

STATE OF GEORGIA
COUNTY OF FULTON

**AN ORDINANCE TO REZONE TO C-1 (COMMUNITY BUSINESS DISTRICT)
CONDITIONAL TO ADD 15,000 SQUARE FEET TO THE EXISTING APPROVED SQUARE
FOOTAGE FOR THE SHOPPING CENTER, WITH CONCURRENT VARIANCES,
PROPERTY LOCATED AT 5600 ROSWELL ROAD (SR 9)**

BE IT ORDAINED by the City Council for the City of Sandy Springs, Georgia while in regular session on September 21, 2010 at 6:00 p.m. as follows:

SECTION 1. That the Zoning Ordinance of the City of Sandy Springs be amended, and the official maps established in connection therewith be changed so that the following property located at 5600 Roswell Road (SR 9), consisting of a total of approximately 24.29 acres, be changed from the C-1 (Community Business District) conditional to C-1 (Community Business District) conditional, to wit;

ALL THAT TRACT or parcel of land lying and being Land Lot 91 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 the official maps referred to, on file in the Office of the City Clerk, be changed to conform with the terms of this ordinance; and

SECTION 5. That all ordinances or part of ordinances in conflict with the terms of this ordinance are hereby repealed; and

SECTION 6. This Ordinance shall become effective upon adoption by the Mayor and City Council and the signature of approval of the Mayor.

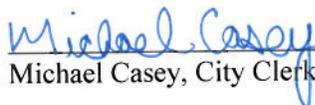
ORDAINED this the 21st day of September, 2010.

Approved:

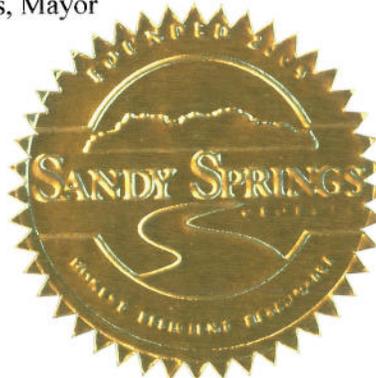


Eva Galambos, Mayor

Attest:


Michael Casey, City Clerk

(Seal)



CONDITIONS OF APPROVAL

RZ10-007/CV10-010
5600 Roswell Road (SR 9)

The City of Sandy Springs Mayor and City Council approved the rezoning of property located at 5600 Roswell Road (SR 9). Rezoning petition RZ10-007/CV10-010 was approved to rezone the subject property from C-1 (Community Business District) conditional to C-1 (Community Business District) conditional to add 15,000 square feet to the existing approved square footage for the shopping center by the Mayor and City Council at the September 21, 2010 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 total of 356,485 square feet over the 24.29 acre site, and including no more than one freestanding fast food restaurant with or without drive thru, a financial institution with a drive-thru and a drug store with a drive-thru. Convenience stores with gas pumps and commercial amusements are excluded.
 - b. Limit the height of the buildings to no more than 3 stories with structured parking up to 5 levels. From the finished floor elevation of approximately 946 feet, limit the proposed building for Anchor B to a maximum height of 70 feet, for a total elevation of no greater than 1,016 feet.
2. To the owner's agreement to abide by the following:
 - a. To the site plans received by the Department of Community Development on August 11, 2010 and June 7, 2010. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. In the event the Recommended Conditions of Zoning cause the approved site plan to be substantially different, the applicant shall be required to complete the concept review procedure prior to application for 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.
 - b. To be in accordance with the screening/southwestern parking plan received by the Department of Community Development on August 17, 2010. Subject to the City Arborist's and to the Applicant's Landscape Architect's field approval, said screening/southwestern parking plan shall indicate the following: 1) Landscape material planted adjacent to the proposed Anchor B building and at the perimeter of the subject property to screen the proposed building's elevations and interior lighting from the adjacent residential properties to the west and south; 2) Substantial pervious areas (parking landscape islands) in the proposed southwestern parking area for the installation of what could be considered evergreen trees to shade the twelve (12) spaces and to screen the southern and southwestern elevations of the proposed building; 3) Two (2) levels of landscape screening where the 1st tier shall consist of an appropriate quantity of evergreens (Loblolly Pine, *Pinus taeda*) planted at the largest available size suitable for the conditions.

- c. To be substantially in accordance with the Landscape Plan known as (Exhibit B) along the south property line adjacent to Carriage Gate submitted the Department of Community Development on August 11, 2006.
 - d. The proposed construction on "Anchor B" shall be substantially in accordance with the material board, sign plan package, building elevation drawings, and renderings received by the Department of Community Development on August 10, 2010.
 - e. Subject to the approval of the Director of Community Development and where feasible and aesthetically pleasing for the Lifetime Fitness concept, to be in accordance with the revised western (rear) elevation drawing, received by the Department of Community Development on August 10, 2010, for Anchor B showing additional pilasters and articulation along the rear of the building having the extension of limestone material vertically along the pilasters. Additionally, the top band of glass block on the west and south elevations shall be in accordance with the building elevation drawings and renderings received by the Department of Community Development on August 10, 2010 and shall be frosted glass having a translucent wall panel (Kalwall – as seen on material board received by the Department of Community Development on August 10, 2010.). No additional frosted glass or Kalwall panels shall be added to the west and south facade.
 - f. The daily operation of the proposed pool for Anchor B shall be limited to the hours between dawn to dusk. The exterior lighting of the proposed pool shall be limited to first floor level security lighting in accordance and compatible with previously proffered and approved lighting for the overall shopping center having downward facing fixtures and full cut off shields subject to the approval of the Director of Community Development. The owner shall install landscape plantings around the pool area to screen it from neighboring properties as approved by the City Arborist.
 - g. The proposed project for "Anchor B" shall have exterior lighting in accordance and compatible with previously proffered and approved lighting for the overall shopping center having downward facing fixtures and full cut off shields as approved by the Director of Community Development. All security lighting serving the proposed Anchor B development shall be restricted to the first floor level(s) and shall be shielded subject to the approval of the Director of Community Development.
 - h. Subject to the approval of the Director of Community Development, all interior lighting of the proposed building for Anchor B shall meet or exceed the applicable regulations and will result in zero (0) foot candles at the perimeter property line(s).
3. To the owner's agreement to the following site development considerations:
 - a. No more than two (2) exits/entrances on Roswell Road (SR 9). Curb cut location and alignment are subject to the approval of the Sandy Springs Traffic Engineer.
 - b. No more than three (3) exits/entrances on Lake Placid Drive. Curb cut location and alignment are subject to the approval of the Sandy Springs Traffic Engineer.
 - c. Allow shared parking pursuant to Article 18.2.2.

- d. Provide streetscape standards consistent with the Main Street district in the Sandy Springs Overlay District along Roswell Road (SR 9) and along the main boulevard of the project as shown on the site plan received by the Department of Community Development dated August 11, 2006.
- e. Provide a 10-foot front yard along Lake Placid Drive. (2005VC-0105 NFC, Part 1)
- f. Provide a forty-five (45) foot landscape strip planted to buffer standards along the south property line of the overall Prado development adjacent to the Carriage Gate townhomes. (2005VC- 0105 NFC, Part 2) Prior to the issuance of a Land Disturbance Permit the owner/developer shall submit a landscape plan to the Department of Community Development. Said landscape plan shall be subject to the approval of the Sandy Springs Arborist.
- g. Delivery hours for Anchor A as shown on the site plan referenced in condition 2.a. shall be 7:00 a.m. to 10:00 p.m. Monday through Friday and 9:00 a.m. to 8:00 p.m. Saturday and Sunday. For Anchor B, there shall be no delivery hours on Sundays.
- h. No dumpsters shall be allowed within the area between the southern property line and rear wall of Anchor A and Anchor B retail stores as shown on the site plan referenced in condition 2.a.
- i. The south wall of Anchor A retail store as shown on the site plan referenced in condition 2.a. shall be comprised of masonry material.
- j. The exterior lighting for the Anchor A and Anchor B retail stores as shown on the site plan referenced in condition 2.a. adjacent to Carriage Gate along the south property line shall be placed on the retaining wall to the south of the building facing the Anchor A and Anchor B buildings and not on the roof of the Anchor A building.
- k. To allow for two additional monument signs along the Roswell Road (SR 9) frontage of the property and to allow for an additional monument sign along the Lake Placid Drive frontage of the property as shown on the site plan received by the Department of Community Development dated December 2, 2008.(CV08-032).
- l. To allow for an encroachment into the twenty-five (25) foot impervious setback of the required stream buffer along the west side of the property as shown on the site plan received by the Department of Community Development dated August 11, 2006 (CV06-027).
- m. To delete the required five (5) foot landscape strip along all property lines between the “Anchor A Tract” and the remainder of the subject site as shown on the site plan received by the Department of Community Development dated August 11, 2006 (CV06-027).
- n. To delete the required twenty-five (25) foot building setback along the south property line for the “Anchor A Tract” as shown on the site plan received by the Department of Community Development dated August 11, 2006 (CV06-027).
- o. Variance from Section 12B.5.C.1. of the Zoning Ordinance to allow accessory structures to be located in a yard adjacent to a public street (CV10-010).

- p. Variance from Section 12B.5.D.4. of the Zoning Ordinance to allow a fence to be non-opaque when the back of the building is visible to a public street (CV10-010).
 - q. Variance from Section 12B.5.H. of the Zoning Ordinance to allow opaque glass on the first floor of the building to be built upon Anchor B Pad as shown on the Site Plan for screening of the interior uses of massage treatment, kitchen and pool storage areas (CV10-010).
 - r. Variance from Section 4.23.2 of the Zoning Ordinance to reduce the parking lot landscaping requirements between the front of the proposed Anchor B building and the existing parking deck. (CV10-010).
 - s. Variance from the Tree Conservation Ordinance, Administrative Standards, & Best Management Practices - Landscape Strips, Buffers, and Parking (F.1) to relieve the requirement of planting a large shade tree every 6 parking spaces for all new parking lots between the front of the proposed Anchor B building and the existing parking deck. (CV10-010).
 - t. Variance from Section 18.2.1. of the Zoning Ordinance to allow no less than 1,793 parking spaces where 2,051 parking spaces are required (CV10-010).
 - u. Variance from Section 33.26.H.2.a. of the Zoning Ordinance to allow two (2) wall signs to be located on a non-street facing wall which is the east elevation of the building to be built upon Anchor B Pad. All signs shall be installed substantially in accordance with signs shown in the sign plan package, building elevation drawings, and renderings received by the Department of Community Development on August 10, 2010. (CV10-010).
 - v. The owner/developer shall implement a program to ensure that all shopping carts for the businesses at the shopping center remain on the subject property at all times. Documentation of said program shall be submitted to the Department of Community Development prior to the issuance of the first Certificate of Occupancy and shall be subject to the approval of the Director of Community Development.
 - w. To reduce the required forty foot (40') front yard setback to vary according to the site plan for existing buildings submitted on December 2, 2008 on the main entry drive to the development which shall be designated a private road for the purpose of individual addressing for businesses located on that road (CV08-032).
 - x. To submit to the City of Sandy Springs a plat showing all property divisions, incorporating the new private road, and existing structures on the site, which shall be filed with the Fulton County Tax Assessor's Office and recorded with the Clerk's Office of the Superior Court of Fulton County.
4. To the owner's agreement to abide by the following requirements, dedication and improvements:
- a. 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:

- 50 feet from the centerline of Roswell Road (SR 9) or as may be required by the Georgia Department of Transportation.
 - 30 feet from the centerline of Lake Placid Drive
- b. Provide a traffic impact mitigation plan to reduce the number of vehicular trips generated by the development at the Land Disturbance permit phase.
- c. The developer shall be responsible for complying with the requirements of the document entitled "Fulton County Driveway Manual" adopted by the Fulton County Board of Commissioners on May 18, 2005.
5. To the owner's agreement to abide by the following:
- a. Prior to submitting the application for a (LDP) with the Department of Community Development, Development Review Division, arrange 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. Where paved parking areas (including access aisles) are proposed to exceed 5,000 square feet, the storm water management facilities shall be designed to reduce pollutants such as oil, grease and other automobile fluids that may leak from vehicles. A general description, or concept, of the storm water management facilities proposed to achieve the removal of such pollutants shall be submitted with the Storm Water Concept Plan. A detailed design of such facilities shall be included in applicable documents for a land disturbance permit.
- c. The owner/developer shall develop the property in accordance with the detailed streetscape amenities plan as submitted at the October 3, 2006 Mayor and City Council hearing.
- d. The filtering system installed at the outfall from the detention pond shall be selected on its ability to concentrate the removal of oils and petrochemical pollutants. Said system shall be maintained two (2) times yearly with records available for inspection.
- e. The filtering system shall be selected for its sensitivity to nitrates, phosphates, and other chemicals that might be used in a gardening or agricultural environment and shall be placed specific to the possible gardening center.
- f. The owner/developer shall provide trench drains with grates to be installed across the roadways at every other catch basin on all interior roads with downhill slopes. The interior roads with downhill slopes, as identified on the site plan received by the Department of Community Development received August 11, 2006, are as follows:
- Road A (Service Drive)
 Road B (Internal Road Parallel to Roswell Road [SR 9])

- g. To allow the proposed "Anchor C" building to encroach into the required ten (10) foot landscape strip along the east property line as shown on the site plan received by the Department of Community Development on August 1, 2007 (CV07-018).
- h. For Anchor B, all the parking lot landscape islands indicated on the proposed site plan(s) shall meet or exceed the requirements of the Tree Conservation Ordinance, subject to the approval of the City Arborist.
- i. For Anchor B, the proposed southwestern parking area, having a maximum of twelve (12) spaces, shall be utilized for employee parking.

RECEIVED

SHOPPING CENTER TRACT LEGAL DESCRIPTION

JUN 01 2010

City of Sandy Springs
Community Development

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 17TH DISTRICT, FULTON COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT; SAID POINT BEING ON THE WESTERN RIGHT-OF-WAY OF GA STATE ROUTE 9 (ROSWELL ROAD) AND BEING THE MOST SOUTHERNLY PROPERTY CORNER OF THE SEMBLER COMPANY; THENCE LEAVING SAID R/W N 89-09-50 W FOR A DISTANCE OF 16.42' TO A POINT; THENCE FOR 209.35' TO A POINT; SAID POINT IS THE POINT OF BEGINNING; THENCE N 89-09-52 W FOR 595.31' TO A POINT; SAID POINT LIES IN THE CENTER OF A STREAM WHICH SERVES AS THE WESTERN BOUNDARY OF SAID TRACT; THENCE PROCEEDING ALONG THE CENTERLINE OF SAID STREAM TO THE NORTHWEST FOR A DISTANCE OF 986.16' TO A POINT; SAID POINT LIES ON THE SOUTHERN RIGHT-OF-WAY OF LAKE PLACID DRIVE; THENCE ALONG SAID RIGHT-OF-WAY N 57-02-10 E FOR 199.51' TO A POINT; THENCE N 57-02-08 E FOR 108.11' TO A POINT; THENCE N 57-02-10 E FOR 97.42' TO A POINT; THENCE ALONG THE ARC OF A CURVE HAVING A RADIUS OF 318.00' WHICH HAS A CHORD OF N 52-57-16 E FOR 45.99' TO A POINT; THENCE ALONG THE ARC OF A CURVE HAVING A RADIUS OF 545.00' WHICH HAS A CHORD OF N 41-23-04 E FOR 140.83' TO A POINT; THENCE N 33-57-40 E FOR 17.22' TO A POINT; THENCE ALONG THE ARC OF A CURVE HAVING A RADIUS OF 179.50' WHICH HAS A CHORD OF N 52-08-27 E FOR 112.01' TO A POINT; THENCE LEAVING SAID R/W S 00-22-01 W FOR 124.73' TO A POINT; THENCE S 89-37-59 E FOR 294.12' TO A POINT; THENCE S 00-22-01 W FOR 70.98' TO A POINT; THENCE S 89-37-59 E FOR 196.59' TO A POINT; THENCE N 00-33-04 E FOR 364.09' TO A POINT; SAID POINT BEING ON THE SOUTHERN RIGHT-OF-WAY OF LAKE PLACID DRIVE; THENCE N 70-51-06 E FOR 69.39' TO A POINT; THENCE ALONG THE ARC OF A CURVE HAVING A RADIUS OF 309.58' WHICH HAS A CHORD OF N 79-23-25 E FOR 94.28 FEET TO A POINT; THENCE S 40-52-42 E FOR 24.02' TO A POINT; SAID POINT LIES ON THE WESTERN RIGHT-OF-WAY OF GA STATE ROUTE 9; THENCE ALONG SAID RIGHT-OF-WAY S 02-03-00 E FOR 133.91' TO A POINT; THENCE S 04-58-47 W FOR 8.99' TO A POINT; THENCE S 01-53-01 E FOR 235.01' TO A POINT; THENCE S 49-51-28 W FOR 22.58' TO A POINT; THENCE S 02-04-50 E FOR 56.53' TO A POINT; THENCE S 65-03-57 E FOR 21.83' TO A POINT; THENCE S 01-51-23 E FOR 178.48' TO A POINT; THENCE S 02-25-50 E FOR 6.16' TO A POINT; THENCE S 01-12-09 E FOR 61.37' TO A POINT; THENCE S 01-54-24 E FOR 114.76' TO A POINT; THENCE S 31-54-26 W FOR 29.42' TO A POINT; THENCE S 42-23-53 W FOR 8.63' TO A POINT; THENCE S 01-49-13 E FOR 68.83' TO A POINT; THENCE LEAVING SAID RIGHT-OF-WAY N 89-37-59 W FOR 177.25' TO A POINT; THENCE S 00-22-01 W FOR 403.89' TO A POINT; THENCE S 03-50-08 W FOR 45.00' TO A POINT; SAID POINT IS THE POINT OF BEGINNING. **SAID TRACT CONTAINS 24.29 ACRES**

R210-007/CU10-008/DRB10-014

