



Variance Petition No. V09-050

HEARING & MEETING DATES

Board of Appeals Hearing

December 10, 2009

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
John & Kathy Rizzo	John & Kathy Rizzo	Tom Williams

PROPERTY INFORMATION

Address, Land Lot(s), and District	746 Starlight Lane Land Lot 41, District 17
Council District	5
Frontage and Area	79.71 feet of frontage along the west side of Starlight Lane. The subject property has a total area of approximately 0.69 acres.
Existing Zoning and Use	The lot is zoned R-3 (Single-family Dwelling District). The property is currently developed with a residence.
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	R1-2Residential (1-2 units per acre)
INTENT	

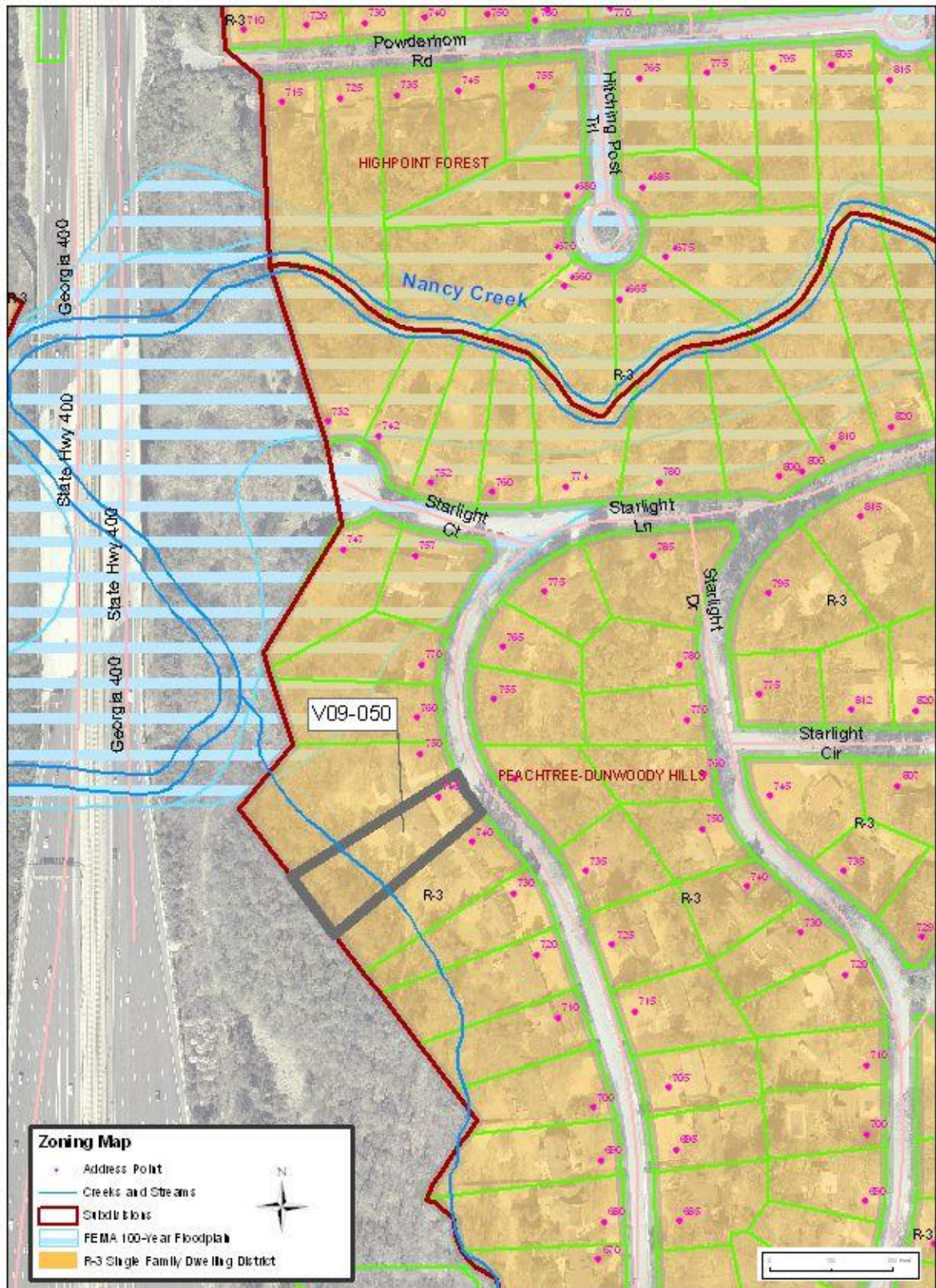
The applicant is requesting one (1) primary variances from the Zoning Ordinance:

- 1) Primary variance from Section 6.4.3.C of the Zoning Ordinance to reduce the required minimum side yard from 10 feet to 6 feet to allow for an addition to a single-family house.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION V09-050 - 1) APPROVAL CONDITIONAL

Parcel Map

746 Starlight Lane



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on December 10, 2009

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

CASE NUMBER: V09-050

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

REQUEST:

The applicant is requesting relief from Section 6.4.3.C of the Zoning Ordinance to reduce the required minimum side yard from 10 feet to 6 feet to allow for the existing attached garage and an addition to a single-family house.

ANALYSIS:

The applicant has provided a site plan indicating the subject property to have 79.71 feet of frontage along Starlight Lane. The lot has 0.69 acres and is trapezoidal in shape. The property is currently developed with a single-family residence. The existing attached garage is encroaching four (4) feet in to the side setback. The proposed addition to the garage is to match the exterior wall of the existing garage. The applicant has indicated the existing home does not have an attic or basement and needs the extra space for storage.

Staff notes that approximately fifty (50) percent of the buildable area is unusable due to the stream buffer that bisects the rear of the property. The front of the property has a significant change in topography.

Staff notes the surrounding lots in the immediate vicinity to the north, east and south have the same R-3 zoning as the subject property. The properties to the west are located in the City of Atlanta and zoned single family residential. The properties are currently undeveloped and boarder GA 400.

Department Comments

The staff held a Focus Meeting on November 4, 2009 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT	Engineering Plan Reviewer	▪ No comments
	Arborist/Landscape Architect	▪ No comments
	Building Plan Reviewer	▪ No comments
FIRE DEPT.	Fire Protection Engineer	Refer to Sandy Spring Fire ordinance Sec. 22-34. Sprinkler protection requirements. (5) All new one-family and two-family dwellings with a fire separation distance of less than 20 feet from another dwelling structure, or closer than ten feet to the property line, must be sprinkled with an approved automatic fire protection system in accordance with NFPA 13D as adopted by the office of the insurance and safety fire commissioner in the kitchen and fuel fired equipment rooms
TRANSPORTATION	Public Works Dept., Transportation Planner	▪ No comments
	Georgia Department of Transportation	▪ No comments

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. The remainder of this portion of the memorandum provides each these variance criteria followed by an analysis by staff:

Section 22.3.1.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,

Staff is of the opinion that relief from this requirement is in harmony with the intent of the Zoning Ordinance and would not be a detriment to the public as adjacent property's have encroachments into the side yard setback. Additionally, the existing house encroaches in to the side setback and the proposed addition will match the existing encroachment. Therefore, staff is of the opinion this condition has been satisfied.

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on December 10, 2009

Section 22.3.1.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,

Staff is of the opinion that the subject parcel is similar to other residential properties in the City. However, the property does exhibit extraordinary and exceptional conditions related to its topography. The subject parcel has a significant change in topography on the east side (front yard) of the property. Due to the topography of the lot and approximately fifty (50) percent of the buildable area be covered by stream buffers an extraordinary and exceptional condition is created resulting in a hardship for the owner of the property as defined by the City's Zoning Ordinance. Therefore, staff is of the opinion this condition is satisfied.

Section 22.3.1.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.

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 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 October 5, 2009 by the Department of Community Development, for the variance(s) herein, showing the addition to the existing house.
2. To reduce the required ten (10) foot minimum side yard setback to six (6) feet, where necessary, to accommodate the portion of the encroachment (s) only.

ATTACHMENTS: Letter of appeal, site plan, letter of support and photographs.



Variance Petition No. V09-054

HEARING & MEETING DATES

Board of Appeals Hearing

December 10, 2009

APPLICANT/PETITIONER INFORMATION

Property Owner
Janet Tiller

Petitioner
Janet Tiller

Representative
Steve Tiller

PROPERTY INFORMATION

Address, Land Lot(s), and District
5600 Claire Rose Lane
Land Lot 134, District 17

Council District
6

Frontage and Area
284.03 feet of frontage along the east side of Claire Rose Lane and 72.04 feet of frontage along the east side of Chestnut Rose Lane. The subject property has a total area of approximately 2.256 acres.

Existing Zoning and Use
The lot is zoned R-2A (Single-family Dwelling District) under Fulton County zoning case Z78-0134. The property is currently developed with a residence.

Overlay District
N/A

2027

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

INTENT

The applicant is subdividing the property into two (2) lots. The subdivision process requires all legal nonconformities to be in compliance. The applicant is requesting two (2) primary variances from the Zoning Ordinance:

- 1) Variance from Section 6.3.3.C to reduce the required minimum side yard from 15 feet to 8 feet to allow for an existing garage.
- 2) Variance from Section 19.3.12.B.1 to allow for an existing pool in the front yard.

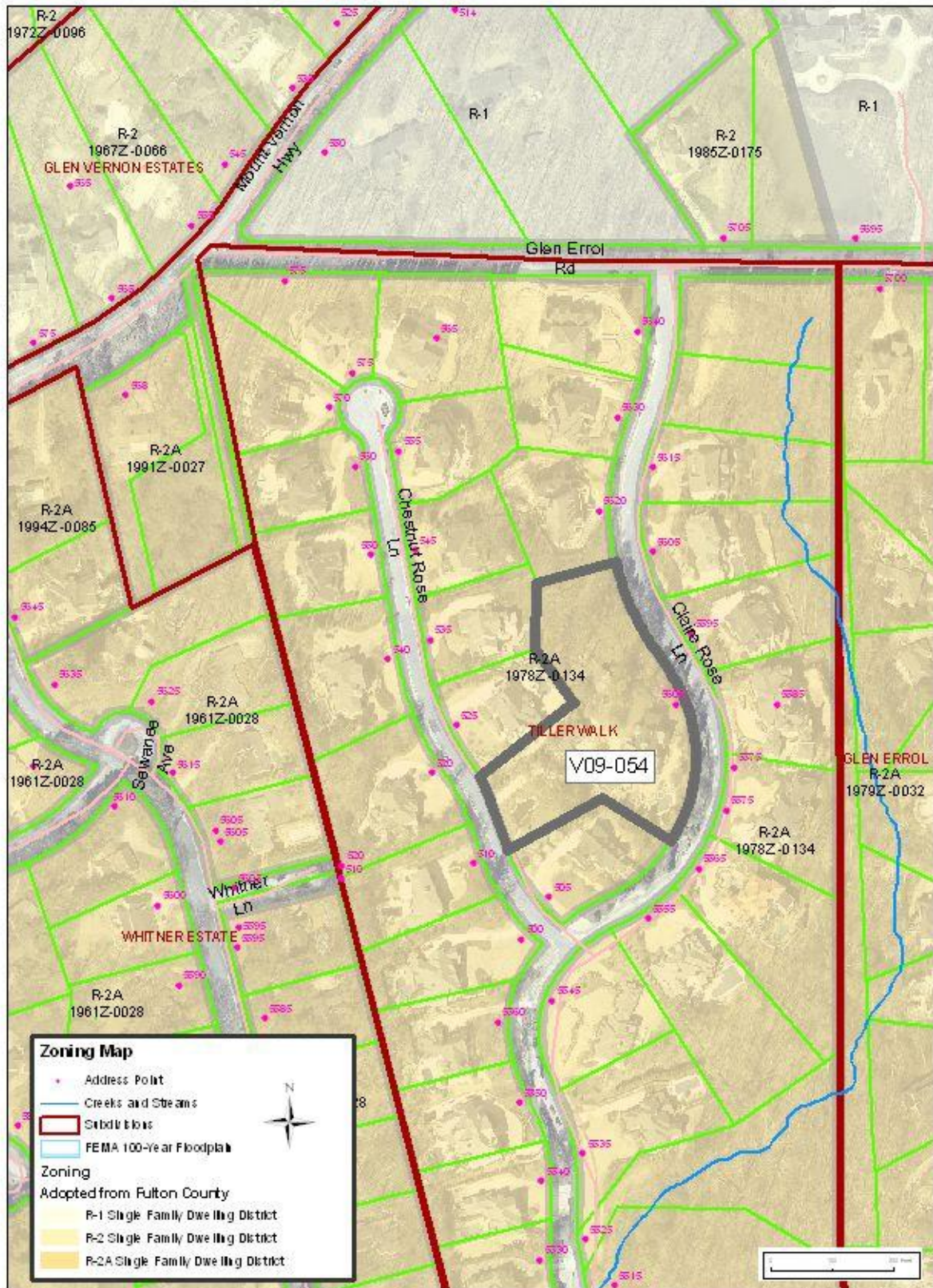
DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V09-054 - 1) APPROVAL CONDITIONAL

V09-054 - 2) APPROVAL CONDITIONAL

Parcel Map

5600 Claire Rose Lane



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on December 10, 2009

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

CASE NUMBER: V09-054

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

REQUEST:

The applicant is requesting relief from Section 6.3.3.C to reduce the required minimum side yard from 15 feet to 8 feet to allow for an existing garage and Section 19.3.12.B.1 to allow for an existing pool in the front yard. The applicant is subdividing the property into two (2) lots. The subdivision process requires all legal nonconformities to be in compliance.

ANALYSIS:

The applicant has provided a site plan indicating the subject property to have two (2) road frontages. Claire Rose Lane has of 284.03 feet of frontage and Chestnut Rose Lane has 72.04 feet of frontage. The lot has an irregular shape. The property is currently developed with a single-family residence, a detached garage, pool and a one story log cabin.

Staff notes the applicant is proposing to subdivide 2.256 acres into two (2) lots. Lot 5 will have 1.485 acres with road frontages on Chestnut Rose Lane and Claire Rose Lane. Lot 4 will have 0.772 acres with a frontage on Claire Rose Lane. All existing structures must be brought into compliance for the plat to be approved. Currently, there are no Fulton County variances indicating the approval of the reduction in the side setback for the existing garage and the existing pool in the front yard. The proposed lots meet all other requirements of R-2A zoning.

Staff notes the surrounding lots in the immediate vicinity are single family homes zoned R-2A, the same zoning as subject parcel. The surrounding lots have an average size of approximately 0.752 acres.

Department Comments

The staff held a Focus Meeting on November 4, 2009 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT	Engineering Plan Reviewer	▪ No comments
	Arborist/Landscape Architect	▪ No comments
	Building Plan Reviewer	▪ No comments
FIRE DEPT.	Fire Protection Engineer	▪ No comments
TRANSPORTATION	Public Works Dept., Transportation Planner	▪ No comments
	Georgia Department of Transportation	▪ No comments

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. The remainder of this portion of the memorandum provides each these variance criteria followed by an analysis by staff:

Section 22.3.1.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,

Staff is of the opinion that 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 current lot was comprised of three (3) parcels. Subdividing the lots in two (2) would be consistent with the lot size of the adjacent properties. Therefore, staff is of the opinion this condition has been satisfied.

Section 22.3.1.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,

Staff is of the opinion that 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.

Section 22.3.1.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.

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 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 October 28, 2009 by the Department of Community Development, for the variance(s) herein, showing the existing detached garage and existing pool , where necessary, to accommodate the portion of the encroachment (s) only.
2. To reduce the required fifteen (15) foot minimum side yard setback to eight (8) feet.
3. To allow the existing pool to be located in the front yard.

ATTACHMENTS: Letter of appeal, site plan, and photographs.



Variance Petition No. V09-048

HEARING & MEETING DATES

Board of Appeals Hearing

November 12, 2009

December 10, 2009

APPLICANT/PETITIONER INFORMATION

Property Owner

Walter Mills

Petitioner

Walter Mills

Representative

Walter Mills

PROPERTY INFORMATION

Address, Land Cameron Valley Court, 17-0206-0011-040

Lot(s), and District Land Lot 206, District 17

Council District 3

Frontage and Area 136.42 feet of frontage along the north side of Cameron Valley Court. The subject property has a total area of approximately 0.743 acres.

Existing Zoning and Use The lot is zoned CUP (Community Unit Plan District) under Fulton County zoning case Z78-0031. The property is currently undeveloped.

Overlay District N/A

2027

Comprehensive Future Land Use R1-2 Residential (1-2 units per acre)

Map Designation

INTENT

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

- 1) Primary variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to 0 feet to pipe the creek to allow for the construction of a single-family house.

At the November 12, 2009 BOA meeting the Board deferred the application to the December 10, 2009 BOA meeting to discuss alternative locations for the house to preserve the fifty (50) foot undisturbed buffer.

The applicant has requested the case be deferred until the January 14, 2010 meeting to allow more time to consult an architect regarding alternative locations for the house.

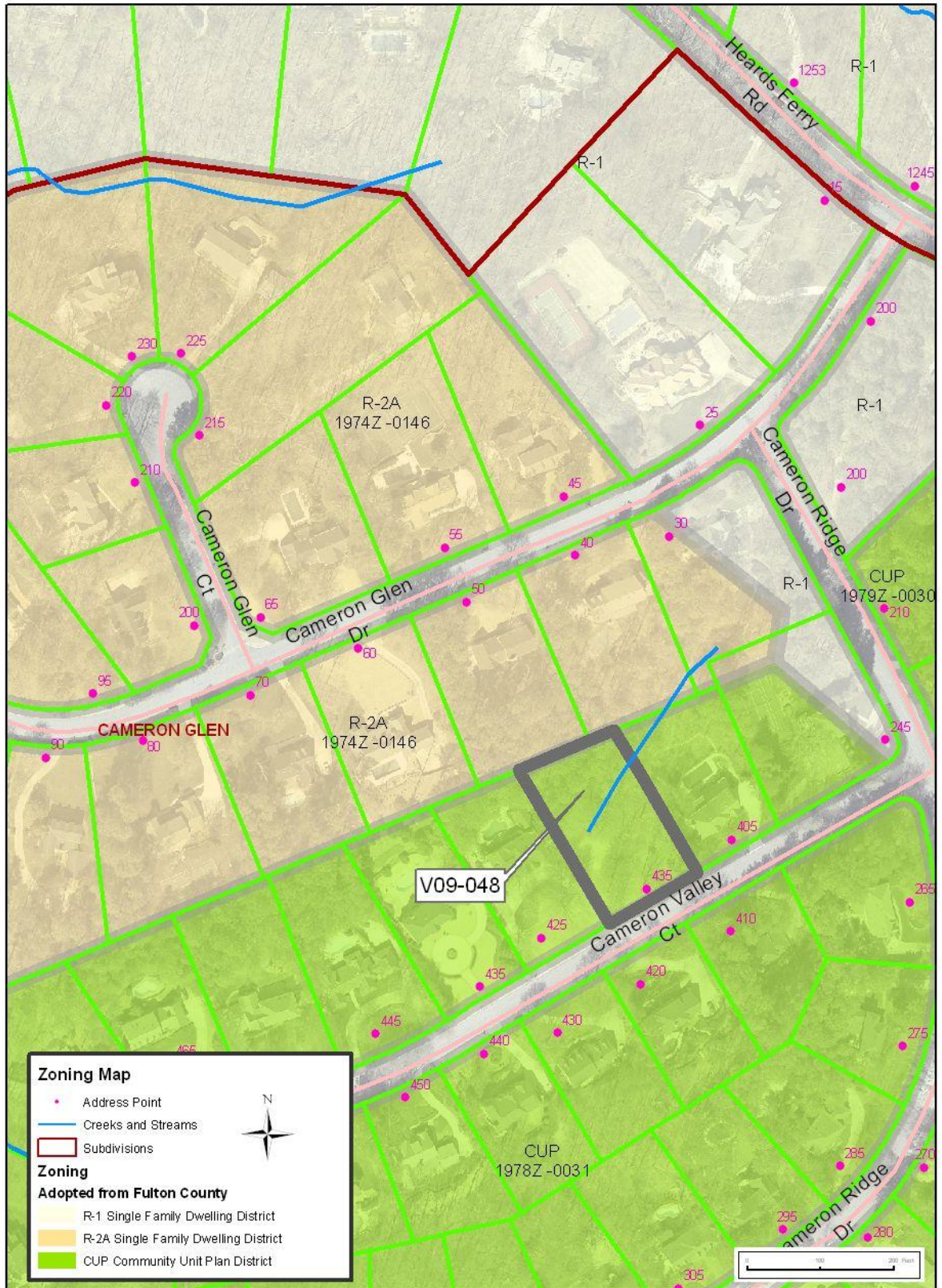
DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V09-048 - 1)DEFERRAL

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on December 10, 2009

Parcel Map

0 Cameron Valley Court



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on December 10, 2009

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

CASE NUMBER: V09-048

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

REQUEST:

The applicant is requesting relief from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to 0 feet to pipe the creek to allow for the construction of a single-family house.

ANALYSIS:

The applicant has submitted a site plan indicating the subject property to have 136.42 feet of frontage along Cameron Valley Court. The property is wooded, trapezoidal in shape, and sloping to the center of the lot towards the stream. The centerline of the stream runs north to south bisecting the lot. The stream runs one hundred fourteen (114) feet across the property before entering an existing twenty-four (24) inch corrugated metal pipe. The applicant is proposing to pipe the stream and to construct a single family home. The proposed house would not encroach into the twenty-five (25) foot state buffer. There is also a sanitary sewer easement that runs parallel to the stream though the center of the property.

Staff notes the stream buffers covers approximately three fourths of the buildable area of the lot. The sanitary sewer easement also restricts the buildable area of the property. The applicant will require a state variance prior to the installation of the pipe.

Staff notes the surrounding lots in the immediate vicinity are zoned CUP (Community Unit Plan District). The properties to the north of the subject property are zoned R-2A (Single Family Dwelling District). The stream runs though a small portion of the three (3) lots to the northeast.

Department Comments

The staff held a Focus Meeting on October 7, 2009 at which the following departmental comments were provided:

BUILDING AND LAND DEVELOPMENT	Engineering Plan Reviewer	- The lowest floor elevation of the new house, including basement shall be elevated to at least the higher of the following two elevations: - three feet above the 100 year water surface elevation at the inlet of the pipe (new pipe if installed, or existing pipe if new pipe not installed); - two feet higher than the elevation of the ground surface at the threshold over which water would flow to continue downstream if the water level upstream of the pipe were to rise such that overland flow downstream were to occur.
	Arborist/Landscape Architect	The existing feature is piped from the start of the next door property to the owners' property.
	Building Plan Reviewer	No comments
FIRE DEPT.	Fire Protection Engineer	No comments
TRANSPORTATION	Public Works Dept., Transportation Planner	No comments
	Georgia Department of Transportation	No comments

Standards for Consideration

Section 109-225 of the Sandy Springs Code of Ordinances which includes one or more criteria which must be met before a variance can be approved by the Board of Appeals. The remainder of this portion of the memorandum provides each of these variance criteria followed by an analysis by staff:

Section 109-225(b)(3)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 is granted.

Staff is of the opinion that the property shape, topography, or physical conditions existed at the time of the adoption of the ordinance. Staff notes the stream buffers covers approximately three fourths of the buildable area of the lot. The land would be unable to be developed without relief from the stream buffer requirements. Therefore, staff is of the opinion this condition has been satisfied.

Section 109-225(b)(3)b. – Unusual circumstances when strict adherence to the minimal buffer requirements in this article would create an extreme hardship.

Staff is of the opinion that the property has an unusual circumstance when strict adherence to the minimal buffer requirement would create an extreme hardship. Staff notes the stream buffers covers approximately three fourths of the buildable area of the lot. The land would be unable to be developed without relief from the stream buffer requirements. Therefore, staff is of the opinion this condition has been satisfied.

Section 109-225(b)(5)a. – The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property; This condition has been satisfied.

Section 109-225(b)(5)b. – The location of all streams on the property, including along property boundaries; This condition has been satisfied.

Section 109-225(b)(5)c. – The location and extent of the proposed buffer or setback intrusion; This condition has been satisfied.

Section 109-225(b)(5)d. – Whether alternative designs are possible which require less intrusion or no intrusion;

Alternative designs have not been discussed with staff regarding this property. The applicant has indicated no architectural drawings have been designed. However, intrusion into the stream buffer would occur at any location within the buildable area of the lot. Therefore, staff is of the opinion this condition has been satisfied.

Section 109-225(b)(5)e. – The long-term and construction water quality impacts of the proposed variance; and

The applicant will be required to use Best Management Practice (BMP) during the construction of the house. The City will monitor the sites BMPs. Therefore, staff is of the opinion this condition is satisfied.

Section 109-225(b)(5)f. – Whether issuance of the variance is at least as protective of natural resources and the environment.

Staff is of the opinion that the issuance of the variance is not as protective of natural resources and the environment because the current lot is vacant. The construction of a new house would remove natural resources and add impervious surfaces to the area. Therefore, staff is of the opinion this condition has not been satisfied.

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 **DEFER** of the variance request.

Recommended Condition(s)

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

- 1) The subject house shall be constructed in accordance with the proposed site plan, provided by the applicant dated received September 24, 2009 by the Department of Community Development, for the variance herein, showing a reduction in the 25 foot impervious set back to 0 feet to allow for a new driveway, where necessary to accommodate the portion of the encroachment only.
- 2) The lowest floor elevation of the new house, including basement shall be elevated to at least the higher of the following two elevations:
 - a. three feet above the 100 year water surface elevation at the inlet of the pipe (new pipe if installed, or existing pipe if new pipe not installed);
 - b. two feet higher than the elevation of the ground surface at the threshold over which water would flow to continue downstream if the water level upstream of the pipe were to rise such that overland flow downstream were to occur.
- 3) In areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced for building additions and/or other improvements, downspouts shall be directed into a rain garden or a Best Management Practices (BMP) filtration detention 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 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.
- 5) 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 deferral, letter of appeal, letter of support, site plan, and photographs.



Variance Petition No. V09-052

HEARING & MEETING DATES

Board of Appeals Hearing

December 10, 2009

February 11, 2010

May 13, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
Scott & Mary Ellen Garrett	Scott & Mary Ellen Garrett	Kevin Medendorp

PROPERTY INFORMATION

Address, Land Lot(s), and District	210 Wilderglen Court Land Lot(s) 85 & 128, District 17
Council District	2
Frontage	70.10 feet of frontage along the northwesterly side of Wilderglen Court.
Area	The subject property has a total area of approximately 4 acres.
Existing Zoning and Use	The lot is zoned R-2(Single-family Dwelling District) under Fulton County zoning case Z58-0022. The property is currently developed with a residence.
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	R0-1Residential (0-1 units per acre)

INTENT

The applicants propose to subdivide the property into two (2) flag lots and are seeking four (4) primary variances:

- 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 6.2.3.B to reduce the required front yard setback from 60 feet to 15 feet for existing house and to 15 feet for proposed second lot.
- 3) Variance from Section 6.2.3.D to reduce the required rear yard setback from 40 feet to 15 feet for proposed second lot.
- 4) Variance from Section 19.3.12.B.1 to allow for an existing pool in the front yard. All variances to allow for the subdivision of a single-family lot into 2 flag lots.

At the December 10, 2009 BOA meeting the Board deferred the application to the February

Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on May 13, 2010

11, 2010 BOA meeting to determine the buildable area of the lot, show the footprint of a proposed house, impervious surface calculations for the river corridor, and obtain square footages of adjacent homes

The applicant submitted the following documents on January 21, 2010: an aerial view with a conceptual house, a conceptual site plan showing location of a house within the requested setbacks and a river corridor impervious surface calculation.

At the February 11, 2010 BOA meeting the Board deferred the application to the May 13, 2010 BOA meeting to obtain approval from the Atlanta Regional Commission (ARC) approval. The City and ARC have reviewed the proposal and have determined there is adequate clearing and impervious allotment to allow construction of a single family residence and driveway.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

V09-052 - 1) DENIAL

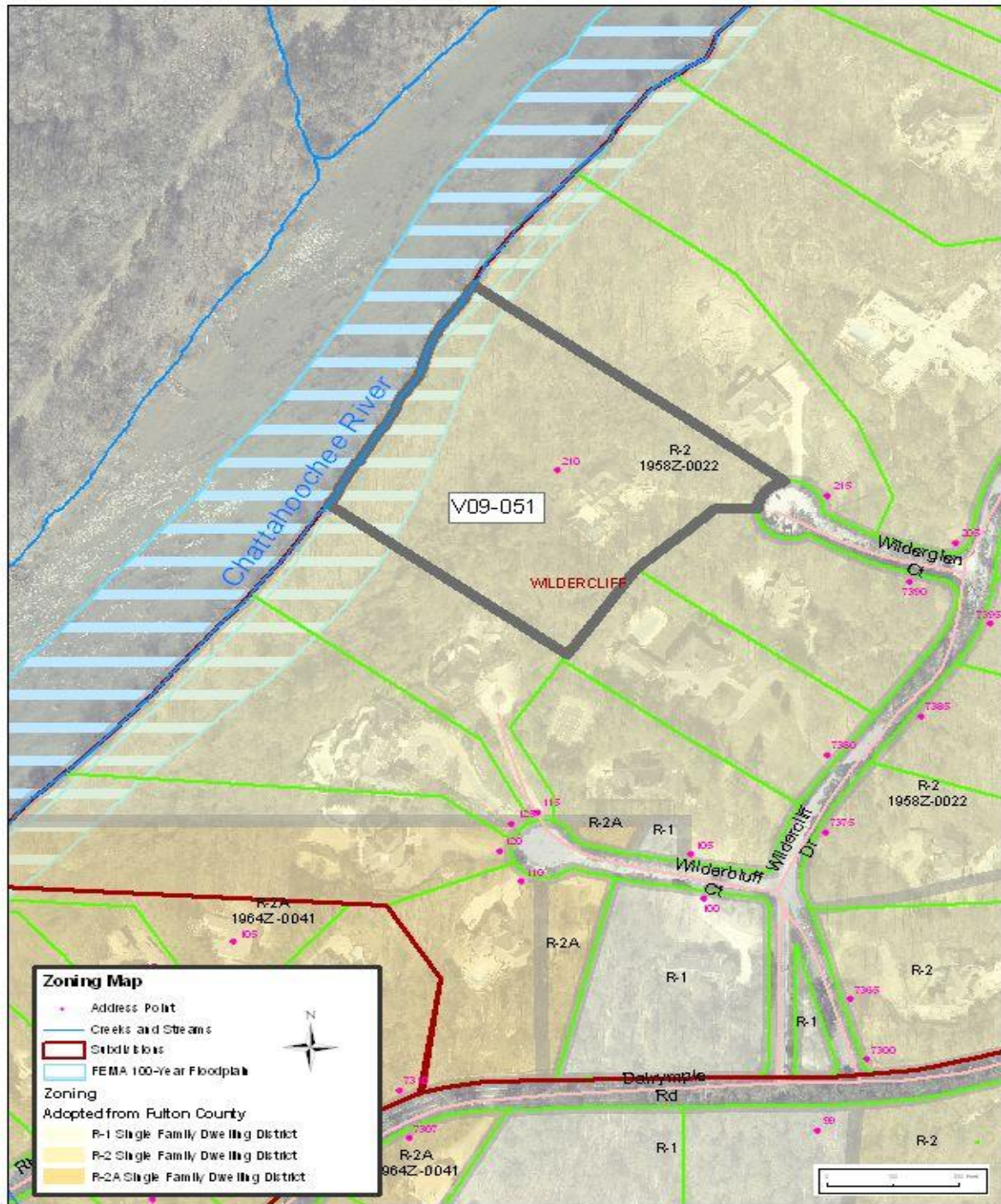
V09-052 - 2) DENIAL

V09-052 - 3) DENIAL

V09-052 - 4) DENIAL

Parcel Map

210 Wilderglen Court



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

CASE NUMBER: V09-052

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

Findings of Fact:

The applicant is requesting relief from Section 4.2.10 of the Zoning Ordinance to subdivide the property into two (2) lots and to allow the required lot width of the two (2) proposed flag lots to be achieved at a distance greater than the sum of the required minimum front yard setback and minimum rear yard setback. A variance from Section 6.2.3.B to reduce the required front yard setback from 60 feet to 15 feet for existing house and to 15 feet for proposed second lot. A variance from Section 6.2.3.D to reduce the required rear yard setback from 40 feet to 15 feet for the proposed second lot and a variance from Section 19.3.12.B.1 to allow for an existing pool in the front yard. All variances to allow for the subdivision of a single-family lot into 2 flag lots.

The applicant has provided a site plan (exhibit 1) showing the subject properties subdivided into two (2) flag lots. Each lot would have thirty-five (35) feet of frontage along Wilderglen Court. The existing house will remain on the proposed northeast lot. The existing house is shown encroaching into the front setback and the existing pool is located in the front yard. The site plan shows a shared driveway and driveway easement for approximately one hundred twenty feet (120) from the right-of-way. The proposed lots do not meet the required lot width of 150 feet. The lot width is required 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 100 feet and continue through the buildable area. The site plan also shows the proposed lots are bordered by the Chattahoochee River to northwest.

The zoning ordinance identifies the front yard setback beginning at the point of intersection of the stem and the flag portion of a flag lot running along the property line the most perpendicular to the stem. The applicant is proposing the required sixty (60) foot front setback run parallel to the stem so the proposed lots setbacks will match the setbacks of the existing house on the developed lot. The applicant has provided a conceptual site plan showing the ability to constructed single family home on the proposed lot with the requested setback variances. The conceptual plan used the footprint of the applicants existing home.

Staff notes the original plat (exhibit 3) of the subdivision dated May 21, 1984 shows the subject property subdivided into two (2) flag lots. The property was combined to allow for the construction of the existing pool. The plat shows eight (8) additional flag lots in the Wildercliff Subdivision. The surrounding lots in the immediate vicinity are R-2 (Single Family Dwelling District) which is the same zoning as the subject property.

The ARC (Atlanta Regional Commission) river corridor allotment for this proposed property would be approximately 17,731 square feet towards impervious area in category E and F and approximately 30,693 square feet of clearing. This information was derived from a breakdown of category E and Category F (exhibit 4). The City and ARC have reviewed the proposal and

have determined there is adequate clearing and impervious allotment to allow construction of a single family residence and driveway.

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,

Finding:

Relief from this requirement is not in harmony with the intent of the Zoning Ordinance. The intent of the Zoning Ordinance is to promote health and general welfare. The requirement of the width being met at a distance no greater than the sum of the front and rear setback prohibits the creation of a flag lot. Therefore, staff is of the opinion this condition has not 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. Also, the applicant creates a hardship with the subdivision of the lot. 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 November 4, 2009 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	▪ The property is located in the river corridor river corridor review will be done at time of building permit
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 **DENIAL** 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 October 6, 2009 by the Department of Community Development, for the variance(s) herein, showing the subdivision of 210 Wilderglen Court into 2 lots.
2. Allow the existing swimming pool in the minimum front yard setback.
3. Reduce the required sixty (60) foot front yard setback to fifteen (15) feet for existing house.
4. Reduce the required sixty (60) foot front yard setback to fifteen (15) feet for proposed second lot.
5. Reduce the required forty (40) foot rear yard setback to fifteen (15) feet for proposed second lot.

ATTACHMENTS:

Letter of appeal
Site plan (Exhibit 1)
Tree Survey
Topographic plan
Proposed setbacks vs. required setbacks (Exhibit 2)
Original lot configuration (exhibit 3)
Aerial view of conceptual site plan
Conceptual site plan
Letter with ARC allotments (exhibit 4)
Square Footage of Surrounding lots
Email from David Schmid
Photographs

BOARD OF APPEALS

V09-043

5299 Roswell Road (SR9)

Marvin Brown



Variance Petition No. V09-043

HEARING & MEETING DATES

Board of Appeals Hearing

December 10, 2009

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
----------------	------------	----------------

DMA Enterprise Group, Inc.	Marvin Brown	William V. Hall, Jr.
----------------------------	--------------	----------------------

PROPERTY INFORMATION

Address, Land Lot, and District.	5299 Roswell Road (SR 9) Land Lot 92, District 17
----------------------------------	--

Council District	5
------------------	---

Frontage and Area	The subject property has approximately 104 feet of frontage along the east side of Roswell Road and a total area of approximately 1.38 acres.
-------------------	---

Existing Zoning and Use	C-1 (Community Business District) conditional under zoning case Z71-055 and R-3 (Single-family Dwelling District). The R-3 zoned portion is under use permit U71-041 allowing the required parking for the C-1. It is currently developed with an office building and parking.
-------------------------	--

Overlay District	Urban District
------------------	----------------

2027 Comprehensive Plan Future Land Use Map Designation	Live-Work Neighborhood
---	------------------------

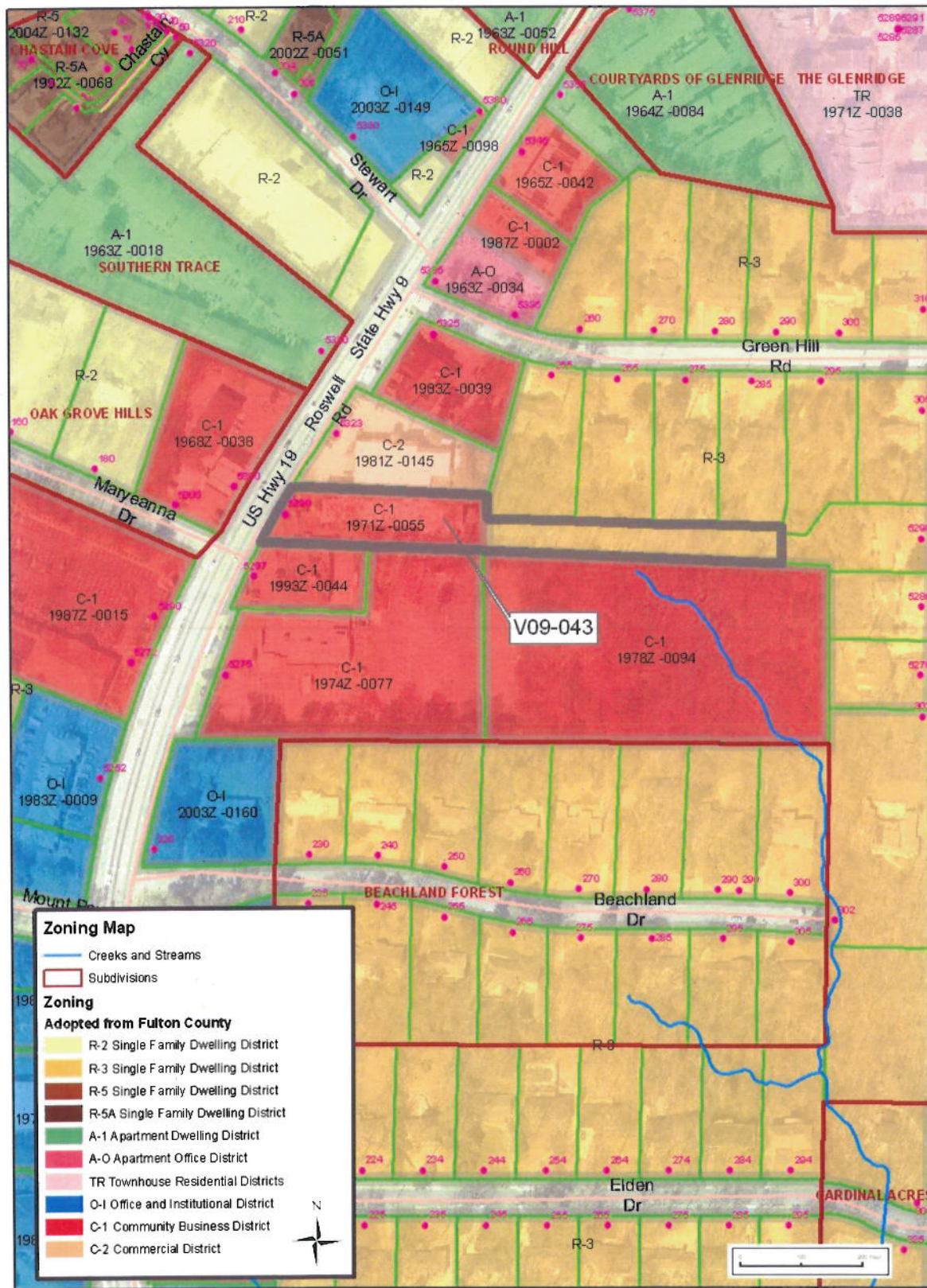
INTENT

The petitioner is seeking a secondary variance to appeal the Department of Community Development Director's determination that neither the office use for automobile and light truck leasing, nor the storage of vehicles for lease are permitted on either the C-1 or on the R-3 zoning districts of the subject property.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION V09-043- AFFIRM DIRECTOR'S DETERMINATION

Parcel Map

5299 Roswell Road



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on December 10, 2009

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

CASE NUMBER: V09-043

STAFF CONTACT: Cesar Geraldo, Zoning Administrator
cesar.geraldo@sandyspringsga.org

BACKGROUND:

This petition involves property located at 5299 Roswell Road, Sandy Springs, Georgia. The property is zoned C-1 conditional under zoning case Z71-055 (front portion of the lot) and R-3 (rear portion of the lot). The R-3 zoned portion is under use permit U71-041 allowing the required parking for the commercial building approved under Z70-055. The appellant operates a U-Haul Truck rental business located at 4420 Roswell Road in the City of Atlanta and contracted with Sandalon, Inc., located at 5299 Roswell Road, City of Sandy Springs, for the use of their parking lot to store U-haul vehicles.

City's Staff analyzed the storage of U-haul vehicles at 5299 Roswell Road and determined in a letter dated June 12, 2009 that neither the office use for automobile and light truck leasing, nor the storage of vehicles for lease are permitted on either the C-1 or on the R-3 zoning districts of the subject property. Automobile and light truck sales/leasing is first permitted in the C-2 zoning district (Zoning Ordinance Section 9.2). Subsequently, the appellant filed this appeal to the City's determination in a letter dated August 4, 2009.

APPEAL:

The applicant indicates the following basis for the appeal to the Department of Community Development. In letter dated August 4, 2009 the applicant indicates that:

1. Appellant operates a U-Haul Truck rental business located at 4420 Roswell Road, Atlanta, Georgia 30342.
2. Appellant contracted with Sandalon, Inc., whose place of business is 5299 Roswell Road, Suite 202, Atlanta, Georgia 30342 for the use of their parking lot which has parking spaces zoned C-1 for 105 automobiles.
3. The parking for each vehicle would be for a short period of time.
4. There were fewer than 10 vehicles.
5. The City of Sandy Springs determined that the vehicles were being stored and not parked; therefore, the property would have to be zoned C-2 and not C-1.
6. Appellant seeks a variance to allow him to park not more than 20 trucks on the premises at 5299 Roswell Road.
7. Appellant's place of business is within the City of Atlanta, but he appealed for and was issued a permit for his use of the parking lot at 5299 Roswell Road by the City of Sandy Springs for the calendar year 2009.

BASIS FOR DEPARTMENT OF PUBLIC WORKS' DETERMINATION:

The Department of Community Development, in a letter dated June 12, 2009, determined:

First, C-1 zoning does not allow automobile and light truck sales/leasing. Therefore, neither the office use for leasing, nor the storage of vehicles for lease is permitted on either the C-1 zoned portion of the subject property or on the R-3 zoned portion which has a use permit (U71-041) allowing the required parking for the C-1 zoned building.

Second, parking of vehicles for the users of the building and the storage of vehicles for lease are not the same. The use permit document clearly states that the use of the property is for the parking of cars. Storage of vehicles for lease is not the same as a parking lot. It is a separate use. The lot is to be used for the required parking for the commercial building approved under Z70-055. The letter of intent for the use permit states that the subject area "be specifically restricted to parking only and before this area can be used for any purpose other than parking, a new application should be filed." Also, the letter states that the site plan designates the area "for approximately 80 cars." Therefore, it was determined that the storage of U-haul vehicles, including specialized vehicles, is not a permitted use on the property subject to U71-041.

CONCLUSION AND REQUESTED ACTION:

Staff respectfully requests the Board of Appeals to uphold the determination made by the Director of Department of Community Development, thereby affirming that neither the office use for automobile and light truck leasing, nor the storage of vehicles for lease are permitted on either the C-1 or on the R-3 zoning districts of the subject property.

ATTACHMENTS: Site plan, letters of appeal (w/attachments), letter of determination, photographs, Zoning Ordinance excerpts.

SANDY SPRINGS

GEORGIA

June 12, 2009

Ms. Sue Sandalon
5299 Roswell Road
Sandy Springs, GA 30342

Subject: Use of property at 5299 Roswell Road

RECEIVED

AUG 05 2009

City of Sandy Springs
Community Development

Dear Ms. Sandalon:

I have reviewed the documents you have submitted and the zoning cases (Z-71-55 and U-71-40) pertaining to both the subject property. There are two aspects to my determination.

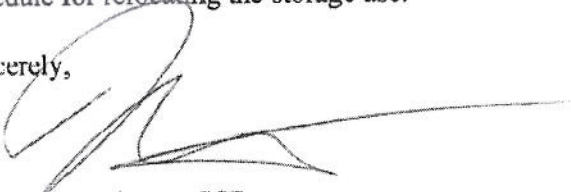
The first is that C-1 zoning does not allow "automobile and light truck sales/leasing". This use is first permitted in the C-2 zoning District (Zoning Ordinance Section 9.2). Therefore, neither the office use for leasing, nor the storage of vehicles for lease is permitted on either the C-1 zoned portion of your property or on the R-3 zoned portion which has a use permit allowing the required parking for the C-1 zoned building.

The second issue is that parking of vehicles for the users of the building and the storage of vehicles for lease are not the same. The use permit document clearly states that the use of this property is for the parking of cars. Storage of vehicles for lease is not the same as a parking lot. It is a separate use. This lot is to be used for the required parking for the commercial building approved under Z70-55. Therefore, it is my determination that the storage of U-haul vehicles, including specialized vehicles, is not a permitted use on the property subject to U-71-41. This is supported by a quote from the letter of intent for the use permit, which requests the subject area "be specifically restricted to parking only and before this area can be used for any purpose other than parking, a new application should be filed". It further states that the site plan designates the area "for approximately 80 cars."

If you do not agree with this determination, you may file an appeal within 30 days of this letter. This is a secondary appeal (Section 22.8 of the Zoning Ordinance), which is heard by the Sandy Springs Board of Appeals. Details of the appeal process are on the City website and in Section 28 of the Sandy Springs Zoning Ordinance.

If you choose not to appeal this determination, please let me know, and we will work with you on a schedule for relocating the storage use.

Sincerely,


Nancy J. Leathers, AICP
Director of Community Development

V09~043

Law Offices of
William V. Hall, Jr.
315 W. Ponce de Leon Avenue
Suite 842

Decatur, Georgia 30030

(404)373-2446

Fax (404)377-5528

RECEIVED

AUG 05 2009

August 4, 2009

City of Sandy Springs
Community Development

Sandy Springs Board of Appeals
City of Sandy Springs
7840 Roswell Road, Bldg. 500
Sandy Springs, Georgia 30350

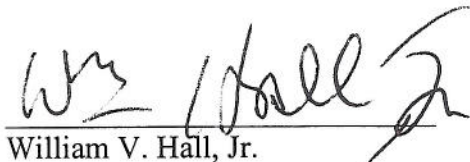
Re: 5299 Roswell Road

LETTER OF APPEAL

Being the person aggrieved, MARVIN BROWN hereby appeals to the City of Sandy Springs Board of Appeals from the decision of Nancy J. Leathers, AICP, Director of Community Development, dated June 12, 2009.

Appellant operates a U-Haul Truck rental business located at 4420 Roswell Road, Atlanta, Georgia 30342. Appellant contracted with Sandalon, Inc., whose place of business is 5299 Roswell Road, Suite 202, Atlanta, Georgia 30342 for the use of their parking lot which has parking spaces zoned C-1 for 105 automobiles. The parking for each vehicle would be for a short period of time and there were usually fewer than 10 vehicles. The City of Sandy Springs determined that the vehicles were being stored and not parked for which the property would have to be zoned C-2 and not C-1. Appellant seeks a variance to allow him to park not more than 20 trucks (they are straight bodied trucks, not tractor trailer trucks) on the premises at 5299 Roswell Road.

Appellant's place of business is within the City of Atlanta, but he appealed for and was issued a permit for his use of the parking lot at 5299 Roswell Road by the City of Sandy Springs for the calendar year 2009.



William V. Hall, Jr.
Of Counsel for Appellant
State Bar No. 319500

V09~043

(10) RE: PETITION #U-71-41-FC - ROSWELL ROAD (REAR)
JAMES L. KANELLOS, SMITH & ASSOCIATES

Letter read from Mr. James M. Crawford, Chairman, Atlanta-Fulton County Joint Planning Board, dated October 29, 1971, together with legal description and letters of Intent from Mr. James L. Kanellos of Kanellos and Company, dated June 30, September 16, and October 15, 1971, which are more fully set out as follows:

ATLANTA-FULTON COUNTY JOINT PLANNING BOARD (UNINCORPORATED AREA) • 100 CENTRAL AVENUE, S.W. • ROOM 207 • 404-5111/2
JAMES M. CRAWFORD, CHAIRMAN • M. J. KARWICK, VICE-CHAIRMAN • W. W. MCCREA,
A. G. HENDLEY • MAX H. CURR • E. K. YOUNG • ROY H. THOMPSON
FREDERICK STEVENS, JR. • HAROLD A. JAWSON
A. M. HUTCHINSON, ADMINISTRATOR

October 29, 1971

Board of Commissioners
Fulton County
Georgia

Re: Application seeks a special use permit for parking (in conjunction with commercially zoned property fronting toward Roswell Road); property having a frontage of 100 feet on the southeast side of Roswell Road (being in the rear), beginning 344.43 feet southwestwardly from the southeast corner of Green Hill Road and Roswell Road, and running southwestwardly, and having a depth of 513.20 feet, and being in Land Lot 92 of the 17th District, Fulton County, Georgia. James L. Kanellos, et al., 2272 Dartford Drive, Atlanta, Georgia (#U-71-41 FC)

#3 71-041

-22-

RECEIVED

AUG 6 5 2003

City of Sandy Springs
Community Development

The Atlanta-Fulton County Joint Planning Board, following twenty-one days of public notice as required by law, preliminary public hearing on October 27, 1971, and a careful study of the area, including inspection of the site by members of the Planning Board, recommends the petition be approved, subject to the following restrictions:

1. Petitioner's Letter of Intent submitted by James L. Kanellos, dated October 15, 1971.
2. Petitioner's Site Plan submitted, prepared by Henry D. Norris, Architect, Sheet A-1, received by the Zoning Department October 14, 1971.

Legal description of property is attached.
Dates advertised: October 6, 13, and 20,
1971

James M. Crawford
James M. Crawford, Chairman

Attest:

A. H. Hutchinson
A. H. Hutchinson, Administrator

#U-71-41 FC

LEGAL DESCRIPTION OF PROPERTY:

All that tract or parcel of land lying and being in Land Lot 92 of the 17th District, Fulton County, Georgia, and being more particularly described as follows:
COMMENCING at a point 321.56 feet east from the southeast side of Roswell Road, said beginning point on Roswell Road being 344.43 feet southwestward from the southeast corner of Roswell Road and Green Hill Road; thence running in a southerly direction a distance of 40.0 feet; thence east a distance of 486.73 feet; thence south a distance of 52.36 feet; thence West a distance of 513.20 feet; thence Northeasterly a distance of 100 feet to the point of beginning.

June 30, 1971

11-3-71
Mr. James L. Kanellos
Kanellos and Company
2272 Dartford Drive
Atlanta, Georgia 30338

RE: Application for re-zoning;
Roswell Road.

1. That the rear or eastern portion of subject property (approximately 486.73 feet by 52.36 feet) be specifically restricted to parking uses only;

2. That the wall and/or fence to be constructed on the rear or easternmost portion of subject property be a minimum of 5 feet high relative to your property line and 5 feet high relative to the adjoining property on the east;

3. That prior to any paving of said parking area, a wall and/or fence with a minimum of 5 feet in height relative to the adjoining property owners (said wall and/or fence to follow the contour of the land) will be constructed and completed along the north and east boundary lines;

Mr. James Kanellos

-2-

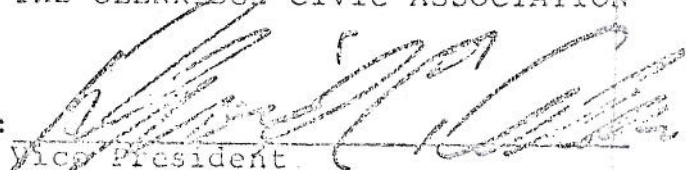
June 30, 1971

4. Acceptance of the terms and conditions of this letter to be binding on all parties signatory hereto and to be recognized as a contract, enforceable under Georgia law, with mutuality of consideration. The terms and conditions of said contract are to survive the closing of subject property.

If you are agreeable to the terms and conditions as set forth in this letter, there is provided a line for your signature as acceptance thereof. Please have the same notarized and witnessed.

Sincerely,

11-3-71
THE GLENRIDGE CIVIC ASSOCIATION

By: 

Vice President

APPROVED:


James L. Kanellos


Witness

At the request of Mr. Richard H. Jowers, of the Department of Planning, Fulton County we hereby submit the following information concerning our application.

1)

Four copies of the site plan reflecting one parking space per two hundred feet of leaseable office space, also showing the entire proposed development.

2)

The agreements made with the adjacent property owners were to create a buffer by deeding the property to the north and east of the parking area in question. This was done on August 30, 1968 and further had the Glenridge Civic Association support on June 30, 1971, a copy of which is attached.

3)

We further agree to submit to the Planning Department, a landscape plan prior to the issuance of an occupancy permit.

We hereby incorporate this letter as part of our original application.

Very truly yours,

Sheets, Smith and Kanellos

By James L. Kanellos
James L. Kanellos

11-3-71

The Clerk read letters that had been received from the Health Department, Public Works Department and Board of Education with reference to the above petition and said letters would be filed in the Clerk's Office as part of said petition.

Mr. James L. Kanellos appeared before the Board and stated this use permit was strictly for parking in conjunction with commercially zoned property fronting Roswell Road, and requested that same be approved subject to restrictions which he agreed to.

There being no opposition present, Commissioner Cates stated a decision would be made after Executive Session.

At 5:30 o'clock p.m. after Executive Session, Commissioner Farris made a motion that Petition #U-71-41-FC in the name of James L. Kanellos be approved with restrictions as set out in the above letter.

Said motion was seconded by Commissioner Cates and unanimously adopted by the Board.

KANELLOS & COMPANY Y

COMMERCIAL - INDUSTRIAL

REALTORS

2272 DARTFORD DRIVE

ATLANTA, GEORGIA 30330

TELEPHONE (404) 458-4343

September 16, 1971

Fulton County Commissioners
Fulton County Administration Building
Atlanta, Georgia 30303

Re: Petition #Z-71-55 FC
C-1 Commercial (Conditional)

Gentlemen:

We hereby accept your C-1 Conditional zoning on the front
portion of the property and further agree to the following
Conditions of Approval:

- (a) the depth of the property zoned for commercial use shall be limited as set forth in the revised legal description.
- (b) a special use permit for parking on the rear portion of the property was initiated this date, September 16, 1971.
- (c) significant landscaping improvements shall be made on the rear portion of this property and a landscaping plan on the whole site shall be submitted for approval by the Planning Staff prior to the occupancy of the building.

Sincerely,

Sheats, Smith, and Kanellos

By James L. Kanellos
James L. Kanellos

KANELLOS & COMPANY

COMMERCIAL - INDUSTRIAL

ATLANTA, GEORGIA 30330

TELEPHONE (404) 458-4343

October 15, 1971

ARTICLE IX

SECTION 9.1

C-1 COMMUNITY BUSINESS DISTRICT

- 9.1.1. C-1 DISTRICT SCOPE AND INTENT. Regulations set forth in this Section are the C-1 District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permits or Use Permits. The C-1 District is intended to provide locations in which neighborhood and community-oriented retail and service activities conclude a transition, or land areas which complement a transition into a more intense activity area. Complementary non-commercial uses are also permitted.
- 9.1.2. USE REGULATIONS. Within the C-1 District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as permitted shall be prohibited.
- A. Permitted Uses. Structures and land may be used for only the following purposes:
1. Amusements, Indoor
 2. Apartments, Above or Behind Commercial and Office uses in the Same Building
 3. Art Galleries
 4. Assembly Halls
 5. Automotive Parking Lots
 6. Automotive Specialty Shops
 7. Catering, Carry-out and Delivery
 8. Church, Temple or Other Place of Worship
 9. Clinics
 10. Convalescent Center/Nursing/Hospice
 11. Day Care Facilities
 12. Delicatessens
 13. Financial Establishments
 14. Funeral Homes
 15. Garage, Automobile Repair except painting, body repair and overhaul of major components
 16. Group Residences
 17. Gymnasiums
 18. Hotels
 19. Health Club/Spa

20. Laundromats
21. Landscaping Business, Garden Center
22. Laundry and Dry Cleaning Shops
23. Lawn Service Businesses
24. Libraries
25. Communication Services
26. Millinery or Similar Trade whenever products are sold retail, exclusively on the site where produced.
27. Motels
28. Museums
29. Offices
30. Parking Garages\Decks
31. Parking Lots
32. Personal Care Homes
33. Personal Services including barber, beauty
34. Pet Grooming (No overnight stay)
35. Photography Studios
36. Plant Nurseries
37. Printing Shops, Convenience
38. Repair Shops not involving any manufacturing on the site
39. Research Laboratories
40. Restaurants
41. Retail Stores or Shops
42. School of Business, Dance, Music or similar schools
43. Service Stations except that repair and service offerings shall not include painting, body repair nor overhaul of major components, and no portion of the site shall be used for the display of cars for sale
44. Stadiums
45. Theaters
46. Recycling Centers, Collecting

- B. Accessory Uses. Structures and land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation. Automobile and/or moving truck rental may be used in accessory to a permitted use. Not more than 45 percent of the floor area of a building or land may be devoted to storage incidental to primary uses.

9.1.3. DEVELOPMENT STANDARDS.

- A. Height Regulations. No structure shall exceed the higher of 4 stories or sixty 60 feet in height except as approved pursuant to Article XIX.

- B. Minimum Front Yard - 40 feet
- C. Minimum Side Yard
- 25 feet for dwellings adjacent to interior lot lines
 - None for all other buildings. See 4.23 for buffer and landscape requirements
 - 40 feet for all buildings adjacent to streets
- D. Minimum Rear Yard
- 25 feet for dwellings adjacent to interior lot lines
 - None for all other buildings. See Section 4.23 for buffer and landscape requirements
- E. Minimum Lot Area
- Multi-family Dwellings including a unit above or behind a commercial use - 2,500 square feet
 - Single family - 18,000 square feet.
 - Two family - 18,000 square feet
 - All other buildings – no minimum
- F. Minimum Heated Floor Area Per Unit
- Single Family - 1,100 square feet
- Two family - 800 square feet
- Multi family - 700 square feet
- Efficiency - 450 square feet
- G. Minimum Lot Frontage - 35 feet adjoining a street
- H. Minimum Accessory Structure Requirements
- Single Family and Two Family Uses - Accessory structures may be

located in the rear yard only but shall not be located within a minimum yard.

Other Use - Accessory structures shall not be located in the minimum front yard.

9.1.4. OTHER REGULATIONS. The headings below contain provisions applicable to the C-1 District:

Development Regulations. Article XXXIV

Exceptions. Section 4.3

Floodplain Management. Section 4.24

Off Street Parking and Loading. Article XVIII

Outside Storage. Section 4.2

Landscape Area and Buffer Regulations. Section 4.23

River Protection. Metropolitan River Protection Act

Signs. Article XXXIII

Noise Study Report, Article 28.4.7

ARTICLE IX

SECTION 9.2

C-2 COMMERCIAL DISTRICT

9.2.1. C-2 DISTRICT SCOPE AND INTENT. Regulations set forth in this Section are the C-2 District regulations. Article XIX should be consulted to determine uses and minimum standards for uses allowed by Administrative Permits or Use Permits. The C-2 District is intended to provide locations in which community and regionally-oriented retail and service activities conclude a transition, or locations which complement a transition into a more intense activity area. Complementary non-commercial uses are also permitted.

9.2.2. USE REGULATIONS. Within the C-2 District, land and structures shall be used in accordance with standards herein. Any use not specifically designated as permitted shall be prohibited.

A. Permitted Uses. Structures and land may be used for only the following purposes:

1. Any Use Permitted in the C-1 District
2. Automotive Garage
3. Automotive Repair Garage
4. Automobile & Light Truck Sales\Leasing
5. Batting Cage, Outdoor
6. Bowling Alley
7. Car Wash
8. Check Cashing Establishment
9. Drive-in Theater
10. Garage, Automobile Repair
11. Landscaping Business
12. Lawn Service Business
13. Laundry and/or Dry Cleaning Plant Distribution Center. Not including processing, fabrication or manufacturing
14. Pawn Shop
15. Plant Nursery
16. Plumbing Shop associated with retail sales
17. Radio and Television Stations
18. Service Establishments
19. Skating Rink
20. Tinsmithing Shop associated with retail sales

B. Accessory Uses. Structures and land may be used for uses customarily

incidental to any permitted use and dwellings may be used for a home occupation.

9.2.3. DEVELOPMENT STANDARDS.

- A. Height Regulations. No structure shall exceed the higher of 4 stories or sixty 60 feet in height except as approved pursuant to Article XIX.
- B. Minimum Front Yard - 40 feet
- C. Minimum Side Yard
 - 25 feet for dwellings adjacent to interior lot lines
 - None for all other buildings. See 4.23 for buffer and landscape requirements
 - 40 feet for all buildings adjacent to streets
- D. Minimum Rear Yard
 - 25 feet for dwellings adjacent to interior lot lines
 - None for all other buildings. See 4.23 for buffer and landscape requirements
- E. Minimum Lot Area
 - Multiple Dwellings including a unit above or behind a commercial use - 2,500 square feet
 - Single family - 18,000 square feet
 - Two family - 18,000 square feet
 - All other buildings – no minimum
- F. Minimum Heated Floor Area
 - Single Family - 1,100 square feet
 - Two family - 800 square feet
 - Multi family - 700 square feet

Efficiency - 450 square feet

G. Minimum Lot Frontage - 35 feet adjoining a street

H. Minimum Accessory Structure Requirements

Single Family and Two Family Uses - Accessory structures may be located in the rear yard only but shall not be located within a minimum yard.

Other Use - Accessory structures shall not be located in the minimum front yard.

9.2.4. OTHER REGULATIONS. The headings below contain provisions applicable to the C-2 District.

Development Regulations. Article XXXIV

Exceptions. Section 4.3

Floodplain Management. Section 4.24

Off Street Parking and Loading. Article XVIII

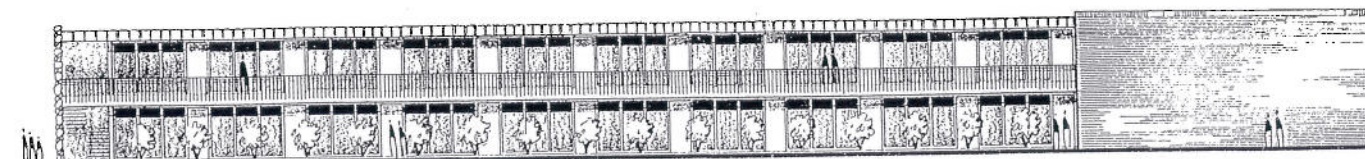
Outside Storage. Section 4.2

Landscape Area and Buffer Regulations. Section 4.23

River Protection. Metropolitan River Protection Act

Signs. Article XXXIII

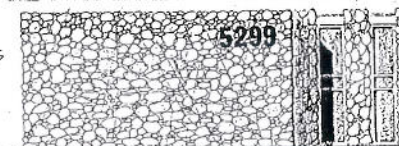
Noise Study Report, Article 28.4.7



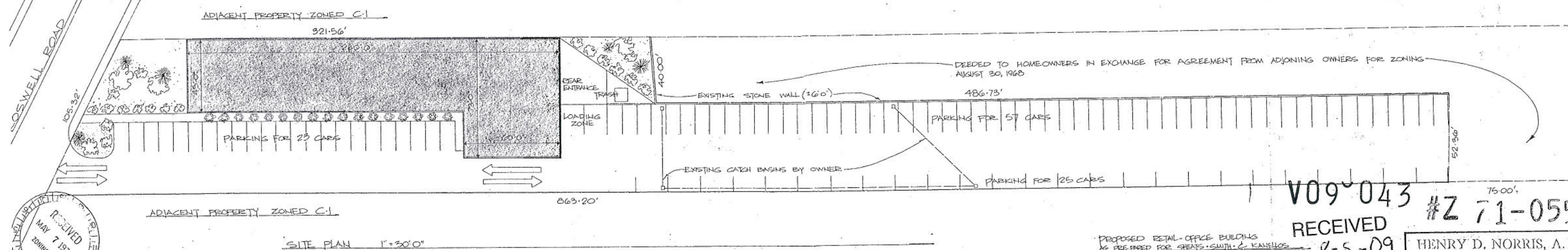
SOUTH ELEVATION $1/16" = 1'-0"$

LAND AREA ————— 57,720 SQ. FT.
GROUND AREA OF BLDG. — 12,030 SQ. FT. 20.8% COVERAGE
GROSS BLDG. AREA — 21,140 SQ. FT. + COVERED WALKS & BALCONIES
NET RENTABLE AREA — 20,840 SQ. FT. 91% EFFICIENT
PARKING SPACES — 105 SPACES 199 SQ. FT. of RENTABLE
AREA PER SPACE

AREA SCHEDULE



WEST ELEVATION $\frac{1}{16}'' = 1:0''$



A circular stamp with the text "RECEIVED" at the top, "MAY 7 1971" in the center, and "ZONING DEPT." at the bottom. The outer ring of the stamp contains numbers from 1 to 12, likely representing hours.

PROPOSED RETAIL-OFFICE BUILDING
AS PREPARED FOR SHEETS-SMITH & KANELLOS

V09-043 #Z 75-00' 71-055
RECEIVED
8-5-09
City of Sandy Springs
Community Development

HENRY D. NORRIS, A.I.
Registered Architect
3330 Peachtree Rd., N. W. Atlanta, (



Pointer 33°53'58.79" N 84°22'45.71" W elev 1048 ft

© 2009 Europa Technologies
© 2009 Google

Streaming ||||| 100%

©2007 Google™

Eye alt 2000 ft





11/30/2009 16:19



11/30/2009 16:18





5299
Sandalon
East

JEWELRY
DESIGN SUITE 202

DORA RAE BOUTIQUE



State Farm
404-255-7763

Re Hair Salon
Authentic Brazilian Wax



The Painting Co.
770-551-0101

CHABAD CENTER **YARN SHOP**

JOB RESUMÉS 4-459-7088

11/30/2009 16:23



11/30/2009 16:21



11/30/2009 16:21



11/30/2009 16:23

JOBS CENTER
JOB RESUMES 404-271-2547
WE BUY JEWELRY SUITE 104

FOR LEASE
OFFICE/RETAIL

404-271-2547

404-257-0743

Inquiries: Ste. 202
Sandalon, Inc.

11/30/2009 16:23

Sandalon East Tenant Directory

Sue Sandalon Jewelry Design	202
Sandalon Inc.	202

Dora Rae Boutique	208
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Petromerica Oil	210
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Eyecare Lawn Services	216
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Auto - Services	228
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First Floor Tenants

State Farm Insurance	 102
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Resumé	104
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Dora Ray Boutique	108
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RIO Hair Salon	110
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Yarn Shop	114
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	116
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	116
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greja Assembleia De Deus	128
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Authentic Brazilian Wax
YARN SHOP CHABAD CENTER

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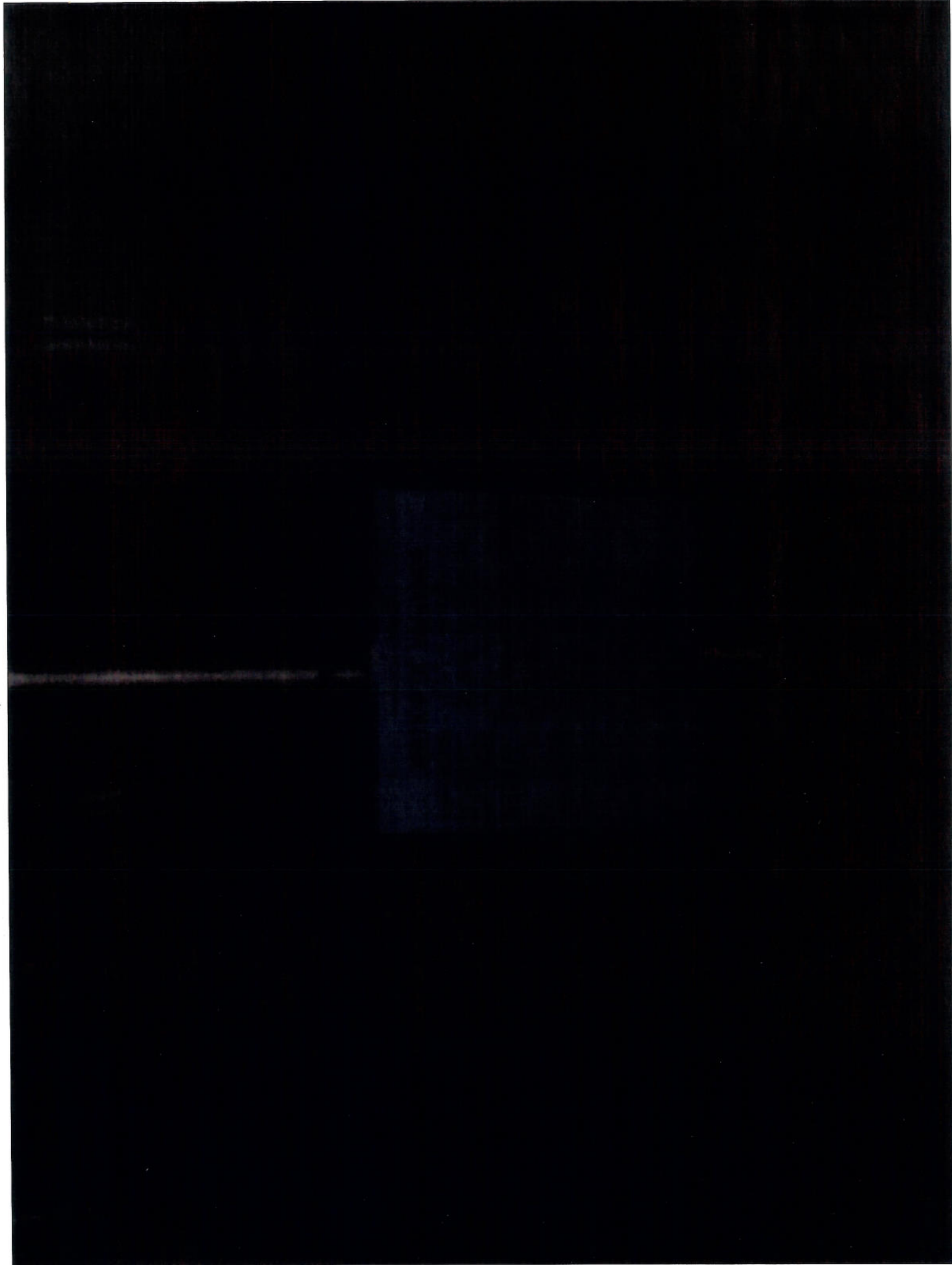
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Geraldo, Cesar

From: Ruffin, Patrice
Sent: Friday, November 20, 2009 1:38 PM
To: Geraldo, Cesar
Subject: FW: V09-043- DEC 10 Appeal 5299 Roswell Rd(SR9)

See Nancy's note.

Patrice

From: Leathers, Nancy
Sent: Friday, November 20, 2009 1:35 PM
To: Ruffin, Patrice
Subject: FW: V09-043- DEC 10 Appeal 5299 Roswell Rd(SR9)

Please attach to Sandalon case.

Nancy J. Leathers, AICP, Director, Community Development
City of Sandy Springs
7840 Roswell Road, Building 500
Sandy Springs, GA 30350
770-206-1508 (O)
770-206-1562 (FAX)
www.sandyspringsga.org

From: LCMerrick1@aol.com [mailto:LCMerrick1@aol.com]
Sent: Friday, November 20, 2009 12:38 PM
To:
Cc:
Subject: V09-043- DEC 10 Appeal 5299 Roswell Rd(SR9)

Sandy Springs Business:

I most certainly am **not** in favor of a zoning change to allow U Haul trucks to be stored adjacent to back of my property. My western property line butts up to **5299 Roswell Rd Sandalon property/parking lot**. U Haul trucks have been stored there and in/out at various times late in the evening for several months.

Yes, from Roswell Road the trucks are not visible, but they are seen and heard by homeowners on Green Hill Place and Green Hill Road at all hours of the day/evening.

Several years ago, my home was broken into. The robbers came from that parking lot on to my property and in to my home, taking sentimental jewelry and household items. My pillow case was found tossed on the ground in the parking lot. **This parking lot situation of trucks** would make such a crime easier now against the homes on Green Hill Rd and Green Hill Place.

Thank you for your support for not approving the appeal,

Lenada Merrick

Lenada

Lenada C. Merrick, CFCS
Merrick Marketing
5280 Green Hill Place

Atlanta, GA. 30342

p 404 843 2551 f 404 843 3074 cell 404 376 5959

Les Dames d'Escoffier

International Association of Culinary Professionals

American Institute of Wine and Food

Slow Food USA

American Association of Family and Consumer Sciences



Variance Petition No. V09-009

HEARING & MEETING DATES

Board of Zoning Appeals Hearing

December 10, 2009

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
William Andersen	William Andersen	William Andersen

PROPERTY INFORMATION

Address, Land Lot, and District	6018 Kayron Dr. Land Lot 71, District 17
Council District	3
Frontage and Area	100.5 feet of frontage along Hammond Drive and 232.5 feet along Kayron Drive. The subject property has a total area of approximately .60 acres.
Existing Zoning and Use	The lot is zoned R-3 (Single-family Dwelling District). The property is developed with a single-family residence.
Overlay District	N/A
Interim 2027 Comprehensive Future Land Use Map Designation	R2-3 Residential (2 to 3 units per acre)

INTENT

Originally, the Board of Appeals (BOA) approved V09-009 at the May 14, 2009 hearing, subject to specific conditions. The applicant appealed the aforementioned approval to the Fulton County Superior Court. At an October 13, 2009 appeal hearing, the presiding judge of the Fulton County Superior Court put the matter back before the BOA for reconsideration. Therefore, pursuant to direction of Fulton County Superior Court, variance petition V09-009 is to be reviewed at the December 10, 2009 BOA meeting by the Board to clarify their determination of the BOA on their findings related to the May 14, 2009 action for case V09-009 (please see attached meeting minutes from May 14, 2009).

The applicant is seeking a primary variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a nineteen (19) foot undisturbed natural buffer to allow for the construction of a chain link fence.

The applicant has provided plans showing a proposed fence alignment roughly paralleling the creek alignment within 19 feet of the creek, encroaching into the twenty-five foot State tributary buffer, the fifty (50) foot undisturbed natural buffer and the 25 foot impervious

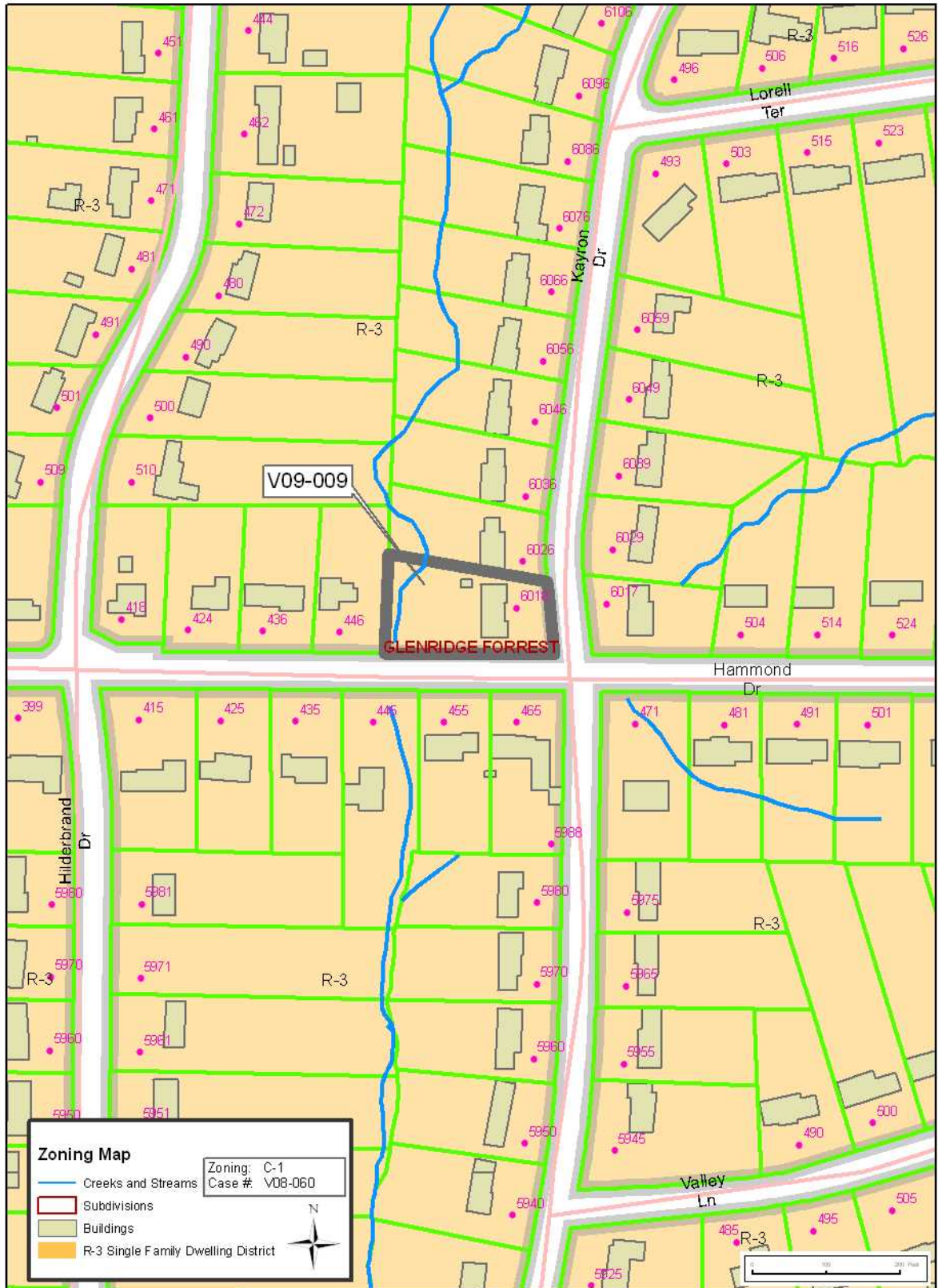
Prepared by the City of Sandy Springs Department of Community Development for the Board of Zoning Appeals Hearing on December 10, 2009.

setback. A determination has been made by the Department of Natural Resources that fences are exempt from State requirements, are not considered an encroachment, and do not require a variance letter. The variance request is for the encroachment into the City's stream buffer.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION
V09-009 - APPROVAL CONDITIONAL IN ACCORDANCE WITH THE BOA ACTION
TAKEN AT THE MAY 14, 2009 HEARING AS INDICATED IN THE BACKGROUND
SECTION OF THIS REPORT.

Parcel Map

6018 Kayron Drive



Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on December 10, 2009

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

CASE NUMBER: V09-009

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

BACKGROUND:

The City of Sandy Springs Board of Appeals approved variance petition V09-009 for property located at 6018 Kayron Drive for relief from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to allow for the construction of a chain link fence. The Board approved the variance(s) at the May 14, 2009 hearing, subject to the following condition(s):

- 1) The proposed chain link fence shall be constructed in accordance with a revised site plan, provided by the applicant, for the variance herein, showing the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) reduced to a twenty-five (25) foot undisturbed natural buffer where necessary to accommodate the portions of the encroachment(s) only. The area of land disturbance shall be limited to no more than 5.9 square feet within the fifty (50) foot undisturbed natural buffer.
- 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 material.
- 3) All downspouts and water runoff from the proposed additions shall be directed into a rain garden or other Best Management Practices (BMP) filtration detention 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) All approved encroachments into the fifty (50) foot undisturbed stream buffer shall be clearly delineated both on the approved site plan and on site. Per Blake Dettwiler, the typical requirement to use a tree save fence and two (2) rows of type-C silt fence shall be waived if the applicant is building only a chain link fence, with no columns or trenching. The limits of encroachment into the buffer must be field-verified by staff during a pre-construction meeting before issuance of the applicable permit(s) for the site.
- 11) The applicant shall provide a revised drainage and erosion plan showing the Proposed fence set back no less than nineteen (19) feet from the wrested vegetation of the subject stream and showing plantings as approved by the City Arborist.

The applicant appealed the above decision to the Fulton County Superior Court. At an October 13, 2009 appeal hearing, the presiding judge of the Fulton County Superior Court put the matter back before the Board of Appeals (BOA) for reconsideration. Therefore, pursuant to direction of Fulton County Superior Court, variance petition V09-009 is to be reviewed at the December 10, 2009 BOA meeting by the Board to clarify their determination of the BOA on their findings related to the May 14, 2009 action for case V09-009 (please see attached meeting minutes from May 14, 2009).

REQUEST:

The applicant is requesting relief from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to a nineteen (19) foot undisturbed natural buffer to allow for the construction of a chain link fence.

ANALYSIS:

The applicant has provided plans showing a fence alignment encroaching a maximum of four foot into the State's twenty five foot tributary buffer, as well as portions within the 50 foot undisturbed natural buffer.

The applicant has submitted a site plan and photographs indicating the subject property to be wooded, roughly rectangular in shape, and sloping from the existing house toward the back of the property. The centerline of a stream, looping around from east to west and turning south, follows the subject property's rear western and northern side property lines. The existing patio to the rear of the house encroaches into the 25 foot impervious surface setback.

The site plan provided by the applicant indicates:

- 65 feet of fence will be inside the 25 foot State tributary buffer.
- 120 feet of fence will be inside the 50 foot undisturbed natural buffer.
- 145 feet of fence will be inside the 75 foot impervious surface buffer zone.
- The total disturbed area inside the 50 foot undisturbed natural buffer is 5.9 square feet.

Request for a variance from the State Department of Natural Resources is not required. The State of Georgia considers fences exempt from stream buffer encroachment definitions.

It is Staff's opinion the homeowner is subject to hardship due to the presence of a stream running parallel to two property boundaries on his lot. In order to secure his lot for children and animals a fence is needed. Placement of the fence outside the 50 foot undisturbed buffer or 25 foot impervious setback restricts the majority of his back yard from use and enjoyment.

Department Comments

The staff held a Focus Meeting on April 1, 2009 at which the following departmental comments were provided:

LAND DEVELOPMENT	Engineering Plan Reviewer	▪ No comments
	Arborist/Landscape Architect	▪ Standard stream buffer comments.
BUILDING AND PERMITTING	Building Plan Reviewer	▪ No comments
FIRE DEPT.	Fire Protection Engineer	▪ No comments
TRANSPORTATION	Public Works Dept., Transportation Planner	▪ 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 proposed black chain link fence on the property is intended to help secure privacy, as well as protect children and pets in the back yard. The applicant states the approval of a variance in this instance would allow the homeowner reasonable and conservative development of their property. An option exists to extend the fence along the perimeter of the property, crossing the river. However, this option would not keep pets and children off the steep banks and out of the creek, a hazard to both.

A determination has been made by the Department of Natural Resources that fences are exempt from State requirements, are not considered an encroachment, and do not require a variance letter. The variance request is for the encroachment into the City's stream buffer.

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 a site plan and photographs indicating the subject property to be wooded, basically rectangular in shape, and sloping from the existing house toward the back of the property. The centerline of a stream, running south-north, parallels the subject property's rear western property line, varying from 25 feet to 40 feet from the property line.

The applicant states he is subjected to hardship due to the unusual topography of the lot. Even though the house was originally constructed as close as possible to the front building setback, only about two-thirds of land is usable behind the house due to the existence of the stream.

Recommended Condition(s)

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

- 1) That the proposed chain link fence be constructed in accordance with the proposed site plan, provided by the applicant dated received March 20, 2009 by the Department of Community Development, for the variance herein, showing the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) reduced to a twenty-five (25) foot undisturbed natural buffer (as approved by the Board of Appeals at the May 14, 2009 hearing) where necessary to accommodate the portions of the encroachment(s) only. The area of land disturbance shall be limited to no more than 5.9 square feet within the fifty (50) foot undisturbed natural buffer (as approved by the Board of Appeals at the May 14, 2009 hearing).

Prepared by the City of Sandy Springs Department of Community Development for the Board of Appeals Hearing on December 10, 2009

- 2) In areas where the fifty (50) foot undisturbed natural buffer and the twenty-five (25) foot impervious setback have been reduced for building additions and/or other improvements, downspouts shall be directed into a rain garden or a Best Management Practices (BMP) filtration detention device.
- 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, site plans, supporting documents, letter of support, meeting minutes, and photographs.