

07-0-2426

AN ORDINANCE BY

COUNCILMEMBER NATALYN MOSBY ARCHIBONG

Natalyn Mosby Archibong Z-07-111

TO AMEND GENERAL CONDITION 1 TO Z-02-83, 02-0-2176, TO REMOVE THE DATE BY WHICH THE ESCROW FUNDS FOR TRAFFIC CALMING MUST BE EXPENDED; TO AMEND GENERAL CONDITION 41 TO PROVIDE FOR THE USE OF ESCROW FUNDS FOR TRAFFIC CALMING PURPOSES; AND FOR OTHER PURPOSES

WHEREAS, Z-02-83, 02-0-2176, rezoning property at 11219 Caroline Street, N.E. from I-2, I-1-C and RG-2 to C-3-C for the development of the Edgewood Retail District was adopted by City Council and approved by the Mayor on April 21, 2003; and

WHEREAS, an attachment to said ordinance stated certain "general conditions" such that the issuance of building permits and certificates of occupancy for the development of said property would be only in compliance as the conditions to the rezoning; and

WHEREAS, in Condition 1 of the "General Conditions," the Applicant, The Sembler Company, agreed to place \$500,000.00 in an escrow account for design and implementation of certain traffic calming measures aimed at reducing the impact of traffic on the surrounding neighborhoods of Edgewood and Reynoldstown as specified in the Traffic Calming Plan or as may be determined by the Department of Public Works; and

WHEREAS, Condition 1 of the "General Conditions" established a 48 month period for the expenditure of the escrow funds before the reversion of the funds to the Applicant that the Applicant now wishes to waive;

Whereas, Condition 41 of the "General Conditions" the Developer agreed to place \$200,000.00 in an escrow account for the acquisition of green space which the applicant agrees should be used for traffic calming purposes instead.

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

Section 1. Condition 1 of the General Conditions to Z-02-83, 02-0-2176 which originally stated as follows:

Prior to the issuance of the first Building Permit for structures designated for human occupancy, the Applicant (The Sembler Company and all of its agents & assigns) will ensure that an amount no less than \$500,000.00 will be placed in an escrow account with the City of Atlanta. The sole purpose of the escrow account is to guarantee design and implementation of the traffic calming measures (or other measures aimed at reducing the impact of traffic on the surrounding neighborhoods of Edgewood and Reynoldstown) as specified in the Traffic Calming Plan, see Figure A on Zoning Site Plan Sheet 4 of 4 and/or additional,

supplemental, substitute, or alternative measures approved by the City of Atlanta Public Works. All items shown and/or approved will be designed and constructed by the Applicant. The Applicant will use reasonable effort to ensure these measures are designed, approved, and constructed prior to the issuances of certificates of occupancy.

If money remains in the account 48 months after the first Building Permit is issued, or if the above traffic calming measures have been implemented to the satisfaction of the Organized Neighbors of Edgewood (by majority vote at a monthly ONE meeting), the Applicant may close the account and receive all remaining monies.

is amended to read as follows:

Prior to the issuance of the first Building Permit for structures designated for human occupancy, the Applicant (The Sembler Company and all of its agents & assigns) will ensure that an amount no less than \$500,000.00 will be placed in an escrow account with the City of Atlanta. The sole purpose of the escrow account is to guarantee design and implementation of the traffic calming measures (or other measures aimed at reducing the impact of traffic on the surrounding neighborhoods of Edgewood and Reynoldstown) as specified in the Traffic Calming Plan, see Figure A on Zoning Site Plan Sheet 4 of 4 and/or additional, supplemental, substitute, or alternative measures approved by the City of Atlanta Public Works. The City shall assume the responsibility for the implementation of the traffic calming design and construction which shall release Developer from any further obligations associated with the traffic calming measures as referenced in this condition.

Section 2. Condition 41 of the General Conditions to Z-02-83, 02-0-2176 which originally stated as follows:

Developer shall provide the sum of \$200,000.00 for offsite green space acquisition within the neighborhood of Edgewood. The \$200,000.00 shall be properly earmarked and deposited into an escrow account at the City of Atlanta. Said deposit shall be received by the City within fourteen (14) days of the issuance of a Land disturbance Permit. This is a condition of the LDP.

Is amended to read as follows:

Developer shall provide the sum of \$200,000.00 for traffic calming purposes within the neighborhood of Edgewood. The \$200,000.00 shall be properly earmarked and deposited into an escrow account at the City of Atlanta. Said deposit shall be received by the City within fourteen (14) days of the issuance of a Land disturbance Permit. This is a condition of the LDP.

Section 3: That a new condition 42 is added to the General condition to Z-02-83, 02-0-2176 to read as follows:

Developer agrees that at such time as both the home improvement store and the department store are open for business (the "date of inception"), the applicant shall begin operating a shuttle bus during peak p.m. traffic hours, as defined by the City of Atlanta Bureau of Traffic and Transportation, on Thursday, Friday and Saturday to run between Little Five Points, East Atlanta, the Inman Park/Reynoldstown MARTA station, the Edgewood/Candler Park MARTA Station, and the shopping center.

Developer agrees to operate the shuttle for a thirty-six (36) month period from the date of inception. At the end of the thirty-six (36) month period the City and Developer shall adapt the shuttle service requirement based on further evaluation and agreement on the most effective rout and type of service.

Section 4. That this ordinance shall become effective upon signature by the Mayor or by operation of law as provided in Section 2-403 of the Charter of the City of Atlanta and that all other ordinances or resolution in conflict with this ordinance are waived to the extent of the conflict for the purposes of this ordinance only.