OB-027-2015

# Application for "Other Business"
# Cobb County, Georgia

(Cobb County Zoning Division – 770-528-2035) **BOC Hearing Date Requested:** 7/21/15

JUN 16 2015
COBB CO., GA.

**Applicant:** Barnes Mill VDL, LLC **Phone #:** 404-372-5739
(applicant's name printed)

**Address:** 701 Whitlock Avenue, Suite K46, Marietta, GA 30064 **E-Mail:** skip@hseproperties.com

Skip Harper **Address:** 701 Whitlock Avenue, Suite K46, Marietta, GA 30064
(representative's name, printed)

**Phone #:** 404-372-5739 **E-Mail:** skip@hseproperties.com
(representative's signature)

**Signed, sealed and delivered in presence of:**

**My commission expires:**
**Notary Public**

H. MEIER
MY COMMISSION EXPIRES
JAN 21 2018
COBB CO., GEORGIA
NOTARY PUBLIC

**Titleholder(s):** Foster V. Yancey Inc. Money Purchase Pension Plan **Phone #:** 770-329-4200
(property owner's name printed)

**Address:** 2314 Barrett Cottage Place, Marietta, GA 30066 **E-Mail:** ashipp@aol.com

Laurie J. Cochran, V President
(Property owner's signature)

**Signed, sealed and delivered in presence of:**

Stephanie Cooper **My commission expires:** 4/23/17
**Notary Public**

STEPHANIE COOPER
NOTARY PUBLIC
EXPIRES
GEORGIA
APRIL 23, 2017
WALTON COUNTY

**Commission District:** 1 **Zoning Case:** Z-44

**Date of Zoning Decision:** 5/21/02 **Original Date of Hearing:**

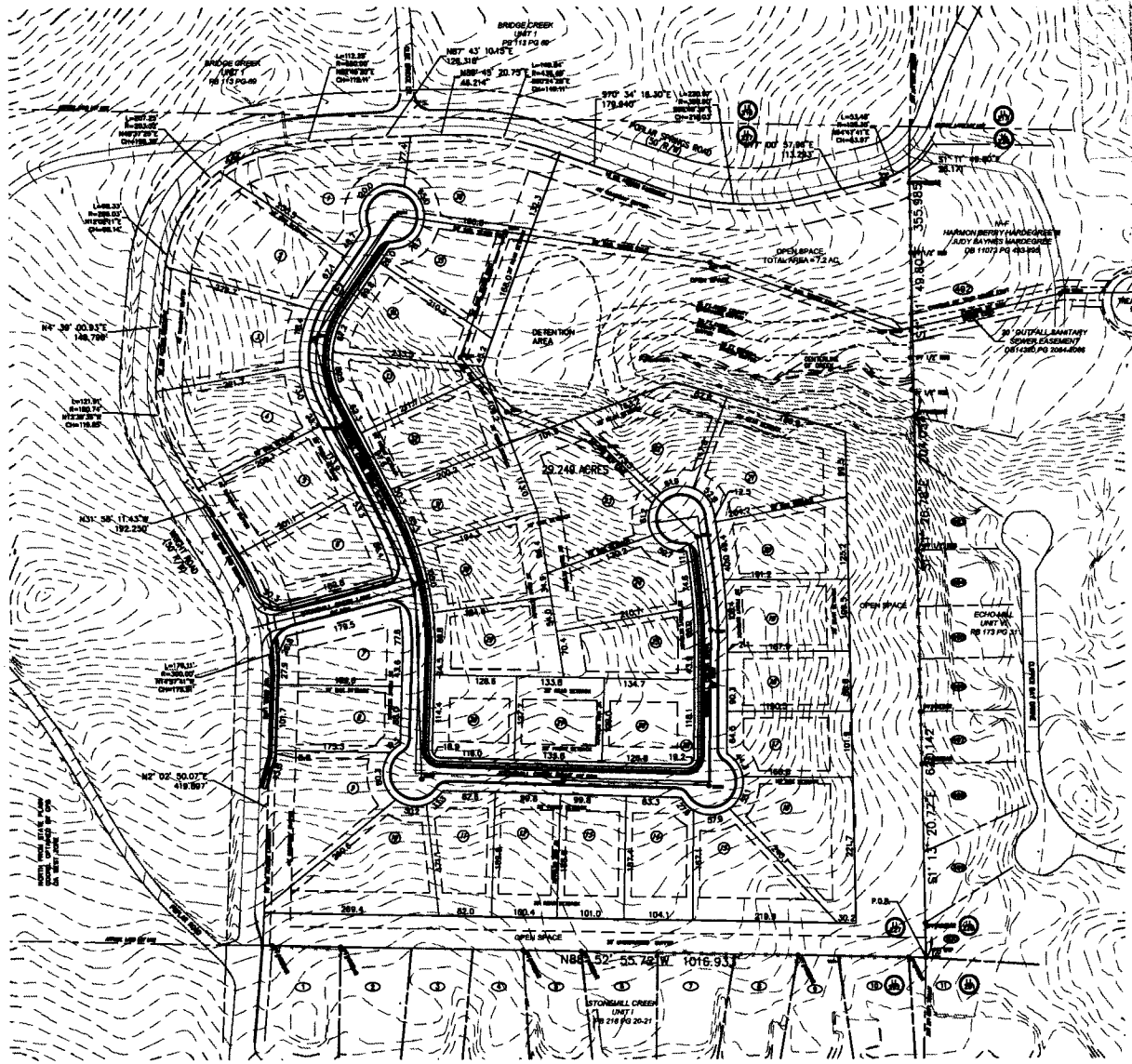
**Location:** 5820 Wright Road, Dallas, GA 30157
(street address, if applicable; nearest intersection, etc.)

**Land Lot(s):** 227 & 292 **District(s):** 19th

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

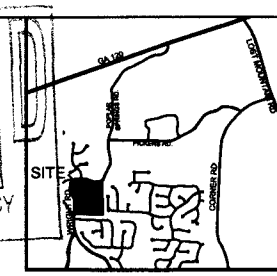
To revise the previously approved site plan to achieve site distance at community entrance.

(List or attach additional information if needed)




JUN 16 2015

GEORGIA COMM. DEV. AGENCY
ZONING DIVISION




LOCATION MAP
Scale: 1" = 2000'

**ENGINEER/SURVEYOR:**
KREWSON VICKREY ENGINEERS
P.O. BOX 850MARIETTA, GEORGIA 30066
PHONE: (770) 421-8953
FAX: (770) 427-4363
JOHN R. KREWSON, PE
EDWARD VICKREY, RLS

**OWNER/DEVELOPER:**
BARNES MILL VDL INC.
701 WHITLOCK AVE. SUITE K46
MARIETTA, GEORGIA 30064
(770) 424-1819
24 HR EMERGENCY CONTACT:
MARK HARPER
(770) 361-0882

SITE SUMMARY:
-TOTAL SITE AREA: 29.248 ACRES
-AREA IN WETLANDS: 0.0 ACRES
-OPEN SPACE SHOWN: 7.2 ACRES (25% of Site Area)
-EXISTING ZONING = R-30 OSC
-TOTAL NUMBER OF LOTS: 36
-DENSITY: 1.23 LOTS PER ACRE
-AVERAGE LOT SIZE: 22590 SF
-MIN. LOT SIZE SHOWN 10,000 SF
-MIN. LOT WIDTH: 65'
-SETBACKS:
FRONT - 25'
REAR - 35'
MAJOR SIDE - 25'
SIDE - 10' (MIN. 15' BETWEEN BUILDINGS)
-MIN. SQ. FOOTAGE OF HOUSE 2,000 SF

THIS PLAT WAS CALCULATED FOR CLOSURE AND FOUND TO BE ACCURATE IN EXCESS OF ONE FOOT IN 451,329 FEET.

INSTRUMENT USED: TOPCON GTS-313 W/ CARLSON SURVEYOR DATA COLLECTOR.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 17,160 FEET, AND ANGULAR ERROR OF 3" PER ANGLE POINT AND WAS ADJUSTED BY LEAST SQUARES.

I HAVE EXAMINED THE INSURANCE RATE MAP FOR COBB COUNTY, GEORGIA, PANAEL 13067C0089G DATED DECEMBER 8, 2008 AND HAVE FOUND REFERANCE PROPERTY IS NOT IN A FEDERAL FLOOD HAZARD AREA.

THIS PLAT IS SUBJECT TO ALL LEGAL EASEMENTS AND RIGHTS OF WAY WITH PUBLIC AND PRIVATE.

ALL MATTERS OF TITLE EXCEPTED.

[illegible]

ALL FEATURES ARE NOT LOCATED HOUSE FENCES ECT.

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT.

GEORGIA REGISTERED 2563 LAND SURVEYOR EDWARD G. VICKREY

GEORGIA REGISTERED ENGINEER JOHN R. KREWSON

LAYOUT FOR ZONING REVIEW
STONEMILL CREEK UNIT V
PROPOSED OPEN SPACE COMMUNITY
LOCATED IN LAND LOTS 227 AND 292 OF THE 19th DISTRICT, 2nd SECTION COBB COUNTY GEORGIA

| | |
|---|---|
| LAND LOTS | 227, 292 |
| DISTRICT | 19th |
| SECTION | 2nd |
| COUNTY | Cobb |

| | |
|---|---|
| JOB NO. | 2864 |
| DRAWN BY | JRK |
| CHECKED BY | EV |
| DATE | 06/12/15 |
| SCALE | 1"=80' |

KV KREWSON VICKREY ENGINEERS & LAND SURVEYORS
1327 Cowles Road
Suite A
Marietta, Georgia 30066
(770) 421-8953 Fax (770) 427-4363

REVISIONS | DATE

SHEET NO.
Z1.0

OB-027-2015
PROPOSED

**ORIGINAL DATE OF APPLICATION: 05-21-02**

**APPLICANTS NAME: YANCEY DEVELOPMENT COMPANY, INC.**

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

**BOC DECISION OF 10-21-03 ZONING HEARING:**

**OTHER BUSINESS ITEM #1 - TO CONSIDER A SETTLEMENT OF LITIGATION PROPOSAL REGARDING Z-44 (YANCEY DEVELOPMENT COMPANY, INC.) OF MAY 21, 2002:**

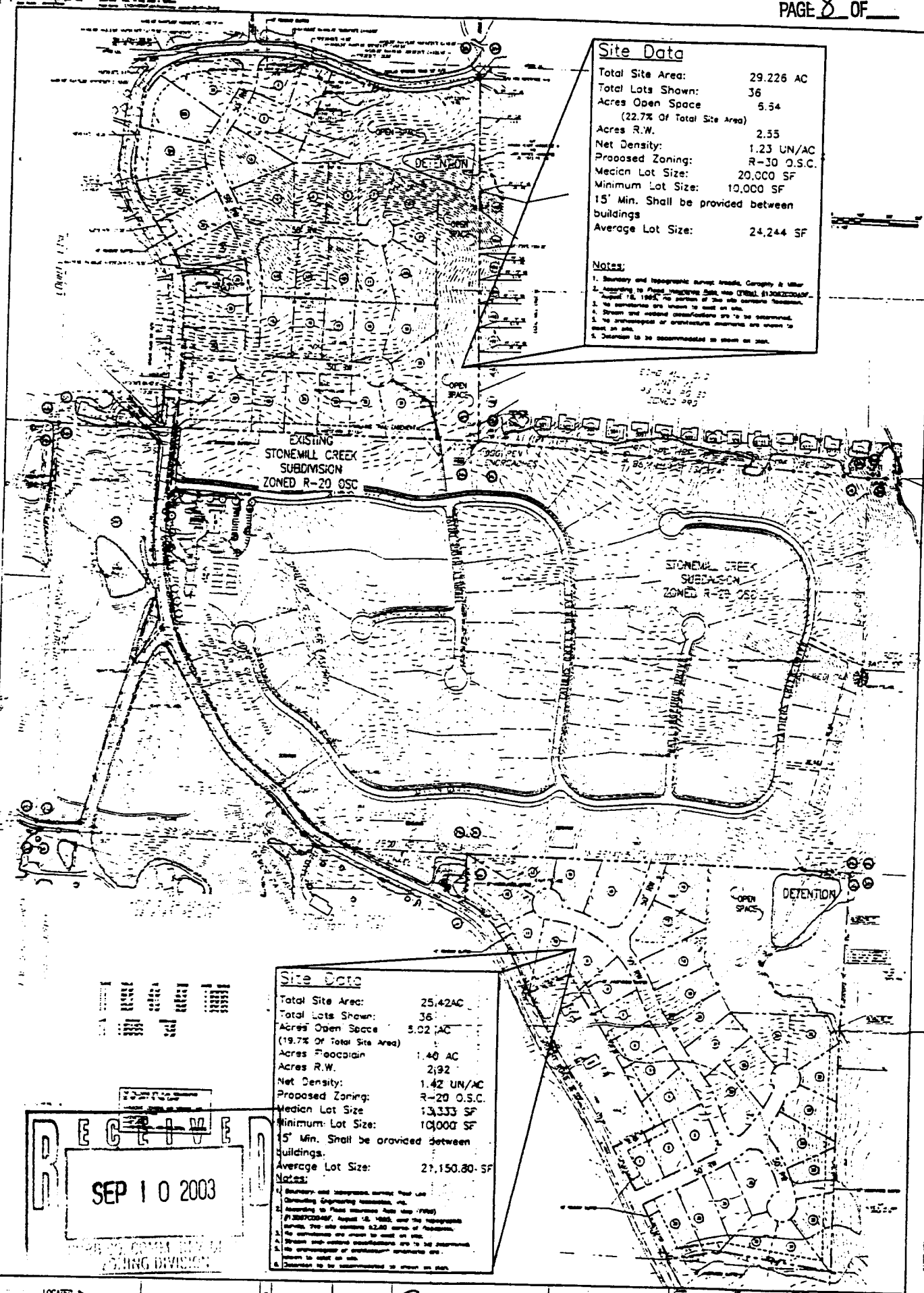
To consider a Settlement of Litigation proposal regarding Z-44 (Yancey Development Company, Inc.) of May 21, 2002, for rezoning from R-30 and R-20 OSC to R-30 OSC and R-20 OSC for a subdivision, for property located on the east side of Wright Road, east and south of Poplar Springs Road, south of Pickens Road in Land Lots 227, 291, 292 and 302 of the 19th District.

Mr. Mark Danneman, Zoning Division Manager, provided information regarding the proposal for settlement of litigation. There was no on present in opposition. Following presentation and discussion, the following motion was made:

MOTION: Motion by Goreham, second by Olens, to **approve** the following relative to the settlement proposal regarding Z-44 (Yancey Development Company, Inc.) of May 21, 2002, for rezoning from R-30 and R-20 OSC to R-30 OSC and R-20 OSC for a subdivision, for property located on the east side of Wright Road, east and south of Poplar Springs Road, south of Pickens Road in Land Lots 227, 291, 292 and 302 of the 19th District:

- To **authorize** settlement of litigation regarding Cobb Superior Court, Civil Action File No. 02-1-4877-18
- To **approve** rezoning to the **R-30 OSC** and **R-20 OSC subject to:**
  - **Site plan received in the Zoning Division on September 10, 2003 (copy attached and made a part of these minutes)**
  - **Settlement letter dated September 10, 2003 (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




## Site Data

| | |
|---|---|
| Total Site Area: | 29.226 AC |
| Total Lots Shown: | 36 |
| Acres Open Space (22.7% Of Total Site Area) | 6.64 |
| Acres R.W. | 2.55 |
| Net Density: | 1.23 UN/AC |
| Proposed Zoning: | R-30 O.S.C. |
| Median Lot Size: | 20,000 SF |
| Minimum Lot Size: | 10,000 SF |
| 15' Min. Shall be provided between buildings | |
| Average Lot Size: | 24,244 SF |

Notes:

1. Boundary and topographic survey: Arcadis, Geraghty & Miller
2. According to Flood Insurance Rate Map (FIRM) #13067C0045F, August 18, 1985, no portion of this site contains floodplain.
3. No cemeteries are known to exist on site.
4. Stream and wetland classifications are to be determined.
5. No archeological or architectural elements are known to exist on site.
6. Detention to be accommodated as shown on plan.

## Site Data

| | |
|---|---|
| Total Site Area: | 25.42AC |
| Total Lots Shown: | 36 |
| Acres Open Space (19.7% Of Total Site Area) | 5.02 AC |
| Acres Floodplain | 1.40 AC |
| Acres R.W. | 2.92 |
| Net Density: | 1.42 UN/AC |
| Proposed Zoning: | R-20 O.S.C. |
| Median Lot Size | 13,333 SF |
| Minimum Lot Size: | 10,000 SF |
| 15' Min. Shall be provided between buildings. | |
| Average Lot Size: | 21,150.80 SF |

Notes:

1. Boundary and topographic survey: Flood Line Consulting Engineering Associates, Inc.
2. According to Flood Insurance Rate Map (FIRM) #13067C0045F, August 18, 1985, and the topographic survey, this site contains 6.2 acres of floodplain.
3. No cemeteries are known to exist on site.
4. Stream and wetland classifications are to be determined.
5. No archeological or architectural elements are known to exist on site.
6. Detention to be accommodated as shown on plan.

RECEIVED
SEP 10 2003
COBB CO. COMM. DIV. OF
ZONING DIVISION

LOCATED IN
LAND LOTS 227, 291, 292 AND 302
19th DISTRICT, 2nd SECTION
COBB COUNTY, GEORGIA

ARCADIS G&M

PREPARED FOR:
YANCEY DEVELOPMENT COMPANY

REZONING SITE PLAN

EXHIBIT A

Min. Bk. 25 Petition No. OB#1 (Z-44 of 5/21/02)
Doc. Type Site Plan
Meeting Date 10/21/03

# MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP

192 ANDERSON STREET

MARIETTA, GEORGIA 30060

WWW.MIJS.COM

MAIN OFFICE
POST OFFICE BOX 3305
MARIETTA, GEORGIA 30061

TELEPHONE (770) 429-1499
TELECOPIER (770) 429-8631

TENNESSEE OFFICE
CEDAR RIDGE OFFICE PARK
SUITE 463
408 N. CEDAR BLUFF ROAD
KNOXVILLE, TENNESSEE 37923

TELEPHONE (865) 692-9039
TELECOPIER (865) 692-9071

JOHN H. MOORE
STEPHEN C. STEELE
WILLIAM R. JOHNSON†
ROBERT D. INGRAM†
J. BRIAN O'NEIL
G. PHILLIP BEGGS
ELDON L. BASHAM
MATTHEW J. HOWARD
JERE C. SMITH
CLAYTON O. CARMACK
KEVIN B. CARLOCK†
ALEXANDER T. GALLOWAY III†
J. KEVIN MOORE
RODNEY R. McCOLLOCH

SUSAN S. STUART
DANIEL A. LANDIS*
BRIAN D. SMITH
HARRY R. TEAR III
W. TROY HART
JEFFREY A. DAXE
MELISSA W. GILBERT
TIMOTHY W. BAILEY
JOYCE W. HARPER
PATRICK D. DODSON***
JONATHAN H. PETCU
AMY K. WEBER
COURTNEY H. MOORE
KIM A. ROPER

TARA C. RIDDLE
JOSHUA M. BOOTH***
KELLI L. CROSS
C. LEE DAVIS
TANYA L. CROSSE***
ROBERT W. BROWN II
JASON L. FOSS
VICTOR P. VALMUS
JEFFERY L. DICKERSON
T. SHANE MAYES
DALLAS R. IVEY
SUZY A. LIFE
F. MICHAEL VISCUSE**
DANIEL J. LEVY****

ALLISON B. FAUST
ANGELA H. SMITH

OF COUNSEL:
MICHELLE S. DAVENPORT
JOHN L. SKELTON, JR.
TIMOTHY A. HICKEY, JR.

† ALSO ADMITTED IN TN
* ALSO ADMITTED IN NC
** ALSO ADMITTED IN SC
*** ADMITTED ONLY IN TN
**** ALSO ADMITTED IN IL

WRITER'S DIRECT DIAL NUMBER




September 10, 2003

Min. Bk. 25 Petition No. Z-44 (2002) OB#1 5/21/02
Doc. Type Settlement Letter
Meeting Date 10/21/03

Hand Delivered

Mr. Mark A. Danneman
Zoning Administrator
Zoning Division
Cobb County Community Development Agency
Suite 300
191 Lawrence Street
Marietta, Georgia 30060-1661

RECEIVED
SEP 10 2003
COBB CO. COMM. DEV. DEPT.
ZONING DIVISION

RE: Application for Rezoning
Application No.: Z-44 (2002)
Applicant: Yancey Development Company, Inc.
Owners: Foster V. Yancey, Jr., as Trustee of Foster Yancey, Inc. Money Purchase Pension Plan; Ernest Derik Clackum; Ernest Derik Clackum, Jr.; and Sheila Clackum
Property: 54.707 acres located on the easterly side of Wright Road, south of Poplar Springs Road, Land Lots 227 and 302, 19th District, 2nd Section, Cobb County, Georgia

Foster V. Yancey, Jr.; et al., v. Cobb County, Georgia; et al.
Civil Action, File Number: 02-1-4877-18
Superior Court of Cobb County

Dear Mark:

As you know, the undersigned and this firm represent Yancey Development Company, Inc., the Developer and former Applicant

(hereinafter sometimes referred to as "Developer" or, alternatively, "Plaintiff"), and Ernest Derik Clackum; Ernest Derik Clackum, Jr.; Sheila Clackum; and Foster V. Yancey, Jr., as Trustee of Foster Yancey, Inc. Money Purchase Pension Plan, the Property Owners (hereinafter collectively referred to as "Owners" or, alternatively, together with Developer referred to as "Plaintiffs"), regarding property totaling 54.707 acres located on the easterly side of Wright Road, south of Poplar Springs Road, Land Lots 227 and 302, 19th District, 2nd Section, Cobb County, Georgia (hereinafter the "Subject Property"). The Application for Rezoning of the Subject Property was originally heard by the Cobb County Board of Commissioners on March 18, 2003, at which time the Board voted to deny the requested R-20 zoning category and allow the property to remain in its current R-30 category. The pending zoning appeal was filed with the Clerk, Superior Court of Cobb County, on April 16, 2003, as a result of the Board's decision.

The settlement, as proposed in this letter of agreeable stipulations and conditions, together with the Rezoning Site Plan submitted herewith, result from efforts by the Developer to resolve the issues presented without the necessity of further litigation.

The Developer agrees to the following stipulations and conditions, subject to approval of the Rezoning Site Plan, which, if approved, as submitted, shall be in complete settlement of the pending zoning appeal 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 R-30 zoning category to the R-30 Open Space Community ("R-

30/OSC") and R-20 Open Space Community ("R-20/OSC") zoning categories, site plan specific to that certain Rezoning Site Plan prepared for Yancey Development Company by Arcadis G&M dated June 4, 2003.

(3) As set forth on the referenced Rezoning Site Plan, the proposed rezoning request consists of two separate parcels as follows:

(a) One tract, comprised of approximately 29.226 acres, and located on the northerly side of the existing Stone Mill Creek Subdivision (hereinafter "Tract 1") shall be rezoned to the R-30/OSC category and shall contain a maximum of thirty-six (36) single-family residential lots; and

(b) The second tract, comprised of approximately 25.42 acres and located on the southerly side of the existing Stone Mill Creek Subdivision (hereinafter "Tract 2") shall be rezoned to the R-20/OSC zoning category and shall contain a maximum of thirty-six (36) single-family residential lots.

(4) With respect to Tract 1, there shall be established a minimum of approximately 6.64 acres of open space, said open space shall be donated to Cobb County through a perpetually protected conservation easement; however, the future homeowners association shall reserve the right to passive recreational use and maintenance of the open space.

(5) With respect to Tract 2, there shall be established a minimum of approximately 5.02 acres of open space, said open space shall be donated to Cobb County through a perpetually protected conservation easement; however, the

future homeowners association shall reserve the right to passive recreational use and maintenance of the open space.

**STIPULATIONS APPLICABLE TO BOTH TRACT 1 AND TRACT 2**

(1) Residences to be constructed shall be traditional in styling with a minimum house size for the proposed residences being 2,000 square feet.

(2) All front and side yards of residences to be constructed within the proposed shall be sodded.

(3) The entrances for the proposed residential communities on Tract 1 and Tract 2 shall be professionally landscaped, with signage being ground-based, monument style.

(4) With respect to the minimum forty (40) foot roadway buffers on both Tract 1 and Tract 2, the Developer shall utilize natural and professional landscaping in order to attain a more rural character along the Wright Road frontage for the Subject Property.

(5) In accordance with, and consistent with, the rural character of the minimum forty (40) foot roadway buffer, the Developer agrees to utilize "split-rail type" fencing or other similar or consistent type fencing within the minimum forty (40) foot roadway buffer for both Tracts 1 and 2.

(6) The Developer agrees to install and plant landscaping materials in the area of the detention pond located on the existing Stone Mill Creek Subdivision, which existing detention pond is located in close proximity to Wright Road. Such landscaping materials shall be planted and installed so as to create additional visual screening of said detention pond from Wright Road.

(7) Developer agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.

(8) Developer agrees to the following road system improvements to mitigate traffic concerns:

(a) Construction of a one hundred fifty (150) foot deceleration lane for ingress purposes at each entrance;

(b) Installation of sidewalk, curb, and gutter one hundred fifty (150) feet to either side of each proposed entrance for Tract 1 and Tract 2; and

(c) Verification that minimum intersection sight distance is available for both entrances; and if not, implement such remedial measures, subject to approval by the Cobb County Department of Transportation, in order to achieve the minimum sight distance requirement of 312.5 feet.

The proposal contained herein is submitted in settlement and compromise of the pending zoning appeal and shall not otherwise be used in any hearing or trial of said appeal. If the settlement, as proposed, is approved by the Board of Commissioners, Plaintiffs

OB#1
Petition No. (Z-44 of 5/21/02)
Meeting Date 10/21/03
Continued



agree to dismiss, with prejudice, the pending litigation case and to pay their own legal expenses and litigation costs.

We would respectfully request the settlement proposal contained herein be submitted to the Board of Commissioners during the next available Executive Session and subsequently be placed upon the "Other Business" agenda before the Board of Commissioners during the next scheduled Zoning Hearing. In order to meet the required time frame for posting and advertising of the Subject Property, we would request your expeditious review and handling of this matter.

We believe the requested zoning, pursuant to the referenced Rezoning Site Plan and the stipulations contained herein, is an appropriate use of the Subject Property while taking into consideration the area and the properties and owners thereof surrounding the proposed development. The proposed rezoning will allow for enhancement and utilization of the Subject Property in a manner suitable with and beneficial to the surrounding area. Thank you for your consideration in this matter.

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP

J. Kevin Moore

JKM:cc
Enclosures

Mr. Mark A. Danneman
Zoning Administrator
Zoning Division
Cobb County Community Development Agency
Page Seven
September 10, 2003

c: Cobb County Board of Commissioners:
Samuel S. Olens, Chairman
George Woody Thompson, Jr.
Helen C. Goreham
Joe L. Thompson
Tim Lee
(With Copy of Enclosure)

Fred D. Bentley, Jr., Esq.
Bentley, Bentley & Bentley
(With Copy of Enclosure)

Yancey Development Company, Inc.
(With Copy of Enclosure)