

AN ORDINANCE BY COUNCILMEMBER CARLA SMITH TO AMEND ORDINANCE 06-0-0142 FOR THE PURPOSE OF AMENDING THE ZONING CONDITIONS FOR 771-795 CHEROKEE AVENUE S.E. AND 412 GRANT PARK PLACE S.E., ATLANTA, GEORGIA 30315; AND FOR OTHER PURPOSES.

Workflow List:

Atlanta City Council	Completed	07/09/2014 12:37 PM
Zoning Committee	Pending	
Mayor's Office	Pending	

HISTORY:

07/07/14 Atlanta City Council REFERRED WITHOUT OBJECTION

RESULT:	REFERRED WITHOUT OBJECTION	Next: 7/16/2014 9:30 AM
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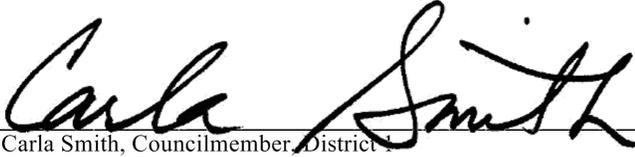
Certified by Presiding Officer	Certified by Clerk
Mayor's Action <i>See Authentication Page Attachment</i>	

LEGISLATION HISTORY – BLUE BACK

CITY COUNCIL
ATLANTA, GEORGIA

14-O-1371

SPONSOR SIGNATURES



Carla Smith, Councilmember, District 1

AN ORDINANCE BY COUNCILMEMBER CARLA SMITH TO AMEND ORDINANCE 06-0-0142 FOR THE PURPOSE OF AMENDING THE ZONING CONDITIONS FOR 771-795 CHEROKEE AVENUE S.E. AND 412 GRANT PARK PLACE S.E., ATLANTA, GEORGIA 30315; AND FOR OTHER PURPOSES.

WHEREAS, pursuant to Ordinance 06-0-0142, the Atlanta City Council granted zoning application number Z-05-128 to rezone property located at 771-795 Cherokee Avenue, S.E. and 412 Grant Park Place, S.E. ("Subject Property") from the R-5/HD (Two-family/Grant Park Historic District) to the PD-MUIHD (Planned-Development-Mixed Use/Grant Park Historic District); and

WHEREAS, to date the development of the Subject Property has not occurred and it is found in the public health, safety and general welfare to amend the zoning conditions applicable to the Subject Property.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS:

SECTION 1: The zoning conditions attached to Ordinance 06-0-0142 are hereby amended such that the zoning conditions, attached hereto as Exhibit "B" shall hereafter control the development of the property located at 771-795 CHEROKEE AVENUE S.E. AND 412 GRANT PARK PLACE S.E., ATLANTA 30315, to wit:

ALL THAT TRACT or parcel of land lying and being, Land Lot 43, 14th District, Fulton County, Georgia being more particularly described by the legal description attached hereto as Exhibit "A".

SECTION 2: That this amendment is approved under the provisions of Chapter 19 entitled, "Planned Development District", and Chapter 19A through Chapter 19D (as applicable) of the Zoning Ordinance of the City of Atlanta, and the Director, Bureau of Buildings, shall issue a building permit for the development of the above described property only in compliance with the applicable provisions of these Chapters and with the attached conditions.

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.

**AN ORDINANCE
BY COUNCILMEMBER CARLA SMITH**



**AN ORDINANCE TO AMEND ORDINANCE 06-O-0142 FOR THE
PURPOSE OF AMENDING THE ZONING CONDITIONS FOR 771-795
CHEROKEE AVENUE S.E. AND 412 GRANT PARK PLACE S.E.,
ATLANTA, GEORGIA 30315; AND FOR OTHER PURPOSES.**

WHEREAS, pursuant to Ordinance 06-O-0142, the Atlanta City Council granted zoning application number Z-05-128 to rezone property located at 771-795 Cherokee Avenue, S.E. and 412 Grant Park Place, S.E. (“Subject Property”) from the R-5/HD (Two-family/Grant Park Historic District) to the PD-MU/HD (Planned-Development-Mixed Use/Grant Park Historic District); and

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**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA
HEREBY ORDAINS:**

SECTION 1: The zoning conditions attached to Ordinance 06-O-0142 are hereby amended such that the zoning conditions, attached hereto as Exhibit “B” shall hereafter control the development of the property located at **771-795 CHEROKEE AVENUE S.E. AND 412 GRANT PARK PLACE S.E., ATLANTA 30315**, to wit:

ALL THAT TRACT or parcel of land lying and being, Land Lot 43, 14th District, Fulton County, Georgia being more particularly described by the legal description attached hereto as Exhibit “A”.

SECTION 2: That this amendment is approved under the provisions of Chapter 19 entitled, “Planned Development District”, and Chapter 19A through Chapter 19D (as applicable) of the Zoning Ordinance of the City of Atlanta, and the Director, Bureau of Buildings, shall issue a building permit for the development of the above described property only in compliance with the applicable provisions of these Chapters and with the attached conditions.

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.

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Exhibit A

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 43 OF THE 14TH DISTRICT, FULTON COUNTY, GEORGIA AND BEING MORE FULLY DESCRIBED AS FOLLOWS.

Beginning at ½” REBAR SET at the Intersection of the West right-of-way line of Cherokee Avenue (60’ R/W) and the North right-of-way line of Grant Park Place (50’ R/W),

PROCEED North 87 degrees 01 minutes 44 seconds West for a distance of 200.00 feet along the northern right-of-way line of Grant Park Place to a ½” rebar found;

THENCE leaving said right-of-way proceed North 00 degrees 30 minutes 00 seconds East for a distance of 262.67 feet to a ½” rebar set;

THENCE South 88 degrees 49 minutes 50 seconds East for a distance of 119.54 feet to a ½” rebar found;

THENCE North 01 degrees 30 minutes 28 seconds East for a distance of 91.72 feet to the Southern right-of-way of Augusta Avenue (60’ R/W) to a 1” open top pipe found;

THENCE proceed along said right-of-way line South 86 degrees 42 minutes 00 seconds East for a distance of 78.77 feet to a ½” rebar set at the intersection of said right-of-way and the western right of way line of Cherokee Avenue;

THENCE proceed South 00 degrees 30 minutes 00 seconds West for a distance of 357.75 feet along the Western right-of-way line of Cherokee Avenue to a ½” rebar set on the northerly right-of-way line of Grant Park Place, said point being the TRUE POINT OF BEGINNING;

Said property being the same tract or parcel of land as shown on a survey by Landair Surveying for Urban Green Properties, LLC dated October 27, 2005 bearing the seal of H. Tate Jones Georgia Registered Land Surveyor # 2339 and containing 1.38 acres more or less.

1. The approved site plan for the development is site plan specific, as submitted to the Bureau of Planning and date stamped on February 22, 2006.

The site plan will be comprised of three components. The descriptions in this section define the permissible scope of each of these components:

- a. **Single Family Lots:** The development will be limited to five (5) new single family lots, on each of which an attached or detached garage may also be built. The existing structure on the property will not be removed. SF-2 will be allowed to have a curb cut on Grant Park Place for access to a new two car garage structure.
- b. **Townhome Lots:** Townhomes will be a minimum of 5 detached units or 9 attached units. An attached or detached garage may be built on each of the interior townhome lots and on the single family lots, and an attached garage may be built on each of the interior townhome lots in the line closest to Augusta Avenue.
- c. **Mixed-Use Structure(s):** The permissible parameters for development of this component of the development, at the corner of Cherokee Avenue and Augusta Avenue are listed below. ~~Whichever Case is selected, will be allowed to have up to a total 58 onsite parking space reduction, from whatever the needed required onsite parking requirement is determined to be.~~ [JSH1]
 - i. **Case 1 –** The Mixed-Use Structure(s) may have up to two (2) live-work or townhome units fronting Cherokee Avenue, up to 7,500 square feet of commercial space, and up to eight (8) condominiums above the commercial space.
 - ii. **Case 2 –** The Mixed-Use Structure(s) can have up to 7,500 Heated SF of retail on the ground floor. The upper floors can have up to 15,000 Heated SF of condominiums, retail, office or multifamily or some combination there in of these uses. Rental or leased units are allowed. Additionally, there may be live work townhomes as part of the classification; however, the first floor of the structure must have a retail component.

2. In addition to restrictions on permissible commercial uses mandated by generally applicable city, county, and state zoning regulations, including the restrictions applicable to any property that is zoned PD-MU, the following commercial uses, as enumerated in Sec. 16-19B.003 and Sec. 16-19B.004 of the Atlanta Land Development Code (as amended), will be prohibited within the development: Adult businesses (see Sec. 16-19B.003(14)); Broadcasting towers (see Sec. 16-19B.003(15)); Hotels or motels (see Sec. 16-19B.003(10)); MARTA structures (excluding a bus stop) (see Sec. 16-19B.003(13)); Commercial drive-through facilities; Self-service laundries (see Sec. 16-19B.003(7)); Check cashing stores (see Sec. 16-19B.003(3)); Laboratories; Commercial energy generation devices (see Sec. 16-19B.003(3)); Bowling alleys (see Sec. 16-19B.003(12)); Theaters (see Sec. 16-19B.003(12)); Convention halls; Places of assembly (see 16-19B.003(16)); Pool halls (see Sec. 16-19B.003(12)); Billiard parlors (see Sec. 16-19B.003(12)); Amusement arcades (see Sec. 16-19B.003(12)); Game rooms (see Sec. 16-

Attachment: CSmith-Zoning Conditions of 771-795 Cherokee Avenue (14-O-1371 : Amending Zoning Conditions for 771-795 Cherokee Avenue)

19B.003(12)); and Churches, synagogues, temples, mosques and other religious worship facilities (see Sec. 16-19B.003(16)); Package stores (see Sec. 16-29.001(44)).

3. Two (2) off-street parking spaces will be provided for each single family home.
4. A minimum 4-foot setback from the property lines will be provided between the single family homes, including between the homes on the lots marked SF-1 and SF-2 on the site plan.

The rear yard setback for SF-1 through SF-5 may be up to zero feet and the setback for the townhomes TH-1 through TH-9 may be zero feet along the internal alley and green space. The developer will have the flexibility to choose whether they will build to the zero setback line.

5. A minimum 4-foot setback from the property lines will be provided along the western property line, excluding the existing structure at 410-412 Grant Park Place. The setback, along the western property line will be landscaped with a street tree every 30 feet and a variety of shrub material.

Further, the applicant will hold a pre-construction meeting to consult with the Grant Park neighborhood on the landscaping as it affects the western property line. The applicant will provide the Bureau of Planning with a copy of the minutes of the meeting signed by the chair of the GPNA Land Use and Zoning Committee.

Design/Elevation Conditions

76. All designs for structures in the development will be submitted to the Urban Design Commission for a Certificate of Appropriateness. Facades facing interior alleys, the primary access, the secondary access, and the green space within the development will be treated as street-facing, for purposes of design compliance with Grant Park's historic zoning regulations, except as it pertains to garage doors throughout the development.

Also, an additional design choice to just one set of straight continuous steps going to a front porch may be: a set of steps to a landing pad (minimum of 3' x 3' pad) and then an additional set of steps to an additional landing to reach the front porches. This is due to the height of the buildable grade as it relates to the grade of the sidewalks. The steps also may be allowed to leave the landing in a different trajectory from which it arrived and does not need to be in a straight line from the sidewalk. There can be up to two landings and three sections of steps in front of each home, if desired.

87. The Mixed-Use Structure(s) at the corner of Augusta Avenue and Cherokee Avenue will be designed to be complimentary with the existing building at the northwest corner of Augusta Avenue and Cherokee Avenue, and to be consistent with the historic architectural style of the Grant Park neighborhood. It will not exceed a height of 39.5 feet to the principal structure. Any parapets above the principal structure will not exceed a height of 2.5 feet. The Mixed-Use Structure will have a ground floor interior height anywhere between 11 and 17 feet. This is measured from the slab on grade finished floor height to the elevated finished floor height.

Awnings and porches may be allowed on the exterior of the mixed-use buildings and may be allowed to protrude over the City of Atlanta Right-Of-Way or interior alleys but must have a minimum height clearance of 8' from grade.

98. The 9 interior townhome units and the detached single family homes will be designed to be consistent with the historic architectural style of the Grant Park neighborhood. and to comply with Grant Park's historic zoning regulations, and will not exceed a height of 35 feet.
109. The single family homes will be designed to be consistent with the historic architectural style of the Grant Park neighborhood and to comply with Grant Park's historic zoning regulations, and will not exceed a height of 35 feet.
110. All chimneys shall originate at grade and shall be faced with masonry (i.e., brick or stone), regardless of whether they are street-facing or face on the interior of the development.

12[JSH2]. ~~Sec. 16-28A.001 through 16-28A.017 of the Atlanta Land Development Code (as amended) shall be followed, with the following additional conditions:~~

- a. ~~No freestanding signs shall be allowed within the development, other than traffic and street signs;~~
- b. ~~No portable signs shall be allowed within the development, except for chalk board menus and similar folding signs, displayed exclusively during business hours;~~
- c. ~~Only building signs and business identification signs shall be allowed on the exterior of structures within the development;~~
- d. ~~In addition to Sec. 16-28A.007(u), no neon lighting shall be allowed on the exterior of structures within the development; however, neon lighting shall be allowed in the interior and interior windows of structures within the development, but shall be no larger than three (3) square feet in area.~~
- e. ~~In addition to Sec. 16-28A.007(i) and Sec. 16-28A.007(v), all signage on the property shall be historically consistent with the building to which they are affixed and with the Grant Park neighborhood, in both style and material. Signage lighting shall be overhead, down-facing lighting, and the lighting fixtures shall be historically consistent with the building to which they are affixed and with the Grant park neighborhood. The Urban Design Commission will determine that the signage and signage lighting meets this condition when a Certificate of Appropriateness is applied for and issued; and~~
- f. ~~No product-based neon or internally illuminated signage shall be allowed on the exterior or displayed directly in the windows of structures within the development (e.g., Miller Beer signs).~~

Landscaping and Related Conditions

1311. No vehicular gates will be permitted in the development, and all fencing in the project shall be as follows: No more than a 5' height on rear and side yards and no more than 3' height in the front of the structures. Any existing fencing which is higher than stated here will be allowed to remain.

1412. There will be no monuments or monument signs on the property.

Miscellaneous Conditions

135. Construction and construction-related deliveries will take place only between 7:00 a.m. to 7:00 p.m. on weekdays, and 9:00 a.m. to 7:00 p.m. on weekends.

146. No moving of dirt or other use of heavy equipment will take place on Sundays.

157. Wheeled garbage cans (“herbie curbies”) will be used for the complete site.

168. The property will not have a separate name. The name will be the same as the neighborhood in which it is located.

179. A single homeowners’ association will govern all townhome units, live-work units, and condominiums within the development, as well as shared green space and other common space management. A single homeowners’ association, reciprocal easement agreement, or similar easement agreement will govern all detached single family homes within the development.

1820. The front yard setback for the single family homes shall be a minimum of 10 ft. per the site design filed on 12-01-2005. Mixed Use building will have a zero lot line setbacks per the site design filed on 12-01-2005.

1924. All variances from the Grant Park historic regulations, including Urban Design Commission variances, will come back through the NPU process.

215. Any change to the approved site plan for the development, besides a minor change (as defined by Sec. 16-02.003 of the Atlanta Land Development Code (as amended), shall be submitted to the Grant Park neighborhood and NPU-W for review and approval, and shall not be administratively approved by the City of Atlanta Bureau of Planning until completion of such review.

226. Sidewalks shall be located in the interior of the development only along the middle of the “green space” between TH-1 – TH-4 and TH-5 - TH-9. Existing sidewalks must be preserved to the extent possible.

238. Retaining walls facing Grant Park Place, Cherokee Avenue, and Augusta Avenue, as well as the primary access and the secondary access, will not exceed a height of four (4) feet.

249. If the number of trees required by the Tree Preservation Plan cannot fit on the property, the remaining trees will be provided to the Grant Park Neighborhood Association, in lieu of a payment to the Tree Bank. Further, trees and shrubs planted within the development will be consistent with the Grant Park Master Plan, and consistent with the species found throughout the Grant Park neighborhood. The Grant Park Neighborhood Association will provide a copy of the Master Plan to the applicant.

2530. Five (5) days prior to the submission of any application or petition for administrative approval or modification of the site plan, the property owner or applicant shall provide copies of the application or petition to the chair of the NPU-W Land Use & Zoning

Committee. Contact information is as follows: *NPU-W Land Use & Zoning Committee Chair. Contact information stated on “NPU Contact List” at: www.atlantaga.gov/government/planning/npu_system.aspx.*

- | ~~2634~~. Five (5) days prior to the submission to the Urban Design Commission of an application or petition for a Certificate of Appropriateness, or of an application or petition to alter a previously approved design, for any structure to be constructed on the property, the property owner or applicant shall provide copies of the application or petition to the chair of the NPU-W Land Use & Zoning Committee. Contact information is as follows: *NPU-W Land Use and Zoning Committee Chair. Contact information stated on “NPU Contact List” at: www.atlantaga.gov/government/planning/npu_system.aspx.*

#33

<p>(Do Not Write Above This Line)</p> <p>AN ORDINANCE <i>Carla Smith</i> BY: CARLA SMITH</p> <p>AN ORDINANCE TO AMEND ORDINANCE 06-O-0142 FOR THE PURPOSE OF AMENDING THE ZONING CONDITIONS FOR 771-795 CHEROKEE AVENUE S.E. AND 412 GRANT PARK PLACE S.E., ATLANTA, GEORGIA 30315; AND FOR OTHER PURPOSES</p>	First Reading Committee _____ Date _____ Chair _____ Referred To _____		FINAL COUNCIL ACTION <input type="checkbox"/> 2nd <input type="checkbox"/> 1st & 2nd <input type="checkbox"/> 3rd Readings <input type="checkbox"/> Consent <input type="checkbox"/> V Vote <input type="checkbox"/> RC Vote
<input type="checkbox"/> CONSENT REFER <input type="checkbox"/> REGULAR REPORT REFER <input type="checkbox"/> ADVERTISE & REFER <input type="checkbox"/> 1st ADOPT 2nd READ & REFER <input type="checkbox"/> PERSONAL PAPER REFER	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 _____	CERTIFIED
	Date Referred _____ Referred To: _____ Date Referred _____ Referred To: _____ Date Referred _____ Referred To: _____	Committee _____ Date _____ Chair _____ Action Fav, Adv, Hold (see rev. side) Other _____ Members _____ _____ _____ _____ _____ Refer To _____	

Attachment: CSmith:Zoning Conditions of 771-795 Cherokee Avenue (14-O-1371 : Amending Zoning