

**MAY 20, 2014 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 3**

ITEM OB-30

PURPOSE

To consider a stipulation amendment for The Ryland Group, Inc. regarding rezoning application Z-132 of 2003 (Larry B. Thompson) for property located on the east side of Knight Road, north of Ebenezer Road, in Land Lots 379 and 414 of the 16th District.

BACKGROUND

The subject property was zoned R-20 in 2003 as part of a larger single-family subdivision. Most of the lots access the interior subdivision streets. However, the five lots fronting Knight Road only access Knight Road. One of the Cobb DOT conditions in 2003 recommended a maximum of three curb cuts on Knight Road. The applicant would like to remove this condition so each house would have its own curb cut. This will prevent problems down the road regarding property line disputes and shared maintenance concerning the shared curb cuts. In short, this amendment would allow five curb cuts instead of three curb cuts. If approved all other stipulations and conditions would remain in effect.

FUNDING

N/A

STAFF COMMENTS

Cobb DOT: Recommend applicant verify that minimum intersection sight distance is available for each driveway proposed on Knight Road. If it is not, implement remedial measures, subject to the Department’s approval, to achieve the minimum requirement of 335’.

RECOMMENDATION

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

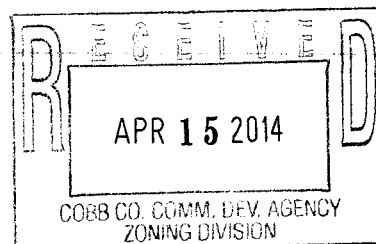
ATTACHMENTS

Other Business Application, request letter and stipulations.

(Stipulation Amendment)
Application for "Other Business"
Cobb County, Georgia

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

BOC Hearing Date Requested: 05/20/2014



Applicant: The Ryland Group, Inc.

(applicant's name printed)

Phone #: (770) 587-1667

Address: Suite 210, 1000 Mansell Exchange West, **E-Mail:** jmasasch@ryland.com

Moore Ingram Johnson & Steele, LLP

Alpharetta, GA 30022

John H. Moore

Address:

Emerson Overlook, 326 Roswell Street

(representative's name printed)

Marietta, GA 30060

BY: [Signature]

Phone #: (770) 429-1499

E-Mail:

jmoore@mijs.com

(representative's signature) Georgia Bar No. 519800

w7@mijs.com

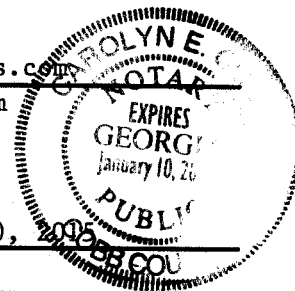
Signed, sealed and delivered in presence of:

[Signature: Carolyn E. Cook]

Notary Public

My commission expires:

January 10, 2005



Titleholder(s): The Ryland Group, Inc.

(property owner's name printed)

Phone #:

(770) 587-1667

Address: Suite 210, 1000 Mansell Exchange West,

E-Mail:

jmasasch@ryland.com

Alpharetta, GA 30022

BY:

[Signature: Eric Masaschi]

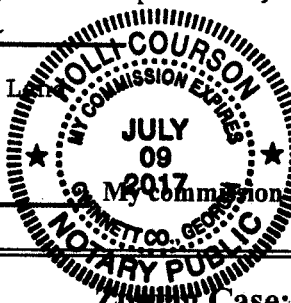
(Property owner's signature) Eric Masaschi

Vice President, L

Signed, sealed and delivered in presence of:

[Signature: Melli Courson]

Notary Public



My commission expires:

July 9, 2017

Commission District: 3 (Birrell)

Zoning Case:

Z-132 (2003)

Date of Zoning Decision: 09/16/2003

Original Date of Hearing:

09/16/2003

OB Decision: 10/21/2003

OB Hearing:

10/21/2003

Lots 41 and 42, Ebenezer Farm Subdivision, Unit II

Location: (Easterly side of Knight Road and northerly of Ebenezer Road)

(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 414

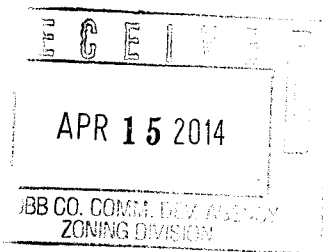
District(s):

16th

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

See Exhibit "A" attached hereto and incorporated herein by reference.

EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR "OTHER BUSINESS"
(STIPULATION AMENDMENT)



Application No.:	Z-132 (2003)
Original Hearing Date:	September 16, 2003
Date of Zoning Decision:	September 16, 2003
Date of OB Decision:	October 21, 2003
Current Hearing Date:	May 20, 2014

BEFORE THE COBB COUNTY BOARD OF COMMISSIONERS

Applicant/Property Owner: The Ryland Group, Inc.

The Ryland Group, Inc. (hereinafter "Applicant") has purchased lots within a subdivision known as Ebenezer Farm with the intention of building homes thereon. The development was rezoned to the R-15/OSC zoning classification by the Cobb County Board of Commissioners on September 16, 2003, with an amendment to the initial rezoning approved by the Board of Commissioners on October 21, 2003. The overall development totaled 43.41 acres and was located along the northerly side of Ebenezer Road and the easterly side of Knight Road, Land Lots 379 and 414, 16th District, 2nd Section, Cobb County, Georgia.

This Application for "Other Business" involves the lots which are located along the easterly side of Knight Road, two of which are owned by Applicant (being Lots 41 and 42, Unit II). As part of the rezoning approval, the Board of Commissioners adopted the "Cobb DOT comments and recommendations" as stipulations upon the development; and specifically, the one at issue in this Application provides for only three curb cuts along Knight Road, even though five (5) residences are platted for development which will face Knight Road, but be a part of Ebenezer Farm.

Applicant seeks the removal of the Department of Transportation recommendation restricting curb cuts along Knight Road to a maximum of three (3); and in lieu thereof requests approval of individual drives for each proposed residence, but specifically Lots 41 and 42.

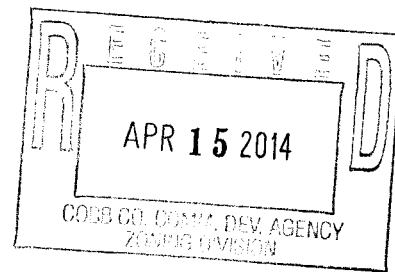
The balance and remainder of the stipulations and conditions specifically enumerated in the official minutes of the Cobb County Board of Commissioners Zoning Hearings held on September 16, 2003, and October 21, 2003, and attachments thereto, as to Application No. Z-132 (2003) are unaltered by this request for stipulation amendment.

FINAL PLAT OF EBENZER FARM, UNIT II

COBB COUNTY GOVERNMENT
ZONING DIVISION

**OFFICIAL MINUTES OF COBB COUNTY
BOARD OF COMMISSIONERS ZONING
HEARING AS TO APPLICATION FOR
REZONING NO. Z-132 (2003) -
SEPTEMBER 16, 2003**

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
SEPTEMBER 16, 2003
PAGE 17**



A lunch recess was taken from 12:43 p.m. to 2:00 p.m.

Z-124 BARBARA T. WOELPER for Rezoning from **R-80** to **R-30** for the purpose of a Subdivision in Land Lot 1259 of the 16th District. Located at the northeast intersection of Paper Mill Road and Woodlawn Drive. **WITHDRAWN WITHOUT PREJUDICE**

Z-125 TAL MAR PROPERTIES, INC. (James O. Durham, owner) for Rezoning from **R-20** to **R-15** for the purpose of a Subdivision in Land Lot 273 of the 16th District. Located on the north and west sides of Maybreeze Road, south of Shallowford Road. (Held by the Planning Commission from their September 2, 2003 hearing; therefore, was not considered by the Board of Commissioners at this hearing)

Following the lunch recess, Commissioner Lee returned to the zoning hearing.

Z-132 LARRY B. THOMPSON (Cobb Investment Properties, LLC, et al., owners) for Rezoning from **R-15** and **R-20** to **R-15 OSC** for the purpose of a Subdivision in Land Lots 379 and 414 of the 16th District. Located on the north side of Ebenezer Road and on the east side of Knight Road.

The public hearing was opened and Mr. Garvis Sams, Jr., Ms. Shae Roberts, Mr. Don Brundage, Mr. Bob Ott, Mr. Jeff Hobbs and Mr. Larry Thompson addressed the Board. Following presentations and discussion, the following motion was made:

MOTION: Motion by Lee, second by Olens, to **delete** rezoning to the **R-15** and **R-20** zoning districts **subject to:**

- revised site plan, identifying lots that cannot adhere to the 20-foot side setbacks, to be approved by the District Commissioner
- letters of agreeable stipulations from Mr. Garvis Sams, Jr., dated August 18, 2003 and September 10, 2003, *not otherwise in conflict* (copy attached and made a part of these minutes)
- Agreement between Applicant and Dr. Evan Demestihias to be finalized no later than one week following the date of this hearing; if the Agreement is not finalized, the approximate 12.5 acres added to the development as part of this zoning request will be brought back to the Board as an "Other Business" item

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
SEPTEMBER 16, 2003
PAGE 18**

Z-132 LARRY B. THOMPSON (Continued)

- **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

Z-126 TAL MAR PROPERTIES, INC. (Julian Ray Leroy, et al., owners) for Rezoning from R-20 to LRO for the purpose of an Office in Land Lot 371 of the 16th District. Located at the southwest intersection of New Chastain Road and Blackwell Circle.

The public hearing was opened and Mr. Garvis Sams, Jr., and Ms. Hilda Towery addressed the Board. Following presentations and discussion, the following motion was made:

MOTION: Motion by Lee, second by W. Thompson, to delete rezoning to the LRO and R-20 zoning districts subject to:

- **letter of agreeable stipulations from Mr. Garvis Sams, Jr., dated August 11, 2003 (copy attached and made a part of these minutes)**
- **revised site plan depicting a 30-foot buffer along the Southern property line and 20-foot buffer along the Western property line, which shall be zoned R-20**
- **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 4-1, J. Thompson opposed

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
RICHARD A. HARRAH
MICHAEL P. PRYOR

OF COUNSEL
DAVID P. MARTIN

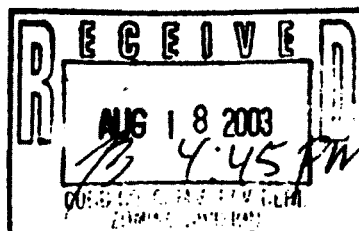
August 18, 2003

Min. Bk. 24 Petition No. Z-132
Doc. Type Letter of agreement
Stipulations 0 (8/18/03)
Meeting Date 9/16/03

770.422.7016
TELEPHONE
770.426.6583
FACSIMILE
SAMSLARKIN@AOL.COM
E-MAIL

VIA HAND DELIVERY

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
191 Lawrence Street
Suite 300
Marietta, GA 30060-1661



Re: Application of Larry B. Thompson to Rezone a 43.41 Acre Tract
from R-15 & R-20 to R-15 & R-20 - No. Z-132

Dear John:

As you know, this firm has been engaged by and represents the applicant and property owners concerning the above-captioned application for rezoning. The application is scheduled to be heard and considered by the Cobb County Planning Commission on September 2, 2003 and, thereafter, scheduled for consideration and final action by the Cobb County Board of Commissioners on September 16, 2003.

In keeping with our recent conversations with you and other County staff members, enclosed please find the requisite number of copies of a revised site plan. In addition to the foregoing, please allow the balance of this letter to serve as my clients' expression of agreement with the following stipulations which shall, upon the application being approved, become conditions and a part of the grant of the requested rezoning and binding upon the subject property thereafter:¹

1. A maximum number of 87 homes at a maximum density of 2.16 units per acre.

¹This stipulation letter will serve to supercede all stipulations/conditions of zoning concerning No. Z-157 (2002), No. Z-8 (2003) and No. Z-33 (2003).

VIA HAND DELIVERY

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
Page 2
August 18, 2003

2. A minimum house size of 2,000 square feet ranging up to 3,200 square feet.²
3. Architectural style of the homes shall be two-story traditional, with a few ranch style homes driven by market considerations.
4. Each home shall have, at a minimum, a two-car attached garage.
5. Creation of a mandatory homeowners association and the submission of Declaration of Covenants which shall include, among other things, the perpetual care and maintenance of all common areas, landscaping and the subdivision entrance way.
6. The submission of a landscape plan during the Plan Review process which shall include the following:
 - a. Sodded front and side yards.
 - b. The installation of underground utilities.
 - c. Compliance with the Cobb County Tree Preservation & Replacement Ordinance, subject to the Arborist's review and approval.
 - d. Representatives from North Chestnut Grove and Chaucer Place Subdivisions shall be included in the Plan Review process regarding the entrance landscape plan with the County Arborist being the final arbiter with respect to all issues.
7. Subdivision entrance signage shall be ground-based, monument style, consistent with provisions of the Cobb County Sign Ordinance and incorporated into the foregoing landscape plan for the entrance to the subdivision.
8. Subject to recommendations from the applicant's engineer/hydrologist with respect to stormwater management, hydrology and down stream considerations, including recommendations regarding the ultimate location and configuration of on site detention and lake/dam issues.

²Price points for the subdivision are anticipated at \$300,000 and higher.

VIA HAND DELIVERY

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
Page 3
August 18, 2003

9. Subject to the following recommendations of the Cobb County Department of Transportation:
 - a. The voluntary donation and conveyance of right-of-way on the north side of Ebenezer Road (major collector) so that the County can achieve 40' from the centerline of same.
 - b. The installation of a 150' deceleration lane and appropriate taper at the subdivision's entrance on Ebenezer Road.
 - c. The installation of sidewalk, curb and gutter along the subject property's frontage on Ebenezer Road.
 - d. The installation of a 10' no access easement along the subject property's frontage on Ebenezer Road except, of course, excluding the subdivision entrance way.
10. Final site plan to be approved by the District Commissioner.
11. The granting of contemporaneous variances with respect to front setbacks to 25', side setbacks to 7.5' with 15' between buildings, and rear setbacks to 35'.

The subject property finds itself positioned along the Ebenezer Road Corridor in an area which is denominated for Low Density Residential (LDR) utilization in a range between 1 - 2.5 units per acre. The zoning proposal, at a density of 2.16 units per acre, is appropriate from a land use planning perspective, consistent with the Future Land Use Map recommendations and consistent with the densities of the contiguous and adjacent R-15 subdivisions.

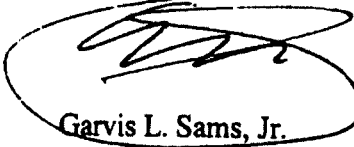
VIA HAND DELIVERY

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
Page 4
August 18, 2003

Please do not hesitate to call should you require any further information or documentation prior to the formulation of your recommendation to the Cobb County Planning Commission and Cobb County Board of Commissioners.

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.

GLSjr/jbmc
Enclosures

cc: Members, Cobb County Board of Commissioners - w/enclosure
Members, Cobb County Planning Commission - w/enclosure
Ms. Sandra Richardson, Deputy County Clerk - w/enclosure
Mr. Bob Ott, President, ECCA - w/enclosure
Mr. John Nash, Vice President, ECCA - w/enclosure
Mr. Don Brundage, President, Northeast Cobb Homeowner Group - w/enclosure
Mr. David V. Poteet - w/enclosure
Mr. Larry B. Thompson - w/enclosure

REECE
HOOPER &
FINCHER

Professional Engineer
No. 10000
State of Georgia
Exp. 12/31/03

R-15 & R-20
Ebenezer Farms
Cobb County, Georgia

Thompson Real Estate
Development
700 Box 67855
Marietta, Georgia



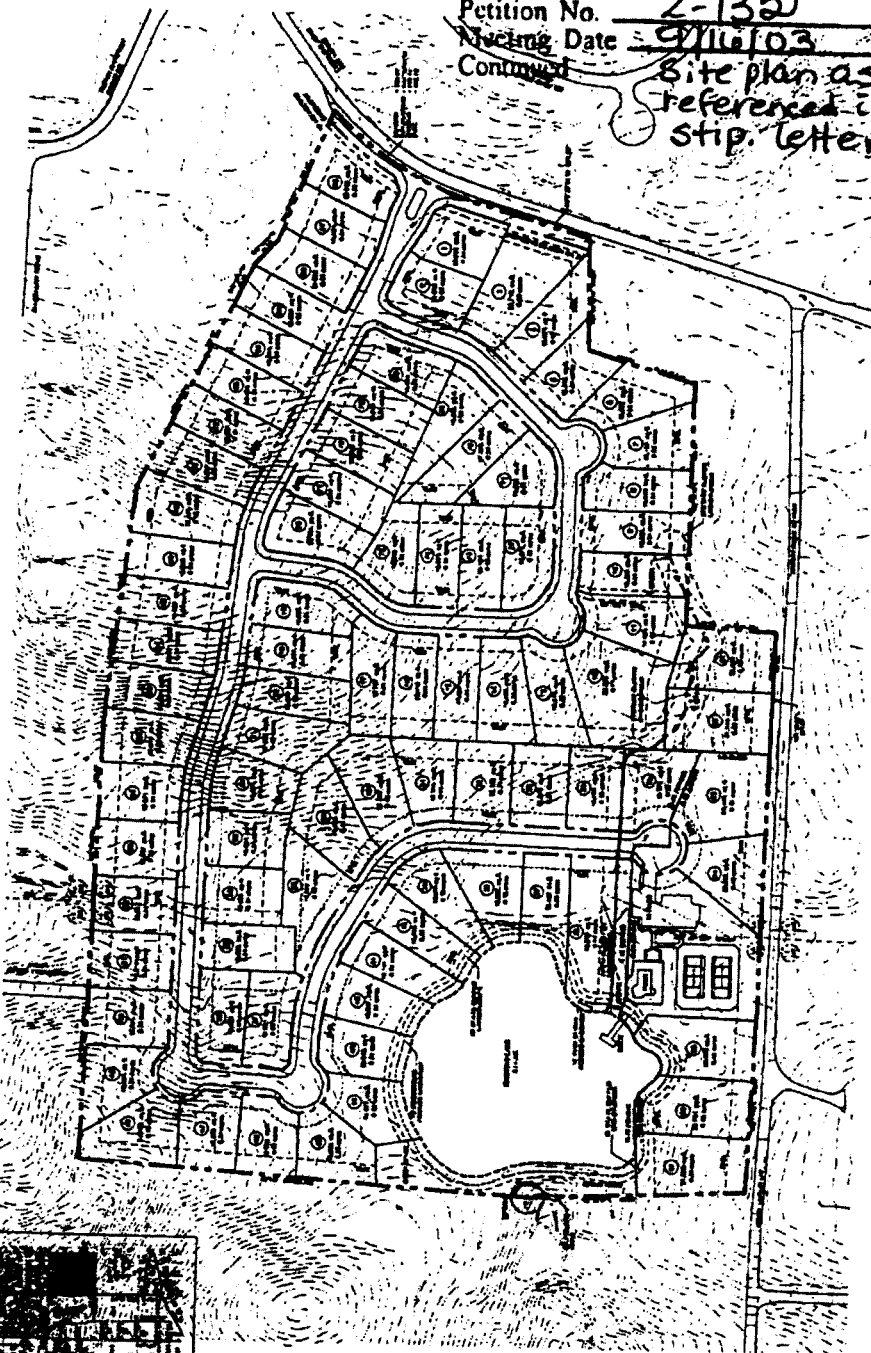
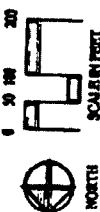
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
26	26
27	27
28	28
29	29
30	30
31	31
32	32
33	33
34	34
35	35
36	36
37	37
38	38
39	39
40	40
41	41
42	42
43	43
44	44
45	45
46	46
47	47
48	48
49	49
50	50
51	51
52	52
53	53
54	54
55	55
56	56
57	57
58	58
59	59
60	60
61	61
62	62
63	63
64	64
65	65
66	66
67	67
68	68
69	69
70	70
71	71
72	72
73	73
74	74
75	75
76	76
77	77
78	78
79	79
80	80
81	81
82	82
83	83
84	84
85	85
86	86
87	87
88	88
89	89
90	90
91	91
92	92
93	93
94	94
95	95
96	96
97	97
98	98
99	99
100	100

Petition No. Z-132
Meeting Date 9/11/03
Continued Site plan as referenced in stip. letter (8/18/03)

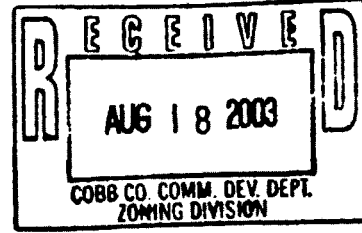
24 HOUR CONTACT:
LARRY THOMPSON
770-588-4444
THOMPSON REAL ESTATE
DEVELOPMENT
700 BOX 67855
MARIETTA, GA 30067
FAX: 770-588-4444

- DISCLAIMER:**
1. SITE ENGINEER PREPARED THIS PLAN FROM A MAP OF RECORD OR SURVEY, OR FROM OTHER INFORMATION. THE ENGINEER HAS NOT CONDUCTED A FIELD SURVEY OF THE SITE AND HAS NOT VERIFIED THE ACCURACY OF THE INFORMATION PROVIDED.
 2. THE ENGINEER HAS NOT CONDUCTED A FIELD SURVEY OF THE SITE AND HAS NOT VERIFIED THE ACCURACY OF THE INFORMATION PROVIDED.
 3. THE ENGINEER HAS NOT CONDUCTED A FIELD SURVEY OF THE SITE AND HAS NOT VERIFIED THE ACCURACY OF THE INFORMATION PROVIDED.
 4. THE ENGINEER HAS NOT CONDUCTED A FIELD SURVEY OF THE SITE AND HAS NOT VERIFIED THE ACCURACY OF THE INFORMATION PROVIDED.

SITE ENGINEER:
ROSS CONSULTING
ENGINEERS, P.C.



SITE LOCATION MAP



SITE:
TOTAL SITE AREA = 43.41 ACRES
LAKE AREA = 3.14 ACRES
NET RESIDENTIAL AREA = 40.27 ACRES
TOTAL NO. OF LOTS = 87
TOTAL DENSITY = 2.16 LOTS/ACRE
OVERALL DENSITY = 2.00 LOTS/ACRE
EXISTING ZONING = R-15 & R-20
PROPOSED ZONING = R-15 & R-20
MINIMUM LOT SIZE SHOWN R-15 = 15,000 SQ. FT.
MINIMUM LOT SIZE SHOWN R-20 = 20,000 SQ. FT.
MINIMUM LOT WIDTH SHOWN = 75
AVERAGE LOT SIZE = 14,288 SQ. FT.

SETBACKS:
MINIMUM FRONT = 25'
MINIMUM SIDE YD = 7.5' W/18' BETWEEN BLDGS.
MAXIMUM BLDG. HEIGHT = 35'

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
RICHARD A. HARRAH
MICHAEL P. PRYOR
OF COUNSEL
DAVID P. HARTIN

September 10, 2003

Min. Bk. 24 Petition No. Z-132
Doc. Type Letter of agreeable
settlements (9/10/03)
Meeting Date 9/16/03

770.422.7016

TELEPHONE

770.426.6583

FACSIMILE

SAMSLARKIN@AOL.COM

E-MAIL

VIA HAND DELIVERY

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

Re: Application of Larry B. Thompson to Rezone a 43.41 Acre Tract
from R-15 & R-20 to R-15 (OSC) & R-20 - No. Z-132

Dear John:

As you know, I represent the applicant and property owners concerning the above-captioned application for rezoning which was unanimously approved by the Cobb County Planning Commission on September 2, 2003. The motion to approve included the granting of contemporaneous interior front, side and rear setback variances.

With respect to the foregoing, the Planning Commission asked that, in exchange for the front setback being waived from 35' to 25', we agree to adhere to minimum rear yard setbacks of 40' except on those certain lots where it would be difficult to do so. Enclosed please find the requisite number of copies of a revised site plan which shows nine (9) lots reflecting a 35' rear setback (Lots 5, 6, 28, 35, 45 - 49).

COBBS COUNTY, GEORGIA
FILED IN OFFICE
2003 SEP 11 PM 1:04
Cobb County Zoning Department

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY

Petition No. 2-132
Meeting Date 9/16/03
Continued

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
Page 2
September 10, 2003

Please do not hesitate to call should you or the staff require any further information or documentation prior to the zoning hearing before the Cobb County Board of Commissioners next week.

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.

GLSjr/jbmc
Enclosures

cc: Members, Cobb County Board of Commissioners - w/enclosure
Ms. Sandra Richardson, Deputy County Clerk - w/enclosure
Mr. Bob Ott, President, ECCA - w/enclosure
Mr. John Nash, Vice President, ECCA - w/enclosure
Mr. Don Brundage, President, Northeast Cobb Homeowner Group - w/enclosure
Mr. David V. Poteet - w/enclosure
Mr. Larry B. Thompson - w/enclosure

RECEIVED
HOOPER &
HUNTER

Ebenezer Farms
R-15 & R-20
Cobb County, Georgia

Thompson Real Estate
Development
P.O. Box 670833
Marietta, Georgia



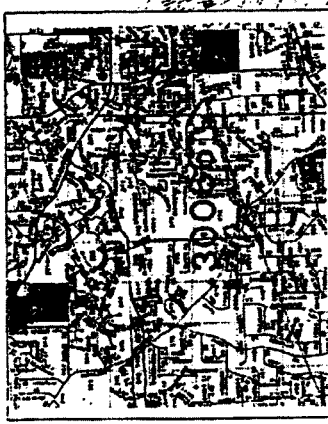
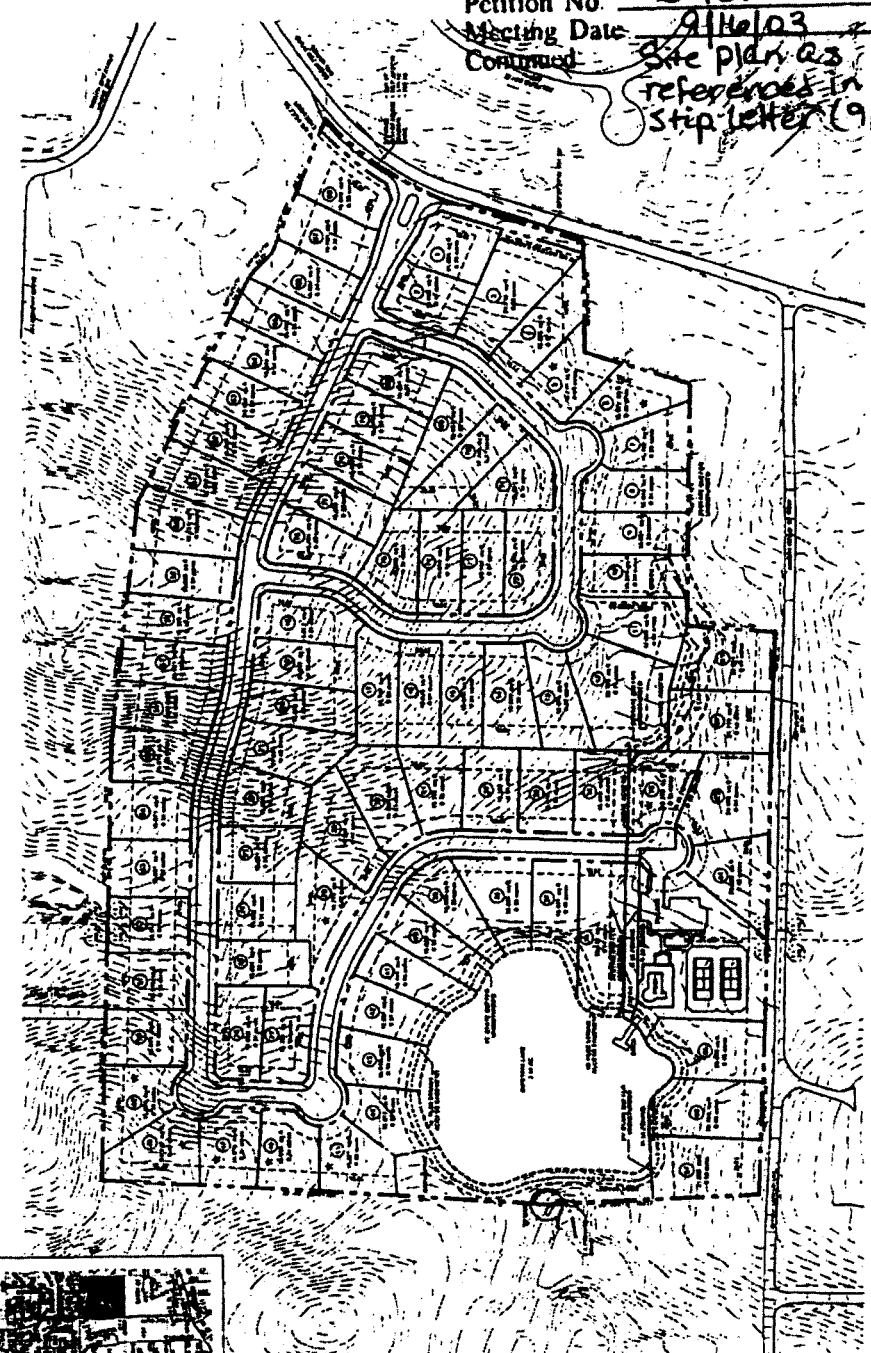
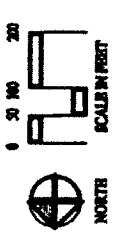
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
---	---	---	---	---	---	---	---	---	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	-----

Petition No. Z-132
Meeting Date 9/16/03
Comments Site plan as
referenced in
stop letter (9/10/03)

RESUBMIT CONTACT:
ROSS CONSULTING
ENGINEERS, P.C.
770-388-9442
770-388-9443
770-388-9444
770-388-9445
770-388-9446
770-388-9447
770-388-9448
770-388-9449
770-388-9450
770-388-9451
770-388-9452
770-388-9453
770-388-9454
770-388-9455
770-388-9456
770-388-9457
770-388-9458
770-388-9459
770-388-9460
770-388-9461
770-388-9462
770-388-9463
770-388-9464
770-388-9465
770-388-9466
770-388-9467
770-388-9468
770-388-9469
770-388-9470
770-388-9471
770-388-9472
770-388-9473
770-388-9474
770-388-9475
770-388-9476
770-388-9477
770-388-9478
770-388-9479
770-388-9480
770-388-9481
770-388-9482
770-388-9483
770-388-9484
770-388-9485
770-388-9486
770-388-9487
770-388-9488
770-388-9489
770-388-9490
770-388-9491
770-388-9492
770-388-9493
770-388-9494
770-388-9495
770-388-9496
770-388-9497
770-388-9498
770-388-9499
770-388-9500

REZONING NOTES:
1. THE SUBMITTAL OF THIS PETITION IS IN FULL COMPLIANCE WITH THE ZONING ORDINANCE OF COBB COUNTY, GEORGIA, AS AMENDED BY THE BOARD OF ZONING ADJUSTMENTS, COBB COUNTY, GEORGIA, DATED 10-24-02, 4-14-03 & 7-14-03.
2. THE PROPOSED REZONING IS IN FULL COMPLIANCE WITH THE ZONING ORDINANCE OF COBB COUNTY, GEORGIA, AS AMENDED BY THE BOARD OF ZONING ADJUSTMENTS, COBB COUNTY, GEORGIA, DATED 10-24-02, 4-14-03 & 7-14-03.
3. THE PROPOSED REZONING IS IN FULL COMPLIANCE WITH THE ZONING ORDINANCE OF COBB COUNTY, GEORGIA, AS AMENDED BY THE BOARD OF ZONING ADJUSTMENTS, COBB COUNTY, GEORGIA, DATED 10-24-02, 4-14-03 & 7-14-03.
4. THE PROPOSED REZONING IS IN FULL COMPLIANCE WITH THE ZONING ORDINANCE OF COBB COUNTY, GEORGIA, AS AMENDED BY THE BOARD OF ZONING ADJUSTMENTS, COBB COUNTY, GEORGIA, DATED 10-24-02, 4-14-03 & 7-14-03.

SITE ENGINEER:
ROSS CONSULTING
ENGINEERS, P.C.



SITE LOCATION MAP

SITE:
TOTAL SITE AREA = 43.41 ACRES
LAKE AREA = 3.14 ACRES
NET RESIDENTIAL AREA = 40.27 ACRES
TOTAL NO. OF LOTS = 87
TOTAL DENSITY = 2.16 LOTS/ACRE
OVERALL DENSITY = 2.00 LOTS/ACRE
EXISTING ZONING = R-15 & R-20
PROPOSED ZONING = R-15 & R-20
MINIMUM LOT SIZE SHOWN R-15 = 15,000 SQ. FT.
MINIMUM LOT SIZE SHOWN R-20 = 20,000 SQ. FT.
MINIMUM LOT WIDTH SHOWN = 75'
AVERAGE LOT SIZE = 16,255 SQ. FT.

SETBACKS:
MINIMUM FRONT YD = 25'
MINIMUM SIDE YD = 7.5' W/15' BETWEEN BLOCS.
MINIMUM REAR YD = 40' (EXCEPT WHERE NOTED WITH ASTERISK *)
MAXIMUM BLDG. HEIGHT = 35'

**OFFICIAL MINUTES OF COBB COUNTY
BOARD OF COMMISSIONERS ZONING
HEARING AS TO "OTHER BUSINESS"
DECISION FOR APPLICATION FOR
REZONING NO. Z-132 (2003) -
OCTOBER 21, 2003**

ORIGINAL DATE OF APPLICATION: 09-16-03APPLICANTS NAME: LARRY B. THOMPSON

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

BOC DECISION OF 10-21-03 ZONING HEARING:**OTHER BUSINESS ITEM #4 – LARRY B. THOMPSON – TO CONSIDER
AMENDING A CONDITION REGARDING Z-132 (LARRY B. THOMPSON) OF
SEPTEMBER 16, 2003**

To consider amending a condition regarding Z-132 (Larry B. Thompson) of September 16, 2003, for property located on the east side of Knight Road, north of Ebenezer Road in Land Lots 379 and 414 of the 16th District.

Mr. Mark Danneman, Zoning Division Manager, provided information regarding request to amend a condition. Mr. Garvis Sams, Jr., presented a Memo of Understanding between the parties which fulfilled the condition of the zoning. Following presentation and discussion, the following motion was made:

MOTION: Motion by Lee, second by Olens, to **approve** the amendment to conditions regarding Z-132 (Larry B. Thompson) of September 16, 2003, for property located on the east side of Knight Road, north of Ebenezer Road in Land Lots 379 and 414 of the 16th District subject to:

- Memo of Understanding dated October 21, 2003, between Larry B. Thompson and Evangelos "Evan" M. Demestihis and Joyce B. Demestihis (copy attached and made a part of these minutes)
- all previously approved conditions/stipulations to remain in full force and effect

VOTE: **ADOPTED** unanimously

Memo of Understanding

Memo of Understanding ("Agreement") is made as of the 21st day of October, 2003, by and between Larry B. Thompson "Zoning Applicant", hereinafter referred to as "Thompson" and Evangelos "Evan" M. Demestihis and Joyce B. Demestihis, adjoining property owners, hereinafter referred to as "Demestihis", collectively referred to as "Parties".

Re: Property known as Ebenezer Farms Subdivision (Ebenezer Farms) owned by Greers Chapel Development, LLC (GCD, LLC), located in land Lots 379 and 414 of the 16th District and 2nd Section of Cobb County, Georgia, hereinafter referred to as "Property":

Whereas Thompson is the zoning applicant under rezoning case # Z-132, which includes property next to Demestihis currently owned by Tim and Emma Ponder, hereinafter referred to as "Ponder Property"; and

Whereas Demestihis is interested in protecting his property and directing storm water runoff;

The parties agree to the following items listed below, provided, Thompson acquires the Ponder Property within one year after the date of this Agreement:

1. Thompson will install a six (6') foot solid decorative wooden fence or equivalent on the Demestihis property line, except as noted below in this paragraph. Parties acknowledge that it will be almost impossible for Thompson to place the fence on the section of the property where the topo is so extreme and Thompson cannot install a fence that would prohibit the flow of water; therefore, the parties agree to cooperate in the placement of the fence in this area of extreme topo near Demestihis' most-easterly property line in the area marked "Fence Placement Area" on the attached Exhibit "A". Demestihis will grant to Thompson a ten (10') foot temporary construction easement for the installation of the fence and a permanent easement to repair and replace the said fence in the area marked on Exhibit "A" provided no trees are removed without Demestihis' approval. This agreement to install this fence is subject to Demestihis granting this aforesaid easement. Thompson will pay \$12,000.00 to Demestihis for any wall or landscaping of Demestihis' choosing to be placed on Demestihis' property.
2. The parties agree that subject to approval by Cobb County Storm Water Management (CCSWM), that the water from the one hundred-year storm emanating from the Ponder Lake on the Ponder Property that would have normally been discharged to the north will be collected in a lake structure and discharged to the east along the rear of the lots adjoining the Demestihis Property, being lots currently numbered 44 through 48 as shown on the zoning plan for Ebenezer Farms prepared for Thompson Real Estate Developments by Reece, Hoopes and Fincher dated 8/4/023 and last revised 9/29/03; and, further, the runoff in excess of the one hundred-year storm as required by the CCSWM will be placed in an open drainage swale and be routed to the east along the back of the above mentioned lots. The northern-most side of the drainage swale will be located at the northern edge of the existing Disputed Area (this disputed area being 0.26 acres as shown on a survey for Thompson Real Estate Development dated April 8, 2003 by Dixon Ross Engineering, Project No. 02087). Even though Thompson will acquire title to this "Disputed Area" from the Ponders, the "Disputed Area" will also be "quit-claimed" by Demestihis to Thompson as consideration for making this agreement;

with 24 hour notice

FILED WITH COUNTY CLERK THIS 21st DAY
OF Oct 20 03 BY Garvie Sams Jr.
RE 013 # 4 (Z-132 of 9/16/03)
Janet A. Giddens
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

3. Parties acknowledge that the runoff mentioned above in paragraph #2 will leave the Ponder Property and empty into an existing ditch and draw on the Demestih's property even after the Disputed Area is quit-claimed as mentioned above; therefore, Demestih's will grant to Thompson and Cobb County an easement for the discharge of these waters as shown on the attached Exhibit "A" and marked as Drainage Easement Area #1;
4. Parties acknowledge that CCSWM requires that all trees must be removed from the dam including the north-side of the Ponder dam. These trees will be removed through the Ponder Property; however, Thompson will need the right to install erosion control measures that may encroach by only a few feet onto Demestih's property along the toe of the dam. The parties agree that Thompson will not take out any more trees on the dam than those required by CCSWM. Once the trees are removed from the slope, the slope will be replanted per the approved CCSWM plans;
5. Thompson agrees that Demestih's may at his option join the HOA even though Demestih's may not own a home or lot in Ebenezer Farms;
6. Parties agree that Thompson will grant Demestih's the first right to purchase Lot 44 for \$140,000.00, Lot 45 for \$110,000.00 and Lot 87 for \$150,000.00; however, this right to purchase these lots is subject to and subordinate to the right of Tim and Emma Ponder to purchase any two (2) lots in the subdivision. This right to purchase will expire ten (10) days after Thompson notifies Demestih's that the Ponders have made a decision as to purchase any lots and if so which ones.
7. Any and all lots purchased by Demestih's will be encumbered by the HOA Covenants and Restrictions, Easements, Zoning Conditions, and Walking Trails and Access Trails around the lake that will be used for all members of Ebenezer Farms;
8. Intentionally Omitted
9. Parties agree to enter into a boundary line agreement relating to two fence encroachments as shown on the survey mentioned in paragraph #2 above. These encroachments are on the Demestih's Property line and the Ponder Property line in the front pasture area adjoining Ebenezer Road. This property line agreement will state that Demestih's acknowledges that he does not own the property and that if the fence in question is ever repaired or replaced that it will be relocated onto the Demestih's property; and, further, Thompson agrees to leave the pasture fence as is subject to the requirements of this paragraph. Additionally, Demestih's has encroached with a small road on the northern end of a pond located north of and at the toe of the Ponder Dam. Demestih's will agree not to enlarge or re-grade this area; and Thompson agrees that so long as the encroachment does not increase the nature of its use and the encroachment does not change, then Thompson will allow this encroachment. Anything to the contrary notwithstanding, if Tim and Emma Ponder purchase Lot 87, any fence encroachment would have to be removed at Demestih's expense;
10. Parties agree that the discharge of the existing two (2) four (4") inch overflow pipes currently in the Ponder Dam will be redirected along with the other storm water runoff to the east; provided, CCSWM approves the same. However, if CCSWM does not approve the redirection of said four (4") inch pipes, then comparable size pipe will be installed in the same location with the same relationship to the normal pool that existed prior to any work on the dam with the understanding that Thompson and Cobb County will be granted an easement for the installation of the pipe in the same location as the two (2) existing four (4") inch pipes and existing ditch that flows into an existing metal culvert under Demestih's driveway in front of his garage as shown on Exhibit "B" marked Drainage Easement Area #2. Thompson will bury this pipe under ground between the Ponder Dam and the metal

culvert if Demestihias so desires and provided the same is approved by CCSWM and Thompson's consulting engineer. Thompson will install a water-flow mechanism from the Ponder Lake through and across the Ponder Dam to the top of Demestihias man-made water fall. This water-flow mechanism will involve a collection box with a screen and a one (1") inch pipe running to the water fall. This one (1") inch pipe will be located six (6") inches below the normal pool with the understanding that the existing pool will be lowered. The water-flow mechanism will allow a continuous flow of water into the Demestihias Pond; provided, the water level in the Ponder Lake does not fall below the level of the one (1") pipe in the water-flow mechanism. Parties acknowledge that Thompson cannot guarantee the water level into and out of the Ponder Lake; therefore, Thompson cannot guarantee the water flow into the Demestihias Pond. Additionally, Thompson will install a two (2") inch pipe to the Demestihias Pond that will activate when the water level reaches the level of the normal pool. Each pipe will be installed with the capability to adjust the flow downward if Demestihias so desires. Thompson and the HOA assume no responsibility for the maintenance and continued operation of the water-flow mechanism with the one (1") inch and two (2") inch pipes. Additionally, Thompson agrees to install a pipe for existing well on the Demestihias property to Demestihias' pond, not to exceed two (2") in size and not to exceed 250' in length, and further, provided Demestihias will pay any added cost such as road crosses, rock removal, or utility crossings. Thompson will not be making any connections to any existing well, as Demestihias will be making that connection.

11. Thompson has agreed to purchase land from Demestihias as outlined on Exhibit "C" attached hereto and made a part hereof. Parties acknowledge that this is a rough sketch of the property and final engineering has not been completed. Parties agree to cooperate so that lots purchased by Thompson will meet generally accepted Cobb County development standards. Thompson agrees to purchase this property based on \$50,000 per lot for 15,000 SF minimum R-15 lots, noting that some of these lots will be larger than 15,000 SF due to locations on a cul-de-sac or extreme topo on individual lots. In addition to Thompson purchasing the lots. Parties agree that they will share the development cost 50/50 since Demestihias will have the benefit of selling lots in the future fronting on the new street being installed. The Parties also acknowledge that the development cost will be higher than normal due to the culvert or bridge over the drainage swale and the increased grading cost to install the road. The development cost will include fencing and landscaping on the Demestihias' side of the new road to help screen the view from Thompson's new homes. Additionally, Demestihias acknowledges that Thompson will have to grade onto the land retained by Demestihias in order to install the street. This grading will be at a "2 to 1" slope outside the right-of-way of the new road. Any lots added by Demestihias in the future must meet all Cobb County Requirements and Cobb County Development Control approval. Any public road that is connected in the future, could only be connected, provided, that this road is connecting a "platted" subdivision of homes of a similar size and character as Ebenezer Farms, meeting all Cobb County Development Control approval. No access will be provided from this new road unless it meets the above requirements. Prior to commencement of any construction on this property, Parties will agree on a mutually acceptable escrow agreement to cover the cost of the development, and Thompson will furnish Demestihias with the development cost numbers. Anything to the contrary notwithstanding, Thompson's obligation to purchase these lots is directly contingent upon the property being developed as R-15 lots under Cobb County Board of Commissioner's zoning, and Demestihias' ability to release the land from the existing mortgage on the property.

Parties agreed to close this transaction by April 1, 2005.

12. Thompson's obligations under the herein agreement are directly contingent upon the property being zoned under Z-132 under Thompson's present zoning request; and, further, contingent upon Demesthas not opposing the zoning in any manner. If Demesthas opposes Z-132, then this agreement will be null and void and neither party shall have any obligation to the other, and the Property will revert to its original zoning.
13. Thompson will install up to but not to exceed 35 Leland Cyprus trees or comparable trees along approximately 200' from the Ponder dam behind Open Space and Lot 45 next to the fence mentioned in paragraph #1; however, if Demesthas so chooses, then Thompson will donate these trees to Demesthas and Demesthas may place them on or about the property line for visual screening at Demesthas' option. These trees will be 6'- 8' in height and staggered to promote a visual screen.
14. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns. Except as amended hereby, this Agreement shall otherwise remain unmodified and in full force and effect. No further changes may be made to the Agreement unless executed by both parties.

[Signatures begin on the following page]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the day first written above..

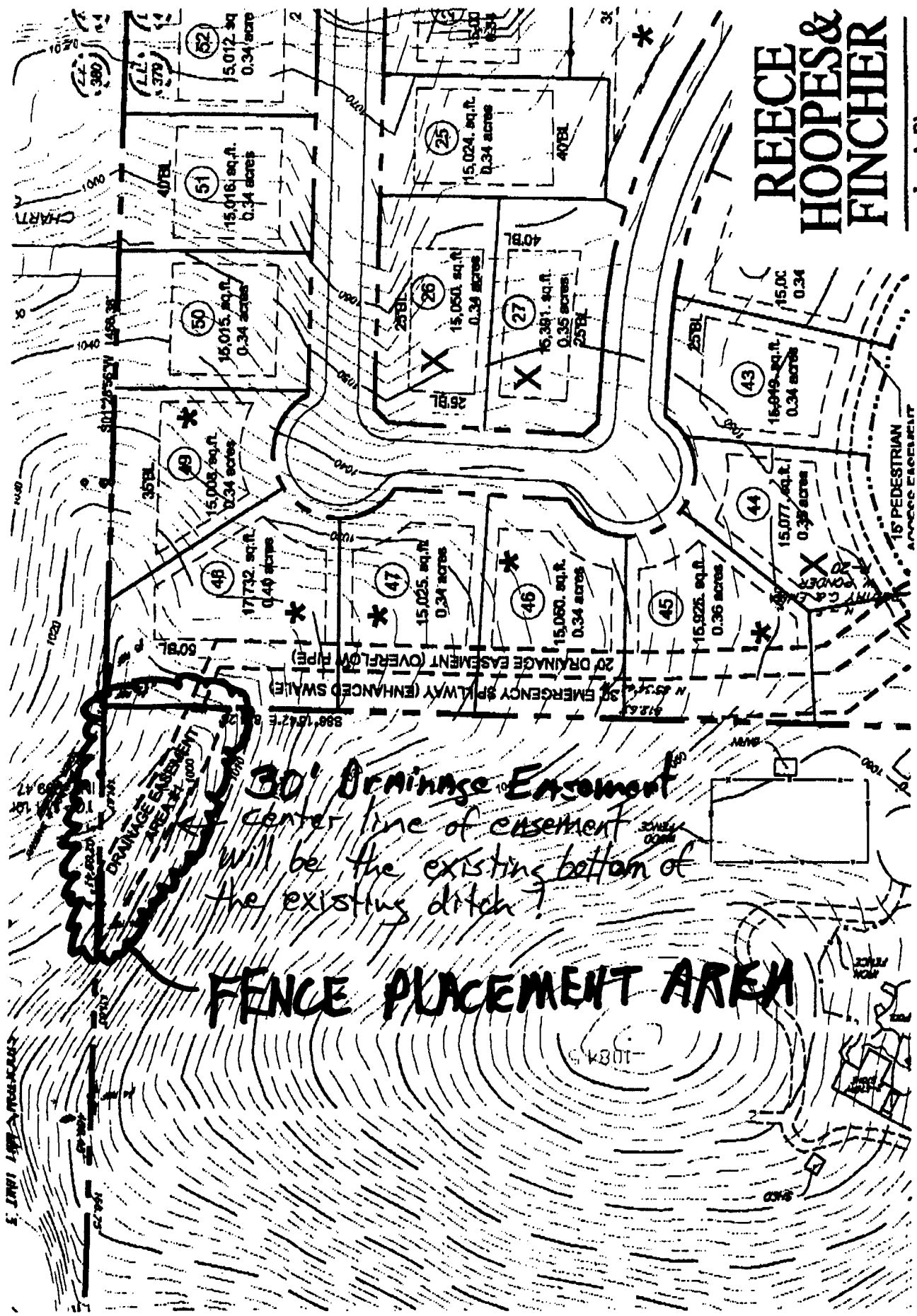
Evan M. Demestihos with express permission by
Evangelos "Evan" M. Demestihos Shea E. Roberts, Esq.

Joyce B. Demestihos w/ express permission by
Joyce B. Demestihos Shea E. Roberts, Esq.

Larry B. Thompson
Larry B. Thompson

REECE HOOPES & FINCHER

Land Planners
 Landscape Architects
 ATLANTA • BIRMINGHAM
 DESTIN



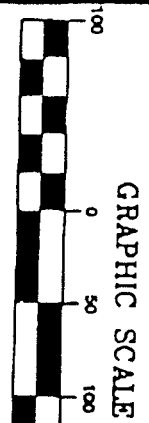
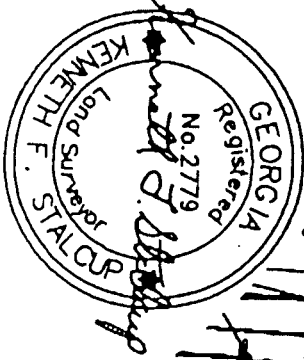
30' Drainage Easement
 center line of easement
 will be the existing bottom of
 the existing ditch

FENCE PLACEMENT AREA

Exhibit A Ebenezer Farms

1" = 100' 10-21-03

JTC



I CERTIFY THAT SAID LOT SHOWN ON THIS MAP OR PLAT IS NOT IN A FLOOD HAZARD ZONE ACCORDING TO F.I.R.M. PANEL NO. 13067 C 0035 F DATED: AUGUST 18, 1982.

DIXON - ROSS SURVEYING, INC.
 CIVIL DESIGN & PLANNING & SURVEYING
 3201 S. CHEROKEE LN, SUITE 310
 WOODSTOCK, GEORGIA 30188
 TEL. (770) 924-2855
 FAX (770) 516-8697
 E-MAIL: RCE@ROSS-CIVIL.COM

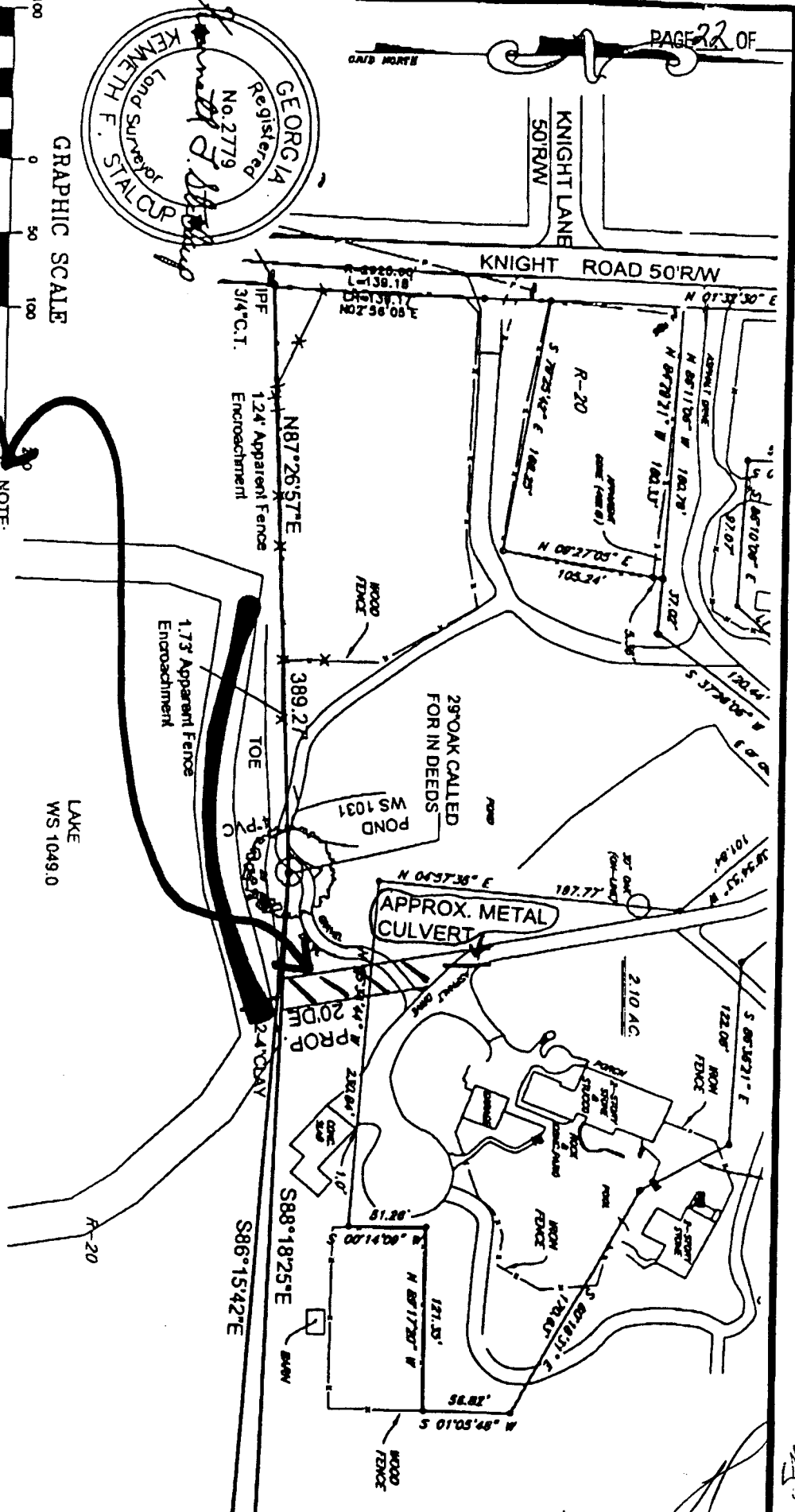
NOTE:
 CENTERLINE OF DRAINAGE EASEMENT WILL BE A STRAIGHT LINE FROM EXISTING CLAY PIPES TO EXISTING METAL CULVERT.

DRAINAGE EASEMENT AREA 2 EXHIBIT "B"

SUBDIVISION:	
LOT -	
LAND LOT - 379	
DISTRICT - 16th.	SECTION - 2nd.
COUNTY - COBB	STATE - GEORGIA
DATE: 10-21-03	JOB # 02087
REFERENCE PLAT -	P.B. PG.

ANGLES AND DISTANCES MEASURED WITH NIKON DTM 520 THEODOLITE AND E.D.M.
 THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 93,366 FEET, AND AN ANGULAR ERROR OF 01" PER ANGLE POINT, AND WAS ADJUSTED BY COMPASS RULE.
 THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 100,000+ FEET.

LEGEND:	
○	REBAR FOUND
○	PLAT BOOK
○	PAGE
○	ACRE
○	LAND LOT
○	LAND LOT LINE
○	M.F.E. - MIN. FLOOR ELEV.
○	H.W. - HIGH WATER
○	DE - DRAINAGE EASEMENT
○	BL - BUILDING LINE
○	S.S.E. - SANITARY SEWER ESMT.
○	LOT NUMBER
○	IRON PIN FOUND
○	COMPUTED POINT
○	FENCE



5K

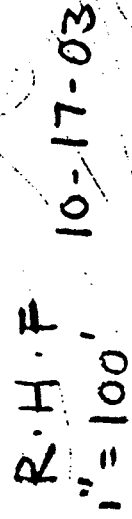


Exhibit 7

Site Ac 4.37
Lots: 8
Density: 83
M.n. width
80'

J. S.

**COBB COUNTY DEPARTMENT OF
TRANSPORTATION RECOMMENDATIONS
INCORPORATED AS STIPULATIONS
BY BOARD OF COMMISSIONERS –
SEPTEMBER 16, 2003**

APPLICANT: Larry B. Thompson

PETITION NO.: Z-132

PRESENT ZONING: R-20, R-15

PETITION FOR: R-15 OSC

TRANSPORTATION COMMENTS

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	CLASSIFICATION	MIN. R.O.W. REQUIREMENTS
Ebenezer Road	8514	Major Collector	80'
Knight Road	NA	Minor Collector	60'

Based on 10-12-99 traffic counting data taken by Cobb County DOT.

Ebenezer Road is classified as a Major Collector and according to the available information, the existing right-of-way does not meet the minimum requirements for this classification.

Knight Road is classified as a Minor Collector and according to the available information, the existing right-of-way does not meet the minimum requirements for this classification.

Install sidewalk, curb and gutter along the both frontages.

As necessitated by this development for egress from Ebenezer Road, a minimum 150' deceleration lane will be required.

Maximum of three curb cuts of Knight Road.

RECOMMENDATIONS

Recommend applicant consider entering into a development agreement pursuant of O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the north side of Ebenezer Road, a minimum of 40' from the roadway centerline and b) donation of right-of-way on the east side of Knight Road, a minimum of 30' from the roadway centerline.

Recommend installing sidewalk, curb and gutter along both road frontages.

Recommend a minimum 150' deceleration lane on Ebenezer Road.

Recommend a maximum of three curb cuts on Knight Road.

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.