

**JULY 21, 2015 ZONING HEARING  
“OTHER BUSINESS”  
COMMISSION DISTRICT 1**

**ITEM OB-027**

**PURPOSE**

To consider amending the site plan and zoning stipulations for Barnes Mill VDL, LLC regarding rezoning application Z-44 (Yancey Development Company, Inc.) of 2002, for property located on the eastern side of Wright Road and on the southern side of Poplar Springs Road in Land Lots 227 and 292 of the 19<sup>th</sup> District.

**BACKGROUND**

The subject property was rezoned to R-30 OSC for a 36-lot subdivision in 2003. At that time the subdivision entrance was shown on the north side of the property, across from Bridge Creek Subdivision. The applicant would like to move the proposed entrance to the west side of the property, in order to meet intersection sight distance for their project. Other aspects about the project including the number of lots and the amount of open space will remain the same. If approved, all stipulations not in conflict will remain in effect.

**RECOMMENDATION**

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

**ATTACHMENTS**

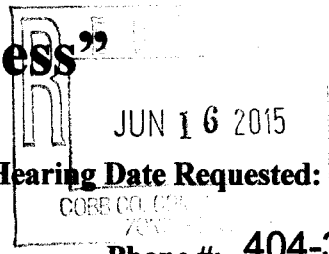
Other Business Application and zoning stipulations.

OB-027-2015

# Application for "Other Business" Cobb County, Georgia

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

BOC Hearing Date Requested: 7/21/15



**Applicant:** Barnes Mill VDL, LLC  
(applicant's name printed)

Phone #: 404-372-5739

**Address:** 701 Whitlock Avenue, Suite K46, Marietta, GA 30064

E-Mail: skip@hseproperties.com

Skip Harper  
(representative's name, printed)

Address: 701 Whitlock Avenue, Suite K46, Marietta, GA 30064

(representative's signature)

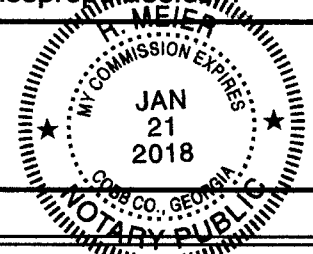
Phone #: 404-372-5739

E-Mail: skip@hseproperties.com

Signed, sealed and delivered in presence of:

Notary Public

My commission expires: \_\_\_\_\_



**Titleholder(s):** Foster V. Yancey Inc. Money Purchase Pension Plan  
(property owner's name printed)

Phone #: 770-329-4200

**Address:** 2314 Barrett Cottage Place, Marietta, GA 30066

E-Mail: ashipp@aol.com

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

Signed, sealed and delivered in presence of:

Notary Public

My commission expires: 4/23/17



**Commission District:** 1

**Zoning Case:** Z-44

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

**Original Date of Hearing:** \_\_\_\_\_

**Location:** 5820 Wright Road, Dallas, GA 30157

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

**Land Lot(s):** 227 & 292

**District(s):** 19th

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

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

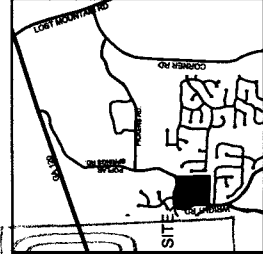
SECTION	18
RANGE	18
COUNTY	COBB

LAYOUT FOR ZONING REVIEW  
**STONEMILL CREEK UNIT V**  
 PROPOSED OPEN SPACE COMMUNITY  
 LOCATED IN LAND LOTS 227 AND 282 OF THE 18th DISTRICT,  
 2ND SECTION COBB COUNTY, GEORGIA

DATE	06/12/15
BY	EV
FOR	AK
BY	AK
NO.	184

REVISIONS	DATE

01.0

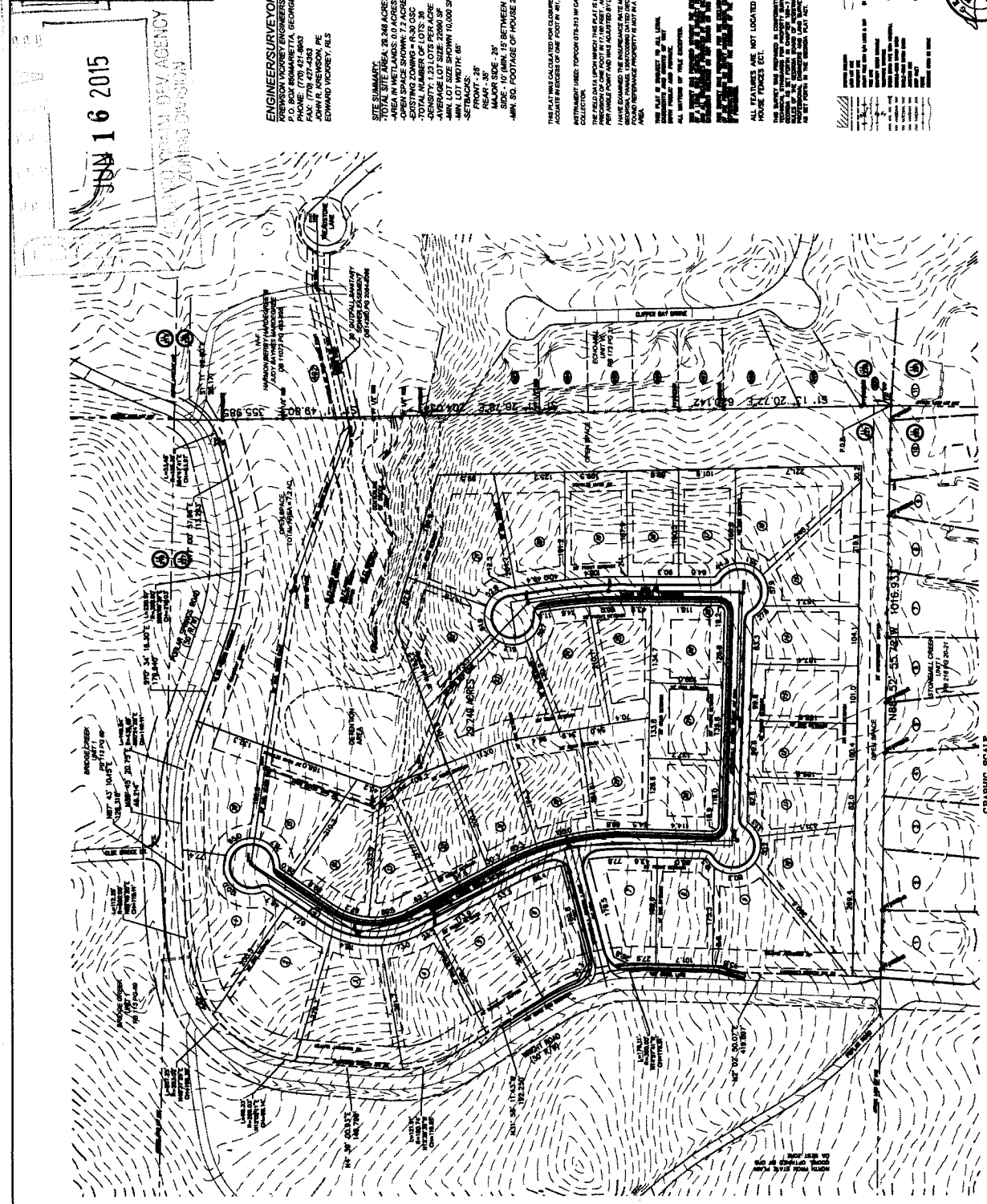


**ENGINEER/SURVEYOR:**  
 EDWARD WICKREY, P.E.  
 EDWARD WICKREY & ASSOCIATES, INC.  
 24 AIR EMERGENCY CONTACT:  
 EDWARD WICKREY, P.E.  
 (770) 581-7042

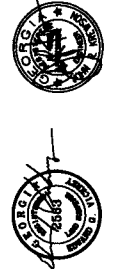
**OWNER/DEVELOPER:**  
 BARNESS MILL VAL, INC.  
 701 WHITLOCK AVE. SUITE #48  
 ATLANTA, GEORGIA 30308  
 (770) 424-1818  
 24 AIR EMERGENCY CONTACT:  
 MARK HANBER  
 (770) 581-7042

**SITE SUMMARY:**  
 - TOTAL SITE AREA: 28.268 ACRES  
 - AREA IN WETLANDS: 0.0 ACRES  
 - OPEN SPACE SHOWING: 7.7 ACRES (28% of Site Area)  
 - TOTAL NUMBER OF LOTS: 39  
 - DENSITY: 1.23 LOTS PER ACRE  
 - MIN. LOT AREA: 1,000 SF  
 - MIN. LOT WIDTH: 80'  
 - SETBACKS:  
 - FRONT: 35'  
 - MAJOR SIDE: 25'  
 - REAR: 35'  
 - MIN. 5' MIN. BETWEEN BUILDINGS  
 - MIN. 5' POSTAGE OF HOUSES, 2,000 SF

THIS PLAT WAS CALCULATED FOR CLEARING AND FOUND TO BE ACCURATE IN EXCESS OF ONE FOOT IN 40,000 FEET.  
 ALL DIMENSIONS ARE TO CENTER OF CURVE UNLESS OTHERWISE NOTED.  
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JUN 16 2015  
 DEPARTMENT OF PERMITS  
 DIVISION OF PERMITS  
 DIVISION OF PERMITS



06-027-2015  
PROPOSED

ORIGINAL DATE OF APPLICATION: 05-21-02APPLICANTS NAME: YANCEY DEVELOPMENT COMPANY, INC.

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

**BOC DECISION OF 10-21-03 ZONING HEARING:****OTHER BUSINESS ITEM #1 - TO CONSIDER A SETTLEMENT OF LITIGATION PROPOSAL REGARDING Z-44 (YANCEY DEVELOPMENT COMPANY, INC.) OF MAY 21, 2002:**

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

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

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

- To **authorize** settlement of litigation regarding Cobb Superior Court, Civil Action File No. 02-1-4877-18
- To **approve** rezoning to the R-30 OSC and R-20 OSC subject to:
  - Site plan received in the Zoning Division on September 10, 2003 (copy attached and made a part of these minutes)
  - Settlement letter dated September 10, 2003 (copy attached and made a part of these minutes)
  - Water and Sewer Division comments and recommendations
  - Stormwater Management Division comments and recommendations
  - Cobb DOT comments and recommendations
  - owner/developer to enter into a development agreement pursuant to O.C.G.A. 36-71-13 for dedication of system improvements to mitigate traffic concerns

VOTE: **ADOPTED** unanimously

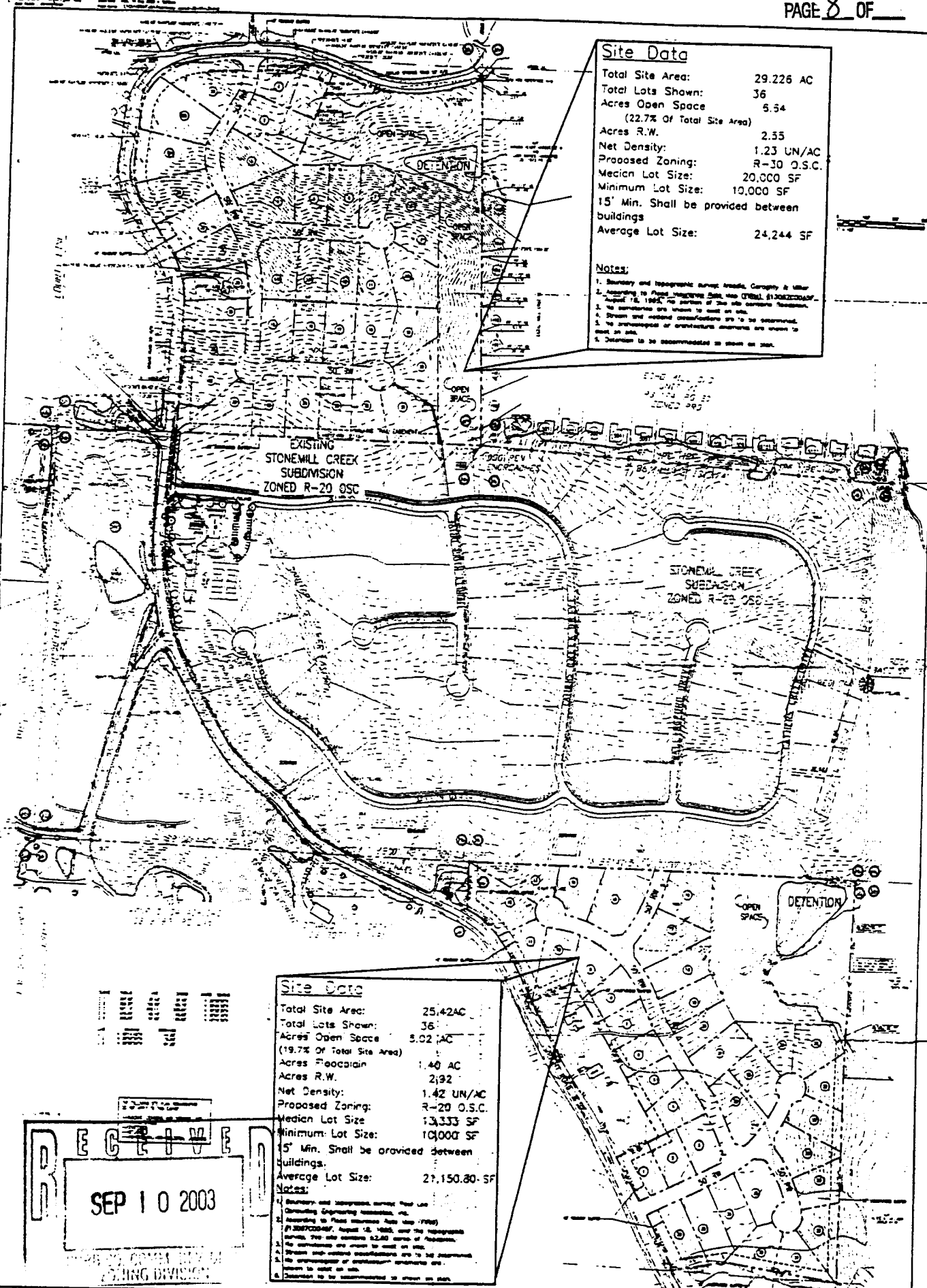
**Site Data**

Total Site Area:	29.226 AC
Total Lots Shown:	36
Acres Open Space	5.54
(22.7% Of Total Site Area)	
Acres R.W.	2.55
Net Density:	1.23 UN/AC
Proposed Zoning:	R-30 O.S.C.
Median Lot Size:	20,000 SF
Minimum Lot Size:	10,000 SF
15' Min. Shall be provided between buildings	
Average Lot Size:	24,244 SF

**Notes:**

1. Boundary and topographic survey made. Property is clear.
2. According to Plat 1992-001, see (C) 111.13000000000000.
3. Plat 19, 1992, no portion of the site contains floodplain.
4. No wetlands are shown to exist on site.
5. Stream and natural areas/features are to be preserved.
6. No architectural or construction drawings are shown to exist on site.
7. Deed(s) to be incorporated as shown on plan.

Min. Blk. 25 - Petition No. 22-4405-5/2/103  
 Doc. Type Site Plan  
 Meeting Date 10/21/03



**Site Data**

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

**Notes:**

1. Boundary and topographic survey made. Property is clear.
2. According to Plat 1992-001, see (C) 111.13000000000000.
3. Plat 19, 1992, no portion of the site contains floodplain.
4. No wetlands are shown to exist on site.
5. Stream and natural areas/features are to be preserved.
6. No architectural or construction drawings are shown to exist on site.
7. Deed(s) to be incorporated as shown on plan.

RECEIVED  
 SEP 10 2003  
 PLANNING DIVISION

LOCATED IN  
 LAND LOTS 227, 291, 392 AND 302  
 19th DISTRICT, 2nd SECTION  
 COBB COUNTY, GEORGIA

**ARCADIS G&M**

PREPARED FOR:  
 YANCEY DEVELOPMENT  
 COMPANY

DATE	SCALE	BY	CHECKED

ZONING  
SITE PLAN

EXHIBIT A

# MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP

192 ANDERSON STREET

MARIETTA, GEORGIA 30060

WWW.MIJS.COM

MAIN OFFICE  
POST OFFICE BOX 3305  
MARIETTA, GEORGIA 30061

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

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

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

PAGE: 9 OF     

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

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

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

ALLISON B. FAUST  
ANGELA H. SMITH  
  
OF COUNSEL  
MICHELLE S. DAVENPORT  
JOHN L. SKELTON, JR.  
TIMOTHY A. HICKEY, JR.  
  
† ALSO ADMITTED IN TN  
\* ALSO ADMITTED IN NC  
\*\* ALSO ADMITTED IN SC  
\*\*\* ADMITTED ONLY IN TN  
\*\*\*\* ALSO ADMITTED IN IL  
  
WRITER'S DIRECT  
DIAL NUMBER

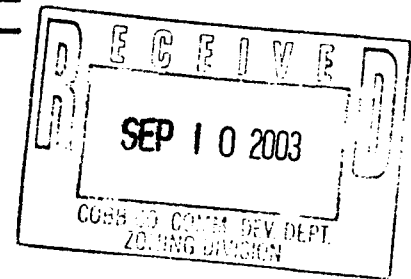
September 10, 2003

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

Min. Bk. 25 Petition No. 2-44 <sup>OB#1</sup> 5/21/02  
Doc. Type Settlement Letter

Hand Delivered

Meeting Date 10/21/03



RE: Application for Rezoning

Application No.: Z-44 (2002)

Applicant: Yancey Development Company,  
Inc.

Owners: Foster V. Yancey, Jr., as  
Trustee of Foster Yancey,  
Inc. Money Purchase Pension  
Plan; Ernest Derik Clackum;  
Ernest Derik Clackum, Jr.;  
and Sheila Clackum

Property: 54.707 acres located on the  
easterly side of Wright Road,  
south of Poplar Springs Road,  
Land Lots 227 and 302,  
19<sup>th</sup> District, 2<sup>nd</sup> Section,  
Cobb County, Georgia

Foster V. Yancey, Jr.; et al., v. Cobb County,  
Georgia; et al.

Civil Action, File Number: 02-1-4877-18

Superior Court of Cobb County

Dear Mark:

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

**MOORE INGRAM JOHNSON & STEELE**

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

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

The Developer agrees to the following stipulations and conditions, subject to approval of the Rezoning Site Plan, which, if approved, as submitted, shall be in complete settlement of the pending zoning appeal and shall be binding upon the Subject Property. The referenced stipulations are as follows:

- (1) The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the Subject Property.
- (2) Rezoning of the Subject Property shall be from the R-30 zoning category to the R-30 Open Space Community ("R-

**MOORE INGRAM JOHNSON & STEELE**

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

- (3) As set forth on the referenced Rezoning Site Plan, the proposed rezoning request consists of two separate parcels as follows:
  - (a) One tract, comprised of approximately 29.226 acres, and located on the northerly side of the existing Stone Mill Creek Subdivision (hereinafter "Tract 1") shall be rezoned to the R-30/OSC category and shall contain a maximum of thirty-six (36) single-family residential lots; and
  - (b) The second tract, comprised of approximately 25.42 acres and located on the southerly side of the existing Stone Mill Creek Subdivision (hereinafter "Tract 2") shall be rezoned to the R-20/OSC zoning category and shall contain a maximum of thirty-six (36) single-family residential lots.
- (4) With respect to Tract 1, there shall be established a minimum of approximately 6.64 acres of open space, said open space shall be donated to Cobb County through a perpetually protected conservation easement; however, the future homeowners association shall reserve the right to passive recreational use and maintenance of the open space.
- (5) With respect to Tract 2, there shall be established a minimum of approximately 5.02 acres of open space, said open space shall be donated to Cobb County through a perpetually protected conservation easement; however, the



**MOORE INGRAM JOHNSON & STEELE**

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
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future homeowners association shall reserve the right to passive recreational use and maintenance of the open space.

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

- (1) Residences to be constructed shall be traditional in styling with a minimum house size for the proposed residences being 2,000 square feet.
- (2) All front and side yards of residences to be constructed within the proposed shall be sodded.
- (3) The entrances for the proposed residential communities on Tract 1 and Tract 2 shall be professionally landscaped, with signage being ground-based, monument style.
- (4) With respect to the minimum forty (40) foot roadway buffers on both Tract 1 and Tract 2, the Developer shall utilize natural and professional landscaping in order to attain a more rural character along the Wright Road frontage for the Subject Property.
- (5) In accordance with, and consistent with, the rural character of the minimum forty (40) foot roadway buffer, the Developer agrees to utilize "split-rail type" fencing or other similar or consistent type fencing within the minimum forty (40) foot roadway buffer for both Tracts 1 and 2.

**MOORE INGRAM JOHNSON & STEELE**

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
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- (6) The Developer agrees to install and plant landscaping materials in the area of the detention pond located on the existing Stone Mill Creek Subdivision, which existing detention pond is located in close proximity to Wright Road. Such landscaping materials shall be planted and installed so as to create additional visual screening of said detention pond from Wright Road.
- (7) Developer agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.
- (8) Developer agrees to the following road system improvements to mitigate traffic concerns:
  - (a) Construction of a one hundred fifty (150) foot deceleration lane for ingress purposes at each entrance;
  - (b) Installation of sidewalk, curb, and gutter one hundred fifty (150) feet to either side of each proposed entrance for Tract 1 and Tract 2; and
  - (c) Verification that minimum intersection sight distance is available for both entrances; and if not, implement such remedial measures, subject to approval by the Cobb County Department of Transportation, in order to achieve the minimum sight distance requirement of 312.5 feet.

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

**MOORE INGRAM JOHNSON & STEELE**

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
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agree to dismiss, with prejudice, the pending litigation case and to pay their own legal expenses and litigation costs.

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

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

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc  
Enclosures

**MOORE INGRAM JOHNSON & STEELE**

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
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--  
Petition No. 0B#1  
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- c: Cobb County Board of Commissioners:
  - Samuel S. Olens, Chairman
  - George Woody Thompson, Jr.
  - Helen C. Goreham
  - Joe L. Thompson
  - Tim Lee
  - (With Copy of Enclosure)
  
- Fred D. Bentley, Jr., Esq.
  - Bentley, Bentley & Bentley
  - (With Copy of Enclosure)
  
- Yancey Development Company, Inc.
  - (With Copy of Enclosure)