

STATE OF GEORGIA
COUNTY OF FULTON

**AN ORDINANCE TO MODIFY CONDITION(S) OF A RESOLUTION BY THE FULTON
COUNTY BOARD OF COMMISSIONERS APPROVING PETITION Z91-0035 ON JUNE 5,
1991, PROPERTY LOCATED AT 8725 ROSWELL ROAD (SR9)**

BE IT ORDAINED by the City Council for the City of Sandy Springs, Georgia while in regular session on August 18, 2009 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 June 5, 1991, for petition Z91-0035 that allowed the property to be rezoned to the C-1(Community Business District) be changed for the property located at 8725 Roswell Road (SR9), consisting of a total of approximately 11.73 acres, to wit;

ALL THAT TRACT or parcel of land lying and being Land Lot 368 of the 17th 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 That all ordinances or part of ordinances in conflict with the terms of this ordinance are hereby repealed; and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.

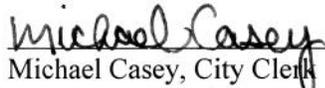
ORDAINED this the 18st day of August, 2009.

Approved:



Eva Galambos, Mayor

Attest:



Michael Casey, City Clerk
(Seal)



CONDITIONS OF APPROVAL

ZM09-005/CV09-009
8725 Roswell Road (SR9)

Please be advised, the City of Sandy Springs Mayor and City Council approved the modification of condition 2.a. of Z91-0035, with regard to the above referenced property currently zoned C-1 (Community Business District). Zoning modification petition ZM09-005/CV09-009 was approved by the Mayor and City Council at the August 18, 2008 hearing, subject to the following conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Retail, service commercial and/or office and accessory uses, including all exterior food and beverage service areas, at a maximum density of 9,350 gross square feet of total floor area per acre zoned or a total floor area of 145,392 gross square feet within 7 primary buildings plus two (2) unattended accessory structures, whichever is less, but excluding service stations, commercial amusements and billboards.
 - b. A maximum of six (6) outparcels shall be allowed on the subject site to be included in the allowed total gross square footage. It shall be calculated as part of the total floor area allowed in condition 1.a.
 - c. Limit the number of fast food uses to no more than two outparcels.
 - d. Limit the height of the buildings to no more than 2 stories.
2. To the owner's agreement to abide by the following:
 - a. To the Site Plan received by the ~~Zoning~~ Department of ~~Environment and Community Development~~ on May 5, 2009 and to submit to the Director of ~~Public Works~~ ~~Environment and Community Development~~ for approval, prior to the approval of a Land Disturbance Permit, a revised Site Plan based on a certified boundary survey of the entire property zoned, incorporating the stipulations of these conditions of zoning approval and meeting or exceeding requirements of Zoning Resolution
3. To the owner's agreement to the following site development considerations:
 - a. No direct access for outparcels from Roswell Road or Dunwoody Place.
 - b. Each outparcel which abuts a public right-of-way shall have a minimum of 200 feet of frontage on said public right-of-way.
 - c. Said access points to the outparcel(s), as referenced in condition 4d, from the permitted curb cuts shall be locate at least 100 feet from the new dedicated right-of-

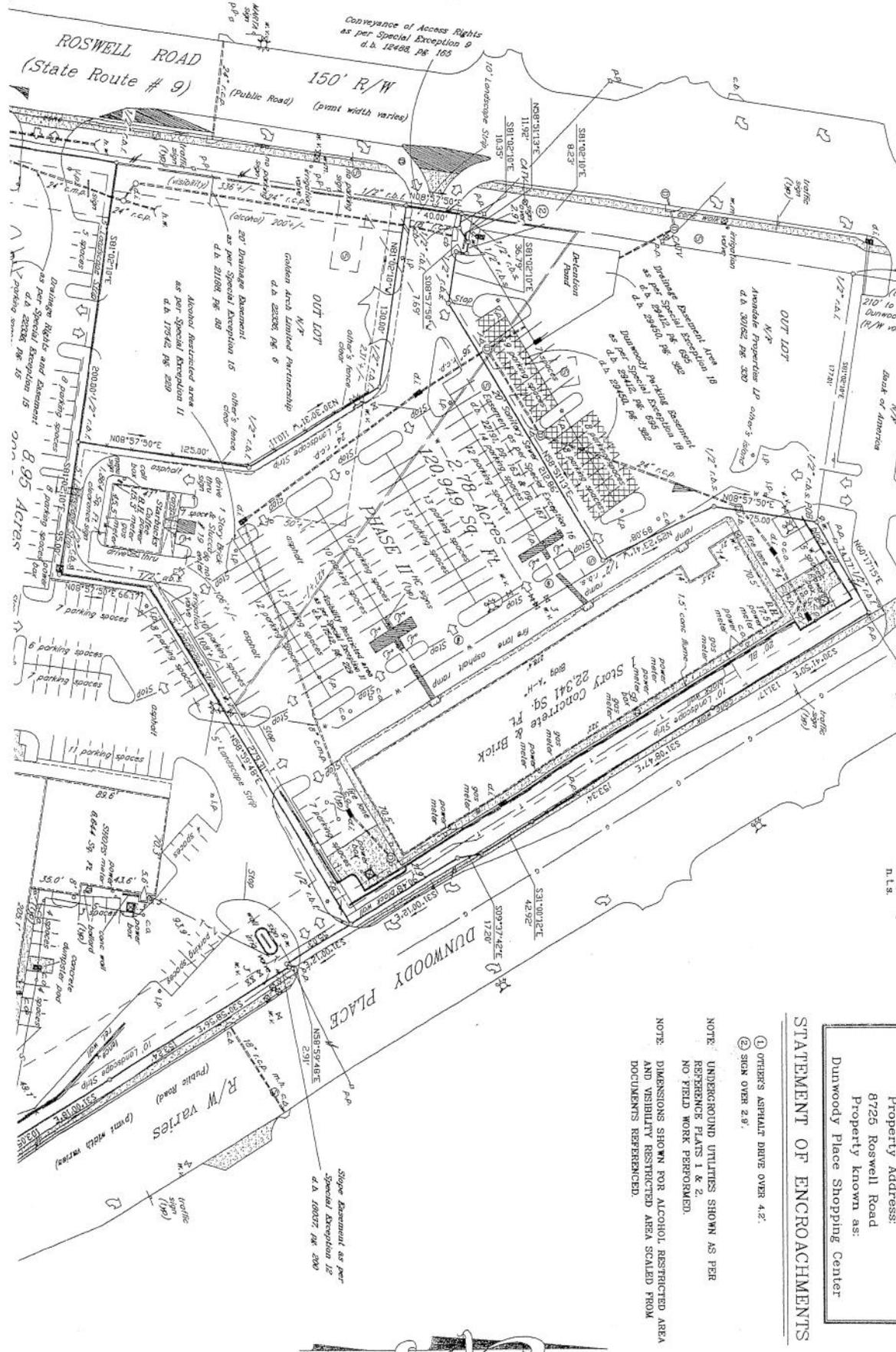
- way of any public street, subject to the approval of the ~~Fulton County~~ Sandy Springs Traffic Engineer.
- d. Provide a 25 foot landscape strip planted to buffer standards on the southeastern border of the property which abuts the parcel zoned O-I pursuant to Z84-069.
 - e. Provide a minimum 6-foot high 100% opaque, solid wood fence, subject to the approval of ~~Fulton County~~ Sandy Springs Arborist and the Director of ~~Planning and Economic~~ Community Development, along the entire length of the southeastern and southern border. Said fence is to be located outside of any public right-of-way and interior to any required landscape strips and/or buffers, or as may be approved by the Director of ~~Planning and Economic~~ Community Development and the ~~Fulton County~~ Sandy Springs Arborist. The finished side of said fence shall face the exterior property lines.
 - f. To increase the maximum permitted square footage for two (2) monument signs (#1 and #2) to one hundred and sixteen (116) square feet and a height of fifteen (15) feet pursuant to the sign detail submitted by the applicant, and dated received May 5, by the Department of Community Development. (CV09-009)
 - g. To allow a second sign ninety (90) square feet and a height of eighteen (18) feet along the Roswell Road (SR9) frontage which is not a monument sign (#3) pursuant to the sign detail submitted by the applicant, and dated received July 14, 2009 by the Department of Community Development. (CV09-009)
4. To the owner's agreement to abide by the following requirements, dedications and improvements:
- a. Dedicate at no cost to ~~Fulton County~~ the City of Sandy Springs along the entire property frontage, prior to the approval of a Land Disturbance Permit, sufficient land as necessary to provide the following right-of way. Dedicate at no cost to ~~Fulton County~~ the City of 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 right-of-way are being improved.

55 – feet from the centerline of Roswell Road (subject to the approval of the Georgia D.O.T.).

45- feet from the centerline of Dunwoody Place.
 - b. Improve the following roadway along the entire property frontage from the center of road to back of curb as follows:

38-feet from centerline of Dunwoody Place.

- c. Provide an additional lane along entire frontage of Roswell Road or as may be approved by ~~Fulton County~~ Sandy Springs Traffic Engineer.
 - d. Three right in/right out only curb cuts on Roswell Road. Curb cut location and alignment are subject to the approval of the ~~Fulton County~~ Sandy Springs Traffic Engineer.
 - e. One full access curb cut on Roswell Road, aligned with entrance to Daabs Loomis Daycare facility.
 - f. Three curb cuts on Dunwoody Place, two of which shall be right in right out only curb cuts. Curb cut location and alignment are subject to the approval of the ~~Fulton County~~ Sandy Springs Traffic Engineers.
 - g. Provide a left turn lane on Dunwoody Place for the project entrance with full access curb cut. Curb cut location and alignment are subject to the approval of the ~~Fulton County~~ Sandy Springs Traffic Engineers.
5. To the owner's agreement to abide by the following:
- a. To contact the Director of Community Development ~~Public Works~~, prior to the application for Land Disturbance Permit, to arrange with the ~~County~~ City Arborist an on-site evaluation of existing specimen trees/stands, buffers, and tree protection zones within the property boundaries.
 - b. To maintain as a minimum, the tree density requirement as prescribed by the ~~Fulton County~~ Sandy Springs Tree Preservation Ordinance Administrative Guidelines, either through the retention of existing trees, or tree replacement, in perpetuity.



LEGEND

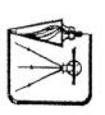
①	OTHERS ASPHALT DRIVE OVER 4.2'
②	SIGN OVER 2.8'
③	UNDERGROUND UTILITIES SHOWN AS PER REFERENCE PLATS 1 & 2.
④	NO FIELD WORK PERFORMED.
⑤	DIMENSIONS SHOWN FOR ALCOHOL RESTRICTED AREA AND VISIBILITY RESTRICTED AREA SCALED FROM DOCUMENTS REFERENCED.

NOTE: ANY ENCROACHMENT OR VIOLATION OF ANY FEDERAL, STATE OR LOCAL LAW, ORDINANCE, RULE, REGULATION, ORDER, DECREE, COURT ORDER, OR ANY OTHER LEGAL INSTRUMENT, WHICH MAY BE IN EFFECT AT THE TIME OF THE SURVEY, SHALL BE THE RESPONSIBILITY OF THE OWNER OF THE PROPERTY. THE SURVEYOR HAS NO LIABILITY FOR SUCH VIOLATIONS OR FOR ANY DAMAGE TO PERSONS OR PROPERTY CAUSED BY SUCH VIOLATIONS.



Property Address:
8725 Roswell Road
Property known as:
Dunwoody Place Shopping Center

Parsons & Associates, Inc.
LAND SURVEYING-ENGINEERING-SITE PLANNING
DEVELOPMENT-CONSTRUCTION LAYOUT
3504 FOREST PARKWAY
ROSBERT PARK, GA 30087
(404)366-7716 (404)366-0813 (FAX)
E-Mail: parsons@parsonsinc.com



STATEMENT OF ENCROACHMENTS

NOTE: DIMENSIONS SHOWN FOR ALCOHOL RESTRICTED AREA AND VISIBILITY RESTRICTED AREA SCALED FROM DOCUMENTS REFERENCED.



EXHIBIT "A"
Recorded Legal Description

ALL THAT TRACT or parcel of land lying and being in Land Lot 368 of the 6th District, of Fulton County, Georgia and being more particularly described as follows:

To arrive at the TRUE POINT OF BEGINNING, begin at a point located on the easterly right of way line of Roswell Road (a/k/a State Route No. 9) (150 foot variable right of way), said point being 210.00 feet southerly from the westernmost end of the mitered intersection of said easterly right of way line and the southwesterly right of way line of Dunwoody Place (having a 70 foot right of way width at the eastern most end of said mitered intersection) (relocated) and being 75 feet from the centerline of Roswell Road; departing said easterly right of way line, thence South 81 degrees 02 minutes 10 seconds East a distance of 177.01 feet to a 1/2 inch rebar set and the TRUE POINT OF BEGINNING; thence from said TRUE POINT OF BEGINNING thus established, North 60 degrees 17 minutes 15 seconds East a distance of 74.77 feet to a 1/2 inch rebar found on the southwesterly right of way of Dunwoody Place; thence along said right of way South 30 degrees 47 minutes 50 seconds East a distance of 131.17 feet to a point; thence South 31 degrees 08 minutes 47 seconds East a distance of 153.34 feet to a point; thence South 31 degrees 00 minutes 12 seconds East a distance of 42.92 feet to a point; thence South 09 degrees 37 minutes 42 seconds East a distance of 17.20 feet to a point; thence South 31 degrees 00 minutes 12 seconds East a distance of 145.51 feet to a point; thence North 58 degrees 59 minutes 48 seconds East a distance of 2.91 feet to a point; thence South 30 degrees 58 minutes 56 seconds East a distance of 153.24 feet to a point; thence South 31 degrees 00 minutes 18 seconds East a distance of 103.05 feet to a point; thence South 31 degrees 28 minutes 30 seconds East a distance of 51.48 feet to a point; thence South 33 degrees 55 minutes 09 seconds East a distance of 51.62 feet to a point; thence South 37 degrees 07 minutes 00 seconds East a distance of 69.86 feet to a 1/2 inch rebar set; thence departing said right of way South 23 degrees 24 minutes 41 seconds West a distance of 210.41 feet to a 1/2 inch rebar found; thence South 74 degrees 45 minutes 14 seconds West a distance of 557.52 feet to a 1/2 inch rebar found; thence North 15 degrees 14 minutes 46 seconds West a distance of 207.25 feet to a 1/2 inch rebar found; thence North 81 degrees 02 minutes 10 seconds West a distance of 184.10 feet to a 1/2 inch rebar set on said right of way of Roswell Road; thence along said right of way North 08 degrees 57 minutes 50 seconds East a distance of 360.00 feet to a 1/2 inch rebar found; thence departing said right of way South 81 degrees 02 minutes 10 seconds East a distance of 200.00 feet to a 1/2 inch rebar found; thence North 08 degrees 57 minutes 50 seconds East a distance of 125.00 feet to a 1/2 inch rebar found; thence North 30 degrees 30 minutes 31 seconds West a distance of 110.11 feet to a 1/2 inch rebar found; thence North 81 degrees 02 minutes 10 seconds West a distance of 130.00 feet to a 1/2 inch rebar found on said right of way of Roswell Road; thence along said right of way North 08 degrees 57 minutes 50 seconds East a distance of 40.00 feet to a 1/2 inch rebar set; thence departing said right of way South 81 degrees 02 minutes 10 seconds East a distance of 10.35 feet to a 1/2 inch rebar found; thence North 58 degrees 51 minutes 13 seconds East a distance of 11.92 feet to a 1/2 inch rebar set; thence South 81 degrees 02 minutes 10 seconds East a distance of 8.23 feet to a 1/2 inch rebar set; thence South 08 degrees 57 minutes 50 seconds West a distance of 7.69 feet to a 1/2 inch rebar set; thence South 81 degrees 02 minutes 10 seconds East a distance of 36.79 feet to a 1/2 inch rebar set; thence North 58 degrees 51 minutes 13 seconds East a distance of 212.86 feet to a 1/2 inch rebar set; thence North 25 degrees 23 minutes 41 seconds West a distance of 89.08 feet to a 1/2 inch rebar set; thence North 08 degrees 57 minutes 50 seconds East a distance of 75.00 feet to said 1/2 inch rebar set and the TRUE POINT OF BEGINNING. Said tract containing 11.73 acres as shown on a survey prepared by Pearson & Associates, Inc., dated January 14, 2005.

TOGETHER WITH those easement rights arising under that certain Declaration of Easements, Restrictions and Covenants by Wachovia Bank of Georgia, N.A. f/k/a The First National Bank of Atlanta, as Trustee of the Remainder Trust pursuant to Item VI of the Last Will and Testament of Harry Vinson Powell and Bonnie Bennett Powell, dated December 17, 1993, filed of record December 21, 1993, recorded in Deed Book 17542, Page 229, aforesaid records; as amended (legal description) by that certain Affidavit of William J. Dawkins, dated January 6, 1997, filed of record March 17, 1997, recorded in Deed Book 22336, Page 17, aforesaid records; as amended by that certain Scrivener's Affidavit and Affidavit to Give Notice of Facts Recited by William J. Dawkins, dated July 18, 2000, filed of record August 25, 2000, recorded in Deed Book 29412, Page 662, aforesaid records; as further amended by that certain Affidavit to Give Notice of Facts Recited by William

J. Dawkins, dated July 18, 2000, filed of record August 25, 2000, recorded in Deed Book 29412, Page 666, aforesaid records.

ALSO TOGETHER WITH those easement rights arising under that certain Site Plan Agreement and Easement among Dunwoody Place, L.P., a Georgia limited partnership and Latrelle P. Blosz, Executrix under the Will of Bonnie Bennett Powell, dated June 4, 1986, filed of record June 7, 1996, recorded in Deed Book 21188, Page 88, aforesaid records; as amended by that certain Memorandum of Understanding on Site Plan Agreement and Easement, filed of record March 17, 1997, recorded in Deed Book 22336, Page 15, aforesaid records.

ALSO TOGETHER WITH those easement rights arising under that certain Reciprocal Access Agreement by and among Dunwoody Place, L.P., a Georgia limited partnership, CNL Restaurant Investors, LLC, a Florida limited liability company and Bank of America, N.A., a national banking association (f/k/a NationsBank, N.A.), dated August 24, 2000, filed of record August 25, 2000, recorded in Deed Book 29412, Page 679, aforesaid records; as re-recorded September 7, 2000 in Deed Book 29450, Page 366, aforesaid records.

ALSO TOGETHER WITH those easement rights arising under that certain Parking, Drainage and Sanitary Sewer Easement Agreement by and between Dunwoody Place, L.P., a Georgia limited partnership, CNL Restaurant Investors, LLC, a Florida limited liability company and RTM Georgia, Inc., a Georgia corporation, dated August 24, 2000, filed of record August 25, 2000, recorded in Deed Book 29412, Page 695, aforesaid records; as re-recorded September 7, 2000, in Deed Book 29450, Page 382, aforesaid records..

TOGETHER WITH Sanitary Sewer Easement by and between The First National Bank of Atlanta, Trustee under the Will of Harry V. Powell and The Citizens and Southern National Bank, dated April 14, 1989, filed of record April 14, 1989, recorded in Deed Book 12426, Page 164, aforesaid records.