

**JULY 21, 2009 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 4**

ITEM #1

PURPOSE

To consider amending the stipulations for Arbor Ridge, LLC regarding Z-87 (SEVEN SPRINGS DEVELOPMENT CO., INC.) of June 21, 2005, for property located in Land Lots 469, 470, 493 and 494 of the 19th District at the southeast intersection of Macland Road and West Sandtown Road.

BACKGROUND

The subject property is zoned RSL subject to numerous conditions/stipulations which are attached. This request seeks to remove stipulation #5 within the attached letter of agreeable stipulations which requires this development to comply with the Georgia Condominium act. In the past several years we have entertained this type of request since lenders have become reluctant to consider lending money for developments that contain this specific language. The proposed development will be developed per the original conditions including a mandatory homeowners association to oversee the common open space and common grounds and the units will be “for sale” units. The Other Business application is also attached.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners first determine if the request is minor. If it is determined to be minor, consider the request subject to all other previously approved conditions/stipulations to remain in effect.

ATTACHMENTS

Board of Commissioners Decision
Other Business Application

ORIGINAL DATE OF APPLICATION: 06-21-05APPLICANTS NAME: SEVEN SPRINGS DEVELOPMENT CO., INC.

THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS

BOC DECISION OF 06-21-05 ZONING HEARING:

SEVEN SPRINGS DEVELOPMENT CO., INC. (Seven Springs Development Co., Inc. and W. Wayne Ellis Co., owners) for Rezoning from **R-20** and **R-30** to **RSL** for the purpose of Residential Senior Living in Land Lots 469, 470, 493 and 494 of the 19th District. Located at the southeast intersection of Macland Road and West Sandtown Road.

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

- **site plan received by the Zoning Division April 6, 2005 (copy attached and made a part of these minutes)**
- **letter of agreeable stipulations from Mr. John Moore dated May 26, 2005, with the following revision to paragraph 8: remove "siding" and insert "hardi-plank" (copy attached and made a part of these minutes)**
- **Water and Sewer Division comments and recommendations**
- **Stormwater Management Division comments and recommendations**
- **Cobb DOT comments and recommendations**
- **owner/developer to enter into a development agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns**

VOTE: **ADOPTED** unanimously

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
192 ANDERSON STREET

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MARIETTA, GEORGIA 30060

WWW.MIJS.COM

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OF COUNSEL:
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JOHN L. SKELTON, JR.

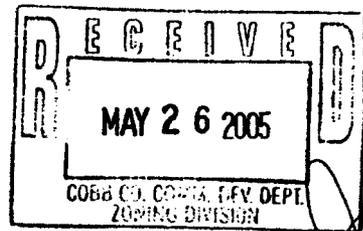
* ALSO ADMITTED IN TN
* ALSO ADMITTED IN FL
** ALSO ADMITTED IN SC
** ALSO ADMITTED IN NC
* ADMITTED ONLY IN TN

WRITER'S DIRECT
DIAL NUMBER

May 26, 2005

Min. Bk. 35 Petition No. Z-87
Doc. Type Letter of agreeable
Stipulations
Meeting Date 6/21/05
Hand Delivered

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
Suite 300
191 Lawrence Street
Marietta, Georgia 30060-1661



RE: Application for Rezoning
Application No.: Z-87 (2005)
Applicant: Seven Springs Development Co., Inc.
Owners: Seven Springs Development Co., Inc. and W. Wayne Ellis Co.
Property: 31.39 acres located at the southeasterly intersection of Macland Road and West Sandtown Road, Land Lots 469, 470, 493, And 494, 19th District, 2nd Section, Cobb County, Georgia

Dear John:

As you know, the undersigned and this firm represent Seven Springs Development Co., Inc., the Applicant and one of the Property Owners (hereinafter "Applicant"), W. Wayne Ellis Co., the remaining Property Owner (hereinafter, together with Applicant, collectively referred to as "Owners"), in their Application for Rezoning with regard to a total tract of 31.39 acres located at the southeasterly intersection of Macland Road and West Sandtown Road, Land Lots 469, 470, 493, and 494, 19th District, 2nd Section, Cobb County, Georgia (hereinafter the "Subject Property" or, alternatively, the "Property"). After meetings with planning and zoning staff and various departmental representatives, discussions with area residents, and reviewing the staff comments and recommendations and

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
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the uses of surrounding properties, we have been authorized by the Applicant and Owners to submit this letter of agreeable stipulations and conditions which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property. The referenced stipulations are as follows:

- (1) The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the Subject Property.
- (2) Rezoning of the Subject Property shall be from the existing R-20 and R-30 zoning categories to the Residential Senior Living ("RSL"), site plan specific to that certain Zoning Plat prepared by Gaskins Surveying and Engineering Company dated April 1, 2005.
- (3) The Subject Property consists of a total of 31.39 acres. The proposed RSL area will consist of 15.24 acres; the remaining 19.46 acres (12.09 acres being outside the flood plain) shall remain as open green space area.
- (4) The referenced Zoning Plat contains a maximum of fifty-six (56) units within 15.24 acres, outside flood plain, for a net density of 3.67 units per acre.
- (5) The proposed residential community shall be a condominium development, complying in all respects with the Georgia Condominium Act, and being "for sale" units.
- (6) The proposed residential community shall consist of one-story buildings in a quadraplex arrangement and shall have a minimum square footage ranging from 1,310 square feet to 1,800 square feet and greater.
- (7) The proposed community shall be traditional in styling and architecture. Each unit shall have an attached two-car garage.

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Planner III
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- (8) Each of the quadraplex buildings shall have building exteriors of brick, stone, stucco, siding, or combinations thereof.
- (9) Applicant agrees to the creation of a mandatory condominium association with respect to the proposed community which shall be responsible for the upkeep and maintenance of all building exteriors, common areas, amenities, and private streets contained within the community.
- (10) Applicant agrees to the recording and enforcement of a Declaration of Condominium which will contain covenants, rules, and regulations applicable to the proposed residential community.
- (11) The entrance into the proposed community shall be professionally designed, landscaped, and maintained, with signage being ground-based, monument style comprised of brick, stone, stacked stone, or combinations thereof, complementary to the residences.
- (12) Amenities contained within the common area of the proposed suburban condominium community shall include, but not be limited to, a clubhouse and swimming pool, and shall be available to all residents of the community.
- (13) Within the amenity area of the community, Applicant shall utilize environmentally sensitive, shoe-box style lighting so as not to emit bright light to disturb neighbors. Light bulbs shall be recessed within the fixtures and shall not extend below the fixtures. The height of lighting within the amenity area shall also be limited. Lighting for the clubhouse shall be decorative and themed with the styling and architecture of the structure.
- (14) Environmentally sensitive lighting, themed to the architecture and styling of the proposed units, shall be utilized within the proposed community. Applicant shall

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make every effort to make all lighting as unobtrusive as possible on the site and limit the height.

- (15) The yard areas shall be fully sodded and maintained by the mandatory owners' association to be created for the proposed residential community.
- (16) While not a condition to the grant of the within rezoning request, Applicant agrees to convey to Cobb County, either by deed of gift or by conservation and green space easement, a perpetual green space of the green space area hereinabove referenced, said green space area to remain open for the benefit and enjoyment of the residents of the proposed development.
- (17) Sales within the proposed development are restricted to age 55 and older, as defined under the Federal Housing Act, as amended.
- (18) Applicant agrees to comply with the "easy living" standards as set forth in the subject Ordinance.
- (19) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.
- (20) Applicant agrees to comply with all Cobb County development standards and ordinances relating to project improvements, except as approved by the Board of Commissioners.
- (21) All common, open space, green space, and/or buffer areas may be penetrated for purposes of access, utilities, and stormwater management.
- (22) Minor modifications to the referenced Zoning Plat, including, but not limited to, the layout of lots and stormwater control measures may be approved by the District Commissioner, as needed or necessary.

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Planner III
Zoning Division
Cobb County Community Development Agency
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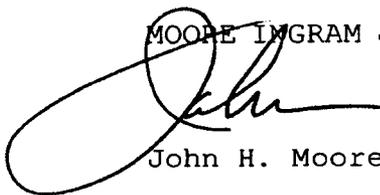
- (23) All streets within the proposed community shall be private streets and constructed pursuant to Cobb County Department of Transportation standards.
- (24) All utilities serving the proposed community, including power, water, sewer, telephone, gas, and cable television, shall be located underground.

We believe the requested zoning, pursuant to the Zoning Plat and the stipulations set forth herein, is an appropriate use of the Subject Property while taking into consideration the existing conditions of the Property and the area surrounding the proposed development. The proposed senior living community shall be a quality development, providing a much-needed and highly sought after type of community within the Cobb County area. Additionally, the proposed community shall be compatible with surrounding developments and be an enhancement to the Subject Property. Thank you for your consideration in this request.

With kindest regards, I remain

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP



John H. Moore

JHM:cc

MOORE INGRAM JOHNSON & STEELE

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c: Cobb County Board of Commissioners:
Samuel S. Olens, Chairman
Helen C. Goreham
Annette Kesting
Joe L. Thompson
Tim Lee

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Continued

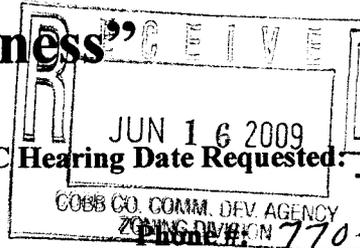
Cobb County Planning Commission:
Murray Homan, Chairman
Judy Williams
Bob Hovey
Christi S. Trombetti
Bob Ott

Mr. David Kim
Mr. Wit Carson
Mr. Lee Eubanks

Seven Springs Development Co., Inc.

Application for "Other Business" Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2045)



BOC Hearing Date Requested: 7/21/09

Applicant: ARBOR RIDGE, LLC
(applicant's name printed)

Address: 5652 HARBORMIST DR. POWERS, GA E-Mail: DGEDDE@COMCAST.NET

DWAYNE EDDE Address: 5652 HARBORMIST DR. POWERS, GA 30127
(representative's name, printed)

[Signature] Phone #: 770-403-9240 E-Mail: DGEDDE@COMCAST.NET
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature]

PAULETTE R. ORR
Notary Public-Cobb County, Georgia
MY COMMISSION EXPIRES JULY 16, 2011
My commission expires: July 16, 2011

Notary Public

Commission District: 4 Zoning Case: Z-87 of 2005

Date of Zoning Decision: 6-21-05 Original Date of Hearing: 6/21/05

Location: WEST SANDTOWN RD. AT MACLAND RD.
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 469, 470, 493, 494 District(s): 19TH

State specifically the need or reason(s) for Other Business: CHANGE ORIGINAL ZONING STIPULATION #5 FROM CONDOMINIUM TO FEE-SAMPLE TOWNHOMES. ALSO, REMOVE "COMPLYING IN ALL RESPECTS WITH THE GEORGIA CONDOMINIUM ACT".

(List or attach additional information if needed)