

**JUNE 16, 2009 ZONING HEARING
“OTHER BUSINESS”
COMMISSION DISTRICT 2**

ITEM #2

PURPOSE

To consider amending the stipulations for Vinings Main, L.P. regarding Z-118 (ALTA VININGS, LLC) of July 19, 2005, for property located in Land Lots 886, 887 and 908 of the 17th District. Located on the south side of Paces Ferry Road, west of Overlook Parkway, on the west side of Boulevard Hills Road, on the north side of South Loop Lake Court and at the southwest intersection of Paces Ferry Road and Twin Lakes Drive.

BACKGROUND

The subject property is zoned UVC subject to numerous conditions/stipulations that are attached. The original application divided the property into two separate residential areas consisting of stacked condominiums over retail and townhouse condominiums. This request only involves the stacked condominiums over the retail units. The original stipulation calls for the units to be for sale units with the master protective covenants providing for a maximum of 10% of the units to be leased at one time. This request seeks to amend that condition to allow for a period of five years from final approval by the Board of Commissioners the units may be offered as leased units. During this five year period there will be at least five (5) units always available as for sale units. All leases shall be drawn so that no lease shall extend beyond said five-year period. The Other Business application which also contains the above and additional stipulations is attached.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners first determine if the request is minor. If it is determined to be minor, consider the request to amend the stipulations.

ATTACHMENTS

Board of Commissioners Decision
Other Business Application/Stipulations

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 20, 2005
9:05 A.M.

The Board of Commissioners' Zoning Hearing was held on Tuesday, December 20, 2005, at 9:05 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 Joe L. Thompson
Commissioner Tim Lee
Commissioner Annette Kesting

Z-118 ALTA VININGS, LLC, (owner) requesting Rezoning from RM-12 to UVC and RM-12 for the purpose of Mixed Use Development with Retail, Office and Residential in Land Lots 886, 887 and 908 of the 17th District. Located on the south side of Paces Ferry Road, west of Overlook Parkway, on the west side of Boulevard Hills Road, on the north side of South Loop Lake Court and at the southwest intersection of Paces Ferry Road and Twin Lakes Drive.

The public hearing was opened and Mr. John Moore, Mr. Scott Thompson, and Mr. Ron Sifen addressed the Board. Following presentations and discussion, the following motion was made:

MOTION: Motion by Thompson, second by Kesting, to delete rezoning to the UVC zoning district subject to:

- site plan received in the Zoning Division November 22, 2005 (copy attached and made a part of these minutes)
- letter of agreeable stipulations from Mr. John Moore dated December 14, 2005, *not otherwise in conflict, with the following revisions* (copy attached and made a part of these minutes):
 - All references to UC or RM-12 zoning districts are changed to UVC zoning district.
 - Under Stipulations Applicable to the Overall Community:
 - ◆ Page 5, paragraph 17 changed to read: *"There shall be interparcel access between the proposed commercial and residential development, as more particularly shown and reflected on the referenced Conceptual Site Plan."*
 - ◆ Page 7, paragraph 25(f) changed to read: *"No restaurants with drive-through windows."*
 - ◆ Page 7, add new paragraph 27 to read as follows: *"Department of Transportation improvements to meet Cobb County standards."*
 - ◆ Page 7, add new paragraph 28 to read as follows: *"Height of parking deck not to exceed height of office building."*
 - ◆ Page 7, add new paragraph 29 to read as follows: *"Condominium and townhouse units shall not have more than ten percent (10%) leased at any one time."*

➤ Under (A) Stacked Condominiums:

- ◆ Page 9, paragraph 1: changed to read: *“There shall be a maximum of 58 stacked condominium units and 92 stacked condominium units.”*
- ◆ Page 9, paragraph 4: changed to read: *“The units shall be ‘for sale’ units only. The master protective covenants shall provide that a maximum of 10% of the proposed units may be leased at any one time.”*

➤ Under (B) Townhomes:

- ◆ Page 10, paragraph 2: changed to read: *“The master protective covenants shall provide that a maximum of 10% of the proposed units may be leased at any one time.”*

➤ Exhibit A, change the following: 23 one-bedroom units (A-1) to average 950 square feet, 23 one-bedroom units (A-2) to average 1,100 square feet.

- letter of agreement between Alta Vinings, LLC and The Timbers of Vinings Condominium Association, Inc. (copy attached and made a part of these minutes)
- installation of 4' x 8' directional signs on Paces Ferry Road and the interior of the development with an arrow pointing to the Timbers of Vinings Condominiums
- lake to be dredged when the land cleared for development
- findings of Georgia Regional Transportation Authority (GRTA) and Atlanta Regional Commission (ARC) relevant to Development of Regional Impact (DRI) (copy attached and made a part of these minutes)
- Fire Department comments
- Water and Sewer Division comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations

VOTE: ADOPTED unanimously

Clerk's Note: Staff directed to consider amendment to the UVC zoning district to allow density and height to be determined by the land use map, development of adjacent property, community request, etc..

MOORE INGRAM JOHNSON & STEELE

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OF COUNSEL:
JOHN L. SKELTON, JR.

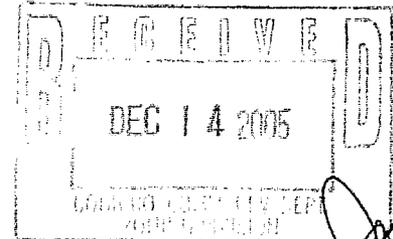
† ALSO ADMITTED IN TN
* ALSO ADMITTED IN FL
** ALSO ADMITTED IN OH
*** ALSO ADMITTED IN NC
ADMITTED ONLY IN TN

WRITER'S DIRECT
DIAL NUMBER

December 14, 2005

Min. Bk. 39 Petition No. Z-118
Doc. Type Letter of agreeable
Stipulations
Meeting Date 12/20/05
Hand Delivered

Mr. John P. Pederson
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-118 (2005)
Applicant/Owner: ALTA Vinings, LLC
Property: 17.1 acres located on the
southerly side of Paces Ferry
Road, Land Lots 886, 887, and
908, 17th District, 2nd Section,
Cobb County, Georgia

Dear John:

As you know, the undersigned and this firm represent ALTA Vinings, LLC, the Applicant and Property Owner (hereinafter collectively referred to as "Applicant"), with regard to the rezoning of a tract totaling 17.1 acres located on the southerly side of Paces Ferry Road, Land Lots 886, 887, and 908, 17th District, 2nd Section, Cobb County, Georgia (hereinafter the "Subject Property"). After review and completion of the Development of Regional Impact ("DRI") process by the Atlanta Regional Commission and the Georgia Regional Transportation Authority; meetings with planning and zoning staff; ongoing discussions and meetings with area residents and homeowner representatives; reviewing the staff comments and recommendations; and reviewing the development and uses of surrounding properties, we have been authorized by the Applicant

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and Owners to submit this revised 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. This correspondence shall supersede and replace in full that certain letter of agreeable stipulations and conditions dated and filed November 30, 2005. The revised 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.
- (2) Applicant seeks rezoning of the Subject Property from the RM-12 zoning category to the Urban Condominium ("UC") and RM-12 zoning categories, site plan specific to the revised Conceptual Site Plan prepared for ALTA Vinings, LLC by The Preston Partnership, LLC dated November 16, 2005, and submitted to the Zoning Office on November 22, 2005.
- (3) The Subject Property consists of 17.1 acres of total site area.

STIPULATIONS APPLICABLE TO THE OVERALL COMMUNITY

- (1) This rezoning proposal is a mixed-use development to include retail, office, and varied residential components. It is planned that a portion of the development will be a "village" design with office and retail on the first floor and residential stacked condominiums and office above, together with townhomes.

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- (2) ALTA Vinings, LLC, as the developer, will be involved in all aspects of the development, including, but not limited to, the residential, retail, and office components.
- (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 overall development. The master association shall be responsible for the oversight, upkeep, and maintenance of the entrance area, common areas, open space areas, amenity area, private streets, 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 components, 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 revised Conceptual Site Plan referenced above.
- (6) All portions of existing rights-of-way within and adjacent to the proposed development will be abandoned by Cobb County, Georgia, and deeded by quitclaim deed to Applicant, or a related entity, by the Cobb County Board of Commissioners. In exchange for the abandonment, Applicant agrees to construct and dedicate to Cobb County a public right-of-way thirty (30) feet in width with a utility easement ten (10) feet in width on each side of the right-of-way as to

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the main thoroughfare running through the development terminating at The Timbers. Sidewalks along this right-of-way shall be as shown and reflected on the referenced Site Plan; and Applicant will be permitted to install traffic calming devices along said roadway.

- (7) Applicant agrees, prior to the issuance of any building permits on the Subject Property, to contribute to the Cobb County Department of Transportation the sum of One Hundred Thousand Dollars (\$100,000) to assist in the creation of a "Quiet Zone" at the CSX railroad crossing in Vinings.
- (8) Applicant agrees that the existing rental apartment units shall not be demolished in phases, but rather, shall be demolished all at the same time, once construction begins.
- (9) Entrances to the proposed overall development shall be as more particularly shown and reflected on the referenced Conceptual Site Plan.
- (10) Main entrance signage for the proposed overall development shall be ground based, monument style signage, with the finish, materials, and color being comparable and complementary to the structures within the development. Such signage shall contain no flashing sign components. The entrance area shall be professionally designed, landscaped, maintained, and themed to the architecture and style of the community.
- (11) There shall also be a network of internal sidewalks and paths located within the proposed overall community which shall link the various components of the development in order to promote the "live where you work" concept.

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- (12) Lighting within the proposed overall community shall be environmentally sensitive, decorative, and themed to the architecture and style of the respective components of the development.
- (13) 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.
- (14) All setbacks and buffer areas may be penetrated for purposes of access, utilities, and stormwater management, including, but not limited to, detention/retention facilities, drainage facilities, and any and all slopes or other required engineering features of the foregoing.
- (15) 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.
- (16) All streets within the proposed development shall be private with the construction therefor complying in all respects as to materials, base, and other requirements to the Cobb County Code.
- (17) There shall be interparcel access between the proposed UC development and the proposed RM-12 development, as more particularly shown and reflected on the referenced Conceptual Site Plan.

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- (18) Further, as to the overall development, there shall be "zero lot lines" among the various components within the development so as to allow for the free flow of access, parking, and the like.
- (19) All landscaping referenced herein shall be approved by the Cobb County Arborist as part of the plan review process and incorporated into the overall landscape plan for the proposed development.
- (20) Applicant shall be allowed to provide for a gated community pursuant to Cobb County standards.
- (21) The stormwater management areas shall be fenced and landscaped for purposes of visual screening. Said landscaping shall be approved by the Cobb County Arborist as part of the plan review process and incorporated into the overall landscape plan for the proposed development.
- (22) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.
- (23) Applicant agrees to a fifty (50) foot stream buffer on either side of the centerline of any streams traversing the Subject Property, as more particularly shown and reflected on the Conceptual Site Plan; except as set forth in paragraph 12 above.
- (24) All utilities for the proposed development shall be located underground.
- (25) The following uses shall be prohibited from the proposed overall development:

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- (a) Video arcades as a primary use;
 - (b) Adult-themed bookstores as a primary use;
 - (c) Automotive sales, repair, and/or service facilities;
 - (d) Movie theaters;
 - (e) Gas station; and
 - (f) No fast food establishments such as McDonald's, Wendy's, and the like.
- (26) Notwithstanding anything contained herein to the contrary, the maximum number of residential units shall not exceed a total of two hundred thirty (230) units, including condominiums and townhomes.

**STIPULATIONS APPLICABLE TO THE PROPOSED
UC COMMUNITY AND RM-12 COMMUNITY**

- (1) The proposed UC community will contain approximately 4.1 total acres and will contain retail, office, and residential components.
- (2) The buildings within the UC community will be built to create the atmosphere and ambience of a "village" community.
- (3) Buildings in this portion of the proposed development shall contain on the first level retail space with office and condominium units above, together with all residential in rear.

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- (4) Parking for office, retail, and residential uses within the UC Community will be provided by means of limited surface parking, and a parking deck, as detailed on the Conceptual Site Plan, which will employ "shared" parking among the respective components and which will provide sufficient and adequate parking for the total development.

I. RETAIL AND OFFICE

- (A) There will be a total of approximately 20,000 square feet of retail space located on the ground level of the buildings, as more particularly shown and reflected on the referenced Conceptual Site Plan.
- (B) The office condominiums will total approximately 30,000 square feet and will comprise three (3) stories located above the ground level retail space as more particularly reflected on the referenced Conceptual Site Plan
- (C) Applicant agrees that the exteriors and architectural appearance of the retail/office components, together with associated residences, shall be substantially similar to the renderings to be presented to the Planning Commission and the Board of Commissioners at the respective public hearings.
- (D) The retail area shall contain neighborhood uses which may include a coffee shop and a smaller, white tablecloth restaurant consistent with the overall neighborhood concept.

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II. RESIDENTIAL

(A) Stacked Condominiums

1. There shall be a maximum of fifty-eight (58) stacked condominium units contained within the proposed UC community; and ninety-two (92) stacked condominium units within the RM-12 zoned area.
2. The proposed condominium units shall be located above retail space, as well as within a separate building, as more particularly shown and reflected on the referenced Conceptual Site Plan.
3. The stacked condominium units shall be condominiums as the term "condominium" is defined under the Georgia Condominium Act.
4. The units within the UC community shall be "for sale" units only. A maximum of ten (10) percent of the proposed units may be leased at any one time.
5. The square footage ranges, bedroom types, and finishes shall be as set forth on Exhibit "A" attached hereto and incorporated herein by reference.

(B) Townhomes

1. There shall be a maximum of eighty (80) townhome units containing a minimum of 2,250 square feet, ranging upwards to 2,400 square feet, and greater.

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2. The units within this community shall be "for sale" units only. A maximum of ten (10) percent of the proposed units may be leased at any one time.
3. The unit finishes for the townhomes shall be as set forth in Exhibit "A" attached hereto and incorporated herein by reference.
4. The proposed townhomes shall be traditional or European in styling and architecture as more fully shown and depicted on the architectural renderings to be presented to the Planning Commission and Board of Commissioners at the respective scheduled Zoning Hearings.
5. Additionally, the townhome residences shall contain four-sided architecture.
6. The townhomes shall have attached, two-car garages.
7. The townhomes shall be a condominium development, complying in all respects with the Cobb County Condominium Ordinance, and not subject to the Georgia Condominium Act.
8. An amenity area, including a swimming pool, clubhouse, and park area with a gazebo shall be provided for the use and enjoyment of the residents within the proposed development.
9. There shall be "community green" areas, together with stormwater detention areas, as more particularly shown and reflected on the referenced Conceptual Site Plan.

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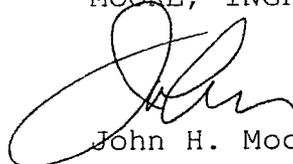
10. A minimum of fifty (50) percent of the townhome units shall be "roughed-in" for elevator service, which service shall be offered as an option.

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

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

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c: Mr. Ron Sifen
Vinings Civic Association

Mr. Anthony L. Waybright
Ms. Suzanne Ballew

Ms. Linda Barnes Cater
Ms. Kathrin Mattox
Ms. Jody Smith
Lower Stillhouse Group

ALTA Vinings, LLC

**Vinings Commons
 Standard Specifications**

EXHIBIT "A"

Floors Plans and finishes shall consist, at minimum, of the following:

Living Room and Dining Rooms-

- (a) 10 Ft ceilings
- (b) A selection of hardwood flooring, premium carpet, and tile throughout.
- (c) Crown Molding
- (d) Surround Sound Wiring

Kitchen

- (e) Counter Tops will be corian, granite, or equivalent
- (f) Upscale wooden cabinetry or equivalent
- (g) 10 Ft ceilings

- (h) A selection of hardwood flooring, and tile
- (i) Whirlpool Gold appliances, stainless steel or equivalent.

Bedrooms

- (j) Condominium -10 Ft ceilings. Townhomes - 9 Ft. Ceilings.
- (k) A selection of hardwood flooring, or premium carpet throughout
- (l) Crown Molding
- (m) Walk-in closets in master bedrooms.

Bathrooms

- (n) Ceramic tile or equivalent
- (o) Counter Tops will be corian, granite, or equivalent
- (p) Upscale wooden cabinetry or equivalent

The square footage ranges for the condominium units contained within the building are as follows:

- (q) Not greater than 15% percent of the units with a minimum square footage of 900sf.
- (ii) Not greater than 30% percent of the units with a minimum square footage of 1,000sf.
- (iii) Not greater than 40% percent of the units with a minimum square footage of 1,200sf.
- (iv) Not greater than 50% percent of the units with a minimum square footage of 1,350sf.
- (v) Not Greater than 75% percent of the units with a minimum square footage of 1,400sf.
- (vi) Not Greater than 87% percent of the units with a minimum square footage of 1,500sf.

Unit Type		Mix	# of Units	Avg SF
1 BR	A-1	10%	15%	23
1 BR	A-2	10%	15%	23
1 BR-Den	A-3	7%	10%	15
2BR	B-1	7%	10%	15
2BR	B-2	16%	25%	38
2BR-Den	B-3	8%	12%	18
2BR-Den	B-4	8%	13%	20
TW 1	T-1	17%	50%	40
TW 2	T-2	17%	50%	40
Condo Total			150	1,284
Townhouse Total			80	2,500
Total			230	1,707

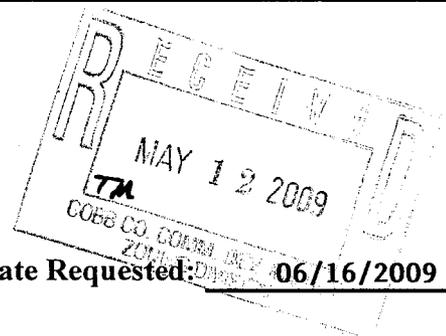
950⁰⁰

~~900~~ 1,100

Application for "Other Business" Cobb County, Georgia

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

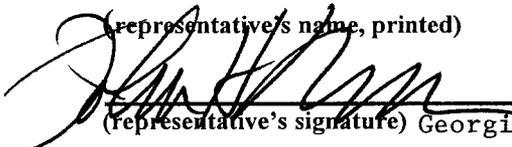
BOC Hearing Date Requested: 06/16/2009



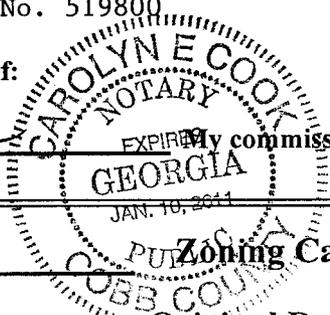
Applicant: Vinings Main, L.P. Phone #: (770) 951-8989
(applicant's name printed)

Address: Suite 150, 1110 Northchase Parkway, Marietta, GA 30067 **E-Mail:** _____
Moore Ingram Johnson & Steele, LLP

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

 Phone #: (770) 429-1499 E-Mail: jmoore@mijcs.com; w7@mijcs.com
(representative's signature) Georgia Bar No. 519800

Signed, sealed and delivered in presence of:
Carolyn E. Cook Notary Public
My commission expires: January 10, 2011



Commission District: 2 **Zoning Case:** Z-118 (2005)

Date of Zoning Decision: 12/20/2005 **Original Date of Hearing:** 07/19/2005

Location: Southerly side of Paces Ferry Road
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 886, 887, 908 **District(s):** 17th

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

See Exhibit "A" attached hereto and made a part hereof by reference

(List or attach additional information if needed)

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

Application No.:	Z-118 (2005)
Original Hearing Date:	July 19, 2005
Date of Zoning Decision:	December 20, 2005
Current Hearing Date:	June 16, 2009

BEFORE THE COBB COUNTY BOARD OF COMMISSIONERS

Applicant: Vinings Main, L.P.

Applicant requests amendments to certain stipulations and conditions for the development known as "Vinings Main," approved through the rezoning process by the Board of Commissioners on December 20, 2005. The proposed amendments relate to the leasing and sale of residential units. The requested amendments are as follows:

- (1) All units (148) contained within Buildings 1000, 2000, and 3000 of the development shall remain as "For Sale" condominium units.
- (2) These units shall be continued to be offered "For Sale" to potential homeowners continually during the process herein outlined. However, for a period of five (5) years from final approval by the Board of Commissioners of this proposed amendment, the units may be offered "For Lease."
- (3) The units to be sold shall commence with Building 1000, then proceed to Building 2000, and then to Building 3000, until all units in all three buildings have been fully sold.
- (4) Applicant agrees that during this process and for the time limit set forth herein, it shall maintain an inventory of at least five (5) "For Sale" Units at all times during the conversion process. It is the intent of Applicant to convert all units from a leased status to an owned status as soon as possible.
- (5) The time period for allowable leasing of the units shall be calculated from the date of final approval by the Board of Commissioners to a date five (5) years thereafter. All leases shall be drawn so that no lease shall extend beyond said five-year period. All leases shall further contain a provision that said lease may be terminable upon thirty (30) days' written notice to the tenant, so as to enable said unit to be sold or maintained as one of the five (5) units in available inventory for sale. The leases for the units shall further contain a provision that will allow

relocation of all tenants, as necessary to accommodate sale of units, from and within Building 1000, Building 2000, and Building 3000 to facilitate the conversion process.

- (6) Unless otherwise specifically set forth herein, the balance and remainder of the stipulations and conditions enumerated in the official minutes, and attachments thereto, of the Board of Commissioners Zoning Hearing held on December 20, 2005, in Application No. Z-118 (2005), are unaltered or unchanged by this request for stipulation amendment.