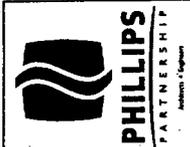
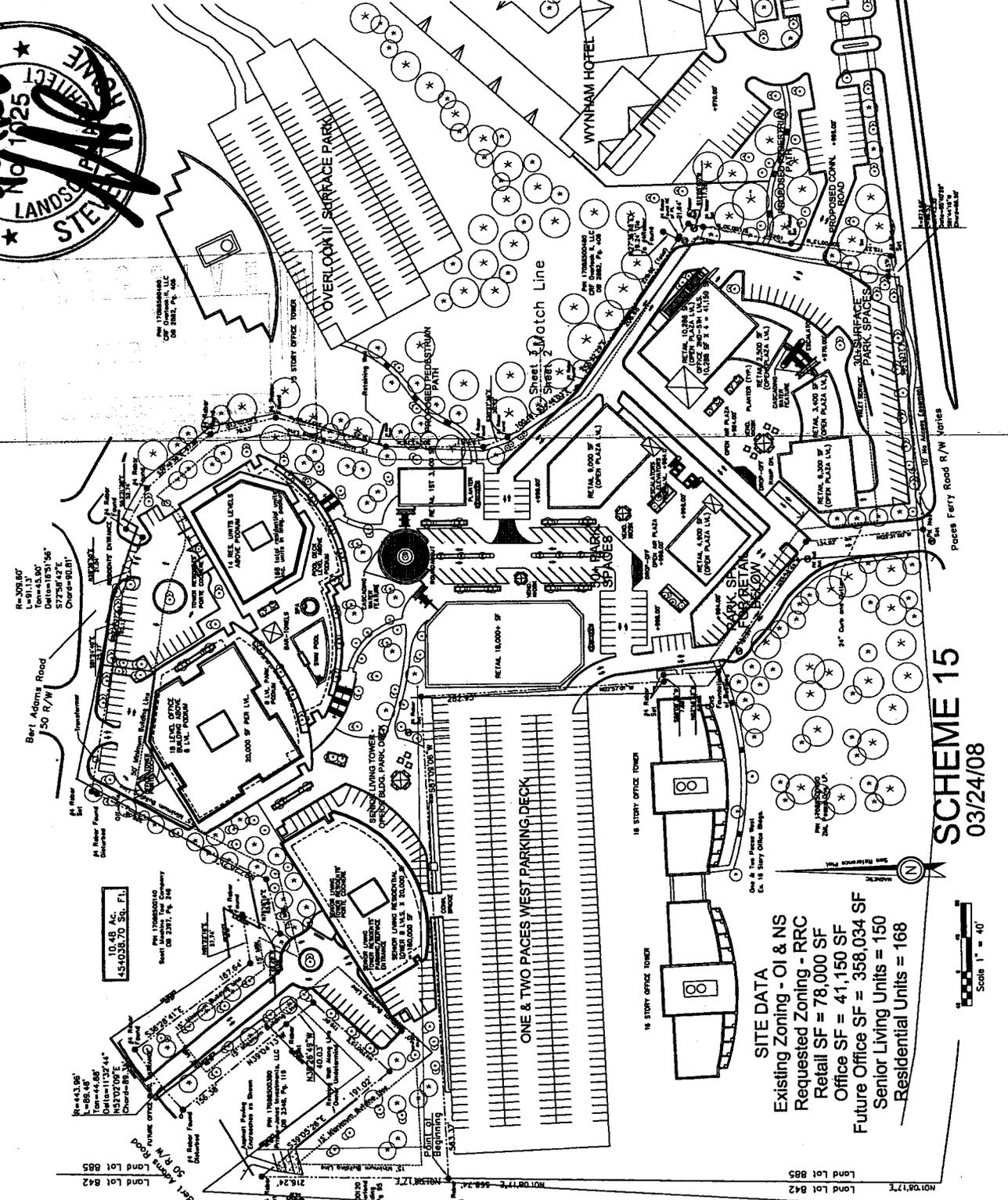


Z-107/ 2007  
 Revised Plan  
 Received March 26, 2008



PHILLIPS PARTNERSHIP  
 ARCHITECTS & ENGINEERS  
 1000 W. Peachtree Street, N.W.  
 Atlanta, Georgia 30308  
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VON VININGS  
 D & A Investment Group, LLC  
 1000 Peachtree Street, N.W.  
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 Phone: 404.524.2000  
 Fax: 404.524.2001  
 Website: www.vonvinnings.com



**SCHEME 15**  
 03/24/08

**SITE DATA**  
 Existing Zoning - O1 & NS  
 Requested Zoning - RRC  
 Retail SF = 78,000 SF  
 Office SF = 41,150 SF  
 Future Office SF = 358,034 SF  
 Senior Living Units = 150  
 Residential Units = 168



Land Lot 842  
 Land Lot 885  
 Land Lot 842  
 Land Lot 885  
 Land Lot 842  
 Land Lot 885

**APPLICANT:** D & A Investment Group, LLC and Pereira  
Management, LLC 404-444-1000

**PETITION NO:** Z-107

**REPRESENTATIVE:** Moore Ingram Johnson & Steele, LLP  
John H. Moore 770-429-1499

**HEARING DATE (PC):** 12-04-07

**HEARING DATE (BOC):** 12-18-07

**TITLEHOLDER:** D & A Investment Group, LLC and Pereira  
Management, LLC

**PRESENT ZONING:** OI, NS

**PROPOSED ZONING:** RRC

**PROPERTY LOCATION:** Located on the north side of Paces Ferry  
Road, west of Overlook Parkway and on the south side of Bert Adams  
Road, south of Mount Wilkinson Parkway.

**PROPOSED USE:** Mixed Use Development

**ACCESS TO PROPERTY:** Bert Adams Road, Paces Ferry Road

**SIZE OF TRACT:** 10.46 acres

**DISTRICT:** 17

**PHYSICAL CHARACTERISTICS TO SITE:** wooded

**LAND LOT(S):** 885

**PARCEL(S):** 13, 16, 51, 54, 55

**TAXES: PAID** X **DUE** \_\_\_\_\_

**COMMISSION DISTRICT:** 2

**CONTIGUOUS ZONING/DEVELOPMENT**

- NORTH:** OHR, O&I/ Cumberland Office Park, Office buildings
- SOUTH:** UVC/Vinings Main
- EAST:** OI/ Overlook II, Wyndham Gardens
- WEST:** OI/ One and Two Paces West high-rise office buildings

**OPPOSITION:** NO. OPPOSED **PETITION NO:** \_\_\_\_\_ **SPOKESMAN** \_\_\_\_\_

**PLANNING COMMISSION RECOMMENDATION**

**APPROVED** \_\_\_\_\_ **MOTION BY** \_\_\_\_\_

**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_\_\_ **CARRIED** \_\_\_\_\_

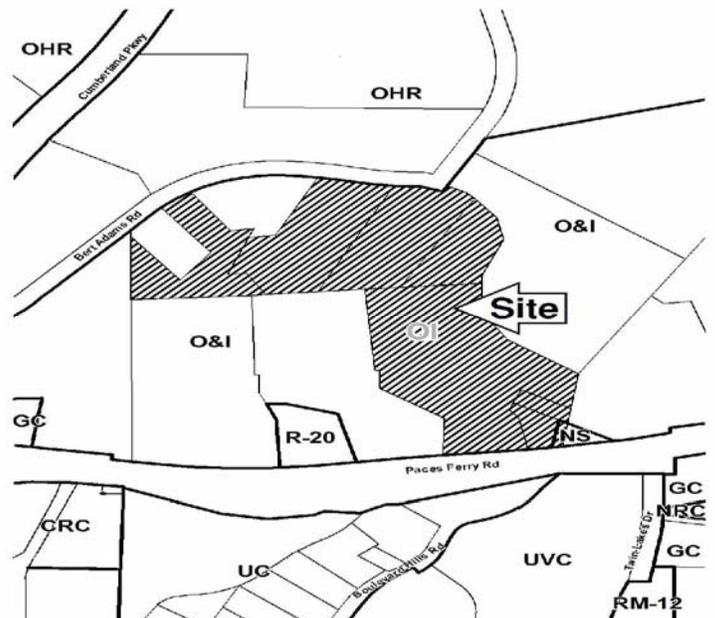
**BOARD OF COMMISSIONERS DECISION**

**APPROVED** \_\_\_\_\_ **MOTION BY** \_\_\_\_\_

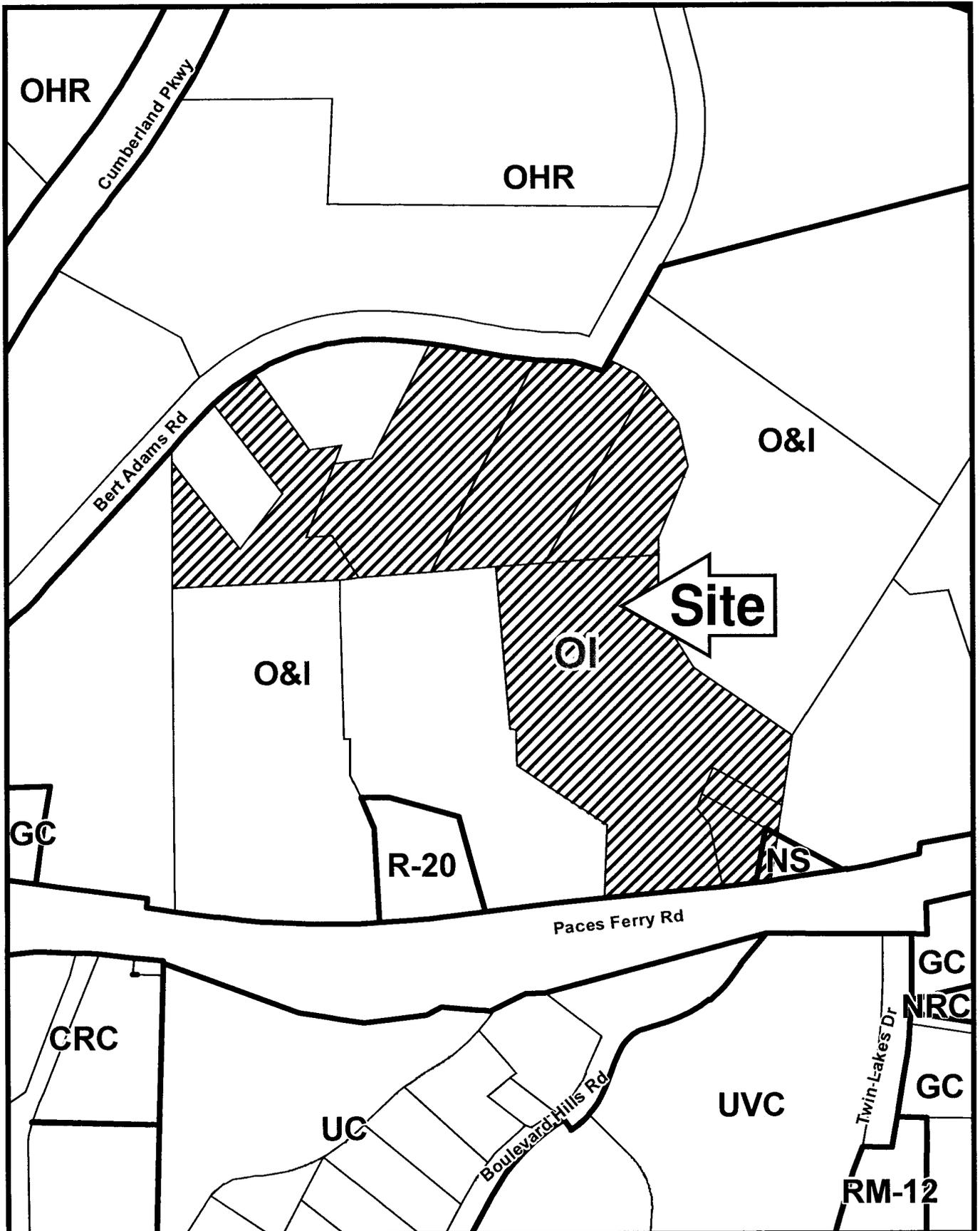
**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_\_\_ **CARRIED** \_\_\_\_\_

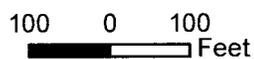
**STIPULATIONS:**



# Z-107



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



 City Boundary  
 Zoning Boundary

**APPLICANT:** D & A INVESTMENT GROUP, LLC...

**PETITION NO.:** Z-107

**PRESENT ZONING:** OI, NS

**PETITION FOR:** RRC

\*\*\*\*\*

**PLANNING COMMENTS:**

**Staff Member Responsible:** John P. Pederson, AICP

**Land Use Plan Recommendation:** Regional Activity Center- Sub Area for Office

**Proposed Number of Buildings:** 9      **Total Square Footage of Development:** 803,084

**F.A.R.:** 1.76      **Square Footage/Acre:** 76,777      **Residential Density:** 30.4 units per acre

**Parking Spaces Required:** 2,244      **Parking Spaces Provided:** 2,181

The applicant is requesting the RRC zoning district to develop a mixed use community. The project would consist of three different land uses that include commercial, office and multi-family housing. The proposal will contain themed architectural treatments throughout to tie all buildings together. The project has received positive findings on the required Development of Regional Impact from the Atlanta Regional Commission (ARC) and the Georgia Regional Transportation Authority (GRTA). The applicant’s letter of agreeable stipulations is attached (see Exhibit “A”).

First, the applicant will have a commercial component that will have offices, retail, and restaurants. There will be a variety of building facades with brick and stucco exteriors. The commercial buildings would range in height from one story to four stories. There would be retail and restaurants on the first floor, and offices on the upper floors. All the commercial buildings would be located on the southern half of the property adjacent to Paces Ferry Road. The anticipated hours of operation would range from 7:00 a.m. to midnight, depending on the final user.

Second, the applicant is proposing a high-rise office building that would front on Bert Adams Road. This building would be 18 stories in height with 358,034 square-feet of office space. Most of the parking spaces would be located underneath the building. The building would have a glass exterior with brick, stucco, and monumental stone. The office building is anticipated to be open Monday through Friday, from 7:00 a.m. to 6:00 p.m.

Third, the applicant is proposing a multi-family housing component that would contain residential condominiums and a senior citizen living facility. These two building would be located along Bert Adams Road. The residential breakdown is as follows:

- A) The residential condominium tower would be 22 stories in height with an exterior consisting of glass, brick, stucco, and monumental stone. There would be 168 condominium units that will range in size from 800 square-feet to 2,500 square-feet. The anticipated selling prices would range from \$400,000 to \$600,000, and up.
- B) The senior citizen tower would be 14 stories in height with an exterior consisting of glass, brick, and stucco. There would be 150 rental units that will range in size from 800 square-feet to 1,500 square-feet.

The applicant is showing contemporaneous variances which are:

- 1. Reduce the rear setback from 30-feet to 0-feet (adjacent to senior living tower);
- 2. Reduce the number of required parking spaces from 2,244 parking spaces to 2,181 parking spaces (due to shared parking);
- 3. Increase the maximum allowable building height from 8-stories to up to 22-stories;
- 4. Increase the maximum Floor Area Ratio (F.A.R.) from 1.0 to 1.76.

**APPLICANT:** D & A INVESTMENT GROUP, LLC...

**PETITION NO.:** Z-107

**PRESENT ZONING:** OI, NS

**PETITION FOR:** RRC

\*\*\*\*\*

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

**Cemetery Preservation:** No comment.

\*\*\*\*\*

**FIRE COMMENTS:**

Fire Apparatus Access Road

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

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

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

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

Fire Hydrant

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

APPLICANT D & A Investment Group, LLC & Pereira

PETITION NO. Z-107

PRESENT ZONING OL, NS

PETITION FOR RRC

\*\*\*\*\*

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

**WATER COMMENTS:**

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

Size / Location of Existing Water Main(s) 16" DI / S side Paces Fy Rd; 8" CI / Bert Adams Rd

Additional Comments: One master meter for retail/office, and one for each tower

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

\*\*\*\*\*

**SEWER COMMENTS:**

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

Approximate Distance to Nearest Sewer: In Paces Fy Rd and Bert Adams Rd

Estimated Waste Generation (in G.P.D.): **A D F** 247,880 **Peak** 619,700

Treatment Plant: Sutton

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

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

Additional Comments:

Restaurants require pre-installed grease traps

Notes FYI: *Basin study and flow tests will be required at plan review to determine if developer will be required any existing line upsizing*

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

APPLICANT: D & A Investment Group, LLC and Pereira

PETITION NO.: Z-107

PRESENT ZONING: OL, NS

PETITION FOR: RRC

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**DRAINAGE COMMENTS**

FLOOD HAZARD:  YES  NO  POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: **Vinings Branch** FLOOD HAZARD INFO: Zone X

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

WETLANDS:  YES  NO  POSSIBLY, NOT VERIFIED

Location: \_\_\_\_\_

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

STREAMBANK BUFFER ZONE:  YES  NO  POSSIBLY, NOT VERIFIED

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

**DOWNSTREAM CONDITION**

- Potential or Known drainage problems exist for developments downstream from this site.
- Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- Minimize runoff into public roads.
- Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- Existing Lake Downstream **-within Lake @ Vinings development.**  
Additional BMP's for erosion sediment controls will be required.
- Lake Study needed to document sediment levels.
- Stormwater discharges through an established residential neighborhood downstream.
- Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on downstream **stormdrainage system.**

APPLICANT: D & A Investment Group, LLC and Pereira

PETITION NO.: Z-107

PRESENT ZONING: OL, NS

PETITION FOR: RRC

\*\*\*\*\*

DRAINAGE COMMENTS CONTINUED

SPECIAL SITE CONDITIONS

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

INSUFFICIENT INFORMATION

- No Stormwater controls shown \_\_\_\_\_
- Copy of survey is not current - Additional comments may be forthcoming when current site conditions are exposed.
- No site improvements showing on exhibit.

ADDITIONAL COMMENTS

1. Like most of the sites on Mount Wilkinson, this site is extremely steep. Erosion and Sediment Control BMPs must be well-maintained with redundant design features to provide adequate site protection.
2. The proposed detention pond on the site plan provided is inadequate for the size of the site. A significant amount of underground detention will be required for the intensity of development proposed. It is recommended that surface water features be incorporated into the site design to provide the necessary water quality volumes that will be required. This will limit the cost and perpetual maintenance issues associated with proprietary underground water quality devices.
3. The site discharges to the south across Paces Ferry Road into the Vinings Main (aka Alta Vinings) development currently under construction. The design engineer must account for the capacity of the downstream receiving storm drainage system.

\*\*\*\*\*

**TRANSPORTATION COMMENTS**

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

| ROADWAY          | AVERAGE DAILY TRIPS | ROADWAY CLASSIFICATION | SPEED LIMIT | JURISDICTIONAL CONTROL | MIN. R.O.W. REQUIREMENTS |
|------------------|---------------------|------------------------|-------------|------------------------|--------------------------|
| Paces Ferry Road | 27500               | Arterial               | 35 mph      | Cobb County            | 100'                     |
| Bert Adams Road  | 2100                | Non-residential Local  | 25 mph      | Cobb County            | 60'                      |

*Based on 2007 traffic counting data taken by Cobb County DOT. (Paces Ferry Road)  
Based on 1993 traffic counting data taken by Cobb County DOT. (Burt Adams Road)*

**COMMENTS AND OBSERVATIONS**

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

Bert Adams Road is classified as a Non-residential Local and according to the available information, the existing right-of-way does not meet the minimum requirements for this classification.

Construct a right turn lane along Paces Ferry Road at entrance.

Lengthen the eastbound left turn lane on Paces Ferry Road.

Construct a left turn lane on Cumberland Parkway at Bert Adams Road.

Developer to provide dual left turns from westbound Paces Ferry to southbound Cumberland Parkway upon approval of Cobb County DOT operations.

Maintain existing at-grade interconnection with adjacent office building parking deck.

Upgrade the southbound approach to the traffic signal to include video detection equipment and provide 50% funding for like upgrades to the remaining three approaches.

The applicant will have to verify that minimum intersection sight distance is available. If it is not, the applicant will have to implement remedial measures, subject to approval by the Department, to achieve the minimum requirement.

The Department objects to any abandonment of rights-of-way adjacent to the proposed development as referenced in paragraph 5 of the applicant’s March 26, 2008 letter of stipulation.

**RECOMMENDATIONS**

Recommend applicant consider entering into a development agreement pursuant of O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the south side of Bert Adams Road, a minimum of 30’ from the roadway centerline.

Recommend a right turn lane along Paces Ferry Road at the development entrance.

**APPLICANT: D&A Investment Group, LLC**

**PETITION NO.: Z-107**

**PRESENT ZONING: OI, NS**

**PETITION FOR: RRC**

\*\*\*\*\*

**TRANSPORTATION COMMENTS cont.**

Recommend a left turn lane on Cumberland Parkway at Bert Adams.

Recommend the developer provide dual left turns from westbound Paces Ferry Road to southbound Cumberland Parkway upon approval of Cobb County DOT operations.

Recommend maintaining existing at-grade interconnection with adjacent office building parking deck.

Recommend developer upgrade the southbound approach to the traffic signal to include video detection equipment and provide 50% funding for like upgrades to the remaining three approaches.

Recommend applicant verify that minimum intersection sight distance is available and if it is not, implement remedial measures, subject to the Department’s approval, to achieve the minimum requirement.

Recommend no abandonment of right-of-way.

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

**STAFF RECOMMENDATIONS****Z-107 D & A INVESTMENT GROUP, LLC AND PEREIRA MANAGEMENT, LLC**

- A. It is Staff's opinion that the applicant's rezoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The applicant's proposal is located in an area that contains a large variety of land uses, including restaurants, mid and high-rise office buildings, retail, hotels, apartments, and condominiums. The area is mixed-use in character. The developer's proposal would promote better land utilization through this comprehensive mixed-use plan.
- B. It is Staff's opinion that the applicant's rezoning proposal will not have an adverse affect on the usability of adjacent or nearby property. Staff believes developing the property as a unified development for the property would be preferable to many separate developments. Master planning this property into one comprehensive development will reduce potential problems in the future regarding drainage, access, utilities, etc. The applicant has designed a site plan that is sensitive to adjacent uses. For example, the retail uses are adjacent to other retail uses on Paces Ferry Road, and the high-rise uses are adjacent to other high-rise uses. The applicant's proposal is located within close proximity to Interstate 285, and within close proximity to the major employment centers associated with the Cumberland/Galleria area, and downtown Atlanta. Staff is concerned with all the variances for the request, however, it should be noted that variances granted in the mid 1980's are already in place for setbacks, parking reduction and building heights up to 16-stories. The maximum F.A.R. in RRC is 1.0; the *Cobb County Comprehensive Plan* would allow a F.A.R. up to 2.0 for mixed use development. The applicant has reduced the F.A.R. from 2.36 to 1.76, which is in the range anticipated by the Plan. The F.A.R. reduction results in overall square-footage being reduced by 272,716 square feet, with a reduction of parking spaces 701 parking spaces.
- C. It is Staff's opinion that the applicant's rezoning proposal will not result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities or utilities. This opinion can be supported by the departmental comments contained in this analysis, as well as comments and recommendations from ARC and GRTA. The applicant's proposal, with the exception of the 168 residential condominiums, could be built substantially similar with the existing OI zoning (with approved variances from the 1980's). Traffic on Paces Ferry Road is very heavy due to the character of the area and existing roadway limitations, which includes a two-lane at-grade railroad crossing. The traffic generated by the applicant's proposal would be similar to the traffic generated if the property was developed under existing zoning.
- D. It is Staff's opinion that the applicant's rezoning proposal is in conformity with the policy and intent of the *Cobb County Comprehensive Plan*, which delineates this property to be within a Regional Activity Center, Sub-area for Office use. The *Cobb County Comprehensive Plan* states, "...mixed use developments that include retail...and Mid and high-rise residential developments are appropriate in this category". Based on the urban characteristics of the area, and the intensity of this particular Regional Activity Center, Staff believes the applicant's proposal meets the intent of the *Cobb County Comprehensive Plan*.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for approving the applicant's rezoning proposal. Staff believes the applicant's proposal would be a suitable use as referenced in paragraph A of this recommendation, and the proposal would not adversely affect adjacent properties, as referenced in paragraph B of this recommendation. Staff believes the development of this property would be beneficial for the County, and beneficial for the area. The applicant's proposal could

**STAFF RECOMMENDATIONS**

**Z-107 D & A INVESTMENT GROUP, LLC AND PEREIRA MANAGEMENT, LLC (CONT.)**

E. continue to encourage other mixed-use projects in the area. RRC developments are required to be in a Regional Activity Center which the applicant's proposal complies. Developments, such as this proposal, are allowable in the Future Land Use Category mentioned in paragraph D. The RRC zoning district allows for a mix of retail, office, restaurants, and multifamily residential uses. The applicant's proposal incorporates all of these land use types. If approved, the applicant's proposal would require some variances from the RRC zoning district, due to its urban setting. The RRC zoning code allows for density to be reviewed on a case by case basis in Regional Activity Centers. The density for nearby properties range from 12 units per acre for RM-12 zoned property to 26 units per acre for UC zoned property (The Aberdeen). The applicant's requested density of 30.4 units per acre would be slightly higher than adjacent and nearby properties. Staff is generally amenable to the applicant's proposal and believes it would be an asset for the area. Staff would recommend that the applicant not exceed the 16-story maximum building height that was granted by previous variances. The adjacent high-rise buildings are 15 stories and 16 stories, which seems to be the precedent for the area.

Based on the above analysis, Staff recommends APPROVAL subject to the following conditions:

- Maximum building height of 16 stories;
- Site plan to be approved by the Board of Commissioners;
- Subject to the Development of Regional Impact;
- Fire Department comments;
- Water and Sewer comments and recommendations;
- Stormwater Management comments;
- 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.

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

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\*\* ALSO ADMITTED IN NM  
\*\*\* ALSO ADMITTED IN NC  
♦ ADMITTED ONLY IN TN

March 26, 2008

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

Hand Delivered



RE: Application for Rezoning  
Application No.: Z-107 (2007)  
Applicants/  
Owners: D & A Investment Group, LLC  
and Pereira Management, LLC  
Property: 10.48 acres located on the  
northerly side of Paces  
Ferry Road, easterly of  
I-285, Land Lot 885,  
17th District, 2<sup>nd</sup> Section,  
Cobb County, Georgia

Dear John:

As you know, the undersigned and this firm represent D & A Investment Group, LLC and Pereira Management, LLC, the Applicants and Property Owners (hereinafter collectively referred to as "Applicants"), with respect to the rezoning of approximately 10.48 acres located on the northerly side of Paces Ferry Road, west of Overlook Parkway, and on the southerly side of Bert Adams Road, south of Mount Wilkinson Parkway, in Land Lot 885, 17<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia (hereinafter the "Subject Property"). After review and completion of the Development of Regional Impact ("DRI") process

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
Page 2 of 13  
March 26, 2008

by the Atlanta Regional Commission and the Georgia Regional Transportation Authority; meetings with planning, zoning, and other Cobb County staff; ongoing discussions and meetings with area residents and homeowner representatives; reviewing the staff comments and recommendations; and reviewing the uses of surrounding properties, we have been authorized by the Applicants to submit this letter of agreeable stipulations and conditions, 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. 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; together with any and all Departmental Comments and Staff Recommendations submitted by Planning, Fire, Water, Sewer, and Drainage, relating to the Subject Property.
- (2) Applicants seek rezoning of the Subject Property from the existing Office and Institutional ("OI") and Neighborhood Shopping ("NS") zoning categories to the proposed Regional Retail Commercial ("RRC") zoning category, site plan specific to the revised Preliminary Plan (hereinafter "Site Plan") prepared by AEC, Inc., dated September 18, 2007, last revised March 24, 2008.
- (3) By this letter of agreeable stipulations and conditions, Applicants amend their Application for Rezoning to include the revised Preliminary Plan prepared by AEC, Inc., dated September 18, 2007, last revised March 24, 2008, which is submitted contemporaneously herewith.

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
Page 3 of 13  
March 26, 2008

- (4) The Subject Property consists of 10.48 acres of total site area.

**STIPULATIONS APPLICABLE TO THE OVERALL COMMUNITY**

- (1) This rezoning proposal is a mixed-use development to include retail, office, and varied residential components. It is planned that a portion of the development will be a "village" design with retail on the first floor and office above.
- (2) There shall be master protective covenants for the entire development which will include all phases of the development; and concurrent therewith a master association, and possibly sub-associations, will be formed which will include all component parts of the proposed overall development. The master association shall be responsible for the oversight, upkeep, and maintenance of the entrance area, common areas, open space areas, amenity areas, detention areas, private streets, and the like contained within the overall development.
- (3) The master association, and any sub-associations, to be formed hereunder shall have architectural design regulations which shall control such items as signage for individual components, and other such usual and necessary covenants and restrictions to protect the quality and integrity of the total, overall development.

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
Page 4 of 13  
March 26, 2008

- (4) Applicants agree to construct all necessary roadway improvements, as more particularly shown and reflected on the revised Site Plan referenced above.
- (5) All portions of existing rights-of-way within and adjacent to the proposed development will be abandoned by Cobb County, Georgia, and deeded by quitclaim deed to Applicants, or a related entity or entities, by the Cobb County Board of Commissioners.
- (6) Entrances to the proposed overall development shall be as more particularly shown and reflected on the referenced Site Plan.
- (7) Main entrance signage for the proposed overall development shall be ground based, monument style signage, with the finish, materials, and color being comparable and complementary to the structures within the development. Such signage shall contain no flashing sign components. The entrance area shall be professionally designed, landscaped, maintained, and themed to the architecture and style of the community.
- (8) The entrance areas, together with all islands and planted areas, shall be professionally designed, landscaped, and maintained. These areas shall be part of the overall landscape plan approved by staff as part of the plan review process, as more hereinafter set forth.
- (9) There shall also be a network of internal sidewalks and paths located within the proposed overall community which shall link the various components of the development and adjacent developments in order to promote the "live where you work" concept.

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
Page 5 of 13  
March 26, 2008

- (10) Lighting within the proposed overall community shall be environmentally sensitive, decorative, and themed to the architecture and style of the respective components of the development.
- (11) Additionally, hooded security lighting shall be utilized on the building and throughout the walkways and parking deck areas.
- (12) There shall be no tenant vehicles or vehicles of any type parked in front of the proposed buildings containing tenant identification signage or advertising signage. This provision shall be contained within any lease between Applicants and any prospective tenant, and Applicants agree to enforce these provisions against any tenant which violates the foregoing.
- (13) Parking for retail, office, and restaurant uses, and residential, will be provided by means of surface parking and parking decks as detailed on the Site Plan, which will employ "shared" parking among the respective components and which will provide sufficient and adequate parking for the overall development.
- (14) All setbacks and 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.
- (15) Applicants agree to comply with all Cobb County development standards and ordinances relating to project improvements, except as approved by the Board

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
Page 6 of 13  
March 26, 2008

of Commissioners or by the Department of Transportation or Community Development Agency, as their authority may allow.

- (16) All streets within the proposed development shall be private with the construction therefor complying in all respects as to materials, base, and other requirements to the Cobb County Code.
- (17) There shall be no vehicular access from the upper level development to and through the lower level development, and vice versa. However, the walkways, plazas, open space, and water feature shall coordinate and combine the two levels of development to create a blended, overall development among the various components, as more particularly shown and reflected on the referenced Site Plan.
- (18) Further, as to the overall development, there shall be "zero lot lines" among the various components within the development so as to allow for the free flow of access, parking, and the like.
- (19) All landscaping referenced herein shall be approved by the Cobb County Arborist as part of the plan review process and incorporated into the overall landscape plan for the proposed development.
- (20) The stormwater management areas shall be fenced and landscaped for purposes of visual screening. Said landscaping shall be approved by the Cobb County Arborist as part of the plan review process and incorporated into the overall landscape plan for the proposed development.

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
Page 7 of 13  
March 26, 2008

- (21) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.
- (22) All utilities for the proposed development shall be located underground.
- (23) The following uses shall be prohibited from the proposed overall development:
  - (a) Video arcades as a primary use;
  - (b) Adult-themed bookstores as a primary use;
  - (c) Automotive sales, repair, and/or service facilities;
  - (d) Movie theaters;
  - (e) Gas station;
  - (f) No fast food establishments such as McDonald's, Wendy's, and the like; and
  - (g) Packaged sale of alcoholic beverages as a primary use; excepting a specialty store specializing in the sale of wine.
- (24) Modifications to the within stipulations, the referenced Site Plan, lighting, landscaping, architecture, site features, and the like, may be approved by the District Commissioner, as needed or necessary.
- (25) Upon agreement between the Applicants and owner of the office buildings located southerly and easterly of the

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
Page 8 of 13  
March 26, 2008

Subject Property, Applicants shall provide access through their property to Bert Adams Road from the parking deck of said office buildings, as more fully shown and depicted on the referenced site plan.

**STIPULATIONS APPLICABLE TO OFFICE AND RETAIL USES**

- (1) The lower level of the proposed development shall contain a maximum of 78,000 square feet of ground floor retail and commercial space, and a maximum of 41,150 square feet of office space located above the retail/commercial space, as more particularly shown and reflected on the referenced Site Plan.
- (2) Additionally, the upper level of the proposed development shall have an office tower, eighteen (18) stories in height, over a maximum of eight (8) levels of parking, which shall contain a maximum of 358,034 square feet of office space, as more particularly shown and reflected on the referenced Site Plan.
- (3) Parking for both the lower and upper level areas shall have limited surface level parking; however, the sub-surface parking decks shall provide the primary parking area sufficient for not only the retail and office developments, but also the residential component.
- (4) Tenant space for the retail component shall not exceed a box size of 25,000 square feet.
- (5) Applicants agree the exteriors, materials, and architectural appearance of the retail and office components shall be substantially similar to the

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
Page 9 of 13  
March 26, 2008

renderings to be presented to the Planning Commission and the Board of Commissioners at the respective public hearings.

**STIPULATIONS APPLICABLE TO RESIDENTIAL DEVELOPMENT**

- (1) The residential portion of the proposed development shall be located within the upper level area of the Subject Property and shall consist of residential "for sale" condominiums and residential senior living condominiums, which shall include both senior assisted living and senior independent living.
  - (A) **RESIDENTIAL "FOR SALE" CONDOMINIUMS**
    - (a) The residential condominiums shall be located within a residential tower, a maximum of twenty-two (22) stories in height, including up to eight (8) levels of parking, as more particularly shown on the referenced Site Plan.
    - (b) The architecture, exterior materials, and the like shall be as shown and reflected on the renderings to be presented to the Planning Commission and Board of Commissioners at the respective hearings.
    - (c) There shall be a maximum of one hundred sixty-eight (168) units located within the residential condominiums, providing for 16 units per acre.
    - (d) The residential condominium units shall be condominiums as the term "condominium" is defined under the Georgia Condominium Act.

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
Page 10 of 13  
March 26, 2008

- (e) The residential condominium units shall be "for sale" units only. A maximum of ten (10) percent of the proposed units may be leased at any one time.
- (f) Units within the proposed residential condominiums shall contain the following square footages:
  - (i) One bedroom - A minimum of 800 square feet, ranging upwards to 1,200 square feet;
  - (ii) Two bedroom - A minimum of 900 square feet, ranging upwards to 2,000 square feet; and
  - (iii) Three bedroom - A minimum of 1,200 square feet, ranging upwards to 2,500 square feet.
- (g) The floor plans and finishes shall be as set forth on Exhibit "A" attached hereto and incorporated herein by reference.
- (h) An amenity area, including a swimming pool, pool deck, spa, and clubroom area, shall be provided for the use and enjoyment of the residents within the proposed residential condominium units.

**(B) RESIDENTIAL SENIOR LIVING**

- (a) The residential independent and assisted senior living shall be located within a tower consisting of fourteen (14) stories, including a maximum of six (6) levels of parking, as more particularly shown on the referenced Site Plan.
- (b) The architecture, exterior materials, and the like of the proposed tower shall be as shown and reflected on

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
Page 11 of 13  
March 26, 2008

the renderings to be presented to the Planning Commission and Board of Commissioners at the respective hearings.

- (c) There shall be a maximum of one hundred fifty (150) units within the residential senior living tower.
  - (d) The independent senior living development shall be senior living leased units with a resident of each unit being a minimum of fifty-five (55) years of age or older; excepting only compliance with the Federal Fair Housing Act, as amended.
- (2) Applicants agree to reduce the density of the residential condominiums from the initial total of one hundred sixty-eight (168) based upon the following formula:
- ▶ For every 3.85 independent senior living units, the total residential condominium units shall be reduced by one (1) unit.

We believe the requested zoning, pursuant to the revised Site Plan and the stipulations set forth herein, is an appropriate use of the Subject Property. The proposed overall community is a well-planned project which brings together numerous types of product into one development. The proposed overall community promotes the "live where you work" concept by bringing together a mixture of residential components to fit the demands of various types of homeowners. The development shall be of the highest quality, shall be compatible with surrounding neighborhoods, and shall be an enhancement to the Subject Property and Cobb County as a whole. As always, we greatly appreciate your consideration in this request.

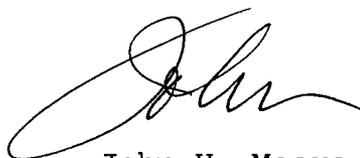
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Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
Page 12 of 13  
March 26, 2008

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  
Helen C. Goreham  
Annette Kesting  
Joe L. Thompson  
Tim Lee  
(With Copy of Enclosure)

Cobb County Planning Commission:  
Murray Homan, Chairman  
Judy Williams  
Christi L. Trombetti  
Bob Hovey  
Tom McCleskey  
(With Copy of Enclosure)

Shane Coldren  
Ron Sifen  
Bill Hare  
Vinings Homeowners Association  
(With Copy of Enclosure)

**MOORE INGRAM JOHNSON & STEELE**

Mr. John P. Pederson, AICP  
Planner III  
Zoning Division  
Cobb County Community Development Agency  
Page 13 of 13  
March 26, 2008

c: Anthony L. Waybright  
Suzanne Ballew  
Mary Rose Barnes  
(With Copy of Enclosure)

D & A Investment Group, LLC  
Pereira Management, LLC  
(With Copy of Enclosure)

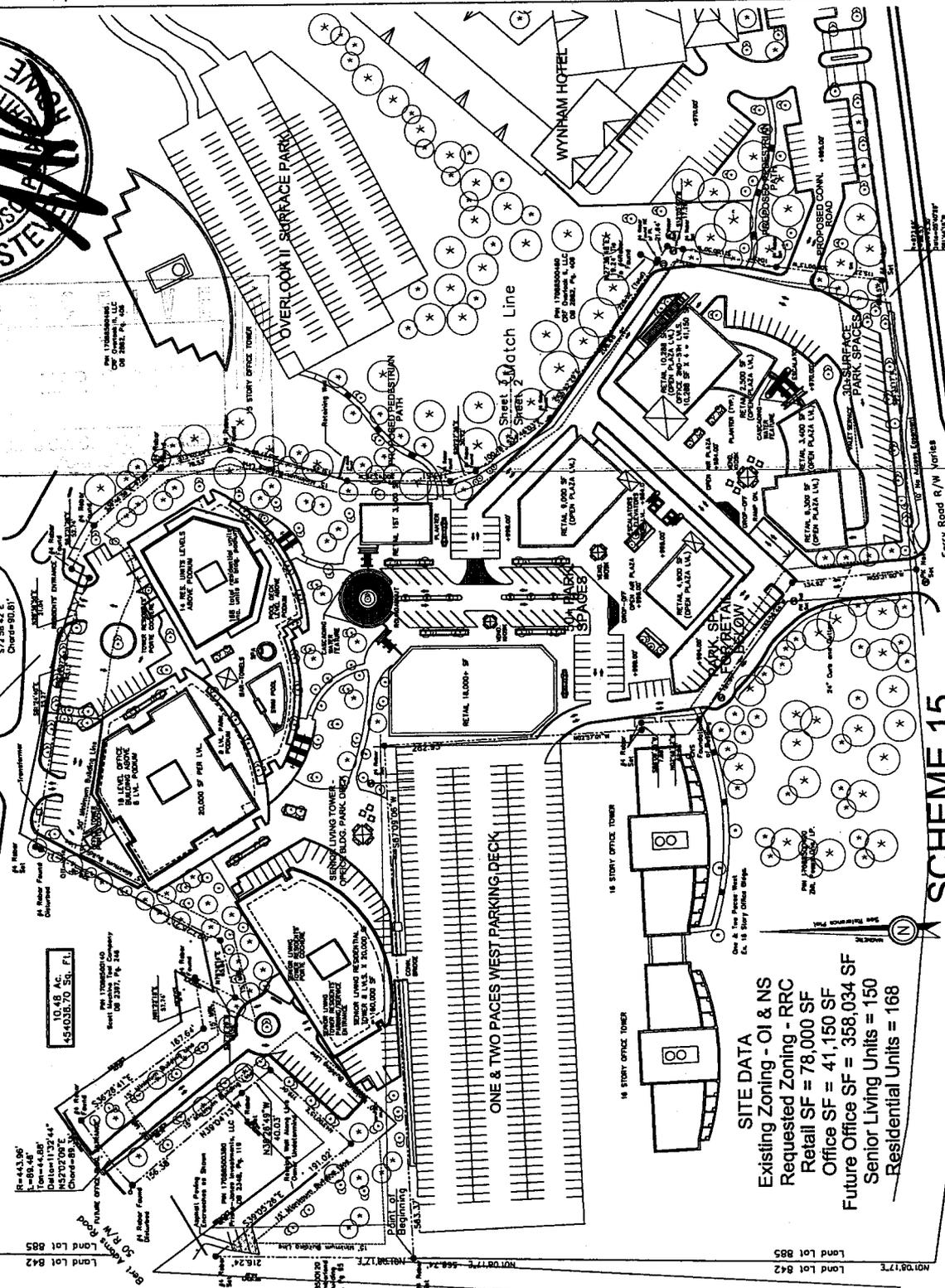


**PHILLIPS PARTNERSHIP**  
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Atlanta, Georgia 30309  
Phone: 404.525.1234  
Fax: 404.525.1235  
www.phillipspartnership.com

**V ON VININGS**

D & A Investment Group, LLC

PROJECT NUMBER: \_\_\_\_\_  
DATE: \_\_\_\_\_  
DRAWN BY: \_\_\_\_\_  
CHECKED BY: \_\_\_\_\_  
DATE: \_\_\_\_\_



**SITE DATA**

- Existing Zoning - O1 & NS
- Requested Zoning - RRC
- Retail SF = 78,000 SF
- Office SF = 41,150 SF
- Future Office SF = 358,034 SF
- Senior Living Units = 150
- Residential Units = 168

**SCHEME 15**  
03/24/08



10.48 AC.  
45-058.70 SQ. FT.

R=43.96'  
L=88.48'  
CHORD=102.24'  
CHORD BEARING=88.31°

R=308.60'  
L=91.13'  
TAN=45.80'  
DELTA=181.56'  
CHORD=192.01'

18 STORY OFFICE TOWER

16 STORY OFFICE TOWER

ONE & TWO PACES WEST PARKING DECK

VERLOOK SURFACE PARKING

WYNHAM HOTEL

LAND LOTS 842, 885, 127

BERT ADAMS ROAD

PACES FERRY ROAD



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HOUSTON, TEXAS 77002  
TEL: 713.261.1000  
FAX: 713.261.1001  
WWW.PHILLIPSPARTNERSHIP.COM

**V ON VININGS**

**D & A Investment Group, LLC**

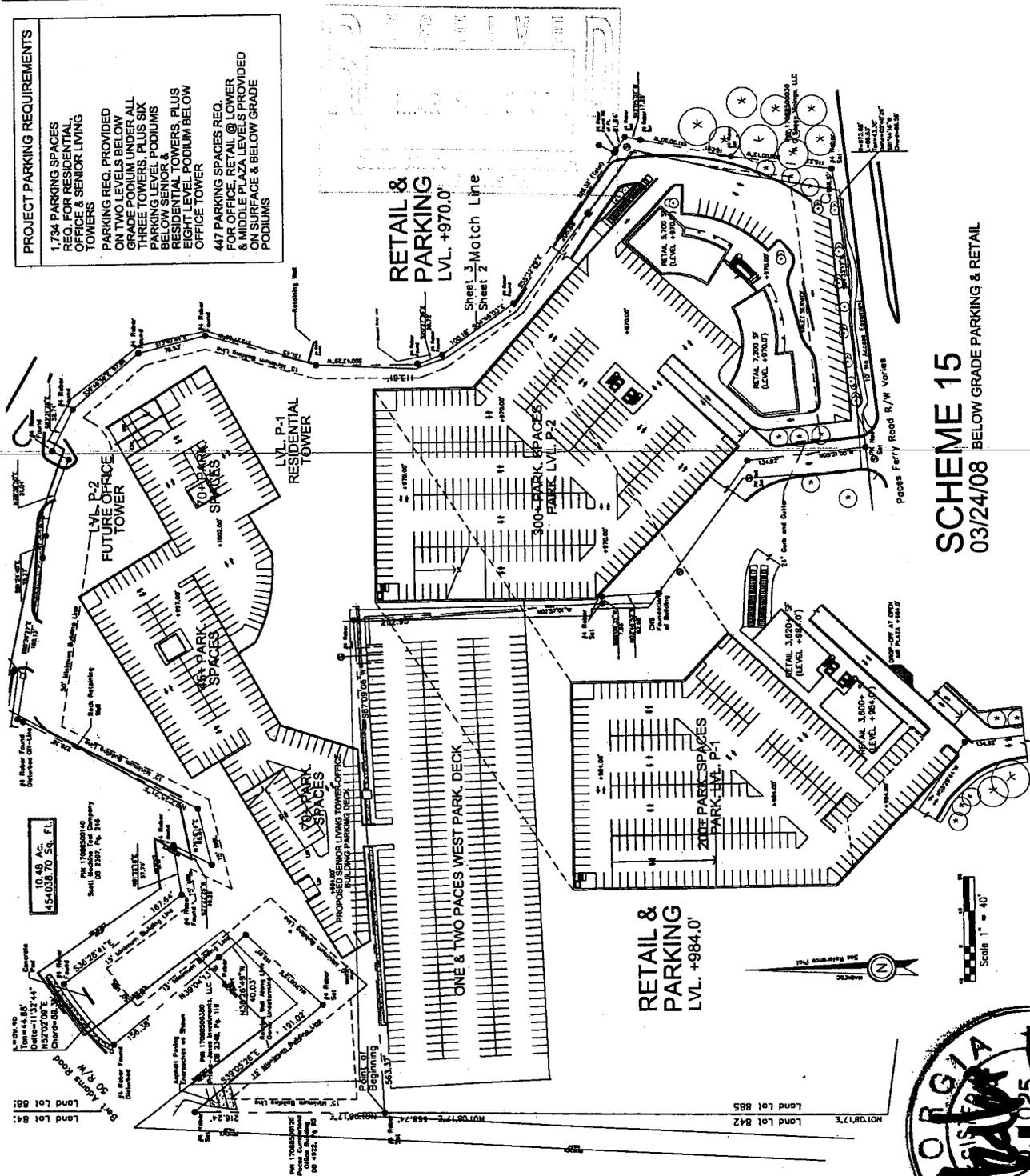
PROJECT NO. \_\_\_\_\_  
SHEET NO. \_\_\_\_\_  
DATE \_\_\_\_\_  
DRAWN BY \_\_\_\_\_  
CHECKED BY \_\_\_\_\_  
SCALE \_\_\_\_\_

**PROJECT PARKING REQUIREMENTS**

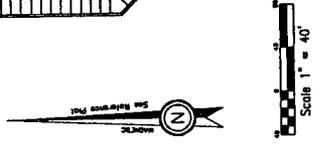
1,734 PARKING SPACES REQ. FOR RESIDENTIAL OFFICE & SENIOR LIVING TOWERS

PARKING REQ. PROVIDED ON TWO LEVELS BELOW GRADE PODIUM UNDER ALL THREE TOWERS, PLUS SIX PARKING LEVEL PODIUMS BELOW SENIOR & RESIDENTIAL TOWERS, PLUS EIGHT LEVEL PODIUM BELOW OFFICE TOWER

447 PARKING SPACES REQ. FOR OFFICE, RETAIL @ LOWER & MIDDLE PLAZA LEVELS PROVIDED ON SURFACE & BELOW GRADE PODIUMS



**SCHEME 15**  
03/24/08 BELOW GRADE PARKING & RETAIL



10.48 AC.  
454,038.70 Sq. Ft.

Site: 1700000010  
DB 2387, Pg. 206

Site: 1700000010  
DB 2387, Pg. 206

Land Lot 842  
Land Lot 845  
Land Lot 885

NO170817E - 666.74'  
NO19817E - 216.24'

NO170817E - 666.74'  
NO19817E - 216.24'

EXHIBIT "A"

FLOOR PLANS AND INTERIOR FINISHES

Floor plans and finishes shall consist, at a minimum, of the following:

- (a) Enhanced corian, granite, or marble counter tops;
- (b) Gas burning fireplaces as an upgrade;
- (c) Minimum ceiling heights:
  - i) Minimum 9 feet from floor to finished ceiling and greater; and
  - ii) Minimum 10 feet between floors;
- (d) European or upscale wooden face-frame cabinetry;
- (e) Stainless steel appliances or equivalent;
- (f) Extra-deep stainless steel sinks and side-by-side refrigerators/freezers as upgrades;
- (g) A selection of hardwood flooring, high-end carpet, and tile throughout;
- (h) Spacious open floor plans which eliminate the necessity for typical hallways within the units;
- (i) Brushed chrome or oiled rubbed bronze bathroom and kitchen fixtures;
- (j) Ceramic tile bathrooms and laundry rooms;
- (k) Spacious walk-in closets;
- (l) High-speed internet wiring in all rooms of each unit;
- (m) Garden tubs with separate showers;
- (n) Eight (8) foot entry doors subject to fire rating.