



Variance Petition No. V11-045

HEARING & MEETING DATES

Board of Appeals Hearing

November 10, 2011

January 12, 2012

APPLICANT/PETITIONER INFORMATION

Property Owner

Chris Cramer

Petitioner

Chris Cramer

Representative

Mark Shoemaker

PROPERTY INFORMATION

Address, Land 5280 Long Island Drive

Lot(s), and District Land Lots 121 and 135, District 17

Council District 6

Frontage 150.51 feet of frontage along the west side of Long Island Drive.

Area 1.42 acres

Existing Zoning and Use The lot is zoned R-2 (Single Family Dwelling District). The property is currently developed with a residence.

Overlay District N/A

2027

Comprehensive Future Land Use Map Designation R0-1 Residential (0-1 units per acre)

INTENT

The applicant is proposing to construct an accessory structure (screened-in porch) in the side yard on the north side of the property. The applicant is requesting two (2) primary variances:

- 1) Primary variance from Sections 109-225(a)(b) 1 and 2 of the Stream Buffer Protection Ordinance to reduce the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to 25 feet (proposed structure encroachment of forty (40) feet and limits of disturbance of ten (10) feet for a total encroachment of fifty (50) feet) to allow for a screened porch.
- 2) Primary variance from Section 6.2.3.C of the Zoning Ordinance to reduce the fifteen (15) foot side setback to seven (7) feet to allow construction of a screened porch.

At the November 10, 2011 Board of Appeals meeting the Board deferred the application for the above variance to the January 10, 2012 Board of Appeals meeting to give the applicant an opportunity revise the proposed encroachment and show stormwater run-off mitigation on the plans.

The applicant has resubmitted plans reducing the screened-in porch from three-hundred-twenty (320) square feet to two-hundred-ninety (290) square feet. This would reduce the side setback encroachment by two (2) feet and the impervious surface by thirty (30) square feet.

ENFORCEMENT ACTION

There is no history of code enforcement action on the property. There is currently a building permit application under review for the screened porch that is the subject of this variance application.

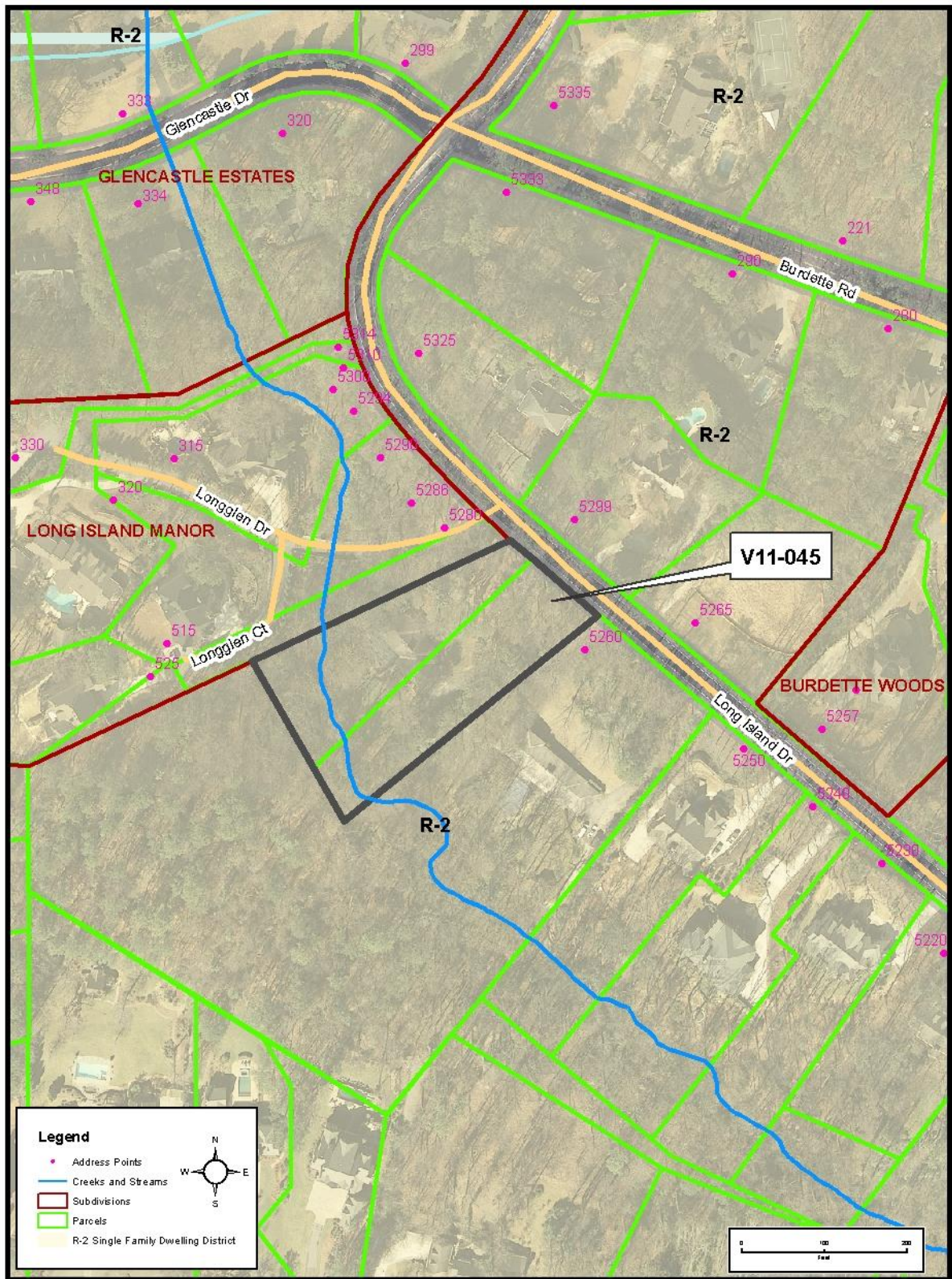
DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V11-045 - 1) APPROVAL CONDITIONAL

V11-045 - 2) APPROVAL CONDITIONAL

Parcel Map

5280 Long Island Drive



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on January 12, 2012

**CITY OF SANDY SPRINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
VARIANCE ANALYSIS**

CASE NUMBER: V11-045

STAFF CONTACT: Linda Abaray, Senior Planning 770-206-1577
E-mail: labaray@sandyspringsga.gov

Finding of Fact:

The applicant has submitted a site plan (exhibit 1) indicating the subject property to have approximately 150.51 feet of frontage along the west side Long Island Drive. The property is trapezoidal in shape, with a stream running approximately 143 feet south to north through the rear yard. The property slopes downward from east to west toward the stream. A seventy-five (75) foot impervious setback extends east of the stream toward the front of the property, and includes the pool, pool deck, rear porch, nearly the entirety of the rear yard, and rear portions of the existing house. The proposed screen porch to the north side of the existing house would fall entirely within this impervious setback. The proposed screened porch would extend nearly ten (10) feet into the north side yard setback and would be 7.3 feet from the north property line.

The site slopes approximately twenty (20) feet from Long Island Drive at an elevation approximately 910 to the creek at an elevation of approximately 890. The property slopes upward approximately twenty (20) feet from the creek to the rear property line. The original proposed screened porch would be sixteen (16) feet by twenty (20) feet and would be located entirely within the seventy-five (75) foot impervious setback, increasing the amount of impervious surface by three-hundred-twenty (320) square feet. The revised proposal would be fourteen (14) feet by twenty (20) feet with a ten (10) square foot fire place and would increase the amount of impervious surface by two-hundred-ninety (290) square feet.

Staff notes the surrounding properties are zoned R-2 (Single Family Dwelling District) on all sides. The nearest neighboring structures to the north and south are approximately 180 and 205 feet from the proposed screened porch location. Substantial tree cover exists between the proposed screened porch location and neighboring structures.

	Original Proposal	Revised Proposal
Total Site Area	27,530 SF	27,530 SF
Setback Encroachment	5 Feet	3 Feet
Existing Impervious Surface	2,250 SF	2,250 SF
Proposed Additional Impervious Surface	320 SF	290 SF
Total Impervious Surface	2,570 SF	2,540 SF

Standards for Consideration

VARIANCE #1

Section 109-225(a)(b) 1 and 2 of the Stream Buffer Protection Ordinance to reduce the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious

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surface setback) to 25 feet (proposed structure encroachment of forty (40) feet and limits of disturbance of ten (10) feet for a total encroachment of fifty (50) feet) to allow for a two-hundred-ninety (290) square foot screened porch.

Section 109.225 of the Sandy Springs Stream Buffer Protection Ordinance provides the following:

Sec. 109-225. Land development requirements.

(b) *Variance procedures.* Variances from subsection (a) of this section may be granted in accordance with the following provisions:

(3) Variances will be considered only in the following cases:

a. When a property's shape, topography or other physical conditions existing at the time of the adoption of the ordinance from which this article is derived prevents land development unless a buffer variance is granted.

Finding:

The property's shape, topography, and physical conditions existed at the time of the adoption of the ordinance. Staff notes the stream buffers cover approximately fifty (50) percent of the buildable area of the front and sides yards of the lot. The lot slopes downward from the east to the west. The stream runs through the western part of the property for approximately one hundred forty-six (143) feet flowing north. While nearly the entire rear and side yards of the property fall within the seventy-five (75) foot impervious setback, the area of an existing porch in the rear yard could be built upon without significant increases in impervious surface. Additionally, the entire front yard falls outside the impervious setback. Based on these reasons, staff is of the opinion this condition has not been satisfied.

b. Unusual circumstances when strict adherence to the minimal buffer requirements in this article would create an extreme hardship.

Finding:

The property has an unusual circumstance when the minimum buffer requirement is strictly applied. Staff notes the stream buffers cover approximately fifty (50) percent of the buildable area of the lot. Based on these reasons, staff is of the opinion this condition has been satisfied.

(5) The following factors will be considered in determining whether to issue a variance:

a. The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;

Finding:

The property is trapezoidal in shape. The lot slopes from the east to the west. The stream runs through the west side of the property for approximately one hundred forty-three

(143) feet flowing north. The stream buffers cover approximately fifty (50) percent of the buildable area of the lot. The property does exhibit some topographic challenges relation to the requested variances. Staff is of the opinion that the property does exhibit extraordinary and exceptional conditions related to its size, shape, or topography.

b. The locations of all streams on the property, including along property boundaries;

Finding:

The locations of all streams and buffers on the property have been identified on the site plan (exhibit 1). The stream runs through the west side of the property for approximately one hundred forty-three (143) feet flowing north. The stream buffers cover approximately fifty (50) percent of the buildable area of the lot.

c. The location and extent of the proposed buffer or setback intrusion;

Findings:

The location and extent of the stream buffer intrusions are identified on the site plan (exhibit 1). The proposed screened porch would encroach 50 feet (proposed structure encroachment of forty (40) feet and limits of disturbance of ten (10) feet). The proposed structure would be twenty feet long (20) by fourteen (14) feet wide with a ten (10) square foot fire place, for a total of two-hundred-ninety (290) square feet. Therefore, staff is of the opinion this condition has been satisfied.

d. Whether alternative designs are possible which require less intrusion or no intrusion;

Findings:

Alternative designs have been discussed with staff regarding this property. The applicant has resubmitted plans reducing the screened-in porch from three-hundred-twenty (320) square feet to two-hundred-ninety (290) square feet. This would reduce the side setback encroachment by two (2) feet and the impervious surface by thirty (30) square feet. However, the applicants proposed location to expand the master bedroom is the least intrusive into the stream buffer. Potential designs placing the structure further west on the property in order to lessen side yard setback intrusion would increase stream buffer intrusion. Therefore, staff is of the opinion this condition has been satisfied.

e. The long-term and construction water quality impacts of the proposed variance;

Findings:

The applicant will be required to use Best Management Practice (BMP) during the construction of the house. The City will monitor the sites BMPs.

f. Whether issuance of the variance is at least as protective of natural resources and the environment.

Findings:

Staff is of the opinion that issuance of the variance not is as protective of the natural resources and environment as the existing site condition. The existing stream buffer has natural vegetation within the approximately fifteen (15) foot fenced-off portion of the stream buffer. The portion of the buffer between the house and the fence along the north side yard is grassed with approximately five large trees. However, the applicant has proposed installing five (5) flo-wells to mitigate the run-off the additional impervious surface and the gutters on the north east corner of the house.

VARIANCE #2

- 1) Section 6.2.3.C of the Zoning Ordinance to reduce the fifteen (15) foot side setback to seven (7) feet to allow construction of a screened porch.

Standards for Consideration

Zoning Ordinance

Section 22.3.1 of the City's Zoning Ordinance includes one or more criteria which must be met before a variance can be approved by the Board of Appeals:

Section 22.3.1. Variance Considerations.

A. Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance; or,

Finding:

Relief from this requirement is in harmony with the intent of the Zoning Ordinance and would not be a detriment to the public. The 290-square-foot screened porch would be fourteen (14) feet wide by twenty (20) feet long with a ten (10) square foot fire place. It would be constructed 7.3 feet from the north property line, approximately one-hundred-eight (180) feet from the nearest structure. The applicant has resubmitted plans reducing the encroachment from 5.3 to 7.3 feet. Therefore, staff is of the opinion this condition has been satisfied.

B. The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public; or,

Finding:

The property is trapezoidal in shape, with a stream running approximately one-hundred-forty-three (143) feet south to north through the rear yard. The property slopes downward from east to west toward the stream. A seventy-five (75) foot impervious setback extends east of the stream toward the front of the property, and includes the pool, pool deck, rear porch, nearly the entirety of the rear yard, and rear portions of the existing house, severely limiting buildable area in the rear and side yards. However, the porch could be constructed in the front yard outside of the impervious setback or over

the existing porch in the rear yard without increasing impervious surface. Therefore, because the property's natural features do not preclude alternative building sites, staff is of the opinion this condition has not been satisfied.

C. Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements can not be read from an adjoining public road.

Not Applicable.

Department Comments

The staff held a Focus Meeting on October 5, 2011 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT DIVISION	Sandy Springs Building Officer Plan Review	▪ There are no building requirements that need to be addressed at this time.
	Sandy Springs Development Plan Review Engineer	There are no Development Plan Review requirements that need to be addressed at this time.
	Sandy Springs Landscape Architect/ Arborist	▪ Approval should be conditioned to the owner's installation of riparian vegetation as directed by the Arborist.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	▪ There are no Fire requirements that need to be addressed at this time.
TRANSPORTATION	Sandy Springs Transportation Planner	▪ There are no Transportation requirements that need to be addressed at this time.
	Georgia Department of Transportation	▪ There are no GDOT requirements that need to be addressed at this time.

Conclusion

Staff reviewed the request relative to the variance standards contained in Section 109.225 of the Sandy Springs Stream Buffer Protection Ordinance and Section 22.3.1 of the Zoning Ordinance. Based upon this review, staff recommends APPROVAL CONDITIONAL of variance #1 and APPROVAL CONDITIONAL of variance #2.

Recommended Condition(s)

Should the Board of Appeals choose to approve the request, staff recommends the following condition:

1. The subject addition shall be constructed in accordance with the proposed site plan, provided by the applicant dated received December 20, 2011 by the Department of Community Development, for the variance herein, showing a reduction in the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to twenty -five (25) feet (proposed structure encroachment of forty (40) feet and limits of disturbance of ten (10) feet for a total encroachment of fifty (50) feet) to allow for a screened porch, where necessary to accommodate the portion of the encroachment only.
2. To reduce the fifteen (15) foot side setback to seven (7) feet three (3) inches to allow construction of a screened porch.
3. When garages or parking pads are located in areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced, grates used for drainage of these areas (where oil, grease or antifreeze might flow) shall have either vegetation for filtration before entering the stream or artificial filtration with proof of maintenance required at time of Land Disturbance Permit, subject to the approval of the Sandy Springs City Engineer.
4. The area of the fifty (50) foot undisturbed natural buffer outside the area of this approved variance shall be maintained and any modification to the buffer (e.g. replanting or restoration) shall be subject to the approval of the Sandy Springs Arborist.

ATTACHMENTS:

Letter of appeal
Original Site Plan (Exhibit 1)
Revised Site Plan (Exhibit 2)
Erosion Control Plan (Exhibit 3)
Screened Porch Plans (Exhibit 4)
Letter of Support
Photographs



Variance Petition No. V11-048

HEARING & MEETING DATES

Board of Appeals Hearing

January 12, 2012

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Enterprise Holdings, LLC	Enterprise Holdings, LLC	Warren Kelson Enterprise Rent-A-Car

PROPERTY INFORMATION

Address, Land Lot(s), and District	6189 Roswell Road (SR 9) Land Lot 89, District 17
Council District	3
Frontage	Approximately 95 feet of frontage on the east side of Roswell Road (SR 9) and approximately 137 feet of frontage on the south side of Mount Vernon Highway.
Area	The subject property has a total area of approximately 13,749 square feet (0.32 acres).
Existing Zoning and Use	The lot is zoned C-1 (Community Business District). The property is currently developed with a rental car business.
2027 Comprehensive Future Land Use Map Designation	Live-Work Community (LWC)

INTENT

Enterprise Holdings, LLC has filed a Secondary Variance to appeal the Director of Community Development's determination regarding the freestanding sign located at the property.

ENFORCEMENT ACTION

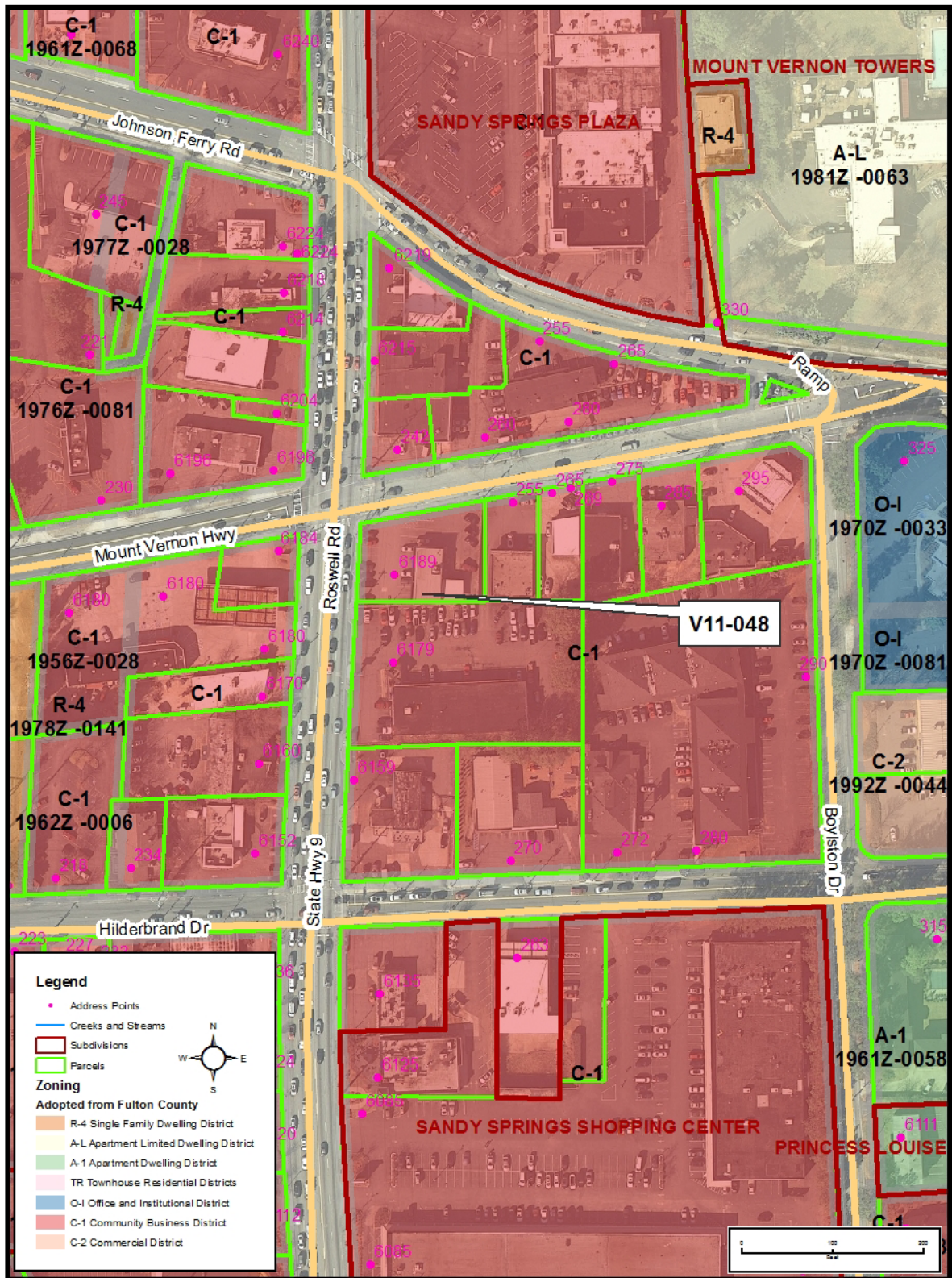
A Notice of Violation for an Unpermitted Sign was issued on September 15, 2011. The owner made modifications to the existing pole sign, including replacing the sign face and painting the sign, without a permit.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V11-042 - 1) AFFIRM DIRECTOR'S DECISION

Parcel Map

6189 Roswell Road



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on January 12, 2012

**CITY OF SANDY SPRINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
VARIANCE ANALYSIS**

CASE NUMBER: V11-048

STAFF CONTACT: Patrice Dickerson, Manager of Planning and
Zoning, 770-206-1513
E-mail: pdickerson@sandyspringsga.gov

Findings of Fact

This petition involves property located at 6189 Roswell Road (SR 9) owned by the Enterprise Holdings, LLC. The subject property is currently zoned C-1 (Community Business District) and is developed with a rental car business.

Staff of the Code Enforcement Division of the Department of Community Development issued a notice of violation on September 15, 2011. The notice was issued because the freestanding sign on the property was modified without an approved sign permit.

Section 33.20, Nonconforming Signs, of the Zoning Ordinance provides the following:

SECTION 20: NONCONFORMING SIGNS.

A. Maintained (amended 04/15/08, RZ08-004, Ord. 2008-04-16)

A nonconforming sign shall not be replaced by another nonconforming sign, except that the substitution or interchange of poster panels, painted boards, or dismountable material on nonconforming signs shall be permitted provided that said replacement does not constitute a material change to the sign. All nonconforming signs shall be maintained in good repair.

B. Repairs; Material Change (amended 04/21/09, TA09-002, Ord. 2009-04-19)

Minor repairs and maintenance of nonconforming signs shall be permitted; provided. However, no structural repairs or changes in the size or shape of a nonconforming sign shall be permitted except to make the sign comply with the standards of this Article. To the extent that any sign allowable hereunder is damaged or destroyed by act of God or by other circumstances beyond control of owner of sign then such sign may be repaired without regard to the restrictions of this paragraph. The replacement of an existing sign face utilizing LED technology is expressly prohibited.

C. Grandfathering

Nonconforming signs may stay in place until one of the following conditions occurs:

1. The advertised business ceases at that location;
2. The deterioration of the sign or damage to the sign makes it a hazard or renders it dilapidated, unsightly, or unkempt; or
3. The sign has been damaged to such extent that more than minor repairs or a material change is required to restore the sign. No structural repairs or change in shape or size shall be permitted except to make the sign comply with all standards of this Article. To the extent that any sign allowable hereunder is damaged or destroyed by act of God or by other circumstances beyond control of owner of sign then such sign may be repaired without regard to the restrictions of this paragraph.

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On September 23, 2011, a Letter of Determination (Exhibit 1) was issued citing the code sections above and outlining the following options to the owner:

- 1) The sign must be removed pursuant to the notice of violation issued related to the sign;
or
- 2) A Secondary Variance may be filed within 30 days of the date of this letter with the City to appeal this determination to the Board of Appeals. As such, any application for Secondary Variance must be filed on or before October 24, 2011.

The property owner submitted the subject Secondary Variance application on October 24, 2011.

Appeal

Enterprise Holdings, LLC, in the Letter of Appeal (Exhibit 2) received on October 24, 2011, indicates that the modifications to the freestanding sign were a part of a companywide trade dress initiative to upgrade all facilities to a new registered trademark. Additionally, the applicant has states that the alteration made to the sign not structural in nature, rather aesthetic.

Conclusion and Requested Action

Pursuant to Section 22.13.11 of the Sandy Springs Zoning Ordinance, the Board is permitted to take the following actions as it relates to this appeal:

- 22.13.11. BOA DECISION ON SECONDARY VARIANCES/INTERPRETATIONS. The BOA may take the following actions pursuant to a secondary variance and/or an interpretation appeal:
- A. Affirm an order, requirement, or decision, wholly or partly;
 - B. Reverse an order, requirement, or decision, wholly or partly;
 - C. Clarify an order, requirement, or decision, wholly or partly, by presenting an interpretation of the text in the form of a statement of clarification. Such statement shall not contain substitute language, but shall rely upon language and definitions contained in the Zoning Ordinance, and definitions contained in the most current edition of the Merriam-Webster Collegiate Dictionary.

At this time, staff respectfully requests the Board of Appeals to **AFFIRM** the determination made regarding the monument sign located on the property.

Attachments

- Exhibit 1 – Letter of Determination
- Exhibit 2 – Letter of Appeal dated received October 24, 2011
- Exhibit 3 – Supporting Documentation