

Z-14-21-AN ORDINANCE BY ZONING COMMITTEE TO REZONE FROM THE R-5 (TWO-FAMILY RESIDENTIAL) TO THE C-1 (COMMUNITY BUSINESS) DISTRICT FOR PROPERTY LOCATED AT 380 14TH STREET, N.W., AND 1131 MECASLIN STREET, N.W., FRONTING APPROXIMATELY 162 FEET ON THE EAST SIDE OF MESCALIN STREET, APPROXIMATELY 172 FEET ON THE SOUTH SIDE OF 14TH STREET AND LOCATED AT THE SOUTHEASTERLY INTERSECTION OF MESCALIN AND 14TH STREET. DEPTH: VARIES AREA: APPROXIMATELY 0.925 ACRE LAND LOT 149. 14TH DISTRICT, FULTON COUNTY, GEORGIA. OWNER: 380 PROPERTIES, LLC APPLICANT: ROBERT PINDER NPU E COUNCIL DISTRICT 3

Application File Date	May 6, 2014
Zoning Number	Z-14-21
NPU / CD	E-3
Staff Recommendation	
NPU Recommendation	
ZRB Recommendation	

Workflow List:

Office of Research and Policy Analysis	Completed	05/20/2014 11:34 AM
Zoning Committee	Pending	
Atlanta City Council	Pending	
Zoning Review Board Staff	Pending	
Office of Research and Policy Analysis	Pending	
Mayor's Office	Pending	

Certified by Presiding Officer	Certified by Clerk
Mayor's Action	
<i>See Authentication Page Attachment</i>	

Z-14-21-AN ORDINANCE BY ZONING COMMITTEE TO REZONE FROM THE R-5 (TWO-FAMILY RESIDENTIAL) TO THE C-1 (COMMUNITY BUSINESS) DISTRICT FOR PROPERTY LOCATED AT 380 14TH STREET, N.W., AND 1131 MECASLIN STREET, N.W., FRONTING APPROXIMATELY 162 FEET ON THE EAST SIDE OF MESCALIN STREET, APPROXIMATELY 172 FEET ON THE SOUTH SIDE OF 14TH STREET AND LOCATED AT THE SOUTHEASTERLY INTERSECTION OF MESCALIN AND 14TH STREET. DEPTH: VARIES AREA: APPROXIMATELY 0.925 ACRE LAND LOT 149. 14TH DISTRICT, FULTON COUNTY, GEORGIA. OWNER: 380 PROPERTIES, LLC APPLICANT: ROBERT PINDER NPU E COUNCIL DISTRICT 3

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City Council
Atlanta, Georgia

AN ORDINANCE

Z-14-21

BY: ZONING COMMITTEE

Date Filed: 5-6-14

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

SECTION 1. That the Zoning Ordinance of the City of Atlanta be amended, and the maps established in connection therewith be changed so that the following property located at 380 14TH STREET, N.W., AND 1131 MECASLIN STREET, N.W., be changed from the R-5 (Two-Family Residential) to the C-1 (Community Business) District to wit:

ALL THAT TRACT or parcel of land lying in Land Lot 149, 14th District, Fulton County, Georgia, being more particularly described by the attached legal description and/or survey.

SECTION 2. If this amendment is approved under the provisions of Section 16-02.003 of the Zoning Ordinance of the City of Atlanta, entitled, “Conditional Development”, as identified by the use of the suffice “C” after the district designation in Section 1 above, the Director, Bureau of Buildings, shall issue a building permit for the development of the above-described property only in compliance with the attached conditions. Any conditions hereby approved (including any conditional site plan) do not

authorize the violation of any district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That the maps referred to, now on file in the Office of the Municipal Clerk, be changed to conform with the terms of this ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.



55 Trinity Avenue S.W., Suite 3350
Atlanta, Georgia 30303
(404) 330-6145

APPLICATION #: **Z-14-021**

DATE ACCEPTED: **05/06/2014**

NOTICE TO APPLICANT

Address of Property:
1131 Mecaslin ST NW

City Council District: **3** Neighborhood Planning Unit (NPU): **E**

Zoning Review Board (ZRB) Hearing Date:

Thursday, July 3 or 10, 2014 at 6:00 p.m.

Council Chambers, 2nd Floor, City Hall
55 Trinity Avenue, S.W.

The contact person for NPU E is:

Penelope Cheroff
404-892-0229
pcheroff@cheroffgroup.com

Contact info for adjacent NPUs is provided below if necessary:

Additional Contacts:

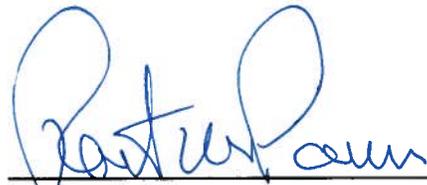


Please contact the person(s) listed above within two days to find out which meetings you will be required to attend before the next NPU meeting. If you are unable to reach the contact person, please call the city's NPU Coordinator at 404-330-6145.

Signed,



KS, for Director, Bureau of Planning



Rob Ponder

City of Atlanta

Date Filed _____

Application Number Z-14-021

I Hereby Request That The Property Described in this Application be Rezoned

From R-5 District

TO C-1 District



Name of Applicant Ponder Rob M.I.
Last Name First Name

address 3000 street name Langford Rd, Bldg 2000
city Norcross state GA zip code 30071
phone 770.449.8860 Fax 770.449.8861
e-mail address _____

Name of Property Owner _____
Last Name First Name M.I.

address 1900 street name Piedmont Circle
city Atlanta state GA zip code 30324
phone 404.431.7379 Fax 404.873.4074

Description of Property

Address of Property 1131 street name Mecasin Street
city Atlanta state GA zip code 30318
The subject property fronts 162 ft. feet on the east side of Mecasin Street
beginning _____ feet from the southeast corner of Mecasin Street
and 11th Street
Depth: 113 ft. Area: 26 Land Lot: 149 Land District: 149 - 17th County, GA.
Property is zoned: R-5 Council District: 3 Neighborhood Planning Unit: E

A. SUMMARY OF PROPOSED PROJECT. Describe the proposed project in the space provided below. Include the proposed use of each building and all other land uses. This description is required in addition to the Documented Impact Analysis and is not considered a substitute. Should additional space be required please type or print on a separate piece of paper.

2-14-0

Mixed-use development that shall include a focus service hotel, retail and structured parking.



B. DOCUMENTED IMPACT ANALYSIS. Each application must contain a typed or printed documented analysis of the impact of the proposed rezoning with respect to the following matters.

(1) Compatibility with comprehensive development plans; timing of development:

The Office shall examine the proposal to determine whether it is in accord with comprehensive development plans in their 15-year, 5-year, and 1-year forms. In its findings in this regard, it may report that the proposal is compatible or incompatible with all such plans, or that while the change is in accord with those of longer range it would be premature in the light of the 1-year or 5-year comprehensive development plans. The Office shall not recommend any change not in accord with adopted comprehensive development plans but may, where it sees fit, recommend changes in such plans, following which, if such change in plans are officially adopted, the zoning change may be reconsidered without prejudice and without a new application if an application is involved.

(2) Availability of and effect on public facilities and services/referrals to other agencies: The Office shall consider and report on the availability of public facilities and services and the effect the proposed change would have on demands for public facilities and services in the area in which the change is proposed or generally. Such facilities and services include but are not limited to water supply, sewage, or drainage, transportation, schools, fire and police protection, and solid waste collection and disposal.

(3) Availability of other land suitable for proposed use; effect on balance of land uses: The Office may consider the availability of other appropriate land already zoned for the proposed use, general and in the area of the proposed change. The Office may also consider whether generally, or in the area of the proposed change, the change would have adverse environmental effects on the balance of land uses by removing land from a category for which it is suited and for which there is a greater need to a category for which the public need is lesser.

(4) Effect on character of the neighborhood: The Office shall consider the effect of uses permitted under the proposed change on the surrounding neighborhood and shall report any substantial probably adverse influences on desirable living conditions or sustained stability, or any tendencies toward blight and depreciation likely to result from the change.

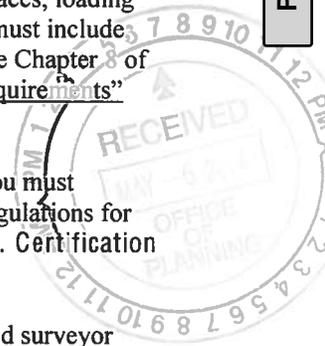
(5) Suitability of proposed use: The Office shall consider whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

(6) Effect on adjacent property: The Office shall consider whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

(7) Economic use of current zoning: The Office shall consider whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

(8) Tree Preservation: The Office shall consider and report on whether the proposal is in accordance with the City of Atlanta's policies related to tree preservation as adopted in Section 10-2033, Policy, Purpose and Intent of the City of Atlanta Tree Ordinance.

- C. **CONDITIONAL ZONING.** If the request is for zoning for new development, submit fourteen (14) copies of the site plan prepared by a State of Georgia registered architect, landscape architect, engineer, or planner holding the AICP designation. Site plans must be folded to 11" x 14". All site plans shall be sealed by the professional preparer and shall show the scale, north arrow; the location of streets and street names; sidewalks; existing and proposed buildings and their square footage, heights, and floor area ratio; parking spaces, loading areas, and number of parking spaces must also be shown. All plans for residential development must include on the site plan, a summary of calculations in accordance with the Land Use Intensity System (see Chapter 8 of the Zoning Ordinance). For complete information regarding site plans, refer to the "Site Plan Requirements" attachment to this application form.
- D. **PLANNED DEVELOPMENT (PD) DISTRICTS.** If your request is for PD District Zoning, you must comply with the requirements of Chapter 19 of the Zoning Ordinance and with the appropriate regulations for Planned Development Housing, Office-Commercial, Mixed-Use, or Business Park as appropriate. Certification of a PD Zoning pre-application conference is required. Submit *Attachment 7*.
- E. **PROPERTY DESCRIPTION.** A copy of a recent plat of survey prepared by an engineer or land surveyor registered in the State of Georgia must accompany each application. In addition, a written legal description must be submitted. In cases involving more than one contiguous property, a consolidated legal description of the property must be submitted.
- F. **HOUSING APPLICATION.** If the rezoning application contemplates the construction of one or more residential units, complete the attached Atlanta Public School form, *Attachment 3*.
- G. **DEVELOPMENTS OF REGIONAL IMPACT.** If your application meets the thresholds shown on *Table 11 (Attachment 4)*, you must contact the Office of Planning for further instructions.
- H. **TREE PRESERVATION.** All development must meet the City of Atlanta Tree Ordinance. Contact the City Arborist, (404) 330-6150 for details.
- I. **COMPREHENSIVE DEVELOPMENT PLAN (CDP) AMENDMENT.** Submit *Attachment 5*.
- J. **DISCLOSURE.** Submit a disclosure statement as described in *Attachment 6*.
- K. **HEARING DATES AND PROCESSING OF APPLICANTS.** See attached Zoning Review Board Schedule.
- L. **MEETING WITH NEIGHBORHOOD PLANNING UNIT (NPU)** You must contact the appropriate Neighborhood Planning Unit (NPU) within two business days after filing your rezoning application to appear before them prior to the public hearing of the Zoning Review Board. The name and phone number of the contact for the NPU will be provided at the time that you file your application.
- M. **FEEES.** See attached fee schedule, *Attachment 8*.
- N. **AUTHORIZATION TO INSPECT PREMISES.** I hereby authorize the staff of the Office of Planning of the City of Atlanta to inspect the premises, which are the subject of this rezoning application.
- O. Revisions to site plans will only be accepted up to 15 days prior to the scheduled hearing date.



I swear and affirm that the information contained in this application is true and accurate to the best of my knowledge and belief.

 Owner or Agent of Owner (Applicant)

Sworn to and subscribed before me this _____ day of _____, 2____.
 _____ (Notary Public)

AUTHORIZATION OF ATTORNEY

I SWEAR AND AFFIRM, AS AN ATTORNEY AT LAW, THAT I HAVE BEEN AUTHORIZED BY THE OWNER OF THE PROPERTY SUBJECT TO THE PROPOSED REZONING TO FILE THIS APPLICATION.

Z-14-021



M. Hakim Hilliard
SIGNATURE OF ATTORNEY

M. HAKIM HILLIARD
NAME

344 Woodward Avenue, SE
ADDRESS

Atlanta GA 30312
CITY STATE ZIPCODE

404 968 9614
TELEPHONE NUMBER

COMPREHENSIVE LAND USE AMENDMENT

Date: 5/6/2014 Z-14-021

The City of Atlanta
Department of Planning and Community Development
Office of Planning
68 Mitchell Street, South Building, Suite 3350
Atlanta, Georgia 30335-0310



RE: CDP Land Use Amendment Application

Dear Sir/Madam:

I hereby request that the Comprehensive Development Plan (CDP) land use designation for (*address of property*) 1131 Mescalini Street be amended from (*existing land designation*) Low Density Residential to a designation that will allow it to be rezoned from (*existing zoning classification*) R-5 to (*proposed zoning classification*) C-1.

Notarized authorization of any and all property owner (s) indicating consent to this request have been made a part of this application. I understand that my application for a CDP amendment is subject to a review by the Neighborhood Planning Unit (NPU) in which the property is located, and I agree to contact the Chairperson of that NPU to request consideration of my application. I further understand that I am required to submit an application fee for the CDP amendment in an amount of \$1,000.00. I have submitted a complete description of the proposed development project, including type of land use, number of units and /or square footage, floor area ratio(s), and lot coverage ratio. Furthermore the following information has also been included:

1. Whether the proposed land use change will permit uses that are suitable in view of the use and development of adjacent and nearby property.
2. Whether the proposed land use change will adversely affect the existing use or usability of adjacent or nearby property.
3. Whether the proposed land use change will result in uses which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities or schools.
4. Whether the amendment is consistent with the written policies in the Comprehensive Plan Text.
5. Whether there are environmental impacts or consequences resulting from the proposed change.

I filed an application (Z- 14 - 021) for rezoning of the subject property on (*date*) 5/6/14.

Sincerely,

Robert W. Pomeroy
Applicant's Signature

ROBERT W. POMEROY
Name of Applicant (please print)

3146 LAKEVIEW DR
Address of Applicant

DULUTH GA 30096
City State Zip Code

770. 833-2915
Phone Number of Applicant

Applicant informed of CDP hearing schedule

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EXHIBIT "A"

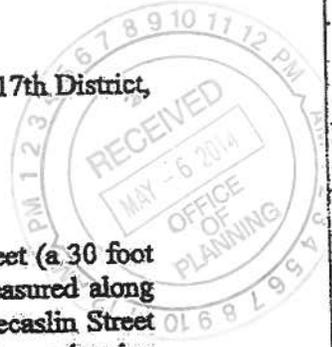
ALL THOSE TRACTS or parcels of land lying and being in Land Lot 149 of the 17th District, Fulton County, Georgia, and being more particularly described as follows:

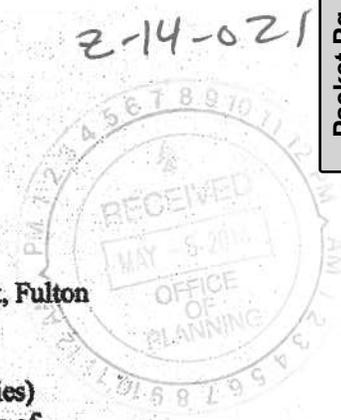
TRACT I:

Beginning at a 1/2 inch rebar set on the easterly right-of-way line of Mescalini Street (a 30 foot right-of-way, f/k/a East Street), located 162.16 feet in a southerly direction as measured along said right-of-way line from the intersection of the easterly right-of-way line of Mescalini Street and the southerly right-of-way line of Fourteenth Street (a 60 foot right-of-way); thence leaving said right-of-way line of Mescalini Street traveling North 89 degrees 58 minutes 59 seconds East a distance of 116.00 feet to a 1/2 inch rebar set; thence travel South 04 degrees 03 minutes 17 seconds West a distance of 100.03 feet to a 1/2 inch rebar set; thence travel South 89 degrees 52 minutes 00 seconds West a distance of 110.50 feet to a 1/2 inch rebar set on the easterly right-of-way line of Mescalini Street; thence travel along said right-of-way line North 01 degree 04 minutes 03 seconds East a distance of 100.00 feet to the point of beginning.

TRACT II:

Beginning at a p.k. nail set at the intersection of the southerly right-of-way line of Fourteenth Street (a 60 foot right-of-way) and the easterly right-of-way line of Mescalini Street (a 30 foot right-of-way, f/k/a East Street); thence travel along said right-of-way line of Fourteenth Street South 89 degrees 52 minutes 24 seconds East a distance of 195.56 feet to a 1/2 inch rebar set; thence leaving said right-of-way line, travel South 00 degrees 31 minutes 16 seconds West a distance of 150.11 feet to a 1/2 inch rebar set; thence travel North 89 degrees 55 minutes 26 seconds West a distance of 196.84 feet to a 1/2 inch rebar set on the easterly right-of-way line of Mescalini Street; thence travel along said right-of-way line North 01 degree 07 minutes 04 seconds East a distance of 150.16 feet to the point of beginning.





**Legal Description Alley
380 Fourteenth Street**

All that tract or parcel of land lying and being in Land Lot 149 of the 17th District, Fulton County, Georgia and being more particularly described as follows:

Beginning at a nail set on the east right of way line of Mescaline Street (R/W Varies) South 01 Degrees 07 Minutes 04 Seconds West 150.15 feet from the intersection of formed by the east right of way of Mescaline Street (R/W Varies) and the south right of way line of Fourteenth Street (60'R/W); Thence leaving said right of way line and running along the north line of an alley South 89 Degrees 55 Minutes 26 Seconds East for a distance of 103.99 feet to a point; thence leaving said north line of said alley and running South 00 Degrees 04 Minutes 34 Seconds West for a distance of 11.25 feet to a rebar set on the south line of said alley; Thence continuing along said south line of said alley; South 89 Degrees 58 Minutes 59 Seconds West for a distance of 116.00 feet to a rebar found on the east right of way line of Mescaline Street (R/W Varies); The continuing along said right of way line North 02 Degrees 07 Minutes 38 Seconds East for a distance of 5.72 feet to a point; Thence South 89 Degrees 58 Minutes 13 Seconds East for a distance of 11.81 feet to a point; Thence North 00 Degrees 01 Minutes 01 Seconds West for a distance of 5.71 feet to a nail set of the east right of way line of Mescaline Street (R/W Varies) and The Point of Beginning. Said tract containing 1,247 square feet +/- or 0.029 acres +/- .

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AMENDED DOCUMENTED IMPACT ANALYSIS

REZONING FROM R-5 to C-1

And

SPECIAL USE PERMIT

and

Other Material Required by
City of Atlanta Zoning Ordinance
For

.925 acres of land

located at

380 14th Street (Tract 2) and 1131 Mescaline Street (Tract 1)

The City of Atlanta, Georgia

Land Lot 149, 17th District

From R-5 to C-1

Submitted for

380 PROPERTIES, LLC

by:

Robert W. Ponder

Ponder & Ponder Architects

3000 Langford Rd NW, Building 200

Norcross, GA 30071

770.449.8860

and

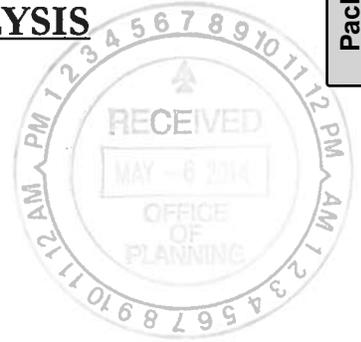
M. Hakim Hilliard, Esquire

The Hilliard Firm, LLC

344 Woodward Avenue, SE

Atlanta, Georgia 30312

404.968.9614



INTRODUCTION

This Application includes two tracts of land. The first tract (hereinafter referred to as “Tract 2”) is located on the southeastern corner of 14th Street and Mescalini at 380 14th Street. The second tract (hereinafter referred to as “Tract 1”) is located at 1131 Mescalini Street. Tract 2 and Tract 1, separated by a private alley that runs between them, are both located in Land Lot 149 of the 17th District, Fulton County, Georgia. The combination of Tract 2, Tract 1 and the portion of the private alley that runs between them consist of approximately \pm .925 acres of land (hereinafter referred to as the “Subject Property”).

The Applicant seeks to develop the Subject Property with a mixed-use development that will include a focus service hotel, retail and structured parking. The Subject Property is designated as Commercial and Low Density Residential on the Comprehensive Land Use Plan and the foregoing application will require an amendment to the plan to a portion of the plan.

The Applicant in the present matter has had several conversations with the Home Park Neighborhood Association and the site amended plan submitted herewith represented an updated version of the plan that has been discussed with the neighbors. The primary difference between the initial application and this amendment is that Tract 1 has been added to the request.

To accommodate the proposed development, the Applicant has filed the foregoing request to rezone Tract 1 from R-5 to C-1 and has amended the application for special use permit to include Tract 1, as well as that portion of the private alley located between Tract 2 and Tract 1. The Applicant intends to continue to meet with the impacted neighborhood to discuss any appropriate conditions related to the this zoning request. Based upon our discussions thus far, the following conditions are proposed by the Applicant:

1. Tract 2 of the Subject Property shall maintain its C-2 Zoning and Tract 1 shall be rezoned from R-5 to C-1. A special use permit for a hotel use shall

- be assigned to the combination of Tract 2 and Tract 1 and the private alley that separates the two tracts.
2. The Subject Property shall be developed substantially in accordance with the Site Plan filed herewith.
 3. Any exterior lights shall be screened, shielded, and/or shaded so as to minimize glare and the casting of light outside the new development.
 4. Development of the Subject Property shall proceed in accordance with the City of Atlanta Tree Ordinance.

This document is submitted as a Statement of Intent with regard to this Application and as the impact analysis report as required by the City of Atlanta Zoning Ordinance. This document also is intended to address and substantiate the requisite responses to the state “Steinberg Act”, O.C.G.A. §36-67-1 et seq.

REZONING OF TRACT 2

1.

COMPATIBILITY WITH COMPREHENSIVE DEVELOPMENT PLANS: TIMING OF DEVELOPMENT

The City’s Comprehensive Development Plan consists of a text and series of maps. The Plan is accompanied by a procedure to link changes in zoning with corresponding changes in the Plan in order to avoid repeating the situation in which a static land use plan and an evolving zoning map become increasingly out of step with each other. Thus, with an updated Plan in effect and a mandatory planning-zoning consistency mechanism in place, it is extremely important that any rezoning request, such as this one, be based on sound land use planning and comprehensive planning principles.

The Low Density Residential designation associated with Tract 1 is currently inconsistent with the proposed plan, but the Applicant submits that said proposal would be developed in a manner that effectively implement stated policies for this area of the City of Atlanta. In this regard, the design of that portion of development that will be located on Tract 1 includes a series of

elements that allow an appropriate transition between the commercial development along 14th Street and the existing residential development south along Mescalini Street. Rezoning Tract 1 so that it can be developed as a part of the hotel also allows the hotel to reduce its proposed height on Tract 2 and use a substantial portion of Tract 1 to create a permanent natural buffer between the hotel use and the residential area that abuts Tract 1. In summary, the proposed development will serve to implement specific goals, objectives and policies of the City's Comprehensive Development Plan.

2.

AVAILABILITY OF AND EFFECT ON PUBLIC FACILITIES AND SERVICES

This project, if approved, certainly will not affect existing transportation facilities. Requisite parking is provided incidental to this development. The proposed development shall provide three points of ingress and egress to the Subject Property on Mescalini Street. The additional traffic created on Mescalini Street will constitute a minor increase in traffic and should have a minimal impact on traffic in the area.

The Applicant is not currently aware of any capacity limitations to this project, but will work closely with the relevant departments of the City of Atlanta to ensure adequate capacity as the project is developed. Adequate stormwater management practices and construction methods will be employed as the project is developed.

Schools will not be impacted in any way by the proposed development.

3.

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AVAILABILITY OF OTHER LAND SUITABLE FOR PROPOSED USE: EFFECT ON
BALANCE OF LAND USES

The Applicant is unaware of any other land in the immediate area that is both available and suitable for the proposed use. The primary goal of land use planning is to eliminate or minimize the potential adverse effect of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both “off-site” and “on-site” transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. On-site transition, which might either supplement or replace off-site transition, consists of measures imposed on or adjacent to the more intensive use to protect neighborhoods from adverse effects. In this instance, the proposed development is composed of two tracts of land that abut 14th Street to the north and a residential neighborhood to the south. Again, the design of the proposed improvements acts as a buffer between the commercial area along 14th Street and the Home Park Neighborhood. Moreover, the Applicant will incorporate adequate site design standards to insure an absence of negative impact.

In short, this project will not adversely affect the balance of existing land uses.

4.

EFFECT ON CHARACTER OF THE NEIGHBORHOOD

The rezoning of Tract 1 to C-1 should have a positive impact upon adjacent properties. Directly south of the Subject Property is a single-family home. The 20 foot landscape buffer, along with the “green wall” that is anticipated for the portion of the building located on Tract 1 will improve the area dramatically. Tract 1 currently consists of a vacant, paved lot that is an eyesore for the community. To the west of the Subject Property are residential uses that are occupied by

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renters. To the east is also a residential unit and the Applicant is working with this owner to ameliorate any impact of the proposed development upon that use.

5.

SUITABILITY OF PROPOSED USE

Based on the proposed site plan design for the Subject Property, the proposed use is entirely consistent with and suitable for the area. The proposal improves the quality of the existing property by removing an abandoned church and a vacant gravel lot and developing the property in a manner that promotes and preserves the Home Park Neighborhood.

6.

EFFECT ON ADJACENT PROPERTY

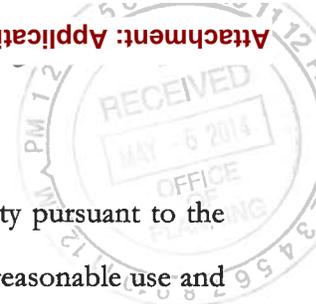
The rezoning of Tract 1 to C-1 should have little impact upon any adjacent properties and will only strengthen the buffer between the single-family residential community to the south and the commercial area along 14th Street to the north. Indeed, the C-1 zoning category is likely to have a positive impact upon the surrounding community.

7.

ECONOMIC USE OF CURRENT ZONING

The subject property cannot be economically developed by the owner as currently zoned. Therefore, the Applicant, on behalf the owners of the tract of land at issue in this rezoning application (the "Property"), respectfully submits that the Zoning Ordinance of the City of Atlanta, Georgia, as amended from time to time and known as the "City of Atlanta Zoning Ordinance", to the extent that it classifies the Property in any zoning district which would preclude an C-1 development, is unconstitutional as a taking of property, a denial of equal protection, an arbitrary and capricious act, and an unlawful delegation of authority under the specific constitutional

Z-14-21



provisions later set forth herein. Any existing inconsistent zoning of the Property pursuant to the City of Atlanta Zoning Ordinance deprives the current-owner of any alternative reasonable use and development of the Property. Additionally, all other zoning classifications, including ones intervening between the existing classification and those requested herein, would deprive the current owner of any reasonable use and development of the Property. Further, any attempt by the Zoning Review Board, Zoning Committee or City Council to impose greater restrictions upon the manner in which the property will be developed than presently exist would be equally unlawful.

Accordingly, Applicant submits that the current R-5 zoning classification and any other zoning of the Property save for what has been requested by it as established in the City of Atlanta Zoning Ordinance constitute an arbitrary and unreasonable use of the zoning and police powers because it bears no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Property owners. All inconsistent zoning classifications between the existing zoning and the zoning requested hereunder would constitute an arbitrary and unreasonable use of the zoning and police powers because they bear or would bear no substantial relationship to the public health, safety, morality or general welfare of the public and would substantially harm the Property owner. Further, the existing inconsistent zoning classifications constitute, and all zoning and plan classifications intervening between the existing inconsistent zoning classification and that required to develop this project would constitute a taking of the owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process Clause of the Fourteenth Amendment of the United States Constitution and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

Further, the Applicant respectfully submits that the failure to approve the requested zoning change would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Property owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States. Z-14-021

Finally, the Applicant respectfully submits that the City of Atlanta cannot lawfully impose more restrictive standards upon the development of the property than presently exist as to do so not only would constitute a taking of the property as set forth above, but also would amount to an unlawful delegation of their authority, in response to neighborhood opposition, in violation of Article IX, Section IV, Paragraph II of the Georgia Constitution.

This Application meets favorably the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's police power, Guhl vs. Holcomb Bridge Road, 238 Ga. 322 (1977).

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SPECIAL USE PERMIT FOR TRACT 1 AND TRACT 2 AND PORTION OF ALLEY THAT
DIVIDES TRACT 1 AND TRACT 2

1.

INGRESS AND EGRESS



- a. Employee and client (including hotel and retail guest) vehicles shall enter and leave the property along the west property line, via an existing curb cut on Mescalini Street. The proposed plan for this corner property has no vehicular access from, or to, Fourteenth Street. The existing curb cut on 14th Street will be abandoned when this project is built.
- b. Emergency vehicles (fire, police, and ambulance) shall have access to the property along the full length of the north property line, at Fourteenth Street, and along the full length of the west property line, at Mescalini Street. Emergency vehicles shall gain access to enter the property at the existing curb cut which is proposed to remain, on Mescalini Street. The hotel structure will be high enough on the South portion of the site to allow emergency vehicles to traverse that portion of the site.
- c. The traffic entering and leaving this site will do so off of curb cuts on the side street and not directly off of 14th street like it does now. The traffic will be able to enter and exit 14th street (the busier street) at the existing intersection of Mescalini. The largest part of the proposed development is a hotel which does not create a large “spike” in traffic. The guests to a hotel tend to arrive over a “spread out” period of time from around 2pm to as late as midnight. Departures in the morning are also dispersed from around 6am to around noon. The retail traffic should be off-peak from the hotel, again, keeping any “spikes” to a minimum.



2.

OFF-STREET PARKING AND LOADING

- a. The operator for the hotel and for each of the retail facilities shall dispose of refuse and garbage in a shared, large, commercial metal dumpster, with hinged lid. The dumpster shall be situated within a screened dumpster enclosure (with lockable gates) to be located on the main parking level, at the end of the main two-way drive. Access by commercial garbage collection truck will be possible with the 14 foot height clearance provided under the hotel canopy. As of now, it is the intent of the property operators to utilize the City garbage collection system. Garbage should be collected weekly or twice per week as needed.
- b. Products and supplies shall be delivered primarily via inner city trucks and delivery vans to the on-site driveway behind the hotel. A 12 foot by 40 foot loading zone is shown on the site plan.
- c. Service personnel (such as electric and gas maintenance personnel) may gain access to the property via the existing curb cut on Mescalini Street, along the west property line, which is to remain. They may park their vehicles in the parking provided for employees and clients (including hotel guests). Service personnel will not be required to park in the right-of-way at either Fourteenth Street or Mescalini Street.
- d. Employees and clients (including hotel guests) shall gain access to the property via the existing curb cut on Mescalini Street, along the west property line, which is to remain, or the new curb cuts shown on Tract 1. They shall park their vehicles in the off-street parking structure, which begins at street level and spirals to below ground parking, partially beneath the proposed building. Parking will be provided at the rate required by the Zoning Ordinance.

3.

BUFFERING AND SCREENING

- a. The primary use proposed for the property is that of a limited service hotel, catering to business travelers, which by its nature is a quiet use, with little noise to disturb neighbors. The retail public entrances shall front onto the sidewalk at Fourteenth Street, towards other retail and away from residential neighbors. Parking area lights will be primarily pole-mounted and shall be provided with integral “cut-offs” at the light fixture, to keep light away from adjoining properties. Shade and under-story trees will be planted in the 20 foot buffer zone required along the south property line of both tracts and the east side of Tract 1, which abuts residential zoning (shown on site plan). This will help screen the property from neighbors. Vehicles parked in the parking structure will be screened from view by the 42-inch high perimeter solid wall of the structure.
- b. It is expected that approximately 200 vehicles shall travel to and from the facility every day (100 for the hotel and 100 for the retail). Much of the retail patronage is expected to be during the work day, by pedestrians from nearby office buildings. We do not expect heavy traffic for these types of uses, and therefore do not plan for any road improvements.

4.

HOURS AND MANNER OF OPERATION

- a. The primary use proposed for the property is that of a limited service hotel, catering to business travelers, and offering approximately 120 guestrooms, including a few suites. The hotel shall have lobby and other public functions on grade level at Fourteenth Street, and shall have a primary covered driveway entrance facing south, accessed from the parking, and Mescalini Street. The hotel shall have a secondary, pedestrian entrance from Fourteenth Street. The remainder of the building's street level shall be occupied by one-level, speculative, small retail, fronting onto the sidewalk, for pedestrian access, but having rear service entrances facing the parking. Below grade parking shall be

provided beneath the building and much of the property, accessed from the two curb cut on Mescalini Street, and gradually spiraling underground. The building shall be an L-shaped building in plan, with the long leg parallel to Fourteenth Street, and the short leg parallel to Mescalini Street (stepping down in height toward the south to conform with the zoning required sky plane). The hotel shall include: 120 guestrooms, a rooftop sun deck, an indoor hotel fitness room, a 100-person meeting room, a 10-person Board Room, a breakfast dining area for guests (not outside food sales), a hotel laundry (no outside laundry service), and hotel back-of-house spaces.

- b. The facility will be open 24 hours a day, 365 days a year, for the hotel. The most intensive times for hotel use will be when guests are checking in and checking out: typically from 6 am – 10 am, and again from 5 pm – 8 pm. The small retail portion will be open as required by the particular business enterprises, but is expected to be no earlier than 6 am, and no later than 11 pm, daily. It is likely that the retail will not be open every day of the year, but could be any portion thereof.
- c. The hotel is expected to have three shifts, in time increments of 8 hours each, with a total of 25 employees.
- i. The busiest daytime shift, from 7 am until 3 pm, should have 14 employees.
 - ii. The next busiest shift, from 3 pm until 11 pm, should have 8 employees.
 - iii. The late night shift, from 11 pm until 7 am, should have 3 employees.

The quantity of retail employees shall vary depending on the type of business, but is expected to be no more than 16 at a time, for one or two shifts.

- d. The clients served by both the hotel and the retail are expected to be primarily adult business people, either traveling or working in the area, and ranging in age from 18 to approximately 65. The hotel is open to families and may have some minor guests staying with their adult guardians. It is anticipated the hotel will operate at 80 % capacity, resulting in approximately 120 guests per day.

The quantity and type of retail clients will vary depending on the type of business, but is expected to draw primarily from the local business community for lunchtime or business-related services, therefore the age group is also expected to range primarily from 18 to 65.

- e. For its guests only, the hotel will offer the following complimentary food and drink: a hot breakfast (served from approximately 6 am to 9 am), "Grab'n'Go" snacks, and evening beer/wine/cocktails.

There will not be a full service restaurant (for guests nor for outside food service), nor room service provided. The retail may include a small food service establishment, which could serve food and drink at any mealtime.

- f. The hotel will include a 100 person meeting room, which is primarily intended for use by hotel guests, but which could be rented out, resulting in additional vehicles. This will be accounted for in the vehicle count of the off-street parking provided. There are no other "special programs" expected at this facility.

5.

DURATION OF SPECIAL USE PERMIT

The Owner respectfully requests that the Special Use Permit last indefinitely.

6.

TREE PRESERVATION AND REPLACEMENT

Three existing trees, located in the front yard of the existing, abandoned church building, cannot be saved when the existing building and surface parking lot are demolished. The front of the new facility will fit in with the urban fabric of the City along Fourteenth Street, encouraging pedestrian traffic on the existing sidewalk. Replacement shade trees are planned as part of the new sidewalks on both streets. New shade trees and under-story trees are also planned for installation in the 20 foot wide buffer, to be maintained along the south property line at the rear of the property.

pedestrian access, but having rear service entrances facing the parking. Below grade parking shall be provided beneath the building and much of the property, accessed from the two curb cut on Mescalini Street, and gradually spiraling underground. The building shall be an L-shaped building in plan, with the long leg parallel to Fourteenth Street, and the short leg parallel to Mescalini Street (stepping down in height toward the south to conform with the zoning required sky plane). The hotel shall include: 120 guestrooms, a rooftop sun deck, an indoor hotel fitness room, a 100-person meeting room, a 10-person Board Room, a breakfast dining area for guests (not outside food sales), a hotel laundry (no outside laundry service), and hotel back-of-house spaces.

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7.

REQUIRED YARDS AND OPEN SPACES

The existing facility structure is an abandoned church, a classroom building, and a surface parking lot in rear. All existing structures are to be demolished and removed (nothing left to add on to). The new construction will honor all building setback lines. The new construction will be built outside of the required 20 foot buffer along the rear, south property line of both tracts and the east property line of Tract 1. Z-14-021

CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Rezoning Application from R-5 to C-1 and the Amended Request for a Special Use Permit approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Atlanta so that such recommendations or input might be incorporated as conditions of approval of this Application.



RECEIPT

CITY OF ATLANTA
ATLANTATEST
55 TRINITY AVE SW

Application: Z-14-021
Application Type: Planning/ZRB/Rezoning/NA
Address: 1131 MECASLIN ST NW, ATLANTA, GA 30318
Owner Name: THREE EIGHTY FOURTEENTH STREET LLC
Owner Address:
Application Name:

Receipt No.	Ref Number	Amount Paid	Payment Date	Cashier ID	Received	Comments
369176	1064	\$2,000.00	05/06/2014	NCHAPMAN		

Owner Info.: THREE EIGHTY FOURTEENTH STREET LLC

Work Description: Rezoning from R-5 to C-1 for a new hotel (with CDP).

Z-14-021

EXHIBIT "A"

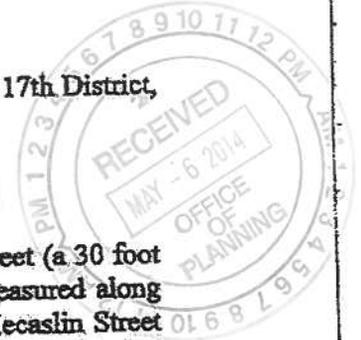
ALL THOSE TRACTS or parcels of land lying and being in Land Lot 149 of the 17th District, Fulton County, Georgia, and being more particularly described as follows:

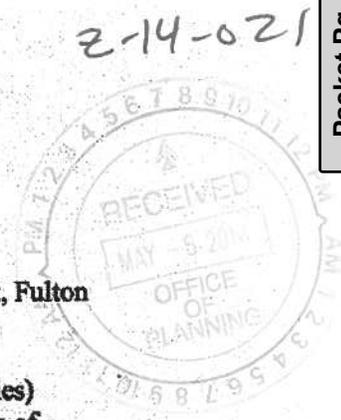
TRACT I:

Beginning at a 1/2 inch rebar set on the easterly right-of-way line of Mecasin Street (a 30 foot right-of-way, f/k/a East Street), located 162.16 feet in a southerly direction as measured along said right-of-way line from the intersection of the easterly right-of-way line of Mecasin Street and the southerly right-of-way line of Fourteenth Street (a 60 foot right-of-way); thence leaving said right-of-way line of Mecasin Street traveling North 89 degrees 58 minutes 59 seconds East a distance of 116.00 feet to a 1/2 inch rebar set; thence travel South 04 degrees 03 minutes 17 seconds West a distance of 100.03 feet to a 1/2 inch rebar set; thence travel South 89 degrees 52 minutes 00 seconds West a distance of 110.50 feet to a 1/2 inch rebar set on the easterly right-of-way line of Mecasin Street; thence travel along said right-of-way line North 01 degree 04 minutes 03 seconds East a distance of 100.00 feet to the point of beginning.

TRACT II:

Beginning at a p.k. nail set at the intersection of the southerly right-of-way line of Fourteenth Street (a 60 foot right-of-way) and the easterly right-of-way line of Mecasin Street (a 30 foot right-of-way, f/k/a East Street); thence travel along said right-of-way line of Fourteenth Street South 89 degrees 52 minutes 24 seconds East a distance of 195.56 feet to a 1/2 inch rebar set; thence leaving said right-of-way line, travel South 00 degrees 31 minutes 16 seconds West a distance of 150.11 feet to a 1/2 inch rebar set; thence travel North 89 degrees 55 minutes 26 seconds West a distance of 196.84 feet to a 1/2 inch rebar set on the easterly right-of-way line of Mecasin Street; thence travel along said right-of-way line North 01 degree 07 minutes 04 seconds East a distance of 150.16 feet to the point of beginning.





**Legal Description Alley
380 Fourteenth Street**

All that tract or parcel of land lying and being in Land Lot 149 of the 17th District, Fulton County, Georgia and being more particularly described as follows:

Beginning at a nail set on the east right of way line of Mecaslin Street (R/W Varies) South 01 Degrees 07 Minutes 04 Seconds West 150.15 feet from the intersection of formed by the east right of way of Mecaslin Street (R/W Varies) and the south right of way line of Fourteenth Street (60' R/W); Thence leaving said right of way line and running along the north line of an alley South 89 Degrees 55 Minutes 26 Seconds East for a distance of 103.99 feet to a point; thence leaving said north line of said alley and running South 00 Degrees 04 Minutes 34 Seconds West for a distance of 11.25 feet to a rebar set on the south line of said alley; Thence continuing along said south line of said alley; South 89 Degrees 58 Minutes 59 Seconds West for a distance of 116.00 feet to a rebar found on the east right of way line of Mecaslin Street (R/W Varies); The continuing along said right of way line North 02 Degrees 07 Minutes 38 Seconds East for a distance of 5.72 feet to a point; Thence South 89 Degrees 58 Minutes 13 Seconds East for a distance of 11.81 feet to a point; Thence North 00 Degrees 01 Minutes 01 Seconds West for a distance of 5.71 feet to a nail set of the east right of way line of Mecaslin Street (R/W Varies) and The Point of Beginning. Said tract containing 1,247 square feet +/- or 0.029 acres +/- .