



Cobb County Community Development Agency  
Zoning Division

1150 Powder Springs St. Marietta, Georgia 30064

Case # Z-57

Public Hearing Dates:

PC: 09-04-18

BOC: 09-18-18

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**SITE BACKGROUND**

Applicant: John Gaskin

Phone: (770) 319-5258

Email: john.gaskin@pmcommunities.com

Representative Contact: John D. Gaskin

Phone: (770) 319-5258

Email: john.gaskin@pmcommunities.com

Titleholder: Ballantry PMC Kyle, LLP

Property Location: East side of Lost Mountain Road, south of Dallas Highway, across from Corner Road

Address: Not available

Access to Property: Lost Mountain Road

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**QUICK FACTS**

Commission District: 1-Weatherford

Current Zoning: CS (Conservation Subdivision)

Current use of property: Residential subdivision

Proposed zoning: CS (Conservation Subdivision)

Proposed use: Modifying the current zoning stipulations

Future Land Use Designation: Very Low Density Residential (VLDR)

Site Acreage: 141.4 ac

District: 19

Land Lot: 84, 137, 138, 139, and 159

Parcel #: 19008400020, 19013800040, 19013800050, and 19013800520

Taxes Paid: Yes

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**FINAL ZONING STAFF RECOMMENDATION:**

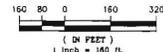
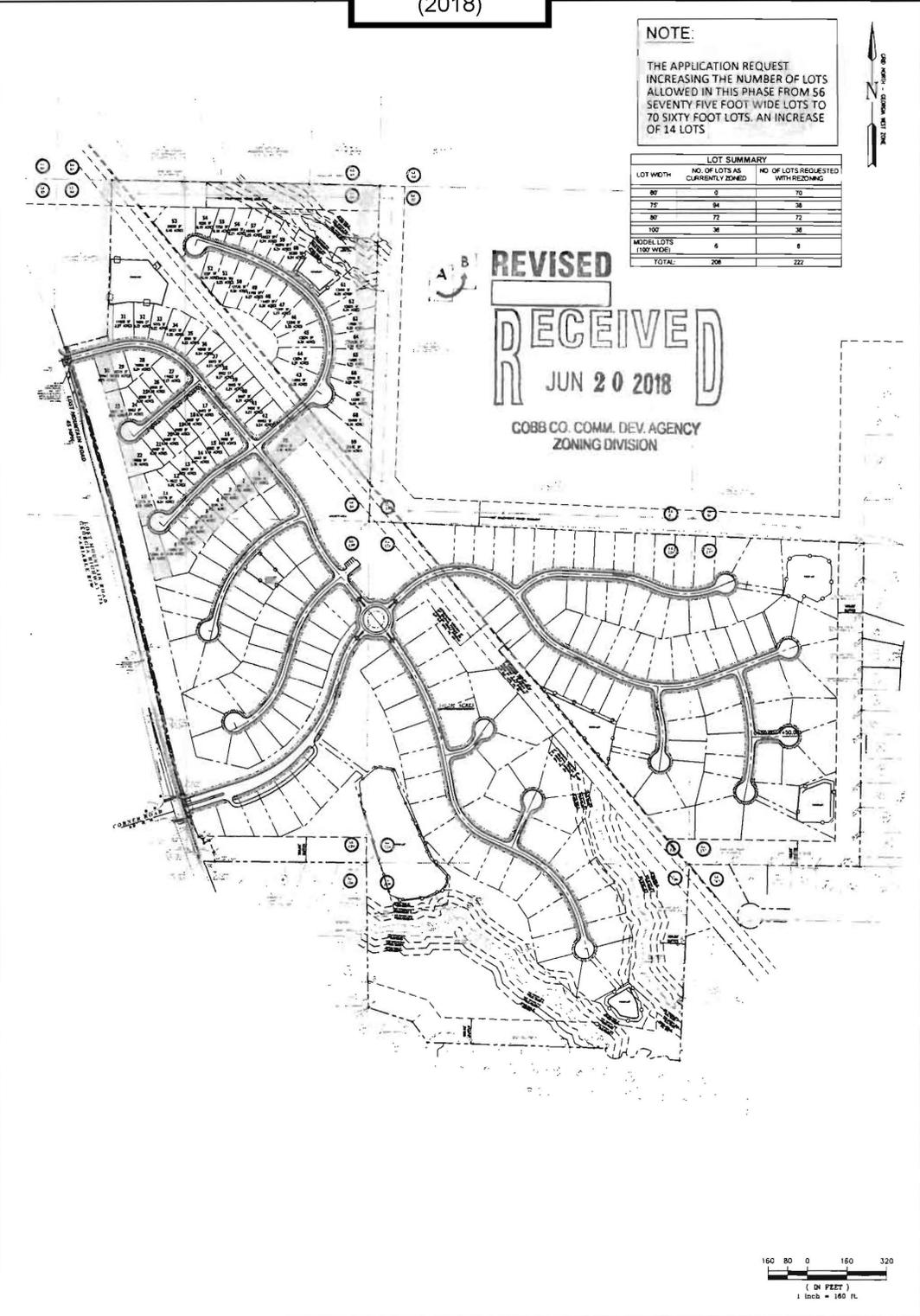
(Zoning staff member: Jason Campbell)

Based on the analysis of this case, Staff recommends **DENIAL**.

Z-57  
(2018)

**NOTE:**  
THE APPLICATION REQUEST INCREASING THE NUMBER OF LOTS ALLOWED IN THIS PHASE FROM 56 SEVENTY FIVE FOOT WIDE LOTS TO 70 SIXTY FOOT LOTS. AN INCREASE OF 14 LOTS.

LOT SUMMARY		
LOT WIDTH	NO. OF LOTS AS CURRENTLY ZONED	NO. OF LOTS REQUESTED WITH REZONING
60'	0	70
75'	04	38
80'	72	72
100'	38	38
<b>MISCELLANEOUS (100' WIDE)</b>	<b>6</b>	<b>6</b>
<b>TOTAL</b>	<b>208</b>	<b>222</b>



<p>DATE: 11-5-2014                  JOB NO.: 14-021                  DRAWN: RAN                  CHECKED: RAN                  SCALE: AS NOTED                  SHEET:</p>	<p>LAND DISTURBANCE PLANS                  FOR  <b>THE PARK AT KYLE FARM UNIT II</b>                  (A.K.A. THE KYLE TRACT UNIT II PHASES A, J AND K)                  LOCATED IN LAND LOT #4, 123, 124, 125 &amp; 126, 4TH DISTRICT, SECTION 2,                  COBB COUNTY, GEORGIA</p> <p><b>OVERALL SITE PLAN</b></p>	<p><b>GREYDEN</b>                  ENGINEERING                  2106 Nancy Drive                  Roswell, Georgia 30076                  PH: 770-573-4801 FAX: 678-302-6362</p>	<p>CLIENT:  <b>BALLANTRY PMC KYLE, LLC</b>                  1383 DOWELL BRIDGE ROAD, ALPHARETTA, GEORGIA 30202 770.269.1565</p>	<p>REVISIONS</p> <table border="1"> <tr> <th>NO.</th> <th>DESCRIPTION</th> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> </table>	NO.	DESCRIPTION						
NO.	DESCRIPTION											

# Z-57 2018-Aerial Map



This map is provided for display and planning purposes only. It is not meant to be a legal description.

0 300 600 Feet

Zoning Boundary  
City Boundary

North

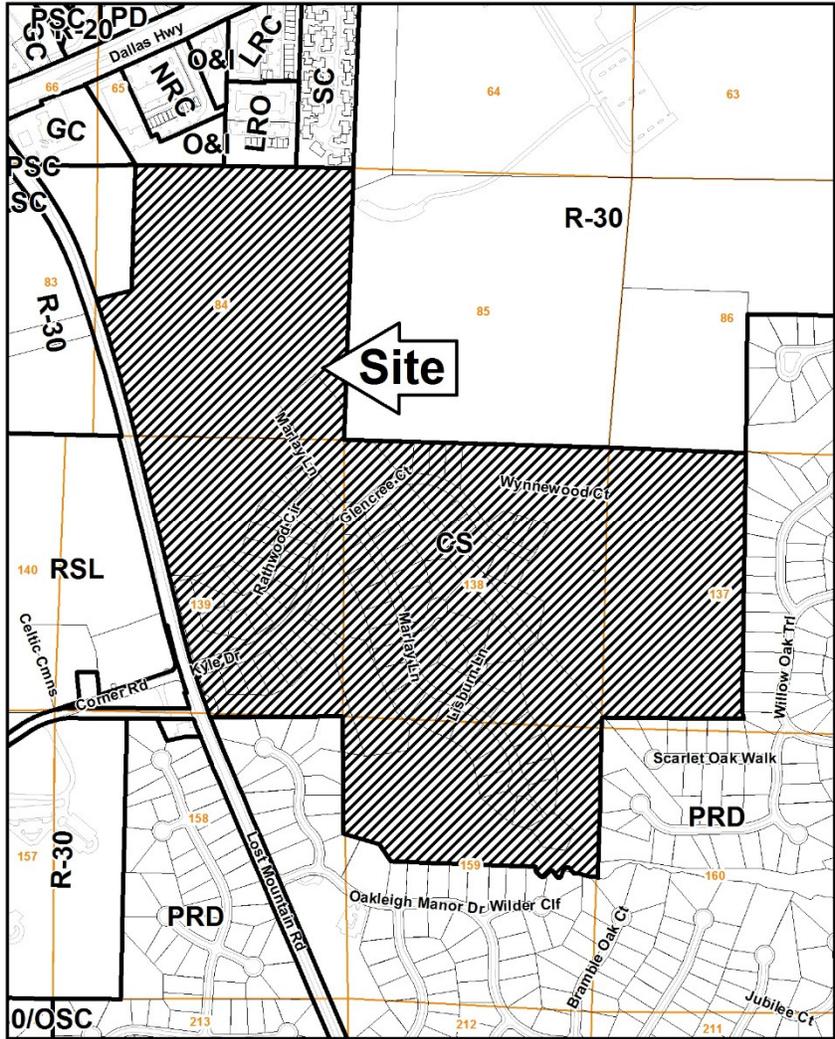
**Zoning:** O&I (Office & Institutional), LRO (Low Rise Office), and SC (Suburban Condominiums)  
**Future Land Use:** CAC (Community Activity Center)

**Z-57 2018-GIS**

WEST

**Zoning:** R-30 (Single-family Residential) and PRD (Single-family Residential)

**Future Land Use:** VLDR (Very Low Density Residential)



EAST

**Zoning:** R-30 (Single-family Residential) and PRD (Planned Residential Development)

**Future Land Use:** VLDR (Very Low Density Residential) and PRC (Parks/Recreation)

SOUTH

**Zoning:** PRD (Planned Residential Development)  
**Future Land Use:** VLDR (Very Low Density Residential)

This map is provided for display and planning purposes only. It is not meant to be a legal description.

0 300 600 Feet

Zoning Boundary  
City Boundary

## DEPARTMENT COMMENTS- Zoning Division

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### Current zoning district for the property

The CS district is established to encourage the preservation of natural resources within residential development. The CS district is intended to provide for the preservation of greenspace as a nonstructural Stormwater runoff and watershed protection measure; to provide a residential zoning district that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land; to preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat; to permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development; to reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development; to promote interconnected greenways and corridors throughout the community; to promote greenspace contiguous with adjacent jurisdictions; to promote greenspace as passive recreation; to encourage interaction in the community by clustering houses and orienting them closer to the street, providing public gathering places and encouraging use of parks and community facilities as focal points in the neighborhood; to encourage street designs that reduce traffic speeds and reliance on main arteries; to promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles; to conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of open space; and to preserve important historic and archeological sites. Land and water are protected by limiting land disturbance and decreasing the percentage of impervious surface within the planned community, and by adding flexibility to site plan design. Open space design is intended to result in more efficient use of land, lower development and infrastructure costs, and the conservation of land for recreation or aesthetic and environmental enrichment. It is the intent of this district to encourage design flexibility, creativity and development complementary to surrounding and existing neighborhoods. CS plans are approved as site plan specific.

## **DEPARTMENT COMMENTS- Zoning Division (continued)**

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### **Requested zoning district for the property**

The CS district is established to encourage the preservation of natural resources within residential development. The CS district is intended to provide for the preservation of greenspace as a nonstructural Stormwater runoff and watershed protection measure; to provide a residential zoning district that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land; to preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat; to permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development; to reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development; to promote interconnected greenways and corridors throughout the community; to promote greenspace contiguous with adjacent jurisdictions; to promote greenspace as passive recreation; to encourage interaction in the community by clustering houses and orienting them closer to the street, providing public gathering places and encouraging use of parks and community facilities as focal points in the neighborhood; to encourage street designs that reduce traffic speeds and reliance on main arteries; to promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles; to conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of open space; and to preserve important historic and archeological sites. Land and water are protected by limiting land disturbance and decreasing the percentage of impervious surface within the planned community, and by adding flexibility to site plan design. Open space design is intended to result in more efficient use of land, lower development and infrastructure costs, and the conservation of land for recreation or aesthetic and environmental enrichment. It is the intent of this district to encourage design flexibility, creativity and development complementary to surrounding and existing neighborhoods. CS plans are approved as site plan specific.

### **Summary of the applicant's proposal**

Applicant is requesting the Conservation Subdivision (CS) existing on the property be amended with the changes proposed in this application. The property was rezoned, as a settlement of litigation, from R-30 to CS in 2005 (Z-167). The applicant is requesting to amend the stipulation on the undeveloped future phase. The request is for 56 lots of the future phase to go from being 75-foot wide lots to 60 feet wide. If this is approved, the overall number of lots will increase by 14 from 208 to 222, creating a density of 1.57 units per acre, increased from 1.50 units per acre.

## **DEPARTMENT COMMENTS- Zoning Division (continued)**

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### **Residential criteria**

Allowable units as zoned: 208

Proposed # of units: 222

Net density: 1.57 units per acre

Increase of units: 14

Acres of floodplain/wetlands: 1.65 ac

Impervious surface shown: Will meet code.

### **Are there any zoning variances?**

The proposal will require a contemporaneous variance to waive the distance between houses from the required 15 feet to 10 feet.

## **DEPARTMENT COMMENTS- Fire Department**

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Guest Parking shall comply with Section 401.8.2 of the Cobb County Development Standards.

## **DEPARTMENT COMMENTS- Site Plan Review (County Arborist)**

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If approved, the civil engineering plans for the subdivision must be revised to reflect the additional lots. Contact Site Plan Review, 770-528-2147.

## **DEPARTMENT COMMENTS- Cemetery Preservation**

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No comment.

**DEPARTMENT COMMENTS- School System**

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<b>School</b>	<b>Student Capacity</b>	<b>Student Enrollment</b>	<b>Capacity Status</b>
<b>Kemp ES</b>	962	969	7 over capacity
<b>Lovinggood MS</b>	1162	1374	212 over capacity
<b>Hillgrove HS</b>	1912	2465	553 over capacity

<b>COMMENTS</b>
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Approval of this petition will cause concern for CCSD, as it will result in an impact on the enrollment for schools already over capacity.

## **DEPARTMENT COMMENTS- Stormwater Management**

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1. Flood hazard: Yes
2. Flood hazard zone: Zone X
3. Drainage Basin: Luther Ward Branch
4. FEMA Designated 100-year Floodplain Flood.
5. Wetlands: No
6. Streambank buffer zone: Yes
7. County Buffer Ordinance: 50' each side of creek channel.
8. Stormwater discharges must be controlled not to exceed the existing capacity of the downstream storm drainage system.
9. Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on existing downstream drainage system(s).
10. Special site conditions and/or additional comments:
  - Subject to SWM approval of revised site plan.
  - Verification of adequate stormwater capacity provided in existing stormwater management facilities.

## DEPARTMENT COMMENTS- Planning Division

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**Cobb 2040 Comprehensive Plan:** The parcel is within the Very Low Density Residential (VLDR) future land use category. The purpose of the VLDR category is to provide for areas that are suitable for very low-density housing, particularly in locations that may not have basic services such as sewer, or where the existing or desired residential density is zero (0) to two (2) dwelling units per acre.

Comprehensive Plan Designation:  Consistent  Inconsistent

### House Bill 489 Intergovernmental Agreement Zoning Amendment Notification

Is the proposal within one-half mile of a city boundary?  Yes  No

Was the city notified?  Yes  No  N/A

Specific Area Policy Guidelines:  Yes  No

Masterplan/ Corridor Study  Yes  No

Design guidelines area?  Yes  No

Does the proposal plan comply with the design requirements?  Yes  No  N/A

Is the property within an Opportunity Zone?  Yes  No

*(The Opportunity Zone is an incentive that provides \$3,500 tax credit per job in eligible areas if two or more jobs are being created. This incentive is for new or existing businesses)*

Is the property within an Enterprise Zone?  Yes  No

*(The Enterprise Zone is an incentive that provides tax abatements and other economic incentives for qualifying businesses locating or expanding within designated areas for new jobs and capital investment)*

Is the property eligible for incentives through the Commercial and Industrial Property Rehabilitation Program?  Yes  No

*(The Commercial and Industrial Property Rehabilitation Program is an incentive that provides a reduction in ad valorem property taxes for qualifying redevelopment in eligible areas)*

**Note: For more information on incentives, please call the Community Development Agency- Economic Development Division at 770-528-2018 or find information online at [www.cobbcounty.org/econdev](http://www.cobbcounty.org/econdev).**

(Planning comments continued on the next page)

**DEPARTMENT COMMENTS- Planning Division** (continued)

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**Special District**

Is this property within the Cumberland Special District #1 (hotel/motel fee)?  Yes  No

Is this property within the Cumberland Special District #2 (ad valorem tax)?  Yes  No

Is this property within the Six Flags Special Service District?  Yes  No

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**Dobbins Air Reserve Base Zones**

Is the property within the Dobbins Airfield Safety Zone?  Yes  No

Is the property within the Clear Zone (CZ)?  Yes  No

Is the property within the Accident Potential Zone (APZ I)?  Yes  No

Is the property within the Accident Potential Zone II (APZ II)?  Yes  No

Is the property within the Noise Zone?  Yes  No

Is the property within the Bird/Wildlife Air Strike Hazard Area (BASH)?  Yes  No

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**Historic Preservation**

There are historic preservation stipulations associated with the previous rezoning cases. These stipulations appear to not be affected by the current rezoning request.

## DEPARTMENT COMMENTS- Water and Sewer

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### Water comments:

Available at development:  YES  NO

Fire flow test required:  YES  NO

Size and location of existing water main(s): 8" in Marlay Lane

Additional water comments: Lots will be served by Lost Mountain High Service system, subject to \$3,000 per lot water fee.

Note: These comments only reflect what facilities were in existence at the time of this review. Developer may be required to install/upgrade water mains based on fire flow test results or Fire Department code. This will be addressed in the Plan Review process.

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### Sewer comments:

In the drainage basin:  YES  NO

At development:  YES  NO

Approximate distance to nearest sewer: Marlay Lane ROW

Estimated waste generation (in G.P.D.): Average daily flow = +2,240; Peak flow = +5,600

Treatment plant: South Cobb

Plant capacity:  Yes  NO

Line capacity:  YES  NO

Projected plant availability:  0-5 years  5-10 years  over 10 years

Dry sewers required:  YES  NO

Off-site easement required:  YES\*  NO

Flow test required:  YES  NO

Letter of allocation issued:  YES  NO

Septic tank recommended by this department:  YES  NO

Subject to Health Department approval:  YES  NO

Additional sewer comments:

\*If off-site easements are required, the developer/owner must submit easements to the CCWS for review and approval as to form and stipulations prior to the execution of easements by the property owners. All easement acquisitions are the responsibility of the developer/owner.

Note: The developer/owner will be responsible for connecting to the existing county water and sewer systems, installing and/or upgrading all outfalls & water mains, obtaining onsite and/or offsite easements, and dedication of onsite and/or offsite water and sewer to Cobb County as may be required. Rezoning does not guarantee water/sewer availability or capacity unless so stated in writing by the Cobb County Water System.

## DEPARTMENT COMMENTS- Transportation

Roadway	Roadway classification	Speed limit (MPH)	Jurisdictional control	Min. R.O.W. requirements
Lost Mountain Road	Arterial	45	Cobb County	100'

Roadway	Location	Average daily trips	Level of service
Lost Mountain Road	North of Amberton Drive	14,600	D

*Based on 2015 traffic counting data taken by Cobb County DOT for Lost Mountain Road.*

*Planning Level of Service based on available Average Daily Trips using GRTA guideline thresholds. Classification thresholds for LOS A and LOS B are not available for local roads from this data source.*

*LOS C or D is acceptable based on GDOT Design Policy Manual criteria.*

### Comments and observations

Lost Mountain Road is classified as an arterial roadway and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

Cobb County DOT has a SPLOST Project (X2305) in the vicinity of this development on Lost Mountain Road. Additional right-of-way may be needed for road widening on Lost Mountain Road up to Corner Road.

### Recommendations

1. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.
2. Recommend applicant coordinate with Cobb County DOT prior to development plan approval to ensure compatibility with the proposed SPLOST project X2305 – Dallas Highway at Lost Mountain-Mars Hill Road. Additional right-of-way may be needed for improvements along Lost Mountain Road.

STAFF ANALYSIS

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Per section 134-122 of the Official Code of Cobb County, below is a written zoning analysis relating to the following (question in bold; the answer is not bold):

**A. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;**

It is Staff's opinion that the applicant's zoning proposal will not permit a use that is suitable in view of the use and development of adjacent and nearby property. While other properties in this area are zoned PRD, CS, and R-30, the subject proposal will increase the number of lots that was originally agreed to by all parties in a controversial rezoning from 2005.

**B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;**

It is Staff's opinion that the proposal will adversely affect the use or usability of adjacent or nearby property. Approval of this petition may encourage similarly zoned properties to seek rezoning in order to vary the lot configurations and increase densities.

**C. Whether the zoning proposal will result in a use which will or could cause an excessive burdensome use of existing streets, transportation facilities, utilities, or schools;**

It is Staff's opinion that the applicant's rezoning proposal will result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. The Cobb County School District has concerns that the proposed development will have an impact on enrollment of schools already over capacity.

**D. Whether the zoning proposal is in conformity with the policies and intent of the comprehensive plan;**

It is Staff's opinion that the requested CS zoning district is in conformity with the *Cobb County Comprehensive Plan* designation of Very Low Density Residential (VLDR); however, the property's existing CS zoning was the result of a settlement of litigation that resulted in the Board of Commissioners, applicant/developer (from Z-167 of 2005), and the opposition reaching agreeable terms and stipulations for development. The current proposal seeks to change those decisions and increase the number of lots for the development.

STAFF ANALYSIS (Continued)

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**E. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal;**

It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for denying the applicant's rezoning proposal. The original rezoning case that established the existing zoning of CS on the property was the result of time, legal action, and settlement agreements that resulted from case Z-167 of 2005. While the proposed density of 1.57 units per acre is consistent with the VLDR limits of 0-2 units per acre, approval of the current application will undo stipulations that were the result of the Board of Commissioners reconsidering the case and reaching agreeable terms with the applicant and neighbors in the community. The proposal seeks to reduce lot widths on lots in the future northern phase of the development, which in turn increases the overall number of units for the future phase of the subdivision. The proposal also includes a request to reduce the distance from 15 feet to 10 feet between the houses on the lots that will have the reduced width of 60 feet. Portions of this subdivision are already developed.

**The staff analysis and recommendation made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.**

Application No. Z-57

Sept. 2018

# Summary of Intent for Rezoning



.....  
Part 1. Residential Rezoning Information (attach additional information if needed)

- a) Proposed unit square-footage(s): (SEE ATTACHED)
- b) Proposed building architecture: \_\_\_\_\_
- c) List all requested variances: \_\_\_\_\_

.....  
Part 2. Non-residential Rezoning Information (attach additional information if needed)

- a) Proposed use(s): N/A
- b) Proposed building architecture: \_\_\_\_\_
- c) Proposed hours/days of operation: \_\_\_\_\_
- d) List all requested variances: \_\_\_\_\_

.....  
Part 3. Other Pertinent Information (List or attach additional information if needed)

(SEE ATTACHED)

.....  
Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?

(Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located).

NO

## **Summary of Intent for Rezoning**

Applicant: John Gaskin

Titleholder: Ballantry PMC Kyle LLLP

The applicant requests that fifty six (56) of future phase currently zoned 75 foot lots be converted to seventy 60 foot wide lots. All other existing lots within the community shall remain as currently zoned. If the 75 foot wide lots are allowed to be converted to 60 foot lots, the overall community will gain 14 lots. The total number of lots will increase from 208 to 222 lots.

It is the intent of the applicant on behalf of the Titleholder to request a modification of existing conditions found in the October 18, 2006 Z167 (2005) Letter of Agreeable Stipulations – November 21, 2006 BOC meeting as drafted by John H. Moore – Moore Ingram Johnson & Steele, LLP and adopted by Cobb County BOC.

The applicant on behalf of the owner is requesting a modification of the following conditions outlined in the October 18, 2006

Letter of Agreeable Stipulations:

1. Existing Condition (4)
  - a. The existing condition shall be modified to read.
    - i. (4) The Subject Property consists of approximately 141.4 acres of total site area and shall contain a maximum of 222 single family residential lots for a gross density of 1.57 units per acre.
2. Existing Condition (5)
  - a. The existing condition shall be modified to read... The net density is therefore 1.6 units per acre.
3. Existing Condition (14)
  - a. This existing condition shall be modified to allow a minimum of 1,600sf (including garage) for 60 foot lots only. All other 75, 80, and 100 foot lots shall have a minimum of 2,200sf to 4,000sf as required in the existing zoning conditions.
4. Existing Condition (16)
  - a. The existing condition shall be modified to read as follows.
    - i. (16) The average lot size is approximately 15,000 square feet with a minimum lot size of 8,000sf for newly approved 60 foot lots and 10,000 square feet ranging upwards to 30,000sf for all lots 75 feet, 80 feet, and 100 foot wide. Certain perimeter lots, as shown and reflected on the referenced and approved final plats 16,000 square feet.

5. Existing Condition (17)

a. The existing condition shall be modified to read as follows:

- i. (17) All lots 75, 80, and 100 feet wide shall be required to maintain 15 feet between houses. All 60 foot wide lots shall be required to maintain 10 feet between houses with fire-rated walls required on all side elevations where homes are 10 feet apart.

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JUL 16 2018

COBB CO. COMM. DEV. AGENCY  
ZONING DIVISION



# The Jasper

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 JUL 16 2018

COBB CO. COMM. DEV. AGENCY  
 ZONING DIVISION

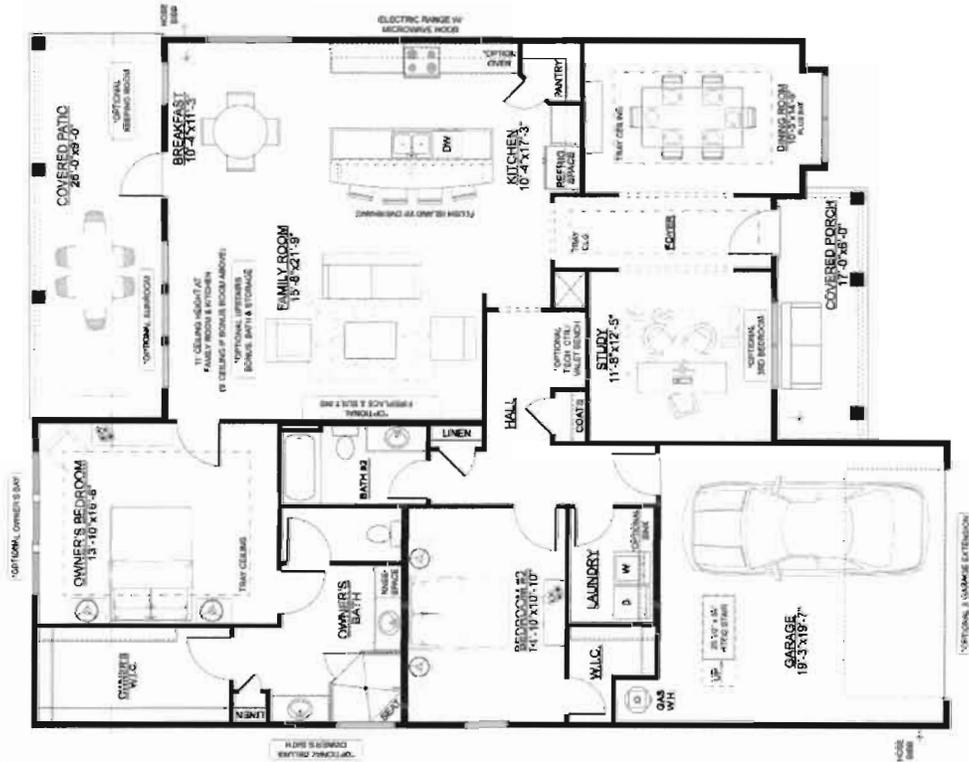
ELEVATION A  
 Country Flair



ELEVATION B  
 Tudor



ELEVATION C  
 Traditional



JASPER  
 2BR/2BA  
 2,091 Square Feet  
 Dining Room  
 Breakfast Room  
 Family Room  
 Study/Optional 3BR  
 2-Car Garage

RECEIVED  
JUL 16 2018

COBB CO. COMM. DEV AGENCY  
ZONING DIVISION

# The Mansfield



AD  
THE  
L. HILDRETH

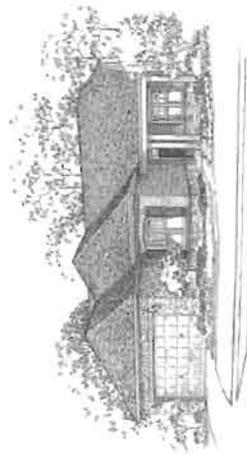
ELEVATION A  
 Country Flair



ELEVATION B  
 Cottage Style

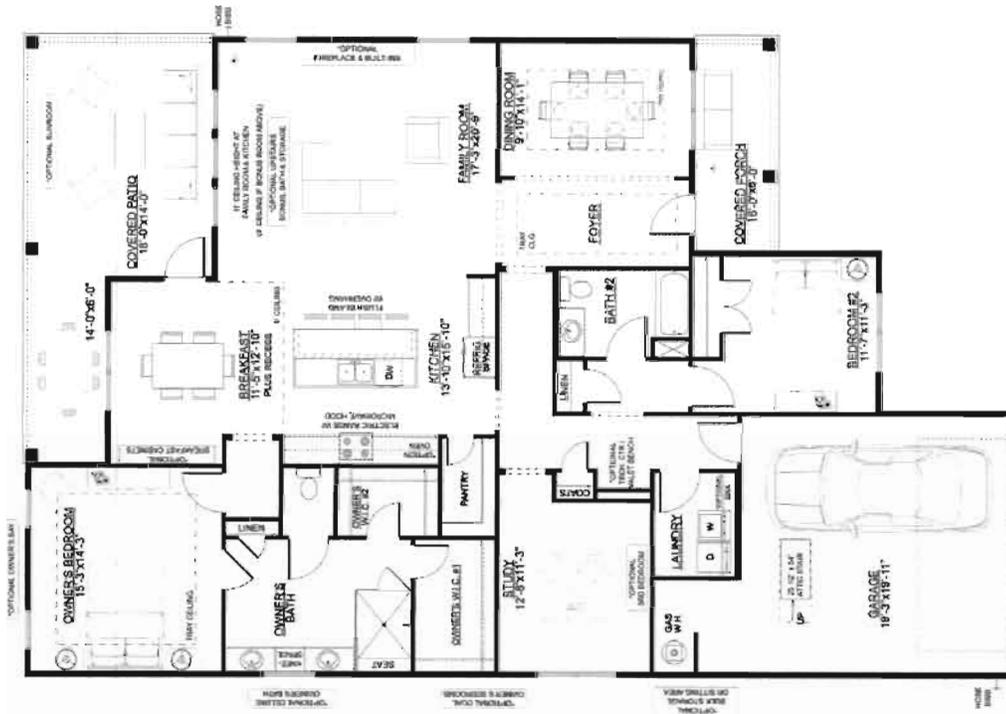


ELEVATION C  
 Traditional



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 JUL 16 2018

COBB CO. COMM. DEV. AGENCY  
 ZONING DIVISION



**MANSFIELD**  
 2BR/2BA  
 2,257 Square Feet  
 Dining Room  
 Breakfast Room  
 Family Room  
 Study/Optional 3BR  
 2-Car Garage

RECEIVED  
JUL 16 2018

COBB CO. COMM. DEV. AGENCY  
ZONING DIVISION



THE  
COURTNEY  
ARCHITECTURE

# The Preston

ELEVATION A  
 Traditional



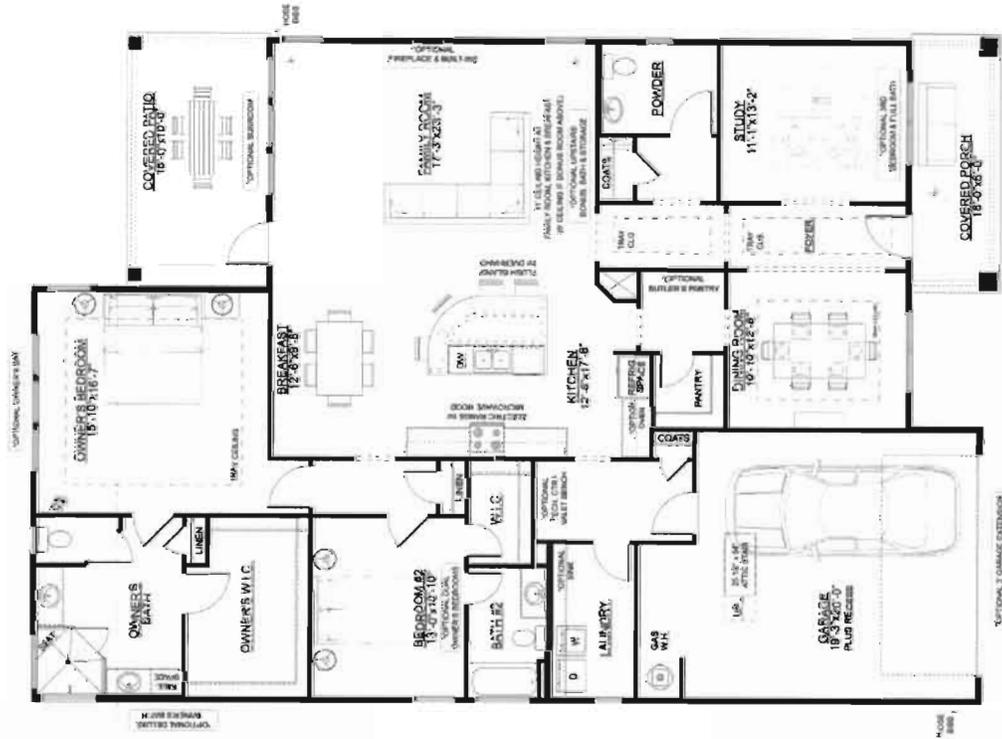
ELEVATION B  
 Cottage Style



ELEVATION C  
 Country Fair



**RECEIVED**  
 JUL 16 2018  
 COBB CO. COMM. DEV. AGENCY  
 ZONING DIVISION



**PRESTON**  
 3BR/3BA  
 2,389 Square Feet  
 Dining Room  
 Breakfast Room  
 Family Room  
 3BR/Optional Study  
 2-Car Garage

ORIGINAL DATE OF APPLICATION: 10-18-05

APPLICANTS NAME: COUSINS REAL ESTATE CORPORATION

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

**BOC DECISION OF 11-21-06 ZONING HEARING:**

**OTHER BUSINESS ITEM #1 – TO CONSIDER A SETTLEMENT OF LITIGATION PROPOSAL REGARDING Z-167 (COUSINS REAL ESTATE CORPORATION) OF OCTOBER 18, 2005**

To consider a Settlement of Litigation proposal regarding Z-167 (COUSINS REAL ESTATE CORPORATION) of October 18, 2005 for Rezoning from CS with stipulations to CS with stipulations for the purpose of a Subdivision in Land Lots 84, 137, 138, 139 and 159 of the 19th District. Located on the east side of Lost Mountain Road, south of Dallas Highway.

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

MOTION: Motion by Goreham, second by Kesting, to **approve** the following relative to the settlement proposal regarding Z-167 (COUSINS REAL ESTATE CORPORATION) of October 18, 2005 for CS with stipulations zoned property in Land Lots 84, 137, 138, 139 and 159 of the 19th District, on the east side of Lost Mountain Road, south of Dallas Highway:

- to **authorize** settlement of litigation regarding Cobb Superior Court, Civil Action File No. 06-1-2254-33
- to **approve** development to the Conservation Subdivision (CS) zoning category **subject to:**
  - **site plan submitted dated October 9, 2006 (copy attached and made a part of these minutes)**
  - **letter of agreeable stipulations from Mr. John Moore, dated October 18, 2006, with the following change/addition (copy attached and made a part of these minutes)**
    - **Item No. 39 – Change end of paragraph to read: “...next lower event”**
    - **Item No. 27 – Add to end of paragraph: “Language will be placed in the covenants prohibiting any homeowner of lots 99, 100, 104 or 105 from filling or altering the constructed swale or berm.”**

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APPLICATION NO. Z-167

ORIGINAL DATE OF APPLICATION: 10-18-05

APPLICANTS NAME: COUSINS REAL ESTATE CORPORATION

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

**BOC DECISION OF 11-21-06 ZONING HEARING:**

**OTHER BUSINESS ITEM #1 – TO CONSIDER A SETTLEMENT OF  
LITIGATION PROPOSAL REGARDING Z-167 (COUSINS REAL ESTATE  
CORPORATION) OF OCTOBER 18, 2005 (Continued)**

- Owner/Developer to provide signed acknowledgement to Cobb County that any flooding or water damage caused by the Owner/Developer occurring during development shall be rectified by the Developer/Contractor or responsible party as listed on the land disturbance permit for this property (or any portions of phases of this property as may be permitted)
- all previous departmental comments and recommendations pertaining to petition Z-167 of 2005, *not otherwise in conflict*
- prior to issuance of any Land Disturbance Permits – representatives of the Owner/Developer, County Stormwater Division, and Broadlands Subdivision are to meet with the District Commissioner to discuss the proposed stormwater mitigation for the eastern boundary of the property

VOTE: **ADOPTED** unanimously



# MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP  
WWW.MIJS.COM

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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  
JOYCE W. HARPER  
AMY K. WEBER  
COURTNEY H. MOORE  
KIM A. ROPER  
TARA C. RIDGLE  
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TANYA L. CROSSE\*  
ROBERT W. BROWN II  
VICTOR P. VALMUS  
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NICHOLAS J. PETERSON\*  
JAMES D. WALKER III  
CHRISTOPHER D. GUNNELS\*  
CHRISTOPHER L. MOORE  
JENNIFER S. WHITE\*  
RYAN G. PRESCOTT  
RICARDO J. DeMEDEIROS  
BRETT A. MILLER  
KAREN S. KURTZ  
CHRISTOPHER C. MINGLEDORFF  
MORGAN E. FOSTER  
KATHERINE G. CRONE

RYAN E. JARRARD\*  
ANN A. HAMMENECKER\*  
JAMES D. BURCH\*  
ESTHER VAYMAN  
COLE B. STINSON†\*\*  
SUZANNE E. HENRICKSON

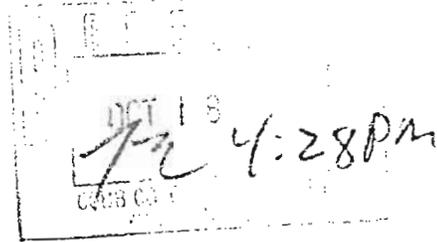
OF COUNSEL:  
JOHN L. SKELTON, JR.†

† ALSO ADMITTED IN TN  
\* ALSO ADMITTED IN FL  
\*\* ALSO ADMITTED IN NM  
\*\*\* ALSO ADMITTED IN NC  
• ADMITTED ONLY IN TN

October 18, 2006

Mr. Mark A. Danneman  
Zoning Administrator  
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-167 (2005)  
Applicant: Cousins Real Estate Corporation  
Property Owners: Kyle Properties, Ltd.,  
A Georgia Limited Partnership;  
Kyle Ventures, A Georgia General  
Partnership; et al.  
Property: 141.4 acres located on the  
(Z-167 of 2005) easterly side of Lost Mountain  
Road, south of Dallas Highway  
(State Route 120); Land Lots 84,  
137, 138, 139, and 159,  
19<sup>th</sup> District, 2<sup>nd</sup> Section,  
Cobb County, Georgia

Min. Bk. 46 Petition No. DB #1  
Doc. Type Letter of Agreeable  
Stipulations  
Meeting Date Nov. 21, 2006

AND

John Vernon Kyle, Jr. and Synovus Trust Company,  
N.A., as Co-Trustees of the Trust for John Vernon  
Kyle, Jr. Dated December 28, 1950, as amended;  
Cousins Real Estate Corporation; et al., v.  
Cobb County, Georgia; et al.  
Civil Action, File Number: 06-1-2254-33  
Superior Court of Cobb County

MOORE INGRAM JOHNSON & STEELE

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
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October 18, 2006

Petition No. Z-167 of 2005  
Meeting Date Nov. 21, 2006  
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Dear Mark:

As you know, the undersigned and this firm represent Cousins Real Estate Corporation, the Applicant (hereinafter referred to as "Applicant"), and Kyle Properties, Ltd.; Kyle Ventures; and various Kyle family members, the Property Owners, (hereinafter collectively referred to as "Owners"), in their pending zoning appeal as to property totaling 141.4 located on the easterly side of Lost Mountain Road, south of Dallas Highway (State Route 120), Land Lots 84, 137, 138, 139, and 159, 19<sup>th</sup> District, 2<sup>nd</sup> Section, (hereinafter "Subject Property"), which was the subject of the above-referenced Application for Rezoning, same being Application No. Z-167 (2005). The appeal arose as a result of the imposition of certain conditions and restrictions imposed by the Board of Commissioners upon the Applicant and Owners and the proposed development to the Conservation Subdivision ("CS") zoning category

The settlement, as proposed in this letter, the stipulations contained herein, and the accompanying revised Zoning Plat result from a court-ordered mediation conference and efforts by all parties to resolve the issues presented without the necessity of further litigation.

Applicant and Owner agree to the following stipulations and conditions, subject to approval of the Zoning Plat submitted herewith, which, if approved, as submitted, shall be in complete settlement of the pending zoning appeal and shall be binding upon the Subject Property. This settlement letter of agreeable stipulations and conditions shall supersede and replace in full any and all other letters of agreeable stipulations and conditions submitted in connection with the Application for Rezoning and the zoning appeal not specifically enumerated herein; and specifically replaces in full that certain letter of agreeable stipulations and conditions dated February 1, 2006, and attached to the official minutes of the Board of Commissioners Zoning Hearing held on February 21, 2006. The referenced stipulations are as follows:

MOORE INGRAM JOHNSON & STEELE

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
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October 18, 2006

08#1  
Petition No. Z-167 of 2005  
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Continued

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- (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 existing zoning category of R-30 to the proposed zoning category of Conservation Subdivision ("CS"), site plan specific to that certain revised Zoning Plat prepared by Gaskins Surveying and Engineering Company dated October 9, 2006, submitted contemporaneously herewith.
- (3) Applicant submits the revised Zoning Plat hereinabove set forth, same being prepared by Gaskins Surveying and Engineering Company dated October 9, 2006.
- (4) The Subject Property consists of approximately 141.4 acres of total site area and shall contain a maximum of two hundred eight (208) single-family residential lots, for a total gross density of 1.47 units per acre.
- (5) The Subject Property contains 1.65 acres of flood plain and wetlands, and 1.41 acres of impervious surface within the amenity area. This totals 3.07 acres, and when subtracted from the gross acreage of 141.4 acres results in 138.3 net acres. The net density is therefore 1.5 units per acre.
- (6) A total of approximately 49.57 acres of the Subject Property is proposed for dedicated common area/open space (35.1 percent of the total site area).
- (7) The common/open space area shall be used for passive recreational purposes, including walking/nature trails, picnicking, and like purposes.

MOORE INGRAM JOHNSON & STEELE

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
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October 18, 2006

OB#1  
Petition No. Z-1167 of 2005  
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- (8) The amenity area for the proposed residential community shall include, but not be limited to, pool, tennis courts, and clubhouse.
- (9) The common/open space and amenity area shall be deeded to the mandatory homeowners association to be formed as a part of the proposed residential community and deed restricted for the purposes herein set forth.
- (10) Applicant agrees to a minimum of a one hundred (100) foot natural and enhanced buffer along the easterly and southerly boundaries of the Subject Property, as such boundaries are adjacent to existing residentially zoned properties, as more particularly shown and reflected on the referenced, revised Zoning Plat.
- (11) The buffer area described above shall be subject to approval by the Cobb County Arborist for visual screening from adjacent residential areas. Additional plantings within the buffers shall be made where necessary to provide visual screening and as approved by the Cobb County Arborist as part of the overall landscape plan for the proposed residential community.
- (12) There shall be a landscape buffer a minimum of thirty (30) feet in width measured from the existing right-of-way and located along the Subject Property's frontage with Lost Mountain Road. The buffer shall contain landscaping and country board fencing in white or dark stain. The fencing may contain brick/stone columns.
- (13) The buffers described above shall be protected through restrictions provided in the proposed covenants for the residential community; as well as, delineated on the final plat approved by Cobb County as part of the plan review and platting process.

MOORE INGRAM JOHNSON & STEELE

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
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October 18, 2006

OB#1  
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- (14) Residences to be constructed within the proposed residential community shall have a minimum of 2,200 square feet, ranging upwards to 4,000 square feet and greater, and shall be traditional or European in styling and architecture.
- (15) Additionally, the exteriors of residences within the proposed community shall be brick, stone, stacked stone, stucco-type, masonry siding, cedar shake-type shingles, or combinations thereof.
- (16) The average lot size is approximately 16,002 square feet with a minimum lot size of 10,000 square feet ranging upwards to 30,000 square feet, and lot widths a minimum of seventy-five (75) feet ranging upward to ninety (90) feet. Certain perimeter lots, as shown and reflected on the referenced Zoning Plat, shall be a minimum of 16,000 square feet.
- (17) There shall be a minimum of fifteen (15) feet between houses.
- (18) Entrances to the proposed residential community shall be as more particularly shown and reflected on the referenced Zoning Plat. The entrance areas shall be professionally designed, landscaped, and maintained. The most southerly entrance shall align with the realignment of Corner Road, and shall be full access. The northerly entrance shall be right-in/right-out/left-out access only. At such time as Lost Mountain Road is widened to four lanes, the northerly entrance access will be reduced to right-in/right-out only.
- (19) Entrance signage shall be ground-based, monument style and shall be composed of materials compatible and complementary to the proposed residences. All entrance areas will be professionally designed, landscaped, and maintained.

MOORE INGRAM JOHNSON & STEELE

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
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October 18, 2006

OB #1  
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Continued  
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- (20) Street lighting within the proposed community shall be environmentally sensitive, decorative, and themed to the architecture and style of the residences constructed therein.
- (21) Applicant agrees to the creation of a mandatory homeowners association consistent with up-scale communities within the area. The mandatory homeowners association shall be responsible for the upkeep and maintenance of all common area/open space and buffer areas contained within the proposed community.
- (22) Additionally, and in conjunction with the creation of the mandatory homeowners association, Applicant agrees to the recording and enforcement of protective covenants which will contain covenants, rules, and regulations applicable to the proposed community and for the protection of open space and buffer areas.
- (23) Cousins Real Estate Corporation, as the Applicant, will be involved in the development of the proposed community.
- (24) Applicant agrees to work with Dr. Phil Secrist to clean-up the area around, to install a new roof, and to stabilize the existing structure denominated as the "Servants' Quarters." Further, Applicant agrees to install a historical marker relating to the history of the site.
- (25) All utilities servicing the residences within the proposed community shall be underground.
- (26) Applicant agrees to construct internal sidewalks within the proposed residential community. Said sidewalks shall comply in all respects with Cobb County standards and ordinances and shall connect to

**MOORE INGRAM JOHNSON & STEELE**

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
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Meeting Date Nov. 21, 2005  
Continued  
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the pedestrian trails located throughout the community.

- (27) All lots and homes located along the most easterly boundary of the Subject Property immediately adjacent to Broadlands Subdivision shall be graded so that the fronts of the lots and the homes up to the front roof peak will all drain to the street. Applicant agrees to install a swale or a berm on the rear of proposed lots 99, 100, 104, and 105 to divert water flow from the rear of these lots into the stormwater management area located southerly of said lots. This installation shall occur prior to any grading for residences to be constructed on said lots.
- (28) There shall be no detention facilities located any closer to an exterior boundary than fifty (50) feet from such boundary.
- (29) The detention areas shall be fenced and landscaped to the exterior for purposes of visual screening. Said landscaping shall be approved by the Cobb County Arborist as part of the plan review process and incorporated into the overall landscape plan for the residential community.
- (30) Prior to land disturbance, Applicant agrees to install orange tree protective fencing to the inside of all natural and enhanced buffers.
- (31) Applicant agrees to perform pre- and post-development studies of any immediate downstream lakes prior to commencing development of the Subject Property.
- (32) Minor modifications to the referenced Zoning Plat, including, but not limited to, lot layout and stormwater control measures, may be approved by the District Commissioner, as needed or necessary.

**MOORE INGRAM JOHNSON & STEELE**

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
Page 8 of 12  
October 18, 2006

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- (33) Applicant agrees to a fifty (50) foot stream buffer on either side of the centerline of any streams traversing the Subject Property as more particularly shown and reflected on the Zoning Plat referenced herein.
- (34) Applicant agrees to work with the Cobb County Parks and Recreation Department to provide convenient pedestrian and bicycle access to Lost Mountain Park from the proposed development.
- (35) Applicant shall comply with the Cobb County Tree Ordinance; and in that regard, Applicant shall use reasonable best efforts to minimize grading so as to avoid mass grading of the Subject Property. In this regard, Applicant agrees to only grade for street rights-of-way, utility easements, and building pads and yards for homes; excepting that, rear yard grading shall be limited to the edge of the building setback or buffer, whichever is less distance from the rear of the home.
- (36) There shall be a no access easement for all residential lots adjacent to Lost Mountain Road.
- (37) All detention, setback, and buffer areas may be penetrated for purposes of detention, utilities, and stormwater management.
- (38) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property; however, Cobb County Stormwater Management shall have the authority and latitude to make further recommendations regarding modifications to the referenced Zoning Plat during the plan review process based on final engineering and hydrology, studies. Any such modifications to the referenced Zoning Plat may be approved by the District Commissioner as needed or necessary.

MOORE INGRAM JOHNSON & STEELE

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
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October 18, 2006

08#1  
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Meeting Date Nov. 21, 2006  
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- (39) Applicant agrees to elevate first-flush water quality-best management practice requirements to 1.5 inch rainfall, and each larger storm release will be restricted to the allowable storm discharge at the next lower level.
- (40) Applicant agrees 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.
- (41) Applicant agrees to comply with all Cobb County Department of Transportation requirements applicable to the Subject Property.
- (42) Applicant agrees to the following system improvements to mitigate traffic concerns:
  - (a) Donation of right-of-way a maximum fifty-five (55) feet in width from the existing roadway centerline along the easterly side of Lost Mountain Road;
  - (b) Coordination with the Georgia Department of Transportation concerning the main entrance aligning with the relocation of Corner Road;
  - (c) Installation of a deceleration lane a maximum of one-hundred fifty (150) feet in length for ingress into the proposed community;
  - (d) Installation of sidewalk, only, along the property frontage on the easterly side of Lost Mountain Road, which shall be located two (2) feet off the right-of-way or the backside of the drainage ditch. The sidewalk may meander to preserve trees.

MOORE INGRAM JOHNSON & STEELE

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
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Meeting Date Nov. 21, 2006  
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- (e) Installation of left-turn storage lanes for left turn from Lost Mountain Road at the main (most southerly) entrance into the proposed community; and
- (f) Provide funding of \$50,000 for upgrades to the existing traffic signal at Corner Road which shall be paid prior to the issuance of the Land Disturbance Permit.

(43) The above stipulations shall bind the Subject Property and the Applicant, and any other future or potential developer of the Subject Property; however, in the event development has not commenced within twelve (12) months of the final rezoning, the zoning category shall revert to its existing R-30 zoning classification. If such reversion occurs, the within stipulations cease to be effective.

The proposal contained herein is submitted in settlement and compromise of the pending zoning appeal and shall not otherwise be used in any hearing, trial, arbitration, or mediation of said appeal. If the settlement, as proposed, is approved by the Board of Commissioners, Applicant and Owners agree to dismiss, with prejudice, the pending litigation case and to pay their own legal expenses and litigation costs.

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

**MOORE INGRAM JOHNSON & STEELE**

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
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Revision?  
Meeting?  
Comments

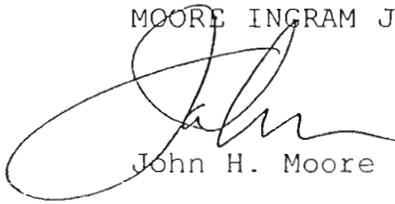
OB#1  
Z-1167 of 2005  
Nov. 21, 2006  
PAGE 46 OF ...

We believe the requested zoning, specific to the revised Zoning Plat and the revised stipulations contained herein, is an appropriate use of the Subject Property while taking into consideration the changing conditions of the area and the properties and owners thereof surrounding the proposed development. The proposed residential community shall be of the highest quality, shall be compatible with surrounding neighborhoods, and shall be an enhancement to the Subject Property and the community as a whole. 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

Enclosures

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

Denise Rose, President  
People Looking After Neighborhoods, Inc.  
(With Copy of Enclosure)

David Welden  
Protect Cobb  
(With Copy of Enclosure)

**MOORE INGRAM JOHNSON & STEELE**

Mr. Mark A. Danneman  
Zoning Administrator  
Zoning Division  
Cobb County Community Development Agency  
Page 12 of 12  
October 18, 2006

OB #1  
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Meeting Date: Nov. 21, 2006  
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- c: Don Keck  
Oakleigh Homeowners Association:  
(With Copy of Enclosure)
  
- Tom Lindsey  
Broadlands Homeowners Association:  
(With Copy of Enclosure)
  
- Denise Hindes, President  
Echo Mill Homeowners Association  
(With Copy of Enclosure)
  
- Cousins Real Estate Corporation  
(With Copy of Enclosure)

ORIGINAL DATE OF APPLICATION: 10-18-05Z-57 (2018)  
Previous MinutesAPPLICANTS NAME: COUSINS REAL ESTATE CORPORATION

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

**BOC DECISION OF 10-21-08 ZONING HEARING:**

**OTHER BUSINESS ITEM #1 – TO CONSIDER AMENDING THE STIPULATIONS  
REGARDING Z-167 (COUSINS REAL ESTATE CORPORATION) OF OCTOBER 18,  
2005**

To consider amending the stipulations regarding Z-167 (COUSINS REAL ESTATE CORPORATION) of October 18, 2005, for property located in Land Lots 84, 137, 138, 139 and 159 of the 19th District. Located on the east side of Lost Mountain Road, south of Dallas Highway.

By consensus, the Board deemed this to be a minor amendment. Mr. Mark Danneman, Zoning Division Manager, provided information regarding stipulation amendments. There was no public comment. Following presentation and discussion, the following motion was made:

MOTION: Motion by Goreham, second by Olens, to **approve** Other Business Item #1 for stipulation amendment of Z-167 (COUSINS REAL ESTATE CORPORATION) of October 18, 2005, for property located in Land Lots 84, 137, 138, 139 and 159 of the 19th District, on the east side of Lost Mountain Road, south of Dallas Highway, **subject to:**

- **modification of two of the conditions contained within the October 18, 2006 letter of stipulations, as follows:**
  - *the future developer or builder to be approved by the District Commissioner. (reference Item No. 23)*
  - *allow an additional eighteen (18) month extension of the reversionary provision - until April 30, 2010 (reference Item No. 43)*
- **all other previously approved conditions/stipulations not in conflict to remain in effect**

VOTE: **ADOPTED** unanimously

MINUTES OF ZONING HEARING  
COBB COUNTY BOARD OF COMMISSIONERS  
AUGUST 19, 2014  
PAGE 15

REGULAR AGENDA (CONT.)

~~LUP 25 KIM MCDRIDE (CONT.)~~

- ~~• Maximum of four cars to be parked in driveway *only*, with deferral of Code Enforcement action for 60 days of this decision~~

~~VOTE: ADOPTED unanimously~~

OTHER BUSINESS

O.B. 39 To consider a site plan and stipulation amendment for Patrick Malloy Communities regarding rezoning application Z-167 of 2005 (Cousins Real Estate Corporation), for property located on the east side of Lost Mountain Road, south of Dallas Highway in Land Lots 84, 137, 138, 139 and 159 of the 19th District. *(Previously continued by Staff from the July 15, 2014 Board of Commissioners hearing)*

Mr. Pederson provided information regarding stipulation and site plan amendments. The public hearing was opened and Mr. Garvis L. Sams, Mr. Tom Lindsey, and Mr. Michael Hale addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Goreham, second by Ott, to **approve** Other Business Item No. 39 for stipulation and site plan amendments for Patrick Malloy Communities regarding rezoning application Z-167 of 2005 (Cousins Real Estate Corporation), subject to:

- Site plan received by the Zoning Division July 31, 2014, with amenity area to be approved by District Commissioner (attached and made a part of these minutes)
- Letter from Mr. Garvis L. Sams, Jr. dated July 31, 2014 (attached and made part of these minutes)
- Individual site plans Lots 141, 142, 145, and 146 go through site plan review for stormwater management.
- Applicant honor the prior zoning stipulations related to placing certain items adjacent to existing subdivisions regardless of how the lots are numbered
- Historic Preservation comments and recommendations dated July 8, 2014
- All previous stipulations and conditions, *not otherwise in conflict*, to remain in effect

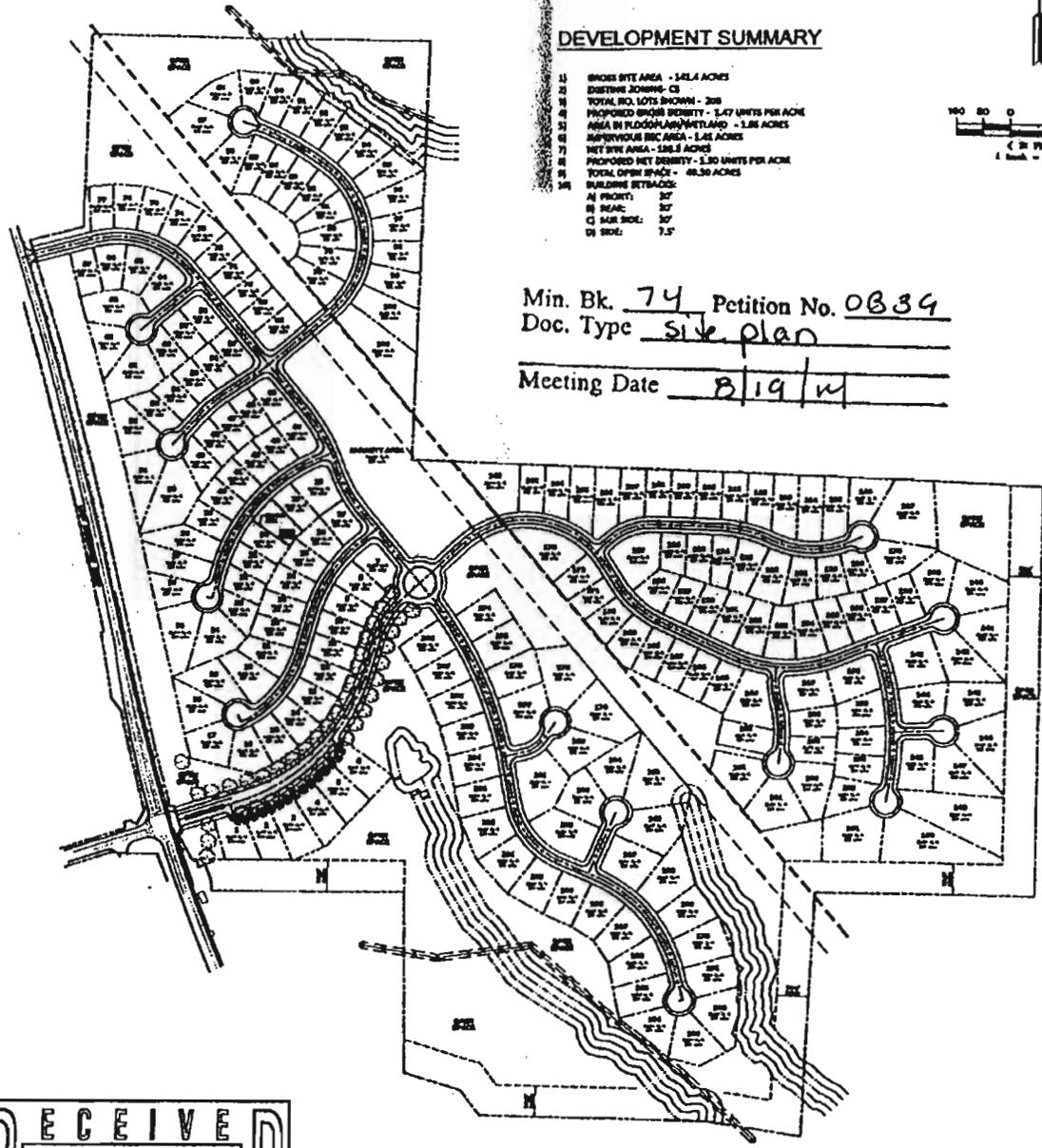
VOTE: ADOPTED unanimously

OB-39/2014  
Proposed  
plan



**DEVELOPMENT SUMMARY**

- 1) GROSS SITE AREA - 141.4 ACRES
- 2) EXISTING ZONING - C3
- 3) TOTAL NO. LOTS SHOWN - 205
- 4) PROPOSED GROSS DENSITY - 1.47 UNITS PER ACRE
- 5) AREA IN FLOODPLAIN/WETLAND - 1.16 ACRES
- 6) IMPERVIOUS REC AREA - 1.16 ACRES
- 7) NET SITE AREA - 138.3 ACRES
- 8) PROPOSED NET DENSITY - 1.50 UNITS PER ACRE
- 9) TOTAL OPEN SPACE - 49.30 ACRES
- 10) BUILDING RETRADES:
  - A) FRONT: 30'
  - B) REAR: 30'
  - C) SIDE: 30'
  - D) SIDE: 7.5'



Min. Bk. 74 Petition No. OB39  
Doc. Type Site plan  
Meeting Date 8/19/14

**RECEIVED**  
JUL 31 2014  
COBB CO. COMM. DEV. AGENCY  
ZONING DIVISION

**KYLE TRACT**  
**CONCEPT PLAN**  
COBB COUNTY, GEORGIA  
**GREYDEN**

REVISED  
JUL 31 2014

ENGINEERING - PLANNING  
2005 River Street  
Roswell, GA 30076  
PH 770-677-4961 FAX 770-642-0421

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

GARVIS L. SAMS, JR.  
JOEL L. LARKIN  
PARKS F. HUFF  
JAMES A. BALLI

SUITE 100  
376 POWDER SPRINGS STREET  
MARIETTA, GEORGIA 30066-8148

770-422-7016  
TELEPHONE  
770-426-6583  
FACSIMILE

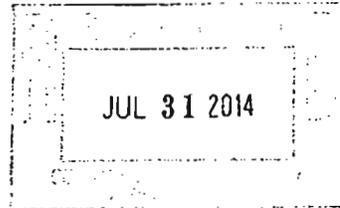
JUSTIN H. MEEKS

Petition No. 74 OB39  
Doc. Type letter of agree-  
able conditions  
Meeting Date 8/19/14  
SAMS.LARKIN.HUFF.COM

July 31, 2014

**VIA EMAIL & HAND DELIVERY**

Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
Community Development Agency  
1150 Powder Springs Road, Suite 400  
Marietta, GA 30064



Re: Other Business Application of Patrick Malloy-Ballantry Homes Inc. & The Pacific Group, Inc. concerning Z-167 of 2005 (Cousins Real Estate Corporation) approved through a settlement of litigation on November 21, 2006 (OB Item #1).

Dear John:

You will recall that this firm represents Patrick Malloy – Ballantry Homes, Inc. and The Pacific Group, Inc. concerning the above-captioned Other Business Application. The Application is scheduled to be heard and considered by the Cobb County Board of Commissioners on its Other Business Agenda on August 19, 2014.

With respect to the foregoing, enclosed please find the requisite number of copies of a revised site plan which is being submitted in order to amend the site plan approved as a settlement of litigation (Other Business Item #1-November 21, 2006). All other stipulations/conditions concerning the settlement of litigation and the rezoning of the subject property shall remain in full force and effect except my clients' request for a revision to the stipulation regarding the archaeological remnants on the subject property (Paragraph 24 on Page 6 of the October 18, 2006 settlement of litigation letter). In that regard and consistent with recommendations from Cobb County's Historic Preservation Planner, the existing servants' quarters on the subject property will be partially preserved and fenced and an historic marker will be installed recognizing the historical implications of the site.

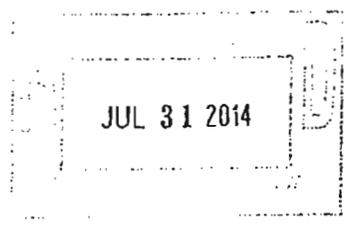
Because of the fact that the servants' quarters have deteriorated considerably since the settlement of litigation in 2006, it is beyond total preservation as recognized by the County's Historic Preservation Planner and by virtue of the archaeological reconnaissance completed by R.S. Webb & Associates. However, both the servants' quarters as well as the early twentieth century house on the property will be fully documented by way of a written history of the remnants and their respective occupants which will be completed by a cultural planner prior to the submission of a demolition permit. The Applicants also agree to pay to Cobb County the sum of Fifteen Thousand Dollars (\$15,000.00) which shall be utilized for future historic preservation projects within Cobb County as recommended by the Historic Preservation Planner.

Petition No. OB 89  
Meeting Date 8/19/14  
Continued

**SAMS, LARKIN, HUFF & BALLI**  
A LIMITED LIABILITY PARTNERSHIP

**VIA EMAIL & HAND DELIVERY**

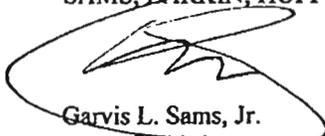
Mr. John P. Pederson, AICP, Manager  
Cobb County Zoning Division  
Community Development Agency  
July 31, 2014  
Page 2



As mentioned above, all other stipulations/conditions of the settlement of litigation concerning the subject property shall remain in full force and effect. Note, however, that the revised site plan features an unfronted Parkway Entrance and much better location for the amenities component. Please do not hesitate to contact me should you have any questions whatsoever regarding these matters or should you or your staff need additional information or documentation prior to the Application being heard and considered by the Cobb County Board of Commissioners on August 19, 2014. With kind regards, I am

Very truly yours,

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

  
Garvis L. Sams, Jr.  
[gsams@slhb-law.com](mailto:gsams@slhb-law.com)

GLS/dsj

Enclosures

- cc: Commissioner Helen Goreham (via hand delivery w/enc.)
- Mr. Robert L. Hosack, Jr., AICP, Director (via email w/attachment)
- Mr. Dana Johnson, AICP, Deputy Director (via email w/attachment)
- Ms. Mandy Elliott, Historic Preservation Planner (via email w/attachment)
- Mr. John Gaskin (via email w/attachment)
- Mr. Michael Kilgallon (via email w/attachment)

**Planning Commission Decision**

NO. OPPOSED: \_\_\_\_\_ APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ DELETED TO \_\_\_\_\_

NO. IN SUPPORT \_\_\_\_\_ MOTION BY: \_\_\_\_\_ SECONDED: \_\_\_\_\_ VOTE: \_\_\_\_\_

**Names of those Opposed:**

**Comments:**

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Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_  
 Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_  
 Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_

**Board of Commissioners Decision**

NO. OPPOSED: \_\_\_\_\_ APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ DELETED TO \_\_\_\_\_

NO. IN SUPPORT \_\_\_\_\_ MOTION BY: \_\_\_\_\_ SECONDED: \_\_\_\_\_ VOTE: \_\_\_\_\_

**Names of those Opposed:**

**Comments:**

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Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_  
 Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_  
 Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_