

**AUGUST 19, 2014 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 3**

ITEM OB-52

PURPOSE

To consider amending the stipulations for Duncan Land Investments regarding rezoning application Z-14 of 2013 (Richard Duncan), for property located on the east side of Wesley Chapel Road, north of Bluffview Drive in Land Lots 256 and 321 in the 16th District.

BACKGROUND

The subject property was rezoned R-15 for a ten lot subdivision on May 21, 2013. The applicant went through the Plan Review process this summer and finds he needs to amend two zoning conditions. First, the applicant would like to amend stipulation #7 from a brick wall to a decorative fence along Wesley Chapel Road. Second, the applicant would like amend stipulation #9 to extend the reversion clause an additional twelve months, because the property reverts the R-20 zoning district on November 21, 2014. The applicant is working on the project, but the terms of the reversion clause cannot be met in three months. The applicant would like to extend the reversion clause until November 21, 2015. If approved, all other zoning stipulations would remain in effect.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed stipulation amendment.

ATTACHMENTS

Other Business Application and zoning stipulations.

Application for "Other Business"

OB-52

Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2035)

BOC Hearing Date Requested: 8-19-14

Applicant: ~~THE~~ Duncan Land Investments Phone #: 678.591.7624
(applicant's name printed)

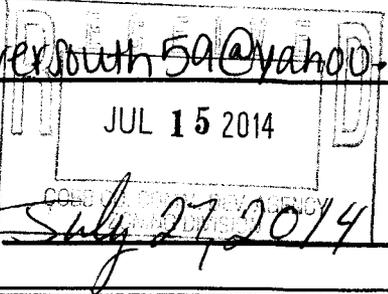
Address: 4302 FARMBROOK Ln. Kennesaw, GA. 30144 E-Mail: duncanlandinvest@yahoo.com

Richard Duncan Address: 4302 FARMBROOK Ln. Kennesaw, GA. 30144
(representative's name, printed)

[Signature] Phone #: 678.591.7624 E-Mail: riverouth59@yahoo.com
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature]
Notary Public



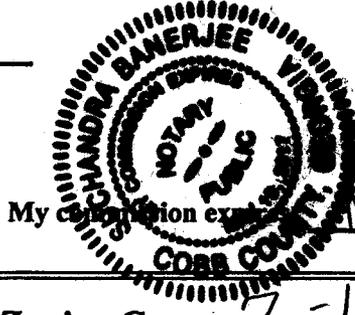
Titleholder(s): Jane Nunn Phone #: 678/521-7024
(property owner's name printed)

Address: 3014 Wesley Chapel Rd. Marietta, GA. 30062 E-Mail: jane.nunn.1@bellsouth.net

[Signature]
(Property owner's signature)

Signed, sealed and delivered in presence of:

[Signature]
Notary Public



Commission District: 3 Zoning Case: 2-14 of 2013

Date of Zoning Decision: May 21, 2013 Original Date of Hearing: April 16, 2013

Location: 3014 Wesley Chapel Rd. Marietta, GA. 30062
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 254 and 321 District(s): 16th

State specifically the need or reason(s) for Other Business:

To make changes to stipulations 7 and 9 of the stipulation letter.
~~Applicant requests that stipulation 7 be changed~~
to state that there will be decorative fencing along ^{that part of} Wesley Chapel, instead
of a brick wall with stone accents. ~~Applicant requests that~~
stipulation 9 be ~~revised~~ revised to give an additional 12 months
before the property reverts back to R-20.
(List or attach additional information if needed)

ORIGINAL DATE OF APPLICATION: 04-16-13APPLICANTS NAME: RICHARD DUNCAN

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

BOC DECISION OF 05-21-13 ZONING HEARING:

RICHARD DUNCAN (David Nunn and Jane Nunn, owners) requesting Rezoning from **R-20** to **R-15** for the purpose of a Subdivision in Land Lots 256 and 321 of the 16th District. Located on the east side of Wesley Chapel Road, north of Bluffview Drive (3914 Wesley Chapel Road). *(Previously held by the Board of Commissioners from their April 16, 2013 hearing)*

The public hearing was opened and Mr. Richard Duncan and Mr. Tom Richards addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Ott, to approve Rezoning to the R-15 zoning district subject to:

- Revised site plan received by the Zoning Division March 20, 2013, with the District Commissioner approving minor modifications, noting that the lot layout/configuration may change in Plan Review due to stormwater considerations (attached and made a part of these minutes)
- Maximum of ten homes
- Letter of agreeable conditions from Mr. Richard Duncan corrected date of May 15, 2013 (attached and made a part of these minutes), *with the following changes:*
 - Item No. 8 – amend end of paragraph: “... *detention landscaping and fencing, and a 6 foot chain link fence in the rear of lots 4 and 5.*”
 - Item No. 13 – add to end of first sentence: “... *swales required for stormwater practices and 6 foot chain link fencing behind lots 4 and 5.*”
 - Item No. 16 – Strike references to “*on lot 5*” from this paragraph
 - Item No. 19 – add to the end: “*After Plan Review, Staff to present stormwater and sewer plans to the District Commissioner for final approval.*”
 - Item No. 22 – Revise last sentence to read: “*The payment of \$28,000.00 will be given to Loch Highland upon issuance of a Land Disturbance Permit.*”
- Letter of intent regarding sewer tie-in from Mr. Frank Schaffer dated May 17, 2013 (attached and made a part of these minutes)
- Loch Highland agreement letter dated April 19, 2013 (attached and made a part of these minutes)
- Allowance for Georgia native plant rescue prior to Land Disturbance (clearing and grading)
- Planning Commission recommendations, *not otherwise in conflict*
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations, regarding Stormwater - at Plan Review the Stormwater Management Division comments and recommendations will control
- 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

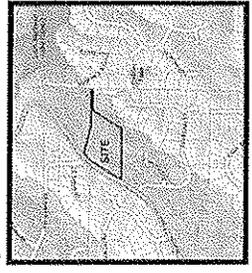
VOTE: ADOPTED 4-1, Goreham opposed

W&K DICKSON
 1000 Peachtree Street, N.E.
 Atlanta, Georgia 30309
 Phone: (404) 525-1100
 Fax: (404) 525-1101
 www.wkdickson.com

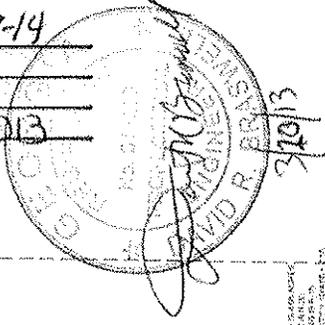
PROJECT NAME: **WPA WOODS OAKS SUBDIVISION**
 OWNER/CLIENT: **RICHARD DUNCAN**

DATE: **01**

NOT FOR PUBLIC RELEASE OR CONSTRUCTION - DRAWING STATUS -



Min. Bk. 68 Petition No. 2-14
 Doc. Type Site Plan
 Meeting Date May 21, 2013



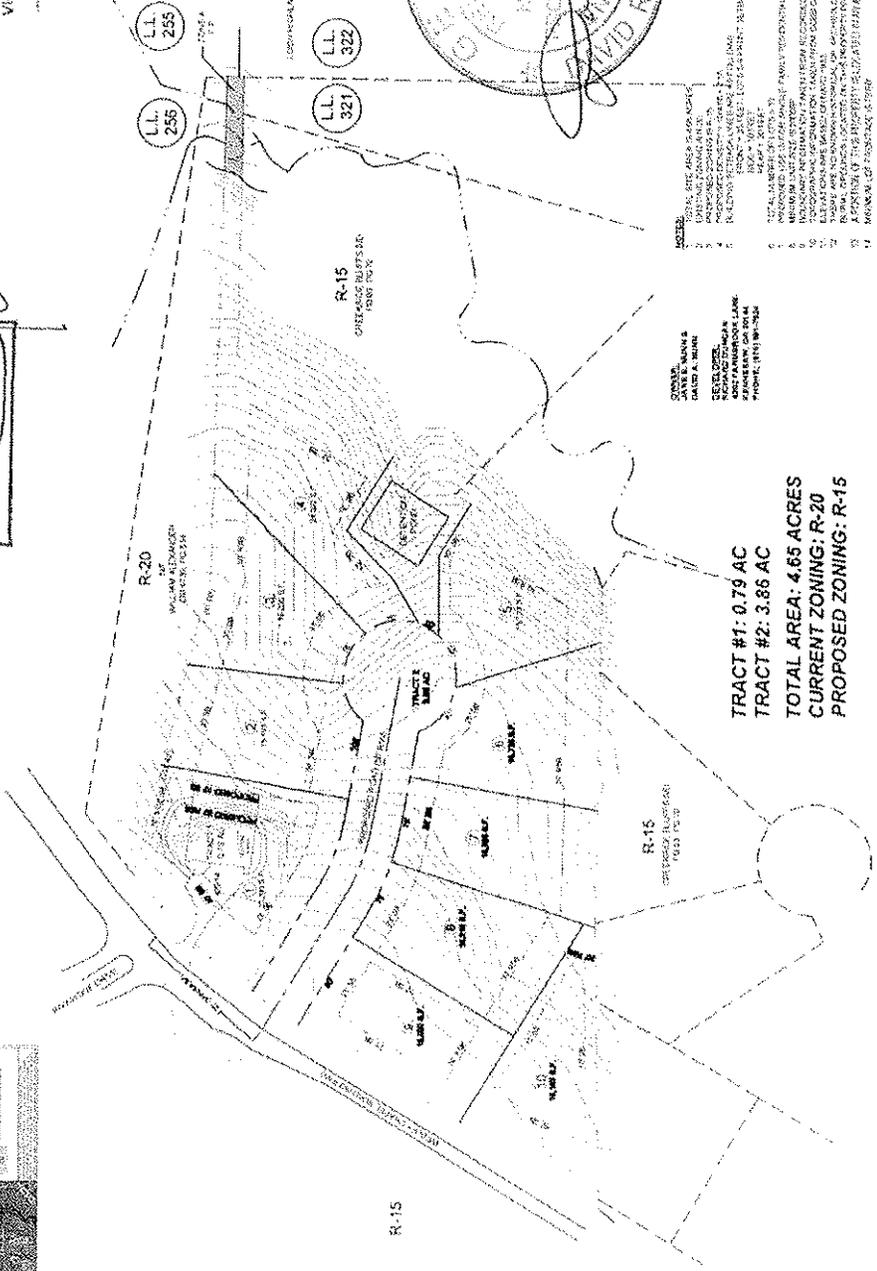
REVISED

RECEIVED

MAR 20 2013

COBB CO. COMM. DEV. AGENCY
 ZONING DIVISION

LAND LOTS 256 & 321
 16TH DISTRICT, 2ND SECTION
 COBB COUNTY, GA



- NOTES:
1. THIS SITE ALSO SHOWS THE PROPOSED ZONING DISTRICTS.
 2. THE PROPOSED ZONING DISTRICTS ARE SHOWN IN THE ATTACHED ZONING MAP.
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 14. THE PROPOSED ZONING DISTRICTS ARE SHOWN IN THE ATTACHED ZONING MAP.

Stipulation Letter

Stipulation letter for Z-14 Zoning

Richard Duncan

~~April~~ May 15, 2013

- 1) Applicant seeks rezoning for the subject property from the existing zoning category of R-20 to the proposed zoning category of R-15.
- 2) The subject property will be developed for a single-family residential development consisting of ten(10) maximum lots, including lot one with the existing house. Applicant agreed that all lots shall have a minimum of 15,000 square feet.
- 3) Applicant agrees the minimum size for the homes in the proposed development will be a minimum of 2,800 square feet of heated and cooled living space.
- 4) Lot one is requesting a variance for the side setback on the East side(or to the right of the house) of the property to be ten foot, which is standard for a side setback; but being that the road frontage on Wesley Chapel Road is shorter than the road frontage on the proposed new road, it makes that side setback become a rear setback. The house that is on lot one will be facing the new proposed road, because it was built with the new proposed subdivision and road in mind.
- 5) Houses will be traditional in style; with three side brick to conform to the exterior style of existing home on lot one. Stone or brick water table will be included as part of the architecture of the homes, with the elevations to be approved by the District Commissioner.
- 6) The entrance signage for the proposed community shall be ground based, monument-style signage, and shall consist of brick with stone accent.

7) Except for in front of lot ten, along Wesley Chapel Road, there will be a brick wall with stone accents. Landscaping of the frontage of the proposed community along Wesley Chapel Road, shall be professionally designed and implemented, which shall include the installation of an irrigation system.

8) There will be a mandatory HOA that will allow for maintenance and upkeep of entrance sign, wall and landscaping, detention landscaping and fencing, and chain link fence in the rear of lots 4 and 5.

9) Other than the house which will remain on lot one, there are three other existing buildings. These building are being used as a dog kennel, and we are requesting that they be allowed to operate up to 12 months after the rezoning of the property to give them time to relocate their business. If the applicant has not installed curb, gutter and detention with landscaping and pulled at least one construction permit within 18 months of rezoning, the property will revert to the R-20 zoning district.

10) At the start of construction, there will be a four to five foot rock check dam in the area of the drainage basin or outlet structure of the proposed detention pond, to help preserve the integrity of the nearby stream, which feeds into Loch Highland Lake. At the end of the final construction of the project the rock check dam will be torn down, spread and used as the detention rip rap outlet flow.

11) Applicant agrees that if there is a detention pond it will be Earth and Dike, and will be surrounded by a black vinyl chain link fence with a minimum height of 6 feet. Where allowed, there will be landscaping to serve as a visual screening from adjacent residential neighborhoods.

12) On lots five through nine, we are asking that front setbacks be 25 feet instead of 35 feet, to help minimize slope impact and reduce impervious area. We agree that the 10 feet referred to above be added to the rear setback.

13) Applicant agrees to a 10 foot construction buffer along the rear of lots two through seven and lot ten, with exceptions to clearing needed for sewer hookups, detention pond area, drainage easement and swales required for stormwater practices. Applicant agrees that prior to landscaping each individual lot, to meet with the Cobb County arborist to determine any dead or dying trees that might need to be removed from the buffer area. Applicant agrees to remove these trees and replant any holes created in the buffer, except where Cobb County prohibits said plantings, with a type and size of tree approved by the County Arborist and District Commissioner. Replacement Inspection of buffer, by arborist, will be done prior to issuance of CO.

14) Applicant agrees that all worker's vehicles will be parked on site, and not on Wesley Chapel Road, or on any other surrounding subdivision streets.

15) Applicant agrees that all lot's landscaping will be sodded front and sides, and rear unless the rear yard is left in its vegetative state.

16) Applicant agrees to replant trees in the disturbed area of construction easement of sewer line. The size, caliber, and type of trees to be replanted will be subject to County Arborist and District Commissioner approval. In addition, applicant agrees to landscape sewer outfall on lot 5, where planting is allowed by Cobb County Water and Sewer Department. No planting on sewer outfall past the landscaped area on lot 5.

17) Applicant agrees to plant one tree of four inch caliper per lot, except for existing lot one.

18) All utilities servicing the residences within the proposed community will be underground.

19) Applicant agrees to comply with all Cobb County Stormwater Management comments and recommendations, and also Cobb County

DOT comments and recommendations applicable to the subject property.

20) Applicant agrees to comply with all Cobb County development standards and ordinances relating to project improvements.

21) Applicant agrees that Construction hours are to be 7:00 a.m. to 7:00 p.m., Monday through Friday-October 1st through March 31st, 7:00 a.m. to 8:00 p.m., Monday through Friday-April 1st through September 30th; 9:00 a.m. to 6:00 p.m. on Saturdays; with no outside work on Sunday unless approved by the District Commissioner.

22) Applicant agrees to donate \$28,000 to Loch Highland for their lake maintenance fund. This amount includes Cobb County's fee in lieu of detention as well as funds provided in lieu of performance of pre and post sediment study. Within doing so, Loch Highland will sign a hold harmless agreement with Cobb County, Richard Duncan, and Riversouth Land Management for waiver of the sediment studies and any future impacts from this site. The payment of \$28,000 will be given to Loch Highland before any construction begins.

23) Applicant agrees that all sample results obtained through the National Pollution Discharge Elimination monitoring should be forwarded to Loch Highland Homeowners Association to insure that pollution of the streams does not occur during construction.

24) Applicant agrees to place a double row of silt fencing and a mulch berm around three sides of the property which impact the surrounding neighbors of the new development, with an exception of lot one.

25) Applicant agrees to remove the existing driveway on lot 1 that exits onto Wesley Chapel Road, and close the existing curb cut upon completion of subdivision street.

26) Applicant agrees to install a 6 foot black vinyl chain length fence along the rears of lots 4 and 5.

2-14
5213

27) Applicant agrees to use sewer tie-in on the manhole on Mr. Schaffer's property located at 3820 Bluff View Dr. in Creekside Bluffs.

Min. Bk. 68 Petition No. Z-14
Doc. Type Letter of
Intent
Meeting Date May 14, 2013

Letter of Intent

I, Frank Schaffer, have agreed to grant Richard Duncan, with Riversouth Land Management, a sewer easement and flow easement agreement for the new proposed subdivision in zoning case Z-14, on my property located at 3826 Bluffview Dr., Marietta, GA 30062.

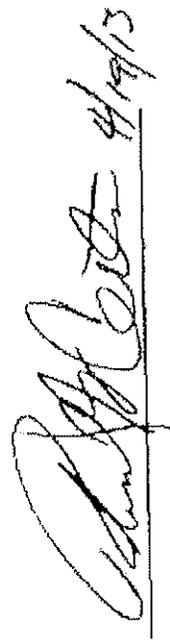
[Signature] 5-17-2013
Frank Schaffer Date

[Signature] 5-17-2013
Notary Date



Mat. Blk. 68 Petition No. Z-14
Doc. Type Agreement
Meeting Date May 21, 2013

We at Loch Highland agree to accept the \$28,000 for the lake maintenance fund instead of the \$25,000 dollar bond. The \$28,000 lake maintenance fund includes the fee in lieu of the detention pond, the fee in lieu of the pre and post lake study, and additional donations from Mr. Duncan added to that amount. Also, Loch Highland agrees to do a hold harmless agreement with Cobb County, Richard Duncan and all his entities, for waiver of the sediment studies and any future impacts from this site.



Loch Highland Representative

Date

