

**AN ORDINANCE
TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF EAST POINT
BY REZONING PROPERTY LOCATED AT 4165 & 4155 BEN HILL RD FROM I-1
(LIGHT INDUSTRIAL) TO R-L (RESIDENTIAL LIMITED)**

**APPLICATION NO: 2022RZ-01-10
ASSOCIATED APPLICATION NO: 2021RZ-002-03**

WHEREAS, Microsoft (the "Applicant"), the owners of real property located at 4165 & 4155 Ben Hill Rd, Parcel ID #(s) 09F370001801184, 09F370001800988, in East Point, Georgia, consisting of 6.76 +/- acres, as more fully described and delineated in Exhibit "A" (Limited Warranty Deeds/Legal Descriptions) and Exhibit "B" (Plat) attached hereto (the "Property");

WHEREAS, the City of East Point, and the Mayor and Council have determined that the rezoning of the Property would be in the best interest of the citizens of the City of East Point; and

WHEREAS, the Application has been reviewed and is in compliance with the City of East Point Code of Ordinances; and

WHEREAS, the Application is in accordance with the zoning procedures set forth in Part 10, Chapter 2, Article J of the East Point Code of Ordinances governing such procedures for the amendments to the official Zoning Map.

NOW BE IT ORDAINED BY THE CITY COUNCIL OF EAST POINT, GEORGIA AS FOLLOWS WITH THE FOLLOWING CONDITIONS:

Section 1. The Property located at 4165 & 4155 Ben Hill Rd, Parcel ID #(s) 09F370001801184, 09F370001800988, in East Point, Georgia, consisting of 6.76 +/- acres, more or less, is rezoned and that the official Zoning Map is amended to reflect such rezoning from I-1 (Light Industrial) zoning district to R-L (Residential Limited) zoning district with the following conditions:

1 **1 (A)** Developer may construct a utility substation on the Property, provided such utility substation shall not exceed 228,000 square feet in size and shall be setback a minimum of 900 feet from any existing residential structure. A portion of the utility substation may occur on Parcels 09F370001801184 and 09F370001800988, which may be rezoned to the Residential Limited (R-L) district.

2 (B) Developer may construct an emergency only access drive on Parcels 09F370001801184 and 09F370001800988 with signage, which may be rezoned to the Residential Limited (R-L), serving the portions of the Property zoned Light Industrial (I-1).

3 (C) Developer will construct a berm at least six feet in height along the Ben Hill Road frontage of Parcels 09F370001801184 and 09F370001800988, including a 35-foot-wide planted landscape strip abutting the berm. At the time of installation, the landscape strip will include a mix of native evergreen and deciduous trees, including canopy tree species with a 6" caliper minimum and a minimum height of 18'- 22', understory tree species, and ground plane shrubs such as American Hornbeam, American Holly, Eastern Red Cedar,

Spruce Pine, Laurel Oak, Willow Oak, Shumard Oak, Green Giant Arborvitae, Inkberry,

Schillings Yaupon Holly, Star Anise and Sweet Viburnum. Developer shall have the right

to substitute tree and shrub species of like species as needed based on nursery

availability. Any substituted tree and shrub species shall be subject to review and

approval by the Director of the City's Planning & Development Department. The landscape

strip described

in this subsection (c) shall be installed within 12 months after the later to occur of (i)

issuance of all building permits for the Development and (ii) installation and approval of

any necessary inspections of the irrigation infrastructure to service the landscape strip.

4 (E) Developer will construct a sidewalk along the Ben Hill Road frontage of Parcels

09F370001795691, 09F370001795717, 09F370001805706, 09F370001800988,

09F370001801184, and 09F370001555681 connecting to the existing sidewalk in the

neighborhood located to the south of the Property.

5 (H) Developer shall comply with Section 10-2039 - Outdoor Lighting Standards of the East

Point Zoning Code for all outdoor lighting fixtures and associated shielding. Outdoor

lighting shall be directed away from adjacent properties either by placement of the lighting

or shielding of the lighting.

6 (I) Developer shall develop a passive pocket park along the frontage of Ben Hill Road on Parcel 09F370001555681 (the “Pocket Park”). The Pocket Park is intended to provide a nature walk area accessible from Ben Hill Road and will include a walking trail, floral garden and seating. The Pocket Park will be a minimum of three-quarters of an acre in size, or approximately 33,000 square feet, with dimensions of approximately 75 feet by 440 feet. Subject to both (i) approval by the City and (ii) approval of the transfer by the Development Authority of Fulton County (the “Authority”) as the fee owner of the Property pursuant to the industrial revenue bond structure (the “Bond”), which Developer will seek to obtain upon approval by the City, the Pocket Park will be deeded to the City upon completion. In the event approval by the Authority is not obtained, the Company shall grant a sublease to the City for the use and control of the Pocket Park and will convey title to the Pocket Park to the City upon the earlier of a) approval by the Authority or b) the time at which fee title to the Property is reverted to the Company upon expiration or termination of the Bond. Naming rights for the park will be granted to the City. The park shall be developed within 12 months after the issuance of all building permits for the Development.

7 (J) No vertical development shall occur on Parcel 09F370001801184 or Parcel

8 (K) Day-night average sound levels (in decibels) for the operations on the Property shall not exceed 60 dBA as measured at the receiving property. Developer will conduct annual noise tests and submit results to the City's Planning and Community Development Department.

11 **Section 2.** The *2017 Future Development Map* is amended to reflect the properties located in
certain

22 locations in East Point, Georgia as Future Development Character Area *Growing Residential*

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26 **Section 3.** This ORDINANCE shall be codified in a manner consistent with the laws of the State of Georgia
and the City of East Point.

1 **Section 4.** (a) It is hereby declared to be the intention of the Mayor and Council that all Sections,
2 paragraphs, sentences, clauses and phrases of this ORDINANCE are, upon their enactment, believed by
3 the Mayor and Council to be fully valid, enforceable and constitutional.

4
5 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent
6 allowed by law, each and every section, paragraph, sentence, clause or phrase of this ORDINANCE, is
7 severable from every other section, paragraph, sentence, clause or phrase of the ORDINANCE. It is hereby
8 further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no
9 section, paragraph, sentence, clause or phrase of this ORDINANCE is mutually dependent upon any other
10 section, paragraph, sentence, clause or phrase of this ORDINANCE.

11 (c) In the event that any phrase, clause, sentence, paragraph, or section of this ORDINANCE shall,
12 for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid
13 judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council
14 that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not
15 render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses,
16 sentences, paragraphs or sections of the ORDINANCE and that, to the greatest extent allowed by law, all
17 remaining phrases, clauses, sentences, paragraphs and sections of the ORDINANCE shall remain valid,
18 constitutional, enforceable, and of full force and effect.

19 **Section 6.** ALL ORDINANCES and parts of ORDINANCES in conflict herewith are hereby expressly
20 repealed.

21 **Section 7.** Penalties in effect for violations of Part 1 of the Code of Ordinances, City of East Point, Georgia
22 at the time of the effective date of this ORDINANCE shall be and are hereby made applicable to this
23 ORDINANCE and shall remain in full force and effect.

24 **Section 8.** The effective date of this ORDINANCE shall be the date of adoption unless otherwise specified
25 herein.

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27 **Public Hearing Held:** January 3, 2023
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First Reading: waived

APPROVED this 2nd day of October 2023.

SPONSORED BY:

Deana Holiday Ingraham
AF32062C45613E707519AE34173445EA contractworks.

Deana Holiday Ingraham, Mayor

APPROVED AS TO FORM:

Antavius Weems
B97B8C08456F6864D21957E35A20B54F contractworks.

Antavius Weems, Interim City Attorney

ATTEST:

Keshia McCullough
DBFE209E5ECDFB4B8B9DF0953813E16D contractworks.

Keshia McCullough, City Clerk

EXHIBIT "A"

098-8

STATE OF GEORGIA
COUNTY OF FULTON

GEORGIA, FULTON COUNTY
FILED AND RECORDED
12-2-97
12:00 PM '97
JENNIFER JACKS
CLERK, SUPERIOR COURT

WARRANTY DEED OF GIFT

THIS INDENTURE, Made the 1st day of December in the year One Thousand Nine Hundred Ninety-~~Seven~~ between IZEAR FEAGIN III and BETH FEAGIN of the County of Fulton, and State of Georgia, as party of the first party, hereinafter called Grantor, and CHARLIE S. W. RAINEY and MINNIE PEARL RAINEY (Grantor's Grandparents) as party of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires so permits).

WITNESSETH that: Grantor, for and in consideration of the love and affection for Grantee, (their grandparents), at and before the making and delivery of these presents, has granted, bargained, given, aliened, conveyed and confirmed, and by these presents does grant, bargain, give, alien, convey and confirm unto the said Grantee, all of that interest, right, title and equity in and to all that tract or parcel of land lying and being in original Land Lot 180 of the 9th District of originally Fayette, then Campbell, and now Fulton County, Georgia, and more particularly described as follows:

BEGINNING at a point on the westerly right-of-way line of Ben Hill Road (50-foot right-of-way) 1069.30 feet southeasterly from the intersection of the southwesterly right-of-way line of Ben Hill Road (50-foot right-of-way) and the west land lot line of Land Lot 180; running thence along the westerly right-of-way line of Ben Hill Road (50-foot right-of-way) South 06 Degrees 49 minutes east a distance of 30.7 feet to a point; thence South 05 degrees 00 minutes 36 seconds East a distance of 217.32 feet to a

11-23617-135

Deed Book 23617, Page 135

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point; running thence South 89 degrees 34 minutes west a distance of 180.2 feet to an iron pin placed; thence north 08 degrees 26 minutes 26 seconds west a distance of 230.50 feet to a point; thence North 84 degrees 01 minutes 41 seconds east a distance of 184.04 feet to the westerly right-of-way line of Ben Hill Road and the point of beginning, being designated as Tract II on an exemption plat dated December 5, 1984, last revised July 18, 1985, for L. J. Lee by Esten Pendley, Georgia Registered Land Surveyor No. 945.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

AND THE SAID Grantor will warrant and forever defend the right and title to the above-described property unto the said Grantee against the claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year above written.

Signed, sealed and delivered in presence of:

Bridgette Mack
Witness

John A. Browne
Notary Public

Isiah Peach III (SEAL)
ISIAH PEACH III

Beth Fagin (SEAL)
BETH FAGIN

Public, DeKalb County, Georgia
My Commission Expires
November 29, 1998



-2-

BOOK 23617 PAGE 136

-118-4

GEORGIA, FULTON COUNTY
FILED AND RECORDED

1998 MAR -3 AM 8:30

8810758

JUANITA HICKS
CLERK, SUPERIOR COURT

Keel, Robinson, Hursey, Z. E. Brown, L.L.C.
P.O. Box 111111
Four College Parkway
Suite 1418
Atlanta, Georgia 30328

STATE OF GEORGIA
COUNTY OF FULTON

TRUSTEE'S DEED

This Indenture made the 23rd day of February, in the year One Thousand Nine Hundred Ninety-Eight, between MERYL L. WATTS, TRUSTEE OF THE TESTAMENTARY TRUST ESTABLISHED UNDER THE LAST WILL AND TESTAMENT OF ZACHARIAH JOY LEE, DECEASED, as party or parties of the first part, hereinafter called Grantor, and MYRNA W. DUBOSE AND ALTON DUBOSE, AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that Grantor for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other good and valuable considerations in hand paid at and before the signing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

Fulton County, Georgia
Real Estate Transfer Tax
Paid \$ 118.00
Date 3-7-98
JUANITA HICKS
Clerk, Superior Court
By *[Signature]*
Deputy Clerk

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE.

I DO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereto, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal this day and year first above written.

Signed, sealed and delivered in the presence of:

Signed, sealed and delivered in the presence of:

[Signature]
Witness
[Signature]
Notary Public

[Signature]
MERYL L. WATTS, JR. TRUSTEE



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Deed Book 24037, Page 185

