

Application for "Other Business"

Cobb County, Georgia

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

BOC Hearing Date Requested: 3-20-12

Applicant: Kyle Properties Phone #: 770-856-6464
(applicant's name printed)

Address: 2769 Due West Road E-Mail: _____

Katherine Vella Address: same
(representative's name, printed)

Katherine Vella Phone #: 770-856-6464 E-Mail: _____
(representative's signature)

Signed, sealed and delivered in presence of:

Rebecca Souther

Notary Public, Paulding County, Georgia
My Commission Expires Feb. 27, 2014

Notary Public

My commission expires: _____

Titleholder(s): Katherine Vella, et al Phone #: 770-856-6464
(property owner's name printed)

Address: 2769 Due West Road E-Mail: _____

Katherine Vella
(Property owner's signature)

Signed, sealed and delivered in presence of:

Rebecca Souther

Notary Public, Paulding County, Georgia
My Commission Expires Feb. 27, 2014

Notary Public

My commission expires: _____

Commission District: 1 Zoning Case: Z-167 of 2005

Date of Zoning Decision: 11-21-06 Original Date of Hearing: 10-18-05

Location: East side of Lost Mountain Road, South of Dallas Highway
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 84, 137, 138, 139, 159 District(s): 19

State specifically the need or reason(s) for Other Business: Amend stipulations
to extend reversionary clause to April 30, 2014. All
other stipulations remain in effect.

(List or attach additional information if needed)

ORIGINAL DATE OF APPLICATION: 10-18-05APPLICANTS NAME: COUSIN REAL ESTATE CORPORATION

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

BOC DECISION OF 02-21-06 ZONING HEARING:

COUSINS REAL ESTATE CORPORATION (Trust for Kathleen Kyle Lascelles dated December 28, 1950, as amended; Trust for Martha Kyle Lennington dated December 28, 1950, as amended; Trust for Elizabeth Kyle Lodwick dated December 28, 1950, as amended and Trust for John Vernon Kyle, Jr., dated December 28, 1950, as amended, owners) requesting Rezoning from **R-30** to **CS** for the purpose of a Subdivision in Land Lots 84, 137, 138, 139 and 159 of the 19th District. Located on the east side of Lost Mountain Road, south of Dallas Highway.

The public hearing was opened and Mr. John Moore, Mr. David Welden, and Mr. Bruce Smith addressed the Board. Following presentations and discussion, the following motion was made:

MOTION: Motion by Goreham, second by Thompson, to **approve** rezoning to the CS zoning district **subject to:**

- **maximum 200 units**
- **average lot size 16,000 square feet**
- **all perimeter lots to be a minimum of 16,000 square feet**
- **letter of agreeable stipulations from Mr. John Moore, dated February 1, 2006, *not otherwise in conflict*, with the following additional sentence added at the end of paragraph (36): “First flush water quality best management practice requirements must be elevated to the 1.5 inch rainfall and each larger storm release restricted to the allowable storm discharge of the lower event.” (copy attached and made a part of these minutes)**
- **letter of agreeable stipulations from Mr. John Moore, dated February 17, 2006, *not otherwise in conflict* (copy attached and made a part of these minutes)**
- **pre-development stormwater review session with the Broadlands neighbors, Mr. Bill Higgins, Mr. Johnny Gaskins, and Commissioner Goreham prior to issuance of any land disturbance permit**
- **revised site plan to be presented to the Board of Commissioners as an Other Business Item for approval one (1) month from the date of this hearing**
- **minimum fifteen (15) feet between structures**
- **pre-development hydrology study on pond in Broadlands Subdivision**
- **biking and pedestrian connection to Lost Mountain Park at a location on their common boundary as determined at Plan Review, with the concurrence of the Parks and Recreation Department**

ORIGINAL DATE OF APPLICATION: 10-18-05

APPLICANTS NAME: COUSIN REAL ESTATE CORPORATION

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

BOC DECISION OF 02-21-06 ZONING HEARING (CONTINUED):

- **Historic Preservation comments and recommendations**
- **Fire Department comments**
- **Water and Sewer Division comments and recommendations**
- **Stormwater Management Division comments and recommendations**
- ***revised* 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** 3-2, Olens and Lee opposed

POINT OF ORDER REGARDING Z-167 (COUSINS REAL ESTATE CORPORATION)

Mr. John Moore addressed the Board relevant to a point of order on Z-167 (Cousins Real Estate Corporation). Chairman Olens requested a ruling from Ms. Dotty Bishop, County Attorney. Ms. Bishop presented her ruling. No further action was taken by the Board.

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
192 ANDERSON STREET

MARIETTA, GEORGIA 30060

WWW.MIJS.COM

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MATTHEW J. HOWARD
JERE C. SMITH
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BRETT A. MILLER

KAREN S. KURTZ
CHRISTOPHER C. MINGLEDORFF
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RICHARD V. MERRITT

OF COUNSEL:
JOHN L. SKELTON, JR.

† ALSO ADMITTED IN TN
* ALSO ADMITTED IN FL
*** ALSO ADMITTED IN OH
** ALSO ADMITTED IN NC
• ADMITTED ONLY IN TN

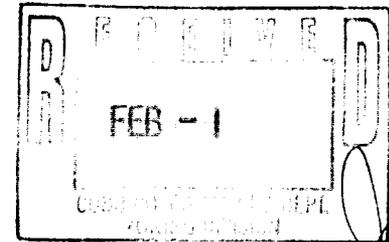
WRITER'S DIRECT
DIAL NUMBER

February 1, 2006

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Min. Bk. 39 Petition No. Z-167⁰⁵
Mr. John P. Pederson Doc. Type Letter of Agreeable
Planner III Stipulations
Zoning Division Meeting Date 2/21/06
Cobb County Community Development Agency
Suite 300
191 Lawrence Street
Marietta, Georgia 30060-1661

Hand Delivered



RE: Application for Rezoning

Application No.: Z-167 (2005)

Applicant: Cousins Real Estate Corporation

Property Owners: Kyle Properties, Ltd.,
A Georgia Limited Partnership;
Kyle Ventures, A Georgia General
Partnership; et al.

Property: 141.4 acres located on the
easterly side of Lost Mountain
Road, south of Dallas Highway
(State Route 120); Land Lots 84,
137, 138, 139, and 159,
19th District, 2nd Section,
Cobb County, Georgia

Dear John:

As you know, the undersigned and this firm represent Cousins Real Estate Corporation, the Applicant (hereinafter referred to as "Applicant"), and the above-named Property Owners (hereinafter collectively referred to as "Owners"), in the Application for Rezoning with regard to a total tract of 141.4 acres located on the easterly side of Lost Mountain Road, south of Dallas Highway (State Route 120), Land Lots 84, 137, 138, 139, and 159, 19th District, 2nd Section, Cobb County, Georgia (hereinafter the "Subject Property" or, alternatively, the

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"Property"). After meetings with planning and zoning staff and various departmental representatives, numerous and ongoing discussions and meetings with area residents, reviewing the staff comments and recommendations, and reviewing the uses of surrounding properties, we have been authorized by the Applicant to submit this revised 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 Subject Property. This letter shall supersede and replace in full those certain letters of agreeable stipulations and conditions dated and filed September 27, 2005, and October 12, 2005. The revised 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) By submission of this letter of agreeable stipulations, Applicant hereby amends its request and rezoning of the Subject Property shall be from the existing zoning category of R-30 to the proposed zoning category of Conservation Subdivision ("CS"), site plan specific to that certain revised Zoning Plat prepared by Gaskins Surveying and Engineering Company dated January 12, 2006, submitted contemporaneously herewith.
- (3) By this revised letter of agreeable stipulations and conditions, Applicant further amends its Application for Rezoning to include the revised Zoning Plat hereinabove set forth, same being prepared by Gaskins Surveying and Engineering Company dated January 12, 2006.
- (4) The Subject Property consists of approximately 141.4 acres of total site area and shall contain a maximum of two hundred forty-two (242) single-family

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residential lots, for a total gross density of 1.7 units per acre.

- (5) The Subject Property contains 1.65 acres of flood plain and wetlands, and 1.5 acres of impervious surface within the amenity area. This totals 3.15 acres and when subtracted from the gross acreage of 141.4 acres results in 138.25 net acres. The net density is therefore 1.75 units per acre.
- (6) A total of approximately 52.19 acres of the Subject Property is proposed for dedicated common area/open space (36.91 percent of the total site area).
- (7) The common/open space area shall be used for passive recreational purposes, including walking/nature trails, picnicking, and like purposes.
- (8) The amenity area for the proposed residential community shall include, but not be limited to, pool, tennis courts, and clubhouse.
- (9) The common/open space and amenity area shall be deeded to the mandatory homeowners association to be formed as a part of the proposed residential community and deed restricted for the purposes herein set forth.
- (10) Applicant agrees to a minimum of a one hundred (100) foot natural and enhanced buffer along the easterly and southerly boundaries of the Subject Property, as such boundaries are adjacent to existing residentially zoned properties, as more particularly shown and reflected on the referenced, revised Zoning Plat.
- (11) The buffer area described above shall be subject to approval by the Cobb County Arborist for visual screening from adjacent residential areas. Additional plantings within the buffers shall be made where necessary to provide visual screening and as approved

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by the Cobb County Arborist as part of the overall landscape plan for the proposed residential community.

- (12) There shall be a landscape buffer a minimum of thirty (30) feet in width measured from the existing right-of-way and located along the Subject Property's frontage with Lost Mountain Road. The buffer shall contain landscaping and country board fencing in white or dark stain. The fencing may contain brick/stone columns.
- (13) The buffers described above shall be protected through restrictions provided in the proposed covenants for the residential community; as well as, delineated on the final plat approved by Cobb County as part of the plan review and platting process.
- (14) Residences to be constructed within the proposed residential community shall have a minimum of 2,200 square feet, ranging upwards to 4,000 square feet and greater, and shall be traditional or European in styling and architecture, as will be more particularly shown and reflected on the elevations and renderings to be submitted to the Planning Commission and Board of Commissioners at the respective Zoning Hearings.
- (15) Additionally, the exterior facades of residences within the proposed community shall be brick, stone, stacked stone, stucco-type, masonry siding, cedar shake shingles, or combinations thereof.
- (16) Entrances to the proposed residential community shall be as more particularly shown and reflected on the referenced Zoning Plat. The entrance areas shall be professionally designed, landscaped, and maintained. The most southerly entrance shall align with the realignment of Corner Road, and shall be full access. The northerly entrance shall be right-in/right-out access only.

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- (17) Entrance signage shall be ground-based, monument style and shall be composed of materials compatible and complementary to the proposed residences. and will be professionally designed, landscaped, and maintained.
- (18) Street lighting within the proposed community shall be environmentally sensitive, decorative, and themed to the architecture and style of the residences constructed therein.
- (19) Applicant agrees to the creation of a mandatory homeowners association consistent with up-scale communities within the area. The mandatory homeowners association shall be responsible for the upkeep and maintenance of all common area/open space and buffer areas contained within the proposed community.
- (20) Additionally, and in conjunction with the creation of the mandatory homeowners association, Applicant agrees to the recording and enforcement of protective covenants which will contain covenants, rules, and regulations applicable to the proposed community and for the protection of open space and buffer areas.
- (21) Cousins Real Estate Corporation, as the Applicant, will be involved in the development of the proposed community.
- (22) Applicant agrees to work with Dr. Phil Secrist to clean-up the area around, to install a new roof, and to stabilize the existing structure denominated as the "Servants' Quarters." Further, Applicant agrees to install a historical marker relating to the history of the site.
- (23) All utilities servicing the residences within the proposed community shall be underground.

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- (24) Applicant agrees to construct internal sidewalks within the proposed residential community. Said sidewalks shall comply in all respects with Cobb County standards and ordinances and shall connect to the pedestrian trails located throughout the community.
- (25) All lots and homes located along the most easterly boundary of the Subject Property immediately adjacent to Broadlands Subdivision shall be graded so that the fronts of the lots and the homes up to the front roof peak will all drain to the street.
- (26) There shall be no detention facilities located any closer to an exterior boundary than fifty (50) feet from such boundary.
- (27) The detention areas shall be fenced and landscaped to the exterior for purposes of visual screening. Said landscaping shall be approved by the Cobb County Arborist as part of the plan review process and incorporated into the overall landscape plan for the residential community.
- (28) Prior to land disturbance, Applicant agrees to install orange tree protective fencing to the inside of all natural and enhanced buffers.
- (29) Applicant agrees to perform pre- and post-development studies of any immediate downstream lakes prior to commencing development of the Subject Property.
- (30) Minor modifications to the referenced Zoning Plat, including, but not limited to, lot layout and stormwater control measures, may be approved by the District Commissioner, as needed or necessary.
- (31) Applicant agrees to a fifty (50) foot stream buffer on either side of the centerline of any streams

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traversing the Subject Property as more particularly shown and reflected on the Zoning Plat referenced herein.

- (32) Applicant agrees to work with the Cobb County Parks and Recreation Department to provide convenient pedestrian and bicycle access to Lost Mountain Park from the proposed development.
- (33) Applicant shall comply with the Cobb County Tree Ordinance; and in that regard, Applicant shall use reasonable best efforts to minimize grading so as to avoid mass grading of the Subject Property.
- (34) There shall be a no access easement for all residential lots adjacent to Lost Mountain Road.
- (35) All detention, setback, and buffer areas may be penetrated for purposes of detention, utilities, and stormwater management.
- (36) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property; however, Cobb County Stormwater Management shall have the authority and latitude to make further recommendations regarding modifications to the referenced Zoning Plat during the plan review process based on final engineering and hydrology, studies. Any such modifications to the referenced Zoning Plat may be approved by the District Commissioner as needed or necessary.
- (37) Applicant agrees to comply with all Cobb County development standards and ordinances relating to project improvements, except as approved by the Board of Commissioners or by the Department of Transportation or Community Development Agency, as their authority may allow.

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- (38) Applicant agrees to comply with all Cobb County Department of Transportation requirements applicable to the Subject Property.

- (39) Applicant agrees to the following system improvements to mitigate traffic concerns:
 - (a) Donation of right-of-way a maximum fifty-five (55) feet in width from the existing roadway centerline along the easterly side of Lost Mountain Road;
 - (b) Coordination with the Georgia Department of Transportation concerning the main entrance aligning with the relocation of Corner Road;
 - (c) Installation of a deceleration lane a maximum of one-hundred fifty (150) feet in length for ingress into the proposed community;
 - (d) Installation of sidewalk, curb, and gutter along the property frontage on the easterly side of Lost Mountain Road;
 - (e) Installation of left-turn storage lanes for left turn from Lost Mountain Road at the main (most southerly) entrance into the proposed community; and
 - (f) Provide funding for upgrades to the existing traffic signal at Corner Road.

- (40) The above stipulations shall bind the Subject Property and the Applicant, and any other future or potential developer of the Subject Property; however, in the event development has not commenced within twelve (12) months of the final rezoning, the zoning category shall revert to its existing R-30 zoning classification.

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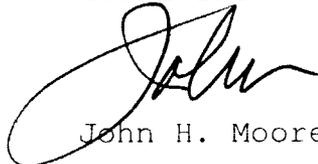
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We believe the requested zoning, specific to the revised Zoning Plat and the revised stipulations contained herein, is an appropriate use of the Subject Property while taking into consideration the changing conditions of the area and the properties and owners thereof surrounding the proposed development. The proposed residential community shall be of the highest quality, shall be compatible with surrounding neighborhoods, and shall be an enhancement to the Subject Property and the community as a whole. Thank you for your consideration in this request.

With kindest regards, I remain

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP



John H. Moore

JHM:cc

Enclosures

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

Denise Rose, President
People Looking After Neighborhoods, Inc.
(With Copy of Enclosure)

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c: David Welden
Protect Cobb
(With Copy of Enclosure)

Oakleigh Homeowners Association:
Rosa Bass
Barco Davidson
David J. and Joanne S. Graybill
Don Keck
Michael L. Perla
Michele Quinlan
Marlie Turner
(With Copy of Enclosure)

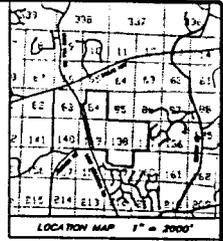
Broadlands Homeowners Association:
Susan Baker
Brett Beier
Robert P. and Linda George
Michael and Stacey Hale
Tom Lindsey
Mike Long
Carrie McKernie
(With Copy of Enclosure)

Denise Hinder, President
Echo Mill Homeowners Association
(With Copy of Enclosure)

Cousins Real Estate Corporation
(With Copy of Enclosure)

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 Continued Site Plan referenced in letter

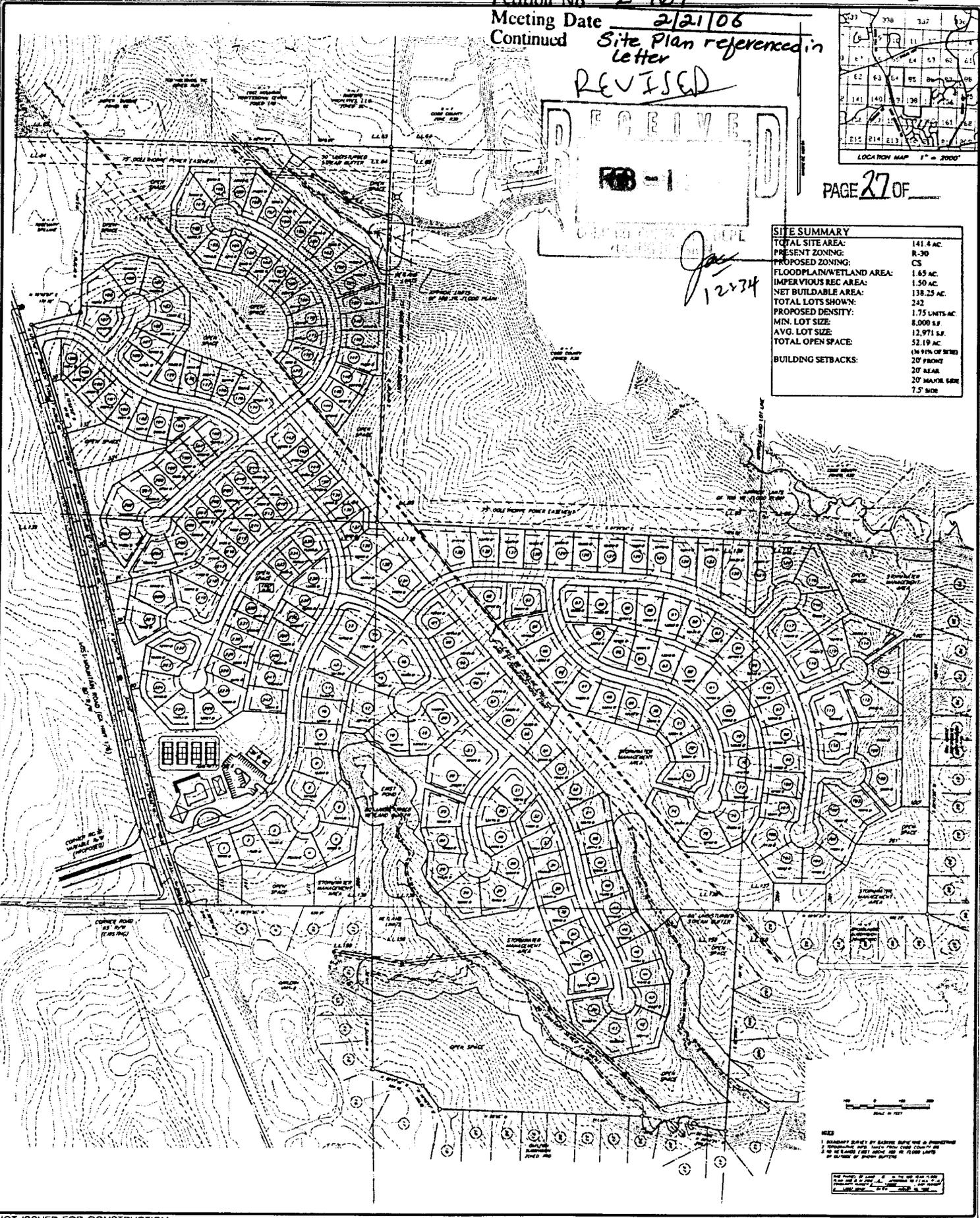
REVISED



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Jan 12/23/06

SITE SUMMARY	
TOTAL SITE AREA:	141.4 AC.
PRESENT ZONING:	R-30
PROPOSED ZONING:	CS
FLOODPLAIN/WETLAND AREA:	1.65 AC.
IMPERVIOUS REC AREA:	1.50 AC.
NET BUILDABLE AREA:	138.25 AC.
TOTAL LOTS SHOWN:	232
PROPOSED DENSITY:	1.75 UNITS/AC.
MIN. LOT SIZE:	8,000 S.F.
AVG. LOT SIZE:	12,971 S.F.
TOTAL OPEN SPACE:	52.19 AC.
BUILDING SETBACKS:	(IN % OF SETB)
	20' FRONT
	20' REAR
	20' MAJOR SIDE
	7.5' SIDE



NOT ISSUED FOR CONSTRUCTION

DATE	1/23/06
BY	JAN
CHECKED	
APPROVED	
SCALE	1" = 100'
PROJECT	THE KYLE PROPERTY
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* ALSO ADMITTED IN FL
** ALSO ADMITTED IN OH
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• ADMITTED ONLY IN TN

WRITER'S DIRECT
DIAL NUMBER

February 17, 2006

PAGE 28 OF

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

Min. Bk. 39 Petition No. Z-167⁰⁵
Doc. Type Letter of Agreeable
Stipulations
Meeting Date 2/21/06

Hand Delivered

FILED WITH COUNTY CLERK THIS 21ST DAY
OF February 20 06 BY John Moore
RE Z-167⁰⁵
Andrea J. Richardson
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

RE: Application for Rezoning

Application No.: Z-167 (2005)

Applicant: Cousins Real Estate Corporation

Property Owners: Kyle Properties, Ltd.,
A Georgia Limited Partnership;
Kyle Ventures, A Georgia General
Partnership; et al.

Property: 141.4 acres located on the
easterly side of Lost Mountain
Road, south of Dallas Highway
(State Route 120); Land Lots 84,
137, 138, 139, and 159,
19th District, 2nd Section,
Cobb County, Georgia

Dear John:

On behalf of the Applicant and Property Owners in the above-referenced Application for Rezoning, please allow this correspondence to serve as a supplement to the letter of agreeable stipulations and conditions dated and filed February 1, 2006, which, if the Application for Rezoning is approved, as submitted, shall become part of the grant of the requested zoning and shall be binding upon the Subject Property. The additional, revised stipulation is as follows:

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
Page 2 of 3
February 17, 2006

Petition No. Z-167⁰⁵
Meeting Date 2/21/06
Continued

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(1) Paragraph 25, located on page 6 of the February 1, 2006, letter, shall be deleted in its entirety and the following inserted in lieu thereof:

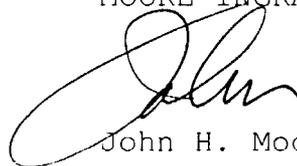
"(25) All lots and homes located along the most easterly boundary of the Subject Property immediately adjacent to Broadlands Subdivision shall be graded so that the fronts of the lots and the homes up to the front roof peak will all drain to the street. Applicant agrees to install a swale or a berm on the rear of proposed lots 108, 109, and 112 to divert water flow from the rear of these lots into the stormwater management area located southerly of said lots. This installation shall occur prior to any grading for residences to be constructed on said lots."

As previously stated, we believe the requested zoning, specific to the Zoning Plat, the stipulations set forth in our letter of February 1, 2006, and the additional, revised stipulation contained herein, is an appropriate use of the Subject Property while taking into consideration the changing conditions of the area and the properties and owners thereof surrounding the proposed development. The proposed residential community shall be of the highest quality, shall be compatible with surrounding neighborhoods, and shall be an enhancement to the Subject Property and the community as a whole. Thank you for your consideration in this request.

With kindest regards, I remain

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP


John H. Moore

JHM:cc

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
Page 3 of 3
February 17, 2006

Petition No. 2-16705
Meeting Date 2/21/06
Continued

PAGE 30 OF 30

c: Cobb County Board of Commissioners:
Samuel S. Olens, Chairman
Helen C. Goreham
Annette Kesting
Joe L. Thompson
Tim Lee

Broadlands Homeowners Association:
Tom Lindsey
Candy Newton

Cousins Real Estate Corporation