CITY OF ATLANTA

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JAMES SHELBY
Commissioner

CHARLETTA WILSON JACKS
Director, Bureau of Planning

MEMORANDUM

TO: Zoning Review Board

FROM: Charletta Wilson Jacks, Zoning Administrator

SUBJECT: **Z-13-22 for text amendment to the MRC district parking requirements Eating and drinking establishments in hotels and motels**

DATE: September 12, 2013

An ordinance to amend the general off-street parking requirements for eating and drinking establishments associated with hotels in the Mixed Residential Commercial (MRC) zoning district . This amendment is proposed to correlate with the off-street parking requirements of free standing or mixed-use eating and drinking establishments in the various MRC designations.

FINDINGS OF FACT:

Property location: Since no development projects are being proposed, these considerations are not applicable.

Property size and physical features: There would be no predictable effect on public facilities and services since no development projects are being proposed.

CDP land use map designation: Since no development projects are being proposed, these considerations are not applicable. There are no proposals to change the CDP land use designation.

Current/past use of property: Since no development projects are being proposed, these considerations are not applicable.

Surrounding zoning/land uses: Since no development projects are being proposed, these considerations are not applicable.

Transportation: Since no development projects are being proposed, these considerations are not applicable.

PROPOSAL:

The proposed text amendment to the Mixed Residential Commercial (MRC) districts would change the parking requirements for eating and drinking establishments located in hotels and motels to match those requirements of such establishments (located in free-standing buildings or mixed-use developments) pursuant to the corresponding MRC zoning designation. There are three (3) MRC zoning districts:

- MRC-1
- MRC-2
- MRC-3

The chart below illustrates the existing and the proposed zoning text amendment changes. It is noted that the existing parking requirements for eating and drinking establishments *decreases for free-standing or mixed-use developments as the zoning designation increases to MRC-2 and MRC-3, but remains the same in all MRC districts (at the MRC-1 requirement) for such establishments located in hotels and motels.*

EXISTING REQUIREMENTS			
USE	**MRC-1 DISTRICT**	**MRC-2 DISTRICT**	**MRC-3 DISTRICT**
Eating and drinking establishments (***not*** located in hotels/motels)	• One space /100 sf of floor area. Or • One space/75 square feet of floor area where more than 60% of gross income is from the sale of malt beverages, wine and/or distilled spirits.	• One space /300 sf of floor area. Or • One space/225 square feet of floor area where more than 60% of gross income is from the sale of malt beverages, wine and/or distilled spirits.	• One space /600 sf of floor area. Or • One space/450 square feet of floor area where more than 60% of gross income is from the sale of malt beverages, wine and/or distilled spirits.
Hotel *(including eating and drinking establishments)*	• One space per rental unit plus one-half space per employee; and • One space per 300 square feet of other convention facilities (GLA); and • ***One space per 100 square feet of restaurant/lounge gross leasable area.***		

PROPOSED REQUIREMENTS			
USE	**MRC-1 DISTRICT**	**MRC-2 DISTRICT**	**MRC-3 DISTRICT**
Eating and drinking establishments *(**not** located in hotels/motels)*	*No change to existing parking requirements (as show above).*		
Hotel *(with eating and drinking establishments)*	• One space per rental unit plus one-half space per employee; and • One space per 300 square feet of other convention facilities (GLA); and • ***Eating and drinking establishments see below***		
Eating and drinking establishments *(inside Hotels)*	Same as MRC-1 District: • One space /100 sf of floor area. Or • One space/75 square feet of floor area where more than 60% of gross income is from the sale of malt beverages, wine and/or distilled spirits.	Same as MRC-2 District: • One space /300 sf of floor area. Or • One space/225 square feet of floor area where more than 60% of gross income is from the sale of malt beverages, wine and/or distilled spirits.	Same as MRC-3 District: • One space /600 sf of floor area. Or • One space/450 square feet of floor area where more than 60% of gross income is from the sale of malt beverages, wine and/or distilled spirits.

CONCLUSIONS:

1) **Compatibility with comprehensive development plan (CDP); timing of development**: The proposed legislation to amend the parking requirements for eating and drinking establishments in MRC districts regulations would not change the current land use designation of properties nor affect the timing of development for any proposed projects since no specific development projects are contemplated.

2) **Availability of and effect on public facilities and services; referrals to other agencies:** Since no development projects are being proposed as part of the zoning text amendment, these considerations are not applicable.

3) **Availability of other appropriate land zoned for proposed use; effect on balance of land uses with regard to the public need:** Since no development projects are being proposed as part of the zoning text amendment, these considerations are not applicable. This text amendment would have no effect on the balance of land uses in this district.

4) **Effect on character of the neighborhood:** Since no development projects are being proposed as part of the zoning text amendment, this consideration is not applicable.

5) **Suitability of proposed land use:** Although there would be no change in land use pertaining to the development of the property, Staff is of the opinion that the proposed text amendment would be compatible with land uses allowed in the MRC zoning district. A special use permit, however, is required for hotels and motels.

6) **Effect on adjacent property:** Since no development projects are being proposed as part of the zoning text amendment, these considerations are not applicable.

7) **Economic use of current zoning:** Since no development projects are being proposed as part of the zoning text amendment, these considerations are not applicable.

8) **Compatibility with policies related to tree preservation:** Since no development projects are being proposed as part of the zoning text amendment, these considerations are not applicable.

9) **Other Considerations:** The proposed legislation is in keeping with the purpose and intent of the Mixed Residential Commercial (MRC) District regulations to encourage mixed-used developments and emphasize a pedestrian-oriented built environment, particularly as the density of development increases (from MRC-1 to MRC-3 districts). The existing parking requirements discourage hotels and motels in the higher density MRC-2 and MRC-3 districts from providing eating and drinking establishments which would serve not only hotel patrons but also nearby residents, office workers and other visitors. The change in parking requirements would equalize the parking requirements for such establishments regardless of location in each particular MRC district, in effect reducing the parking requirement as density increases. This is appropriate in areas where higher density mixed-use developments are encouraged and pedestrian mobility is emphasized over that of vehicular.

STAFF RECOMMENDATION: APPROVAL

cc: James Shelby, Commissioner, DPCD

CITY OF ATLANTA

Kasim Reed
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JAMES SHELBY
Commissioner

CHARLETTA WILSON JACKS
Director, Bureau of Planning

MEMORANDUM

TO: Zoning Review Board

FROM: Charletta Wilson Jacks, Zoning Administrator

SUBJECT: **Z-13-23 text amendment**
NC-6 Cascade Heights Neighborhood Commercial District

DATE: September 12, 2013

An ordinance by Councilmember Keisha Lance Bottoms **to amend Section 16-32F of the NC-6 Cascade Heights Neighborhood Commercial District of the 1982 Zoning Ordinance of the City of Atlanta, so as to modify and revise certain provisions in said section; and for other purposes.**

FINDINGS OF FACT:

Property location: Since no development projects are being proposed, these considerations are not applicable.

Property size and physical features: There would be no predictable effect on public facilities and services since no development projects are being proposed.

CDP land use map designation: Since no development projects are being proposed, these considerations are not applicable. There are no proposals to change the CDP land use designation.

Current/past use of property: Since no development projects are being proposed, these considerations are not applicable.

Surrounding zoning/land uses: Since no development projects are being proposed, these considerations are not applicable.

Transportation: Since no development projects are being proposed, these considerations are not applicable.

PROPOSAL:

The Neighborhood Commercial District regulations permit the development of specific regulations that would apply to each specifically nominated NC district. In this case, the original NC-6 Cascade Heights Neighborhood Commercial district regulations are being amended to further tailor and enhance the district regulations to meet the desires of the community. No changes to the NC-6 district boundaries are proposed, and no properties are being rezoned. The proposed text amendment would update the NC-6 district regulations to:

- Reorganize the order of the text and refine the text language for clarity.
- Require NPU notification and a 21-day review and comment period upon submission of a SAP application prior to a decision being rendered by the Office of Planning. Applicant shall submit the U.S. Postal service certificate of mailing receipt to the Office of Planning.
- Prohibit speakers and amplified music located outside enclosed permanent structures.
- Modify the encroachment requirements for outdoor dining into sidewalks.
- Modify the maximum building height:
    - Limit height to three stories and 42 feet tall within 150 feet of R and PD-H zoning districts,
    - Limit height to five stories and 66 feet tall between 150 feet and 300 feet of R and PD-H zoning districts.
- Add building design requirements for building entrances and building stoops, steps and cheek walls facing the street and sidewalk.
- Add building façade material restrictions to ensure quality development.
- Place additional restrictions on dumpsters and loading areas and building mechanical features including pavement materials, landscaping and screening requirements.
- Add restrictions on the use of security materials such as burglar bars, steel gates and steel-roll down doors or shutters.
- Add prohibition of lights outlining and/or detailing a building and/or windows.
- Require vending machines, paper stands and similar devices to be located on the interior of buildings.
- Add additional restrictions on signage.

CONCLUSION:

1) **Compatibility with comprehensive development plan (CDP); timing of development**: The proposed legislation to amend NC-6 Cascade Heights district regulations would not change the current land use designation of properties nor affect the timing of development for any proposed projects since no specific development projects are contemplated.

2) **Availability of and effect on public facilities and services; referrals to other agencies:** Since no development projects are being proposed as part of the zoning text amendment, these considerations are not applicable.

3) **Availability of other appropriate land zoned for proposed use; effect on balance of land uses with regard to the public need:** Since no development projects are being proposed as part of the zoning text amendment, these considerations are not applicable. This text amendment would have no effect on the balance of land uses in this district.

4) **Effect on character of the neighborhood:** Since no development projects are being proposed as part of the zoning text amendment, this consideration is not applicable. Staff is of the opinion that the proposed text amendment would increase community awareness of development projects in their neighborhood at such time as a project is submitted for permits.

5) **Suitability of proposed land use:** Although there would be no change in land use pertaining to the development of the property, Staff is of the opinion that the proposed text amendment would be compatible with land uses allowed in the NC-6 zoning district.

6) **Effect on adjacent property:** Since no development projects are being proposed as part of the zoning text amendment, these considerations are not applicable.

7) **Economic use of current zoning:** Since no development projects are being proposed as part of the zoning text amendment, these considerations are not applicable.

8) **Compatibility with policies related to tree preservation:** Since no development projects are being proposed as part of the zoning text amendment, these considerations are not applicable.

9) **Other Considerations:** Staff is generally in support of the legislation as introduced by Councilmember Bottoms. However, staff offers a substitute ordinance which is also compatible with the recommendations of the Redevelopment Plan approved for this area. The Office of Planning provides the following supportive comments:

   - Require NPU notification and a 21-day review and comment period upon submission of an SAP application prior to a decision being rendered by the Office of Planning. Applicant shall submit the U.S. Postal service certificate of mailing receipt to the Office of Planning.

     This process is already in place for properties located within the Beltline Overlay District and Staff is supportive of extending it to this NC-6 district.

- Prohibit speakers and amplified music located outside enclosed permanent structures.

  Staff is supportive of this restriction to minimize adverse impacts of noise on adjacent residential properties.

- Modify the encroachment requirements for outdoor dining into sidewalks.

  Staff is supportive of allowing outdoor dining encroachment into the sidewalk, provided that a minimum pedestrian clearance is maintained to ensure pedestrian access.

- Modify the maximum building height:
  - Limit height to three stories and 42 feet tall within 150 feet of R and PD-H zoning districts,
  - Limit height to five stories and 66 feet tall between 150 feet and 300 feet of R and PD-H zoning districts.

  Staff is supportive of the changes in building heights to attract new development to the district while maintaining appropriate building scales.

- Add building design requirements for building entrances and building stoops, steps and cheek walls facing the street and sidewalk.

  Staff is supportive of building design requirements to enhance the pedestrian environment.

- Add building façade material restrictions to ensure quality development.

  Staff is supportive of building design requirements to ensure quality development and enhance the built environment.

- Place additional restrictions on dumpsters and loading areas and building mechanical features including pavement materials, landscaping and screening requirements.

  Staff is supportive of the additional screening and material requirements to enhance the pedestrian environment and minimize the negative visual impact of such items.

- Add restrictions on the use of security materials such as burglar bars, steel gates and steel-roll down doors or shutters.

  Staff is supportive of placing restrictions on security materials to enhance the built environment, while still addressing property security issues in the district.

- Add prohibition of lights outlining and/or detailing a building and/or windows.

  Staff is supportive of restrictions on storefront lighting and building detailing to minimize the visual clutter and enhance the aesthetics of the building environment.

- Require vending machines, paper stands and similar devices to be located on the interior of buildings.

  Staff is supportive of placing restrictions on these devices to minimize the negative visual clutter, enhance the built environment and provide for the sale of items within buildings.

- Add additional restrictions on signage.

  Staff is supportive of this restriction to minimize adverse impacts of signage and lighting (for signage) on adjacent residential districts.

The substitute ordinance offered by the staff is inclusive of the following:

- Allow parking structures and surface lots to serve primary uses within the NC district.
  Staff is supportive of allowing parking structures and surface lots in the district to serve off-site principal uses in the NC-6 district. This provision would facilitate shared parking arrangements.

- Limit the size of retail establishments to 5,000 square feet and require a special use permit (SUP) for retail establishments between 5,000 square feet and 15,000 square feet.
  Staff is supportive of restricting the sizes of retail uses to encourage local business ownership, a mixture of business establishments, and adaptive reuse of buildings to foster continued economic revitalization and maintain the neighborhood scale of the district.

- Require a Special Use Permit (SUP) for <u>all</u> commercial recreation establishments, including theaters and other places of assembly and similar uses with primary activities conducted within fully enclosed buildings.
  Staff is supportive of these uses, subject to additional review and approval by the Atlanta City Council to determine the appropriateness of a particular establishment and its manners of operation in the district.

- Restrict pavement materials within the supplemental zone.
  Staff is supportive of restricting pavement materials in the supplemental zone to enhance the pedestrian environment.

- Add additional building façade material restrictions.
  Staff is supportive of building design requirements to ensure quality development and enhance the built environment.

- Add additional restrictions for window signs.
  Staff is supportive of this restriction to minimize visual clutter and enhance the storefronts of each business establishment.

- Add requirements for the removal of legal, nonconforming free-standing signs.
  Staff is supportive of this restriction to remove legally non-conforming signs when no in use by on-premise businesses or on vacant properties.

STAFF RECOMMENDATION: APPROVAL OF A SUBSTITUTE ORDINANCE

cc: James Shelby, Commissioner, DPCD

13-O-1046
Z-13-23

AN ORDINANCE
BY COUNCILMEMBER KEISHA LANCE BOTTOMS
AS SUBSTITUTED BY ZONING COMMITTEE

AN ORDINANCE TO AMEND THE TEXT OF CHAPTER 32F (NC-6 CASCADE HEIGHTS NEIGHBORHOOD COMMERCIAL DISTRICT) OF THE 1982 ZONING ORDINANCE OF THE CITY OF ATLANTA, AS AMENDED,; AND FOR OTHER PURPOSES.

WHEREAS, on September 18, 2006 the Atlanta City Council adopted the Campbellton-Cascade Corridors Redevelopment Plan ("Plan")_as a policy guide for future development within the Corridors; and

WHEREAS, consistent with the recommendation of the Plan, in 2008 the Atlanta City Council rezoned properties within the Corridors to the NC-6 Cascade Heights Neighborhood Commercial District; and

WHEREAS, in response to the Campbellton Road and Cascade Avenue corridor rezonings recently adopted in the winter of 2012 and spring of 2013 to implement additional zoning recommendations of the Redevelopment Plan, the Office of Planning has reviewed the existing NC-6 zoning regulations and determined that certain provisions should be updated to enhance future redevelopment in the NC-6 district; and

WHEREAS, the purpose and intent of this amendment is to maintain a balance of uses to create a vibrant and sustainable commercial district in keeping with the general regulations of the Neighborhood Commercial District ordinance; and

WHEREAS, the Neighborhood Commercial District ordinance allows the longstanding business and property owners within the district to accommodate the needs of the adjacent neighborhoods.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

SECTION 1: Section 16-32F of the Zoning Ordinance of the City of Atlanta is hereby amended by deleting said Section in its entirety and inserting in lieu thereof the following:

Section 16-32F.001. Scope of provisions.

The regulations set forth in this chapter, or set forth elsewhere in this part, when referred to in this chapter, are the regulations for the NC-6 Cascade Heights Neighborhood Commercial District. The following NC-6 District regulations shall apply in addition to those of the general NC District regulations; except where said NC-6 District regulations conflict with the general NC regulations, said NC-6 regulations shall apply.

Section 16-32F.002. Specific regulations.

The following regulations are specific to the NC-6 Cascade Heights Neighborhood Commercial District:

1. NPU notification. In addition to required SAP submittal, the applicant shall also provide to the Director of the Office of Planning a United States Postal Service proof of a certificate of mailing (first-class) of one copy of the full SAP application to the appropriate Neighborhood Planning Unit (NPU) chair or their designee for the purpose of notification and comment, and also a signed affidavit of said NPU notification. Said appropriate NPU shall have a period of 21 days from the date of the said certificate of mailing to provide one set of written comments to the Office of Planning prior to any SAP approval.

2. Prohibited uses: In further limitation of those permitted principal uses and structures not permitted, as set forth in Section 16-32.005:
   a. Eating and Drinking Establishments meeting the definition of "nightclub" set forth in Chapter 10 of the Code of Ordinances (Alcoholic Beverages).
   b. Speakers and amplified music located outside enclosed permanent structures.
   c. Park-for-hire facilities on surface lots.
   d. Pawn shops.
   e. Tattoo and body piercing establishments.

4. Permitted principal uses: In further limitation of those permitted principal uses and structures set forth in Section 16-32.005:
   a. The following uses shall be permitted provided that they are separated from another parcel having the same permitted use by a minimum horizontal distance of 1,000 linear feet as measured from property line to property line:
      i. Automobile service stations.
      ii. Dry cleaning establishments.
      iii. Hair salons, barber shops, beauty supply, beauty school, and nail salons. This shall not be construed to mean that two such uses within the same parcel shall be prohibited.
   b. Package stores within the district provided that they are separated from another parcel with the same permitted use by a minimum horizontal distance of 1,500 linear feet, measured from property line to property line.
   c. Parking structures and surface lots to serve primary uses within the district.
   d. Retail establishments shall not exceed 5,000 square feet except where permitted by special use permit issued pursuant to this Section 16-32F.

5. Hours of operation for certain primary and accessory uses:
   a. Commercial recreation establishments, including theaters and other similar places of assembly (not to be construed as churches or similar places of religious assembly) with primary activities conducted within fully enclosed buildings: shall not operate between the hours of 2:00 a.m. to 7:00 a.m.
   b. Eating and drinking establishments: shall not operate between the hours of 2:00 a.m. to 6:30 a.m., Monday through Thursday. There shall be no limit to hours of operation Friday and Saturday.
   c. Clubs and lodges: shall not operate between the hours of 2:00 a.m. to 7:00 a.m.
   d. Grocery stores: shall have no limit to hours of operation.
   e. All other uses: No use shall operate for services to the general public between the hours of 11:00 p.m. to 7:00 a.m.

6. Special Use Permits: In further limitation of those uses only permissible by special use permit set forth in Section 16-32.007:
   a. Commercial recreation establishments, including theaters and other places of assembly and similar uses with primary activities conducted within fully enclosed buildings.
   b. Retail establishments between 5,000 square feet and 15,000 square feet in floor area.

7. Special administrative permits. In addition to the uses permitted by special administrative permit, the following administrative variations shall be permitted:

   a. *Street tree requirements.* Variations are subject to constraints such as overhead or underground utilities, topography, or for the preservation of existing trees greater than six inches in caliper measured four and one-half feet above the natural grade at the base.
   b. *Street furniture and tree planting zone:* On-street parking may be placed in the street furniture zone, provided that street trees are installed in bulb-outs located at intervals within the area used for on-street parking, as approved by the Director of the Office of Planning.
   c. *Sidewalk and supplemental zone width requirements:* In blocks where 50 percent or more of the buildings were built before 1950, width requirements may be reduced to match the existing building setbacks, as measured from the curb, of the nearest two adjacent buildings located on the same side of the street. Sidewalk and supplemental zone width requirements may also be varied subject to constraints related to existing topography or preservation of existing trees (as noted above). The materials for the supplemental zone shall be finished with either patterned concrete, brick or stone in a scale to reduce the scale of the surface.

d. *Outdoor dining within required sidewalk for new and pre-existing buildings:* outdoor dining may encroach into the sidewalk clear zone provided all of the following criteria are met:
   i. Shall have an unobstructed sidewalk width of a minimum of six (6) feet along Cascade Road and four (4) feet along all other streets. Said outdoor dining area shall also not be located within five (5) feet of a pedestrian crosswalk, handicap ramp, taxi stand, fire hydrant, FDC (Fire Department Connection) equipment on building facades, and within eight (8) feet of driveways, and within 15 feet of transit stops or transit shelters. In areas of congested pedestrian activity and or pedestrian safety concerns, the director is authorized to require a wider pedestrian path, as circumstances dictate.
   ii. No permanent structure or ornamentation shall be located within the area where encroachment is permitted.
   iii. The outdoor dining area shall be visually delineated on the sidewalk with pavers or in an alternative manner, as approved by the Director of the Office of Planning, which may include movable planters, fencing or similar non-fixed barriers provided they do not exceed a height of 36 inches including any plant material. Tables, chairs, umbrellas, and any other furniture shall not extend outside of the designated dining area.
   iv. At such time as the outdoor dining use is discontinued, sidewalks shall comply with all requirements of this chapter.

8. Maximum building heights. Structures which are within 150 feet of an R-1 through R-5 and PD-H district boundary shall have a maximum of three stories and a height of 42 feet. Structures that are between 150 feet and 300 feet from an R-1 through R-5 and PD-H district boundary shall have a maximum of five stories and a height of 66 feet. Mezzanines and lofts shall be considered a story.

9. In addition to the requirements of Section 16-32.015 the following building design requirements shall apply:
   a. Building entrances: The primary pedestrian entrance facing the street and sidewalk shall be articulated and differentiated from other components of the façade with two or more of the following elements:
      i. Recessed entries, not exceeding five (5) feet in depth from the façade;
      ii. Entry surrounds;
      iii. Transom windows;
      iv. Awnings or canopies. Metal awnings are prohibited.
   b. Building stoops, steps and cheek walls facing the street and sidewalk shall be finished with either patterned concrete, brick or stone. Steps shall have closed risers, ends and cheek walls.
   c. Building facade materials shall consist of the following for principal and accessory structures:
      iii. All structures:
         1) All exterior facades adjacent to and/or visible from a public street shall be predominately at least 60% brick per vertical wall plane. Stone, cast stone or three-part hard coat stucco may comprise the remainder of such building façade(s).
         2) All exterior facades not adjacent to and/or visible from a public street shall be brick, stone, cast stone, three-part hard coat stucco, architecturally treated concrete masonry units, split-faced concrete, or split-faced brick.
         3) Accent building materials of non-reflective glass, natural stone, true stucco, glass block shall not exceed 40% per vertical wall plane.

4) Exposed concrete masonry unit (CMU) block, corrugated steel panels, aluminum siding, vinyl siding, wood siding, prefabricated metal, exposed pressboard are prohibited as exterior finishes.
5) Facade materials of accessory structures shall match materials of the principal structure(s).

iv. Retaining walls: shall be faced with or constructed of stone, brick, or decorative concrete modular block only.

10. In addition to the requirements of Section 16-32.018 "Loading areas, loading dock entrances and building mechanical and accessory features":
    a. Dumpsters and loading areas shall be paved with impervious materials and shall be screened so as not to be visible from any public right-of-way, park or plaza, outdoor dining area, or adjacent property.
    b. Dumpsters shall be screened with brick opaque walls and a self-closing opaque gate along one side which matches the brick color. Said screening shall be twelve (12) inches above the dumpster at a maximum height of seven (7) feet.
    c. Building mechanical and accessory features not located on rooftops shall provide landscaping or similar screening. Said shrubbery shall consist of a continuous hedge of evergreen shrubbery, and shall be a minimum height of three (3) feet at time of planting and reach a minimum height of six (6) feet at maturity.

11. Security materials: Burglar bars, steel gates, and steel-roll down doors or shutters are prohibited on the exterior of a structure when visible from any public or private street. Interior security roll down doors shall allow 80% visibility into the tenant space and shall be fully retractable during business hours of operation.

12. Lighting: Lights outlining and/or detailing a building and/or windows are prohibited.

13. Vending machines, paper stands, and other similar devices shall be located interior to the building structure.

14. In addition to the requirements of Section 16-32.020 "Curb cuts and parking structures", two curb cuts serving two one-way driveways shall only be counted as one curb cut.

15. Off-street parking requirements: In addition to requirements provided in Section 16-32.023 "Minimum Parking Requirements," the following parking requirements shall supplant the requirements for the uses specified below in the Table.

NC-6 CASCADE HEIGHTS NEIGHBORHOOD COMMERCIAL DISTRICT: PARKING TABLE	
Permitted Use	**Minimum Parking Requirement***
Banks and similar institutions	4.0 spaces per 1,000 sq. ft.
Retail Establishments (including catering, delicatessen and bakeries) Clothing and Tailor Shops Sales and Repair Establishments	4.0 spaces per 1,000 sq. ft.
Eating and Drinking Establishments	5.0 spaces per 1,000 sq. ft.
Outdoor Dining (greater than 25% of the enclosed floor area)	3.0 spaces per 1,000 sq. ft.
Office	2.0 spaces per 1,000 sq. ft.
Dwellings and Lodgings	1.0 space per unit
All other non-residential uses and Accessory Uses, not otherwise identified in Section 16-32.023	2.0 spaces per 1,000 sq. ft.
Electric Vehicle Charging Requirements	None
Minimum parking requirements may be reduced within the NC-6 District provided a shared parking arrangement subject to requirements of Section 16-32.023(3).	

SECTION 2: Section 16-28A.010(36)(c) of the Sign Ordinance of the City of Atlanta is hereby amended by deleting subsection (c) in its entirety which reads as follows:

c. In addition to the NC District general sign regulations, the following shall also apply to the Cascade Heights NC-6 District:
   i. Wall signs and parapet wall signs shall be flush against the wall and shall not cover architectural building ornamentation.
   ii. Blade signs shall not extend five feet beyond the building façade.

and inserting in lieu thereof the following:

c. In addition to the NC District general sign regulations, the following shall also apply to the Cascade Heights NC-6 District:
   i. Wall signs and parapet wall signs shall be flush against the wall and shall not cover architectural building ornamentation and shall be internally illuminated or lit from behind (i.e. halo lighting)
   ii. Blade signs shall not extend five feet beyond the building façade.
   iii. Placement: Signage shall not be permitted on building facades facing side or rear property lines directly adjacent to residential districts or uses when tenant signage may be provided on other building facades.
   iv. Window signs:
      1. Signs visible from the public right-of-way which touch or are located within one foot of any window pane or glass on either the inside or the outside of a building shall be limited to one (1) sign per façade with each sign no larger than six (6) square feet.

2. Existing window sign removal: Existing window signs, exceeding the above requirements, which are valued at less than 200 dollars each, shall be removed within 30 days of adoption of this ordinance.

v. Removal of legal, nonconforming freestanding signs and sign faces:

1. Within 30 days of the cessation of a business, each sign face associated with said ceased business shall be removed from any on-premise freestanding sign structure. Cessation of business shall be measured from the expiration of the business license. Each on-premise freestanding sign face for any business not in operation on the date of this ordinance shall have 30 days thereafter to remove said sign face(s). Operation of a business shall be evidence by a business license.
2. Within 90 days of the cessation of a business, or adoption of this ordinance, whichever is greater, any freestanding sign structure shall be removed if no business, as evidenced by a business license, occupies the premise on which the freestanding sign is located. Cessation of business shall be measured from the expiration of the last business license associated with the premise.
3. Within 90 days of issuance of a business license for new on-premise business establishments that do not utilize an existing freestanding sign, said freestanding sign structure shall be removed.

SECTION 3: That all ordinances or parts of ordinances in conflict with this ordinance shall be repealed.

CITY OF ATLANTA

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M. KASIM REED
MAYOR

JAMES SHELBY
Commissioner

CHARLETTA WILSON JACKS
Director, Office of Planning

MEMORANDUM

TO: Zoning Review Board

FROM: Charletta Wilson Jacks, Zoning Administrator

SUBJECT: **Z-13-26 for NC-12 Signage (Atkins Park Neighborhood Commercial District) Text Amendment**

DATE: September 12, 2013

An Ordinance by Councilmember Alex Wan to amend the 1982 Zoning Ordinance of the City of Atlanta by Amending Section 16-28A.010(36) of the sign ordinance to provide for additional regulations regarding allowable signage within the Atkins Park NC-12 District; and for other purposes.

FINDINGS OF FACT:

- property location: The area subject to this proposed text amendment of the sign ordinance for NC-12 (Atkins Park Neighborhood Commercial District) is located in NPU F and Council District 6. It includes properties located predominately along North Highland Avenue between St. Charles Avenue/St. Charles Place and Drewry Street and nearby connecting streets including Briarcliff Place, Greenwood Avenue and St. Louis Place in portions of the neighborhood Virginia Highland.

- property size and physical features: The subject area is comprised of approximately 22 properties of predominately improved properties which is relatively flat along the North Highland Avenue corridor. There is very limited greenspace and generally limited vegetation. However, immediately across North Highland Avenue at St. Charles Place is the greenspace known as New Highland Park.

- CDP Land Use Plan Designation: The current land use designation for the NC-12 subject area is entirely Low Density Commercial.

- **current/past use of properties:** The NC-12 district is comprised of approximately 22 properties with the majority of the businesses fronting on North Highland Avenue. There are multiple attached and detached buildings with a limited number of vacant or underutilized lots. Land uses in the area include eating and drinking establishments, retail establishments, personal service establishments and offices among others.

- **surrounding zoning and Land Uses**: The NC-12 area is surrounded by residential properties. Predominately there are Low Density Residential designated land uses and RG-2 zoning to the west and Single-Family residential designated land uses and R-4 zoning to the north and east.

- **transportation System**: The North Highland Avenue corridor of the NC-12 district is well served by sidewalks but the sidewalks are in various degrees of maintenance. Also, the area is well served by public transportation via MARTA bus route #16.

PROPOSAL:

Currently, section 16-28A.010 (5) (g) prohibits signs extending or projecting over any property line over any street or public right of way; and in certain limited circumstances within the NC-12 District, the public, health, safety and welfare is served by allowing a sign to extend or project over a property line over certain streets or public rights of way, so long as required encroachment agreements are authorized by the City of Atlanta pursuant to Article II of Chapter 138 of City Code. Therefore a new subsection Section 16-28A.010(36)(d) regulating signage within the NC-12 Atkins Park District is proposed.

The legislation indicates such encroaching signs would need an encroachment agreement approved pursuant to Article II of Chapter 138; be limited in number at one per business; only on Greenwood Avenue or St. Charles Avenue (and not North Highland Avenue); orientated perpendicular to the property line; need to be at least 9'-6" above a sidewalk; and be limited to 16 square feet in size.

CONCLUSIONS:

(1) Compatibility with comprehensive development plan (CDP); timing of development: The proposed legislation to amend the Sign Ordinance would not change the current land use designation of properties within the NC-12 district nor affect the timing of development for any proposed projects since no specific projects are contemplated. Therefore, Staff notes that it is not applicable.

(2) Availability of and effect of public facilities and services; referral to other agencies: This legislation does not propose any development or intend to rezone any property rather only apply to changes in signage. Therefore, Staff notes that it is not applicable in regard to the proposed legislation.

(3) Availability of other land suitable for proposed use; effect on balance of land uses with regard to the public need (optional consideration as per 16-27.004(3)): This legislation does not propose any development rather only apply to changes in signage. Therefore, Staff notes that it is not applicable in regard to the proposed legislation.

(4) **Effect on character of the neighborhood:** Staff is of the opinion that the proposed text amendment would allow for limited additional sign opportunities that provide reasonable opportunities for identification of businesses while protecting the aesthetic environment and public safety of this unique area of Atlanta.

(5) **Suitability of proposed land use:** There would be no change in land use pertaining to the development of the property. Therefore, Staff notes that it is not applicable in regard to the proposed legislation.

(6) **Effect on adjacent property:** Since no rezoning or development projects are being proposed as part of this zoning text amendment, these considerations are not applicable. However, Staff is of the opinion that the proposed text amendment to the sign ordinance would allow for limited additional sign opportunities that provide reasonable opportunities for identification of businesses with no adverse impact on adjacent properties.

(7) **Economic use of current zoning:** Since no rezoning or development projects are being proposed as part of this zoning text amendment, these considerations are not applicable. However, Staff is of the opinion that the proposed text amendment to the sign ordinance could only benefit businesses in need of identifying signage.

(8) **Tree Preservation:** Since no development projects are being proposed as part of this zoning text amendment, these considerations are not applicable. However, should there be any impacts on trees when a property owner decides to install new signage, they would be required to comply with the City of Atlanta Tree Ordinance.

(9) **Other Considerations:** This proposed text amendment for signage in the NC-12 district is limited to scope for small signs (less than 16 square feet) which need to project into the public right-of way likely due to the location of an existing building near such right-of way. Staff feels that this would have no adverse impact to the City or neighborhood.

STAFF RECOMMENDATION: APPROVAL OF SUBSTITUTE ORDINANCE

cc: James Shelby, Commissioner, DPCD

AN ORDINANCE BY: **Z-13-26**
COUNCILMEMBER ALEX WAN
AS SUBSTITUTED BY ZONING COMMITTEE

AN ORDINANCE TO AMEND THE 1982 ZONING ORDINANCE OF THE CITY OF ATLANTA BY AMENDING SECTION 16-28A.010(36) OF THE SIGN ORDINANCE TO PROVIDE FOR ADDITIONAL REGULATIONS REGARDING ALLOWABLE SIGNAGE WITHIN THE ATKINS PARK NC-12 DISTRICT; AND FOR OTHER PURPOSES.

WHEREAS, on December 1, 2008, the City Council of the City of Atlanta adopted Ordinance 08-O1757 (Z-08-68) establishing the Atkins Park NC-12 District ("NC-12 District") and rezoned property within the boundaries of that district as shown on a map attached thereto Atkins Park NC-12 District, which was returned without signature of the Mayor and therefore approved as per City Charter Section 2-403 on December 10, 2008; and

WHEREAS, Section 16-28A.010 (36) of the City of Atlanta Sign Ordinance provides, with specific exceptions, that signage within any of the NC districts must comply with the regulations found in Section 16-28A.010 (5) of the Sign Ordinance (C-1 sign regulations); and

WHEREAS, Section 16-28A.010 (5) (g) prohibits signs extending or projecting over any property line over any street or public right of way; and

WHEREAS, in certain limited circumstances within the NC-12 District, the public, health, safety and welfare is served by allowing a sign to extend or project over a property line over certain streets or public rights of way, so long as required encroachment agreements are authorized by the City of Atlanta pursuant to Article II of Chapter 138 of City Code; and

WHEREAS, the proposed legislation is consistent with the purposes and intent of the regulations of the Neighborhood Commercial District Regulations adopted in Section 16-32.002 of the City of Atlanta Zoning,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS, as follows:

Section 1. That the 1982 Zoning Ordinance of the City of Atlanta is hereby amended by adding a new subsection Section 16-28A.010(36)(d) regulating signage within the NC-12 Atkins Park District which shall read as follows:

(d) The regulations for Atkins Park NC-12 District shall be the same as the NC District general sign regulations, with the following supplemental regulations:
   i. One (1) building business identification sign per business establishment may extend or project either over a property line or street right of way, subject to an encroachment agreement approved pursuant to Chapter 138 of the City Code and the following restrictions:

(a) Signs extending or projecting over a property line or street right of way may only be located on the right of way of Greenwood Avenue or St. Charles Avenue and in no event shall such signs extend or project on North Highland Avenue; and

(b) Height: Any such encroaching signs shall have at least a nine foot six inch (9'-6") clearance from the finished elevation of the nearest sidewalk to the bottom of the sign; and

(c) Size and orientation: Any such encroaching signs shall be limited to a maximum total sign area of 16 square feet and must be predominately perpendicular to the property line over which it extends.

Section 2. That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.

CITY OF ATLANTA

KASIM REED
MAYOR

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
55 TRINITY AVENUE, S.W. SUITE 3350 – ATLANTA, GEORGIA 30303-0308
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JAMES SHELBY
Commissioner

CHARLETTA WILSON JACKS
Director, Office of Planning

MEMORANDUM

TO: Zoning Review Board

FROM: Charletta Wilson Jacks, Zoning Administrator

SUBJECT: **Z-13-27 for 1218 Spring Valley Lane, N.E.**

DATE: September 12, 2013

An ordinance to rezone the subject property within DeKalb County from the R-75 (DeKalb County Single Family Residential) District to the R-4 (City of Atlanta Single-Family Residential) District.

FINDINGS OF FACT:

- property location: The subject property is currently located in unincorporated DeKalb County, in Land Lot 55 of the 18th District. If the petition to annex the property is approved by the City, it will become incorporated into the geographic municipal boundaries of the City of Atlanta.

- property size and physical features: The subject property with approximately 59 feet of frontage and approximately 10,497 square feet is a rectangular shaped lot developed with a one story single family residence. The driveway located to the west of the residence provides vehicular access to a small parking pad located in the rear. Topography slightly inclines from the front property line towards the residence and proceeds to decline from the rear of the residence towards the rear property line. There are several mature trees and shrubbery located throughout the subject property.

- CDP land use map designation: The property currently does not have a City of Atlanta land use designation. Currently, the DeKalb County Comprehensive Plan Land Use Map suggests the property is suitable for single-family residential uses.

- current/past use of property: The subject property is currently developed with a single family residential structure. Staff is unaware of any other previous development on this property.

- surrounding zoning/land uses: The subject property is surrounded by unincorporated properties zoned R-75(DeKalb County Single-Family Residential) and with single-family land uses. The surrounding parcels within the City are zoned R-4 (Single Family Residential) and have a land use designation of Single Family Residential.

- transportation: University Drive, which provides access to Spring Valley Lane, is a Collector Road that is serviced by MARTA.

CONCLUSIONS:

1) **Compatibility with comprehensive development plan (CDP); timing of development:** The proposed zoning classification must be compatible with the City of Atlanta's Comprehensive Development Plan upon the approval of the petition to annex. Concurrently with the annexation request is legislation to amend the City of Atlanta's Comprehensive Development Plan, upon approval of the petition to annex the property. Currently the subject property is designated as R-75 under the DeKalb County zoning district. Therefore, Staff is of the opinion that annexing the subject property into the City of Atlanta will not compromise the intention of the R-4 (Single-Family Residential) District or the City of Atlanta's Comprehensive Development Plan.

2) **Availability of and effect on public facilities and services; referrals to other agencies:** It would appear that sewer is available in both DeKalb County and City of Atlanta to the subject property given the location of existing developed parcels in the area. The existing house is currently being served by Dekalb County. Additionally, the request for annexation will not have a negative effect on public facilities and services considering that services are currently already delivered to homes in the area.

3) **Availability of other appropriate land zoned for proposed use; effect on balance of land uses with regard to the public need:** This request is based on a petition to annex this subject property into the city limits. Staff is of the opinion that no other land needs to be evaluated for the subject rezoning.

4) **Effect on character of the neighborhood:** The annexation of the subject property to the City of Atlanta R-4 zoning classification will not have a negative effect on the surrounding neighborhood or any adverse influences as there is zoning surrounding the property with single-family designation.

5) **Suitability of proposed land use:** Staff is of the opinion that the proposed request to rezone the property would be compatible with the surrounding zoning and land use.

6) **Effect on adjacent property:** Staff is of the opinion that the proposed request to rezone the property would be compatible with the current built environment.

7) **Economic use of current zoning:** The property has economic value as zoned as single-family residential. The rezoning of this property to a City of Atlanta single family residential designation is not anticipated to impact the economic use of the property.

8) **Compatibility with policies related to tree preservation:** This proposed rezoning should not have any impact on the tree ordinance. Should the property owners redevelop the property, the property owners would be required to comply with the City of Atlanta Tree Ordinance.

STAFF RECOMMENDATION: APPROVAL

cc: James Shelby, Commissioner, DPCD

CITY OF ATLANTA

Kasim Reed
MAYOR

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
55 Trinity Avenue, S.W. SUITE 3350 – ATLANTA, GEORGIA 30303-0308
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JAMES SHELBY
Commissioner

CHARLETTA WILSON JACKS
Director, Bureau of Planning

MEMORANDUM

TO: Zoning Review Board

FROM: Charletta Wilson Jacks, Zoning Administrator

SUBJECT: **Z-13-33 text amendment to the Sign Ordinance for Building Signature Signs**

DATE: September 12, 2013

An ordinance **to amend the Code of Ordinance of the City of Atlanta by: redefining the term "Principal Occupant" as set forth in Section 16-28A.004; adding and deleting certain language in Section 16-28A.007(P) concerning the procedures applicable to Building Signature Signs, identifying the districts in which such signs can be located;** and for other purposes.

FINDINGS OF FACT:

- property location: Since no development projects are being proposed, these considerations are not applicable. However, these regulations would only apply to properties zoned O-I, C-1, C-2, C-3, C-4, C-5, SPI-1, SPI-9, SPI-12, PD-MU, PD-OC, PD-BP, MRC and MR districts.

- property size and physical features: There would be no predictable effect on public facilities and services, since the zoning text amendment would only apply to changes in signage and not result in any specific development projects.

- CDP land use map designation: Since no development projects are being proposed, these considerations are not applicable. There are no proposals to change the CDP land use designations.

- current/past use of property: Since no development projects are being proposed, these considerations are not applicable.

- surrounding zoning/land uses: Since no development projects are being proposed, these considerations are not applicable.

- transportation: Since no development projects are being proposed, these considerations are not applicable.

PROPOSAL:

The text amendment to the sign regulations proposes to:

1) Redefine the term "Principal Occupant" as a building tenant who occupies a minimum of 25% of the floor space, or 100,000 square feet of the floor space, of a specific building that is available for occupancy. Any lease for the required amount of floor space is to be for a period of not less than five years.

2) Clarify the language and permitting procedures applicable to Building Signatures signs and where they may be located.

   Only one (1) Building Signature sign allowed on each building facade elevation.
   Building Signature signs allowed to supersede the more restrictive height limit set forth in section 16-28A.007(m) including the 200 square foot area limitation imposed by the applicable zoning district.
   Building Signature signs allowed only on buildings four (4) or more stories in height provided no part of such sign shall extend above the top of the building.
   The area of a Building Signature sign shall not exceed five percent of the area of the wall to which it is affixed, and shall not be included in computing the total area of signage imposed by each zoning district for Business Identification signs.
   Building signature signs shall be allowed only for an owner or principal occupant as Changes in ownership or occupancy that result in non-compliance shall require the removal of the subject sign.
   All sides of the building which display a building signature sign shall display the exact copy which is displayed on any other side which displays a building signature sign.
   Building signature signs are subject to the prohibition against roof signs. Walls erected on the roof of a building regardless of whether such wall projects above its top are not parapet walls and no such wall may be used as a building signature sign or to support a building signature sign.
   An applicant seeking permission to erect a building signature sign shall provide notarized documentation that it has an ownership interest in the building or that it meets the conditions required to be considered a principal occupant and has permission from the owner to make the application. In determining the level of ownership necessary to qualify as an owner, the city presumes, based on the documentation required to be produced, that the applicant has made such arrangements with other claiming ownership interest as may be necessary to allow the applicant to claim that it may apply for the sign as an owner. As a part of the documentation, which may be, but is not required to be on a form supplied by the city, the applicant shall acknowledge and agree:

   (i) that neither the city nor its administrative officials are confirming whether the application is in conflict with the rights of others claiming ownership rights or others claiming to be principal occupants regardless of whether such claims are known or unknown;

   (ii) that the applicant has made the statements in the application subject to the state law penalties which apply to false, fictitious, or fraudulent

statements or entries in a matter within the jurisdiction of a department or agency of the government of a city;

(iii) that the city and its administrative officials are relying on the sworn statements in the application in making its determination that the application meets the criteria set forth in this chapter;

(iv) that the city and its administrative officials are authorized to audit the leases for a principal occupant to verify that the level of occupancy and length of the lease term meets the requirements of this chapter and that the applicant agrees to cooperate when requested to produce such documents.

The issuance of a sign permit pursuant to this chapter is limited to a determination that the application included the required documentation, that the building on which the sign is to be erected met the requirements of this chapter and that the sign erected or to be erected met the requirements of this chapter. Those determinations are, in part, based on the notarized documentation provided by the applicant concerning the allocation of private rights subject to contracts and/or leases with other parties and therefore the city's issuance of such permit:

(i) shall not be considered to be the decision of the city or any administrative official that such permit has the effect to determine, supersede, amend or modify private rights of ownership in any sign or in any building where such sign may be legally erected in that the city and its administrative officials are relying on the sworn representations of the applicant in issuing the permit; and

(ii) shall not be considered to be the decision of the city or any administrative official that such permit has the effect to determine, supersede, amend or modify the private rights created in or by any lease or contract between any parties in that the city and its administrative officials are relying on the sworn representations of the applicant in issuing the permit; and

(iii) shall not give standing to another party to request that the board of zoning adjustment determine whether ownership rights in the building or a contractual right or leasehold right gives such party the right to control the erection of or the content of the sign for which the permit was issued. While no building signature sign may be erected without a permit, the allocation of the right between private parties as to which party has the right to apply for and erect a permitted building signature sign on a building where such sign could otherwise be erected shall at all times be determined by the contractual, leasehold or ownership rights of the qualifying principal occupants and the owners, such that in the case of this type of dispute, the parties shall be obligated to settle such dispute between them in a court of competent jurisdiction in that the board of zoning adjustment is not empowered to make such determinations.

3) Moving the language listing the zoning districts where Building Signature signs are permitted from the definitions section of the sign ordinance to each corresponding zoning district. Said language is added to each of the following zoning districts: O-I, C-1, C-2, C-3, C-4, C-5, SPI-1, SPI-9, SPI-12, PD-MU, PD-OC, PD-BP, MRC and MR districts.

CONCLUSIONS:

1) **Compatibility with comprehensive development plan (CDP); timing of development**: The proposed legislation to amend the Sign Ordinance would not change the current land use designation of properties nor affect the timing of development for any proposed projects since no specific projects are contemplated.

2) **Availability of and effect on public facilities and services; referrals to other agencies:** Since no development projects are being proposed as part of the zoning text amendment, these considerations are not applicable.

3) **Availability of other appropriate land zoned for proposed use; effect on balance of land uses with regard to the public need:** Since no development projects are being proposed as part of this zoning text amendment, these considerations are not applicable. Furthermore, the regulations do not affect the existing or proposed land uses allowed by the zoning district.

4) **Effect on character of the neighborhood:** Staff is of the opinion that the proposed text amendments would allow for sign opportunities that provide reasonable identification of buildings while protecting the aesthetic environment and public safety in Atlanta.

5) **Suitability of proposed land use:** Although there would be no change in land use pertaining to the development of the property, Staff is of the opinion that the proposed text amendment would be compatible with land uses allowed in each zoning district where Building Signature signs are permitted.

6) **Effect on adjacent property:** Since no development projects are being proposed as part of this zoning text amendment, these considerations are not applicable. However, Staff is of the opinion that the proposed text amendment to the sign ordinance would have a positive impact on adjacent properties.

7) **Economic use of current zoning:** Since no development projects are being proposed as part of this zoning text amendment, these considerations are not applicable.

8) **Compatibility with policies related to tree preservation:** Since no development projects are being proposed as part of this zoning text amendment, these considerations are not applicable. However, should there be any impacts on trees when a property owner decides to install new signage, they would be required to comply with the City of Atlanta Tree Ordinance.

9) **Other considerations:** Staff is of the opinion that the proposed sign ordinance text amendment is in keeping with the purpose, intent, and regulations of each zoning district where such signage is allowed to identify the business or tenant that has a substantial presence in a building. The proposed signage amendments will clarify the criteria and permitting procedures for applicants and the Office of Buildings to ensure that a building signature signs meet requirements set forth in the sign ordinance.

STAFF RECOMMENDATION: APPROVAL OF SUBSTITUTE ORDINANCE

cc: James Shelby, Commissioner, DPCD

A SUBSTITUTE ORDINANCE **13-O-1097**
BY ZONING COMMITTEE **Z-13-33**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF ATLANTA BY: REDEFINING THE TERM "PRINCIPAL OCCUPANT" AS SET FORTH IN SEC. 16-28A.004; ADDING AND DELETING CERTAIN LANGUAGE IN SEC. 16-28A.007(P) CONCERNING THE PROCEDURES APPLICABLE TO BUILDING SIGNATURE SIGNS, IDENTIFYING THE DISTRICTS IN WHICH SUCH SIGNS CAN BE LOCATED; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta Sign Ordinance allows the owner or principal occupant of buildings which exceed four stories in height to erect signs on the sides of such buildings for the purpose of displaying the name of the building or the name and logo of a business that has a substantial presence in the building; and

WHEREAS, the size of building signature signs is controlled by the size of the wall to which it is affixed; and

WHEREAS, the present definition of principal occupant requires that such occupancy be a minimum of 25% of the floor space that is available for lease; and

WHEREAS, a 25% minimum occupancy can difficult to meet in certain large buildings some of which may exceed one million square feet of floor space that is available for lease; and

WHEREAS, adding a criterion that sets a minimum of 100,000 square feet as an alternative to the 25% minimum occupancy will allow tenants with a substantial presence in large buildings the opportunity to display a building signature sign; and

WHEREAS, maintaining the 25% minimum occupancy criterion will still meet the planning principle that requires a substantial presence in smaller buildings where building signatures signs may be displayed; and

WHEREAS, incorporating certain new language in Sec. 16-28A.007(p) to clarify the procedures by which the Office of Buildings determines whether an applicant seeking to erect a building signature sign meets the criteria set forth in the Sign Ordinance;

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

Sec. 1: The definition of the term "principal occupant" which appears in Sec. 16-28A.004 of the Code of Ordinances of the City of Atlanta and reads as follows:

> *Principal Occupant*: A building tenant who occupies a minimum of 25 percent of the floor space of a specific building that is available for occupancy. Said lease to be for a period of not less than five years.

is amended to read as follows:

> *Principal Occupant*: A building tenant who occupies a minimum of 25 percent of the floor space, or 100,000 square feet of the floor space, of a specific building that is

available for occupancy. Any lease for the required amount of floor space is to be for a period of not less than five years.

Section 2: Sec. 16-28A.007(p) of the Code of Ordinances of the City of Atlanta concerning the procedures applicable to building signature signs, and where they can be located and which reads as follows:

Building Signature Signs: Building signature signs are allowed only in O-I, C-1, C-2, C-3, C-4, C-5, SPI-1, SPI-2, SPI-3, SPI-4, SPI-13, PD-MU, PD-OC, and PD-BP districts and shall be permitted subject to the following conditions:

(1) Only one sign shall be allowed on any side of the building and further provided that no building shall contain more than one such sign per side.

(2) Such signs may supersede the more restrictive height limit set forth in section 16-28A.007(m) including the 200 square foot area limitation imposed by the applicable zoning district.

(3) Such signs are allowed only on buildings four or more stories in height provided no part of such sign shall extend above the top of the building.

(4) Such signs' area shall not exceed five percent of the area of the wall to which it is affixed, and shall not be included in computing the total area of signage imposed by each zoning district for business identification signs.

(5) Said signs shall be allowed only for a principal occupant as defined in section 16-28A.004. Change in ownership or occupancy that result in non-compliance with these provisions shall require the removal of the subject sign.

(6) All sides of the building which display a building signature sign shall display the exact copy which is displayed on any other side which displays a building signature sign.

is amended to read as follows:

Building Signature Signs: Building signature signs ~~are allowed only in O-I, C-1, C-2, C-3, C-4, C-5, SPI-1, SPI-3, SPI-4, SPI-9, SPI-12, SPI-15, SPI-16, PD-MU, PD-OC, PD-BP and MRC districts and~~ **where permitted by district regulations are subject** to the following conditions unless otherwise modified by a more specific district regulation:

(1) Only one building signature sign shall be allowed on any side elevation of the building and further provided that no building shall contain more than one such sign per side elevation.

(2) Building signature signs may supersede the more restrictive height limit set forth in section 16-28A.007(m) including the 200 square foot area limitation imposed by the applicable zoning district.

(3) Building signature signs are allowed only on buildings four or more stories in height provided no part of such sign shall extend above the top of the building.

(4) The area of a building signature sign shall not exceed five percent of the area of the wall to which it is affixed, and shall not be included in computing the total area of signage imposed by each zoning district for business identification signs.

(5) Building signature signs shall be allowed only for an owner or principal occupant as defined in section 16-28A.004. Changes in ownership or occupancy that result in non-compliance with this chapter shall require the removal of the subject sign.

(6) All sides of the building which display a building signature sign shall display the exact copy which is displayed on any other side which displays a building signature sign.

(7) Building signature signs are subject to the prohibition against roof signs. Walls erected on the roof of a building regardless of whether such wall projects above its top are not parapet walls and no such wall may be used as a building signature sign or to support a building signature sign.

(8) An applicant seeking permission to erect a building signature sign shall provide notarized documentation that it has an ownership interest in the building or that it meets the conditions required to be considered a principal occupant and has permission from the owner to make the application. In determining the level of ownership necessary to qualify as an owner, the city presumes, based on the documentation required to be produced, that the applicant has made such arrangements with other claiming ownership interest as may be necessary to allow the applicant to claim that it may apply for the sign as an owner. As a part of the documentation, which may be, but is not required to be on a form supplied by the city, the applicant shall acknowledge and agree:

(i) that neither the city nor its administrative officials are confirming whether the application is in conflict with the rights of others claiming ownership rights or others claiming to be principal occupants regardless of whether such claims are known or unknown;

(ii) that the applicant has made the statements in the application subject to the state law penalties which apply to false, fictitious, or fraudulent statements or entries in a matter within the jurisdiction of a department or agency of the government of a city;

(iii) that the city and its administrative officials are relying on the sworn statements in the application in making its determination that the application meets the criteria set forth in this chapter;

(iv) that the city and its administrative officials are authorized to audit the leases for a principal occupant to verify that the level of occupancy and length of the lease term meets the requirements of this chapter and that the applicant agrees to cooperate when requested to produce such documents.

Subsection 3C. That signage permitted in the **C-2 zoning district** be amended by the adoption of a new subsection (i) to 16-28A.010(6) of the Atlanta Zoning Ordinance which shall read as follows:

(i) Building signature signs, subject to the restrictions set forth in Section 16-28A.007(p).

Subsection 3D. That signage permitted in the **C-3 zoning district** be amended by the adoption of a new subsection (i) to 16-28A.010(7) of the Atlanta Zoning Ordinance which shall read as follows:

(i) Building signature signs, subject to the restrictions set forth in Section 16-28A.007(p).

Subsection 3E. That signage permitted in the **C-4 zoning district** be amended by the adoption of a new subsection (i) to 16-28A.010(8) of the Atlanta Zoning Ordinance which shall read as follows:

(i) Building signature signs, subject to the restrictions set forth in Section 16-28A.007(p).

Subsection 3F. That signage permitted in the **C-5 zoning district** be amended by the adoption of a new subsection (i) to 16-28A.010(9) of the Atlanta Zoning Ordinance which shall read as follows:

(i) Building signature signs, subject to the restrictions set forth in Section 16-28A.007(p).

Subsection 3G. That the signage permitted in **SPI-1 zoning district** be amended by **striking** the language of subsection (2) of Section 16-28A.010(12)(j) of the Atlanta Zoning Ordinance which reads:

(2) Principal Occupant Occupancy Limits: Notwithstanding the restriction on occupancy limits in the definition of Principal Occupant in Section 16-28A.004, a building tenant who occupies a minimum of 20 percent of the floor space of a specific building that is available for occupancy shall be authorized to erect a Building Signature Sign, provided all other restrictions set forth in Chapter 28A related to Building Signature Signs are followed.

And **replacing** it with the following:

(2) Principal Occupant Occupancy Limits: Notwithstanding the restriction on occupancy limits in the definition of Principal Occupant in Section 16-28A.004, a building tenant who occupies a minimum of 20 percent **or 100,000 square feet** of the floor space of a specific building that is available for occupancy shall be authorized to erect a Building Signature Sign, provided all other restrictions set forth in Chapter 28A related to Building Signature Signs are followed.

Subsection 3H. That the signage permitted in **SPI-12 zoning district** be amended by **striking** the language of subsection (f) of Section 16-28A.010(13) of the Atlanta Zoning Ordinance which reads:

(f) *Building signature signs:* Notwithstanding the restriction on occupancy limits in the definition of principal occupant in section 16-28A.004, a building tenant who occupies a minimum of 20 percent of the floor space of a specific building that is available for occupancy shall be authorized to erect a building signature sign, provided all other restrictions set forth in Chapter 28A related to building signature signs are followed.

And **replacing** it with the following:

(f) *Building signature signs:* Notwithstanding the restriction on occupancy limits in the definition of principal occupant in section 16-28A.004, a building tenant who occupies a minimum of 20 percent **or 100,000 square feet** of the floor space of a specific building that is available for occupancy shall be authorized to erect a building signature sign, provided all other restrictions set forth in Chapter 28A related to building signature signs are followed.

Subsection 3I. That the signage permitted in **SPI-9 zoning district** be amended by **striking** the language of subsection (1) of Section 16-28A.010(19)(a)(i) of the Atlanta Zoning Ordinance which reads:

(1) The maximum height of any business identification sign or building signature sign on any building frontage on Pharr Road may be 60 feet above adjacent sidewalk-level.

And **replacing** it with the following:

(1) The maximum height of any business identification sign on any building frontage in Subarea #1 and along on Pharr Road may be 60 feet above adjacent sidewalk-level.

Subsection 3J. That the signage permitted in **SPI-9 zoning district** be amended by **striking** the language of subsection (i) of Section 16-28A.010(19)(c) of the Atlanta Zoning Ordinance which reads:

(i) *Type:* Wall signs, projecting signs, canopy signs, parapet wall signs, monument signs, freestanding signs, suspended signs, and marquee signs shall be permitted.

And **replacing** it with the following:

(i) *Type:* Wall signs, projecting signs, canopy signs, parapet wall signs, monument signs, freestanding signs, suspended signs, and marquee signs shall be permitted. Building signature signs shall be permitted, subject to the restrictions set forth in Section 16-28A.007(p) and Section 16-28A.010(19)(a).

Subsection 3K. That signage permitted in the **PD-MU zoning district** be amended by the adoption of a new subsection (i) to 16-28A.010(22) of the Atlanta Zoning Ordinance which shall read as follows:

(i) Building signature signs, subject to the restrictions set forth in Section 16-28A.007(p).

Subsection 3L. That signage permitted in the **PD-OC zoning district** be amended by the adoption of a new subsection (i) to 16-28A.010(23) of the Atlanta Zoning Ordinance which shall read as follows:

(i) Building signature signs, subject to the restrictions set forth in Section 16-28A.007(p).

Subsection 3M. That signage permitted in the **PD-BP zoning district** be amended by the adoption of a new subsection (h) to 16-28A.010(24) of the Atlanta Zoning Ordinance which shall read as follows:

(h) Building signature signs, subject to the restrictions set forth in Section 16-28A.007(p).

Subsection 3N. That signage permitted in the **MRC zoning district** be amended by the adoption of a new subsection (c) to 16-28A.010(41) of the Atlanta Zoning Ordinance which shall read as follows:

(c) Building signature signs, subject to the restrictions set forth in Section 16-28A.007(p).

Subsection 3O. That signage permitted in the **MR zoning district** be amended by the adoption of a new subsection (d) to 16-28A.010(42) of the Atlanta Zoning Ordinance which shall read as follows:

(d) Building signature signs, subject to the restrictions set forth in Section 16-28A.007(p).

Section 4: This ordinance shall become effective when signed by the Mayor or as otherwise provided by operation of law.

CITY OF ATLANTA

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KASIM REED
MAYOR

JAMES SHELBY
Commissioner

CHARLETTA WILSON JACKS
Director, Office of Planning

MEMORANDUM

TO: Zoning Review Board

FROM: Charletta Wilson Jacks, Zoning Administrator

SUBJECT: **Z-12-02 for 903 Huff Road, N.W.**

DATE: September 12, 2013

An Ordinance to rezone from the I-2 (Heavy Industrial) District to the MR-4A (Multifamily Residential) District.

The applicant has requested a deferral to allow additional time to develop a workable solution for the City to install a third land on Huff Road at Howell Mill Road.

STAFF RECOMMENDATION: 60-DAY DEFERRAL-NOVEMBER 2013

cc: James Shelby, Commissioner, DPCD

MORRIS, MANNING & MARTIN, LLP

August 12, 2013

Jessica L. Hill
404-504-7754
jhill@mmmlaw.com
www.mmmlaw.com

VIA EMAIL
(cjacks @atlantaga.gov and jlavandier@atlantaga.gov)
City of Atlanta Office of Planning
55 Trinity Avenue Suite 3350
Atlanta, GA 30303
Attn: Charletta Wilson Jacks and Jessica Lavandier

Re: Z-12-002 (Huff Road)

Dear Charletta and Jessica:

Please accept this request to defer the above captioned application from the September 2013 ZRB and CDP hearing schedules to the November 2013 hearings. The applicant would like to make more progress toward identifying a workable solution for the City to install a third lane on Huff Road at Howell Mill Road. A meeting was held with various City officials and stakeholders last week at which it was determined that a new widening plan should be prepared and priced. This will take a few weeks, and its review will extend beyond the September hearing dates. Given that there is a CDP change associated with this proposal, the next appropriate hearing dates will be in November.

Please contact me with any questions regarding the deferral request.

Regards,

Jessica L. Hill

cc: Bernard Mannelly (via email jbmannelly@worthingse.com)
Jim Martin (via email james.martin@me.gatech.edu)
Charles Graham (via email president@huffheightswesttown.org)
Jonathan Lewis (via email jlewis@atlantaga.gov)

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CITY OF ATLANTA

KASIM REED
MAYOR

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JAMES SHELBY
Commissioner

CHARLETTA WILSON JACKS
Director, Office of Planning

MEMORANDUM

TO: Zoning Review Board

FROM: Charletta Wilson Jacks, Zoning Administrator

SUBJECT: **Z-12-36 for 3519 Roxboro Road, N.E.**

DATE: September 12, 2013*(Deferred June 2013, August 9, 2012, and May 10, 2012)*

The applicant seeks to rezone property from the **R-3 (Single Family Residential) district** to the **MR-3 (Multifamily Residential) district** for the development of ten (10) townhomes. The applicant has since amended their application to request a zoning of PD-H (Planned Development-Housing).

STAFF RECOMMENDATION: 60-DAY DEFERRAL-NOVEMBER 2013

cc: James Shelby, Commissioner, DPCD

CITY OF ATLANTA

KASIM REED
MAYOR

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JAMES SHELBY
Commissioner

CHARLETTA WILSON JACKS
Director, Office of Planning

MEMORANDUM

TO: Zoning Review Board

FROM: Charletta Wilson Jacks, Zoning Administrator

SUBJECT: **U-13-14 for 80 Harlan Road, S.W.**

DATE: September 12, 2013 *(deferred August 8, 2013)*

An Ordinance granting a Special Use Permit for a Personal Care Home, pursuant to Section 16-06.005 (1) (g), property located at **80 HARLAN ROAD, S.W.,**

FINDINGS OF FACT:

- property location: The subject property fronts approximately 105 feet on the east side of Harlan Road beginning at the northwest corner of Emerald Court. The property is located in the Harland Terrace neighborhood of NPU I in Council District 10.

- property size and physical features: The net area of the property is 40,526 square feet and is developed with a one-story residential structure with a walk out basement. The front yard topography is relatively level and begins to slope down toward the rear of the property. At least two-thirds of the rear yard is fenced off. There are no sidewalks in the area. Access to the property is from the existing driveway. The driveway proceeds an additional 20 feet onto the subject property from the curb-cut and splits in two directions forming a Y-shape. The western portion of the driveway proceeds an additional 20 feet. The eastern portion continues for another 36 feet.

- current/past use of property: The subject property is zoned for residential use. Staff is unaware of any past uses of the property.

- surrounding zoning and land use: The subject property is located in an area of single-family residential land uses with a zoning of R-4. The immediate transient corridor of Martin Luther King Jr. Drive and Hamilton E. Holmes brings a variety of land uses ranging from medium density residential and low density commercial to single family residential uses and zoning classifications to the immediate vicinity ranging from R-3 and RG-3 to PD-H districts.

- transportation system: Harlan is a collector street with access to Martin Luther King Jr. Drive, a primary corridor. The property is within walking distance to MARTA bus stop for Route 170 Brownlee Road/ Peyton.

PROPOSAL:

The applicant is requesting a special use permit for a Personal Care Home to operate as "Advanced Home Care Services Incorporated" at 80 Harlan Road, S.W. The applicant has over 20 years of nursing experience. The applicant's intent is to provide 24-hour 7 days a week services to 8 adults between the ages of 50-80. This service will include bathing, toileting, feeding and transferring among other services. The applicant plans to select clients from various hospital settings such as Grady Hospital, South Fulton Hospital, etc. The facility will employ a total of six (6) certified nursing assistants and one licensed nurse. Three meals and three snacks will be provided daily.

- **Ingress and egress:** Ingress and egress to the property is provided by an existing double-car, concrete driveway that has been expanded to accommodate 8 vehicles with access from Harlan Road. Emergency and service vehicles will enter and leave the property utilizing the newly expanded driveway. Employees and visitors will also enter and leave in the same manner.

- **Parking and loading:** The applicant proposes that all deliveries to the facility will be made via the front and side entrance, the primary means of egress and ingress. Employees will either park in the double spaced driveway in the front of the property or on the expanded driveway located on the side of the house. There will be two employees' cars during the day shift and one car on the night shift.

- **Refuse and service areas:** The applicant proposes that all facility trash be disposed of via a private garbage disposal company. The containers used will be provided by the disposal service and will be picked-up weekly.

- **Buffering and screening:** The applicant has not indicated any plans for buffering and screening as there will not be any increased noise levels.

- **Hours and manner of operation:** The proposed personal care home will operate 24-hours, seven days a week. The facility has secured alarm exits and accommodates 8 adults (3 males and 5 females) ages 50 years old to 80 years old. The applicant has proposed to provide service for ambulatory and non-ambulatory residents. The facility will operate daily with a total of three staff persons consisting of two certified nursing assistants working 12 hour shifts (7am-7pm or 7pm-7am) and one licensed nurse working 7am-7pm. The administrator (applicant) will be available via telephone, email or in person if an emergency arises. Breakfast, lunch, dinner, plus snacks during the midmorning, afternoon and evening will be offered and served daily. The onsite caregiver will be responsible for watchful oversight which includes: administering medications, bathing, walking/ getting in and out of bed or chair and arranging for transportation. Applicant has indicated that no special programming will be offered at the facility.

- **Duration:** The applicant requests a five year duration.

- **Required yards and open space:** The applicant has indicated there will be a wider driveway but no issues that will cause to encroach into any required yard space.

- **Tree Preservation and replacement:** The applicant has indicated there are no plans to renovate or expand the current structure regarding the trees on the property.

CONCLUSIONS:

1) **Ingress and egress and proposed structure or uses thereon, with particular references to automotive and pedestrian safety and convenience, traffic flow and control, and emergency access:** Based on Staff field observations, there appears to be sufficient vehicular access to the property for pedestrians, automobiles and emergency vehicles. The driveway extends an additional 20 feet onto the subject property from the curb-cut and splits in two directions forming a Y-shape. The expanded portion which is not paved continues along the western edge of the property to the rear of the house forming a parking pad. Applicant has indicated there will be a total of three full-time staff daily on the site. Staff is of the opinion that the existing ingress and egress with a paved expansion of the driveway will be sufficient to ensure automotive and pedestrian safety and will not create traffic congestion.

2) **Parking and Loading:** Based on staff observations, there is adequate room in the expanded driveway to accommodate off-street parking. As noted above Staff recommends the paving of the driveway to accommodate loading and disposal by service trucks. This repaving should not impact any trees.

3) **Refuse and service areas:** The proposed method of trash removal with the addition of the paved parking pad appears to be sufficient for this facility.

4) **Buffering and screening:** Based on staff's field observation there is a natural buffer provided by the numerous trees along the eastern edge of the property. The buffering and screening for the existing facility appears to be adequate.

5) **Hours and manner of operation:** The proposed hours and method of operation for the facility appear to be adequate and in accordance with the definition of a personal care home. Based on staff's site visit the property has eight (8) bedrooms over two floors with at least one exit on each floor and can accommodate up to 8 clients. Based on the size of the resident rooms, staff would be supportive of limiting the number of residents. The applicant has provided information indicating that an onsite caregiver will provide watchful oversight such as monitoring the medication, hygiene, nutrition and care of all residents. The applicant has further indicated that the staff will provide daily meals in accordance to the regulations set forth by the Georgia Department of Human Resources Office of Regulatory Services. Based on the information provided by the applicant, staff is of the opinion that the hours and manner of operation are reasonable for the proposed personal care home.

6) **Duration:** Staff is supportive of a limited duration.

7) **Required yards and open spaces:** The expanded driveway will not cause any encroachment issues into any required open yard or space.

8) **Compatibility with tree preservation-related policies:** The applicant's site plan shows no tree removal of any kind. Staff's recommendation of a paved parking pad will not affect any tree removal.

STAFF RECOMMENDATION: APPROVAL conditioned on the following:

1. The boundary survey dated June 4, 2013 and marked received by the Office of Planning on June 6, 2013.

2. The Special Use Permit shall only be valid as long as Lametrea Hines is the owner and operator.

3. The Special Use Permit shall only be valid for a period of three (3) years from the date of approval by City Council.

4. The facility shall be restricted to no more than eight (8) residents excluding the care givers.

5. The expanded portion of the driveway must be paved which extends from the concrete slab to the rear of the house.

cc: James Shelby, Commissioner, DPCD

CITY OF ATLANTA

KASIM REED
MAYOR

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JAMES SHELBY
Commissioner

CHARLETTA WILSON JACKS
Director, Office of Planning

MEMORANDUM

TO: Zoning Review Board

FROM: Charletta Wilson Jacks, Zoning Administrator

SUBJECT: **Z-13-17 40 & 46 Boulevard, 25-39 Daniel Street and 492 & 496 Gartrell Street**

DATE: September 12, 2013 *(Deferred July 11 and August 8, 2013)*

The applicant seeks to rezone property from the **C-2-C (Commercial Service-Conditional)** and **R-5 (Two-Family Residential) districts** to the **C-2-C (Commercial Service-Conditional) district** to enable the development of a surface parking lot.

FINDINGS OF FACT:

- property location: The subject property fronts approximately 166 feet on the north side of Gartrell Street, approximately 256 feet on the west side of Daniel Street and approximately 301 feet on the east side of Boulevard in the Old Fourth Ward neighborhood of NPU-M, Council District 2. The property is also within the BeltLine Overlay District.

- property size and physical features: The subject property of approximately 1.36 acres is developed with two residential structures in varying degrees of disrepair fronting on Daniel Street. A small commercial building is located in the southwest corner of the site and operates as a convenience store. The topography is relatively level throughout the parcels.

- CDP land use map designation: The eastern area of the property along Daniel Street has a land use designation of Low Density Residential (9-16 units per acre). The southwest corner of the site has a land use of Medium Density Residential (0-16 units per acre) and the northwest area of the site has a land use of Mixed Use.

- current/past use of property: Staff is unaware of any previous use on the property other than the existing single family dwellings and small convenience store. In 2001 the northwest area of the site was zoned from R-5 to C-2-C to allow for a mixed use development and conditioned on a specific site plan.

- surrounding zoning/land uses:
  - Property adjacent on the north is zoned HC-20C SA5 (Martin Luther King, Jr. Landmark-Edgewood Commercial Corridor) and developed with commercial uses and some vacant parcels;
  - East, across Daniel Street, the properties are zoned RG-3-C (Residential General-Sector 3-Conditional) and R-5 (Two Family Residential) and developed with residential uses;
  - South, across Gartrell Street, the properties are zoned R-5 (Two Family Residential) and developed with residential uses and some vacant parcels; and,
  - West, across Boulevard the property is zoned C-3-C and developed with an apartment building with ground floor retail.

transportation system: Boulevard and Edgewood Avenue, north of the site are classified as arterial streets. North of Edgewood, Boulevard becomes a collector. Decatur Street just south of the site is classified as an arterial. All other streets in the area are local streets. MARTA bus route 99 serves the area with connections to the Midtown, North Avenue and GA State transit stations. The Atlanta Streetcar system is currently under construction and when it is completed, stations will be within walking distance of the site. Sidewalks are present in the area.

PROPOSAL

The applicant proposes to demolish the existing residential structures and develop a 123 space surface parking lot. The existing commercial use located in the southwest corner of the site would remain. Two way ingress and egress is proposed off of Boulevard, Daniel Street and Gartrell Street. A bike rack to accommodate 6 bicycles is proposed next to the ingress/egress point off of Boulevard. A six foot high black chain link fence would be installed along the Boulevard frontage; northern most boundary and along the property line of the site adjacent to the existing single family home on Daniel Street. The applicant contemplates possible future construction that might include rectory space, office space or other needs of the church.

CONCLUSIONS:

(1) Compatibility with comprehensive development plan (CDP); timing of development:

The subject property has multiple use designations, Low Density Residential (9-16 units per acre), Medium Density Residential (0-16 units per acre) and Mixed Use. Therefore an amendment to the 15-year land use map would be required to facilitate this proposal. The applicant has requested an amendment to the CDP Land Use map.

There are no public projects or programs with which the timing of the project would conflict.

(2) Availability of and effect of public facilities and services; referral to other agencies:

Since the area has been a long established neighborhood, water and sewage facilities serving the property are assumed to be adequate for the proposed surface parking lot.

The capacity of the sewer system to accommodate the proposed development would be reviewed by the Department of Watershed Management after the developer would apply for a building permit. During this review, tie-in to specific sewer lines would be determined, as well as any necessary improvements to the sewer line that would lie within boundaries of the development site. There has been no indication from review agencies and departments that there would not be adequate public facilities and services at the subject location.

(3) **Availability of other land suitable for proposed use; environmental effect on balance of land uses:** The zoning regulations indicate that this consideration is optional. The applicant has not presented any evidence that they own other land in the area that is suitable for this development. Staff is of the opinion that the most compatible land use for the proposed surface parking lot is Low Density Commercial which would allow for a mixture of residential and commercial uses.

(4) **Effect on character of the neighborhood:** The proposed us of the subject property does not meet the intended goals of plans for the general area: Old Fourth Ward Master Plan and the BeltLine Subarea 5 Master Plan. The Old Fourth Ward Plan speaks to the myriad of parking lots in the area and its potential impacts to desired development of the area.

(5) **Suitability of proposed land use:** The proposed use of the subject property would require a change in the land use and as proposed would not be in accord with proposed development plans for the area.

(6) **Effect on adjacent property:** Staff is of the opinion that the proposed use of the property would not enhance the adjacent residential uses in the area. However, the proposed use could potentially serve to remove vehicles that park on the major streets.

(7) **Economic use of current zoning:** Staff is of the opinion that the current zoning as well as the proposed use has economic use.

(8) **Tree Preservation:** The City of Atlanta's Tree Ordinance will govern the development of the site in regards to tree preservation.

STAFF RECOMMENDATION: DENIAL

xc: James Shelby, Commissioner, DPC

CITY OF ATLANTA

KASIM REED
MAYOR

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JAMES SHELBY
Commissioner

CHARLETTA WILSON JACKS
Director, Office of Planning

MEMORANDUM

TO: Zoning Review Board

FROM: Charletta Wilson Jacks, Zoning Administrator

SUBJECT: **Z-13-10 for 3700 Peachtree Road, N.E.**

DATE: September 12, 2013 *(Deferred May 9 & July 11, 2013)*

The applicant seeks to rezone property from the **RG-2 (Residential General-Sector 2) district** to the **RG-3 (Residential General-Sector 3) district** for a nine (9) unit townhome development.

The applicant has requested a 30 day deferral to allow additional time to present to the Neighborhood Planning Unit.

STAFF RECOMMENDATION: 30 DAY DEFERRAL-OCTOBER 2013

c: James Shelby, Commissioner, DPC

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KASIM REED
MAYOR

JAMES SHELBY
Commissioner

CHARLETTA WILSON JACKS
Director, Bureau of Planning

MEMORANDUM

TO: Zoning Review Board

FROM: Charletta Wilson Jacks, Zoning Administrator

SUBJECT: **Z-13-20 for 2107 Marietta Road, NW**

DATE: September 12, 2013

An Ordinance to rezone from the I-1 (Light Industrial) District to the PD-H (Planned Development-Housing) District for property located at **2107 MARIETTA ROAD AND MAULDIN STREET, N.W.,** for 98 single-family detached dwellings and 67 multi-family attached (townhouses), totaling 165 residential units.

FINDINGS OF FACT:

- property location. The subject property is located on the north side of Marietta Road, in the Bolton neighborhood of NPU-D, in Council District 9.

- property size and physical features. The subject property has a frontage of 680 feet along north side of Marietta Road and develops towards north and has acreage of 28.89 acres. At the east side, the property is bordered by Weatherstone Creek Trail, a paved public trail. At the north and along most of the west side, there are wooded areas adjacent to existing residential developments. There is an existing stream running north-south along western property line. The stream features significant floodplain area. Most of the property is currently developed with a warehouse and surface parking area for trucks and containers.

- CDP land use map designation: Future land use maps indicate a land use designation of I - Industrial.

- current/past use of property: Historically, the property is developed with a truck terminal facility which includes warehousing buildings and surface parking for trucks and containers. The vast majority of the site consists of paved surface.

- surrounding zoning/land use: The property is bordered at the east side by Industrial Land Use and Zoning, land developed with a variety of warehousing. To the north and west, land has a Low Density Residential Land Use and R-4 and PD-H zoning districts. This land consists of single-family residential developments (Adams Crossing development). To the south, across Marietta Road, there is the Inman Yard, the largest rail yard in the City of Atlanta, with an Industrial Land Use and zoning classification of I-2. Finally, at the south-east, the property is adjacent to a development with a Single Family Residential Land Use and PD-H zoning (DuPont Commons development).

- transportation system: Marietta Road is categorized as a collector street. There is no public transportation available at the site location.

PROPOSAL:

This application proposes to rezone the property in order to develop a mix of detached and attached 165 residential units.

CONCLUSION:

- **Compatibility with comprehensive development plan (CDP); timing of development**: In accordance with the CDP, the Land Use maps indicate an Industrial Land Use. The proposed Low Density Residential Land Use is not compatible with the current Land Use and with the surrounding viable industrial uses.
-

  Industrial sector is an important part of Atlanta's economy and needs to be encouraged to continue. There is a real need to preserve and protect industrial land uses in order to retain industrial based jobs. At the same time, industrial uses should not encroach into non-industrial areas and in particular residential areas. One of the City of Atlanta's policies is to discourage encroachment of incompatible land uses in industrial areas, particularly residential areas, and rather encourage redevelopment of obsolete industrial sites to new industrial uses instead of a non-industrial use. In conclusion, Staff is of the opinion that the proposal is not compatible with current provisions of the City's Comprehensive Development Plan.

- **Availability of and affect of public facilities and services; referral to other agencies:** There has been no indication from reviewing agencies that there would not be adequate public utilities/services at the subject location. There is existing public sanitary sewer available in Marietta Road. The capacity of the sanitary sewer system will be determined by the Department of Watershed Management as well as any required improvements for the sewer connection.

- **Availability of other land suitable for proposed use; environmental effect on balance of land uses:** The zoning regulations indicate that this consideration is optional. The applicant has not presented any evidence that they own other land in the area that is suitable for this development. Staff is of the opinion that there will not be any negative impact on the balance of land uses.

- **Effect on character of the neighborhood:** Although there are residential developments with Low Density Residential Land Uses at the west and south-east, the subject property is part of a corridor with an industrial character with industrial land uses and zoning.

- **Suitability of proposed land use:** A change in the 15-year land use map would be required to accommodate this request for rezoning.

- **Effect on adjacent property:** The proposed residential development would replace an industrially zoned site and as such would decrease the land area available for uses under the current I-1 zoning. Staff is of the opinion that approval of the rezoning request would begin a domino effect of rezoning of viable industrially zoned property.

- **Economic use of current zoning:** The subject property has economic use under the existing conditions.

- **Tree Preservation:** The proposed development is subject to all requirements of the City of Atlanta's Tree Ordinance upon application of a building permit.

- **Other Considerations:** The following findings are in accordance with Section 16-19.005 (5) of the Zoning Ordinance of the City of Atlanta for Planned Development Districts:

    a. **The suitability of the tract for the general type of PD zoning proposed.** This application is a request for a rezoning. In general, the property presents certain particularities: a stream, floodplain and large paved surface. However, one of the criteria in evaluating a PD-H development is to determine a real need for increased housing units in the area. Staff is of the opinion that this need does not exist at the site location.

    b. **The relationship to major roads and mass transit facilities, utilities and other facilities and services.** There is no public transport available on Marietta Road.

    c. **The evidence of unified control.** The revised site plan submitted by the applicant identifies several elements of unified control in the proposed development. First, all utilities and internal streets will be privately owned and maintained by homeowners. Second, the site plan identifies several parks (Bocce Park, kids playground, main community amenity area with swimming pool and various mews areas) for the benefit of the residents. In order to function properly, all these feature will have to be administered collectively.

    d. **The suitability of proposed plans.** The proposed revised site plan (stamped received by the Office of Planning on August 29, 2013) provides enough relevant information.

e. **Specific modifications.** Revised site plans have been submitted to the Office of Planning on August 29, 2013.

f. **The suitability of a maintenance program.** The applicant has provided no information related to a maintenance program. Staff finds that the site plan identifies facilities and improvements proposed for common use. Staff will require development to be governed by private covenants to provide for ownership/maintenance of common areas.

STAFF RECOMMENDATION: DENIAL

cc: James Shelby, Commissioner, DPCD

CITY OF ATLANTA

KASIM REED
MAYOR

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JAMES SHELBY
Commissioner

CHARLETTA WILSON JACKS
Director, Office of Planning

MEMORANDUM

TO: Zoning Review Board

FROM: Charletta Wilson Jacks, Zoning Administrator

SUBJECT: **Z-13-21 for 1830 Johnson Road, N.W.**

DATE: September 12, 2013 *(Deferred August 8, 2013)*

The applicant seeks to rezone property from the **RG-3 (Residential General-Sector 3)** district to the **PD-H (Planned Development-Housing)** district for development of twenty-four (24) detached single family homes.

FINDINGS OF FACT:

- property location: The subject property fronts approximately 199 feet on the south side of Johnson Road and approximately 348 feet from the southwest corner of Habershal Road in the Rockdale neighborhood of NPU-G, Council District 9.

- property size and physical features: The property of approximately 2.9 acres is vacant. The topography slopes front to back with a grade change of 40 feet. Proctor Creek bisects the rear of the property. The 48" Proctor Creek trunk sewer line also bisects the rear of the property and has a 15' easement. The property appears to have a large number of mature trees throughout the site and is adjacent to a 200 foot wide GA Power easement along its eastern boundary line.

- CDP land use map designation: Medium Density Residential (0-16 units per acre)

- current/past use of property: Staff is unaware of any previous use on the property.

- surrounding zoning/land uses: The property is surrounded by the RG-3 (Residential General-Sector-3) district. The properties are undeveloped but for the property directly across Johnson Road where Boyd Elementary School is located. Beyond the RG-3 property to the west single family zoning of R-4A is found. PD-MU (Planned

Development-Mixed Use) property is found along both sides of Johnson Road just east of the subject property.

- transportation system: Johnson Road is designated as a collector and all other streets in the nearby area are local residential streets. Sidewalks are present along the north side of Johnson Road. The closest MARTA bus stop is approximately one-half mile west of the site on Hollywood Road.

PROPOSAL

The applicant proposes to develop twenty-four (24) detached single family homes with 3 bedrooms each on a private cul-de-sac. The dwellings would average approximately 2700SF in size. Sidewalks would be constructed along the private street.

Development specifications:

- F.A.R. 0.359 (0.696 permitted)
  based on 1950SF size house (houses may range from 1750-1950SF)
- Lot size 3,307SF to 3,963SF
- Proposed setbacks 18' Front yards, 5' rear yards, 0' side yards
- Total Open Space required 0.72 (93,992SF) provided 0.72 (92,648SF)
- Usable Open Space required 0.45 (58,745SF) provided 0.51 (66,700SF)
- Parking required 1.3 spaces per dwelling unit provided 2 spaces per dwelling unit

CONCLUSIONS:

(1) Compatibility with comprehensive development plan (CDP); timing of development:
The comprehensive development plan designates the subject tract as medium density residential (0-16 units per acre); therefore no amendment to the 15-year land use map would be required to facilitate this proposal.

There are no public projects or programs with which the timing of the project would conflict.

(2) Availability of and effect of public facilities and services; referral to other agencies:
The subject property is within an area of the City that has been experiencing redevelopment for the past several years, water and sewage facilities serving the property are assumed to be adequate.

The capacity of the sewer system to accommodate the proposed development would be reviewed by the Department of Watershed Management after the developer would apply for a building permit. During this review, tie-in to specific sewer lines would be determined, as well as any necessary improvements to the sewer line that would lie within boundaries of the development site.

There has been no indication from review agencies and departments that there would not be adequate public facilities and services at the subject location.

(3) **Availability of other land suitable for proposed use; environmental effect on balance of land uses:** The zoning regulations indicate that this consideration is optional. The applicant has not presented any evidence that they own other land in the area that is suitable for this development.

(4) **Effect on character of the neighborhood:** The proposed site plan filed with the rezoning would not have a negative effect on the character of the neighborhood. It will provide new single family housing similar to those being constructed just east and north of the property at West Highlands.

(5) **Suitability of proposed land use:** A change in the 15-year land use map is not required.

(6) **Effect on adjacent property:** The subject property is in an area that has been mainly developed with single family detached dwellings and should not have any negative effect on adjacent properties.

(7) **Economic use of current zoning:** Based on the existing land use and zoning in the area the subject property has economic use as currently zoned. However the proposed zoning for the development would enhance the economic use of the property and allow a development that is similar to others in the area.

(8) **Tree Preservation:** The City of Atlanta's Tree Ordinance will govern the development of the site in regards to tree preservation.

COMPATIBILITY:

The following findings are in accordance with Section 16-19.005 (5) and 16.19B of the Zoning Ordinance of the City of Atlanta for Planned Development Housing (PD-H).

a. **Suitability of the tract for the general type of PD zoning proposed.** The subject property is suitable for a development for residential purposes.

b **Relationships to major roads and mass transit facilities, utilities, and other facilities and services.** The subject property is approximately one-half mile from the nearest bus stop on Hollywood Road. Sidewalks are present along some sections of Johnson Road.

c. **Evidence of unified control.** The applicant has provided evidence that the property is under unified control.

d. **Suitability of proposed plan.** The plan is suitable for unified development with additional conditions to be imposed.

e. **Specific modifications** No modifications have been made to the site plan under review.

f. <u>Suitability of maintenance program</u> The applicant is required to provide for maintenance program for all common areas of the development by City Ordinance.

STAFF RECOMMENDATION: APPROVAL conditioned upon the following

1. A site plan similar to one entitled "1830 Johnson Road for Brock Built Homes, LLC" by EcoWise Civil Design and Consulting, Inc. dated June 7, 2013 and marked received by the Office of Planning June 11, 2013. LUI calculations based on document stamped received by Office of Planning August1, 2013.

2. The curb cut on Johnson Road for the development shall align with the curb cut on the north side of Johnson Road for Boyd Elementary School. Final approval of the curb cut shall be made by the Department of Public Works.

3. Property frontage along Johnson Road as well as both sides of the new internal private street shall be improved with new sidewalks according American with Disabilities Act (ADA) and City of Atlanta Standards, before final plat approval. Final approval of the sidewalks shall be made by the Department of Public Works.

4. Developer shall follow the City of Atlanta Street Intersection Curb Cut Design for private streets. Final approval of the design shall be made by the Department of Public Works.

5. Developer shall provide for a vehicular access easement from end of pavement of the private street to the west property line, in order to allow for a possible future extension and/or connection. Final approval of the easement location shall be made by the Department of Public Works.

6. Developer shall obtain Final Plat approval from Office of Planning before making application for building permits.

7. Developer shall provide the Office of Planning with recorded private covenants as a condition of the approval of the final plat. The document must contain details about ownership and maintenance program for the Private Street and common areas.

8. Maximum height of each single family home shall be 35 feet.

9. The development shall not be gated.

c: James Shelby, Commissioner, DPCD

CITY OF ATLANTA

KASIM REED
MAYOR

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JAMES SHELBY
Commissioner

CHARLETTA WILSON JACKS
Director, Office of Planning

MEMORANDUM
amended

TO: Zoning Review Board

FROM: Charletta Wilson Jacks, Zoning Administrator

SUBJECT: **Z-13-08 for 3201 Downwood Circle, N.W.**

DATE: September 12, 2013 *(Deferred June 6 and July 11, 2013)*

The applicant seeks to rezone property from the **OI-C (Office Institutional-Conditional) district** to the **RG-4(Residential General-Sector 4) district** for a multi-family development.

FINDINGS OF FACT:

- property location: The subject property fronts approximately 342 feet on the on the east side of Downwood Circle in NPU-C, Council District 8.

- property size and physical features: The subject property of approximately 5.55 acres is undeveloped. The topography slopes down from the street and is heavily treed.

- CDP land use map designation: The subject property has a land use designation of Office Institutional.

- current/past use of property: Staff is unaware of any previous use on the property.

- surrounding zoning/land uses: Property adjacent on the south is zoned RG-3-C (Residential General-Sector 3-Conditional) and has a land use Medium Density Residential (17-29 units per acre) and used for residential purposes. The property adjacent on the southeast side of the site is zoned RG-2-C (Residential General-Sector 2-Conditional) and has a land use of Low Density Residential (0-8 units per acre) is also used for residential purposes. Adjacent property north and northeast of the site is zoned R-3 (Single Family Residential) and has a land use of Single Family Residential is used for institutional purposes. Property to the west, across Downwood Circle is zoned OI-C (Office Institutional-Conditional) and has a land use of Office Institutional and is used for non-residential purposes.

- transportation system: Downwood Circle is a cul-de-sac street and is designated as a local street. It intersects with Howell Mill Road to the southwest which is classified as a collector. Northeast of the site Howell Mill Road intersects with Northside Parkway a major multi-lane arterial. West of the site is Interstate 75. MARTA bus route #12 serves the area with access to the Midtown Transit station and the Cumberland Transfer Center and intersects with several other bus routes.

PROPOSAL

The current zoning would allow for a 300,000 square foot medical technology cent and a 300,000 square foot residential building of between six (6) and nine (9) stories. The applicant proposes to rezone the property from OI-C (Office Institutional-Conditional) to RG-4 for a 295,890 square foot, five-story multi-family development. Development details are below:

• F.A.R.	1.49 permitted (374,559SF)	1.177 proposed (295,877SF) amenity building not included
• Height	Multi-family building 5 stories/55 feet Parking deck 4 stories/40 feet Amenity building 2 stories/30 feet	
• Parking	222 spaces required	442 spaces proposed
• TOS	168,426SF required	161,585SF proposed
• UOS	103,067SF required	149,070SF proposed

Variances have been requested to allow a reduction in the Total Open Space, front yard setback and the transitional height plane at the north property line and northeast property line.

CONCLUSIONS:

(1) Compatibility with comprehensive development plan (CDP); timing of development:
The comprehensive development plan designates the subject tract as Office Institutional and the zoning district requested (RG-4) is compatible therefore no amendment to the 15-year land use map would be required to facilitate this proposal.

There are no public projects or programs with which the timing of the project would conflict.

(2) Availability of and effect of public facilities and services; referral to other agencies:
Since the area has been a long established neighborhood, water and sewage facilities serving the property are assumed to be adequate for the proposed development.

The capacity of the sewer system to accommodate the proposed development would be reviewed by the Department of Watershed Management after the developer would apply for a building permit. During this review, tie-in to specific sewer lines would be determined, as well as any necessary improvements to the sewer line that would lie within boundaries of the development site.

There has been no indication from review agencies and departments that there would not be adequate public facilities and services at the subject location.

(3) Availability of other land suitable for proposed use; environmental effect on balance of land uses: The zoning regulations indicate that this consideration is optional. The applicant has not presented any evidence that they own other land in the area that is suitable for this development. The type of development proposed is similar to others in the area and should not have

a negative impact on the land uses in the area.

(4) Effect on character of the neighborhood: The development as proposed is less dense that what the current zoning would allow and therefore should not have a negative effect of the character of the neighborhood. It would improve the neighborhood by replacing a large vacant parcel with new housing compatible with the surrounding area.

(5) Suitability of proposed land use: No amendment to the land use map is required.

(6) Effect on adjacent property: the subject property is surrounded by residential, office and institutional uses. As proposed the multi-family development should have negligible effect on adjacent property.

(7) Economic use of current zoning: While the current zoning has economic use the proposed development would be a better use of the land and complement the existing developments in the area.

(8) Tree Preservation: The City of Atlanta's Tree Ordinance will govern the development of the site in regards to tree preservation.

STAFF RECOMMENDATION: APPROVAL conditioned upon the following:

1. A site plan similar to a site plan entitled "Downwood Circle Apartments" by Cooper Carey dated 08/21/13 and stamped received by the Office of Planning, September 4, 2013. However, this condition shall not preclude application of the RG regulations.

2. In no event will the development be materially altered, have any changes in access points to Downwood Circle, have any relocation of any driveways, exceed 280 residential units (with a maximum total of 420 bedrooms), or have any three (3) or greater bedroom units. The residential building will not exceed five (5) stories in height or 995 feet above mean sea level. There will be no more than 442 parking spaces provided.

3. The exterior of the building containing the apartment units facing lines B, C, D or F and facing Downwood Circle as shown on the Site Plan will be composed of a minimum of sixty percent (60%) brick or stone.

4. The "loading area and service" as shown on the Site Plan will be enclosed with a roof and four (4) side walls with doors as appropriate so that it is not visible from points along property Lines B, C or D as shown on the Site Plan and to limit noise and odor. Trash pickup will only occur between 7:00 a.m. and 6:00 p.m. on Monday through Friday. The freight elevator and trash dumpsters will be fully enclosed within the building, will appear architecturally to be part of the building structure, and hours of operation of the freight elevator will be limited to 8:00 a.m. to 8:00 p.m. each day.

5. There will be no construction staging or construction vehicle parking on Downwood Circle.

6. No HVAC units in the development will be placed at ground level on the south side of the proposed buildings and any such units located on the roofs of the buildings will be positioned or screened with walls as tall as such units so as not to be visible from the adjacent residential units.

7. Prior to the start of construction, Developer will provide the Associations with the name and telephone number of a person whom they can contact with regard to construction-related issues. Evidence of compliance with this zoning condition shall be provided to the Director of the Office of Planning within 30 days of the start of construction.

8. Exterior lighting on the building and the parking deck shall be designed, shielded and constructed so as to minimize light spill onto the existing residential developments known as West Paces Condominiums, Howell Mill Plantation Condominiums, Huntingdon Park, and Weston Place.

c: James Shelby, Commissioner, DPC

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JAMES SHELBY
Commissioner

CHARLETTA WILSON JACKS
Director, Office of Planning

MEMORANDUM

TO: Zoning Review Board

FROM: Charletta Wilson Jacks, Zoning Administrator

SUBJECT: **Z-13-14 for 164 Chester Avenue, S.E.**

DATE: September 12, 2013 *(deferred July 11, 2013 and June 13, 2013)*

The applicant seeks to rezone the property **from the R-5 (Two-family Residential) district to the Residential-Limited Commercial (R-LC) district** for conversion of a portion of the existing house into a restaurant for a supper club.

The applicant has requested withdrawal of this application

STAFF RECOMMENDATION: FILE

cc: James Shelby, Commissioner, DPCD