

**DECEMBER 20, 2016 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 1**

ITEM 080

PURPOSE

To consider a Settlement of Litigation for Columbia Properties Capital, LLC regarding rezoning application Z-98 (Columbia Properties Capital, LLC) of 2015, for property located at the northwest intersection of Dallas Highway and Garrison Commons in Land Lots 330 and 331 of the 20th District.

BACKGROUND

The applicant’s rezoning case from R-20 to RSL and NRC was denied by the Board of Commissioners (BOC) on May 17, 2016. The applicant filed an appeal in Superior Court appealing the BOC’s decision shortly thereafter. A mediation meeting took place on November 2, 2016 between the applicant and Cobb County. As a result of the mediation, the applicant has reduced the commercial portion from just under 100,000 square feet to 80,000 square feet, deleted all 58 residential senior living units, pulled the development south towards Dallas Highway and will deed approximately 10 acres of the property to Cobb County to use as a park. The applicant will provide access to the park and will build a twenty space gravel parking lot. A detailed settlement letter of stipulations, site plan, landscape plan and archaeological study are included for review.

STAFF COMMENTS

Attached.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the Settlement of Litigation proposal.

ATTACHMENTS

Staff comments, Settlement letter, staff report and the zoning hearing minutes.

STAFF COMMENTS for OB-080

Cobb County Department of Transportation:

1. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.
2. Recommend GDOT permits for all work that encroaches upon State right-of-way.
3. Recommend curb, gutter, and sidewalk along the Dallas Highway frontage.
4. Recommend applicant verify that minimum sight distance is available for Dallas Highway access and if it is not, implement remedial measures, subject to the Department's approval, to achieve the minimum requirement of 650'.
5. As necessitated by this development, recommend Dallas Highway access include a deceleration lane and left turn lane into the site (location and design to be determined during plan review, subject to GDOT approval). Recommend left turns out of the site to remain restricted.
6. Recommend left turn lane on Garrison Commons for the entrance.
7. Recommend an additional lane on Garrison Commons between the site driveway and the signalized intersection at Dallas Highway. If this can't be accomplished, recommend a second right-in right-out on Dallas Highway as shown on the original site plan.
8. Recommend extending left turn storage and taper distance on Dallas Highway to meet GDOT standards, subject to GDOT approval.

Water & Sewer Comments:

1. Estimated Wastewater Generation is lowered to 8,000 GPD (peak), 3,200 GPD (average daily).

APPLICANT: Columbia Properties Capital, LLC

PETITION NO.: Z-98

PRESENT ZONING: R-20

PETITION FOR: NRC & R-20

**OB-080-2016
Staff comments**

STORMWATER MANAGEMENT COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Mud Creek FLOOD HAZARD INFO: Zone AE

- 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: within and adjacent to floodplain

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 CONDITIONS

- 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 systems.
- 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 any increased volume of runoff generated by the proposed project on Mud Creek as well as downstream receiving system within Garrison Ridge Subdivision.

APPLICANT: Columbia Properties Capital, LLC

PETITION NO.: Z-98

PRESENT ZONING: R-20

PETITION FOR: NRC & R-20

**OB-080-2016
Staff comments**

STORMWATER MANAGEMENT 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.

ADDITIONAL COMMENTS

1. This parcel is located to the north of Dallas Highway just east of Mud Creek. The site is predominately wooded with very steep slopes ranging from approximately from 10 to 70+ %. Approximately half of the site drains to the northeast corner into and through the adjacent Garrison Ridge Subdivision eventually discharging into Mud Creek. The remainder of the site drains directly to the Mud Creek floodplain either directly or via the existing concrete channel along the Dallas Highway right-of-way.
2. The proposed development will require significant grading of the site. The existing topography is not well-suited for large commercial development. However, the revised site plan does limit the development to the less steep portion of the site.
3. There are existing drainage issues downstream of this location within Garrison Ridge S/D due to already receiving developed runoff from the Zachary Woods Subdivision to the northeast and a portion of the adjacent commercial development to the east. The proposed site plan will allow for a significant portion of the site area (and all of the impervious areas) to be designed to discharge directly to Mud Creek (with adequate detention, water quality and channel protection provided).
4. The proposed stormwater management facility is sited in a logical location at the low point of the site. The natural topography in this location will most certainly require the use of walls to limit the area of disturbance. If this plan is approved it should allow for flexibility during Plan Review to relocate the facility to beneath the parking lot within the shopping center if value engineering shows that this would be an economically viable alternative.

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GARVIS L. SAMS, JR.

JOEL L. LARKIN

PARKS F. HUFF

JAMES A. BALLI

SUITE 100

376 POWDER SPRINGS STREET

MARIETTA, GEORGIA 30064-3448

770-422-7016

TELEPHONE

770-426-6583

FACSIMILE

ADAM J. ROZEN

WWW.SLHB-LAW.COM

November 17, 2016

VIA HAND DELIVERY & EMAIL

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

Re: Application of Columbia Properties Capital, LLC (Columbia) to Rezone a 23.94±
Acre Tract from R-20 to RSL and NRC (Application No. Z-98-2015).

Dear John:

On May 17, 2016, Cobb County denied the above-described rezoning application. On June 6, 2016, Columbia filed a lawsuit in Cobb Superior Court challenging this zoning decision. In order to resolve the pending litigation, Columbia proposes to revise the rezoning request and propose certain stipulations and conditions to ameliorate the impact of the proposed zoning and to address the concerns. The proposed specialty life-style shopping center is at the northwest intersection of the signalized intersection of Dallas Highway (State Route 120) and Garrison Commons Road, just west of the Lowe's shopping center. The property was purchased by Herbert and Betty Collins in 1963 and Mr. Collins still owns the property today. They raised their family and still reside on this property. During the last fifty three years, the Collins have seen a lot of changes. Dallas Highway went from a rarely traveled two-lane road to a busy four-lane divided highway with a traffic signal at the edge of their property. Adjacent farmland to the east became a Lowe's shopping center with restaurants and retail uses. The Collins' property is now at the edge of an Activity Center.

Columbia proposes to develop the corner of the property facing Dallas Highway into a lifestyle center with the anchor being an upscale grocer with additional retail consistent with the site plan attached to the rezoning application. The original proposal from May included approximately 100,000 square feet of retail space with two outparcels and wrapped by a 58 unit Residential Senior Living (RSL) community on 11.5 acres. In order to resolve the pending litigation, Columbia proposes to eliminate the RSL portion of the project and to limit the retail development to 80,000 square feet with two outparcels. Developing the property in this fashion will leave nine (9) acres totally undisturbed with an additional 2.85 acres graded and replanted with vegetation. The project will expand an activity center at an already existing traffic signal while creating a hard cutoff for the activity center by wrapping the shopping center with a significant undisturbed buffer. Based upon the marketing analysis performed by Columbia and the demand from prospective tenants, there remains a strong demand for retail, specialty grocers

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and restaurants in the West Cobb market. The applicant has proposed the following conditions be included as part of the approval for the proposed zoning.

1. The Property will be rezoned to the NRC zoning district under the Cobb County Zoning Ordinance in order to permit the Property to be developed with a retail shopping center consistent with the zoning site plan that is attached to this letter as Exhibit "A" (the "Site Plan"). No individual retail space shall be larger than 25,000 square feet ensuring the smaller nature of the specialty stores. The sizes of the retail spaces are consistent with a neighborhood center and not a big box retail center. Notwithstanding the foregoing, the ten (10) acre tract designated as County Tract on the Site Plan shall not be rezoned and shall continue to be zoned to the R-20 zoning district; provided, however, all buffers and setbacks established between said County Tract and the balance of the Shopping Center shall be as shown on the Site Plan and any setback or buffer variances which are necessary to permit development as shown on said Site Plan shall be contemporaneously approved as a part of the foregoing rezoning.
2. The architectural style and composition of the buildings shall be in substantial conformity with similar class A retail developments with brick facades adjacent to all public rights-of-way. The District Commissioner will approve the final architecture.
3. Signage at the entrances shall be ground-based, monument style signage that is integrated with the landscaping with building material consistent with the building architecture.
4. The submission of a landscape plan during the Plan Review process subject to review and approval by the Community Development Department. Additionally, the applicant agrees to the following:
 - a. All dumpsters shall be enclosed by brick on at least three (3) sides consistent with the architectural style and composition as aforementioned. Said dumpsters shall be located in areas which are as unobtrusive as possible.
 - b. All detention/water quality areas shall be attractively landscaped and appropriately fenced. If any detention structures are visible from adjacent roadways or adjacent properties, they shall be faced with decorative brick or landscaped to create an opaque barrier.
 - c. All HVAC equipment that is visible from adjacent roadways shall be screened with parapet or landscaping.

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- d. Garrison Ridge Subdivision owns the property adjacent to Garrison Commons Road and it currently contains significant evergreen plantings. Columbia's landscape plan will be specifically designed to complement the existing landscaping on the Garrison Ridge property by strategically placing landscaping on the subject property that will, where possible, fill in any gaps of the landscaping along Garrison Commons road to attempt to maintain a visual screen along this road to the north of the shopping center entrance drive. Attached as Exhibit "B" is a landscape plan designed to provide an effective buffer between the retail development and Garrison Commons Road as well as Garrison Ridge Subdivision. The final landscape plan will be subject to review and approval of the county arborist.
5. Also attached is a Civil War Features Survey prepared by R.S. Webb and Associates, Exhibit "C." Columbia will work with area Civil War preservation advocates to potentially research or preserve any archaeological resources that are outside the development areas. Notably, the proposed Site Plan preserves the majority of the significant features that are potentially historically significant.
6. Compliance with the recommendations from the Stormwater Management Division with respect to the configuration and methodology of onsite detention and water quality pond or ponds. During construction, the applicant shall incorporate all recommended measures by Cobb County in designing, installing and implementing its soil erosion plan to minimize the risk of negative effects on downstream property owners. Columbia is aware of potential existing problems related to Mud Creek and will work with the County Stormwater Management Division to ensure that existing issues are accounted for in the stormwater plans. Special care will be taken to ensure that silt does not enter into Mud Creek.
7. There is an existing drainage problem associated with a storm drain located north of the subject property in Garrison Ridge Subdivision. In order to alleviate this issue, Columbia will agree to place the detention pond on the western portion of the property as depicted in the site plan. This will redirect some stormwater that currently overburdens the existing system in Garrison Ridge.
8. All restaurant uses shall incorporate odor attenuation devices in their hood ventilation systems to handle food odors.
9. Site development hours shall be limited to 7:00 a.m. to 8:00 p.m. Monday thru Saturday and 9:00 a.m. to 6:00 p.m. on Sunday. Information for a twenty-four hour contact person for the general contractor shall be provided to the adjacent property owners so they can directly and immediately communicate with the contractor any

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issues related to the development.

10. The applicant will work with the Cobb County Department of Transportation to make improvements to Garrison Commons Road at the entrance to the development. Columbia cannot install sidewalks along Garrison Commons Road because the adjacent property is owned by Garrison Ridge and the right of way isn't sufficient to install a sidewalk. Columbia will work with Georgia DOT on the right in and right out access on Dallas Highway.
11. Compliance with recommendations from the Cobb County Fire Department as set forth in the Zoning Analysis.
12. The applicant shall develop a lighting plan that will incorporate dark-sky compliant lighting and wall packs on the back of the buildings shall be designed to limit light bleed off-site with full cut off and shields.
13. The shopping center and outparcels will not include any automotive uses including, convenience stores, light automotive repair, heavy automotive repair or car wash. Additionally, there shall be no pawn shop or tattoo parlor.
14. The nine (9) acres designated on the site plan as undisturbed will be undisturbed and an additional 2.85 acres of land will be graded and replanted consistent with the attached revegetation plan. This leaves only 12 acres of the 24 acre site developed as the shopping center and detention and utility areas.
15. The 0.81 acres designated on the Site Plan in the northeast corner of the Property will be undisturbed.
16. Prior to the issuance of the Certificate of Occupancy on the last building in the shopping center, the ten (10) acre tract designated as County Tract will be deeded to Cobb County for a park. Prior to this dedication, the sloped areas will be planted with trees with a landscaping plan approved by the county arborist. Additionally, the access driveway and gravel parking spaces will be installed to provide access and parking to the general public. At the time it conveys the County Tract, the applicant will also provide the County with a formal access easement across the Shopping Center property to the gravel parking area. The easement will provide, however, that the owner of the shopping center shall be permitted to relocate the easement as it deems appropriate so long as continuous access is provided to the parking area.

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17. Prior to issuance of the Certificate of Occupancy on the last building in the shopping center, the applicant shall install a six foot (6') high fence between the (10) acre tract designated as the County Tract and the 0.81 acre tract in the northeast corner of the Property. Also prior to issuance of a Certificate of Occupancy on the last building in the shopping center, the applicant shall place a conservation easement or other deed restriction approved by the district Commissioner on the 0.81 acre tract to preclude any non-residential use or development of said 0.81 acre tract at any time in the future.
18. Minor modifications may be approved by the District Commissioner, except for those that:
 - a. Increase the density of a residential project or the overall square footage of a non-residential project.
 - b. Reduce the size of an approved buffer adjacent to a property that is zoned for the same or a more restrictive zoning district.
 - c. Relocate a structure closer to the property line of an adjacent property that is zoned the same or is a more restrictive zoning district.
 - d. Increase the height of a building that is adjacent to a property that is zoned the same or is a more restrictive zoning district.
 - e. Change an access (entry or exit) location to a different roadway.
 - f. Would be in direct conflict with, or a direct contradiction to, Cobb County Code or any County Zoning Ordinances.
 - g. Would be in direct conflict with, or a direct contradiction to, any of the agreed-to stipulations of this zoning.

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The proposed development will be a natural expansion of an existing and very successful commercial node and will establish a new 10 acre passive park with historically significant features at no cost to Cobb County. Please do not hesitate to call should you require any additional documentation or information prior to the public hearings before the Planning Commission and Board of Commissioners.

Sincerely,

SAMS, LARKIN, HUFF & BALLI, LLP



Parks F. Huff
phuff@slhb-law.com

PFH/dvm
Enclosures

cc: Members, Cobb County Board of Commissioners (via email w/attachments)
BOC Commission Assistants (via email w/attachments)
Ms. Debra Blair, Assistant County Attorney (via email w/attachments)
Mr. Dana Johnson, AICP, Director (via email w/attachments)
Mr. Jason Campbell, Planner II (via email w/attachments)
Ms. Pam Mabry, County Clerk (via email w/attachments)
Mr. David Breaden, P.E. (via email w/attachments)
Ms. Ashley White, P.E. (via email w/attachments)
Mr. Tim Davidson, P.E. (via email w/attachments)
Columbia Properties Capital I, LLC (via email w/attachments)



VICINITY MAP
DATE: 08/11/10

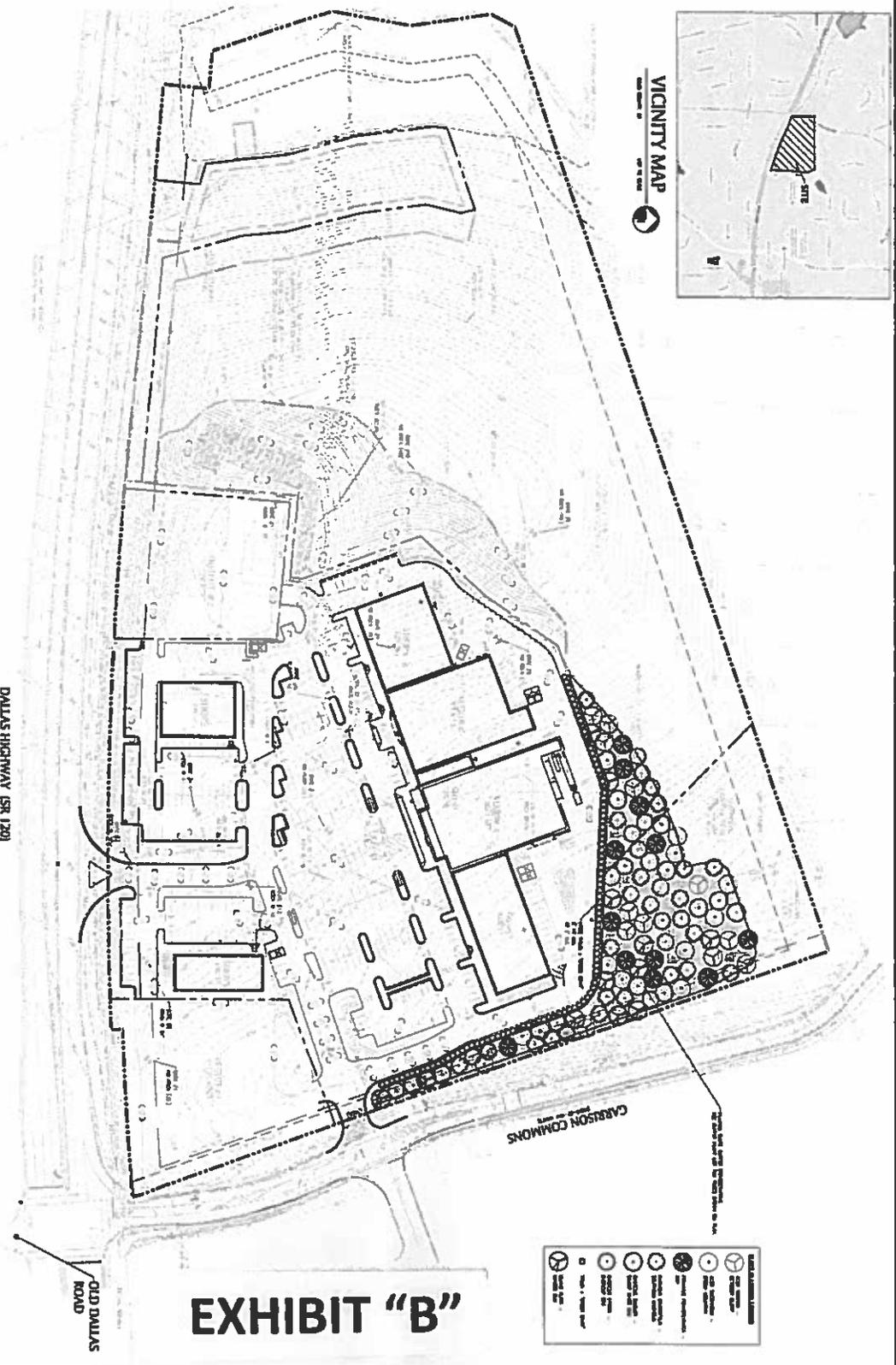


EXHIBIT "B"

NO.	DESCRIPTION	AMOUNT	DATE	BY	REVISIONS
1	PLANTED SLOPE CONCEPT PLAN	1	08/11/10	SM	ISSUED FOR PERMITTING
2	PLANTED SLOPE CONCEPT PLAN	1	08/11/10	SM	REVISED PER COMMENTS
3	PLANTED SLOPE CONCEPT PLAN	1	08/11/10	SM	REVISED PER COMMENTS
4	PLANTED SLOPE CONCEPT PLAN	1	08/11/10	SM	REVISED PER COMMENTS
5	PLANTED SLOPE CONCEPT PLAN	1	08/11/10	SM	REVISED PER COMMENTS
6	PLANTED SLOPE CONCEPT PLAN	1	08/11/10	SM	REVISED PER COMMENTS
7	PLANTED SLOPE CONCEPT PLAN	1	08/11/10	SM	REVISED PER COMMENTS
8	PLANTED SLOPE CONCEPT PLAN	1	08/11/10	SM	REVISED PER COMMENTS
9	PLANTED SLOPE CONCEPT PLAN	1	08/11/10	SM	REVISED PER COMMENTS
10	PLANTED SLOPE CONCEPT PLAN	1	08/11/10	SM	REVISED PER COMMENTS

PLANTED SLOPE CONCEPT PLAN



REVISIONS

NO.	DESCRIPTION	DATE	BY

PROPOSED DEVELOPMENT

DALLAS HOMES AT
11.130 & 111.10TH DISTRICT,
2ND SECTION 3004
COBB COUNTY, GA

PAULSON MITCHELL INCORPORATED

Land Planning
Engineering • Surveying
Transportation
Landscape Architecture

85-A Mac Street
Suwanee, Georgia 30088
Voice 770.884.8800
Fax 770.884.8801
www.paulsonmitchell.com

PLANTED SLOPE CONCEPT PLAN

201010-03-10g 11/01/10

SM

EX-3

R.S. Webb & Associates

Cultural Resource Management Consultants
2800 Holly Springs Parkway, Suite 200 • P.O. Drawer 1319
Holly Springs, Georgia 30142
Phone: 770-345-0706 • Fax: 770-345-0707

April 18, 2016

EXHIBIT C
April 27, 2016

Mr. Andy Campbell
Columbia Properties, Inc.
1355 Terrell Mill Road
Building 1478, Suite 200
Marietta, Georgia 30067

Subject: Cobb County Civil War Feature Survey
24-Acre Property at 2720, 2780, and/or 2782 Dallas Highway
Cobb County, Georgia
R.S. Webb & Associates No. 15-710-002

Dear Mr. Campbell:

BACKGROUND

It is our understanding that the 24-acre property at 2720, 2780, and/or 2782 Dallas Highway (hereafter referred to as the "project area") is slated for development (Figure 1). We further understand that a survey of the property is required by the Cobb County Community Development Agency to determine the presence or absence of Civil War-era military features located within the project area boundaries. During the period of October 13 through 22, 2015, on March 25, 2016 and on April 7, 2016, R.S. Webb & Associates (RSWA) conducted a literature and records search and a field survey of the project area.

METHODOLOGY

Literature Search: Background research for the project included a search of Georgia's Natural, Archeological, and Historic Resource Geographic Information System (GNAHRGIS) database, a review of Civil War-related maps and narrative histories, and an examination of 20th-century maps and aerial photographs of Cobb County, Georgia.

Civil War era maps reviewed include:

- 1874 Map IV Illustrating the Military Operations of the Atlanta Campaign (Secretary of War)
- 1864 Maps Illustrating the Third and Fourth Epochs of the Atlanta Campaign (Davis *et al.* 1895; reprinted 1983)
- 1964 Edwin Bearss Map (Kennesaw Mountain National Battlefield Park)
- 1992 Historic Locations of Civil War Earthworks (Cobb County Planning/Zoning Department)
- 1993 Map of Lost Mountain-Brushy Creek Line (Scaife 1993)
- 1998 Map of Lost Mountain-Brushy Creek Defense Line, Conceptual Plan (EDAW 1998)

Other maps and aerial photography reviewed include:

- 1901 USGS Marietta, Georgia 30-minute quadrangle
- 1901 Bureau of Soils Map of Cobb County
- 1954 USGS Marietta, Georgia 7.5-minute quadrangle

- 1942, 1955, 1966, 1968, 1978, 1988 ASCS, USGS, AT80 aerial photography
- 1993 to 2015 Google Earth aerial photography

Field Survey: On October 15, 2015, RSWA Historian, Neil J. Bowen, conducted the initial field survey of the project area. This included a close-interval pedestrian appraisal of surface features across the 24-acre property. The property was walked along transects spaced no more than 50 feet apart. Selected portions of the project tract were subjected to metal detector survey based on the occurrence of earthen surface features. On March 25, 2016, Messrs. Bowen and Doug Tilley (Archeologist) revisited the project area to collect additional information on earthen features originally recorded by Mr. Bowen, conduct additional metal detection, shovel test and assess rock pile features, and generally map rock and earthen features. On April 7, 2016, Messrs. Bowen and Steve Webb (Senior Principal Archeologist) revisited the project area to collect line-of-sight data and re-walk earthen berm/ditch features.

LITERATURE SEARCH RESULTS

The project area is located in Land Lots 330 and 331, 20th District, Second Section, original Cherokee County. Four resources (Nos. 69, 72, 77, and 86) recorded in the *Historic Cobb County Bicentennial Project* (Secrist 1975) are located in the study vicinity. According to oral tradition, Resource No. 69 is the burial site of Cherokee Chief Nose. The grave was reported to be located just west of Noses Creek, under the road bed of the improved Dallas Highway; however, some speculate that the burial site is, or was, located a mile west of that site on Mud Creek near the project area. The burial is reported to be in the form of an oval, with stacked rounded red rocks, forty-five feet along its major axis (Secrist 1975).

Resource No. 72 indicates two military entrenchments that crossed Dallas Highway, established over the last two of three phases of action leading up to the Battle of Kennesaw Mountain (Secrist 1975). The two trench lines cross Dallas Highway on either side of Mud Creek. The form for Resource No. 72 describes an artillery battle that took place between Union and Confederate forces across the creek (Secrist 1975). Historic markers that stand on either side of Dallas Highway, just east of Mud Creek, also testify to these events. Roth's inventory of Cobb County historic properties makes reference to Dr. Secrist's Resource No. 77, which was the artillery battle at Mud Creek (Roth 1988). The form for Resource No. 86 indicates that the Old Dallas Road was one of several primary routes between west Cobb County and the town of Marietta, along which the battles of Mud Creek and Cheatham Hill were fought (Secrist 1975). In the project vicinity, the old highway route lies as much as 900 feet south of current Dallas Highway (Figure 1).

Civil War-era Maps and Secondary Resources: According to campaign maps compiled in the two decades following the war and both primary and secondary narrative resources, the Confederate army was over-extended in a line of about eight miles in length, oriented northeast-southwest, from Brushy Mountain (near Kennesaw) to Lost Mountain. Upon recognition that the line was too long and that the Confederates did not have enough troops to effectively defend it, the south half of the line was shortened and reformed behind (east of) Mud Creek (Figures 2, 3 and 4). The Mud Creek line was occupied during the period of June 17-19, 1864, a time marked by heavy rain and a sharp artillery duel. Actions here and elsewhere along the line forced the Confederates to withdraw to another defensive position at Kennesaw Mountain, where a significant battle was fought on June 27 (Buck 1908; Cox 1994; Secrist 1975; Temple 1997; U.S. War Department 1891).

Third and Fourth Epoch Atlanta campaign maps compiled during the period of 1874 to 1895 (Secretary of War maps; Davis *et al.* 1983) and maps later prepared by Civil War experts (Bears

1964; Cobb County Planning Zoning Department 1992; EDAW 1998; Scaife 1993) do not completely agree concerning the location and layout of the Mud Creek line in the vicinity of the project area (Figures 3, 4, and 5). Part of the disagreement is due to variation in map scale accuracy and part may be due to changes in historic versus modern land use. Field interpretation of existing earth and rock features may also be an issue. The 1874-1895 compilation maps and the 1992 map show that the Confederate Mud Creek line was consistently 1,740 to 2,100 feet east of Mud Creek (Figure 4) (NOTE: Mud Creek was channelized prior to 1942, but given the width of the floodplain, the course of the creek has probably not changed more than 100 feet to the east or west). The 1964 Bearss map shows the Confederate Mud Creek line being about 1,350 to 1,600 feet east of Mud Creek; however, this map focused primarily on unit identification and troop movements/positioning/routes, not on high map precision. The 1993 and 1998 maps show the Confederate line being within 580 to 750 feet of Mud Creek and traversing the project area (Figure 5). The Scaife and EDAW maps also show a salient angle within the project area.

Finally, Garrison Commons (road), which now abuts the eastern boundary of the project area, was relocated approximately 825 feet to the west between February 1993 and February 1998 to accommodate the construction of the existing Lowe's shopping center (Figure 6). According to the 19th century Secretary of War maps and the 1992 Cobb County earthworks location map, the Confederate Mud Creek line was located within the Lowe's tract at, or east of, current Garrison Commons (road) and east of the current project area. Though not as clearly, the 1964 Bearss map indicates that the line was along the eastern edge of the project area or possibly east of the project area. In contrast, the 1993 Scaife map and the 1998 EDAW map show the Confederate Mud Creek line traversing the project area, approximately 800 feet west of existing Garrison Commons (road). This is approximately the same distance Garrison Commons (road) was shifted to the west when Lowe's was constructed.

FIELD SURVEY RESULTS

Existing Environment: Topographically, the project area exhibits a prominent, northwest-facing ridge end/knoll overlooking side slopes to the south (very steep), west-northwest (steep to very steep), north (moderately steep to steep) and east-northeast (moderately steep). From the knoll summit, Mud Creek is approximately 620 feet to the west-northwest (Figure 7).

At the time of the current survey, the project tract was in mature forest except near a post-1965 residential complex on and around the knoll summit. Forest vegetation along the western, northwestern and northern slopes is older and of a different composition than canopy vegetation in the eastern and southeastern portions of the project area. Furthermore, there is a distinct interface between these two forest communities demarcated by an earthen ditch/berm of variable condition with a barb-wire fence running along the berm. Agricultural terracing was observed east and southeast of the ditch/berm/fence, but is absent on the opposite side of the berm to the west and north. Also, the surface of the steeply sloping areas west and north of the ditch/berm/fence are laden with stones, while very few surface stones were observed in areas south and southeast of the berm/ditch/fence. The reason for the above differences in vegetation is that prior to the 1950s, the eastern and southeastern portions of the project area were in pasture or under cultivation (Figures 8 and 9); the fence line on the berm indicates that the open ground was fenced off from the steep and rocky slopes to the north and west of the ditch/berm (Figure 10). The differences in the frequency of surface stones probably had to do with the common 19th and early 20th century practice of stone removal from agricultural fields. It is very common for the removed stones to be discarded along the edges of agricultural fields and/or steep adjacent slopes.

In other parts of Cobb County and the Georgia Piedmont, property lines, land lot lines, and even pastures/fields are occasionally marked by piled rocks, berms, and/or shallow ditches. Some of these surface features are the result of soil conservation/surface water diversion practices. It is possible that some of these features could pre-date the Civil War (e.g., berms along land lot lines, piled or scattered rocks just beyond agricultural field edges); others probably do not. As already stated, the ditch/berm feature in the project area clearly correlates with the interface between wooded and cultivated/pasture land on aerial photography from 1942 and 1955 (Figures 8 and 9). The current property owner (owner-occupant for the past 40-plus years) claimed credit for some, but not all, of the ditching on the property over the last 40-plus years. Some of the smaller, low-profile contour terraces/berms/ditches tie into the larger, more prominent ditch/berm feature (Figure 8). This suggests that as a whole, these features were part of an agricultural management/soil conservation system. The ages of the individual earthen features are unknown and some may date to the 19th century; however, earthen soil conservation-related features typically date from the mid-1930s forward, after the Soil Conservation Act was passed in 1935.

Feature Survey: A close-interval pedestrian survey of the project area revealed a variety of surface features, including the obvious ditch/berm feature, agricultural terracing, several shallow ditch lines, rock piles, an intermittent stream drainage, and erosional features. The obvious ditch-and-berm feature and the rock piles are of primary interest here.

Ditch/Berm Feature: The ditch/berm feature is approximately 745 linear feet long and ranges in width from about 8 to 15 feet, depending on the degree of disturbance (Figure 11). This feature is 550 to 675 feet east to southeast of Mud Creek. Remnants of the aforementioned barb-wire fence line are present on the berm for much of the berm's distance. The berm height varies from 0 to about 20 inches above the adjacent original surface, while the ditch ranges in depth from about 6 to 20 inches below adjacent surfaces. There are several locations along this ditch/berm where berms are present on both the east and west sides of the ditch (Figure 12).

Toward the northeastern end of the ditch/berm feature, the original ditch bears northeast onto an adjacent landowner's property. Before leaving the project area, the ditch was mechanically diverted, creating another ditch/berm heading east-northeast (Figures 11, and 13). This mechanized diversion/earthmoving appears to have enhanced the depth of the original ditch in that area. The same type of mechanized activity may have created or enhanced the original ditch/berm feature that exits the project area to the northeast. Metal detection of the ditch and berm produced only limited 20th century materials, namely barb-wire scraps, a 8d wire finishing nail, a fence staple, a crown bottle cap, and an enameled bowl. The fence wire, fence staple, nail, and bottle cap were taken from the surface of the berm or at 1 to 3 inches below the surface of the berm. The bowl was detected in the ditch, just above the diversion of the trench, within 2 to 3 inches of the surface. The bowl extended at an angle approximately 10 inches into the base of the berm. At the provenience of the bowl, ditch fill was limited to forest litter over subsoil.

Another issue is the overall morphology of the ditch/berm in the project area when compared to a nearby well preserved section of the Mud Creek line south of Old Dallas Road between Greycoat Bluff SW and Alexander Farms View SW (approximately 2,000 south on the project area). The latter feature exhibits the classic trench/parapet workmanship and engineering of a Civil War entrenchment. Even allowing for over one hundred years of disturbances, the ditch/berm feature in the project area does not nearly compare in quality.

Based on current information, the origin and age of the ditch/berm cannot be determined, so it is possible that this feature could date to the Civil War, earlier, or later. However, no Civil War era artifacts or obvious 19th-century artifacts were recovered during the metal detection survey of the entire ditch/berm feature. No accumulation of soil was detected in the ditch at the bowl provenience as might be expected for a 150-year-old Civil War feature. In several locations there is a berm on what would have been the defensive (east) side of the ditch; this would have served no military advantage for the Confederates. Though the ditch/berm feature is usually just below the knoll/ridge crest, its placement here would not have taken full advantage of the topographic situation from the standpoint of Confederate defensive tactics or the effective range of rifles or even smoothbores. As positioned, line-of-sight from the section of the ditch/berm near the knoll summit toward Mud Creek ranges from about 36 to 43 yards (oblique left), to 50 to 58 yards (frontal). Further to the north and northeast, the line of sight extends from 75 to 100 yards (frontal). In theory, if this were a Confederate defensive line, then riflemen just below the summit would have had time to get off one shot, assuming about two shots per minute and the time required to ascend 36 to 58 yards on a 30 to 40 percent slope. Troops further to the northeast may have gotten off two, possibly three shots, frontal. If this theoretical trench line had been placed approximately 15 yards further west, then line-of-sight (at least by topography) would have extended to Mud Creek if not beyond. If one considers the position of the Confederate Mud Creek line being 1,350 to 2,100 feet east of Mud Creek (as depicted on pre-1993 maps), then line-of-sight would have been at least 300 yards and more in keeping with the effective range limits of Civil War rifle technology.

The 1993 Scaife and 1998 EDAW maps show a salient angle along the Confederate Mud Creek line as it traverses the project area. The scale and nature of these maps makes it difficult to discern if the intention was to show a salient or just indicate a shift in direction. Technically, a trench salient is defined as a section of the trench that projects toward the enemy. There is a westward projection in the ditch/berm within the project area to accommodate the natural lay of the prominent knoll/ridge end. While this projection is salient in nature, there is no hard salient angle. This salient projection is of interest to the current discussion because line-of-sight would have been most limited (36 to 58 yards) along the salient and not very conducive to the defensive purposes of the trench.

To summarize, an obvious ditch/berm feature traverses the project area, but for reasons provided above we do not believe that this feature represents the Confederate Mud Creek trench line shown on the feature maps. While we cannot verify when the ditch/berm feature in the project area was created, it is our opinion that the subject section of the Confederate Mud Creek line was 1,100 to 1,300 feet east of the ditch/berm in the project area and was destroyed when, or before, the Lowe's shopping center was constructed.

Even if the ditch/berm feature in the project area were a Civil War trench feature, there are serious issues with the physical integrity of certain sections of this feature (Figure 11). Some portions of the ditch/berm retain integrity, but the central section of the feature has been heavily modified, widened, and flattened (Figure 12). As noted earlier, the original ditch has been diverted into a second ditch near the northeastern end of the feature (Figure 13). Portions of the berm and ditch near the knoll summit have been cut down and/or filled (Figure 12).

Rock Pile Features: A linear grouping of nine rock piles was observed within the project area on the west-facing project area slope about 40 feet in elevation above the Mud Creek floodplain and approximately 175 to 200 feet east of the creek (Figure 11). The ditch/berm feature discussed above is located approximately 340 feet east of the grouped rock piles, up a 30 to 40 percent slope. The

studied rock piles are typically linear or ovoid, but several exhibit slight protrusions to the west (Figures 15 and 16). The piled rocks form berms generally facing west that, if they were rifle pits, would have been facing Union skirmishers just west of Mud Creek. This could have presented a problem for some pit occupants because some berms are angled in such a way that rifle pit flanks are not well protected. Each rock pile appears to have been dry-piled, as opposed to being a mix of earth and rock (Figures 15 and 16). A shovel test was excavated on the east side of each rock pile and subsoil was encountered below leaf and root mat within approximately 6 to 8 inches of the surface. Each rock pile and the areas to the immediate east were metal detected with negative results.

Clearly, there was a great deal of variability in the construction of Civil War rifle pits, but the primary goal was to provide adequate cover for two or three soldiers at a time. None of the studied rock piles appear to meet that basic goal. The typical rifle pits exhibited a parapet/berm of 2 to 4 feet high and a pit behind it 2 to 4 feet deep. The rock piles in the project area exhibit no pit on the defensive side of the pile. None of the rock pile berms observed are more than 16 inches above the adjacent ground surfaces, though it is possible that 150 years ago, rocks could have been piled higher at some of the subject rock pile locations. The general lack of soil embedded in the rock piles suggests that no pits were ever excavated on the defensive side of the rock piles. Finally, some rock pile berms are oriented such that a flank may have been exposed to Union skirmishers. In such cases, the primary goal of the rifle pit certainly would not have been achieved.

CONCLUSIONS

An obvious ditch/berm feature was identified within the project area during the current survey. The physical integrity of this feature ranges from destroyed, to nearly destroyed, to fair, to good. While the age and origin of the ditch/berm can not be confirmed, it is our opinion that the feature is not a section of the Confederate Mud Creek line shown on various Civil War feature maps. We feel that the Confederate Mud Creek line was located east of the project area, based on where the trench is shown on pre-1993 Civil War feature maps. If this is the case, then the subject section of the Confederate trench was destroyed prior to 1999. We also feel that the ditch/berm feature within the project area is probably the result of a combination of 19th to early 20th century agricultural and/or conservation land use practices. Even if the ditch/berm feature dates to the Civil War era, a significant portion of it has been destroyed or substantially modified by later land use activities.

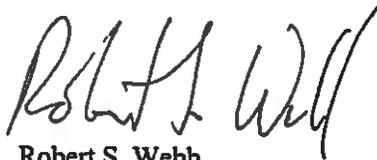
A series of closely associated rock piles was investigated along the western edge of the project area. None of these rock piles appear to retain the important characteristics of Civil War rifle pits.

CLOSING COMMENTS

Mr. Campbell, we appreciate the opportunity to work with you on this project. If you have questions concerning our findings, please contact us at 770-345-0706.

Sincerely,
R.S. WEBB & ASSOCIATES


Neil J. Bowen
Historian


Robert S. Webb
President, Senior Principal Archeologist

Attachments: Figures 1-16

REFERENCES

Buck, I.A.

1908 *Cleburne and His Command*. The Neale Publishing Company, New York.

Cox, J.D.

1994 *Sherman's Battle for Atlanta*. Da Capo Press, New York. Originally Published 1882.

Davis, G.B., L. J. Perry and J. W. Kirkley, compiled by C. D. Cowles

1983 *Atlas to Accompany the Official Records of the Union and Confederate Armies*.
Reprint of the 1891-1895 edition. The Fairfax Press, New York.

EDAW

1998 *Kennesaw Mountain National Battlefield Lost Mountain to Brushy Mountain
Earthworks Preservation Plan*. Prepared for the National Park Service, EDAW, Inc.

Roth, D.R.

1988 *Architecture, Archeology, and Landscapes: Resources for Historic Preservation in
Unincorporated Cobb County, Georgia*. Cobb County Historic Preservation
Commission, Marietta, Georgia.

Scaife, W.R.

1993 *The Campaign for Atlanta*. Self-Published. W.R. Scaife, Atlanta, Georgia.

Secrist, P.

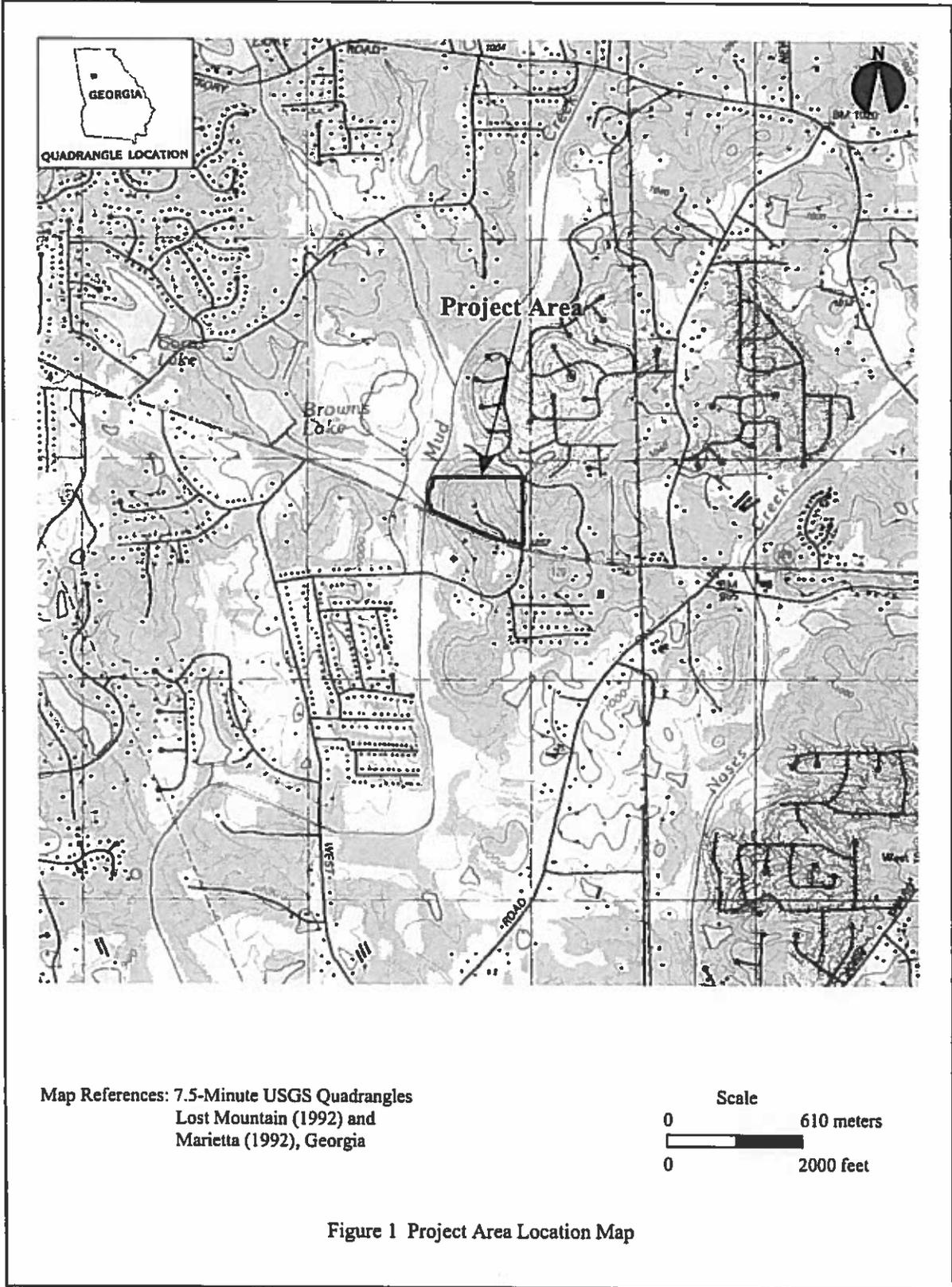
1975 *Cobb County Bicentennial Project: Historical Inventory of Marietta and Cobb
County*. Cobb County Landmarks and Cobb County Commissioners, Marietta,
Georgia.

Temple, S.B.G.

1997 *The First Hundred Years, A Short History of Cobb County, in Georgia*. Cobb
Landmarks and Historical Society, Inc., Marietta, Georgia. Originally Published
1935.

United States War Department

1891 *The War of the Rebellion: a Compilation of the Official Records of the Union and
Confederate Armies, Chapter L - The Atlanta, Ga., Campaign. May 1-September
8, 1864. Volume 38, Chapter 50*. Government. Printing Office, Washington, DC.



Map References: 7.5-Minute USGS Quadrangles
Lost Mountain (1992) and
Marietta (1992), Georgia

Scale
0 610 meters
0 2000 feet

Figure 1 Project Area Location Map

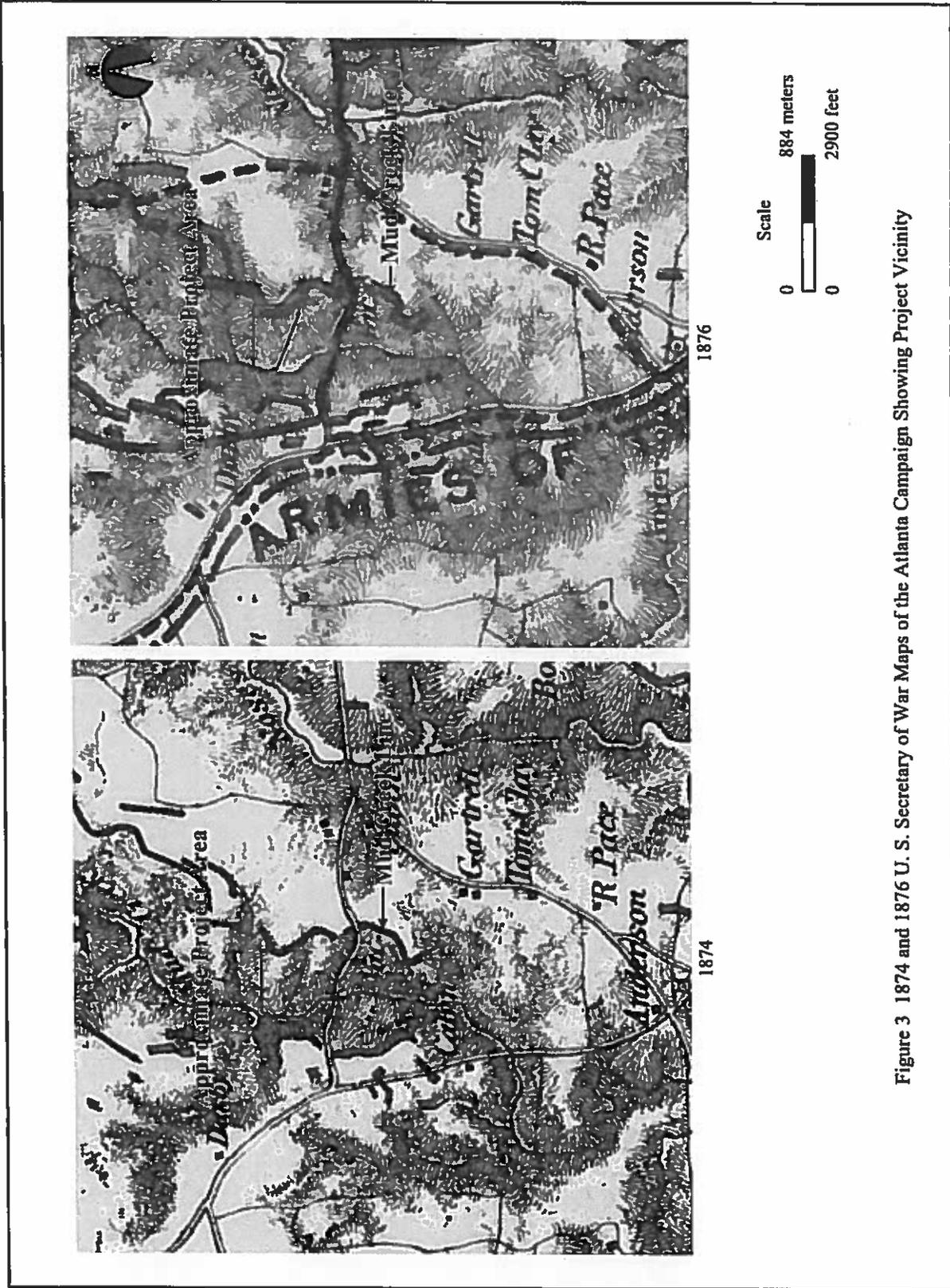


Figure 3 1874 and 1876 U. S. Secretary of War Maps of the Atlanta Campaign Showing Project Vicinity

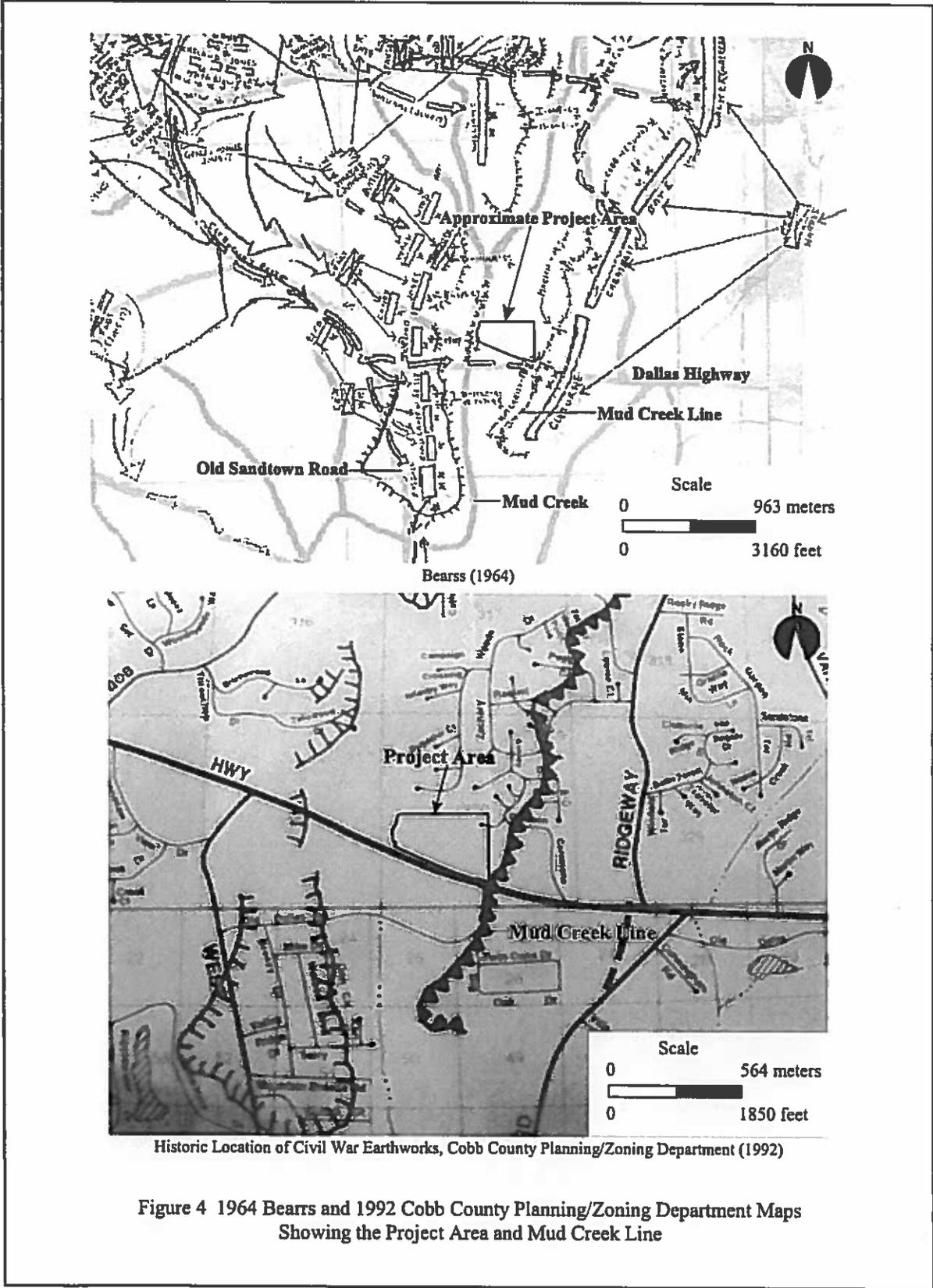


Figure 4 1964 Bearrs and 1992 Cobb County Planning/Zoning Department Maps Showing the Project Area and Mud Creek Line

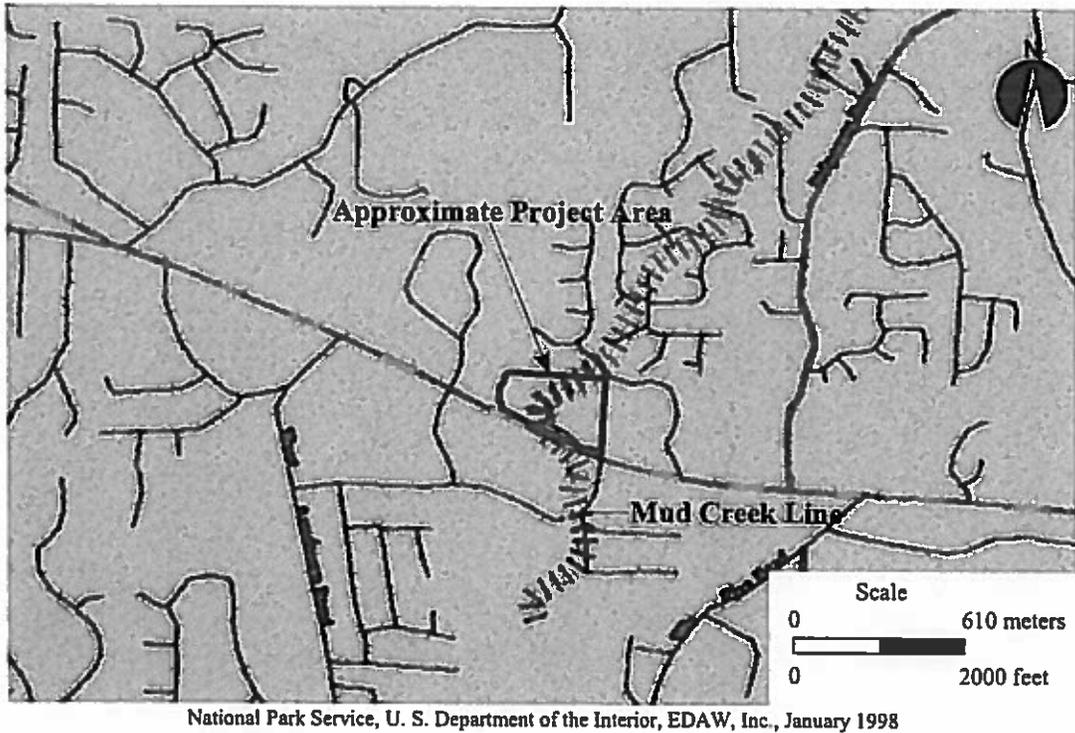
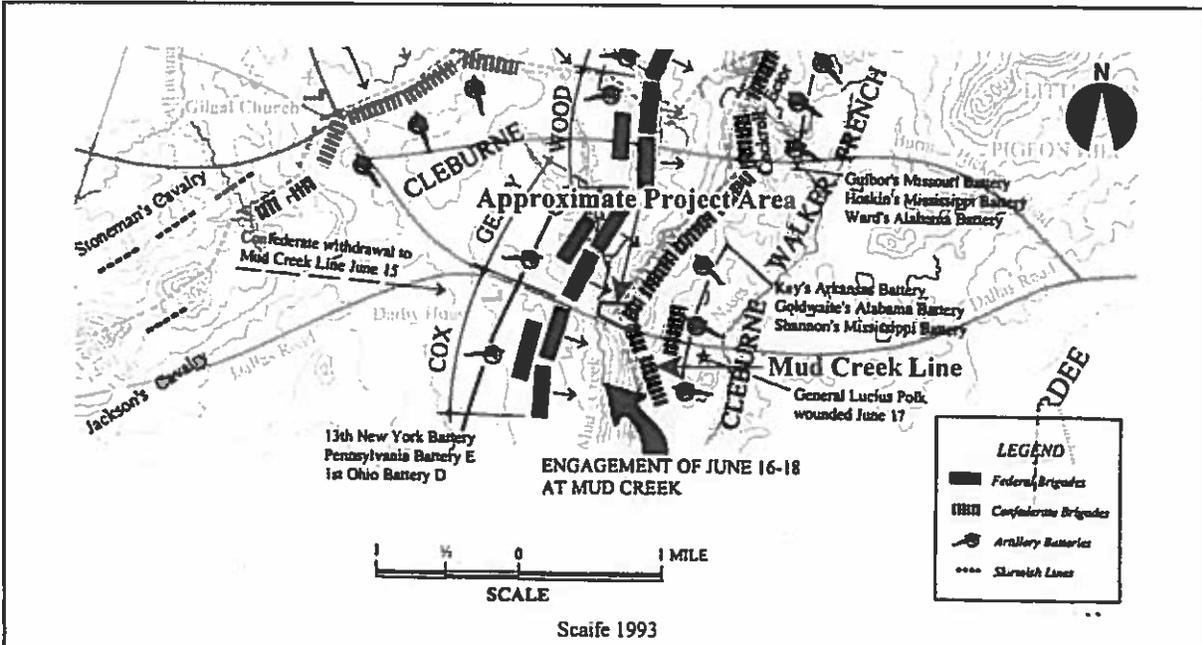


Figure 5 Scaife and EDAW Maps Showing the Project Area and Mud Creek Line



1993 Aerial Showing Original and Relocated Routes of Garrison Commons (Road)



2015 Aerial Showing Current Land Use

Figure 6 1993 and 2015 Aerial Photographs Showing Recent Changes in Land Use in Project Vicinity

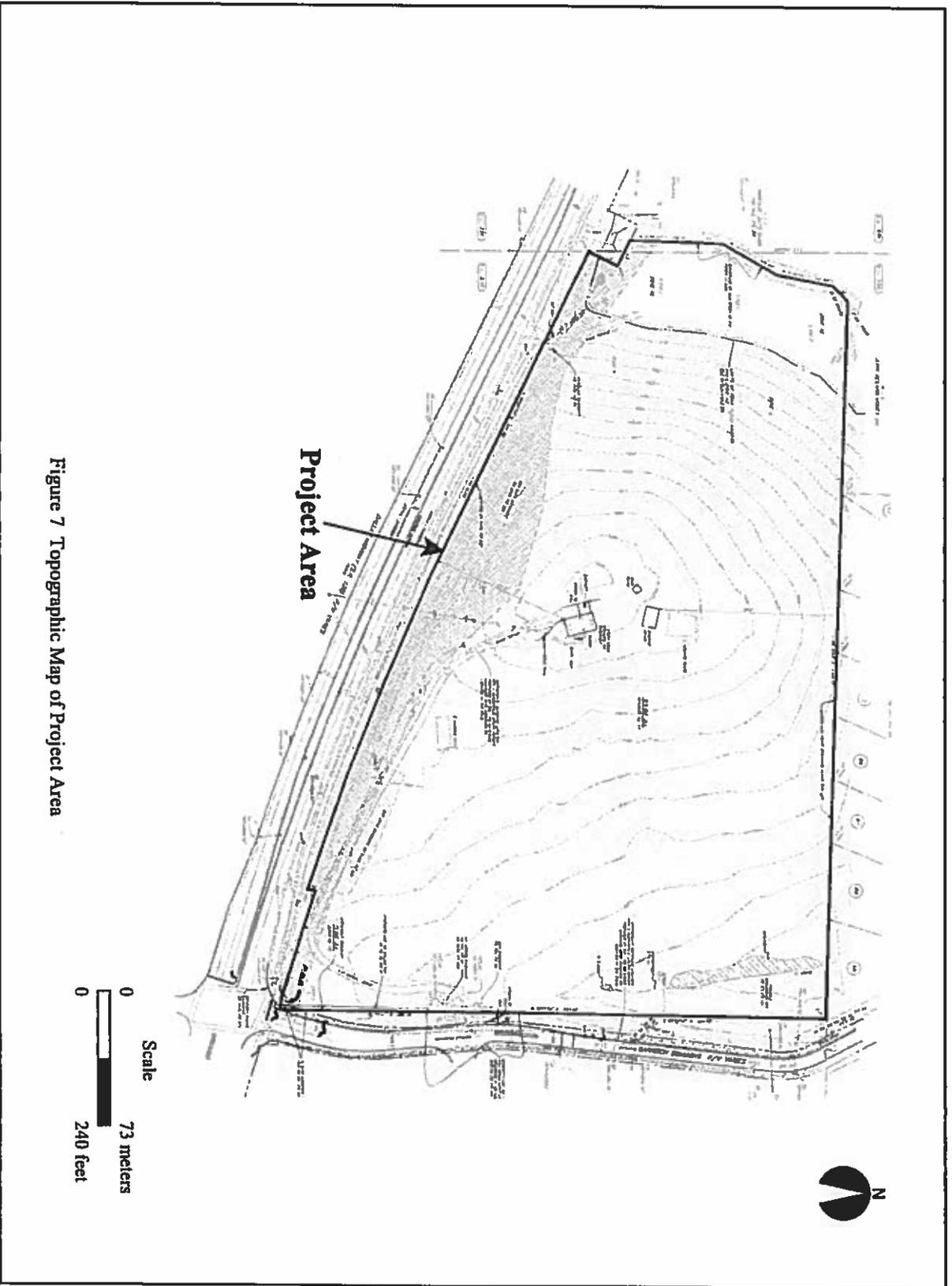


Figure 7 Topographic Map of Project Area

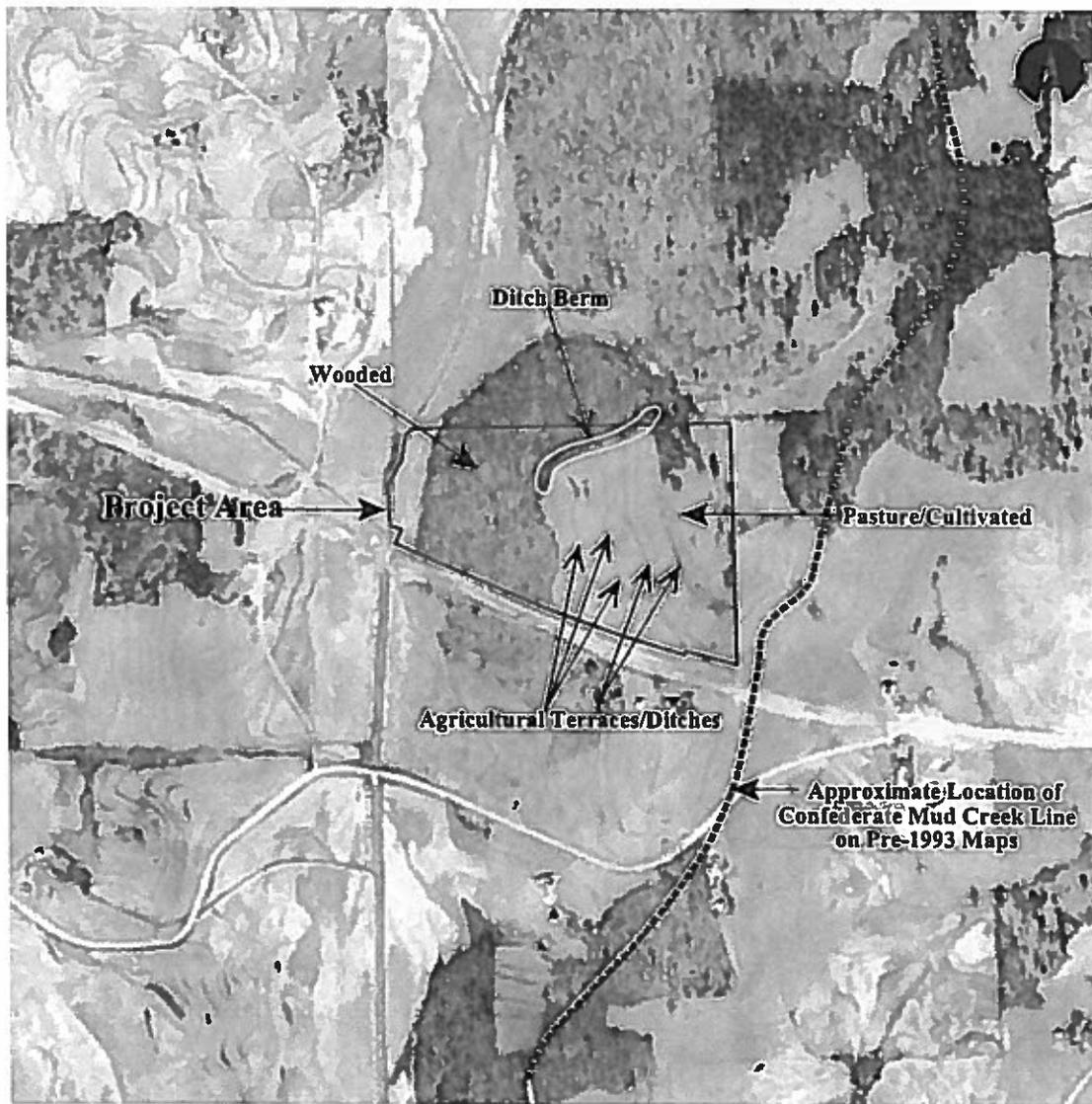
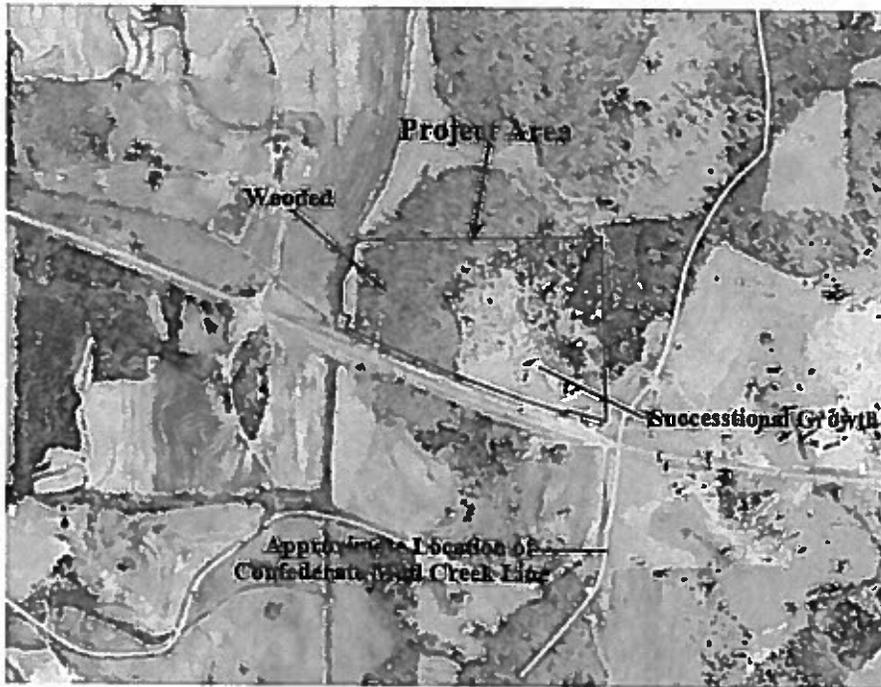


Figure 8 1942 Aerial Photograph Showing Various Land Use Features in Project Area



1955



1966

Figure 9 1955 and 1966 Aerial Photographs Showing Changes in Vegetation/Land Use in Project Area



Figure 10 Barb-Wire Fence Line Embedded in Tree on Berm

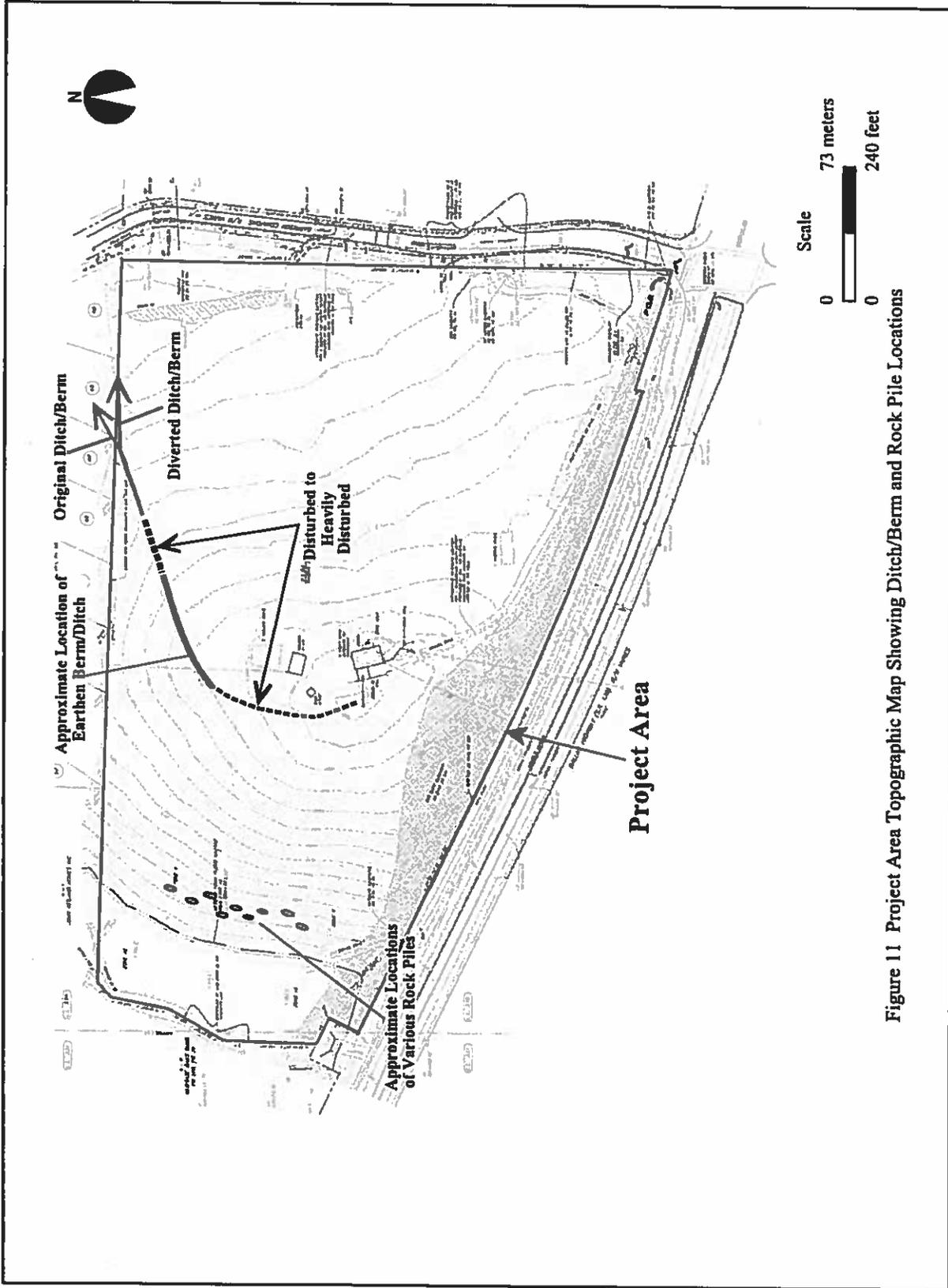


Figure 11 Project Area Topographic Map Showing Ditch/Berm and Rock Pile Locations



Flattened/Disturbed Sections of Berm Approaching Knoll Summit, Facing Southwest (Note Berms East and West of Ditch)



Section Showing Berms East and West of Ditch, Facing Northeast



Heavily Modified Section of Ditch/Berm, Facing Northeast

Figure 12 Views of the Ditch/Berm That Have Been Modified, Widened and Flattened



Toward Northern Property Line, Facing Northeast



Original Ditch (Northeast) and Diverted Ditch to East/Northeast, Facing North

Figure 13 Selected Views of Northeastern Portion of Ditch/Berm



Ditch at Point of Diversion, Facing Northeast



Diverted Ditch, Facing East-Northeast

Figure 14 Views Where Ditch/Berm Diverts to East-Northeast



Facing Southwest



Facing Southwest

Figure 15 Selected Views of Linear/Ovoid Rock Piles



Rock Pile Slightly Protruding West, Facing Northeast



Rock Pile With Southern Flank Exposed to Mud Creek, Facing Southwest

Figure 16 Selected Views of Rock Piles

APPLICANT: Columbia Properties Capital, LLC

PHONE#: (770) 422-7016 **EMAIL:** phuff@slhb-law.com

REPRESENTATIVE: Parks F. Huff

PHONE#: (770) 422-7016 **EMAIL:** phuff@slhb-law.com

TITLEHOLDER: Herbert A. Collins, as Trustee of the Herbert A.

Collins Revocable Living Trust

PROPERTY LOCATION: Northwest intersection of Dallas Highway

and Garrison Commons

(2720, 2780 and 2782 Dallas Highway)

ACCESS TO PROPERTY: Dallas Highway

PHYSICAL CHARACTERISTICS TO SITE: Single-family house

on wooded acreage

PETITION NO: Z-98

HEARING DATE (PC): 12-01-15

HEARING DATE (BOC): 12-15-15

PRESENT ZONING R-20

PROPOSED ZONING: RSL & NRC

PROPOSED USE: Residential Senior Living

(non-supportive) and Retail Shopping Center

SIZE OF TRACT: 23.88 acres

DISTRICT: 20

LAND LOT(S): 330, 331

PARCEL(S): 5,8, 10

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 1

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: R-15/Garrison Ridge & Heritage Oaks

SOUTH: RSL/Chestnut Ridge of West Cobb; R-20/Single- family houses

EAST: CRC/Lowe's; NRC/Garrison Ridge Shopping Center

WEST: R-15/Heritage Oaks

Adjacent Future Land Use:

North: Low Density Residential (LDR)

East: Neighborhood Activity Center (RAC)

South: Low Density Residential (LDR)

West: Low Density Residential (LDR)

OPPOSITION: NO. OPPOSED **PETITION NO:** _____ **SPOKESMAN** _____

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

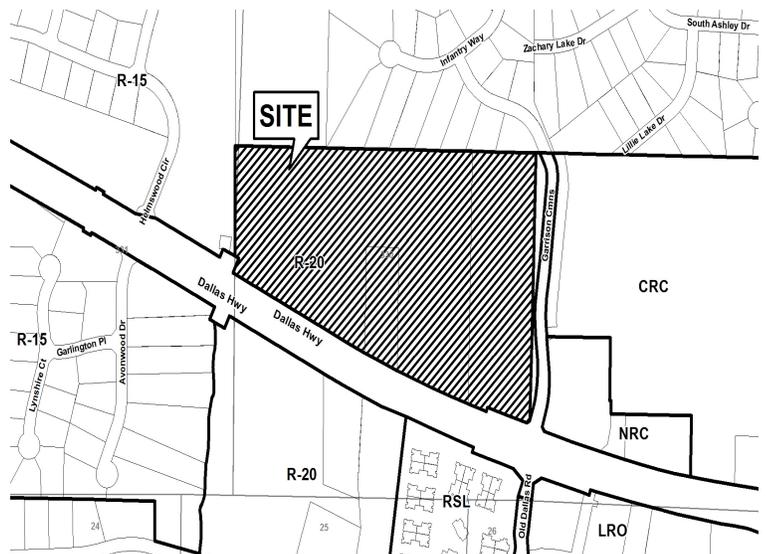
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

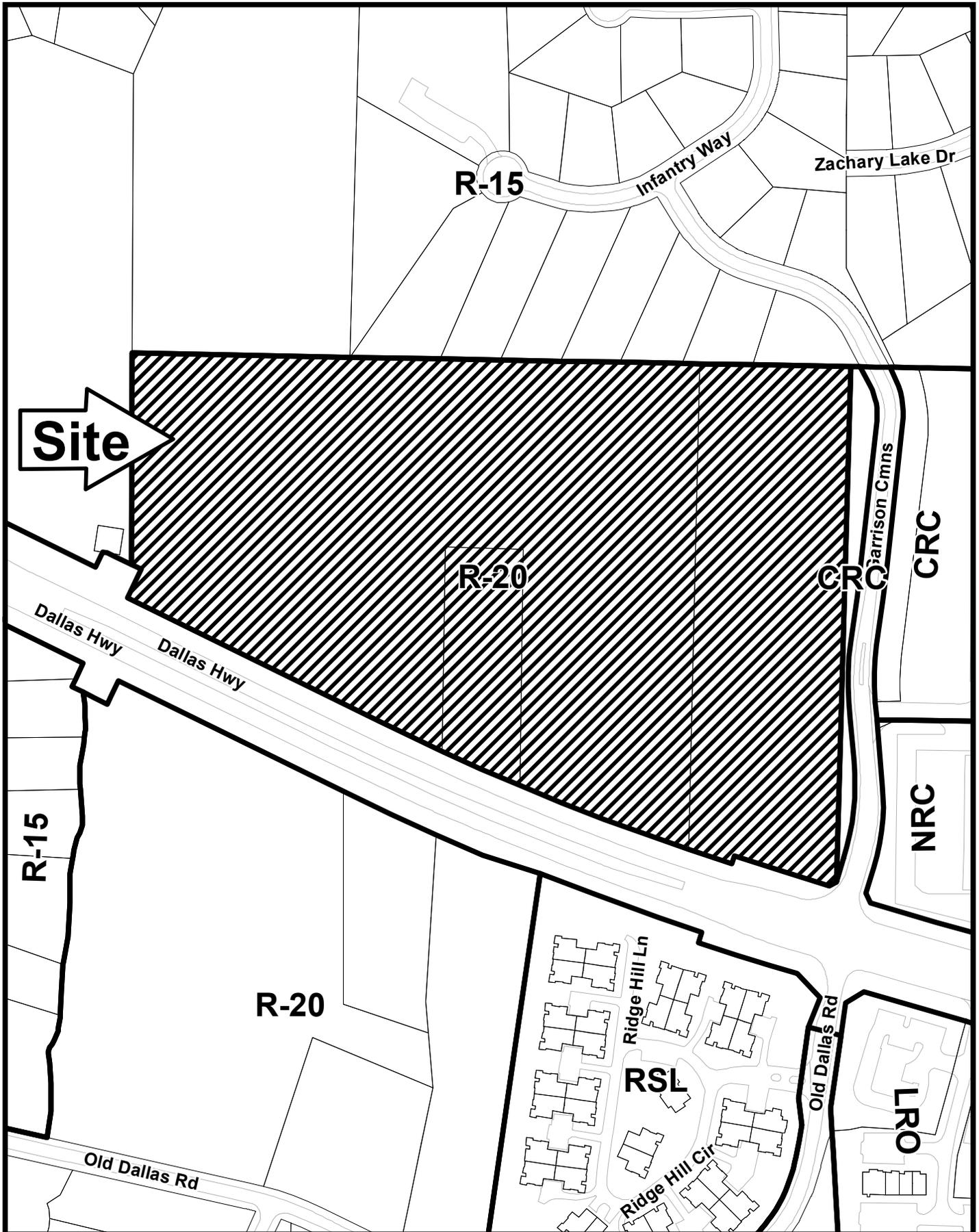
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

STIPULATIONS:



Z-98



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

0 200 400 Feet



City Boundary
Zoning Boundary

APPLICANT: Columbia Properties Capital, LLC

PETITION NO.: Z-98

PRESENT ZONING: R-20

PETITION FOR: RSL & NRC

ZONING COMMENTS:

Staff Member Responsible: Jason A. Campbell

Land Use Plan Recommendation: Low Density Residential (1-2.5 units per acre)

Proposed Number of Buildings: 11 **Total Square Footage of Development:** 97,040

F.A.R.: 0.093 **Square Footage/Acre:** 4,063.65

Parking Spaces Required: 485 **Parking Spaces Provided:** 497

Applicant is requesting the Residential Senior Living (Non-supportive) and Neighborhood Retail Commercial (NRC) zoning categories for the purpose of developing a mixed use of residential and retail. The portion of the property that is most immediate to the northwest intersection of Dallas Highway and Garrison Commons will be the commercial component (consisting of approximately 12.38 acres).

The remaining portion continuing out in a northwestern direction and abutting Garrison Ridge and Heritage Oaks Subdivisions (approximately 11.5 acres) will be developed for 58 residential senior living units. The proposed density for the RSL portion is approximately 5.043 units per acre, in what is delineated as being in the Low Density Residential (LDR) land use category.

Cemetery Preservation:

There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission’s Inventory Listing which is located in this, or adjacent land lot.

FIRE COMMENTS:

ACCESS: Fire apparatus access roads shall extend to within 150 feet of all portions of the facility or any portion of the exterior wall of the first floor (State Modifications IFC 503.1 2006 Edition).

All access roads shall meet the American Association of State and Highway Transportation Officials (AASHTO) design manual live load standard HS20 (75,000 lbs.) with an unobstructed width of not less than 20 feet, 25 foot inside radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.

APPLICANT: Columbia Properties Capital, LLC

PETITION NO.: Z-98

PRESENT ZONING: R-20

PETITION FOR: RSL & NRC

PLANNING COMMENTS:

The applicant is requesting a rezoning from R-20 to RSL and NRC for the purpose of residential senior living (non-supportive) and retail shopping center. The 23.94 acre site is located in the northwest quadrant of the intersection of Dallas Highway and Garrison Commons at 2720, 2782 and 2782 Dallas Highway.

HB-489 Intergovernmental Agreement Zoning Amendment Notification:

Is the application site within one half (1/2) mile of a city boundary? Yes No
If yes, has the city of _____ been notified? Yes No / N/A

Comprehensive Plan

The parcel is within a Low Density Residential (LDR) future land use category, with R-20 zoning designation. The purpose of the Low Density Residential (LDR) category is to provide for areas that are suitable for low density housing between one (1) and two and one-half (2.5) dwelling units per acre, and non supportive senior living housing that in certain circumstances may reach five (5) dwelling units per acre, depending on existing conditions such as product type and mix, structure/building height, tract size, topographic conditions, etc in order to provide compatibility with adjacent residential uses.

Specific Area Policy Guidelines:

Office uses should be limited to four stories. However, any non-residential uses that are located along Dallas Highway (State Route 120 from John Ward Road to Paulding County line) in west Cobb would be limited to three stories. The appropriateness of this limitation is based on the local Scenic Highway designation currently assigned to this portion of Dallas Highway.

Adjacent Future Land Use:

North: Low Density Residential (LDR)
East: Neighborhood Activity Center (RAC)
South: Low Density Residential (LDR)
West: Low Density Residential (LDR)

Master Plan/Corridor Study

The property is not located within the boundary of a Plan or Corridor Study

Historic Preservation

It has been determined that the project area is in the immediate vicinity of documented Civil War trenches. In order to determine if any significant Civil War features are located within the project area, an archeological field survey performed by a cultural resource professional should be considered. This survey, if completed, should be submitted to the historic preservation planner. Based on the determination of either the presence or absence of potentially significant features, further recommendations (such as buffers, fencing, interpretive signage, etc.) shall be made by staff.

APPLICANT: Columbia Properties Capital, LLC

PETITION NO.: Z-98

PRESENT ZONING: R-20

PETITION FOR: RSL & NRC

PLANNING COMMENTS: Continued

Design Guidelines

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

If yes, design guidelines area Dallas Highway Design Guidelines

Does the current site plan comply with the design requirements?

- Pedestrian access to buildings
 Yes No Not applicable
- Streetscape elements
 Yes No Not applicable
- Building Frontage
 Yes No Not applicable
- Parking Standard
 Yes No Not applicable
- Architecture standard
 Yes No Not applicable

Incentive Zones

Is the property within an Opportunity Zone? Yes No

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

Is the property within an Enterprise Zone? Yes No

The Smyrna-Osborne Enterprise Zone is an incentive that provides tax abatements and other economic incentives for qualifying businesses locating or expanding within designated areas for new jobs and capital investments.

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

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

For more information on incentives, please call the Community Development Agency, Planning Division at 770.528.2018 or find information online at <http://economic.cobbcountyga.gov>.

Special Districts

Is this property within the Cumberland Special District #1 (hotel/motel fee)?

Yes No

Is this property within the Cumberland Special District #2 (ad valorem tax)?

Yes No

Is this property within the Six Flags Special Service District?

Yes No

APPLICANT Columbia Properties Capital, Inc

PETITION NO. Z-098

PRESENT ZONING R-20

PETITION FOR RSL & NRC

WATER COMMENTS: NOTE: Comments reflect only what facilities were in existence at the time of this review.

Available at Development: Yes No

Fire Flow Test Required: Yes No

Size / Location of Existing Water Main(s): 8" DI / N side of Dallas Highway

Additional Comments:

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.

SEWER COMMENTS: NOTE: Comments reflect only what facilities were in existence at the time of this review.

In Drainage Basin: Yes No

At Development: Yes No

Approximate Distance to Nearest Sewer: 150' W crossing Dallas Highway

Estimated Waste Generation (in G.P.D.): A D F= 10,840 Peak= 27,100

Treatment Plant: South Cobb

Plant Capacity: Available Not Available

Line Capacity: Available Not Available

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

Drv Sewers Required: Yes No

Off-site Easements Required: 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 easements by the property owners. All easement acquisitions are the responsibility of the Developer

Flow Test Required: Yes No

Letter of Allocation issued: Yes No

Septic Tank Recommended by this Department: Yes No

Subject to Health Department Approval: Yes No

Additional Comments:

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 offsite easements, dedication of on and/or offsite 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: Columbia Properties Capital, LLC

PETITION NO.: Z-98

PRESENT ZONING: R-20

PETITION FOR: RSL & NRC

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
Dallas Highway	38,900	Arterial	45 mph	Georgia DOT	100'

Based on traffic counting data taken by Cobb County DOT for Dallas Highway in 2007

COMMENTS AND OBSERVATIONS

Dallas Highway is classified as an arterial, state route, and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

RECOMMENDATIONS

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

GDOT permits will be required for all work that encroaches upon State right-of-way.

Recommend curb, gutter, and sidewalk along the Dallas Highway frontage.

Recommend deceleration lanes for all Dallas Highway access points.

Recommend a traffic study.

Recommend sidewalk be constructed on existing Garrison Commons right-of-way parallel to site.

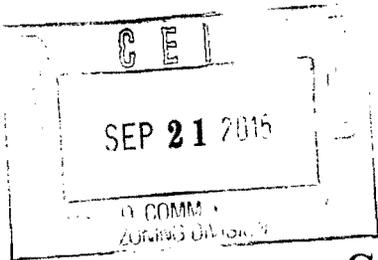
STAFF RECOMMENDATIONS

Z-97 COLUMBIA PROPERTIES CAPITAL, LLC

- A. It is Staff's opinion that the applicant's rezoning proposal will not permit a use that is suitable in view of the use and development of adjacent and nearby properties. The site is located at an intersection where two out of the four corners contain retail and office uses. The NRC zoning across Garrison Commons helps to serve as the termination for the higher intensity uses and the strip of NRC and CRC along the eastern side of Garrison Commons is in the NAC land use category, further establishing a less intense transition back to the LDR on the west side of Garrison Commons. The third is a residential senior living community that was rezoned as Z-72 in 2005. The commercial areas along Dallas Highway are limited to the established commercial nodes, which provide an orderly use of land and transition in zoning intensity.
- B. It is Staff's opinion that the applicant's rezoning proposal will have an adverse effect on the properties to the north and west. Once outside the commercial node, this area of the county has been successfully developed for residential uses. The specific commercial nodes along Dallas Highway contain well-defined boundaries that have been consistently formulated through careful planning throughout the years.
- C. It is Staff's opinion that the applicant's rezoning proposal may result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's overall rezoning proposal is not in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property as being in the Low Density Residential (LDR) land use category for residential densities ranging from 1-2.5 units per acre. The applicant's proposal is a mixture of commercial and senior living residential, neither of which is compatible with the *Cobb County Comprehensive Plan* as it is presented. The proposed RSL development has a proposed density of approximately 5.043 units per acre, above the limit of 2.5 units per acre for LDR. Staff acknowledges that the LDR across Dallas Highway is developed as RSL with a density of 4.5 units per acre, even though it is in LDR. The requested NRC zoning category is compatible in the Neighborhood Activity Center (NAC), Community Activity Center (CAC) and Regional Activity Center (RAC) land use categories. The requested RSL is allowed in LDR; however, the overall residential development should be compatible with neighboring residential uses. Residential developments in the area include: Heritage Oaks, Unit I (zoned R-15 at approximately 1.176 units per acre); Garrison Ridge (zoned R-15 at approximately 1.68 units per acre); Zachary Woods, Unit II (zoned R-15 at approximately 2.096 units per acre); and Chestnut Ridge of West Cobb (zoned RSL at 4.5 units per acre).
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for denying the applicant's rezoning proposal. Most of the proposal is not in compliance with the *Cobb County Comprehensive Plan*, which delineates this property to be within the Low Density Residential (LDR) land use category. Outside the commercial node, the area is well defined and characterized as R-15 and R-20. Cobb County has been very consistent, and careful with rezoning actions on Dallas Highway to limit commercial development to defined nodes. The NRC section of the Zoning Ordinance requires the property to be within the NAC, CAC or RAC land use categories. The subject property is in the LDR land use category. The RSL (Non-supportive) zoning category is permitted in LDR, but is to be compatible with neighboring residential uses. The approximate density of the proposed RSL portion of the property exceeds the LDR of 1-2.5 units per acre and the densities of the abutting subdivisions. Approval of the request would encourage other rezoning requests that are not consistent with the area, and the *Cobb County Comprehensive Plan*.

Based on the above analysis, Staff recommends DENIAL.

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



Application No. Z- 98

PC Hearing: 12-1-2015

BOC Hearing: 12-15-2015

Summary of Intent for Rezoning *

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

- a) Proposed unit square-footage(s): 1,800 to 2,500 estimated
- b) Proposed building architecture: Caldwell-Cline Architects and Designers will design the project
- c) Proposed selling prices(s): Not determined yet
- d) List all requested variances: None identified at this time

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

- a) Proposed use(s): Retail Shopping Center
- b) Proposed building architecture: Traditional Retail
- c) Proposed hours/days of operation: Typical Retail Hours
- d) List all requested variances: None identified at this time.

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

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

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

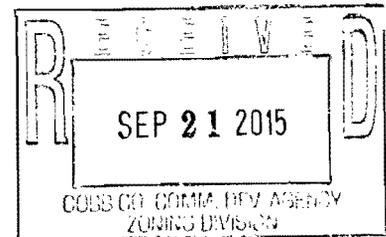
None known at this time.

.....
* Applicant specifically reserves the right to amend any information set forth in this Summary of Intent for Rezoning, or any other portion of the Application for Rezoning, at any time during the rezoning process.

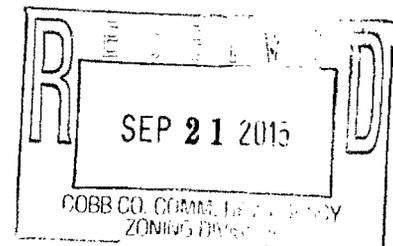
**ZONING IMPACT STATEMENT FOR THE REZONING
APPLICATION OF COLUMBIA PROPERTIES CAPITAL LLC**

COMES NOW, COLUMBIA PROPERTIES CAPITAL LLC, and, pursuant to §134-121(a)(7) of the Cobb County Zoning Ordinance, files this Zoning Impact Statement, as follows:

- A. The development proposal will permit a use of the property that is suitable in relation to the development at this Activity Center. The Activity Center is centered at the intersection of Barrett Parkway and Dallas Highway. The Activity Center is a combination of a Community Activity Center and a Neighborhood Activity Center. The Activity Center includes Lowes, Home Depot, Target, Publix, Wendy's, Pikes Nursery and many other uses. The Applicant proposes to complete the Neighborhood Activity Center portion of the node that is located at the signalized intersection of Garrison Commons by extending the node westward to add a Neighborhood Retail Commercial (NRC) shopping center anchored by a specialty organic grocer and wrapping the NRC property with an age-restricted Residential Senior Living Community. From a planning perspective, the proposed development creates a step-down from the activity center and wraps the commercial component with a low intensity RSL community that itself will be surrounded by significant buffers.



- B. The development proposal is sensitive to the impact it may have on the surrounding community. In order to ameliorate any potential negative impact, the plan will include vegetative buffers and/or fencing to buffer the adjacent R-15 community to the north. The proposed development will access Dallas Highway via the signalized intersection at Garrison Commons and an additional right-in and right-out directly on Dallas Highway.
- C. The subject property has no reasonable economic use as currently zoned based upon the fact that the fair market value of the property falls below the range of values of similarly situated and similarly zoned properties within the West Cobb market. The R-20 zoning is not economically viable given the property's location adjacent to a signalized intersection of State Route 120 and Garrison Commons. Across Garrison Commons from the subject property is a Lowe's with an adjacent NRC shopping center.
- D. The Applicant will implement the measures required by the Cobb County Department of Transportation and Georgia Department of Transportation to ameliorate any impact the development will have on either Garrison Commons or Dallas Highway/State Route 120. The developer will install appropriate turn lanes and deceleration lanes at its entrances so that ingress and egress is consistent with traffic engineering principles.



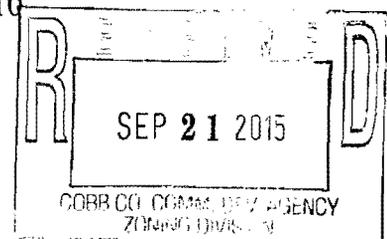
- E. Although the property is shown as Low Density Residential on the Future Land Use Map, this designation is not consistent with the NAC category located on only one side of the signalized intersection. Expanding the NAC to include a portion of the subject property and surrounding it with a RSL component will complete the Activity Center and create a step down to the residential development to the north and the west

- F. There is no substantial relationship between the existing zoning classification of R-20 which limits the property in terms of its present utilization and the public health, safety and general welfare. Additionally, the proposed development respects the nodal development that has been encouraged on Dallas Highway by completing the Activity Center and stepping down from that activity center by using generous buffers and a RSL community to encapsulate the proposed commercial component.

Respectfully submitted, this the 18 day of September, 2015.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 
PARKS F. HUFF
Attorney for Applicant
Ga. Bar No. 375010



MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
MAY 17, 2016
PAGE 10

REGULAR AGENDA

Z-98¹⁵ **COLUMBIA PROPERTIES CAPITAL, LLC** (Herbert A. Collins, as Trustee of the Herbert A. Collins Revocable Living Trust, owner) requesting Rezoning from **R-20** to **RSL** and **NRC** for the purpose of Residential Senior Living (non-supportive) and Retail Shopping Center in Land Lots 330 and 331 of the 20th District. Located at the northwest intersection of Dallas Highway and Garrison Commons (2720, 2780 and 2782 Dallas Highway). *(Continued by Staff from the December 1, 2015, February 2, 2016, March 1, 2016 and April 1, 2016 Planning Commission hearings until May 3, 2016 Planning Commission hearing)*

The public hearing was opened, and Mr. Parks Huff and Mr. Lawton Jordan addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Weatherford, second by Ott, to deny Z-98¹⁵

VOTE: **ADOPTED 5-0**

~~Chairman Lee called for a brief recess from 9:59 a.m. until 10:06 a.m.~~

Commissioner Ott recused himself from Z-24 due to a relative having a work association with the Applicant.

Z-24 **BOOS DEVELOPMENT GROUP, INC.** (Mason Wayne Miller and Mary K. Miller, owners) requesting Rezoning from **NRC** and **R-20** to **NRC with Stipulations** for the purpose of Retail in Land Lot 1263 of the 19th District. Located at the intersection of the northwesterly side of Brownsville Road and the easterly side of Pine Valley Road. *(Held by the Board of Commissioners until the May 17, 2016 hearing)*

The public hearing was opened, and Mr. John Moore addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Cupid, second by Weatherford, to approve Z-24 to the NCR zoning category, subject to:

1. Limit retail to lower scale retail that is listed in Zoning Ordinance for either a bakery, delicatessen, or coffee shop; bookstore, dance/fitness or martial arts studio; a florist, or a gift or stationary store
2. Other permissible uses in NRC category: professional office, daycare, or expansion of place of worship