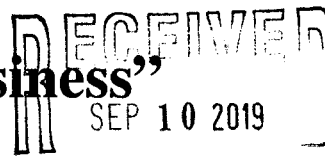


Application for "Other Business" Cobb County, Georgia

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



OB-62-2019

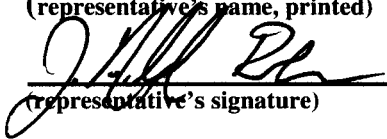
BOC Hearing Date Requested: 10/15/19

10/15/19

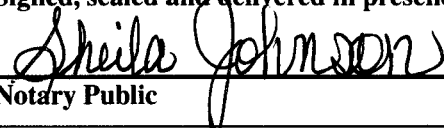
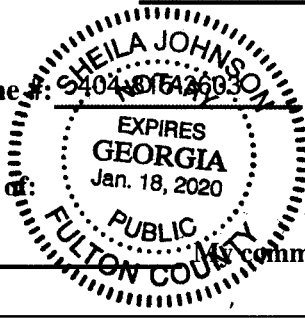
Applicant: Providence NLS, LLC and Providence 203, LLC
c/o J. Alexander Brock, Smith, Gambrell & Russell, LLP
(applicant's name printed) **Phone #:** 404-815-3603

Address: 1230 Peachtree Street, Atlanta, GA 30309 **E-Mail:** jabrock@sgrlaw.com

J. Alexander Brock **Address:** 1230 Peachtree Street, Atlanta, GA 30309
(representative's name, printed)

 **Phone #:** 404-815-3603 **E-Mail:** jabrock@sgrlaw.com
(representative's signature)

Signed, sealed and delivered in presence of:

 **Notary Public** **Commission expires:** 1/18/2020


Titleholder(s) : SEE ATTACHED SIGNATURE PAGE
(property owner's name printed)

Phone #:

Address: **E-Mail:**

(Property owner's signature)

Signed, sealed and delivered in presence of:

Notary Public **My commission expires:**

Commission District: 4

Zoning Case: Z-37

Size of property in acres: 13.99

Original Date of Hearing: April 17, 2003

Location: 1025 Veterans Memorial Highway, Mabelton, GA

(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 165 and 166

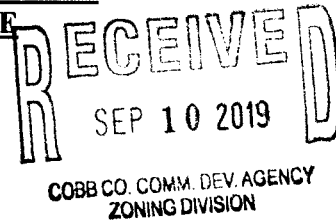
District(s): 18

State specifically the need or reason(s) for Other Business:

SEE ATTACHED

(List or attach additional information if needed)

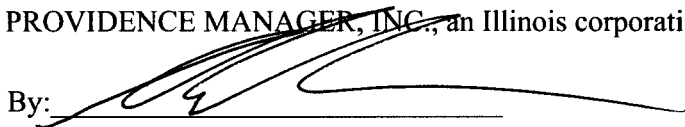
APPLICATION FOR "OTHER BUSINESS"
OWNER'S SIGNATURE PAGE

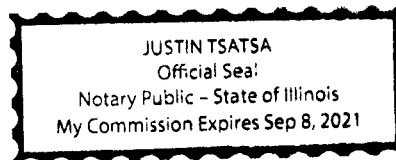


Titleholder(s):

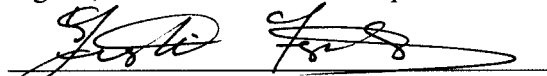
PROVIDENCE NLS, LLC,
A Delaware limited liability company

By: PROVIDENCE MANAGER, INC., an Illinois corporation, its Manager

By: 
Name: Marc R. Wilkow
Title: President
20 South Clark Street
Suite 3000
Chicago, IL 60603
Tel: 312.279.5963
Email: mwilkow@wilkow.com



Signed, sealed and delivered in presence of:


Notary Public

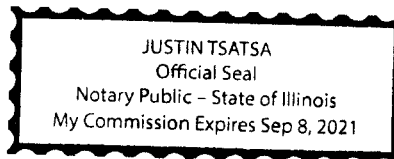
My commission expires:

Sept. 8, 2021

PROVIDENCE 203, LLC,
A Delaware limited liability company

By: PROVIDENCE MANAGER, INC., an Illinois corporation, its Manager

By:  (SEAL)
Name: Marc R. Wilkow
Title: President
20 South Clark Street
Suite 3000
Chicago, IL 60603
Tel: 312.279.5963
Email: mwilkow@wilkow.com



Signed, sealed and delivered in presence of:


Notary Public

My commission expires:

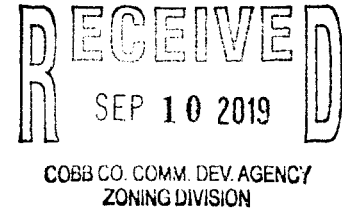
Sept. 8, 2021

Promenade, Suite 3100
1230 Peachtree Street, N.E.
Atlanta, Georgia 30309-3592
Main: 404 815-3500
www.sgrlaw.com

SMITH, GAMBRELL & RUSSELL, LLP
Attorneys at Law

J. Alexander Brock
Direct Tel: (404) 815-3603
Direct Fax: (404) 685-6903
jabrock@sgrlaw.com

September 10, 2019



VIA HAND DELIVERY

John Pederson, Division Manager
Cobb County Zoning Division
1150 Powder Springs St, Suite 400
Marietta, GA 30064

Re: Application for Other Business to (a) Allow for the Creation of an Outlot Parcel in the Providence Pavilion Shopping Center, Located at 1025 Veterans Memorial Hwy, Land Lots 165 and 166, 18th District and an Attendant Frontage Variance; and (b) Allow for a Modification to the Zoning Plan to Add a Patio Area to one of the Original Structures.

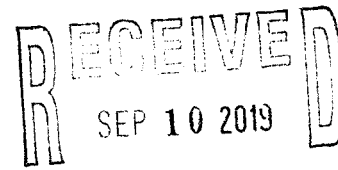
Dear Mr. Pederson:

I represent Providence NLS, LLC and Providence 203, LLC (collectively "Owner" and/or "Applicant") in their application to secure necessary entitlements at the above referenced location. The property at issue is located in Land Lots 165 and 166, 18th District and more specifically at 1025 Veterans Memorial Highway, Austell, GA (the "Subject Property"). The Subject Property is currently developed as the Providence Pavilion Shopping Center.

In 2003, the Subject Property was rezoned pursuant to Ordinance Z-37 and subject to sixteen (16) conditions and multiple agreeable stipulations. Certain of the zoning conditions note that the Subject Property is to be developed in accordance with the site plan attached to Z-37 (the "2003 Zoning Plan"), and require Board of Commissioners approval prior to the creation of any outlots.

The Applicant seeks to amend the 2003 Zoning Plan to allow for (a) the creation of an outparcel lot to develop additional parking and an attendant frontage variance; and (b) the modification of one of the original structures to show a patio area. The instant Application seeks approval for the proposed changes pursuant to Cobb County Code of Ordinances § 134-126 which allows minor amendments to zoning stipulations and/or zoning site plans to be approved by the Cobb County Zoning Division Manager after consideration by the Board of Commissioners. Attached hereto are all items required for completing an application for an





"Other Business" agenda item. The Applicant is requesting that ~~the matter~~ be heard on October 15, 2019.

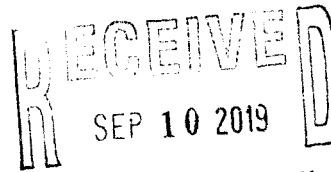
The 2003 Zoning Plan depicts several outlots including Parcel ID 18016600050 ("Restaurant Lot") which is now projected to have a restaurant tenant. [The Restaurant Lot was developed with a small $\pm 1,865$ square foot building that has housed various commercial tenants in the past, including a coffee shop and an events planning business, but now sits vacant (the "Restaurant Lot Building")]. The Restaurant Lot, however, only includes the building itself and does not provide room for any onsite parking.¹ In addition, the 2003 Zoning Plan depicts a small retail shops building just to the north of the Restaurant Lot. This structure was never built and the area remains unimproved. The anticipated retail shops building was to be located to the side of the main shopping center structure with limited nearby parking. This is an impractical location for retail with little visibility and limited parking.

This Application seeks to amend the 2003 Zoning Plan to allow the Applicant to develop parking on the adjacent grassed lot for the anticipated restaurant and add certain improvements (e.g. a patio area) to the Restaurant Lot Building for the prospective tenant. The Applicant also intends to subdivide a $\pm 20,008$ square foot parcel, which comprises the proposed parking area, from the parent tract (the "Proposed Parcel"). The Applicant seeks the subdivision to remove the restaurant parking from commercial agreements and other encumbrances placed on the overall shopping center.

The proposed parking and restaurant lot building improvements will conform to applicable Cobb County buffers and site dimensional requirements. The creation of the Proposed Parcel, however, will require a concurrent variance to § 134-218(4) to remove the requirement for a minimum of 50-feet of public road frontage. The Proposed Parcel will be interior to the Providence Pavilion Shopping Center and will not have frontage on the nearby Veterans Memorial Parkway. The Applicant will provide an access easement from Veterans Memorial Parkway to facilitate vehicular access to and from the Proposed Parcel. The existing Restaurant Lot was similarly created without any frontage and has functioned for over 15-years with no issue. Therefore, the creation of the Proposed Parcel is not anticipated to cause any public detriment. Additionally, the Applicant has met with community groups, Cobb County Staff, and other relevant stakeholders to identify any concerns and address them prior to the instant submission.

In light of the foregoing, I am obligated to advise that the existing restrictions on the Subject Property are unconstitutional and that the denial of this Application would be unlawful, arbitrary, capricious, irrational, and a manifest abuse of discretion; all in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section 1, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

¹ Parcel 18016600050 only encompasses the four corners of the existing building and no other site improvements on the parcel, including a parking field.



Further, the Zoning Ordinance of the Cobb County, Georgia lacks adequate standards for the Board of Commissioners to exercise their power to zone and rezone. In essence, the standards are not sufficient to contain the discretion of the Board of Commissioners and to provide the Courts with a reasonable basis for judicial review. Because the stated standards (individually and collectively) are too vague and uncertain to provide reasonable guidance to the Board of Commissioners, the Zoning Ordinance violates the Fifth and Fourteenth Amendments of the Constitution of the United States in matters of zoning. The Zoning Ordinance also violates Article I, Section III, Paragraph 1; and Article I, Paragraphs 1 and 2 of the Constitution of State of Georgia, 1983.

The Board of Commissioners are granted the power to zone pursuant to Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983. It is a power which must be fairly exercised. Based on this element of fairness, the Zoning Ordinance of Cobb County, Georgia violates Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983.

It is the position of the Applicant that the denial of this Application would constitute a taking of property without just and adequate compensation and without due process of law in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States, as well as Article 1, Section 1, Paragraph 1; Article 1, Section 3, Paragraph 1 (a); and Article 3, Section 6, Paragraph 2 of the Constitution of the State of Georgia (1983). The denial of this application would bear no reasonable relation to the health, safety, morals or welfare of the public.

For the foregoing reasons, the Applicant respectfully requests that the proposed Other Business application be approved. The Applicant also invites and welcomes any comments from Staff or other Cobb County officials so that such recommendations or input might be incorporated as conditions of approval of this Application.

Sincerely,

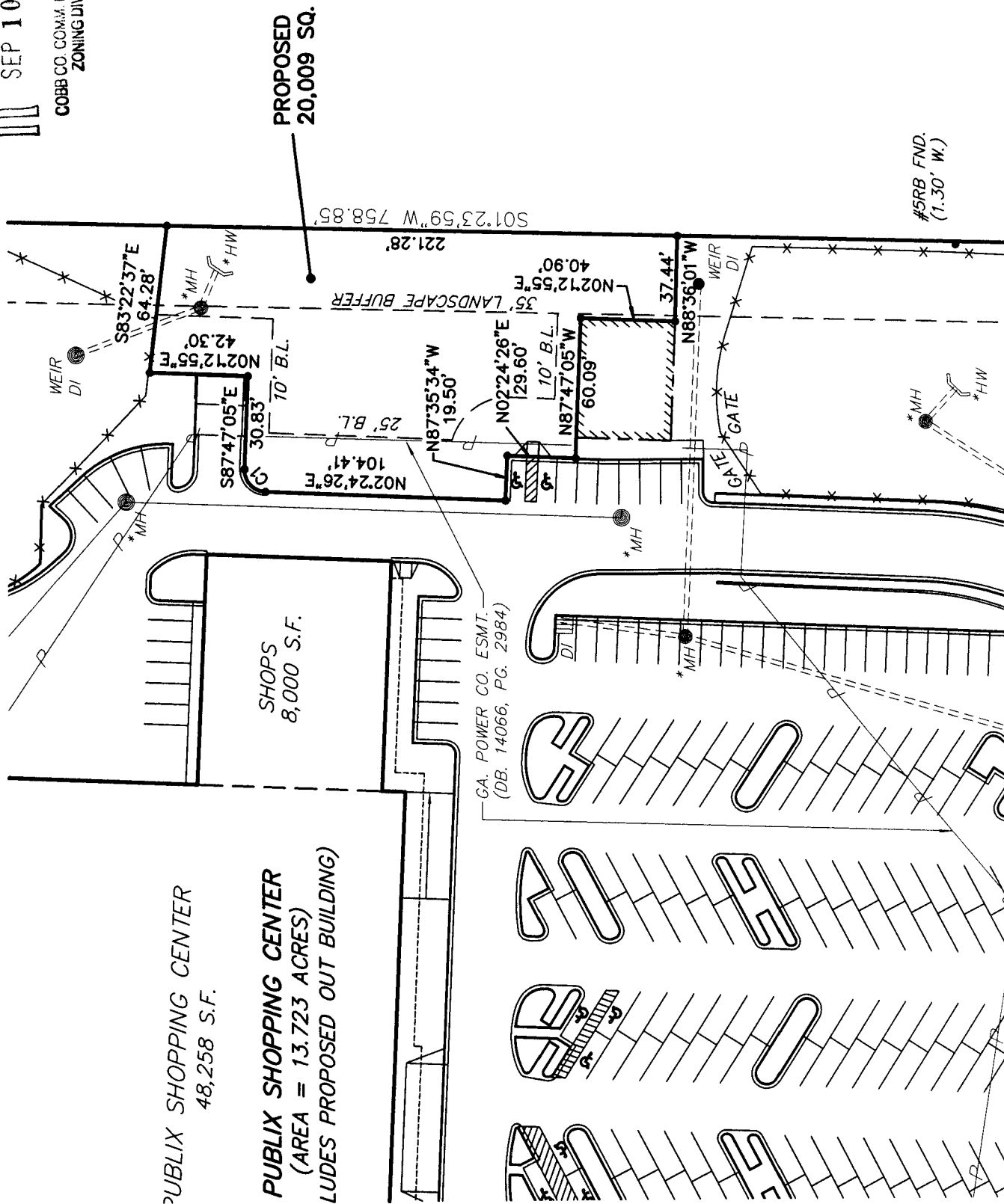
J. Alexander Brock
Attorney

JAB/jab

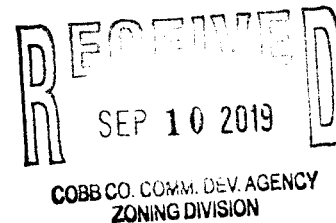
RECEIVED

SEP 10 2019

COBB CO. COMM. DEV. AGENCY
ZONING DIVISION



MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
APRIL 17, 2003
PAGE 8



Z-13 GWINNETT PARTNERS, LLC (Continued)

MOTION: Motion by J. Thompson, second by S. Olens, to hold rezoning request until the May 20, 2003 Board of Commissioners zoning hearing.

VOTE: **ADOPTED** unanimously

Clerk's Note: Applicant was encouraged to continue negotiations with representatives of the community regarding density and placement of the buildings on the property. Zoning staff was directed to provide the Board with all related documentation for each case on the agenda, specifically supplemental documentation prepared by staff or applicants and/or their representatives. Legal staff was directed to prepare a legal analysis for the Board relevant to a conservation easement as compared to a deed in perpetuity.

REGULAR AGENDA – NEW BUSINESS (Continued):

Rezoning (Continued):

Z-37 COLUMBIA PROPERTIES, INC. (Franklin D. Fowler, et al., owners) for Rezoning from GC, UVC and R-20 to CRC for the purpose of a Shopping Center in Land Lots 165 and 166 of the 18th District. Located at the northeast intersection of Veterans Memorial Highway and Buckner Road at Queen Mill Road.

The public hearing was opened and Mr. John Moore, Ms. Teresa Buchanan, Ms. Roberta Cook, Ms. Robin Meyer, and Ms. Ann Stephens addressed the Board. Following presentations and discussion, the following motion was made:

MOTION: Motion by W. Thompson, second by Olens, to approve rezoning to the CRC zoning district **subject to:**

- final site plan and architectural design to be approved by the District Commissioner
- letters of agreeable stipulations from Mr. John Moore, dated April 15, 2003 and April 16, 2003, *not otherwise in conflict, and with the following revision to Paragraph 5 of the April 15, 2003 letter: "block" changed to "split-faced block;" if any painting of block is necessary it shall be a muted color* (copies attached and made apart of these minutes)

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
APRIL 17, 2003
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Z-37 COLUMBIA PROPERTIES, INC. (Continued)

- letter of agreeable stipulations from Ms. Robin Meyer, dated April 16, 2003, *omitting paragraph 1, and not otherwise in conflict with the letters of stipulation from Mr. John Moore* (copy attached and made apart of these minutes)
- all buildings to have brick and/or stucco fronts and sides
- approval of use and plans by the Board of Commissioners for all outlots prior to permitting
- all landscaping to be approved by the County Arborist
- areas barren of vegetation within the 35-foot landscape buffer to be enhanced with trees, shrubs, and other vegetation as approved by the County Arborist and District Commissioner
- Level II Archaeological Study to be performed prior to any grading permits being issued
- all artifacts excavated from this site to be placed in the custody of the Director of the Community Development Agency of Cobb County until a permanent display location is determined
- gas fueling station and canopy to be similar in architecture and brick design with the shopping center complex
- concrete parking stops to be installed on the 18 parking spaces located to the east of the fueling station as depicted on the preliminary site plan dated April 14, 2003 (copy of preliminary site plan attached and made apart of these minutes)
- Historic Preservation comments and recommendations *to include memorandums from Mr. Michael Fortenberry dated April 1, 2003 and April 15, 2003* (copies attached and made apart of these minutes)
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations
- owner/developer to enter into a Development Agreement pursuant to O.C.G.A. 36-71-13 for dedication of system improvements to mitigate traffic concerns

VOTE: ADOPTED unanimously

Clerk's Note: The oil/water separation system as stipulated in Z-32 (The Kroger Company) shall be taken into consideration at final site plan review. Staff to evaluate the need for "No Truck" signs along Queen Mill Road and review archeological site number 5 in close proximity to the stream area for a possible pocket park.

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
APRIL 17, 2003
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Following the vote on Z-37, a brief recess was taken from 10:25 a.m. to 10:40 a.m.

Z-26 PRISKE-JONES COMPANY (Leon R. Moore, owner) for Rezoning from R-20 to RA-5 for the purpose of a Subdivision in Land Lots 290 and 291 of the 18th District. Located on the east side of Queen Mill Road, south of Ivey Road.

The public hearing was opened and Mr. Garvis Sams, Jr., addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by W. Thompson, second by Lee, to delete rezoning to the R-15 OSC zoning district subject to:

- minimum house size of 1,600 square feet for ranch houses; and a minimum 2,000 square feet for two-story houses
- letter of stipulations from Mr. Garvis Sams, Jr., dated February 20, 2003, *omitting Paragraph 5, not otherwise in conflict* (copy attached and made apart of these minutes)
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations as revised February 24, 2003
- Cobb DOT comments and recommendations
- owner/developer to enter into a Development Agreement pursuant to O.C.G.A. 36-71-13 for dedication of system improvements to mitigate traffic concerns

Following the motion and second, extensive discussion ensued and the following substitute motion was made:

SUBSTITUTE MOTION: Motion by W. Thompson, second by Olens, to hold rezoning request until the Regular Board of Commissioners meeting on Tuesday, April 22, 2003, at 7:00 p.m., **subject to Applicant complying with all R-15 OSC criteria and review by Planning Division Staff; however, if Applicant's request is not in compliance, the rezoning request shall be held until the May 20, 2003 Board of Commissioners zoning hearing.**

VOTE: **ADOPTED 4-1;** Goreham opposed

For resolution of Z-26, see minutes of Regular Board of Commissioners meeting on April 22, 2003.

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP

192 ANDERSON STREET

MARIETTA, GEORGIA 30060

WWW.MIJS.COM

JOHN H. MOORE
STEPHEN C. STEELE
WILLIAM R. JOHNSON†
ROBERT D. INGRAM†
J. BRIAN O'NEIL
G. PHILLIP BEGGS
ELDON L. BASHAM
MATTHEW J. HOWARD
JERE C. SMITH
CLAYTON O. CARMACK
KEVIN B. CARLOCK†
ALEXANDER T. GALLOWAY III†
J. KEVIN MOORE

SUSAN S. STUART
RODNEY R. MCCOLLOCH
DANIEL A. LANDIS
BRIAN D. SMITH
HARRY R. TEAR III
W. TROY HART
JEFFREY A. DAXE
MELISSA W. GILBERT
TIMOTHY W. BAILEY
JOYCE W. HARPER
THOMAS L. SCHAEFER**
PATRICK D. DODSON***
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AMY K. WEBER
BRYAN C. MAHAFFEY
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KIM A. ROPER
BART W. REED
TARA C. RIDOLE
JOSHUA M. BOOTH***
KELLI L. CROSS
C. LEE DAVIS
TANYA L. CROSSE***
ROBERT W. BROWN II
JASON L. FOSS
JAMES S. WIDENER

VICTOR P. VALMUS
JASON C. FISHER
NATHANIEL F. HANSFORD*
JEFFERY L. DICKERSON
T. SHANE MAYES
DALLAS R. IVEY

OF COUNSEL:
JOHN L. SKELTON JR.

† ALSO ADMITTED IN TN
* ALSO ADMITTED IN NC
** ALSO ADMITTED IN CA
*** ADMITTED ONLY IN TN
**** ALSO ADMITTED IN AL

WRITER'S DIRECT
DIAL NUMBER

April 15, 2003

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
Suite 300
191 Lawrence Street
Marietta, Georgia 30060-1661

Hand Delivered

Min. Bk. 23 Petition No. Z-37
Doc. Type Stipulation Letter
Meeting Date April 17, 2003

RE: Application for Rezoning

Application No.: Z-37 (2003)

Applicant: Columbia Properties Incorporated

FILED WITH COUNTY CLERK THIS 17th DAY
OF April 2003 BY John Moore
RE Z-37
Andrew J. Richardson
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

Owners: Franklin D. Fowler; Velton V. Fowler; Rachel Woodall; Dabney Partners, LLC; Bennett A. Brown, III; James A. Glass; Elizabeth Carlton; and John Wieland Homes and Neighborhoods, Inc.

Property: 22.04 acres located on the north side of Veterans Memorial Highway and Queens Mill Road Land Lot 166, 18th District, 2nd Section, Cobb County, Georgia

Dear John:

As you know, this firm represents Columbia Properties Incorporated, the Applicant (hereinafter referred to as "Applicant"), and Franklin D. Fowler; Velton V. Fowler; Rachel Woodall; Dabney Partners, LLC; Bennett A. Brown, III; James A. Glass; Elizabeth Carlton; and John Wieland Homes and Neighborhoods, Inc., the Property Owners (hereinafter collectively referred to as "Owners"), in their Application for Rezoning with regard to a 22.04 acre tract

MOORE INGRAM JOHNSON & STEELE

Petition No. 2-31
Meeting Date April 17, 2003
Continued

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
Page Two
April 15, 2003

located on the north side of Veterans Memorial Highway and Queens Mill Road, Land Lot 166, 18th District, 2nd Section, Cobb County, Georgia (hereinafter the "Subject Property"). After meeting with planning and zoning staff, meetings with representatives of area subdivisions and homeowner groups, and reviewing the staff comments and recommendations and the uses of surrounding properties, we have been authorized by the Applicant and Owners to submit this letter of agreed stipulations which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property. This correspondence shall supersede and replace in full our previous letter of agreeable stipulations and conditions dated and submitted on March 26, 2003. The referenced stipulations are as follows:

- (1) The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the Subject Property.
- (2) Rezoning of the Subject Property will be from the General Commercial ("GC"), Urban Village Commercial ("UVC"), and R-20 zoning categories to the Community Retail Commercial ("CRC") zoning category with reference being made to that certain Preliminary Site Plan prepared for Columbia Properties Incorporated by Paulson Mitchell Incorporated dated April 14, 2003.
- (3) By this letter of agreeable stipulations and conditions, Applicant amends its Application for Rezoning to include the revised Preliminary Site Plan hereinabove set forth, same being prepared by Paulson Mitchell Incorporated dated April 14, 2003, which is submitted contemporaneously herewith.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
Page Three
April 15, 2003

Petition No. Z-37
Meeting Date April 17, 2003
Continued

- (4) The total site area for development is comprised of 22.04 acres.
- (5) The structures within the main portion of the proposed retail development, anchored by Kroger, shall consist of brick with stucco-type accents on the front and sides with block in the rear painted in a color to complement the front and shall be in substantial conformance with the renderings presented at the Board of Commissioners Zoning Hearing held on April 17, 2003.
- (6) The structure designated on the referenced Preliminary Site Plan as Eckerd's shall be in substantial conformance with the renderings to be presented at the Board of Commissioners Zoning Hearing held on April 17, 2003.
- (7) All structures erected on out parcels within the proposed retail development shall be architecturally compatible with the main center.
- (8) Entrance signage for the proposed retail development shall be ground based, monument style signage, with the finish, materials, and color being compatible with and complementary to the overall development. Such signage shall be internally illuminated or "up lit" and shall contain no flashing sign components. There shall be no roof signs, no billboards, and no exterior, temporary signs excepting only grand opening signage, leasing signage, and signage indicating the coming development.
- (9) Any roof-mounted HVAC equipment shall be screened by means of a continuous roof parapet which shall be one (1) foot higher than the highest point of the HVAC equipment.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
Page Four
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Petition No. 2-31
Meeting Date April 17, 2003
Continued

- (10) Lighting fixtures for parking areas shall be environmentally sensitive, shoe-box style and shall be fitted with non-glare lenses and cut off shields to prevent light from extending beyond the property line.
- (11) Security lighting on the structures shall be wall packs, hooded, environmentally sensitive and shall be fitted with non-glare lenses and cut off shields to prevent light from extending beyond the property line.
- (12) All dumpsters servicing the proposed retail development shall be enclosed with a minimum six (6) foot high masonry enclosure on three sides with a solid screen gate on the access side. All dumpsters shall contain rubber lids to minimize noise. Dumpsters shall be emptied Monday through Saturday from 8:00 a.m. to 7:00 p.m. and Sunday from 2:00 p.m. to 7:00 p.m.
- (13) Minor modifications to the referenced Preliminary Site Plan, including, but not limited to, the layout and stormwater control measures, may be approved by the District Commissioner, as needed or necessary.
- (14) There shall be a thirty-five (35) foot landscape buffer along the northerly and easterly sides of the Subject Property.
- (15) The proposed fueling center shall be located as shown and reflected on the referenced Preliminary Site Plan. The center shall have brick columns to match those in the main center, together with a pitched roof.
- (16) All landscaping relating to signage and within the proposed retail development shall be professionally installed and maintained.

MOORE INGRAM JOHNSON & STEELE

Petition No. Z-37
Meeting Date April 17, 2003
Continued

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
Page Five
April 15, 2003

- (17) The Subject Property will be serviced by Cobb County sewer.
- (18) All detention facilities shall comply with Cobb County Stormwater Management requirements and shall be landscaped to the exterior.
- (19) All landscaping for buffers and detention areas shall be approved by the Cobb County Arborist during the plan review process.
- (20) All buffer areas may be penetrated for purposes of access, utilities, and stormwater management, including, but not limited to, detention/retention facilities, drainage facilities, and any and all slopes or other required engineering features of the foregoing.
- (21) Applicant agrees to comply with the recommendation of the Cobb County Community Development Agency, Historic Preservation Office, and shall have a Level II Archaeological Study performed prior to any land disturbance activity and coordinated through the Cobb County Historic Preservation Commission.
- (22) Applicant shall comply with all county development standards and ordinances relating to project improvements, including stormwater management, detention, hydrology, and downstream considerations, except as approved by the Board of Commissioners, Department of Transportation, or Community Development Agency, as their authority may allow.
- (23) Applicant shall comply with the recently enacted Cobb County Tree Ordinance; and in that regard, Applicant shall use best efforts to minimize grading so as to avoid mass grading of the Subject Property.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
Page Six
April 15, 2003

Petition No. 2-37
Meeting Date April 17, 2003
Continued

- (24) Stormwater detention shall be designed to exceed minimum standards established by applicable law.
- (25) Applicant agrees to the following system improvements to mitigate traffic concerns:
 - (a) The proposed development shall have those curb cuts as shown and delineated on the referenced Preliminary Site Plan;
 - (b) Access to the out parcels shall be as shown and reflected on the referenced Preliminary Site Plan together with inter-parcel access;
 - (c) Donation of right-of-way on the east side of Buckner Road a maximum of thirty (30) feet from the existing roadway centerline;
 - (d) A continuous frontage lane along Veterans Memorial Highway;
 - (e) Installation of sidewalk along the entire road frontages along with installation of pedestrian crosswalks at the proposed signalized intersection;
 - (f) Removal of driveway between out parcel 3 and the proposed parking area, as more particularly shown and reflected on the referenced Preliminary Site Plan;
 - (g) Move drive on Buckner Road further away from the intersection;
 - (h) Widening Buckner Road to a three-lane facility from the intersection to the driveway entrance; and

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
Page Seven
April 15, 2003

Petition No. Z-37
Meeting Date April 17, 2003
Continued

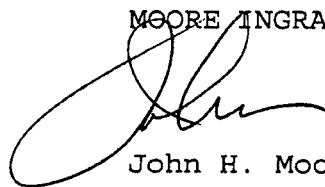
- (i) All work encroaching upon state right-of-way shall require Georgia Department of Transportation approval.

We believe the requested zoning, pursuant to the referenced revised Preliminary Site Plan and the revised stipulations contained herein, is an appropriate use of the Subject Property while taking into consideration the changing conditions of the area and the properties and owners thereof surrounding the proposed retail development. The proposed development shall be of the highest quality, shall be compatible with surrounding neighborhoods, and shall be an enhancement to the Subject Property and the community. Thank you for your consideration in this request.

With kindest regards, I remain

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP



John H. Moore

JHM:cc

Enclosures

c: Cobb County Board of Commissioners:
Samuel S. Olens, Chairman
George Woody Thompson, Jr.
Helen C. Goreham
Joe L. Thompson
Tim Lee
(With Copy of Enclosure)

MOORE INGRAM JOHNSON & STEELE

Petition No. Z-37
Meeting Date April 17, 2003
Continued

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
Page Eight
April 15, 2003

c: Area Residents:
Alberto Andrade
Mary Rose Barnes
David and Marlea Barr
Keith Brunson
Teresa Buchanan
Paul Clark
Robertta Cook
Mary Frey
Apurve Gupta
Joyce Howell
Sal Jones
Reverend Asemnor Marty
Robin Meyer
Tyronda Minter
Carroll Mullis
Carlos Sanchez
Jerry M. Shoemaker
Kristy Ulmer
Gary Vause, II
(With Copy of Enclosure)

Columbia Properties Incorporated
(With Copy of Enclosure)

2006-06-01



VETERANS MEMORIAL HWY &
BUCKNER ROAD
LL 165 & 166
8TH DISTRICT, 2ND SECTION
COBB COUNTY, GEORGIA

4

**COLUMBIA
PROPERTIES**
1355 TERRELL MILL RD.
BLOC 147N SUITE 200
MARIETTA, GA. 30067
(770) 953-8262

EXHIBITS

00022605-230-0000 04.14.03
PRELIMINARY
SUB
PLAN PS.20



VICINITY MAP

[illegible]

Min. Bk. 23 Petition No. 2-31
Doc. Type Site Plan referenced
in Stipulation letter of 4/15/03
Meeting Date April 17, 2003

**FUTURE
DEVELOPMENT**

INDEX

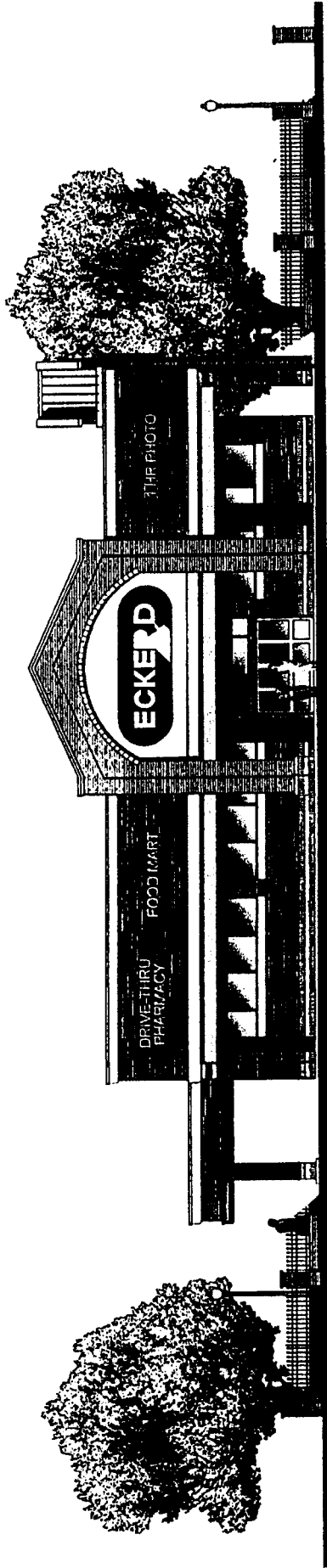
VETERANS MEMORIAL HIGHWAY (S.R. 9)

QUEENS MILL ROAD
1/4 MILE

PRELIMINARY SITE PLAN

Page 10

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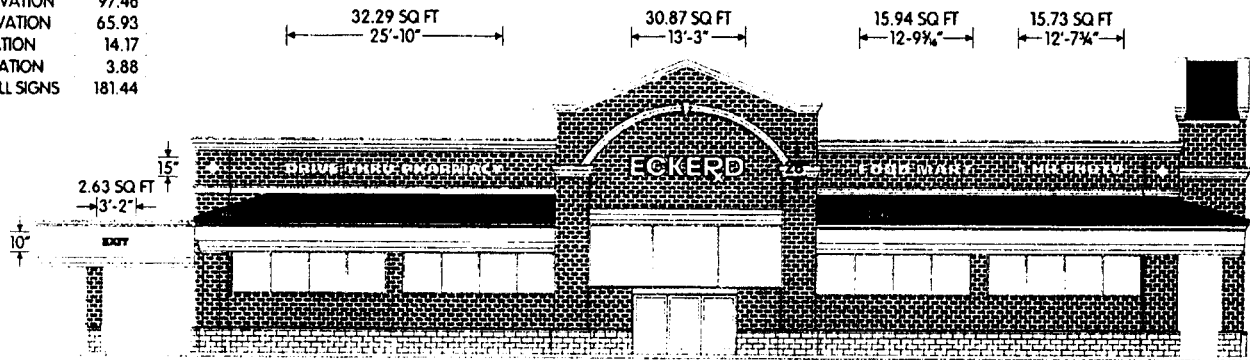


CP INC COLUMBIA PROPERTIES INCORPORATED

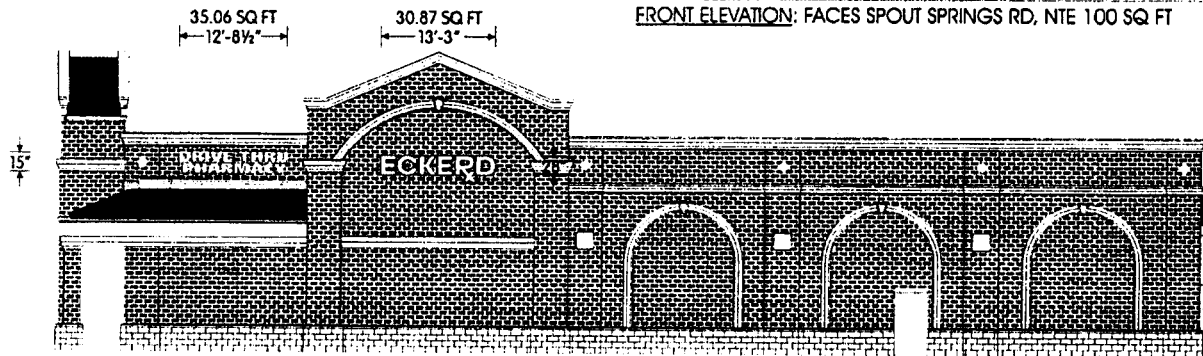
Min. Bk. 23 Petition No. Z-37
 Doc. Type Eckerd rendering as
referenced in stip letter of 7/15/03
 Meeting Date April 17, 2003

PROPOSED ECKERD - FLOWERY BRANCH, GA

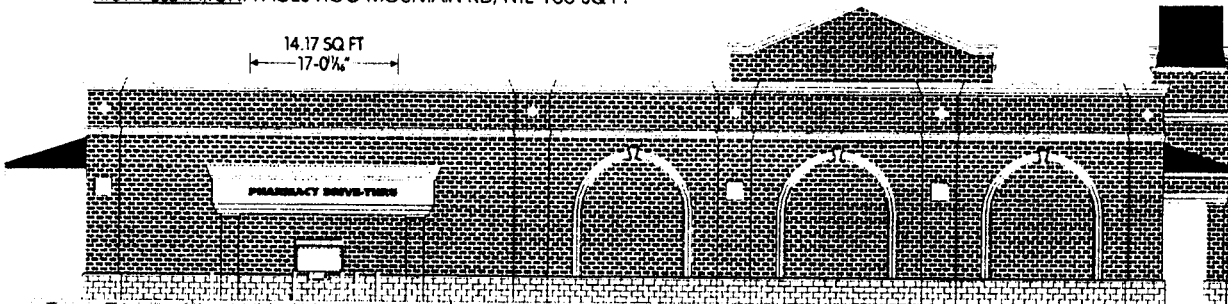
SQUARE FOOTAGE
 FRONT ELEVATION 97.46
 RIGHT ELEVATION 65.93
 LEFT ELEVATION 14.17
 REAR ELEVATION 3.88
 TOTAL WALL SIGNS 181.44



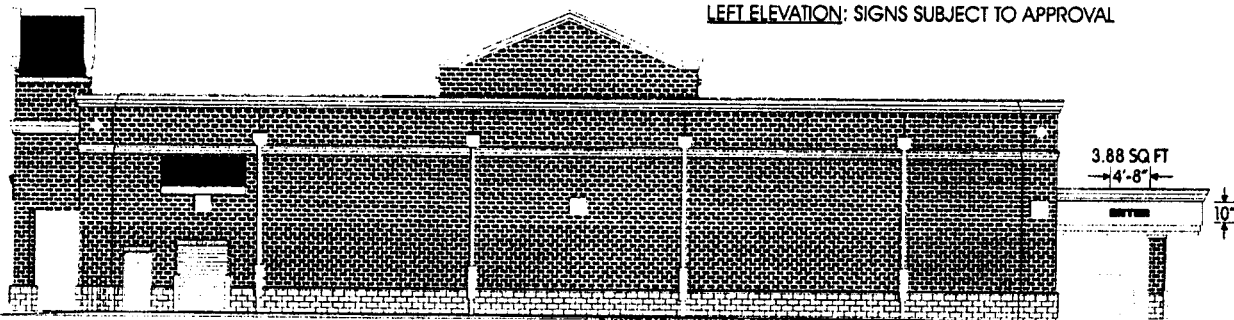
FRONT ELEVATION: FACES SPOUT SPRINGS RD, NTE 100 SQ FT



RIGHT ELEVATION: FACES HOG MOUNTAIN RD, NTE 100 SQ FT



LEFT ELEVATION: SIGNS SUBJECT TO APPROVAL



REAR ELEVATION: SIGNS SUBJECT TO APPROVAL

WALL: NTE 1 1/2 sq ft per linear ft of building frontage, to a maximum of 100 sq ft. Multi frontage sites are calculated with one major frontage.

WINDOW SIGNS: Window sign area NTE 50% of window area. Illumination is not allowed, per code official.

DIRECTIONALS: Number of directionals is not restricted. OAH 2', NTE 2 sq ft. Canopy directionals will not count towards wall sign total if under 2 sq ft, per code official.

Min. Bk. 23 Petition No. 2-37
 Doc. Type Eckerd rendering as
 referenced in stip letter of 4/15/03
 Meeting Date April 17, 2003



BELL SIGNS, INC.

1200 BELL AVE., PANAMA CITY, FL 32401

PHONE: 850.763.7982

FAX: 850.872.8584



**Underwriters
 Laboratories Inc.**

LISTED

CUSTOMER APPROVAL

CLIENT: ECKERD

SCALE: 3/64" = 1'0"

DATE: 01.30.03

REVISED:

DRAWN BY: SB

DWG. NO.: FLOWERYBRANCHGA1

THIS IS AN ORIGINAL UNPUBLISHED DRAWING CREATED BY BELL SIGNS, INC. IT IS SUBMITTED FOR YOUR PERSONAL USE IN CONNECTION WITH A PROJECT BEING PLANNED FOR YOU BY BELL SIGNS, INC. IT IS NOT TO BE SHOWN TO ANYONE OUTSIDE YOUR ORGANIZATION, NOR IS IT TO BE USED, REPRODUCED, COPIED, OR EXHIBITED IN ANY FASHION.

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP

192 ANDERSON STREET

MARIETTA, GEORGIA 30060

WWW.MIJS.COM

JOHN H. MOORE
STEPHEN C. STEELE
WILLIAM R. JOHNSON[†]
ROBERT D. INGRAM[†]
J. BRIAN O'NEIL
G. PHILLIP BEGGS
ELDON L. BASHAM
MATTHEW J. HOWARD
JERE C. SMITH
CLAYTON O. CARMACK
KEVIN B. CARLOCK[†]
ALEXANDER T. GALLOWAY III[†]
J. KEVIN MOORE

SUSAN S. STUART
RODNEY R. MCCOLLOCH
DANIEL A. LANDIS[†]
BRIAN D. SMITH
HARRY R. TEAR III
W. TROY HART
JEFFREY A. DAXE
MELISSA W. GILBERT
TIMOTHY W. BAILEY
JOYCE W. HARPER
THOMAS L. SCHAEFER[†]
PATRICK D. DODSON^{***}
JONATHAN H. PETCU

MAIN OFFICE
POST OFFICE BOX 3305
MARIETTA, GEORGIA 30061

TELEPHONE (770) 429-1499
TELECOPIER (770) 429-8631

TENNESSEE OFFICE
CEDAR RIDGE OFFICE PARK
SUITE 463
408 N. CEDAR BLUFF ROAD
KNOXVILLE, TENNESSEE 37923

TELEPHONE (865) 692-9039
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AMY K. WEBER
BRYAN C. MAHAFFEY
COURTNEY H. MOORE
KIM A. ROPER
BART W. REED
TARA C. RIDOLE
JOSHUA M. BOOTH^{***}
KELLI L. CROSS
C. LEE DAVIS
TANYA L. CROSSE^{***}
ROBERT W. BROWN II
JASON L. FOSS
JAMES S. WIDENER

VICTOR P. VALMUS
JASON C. FISHER
NATHANIEL F. HANSF[†]
JEFFERY L. DICKERSON
T. SHANE MAYES
DALLAS R. IVEY

OF COUNSEL:
JOHN L. SKELTON JR.

[†] ALSO ADMITTED IN TN
[†] ALSO ADMITTED IN NC
^{**} ALSO ADMITTED IN GA
^{***} ADMITTED ONLY IN TN
^{****} ALSO ADMITTED IN AL

WRITER'S DIRECT
DIAL NUMBER

April 16, 2003

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
Suite 300
191 Lawrence Street
Marietta, Georgia 30060-1661

Hand Delivered

Min. Bk. 23 Petition No. Z-37
Doc. Type Stipulation Letter
Meeting Date April 17, 2003

RE: Application for Rezoning

Application No.: Z-37 (2003)

Applicant: Columbia Properties Incorporated

Owners: Franklin D. Fowler; Velton V.

FILED WITH COUNTY CLERK THIS 17th DAY

OF April 2003 BY John Moore

RE Z-37

Andrew S. Richardson

COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

Fowler; Rachel Woodall; Dabney
Partners, LLC; Bennett A. Brown,
III; James A. Glass; Elizabeth
Carlton; and John Wieland Homes
and Neighborhoods, Inc.

Property: 22.04 acres located on the
north side of Veterans Memorial
Highway and Queens Mill Road
Land Lot 166, 18th District,
2nd Section, Cobb County,
Georgia

Dear John:

On behalf of the Applicant and Property Owners of the above-referenced Application for Rezoning, please allow this correspondence to serve as a supplement to the letter of agreeable stipulations and conditions dated April 15, 2003, which, if the Application for Rezoning is approved, as submitted, shall become part of the grant of the requested zoning and shall be binding upon the Subject Property. The additional stipulations are as follows:

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
Page Two
April 16, 2003

Petition No. Z - 37
Meeting Date April 17, 2003
Continued

- (1) Applicant agrees that the following principal uses, though permitted in a CRC zoning classification, shall be prohibited on the Subject Property:

- (a) Arcades;
- (b) Billiards and pool halls;
- (c) Boarding kennels;
- (d) Bus stations;
- (e) Clubs or lodges (noncommercial);
- (f) Colleges and universities (private), including but not limited to, research and training facilities;
- (g) Community fairs;
- (h) Executive golf courses;
- (i) Fraternity and sorority house and residence halls;
- (j) Golf courses, 18-hole regulation, public and private;
- (k) Golf courses, par 3;
- (l) Group homes;
- (m) Motels;
- (n) Rest homes, personal care homes, and convalescent homes;
- (o) Roominghouses and boardinghouses;
- (p) Self-service laundry facilities;
- (q) Adult book or entertainment;
- (r) Pawn shop;
- (s) Tatoo parlor;
- (t) Liquor store.

- (2) There shall be a landscaped area along the frontages of both Veterans Memorial Highway and Buckner Road. Such landscaping shall be approved by the Cobb County Arborist during the plan review process.

Again, thank you for your consideration in this requested rezoning.

MOORE INGRAM JOHNSON & STEELE

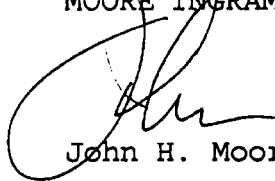
Mr. John P. Pederson
Planner III
Zoning Division
Cobb County Community Development Agency
Page Three
April 16, 2003

Petition No. 2-31
Date April 17, 2003

With kindest regards, I remain

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP



John H. Moore

JHM:cc

c: Cobb County Board of Commissioners:
Samuel S. Olens, Chairman
George Woody Thompson, Jr.
Helen C. Goreham
Joe L. Thompson
Tim Lee
Carroll Mullis

Columbia Properties Incorporated

ROBIN MEYER
6375 QUEEN MILL ROAD
MABLETON, GEORGIA 30126

Min. Blk. 23 Petition No. Z-37
Doc. Type Stipulation letter
Meeting Date April 17, 2003

April 16, 2003

Mr. John Moore, Esq.
Moore Ingram Johnson & Steele
192 Anderson Street
Marietta, Georgia 30060
Via email to: jmoore@mijs.com

FILED WITH COUNTY CLERK THIS 17th DAY
OF April 20 03 BY Robin Meyer
RE Z-37
Jandra L. Richardson
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

Re: Zoning Application Z-37
Columbia Properties, Inc.

Dear Mr. Moore:

Thank you for sending me via email your proposed stipulations letter for this development, dated April 15, 2003. Upon review, I believe that there are some items previously discussed and agreed to that do not appear in the April 15 letter. A few other items below have come up in more recent discussions. For the sake of clarity, I believe that all of the following items should be added to your April 15 letter.

- X 1. With respect to your items #5, 6 & 7 (April 15 letter), all buildings must be totally brick, with the exception of the back of the main center, which may be block painted to match the brick.
2. Add to your #8 that there may not be any additional, free-standing signs for the fueling station, but rather that the fueling station signage be incorporated into the entrance signage.
3. The proposed fueling center's non-brick materials must be muted colors compatible with the brick exteriors; that is, no bright primary or "neon" colors allowed. (add to your item #15)
4. No lighted signs will be allowed on the fueling station canopy.
5. The lighting on the underside of the canopy will either be mounted flush with the ceiling of the canopy or the sides of the canopy will extend below the ceiling in order to shield the lighting from passing traffic.
6. No alcohol sales at the fueling station.

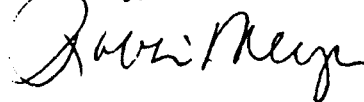
Mr. John Moore
April 16, 2003
Page 2

Petition No. Z-37
Meeting Date April 17, 2003
Continued

7. Traffic entering and leaving the fueling station must be separated from traffic entering and leaving the center via the entrance at Queen Mill Road by a landscaped barrier deemed sufficient by Cobb DOT to prevent the fueling station from causing traffic congestion at the Queen Mill/Veterans Memorial Parkway intersection.
8. As raised at the community meeting, no portion of the property may be used for the following types of businesses: adult novelty stores, tattoo parlors, gun shops, pawn shops, flea markets, thrift stores, or second hand stores. Also, no merchandise may be displayed or stored outdoors except for occasional promotional sales, such as "sidewalk sales" or seasonal items for brief periods (Christmas trees, garden supplies).

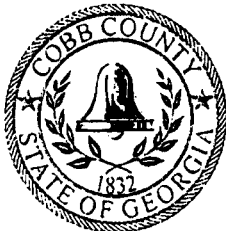
I look forward to seeing you tomorrow and working to incorporate these items into the final zoning approval. As I have stated many times, I truly look forward to this development and to shopping near my home.

Sincerely,



Robin Meyer

cc: Board of Commissioners
John Pederson



COMMUNITY DEVELOPMENT AGENCY

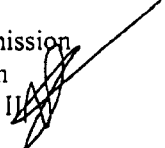
Historic Preservation Office

191 Lawrence Street
Marietta, Georgia 30060-1661

Phone: (770) 528-2010 Fax: (770) 528-2161

Min. Bk. 23 Petition No. Z-37
Doc. Type Memorandum from M. Fortenberry
and as referenced in 4/15/03 mem--nd
Meeting Date April 17, 2003

MEMORANDUM

To: Cobb County Planning Commission
Cobb County Zoning Division
From: Michael Fortenberry, Planner II 
Date: April 1, 2003
RE: Z-37/Columbia Properties

Please find attached, an archaeological study submitted by Columbia Properties that was requested of them during preliminary zoning review. R.S. Webb performed the study and reported that final analysis was inconclusive without further study. I spoke with the applicant yesterday, and they are amenable to a Level II Archaeological Study that would make final determination of the potential historic resources. Therefore, it is my recommendation **the Level II study should be performed prior to any land disturbance activity** and coordinated through the Cobb County Historic Preservation Commission and myself. If you have any questions or comments, please contact me at 770-528-2010.

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

February 27, 2003

Ms. Mary Ellen Yancey
Columbia Properties, Inc.
1355 Terrell Mill Road
Building 1478, Suite 200
Marietta, Georgia 30067

Petition No. Z-37
Meeting Date April 17, 2003
Continued

Subject: Findings: Archeological Field Survey
Veterans Memorial Development Tract
Cobb County, Georgia
R.S. Webb & Associates No. 03-284-001

Dear Ms. Yancey:

BACKGROUND

On February 26, 2003, R.S. Webb & Associates conducted a Phase I archeological field survey for an archeological field survey of an approximate 22-acre development tract fronting Veterans Memorial Highway in Cobb County, Georgia (Figure 1). The purpose of the survey was to identify archeological sites within the project area. An archeological site is defined as a location containing physical evidence of human activity more than 50 years ago. Archeological sites include but are not limited to, prehistoric artifact scatters, historic artifact scatters, Civil War earthworks, cemeteries, structure remains, and similar resources.

METHODS

Literature Search: The 2002 Georgia Archeological sites files database was searched to determine if known archeological sites are located within or near the project area. Darlene Roth's work on Cobb County historic architecture, archeology and historic landscapes was examined as well [i.e., *Architecture, Archeology and Landscapes* (1982)]. Because the study site is known to be in an area of intensive Civil War activity, Civil War era maps and documents were examined to determine where earthworks and/or troop movements occurred [i.e., Cobb County Planning/Zoning Department Map *Historic Locations of Civil War Earthworks*, *The Official Military Atlas of the Civil War* (Davis et al. 1983), *The Campaign for Atlanta* (Scaife 1993)].

Survey for Civil War Surface Features: A surface survey of the entire 22-acre tract was conducted to search for possible Civil War features. The team walked transects spaced 80 to 100 feet apart to ensure full visual coverage of the study site. The team examined each feature to determine if it was a trench, rifle pit, gun ramp, or other Civil War military earthen work.

Survey for Subsurface Archeological Sites: To detect prehistoric and historic archeological sites the field team surveyed the project area along transects spaced 100 ft apart, using surface and subsurface techniques. Exposed surfaces within the project area were inspected for artifacts and surface features. Subsurface techniques included the excavation of one by one-ft screened shovel tests to sterile subsoil and the inspection of shovel test soil profiles. Shovel test soils were screened through 0.25-inch hardware cloth to enhance the recovery of artifacts. In areas where the slope was 20 percent or less, shovel tests were excavated at intervals no greater than 100 ft apart. In areas with slope greater than 20 percent, shovel testing was discretionary.

*Findings: Archeological Field Survey, 22-Acre Veterans Memorial Highway Tract, Cobb County, Georgia
February 27, 2003*

Page 2

When a positive shovel test occurred, the shovel test interval was reduced to 50 ft so that the archeological site could be defined more precisely.

Artifacts recovered from the archeological sites were collected and bagged by shovel test location. The field survey team recorded information on the nature and extent of archeological resources detected during the field survey, and determined if these resources were potentially important archeological sites. The importance of each archeological site was assessed through the presence or absence of intact archeological deposits or features, the degree and types of disturbances observed, the type of site, the potential for containing human remains, state of preservation of archeological materials and the density and diversity of the artifacts present. The same bases are used to determine National Register of Historic Places eligibility status when operating under the National Historic Preservation Act (i.e., Section 106 compliance).

Data Analysis: Artifacts recovered during the field survey were washed, analyzed and catalogued during data analysis. Field maps and notes were transcribed and artifacts were prepared for curation.

RESULTS

Archeological Site Files Search: No state-recognized archeological sites are located within or adjacent to the project area.

Civil War Map Research: Civil War maps of the area indicate that there was significant activity in the study vicinity during July 4 through 9, 1864 as the Union Army approached Nickajack Creek to move on Atlanta. Looking specifically at the project area, the Cobb County Planning/Zoning Department's map of Cobb County entitled, *Historic Locations of Civil War Earthworks* (Figure 2) shows a Union line crossing Turners Perry Road (now known as Veterans Memorial Highway) in the vicinity of the project area. *The Official Military Atlas of the Civil War* shows the same Union trenches crossing Turners Perry Road in approximately the same location (Figure 3). Scaife (1993) shows Union troop alignments in the same area (Figure 4).

Civil War Features Surface Survey: Three sections of possible Civil War trenches (Figure 5; Sites 2, 3 and 5) were recorded during the current study. The locations of these trenches correlate fairly well with the locations of Union earthworks illustrated on Civil War maps. The possible Civil War trenches are in variable states of preservation, but all are recognizable earthworks. The trenches range from one to three feet deep and are approximately four to six feet wide. Trench sections range from 150 feet to 450 feet in length (Figure 5). Trenches at Sites 3 and 5 are on northwest-facing slopes and are positioned correctly to be Confederate trenches rather than Union trenches. The trenches at Site 5 have been recently vandalized by relic hunters. The trench at Site 2 is along the ridge crest and has a high berm along its northwest side, making it more suitable for Confederate use; however, the berm is high enough to have been used by either Union or Confederate forces.

Two pit features detected during the current study are likely to be Civil War rifle pits (Figure 5; Site 1). The pits are six to eight feet in diameter and two to three feet deep. These features are on a northwest facing slope 450 feet down slope from the trench at Site 2. These pits are well positioned to have been Confederate rifle pits. The pits are in fair condition.

Archeological Site Survey: Site 4 is a scatter of prehistoric stone-tool-making debris and 20th century historic ceramic and glass artifacts. The prehistoric artifacts were recovered from two positive shovel tests, while the historic items were observed in an exposed area near a structure to the east. Site 4 is severely disturbed and is not considered a significant archeological site.

A prehistoric projectile point was recovered from the earthwork soils at Site 3. The point is an isolated, repositioned item and is not in its original context. For these reasons, the projectile point find is not considered a significant archeological resource.

Petition No. 2-31
Meeting Date April 17, 2003
Continued

*Findings: Archeological Field Survey, 22-Acre Veterans Memorial Highway Tract, Cobb County, Georgia
February 27, 2003*

Page 3

CONCLUSIONS AND RECOMMENDATIONS

Civil War Era Resources: Possible Civil War earthen features are located in the west (Site 1), central (Site 2) and east (Sites 3 and 5) portions of the project area. The trench features in the central and east portions of the site are near the location where Union trenches are recorded on Civil War era maps. However, the morphology of the trench features do not clearly support Union positions, rather they appear to be more typical of Confederate positions. Additional work is needed to confirm the origin of these four earthwork features, and their orientation (i.e., Union or Confederate). The origin of the rifle pits is also uncertain, since these features are often difficult to discern from tree tips and other non-Civil War-related phenomena.

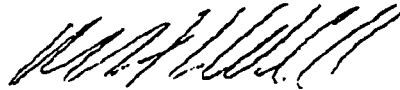
If these earthworks are found to be of Civil War origin, they will be significant archeological resources. The justification for this statement is that these features could be directly linked to specific Union and Confederate actions along Nickajack Creek during the approach on the Confederate River Line between July 4 and 9, 1864. Furthermore, the earthworks at Sites 2, 3, and 5 are well defined. These factors would make the trenches interpretable to the public. It is recommended that earthworks of Civil War origin be preserved if possible. If Civil War features can not be preserved, then Cobb County Zoning/Planning may require some form of mitigation on these features.

Archeological Resources: One archeological site and an isolated projectile point were recorded during the field survey. These resources are highly disturbed due to erosion, cultivation and logging. Similar archeological resources are quite common in Cobb County and north Georgia. Based on the data collected, it is our opinion that these resources do not have the potential for producing additional significant archeological information, and no additional work is recommended.

CLOSING COMMENTS

Ms. Yancey, we appreciate the opportunity to work with you on this project. Please contact Mr. Steve Webb at 770-345-0706 if you have any questions.

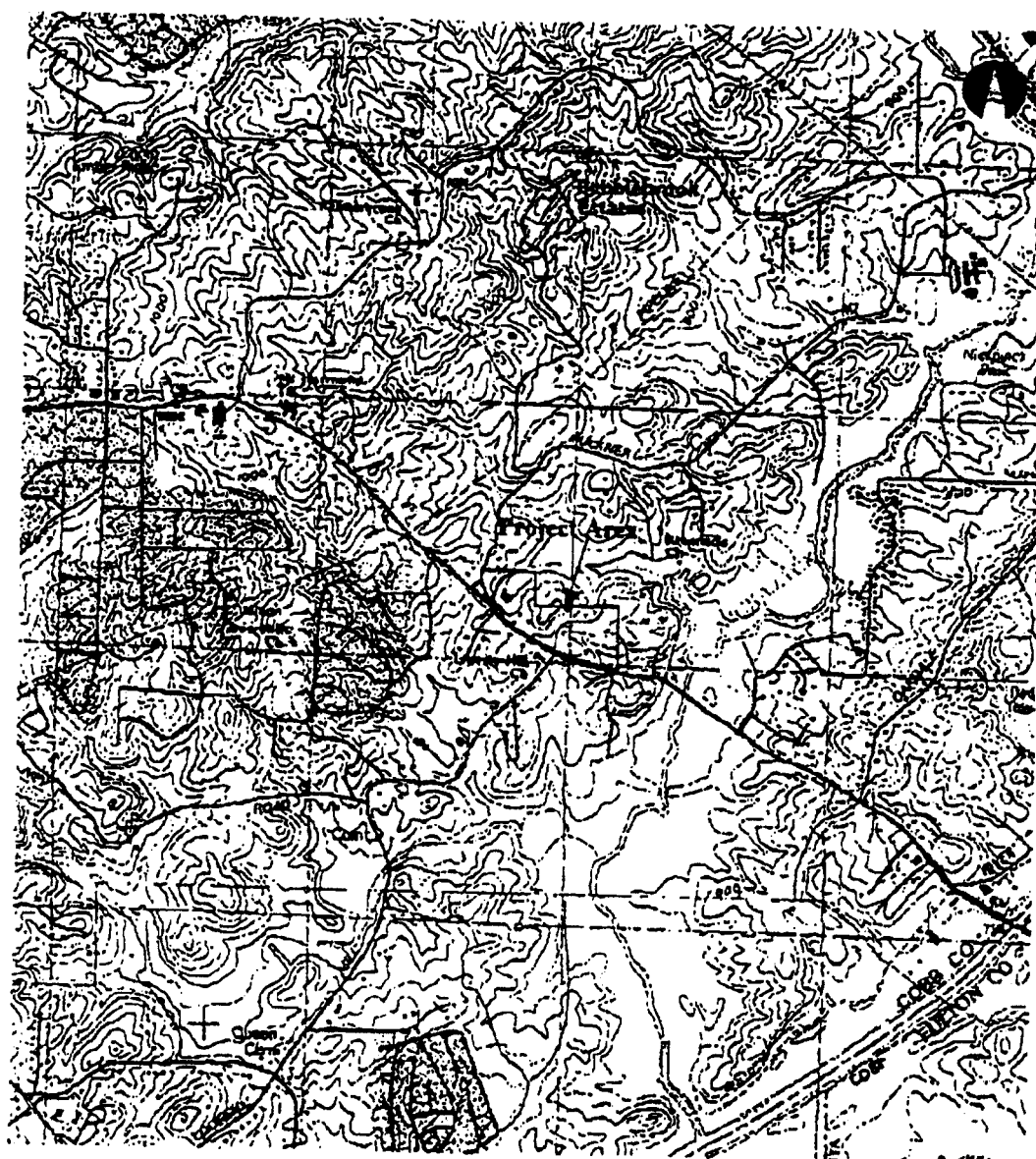
Sincerely,
R.S. WEBB & ASSOCIATES



Robert S. Webb
President and Senior Principal

Attachments: Figures 1, 2, 3, 4 and 5

Petition No. Z-37
Meeting Date April 17, 2003
Continued

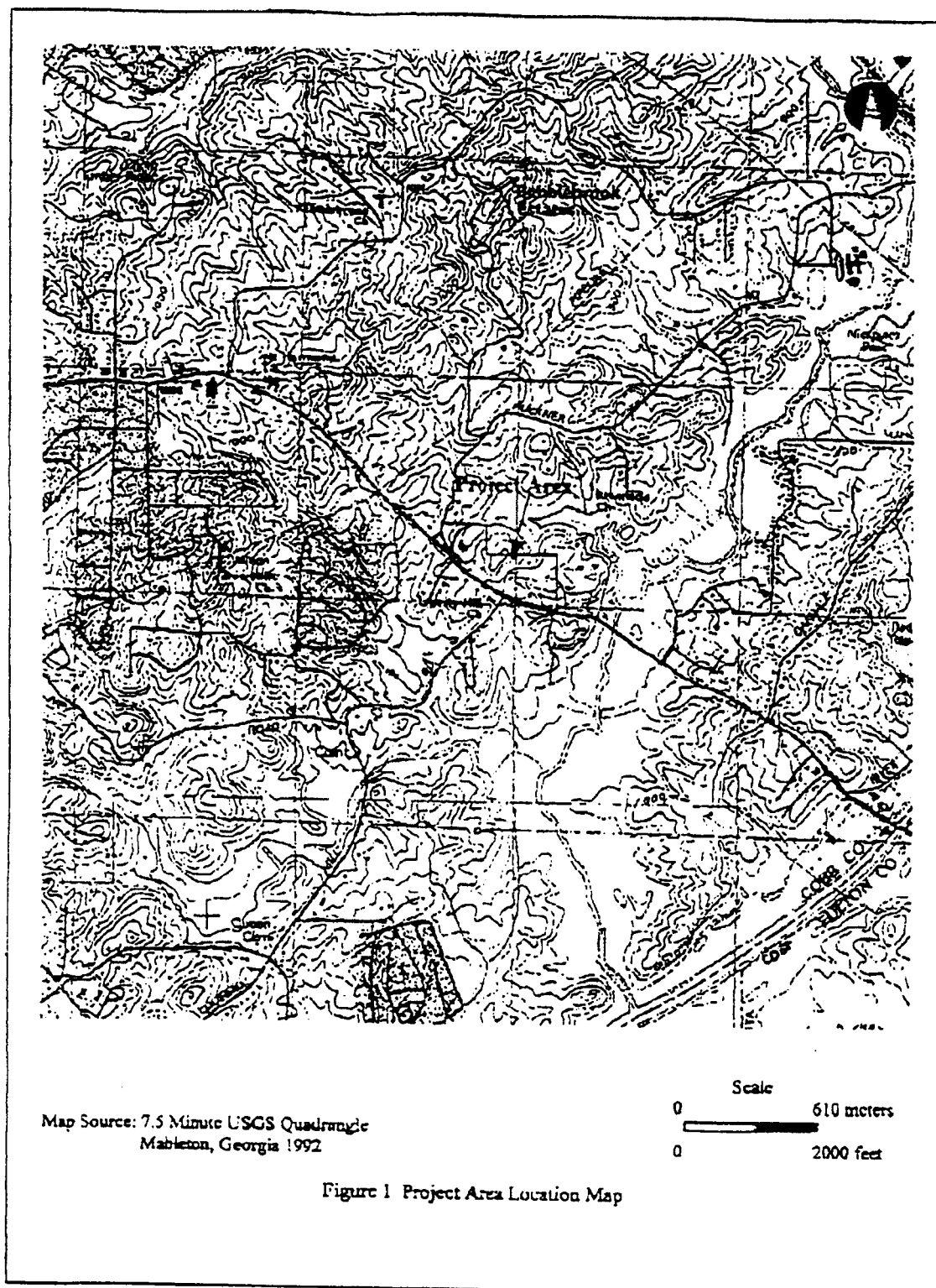


Map Source: 7.5 Minute USGS Quadrangle
Mableton, Georgia 1992

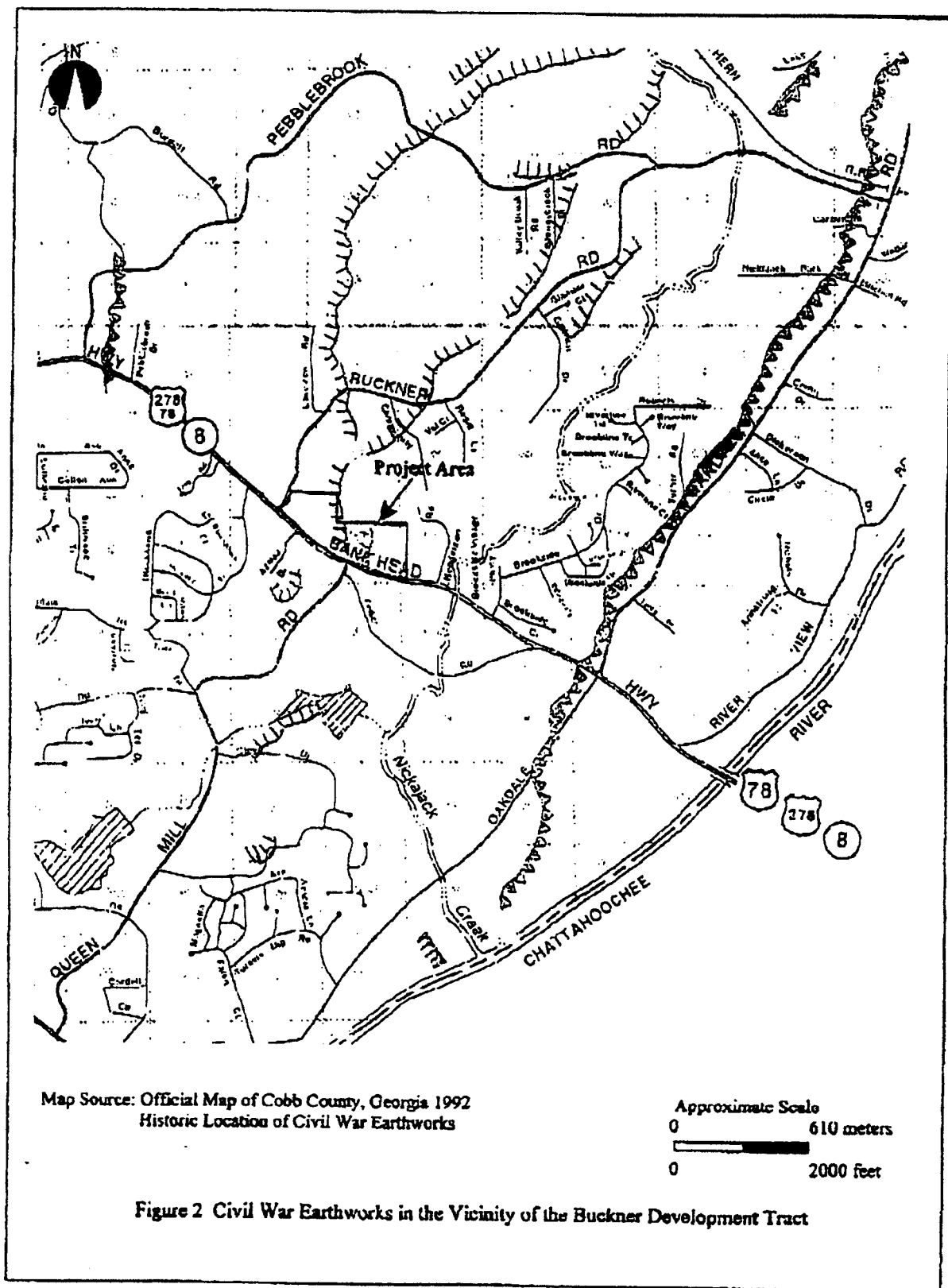
Scale
0 610 meters
0 2000 feet

Figure 1 Project Area Location Map

Petition No. Z-37
Meeting Date April 19, 2003
Continued



Petition No. Z-37
Meeting Date April 17, 2003
Continued



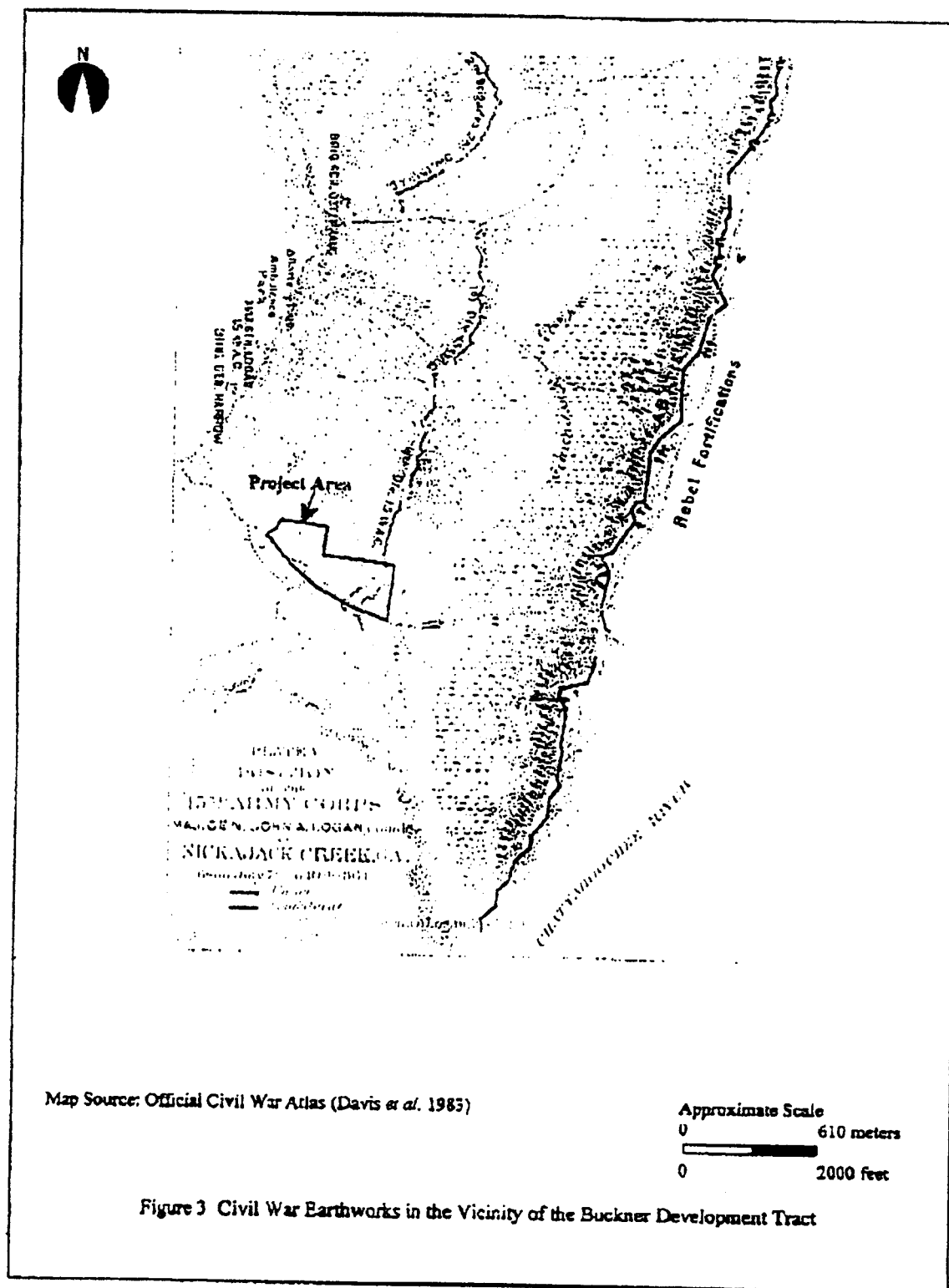
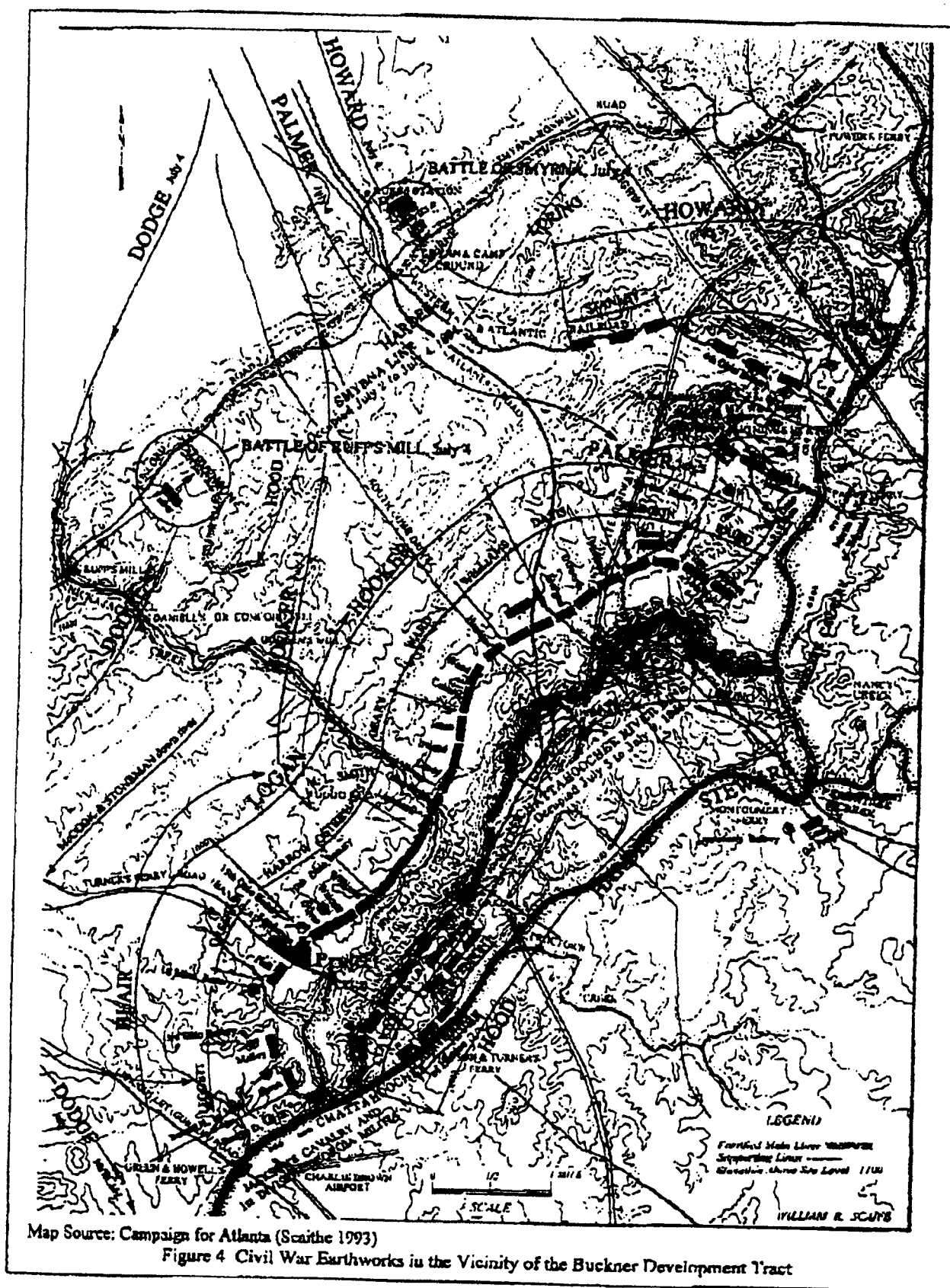


Figure 3 Civil War Earthworks in the Vicinity of the Buckner Development Tract

Petition No. Z-37
Meeting Date April 17, 2003
Continued



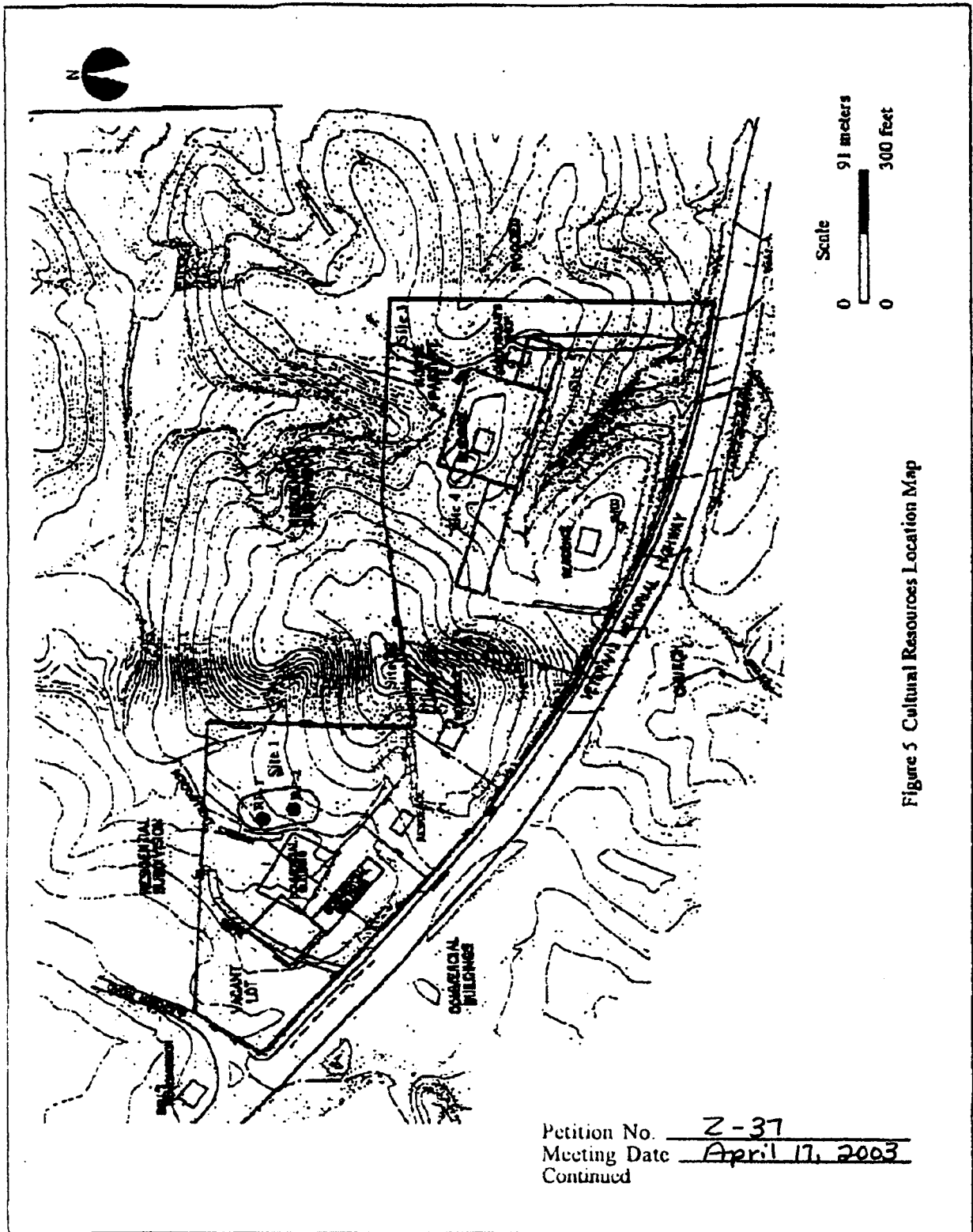


Figure 5 Cultural Resources Location Map



COMMUNITY DEVELOPMENT AGENCY

Historic Preservation Office

191 Lawrence Street
Marietta, Georgia 30060-1661
Phone: (770) 528-2010 Fax: (770) 528-2161

Min. Bk. 23 Petition No. Z-37

Doc. Type Memorandum from M. Fortenberry
(referencing April 17, 2003 Memo also)

Meeting Date April 17, 2003

MEMORANDUM

To: Cobb County Board of Commissioners
Mr. Rob Hosack, Community Development Director
Mr. Mike Tuller, Planning Division Manager
Mr. Mark Danneman, Zoning Division Manager
Ms. Dottie Bishop, Cobb County Attorney
✓ Cobb County Clerks Office

From: Michael Fortenberry, Planning Division

Date: April 15, 2003

RE: Z-37/Columbia Properties Inc./Proposed Kroger/Eckerd

I wanted to provide an update on rezoning case Z-37 that will be before you on Thursday, April 17th. During the preliminary rezoning review, a Phase I Archaeological Study (attached) was requested of Columbia Properties due to the possibility of historic resources being located within or adjacent to the proposed tract. R.S. Webb performed the study on February 26, 2003 and after assessing all of the data that had been found on the site and through historic documentation, the final recommendation of the report was inconclusive without further study. After speaking with Mr. Webb about the inconclusive findings, we decide it would be a valid request of the applicant/developer to fund a Phase II Archeological Study that would provide finite earthwork analysis and relic interpretation. While there appears to be some identifiable resources on the property, determination of their significance is the vital tool that dictates any preservation efforts. The memo referencing my request of the study and the applicant's agreement to fund the study, is attached for your review. I made specific request for the study to be completed prior to any land disturbance activity, with any preservation plan of the site to be approved by the Cobb County Historic Preservation Commission (CCHPC), Plan Review staff and myself.

One last item I wanted to mention is regarding an e-mail you have received one or more occasions from Ms. Roberta Cook regarding the Kroger rezoning and the historic resources she references as being located on the property. First let me say that I am assisting Roberta and some homeowner groups from the Vinings and Oakdale Road area with the identification of historic resources/sites within their community and along the Johnston River Line earthworks. Also, we are working on an overall historically-influenced marketing campaign that involves John Weiland Homes and Neighborhoods, and their current Providence Development and any future residential phases. My concern is that she included my name on the e-mail as a member of her "group" and then she continued to discuss Z-37 with some negative comments regarding the development. I wanted to make it clear that I do not share

in the ideas she mentioned and have no criticism of the proposed development. Furthermore, the historical resource information (trenched, rifle pits) she references as being Mr. Finch's interpretation is not considered with factual merit by the Historic Preservation Commission, as he is not a certified archeologist. The CCHPC is appreciative to these individuals concern(s) of the property, however the Phase II Archaeological Study follows the professional archeological procedures for the extensive documentation and site detailing of a potentially historic site. I am comfortable in that the Phase II study will address all concerns of the site and any historic resources.

If you have any questions or comments, please contact me at 770-528-2010.

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