

APPLICATION FOR REZONING
TO THE CITY OF SMYRNA

Type or Print Clearly

(To be completed by City)

Ward: 7

Application No: 217-009

Hearing Date: 6/19/17

APPLICANT: Weekley Homes, LLC

Name: c/o Ellen W. Smith, Holt Ney Zatzoff & Wasserman, LLP

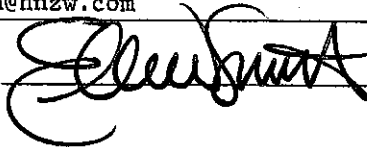
(Representative's name, printed)

Address: 100 Galleria Parkway, Suite 1800, Atlanta, Georgia 30339

Business Phone: 770.661.1216 Cell Phone: 678.458.8491 Fax Number: 770.956.1490

E-Mail Address: esmith@hnzw.com

Signature of Representative: _____



TITLEHOLDER

Name: Cooper Lake Limited Partnership

(Titleholder's name, printed)

Address: P.O. Box 1788, Marietta, Georgia 30061

Business Phone: 770.795.8644 Cell Phone: 404.934.8403 Home Phone: N/A

E-mail Address: jse@wharton.com

Signature of Titleholder: _____

Catherine F. Eubanks-Carter by *James S. Eubanks*
(Attach additional signatures, if needed)
Catherine F. Eubanks-Carter, member, by

James S. Eubanks, attorney in fact

(To be completed by City)

Received: 4/7/17

Heard by P&Z Board: 5/8/17

P&Z Recommendation: _____

Advertised: _____

Posted: 4/20/17

Approved/Denied: _____

STATE OF NEW YORK
COUNTY OF NEW YORK

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That I, **CATHERINE F. EUBANKS CARTER**, a resident of New York County, New York, being desirous of arranging for the transaction of my business through an attorney in fact, have appointed, named and constituted, and by these presents do name, constitute and appoint my brother, **JAMES S. EUBANKS**, a resident of Cobb County, Georgia, as my true and lawful attorney in fact, and do authorize said attorney in fact, for me, and in my name, place and stead:

(a) To purchase, sell, mortgage, encumber, convey, rent, lease, pledge, or otherwise dispose of, by deed with or without warranty, bill of sale, contract or otherwise, any property, real or personal, which I may own or in which I may have an interest, or which I may hereafter acquire, located in the State of Georgia, for cash or upon such terms as said attorney in fact may deem advisable, and to execute in my name and affix my seal appropriate deeds, conveyances or other instruments including contracts for that purpose.

(b) To sign, seal, endorse, receive, deliver, deposit and issue checks, bonds, notes, stocks or other obligations or instruments, and to borrow money and secure the same in any manner;

(c) To collect, sue for, settle, adjust or compromise any claim for money arising by contract or tort, to execute releases, cancellations or satisfactions; and

(d) To do any other thing or perform any other act, not limited to the foregoing, which I might do in person, it being intended that this shall be a general power of attorney and that my attorney in fact shall be in complete control of all of my assets, financial and otherwise.

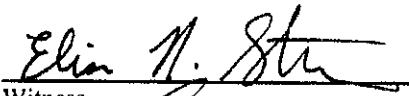
Should I become physically incapacitated or legally incompetent at any time after executing this General Power of Attorney, the same shall not be terminated or revoked by such condition and the powers herein conferred shall remain of full force and effect.

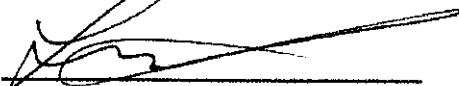
This instrument is intended to be a GENERAL POWER OF ATTORNEY, and I hereby ratify and confirm all that my said attorney in fact shall lawfully do by virtue hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this the 07th day of October, 2015.


CATHERINE F. EUBANKS CARTER

Signed, sealed and delivered
in the presence of:


Witness


Notary Public

LUIS A. FABIAN
Notary Public - State of New York
NO. 01FAG314707
Qualified in Queens County
My Commission Expires Nov 10, 2018

LUIS A. FABIAN
Notary Public - State of New York
NO. 01FAG314707
Qualified in Queens County
My Commission Expires Nov 10, 2018

ZONING REQUEST

From R-20 (Unincorporated Cobb) to RAD - conditional
Present Zoning Proposed Zoning

LAND USE

From Vacant (Low Density Residential) to 15 single family detached homes (Moderate Density Residential)
Present Land Use Proposed Land Use (under 4 units/acre)

For the Purpose of Residential

Size of Tract 4.19 Acres

Location Southwest Corner of Intersection of East-West Connector and Fontaine Road
(Street address is required. If not applicable, please provide nearest intersection, etc.)

Land Lot(s) 332 & 333 District 17th

We have investigated the site as to the existence of archaeological and/or architectural landmarks. I hereby certify that there are no X there are such assets. If any, they are as follows:

(To be completed by City)

Recommendation of Planning Commission:

Council's Decision:

CONTIGUOUS ZONING

North: RAD & R-15

East: R-12

South: RAD / R-12

West: RAD

CONTIGUOUS LAND USE

North: Suburban Residential

East: Suburban Residential

South: Moderate Density Residential

West: Moderate Density Residential

INFRASTRUCTURE

WATER AND SEWER

A letter from Scott Stokes, Director of Public Works Department is required stating that water is available and the supply is adequate for this project.

A letter from Scott Stokes, Director of Public Works Department is required stating that sewer is available and the capacity is adequate for this project.

- If it is Cobb County Water, Cobb County must then furnish these letters.

Comments:

Cobb County Water - See Attached

TRANSPORTATION

Access to Property? The Property has frontage on the East-West Connector and Fontaine Road. Access is proposed via Fontaine Road as shown on the Site Plan.

Improvements proposed by developer? 15 single family detached homes per the Site Plan and as more particularly described in the Letter of Intent and on elevations.

Comments:

ZONING DISCLOSURE REPORT

Has the applicant* made, within two years immediately preceding the filing of this application for rezoning, campaign contributions aggregating \$250 or more or made gifts having in the aggregate a value of \$250 or more to the Mayor or any member of the City Council or Planning and Zoning Board who will consider this application?

If so, the applicant* and the attorney representing the applicant* must file a disclosure report with the Mayor and City Council of the City of Smyrna, within 10 days after this application is filed.

Please supply the following information, which will be considered as the required disclosure:

The name of the Mayor or member of the City Council or Planning and Zoning Board to whom the campaign contribution or gift was made: None

The dollar amount of each campaign contribution made by the applicant* to the Mayor or any member of the City Council or Planning and Zoning Board during the two years immediately preceding the filing of this application, and the date of each such contribution: N/A

An enumeration and description of each gift having a value of \$250 or more by the applicant* to the Mayor and any member of the City Council or Planning and Zoning Board during the two years immediately preceding the filing of this application: None

Does the Mayor or any member of the City Council or Planning and Zoning Board have a property interest (direct or indirect ownership including any percentage of ownership less than total) in the subject property? No

If so, describe the natural and extent of such interest: N/A

ZONING DISCLOSURE REPORT (CONTINUED)

Does the Mayor or any member of the City Council or Planning and Zoning Board have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is 10% or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property?

No

If so, describe the nature and extent of such interest:

N/A

Does the Mayor or any member of the City Council or Planning and Zoning Board have a spouse, mother, father, brother, sister, son, or daughter who has any interest as described above?

No

If so, describe the relationship and the nature and extent of such interest:

N/A

If the answer to any of the above is "Yes", then the Mayor or the member of the City Council or Planning and Zoning Board must immediately disclose the nature and extent of such interest, in writing, to the Mayor and City Council of the City of Smyrna. A copy should be filed with this application**. Such disclosures shall be public record and available for public inspection any time during normal working hours.

We certify that the foregoing information is true and correct, this 3rd day of April, 2017

Weekley Homes, LLC

By: [Signature]

(Applicant's Signature)

By: [Signature]

(Attorney's Signature, if applicable)

Ellen W. Smith

Notes

* Applicant is defined as any individual or business entity (corporation, partnership, limited partnership, firm enterprise, franchise, association or trust) applying for rezoning action.

** Copy to be filed with the City of Smyrna Zoning Department and City Clerk along with a copy of the zoning application including a copy of the legal description of the property.

REZONING ANALYSIS

Section 1508 of the Smyrna Zoning Code details nine zoning review factors which must be evaluated by the Planning and Zoning Board and the Mayor and Council when considering a zoning amendment request. Please provide responses to the following using additional pages as necessary. **The section must be filled out by the applicant prior to submittal of the zoning amendment request.**¹

1. Whether the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby property.

Yes, the Rezoning Application, if granted, will permit a use that is suitable in view of the use and development of adjacent or nearby property. The proposed use is residential – consistent with everything surrounding it. Although the project is proposed to be at a higher density than those immediately around it, given the size of the tract, and its frontage along the East West Connector, it makes sense where a less dense subdivision simply will not be marketable. Accordingly, a decision to grant the Rezoning Application and to amend the zoning as proposed by Applicant would be entirely consistent with and suitable in view of the surrounding properties.

2. Whether the zoning proposal or use proposed will adversely affect the existing use or usability of adjacent or nearby property.

No, the Application does not present a proposed use that will adversely affect the existing use of adjacent or nearby property. Instead, granting the Rezoning Application (and the Annexation Application) will ensure that the Property will be able to be developed in a manner that will provide for a diversity of housing along the East-West Connector in a manner that is, fully consistent with, and complimentary of the existing subdivisions surrounding it.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The Property has a reasonable economic use provided it is annexed into the City limits and provided that it is rezoned. It simply does not have a reasonable economic use as currently restricted by the Cobb County zoning and future land use map or as currently restricted by being the sole unincorporated parcel with fully developed, City neighborhoods surrounding it. Through market and other research, Applicant has determined that the highest and best use of the Property is for the 15-unit single family subdivision as proposed on its site plan. Previous applications for significantly greater densities have been rejected and opposed by Cobb County.

¹ Words with beginning capital letters not defined in this Analysis should be given the meanings used in the Letter of Intent filed by Branch concurrently herewith.

REZONING ANALYSIS (CONTINUED)

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

No, the zoning proposal will not result in a use that could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools. Currently, the City's and Cobb County's infrastructure is sufficient generally to handle the proposed use of the Property, as evidenced (at least in part) by the utilities availability letter.

5. **Whether the zoning proposal is in conformity with the policy and intent of the land use plan.**

The proposed project conforms to the policies and intent of the land use plan. Specifically, the land use plan recognizes this area as appropriate for residential, and even though the land use plan provides for an intended lower density, in the "moderate density residential" category surrounding the Property to the west and south, one of the objectives of this category is infill development – which this could be considered. Similarly, the opportunity for providing a variety of housing choices is significant.

6. **Whether there are 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.**

Existing and changing market conditions support the proposed Rezoning Application. Specifically, the development by Ashton Woods directly across Fontaine Road from this parcel reflect an ongoing need for housing in this general area.

REZONING ANALYSIS (CONTINUED)

- 7. Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current, historical and planned uses in the area.**

The proposed development by Applicant will continue the enhancement of the East-West Connector and Fontaine Road. The architectural style proposed for the townhomes are in character with the area around the Property and existing subdivisions in the area.

- 8. Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area.**

No, under the proposed zoning amendments, the proposed townhome project will not create a nuisance. As described above, Applicant's proposed project will be compatible with existing and planned future developments in the area.

- 9. Whether due to the size of the proposed use, either in land area or building height, the proposed use would affect the adjoining property, general neighborhood and other issues in the area positively or negatively.**

If the proposed Applications are approved, the project would positively impact the area and the City of Smyrna generally.

HOLT NEY ZATCOFF & WASSERMAN, LLP

ATTORNEYS AT LAW

100 GALLERIA PARKWAY, SUITE 1800

ATLANTA, GEORGIA 30339-5960

TELEPHONE 770-956-9600 FACSIMILE 770-956-1490

Ellen W. Smith

e-mail esmith@honzw.com

April 7, 2017

BY HAND DELIVERY

Community Development Office
City of Smyrna
3180 Atlanta Road
Smyrna, Georgia 30080

Re: Application for Rezoning to the City of Smyrna ("**Application**") by Weekley Homes, LLC, with respect to that approximately 4.19 acre parcel of now vacant property located at the southwest corner of the intersection of the East-West Connector and Fontaine Road, being tax parcel ID 17033201330, unincorporated Cobb County, Georgia (the "**Property**")

City of Smyrna Application for Annexation (100% Method) ("**Annexation Application**"; together with the Rezoning Application, collectively, the "**Applications**") by Cooper Lake Limited Partnership ("**Owner**") with respect to the Property

LETTER OF INTENT

Ladies and Gentlemen:

This law firm has the pleasure of representing Weekley Homes, LLC (also known as David Weekley Homes or, in this letter, "**Applicant**"), with respect to the Rezoning Application. Applicant respectfully submits for your consideration the Applications, the approval of which will allow Applicant to develop the Property into a 15-unit single family subdivision.

The Property

The Property is an approximately 4.183-acre unimproved tract bounded on the north by the East-West Connector and on the east by Fontaine Road. It is entirely surrounded by properties that within City of Smyrna city limits, but currently is an unincorporated island, zoned R-20 under Cobb County's zoning ordinance. All of the tracts surrounding this Property are residentially developed. The Property is surrounded on the west and to the south by properties identified as "moderate density residential" on the Future Land Use Map.

Proposed Rezoning and Annexation

Applicant proposes to develop the Property with 15 single family detached homes, as more particularly shown on the site plan enclosed, and to annex the Property into the City. The merits of this project are more particularly described on the Rezoning Analysis submitted herewith.¹ As part of the Application, Applicant is submitting elevations showing the mix of exterior design features it proposes for the Property. Additionally, the annexation of the Property will resolve an existing unincorporated island and ensure congruity throughout this corridor of the East-West Connector.

The proposed density of the project is 3.64 units to the acre – a density consistent with adjacent and surrounding area neighborhoods. To effect this density, together with the rezoning, Applicant seeks a change from the County’s LDR (low density residential) category to MDR (moderate density residential). This change is consistent with the residential projects to the south and west and also is within the middle of the range of allowable densities (and under the 6 units per acre density otherwise allowed within the RAD zoning). This change is also consistent with the proposed five dwelling units per acre as contemplated in the City’s Intergovernmental

¹Applicant hereby notifies the City of its constitutional concerns with respect to the Applications. Specifically, if the Council denies the Applications in whole or in part, then the Property does not have a reasonable economic use under the Smyrna Zoning Code, as the same is amended from time to time (the “Zoning Code”). Moreover, the Applications meet the test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government’s police power. *See Guhl vs. Holcomb Bridge Road*, 238 Ga. 322 (1977). If the Council denies the Applications (or either of them) in whole or in part, such an action will deprive Applicant and Owner of the ability to use the Property in accordance with its highest and best use. Similarly, if the Council amends the zoning of the Property to some classification other than the RAD zoning district without Applicant’s consent, or if the Council limits its approval by attaching conditions to such approval affecting the Property or the use thereof without Applicant’s consent, then such approval would deprive Applicant of any reasonable use and development of the Property. Any such action is unconstitutional and will result in a taking of property rights in violation of the just compensation clause of the Constitution of the State of Georgia (*see Ga. Const. 1983, Art. I, § 3, para. 1(a)*), and the just compensation clause of the Fifth Amendment to the United States Constitution (*see U.S. Const. Amend. 5*). To the extent that the Zoning Code allows such an action by the Council, the Zoning Code is unconstitutional. Any such denial or conditional approval would discriminate between Applicant and the owner of the Property and owners of similarly situated property in an arbitrary, capricious, unreasonable and unconstitutional manner in violation of Article I, Section I, Paragraph 2 of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Finally, a failure to grant both Applications or a conditional approval of the either Application (with conditions not expressly approved by Applicant) would constitute a gross abuse of discretion and would constitute an unconstitutional violation Applicant’s rights to substantive and procedural due process as guaranteed by the Constitution of the State of Georgia (*see Ga. Const. 1983, Art. I, § 1, para. 1*) and the Fifth and Fourteenth Amendments of the Constitution of the United States (*see U.S. Const. Amend. 5 and 14*). Applicant further challenges the constitutionality and enforceability of the Zoning Code (together with all applicable land use and zoning maps, comprehensive plans, zoning regulations, conditions and site plans), in whole and in relevant part, for lack of objective standards, guidelines or criteria limiting the City’s discretion in considering or deciding applications for zoning amendments. Nevertheless, Applicant remains optimistic that the City’s consideration of the Applications will be conducted in a constitutional manner.

Agreement with Cobb County dated July 9, 2014 and meets the criteria set forth in that Intergovernmental Agreement for the fulfillment of the HB 489 Service Delivery Strategy.

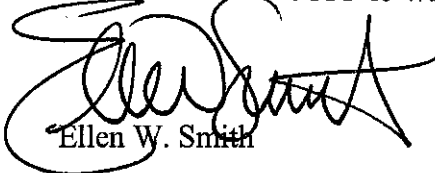
Application Requirements

The Zoning Code sets forth the various requirements applicable to requests for zoning changes. In support of the Applications, Applicant submits the following documents (together with 5 copies thereof and a CD containing electronic copies):

- (1) Application for Rezoning to the City of Smyrna;
- (2) this Letter of Intent;
- (3) Vesting Deeds (there are 3);
- (4) Metes and bounds legal description of the Property;
- (5) Paid Tax Receipt;
- (6) Utilities Availability Letter;
- (7) Elevations;
- (8) ALTA Survey;
- (9) Site Plan;
- (10) Tree Protection Plan; and
- (11) Checks in the amount of (i) \$500 (rezoning) and (ii) \$500 (land use change fee).

This Letter of Intent and the above referenced documents support the Applications. Applicant and Owner respectfully request that the Department recommend approval of the Applications. We are happy to answer any questions or provide any additional information that the Department may have with regard to these Applications.

Sincerely,
HOLT NEY ZATCOFF & WASSERMAN, LLP



Ellen W. Smith

EWS/ews
Enclosures
cc: Ms. Beth Kidd

FOR CORR QCD SEE

DE Book 13590 Page 563

DE Book 13590 Page 568

DE Book 13590 Page 573

Cobb County, Georgia
Paid 876
Date 12-12-99
Jay C. Stephenson
Clerk of Superior Court

LP
LP

Return To: Gary F. Eubanks
Smith, Eubanks, & Smith, P.C.
P.O. Box 1186
Marietta, GA 30060

Jay C. Stephenson
COBB SUPERIOR COURT CLERK

FILED AND RECORDED
97 DEC 12 AM 9:55

LIMITED WARRANTY DEED

STATE OF GEORGIA
COUNTY OF COBB

THIS INDENTURE, made the 12th day of December, in the year one thousand nine hundred ninety-seven, from GARY F. EUBANKS (as to a 5/12 undivided interest), T. MARSHALL EUBANKS, (as to a 1/4 undivided interest), HAZEL BENTLEY EUBANKS (as to a 1/4 undivided interest) and VIRGINIA J. EUBANKS (as to a 1/12 undivided interest), as party or parties of the first part, hereinafter called Grantor, to COOPER LAKE LIMITED PARTNERSHIP, a limited partnership formed under the laws of the State of Georgia, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee, the following described property:

Parcel 5

All that certain tract or parcel of land lying and being in Land Lot 332 of the 17th District, 2nd Section, Cobb County, Georgia, being Lot 17, Block 4 of Cooper Lake Subdivision, fronting 50 feet on Burnett Avenue and running back same width 140 feet, according to plat by W. J. Nalley, July 15, 1922.

The above-described property is the same as conveyed to J. J. Edwards by Deed recorded in Deed Book 87, Page 55, Cobb County, Georgia Records; and, subsequently, conveyed by Ruby Brock Edwards and Jacqueline E. Honeycutt to J. R. Eubanks, et al, by Deed dated May 5, 1995 and recorded in Deed Book 8863, Page 399, Cobb County, Georgia Records.

Parcel 6

All that certain tract or parcel of land lying in and being in Land Lots 316, 317, 332 and 333 of the 17th District, 2nd Section, Cobb County, Georgia and being delineated as Tract No. 3 on a survey entitled "BOUNDARY SURVEY FOR: COBB COUNTY DEPARTMENT OF TRANSPORTATION OF EUBANKS' PROPERTY", by Transportation Systems Design, Inc., dated 12/01/1994. Said tract or parcel being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, commence at the intersection of the southerly right of way of the East-West Connector and the westerly right of way of Fontaine Road, said right of way being the same right of way conveyed in a Deed recorded in Deed Book 5832, Page 337 of the Cobb County, GA records;

BK 1086396224

Thence, South 85 degrees 11 minutes 25 seconds West for a distance of 959.00 feet along said southerly right of way of the East-West Connector to a point;

Thence, South 42 degrees 30 minutes 49 seconds West for a distance of 148.26 feet along said right-of-way to the TRUE POINT OF BEGINNING.

From the TRUE POINT OF BEGINNING as thus established, thence, South 17 degrees 29 minutes 16 seconds West for a distance of 126.01 feet leaving said right of way to an iron pin set;

Thence, South 43 degrees 30 minutes 36 seconds West for a distance of 190.11 feet to an iron pin set;

Thence, South 27 degrees 18 minutes 17 seconds West for a distance of 187.30 feet to an iron pin set;

Thence, South 18 degrees 01 minutes 11 seconds West for a distance of 149.85 feet to an iron pin set;

Thence, South 01 degrees 40 minutes 57 seconds West for a distance of 106.97 feet to an iron pin set;

Thence, South 26 degrees 47 minutes 33 seconds East for a distance of 135.72 feet to an iron pin set;

Thence, South 82 degrees 40 minutes 49 seconds East for a distance of 159.09 feet to an iron pin set;

Thence, South 85 degrees 57 minutes 45 seconds East for a distance of 388.38 feet to an iron pin set;

Thence, South 73 degrees 03 minutes 41 seconds East for a distance of 229.99 feet to an iron pin set;

Thence, South 85 degrees 58 minutes 10 seconds East for a distance of 400.32 feet to a point on the westerly right of way of Fontaine Road;

Thence, North 13 degrees 42 minutes 34 seconds East for a distance of 539.51 feet along said right of way to a point;

Thence, northwesterly along said right of way along a curve to the left an arc distance of 452.95 feet (said curve having a chord bearing of North 06 degrees 06 minutes 51 seconds East, a chord distance of 451.63 feet and a radius of 1708.40 feet);

Thence, South 72 degrees 50 minutes 30 seconds West along said right of way for a distance of 31.70 feet to a point;

Thence, North 23 degrees 23 minutes 27 seconds West along said right of way for a distance of 21.48 feet to a point;

BK 10863PG225

Thence, North 69 degrees 59 minutes 20 seconds East along said right of way for a distance of 40.46 feet to a point;

Thence, along said right of way along a curve to the left an arc distance of 75.02 feet (said curve having a chord bearing of North 03 degrees 33 minutes 07 seconds West, a chord distance of 75.01 feet and a radius of 1708.40 feet);

Thence, North 04 degrees 48 minutes 35 seconds West along said right of way for a distance of 26.60 feet to a point;

Thence, North 49 degrees 48 minutes 37 seconds West along said right of way for a distance of 44.54 feet to a point at the intersection of the southerly right of way of the East-West Connector and the westerly right of way of Fontaine Road;

Thence, South 85 degrees 11 minutes 25 seconds West along said southerly right of way of the East-West Connector for a distance of 959.00 feet to a point;

Thence, South 42 degrees 30 minutes 49 seconds West along said right of way for a distance of 148.26 feet to a point and the TRUE POINT OF BEGINNING.

Said parcel contains 28.188 acres.

Parcel 7

All that certain tract or parcel of land lying and being in Land Lots 333 and 332 of the 17th District, 2nd Section, Cobb County, Georgia, being delineated as Tract No. 1 on a survey entitled "BOUNDARY SURVEY FOR: COBB COUNTY DEPARTMENT OF TRANSPORTATION OF EUBANKS' PROPERTY", by Transportation Systems Design, Inc., dated 12-01-94. Said tract or parcel being more particularly described as follows:

Beginning at the intersection of the southerly right of way of the East-West Connector and the easterly right of way of Fontaine Road, said right of way being the same right of way conveyed in a Deed recorded in Deed Book 5832, Page 337, Cobb County, Georgia Records;

Thence, North 85 degrees 11 minutes 25 seconds East along said southerly right of way of the East-West Connector a distance of 194.59 feet to a iron pin set at the Mitchell Property Boundary;

Thence, South 37 degrees 37 minutes 07 seconds East along said Mitchell Property a distance of 185.87 feet to a point marked with a 1" crimp top pipe;

Thence, North 65 degrees 03 minutes East a distance of 138.86 feet to a point set with a 1/2" rebar at the westerly right of way boundary of North Cooper Lake Road (having a 40 feet wide right of way at this location);

BK 10863PG226

Thence, South 00 degrees 52 minutes 11 seconds West along said right of way a distance of 85.24 feet;

Thence, Southeasterly along said right of way along a curve to the left an arc distance of 240.62 feet (said curve having a chord bearing of South 14 degrees 24 minutes 40 seconds East, a chord distance of 239.30 feet and a radius of 664.05 feet);

Thence, South 24 degrees 47 minutes 30 seconds East along said right of way a distance of 61.08 feet to a point set with an iron pin at the Mitchell Property;

Thence, South 72 degrees 22 minutes 44 seconds West a distance of 187.52 feet to a point set with an 3/4" crimp top pipe;

Thence, South 29 degrees 02 minutes 53 seconds East a distance of 100.00 feet to a point set with an iron pin;

Thence, South 83 degrees 08 minutes 20 seconds West a distance of 50.00 feet to a point set with an iron pin;

Thence, North 29 degrees 02 minutes 53 seconds West a distance of 150.16 feet to a point set with an iron pin;

Thence, South 83 degrees 08 minutes 20 seconds West a distance of 211.51 feet to a point set with an iron pin;

Thence, South 29 degrees 02 minutes 53 seconds East a distance of 150.00 feet to a point set with an iron pin;

Thence, South 83 degrees 03 minutes 04 seconds West a distance of 60.23 feet to a point set with an iron pin;

Thence, South 55 degrees 53 minutes 32 seconds West a distance of 50.00 feet to a point set with an iron pin;

Thence, South 25 degrees 38 minutes 40 seconds West a distance of 50.00 feet to a point set with an iron pin;

Thence, South 29 degrees 45 minutes 58 seconds West a distance of 47.32 feet to a point set with an iron pin;

Thence, North 60 degrees 10 minutes 57 seconds West a distance of 108.22 feet to a point set with an iron pin on the easterly right of way boundary of Fontaine Road;

Thence, North 13 degrees 42 minutes 34 seconds East along said right of way a distance of 15.17 feet to a point;

Thence, South 76 degrees 17 minutes 26 seconds East along said right of way a distance of 32.50 feet to a point;

BK 10863 PG 227

Thence, North 13 degrees 42 minutes 34 seconds East along said right of way a distance of 27.60 feet to a point;

Thence, North 76 degrees 17 minutes 26 seconds West along said right of way a distance of 32.50 feet to a point;

Thence, Northwesterly along said right of way along a curve to the left an arc distance of 528.24 feet (said curve having a chord bearing of North 05 degrees 22 minutes 58 seconds East, a chord distance of 526.38 feet and a radius of 1817.40 feet);

Thence, North 67 degrees 51 minutes 37 seconds East along said right of way a distance of 101.67 feet to a point;

Thence, North 25 degrees 55 minutes 31 seconds West along said right of way a distance of 93.24 feet to a point at the southerly right of way of the East-West Connector and the POINT OF BEGINNING.

Said parcel contains 5.984 acres.

Parcel 8

All that certain tract or parcel of land lying and being in Land Lot 332 of the 17th District, 2nd Section, Cobb County, Georgia, being delineated as Tract No. 2 on a survey entitled "BOUNDARY SURVEY FOR: COBB COUNTY DEPARTMENT OF TRANSPORTATION OF EUBANKS' PROPERTY", by Transportation Systems Design, Inc., dated 12-01-94. Said tract or parcel being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, commence at the intersection of the southerly right of way of the East-West Connector and the easterly right of way of Fontaine Road, said right of way being the same right of way conveyed in a Deed recorded in Deed Book 5832, Page 337, Cobb County, Georgia Records;

Thence, North 85 degrees 11 minutes 25 seconds East along said southerly right of way of the East-West Connector a distance of 194.59 feet to a iron pin set at the Mitchell Property Boundary;

Thence, South 37 degrees 37 minutes 07 seconds East along said Mitchell Property a distance of 185.87 feet to a point marked with a 1" crimp top pipe;

Thence, North 65 degrees 03 minutes East a distance of 138.86 feet to a point set with a 1/2" rebar at the westerly right of way boundary of North Cooper Lake Road (having a 40 feet wide right of way at this location);

Thence, South 00 degrees 52 minutes 11 seconds West along said right of way a distance of 85.24 feet;

BK 10863PG228

Thence, Southeasterly along said right of way along a curve to the left an arc distance of 240.62 feet (said curve having a chord bearing of South 14 degrees 24 minutes 40 seconds East, a chord distance of 239.30 feet and a radius of 664.05 feet);

Thence, South 24 degrees 47 minutes 30 seconds East along said right of way a distance of 61.08 feet to a point set with an iron pin at the Mitchell Property;

Thence, South 72 degrees 22 minutes 44 seconds West a distance of 187.52 feet to a point set with a 3/4" crimp top pipe;

Thence, South 29 degrees 02 minutes 53 seconds East a distance of 100.00 feet to a point set with an iron pin;

Thence, South 83 degrees 08 minutes 20 seconds West a distance of 50.00 feet to a point set with an iron pin;

Thence, North 29 degrees 02 minutes 53 seconds West a distance of 150.16 feet to a point set with an iron pin;

Thence, South 83 degrees 08 minutes 20 seconds West a distance of 211.51 feet to a point set with an iron pin;

Thence, South 29 degrees 02 minutes 53 seconds East a distance of 150.00 feet to a point set with an iron pin;

Thence, South 83 degrees 03 minutes 04 seconds West a distance of 60.23 feet to a point set with an iron pin;

Thence, South 55 degrees 53 minutes 32 seconds West a distance of 50.00 feet to a point set with an iron pin;

Thence, South 25 degrees 38 minutes 40 seconds West a distance of 50.00 feet to a point set with an iron pin;

Thence, South 29 degrees 45 minutes 58 seconds West a distance of 47.32 feet to a point set with an iron pin;

Thence, North 60 degrees 10 minutes 57 seconds West a distance of 108.22 feet to a point set with an iron pin on the easterly right of way boundary of Fontaine Road;

Thence, South 13 degrees 42 minutes 34 seconds West along said right of way a distance of 135.31 feet to a point and the TRUE POINT OF BEGINNING;

From the TRUE POINT OF BEGINNING as thus established, thence, South 60 degrees 10 minutes 57 seconds East a distance of 70.72 feet to a point;

BK 10863PG229

Thence, South 29 degrees 44 minutes 23 seconds West a distance of 109.31 feet to a point;

Thence, South 29 degrees 48 minutes 23 seconds West a distance of 119.99 feet to a point set with an iron pin;

Thence, North 69 degrees 58 minutes 15 seconds West a distance of 4.66 feet to a point on the eastern right of way boundary of Fontaine Road;

Thence, North 13 degrees 42 minutes 34 seconds East along said boundary of Fontaine Road a distance of 238.74 feet to a point and the TRUE POINT OF BEGINNING.

Said parcel contains .199 acre.

Parcel 9

All that certain tract or parcel of land lying and being in Land Lot 332 of the 17th District, 2nd Section, Cobb County, Georgia, being Lot 16, Block 4 of Cooper Lake Subdivision, fronting 50 feet on Burnett Avenue and running back same width 140 feet, according to plat by W. J. Nalley, July 15, 1922.

The above-described property is the same as conveyed to B. W. Wiggins by Deed recorded in Deed Book 87, Page 56, Cobb County, Georgia Records; and, subsequently, conveyed by Howard W. Drane, Jr. to J. R. Eubanks, et al, by Deed dated January 13, 1995 and recorded in Deed Book 8755, Page 40, Cobb County, Georgia Records.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons owning, holding or claiming by, through or under said Grantor, but not otherwise.

[THIS SPACE LEFT BLANK INTENTIONALLY]

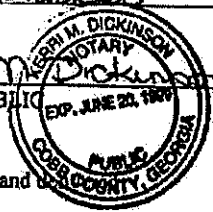
BK 10863 PG 230

IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year above written.

Signed, sealed and delivered in presence of:

Mary Stricklen
Witness

Kerri M. Dickinson
NOTARY PUBLIC



GARY F. EUBANKS
GARY F. EUBANKS

Signed, sealed and delivered in presence of:

Loane Bakats
Witness

Terrie M. Spahn
NOTARY PUBLIC

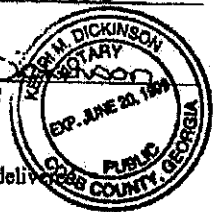


T. Marshall Eubanks
T. MARSHALL EUBANKS

Signed, sealed and delivered in presence of:

Mary Stricklen
Witness

Kerri M. Dickinson
NOTARY PUBLIC



HAZEL BENTLEY EUBANKS
HAZEL BENTLEY EUBANKS

Signed, sealed and delivered in presence of:

Mary Stricklen
Witness

Kerri M. Dickinson
NOTARY PUBLIC



VIRGINIA J. EUBANKS
VIRGINIA J. EUBANKS



REBECCA KEATON
CLERK OF SUPERIOR COURT Cobb Cty. GA.

After recording, please return to:
Hansell L. Smith
Smith, Tamlin, McCurley & Patrick, P.C.
P.O. Box 1186
Marietta, Georgia 30061
STMP File No. 14130051

Deed preparation only/no title search performed

LIMITED WARRANTY DEED

**STATE OF GEORGIA
COUNTY OF COBB**

THIS INDENTURE, made effective as of the 31st day of December, 2013, by and between

**COBB PROPERTIES, L.L.C.,
a Georgia limited liability company**

(hereinafter referred to as "Grantor"), and

**COOPER LAKE LIMITED PARTNERSHIP,
A Georgia limited partnership**

(hereinafter referred to as "Grantee");

WITNESSETH, FOR AND IN CONSIDERATION of the sum of Ten Dollars and other good and valuable consideration delivered to Grantor by Grantee at and before the execution, sealing and delivery hereof, the receipt and sufficiency of which is hereby acknowledged, the Grantor has and hereby does remise, release, convey and forever quitclaim unto Grantee, and together with its successors and assigns, that certain property known as:

All of Grantor's undivided 49.5% interest in and to:

All that tract or parcel of land lying and being in Land Lots 332 and 333 of the 17th District, 2nd Section of Cobb County, Georgia, being more particularly described in Exhibit "A" attached hereto and made a part hereof by reference.

Grantor herein was previously conveyed an undivided 49.5% interest in the above described property by Grantee herein by Limited Warranty Deed dated March 20, 2007 and recorded in Deed Book 14466, page 4928, Cobb County, Georgia Records. As part of that transaction, Grantee herein retained an undivided 50.5% interest in the above-described property. This conveyance is intended to re-convey to Grantee herein the aforesaid 49.5% interest received by said recorded instrument and owned by Grantor. As a result of this instrument, the Grantee herein shall once again own an undivided 100% fee simple interest in said real property.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in **FEE SIMPLE**.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons claiming by, through or under Grantor, but not otherwise.

IN WITNESS WHEREOF, the Grantor has caused its duly authorized Manager to execute this instrument under seal, the day and year first above written.

COBB PROPERTIES, L.L.C.

By: Virginia J. Eubanks (Seal)
VIRGINIA J. EUBANKS, Its Manager

Signed, sealed and delivered
in the presence of:

Gregory O. Sluiter
Witness

Maura M. Mc
Notary Public



EXHIBIT A

Tract I

All that certain tract or parcel of land lying and being in Land Lots 332 and 333 of the 17th District, 2nd Section, Cobb County, Georgia more particularly described as follows:

Beginning at a point located on the southeastern right of way of the East-West Connector at the northwestern end of the mitre cut for the intersection of the southeastern right of way boundary of the East-West Connector and the western right of way boundary of Fontaine Road, which point is .09 feet southeast of a concrete right of way monument, and proceed thence south 85 degrees 11 minutes 25 seconds west along the southeastern right-of-way boundary of the East-West Connector a distance of 450.27 feet to a point set with a number 4 rebar; thence leaving said right of way of the East-West Connector proceed south 22 degrees 18 minutes 09 seconds east a distance of 215.94 feet to a point set with a number 4 rebar; thence proceed south 04 degrees 48 minutes 35 seconds east a distance of 172.82 feet to a point set with a number 4 rebar; thence proceed south 82 degrees 12 minutes 12 seconds east a distance of 186.83 feet to a point set with a number 4 rebar; thence proceed south 46 degrees 56 minutes 21 seconds east a distance of 61.42 feet to a point set with a number 4 rebar; thence proceed south 78 degrees 47 minutes 25 seconds east a distance of 139.64 feet to a point set with a number 4 rebar on the western right of way boundary of Fontaine Road; thence proceed along said right of way in a northwesterly direction along a curve to the left an arc distance of 351.52 feet to a point which is 0.62 feet southeast of a concrete right of way monument (said curve having a chord bearing of north 04 degrees 24 minutes 47 seconds east, a chord distance of 350.90 feet and a radius of 1708.40 feet); thence proceed south 72 degrees 50 minutes 30 seconds west a distance of 31.70 feet to a point set with a number 4 rebar; thence proceed north 23 degrees 23 minutes 27 seconds west a distance of 21.48 feet to a point set with a number 4 rebar; thence proceed north 69 degrees 59 minutes 20 seconds east a distance of 40.46 feet to a point which point is 0.92 feet northeast of a concrete right of way monument; thence proceed northwesterly along a curve to the left an arc distance of 75.02 feet to a point 0.54 feet northeast of a concrete right of way monument (said curve having a chord bearing of north 03 degrees 33 minutes 07 seconds west, a chord distance of 75.01 feet and a radius of 1708.40 feet); thence proceed north 04 degrees 48 minutes 35 seconds west a distance of 26.60 feet to a point which is 0.22 feet southeast of a concrete right of way monument; thence leaving said right of way boundary of Fontaine Road and proceeding north 49 degrees 48 minutes 37 seconds west along the mitre cut for the intersection of the southeastern right of way boundary of the East-West Connector and the western right of way boundary of Fontaine Road a distance of 44.54 feet to a point at the northwestern end of said mitre cut and the point of beginning.

The above-described tract contains 4.189 acres and is more particularly described as Tract I on that certain plat of topographic survey prepared for Wharton Management, Inc. by Jeffrey L. Nipper, Georgia Registered Land Surveyor No. 2736, dated 11/10/02, which is hereby incorporated herein by reference.

ORIGINAL APPEARANCE
OF DOCUMENT

Deed Book 13590 Pg 568
Filed and Recorded Sep-11-2002 03:29pm
2002-0172871
Real Estate Transfer Tax \$0.00

J.C. Stephenson
Jay C. Stephenson
Clerk of Superior Court Cobb Cty, Ga.

Return To: Calloway Title & Escrow, LLC
Suite 240 2-13829
4800 Ashford-Dunwoody Road
Atlanta, GA 30338

CS
5/12

CORRECTIVE QUITCLAIM DEED

STATE OF GEORGIA
COUNTY OF COBB

THIS INDENTURE, made the 9th day of September in the year two thousand two, between GARY F. EUBANKS and VIRGINIA J. EUBANKS of the County of Cobb, and State of Georgia, as party or parties of the first part, hereinafter collectively called Grantors, and COOPER LAKE LIMITED PARTNERSHIP, a limited partnership formed under the laws of the State of Georgia, as party or parties of the second part, hereinafter called Grantee (the words "Grantors" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantors, for and in consideration of the sum of one dollar (\$1.00) and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents do hereby remise, convey and forever QUITCLAIM unto the said Grantee, Parcels 317 and 318 in Land Lot 332 of the 17th District, 2nd Section, Cobb County described on Exhibit A attached hereto and made a part hereof.

TO HAVE AND TO HOLD the said described premises to Grantee, so that neither Grantors nor any person or persons claiming under Grantors shall at any time, by any means or ways, have, claim or demand any right or title to said premises or appurtenances, or any rights thereof.

The purpose of this Quitclaim Deed is to convey to Grantee all right, title and interest obtained by Grantor in the above-described property by virtue of the Quitclaim Deed recorded in Deed Book 6652, Page 3, Cobb County, Georgia records, which interest may not have been fully and completely conveyed by the Deeds recorded in Deed Book 10630, Page 7 and Deed Book 10863, Page 224, aforesaid records.

IN WITNESS WHEREOF, Grantors have signed and sealed this deed, the day and year first above written.

Gary F. Eubanks (Seal)
GARY F. EUBANKS
Virginia J. Eubanks (Seal)
VIRGINIA J. EUBANKS

Signed, sealed and delivered
in the presence of:

Deborah Turner
(Unofficial Witness)

Mary E. Stricklen
(Notary Public)

My Commission Expires:

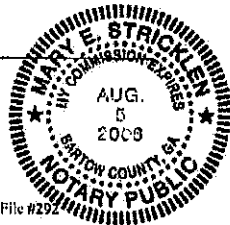


Exhibit A

PARCEL 317

**ALL THOSE TRACTS OR PARCELS OF LAND LYING AND BEING IN
LAND LOT 332, 17TH DISTRICT, 2ND SECTION, COBB COUNTY,
GEORGIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

TRACT 1

**BEGINNING AT A POINT 54.50' LEFT OF AND OPPOSITE SURVEY
CENTERLINE STATION 63 + 68.42 OF FONTAINE ROAD; THENCE
N60-58-40.7W 10.89' TO A POINT; THENCE N13-42-33.6E 62.20'
TO A POINT; THENCE S60-58-40.7E 10.89' TO A POINT; THENCE
S13-42-33.6W 62.20' TO THE POINT OF BEGINNING.**

**TRACT 1 IS CONVEYED SUBJECT TO A PERMANENT DRAINAGE
EASEMENT TO BE RETAINED BY COBB COUNTY.**

TRACT 2

**ALSO THAT PORTION BEGINNING AT A POINT 65.00' LEFT OF AND
OPPOSITE SURVEY CENTERLINE STATION 63 + 71.29 OF FONTAINE
ROAD; THENCE N60-58-40.7W 42.00' TO A POINT; THENCE
N29-48-26E 60.00' TO A POINT; THENCE S60-58-40.7E 24.75'
TO A POINT; THENCE S13-42-33.6W 62.20' TO THE POINT OF
BEGINNING.**

**SAID TRACT 2 IS CONVEYED SUBJECT TO A TEMPORARY
CONSTRUCTION EASEMENT TO BE RETAINED BY COBB COUNTY.**

LYR JGE

Legal Description

All that tract or parcel of land lying and being in Land Lots 332 and 333 of the 17th District, 2nd Section, Cobb County, Georgia, and being more particularly described as follows:

COMMENCE at a point located at the mitered intersection of the southerly right-of-way line of the East-West Connector (a variable width right-of-way) with the westerly right-of-way line of Fontaine Road (a variable width right-of-way) which point is 0.1 feet southwest of a concrete monument found (bent), said point being the **TRUE POINT OF BEGINNING**.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED, thence run southeasterly along said miter S50°23'58"E a distance of 43.91 feet to a point located on the westerly right-of-way line of Fontaine Road; thence run southerly along the westerly right-of-way line of Fontaine Road the following courses and distances: S05°06'29"E a distance of 26.60 feet to a point; along the arc of a curve to the right an arc distance of 75.02 feet to a point, said curve having a radius of 1708.40 feet and being subtended by a chord bearing S03°40'59"E a chord distance of 75.01 feet; S69°51'23"W a distance of 40.46 feet to a point; S23°31'24"E a distance of 21.48 feet to a point; N72°42'33"E a distance of 31.70 feet to a point; along the arc of a curve to the right an arc distance of 351.52 feet to an iron pin found (1/2" rebar), said curve having a radius of 1708.40 feet and being subtended by a chord bearing of S04°16'50"W a chord distance of 350.90 feet; thence leave the westerly right-of-way line of Fontaine Road and run N78°53'26"W a distance of 139.40 feet to a point; thence run N47°02'22"W a distance of 61.31 feet to an iron pin found (1/2" rebar); thence run N82°14'36"W a distance of 187.19 feet to an iron pin set (1/2" rebar); thence run N04°50'59"W a distance of 173.15 feet to an iron pin found (1/2" rebar); thence run N22°30'40"W a distance of 215.72 feet to an iron pin found (1/2" rebar) located on the southerly right-of-way line of the East-West Connector; thence run easterly along the southerly right-of-way line of the East-West Connector N85°11'33"E a distance of 450.27 feet to a point located at the mitered intersection of the southerly right-of-way line of the East-West Connector with the westerly right-of-way line of Fontaine Road, said point being the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land containing 4.183 acres.



Printed: 3/24/2017

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
CHELLY MCDUFFIE CHIEF DEPUTY
Phone: 770-528-8600
Fax: 770-528-8679

Payer:
Catherine Eubanks

COOPER LAKE LIMITED PARTNERSHIP

Payment Date: 10/15/2016

Tax Year	Parcel ID	Due Date	Appeal Amount		Taxes Due
2016	17033201330	10/17/2016	Pay:	N/A or	\$0.00

Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$3,830.71	\$0.00



Scan this code with your mobile phone to view this bill!



COBB COUNTY WATER SYSTEM

Customer Services Facility
660 South Cobb Drive
Marietta, Georgia 30060-3105
770-419-6200
www.cobbwater.org

Stephen D. McCullers, P.E.
Director

Divisions
Business Services
Customer Services
Engineering & Records
Stormwater Management
System Maintenance
Water Protection

March 28, 2017

Weekley Homes, LLC

Re: Proposed 15 lot residential subdivision
SW corner of Fontaine Road and East-West Connector
Land Lots 332, 333, 17th District,
Nickajack Creek Basin, South Cobb WRF

To Whom It May Concern:

Current Cobb County policy is to provide wastewater treatment capacity for approved zonings. Therefore, we will be able to provide capacity for your approved zoning classification with the following stipulations as set forth by the Cobb County Board of Commissioners:

- The developer has 150 days from this date to present plans for review and approval. Water and sewer fees must be paid and construction started within 90 days after plan approval.
- Should you fail to meet this stipulation, this letter of allocation is invalid and you must reapply to this department for capacity. No preference will be given and your request will be placed at the bottom of the request list.
- This letter is only valid for the project referenced. It is non-renewable, non-transferable, non-extendible and does not guarantee that sewer lines are at the site. Upgrades to existing water distribution and wastewater collection facilities may be required of the Developer if the demands of this proposal exceed the capacity limits of our existing or proposed facilities.

Water service is currently available via the existing 12-inch water main on Fontaine Road. A passing fire flow test is a requirement of approval of construction plans by this department.

Sincerely,

COBB COUNTY WATER SYSTEM

Tim Davidson
Engineering & Records Division

cc: file