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## CITY COUNCIL AGENDA ITEM

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**TO:** Mayor & City Council                      **DATE:** October 15, 2014

**FROM:** John McDonough, City Manager

**AGENDA ITEM:**    **201402827** - 301 Johnson Ferry Road, *Applicant: Sandy Springs Christian Church*, to modify condition 3.a. of U84-0107 to allow development of accessory structures within the required buffer, with concurrent variances

**MEETING DATE:** For Submission onto the October 21, 2014, City Council Regular Meeting Agenda

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**BACKGROUND INFORMATION:** *(Attach additional pages if necessary)*

See attached:

Memorandum  
Modification Petition

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CITY MANAGER APPROVAL: \_\_\_\_\_

PLACED ON AGENDA FOR: **10/21/2014**

CITY ATTORNEY APPROVAL REQUIRED:    (  ) YES            (    ) NO

CITY ATTORNEY APPROVAL: \_\_\_\_\_



To: John McDonough, City Manager

From: Angela Parker, Director of Community Development 

Date: October 1, 2014 for submission onto the October 21, 2014 City Council meeting

Agenda Item: 201402827 301 Johnson Ferry Road a request to modify condition 3.a of Fulton County Use Permit U84-0107, to construct an open sided pavilion with a terraced seat area and a prayer labyrinth with concurrent variances for relief from Section 19.4.11(b).

**DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION**

**DENIAL** of a request to modify Fulton County Use Permit U84-0107 to construct an open sided pavilion with a terraced seat area and a prayer labyrinth with concurrent variances for relief from Section 19.4.11(b).

**Discussion:**

This request is to modify Fulton County Use Permit U84-0107 to construct an open sided pavilion with a terraced seat area and a prayer labyrinth with concurrent variances. The currently conditioned sixty (60) foot natural buffer is in line with and exceeds the requirements set forth in the Zoning Ordinance. This proposal would reduce this buffer by almost one half. Staff believes that this reduced setback would have adverse impact on the surrounding area by introducing outdoor activities closer to adjacent residences.

**PROPERTY INFORMATION**

Address, Land Lot, and District	301 Johnson Ferry Road Land Lot 126, District 17
Council District	3 (Graham McDonald)
Frontage	935.3 feet of frontage along the north side Johnson Ferry Road.
Area	5.342 acres
Existing Zoning and Use	R-1 (Single Family Dwelling District) developed with a Church and preschool.
Overlay District	Suburban Overlay District
2027 Comprehensive Future Land Use Map Designation	Residential 1-2 (1 to 2 units per acre)
Proposed Zoning	R-1 (Single Family Dwelling District)

**APPLICANT/PETITIONER INFORMATION**

Property Owner	Petitioner	Representative
Sandy Springs Christian Church	Sandy Springs Christian Church	Melissa Johnson
Community Zoning Information Meeting August 26, 2014		Mayor and City Council Hearing October 21, 2014

**DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION**

The applicant is requesting to modify Sandy Spring zoning case U84-0170 as follows:

The staff is of the opinion that the applicant's request to remove previous conditions regarding the sixty (60) foot natural buffer on the rear property line and variance request from the one hundred (100) foot building and use area setback from the adjoining residential district would cause a detriment to the public and adjacent property owners. Based on these reasons, the staff recommends **DENIAL** of this modification request.

## VARIANCE CONSIDERATIONS

Article 22 of the Zoning Ordinance indicates the following are considerations in granting variances, of which only one has to be proven:

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; or,*
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; or*

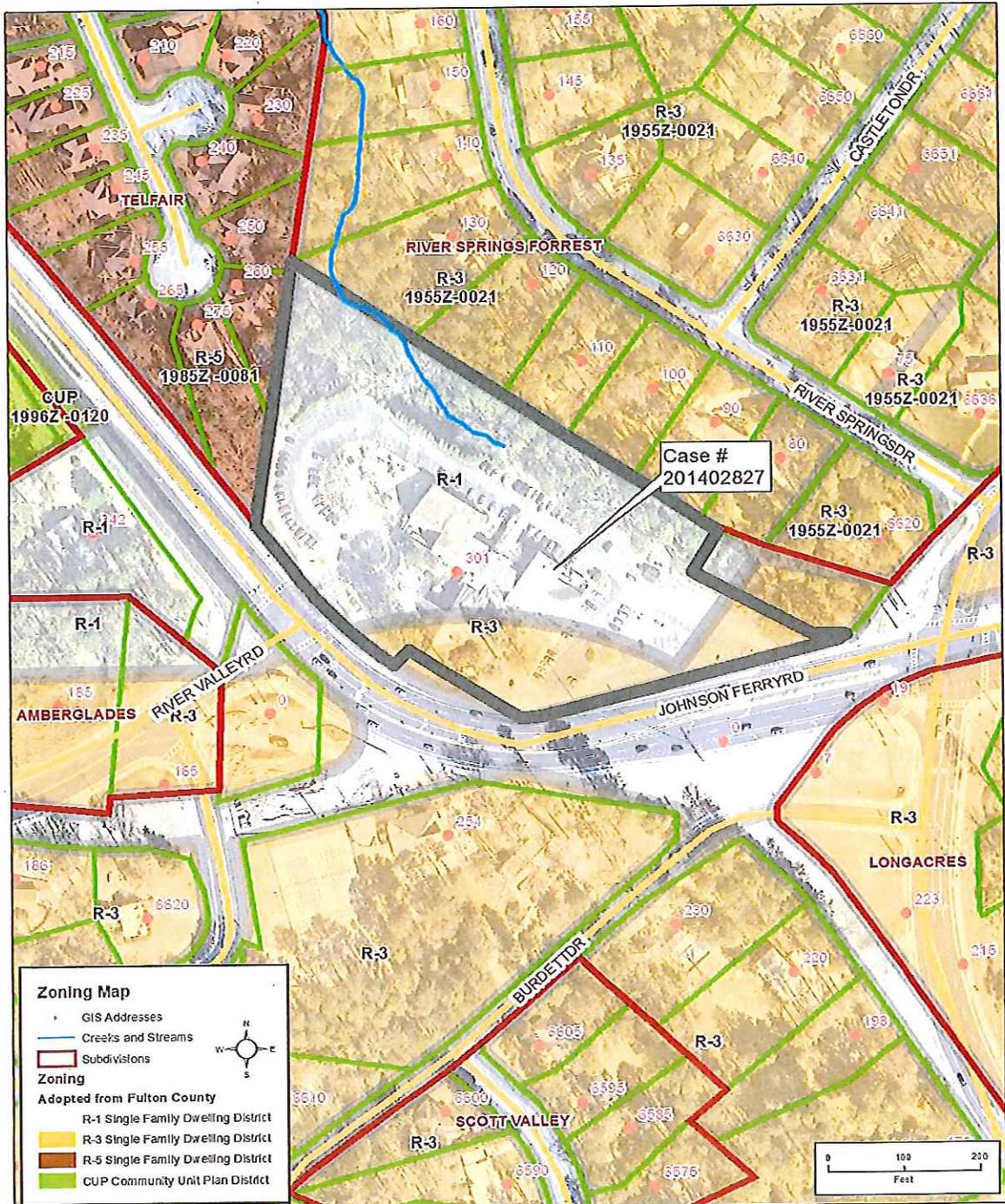
The applicant is requesting one (1) concurrent variance as outlined below. The applicant has indicated that the variance being requested will be in harmony with the policy and intent of the Zoning Ordinance and will not result in any harm to the health, safety and welfare of the general.

1. Variance from section 19.4.11(b) of the Zoning Ordinance to allow buildings and use areas/structures to be located less than one hundred (100) feet from an adjoining residential district.

The proposed site plan would reduce the distance from structures and use areas to the adjacent residential district (R-3) to twenty-five (25) feet. The staff is of the opinion that relief would not be in harmony with the general purpose and intent of the Zoning Ordinance and would not be warranted due to a hardship. Staff believes that relief from this requirement is not supported by the considerations outlined in Section 22.3.1 of the Zoning Ordinance and would recommend **DENIAL** of the concurrent variance.

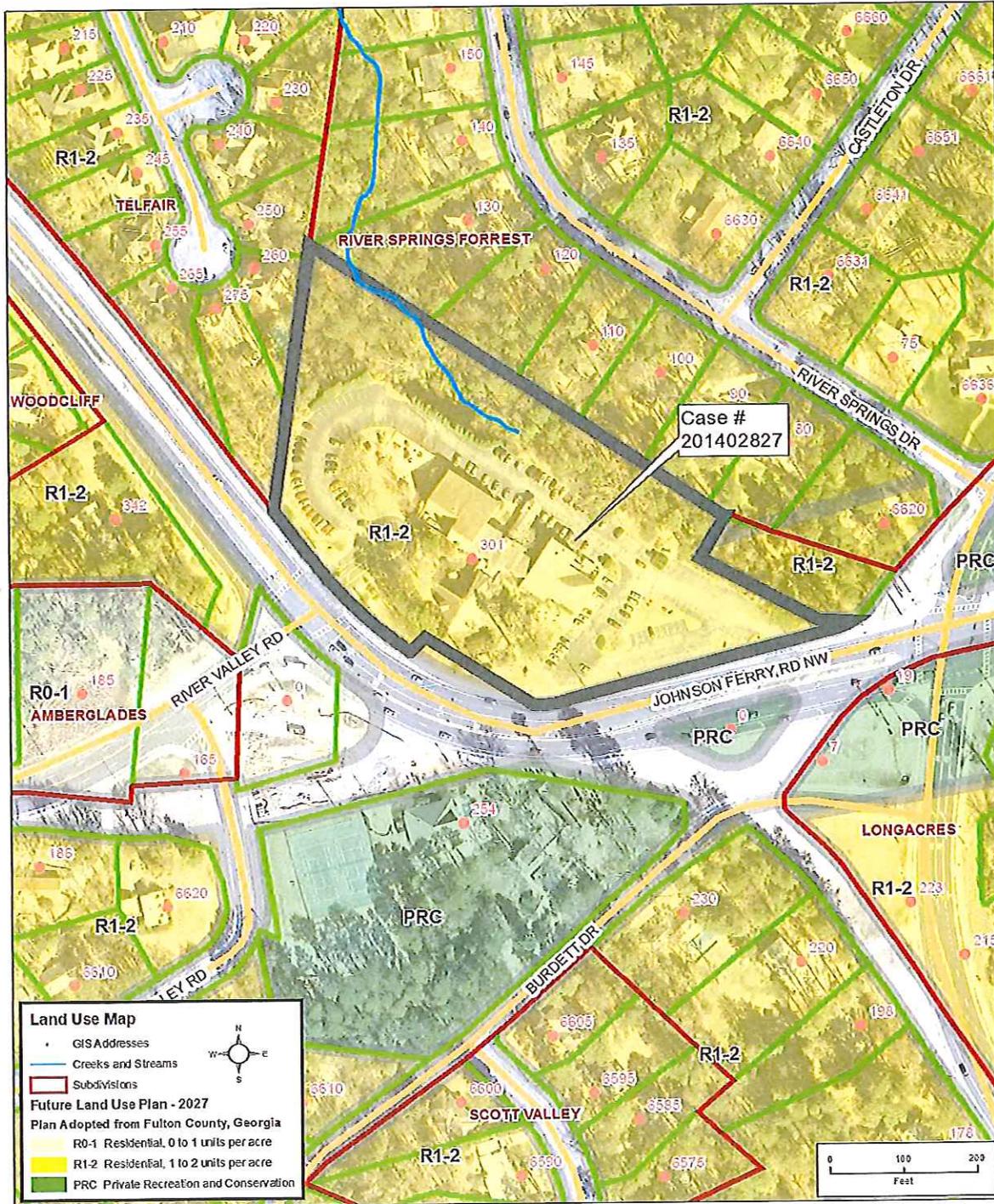
### Zoning Map

301 Johnson Ferry Road NW



### Future Land Use Map

### 301 Johnson Ferry Road NW



<b>DEPARTMENT COMMENTS</b>
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The staff held a Focus Meeting with Transportation, Building and Permitting, Fire, Code Enforcement, Site Development, and the Arborist on September 3, 2014 at which the following departments had comments.

<b>Transportation Planner</b>	<ul style="list-style-type: none"> <li>• For informational purposes only, Johnson Ferry road is classified a Principal Arterial and has a posted speed limit of 35mph. The daily traffic is 25,530 (2012 count). The property frontage is included in the Suburban Overlay District.</li> </ul>
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<b>STAFF RECOMMENDED CONDITIONS</b>
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Should the Mayor and City Council decide to approve the modification the staff recommends the approval shall be subject to the following conditions. The applicant's agreement to these conditions would not change staff recommendations. These conditions shall prevail unless otherwise stipulated by the Mayor and City Council.

1. To the owner's agreement to restrict the use of the subject property as follows:
  - a. Church and accessory uses including a pre-kindergarten program in an expanded existing structure.
2. To the owner's agreement to abide by the following:
  - a. To a revised site plan received by the ~~Zoning Department~~ **Community Development Department** 9/4/84 and to submit to the ~~Director of Planning and Community Development Director~~ for his approval, prior to the approval of a Land Disturbance Permit, a revised Site Plan based on a certified boundary survey of the property, incorporating the stipulations of these conditions of zoning approval and meeting or exceeding the requirements of the Zoning Resolution.
  - b. To submit to the ~~Director of Planning and Community Development~~ **Sandy Springs Arborist** for his approval, prior to any defoliation or alteration of the site, a Land Disturbance application which shall include a grading plan including phasing, a hydrological study, a separate soil sedimentation and erosion control plan, and proposed provisions for permanent storm water retention and the method of continuing maintenance of these facilities.
  - c. To submit to the ~~Director of Planning and Community Development~~ **Director** for his approval, prior to the approval of a Land Disturbance Permit, a detailed landscape plan for all required buffers and landscape strips. Said landscaping for each phase of development shall be in place within 90 days after the issuance of a Certificate of Occupancy or the connection of permanent power for each phase provided, however, that all landscaping shall be in place prior to the issuance of a Certificate of Occupancy or the connection of permanent power for the final phase of the development.
  - d. To provide and maintain off-street parking on the subject property during the entire construction period.
3. To the owner's agreement to the following site development considerations:
  - a. Provide a natural buffer, undisturbed except for approved access and utility crossings and replantings where sparsely vegetated, adjacent to the following property lines and in the widths shown:
    - 60 ~~fifty~~ **(50)** feet wide on the northeasterly property line where adjoining lots which front on River Springs Drive, with an additional setback of 10 feet for all

- improvements or as may be approved by the Director of Planning and Community Development **Director**.
- b. Provide a landscape strip adjacent to the following property lines in the widths shown:
    - 40 feet wide along the right-of-way of Johnson Ferry Road.
    - 5 feet wide along the right-of-way of Abernathy Road.
    - 10 feet wide on the west property line.
  - c. Parking lots and driveways on the northeasterly side of the property shall be screened from adjacent residential properties on River Springs Drive by a solid wood fence and/or shrubs and other plantings which shall be at least 3 ½ feet in height and present a 100 percent visual barrier.
  - d. Any exterior illumination on the site shall not exceed 1.2 footcandles on any property line adjacent to a residential use or zoning district, nor will the light source be directly visible from adjoining residential properties.
  - e. No more than 1 exit/entrance on Johnson Ferry Road.
  - f. No more than 1 exit/entrance on Abernathy Road.
  - g. Comply with the requirements of the Fulton County Subdivision Regulations for minimum sight distances for driveways on major roads.
  - h. A variance to reduce the required one hundred (100) foot building setback required under Section 19.4.11(b) of the Zoning Ordinance to fifty (50) feet.
4. To the owner's agreement to abide by the following requirements, dedications and improvements:
    - a. Connect to the metropolitan water and public sanitary sewer available to the site as well as pay all require tap-on fees, front footage assessments and the pro-rated share of the cost of public utility extensions as determined by the Department of Planning and Community Development.
    - b. Provide designated fire lanes adjacent to all structures and provide water mains, fire hydrants and access for fire-fighting equipment as required by the Fulton County Fire Department.
    - c. Design required on-site storm water detention facilities such that they are not located within any required buffers or on required parking areas.
  5.
    - a. No encroachment into the existing ninety (90) foot buffer zone will be allowed East from the proposed circular driveway to the entrance on Abernathy Road.
    - b. West of the circular driveway, the buffer may be reduced to sixty (60) feet to allow for improvements including grading, filling and the creation of required, on-site, stormwater detention facilities. Adequate construction work area will also be allowed.
    - c. Every consideration will be given to preserving as many of the large trees in the area as possible.
    - d. The property owners will be advised in advance of any appeals to the Fulton County Planning Staff recommendations which affect the northeasterly border.

#### Attachments

- Letter of Intent dated received August 5, 2014
- Site Plan dated received August 5, 2014
- Letters from adjacent property owners
- Petition to oppose
- Site Photographs

## LETTER OF INTENT

RECEIVED

AUG 05 2014

To: Sandy Springs, GA

Date: July 30, 2014  
Sandy Springs  
Community Development

Re: Pavilion and Prayer Labyrinth for Sandy Springs Christian Church, 301  
Johnson Ferry Road, NW

### CHURCH BACKGROUND

Sandy Springs Christian Church was started in Sandy Springs in 1960. The present church building was originally constructed at the northeast corner of Johnson Ferry and Abernathy Roads in 1971. Subsequent renovations and additions to the building and grounds were made in 1985 and 2000. The Church, very active in the community and investing in the future, is currently in the midst of another major renovation project that includes work on its interior, the parking lot, the roof, the construction of a pavilion and prayer labyrinth, and landscaping.

The Church holds two worship services each Sunday at 9 AM and 11:15 AM with Sunday School at 10 AM. The Church also operates The Day School, a preschool with a current enrollment of 125 students. The Church seeks to be a faithful partner to the community by opening our building to many community groups and serving as a voting precinct.

The Church has around 400 members. You can visit [www.sandyspringscc.org](http://www.sandyspringscc.org) for more information about the Church or The Day School.

### SITUATION/PROPOSAL

Sandy Springs Christian Church is seeking approval to build an open-sided pavilion with a terraced seating area and prayer labyrinth on the northeast side of the church property. There would be no conditioned space. Michael Barnett, Chief Environmental Compliance Officer, walked the site and determined that the blue-line creeks shown on the property would not require stream buffers. The hydrological study has been completed and a treatment plan has been developed in accordance with the recommendation of Gilbert Quinones, Chief Plan Review Engineer. Patrice Dickerson, Planning & Zoning Manager and Chris McCrary, Building and Land Development Manager, reviewed an existing site plan and determined that the Abernathy Road frontage was less than the Johnson Ferry Road frontage and therefore, Abernathy Road would be the front of the property and the proposed pavilion and prayer labyrinth would be on the side of the property and therefore, would require a 25 foot setback.

ZONING MODIFICATION REQUEST

Sandy Springs Christian Church is seeking relief from an owner's agreement with Fulton County Planning Commission Ordinance U-84-107 FC, Page 83, Section 3, Paragraph a dated November 7, 1984 including the following requirement at the time the church constructed the Educational Wing:

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

a. "Provide a natural buffer, undisturbed except for approved access and utility crossings and replanting where sparsely vegetated, adjacent to the following property lines and in the widths shown:

"60 feet wide on the northeasterly property line where adjoining lots which front on River Springs Drive, with an additional setback of 10 feet for all improvements or as may be approved by the Director of Planning and Community Development."

Full document enclosed.

We speculate that the above setback was established to insure that a building, similar to the Education Wing, would not be constructed on the northeast side of the church parking lot. If we are correct, the proposed open sided pavilion with no conditioned space, does not approach a building. We believe, if granted, our variance request would be in harmony with the general purpose and intent of the Zoning Ordinance. As shown on our drawings, we are proposing to provide a landscape buffer along the adjoining property line.

We request a Zoning Modification to a 25 foot side setback in accordance with Sandy Springs Zoning Ordinance, Article IV, Section 4.23.1, Table 4.23.1 for R-1 Zone.

Thank you for your consideration!

*Rebecca S. Kelley*

Rebecca S. Kelly

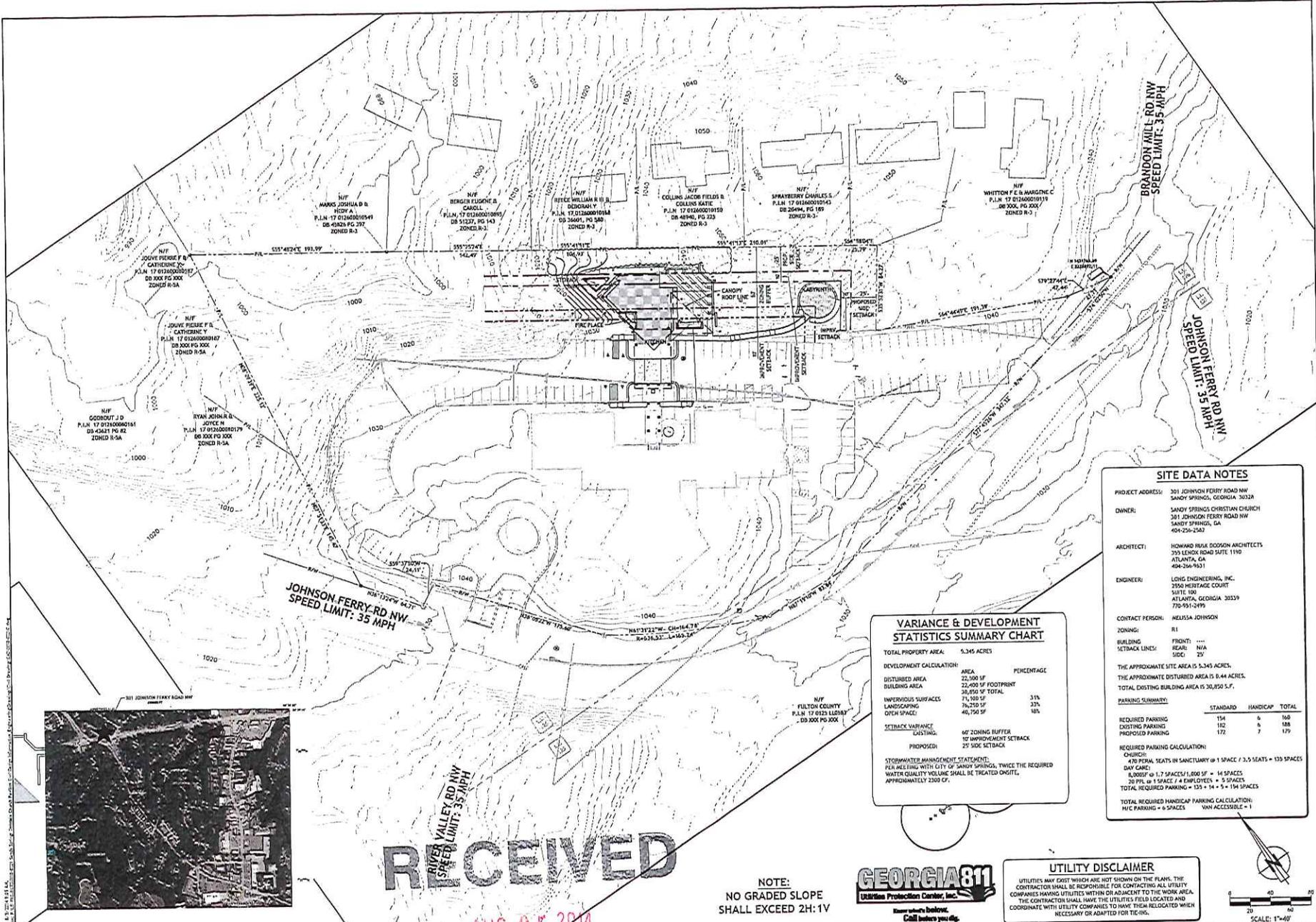
Chair of Trustees

Sandy Springs Christian Church

**RECEIVED**

AUG 05 2014

City of Sandy Springs  
Community Development



NO.	DATE	DESCRIPTION

2555 Heritage Court, Ste 100  
Sandy Springs, GA 30328  
Phone: 770.551.2025  
Fax: 770.551.2026  
www.longeng.com

**LONG**  
ENGINEERING, INC.

GEORGIA  
SANDY SPRINGS  
CHRISTIAN CHURCH  
381 JOHNSON FERRY ROAD NW  
SANDY SPRINGS, GEORGIA 30339  
UNIFICATION SITE PLAN



EXH. A

**SITE DATA NOTES**

PROJECT ADDRESS: 381 JOHNSON FERRY ROAD NW  
SANDY SPRINGS, GEORGIA 30328

OWNER: SANDY SPRINGS CHRISTIAN CHURCH  
381 JOHNSON FERRY ROAD NW  
SANDY SPRINGS, GA  
404-256-2482

ARCHITECT: HOWARD INGLE DESIGN ARCHITECTS  
305 LENOX BOND SUITE 1190  
ATLANTA, GA  
404-256-1031

ENGINEER: LONG ENGINEERING, INC.  
2555 HERITAGE COURT  
SUITE 100  
ATLANTA, GEORGIA 30339  
770-551-2495

CONTACT PERSON: MELISSA JOHNSON

ZONING: R1

BUILDING: FRONT: ----  
REAR: N/A  
SETBACK LINES: REAR: N/A  
SIDE: 20'

THE APPROXIMATE SITE AREA IS 5.345 ACRES.  
THE APPROXIMATE DISTURBED AREA IS 8.44 ACRES.  
TOTAL DISTING BUILDING AREA IS 30,150 S.F.

REQUIRED PARKING	PARKING SUMMARY:	
	STANDARD	HANDICAP TOTAL
REQUIRED PARKING	154	6
EXISTING PARKING	152	6
PROPOSED PARKING	172	7
PROPOSED PARKING CALCULATION:		
CHURCH:		
480 PERM. SEATS IN SANCTUARY @ 1 SPACE / 3.5 SEATS = 135 SPACES		
DAY CARE:		
8,000 SF @ 1.7 SPACES / 1,000 SF = 14 SPACES		
70 PPL @ 1 SPACE / 4 EMPLOYEES = 5 SPACES		
TOTAL REQUIRED PARKING = 135 + 14 + 5 = 154 SPACES		
TOTAL REQUIRED HANDICAP PARKING CALCULATION:		
N/C PARKING = 6 SPACES	VAN ACCESSIBLE = 1	

**VARIANCE & DEVELOPMENT STATISTICS SUMMARY CHART**

TOTAL PROPERTY AREA: 5.345 ACRES

DEVELOPMENT CALCULATION:	AREA	PERCENTAGE
DISTURBED AREA	22,100 SF	
BUILDING AREA	22,400 SF FOOTPRINT	
IMPERVIOUS SURFACES	38,800 SF TOTAL	31%
LANDSCAPING	71,100 SF	33%
OPEN SPACE	76,210 SF	9%

SETBACK VARIANCE:  
EXISTING: 40' ZONING BUFFER  
PROPOSED: 10' IMPROVEMENT SETBACK  
27' SIDE SETBACK

STORMWATER MANAGEMENT STATEMENTS:  
PER AGREEMENT WITH CITY OF SANDY SPRINGS, TWICE THE REQUIRED WATER QUALITY VOLUME SHALL BE TREATED ON-SITE, APPROXIMATELY 2308 SF.



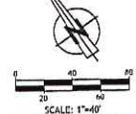
**RECEIVED**

AUG 05 2014

NOTE:  
NO GRADED SLOPE  
SHALL EXCEED 2H:1V



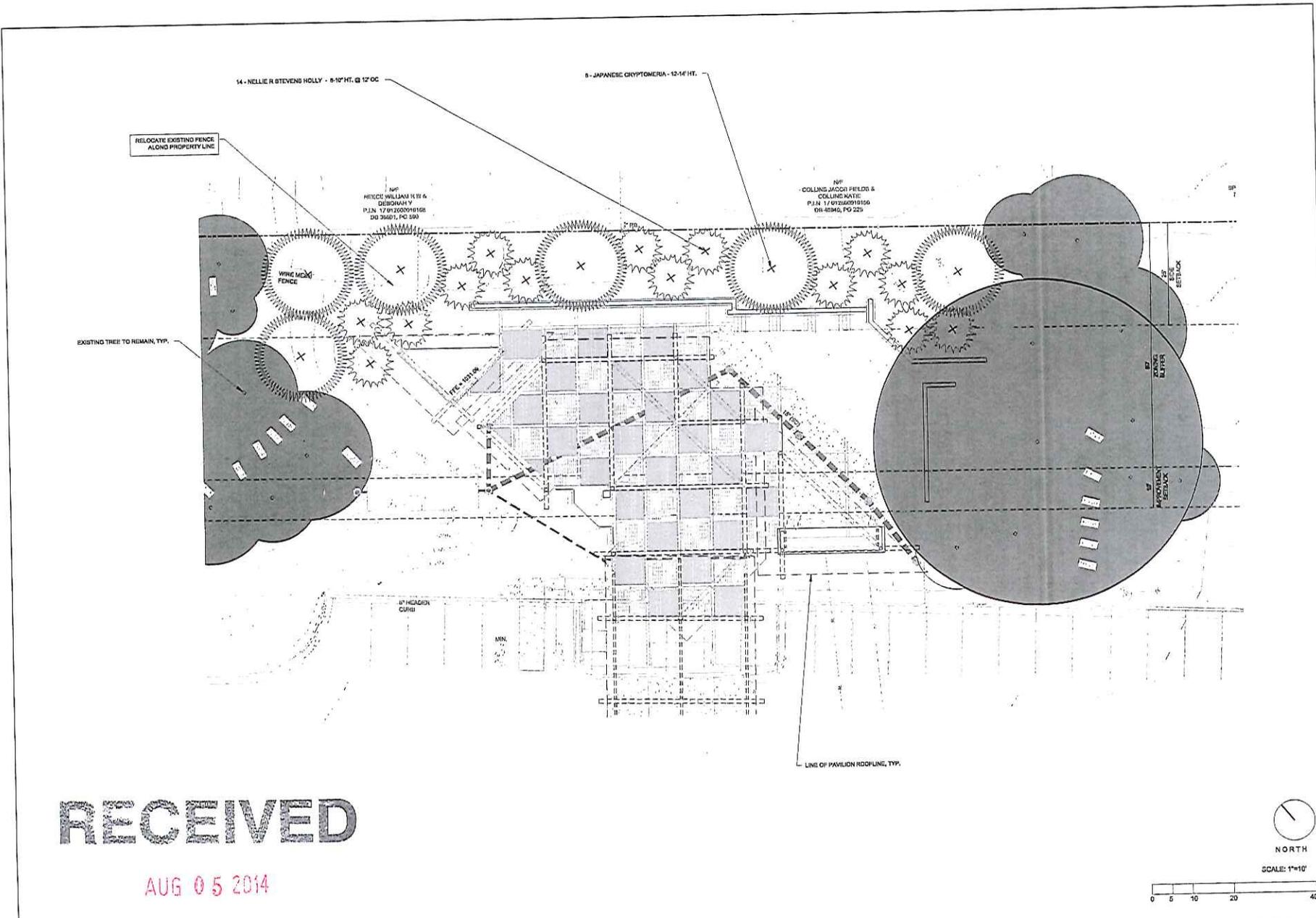
**UTILITY DISCLAIMER**  
UTILITIES MAY EXIST WHICH ARE NOT SHOWN ON THE PLANS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONTACTING ALL UTILITY COMPANIES HAVING UTILITIES WITHIN OR ADJACENT TO THE WORK AREA. THE CONTRACTOR SHALL HAVE THE UTILITIES FIELD LOCATED AND COORDINATE WITH UTILITY COMPANIES TO HAVE THEM RELOCATED WHEN NECESSARY OR ADAPTED FOR THE USE.



City of Sandy Springs  
Community Development







client  
**Long Engineering, Inc.**  
 2550 Hattick  
 Atlanta, Georgia 30339  
 770.951.2455  
 www.longeng.com

**Sandy Springs Christian Church**  
 301 Johnson Ferry Road, NW  
 Sandy Springs, Fulton County, Georgia

revision	no.	DATE	DESCRIPTION
	03.11.14		Issued for Permit

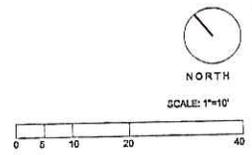
date 29 Jul 14  
 project no. 1405200  
 drawn by WCB  
 checked by WCB  
 sheet title **Conceptual Buffer Planting Plan**

sheet **L 100**

**RECEIVED**

AUG 05 2014

City of Sandy Springs  
 Community Development



October 6, 2014

Ms. Linda Abaray  
Senior Planner  
City of Sandy Springs  
Sandy Springs, GA 30350  
[labaray@sandyspringsga.gov](mailto:labaray@sandyspringsga.gov)

RE: request of Sandy Springs Christian Church for zoning set-back variance

Dear Ms. Abaray:

I am writing to you regarding the zoning variance request from Sandy Springs Christian Church which is scheduled to come before the Sandy Springs City Council on Tuesday, October 21, 2014.

As a homeowner in Wyndham Hills and a citizen who is not connected in any way with the Sandy Springs Christian Church, I am in favor of the City Council granting the request for a variance to Sandy Springs Christian Church. I attended the information meeting at the Sandy Springs Christian Church on August 20, 2014, and listened to the church officials present their plan for a pavilion and prayer labyrinth on their property. I also listened to the negative reaction of many of my Wyndham Hills neighbors against the zoning variance request. I thought the church made a reasonable case for their plans and why the variance should be granted. I was surprised and somewhat alarmed by the emotional reaction by the neighbors to the request which included plans for a buffer zone to the neighborhood and a security monitoring system. The response from the neighbors was pretty much characterized as "Not In My Back Yard" and was followed by their speculative imaginings of worst case scenarios.

Let me address some of the concerns which were mentioned in an anonymous letter from our Wyndham Hills Neighborhood Association which was recently circulated in the neighborhood urging us to write to you and to voice our opposition to the zoning variance request.

"Reduction in property values." As any resident of Wyndham Hills will attest, notices in recent years from the Fulton County Tax Assessor's office have shown increases in property values, not decreases. That has been true for me since 1997, and I am confident that this is true for the residents along River Springs as well. They have experienced no "reduction in property values [due to] the noise, lights, and security risks" coming from Sandy Springs Christian Church. No evidence was presented from past experiences with Sandy Springs Christian Church or from any other similar situations in North Atlanta where church congregations or synagogues have expanded their facilities in modest ways.

"No more inconvenience." As one of the most privileged and affluent neighborhoods in the southeastern United States and, indeed, on the whole planet, I seriously doubt that we have "suffered significant inconvenience." The church building a pavilion for mainly Sunday fellowship events and a prayer labyrinth will hardly be a construction project on the scale and duration of the widening of Johnson Ferry and Abernathy roads and the Abernathy Greenway Park.

Most of the exaggerations in the letter were based largely on a mistaken assumption that a few neighbors might experience "declining property values." I doubt that any of the property owners along River Springs Drive have experienced declining property values in the past ten years or will experience a decline in property values in the near term future. In reality, the property values along River Springs Drive, when the homeowners finally do put their houses on the market, will be determined by the square footage and age of their dwellings, the sales prices and values of three comparable residential properties in the same zip code, the market demand, and the particular conditions, renovations, and upgrades of the individual properties (roof, HVAC systems, kitchen and bathroom renovations, etc.), not by the fact that they are adjacent to a church with an open air pavilion and a nicely landscaped prayer labyrinth.

Sincerely yours,

Theodore H. Coleman  
6925 Heathfield Drive, NW  
Sandy Springs, GA 30328

October 3, 2014

Dr. Eugene C. Berger and Caroll P. Berger  
120 River Springs Dr. NW  
Sandy Springs, GA 30328  
404-823-3449  
Eugene.c.berger@gmail.com

Linda Abaray  
City of Sandy Springs  
[labaray@sandyspringsga.gov](mailto:labaray@sandyspringsga.gov)

Dear Linda Abaray,

We are writing in support of our directly impacted neighbors on River Springs Drive. They have informed the Sandy Springs Christian Church that they oppose the church's proposed construction in the buffer between the church and our homes. We too energetically oppose such proposed construction for the following reasons.

Firstly, the neighborhood has already compromised. In our 1984 agreement we allowed for a variance permitting the church's construction of a school. We feel that the church is going back on its word by attempting to modify the agreement and further encroach on the buffer.

Secondly, the church has not demonstrated a hardship. We have attended all of the meetings the church has had with the neighbors and at no point did the church give a clear answer on why they needed the new construction, what the construction would be used for, and how often they would use it. The church leadership was vague on other important details as well, like noise level regulations, water treatment plans and lighting restrictions. We were left with the impression that they had moved forward to quickly on this project without giving proper consideration to its effects on the neighborhood.

Lastly, the proposed construction would remove close to thirty mature trees. The removal of these trees and the addition of close to 2000 square feet of non-porous surface would lead to significant run-off and even potential flooding in our neighborhood. The removal of the trees would also expose our home to significant direct sunlight during the hot summer, reduce our privacy, reduce our property values, and allow for significantly more noise to reach us from the church. (We should point out that the church has not done an acoustic study of the project).

Again, we stand firm with the Wyndham Hills Homeowners Association, the Sprayberrys, the Collins and our next door neighbors the Reeces in opposing this project.

If you have any further questions please feel free to contact us. We look forward to the public hearing on October 21<sup>st</sup>.

Sincerely,  
The Bergers  
120 River Springs Dr. NW

LAW OFFICES  
**DAVIS, PICKREN, SEYDEL & SNEED**

A LIMITED LIABILITY PARTNERSHIP  
2300 MARQUIS TWO TOWER  
285 PEACHTREE CENTER AVENUE N. E.  
ATLANTA, GEORGIA 30303

JOSHUA D. MARKS  
JMARKS@DPSLEGAL.COM

TELEPHONE (404) 588-0505  
TELECOPIER (404) 582-8823

October 4, 2014

**VIA ELECTRONIC MAIL**  
**(labaray@sandyspringsga.gov)**

Mrs. Linda Abaray  
Senior Planner  
City of Sandy Springs  
7840 Roswell Road, Bldg. 500  
Sandy Springs, GA 30350

**Re: Application by Sandy Springs Christian Church (301 Johnson Ferry Road) for Zoning Modification and Concurrent Variance to Construct Amphitheater and Prayer Labyrinth; Item 2014 02827**

Dear Mrs. Abaray:

This firm represents the Wyndham Hills Homeowners Association (“WHHA”). Wyndham Hills is the neighborhood adjacent to and behind the Sandy Springs Christian Church located at 301 Johnson Ferry Road (“SSCC”). At the request of WHHA, we have reviewed the proposal (“Proposal”) by SSCC to construct a 3,300-square-foot amphitheater (“Amphitheater”) and prayer labyrinth in the restricted buffer zone between the improved portion of the SSCC’s lot and the legal boundary with adjoining residential properties owned by WHHA members. We have also reviewed SSCC’s application (“Application”) with the City of Sandy Springs (“COSS”) for a modification of Fulton County Use Permit U84-0107 (“Use Permit”), which is one of the requirements for the Proposal to move forward; another requirement is for a concurrent variance from the 100-foot buffer required for church buildings in residential areas. For the following reasons, we contend SSCC has not satisfied the requirements for obtaining either a modification of the Use Permit or the necessary concurrent variance, and permitting the construction of the Amphitheater will be grossly unfair to the WHHA’s members. Accordingly, on behalf of the WHHA, we respectfully request that the Application be denied.

**1. Application Fails to Satisfy Requirements for Modification of Use Permit**

The Use Permit was issued to SSCC in 1984 and allowed it to (1) expand its building and (2) add a school in exchange for agreeing, among other items, to maintain a 70-foot buffer with adjacent residential properties. The 70-foot buffer was presumably necessary to secure the consent of the Wyndham Hills neighborhood concerned about the disruptions caused by operating an expanded church and a school in a residential district. The SSCC was then, as now, zoned single family residential. The modification is necessary today because the Amphitheater is proposed to be located within the 70-foot buffer, only 35 feet from the boundary with the adjoining property owners. The Amphitheater will be an open air building with a 13-foot-high roof, the construction of which will require the removal of at least 35 trees. SSCC is proposing to use it for services, weddings, meals, community gatherings, and other events, both day and night.

The Zoning Ordinance of COSS ("Ordinance") is not clear regarding the criteria to be used in modifying an existing use permit. The most instructive provisions appear to be those for issuance of new use permits. *Ordinance Article 19.2.4*. The applicable considerations for issuing a Use Permit are as follows:

- a. Whether the proposed Use is consistent with the Comprehensive Plan.
- b. Whether the proposed Use is compatible with land Uses and Zoning districts in the vicinity.
- c. The effect of the proposed Use on traffic flow along adjoining streets.
- d. The amount and location of Open Space.
- e. Protective screening, hours and manner of operations, outdoor lighting, and ingress egress.

The Proposal fails to satisfy any of these criteria. The Amphitheater is not consistent with the Comprehensive Plan, which aims to situate compatible uses throughout COSS, and an Amphitheater is not an appropriate or compatible use in a Residential district adjacent to a pre-existing residential neighborhood. The Amphitheater will feature up to 180 people at one time, both day and night, and the associated noise and light, along with an increased risk of security breaches, will impact the use, value and enjoyment of the residential properties immediately behind it. If the Church parking lot is full, it is likely that spillover parking will come to River Springs Drive, which is around the corner and the street on which the adjoining properties are located. The amount of Open Space and protective, forested screening will be greatly reduced, from the current approximately 90 feet between the property boundary and the edge of the SSCC's parking lot to 35 feet; we understand at least 35 mature trees will be removed. This mature wooded buffer, which is increasingly rare in COSS today, significantly prevents light and noise originating from both SSCC and Johnson Ferry Road from impacting the adjacent neighbors. In addition, the buffer provides critical privacy and additional security against trespassers and unauthorized activity. Further, the buffer serves to absorb carbon dioxide and keep temperatures down, which are important considerations to the neighborhood with the expansion of Abernathy and Johnson Ferry Roads and the increased traffic they have attracted. All of these benefits will be lost if the Amphitheater is built, and the resulting noise, light and air pollution, heat and increased security exposure will significantly impact the use, value and enjoyment of the adjacent properties as well as the health and wellbeing of their owners.

## **2. Application Fails to Satisfy Requirements for Variance from 100-Foot Setback**

The zoning district in which SSCC is located, R-1 Single Family Residential, allows churches to locate therein so long as all "Buildings" are located at least 100 feet from any Adjoining Residential District used for single family. *Ordinance Article 19.4.11*. The Amphitheater is a "Building" because it will have a roof sheltering and protecting people. *Ordinance Article 3.3.1*. Because the Amphitheater is proposed to be located within the 100-foot buffer (35 feet from the property line), a variance from this requirement is needed.

The Application makes no mention of this 100-foot buffer or the required variance, and such omission should by itself render the Application defective. However, even if the variance was specifically mentioned, we still do not believe SSCC can satisfy its requirements. In order to obtain a variance, an applicant must show either (a) relief would be in harmony with the purpose and intent of the Ordinance, or (b) an unnecessary hardship due to extraordinary or exceptional conditions stemming from the size, shape, or topography of its lot *while causing no detriment to the public* (emphasis added). *Ordinance Article 22.3.1*. It does not appear SSCC can satisfy either requirement. Reducing the 100-foot setback to 35 feet would not be in harmony with the purpose and intent of the Ordinance. The purpose and intent of the Ordinance is presumably to insulate adjacent residential properties from the large gatherings, noise, light, traffic and other impacts associated with churches; a 65% reduction in the setback would significantly damage that "insulation" and would cause the aforementioned impacts from noise, light, loss of green space buffer, security, privacy, lower air quality and loss of property values to

the WHHA members immediately bordering the proposed Amphitheater and other members as well. In addition, SSCC is unable to demonstrate a "hardship"; there are other locations on the property where it might be sited, such as on the east side close to Abernathy Road. In addition, the Amphitheater is really a luxury, not a necessity; our understanding is that SSCC is not outgrowing its existing sanctuary, and it is hoping to rent the facility out to members for special events. Moreover, as discussed above, the construction of the Amphitheater and loss of the mature, wooded buffer will cause significant detriment to the neighboring community.

### **3. WHHA Has Already Compromised and Suffered from Adjacent Development**

In addition to the Ordinance-based arguments discussed above, there are equitable considerations that merit the denial of the Application. WHHA already compromised once with SSCC when it agreed to allow SSCC's expansion and operation of the school in 1984 in exchange for the 70-foot buffer. Further, the neighbors immediately adjacent to the proposed site were informed of this buffer prior to buying their properties and the buffer was a material consideration upon which they reasonably relied. There is also legitimate concern that a modification would severely weaken the reliability of these types of "agreements" with neighbors going forward, and thus set a dangerous precedent that could allow still more development in the future, leaving WHHA members uncertain as to when threats to their property rights might cease.

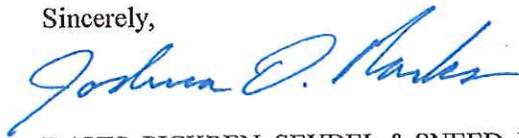
Moreover, WHHA members have already suffered enormous disruptions over the last 6 years as a result of the widening of Abernathy and Johnson Ferry Roads, the lowering of Brandon Mill Road, and the construction of the Abernathy Greenway Park. It is unfair and unreasonable to subject WHHA members to further disruptions and encroachments on the use, enjoyment and value of their properties. If SSCC truly feels it needs an outdoor gathering space, then its members can easily walk or drive down the street to the pavilion in the brand new Abernathy Greenway Park.

### **4. Conclusion**

In conclusion, because (a) the SSCC has failed to satisfy the legal requirements for a modification of the Use Permit, (b) the SSCC failed to include in the Application a variance from the 100-foot buffer and could not satisfy the requirements for same even if it had, (c) modifying an agreement upon which the neighborhood has relied for decades is unfair, and (d) and the neighborhood has already suffered greatly following the prior 6 years of adjacent construction/disruption, we respectfully urge the COSS to deny the Application.

If you have any questions about the contents of this letter, please do not hesitate to contact me.

Sincerely,



DAVIS, PICKREN, SEYDEL & SNEED, LLP

Joshua D. Marks, Esq.

cc: Mrs. Lynn Watson, President, WHHA  
Sandy Springs Councilman Graham McDonald

October 3, 2014

Dr. Eugene C. Berger and Caroll P. Berger  
120 River Springs Dr. NW  
Sandy Springs, GA 30328  
404-823-3449  
Eugene.c.berger@gmail.com

Linda Abaray  
City of Sandy Springs  
[labaray@sandyspringsga.gov](mailto:labaray@sandyspringsga.gov)

Dear Linda Abaray,

We are writing in support of our directly impacted neighbors on River Springs Drive. They have informed the Sandy Springs Christian Church that they oppose the church's proposed construction in the buffer between the church and our homes. We too energetically oppose such proposed construction for the following reasons.

Firstly, the neighborhood has already compromised. In our 1984 agreement we allowed for a variance permitting the church's construction of a school. We feel that the church is going back on its word by attempting to modify the agreement and further encroach on the buffer.

Secondly, the church has not demonstrated a hardship. We have attended all of the meetings the church has had with the neighbors and at no point did the church give a clear answer on why they needed the new construction, what the construction would be used for, and how often they would use it. The church leadership was vague on other important details as well, like noise level regulations, water treatment plans and lighting restrictions. We were left with the impression that they had moved forward to quickly on this project without giving proper consideration to its effects on the neighborhood.

Lastly, the proposed construction would remove close to thirty mature trees. The removal of these trees and the addition of close to 2000 square feet of non-porous surface would lead to significant run-off and even potential flooding in our neighborhood. The removal of the trees would also expose our home to significant direct sunlight during the hot summer, reduce our privacy, reduce our property values, and allow for significantly more noise to reach us from the church. (We should point out that the church has not done an acoustic study of the project).

Again, we stand firm with the Wyndham Hills Homeowners Association, the Sprayberrys, the Collins and our next door neighbors the Reeces in opposing this project.

If you have any further questions please feel free to contact us. We look forward to the public hearing on October 21<sup>st</sup>.

Sincerely,  
The Bergers  
120 River Springs Dr. NW

Recipient: Rusty Paul, Graham McDonald, Linda Abaray, Ken Dishman, John Paulson, Gabriel Sterling, Tibby DeJulio, and Andy Bauman

Letter: Greetings,

Dear Mayor Paul, Councilman McDonald, Senior Planner Linda Abaray, and the rest of the Sandy Springs City Council,

I respectfully urge you to DENY the application of Sandy Springs Christian Church for modification of the existing agreement and the required variance to build the Amphitheater.

Sandy Springs Christian Church is proposing to build a 3,300 square foot amphitheater in the wooded buffer between it and homes on River Springs Drive. The building, which will have a 13-foot-high roof but no walls, will be only 35 feet from the common property boundary, and will require the removal of at least 35 trees. The Church is proposing to use it for services, weddings, meals, community gatherings, and other events, both day and night. There is an existing permit preventing the Church from building within 70 feet of the boundary with the neighborhood, which the Church must get the City to modify along with getting a variance from a separate 100-foot setback requirement.

While we highly respect the Church and have always gotten along very well, this proposal is inappropriate! It will greatly impact the use, enjoyment, privacy and value of the properties immediately behind the Church as well as the greater Wyndham Hills community, the project is unfair to our community, and it is not justifiable, because:

- 1.Noise and light. Removal of more than half of the mature, wooded buffer and use of the Amphitheater will significantly increase the noise and light impacts to the neighborhood from the Church and Johnson Ferry Road.
- 2.Security Risks. Removal of more than half of the mature, wooded buffer and use of the Amphitheater will increase the risk of loitering, trespassing and other unauthorized access/activity into the neighborhood.
- 3.Reduction in Property Values. The loss of the buffer, the increase in noise and light and higher security risks will reduce property values along River Springs Drive.
- 4.No More Inconvenience for Neighborhood. Our neighborhood has already

suffered huge inconvenience because of the widening of Johnson Ferry and Abernathy Roads, the lowering of Brandon Mill, and the construction of the Abernathy Greenway Park.

5. We've Already Compromised. Our neighborhood agreed to the last Church expansion 30 years ago in exchange for the 70-foot buffer. That agreement should be honored and preserved.

6. Luxury, Not Necessity, for Church. The Church does not critically need the Amphitheater, and it could be located on a different part of the Church's lot, thus the Church can't prove a hardship required to obtain the modification and variance.

# Comments

Name	Location	Date	Comment
Jane Fullwood	Atlanta, GA	2014-09-22	Property Values
Megan Vanderver	Sandy Springs, GA	2014-09-22	The proposed variance would negatively impact our neighborhood, and is unnecessary.
Timothy Hogan	Sandy Springs, GA	2014-09-22	I am concerned about the size of the amphitheater and the affect it could have on neighborhood property values.
Crystal Reeves	Sandy Springs, GA	2014-09-22	An amphitheater so close to our neighborhood would impact property values.
Sharon Hogan	sandy springs, GA	2014-09-22	with all due respect to the Church, for the reasons stated in the petition
Lynn Twiner	Sandy Springs, GA	2014-09-22	With respect to the Church ,the Church proposal has too much of a negative impact for our neighborhood. It is wrong to have 35 trees removed.
Katharine Hamer	Atlanta, GA	2014-09-22	The points shared by Lynn Watson opposing the expansion of Sandy Springs Christian Church reflect my feelings about the project and any change to the existing buffer currently in place and agreed to by SSCC. Thank you, Katharine Hamer
Paul Hodgdon	Sandy Springs, GA	2014-09-22	We'll lose trees which ultimately will reduce property values as well as ambiance.
Andrew walk	Atlanta, GA	2014-09-23	This directly affects my neighborhood
michael sklar	atlanta, GA	2014-09-23	I believe a contract should be enforced and the integrity of zoning laws should be maintained.
Linda Hines	Atlanta, GA	2014-09-23	Not necessary or appropriate for residential neighborhood. Will add to traffic which is already bad
Niranjan Nimkar	Atlanta, GA	2014-09-23	I live in the neighborhood.
Deana Menikoff	Sandy Springs, GA	2014-09-23	Live in the neighborhood
Deborah Garrard	Sandy Springs, GA	2014-09-23	This proposal would adversely impact the use, enjoyment, privacy & value of the homes immediately behind SSCC as well as the greater community. Mature trees providing character to the community as well as a buffer for light & sound would have to be removed. There is also a security risk with increased foot traffic in the area proposed. Loss of the tree buffer, increase in noise, light & security concerns would reduce our property values. The agreement made with the church in prior years to maintain a 70 foot buffer should be maintained; if property owners can continually whittle away agreements & buffers, what is the point of the agreements in the first place? I was once a member of SSCC, and I know there are better options for locating the amphitheater on the existing church property. Please vote NO for the requested variance & protect the community & its residents. Thank you in advance!
Carol Heyward	Sandy Springs, GA	2014-09-23	The reasons cited.
JoAnn Bogner	Sandy Springs, GA	2014-09-23	To preserve the current agreed to zoning restrictions so as to not adversely impact our neighborhood.
Gloria young	Sandy Springs, GA	2014-09-23	The neighborhood would be adversely affected by the traffic and loss of MORE trees.
Gayle Lloyd	Atlanta, GA	2014-09-23	It's very important to protect the integrity of surrounding neighborhoods.
Hugh Saussy, Sr	Sandy Springs, GA	2014-09-24	The petition says it all.
Marjorie Kassel	Atlanta, GA	2014-09-24	The church should honor the existing 70' variance. Traffic and noise will effect all neighborhoods on Brandon Mill Road.

Name	Location	Date	Comment
dave geoffrion	AtlANTA, GA	2014-09-24	Decreased Property values for the homes surrounding the Church due to increase in noise pollution and possibly light pollution. Inability for those residents to enjoy a quiet evening in their own back yards.
Eugene Berger	Sandy Springs, GA	2014-09-24	We live behind the church and the project would cut down dozens of trees that I see from my back porch. This is an unnecessary project and the neighborhood already compromised enough when we signed the 1984 agreement.
Frank Blankenship	Sandy Springs, GA	2014-09-24	Neighborhood
Barbara Beard	Atlanta, GA	2014-09-24	I am in agreement with the points stated in this petition. The proposed changes, destruction of mature hardwood trees, and decreased buffer will adversely impact our neighborhood and greatly limit the quality of life for those neighbors whose homes and yards are close to the church. The 1984 agreement should be honored.
Catherine Jouve	Sandy springs, GA	2014-09-25	Noise, loss of property value, security, luxury not a necessity for church!
Josh Marks	Sandy Springs, GA	2014-09-26	I live directly adjacent to the Church. While I highly respect the Church and its leaders, this project is simply inappropriate for where it is intended to be located and will have too many negative effects on our neighborhood, for all the reasons stated in the petition.
Susan Joseph	Sandy Springs, GA	2014-10-01	I believe the buffers initially negotiated should be honored. To do otherwise is setting bad precedent.
Susan Joseph	Sandy Springs, GA	2014-10-01	Agreements must be honored, otherwise negotiated agreements are a sham. Neighborhood protection was a founding principal of the city and elected officials have an obligation to put that before anything else. There is no tax benefit to the city with a non profit expansion. There is also no hardship to justify the variance. For these reasons I support the neighborhoods request to deny.
Nancy Mingo	Sandy Springs, GA	2014-10-02	Because it cheats the homeowners who will be affected.

The Collins  
100 River Springs Drive  
Atlanta, Georgia 30328

10.3.2014

City Council of Sandy Springs  
7840 Roswell Road  
Sandy Springs, GA 30350

**RE: SANDY SPRINGS CHRISTIAN CHURCH AMPHITHEATER PROPOSAL**

Council Members,

We have been closely following the Sandy Springs Christian Church and their development and planning for a proposed Amphitheatre in the buffer between the Church and the homes on River Springs Drive. As directly impacted neighbors, we believe the Amphitheater will cause significant impacts to the use, privacy, enjoyment and value of our property and neighborhood.

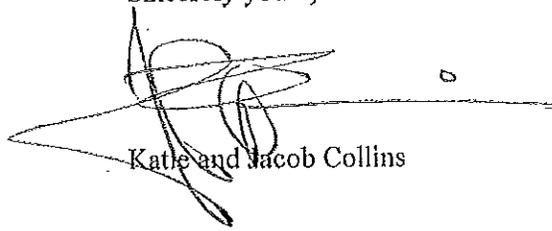
Our main concerns and reasons for opposing the proposed Amphitheatre are as follows:

- Safety. We are greatly concerned that the new development will provide an area for unwelcomed guests to loiter and gain easier access to our neighborhood and homes.
- Light and noise. We are greatly concerned that the light and noise generated from the use of the proposed Amphitheater will cause a disturbance to our neighborhood and homes.
- Environment. We are greatly concerned that the loss of a mature, forested buffer that our neighborhood has relied on will negatively impact the environment in which we live in, and set a precedent for future modifications to continue to eat away at the protections that are so important to us and to maintaining our property values.

Our family chose Wyndham Hills and the City of Sandy Springs 4.5 years ago as the place to live and raise our growing family. We are greatly invested in this neighborhood and Spalding Drive Charter Elementary School. When we purchased our property we were well aware of the current 70 foot buffer that exists. We have since learned that the current rules for churches in residential districts is actually for there to be a setback of 100 feet from the common property line, and getting a variance to reduce that to 35 feet is simply unreasonable.

Accordingly, we are left with no choice but to request that the City Council decline the Church's application for the necessary modification and variance for the Amphitheater. We, as a significantly impacted neighbor, hope that the City Council understands and sees the unnecessary hardship that the proposed Amphitheater would create on our lives and properties.

Sincerely yours,



Katie and Jacob Collins

## Abaray, Linda

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**From:** Mark Pollack <mail@changemail.org>  
**Sent:** Friday, October 03, 2014 3:18 PM  
**To:** Abaray, Linda  
**Subject:** 5 new petition signatures: Mark Pollack, Nancy Mingo...

5 new people recently signed Lynn Watson's petition "[Rusty Paul: Oppose Amphitheater Next to Wyndham Hills](#)" on Change.org.

There are now 70 signatures on this petition. Read reasons why people are signing, and respond to Lynn Watson by clicking here:

<http://www.change.org/p/rusty-paul-oppose-amphitheater-next-to-wyndham-hills/responses/new?response=044436ad68b7>

Dear Linda Abaray,

Dear Mayor Paul, Councilman McDonald, Senior Planner Linda Abaray, and the rest of the Sandy Springs City Council, I respectfully urge you to DENY the application of Sandy Springs Christian Church for modification of the existing agreement and the required variance to build the Amphitheater. Sandy Springs Christian Church is proposing to build a 3,300 square foot amphitheater in the wooded buffer between it and homes on River Springs Drive. The building, which will have a 13-foot-high roof but no walls, will be only 35 feet from the common property boundary, and will require the removal of at least 35 trees. The Church is proposing to use it for services, weddings, meals, community gatherings, and other events, both day and night. There is an existing permit preventing the Church from building within 70 feet of the boundary with the neighborhood, which the Church must get the City to modify along with getting a variance from a separate 100-foot setback requirement. While we highly respect the Church and have always gotten along very well, this proposal is inappropriate! It will greatly impact the use, enjoyment, privacy and value of the properties immediately behind the Church as well as the greater Wyndham Hills community, the project is unfair to our community, and it is not justifiable, because: 1. Noise and light. Removal of more than half of the mature, wooded buffer and use of the Amphitheater will significantly increase the noise and light impacts to the neighborhood from the Church and Johnson Ferry Road. 2. Security Risks. Removal of more than half of the mature, wooded buffer and use of the Amphitheater will increase the risk of loitering, trespassing and other unauthorized access/activity into the neighborhood. 3. Reduction in Property Values. The loss of the buffer, the increase in noise and light and higher security risks will reduce property values along River Springs Drive. 4. No More Inconvenience for Neighborhood. Our neighborhood has already suffered huge inconvenience because of the widening of Johnson Ferry and Abernathy Roads, the lowering of Brandon Mill, and the construction of the Abernathy Greenway Park. 5. We've Already Compromised. Our neighborhood agreed to the last Church expansion 30 years ago in exchange for the 70-foot buffer. That agreement should be honored and preserved. 6. Luxury, Not Necessity, for Church. The Church does not critically need the Amphitheater, and it could be located on a different part of the Church's lot, thus the Church can't prove a hardship required to obtain the modification and variance.

Sincerely,

70. Mark Pollack Atlanta, Georgia  
69. Nancy Mingo Sandy Springs, Georgia  
68. Susan Joseph Sandy Springs, Georgia

67. Josh Marks Sandy Springs, Georgia  
66. Catherine Jouve Sandy springs, Georgia



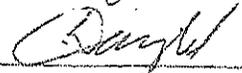
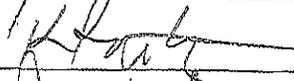
# Petition to Oppose Amphitheater Next to Wyndham Hills

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5. We've already compromised. Our neighborhood agreed to the last Church expansion 30 years ago in exchange for the 70-foot buffer. That agreement should be honored and preserved.

Accordingly, we, the undersigned, respectfully urge Mayor Paul, Councilman McDonald, and the rest of the Sandy Springs City Council to DENY the application of Sandy Springs Christian Church for modification of the existing agreement and the required variance to build the Amphitheater.

Printed name	Signature	Mailing Address	Email Address	Phone #
Pat Albert-Wigbels		6765 River Springs Ct	patalbert@comcast.net	6-778-7407
Dennis Wysocki		6705 River Springs Ct	dwysocki@comcast.net	678-571-3922
Jason Chavo		6685 River Springs Ct	jasonchavo@comcast.net	404-919-0007
Jacquelyn Chan		6675 River Springs Ct	js2052@aol.com	
KAREN KURTZ		6720 River Springs Ct	KKURTZ@comcast.net	4579-5685
Jon Lewis		6725 River Springs Ct	atljulewis@gmail.com	4822-7904

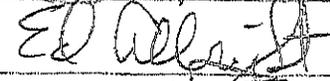
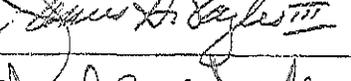
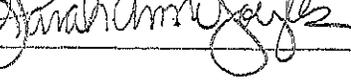
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Accordingly, we, the undersigned, respectfully urge Mayor Paul, Councilman McDonald, and the rest of the Sandy Springs City Council to DENY the application of Sandy Springs Christian Church for modification of the existing agreement and the required variance to build the Amphitheater.

Printed name	Signature	Mailing Address	Email Address	Phone #
Richard Forbes		6735 RIVER SPRINGS CT. SANDY SPRINGS, GA 30328	RICHFORBES2000@ATT.NET	(464) 459-6505
Ed Albright		6755 RIVER SPRINGS CT. SANDY SPRINGS GA. 30328		404 531-9606
Brigitte Fessle		6765 RIVER SPRINGS CT, NW SANDY SPRINGS	bhfessle@equinix.com	4255-7010
Maria Rank		6750 RIVER SPRINGS CT. 30328		-
JAMES H. VOYLES III		6750 RIVER SPRINGS CT., GA 30328	jvoYLESIII@gmail.com	✓
Sarah Anne Voyles		" " " " " "	" "	

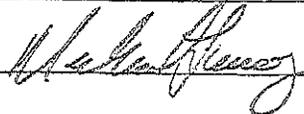
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Printed name	Signature	Mailing Address	Email Address	Phone #
MIKE LAROWAY		6740 RIVER SPRINGS CT	LAROWAY@aol.com	678 745-6980

