



OFFICE OF ZONING AND DEVELOPMENT

55 Trinity Avenue S.W., Suite 3350

Atlanta, Georgia 30303

(404) 330-6145

APPLICATION #: **Z-19-055**

DATE ACCEPTED: **06/04/2019**

NOTICE TO APPLICANT

Address of Property:

264 Ponce De Leon AVE NE

City Council District: **2** Neighborhood Planning Unit (NPU): **E**

Zoning Review Board (ZRB) Hearing Date:

Thursday, August 1 or 08, 2019 at 6:00 p.m.

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

The contact person for NPU E is:

Nabil Hammam

404-886-8448

nabilhammam@yahoo.com

Contact info for adjacent NPUs is provided below if necessary:

Additional Contacts:

Ross Wallace (NPU M)

706-296-3063

ross.c.wallace@gmail.com

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

Signed,

YO, for Director, Office of Zoning and
Development

Capitol City Real Estate, LLC

2-19-255

APPLICATION FOR REZONING

JUN - 4 2019

Date: 30 May 2019

Summary of Proposed Project: This is a rezoning of ± 1.25 acres of property along the northern side of Ponce de Leon Ave. NE between Penn Ave and Argonne Ave from C-2 to MRC-3 for a new residential/retail/office mixed use development.

REZONING REQUEST

PROPERTY ADDRESS: See attached list. PARCEL ID See attached list.

City Atlanta State Georgia Zip Code 30308

The subject property fronts ± 1352.46 feet on the northern side of Ponce de Leon Avenue

Depth: varies Area: ± 1.25 acres Land Lot: 49 Land District: 14th - Fulton County, GA.

Council District: 2 Neighborhood Planning Unit: E

The undersigned, having interest in the property herein described, respectfully petitions that said property be rezoned from

C-2

to

MRC-3

Existing Zoning (s)

Proposed Zoning (s)

CDP REQUEST (if applicable)

Not Applicable

to

Existing Land Use

Proposed Land Use

APPLICANT INFORMATION

Name of Applicant Capital City Real Estate, LLC Daytime Phone 404.664.5416 email Aaron Fortner <aaron@capcityre.com>

Address 1155 Mt. Vernon Hwy NE, Suite 800 Dunwoody Georgia 30338
street city state zip code

Name of Property Owner Rio Land & Investment Co., Inc. Phone 404.874.6688

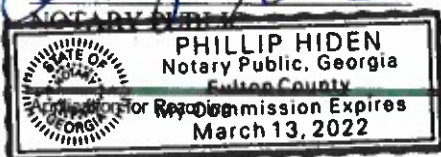
Address 1001 Piedmont Ave NE Suite 201 Atlanta Georgia 30309
street city state zip code

Applicant affirms that he/she is the applicant for the property described in the attached legal description, which is made part of this application.

Owner or Agent for Owner (Applicant)

RIO LAND & INVESTMENT
Print Name of Owner COMPANY, INC.
By: Walter R. Davis, III
its President

Sworn To And Subscribed Before Me This 23 Day Of May 2019.



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264/268/282/294 Ponce de Leon Avenue and 675 Penn Avenue
Rezoning Application: C-2 to MRC-3
Capital City Real Estate, LLC
31 May 2019

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Office of Zoning & Development

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PROPERTY ADDRESS AND PARCEL ID NUMBERS

1. 264 Ponce de Leon Avenue, NE 14 00490010053
2. 268 Ponce de Leon Avenue, NE 14 00490010052
3. 282 Ponce de Leon Avenue, NE 14 00490010051
4. 294 Ponce de Leon Avenue, NE 14 00490010083
5. 675 Penn Avenue, NE 14 00490010050

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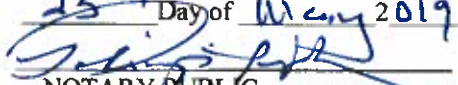
AUTHORIZATION BY PROPERTY OWNER

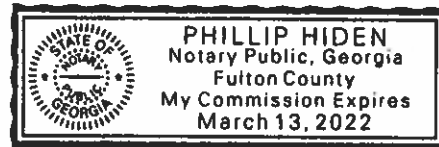
(Required only if the person filing application is **not** the owner of the subject property for the proposed rezoning)

I, Rio Land & Investment Company, LLC (Owner's Name) swear and affirm that I am the owner of property at 264/268/282/294 Ponce de Leon Ave. NE Atlanta and 675 Pema Ave. NE Atlanta (Property address). As shown in the records of Fulton County, Georgia, which is the subject matter of the attached application. I authorize Capital City Real Estate, LLC to file this application.


Walter R. Davis
For Rio Land & Investment Company, Inc.

Sworn to and subscribed before me this the

23rd Day of May 2019

NOTARY PUBLIC



Department of City Planning
Office of Zoning & Development

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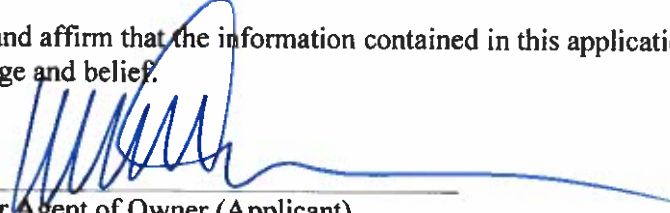
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AUTHORIZATION TO INSPECT PREMISES
(Attachment 1)

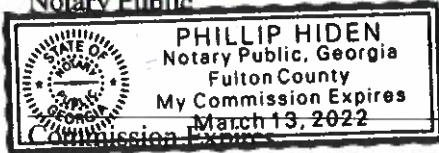
With the signature below, I authorize the staff of the Office of Zoning and Development of the City of Atlanta to inspect the premises, which are the subject of this rezoning application.

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


Owner or Agent of Owner (Applicant)

Sworn to and subscribed before me this 23rd day of May, 2019


Notary Public



Department of City Planning
Office of Zoning & Development

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ATTORNEY AT LAW

I swear and affirm, as an attorney at law, that I have been authorized by the owner of the property subject to the proposed rezoning to file this application.

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Ste. 3350
Atlanta, GA

Robert L. Zoeckler

TYPE OR PRINT ATTORNEY'S NAME

P.O. Box 417

ADDRESS

Clarkston Georgia 30021

CITY & STATE

ZIP CODE

ATTORNEY'S SIGNATURE

770.356.6270

PHONE NUMBER

bob@zoecklerfirm.com

Sworn to and subscribed before me this the

3rd Day of June 2019

Kelly S. Newkirk
NOTARY PUBLIC

September 14, 2022
COMMISSION EXPIRES

(SEAL)



2-17-055

ATLANTA PUBLIC SCHOOL REVIEW REQUEST
(Required only if application would result in construction of one or more units of new housing)
(Attachment 2)

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Application Number: _____

Applicant: Capital City Real Estate, LLC

Address: C/O Aaron Fortner
1155 Mt. Vernon Hwy
Dunwoody, GA 30338

Current Zoning: C-2

Proposed Zoning: MRC-3

Acres: 1.19 +/-

Total number of Dwelling Units: ~~+XXXX~~ +/-135

Dwelling units per Acre: ~~97X~~ 113

Monthly Rent Per Unit: N/A

Selling Price per Unit: Not yet determined

Projected Completion: About 2.5 years following entitlement

AFFORDABLE HOUSING SUPPLEMENTAL FORM (RENTAL)(Attachment 2a)
NOT APPLICABLERequired if the rezoning application contemplates the construction of five or more residential units.**SECTION 1: DEVELOPMENT INFORMATION**Development Name: 272 Ponce de LeonDevelopment Address: Multiple - see second page of app. materials.Council District: 2 NPU EIs Inclusionary Zoning applicable to this project? ☐ Yes ☒ No***Note: IZ applies to all new or conversion multifamily residential rental projects with ten (10) or more units in the Beltline Overlay District OR Westside Neighborhoods of English Avenue, Vine City, Ashview Heights, or AUC. For these projects, applicant must complete and submit the Inclusionary Zoning Certification Form.**Is there any involvement from the City of Atlanta/Invest Atlanta in the proposed project? ☐

NO

☐ Land write-down ☐ Land donation ☐ Financial Assistance☐ Other _____Department of City Planning
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Please provide documentation of involvement. and write-down

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Atlanta, GA**SECTION 2: DEVELOPER INFORMATION**Developer Name: Capital City Real Estate, LLCDeveloper Contact (Project Coordinator): Developer Address: Aaron FortnerEmail address: aaron@capcityre.com May we use email to contact you? ☒ Yes ☐ NoTelephone Number: 404.664.5416**SECTION 3: DEVELOPMENT INFORMATION**

a) Affordable units required

For rental projects: _____ x 10%* = (always round up) Total units
Total affordable units required 25% = _____

Bonus Square Footage* _____ Affordable sq. footage required _____

***Note that the maximum allowed bonus is 15% of base FAR.**

b) Building details

In addition to water, which of the following utilities will be included in the rent (mark applicable):

☐ Cooking gas ☐ Electric ☐ Gas heat ☐ Electric heat ☐ Other _____Is parking included in the rent for the: affordable units? ☐ Yes ☐ NoMarket-rate units? ☐ Yes ☐ No

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If parking is not included, what is the monthly cost per space?

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Estimated date for the commencement of marketing: _____

Estimated date for completion of construction of the affordable units: _____

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For each unit configuration, fill out a separate row, as applicable (see example).

	Unit Type*	Number of Units	Number of Bedrooms/ Unit	Total Square Footage Per Unit	Expected Market Rent	Proposed Affordable Rent*	Proposed Level of Affordability (___% or less of AMI)	Unit Mix
<i>Example</i>	1 bed/1 bath	4	1	800	\$1000	759	60%	
Affordable Units								
Market Rate Units						N/A	N/A	
						N/A	N/A	
						N/A	N/A	

SECTION 4: PAYMENT IN LIEU OF UNITS

Provide an estimate if an option is chosen to make the payment -in-lieu.

Date payment can begin and end: _____

For rental projects, use the following formula to calculate payment owed:

$$\frac{\text{Number of total units in development}}{\text{Number of total units in development}} \times 10\% = \frac{\text{Number of total units in development}}{\text{Number of total units in development}} \times \$100,000 = \$ \text{Amount owed}$$

(Round up to nearest whole number)

For Density Bonus projects, use the following formula to calculate payment owed:

$$\frac{\text{Bonus Floor Area (sq. ft.)}}{\text{Bonus Floor Area (sq. ft.)}} \times 15\% \times \$ \frac{\text{Median price per base FAR foot}}{\text{Median price per base FAR foot}} = \$ \text{Amount owed}$$

Developer/Project Coordinator _____

Date _____

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AFFORDABLE HOUSING SUPPLEMENTAL FORM (FOR SALE)
(Attachment 2b)

Required if the rezoning application contemplates the construction of one or more residential units.

SECTION 1: DEVELOPMENT INFORMATION

Development Name: 272 Ponce de Leon

Development Address: Multiple - see second page of application materials.

Council District: 2 NPU E

Is there any involvement from the City of Atlanta/Invest Atlanta in the proposed project? ☐ No.

☐ Land write-down ☐ Land donation ☐ Financial Assistance

☐ Other _____

Please provide documentation of involvement and write-down

SECTION 2: DEVELOPER INFORMATION

Developer Name: Capital City Real Estate, LLC

Developer Contact (Project Coordinator): Aaron Fortner

Email address: aaron@capcityre.com May we use email to contact you? ☒ Yes ☐ No

Telephone Number: 404.664.5416

SECTION 3: DEVELOPMENT INFORMATION

Affordable units required ☐ Not applicable

For "for sale" projects: 0 x 10%* = _____ (always round up)

Total units total affordable units required 25% = _____

Bonus Square Footage* 0 Affordable sq. footage required 0

*Note that the maximum allowed bonus is 15% of base FAR.

Is parking included in the price of market rates units? ☒ Yes ☐ No

Is parking included in the price of affordable units? ☐ Yes ☐ No N/A

If parking is not included in the unit price, what is the price to purchase parking? N/A

Estimated date for the commencement of marketing: 1.1.2022

Estimated date for completion of construction of the affordable units: N/A

Building type (condo, townhouse, etc.) Condo

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For each unit configuration, fill out a separate row, as applicable (see example).

NOTE: Unit design, mix, and layouts are not known at this time.

Unit Configuration	Square feet per unit	Number of affordable units proposed	Number of market rate units proposed	Total #	Proposed Assessments	Proposed Affordable Price*	Proposed Level of Affordability (___% or less of AMI)	Expected Market Price
<i>Example:</i> 1 bed/1 bath				0				
N/A								
Building Total								

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SECTION 4: PAYMENT IN LIEU OF UNITS

This section is not applicable.

Provide an estimate if an option is chosen to make the payment -in-lieu.

Date payment can begin and end: _____

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For “for sale” projects, use the following formula to calculate payment owed:

$$\frac{\text{Number of total units in development}}{\text{X 10\%}} = \frac{\text{X \$100,000}}{\text{(Round up to nearest whole number)}} = \$ \text{Amount Owed}$$

For Density Bonus projects, use the following formula to calculate payment owed:

$$\frac{\text{Bonus Floor Area (sq. ft.)}}{\text{x 15\%}} \times \$ \frac{\text{median price per base FAR foot}}{\text{=}} = \$ \text{Amount owed}$$

Aaron Fortner
Developer/Project Coordinator

6.3.2019
Date

AFFORDABLE HOUSING QUESTIONS

(Attachment 2c)

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Applicants for rezoning should only answer these questions if housing will be eliminated or created as part of their development plans. If the requested information cannot fit in the space below, please attach an additional page with your application.

Rental Housing

NOT APPLICABLE

If you are planning to eliminate rental housing through demolition or a conversion of a property into a different use, please provide the following information on the existing rental units:

Unit Type (Number of bedrooms/ Number of bathrooms)	Number of Units	Average Rent
EX: 2/1	25	\$1,150

If you are planning to create rental housing through new construction or a conversion of a property into a different use, please provide the following information on the proposed rental units. If your proposed development is required to comply with the Inclusionary Zoning policy for the Beltline Overlay District and the Westside, and you are not paying the in-lieu fee, break out the affordable inclusionary zoning units on separate rows.

Unit Type (Number of bedrooms/ Number of bathrooms)	Number of Units	Expected Average Rent

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For-Sale Housing

Not Applicable

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If you are planning to eliminate for-sale housing through demolition or a conversion of a property into a different use, please provide the following information on the existing homeownership units.

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Unit Type (Number of bedrooms/ Number of bathrooms)	Number of Units	Average Value per the Fulton ⁱ or DeKalb County Tax Assessor ⁱⁱ

If any of the units to be eliminated have been vacant for a year or more, and/or are currently uninhabitable, please specify that information.

If you are planning to create for-sale housing through new construction or conversion of a property into a different use, please provide the following information on the proposed homeownership units.

NOTE: Unit design, mix and layouts are not known at this time.

Unit Type (Number of bedrooms/ Number of bathrooms)	Number of Units	Expected Average Sales Price

Additional Information

If you wish to explain any of the information provided above, please use this space.

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Not Applicable

Are you seeking assistance from a local government, development authority, or other governmental entity to fund, partially or in whole, your development? If so, please describe:

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- 1) The type of assistance you intend to apply for and/or have received; and

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- 2) Any rental or sales affordability requirements that will come with this assistance.

¹ To determine the value of homeownership units in DeKalb County, use the DeKalb County Tax Commissioner's real estate search function. The link to this website is: <https://taxcommissioner.dekalbcountyga.gov/TaxCommissioner/TCSearch.asp>. Use the "Total Value", not the "Assessed Value". If there are multiple properties that are the same unit type, average their values together.

² To determine the value of homeownership units in Fulton County, use the qPublic.net function from the Fulton County Tax Commissioner. The link to this website is: <https://qpublic.schneidercorp.com/Application.aspx?App=FultonCountyGA&Layer=Parcels&PageType=Search>. Use the "Total Value", not the "Assessed Value". If there are multiple properties that are the same unit type, average their values together.

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DISCLOSURE REPORT
(Attachment 5)55 Trinity Ave. S.W.
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Within the (2) years immediately preceding the filing of this rezoning application have you, as the applicant or opponent for the rezoning petition, made any campaign contributions aggregating \$250.00 or more to a local government official who will consider the application.

Circle One:

Yes

No

If the answer is YES, proceed to section 1 through 4.

If the answer is NO, complete only section 4.

1. Circle One:

Party to Rezoning

In Opposition of Rezoning

If party to rezoning, complete section 2, 3 and 4 below.

If opposition, proceed to section 3 and 4 below.

2. List all individuals or business entities which have an ownership interest in the property which is subject of this rezoning action:

3. Campaign Contributions:

Name of Government Official	Total Dollar Amount	Date of Contribution

4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. Seq. Conflict of interest in rezoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (please print): **Scott B. Zimmerman**

DocuSigned by:

Scott B Zimmerman

Signature:

1313ETSEF5034AA

Date: **5/9/2019 | 5:53:04 AM PDT**

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264/268/282/294 Ponce de Leon Avenue and 675 Penn Avenue
Rezoning Application: C-2 to MRC-3
Capital City Real Estate, LLC
31 May 2019

Department of City Planning
Office of Zoning & Development

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SUMMARY OF PROPOSED PROJECT

This +- 1.25 acre site currently is zoned unconditional C-2. It consists of 5 parcels, 4 of which front Ponce de Leon Ave. The 5th parcel fronts Penn Avenue along the rear of the 4 Ponce parcels. The 5 parcels will be consolidated into 1 parcel after the rezoning. The parcels all lie between Penn Ave. and Argonne Ave., forming an intact development site. An alley runs east west along the rear (north) of the site, and the site's legal boundary on that north side goes to the center line of the alley. The site is under-utilized and mostly vacant, with several small commercial establishments and some surface parking. The site slopes substantially from Ponce to the rear. It is surrounded by a mixture of zoning classifications and uses, with MRC-1 and MRC-2 to the west and east, C-2 and PD-MU across Ponce, and RG-3 to the north towards the neighborhood's interior, with an apartment complex to the north along Penn that is a nonconforming R-5 use.

The site is a part of the Midtown Neighborhood. It is designated Mixed-Use (MU) on the CDP. The Midtown Garden District Master Plan shows this site as mixed-use with a height of 4 to 6 stories. The Master Plan noted a strong desire for more development along this portion of Ponce de Leon, embracing a mix of uses with residential and ground floor retail.

Applicant Capital City Real Estate, LLC's proposal conforms to all of these CDP and Master Plan provisions and is intended to foster precisely the kind of development and pedestrian/retail activity that the master planning for this area envisions. To accomplish this goal, the applicant seeks a rezoning from C-2 to MRC-3 to allow a mixed-use development. The project envisions approximately 135 owner-occupied residential units and approximately 18,500 square feet of ground floor retail/restaurant uses, for a total floor area of approximately 153,500 SF. The applicant may utilize some of the residential or nonresidential square footage as office space, which due to space reconfigurations could increase the total square footage by up to 20% of the total project square footage, for a total of about 184,000 SF. The applicant will limit the height to 6 stories (not to exceed 90 feet) at Ponce de Leon in order to comply with the Midtown Master Plan. Parking will be below the project, accessed from the alley on the west side off Penn Ave. and from 2 additional entryways – one on the east side off Argonne Ave. which will serve the retail/office/restaurant uses, and the other off Penn Ave. which will serve the residents. The alley access off Penn may be enhanced to meet city transportation requirements and may require a variance to the transitional yard in order to allow the driveway to reach the parking area from the alley. A variance may also be required to eliminate the transitional yard fence requirements since fencing an alley at its center line is not authorized. These variances, if required, will be filed so that they track the rezoning meetings. An amenity area is planned above the rear parking. Green areas also are planned for the rear of the site along the southern edge of the alley. This enhanced landscape area will also help buffer the project from the existing multifamily uses that exist to the north of the site.

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SUMMARY OF PROPOSED PROJECT

The entire project will comply with the transitional height plane coming in from the rear of the site, which will have the effect of pushing the higher portions of the building to the Ponce de Leon frontage and away from the existing residential areas to the north. The project will be very well-landscaped in accordance with City of Atlanta tree regulations and will comply with all MRC-3 streetscape requirements.

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REZONING: DOCUMENTED IMPACT ANALYSIS

1. Compatibility with comprehensive development plan; timing of development.

The CDP designates this parcel as Mixed Use, which is compatible with the proposed MRC-3 proposal. The MRC-3 proposal also is consistent with the Midtown Garden District Master Plan, a comprehensive plan that made specific recommendations for this portion of the Ponce de Leon corridor. The Master Plan recommends medium density mixed use at a height of 4 to 6 stories. The Master Plan states: "(I)t is critical that future redevelopment projects along Ponce de Leon embrace a mix of uses with residential and ground floor retail. Future development along Ponce should allow increased density overall (4-6 stories), utilizing transitional height planes currently required by adjacent residential zoning districts." (Master Plan Section 3.2 Future Land Use.) The proposal restricts the project height to 6 stories at Ponce de Leon, and is fully compliant with the transitional height plane requirements. Accordingly, the proposal is consistent with the Master Plan as well as the CDP. The proposal also is consistent with Design Atlanta planning for this developing area of Midtown. In terms of timing, it is anticipated that land development will begin within the year following rezoning and other required developmental permission.

2. Availability of and effect on public facilities and services.

All public and private utilities and services are available to serve the proposed use. The proposal would have a beneficial effect on certain public services, such as stormwater, since it will bring this property up to code as a part of the development process. The development furthers public accessibility and use through its mixed-use design, including street-front retail, and will also provide upgrades and improvements to the area sidewalks and other streetscape elements in accordance with the MRC streetscape requirements.

3. Availability of other land suitable for proposed use: effect on balance of land uses.

This property is uniquely well suited to the proposed mixed-use project. Other areas of Atlanta and properties along the Ponce corridor could be suited to this kind of development as well, provided such development complied with the Midtown Master Plan. There is supportive planning and infrastructure for this development in this community, and interest in this area of Atlanta to develop this project. The project will provide positive redevelopment and assist in long term stability of this important corridor. The proposal will have a very positive impact on the balance of land uses in this area as it will complement the surrounding uses in a manner that is fully consistent with the Midtown Master Plan.

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REZONING: DOCUMENTED IMPACT ANALYSIS

4. Effect on character of the neighborhood.

This proposal fits into the character of this area of Midtown very well. The mixed-use elements of the project mirror those recommended in the Master Plan and CDP for this portion of Ponce de Leon. Imposition of the transitional height plane will result in placement of the greater density along the Ponce corridor, where it will most benefit the neighborhood while protecting its interior. Mixed use opportunities increase pedestrian activity, a positive benefit to this neighborhood that is encouraged in the long-term planning process. The overall effect on the character of this area of Midtown will be very positive. It also will be an improvement over current site conditions.

5. Suitability of proposed use.

The proposal is uniquely suited to this site and the proposed options for development were carefully designed specifically for this site. The current conditions of this property are not contributing visually nor providing growth along this corridor. The proposed residential use at a height specified in the Master Plan, the street front retail, and the prospect of small office opportunities are highly suitable for this particular property and the Midtown neighborhood at large.

6. Effect on adjacent property.

This project's effect on adjacent properties will be beneficial and a significant improvement over existing conditions. The poor physical condition of the site, including its difficult topography and stormwater conditions, as well as the vacancy that now exists, has not contributed to the overall health of the neighborhood. Allowing new residential development and small business and/or office opportunities will positively impact this portion of the Ponce corridor in general and will simultaneously serve to protect the interior of the adjacent neighborhood.

7. Economic use of current zoning.

The property likely has economic use as currently zoned, depending on evolving market conditions. As it now sits, the site is underutilized and in poor condition. The unconditional C-2 zoning is outdated for this corridor and does not sufficiently protect the surrounding area, nor does it limit height or encourage streetscape and small retail activity in a way that is now the norm for Atlanta. The economic use and impact of the proposed MRC-3 zoning is far greater than the current C-2.

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REZONING: DOCUMENTED IMPACT ANALYSIS

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8. Tree Preservation.

The property will be developed in accordance with the City's Tree Ordinance. As a part of this redevelopment, landscaping will be installed in accordance with the City's Tree Ordinance and the MRC requirements.

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CONSTITUTIONAL OBJECTIONS

These constitutional objections are submitted on behalf of the applicant and owner (hereafter "Applicant") in the above-referenced Rezoning Application and directed to the governing authority of the City of Atlanta. The intent of this statement is to respectfully apprise and place the governing authority of the City of Atlanta on notice that denial of the referenced rezoning application would be unconstitutional as stated herein, thus allowing said governing authority the opportunity to prevent these unconstitutional actions, as well as to respectfully comply with all notice requirements imposed by the Georgia and federal judiciary.

The Applicant submits that this rezoning application meets all of the criteria specified in state law and Part 16 of the Code of Ordinances of the City of Atlanta, including but not limited to 16-27.001 et seq. and City ordinance and Charter provisions governing the Comprehensive Development Plan (CDP). Any application of the City of Atlanta Zoning Ordinance or action by the Mayor and/or City Council of the City of Atlanta that would fail to rezone the subject site to the requested MRC-3 zoning category so as to authorize the use and conditions requested by the Applicant on the entire parcel would constitute an abuse of the zoning authority and be unconstitutional, illegal, null and void. The portions of the City of Atlanta Zoning Ordinance that classify or may classify the subject property exclusively to the existing C-2 zoning district and or to any district or classification other than that requested by the Applicant are or would be unconstitutional in that they constitute a destruction of applicant's protected property interests and a taking of applicant's property in violation of the Just Compensation Clause of the Fifth and Fourteenth Amendments to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia, and the Equal Protection and Due Process Clauses of the Georgia Constitution and the Constitution of the United States.

Denial of this rezoning application and the continued imposition of the existing zoning district or any zoning district or conditions other than those requested by the Applicant would constitute an abuse of discretion and an arbitrary and capricious act by the Mayor and the City Council of the City of Atlanta without any rational basis in violation of Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. To the extent that the proposed application is denied because of City of Atlanta standards and criteria, Applicant contends said standards and criteria are unconstitutionally vague and otherwise unconstitutional in violation of Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

2-19-055

Department of City Planning
Office of Zoning & Development

264/268/282/294 Ponce de Leon Avenue and 675 Penn Avenue
Rezoning Application: C-2 to MRC-3
Capital City Real Estate, LLC
31 May 2019

JUN - 4 2019


55 Trinity Ave. S.W.
Ste. 3350
Atlanta, GA

Denial of the rezoning application proposed by Applicant as applied to this property would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

Property restrictions imposed as a part of this rezoning application process that constitute system improvements within the meaning of the Georgia Development Impact Fee Act would violate the terms of that Act as well as the takings clauses of the State and Federal Constitutions. Further, any rezoning on the subject property that would impose conditions restricting the utilization of the subject site or that do not ameliorate the impact of this project on neighboring properties or for which no substantial nexus exists between the condition(s) and the project would also constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove, particularly the referenced takings clauses of said State and Federal Constitutions.

[illegible]

[illegible]

264 PONCE 264 PONCE DE LEON AVENUE LAND LOT 49, 14th DISTRICT CITY OF ATLANTA FULTON COUNTY, GEORGIA			CIVIL • RESIDENTIAL • COMMERCIAL • INDUSTRIAL SEGE SHIELDS ENGINEERING GROUP, INC. 1000 Peachtree Street, N.E., Suite 1000 Atlanta, Georgia 30309 Phone: (404) 525-1100 Fax: (404) 525-1101 Email: info@sege.com Website: www.shieldseng.com
DATE: 6/7/2009 JOB NO. 090002 PWS TITLE: SEPO220V DRAWING: PWS CLIENT: AOS SCALE: 1"=50' SHEET: 1/1	RECONING SITE PLAN	TITLE:	SHEET NO.: TOTAL SHEETS:

RECEIPT

CITY OF ATLANTA
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
55 TRINITY AVE SW, ATLANTA GA 30303
404-330-6070

C# 635
PAID
CITY OF ATLANTA
JUN 04 2019
EX OFFICIO MUNICIPAL
REVENUE COLLECTOR

Application: Z-19-055
Application Type: Planning/ZRB/Rezoning/NA
Address: 264 PONCE DE LEON AVE NE, ATLANTA, GA 30308
Owner Name: DOWLING JULIET
Owner Address:
Application Name:

Receipt No.	Ref Number	Amount Paid	Payment Date	Cashier ID	Received	Comments
649692	6325	\$4,500.00	06/04/2019	AEDMONDS		

Owner Info.: DOWLING JULIET

Work Description: applicant is seeking to rezone a property from C-2 to MRC-3 for new residential/retail/office mixed use development. 1) 264 Ponce de Leon Ave, NE 2) 268 Ponce de Leon Ave, NE 3) 282 Ponce de Leon Ave, NE 4) 294 Ponce de Leon Ave, NE 5) 675 Penn Ave, Ne