

REVISION	DATE	DESCRIPTION

2510 Heritage C
Atlanta, Georgia 30339
Tel 770.951.2496
www.hongkong.com

**Z-6
(2009)**

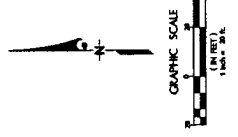
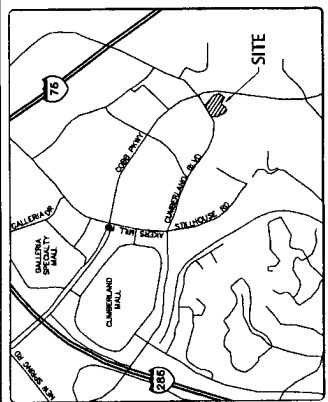
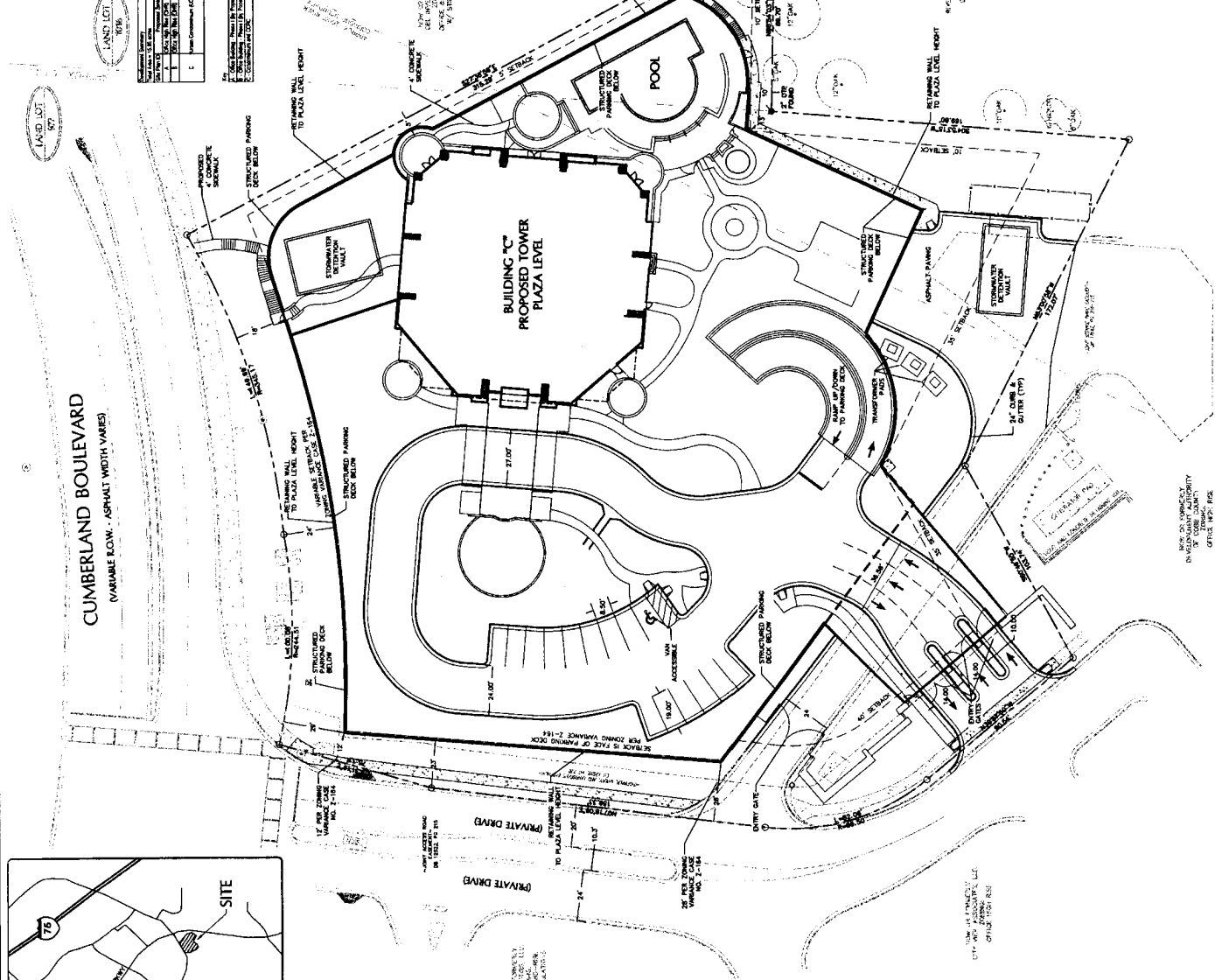
PARK VININGS
3400 CUMBERLAND BOULEVARD
ATLANTA, GEORGIA
ZONING PLAN

7-10
SHEET

SITE DATA:
STREET ADDRESS: 3400 CUMBERLAND BOULEVARD
LAND LOT 977 & 1016
PARCEL ID: 17097700040 & 17097700050
2ND SECTION
COBB COUNTY, GEORGIA
TAX PARCEL I.D. #17097700040 & 17097700050
SITE AREA: 2.83 AC

NO.	DESCRIPTION	DATE	BY	CHKD.
1	PRELIMINARY PLAN	11/10/08	JW	
2	REVISED PLAN	11/10/08	JW	
3	REVISED PLAN	11/10/08	JW	
4	REVISED PLAN	11/10/08	JW	
5	REVISED PLAN	11/10/08	JW	

REVISIONS ARE SHOWN ON THE SHEETS OF THE PROJECT.
DATE: 11/10/08
BY: JW
CHKD.: [Signature]



RECEIVED
DEC - 5 2008
COBB CO. COMM. DEV. AGENCY
ZONING DIVISION

DATE: 11/10/08
BY: JW
CHKD.: [Signature]

APPLICANT: City View Holdings, L.P.

770-980-0808

REPRESENTATIVE: Larry Kelly

770-980-0808

TITLEHOLDER: City View Holdings, L.P.

PROPERTY LOCATION: Located on the south side of Cumberland Boulevard, west of U.S. Highway 41.

ACCESS TO PROPERTY: Cumberland Boulevard

PHYSICAL CHARACTERISTICS TO SITE: Vacant lot

PETITION NO: Z-6

HEARING DATE (PC): 02-03-09

HEARING DATE (BOC): 02-17-09

PRESENT ZONING: UC

PROPOSED ZONING: UC with Stipulations

PROPOSED USE: Senior Living Facility

SIZE OF TRACT: 2.832 acres

DISTRICT: 17

LAND LOT(S): 977, 1016

PARCEL(S): 4, 5

TAXES: PAID X DUE _____

COMMISSION DISTRICT: 2

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: RRC/ property under development for a mixed use project

SOUTH: OHR/ Russell Athletics

EAST: OI/ undeveloped

WEST: OMR/ Georgian Bank

OPPOSITION: NO. OPPOSED ___ PETITION NO: ___ SPOKESMAN _____

PLANNING COMMISSION RECOMMENDATION

APPROVED ___ MOTION BY _____

REJECTED ___ SECONDED _____

HELD ___ CARRIED _____

BOARD OF COMMISSIONERS DECISION

APPROVED ___ MOTION BY _____

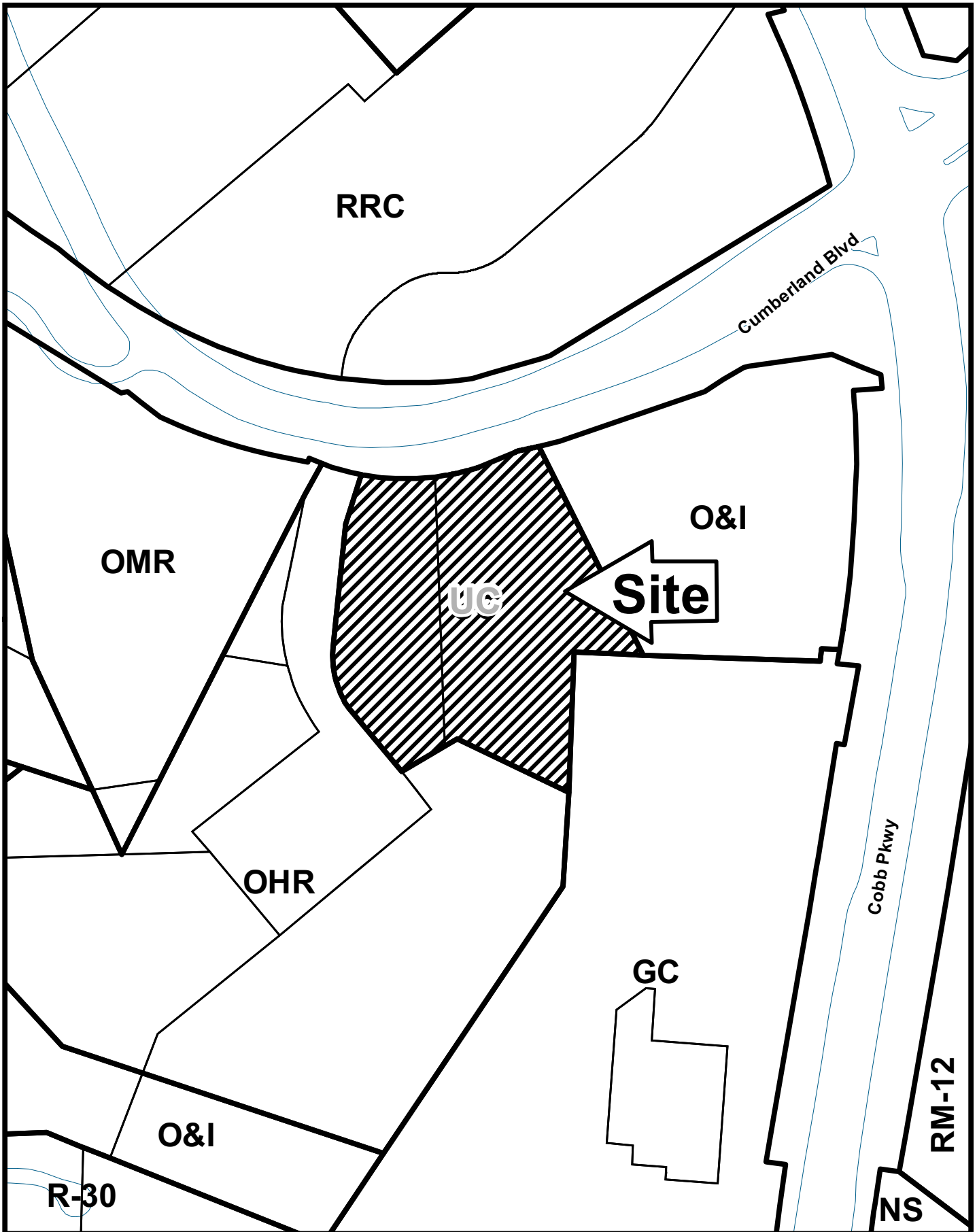
REJECTED ___ SECONDED _____

HELD ___ CARRIED _____

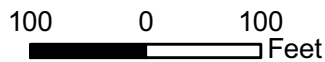
STIPULATIONS:





Z-6



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



-  City Boundary
-  Zoning Boundary

APPLICANT: City View Holdings, L.P.

PETITION NO.: Z-6

PRESENT ZONING: UC

PETITION FOR: UC with stip.

PLANNING COMMENTS: Staff Member Responsible: John P. Pederson, AICP

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

Proposed Number of Units: 254 **Overall Density:** 90 **Units/Acre**

Present Zoning Would Allow: 150 **Units** **Increase of:** 104 **Units/Lots**

The applicant is requesting the UC zoning district to develop a senior living facility. The building would be 33-stories in height, with units ranging in size from 942 square-feet to 1,276 square-feet. There would be 200-units of independent living which would occupy twenty-five floors of the building. There would be 54 units of assisted living and/or memory care which would occupy four floors of the building. Then there would be four floors of ancillary support services which would include dining facilities, a piano bar/pub, a fitness and pool area, beauty salon, movie theater, performing arts center, non-denominational worship area, a health clinic offering doctor and dental care, and a convenience grocery store. All the ancillary uses would be for the residents only. People living in the facility execute a service agreement in which much of the cost is paid upon entry into the facility, with monthly assessments following. The applicant has submitted a letter describing the proposal which is attached as Exhibit "A".

It should be noted, the property was approved in 1999 for a 32-story building with 150 units. The site layout is substantially similar to the 1999 approval.

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.

STORMWATER MANAGEMENT COMMENTS

There does not appear to be any substantial footprint change from the previously approved site plan. However, consistency with the originally approved ARC MRPA plan must be verified prior to LDP approval.

APPLICANT: City View Holdings, L.P.

PETITION NO.: Z-6

PRESENT ZONING: UC

PETITION FOR: UC with Stip.

SCHOOL COMMENTS:

Name of School	Enrollment	Capacity Status	Number of Portable Classrooms
Elementary			
Middle			
High			

Additional Comments:

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.

Aerial apparatus access shall be required for all structures over 30 feet in height measured from the lowest level of fire department access to the ceiling height of the highest occupiable floor level. Aerial fire apparatus roads shall be a minimum width of 24 feet face of curb to face of curb maximum of 40 feet from the structure and be positioned parallel to the long side of the building for its entire length. No overhead utility and power lines shall be located within the aerial apparatus access.

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

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

Residential subdivision: Cul-de-sac with an island – minimum 60 foot radius to outside curb, measured to inside of curb, minimum lane width 24 feet **or** Cul-de-sac without an island – 38 foot outside radius **or** Hammerhead turnaround – total of 110 feet needed (45 feet + 20 foot wide roadway + 45 feet).

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 sliding 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.

Fire Hydrant:

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

All fuel tanks must be submitted to Cobb County Fire Marshal’s Office for approval call 770-528-8328.

APPLICANT City View Holdings, LP

PETITION NO. Z-006

PRESENT ZONING UC

PETITION FOR UC w/stips

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) 12" DI / N side Cumberland Blvd

Additional Comments: Meter to be on Cumberland Rd ROW

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: At site in street ROW

Estimated Waste Generation (in G.P.D.): **A D F** 66,750 **Peak** 166,875

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:

Central kitchens require architectural plans approval and those near ground level require pre-installed exterior grease traps

Notes FYI: *GPD based on 1-2 bedroom independent living units*

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: City View Holdings, L.P.

PETITION NO.: Z-6

PRESENT ZONING: UC

PETITION FOR: UC with Stipulations

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
Cumberland Boulevard	10700	Arterial	35 mph	Cobb County	110'

Based on 2007 traffic counting data taken by Cobb County DOT.

COMMENTS AND OBSERVATIONS

Cumberland Boulevard is classified as an arterial and according to the available information; the existing right-of-way does meet the minimum requirements for this classification.

RECOMMENDATIONS

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

STAFF RECOMMENDATIONS

Z-6 CITY VIEW HOLDINGS, L.P.

- 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 area contains many intense uses such as mid and high-rise office buildings, high density residential and commercial uses. The property is currently zoned for a 32-story, 150-unit condominium tower (Z-164 of 1998). However, the UC zoning district is intended for individual ownership of the units, which is not the intent of this application.
- 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. The applicant's proposal would be consistent the character of the area, which is truly mixed use. The applicant's proposal is located in an area that supports a variety of office, commercial and residential uses. However, the UC projects previously approved by the Board of Commissioners have not been for leased units.
- 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, schools or utilities. This opinion can be supported by the departmental comments contained in this analysis.
- 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 Land Use Category, 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 denying the applicant's rezoning proposal. The applicant's proposal would be compatible with other uses in the area, which includes residential, commercial and offices. However, the applicant's proposal would be for leased units, which is not supported by the UC zoning district. Staff is generally amenable to the proposal, but the fact these are not owner occupied units is problematic. This proposal does not squarely fit into any one zoning district; this request is a hybrid of several different zoning districts, such as CCRC, RSL, RHR and/or OHR. Staff would suggest the applicant amend the application to reduce the building height, reduce the number of units, or alter the operation of the proposal, or some of all these suggestions to fit the proposal into the CCRC, RHR, or OHR zoning district.

Based on the above analysis, Staff recommends DENIAL.

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.

Exhibit "A"

PROPOSED USES

Continuing care retirement community consisting of 200 independent living units and up to 54 assisted living/memory care beds with supporting food services, wellness and fitness center, medical and dental clinics and retail facilities to serve residents and their guests and not the general public. An on-site skilled nursing facility is not included.

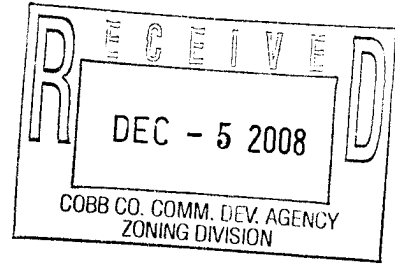


Exhibit "B"

Additional Stipulations

In addition to changing the stipulations on the Site Plan, the Applicant requests that the following additional stipulations and conditions be added to the UC zoning.

1. The number of floors of above finished grade previously approved (30 residential floors and two floors of ancillary/support services) may be increased by one and may vary so that there may be fewer residential floors and more floors of ancillary support services so long as the total number of residential floors and ancillary/support floors above finished grade does not exceed 33, plus the penthouse mechanical structure and roof treatment. Three below grade levels will provide parking and other resident amenities and ancillary/support.

2. The ownership and operation of the structure (now shown on the site plan as "proposed condominium tower") as a continuing care retirement community under the particular facts of the site plan satisfies the requirement of UC zoning that the structure be used as a condominium. This facility may offer up to 200 units of independent living and up to 54 beds of assisted living/memory care facilities.

3. Residence and services agreements with entrance fees, which provide residents with the right to use the independent living and/or assisted living/memory care facilities and the common areas, under the particular facts of this site plan, is deemed to satisfy any ownership requirement in UC zoning.

4. Residence and services agreements between the party undertaking the continuing care retirement community and the residents is deemed in this context to satisfy any requirement in UC zoning for a homeowners association, declaration, articles and bylaws. Zoning staff is not required to review or approve, and the county is not required to enforce, any such residence and services agreements.

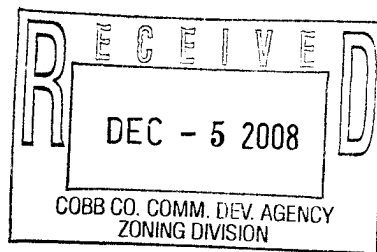
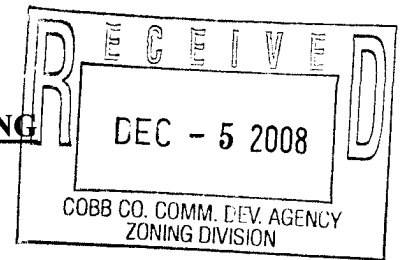


Exhibit "C"

ANALYSIS OF IMPACT OF PROPOSED REZONING



Introduction

The property which is the subject of this rezoning application is a part of City View, located on Cumberland Boulevard almost immediately adjacent to Cobb Parkway. It is in the Cumberland Galleria Regional Activity Center. It is presently zoned Urban Condominium (UC). A certified copy of the existing zoning with respect to the property is attached hereto as Schedule C. A portion of the existing zoning is a site plan dated March 31, 1999 ("Existing Site Plan") that shows the location of a "Proposed Condominium Tower" together with ingress and egress and other features. Only limited changes are being requested to the Existing Site Plan. Importantly, the siting of the tower, setbacks, traffic circulation and similar external aspects are not materially different than the existing approved zoning.

The Applicant is, however, proposing that the internal use of the building be directed to senior living instead of a more general residential condominium use, which will allow more, smaller units in the same floor area. The Applicant is further requesting that the height of the building be permitted to be one story higher. The Applicant is requesting that the stipulations associated with the existing zoning be modified to accommodate this use.

Applicant's Concept

This property will be developed by an affiliate of Park Signature Properties, the developer of very high end luxury condominium projects in the Atlanta area including Park Place on Peachtree, Park Avenue and Park Regency. The applicant proposes utilization of the property within the UC zoning classification for a high-end senior living facility consisting of 200 independent living units, 54 assisted living or memory care beds and a number of ancillary facilities that will support the wellness, health and recreation of the residents within the facility. The facility will not include skilled nursing care. The ancillary facilities to be included within the project, subject to further programmatic analysis, will include multiple dining venues, a piano bar/pub, fitness and pool area, spa and beauty salon, a performing arts center/movie theatre, a non-denominational worship area, a health and wellness clinic offering physician and dental services and a convenience store/pharmacy, among others. These facilities will be available for residents and their guests but will not be available to the general public.

The Applicant believes that providing these amenities on-site not only enhances the services to and conveniences of the residents but also has the secondary benefit of minimizing trip traffic and lessening impact on surrounding areas. Traffic engineer Kimley-Horn and Associates has undertaken a traffic trip study on behalf of Applicant that is filed along with this zoning application. The report shows that automobile trips are reduced by over 10 percent under this project as compared to trips under the condominium project now zoned.

The existing zoning permits 30 levels of residences plus two floors of ancillary/support services above grade. The Existing Site Plan permits 150 condominium units and also provides for 225 parking spaces, which were to be provided primarily within a three-level underground parking structure.

This application seeks a change to the stipulations of the zoning to permit a total of 33 levels above grade, plus a penthouse mechanical structure and roof treatment. The floors are designed at 11 feet slab to slab, as compared to 14 slab to slab in some commercial office buildings in the area, such as at Galleria. The height above grade of a 33 story building with 11 foot floors is comparable to the height above grade of a 26 story building with 14 foot floors. It is expected that those 33 levels would consist of 25 floors of independent living units (8 units per floor), four floors of assisted living and memory care services and four other floors of ancillary support services. Final programming may result in changes within this outside limitation of 33 floors above grade. The number of independent living units would increase to a maximum of 200 units from a maximum of 150 condominium units, but independent living units would still be in the range of 942 to 1276 square feet. The Applicant also proposes to provide a total of not less than 300 parking spaces for the residents, employees and visitors, most of which will be in three below grade levels. Thus, the parking ratio will continue at 1.5 per independent living unit, consistent with the present zoning requirement.

As is typical of continuing care retirement communities, the residents do not have a fee or leasehold interest. Rather, under the terms of residence and services agreements they occupy their independent living units during times in which they can live independently and later reside in assisted living facilities when they need additional care. Residents who need skilled nursing care services will receive those services off-site at other facilities. On entry into the community, residents make substantial payments, a large percentage of which is later returned to them or their families when their time at the community has ended. They also pay monthly fees or assessments. Thus, it is "home purchase" like although not structured that way from a legal standpoint.

The Applicant believes that the UC zoning is the appropriate zoning for this project although as described below some of the associated stipulations will need to be broadened. Independent living facilities with assisted living and/or memory care units are not prohibited by UC zoning, but because they are also not expressly permitted, some changes to the stipulations are needed to accommodate better this use and legal structure within the zoning category. Moreover, this specific high rise project fits more readily within UC and with fewer changes than would be required if the site were rezoned to other classifications. For example, the CCRC zoning category (citation) requires on-site skilled nursing care which is not planned and is not considered appropriate for this project. Both the CCRC and RSL supportive residential facilities zoning categories have height and other limitations which would require significant variances. On the other hand, the existing UC residential district zoning is already in place, the Cobb County Commission has already determined that a high rise building is appropriate on this property, and the modifications to the stipulations requested are limited.

Requested Changes and Stipulations

Site Plan

The stipulations in connection with the UC zoning are set forth on the Existing Site Plan approved on April 20, 1999, as modified by the Cobb County Commission on November 16, 1999. A summary of those stipulations can be summarized by the following updated chart.

Site Plan ID	Proposed Zoning	Land Use	Residential, Ancillary/Support Levels Above Grade	Size	Parking Ratio	Parking Spaces	Approx. Area
C	Urban Condominium (UC)	Residential	32	150 Units	1.5/unit	225	3 acres UC

A revised site plan is being filed with this zoning application which maintains the site features but also modifies the chart containing the site specific stipulations to read as follows:

Site Plan ID	Proposed Zoning	Land Use	Residential, Ancillary/Support Levels	Size	Parking Ratio	Parking Spaces	Approx. Area
C	Urban Condominium (UC)	Residential CCRC	33 above grade plus penthouse mechanical plus 3 below grade	200 Independent Living Units and 54 assisted living units/memory support units	1.5 / Independent Living Unit	300	3 acres UC

The modified site plan also reflects the changes that have been made to Cumberland Boulevard since the Existing Site Plan was approved by the Cobb County Commission in 1999. The location of the building has not changed but Cumberland Boulevard was been modified since the original zoning, and the final configuration of this public street is shown on the updated site plan. With one exception of about twelve inches along the southeastern corner of the building, the setbacks shown on the site plan are the same as on the Existing Site Plan.

Additional Stipulations

In addition to changing the stipulations on the Site Plan, the Applicant requests that the following additional stipulations and conditions be added to the UC zoning.

1. The number of floors of above finished grade previously approved (30 residential floors and two floors of ancillary/support services) may be increased by one and may vary so that there may be fewer residential floors and more floors of ancillary support services so long as the total number of residential floors and ancillary/support floors above finished grade does not exceed 33, plus the penthouse mechanical structure and roof treatment. Three below grade levels will provide parking and other resident amenities and ancillary/support.

2. The ownership and operation of the structure (now shown on the site plan as “proposed condominium tower”) as a continuing care retirement community under the particular facts of the site plan satisfies the requirement of UC zoning that the structure be used as a condominium. This facility may offer up to 200 units of independent living and up to 54 beds of assisted living/memory care facilities.

3. Residence and services agreements with entrance fees, which provide residents with the right to use the independent living and/or assisted living/memory care facilities and the common areas, under the particular facts of this site plan, is deemed to satisfy any ownership requirement in UC zoning.

4. Residence and services agreements between the party undertaking the continuing care retirement community and the residents is deemed in this context to satisfy any requirement in UC zoning for a homeowners association, declaration, articles and bylaws. Zoning staff is not required to review or approve, and the county is not required to enforce, any such residence and services agreements.

Specific Questions asked in Paragraph 9 of Requirements for Completing Application for Rezoning

In response to the specific questions asked in paragraph 9 of the requirements for completing application for rezoning, we can provide the following information:

a) Question: Whether the zoning proposal will permit a use that is suitable in view of the use and development of the adjacent and nearby property.

Answer: This property is located on Cumberland Boulevard in a commercial sector. The present zoning already permits a residential building with 30 floors of residences plus two ancillary floors, for a total of 32 floors above grade. This application seeks to increase the number of floors by one. The 11 foot slab to slab height per floor results in the same height as a 26 story building with 14 foot slab to slab floors. Commercial office buildings in the immediate vicinity have been constructed with 14 foot floor heights. Otherwise, the site, setbacks and interconnectivity to the surrounding properties would be substantially as is currently approved.

b) Question: Whether the zoning proposal will adversely affect existing use or usability of adjacent or nearby property.

Answer: The most immediately adjacent property is part of City View, and this request for rezoning is being made by an affiliate of City View. The high-rise residential use is not expected to adversely affect the existing use or usability of the adjacent or nearby property. The traffic impact of the requested facility is less than the impact of the currently zoned project.

c) Question: Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

Answer: The luxury condominiums market sector is significantly overbuilt throughout the metro Atlanta area. On the other hand, there is expanding demand for senior living facilities.

d) Question: Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.

Answer: The applicant is submitting with this rezoning application a trip generation report prepared by Kimley-Horn & Associates, Inc., which reports that the resulting traffic trips from the proposed senior living facility is fewer than the number of traffic trips that would have arisen from the condominium project that is currently zoned. The reduction is greater than 10% of daily trips as well as the reduction in both A.M. peak hour and P.M. peak hour trips. In addition, a senior living facility would put no burden on schools as there would be no children living in the facility.

e) Question: Whether the zoning proposal is in conformity with the policy and intent of the land use plan.

Answer: Yes. The zoning proposal is consistent with and in conformity with the future land use plan of the subject area. The property is located within the Cumberland Galleria Regional Activity Center and within the "Office" sub area classification. Within the "Office" sub area classification, mid or high rise residential developments are permitted and building heights and density are reviewed and determined on a case-by-case basis.

f) Question: Whether there are other existing or changing conditions affecting the use and development of the property, which gives supporting grounds for either approval or disapproval of the zoning proposal.

Answer: An aging population requires more senior living facilities, particularly of the quality level proposed by the Applicant. Each resident will be required to make a significant (at least several hundred thousand dollar) deposit as part of the residence and services agreement. Thus, entry into the facility is "home purchase like" even though the legal structure of a continuing care retirement community is such that there is no transfer of title to the residents.