

**DECEMBER 19, 2017 ZONING HEARING  
“OTHER BUSINESS”  
COMMISSION DISTRICT 4**

**ITEM # 040**

**PURPOSE**

To consider amending the site plan and stipulations for Pulte Home Company, LLC regarding rezoning applications Z-111 of 2001, Z-65 of 2003, Z-135 of 2005 and Z-31 of 2007, for property located at the northern terminus of Trumbul Oaks Court, the east side of Providence Club Drive, the southeasterly side of Providence Gate Lane, south of Veterans Memorial Highway in Land Lot 180 of the 18<sup>th</sup> District. *(Continued by staff from the September 19, 2017, October 17, 2017 and November 21, 2017 Board of Commissioners Zoning Hearings until the December 19, 2017 hearing)*

**BACKGROUND**

The subject property was rezoned to RM-8 in 2003 as part of a mixed use development originally consisting of over 100 acres. This Other Business item pertains to a 6.03 acre piece of the project near Veterans Memorial Highway, located at the front of the development. This portion of the development is currently approved for 134 stacked flat condominium units per the previously approved site plan and stipulations. The applicant wishes to amend the conditions on the property in order to build 46 townhouse style homes. This equates to a reduction of density from 22.22 units per acre to 7.62 units per acre. A prior zoning action required the applicant to pay \$15,000 and save at least 50% of the Civil War earthworks. The applicant has paid the \$15,000 and is saving substantially more than 50% of the earthworks. The earthworks being saved are shown on the proposed site plan. The applicant submitted a letter of agreeable stipulations dated November 16, 2017 that details their proposal (attached). If approved, all other zoning stipulations would remain in effect.

**STAFF COMMENTS**

**Stormwater Management:** Subject to Plan Review.

**Water & Sewer Comments:** Master water meter will not be required if units are individually-owned.

**Historic Preservation:** See attached.

**RECOMMENDATION**

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

**ATTACHMENTS**

Other Business application and stipulations.

**Other Business Item #40 (2017)**  
**Historic Preservation Comments**

An archaeological survey completed in 2003 on the subject property indicates the presence of an approximately 190 foot long Civil War trench and two artillery emplacements, each measuring approximately 40 by 15 feet.

Per Other Business Item #5 from December 21, 2004, the following was stipulated:

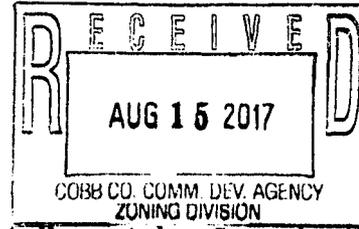
- *“preservation of at least half of the trench line and battery located near the entrance to the development*
- *contribution of \$15,000 to be used for historic purposes in the area of this development as determined by the Historic Preservation Commission*
- *installation of orange fencing during construction period around the area to be preserved, and installation of fencing and markers at the preservation area when development is completed”*

The mitigation money has been paid. The submitted site plan for OB #40 does reference the presence of the trench line, but does not indicate the presence of the artillery emplacements. Staff recommends the following to ensure the preservation of the site per the stipulations.

- A professional cultural resource firm should visit the site to assess what portion of the resources are in the best condition. This will help determine the best portions of the resources to be preserved and ensure the stipulated percentage of preservation is maintained.
- A 25-foot undisturbed buffer on all sides should be established around any preserved sections of the resources. All preserved areas and their buffers should be noted and labeled on all site plans.
- Remaining historic preservation stipulations to remain intact.

# Application for "Other Business" Cobb County, Georgia

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



OB-040-2017

BOC Hearing Date Requested: September 19, 2017

**Applicant:** Pulte Home Company, LLC **Phone #:** See Representative.  
(applicant's name printed)

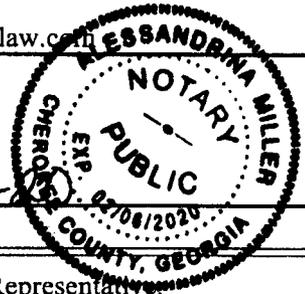
**Address:** See Representative. **E-Mail:** See Representative.

James A. Balli, Esq. **Address:** 376 Powder Springs Street, Suite 100, Marietta, GA 30064  
(representative's name, printed)

[Signature] **Phone #:** 770.422.7016 **E-Mail:** jballi@slhb-law.com  
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature] **My commission expires:** 2-6-2020  
Notary Public



**Titleholder(s):** Pulte Home Company, LLC **Phone #:** See Representative.  
(property owner's name printed)

**Address:** See Representative. **E-Mail:** See Representative.

See attached Exhibit "A" for signatures.  
(Property owner's signature)

Signed, sealed and delivered in presence of:

\_\_\_\_\_ **My commission expires:** \_\_\_\_\_  
Notary Public

**Commission District:** District 4 **Zoning Case:** Z-111 of 2001, Z-65 of 2003, Z-135 of 2005  
Z-31 of 2007, OB Item # 5 of 12-21-2004 and

**Size of property in acres:** 6.03 **Original Date of Hearing:** December 18, 2001  
OB Item #4 of 02-19-2008

**Location:** East side of Providence Club Drive, south of Providence Gate Lane  
(street address, if applicable; nearest intersection, etc.)

**Land Lot(s):** 180 **District(s):** 18

**State specifically the need or reason(s) for Other Business:** Approve a reduction and change  
from 148 condominiums and a density of over 20 units per acre to fee-simple townhomes with  
a density of approximately 7 units per acre with only 44 single-family homes.

(List or attach additional information if needed)

**EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR OTHER BUSINESS**



Application No.: O.B. 40 (2017)  
Hearing Date: 9-19-17

Applicant: Pulte Home Company, LLC  
Titleholder: Pulte Home Company, LLC

Pulte Home Company, LLC

By: *Garen Smith*

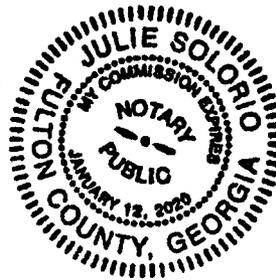
Title: DIVISION VP OF LAND ACQUISITION

Printed Name: GAREN SMITH

Date Executed: 8-15-17

Signed, sealed, and delivered in the presence of:

*Julie Solario*  
Notary Public  
Commission Expires: 1-12-20



**SAMS, LARKIN, HUFF & BALLI, LLP**

**ATTORNEYS AT LAW**

**376 POWDER SPRINGS STREET  
SUITE 100**

**MARIETTA, GA 30064-3448**

**JAMES A. W. BALLI**

-----  
**(Admitted in GA and AL)**  
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**JBALLI@SLHB-LAW.COM**

**TELEPHONE  
(770) 422-7016**

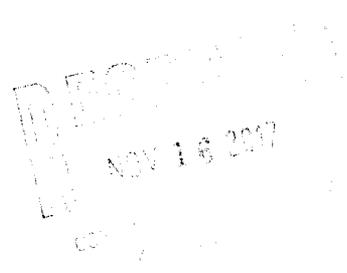
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**FACSIMILE  
(770) 426-6583**

**WWW.SLHB-LAW.COM**

November 16, 2017

**VIA EMAIL AND  
HAND DELIVERY**

Mr. John P. Pederson, AICP, Manager  
Cobb County Community Development Agency  
Zoning Division  
P. O. Box 649  
Marietta, GA 30061



Re: Other Business Application of Pulte Home Company, LLC<sup>1</sup> to change the RM-8 Conditional to RM-8 Conditional, Site Plan Specific with a new Site Plan, 6.03 Acre Tract on Providence Club Drive (Z-111 of 2001, Z-65 of 2003, Z-135 of 2005, Z-31 of 2007) Cobb County, Georgia ("Project Site") (OB# 040).

Dear John:

As you know OB-40 is scheduled to be heard on November 21, 2017 by the Board of Commissioners. As previously stated, OB-40 is a massive reduction in density from 134 Condominiums to 46 townhomes, reduction in traffic flow by over 2/3, increase in quality and property value for the new single family homes and provides an architectural component to blend with the already existing private, gated community. Accordingly, no conditions other than those previously applied when the Site was approved for the 134 condominiums would be legally appropriate or constitutional.<sup>2</sup> However, Pulte [and previously JWHN] has been working with the Providence Home Owners Association throughout the approximately 16 years the Providence Community has been undergoing development. This process has been facilitated by the Providence Advisory Committee over the years and has been extremely helpful and successful. Most recently, the Providence Advisory Committee met with Pulte and, while appreciating the replacement of the approved 134 condominiums with 46 townhomes, expressed concern with

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<sup>1</sup> Pulte owns the entire Site currently before the Board of Commissioners as shown at Deed Book 15407, Page 4162 and Deed Book 15313, Page 791.

<sup>2</sup> In Georgia, conditional zoning is permissible and "such conditions will be upheld when they were imposed pursuant to the police power for the protection or benefit of neighbors to ameliorate the effects of the zoning change." *Warshaw v. City of Atlanta*, 250 Ga. 535 (1980)(emphasis added). In this case, there is no zoning change, conditions have already been imposed, rights have vested and the request is simply a Site Plan approval.

**SAMS, LARKIN, HUFF & BALLI, LLP**  
ATTORNEYS AT LAW

Mr. John P. Pederson, AICP, Manager  
Cobb County Community Development Agency  
November 16, 2017  
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townhomes currently under construction in other areas of the Providence Community not looking similar to existing townhomes. While there was no allegation that the newly constructed townhomes did not comply with the architectural conditions which apply to the entire Site, there was a desire to incorporate color and design features consistent with existing homes and existing lighting fixtures. The Providence Advisory Committee was fortunate to have a qualified AIA architect on the Committee who created a very helpful document setting forth design colors, lighting, entry ways and existing architectural features. Working off of that document, Pulte went back to the drawing board and incorporated those design features into the proposed townhomes. At a subsequent meeting, there was general approval of the new designs with an additional request regarding the nine (9) two-story over basement homes which Pulte has agreed to also incorporate. Accordingly, the following stipulations are voluntarily being accepted by Pulte as a result of the input from the Providence Community and create a community that will benefit all persons involved or adjacent to the development.<sup>3</sup>

**CHARACTERISTICS OF SINGLE-FAMILY HOMES**  
**CHANGED AND COORDINATED WITH PROVIDENCE HOA**

1. The architectural style, composition and design of the 37 proposed three-story homes shall be in substantial conformity to the color rendering/elevations which are being submitted contemporaneously herewith. (See attached as Exhibit "A"). The architectural style represents traditional, front sided brick with first floor wrapped sides brick, and a mixture of brick accents, stacked stone and hardi-plank siding homes with a minimum width of twenty-four feet (24') and a minimum square footage of 2,200 square feet and up, two-car garages and a driveway pad sufficient to park two (2) automobiles. No stucco or vinyl materials shall be used on the exterior of the homes.

The architectural style, composition and design of the 9 proposed two-story homes over basement are located at the rear of the property. The homes shall be in substantial conformity to the color rendering/elevations which are being submitted contemporaneously herewith. (See attached as Exhibit "B")<sup>4</sup>. The architectural style represents traditional, front-sided with a

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<sup>3</sup> In the event a motion is made that seeks to delete the number of approved townhomes or impose conditions which are in excess to those set forth in this letter, or attempts to change vested rights in a manner other than as set forth in this letter, all agreed stipulations shall immediately, and before a second, be withdrawn, and any condition imposed on the approval of this Site Plan shall be considered to be involuntary and subject to challenge.

<sup>4</sup> The only exception was that Pulte was asked to introduce a tan colored trim as opposed to white trim in order to be consistent with the 3 story product. There was a belief that the tan trim creates a more subtle, neutral aesthetic look whereas the white trim, although very nice, creates more contrast and will set the two-story product apart from the more neutral 3 story product. Pulte agrees to this change so as to further the Providence HOA's desire of consistency between the 3 and 2 story homes.

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Mr. John P. Pederson, AICP, Manager  
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NOV 16 2017

mixture of brick, brick accents, stacked stone, and hardi-plank siding homes with a minimum width of thirty feet (30') and a minimum square footage of 2,500 square feet and up, two-car garages and a driveway pad sufficient to park two (2) automobiles. No stucco or vinyl materials shall be used on the exterior of the homes.

The interiors of the homes shall offer the finishes, upgrades and options substantially similar to those depicted in the attached interior renderings including (a) designer light fixtures, including chandeliers; (b) hardwood flooring in the kitchen, foyer and powder bath; (c) granite countertops in the kitchens; (d) stainless steel sinks and chrome faucet in kitchens with premium, energy efficient kitchen appliances; (e) birch, or similar wood, cabinetry in kitchens and baths and (f) chrome faucets, hard surface countertops and garden tubs in Owner's bathroom with tile flooring. Each homeowner shall have the option to upgrade to additional features. (See examples attached).

As requested, Lots 1 – 5 of the 3-story townhomes that are oriented to the front of the property shall contain the above features but shall be four sided brick as they are the most visible.

2. At the requested of the Providence Advisory Committee, lighting within the proposed community shall be environmentally sensitive, decorative, and themed to be substantially similar to the architecture and style of the existing lighting present within the Providence development.
3. The approval of the Site Plan dated November 15, 2017 by Ridge Planning and Engineering and submitted with this letter with approval of 46 units in the townhouse style residential community. (Note: This is an updated Site Plan which replaces all other site plans and includes the required amount of guest parking spaces).
4. All units within the proposed residential community shall be "for sale" units. The Declaration of Restrictive Covenants shall restrict the number of units which can be leased at any one time to ten percent (10%) and restrict the lease term to a minimum of one (1) year.
5. The proposed residential community shall be a "condominium development" as that term is used and defined under the Cobb County Zoning Ordinance, shall comply with the final zoning ordinance approved by the Board of Commissioners but shall not be subject to the "Georgia Condominium Act."

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Mr. John P. Pederson, AICP, Manager  
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Cobb County

6. Applicant agrees to the recording and enforcement of a Declaration of Restrictive Covenants which shall contain covenants, rules, and regulations applicable to the proposed residential community.
7. Additionally, and in conjunction with the Declaration of Restrictive Covenants, Applicant agrees to the creation of a mandatory homeowners association which shall be responsible for the upkeep and maintenance of the entrance area, signage, all common areas, open space, private streets, mail kiosk, all landscaping and plantings, including the landscaping contained within the community.
8. All garages are to be used for vehicle parking only.
9. The yard areas around each unit shall be fully sodded and maintained by the mandatory homeowners association to be created through the Declaration of Restrictive Covenants applicable to the proposed community.
10. The entrance signage for the proposed community shall be ground based, monument-style signage, and shall consist of brick, stone, stacked stone, or combinations thereof, with accents consistent with the architecture located within the Providence Community. The entrance landscaping shall be professionally designed, implemented, and maintained. All signage shall comply with the Cobb County Sign Ordinance.
11. There shall be internal sidewalks within the proposed residential community, as more particularly shown and reflected on the Site Plan enclosed with this letter.
12. The proposed residential community shall have private streets, twenty-four (24) feet in width, from back-of-curb to back-of-curb. Construction of the private streets shall comply in all respects as to materials, base, and other requirements with the Cobb County Code.
13. All utilities servicing the residences within the proposed community shall be located underground.
14. All construction and employee vehicles and equipment will be parked, and otherwise located, on the Property during development of infrastructure and construction of residences, and shall not be parked on or Providence Gate Lane. There will be no stacking of vehicles along any roadway waiting for entry onto the Property.

**SAMS, LARKIN, HUFF & BALLI, LLP**  
ATTORNEYS AT LAW

Mr. John P. Pederson, AICP, Manager  
Cobb County Community Development Agency  
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15. Development and construction hours for the proposed project shall be limited to the following:
  - a. 7:00 a.m. to 7:00 p.m. – Monday – Friday, October 1st through March 31st;
  - b. 7:00 a.m. to 7:00 p.m. – Monday – Friday, April 1st through September 30th;
  - c. 9:00 a.m. to 6:00 p.m. – Saturday; and
  - d. No work on Sunday unless approved by the District Commissioner.
  - e. To the extent blasting is required on the Site (none is expected), any blasting will be performed only on Monday-Friday between the hours of 9:00 a.m. and 3:00 p.m. and a 24 hour notice must be given in writing to any occupied residence within 1000 feet of the Site.

**LANDSCAPING AND OTHER MATTERS**

16. All landscaping referenced herein; including, but not limited to, the frontage, entrance area [including entrance signage], island areas, and open space areas, shall be approved by the Cobb County Arborist as part of the plan review process and incorporated into the overall landscape plan for the proposed community. A landscape committee comprised of a three members of the Providence Advisory Committee, the County Arborist and a representative of Pulte shall review and have input into the entire landscape plan for the Property.
17. Applicant agrees to install a four foot vinyl chain link fence along the eastern boundary of the property and the access easement.
18. Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.
19. Applicant 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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ATTORNEYS AT LAW

Mr. John P. Pederson, AICP, Manager  
Cobb County Community Development Agency  
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20. All setbacks, landscape, and buffer areas may be penetrated for purposes of access, utilities, and stormwater management; including, but not limited to, drainage and detention facilities and any and all slopes or other required engineering features of the foregoing. Any disturbed area shall be restored with comparable plantings as allowed by Cobb County or any utility provider.
21. Pulte has already paid an agreed fee and its rights have vested with regard to its right to destroy at least 50% of the alleged confederate earthworks. For clarification purposes, the Site Plan shows it has not destroyed 50% of the earthworks, Pulte simply seeks the buffer variances shown on the Site Plan. Of course, the buffer variances would not be necessary if Pulte removed the allowed 50% of the confederate earthworks. Additionally, there has been numerous requests from residents within the Providence Community that the civil war areas not be fenced or marked by a plaque. While Pulte is fully prepared to comply with the 50% vested requirement, Pulte will not oppose a decision by the Board of Commissioners to allow the actual residents of the new HOA to determine those issues.
22. In the event there is any conflict between this letter and previous minutes, this letter shall govern. Further, the District Commissioner shall have the authority to make minor modifications to the site plan and these stipulations/conditions during the Plan Review process except for those that:
  - a. Reduce the size of an approved buffer adjacent to property that is zoned the same or in a more restrictive zoning district.
  - b. Relocate a structure closer to the property line of an adjacent property that is zoned the same or in a more restrictive zoning district.
  - c. Increase the height of a building that is adjacent to property that is zoned the same or in a more restrictive zoning district.
  - d. Change access location to a different roadway.
  - e. Increase the density of the Residential Community.
  - f. Violate the Cobb County Zoning Ordinance applicable to the property.

SAMS, LARKIN, HUFF & BALLI, LLP  
ATTORNEYS AT LAW

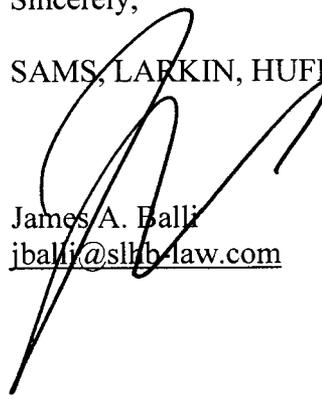
Mr. John P. Pederson, AICP, Manager  
Cobb County Community Development Agency  
November 16, 2017  
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Please do not hesitate to contact me should you or the staff require any further information or documentation prior to the Applications being heard and considered by the Planning Commission and the Board of Commissioners.

Sincerely,

SAMS, LARKIN, HUFF & BALLI, LLP

  
James A. Balli  
[jballi@slhb-law.com](mailto:jballi@slhb-law.com)

JAB/dvm  
Enclosures

cc: Pulte Home Company, LLC  
Commissioner Lisa Cupid  
Dana Johnson, Director Community Development  
Providence Advisory Committee for Providence HOA



# Exhibit “A”



**MOONEY**  
*design studio*  
Landscape Architecture | Planning

**PROVIDENCE  
PERSPECTIVE**



# Exhibit “B”



**MOONEY**  
*design studio*  
Landscape Architecture | Planning

**PROVIDENCE**  
PERSPECTIVE











ORIGINAL DATE OF APPLICATION: 05-20-03APPLICANTS NAME: JOHN WIELAND HOMES AND NEIGHBORHOODS, INC.THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE  
COBB COUNTY BOARD OF COMMISSIONERS**BOC DECISION OF 09-16-03 ZONING HEARING:**

**JOHN WIELAND HOMES AND NEIGHBORHOODS, INC.** (Roger C. Bisher, Adeline Price Mathes and John Wieland Homes and Neighborhoods, Inc., owners) for Rezoning from **NRC, UVC, RM-8 and HI** to **NRC, UVC and RM-8** for the purpose of a Mixed Use Development in Land Lots 166, 167, 179, 180, 181, 278, 279, 280, 289 and 290 of the 18<sup>th</sup> District. Located at the southeast intersection of Veterans Memorial Highway and Queen Mill Road.

The public hearing was opened and Mr. John Moore, Ms. Roberta Cook, and Mr. Craig Harfoot addressed the Board. Following presentations and discussion, the following motion was made:

MOTION: Motion by W. Thompson, second by Lee, to **approve** rezoning to the **NRC, UVC, and RM-8** zoning districts **subject to:**

- maximum 5.89 units per acre
- site plan received in the Zoning Division on August 27, 2003, with the District Commissioner approving minor modifications to site layout (copy attached and made a part of these minutes)
- all previous stipulations (not in conflict with these stipulations), including Historic Preservation comments, from Z-111 of October 16, 2001 (copy attached and made a part of these minutes)
- letter of agreeable stipulations from Mr. John Moore dated August 27, 2003, *not otherwise in conflict* (copy attached and made a part of these minutes)
- letter from Ms. Robin Meyer dated August 12, 2003, *not otherwise in conflict* (copy attached and made a part of these minutes)
- Historic Preservation staff to consult with the District Commissioner following Plan Review and prior to final approval of the site plan
- Level I Archeology Study to be performed *only* on the 10 acres added to the development as part of this rezoning request
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations

VOTE: **ADOPTED** unanimously

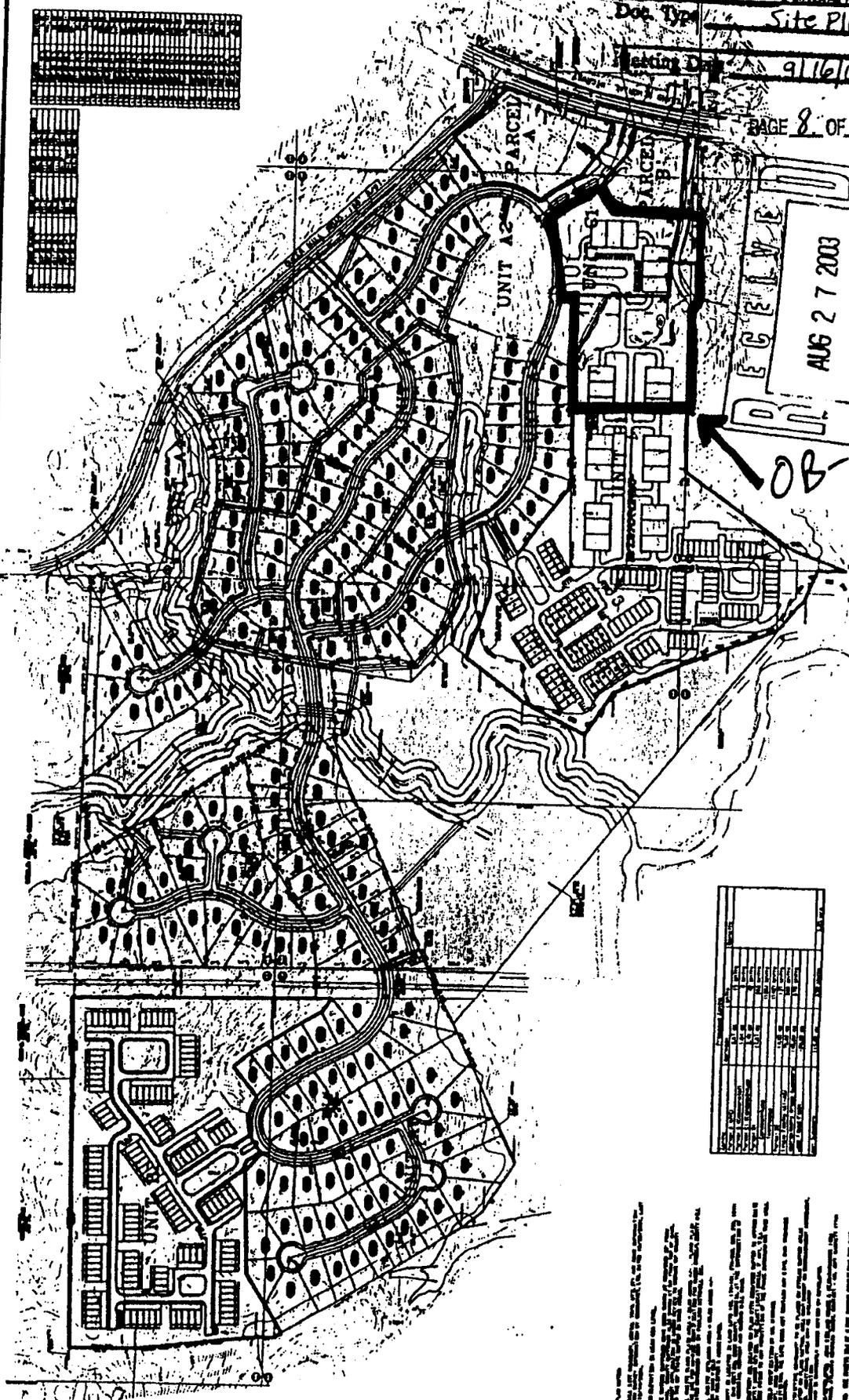
Meeting Date 9/16/03

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AUG 27 2003

CONH CO COMM DEV DEP  
 ZONING DIVISION

OB-040-2017  
 property



| NO. | DESCRIPTION           | DATE     | BY  |
|-----|-----------------------|----------|-----|
| 1   | PREPARED BY ARCHITECT | 08/27/03 | ... |
| 2   | REVISIONS             |          |     |
| 3   | ...                   |          |     |
| 4   | ...                   |          |     |
| 5   | ...                   |          |     |
| 6   | ...                   |          |     |
| 7   | ...                   |          |     |
| 8   | ...                   |          |     |
| 9   | ...                   |          |     |
| 10  | ...                   |          |     |

PROVIDENCE  
 LOCATED IN LAND UNIT  
 1400 DISTRICT, 344 FULTON  
 COSS COUNTY, GEORGIA

CONCEPTUAL MASTERPLAN

CLIENT: JOHN WILLIAMS HOMES AND NEIGHBORHOODS  
 1709 SULLIVAN ROAD  
 ATLANTA, GEORGIA 30337  
 770-992-7000

PROJECT: PROVIDENCE

TAB: CONCEPTUAL MASTERPLAN

SHEET L-1



## **Cobb County Cemetery Preservation Commission Meeting of July 3, 2017**

Minutes of the meeting of the Cobb County Cemetery Preservation Commission held on July 3, 2017 at the Cobb County Main Library in Marietta, GA.

There were present:

### **Cobb County Cemetery Preservation Commission**

Helga Hong, Member  
Mark Cearfoss, Member  
Mike Jones, Member  
David Blinkhorn, Member

The meeting was called to order at 6:01 p.m.

### **Approval of Minutes**

Meeting minutes from June 5, 2017 were approved.

### **Standing Committees**

Zonings: None

Variance: None

Site Plan Review: None

Annexations: None

De-annexations: None

### **Old Business**

- Called to follow up with County Attorney concerning the cemetery standards. Still have not received any update.

### **New Business**

- **Jonesville Cemetery - D17 LL499**, Received adoption paperwork from Sgt. Angela Countryman.
- **Collins-Loyd Cemetery – D17 LL965**, Received adoption paperwork from The River Line Historic Area organization. New Adopt-a-Cemetery signs have been requested.

# MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP

192 ANDERSON STREET

MARIETTA, GEORGIA 30060

WWW.MIJS.COM

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

SUSAN S. STUART  
 DANIEL A. LANDIS I  
 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 I I  
 JONATHAN H. PETCU  
 AMY K. WEBER  
 COURTNEY H. MOORE  
 KIM A. ROPER

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

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

TARA C. RIDDLE  
 JOSHUA M. BOOTH I I  
 KELLI L. CROSS  
 C. LEE DAVIS  
 TANYA L. CROSSE I I  
 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 I I  
 DANIEL J. LEVY I I I

ALLISON B. FAUST  
 ANGELA H. SMITH  
 OF COUNSEL  
 MICHELLE S. DAVENPORT  
 JOHN L. SKELTON, JR.  
 TIMOTHY A. HICKEY, JR.

I ALSO ADMITTED IN TN  
 I ALSO ADMITTED IN NC  
 I ALSO ADMITTED IN SC  
 I ADMITTED ONLY IN TN  
 I ALSO ADMITTED IN IL

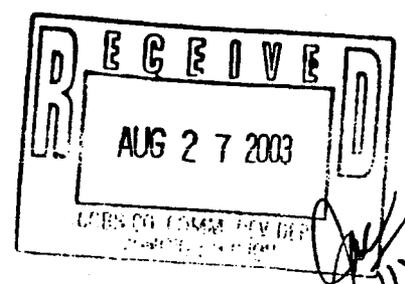
WRITER'S DIRECT DIAL NUMBER

August 27, 2003

FILE NO. 24 Petition No. Z-65  
 Doc. Type Letter of agreeable  
Stipulations  
 Meeting Date 9/16/03

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

Hand Delivered



RE: Application for Rezoning  
 Application No.: Z-65 (2003)  
 Applicant: John Wieland Homes and Neighborhoods, Inc.  
 Owner: John Wieland Homes and Neighborhoods, Inc.; the Estate of Roger C. Bisher; and Adeline Price Mathes  
 Property: 145± acres located southeast of the intersection of Queens Mill Road and Veterans Memorial Highway, Land Lots 166, 178, 179, 180, 181, 278, 279, 280, 289, and 290, 18<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia

Dear John:

As you know, the undersigned and this firm represent John Wieland Homes and Neighborhoods, Inc., the Applicant and one of the Property Owners (hereinafter referred to as "Applicant"), and the Estate of Roger C. Bisher and Adeline Price Mathes, the remaining Property Owners (together with Applicant hereinafter collectively

Mr. John P. Pederson  
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Zoning Division  
Cobb County Community Development Agency  
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Contract

referred to as "Owners"), in their Application for Rezoning with regard to a total tract of 145± acres located southeast of the intersection of Queens Mill Road and Veterans Memorial Highway, in Land Lots 166, 178, 179 180, 181, 278, 279, 280, 289, and 290, 18<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia (hereinafter the "Property" or the "Subject Property"). After meetings with planning and zoning staff and reviewing the staff comments and recommendations and the uses of surrounding properties, we have been authorized by the Applicant and Owners to submit this letter of agreeable stipulations and conditions which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property. The referenced stipulations are as follows:

**GENERAL STIPULATIONS APPLICABLE TO ALL CATEGORIES**

- (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 Heavy Industrial ("HI"), RM-8, Urban Village Commercial, and Neighborhood Retail Commercial zoning categories to the RM-8, Urban Village Commercial ("UVC"), and Neighborhood Retail Commercial ("NRC") zoning categories with reference to that certain Conceptual Masterplan for John Wieland Homes and Neighborhoods, Inc. by Post, Buckley, Schuh & Jernigan, Inc. (PBS&J) dated February 13, 2003, last revised August 27, 2003.

**MOORE INGRAM JOHNSON & STEELE**

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SEARCHED \_\_\_\_\_  
SERIALIZED \_\_\_\_\_  
INDEXED \_\_\_\_\_  
FILED \_\_\_\_\_  
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- (3) By this letter of agreeable stipulations and conditions, Applicant amends its Application for Rezoning to include the revised Conceptual Masterplan hereinabove set forth, same being prepared by Post, Buckley, Schuh & Jernigan, Inc. (PBS&J) dated February 13, 2003, last revised August 27, 2003, which is submitted contemporaneously herewith.
- (4) The Subject Property shall be developed for retail, retail/residential, condominiums, single-family attached residences, and single-family detached residences upon a total area of 145± acres.
- (5) There shall be a main entrance into the overall development which shall have a boulevard style entryway; and also an entrance on Queen's Mill.
- (6) Environmentally sensitive, shoe-box style lighting, themed to the architecture and styling of the residences and buildings to be constructed, shall be utilized throughout the proposed community. Every effort shall be made to make all lighting as unobtrusive as possible on the site.
- (7) There shall be a community amenity area consisting of the following:
  - (a) Swimming pool;
  - (b) Tennis courts; and
  - (c) Clubhouse.

The amenity area shall be available for use by all residents within the proposed community.

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- (8) Applicant agrees to the recording and enforcement of a master Declaration of Covenants, Conditions, and Restrictions for the proposed community which will contain covenants, rules, and regulations applicable to the entire community.
- (9) Additionally, and in conjunction with the master Declaration of Covenants, Conditions, and Restrictions, Applicant agrees to the creation of a mandatory, master homeowners association which shall be responsible for the upkeep and maintenance of all common/open space areas, landscaped areas, amenity area, fences, lighting, and private streets within the proposed community.
- (10) All common/open space, recreational, and buffer areas may be penetrated for purposes of access, utilities, and stormwater management.
- (11) Applicant agrees to a thirty-five (35) foot undisturbed buffer along the Subject Property adjacent to the property of Mr. Philip J. Gerry.
- (12) The required fifty (50) foot buffer between industrial and residential property shall be placed entirely upon the Subject Property with respect to adjoining property owned by MSC Industrial Direct Co., Inc. (hereinafter "MSC") in order to mitigate the impact of this proposed development on the property of MSC. This fifty foot buffer shall be in lieu of MSC's obligation to provide a fifty foot buffer in the future as against the Subject Property for any expansion of the MSC facilities. This stipulation shall be binding upon the Subject Property and for the benefit of the MSC property. The clear intent of this agreement regarding the required fifty foot buffer is to provide such buffer on the Subject

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Property so as to relieve MSC of any possible obligation to provide for the fifty foot buffer on the MSC property.

- (13) Applicant shall incorporate the fifty foot buffer as against the MSC property into the Declaration of Covenants and Restrictions that will be filed of record as part of the proposed development. The fifty foot buffer provision provided in the Declaration of Covenants and Restrictions will be enforceable not only by the future homeowners association, but will also run to the benefit of and be enforceable by MSC. The Declaration of Covenants and Restrictions shall also contain reference to the fact that the Subject Property lies adjacent to the property of MSC, which is industrial in use and character. In addition, all recorded subdivision plats for the Subject Property shall provide and reference the fifty foot buffer as against the MSC property.
- (14) Applicant, by this letter of agreeable stipulations and conditions, hereby agrees that it, and any of its corporate successors, will not oppose MSC's proposed expansion plans with respect to the MSC property.
- (15) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.
- (16) Applicant agrees to comply with all Cobb County development standards and ordinances relating to project improvements, except as approved by the Board of Commissioners.
- (17) Applicant agrees with the following system improvements in order to mitigate traffic concerns:

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- (a) Applicant shall be allowed to provide for a gated community pursuant to Cobb County standards; and
  - (b) All streets within the proposed community shall be private but shall be constructed to Cobb County standards.
- (18) Minor modifications to the proposed development shall be approved by the District Commissioner, as needed or necessary.

PROPOSED UVC - RETAIL/RESIDENTIAL

- (1) Rezoning of a portion of the Subject Property shall be to the UVC zoning category with reference to that certain revised Conceptual Masterplan hereinabove set forth, same being prepared by Post, Buckley, Schuh & Jernigan, Inc. (PBS&J) dated February 13, 2003, last revised August 27, 2003.
- (2) The "Retail/Residential UVC Tract" comprises approximately 2.67 acres fronting on Veterans Memorial Highway and Queens Mill Road. This portion of the proposed development shall be a mixed-use development of retail and residential in the village concept.
- (3) All buildings in this portion of the proposed development shall be a maximum of three (3) stories in height and contain on the first level retail/office space with condominium units above.

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- (4) The units within the Retail/Residential UVC Development shall contain the following:
  - (a) A minimum of 1,000 square feet of retail or office space; and
  - (b) A minimum of 1,100 square feet of residential condominium space, each with a rear-loading, two-car garage.
- (5) The buildings shall be constructed in traditional or European style architecture and shall be complementary to the Retail UVC development and the residential areas within the proposed community.
- (6) The exterior facades of the buildings shall consist of brick, stone, stucco, hardi-plank, cedar shake, or combinations thereof.
- (7) Signage for the proposed UVC Retail/Residential development shall be located at the entrance to the area. Said signage shall be ground based, monument style, shall consist of materials complementary to the proposed units, and shall list all tenants of the retail and commercial spaces.

PROPOSED RM-8 - CONDOMINIUMS

- (1) Rezoning of a portion of the Subject Property shall be to the RM-8 zoning category with reference to that certain revised Conceptual Masterplan hereinabove set forth, same being prepared by Post, Buckley, Schuh & Jernigan, Inc. (PBS&J) dated February 13, 2003, last revised August 27, 2003,

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- (2) The "Condominium Community" shall consist of a total of one hundred sixty-eight (168) condominium units.
- (3) Units within the Condominium Community shall have a minimum of 1,000 square feet, ranging upwards to 1,600 square feet and possibly greater.
- (4) The exterior facades of the buildings within the Condominium Community shall be traditional or European in styling and architecture and shall consist of brick, stone, stucco, hardi-plank, cedar shake, or combinations thereof.
- (5) Lighting within the Condominium Community shall be decorative and themed to the style and architecture of the buildings.
- (6) Units within the Condominium Community shall be "for sale" units only.
- (7) The front and side yards of all units shall be sodded.

PROPOSED RM-8 - SINGLE-FAMILY ATTACHED TOWNHOUSE RESIDENCES

- (1) Rezoning of a portion of the Subject Property shall be to the RM-8 zoning category pursuant, with reference to that certain revised Conceptual Masterplan hereinabove set forth, same being prepared by Post, Buckley, Schuh & Jernigan, Inc. (PBS&J) dated February 13, 2003, last revised August 27, 2003.
- (2) The "Single-Family Attached Townhouse Community" shall consist of a total of two hundred eighty-four (284) units.

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- (3) Residences within the Single-Family Attached Townhouse Community shall have a minimum of 1,400 square feet, ranging upwards to 2,400 square feet and possibly greater. The units shall have single and double garages.
- (4) The exterior facades of the residences within the Single-Family Attached Townhouse Community shall be traditional or European in styling and architecture and shall consist of brick, stone, stucco, hardi-plank, cedar shake, or combinations thereof. These residences shall be compatible with all other components of the proposed community.
- (5) Lighting within the Single-Family Attached Townhouse Community shall be decorative and themed to the style and architecture of the units.
- (6) The front and side yards of all units shall be sodded.
- (7) These units may be "stacked" units as well as "townhouse" units.
- (8) These units may be attached or detached.

PROPOSED RM-8 - SINGLE-FAMILY DETACHED RESIDENCES

- (1) Rezoning of a portion of the Subject Property shall be to the RM-8 zoning category with reference to that certain revised Conceptual Masterplan hereinabove set forth, same being prepared by Post, Buckley, Schuh & Jernigan, Inc. (PBS&J) dated February 13, 2003, last revised August 27, 2003.

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- (2) The "Single-Family Detached Community" shall consist of a total of two hundred eight (208) units.
- (3) Residences within the Single-Family Detached Community shall have a minimum of 1,700 square feet ranging upwards to 2,800 square feet and possibly greater.
- (4) The exterior facades of the residences within the Single-Family Detached Community shall be traditional or European in styling and architecture and shall consist of brick, stone, stucco, hardi-plank, cedar shake, or combinations thereof. These residences shall be compatible with all other components of the proposed community.
- (5) Lighting within the Single-Family Detached Community shall be decorative and themed to the style and architecture of the residences.
- (6) Setbacks for the Single-Family Detached Community shall be as follows:
  - (a) Front setback - Fifteen (15) feet;
  - (b) Side setback - Five (5) feet  
(Fifteen (15) feet  
between buildings); and
  - (c) Rear setback - Twenty (20) feet.
- (7) The front and side yards of all residences shall be sodded.

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PROPOSED NEIGHBORHOOD RETAIL COMMERCIAL

- (1) Rezoning of a portion of the Subject Property shall be to the NRC zoning category pursuant, with reference to that certain revised Conceptual Masterplan hereinabove set forth, same being prepared by Post, Buckley, Schuh & Jernigan, Inc. (PBS&J) dated February 13, 2003, last revised August 27, 2003.
- (2) The portion of the Subject Property comprising the proposed NRC development shall consist of approximately 2.0 acres.
- (3) The structures to be constructed on the proposed NRC development shall be complementary in architecture and design to the overall development.

We believe the requested zoning, as shown and reflected in the referenced revised Conceptual Masterplan and as set forth in the stipulations contained herein, is an appropriate use of the Subject Property while taking into consideration the properties and owners thereof surrounding the proposed development and will allow for the enhancement and utilization of the Subject Property in a manner suitable with the recent growth and changes of the surrounding area. The proposed community will be a premier development and a model for future developments within the Metropolitan Atlanta area. Additionally, it will be developed and maintained in the Wieland tradition of quality as displayed in its numerous developments within the area and throughout the south. Thank you for your consideration in this request.

**MOORE INGRAM JOHNSON & STEELE**

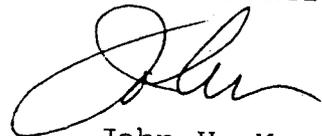
Mr. John P. Pederson  
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With kindest regards, I remain

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP



John H. Moore

JHM:cc

Enclosures

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

Cobb County Planning Commission:  
Murray Homan, Chairman  
Judy Williams  
Bob Hovey  
Michael Paris  
Christi S. Trombetti  
(With Copy of Enclosure)

Mr. Philip J. Gerry  
Queens Mill Road Resident  
(With Copy of Enclosure)

Mr. Leon R. Moore  
Queens Mill Road Resident  
(With Copy of Enclosure)

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
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File # \_\_\_\_\_  
Date \_\_\_\_\_  
9/16/03

c: Mr. Jerry Shoemaker  
Queens Mill Road Resident  
(With Copy of Enclosure)

Ms. Robin Meyer  
Queens Mill Road Resident  
(With Copy of Enclosure)

John Wieland Homes and Neighborhoods, Inc.  
(With Copy of Enclosure)

Robin Meyer  
6375 Queen Mill Road  
Mableton, Georgia 30126

5.8

August 12, 2003

Mr. Murray Homan, Chairman  
Mr. Bob Hovey, Commissioner  
Mr. Michael Paris, Commissioner  
Ms. Christi Trombetti, Commissioner  
Ms. Judy Williams, Commissioner  
Cobb County Planning Commission  
191 Lawrence Street  
Marietta, Georgia 30060

RE: Z-65, Providence Mixed Use  
Development in Mableton

NICK JACK  
TRAIL

Dear Mr. Chairman and Commissioners:

I will be out of town on September 2 when the Planning Commission is expected to hear this case, so I am putting my comments in writing to you and the other Planning Commissioners. There are two issues about which I am concerned. I have spoken to Dan Fields, Vice President for John Wieland Homes and Neighborhoods, the developer of Providence, and he has indicated his agreement on both these points.

Sidewalks – Please require the developer to build sidewalks along the entire Queen Mill Road frontage of this development, as was stipulated by the Board of Commissioners when this development was zoned for residential and mixed use development in 2001 (Z-111, October 2001). At that time, the applicant stipulated in a letter from attorney John Moore, dated September 10, 2001 (relevant pages are Attachment A) that it would install “curb, gutter, and sidewalk along all roadway frontages of the proposed development.” These roadways are Veterans Memorial Parkway and Queen Mill Road. However, the site plan approved by the various county departments (including DOT) in February 2002, did not implement this stipulation. Instead, the site plan shows the sidewalk planned for Queen Mill Road ending about halfway down the Providence frontage on Queen Mill Road. At present, this is all the sidewalk that has been built. I have spoken to Mr. Fields, and he has assured me that they plan to build the remainder of the sidewalk along Queen Mill as called for in the 2001 zoning. However, I respectfully request that you re-affirm the requirement for sidewalk construction along the entire Queen Mill Road frontage of this development by making it a specific requirement of this zoning case and direct staff to implement it throughout the plan review process. As you know, hundreds of homes will be built along this road and, with the expected commercial development on Veterans Memorial Parkway, pedestrian traffic will increase. The magnitude of the Providence development supports this improvement to the public pedestrian infrastructure.

Public Trail System – Please require that the conservation easement affecting the floodplain along Queen Creek (also known as Little Nickajack Creek) be amended to allow the County to create and maintain a public walking trail. As shown on Attachment B, the Providence property

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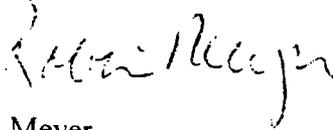
9/16/03

is bisected by Queen Creek. That floodplain has already been the subject of a conservation easement as part of the 2001 rezoning. The proposed Nickajack Creek Trail (shown on Attachment C and also known as the Nickajack Greenway) connects with the area covered by the Providence conservation easement. However, the current easement does not permit the county to build or maintain a trail through the property. In fact, it prohibits such action by the county. As I hope I have been able to show on the attached map (Attachment B), if access could eventually be gained through one other piece of property, residents all along Queen Mill Road could have access to the countywide system of trails (Attachment C). The remaining parcel changed hands recently, and, because it is now zoned R-20, it will likely come before you if it is to be developed. The County presently has a sewer easement along this creek through both parcels, so establishment of the trail extension along this property would not interfere with any other uses. I have spoken to Mr. Fields about this issue, including the need to amend the conservation easements, and he was in agreement and very supportive.

I appreciate your consideration of these two requests. The increased size and density of the Providence development makes both these infrastructure improvements even more urgent. Providence will truly change the Queen Mill area and we welcome these new neighbors. The sidewalks and trails that are the subject of this request will benefit both Providence and the neighborhood as the area becomes increasingly suburban and walking (rather than driving) becomes more a part of everyday life.

Again, I regret that I will miss the Zoning Commission hearing in September. If you need to reach me by phone, my number is 770/948-5394. Thank you for your consideration of these issues.

Sincerely,



Robin Meyer

cc: Chairman Sam Olens  
Commissioner Woody Thompson  
John Peterson, Zoning Division  
David Jackson, Cobb DOT  
Dan Fields, John Wieland Homes  
John Moore, Esq.

MINUTES OF ZONING HEARING  
COBB COUNTY BOARD OF COMMISSIONERS  
OCTOBER 16, 2001

Z-111

JOHN WIELAND HOMES AND NEIGHBORHOODS, INC. (Discovery Industrial Association, Inc., owner) for Rezoning from LI and HI to NRC, UVC and RM-8 for the purpose of Residential, Commercial and Office uses in Land Lots 166, 179, 180, 181, 278, 279, 280, 289 and 290 of the 18<sup>th</sup> District. Located at the southwest intersection of Veterans Memorial Highway and Queens Mill Road.

The public hearing was opened and Mr. John Moore addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by W. Thompson, second by Byrne, to approve rezoning to the NRC, UVC and RM-8 zoning district subject to:

- letter of agreeable stipulations dated October 10, 2001 from Mr. John Moore (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
- Historic Preservation comments and recommendations
- condominium units shall be provided covered parking
- single-family detached residential units shall have a two-car garage

VOTE: **ADOPTED** unanimously

**Historic Preservation:** According to the Cobb County Earthworks Map, a line of trenches traverse the property line. As indicated on the site plan, the developer has planned for the preservation of the trench by including this area into the Nature Park/Trails passive recreation area. The Cobb County Historic Preservation Commission requests that an interpretive sign be placed at the location of the trenches, explaining the significance of the trenches and their role in the Civil War battles. Prior to any land disturbance activity, orange protective fencing shall be placed 25 feet on each side of the trench line to ensure no disturbance occurs during construction. To further ensure preservation of the trenches, the path provided around the trenches and throughout the nature park area should be developed with no/limited intrusion to the soil, preferably foot stones and not a paved trail.

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP

Exhibit "A"

Z-65

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192 ANDERSON STREET

MARIETTA, GEORGIA 30060

TENNESSEE OFFICE

CEDAR RIDGE OFFICE PARK  
SUITE 463

400 N. CEDAR BLUFF ROAD  
KNOXVILLE, TENNESSEE 37923

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

Petition No. Z-65

Meeting Date 9/16/03

Continued

POST OFFICE BOX 330

MARIETTA, GEORGIA 30060

TELEPHONE (770) 429-1499

TELECOPIER (770) 429-8631

WWW.MIJS.COM

October 10, 2001

WRITER'S DIRECT DIAL NUMBER

JOHN H. MOORE  
STEPHEN C. STEELE  
WILLIAM R. JOHNSON I  
ROBERT D. INGRAM I  
J. BRIAN O'NEIL  
G. PHILLIP BEGGS  
ELDON L. BASHAM  
MATTHEW J. HOWARD  
JERE C. SMITH  
CLAYTON O. CARMACK  
KEVIN B. CARLOCK I  
ALEXANDER T. GALLOWAY III  
J. KEVIN MOORE  
SUSAN S. STUART  
RODNEY R. MCCOLLOCH  
DANIEL A. LANDIS I  
BRIAN D. SMITH  
HARRY R. TEAR III  
W. TROY HART  
JEFFREY A. DAZE  
MELISSA W. GILBERT  
TIMOTHY W. BAILEY  
DEAN C. SUCCI I

JOYCE W. HARPER  
THOMAS L. SCHAEFER II  
TRACY D. TEMPLETON  
PATRICK D. OODSON III  
JONATHAN H. PETCU  
AMY K. WOOD  
BRYAN C. MAHAFFEY  
CCOURTNEY H. MOORE  
JIMMY D. HOLBROOK, JR. III  
KIM A. BRANGHAM  
BART W. REED  
TARA C. RIDOLE  
JOSHUA M. BOOTH III  
JEREMY A. DANTIN  
JANIS H. LEBORDE  
KELLI L. CROSS

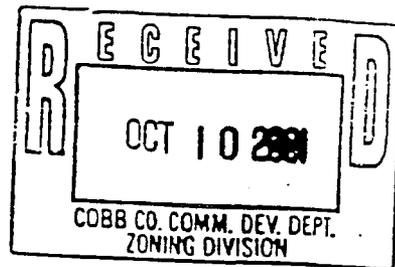
I ALSO ADMITTED IN TN  
II ALSO ADMITTED IN NC  
III ALSO ADMITTED IN GA  
\*\*\* ADMITTED ONLY IN TN

Min. Bk. 18 Petition No. Z-111  
Doc. Type Stipulation Letter

Meeting Date October 16, 2001

Hand Delivered

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



RE: Application for Rezoning  
Application No.: Z-111 (2001)  
Applicant: John Wieland Homes and  
Neighborhoods, Inc.  
Owner: Discovery Boulevard (Atlanta)  
PIP, L.P.  
Property: 112.5± acres located southeast  
of the intersection of Queens  
Mill Road and Veterans Memorial  
Highway, Land Lots 166, 180, 181,  
278, 279, 280, 289, and 290,  
18<sup>th</sup> District, 2<sup>nd</sup> Section,  
Cobb County, Georgia

Dear Ed:

The undersigned and this firm represent John Wieland Homes and Neighborhoods, Inc., the Applicant (hereinafter "Applicant"), and the Discovery Boulevard (Atlanta) PIP, L.P., a Georgia Limited Partnership, the Property Owner (hereinafter referred to as "Owner"), in their Application for Rezoning with regard to a total tract of 112.5 acres located at the southeast of the intersection of Queens Mill Road and Veterans Memorial Highway, in Land Lots

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116, 180, 181, 278, 279, 280, 289, and 290, 18<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia (hereinafter the "Property" or the "Subject Property"). After meetings with planning and zoning staff and reviewing the staff comments and recommendations and the uses of surrounding properties, we have been authorized by the Applicant and Owner to submit this letter of agreeable stipulations and conditions which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property. This revised letter of agreeable stipulations and conditions shall supersede and replace in full any and all previous letters of stipulations and conditions submitted in connection with the referenced Application for Rezoning and specifically that certain letter dated and submitted August 30, 2001. The referenced stipulations are as follows:

GENERAL STIPULATIONS APPLICABLE TO ALL CATEGORIES

- (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 Light Industrial ("LI") and Heavy Industrial ("HI") zoning categories to the RM-8, Urban Village Commercial ("UVC"), and Neighborhood Retail Commercial ("NRC") zoning categories with reference to that certain Zoning Plan prepared for John Wieland Homes and Neighborhoods, Inc. by Hughes Good O'Leary & Ryan dated July 2, 2001, last revised September 17, 2001.

MOORE INGRAM JOHNSON & STEELE

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Exhibit "A"

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Continued

- (3) The Subject Property shall be developed for retail, retail/residential, condominiums, single-family attached residences, and single-family detached residences upon a total area of 112.5 acres.
- (4) There shall be a main entrance into the overall development which shall have a boulevard style entryway; and also an entrance on Queen's Mill.
- (5) The entrance for the proposed community shall be professionally landscaped and shall have ground-based, monument style signage.
- (6) Environmentally sensitive, shoe-box style lighting, themed to the architecture and styling of the residences and buildings to be constructed, shall be utilized throughout the proposed community. Every effort shall be made to make all lighting as unobtrusive as possible on the site.
- (7) There shall be a community amenity area consisting of the following:
  - (a) Swimming pool;
  - (b) Four (4) tennis courts;
  - (c) Multi-purpose court; and
  - (d) Clubhouse.

The amenity area shall be available for use by all residents within the proposed community.

Mr. Ed Thomas

Planner III

Zoning Division

Cobb County Community Development Agency

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Continued

- (8) Applicant agrees to the recording and enforcement of a master Declaration of Covenants, Conditions, and Restrictions for the proposed community which will contain covenants, rules, and regulations applicable to the entire community.
- (9) Additionally, and in conjunction with the master Declaration of Covenants, Conditions, and Restrictions, Applicant agrees to the creation of a mandatory, master homeowners association which shall be responsible for the upkeep and maintenance of all common/open space areas, landscaped areas, amenity area, fences, lighting, and private streets within the proposed community.
- (10) All common/open space, recreational, and buffer areas may be penetrated for purposes of access, utilities, and stormwater management.
- (11) Applicant agrees to a thirty-five (35) foot undisturbed buffer along the Subject Property adjacent to the property of Mr. Philip J. Gerry.
- (12) The required fifty (50) foot buffer between industrial and residential property shall be placed entirely upon the Subject Property with respect to adjoining property owned by MSC Industrial Direct Co., Inc. (hereinafter "MSC") in order to mitigate the impact of this proposed development on the property of MSC. This fifty foot buffer shall be in lieu of MSC's obligation to provide a fifty foot buffer in the future as against the Subject Property for any expansion of the MSC facilities. This stipulation shall be binding upon the Subject Property and for the benefit of the MSC property. The clear intent of this agreement regarding the required fifty foot buffer is to provide such buffer on the Subject

Mr. Ed Thomas  
Planner III  
Zoning Division  
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Property so as to relieve MSC of any possible obligation to provide for the fifty foot buffer on the MSC property.

- (13) Applicant shall incorporate the fifty foot buffer as against the MSC property into the Declaration of Covenants and Restrictions that will be filed of record as part of the proposed development. The fifty foot buffer provision provided in the Declaration of Covenants and Restrictions will be enforceable not only by the future homeowners association, but will also run to the benefit of and be enforceable by MSC. The Declaration of Covenants and Restrictions shall also contain reference to the fact that the Subject Property lies adjacent to the property of MSC, which is industrial in use and character. In addition, all recorded subdivision plats for the Subject Property shall provide and reference the fifty foot buffer as against the MSC property.
- (14) Applicant, by this letter of agreeable stipulations and conditions, hereby agrees that it, and any of its corporate successors, will not oppose MSC's proposed expansion plans with respect to the MSC property.
- (15) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.
- (16) Applicant agrees to comply with all Cobb County development standards and ordinances relating to project improvements, except as approved by the Board of Commissioners.
- (17) Applicant agrees with the following system improvements in order to mitigate traffic concerns:

Mr. Ed Thomas  
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- (a) Donation of right-of-way on the south side of Veterans Memorial Highway a maximum of fifty (50) feet from the existing roadway centerline;
- (b) Donation of right-of-way on the east side of Queens Mill Road a maximum of thirty (30) feet from the existing roadway centerline;
- (c) Installation of a one hundred fifty (150) foot deceleration lane for ingress into the proposed entrances on Queens Mill Road and Veterans Memorial Highway;
- (d) Installation of curb, gutter, and sidewalk along all roadway frontages of the proposed development;
- (e) Installation of a right-turn lane on Queens Mill Road and a westbound left-turn lane on Veterans Memorial Highway to facilitate turning maneuvers;
- (f) Agrees to obtain Georgia Department of Transportation permits for all work encroaching upon state roadways;
- (g) Applicant shall be allowed to provide for a gated community pursuant to Cobb County standards; and
- (h) All streets within the proposed community shall be private but shall be constructed to Cobb County standards.

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PROPOSED UVC - RETAIL/RESIDENTIAL

- (1) Rezoning of a portion of the Subject Property shall be to the UVC zoning category with reference to that certain Zoning Plan prepared for John Wieland Homes and Neighborhoods, Inc. by Hughes Good O'Leary & Ryan dated July 2, 2001, last revised September 17, 2001.
- (2) The "Retail/Residential UVC Tract" comprises a total of 5.7 acres fronting on Veterans Memorial Highway and Queens Mill Road. This portion of the proposed development shall be a mixed-use development of retail and residential in the village concept.
- (3) All buildings in this portion of the proposed development shall be a maximum of three (3) stories in height and contain on the first level retail/office space with condominium units above.
- (4) The units within the Retail/Residential UVC Development shall contain the following:
  - (a) A minimum of 1,000 square feet of retail or office space; and
  - (b) A minimum of 1,100 square feet of residential condominium space, each with a rear-loading, two-car garage.
- (5) The buildings shall be constructed in traditional or European style architecture and shall be complementary to the Retail UVC development and the residential areas within the proposed community.

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- (6) The exterior facades of the buildings shall consist of brick, stone, stucco, hardi-plank, cedar shake, or combinations thereof.
- (7) Signage for the proposed UVC Retail/Residential development shall be located at the entrance to the area. Said signage shall be ground based, monument style, shall consist of materials complementary to the proposed units, and shall list all tenants of the retail and commercial spaces.

PROPOSED RM-8 - CONDOMINIUMS

- (1) Rezoning of a portion of the Subject Property shall be to the RM-8 zoning category with reference to that certain Zoning Plan prepared for John Wieland Homes and Neighborhoods, Inc. by Hughes Good O'Leary & Ryan dated July 2, 2001, last revised September 17, 2001.
- (2) The "Condominium Community" shall consist of a total of forty-two (42) condominium units.
- (3) Units within the Condominium Community shall have a minimum of 1,000 square feet, ranging upwards to 1,600 square feet and possibly greater.
- (4) The exterior facades of the buildings within the Condominium Community shall be traditional or European in styling and architecture and shall consist of brick, stone, stucco, hardi-plank, cedar shake, or combinations thereof.

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- (5) Lighting within the Condominium Community shall be decorative and themed to the style and architecture of the buildings.
- (6) Units within the Condominium Community shall be "for sale" units only.
- (7) The front and side yards of all units shall be sodded.

PROPOSED RM-8 - SINGLE-FAMILY ATTACHED TOWNHOUSE RESIDENCES

- (1) Rezoning of a portion of the Subject Property shall be to the RM-8 zoning category pursuant, with reference to that certain Zoning Plan prepared for John Wieland Homes and Neighborhoods, Inc. by Hughes Good O'Leary & Ryan dated July 2, 2001, last revised September 17, 2001.
- (2) The "Single-Family Attached Townhouse Community" shall consist of a total of two hundred twenty-one (221) units.
- (3) Residences within the Single-Family Attached Townhouse Community shall have a minimum of 1,400 square feet, ranging upwards to 2,400 square feet and possibly greater. The units shall have single and double garages.
- (4) The exterior facades of the residences within the Single-Family Attached Townhouse Community shall be traditional or European in styling and architecture and shall consist of brick, stone, stucco, hardi-plank, cedar shake, or combinations thereof. These residences shall be compatible with all other components of the proposed community.

Mr. Ed Thomas  
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- (5) Lighting within the Single-Family Attached Townhouse Community shall be decorative and themed to the style and architecture of the units.
- (6) The front and side yards of all units shall be sodded.

PROPOSED RM-8 - SINGLE-FAMILY DETACHED RESIDENCES

- (1) Rezoning of a portion of the Subject Property shall be to the RM-8 zoning category with reference to that certain Zoning Plan prepared for John Wieland Homes and Neighborhoods, Inc. by Hughes Good O'Leary & Ryan dated July 2, 2001, last revised September 17, 2001.
- (2) The "Single-Family Detached Community" shall consist of a total of one hundred ninety-five (195) units.
- (3) Residences within the Single-Family Detached Community shall have a minimum of 1,700 square feet ranging upwards to 2,800 square feet and possibly greater.
- (4) The exterior facades of the residences within the Single-Family Detached Community shall be traditional or European in styling and architecture and shall consist of brick, stone, stucco, hardi-plank, cedar shake, or combinations thereof. These residences shall be compatible with all other components of the proposed community.
- (5) Lighting within the Single-Family Detached Community shall be decorative and themed to the style and architecture of the residences.

Mr. Ed Thomas  
Planner III  
Zoning Division  
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- (6) Setbacks for the Single-Family Detached Community shall be as follows:
  - (a) Front setback - Fifteen (15) feet;
  - (b) Side setback - Five (5) feet  
(Fifteen (15) feet between buildings); and
  - (c) Rear setback - Twenty (20) feet.
- (7) The front and side yards of all residences shall be sodded.

PROPOSED NEIGHBORHOOD RETAIL COMMERCIAL

- (1) Rezoning of a portion of the Subject Property shall be to the NRC zoning category pursuant, with reference to that certain Zoning Plan prepared for John Wieland Homes and Neighborhoods, Inc. by Hughes Good O'Leary & Ryan dated July 2, 2001, last revised September 17, 2001.
- (2) The portion of the Subject Property comprising the proposed NRC development shall consist of 2.0 acres.
- (3) The structures to be constructed on the proposed NRC development shall be complementary in architecture and design to the overall development.

Mr. Ed Thomas  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
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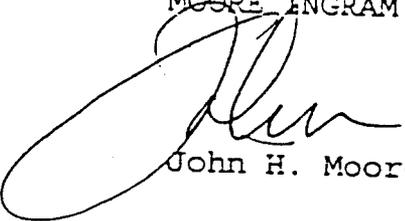
Petition No. Z-111  
Meeting Date October 16, 2001  
Continued

We believe the requested zoning, as shown and reflected in the referenced Zoning Plan and as set forth in the stipulations contained herein, is an appropriate use of the Subject Property while taking into consideration the properties and owners thereof surrounding the proposed development and will allow for the enhancement and utilization of the Subject Property in a manner suitable with the recent growth and changes of the surrounding area. The proposed community will be a premier development and a model for future developments within the Metropolitan Atlanta area. Additionally, it will be developed and maintained in the Wieland tradition of quality as displayed in its numerous developments throughout the South. 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

Exhibit "A"

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Mr. Ed Thomas  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
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c: Cobb County Board of Commissioners:  
William J. Byrne, Chairman  
George Woody Thompson, Jr.  
William L. Askea  
Joe L. Thompson  
Samuel S. Olens

Mr. Philip J. Gerry  
Queens Mill Road Resident

Mr. Leon R. Moore  
Queens Mill Road Resident

Mr. Jerry Shoemaker  
Queens Mill Road Resident

Peter L. Curry, Esq.  
Farrell Fritz

MINUTES OF ZONING HEARING  
COBB COUNTY BOARD OF COMMISSIONERS  
DECEMBER 18, 2001

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ITEM #9

To consider amending something previously adopted regarding Z-111 (John Wieland Homes and Neighborhoods) of September 20, 2001, for property located southeast of the intersection of Queen Mill Road and Veterans Memorial Highway in Land Lots 166, 180, 181, 278, 279, 280, 289 and 290 of the 18<sup>th</sup> District.

Mr. Mark Danneman, Zoning Division Manager, provided information regarding request to amend stipulations. Following presentation, the following motion was made:

MOTION: Motion by W. Thompson, second by Byrne, to amend previous action relative to Z-111 (John Wieland Homes and Neighborhoods) heard on October 16, 2001 for property located southeast of the intersection of Queen Mill Road and Veterans Memorial Highway in Land Lots 166, 180, 181, 278, 279, 280, 289 and 290 of the 18<sup>th</sup> District and to authorize the following:

- addition of stipulation letter from Mr. Kevin Moore dated October 12, 2001 (Copy of letter attached and made a part of these minutes.)
- all other previously approved conditions/stipulations to remain in full force and effect.

VOTE: ADOPTED unanimously

# MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP

192 ANDERSON STREET  
MARIETTA, GEORGIA 30060

POST OFFICE BOX 3005  
MARIETTA, GEORGIA 30061  
TELEPHONE (770) 429-1499  
TELECOPIER (770) 429-8831

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9/16/03

TENNESSEE OFFICE

CEDAR RIDGE OFFICE PARK  
SUITE 403  
408 N. CEDAR BLUFF ROAD  
KNOXVILLE, TENNESSEE 37923

TELEPHONE (865) 892-9038  
TELECOPIER (865) 892-9071

WRITERS DIRECT DIAL NUMBER

JOHN H. MOORE  
STEPHEN C. STEELE  
WILLIAM R. JOHNSON  
ROBERT D. INGRAM  
THOMAS O'NEIL  
CLIP BLOOM  
JIM L. BASHAM  
MATTHEW J. HOWARD  
JENE C. SMITH  
CLAYTON G. CARMACK  
KEVIN B. CARLOCK  
ALEXANDER T. GALLOWAY III  
J. KEVIN MOORE  
SUSAN B. STUART  
RODNEY R. MCCOLLOCH  
DANIEL A. LANDIS  
BRIAN D. EASTH  
HARRY R. TEAR III  
W. TRACY HART  
JEFFREY A. CAKE  
MELISSA W. GILBERT  
TIMOTHY W. BAILEY  
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JOYCE W. HARPER  
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PATRICK B. DOORON  
JONATHAN H. PETCU  
AMY K. WOO  
BRYAN C. WAMAFFEY  
COURTNEY M. MOORE  
JIMMY D. HOLBROOK, JR.  
KIM A. BRANCHAM  
BART R. REED  
TARA C. MOOLE  
JOSEPH M. BOOTHY  
JEREMY A. DANFEN  
JAMIE H. LEBORDE  
KELLI L. CROSS

1 ALSO ADMITTED IN TN  
2 ALSO ADMITTED IN NC  
3 ALSO ADMITTED IN GA  
4 ADMITTED ONLY IN TN

ORIGINAL

October 12, 2001

Other Business Item # 9  
Min. Bk. 19 Petition No. Z-111 of 2001  
Doc. Type Stipulation Letter

Meeting Date December 19, 2001

Telefax Transmission  
To (631) 547-0501

Telefax Transmission  
To (631) 547-0501

Peter L. Curry, Esq.  
Farrell Fritz  
Attorneys at Law  
290 Broad Hollow Road  
Melville, New York 11747

Anthony S. Guardino, Esq.  
Farrell Fritz  
Attorneys at Law  
290 Broad Hollow Road  
Melville, New York 11747

RE: Proposed Application for Rezoning by  
John Wieland Homes and Neighborhoods, Inc.  
with respect to approximately 112.5 acres  
located at the intersection of Veterans  
Memorial Highway and Queens Mill Road,  
Cobb County, Georgia

Dear Peter and Anthony:

Pursuant to our conversation, this correspondence shall serve to memorialize the agreement reached between our respective clients, John Wieland Homes and Neighborhoods, Inc. ("John Wieland") and MSC Industrial Direct Co., Inc. ("MSC"). Specifically, this correspondence provides certain agreements on behalf of John Wieland with respect to the rezoning and proposed development of the property referenced above in consideration for the receipt of MSC's execution of the release from the Discovery Industrial

MOORE INGRAM JOHNSON & STEELE

Peter L. Curry, Esq.  
Anthony S. Guardino, Esq.  
Farrell Fritz  
Attorneys at Law  
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EXHIBIT "A"

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*Other Business Item # 9*

Petition No. Z-111 of 2001  
Meeting Date Dec. 18, 2001  
Continued

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Petition No. Z-65  
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Continued

Property Owners Association by no later than Friday, October 12, 2001. The agreements, which shall be incorporated in a Declaration of Covenants and Restrictions that shall be recorded in the chain of title for the John Wieland property, are as follows:

- (1) Buffer Zone: The following restrictions shall apply to the areas designated as "50 Foot Buffer" which shall be located on the John Wieland property adjacent to property currently owned by MSC, as shown on those certain plats of John Wieland recorded in the Deed Records of the Superior Court of Cobb County, Georgia, as amended (collectively the "50 Foot Buffer"). The 50 Foot Buffer shall remain in its natural state in order to maintain its present character and appearance. No building, fences, or other structures of any description shall be constructed, erected, maintained, or moved onto or within the 50 Foot Buffer. There shall be no removal, destruction, or cutting of trees or plants within the 50 Foot Buffer, except that dead trees may be removed. Maintenance of the 50 Foot Buffer shall be the responsibility of the homeowners association, <sup>(existing or to be formed)</sup> and in the absence of the homeowners association, the responsibility of the owner of the property on which the buffer is located. Upon removal of any dead tree, it shall be the responsibility of the homeowners association, and in the absence of the homeowners association, the responsibility of the owner of the property on which the buffer is located, to replant a tree of similar species as near as possible to the location of the tree that was removed in an effort to maintain the integrity and character of the 50 Foot Buffer. These restrictions are specifically enforceable by MSC against the Declarant, any homeowners association, and the owners of property upon which the 50 Foot Buffer is located.

## MOORE INGRAM JOHNSON &amp; STEELE

*Other Business Item # 9*

Peter L. Curry, Esq.  
 Anthony S. Guardino, Esq.  
 Farrell Fritz  
 Attorneys at Law  
 Page Three  
 October 12, 2001

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 Continued

Case No. Z-65 PAGE 41 OF 41  
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- (2) Adjacent Property Expansion. MSC currently owns a plant and surrounding property located at 6700 Discovery Boulevard, Mableton, Cobb County, Georgia ("Adjacent Property") adjacent to the proposed community. MSC and/or its successors and assigns may wish to expand the plant on the Adjacent Property at some time in the future. John Wieland and its corporate successors covenant and agree not to oppose or aid in opposing any such plant expansion on the Adjacent Property.
- (3) Notice. The proposed community borders on industrial property currently owned by MSC, so all Owners and future owners hereby acknowledge that such Owners take title to property within the proposed community with notice of MSC's adjacent industrial use and further acknowledge acceptance of the impacts typically associated with such use. Such notice shall be made part of the Declaration and Covenants.
- (4) Zoning Stipulation. John Wieland agrees to the placement of a minimum fifty (50) foot buffer along the common boundary line of property owned by MSC. This fifty (50) foot buffer shall serve as the required buffer between industrial and residential property under and pursuant to the Cobb County Planning and Zoning Ordinance for the benefit of MSC. Further, John Wieland shall be responsible for any planted screening required by Cobb County within this fifty (50) foot buffer area. This stipulation shall be binding upon and benefit all heirs, successors, assigns, and transferees of both MSC and John Wieland.
- (5) Stormwater Detention. John Wieland agrees that all stormwater detention will be located on property to be owned by John Wieland with no plans for any off-site detention.

MOORE INGRAM JOHNSON & STEELE

*Other Business Item # 9*

Petition No. Z-111 of 2001  
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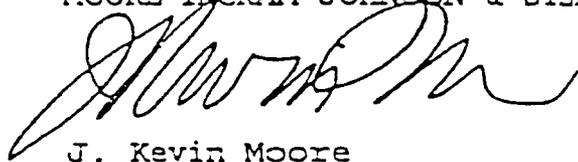
Peter L. Curry, Esq.  
Anthony S. Guardino, Esq.  
Farrell Fritz  
Attorneys at Law  
Page Four  
October 12, 2001

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The above-referenced agreements of John Wieland, as well as the release to be provided by MSC, are expressly contingent on the approval by the Cobb County Board of Commissioners of the referenced Application for Rezoning which shall include these zoning stipulations referenced hereinabove. Once you have reviewed this correspondence and find these agreements acceptable, I would appreciate acknowledgment of this agreement as referenced below. Again, thank you for your cooperation and assistance in this matter.

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc

c: Mr. Ed Thomas  
Planner III  
Zoning Division  
Cobb County Community  
Development Agency  
(Hand Delivered)

Mr. Dan Fields  
Vice President  
John Wieland Homes and Neighborhoods, Inc.

MOORE INGRAM JOHNSON & STEELE

Peter L. Curry, Esq.  
Anthony S. Guardino, Esq.  
Farrell Fritz  
Attorneys at Law  
Page Five  
October 12, 2001

*Other Business Item #9*

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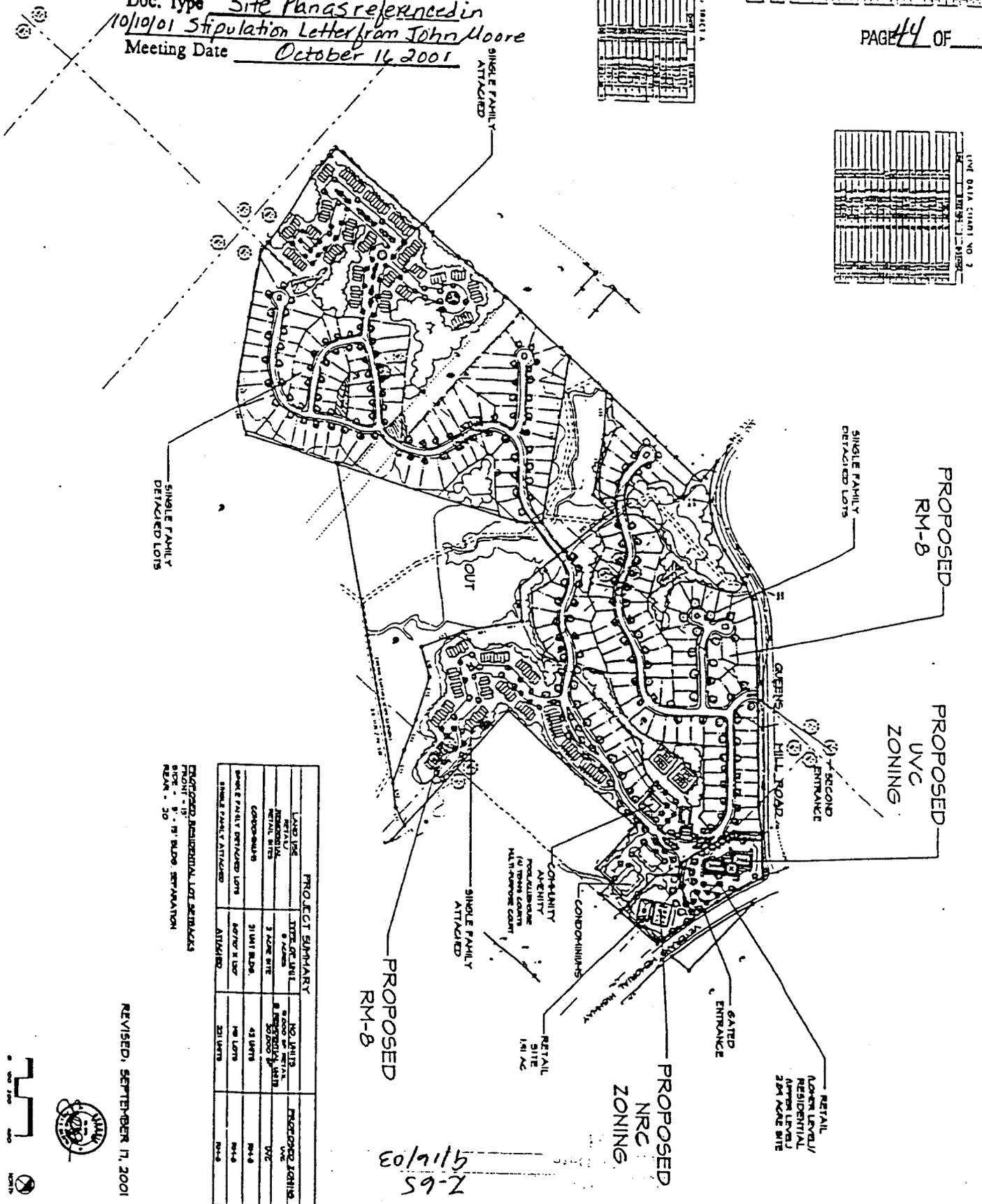
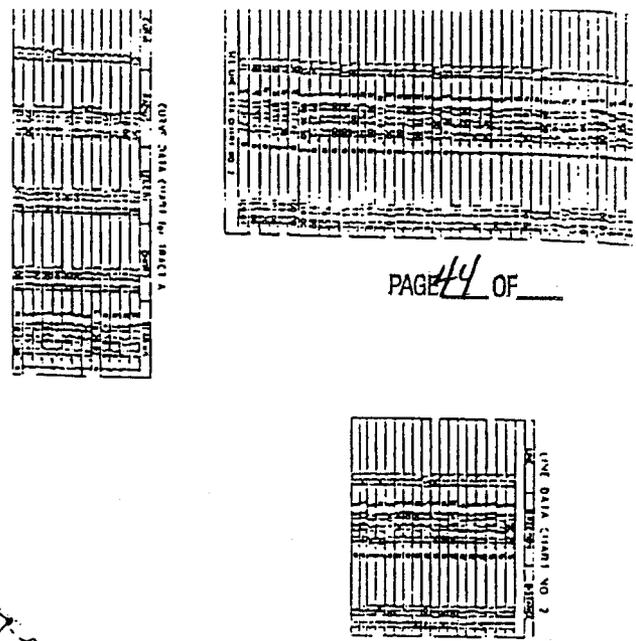
Acknowledgment and acceptance of the stipulations hereinabove  
referenced is made this 15<sup>th</sup> day of October, 2001.

MSC INDUSTRIAL DIRECT CO., INC.

BY:   
TITLE: Vice President

(Corporate Seal)

Min. Bk. 18 Petition No. Z-111  
 Doc. Type Site Plan as referenced in  
10/10/01 Stipulation Letter from John Moore  
 Meeting Date October 16, 2001



PROJECT SUMMARY

| LAND USE | TYPE OF UNIT         | NO. UNITS            | PROPOSED ZONING |
|----------|----------------------|----------------------|-----------------|
| RETAIL   | 3 STORE FRONTS       | 8,000 sq. ft. RETAIL | UVC             |
| CONDOS   | 21 UNIT BLDG         | 43 UNITS             | RM-B            |
| CONDOS   | 40' x 70' x 1.5' LOT | 140 UNITS            | RM-B            |
| CONDOS   | 20' UNITS            | 20 UNITS             | RM-B            |

PROPOSED RESIDENTIAL LOT SPACINGS  
 FRONT - 15'  
 SIDE - 5' - 8' BLDG SEPARATION  
 REAR - 30'

REVISED: SEPTEMBER 17, 2001



5/16/03  
 Z-65

# MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP

192 ANDERSON STREET

MARIETTA, GEORGIA 30060

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TELECOPIER (770) 429-8631

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*Attachment A*

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9/16/03

EXHIBIT A  
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PAGE 2 OF 21

TENNESSEE OFFICE

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

TELEPHONE (865) 892-8039  
TELECOPIER (865) 892-8071

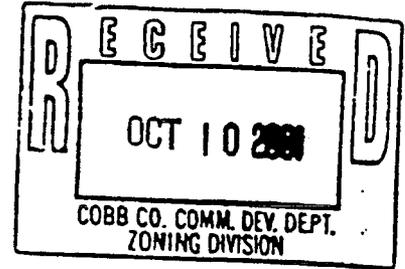
WRITER'S DIRECT DIAL NUMBER

October 10, 2001

Min. Bk. 18 Petition No. Z-111  
Doc. Type Stipulation Letter

Meeting Date October 16, 2001

Hand Delivered



JOHN H. MOORE  
STEPHEN C. STEELE  
WILLIAM R. JOHNSON  
ROBERT D. INGRAM  
J. BRIAN O'NEIL  
B. PHILLIP BEGGS  
ELDON L. BASHAM  
MATTHEW J. HOWARD  
JERE C. SMITH  
CLAYTON O. CARMACK  
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AMY R. WOOD  
BRYAN C. MAHAPPEY  
COURTNEY H. MOORE  
JIMMY D. HOLBROOK, JR.  
KIM A. BRANDHAM  
BART W. REED  
TARA C. RIDGLE  
JOHANNA M. BOOTH  
JEREMY A. GANTIN  
JAMES H. LEBORDE  
KELLY L. CROSS

? ALSO ADMITTED IN TN  
.. ALSO ADMITTED IN NC  
... ALSO ADMITTED IN CA  
\*\*\* ADMITTED ONLY IN TN

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

RE: Application for Rezoning  
Application No.: Z-111 (2001)  
Applicant: John Wieland Homes and  
Neighborhoods, Inc.  
Owner: Discovery Boulevard (Atlanta)  
PIP, L.P.  
Property: 112.5± acres located southeast  
of the intersection of Queens  
Mill Road and Veterans Memorial  
Highway, Land Lots 166, 180, 181,  
278, 279, 280, 289, and 290,  
18<sup>th</sup> District, 2<sup>nd</sup> Section,  
Cobb County, Georgia

Dear Ed:

The undersigned and this firm represent John Wieland Homes and Neighborhoods, Inc., the Applicant (hereinafter "Applicant"), and the Discovery Boulevard (Atlanta) PIP, L.P., a Georgia Limited Partnership, the Property Owner, (hereinafter referred to as "Owner"), in their Application for Rezoning with regard to a total tract of 112.5 acres located at the southeast of the intersection of Queens Mill Road and Veterans Memorial Highway, in Land Lots

Mr. Ed Thomas  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
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9/16/03

Property so as to relieve MSC of any possible obligation to provide for the fifty foot buffer on the MSC property.

- (13) Applicant shall incorporate the fifty foot buffer as against the MSC property into the Declaration of Covenants and Restrictions that will be filed of record as part of the proposed development. The fifty foot buffer provision provided in the Declaration of Covenants and Restrictions will be enforceable not only by the future homeowners association, but will also run to the benefit of and be enforceable by MSC. The Declaration of Covenants and Restrictions shall also contain reference to the fact that the Subject Property lies adjacent to the property of MSC, which is industrial in use and character. In addition, all recorded subdivision plats for the Subject Property shall provide and reference the fifty foot buffer as against the MSC property.
- (14) Applicant, by this letter of agreeable stipulations and conditions, hereby agrees that it, and any of its corporate successors, will not oppose MSC's proposed expansion plans with respect to the MSC property.
- (15) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.
- (16) Applicant agrees to comply with all Cobb County development standards and ordinances relating to project improvements, except as approved by the Board of Commissioners.
- (17) Applicant agrees with the following system improvements in order to mitigate traffic concerns:

Mr. Ed Thomas  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
Page Six  
October 10, 2001

Petition No. Z-111  
Meeting Date October 16, 2001  
Continued

PAGE 47 OF    

Z-65  
9/16/03

- (a) Donation of right-of-way on the south side of Veterans Memorial Highway a maximum of fifty (50) feet from the existing roadway centerline;
- (b) Donation of right-of-way on the east side of Queens Mill Road a maximum of thirty (30) feet from the existing roadway centerline;
- (c) Installation of a one hundred fifty (150) foot deceleration lane for ingress into the proposed entrances on Queens Mill Road and Veterans Memorial Highway;
- (d) Installation of curb, gutter, and sidewalk along all roadway frontages of the proposed development; \*
- (e) Installation of a right-turn lane on Queens Mill Road and a westbound left-turn lane on Veterans Memorial Highway to facilitate turning maneuvers;
- (f) Agrees to obtain Georgia Department of Transportation permits for all work encroaching upon state roadways;
- (g) Applicant shall be allowed to provide for a gated community pursuant to Cobb County standards; and
- (h) All streets within the proposed community shall be private but shall be constructed to Cobb County standards.

Z-65

9/16/03

Veterans Memorial Parkway

Queen Mill Road

Nickajack Creek (and planned trail)

Providence Development

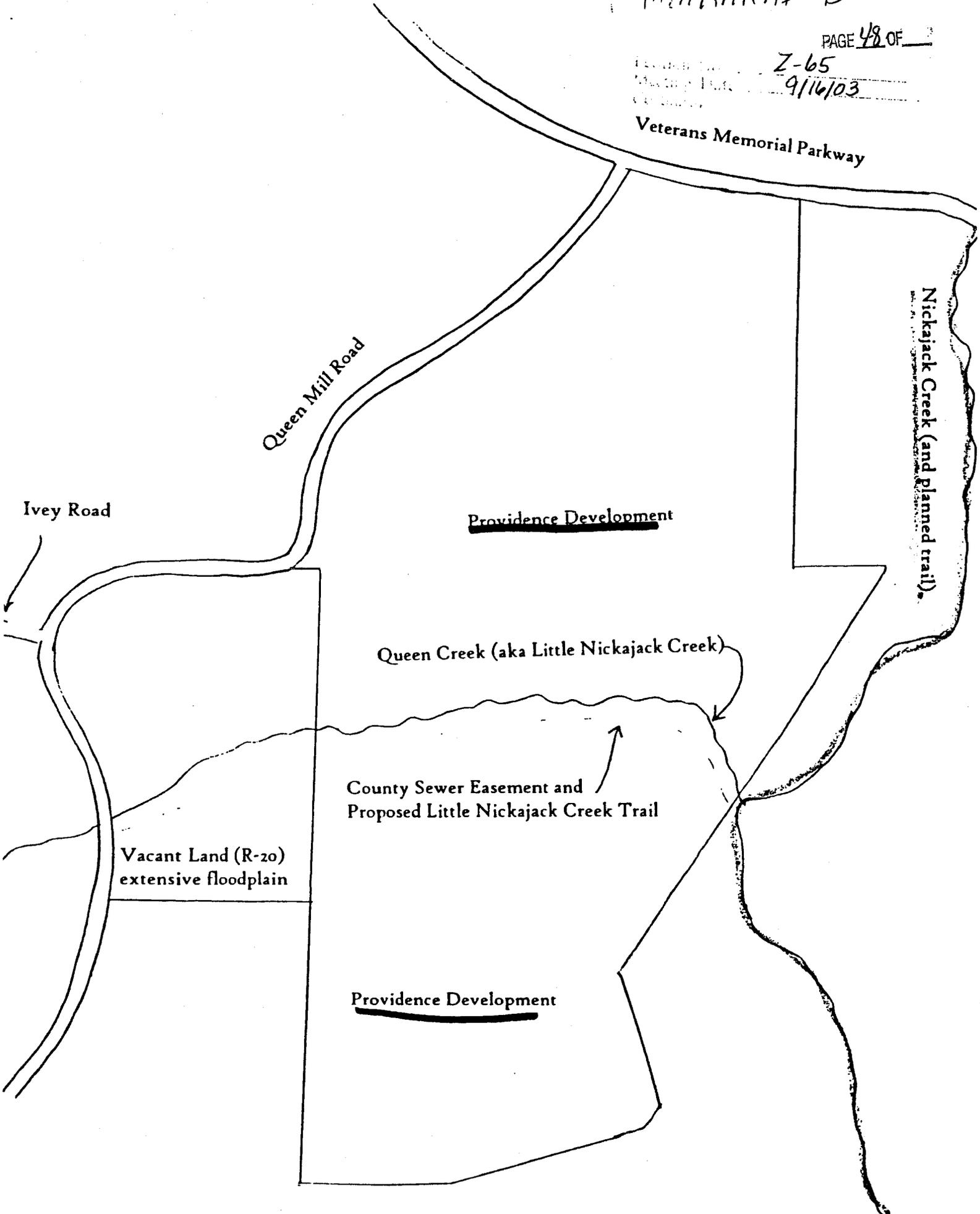
Queen Creek (aka Little Nickajack Creek)

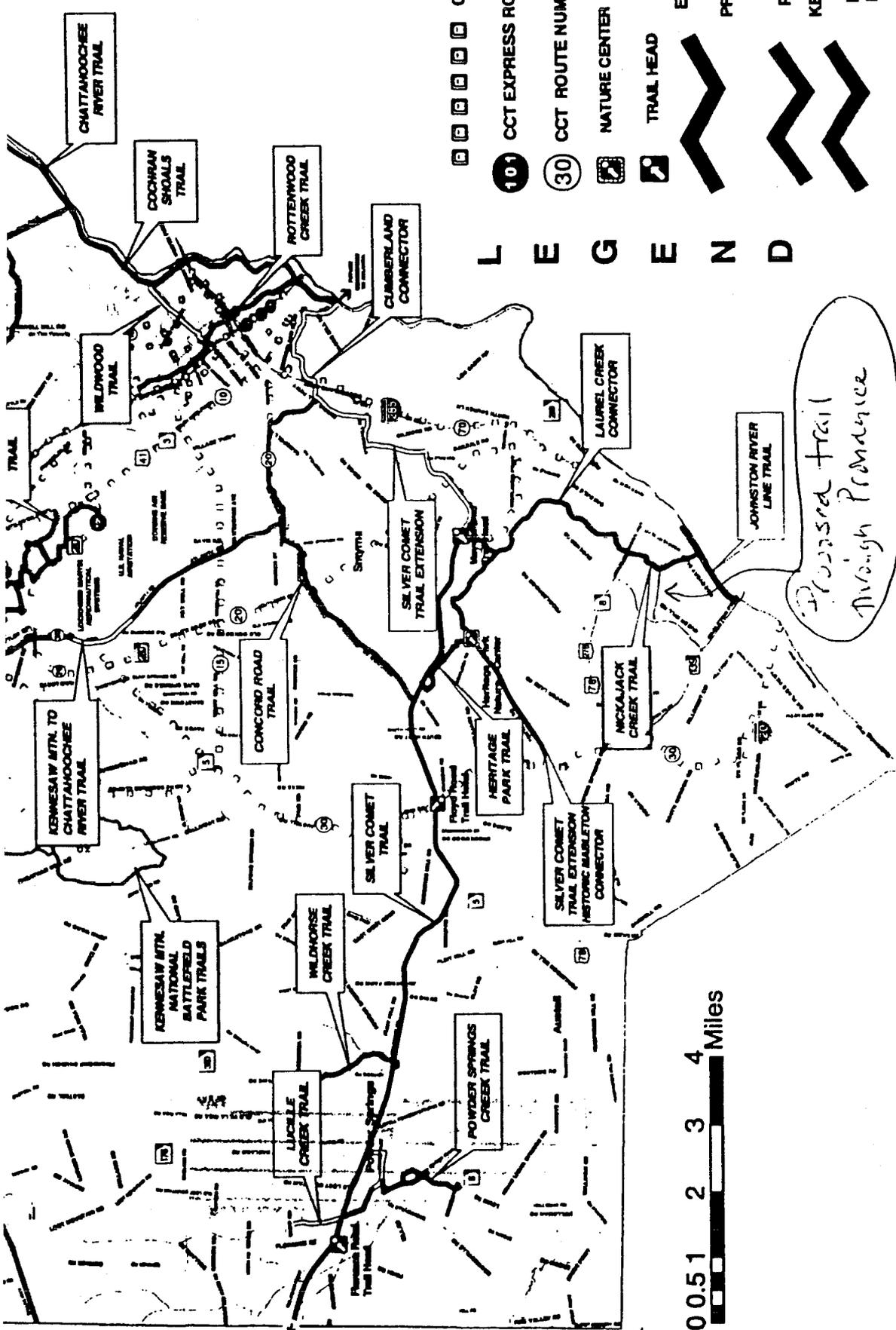
County Sewer Easement and  
Proposed Little Nickajack Creek Trail

Vacant Land (R-20)  
extensive floodplain

Providence Development

Ivey Road





from Direction Cobb, Aug 2003

- CCT BUS ROUTE
- CCT EXPRESS ROUTE NUMBER
- CCT ROUTE NUMBER
- NATURE CENTER
- TRAIL HEAD
- EXISTING TRAIL
- PROGRAMMED TRAIL
- PROPOSED TRAIL
- KENNESAW MTH NATIONAL BATTLEFIELD PARK TRAILS

# LEGEND

cobbcounty.org

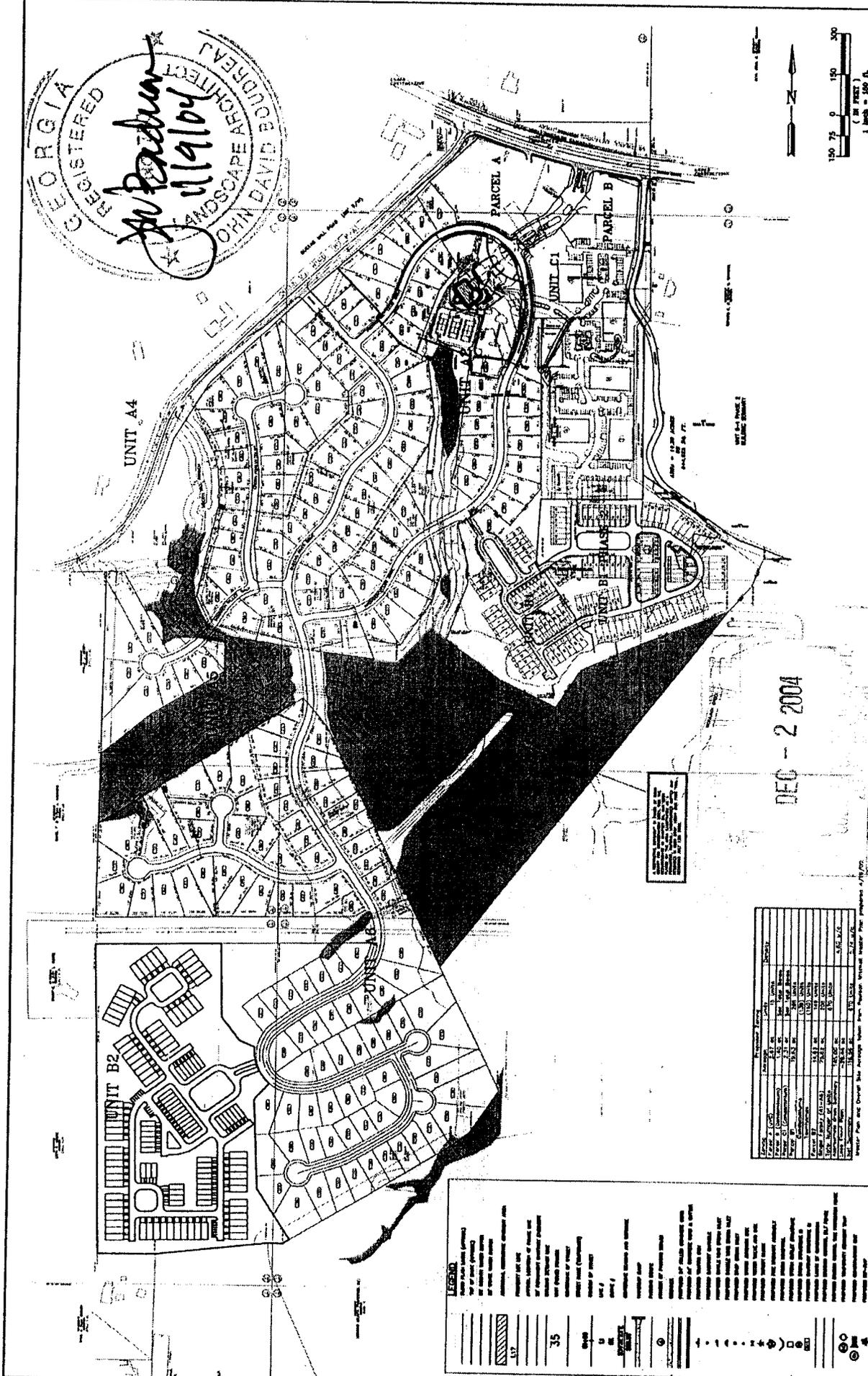
7

Attachment C

PAGE 49 OF 49

Revision No. Z-65  
 Meeting Date 9/16/03  
 Continued

Proposed trail through Prandize



DEC - 2 2004

**LEGEND**

- Proposed Building Footprints
- Proposed Parking Spaces
- Proposed Driveways
- Proposed Walkways
- Proposed Landscaping
- Proposed Utilities
- Proposed Fences
- Proposed Retaining Walls
- Proposed Stormwater Management
- Proposed Erosion Control
- Proposed Access Points
- Proposed Easements
- Proposed Right-of-Way
- Proposed Survey Points
- Proposed Utility Lines
- Proposed Elevation Contours
- Proposed Spot Elevation
- Proposed Section Line
- Proposed North Arrow
- Proposed Scale

| Item | Description                    | Quantity | Unit       | Total   |
|------|--------------------------------|----------|------------|---------|
| 1    | Proposed Building Footprints   | 100      | Sq. Ft.    | 100,000 |
| 2    | Proposed Parking Spaces        | 200      | Spaces     | 200     |
| 3    | Proposed Driveways             | 100      | Driveways  | 100     |
| 4    | Proposed Walkways              | 1000     | Linear Ft. | 1000    |
| 5    | Proposed Landscaping           | 1000     | Sq. Ft.    | 1000    |
| 6    | Proposed Utilities             | 1000     | Linear Ft. | 1000    |
| 7    | Proposed Fences                | 1000     | Linear Ft. | 1000    |
| 8    | Proposed Retaining Walls       | 1000     | Linear Ft. | 1000    |
| 9    | Proposed Stormwater Management | 1000     | Sq. Ft.    | 1000    |
| 10   | Proposed Erosion Control       | 1000     | Sq. Ft.    | 1000    |
| 11   | Proposed Access Points         | 1000     | Linear Ft. | 1000    |
| 12   | Proposed Easements             | 1000     | Linear Ft. | 1000    |
| 13   | Proposed Right-of-Way          | 1000     | Linear Ft. | 1000    |
| 14   | Proposed Survey Points         | 1000     | Points     | 1000    |
| 15   | Proposed Utility Lines         | 1000     | Linear Ft. | 1000    |
| 16   | Proposed Elevation Contours    | 1000     | Linear Ft. | 1000    |
| 17   | Proposed Spot Elevation        | 1000     | Points     | 1000    |
| 18   | Proposed Section Line          | 1000     | Linear Ft. | 1000    |
| 19   | Proposed North Arrow           | 1000     | Linear Ft. | 1000    |
| 20   | Proposed Scale                 | 1000     | Linear Ft. | 1000    |

**PBS&J**  
 3405 W. MORRIS DR.  
 ATLANTA, GEORGIA  
 770-433-0200

**CLIENT:** JOHN WIELAND HOMES AND NEIGHBORHOODS  
 1850 SULLIVAN ROAD  
 ATLANTA, GEORGIA 30337  
 (770) 896-2400

**PROJECT:** PROVIDENCE  
 PROVIDENCE CLEAR BROOK  
 LOCATED IN LAND LOTS 179-181, AND 279-280  
 IN THE CITY AND SECTION  
 FOUR COUNTY, GEORGIA

**TASK:** ZONING MASTER PLAN

DATE: 12/2/04  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 SCALE: AS SHOWN  
 SHEET NO.: 001 OF 002

# MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP  
192 ANDERSON STREET

MARIETTA, GEORGIA 30060

WWW.MIJS.COM

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  
AMY K. WEBER  
COURTNEY H. MOORE  
KIM A. ROPER  
TARA C. RIDDLE  
JOSHUA M. BOOTH\*  
KELLI L. WOLK  
C. LEE DAVIS  
TANYA L. CROSSE\*  
ROBERT W. BROWN II

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NICHOLAS J. PETERSON\*  
JEFFREY K. STINSON  
BENJAMIN A. WALDEN  
DAVID A. COX

ELIZABETH ANN GUERRANT  
JAMES D. WALKER III  
CHRISTOPHER D. GUNNELS\*  
CHRISTOPHER L. MOORE

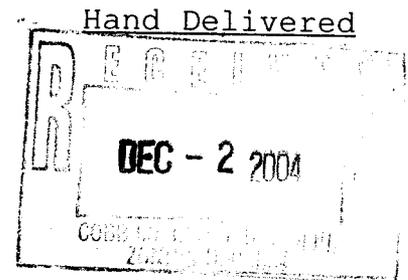
OF COUNSEL:  
MICHELLE S. DAVENPORT  
JOHN L. SKELTON, JR.

† ALSO ADMITTED IN TN  
\* ALSO ADMITTED IN FL  
\*\* ALSO ADMITTED IN SC  
\*\*\* ALSO ADMITTED IN NC  
♦ ADMITTED ONLY IN TN

WRITER'S DIRECT  
DIAL NUMBER

November 19, 2004

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



RE: Application for Site Plan and Stipulation Amendment  
Application No.: Z-65 (2003)  
Applicant/Developer: John Wieland Homes and  
Neighborhoods, Inc.  
Property: 145± acres located southeast  
of the intersection of Queens  
Mill Road and Veterans Memorial  
Highway, Land Lots 166, 178, 179,  
180, 181, 278, 279, 280, 289,  
and 290, 18<sup>th</sup> District,  
2<sup>nd</sup> Section, Cobb County,  
Georgia

Dear Mark:

The undersigned and this firm represent the Applicant and Developer, John Wieland Homes and Neighborhoods, Inc. (hereinafter referred to as "Developer"), with respect to the development of an approximately 145 acre tract located southeast of the intersection of Queens Mill Road and Veterans Memorial Highway, Cobb County, Georgia (hereinafter the "Property" or the "Subject Property"). On September 16, 2003, the Property was rezoned to the Neighborhood Retail Commercial ("NRC"), Urban Village Commercial ("UVC"); and the RM-8 zoning categories by the Cobb County Board of Commissioners. As part of the approval of the rezoning, a letter of agreeable stipulations and conditions dated and filed August 27, 2003, from this firm was incorporated and made a part of the final zoning stipulations and conditions governing the development and use of the Subject Property.

# MOORE INGRAM JOHNSON & STEELE

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
Page Two  
November 19, 2004

Developer submits herewith its Application for Site Plan and Stipulation Amendment as follows:

- (1) Developer requests approval of revised site plans dated January 28, 2004, last revised November 19, 2004, prepared for John Wieland Homes and Neighborhoods, Inc. by PBS&J. The revised site plans are submitted herewith for consideration.
- (2) Developer further requests an amendment to the condition created by the Historic Preservation comments and contained in the official minutes of the Board of Commissioners Zoning Hearing held on October 16, 2001, as to Z-111 (October 16, 2001) and continued in the official minutes of the Board of Commissioners Zoning Hearing held on September 16, 2003, as to Z-65 (2003).
- (3) The balance and remainder of the stipulations and conditions specifically enumerated in the official minutes, and attachments thereto, of the Board of Commissioners Zoning Hearing held on October 16, 2001 (Z-111 (2001)) and September 16, 2003, (Z-112 (2003)) are unaltered by this request for site plan and stipulation amendment.

We respectfully request this Application for Site Plan and Stipulation Amendment be placed on the Board of Commissioners' "Other Business Agenda" for the scheduled Zoning Hearing on December 21, 2004. Thank you for your consideration in this matter. We look forward to confirmation of this item on the requested Zoning Hearing agenda and receipt of the signs in order to meet the requisite posting date.

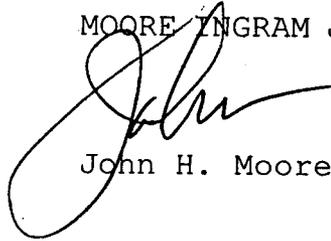
**MOORE INGRAM JOHNSON & STEELE**

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
Page Three  
November 19, 2004

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  
George Woody Thompson, Jr.  
Helen C. Goreham  
Joe L. Thompson  
Tim Lee  
(With Copies of Enclosures)

John Wieland Homes and Neighborhoods, Inc.  
(With Copies of Enclosures)



# COBB COUNTY WATER SYSTEM

Operations Facility  
680 South Cobb Drive  
Marietta, Georgia 30060-3111

Robert L. Brice  
**DIRECTOR**

Date: December 9, 2004

Memo: Mark Danneman, Manager  
Zoning Division, Community Development

Subject: Other Business # \_\_\_\_\_ (December 21, 2004)  
Providence  
John Wieland Homes and Neighborhood  
Veterans Memorial Hwy  
LL 180 / 18th

DIVISIONS:  
Business Services  
Customer Services  
Engineering & Records  
Solid Waste  
Stormwater Management  
System Maintenance  
Water Protection

Reference: Revisions to plan (undefined on plan) verbally described as substituting Condominiums for Fee Simple Townhouse in Unit C1-Parcel B, Phase 3. Impact on land will be virtually unchanged by this revision. Mass grading will be required to remanufacture terrain to fit this plan at odds with the State Law / County Ordinance mandating projects to fit natural terrain using minimum clearing and grading.

For the record, the site is dominated by ridge with side slopes varying from 12% to 22%. The plan calls for multiple flat pads for buildings and parking. To accomplish this, major retaining walls are liberally used throughout the project. One wall is prescribed exactly along the edge of a 25-foot undisturbed buffer which appears cannot be built without disturbing that buffer.

To understand the construction impact, suggest a preliminary grading plan be submitted to Board of Commissioners.

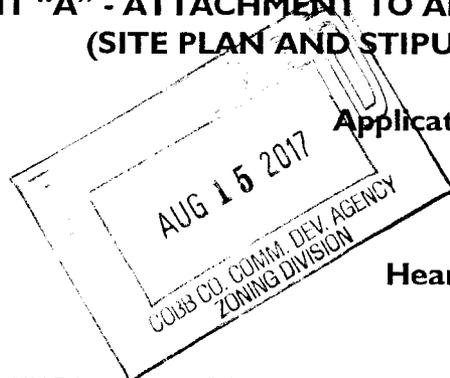
Sincerely,  
COBB COUNTY STORMWATER MANAGEMENT

G.H. Mingledorff, P. E., RLS  
Senior Engineer, Stormwater Management

Cc: Chairman Sam Olens  
Commissioner Helen Goreham  
Commissioner Joe L Thompson  
Commissioner Tim Lee  
Commissioner G Woody Thompson Jr.  
David Hankerson, County Manager  
Bob Brice, Director, Water System  
Bill Higgins, Stormwater Management  
Rob Hosack, Director, Community Development  
Gail Huff, Assistant County Clerk  
Sandra Richardson, Deputy County Clerk



**EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR OTHER BUSINESS  
(SITE PLAN AND STIPULATION AMENDMENT)**

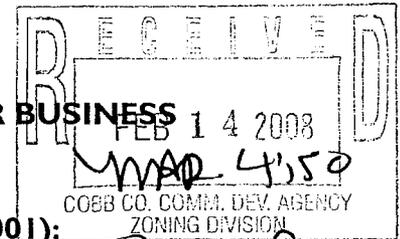


**Application Nos.:**

**Z-111 (2001);  
Z-65 (2003);  
Z-135 (2005)  
Z-31 (2007)**

**Hearing Date:**

**February 19, 2008**



**BEFORE THE COBB COUNTY BOARD OF COMMISSIONERS**

**Applicant: John Wieland Homes and Neighborhoods, Inc.**

Applicant requests the amendment to the overall Master Plan of the Providence development to allow for different uses on designated tracts which will result in a change in the density of the overall development. The requested amendments are as follows:

(1) Applicant submits with this Application the revised Master Plan for Providence Subdivision, prepared by Michael K. Medick, architect, dated January 8, 2008, which shall supersede and replace all prior approved Master Plans for the development.

(2) The primary proposed amendments to the Master Plan are two-fold:

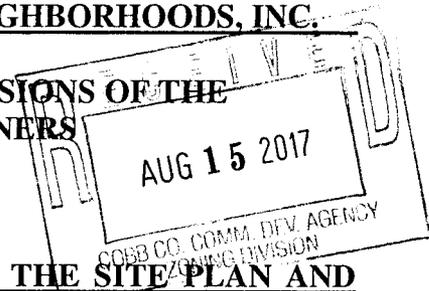
(A) Section A-9 of the proposed development shall be increased from sixty-five (65) units to eighty-five (85) single-family, attached units. The homes in this section shall be substantially similar in construction and architecture to the renderings attached hereto and incorporated herein by reference. The minimum square footage for these units shall increase from a minimum of 1,800 square feet to a minimum of 2,500 square feet.

(B) Areas CI-1 and CI-2 and Area B located along Veterans Memorial Highway shall be amended as follows:

i.) Areas CI-1 and CI-2 shall be reduced in density from a total of 168 condominiums to 148 condominiums;

ii.) Area B shall be converted to open space; and

iii.) The Master Plan for Areas CI-1 and CI-2 shall conform to the requirements of that certain amendment approved by the Board of Commissioners on December 21, 2004, with regard to preservation of existing Civil War features.

ORIGINAL DATE OF APPLICATION: 05-20-03APPLICANTS NAME: JOHN WIELAND HOMES AND NEIGHBORHOODS, INC.THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE  
COBB COUNTY BOARD OF COMMISSIONERSBOC DECISION OF 02-19-08 ZONING HEARING:OTHER BUSINESS ITEM #4 – TO CONSIDER AMENDING THE SITE PLAN AND STIPULATIONS REGARDING Z-65 (JOHN WIELAND HOMES AND NEIGHBORHOODS, INC.) OF MAY 20, 2003

To consider amending the site plan and stipulations regarding Z-111, Z-65, Z-135 and Z-31 (JOHN WIELAND HOMES AND NEIGHBORHOODS, INC.) in Land Lots 166, 167, 179, 180, 181, 278, 279, 280, 289, 290, 395, 396 and 403 of the 18th District at the southeast and southwest intersection of Veterans Memorial Highway and Queens Mill Road and at the northern terminus of Sunrise Boulevard and on the east side of Acacia Lane (private road).

Mr. Mark Danneman, Zoning Division Manager, provided information regarding site plan and stipulation amendments. The public hearing was opened and Mr. John Moore, Ms. Robin Meyer, Ms. Roberta Cook, Mr. Barry Brown and Mr. John Cissell addressed the Board. The Applicant's representative *amended* the request and withdrew from consideration site plan approval for Areas C1-1 and C1-2. Following presentations and discussions, the following motion was made:

MOTION: Motion by Kesting, second by Olens, to **approve** *amended* Other Business Item #4 for site plan and stipulation amendments *for Section A-9 of the Overall Master Plan* regarding Z-111, Z-65, Z-135 and Z-31 (JOHN WIELAND HOMES AND NEIGHBORHOODS, INC.) in Land Lots 166, 167, 179, 180, 181, 278, 279, 280, 289, 290, 395, 396 and 403 of the 18th District at the southeast and southwest intersection of Veterans Memorial Highway and Queens Mill Road and at the northern terminus of Sunrise Boulevard and on the east side of Acacia Lane (private road), **subject to the following stipulations and directives:**

- site plan for Section A-9 (attached and made a part of these minutes) is subject to requirements in Plan Review
- minimum square footage of 2,600 square feet for units in Section A-9, with construction and architecture to be in substantial conformity to the submitted renderings (attached and made a part of these minutes)
- in consideration of increasing the number of units in Section A-9 from 65 to 85, there is required a 20 unit reduction within the overall development
- removing the commercial component and increasing greenspace in Areas C1-1 and C1-2, with the site plan for Areas C1-1 and C1-2 of the Providence Subdivision to be approved by the Board of Commissioners
- all other previous zoning stipulations and conditions not in conflict to remain in effect

VOTE: **ADOPTED** unanimously

*Clerk's Note:* The Applicant/Representative is to meet with the Historic Preservation Planner to review preservation of Civil War historical features prior to submitting site plan for Areas C1-1 and C1-2. Additionally, it was noted for the record that the previous stipulation for contribution of \$15,000 for historic preservation purposes has been paid.

AUG 15 2017

COBB CO. COMM. DEV. AGENCY  
ZONING DIVISION

ACACIA LANE  
(PRIVATE STREET)

SUNRISE BOULEVARD 70' R/W  
(P.A. BY PLS 77)

- 1. ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE NOTED.
- 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
- 3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
- 4. ALL DIMENSIONS ARE TO SURFACE UNLESS OTHERWISE NOTED.
- 5. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
- 6. ALL DIMENSIONS ARE TO SURFACE UNLESS OTHERWISE NOTED.
- 7. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
- 8. ALL DIMENSIONS ARE TO SURFACE UNLESS OTHERWISE NOTED.
- 9. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
- 10. ALL DIMENSIONS ARE TO SURFACE UNLESS OTHERWISE NOTED.



ARC LIMIT

ARC LIMIT

03 77' 05" IS UNSTAMPED  
 '01 2-11, 2-65, 2-135, '07, 2-31

Min. Bk. 54 Petition No. 084  
 Doc. Type side plan  
 A-9  
 Meeting Date 2-9-08

PAGE 2 OF 2

|         |                 |
|---------|-----------------|
| DATE    | 2/15/08         |
| BY      | DAVID W. JARVIS |
| CHECKED | DAVID W. JARVIS |
| SCALE   | AS SHOWN        |
| SHEET   | 3/4             |

LAND LOTS 179-181 and 278-280  
 18th DISTRICT, 2nd SECTION  
 COBB COUNTY

PROVIDENCE A-9

JOHN WIELAND HOMES AND NEIGHBORHOODS, INC.  
 4125 ATLANTA ROAD SE  
 SMYRNA, GEORGIA 30080  
 (770) 703-3100



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