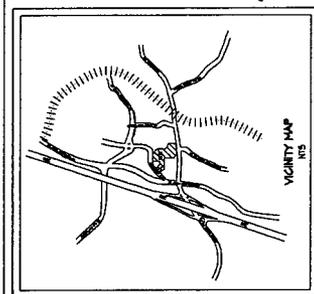
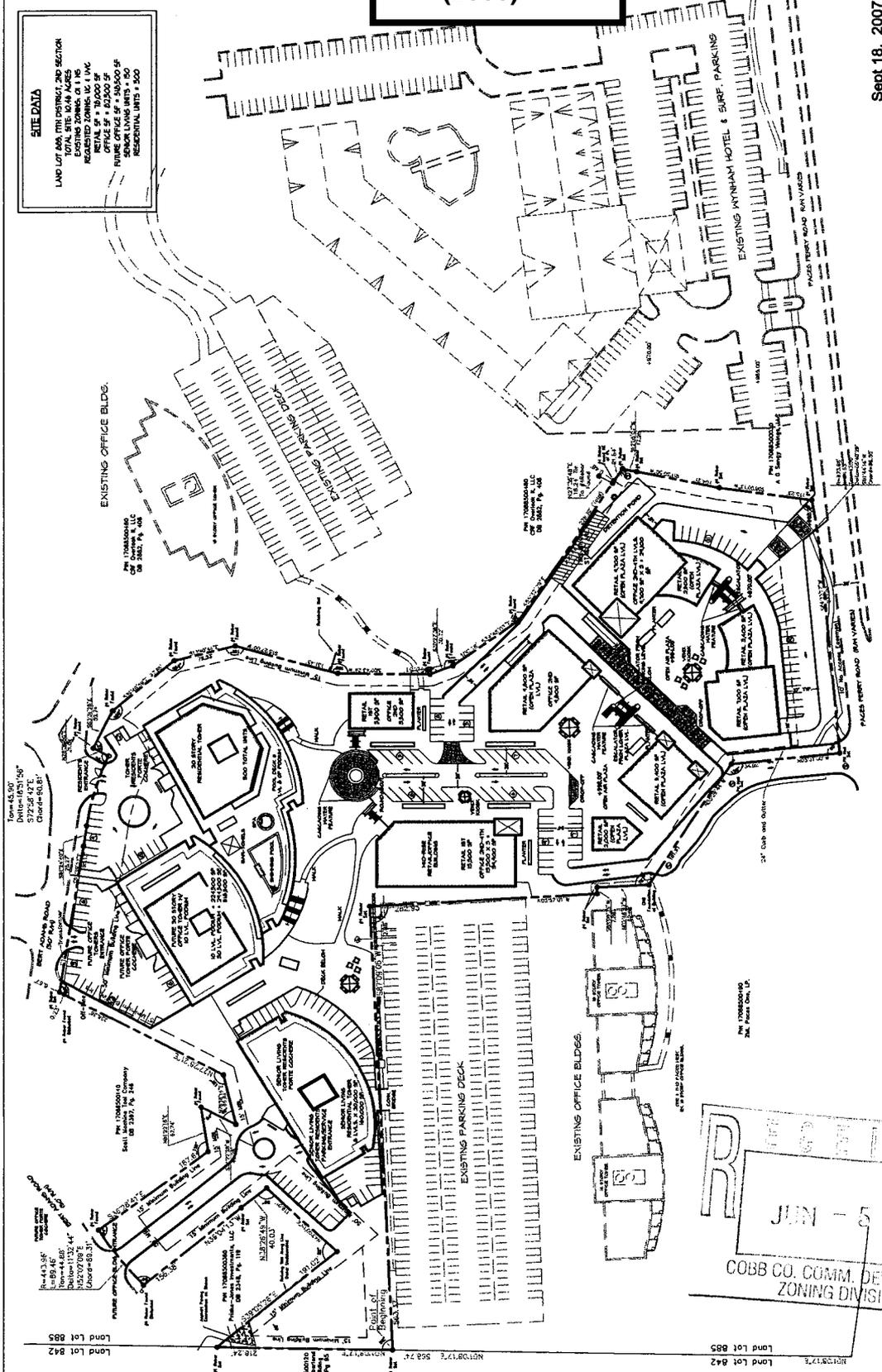


Z-40
(8002)

SITE DATA

LAND LOT 844, 7TH DISTRICT, 2ND SECTION
 100' WIDE FRONT YARD SETBACK
 EXISTING ZONING: UC 1 IVC
 RETAIL SF = 30,000 SF
 OFFICE SF = 100,000 SF
 SENIOR LIVING UNITS = 50
 RESIDENTIAL UNITS = 500



DEVELOPER

DVA Development Corp., LLC
 2400 Dallas North
 Marietta, GA 30066
 Phone: (770) 426-9700
 Fax: (770) 426-9700

JUN - 5 2008
 COBB CO. COMM. DEV. AGENCY
 ZONING DIVISION



Scale 1" = 60'

Sept 18, 2007



Preliminary Plan
V at VININGS
 MIXED USE DEVELOPMENT
 Cobb County, Georgia



APPLICANT: D & A Investment Group, LLC and Pereira

Management, LLC 404-444-1010

REPRESENTATIVE: Moore Ingram Johnson & Steele, LLP

John H. Moore 770-429-1499

TITLEHOLDER: D & A Investment Group, LLC and Pereira

Management, LLC

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.

ACCESS TO PROPERTY: Bert Adams Road, Paces Ferry Road

PHYSICAL CHARACTERISTICS TO SITE: wooded

PETITION NO: Z-40

HEARING DATE (PC): 08-05-08

HEARING DATE (BOC): 08-19-08

PRESENT ZONING: OI, NS

PROPOSED ZONING: RRC

PROPOSED USE: Mixed Use Development

SIZE OF TRACT: 10.46 acres

DISTRICT: 17

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** _____

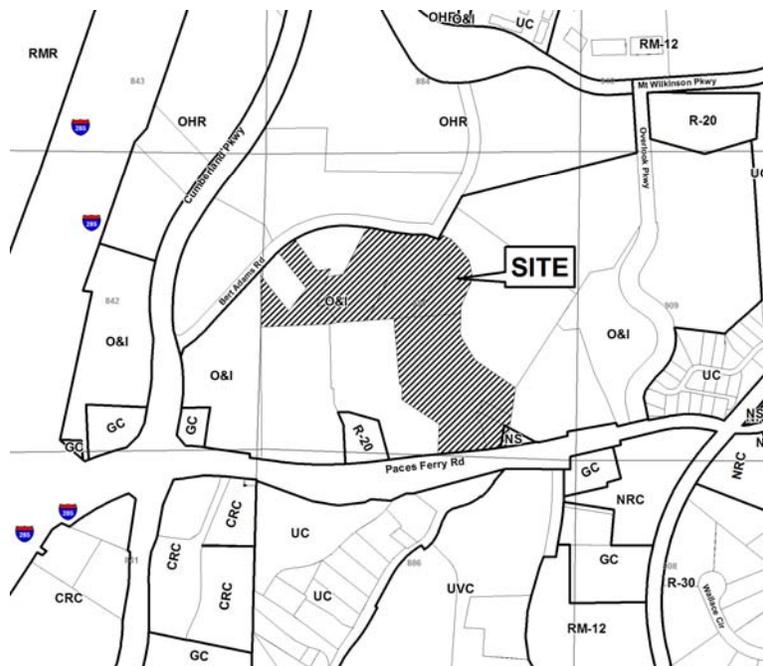
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

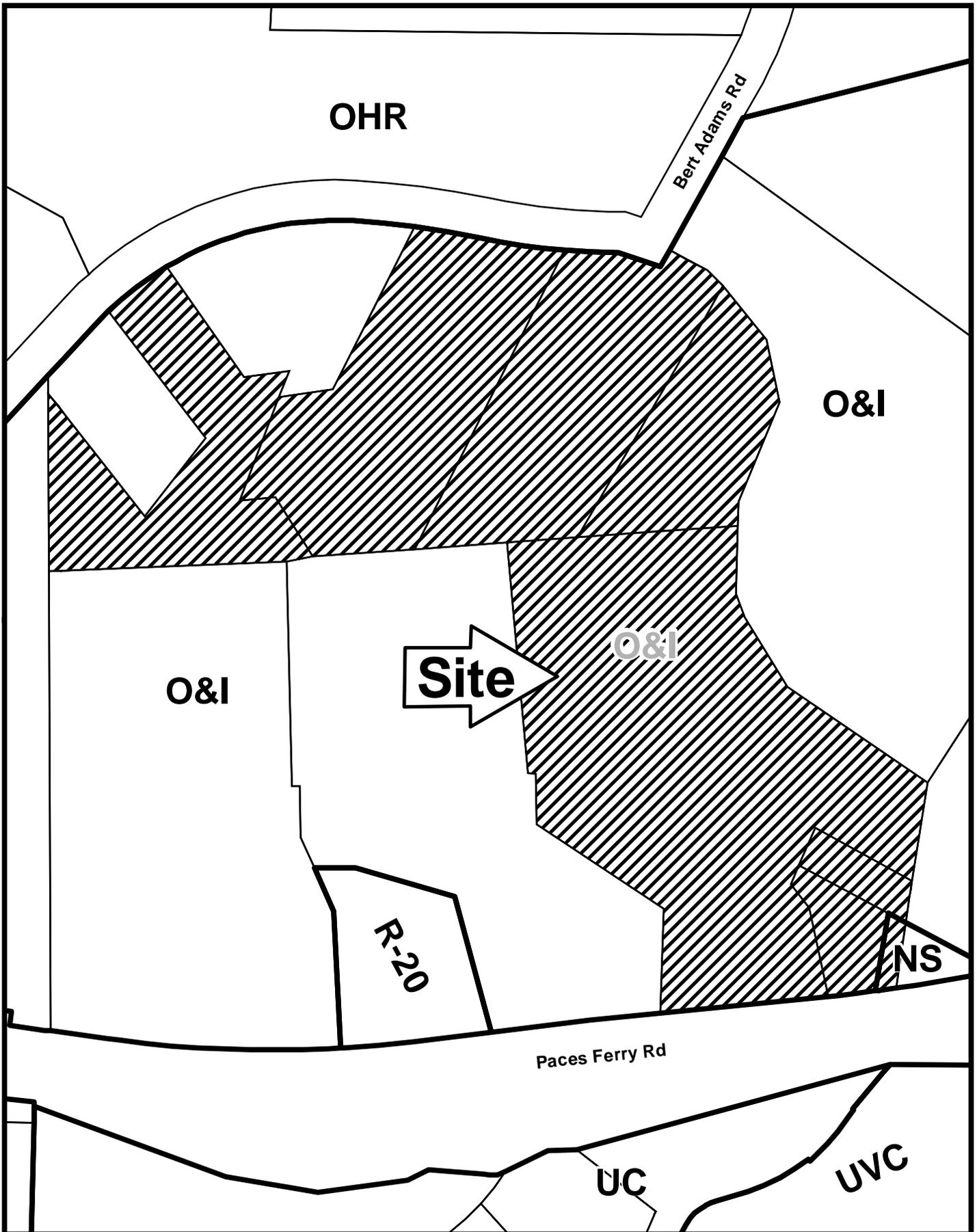
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

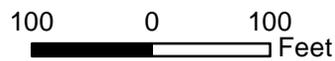
STIPULATIONS:



Z-40



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



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

PETITION NO.: Z-40

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: 10 **Total Square Footage of Development:** 1,075,800

F.A.R.: 2.36 **Square Footage/Acre:** 102,848 **Residential Density:** 43 units per acre

Parking Spaces Required: 3,285 **Parking Spaces Provided:** 2,882**

**Via surface parking spaces and parking decks (this figure is from the ARC/GRTA DRI Traffic study).

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. The applicant has submitted a Zoning Impact Analysis, which is attached as 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 30 stories in height with 518,500 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 20 stories in height with an exterior consisting of glass, brick, stucco, and monumental stone. There would be 300 condominium units that will range in size from 950 square-feet to 3,500 square-feet. The anticipated selling prices would range from \$400,000 to \$600,000, and up.
- B) The senior citizen tower would be 8 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 3,285 parking spaces to 2,882 parking spaces (due to shared parking);
- 3. Increase the maximum allowable building height from 8-stories to up to 30-stories;
- 4. Increase the maximum Floor Area Ratio (F.A.R.) from 1.0 to 2.36.

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

PETITION NO.: Z-40

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: There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

FIRE DEPARTMENT COMMENTS:

Fire Apparatus Access Road

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

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

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

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

Fire Hydrant

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

Gates securing fire apparatus access shall be a minimum 14 feet in clear width for a single lane and 20 feet for a double lane. Gate shall be swing or slide type. Electric gates shall be equipped with a means of opening the gate by fire department personnel for emergency access. Emergency opening devices shall be approved by the Cobb County Fire Marshal's office.

APPLICANT D & A Investment Group, LLC & Pereira

PETITION NO. Z-040

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 and central kitchens require pre-installed and CCWS inspected 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-40

PRESENT ZONING: OL, NS

PETITION FOR: RRC

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-40

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.

APPLICANT: D&A Investment Group, LLC

PETITION NO.: Z-40

PRESENT ZONING: OI, NS

PETITION FOR: RRC

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.

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.

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.

APPLICANT: D&A Investment Group, LLC

PETITION NO.: Z-40

PRESENT ZONING: OI, NS

PETITION FOR: RRC

TRANSPORTATION COMMENTS cont.

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

STAFF RECOMMENDATIONS

Z-40 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. Staff would suggest the applicant reduce their F.A.R. from 2.36 to 2.0 or less to come into the range anticipated by the Plan.
- 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. The property has been located within the confines of a Regional Activity Center for many years, which supports a high intensity of development. 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 were developed under the existing zoning district. The OI zoning district allows office buildings (including high-rise buildings for this property), banks, nursery schools, residential senior living, and accessory/secondary retail uses, which includes restaurants, cafeterias, barbershops, beauty shops, laundry and dry-cleaning pick up facilities, drugstores, bookstores, florists, convenience food stores, gift shops, private clubs and newsstands. Staff recommends the existing interparcel access connection between the applicant's proposal and One & Two Paces West offices towers remain intact. Additionally, The Atlanta Regional Commission and the Georgia Regional Transportation Authority have issued positive findings on the proposal after extensive review.
- 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*.

(CONTINUED ON NEXT PAGE)

STAFF RECOMMENDATIONS

Z-40 D & A INVESTMENT GROUP, LLC AND PEREIRA MANAGEMENT, LLC (CONT.)

- 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 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 43 units per acre would be 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. However, the amount of residential density may be too much to be supported by County Staff. It would be recommended that the applicant not exceed the F.A.R, recommended by the Comprehensive Plan (which limits the F.A.R. to 2.0). Additionally, Staff would also 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. Limiting the F.A.R. and building height should reduce residential density and commercial square-footage, which would be consistent with adjacent and nearby properties.

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

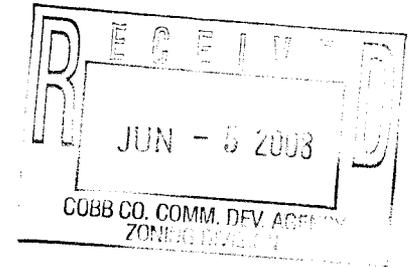
- Maximum Floor Area Ratio of 2.0;
- Maximum building height of 16 stories;
- Site plan to be approved by the Board of Commissioners;
- Subject to the Development of Regional Impact;
- Fire Department comments;
- Water and Sewer comments and recommendations;
- Stormwater Management comments;
- DOT comments 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.

ATTACHMENT TO APPLICATION FOR REZONING

IMPACT ANALYSIS STATEMENT

Application No.: Z- 40 (2008)
Hearing Dates: August 5, 2008
August 19, 2008



**Co-Applicants/
Co-Titleholders: D & A Investment Group, LLC and
Pereira Management, LLC**

Analysis of impact of the proposed rezoning with respect to the following:

- (a) Co-Applicants and Co-Property Owners are seeking rezoning of a 10.46 acre tract from the existing zoning categories of Office and Institutional ("OI") and Neighborhood Shopping ("NS") to the proposed zoning category of Regional Retail ("RRC"). The requested category of RRC will permit uses which are more suitable to the tract in view of its location, size, and the use and development of adjacent and nearby properties. The Property is located on the northerly side of Paces Ferry Road and the intersection of the southerly side of Bert Adams Road with the termination of Cumberland Club Drive. Applicant proposes to develop the Subject Property for a mixed-use development consisting of retail and office uses together with residential and Residential Senior Living ("RSL") (supportive) uses.
- (b) This zoning proposal should have no adverse effect on the existing use or usability of adjacent or nearby property. The proposed development should have a minimal, if any, impact on surrounding properties. The proposed rezoning should have a very positive effect in that it will promote the "live where you work" concept promoted not only in Cobb County but in growing urban areas throughout the United States. If approved and developed according to the request, the adjacent and nearby property owners should benefit in higher land values. Cobb County will benefit in increased revenue.
- (c) The property as zoned does not have a reasonable economic use.
- (d) This zoning proposal will not cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. Retail and commercial development has almost no effect on schools, minimal effect on utilities and transportation facilities. The improved roadways in the area can accommodate

any increased traffic the proposed development may bring without burdensome effects; however, it is the goal of Applicant that the proposed development consisting of mixed uses will serve to reduce traffic burdens in the immediate area.

- (e) The zoning proposal is in conformity with the Land Use Map of Cobb County, Georgia.
- (f) There are changing conditions affecting the use and development of the Subject Property which give supporting grounds for approval of the zoning proposal. The proposed development will afford a unique opportunity within the Vinings community to allow a mixed use of retail, office. Additionally, it will afford the opportunity for residents within the proposed residential components to live and work within the same campus.