



Variance Petition No. V11-037

HEARING & MEETING DATES

Board of Appeals Hearing

October 13, 2011

APPLICANT/PETITIONER INFORMATION

Property Owner

Anthony Ress

Petitioner

Anthony Ress

Representative

Anthony Ress

PROPERTY INFORMATION

Address, Land 4970 Spruce Bluff Drive

Lot(s), and District Land Lot 336, District 6

Council District 1

Frontage 113.92 feet of frontage along the east side of Spruce Bluff Drive and 226.8 feet of frontage along the west side of Nesbit Ferry Road.

Area 0.74 acres

Existing Zoning and Use The lot is zoned R-2A (Single Family Dwelling District) conditional under Fulton County zoning case 2001Z-0059. 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 (pool, pool deck, and pool equipment) in the front yard along Nesbit Ferry Road. The applicant is requesting two (2) primary variances from the Zoning Ordinance:

- 1) Variance from Section 6.3.3.I of the Zoning Ordinance to allow an accessory structure (pool, pool deck, and pool equipment) in the front yard.
- 2) Variance from Section 19.3.15.1 of the Zoning Ordinance to allow for a pool, pool deck, and pool equipment in the front yard.

ENFORCEMENT ACTION

There is no record of code enforcement action or active building permits on this property.

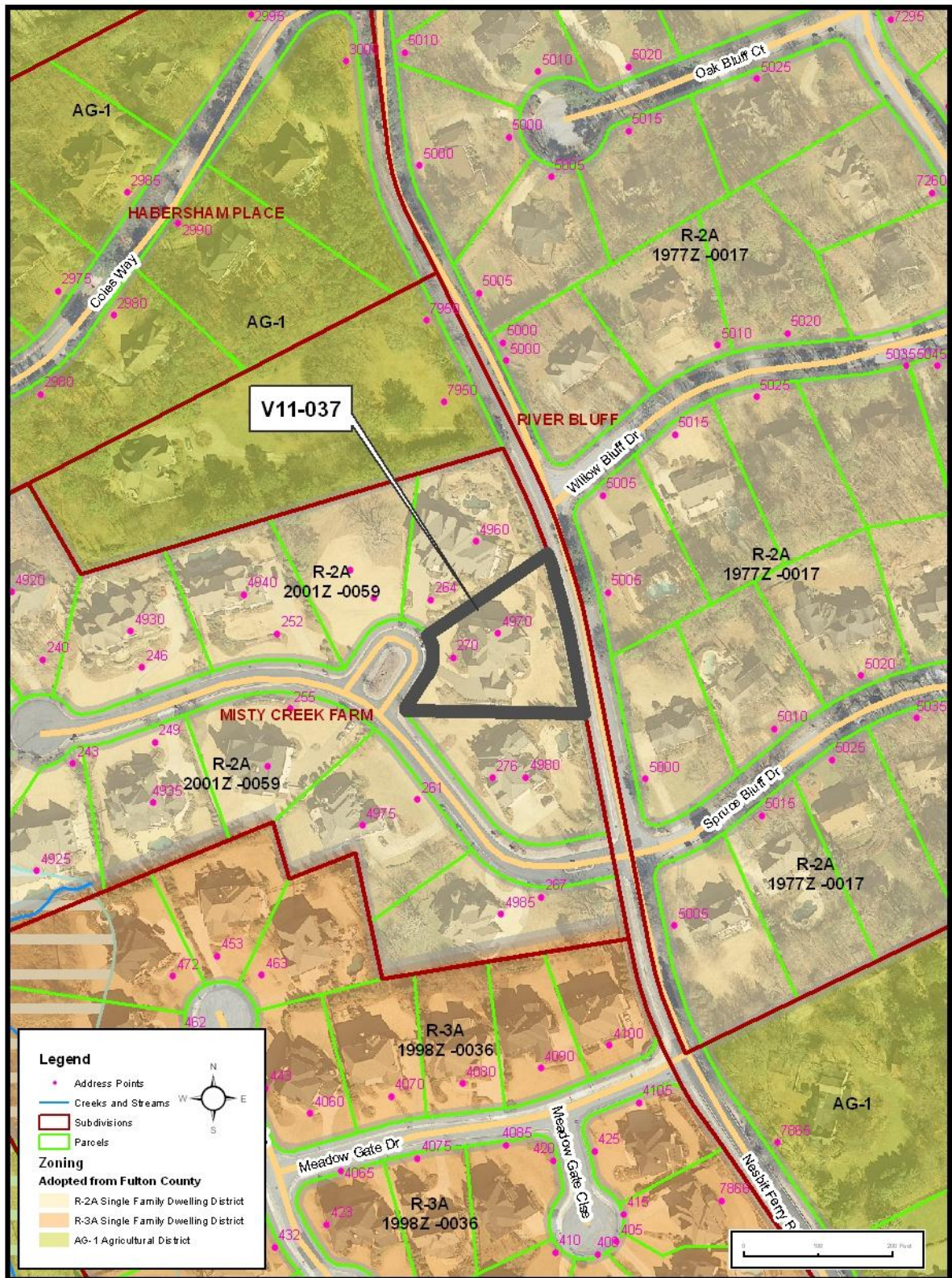
DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V11-037 - 1) APPROVAL

V11-037 - 2) APPROVAL

Parcel Map

4970 Spruce Bluff Drive



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

CASE NUMBER: V11-037

STAFF CONTACT: Taylor Baxter, Planning and Zoning 770-206-1514
E-mail: taylor.baxter@sandyspringsga.org

Finding of Fact:

The applicant is requesting relief from Section 6.3.3.I of the Zoning Ordinance to allow an accessory structure in a front yard, and from Section 19.3.15.1 of the Zoning Ordinance to construct a pool, pool deck, and pool equipment in a front yard. The property has two (2) frontages. The house orients toward Spruce Bluff Drive, making the frontage on Nesbit Ferry Road, which is the proposed location for the pool, the rear of the house. The rear of the property is bordered by a five (5) foot high brick wall screening the view of the back of the house from Nesbit Ferry Road.

The applicant has submitted a site plan (exhibit 1) indicating the subject property to have approximately 113.92 feet of frontage along the east side of Spruce Bluff Drive and 226.8 feet of frontage along the west side of Nesbit Ferry Road. The proposed pool and pool deck are shown behind the existing house, approximately twenty (20) feet from the east property line.

Staff notes that property has two (2) street frontages causing the lot to have two (2) front yards and no rear yard. The Zoning Ordinance requires swimming pool, pool decks and pool equipment to be located in side or rear yard and at least ten (10) feet from the property lines.

Staff notes the surrounding properties are zoned R-2A (Single Family Dwelling District) on all sides. Additionally, the double street frontage affects the two adjacent properties to the north and south, both of which have pools in yards fronting on Nesbit Ferry Road. The nearest neighboring structures to the north and south are approximately 100 and 125 feet from the proposed pool location.

Site History

The property does not have any enforcement history and does not currently have any active building permits.

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 proposed pool, pool deck and pool equipment would be located in the rear of the house adjacent Nesbit Ferry Road and would comply with the setback standards in the Zoning Ordinance. This yard is to the rear of the dwelling structure, which fronts on Spruce Bluff Road. The yard fronting upon Nesbit Ferry includes a five (5) foot high stone wall approximately three (3) feet from the property line, which would block the view of the pool from the public right of way. Adjacent properties to the north and south, which also have double frontages along Spruce Bluff Drive and Nesbit Ferry Road, have pools in their yards along Nesbit Ferry Road. 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 subject parcel does exhibit extraordinary and exceptional conditions related to its shape. The property is trapezoidal in shape and has two (2) street frontages causing the lot to have two (2) front yards and no rear yard. The yard adjacent to Nesbit Ferry is surrounded by a brick wall screening this portion of the yard from the road and neighboring properties. Installing a pool, pool deck and pool equipment behind the existing house would not create a detriment to the public. Therefore, staff is of the opinion this condition has 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 September 7, 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	▪ There are no Arborist 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 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 22.3.1 of the Zoning Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance (s) request.

Recommended Condition(s)

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

1. The proposed lot shall be in accordance with the proposed site plan, provided by the applicant dated received August 1, 2011 by the Department of Community Development, for the variance herein, showing a pool and pool deck in the yard fronting upon Nesbit Ferry Road.

ATTACHMENTS:

Letter of appeal
Site plan (exhibit A)
Applicant photographs (Exhibit B)
Staff photographs (Exhibit C)



Variance Petition No. V11-041

HEARING & MEETING DATES

Board of Appeals Hearing

October 13, 2011

APPLICANT/PETITIONER INFORMATION

Property Owner
Pulte Group

Petitioner
Pulte Group

Representative
Kenneth Wood

PROPERTY INFORMATION

Address, Land Lot(s), and District
5614 Glenridge Drive
Land Lot 38, District 17

Council District
5

Frontage
787.93 feet of frontage along the north side Glenridge Drive.

Area
The subject property has a total area of approximately 13.42 acres.

Existing Zoning and Use
The lot is zoned TR (Townhouse Residential District) under Fulton County zoning case Z04-0138. The property is currently being developed with new townhouses.

Overlay District
Suburban District

2027 Comprehensive Future Land Use Map Designation
R8-12 Residential (8 to 12 units per acre)

INTENT

The applicant is proposing to construct a 324 foot two (2) tier retaining wall in a landscape strip adjacent to I-285. The applicant is requesting one (1) primary variance:

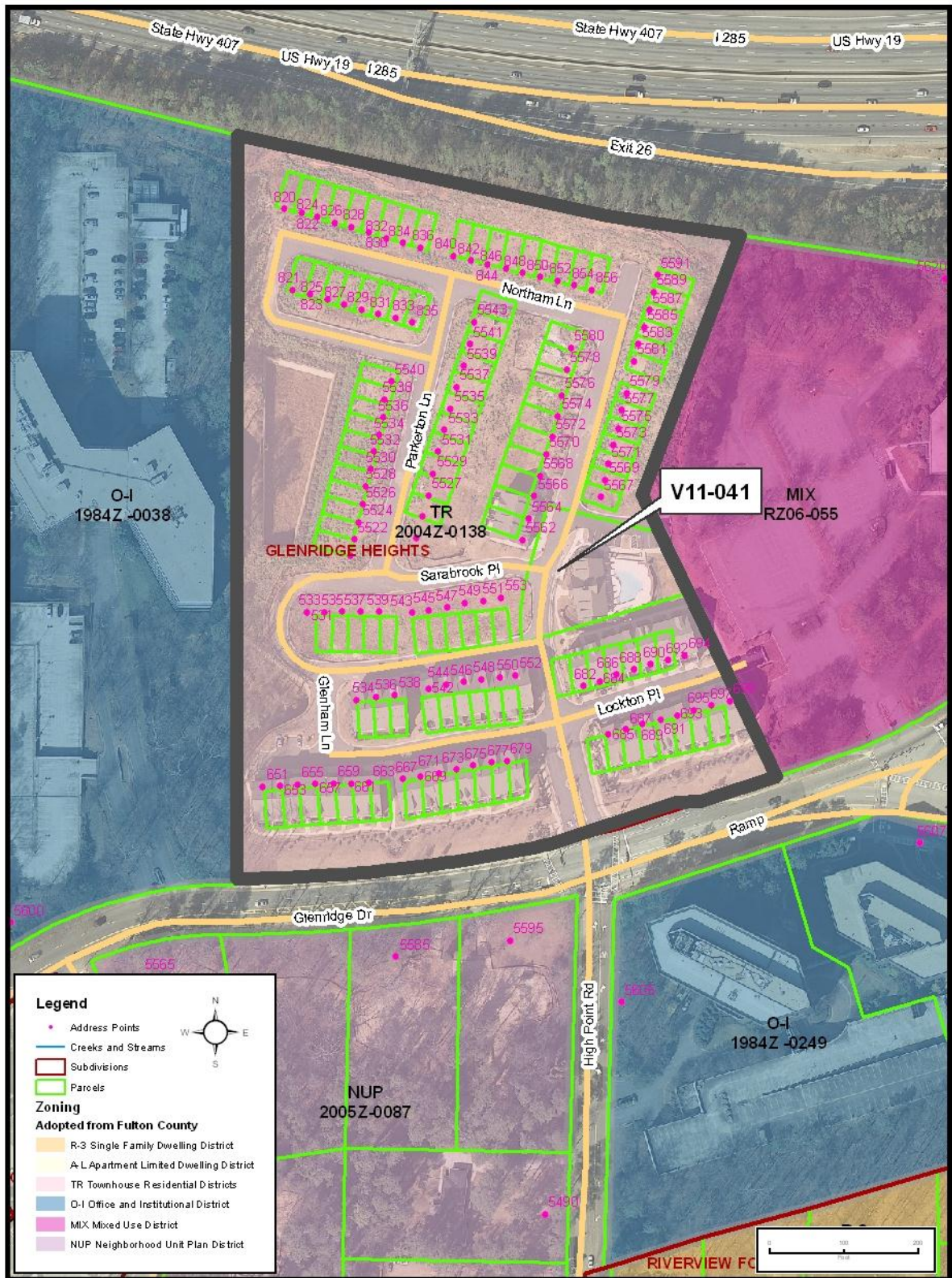
- 1) Variance from Section 4.23.1 to allow a retaining wall to be located in the forty (40) foot landscape strip adjacent to I-285.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V11-041 - 1) APPROVAL CONDITIONAL

Parcel Map

5614 Glenridge Drive



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

CASE NUMBER: V11-041

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

Findings of Fact

The applicant has submitted a site plan (exhibit 1) indicating the subject property to have approximately 787.93 feet of frontage along the north side Glenridge Drive. The property is trapezoidal in shape and has 13.42 acres. The property slopes from south (Glenridge Drive) to north (I-285). The topography drops approximately fifty (50) feet to the center of the site and then rises approximately sixty (60) feet to the north (I-285). The site gets steeper with towards the north property line. The elevation changes from 1058 to 1076 a difference of eighteen (18) feet over a distance of approximately forty (40) feet. The site plan also show the proposed 324 foot two (2) tier retaining wall in a landscape strip adjacent to I-285. The applicant has also submitted a landscape plan (exhibit 2) to re-vegetate the disturbed landscape strip. The retaining walls would not be visible from I-285.

The surrounding lots in the immediate vicinity are zoned I-285 to the north, MIX (Mixed Use District) to the east, O-I (Office and Institutional District) and NUP (Neighborhood Unit Plan District) to the south; and O-I (Office and Institutional District) to the west.

Site History

Variance V1106-128 was approved at the December 14, 2006 Board meeting. The Board approved the reduction of the forty (40) foot front yard setback to thirty-four (34) feet to allow the encroachment of proposed decks (exhibit 3). The site currently has multiple building permits for the construction of townhomes. There are currently no code violations on the property.

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.

1) Variance from Section 4.23.1 to allow a retaining wall to be located in the forty (40) foot landscape strip adjacent to I-285.

The applicant is proposing to construct a 324 foot two (2) tier retaining wall in a landscape strip adjacent to I-285.

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,

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on October 13, 2011

Finding:

Relief from this requirement is in harmony with the intent of the Zoning Ordinance and would not be a detriment to the public as the landscape strip will be replanted and the retaining walls will only be seen from the subject property. Also, the tapering off the walls will soften the view compared to a solid wall set at the edge of the landscape strip. 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 subject parcel does exhibit extraordinary and exceptional conditions related to its topography. The topography gets steeper along the north property line (I-285). The elevation changes from 1058 to 1076 a difference of eighteen (18) feet over a distance of approximately forty (40) feet. The installation of the retaining walls and the re-vegetation plans will help stabilize the slope. Therefore, staff is of the opinion this condition has 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 September 7, 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 Plan Review Engineer requirements that need to be addressed at this time.
	Sandy Springs Landscape Architect/ Arborist	If the board decides to approve, the variance could be conditioned to meet the landscape strip planting requirements.
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 has reviewed the request relative to the variance standards contained in Section 22.3.1 of the Zoning Ordinance. Based upon this review, staff recommends **APPROVAL** **CONDITIONAL** of the variance(s) request.

Recommended Condition(s)

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

1. The proposed lot shall be in accordance with the proposed site plan, provided by the applicant dated received August 4, 2011 by the Department of Community Development, for the variance(s) herein, where necessary, to accommodate the portion of the encroachment (s) only.
2. The proposed lot shall be in accordance with the proposed landscape plan, provided by the applicant dated received September 7, 2011 by the Department of Community Development, subject to the arborist approval.
3. To allow a two (2) tier retaining wall to be located within the forty (40) foot Landscape Strip.

ATTACHMENTS:

Letter of appeal

Site plan (exhibit 1)

Landscape plan (exhibit 2)

Approval letter V06-128 (exhibit 3)

Sample photographs of what proposed will look like



Variance Petition No. V11-035

HEARING & MEETING DATES

Board of Appeals Hearing

September 8, 2011

October 13, 2011

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Paula & Clay Cibula	Paula & Clay Cibula	Linda MacArthur

PROPERTY INFORMATION

Address, Land	6230 Mountain Brook Lane
Lot(s), and District	Land Lot 167, District 17
Council District	3
Frontage	Approximately 119.99 feet of frontage along Mountain Brook Lane
Area	The subject property has a total area of approximately 27,530 Square feet.
Existing Zoning and Use	The lot is zoned R-2A (Single Family Dwelling District) under Fulton County zoning case Z65-0080.
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	R 1-2 Residential (1 to 2 units per acre)

INTENT

The applicant is proposing to construct an addition and a new wood deck on the rear of the existing house. The proposed construction would add an additional 408 square feet of impervious surface. The addition and wooden deck would encroach twenty-three (23) feet with a limit of disturbance of two (2) feet. The applicant is requesting one (1) primary variance from the Stream Buffer Protection Ordinance:

1. Section 109-225.a 2 of the Stream Buffer Protection Ordinance to reduce the twenty (25) foot impervious surface setback to 0 feet (twenty-three (23) feet for proposed addition and wooden deck and two (2) feet for limits of disturbance totaling twenty-five (25) feet).

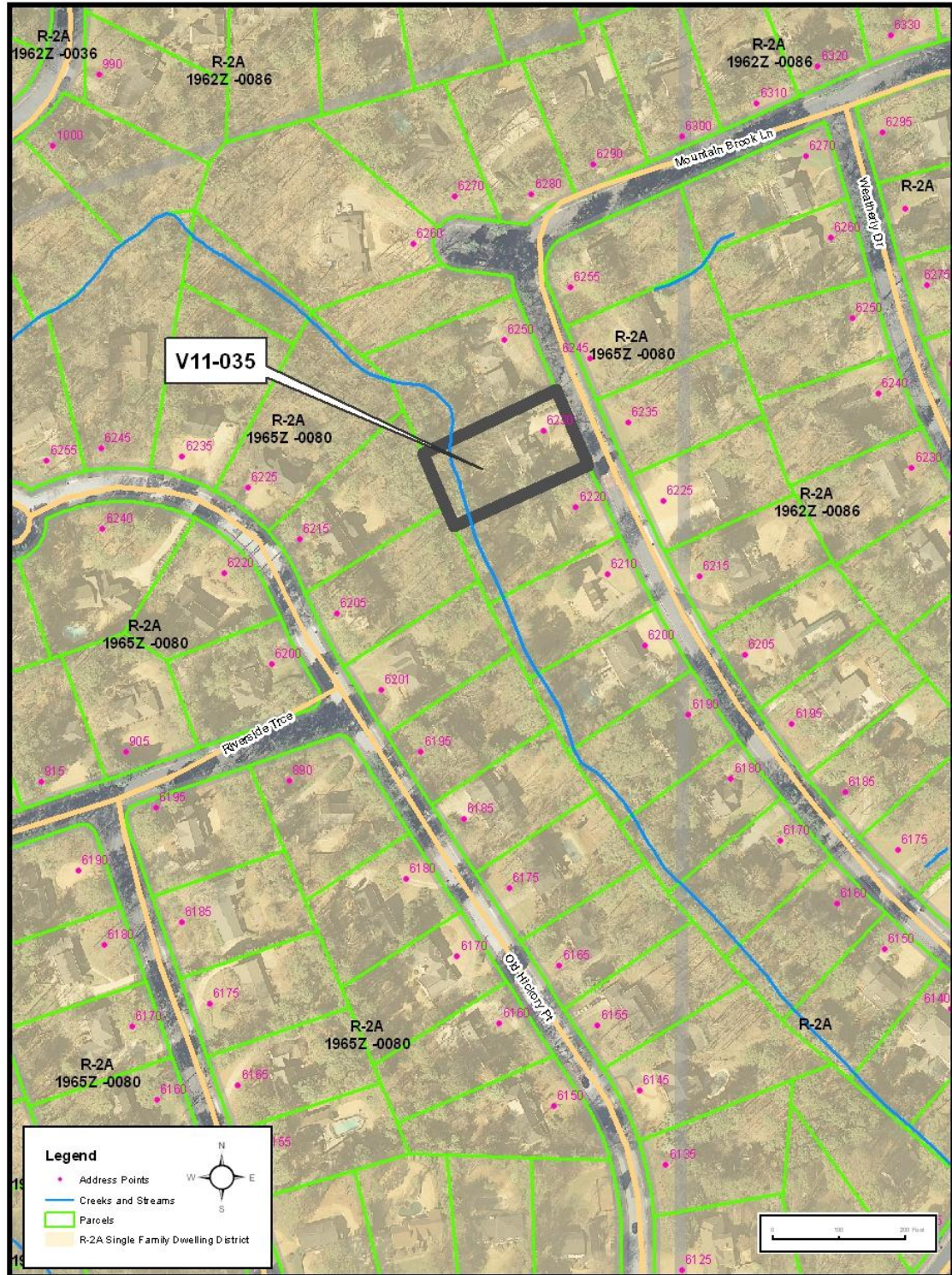
At the September 8, 2011 Board of Appeals meeting the Board deferred the application for the above variance to the October 13, 2011 Board of Appeal meeting to give the applicant an opportunity to submit elevations, location of flo-wells and clarify the square footage of encroachment.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION V11-035- 1) APPROVAL CONDITIONAL

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on September 8, 2011

Parcel Map

6230 Mountain Brook Lane



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

CASE NUMBER: V11-035

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

Findings of Fact

The applicant has submitted a site plan (exhibit 1) indicating the subject property to have 119.99 feet of frontage on Mountain Brook Lane. The property is rectangular in shape. The house is set towards the front of the lot at the front setback line. The house also spans the width of the buildable area of the lot. There is a stream bisecting the rear of the lot. The property has a drainage easement crossing the northeast corner on the lot and continuing sixty-six (66) feet along the north property line. A sanitary sewer easement runs parallel to the creek. The proposed addition and deck are shown encroaching into the twenty-five (25) foot impervious setback. The site slopes approximately twenty (20) feet from Mountain Brook Lane at an elevation 910 to the creek at an elevation of 890. The table below shows the breakdown of impervious surface square footage encroaching into the 25 foot impervious setback.

Total Site Area	27,530 SF
Existing Impervious Surface	769 SF
Proposed Additional Impervious Surface	408 SF
Total Impervious Surface	1177 SF

The property is located in the river corridor. The Atlanta Regional Commission (ARC) has done a preliminary review of the proposed structure and determined that the property has enough impervious area to construct the addition and deck in the proposed location. The applicant has submitted documentation from the ARC (exhibit 2) breaking down the available impervious surface in each category.

Staff notes the surrounding properties are zoned R-2A (Single Family Dwelling District), the same zoning as the subject property. The stream buffer affects the adjacent properties and the Chattahoochee River Corridor also affects the properties to the north.

Site History

The site currently does not have any code violations or building permits.

Standards for Consideration

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 buffer covers approximately half of the buildable area. The property is rectangular in shape slopes approximately twenty (20) feet from Mountain Brook Lane at an elevation 910 to the creek at an elevation of 890. The house is set towards the front of the lot at the front setback line. The house also spans the width of the buildable area of the lot. There is not a portion of the lot that can be built on without a variance. Based on these reasons, staff is of the opinion this condition has 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 buffer covers approximately half of the buildable area of property. The house is currently just sitting off the front setback. There is not a portion of the lot that can be built on without a variance. The stream buffers and setbacks limit the buildable area on the property. 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 rectangular in shape. There is a stream bisecting the rear of the lot. The property has a drainage easement crossing the northeast corner on the lot and continuing sixty-six (66) feet along the north property line. A sanitary sewer easement runs parallel to the creek in the rear. The site slopes approximately twenty (20) feet from Mountain Brook Lane at an elevation 910 to the creek at an elevation of 890. There is currently no riparian vegetation outside the twenty-five (25) foot state buffer. 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:

All stream buffers on the property have been identified (exhibit 1). There is a stream bisecting the rear of the lot. The buffer occupies approximately half of the subject property buildable area.

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

Findings:

The proposed addition, deck and limits of disturbance encroach twenty-five (25) feet into the impervious setback. The house is set towards the front of the lot at the front setback line. The house also spans the width of the buildable area of the lot. There is not a portion of the lot that can be built on without a variance. The creek and buffers occupy approximately half of the subject property's buildable area. The location and extent of the proposed buffer and setback intrusions have been identified on the site plan (exhibit 1).

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

Findings:

Alternative designs have not been discussed with staff regarding this property. However, the existing house takes up the available buildable area of the lot. Any extension of the existing house would require either a stream buffer or setback variances. 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 in the twenty-five (25) foot state buffer and then is grassed to the house. Staff has recommended a condition to install flo-wells subject to the Chief Engineers approval to mitigate the additional impervious surface.

Department Comments

The staff held a Focus Meeting on August 3, 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	Building addition, including deck additions, shall comply with the city Floodplain Management Ordinance. Currently, compliance on this lot includes requiring that additions, including deck additions, only extend over ground surface that is higher in elevation than 896ft above sea level, and that any new proposed finished floor be at 899ft above sea level or higher. Should the variance be approved, the building permit applicant will need to locate the floodplain boundary and demonstrate that the proposed addition complies with the Floodplain Management Ordinance.
	Sandy Springs Landscape Architect/ Arborist	If the Board decides to approve the application it could be conditioned to provide a suitable method to minimize runoff.
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 has reviewed the request relative to the variance standards contained in Section 109-225 of the Sandy Springs Code of Ordinances. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance requests to encroach into the stream buffer.

Recommended Condition(s)

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

- 1) The subject addition and deck shall be constructed in accordance with the proposed site plan, provided by the applicant dated received October 3, 2011 by the Department of Community Development, for the variance herein, showing a reduction in the twenty-five (25) foot impervious surface setback to zero (0) feet to allow an addition and deck, where necessary to accommodate the portion of the encroachment only.
- 2) Flo-wells or equivalent system shall be installed outside the fifty (50) foot undisturbed natural buffer to mitigate storm water run-off from the addition subject to the approval of the Sandy Springs Chief Engineer.
- 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
Proposed Site plan (exhibit 1)
Site Plan existing conditions
Elevations
Topography
E-mail from ARC (exhibit 2)
Photographs



Variance Petition No. V11-036

HEARING & MEETING DATES

Board of Appeals Hearing

APPLICANT/PETITIONER INFORMATION

Property Owner
Christelle Alves

Petitioner
Christelle Alves

Representative
Tom Williams

PROPERTY INFORMATION

Address, Land Lot(s), and District
275 Heard's Ferry Road
Land Lot 133, District 17

Council District
3

Frontage
Approximately 50.80 feet of frontage Heard's Ferry Road

Area
The subject property has a total area of approximately 4.04 acre.

Existing Zoning and Use
The lot is zoned R-1 (Single Family Dwelling District)

Overlay District
N/A

2027

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

INTENT

The applicant is proposing to combine two (2) existing flag lots into one (1) flag lot. Variance requests 2 through 5 are to bring existing structures into compliance. There are currently no variance requests for new structures on the property. The applicant is requesting five (5) primary variances from the Zoning Ordinance:

1. Variance from Section 4.2.10 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.
2. Variance from Section 6.1.3.B to reduce the front yard setback from 60' to 39' to allow an existing storage building.
3. Variance from Section 6.1.3.C to reduce the side yard setback from 25' to 9' to allow an existing shed.
4. Variance from Section 6.1.3.D to reduce the rear setback from 50' to 15' to allow an existing shed.
5. Variance from Section 6.1.3.I to allow existing accessory structures to be located in the front yard.

Staff provided the BOA with incorrect information when stating that any accessory structure

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on October 13, 2011

which obtained a variance would require an additional variance if the property owner were to remove and rebuild the structures. Once the variance is granted the property owner could remove and rebuild the structure in the same footprint and location. Staff felt that the BOA may have used this information when making its decision to approve this variance. Therefore, the City Attorney is requiring that V11-036 275 Heards Ferry Road be reheard at the October 13, 2001 Board of Appeals meeting.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V11-036- 1) APPROVAL CONDITIONAL

275 Heards Ferry Road



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

CASE NUMBER: V11-036

STAFF CONTACT: Linda Abaray, Senior Planner 770-206-1577
E-mail: linda.abaray@sandyspringsga.org

Findings of Fact

The applicant has provided a site plan (exhibit 1) showing the subject properties as two (2) lots. Both properties are existing flag lots. The applicant is proposing to combine the two (2) existing flag lots into one (1) flag lot. The site plan also shows four (4) accessory structures located in the front yard, a storage building encroaching in the new front yard setback, a batting cage and storage shed encroaching in the side yard setback, and storage shed encroaching in the rear yard setback. All variance requests are to allow existing structures to remain in their current locations. The building map (exhibit 3) shows the approximate distance between the existing accessory structures and the adjacent dwelling units. The closest distance is approximately 212 feet from the house located at 277 Mount Vernon Highway. The structures are heavily screened with vegetation surrounding the property.

Staff notes the request to combine two (2) flag lots into one (1) requires to be brought into compliance with current regulations. The Zoning Ordinance requires a lot width to be achieved at a distance no greater than sum of the required minimum front yard/setback and minimum rear yard/setback. In addition, the minimum lot width shall be maintained through the depth of the buildable area. The required lot width would need to be met at 110 feet continue through the buildable area. Also, accessory structures are required to be located within the buildable area of the lot and not in a front yard.

The surrounding lots in the immediate vicinity are R-3 (Single Family Dwelling District) and AG-1 (Agricultural District) to the north; R-1 (Single Family Dwelling District) to the east; R-1 (Single Family Dwelling District) and R-2A (Single Family Dwelling District) south and R-1 (Single Family Dwelling District) west. The property to the west of the subject property is also flag lot.

Site History

The property does not have any enforcement history and currently has a building permit for construction on the existing house and a fence permit. The new construction does not require any variances and is not part of this application.

Standards for Consideration

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,

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on October 13, 2011

Finding:

Relief from this requirement is in harmony with the intent of the Zoning Ordinance. The intent of the Zoning Ordinance is to promote health and general welfare. The combination on two (2) existing flag lots into one (1) would not be a detriment to the public. Additionally, all structures on the site currently existing. The property is heavily wooded and most of the accessory structures are screened from neighboring properties. The lots currently are platted as two (2) separate flag lots. The lot to the west of the subject property is a flag. 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 subject parcel does exhibit extraordinary and exceptional conditions related to its shape and topography. However, the size, shape and topography do not create a hardship in relation to the requested variances. Therefore, 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 August 3, 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 Engineering requirements that need to be addressed at this time.
	Sandy Springs Landscape Architect/ Arborist	There are no Landscape Architect/ Arborist requirements that need to be addressed at this time.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	There are no Fire Department 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 22.3.1 of the Zoning Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance(s) request.

Recommended Condition(s)

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

1. The proposed lots shall be in accordance with the proposed site plan, provided by the applicant dated received July 20, 2011 by the Department of Community Development, for the variance(s) herein, showing the combination of 17-0133- LL-096 (275 Heard's Ferry Road) and 17-0123- LL-048.
2. 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.
3. To reduce the front yard setback from 60' to 39' to allow an existing storage building.
4. To reduce the side yard setback from 25' to 9' to allow an existing shed and batting cage.
5. To reduce the rear setback from 50' to 15' to allow an existing shed.
6. To allow existing accessory structures to be located in the front yard.

ATTACHMENTS:

Letter of appeal
Site plan existing conditions (Exhibit 1)
Site plan proposed conditions (exhibit 2)
Building Map (exhibit 3)
Photo key
Photos



Variance Petition No. V11-038

HEARING & MEETING DATES		
Design Review Board September 13, 2011		Board of Appeals October 13, 2011
APPLICANT/PETITIONER INFORMATION		
Property Owners	Petitioner	Representative
Prado LLC	Prado LLC	Nathan V. Hendricks, III
PROPERTY INFORMATION		
Address, Land Lot, and District	5560 Roswell Road (SR 9) Land Lot 91, District 17	
Council District	6	
Frontage and Area	1,415 feet of frontage along the west side of Roswell Road (SR 9) and 1,460 feet of frontage along the south side of Lake Placid Drive. The subject property has a total area of 24.3 acres (1,058,508 SF).	
Existing Zoning and Use	C-1 (Community Business District) conditional under RZ10-007 currently developed with a retail shopping center.	
Overlay District	Main Street District	
Interim 2027 Comprehensive Future Land Use Map Designation	Living-Working Community (LWC)	
INTENT		

The applicant is requesting a primary variance from the Zoning Ordinance:

- 1) Variance from Section 33.26.H.2.a, Wall Signs
 - a. To allow for a second wall sign (on the east elevation of the building) for a business without street frontage.

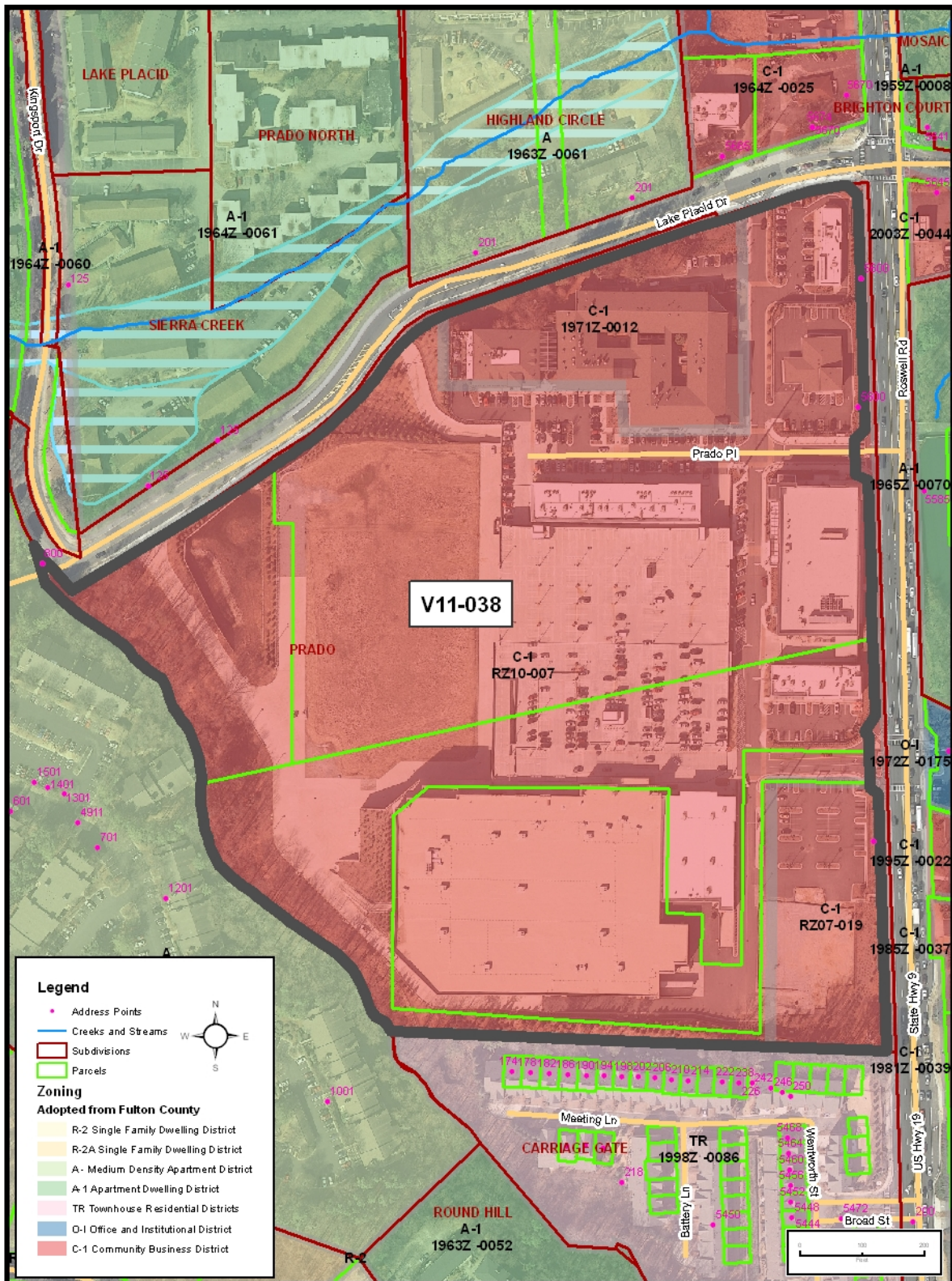
DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION V11 - 038- 1) a. APPROVAL CONDITIONAL

DESIGN REVIEW BOARD RECOMMENDATION

The petition was heard at the September 13, 2011 Design Review Board meeting. The Board recommended Approval (5-0,Porter,Mobley,Landeck,Ealick-Anderson, and Gregory for; Richard absent; Lichtenstein not voting.) with the following condition: The top of parking lot shade trees shall not be cut-off.

Parcel Map

5560 Roswell Road



CITY OF SANDY SPRINGS DEPARTMENT OF COMMUNITY DEVELOPMENT

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on October 13, 2011

VARIANCE ANALYSIS

CASE NUMBER:

V10-038

STAFF CONTACT:

Cristina Nelson, City Planner 770-206-1516

E-mail: cnelson@sandyspringsga.gov

The subject site is located at 5560 Roswell Road 1/3 mile south of I-285. The property is zoned C-1 (Community Business District) under zoning case RZ10-007 and is located within the Main District of the Sandy Springs Overlay. The property contains approximately 24.3 acres and is commonly known as The Prado Shopping Center.

The subject of this variance is an existing one story building housing Staples. The Staples building is uniquely located to face inward to the project so that the sign location on the north elevation is perpendicular to the adjoining public road frontage (Roswell Road). The Applicant is requesting a variance to include signage on the east elevation of the building in order to provide this business visibility from the main public right-of-way (Roswell Rd.)

The zoning ordinance provides (Section 33.26H.2.a):

Wall Signs (amended 04/21/09, TA09-002, Ord. 2009-04-19).

- a. *Wall signs are permitted on street-facing walls (including windows and doors). Businesses without a street on which there is frontage, but which have exterior entrances to the building, are entitled to one wall sign on the exterior wall of the business. Wall sign(s) shall not exceed the smaller of five percent (5%) of the applicable wall area or one hundred eighty (180) square feet, confined to the upper thirty (30) feet of the facade. Wall signs shall not have changeable copy unless approved as a marquee sign.*

The applicant has indicated that the purpose for this variance is mainly to provide signage visibility for the business as signage installed otherwise would be obscured by the surrounding buildings. The Staples building sits approximately 90 feet above the existing grades along the Lake Placid frontage. When viewed from the north, there are existing trees, the existing Prado building, and the new shops and parking deck sited along the hill in front of the store. This signage also helps pedestrians and motorists alike, to locate this business once they enter this vertically integrated site from all directions. It is necessary to provide proper visibility for businesses from all points and entries of the development. In addition the applicant states, "the signage that is available to Staples and that is currently installed is insufficient. Specially, the monument panel on the southerly monument sign on Roswell Road is so small, so close to the ground and so obscured by landscaping that it is completely ineffective". Staples proposes to eliminate the Roswell Road monument sign panel and in its place to install a side building sign.

The applicant's proposed sign is a non-illuminated reverse channel letter to be mounted flush to a panel which will be flush with the wall. The applicant's building elevation contains a total of 4,416 square feet of wall area. Per Section 33.26.H.2. Wall Signs, of the Sandy Springs Zoning

Ordinance, are permitted up to 5% of the total wall area, or 180 square feet maximum. The applicant is proposing to install a sixty-four (64) square foot wall sign.

SITE HISTORY

Staff notes that in 2009 the same variance was requested pursuant to V09-027. The request was recommended for approval by the Design Review Board, conditioned to the removal of The Staples panel on the monument sign which is located on the southernmost entrance, and it was approved by the Board of Appeals with the following conditions:

1. Allow a wall sign on the east elevation of the building, to be installed pursuant to the sign detail and building elevation depicting the sign location (Exhibit 1), submitted by the applicant, and dated received May 29, 2009 by the Department of Community Development.
2. That the wall sign located on the East elevation of the building shall not exceed sixty-four (64) square feet of sign area, be installed pursuant to the sign detail (Exhibit 1), submitted by the applicant, dated received May 29, 2009 by the Department of Community Development.
3. That the wall sign located on the East elevation of the building shall be non-illuminated reverse channel letters pursuant to the sign detail (Exhibit 2), submitted by the applicant, and dated received May 29, 2009 by the Department of Community Development.
4. The wall sign will be limited to two (2) years or less being removed by September 30, 2011 and Staples signage on the monument signs shall be removed. If added back to the monument signs the wall sign shall be removed.

The applicant did not use the approved variance. Explanation: "Following the 2009 variance approval Staples became extremely concerned over one of the conditions of approval to which they had agree and originally felt was acceptable. Specifically condition 4 limiting the wall sign to two (2) years or less and the requirement that Staples' tenant panel on the ID monument signs be removed was a condition, upon reflection, that would frustrate the purpose of seeking the second wall sign.

In evaluating their long term plans for their location at The Prado Shopping Center, Staples felt that the second wall sign needed to be permanent in duration and not have to be taken down after two (2) years. Staples felt that it would be dishonest to proceed under that approval only to come back and request what is being requested under the pending variance request".

Standards for Consideration

Zoning Ordinance

- 1) Variance from Section 33.26.H.2.a. to allow for an additional wall sign on a non street facing wall where only one is permitted.

Section 33.12.D. Standards

The standards which shall be considered for granting a variance from the standards of this Article shall be only the following:

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on October 13, 2011

1. *The topography of the lot on which the sign is located or to be located renders it impossible to comport with the strict standards of this Article.*

Findings:

The unique site layout, quantity of new and existing businesses and the vertical nature of this project, as dictated by the topography and existing natural features, create many challenges for using signage effectively to promote vehicular and pedestrian awareness. The proposed wall sign on the east elevation of the building is intended to provide visibility to Staples. This sign as proposed will also help pedestrians and motorists alike, to locate this business once they enter this vertically integrated site from all directions. Therefore, based on these reasons the staff is of the opinion this standard has been satisfied.

2. *The natural features of the lot on which the sign is located or to be located, or of the land immediately adjacent to the lot, impairs the visibility of the sign such that it cannot be seen.*

Findings:

Relief, if granted, would not cause detriment to the public good or impair the purpose and intent of the zoning ordinance, as the request would result in a proportional and commercially reasonable level of signage for the store. Viewing this building from the North, because the design of the site, with an integrated orientation of multiple retail buildings, the existing conditions of the trees and the parking deck, the ability to capture visibility and identification of this business is limited. Viewing this building from Roswell Road the only identification there is for STAPLES is the tenant panel on the monument sign that because its proximity to the ground is obscured by the landscaping making this sign totally useless. Therefore, based on these reasons the staff is of the opinion this standard has been satisfied.

Department Comments

The staff held a Focus Meeting on September 7, 2011 at which time the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT DIVISION	Sandy Springs Building Officer Plan Review	▪ No Comments
	Sandy Springs Development Plan Review Engineer	▪ No Comments
	Sandy Springs Landscape Architect/ Arborist	▪ No Comments
FIRE DEPT.	Sandy Springs Fire Protection Engineer	▪ No Comments
TRANSPORTATION	Sandy Springs Transportation Planner	▪ No Comments
	Georgia Department of Transportation	▪ No Comments

Conclusion

The purpose of the sign ordinance is to encourage the effective use of signs as a means of communication; to improve traffic and pedestrian safety. Signs are a necessary component of a commercial environment.

Staff reviewed the request relative to the variance standards contained in Section 33.12.D. of the Zoning Ordinance. Based upon this review, staff recommends:

V11 - 038- 1. APPROVAL CONDITIONAL.

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

1. Allow a wall sign on the east elevation of the building, not exceeding 5% of the applicable wall, to be installed pursuant to the building elevation depicting the sign location, submitted by the applicant, and dated received August 2, 2011 by the Department of Community Development.
2. That the wall sign located on the east elevation of the building shall be non-illuminated reverse channel letters pursuant to the sign detail (Exhibit 1), submitted by the

applicant, and dated received August 2, 2011 by the Department of Community Development.

ATTACHMENTS: Site Plans, Photos, Detail Drawings, and Letter of Appeal.



Variance Petition No. V11-039

HEARING & MEETING DATES

Board of Appeals Hearing

October 13, 2011

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Janizary Investment Properties, LLC	Janizary Investment Properties, LLC	Jeff Causey

PROPERTY INFORMATION

Address, Land Lot(s), and District	5582 & 5584 Julian Place Land Lot 69, District 17
Council District	5
Frontage	Approximately 133.26 feet of frontage on the east side Colton Drive
Area	The subject property has a total area of approximately 1.4 acres.
Existing Zoning and Use	The lot is zoned TR (Townhouse Residential District) under Fulton County zoning case Z03-0154. The property is currently being developed with three (3) single family residences within an existing townhome development.
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	R8-12 Residential (8 to 12 units per acre)

INTENT

The applicant is proposing to construct two (2) decks on new single family construction, which will encroach into the required thirty (30) foot perimeter setback. The proposed decks are attached to the back of the houses. The applicant is requesting one (1) primary variance:

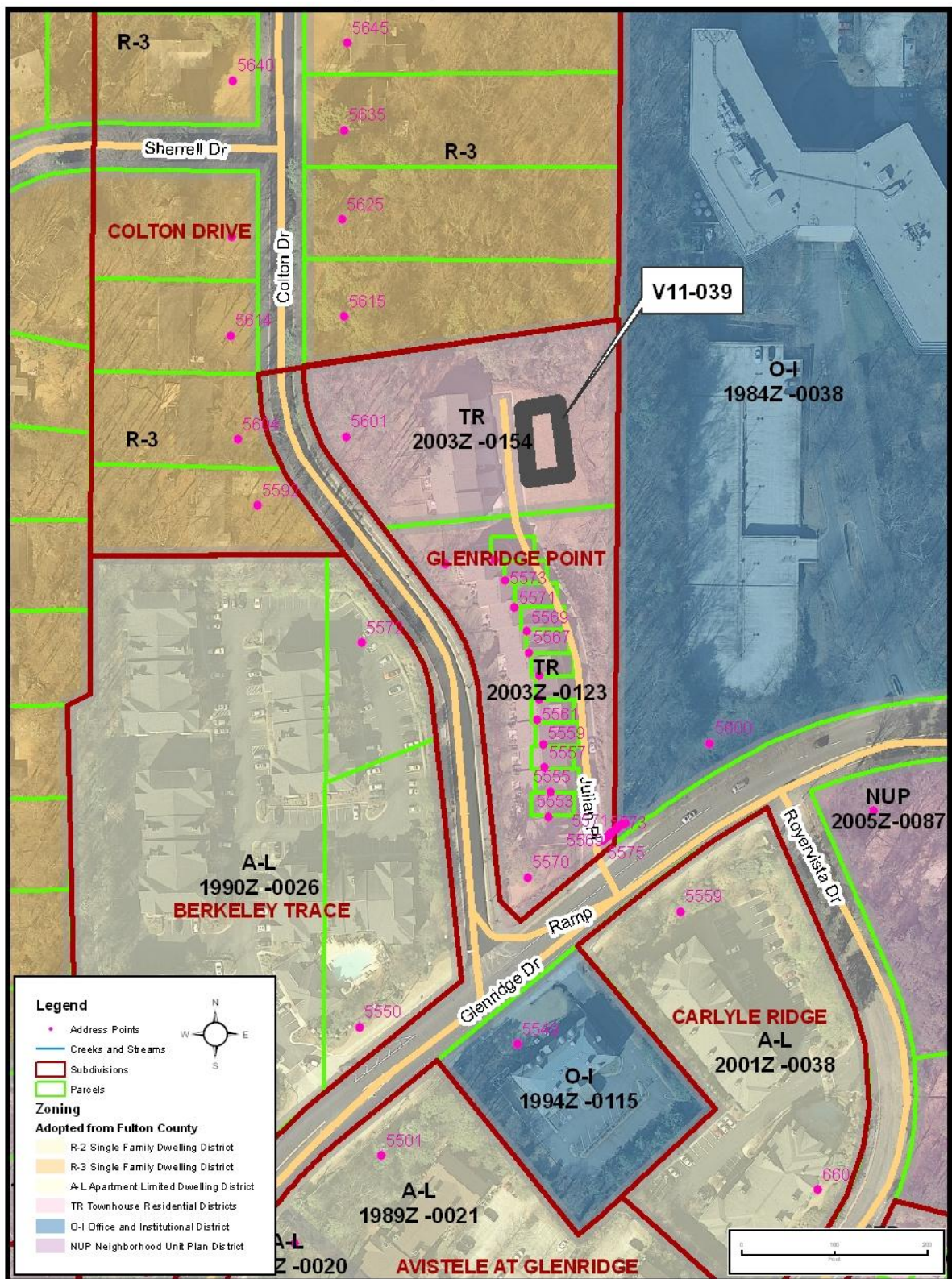
- 1) Variance from Section 7.2.3.G.5. of the Zoning Ordinance to reduce the required thirty (30) foot perimeter setback to twenty (20) feet to allow for the construction of two (2) new decks.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V11-039- 1) APPROVAL CONDITIONAL

Parcel Map

5582, 5584, 5586 Julian Place



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on October 13, 2011

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

CASE NUMBER: V11-039

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

Findings of Fact

The proposed construction is in phase II of the Glenridge Point Subdivision. The property is trapezoidal in shape with approximately 133.26 feet of frontage on the east side Colton Drive. The site slopes from west (Julian Place) to the east (eastern property line). There is approximately a ten (10) foot change in topography. The site plan shows the proposed houses and the two (2) 12x15 proposed decks encroaching into the thirty (30) foot perimeter setback. The north and east perimeters are heavily wooded with natural vegetation.

Staff notes that decks, patios, covered and uncovered porches attached to the main dwelling may extend no more than ten (10) feet into a minimum front or rear yard. However, this is a perimeter setback for TR (Townhouse Residential) and decks are not typically allowed to encroach in this area. The proposed decks would be approximately one hundred (100) feet from the closest structure (parking deck) on the east property line and two hundred fifty (250) feet from an office building.

The surrounding lots in the immediate vicinity are zoned R-3 (Single Family Dwelling District) to the north; O-I (Office and Institutional District) to the east; TR (Townhouse Residential District) to the south; and R-3 (Single Family Dwelling District) to the west. The proposed decks would encroach closest to the eastern property zoned O-I (Office and Institutional District)

Site History

The property does not have any enforcement history and currently has a building permit for construction of three (3) single family residences. The new construction does not require any variances and is not part of this application.

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 as the decks would be located on the rear of the houses. The adjacent property on the east which would be mostly effected by the request is zoned O-I (Office and Institutional District). The office building is a completely enclosed structure and is screened by the natural vegetation between the properties. Additionally, the proposed decks would be approximately one hundred (100) feet from the closest structure (parking deck) and two hundred fifty (250) feet from the office building. 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 subject parcel is similar to other residential properties in the City. The property is trapezoidal in shape. The site slopes from west (Julian Place) to the east (eastern property line). There is approximately ten (10) foot change in topography. However, the size, shape and topography do not create a hardship in relation to the requested variances as defined by the City's Zoning Ordinance. Therefore, 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 September 7, 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 Engineer requirements that need to be addressed at this time.
	Sandy Springs Landscape Architect/ Arborist	There are no Arborist 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 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 22.3.1 of the Zoning Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the variance (s) request.

Recommended Condition(s)

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

1. The proposed lot shall be in accordance with the proposed site plan, provided by the applicant dated received August 2, 2011 by the Department of Community Development, for the variance(s) herein, showing a reduction of the required Thirty (30) foot perimeter setback to twenty (20) feet to allow two (2) decks, where necessary, to accommodate the portion of the encroachment (s) only.

ATTACHMENTS:

Letter of appeal

Site plan (exhibit 1)

Enlargement of the proposal

Aerial photograph

Photographs.



Variance Petition No. V11-040

HEARING & MEETING DATES

Board of Appeals
October 13, 2011

APPLICANT/PETITIONER INFORMATION

Property Owners	Petitioner	Representative
Sandy Springs Marketing, LLC	Marc Brambrut	John Huckaby

PROPERTY INFORMATION

Address, Land Lot, and District	901 Abernathy Road Land Lot 35, District 17
Council District	4
Frontage and Area	235.85' of frontage along the south side of Abernathy Road and 410.71' of frontage along the east side of Barfield Road. The subject property has a total area of 2.6796 acres.
Existing Zoning and Use	MIX (Mixed Use District) conditional under Z99-0101 and ZM05-0042 and ZM07-002 currently developed with a residential, office and retail uses.
Overlay District	Perimeter Community Improvement District (PCID)
Interim 2027 Comprehensive Future Land Use Map Designation	Live-Work Regional (LWR)

INTENT

The applicant is requesting a primary variance from the Zoning Ordinance:

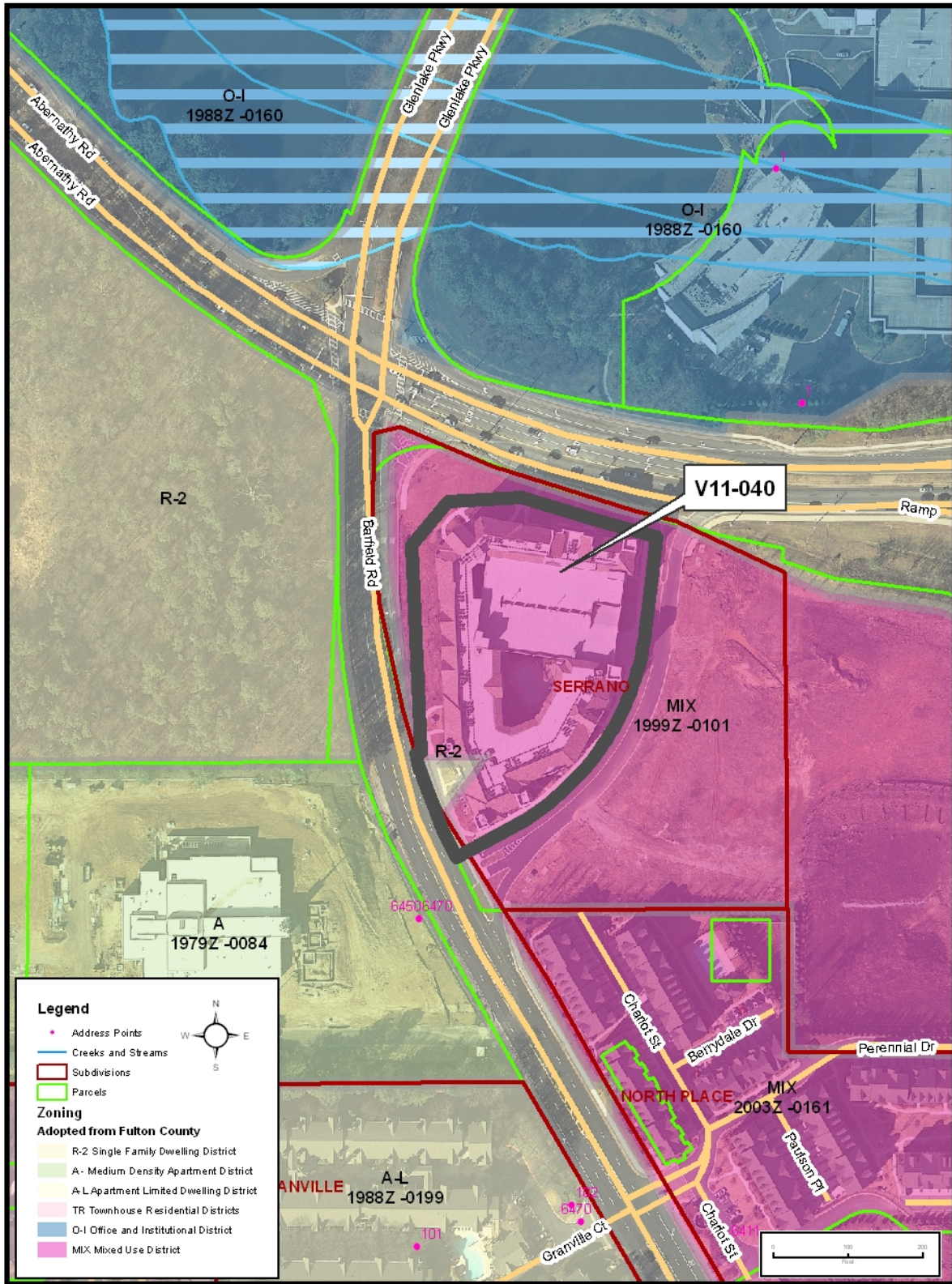
- 1) Variance from Section 33.26.E.13, Signs during Vacancy.
 - a. To allow for sign during vacancy to be displayed for an additional 120 days.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V11 - 038- 1) a.DENIAL

Parcel Map

901 Abernathy Road



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on October 13, 2011

CITY OF SANDY SPRINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
VARIANCE ANALYSIS

CASE NUMBER: V11-040

STAFF CONTACT: Cristina Nelson, City Planner 770-206-1516
E-mail: cristina.nelson@sandyspringsga.org

The site is located at 901 Abernathy Road, situated on the south right-of-way of Abernathy Road at the intersection with Barfield Road. The property is zoned MIX (Mixed Use District) conditional under Fulton County zoning cases Z99-0101, ZM05-0042 and ZM07-002 currently developed with a residential, office and retail uses. The subject property is located within the Perimeter Community Improvement District (PCID)

This property is occupied with a partially empty residential condominium building that was constructed in 2009. The subject of this variance is to allow the owners of the development to market the units for sale for a period of time beyond of what is allowed per code.

The Sandy Springs Zoning Ordinance provides:

Signs during Vacancy (added 04/21/09, TA09-002, Ord. 2009-04-19). Section 33.26.E.13, Developments in which there are vacant lots, units, and/or tenant spaces shall be entitled to one such sign per access-providing street frontage of the development. Signs during Vacancy shall not exceed 16 square feet in area, shall have a maximum height of five (5) feet, and shall not be internally illuminated. Signs during Vacancy shall be allowed for a period not exceeding ninety (90) days with no more than two (2) such 90-day periods being permitted per calendar year per lot. Any development with a permit for a Sign during Vacancy shall be prohibited from having Standard Informational Signs and/or Banners during the 90-day permit period.

The owners of the property are requesting this variance based on the following:

A marketing sign, with contact information and specific notice that the units are for sale is vital to reach as many potential clients as possible, especially given the amount of traffic and potential owners that travel on Abernathy Road and Barfield Road each day; It is an extreme hardship to be unable to advertise on the site that there are units available, and allowing the sign to remain in place is important to ultimately attracting occupants for this building, which is in the best interest of the ownership and the City.

Therefore, this variance is to allow the Signs during Vacancy to remain on the site for a period of 120 days from the day of approval. One on Abernathy Road and one on Barfield Road.

The proposed signs are sixteen (16) square feet sign face and five (5) feet tall.

SITE HISTORY

The property has received notices of violation for displaying temporary signs without permit. Currently the property has two (2) vacancy signs that were displayed with the approval of a sign permit.

The applicant obtained their first Vacancy sign permit (90 days) with an expiration date of May 22, 2011. Because the building was not completely occupied, at the end of the first Vacancy sign permit period (90 days) a second permit was issued. This second permit expired on August 22, 2011.

Standards for Consideration

Request

Variance from Section 33.26.F.13 of the Zoning Ordinance to allow a Sign during Vacancy for an additional 120 days.

Zoning Ordinance, Section 33.12.D. Standards

The standards which shall be considered for granting a variance from the standards of this Article shall be only the following:

1. *The topography of the lot on which the sign is located or to be located renders it impossible to comport with the strict standards of this Article.*

Findings:

The lot does not present any topographical challenges to justify the approval of this variance. Therefore, staff is of the opinion this standard has not been satisfied.

2. *The natural features of the lot on which the sign is located or to be located, or of the land immediately adjacent to the lot, impairs the visibility of the sign such that it cannot be seen.*

Findings:

The natural features of the lot do not present any challenges to justify the approval of this variance. Therefore, staff is of the opinion this standard has not been satisfied.

Department Comments

The staff held a Focus Meeting on September 7, 2011 at which time the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT DIVISION	Sandy Springs Building Officer Plan Review	▪ No Comments
	Sandy Springs Development Plan Review Engineer	▪ No Comments
	Sandy Springs Landscape Architect/ Arborist	▪ No Comments
FIRE DEPT.	Sandy Springs Fire Protection Engineer	▪ No Comments
TRANSPORTATION	Sandy Springs Transportation Planner	▪ No Comments
	Georgia Department of Transportation	▪ No Comments

Conclusion

Recommendation

While the purpose of the sign ordinance is to encourage the effective use of signs as a means of communication and to promote economic development, staff has reviewed the request relative to the variance standards contained in Section 33.12.D. of the Zoning Ordinance. Based upon this review, staff recommends **DENIAL** of the variance request. However, relief, if granted, would not cause detriment to the public good or impair the purpose and intent of the zoning ordinance, as the request would result in a proportional and reasonable level of signage for the Serrano development and would be in harmony with the intent of the zoning ordinance "To convey their message through signs".

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

1. To allow Sign during Vacancy (one per road frontage) for a period of one hundred twenty (120) days beginning on August 23, 2011 and expiring on December 21, 2011.

Attachments:

Letter of Appeal, Sign Detail, Site plan, and Photographs

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on October 13, 2011



Variance Petition No. V11-042

HEARING & MEETING DATES

Board of Appeals Hearing

October 13, 2011

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
The Mystic Consortium, LLC	The Mystic Consortium, LLC	Rebecca Davis Seyfarth Shaw, LLP

PROPERTY INFORMATION

Address, Land Lot(s), and District	4784 Roswell Road (SR 9) Land Lot 94, District 17
Council District	6
Frontage	Approximately 92 feet of frontage on the west side of Roswell Road (SR 9) and approximately 310 feet of frontage on the south side of Mystic Drive.
Area	The subject property has a total area of approximately 27,400 square feet (0.63 acres).
Existing Zoning and Use	The lot is zoned O-I (Office and Institutional District) conditional under zoning case Z02-0015. The property is currently developed with an office building.
2027 Comprehensive Future Land Use Map Designation	Live-Work Neighborhood (LWN)

INTENT

The Mystic Consortium, LLC has filed a Secondary Variance to appeal the Director of Community Development's determination regarding the identification monument sign located at the property.

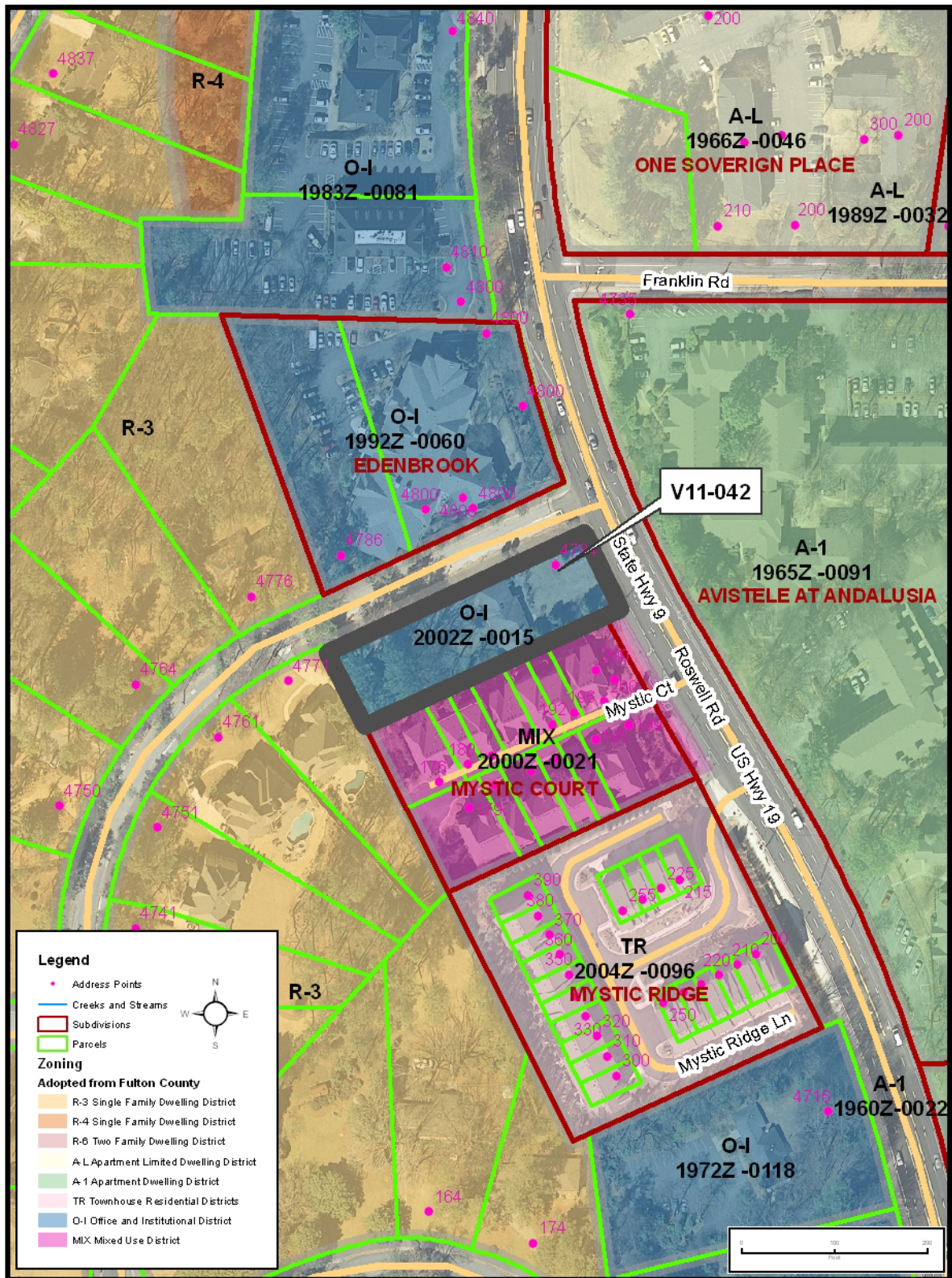
ENFORCEMENT ACTION

1. First Notice of Violation for Abandoned Sign – April 26, 2010 (to original owner)
2. Second Notice of Violation for Abandoned Sign – February 1, 2011 (to current owner)
3. First Citation for Noncompliance with Second Notice of Violation – April 15, 2011
4. Second Citation for Modification of a Nonconforming Sign without a Permit – June 20, 2011

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION V11-042 – 1) AFFIRM DIRECTOR'S DECISION

Parcel Map

4784 Roswell Road



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on October 13, 2011

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

CASE NUMBER: V11-042

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 4784 Roswell Road (SR 9) owned by the Mystic Consortium, LLC. The subject property is currently zoned O-I (Office and Institutional District) conditional under zoning case Z02-0015 and is developed with a vacant office building.

Staff of the Code Enforcement Division of the Department of Community Development issued a notice of violation on April 26, 2010. The notice was issued because the monument sign on the property was determined to be abandoned based on the fact that the prior business, Nationwide Mortgage, ceased operation in January 2010. The notice came back unclaimed, however the new owner was made aware of the violation during an on-site inspection in July 2010. At that time, Code Enforcement notified the new owner that the sign was determined to be abandoned and that any business operation occurring at the property was doing so without a valid business license. The new business, Campbell Dental, did not begin legal operation with an official business license from the city until July 2010, after the verbal notification from Code Enforcement.

Article 33, Signs, of the Zoning Ordinance provides the following:

Abandoned sign (amended 04/21/09, TA09-002, Ord. 2009-04-19). Any sign that contains or exhibits broken panels, visible rust, visible rot, damaged support structures, or missing letters or which is otherwise dilapidated, unsightly, or unkempt, and for which no person accepts maintenance responsibility. Also, any sign associated with a business that has ceased operations for sixty (60) days or more.

A second notice of violation was issued to the property owner on or about February 1, 2011 for noncompliance with the original notice of violation based on the fact that the sign had not been removed and that the property owner had not contacted staff to discuss alternatives. A citation was then issued on April 15, 2011 for noncompliance with the second notice of violation.

On June 14, 2011 several staff members from the Department of Community Development met with the property owner to discuss the signage issue and other permitting questions. At this meeting staff advised the owner that if he desired to maintain the sign he would need to complete a variance pre-application meeting with the appropriate staff and the process for obtaining a variance was outlined. Additionally, staff informed the property owner that modifications could not be made to the nonconforming sign without a permit or variance.

On June 15, 2011, following the meeting with staff and the determination that the sign was abandoned, the Code Enforcement Division found that the sign had been modified by the property owner and was therefore subject to the following section of the sign ordinance as well:

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.

A second citation was issued on June 20, 2011 for modification of a nonconforming sign without a permit. The existing sign does not meet the minimum sign setback requirements and the original design (Exhibit 1) had a reader board included in the design, which is no longer permitted by the Zoning Ordinance. The sign was modified by replacement of the sign face and reader board with a solid panel (Exhibit 2).

On July 8, 2011, after a request for clarification from the property owner, a Letter of Determination (Exhibit 3) was issued citing the code sections above and providing the following options to the owner:

- 1) The sign must be removed pursuant to the citations issued related to the sign; or
- 2) A Secondary Variance may be filed within 30 days of the date of the letter with the City to appeal the determination to the Board of Appeals. As such, any application for Secondary Variance must be filed on or before August 8, 2011.

The property owner submitted the subject Secondary Variance application on August 5, 2011.

Appeal

The Mystic Consortium, LLC, in the Letter of Appeal (Exhibit 4) received on August 5, 2011, indicates that unclear direction from the city on the status of the sign is the basis for the appeal and that the property owner has only done what the city has directed him to do. Therefore, the property owner contends that "the grandfather status of the sign is still in force".

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 – Staff Photographs of Original Sign
- Exhibit 2 – Staff Photographs of Modified Sign and Property
- Exhibit 3 – Letter of Determination dated July 8, 2011
- Exhibit 4 – Letter of Appeal from the Mystic Consortium, LLC and Supporting Documentation dated received August 5, 2011