

An appeal of administrative decision #BL-13-001

Submitted by,

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We are appealing staff decision to approve BL-13-001, which incorporates several administrative variations to the strictures of section 16-36 (the Beltline Overlay Zoning District) that are unsupported by evidence and are clearly in error. The nature of these errors is as follows:

Generally, the administrative decision exceeds the authority granted under section 16-36.005 for administrative variation. This section lays out two and only two criteria upon which administrative variations can be granted to these strictures: 1. If the plan satisfies the purposes and intent of the code and provides equal or greater protection to the public than its strict enforcement would or 2. If circumstances render the strict enforcement of the code unnecessary in order to accomplish its purpose or to protect the public. With one exception (noted below) none of the variations that were granted satisfy either of these criteria. The original application for variance clearly lays out a rationale based on a contrived hardship rather than either public protection or advancement of the purpose and intent of the code. Although there is no evidence to support a finding of hardship, if the variance were to be justified by any hardship, this determination is one that clearly falls within the mandate of the BZA. It is not an appropriate justification for an administrative variance. The revised application parrots the requirements of the code and asserts that they are satisfied, but provides no details or evidence in this regard.

Generally, regardless of the body rendering judgment on this application, the rationale laid out by the applicant for hardship is contrived and clearly does not satisfy the required criteria to justify a zoning variation enumerated in sections 16-26.003 and 6-4029. There are four of these, all of which must be satisfied. In this case the property is a square, flat, treeless assembly of four lots on which the applicant proposes to demolish all existing structures. It thus fails to satisfy the requirements of 16-26.003(a). These lots and similar lots can be and have been redeveloped in a manner consistent with the overlay requirements. The property therefore clearly fails to satisfy section 16-26.003(b). There is nothing whatsoever unique about any of the lots in this assemblage, which therefore fail to satisfy section 16-26.003(c). Finally, it is clear that in almost all regards the relief that is sought will act to the public detriment and directly contradict the purpose and intent of the code containing the strictures from which relief is being sought. Thus, section 16-26.003(d) is not satisfied.

Generally, the purpose and intent of the strictures of the Beltline Overlay zoning district are enumerated in Section 16-36.002. The proposed development clearly fails to satisfy 16-36.002.6-10 and 12-15. The variations granted by staff increase rather than decrease non conformity with sections 16-36.002.10,12, and 15. In no way do they enhance

conformity with any of the other enumerated purposes nor does the staff decision assert that they do.

Generally, this development (in the various nominally identical forms that it has been previously proposed) is overwhelmingly opposed by the surrounding community. It will add traffic, noise and pollution to an area that is already overburdened with these problems. It will be unsightly and hostile toward pedestrians transiting along its street frontages. The strictures of the overlay provide some protection to the public from these deleterious effects. To the extent that the staff decision relaxes these strictures this is clearly not done in the public interest nor does it provide a level of protection to the public comparable to that associated with the strict enforcement of the code.

Specifically, the staff decision endorses a blank windowless façade along Howell Mill Road (the primary street frontage). This façade is labeled “rear of building” on the submitted plans. The decision notes the nonconformity of these plans with sections 16-36.11(7), 16-36.014(7)(a)(i), and 16-36.014(7)(a)(ii). The decision does not note the nonconformity with section 16-36.002(10) calling for active street level uses, the lack of conformity with section 16-36.014(7)(c) requiring fenestration on all frontages, or the lack of conformity with section 16-36.014(5) and (6) restricting fences and walls along the public right of way. The only rationale provided in the staff decision in this regard is that public protection would be satisfied with display windows rather than true fenestration, although this substitution is not mentioned in section 16-36 as a viable alternative. The precedent set by such an opinion would effectively nullify the referenced sections of code, as there is no characteristic of the proposed façade that could not be proposed for any site within the overlay district and justified by reference to this absurd rationale. It is not clear how display windows would provide any public protection comparable to that which is provided for in the strictures of the code. It is clear that there is an obvious alternative to the proposed façade design - the use of true fenestration. It is noteworthy that the display windows indicated on the submitted plans are an obvious violation of section 16-36.015, which references section 16-28A (the sign ordinance). Rather than providing the required fenestration, the proposed façade functions as an illegal billboard that would be prohibited in any of Atlanta’s zoning districts and is least appropriate within the overlay district for which it is proposed.

Specifically, the staff decision endorses the 30’ wide driveways shown on Chattahoochee Ave. and Defoors Ave. while noting their nonconformity with sections 16-36.017(1a) and (2a). However, the decision does not note that the submitted site plan is also a clear violation of section 16-36.017(1e) as it indicates a total of 4 curb cuts (rather than the permissible two) all of which are 30’ (rather than the permissible 24’) in width. In this regard the applicant is attempting to subvert the code by placing two of the driveways on property that adjoins the site that he proposes to purchase. Although all of the property involved is currently under common ownership, rather than purchasing the site of the second and third driveways, the applicant proposes to purchase a perpetual access agreement that will allow them to be built there “off site”. The staff decision, while endorsing the site plan, does not address the third or fourth driveways because they are shown off site and are therefore not a subject of this application, despite being described

in the application materials. These curb cuts will need to be the subject of a separate SAP application, in which there is no imaginable way that their existence, much less their excessive width could be justified. Thus, staff erred in signing off on a site plan that presumed their existence. There is an obvious alternative to this configuration – to eliminate the third and fourth driveways and mitigate the other violations to section 16-36 in the area that they would otherwise occupy. These are noted below. Additionally, if these driveways were eliminated from the plan, the two permissible driveways could be relocated westward away from the congested intersections that they are proposed to be in close proximity to. Doing this would provide some protection to the public to mitigate the deleterious effect to pedestrians created by their excessive width. To the extent that the permissible two-driveway configuration would accommodate a reduction in the size of the enormous proposed fuel-service island (20 bays), this too would provide some public protection by shifting this visually offensive structure away from the residential neighborhood to its north.

Specifically, the staff decision endorses a dumpster that is visible from the public right of way while noting its nonconformity with section 16-36.016(1). Staff justifies this by noting “the existing configuration of the parcel”, however it is clear from the site plan that that any justification must relate to the proposed configuration rather than that which exists, as the development would wipe out all existing conditions and begin *tabula rasa*. The proposed dumpster location is clearly intended for access via the third proposed driveway. As noted above, this is unjustified and its elimination would permit the dumpster to be relocated to the north of its proposed location. Doing this and reorienting the dumpster would eliminate the need for any variance to the regulations associated with it.

Specifically, the staff decision endorses the proposed parking configuration while noting its nonconformity with section 16-36.020(2b), which was conditionally relaxed by the BZA decision regarding V-13-043 in June 2013. A condition of the approval of this parking exception, which awarded 7 spaces beyond the permissible maximum, was that no parking spaces be located between the building and the street (a reiteration of section 16-36.011(2b)). That condition is clearly violated in intent by the 7 parking spaces indicated along the Defoors Ave frontage near the northeast corner of the proposed development. As it was a condition imposed by both the overlay and the BZA, it was not within the mandate of staff under section 16-36.005 to negate it. In the proposed configuration the applicant has attempted to subvert the requirements of this condition by extending an appendage to the structure, which is functionally an illegal screening fence or wall (in violation of at least the spirit of sections 16-36.014(5) and (6)), just to the north of the offending 7 spaces. As this appendage lacks all of the façade requirements associated with a building, the fact that it happens to house a narrow strip of enclosed space hardly masks its true identity as a screening wall. There is an obvious alternative to the proposed configuration that would not violate the BZA-imposed condition or the associated sections of code. If the unauthorized third and fourth driveways were eliminated from the site plan these spaces could be located along the western property line. Similarly a reduction to the size of the enormous fuel-service island would allow

them to be relocated to a portion of the site now occupied by that island and its associated queuing areas in the parking lot.

In summary, it is apparent from the number of variations to the overlay requirements sought in this case, the magnitude of these variations, and the lack of any plausible justification for these variations that the applicant is seeking a de-facto rezoning of property through improper channels (i.e. via administrative decisions). There is a well-documented procedure for rezoning property. It is fundamentally legislative rather than administrative in nature. If this is what the applicant desires then it is the path that he should pursue rather than attempting to subvert a process that is intended for other purposes.

Appendix 1: Code section 16-36 (Beltline Overlay District Regulations) with relevant sections highlighted.

CHAPTER 36. BELTLINE OVERLAY DISTRICT REGULATIONS

Sec. 16-36.001. Scope of regulations.

The scope of the regulations set forth in this chapter are the regulations in the BeltLine Overlay District. These regulations are as follows:

1. The existing zoning map and underlying zoning regulations governing all properties within the BeltLine Overlay District shall remain in full force and effect. The regulations contained within this chapter shall be overlaid upon, and shall be imposed in addition to, said existing zoning regulations with the exception of existing lots of record that are zoned R-1 through R-5 or Special Public Interest District and not located immediately adjacent to the BeltLine Corridor. Except where it is otherwise explicitly provided, whenever the following overlay regulations are at variance with said existing underlying zoning regulations, the regulations of this chapter shall apply.
2. Whenever the following regulations are at variance with historic district regulations of Part 16, Chapter 20, the more stringent regulations shall apply with the exception of regulations specific to the Beltline Corridor whereas not to impact designated historic structures or buildings.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.002. Findings, purpose and intent.

The BeltLine is a major initiative to link green space, trails, transit and economic development in Atlanta serving as a catalyst for transformative growth and investment encircling the urban core of the city by invigorating an underutilized rail corridor and surrounding underutilized industrial properties to create a better connected, more diversified city where people across the spectrum of age, income, ethnicity, and culture can live, work, shop, meet, and play.

The BeltLine represents a unique opportunity: to enhance the quality of life in the city; preserve and revitalize existing neighborhoods; make greater mixed-use development feasible; strategically introduce or increase density and optimize resources in select locations; increase the affordable housing inventory; promote air quality; reduce auto dependency; and concurrently advance economic development through an increased tax base.

The city finds that taking special consideration to ensure that the redevelopment of properties adjacent to and within walking distance of the BeltLine Corridor entails a compatible mixture of residential, commercial, cultural and recreational uses, and design standards conceptualized in the BeltLine Redevelopment Plan is crucial to promote and ensure the public health, safety and welfare of its citizens. The city recognizes that as the BeltLine attracts new development, the orientation and character of that growth should encourage pedestrian and transit-oriented uses and activities designed to support an urban character to foster the most positive impact on affected communities. By establishing the BeltLine Overlay District, the city intends to institute a regulatory approach that anticipates, manages, and encourages quality BeltLine development opportunities and impacts. Therefore, policies to promote these objectives within the BeltLine Overlay Zoning area will serve to:

1. Implement certain recommendations contained in the comprehensive study known as the BeltLine Redevelopment Plan as adopted by the City of Atlanta;
2. Preserve a continuous corridor along the BeltLine route of sufficient dimension for the implementation of transit, multi-use trails and green space;
3. Promote and maximize opportunities for safe and accessible green spaces, plazas, public art, and cultural and institutional buildings;

4. Preserve opportunities for connecting trails reaching beyond the BeltLine to create a broad network of trails throughout the city;
5. Encourage a grid of smaller blocks and connected streets to improve access to the BeltLine, reduce congestion, and further the urban character of the area;
6. Preserve the historic physical character of the industrial districts along the BeltLine by promoting adaptive re-use of historic structures and encouraging new construction to be consistent with the size, scale and/or character of those buildings;
7. Ensure that new construction is compatible with the character of existing established adjacent single-family neighborhoods;
8. Create new mixed-use and commercial nodes at BeltLine station areas that are pedestrian and transit-oriented;
9. Create a diversified urban environment where people can live, work, shop, meet and play;
10. Promote public health and safety by providing a pedestrian-oriented environment that includes active street-level uses, sufficient sidewalk widths, and primary pedestrian access from sidewalks to adjacent building entrances;
11. Promote development of a wide range of housing types appropriate to meet various housing needs and income levels;
12. Facilitate safe, pleasant and convenient pedestrian and bicycle circulation and minimize conflict between pedestrians and alternative transit modes;
13. Provide accessible and sufficient parking in an unobtrusive manner by encouraging shared parking solutions and minimizing commercial parking in residential neighborhoods;
14. Maximize air and water quality, including that which supports tree planting, greenspace and watershed protection, and bicycle parking;
15. Improve the aesthetics of street and built environments.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.003. Boundaries.

The boundaries of the BeltLine Overlay District shall be as shown on the official zoning map Attachment B adopted herewith entitled "BeltLine Overlay District." Any future property in which any portion of said property is located within the boundary of the BeltLine Overlay District shall be subject to the full regulations set forth in this chapter.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.004. Procedures.

1. *Rezoning—Pre-application:* In addition to the current rezoning procedures, any applications for rezoning within the BeltLine Overlay District subject area will begin with a pre-application consultation between the applicant and the bureau of planning as set by the bureau of planning.
2. *Special administrative permit requirement and procedures:* A special administrative permit (SAP) application and a specified number of copies of each site plan, landscape plan and elevation drawings of each exterior façade shall be submitted, as applicable, and approved by the director of the bureau of planning, under the requirements specified in section 16-25.004, prior to the issuance of a building permit.

In addition to SAP submittal as specified above, the applicant shall also provide to the director of the bureau of planning a United States Postal Service certificate of mailing (first-class) of one copy of the full SAP application to the appropriate Neighborhood Planning Unit (NPU) chair or their designee for the purpose of notification and comment, and also a signed affidavit of said NPU notification. Said appropriate NPU shall have a period of 21 days from the date of the said certificate of mailing to provide one set of written comments to the bureau of planning prior to any SAP approval.

All exterior demolition, new construction (including additions to existing buildings), expansions of outdoor dining or any construction which results in increased lot coverage, modification of the building footprint, or modification of building façades that alters the configuration of openings, shall be subject to said site plan and building elevation approval as part of the SAP.

Any subdivisions, consolidations and replats shall conform to any proposed City of Atlanta future street plans in addition to the requirement of Part 15 of the City Code. When a conflict arises between Part 15 and this chapter, the requirements of this chapter shall apply.

Where the proposed development may require one or more special administrative permits, processing by the director of the bureau of planning shall include consideration of such special administrative permits. Where underlying regulations require variance, special exception or special use permit action, the special administrative permit shall not be issued until the necessary approval has been obtained.

3. *Exemptions from the special administrative permit requirement:* Existing lots of record that have an underlying zoning designation of R-1 through R-5 or Special Public Interest (SPI) and not located immediately adjacent to the BeltLine Corridor shall be used and constructed as is otherwise permitted pursuant to the provisions of Part 16 and shall not require the obtaining of a special administrative permit (SAP) except as required by the underlying zoning district.

Any interior renovations or exterior repairs not explicitly set forth shall not require SAP approval. Said classes of special administrative permit applications may be exempted from detailed review requirements upon written findings that generally within these districts, the actions proposed are of such a character or of such a scale as to make detailed reviews and approval by the planning director unnecessary. Where applications for special administrative permits are determined by reference to such findings to be thus exempted, the permit shall be issued if otherwise lawful.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.005. Provisions for administrative variations from regulations.

As part of general action when plans require approval of a special administrative permit, the director of the bureau of planning may authorize variations from regulations generally applying based on written findings that either:

1. A plan proposed by an applicant, while not strictly in accord with regulations applying generally within the district, satisfies the public purposes and intent, and provides public protection to an equivalent or greater degree; or
2. In the particular circumstances of the case, strict application of a particular regulation or regulations is not necessary for the accomplishment of public purposes or the provision of public protection, at the time or in the future.

Notation concerning the existence of such variation shall be made by written findings of SAP approval to be filed in the office of the bureau of buildings as public record. Variances and special exceptions from underlying zoning regulations shall be required

from the board of zoning adjustment (BZA) in cases such as minimum yards (not adjacent to the street), minimum transitional yards, minimum open spaces, maximum building height, maximum fence height, minimum parking and loading requirements and signage limitations among others.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.006. Demolition of existing structures and redevelopment requirements.

Any structure 50 years or older shall not be demolished for the purpose of creating open space. All requests for demolition of buildings 50 years or older shall include concept plans for the redevelopment of the property that are sufficient to obtain an SAP for the development of the new structure.

Any property wherein 60 percent or greater of the principal building is removed or destroyed by any means shall be redeveloped in accordance with the requirements of this chapter notwithstanding any other provisions in Part 16, chapter 24 to the contrary, specifically including the installation of sidewalks and street trees.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.007. Definitions.

For purposes of this chapter, the following definitions shall apply:

1. *BeltLine Corridor*: Property located inside the BeltLine Overlay District that is:
 - a. Owned by or subject to easements owned by, leased, or otherwise in favor of the Georgia Department of Transportation or a railroad subject to the jurisdiction of the Interstate Commerce Commission Termination Act of 1995, 49 U.S.C. § 10101, et seq. and used for transit related purposes; or
 - b. Shown as railroad right-of-way on the City of Atlanta 200 foot scale cadastral maps as maintained by the bureau of planning as of November 20, 2006; or
 - c. Shown as part of the transit corridor by the BeltLine Redevelopment Plan adopted by the City of Atlanta in November 2005 (and as amended by map Attachment B).
2. *Immediately adjacent*: Physically touching or bordering upon without an intervening right-of-way.
3. *Useable open space*: As defined in subsection 16-28.010(5)(a).
4. *Public space*: As defined in subsection 16-28.012(2).
5. *Sidewalk-level*: Any building floor within five vertical feet of the adjacent required sidewalk, provided supplemental zone or BeltLine Corridor.
6. *Street furniture and tree planting zone*: The portion of a continuous sidewalk located immediately adjacent to the curb reserved for the placement of street trees and street furniture including utility-and-light poles, waste-receptacles, fire hydrants, traffic signs, traffic control boxes, newspaper boxes, transit shelters, bicycle racks, seating and similar elements in a manner that does not obstruct pedestrian access or motorist visibility. Such elements, where installed, shall be a type specified by the director of the bureau of planning in accordance with uniform design standards utilized by the director for placement of such objects in the public right-of-way.
7. *Street trees*: All newly planted street trees shall be a minimum caliper of three inches measured 36 inches above ground, shall be a minimum of 12 feet in height, shall have

a minimum mature height of 40 feet, and shall be limbed up to a minimum height of seven feet. Trees shall have a minimum planting area of 40 square feet planted with evergreen ground cover such as mondo grass or liriope spicata or covered with hardwood mulch. Flowers and seasonal plantings may be planted in tree planting areas but shall be supplemented by hardwood mulch when not planted. Tree grates shall be prohibited.

8. *Sidewalk clear zone*: The portion of a continuous sidewalk located immediately contiguous to the street furniture and tree planting zone reserved for pedestrian circulation and passage and unobstructed by any permanent objects to a height of eight feet. No fixed elements, including traffic control boxes or other utility structures, shall be placed above ground in the clear zone. The clear zone shall have a consistent cross-slope not exceeding two percent.
9. *Supplemental zone*: The area between any building, parking lot or parking structure and the back of the required sidewalk or BeltLine Corridor when no intervening building exists.
10. *Fenestration*: The design and placement of windows and entrances in a building façade.
11. *Shared parking*: Joint use of a parking area for more than one use. Note that shared parking involves parking spaces that are used at different times by different uses, to eliminate the need to meet the minimum parking requirement for each principal use.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.008. Permitted and prohibited uses and structures.

1. *Permitted uses*: The underlying zoning requirements shall apply unless specifically prohibited by this chapter.
2. *Prohibited uses*: The underlying zoning prohibited use requirements shall apply.
3. *Permitted accessory uses and structures*: Accessory uses and structures permitted within this district shall include those customarily accessory and clearly incidental to permitted principal uses and structures and specifically includes clubhouses, pools, other recreation amenities, and parking to serve authorized residential and non-residential uses within the district, subject to the restrictions contained elsewhere in this chapter.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.009. Transitional uses and yards.

1. *Transitional height planes*: The underlying zoning requirements shall apply.
2. *Transitional yards*: Where this district adjoins an R-1 through R-5, RG-1, RG-2, MR-1, MR-2, RLC or PD-H district without an intervening street: a minimum of 20 feet is required which shall not be used for the purpose of parking, paving, loading, servicing or any other activity with the exception of pedestrian walkways, trails, private alleys or drives up to ten feet in width. Such yards shall otherwise be planted as approved by the city arborist and maintained as a landscaped strip.
3. *Screening*: The underlying zoning requirements shall apply.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.010. Open space requirements and incentives.

Except as provided below, open space requirements are regulated per the underlying zoning.

1. Required yards and requirements for sidewalk and supplemental zone widths which are constructed on private property may be counted towards useable open space requirements (UOSR) or public space requirements. Such space may include planted areas, fountains, community gardens, parks plazas, hardscape elements related to sidewalks and plazas, and similar features which are located on private property.
2. Balconies for residential units, which are enclosed on three sides or less, may be counted towards UOSR for a maximum depth of six feet.
3. The buffer area, as required in subsections 16-36.011(2)(a) and 16-36.011(3), may be counted toward UOSR or public space requirements even if such buffer area is dedicated to the city or other governmental entity for recreation use, conveyed to a conservation group or is subject to permanent easements for public use.
4. Supplemental zone area may be counted towards UOSR or public space requirements except as specified in subsections 16-36.013(1) and 16-36.013(2).
5. Open space incentives:
 - a. *New streets incentive*: New public streets, or private streets which function as public streets, may be counted towards UOSR and public space requirements provided the following criteria are met:
 - i. Connects two other public streets or private streets not currently directly connected; and
 - ii. Meets the sidewalk requirements of section 16-36.012; and
 - iii. When adjacent to a park area, new streets shall meet all above requirements along each park edge; and
 - iv. Gates shall not be permitted across said streets.
 - b. *Connectivity incentive*: Developments which provide connectivity across public rights-of-way which do not provide pedestrian access, such as railroads and freeways, may be permitted by the director of the bureau of planning to be counted towards UOSR or public space requirements provided the following criteria are met:
 - i. Said connectivity shall be achieved through the use of public streets, private streets which function as public streets, pedestrian walkways or shared use paths; and
 - ii. Meets the sidewalk requirements of section 16-36.012 for new streets; or
 - iii. Shared-use paths shall be a minimum width of 15'—0"; and
 - iv. Streets and shared-use paths shall connect to other public streets and shared-use paths or parks.
 - c. *On-street parking incentive*: New on-street parking may be counted towards UOSR or public space requirements provided the following criteria are met:
 - i. No on-street parking currently exists in the public right-of-way adjacent to the project area for which credit is sought; and
 - ii. The new on-street parking is located where there is no existing street lane; and
 - iii. All new on-street parking shall be accessible to the general public; and

- iv. Sidewalk extensions are provided at street intersections as applicable; and
- v. All other sidewalk requirements of this chapter are met.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.011. Site limitations.

Except as provided below, development controls are regulated per the underlying zoning.

1. Site plans shall conform to any proposed City of Atlanta future street plans to limit block sizes and enhance connectivity, unless granted a variation in accordance with this chapter. Said future street plans shall supplant any other block face requirements.
2. Properties adjacent to a public space such as a park space, greenway trail or railroad right-of-way (but not the BeltLine Corridor) shall meet the following requirements:
 - a. Shall have a minimum 20-foot wide buffer along the property line adjacent to said public space in existence or proposed by the city. Said buffer shall be completely landscaped excluding walkways, benches and other such recreational features as approved by the director of the bureau of planning.
 - b. Shall not locate off-street surface parking lots or loading docks between any building and said public space except in cases where meeting this would require the development to be in conflict with the requirements of section 16-36.014 or section 16-36.018.
 - c. Shall include an entrance to all adjacent uses which:
 - i. Shall face and be visible from said public space.
 - ii. Shall be directly accessible from said public space.
3. Properties adjacent to the BeltLine Corridor:
 - a. Shall have a minimum 20-foot wide buffer along any part of the property adjacent to the BeltLine Corridor. Said buffer shall be completely landscaped excluding walkways, benches and other such recreational features as approved by the director of the bureau of planning except as specified below.
 - b. Shall meet the requirements of subsections 16-36.011(2)(b) and 16-36.011(2)(c) above except as specified below.
 - c. Any property within or adjacent to the BeltLine Corridor that is being used for transportation purposes or any property that has been acquired primarily for non-transportation use prior to November 20, 2006 shall not be regulated by this section. However, any property within the BeltLine Corridor shall be governed by this section if either:
 - i. Acquired in fee simple or under a long-term ground lease after November 20, 2006; or
 - ii. Ceases to be used for presently active operational transit purposes after the date of this ordinance.
4. Public or private access paths to connect to any existing or proposed greenway trails, including the BeltLine, shall be built to a minimum paved width of 15'—0" for two-directional bicycle and pedestrian use.
5. Drive-through service windows, drive-in facilities and associated queuing areas shall not be located between a building and the street, unless otherwise prohibited by the underlying zoning. Such facilities shall also be limited to two drive-through or drive-in facilities and two queuing lanes.

6. Gasoline fuel dispenser structures and associated vehicular services such as air pumps and car washes shall not be located between a building and the street, unless otherwise prohibited by the underlying zoning.
7. Storage, digital industry switchboards, power generators and other relay equipment and rooms housing such equipment shall be permitted, with the exception of a minimum depth of 20 feet of the sidewalk-level street frontage beginning at any building façade along the public sidewalk.
8. Parking within a building or structure, structures shall be permitted subject to meeting the requirements in subsection 16-36.017(3).
9. Sidewalk and supplemental zone minimum width requirements as specified in sections 16-36.012 and 16-36.013 shall supplant any minimum setback requirements for any yards immediately adjacent to any public or private street.
10. Properties adjacent to the BeltLine corridor or any railroad right-of-way with an existing or proposed multi-use trail shall meet the following requirements:
 - d. Shall have a minimum 20-foot wide buffer along the property line adjacent to said public space in existence or proposed by the city. Said buffer shall be completely landscaped excluding walkways, benches and other such recreational features as approved by the director of the bureau of planning. A development may count this buffer area as part of the required open space or public space for the lot, even if such setback area is dedicated to the city or other governmental entity for recreation use or such buffer area is conveyed to a conservation group.
 - e. Shall provide a new public access street (or streets) in accordance with the BeltLine Street Framework Plan, unless granted a variation in accordance with this chapter.
 - f. Shall not locate off-street parking areas or loading docks between any building and said space except in cases where meeting this would require the development to be in conflict with the requirements of section 16-36.016 or section 16-36.020.
 - g. Shall include an entrance to all adjacent uses which:
 - i. Shall face and be visible from the BeltLine Corridor, park space, greenway or any railroad right-of-way with an existing or proposed multi-use rail-trail.
 - ii. Shall be directly accessible from said space from the BeltLine Corridor park space, greenway, abandoned rail line or any railroad right-of-way line with an existing or proposed multi-use rail-trail.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.012. Sidewalks.

Public sidewalks shall be located along all public streets and shall have the minimum widths specified in the BeltLine Sidewalk and Supplemental Zone Table. Sidewalks shall consist of two zones: A street furniture and tree planting zone; and a clear zone. The following regulations shall apply to all public sidewalks:

1. *Paving materials:* All sidewalk paving shall be a type specified by the director of the bureau of planning in accordance with uniform design standards utilized by the director for placement of such objects in the public right-of-way.
2. *Street trees:* are required as indicated in the BeltLine Sidewalk and Supplemental Zone Table. Street trees shall be planted a maximum of 30 feet on center within the street furniture and tree planting zone and spaced equal distance between street lights. All plantings, planting replacement and planting removal shall be approved by the city

arborist. The area between required plantings shall either be planted with evergreen ground cover such as mondo grass or liriop spicata or shall be paved as approved by the director of the bureau of planning.

3. *Decorative pedestrian lights:* Where appropriate, shall be placed at a maximum of 60 feet on center and spaced equidistant between required street trees within the street furniture and tree planting zone. All said lights shall be Atlanta Type "C" or other as approved by the director of the bureau of planning.
4. *Objects in the street furniture and tree planting zone:* Trash receptacles, benches, bike racks or other similar elements shall be placed within the street furniture and tree planting zone and be a type specified by the director of the bureau of planning in accordance with uniform design standards utilized by the director for placement of such objects in the public right-of-way. Awning, canopies or similar elements shall be prohibited within the street furniture and tree planting zone.
5. *Visibility at intersections:* Nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede visibility within visibility triangles at street intersections, as measured from the curb, between the heights of two and one-half feet and eight feet above grade. See subsection 16-28.008(9): Visibility at intersections.
6. *Overhead utilities:* Upon redevelopment of a parcel reasonable efforts shall be made to place utilities underground or to the rear of structures.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.013. Supplemental zone.

The supplemental zone shall have the minimum widths specified in the BeltLine Sidewalk and Supplemental Zone Table.

1. The supplemental zone shall be no more than 30 inches above the adjacent public sidewalk for a minimum linear distance of 15 feet from the nearest edge of the adjacent sidewalk or BeltLine Corridor unless existing topographical considerations render this requirement unreasonable.
2. Plazas, terraces, porches and stoops within the supplemental zone shall have a maximum finished floor height of 30 inches above finished-grade unless existing topographical considerations render this requirement unreasonable.
3. Requirements for supplemental zones:
 - a. *Adjacent to all uses:* Shall provide a pedestrian walkway with a minimum width of four feet through said supplemental zone to connect to the adjacent required sidewalk. Said walkway shall be perpendicular to the street unless topography prohibits.
 - b. *Adjacent to sidewalk-level residential uses:*
 - i. Said zone shall be landscaped except for terraces, porches, stoops and walkways.
 - ii. For all such buildings with more than four residential units: Shall be permitted to share said required pedestrian walkway with one adjacent unit.
4. Fences and walls: shall only be allowed in the supplemental zone when meeting the following regulations:
 - a. For all sidewalk-level residential and outdoor dining uses (including adjacent to the BeltLine Corridor):
 - i. Fences shall not exceed 42 inches in height.

- ii. Walls shall not exceed 24 inches in height unless existing topography requires a retaining wall of greater height.
 - iii. Outdoor dining may be separated from the sidewalk only with movable planters, fencing, or similar barriers provided they do not exceed a height of 36 inches including any plant material.
- b. For all other non-residential sidewalk-level uses: fencing is prohibited.
- 5. Supplemental zones providing a depth of 15 feet or less shall not be counted towards UOSR or public space requirements unless all sidewalk-level non-residential uses are visible and accessible from the adjacent sidewalk by the general public.
- 6. Supplemental zones providing a depth greater than 15 feet shall be counted towards UOSR or public space requirements only when the following additional requirements are met:
 - a. Shall permit and allow pedestrians to walk on a minimum of 80 percent of the surface of the supplemental zone excluding fountains, pedestrian furniture, public art and similar elements.
 - b. When adjacent non-residential sidewalk-level uses are provided, all sides of buildings fronting said zone meet the requirements of subsection 16-36.014(7).

BeltLine: Sidewalk and Supplemental Zone Table

Sidewalks*		Supplemental Zone	
Street Furniture and Tree Planting Zone Minimum Width	Sidewalk Clear Zone Minimum Width	Minimum Width	Street Trees in Street Furniture and Tree Planting Zone
5 feet	10 feet	0 or 5 feet**	Required 30' apart on-center

* Within 20 feet of an abutting an R, R-G, MR, PD-H, or LW District without an intervening street or railroad right-of-way, the sidewalk area shall taper as necessary to provide a smooth transition to the existing R, R-G, MR, PD-H, LW District sidewalk. In the event that the abutting district has no existing sidewalk, the sidewalk shall taper to a width of six feet.

** Five feet minimum required when located adjacent to sidewalk-level residential uses or located along streets which function as an arterial or collector; otherwise no supplemental zone requirement.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.014. Relationship of building to street.

The regulations contained in this section apply to all buildings and structures, including parking structures.

1. Building floors shall be delineated to, and including, the third story above the sidewalk-level executed through windows, belt courses, cornice lines or similar architectural detailing.

2. The primary pedestrian entrance to all sidewalk-level uses with public street, private street or BeltLine Corridor frontage shall be architecturally articulated, face, be visible from, and be directly accessible from said required sidewalk along such street or BeltLine Corridor. The use of fire-escape, entrance-only and exit-only doors as primary entrances is explicitly prohibited.
 - a. *For residential uses:*
 - i. All such buildings, except assisted living, with more than four residential units shall have individual entrances to such units directly accessible from the sidewalk and shall open directly onto the adjacent sidewalk, supplemental zone, terrace, porch, plaza, or park adjacent to the sidewalk.
 - ii. Said buildings shall have porches, stoops or wheelchair access at each sidewalk-level entrance.
 - b. *For non-residential uses:*
 - i. Shall remain unlocked during business hours.
 - ii. Shall be at-grade with the closest portion of the adjacent required sidewalk.
3. All residential uses not located at sidewalk-level shall have pedestrian access to the required public sidewalk via a lobby fronting and accessible from said sidewalk.
4. A street address number shall be located directly above or beside the primary building and business establishment entrances, shall be clearly visible from the sidewalk, and shall have a minimum height of six inches.
5. No walls, except retaining walls, shall be located between a public street, private street or BeltLine Corridor and any building, with the exception of screening for authorized off-street loading areas. Retaining walls shall be finished poured concrete or shall be faced with stone, brick or smooth stucco. See subsection 16-29.001(25).
6. Fences and walls shall meet the following regulations.
 - a. For all uses not adjacent to a street or BeltLine Corridor: Fences and walls not exceeding six feet in height may be erected.
 - b. No barbed wire, razor wire, uncoated chain link fence or similar elements shall be visible from any public plaza, sidewalk-level outdoor dining area, the BeltLine Corridor or any other public right-of-way.
7. Fenestration: Shall be provided at the minimum percent as specified herein and in the beltline: fenestration table. fenestration shall not utilize painted glass, reflective glass or other similarly treated or opaque windows. tinted glass shall have a transmittance factor of 50 percent or greater and shall have a visible light reflectance factor of ten or less. (for additional parking deck requirements see subsection 16-36.017(3)):
 - a. Street-fronting non-residential uses along the BeltLine Corridor and along streets that function as arterial streets and collector streets shall meet the following sidewalk-level requirements, with the exception of churches and fire stations:
 - i. The length of façade without intervening fenestration or entryway shall not exceed 20 feet.
 - ii. Fenestration and entrances shall be provided for a minimum of 65 percent of the length of all street frontages:
 - a) Beginning at a point not more than three feet above the sidewalk, to a height no less than ten feet above the sidewalk; or

- b) Beginning at the finished floor elevation to a height no less than ten feet above the finished floor elevation when the finished floor elevation is three or more feet above the sidewalk; or
 - c) Beginning at a point not more than sidewalk level, to a height no less than ten feet above the finished floor elevation when the finished floor elevation is below the sidewalk.
- b. Street and BeltLine Corridor fronting residential uses and non-residential uses along local streets, with the exception of churches and fire stations: Fenestration and entrances shall be provided for a minimum of 30 percent of the length of all street frontages.
 - c. Such buildings shall have windows at sidewalk level on each street frontage façade which are substantially similar in size to the sidewalk level front façade windows.

BeltLine: Fenestration Table

Street or Corridor Classification			
USE	Arterial or Collector	Local	BeltLine Corridor
Residential	30% minimum length	30% minimum length	30% minimum length
Non-Residential*	65% minimum length	30% minimum length	65% minimum length

* No minimum fenestration requirement for churches and fire-stations.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.015. Signage.

Refer to section 16-28A. Sign Ordinance for regulations pertaining to the underlying zoning category.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16.36.016. Loading areas, loading dock entrances and building mechanical and accessory features.

1. *Dumpsters and loading areas:* Shall be paved with impervious materials and shall be screened so as not to be visible from any public plaza, sidewalk-level outdoor dining area, public sidewalk, public right-of-way or BeltLine Corridor. In addition, dumpsters and loading areas serving residential uses shall be enclosed with opaque walls not less than six feet in height.
2. *Loading dock entrances for nonresidential uses.* Loading dock entrances for nonresidential uses shall be screened so that loading docks and related activity are not visible from the public right-of-way or BeltLine Corridor.
3. *Building mechanical and accessory features.*

- a. Shall be located to the side, rear, or roof of the principal structure and shall be in the location of least visibility from the public right-of-way. Screening with plant or fence materials shall be required if the equipment is otherwise visible from the public right-of-way.
- b. When located on rooftops shall be incorporated in the design of the building and screened with building materials similar to the building.
- c. Shall not be permitted between the building and any public street.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.017. Driveway curb cuts, driveways and parking structures.

1. Driveway curb cuts:

- a. Shall be a maximum of 24 feet for two-way entrances and 12 feet for one-way entrances, unless otherwise permitted by the commissioner of public works.
- b. Shall not be permitted on any street that functions at the location on the right-of-way in question as an arterial street or collector street when access may be provided from a local street with the exception of hotels and hospitals.
- c. All sidewalk paving materials shall be continued across any intervening driveway curb cut at the same prevailing grade and cross slope as the adjacent sidewalk clear zone.
- d. Shall have a band of textured concrete adjacent to the street which is in-line and equal in width to the street furniture zone and shall have a textured band of concrete adjacent to the sidewalk which is in-line with the supplemental zone with a minimum width of five feet from the sidewalk or such standard as developed by the department of public works.
- e. Maximum permitted number of driveway curb cuts for each development, subject to the provisions of subsection 16-25.002(3):
 - i. Developments with only one street frontage, which is less than 300 feet in length: One;
 - ii. Developments with only one street frontage, which is greater than or equal to 300 feet in length: Two;
 - iii. Developments with more than one street frontage: One located on each street frontage;
 - iv. For the purposes of this section, two curb cuts serving two one-way driveways shall only be counted as one curb cut.

2. Driveways:

- a. Driveways or circular drives, except to reach the side yard or rear yard or an on-site parking facility, are not permitted between the sidewalk and a building, and shall be perpendicular to any adjacent street with the exception of hotels, hospitals, childcare centers, kindergartens and special schools, subject to provisions in subsection 16-25.002(3).
- b. All contiguous sidewalk-level residential units shall share one common drive, located in rear yards or side yards without street frontage, to serve garages and parking areas.
- c. Independent driveways are not required for single- and two-family dwellings or when access is provided by a private alley.
- d. Notwithstanding the provisions of subsection 16-28.006(10), the director of the bureau of planning may authorize a common or joint driveway when adjacent lots have direct

vehicular access to a street or a driveway from a private street which functions as a public street based on traffic considerations when a perpetual easement agreement is agreed upon by all affected property owners and a copy of such agreement is provided to the bureau of planning.

3. Parking structures either principal or accessory use: In addition to Section 16-28.028 the following regulations shall apply:
 - a. When located immediately adjacent to the BeltLine Corridor, any public right-of-way, public park, private street or adjacent R-1 through R-5, RLC, R-G, MR, PD-H District:
 - i. Shall be delineated to, and including, the third story above the sidewalk-level executed through windows, belt courses, cornice lines or similar architectural detailing and shall conceal automobiles from view. Said structure shall have an appearance similar to that of the adjoining or attached residential, commercial or mixed-use structure.
 - ii. Parking structure façades shall have openings screened with mesh or decorative panels, tinted or sandblasted glass, or similar screening elements so as to prevent views into the parking structure.
 - iii. Parking decks shall be illuminated with uplighting or shall contain shielded internal light bulbs to eliminate light spillage outside the structure. See section 16-36.018 for additional lighting requirements.
 - b. Along all façades not along the BeltLine Corridor, any public right-of-way, public park, or private street: Shall provide a continuous landscaped strip between the structure and property line to be planted as indicated in subsection 16-36.017(3)(c)(i) below.
 - c. Façades along the BeltLine Corridor, any public right-of-way, public park, or private street:
 - i. Shall meet the façade treatment requirements as applicable in subsection 16-36.012(5) unless topographic considerations render this requirement unreasonable. In such case, a continuous minimum five feet wide landscaped strip shall be provided between the structure and the public sidewalk, except at ingress and egress points into the structure. Said landscaped strip shall be planted with street trees spaced a maximum distance of 20 feet on center, as defined in section 16-36.007. The landscape strip shall also be planted with evergreen ground cover such as mondo grass, liriope spicata, ivy or evergreen shrubs with a maximum mature height of 24 inches. All plantings, planting replacement and planting removal shall be approved by the city arborist.
 - ii. Shall meet an active-use depth requirement from said parking structure façade at sidewalk-level, except at ingress and egress points into said parking structures. When two or more floors meeting the definition of sidewalk-level exist within the same building, this requirement shall only apply to the frontage of each floor located within five vertical feet above or below the grade of the adjacent sidewalk. For the purposes of this chapter active uses shall be serviced by plumbing, heating, and electricity and are limited to residential, retail, eating and drinking establishments, museum, gallery, office, institutional, auditorium, library, hotel lobby, or cultural facility uses, and shall not include parking, non-residential storage areas, driveway or queuing lanes parallel to the adjacent street. Minimum active-use depths shall be provided as follows:
 - 1) *Residential uses*: Minimum depth of ten feet.
 - 2) *All other uses (as specified above)*: Minimum depth of 20 feet.
4. All developments, including parking decks, shall have walkways a minimum width of four feet connecting ground level parking to the public sidewalks and to all building entrances.

5. Entrances to garages and carports that serve a single residential unit, and which are located less than 20 feet behind the façade of the principal structure, shall face the rear yard or a side yard which has no street frontage.
6. Drop-off lanes: Where on-street parking is provided, certain parking spaces may be utilized as drop-off spaces, when permitted by the commissioner of public works. Drop-off spaces or lanes are otherwise prohibited.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07; Ord. No. 2008-67(08-O-0196), § 23, 7-21-08)

Sec. 16-36.018. Lighting, security, and maintenance requirements.

1. All lighting, including all parking decks and lots, loading areas, and lit canopies, shall reduce light spillage onto adjacent residentially used properties by providing cutoff luminaries that have a maximum 90 degree illumination.
2. All lighting that up-lights trees, buildings or other elements, shall be located a minimum height of eight feet above the sidewalk, driveway or pedestrian area when not located within completely landscaped areas.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.019. Minimum landscaping requirements for surface parking lots.

The requirements of City of Atlanta Code of Ordinances, chapter 158 vegetation, article II, tree protection, section 30, parking lot requirements shall apply to this district in addition to the street tree planting requirements, with additional requirements as follows:

1. Said surface parking lot requirements shall apply to all lots regardless of size;
2. Existing parking lots shall not be required to reduce the number of parking spaces by more than three percent as a result of implementing the following surface parking lot landscaping regulations:
 - a. All parking bays shall be terminated with a landscape strip a minimum width of five feet and equal to the length of the parking bay.
 - b. All required landscaped areas shall be planted with evergreen groundcover or shrubs with a maximum mature height of 30 inches; and
 - c. All required landscaped buffer strips, regardless of length, shall have a minimum of one tree planted per 30 feet of length with a minimum caliper of two and one-half inches.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.020. Off-street parking and loading requirements.

In addition to the provisions of subsection 16-28.008(7), which shall apply and are incorporated herein the following parking requirements shall apply to all permitted uses. (See also sections 16-28.013 and 16-28.014.)

1. *Minimum parking:* The number of off-street parking spaces required shall be as follows:
 - a. *For residential uses:* One space per dwelling unit.
 - b. *For non-residential uses:* Determined by the underlying zoning except in such cases where the underlying zoning has no minimum parking requirement whereas the minimum parking required shall be one space per 300 square feet of floor area.

2. **Maximum parking:** No development, unless granted a special exception by the board of zoning adjustment, shall have parking in excess of:
 - a. *For residential uses:*
 - i. 1.25 spaces per each one-bedroom unit.
 - ii. 2.00 spaces per each two or greater bedroom unit.
 - b. **For non-residential uses:** The greater of the following either:
 - i. Ten spaces greater than the minimum parking required; or
 - ii. 25 percent of the minimum parking required.
3. **Minimum loading:** The number and size of off-street loading spaces required shall be determined by the underlying zoning.
4. **Shared parking and loading:**
 - a. Reduction of on-site parking required may be granted by administrative variation subject to evidence of a shared parking arrangement within 600 feet of the property and not located either:
 - i. Within districts R-1 through R-5, RLC or PDH; and
 - ii. Immediately adjacent to single family dwellings in districts RG-1, RG-2, MR-1 and MR-2.
 - iii. Said evidence of a shared parking arrangement shall include the following:
 - a) A to-scale map indicating location of proposed parking spaces; and
 - b) Written consent of property owners agreeing to the shared parking arrangement; and
 - c) Copies of parking leases. Renewed leases shall be filed with the bureau of planning. Failure to file or lapse of such required lease agreement with the bureau of planning shall terminate said shared parking arrangement.
 - b. Reduction of on-site loading required may be granted by administrative variation subject to evidence of a shared loading arrangement that avoids conflicting loading demands and not located either:
 - i. Within districts R-1 through R-5, RLC or PDH; and
 - ii. Immediately adjacent to single family dwellings in districts RG-1, RG-2, MR-1 and MR-2.
5. **Off-street surface parking lots:**
 - a. Shall be accessory to a permitted principal use only, provided that parking spaces serving another principal permitted use may use such facility for shared parking during non-normal business hours by compliance with the parking requirements of the underlying zoning.
 - b. Shall not be located between a building and the street without an intervening building.
 - c. No portion of any parcel on which a building has been demolished, destroyed, or otherwise removed shall be utilized for an independent primary park-for-hire surface parking lot.
6. **For office uses:**
 - a. All developments shall reserve and designate at least five percent of the employee parking spaces "Carpool Only." Such spaces shall be located near the building's

employee entrance or other preferable locations within the employee parking areas as approved by the director of the bureau of traffic and transportation.

- b. All new parking structures shall be built to accommodate vanpool access at entry level. The minimum ceiling height for vanpools is eight feet two inches.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.021. Off-street bicycle parking.

Bicycle/moped parking: All spaces provided shall include a metal anchor sufficient to secure the bicycle/moped frame when used in conjunction with a user-supplied lock and shall be a type specified by the director of the bureau of planning as applicable.

1. No development, except a one- or two-family development, shall have fewer than two bicycle/moped parking spaces nor be required to exceed a maximum of 50 spaces.
2. Non-residential developments shall provide bicycle/moped parking facilities at a ratio of at least one bicycle/moped parking space for every 4,000 square feet of non-residential floor area. Each space shall be located within the street furniture zone or supplemental zone a maximum horizontal distance of 100 feet from the building entrance.
3. Multi-family developments shall provide said facilities at a ratio of at least one bicycle/moped parking space for every five multi-family units.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Sec. 16-36.022. Pedestrian bridges and tunnels.

1. Bridges, tunnels, buildings, and parking structures are prohibited when located above or below the BeltLine Corridor, public streets, private streets which function as public streets, or other public rights-of-way unless granted an administrative variation subject to the following:
 - a. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape, topography, subsurface conditions, or overhead structures; and
 - b. Such conditions are peculiar to the property in question; and
 - c. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta.

(Ord. No. 2007-09, § 1(Att. A), 2-28-07)

Appendix 2: Code Section 16-25.004 describing procedures for special administrative permits and their appeal.

Sec. 16-25.004. Special administrative permits, procedural requirements.

(1) The director, bureau of planning shall be responsible for processing special administrative permits, making or causing to be made all necessary studies and referrals, and deciding thereon.

(2) *Applications:* A property owner, or any other person with notarized written consent of the property owners, may file with the director, bureau of planning an application for a special administrative permit on such property, provided that such permit is authorized generally or in the district in which such purpose is so designated. The application shall be filed on a form provided for such purposes and shall be accompanied by plans, reports or other information, exhibits or documents as may reasonably be required by the director, bureau of planning to make the necessary findings in the case.

(3) *Action by Planning Director:* The director, bureau of planning shall examine the application and supporting materials for conformity with the requirements and stated intent of this part, make such referrals as are called for in the circumstances of the case, and shall within 30 days (unless a longer period is mutually agreed upon) decide on the application. The director may issue the permit as applied for, may issue a permit conditional upon changes from the application, set forth in writing, as necessary to assure conformity with the requirements and stated intent of this part, or may deny the application, with written reasons for such denial.

(4) *Withdrawal of Application:* An application for special administrative permit may be withdrawn at any time without limitation on resubmittal.

(5) *Appeals From Decision of the Planning Director:* Appeals from decisions of the planning director shall be [submitted] to the board of zoning adjustment, as provided at section 16-30.010.

(6) *[Appeals.]* Appeals of a decision of the board of zoning adjustment under the provisions of this section shall be as provided for in section 16-26.007.

(Code 1977, § 16-25.004; Rpld. by Ord. No. 2006-66, § 12, 9-26-06; Ord. No. 2007-15 (07-O-0372), § 1, 3-13-07)

Editor's note—

Ord. No. 2007-15 (07-O-0372), § 1, adopted March 13, 2007, reserved § 12 of Ord. No. 2006-66, in effect restoring the provisions of § 16-25.004 to read as enacted by Code 1977, § 16-25.004.

Appendix 3: Appendix 3: Code section 16-25.002(1-3) describing procedures for the review of special administrative permit applications with relevant sections highlighted.

Sec. 16-25.001. Intent: Classes of special permits.

Three (3) classes of special permits are established for the purpose of this part:

(a) Special use permits, decided by the council after public notice and hearing and recommendation by the zoning review board, are intended to be used in connection with uses of substantial significance or of unusual operational characteristics.

(b) Special administrative permits are intended to be used where complex or unusual technical determinations are involved and/or in conjunction with temporary uses and structures where the matter is not of such a nature as to require public notice and hearing. Such permits shall be processed by the bureau of planning.

(c) Special exceptions, decided by the board of zoning adjustment after public notice and hearing, are intended to be used in conjunction with cases where consideration of effects on the surrounding property is of principal importance.

(Code 1977, § 16-25.001)

Sec. 16-25.002. Special permits, general.

No building or occupancy permit shall be issued for any structure or use requiring any of the above special permits until such special permit has been obtained, and any such structure or use shall be in full accord with the requirements and limitations set forth in such special permit. No such permits shall be required or issued except in classifications specifically provided for in this part, or other than in accord with the procedures, standards and requirements set forth in connection therewith.

(1) *Conditions:* In granting special permits, such conditions may be attached as are deemed necessary in the particular case to protect the public interest and surrounding properties. Such conditions shall generally be of a nature as so stated in (3) below, "Construction, generally."

(2) *Transfer:* A special permit, together with any conditions and safeguards attached, is granted to an individual, firm or corporation. Such permit may be transferred to another individual, firm or corporation only upon approval in the manner hereinafter described:

a. *Special use permits:* The transfer of a special use permit is authorized upon the approval of the city council after a request for such transfer has been filed with the bureau of planning by the new owner or operator, accompanied by an affidavit certifying that the new operator or owner is thoroughly familiar with and will abide by the terms of the original special use permit.

b. *Special exception permit:* The transfer of a special exception permit is authorized upon the approval of the director, bureau of planning or his designee after a request for such transfer has been filed in such a manner as the director, bureau of planning may hereinafter direct by the new owner or operator, accompanied by an affidavit

certifying that the new operator or owner is thoroughly familiar with and will abide by the terms of the original special exception permit.

c. Special administrative permit: The transfer of a special administrative permit is authorized upon the approval of the director, bureau of planning, or his designee after a request for such transfer has been filed in such manner as the director, bureau of planning, may hereinafter direct by the new owner or operator, accompanied by an affidavit certifying that the new operator or owner is thoroughly familiar with and will abide by the terms of the original special administrative permit.

(3) *Construction, generally:* No special permit shall be issued unless it is determined that, in addition to meeting the special requirements set forth within the district within which such special permit is located, satisfactory provisions and arrangements have been made concerning the following, applicable to each application, provided however that where site plans and conditions are attached to special use permits, the site plan and the conditions shall control with respect to the setbacks, lot coverage of the buildings on the site and floor area ratio allowed by such site plans and conditions. Provided further that any decrease of any setback, lot coverage or open space or increase in floor area ratio shall be noted on the site plan and addressed in the appropriate subsection below:

- a. Ingress and egress to the property and proposed structure or uses thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe.
- b. Off-street parking and loading areas where required, with particular attention to the items in a. above.
- c. Refuse and service areas.
- d. Appropriate buffering or screening to alleviate such potentially adverse effects as may be created by noise, glare, odor, lighting, signs or traffic congestion.
- e. Hours and manner of operations.
- f. Length of time regarding the duration of such permit, if any.
- g. Tree preservation and replacement in accordance with the requirements of the City of Atlanta Tree Ordinance.
- h. Required yards and other open spaces;
 1. For special use permits, required yards and open spaces shall be permitted in the manner represented on the site plan and set forth in the conditions. Where no site plan or conditions are attached to a special use permit concerning required yards and open spaces, the district regulations shall control.
 2. For special administrative permits, the district regulations shall control but variations may be granted if permitted by the district regulations.
 - i. With respect to antennas, except satellite receiving dish antennas regulated under section 16-28.008(11) of the Zoning Ordinance, the following additional standards and criteria shall also be met:

(i) All antennas and related equipment and structures shall be located within the buildable area of the lot. This standard shall not be varied except through issuance of a variance from the board of zoning adjustment in accordance with the standards specified in section 16-26.003 of the Zoning Ordinance; provided, however, that a problem related solely to signal transmission or reception standards shall not be sufficient grounds for granting said variance.

(ii) Lattice antennas and antennas requiring guy lines or other cable supports are prohibited.

(iii) Roof antennas.

(a) The following additional regulations, standards, and criteria shall govern all roof antennas.

(b) Special administration permits may be issued in accordance with section 16-25.004 provided such roof antennas are determined by the director of the bureau of planning to meet the requirements set forth in subsections (c) and (d) below.

(c) Roof antennas and related equipment and structures shall not exceed the minimum height necessary to accomplish their intended function, but under no circumstances shall they extend more than ten feet above the height of the supporting structure upon which the roof antenna is attached or affixed.

(d) Roof antennas and related equipment and structures shall be painted in a color scheme identical to or closely compatible with the color of the supporting structure upon which the roof antenna is attached or affixed, and in such a manner as to make the antenna and related equipment and structures as visually unobtrusive as possible.

(iv) Other Permissible Antennas.

(a) The following additional regulations, standards, and criteria shall govern all antennas except roof antennas, not otherwise prohibited by this subsection h.

(b) Each applicant for a special use permit or special administrative permit shall provide to the bureau of planning an inventory of its existing towers that are either within the city or within one quarter mile of the city limit, including specific information about the location, height and design of each tower. The bureau of planning may share such information with other applicants applying for special use permits or special administrative permits under this ordinance, or with other organizations seeking to locate antennas within the city, provided, however, that the bureau of planning, by sharing such information, is not in any way representing or warranting that such sites are available or suitable.

(c) No new antenna tower shall be permitted unless the applicant reasonably demonstrates that such tower is necessary and that no existing tower or structure can accommodate the applicant's proposed antenna. To

demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna, the applicant shall submit evidence that one or more of the following conditions exist:

- (1) No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements; or
 - (2) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements; or
 - (3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment; or
 - (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the operations of the applicant's proposed antenna; or
 - (5) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or adapt an existing tower or structure for sharing are unreasonable; or
 - (6) The applicant demonstrates that there are other limiting factors which render existing towers and structures unsuitable.
- (d) The height of each such antenna shall be regulated and limited in relation to the following: Proximity to residential structures and residential district boundaries; the surrounding topography; the surrounding tree coverage and foliage; and the design of the antenna, with particular reference to design characteristics which have the effect of reducing or eliminating visual obtrusiveness. In no event, however, shall any such antenna exceed the minimum height necessary to accomplish its intended function as certified by a registered engineer licensed by the State of Georgia. Said certification shall be the responsibility of the applicant and shall be submitted to the City of Atlanta Bureau of Planning at the time application for said special use permit is made. Further, under no circumstances shall any such antenna exceed 200 feet in height as measured from existing grade. Equipment and structure related to such antennas shall not exceed the height limitation specified in the zoning district in which the property is located.
- (e) Such antennas and related equipment and structures shall be painted in a neutral color identical to or closely compatible with the surroundings, and in such a manner as to make the antenna and related equipment and structures as visually unobtrusive as possible.
- (f) Such antennas and related equipment and structures shall be enclosed by security fencing not less than six feet in height, and said antennas shall be equipped with an appropriate anticlimbing device. Said fencing shall be buffered and screened as provided by subsection (3)d above.

(g) Such antennas and related equipment that are proposed for any residentially zoned area shall be permitted only upon a showing by the applicant that said antenna and related equipment cannot be located upon nonresidentially zoned property in the same area in such a way as to adequately satisfy its intended purpose. The foregoing requirement of a showing shall include submission of an affidavit identifying all nonresidentially zoned properties which the applicant has considered for the location of the antenna and related equipment. The applicant shall identify the boundaries of the geographical area necessary to accomplish the intended purpose of the proposed antenna. The affidavit shall state the specific reason(s) that the antenna and related equipment cannot be located upon nonresidentially zoned properties identified. The affidavit shall also include all technical information (excluding information that relates to trade secrets or proprietary information) necessary to review the application including information relating to field strength, power density and frequency of actual or potential emissions from those facilities and any other information pertinent to the requirements set forth in this subsection. The affidavit must further include all contractual and financial information specifically relating to the subject site and the lease to be entered into thereon.

(h) The director of the bureau of planning may issue a special administrative permit in accordance with section 16-25.004 for antennas 70 feet or less in height, provided such antenna is determined by the director to satisfy such requirements set forth in subsections (a) through (e) above as deemed necessary by the director.

(i) The director of the bureau of planning may issue a special administrative permit in accordance with section 16-25.004 for antennas designed to resemble light standards, clock towers, bell steeples, trees, and similar alternative design mounting structures, provided such antenna is determined by the director to satisfy such requirements set forth in subsections (a) through (e) above as deemed necessary by the director.

(j) Any application for a special administrative permit pursuant to paragraphs (h) and (i) above shall be referred by the bureau of planning to the appropriate neighborhood planning unit (NPU) for its review and comment with regard to the regulations, standards and criteria set for in paragraphs (a) through (e) above. Notwithstanding the provisions of section 16-25.004(3), the director of the bureau of planning shall decide on any such application within 45 days of said application. Such 45-day time period does not begin until all required information is provided and is complete.

(k) The director of the bureau of planning may issue a special administrative permit in accordance with section 16-25.004 for new or additional uses

utilizing existing antennas, where the height of the antenna is not to be increased, provided that, in both instances, such antenna is determined by the director to satisfy the requirements set forth in subsections (a) through (e) above.

j. With respect to park-for-hire facilities, the following information shall apply to all applications:

(i) In addition to the requirements in section 16-25.002(3)(a), the ingress and egress requirements for park-for-hire facilities shall include the following: The size of the proposed facility and especially in relation to the vehicular capacity of streets of ingress and egress; the physical arrangements for ingress and egress; the reservoir space for incoming and outgoing vehicles; the effect of any plan for traffic improvement, such as the expressway program or major street plan on the flow or the pattern of traffic adjacent to the affected streets; and the financial responsibility of the applicant.

(ii) A special use permit for a park-for-hire facility in a C-1 or C-2 district shall constitute an off-street parking permit as contemplated in section 30-1081 of the City Code of Atlanta.

(iii) Applications for park-for-hire facility shall include the following information: The capacity of the proposed facility; the proposed location of entrances and exits to the facility; the capacity and location of the reservoir space to be used for the receiving and temporary storage of incoming vehicles; the proposed parking plan showing the size and location of the parking stalls and the aisles to serve them; the location, width, and general design of ramps or elevators to be used inside of structures; and any other information required to enable the mayor and council to make a fair and complete appraisal of the operation of the proposed park-for-hire facility.

Appendix 4: Code Section 6-4029 describing the powers and duties of the BZA and defining hardship as it pertains to zoning variation.

Sec. 6-4029. Powers, duties and functions.

The board shall have the following powers, duties and functions:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official of the executive branch in the enforcement of the Zoning Ordinance of the City of Atlanta or in the enforcement of any ordinance adopted or amended pursuant to Georgia Code Annotated, Chapter 69-12, as now or hereafter amended (Ga. L. 1957, p. 420, as amended);

- a. The board is only empowered to hear appeals which arise from any order, requirement decision, or determination of any administrative official of the executive branch the Zoning Ordinance (Chapter 16) or the Subdivision Ordinance (Chapter 15) as they may be from time to time amended or renumbered.
- b. The board is not empowered to hear appeals concerning any violation of the Zoning Ordinance (Chapter 16) or the Subdivision Ordinance (Chapter 15) for which a citation has been issued and is currently pending in Municipal Court.
- c. The board is not empowered to hear appeals as to whether any administrative official of the executive branch should have provided opportunity or time for any person or entity to correct or remediate any violation of the Zoning Ordinance (Chapter 16) or the Subdivision Ordinance (Chapter 15) for which a citation was issued.

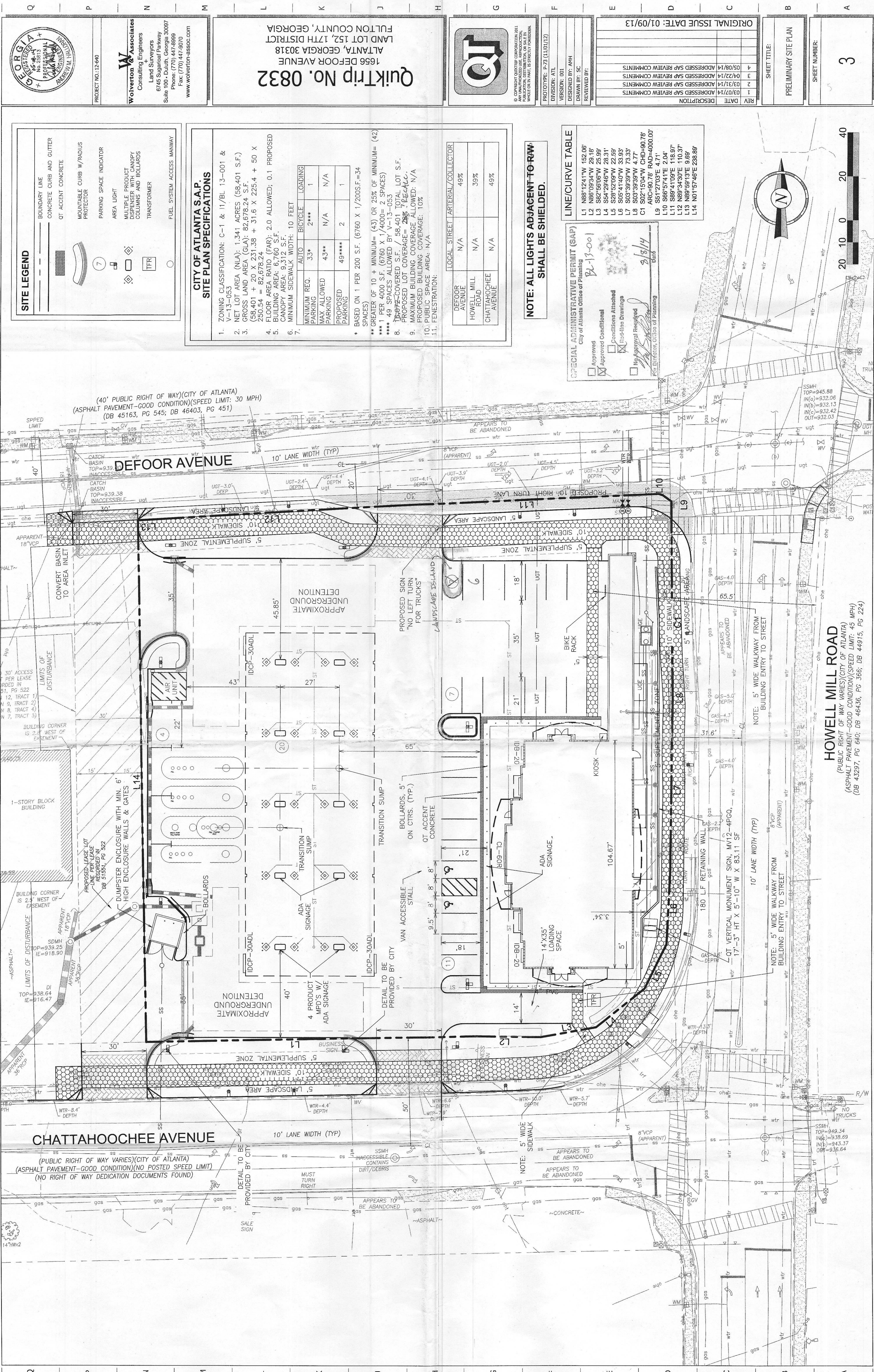
(2) To authorize upon appeal in specific cases such variance from the terms of the Zoning Ordinance of the City of Atlanta as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Zoning Ordinance of the City of Atlanta will, in an individual case, result in unnecessary hardship, so that the spirit of the Zoning Ordinance of the City of Atlanta shall be observed, public safety and welfare secured, and substantial justice done. A variance may be granted in an individual case of unnecessary hardship upon a finding by the board on each of the following enumerated factors:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
- b. The application of the Zoning Ordinance of the City of Atlanta to this particular piece of property would create an unnecessary hardship;
- c. These conditions are peculiar to the particular piece of property involved;
- d. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta; provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by the Zoning Ordinance of the City of Atlanta. In order to prevent substantial detriment to the public good or impair the purposes and intent

- of the Zoning Ordinance of the City of Atlanta, when the relief is granted, the board's relief may reduce the variance requested or include reasonable conditions.
- (3) To hear and decide such exceptions to the terms of the Zoning Ordinance of the City of Atlanta, as specified in section 16-28.001 of this Code, and in any ordinance adopted or amended pursuant to Georgia Code Annotated, chapter 69-12, as now or hereafter amended (Ga. L. 1957, p. 420, as amended). No exception may be granted for a use of land or building or structure that is prohibited by the Zoning Ordinance of the City of Atlanta. In order to prevent substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance of the City of Atlanta, when the exception is granted, the board's relief may include reasonable conditions.
- (4) In exercising the powers, duties and functions set forth in this section, the board may, in conformity with the provisions of Georgia Code Annotated, chapter 69-12 (Ga. L. 1957, p. 420, as amended), reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken and may direct the issuance of a permit.
- (5) The board shall set forth findings of fact and conclusions with each action of the board under this section; provided however that such findings of fact need not be specifically stated in any particular manner so long as any evidence exists in the record which is sufficient to support its conclusions.
- (6) Where any person other than the property owner brings an appeal to the board, the property owner shall be permitted to be heard under such rules as the board may establish.
- (7) With respect to an individual parcel, the board may establish such rules as are necessary to prevent substantially the same matter from being heard within one year of the date of its previous finding.
- (8) The board will not hear or decide constitutional issues but such issues must be preserved on the record before the board no later than the time of the hearing in order for the issues to be considered on an appeal to the Superior Court of Fulton County.

(Code 1977, § 6-4029; Ord. No. 2011-47(11-O-1291), § 1, 10-26-11)

Appendix 5: Site plan and elevation drawings submitted by the applicant.



SITE LEGEND

- BOUNDARY LINE
- CONCRETE CURB AND GUTTER
- QT ACCENT CONCRETE
- MOUNTABLE CURB W/RADIUS PROTECTOR
- PARKING SPACE INDICATOR
- AREA LIGHT
- MULTIPLE PRODUCT DISPENSER WITH CANOPY COLUMNS AND BOLLARDS
- TRANSFORMER
- FUEL SYSTEM ACCESS MAINWAY

CITY OF ATLANTA S.A.P. SITE PLAN SPECIFICATIONS

1. ZONING CLASSIFICATION: C-1 & I1/BL 13-001 & V-13-053
 2. NET LOT AREA (NLA): 1.341 ACRES (58,401 S.F.)
 3. GROSS LAND AREA (GLA): 82,678.24 S.F. (58,401 + 20 X 231.38 + 31.6 X 225.4 + 50 X 250.54 = 82,678.24)
 4. FLOOR AREA RATIO (FAR): 2.0 ALLOWED, 0.1 PROPOSED
 5. BUILDING AREA: 6,760 S.F.
 6. CANOPY AREA: 9,312 S.F.
 7. MINIMUM SIDEWALK WIDTH: 10 FEET
- | MINIMUM REQ. PARKING | AUTO | BICYCLE | LOADING |
|----------------------|--------|---------|---------|
| 33* | 2*** | 1 | |
| MAX ALLOWED PARKING | 43** | N/A | N/A |
| PROPOSED PARKING | 49**** | 2 | 1 |
- * BASED ON 1 PER 200 S.F. (6760 X 1/200 S.F. = 34 SPACES)
** GREATER OF 10 + MINIMUM = (43) OR 25% OF MINIMUM = (42)
*** 1 PER 4000 S.F. (6760 X 1/4000 = 2 SPACES)
**** 49 SPACES ALLOWED BY V-13-053
8. 15,072 COVERED S.F. / 58,401 TOTAL LOT S.F. PROPOSED LOT COVERAGE = 25.8%
 9. MAXIMUM BUILDING COVERAGE ALLOWED: N/A
 10. PROPOSED BUILDING COVERAGE: 10%
 10. PUBLIC SPACE AREA: N/A
 11. FENESTRATION:

LOCAL STREET	ARTERIAL/COLLECTOR
DEFOOR AVENUE	N/A
HOWELL MILL ROAD	N/A
CHATAHOOCHEE AVENUE	N/A

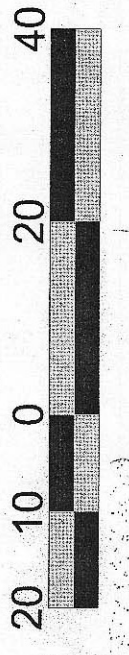
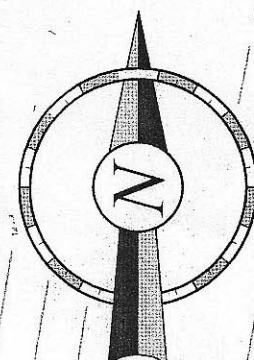
NOTE: ALL LIGHTS ADJACENT TO R/W SHALL BE SHIELDED.

LINE/CURVE TABLE
L1 N88°124'1"W 152.06'
L2 N88°053'4"W 28.18'
L3 S82°50'0"W 23.99'
L4 S84°29'46"W 23.31'
L5 S85°41'0"W 22.89'
L6 S83°39'39"W 73.33'
L7 S83°39'39"W 47.71'
L8 S82°15'04"W CHD=90.78'
L9 ARC=90.78' RAD=4000.00'
L10 S85°57'41"E 4.71'
L11 S89°41'09"E 118.97'
L12 N89°34'30"E 110.37'
L13 N89°59'13"E 9.69'
L14 N01°57'46"E 238.89'

SPECIAL ADMINISTRATIVE PERMIT (SAP)
City of Atlanta Office of Planning

APPROVED: [Signature]
DATE: 5/8/14

CONDITIONS ATTACHED:
☒ Approved
☒ Approved Conditional
☒ Conditions Attached
☒ Post-line Drawings
☐ No Approval Required



HOWELL MILL ROAD

(PUBLIC RIGHT OF WAY VARIES)(CITY OF ATLANTA)
(ASPHALT PAVEMENT—GOOD CONDITION)(SPEED LIMIT: 45 MPH)
(DB 43297, PG 640; DB 46456, PG 366; DB 44915, PG 224)

NOTE: 5' WIDE WALKWAY FROM BUILDING ENTRY TO STREET

NOTE: 5' WIDE WALKWAY FROM BUILDING ENTRY TO STREET

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