

11-0-0233

(Do Not Write Above This Line)

AN ORDINANCE U-11-01/U-08-06
BY ZONING COMMITTEE

An Ordinance granting a Special Use Permit pursuant to Section 16-28.023 of the City of Atlanta Zoning Ordinance for a Transfer of Excess Development Rights. Said use is granted to NP 10th Street LLC for 1007 Williams Street/97 Tenth Street, N.W. (Recipient Parcel) its successors, assigns and all subsequent owners and are to be transferred from the Academy of Medicine located at 875 West Peachtree Street, N.E. (Donor Parcel). Donor Parcel is located in Land Lot 49, District 14. Recipient Parcel is located in Land Lot 107, District 17.

OWNERS: NP 10TH STREET, LLC
(RECIPIENT PARCEL)

ATLANTA MEDICAL HERITAGE, INC. (DONOR PARCEL)
APPLICANT: NP 10TH STREET, LLC.
NP-U- COUNCIL DISTRICT 2

ADOPTED BY

MAY 16 2011

AS AMENDED COUNCIL

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

Date Referred 02/21/11

Referred To: Z12B/ZONING

Date Referred

Referred To:

Date Referred

Referred To:

First Reading
Committee Date 5/16/2011
Chair Zoning
Referred To 11-0-0233

Committee Date 5/16/2011
Chair Zoning
Referred To 11-0-0233

Action Fav, Adv, Hold (see rev. side)
Members

Committee Date 5/16/2011
Chair Zoning
Referred To 11-0-0233

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Committee Date 5/16/2011
Chair Zoning
Referred To 11-0-0233

Action Fav, Adv, Hold (see rev. side)
Members

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

CERTIFIED
MAY 16 2011
ATLANTA CITY COUNCIL PRESIDENT

CERTIFIED
MAY 16 2011
Renee Daughkin Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

MAY 25 2011

WITHOUT SIGNATURE
BY OPERATION OF LAW



City Council
Atlanta, Georgia

11-O-0233

AN AMENDED ORDINANCE
BY: ZONING COMMITTEE

U-11-01/ U-08-06

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, 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 is granted for a Transfer of Excess Development Rights. Said use is granted to NP 10th Street LLC for 1007 Williams Street/97 Tenth Street, N.W. (Recipient Parcel) its successors, assigns and all subsequent owners and are to be transferred from the Academy of Medicine located at 875 West Peachtree Street, N.E. (Donor Parcel)., to wit:

OWNERS: NP 10TH STREET, LLC (RECIPIENT PARCEL)
ATLANTA MEDICAL HERITAGE, INC. (DONOR PARCEL)

APPLICANT: NP 10TH STREET, LLC.

NPU-E

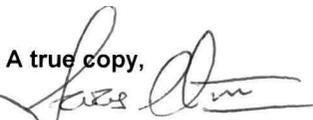
COUNCIL DISTRICT 2

ALL THAT TRACT or parcel of land lying and being in the following Land Lots and District of Fulton County as described below and by the attached legal description and/or survey:

Donor Parcel is located in Land Lot 49, District 14.
Recipient Parcel is located in Land Lot 107, District 17

SECTION 2. 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, Bureau of Buildings, shall issue a building permit only in compliance with the applicable provisions of this part. The applicable conditional site plan and any other conditions hereby imposed are enumerated by attachment. The Special Use Permit hereby approved does not authorize the violation of any zoning district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

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

A true copy,

Deputy Clerk

ADOPTED as amended by the Council
RETURNED WITHOUT SIGNATURE OF THE MAYOR
APPROVED as per City Charter Section 2-403

MAY 16, 2011
MAY 25, 2011

Conditions for U-11-01 for Transfer of Development Rights

Sending property: 875 West Peachtree Street, N.E.

Receiving property: 97 Tenth Street, N.W.



1. Site plan entitled "Hilton Garden Inn, 10th & Homewood Suites Hotels," dated January 4, 2011 and stamped received by the Office of Planning on January 12, 2011.
2. All agreements, assignments and affidavits submitted with the application submitted to the Office of Planning through March 9, 2011 for a Special Use Permit to transfer a total of 42,000 square feet of development rights from 875 W. Peachtree Street, N.E. to 97 Tenth Street, N.W.



Upon recording return to:
Joe H. Bynum, Jr. Esquire
2500 Northwinds Parkway
Suite 175
Atlanta, Georgia 30009

Cross Reference:
Deed Book 47014, Page 411
Fulton County, GA Records

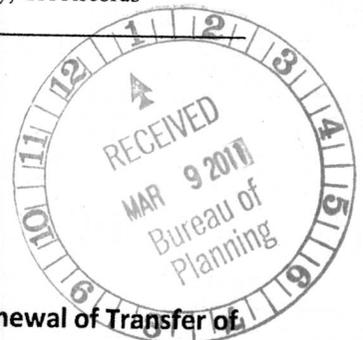
U-11-001

STATE OF GEORGIA

COUNTY OF FULTON

AFFIDAVIT WITH RESPECT TO REAL PROPERTY

In Re: **Special Use Permit U-11-001 (the "Special Use Permit") Renewal of Transfer of Development Rights from 875 West Peachtree Street, NE, Atlanta, Georgia 30309 (the Academy of Medicine) to 97 10th Street, NW, Atlanta, Georgia 30309**



Before me, a notary public, comes **JOHN B. CARTER, JR.**, in his capacity as President and Chief Operating Officer of the Georgia Tech Foundation, Inc., a Georgia non-profit corporation (the "Foundation"), whose address is 760 Spring Street, NW, Suite 400, Atlanta, Georgia 30308, who, being duly sworn, says under oath as follows:

1. That deponent is the President and Chief Operating Officer of the Foundation.
2. That the Foundation received by Gift Deed from Atlanta Medical Heritage, Inc. the parcel of land known as the Academy of Medicine at 875 West Peachtree Street, NE, Atlanta, Georgia 30309 as more particularly described on **Exhibit "A"** attached to this Affidavit (the "Sending Parcel").
3. That at the time of the receipt of the Gift Deed the Foundation was aware of the previous transfer by Atlanta Medical Heritage, Inc. of 42,000 s.f. of its non-residential Development Rights to 97 10th Street, NE, Atlanta, Fulton County, Georgia 30305 (the "Receiving Parcel"), as evidenced by a Substitute Ordinance of the Atlanta City Council recorded in the Real Property Records of the Fulton County Clerk of Superior Court at Deed Book 46907, Pages 297-298.

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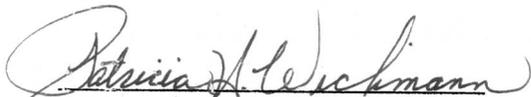
U-11-001

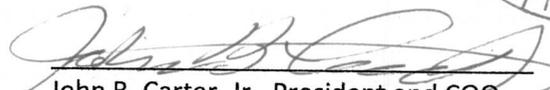
4. That this Affidavit is made with the Foundation's understanding that it will be relied on by the City of Atlanta in the issuance of a renewed Special Use Permit benefiting the Receiving Parcel.

5. John B. Carter, Jr. is executing this Affidavit solely in his capacity as President of the Foundation.

Sworn to and subscribed before me
this 1st day of March,
2011.




Notary Public


John B. Carter, Jr., President and COO
Georgia Tech Foundation, Inc.

Patricia H. Wichmann
Notary Public, Cobb County Georgia
My Commission Expires Dec. 5 2012



U-11-001



Exhibit "A"
Legal Description of the Property

All that tract or parcel of land lying and being in Land Lot 49 of the 14th District, City of Atlanta, Fulton County, Georgia, containing 0.961 acres (41,848 sq. ft.) and being more particularly described as follows:

BEGINNING at a scribed "x" placed at the intersection of the easternmost right of way line of West Peachtree Street (having an 80-foot right of way) with the southernmost right of way line of Seventh Street (having a 50-foot right of way); thence along the southernmost right of way line of Seventh Street South 85 degrees 18 minutes 45 seconds East, a distance of 225.27 feet to a 5/8" rebar found; thence leaving said right of way line of Seventh Street South 04 degrees 44 minutes 32 seconds West, a distance of 192.20 feet to a 1/2" iron pin placed; thence North 85 degrees 14 minutes 33 seconds West, a distance of 210.50 feet to a 1/2" rebar and cap found on the easternmost right of way line of West Peachtree Street; thence along said right of way line of West Peachtree Street North 00 degrees 20 minutes 34 seconds East, a distance of 192.50 feet to a scribed "x" placed and THE TRUE POINT OF BEGINNING; as shown on ALTA Land Title Survey for Georgia Tech Foundation Real Estate Holding Corporation, Cypress Academy, LLC, a Georgia limited liability company, Academy of Medicine, LLC, a Georgia limited liability company and Chicago Title Insurance Company, prepared by Metro Engineering & Surveying Co., Inc., signed, sealed and certified by James R. Green, Georgia Registered Land Surveyor No. 2543, dated July 8, 2008, last revised July 22, 2008.

TOGETHER WITH appurtenant easements described in the following:

- (a) Irrevocable, Perpetual Parking Easement by and between Cypress Ventures, LLC and Medical Association of Metropolitan Atlanta, Inc., dated May 23, 2008, recorded in Deed Book 46785, page 201, Fulton County, Georgia records.



Upon recording return to:
Joe H. Bynum, Jr. Esquire
2500 Northwinds Parkway
Suite 175
Atlanta, Georgia 30009

Cross Reference,
Deed Book 45735, Page 646
Fulton County, GA Records

U-11-001

STATE OF GEORGIA

COUNTY OF FULTON



AFFIDAVIT WITH RESPECT TO REAL PROPERTY

In Re: **Special Use Permit U-11-001 (the "Special Use Permit") Renewal of Transfer of Development Rights from 875 West Peachtree Street, NE, Atlanta, Georgia 30309 (The Academy of Medicine) to 97 10th Street, NW, Atlanta, Georgia 30309**

Before me, a notary public, comes **S. JAY PATEL**, whose address is 2500 Northwinds Parkway, Suite 175, Atlanta, Georgia 30009, who, being duly sworn, says under oath as follows:

1. That the deponent is the President of Northpoint Hospitality Group, Inc., the sole Manager of NP 10th Street, LLC, a Georgia limited liability company ("Owner") and has personal knowledge of the facts sworn to in this Affidavit.
2. That Owner owns the parcel of land known as 97 10th, NW, Atlanta, Fulton County, Georgia 30309 as more particularly described on **Exhibit "A"** attached to this Affidavit (the "Receiving Parcel").
3. That Owner purchased from Atlanta Medical Heritage, Inc., a Georgia non-profit corporation, the owner of a parcel of land known as the Academy of Medicine located at 875 West Peachtree Street, NE, Atlanta, Fulton County, Georgia (the "Sending Parcel"), 42,000 s.f. of non-residential development rights (the "Development Rights") from the Sending Parcel for the benefit of the Receiving Parcel.
4. The transfer of Development Rights was authorized pursuant to Special Use Permit U-08-06 adopted by the Atlanta City Council on June 2, 2008. The Owner desires the renewal of Special Use Permit U-08-06.

U-11-001

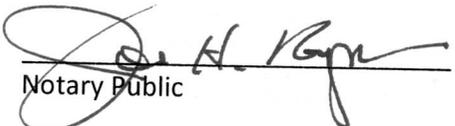


4. The transferred development rights from the Sending Parcel will be utilized pursuant to the Special Use Permit for hotel development on the Receiving Parcel owned by Owner.

5. That Owner acknowledges that the transferred development rights, which are necessary to complete its hotel project on the Receiving Parcel, shall remain with the Receiving Parcel for the life of the development and cannot be severed from the Receiving Parcel or otherwise transferred without the property being declared a Sending Parcel pursuant to a subsequent application.

6. That Owner received the transferred Development Rights from Atlanta Medical Heritage, Inc.

Sworn to and subscribed before me
this 1st day of March,
2011.


Notary Public

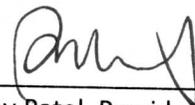

S. Jay Patel, President
Northpoint Hospitality Group, Inc.





EXHIBIT "A"

LEGAL DESCRIPTION



ALL THAT TRACT or parcel of land lying and being in Land Lot 107 of the 17th District of Fulton County, Georgia, being more particularly described as follows:

Beginning at 1/2" rebar located on the eastern right-of-way of Williams Street (variable right-of-way) said iron pin located North 01° 22' 50" East, a distance of 29.99 feet from the intersection of the eastern right-of-way line of Williams Street with the northern right-of-way line of Tenth Street (variable right-of-way); if such lines were extended to form an angle rather than a curve; thence along the eastern right-of-way line of Williams Street North 01° 22' 50" East, a distance of 87.04 feet to a point; thence continuing along the eastern right-of-way line of Williams Street North 01° 36' 21" West a distance of 10.00 feet to a point; thence leaving the eastern right-of-way line of Williams Street and running South 89° 50' 52" East, a distance of 10.40 feet to a point; thence North 00° 41' 08" East, a distance of 109.51 feet to a 1/2" rebar; thence South 89° 50' 52" East, a distance of 85.00 feet to a point; thence South 52° 36' 52" East, a distance of 26.44 feet to a p.k. nail; thence South 89° 50' 52" East, a distance of 17.60 feet to a p.k. nail; thence South 00° 41' 08" West, a distance of 93.50 feet to a point; thence South 00° 27' 38" West, a distance of 10.00 feet to a point; thence North 89° 50' 52" West, a distance of 1.50 feet to a point; thence South 00° 09' 45" West, a distance of 124.33 feet to a point on the northern right-of-way line of Tenth Street; thence along the northern right-of-way line of Tenth Street North 86° 44' 15" West a distance of 103.22 feet to a point on the northern right-of-way line of Tenth Street; thence running along the arc of a curve having a radius of 32.02 feet, a distance of 49.10 feet (said arc being subtended by chord bearing North 44° 18' 10" West a chord distance of 44.43 feet) to a 1/2" rebar located on the eastern right-of-way line of Williams Street being the point of beginning.

RCS# 1037
5/16/11
3:09 PM

Atlanta City Council

REGULAR SESSION

MULTIPLE

11-O-0233, 11-O-0234, 11-O-0235, 11-O-0334
11-O-0229, 11-O-0230, 10-O-1889, 10-O-2158
ADOPT AS AMEND

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 2

Y Smith	Y Archibong	Y Moore	Y Bond
B Hall	Y Wan	NV Martin	Y Watson
Y Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	Y Sheperd	B Mitchell

MULTIPLE