

12-0-1152
 (Do Not Write Above This Line)

AN ORDINANCE U-12-17
 BY: ZONING COMMITTEE

An Ordinance granting a Special Use Permit for outdoor displays or sales areas, or outdoor areas of 90 days' or more duration pursuant to Section 16-11.005 (1) (c) of the Zoning Ordinance, property located at: **1850 HOWELL MILL ROAD, N.W.**, fronting approximately 149 feet on the west side of Howell Mill Road, approximately 90 feet north of Interstate 75 and approximately 175 feet south of the intersection of Howell Mill Road and Beck Street. Depth: varies. Area: approximately 0.649 acres. Land Lot 153, 17th District, Fulton County, Georgia.
 OWNER: HOWELL MILL
 APPLICANT: HOWARD HSU AND BRIAN HARVIN (by the Smith Group, Attorneys at Law)
 NPUC
 COUNCIL DISTRICT 8

AS ADOPTED BY

- CONSENT REFER DEC 03 2012
- REGULAR REPORT REFER **COUNCIL**
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 9/4/12

Referred To: ZBBT Zoning

Date Referred

Referred To:

Date Referred

First Reading
 Committee Zoning
 Date 11/28/12
 Chair [Signature]
 Referred To ZBBT Zoning

Date 11/28/12
 Chair [Signature]

Action Fav, Adv, Hold (see rev. side)
 Other [Signature]

Members [Signatures]

Refer To

Committee

Date

Chair

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

Members

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

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

CERTIFIED
 DEC 03 2012
 ATLANTA CITY COUNCIL PRESIDENT
 [Signature]

CERTIFIED
 DEC 03 2012
 [Signature]
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

DEC 12 2012

WITHOUT SIGNATURE
 BY OPERATION OF LAW



Municipal Clerk
Atlanta, Georgia

12-O-1152

AN AMENDED ORDINANCE
BY: ZONING COMMITTEE

U-12-17

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

SECTION 1. Under the provisions of Section 16-11.005 (1) (c) of the Zoning Ordinance of the City of Atlanta, a Special Use Permit for **OUTDOOR DISPLAYS OR SALES AREAS, OR OUTDOOR AREAS OF 90 DAYS' OR MORE DURATION**, is hereby approved. Said use is granted to **HOWARD HSU AND BRIAN HARVIN** and is to be located at **1850 HOWELL MILL ROAD, N.W., (17-01530011084) and properties noted with the following parcel numbers 17-01530011063, 17-01530011072, 17-01530011083, 17-01530011004, 17-01530011005, 17-01530010040 and 17-0153001** to wit:

ALL THAT TRACT or parcel of land lying and being in Land Lot 153, 17th District, Fulton County, Georgia, being more particularly described by the attached legal description.

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,

Rhonda Dauphin Johnson
Municipal Clerk

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

DEC 03, 2012
DEC 12, 2012

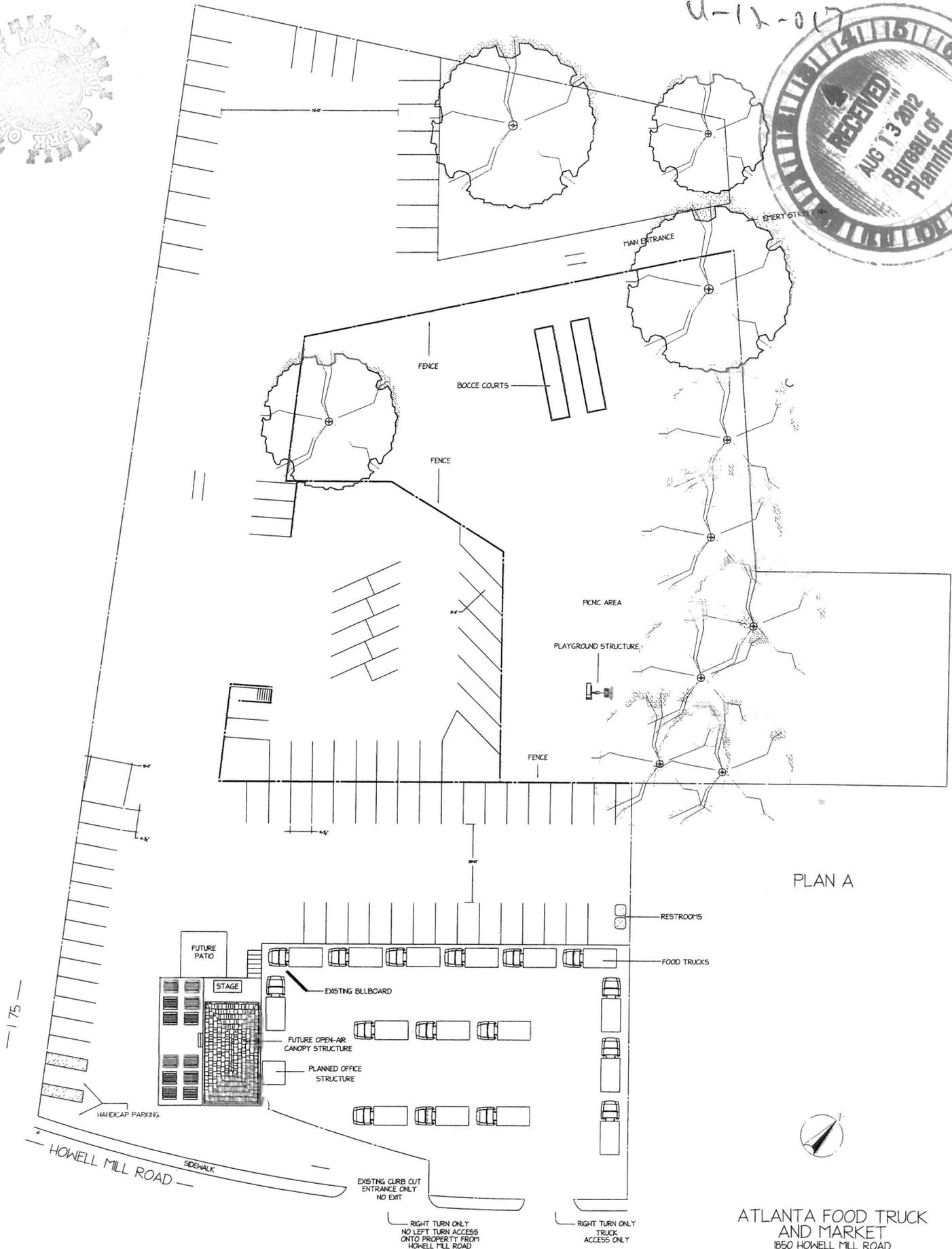


**Conditions for U-12-017 for 1850 Howell Mill Road, N.E.
(1848 Howell Mill Road, 17-01530010040, 17-01530011045, 17-01530011004,
17-01530011005, 17-01530011083, and 17-0153001106)**

- 1) Site Plan: Approval shall be conditioned on the two conceptual site plans labeled “Atlanta Food Truck Market – Plan A” and “Atlanta Food Truck Market – Plan B” stamped received by the Office of Planning August 13, 2012. Said plans shall limit the total number of on-site mobile food trucks and vending tents in the markets at any given time. The applicant may conduct temporary festival events/vending in the lawn area or within the truck area subject to approval by the Atlanta Police, Fire and other City Departments as applicable.
- 2) Duration: The special use permit shall be valid for a period of five (5) years.
- 3) Operator: The special use permit shall be valid only for Howard Hsu and Brian Harvin, as the operators of the Atlanta Food Truck and Market.
- 4) Howell Mill Road Driveway Restrictions:
 - Northern Driveway: Said driveway shall be for truck access only for market setup. Access shall be restricted to right-in and right-out movements only. Left turn exit movements onto Howell Mill Road shall not be permitted.
 - Southern Driveway (closest to I-75): Said driveway shall allow access only for customers. Access shall be restricted to right-in and right-out movements only. Left turn exit movements onto Howell Mill Road shall not be permitted.
 - Signage: Applicant shall install signage on-site at both driveway entrances on Howell Mill Road as well as within the parking lot adjacent to the outdoor dining area to alert the general public of site access restrictions from Howell Mill Road.



U-12-017



PLAN A



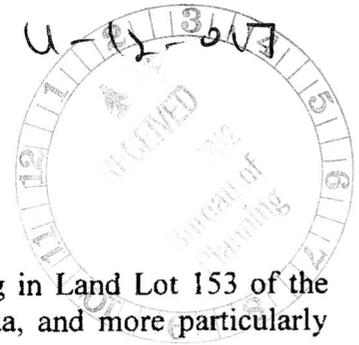
ATLANTA FOOD TRUCK AND MARKET
1850 HOWELL MILL ROAD

SCALE 1/25'



EXHIBIT A

(Description of Land)



PARCEL ONE

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 153 of the 17th District of Fulton County, Georgia, in the City of Atlanta, and more particularly described as follows:

BEGINNING at an iron pin on the westerly side of Howell Mill Road 175 feet south of the southwest intersection of the Howell Mill Road and Beck Street, allowing for a sidewalk 10.45 feet wide along the southerly side of Beck Street; running thence southerly along the westerly side of Howell Mill Road 150 feet to a point which is 0.5 of a foot south of the outside line of a concrete wall which is located on this property; thence westerly 188.6 feet to an iron pin, said last described line following the outside of a wall located on the property adjoining on the south for the last approximate 75 feet of said distance; thence northerly 149.5 feet to an iron pin; thence easterly 190 feet to the point of beginning; being improved property known as No. 1858 Howell Mill Road, N.W., according to the present system of numbering of properties in the City of Atlanta, and as shown on plat of survey of this property made by C. R. Roberts, Registered Engineer, on March 30, 1959, a copy of which is on file in the office of the Atlanta Title Company.

LESS AND EXCEPT that portion of the above described property which is conveyed as Tract 3 in that certain Warranty Deed from James A. Shugart, Sr. (a/k/a J. A. Shugart, Sr.), and James A. Shugart, Jr. (a/k/a J. A. Shugart, Jr.) to NW, L.P., a Georgia limited partnership, the sole general partner of which is GPSS, Inc., dated April 16, 1993, filed for record April 19, 1993 at 8:30 a.m., recorded in Deed Book 16505, Page 295, Records of Fulton County, Georgia.

ALSO LESS AND EXCEPT that portion of the above described taken by Condemnation Suit No. C86219, Department of Transportation v. 0.097 acres of land, et. al., dated May 12, 1982, filed for record June 24, 1983 at 12:57 p.m., recorded in Deed Book 8536, Page 142, aforesaid Records.

PARCEL TWO

All that tract or parcel of land lying and being in Land Lot 153 of the 17th District of Fulton County, Georgia and being more particularly described as follows:

BEGINNING at an iron pin on the southwesterly side of Beck Street, forty-four (44) feet southeasterly as measured along the southwesterly side of Beck Street, from the southeast corner of the intersection of Beck Street and Emery Street; thence running southeasterly



along the southwesterly side of Beck Street, forty-four (44) feet to an iron pin; thence southwesterly, one hundred twenty-six (126) feet to an iron pin; thence northwesterly, thirty-six and seven tenths (36.7) feet to an iron pin; thence northeasterly one hundred twenty seven and one tenth (127.1) feet to an iron pin on the southwesterly side of Beck Street and the point of beginning.

PARCEL THREE

All that tract or parcel of land lying and being in Land Lot 153 of the 17th District of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the west side of Emery Street Three Hundred Forty (340) feet south from the southwest corner of Emery Street and Kilgore Street; running thence south along the west side of Emery Street One Hundred (100) feet more or less to the northeast right-of-way line of the Atlanta Expressway System; thence northwesterly along said right-of-way line Two Hundred (200) feet more or less, to a point at the intersection of said right-of-way line with the north line of Lot 100 of Northside Park Subdivision; thence in a easterly direction along the north line of said Lot 100 One Hundred Sixty (160) feet more or less, to the west side of Emery Street at the point of beginning; being portions of Lots 98 and 100 of Northside Park Subdivision; according to plat recorded in Plat Book 2, page 194 Fulton County Records, and being improved property having a house thereon known as No. 1870 Emery Street, N.W., according to the present system of numbering houses in the City of Atlanta, Georgia.

PARCEL FOUR

ALL that tract or parcel of land lying and being in Land Lot 153 of the 17th District, Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the northeast right of way of the Expressway where the East street line of Emery Street intersects said Expressway right of way; running thence north along the east side of Emery Street (now abandoned) a distance of eighty and two-tenths (80.2) feet; thence in a westerly direction a distance of fifty-one (51) feet, more or less, to the west side of Emery Street to a point located Sixty (60) feet North from the Expressway right of way; thence South along the West side of Emery Street a distance of Sixty (60) feet to the Northeast side of the Expressway right of way; thence Southeast along the Northeast side of said Expressway right of way a distance of fifty-seven (57) feet to the East side of Emery Street and the point of beginning; said described property being the portion of Emery Street, N.W., abandoned by Ordinance approved June 9, 1965.



PARCEL FIVE

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 153 of the 17th District of Fulton County, Georgia, in the City of Atlanta, and more particularly described as follows:

BEGINNING at a point on the west side of Emery Street located 99.7 feet north from the northeast right of way line of the Expressway, and running thence east a distance of 50 feet to the east side of Emery Street; thence south along the east side of Emery Street a distance of 44 feet; thence west a distance of 50 feet to the west side of Emery Street; thence north along the west side of Emery Street a distance of 39 feet to the point of beginning. Said described property adjoins to the north of property conveyed by Quitclaim Deed, dated June 28, 1965, from the City of Atlanta to J A Shugart, Jr. and J A Shugart, Sr.

The above described property being the portion of Emery Street, N.W., abandoned by Ordinance approved October 4, 1966.

PARCEL SIX

Tract 1:

All that tract or parcel of land lying and being in Land Lot 153 of the 17th District of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin at the point of intersection of the east side of Emery Street and the northeasterly right-of-way of Northwest Expressway; thence running southeasterly along the northeasterly right-of-way of Northwest Expressway two hundred three and sixty-five hundredths (203.65) feet to an iron pin; thence north ten and seven tenths (10.7) feet to an iron pin; thence east one hundred eight-five and eight tenths (185.8) feet to an iron pin on the northwesterly side of Howell Mill Road; thence running northeasterly along the northwesterly side of Howell Mill Road fifty (50) feet to an iron pin; thence west, forming an interior angle of 82 degrees 46 minutes with the northwesterly side of Howell Mill Road, one hundred eighty-eight and seventy-five hundredths (188.75) feet to an iron pin; thence northeasterly one hundred (100) feet to an iron pin; thence northwesterly two hundred eleven and ninety-five hundredths (211.95) feet to an iron pin on the east side of Emery Street; thence running south along the east side of Emery Street, forming an interior angle of 82 degrees 02 minutes, with the preceding course, eighty and five tenths (80.5) feet to the iron pin at the POINT OF BEGINNING; being improved property, having a 64-unit motel building located thereon.

LESS AND EXCEPT that portion of said tract fronting on Howell Mill Road which was acquired by the Georgia Department of Transportation, Highway Division, for right of way purposes (described, together with the adjacent portion of Tract 2, as being in Parcel No. 22 on Sheet #9 of the Right of Way Map for Proj. 1-75-3(130) Fulton, dated March



27, 1981, as thereafter revised), the condemnation proceedings on which were completed April 16, 1991.

Tract 2:

All that tract or parcel of land being in Land Lot 153 of the 17th District of Fulton County, Georgia, being a portion of Lot 68 of North Side Park Subdivision, as per plat by O. F. Kauffman, C.E., dated April, 1907, recorded in Plat Book 2, page 194, Fulton County, Georgia, records, and being more particularly described as follows:

BEGINNING at a point on the west side of Howell Mill Road one hundred ninety-three and six tenths (193.6) feet north of the northwest corner of Holly Street (a/k/a Holley Street), as such street existed in 1956, and Howell Mill Road, said beginning point being along the west side of Howell Mill Road, said beginning point being the northeast corner of Lot 70 of said subdivision; thence in a northerly direction along the west side of Howell Mill Road fifty (50) feet to the southeast corner of Lot 66 of said subdivision; thence westerly along the south line of said Lot 66 one hundred ninety (190) feet to the northeast corner of Lot 69 of said subdivision; thence southerly along the east line of said Lot 69 fifty (50) feet to the northwest corner of Lot 70 of said subdivision; thence easterly along the north line of Lot 70 of said subdivision one hundred ninety (190) feet to the west side of Howell Mill Road at the POINT OF BEGINNING.

LESS AND EXCEPT that portion of said Lot 68 heretofore conveyed to the State Highway Department of Georgia for right of way purposes from Mrs. Ulla (Mary L.) Hopper, dated August 27, 1953, recorded in Deed Book 2878, page 641, Fulton County, Georgia records.

ALSO LESS AND EXCEPT that portion of said tract fronting on Howell Mill Road which was acquired by the Georgia Department of Transportation, Highway Division, for right of way purposes (described, together with the adjacent portion of Tract 1, as being in Parcel No. 22 on Sheet #9 of the Right of Way Map for Proj. 1-75-3(130) Fulton, dated March 27, 1981, as thereafter revised), the condemnation proceedings on which were completed April 16, 1991.

Tract 3:

All that tract or parcel of land lying and being in Land Lot 153 of the 17th District of Fulton County, Georgia, in the City of Atlanta, and being more particularly described as follows:

To find the Point of Beginning, commence at a point on the west side of Howell Mill Road 175 feet south as measured along said street from its intersection with the south side of Beck Street (allowing for a 10-foot sidewalk on Beck Street); said point being at the north line of the property leased to Standard Oil Company on July 28, 1958; thence running westerly 125 feet to the POINT OF BEGINNING; thence running westerly from



said Point of Beginning 65 feet to an iron pin; thence southerly 149.5 feet to an iron pin; thence easterly 63.6 feet to the southwest corner of said Standard Oil Company property; thence northerly 150 feet along said Standard Oil Company property to the Point of Beginning. Said tract being the western 65 feet (more or less) of that property conveyed by Warranty Deed from Mrs. Anna Weinberg to J. A. Shugart, Sr., and J. A. Shugart, Jr., dated March 29, 1979, filed for record March 30, 1979, recorded in Deed Book 7206, page 266, in the Office of the Clerk of the Superior Court of Fulton County, Georgia.

TOGETHER WITH all rights of ingress and egress to said Tract as are set forth in that certain Lease between J. A. Shugart, Jr. & J. A. Shugart, Sr., as Landlord, and McFrugal Auto Rental of N.W. Atlanta, Inc., as Tenant, dated September 22, 1992.

PARCEL SEVEN

Tract 1:

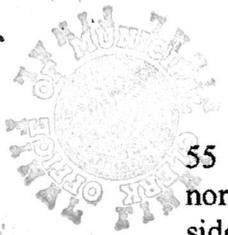
All that tract of land in Land Lot 153 of the 17th District of Fulton County, (originally Henry County) Georgia, and more particularly described as follows:

BEGINNING at a point on the south side of Beck Street, 190 feet west from the southwest corner of Beck Street and Howell Mill Road; running thence west along the south side of Beck Street 60 feet; thence south 225 feet to Lot 63; thence east 60 feet to Lot 61; thence north along the west line of Lots 58, 59, 60 and 61 a distance of 225 feet to the south side of Beck Street at the point of beginning; being Lot 57 and the east 5 feet to Lot 56 of the North Side Park, according to plat by same by O. F. Kaufman, C.E., dated April, 1907, recorded in Plat Book 2, page 194, and 195 in the office of the Superior Court, Fulton County, Georgia, and being improved property known as Number 6 Beck Street, N.W.

Tract 2:

All that tract or parcel of land lying and being in Land Lot 153 of the 17th District of Fulton County, Georgia, being a part of Lot 56, North Side Park Subdivision, according to plat made by O. F. Kauffman, C. E., dated April, 1907, recorded in Plat Book 2, pages 194 and 195, in the office of the Clerk of the Superior Court of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the southerly side of Beck Street 250 feet westerly along said street, from the intersection formed by the southerly side of Beck Street and the westerly side of Howell Mill Road, said point of beginning being the northwesterly corner of property now or formerly owned by Mrs. Theresa Adams Richardson; running thence westerly along the southerly side of Beck Street 50 feet to the northeasterly corner of Lot 55, said subdivision; thence southerly along the line dividing Lots 56 and 55, 225 feet to the northerly line of Lot 63, said subdivision; thence easterly along the line dividing Lots



55 and 63, 50 feet to the westerly line of the aforesaid Richardson property; thence northerly along the westerly side of said Richardson property 225 feet to the southerly side of Beck Street and the point of beginning, being improved property known as No. 10 Beck Street, N. W., according to the present system of numbering houses in the City of Atlanta.

Tract 3:

All that tract or parcel of land lying and being in the City of Atlanta and in Land Lot 153 of the 17th District of Fulton County, Georgia, being composed of the southerly parts of Lots 54 and 55, as shown on a plat designated "Map of North Side Park", made by O. F. Kauffman, C. E., dated April, 1907, recorded in Plat Book 2, pages 194 and 195, in the Office of the Clerk of the Superior Court of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the east side of Emery Street, 128 feet south, along the east side of Emery Street, from the corner formed by the east side of Emery Street and the southerly side of Beck Street, and running thence south, along the east side of Emery Street, 98.4 feet to a point at the northwesterly corner of Lot 63, as shown on said plat, which point last run to is now or was formerly marked by an iron pipe; thence easterly, in a direction slightly south of east, along the northerly line of said Lot 63, 99.4 feet to a point at the southwesterly corner of Lot 56, as shown on said plat, which point last run to is now or was formerly marked by an iron pipe; thence northerly, in a direction slightly east of north, along the westerly line of said Lot 56, 99 feet to a point, which point last run is now or was formerly marked by an iron pipe; thence westerly, in a direction slightly north of west, 110.7 feet to the east side of Emery Street and the point of beginning; being improved property known as No. 1873 Emery Street, N.W., according to the present system of numbering houses in the City of Atlanta, Georgia.

