

Z-3  
(2013)

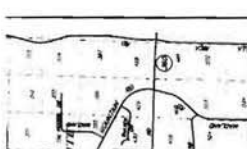
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COBB COUNTY ZONING DIVISION  
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OWNER DEVELOPER:  
 PROUDMAN INVESTMENTS, L.L.C.  
 200 MARKET STREET EAST  
 SUITE 400  
 ROSWELL, GA 30076

RECEIVED  
 FEB 14 2011  
 COBB COUNTY ZONING DIVISION

THE RETREAT AT LOST MOUNTAIN  
 (FROM TIMMY CREEK AT LOST MOUNTAIN)

LOCATED IN L.L. 354 & 431  
 1939 DISTRICT, 2ND SECTION  
 COBB COUNTY, GA



**APPLICANT:** Retreat at Lost Mountain Homeowners Association, Inc.  
678-367-4981

**REPRESENTATIVE:** Michael Miller  
678-367-4981

**TITLEHOLDER:** (Due to assemblage of properties, list of titleholders  
may be found in file)

**PROPERTY LOCATION:** Southerly side of Lost Mountain Road  
and north side of Macland Road.

**ACCESS TO PROPERTY:** Lost Mountain Road

**PHYSICAL CHARACTERISTICS TO SITE:** Existing single-family  
subdivision

**CONTIGUOUS ZONING/DEVELOPMENT**

- NORTH:** R-80/Single-family Houses
- SOUTH:** R-30/Single-family Houses
- EAST:** R-30/Single-family Hosues and R-20/OSC - Lost Mountain Trails Subdivision
- WEST:** R-30/Single-family Houses and Gaydon Station Subdivison

**PETITION NO:** Z-3

**HEARING DATE (PC):** 02-05-13

**HEARING DATE (BOC):** 02-19-13

**PRESENT ZONING:** CS  
with Stipulations

**PROPOSED ZONING:** CS  
with Stipulations

**PROPOSED USE:** Amending The Zoning  
Conditions Of Existing Residential Subdivision

**SIZE OF TRACT:** 49.01 acres

**DISTRICT:** 19

**LAND LOT(S):** 384, 431

**PARCEL(S):** See file for Parcel Numbers

**TAXES: PAID** X **DUE** \_\_\_\_\_

**COMMISSION DISTRICT:** 1

**OPPOSITION:** NO. OPPOSED **PETITION NO:** \_\_\_\_\_ **SPOKESMAN** \_\_\_\_\_

**PLANNING COMMISSION RECOMMENDATION**

**APPROVED** \_\_\_\_\_ **MOTION BY** \_\_\_\_\_

**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_\_\_ **CARRIED** \_\_\_\_\_

**BOARD OF COMMISSIONERS DECISION**

**APPROVED** \_\_\_\_\_ **MOTION BY** \_\_\_\_\_

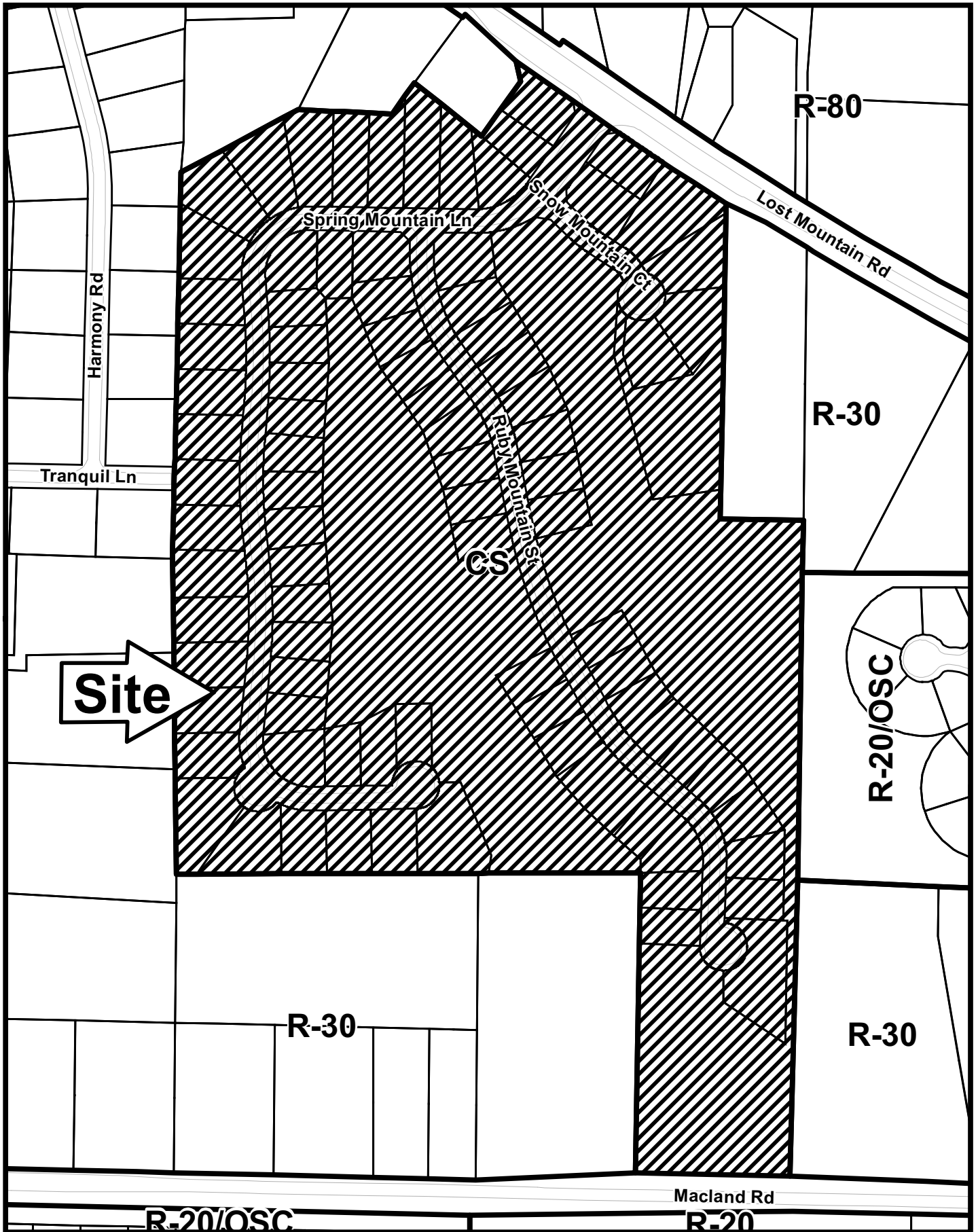
**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_\_\_ **CARRIED** \_\_\_\_\_

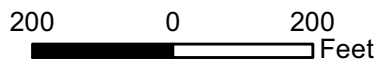
**STIPULATIONS:**



# Z-3



This map is provided for display and planning purposes only. It is not meant to be a legal description.



City Boundary  
Zoning Boundary

**APPLICANT:** Retreat at Lost Mountain Homeowners Association, Inc. **PETITION NO.:** Z-3  
**PRESENT ZONING:** CS w/Stipulations **PETITION FOR:** CS w/Stipulations

\*\*\*\*\*

**ZONING COMMENTS:** Staff Member Responsible: Jason A. Campbell

**Land Use Plan Recommendation:** Very Low Density Residential (0 – 2 units per acre)  
**Proposed Number of Units:** 86(Existing) **Overall Density:** 1.75 **Units/Acre**  
**Present Zoning Would Allow:** 86 **Units** **Increase of:** 0 **Units/Lots**

Applicant is requesting to rezone the existing subdivision that was rezoned to Conservation Subdivision (CS) with stipulations as part of Z-188 of 2005. The subject property was approved to the CS zoning category setting aside over 17 acres as open space. Also made part of the previous rezoning was a stipulation letter that contained a paragraph – 8(e) attached – stipulating that there would be “a 20-foot natural buffer along the subject property’s western boundary line. Said buffer shall be fenced for protection during the construction and build out of the subdivision”. The recorded plat that is the site plan for this application was recorded with notation that the subject buffer area was a 20-foot maintained landscape buffer. As the subdivision has been developed and houses built, homeowners installed privacy fences around their backyards. Homeowners have informed staff that they were unaware that they could not install a privacy fence in the required natural buffer and were made aware of the fact after fences were installed. The proposal is to revise the previously approved stipulation “to allow wooden privacy fences or decorative metal fences no taller than six feet within the designated buffer, which buffer shall otherwise remain in place.

**Cemetery Preservation:** No comment.

**PLANNING COMMENTS:**

The applicant is requesting a rezoning from CS with Stipulation to CS with Stipulation for purpose of amending zoning conditions of existing residential. The 49.01 acre site is located at the southerly side of Lost Mountain Road and north side of Macland Road.

Comprehensive Plan

The parcel is within the Very Low Density (VLDR) and Low Density Residential (LDR) area future land use category, with CS zoning designation.

The purpose of the Very Low Density Residential (VLDR) category is to provide for areas that are suitable for very low density housing, particularly in locations which may not have basic services such as sewer, or where the existing or desired residential development pattern is zero to two (2) dwelling units per acre.

The purpose of the Low Density Residential (LDR) category is to provide for areas that are suitable for low density housing between one (1) and two and one-half (2.5) dwelling units per acre. This category presents a range of densities.

Master Plan/Corridor Study

Please review and meet all requirements in the Macland Road Study.

**APPLICANT:** Retreat at Lost Mountain Homeowners Association, Inc. **PETITION NO.:** Z-3  
**PRESENT ZONING:** CS w/Stipulations **PETITION FOR:** CS w/Stipulations

\*\*\*\*\*

**PLANNING COMMENTS**  
**Continued:**

Historic Preservation

After consulting various county historic resources surveys, historic maps, archaeology surveys and Civil War trench location maps, staff finds that no known significant historic resources appear to be affected by this application. No further comment. No action by applicant requested at this time.

Design Guidelines

Is the parcel in an area with Design Guidelines?  Yes  No

If yes, design guidelines area Macland Road

Does the current site plan comply with the design requirements?

This application is to propose changes of the previous stipulation which specifies the fence requirement for the existing neighborhood. This fence is not along the Macland Road and cannot be viewed on the road. Therefore, this zoning stipulation request will have no impact on the streetscape and building environment. No guidelines requirements will be applied on it, no action required.

**APPLICANT:** Retreat at Lost Mountain Homeowners Association, Inc.    **PETITION NO.:** Z-3  
**PRESENT ZONING:** CS w/Stipulations    **PETITION FOR:** CS w/Stipulations

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**SCHOOL COMMENTS:**

<u>Name of School</u>	<u>Enrollment</u>	<u>Capacity Status</u>	<u>Number of Portable Classrooms</u>
<u>Elementary</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>Middle</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
<u>High</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

**Additional Comments:**

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**FIRE COMMENTS:**

After analyzing the information presented for a Preliminary Review, the Cobb County Fire Marshal’s Office is confident that all other items can be addressed during the Plan Review Stage.

APPLICANT Retreat at Lost Mountain HOA

PETITION NO. Z-003

PRESENT ZONING CS w/stips

PETITION FOR CS w/stips

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**WATER COMMENTS:** NOTE: Comments reflect only what facilities were in existence at the time of this review.

Available at Development:  Yes  No

Fire Flow Test Required:  Yes  No

Size / Location of Existing Water Main(s): **6" DI in existing subdivision streets**

Additional Comments:

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

\*\*\*\*\*

**SEWER COMMENTS:** NOTE: Comments reflect only what facilities were in existence at the time of this review.

In Drainage Basin:  Yes  No

At Development:  Yes  No

Approximate Distance to Nearest Sewer: **On site in S/D streets and easements**

Estimated Waste Generation (in G.P.D.): **A D F +0 Peak= +0**

Treatment Plant: **South Cobb**

Plant Capacity:  Available  Not Available

Line Capacity:  Available  Not Available

Projected Plant Availability:  0 - 5 years  5 - 10 years  over 10 years

Drv Sewers Required:  Yes  No

Off-site Easements Required:  Yes\*  No \*If off-site easements are required, Developer must submit easements to CCWS for review/approval as to form and stipulations prior to the execution of easements by the property owners. All easement acquisitions are the responsibility of the Developer

Flow Test Required:  Yes  No

Letter of Allocation issued:  Yes  No

Septic Tank Recommended by this Department:  Yes  No

Subject to Health Department Approval:  Yes  No

Additional Existing sewerd subdivision  
Comments:

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or offsite easements, dedication of on and/or offsite water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

**APPLICANT: Garrison Ridge Shopping Center**

**PETITION NO.: Z-3**

**PRESENT ZONING: CS w/ stips**

**PETITION FOR: CS w/ stips**

\*\*\*\*\*

<b>STORMWATER MANAGEMENT COMMENTS</b>
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All previous stormwater management stipulations to remain in effect.



**APPLICANT: Retreat at Los Mountain Homeowners Association, Inc. PETITION NO.: Z-3**

**PRESENT ZONING: CS with Stipulations PETITION FOR: CS with Stipulations**

\*\*\*\*\*

**TRANSPORTATION COMMENTS**

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Lost Mountain Road	14,700	Arterial	45 mph	Cobb County	100'
Macland Road	15,000	Arterial	45 mph	Georgia DOT	100'

*Based on 2012 traffic counting data taken by Cobb County DOT (Lost Mountain Road)  
Based on 2012 traffic counting data taken by Cobb County DOT (Macland Road)*

**COMMENTS AND OBSERVATIONS**

Lost Mountain Road is classified as an arterial and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

Macland Road is classified as an arterial and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

**RECOMMENDATIONS**

Recommend applicant consider entering into a development agreement pursuant of O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the north side of Macland Road, a minimum of 50' from the roadway centerline.

Recommend constructing sidewalk along one side of development roadways.

Recommend applicant coordinate with Georgia DOT prior to development plan approval to ensure compatibility with the Macland Road project.

Recommend GDOT permits for all work that encroaches upon State right-of-way.

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

## STAFF RECOMMENDATIONS

### **Z-3 RETREAT AT LOST MOUNTAIN HOMEOWNERS ASSOCIATION, INC.**

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. Adjacent and nearby properties are also zoned for single-family houses and subdivisions.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse affect on the usability of adjacent or nearby property. The existing subdivision will continue to have the buffer along the exterior western boundary line, in addition to the fences that have been constructed around the homeowners' yards.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within the Very Low Density (VLDR) land use category with densities ranging from 0 – 2 units per acre. The existing subdivision was approved with a density of 1.75 lots per acre as part of Z-188 of 2005. No changes are being proposed that will affect the density of the subdivision.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for approving the applicant's rezoning proposal. Residents of the subdivision purchased their homes and decided to fence in their backyards, unaware of the stipulation from the previous zoning case (Z-188 of 2005) that would not allow the fences in the buffer area.

Based on the above analysis, Staff recommends **APPROVAL** subject to the following conditions:

- Allow disturbance of the buffer only for privacy or decorative metal fences while leaving the remainder of the natural buffer intact;
- Water and Sewer comments and recommendations;
- Stormwater Management comments and recommendations;
- DOT comments and recommendations; and
- 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.

**The recommendations made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.**

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COBB COUNTY GEORGIA  
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2012 DEC -6 PM 3:45  
COBB COUNTY ZONING DIVISION

Application No. Z-3

Feb.  
2013

# Summary of Intent for Rezoning

.....  
**Part 1. Residential Rezoning Information (attach additional information if needed)**

- a) Proposed unit square-footage(s): N/A
- b) Proposed building architecture: N/A
- c) Proposed selling prices(s): N/A
- d) List all requested variances: N/A

**The property was zoned to CS with Stipulations in 2005 (Case #Z-188). This request is to revise the special stipulation created by item 8e in the letter of agreeable stipulations from Mr. Garvis Sams, Jr., dated November 3, 2005 (copy attached) to allow wooden privacy fences or decorative metal fences no taller than six feet within the designated buffer, which buffer shall otherwise remain in place.**

.....  
**Part 2. Non-residential Rezoning Information (attach additional information if needed)**

- a) Proposed use(s): \_\_\_\_\_
- b) Proposed building architecture: \_\_\_\_\_
- c) Proposed hours/days of operation: \_\_\_\_\_
- d) List all requested variances: \_\_\_\_\_

.....  
**Part 3. Other Pertinent Information (List or attach additional information if needed)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

.....  
**Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government? (Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located).**

Yes, rights of way - see attached plat

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

November 3, 2005

770-422-7016  
TELEPHONE  
770-426-6583  
FACSIMILE  
WWW.SAMSLARKINHUFF.COM

VIA HAND DELIVERY

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

Re: Application of K2 Ventures, LLC to Rezone a 48.92 Acre Tract  
from R-30 to Conservation Subdivision (CS) (No. Z-188)

Dear John:

You will recall that I represent the applicant and property owners concerning the above-captioned application for rezoning. The application was heard, considered and unanimously recommended for approval by the Cobb County Planning Commission earlier this week. The application is now scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on November 15, 2005.

With respect to the foregoing, in keeping with the action taken by the Planning Commission and in keeping with staff recommendations for approval, enclosed please find the requisite number of copies of a revised site plan. The balance of this letter will serve as my clients' expression of agreement the following 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:

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.
2. A maximum number of 86 single family detached homes at a maximum density of 1.757 units per acre.

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COBB COUNTY ZONING DIVISION



VIA HAND DELIVERY

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3. An agreement that there shall be a total of 18.41 acres (37.6% of the total site area) of the subject property which shall be designated as Open Space which shall be placed in a Conservation Easement in favor of Cobb County and which shall serve as a neighborhood amenity and be protected in perpetuity from development under the ownership of a mandatory homeowners association. The open space shall include pocket parks, picnic areas, passive recreational areas and strategically positioned walking trails which shall provide pedestrian connectivity throughout the residential community.<sup>1</sup>
4. The architectural style and composition of the homes shall be consistent with the elevations/renderings which were submitted under separate cover on October 12, 2005. The composition of the homes shall consist of a combination of either brick, cedar and/or hardy plank shake, stacked stone, and traditional hardy plank siding.
5. The minimum house size within the proposed residential community shall be 2,200 square feet ranging up to 3,000 square feet and beyond.<sup>2</sup> Each of the homes shall have at a minimum an attached two-car garage. The garages shall be used for the parking and storage of vehicles and a recital shall be contained within the subdivision Covenants ensuring same.
6. The creation of a mandatory homeowners association and the submission of Declaration of Covenants which shall include, inter alia, strict architectural controls.
7. Subdivision entrance signage shall be ground-based, monument style and consistent with provisions of the Cobb County Sign Ordinance. Additionally, said entrance signage shall be incorporated into the landscape plan for the subdivision and shall be fully irrigated.
8. The submission of a landscape plan during the Plan Review process which shall include the following:
  - a. The establishment of an integrated system of walking trails within the open space areas which shall be meaningfully positioned in order to connect to sidewalks within the proposed subdivision.

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<sup>1</sup> Actual open space required under the CS District would be 35% of the total site area or 17.32 acres, excluding impervious portions of the amenity and stormwater management areas.

<sup>2</sup> It is anticipated that price points for the homes shall range from the low-\$300's to the mid-\$300's and upward.



SAMS, LARKIN & HUFF  
A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY

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- b. The installation of underground utilities.
  - c. Sodded front and side yards.
  - d. Providing pedestrian connectivity which crosses the stream which bisects the subject property.
  - e. A 20' maintained natural buffer along the subject property's western boundary line. Said buffer shall be fenced for protection during the construction and build out of the subdivision.
9. Subject to recommendations from the Cobb County Stormwater Management Division with respect to exercising heightened sensitivity concerning hydrological issues, including the following:
- a. Following recommendations concerning the ultimate location and configuration of on site detention and/or stormwater management and water quality issues.
  - b. Ensuring that 50' undisturbed stream bank buffers along both sides of the stream shall remain undisturbed in perpetuity by means of a restrictive easement as shown on the revised site plan.<sup>3</sup>
  - c. Limiting grading which will be done during the construction of the subdivision to the house pads, rights-of-way, front yards and required slopes.
  - d. An agreement to perform pre-development and post-development sedimentation studies on lakes immediately down stream of the subject property.
  - e. Stormwater design shall be approved by the Stormwater Management Division and shall take care of any "ponding" on property belonging to adjacent property owner Mr. Plante and at the terminus of Tranquil Lane on the western boundary of the subject property.

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<sup>3</sup>The one (1) stream which reflects a 25' stream bank buffer has, in fact, been determined to be an intermittent stream which does not require a 50' stream bank buffer.

VIA HAND DELIVERY

Mr. John P. Pederson, Planner III  
Cobb County Zoning Department  
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- f. An agreement that the water flowing east down Tranquil Lane and discharging onto the subject property will be channeled into the subject property's stormwater management system by way of a drop inlet, catch basin or swale at the end of Tranquil Lane.
10. 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 both Lost Mountain Road and Macland Road so that the County can achieve 50' from the centerline of both rights-of-way.
  - b. The installation of sidewalk, curb and gutter on Lost Mountain Road.
  - c. The construction of a deceleration lane with an appropriate taper at the subdivision's point of ingress/egress on Lost Mountain Road.
  - d. Securing GDOT permits with respect to any encroachments on Lost Mountain Road which is State right-of-way.
  - e. Ensuring 475' of sight distance on Lost Mountain Road.
  - f. Providing a 10' no access easement along the subject property's frontage on Macland Road.
  - g. Interior sidewalks shall connect to the strategically positioned pedestrian pathways within the Open Space area as shown on the revised site plan.
  - h. Subject to DOT approval, the applicant shall erect a barricade at the end of Tranquil Lane adjacent to the subject property and will further agree that neither K2 Ventures nor its successors in title nor any home builders within the subject property shall use Tranquil Lane as a point of ingress/egress except with respect to the removal of structures associated with the property which is currently owned by one of the sellers (Steve Smith).
  - i. Pouring a new driveway for Mr. Thomas Plante so that the balance of his property can be readily accessed and an agreement to handle the permitting of said driveway on Lost Mountain Road by way of making proper application to the Georgia Department of Transportation for same.

SAMS, LARKIN & HUFF  
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VIA HAND DELIVERY

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- j. Following the recommendations and conclusions of the Traffic Study prepared by Kimley-Horn & Associates, Inc. subject to staff review and approval of same.
- 11. Compliance with recommendations from the Cobb County Water System with respect to the availability and accessibility of water and sewer and an agreement to secure GDOT permits for the construction of off-site sanitary sewer line
- 12. Subject to recommendations from the Cobb County Fire Department as contained within the Zoning Analysis.
- 13. The District Commissioner shall have the latitude to make minor modifications to these stipulations/conditions and/or the site plan as same proceeds through Plan Review.

Over the past couple of weeks, the applicant has made great strides in addressing and resolving neighborhood concerns and those of the County's professional staff. Moreover, with the revised site plan which is being submitted with this letter, the proposal is now at a density which is virtually identical to or less than the properties on the east and west of the subject property.

Please do not hesitate to call should you or staff require any further information or documentation prior to this application's next appearance before the Cobb County Board of Commissioners on November 15, 2005.

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.

[gsams@samslarkinhuff.com](mailto:gsams@samslarkinhuff.com)

GLS,Jr./jbmc

Enclosures

cc: Shown on next page.

SAMS, LARKIN & HUFF  
A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY

Mr. John P. Pederson, Planner III  
Cobb County Zoning Department  
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November 3, 2005

cc: Members, Cobb County Board of Commissioners - VIA Hand Delivery - w/enclosure  
Mr. Robert L. Hosack, Jr., AICP, Director - VIA Hand Delivery - w/enclosure  
Ms. Gail K. Huff, Assistant County Clerk - VIA Hand Delivery - w/enclosure  
Ms. Sandra Richardson, Deputy County Clerk - VIA Hand Delivery - w/enclosure  
Mr. Michael Perla, President, PLAN - w/enclosure  
Mr. & Mrs. Horace E. Barrow - w/enclosure  
Mr. & Mrs. Russell Huskey - w/enclosure  
Mr. Darlene Castleberry - w/enclosure  
Mr. Thomas W. Plante - w/enclosure  
Mr. Gregg Goldenberg - w/o enclosure  
Mr. Sean Randall - w/o enclosure