FEBRUARY 21, 2012 ZONING HEARING "OTHER BUSINESS" COMMISSION DISTRICT 1

<u>ITEM # 3</u>

PURPOSE

To consider a site plan and stipulation amendment for the Forestar Group regarding rezoning application Z-189 (ICI Development Group, Inc.) of 2005, for property located on the north side of Macland Road, west of Old Lost Mountain Road in Land Lots 432 and 433 of the 19th District.

BACKGROUND

The subject property was zoned RSL in 2005 for the purpose of a senior living community. The project was developed with roads and infrastructure, but no homes were ever built in this phase. The original developer is no longer involved with this part of the development. The applicant is a new owner of the property that would like to amend the site and stipulations to allow their product line of senior housing to be built on this property. The same number of units would be constructed, but they would all be single-family houses instead of a mix of single-family houses and duplexes. In order to make the project work with all single-family houses, the applicant would need four amendments to the site plan and to the zoning stipulations. First, the applicant would need to have the site approved, in lieu of the current site plan, which shows the single family houses layout. Second, the buffer along the east property line would need to be reduced from a 60 foot maintained natural buffer to a 40 foot replanted buffer. Third, the applicant would like to reduce the unit size from 1,700 square-feet to 1,600 square-feet. Lastly, the applicant would like to have 10-feet separation between houses instead of 15 feet separation between houses. 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 (Exhibit A)
Stipulations (Exhibit B)
Approved site plan (Exhibit C)
Proposed site plan (Exhibit D)

AMENDED Application for "Other Business" Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2045) BOC Hearing	Date Requested: 02/21/12
Applicant: Forestar Group (applicant's name printed)	Phone #: (770) 272-7760
Address: 3330 Cumberland Blvd., Ste. 275, Atlanta, GA 30339	ings Street, Suite 100
(representative's name, printed) Phone #: (770) 422-7016 E-M	HIM R. LAV
Signed, sealed and delivered in presence of: My commission Notary Public	= 1,20 21, 2
Titleholder(s) First Citizens Bank and Trust Company, Inc. (property owner's name, printed) By: Reeves Skeen, Vice President	Phone #: (770) 999-8110
Address 3300 Cumberland Blvd., Ste. 300, Atlanta, GA 30339 F	E-Mail: reeves.skeen@firstcitizensonline.com
Signed, sealed and delivered in presence of: My commissio	on expires:
Commission District: 1 Zoning Case	e: No. Z-189 (2005)
Date of Zoning Decision: February 21, 2006 Original Dat	te of Hearing: February 21, 2006
Location: Macland Road at Living Springs Drive	
Land Lot(s): 432 and 433 Di	istrict(s):19
State <u>specifically</u> the need or reason(s) for Other Busine on the north and east property lines to a 40' replanted b 2) 1600 square foot minimum house size; 3) 10' betwee homes as depicted in the revised plat; and 4) approval or	uffer as shown in the attached plat; n buildings for one-story ranch
, a	

(List or attach additional information if needed)

February 21, 2012 Other Business Item 03 Exhibit A

SAMS, LARKIN & HUFF

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI

Suite 100 376 Powder Springs Street Marietta, Georgia 30064-3448 770.422.7016 TELEPHONE 770.426.6583 FACSIMILE

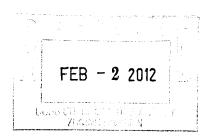
MELISSA P. HAISTEN JUSTIN H. MEEKS

February 2, 2012

SAMSLARKINHUFF.COM

VIA HAND DELIVERY

Mr. John P. Pederson, AICP, Manager Cobb County Community Development Agency Zoning Division 1150 Powder Springs Road Suite 400 Marietta, GA 30064



Re:

Other Business Application of Forestar Group amending the Application of ICI Development Group, Inc. to Rezone an 38.52 Acre Tract from R-20, CS, R-30 & R-80 to RSL (No. Z-189 [2005])

Dear John:

This letter will confirm amendments to the Other Business Agenda Item Application after discussions with the engineer and Commissioner Goreham. The Amendments remove the request for the reduction in the Open Space based upon the engineer reviewing the calculation of the existing Open Space in Phase I and the proposed Open Space in Phase II. Additionally, pursuant to our telephone conversation and e-mail correspondence, the request will include the approval of the site plan that was attached to the original Other Business Agenda Item Application including the noted ten foot (10') setback between one-story ranch homes and the modification of the northern and eastern boundary from an undisturbed buffer to a graded and replanted buffer. Please contact me if you have any questions or concerns.

Sincerely,

SAMS, LARKIN & HUFF, LLP

Parks F. Huff

phuff@samslarkinhuff.com

PFH/brl Enclosures

cc: Mr. Christopher Smith, Forestar Group – VIA E-Mail w/ attachments

February 21, 2012 Other Business Item 03 Exhibit B

MINUTES OF ZONING HEARING COBB COUNTY BOARD OF COMMISSIONERS FEBRUARY 21, 2006 PAGE 24

Z-158'05

JOHN M. VARNER, Jr. (John Mason Varner, Sr., Varner Enterprises, LLLP, Edward Murrell Varner, Betty Varner Waldron, Richard H. Carter, Rachel Annette Sledge, William Stanford Dobbs, Mrs. William V. Dobbs, Guy T. Dobbs and Mary Ann Nuckols, owners) requesting Rezoning from R-80 to CS for the purpose of a Subdivision in Land Lots 427 and 462 of the 19th District. Located on the north side of Macland Road, between Villa Rica Road and Wilkins Road. (Continued by the Planning Commission from their October 4, 2005 and November 1, 2005 hearings, continued by Staff from the December 6, 2005 Planning Commission hearing and held by the Planning Commission from their February 7, 2006 hearing; therefore was not considered at this hearing)

Z-173 05

ICI DEVELOPMENT GROUP, INC. (Kenneth F. and Arlene L. Kline, owners) requesting Rezoning from R-30 to RSL for the purpose of Independent and Assisted Living in Land Lot 195 of the 20th District. Located on the west side of Mars Hill Road at New Park Drive. (Previously continued by the Planning Commission from their October 4, 2005 and November 1, 2005 hearings until their February 7, 2006 hearing) WITHDRAWN WITHOUT PREJUDICE

Z-189^{'05}

ICI DEVELOPMENT GROUP, INC. (William M. Sparks, Jr., Brian J. Tenney, A. Matthew Heidelberg and Rebecca Ann Heidelberg, owners) requesting Rezoning from R-20 CS, R-30 and R-80 to RSL for the purpose of Senior Housing and Assisted Living in Land Lots 432 and 433 of the 19th District. Located on the north side of Macland Road, west of Old Lost Mountain Road.

The public hearing was opened and Mr. Carl Wynne and Ms. Hilda Towery addressed the Board. Commissioner Kesting announced that she would recuse herself because she is a member of Trinity Chapel Church. Following presentations and discussion, the following motion was made:

MOTION: Motion by Goreham, second by Thompson, to <u>approve</u> rezoning to the RSL (unsupported) zoning district subject to:

MINUTES OF ZONING HEARING COBB COUNTY BOARD OF COMMISSIONERS FEBRUARY 21, 2006 PAGE 25

Z-189'05 ICI DEVELOPMENT GROUP, INC. (Continued)

- entire 38.52 acres zoned RSL (unsupported), which includes the interior 2.66 acre parcel identified as "Out" on some site plans
- Plan Review comments and recommendations, with the District Commissioner approving final site plan
- minimum of 50 single family detached cottage-style RSL homes positioned to buffer project from surrounding properties and Macland Avenue
- maximum overall density (including "Out" parcel) of 2.5 units per acre
- letter of agreeable stipulations from Mr. Carl Wynne dated November 30, 2005, not otherwise in conflict (copy attached and made a part of these minutes) (Note: In the event of any disagreement, the prior agreement documents from zoning Z-51" and the agreement with Devonhurst HOA dated April 27, 2005, incorporated as items 19 and 20 in the November 30, 2005 letter, are subordinate to the November 30, 2005 letter.)
- landscape plan to be reviewed by County Staff and approved by District Commissioner
- interior sidewalks to connect to sidewalk along Macland Road
- pre- and post-development hydrology study on downstream lake(s) as approved by Stormwater Management Division
- District Commissioner to approve minor modifications to site plan
- Fire Department comments
- 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 4-0-1, Kesting abstained

Min. Bk.

February 21, 2012 Other Business Item 03

IDEAS, CONCEPTS & INSIGHTS

November 30, 2005

治數 急升

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

Via: Hand Delivered

Application for RSL Supported and Non-Supported RE:

Application #:

Z-189 2005

Applicant:

ICI Development Group, Inc. 38.52 Acres in Land Lot 433

Property: 19th District, 2nd Section Cobb County, Georgia

Dear John,

After meeting with members of the surrounding communities, planning and zoning staff, various departmental representatives, and reviewing the staff comments and recommendations, we the Applicant having been authorized by the owners submit this letter of agreeable stipulations and conditions which, if the Application for RSL is approved, as submitted, shall become a part of the grant of the requested rezoning and shall be binding upon the property. This letter shall supersede and replace all previous stipulation letters submitted with regard to this property by Applicant. The referenced stipulations are as follows:

Rezoning shall be from the R-20 CS, R-30, and R-80 zoning categories to (1)the RSL zoning category per the site plan dated November 29, 2005 by Krewson Vickrey Engineers & Surveyors and submitted to Cobb County. Any minor modifications of said site plan shall be subject to the review and approval of the area District Commissioner. The detached component west of the creek traversing the property shall be developed in accordance

3475 Dallas Highway • Bldg 500 Suite 520 • Marietta, Georgia 30064 Office 770-425-1025 • Fax 770-425-4576

- (2) The residences to be constructed within the proposed Ranch Condominium section of the development shall be Cottage in styling and architecture. Roofs shall be steep pitched with architectural style shingles. The front facades of the residences shall be comprised of brick, stone, stacked stone, stucco-type, Lapboard masonry siding, shakes, shingles, or any combinations of the above.
- (3) The residences to be constructed within the proposed Ranch Condominium section of the development shall have a minimum of 1,400 square feet.
- (4) The Applicant agrees to avoid any mass grading of the site by utilizing duplex units. In addition, the site shall be designed to minimize grading as much as possible.
- (5) All grassed areas within the proposed development shall be sodded.
- (6) Dwelling units shall be limited to those persons 55 years of age and older as defined by the Fair Housing Act.
- (7) Applicant agrees to a mandatory Home Owners Association with recorded restrictive covenants and architectural control consistent with upscale area RSL communities within the area.
- (8) All Buffers shall be controlled, maintained and protected by recorded covenants enforced by the mandatory HOA to be established by the Applicant.
- (9) The 13.65 acres of Open Space will be protected from future development by the granting of Covenants in perpetuity to Cobb County. The covenants shall provide for the upkeep and maintenance of the area located within the Open Space areas. In addition, the Passive Parks, Landscape Buffers, and Maintained Natural Buffers shall be removed from all building lots.
- (10) The portion of the Subject Property labeled as "Out" on the referenced site plan and containing approximately 2.66 acres is withdrawn from this rezoning application and shall not be considered; therefore this "Out" tract shall retain its existing zoning designation(s).
- (11) The Covenants affecting the Open Space in favor of Cobb County will be subject to the review and approval of Cobb County Staff and the area District Commissioner.
- (12) The Entrance to the proposed community shall be professionally landscaped with permanent signage being on a ground-based monument.
- (13) The entrance/site landscaping plan shall subject to the review and approval of the District Commissioner.

- (14) The Applicant agrees to install a 5 foot vinyl coated chain Exhibit B the Northern and Eastern property lines of the development and particularly the line bordering the property of Mr. Tommy Bishop.
- (15) The Applicant agrees to leave all existing trees within the Maintained Natural Buffer bordering the Tommy Bishop Property.
- (16) The Applicant agrees to abandon the driveway extending from the Tenney Property to Old Lost Mountain Road. The applicant shall limit the use of said property to utilities and said drive shall be returned to a natural state by the use of seed and straw where applicable. The existing driveway shall be removed.
- (17) The Applicant agrees to use shoebox style lighting in the Ranch Condominium areas of the project to reduce the spillage of light into the neighboring parcels.
- (18) The Applicant agrees to maintain the 10' parcel of land located between Property owned by Mr. Tommy Bishop and Harmony Hills Subdivision. At his option the Applicant may deed this property to neighboring property owners who would then assume the responsibility of property ownership and maintenance.
- (19) The Applicant agrees to be bound by the Stipulation Letters dated May 12, 2004 and May 18, 2004 (attached hereto and made a part hereof by reference), unless found to be in conflict with applicants Rezoning Application or Letter of Stipulation.

Note:
Te ferenced
Letters were
not attached

Skickardson

The Applicant agrees to be bound by the Letter of Agreement dated April 26, 2005 between Applicant and the Devonhurst Home Owners Association. (attached hereto and made a part hereof by reference)

(21) The Applicant agrees to contribute \$40,000 to Cobb County DOT for the installation of left hand turn lights from Old Lost Mountain Road to Macland Road. Said payment shall be made subsequent to issuance of a LDP and prior to the issuance of a Grading Permit for the Ranch Condominium portion of the project.

We believe the requested zoning pursuant to the referenced site plan, the stipulations contained herein and staff comments and recommendations is an appropriate use when considering the owners and properties surrounding the proposed development. This development shall be of high caliber and will be an enhancement to the community.

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Carl A. Wynne

President

February 21, 2012 Other Business Item 03 Exhibit B

Lost Mountain Enterprises, Inc.

HED WITH COUNTY CLERK THIS 18 14 Land Acqui	sition and Development
OF May 20pH BY Cel Riggies	Min. Bk. 37 Petition No. Z.5/ Doc. Type Letter of
RE VZ.SI	Doc. Type Letter of
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK	Meeting Date May 18, 2004
COBB COUNTY, GEORGIAY 18, 2004	ORIGINAL
•	OKIGIIVAL

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

Via: Hand Delivered

Zoning Commission Meeting May 18, 2004

RE: Application for Conservation Subdivision District

Application #:

Applicant:

Z-51

Lost Mountain Enterprises, Inc. & Trinity Chapel

Church of God

27.42 Acres in Land Lot 433 Property:

19th District, 2nd Section Cobb County, Georgia

Dear John,

After meeting with the HOA(Home Owners Association) of Devonhurst and reviewing their comments, We the Applicant having been authorized by the owners submit this letter in additional to the letter of agreeable stipulations dated May 12, 2004 and conditions which, if the Application for rezoning is approved, as submitted, shall become a part of the grant of the requested overlay and shall be binding upon the property. The referenced stipulations are as follows:

- 1. The Developer agrees to the removal of a large preexisting dead tree in the approx. vicinity of lots 13 and 14. The removal of the tree shall be solely at the Developer's expense.
- 2. The Developer agrees to create a landscape plan with the Devonhurst HOA for the western-most maintained buffer adjacent to the Devonhurst community. This plan may include plantings of Leyland cypress along the property's perimeter adjacent to Devonhurst but will remain flexible in nature so that agreeable plantings will be coordinated with Devonhurst homeowners.

Petition N Meeting I Other Business Item 03 Continued Exhibit B

3. The Developer agrees to include within the Trinity Village tovenames, a stipulation that no fencing shall be erected between the maintained natural buffer and the Devonhurst community.

We believe the requested zoning pursuant to the referenced site plan, the stipulations contained herein and staff comments and recommendations is an appropriate use when considering the owners and properties surrounding the proposed development. This development shall be of high caliber and will be an enhancement to the community.

Sincerely

Carl A. Wynne

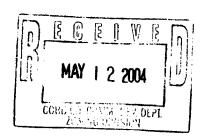
President

February 21, 2012 Other Business Item 03 Exhibit B

Lost Mountain Enterprises, Inc.

Land Acquisition and Development

May 12, 2004



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

Min. Bk. <u>2.7</u> Doc. Type 1	Petition No. Z.5/
Agreeable	Stigulations
Meeting Date	R/10/DH
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Via: Hand Delivered

Zoning Division May 12, 2004

RE: Application for R-20 Open Space Community

Application #:

Z-51

Applicant:

Lost Mountain Enterprises, Inc. & Trinity Chapel

Church of God

Property:

27.42 Acres in Land Lot 433

19th District, 2nd Section Cobb County, Georgia

Dear John,

After meeting with members of the surrounding communities, planning and zoning staff, various departmental representatives, and reviewing the staff comments and recommendations, we the Applicant having been authorized by the owners 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 property. This revised letter of agreeable stipulations and conditions shall supercede and replace in full our previous letter dated May 4, 2004. The referenced stipulations are as follows:

(1) Rezoning shall be from the R-30 and R-80 zoning categories to the CS (Conservation Subdivision District) zoning category per the site plan dated May 12, 2004, by Krewson Vickrey Engineers & Surveyors and submitted to Cobb County. Any minor modifications of said site plan shall be subject to the review and approval of the area District Commissioner.

Petition No. .. Meeting Date

- (2) By this letter of agreeable stipulations the Coppilicant application to request a CS zoning for the entire parcel of property.
- (3) The residences to be constructed within the proposed development shall be Cottage in styling and architecture. Roofs shall be steep pitched with architectural style shingles. The front facades of the residences shall be comprised of brick, stone, stacked stone, stucco-type, Lapboard masonry siding, shakes, shingles, or any combinations of the above.
- (4) The residences to be constructed within the proposed development shall have a minimum of 1,700 square feet.
- (5) The Applicant agrees to avoid any mass grading of the site. In addition, the site shall be designed to minimize grading as much as possible.
- (6) All grassed areas within the proposed development shall be sodded.
- (7) Developer shall market community expressly to seniors 55 years of age and older.
- (8) Applicant agrees to a mandatory Home Owners Association with recorded restrictive covenants and architectural control consistent with upscale area communities within the area.
- (9) All Buffers shall be controlled, maintained and protected by recorded covenants enforced by the mandatory HOA to be established by the Developer.
- (10) The 13.07 acres of Open Space the open space should be protected from development in perpetuity (per O.C.G.A. § 44-5-60(c)) by the mandatory covenants of the subdivision in favor of Cobb County for conservation uses and the deeds that run with the land owned by the homeowner's association. The covenants shall provide for the upkeep and maintenance of the area located within the Conservation Easement.
- (11) The Conservation Easement dedicated to Cobb County will be subject to the review and approval of Cobb County Staff and the area District Commissioner.
- (12) The Entrance to the proposed community shall be professionally landscaped with permanent signage being on a ground-based monument.
- (13) The 40 foot entrance/site landscaping plan shall subject to the review and approval of the District Commissioner.
- (14) The Developer agrees to install a 6 foot privacy fence along the perimeter of the development bordering the property of Mr. Brian Tenney.

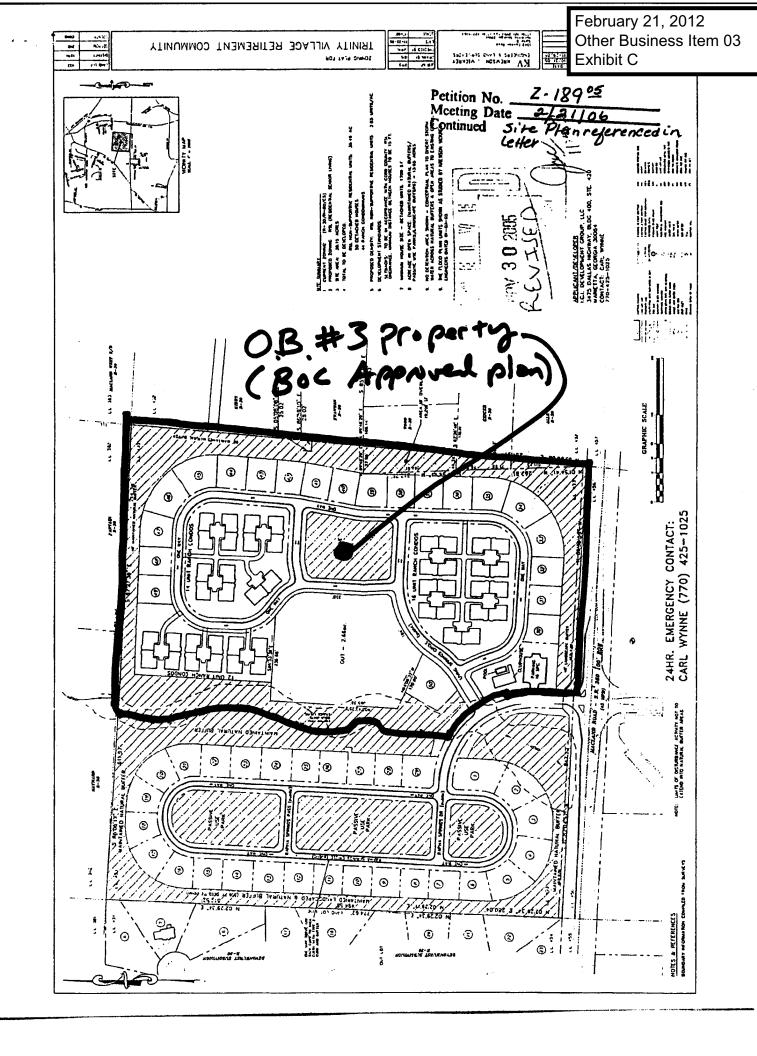
(15) The Developer agrees to abandon the easement running the property to Old Lost Mountain Road when developer commences construction on the subdivision.

We believe the requested zoning pursuant to the referenced site plan, the stipulations contained herein and staff comments and recommendations is an appropriate use when considering the owners and properties surrounding the proposed development. This development shall be of high caliber and will be an enhancement to the community.

Simperely, /

February 21, 2012 Other Business Item 03 Exhibit B

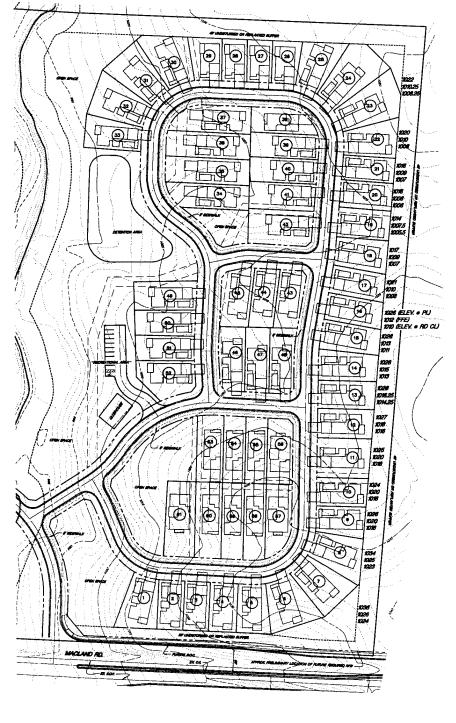
Carl A. Wynne President

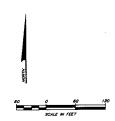


February 21, 2012 Other Business Item 03 Exhibit D

OB#3 (Paprosed Plan)







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TRINITY VILLAGE - UNIT II

LAND LOT 433 19TH DISTRICT, 2ND SECTION COBB COUNTY, GA

