

**JULY 19, 2016 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 1**

ITEM 040

PURPOSE

To consider a stipulation amendment for CPI Holdings, LLC regarding rezoning application Z-135 of 1994 (Columbia Properties Incorporated), for property located on the southeast corner of Mars Hill Road and Stilesboro Road, in Land Lots 224 and 225 of the 20th District.

BACKGROUND

The subject property was rezoned to Neighborhood Retail Commercial (NRC) for a retail development in 1994. One of the zoning stipulations required the owner/developer to “attempt” to preserve the large oak trees at the intersection of Stilesboro Road and Mars Hill Road for as long as possible. The County Arborist has gone out there and has assessed fifteen oak trees on the property. From his assessment (attached), eleven trees are too small to qualify as specimen trees and four of the larger trees that could be candidates as specimen trees do not qualify since they are in fair to poor condition. The applicant would like to remove stipulation #2 since the large trees are in such bad shape. If approved, all previous stipulations not in conflict with this amendment should remain in effect.

RECOMMENDATION

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

ATTACHMENTS

Other Business application and zoning stipulations.

OB-040-2016

Application for "Other Business" Cobb County, Georgia

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

BOC Hearing Date Requested: 07/19/2016

Applicant: CPI Holdings LLC Phone #: 770.953.0202
(applicant's name printed)

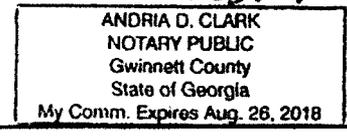
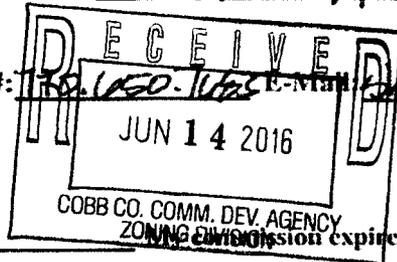
Address: BLDG 147B, STE 200 E-Mail: oneilka@bellsouth.net
1355 TERRELL MILL RD, Marietta GA
30007

Sidney H. Holtzman Address: 85A MILL STREET, Roswell GA 30075
(representative's name, printed)

[Signature] Phone #: 770.150.1623 E-Mail: sholtzman@paulsawmitchell.com
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature]
Notary Public



Titleholder(s): CPI Holdings LLC Phone #: 770.953.0202
(property owner's name printed)

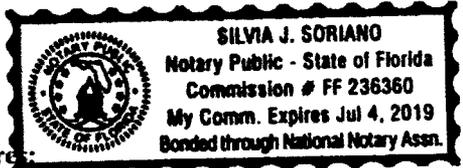
Address: BLDG 147B, STE 200 E-Mail: oneilka@bellsouth.net
1355 TERRELL MILL RD, Marietta GA
30007

Christen O'Neill
(Property owner's signature) Member

Signed, sealed and delivered in presence of:

[Signature]
Notary Public

My commission expires:



Commission District: 1st Zoning Case: Z-135

Size of property in acres: 1.01 AC ± Original Date of Hearing: 9/6 & 9/20 1994

Location: 1020 MARY HILL ROAD, KENNESAW, GA 30152
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 225 District(s): 20

State specifically the need or reason(s) for Other Business: REQUESTED REMOVAL
OF stipulation #2 OF BOC DECISION OF 11-15-94.
OWNER HAS PRESERVED NATURAL TREE STAND FOR
OVER 20 YEARS AND NATURAL FORCES AND DISEASE HAVE
DETERIORATED AND DESTROYED ORIGINAL SPECIMEN TREES.

(List or attach additional information if needed)

OB-040-2016
Tree Report

Sid Howman

From: Atchley, Cecil <Cecil.Atchley@cobbcounty.org>
Sent: Tuesday, June 14, 2016 1:44 PM
To: Sid Howman
Cc: John Paulson; Pederson, John
Subject: RE: STILEBORO ROAD OUTPARCEL - "Other Business" submittal

Sid,

This email reply should serve to satisfy the requirement of a written statement of assessment for the trees at 1720 Mars Hill Rd. (out parcel @ the intersection of Mars hill Road and Stilesboro Road).

This parcel had 15 trees assessed on or about January 18, 2011, by LAI engineering as follow:

Trees listed in **red text** were either too small to qualify for specimen status or are located off the property in the R.O.W. of Mars Hill Road.

Of the four remaining trees in the list only one tree - #114, was marginally acceptable as a specimen.

(R) = Red

- R 101 - 27" White Oak Too small to qualify for specimen status
- R 102 - 29" White Oak Too small to qualify for specimen status
- 103 - 33" White Oak Fair condition, Codominant trunk at 20', included bark, moderate canopy die-back, one major dead limb, **not specimen quality**
- R 104 - 24" White Oak Located in R.O.W. adjacent to site
- R 105 - 31" Red Oak Located in R.O.W. adjacent to site
- R 106 - Dead Located in R.O.W. adjacent to site
- R 107 - 35" White Oak Located in R.O.W. adjacent to site
- R 108 - 28 " Post Oak Too small to qualify for specimen status
- R 109 - 21" White Oak Too small to qualify for specimen status
- R 110 - 28" Post Oak Too small to qualify for specimen status
- R 111 - 24" Post Oak Too small to qualify for specimen status
- 112 - 39" Post Oak Poor Condition, main leader has been cut out, **not specimen quality**
- R 113 - 27" White Oak Too small to qualify for specimen status
- 114 - 40" Red Oak Fair condition, small gall on major root, a few dead branches, canopy asymmetrical, minor decay in trunk base, marginal specimen status
- 115 - 46" White Oak Poor Condition, poor structure, 15% dead branches, multiple leaders all with included bark, decay present at trunk base, **not specimen quality**



Re-assessment of tree #114 on June 9, 2016 found this tree to have major canopy die-back. It no longer is qualified as specimen status.

Cecil Atchley
Cobb County Arborist

From: Sid Howman [mailto:showman@paulsonmitchell.com]
Sent: Tuesday, June 14, 2016 11:05 AM
To: Atchley, Cecil <Cecil.Atchley@cobbcounty.org>
Cc: John Paulson <jpaulson@paulsonmitchell.com>; Pederson, John <John.Pederson@cobbcounty.org>
Subject: RE: STILEBORO ROAD OUTPARCEL - "Other Business" submittal

GENERAL NOTES

EQUIPMENT USED FOR ANGULAR ELEMENT MEASUREMENTS: LEICA T03A 1103 ROBOTIC STATION; LEICA DISTO D2 (0.02/2/2011)

THE FIELD DATA UPON WHICH THIS SURVEY IS BASED HAS A CLOSE PRECISION OF ONE FOOT IN 32,778 FEET AND AN ANGULAR ERROR OF 0.1 PER ANGLE POINT AND WAS ADJUSTED USING LEAST SQUARES METHOD.

THE PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE TO WITHIN ONE (0001) IN 173,742 FEET.

THE 2' CONTIGUOUS AREAS ARE ADJUSTED TO INWID OR OUTWID TO MAINTAIN AN EQUAL PERCENTAGE CONTRACT OF ± 1. CONTIGUOUS OUTSIDE THE IMMEDIATE SITE ARE APPROXIMATE.

NEIGHBORS SHOWN ON THIS SURVEY ARE FROM GRID NORTH, (GA 83 WEST ZONE) NO PORTION OF THE PROPERTY IS LOCATED IN A SPECIAL FLOOD AREA AS PER FLOOD HAZARD PANEL NO. 150970070 LIMITED 12/16/2006.

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM AERIAL PHOTOGRAPHY AND FIELD SURVEY INFORMATION. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPARE ALL SUCH UTILITIES IN THE AREA. THAT THE UNDERGROUND UTILITIES SHOWN ARE ACCURATELY LOCATED. INFORMATION INDICATED ALTHOUGH THEY ARE LOCATED ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.

TITLE EXCEPTIONS

FIRST AMERICAN TITLE INSURANCE COMPANY
 COBB CO. COMM. DEV. AGENCY
 ZONING DIVISION
 COMMITMENT DATE: JANUARY 4, 2011

8. DRIVEWAY EASEMENT AGREEMENT BY AND BETWEEN JAMES C. CARMEN AND JAMES W. WATERS, DATED FEBRUARY 2, 1997, RECORDED IN DEED BOOK 11882 PAGE 276, GEORGIA. IT CANNOT BE ASCERTAINED FROM THE INFORMATION PROVIDED, IF THIS ITEM AFFECTS THE SUBJECT PROPERTY, EXHIBIT 'N' OF DEED NOT PROVIDED.

9. EASEMENT AND RELEASES AS CONTAINED IN THOSE CERTAIN RIGHTS-OF-WAY DEEDS FROM L.L.C. WARD TO STATE HIGHWAY DEPARTMENT OF GEORGIA, DATED AND RECORDED AS FOLLOWS:
 (A) DATED APRIL 23, 1948, FILED JUNE 8, 1948 AND RECORDED IN DEED BOOK 195, PAGE 431, AFORESAID RECORDS; AND
 (B) DATED APRIL 23, 1948 AND RECORDED IN DEED BOOK 195, PAGE 434, AFORESAID RECORDS. THIS ITEM DOES NOT AFFECT THE SUBJECT PROPERTY.

10. EASEMENT AGREEMENT BETWEEN TRUST COMPANY BANK AS TRUSTEE UNDER WILL, MARTIN, AND THE WOODCOCK, AN OHIO CORPORATION, DATED FEBRUARY 20, 1995, FILED MAY 3, 1995 AND RECORDED IN DEED BOOK 8846, PAGE 444, AFORESAID RECORDS. THIS ITEM DOES NOT AFFECT THE SUBJECT PROPERTY.

11. DUAL EXIT DRIVEWAY AGREEMENT BY AND BETWEEN THE WOODCOCK COMPANY AND THE DEPARTMENT OF TRANSPORTATION, DATED APRIL 4, 1994, FILED SEPTEMBER 7, 1995 AND RECORDED IN DEED BOOK 9088, PAGE 346, AFORESAID RECORDS. AS RECORDED ON SEPTEMBER 15, 1995 IN DEED BOOK 9109, PAGE 304, AFORESAID RECORDS. THIS ITEM DOES NOT AFFECT THE SUBJECT PROPERTY.

12. DECLARATION OF EASEMENTS, COVENANTS, AND RESTRICTIONS BY AND BETWEEN LIMITED LIABILITY COMPANY AND DTA STILES ROAD PARTNERS, L.P., A DELAWARE LIMITED PARTNERSHIP, DATED JUNE 20, 1997, FILED JULY 2, 1997 AND RECORDED IN DEED BOOK 10469, PAGE 66, AFORESAID RECORDS. THIS ITEM AFFECTS THE SUBJECT PROPERTY. NO OTHER PLOTTABLE ITEMS.

13. DECLARATION OF EASEMENTS, COVENANTS, AND RESTRICTIONS BY AND BETWEEN DELAWARE LIMITED LIABILITY COMPANY AND BATA STILES ROAD PARTNERS, L.P., A GEORGIA LIMITED PARTNERSHIP, DATED JUNE 20, 1997, FILED JULY 2, 1997 AND RECORDED IN DEED BOOK 10469, PAGE 67, AFORESAID RECORDS. THIS ITEM AFFECTS THE SUBJECT PROPERTY. NO OTHER PLOTTABLE ITEMS.

14. TERMS AND CONDITIONS OF THAT LEASE AGREEMENT AS ENVOYED BY THAT CERTAIN MEMORANDUM OF LEASE BETWEEN FTI AMERICAN MARKET FUND, LP (LANDLORD) AND SUBWAY REAL ESTATE CORP., A DELAWARE CORPORATION (TENANT), DATED NOVEMBER 3, 2004, FILED NOVEMBER 12, 2004 AND RECORDED IN DEED BOOK 10469, PAGE 66, AFORESAID RECORDS. THIS ITEM AFFECTS THE SUBJECT PROPERTY. NO OTHER PLOTTABLE ITEMS.

15. DECLARATION OF RESTRICTIVE COVENANTS BY OR PROPERTIES, L.L.C., EXECUTED AS OF JUNE 20, 1997, FILED JULY 2, 1997 AND RECORDED IN DEED BOOK 10469, PAGE 75, AFORESAID RECORDS. THIS ITEM AFFECTS THE SUBJECT PROPERTY. THE SUBJECT PROPERTY IS REFERRED TO AS 'OUTLOT #1' IN THIS DOCUMENT. NO OTHER PLOTTABLE ITEMS.

16. TERMS AND CONDITIONS OF THAT LEASE EXECUTED ON MARCH 9, 2004 AS EVIDENCED BY THAT CERTAIN MEMORANDUM OF LEASE BETWEEN FTI AMERICAN MARKET FUND, LP (LANDLORD) AND SUBWAY REAL ESTATE CORP., A DELAWARE CORPORATION (TENANT), DATED NOVEMBER 3, 2004, FILED NOVEMBER 12, 2004 AND RECORDED IN DEED BOOK 10469, PAGE 66, AFORESAID RECORDS. THIS ITEM AFFECTS THE SUBJECT PROPERTY. NO OTHER PLOTTABLE ITEMS.

17. DRIVEWAY EASEMENT FROM INLAND WESTERN ACQUORTH STILES ROAD, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY TO COBB COUNTY, GEORGIA, DATED FEBRUARY 2, 1997, FILED MAY 3, 1995 AND RECORDED IN DEED BOOK 8846, PAGE 311, AFORESAID RECORDS. THIS ITEM DOES NOT AFFECT THE SUBJECT PROPERTY.

18. RIGHT OF WAY FROM OR HOLDINGS, L.L.C., A GEORGIA LIMITED LIABILITY COMPANY TO COBB COUNTY, GEORGIA, DATED FEBRUARY 2, 1997, FILED MAY 3, 1995 AND RECORDED IN DEED BOOK 8846, PAGE 311, AFORESAID RECORDS. THIS ITEM ESTABLISHES THE CURRENT RIGHT-OF-WAY WHICH IS PLOTTED HEREON.

SUBJECT PROPERTY

SITE ADDRESS: 1630 MARS HILL ROAD, KENNESAW, GA 30152

AREA: 1.01 ACRES

ZONED: MFC (NEIGHBORHOOD RETAIL COMMERCIAL)

PROPERTY WITH TWO PUBLIC ROAD FRONTAGES

FRONT SETBACK 60 FEET
 MAJOR SIDE SETBACK 25 FEET
 MINOR SIDE SETBACK 15 FEET
 REAR SETBACK 30 FEET

MINIMUM LOT SIZE: 20,000 SQUARE FEET

REFERENCE: DEED BOOK 14093 PAGE 2048
 DEED BOOK 11882 PAGE 276
 DEED BOOK 11882 PAGE 63
 DEED BOOK 10469 PAGE 66
 DEED BOOK 10469 PAGE 66

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCELS OF LAND LYING AND BEING IN LAND LOT 225, 20TH DISTRICT, 2ND SECTION, COBB COUNTY, GEORGIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN SET AT THE NORTH-EAST CORNER OF THE INTERSECTION FORMED BY THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF STILES ROAD PAVING A 100-FOOT RIGHT-OF-WAY LINE OF MARS HILL ROAD HAVING A 100-FOOT RIGHT-OF-WAY; THENCE SOUTH 64°49'21" EAST, 41.64 FEET TO A POINT; THENCE SOUTH 64°28'02" EAST, 42.83 FEET TO A POINT; THENCE SOUTH 65°00'26" EAST, 43.30 FEET TO A POINT; THENCE SOUTH 64°49'21" EAST, 222.11 FEET TO A POINT; THENCE SOUTH 65°54'09" WEST, 192.14 FEET TO A POINT; THENCE SOUTH 64°49'21" EAST, 45.89 FEET TO A POINT; THENCE NORTH 65°54'09" WEST, 192.14 FEET TO A POINT; THENCE SOUTH 64°49'21" EAST, 45.89 FEET TO A POINT; THENCE NORTH 21°14'54" EAST, 11.54 FEET TO AN IRON PIN SET AT THE SOUTHWEST CORNER OF THE INTERSECTION FORMED BY THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF STILES ROAD AND THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF MARS HILL ROAD; THENCE LEAVING SAID SOUTHWESTERLY RIGHT-OF-WAY LINE OF STILES ROAD AND THE SAID INTERSECTION, NORTH 71°37'56" EAST, 26.20 FEET TO A POINT ON SAID SOUTHWESTERLY RIGHT-OF-WAY LINE OF STILES ROAD AND THE TRUE POINT OF BEGINNING.

SAID TRACT CONTAINS 1.0061 ACRES (43,824 SQUARE FEET), MORE OR LESS.

SURVEYOR'S CERTIFICATE

TO WANGFELD BEASLEY AND FIRST AMERICAN TITLE INSURANCE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1909 AND THE RULES AND REGULATIONS THEREUNDER AND IN ACCORDANCE WITH THE PROFESSIONAL STANDARDS AS ADOPTED BY THE BOARD OF SURVEYING AND MAPPING IN 2005, AND INCLUDES ITEMS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

LINE TABLE

LINE	BEARING	DISTANCE
1	S 64° 49' 21" E	41.64
2	S 64° 28' 02" E	42.83
3	S 65° 00' 26" E	43.30
4	S 64° 49' 21" E	222.11
5	S 65° 54' 09" W	192.14
6	S 64° 49' 21" E	45.89
7	N 21° 14' 54" E	11.54
8	N 71° 37' 56" E	26.20

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCELS OF LAND LYING AND BEING IN LAND LOT 225, 20TH DISTRICT, 2ND SECTION, COBB COUNTY, GEORGIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN SET AT THE NORTH-EAST CORNER OF THE INTERSECTION FORMED BY THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF STILES ROAD PAVING A 100-FOOT RIGHT-OF-WAY LINE OF MARS HILL ROAD HAVING A 100-FOOT RIGHT-OF-WAY; THENCE SOUTH 64°49'21" EAST, 41.64 FEET TO A POINT; THENCE SOUTH 64°28'02" EAST, 42.83 FEET TO A POINT; THENCE SOUTH 65°00'26" EAST, 43.30 FEET TO A POINT; THENCE SOUTH 64°49'21" EAST, 222.11 FEET TO A POINT; THENCE SOUTH 65°54'09" WEST, 192.14 FEET TO A POINT; THENCE SOUTH 64°49'21" EAST, 45.89 FEET TO A POINT; THENCE NORTH 65°54'09" WEST, 192.14 FEET TO A POINT; THENCE SOUTH 64°49'21" EAST, 45.89 FEET TO A POINT; THENCE NORTH 21°14'54" EAST, 11.54 FEET TO AN IRON PIN SET AT THE SOUTHWEST CORNER OF THE INTERSECTION FORMED BY THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF STILES ROAD AND THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF MARS HILL ROAD; THENCE LEAVING SAID SOUTHWESTERLY RIGHT-OF-WAY LINE OF STILES ROAD AND THE SAID INTERSECTION, NORTH 71°37'56" EAST, 26.20 FEET TO A POINT ON SAID SOUTHWESTERLY RIGHT-OF-WAY LINE OF STILES ROAD AND THE TRUE POINT OF BEGINNING.

SAID TRACT CONTAINS 1.0061 ACRES (43,824 SQUARE FEET), MORE OR LESS.

SURVEYOR'S CERTIFICATE

TO WANGFELD BEASLEY AND FIRST AMERICAN TITLE INSURANCE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1909 AND THE RULES AND REGULATIONS THEREUNDER AND IN ACCORDANCE WITH THE PROFESSIONAL STANDARDS AS ADOPTED BY THE BOARD OF SURVEYING AND MAPPING IN 2005, AND INCLUDES ITEMS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 67

Application for Rezoning Cobb County

(type or print clearly)

Application No. 2135
Hearing Date: 9/6+9/20

Applicant Columbia Properties Incorporated Business Phone 953-6262 Home Phone --

Roy Barnes, Esq. Address 1355 Terrell Mill Road, Bldg. 1478, Suite 200
(representative name, printed) Marietta, Georgia 30067

Roy Barnes Business Phone 424-1500
(representative's signature)

Signed, sealed and delivered in presence of:

Notary Public, Cobb County, Georgia
My Commission Expires October 31, 1997

Lain B. Nesbitt
Notary Public

My commission expires: _____

Titleholder Nancy V. Hyde Business Phone 939-2758 Home Phone Same

Signature Nancy V. Hyde Address 2569 Regency Drive
(attach additional signatures, if needed) Tucker, Georgia 30084

Signed, sealed and delivered in presence of:
SEE ATTACHED

Rosemary C. Doughtie
Notary Public

COBB CO. COMM. DEVELOPMENT
ZONING DIVISION

Notary Public
Fulton County, Georgia
My Commission Expires
July 8, 1997

My commission expires: _____

Zoning Request From R-30 to NRC
(present zoning) (proposed zoning)

For the Purpose of Shopping Center Size of Tract 12.6 Acre(s)
(subdivision, restaurant, warehouse, apt., etc.)

Location S.E. Corner Mars Hill Road and Stilesboro Road
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 224 & 225 District 20th

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

To the best of our knowledge, there are none.

COLUMBIA PROPERTIES INCORPORATED
BY: Christine Neill
Vice Pres. (applicant's signature)

We have investigated the site as to the existence of any cemetery located on the above property. I hereby certify that there is/is not such a cemetery. If any, they are as follows:

To the best of our knowledge, there are none.

COLUMBIA PROPERTIES INCORPORATED
BY: Christine Neill
Vice Pres. (applicant's signature)

PAGE 2 OF 2345

APPLICATION NO. Z-135

ORIGINAL DATE OF APPLICATION: 9-6-94 & 9-20-94

APPLICANT'S NAME: COLUMBIA PROPERTIES

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

BOC DECISION OF 10-18-94: The Board of Commissioners held application until the November 15, 1994 Zoning Hearing. Motion by Cooper, second by Byrne, carried 3-2, Poole and Wysong opposed.

BOC DECISION OF 11-15-94: The original motion by Cooper with second by Byrne to delete application to the LRC and LRO zoning districts with stipulations was not voted on due to offer of substitute motion. On substitute motion the Board of Commissioners approved application subject to: 1) the approximately 1.2 acre portion of property located along the southern property line (adjacent to the fire station) deleted to the LRO zoning district; 2) owner/developer to "attempt" to preserve, for as long as possible, the large oak trees roughly located at intersection of Stilesboro Road and Mars Hill Road; 3) deliveries to the rear of property restricted to the hours of 7:00 a.m. until 9:00 p.m., until such time as the adjoining property along the eastern boundary of site is rezoned to a non-residential zoning classification; 4) shopping center to have brick facade on all sides (including brick columns and a flat roof with all rooftop equipment being shielded behind the brick facade); 5) outparcel building(s) to have brick facades; 6) street pylon signs (low-profile signs) to be constructed of

CONTINUED ON NEXT PAGE.....

Karen L. Hach
Karen L. Hach, Deputy County Clerk
Cobb County Board of Commissioners

ORIGINAL DATE OF APPLICATION: 9-6 AND 9-20, 1994

APPLICANT'S NAME: COLUMBIA PROPERTIES INC.

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

BOC DECISION OF 11-15-94 CONTINUED.....

brick material as used on the facade of the shopping center with the primary sign being located next to the entrance on Mars Hill Road; 7) tenant signage will be backlit, individually lettered, custom designed and placed above each store front on the face of the building; 8) lighting to be environmental shoe-box type; 9) landscaping and grass will be used in all border areas and on island areas between parking rows; 10) installation of an eight-foot solid wood privacy fence along the eastern-most property line, at or near the curb line to the rear of property; 11) installation of a minimum 30 foot green space buffer along the eastern most boundary and the southern boundary (excluding the parcel deleted to the LRO zoning district); 12) landscaped buffer, as well as all landscaping to be approved by Staff; 13) owner/developer to reroute the Herens' (adjoining property owners') driveway to eliminate any encumbrances on the adjoining property; 14) 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; 15) Georgia Department of Transportation permits will be required for all work proposed within the Mars Hill Roadway Corridor; 16) project to meet all Cobb County Development Standards and Ordinances related to project improvements. Motion by Thompson, second by Wysong, carried 3-2, Byrne and Cooper opposed.

Karen L. Hach
Karen L. Hach, Deputy County Clerk
Cobb County Board of Commissioners

See attached page
for action of 12-20-94.


PAGE 4 OF 45

APPLICATION NO. Z-135

ORIGINAL DATE OF APPLICATION: 9/94 BY PC 10/94 BY BOC

APPLICANT'S NAME: COLUMBIA PROPERTIES INCORPORATED

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

OTHER BUSINESS ITEM OF 12-20-94

Item #2

Consideration of request by Columbia Properties (Z-135) for Amendment of Stipulation of November 15, 1994 requiring shopping center to have brick facade on all sides for property located in Land Lots 224 and 225 of the 20th District, on the southeast side of Mars Hill Road and Stilesboro Road.

BOC DECISION OF DECEMBER 20, 1994:

Subsequent to a report and recommendation by the Zoning Division Manager, the Board of Commissioners approved request by Columbia Properties (Z-135 of November 15, 1994) thereby changing stipulation #4 only, with stipulation to now read: shopping center to have brick facade on front and the Stilesboro Road side, with a blending of the color on the other sides. Roof shall be flat with all rooftop equipment being shielded behind the facade. All columns shall be brick. Motion by Thompson, second by Wysong, carried 3-2, Byrne and Cooper opposed.

*See attached pages for minutes
& Exhibits of BOC action of
3-21-95 @*

Karen L. Hach
Karen L. Hach, Deputy County Clerk
Cobb County Board of Commissioners

ORIGINAL DATE OF APPLICATION: 9/95 BEFORE PC - 10/95 BEFORE BOC

APPLICANT'S NAME: COLUMBIA PROPERTIES

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

3-21-95 ZONING HEARING OTHER BUSINESS ITEM #4: #Z-135 of 1994 (Columbia Properties)

To consider Amendment of Stipulation(s) for application #Z-135 of 1994 (Columbia Properties) for 12.6 acre NRC and LRO zoned property located in Land Lots 224 and 225 of the 20th District on the southeast corner of Mars Hill Road and Stilesboro Road.

Mr. Danneman related zoning and subsequent litigation history involving this property. Following this presentation the Board of Commissioners approved applicant's request to approve submitted Settlement Agreement marked as Exhibit "A"; thereby over-riding certain existing stipulations of application #Z-135 of 1994 (Columbia Properties) that were enacted on November 15, 1994 and December 20, 1994, subject to all other existing stipulations which are not addressed within the Settlement Agreement remaining in effect. Motion by Wysong, second by Cooper, carried 4-0-1, Poole absent.

Karen L. Hach
Karen L. Hach, Deputy County Clerk
Cobb County Board of Commissioners



EXHIBIT "A"

As referenced in
Zoning minutes
of 3-21-95,
Karen Noel

3715 Northside Parkway
300 Northcreek, Suite 150
Atlanta, Georgia 30327
404/237-2900 Fax 237-2394

February 18, 1995

Note: original not on file with
the County

Mr. & Mrs. J. D. Herens
5243 Stilesboro Road
Kennesaw, GA 30144

Re: J. D. HERENS and JACOBA H. HERENS v. COLUMBIA PROPERTIES,
INC., NANCY V. HYDE, BARBARA A. CLARK, WILLIAM M. CLARK, COBB
COUNTY, GA, JOE LEE THOMPSON, GORDON J. WYSONG, C. FREEMAN POOLE,
WILLIAM J. BYRNE and WILLIAM COOPER, in their capacity as members
of Board of Commissioners of Cobb County, Georgia, Cobb Superior
Court, CAFN 94 19012-18

Dear Dirk and Jacoba:

Outlined below is the settlement agreement I have worked out with
Columbia Properties.

1. Columbia Properties will agree to install a privacy fence, similar to the one depicted on the enclosed photograph marked Exhibit "A". The fence will generally follow the curb line of the rear of the shopping center with the top of the fence 13 feet in height above the base of the curb behind the Kroger store as shown in green on the enclosed site plan marked Exhibit "B". The fence will be continued to Stilesboro Road at a height of 6 ft. and will generally follow the curb line at the rear of the shopping center as depicted in yellow on the enclosed site plan marked Exhibit "B". A temporary construction fence will be installed until the permanent fence is constructed which will be on or before the opening day of the grocery store.
2. Columbia Properties will agree to quit claim to Dirk and Jacoba Herens a parcel of land having dimensions and location as depicted on the enclosed site plan outlined in red on Exhibit "B". Columbia Properties shall quit claim the parcel of land to Dirk and Jacoba Herens free and clear of all liens and encumbrances, including but not limited to, deeds to secure debt, mortgages, mechanic's and materialman's liens, no later than 150 days after the Certificate of Occupancy is issued by Cobb County for the grocery store.
3. Columbia Properties will make every attempt to save the old growth hardwood trees in the buffer area around the Herens'

shd

Page 2
February 17, 1995
Mr. & Mrs. Herens

driveway easement and the parcel to be quit claimed to the Herens. In addition, Columbia Properties will plant pine trees, no less than 6 ft. in height, in the buffer area three (3) rows deep. The pine trees will be spaced on 10 foot centers.

4. Simultaneously with the closing or commercial development of the Hyde and Clarke tracts of land, Dirk and Jacoba Herens will receive \$5,000.00. An additional \$40,000.00 will be due and payable within 48 hours of evidence of on site construction.
5. The Herens driveway will remain in its current location.
6. Within 24 hours of full execution of this settlement agreement, Dirk and Jacoba Herens will withdraw the lawsuit titled Civil Action Number 9419012-18 and provide proof that such lawsuit has been withdrawn. Furthermore, Dirk and Jacoba Herens, Columbia Properties, and Kroger will agree not to sue each other unless it relates to the specific terms of this agreement. Dirk and Jacoba will agree not to initiate any legal action that may impede or delay the construction progress of the proposed adjacent shopping center.
7. This agreement is subject to the approval of Cobb County.

Dirk and Jacoba, this offer has been approved by Columbia Properties as purchaser of the Hyde and Clarke tracts. Because negotiations to end the lawsuit have been in progress for quit some time, this offer must be accepted, signed and returned to me by 5 o'clock p.m. on the 17th day of February, 1995. It will then be immediately executed by Columbia Properties.

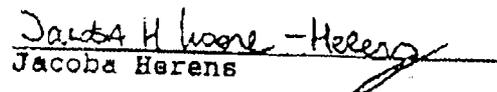
Yours very truly,



Barry M. Major

BMM:rd

Agreed to and accepted this 19th day of February, 1995


Dirk Herens
Jacoba Herens

ATTACHMENT B
(Continued)

Page 3
February 17, 1995
Mr. & Mrs. Herens

Witness: _____

Witness: _____

COLUMBIA PROPERTIES INCORPORATED

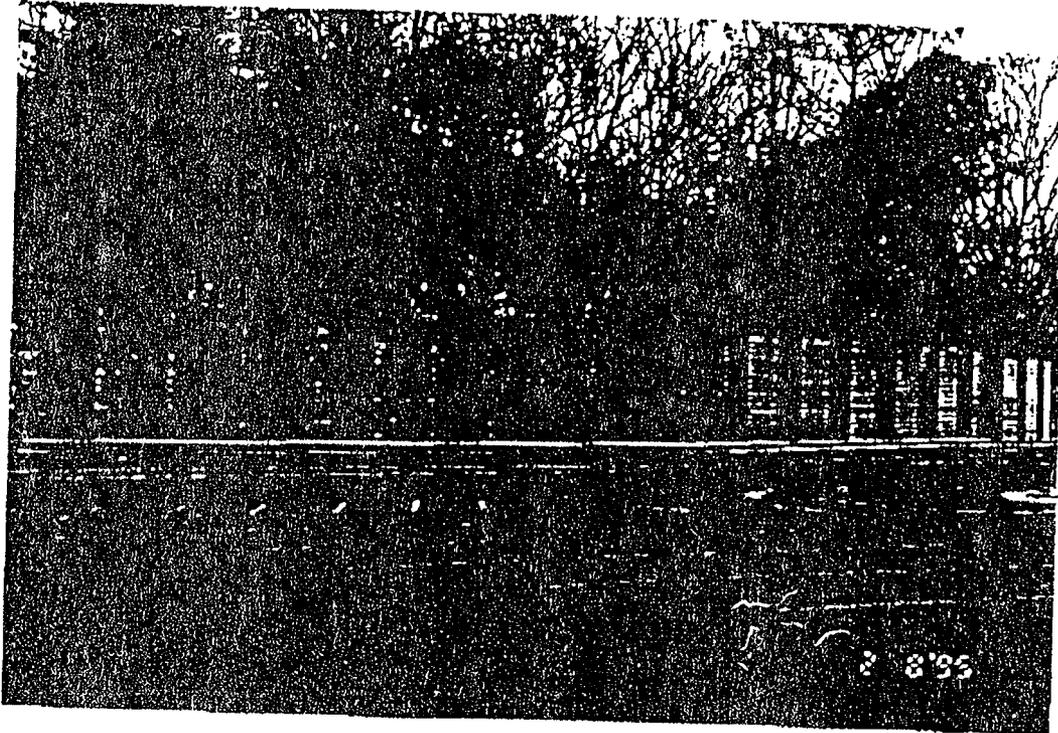
By: _____

Title: _____

Witness: _____

SL-DM

EXHIBIT A



Sh DM

