



TO: John McDonough, City Manager

FROM: Wendell K. Willard, City Attorney

DATE: October 22, 2014, for Submission onto the Agenda of the November 4, 2014 Mayor and City Council Meeting

ITEM: Consideration and Approval to Abandon and Quitclaim an existing Storm Sewer Easement associated with the Gateway Project.

Recommendation:

The City Attorney recommends that the Mayor and City Council consider and approve a request to abandon a non-functional storm sewer easement was deeded to Fulton County on all that tract or parcel of land lying and located in Land Lot 94 of the 17th District, Fulton County, Georgia ("Property"). The Property at issue is part of the Gateway Project, and it is owned by Sandy Springs Gateway Owner, LLC ("Owner").

Background:

Fulton County is the record owner of a storm sewer easement located on the Property which is recorded in Deed Book No. 3747, Page No. 481, of the Fulton County, Georgia land records. Fulton County abandoned said infrastructure, and it is no longer in use. The Owner has submitted plans to the City to build a CVS pharmacy on the Property as part of the Gateway Project, and the plans include relocating the storm sewer infrastructure to an alternative location on said Property. The City has given the necessary approvals. The Owner is now requesting that the City formally abandon and quit claim its interest, if any, that it has in the storm sewer and the existing easement in order to remove it from the Property given that it runs directly underneath the location of the proposed store.

Discussion:

N/A

Financial Impact:

None. There is no cost to the City. Further, the City does not affirm any ownership interest in the structure.

Attachments:

- I. Exhibits
 - Aerial and GIS Maps
 - Original Recorded Storm Sewer Easement
 - Quitclaim Deed to be executed by the Mayor upon acceptance and approval
- II. Resolution

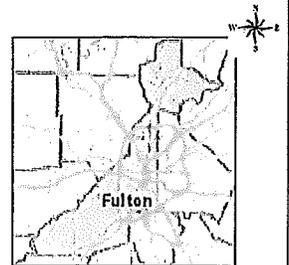


Lakes/Rivers from US Census Dept, may not match parcels exactly

Quitclaim Deed to Sandy Springs Gateway Owner, LLC

Parcel: 17 009400010901 Acres: 4.95

Name:	ROSWELL WINDSOR LTD	Land Value:	2700000
Site:	4558 ROSWELL RD	Building Value:	1300000
Sale:	\$18500000 on 2014-01-10 Reason=M Qual=U	Misc Value:	
	P.O. BOX 450233	Total Value:	4000000
Mail:	ATLANTA, GA 31145		



Fulton County makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll.
Date printed: 10/14/14 : 10:18:35

1734837

STORM SEWER EASEMENT

GEORGIA, FULTON COUNTY.

This indenture entered into this 25 day of July 1961 between Peach Rock Development Corp. and Betty Huggins of said state and county, party of the first part, and Fulton County, Georgia, party of the second part.

WITNESSETH, that for and in consideration of \$1.00 cash in hand paid, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged and in consideration of the benefits which will accrue to the undersigned from the construction of sewer line through my property, said party of the first part has granted, bargained, sold and conveyed and by these presents does grant, bargain, sell and convey to the party of the second part and to successors and assigns the right, title, and privilege of an easement through my property located in land lot 91 of the 17th District of Fulton County, Georgia, and more particularly described as follows: To wit:

Beginning at Roswell Road and extending westerly a distance of 300' parallel to and 5' north of southern boundary of said property. This easement to cover the installation of 300' - 18" storm sewer and the opening of a ditch to the main drain.

The right and easement herein granted being to occupy such portion of my property as would be sufficient for the construction and maintenance of sewer through same according to location and also as shown on map and profile of same now on file in the office of the Sewer Department of Fulton County.

Special Provisions

1. The party of the second part will replace all soil removed and pay actual damage to crops destroyed through said operations.

Said party of the first part hereby waives for self, heirs, and assigns all rights to any further compensation or claim to damage on account of the construction or maintenance of said sewer for the use of the property as herein agreed.

IN WITNESS WHEREOF said party of the first part has hereunto affixed his hand and seal on the day and year first above written.

Signed, sealed and delivered in the presence of Peach Rock Development Corp. (L.S.) Betty Huggins (L.S.)

M.B. Morris (L.S.)

FILED FULTON CO., GA. JUL 31 '61

JUL 25 12:00 PM '61

Samuel Sherrin, Notary Public, Fulton County, Georgia

W. H. ... CLERK, SUPERIOR COURT

RESOLUTION NO. _____

STATE OF GEORGIA
COUNTY OF FULTON

**A RESOLUTION TO APPROVE THE ABANDONMENT
OF A STORM SEWER EASEMENT LOCATED IN LAND LOT 94
OF THE 17TH DISTRICT, FULTON COUNTY, GEORGIA**

WHEREAS, the City has received a request to abandon a non-functional storm sewer easement on Property that is to be developed as part of the Gateway Project located in Land Lot 94 of the 17th District, Fulton County, Georgia,

WHEREAS, Fulton County is the record owner of the storm sewer easement, as set forth in the attached Exhibit "A", and Fulton County abandoned said storm sewer infrastructure and it is no longer in use;

WHEREAS, the Mayor and Council has considered the request for abandonment and determined that it is in the City's best interest to abandon said storm sewer easement.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF SANDY SPRINGS, GEORGIA:

That the City of Sandy Springs Mayor and City Council approve the request to abandon said storm sewer easement located on property in Land Lot 94 of the 17th District, Fulton County, Georgia, and authorize the City Manager to sign and execute all documents required to facilitate this transaction upon review and final approval of City staff and legal.

SO RESOLVED AND APPROVED this _____ day of _____, 2014.

Russell K. Paul, Mayor

Attest:

Michael Casey, City Clerk
(Seal)

Exhibit "A"

1734837 STORM SEWER EASEMENT
GEORGIA, FULTON COUNTY.

This indenture entered into this 25 day of July, 1961
between Peche Back Development Corp.
and W. Rocky Firegman
of said state and county, party of the first part, and Fulton County, Georgia, party of the second part.

WITNESSETH, that for and in consideration of \$1.00 cash in hand paid, at and before the sealing and delivery of these presents, the receipt whereof is here by acknowledged and in consideration of the benefits which will accrue to the undersigned from the construction of sewer line through my property, said party of the first part has granted, bargained, sold and conveyed and by these presents does grant, bargain, sell and convey to the party of the second part and to successors and assigns the right, title, and privilege of an easement through my property located in land lot 91 of the 17th District of Fulton County, Georgia, and more particularly described as follows: To wit:

Beginning at Roswell Road and extending westerly a distance
of 300' parallel to and 5' north of southern boundary of said
property. This easement to cover the installation of 300' - 18"
storm sewer and the opening of a ditch to the main drain.

The right and easement herein granted being to occupy such portion of my property as would be sufficient for the construction and maintenance of sewer through same according to location and also as shown on map and profile of same now on file in the office of the Sewer Department of Fulton County.

Special Provisions

1. The party of the second part will replace all soil removed and pay actual damage to crops destroyed through said operations.

Said party of the first part hereby waives for self heirs, and assigns all rights to any further compensation or claim to damages on account of the construction or maintenance of said sewer for the use of the property as herein agreed.

IN WITNESS WHEREOF said party of the first part has hereunto affixed his hand and seal on the day and year first above written.

Signed, sealed and delivered in the presence of

M.B. Morris (L.S.)
W. Rocky Firegman (L.S.)
Peche Back Development Corp. (L.S.)
W. Rocky Firegman (L.S.)

FILED
FULTON CO., GA.
JUL 25 12-00 PM '61

RECORDED
JUL 31 '61

Samuel J. Green
Notary Public, Fulton County, Georgia
W. Rocky Firegman
CLERK, SUPERIOR COURT

BOOK 3747 PAGE 481

QUITCLAIM DEED

(Cross Reference: Storm Sewer Easement recorded in DB# 3747; PG# 481)

**STATE OF GEORGIA
FULTON COUNTY**

THIS INDENTURE, made this ____ day of _____, 2014, between the City of Sandy Springs, a Municipal Corporation of the State of Georgia, herein referred to as party of the first part, and Sandy Springs Gateway Owner, LLC, a Delaware limited liability company, hereinafter referred to as party of the second part.

WITNESSETH: That the said party of the first part for and in consideration of the sum of ONE DOLLAR (\$1.00), cash in hand paid, the receipt whereof is hereby acknowledged, has bargained, sold and does by these presents bargain, sell, remise, release, and forever QUITCLAIM to Sandy Springs Gateway Owner, LLC, a Delaware limited liability company, its heirs and assigns, all the right, title, interest, claim or demand which said party of the first part has or may have had in and to that certain parcel of land described as follows:

STORM SEWER EASEMENT on that of land lying and being in Land Lot 94 of the 17th District, of Fulton County, GA; and more particularly being that Storm Sewer Easement found recorded in Deed Book 3747; page 481, Fulton County records, and also on that ALTA/ASCAM Land Title Survey for CPC Chastain, LLC & Chicago Title Insurance company, dated 3/13/14. Said survey prepared by Hardy Surveying Group, LLC.

With all the rights, members and appurtenances to the said described premises in anywise appertaining or belonging.

TO HAVE AND TO HOLD the said described premises unto Sandy Springs Gateway Owner, LLC, a Delaware limited liability company, the said and its successors in office, so that neither the said party of the first part nor his heirs, nor any other person or persons claiming under the party of the first part shall at any time, claim or demand any right, title or interest to the aforesaid described premises or its appurtenances.

IN WITNESSETH WHEREOF, the said party of the first part has hereunto set his hand and affixed his seal the day and year first above written.

THE CITY OF SANDY SPRINGS

By: _____ (SEAL)

Name: Russell K. Paul

Title: Mayor

Signed, Sealed and Delivered in the presence of:

Witness

Notary Public

{AFFIX NOTARY SEAL AND STAMP}

My Commission Expires _____

RESOLUTION NO. _____

STATE OF GEORGIA
COUNTY OF FULTON

**A RESOLUTION TO APPROVE THE ABANDONMENT
OF A STORM SEWER EASEMENT LOCATED IN LAND LOT 94
OF THE 17TH DISTRICT, FULTON COUNTY, GEORGIA**

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WHEREAS, Fulton County is the record owner of the storm sewer easement, as set forth in the attached Exhibit "A", and Fulton County abandoned said storm sewer infrastructure and it is no longer in use;

WHEREAS, the Mayor and Council has considered the request for abandonment and determined that it is in the City's best interest to abandon said storm sewer easement.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF SANDY SPRINGS, GEORGIA:

That the City of Sandy Springs Mayor and City Council approve the request to abandon said storm sewer easement located on property in Land Lot 94 of the 17th District, Fulton County, Georgia, and authorize the City Manager to sign and execute all documents required to facilitate this transaction upon review and final approval of City staff and legal.

SO RESOLVED AND APPROVED this _____ day of _____, 2014.

Russell K. Paul, Mayor

Attest:

Michael Casey, City Clerk
(Seal)