

#2

12-0-1250
(Do Not Write Above This Line)

AN ORDINANCE AUTHORIZING THE APPLICATION OF \$1,113,976.00 IN DEVELOPMENT IMPACT FEES ALREADY PAID IN CONNECTION WITH THE REDEVELOPMENT OF PROPERTY KNOWN AS 3035 PEACHTREE ROAD, 3063 PEACHTREE ROAD AND 262 BUCKHEAD AVENUE, AGAINST DEVELOPMENT IMPACT FEES TO BE ASSESSED ON NEW DEVELOPMENT TO BE CONSTRUCTED AT 3035 PEACHTREE ROAD, 3065 PEACHTREE ROAD, 3071 PEACHTREE ROAD, 3135 PEACHTREE ROAD, 262 BUCKHEAD AVENUE, 273 BUCKHEAD AVENUE, 288 EAST PACES FERRY ROAD, 310 EAST PACES FERRY ROAD AND 250 PHARR ROAD AS MULTIPLE BUILDINGS OF THE SAME UNIFIED DEVELOPMENT PROJECT RATHER THAN ON A PARCEL BY PARCEL BASIS; AND FOR OTHER PURPOSES.

AN ORDINANCE AUTHORIZING THE APPLICATION OF \$1,113,976.00 IN DEVELOPMENT IMPACT FEES ALREADY PAID IN CONNECTION WITH THE REDEVELOPMENT OF PROPERTY KNOWN AS 3035 PEACHTREE ROAD, 3063 PEACHTREE ROAD AND 262 BUCKHEAD AVENUE, AGAINST DEVELOPMENT IMPACT FEES TO BE ASSESSED ON NEW DEVELOPMENT TO BE CONSTRUCTED AT 3035 PEACHTREE ROAD, 3065 PEACHTREE ROAD, 3071 PEACHTREE ROAD, 3135 PEACHTREE ROAD, 262 BUCKHEAD AVENUE, 273 BUCKHEAD AVENUE, 288 EAST PACES FERRY ROAD, 310 EAST PACES FERRY ROAD AND 250 PHARR ROAD AS MULTIPLE BUILDINGS OF THE SAME UNIFIED DEVELOPMENT PROJECT RATHER THAN ON A PARCEL BY PARCEL BASIS; AND FOR OTHER PURPOSES.

ADOPTED BY

SEP 17 2012

COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1ST ADOPT 2ND READ & REFER
- PERSONAL PAPER REFER

9/4/12

CD/HJR

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

470187-1

First Reading

Committee _____

Date _____

Chair _____

Referred To _____

CD/HJR

9-11-12

Properly Reported

on condition

[Handwritten signatures]

Date _____

Chair _____

Action _____

Fav, Adv, Hold (See rev. side) _____

Other _____

Members _____

Refer To _____

Committee

Date

Chair

Action

Fav, Adv, Hold (See rev. side)

Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (See rev. side)

Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (See rev. side)

Other

Members

Refer To

2ND FINAL COUNCIL ACTION

1ST & 2ND 3RD

Readings

Consent

V Vote

RC Vote

CERTIFIED

CERTIFIED

SEP 17 2012

COUNCIL PRESIDENT PROTREM

[Handwritten signature]

CERTIFIED

SEP 17 2012

[Handwritten signature]

MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

SEP 26 2012

WITHOUT SIGNATURE BY OPERATION OF LAW

AN ORDINANCE
BY: COUNCILMEMBER HOWARD SHOOK



AN ORDINANCE AUTHORIZING THE APPLICATION OF \$1,113,976.00 IN DEVELOPMENT IMPACT FEES ALREADY PAID IN CONNECTION WITH THE REDEVELOPMENT OF PROPERTY KNOWN AS 3035 PEACHTREE ROAD, 3063 PEACHTREE ROAD AND 262 BUCKHEAD AVENUE, AGAINST DEVELOPMENT IMPACT FEES TO BE ASSESSED ON NEW DEVELOPMENT TO BE CONSTRUCTED AT 3035 PEACHTREE ROAD, 3065 PEACHTREE ROAD, 3071 PEACHTREE ROAD, 3135 PEACHTREE ROAD, 262 BUCKHEAD AVENUE, 273 BUCKHEAD AVENUE, 288 EAST PACES FERRY ROAD, 310 EAST PACES FERRY ROAD AND 250 PHARR ROAD AS MULTIPLE BUILDINGS OF THE SAME UNIFIED DEVELOPMENT PROJECT RATHER THAN ON A PARCEL BY PARCEL BASIS; AND FOR OTHER PURPOSES.

WHEREAS, development impact fees in the aggregate amount of \$1,113,976.00 were paid to the City of Atlanta in September and October of 2007 for the redevelopment of 3035 Peachtree Road, 3063 Peachtree Road, 262 Buckhead Avenue, (hereinafter, each individually, a "Parcel" and collectively, the "Parcels") as a part of a mixed use project developed under a unified concept (the "Project"); and

WHEREAS, building permits with receipts evidencing the payment of \$1,113,976.00 in development impact fees are attached hereto as Exhibit "A"; and

WHEREAS, pursuant to Section 19-014(f) of the City of Atlanta Development Impact Fee Ordinance, in the event a developer pays a development impact fee and then abandons the building permit or other permit to which it was appurtenant without constructing the building or other improvements, the developer shall receive a credit for the present value of any development impact fees paid; and

WHEREAS, Section 19-014(f) of the City of Atlanta Development Impact Fee Ordinance provides that development impact fee credits shall be available only for use in payment of future development impact fees for the same lot or parcel of land for which they were originally paid; and

WHEREAS, the type and location of the multiple buildings on individual parcels, for which development impact fees were paid, were planned as a unified development project, and prior to the completion of the buildings, the issuance of new certificates of occupancy or the opening of new businesses, the scope of the Project changed; and

WHEREAS, Section 19-008(f) of the City of Atlanta Development Impact Fee Ordinance provides that development for which an application for a building permit has been made that includes two (2) or more buildings, structures or other land uses



in any combination, including two (2) or more uses within a building or structure, the total development impact fee shall be the sum of the fees for each and every building, structure, or use, including each and every use within a building or structure; and

WHEREAS, Section 16-18I-005 of the City of Atlanta Zoning Code now makes provisions for properties to be developed in the zoning district where this Project is located under a unified development plan and this zoning was not available as a development option as of the time that the original permits were issued; and

WHEREAS, the current owner and developer of the proposed mixed use project, OMB Buckhead Lender, LLC and its affiliates, seeks to apply the \$1,113,976.00 already paid to development impact fees that will be owed for the currently proposed new combination of uses at these addresses; and

WHEREAS, the Parcels are all being developed by OMB Buckhead Lender, LLC and its affiliates as a master planned shopping center development with shared facilities such as centralized parking decks for cross parking and access permission and such coordinated development and operation makes the transfer of the credits issued for development impact fees paid on this Project appropriate, so long as the impact fees are applied to the same impact fee category for which the original fees were paid.

NOW THEREFORE, the City Council of the City of Atlanta Georgia, hereby ordains as follows:

Section 1. That the Office of Planning is authorized to consider the assessment of development impact fees on the buildings on the individual parcels as set forth in building permits BB200707270, BB200707271 and BB200707241 to have been assessed as multiple buildings on the same site as set forth in Section 19-008(f).

Section 2. That the development impact fees paid for redevelopment of the Parcels in 2007 in the amount of \$1,113,976.00 (less any impact fees already applied to system improvements) may be applied to development impact fees owed on any of the Parcels identified as 3035 Peachtree Road, 3065 Peachtree Road, 3071 Peachtree Road, 3135 Peachtree Road, 262 Buckhead Avenue, 288 East Paces Ferry Road, 310 East Paces Ferry Road and 250 Pharr Road and shall not be limited to application to the Parcel for which they were originally paid, provided however that all amounts shall be applied to same category of impact fee for which the original payment was made. Any combination of parcel addresses, changes in parcel size through replatting or the inclusion of abandoned right of way in such parcels shall be included in this authorization.

Section 3. That this ordinance shall become effective immediately upon its approval by the City Council and signature by the Mayor or by operation of law.

A true copy,

Deputy Clerk

ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403

SEP 17, 2012
SEP 26, 2012



BUILDING PERMIT

CITY OF ATLANTA - BUREAU OF BUILDINGS

Permit No.: BB 200707241
Date Issued: 17-OCT-2007

GENERAL PERMIT INFORMATION

Location: 262 BUCKHEAD AV NE
BUCKHEAD AVENUE- PARCEL C
Estimated Cost: \$7,429,632.00
Plans: BLM1 200701190 Aprvd. By:
BB 200707241 LARGE
Zone: C-3 Aprvd. By: F. MCCRARY
PCN: 17 00990006048 Issued By: M. MILLER
Bldgs.: 1 Tot. Fl. Area: 1,210,000
Tot. Units: Parking Req'd.:

BUILDING INFORMATION

Bldg. Name: RESIDENTIAL TOWER, PARKING/RETAIL PODIUM
Stories: 19 Height In Ft.: 225
Max. Occ.: Ground Fl. Area:
Tot. Fl. Area: 1,210,000
Units: Space Fl. Area:

ERECT RESIDENTIAL CONDOMINIUMS
IBC- TYPE I-A SPRINKLERED CONST
RESIDENTIAL OCCUPANCY-MULTI-FAMILY-NEW

ADDRESS INFORMATION

Owner - BEN CARTER PROPERTIES, LLC
3050 PEACHTREE RD NW SUITE 300
ATLANTA, GA 30305 404-869-7160
Architect - SMALLWOOD, REYNOLDS, STEWART, STV
ONE PIEDMONT CENTER, SUITE 303
ATLANTA, GA 30305 404-233-5453
Engineer-Civil - KIMLEY-HORN AND ASSOCIATES
817 WEST PEACHTREE THE BILTMORE, STE 601
ATLANTA, GA 30308 404 419-9700
Builder - BALFOUR BEATTY CONST LLC 032039
600 GALLERIA PKWY. SUITE 1800
ATLANTA, GA 30339 678-921-6800

SCOPE OF WORK: New residential condominiums-retail and hotel. Site work only with conditions.

COMMENTS

This project is approved conditionally as per Director Ibrahim Maslamani instructions for land disturbances only; No Work Beyond Scope (see attachment regarding street abandonment 07-O-0985 Council Legislation) & recorded Quitclaim Deed for ownership of alleyway for a mixed-use development V-07-62, U-06-33 & SAP-07-18 approved by K. Smith-Davids on 6-07-07; not to exceed a maximum height of 225ft certificate of occupancy pending lot consolidation

POST IN A CONSPICUOUS PLACE ON THE JOB

DO NOT: POUR CONCRETE, COVER FRAMING NOR OCCUPY BUILDING UNTIL ALL INSPECTIONS HAVE BEEN MADE.

A SEPARATE PERMIT IS REQUIRED FOR ELECTRICAL, PLUMBING, HVAC WORK AND SIGNS.

GEORGIA - FULTON COUNTY

The recipient of the building permit shall post a copy of same on a sign not less than six square feet with the words "Notice of Issuance of Building Permit" in letters not less than four inches high in a conspicuous place on the effected property so that the sign and permit can be easily viewed from the public street on which the property fronts. Said sign shall be posted no later than 24 hours after the issuance of the building permit and shall not be removed for 30 days. The recipient of the building permit shall also file a notarized affidavit with the Clerk of Council certifying under penalty of perjury the date on which the sign required in the above paragraph was posted.

Ordinance 00-O-1664/Z-00-88 Jan 25, 2001

Personally appeared: SEAN O'DONNELLY
who on oath says that (he) (she) is the applicant for the foregoing, and that all statements are true to the best of (his) (her) knowledge, and that the work to be done thereon is authorized by the owner.

AGENT CONTRACTOR OWNER

Applicant: Sean R. O'Donnell
Address: 600 GALLERIA PARKWAY SUITE 1800
ATLANTA, GA 30339
Phone No.: 678-921-6800
Notary Public, Gwinnett County, Georgia
My Commission Expires Sept. 28, 2009

Sworn to and subscribed before me this Seventeenth day of October,

Inspector: Shaherah Shuldaree
Notary Public
B. ZONE 2, 404-330-6160 Hrs. in Office 8:15 - 3:00 P.M

The issuance of this permit shall not prevent the building official from thereafter requiring the correction of errors in the plans and specifications or from preventing building operations being carried on thereunder when in violation of the Building Code or of any other ordinance of the City of Atlanta. Except as otherwise stated, a permit for construction under which no work is commenced within six months after issuance, or where the work commenced is suspended or abandoned for six months, shall expire, and fees paid shall be forfeited.

Fee Description	Fee Amount	Fee Account No.
Building Permit Fee	37,149.00	1A01 422101 B00001
Npdes And Land Disturbance Fee	110.00	3P02 422305 Q81 W02C399999
Sewer Capacity Fee	1,500.00	2J01 445301 B0001
Site Development Fee	5,498.75	2J01 445301 B0001
Fire And Emergency Impact Fee	34,388.00	IC28 497101T31X04109991
North Parks Impact Fee	123,902.00	IC28 497201T31X04109991
Police Impact Fee	10,016.00	IC28 497301T31X04109991
Transportation Impact Fee	221,303.00	IC28 467401M11X04519985
Total Impact Fees:	389,609.00	
Total:	\$433,866.75	

PAID
OCT 17 2007
CITY OF ATLANTA
EX OFFICIO MUNICIPAL
REVENUE COLLECTOR
S.B.

(Inspector's signature) (Date)

RCS# 2286
9/17/12
2:28 PM

Atlanta City Council

12-O-1250

DEVELOPMENT IMPACT FEES TO BE ASSESSED
AS MULTIPLE BUIDINGS; UNIFIED DEVELOPMNT
ADOPT

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

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

12-O-1250