

OB-040-2016

Application for "Other Business"

Cobb County, Georgia

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

BOC Hearing Date Requested: 07/19/2016

Applicant: CPI Holdings LLC

Phone #: 770.953.0262

(applicant's name printed)
Address: BLDG 147B, STE 200
1355 TERRELL MILL RD, Marietta GA

E-Mail: oneillka@bellsouth.net

SIDNEY H. HOLTMAN
(representative's name, printed)

Address: 85A MILL STREET, Roswell GA 30075

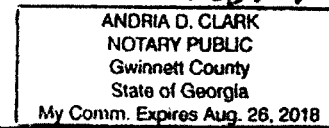
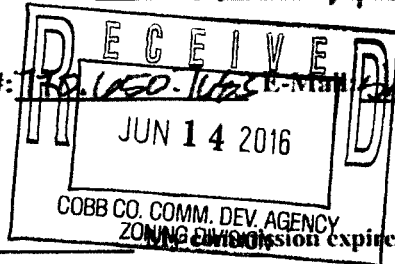
[Signature]
(representative's signature)

Phone #: 770.150.1163

E-Mail: sholtman@paulsawmitchell.com

Signed, sealed and delivered in presence of:

[Signature]
Notary Public



Titleholder(s): CPI Holdings LLC

Phone #: 770.953.0262

(property owner's name printed)
Address: BLDG 147B, STE 200
1355 TERRELL MILL RD, Marietta GA

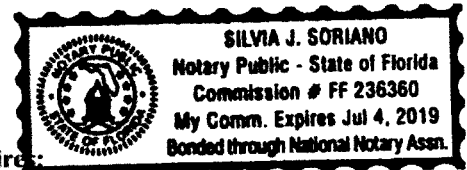
E-Mail: oneillka@bellsouth.net

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

Signed, sealed and delivered in presence of:

[Signature]
Notary Public

My commission expires:



Commission District: 1st

Zoning Case: Z-135

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

Location: 10300 MARY HILL ROAD, KENNESAW, GA 30152
(street address, if applicable; nearest intersection, etc.)

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

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

(List or attach additional information if needed)

Sid Howman

OB-040-2016
Tree Report

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

Sid,

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

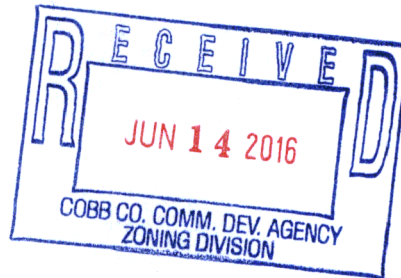
This parcel had 15 trees assessed on or about January 18, 2011, by LAI engineering as follow:

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

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

(R) = Red

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



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

Cecil Atchley
Cobb County Arborist

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

Application for Rezoning Cobb County

(type or print clearly)

Application No. 2135

Hearing Date: 9/6/97

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

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

[Signature] Business Phone 424-1500
(representative's signature)

Signed, sealed and delivered in presence of:

[Signature]
Notary Public

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

My commission expires: _____

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

Signature [Signature] Address 2569 Regency Drive
(attach additional signatures, if needed) Tucker, Georgia 30084

Signed, sealed and delivered in presence of: **SEE ATTACHED**

[Signature]
Notary Public

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

COBB CO. COMM. DEVELOPMENT
ZONING DIVISION

Zoning Request From R-30 to delete to NRC & LRO on 11-15-94
(present zoning) (proposed zoning)

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

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

Land Lot(s) 224 & 225 District 20th

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

To the best of our knowledge, there are none.

COLUMBIA PROPERTIES INCORPORATED

BY: [Signature]
Vice Pres. (applicant's signature)

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

To the best of our knowledge, there are none.

COLUMBIA PROPERTIES INCORPORATED

BY: [Signature]
Vice Pres. (applicant's signature)

PAGE 2 OF 2345

APPLICATION NO. Z-135

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

APPLICANT'S NAME: COLUMBIA PROPERTIES

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

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

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

CONTINUED ON NEXT PAGE.....

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

PAGE 3 OF 345

APPLICATION NO. Z-135

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

APPLICANT'S NAME: COLUMBIA PROPERTIES INC.

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

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

brick material as used on the facade of the shopping center
with the primary sign being located next to the entrance on
Mars Hill Road; 7) tenant signage will be backlit,
individually lettered, custom designed and placed above each
store front on the face of the building; 8) lighting to be
environmental shoe-box type; 9) landscaping and grass will be
used in all border areas and on island areas between parking
rows; 10) installation of an eight-foot solid wood privacy
fence along the eastern-most property line, at or near the curb
line to the rear of property; 11) installation of a minimum 30
foot green space buffer along the eastern most boundary and the
southern boundary (excluding the parcel deleted to the LRO
zoning district); 12) landscaped buffer, as well as all
landscaping to be approved by Staff; 13) owner/developer to
reroute the Herens' (adjoining property owners') driveway to
eliminate any encumbrances on the adjoining property; 14)
owner/developer to enter into a Development Agreement pursuant
to O.C.G.A. 36-71-13 for dedication of system improvements to
mitigate traffic concerns; 15) Georgia Department of
Transportation permits will be required for all work proposed
within the Mars Hill Roadway Corridor; 16) project to meet all
Cobb County Development Standards and Ordinances related to
project improvements. Motion by Thompson, second by Wysong,
carried 3-2, Byrne and Cooper opposed.

Karen L. Hach

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

*See attached page
for action of 12-20-94.*
(C)

PAGE 4 OF 45

APPLICATION NO. Z-135

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

APPLICANT'S NAME: COLUMBIA PROPERTIES INCORPORATED

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

OTHER BUSINESS ITEM OF 12-20-94

Item #2

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

BOC DECISION OF DECEMBER 20, 1994:

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

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

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

PAGE 5 OF 5

APPLICATION NO. Z-135

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

APPLICANT'S NAME: COLUMBIA PROPERTIES

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

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

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

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

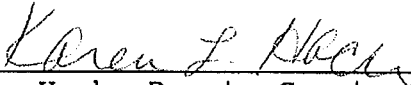

Karen L. Hach, Deputy County Clerk
Cobb County Board of Commissioners



EXHIBIT "A"

As referenced in
Zoning minutes

of 3-21-95,
Karen Hock

P 02
ATTACHMENT B
[Continued]

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

February 18, 1995

Note: original not on file with
the County

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

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

Dear Dirk and Jacoba:

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

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

SHD

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

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

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

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


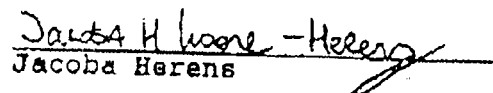
Yours very truly,



Barry M. Major

BMM:rd

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


Dirk Herens
Jacoba H. Herens

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

ATTACHMENT B
(Continued)

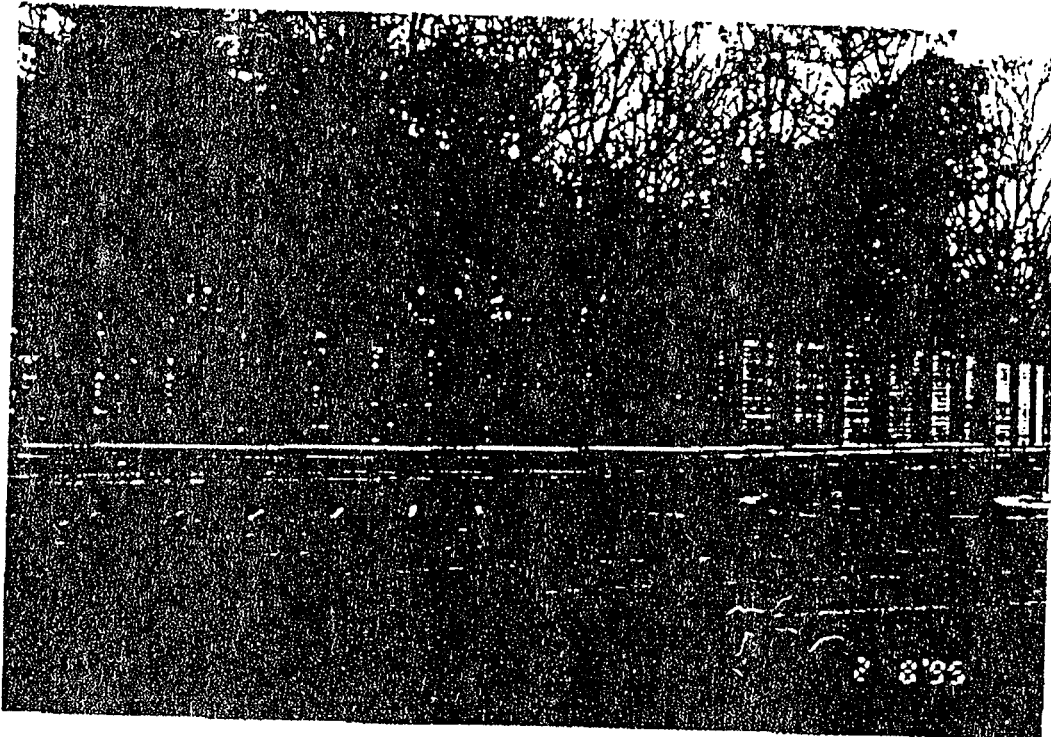
Witness: _____
COLUMBIA PROPERTIES INCORPORATED

Witness: _____

By: _____
Title: _____
Witness: _____

SLPH

EXHIBIT A



Sh DM

EXHIBIT B

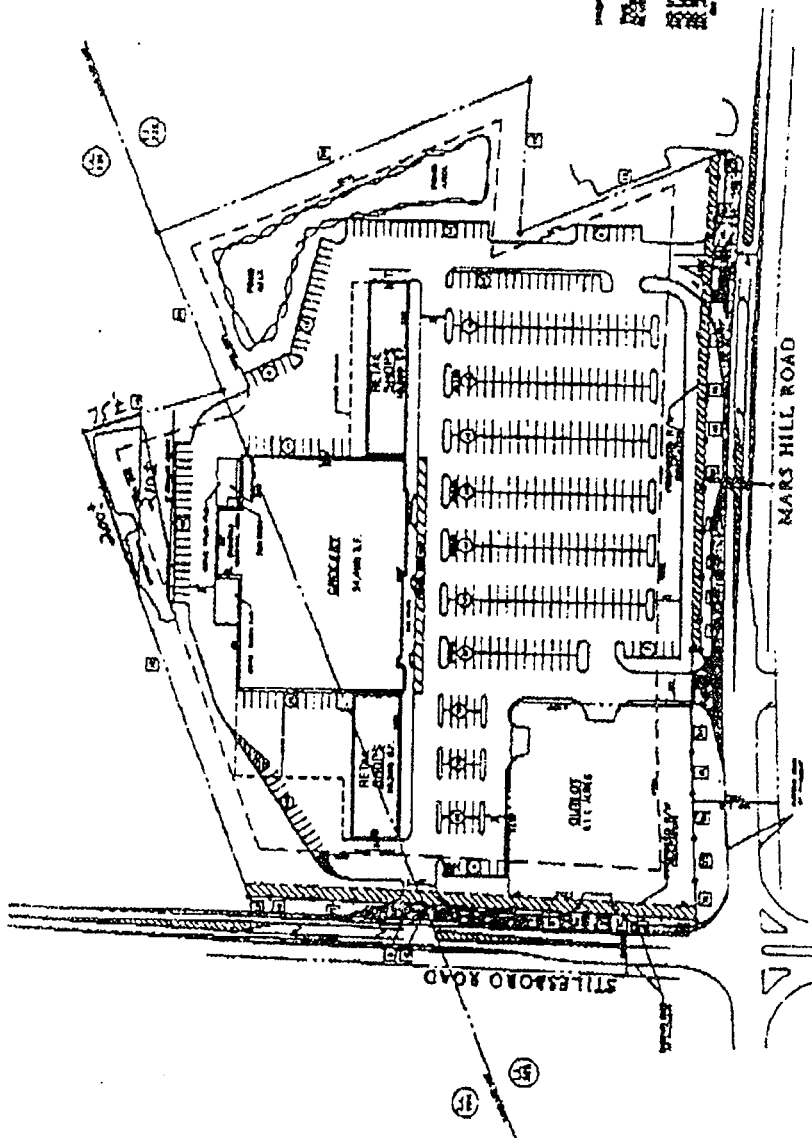
PAULSON & ASSOCIATES, INC.
LAND PLANNING
DESIGNERS
215 KILPATRICK AVENUE
NORTH BOSTON, MASS. 02116
TEL. (617) 552-1100
FAX (617) 552-1101

PROPOSED
IMPROVED
SITE PLAN

THE
COLUMBIA
PROPERTY
TRUST
PART ONE
PRELIMINARY
SITE PLAN

DATE	10/1/88
BY	PAULSON & ASSOCIATES, INC.
FOR	THE COLUMBIA PROPERTY TRUST
PROJECT	THE COLUMBIA PROPERTY TRUST
LOCATION	1000 MARS HILL ROAD, BOSTON, MASS.
SCALE	AS SHOWN
REVISIONS	
NO.	DESCRIPTION
1	PRELIMINARY SITE PLAN

SITE ANALYSIS	
ADJACENT LAND	1000 MARS HILL
ADJACENT USE	RETAIL, OFFICE
ADJACENT OWNER	THE COLUMBIA PROPERTY TRUST
ADJACENT ZONE	RETAIL, OFFICE
ADJACENT DIST.	1000 MARS HILL
ADJACENT DIST. (AC)	1000 MARS HILL
ADJACENT DIST. (SQ. FT.)	1000 MARS HILL
ADJACENT DIST. (AC)	1000 MARS HILL
ADJACENT DIST. (SQ. FT.)	1000 MARS HILL
ADJACENT DIST. (AC)	1000 MARS HILL
ADJACENT DIST. (SQ. FT.)	1000 MARS HILL



PRELIMINARY SITE PLAN

2004