

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
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Applicant to submit this revised 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 rezoning and shall be binding upon the Subject Property. This letter shall supersede and replace in full all previous letters, including supplemental letters, of agreeable stipulations and conditions filed or submitted on behalf of Applicant and Property Owner. The proposed, revised stipulations are as follows:

- (1) Applicant seeks rezoning of the Subject Property from the existing zoning categories of R-20 and R-30 to the proposed zoning category of R-15, with reference to the revised Zoning Site Plan ("Site Plan") prepared for Applicant by Christopher Planning & Engineering, Inc., dated June 3, 2020, last revised September 8, 2020, and submitted contemporaneously with this revised stipulation letter. A reduced copy of the revised Site Plan is attached as Exhibit "A" and incorporated herein by reference.
- (2) The Subject Property consists of approximately 49.2 acres and will be developed for a residential community comprised of a maximum of eighty-one (81) single-family, detached residences.
- (3) The residences shall be traditional and craftsman in style and architecture. The residences shall have a minimum of 3,000 square feet.
- (4) The residences within the proposed community shall have exteriors comprised of brick, stone, stacked stone, hardi-plank, board and batten, cedar shake finishes, and combinations thereof, with complementary accents. No vinyl siding materials shall be used on the exterior of the proposed residences. The applicable District Commissioner shall only approve final elevations which substantially and materially differ from the quality standard set forth in these stipulations. By way of example, should all "hardi-plank" exteriors be proposed, District Commissioner approval would be required.
- (5) The setbacks for the proposed residential community shall be as follows:
 - (a) Front Setback: Twenty-five (25) feet;
 - (b) Rear Setback: Forty (40) feet; and

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- (c) Side Setback: Five (5) feet,
(with a minimum of twenty (20) feet between homes).

NOTE: Applicant shall be allowed the flexibility to move the front and rear setbacks to twenty (20) feet (front) and forty-five (45) feet (rear) where warranted, in the opinion of Applicant.

- (6) Entrance signage shall be ground based, monument-style signage, and shall consist of brick, stone, or combinations thereof, with accents, and other materials complementary to and comparable with materials comprising the exterior of the proposed residences. Entrance landscaping shall be professionally designed, implemented, irrigated, and maintained. Maintenance of the entrance areas shall be by the mandatory homeowners association as set forth in the Declaration of Covenants, Easements, and Restrictions.
- (7) Applicant agrees to the creation of a mandatory homeowners association consistent with communities within the area. The mandatory homeowners association shall be responsible for the upkeep and maintenance of all common areas, landscaping around detention areas, and entrance areas contained within the proposed residential community.
- (8) Additionally, and in conjunction with the creation of the mandatory homeowners association, Applicant agrees to the recording and enforcement of Declaration of Covenants, Easements, and Restrictions which will contain covenants, rules, and regulations applicable to the proposed residential community.
- (9) Applicant agrees to conduct pre- and post-development sediment level lake studies of the downstream lake located in the Loch Highland Subdivision. The Loch Highland Homeowners Association shall receive a copy of the pre-development sediment level lake study prior to the issuance of a Land Disturbance Permit. In addition, Loch Highlands Homeowners Association shall receive a copy of the post-development sediment level lake study.
- (10) Applicant agrees to provide Loch Highlands Homeowners Association and Highlands at Wesley Chapel Homeowners Association a copy of the stormwater and hydrology report; as well as, related engineering plans during the Plan Review Process; and prior to the issuance of the Land Disturbance Permit. All documentation and plans shall be provided to the Associations for at least

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fourteen (14) days to allow adequate opportunity for review and comment only (not approval) from a qualified engineer retained on behalf of the respective homeowners associations, if desired. Approval of stormwater, hydrology, and related engineering plans during the Plan Review Process shall be subject only to approval by Cobb County Community Development and Cobb County Stormwater Management Division.

- (11) Applicant agrees stormwater discharges will be controlled so as not to exceed the existing capacity of the downstream storm drainage system.
- (12) In accordance with applicable Cobb County Standards, Ordinances, and Regulations, stream buffer averaging shall be permitted so long as any disturbed buffer area is compensated within the boundaries of the Subject Property on a per square foot basis, at a minimum, and along the same stream channel.
- (13) All construction, delivery, and employee vehicles and equipment will be parked, and otherwise located on, the Subject Property during development of infrastructure and construction of residences, and shall not be parked or stacked on or along Wesley Chapel Road or surrounding neighborhood streets.
- (14) 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;
 - (b) 9:00 a.m. to 6:00 p.m. - Saturday; and
 - (c) No work on Sunday.
- (15) Applicant agrees to facilitate a Georgia Native Plant Society "Plant Rescue" to be accomplished on those portions of the Subject Property which will be disturbed.
- (16) The detention areas shall be as shown and reflected on the referenced Site Plan. The areas shall be fenced with a vinyl-coated chain-link or wooden privacy fence, a minimum of six (6) feet in height. Landscaping shall be installed on the outside of the fencing and irrigated, and approved by the Cobb County Arborist during the Plan Review Process.

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- (17) For lots 1-6, as identified on the Site Plan, Applicant agrees to a minimum twenty-five (25) foot undisturbed buffer along the rear of such lots during development and home construction. After construction of the homes on such lots, a minimum ten (10) foot permanent undisturbed buffer shall be established along the rear property line of such lots, which shall be included on all final plats, and protected as an easement in favor of the future homeowners association and enforced through the Declaration of Covenants, Easements, and Restrictions.
- (18) For lots 7-11, as identified on the Site Plan, Applicant agrees to a minimum fifteen (15) foot undisturbed buffer along the rear of such lots during development and home construction. Along lots 7-11, as identified on the Site Plan, Applicant shall maintain or enhance the natural berm, beyond the fifteen (15) foot undisturbed buffer, to ensure that it is a minimum height of six (6) feet, as measured from the curb line of Sweat Creek Run. After construction of the homes on such lots, a ten (10) foot permanent undisturbed buffer shall be established along the rear property line of such lots, which shall be included on all final plats, and protected as an easement in favor of the future, homeowners association and enforced through the Declaration of Covenants, Easements, and Restrictions.
- (19) Along the top and side of the berm described above for lots 7-11, as identified on the Site Plan, Applicant agrees to plant evergreen trees which shall consist of cryptomeria and magnolias, a minimum of eight (8) feet in height at planting, on ten (10) foot centers, staggered row with a preference given to a broader profile tree (magnolias) on the side of the Subject Property to “fill-in” the space between the cryptomerias.¹ The trees are being planted for the shared screening benefit of the Subject Property and Highlands at Wesley Chapel. Such trees shall not be removed and shall be protected and maintained permanently by the future mandatory homeowners association of the Subject Property via a “landscape easement” which shall be depicted on the final plat and protected and enforced through the Declaration of Covenants, Easements, and Restrictions such that, should a tree die or be removed, the future homeowners association will be responsible for its replacement.
- (20) Lots 1-11 shall have a front setback of twenty-five (25) feet and a minimum rear setback of forty (40) feet. However, Applicant shall have flexibility to move the

¹For purposes of illustration only, attached as Exhibit “B,” and incorporated herein by reference, are cross-sections of the buffer and berm as described in stipulation nos. (18) and (19).

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front setback to twenty (20) feet and have a rear setback of forty-five (45) feet, if warranted in the opinion of Applicant. All homes for lots 1-11 shall be constructed on the front setback line.

- (21) On proposed lots 7-11, the Covenants for the future homeowners association of the Subject Property shall preclude solid or "privacy" fencing and, in the space between the trees planted as provided for in Stipulation No. 19 and the undisturbed buffer described in Stipulation No. 18, restrict fencing material to visually nonobtrusive fencing materials (no solid or "privacy fence") no more than six (6) feet in height, such as wrought iron-style, black painted aluminum fencing, or similar fencing. Such restriction shall preclude columnar supports other than standard size posts to minimize the impact on natural and planted vegetative screening.
- (22) Other than as provided in stipulation nos. (17) – (21), Applicant agrees there shall be a minimum fifteen (15) foot undisturbed perimeter buffer for the remainder of the Subject Property during development and construction; except for, those specific areas identified on the Site Plan attached as Exhibit "C," in which disturbance is permitted. Any such identified areas disturbed shall be replanted with a staggered row of evergreen trees, on ten (10) foot centers, and a minimum of eight (8) feet in height at planting.
- (23) Applicant shall cooperate with, and use best efforts, to assist the Highlands at Wesley Chapel Homeowners Association in requesting Cobb County to install a road-shoulder flashing on-coming traffic indicator light at or near the entrance to Highlands at Wesley Chapel, Phase 1, similar to the sign installed on Wesley Chapel Road and Roselle Way, south of the Subject Property. In addition, Applicant shall cooperate with, and use best efforts to assist Highlands at Wesley Chapel Homeowners Association in requesting Cobb County to install a "do-not-block-the box" painted on the roadway at the Highlands at Wesley Chapel, Phase 2, entrance with appropriate signage. Such signage shall be at no cost to Applicant.
- (24) All landscaping referenced herein 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, which shall be subject to District Commissioner final approval.

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- (25) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.
- (26) All setbacks, landscape, and buffer areas may be penetrated for purposes of access, utilities, and stormwater management, including, but not limited to, drainage facilities and any and all slopes or other required engineering features of the foregoing. Any disturbed areas will be replanted.
- (27) Applicant agrees to the following in regard to Cobb County Department of Transportation recommendations:
 - (a) Installation of sidewalk, curb, and gutter along the frontage of the Subject property on the western side of Wesley Chapel Road;
 - (b) Any disturbed or destroyed sidewalk, curb, and gutter along the frontage of the Subject property on the eastern side of Wesley Chapel Road shall be replaced;
 - (c) Applicant shall not be required to install left-turn lanes due to lack of sufficient public right-of-way; and further deceleration lanes shall only be required to the extent public right-of-way is available; and
 - (d) Verification of minimum intersection sight distance is available for both access points on Wesley Chapel Road; and, if not, implementation of remedial measures, subject to Cobb County Department of Transportation approval, to achieve minimum requirement.
- (28) Applicant agrees to provide twenty-four (24) hour contact information to designated representatives of Highlands at Wesley Chapel and Loch Highlands subdivisions.
- (29) Minor modifications to the within stipulations, the referenced Site Plan, lighting, signage, landscaping, building architecture, site features, and the like, may be approved by the respective District Commissioner, as needed or necessary, except for those that:
 - (a) Increase the density of a residential project or the overall square footage of a non-residential project;

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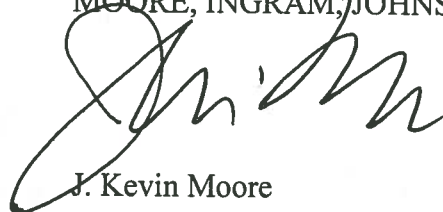
- (b) Reduce the size of an approved buffer adjacent to a property that is zoned the same or in a more restrictive zoning district;
- (c) Relocate a structure closer to the property line of an adjacent property that is zoned the same or in a more restrictive zoning district;
- (d) Increase the height of a building that is adjacent to a property that is zoned the same or in a more restrictive zoning district;
- (e) Change an access location to a different roadway;
- (f) Would be in direct contradiction or conflict with any of the stipulations of this rezoning;
- (g) Would be in direct contradiction or conflict with Cobb County Code and Ordinances; or
- (h) Would be in direct contradiction or conflict with any Staff Recommendations that were adopted into the final zoning decision.

We believe the requested zoning, together with the revised Site Plan and the stipulations set forth herein, is an appropriate use of the Subject Property while taking into consideration the area and existing neighborhoods and residents surrounding the proposed development. The proposed residential community shall be of the highest quality, shall be complementary to and 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



J. Kevin Moore

JKM:cc
Attachments

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c: Cobb County Board of Commissioners:
Mike Boyce, Chairman
JoAnn Birrell
Lisa N. Cupid
Keli A. Gambrill
Robert J. Ott
(With Copies of Attachments)

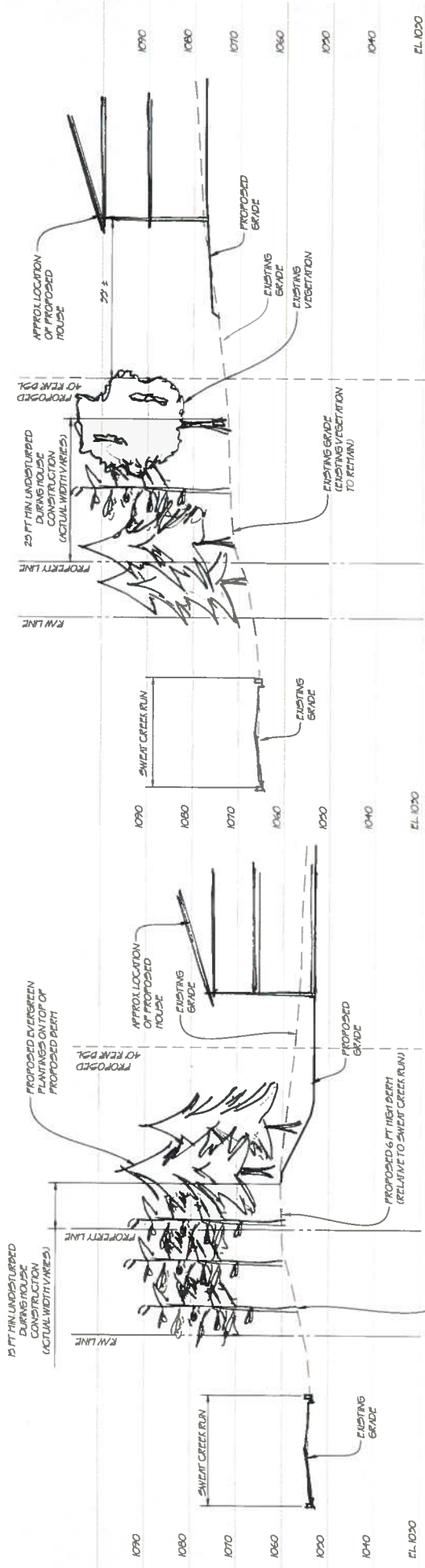
Judy Williams
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Cobb County Planning Commission Members
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Zoning Division
Cobb County Community Development Agency
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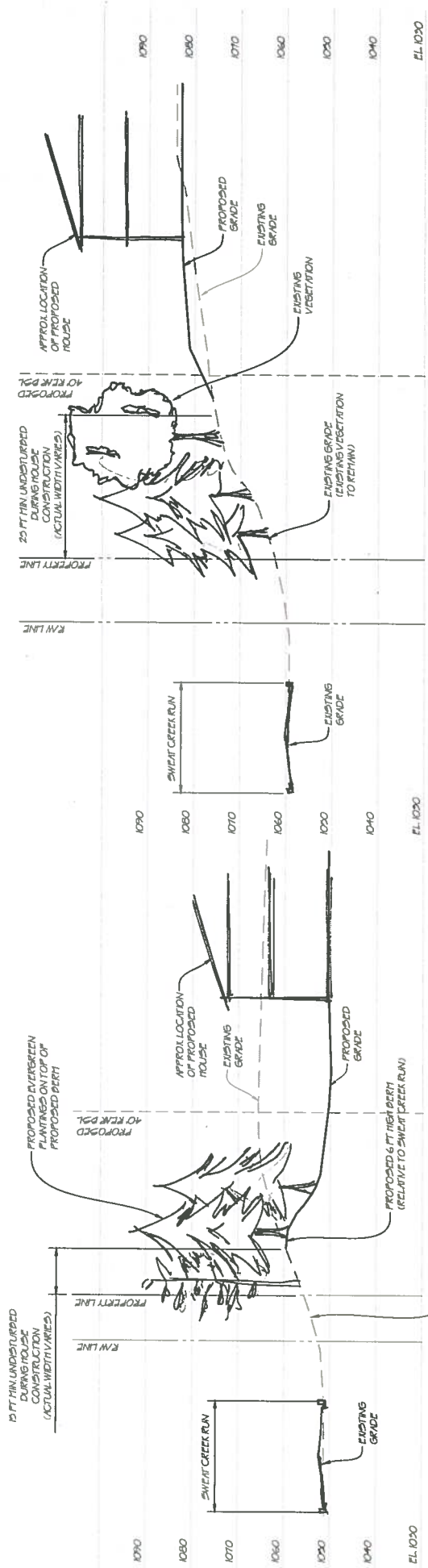
Jill Flamm, President
East Cobb Civic Association, Inc.
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Brian Daughdrill, Esq.
Counsel for Highlands at Wesley Chapel Subdivision
(With Copies of Attachments)

Brooks Chadwick Capital, LLC
(With Copies of Attachments)



WILLIS WOODS SECTION LOT 1



WILLIS WOODS TYPICAL SECTION LOTS 7-10



