



KEISHA LANCE BOTTOMS
MAYOR

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OFFICE OF ZONING AND DEVELOPMENT
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TIM KEANE
Commissioner

KEYETTA M. HOLMES, AICP
Director
Office of Zoning & Development

MEMORANDUM

TO: Zoning Review Board

FROM: Keyetta M. Holmes, AICP, Zoning Administrator *KMH*

SUBJECT: **Z-20-49 for 993 Boulevard, S.E., 997 Boulevard, S.E., 1003 Boulevard, S.E., and 1007 Boulevard, S.E.**

DATE: October 1, 2020

An Ordinance by Zoning Committee to rezone from R-5/BL (Two Family Residential/BeltLine Overlay) to MR-3/BL (Multifamily Residential/BeltLine Overlay) for property located at **993 Boulevard, S.E., 997 Boulevard, S.E., 1003 Boulevard, S.E., and 1007 Boulevard, S.E.**

The applicant has requested a 30-day deferral to continue working with the neighborhood and NPU-W. Staff is supportive of the request.

STAFF RECOMMENDATION: 60 DAY DEFERRAL – DECEMBER 2020



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TIM KEANE
Commissioner
KEYETTA M. HOLMES, AICP
Director
Office of Zoning and Development

MEMORANDUM

TO: Zoning Review Board
FROM: Keyetta M. Holmes, AICP, Zoning Administrator *KMH*
SUBJECT: **Z-20-57 for 1851 Jonesboro Road, S.E.**
DATE: October 1, 2020

An Ordinance by Councilmember Carla Smith to rezone from R-4 (Single Family Residential) to MRC-1-C (Mixed Residential Commercial Conditional) for property located at **1851 Jonesboro Road, S.E.**; and for other purposes.

Staff requests a deferral.

STAFF RECOMMENDATION: 30 DAY DEFERRAL – NOVEMBER 2020



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TIM KEANE
COMMISSIONER

KEYETTA M. HOLMES, AICP
Director
Office of Zoning and Development

MEMORANDUM

TO: Zoning Review Board

FROM: Keyetta M. Holmes, AICP, Zoning Administrator *KMH*

SUBJECT: U-20-10 for 800 Joseph E. Boone Boulevard, N.W.

DATE: October 1, 2020

An Ordinance by Zoning Committee for a special use permit pursuant to 16-18S.006 for a child care center for property located at **800 Joseph E. Boone Boulevard, N.W.**

FINDINGS OF FACT:

- **Property location:** The subject property fronts 196 feet on the south side of James P. Brawley Drive beginning at a point at the intersection of the southerly right-of way line of Simpson Street and the easterly right-of-way line of Newport Street and then runs along the southerly right-of-way line of Simpson Street southeast a distance of 346.61 feet to a point on the westerly right-of-way line of James P. Brawley Drive. The property is located in the Vine City Neighborhood, NPU-L, Council District 3 in Land Lot 110, 14th District, Fulton County, Georgia.
- **Property size and physical features:** The subject property consists of approximately 1.811 acres (78,887square feet) of land. The property is currently developed with a two-story structure sitting on the corner of Joseph E. Boone Boulevard (f.k.a Simpson Street) and Newport Street. The has site has a paved parking lot on with two existing curb cuts. The site has several mature trees, landscaping and sidewalks around the perimeter.
- **Current/past use of property:** The property is developed with a place of worship. Staff is unaware of any previous uses on the site.
- **Surrounding zoning/land uses:** The current zoning for this property is SPI-19 SA8 (Vine City Special Public Interest District Subarea 8) with a O-I (Office/Institutional) land use designation. Properties to the north are zoned SPI-3 SA5 (English Avenue Special Public Interest District Subarea 5) with a MU (Mixed-Use) land use designation.

Properties to the east are zoned SPI-19 SA 5 (Vine City Special Public Interest District Subarea 5) with a LDMU (Low-Density Mixed-Use) land use designation. Properties to the south are zoned SPI-19 SA 6 (Vine City Special Public Interest District Subarea 6) with OS (Open Space), SFR (Single Family Residential) and MDR (Medium Density Residential) land use designations. Properties to the west are zoned SPI-19 SA8 (Vine City Special Public Interest District Subarea 8) with a MU (Mixed-Use) land use designation and SPI-19 SA6 and SPI-19 SA7 with SFR (Single Family Residential) land use designation.

- **Transportation system:** Joseph E. Boone Boulevard (f.k.a Simpson Street) is classified as an arterial. Newport Street and James P. Brawley Drive are classified as local roads. The area is serviced by the MARTA bus route # 51 with connection to the Ashby Street Transit Station.

PROPOSAL: The applicant seeks a special use permit for a day care center pursuant to 16-18S.006. The applicant proposes to lease an area within an existing place of worship (Simpson Church of Christ) of approximately 1,178 square feet with 4 rooms and a play area.

- **Ingress and egress:** Employees, service vehicles and emergency vehicles will enter the site from James P. Brawley Drive and exit on Joseph E. Boone Boulevard. The primary drop-off area will be monitored by a parking attendant to assist with traffic circulation.
- **Off-Street Parking and loading:** Employees will use the existing curb cut on James P. Brawley to access the off-street parking spaces. The applicant has indicated that service personnel and visitors can park vehicles along Newport Street. Additionally, the paved parking area has 117 off street parking spaces.
- **Refuse and service areas:** Refuse will be pick-up via private waste haulers weekly. Refuse containers are in the rear of the site in an enclosed area.
- **Buffering and screening:** An existing four-foot-high metal fence is provided for buffering and screening on the site.
- **Hours and manner of operation:** The applicant has proposed to provide day care service for thirty-nine (39) children ranging in age from 6 months to twelve years of age. There will be 5 employees onsite working one shift. However, the applicant has indicated that the numbers of children and staff are subject to change due to enrollment and to meet the state requirements. The daycare would operate from 6:00 a.m. to 6:30 p.m., Monday through Friday. The location will provide lunch and two snacks.
- **Duration:** The applicant requests a permanent duration.
- **Required yards and open space:** The applicant has indicated that there will be no additions to the existing structure.
- **Tree Preservation and Replacement:** No trees will be damaged, destroyed or removed.

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:** Ingress to the proposed day care center will be via a curb cut on James P. Brawley Drive and egress via a curb cut on Joseph E. Boone. Children will be dropped off and picked up by pulling into the existing off-street parking area. A parking lot attendant will be stationed in the parking lot to assist with circulation during drop-off and pick-up. Employees, service vehicles and emergency vehicles will use the same entryway to access the site for off-street parking behind the buildings. Sidewalks are present along Joseph E. Boone, James P. Brawley and Andrew J. Hairston Boulevard for pedestrian safety and convenience. Staff finds ingress and egress to be sufficient for the proposed use.
- 2. Off-street parking and loading:** The parking requirement for childcare centers in the SPI-19 SA8 (Vine City Special Public Interest District Subarea 8) zoning district is one parking space per 600 sq. ft. of floor area. This location would require two (2) off-street parking spaces. The applicant proposes to share the existing off-street parking spaces utilized for the place of worship. The applicant has indicated that service personnel and visitors can utilize on-street parking along Newport Street. Therefore, Staff is of the opinion that the off-street parking and loading provided by the applicant is sufficient to support the proposed use.
- 3. Refuse and service areas:** The applicant has indicated that private services will be utilized for waste removal. The facility will dispose of garbage in private containers and a private service will pick up the garbage weekly. Refuse containers will be stored at the rear of the site. Staff finds the refuse and service areas sufficient for the proposed use.
- 4. Buffering and screening:** The existing building is surrounded by a 4-foot metal screen fence to provide buffering and screening. The metal fence provides a safe playing environment for the children as well as a screen for neighboring uses. Staff is supportive of the proposed buffer and screening measures.
- 5. Hours and manner of operation:** The applicant has indicated the center will provide day care service for thirty-nine (39) children ranging in age from six months to twelve years of age. The applicant indicates that there will be 5 employees on site working one shift. The daycare center will operate from 6:00 a.m. to 6:30 p.m., Monday through Friday. The facility will have four dedicated classrooms and play area located within the facility. Lunch and snacks will be provided. Therefore, Staff finds the hours and manner operation to be sufficient.
- 6. Duration:** The applicant has requested an indefinite duration. Staff is not supportive of the request.
- 7. Required yards and open space:** The applicant has indicated that there will be no additions to the existing structure.

8. Compatibility with policies related to tree preservation: The applicant has stated that no trees will be removed, damaged, or destroyed with the request.

9. Other Considerations:

The Atlanta City Design articulates Atlanta's vision organized according to its five core values of Equity, Progress, Ambition, Access, and Nature. It focuses future growth into already-developed areas called Growth Areas, which are further categorized as Core, Corridors, and Clusters. Outside the Growth Areas are the Conservation Areas, which include Urban Neighborhoods, Suburban Neighborhoods, Rural Neighborhoods and Production Areas. Conservation Areas are the natural parts of the city that are less suited for growth and that should be protected from radical change.

According to Atlanta City Design **800 Joseph E. Boone Boulevard, N.W** is located is located within Conservation Area: Urban Neighborhoods. Urban Neighborhoods are described as follows:

“These are small-scale, historic, walkable neighborhoods where growth capacity is limited mostly by our desire to keep them the way they are the traditional intown communities that were built by the expansion of streetcars a century ago, such as Westview, Grant Park and Brookwood Park. Most have some form of commercial district within walking distance from homes, and many include small apartment buildings, townhouses, or two- and three-family homes. Their inherent walkability, historic charm and proximity to downtown make them highly desirable under today's market pressures, and therefore, threatened by even denser development.”

STAFF RECOMMENDATION: APPROVAL conditioned upon the following:

1. The special use permit for a day care center shall be valid only as long as, Marcus T. Watkins is the operator.
2. A maximum number of thirty-nine (39) children shall be in attendance aged 6 weeks to 12 years old.
3. The special use permit shall be valid for three years from the date of adoption by City Council.
4. The special use permit is not transferable.



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Director
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MEMORANDUM *amended*

TO: Zoning Review Board

FROM: Keyetta M. Holmes, AICP, Zoning Administrator *KMH*

SUBJECT: U-20-12 for 1561 McLendon Avenue, N.E.

DATE: October 1, 2020

An Ordinance by Zoning Committee for a special use permit for a day care center pursuant to 16-06A.005(1)(b) for property located at **1561 McLendon Avenue, N.E.**

FINDINGS OF FACT:

- **Property location:** The subject property fronts 247 feet on the south side of McLendon Avenue, N.E. beginning at an iron pin set at the intersection of the southerly right-of way line of McLendon Avenue and the easterly right-of-way line of Mell Avenue. The property is located in the Candler Park Neighborhood in Land Lot 210, 15th District, NPU-N, DeKalb County, Georgia.
- **Property size and physical features:** The subject property consists of approximately 0.99 acres (43,461 square feet) of land. The proposed day care will utilize an existing place of worship known as the Neighborhood Church. The subject property is located on McLendon Avenue, N.E., and Mell Avenue. There is an existing curb cut on Mell Avenue that includes an off-street parking lot. There is another existing curb cut to exit the site on Mell Avenue. The site has several mature trees and sidewalks around the perimeter.
- **Current/past use of property:** The property is developed with a place of worship. Staff is unaware of any previous uses.
- **Surrounding zoning/land uses:** The current zoning is R-4 (Single Family Residential) with a SFR (Single Family Residential) land use designation. The properties to the north across McLendon Avenue are zoned R-4 (Single Family Residential) with an OS (Open Space) land and SFR (Single Family Residential) use designation. Properties to the east, south and west are zoned R-4 (Single Family Residential) with and LDR (Single Family Residential) land use designation.

- **Transportation system:** McLendon Avenue, N.E. and Mell Avenue are classified as local streets. The area is serviced by the MARTA Edgewood/Candler Park Transit Station.

PROPOSAL: The applicant seeks a special use permit for a day care center pursuant to 16-06A.005(1)(b) known as Primavera Preschool, LLC.

- **Ingress and egress:** Employees, service vehicles and emergency vehicles can access the site via an existing curb cut on Mell Street and exit on McLendon Avenue. Primary drop off and pick up is located in a roundabout at the rear of the site.
- **Off-Street Parking and loading:** Employees will use the existing curb cut on Mell Street to access forty-nine (49) off street parking spaces and seven (7) on-street spaces off McLendon. The applicant has indicated that service personnel and visitors can park vehicles along both Mell Street and McLendon Avenue.
- **Refuse and service areas:** Refuse will be handled through City services and receptacles. The subject properties utilize small separate rolling containers for trash and recyclable materials stored in the rear of the property.
- **Buffering and screening:** An existing sidewalk and street scaping is used for buffering and screening on the site.
- **Hours and manner of operation:** The applicant has proposed to provide day care service for 56 children ranging in age from 6 months to ten years of age. Primavera Preschool, LLC will operate a daycare use for ages 6 months to 4 years old, a 6 month-1year classroom, 1 year-2-year classroom, 2 year-3-year-old classroom, and an elementary aftercare program. The preschool will operate 8am until 5:30pm Monday through Friday 12 months a year. Primavera Preschool, LLC will employ 11 employees working two shifts. The first shift is from 8am until 2:30pm. The second shift is from 2:30-5:30pm. Meals will not be offered; however, clients will provide meals. Special programs will be offered to include Mothers Morning Out, Yoga, Zumba, cooking class, service projects, and music class.
- **Duration:** The applicant requests a 3-year duration.
- **Required yards and open space:** The applicant has indicated that there will be no additions to the existing structure.
- **Tree Preservation and Replacement:** No trees will be damaged, destroyed or removed.

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:** Ingress to the property is provided via a curb cut on McLendon Avenue and egress on Mell Avenue. The points of access will be limited as the site is one directional for entrance and exit. Employees, service vehicles and emergency vehicles will use the same entryway to access the site for off street parking and to assist with traffic flow and control. Sidewalks are present on Mell Avenue and McLendon Avenue. Children will be dropped off and picked up by pulling into off street parking spaces and roundabout located at the rear. Staff finds ingress and egress to be sufficient for the proposed use.
2. **Off-street parking and loading:** The parking requirement for childcare centers in the R-4 (Single Family Residential) zoning district is one parking space per 600 sq. ft. of floor area. This location would require four (4) off-street parking spaces. Products can easily be delivered in the driveway, parking lot, or in the front parking area of the church. Service personnel have access to the parking lot, the driveway and the parking available in front of the church. Employees will park in the parking lot located behind the church. Clients can park in front of the church, or in the parking lot. There is a one-way parking lot with four separate entrances for child drop-off. There are 49 parking spaces available on site with an additional seven parking spaces located directly in front of the building on McLendon Avenue. Drop-off is staggered from 8am-9am. The off-street parking exceeds the required spaces needed for the daycare center. Staff finds the proposed off-street parking and loading sufficient.
3. **Refuse and service areas:** Neighborhood Church has a dumpster for refuse and garbage. Waste removal is once a week on Thursdays, utilizing four large garbage bins (same as the big residential ones). Compost Now also has weekly pickup on Saturdays. Staff finds the refuse and service areas sufficient for the proposed use.
4. **Buffering and screening:** The applicant has indicated no changes to the existing buffering and screening. Adjoining properties have a driveway and parking lot as a boundary on the east and west. The building is also a boundary from the playground and residential dwellings in the area. Staff is supportive of the proposed buffer and screening measures.
5. **Hours and manner of operation:** The applicant has proposed to provide day care service for 56 children ranging in age from 6 months to ten years of age. Primavera Preschool, LLC will operate a daycare use for ages 6 months to 4 years old, a 6 month-1year classroom, 1 year-2-year classroom, 2 year-3-year-old classroom, and an elementary aftercare program serving children up to 10 years of age. The preschool will operate 8am until 5:30pm Monday through Friday 12 months a year. Primavera Preschool, LLC will employ 11 employees working two shifts. The first shift is from 8am until 2:30pm. The second shift is from 2:30-5:30pm. Meals will not be offered; however, clients will provide meals. Special programs will be offered to include Mothers Morning Out, Yoga, Zumba, cooking class, service projects, and music class.

6. **Duration:** The applicant has requested a 3-year duration. Staff is supportive of the request.
7. **Required yards and open space:** The applicant has indicated that there will be no additions to the existing facility.
8. **Compatibility with policies related to tree preservation:** The applicant has stated that no trees will be removed, damaged, or destroyed with the request.

9. **Other Considerations:**

The Atlanta City Design articulates Atlanta's vision organized according to its five core values of Equity, Progress, Ambition, Access, and Nature. It focuses future growth into already-developed areas called Growth Areas, which are further categorized as Core, Corridors, and Clusters. Outside the Growth Areas are the Conservation Areas, which include Urban Neighborhoods, Suburban Neighborhoods, Rural Neighborhoods and Production Areas. Conservation Areas are the natural parts of the city that are less suited for growth and that should be protected from radical change.

According to Atlanta City Design **1561 McLendon Avenue, N.E.** is located within Conservation Area: Urban Neighborhoods. Urban Neighborhoods are described as follows:

“These are small-scale, historic, walkable neighborhoods where growth capacity is limited mostly by our desire to keep them the way they are the traditional intown communities that were built by the expansion of streetcars a century ago, such as Westview, Grant Park and Brookwood Park. Most have some form of commercial district within walking distance from homes, and many include small apartment buildings, townhouses, or two- and three-family homes. Their inherent walkability, historic charm and proximity to downtown make them highly desirable under today's market pressures, and therefore, threatened by even denser development.”

STAFF RECOMMENDATION: APPROVAL conditioned upon the following:

1. The special use permit for a day care center shall be valid only as long as, Primavera Preschool, LLC is the operator.
2. A maximum number of fifty-six (56) children shall be in attendance aged 6 weeks to 10 years old.
3. The special use permit is not transferrable.
4. The special use permit shall expire three years from the date of City Council adoption.



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TIM KEANE
COMMISSIONER

KEYETTA M. HOLMES, AICP
Director
Office of Zoning and Development

MEMORANDUM

TO: Zoning Review Board

FROM: Keyetta M. Holmes, AICP, Zoning Administrator *KMH*

SUBJECT: Z-19-76 for Party Houses

DATE: October 1, 2020

A substitute Ordinance by Councilmember JP Matzigkeit to amend the 1982 Atlanta Zoning Ordinance, as amended, by creating a definition of a Party House and to allow a “**Party House**” as a use in some commercial zoning districts and expressly prohibit it as a use in certain residential zoning districts including solely residential districts; and for other purposes

FINDINGS OF FACT:

The sharing economy is an economic model defined as a peer-to-peer (P2P) based activity of acquiring, providing, or sharing access to goods and services that is often facilitated by a community-based on-line platform. One of the most known sharing economies is Short Term Rental (STR). However, since the business type has been operating in the City of Atlanta there have been STR’s that have become “party houses” that have resulted in establishments where promoters list the home on social media and charge a fee for patrons to attend. The parties garner large volumes of patrons which clog residential streets, loud music, lucid acts and unfortunately shootings and homicides.

As a result of the danger to the public health and welfare, legislation has been introduced to prohibit “party houses” in residentially zoned districts. Further, the legislation will define a “party house” and permit “party houses” as follows: in the R-LC (Residential Limited Commercial) District and NC (Neighborhood Commercial) District by a SUP (special use permit), and allow the use by SAP (special administrative permit) in C-1 (Community Business District), C-2 (Commercial Service District), C-3 (Commercial Residential), C-4 (Central Area Commercial Residential District), C-5 (Central Business Support District), I-MIX (Industrial Mix Use District), and MRC (Mixed Residential Commercial) Districts. However, the use shall be prohibited if it is within 150 feet of properties zoned the following: R-1 (Single Family Residential), R-2 (Single Family Residential), R-2A (Single Family Residential), R-2B (Single Family Residential), R-3 (Single Family Residential), R-3A (Single Family Residential), R-4 (Single Family Residential), R-4A (Single Family Residential), R-4B (Single Family Residential).

Residential), R-5 (Two Family Residential), RG (Residential General), MR (Multifamily Residential) or that is used for residential purposes. Further, the use is prohibited in R-1 (Single Family Residential), R-2 (Single Family Residential), R-2A (Single Family Residential), R-2B (Single Family Residential), R-3 (Single Family Residential), R-3A (Single Family Residential), R-4 (Single Family Residential), R-4A (Single Family Residential), R-4B (Single Family Residential), R-5 (Two Family Residential), RG (Residential General), MR (Multifamily Residential) Districts. The distance shall be measured from property line to property line to mitigate the effects of the use on residential districts. Additionally, party houses shall be prohibited in all residential subareas in Special Public Interest Districts and permitted in all commercial subareas of Special Public Interest Districts by SAP. Residents can continue to host commercial events that benefit an entity organized pursuant to Title 26, Subtitle A – Income Taxes, Chapter 1 – Normal Taxes and Surtaxes, Subchapter F – Exempt Organizations, of the Internal Revenue Code of 1986, as amended or that is for a resident’s own private enjoyment.

PROPOSAL: This text amendment creates the following definition of a “party house”: A single-family, two-family, or multi-family dwelling unit, including all accessory structures and the dwelling unit’s curtilage, which is used for the purpose of hosting a commercial event. For this definition, commercial event includes parties, ceremonies, receptions or similar large-scale gatherings where a fee is charged for the use of the dwelling unit, whether or not the attendees are charged entry to the event; or parties, ceremonies, receptions or similar large-scale gatherings where attendees are charged entry. However, commercial event shall not include any event for the benefit of an entity organized pursuant to Title 26, Subtitle A – Income Taxes, Chapter 1 – Normal Taxes and Surtaxes, Subchapter F – Exempt Organizations, of the Internal Revenue Code of 1986, as amended. Furthermore, the intent of the ordinance is to prohibit and permit the use in the following districts:

Zoning District	Prohibited	Permitted by SAP or SUP
R-1	X	
R-2	X	
R-2A	X	
R-2B	X	
R-3	X	
R-3A	X	
R-4	X	
R-4A	X	
R-4B	X	
R-5	X	
R-G	X	
MR	X	
SPI (residential subareas)	X	
R-LC*		SUP
C-1*		SAP
C-2*		SAP
C-3*		SAP
C-4*		SAP
I-MIX*		SAP
NC*		SUP

MRC*		SAP
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* The use shall be prohibited if it is located 150 feet from any property zoned where the use is prohibited. The distance shall be measured from property line to property line.

CONCLUSIONS:

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

Currently, the text amendment is compatible with the existing land use designations. Therefore, a Comprehensive Development Plan (CDP) amendment is not required.

2) **Availability of and effect on public facilities and services; referrals to other agencies:**

The use of existing residential dwellings for party houses indicate that there are public facilities and services available to the subject properties. There has been no indication from review agencies and/or departments that there would not be adequate public facilities and services in the area. However, the text amendment will create regulations for party houses within the City of Atlanta. Therefore, when proposed development plans are submitted to other agencies for permit review, compliance with all applicable City codes will be required.

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 project is being proposed, these considerations are not applicable. As proposed, the text amendment intends to prohibit loud or unruly gatherings on residential properties. Party houses have threatened the quiet enjoyment of private properties and impinge upon the public health, safety, and welfare of residents due to excessive noise, traffic obstruction of streets, service of alcohol to minors, public drunkenness, fights, disturbances of the peace, vandalism and litter. Staff is of the opinion that this legislation will have a positive effect on the balance of land by allowing the use in zoning districts that are intended to support large volumes of traffic but will allow residents to continue to host commercial events that benefit an entity organized pursuant to Title 26, Subtitle A – Income Taxes, Chapter 1 – Normal Taxes and Surtaxes, Subchapter F – Exempt Organizations, of the Internal Revenue Code of 1986, as amended or that is for a resident’s own private enjoyment.

4) **Effect on character of the neighborhood:**

The proposed text amendment will further reinforce the stability of established neighborhoods by restricting party houses in residentially zoned areas. There have been several instances in the City of Atlanta where party houses have attracted violence and even death. Thus, the increase in crime activity may result in the depreciation of home values. Currently, the code does not regulate party houses as a use, therefore, there is no protection against possible blight and depreciation as a result of this use. Staff is of the opinion that this legislation will have a positive effect on the neighborhoods as this legislation will clearly define party houses and prohibit and permit the use in certain zoning districts.

5) **Suitability of proposed land use:**

A party house is not a suitable or compatible use for residentially zoned areas. The use has a commercial component which has a demonstrated negative impact on adjacent properties. There are several commercial zoning districts that can support the operation of a party house. Therefore, the legislation will allow the use by SAP or SUP in areas that can accommodate large gatherings.

- 6) **Effect on adjacent property:** Currently, the City of Atlanta Zoning Ordinance does not define or codify party houses. As a result, party houses have become a nuisance to several residence of the City of Atlanta. There have been instances of theft, violence, leftover debris and death which, has had a negative impact on adjacent properties. The intent of the legislation is to protect adjacent properties from the aforementioned. Therefore, Staff does not anticipate any negative effects on adjacent properties from the proposed text amendment once adopted.

- 7) **Economic use of current zoning:** As currently zoned single-family residential districts have an economic use due the purpose and intent of said district in the Zoning Ordinance. When deciding where to purchase properties residents anticipate sustained or increasing property values. Adverse effects of party houses in residential districts may diminish property values. The use of residential districts for party houses places an undue burden on single-family because of their commercial intent. Therefore, staff is supportive of the text amendment.

- 8) **Compatibility with policies related to tree preservation:** Since no development project is being proposed, this consideration is not applicable. Upon application of a building permit, the applicant will have to comply with the City of Atlanta Tree Ordinance.

STAFF RECOMMENDATION: APPROVAL OF A SUBSTITUTE ORDINANCE

Z-19-76 Party House

	NPU						Comments
		Approved	Approval Conditional	Denied	Abstained	No Vote Taken	
Z-19-76	A	1					
	B	1					
	C	1					
	D	1					
	E		1				
	F	1					
	G	1					
	H	1					
	I	1					
	J	1					
	K	1					
	L			1			
	M			1			
	N	1					
	O			1			
	P	1					
	Q	1					
	R	1					
	S			1			
	T			1			
	V	1					
	W	1					
	X	1					
	Y	1					
Z	1						
UDC							
Total:		19	1	5	0	0	



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MEMORANDUM

TO: Zoning Review Board

FROM: Keyetta M. Holmes, AICP, Zoning Administrator *KMH*

SUBJECT: **Z-19-118 for Beecher Road-Herring Road Rezoning**

DATE: October 1, 2020

A Substitute Ordinance by Councilmember Marci Collier Overstreet to rezone certain properties from R-4 (Single Family Residential) to R-4B (Single Family Residential) fronting 836.7 Feet on the east side of Beecher Road, S.W. beginning at the intersection of Beecher Road, S.W. and Herring Road, S.W. in which to **implement certain recommendations of the Atlanta City Design Plan**; and for other purposes.

FINDINGS OF FACT:

Beecher Road, S.W. is a collector street that runs north/south parallel to Herring Road, S.W. (a local street) within the Cascade Avenue/Road neighborhood of NPU-S in Council District 11. There are many locational advantages that should be leveraged in order to enhance the quality of life along the Beecher Road/ Herring Road corridor and its geographic area which has been included in several plans including: the 2005 NPU-S Comprehensive Plan, 2006 Campbellton-Cascade Corridors Redevelopment Plan, 2014 Cascade Heights Commercial District Study, 2016 Cascade Heights Commercial District Redevelopment Initiative, and the Atlanta City Design Plan. These plans call for the improvement of Cascade Avenue into a vibrant, pedestrian-friendly mixed-use neighborhood and outline how the design of public space can support community connections and drive economic development at a community scale. Various strategies and recommendations grew out of these plans including the rezoning of certain parcels between Beecher Road and Herring Road to allow single family residential development fronting the west side of Herring Road in order to create a more pedestrian streetscape, foster neighborhood connections, provide more eyes on the street, and to improve the urban design aesthetic that currently defines the area.

PROPOSAL:

The proposal is to rezone certain properties between Beecher Road S.W. and Herring Road S.W. from R-4 (Single Family Residential) to R-4B (Single Family Residential). The 23 subject properties are non-conforming R-4 lots. The rezoning would allow property owners the opportunity to subdivide the rear of 16 lots to create additional lots fronting the west side Herring Road. Sixteen (16) of the subject properties are double frontage lots with single family residences fronting Beecher Road and a rear orientation to Herring Road. Three (3) lots currently front the west side of Herring Road within the subject properties; one (1) of those lots has an existing single-family house fronting on the west side Herring Road.

CONCLUSIONS:

- 1) **Compatibility with Comprehensive Development Plan (CDP); timing of development:** The proposed zoning of R-4B (Single Family Residential) is compatible with the current land use designation of SFR (Single Family Residential). Therefore, a land use amendment will not be required.
- 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 rezoning, 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:** The proposed rezoning is specifically targeted to improve the existing condition of the parcels between Beecher Road and Herring Road and the surrounding area. The subject parcels have the opportunity to be subdivided and developed with infill single family residences. Additional single family residences fronting the west side of Herring Road may create a more pedestrian streetscape, foster neighborhood connections, provide more eyes on the street for security, and provide additional households to support a more vibrant neighborhood commercial district directly to the south of the subject parcels. Therefore, Staff believes that the effect on the balance of land uses will not be negatively affected.
- 4) **Effect on character of the neighborhood:** The intent of the proposed R-4B zoning district is to improve the character of the neighborhood and promote a walkable, sustainable and connected community according to the urban design principles outlined in the Atlanta City Design Plan. Rezoning the subject properties to R-4B will create an opportunity to develop an inhabited streetscape on the west frontage of Herring Road where the appearance is vacant. A streetscape with frontage on both sides of the street creates a more pedestrian street with stronger neighborhood connections. It provides more eyes on the street for security, improves the urban design aesthetic of the neighborhood and provides an appropriate transition to adjacent neighborhood commercial. R-4B rezoning would allow single family residential infill development that is compatible with the scale, neighborhood character and uses of the adjacent development. The proposed rezoning would allow smaller lot single family residential in a strategic location adjacent to the neighborhood commercial district as recommended for Cascade Avenue neighborhood in the 2006 Campbellton-Cascade Corridors Redevelopment Plan: *“In order to create a more vibrant atmosphere, a modest level of residential development is planned as part of the mix for the area. This could consist of loft apartments over retail, townhouse and small lot single-family housing at strategic locations*

buffering the surrounding single-family neighborhoods.” The City of Atlanta 2016 Comprehensive Development Plan (CDP) identifies the Character Area of subject properties as Traditional Neighborhood Existing. The CDP notes that in these areas an “*Appropriate transition between single family residential and multifamily uses as well as between residential and non-residential uses is important to maintaining the character and stability of neighborhoods.*” Therefore, Staff is of the opinion that the proposed rezoning would have a positive effect on the character of the neighborhood.

- 5) **Suitability of proposed land use:** The allowable and permitted land uses for the proposed R-4B zoning are compatible with the future land use designation of SFR (Single Family Residential). R-4B lot sizes are compatible with the single-family residential lot sizes fronting the east side of Herring Road. Therefore, Staff believes that the proposed land use is suitable.
- 6) **Effect on adjacent property:** The intent of the proposed R-4B zoning district is to create an opportunity to develop residential dwellings on the west frontage of Herring Road. The adjacent residential on the east side of Herring Road is comprised of non-conforming R-4 (Single Family Residential) lots that will benefit from similarly sized lots fronting both sides of Herring Road to create stronger neighborhood connections and more eyes on the street for security. The proposed R-4B (Single Family Residential) zoning is compatible with adjacent residences to the west fronting Beecher Road zoned R-4 (Single Family Residential) and adjacent residences to the north zoned R-3 (Single Family Residential). Adjacent residential properties to the west and north and those zoned NC-6 (Cascade Heights Neighborhood Commercial) to the south will benefit from a more vibrant neighborhood and an appropriate transition between larger lot residential and neighborhood commercial. R-4B rezoning would allow single family residential infill development that is compatible with the scale, character and uses of the adjacent development. Therefore, Staff believes that the rezoning will have a positive effect on adjacent property.
- 7) **Economic use of current zoning:** No development projects are proposed as part of this rezoning. Although the current zoning of R-4 (Single Family Residential) has a reasonable economic use, the proposed zoning of R-4B (Single Family Residential) creates opportunities for another single family housing type and additional households within walking distance of the adjacent neighborhood commercial district to the south of the subject properties. It also provides the existing property owners the opportunity to subdivide their lots.
- 8) **Compatibility with policies related to tree preservation:** Since no development projects are being proposed as part of the rezoning these considerations are not applicable, however, any tree loss that occurs because of any proposed development must comply with the City of Atlanta Tree Ordinance at the time of permitting.
- 9) **Other Considerations:** The Atlanta City Design articulates Atlanta’s vision organized according to its five core values of Equity, Progress, Ambition, Access, and Nature. It focuses future growth into already developed areas called Growth Areas, which are further categorized as Core, Corridors, and Clusters. Outside the Growth Areas are the Conservation Areas, which include Urban Neighborhoods, Suburban Neighborhoods, Rural Neighborhoods and Production Areas. Conservation Areas are the natural parts of the city that are less suited for growth and that should be protected from radical change.

According to the Atlanta City Design map, properties proposed for **Beecher Road-Herring Road R-4B Rezoning** are located within an Urban Neighborhood within a Conservation Area. Urban Neighborhoods are described as follows:

“These are small-scale, historic, walkable neighborhoods where growth capacity is limited mostly by our desire to keep them the way they are the traditional intown communities that were built by the expansion of streetcars a century ago, such as Westview, Grant Park and Brookwood Park. Most have some form of commercial district within walking distance from homes, and many include small apartment buildings, townhouses, or two- and three-family homes. Their inherent walkability, historic charm and proximity to downtown make them highly desirable under today’s market pressures, and therefore, threatened by even denser development.”

STAFF RECOMMENDATION: APPROVAL OF SUBSTITUTE ORDINANCE



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TIM KEANE
Commissioner

KEYETTA M. HOLMES, AICP
Director
Office of Zoning & Development

MEMORANDUM

TO: Zoning Review Board

FROM: Keyetta M. Holmes, AICP, Zoning Administrator *KMH*

SUBJECT: **Z-20-41 for 689 Boulevard, N.E. and 513 Ponce de Leon Avenue, N.E.**

DATE: October 1, 2020

An Ordinance by Zoning Committee to rezone from MRC-2-C/BL (Mixed Residential Commercial Conditional/Beltline Overlay), to MRC-2-C/BL (Mixed Residential Commercial Conditional/BeltLine Overlay) for a change of conditions for property located at **689 Boulevard, N.E. and 513 Ponce de Leon Avenue, N.E.**

FINDINGS OF FACT:

- **Property location:** The subject property fronts approximately 57.46 feet on the east side of Boulevard, N.E beginning at a 5/8” rebar set at the intersection of the easterly right-of-way of Boulevard with the southerly right-of-way of Ponce De Leon Avenue. The property is located within Land Lot 48, 14th District Fulton County, Georgia, in the Old Fourth Ward Neighborhood of NPU-M in Council District 2.
- **Property size and physical features:** The subject site is a corner lot with an area of 0.959 acres, a frontage of approximately 57.46 on the east side of Boulevard, N.E and a depth of 268.5 feet along Ponce De Leon Avenue. The property is currently developed with an eight-pump gas station with an accessory one-story convenience store. The site topography is relatively flat except for a 10 feet incline along the south property line of the southeast corner. There are 11 trees located in the southeast corner of the site. Access to the site is via three curb-cuts, two curb-cuts on Ponce De Leon Avenue and one on Boulevard, N.E. The curb cut on Boulevard, N.E. also serves to provide access to the neighboring lots south of the subject site along Boulevard, N.E.
- **CDP land use map designation:** The subject property has a future land use designation of MU Mixed Use within the 2016 Comprehensive Development Plan (CDP).
- **Current/past use of property:** The property is currently developed with an eight-pump gas station with an accessory one-story convenience store under the Texaco brand. Staff is unaware of any other previous uses.

- **Surrounding zoning/land uses:** The subject properties are currently zoned MRC-2-C/BL (Mixed Residential Commercial Conditional/BeltLine Overlay) with a mixed-use land use. Surrounding zoning includes C-2 (Commercial Service District) to the north, MRC-2-C (Mixed Residential Commercial Conditional) to the east and west, and R-5 (Two Family Residential) and RG-4 (Residential General Sector 4) to the south. Surrounding land uses include mixed-use to the north, east and west, and low and high density residential to the south.
- **Transportation:** Boulevard N.E. and Ponce De Leon Avenue are both classified as arterial roads. Ponce De Leon Avenue is a Georgia state route with direct access to the Atlanta Beltline. The nearest MARTA transit station is North Avenue Transit Station providing service via bus route #2 along Boulevard N.E. and #102 along Ponce De Leon Avenue.

PROPOSAL:

The applicant requests a rezoning from MRC-2-C/BL (Mixed Residential Commercial Conditional/ BeltLine Overlay) to MRC-2-C/BL (Mixed Residential Commercial Conditional/ BeltLine Overlay) for a change in conditions prohibiting drive-through service windows and drive-in facilities as imposed by Ordinance 14-O-1031. The applicant proposes removal of the existing convenient store and gas station for the construction of a 3,904 square feet restaurant building with an accessory 793 square feet drive-through service kiosk and a pedestrian-oriented pick-up station for take-out. The 793 square feet drive-through service kiosk is an accessory structure to be located in the rear of the main restaurant building that would front on Ponce de Leon Avenue.

CONCLUSIONS:

1. **Compatibility with comprehensive development plan (CDP); timing of development:**
The applicant does not seek to change the underlying MRC-2 zoning which is compatible with the existing MU mixed use land use in the 2016 Comprehensive Development Plan (CDP).
2. **Availability of and effect on public facilities and services; referrals to other agencies:** The request for a change in conditions might have some effect on existing streets and traffic in the area. A change in conditions would permit a drive-through service that might increase traffic on and around the site. However, the applicant proposes to eliminate one of the curb cuts on Ponce de Leon Avenue, thus facilitating better flow of traffic on the site and at the intersection of Ponce de Leon Avenue and Boulevard N.E. When the proposed development plans are submitted to other agencies for permit review, compliance with all applicable City codes will be required.
3. **Availability of other appropriate land zoned for proposed use; effect on balance of land uses with regard to the public need:** The current conditions prohibiting drive-through services limits the availability of other appropriately zoned land for the proposed use in the surrounding area. The propose restaurant and drive through service would not have an effect on the balance of land uses as it would provide a drive through service that is designed to be less visible and accessory to the main store-front pedestrian-oriented restaurant along Ponce de Leon Avenue.

4. **Effect on character of the neighborhood:** The subject site does not currently contribute to the exiting character of the neighborhood as it relates to the CDP and the character of conditions set forth by Ordinance 14-O-1031. The subject site is located within the Intown Corridor Character Area of 2016 CDP. One of the economic development goals of the Intown Corridor Character Area is to “Limit the number of gas stations, adult businesses and convenience stores” The proposed development would eliminate the existing gas station and convenient store and replace it with a pedestrian-oriented restaurant and accessory drive-through service that is compatible with desired primary land uses in Intown Corridor Character Area.

Policies for the Intown Corridor Character Area encourage revitalization and redevelopment that improves the sense of place and community, creates a well-functioning corridor that facilitates traffic flow, provides transportation options, and supports a variety of land uses. Policies also encourage integrated modes of transportation including pedestrian, bicycle, auto and the use of public transportation by promoting complete streets. Similarly, Ordinance 14-O-1031 conditions encourage design that addresses the street frontage and includes pedestrian oriented development. The applicant proposes to improve the streetscape, address the intersection, and add pedestrian and bike facilities at the site. Staff believes that the proposed overall development would have a positive effect on the desired character of the neighborhood.

5. **Suitability of proposed land use:** The proposed drive-through service is suitable given the existence of similar uses in the area surrounding the subject site. Additionally, the proposed drive-through use would be designed to be less visible and accessory to the pedestrian-oriented main restaurant storefront along Ponce de Leon Avenue as desired for the area.
6. **Effect on adjacent property:** The applicant proposes to improve the streetscape and add to pedestrian facilities along the site and at the intersection of Ponce de Leon Avenue and Boulevard. The proposed would encourage redevelopment that is in accordance with area plans and policies. Staff is of the opinion that the proposed development would have a positive effect on adjacent properties.
7. **Economic use of current zoning:** Staff finds that the current zoning conditions prohibiting a drive-through service window at this site restrictive to the reasonable economic use of the property. The subject site is located at the intersection of two arterial roads that facilitate a substantial amount of vehicular traffic. A restaurant without drive-through services at this site would not allow the applicant to take advantage of potential vehicular-customers that do not desire to dine-in at the site. Staff believes eliminating conditions prohibiting a drive-through service would have a positive effect on the economic use of this site.
8. **Compatibility with policies related to tree preservation:** The proposed development will need to comply with the requirements of the City of Atlanta’s Tree Ordinance.
9. **Other Considerations:** The Atlanta City Design articulates Atlanta’s vision organized according to its five core values of Equity, Progress, Ambition, Access, and Nature. It focuses future growth into already developed areas called Growth Areas, which are further categorized as Core, Corridors, and Clusters. Outside the Growth Areas are the Conservation Areas, which include Urban Neighborhoods, Suburban Neighborhoods, Rural Neighborhoods and

Production Areas. Conservation Areas are the natural parts of the city that are less suited for growth and that should be protected from radical change.

According to the Atlanta City Design map, **689 Boulevard, N.E. and 513 Ponce de Leon Avenue, N.E.** is located in a Corridor Neighborhood within a Growth Area. Growth Area Corridors are described as follows:

“These are the connecting tissues of the city; the major streets that flow out of the core in every direction. They stitch Old and New Atlanta together and most of them are commercially developed. Streets like Hollowell, Peachtree, and Jonesboro wind along the contours of the city while streets like Metropolitan, Memorial and Northside slice straight lines across hills and valleys. In either case, we find commercial sites, civic buildings, and anchor institutions along the way. With better design, these corridors can become main streets for every community, accommodating a reasonable amount of growth that will spur commercial vitality and vibrant public life out beyond the core of the city.”

STAFF RECOMMENDATION: APPROVAL conditioned upon the following:

1. All conditions of Ordinance 14-O-1031/Z-13-50 shall remain in effect except drive-through service windows and drive-in facilities are permitted.