

**NOVEMBER 20, 2012 ZONING HEARING  
“OTHER BUSINESS”  
COMMISSION DISTRICT 3**

**ITEM # 7**

**PURPOSE**

To consider a site plan amendment for Steak Properties, LLC regarding rezoning application Z-8 of 2010 (Steak Properties, LLC), for property located on the east side of Canton Road, and on the north side of Chesterfield Drive in Land Lot 588 of the 16<sup>th</sup> District.

**BACKGROUND**

The subject property was zoned NRC primarily for a parking lot expansion for the adjoining restaurant in 2010. Along with the parking lot expansion was a proposal to repurpose the single family house as an office building. The applicant decided to demolish the single family houses since it was too expensive to update and repair. The applicant operates a successful and popular restaurant next door, which is in dire need of additional parking for the employees and for the patrons. The applicant requests a site plan amendment to develop a 61 stall parking lot in lieu of the previously approved 33 stall parking lot. The proposed plan is attached, which shows the parking lot with heavy landscaping around the perimeter. If approved, all previous zoning stipulations would remain in effect.

**FUNDING**

N/A

**RECOMMENDATION**

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

**ATTACHMENTS**

Other Business application and zoning stipulations.

# Application for "Other Business"

## Cobb County, Georgia

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

BOC Hearing Date Requested: 11/20/12

Applicant: Stear Properties, LLC Phone #: 404/310-0400  
(applicant's name printed)

Address: 2710 Canton Rd Marietta Ga 30066 E-Mail: \_\_\_\_\_

Ted Marcus Address: 267 West Wrenwood Rd #201  
(representative's name, printed) Atlanta, Ga. 30328

Ted Marcus Phone #: \_\_\_\_\_ E-Mail: \_\_\_\_\_  
(representative's signature)

Signed, sealed and delivered in presence of:

Nereyda Wilkerson 10/11/12 My commission expires: \_\_\_\_\_  
Notary Public Notary Public, Cobb County, Georgia  
My Commission Expires January 27, 2015

Titleholder(s): Stear Properties LLC Phone #: 404 310 0400  
(property owner's name printed)

Address: 2710 Canton Rd Marietta Ga 30066 E-Mail: \_\_\_\_\_

(Property owner's signature) member

Signed, sealed and delivered in presence of:

Nereyda Wilkerson 10/11/12 My commission expires: \_\_\_\_\_  
Notary Public Notary Public, Cobb County, Georgia  
My Commission Expires January 27, 2015

Commission District: 3 Zoning Case: 2-8

Date of Zoning Decision: 3-23-10 Original Date of Hearing: 3-23-10

Location: Canton Road  
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 588 District(s): 16

State specifically the need or reason(s) for Other Business: Amend approved  
site plan.

(List or attach additional information if needed)



ORIGINAL DATE OF APPLICATION: 03-23-10APPLICANTS NAME: STEAK PROPERTIES, LLCTHE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE  
COBB COUNTY BOARD OF COMMISSIONERS**BOC DECISION OF 03-23-10 ZONING HEARING:**

**STEAK PROPERTIES, LLC** (owner) requesting Rezoning from **R-20** to **NRC** for the purpose of an Expansion to Restaurant Parking Lot in Land Lot 588 of the 16<sup>th</sup> District. Located at the northeast intersection of Canton Road and Chesterfield Drive.

The public hearing was opened and Mr. Garvis L. Sams, Jr., Ms. Carol Brown, and Ms. Joan McLemore addressed the Board. Following presentation and discussion, the following motion was made:

**MOTION:** Motion by Lee, second by Goreham, to **approve** Rezoning to the **NRC** zoning district **subject to:**

- site plan submitted to the Zoning Division February 24, 2010 with the District Commissioner approving minor modifications (attached and made a part of these minutes)
- letter of agreeable conditions and attachments submitted by Mr. Garvis L. Sams, Jr., dated February 24, 2010 *where not otherwise in conflict with Staff recommendations and with the following changes* (attached and made a part of these minutes):
  - Paragraph No. 3 – Strike second sentence and replace with: *“Thereafter, the site is limited to office use only, with any additional uses to be brought back to the Board of Commissioners as an Other Business Item.”*
  - Paragraph No. 4 – Add to end of paragraph: *“There will be only one ground based monument sign to serve both parcels, with sign to be approved by the District Commissioner.”*
  - Paragraph No. 5 – Add to end of paragraph: *“A photometric plan will be developed and submitted to Staff during Plan Review.”*
  - Paragraph 7 – Strike and replace with: *“No dumpsters will be located on this site.”*
  - Paragraph 8 (d) – Revise to read: *“The existing point of ingress and egress for the Cherokee Cattle Company shall become a right-in/right-out only, with the new point of ingress/egress having full turning movements subject to remediation to address sight distance.”*
  - Paragraph 8 (e) - Amend to read: *“The installation of sidewalk, curb and gutter along the subject property’s frontage will be in conformity with the Canton Road plans for sidewalks.”*
  - Paragraph 9 - Add subset (d) to read: *“All Stormwater Management Division comments and recommendations at the time of Plan Review will be implemented and will supersede any conflicts within this stipulated letter of conditions, further or additional development, including any land disturbance activity on this site, must come back through Plan Review for additional Stormwater Management review.”*

ORIGINAL DATE OF APPLICATION: 03-23-10APPLICANTS NAME: STEAK PROPERTIES, LLC

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

**BOC DECISION OF 03-23-10 ZONING HEARING:**

- Paragraph 10 – Introduction sentence revised to read: *“The submission of landscape plan during Plan Review process is subject to final review and approval by the Community Development Agency, County Arborist, and District Commissioner, after review by the commonly referred to Marietta-Canton Road Subdivision, consisting of representatives from Chesterfield Drive, Jewell Drive and Rosedale Drive.”*
- Paragraph 10 (b) - Revise to read: *“The installation of a 30 foot landscaped vegetated screening buffer and the construction of a berm as a part of the buffer along the subject property’s eastern property line except where the parking lot and interparcel connection is shown. Within one year of planting, visual screening effect to be substantially achieved.”*
- Paragraph 10 (c) - Amend to read: *“The installation of an 8 foot planted landscaped screening buffer along the subject property’s frontage on Canton Road and the installation of a 20 foot buffer along Chesterfield Drive.”*
- any redevelopment on the property must come before the Cobb County Board of Commissioners for approval through Other Business Item(s)
- no construction access of any kind allowed at any point of Chesterfield Drive or through any part of the Marietta-Canton Road Subdivision.
- no access to Chesterfield Drive and removal of existing residential driveway and post with no-parking signs
- no light glare onto adjacent residential property
- any landscape plan to include preservation of specimen mature trees, specifically noting the required preservation of the specimen tree located on the southeast corner of the property
- no thematic ornamentation to be placed on the office or grounds of subject property
- no aerial, portable, inflatable or decorative signage to be placed on office or grounds of subject property
- Planning Division comments and recommendations
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations
- owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns

VOTE: **ADOPTED** unanimously



Min. Bk. 60 Petition No. Z-8  
Doc. Type letter of agreeable  
conditions  
Meeting Date March 23, 2010

**SAMS, LARKIN & HUFF**  
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 30064-3448

PAGE 5 OF \_\_\_\_\_  
770-422-7016  
TELEPHONE  
770-426-6583  
FACSIMILE

MELISSA P. HAISTEN  
JUSTIN H. MEEKS

February 24, 2010

SAMSLARKINHUFF.COM

**VIA E-MAIL and**  
**HAND DELIVERY**

Mr. John P. Pederson, AICP, Planner III  
Cobb County Zoning Department  
Suite 300  
191 Lawrence Street  
Marietta, Georgia 30060-1661

Re: Application of Steak Properties, LLC to Rezone a 1.07 Acre Tract  
from R-20 to NRC (No. Z-8)

Dear John:

As you know, this firm represents Steak Properties, LLC concerning the above-captioned Application for Rezoning. The application is scheduled to be heard and considered by the Cobb County Planning Commission on March 2, 2010 and, thereafter, is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on March 23, 2010.

With respect to the foregoing and as a result of the discussions which we have had with area residents, business owners, the Northeast Cobb Homeowners Group, Canton Road Neighbors, Inc. and the East Cobb Civic Association, attached please find a revised site plan, Tree Protection/Replacement Plan and off site Detention Pond Data plan. Also, please allow this letter to serve as the applicant's expression of agreement with the following revised stipulations which, if the Application for Rezoning is approved, shall become conditions and a part of the grant of the requested rezoning and binding upon the subject property thereafter. The referenced revised stipulations are as follows, to-wit:

1. The revised stipulations and conditions set forth herein shall replace and supercede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned application for rezoning.
2. Rezoning of the subject property shall be from R-20 to Neighborhood Retail Commercial ("NRC") in substantial conformity to that certain revised site plan prepared for Steak Properties, LLC by Frontline Surveying and Mapping, Inc. which is being submitted contemporaneously herewith.

**VIA E-Mail and**  
**HAND DELIVERY**

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Cobb County Zoning Department  
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3. The total site area of the subject property (1.07 acres) shall be initially developed with the expansion of the parking lot for Cherokee Cattle Company restaurant. Thereafter, there will be future restaurant-related utilization and permitted uses (including retail and offices) allowable under the NRC district.
4. Entrance signage shall be ground-based, monument style with finished materials and colors being in substantial conformity to the present architectural style and composition of the restaurant building on the adjacent site, consistent with renderings/elevations which will be submitted under separate cover.
5. Parking area lighting shall be environmentally sensitive, low level luminaries designed to prevent illumination from penetrating outside the boundaries of the subject property.
6. The construction and erection of street lights along the subject property's frontage consistent with the Canton Road Guidelines.
7. All dumpsters servicing the subject property and adjacent property shall be enclosed with a minimum 6' high enclosure on three (3) sides with an opaque wooden door on the access side which shall remain in a closed position except when the dumpsters are being emptied. All dumpsters shall have rubber lids to minimize noise.
8. Compliance with the following recommendations from the Cobb County Department of Transportation:
  - a. The voluntary donation and conveyance of right-of-way so that the County can achieve 50' from the centerline of Canton Road.
  - b. Coordination with DOT's Canton Road Project (No. D6050) and SPLOST requirements.
  - c. No access to Chesterfield Drive.
  - d. The existing point of ingress/egress for the Cherokee Cattle Company shall become a right-out only with the new point of ingress/egress having full turning movements.



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- e. The installation of sidewalk, curb and gutter along the subject property's frontage.
  - f. The installation of a deceleration lane with a taper along the subject property's frontage.
  - g. The installation of a bench and bike rack adjacent to the ground-based monument signage which is to be erected on the subject property.
9. Compliance with the recommendations from the Stormwater Management Division with respect to the location, configuration and methodology of on site detention, off site detention and water quality ponds, including the following:
- a. Handling storm water through the existing detention facility or by way of modifications to the existing detention facility on the Cherokee Cattle Company site.
  - b. With respect to potential increased volume which may be needed, working in coordination with the adjacent shopping center (LN Piedmont Village, LLC – Zoned PSC) as evidenced by the off site Detention Pond Data plan being submitted contemporaneously herewith.
  - c. An agreement to design and adhere to Best Management Practices and exercising heightened sensitivity with respect to down-stream hydrological conditions particularly concerning adjacent residential areas.
10. The submission of a landscape plan during the Plan Review process, subject to final review and approval by the Community Development Agency, including the following:
- a. Erecting a decorative privacy fence along the subject property's eastern property line subject to review and approval by the Community Development Agency.
  - b. The installation of a 20' landscaped vegetated screening buffer and the construction of a berm as a part of that buffer along the subject property's eastern property line except where the inter-parcel connection is shown between the subject property and the Cherokee Cattle Company Restaurant site.

**VIA E-Mail and**  
**HAND DELIVERY**

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- c. The installation of an 8' planted buffer along the subject property's frontage on Canton Road and the installation of a 20' buffer along Chesterfield Drive.
  - d. Species of vegetation which will be utilized shall be ecologically compatible to the site and appropriate for design circumstances.
  - e. Compliance with the Tree Protection/Replacement Plan being submitted contemporaneously herewith.
  - f. All landscaping shall be professionally designed, maintained and irrigated. Additionally, all landscaped areas shall be perpetually maintained and any dead or irrevocably diseased vegetation shall be replaced as necessary.
  - g. All landscaped and buffer areas may be penetrated for purposes of access, utilities, and stormwater management including, but not limited to, detention/retention facilities, drainage facilities and any and all slope and other required engineering features.
11. Compliance with the recommendations of the Cobb County Fire Department as set forth in the Zoning Analysis.
12. Compliance with the recommendations of the Cobb County Water System with respect to the availability and acquisition of water and sewer to service the subject property.
13. Minor modifications to the site plan, landscape plan and this revised letter of agreeable stipulations/conditions may be reviewed and approved by the District Commissioner.

Taking into consideration the enormous (but appreciated) amount of input we have received on this application, the zoning proposal is appropriate from a land use planning perspective and promotes development which is consistent with the policies of Cobb County with respect to this section of the Canton Road Corridor. Please let me know if you need any additional information or documentation prior to the application appearing before the Planning Commission and Board of Commissioners.

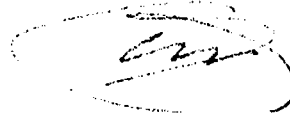
VIA E-Mail and  
HAND DELIVERY

Mr. John P. Pederson, AICP, Planner III  
Cobb County Zoning Department  
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With regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.  
[gsams@samslarkinbuff.com](mailto:gsams@samslarkinbuff.com)

GLSjr/jbmc  
Attachments

cc: Members, Cobb County Board of Commissioners – VIA Hand Delivery – w/attachments  
Members, Cobb County Planning Commission – VIA E-Mail – w/attachments  
Mr. Robert L. Hosack, Jr., AICP, Director – VIA Hand Delivery – w/enclosures  
Mr. Mark A. Danneman, Manager – VIA Hand Delivery – w/attachments  
Ms. Jane Stricklin, P.E. – VIA E-Mail – w/attachments  
Mr. David Breaden, P.E. – VIA E-Mail – w/attachments  
Ms. Karen King, Assistant County Clerk – VIA Hand Delivery – w/attachments  
Ms. Lori Presnell, Deputy County Clerk – VIA Hand Delivery – w/attachments  
Ms. Carol Brown, President, Canton Road Neighbors – VIA E-Mail – w/attachments  
Mr. Norm DeWalt, President, Northeast Cobb Homeowners Group, Inc. – VIA E-Mail  
Mr. David Poteet, Northeast Cobb Homeowners Group, Inc. – VIA E-Mail –  
w/attachments  
Ms. Jill Flamm, East Cobb Civic Association – VIA E-Mail – w/attachments  
Mr. Tom Peay, P.E. – VIA E-Mail – w/attachments  
Mr. Jerry Tillem – w/enclosures  
Mr. Gus Tselios – w/enclosures

APPLICANT: Steak Properties, LLC

PETITION NO.: Z-8

PRESENT ZONING: R-20

PETITION FOR: NRC

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**PLANNING DIVISION COMMENTS:**

Master Plan/Corridor Study

According to the 2005 Canton Road Corridor Study, the following are items for consideration for the subject parcel:

- Retail and office uses should be restricted so that there are no twenty-four (24) hour establishments along the corridor.
- The parcel is outside the area covered by the Main Street Design Principles.
- Due to the proposed development of the lot, all aspects of the Canton Road Design Guidelines, applicable to this site, should be incorporated on the site.
- The site is located in an area that has been identified as redevelopment sites (Map #8).
- Staff requests that a stipulation be included that has the applicant meet the sidewalk, street tree, street light and other applicable standards as detailed in the Canton Road Design Guidelines.

Design Guidelines

Is the parcel in an area with Design Guidelines?     Yes     No

The Canton Road Design Guidelines cover only non-residential properties fronting Canton Road.

If yes, design guidelines area: Canton Road Design Guidelines

Does the current site plan comply with the design requirements?

Yes     No     Not applicable

APPLICANT Steak Properties, LLC

PETITION NO. Z-008

PRESENT ZONING R-20

PETITION FOR NRC

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NOTE: Comments reflect only what facilities appeared of record at the time of this review. Field verification required by developer.

**WATER COMMENTS:**

Available at Development?  Yes  No

Fire Flow Test Required?  Yes  No

Size / Location of Existing Water Main(s) 8" DI / E side Canton Rd

Additional Comments: Records show 2710 Canton Rd connected

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

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**SEWER COMMENTS:**

In Drainage Basin?  Yes  No

At Development?  Yes  No

Approximate Distance to Nearest Sewer: In Chesterfield Dr

Estimated Waste Generation (in G.P.D.): ADF ~ 0+ Peak ~ 0+

Treatment Plant: Noonday

Plant Capacity Available?  Yes  No

Line Capacity Available?  Yes  No

Projected Plant Availability:  0 - 5 year  5 - 10 years  over 10 years

Dry Sewers Required?  Yes  No

Off-site Easements Required?  Yes\*  No

Flow Test Required?  Yes  No

Septic Tank Recommended by this Department?  Yes  No

Subject to Health Department Approval?  Yes  No

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

Additional Comments:

Records show 2710 Canton Rd connected

Notes FYI:

Developer will be responsible for connecting to the existing County water and sewer systems, installing and/or upgrading all outfalls and water mains, obtaining on and/or off site easements, dedication of on and/or off site water and sewer to Cobb County, as may be required. Rezoning does not guarantee water/sewer availability/capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

APPLICANT: Steak Properties, LLC

PETITION NO.: Z-8

PRESENT ZONING: R-20

PETITION FOR: NRC

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**DRAINAGE COMMENTS**

FLOOD HAZARD:  YES  NO  POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Little Noonday Creek FLOOD HAZARD INFO: Zone X

- FEMA Designated 100 year Floodplain Flood.
- Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
- Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.
- Dam Breach zone from (upstream) (onsite) lake – need to keep residential buildings out of hazard.

WETLANDS:  YES  NO  POSSIBLY, NOT VERIFIED

Location: \_\_\_\_\_

- The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE:  YES  NO  POSSIBLY, NOT VERIFIED

- Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway).
- Chattahoochee River Corridor Tributary Area -- County review (\_\_\_\_\_ undisturbed buffer each side).
- Georgia Erosion-Sediment Control Law and County Ordinance – **County Review/State Review.**
- Georgia DNR Variance may be required to work in 25 foot streambank buffers.
- County Buffer Ordinance: 50', 75', 100' or 200' each side of creek channel.

DOWNSTREAM CONDITION

- Potential or Known drainage problems exist for developments downstream from this site.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads.
- Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- Existing Lake Downstream \_\_\_\_\_  
Additional BMP's for erosion sediment controls will be required.
- Lake Study needed to document sediment levels.
- Stormwater discharges through an established residential neighborhood downstream.
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on existing downstream receiving system.

APPLICANT: Steak Properties, LLC

PETITION NO.: Z-8

PRESENT ZONING: R-20

PETITION FOR: NRC

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DRAINAGE COMMENTS CONTINUED

SPECIAL SITE CONDITIONS

- Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- Submit all proposed site improvements to Plan Review.
- Any **spring activity** uncovered must be addressed by a qualified geotechnical engineer (PE).
- Structural fill \_\_\_\_\_ must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- Existing facility.
- Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- Calculate and provide % impervious of project site.
- Revisit design; reduce pavement area to reduce runoff and pollution.

INSUFFICIENT INFORMATION

- No Stormwater controls shown \_\_\_\_\_
- Copy of survey is not current – Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit.

ADDITIONAL COMMENTS

1. The proposed site plan for the parking lot expansion indicates that the existing detention pond on the current Cherokee Cattle Company site will be modified to accommodate the additional runoff. There does not appear to be sufficient area available in the current pond to accommodate the sufficient expansion needed and additional area will likely be required to provide the adequate storage volume needed. This must be addressed at Plan Review.
2. A small portion of the site drains to the southeast toward Chesterfield Drive. Runoff from this area drains through the adjacent residential neighborhood. The stormwater conveyance system in this older development has limited capacity. Any future development on the subject parcel that discharges to Chesterfield Drive will be required to control design storm discharges not to exceed the allowable discharge of the next lower, more frequent storm event (ie. 5-year storm event released at 2-year rate; 10-year event at 5-year rate; etc. to 100-year event at 50-year rate).

APPLICANT: Steak Properties, LLC

PETITION NO.: Z-8

PRESENT ZONING: R-20

PETITION FOR: NRC

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**TRANSPORTATION COMMENTS**

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Canton Road	32500	Arterial	45 mph	Cobb County	100'
Chesterfield Drive	<10	Local	25 mph	Cobb County	50'

*Based on 2009 traffic counting data taken by Cobb County DOT (Canton Road)  
Based on 2010 traffic counting data taken by Cobb County DOT (Chesterfield Drive)*

**COMMENTS AND OBSERVATIONS**

Canton Road is classified as an arterial and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

Chesterfield Drive is classified as a local and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

Canton Road is identified in the 2005 SPLOST as a roadway safety and operational improvement project.

As necessitated by this development for egress from Canton Road, a deceleration lane will be required at the proposed access drive.

**RECOMMENDATIONS**

Recommend applicant consider entering into a development agreement pursuant of O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the east side of Canton Road, a minimum of 50' from the roadway centerline.

Recommend applicant coordinate with Cobb County DOT prior to development plan approval to ensure compatibility with the proposed roadway improvement project along Canton Road.

Recommend deceleration lane along Canton Road.

Recommend no commercial access to Chesterfield Drive.

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.