

**MAY 17, 2016 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 1**

ITEM # 026

PURPOSE

To consider amending the site plan and zoning stipulations for Kyle Salone and Deborah M. White regarding rezoning application Z-20 (Yancey Development) of 2003, for property located at 1945 Heatherbrooke Lane and 1952 Heatherbrooke Way in Land Lots 193 and 194 of the 20th District.

BACKGROUND

The subject property was rezoned to R-20 OSC in 2005 for an open space subdivision. This Other Business request is being brought forward by two residents who each have backyards that contains a 30’undisturbed landscape buffer in the area of lots 24 and 28. The residents would like the Board of Commissioners to consider amending this buffer area since the buffer area is located between houses interior to the subdivision. Normally a buffer area is located on the outside perimeter of a development. Removal of the buffer area would allow the applicants to fully enjoy and utilize all their property. If the buffer area is amended, all other zoning stipulations would remain in effect.

STAFF COMMENTS

Stormwater Management: The approved hydrology study for this development (LDP# 2006-00005) assumed that the platted undisturbed buffer remains substantially wooded. Any clearing should be limited and approved by the County Arborist.

RECOMMENDATION

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

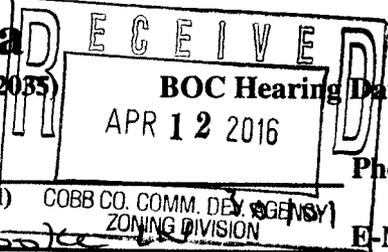
ATTACHMENTS

Other Business application and stipulations.

Application for "Other Business"

Cobb County, Georgia

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



BOC Hearing Date Requested: 5-17-16

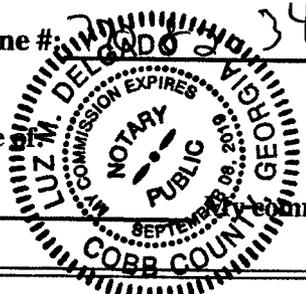
Applicant: Kyle Salane (applicant's name printed) Phone #: 770 820 3431

Address: 1945 Heatherbrooke Ln E-Mail: kylesalane@yahoo.com

Kyle Salane Address: 1945 Heatherbrooke Ln 30101
(representative's name, printed)

[Signature] Phone #: 770 820 3431 E-Mail: kylesalane@yahoo.com
(representative's signature)

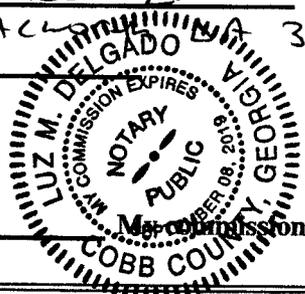
Signed, sealed and delivered in presence of: [Signature] Commission expires: 09-08-2019
Notary Public



Titleholder(s): Kyle Salane Phone #: 770 820 3431
(property owner's name printed)

Address: 1945 Heatherbrooke Ln E-Mail: kylesalane@yahoo.com
[Signature] 30101
(Property owner's signature)

Signed, sealed and delivered in presence of: [Signature] Commission expires: 09-08-2019
Notary Public



Commission District: 1 Zoning Case: 2302003

Size of property in acres: .36 Original Date of Hearing: 2/18/03

Location: 1945 Heatherbrooke Ln NW Acworth, GA
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): _____ District(s): _____

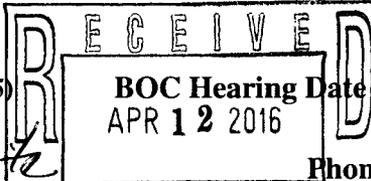
State specifically the need or reason(s) for Other Business: Removal of buffer

Application for "Other Business"

Cobb County, Georgia

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

08-026-2016



Applicant: Deborah M. White (applicant's name printed) Phone #: 678-556-5795

Address: 1952 Heatherbrooke Way NW E-Mail: debbiew1202@yahoo.com

Deborah M. White Address: 1952 Heatherbrooke Way NW, Acworth, GA
(representative's name, printed)

[Signature] Phone #: 678-556-5795 E-Mail: debbiew1202@yahoo.com
(representative's signature)

Santo P. Jones
NOTARY PUBLIC

Signed, sealed, and delivered in presence of Cobb County, GEORGIA
Commission Expires 04/30/18
My commission expires: 4-30-18

Notary Public

Titleholder(s): Deborah M. White Phone #: 678-556-5795
(property owner's name printed) Acworth, GA

Address: 1952 Heatherbrooke Way NW E-Mail: debbiew1202@yahoo.com

[Signature]
(Property owner's signature)

Santo P. Jones
NOTARY PUBLIC

Signed, sealed and delivered in presence of: Cobb County, GEORGIA
Commission Expires 04/30/18
My commission expires: 4-30-18

Notary Public

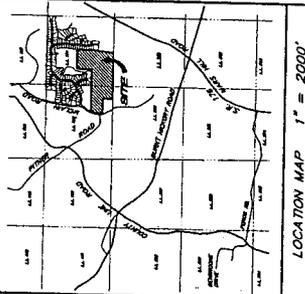
Commission District: 1 Zoning Case: 2202003

Size of property in acres: .32 Original Date of Hearing: 2/18/03

Location: 1952 Heatherbrooke Way NW, Acworth, GA
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): _____ District(s): _____

State specifically the need or reason(s) for Other Business: Removal of undisturbed landscape buffer.



APR 12 2016
 HERR CO. COMM. DEV. AGENCY
 ZONING DIVISION

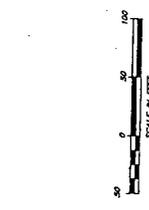
1. THE PROPERTY IS LOCATED WITHIN AN UNINCORPORATED AREA OF THE COUNTY OF HERR, VIRGINIA, AS SHOWN ON THE ATTACHED MAP. THE PROPERTY IS BOUND BY WEST 100' OF A 100' WIDE ROAD ON THE WEST, WEST 100' OF A 100' WIDE ROAD ON THE SOUTH, AND WEST 100' OF A 100' WIDE ROAD ON THE EAST.

2. THE LAND MUST BE PREPARED SUBJECT TO THE REQUIREMENTS OF THE ZONING ORDINANCE AND THE SUBDIVISION MAP ACT. THE SUBDIVISION MAP MUST BE PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND THE ZONING ORDINANCE.

3. THE SUBDIVISION MAP MUST BE PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND THE ZONING ORDINANCE. THE SUBDIVISION MAP MUST BE PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND THE ZONING ORDINANCE.

4. THE SUBDIVISION MAP MUST BE PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND THE ZONING ORDINANCE. THE SUBDIVISION MAP MUST BE PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND THE ZONING ORDINANCE.

5. THE SUBDIVISION MAP MUST BE PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND THE ZONING ORDINANCE. THE SUBDIVISION MAP MUST BE PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND THE ZONING ORDINANCE.



DATE: 11-12-08
 REVISION: 11-12-08
 CHECKED BY: B.E.
 FIELD BOOK: 11-12-08

HEATHERBROOK SUBDIVISION

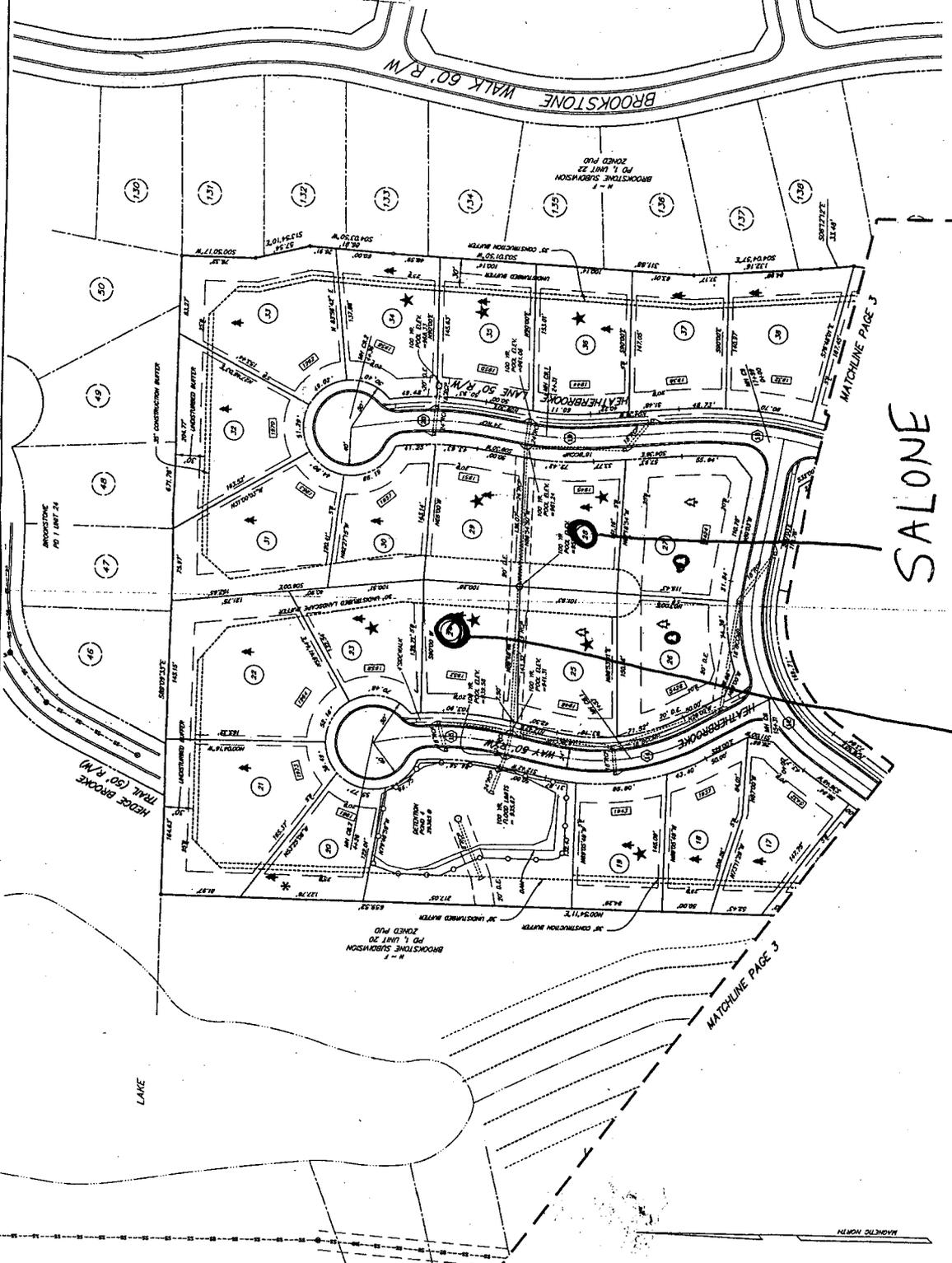
LOCATED IN L.L. 193 & 194
 CURB COUNTY, VA.

Gaskins

1000 S. 10th Street, Suite 100
 Charlottesville, VA 22902
 Phone: 800.828.8282



THIS MAP WAS PREPARED IN COMPLIANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND THE ZONING ORDINANCE OF THE COUNTY OF HERR, VIRGINIA. THE MAP IS A TRUE AND CORRECT REPRESENTATION OF THE PROPERTY AND THE SUBDIVISION MAP ACT AND THE ZONING ORDINANCE OF THE COUNTY OF HERR, VIRGINIA.



SALONE

WHITE

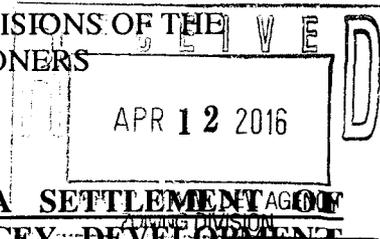
MATCHLINE PAGE 3

MATCHLINE PAGE 3

MARKING NORTH

ORIGINAL DATE OF APPLICATION: 02-18-03APPLICANTS NAME: YANCEY DEVELOPMENT

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

BOC DECISION OF 06-21-05 ZONING HEARING:**OTHER BUSINESS ITEM #1 - TO CONSIDER A SETTLEMENT OF LITIGATION PROPOSAL REGARDING Z-20 (YANCEY DEVELOPMENT COMPANY, INC.)**

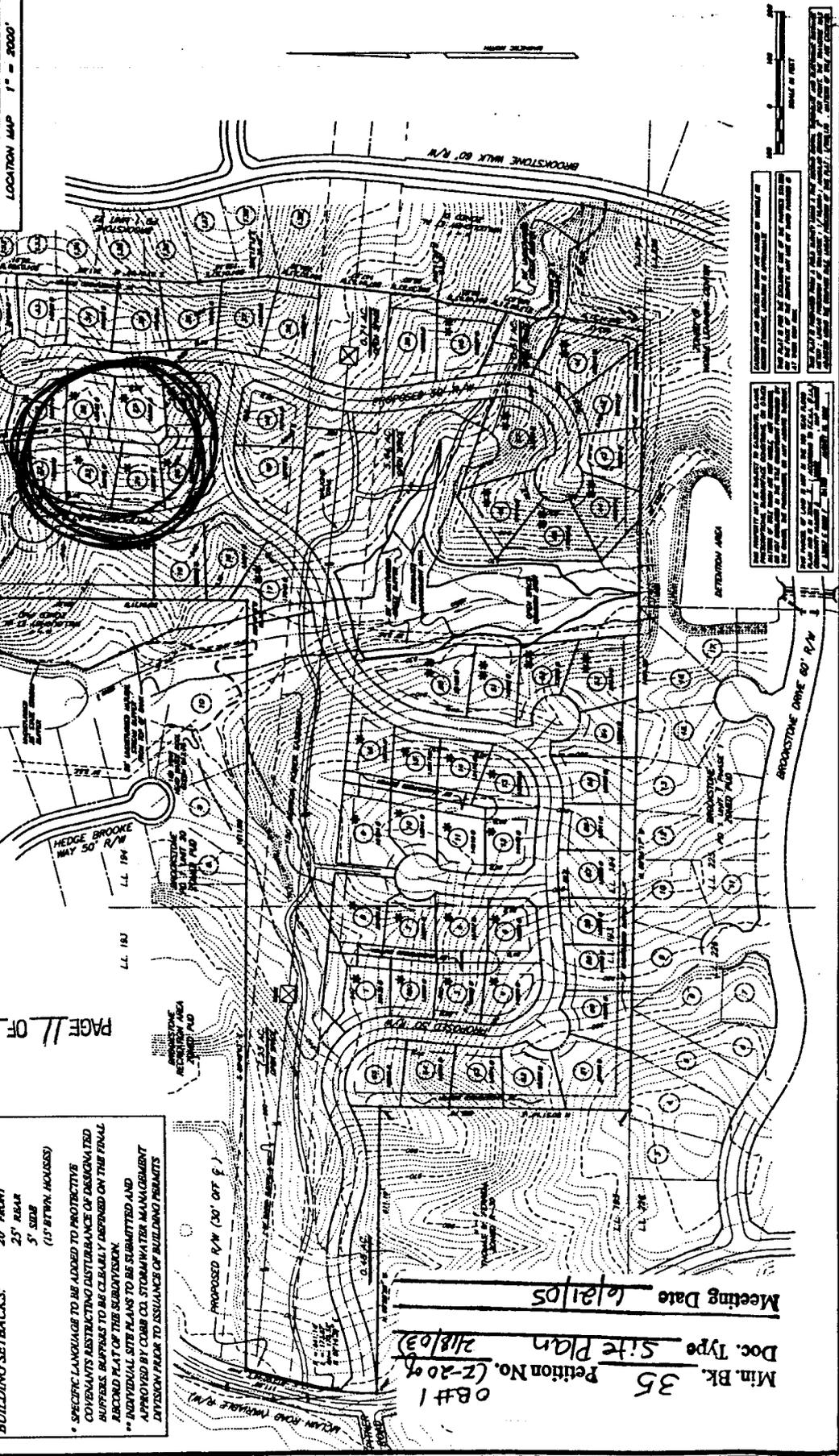
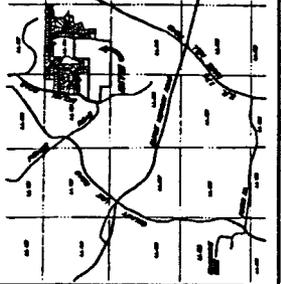
To consider a Settlement of Litigation proposal regarding Z-20 (Yancey Development Company, Inc.) of February 18, 2003, for rezoning from R-30 to R-20 OSC for a Subdivision, for property located on the east side of McLain Road and the south end of Hedge Brooke Trail in Land Lots 193 and 194 of the 20th District.

Mr. Mark Danneman, Zoning Division Manager, provided information regarding the proposal for settlement of litigation. The public hearing was opened and Mr. Hylton Dupree addressed the Board. Following presentations 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-20 (Yancey Development Company, Inc.) of February 18, 2003, for rezoning from R-30 to R-20 OSC for a Subdivision, for property located on the east side of McLain Road and the south end of Hedge Brooke Trail in Land Lots 193 and 194 of the 20th District:

- To **authorize** settlement of litigation
- To **approve** rezoning to the **R-20 OSC** zoning district subject to:
 - **site plan dated April 25, 2005 (copy attached and made a part of these minutes)**
 - **letters of stipulations from Mr. Hylton Dupree dated May 4, 2005 and May 24, 2005 (copy attached and made a part of these minutes)**
 - **Planning Staff Analysis**
 - **Stormwater Management Division comments and recommendations**
 - **Water and Sewer 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



- NOTES:**
- BOUNDARY SURVEY AND TOPOGRAPHIC INFORMATION BY GASKINS SURVEYING AND ENGINEERING CO.
 - ACCORDING TO FIELD INSURANCE RATE MAP (FRM) AT DEVELOPER'S F
 - ACCORDING TO FIELD INSURANCE RATE MAP (FRM) AT DEVELOPER'S F
 - NO CONVEYANCES ARE KNOWN TO EXIST ON SITE.
 - STREAM AND WETLAND CLASSIFICATIONS ARE TO BE DETERMINED.
 - NO ARCHITECTURAL OR ARCHITECTURAL LANDMARKS ARE KNOWN TO EXIST ON SITE.
 - DETENTION TO BE ACCOMMODATED AS SHOWN ON SITE PLAN.

SITE SUMMARY

TOTAL SITE AREA: (414 AC. IN FLOODPLAIN)	47.97 AC.
PRESENT ZONING:	R-30
PROPOSED ZONING:	R-20 OSC
TOTAL LOTS SHOWN:	65
NET DENSITY:	1.36 UNITS/AC
(NOT INCLUDING BUFFERS)	
MIN. LOT SIZE:	10,000 S.F.
A/VG. LOT SIZE:	16,028 S.F.
MIN. LOT WIDTH AT B.L.:	75'
TOTAL OPEN SPACE:	13.69 AC. (32.1% OF TOTAL SITE)
BUILDING SETBACKS:	20' FRONT 5' REAR 5' SIDEW (15' BETWEEN HOUSES)

SPECIFIC LANGUAGE TO BE ADDED TO PROTECTIVE COVENANTS RESTRICTING DISTURBANCE OF DESIGNATED BUFFERS. BUFFERS TO BE CLEARLY DEFINED ON THE FINAL RECORD PLAN OF THE SUBDIVISION.
 ** INDIVIDUAL SITE PLANS TO BE SUBMITTED AND APPROVED BY COBB CO. STORMWATER MANAGEMENT DIVISION PRIOR TO ISSUANCE OF BUILDING PERMITS

08th 1
 Min. Bk. 35
 Petition No. (2-2004)
 Site Plan
 2/18/03
 Meeting Date 6/21/05

PAGE 11 OF

DUPREE KING & KIMBROUGH
DUPREE, KING & KIMBROUGH
ATTORNEYS AT LAW

770 424 0644 P. 02/04

49 GREEN STREET - MARIETTA, GEORGIA 30060
TELEPHONE: 770-424-7171 - FACSIMILE: 770-424-0644
WWW.DUPREE-LAWFIRM.COM

PAGE 12 OF

Myron B. Dupree, Jr. P.C.
Russell D. King
M. Stuart Kimbrough
Patrick M. Milligan

May 4, 2005

Mailing Address:
Post Office Box 625
Marietta, Georgia 30066

Mr. Fred D. Bentley, Jr., Esq.
Bentley, Bentley and Bentley
241 Washington Avenue
Marietta, Georgia 30060

Min. Bk. 35 Petition No. (Z-20 of 2/18/03) ^{O.B.#1}
Doc. Type Letter of Stipulations
Meeting Date 6/21/05

Re: Application for Re-Zoning
Application Number Z-20(2003)
Applicant, Yancey Development Company, Inc.

Dear Fred:

Pursuant to our recent telephone conversation in reference to the above matter, I am revising my letter of April 29, 2005 in an effort to clarify some of the confusion that may have been created by the overlapping of the previous letters.

On April 29, 2005, I delivered to you a revised preliminary site plan dated April 25, 2005 and prepared by Gaskins Surveying Company (GSC). The plan reflects the agreements and concessions that we reached at our meeting with you and Commissioner Gorcham.

Additionally, we have agreed to the following stipulations.

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 and/or which have been embodied in any previous stipulations submitted as a part of the above-referenced Application for Re-Zoning.
2. Re-zoning of the Subject Property shall be from the R-30 category to the R-20 Open Space Community ("R-20/OSC") zoning category, site plan specific to that certain revised preliminary plan prepared by Gaskins Surveying Company (GSC) dated April 25, 2005.
3. By this letter of agreeable stipulations and conditions, Applicant amends its Application for Re-Zoning to include the revised preliminary plan hereinabove set forth, the same being prepared by Gaskins Surveying Company (GSC) dated April 25, 2005, which was submitted to you on April 29, 2005.
4. The Subject Property shall be developed for a single-family residential community for a maximum of sixty-five (65) homes upon a total site area of 47.97 acres, for a maximum net density of 1.36 homes per acre, as per revised preliminary plan dated April 25, 2005.

Mr. Fred D. Bentley, Jr., Esq.
May 4, 2005
Page: 2

Petition No. O.B.#1 (Z-2005-218)03
Meeting Date 6/21/05
Continued
PAGE 13 OF

5. Homes in the proposed community shall have a minimum of 2,000 square feet, and shall be of a traditional architecture, with exterior materials consisting of brick, stone, stacked stone, stucco-type, masonry siding, cedar shake shingles, or combinations thereof.

6. The proposed community shall have a minimum common area/open space as shown on the referenced preliminary plan. The common area/open space shall be utilized for passive recreational purposes such as picnicking and walking trails.

* 7. Access to the proposed community shall be provided from McClain Road, with no access to Brookstone Drive. The access road shall be designed to provide for inter-parcel access to the "Thomas W. Fuzell" property for future residential development. (See preliminary site plan dated April 25, 2005).

8. Applicant agrees to the creation of a mandatory homeowners' association consistent with the covenants in place for the Brookstone Community. The mandatory homeowners' association shall be responsible for the upkeep and maintenance of all common areas and buffer areas contained within the proposed community.

* Applicant shall conduct both a pre- and post-development situation study of the lake located adjacent to the northwesterly portion of the Subject Property. The results of said studies shall be submitted to Cobb County as well as copies made available to the Brookstone North Lake Homeowners' Association. Developer shall secure a performance bond to secure the post-development clean-up operation, if any, the bond to remain in full force and effect until the completion of the development, or for a period of two years from the date of approval of the zoning application, whichever event shall first occur.

10. Minor modifications to the proposed community for items such as, but not limited to, lot layout and storm water control measures, may be approved by the Cobb County Commissioners as needed or necessary.

11. The revised preliminary site plan dated April 25, 2005 has provided for asterick (*) designated lots for an undisturbed buffer extending for an area of twenty-five (25) feet from the rear lot line of each astericked lot. This provision shall be enforced by a covenant running with the land with the homeowner and Cobb County as parties to the covenants.

12. The lots designated on the revised preliminary site plan dated April 25, 2005 as a two (2) asterick (**) lots shall be subject to individual site plan review by Cobb County.

* 13. An entity owned, or to be owned and controlled by Foster Yancey, Jr. and Foster Yancey III, shall develop the subject property and shall commence development within two (2) years from the final approval of the re-zoning of the subject property. Failure to commence development within the two (2) years shall result in the R-20-OSC Zoning Category reverting back to the present R-30 Zoning Category.

25,000 Performance Bond

in amount of \$25,000
see # 4

04-2005 18:11

DUPREE KING & KIMBROUGH

PAGE 4 OF _____ P. U4

770 424 0644 P.04/04

Mr. Fred D. Bendcy, Jr., Esq.
May 4, 2005
Page 3

I am in hopes that the stipulations set forth herein clarify any confusion that may have arisen out of the April 29, 2005 letter. If you have any questions concerning this matter, please do not hesitate to call.

It is my understanding that you and Commissioner Gorham will meet with the other Cobb County Commissioners in the Executive Session for the purpose of discussing this settlement in compromise. If there is a unanimous consensus among the five commissioners, this issue will be stipulated to the next zoning meeting for purpose of approval of the re-zoning.

Thank you for your continuing cooperation in this matter.

Very truly yours,

DUPREE, KING & KIMBROUGH



HYLTON B. DUPREE, JR.

HBD, Jr./blw

cc: Foster Yancey, Jr.
Foster Yancey, III
Bill Byrme

DUPREE, KING & KIMBROUGH
ATTORNEYS AT LAW

49 GREEN STREET • MARIETTA, GEORGIA 30080
TELEPHONE: 770-424-7171 • FACSIMILE: 770-424-0644
WWW.DUPREE-LAWFIRM.COM

Hylon B. Dupree, Jr. P.C.
Russell D. King
M. Scott Kimbrough
Patrick N. Millsaps

Mailing Address:
Post Office Box 525
Marietta, Georgia 30081

May 24, 2005

Min. Bk. 35 Petition No. 0.B.#1 (Z-20 of 2/18/03)
Doc. Type Letter of Stipulations
Meeting Date 6/21/05

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Via Hand-Delivery

Commissioner Helen Goreham
Cobb County Commissioner's Office
100 Cherokee Street
Marietta, GA 30090-9680

Re: **Application for Re-Zoning**
Application Number Z-20(2003)
Applicant, Yancey Development Company, Inc.

Dear Helen:

Pursuant to your letter of May 13, 2005, Yancey Development Company, Inc. amends its agreed upon stipulations set forth in my letter of May 4, 2005 to include the additional stipulations:

1. In addition to providing for no access to Brookstone Drive off of McLain Road, there shall also be no access to Hedgebrook Drive. Hedgebrook Drive is the residential street that runs adjacent to the eastern edge of the land parcel. (It is incorrectly labeled as Brookstone Walk on the site plan, and this will be corrected.)
2. Sidewalks shall be installed along McLain Road frontage.
3. The performance bond shall be set at \$25,000.
4. The bond referenced in Stipulation #9 (May 4, 2005 letter) shall remain in full force and effect until the construction of the development is completed.

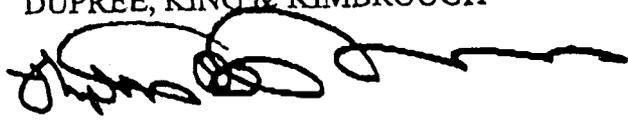
JUN-20-2005 11:00
DUPREE KING & KIMBROUGH
Commissioner Helen Go. am
Cobb County Commissioner's Office
May 24, 2005
Page 2

Petition No. O.B. #1 (2-20-05 2/18/03)
Meeting Date 6/21/03
Continued
PAGE 16 OF 16

If you have any questions or additional comments, please do not hesitate to call.
Thank you for your continuing cooperation in this matter.

Very truly yours,

DUPREE, KING & KIMBROUGH



Hylton B. Dupree, Jr.

HBD/blw

cc: Fred Bentley, Jr. (via facsimile)
Foster Yancey, Jr.
Foster Yancey, Sr.
Bill Byrne