfully requests that the Milton City Council grant the requested applications as submitted.

Very truly yours,
Rolader & Rolader


Donaki A. Rolader

DAR/ddf