

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

ITEM # 3

PURPOSE

To consider amending the stipulations for Branch/Highlands Vinings West, LLC and Vinings West Phase II, LLC regarding Z-42 (THE PACIFIC GROUP, INC.) of April 20, 2004 for property located in Land Lots 692 and 749 of the 17th District at the southwest intersection of Atlanta Road and I-285; on the south side of Oakdale Road, west of the CSX Railroad tracks; and on the north and south sides of Pine Street and Hill Street.

BACKGROUND

The subject property is zoned PVC subject to numerous conditions/stipulations. The Board of Commissioners decision is attached. The November 15, 2004 letter of agreeable stipulations is not attached because the pertinent sections from the stipulation letter that are being requested to be amended are contained within the attached other business application as well as the proposed substitute wording. The first amendment under consideration is under Section II Residential, seeks to rearrange the total number of units within the different blocks. There is no increase in the total number of units. Also, there is substitute wording affecting the time period of the leased units which has been affected by the recent economic conditions. The second amendment for consideration is under Section Phase II Mid -Rise Condominiums, seeks a reduction in the total number of units from 569 units to 370 units and a reduction in the building height from 8 stories to 5 stories. The substitute wording affecting the leased units is also being requested for this section as well.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners consider amending the stipulations as outlined in the submitted Exhibit "A" and if approved, all other previously approved conditions/stipulations to remain in effect.

ATTACHMENTS

Board of Commissioners Decision
Other Business Application

Application for "Other Business" Cobb County, Georgia

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

BOC Hearing Date Requested: 11/18/2008

Applicant: Branch/Highlands Vinings West, LLC and Vinings West Phase II, LLC Phone #: (404) 832-8900
(applicant's name printed)

Address: Suite 2050, 3340 Peachtree Road, Atlanta, GA 30326 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@mijs.com; w7@mijs.com
(representative's signature) Georgia Bar No. 519800

Signed, sealed and delivered in presence of:

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

Commission District: 2 Zoning Case: Z-42 (2004)

Date of Zoning Decision: 11/16/2004 Original Date of Hearing: 04/20/2004

Location: Southwest intersection of Atlanta Road and I-285; and on the north and south sides of Pine Street and Hill Street
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 692, 748, 749, 750, 763, 764 District(s): 17th

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

See Exhibit "A" attached hereto as Exhibit "A" and incorporated herein by reference.

(List or attach additional information if needed)

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

**Application No. : Z-42 (2004)
Original Hearing Date: April 20, 2004
Date of Zoning Decision: November 16, 2004
Current Hearing Date: November 18, 2008**

BEFORE THE COBB COUNTY BOARD OF COMMISSIONERS

**Applicants: Branch/Highlands Vinings-West, LLC and
Vinings West Phase II, LLC**

Applicants request amendments to certain stipulations for the development known as "West Village," which currently has certain phases completed and other phases either under construction or scheduled for future construction. The major portion of the West Village project was approved through the rezoning process by the Board of Commissioners on November 16, 2004; however, additional sections of the West Village development were added in subsequent rezonings and amendments. The requested amendments are as follows:

- (1) Applicants propose the deletion in its entirety of a portion of the letter of stipulations and conditions prepared by Moore Ingram Johnson & Steele, LLP dated November 15, 2004, page 9, section II, **RESIDENTIAL**, subparagraphs (A)(a) and (c), which read as follows:

(A) Within the area denominated as "The Village Center," shall be the following residential components:

(a) Within Blocks 1 and 2 of the proposed community, there shall be one hundred six (106) units located above retail/office and comprising the upper two (2) stories thereof. These units shall be "For Sale" units and shall comply in all respects with the State of Georgia Condominium Act.

.

(c) Located within the "Town Center" building, Block 3, shall be one hundred sixty-six (166) condominium units. These units shall be "For Sale" units and shall comply in all respects with the State of Georgia Condominium Act.

The following shall be inserted in lieu of the foregoing deleted paragraphs:

II. RESIDENTIAL

[Page 9 of the letter of agreeable stipulations and conditions dated November 15, 2004]

(A) Within the area denominated as "The Village Center," shall be the following residential components:

(a) Within Blocks 1 and 2 of the proposed community, there shall be one hundred eleven (111) units located above retail/office and comprising the upper two (2) stories thereof. These units shall be "For Sale" units and shall comply in all respects with the State of Georgia Condominium Act.

.

(c) Located within the "Town Center" building, Block 3, shall be one hundred sixty-one (161) condominium units. These units shall be "For Sale" units and shall comply in all respects with the State of Georgia Condominium Act.

- (2) Applicants propose the deletion in its entirety of a portion of the letter of stipulations and conditions prepared by Moore Ingram Johnson & Steele, LLP, dated November 15, 2004, page 9, section II, **RESIDENTIAL**, subparagraph (D), which reads as follows:

(D) The only exception to the foregoing is that the units, as described and set forth in subparagraphs (A)(a), (b), (c), and (d), above, may be leased from the inception of the project; except that, at the end of a period of five (5) years or sooner from the issuance of certificates of occupancy for the above residential units, Applicant agrees that said units will be offered for sale, one building at a time, until fully sold.

As well as the deletion in its entirety of the third sub-bullet under the second bullet of the Board of Commissioners' conditions as set forth in the official minutes of the Board of Commissioners Zoning Hearing held on November 16, 2004, which reads as follows:

Page 11, add the following sentence to the end of II. Residential, paragraph (D) to read as follows: "After five (5) years, said leases shall be month-to-month."

The following shall be inserted in lieu of the foregoing deleted paragraphs:

II. RESIDENTIAL

[Page 11 of the letter of agreeable stipulations and conditions dated November 15, 2004]

(D) The only exception to the foregoing is that the units, as described and set forth in subparagraph (A)(a), (b), (c), and (d), above, may be leased from the inception of the project; but Applicants, Applicants' successors and assigns, shall convert said units to "For Sale" units at such time as market conditions shall permit.

Compliance with the State of Georgia Condominium Act for those units hereinabove referenced shall occur at the time of such conversion.

- (3) Deletion in its entirety of a portion of that certain letter of stipulations and conditions prepared by Moore Ingram Johnson & Steele, LLP dated November 15, 2004, page twelve, as follows:

PHASE II

I. MID-RISE CONDOMINIUMS

(A) Mid-rise condominiums shall be located in Pods "E" and "F" and Block 4 totaling five hundred sixty-nine (569) units. These units shall comply with the Cobb County Zoning Ordinance and shall be "for sale" units only.

(B) All buildings within this phase shall be a maximum of eight (8) residential levels in height, not including parking levels.

Applicants propose the insertion of the following paragraphs in lieu of the aforesated deleted paragraphs:

PHASE II

[Page 12 of the letter of agreeable stipulations and conditions dated November 15, 2004]

I. MID-RISE CONDOMINIUMS

(A) (1) Mid-rise condominiums shall be located in Pods "E" and "F" totaling no more than two hundred fifty (250) units. These units shall comply with the Cobb County Zoning Ordinance and shall be "For Sale" units only.

However, these units may be leased from the inception of the development, and shall be converted to "for sale" units at such time as market conditions allow.

(A) (2) Mid-rise condominiums shall be located in Block 4 totaling no more than one hundred twenty (120) units. These units shall comply with the Cobb County Zoning Ordinance and shall be "For Sale" units only.

(B) All buildings within this phase shall be a maximum of five (5) residential levels in height, not including parking levels.

- (4) Applicants propose the addition to Section II, **RESIDENTIAL**, subparagraph (C), as found on page eleven, of that certain letter of agreeable stipulations and conditions, prepared by Moore Ingram Johnson & Steele, LLP dated November 15, 2004, as follows:

(C) This paragraph shall be amended by appending thereto an exhibit containing specific square footage totals for Village Townhomes, Village 1, 2, and 3 bedrooms condominiums. This exhibit is attached to this amendment as Exhibit "1" and incorporated herein by reference.

- (5) The balance and remainder of the stipulations and conditions specifically enumerated in the official minutes, and attachments thereto, of the Board of Commissioners Zoning Hearing held on November 16, 2004, in Application No. Z-42 (2004), and any subsequent approvals related to the West Village development, are unaltered by this request for stipulation amendment.

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
NOVEMBER 16, 2004
9:00 A.M.

The Board of Commissioners' Zoning Hearing was held on Tuesday, November 16, 2004, at 9:00 a.m. in the second floor public meeting room of the Cobb County building. Present and comprising a quorum of the Commission were:

Chairman Samuel S. Olens
Commissioner Helen Goreham
Commissioner Tim Lee
Commissioner Joe L. Thompson
Commissioner G. Woody Thompson, Jr.

Z-42

THE PACIFIC GROUP, INC. (Doug and Janice Aman, et al., owners) for Rezoning from R-20, RD, CF, GC and LI to RM-12, NRC and UVC for the purpose of Mixed Use Development with Retail, Office and Residential in Land Lots 692, 748, 749, 750, 763 and 764 of the 17th District. Located at the southwest intersection of Atlanta Road and I-285, and on the south side of Oakdale Road, west of the CSX Railroad tracks, and on the north and south sides of Pine Street and Hill Street.

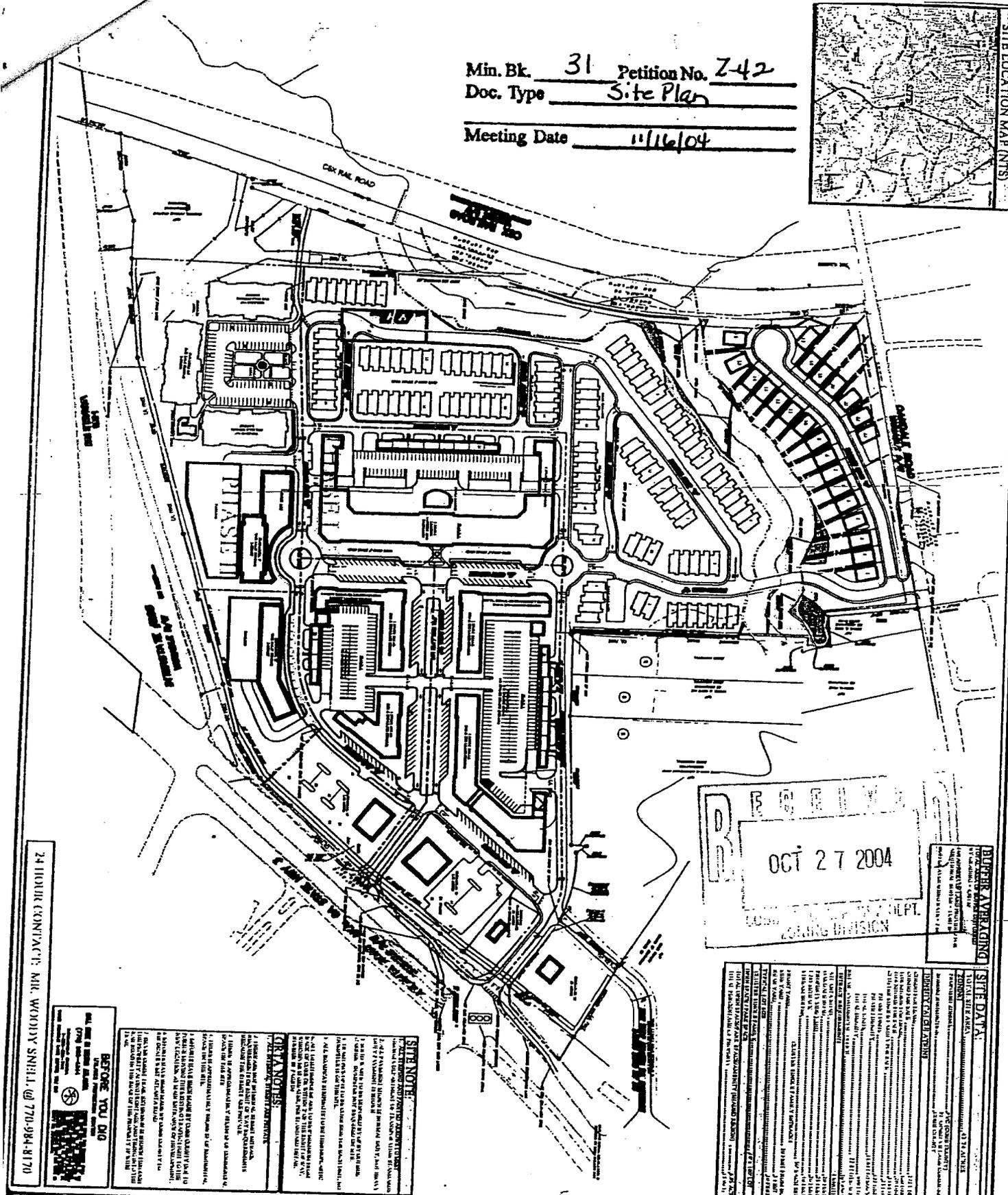
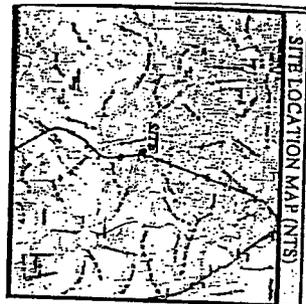
The public hearing was opened and Mr. John Moore, Ms. Suzanne Ballew, Mr. Tony Waybright, Mr. Randy Turner and Mr. Bo Wagner addressed the Board. Following presentations and discussion, the following motion was made:

MOTION: Motion by J. Thompson, second by Lee, to delete zoning request to the PVC zoning district subject to:

- site plan last revised October 26, 2004 (copy attached and made a part of these minutes)
- revised letter of agreeable stipulations from Mr. John Moore dated November 15, 2004, with the following revisions: (copy attached and made a part of these minutes)
 - Page 9, add subparagraph (h) to *I. Retail and Office, paragraph (G)* to read as follows: "Any drive thru retail will be subject to approval of the District Commissioner."
 - Page 9, add subparagraph (e) to *II. Residential, paragraph (A)* to read as follows: "a minimum of 176 units within the village center shall be two or three bedroom units."
 - Page 11, add the following sentence to the end of *II. Residential, paragraph (D)* to read as follows: "After five (5) years, said leases shall be month-to-month."
 - Page 11, footnote 3, delete the words "thirty-five (35) percent" and replace with "thirty-two (32) units"
 - Page 12, revise paragraph (E) of *II. Residential*, to read as follows: "There shall be a maximum of ten (10) percent of the leased residential units at the time the entire development is complete."
- decisions from the Atlanta Regional Commission (ARC) and the Georgia Regional Transportation Authority (GRTA) relevant to the Development of Regional Impact (DRI) (copy attached and made a part of these minutes)
- Developer to e-mail Ms. Suzanne Ballew each quarter relevant to progress of the development
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations
- owner/developer to enter into a Development Agreement pursuant to O.C.G.A. 36-71-13 for dedication of system improvements to mitigate traffic concerns

VOTE: ADOPTED 5-0

Min. Bk. 31 Petition No. Z-42
Doc. Type Site Plan
Meeting Date 11/16/04

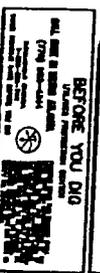


OCT 27 2004
COMMUNITY DEVELOPMENT DEPT.
ZONING DIVISION

BUFFER AVERAGING
FOR THE CITY OF ATLANTA
APPLICANT: [Name]
PROJECT: [Name]

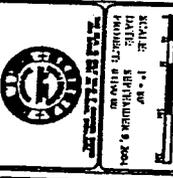
NO.	DATE	DESCRIPTION
1	11/16/04	PRELIMINARY SITE PLAN
2	11/16/04	REVISIONS
3	11/16/04	REVISIONS
4	11/16/04	REVISIONS
5	11/16/04	REVISIONS
6	11/16/04	REVISIONS
7	11/16/04	REVISIONS
8	11/16/04	REVISIONS
9	11/16/04	REVISIONS
10	11/16/04	REVISIONS
11	11/16/04	REVISIONS
12	11/16/04	REVISIONS
13	11/16/04	REVISIONS
14	11/16/04	REVISIONS
15	11/16/04	REVISIONS
16	11/16/04	REVISIONS
17	11/16/04	REVISIONS
18	11/16/04	REVISIONS
19	11/16/04	REVISIONS
20	11/16/04	REVISIONS
21	11/16/04	REVISIONS
22	11/16/04	REVISIONS
23	11/16/04	REVISIONS
24	11/16/04	REVISIONS
25	11/16/04	REVISIONS
26	11/16/04	REVISIONS
27	11/16/04	REVISIONS
28	11/16/04	REVISIONS
29	11/16/04	REVISIONS
30	11/16/04	REVISIONS
31	11/16/04	REVISIONS
32	11/16/04	REVISIONS
33	11/16/04	REVISIONS
34	11/16/04	REVISIONS
35	11/16/04	REVISIONS
36	11/16/04	REVISIONS
37	11/16/04	REVISIONS
38	11/16/04	REVISIONS
39	11/16/04	REVISIONS
40	11/16/04	REVISIONS
41	11/16/04	REVISIONS
42	11/16/04	REVISIONS
43	11/16/04	REVISIONS
44	11/16/04	REVISIONS
45	11/16/04	REVISIONS
46	11/16/04	REVISIONS
47	11/16/04	REVISIONS
48	11/16/04	REVISIONS
49	11/16/04	REVISIONS
50	11/16/04	REVISIONS
51	11/16/04	REVISIONS
52	11/16/04	REVISIONS
53	11/16/04	REVISIONS
54	11/16/04	REVISIONS
55	11/16/04	REVISIONS
56	11/16/04	REVISIONS
57	11/16/04	REVISIONS
58	11/16/04	REVISIONS
59	11/16/04	REVISIONS
60	11/16/04	REVISIONS
61	11/16/04	REVISIONS
62	11/16/04	REVISIONS
63	11/16/04	REVISIONS
64	11/16/04	REVISIONS
65	11/16/04	REVISIONS
66	11/16/04	REVISIONS
67	11/16/04	REVISIONS
68	11/16/04	REVISIONS
69	11/16/04	REVISIONS
70	11/16/04	REVISIONS
71	11/16/04	REVISIONS
72	11/16/04	REVISIONS
73	11/16/04	REVISIONS
74	11/16/04	REVISIONS
75	11/16/04	REVISIONS
76	11/16/04	REVISIONS
77	11/16/04	REVISIONS
78	11/16/04	REVISIONS
79	11/16/04	REVISIONS
80	11/16/04	REVISIONS
81	11/16/04	REVISIONS
82	11/16/04	REVISIONS
83	11/16/04	REVISIONS
84	11/16/04	REVISIONS
85	11/16/04	REVISIONS
86	11/16/04	REVISIONS
87	11/16/04	REVISIONS
88	11/16/04	REVISIONS
89	11/16/04	REVISIONS
90	11/16/04	REVISIONS
91	11/16/04	REVISIONS
92	11/16/04	REVISIONS
93	11/16/04	REVISIONS
94	11/16/04	REVISIONS
95	11/16/04	REVISIONS
96	11/16/04	REVISIONS
97	11/16/04	REVISIONS
98	11/16/04	REVISIONS
99	11/16/04	REVISIONS
100	11/16/04	REVISIONS

24 HOUR CONTACT: MIL WOOLLY SMITH, @ 770-984-9170



BEFORE YOU DIG
Call 800-4-A-DAVE (4328) or 770-984-9170
for more information on the City of Atlanta's
utility marking system.

SITE NOTES:
1. ALL DIMENSIONS ARE IN FEET AND INCHES.
2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
4. ALL DIMENSIONS ARE TO THE CENTERLINE UNLESS OTHERWISE NOTED.
5. ALL DIMENSIONS ARE TO THE CENTERLINE UNLESS OTHERWISE NOTED.
6. ALL DIMENSIONS ARE TO THE CENTERLINE UNLESS OTHERWISE NOTED.
7. ALL DIMENSIONS ARE TO THE CENTERLINE UNLESS OTHERWISE NOTED.
8. ALL DIMENSIONS ARE TO THE CENTERLINE UNLESS OTHERWISE NOTED.
9. ALL DIMENSIONS ARE TO THE CENTERLINE UNLESS OTHERWISE NOTED.
10. ALL DIMENSIONS ARE TO THE CENTERLINE UNLESS OTHERWISE NOTED.



ZONING PLAN
PARTIAL
MAY BE
LATER
REVISIONS
BY THE
CITY OF ATLANTA

NO.	DATE	DESCRIPTION
1	11/16/04	PRELIMINARY SITE PLAN
2	11/16/04	REVISIONS
3	11/16/04	REVISIONS
4	11/16/04	REVISIONS
5	11/16/04	REVISIONS
6	11/16/04	REVISIONS
7	11/16/04	REVISIONS
8	11/16/04	REVISIONS
9	11/16/04	REVISIONS
10	11/16/04	REVISIONS
11	11/16/04	REVISIONS
12	11/16/04	REVISIONS
13	11/16/04	REVISIONS
14	11/16/04	REVISIONS
15	11/16/04	REVISIONS
16	11/16/04	REVISIONS
17	11/16/04	REVISIONS
18	11/16/04	REVISIONS
19	11/16/04	REVISIONS
20	11/16/04	REVISIONS
21	11/16/04	REVISIONS
22	11/16/04	REVISIONS
23	11/16/04	REVISIONS
24	11/16/04	REVISIONS
25	11/16/04	REVISIONS
26	11/16/04	REVISIONS
27	11/16/04	REVISIONS
28	11/16/04	REVISIONS
29	11/16/04	REVISIONS
30	11/16/04	REVISIONS
31	11/16/04	REVISIONS
32	11/16/04	REVISIONS
33	11/16/04	REVISIONS
34	11/16/04	REVISIONS
35	11/16/04	REVISIONS
36	11/16/04	REVISIONS
37	11/16/04	REVISIONS
38	11/16/04	REVISIONS
39	11/16/04	REVISIONS
40	11/16/04	REVISIONS
41	11/16/04	REVISIONS
42	11/16/04	REVISIONS
43	11/16/04	REVISIONS
44	11/16/04	REVISIONS
45	11/16/04	REVISIONS
46	11/16/04	REVISIONS
47	11/16/04	REVISIONS
48	11/16/04	REVISIONS
49	11/16/04	REVISIONS
50	11/16/04	REVISIONS
51	11/16/04	REVISIONS
52	11/16/04	REVISIONS
53	11/16/04	REVISIONS
54	11/16/04	REVISIONS
55	11/16/04	REVISIONS
56	11/16/04	REVISIONS
57	11/16/04	REVISIONS
58	11/16/04	REVISIONS
59	11/16/04	REVISIONS
60	11/16/04	REVISIONS
61	11/16/04	REVISIONS
62	11/16/04	REVISIONS
63	11/16/04	REVISIONS
64	11/16/04	REVISIONS
65	11/16/04	REVISIONS
66	11/16/04	REVISIONS
67	11/16/04	REVISIONS
68	11/16/04	REVISIONS
69	11/16/04	REVISIONS
70	11/16/04	REVISIONS
71	11/16/04	REVISIONS
72	11/16/04	REVISIONS
73	11/16/04	REVISIONS
74	11/16/04	REVISIONS
75	11/16/04	REVISIONS
76	11/16/04	REVISIONS
77	11/16/04	REVISIONS
78	11/16/04	REVISIONS
79	11/16/04	REVISIONS
80	11/16/04	REVISIONS
81	11/16/04	REVISIONS
82	11/16/04	REVISIONS
83	11/16/04	REVISIONS
84	11/16/04	REVISIONS
85	11/16/04	REVISIONS
86	11/16/04	REVISIONS
87	11/16/04	REVISIONS
88	11/16/04	REVISIONS
89	11/16/04	REVISIONS
90	11/16/04	REVISIONS
91	11/16/04	REVISIONS
92	11/16/04	REVISIONS
93	11/16/04	REVISIONS
94	11/16/04	REVISIONS
95	11/16/04	REVISIONS
96	11/16/04	REVISIONS
97	11/16/04	REVISIONS
98	11/16/04	REVISIONS
99	11/16/04	REVISIONS
100	11/16/04	REVISIONS

VININGS WEST
A MULTI-USE DEVELOPMENT LOCATED ON ATLANTA ROAD
IN THE CITY OF ATLANTA, GEORGIA

THE PACIFIC COLONY
1111 RIVINGTON DRIVE, SUITE 100
ALPHARETTA, GEORGIA 30004
PHONE: 770-984-9170

PLANNERS AND ENGINEERS COLLABORATIVE
"WE PROVIDE SOLUTIONS"
SITE PLANNING, LANDSCAPE ARCHITECTURE & CIVIL ENGINEERING AND SURVEYING
100 PRINCE STREET, SUITE 200, ATLANTA, GEORGIA 30309
PHONE: 404-525-1100 FAX: 404-525-1101 WWW.PECCOLLAB.COM