

**MARCH 18, 2008 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 2**

ITEM # 3

PURPOSE

To consider amending the site plan and stipulations regarding Z-22 (HINES INTERESTS LIMITED PARTNERSHIP) of February 17, 1998 for property located in Land Lots 981, 1012, 1013, 1014, 1027 and 1028 of the 17th District on the east side of I-75 and the north and south sides of Akers Mill Road, west of Cumberland Boulevard.

BACKGROUND

The subject property is zoned RRC subject to numerous conditions/stipulations which are attached. This phase of the overall development was approved for a sixteen story office building and a separate but connected 14,000 square foot retail area. The approved site plan is attached. This request relocates the office building on the site and the retail area is incorporated into the office building structure and both are placed over a three (3) level parking deck. Placing the building over the parking structure increases the height of the office/retail building to 19 stories, but the office portion is still 16 stories. The square footage of the office building is being increased from 350,000 square feet to 360,000 square feet and the retail area is being increased from 14,000 square feet to 15,000 square feet. The proposed site plan is attached. The other business application is also attached

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners first determine if the request is minor. If it is determined to be minor, consider the request and if approved all other previously approved conditions/stipulations should remain in effect.

ATTACHMENTS

Board of Commissioners Decision
Approved Site Plan
Proposed Site Plan
Other Business Application

Minutes of the meeting of the Cobb County Board of Commissioners' Zoning Hearing held on **September 15, 1998** in the Second Floor Commissioners' Meeting Room, Cobb County Building, 100 Cherokee Street, Marietta, Georgia.

OTHER BUSINESS

Item #5

TO CONSIDER SITE PLAN AND STIPULATION AMENDMENTS – Z-22 OF 1998 (HINES INTERESTS LIMITED)

To consider Site Plan and Stipulation Amendments regarding application Z-22 of February 17, 1998 (Hines Interests Limited), for property located at the southeasterly intersection of I-75 and I-285 in Land Lots 981, 1012, 1013, 1014, 1027 and 1028 of the 17th District.

Mr. Danneman stated that subsequent to approval of the DRI, the method which ARC applies NOX ratings has been changed. Based on these changes the applicant can go back to the original density request and still be within the NOX limits. The site plan amendments were reported to include: increase in height of condominium project (with reduction in footprint), increase of office density, and addition of hotel to the project.

Following this report, the Board of Commissioners **approved** request for Site Plan and Stipulation Amendments regarding application Z-22 of February 17, 1998 (Hines Interests Limited), for property located at the southeasterly intersection of I-75 and I-285 in Land Lots 981, 1012, 1013, 1014, 1027 and 1028 of the 17th District **subject to: 1) site plan submitted (reduced copy attached and made a part hereof); 2) letter of agreeable conditions dated August 5, 1998 (attached and made a part hereof); 3) all other previously approved conditions/stipulations to remain in effect.** Motion by J. Thompson, second by Wysong, carried 5-0.

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP

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MARIETTA, GEORGIA 30060

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RAH L. BARGO
KANE M. BUSCH
DAVID IAN MATTHEWS
BRE C. SMITH
AYTON O. CARMACK
CHELLE S. DAVENPORT
VIN B. CARLOCK
ALEXANDER T. GALLOWAY III
ANDY ADAMEK

J. KEVIN MOORE
WILLIAM C. BUHAY
SUSAN S. STUART
MICHAEL W. KITCHENS
RODNEY R. MCCOLLOCH
DANIEL A. LANDIS
BRIAN D. SMITH
HARRY R. TEAR III
MICHAEL R. WING
W. TROY HART
JOSEPH H. AKERS
JEFFREY A. OAXE
JENNIFER L. SCOLIAFO
MELISSA W. GILBERT
M. SUZANNE CAUSEY
DEAN C. BUCCI

* ALSO ADMITTED IN NC

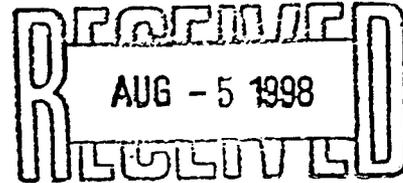
August 5, 1998

*Z-229/1998
stipulated letter
of 9/15/98 Box zoning
Amending (Other
Business Item #5)
Karen Keng*

WRITER'S DIRECT DIAL NUMBER

Mr. Mark A. Danneman
Zoning Administrator
Zoning Division
Cobb County Community
Development Department
Suite 300
191 Lawrence Street
Marietta, Georgia 30060-1661

Hand Delivered
Cobb County
Community Development Dept.
ZONING DIVISION



RE: Application for Site Plan Amendment SENT TO: _____
Application No.: Z-22 (1998)
Applicant: Hines Interests Limited
Partnership
Owners: Sentinel Partners, L.L.L.P. and
Gayle E. Kennedy and
NationsBank of Georgia, N.A.,
as Co-Trustees of the Trust
Established Under Item V of
the Last Will and Testament
of Albert Thornton Kennedy
Property: 33.53, more or less acres
located at the southeasterly
intersection of I-75 and
I-285, Land Lots 981, 1012,
1013, 1014, 1027, 1028,
17th District, 2nd Section,
Cobb County, Georgia

Dear Mark:

As you know, we represent the above-referenced Applicant, Hines Interests Limited Partnership (hereinafter referred to as "Applicant"), and the Property Owners, Sentinel Partners, L.L.L.P. and Gayle E. Kennedy and NationsBank of Georgia, N.A., as Co-

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Zoning Administrator
Zoning Division
Cobb County Community
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Trustees of the Trust Established Under Item V of the Last Will and Testament of Albert Thornton Kennedy (hereinafter collectively referred to as "Owners"). As you are also aware, on or about February 17, 1998, the Board of Commissioners granted final approval of rezoning of the subject property from the Office and Institutional ("OI") and RM-12 zoning categories to the Retail and Residential Commercial ("RRC") zoning category, said rezoning being pursuant and specific to the Master Plan of Development prepared for Applicant and Owner by Roy Ashley & Associates, Inc. dated October 30, 1997, revised January 29, 1998, and submitted January 29, 1998, a copy of which was attached to the official minutes. The rezoning was further approved and conditioned upon certain stipulations, including, but not limited to review and approval by the Board of Commissioners of any future revisions to the Master Plan of Development previously approved by the Board.

After the initial submission to the Atlanta Regional Commission ("ARC") by Applicant in October 1997, the ARC's Transportation Planning Staff performed an "emissions analysis" for the development based on trip generation estimates, calculated as a function of proposed housing units and developable square footage.

The emissions analysis determined that the development as originally designed would produce 61.326 tons per year of nitrogen oxides, which would exceed the ARC policy of 50 tons per year pursuant to the Development of Regional Impact ("DRI"). This 50 tons of nitrogen oxides threshold was established based on the threshold established by the General Conformity section of the Federal Clean Air Act, which states that the federal government will not finance any project that produces 50 tons or greater of nitrogen oxides per year. The Applicant's original submission included the following land uses and densities:

- General Office 1,434,000 square feet;
- Residential 400 units;
- Restaurant 22,500 square feet;
- Hotel 300 rooms;
- Drive-In Bank 7,500 square feet.

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Cobb County Community
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As a result of the trip generations estimated for the development, the Applicant proposed the following transportation demand management strategies:

- (1) A nine (9) foot wide multi-use path along Kennedy Parkway (Cumberland Boulevard) and relocated Akers Mill Road and pedestrian pathways throughout the development;
- (2) Dedication of air and ground rights for the proposed future light rail or monorail system;
- (3) Designated bicycle-parking areas within each office building parking deck in anticipation of future need;
- (4) Coordination with the Cobb Community Transit ("CCT") to construct two (92) bus stops along Kennedy Parkway and another in the vicinity of the Phase IV area of the development; and
- (5) To provide shuttle bus service to the Galleria/Cumberland Mall area and the CCT Cumberland transfer station "on a continuous basis during normal working hours" until the Cobb CID/TMA establishes service to the development.

In the ARC's previous clean air model, the Applicant's proposed transportation enhancements to reduce travel by single occupant vehicles had no affect on the development's calculated nitrogen oxide output. In addition, the Applicant's proposed mixed-use concept was not given any consideration, and the proposed density of the development actually became a detriment to its ability to pass the existing nitrogen oxide standard.

With no credit given for the proposed transportation enhancements, the Applicant was forced to reduce the proposed office density of the development by 26.78 percent from 1,434,000 square feet to 1,050,000 square feet. This reduction was in addition to the Applicant's original reduction in office density from 1,780,000

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Zoning Division
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square feet to 1,434,000 square feet (19.4 percent) in order to add the 400 residential units.

The ARC adopted a new Air Quality Benchmarks for DRI Evaluations system in July 1998. Under the new standards, the Applicant is given "Vehicle Motor Trip" ("VMT") credits for its proposed transportation enhancements that will help achieve a reduction in mobile source emissions. Based on the currently approved Overton Park land uses and densities, the development would receive the following VMT credits:

- I. Projects that meet the relevant density target levels will receive the following VMT credits:
 - A. For projects where Retail and Office are the dominant use:
 - Floor Area Ratios between .6 and .8 -.4%

- II. Projects that contain a 'mix' of uses will receive the following VMT credits:
 - A. For projects where Office is the dominant use:
 - If at least 10% of the floor area is residential space -.4%
 - (520,325 square feet versus
 - 4,181,577 square feet or 12.44%)

- III. Projects that contain transportation service enhancements will receive the following VMT credits:
 - C. TMA that includes shuttle service to an activity center or node -.7%

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IV. Projects that contain bicycle or pedestrian facilities within the site receive the following VMT credits:

E. Bike/ped networks in developments that meet one Density or Mixed Use target, and connect to adjoining uses	-.6%
Total	-21%

Given the new Air Quality Benchmark evaluation format, the Applicant would not be penalized by increasing the office density to the original level of 1,434,000 square feet. In addition, while the residential component certainly adds an attractive "mixed-use" component to the development, given the project's proposed office density and proposed transportation enhancements, the development would still receive an acceptable 17 percent VMT credit reduction without the residential component.

Based on the foregoing, Applicant and Property Owners submit the following amendments to the Master Plan of Development approved by the Board of Commissioners on February 17, 1998, and if approved, as submitted, shall become an additional part of the grant of the final zoning and shall be binding upon the property. The requested amendments to the Master Plan of Development are as follows:

- (1) Applicant requests an amendment to the site plan pursuant and specific to that certain Master Plan of Development prepared for Applicant and Property Owners by Roy Ashley & Associates, Inc. dated August 4, 1998, copies of which are submitted herewith.
- (2) Revision to the specific phases of the Master Plan as follows:

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Mr. Mark A. Danneman
Zoning Administrator
Zoning Division
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Area I - 9.90 acres, more or less:

- (a) Increase the maximum height of the hotel from sixteen (16) stories to nineteen (19) stories, and increase the maximum number of rooms from 300 to 419 rooms and associated meeting/conference space;
- (b) Increase the total density of the two (2) commercial out parcels from 15,000 square feet to 24,500 square feet as follows:
 - i) Free-standing parcel having 10,500 square feet; and
 - ii) Parcel adjacent to office building having 14,000 square feet.

Area II - 5.3 acres, more or less:

- (a) Increase the density of the out parcel from 7,500 square feet to 14,000 square feet.

Area III - 6.07 acres:

- (a) Increase the height restriction for the residential development from six (6) stories to nineteen (19) stories; and
- (b) Increase the density of the out parcel from 7,500 square feet to 14,000 square feet.

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Zoning Administrator
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Area IV - 12.56 acres:

- (a) Increase the office density in the office/hotel development from 175,000 square feet to 350,000 square feet; and
- (b) Increase the density of the office building from 175,000 square feet to 400,000 square feet.

This letter shall also act as an amendment to the previous letter of agreeable stipulations and conditions dated February 13, 1998. All other provisions, stipulations, and conditions contained within the letter of February 13, 1998, and the subsequent minutes of the Board of Commissioners Zoning Hearing held on February 17, 1998, shall remain otherwise unaffected. We respectfully request that this application for site plan amendment be placed on the Board of Commissioners' "Other Business Agenda" for the next regularly scheduled Zoning Hearing on August 18, 1998.

We further believe that the development, when taken into consideration with the previous minutes and stipulations placed upon the development together with the amended stipulations and site plan contained herein, is an appropriate use of the subject property and will not only provide an enhancement to the subject property but will also provide a quality development and unique characteristics to this ever-growing and changing area of Cobb County. Thank you for your consideration in this matter. We look forward to the addition of this item to the upcoming Zoning Hearing agenda.

2-22 of 1998

AREA 1
 478 ROOM HOTEL - 18 STORY
 RESTAURANT
 OFFICE - 18 STORY
 RETAIL/RESTAURANT
 TOTAL SF
 TOTAL ACRES
 PARKING PROVIDED
 PROP. DENSITY
 EX. DENSITY
 NET CHANGE

AREA 2
 18 STORY
 OFFICE - 18 STORY
 RESTAURANT
 TOTAL SF
 TOTAL ACRES
 PARKING PROVIDED
 PROP. DENSITY
 EX. DENSITY
 NET CHANGE

AREA 3
 18 STORY
 CONDOMINIUM
 CONDOMINIUM - 13 STORY
 CONDOMINIUM - 5 STORY
 CONDOMINIUM - 4 STORY
 TOTAL UNITS
 TOTAL SF
 TOTAL ACRES
 PARKING PROVIDED
 PROP. DENSITY
 EX. DENSITY
 NET CHANGE

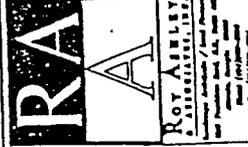
AREA 4
 18 STORY
 HOTEL/RESTAURANT
 OFFICE - 18 STORY
 RESTAURANT/RETAIL
 TOTAL SF
 TOTAL ACRES
 PARKING PROVIDED
 PROP. DENSITY
 EX. DENSITY
 NET CHANGE

*Large Plan in file
 Site plan as approved at Dec zoning
 Hearing on 9/15/98 (Other Business Item #5)
 Large plan*

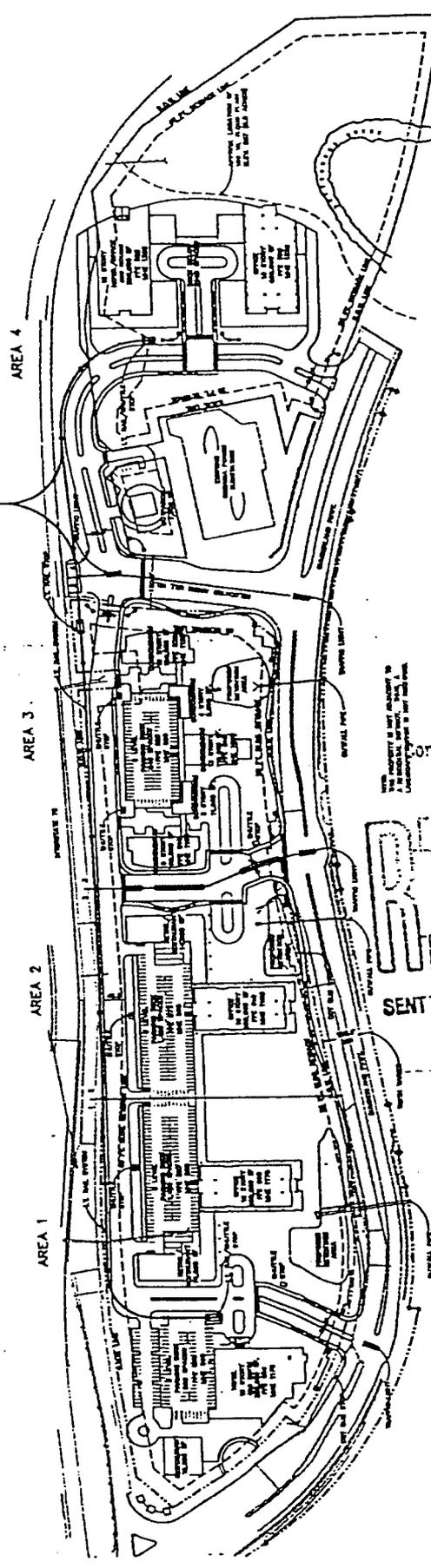
SUMMARY
 TOTAL SF
 TOTAL ACRES
 TOTAL PARKING PROVIDED
 EXISTING ZONING
 PROPOSED ZONING
 PROPOSED TOTAL DENSITY
 EX. DENSITY
 NET CHANGE

MASTER PLAN OF DEVELOPMENT

OVERTON PARK
 ATLANTA, GA



DATE	10/1/98
BY	...
FOR	...
PROJECT	...
SCALE	...
DATE	...



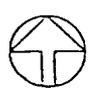
APPROVED
 AUG - 5 1998

SENT TO: _____

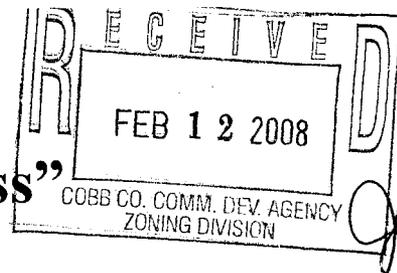
NATIONAL PARK SERVICE

NATIONAL PARK SERVICE

Cobb County
 Community Development Dept



Legend
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Application for "Other Business" Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2045)

BOC Hearing Date Requested: 03/18/2008

Applicant: Hines Interests Limited Partnership Phone #: (770) 206-5300
(applicant's name printed)

Address: Five Ravinia Drive, Atlanta, GA 30346-2102 E-Mail: _____

Moore Ingram Johnson & Steele, LLP

John H. Moore Address: 192 Anderson Street, Marietta, GA 30060

(representative's name, printed)

BY: [Signature] Phone #: (770) 429-1499 E-Mail: jmoore@mij.com; w7@mij.com
(representative's signature) Georgia Bar No. 519800 Telefax: (770) 429-8631

Signed, sealed and delivered in presence of:

Carolyn E. Cook My commission expires: January 10, 2011
Notary Public

Commission District: 2 Zoning Case: Z-22 (1998)

Date of Zoning Decision: 02/17/1998 Original Date of Hearing: 02/17/1998

Location: Southeasterly intersection of I-75 and I-285, also known as "Overton Park"
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 981, 1012, 1013, 1014, 1027, 1028 District(s): 17th

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

See Attached Exhibit "A"

(List or attach additional information if needed)

**EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR OTHER BUSINESS
(SITE PLAN AND STIPULATION AMENDMENT)**

**Application No.: Z-22 (1998)
Original Hearing Date: February 17, 1998
Current Hearing Date: March 18, 2008**

BEFORE THE COBB COUNTY BOARD OF COMMISSIONERS

Applicant: Hines Interests Limited Partnership

Applicant requests amendments relating to Phase II of the development known as "Overton Park," approved through the rezoning process by the Board of Commissioners on February 17, 1998, and which included approval of an overall Master Plan of Development and zoning stipulations applicable to the overall development; as well as subsequent amendments to the project which were approved by the Board of Commissioners on September 15, 1998; February 17, 2000; and November 20, 2001. The amendments as to Phase II of the development are as follows:

- (1) The office building shall be increased in height to a maximum of nineteen (19) stories, comprised of sixteen stories of office space with three (3) levels of parking underneath. Previously, a sixteen (16) story office building was allowed. The maximum square footage of the building shall be increased from 350,000 rentable square feet to 360,000 rentable square feet of office space.
- (2) The retail area shall be increased from 14,000 square feet (pursuant to the amendment approved September 15, 1998) to a maximum of 15,000 square feet of retail space.
- (3) Applicant submits a revised Master Plan of Development of Overton Park depicting the amendments requested above, prepared by Roy Ashley & Associates, Inc. dated January 31, 2000, last revised February 1, 2008.

- (4) Attached are conceptual photographs of the office building proposed for Phase II of the Overton Park project.