

**JULY 18, 2017 ZONING HEARING  
“OTHER BUSINESS”  
COMMISSION DISTRICT 4**

**ITEM 024**

**PURPOSE**

To consider amending the site plan and stipulations for D.R. Horton, Inc. regarding rezoning application Z-210 (W&H Properties, LLC) of 2005, for property located on the east side of Maxham Road, south of Veterans Memorial Highway in Land Lots 87 and 88 of the 18<sup>th</sup> District. *(Continued by staff from the June 20, 2017 hearing)*

**BACKGROUND**

The subject property was rezoned to RM-8 as part of a larger subdivision in 2005. One of the rezoning stipulations from 2005 required a 25’ landscape buffer along the west property line. The engineer has completed the final grading plan and finds that a retaining wall will have to be placed 5’-9’ inside the buffer in order to place houses on the affected lots (22-28 & 30). When done, the applicant will plant in front of and behind the retaining wall to have a 26’ landscape buffer. The retaining wall will not be visible from the adjoining property, but rather will be viewable from the backs of the houses. If approved, all previous stipulations would remain in effect.

**STAFF COMMENTS**

None.

**RECOMMENDATION**

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

**ATTACHMENTS**

Other Business application and stipulations.

# Application for "Other Business"

## Cobb County, Georgia

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

BOC Hearing Date Requested: June 20

Applicant: D.R. HORTON, INC.

(applicant's name printed)

Phone #: 678.634.1682

Address: 8800 ROSWELL RD., SUITE 100

E-Mail: CCOLE@DRHORTON.COM

J. CHRIS COLE

Address: SAME

(representative's name, printed)

[Signature]

(representative's signature)

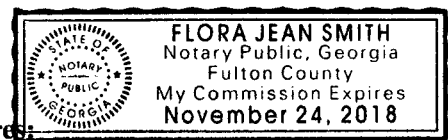
Phone #: 678.634.1682 E-Mail: CCOLE@DRHORTON.COM

Signed, sealed and delivered in presence of:

[Signature]

Notary Public

My commission expires:



Titleholder(s): D.R. HORTON, INC.

(property owner's name printed)

Phone #: 678.634.1682

Address: [Signature]

E-Mail: CCOLE@DRHORTON.COM

[Signature], V.P. LIA

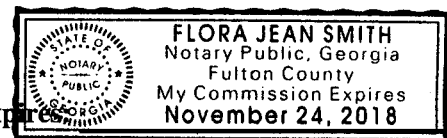
(Property owner's signature)

Signed, sealed and delivered in presence of:

[Signature]

Notary Public

My commission expires:



Commission District: 4

Zoning Case: Z-210 ('05)

Size of property in acres: 8.85

Original Date of Hearing: March 21, 2006

Location: Apple Orchard Way

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

Land Lot(s): 88

District(s): 18<sup>th</sup>

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

SEE ATTACHED

(List or attach additional information if needed)

Application for "Other Business"...continued

Maxham Farms Phase 2

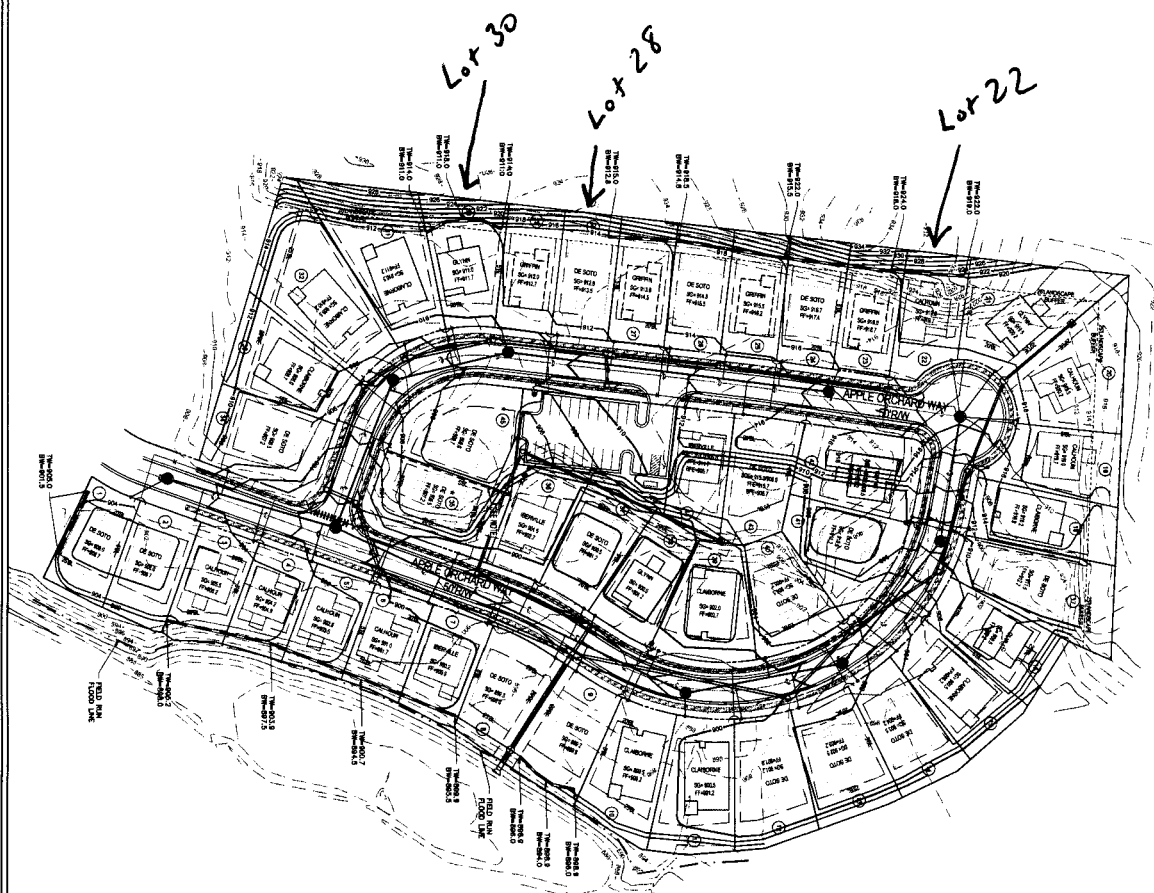
State specifically the need or reason(s) for the Other Business:

D.R. Horton, Inc. (Horton) hereby submits this request for other "Other Business" to consider allowing a modular stone retaining wall be constructed within the 25' landscape buffer. This is need is based on a topographic challenge that is prohibiting the construction of a residential home based on the highest and best use for the local market. Without the wall a smaller sized home would be needed that would not be in keeping with the rest of the community.

The subject wall shall be placed in a location that was previously disturbed prior to Horton's purchase and an LDP was re-permitted to grade and replant the area by our Seller. In the design of the lots it was determined the necessary grade to achieve a building area sufficient to maintain our larger product type would necessitate the need for a wall in the rear yards of (8) lots. The wall itself will be constructed of modular stone blocks of varying colors to break up the monotony seen in typical modular block walls and will vary in height from 0'-8' tall.

The current landscape requirements will be maintained and as an added measure we have proposed to increase the landscape buffer to 26', as measured from the exterior property line.

OB-024-2017  
proposed site plan  
Retaining wall on  
Lots 22-28, 30.



**NOTE:** OFFICE HOURS: 9:00 AM TO 5:00 PM, MONDAY THROUGH FRIDAY. NO SERVICE ON SATURDAY, SUNDAY, OR HOLIDAYS. **CALL FOR A FREE CATALOG OF PROJECT BOOKS**

\* ORIGINAL LOT LINE BETWEEN LOTS 35 & 45 HAS BEEN MOVED 1.5 TO ACCOMMODATE A FIT FOR LOT 38

7 - ~~11~~ / GRID NORTH-WEST ZONE

REVISIONS		
NO.	DATE	BY
1.	10/29/72	JH
2.	10/29/72	JH
3.	10/29/72	JH
4.	10/29/72	JH
5.	10/29/72	JH



LOT FIT EXHIBIT FOR  
**DR HORTON**  
MAXHAM FARM~PHASE 2  
LOCATED IN  
LAND LOT 87  
18TH DISTRICT, 2ND SECTION  
COBB COUNTY, GEORGIA

**MATTS & BROWNE ENGINEERS, INC.**  
CIVIL ENGINEERS & LAND SURVEYORS  
1180 BELLA VISTA ROAD  
MARIETTA, GEORGIA 30067-5030  
Fax: (770) 841-1093  
WWW.MBENR.COM  
LSP-002-629 • ME1000714

ORIGINAL DATE OF APPLICATION: 12-20-05APPLICANTS NAME: W & H PROPERTIES, LLC

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

**BOC DECISION OF 03-21-06 ZONING HEARING:**

**W & H PROPERTIES, LLC** (Dannette M. Cantrell and William D. Maxham, owners) requesting Rezoning from **R-20** to **RA-5** and **RM-8** for the purpose of a Subdivision in Land Lots 87 and 88 of the 18<sup>th</sup> District. Located on the east side of Maxham Road, south of Veterans Memorial Highway.

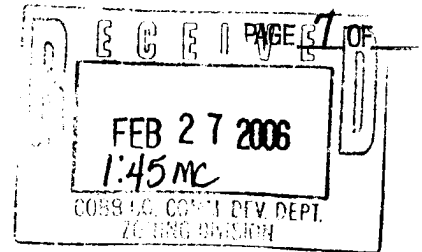
MOTION: Motion by Goreham, second by Lee, as part of the Consent Agenda, to **approve** rezoning to the **RA-5 (detached)** and **RM-8 (detached)** zoning districts **subject to:**

- final site plan to be approved by District Commissioner
- letter of agreeable stipulations from Mr. Garvis Sams, Jr., dated February 27, 2006 (copy attached and made a part of these minutes)
- Fire Department comments
- Historic Preservation 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** unanimously

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  
JAMES A. BALLI\*  
MELISSA P. HAISTEN

OF COUNSEL  
DAVID P. HARTIN

February 27, 2006

770-422-7016

TELEPHONE

770-426-6583

FACSIMILE

WWW.SAMSLARKINHUFF.COM

\*ALSO LICENSED TO PRACTICE  
IN ALABAMA

VIA HAND DELIVERY

Min. Bk. 40 Petition No. Z-210<sup>05</sup>  
Doc. Type Letter of Agreeable  
Stipulations  
Meeting Date 3/2/06

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

Re: Application of W&H Properties, LLC to Rezone a 53.6 Acre Tract  
from R-20 to RA-5 & RM-8 (No. Z-210)

Dear John:

As you know, this firm represents the applicant and property owners concerning the above-captioned application for rezoning. The application was previously continued by staff pending approval by the Cobb County Historic Preservation Commission ("CCHPC") of a Certificate of Appropriateness which has now been granted. The application is scheduled to be heard and considered next month before the Planning Commission on March 7, 2006 and, thereafter, is scheduled to be heard for final action by the Board of Commissioners on March 21, 2006.

With respect to the foregoing and consistent with the dialogue established with the County's professional staff, area residents and the CCHPC, the balance of this letter will serve as my clients' agreement with the following revised stipulations which shall become conditions and a part of the grant of the requested rezoning, as amended and modified hereby, and binding upon the subject property thereafter:

1. The stipulations and conditions set forth herein shall replace and supercede in full any and all prior stipulations and conditions in whatsoever form which are currently in place with respect to the subject property.

SAMS, LARKIN & HUFF  
A LIMITED LIABILITY PARTNERSHIP

Petition No. Z-210<sup>05</sup>  
Meeting Date 3/21/06  
Continued

**VIA HAND DELIVERY**

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Cobb County Zoning Department  
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February 27, 2006

2. The rezoning of the subject property shall be from R-20 to RA-5 & RM-8 consistent with that certain revised site plan prepared by DGM Land Planning Consultants which was submitted on January 25, 1006. All of the homes which will be constructed on the subject property will be single-family detached homes.
3. A maximum number of one-hundred thirty-four (134) homes at a maximum density of 3.54 homes per acre.
4. Homes shall range from size from a minimum of 1,800 sq. ft. to 2,400 sq. ft. and possibly greater. Each home shall have a two-car attached garage.<sup>1</sup>
5. The architectural style of the homes shall be traditional with the composition of said homes consisting of a mixture of brick, stone, cedar shake and a selection of siding finishes.
6. An agreement to the recordation and enforcement of Declaration of Covenants, Conditions and Restrictions for the proposed residential community which shall contain rules and regulations applicable to the entire community, including strict architectural controls.
7. An agreement that the homes throughout the entirety of the residential community shall be "for sale" only with an agreement that any subsequent leasing of the homes after their respective original purchases shall be limited to no more than ten percent (10%) of the total number of homes and for no lease term less than one (1) year in duration. These provisions shall be included as specific recitals in the Declaration of Covenants, Conditions and Restrictions as referred into the preceding paragraph.
8. The creation of a mandatory Homeowners Association which shall be responsible for the upkeep and maintenance of all common/open space areas, landscaped areas, amenity areas, fences and lighting.
9. A Third Party Management Company shall be hired to manage the day-to-day operations of the Homeowners Association, including the responsibility for all commonly owned properties and amenities within the subject property. The Third Party Management Company shall also be responsible for the management of all Association monies as well as ensuring that the Association is properly insured.

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<sup>1</sup> Price points will range from the mid-200's to the low-300's.

SAMS, LARKIN & HUFF  
A LIMITED LIABILITY PARTNERSHIP

Petition No. Z-210<sup>05</sup>  
Meeting Date 3/21/06  
Continued

**VIA HAND DELIVERY**

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10. All common/open space, recreational areas, buffer areas and setbacks may be penetrated for the purposes of access, utilities, fences, ingress/egress and stormwater management issues.
11. Subject to recommendations from the Cobb County Stormwater Management Division with respect to stormwater, on-site detention, hydrology and downstream considerations, including the following:<sup>2</sup>
  - a. Limiting the grading on the site to the house pads, rights-of-ways, front yards and required slopes.
  - b. The voluntary donation and conveyance of seventy-five foot (75') stream bank buffers on either side of the stream (Buttermilk Creek) as a restrictive easement in favor of Cobb County so that said buffers shall remain undisturbed in perpetuity.
  - c. Open space (approximately 13.2 acres) shall be placed in a conservation easement in favor of Cobb County.<sup>3</sup>
12. Compliance with the following recommendations from the Cobb County Department of Transportation regarding traffic/transportational issues:<sup>4</sup>
  - a. Dependent upon the ultimate positioning of the point of ingress/egress for the subdivision, the installation of a deceleration lane with an appropriate taper.
  - b. In view of the fact that Maxham Road is classified as an arterial, ensuring 475' of sight distance or the implementation of remedial measures in which to mitigate same.

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<sup>2</sup> The Stormwater Management Division has indicated that the subject property is a potential candidate for a "fee in lieu" stormwater scenario as opposed to traditional stormwater/water quality approaches.

<sup>3</sup> This open space acreage figure may change during Plan Review.

<sup>4</sup> The original stipulations provided for additional right-of-way and the installation of sidewalk, curb and gutter along Maxham Road. Those stipulations/conditions have been obviated by action and recommendations of the CCHPC.



SAMS, LARKIN & HUFF  
A LIMITED LIABILITY PARTNERSHIP

Petition No. Z-210<sup>05</sup>  
Meeting Date 3/21/06  
Continued

**VIA HAND DELIVERY**

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13. Compliance with recommendations from Cobb County's Historic Preservation Planner and the CCHPC regarding the Israel Causey-Maxham house which shall remain situated on a 5.42 acre tract with the Maxham Family retaining the ownership of same and including, but not necessarily limited to, the following:
  - a. Compliance with recommendations from Cobb County's Historic Preservation Planner and the CCHPC regarding the Israel Causey-Maxham House which shall remain situated on a 5.42 acre tract with the Maxham family descendants retaining ownership of same.
  - b. The proposed residential development, if the rezoning for same is approved by the Cobb County Board of Commissioners, shall be configured and situated as shown on that certain revised site plan being submitted contemporaneously herewith.
  - c. The erection of protective fencing around the 5.42 acre tract during construction. Additionally, the erection of similarly positioned permanent fencing if such is ultimately the desire of CCHPC.
  - d. The establishment of a 25' landscape buffer on those lots within the proposed residential community which are in direct contiguity to the 5.42 acre tract upon which the Israel Causey-Maxham house and its outbuildings are situated.
  - e. Following recommendations from Cobb County's Historic Preservation Planner and/or the CCHPC with respect to historic/interpretative/educational signage regarding the Israel Causey-Maxham House. The content, placement and configuration of said signage and markers (if any) shall be subject to CCHPC review and approval.
14. Compliance with recommendations from the Cobb County Water System with respect to the availability and accessibility of water and sewer.
15. Compliance with recommendations from the Cobb County Fire Department contained within the Zoning Analysis.

**VIA HAND DELIVERY**

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Cobb County Zoning Department  
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16. The submission of a landscape plan during the Plan Review process which will be subject to review and approval by the Community Development Department and/or the County Arborist, including the following:
- a. The front and side yards of all homes shall be sodded and irrigated where appropriate.
  - b. Subdivision entry signage shall be ground-based, monument-style, fully irrigated and incorporated into the landscape plan which shall be submitted for staff review and approval.
  - c. Compliance with the agreement between the applicant and adjoining property owner Glenn Hammonds as follows:
    - i. The 10' landscape buffer along the southern boundary line of the subject property as it relates to Mr. Hammonds' property shall be increased to a 25' landscape buffer.
    - ii. The developer shall erect a 6' wooden privacy fence along the common property line which will extend to the westernmost point where Tax Parcel 33 in Land Lot 146 of the 18<sup>th</sup> District, Cobb County, Georgia, adjoins the proposed residential development. Said fence shall be erected prior to the construction of any homes within that area of the subject property and the forward facing side of the fence shall face Mr. Hammonds' property.
    - iii. The developer shall plant evergreen species as directed by the Cobb County Arborist along the common property line between the subject property and Mr. Hammonds' property.
17. The granting of contemporaneous Variances with respect to the lots as shown on the revised site plan.<sup>5</sup>
18. Modifications to these stipulations or the site plan shall be approved by the District Commissioner as needed or necessary during the Plan Review process.

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<sup>5</sup> Lot sizes for residential community average 11,039 sq. ft. which exceed the 7,000 sq. ft. minimum requirement under the RA-5 district.

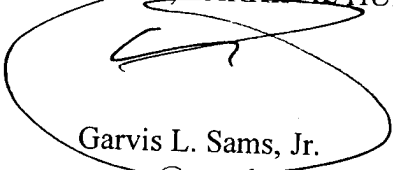
VIA HAND DELIVERY

Mr. John P. Pederson, Planner III  
Cobb County Zoning Department  
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February 27, 2006

Please do not hesitate to call should you or the staff require any further information or documentation prior to the application's next appearance before the Planning Commission and Board of Commissioners.

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.

gsams@samslarkinhuff.com

GLSjr/jbmc

cc: Members, Cobb County Board of Commissioners (via hand delivery)  
Members, Cobb County Planning Commission (via hand delivery c/o John P. Pederson)  
Mr. Robert L. Hosack, Jr., AICP, Director (via hand delivery)  
Mr. Mark A. Danneman, Manager (via hand delivery)  
Mr. John Nash, Chairman, CCHPC  
Ms. Kimberly Sawyer, Historic Preservation Planner (via hand delivery)  
Ms. Gail K. Huff, Assistant County Clerk (via hand delivery)  
Ms. Sandra Richardson, Deputy County Clerk (via hand delivery)  
Ms. Clarice Barber-Page, President, SWAN  
Mr. William H. "Skip" Harper, Jr.

Preliminary Plan

# Maxham Road

Cobb County, Georgia Land Lots 87 and 88, 18th District, 2nd Section

prepared for:

**W&H Properties, LLC**



**DGM**  
LAND PLANNING  
CONSULTANTS



975 Can Plus  
Bldg. 200  
Kennesaw, GA 30144  
770 514-9008  
Fax 514-9491



October 5, 2005

Revisions:

NO.	DESCRIPTION

## Site Data

**Total Site Area:**  
(15.7 AC in floodplain)  
**Total Lots Shown:**  
140  
**Net Density:**  
4.05 UN/AC  
**Present Zoning:**  
R-20  
**Proposed Zoning:**  
RM-8 and RA-5

### Parcel A

#### Single-Family Community

**Total Site Area:**  
(14.4 AC in floodplain)  
**Total Lots Shown:**  
67  
**Net Density:**  
4.27 UN/AC  
**Proposed Zoning:**  
RM-8  
**Minimum Lot Size:**  
5,750 SF\*  
**Average Lot Size:**  
8,958 SF  
**Min. Lot Width at B.L.:**  
50'\*  
**Building Setbacks:**

front: 20'  
rear: 25'  
side: 5' (15' between houses)

(\*denotes variances requested)

### Parcel B

#### Single-Family Community

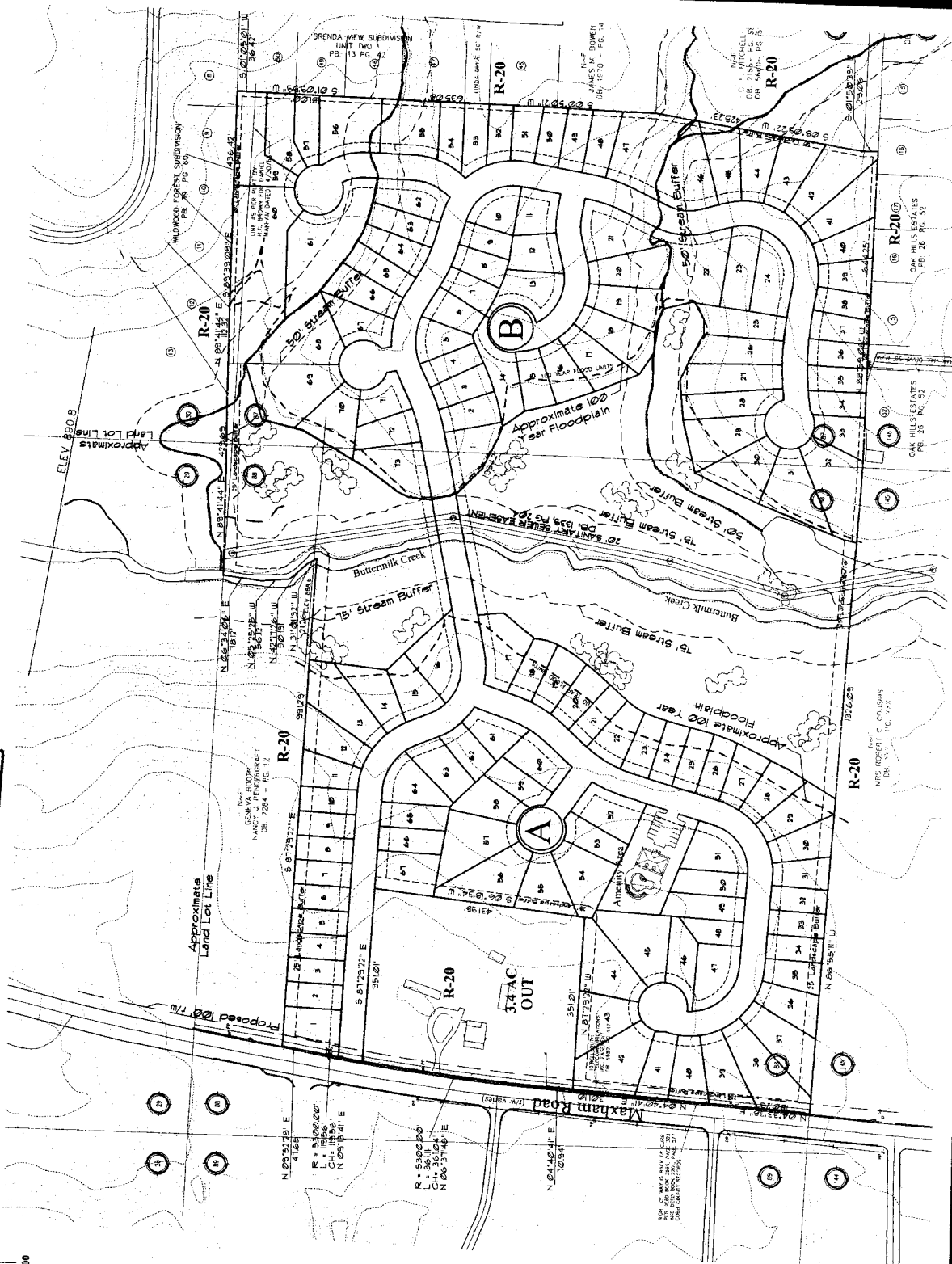
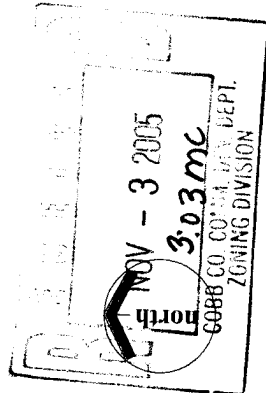
**Total Site Area:**  
(1.3 AC in floodplain)  
**Total Lots Shown:**  
73  
**Net Density:**  
3.88 UN/AC  
**Proposed Zoning:**  
RA-5  
**Minimum Lot Size:**  
5,750 SF\*  
**Average Lot Size:**  
10,009 SF  
**Min. Lot Width at B.L.:**  
50'\*  
**Building Setbacks:**

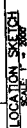
front: 20'  
rear: 25'  
side: 5' (15' between houses)

(\*denotes variances requested)

## Notes:

1. Boundary survey and topographic information by Krawson Vicksrey.
2. According to Flood Insurance Rate Map (FIRM) #300540005C and #3067C00205F, August 18, 1995, a portion of this site contains floodplain.
3. No cemeteries are known to exist on site.
4. Stream and wetland classifications are to be determined.
5. No archeological or architectural landmarks are known to exist on site.
6. No utility easements are known to exist on site.
7. Stormwater accommodation will be contained within floodplain. Water quality structures are will be provided as required based on hydrologic study.





2-20-07  
Gm:SSA  
Big V

- GRAPHIC SCALE
- ( IN FEET )
- 1 inch = 100 ft.
- 
- A horizontal graphic scale bar. The top edge is marked with numbers 0, 25, 50, 75, and 100. The bar is divided into four equal segments of 25 feet each. The first segment (0-25) is divided into five equal black and white squares. The second segment (25-50) is solid black. The third segment (50-75) is solid white. The fourth segment (75-100) is solid black. Below the bar, the text "( IN FEET )" is centered, and below that, "1 inch = 100 ft." is centered.

