

STATE OF GEORGIA  
COUNTY OF FULTON

**AN ORDINANCE TO MODIFY CONDITION(S) OF A RESOLUTION BY THE FULTON COUNTY BOARD OF COMMISSIONERS APPROVING PETITION Z99-0101 ON JULY 5, 2000, PROPERTY LOCATED AT ABERNATHY ROAD AT BARFIELD ROAD (17 0035LL072, 17 0035LL073, 17 0035LL092)**

BE IT ORDAINED by the City Council for the City of Sandy Springs, Georgia while in regular session on March 20, 2007 at 7:00 p.m. as follows:

**SECTION 1.** That the condition(s) of a Resolution by the Fulton County Board of Commissioners, approved on July 5, 2000, for petition Z99-0101 that rezoned property from the R-2 (Single Family Dwelling) District and the C-2 (Commercial) District to the MIX (Mixed Use) District be changed for the property located at **Abernathy Road at Barfield Road (17 0035LL072, 17 0035LL073, 17 0035LL092)**, consisting of a total of approximately 11.14 acres, to wit;

ALL THAT TRACT or parcel of land lying and being Land Lot 35 of the 17<sup>th</sup> District, Fulton County, Georgia by the attached legal description; and

**SECTION 2.** That the variance(s), as listed in the attached conditions of approval, be approved under the provisions of Section 22.9 of the Zoning Ordinance of the City of Sandy Springs; and

**SECTION 3.** That the property shall be developed in compliance with the conditions of approval, as attached to this ordinance. Any conditions hereby approved (including any conditional site plan) do not authorize the violation of any district regulations; and

**SECTION 4.** That all ordinances or part of ordinances in conflict with the terms of this ordinance are hereby repealed; and

**SECTION 5.** This Ordinance shall become effective upon adoption by the Mayor and City Council and the signature of approval of the Mayor.

ORDAINED this the 20<sup>th</sup> ay of March, 2007.

Approved:

  
\_\_\_\_\_  
Eva Galambos, Mayor

Attest:

  
\_\_\_\_\_  
Christina Rowland, CMC, City Clerk

(Seal)



CONDITIONS OF APPROVAL

**ZM07-002/CV07-006**

**Abernathy Road at Barfield Road (17 0035LL072, 17 0035LL073, 17 0035LL092)**

The City of Sandy Springs Mayor and City Council approved the modification of the conditions of Z99-0101/CV99-0165/U99-0051, with regard to the above referenced property currently zoned currently zoned MIX (Mixed Use District). Zoning modification petition ZM07-002/CV07-006 was approved by the Mayor and City Council at the March 20, 2007 hearing, subject to the following conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
  - a. Office, institutional, retail and service commercial, and accessory uses, including all exterior food and beverage service areas, at a maximum density of 50,000 gross square feet per acre zoned or a total of 570,500 square feet, whichever is less.
  - b. No more than 150 total dwelling units, at a maximum density of 13.15 units per acre, based on the total acreage zoned, whichever is less. Development of these units must be upon property owned by a Condominium Association with evidence of the Association to be submitted to the Director of the Department of ~~Environment and~~ Community Development prior to the issuance of the final Certificate of Occupancy.
  - c. One 400-room hotel.
  - d. One maximum 6-story detached parking deck, as depicted on the site plan referenced in condition 2.a.
  - e. Limit the height of the office buildings to no more than 18 stories. Mechanical penthouse shall not count as one of the stories. (99U -051 NFC)
  - f. Limit the height of the hotel to no more than 16 stories. Mechanical penthouse shall not count as one of the stories. (99U -051 NFC)
  - g. Limit the height of the residential building to no more than 6 stories. Mechanical penthouse shall not count as one of the stories. (99U -051 NFC)
  - h. The minimum heated floor area per dwelling unit shall be 1,000 square feet.

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2. To the owner's agreement to abide by the following:
  - a. To the site plan received by the Department of Community Development dated January 31, 2007. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Resolution and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.

3. To the owner's agreement to the following site development considerations:

- a. Provide a 15-foot building setback along Abernathy Road and a 20-foot building setback along Barfield Road and landscaping within these setbacks. Said landscaping shall be planted with trees and shrubs so as to meet the specifications as set forth in the Fulton County Tree Preservation Ordinance. Plantings and specifications shall be subject to the approval of the Fulton County Arborist. To allow for the following encroachments into the 20-foot building setback along Barfield Road:

Seven (7) feet for a distance of fifteen (15) feet on the southwest side of the proposed building as shown on the site plan received by the Department of Community Development dated January 31, 2007

Three (3) feet with the balconies for the residential units at the southwest corner of the building as shown on the site plan received by the Department of Community Development dated January 31, 2007 (CV07-004)

- b. Plant trees along the east property line adjacent to Georgia 400 as shown on the site plan referenced in condition 2.a.
- c. Provide for a rear yard building setback of zero, along the site's south property line identified as N 0027'20" E on the site plan referenced in condition 2.a. (99VC-165 NFC, Part 3)
- d. Delete the requirement for a 5-foot wide landscape strip, along the site's rear property line, identified as N 0027'20" E on the site plan referenced in condition 2.a. (99VC-165 NFC, Part 2)
- e. Delete all required interior buffers adjacent to residential uses within the development. (99VC-165 NFC, Part 4)
- f. No more than 1 exit/entrance on Barfield Road. Curb cut location and alignment are subject to the approval of the Sandy Springs Traffic Engineer.
- g. No more than 1 right-in/right-out exit/entrance on Abernathy Road. Curb cut location and alignment are subject to the approval of the Sandy Springs Traffic Engineer.
- h. No direct access shall be allowed from Georgia 400.
- i. All parking structures shall be constructed so as provide at a minimum 50% visual screening of all parked vehicles. Screening shall be accomplished either through architectural means so that parking decks resemble the style of the surrounding office buildings and therefore are not discernable from those buildings or through additional landscape treatments as part of the parking structures themselves. Said landscape treatments shall also provide a minimum 50% visual coverage of all parked vehicles. A combination of architectural and landscape treatments may be used provided that the minimum 50% visual screening of all parked vehicles is achieved.

- j. No neon or electronic or flashing signage on retail storefronts facing Abernathy Road, Barfield Road, or Georgia 400.
  - k. To allow the placement of hard surface elements (e.g. pedestrian ramp, steps, sidewalks, planters, and retaining walls) within the required ten (10) foot landscape strip along Abernathy Road as shown on the site plan received by the Department of Community Development dated January 31, 2007 (CV07-006).
4. To the owner's agreement to abide by the following requirements, dedication and improvements:
- a. Reserve for Sandy Springs along the necessary property frontage of the following roadways, prior to the approval of a Land Disturbance permit, sufficient land as necessary to provide for compliance with the Comprehensive Plan. All building setback lines shall be measured from the dedication but at no time shall a building be allowed inside the area of reservation. All required landscape strips and buffers shall straddle the reservation line so that the reservation line bisects the required landscape strip or buffer. At a minimum, 10 feet of the required landscape strip or buffer shall be located outside the area of reservation. All required tree plantings per Article 4.23 shall be placed within the portion of the landscape strip or buffer that lies outside the area of reservation.

Georgia 400 - As may be required by the Georgia Department of Transportation.

- b. Dedicate at no cost to Sandy Springs along the entire property frontage, prior to the approval of a Land Disturbance Permit, sufficient land as necessary to provide the following rights-of-way, and dedicate at no cost to Sandy Springs such additional right-of-way as may be required to provide at least 10.5 feet of right-of-way from the back of curb of all abutting road improvements, as well as allow the necessary construction easements while the rights-of-way are being improved:

Georgia 400 - As may be required by the Georgia Department of Transportation;

60 feet from centerline of Abernathy Road; 60 feet from centerline of Barfield Road.

- c. Traffic and sidewalk improvements shall commence before the issuance of any Land Disturbance Permit for site development and shall be completed before any final Certificate of Occupancy is issued, subject only to delays beyond the reasonable control of the developer.
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- d. Improve roadways along the entire property frontages with curb and gutter per Sandy Springs standards or as may be approved by the Sandy Springs Traffic Engineer and/or the Georgia Department of Transportation.
  - e. Provide a deceleration lane for each project entrance or as may be required by the Sandy Springs Traffic Engineer.

- f. Provide a left turn lane for each project entrance or as may be required by the Sandy Springs Traffic Engineer.
  - g. Provide additional turn lanes on Barfield Road and Abernathy Road as approved by the Sandy Springs Traffic Engineer.
  - h. Provide signalization as required by the Sandy Springs Traffic Engineer.
  - i. The developer shall be required to submit a plan for a shuttle service to a surrounding area transit station in conjunction with the issuance of a Land Disturbance Permit, be it a joint effort with surrounding sites or an individual service. Shuttle service scheduling and service locations shall be as determined by the Sandy Springs Traffic Engineer. The shuttle service would be provided during A.M. peak, P.M. peak, and lunch hours.
  - j. Shuttle plan and written agreement with service provider shall be presented to and accepted by the Sandy Springs Traffic Engineer prior to the issuance of any Land Disturbance Permit for the hotel or an office building. Shuttle service shall commence operation prior to the issuance of a Certificate of Occupancy for the hotel or an office building.
  - k. Provide interparcel access as approved by the Sandy Springs Traffic Engineer.
  - l. Provide MARTA shelters and safe pedestrian access to the shelters on Abernathy Road and Barfield Road.
  - m. Provide sidewalks along Abernathy Road from Barfield Road to the east side of Georgia 400. If remaining sidewalks from Georgia 400 to Peachtree Dunwoody Road, across from the entrance to the Sandy Springs MARTA station, have not been completed by the issuance of the final Certificate of Occupancy on developer's project, the developer agrees to fund the construction cost of said sidewalk, along with the cost of a cover for such sidewalk, between Peachtree Dunwoody Road and the east side of Georgia 400. Sidewalks are to be built within Sandy Springs right-of-way as approved by the Sandy Springs Traffic Engineer.
  - n. Provide a traffic impact mitigation plan to reduce the number of vehicle trips generated by the development to the Sandy Springs Traffic Engineer at the Land Disturbance Permit phase.
  - o. Allow shared parking as provided for by Article 18.2.2 of the Zoning Ordinance.
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- p. Obtain Georgia DOT approval for and fund the cost of pedestrian intersection improvements at Peachtree Dunwoody Road and Abernathy Road that include pedestrian signalization, cross walks, and islands that create "safe harbors" for pedestrians.
5. To the owner's agreement to abide by the following:

- a. To contact the Director of Public Works, prior to the application for a Land Disturbance Permit with the Department of Community Development, to meet with the Sandy Springs Traffic Engineer. A signed copy of the results of these meetings will be required to be submitted along with the application for a Land Disturbance Permit.
- b. Prior to the application for a Land Disturbance Permit with the Department of Community Development, arrange an on-site evaluation of existing specimen trees/stands, buffers, and tree protection zones within the property boundaries with the Sandy Springs Arborist. A signed copy of the results of these meetings will be required to be submitted along with the application for a Land Disturbance Permit.
- c. To contact the Director of Public Works, prior to the application for a Land Disturbance Permit with the Department of Community Development, to meet with the Sandy Springs Drainage Engineer. A signed copy of the results of these meetings will be required to be submitted along with the application for a Land Disturbance Permit.
- d. At the time of submittal for a Land Disturbance Permit and after the approval of the Preliminary Plat, the engineer/developer is required to provide written documentation verifying on-site evaluation and any other necessary downstream constraints.
- e. Provide documentation (cross-section, profile, etc.) as to the existing conditions for all natural streams/creeks within the boundary of the project. Show, by documentation, the appropriate erosion protection of the storm water conveyance system.
- f. The developer/engineer is responsible to demonstrate to the City by engineering analysis, that the developed land use (proposed development) storm water runoff conditions are controlled at the maximum pre-developed land use level, so that downstream properties/conveyance systems are not impacted or aggravates existing flooding/drainage nor creates new drainage/flooding problems off-site.
- g. Prior to application for a Land Disturbance Permit, the developer/engineer shall submit to the Department of Community Development a storm water concept plan. The storm water concept plan shall be preliminary drawings describing the proposed location of storage facilities, discharge paths, downstream and upstream constraints and other matters with potential storm water implications.

LEGAL DESCRIPTION

RECEIVED

All that tract or parcel of land lying and being in Land Lot 35 of the 17<sup>th</sup> District, Fulton County, Georgia and being more particularly described as follows:

JAN 31 2007  
Jul 15 1 20 Pm '99  
City of Sandy Springs  
Planning Department

Beginning at a Georgia D.O.T. (Department of Transportation) concrete right of way marker found, located at the intersection of the southerly right of way of Abernathy Road and the westerly right of way of Georgia 400 (a limited access highway);

THENCE South 04 degrees 38 minutes 52 seconds East for a distance of 240.10 feet to a Georgia D.O.T. right of way marker;

THENCE South 05 degrees 02 minutes 36 seconds East for a distance of 298.46 feet to a Georgia D.O.T. right of way marker;

THENCE South 10 degrees 37 minutes 08 seconds East for a distance of 4.88 feet to a MARTA (Metropolitan Atlanta Rapid Transit Authority) concrete property marker;

THENCE North 89 degrees 03 minutes 28 seconds West for a distance of 382.91 feet to an iron pin adjacent to a chain link fence;

THENCE North 00 degrees 27 minutes 20 seconds East for a distance of 160.48 feet to a located adjacent to an iron post and chain link fence corner;

THENCE North 89 degrees 38 minutes 39 seconds West for a distance of 415.16 feet to an iron pin found along the easterly right of way of Barfield Road to a point;

THENCE along a curve to the right having a radius of 920.00 feet and an arc length of 132.02 feet, being subtended by a chord of North 25 degrees 54 minutes 38 seconds West for a distance of 131.91 feet along the easterly right of way of Barfield Road to a point;

THENCE North 35 degrees 30 minutes 28 seconds East for a distance of 95.43 feet to a point;

THENCE South 89 degrees 51 minutes 31 seconds West for a distance of 82.47 feet to a pk nail set in asphalt paving;

THENCE along a curve to the right having a radius of 920.00 feet and an arc length of 276.28 feet, being subtended by a chord of North 08 degrees 05 minutes 00 seconds West for a distance of 276.24 feet to a point along the easterly right of way of Barfield Road;

THENCE North 00 degrees 35 minutes 28 seconds East for a distance of 145.04 feet to a point at the metered intersection of Abernathy Road;

THENCE North 51 degrees 57 minutes 15 seconds East for a distance of 35.00 feet to a point along the southerly right of way of Abernathy Road;

THENCE along a curve to the left having a radius of 1477.09 feet and an arc length of 453.13 feet, being subtended by a chord of South 76 degrees 30 minutes 19 seconds East for a distance of 451.36 feet to a point along the southerly right of way of Abernathy Road;

THENCE South 04 degrees 39 minutes 20 seconds West for a distance of 15.00 feet to a point;

THENCE South 69 degrees 22 minutes 34 seconds East for a distance of 156.81 feet to a Georgia D.O.T. marker;

THENCE South 77 degrees 28 minutes 26 seconds East for a distance of 163.79 feet to a Georgia D.O.T. marker;

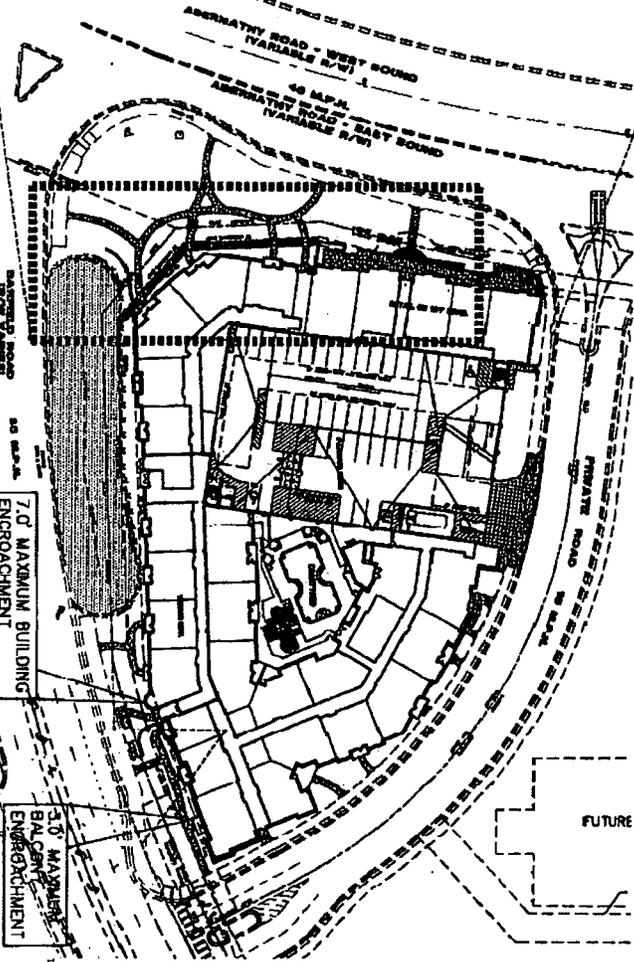
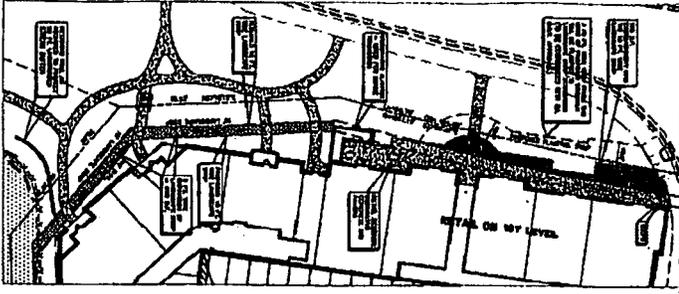
THENCE South 81 degrees 04 minutes 36 seconds East for a distance of 120.56 feet to the point of beginning.

Together with and subject to covenants, easements, and restrictions of record.

Said property contains 11.412 acres more or less.  
(file 11047 reg. April 19, 1999)



ENLARGED PLAN



ABERNATHY ROAD LANDSCAPE STRIP	
REQUIRED LANDSCAPE STRIP	3,189 S.F.
PROPOSED LANDSCAPE STRIP	2,479 S.F.
NET INCREASE IN LANDSCAPE STRIP AREA	90 S.F. (2.9%)

LANDSCAPE STRIP AVERAGING	
LANDSCAPE STRIP ENCROACHMENT	608 S.F.
LANDSCAPE STRIP EXPANSION	688 S.F.
NET GAIN	90 S.F. (14.6%)



7.0' MAXIMUM ENCROACHMENT

3.0' MAXIMUM BALCONY ENCROACHMENT

FUTURE

<p>VARIANCE EXHIBIT</p> <p><b>SERRANO CONDOMINIUMS</b></p> <p>LA. 30, 17 DISTRICT, CITY OF ATLANTA, POLK COUNTY, GEORGIA</p>					
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**RECEIVED**  
 City of Sandy Springs  
 Community Development  
 JAN 31 2007