

**OCTOBER 16, 2018 ZONING HEARING  
"OTHER BUSINESS"  
COMMISSION DISTRICT 1**

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**ITEM # 049**

**PURPOSE**

To consider amending the site plan and zoning stipulations for Michael Cronauer regarding rezoning application Z-20 (Yancey Development) of 2003, for property located at 1951 Heatherbrooke Lane in Land Lot 194 of the 20<sup>th</sup> District.

**BACKGROUND**

The subject property was rezoned to R-20 OSC in 2005 for an open space subdivision. This Other Business request is being brought forward by the applicant in order to reduce or waive the 30' undisturbed buffer along the western (rear) property line in order to place a fence, landscape, sod and use their backyard. In May 2016, a similar request was approved by the Board of Commissioners to reduce the buffer to 10' for two neighbors (lots 24 and 28). The applicant would like the Board of Commissioners to consider amending this buffer area since the buffer area is located between houses interior to the subdivision. Normally a buffer area is located on the outside perimeter of a development. Removal of the buffer area would allow the applicants to fully enjoy and utilize all their property. If the buffer area is amended, all other zoning stipulations would remain in effect.

**STAFF COMMENTS**

**Stormwater Management:** The Stormwater Management Division would support a reduction of the buffer to the existing buffer (approximately 5 feet).

**RECOMMENDATION**

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

**ATTACHMENTS**

Other Business application and stipulations.

# Application for "Other Business"

OB-49

## Cobb County, Georgia

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

BOC Hearing Date Requested:

10-16-18

Applicant: Michael Cronauer  
(applicant's name printed)

Phone #: 302-740-1194

Address: 1951 Heatherbrooke Lane NW

E-Mail: michael.cronauer@

Michael Cronauer

Address: 1951 Heatherbrooke Lane NW Acworth GA 30101

(representative's name, printed)

Michael Cronauer  
(representative's signature)

Phone #: 302-740-1194

E-Mail: michael.cronauer@yahoo.com

Signed, sealed and delivered in presence of:

[Signature]  
Notary Public

My commission expires:

02-17-2019

Titleholder(s): Michael and Joy Cronauer  
(property owner's name printed)

Phone #:

307-740-1194

Address: 1951 Heatherbrooke Lane NW Acworth GA 30101

E-Mail: michael.cronauer@yahoo.com

Michael Cronauer  
(Property owner's signature)

Signed, sealed and delivered in presence of:

[Signature]  
Notary Public

My commission expires:

02-17-2019

Commission District: 1

Zoning Case: Z20 2003

Size of property in acres: .30

Original Date of Hearing: Feb 18<sup>th</sup> 2003

Location: 1951 Heatherbrooke Lane Acworth, GA 30101  
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 194

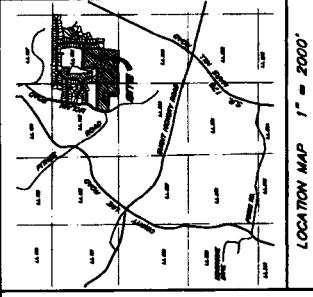
District(s): 20th

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

Make stipulations for fence + Buffer  
Allow fence to be placed in buffer and  
reduce 25' buffer to 5' or eliminate  
(or eliminate) (lot 29)

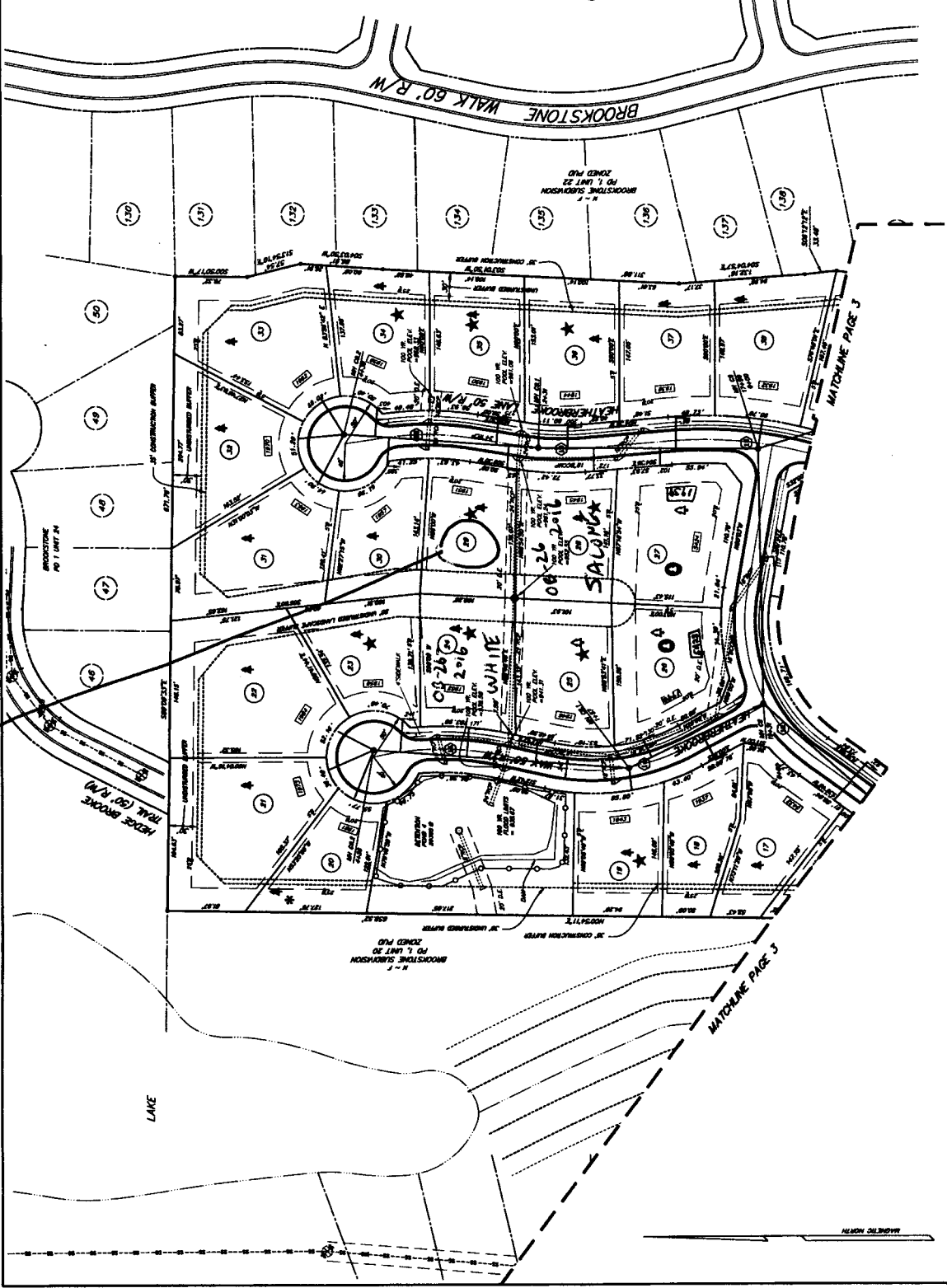
(List or attach additional information if needed)

1951 - Michael Cranava



LOCATION MAP 1" = 2000'

ALL RIGHTS RESERVED SHALL BE CONSIDERED AS THE PROPERTY OF THE ENGINEER AND HIS ASSOCIATES, INC. NO PART OF THIS DRAWING SHALL BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER AND HIS ASSOCIATES, INC. THE ENGINEER AND HIS ASSOCIATES, INC. SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS DRAWING. THE USER OF THIS DRAWING SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE ENGINEER AND HIS ASSOCIATES, INC. SHALL NOT BE RESPONSIBLE FOR ANY CHANGES OR MODIFICATIONS TO THIS DRAWING MADE BY ANY OTHER PARTY. THE USER OF THIS DRAWING SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE ENGINEER AND HIS ASSOCIATES, INC. SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS DRAWING. THE USER OF THIS DRAWING SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.



FINAL PLAN FOR  
**WEATHERWOOKE SUBDIVISION**  
 LOCATED IN L.L. 1937 & 194  
 20TH DISTRICT, 2ND SECTION  
 COBB COUNTY, GA.  
 1 of 2

**Gaskins**  
 1000 Peachtree Street, N.E.  
 Atlanta, Georgia 30309  
 Phone: (404) 525-1100  
 Fax: (404) 525-1101

DATE	11-23-20	REVISION	
SCALE	1" = 200'		
DRAWN BY	J. L. W.		
CHECKED BY	J. L. W.		
DATE PLOTTED	11-23-20		

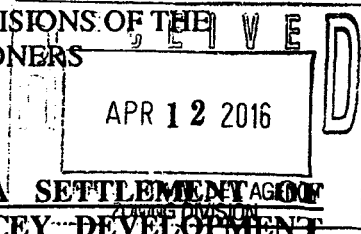
File# 1951-10-18-2020  
 Plat Book 803 Page 61  
 City Commission Clerk  
 Cobb County Office

ORIGINAL DATE OF APPLICATION: 02-18-03APPLICANTS NAME: YANCEY DEVELOPMENT

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

**BOC DECISION OF 06-21-05 ZONING HEARING:**

**OTHER BUSINESS ITEM #1 - TO CONSIDER A SETTLEMENT AGREEMENT  
 LITIGATION PROPOSAL REGARDING Z-20 (YANCEY DEVELOPMENT  
 COMPANY, INC.)**



To consider a Settlement of Litigation proposal regarding Z-20 (Yancey Development Company, Inc.) of February 18, 2003, for rezoning from R-30 to R-20 OSC for a Subdivision, for property located on the east side of McLain Road and the south end of Hedge Brooke Trail in Land Lots 193 and 194 of the 20<sup>th</sup> District.

Mr. Mark Danneman, Zoning Division Manager, provided information regarding the proposal for settlement of litigation. The public hearing was opened and Mr. Hylton Dupree addressed the Board. Following presentations and discussion, the following motion was made:

**MOTION:** Motion by Goreham, second by Olens, to **approve** the following relative to the settlement proposal regarding Z-20 (Yancey Development Company, Inc.) of February 18, 2003, for rezoning from R-30 to R-20 OSC for a Subdivision, for property located on the east side of McLain Road and the south end of Hedge Brooke Trail in Land Lots 193 and 194 of the 20<sup>th</sup> District:

- To **authorize** settlement of litigation
- To **approve** rezoning to the **R-20 OSC** zoning district subject to:
  - site plan dated April 25, 2005 (copy attached and made a part of these minutes)
  - letters of stipulations from Mr. Hylton Dupree dated May 4, 2005 and May 24, 2005 (copy attached and made a part of these minutes)
  - Planning Staff Analysis
  - Stormwater Management Division comments and recommendations
  - Water and Sewer Division comments and recommendations
  - Cobb DOT comments and recommendations
  - owner/developer to enter into a development agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns

**VOTE:** **ADOPTED** unanimously

**GASKINS**  
 ARCHITECTS • ENGINEERS • ENVIRONMENTAL

1800 PONDERS BRIDGE ROAD  
 HUNTSVILLE, GEORGIA 35894

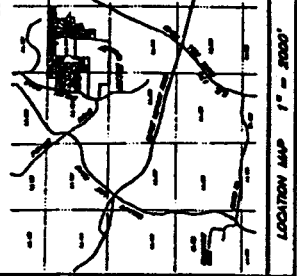
**THE FERRELL PROPERTY**

LOCATED IN L.L. 177 & 174, 2ND DISTRICT, 2ND SECTION  
 COBB COUNTY, GEORGIA

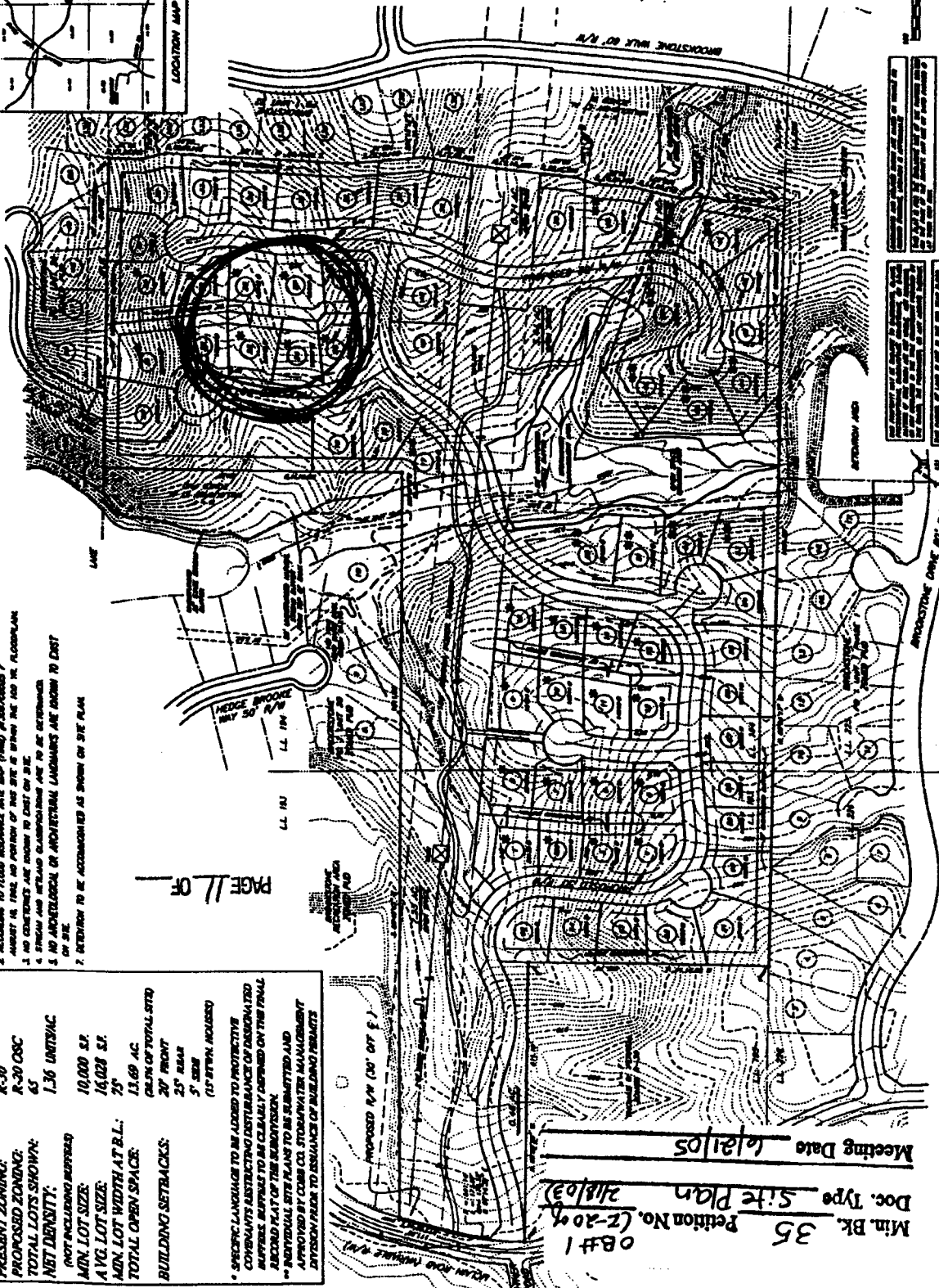


PROJECT NO.	218103
DATE OF CONSTRUCTION	2006
DATE OF REVISION	11/10/06
DATE OF ISSUE	11/10/06
DATE OF PLAN	11/10/06

NOT ISSUED FOR CONSTRUCTION



LOCATION MAP 1" = 2000'



- NOTES:**
1. ROADWAY SURVEY AND RECORDING INFORMATION BY GASKINS SURVEYING AND ENGINEERING CO.
  2. ACCORDING TO FLOOD INSURANCE RATE MAP (FIRM) #160300010017, SUBJECT #4, THIS IS PART OF THE SITE IS WITHIN THE 100 YEAR FLOODPLAIN.
  3. ALL CONSTRUCTION AND ERECTION TO BE IN ACCORDANCE WITH THE FLOOD INSURANCE RATE MAP (FIRM) #160300010017.
  4. ALL CONSTRUCTION AND ERECTION TO BE IN ACCORDANCE WITH THE FLOOD INSURANCE RATE MAP (FIRM) #160300010017.
  5. ALL CONSTRUCTION AND ERECTION TO BE IN ACCORDANCE WITH THE FLOOD INSURANCE RATE MAP (FIRM) #160300010017.
  6. ALL CONSTRUCTION AND ERECTION TO BE IN ACCORDANCE WITH THE FLOOD INSURANCE RATE MAP (FIRM) #160300010017.
  7. ALL CONSTRUCTION AND ERECTION TO BE IN ACCORDANCE WITH THE FLOOD INSURANCE RATE MAP (FIRM) #160300010017.

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**SITE SUMMARY**

TOTAL SITE AREA:	47.97 AC
64.1 AC BY FLOORPLAN	
PROPOSED ZONING:	R-30
PROPOSED ZONING:	R-30 OSC
TOTAL LOTS SHOWN:	63
NET DENSITY:	1.36 UNITS/AC
(NOT INCLUDING BUFFERED)	
MIN. LOT SIZE:	10,000 SQ FT
AVG. LOT SIZE:	16,028 SQ FT
MIN. LOT WIDTH AT R.L.:	25'
TOTAL OPEN SPACE:	13.69 AC
BUILDING SETBACKS:	20' FRONT
	25' REAR
	5' SIDE
	(15' SETBACK INCLUDED)

\* SPECIFIC LANGUAGE TO BE ADDED TO PROTECTIVE COVENANTS ABSTRACTING DISTURBANCE OF DESIGNATED BUFFERED AREAS TO BE CLEARLY DEFINED ON THE FINAL RECORD PLAT OF THE SUBDIVISION.

INDIVIDUAL SITE PLANS TO BE SUBMITTED AND APPROVED BY Cobb Co. STORMWATER MANAGEMENT DIVISION PRIOR TO ISSUANCE OF BUILDING PERMITS.

08#1  
 Petition No. (2-2006)  
 Site Plan  
 Meeting Date 10/21/05

PROPOSED 1/4" (20' DT 1')



SCALE	1" = 200'
DATE	11/10/06
PROJECT	THE FERRELL PROPERTY
LOCATION	L.L. 177 & 174, 2ND DISTRICT, 2ND SECTION, COBB COUNTY, GEORGIA

DUPREE KING & KIMBROUGH  
**DUPREE, KING & KIMBROUGH**  
ATTORNEYS AT LAW

770 424 0644 P. 02/04

40 GREEN STREET - MARIETTA, GEORGIA 30060  
TELEPHONE: 770-424-7171 - FACSIMILE: 770-424-0644  
WWW.DUPREE-LAWFIRM.COM

PAGE 12 OF     

Myron S. Dupree, Jr. P.C.  
Russell D. King  
M. Stuart Kimbrough  
Patrick H. McKeown

May 4, 2005

Mailing Address:  
Post Office Box 625  
Marietta, Georgia 30060

Mr. Fred D. Bentley, Jr., Esq.  
Bentley, Bendey and Bentley  
241 Washington Avenue  
Marietta, Georgia 30060

Min. Bk. 35 <sup>O.B.#1</sup> Petition No. (Z-20 of 2/18/03)  
Doc. Type Letter of Stipulations  
Meeting Date 6/8/05

Re: Application for Re-Zoning  
Application Number Z-20(2003)  
Applicant, Yancey Development Company, Inc.

Dear Fred:

Pursuant to our recent telephone conversation in reference to the above matter, I am revising my letter of April 29, 2005 in an effort to clarify some of the confusion that may have been created by the overlapping of the previous letters.

On April 29, 2005, I delivered to you a revised preliminary site plan dated April 25, 2005 and prepared by Gaskins Surveying Company (GSC). The plan reflects the agreements and concessions that we reached at our meeting with you and Commissioner Gorcham.

Additionally, we have agreed to the following stipulations.

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 and/or which have been embodied in any previous stipulations submitted as a part of the above-referenced Application for Re-Zoning.
2. Re-zoning of the Subject Property shall be from the R-30 category to the R-20 Open Space Community ("R-20/OSC") zoning category, site plan specific to that certain revised preliminary plan prepared by Gaskins Surveying Company (GSC) dated April 25, 2005.
3. By this letter of agreeable stipulations and conditions, Applicant amends its Application for Re-Zoning to include the revised preliminary plan hereinabove set forth, the same being prepared by Gaskins Surveying Company (GSC) dated April 25, 2005, which was submitted to you on April 29, 2005.
4. The Subject Property shall be developed for a single-family residential community for a maximum of sixty-five (65) homes upon a total site area of 47.97 acres, for a maximum net density of 1.36 homes per acre, as per revised preliminary plan dated April 25, 2005.

Mr. Fred D. Bentley, Jr., Esq.  
May 4, 2005  
Page 2

770 424 0644 P. 03/04

Petition No. O.B.#1 (Z-2007-2/13)03  
Meeting Date 6/21/05  
Continued PAGE 13 OF     

5. Homes in the proposed community shall have a minimum of 2,000 square feet, and shall be of a traditional architecture, with exterior materials consisting of brick, stone, stacked stone, stucco-type, masonry siding, cedar shake shingles, or combinations thereof.

6. The proposed community shall have a minimum common area/open space as shown on the referenced preliminary plan. The common area/open space shall be utilized for passive recreational purposes such as picnicking and walking trails.

\* 7. Access to the proposed community shall be provided from McClain Road, with no access to Brookstone Drive. The access road shall be designed to provide for inter-parcel access to the "Thomas W. Fuzell" property for future residential development. (See preliminary site plan dated April 25, 2005).

8. Applicant agrees to the creation of a mandatory homeowners' association consistent with the covenants in place for the Brookstone Community. The mandatory homeowners' association shall be responsible for the upkeep and maintenance of all common areas and buffer areas contained within the proposed community.

\* 9. Applicant shall conduct both a pre- and post-development situation study of the lake located adjacent to the northwesterly portion of the Subject Property. The results of said studies shall be submitted to Cobb County as well as copies made available to the Brookstone North Lake Homeowners' Association. Developer shall secure a performance bond to secure the post-development clean-up operation, if any, the bond to remain in full force and effect until the completion of the development, or for a period of two years from the date of approval of the zoning application, whichever event shall first occur.

# 25,000 Performance Bond ←

← in amount of \$25,000

see # 4

10. Minor modifications in the proposed community for items such as, but not limited to, lot layout and storm water control measures, may be approved by the Cobb County Commissioners as needed or necessary.

11. The revised preliminary site plan dated April 25, 2005 has provided for asterick (\*) designated lots for an undisturbed buffer extending for an area of twenty-five (25) feet from the rear lot line of each astericked lot. This provision shall be enforced by a covenant running with the land with the homeowner and Cobb County as parties to the covenants.

12. The lots designated on the revised preliminary site plan dated April 25, 2005 as a two (2) asterick (\*\*) lots shall be subject to individual site plan review by Cobb County.

\* 13. An entity owned, or to be owned and controlled by Foster Yancey, Jr. and Potter Yancey III, shall develop the subject property and shall commence development within two (2) years from the final approval of the re-zoning of the subject property. Failure to commence development within the two (2) years shall result in the R-20-OSC Zoning Category reverting back to the present R-30 Zoning Category.

Petition No. O.B. #1 (Z-20 of 2/18/05)  
Meeting Date 6/21/05  
Continued

04-2005 18:11

DUPREE KING & KIMBROUGH

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770 424 0644 P. 04/04

Mr. Fred D. Bandy, Jr., Esq.  
May 4, 2005  
Page 3

I am in hopes that the stipulations set forth herein clarify any confusion that may have arisen out of the April 29, 2005 letter. If you have any questions concerning this matter, please do not hesitate to call.

It is my understanding that you and Commissioner Goreham will meet with the other Cobb County Commissioners in the Executive Session for the purpose of discussing this settlement in compromise. If there is a unanimous consensus among the five commissioners, this issue will be stipulated to the next zoning meeting for purpose of approval of the re-zoning.

Thank you for your continuing cooperation in this matter.

Very truly yours,

DUPREE, KING & KIMBROUGH



HYLTON B. DUPREE, JR.

HBD, Jr./blw

cc: Foster Yancy, Jr.  
Foster Yancy, III  
Bill Hymc

TOTAL P. 04

04-2005 19:00



DUPREE, KING & MIMBROUGH  
ATTORNEYS AT LAW

49 GREEN STREET • MARIETTA, GEORGIA 30060  
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Hylon B. Dupree, Jr. P.C.  
Russell D. King  
M. Scott Kimbrough  
Patrick N. Millsaps

Mailing Address:  
Post Office Box 625  
Marietta, Georgia 30061

May 24, 2005

Min. Bk. 35 Petition No. 0.B.#1 (Z-20 of 2/18/03)  
Doc. Type Letter of Stipulations  
Meeting Date 6/21/05

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Via Hand-Delivery

Commissioner Helen Goreham  
Cobb County Commissioner's Office  
100 Cherokee Street  
Marietta, GA 30090-9680

Re: Application for Re-Zoning  
Application Number Z-20(2003)  
Applicant, Yancey Development Company, Inc.

Dear Helen:

Pursuant to your letter of May 13, 2005, Yancey Development Company, Inc. amends its agreed upon stipulations set forth in my letter of May 4, 2005 to include the additional stipulations:

1. In addition to providing for no access to Brookstone Drive off of McLain Road, there shall also be no access to Hedgebrook Drive. Hedgebrook Drive is the residential street that runs adjacent to the eastern edge of the land parcel. (It is incorrectly labeled as Brookstone Walk on the site plan, and this will be corrected.)
2. Sidewalks shall be installed along McLain Road frontage.
3. The performance bond shall be set at \$25,000.
4. The bond referenced in Stipulation #9 (May 4, 2005 letter) shall remain in full force and effect until the construction of the development is completed.

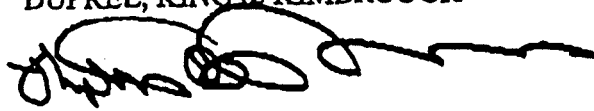
Commissioner Helen Go. am  
Cobb County Commissioner's Office  
May 24, 2005  
Page 2

Petition No. O.B. #1 (Z-20-05 2/18/03)  
Meeting Date 6/21/08  
Continued  
PAGE 16 OF 16

If you have any questions or additional comments, please do not hesitate to call.  
Thank you for your continuing cooperation in this matter.

Very truly yours,

DUPREE, KING & KIMBROUGH



Hylton B. Dupree, Jr.

HBD/blw

cc: Fred Bentley, Jr. (via facsimile)  
Foster Yancey, Jr.  
Foster Yancey, Sr.  
Bill Byrne