



City Council
Atlanta, Georgia

03-0-1999

SUBSTITUTE ORDINANCE
BY: ZONING COMMITTEE

U-03-26
12-11-03

WHEREAS, the City Council finds that it is in the public interest to allow the owners of certain properties to transfer their development density to adjacent property; and

WHEREAS, Archstone-Smith Operating Trust executed a recordable agreement (Exhibit A) setting forth the conditions under which this Transfer of Excess Development Rights is to be approved; and

WHEREAS, the City Council finds that the area of agreement is compatible, regular and logical in relation to the form of the development proposes; and

WHEREAS, the proposed development for the area of agreement as a whole conforms to the intent and requirements set forth in the applicable provisions of the Zoning Ordinance; and

WHEREAS, the agreement assures future protection of the public interest and achievement of public objectives to the same or a higher degree than would application of the regulations to the individual properties; and

WHEREAS, the agreement has been approved by the Department of Law (Exhibit B).

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

SECTION 1. Under the provisions of Section 16-28.023 of the Zoning Ordinance of the City of Atlanta, a Special Use Permit for a Transfer of Excess Development Rights is hereby approved. Said use is granted to Archstone-Smith Operating Trust, its successors, Assigns and all subsequent owners. Those Excess Development Rights, as specified in the attached site plan entitled "Westchester at Roswell Road", prepared by The Preston Partnership, LLC, dated September 10, 2003 and marked received by the Bureau of Planning, October 14, 2003, are to be transferred from 1) **the rear of 257-281 Alberta Drive, N.E. and the rear of 3290-3304 Mathieson Drive, N.E.** to 2) **3301 and 3315 Roswell Road, N.E.** Said tracts being more particularly described by the attached legal descriptions identified as Donor parcel and Recipient parcel.



SECTION 2. That this amendment is approved subject to the following development conditions:

1. The above referenced conditional site plan shall be revised to show the following elements.
 - a. Textured pavement shall be installed across the driveway to the parking deck to provide a pedestrian crosswalk.
 - b. The developer shall install a wall, at least 6-feet high, along the property lines shared by the subject property and the adjoining C-1 property to the south. The developer shall plant trees between the wall and the proposed residential building that is proposed to be constructed on the south portion of the subject property, near the adjoining C-1 property.
 - c. The area between the fire lane and the property line shall remain undisturbed.

SECTION 3. That this amendment is approved under the provisions of Section 16-25.003 of the Zoning Ordinance of the City of Atlanta, entitled "Special Use Permits, Procedural Requirements," and the Director of the Bureau of Buildings, shall issue a building permit only in compliance with the applicable provisions of this part. The applicable conditional site plan and all other conditions hereby imposed, including but not limited to those conditions set forth in the applicant's six (6) executed agreements, are enumerated by attachment and are hereby made a part of this Ordinance. Said executed agreements are identical except as to signature. One (1) agreement is attached for reference and enforcement purposes.

SECTION 4. The Special Use Permit hereby approved does not authorize the violation of any zoning district regulations.

SECTION 5. That the provisions of Section 16-25.002(2) are hereby modified as they apply to this Special Use Permit so as to provide that this Special Use Permit shall apply to the subject properties in perpetuity without regard to their ownership (as is provided for in the agreement (Exhibit A) executed by Archstone-Smith Operating Trust which agreement sets forth further conditions to the Special Use Permit and is attached to this ordinance and is incorporated herein and hereby made a part of this Special Use Permit) and no transfer of the Special Use Permit [as defined in Section 16-25.002(2)(a)] shall be required.

SECTION 6. That the Special Use Permit, including the incorporated agreement (Exhibit A) executed by Archstone-Smith Operating Trust shall be recorded with the Clerk of Superior Court of Fulton County in accordance with the provisions of Section 16-28.023(4).



SECTION 7. That the Special Use Permit shall be recorded by the Bureau of Planning on the official zoning map (referencing both the Donor and Recipient parcels) in accordance with the provisions of Section 16-28.023(4).

SECTION 8. That all ordinances or parts of ordinance in conflict with this ordinance are hereby repealed.

A true copy,

A handwritten signature in black ink, appearing to be "J. L. ...", written over a horizontal line.

Deputy Municipal Clerk

ADOPTED by the City Council
APPROVED by the Mayor

SEPT 07, 2004
SEPT 15, 2004

RCS# 6017
9/07/04
3:45 PM

Atlanta City Council

Regular Session

03-0-1999

SPECIAL USE PERMIT/TRANSFER OF EXCESS
DEVELOPMENT RIGHTS/ALBERTA & MATHIESON
ADOPT/SUBST.

YEAS: 11
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 2

B Smith	NV Archibong	Y Moore	NV Mitchell
Y Starnes	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
B Winslow	Y Muller	Y Sheperd	NV Borders

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(Do Not Write Above This Line)

AN ORDINANCE

BY: ZONING COMMITTEE

U-03-26

AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR A TRANSFER OF EXCESS DEVELOPMENT RIGHTS (SECTION 16-28.023), PROPERTY IS LOCATED AS FOLLOWS:

DONOR PROPERTY: (ZONED R-4 AND RG-3) THE REAR OF 257-281 ALBERTA DRIVE, N.E. AND THE REAR OF 3290-3304 MATHIESON DRIVE, N.E., PROPERTY HAS NO FRONTAGE ON A PUBLIC STREET. DEPTH: VARIES; AREA: APPROXIMATELY 2.5 ACRES; LAND LOTS 98 99, 17TH DISTRICT, FULTON COUNTY, OWNER: VARIOUS

APPLICANT: ARCHSTONE-SMITH OPERATING TRUST

BY: CARL E. WESTMORELAND, ATTORNEY RECIPIENT PROPERTY: (ZONED RG-3) 3301 AND 3315 ROSWELL ROAD, N.E., FRONTING 494.35 FEET ON THE NORTHEASTERLY SIDE OF ROSWELL ROAD BEGINNING APPROXIMATELY 210 FEET SOUTHEASTERLY FROM THE SOUTHEAST CORNER OF ALBERTA DRIVE. DEPTH: VARIES; AREA: 4.82 ACRES; LAND LOTS 98 & 99, 17TH DISTRICT, FULTON COUNTY, GEORGIA.

OWNER: MARTY STORCH APPLICANT: ARCHSTONE-SMITH OPERATING TRUST

BY: CARL E. WESTMORELAND, ATTORNEY

MPU-B COUNCIL-DISTRICT 7

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

Date Referred 11/17/03

Referred To: ZRB & Zoning

First Reading

Committee

Date

U-06/08

Committee

Date

Chair

Actions

Fav, Adv, Held (see rev. side)

Other

Substitute

Members

ADOPTED BY

SEP 07 2004

COUNCIL

Committee

Date

Chair

Actions

Fav, Adv, Held (see rev. side)

Other

Members

Refer To

Committee

Date

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

[x] 2nd

[] 1st & 2nd

[] 3rd

Readings

[] Consent

[x] V Vote

[x] RC Vote

CERTIFIED

CERTIFIED
SEP 07 2004
MAYOR CARL E. WESTMORELAND

MAYOR'S ACTION

PROV

SEP 15 2004

MAYOR