



AN ORDINANCE BY

ZONING COMMITTEE

02-0-0696

Z-02-30

AN ORDINANCE TO AMEND ORDINANCE Z-01-53/Z-84-96, AS AMENDED, AS ADOPTED BY CITY COUNCIL DECEMBER 3, 1984 AND APPROVED BY THE MAYOR ON DECEMBER 5, 1984 REZONING FROM THE O-I (OFFICE-INSTITUTIONAL), O-I-C (OFFICE-INSTITUTIONAL-CONDITIONAL) AND R-3 (SINGLE FAMILY RESIDENTIAL) DISTRICTS TO THE PD-OC (PLANNED DEVELOPMENT-OFFICE COMMERCIAL DISTRICT, PROPERTY LOCATED AT 3495-3525-3565 PIEDMONT ROAD, N.E. FOR THE PURPOSE OF DELETING CONDITIONS ON THE SITE PLAN, AS AMENDED BY THE COUNCIL ON NOVEMBER 5, 2001 AND APPROVED BY CITY CHARTER SECTION 2-403 ON NOVEMBER 14, 2001 AND REPLACING SAID CONDITIONS WITH NEW CONDITIONS CONTAINED IN THIS ORDINANCE.

OWNER: PIEDMONT IVY ASSOCIATES, LLC
APPLICANT: SAME
BY: CARL E. WESTMORELAND, JR., ESQ.
NPU-B COUNCIL DISTRICT 7

WHEREAS, certain of the conditions which were placed on the site plan as amended by the Council in Ordinance 01-O-1264 (Z-01-53 / Z-84-96) (copy attached as Attachment 1) (adopted on November 5, 2001 and approved by City Charter Section 2-403 on November 14, 2001) were challenged as a violation of the final order and judgment of the Superior Court of Fulton County, in litigation captioned *Piedmont Ivy Associates, LLC v. City of Atlanta, et al* CAFN 2000-cv-24204; and

WHEREAS, the City Attorney did enter into negotiations which resulted in an agreement that the ten (10) conditions presently contained in Exhibit B of Ordinance 01-O-1264 should be deleted and the seven (7) conditions contained in a Consent Order dated March 25, 2002 should be adopted by the City Council as the conditions which would govern the amended site plan in addition to any other conditions presently on the property which were not imposed by Exhibit B; and

WHEREAS, Piedmont Ivy Associates, LLC did agree that if the ten (10) conditions presently contained in Exhibit B of Ordinance 01-O-1264 were deleted and the seven (7) conditions contained in the Consent Order were adopted as the conditions to be imposed by Exhibit B, that such action would settle the Motion to Enforce the Court's Final Order and Judgment; and

WHEREAS, pursuant to the agreement of the parties, the Superior Court of Fulton County did order that the matters raised by the Motion to Enforce the Court's Final Order and Judgment be remanded to the Atlanta City Council for action consistent with the Consent Order of March 25, 2002 (Attachment 2).



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

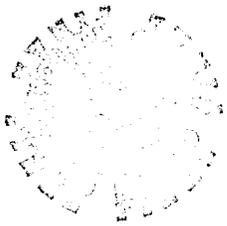
- SECTION ONE: That Ordinance 01-O-1264 (Z-01-53 /Z-84-96), be amended by striking the ten conditions contained in Exhibit B.
- SECTION TWO: That Ordinance 01-O-1264 (Z-01-53 /Z-84-96) be amended by adding the seven conditions contained in Attachment 3 to this ordinance to Exhibit B of Ordinance 01-O-1264 (Z-01-53 /Z-84-96) to replace the ten conditions which were stricken in Section One of this ordinance so that Exhibit B to Ordinance 01-O-1264 (Z-01-53 /Z-84-96) shall read as stated in Attachment 3 to this ordinance.
- SECTION THREE: That all other conditions governing the development of this property, originally adopted by the City Council as Z-84-96 on December 3, 1984 and approved by the Mayor on December 5, 1984, and as amended by the City Council as Z-01-53 on November 5, 2001 and approved by City Charter Section 2-403 on November 14, 2001, shall remain in full force and effect.

A true copy,

Rhonda Dauphin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

JULY 01, 2002
JULY 09, 2002



ATTACHMENT - 1



City Council
Atlanta, Georgia

01-0-1264

SUBSTITUTE ORDINANCE
BY: ZONING COMMITTEE

Z-01-53/Z-84-96

AN ORDINANCE TO AMEND ORDINANCE Z-84-96, AS AMENDED, ADOPTED BY CITY COUNCIL DECEMBER 3, 1984 AND APPROVED BY THE MAYOR DECEMBER 5, 1984, REZONING FROM THE O-I (OFFICE-INSTITUTIONAL), O-I-C (OFFICE INSTITUTIONAL-CONDITIONAL) AND R-3 (SINGLE-FAMILY RESIDENTIAL) DISTRICTS TO THE PD-OC (PLANNED DEVELOPMENT-OFFICE COMMERCIAL) DISTRICT, PROPERTY LOCATED AT 3495-3525-3565 PIEDMONT ROAD, N.E., FOR THE PURPOSE OF APPROVING AN AMENDED SITE PLAN.
OWNER: PIEDMONT IVY ASSOCIATES, LLC
APPLICANT: SAME
BY: CARL E. WESTMORELAND, JR., ESQ.
NPU-B COUNCIL DISTRICT 7

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

SECTION 1. That the previously approved site plan governing the development of the property at 3495-3525-3565 Piedmont Road, N.E., and more particularly described by the attached legal description identified as Exhibit A, is hereby amended so as to permit the additional construction as shown on the site plan, entitled, "Addition to Piedmont Center, Piedmont Center, Piedmont Road" prepared by Smallwood Reynolds, Stewart, Stewart and Associates, Inc., Architects, dated August 1, 2001 and marked received by the Bureau of Planning August 2, 2001.

SECTION 2. In addition to the above referenced conditional site plan, this development shall be conditioned on the stipulations shown on the attached Exhibit B, additional conditions for Z-01-53/Z-84-96.

SECTION 3. That all other conditions governing the development of this property, originally adopted by City Council as Z-84-96 on December 3, 1984, and approved by the Mayor on December 5, 1984, shall remain in full force and effect.

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
RETURNED WITHOUT SIGNATURE OF THE MAYOR
APPROVED as per City Charter Section 2-403

NOV 05, 2001

NOV 14, 2001

"PIEDMONT CENTER - PIEDMONT ROAD & OLD IVY ROAD"

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 62, 63, 97, AND 98 OF THE 17TH DISTRICT OF FULTON COUNTY, GEORGIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY R/W OF PIEDMONT ROAD (60' R/W) A DISTANCE OF 781.2 FEET NORTHWESTERLY FROM THE INTERSECTION FORMED BY THE NORTHEASTERLY R/W OF PIEDMONT ROAD (60' R/W) AND THE NORTHWESTERLY R/W OF IVY ROAD (50' R/W) AND RUNNING THENCE IN A NORTHWESTERLY DIRECTION ALONG THE NORTHEASTERLY R/W OF PIEDMONT ROAD (60' R/W) THE FOLLOWING COURSES AND DISTANCES: N58°21'30"W, 100.1 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 52.65 FEET TO A POINT (SAID ARC HAVING A CHORD DISTANCE OF 52.60 FEET ON A BEARING OF N58°22'W); THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 62.15 FEET TO A POINT (SAID ARC HAVING A CHORD DISTANCE OF 62.12 FEET ON A BEARING OF N58°08'W); THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 85.0 FEET TO A POINT (SAID ARC HAVING A CHORD DISTANCE OF 84.96 FEET ON A BEARING OF N57°50'W); THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 199.8 FEET TO A POINT (SAID ARC HAVING A CHORD DISTANCE OF 199.79 FEET ON A BEARING OF N57°16'W); THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 329.6 FEET TO A POINT (SAID ARC HAVING A CHORD DISTANCE OF 328.94 FEET ON A BEARING OF N51°30'30"); THENCE ALONG A CURVE TO THE RIGHT AN ARC DISTANCE OF 125.5 FEET (SAID ARC HAVING A CHORD DISTANCE OF 125.38 FEET ON A BEARING OF N39°36'W); THENCE N39°21'W, 339.0 FEET TO A POINT; THENCE N39°33'W, 424.8 FEET TO A POINT; RUNNING THENCE N50°37'E, AND DEPARTING FROM PIEDMONT ROAD A DISTANCE OF 437.4 FEET TO A POINT ON THE NORTH LINE OF LAND LOT 98; RUNNING THENCE S88°04'30"E ALONG THE NORTH LINE OF LAND LOT 98 A DISTANCE OF 105.5 FEET TO A POINT; RUNNING THENCE S88°22'E, AND CONTINUING ALONG THE NORTH LINE OF LAND LOT 98, A DISTANCE OF 241.3 FEET TO A POINT; RUNNING THENCE N00°24'30"E, A DISTANCE OF 405.5 FEET TO A POINT ON THE SOUTHEASTERLY R/W OF OLD IVY ROAD (30' R/W); RUNNING THENCE IN A NORTHEASTERLY DIRECTION ALONG THE SOUTHEASTERLY R/W OF OLD IVY ROAD (30' R/W), AND FOLLOWING THE CURVATURE THEREOF, AN ARC DISTANCE OF 195.4 FEET TO A POINT (SAID ARC HAVING A CHORD DISTANCE OF 193.55 FEET ON A BEARING OF N41°35'E); RUNNING THENCE S54°58'E A DISTANCE OF 154.2 FEET TO A POINT; RUNNING THENCE S33°01'W A DISTANCE OF 24.0 FEET TO A POINT; RUNNING THENCE S34°15'30"W A DISTANCE OF 44.2 FEET TO A

Exhibit A

1 of 2

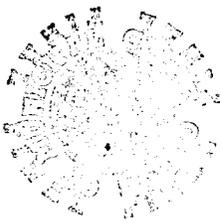
Z-01-53/2-84-96

POINT; RUNNING THENCE N86°43'W A DISTANCE OF 8.0 FEET TO A POINT;
RUNNING THENCE S01°44'W A DISTANCE OF 410.9 FEET TO A POINT ON THE
SOUTH LINE OF LAND LOT 97; RUNNING THENCE S88°12'E ALONG THE SOUTH
LINE OF LAND LOT 97 A DISTANCE OF 8.0 FEET TO THE SOUTHEAST CORNER OF
LAND LOT 97 (SAID CORNER BEING THE COMMON CORNER OF LAND LOTS 97,
98, 62, AND 63); RUNNING THENCE S87°42'E ALONG THE NORTH LINE OF LAND
LOT 62 A DISTANCE OF 1343.7 FEET TO A POINT; RUNNING THENCE S39°34'30"W
A DISTANCE OF 891.3 FEET TO A POINT; RUNNING THENCE N57°27'30"W A
DISTANCE OF 9.4 FEET TO A POINT; RUNNING THENCE S31°10'W A DISTANCE OF
798.1 FEET TO THE NORTHEASTERLY R/W OF PIEDMONT ROAD (60' R/W) AND
THE POINT OF BEGINNING. SAID PROPERTY CONTAINING 42.8 ACRES.

2-84-96

Exhibit A
2-01-53/2-84-96

2 of 2



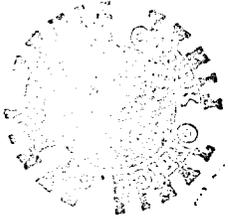
C-1-C-120

EXHIBIT B

ADDITIONAL CONDITIONS FOR Z-01-53/Z-84-96

1. A landscape plan to be approved by the Bureau of Planning, to be based on the plan entitled "Planting Plan at 50'-0 Setback" prepared by Smallwood Reynolds, Stewart, Stewart and Associates, Inc., Architects, dated August 1, 2001 and marked received by the Bureau of Planning August 2, 2001, but modified to include the following conditions (with such modifications also to be made to the Site Plan as required):
 - a) A 50 foot buffer shall be provided along the Northern Property line adjacent to the Allison Drive neighborhood. Twenty feet of this area adjacent to the proposed parking deck shall be disturbed for construction activities. A 30 foot natural buffer is maintained contiguous to the residential property. Proper silt fencing and tree save fencing shall be installed to protect the natural area.
 - b) The required 30 foot natural buffer must remain undisturbed except to the minimum extent necessary to accomplish the following:
 - 1) All dead trees must be cut down and removed.
 - 2) Existing dead wood and Kudzu must be removed.
 - 3) The 50 foot buffer area shall be replanted where sparsely vegetated and where disturbed. The buffers should be replanted to meet the following standards:

The buffer must provide a visual barrier to a height of 10 feet within eighteen months of planting. To accomplish this screening, the plant materials must be a minimum of 8 feet in height at time of planting, moderately growing evergreen and have branching all the way to the ground. Slower growing trees may be used if larger caliper materials are used. All buffer plant materials are subject to approval by the City Arborist. There shall be a minimum of six planting rows within the buffer area with plants placed at a minimum of 10 feet on center.
2. In the event of any proposed administrative or other amendments to the conditional site plan referenced in Section 1 of this ordinance, the Chairperson of the Zoning Committee of the North Buckhead Civic Association shall be given five (5) days written notice in advance of any application for same.

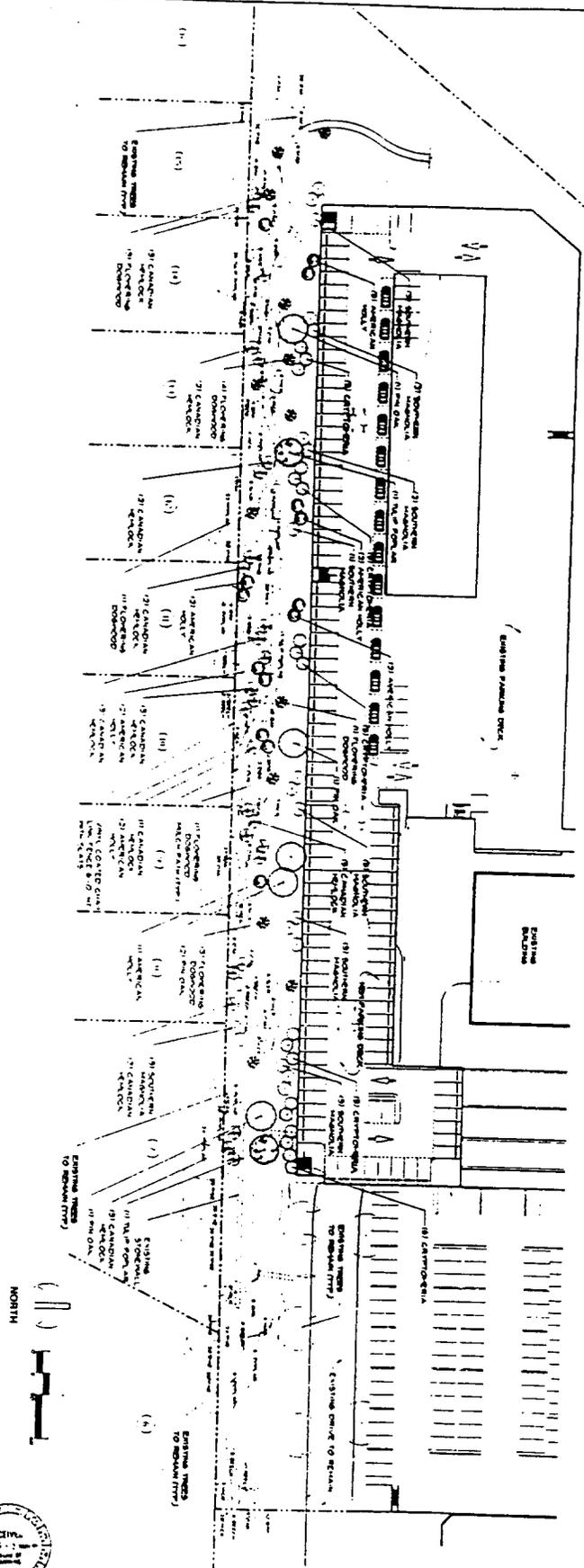
- 
3. The parking deck structure shall be designed such that the exterior will provide screening to defuse all parking deck lighting and sound generated from the deck. The interior of the parking garage shall be coated with a noise-deadening material such as K-13 by International Cellulose Corporation. There shall be a combination of concrete knee walls and louvers or screening with sufficient architectural detail to provide an appropriate visual view from the residents on Allison Drive.
 4. Prior to issuance of a Land Disturbance Permit, the Developer shall provide the City of Atlanta Public Works Department with a current Hydrology Study which verifies that the current detention facilities are providing the reduction of peak flow rates during 10-year, 25-year and 100-year storm events approved by the City of Atlanta when Building 9-12 of Piedmont Center were originally developed. Further, design for storm water runoff for all new development shall be in compliance with all current requirements of the City of Atlanta for storm water management.
 5. The exterior of the deck will be painted a dark green color so it will visually recede to the background.
 6. The developer is required to designate and retain a neighborhood coordinator. This person shall be available 24/hrs, 7/days a week by cell and hard phone lines. A log will be kept of all complaints. It will list the name, date and time of complaint – what remedy was effected, by whom and on what date. This log will be available, upon request, with a 24-hour notice.
 7. Construction will only occur between 7 am and 7 pm Monday-Friday. There shall be no construction on the weekends or other times or days prohibited under any other Ordinance of the City.
 8. Maintenance of the Parking Deck will be restricted to Monday-Saturday 7am-7pm. There shall be no blowing, vacuuming, power washing or any other mechanical maintenance on Saturday evenings or on Sundays. Maintenance of the exterior walls shall be to the same standards and diligence as the exterior walls of the office buildings in the complex are maintained.
 9. There shall be no access from the parking decks for Buildings 9-12 and the new building through the parking deck under Building 14 to access Old Ivy Road. All vehicular traffic shall be directed to the Piedmont Road entrance.
 10. No building permit shall be issued for the proposed parking deck that does not also include the proposed seven story office building as shown on the approved site plan referenced above.

PLANT LIST

GENERAL NOTES:
 1. THE CONTRACTOR SHALL BE STATED BY THE CONTRACTOR AND APPROVED BY THE ARCHITECT BEFORE ANY PLANTING OR REMOVAL OF PLANTING.
 2. EXISTING TREES ON ADJACENT PROPERTY WILL BE MAINTAINED AND PROTECTED. ALL NEW PLANTING SHALL BE INSTALLED WITHIN THE SPECIFIED SETBACKS.
 3. EXISTING TREES ON ADJACENT PROPERTY WILL BE MAINTAINED AND PROTECTED.
 4. EXISTING TREES ON ADJACENT PROPERTY WILL BE MAINTAINED AND PROTECTED.

NO.	PLANT SPECIES	QUANTITY	LOCATION	NOTES
1	AMERICAN OAK	10	ALONG SIDE OF DRIVE	PLANTING TO BE COMPLETED BY DATE OF COMMENCEMENT OF CONSTRUCTION.
2	DOGWOOD	10	ALONG SIDE OF DRIVE	PLANTING TO BE COMPLETED BY DATE OF COMMENCEMENT OF CONSTRUCTION.
3	DOGWOOD	10	ALONG SIDE OF DRIVE	PLANTING TO BE COMPLETED BY DATE OF COMMENCEMENT OF CONSTRUCTION.
4	DOGWOOD	10	ALONG SIDE OF DRIVE	PLANTING TO BE COMPLETED BY DATE OF COMMENCEMENT OF CONSTRUCTION.
5	DOGWOOD	10	ALONG SIDE OF DRIVE	PLANTING TO BE COMPLETED BY DATE OF COMMENCEMENT OF CONSTRUCTION.
6	DOGWOOD	10	ALONG SIDE OF DRIVE	PLANTING TO BE COMPLETED BY DATE OF COMMENCEMENT OF CONSTRUCTION.
7	DOGWOOD	10	ALONG SIDE OF DRIVE	PLANTING TO BE COMPLETED BY DATE OF COMMENCEMENT OF CONSTRUCTION.
8	DOGWOOD	10	ALONG SIDE OF DRIVE	PLANTING TO BE COMPLETED BY DATE OF COMMENCEMENT OF CONSTRUCTION.
9	DOGWOOD	10	ALONG SIDE OF DRIVE	PLANTING TO BE COMPLETED BY DATE OF COMMENCEMENT OF CONSTRUCTION.
10	DOGWOOD	10	ALONG SIDE OF DRIVE	PLANTING TO BE COMPLETED BY DATE OF COMMENCEMENT OF CONSTRUCTION.

PLANTING PLAN AT 50'-0" SETBACK



Smallwood, Reynolds, Stewart, Stewart & Associates, Inc. Architects

One Piedmont Center, Suite 303 3565 Piedmont Road Atlanta, Georgia 30305

L3-01	PLANTING PLAN AT 50'-0" SETBACK	ADDITON TO PIEDMONT CENTER PIEDMONT CENTER 16	DATE: 11/13/13	SCALE: AS SHOWN	PROJECT NO. 13-01	SHEET NO. 16	TOTAL SHEETS: 16	DRAWN BY: [Name]	CHECKED BY: [Name]	APPROVED BY: [Name]	DATE: 11/13/13	SCALE: AS SHOWN	PROJECT NO. 13-01	SHEET NO. 16	TOTAL SHEETS: 16	DRAWN BY: [Name]	CHECKED BY: [Name]	APPROVED BY: [Name]
											DATE: 11/13/13	SCALE: AS SHOWN	PROJECT NO. 13-01	SHEET NO. 16	TOTAL SHEETS: 16	DRAWN BY: [Name]	CHECKED BY: [Name]	APPROVED BY: [Name]

NOT ISSUED FOR CONSTRUCTION



RCS# 3255
11/05/01
7:15 PM

Atlanta City Council

Regular Session

01-O-1264

Z-01-53/Z-84-96; Rezone 3495-3525-3565
Piedmont Rd. from O-I-C & R-3 to PD-OC
ADOPT/SUB/AMEND

YEAS: 10
NAYS: 4
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 0

N McCarty	Y Dorsey	NV Moore	Y Thomas
Y Starnes	Y Woolard	N Martin	Y Emmons
N Bond	Y Morris	Y Maddox	Y Alexander
Y Winslow	Y Muller	N Boazman	NV Pitts

CORRECTED COPY

01-O-1264

01-0-1264

AN ORDINANCE 2-01-53/2-84-96
BY: ZONING COMMITTEE

AN ORDINANCE TO AMEND ORDINANCE 2-84-96,
AS AMENDED, ADOPTED BY CITY COUNCIL
DECEMBER 3, 1984 AND APPROVED BY THE
MAYOR DECEMBER 5, 1984, REZONING FROM
THE O-1 (OFFICE-INSTITUTIONAL), O-1-C
(OFFICE-INSTITUTIONAL-CONDITIONAL),
& R-3 (SINGLE-FAMILY RESIDENTIAL)
DISTRICTS TO THE PD-OC (PLANNED
DEVELOPMENT-OFFICE COMMERCIAL). DISTRICT,
PROPERTY LOCATED AT 3495-3525-3565
PIEDMONT ROAD, N.E., FOR THE PURPOSE
OF APPROVING AN AMENDED SITE PLAN.
OWNER: PIEDMONT IVY ASSOCIATES, LLC
APPLICANT: SAME
BY: CARL E. WESTMORELAND, JR., ESQ.
NPU-B COUNCIL DISTRICT 7

ADOPTED BY
NOV 05 2001
COUNCIL

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

Date Referred: 8/10/01
Referred To: Zoning

Substitute As Amended

Committee of the Whole
Date 8-6-01
Chair Sam M. Spaw

Committee
Date 9-25-01
Chair

Action
Fav, Adv, Held (see rev. side)
Other
Members

Refer To

Committee
Date 10-30-01
Chair
Action
Fav, Adv, Held (see rev. side)
Other
Members

Refer To

Committee

Date

Action
Fav, Adv, Held (see rev. side)
Other
Members

Refer To

Committee

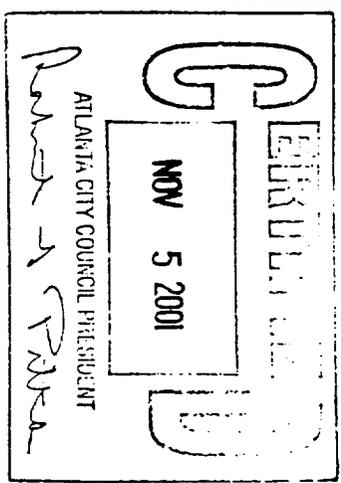
Date

Action
Fav, Adv, Held (see rev. side)
Other
Members

Refer To

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

CERTIFIED



CERTIFIED
NOV 05 2001

DEPUTY MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

NOV 14 2001

WITHOUT SIGNATURE
BY OPERATION OF LAW



ATTACHMENT - 2

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

FILED IN OFFICE
MAR 25 2012
DEPUTY CLERK OF COURT
FULTON COUNTY, GA

PIEDMONT IVY ASSOCIATES, LLC)
)
) Plaintiff,)
)
vs.)
)
THE CITY OF ATLANTA, GEORGIA, et al)
)
) Defendants.)

Civil Action File No.
2000-cv-24204

CONSENT ORDER ON PLAINTIFF'S MOTION TO ENFORCE THE COURT'S FINAL ORDER AND JUDGMENT

NOW COME, Piedmont Ivy Associates, LLC and the City of Atlanta, Georgia and the other named Defendants by and through their respective counsel and in settlement of the Plaintiff's Motion to Enforce the Court's Final Order and Judgment have agreed to certain facts and findings in settlement thereof which the Court hereby accepts and enters this order which has the consent of all parties as to the conditions to be imposed and as set forth below becomes the final order of this Court on the Plaintiff's Motion to Enforce the Court's Final Order and Judgment.

This is a case that appealed the denial of a site plan amendment of the subject property's PD-OC (Planned Development-Office-Commercial) zoning. The property at issue is the present site of Piedmont Center, Buildings 9-12, located at various addresses on Piedmont Road (3495, 3525, 3565), the proposed site of Building 16 and a parking deck which faces Allison Drive (the "Property"). Plaintiff filed a Complaint sounding in five counts which alleged that as a result of the Atlanta City Council's refusal to grant its site

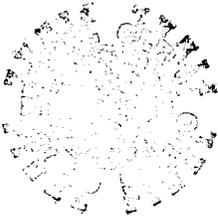


plan amendment, that it has suffered a taking of its property without compensation (Counts One and Two), that its due process rights has been violated because the existing and proposed conditions on the PD-OC are arbitrary, irrational and not being uniformly applied (Count Three), an Equal Protection claim (Count Four), and an inverse condemnation claim (Count Five).

After a bench trial, the Hon. Cynthia Wright entered an order to rezone the Property in a constitutional manner and within a reasonable time. The Atlanta City Council did grant the site plan amendment in Ordinance 01-O-1264, but did so with conditions to which the Plaintiff objects. The Plaintiffs filed a Motion to Enforce the Court's Final Order and Judgment alleging that the conditions imposed by Exhibit B in Ordinance 01-O-1264 are unconstitutional and in violation of the Court's order. The City denied all allegations, both as to the unconstitutionality of the conditions and that the imposition of the conditions violated the Court's order.

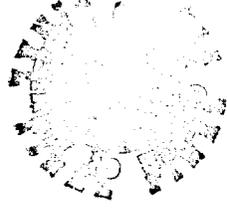
A hearing on said motion was held on March 1, 2002. At the hearing, the parties agreed that if possible they would develop certain conditions for the Property which could by agreement be substituted for those imposed by Exhibit B of Ordinance 01-O-1264. The parties have agreed that the ten (10) conditions presently contained in Exhibit B of Ordinance 01-O-1264 should be deleted and the seven (7) conditions contained in this Order should be adopted in their place. The conditions are as follows:

1. A portion of the Property shall be landscaped according to the landscape plan entitled "Planting Plan at 50' Setback" prepared by the Smallwood Reynolds, Stewart, Stewart and Associates, Inc., Architects, dated August 1, 2001 and marked



received by the Bureau of Planning August 2, 2001.

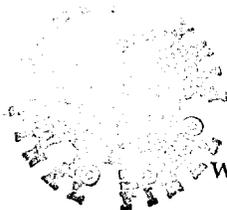
2. The parking deck structure shall be designed and constructed in the same manner as the existing decks, specifically to include a knee wall on all levels which is at least 40" in height.
3. Prior to the issuance of a Land Disturbance Permit, the Developer shall provide the City of Atlanta Department of Public Works Department with a current hydrology study which verifies that the current detention facilities are providing the reduction of peak flow rates during 10-year, 25-year and 100-year storm events approved by the City of Atlanta when Buildings 9-12 were originally developed. Further, design for storm water runoff shall be in compliance with all current requirements of the City of Atlanta for storm water management.
4. The exterior of the deck will be painted a dark green color and repainted when reasonably necessary.
5. During construction, the developer is required to designate and retain a neighborhood coordinator. This person shall be available in the Piedmont Center Property Management office at all times during the hours of construction and a message machine will be used at other hours. The telephone number of the neighborhood coordinator and the site office and/or main office for the general contractor will be provided in writing to the Chairperson of the Zoning Committee



of the North Buckhead Civic Association prior to the beginning of any construction. The neighborhood coordinator will keep a written record of all complaints and shall make the record available to the City upon reasonable request.

6. Construction on the parking deck will occur only between 7:00 am and 7:00 pm Monday through Friday, except that when necessary to assemble the pre-cast decking, such assembly of the pre-cast decking may be performed on Saturdays but only 12 Saturdays during the deck construction period may be used for this purpose. There may be work on the exterior structure of Building 16 between 7:00 am and 7:00 pm Monday through Saturday. After the roof and walls of Building 16 are in place, construction work may be undertaken on the interior of Building 16 at times other than those just specified, provided however, there shall be no construction at times or days prohibited under any other Ordinance of the City. All deliveries of materials shall occur between 7:00 am and 7:00 pm Monday through Friday, provided that the delivery of the pre-cast concrete decking may occur on the 12 Saturdays during which the construction of the deck is permitted.
7. Ordinary maintenance and cleaning of the parking deck will be restricted to between 7:00 am and 7:00 pm Monday through Saturday. There shall be no blowing, vacuuming, power washing or any other ordinary mechanical maintenance after 4:00 pm on Saturday or at any time on Sunday.

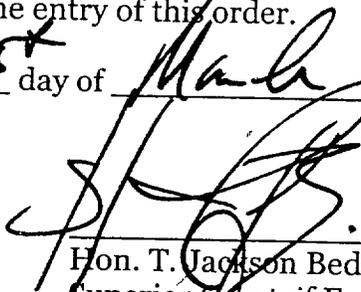
This case is REMANDED to the Atlanta City Council for further action consistent



with the terms of this Consent Order. Such action shall be accomplished in a reasonable time.

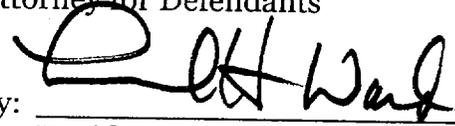
All other matters addressed in the Plaintiff's Motion to Enforce the Court's Final Order and Judgment alleging that some or all of the conditions imposed by Exhibit B of Ordinance 01-O-1264 are unconstitutional or otherwise contrary to law are rendered moot by the agreement of the parties to the entry of this order.

SO ORDERED, this the 20th day of March 2002.



Hon. T. Jackson Bedford, Judge
Superior Court of Fulton County
Atlanta Judicial Circuit

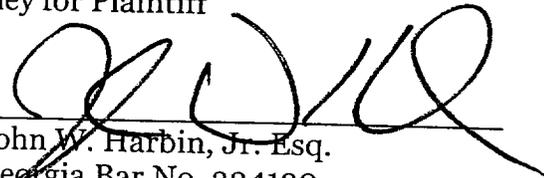
Attorney for Defendants

By: 

David D. Blum
Senior Assistant City Attorney
Ga. Bar No. 064500
Lemuel H. Ward
Senior Assistant City Attorney
Ga. Bar No. 737030

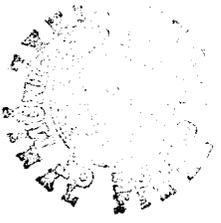
City of Atlanta
Department of Law
68 Mitchell Street, S.W. Suite 4100
Atlanta, GA 30335-0332
404 330 6400

Attorney for Plaintiff

By: 

John W. Harbin, Jr. Esq.
Georgia Bar No. 324130
Carl E. Westmoreland, Jr. Esq
Georgia Bar No. 749950
Simon H. Bloom
Georgia Bar No. 063298

Powell, Goldstein, Frazer & Murphy LLP
191 Peachtree Street, N.E., Sixteenth Floor
Atlanta, GA 30303
404 572 6600



ATTACHMENT - 3

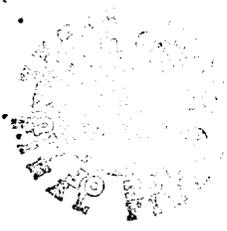


EXHIBIT B

ADDITIONAL CONDITIONS FOR Z-01-53/Z84/96 (AS AMENDED)

1. A portion of the Property shall be landscaped according to the landscape plan entitled "Planting Plan at 50' Setback" prepared by the Smallwood Reynolds, Stewart, Stewart and Associates, Inc., Architects, dated August 1, 2001 and marked received by the Bureau of Planning August 2, 2001.
2. The parking deck structure shall be designed and constructed in the same manner as the existing decks, specifically to include a knee wall on all levels which is at least 40" in height.
3. Prior to the issuance of a Land Disturbance Permit, the Developer shall provide the City of Atlanta Department of Public Works Department with a current hydrology study which verifies that the current detention facilities are providing the reduction of peak flow rates during 10-year, 25-year and 100-year storm events approved by the City of Atlanta when Buildings 9-12 were originally developed. Further, design for storm water runoff shall be in compliance with all current requirements of the City of Atlanta for storm water management.
4. The exterior of the deck will be painted a dark green color and repainted when reasonably necessary.
5. During construction, the developer is required to designate and retain a neighborhood coordinator. This person shall be available in the Piedmont Center Property Management office at all times during the hours of construction and a message machine will be used at other hours. The telephone number of the neighborhood coordinator and the site office and/or main office for the general contractor will be provided in writing to the Chairperson of the Zoning Committee of the North Buckhead Civic Association prior to the beginning of any construction. The neighborhood coordinator will keep a written record of all complaints and shall make the record available to the City upon reasonable request.
6. Construction on the parking deck will occur only between 7:00 am and 7:00 pm Monday through Friday, except that when necessary to assemble the pre-cast decking, such assembly of the pre-cast decking may be performed on Saturdays but only 12 Saturdays during the deck construction period may be used for this purpose. There may be work on the exterior structure of Building 16 between 7:00 am and 7:00 pm Monday through Saturday. After the roof and walls of Building 16 are in place, construction work may be undertaken on the interior of Building 16 at times other than those just specified, provided however, there shall be no construction at times or days prohibited under any other Ordinance of the City. All deliveries of materials shall occur between 7:00 am and 7:00 pm Monday through Friday, provided that the delivery of the pre-cast concrete decking may occur on the 12 Saturdays during which the construction of the deck is permitted.
7. Ordinary maintenance and cleaning of the parking deck will be restricted to between 7:00 am and 7:00 pm Monday through Saturday. There shall be no blowing, vacuuming, power washing or any other ordinary mechanical maintenance after 4:00 pm on Saturday or at any time on Sunday.

RCS# 3843
7/01/02
2:04 PM

Atlanta City Council

Regular Session

MULTIPLE

02-O-0696/Z-02-30
02-O-0878/Z-02-40
ADOPT

YEAS: 14
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 0

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	NV Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Boazman	NV Woolard

MULTIPLE

AN ORDINANCE BY 02-0-0696

ZONING COMMISSION (Above This Line)

Z-02-3c
 AN ORDINANCE TO AMEND ORDINANCE Z-01-53/Z-84-96, AS AMENDED, AS ADOPTED BY CITY COUNCIL DECEMBER 3, 1984 AND APPROVED BY THE MAYOR ON DECEMBER 5, 1984 REZONING FROM THE O-1 (OFFICE-INSTITUTIONAL), O-1-C (OFFICE-INSTITUTIONAL-CONDITIONAL) AND R-3 (SINGLE FAMILY RESIDENTIAL) DISTRICTS TO THE PD-OC (PLANNED DEVELOPMENT-OFFICE COMMERCIAL DISTRICT, PROPERTY LOCATED AT 3495-3525-3565 PIEDMONT ROAD, N.J.). FOR THE PURPOSE OF DELETING CONDITIONS ON THE SITE PLAN, AS AMENDED BY THE COUNCIL ON NOVEMBER 5, 2001 AND APPROVED BY CITY CHARTER SECTION 2-403 ON NOVEMBER 14, 2001 AND REPLACING SAID CONDITIONS WITH NEW CONDITIONS CONTAINED IN THIS ORDINANCE.

OWNER: PIEDMONT IVY ASSOCIATES, LLC
 APPLICANT: SAME

BY: CARL E. WESTMORELAND, JR., MS9.
 NPUB: COUNCIL DISTRICT 7

- CONSENT REFER
 - REGULAR REPORT REFER **ADOPTED BY**
 - ADVERTISE & REFER
 - 1st ADOPT 2nd READ & REFER **JUL 01 2002**
 - PERSONAL PAPER REFER
- COUNCIL**

Date Referred: 4/16/02
 Referred To: Zoning
 Date Referred: 5/16/02
 Referred To: Zoning
 Date Referred:
 Referred To:

Committee: Zoning
 Date: April 16, 2002
 Chair: Carl E. Westmoreland, Jr.
 Referred to: Zoning

Committee: Zoning
 Date: June 26, 2002
 Chair: Carl E. Westmoreland, Jr.
 Action: Fav, Adv, Hold (see rev. side)
 Other:
 Members: Carl E. Westmoreland, Jr., Carl E. Westmoreland, Jr., Carl E. Westmoreland, Jr.
 Refer To:

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

FINAL COUNCIL ACTION
 2nd Reading
 1st & 2nd Readings
 3rd Reading
 Consent
 V Vote
 RC Vote

CERTIFIED
 JUL 01 2002
 Carl E. Westmoreland, Jr.
 MAYOR

CERTIFIED
 JUL 01 2002
 Carl E. Westmoreland, Jr.
 MUNICIPAL CLERK

MAYOR'S ACTION
 Carl E. Westmoreland, Jr.
 JUL 9 2002
 MAYOR