



City Council
Atlanta, Georgia

02-0-0356

**A SUBSTITUTE ORDINANCE BY ZONING COMMITTEE
AS AMENDED BY FULL COUNCIL**

Z-02-05/Z-99-02

AN ORDINANCE TO AMEND ORDINANCE Z-99-02,
ADOPTED BY CITY COUNCIL APRIL 5, 1999 AND
APPROVED BY OPERATION OF LAW APRIL 13, 1999,
REZONING FROM THE RG-2 (RESIDENTIAL GENERAL-
SECTOR 2) DISTRICT TO THE RG-3-C (RESIDENTIAL
GENERAL-SECTOR 3-CONDITIONAL) DISTRICT, PROPERTY
LOCATED AT **3655 PEACHTREE ROAD, N.E.**, FOR THE
PURPOSE OF APPROVING A REVISED SITE PLAN AND
CHANGE OF CONDITIONS.

OWNER: FRED FILSOOF

APPLICANT: DAVID GREEN

NPU-B

COUNCIL DISTRICT 7

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1. That the currently approved site plan governing the development of the property located at **3655 Peachtree Road, N.E.**, more particularly described by the attached legal description identified as Exhibit A, is hereby deleted in its entirety and a revised site plan entitled "Proposed Condominiums, 3655 Peachtree Road, Atlanta, Georgia" prepared by Brock Green Architects and Planners, dated January 8, 2002, last revised March 4, 2002, and marked received by the Bureau of Planning March 14, 2002 is hereby adopted in lieu thereof.

SECTION 2. That all other currently approved conditions governing the development of this property are hereby deleted in their entirety and a revised list of conditions, contained in the attached letter, identified as Exhibit B, to David Green from Mark S. Izenon, President, Ridgedale Park Civic Association, dated March 11, 2002 and marked received by the Bureau of Planning March 14, 2002 is hereby adopted in lieu thereof.

SECTION 3. That any conditions approved (including any conditional site plan) do not authorize the violation of any zoning district regulations. District regulation variances can be approved only by the Board of Zoning Adjustment in response to the application of a petitioner.

SECTION 4. That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

A true copy,

Rhonda Daughin Johnson
Municipal Clerk, CMC

ADOPTED as amended by the Council
APPROVED by the Mayor

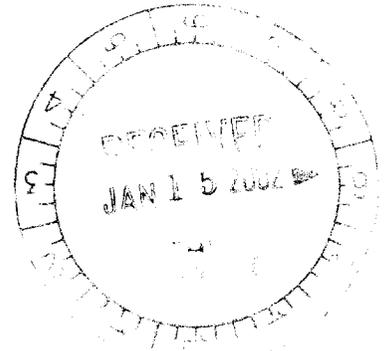
APR 01, 2002
APR 05, 2002



EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot 10 of the 17th District, Fulton County, Georgia, and being more particularly described as follows:

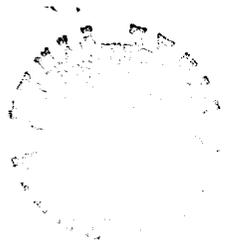
BEGINNING at a 1" open top pipe found on the southerly right of way line of Peachtree Road (80 foot right of way), which point is 401 feet easterly as measured along the southerly right of way line of Peachtree Road from its intersection with the easterly right of way line of Roxboro Road; thence running along the southerly right of way of Peachtree Road North 86° 38' 29" East a distance of 99.44 feet to a point, thence running South 00° 42' 00" East a distance of 252.71 to a point located on the line dividing Land Lot 10 and Land Lot 9; thence running along the dividing line of Land Lot 10 and Land Lot 9 North 89° 59' 13" West a distance of 97.28 feet to a 1" crimp top pipe found; thence running North 01° 10' 38" West a distance of 246.87 feet to a point located on the southerly right of way line of Peachtree Road and The Point of Beginning, as shown on a Survey for Coordinated Properties & First American Title Insurance Company, prepared by Frontline Surveying & Mapping, Inc., Thomas Edward Peay, Jr., Registered Land Surveyor No. 2402, dated December 16, 1999.



Z-02-05 / Z-99-02

BOOK 28220 PAGE 213

*Exhibit A
Page 1 of 1*



SCHWEBER, IZENSON & ANDERSON, LLP
ATTORNEYS AT LAW

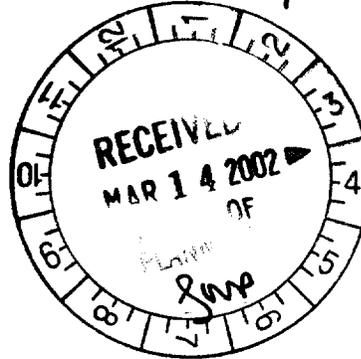
SUITE 275 LENOX PLAZA
3384 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA 30326-1106

(404) 812-5800
FACSIMILE (404) 812-5801
<mailto:msi@sialaw.com>

March 11, 2002 Z-62-05/2-99-02

BY HAND DELIVERY

David Green
BrockGreen Architects & Planners
Suite 201 434 Marietta Street
Atlanta, Georgia 30313



Dear David:

Re: Applicant: David Green
Site: 3655 Peachtree Road, Atlanta, Fulton County, GA
Application: Site Plan Amendment to Z-99-2

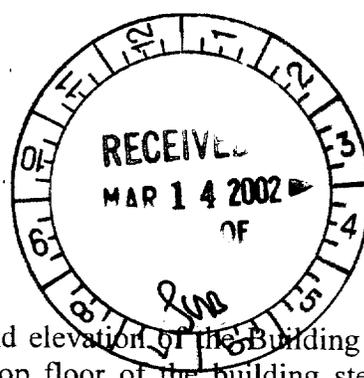
Let me take this opportunity to formally respond in my capacity as President of the Ridgedale Park Civic Association to your request for comment and approval of the site plan amendment filed on or about January 14, 2002, for the above-referenced site.

I have had an opportunity to discuss the site plan amendment application and the accompanying Site Plan (as amended, the "Plan"), prepared by BrockGreen Architects & Planners, bearing Project No. 2201, and last revised March 4, 2002, with the affected homeowners along Eulalia Road, whose homes border the southern boundary of the site, and I have consulted with members of our civic association. As you are aware, I represent only the Ridgedale Park Civic Association, and I do not represent The Winston nor for the condominium complex which sits immediately west of your site. Each of these developments are aware of your application, and I have encouraged the representatives of these developments to contact you to express their concerns, comments or conditions, if any.

Below is a summary of the site plan conditions agreed to between the Ridgedale Park Civic Association and the applicant. In consideration of the agreed-to site conditions and a covenant to execute and deliver a restrictive covenant agreement embodying these conditions, the same being due in-hand before the city council zoning committee meeting, our civic association supports your application.

1. Size, Number and Type of Dwelling Units. The dwelling units in the residential building (the "Building") shall be designed for owner occupiers or, otherwise stated, not for rental; the number of units shall be no more than 14; the minimum gross square footage of each unit shall be no less than 1,250 square feet; and the average gross square footage of the units shall be no less than 1,414 square feet.

Exhibit B
Page 1 of 3



Z-02-05/
Z-99-02

2. Vertical Height of Building. The above-ground elevation of the Building at the Peachtree Road grade shall not exceed 4 stories, with the top floor of the building stepped back from Peachtree Road as shown on the Plan.
3. Building Materials. All four sides of the exterior walls of the Building will be substantially consistent in material composition and general architectural detail.
4. Building Appurtenances. The back-up power generator and the heating and air conditioning unit(s) servicing the Building on the site shall be housed within the parking deck, shall be encased in a sound absorbent structure, and shall be concealed from plain view.
5. Surface Parking Lot. Applicant shall exercise best efforts to visually conceal the surface parking lot in the rear of the site by use of dense broadleaf evergreen landscaping, grade differences and earth berms. A Landscape Tree (as defined below) of no less than 4 caliper inches shall be planted within the parking lot between every 8th parking space. All lighting servicing the parking lot shall be in the form of surface mounted lamp posts and positioned in a manner to prevent light trespass from the lot.
6. Parking Deck. The above-grade, exterior rear and side walls of the parking deck beneath the building shall be solid and be faced with materials and architectural detail consistent with the above-grade, exterior walls of the Building;
7. Undisturbed Buffer. Applicant shall maintain a rear buffer, which shall be undisturbed except for any landscaping, of not less than 50 Feet (the "Rear Buffer").
8. Landscaping. The undisturbed rear and side yards of the site (the "Planting Areas") shall be landscaped as follows (the "Landscaping"): (i) a tree shall be planted for no less than every 400 square feet in the Planting Areas; (ii) said trees (collectively, "Landscape Trees" or, individually, "Landscape Tree") shall be a combination of Magnolias or other broadleaf evergreen, October Glory or Red Sunset Maples or the like, Shumard or Willow Oaks, and other trees of comparable species; (iii) each tree planted shall be no less than 4 caliper inches (as calculated at breast height of the tree) and no less than 6 feet high; and (iv) the Planting Areas shall be freshly sodded after installation of the foregoing trees. Applicant shall diligently commence the Landscaping before a request for a certificate of occupancy for the Building.
9. Tree Save. Applicant shall provide a copy of its Tree Save Survey and Tree Replacement Plan to the President of the Ridgedale Park Civic Association concurrent with the filing of the original with the governmental authorities. The Tree Replacement Plan shall, at a minimum, identify caliber, height and type of all significant trees on the site. Ridgedale Park Civic Association representatives shall be permitted to participate in all meetings and discussions between the city arborist or its representatives and the applicant or its representatives with regard to the Tree Replacement Plan, the Tree Save Survey or any material issue related thereto (collectively, the "Greenery Issues"). The President of the Ridgedale Park Civic Association shall be concurrently copied on any correspondence (including enclosure therewith) from the

David Green
March 11, 2002
Page 3

applicant or its representative with regard to Greenery Issues.

All existing, mature trees in the Rear Buffer shall be saved. Applicant shall use diligent and best efforts to save all other trees which are not in the footprint of a building structure, parking area, utility location, or other site improvements.

10. Retaining Walls. Any retaining wall on the site shall be comprised of brick and or landscape grade stone.

11. Trash Receptacles. The common trash receptacle servicing the site shall be located as shown on the Plan and shall be concealed from plain view by walls reasonably in keeping with the composition and character of the exterior walls of the Building.

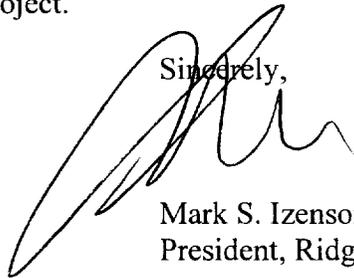
12. Storm Water Runoff. The storm drain water runoff from the Building and paved\concrete surfaces on the site will be collected in underground structures with the water discharged to the Peachtree Road side of the site.

13. Commencement of Grading. Applicant shall not grade the site or conduct any other site disturbance until after the issuance of a building permit for the project on the site and the receipt of confirmation from the governmental authorities that sewer and storm drain facilities are available to the site.

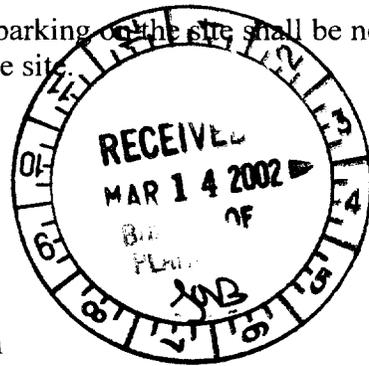
14. Construction-Related Parking. All construction-related parking on the site shall be no closer than Seventy-Five (75) Feet from the rear boundary line of the site.

Best of luck with your project.

Sincerely,



Mark S. Izenson
President, Ridgedale Park Civic Association

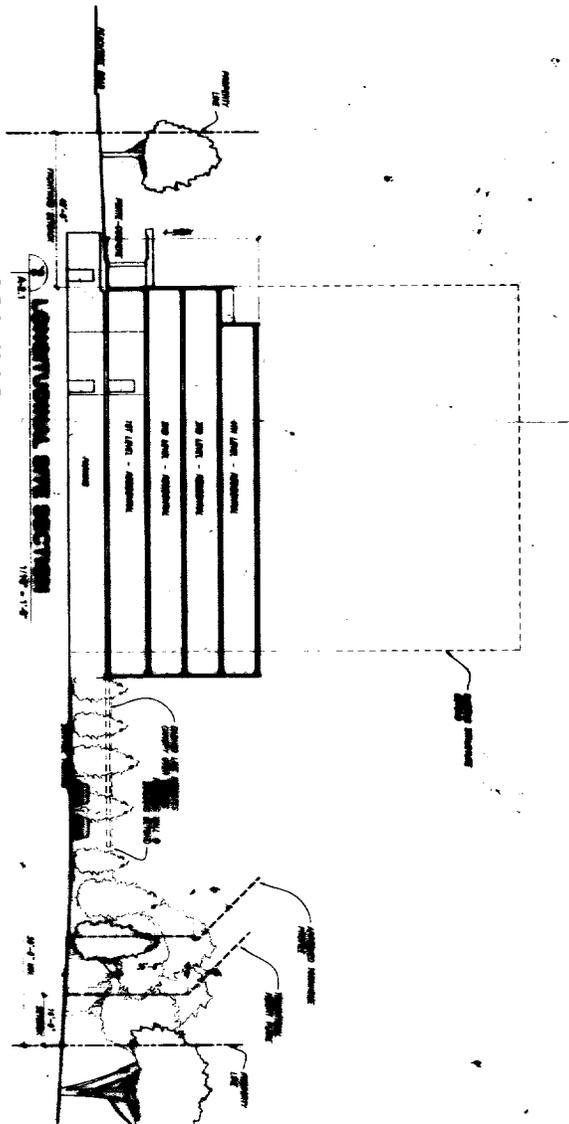


MSI:mmi
cc w\encs.:

Tim Langan
Jean Lusso
Craig Hayes
Irby Meadors
Tony Brewer, Brookhaven Civic Association
Tom Madison, The Winston

Z-02-05/Z-99-02

Exhibit B
Page 3 of 3



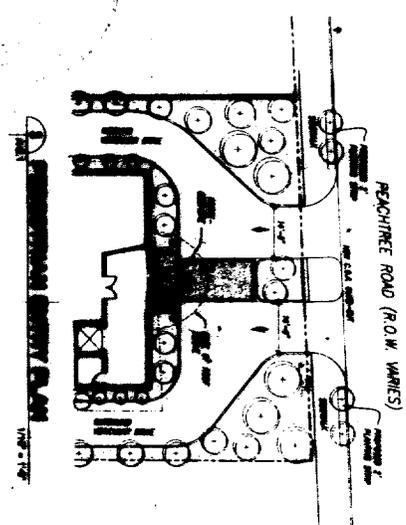
AREA MAP



TORNO ANALYSIS

Location: West Peachtree St.
 Address: 28
 Lot Area: 14,349 sq. ft.
 Street Frontage: 28.00 ft.
 Depth: 514.00 ft.
 Gross Lot Area: 28,555 sq. ft.
 Area: 69 x 28.555 ft. = 1,959 sq. ft.

1st. Ave	5,600 sq. ft.
2nd. Ave	5,600 sq. ft.
3rd. Ave	5,600 sq. ft.
4th. Ave	5,600 sq. ft.
5th. Ave	5,600 sq. ft.
6th. Ave	5,600 sq. ft.
7th. Ave	5,600 sq. ft.
8th. Ave	5,600 sq. ft.
9th. Ave	5,600 sq. ft.
10th. Ave	5,600 sq. ft.
11th. Ave	5,600 sq. ft.
12th. Ave	5,600 sq. ft.
13th. Ave	5,600 sq. ft.
14th. Ave	5,600 sq. ft.
15th. Ave	5,600 sq. ft.
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17th. Ave	5,600 sq. ft.
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21st. Ave	5,600 sq. ft.
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31st. Ave	5,600 sq. ft.
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42nd. Ave	5,600 sq. ft.
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64th. Ave	5,600 sq. ft.
65th. Ave	5,600 sq. ft.
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95th. Ave	5,600 sq. ft.
96th. Ave	5,600 sq. ft.
97th. Ave	5,600 sq. ft.
98th. Ave	5,600 sq. ft.
99th. Ave	5,600 sq. ft.
100th. Ave	5,600 sq. ft.

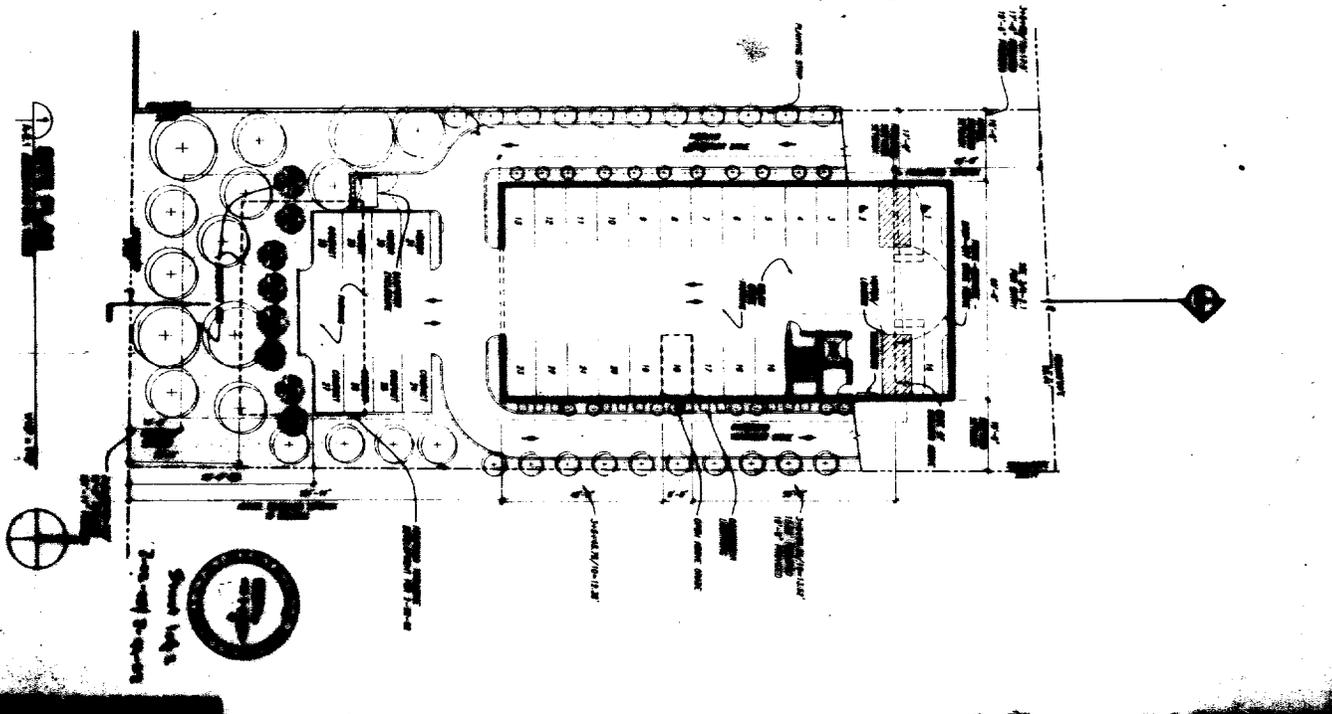


Number of Cuts: 14
 Number of Slopes: 3 (including easement parking
 below grade)
 Total Parking Required: 14 spaces
 Right-of-Way Required: 31' wide

Site Area: 14,349 sq. ft.
 Front Yard: 40' required
 Last Yard: 145' x 55.25' / 10' = 11.5' required
 18.5' provided
 Next Yard: 145' x 90' / 10' = 17.0' required
 19.5' provided
 Rear Yard: 145' x 60' / 10' = 14.0' required
 101.82' provided

UOSR = 40 x 28,555 = 11,422 sq. ft. required
 14,117 sq. ft. provided

TOSR = 69 x 18,639 sq. ft. required
 23,155 sq. ft. provided



0-2-0-0356
Z-02-05/2-99-02

March 28, 2002

original

BY FAX AND EMAIL

Phillip J. Mays
Mays Real Estate Investment Group, LLC
3340 Peachtree Rd., NE
Suite 1600
Atlanta, Ga. 30326

RE: Site Plan Application Z-02-05
Site: 3655 Peachtree Rd., Atlanta, Ga.

Dear Mr. Mays,

The purpose of this letter is to document the agreements we have reached concerning specific provisions for the subject site plan application. The conditions have been agreed to by the Winston Homeowners Association, the 3649 Peachtree Rd. Homeowners Association (the Associations), and the Mays Real Estate Company (the Developer). In consideration for the Developer's agreement to the below, our associations will not object to your application.

1. *Entry/exit driveway design for the property:* The only entry/exit driveway will be in the center of the property on Peachtree Rd. as described in the site plan dated 3/14/02.
2. *Protection of the Winston and 3649 Peachtree Rd. buildings and driveways:* Prior to construction beginning, the developer will engage a licensed structural engineer to complete an analysis of the proposed project including appropriate soils investigation and provide the study results to both our associations. The study results will include identification of precautions that are to be taken by the developer during the construction process to avoid structural damage to the buildings and driveways. In addition, the associations will engage a separate licensed structural engineer to complete a similar analysis, and the result will be shared with the developer.

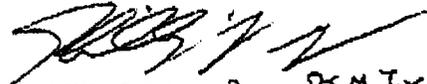
The developer will provide to the associations, prior to construction beginning, copies of its Comprehensive General Liability Insurance policies which are relevant to this site.

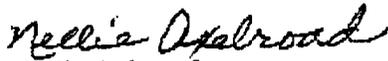
3. *Landscaping buffer on both sides of the building:* The developer will discuss with our associations a landscaping plan prior to construction beginning. The City of Atlanta has approval rights to such plan. The side buffer areas are to be a minimum of 6 feet in width and are to be maintained by 3655 Peachtree Rd. The developer acknowledges the need to maximize landscaping treatments on both sides of the building to both conceal driveways and for noise and lighting abatement. The 6 foot width requirement will be included on the site plan.
4. *Vertical height of building and building quality:* Addressed on the site plan and Ridgedale requirements as four residential stories. The exterior of the building will be comprised of brick and other accenting materials.
5. *Building Appurtenances:* The back-up power generators, the condenser units, and any other air conditioning/heating units will be installed at ground level or in the parking structure, enclosed in sound absorbent structures, concealed by landscaping from plain view, and all units will be evenly divided in number of installations on either side of the building.
6. *Rear surface parking lot:* No more than 8 spaces, and all owner spaces are to be covered, including any waste receptacles. The developer will provide cover for visitor spaces as practicable.
7. *Landscaping plan:* The developer will attempt in good faith to save the large oak tree at the southwest corner of the lot. This includes provision for water flow and grading which will not impede the root system. The developer will provide a copy of its Tree Save Survey and Tree Replacement Plan to the associations concurrent with the filing of the original to governmental authorities. The Tree Replacement Plan shall meet the requirements of the City of Atlanta. Association representatives shall be permitted to participate in all meetings and discussions between the city arborist or its representatives and the developer or its representatives with regard to the Tree Replacement Plan, the Tree Save Survey or any material issue related thereto (collectively, the "Greenery Issues"). Any correspondence from the developer or its representatives to the jurisdictional authorities with regard to Greenery issues shall be made available to the associations.
8. *Construction Start-Stop times:* Construction activities (including delivery and/or pickup of materials) will be limited to the hours/days specified by the relevant ordinances of the City of Atlanta.
In addition, the developer agrees to not begin any grading or tree removal until after the issuance of a building permit for the project on the site, and the receipt of confirmation from the governmental authorities that sewer and storm drain facilities are available and approved for the site.

9. *Construction Clean-up:* During the time frame before construction begins, the developer will keep grass mowed.

10. *Parking of Construction Vehicles and Construction personnel access:* No construction vehicles will be parked on the adjacent properties (Winston and 3649 Peachtree Rd.) without the permission of the associations. In addition, no construction personnel are to enter the adjacent properties without the permission of the associations.

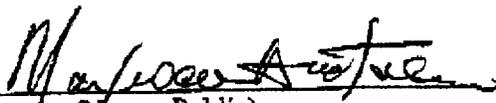

Thomas R. Madison, Jr.
President, Winston Association


Phillip J. Mays, Pres. PSM Inc., Mgr.
Mays Real Estate Investment Group K


Nellie Axleroad
President, 3649 Peachtree Rd. Association

Sworn and subscribed before me by _____ and sworn to and
subscribed before me by _____, witnesses, this 29th day of
March, 2002.



(SEAL) 
(Notary Public)
by Commissioner Effman Case & Co

02-0-0356

(Do Not Write Above This Line)

AN ORDINANCE Z-02-05/Z-99-02
BY: ZONING COMMITTEE

AN ORDINANCE TO AMEND ORDINANCE Z-99-02, ADOPTED BY CITY COUNCIL APRIL 5, 1999 AND APPROVED BY OPERATION OF LAW APRIL 13, 1999, REZONING FROM THE RG-2 (RESIDENTIAL GENERAL-SECTOR 2) DISTRICT TO THE RG-3-C (RESIDENTIAL GENERAL-SECTOR 3-CONDITIONAL) DISTRICT PROPERTY LOCATED AT 3655 PEACHTREE ROAD, N.E., FOR THE PURPOSE OF APPROVING A REVISED SITE PLAN AND CHANGE OF CONDITIONS.

OWNER: FRED FILSOOF
APPLICANT: DAVID GREEN
NPU-B COUNCIL DISTRICT 7

ADOPTED BY
APR 01 2002

COUNCIL
AS AMENDED

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER

Date Referred 3/4/02

Referred To: ZRB & Zoning

First Reading

Committee Zoning
Date March 27 2002
Chair Deborah Starns

Committee ZONING
Date March 27 2002
Chair Deborah Starns
Actions: None
Fav, Adv, Held (see rev. side)
Other: None
Members: David Green, Fred Filsoof, David Green, Fred Filsoof, David Green, Fred Filsoof
Refer To: None

Committee ZONING
Date March 27 2002
Chair Deborah Starns
Actions: None
Fav, Adv, Held (see rev. side)
Other: None
Members: David Green, Fred Filsoof, David Green, Fred Filsoof, David Green, Fred Filsoof
Refer To: None

Committee
Date
Chair
Actions: Fav, Adv, Held (see rev. side)
Other: Members
Refer To

Committee
Date
Chair
Actions: Fav, Adv, Held (see rev. side)
Other: Members
Refer To

COUNCIL ACTION

- 2nd Reading
- 1st & 2nd Reading
- 3rd Reading
- Consent
- V Vote
- RC Vote

CERTIFIED

CERTIFIED
APR 1 2002
COUNCIL PRESIDENT PROTOM

CERTIFIED

APR 01 2002

DEPUTY MUNICIPAL CLERK

MAYOR'S ACTION

APR 05 2002