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PROJECT:

**THE OAKS
WEST**
LAND
20th
2nd
COBB CO

**Z-36
(2008)**

COL
PROJ

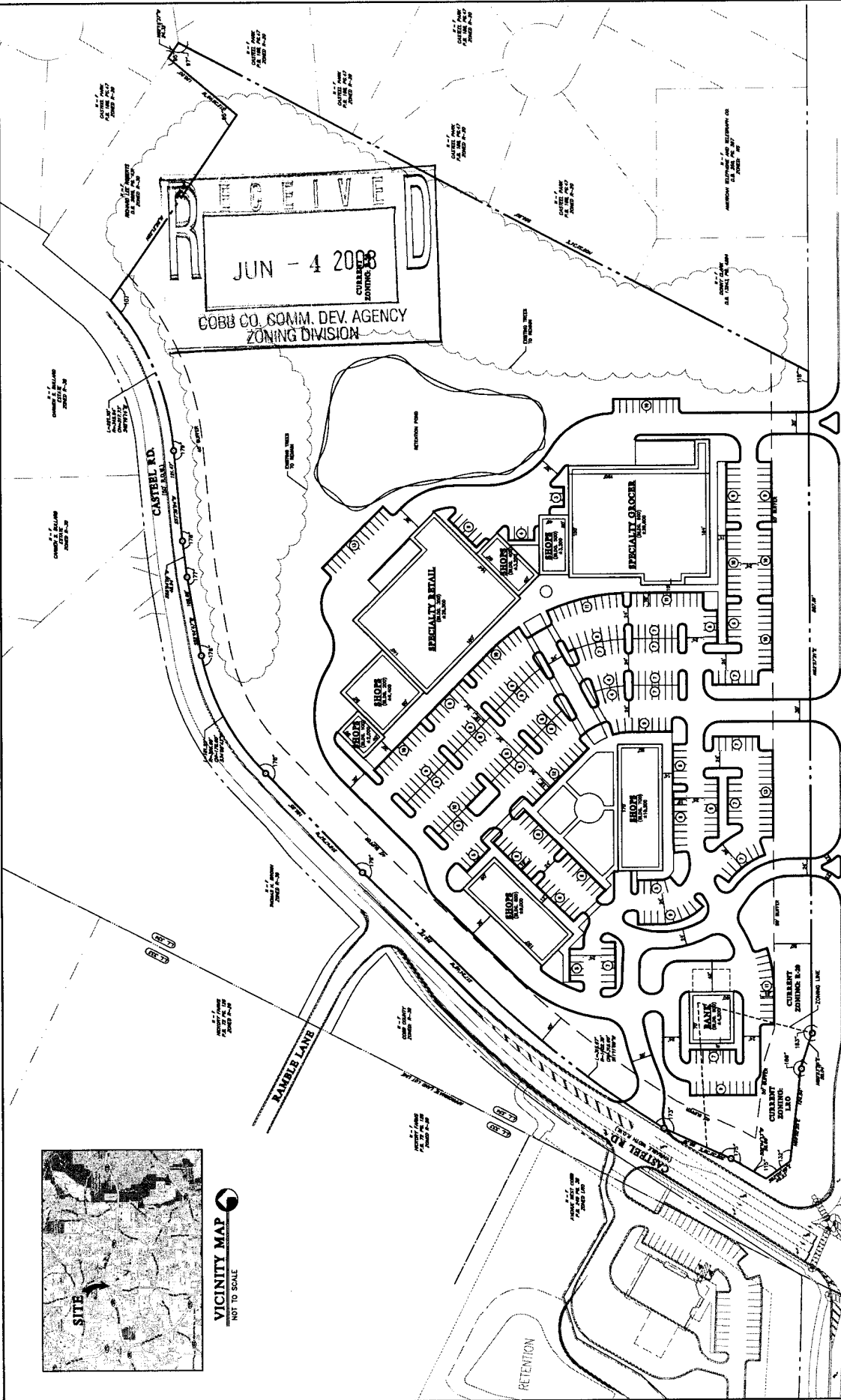
1355 TERRELL MILL, RD.
BLDG 1478, SUITE 200
MARIETTA, GA 30067
(770) 953-6262

REVISIONS

2008148P1.DWG 05.21.08

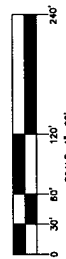
**PRELIMINARY
SITE
PLAN**

PS.2



SITE ANALYSIS

SPECIALTY RETAIL	26,300 S.F.
SPECIALTY GROCER	29,800 S.F.
SHOPS	34,000 S.F.
BANK	4,200 S.F.
TOTAL BUILDING AREA	94,300 S.F.
PARKING PROVIDED (4.9/MSF)	466 SPACES
TOTAL LAND AREA	407.7 ACRES
PROPOSED ZONING	SR, RD, LEO
	NRC

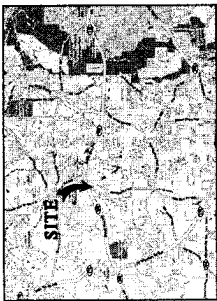


PRELIMINARY SITE PLAN

SCALE: 1" = 60'

DALLAS HIGHWAY (SR120)
(UNIMULTI-USE EASE)

- NOTES:
1. THERE ARE NO KNOWN UTILITY EASEMENTS ON THE SITE.
 2. THE SITE IS NOT LOCATED IN 100 YEAR FLOOD PLAIN.
 3. DISTRICT LINE DOES NOT INTERFERE OR INFRINGE UPON PROJECT LOCATED ON THE SITE.
 4. THERE ARE NO STREAMS, LAKES, OR WETLANDS LOCATED ON THE SITE.
 5. THERE ARE NO CEMETERIES LOCATED ON THE SITE.



VICINITY MAP
NOT TO SCALE

APPLICANT: Columbia Properties, Inc.
770-953-6262

REPRESENTATIVE: Sams, Larkin & Huff, LLP
Parks L. Huff 770-442-7016

TITLEHOLDER: Harold Leslie McLendon, Jr., Melissa M. McLendon,
John B. and Deborah M. Dierkes, Ann L. Brown

PROPERTY LOCATION: Located at the southwesterly intersection
of Dallas Highway and Casteel Road.

ACCESS TO PROPERTY: Dallas Highway and Casteel Road

PHYSICAL CHARACTERISTICS TO SITE: Partially wooded
with pasture

PETITION NO: Z-36

HEARING DATE (PC): 08-05-08

HEARING DATE (BOC): 08-19-08

PRESENT ZONING: LRO, R-20

PROPOSED ZONING: NRC

PROPOSED USE: Retail Center

SIZE OF TRACT: 20.2 acres

DISTRICT: 20

LAND LOT(S): 334

PARCEL(S): 2

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 1

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** R-30, CF/ Single-family house, undeveloped
- SOUTH:** R-20/ Single-family house
- EAST:** LRO, R-30/ RBC Centura Bank, Hickory Farms subdivision
- WEST:** R-20/ Casteel Park subdivision

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

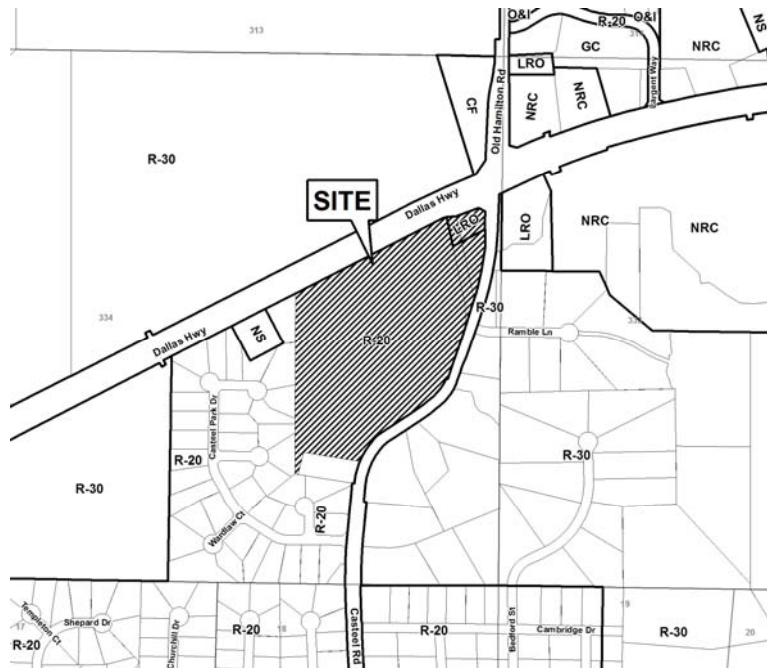
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

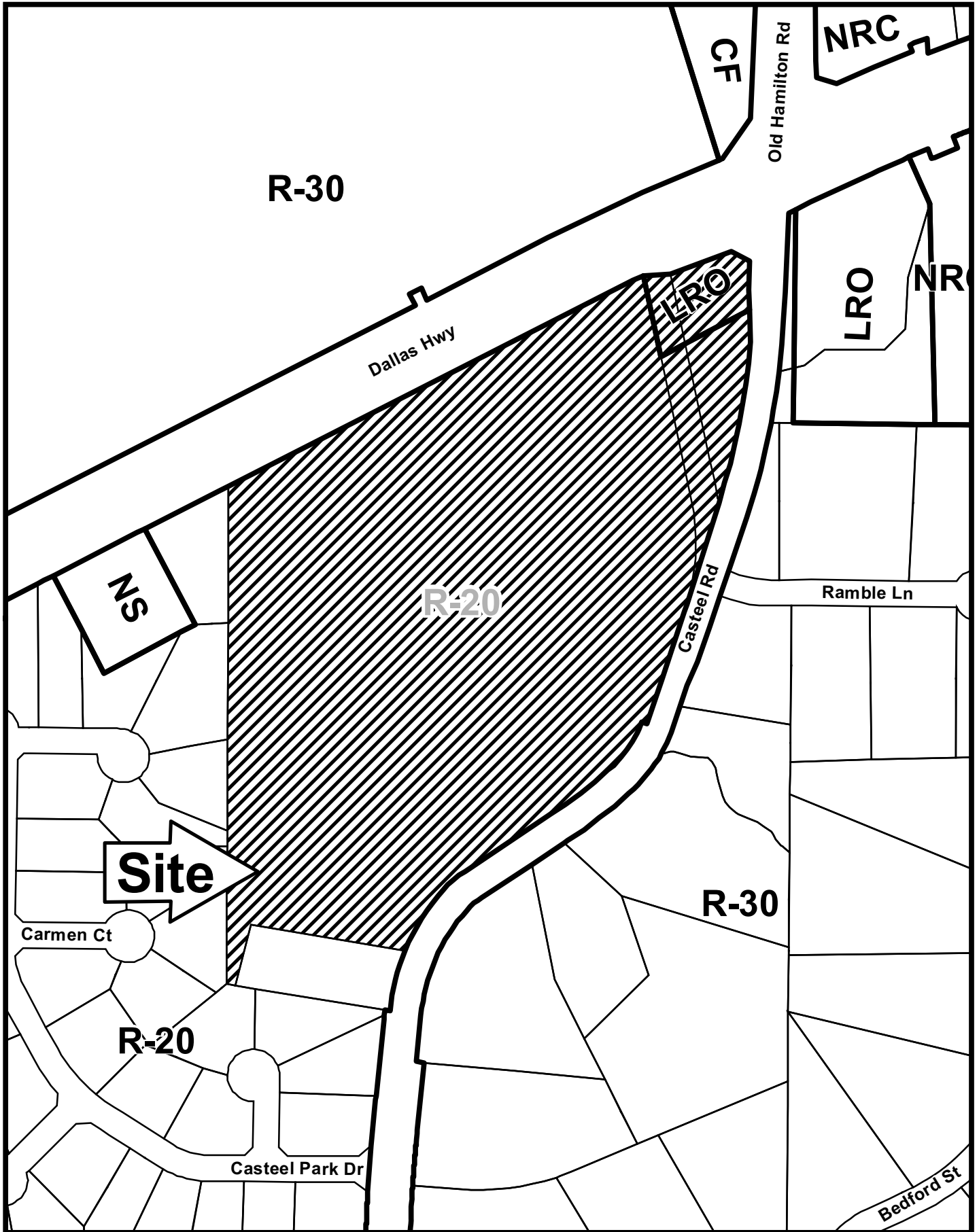
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

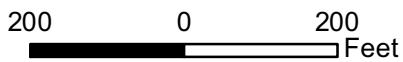
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



Z-36



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



-  City Boundary
-  Zoning Boundary

APPLICANT: Columbia Properties, Inc.

PETITION NO.: Z-36

PRESENT ZONING: LRO, R-20

PETITION FOR: NRC

PLANNING COMMENTS:

Staff Member Responsible: John P. Pederson, AICP

Land Use Plan Recommendation: Very Low Density Residential (+/-18.1 acres, +/-90%) & Neighborhood Activity Center (+/- 2.1 acres, +/-10%)

Proposed Number of Buildings: 4 **Total Square Footage of Development:** 94,300

F.A.R.: 0.11 **Square Footage/Acre:** 4,668

Parking Spaces Required: 468 **Parking Spaces Provided:** 468

The applicant is requesting the NRC zoning district to develop a shopping center and a bank. All of the buildings would be one-story in height with exteriors consisting of brick, stone and artificial stucco. The anchor tenant would be The Fresh Market, along with other high-end retailers. The tenants in the shopping center would range in hours, from 8:00 a.m. to 11:00 p.m., seven days a week. The applicant’s plan shows a 40-foot buffer along Casteel Road and a 50-foot buffer along Dallas Highway. The applicant is also showing a new median break on Dallas Highway. The applicant has submitted a Zoning Impact Analysis, which is attached as Exhibit “A”.

Historic Preservation: After consulting various county historic resources surveys, historic maps, archaeology surveys and Civil War trench location maps, staff finds that no known significant historic resources appear to be affected by this application. No further comment. No action by applicant requested at this time.

Cemetery Preservation: No comment.

FIRE DEPARTMENT COMMENTS:

Fire Apparatus Access Road

All access roads shall have an all weather driving surface capable of supporting 75,000 pounds with an unobstructed width of not less than 20 feet, 25 feet inside turning radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.

Access road shall extend to within 150-feet of all portions of the facility or any portion of the exterior wall of the first floor.

Dead-end access roads in excess of 150-feet shall be provided with a turn-around by one of the following methods:

Commercial: Cul-d-sac without an island to have a 60 foot paved radius **or** Hammerhead turn-around – total of 110 feet needed (45 feet + 20 foot wide roadway + 45 feet).

Fire Hydrant

Commercial: Fire hydrant within 500 feet of most remote part of structure.

APPLICANT Columbia Properties, Inc

PETITION NO. Z-036

PRESENT ZONING LRO, R-20

PETITION FOR NRC

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

WATER COMMENTS:

- Available at Development? Yes No
- Fire Flow Test Required? Yes No

Size / Location of Existing Water Main(s) 8" DI / W side Casteel Rd

Additional Comments: Master meter to be at entrance.

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:

- In Drainage Basin? Yes No
- At Development? Yes No

Approximate Distance to Nearest Sewer: 6700' (directly) SE in Sandy Glen S/D (gravity)

Estimated Waste Generation (in G.P.D.): **A D F** 9,430 **Peak** 23,575

Treatment Plant: S Cobb

- Plant Capacity Available? Yes No
- Line Capacity Available? Yes No
- Projected Plant Availability: 0 - 5 year 5 - 10 years over 10 years
- Dry Sewers Required? Yes No
- Off-site Easements Required? Yes* No
- Flow Test Required? Yes No
- Septic Tank Recommended by this Department? Yes No
- Subject to Health Department Approval? Yes No

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

Additional Comments:

It is very unlikely gravity sewer would work to south because of topography and problematic to east because of utility/road crossings and high sewer. Cannot connect to Ave West Cobb II private sewer since pvt sewer cannot cross public ROW (Casteel Rd)

Notes FYI: *No sewer option across Dallas Hwy N (to be county park). Food preparation establishments require grease traps*

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

APPLICANT: Columbia Properties, Inc.

PETITION NO.: Z-36

PRESENT ZONING: LRO, R-20

PETITION FOR: NRC

DRAINAGE COMMENTS

FLOOD HAZARD: YES NO POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: **Mud Creek** FLOOD HAZARD INFO: Zone X

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

WETLANDS: YES NO POSSIBLY, NOT VERIFIED

Location: _____

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

STREAMBANK BUFFER ZONE: YES NO POSSIBLY, NOT VERIFIED

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

DOWNSTREAM CONDITION

- Potential or Known drainage problems exist for developments downstream from this site.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads.
- Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- Existing Lake Downstream – **Old Trace Lake ~ 1800'**.
Additional BMP's for erosion sediment controls will be required.
- Lake Study needed to document sediment levels.
- Stormwater discharges through an established residential neighborhoods downstream – **Hickory Farm & Hickory Bend S/D.**
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream **stormdrainage system including instream detention facility in Hickory Bend S/D.**

DRAINAGE COMMENTS CONTINUED

SPECIAL SITE CONDITIONS

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

ADDITIONAL COMMENTS

1. This site is located upstream of several older established residential subdivisions as well as Old Trace Lake. Due to the limited stormwater system conveyance typical of older developments as well as the sensitive nature of the Old Trace Lake area special care must be taken to control stormwater runoff and the escape of sediment from this site.
2. Although the proposed site plan does provide a substantial amount of undisturbed green space adjacent to the Casteel Park S/D, the proposed commercial retail site plan will be significantly more dense than if developed under the current residential category. To compensate, the First Flush Water Quality Best Management Practice Requirements must be elevated to the 1.5-inch rainfall event and each larger storm discharge controlled not to exceed the allowable discharge of the next lower, more frequent storm event (ie. 5-year storm event released at 2-year rate; 10-year event at 5-year rate; etc. to 100-year event at 50-year rate).
3. The detention pond design should incorporate a permanent pool to provide adequate water quality protection for the downstream receiving system.

APPLICANT: Columbia Properties, Inc.

PETITION NO.: Z-36

PRESENT ZONING: LRO, -20

PETITION FOR: 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
Casteel Road	4900	Major Collector	35 mph	Cobb County	80'
Dallas Highway	38900	Arterial	55 mph	GADOT	110'

*Based on 2005 traffic counting data taken by Cobb County DOT.
Based on 2005 traffic counting data taken by Cobb County DOT.*

COMMENTS AND OBSERVATIONS

Casteel Road is classified as a Major Collector and according to the available information, the existing right-of-way does not meet the minimum requirements for this classification.

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

Reserve right-of-way along the southern side of Casteel Road to accommodate any future roadway realignment to remove the curves.

The south side of Dallas Highway is identified as the proposed corridor for a pedestrian improvement project consisting of a 10' multi-use trail.

Install sidewalk, curb and gutter along both road frontages to include a 10' multi-use path along Dallas Highway.

Convert the proposed driveway opposing the Avenues at West Cobb on Casteel Road to right-in/right-out.

Locate a full access driveway to oppose Ramble Lane on Casteel Road.

Eliminate the western right-in/right-out driveway along Dallas Highway.

As necessitated by this development for egress from Casteel Road a deceleration lane will be required at each access point and a left turn lane at the access point across from Ramble Lane.

Median break must be requested through GDOT.

All costs associated with the median cut to be borne by the developer for left turn lanes in both directions and deceleration lanes at each access point along Dallas Highway.

Developer to be responsible for signal when warranted.

GDOT permits will be required.

RECOMMENDATIONS

Recommend applicant consider entering into a development agreement pursuant of O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the west side of Casteel Road, a minimum of 40' from the roadway centerline.

APPLICANT: Columbia Properties, Inc.

PETITION NO.: Z-36

PRESENT ZONING: LRO, -20

PETITION FOR: NRC

TRANSPORTATION COMMENTS cont.

Recommend applicant coordinate with Cobb County DOT prior to development plan approval to ensure compatibility with the proposed pedestrian improvement project along Dallas Highway.

Recommend constructing a 10' sidewalk along the frontage of Dallas Highway and a standard 5' sidewalk along the entire frontage of Casteel Road.

Recommend developer reserve right-of-way along the southern side of Casteel Road to accommodate any future realignment of the roadway.

Recommend a right-in/right-out on Casteel Road across from the Avenues at West Cobb.

Recommend a full access driveway on Casteel Road across from Ramble Lane.

Recommend a deceleration lane at each access point along Casteel Road and a left turn lane at the full access drive on Casteel Road.

Recommend eliminating the western right-in/right-out driveway along Dallas Highway.

Recommend requesting proposed median break along Dallas Highway through GDOT.

Recommend developer provide all improvements associated with median break including the westbound left turn lane.

Recommend developer install a traffic signal when warranted.

Recommend GDOT permits for all work that encroaches upon the State right-of-way.

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

STAFF RECOMMENDATIONS

Z-36 COLUMBIA PROPERTIES, INC.

- 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. Virtually all the surrounding property is zoned R-20 and R-30. The proposed commercial development would not be compatible with established, adjacent residential uses. The commercial areas along Dallas Highway are limited to the established commercial nodes which provides 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 affect on the usability of adjacent or nearby property. Once outside the commercial node, this area of the county has successfully been developed at R-20 and R-30. The specific commercial nodes along Dallas Highway contain well-defined boundaries that have been consistently formulated through careful planning throughout the years. The applicant's proposal would encourage other requests that are not consistent with the character of the area.

- C. It is Staff's opinion that the applicant's rezoning proposal will 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. Additionally, the proposed median break could reduce the flow of traffic, which suffers from high peak hour volume.

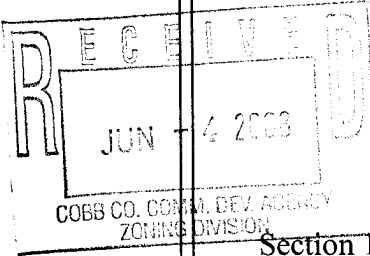
- D. It is Staff's opinion that the applicant's rezoning proposal is not in conformity with the policy and intent of the *Cobb County Comprehensive Plan* for 90% of the property which is delineated to be within a Very Low Density Residential Land Use Category, with densities ranging from 0 to 2 units per acre. High intensity commercial development is not intended to be placed in the Very Low Density Residential Land Use Category. The *Cobb County Comprehensive Plan* states "*New residential uses should be developed in a manner that helps protect the rural/estate character of these areas.*"

- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which gives supporting grounds for denying the applicant's rezoning proposal. Most of the proposal is not in accordance with the *Cobb County Comprehensive Plan*, which delineates this property to be within a Very Low Density Residential Land Use Category. Once outside the commercial boundaries, the area is well defined and characterized as R-20 and R-30 zoned property. The County has been very consistent, and careful with rezoning actions on Dallas Highway, and has not set any precedents that would support the applicant's proposal. The NRC zoning code requires the NRC zoning district to be within a Neighborhood, Community, or Regional Activity Center, of which 90% of this proposal does not comply. Approval of the request would encourage other rezoning requests that are not consistent with the area, and Future Land Use Map.

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.

**ZONING IMPACT STATEMENT FOR THE REZONING APPLICATION
OF COLUMBIA PROPERTIES, INC.**



COMES NOW, COLUMBIA PROPERTIES, INC., and pursuant to

Section T34-121(a)(7) of the Cobb County Zoning Ordinance, files this its Zoning Impact Statement, as follows:

- A. The development proposal will permit a use of the property that is suitable in relation to the development of this Neighborhood Activity Center (NAC) node along State Route 120. The subject property is located at the signalized intersection across Casteel Road from The Avenues West Cobb. The Avenues anchors the retail development in this Neighborhood Activity Center (NAC) node. The proposed development will be an extension of The Avenues and is intended to draw and serve the surrounding community and the shoppers that come to The Avenues for the higher-end specialty retail shops located therein.

- 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 was developed to include a six (6) acre undisturbed green belt buffer adjacent to the Casteel Park neighborhood. In order to maintain the integrity of Casteel Road, the access point was placed as far north as practicable and a 40 foot buffer was placed along Casteel Road to limit the shopping center's visibility as one enters the residential portion of Casteel Road. The first two homes on Ramble Lane will be impacted by any development on the subject

property. They have also been dramatically impacted by the development of The Avenues. In order to reduce the impact of the proposed development, the developer will increase plantings along Casteel Road adjacent to these properties and take other steps to accommodate these home owners.


- 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 LRO portion of the property is too small and oddly configured to be adequately developed as Low Rise Office (LRO). The remaining portion of the property that is zoned R-20 is also not economically viable given the property's location at a signalized intersection adjacent to State Route 120 and Casteel Road.
- 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 Casteel Road or Dallas Highway. This specialty center is designed to serve the surrounding residential communities and to pick up the shoppers at The Avenues West Cobb. As such, the center is not designed to significantly increase traffic in the area but to serve shoppers who are already coming to The Avenues. 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. The two (2) acre pinned corner of the subject property is designated in the Cobb County Land Use Plan as a Neighborhood Activity Center (NAC). The remaining 18 acres is designated for very Low Density Residential development. As such, the proposal is inconsistent with the Land Use Plan. However, the overriding principle of the Land Use Plan in this area is to create and maintain a commercial node on Dallas Highway to serve the surrounding community and to not allow this node to spread unrestricted along Dallas Highway. The proposed development can accommodate this goal by encapsulating the proposal with the six (6) acre buffer adjacent to the R-20 subdivision located just west of the subject property. With the County's purchase of the property across Dallas Highway for a park, there is no argument for the extension of the commercial node west of the subject property since it will now be hemmed in totally by a buffer and a residential subdivision to the west and a park to the north and west. Essentially, the Applicant is asking the Activity Center to be increased from its existing two (2) acres to 14 acres with a provision that the remaining six (6) acres would be preserved as an undisturbed buffer and natural habitat.
- F. There is no substantial relationship between the existing zoning classifications of LRO and R-20 and the public health, safety and general welfare. To maintain an unusable LRO portion of the subject property creates an unconstitutional taking of the property owners' rights to utilize their property. Additionally, to maintain the R-20 zoning on the remainder of the property creates an

unconstitutional taking because the fair market value of said property falls below the range of values of similarly zoned and situated properties with equivalent utility.

Respectfully submitted, this 4th day of June, 2008.

SAMS, LARKIN & HUFF, LLP

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