



City Council
Atlanta, Georgia

02-0-0358

A SUBSTITUTE ORDINANCE
BY: ZONING COMMITTEE

Z-02-03/Z-84-52

AN ORDINANCE TO AMEND ORDINANCE Z-84-52,
ADOPTED BY CITY COUNCIL AUGUST 6, 1984 AND
APPROVED BY THE MAYOR AUGUST 8, 1984, REZONING
FROM THE C-3 (COMMERCIAL-RESIDENTIAL) DISTRICT
TO THE PD-OC (PLANNED DEVELOPMENT-OFFICE
COMMERCIAL) DISTRICT, PROPERTY LOCATED AT
3060 PEACHTREE ROAD, N.W., FOR THE PURPOSE
OF APPROVING A REVISED SITE PLAN AND CHANGE
OF CONDITIONS.

OWNER: BUCKHEAD PLAZA LAND TRUST
APPLICANT: REALTY DEVELOPMENT CORPORATION
BY: NATHAN V. HENDRICKS III, ESQ., ATTORNEY
NPU-B COUNCIL DISTRICT 8

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

SECTION 1. That all currently approved site plans and other conditions governing the development of the property located at **3060 Peachtree Road, N.W.**, more particularly described by the attached legal description identified as Exhibit A, are hereby deleted in their entirety.

SECTION 2. That the development of the property described in Section 1 above shall be governed by the applicable conditions contained in the attached letter identified as Exhibit B, from William F. Kennedy to John Bell, Zoning Administrator, consisting of ten (10) pages, dated January 8, 2003 and marked received by the Bureau of Planning January 8, 2003.

SECTION 3. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

A true copy,

Rhonda Daughin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

FEB 03, 2003
FEB 11, 2003



William F. Kennedy

Telephone 404-504-9814
Fax 404-231-5097

1324 The Princeton Building
4403 Northside Parkway, N.W.
Atlanta, Georgia 30327

January 8, 2003



Mr. John Bell, Zoning Administrator
City of Atlanta Bureau of Planning
Suite 3350 City Hall
55 Trinity Avenue, SW
Atlanta, Georgia 30335

Re: Z-02-03/Z-84-52
Buckhead Plaza
West Paces Ferry Road and Peachtree Road

Z-02-03/Z-84-52
Exhibit B
page 1 of 10

Dear Mr. Bell:

Neighborhood Planning Unit "B" voted at their regular meeting on January 7, 2003, to approve the subject application based on the eight-page set of conditions that I have attached to this letter. We have the support of the Peachtree Heights West Civic Association as well as the support of NPU-B.

On Monday, January 6, 2003, we filed with your office the site plan, the elevation, and the two renderings that accompany this application and that are recited in the attached conditions. I am filing as an attachment to the conditions the perspective of the proposed hotel that is referenced as Attachment A on page 8 of the conditions.

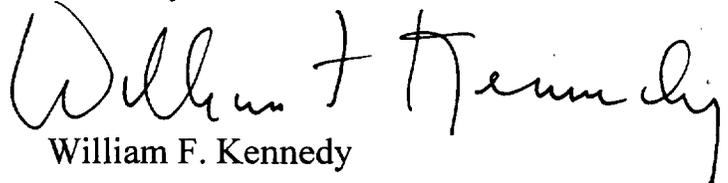
In addition Steve Middendorf, the landscape architect for the project from The Preston Partnership, will file today with your office the plan entitled "West Paces Ferry Road and Western Buffer Zone Tree Planting Plan". Mr. Edward Daugherty who represents Peachtree Heights West Civic Association has approved this plan. The plan has also been reviewed and



approved by Frank Mobley, Chief Arborist, pursuant to your direction to us on Monday.

Thank you, Nyna Gentry, and the other members of your staff for the time and attention you have given our team in this application over the past year that it has been under consideration. We hope to have your recommendation of approval for this important mixed-use project that we believe will move the center of Buckhead toward becoming the high quality live-work environment that is envisioned in the Comprehensive Development Plan. Please call me if there are questions regarding our application.

Sincerely,


William F. Kennedy

Copy to

Chairperson and All Members of the Zoning Review Board
Ms. Nyna Gentry, Bureau of Planning
Ms. Waldtraut Lavroff, Moderator, NPU-B
Ms. Cathy Muzzy, Chair, Zoning Committee, NPU-B
Ms. Sally Silver, Chair, Dev. and Tpn. Comm., NPU-B
Mr. Robert Parker, Esq., Peachtree Heights West Civic Association
Mr. Ron Rogers, Esq., Peachtree Heights West Civic Association
Mr. Edward L. Daugherty, Peachtree Heights West Civic Association
Mr. Robert L. Zoeckler, Esq.
Mr. Kent S. Levenson, EaslanCapital
Mr. Marc S. Pollack, Realty Development Corporation
Mr. Jimmy Baugnon, Realty Development Corporation
Mr. Bill Hall, Realty Development Corporation
Mr. Nathan V. Hendricks, III, Esq.
Mr. Bob Preston, The Preston Partnership
Mr. Steve Middendorf, The Preston Partnership
Mr. Carl E. Westmoreland, Jr., Esq.

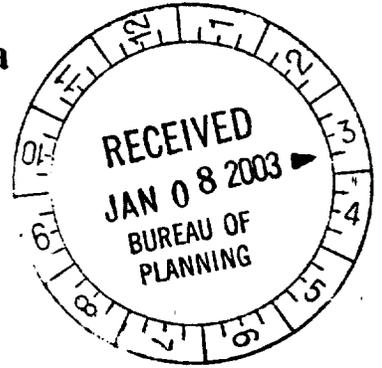
2-02-03 / 2-84-52

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Zoning Conditions for Buckhead Plaza
Applicable to
Z-02-02/Z-84-52
and
Z-02-03/Z-84-52
January 7, 2003



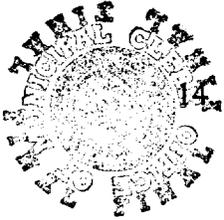
1. Landscaping will be provided as indicated on the applicable site plans, landscape plans and written conditions as hereinafter defined for each of the above zoning applications. Balconies, roof gardens, and similar non-ground level spaces shall not be included in calculating minimum landscape requirements. Pervious paving material will be utilized where feasible. Pervious joints shall be provided between all pavers on grade. Buffer areas and protected trees shall be marked using temporary chain link construction fencing no less than four feet in height prior to and maintained during the period of construction. All erosion control measures shall be installed outside any undisturbed buffer.
2. The applicant will become a member of the Buckhead Area Transportation Management Association (BATMA) prior to the issuance of a certificate of occupancy for the first building in the development and will pay its pro rata contribution to the Buckhead Community Improvement District to fund BATMA (that percentage of the BCID contribution which goes to BATMA) at such time as BATMA shuttle service is provided to the property, even if the property is not within the Buckhead Community Improvement District, unless the property is at that time located within another Community Improvement District. Prior to shuttle service being provided by an off-site entity such as BATMA, the applicant will provide or participate with other property owners to provide a shuttle service between the Buckhead Plaza development and the Buckhead MARTA station, beginning at such time as a minimum of 12 persons in the first occupied building sign up to use such service in the morning and afternoon peak hours.
3. The applicant will utilize its best efforts to assist the neighborhood in obtaining a left turn lane or other traffic improvement measures for northbound traffic on Peachtree Road, turning west on Pharr Road.
4. The applicant shall provide the maximum of either (a) 25 bicycle parking spaces or (b) the number of bicycle parking spaces required by the City of Atlanta based on the number of automobile parking spaces, whichever number is greater. The number of bicycle parking spaces installed shall meet the City's minimum requirements during each phase of the development. These spaces shall be located as close as practicable to the buildings while, in the developer's sole discretion, maintaining the architectural integrity of the buildings and their landscaping and hardscaping schemes.

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Tour buses and limousines will be prohibited from parking on the drive between the Buckhead Plaza development and Pharr Road, subject to the easement rights of various parties in such drive.

6. Walkways and other connective measures will be designed to connect and unify the development with existing and planned walkways within the overall Buckhead Plaza PD-OC district to facilitate pedestrian movement and internal vehicle movements and parking as indicated on the site plan.
7. At such times as access to sidewalks which are located along the Peachtree Road frontage are temporarily closed due to construction of this development, the applicant shall comply with Atlanta City Codes regarding sidewalk closure, including, in particular, the signage requirements of Section 138-65 and 138-67.
8. All sanitary sewage from the property will be directed or pumped directly into the Peachtree Outfall Sewer line on the Peachtree Road frontage of the property. The applicant shall not transfer sanitary sewage to another sewer basin unless the requirements of the First Amended Consent Decree (Section VIII.B.8-Capacity Certification Program) to assure adequate sewer capacity are satisfied and signed off by the Commissioner of Public Works or appropriate commissioner.
9. All stormwater detention facilities shall be located below grade.
10. No building permit (other than a permit limited to grubbing, grading, the installation of new or changes in modifications to existing site infrastructure, including alteration of existing interior roadways) shall be issued permitting the construction of any buildings without written assurance from the City of Atlanta's Commissioner of Public Works that sewer capacity is available and reserved for the site, or will be available to and reserved for the site prior to the completion of construction. Under no circumstances will a Certificate of Occupancy or temporary Certificate of Occupancy issue unless sewer capacity is confirmed to be available and reserved for the site in writing by said Commissioner.
11. All dumpsters and service facilities shall be screened and shall be located as set forth on the additional conditions and/or site plan.
12. All exterior lighting shall be designed, shielded and constructed so as to prevent light spill onto adjoining residential areas.
13. No exterior loudspeakers or amplified music or sound systems of any kind shall be used in the development with the exception that one restaurant located in the first floor of the building facing Peachtree Road may have external speakers for music facing Peachtree Road, if and when such restaurant has outdoor tables to provide background music of a type typically found in restaurants in similar developments. The volume of any such music shall be consistent with the volume at which the music is transmitted in the interior of the restaurant.



All restaurants shall be required to install grease traps or some other device approved by the City and Fulton County that substantially mitigates the discharge of untreated grease into the public sewer system. The grease traps or other approved devices must be adequately maintained and inspections regularly scheduled.

15. Authorized uses are limited to those set forth on the Site Plan as further limited by these conditions. Said uses shall be located only where indicated on said plan. There shall be no adult entertainment uses. Restaurant uses shall not include fast-food establishments, except that two (2) such establishments shall be authorized provided they meet each of the following criteria:

- (i) Are located adjacent to other retail uses and not in a stand-alone or out-parcel building;
- (ii) Do not exceed 2000 square feet of total interior heated space; and
- (iii) Close by 12:00 a.m. each day.

For the purposes hereof, a fast-food establishment shall be an operation which is typically found as a stand-alone restaurant with drive-through windows such as McDonalds, Burger King, Wendy's or Arby's and shall not include coffee shops, delicatessens or bakeries. Drive-throughs, except those for financial institutions, are specifically prohibited. Except as otherwise specifically provided herein, no establishments shall be allowed which hold a license for alcohol consumption on the premises except eating and drinking establishments. The primary purpose of any said eating and drinking establishment shall be for food consumption and each said establishment shall derive at least 50% of its total annual gross food and beverage sales from the sale of prepared meals or food. Notwithstanding these prohibitions, two (2) establishments not meeting these eating and drinking establishment requirements shall be authorized provided they meet each of the following criteria:

- (i) Face Peachtree Road or the plaza between the applicant's development and the One Buckhead Plaza office building or are located within and operated as an integral part of a hotel;
- (ii) Are properly licensed as and meet every requirement for a nightclub with the City of Atlanta as defined in Code Section 10-1 of the City's Alcoholic Beverages Code;
- (iii) Have no more than 2000 square feet of total interior heated space excluding any outdoor seating area, whether covered or uncovered, which outdoor seating area shall not exceed 750 square feet; and
- (iv) Have music provided only within the interior of the premises and only by acoustical instruments such as a piano.

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The provisions of this paragraph 15 shall apply separately to each of the zoning cases covered by these conditions.

16. The development shall comply with existing City of Atlanta ordinances with regard to hours of construction and noise limitations. During construction, all construction vehicles will be parked on-site and not on the surrounding public streets. Also, during the period of construction, the developer will notify the presidents of each of the SPI-9 neighborhoods, the president of the Peachtree Heights West Civic Association, the president of Habersham Estates Condominium Association, the property manager of One Buckhead Plaza, and the Chair of the Zoning Committee of NPU-B of a contact name and telephone number which will be answered or on which messages may be left 24 hours a day, 7 days a week regarding problems with the construction.
17. The applicant shall draft, have introduced and support appropriate legislation that will require that all transportation impact fees generated from this development will be used to study and/or mitigate traffic in the area surrounding the development.
18. The applicant will request that an ordinance be introduced to change the City of Atlanta Comprehensive Development Plan designation of the property from High Density Commercial to Mixed Use (maximum FAR of 3.0), consistent with applicant's proposed development.
19. These conditions of zoning shall be binding upon all successors and assigns of the applicant. The subdivision, sale, or partition of all or any part of this property shall not alter the obligation of all owners of the property to comply with these conditions of zoning.
20. The applicant will not request any administrative site plan amendment which seeks to change any of the conditions contained herein without first giving notice of such request to the president of each of the SPI-9 neighborhoods, the president of the Peachtree Heights West Civic Association, the president of Habersham Estates Condominium Association, the property manager of One Buckhead Plaza, and the Chair of the Zoning Committee of NPU-B. However, the applicant will have the right to request administrative changes in the site plan without such notification so long as such changes are required to comply with technical permitting requirements of the City of Atlanta and do not: (a) increase the height in stories or square footage of any building or the number of parking spaces; (b) change any of the uses or location of said uses specified on the site plan; (c) decrease any exterior setback or the amount of landscaped area; (d) materially reduce public access or public spaces; or (e) otherwise materially alter these conditions.
21. All of these narrative conditions will be attached to the final site plan filed with the City of Atlanta.

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The following additional conditions shall apply only to Z-02-02/Z-84-52:

1. The property shall be developed in accordance with: (a) the site plan entitled "Buckhead Plaza Mixed-Use Development Scheme 'A'" prepared by the Preston Partnership, LLC and Corcoran Nelson Nardone Associates, Inc. dated August 20, 2002, revised October 23, 2002; the "Landscape Plan Scheme 'A'" prepared by the Preston Partnership, LLC, revised October 23, 2002; and the Plaza Level Scheme A Site Plan" prepared by Corcoran Nelson Nardone Associates, Inc. dated October 10, 2002, or (b) the site plan entitled "Buckhead Plaza Mixed-Use Development Scheme 'B'" prepared by the Preston Partnership, LLC and Corcoran Nelson Nardone Associates, Inc. dated August 20, 2002, revised October 14, 2002; the "Landscape Plan Scheme 'B'" prepared by the Preston Partnership, LLC, dated October 14, 2002.
2. The buildings' architectural style and materials shall be substantially similar to the rendering by The Preston Partnership, LLC and Corcoran Nelson Nardone Associates, Inc. dated August 20, 2002.
3. The parking deck northern façade shall have architectural style, materials and layout that are substantially similar to the rendering entitled "Plaza Elevation Scheme 'A-2'" by Corcoran Nelson Nardone Associates, Inc., dated October 10, 2002, whether the site is developed under Scheme A or Scheme B.
4. Building sizes and uses shall be as follows:
 - (1) Office Building:
 - (a) Seven (7) stories in height (\pm 124 feet).
 - (b) Ground floor containing 27,822 gross square feet of retail including restaurants.
 - (c) Floors two through seven containing 165,046 gross square feet of office use.
 - (2) Residential Building:
 - (a) Nineteen (19) stories in height (\pm 216 feet).
 - (b) 270 residential units.
 - (c) 288,000 gross square feet.
 - (3) Parking Deck:
 - (a) Eight (8) levels with six (6) above grade.



- (b) 13,640 gross square feet of retail space and 1,061 parking spaces under Scheme A or 7,000 gross square feet of retail with rights to build an additional 5,968 gross square feet of retail and 994 parking spaces under Scheme B.

5. The combined residential/non-residential FAR of the development will not exceed 2.61.
6. Prior to issuance of the first building permit for development of the applicant's property, the applicant shall pay the sum of \$40,000.00 into an account to be established by the Buckhead Action Committee to be used for a study to suggest traffic mitigation measures, and, to the extent of any excess funds, to fund such mitigation measures, on streets within the residential communities most directly impacted by applicant's development.

The following additional conditions shall apply only to Z-02-03/Z-84-52:

1. The property shall be developed in accordance with the site plan entitled "West Paces Ferry Rd. Mixed Use Project", prepared by The Preston Partnership, LLC, dated January 3, 2003, and marked received by the Bureau of Planning on January 6, 2003.
2. As depicted on the site plan referred to in 1. above, a linear landscape area of sufficient depth and quality to support mature trees shall be installed along the entire western boundary of the property at a width ranging from 20 feet to 30 feet, with a minimum width of not less than twenty feet, measured from the top of the existing retaining wall. Landscaping shall be installed in accordance with the Landscape Plan entitled "West Paces Ferry Road and Western Buffer Zone Tree Planting Plan", prepared by The Preston Partnership, dated January 7, 2003, and marked received by the Bureau of Planning on January 8, 2003. The intent of this Landscape Plan is to assure the replication of the plant materials and density of planting that now exist along the westernmost edge of the site. Said landscape area shall be planted with mature trees of evergreen and deciduous species. The number, location, and diameter at breast height of plant material shall be as is set forth in the Landscape Plan referred to in this Section 2. The 8 foot tall masonry screen wall specified on the site plan within the Western Buffer Zone shall be installed by the applicant during or prior to installation of the landscape materials at the discretion of the Peachtree Heights West Civic Association. Any trees removed along the West Paces Ferry Road street frontage will be replaced with willow oaks of a caliper of not less than six inches as is shown on the Landscape Plan, except for those trees at entry points that are designated on the Landscape Plan as a different species.
3. The buildings' architectural style, materials and layout shall be substantially similar to the renderings by The Preston Partnership, entitled "Rendering from west along W. Paces Ferry Rd." and "Rendering from east along W. Paces Ferry Rd.", both of which are dated January 3, 2003, and marked received by the Bureau of Planning on January 6, 2003. The western façade shall have architectural style, materials and layout that are substantially similar to the elevation by The Preston Partnership, entitled "West facing

RCS# 4434
2/03/03
3:03 PM

Atlanta City Council

Regular Session

MULTIPLE

02-O-0359/Z-02-02
02-O-0358/Z-02-03
ADOPT ON SUB

YEAS: 10
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 6
EXCUSED: 0
ABSENT 0

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

MULTIPLE

02-0-0358
(Do Not Write Above This Line)

AN ORDINANCE Z-02-03/Z-84-52
BY: ZONING COMMITTEE

AN ORDINANCE TO AMEND ORDINANCE
Z-84-52, ADOPTED BY CITY COUNCIL
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OWNER: BUCKHEAD PLAZA LAND TRUST
APPLICANT: REALTY DEVELOPMENT
CORPORATION

BY: NATHAN V. HENDRICKS III, ESQ.,
ATTORNEY

NPU-B COUNCIL DISTRICT 8

ADOPTED BY

FEB 0 3 2003

COUNCIL

Substitute

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

Date Referred 3/4/02

Referred To: Zoning

First Reading

Committee 2022.10
Date Feb. 27 2003
Chair Deborah Stebbins

Committee ZONING	Committee
Date JAN. 29 2003	Date
Chair Marty Howard	Chair
Actions N. W. District	Actions Fav, Adv, Held (see rev. side) Other
Members Deborah Stebbins Marty Howard John Smith	Members
Refer To	Refer To

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

COUNCIL ACTION

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

CERTIFIED

CERTIFIED
FEB 3 2003
Chair G. Moore
COUNCIL PRESIDENT PROTREM

CERTIFIED
FEB 0 3 2003
Randy Daughlin Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED
FEB 11 2003
MAYOR

LARGE ATTACHMENT:

DOCUMENT(S),

MANUAL(S)

OR

MAP(S)

NOT COPIED,

PULL ORIGINAL

FOR COPY OR TO VIEW