

**DECEMBER 14, 2010 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 2**

ITEM # 3

PURPOSE

To consider a site plan and stipulation amendment for First Citizens Bank and Trust regarding application Z-18 (Madison Retail, LLC) of 2007, for property located at the northeasterly intersection of Cumberland Boulevard and Interstate 75 in Land Lots 1013, 1014 and 1028 of the 17th District.

BACKGROUND

The subject property was zoned RRC in 2007 as a mixed use development associated with the Overton Park mixed use development. The site plan amendment request is to reposition the proposed hotel and restaurants to accommodate a new prospective developer. There are three stipulation amendments for this proposal. First, the applicant proposes amending the approved parking plan which calls for 300 on-site parking spaces with 260 cross easement parking spaces to 100 on-site parking spaces with 164 cross easement parking spaces (the cross easement parking spaces are next door in a large parking deck). Second, the applicant would like to reallocate the restaurant and retail square-footage within the development, which is shown on the site plan. The approved site shows this area with a combination of plaza level and upper level square-footages for the restaurants and retail. The proposed site plan shows one-story buildings, except the hotel. Lastly, the current zoning stipulations allow for an eight story hotel with 210 rooms. The applicant’s proposal is to have a six story hotel with 145 rooms. If approved, all other zoning stipulations would remain in effect. The Board of Commissioners' decision is attached.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners consider the proposed site plan and stipulation amendments.

ATTACHMENTS

Zoning Stipulations (Exhibit A)
Other Business Application (Exhibit B)
Proposed site plan (Exhibit C)
Rendering of proposal (Exhibit D)

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 18, 2007
9:05 A.M.

The Board of Commissioners' Zoning Hearing was held on Tuesday, December 18, 2007, at 9:05 a.m. in the second floor public meeting room of the Cobb County building, Marietta, Georgia. Present and comprising a quorum of the Board were:

Chairman Samuel S. Olens
Commissioner Helen Goreham
Commissioner Joe L. Thompson
Commissioner Annette Kesting
Commissioner Tim Lee

ITEM #3

To consider amending the site plan and stipulations regarding Z-18 (MADISON RETAIL, LLC) of February 20, 2007, for property located in Land Lots 1013, 1014 and 1028 of the 17th District. Located at the northeasterly intersection of Cumberland Boulevard and Interstate 75.

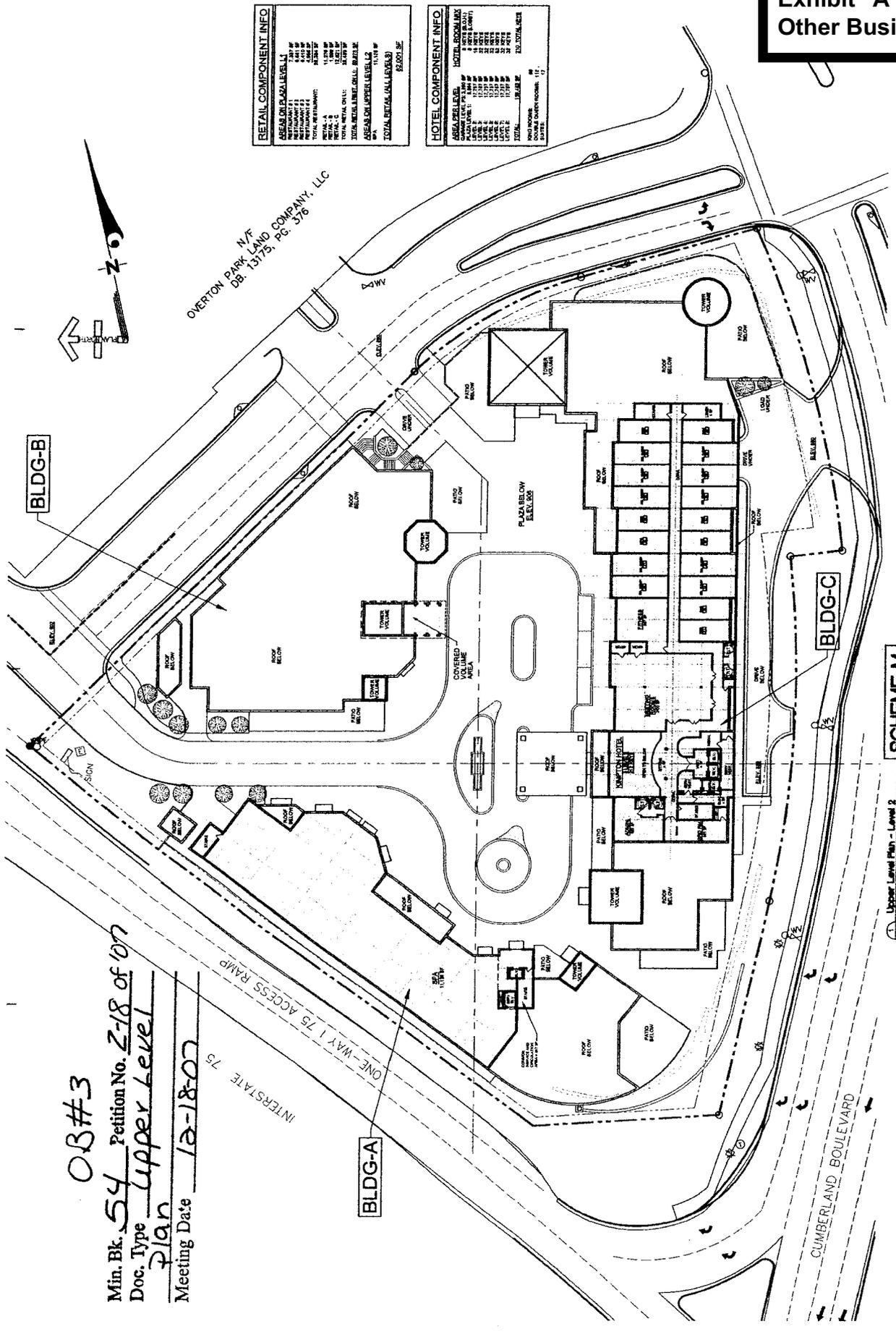
Mr. Mark Danneman, Zoning Division Manager, provided information regarding request to amend site plan and stipulations. The public hearing was opened and Mr. John Moore addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Thompson, second by Olens, to **approve** Other Business Item #3 for site plan and stipulation amendment regarding Z-18 (MADISON RETAIL, LLC) of February 20, 2007, for property located in Land Lots 1013, 1014 and 1028 of the 17th District, at the northeasterly intersection of Cumberland Boulevard and Interstate 75, **subject to:**

- **site plans (Plaza Level Plan – Level 1, Upper Level Plan – Level 2 and Upper Level Plan – Levels 3 – 8 --- Scheme M) received in the Zoning Division on December 12, 2007 (referenced plans attached and made a part of these minutes)**
- **District Commissioner will be involved in the Plan Review process including review of site plans and architecture**
- **document from Mr. John Moore identified as “Exhibit A – Attachment to Amendment to Application for Other Business”, received by the Zoning Division on December 14, 2007 (attached and made a part of these minutes)**
- **list of finishing standards for the hotel as provided to the Clerk on December 18, 2007 (attached and made a part of these minutes)**
- **all other previously approved conditions/stipulations not in conflict to remain in effect**

VOTE: **ADOPTED** unanimously

December 14, 2010
 Exhibit "A"
 Other Business Item 03



RETAIL COMPONENT INFO	
AREAS ON PARALLEL L1	
RESTAURANT 1	1,400 SF
RESTAURANT 2	1,400 SF
RESTAURANT 3	1,400 SF
TOTAL RESTAURANTS	4,200 SF
RETAIL 1	11,000 SF
RETAIL 2	11,000 SF
RETAIL 3	11,000 SF
TOTAL RETAIL ONLY	33,000 SF
TOTAL RETAIL LEVEL 2	33,000 SF
TOTAL RETAIL (ALL LEVELS)	66,000 SF

HOTEL COMPONENT INFO	
AREAS OFF LEVEL 2	
HOTEL ROOMS	1,100 SF
PLAN LEVEL 1	1,100 SF
PLAN LEVEL 2	1,100 SF
PLAN LEVEL 3	1,100 SF
PLAN LEVEL 4	1,100 SF
PLAN LEVEL 5	1,100 SF
PLAN LEVEL 6	1,100 SF
PLAN LEVEL 7	1,100 SF
PLAN LEVEL 8	1,100 SF
PLAN LEVEL 9	1,100 SF
PLAN LEVEL 10	1,100 SF
PLAN LEVEL 11	1,100 SF
PLAN LEVEL 12	1,100 SF
PLAN LEVEL 13	1,100 SF
PLAN LEVEL 14	1,100 SF
PLAN LEVEL 15	1,100 SF
PLAN LEVEL 16	1,100 SF
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PLAN LEVEL 91	1,100 SF
PLAN LEVEL 92	1,100 SF
PLAN LEVEL 93	1,100 SF
PLAN LEVEL 94	1,100 SF
PLAN LEVEL 95	1,100 SF
PLAN LEVEL 96	1,100 SF
PLAN LEVEL 97	1,100 SF
PLAN LEVEL 98	1,100 SF
PLAN LEVEL 99	1,100 SF
PLAN LEVEL 100	1,100 SF
TOTAL HOTEL ONLY	38,500 SF
TOTAL HOTEL (ALL LEVELS)	38,500 SF

OB#3
 Min. Bk. 54 Petition No. Z-18 of '07
 Doc. Type Upper Level
 Plan
 Meeting Date 12-18-07

MILTON PATE ARCHITECTS
 1801 Midway Highway
 Atlanta, GA 30329
 Tel: 404.533.0488
 Fax: 404.533.1334
 mpatel@mpa.com

BARBERRY HOTEL PARTNERS
KIMPTON HOTEL

MADISON RETAIL, LLC

OVERTON PARK

LEVEL 2 SCHEME M
 12-28-07

Document Record:
 No. Iss. Description

NOT RELEASED FOR

OVERTON PARK LAND COMPANY, LLC
 N/F
 DB: 13175, PG. 376

SCHEME M

Upper Level Plan - Level 2

CUMBERLAND BOULEVARD

INTERSTATE 75
 ONE WAY 75 ACCESS RAMP

BLDG-B

BLDG-A

BLDG-C

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

OB #3
Min. Bk. 54 Petition No. Z-18 of '07
Doc. Type Exhibit A Application No.: Z-18 (2007)
Meeting Date 12-18-07 Hearing Date: December 18, 2007

BEFORE THE COBB COUNTY BOARD OF COMMISSIONERS

Applicant: Madison Retail, LLC

Applicant requests amendments to the approved site plan and certain stipulations and conditions which were set forth in the letter of agreeable stipulations and conditions dated January 31, 2007, both of which were incorporated as part of the final approval by the Board of Commissioners on April 17, 2007. The amendments requested herein shall supersede and replace in full those amendments set forth in the Application for Other Business dated and filed November 13, 2007. The requested amendments are as follows:

- (1) Applicant submits the revised Site Plans prepared for Barry Hotel Partners by Milton Pate Architects dated November 29, 2007, said Site Plans being "Plaza Level Plan - Level 1," "Upper Level Plan - Level 2," and "Upper Level Plan - Levels 3 - 8," "Scheme M." Approval of the amendments requested herein shall be made site plan specific to the revised Site Plans filed herewith.

General Stipulations

- (2) Item (2), page 3, of the January 31, 2007, stipulation letter currently provides for 360 on-site parking spaces with additional 200 spaces through a cross-easement parking agreement. Applicant proposes a revision to allow for 300 on-site parking spaces. The cross-easement parking agreement shall be increased to allow for 260 spaces.

Continued

Retail Component

- (3) Item (2), page 7, of the January 31, 2007, stipulation letter allows for six (6) areas for retail and restaurant uses; two (2) areas are two-stories in height with restaurant space on the first floor and retail or restaurant space on the second floor. Applicant proposes three (3) areas for retail and restaurant uses; two (2) areas are on the plaza level of the hotel, and one area shall be free-standing with restaurants at the plaza level and retail above, for a maximum of 63,000 square feet of retail space, all as more fully shown and delineated on the referenced Site Plans.
- (4) The hotel component as set forth in item (3), page 7, allows for an eight (8) level structure with 161 rooms. Applicant requests the amendment to allow for the hotel to be a maximum of eight (8) stories over parking. The hotel shall contain a maximum of 210 rooms and a maximum of 136,500 square feet.

General Amendments

- (5) The proposed amendments set forth above do not increase the square footage of the overall development.
- (6) The curb cut onto Cumberland Boulevard, as more particularly shown and reflected on the referenced Site Plan, shall require Georgia Department of Transportation permit.
- (7) Except as otherwise herein set forth, the balance and remainder of the stipulations and conditions specifically enumerated in the official minutes, and attachments, of the Board of Commissioners Zoning Hearing held on April 17, 2007, are unchanged by these requests.

SCOPE OF WORK cont.

Finish Standards:

Lobby and Circulation:

Floors: Carpet Double Stick Pad (Tred-MOR 2580)

Walls: Wall Covering/Plaster/Millwork

Millwork: Wood base, Crown and Casing at Doors

Ceilings: Level 4 Drywall

Lighting: Recessed, Sconces, Pendants, Two Different Light Sources

■ Guestrooms:

Floors: Carpet Tack and Pad (Horizen Cloud Nine)

Base: Carpet Base

Threshold: ¾" x 4" Stone Thin Set

Crown Molding: 4" Shadow Molding

Ceiling: Painted Level 4/Alternative Texture

Vanity Top: 5' Stone top; 6' at Suites

Vanity Base: Millwork Casework ; 4 Legs

Door Frames and Hardware:

Guest Entry Door: 1 3/4" Paint Grade or With Applied Moldings on Timely Frame or Millennium Doors

Guest Entry Hardware: Ving Card Key Lock, BB Hinges, Closer, Peep Hole, Door Stop, Bottom Door Seal

Closet Door: Paint Grade with Applied Moldings

Bathroom Door: Pocket Door on Stanley PD 150 or Barn Door 3070 Slab

Suite 1: 1 3/4" Solid Core Swing Door

Suite 2: 6'-0" 1 3/4" Solid Core Pocket Doors when Space Allows

Plumbing Fixtures:

Toilet: Kohler K-3496-TR Cimarron Comfort Height Two Piece Elongated Toilet

Toilet Seat: Church or Olsonite Closed Front with SS Posts

Vanity Sink: Kohler K-2211-G Caxton Undedrcounter Lavatory

Vanity Faucet: Kohler

Tub/Shower: 5' Cast Iron Kohler Mendota

Tub/Shower Controls: 5' Csat Iron Kohler Villager - Alternate Steel

Suite Shower: Min. 42"x42" Terazzoo or Tile Pan

Suite/Spa King Jettted Tub: MTI Yubune 40" x 60" Jettted Soaking Tub; ¾" Water Supply-Piping

ADA Rollin Shower: Ceramic Tile Mudset. Standard Shower

Head and Separate Control Valve for ADA Flex Hose

ADA Tub: 5' Cast Iron Kohler Villager. Standard Shower Head and Diverter for ADA Flex Hose.

ADA Suite Jettted Tub: 42"x72" MTI Georgian I. Shower Controls

Set and Separate Top Mount Filler Required. ¾" Water Piping

Suite Bath Floor Drain: Floor Drain Located Under Vanity

Showerhead: Speakman by OS&E

Guestroom Corridors: 6 ft.
9 ft. ceilings

OB #3

Min. Bk. 54 Petition No. Z-18 of '07
Doc. Type finishing standards

Meeting Date _____

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
APRIL 17, 2007
9:04 A.M.

December 14, 2010
Exhibit "A"
Other Business Item 03

The Board of Commissioners' Zoning Hearing was held on Tuesday, April 17, 2007, at 9:04 a.m. in the second floor public meeting room of the Cobb County building, Marietta, Georgia. Present and comprising a quorum of the Board were:

Chairman Samuel S. Olens
Commissioner Helen Goreham
Commissioner Joe L. Thompson
Commissioner Tim Lee
Commissioner Annette Kesting

Z-18 **MADISON RETAIL, LLC** (Overton Park Land Company, LLC, owner) requesting Rezoning from **RRC** to **UVC** for the purpose of Mixed Use Development in Land Lots 1013, 1014 and 1028 of the 17th District. Located at the northeasterly intersection of Cumberland Boulevard and Interstate 75.

The public hearing was opened and Mr. John Moore addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Thompson, second by Kesting, to **delete** Rezoning to the RRC zoning district subject to:

- **site plan received by the Zoning Division December 7, 2006, with the District Commissioner approving minor modifications (copy attached and made a part of these minutes)**
- **letter of agreeable conditions from Mr. John Moore, dated January 31, 2007 with the following changes (copy attached and made a part of these minutes):**
 - **Page 2, Item No. 2 – Add to end of paragraph: “This does not include a right-in and right-out on Cumberland Boulevard.”**
 - **Page 2, Item No. 3 – Add to end of paragraph: “This does not include a right-in and right-out on Cumberland Boulevard.”**
 - **Page 3, Item No. 5 – Remove paragraph in its entirety**
 - **Page 4, Item No. 6 – Remove paragraph in its entirety**
 - **Page 4, Item No. 8 – Remove paragraph in its entirety**
 - **Page 5, Item No. 14 - Remove “except as approved by the Board of Commissioners or by the Department of Transportation or Community Development Agency, as their authority may allow.”**
 - **Page 6, Item No. 20 (a) – Remove the words: “as a primary use” and Add: “except as may be located within hotel and approved by Staff”**
 - **Page 6, Item No. 20 (b) – Remove the words: “as a primary use”**

- **Fire Department comments and recommendations**
- **Water and Sewer Division comments and recommendations**
- **Stormwater Management Division 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 unanimously

MOORE INGRAM JOHNSON & ST

A LIMITED LIABILITY PARTNERSHIP
WWW.MIJS.COM

December 14, 2010
Exhibit "A"
Other Business Item 03

JOHN H. MOORE
STEPHEN C. STEELE
WILLIAM R. JOHNSON†
ROBERT D. INGRAM†
J. BRIAN O'NEIL
G. PHILLIP BEGGS
ELDON L. BASHAM
MATTHEW J. HOWARD
JERE C. SMITH
CLAYTON O. CARMACK
KEVIN B. CARLOCK†
ALEXANDER T. GALLOWAY III†
J. KEVIN MOORE
RODNEY R. MCCOLLOCH
SUSAN S. STUART
DANIEL A. LANDIS***
BRIAN D. SMITH

HARRY R. TEAR III
W. TROY HART†
JEFFREY A. DAXE
JOYCE W. HARPER
AMY K. WEBER
KIM A. ROPER
TARA C. RIDDLE
KELLI L. WOLK
TANYA L. CROSSE*
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BILLING ADDRESS
P.O. BOX 3305 • MARIETTA, GEORGIA 30061

TENNESSEE OFFICE
CEDAR RIDGE OFFICE PARK, SUITE 500
408 N. CEDAR BLUFF ROAD • KNOXVILLE, TENNESSEE 37923

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RICARDO J. DEMEDEIROS
BRETT A. MILLER
JACQUELYN D. VAN TUYL****
KAREN S. KURTZ
CHRISTOPHER C. MINGLEDORFF
KATHERINE G. CRONE
RYAN E. JARRARD*
ANN A. HAMMENECKER*
JAMES D. BUSCH*
ESTHER VAYMAN
COLE B. STINSON***

SUZANNE E. HENRICKSON
K. MARTINE NELSON*
ANGELA D. CHEATHAM
G. LAMAR SMITH, JR
CAREY E. ATKINS**
STAYCE BURKHART**

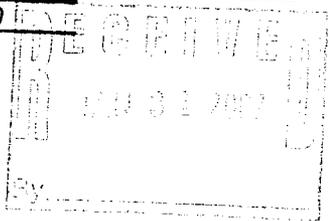
OF COUNSEL:
JOHN L. SKELTON, JR.†

† ALSO ADMITTED IN TN
* ALSO ADMITTED IN FL
** ALSO ADMITTED IN NM
*** ALSO ADMITTED IN NC
**** ALSO ADMITTED IN OH
***** ADMITTED ONLY IN TN
***** ADMITTED ONLY IN FL

January 31, 2007

Min. Bk. 48 Petition No. Z-18
Doc. Type Letter of
agreeable conditions Hand Delivered
Meeting Date 4-17-2007

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



RE: Application for Rezoning

Application No.: Z-18 (2007)

Applicant: Madison Retail, LLC

Owner: Overton Park Land Company, LLC

Property: 3.37 acres located northerly of the intersection of the easterly side of I-75 and the westerly side of Cumberland Boulevard, Land Lots 1013, 1014, 1027, and 1028, 17th District, 2nd Section, Cobb County, Georgia

COBB COUNTY, GEORGIA
RECEIVED - ZONING DIVISION
JAN 31 2007

Dear John:

As you know, the undersigned and this firm represent Madison Retail, LLC, the Applicant (hereinafter referred to as "Applicant"), and Overton Park Land Company, LLC, the Property Owner (hereinafter referred to as "Property Owner"), in their Application for Rezoning with regard to a total tract of 3.37 acres, more or less, located northerly of the intersection of the easterly side of I-75 and the westerly side of Cumberland Boulevard, Land Lots 1013, 1014, 1027, and 1028, 17th District, 2nd Section, Cobb County, Georgia (hereinafter referred to as the "Property" or the "Subject Property"). After meetings with

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP

Planner III

Zoning Division

Cobb County Community Development Agency

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December 14, 2010
Exhibit "A"
Other Business Item 03

Petition No. 2-18
Meeting Date 4-17-2007
Continued

planning and zoning staff; reviewing the staff comments and recommendations; and reviewing the uses of surrounding properties, we have been authorized by the Applicant and Property Owner 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 relating to the Subject Property from any prior zoning actions.
- (2) Applicant seeks rezoning of the Subject Property from the existing zoning categories of Regional Retail Commercial ("RRC") to the Regional Retail Commercial ("RRC"), site plan specific to the Zoning Site Plan prepared for Applicant by The Preston Partnership, LLC dated November 20, 2006.
- (3) By this letter of agreeable stipulations and conditions, Applicant amends the Application for Rezoning to seek rezoning to the Regional Retail Commercial ("RRC") zoning category, site plan specific to the Zoning Site Plan referenced above.
- (4) The Subject Property consists of approximately 3.37 acres of total site area.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Planner III
Zoning Division
Cobb County Community Development Agency
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Exhibit "A"
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STIPULATIONS APPLICABLE TO THE OVERALL DEVELOPMENT

- (1) This rezoning proposal is for a mixed-use development consisting of retail, comprised of restaurants, retail shops, office space, and a hotel, together with a residential component. The overall proposed development will contain approximately 252,200 gross square feet.
- (2) Additionally, the overall proposed development shall have three hundred sixty (360) on-site parking spaces, with an additional two hundred (200) additional spaces through a Cross Easement Parking Agreement with the One Overton Park development.
- (3) 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 development. The master association shall be responsible for the oversight, upkeep, and maintenance of the entrance areas, common areas, open space areas, and the like contained within the overall development.
- (4) 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 units, and other such usual and necessary covenants and restrictions to protect the quality and integrity of the total development.
- (5) Applicant agrees to construct all necessary roadway improvements, as more particularly shown and reflected on the referenced Zoning Site Plan.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Planner III

Zoning Division

Cobb County Community Development Agency

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Continued

- (6) Entrances to the proposed development shall be from Cumberland Boulevard and the One Overton Park Access Road, as more particularly shown and reflected on the referenced Zoning Site Plan.
- (7) Entrance signage for the proposed overall development shall be ground based, monument style signage, with the finish, materials, and color being in conformity with the architecture and design of the various components. Such signage shall contain no flashing sign components.
- (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 more particularly set forth.
- (9) Lighting within the proposed development shall be environmentally sensitive, decorative, and themed to the architecture and style of the respective components of the development.
- (10) Additionally, hooded security lighting shall be utilized on the buildings and throughout the walkways, parking, and parking deck areas.
- (11) 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 Applicant and any prospective tenant, and Applicant agrees to enforce these provisions against any tenant which violates the foregoing. Additionally, there shall be no vehicles parked in front of the proposed retail centers with "for sale" signs posted thereon.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Planner III
Zoning Division
Cobb County Community Development Agency
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- (12) Minor modifications to the within stipulations, the referenced Zoning Site Plan, lighting, landscaping, architecture, site features, and the like, may be approved by the District Commissioner, as needed or necessary.
- (13) 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.
- (14) Applicant agrees to comply with all Cobb County development standards and ordinances relating to project improvements, except as approved by the Board of Commissioners or by the Department of Transportation or Community Development Agency, as their authority may allow.
- (15) 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.
- (16) There shall be interparcel access between the proposed development and the development known as One Overton Park, as more particularly shown and reflected on the referenced Zoning Site Plan.
- (17) 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.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Planner III
Zoning Division
Cobb County Community Development Agency
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Continued

- (18) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.
- (19) All utilities for the proposed development shall be located underground.
- (20) 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) Gas station;
 - (e) Truck and trailer leasing facilities;
 - (f) Automotive paint and body repair shops;
 - (g) Automotive upholstery shops;
 - (h) Billiards and pool halls which are the sole or predominant use;
 - (i) Bus stations (not to exclude bus stops);
 - (j) Fraternity and sorority house;
 - (k) Full-service gas stations;
 - (l) Light automotive repair;
 - (m) Rooming houses and boarding houses;

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Planner III
Zoning Division
Cobb County Community Development Agency
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Petition No. 2-18
Meeting Date 4-17-2007
Continued

- (n) Any form of adult entertainment business; and
 - (o) Nightclubs and bars, except that same would be permitted within a restaurant or hotel provided that they are an integral part of a restaurant or hotel operation.
- (21) 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.

I. RETAIL COMPONENT

- (1) The Retail Component of the proposed development shall be comprised of hotel and associated office space; retail; and restaurant facilities, as more particularly shown and reflected on the referenced Zoning Site Plan.
- (2) There shall be six areas for retail and restaurant uses. Two areas shall be two-stories in height, with restaurant space on the first floor and retail or restaurant space on the second floor. The buildings shall be arranged around a plaza area. Portions of the retail shall be located on the first floor level of the hotel and residential buildings.
- (3) The hotel component shall be an eight-level structure over parking in the center of the plaza area. It shall contain one hundred sixty-one (161) rooms and have approximately 86,200 gross square feet.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Planner III
Zoning Division
Cobb County Community Development Agency
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Continued

**December 14, 2010
Exhibit "A"
Other Business Item 03**

- (4) The architectural theme, exteriors, and materials for the Retail Component shall be substantially similar to the renderings presented to the Planning Commission and Board of Commissioners at the respective public hearings.
- (5) Parking for the Retail Component shall be by means of an underground, on-site deck parking, surface parking, together with shared parking with the adjacent office parking deck under a Cross-Easement Agreement.
- (6) There shall be pre-installed grease traps for each restaurant site within the proposed development.

II. RESIDENTIAL COMPONENT

- (1) The residential component of the proposed development shall consist of one (1) 7 story residential building, over retail, as more particularly shown and reflected on the referenced Zoning Site Plan.
- (2) The proposed residential building shall contain sixty (60) residential units, each having a minimum of 1,100 square feet, being approximately 110,000 gross square feet. Units may be consolidated to meet potential market demands for larger units.
- (3) The architectural style and materials of the residential building shall be compatible with and complementary to the buildings within the Retail Component, as well as that of the surrounding developments, and shall be as shown and reflected on the renderings presented to the Planning Commission and Board of Commissioners at the respective Zoning Hearings.

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Planner III
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Continued

**December 14, 2010
Exhibit "A"
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- (4) Parking for the proposed residential building shall be by means of an underground, on-site deck parking, together with shared parking with the adjacent office parking deck under a Cross-Easement Agreement.
- (5) The units within the residential building shall be condominiums as the term "condominium" is defined under the Georgia Condominium Act.
- (6) The units within the residential building shall be "for sale" units only. A maximum of ten (10) percent of the proposed units may be leased at any one time.
- (7) Floor plans and finishes for the residential condominium units shall consist, at a minimum, of the following:
 - (a) Enhanced corian, granite, or marble counter tops, or other solid surface materials;
 - (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;

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Mr. John P. Pederson, AICP
Planner III
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Continued

**December 14, 2010
Exhibit "A"
Other Business Item 03**

- (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, brushed nickel, 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 showers;
- (n) Eight (8) foot entry doors subject to fire rating.

We believe the requested zoning, pursuant to the Zoning Site Plan and the stipulations set forth herein, is an appropriate use of the Subject Property. The proposed development will be complementary to the One Overton Park development. The Applicant has gone to great detail in planning the development to ensure that it promotes the "live where you work" concept; that it is of the highest quality; that it is compatible with surrounding retail developments, businesses, and neighborhoods; and that it is an enhancement to the Subject Property and Cobb County as a whole. Thank you for your consideration in this request.

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Mr. John P. Pederson, AICP
Planner III
Zoning Division
Cobb County Community Development Agency
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January 31, 2007

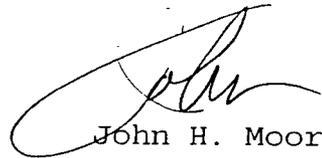
Petition No. 2-18
Meeting Date 4-17-2007
Continued

**December 14, 2010
Exhibit "A"
Other Business Item 03**

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP


John H. Moore

JHM:cc

c: Cobb County Board of Commissioners:
Samuel S. Olens, Chairman
Helen C. Goreham
Annette Kesting
Joe L. Thompson
Tim Lee

Cobb County Planning Commission:
Murray Homan, Chairman
Judy Williams
Bob Hovey
Christi S. Trombetti
Bob Ott.

Madison Retail, LLC

December 14, 2010
Exhibit "B"
Other Business Item 03

Application for "Other Business" Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2035)

BOC Hearing Date Requested: 12/14/2010

NOV 9 2010

Applicant: Noble Investment Group, LLC Phone #: (404) 262-9660
(applicant's name printed)

Address: Suite 1100, 3424 Peachtree Road, N.E., **E-Mail:** ben.brunt@nobleinvestment.com
Moore Ingram Johnson & Steele, LLP Atlanta, GA 30326

John H. Moore **Address:** Emerson Overlook, 326 Roswell Street
(representative's name printed) Marietta, GA 30060

BY: [Signature] Phone #: (404) 429-1499 **E-Mail:** jmoore@mijs.com
(representative's signature) Georgia Bar No. 519800 w7@mijs.com

Signed, sealed and delivered in presence of:

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

Titleholder(s): First Citizens Bank and Trust Phone #: (678) 589-9000
(property owner's name printed) **Company, Inc.**

Address: Suite 400, 3200 Cumberland Boulevard, **E-Mail:** rskeen@georgianbank.com
Atlanta, GA 30339

BY: [Signature]
(Property owner's signature) J. Reeves Skeen, Vice President

Signed, sealed and delivered in presence of:

[Signature] My commission expires: 7.19.2012
Notary Public

Commission District: 2 (0tt) **Zoning Case:** z-18 (2007)

Date of Zoning Decision: 04/17/2007 **Original Date of Hearing:** 02/20/2007
(OB Amendment - 12/18/2007)

Location: Northerly of the intersection of the easterly side of I-75 and
the westerly side of Cumberland Boulevard
(street address, if applicable; nearest intersection, etc.)

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

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

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

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

Application No.: Z-18 (2007)
Original Hearing Date: February 20, 2007
Date of Zoning Decision: April 17, 2007
"Other Business"
Zoning Decision: December 18, 2007
Current Hearing Date: December 14, 2010

BEFORE THE COBB COUNTY BOARD OF COMMISSIONERS

Applicant: Noble Investment Group, LLC
Property Owner: First Citizens Bank and Trust Company, Inc.

Applicant and Property Owner request amendments to the previously approved site plan and certain stipulations and conditions which were set forth in Exhibit "A" of the "Other Business" Application, both of which were incorporated as part of the final approval by the Board of Commissioners on December 18, 2007. The requested amendments are as follows:

- (1) Applicant submits the Zoning Site Plans prepared for the Subject Property by Cooper Carry dated November 5, 2010. Approval of the Zoning Site Plan shall be made site plan specific.

General Stipulations

- (2) Paragraph (2), General Stipulations, "Other Business" Amendment approved December 18, 2007, shall be deleted in its entirety, and the following inserted in lieu thereof:
 - (2) Paragraph (2), General Stipulations of the "Other Business" Amendment approved December 18, 2007, currently provides for 300 on-site parking spaces with additional 260 spaces through a cross-easement parking agreement. Applicant proposes a revision to allow for 134 on-site parking spaces. An additional 150 parking spaces shall be provided through a cross-easement parking agreement as to the parking deck immediately adjacent to the Subject Property.

Retail Component

- (3) Paragraph (3), General Stipulations, Retail Component, "Other Business" Amendment approved December 18, 2007, currently allows three (3) areas for retail and restaurant uses; two (2) areas on the plaza level of the hotel, and one

area as free-standing restaurants at the plaza level and retail above, for a maximum of 63,000 square feet of retail space. Applicant proposes three (3) areas for retail and restaurant uses. There will be two (2) areas for restaurants, being delineated as Restaurant "A," being a one-story structure containing a maximum of 6,500 square feet; and Restaurant "B", being a one-story structure and containing a maximum of 7,000 square feet, as more particularly shown and reflected on the Zoning Site Plan referenced herein. Additionally, there shall be an area on the main floor of the proposed hotel which may contain restaurant/retail type usage.

- (4) Paragraph (4), General Stipulations, Retail Component, of the "Other Business" Amendment approved December 18, 2007, currently allows the hotel to be a maximum of eight (8) stories over parking, containing a maximum of 210 rooms and a maximum of 136,500 square feet. Applicant proposes a revision to allow the hotel to be a maximum of five (5) stories with 145 rooms and a maximum of 74,000 gross square feet.

General Amendments

- (5) The proposed amendments set forth above do not increase the square footage of the overall Overton Park development.
- (6) Except as otherwise herein set forth, 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 April 17, 2007; as well as the amendments set forth in the official minutes of the Board of Commissioners Zoning Hearing held on December 18, 2007, are unchanged by the amendments requested herein.

The amendments requested and presented herein in no way adversely impact or affect the Subject Property or the remainder of the overall Overton Park development, as previously approved and amendment. If the requested amendments are approved, as submitted, they shall become an additional part of the final rezoning and shall be binding upon the Subject Property.

MOORE INGRAM JOHNSON & STE

A LIMITED LIABILITY PARTNERSHIP
WWW.MIJS.COM

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ROBERT D. INGRAM†
J. BRIAN O'NEIL
G. PHILLIP BEGGS
ELDON L. BASHAM
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GREGORY H. FULLER*
VERONICA L. RICHARDSON
CALANIT HAYES
TODD I. HEIRD*
DANIEL W. STARNES*
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DOUGLAS W. BUTLER, JR.

APRIL R. HOLLOWAY
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PATRICK J. MCCORMICK‡
JAIME E. KNOEBEL*
ADON J. SOLOMON*
AMY L. JETT*

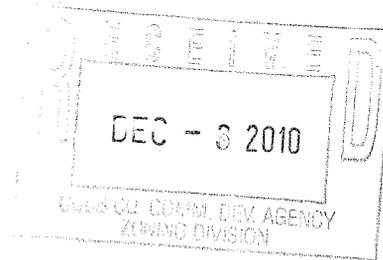
OF COUNSEL:
JOHN L. SKELTON, JR.†

† ALSO ADMITTED IN TN
* ALSO ADMITTED IN FL
** ALSO ADMITTED IN NM
**** ALSO ADMITTED IN CA
∞ ALSO ADMITTED IN PA
‡ ADMITTED ONLY IN TN
‡ ADMITTED ONLY IN FL

December 8, 2010

Hand Delivered

Mr. John P. Pederson, AICP
Zoning Administrator
Zoning Division
Cobb County Community Development Agency
Suite 400
1150 Powder Springs Road
Marietta, Georgia 30064



RE: Application for "Other Business"

Application No.: Z-18 (2007)
Applicant: Noble Investment Group, LLC
Owner: First Citizens Bank and Trust Company, Inc.
Property: Portion of Overton Park Development located northerly of the intersection of the easterly side of Interstate 75 and the westerly side of Cumberland Boulevard, Land Lots 1013, 1014, 1027, and 1028, 17th District, 2nd Section, Cobb County, Georgia

Dear John:

On behalf of the Applicant and Property Owner in the above-referenced Application for "Other Business," submitted is the revised Zoning Site Plan dated December 7, 2010, prepared for the proposed project by Cooper Carry. Additionally, and in conjunction with the revised Zoning Site Plan, also submitted is the First Amendment to the Attachment to the "Other Business" Application. In addition to the referenced to the submission of the revised Zoning Site Plan in paragraph 1, the amendments to the Application are set forth in paragraphs 2 (number of

MOORE INGRAM JOHNSON & STEELE

**December 14, 2010
Exhibit "B"
Other Business Item 03**

Mr. John P. Pederson, AICP
Zoning Administrator
Zoning Division
Cobb County Community Development Agency
Page 2 of 2
December 8, 2010

parking spaces), and paragraph 4 (revision to hotel height, rooms, and square footage). The remaining requests set forth in the initial Attachment filed with the Application for "Other Business" are unchanged but have been repeated and reincorporated with the First Amendment.

The revised Zoning Site Plan and the First Amendment to Attachment to Application for "Other Business" submitted herewith supersede and replace in full those which were filed with the Application for "Other Business" on November 9, 2010, and we respectfully request same be considered with the Application from this date forward.

Thank you for your consideration and assistance in this matter. If you should have any questions or require additional information or documentation prior to the upcoming hearing on December 14, 2010, please do not hesitate to contact me.

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



John H. Moore

JHM:cc

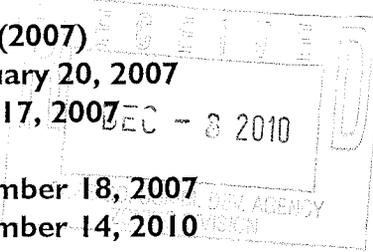
Attachments

c: Cobb County Board of Commissioners:
Tim Lee, Chairman
George W. "Woody" Thompson
Helen C. Goreham
Robert J. Ott
Thea Powell
(With Copies of Attachments)

Noble Investment Group, LLC
(With Copies of Attachments)

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

Application No.:	Z-18 (2007)
Original Hearing Date:	February 20, 2007
Date of Zoning Decision: "Other Business"	April 17, 2007
Zoning Decision:	December 18, 2007
Current Hearing Date:	December 14, 2010



BEFORE THE COBB COUNTY BOARD OF COMMISSIONERS

Applicant: Noble Investment Group, LLC
Property Owner: First Citizens Bank and Trust Company, Inc.

Applicant and Property Owner request amendments to the previously approved site plan and certain stipulations and conditions which were set forth in Exhibit "A" of the "Other Business" Application, both of which were incorporated as part of the final approval by the Board of Commissioners on December 18, 2007. The requested amendments are as follows:

- (1) Applicant submits the revised Zoning Site Plans prepared for the Subject Property by Cooper Carry dated December 7, 2010. Approval of the Zoning Site Plan shall be made site plan specific.

General Stipulations

- (2) Paragraph (2), General Stipulations, "Other Business" Amendment approved December 18, 2007, shall be deleted in its entirety, and the following inserted in lieu thereof:
 - (2) Paragraph (2), General Stipulations of the "Other Business" Amendment approved December 18, 2007, currently provides for 300 on-site parking spaces with additional 260 spaces through a cross-easement parking agreement. Applicant proposes a revision to allow for 100 on-site parking spaces. An additional 164 parking spaces shall be provided through a cross-easement parking agreement as to the parking deck immediately adjacent to the Subject Property.

Retail Component

- (3) Paragraph (3), General Stipulations, Retail Component, "Other Business" Amendment approved December 18, 2007, currently allows three (3) areas for retail and restaurant uses; two (2) areas on the plaza level of the hotel, and one area as free-standing restaurants at the plaza level and retail above, for a maximum of 63,000 square feet of retail space. Applicant proposes three (3) areas for retail and restaurant uses. There will be two (2) areas for restaurants, being delineated as Restaurant "A," being a one-story structure containing a maximum of 6,500 square feet; and Restaurant "B", being a one-story structure and containing a maximum of 7,000 square feet, as more particularly shown and reflected on the revised Zoning Site Plan submitted herewith. Additionally, there shall be an area on the main floor of the proposed hotel which may contain restaurant/retail type usage.

- (4) Paragraph (4), General Stipulations, Retail Component, of the "Other Business" Amendment approved December 18, 2007, currently allows the hotel to be a maximum of eight (8) stories over parking, containing a maximum of 210 rooms and a maximum of 136,500 square feet. Applicant proposes a revision to allow the hotel to be a maximum of six (6) stories with 145 rooms and a maximum of 112,500 gross square feet.

General Amendments

- (5) The proposed amendments set forth above do not increase the square footage of the overall Overton Park development.

- (6) Except as otherwise herein set forth, 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 April 17, 2007; as well as the amendments set forth in the official minutes of the Board of Commissioners Zoning Hearing held on December 18, 2007, are unchanged by the amendments requested herein.

The amendments requested and presented herein in no way adversely impact or affect the Subject Property or the remainder of the overall Overton Park development, as previously approved and amended. If the requested amendments are approved, as submitted, they shall become an additional part of the final rezoning and shall be binding upon the Subject Property.



COOPER CARRY

ATLANTA - WASHINGTON - NEW YORK - NEWPORT BEACH
 101 BELMONT STREET, NE
 SUITE 1000
 ATLANTA, GA 30303
 404-337-2000
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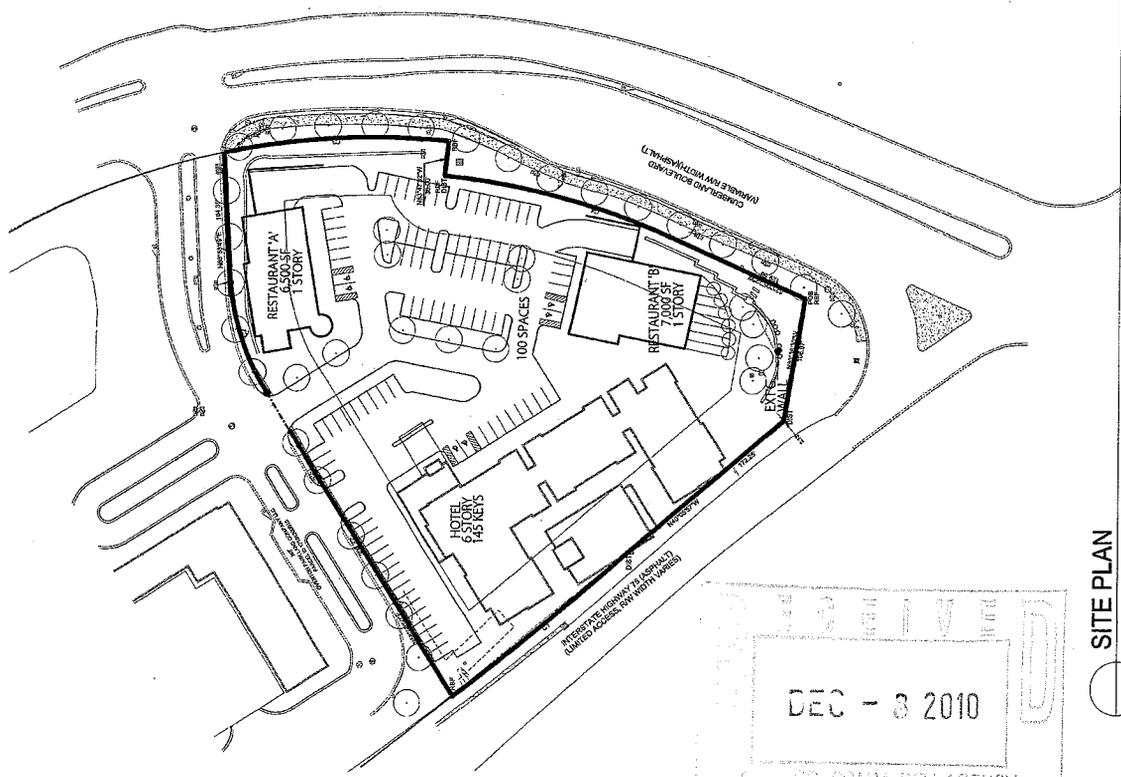
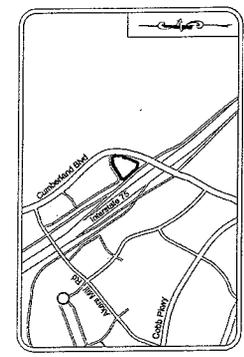
NO.	DATE	DESCRIPTION
1	12/07/2010	ZONING SUBMISSION

OVERTON PARK

Atlanta, Georgia

December 14, 2010
Exhibit "C"
Other Business Item 03

SITE DATA	
SITE	EXISTING ZONING: RC - REGIONAL RETAIL COMMERCIAL* 6.88 ACRES (1,188,000 SF) 0.37 ACRES OF 14,250 SF OF 34 ACRES (OVERTON DEVELOPMENT)
PROGRAM	143,000 SF RESTAURANT 143,000 SF RESTAURANT 143,000 SF RESTAURANT
PROPOSED GROSS BUILDING AREA	RESTAURANT: 10,125 NSF (75% OF GSF) HOTEL: 143,000 NSF TOTAL: 126,000 NSF
FAR	126,000 SF / 146,954 GSF = 0.86
PARKING	PROGRAM: HOTEL RESTAURANT
	100 REQUIRED 143 PROVIDED
TOTAL REQUIRED PARKING	247
ON SITE PROVIDED PARKING	164
ON SITE PARKING REQUIRED	100
TOTAL PARKING PROVIDED	264



SITE PLAN

SCALE: 1"=50'

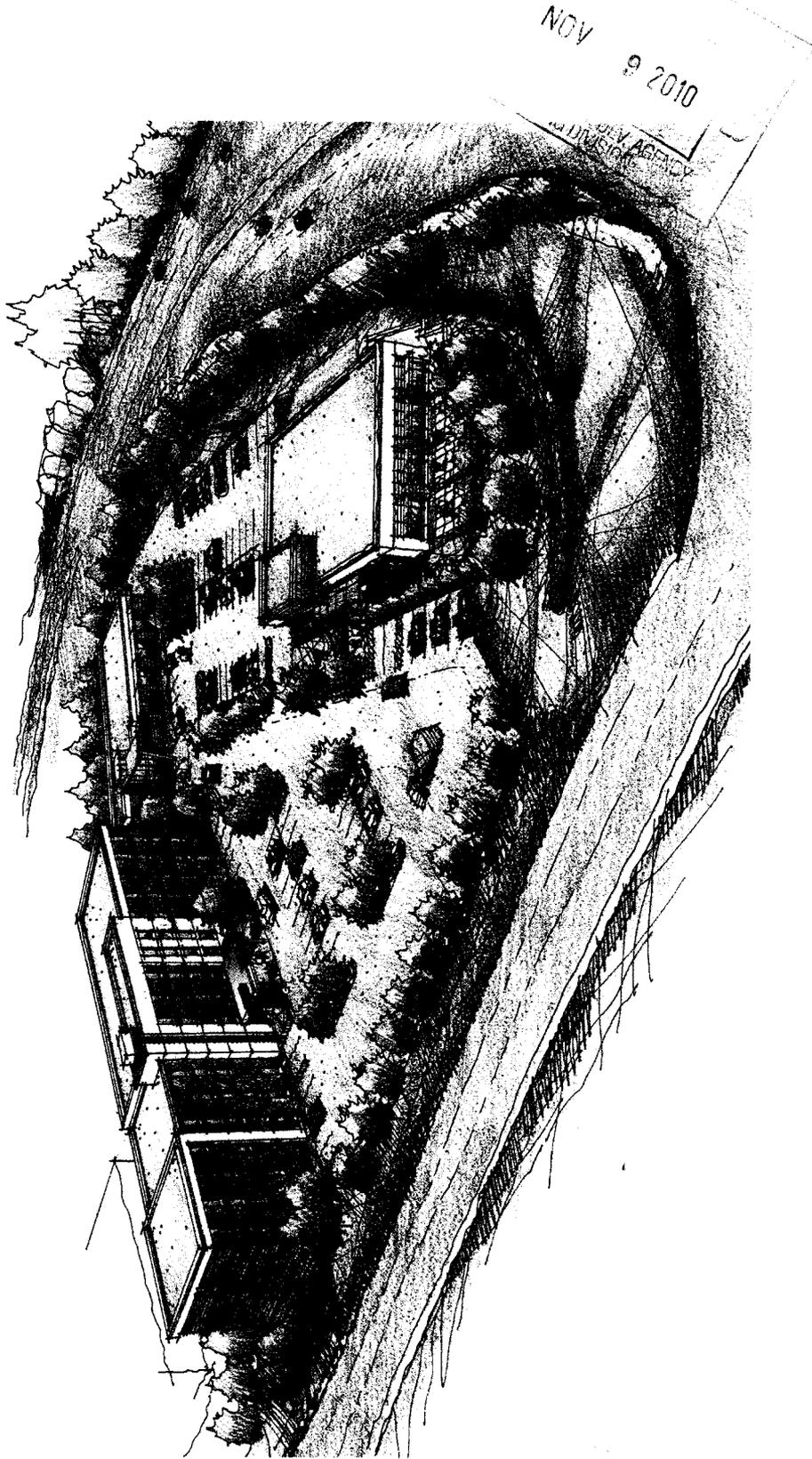
DEC - 8 2010
 CLAY CO. CIVIL DIV. AGENCY
 ZONING DIVISION

Not Issued For Construction - For Information Only

12/14/10 10:20:16:7 drawing\siteplan_2010-12-07-2010.dwg LOT 1A

December 14, 2010
Exhibit "D"
Other Business Item 03

PROPOSED



Notes

20100201.00 | 000 | 11 04 2010

AERIAL VIEW

OVERTON PARK
Atlanta, Georgia

COOPER CARRY

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