



Variance Petition No. V06-145

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

April 12, 2007 (Deferred)

May 10, 2007

APPLICANT/PETITIONER INFORMATION

Property Owner

Tom Golub

Petitioner

Southern Civil Engineers

Representative

Peter Brady, Jr.

PROPERTY INFORMATION

Address, Land Lot, and District 969 Crest Valley Road
Land Lot 91, District 17

Council District 6

Frontage and Area 35 feet of frontage along the northeast side of Jett Forest Drive. The subject property has a total area of approximately 2.17 acres.

Existing Zoning and Use R-1 (Single-Family Dwelling District). The property is developed with a single-family residence.

Overlay District N/A

Interim 2025**Comprehensive
Future Land Use
Map Designation**

R0-1 Residential (0-1 units per acre)

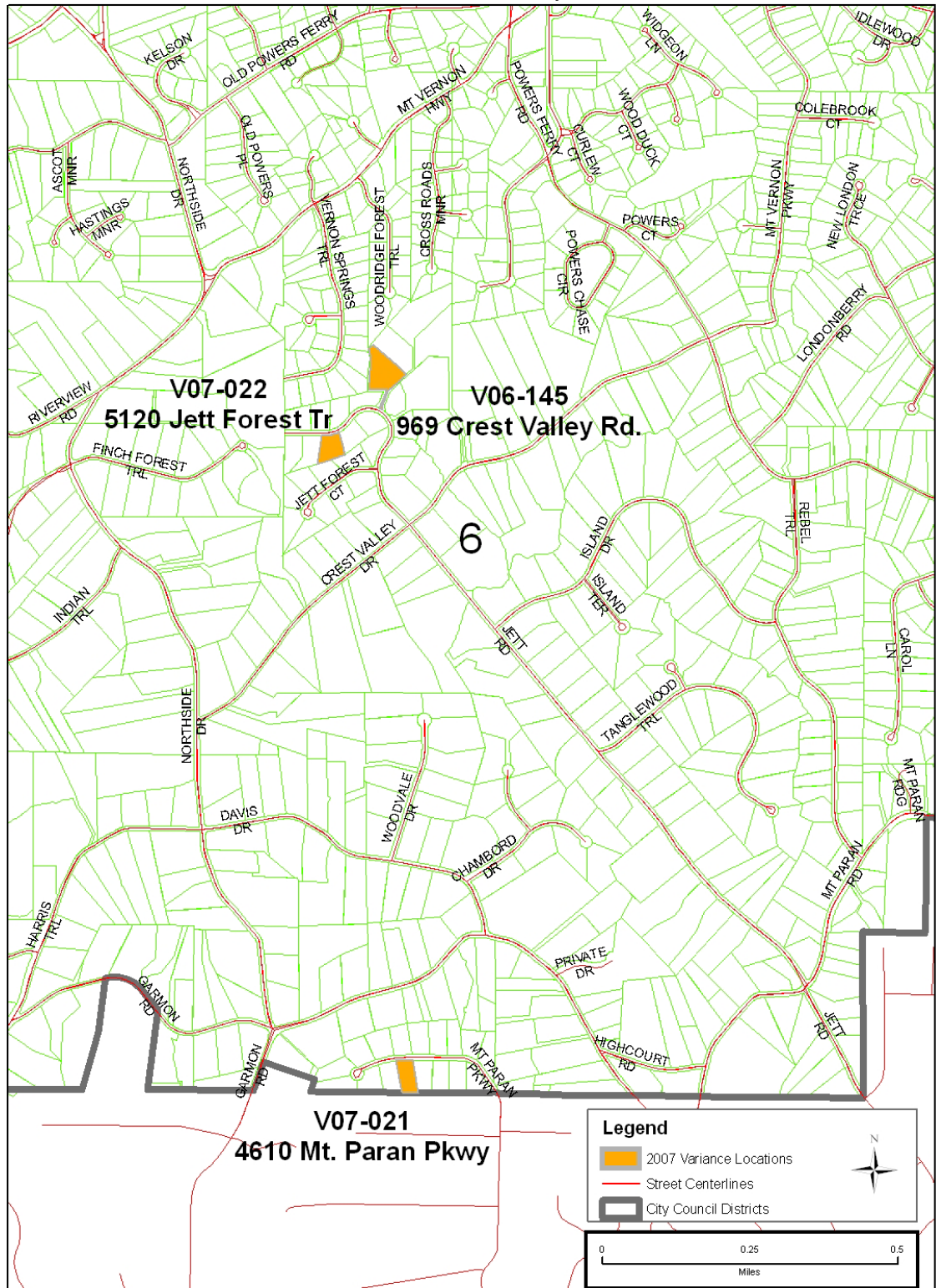
INTENT

The applicant is seeking four primary variances:

- 1) Variance from Section 19.3.12.B.1 of the Zoning Ordinance to allow for a swimming pool to be located in the front yard of a single-family house,
- 2) Variance from Section 6.1.3.I of the Zoning Ordinance to allow an accessory pool-house to be located in the front yard of a single-family house,
- 3) Variance from Section 14.8.III.D.1.b of the Tree Preservation Ordinance to allow for permanent structures within the required landscape strip of a storm water detention facility, and
- 4) Variance from Sections 14.6.5.a. i and ii of the Sandy Springs Land Development Regulations to reduce the twenty-five (25) foot impervious surface setback and the fifty (50) foot undisturbed natural buffer of a branching stream to a thirty-seven (37) foot undisturbed buffer for one branch and to a fourteen (14) foot impervious surface setback for the other branch.

The application was deferred at the April 12, 2007 Board of Zoning Appeals meeting to allow the applicant to clarify the scope of the requests and to revise the site plan appropriately.

Variance Area Map



Parcel Map

969 Crest Valley Rd.



Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on May 10, 2007

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

CASE NUMBER: V06-145

STAFF CONTACT: Doug Trettin, City Planner 770-206-1515
E-mail: doug.trettin@sandyspringsga.org

ANALYSIS:

The applicant is requesting relief from Section 19.3.12.B.1 of the Zoning Ordinance to allow for a swimming pool to be located in the front yard of a single-family house, Section 6.1.3.I of the Zoning Ordinance to allow an accessory pool-house to be located in the front yard of a single-family house, Section 14.8.III.D.1.b of the Tree Preservation Ordinance to allow for permanent structures within the required landscape strip of a storm water detention facility, and from Chapter 14, Article 6, Section 5(a)(i) and Section 5(a)(ii) of the Land Development and Environment Protection Ordinance to allow a proposed retaining wall, stairs, and patio to be set back a minimum of thirty-seven (37) feet from the point of wrested vegetation of the southwesterly stream branch and to allow a proposed cabana to be set back a minimum of sixty-four (64) feet from the point of wrested vegetation of the easterly stream branch. The applicant indicates that the proposed construction will require 765 square feet of land disturbance within the fifty (50) foot undisturbed natural buffer of the westerly stream.

On August 30, 2006 the City Arborist issued a stop work order on the subject property for constructing a pool without a permit. Subsequent to the stop work order, the applicant filed for a pool permit and was denied because he needed approval of variances that are the subject of this variance application.

The applicant originally filed for variance V06-145 on December 5, 2006. V06-145 was administratively removed from the Board of Zoning Appeals (BZA) agenda on two (2) occasions because the applicant failed to post the required variance sign by the posting deadlines. Staff posted the sign on the applicant's behalf in order to comply with the zoning ordinance and keep the application on the BZA agenda for the April 12, 2007 meeting.

Since the time of filing, and on different occasions, Staff had requested several clarifications as to the extent and scope of the application submitted. The applicant submitted a **first** site plan revision dated received January 8, 2007 by the Department of Community Development in an attempt to satisfy the requested clarification. Staff had concerns over the representation on the **first** revised site plan submitted – the applicant agreed with Staff concerns and committed to further correcting the **first** revised site plan. However, the applicant was unable to produce the corrections in a timely manner to be effectively considered at the April 12, 2007 meeting.

At the April 12, 2007 BZA meeting, the applicant produced a **second** site plan revision dated received April 5, 2007 by the Department of Community Development; however, the Board voted to defer application V06-145 to allow the applicant to further clarify the scope of the application and further finalize the proposed site plan by providing a **third** site plan revision.

The applicant has provided a **third** site plan revision dated received April 25, 2007 by the Department of Community Development. Based on the **third** revised site plan supplied by the applicant dated received April 25, 2007 by the Department of Community Development, the subject property is irregular in shape. The branches of the stream run diagonally through the subject property, primarily west to east and north to south. The streams are located in small portions of the buildable area on the southwestern and eastern areas of the subject lot. The applicant states that due to the irregular shape of the lot and due to the Code definition of "front yard", the proposed pool and cabana are located in what is considered the front of the property; however, due to the way the house is situated on the lot, the proposed pool and cabana would actually be located to the side of the house. Additionally, the applicant states that if the pool were to be located to the rear of the house, it would impact the southwesterly stream more than what is now proposed, require more land disturbance & rock removal, and would affect existing trees and vegetation.

The applicant states that the proposed house is in harmony with surrounding properties because many have pools. The applicant has provided aerial photographs to show that there are numerous other pools in the vicinity.

Please note, the proposed pool and pool house encroach into an existing ten (10) foot access easement servicing the subject water detention area. The applicant is required to gain administrative approval from the Public Works Department to allow for the aforementioned encroachment. The applicant has not provided any documentation to support approval of the encroachment. Additionally, the site may be in a flood plain. During the permitting process, the applicant will have to provide sufficient information to substantiate the claim that the proposed location for the pool and pool house is outside and above the 100-year flood zone.

Department Comments

The staff held a Focus Meeting on January 3, 2007 at which the following departmental comments were provided:

BUILDING AND DEVELOPMENT DIVISION	Sandy Springs Engineering Plan Reviewer	This site may be located within a zone [A, AE, shaded zone X] as defined by F.I.R.M Community Panel Number(s) 135160 iiiix for unincorporated Fulton County, Georgia. (Use June 22, 1998 map). SHADED ZONE X APPEARS TO INCLUDE THIS SITE ON THE FEMA PANEL. PROVIDE SUFFICIENT INFORMATION TO SUBSTANTIATE CLAIM THAT THE AREA IS OUTSIDE AND ABOVE THE 100-YEAR FLOOD ZONE.
	Sandy Springs Building Plan Reviewer	No comments
	Sandy Springs Landscape Architect/Arborist	The construction was started without a building permit. The project was stopped until such time that it could be properly permitted. The location of the pool is in an area that was previously cleared for the backyard and detention pond.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	No comments
TRANSPORTATION	Sandy Springs Department of Transportation, Planning Engineer	No comments
	Georgia Department of Transportation	No comments

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *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;*

The applicant states that the proposed house is in harmony with surrounding properties because many have pools. The applicant has provided aerial photographs to show that there are numerous other pools in the vicinity.

2. *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;*

The applicant has provided a **third** site plan revision dated received April 25, 2007 by the Department of Community Development. Based on the **third** revised site plan supplied by the applicant dated received April 25, 2007 by the Department of Community Development, the subject property is irregular in shape. The branches of the stream run diagonally through the subject property, primarily west to east and north to south. The streams are located in small portions of the buildable area on the southwestern and eastern areas of the subject lot. The applicant states that due to the irregular shape of the lot and due to the Code definition of "front yard", the proposed pool and cabana are located in what is considered the front of the property; however, due to the way the house is situated on the lot, the proposed pool and cabana would actually be located to the side of the house. Additionally, the applicant states that if the pool were to be located to the rear of the house, it would impact the southwesterly stream more than what is now proposed, require more land disturbance & rock removal, and would affect existing trees and vegetation.

Recommended Condition(s)

Should the Board choose to approve the application, Staff recommends the following condition(s):

1. That the site be developed in accordance with the Proposed Site Plan, provided by the applicant dated received April 25, 2007 by the Department of Community Development, showing the twenty-five (25) foot impervious surface setback and the fifty (50) foot undisturbed natural buffer of a branching stream reduced to a thirty-seven (37) foot undisturbed buffer for southwesterly branch and to a fourteen (14) foot impervious surface setback for the easterly branch where necessary to accommodate the portion of the encroachment only.
2. In areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced, all driveways, paths, or patios shall be constructed of pervious pavers.
3. In areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback has been reduced, downspouts shall be directed away from the structure in such a way that sheet flow can occur or directed into a rain garden or other such infiltration promoting device.
4. 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 soil for filtration before entering the stream or artificial filtration with proof of maintenance required.
5. Stream crossings shall be as narrow as possible and shall be pervious.
6. Streams shall not be channelized or straightened. Small-unnamed tributaries shall not have concrete poured along the banks. The applicant shall provide proper stream bank restoration if disturbance to the stream bank occurs.
7. The remaining fifty (50) foot undisturbed natural buffer shall remain untouched in its current state; grass shall not be planted in the fifty (50) foot undisturbed natural buffer.
8. All footings for bridges crossing streams and all pipes located under such bridges shall not be located in the streambed(s). All bridge spans shall be sufficiently wide to prevent any obstruction to the flow of water.
9. Stream bank restoration shall be installed as required by the Director of the Community Development Department.

10. The owner/developer shall provide for swimming pool water overflow to discharge through a vegetated area before sheet flowing through a stream buffer, as approved by the Environmental Engineer.
11. That before approval of a permit application, the applicant shall include construction documents, as a part of the application, that detail all work necessary to bring the existing detention facility into compliance with the original permitted design of the facility.
12. That before approval of a permit application, the applicant shall demonstrate that proper access to the existing detention facility is being provided. The proposed access shall be subject to the approval of the Director of the Public Works Department.
13. That before approval of a permit application, the applicant shall provide planting plans to show existing and proposed landscaping for the landscape strip around the detention area. The proposed planting plans shall be subject to approval of the City Arborist.
14. That before approval of a permit application, the applicant shall include construction documents, as part of the application, showing a layout and details for modifying/installing fencing and access gate surrounding the detention facility as necessary to completely encompass the existing detention facility. The proposed modification/installation of fencing shall be subject to the approval of the Director of the Community Development Department.

ATTACHMENTS: Letter of appeal, photographs, and site plans



Variance Petition No. V07-009

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

April 12, 2007

APPLICANT/PETITIONER INFORMATION

Property Owner

Maynard Berry

Petitioner

Patrick Pittard, Earl Shell, and
Cates Ridge Homes
Association, Inc.

Representative

Carl Westmoreland &
Rob Stein

PROPERTY INFORMATION

**Address, Land Lot,
and District** 25 Cates Ridge Road
Land Lot 203, District 17

Council District 6

Frontage and Area 315 feet of frontage along the northwest side of Cates Ridge Road.
The subject property has a total area of approximately 3.29 acres.

**Existing Zoning
and Use** R-1 (Single-Family Dwelling District) and CUP (Community Unit Plan
District) conditional under zoning case Z79-112. The lot is developed
with a single-family home.

Overlay District N/A

Interim 2025

Comprehensive Future Land Use Map Designation

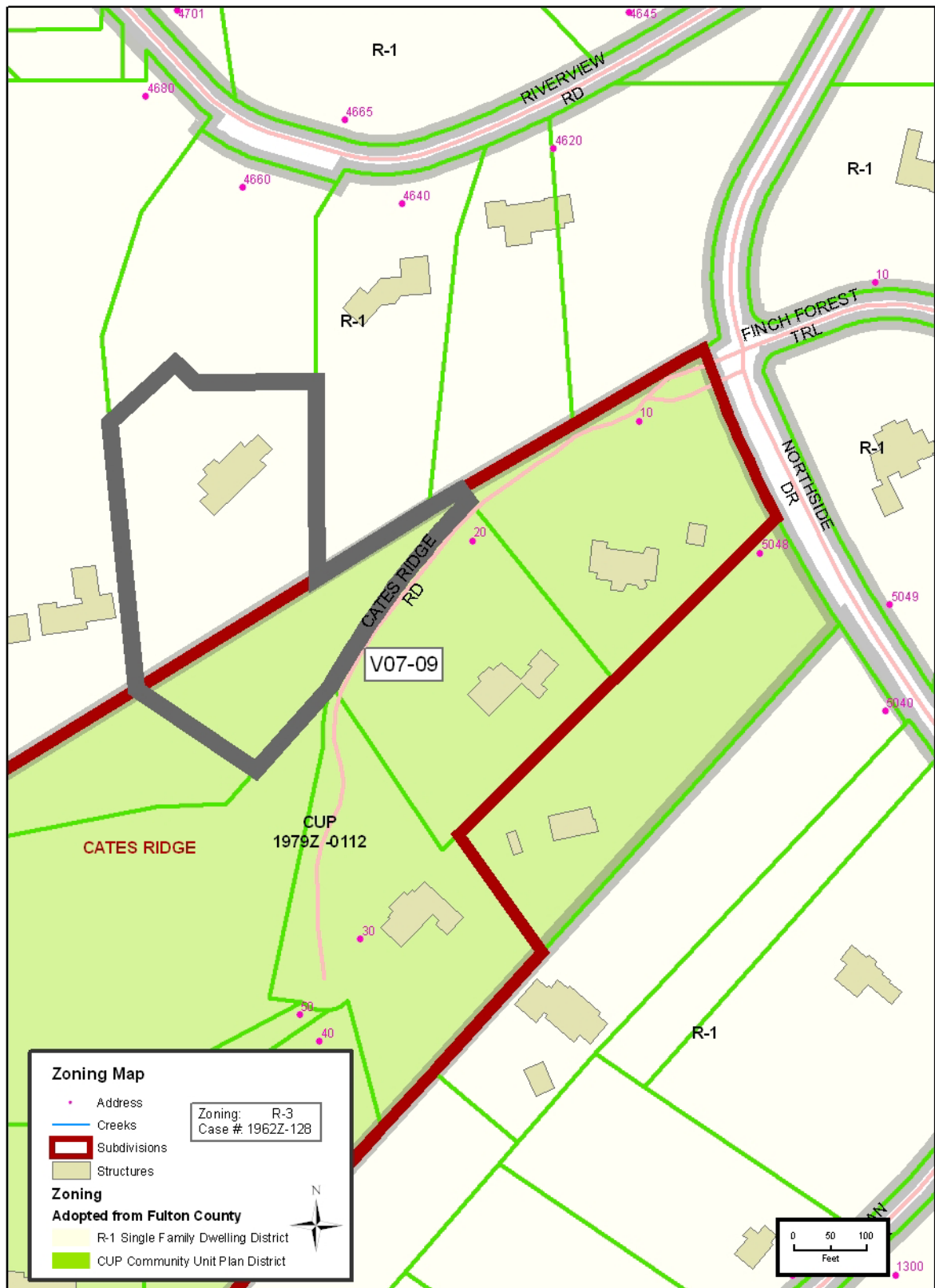
R0-1 Residential (0 to 1 units per acre)

INTENT

The petitioners are seeking a secondary variance to appeal the Department of Community Development Director's determinations made in a letter dated December 21, 2006, regarding the effect of the City's incorporation on a parcel subdivision and the recognition of Fulton County's authority at that time.

Parcel Map

25 Cates Ridge Road



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

CASE NUMBER: V07-009

STAFF CONTACT: Michael D. Zehner, Assistant Director of Planning Zoning
michael.zehner@sandyspringsga.org

BACKGROUND:

This petition involves the division of property fronting on Riverview Road (4650 Riverview Road) and the subsequent recombination of a portion of that property with property located in the Cates Ridge subdivision, thereby resulting in the creation of one lot from two previously platted lots. The subject subdivision was approved by the Fulton County Department of Environment and Community Development on December 6, 2005, after the incorporation of the City of Sandy Springs on December 1, 2005. Despite the subdivision being approved by Fulton County after the City's incorporation, the City has determined that the subdivision is legal and will be recognized; however, the City is requiring the owner of the newly subdivided property to produce a title report certifying access to the private street serving Cates Ridge prior to the issuance of permits for the construction of a driveway.

BASIS FOR DIRECTOR'S DETERMINATION:

The Director of the Department of Community Development and the City Attorney have determined that the subject plat was legally approved by Fulton County and that the City will recognize the division of property. This determination is based on the following:

1. While zoning power was delegated to the City of Sandy Springs by the City Charter, the Charter specified that the City shall give Fulton County at least thirty (30) days written notice of the date on which the City will assume zoning powers.
2. The City incorporated on December 1, 2005, and because the City could not enter into binding agreements prior to such date, the City provided Fulton County, on December 1, 2005, with written notice that it would assume zoning powers effective January 1, 2006.
3. During the period between December 1, 2005 and January 1, 2006 the City did not have zoning powers since the thirty (30) days notice time to Fulton County had not been met.
4. Between December 1, 2005 and January 1, 2006, Fulton County still held zoning powers for the area comprising the City.

Based on the above, it was the determination of the Director of the Department of Community Development that while the City of Sandy Springs held no zoning powers for the incorporated area during the transition period, Fulton County held such powers and, in this instance, used those powers to legally approve the subject subdivision.

APPEAL

Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on April 12, 2007

The appellant has indicated that their appeal of the Director's determination, made in a letter dated December 21, 2006, should be upheld for reasons based in the illegality of the action and that the division was not in keeping with the requirements of the City of Sandy Springs Subdivision Regulations. The appellant has referenced that the approval of the subdivision included at least nine (9) illegal (noncompliant) acts, and that regardless of which municipality held zoning powers at the time the subject subdivision was approved, there is no obligation for the City to accept or ignore these inconsistencies. The appellant specifically references that the City can not accept any illegal decisions made by County officials during the December 1, 2005 to January 1, 2006 transition period, as they were illegal acts and the City's assumption of zoning powers does not then make them legal.

Additionally, the appellant is also indicating that the City's adoption of Subdivision Regulations on December 1, 2005 made it impossible for the County to have legally approved a subdivision of property, as they did not then hold the authority to subdivide property. At the very most, the appellant contends, the County was acting as the City's agent in administering the City's regulations.

ANALYSIS OF APPEAL

The City's position on these matters is as follows:

Commission of Illegal Acts Negates Plat

If illegal acts (or the approval of a subdivision in a noncompliant manner) were committed by Fulton County staff in the approval of the subject division of property, there is no ability by the City of Sandy Springs to judge these aspects and then remove the rights of a property owner. The appellant does not disagree that the City did not maintain zoning powers during the transition period, only that the City should and does have the ability to invalidate Fulton County approvals that were made during that time. While the City of Sandy Springs does recognize that there are some aspects of the subdivision that appear inconsistent with the City's policies and interpretations, there are no provisions that allow the City to invalidate permits or approvals that the previous municipality clearly had the authority to effect and that the City clearly had no authority to make at that time. Finally, Fulton County, as the City of Sandy Springs, has an appeal process if parties are aggrieved by the decision of the Director. If the appellants were aggrieved by the approval of the subdivision by Fulton County there was a process in place for the appeal of such an approval.

City's Adoption of Subdivision Regulations

With regard to the appellants contention that the City's adoption of the Subdivision Regulations made it impossible for the County to legally approve and record the plat, the City of Sandy Springs would also disagree with this position. It is important to consider that the applicant for the subdivision submitted for such prior to December 1, 2005, thereby creating a valid argument that the submittal was vested under Fulton County's Subdivision Regulations and review. This is further compounded by the fact that Fulton County maintained zoning powers before and after December 1, 2005, and certainly on December 6, 2005 when the subdivision was approved and recorded.

CONCLUSION AND REQUESTED ACTION:

Staff respectfully requests the Board of Zoning Appeals to uphold the determinations made by the Director of the Department of Community Development, thereby ensuring the validity of the subject subdivision.

ATTACHMENTS: Site Plans, Letters of Appeal (w/ attachments)



Variance Petition No. V07-011

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

April 12, 2007

APPLICANT/PETITIONER INFORMATION

Property Owner
Edwin R. Neel

Petitioner
Edwin R. Neel

Representative
William W. Galloway

PROPERTY INFORMATION

Address, Land Lot, and District 5137 Middlebury Lane and 250 & 256 Londonberry Road
Land Lot 135, District 17

Council District 6

Frontage and Area 122 feet of frontage along the south side of Londonberry Road and 36 feet of frontage along the south side of the Middlebury Lane cul-de-sac. The subject properties have a total area of approximately 8.34 acres.

Existing Zoning and Use R-2 (Single-Family Dwelling District). The property numbered 5137 Middlebury Lane is developed with a single-family residence. The properties numbered 250 & 256 Londonberry Road are undeveloped.

Overlay District N/A

Interim 2025 Comprehensive Future Land Use Map Designation R0-1 Residential (0 to 1 units per acre)

INTENT

The applicant is seeking a primary variance from Section 4.2.10 of the Zoning Ordinance to allow the required minimum lot width for three (3) legal nonconforming flag lots to be achieved at a distance greater than the sum of the required minimum front yard setback and minimum rear yard setback for the reconfiguration of internal lot lines of the three (3) legal nonconforming flag lots.

Parcel Map

5137 Middlebury Ln, 250 and 256 Londonberry Rd.



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

CASE NUMBER: V07-011

STAFF CONTACT: Doug Trettin, City Planner 770-206-1515
E-mail: doug.trettin@sandyspringsga.org

ANALYSIS:

The applicant is requesting a primary variance for relief from Section 4.2.10 of the Zoning Ordinance to allow the required minimum lot width for three (3) legal nonconforming flag lots to be achieved at a distance greater than the sum of the required minimum front yard setback and minimum rear yard setback for the reconfiguration of internal lot lines of the three (3) legal nonconforming flag lots.

The applicant has submitted site plans indicating the subject properties, numbered 5137 Middlebury Lane, 250 Londonberry Road, and 256 Londonberry Road, to be irregularly shaped "flag lots". The applicant lives in the existing house on 5137 Middlebury Lane. Properties numbered 250 and 256 Londonberry Road are vacant. The site plan also shows a stream running through the front of 5137 Middlebury Lane and through the rears of 250 and 256 Londonberry Road.

The applicant states that the subject properties became legally non-conforming ("grandfathered") with the passage of the City's new lot width ordinance. The applicant states further that under the new lot width requirement and even though the proposed changes would not increase the actual non-conformity, the Zoning Ordinance requires a primary variance for any changes to "grandfathered" properties - otherwise, the proposed changes could be done by right.

The applicant states that in November of 2004 he purchased all three lots prior to the enactment of the seventy-five (75) foot stream buffer ordinance and that the proposed modification to the interior lot lines between 250 and 256 Londonberry Road is the result of a desire to increase the buildable areas away from the required seventy-five (75) foot stream buffers on both lots. Additionally, the applicant states he would like to modify the lot line between 5137 Middlebury Lane and 256 Londonberry to increase the size of the Middlebury Lane property. This modification would better accommodate a planned addition - the new lot configuration would protect the views from his home and create a larger buffer from the 256 Londonberry Road property.

The applicant states that the reason for the variance request is that the size and shape of the lots, as well as the existing topography of the lots, lend themselves to be better divided in the manner proposed, especially in light of the seventy-five (75) stream buffer requirement. The applicant also states that in each case, the proposed lot configurations would result in lots twice as large as required by the R-2 zoning district, and in no case would the lot frontages be altered. The applicant believes that the proposed re-division would not cause any adverse effect on the community and would be in harmony with the general purpose and intent of the Zoning Ordinance.

Department Comments

The staff held a Focus Meeting on March 7, 2007 at which the following departmental comments were provided:

BUILDING AND DEVELOPMENT DIVISION	Sandy Springs Engineering Plan Reviewer	▪ No comments
	Sandy Springs Building Plan Reviewer	▪ No comments
	Sandy Springs Landscape Architect/ Arborist	▪ The plan clearly shows the location of the buffered state waters. The site is fully wooded with young to medium aged hardwoods. A Site Tree Conservation Plan will be required at the time of building construction.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	▪ No comments
TRANSPORTATION	Sandy Springs Department of Transportation, Planning Engineer	▪ No comment
	Georgia Department of Transportation	▪ No comment

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *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;*

The applicant states that the proposed modification to the interior lot lines between 250 and 256 Londonberry Road is the result of a desire to increase the buildable areas away from the required seventy-five (75) foot stream buffers on both lots. The applicant also states that in each case, the proposed lot configurations would result in lots twice as large as required by the R-2 zoning district, and in no case would the lot frontages be altered.

The applicant states further that the subject properties became legally non-conforming ("grandfathered") with the passage of the City's new lot width ordinance. Under the new lot width requirement and even though the proposed changes would not increase the actual non-conformity, the Zoning Ordinance requires a primary variance for any changes to "grandfathered" properties. Otherwise, the proposed changes could be done by right.

The applicant has provided site plans to document the above statements.

2. *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;*

The applicant has submitted site plans indicating the subject properties, numbered 5137 Middlebury Lane, 250 Londonberry Road, and 256 Londonbury Road, to be irregularly shaped "flag lots". The site plan also shows a stream running through the front of 5137 Middlebury Lane and through the rears of 250 and 256 Londonberry Road.

The applicant states that the reason for the variance request is that the size and shape of the lots, as well as the existing topography of the lots, lend themselves to be better divided in the manner proposed, especially in light of the seventy-five (75) stream buffer requirement. Additionally, the applicant states he would like to modify the lot line between 5137 Middlebury Lane and 256 Londonberry to increase the size of the Middlebury Lane property. This modification would better accommodate a planned addition – the new lot configuration would protect the views from his home and create a larger buffer from the 256 Londonberry Road property. The applicant believes that a denial of the variance requests would result in a hardship to him, as it would prevent the expansion of their primary residence without legitimate public purpose being served. Additionally, the applicant believes that the proposed re-division would not cause any adverse effect on the community.

Recommended Condition(s)

Should the Board choose to approve the application, Staff recommends the following condition(s):

1. That the site be developed in accordance with the Site Plan, provided by the applicant dated received March 16, 2007 by the Department of Community Development.
2. That when properties numbered 250 and 256 Londonberry Road are developed, they shall have one curb cut and a shared driveway located central to the entire frontage of both 250 and 256 Londonberry Road.

ATTACHMENTS: Site plans and letter of appeal.



Variance Petition No. V07-015

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

April 12, 2007

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Adly Girgis/Elham Makram	Adly Girgis/Elham Makram	Ric Girgis

PROPERTY INFORMATION

Address, Land Lot, and District	645 Londonberry Road Land Lot 164, District 17
Council District	6
Frontage and Area	150 feet of frontage along the northwest side of Londonberry Road. The subject property has a total area of approximately 2.0 acres.
Existing Zoning and Use	R-2 (Single-Family Dwelling District). The property is undeveloped.
Overlay District	N/A
Interim 2025 Comprehensive Future Land Use Map Designation	R0-1 Residential (0 to 1 units per acre)

INTENT

The applicant is seeking four (4) primary variances from:

- 1) Section 4.24.9.C of the Zoning Ordinance to allow a structure to extend over a Special Flood Hazard Area,
- 2) Section 4.24.9.G of the Zoning Ordinance to allow for residential development in a Special Flood Hazard Area,
- 3) Section 14.3.5.a.i of the Sandy Springs Land Development Regulations to allow for new construction of a principal building within the limits of a floodplain, and
- 4) Section 14.3.5.g.i.A of the Sandy Springs Land Development Regulations to allow for new construction of a residential building within the limits of a floodplain.

The original application included a variance to required lot width; however, the applicant provided evidence that the subject lot was in existence prior September 21, 1967.

All variances are for the construction of a single-family home.

Parcel Map

645 Londonberry Road



Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on April 12, 2007

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

CASE NUMBER: V07-015

STAFF CONTACT: Doug Trettin, City Planner 770-206-1515
E-mail: doug.trettin@sandyspringsga.org

ANALYSIS:

The applicant is requesting a primary variance for relief from Section 4.24.9.C of the Zoning Ordinance to allow a structure to extend over a Special Flood Hazard Area, Section 4.24.9.G of the Zoning Ordinance to allow for residential development in a Special Flood Hazard Area, Section 14.3.5.a.i of the Sandy Springs Land Development Regulations to allow for new construction of a principal building within the limits of a floodplain, and from Section 14.3.5.g.i.A to allow for new construction of a residential building within the limits of a floodplain.

The applicant submitted a site plan indicating the subject property to have a parallelogram shape and indicating it to be in a Special Flood Hazard Area (floodplain area). The site plan shows two streams flowing through the lot - one stream to the front of the property and the other stream to the rear of the property.

The applicant states that his family purchased the property in May of 2005 with the intent of refurbishing the existing house and received a Fulton County permit to do so. After starting his approved renovation, the applicant discovered extensive damage to the framework, joists, and brickwork. The applicant states further that the Fulton County Code Enforcement Director determined the house to be unsafe and verbally advised them to demolish the house down to the footing – the applicant believes his permit was verbally amended on site at that time and that he could proceed as advised without revisions under his current permit. When the City of Sandy Springs took over the inspection of Fulton County issued permits, the applicant received a notice of violation and stop work order for removing specimen trees and not constructing what was approved under the Fulton County issued permit. Subsequently, the applicant filed for a new permit with Sandy Springs in order to construct a new house. The building permit filed with the City was turned down primarily due to floodplain issues.

The applicant states that he has worked with staff and neighbors in the area to address prevailing concerns and issues. The result was a revised site plan showing: engineered methods of rainwater management, a smaller footprint than originally proposed, the house location more forward on the lot primarily over where the old footprint was, the installation of twenty-eight (28) new trees, and showing the proposed house utilizing the location of the existing driveway.

The applicant states that the application is in harmony with the general purpose and intent of the Zoning Ordinance because he has designed a house having an associated driveway that will preserve the integrity of the floodplain and flow of flood water and storage capacity and movement of flood waters. The applicant states further that the new house will create a better situation regarding the floodplain compared to the original house that was demolished and will

be more respectful of the neighboring lots. Additionally, the applicant states that the welfare of the community, desirable living conditions, protection of properties against blight and depreciation, development in character with surrounding areas, and the most appropriate land use have always been integrated into his construction process.

The applicant states as a hardship that due to the area topography, the subject property is in the floodplain. The lot is also restricted by two streams – one stream to the front of the property and the other stream to the rear of the property.

Department Comments

The staff held a Focus Meeting on March 7, 2007 at which the following departmental comments were provided:

BUILDING AND DEVELOPMENT DIVISION	Sandy Springs Engineering Plan Reviewer	▪ The proposed house should be located primarily over the footprint of the former house except as necessary to locate the proposed house outside of the stream buffer adjacent to Londonberry Road.
	Sandy Springs Building Plan Reviewer	▪ No comments
	Sandy Springs Landscape Architect/Arborist	▪ This site was taken to court for the removal of a specimen tree without approval. The issues with the trees have been resolved.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	▪ No comments
TRANSPORTATION	Sandy Springs Department of Transportation, Planning Engineer	▪ No comment
	Georgia Department of Transportation	▪ No comment

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *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;*

The applicant states that the application is in harmony with the general purpose and intent of the Zoning Ordinance because he has designed a house having an associated driveway that will preserve the integrity of the floodplain and flow of flood water and storage capacity and movement of flood waters. The applicant states further that the new house will create a better situation regarding the floodplain compared to the original house that was demolished and will be more respectful of the neighboring lots.

Additionally, the applicant states that the welfare of the community, desirable living conditions, protection of properties against blight and depreciation, development in character with surrounding areas, and the most appropriate land use have always been integrated into his construction process. The applicant has provided a site plan and crawl space plan to document the above statements.

2. *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;*

The applicant states as a hardship that due to the area topography, the subject property is in the floodplain. The lot is also restricted by two streams – one stream to the front of the property and the other stream to the rear of the property. The applicant has provided a site plan to document the above statements.

Recommended Condition(s)

Should the Board choose to approve the application, Staff recommends the following condition(s):

1. That the site be developed in accordance with the Site Plan, provided by the applicant dated received April 2, 2007 by the Department of Community Development.
2. That the proposed house be located primarily over the footprint of the former house except as necessary to locate the proposed house outside of the stream buffer adjacent to Londonberry Road.

ATTACHMENTS: Site plan, foundation plan, elevation drawings, and letters of appeal.



Variance Petition No. V07-016

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

April 12, 2007

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
William V. Lawson	William V. Lawson	David Tash

PROPERTY INFORMATION

Address, Land Lot, and District	5035 Lake Forrest Drive Land Lot 93, District 17
Council District	5
Frontage and Area	100 feet of frontage along the east side of Lake Forrest Drive. The subject property has a total area of approximately 1.0 acres.
Existing Zoning and Use	R-3 (Single-Family Dwelling District). The property is undeveloped.
Overlay District	N/A
Interim 2025 Comprehensive Future Land Use Map Designation	R1-2 Residential (1 to 2 units per acre)

INTENT

The applicant is seeking a primary variance from Section 4.2.10 of the Zoning Ordinance to allow the required lot width of a proposed flag lot to be achieved at a distance greater than the sum of the required minimum front yard setback and minimum rear yard setback for the purpose of subdividing an existing lot into two (2) lots.

Parcel Map

5035 Lake Forrest Drive



Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on April 12, 2007

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

CASE NUMBER: V07-016

STAFF CONTACT: Doug Trettin, City Planner 770-206-1515
E-mail: doug.trettin@sandyspringsga.org

ANALYSIS:

The applicant is requesting a primary variance for relief from Section 4.2.10 of the Zoning Ordinance to allow the required lot width of a proposed flag lot to be achieved at a distance greater than the sum of the required minimum front yard setback and minimum rear yard setback for the purpose of subdividing an existing lot into two (2) lots.

In 2005 the applicant received approval of Fulton County variance V05-251 for relief from the required one-hundred (100) foot lot width for two lots resulting from the proposed subdivision of property numbered 5035 Lake Forrest Drive. The site plan provided by the applicant as a part of this variance application is in accordance with the site plan previously approved under V05-251 and shows 5035 subdivided into two (2) lots shown as Lot 1 and Lot 2, with Lot 2 being a "flag lot". The applicant never filed for a land disturbance permit (LDP) and/or a final plat prior to the adoption of the ordinance that redefined lot width and, in essence, made the creation of new "flag lots" illegal. By not filing for an LDP and/or a final plat prior to the adoption of the new ordinance, the applicant unknowingly waived the "grandfathering" status of his "flag lot".

The applicant states that he did not officially file for a Land Disturbance Permit (LDP) or Final Plat before the adoption of the "flag lot" ordinance because he was advised that he needed to have an approved sewer plan prior to filing. Finalization of a sewer plan was delayed due to issues of either installing a four-hundred (400) lineal foot connection through the center of Lake Forrest Drive, utilizing a manhole connection located in Brookside Park, or acquiring an easement for a less extensive connection through an adjoining property to the rear or east of the subject lot. The option to create an easement for connection through an adjoining property to the rear or east of the subject lot was agreed upon. The applicant has since filed for an LDP with the City; however, a variance to minimum lot width is required in order for the applicant to go forward with the development process.

The applicant states that there are other "flag lots" in the immediate area, and he believes that the proposed lot will fit in with and improve the neighborhood.

Department Comments

The staff held a Focus Meeting on March 7, 2007 at which the following departmental comments were provided:

BUILDING AND DEVELOPMENT DIVISION	Sandy Springs Engineering Plan Reviewer	▪ No comments
	Sandy Springs Building Plan Reviewer	▪ No comments
	Sandy Springs Landscape Architect/ Arborist	▪ The specimen trees were located as part of a LDP for a proposed sewer. When the building permits are submitted for the construction of the homes they will fall under the new ordinance.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	▪ No comments
TRANSPORTATION	Sandy Springs Department of Transportation, Planning Engineer	▪ No comment
	Georgia Department of Transportation	▪ No comment

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *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;*

In 2005 the applicant received approval of Fulton County variance V05-251 for relief from the required one-hundred (100) foot lot width for two lot s resulting from the proposed subdivision of property numbered 5035 Lake Forrest Drive. The site plan provided by the applicant as a part of this variance application is in accordance with the site plan previously approved under V05-251 and shows 5035 subdivided into two (2) lots shown as Lot 1 and Lot 2, with Lot 2 being a “flag lot”. The applicant never filed for a land disturbance permit (LDP) and/or a final plat prior to the adoption of the ordinance that redefined lot width and, in essence, made the creation of new “flag lots” illegal. By not filing for an LDP and/or a final plat prior to the adoption of the new ordinance, the applicant unknowingly waived the “grandfathering” status of his “flag lot”.

The applicant states that he did not officially file for a Land Disturbance Permit (LDP) or Final Plat before the adoption of the “flag lot” ordinance because he was advised that he needed to have an approved sewer plan prior to filing. Finalization of a sewer plan was delayed due to issues of either installing a four-hundred (400) lineal foot connection through the center of Lake Forrest Drive, utilizing a manhole connection located in Brookside Park, or acquiring an easement for a less extensive connection through an adjoining property to the rear or east of the subject lot. The option to create an easement for connection through an adjoining property to the rear or east of the subject lot was agreed upon. The applicant has since filed for an LDP with the City; however, a variance to minimum lot width is required in order for the applicant to go forward with the development process. The applicant has provided a site plan and documents to support the above statements.

The applicant states that there are other “flag lots” in the immediate area, and he believes that the proposed lot will fit in with and improve the neighborhood. The applicant has not provided evidence to document the above statement.

Recommended Condition(s)

Should the Board choose to approve the application, Staff recommends the following condition(s):

1. That the site be developed in accordance with the Site Plan, provided by the applicant dated received February 9, 2007 by the Department of Community Development.

ATTACHMENTS: Site plans, letter from Urban Engineers, Inc., email from City of Sandy Springs Utility Coordinator/Engineer, opposition email, and letter of appeal.



Variance Petition No. V07-017

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

April 12, 2007

APPLICANT/PETITIONER INFORMATION

Property Owner
Scott J. Mattison

Petitioner
Scott J. Mattison

Representative
Scott J. Mattison

PROPERTY INFORMATION

Address, Land Lot, and District 5173/5157 Northland Drive
Land Lot 39, District 17

Council District 4

Frontage and Area 490 feet of frontage along the northeast side of Northland Drive and 445 feet of frontage along the west side GA-400. The subject properties have a total area of approximately 1.91 acres.

Existing Zoning and Use R-3 (Single-Family Dwelling District) conditional under zoning cases Z04-035 and ZM06-004. The properties are developed with one (1) single-family residence.

Overlay District N/A

Interim 2025 Comprehensive Future Land Use Map Designation R1-2 Residential (1 to 2 units per acre)

INTENT

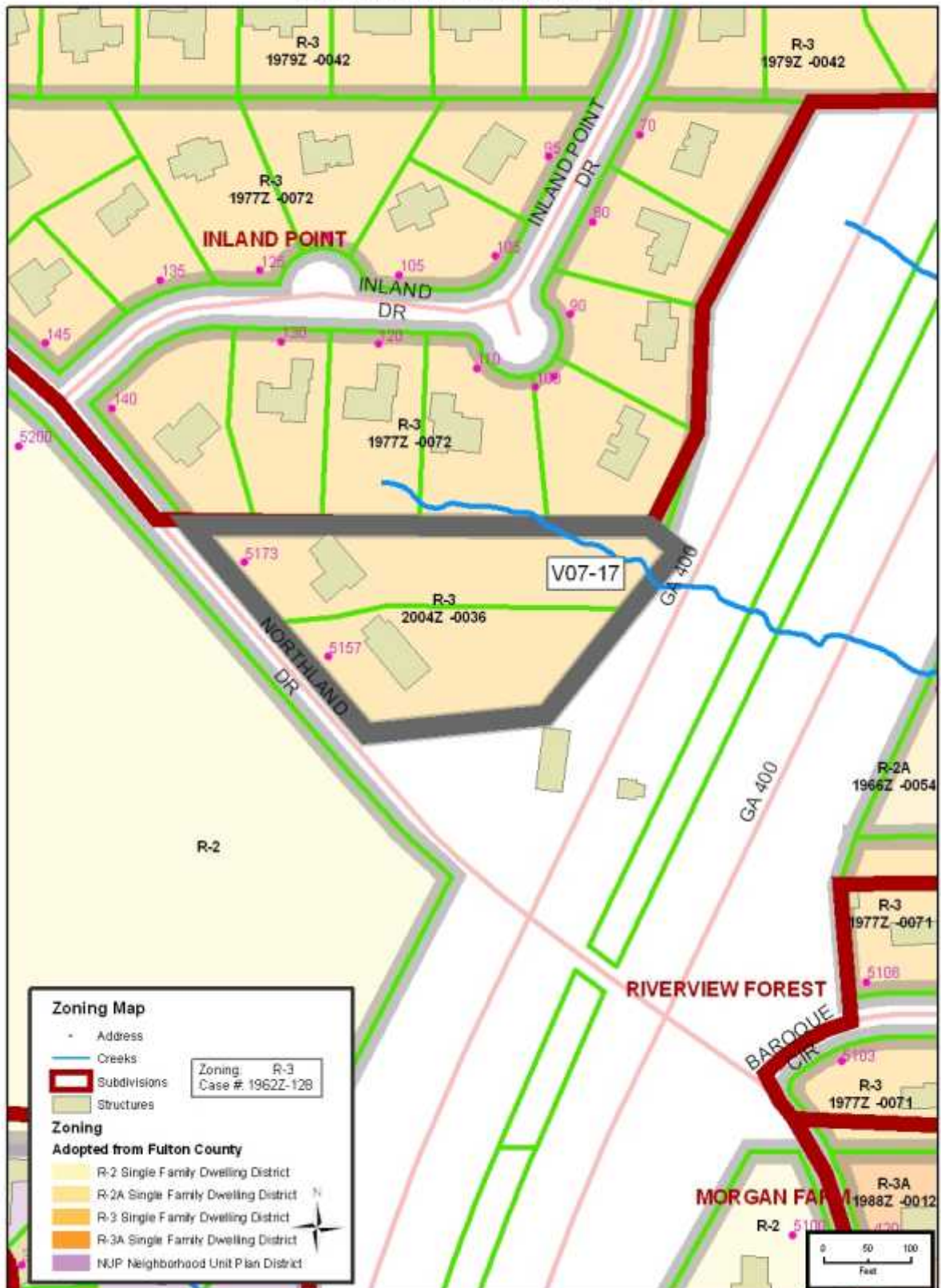
The applicant is seeking two (2) primary variances from:

- 1) Variance from Section 8.5 of the Tree Preservation Ordinance to allow the removal of twelve (12) specimen trees and the encroachment into the critical root zone of one (1) specimen tree and
- 2) Variance from Section 8.III.C.2.a of the Tree Preservation Ordinance to waive the specimen tree recompense cost.

Both variances to allow for the construction of three (3) single-family houses.

Parcel Map

5157 & 5173 Northland Drive



Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on April 12, 2007

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

CASE NUMBER: V07-017

STAFF CONTACT: Doug Trettin, City Planner 770-206-1515
E-mail: doug.trettin@sandyspringsga.org

ANALYSIS:

The applicant received site plan approval under Fulton County zoning case Z04-035. The approved site plan under Z04-035 was modified under Sandy Springs zoning modification ZM06-004. The site plan provided as a part of this variance application is in accordance with the approved site plan under ZM06-004. The current approved plan under ZM06-004 indicates lots having "flag" configurations. Because the applicant submitted for a Land Disturbance Permit (LDP) prior to the enactment of the ordinance that redefined lot width and, in essence, made the creation of new "flag lots" illegal, the subject subdivision having "flag lots" is "grandfathered". However, the applicant's filing for an LDP also occurred prior to the adoption of the new Tree Conservation Ordinance; therefore, in order to sustain the "grandfathering" for the "flag lot" configurations, the applicant must follow the provisions under the old Tree Preservation Ordinance to go forward with his development process.

The applicant is requesting relief from Section 8.III.C.2.a to waive the Specimen Tree recompense cost and from Article 8, Section 5 of the Tree Preservation Ordinance to allow the removal of twelve (12) specimen trees identified as follows: "A" - a ten (10) inch dogwood, "D" - a ten (10) inch cherry, "E" - a ten (10) inch dogwood, "F" - a ten (10) inch dogwood, "G" - a ten (10) inch dogwood, "H" - a ten (10) inch dogwood, "I" - a twenty-eight (28) inch oak, "J" - a twenty-eight (28) inch oak, "K" - a thirty-six (36) inch oak, "L" - a thirty-six (36) inch oak, "M" - a thirty-six (36) inch poplar, and "N" - a twenty-eight (28) inch oak. The applicant is requesting relief from Article 8, Section 5 of the Tree Preservation Ordinance to allow the encroachment into the critical root zone of a specimen tree identified as "C" - a forty (40) inch oak. The subject trees are either located in areas where improvements are planned or in buildable areas of proposed lots. The applicant intends to subdivide two (2) residential lots into three (3) residential lots.

Noted by the applicant, there is one (1) specimen tree growing on a neighboring property to the northwest that may be affected by the proposed construction. However, it would not incur detrimental critical root zone damage if the planned construction occurs as shown - provided that no contour grading is performed within critical root zone of the tree.

The applicant has provided a site plan indicating the proposed lots to be irregular in shape and wooded. Proposed lots labeled as numbers 2 and 3 have a stream running approximately east to west through the rear or northern part of the yards. The applicant states that the required seventy-five foot (75) foot stream buffer makes approximately twenty-five (25) percent of the subject property unbuildable and limits the placement of future houses and limits the option to site the houses in order to avoid affecting specimen trees. The applicant states further there are

119 trees that are ten (10) inches or larger on the site and that of the 119 trees, he is only requesting to affect thirteen (13) trees.

The applicant states that due to changes in project design and lack of space on site to plant recompense trees, he is required to make a \$70,285.00 contribution to the tree bank. The applicant states further he has incurred costs exceeding the amount of recompense that have derived from changes in project design and delays caused by zoning and permitting process of Sandy Springs.

Department Comments

The staff held a Focus Meeting on March 7, 2007 at which the following departmental comments were provided:

BUILDING AND DEVELOPMENT DIVISION	Sandy Springs Engineering Plan Reviewer	▪ This site is currently in for LDP review. ▪ Applicant should provide calculations based upon new Landscape Ordinance in order Michael Barnett to review feasibility. ▪ Stormwater detention systems are located in the upgradient position versus the house. On Lot 1, relocation of detention might allow 40-inch oak to be saved with some encroachment by the planned house. On Lot 3, relocation of detention and proposed driveway could allow 28-inch to be spared with minimal encroachment. If detention of Lot 2 is relocated to rear of proposed house, will it affect large trees located in the setback/buffer to creek? More data and plan re-work required to make further comments, if any.
	Sandy Springs Building Plan Reviewer	▪ No comments
	Sandy Springs Landscape Architect/Arborist	▪ The plan accurately shows the location of the specimen trees and the buffered state waters. This plan has been review for a Land Disturbance Permit. According to the City Engineer the site plan could be modified to reduce the number of specimen trees being removed.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	▪ No comments
TRANSPORTATION	Sandy Springs Department of Transportation, Planning Engineer	▪ Proposed private street and cul-de-sac must conform to COSS standard for minor subdivision street. It appears that the submitted site plan has too large of a cul-de-sac which may affect their request for specimen tree removal.
	Georgia Department of Transportation	▪ No comments

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *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;*

The applicant received site plan approval under Fulton County zoning case Z04-035. The approved site plan under Z04-035 was modified under Sandy Springs zoning modification ZM06-004. The site plan provided as a part of this variance application is in accordance with the approved site plan under ZM06-004. The subject trees are either located in areas where improvements are planned or in buildable areas of proposed lots. The applicant states further there are 119 trees that are ten (10) inches or larger on the site and that of the 119 trees, he is only requesting to affect thirteen (13) trees. The applicant has provided site plans to document the above statements.

The applicant states that due to changes in project design and lack of space on site to plant recompense trees, he is required to make a \$70,285.00 contribution to the tree bank. The applicant states further he has incurred costs exceeding the amount of recompense that have derived from changes in project design and delays caused by zoning and permitting process of Sandy Springs.

2. *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;*

The applicant has provided a site plan indicating the proposed lots to be irregular in shape and wooded. Proposed lots labeled as numbers 2 and 3 have a stream running approximately east to west through the rear or northern part of the yards. The applicant states that the required seventy-five foot (75) foot stream buffer makes approximately twenty-five (25) percent of the subject property unbuildable and limits the placement of future houses and limits the option to site the houses in order to avoid affecting specimen trees. The applicant has provided site plans to document the above statements.

Recommended Condition(s)

Should the Board choose to approve the application, Staff recommends the following condition(s):

1. That the site be developed in accordance with the new Tree Conservation Ordinance adopted February 6, 2007 as opposed to the old Tree Preservation Ordinance.
2. That the site be developed in accordance with the approved Site Plan under zoning modification ZM06-004.

ATTACHMENTS: Letter of appeal and site plans



Variance Petition No. V07-018

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

April 12, 2007

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
John C. Portman, Jr.	John C. Portman, Jr.	Warren Snipes

PROPERTY INFORMATION

Address, Land Lot, and District	5193 Northside Drive and a portion of 5195 Northside Drive and a portion of 60 Finch Forest Trail Land Lot 175, District 17
Council District	6
Frontage and Area	635 feet of frontage along the southeast side of Northside Drive. The subject properties have a total area of approximately 12.0 acres.
Existing Zoning and Use	R-1 (Single-Family Dwelling District). 5195 Northside Drive and 60 Finch Forest Trail are developed with single-family homes.
Overlay District	N/A
Interim 2025 Comprehensive Future Land Use Map Designation	R0-1 Residential (0 to 1 units per acre)

INTENT

The applicant is seeking a primary variance from Section 6.1.3.A of the Zoning Ordinance to exceed the maximum height allowed for a single-family house from forty (40) feet to sixty-nine (69) feet nine (9) inches.

Parcel Map

5193, 5195 Northside Drive, Parcel 17 0175 LL006 and 60 Finch Forest Trail



Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on April 12, 2007

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

CASE NUMBER: V07-018

STAFF CONTACT: Doug Trettin, City Planner 770-206-1515
E-mail: doug.trettin@sandyspringsga.org

ANALYSIS:

The applicant is requesting a primary variance for relief from Section 6.1.3.A of the Zoning Ordinance to exceed the maximum height allowed for a single-family house from forty (40) feet to sixty-nine (69) feet nine (9) inches.

The applicant submitted a site plan indicating the current configuration of and structures located on the properties numbered 5193 and 5195 Northside Drive and 60 Finch Forest Trail. The applicant has also submitted a site plan indicating the proposed configuration of the aforementioned subject properties. Included in the proposed site plan are structures to remain and the proposed structure for property number 5193 Northside Drive. The proposed structure for 5193 Northside Drive is the subject of the request for relief from the height regulation to exceed the maximum height allowed.

The proposed site plan provided by the applicant indicates the proposed lot number 5193 Northside Drive as irregularly shaped and having 12.02 acres of land. The site plan also indicates a stream located perpendicular to the eastern property line. Photographs of a scaled model and of the site indicate the subject property as sloping from north to south. The photographs show the subject property to be wooded.

The applicant provided elevation drawings showing the architectural style of the proposed structure as well as the proposed height.

The applicant states that the proposed residence for 5193 Northside Drive will consist of 27,500 square feet of heated floor area on 12.17 acres. The applicant further states that the application is in harmony with the general purpose and intent with the Zoning Ordinance because the proposed residence is located on a heavily forested site and will be setback approximately 300 feet from Northside Drive to the northwest and setback approximately 495 feet from Vernon Springs Trail to the east. Additionally, the applicant states that the proposed house has been sited in a gully and that the top elevation of the proposed house will be only four (4) feet higher than the top elevation of the applicant's existing home on the adjacent property numbered 5195 Northside Drive. The applicant contends that due to the size of the property, the location of the proposed house, and due to the lot's existing foliage, the residence will be highly concealed from public view and will be in harmony with the intent of the Zoning Ordinance.

Department Comments

The staff held a Focus Meeting on March 7, 2007 at which the following departmental comments were provided:

BUILDING AND DEVELOPMENT DIVISION	Sandy Springs Engineering Plan Reviewer	▪ No comments
	Sandy Springs Building Plan Reviewer	▪ No comments
	Sandy Springs Landscape Architect/Arborist	▪ No comments
FIRE DEPT.	Sandy Springs Fire Protection Engineer	▪ No comments
TRANSPORTATION	Sandy Springs Department of Transportation, Planning Engineer	▪ All vehicular access points must be approved by Public Works at the time of permitting.
	Georgia Department of Transportation	▪ No comment

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *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;*

The applicant states that the proposed residence for 5193 Northside Drive will consist of 27,500 square feet of heated floor area on 12.17 acres. The applicant further states that the application is in harmony with the general purpose and intent with the Zoning Ordinance because the proposed residence is located on a heavily forested site and will be setback approximately 300 feet from Northside Drive to the northwest and setback approximately 495 feet from Vernon Springs Trail to the east. Additionally, the applicant states that the proposed house has been sited in a gully and that the top elevation of the proposed house will be only four (4) feet higher than the top elevation of the applicant's existing home on the adjacent property numbered 5195 Northside Drive. The applicant contends that due to the size of the property, the location of the proposed house, and due to the lot's existing foliage, the residence will be highly concealed from public view and will be in harmony with the intent of the Zoning Ordinance. Photographs of the site show the subject property to be wooded. The applicant provided elevation drawings showing the architectural style of the proposed structure as well as the proposed height.

2. *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;*

The proposed site plan provided by the applicant indicates the proposed lot number 5193 Northside Drive as irregularly shaped and having 12.02 acres of land. The site plan also indicates a stream located perpendicular to the eastern property line. Photographs of a scaled model and the site indicate the subject property as sloping from north to south.

Recommended Condition(s)

Should the Board choose to approve the application, Staff recommends the following condition(s):

1. That the site be developed in accordance with the Site Plan and Elevation Drawings, provided by the applicant dated received March 16, 2007 by the Department of Community Development.

ATTACHMENTS: Site plans, elevation plans, letter of appeal, and letters of opposition.



Variance Petition No. V07-001

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

March 8, 2007 (Deferred)

April 12, 2007

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Northridge Square, LLC	Lamar Advertising Co.	Michael Reese

PROPERTY INFORMATION

Address, Land Lot, and District	8290 Roswell Road (SR 9) Land Lot 25, District 17
Council District	2
Frontage and Area	317 feet of frontage along the west side of Roswell Road (SR 9). The subject property has a total area of approximately 2.14129 acres
Existing Zoning and Use	C-1 (Community Business District) conditional under Fulton County Zoning case Z87-0194.
Overlay District	Suburban District
Interim 2025 Comprehensive Future Land Use Map Designation	LWN (Live-Work Neighborhood)

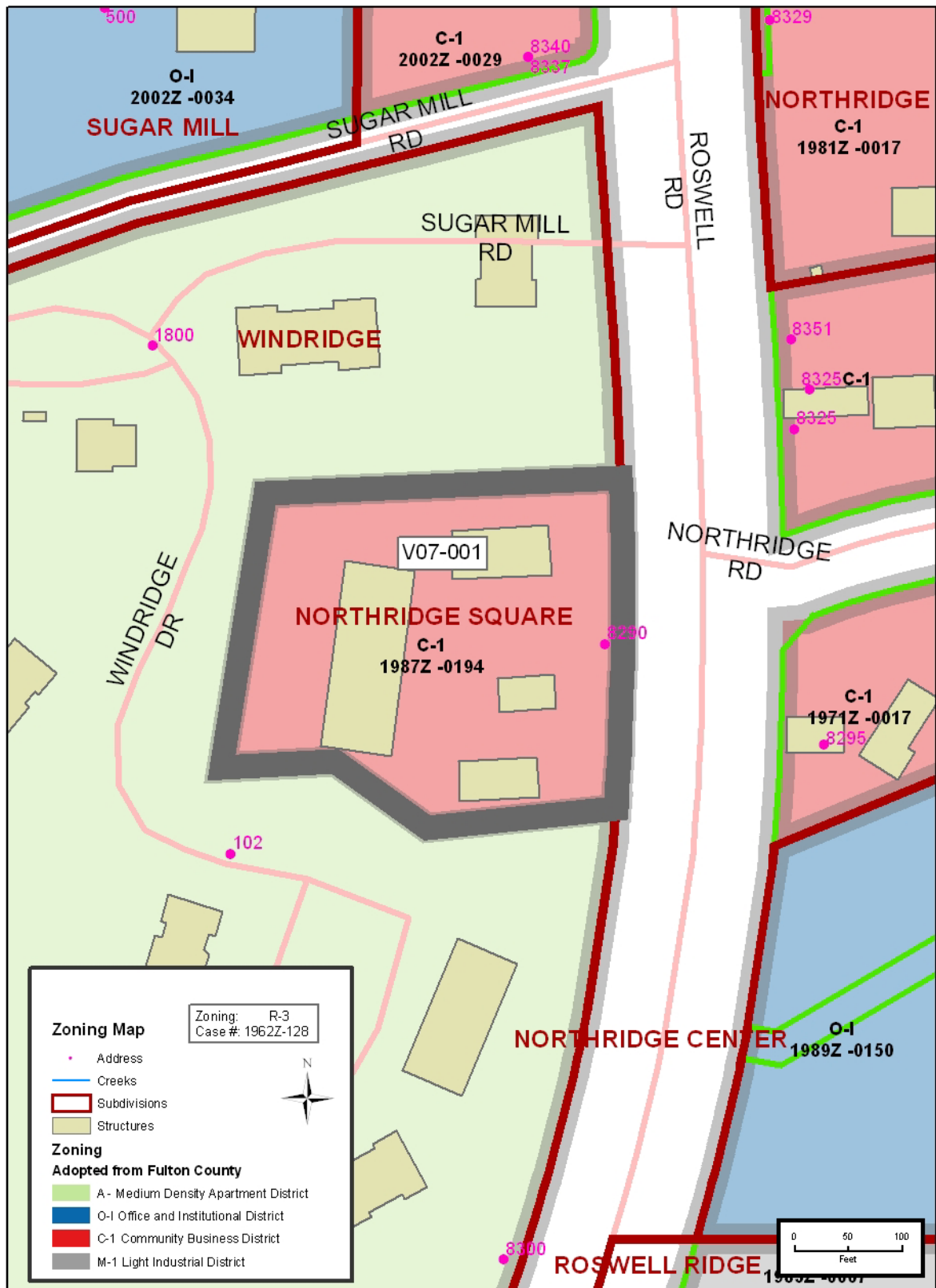
INTENT

The applicant is seeking a secondary variance: An Appeal to the Department of Community Development Director's interpretation of the Zoning Ordinance regarding structural changes to a nonconforming sign, as made in a letter dated November 29, 2006

At the March 8, 2007 Board of Zoning Appeals (BZA) meeting, application V07-001 was deferred until the April 12, 2007 BZA meeting to allow the applicant and his attorney to have a consultation with the City Attorney. As a result of that meeting the applicant filed for a variance (V07-027), to be heard at the April 12, 2007, hearing.

Parcel Map

8290 Roswell Road



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

CASE NUMBER: V07-001

STAFF CONTACT: Michael Zehner
Assistant Director, Planning and Zoning
E-mail: Michael.zehner@sandyspringsga.org

BACKGROUND:

Lamar advertising Co. is the owner of a billboard located at the intersection of Northridge and Roswell Road (SR 9) in Sandy Springs. The sign has been in this location for several years. On October 25, 2006 staff observed that there were men working on the sign using torches to cut existing structural elements. It was observed that the sign, which consisted of a tri-message system, had been removed, and only metal structural elements remained, as shown on the attached pictures. In addition the existing structural braces had been removed and placed on the ground, new elements had been installed, and work was continuing to be performed on the structure, as one worker was cutting pieces of the existing structure with a torch and band saw.

The foreman on site, Mr. Fitzgerald, informed the staff that they had removed existing supports and were installing new supports, to convert the tri-vision panels to an LED display.

The Director's determination indicated that the change to the subject billboard was disallowed based on the provisions of Section 33.7.F and Section 4.3.1.C.3, which prohibit billboards in the C-1 zoning district and prohibit structural alterations to nonconforming uses.

APPEAL:

The applicant indicates the following basis for the appeal of the Director's determination:

1. The applicant indicates that the proposed conversion from tri-vision panels to LED display, will not involve any structural alterations and consequently the mentioned sign will not lose its legal nonconforming status if the conversion is executed.
2. The applicant indicates that to any extent alterations would be necessary, they are expressly allowed under City code.
3. The applicant indicates that the City's action violates state law which, as of July 1, 2006, allows LED signs wherever tri-vision signs are posted.
4. The applicant indicates that to any extent the City code or state law is ambiguous; Georgia law requires that the ambiguity should be resolved in favor of the applicant, as a land user.

BASIS FOR DIRECTOR'S INTERPRETATION/DETERMINATION:

It was determined that the existing sign is nonconforming (grandfathered) based on the fact that its current configuration does not correspond to provisions for signage in Commercial and Industrial Park Districts (Section 33.7.F).

This determination is also supported by Section 4.3.1.C.3, which states that a non conforming use of a structure may be changed to another nonconforming use of the same or more restrictive nature, if not structural alterations are made.

Since the subject sign is a nonconforming sign or structure, both the definition of nonconforming structure and Section 33.6.3.A, *Nonconforming Signs*, of the City of Sandy Springs Zoning Ordinance, apply. The definition of nonconforming structure states that "any change or addition to a ... structure must comply with current provisions of the Zoning Ordinance". Section 33.6.3.A states that "no nonconforming sign shall be enlarged, extended, structurally reconstructed, moved, replaced or altered in any manner including the sign face except for normal maintenance." Based on the definition of nonconforming sign and Section 33.6.3.A, the applicant's proposal to change or alter the sign face is not allowed unless compliance with the provisions of the Zoning Ordinance is achieved.

It is the determination of this office that the conversion of the sign from a tri-vision system to an electronic display would require the structural alteration to the extent that would void its nonconforming, grandfathered status, thereby preventing this office from issuing a permit.

CONCLUSION AND REQUESTED ACTION:

Staff respectfully requests the Board of Zoning Appeals to uphold the determinations made by the Director of the Department of Community Development, thereby requiring the applicant to either bring the subject sign into compliance, seek primary variances to maintain the noncompliant sign, or seek a rezoning of the property to possibly make the subject billboard compliant

ATTACHMENTS: Site plan, sign elevation, letter of appeal, letter of determination.



Variance Petition No. V07-008

HEARING & MEETING DATES

Design Review Board

February 27, 2007

Board of Zoning Appeals Hearing

March 8, 2007 (Deferred)

April 12, 2007

APPLICANT/PETITIONER INFORMATION

Property Owners

Francis Shillinglaw

Petitioner

Donnie Chapman
Capital Design Group, LLC

Representative

Nathan V. Hendricks, III

PROPERTY INFORMATION

Address, Land Lot,
and District

Ison Road (17 0025 LL042)
Land Lot 25, District 17

Council District

2

Frontage and Area

1,471.98 feet of frontage along the west side of Roswell Road (SR 9) and
1,563.53 feet of frontage along the east side of Ison Road. The subject property
has a total area of 24.028 acres.

Existing Zoning and
Use

CUP (Community Unit Plan District) conditional under RZ06-019, currently
vacant.

Overlay District

Suburban District

Interim 2025

Comprehensive
Future Land Use Map
Designation

R1-2 Residential (1 to 2 units per acre)

INTENT

The applicant is seeking three (3) primary variances:

1. Variance from Section 12B.4 of the Zoning Ordinance to allow relief of the Suburban Overlay District streetscape standard requirements along the Ison Road frontage of the subject property.
2. Variance from Section 8.2.4 of the Sandy Springs Subdivision Regulations to allow relief of the required sidewalk improvements along the Ison Road frontage of the subject property.
3. Variance from Chapter 16 of the Sandy Springs Code of Ordinances to allow relief of the required sidewalk improvements along the Ison Road frontage of the subject property.

All variances for the construction of a single-family development.

At the March 8, 2007 Board of Zoning Appeals (BZA) meeting, application V07-008 was deferred until the April 12, 2007 BZA meeting to allow proper advertising of the variances being requested. Originally, the applicant only requested variance #1 and following staff review it was determined that variances #2 and #3 were required and needed to be advertised.

Parcel Map

Ison Road Tract



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

CASE NUMBER: V07-008

STAFF CONTACT: Patrice S. Ruffin, AICP, Planner II, 770-206-1513
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ANALYSIS:

The site is located on Ison Road, approximately 425 feet north of the intersection with Roswell Road (SR 9). The subject property has 1,471.98 feet of frontage along the west side of Roswell Road (SR 9) and 1,563.53 feet of frontage along the east side of Ison Road. The subject property is located within the Suburban District of the Sandy Springs Overlay District.

The owner/developer received rezoning approval from the Sandy Springs Mayor and City Council on September 5, 2006 for a 48-lot single-family residential subdivision to be developed at a density of 2 units per acre (RZ06-019/CV06-011). The plan includes four estate lots and 44 cluster lots, with a common area at the northeast side of the site. The estate lots will have minimum lot areas of 30,000 square feet, while the cluster lots will have minimum lot areas of 6,900 square feet.

During the rezoning process, neighbors of the Grogan's Bluff subdivision asked the applicant to not provide the required sidewalks along the Ison Road frontage of the development. The applicant will be providing streetscape improvements along the Roswell Road (SR 9) frontage as required. At this time, the owner/developer is requesting a three (3) primary variances as follows:

1. Relief from the Sandy Springs Overlay District streetscape requirements along the Ison Road frontage of the subject property (Section 12B.4, *Streetscape Standards*).
2. Relief from the required sidewalk improvements of the Sandy Springs Subdivision Regulations along the Ison Road frontage of the subject property (Section 8.2.4, *Sidewalks*).
3. Relief from the sidewalk improvements as required by the Sandy Springs Code of Ordinances along the Ison Road frontage of the subject property (Chapter 16, *Streets and Sidewalks*).

The applicant is proposing to continue the streetscape improvements along the Roswell Road (SR 9) frontage of the property immediately to the south of the subject property in lieu of providing the streetscape along the Ison Road frontage of the property.

The variance request was heard by the Design Review Board at the February 27, 2007 meeting. The Board recommended approval of the request as submitted.

DEPARTMENT COMMENTS:

The staff held a Focus Meeting on February 7, 2007 at which the following departmental comments were provided:

BUILDING AND DEVELOPMENT DIVISION	Sandy Springs Engineering Plan Reviewer	▪ There are no development requirements that need to be addressed at this time.
	Sandy Springs Building Plan Reviewer	▪ There are no building requirements that need to be addressed at this time.
	Sandy Springs Landscape Architect/Arborist	▪ There are no landscape requirements that need to be addressed at this time.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	▪ There are no fire requirements that need to be met
TRANSPORTATION	Sandy Springs Department of Transportation, Planning Engineer	▪ Public Works opposes the waiver to sidewalk requirements along the frontage of this development. Accommodating pedestrian traffic is in the best interest of the health, safety, and welfare of the community. The lack of any sidewalks poses a significant safety risk to pedestrians, especially those with disabilities or limited mobility. This development is also within less than a quarter mile of public transportation, via the MARTA stop at the intersection of Ison Road and Roswell Road. A waiver of sidewalk would force pedestrian traffic wishing to use transit, thereby lowering the City's overall roadway congestion, to walk in unsafe conditions. Public Works has no objection to the installation of sidewalks that do not meet the overlay district standards (<i>6 foot sidewalk</i>). However, if the overlay standard is waived, the development would be expected to construct sidewalk to the City's standard detail, which meets the requirements of the American's with Disabilities Act (ADA) (<i>5 foot sidewalk</i>).

Standards for Consideration

The applicant has indicated a justification for variance based on the following standard(s):

1. *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.*

The applicant indicates that continuing the streetscape along the Ison Road frontage of the project would not be in keeping with the general flavor, look and feel of those neighborhoods immediately surrounding the property. Additionally, the applicant contends that the neighbors of the Grogan's Bluff subdivision have specifically requested that these improvements not be continued along Ison Road so that the character of the neighborhood is maintained. The applicant has indicated that the request is in harmony with the general purpose and intent of the Zoning Ordinance and would cause no detriment to the public.

Recommended Condition(s)

Should the Board decide to approve the variance petition, Staff recommends the following condition(s):

1. That the site be developed in accordance with the proposed site plan provided by the applicant dated received February 28, 2007 by the Department of Community Development.
2. The owner/developer shall install streetscape along the Roswell Road (SR 9) frontage of the property immediately to the south of the subject site as shown on the site plan received by the Department of Community Development dated February 28, 2007.

ATTACHMENTS: Revised Letter of appeal dated received February 20, 2007
 Letter of appeal dated received February 28, 2007
 Overall site plan dated received February 28, 2007
 Detailed streetscape plan dated received February 28, 2007



Variance Petition No. V07-027

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

April 12, 2007

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Northridge Square, LLC	Lamar Advertising Co.	Adam Webb

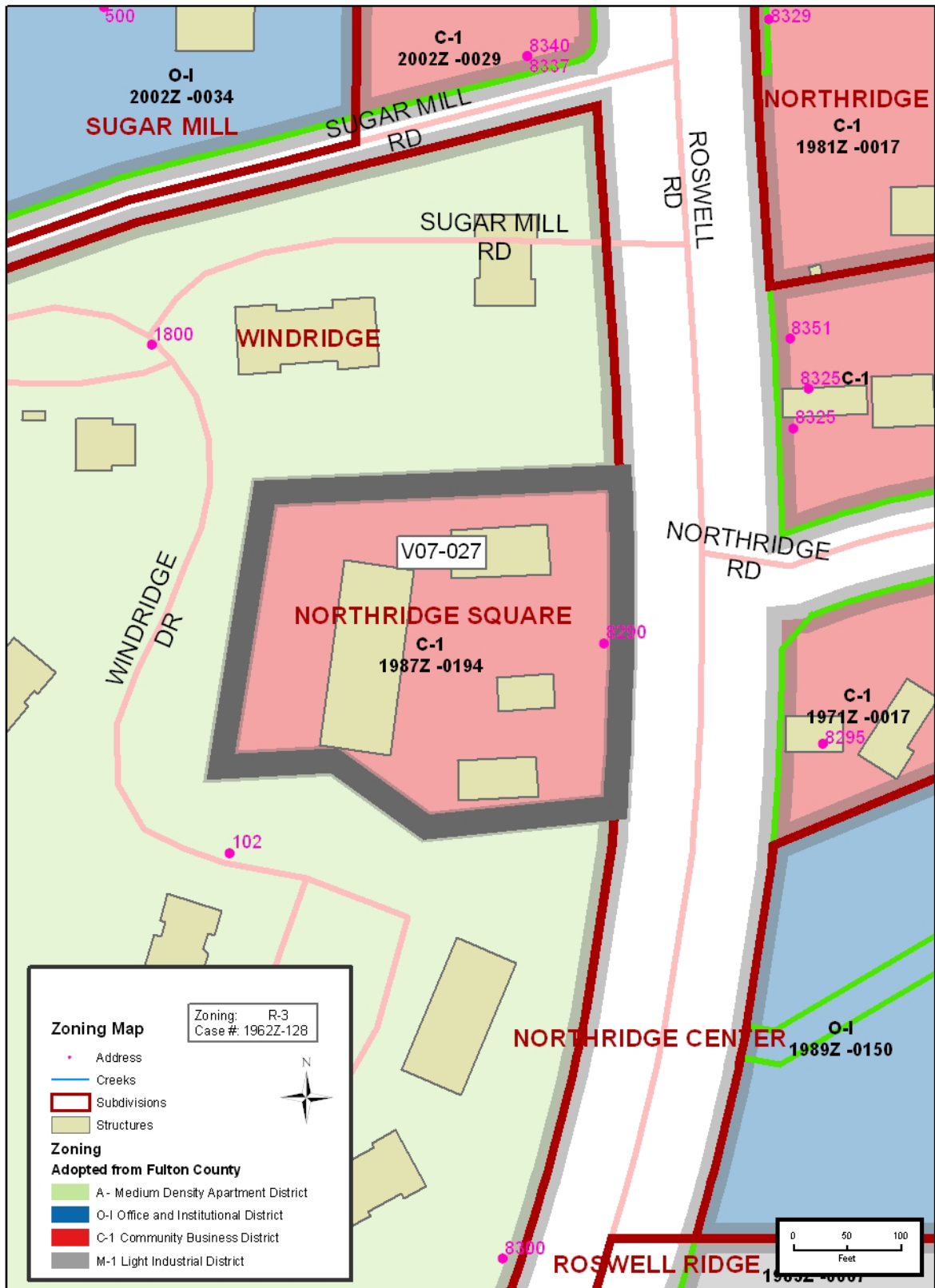
PROPERTY INFORMATION

Address, Land Lot, and District	8290 Roswell Road (SR 9) Land Lot 25, District 17
Council District	2
Frontage and Area	317 feet of frontage along the west side of Roswell Road (SR 9). The subject property has a total area of approximately 2.14129 acres
Existing Zoning and Use	C-1 (Community Business District) conditional under Fulton County Zoning case Z87-0194.
Overlay District	Suburban District
Interim 2025 Comprehensive Future Land Use Map Designation	LWN (Live-Work Neighborhood)
INTENT	

The applicant is seeking a primary variance from the Zoning Ordinance: 1) A variance from Article 33, *Signs*, Section 33.6, *General Sign Regulations*, Section 33.6.3, *Nonconforming Signs*, A., to allow an existing nonconforming sign to be structurally altered to change the manner in which the sign currently operates. Specifically, the applicant is proposing to convert the sign from a tri-vision system to an LED display.

Parcel Map

8290 Roswell Road



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

CASE NUMBER: V07-027

STAFF CONTACT: Michael Zehner
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ANALYSIS:

Lamar advertising Co. is the owner of a billboard located at the intersection of Northridge and Roswell Road (SR 9) in Sandy Springs. The sign has been in this location for several years. On October 25, 2006 staff observed that there were men working on the sign using torches to cut existing structural elements. It was observed that the sign, which consisted of a tri-message system, had been removed, and only metal structural elements remained, as shown on the attached pictures. In addition the existing structural braces had been removed and placed on the ground, new elements had been installed, and work was continuing to be performed on the structure, as one worker was cutting pieces of the existing structure with a torch and band saw.

The foreman on site, Mr. Fitzgerald, informed the staff that they had removed existing supports and were installing new supports, to convert the tri-vision panels to an LED display.

Staff has determined that the existing sign is a nonconforming sign, as it is a billboard located in the C-1 zoning district which disallows billboards. Additionally, staff has determined that the proposed change from a tri-message sign to an LED display will require structural alterations to the existing sign structure, evidenced by the work observed by staff on October 25, 2006. Section 33.6.3.A prohibits alterations in any manner to a nonconforming sign. While staff has advised the applicant that a rezoning would be necessary to make the subject billboard legal, and thereby allow the proposed change, the applicant has decided to file the subject variance application in an attempt to authorize a change in the nonconforming status of the billboard.

Department Comments

The staff held a Focus Meeting on March 7, 2007 at which the following departmental comments were provided:

BUILDING AND DEVELOPMENT DIVISION	Sandy Springs Engineering Plan Reviewer	▪ No comments
	Sandy Springs Building Plan Reviewer	▪ No comments
	Sandy Springs Landscape Architect/ Arborist	▪ No comments
FIRE DEPT.	Fulton County Fire Inspector	▪ No comments
TRANSPORTATION	Sandy Springs Department of Transportation, Planning Engineer	▪ No comments
	Georgia Department of Transportation	▪ No comments

Standards for Consideration

According to the Zoning Ordinance, the Board of Zoning Appeals shall only grant a primary variance if it satisfies one of the three (3) variance considerations. The applicant has indicated that the grounds for a variance from Section 33.6.3.A. "will be that there are "extraordinary and exceptional conditions" which "create an unnecessary hardship for the owner while causing no detriment to the public"." It is the assumption of the staff that the applicant's intent is to justify the variance under consideration (B.), as follows:

- 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;*

The applicant's Letter of Intent, or any additional material supplied by the applicant, does not indicate what size, shape or topographical issues are possessed by the subject property which may be defined as "extraordinary and exceptional conditions" and thereby create an unnecessary hardship for the owner. Additionally, the applicant does not indicate what hardships will befall the owner if the provisions of the Zoning Ordinance are applied. The applicant does, however, discuss that it would be "unfortunate if Lamar is precluded from modernizing its sign to a more upscale and attractive appearance" and that "the entire community will suffer a hardship if this potentially invaluable benefit is excluded from the City".

Recommended Condition(s)

Should the Board choose to approve the application, Staff recommends the following condition(s):

1. This approval shall allow the change from a tri-message system to an LED display only. This approval shall not be construed to grant conforming status to the billboard before or after the proposed alterations.

ATTACHMENTS: Site plan, sign elevation, letter of appeal.