



SANDY SPRINGS
GEORGIA

P&Z STAFF REPORT

Board of Appeals Meeting, July 14, 2020

Case: **V20-0013 – 135 & 145 Cliftwood Drive**
Staff Contact: Madalyn Smith (MSmith@SandySpringsGA.gov)
Report Date: July 7, 2020

REQUEST

Request for a Variance from Sec. 4.7.3.F. to eliminate the required 20-foot minimum upper floors setback at 135 & 145 Cliftwood Drive.

APPLICANT

Property Owner: HDK Properties, LLLP (contact: George D. Steinheimer)	Petitioner: NexCity Development LLC (contact: Gary Unell)	Representative: Nathan V. Hendricks
---	---	--

SUMMARY

The applicant requests one (1) Variance to eliminate the required upper floors setback. The setback is applied to the building façade adjacent to Cliftwood Drive and requires the fourth (4th), fifth (5th), and sixth (6th) floors to be set back 20 feet from the vertical wall plane of the lower floors.

RECOMMENDATION

Department of Community Development

Staff recommends **Approval** of **Variance** V20-0013.

MATERIALS SUBMITTED AND REVIEWED

Materials:

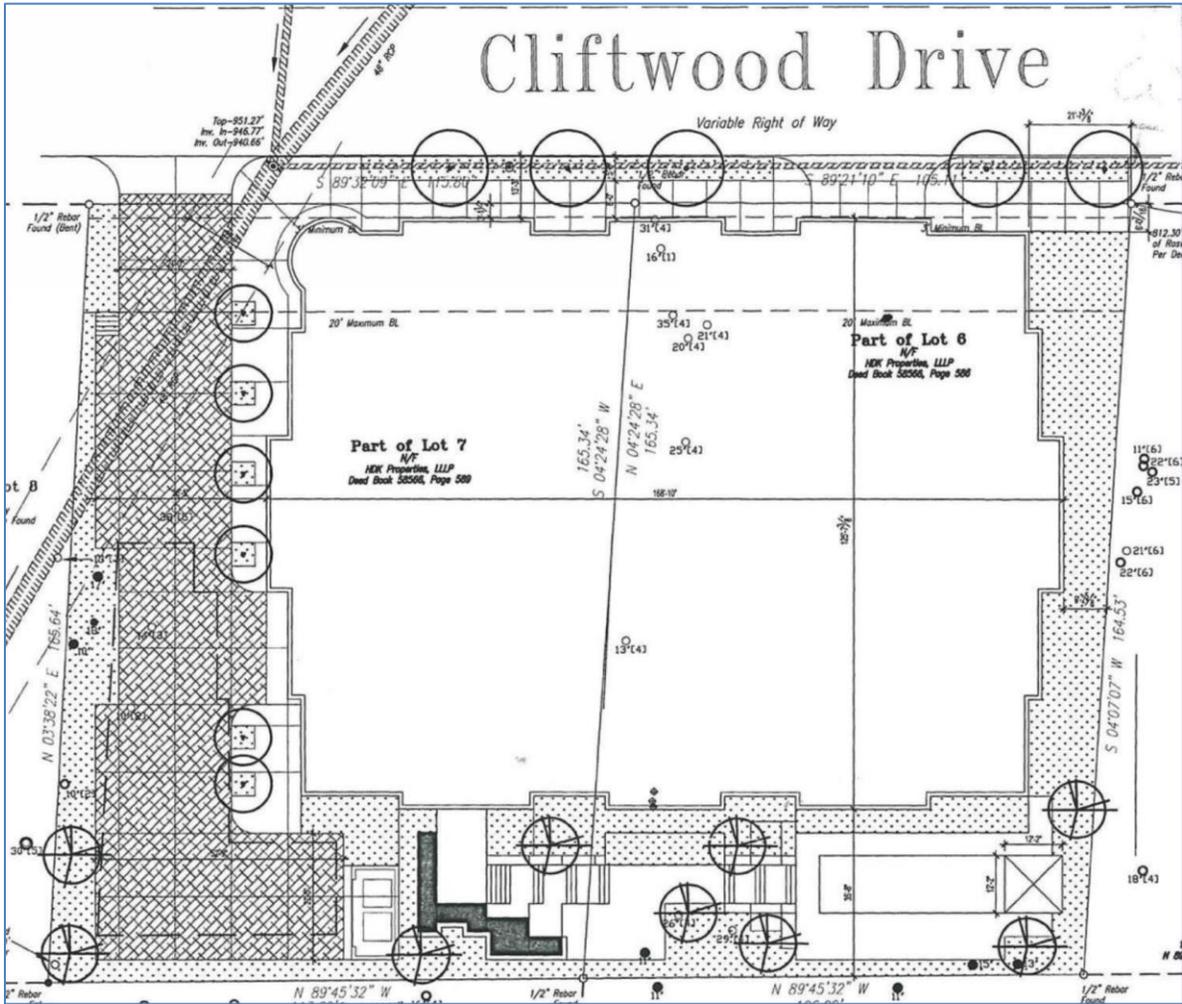
1. Application, received February 28, 2020
2. Letter of support, received March 10, 2020
3. Application Amendment, received June 24, 2020

Plans:

1. “*TBD*,” prepared by Georgia Land Surveying Co., signed and sealed by John L. Lewis, IV, R.L.S., dated September 9, 2019, received February 28, 2020
2. “*Cliftwood Flats*” prepared by Archetype Designs, dated November 26, 2019, received February 28, 2020

PROPERTY INFORMATION	
Location:	135 Cliftwood Drive (Parcel # 17 009000030309) & 145 Cliftwood Drive (Parcel # 17 009000030325)
Council District:	3 – Chris Burnett
Road frontage:	Approximately 221.6 feet of frontage on Cliftwood Drive
Acreage:	Approximately 0.4356 acre (135 Cliftwood Drive) + 0.3989 acre (145 Cliftwood Drive) = 0.8345 acre
Current Zoning:	CS-6 (City Springs, 6 stories maximum height)
Existing Land Use:	Commercial land uses in 1950s residential structures
Previous Zoning Case:	RZ19-0006, Request for a Zoning Map Amendment (Rezoning) from CS-3 to CS-6 was approved with a condition on June 16, 2020 ____
Character Area:	City Springs

PROPOSED DEVELOPMENT SITE PLAN (received February 28, 2020)
(full size Proposed Development Site Plan in Package)



PROPOSED DEVELOPMENT

The petitioner’s proposed development is a six (6)-story building containing approximately 30 for sale, multi-unit residences.



Rendering of proposed development

The following images show the existing conditions of 135 & 145 Cliftwood Drive:



View of 135 Cliftwood Drive (145 Cliftwood Drive is to the left, and 125 Cliftwood Drive is to the right), facing south across Cliftwood Drive



View of 145 Cliftwood Drive (155 Cliftwood Drive is to the left, and 135 Cliftwood Drive is to the right), facing south across Cliftwood Drive



View of rear of 145 Cliftwood Drive

The following images show the existing conditions of adjacent and nearby properties. 125 Cliftwood Drive is adjacent to the west of 135 Cliftwood Drive. 5920 Roswell Road is across the street to the north from 135 & 145 Cliftwood Drive and developed as the Parkside Shopping Center. 165 & 175 Cliftwood Drive are similar to 135 & 145 Cliftwood Drive in that the 1950s residential structures on these parcels are currently used for commercial purposes. Further to the east, 185 Cliftwood Drive was recently redeveloped as The Cliftwood, an apartment complex. 144 Allen Road is adjacent to the rear and south of 145 Cliftwood Drive and contains the Sterling Place apartment complex.



View of 125 Cliftwood Drive and Sandy Springs Circle facing southwest



View of 5920 Roswell Road (Parkside Shopping Center) facing northwest



View of 165 (far right), 175 (middle), & 185 (far left and behind)
Cliftwood Drive facing southeast



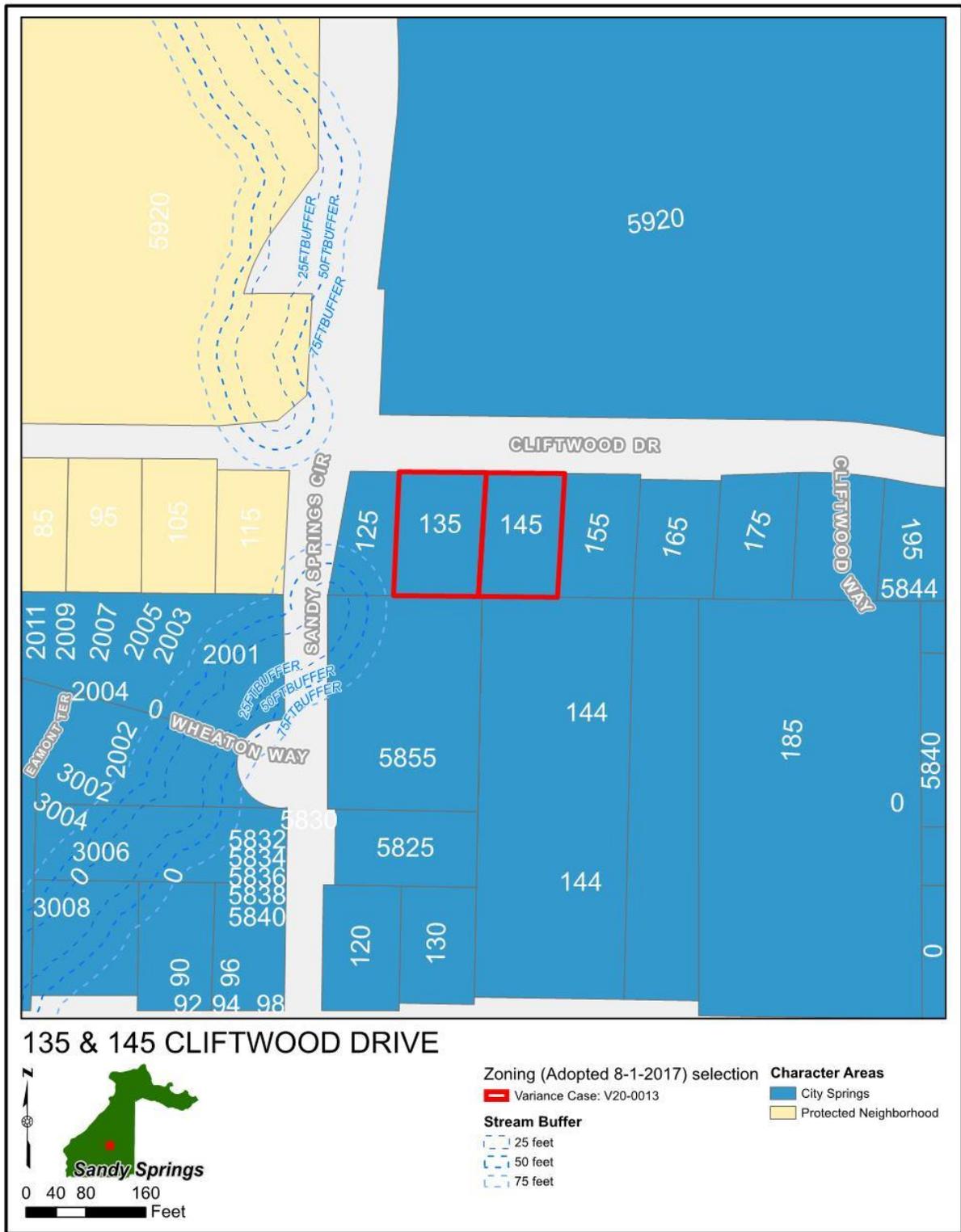
View of 185 Cliftwood Drive (The Cliftwood) facing south



View of 144 Allen Road (Sterling Place) facing northeast

(All photographs by Alexandra Horst, January 15, 2020)

EXISTING ZONING AND LAND USES OF PROPERTY IN THE VICINITY			
Location relative to subject property	Zoning / Land use	Address(es)	Land area (acres) (approximate)
North	CS-3 / Place of assembly and commercial land uses	5920 Roswell Road (Parkside Shopping Center)	12.82
East	CS-3 / Office use in 1950s residential structure	155 Cliftwood Drive	0.40
East	CS-3 / Personal service uses in 1950s residential structure	165 Cliftwood Drive	0.39
East	CS-3 / Animal care use in 1950s residential structure	175 Cliftwood Drive	0.42
East / Southeast	CS-6 / Multi-unit residential	185 Cliftwood Drive (The Cliftwood)	3.67
South / Southeast	CS-6 / Multi-unit residential	144 Allen Road (Sterling Place)	3.75
South / Southwest	CS-3 / Commercial land uses	5855 Sandy Springs Circle	1.34
West	CS-3 / Undeveloped	125 Cliftwood Drive	0.49
PROPOSED DEVELOPMENT			
--	CS-6 / Multi-unit residential	135 & 145 Cliftwood Drive	0.83



VARIANCE CONSIDERATIONS

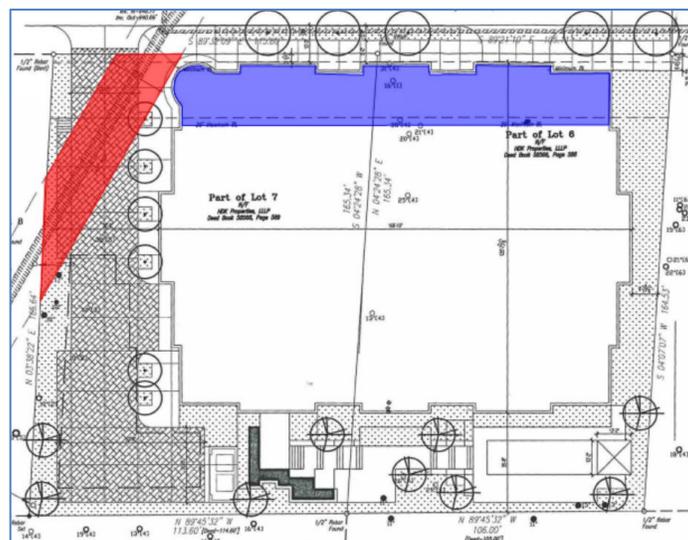
Per Sec. 11.6.2. of the Development Code, the following list of approval criteria for a Variance provides guidance for making decisions on approval:

1. ***Variations will only be granted upon showing that:***
 - a. ***The application of this Development Code would create an unnecessary hardship, and not merely an inconvenience to the applicant; or***
 - b. ***There are extraordinary and exceptional conditions due to the size, shape, or topography, which are specific to the subject property and not generally found in similar properties;***

Finding: On June 16, 2020, the subject properties were rezoned from CS-3 to CS-6, subject to the following condition: For a maximum of 36 residential condominium units that could be constructed within a six (6)-story building that is generally consistent with the conceptual drawings that were provided to the City by the applicant: “*Artistic Rendering: Cliftwood Flats,*” prepared by Archetype Design, dated 2019, received November 26, 2019; and relevant portions of the “*Cliftwood Flats*” plan set, prepared by Archetype Design, dated October 14, 2019, received October 28, 2019.

The petitioner proposes approximately 30 for sale, multi-unit residences. According to the petitioner, the upper floors setback reduces the square footage of the building by about 9,000 square feet, or approximately 10% of the overall building square footage (see below). This would be equivalent to four (4) of the units.

It should be noted that the main purpose for an upper-floor setback is to reduce the imposing, tunneling effect of large developments along narrow roadways or rights-of-way. It is meant to reduce the impact of massing and scale of developments and allow access to sunlight. Cliftwood Drive, however, is a four lane road with an 85-foot right-of-way. In this specific location, for a small, incrementally size development along one of the wider rights-of-way in Sandy Springs, the enforcement of the Development Code would not benefit the pedestrian experience. Rather, it is Staff’s view that it would negatively impact the design of the proposed building; likely decreasing the size of the units rather than the number of units; and negatively affect the feasibility of any similarly proposed project. The upper-floors setback is exceptionally restrictive on such a small site (less than an acre), consequently, reducing the building size by approximately 10% is extraordinary and exceptional, and thus it is Staff’s opinion that application of the setback would constitute a hardship..



Site plan showing the drainage easement in red and the upper floors setback area in blue

2. Further, the application must demonstrate that:

a. Such conditions are not the result of action or inaction of the current property owner; and

Finding: The conditions on the property are not the result of action or inaction of the property owner.

b. The Variance request would provide the minimum relief necessary to make possible the reasonable use of the property; and

Finding: While the application of the Development Code would not deprive the property owner of reasonable use, in the context of this proposal and the location along Cliftwood Drive, the application of the Code, is extreme.

The upper-floor setback is not necessary along this portion of Cliftwood Drive to create a more pedestrian friendly environment, particularly on a building set on a lot of less than an acre in size. The granting of a Variance would allow the applicant to construct a more architecturally appealing structure without negatively impacting the public. Without this variance approval the applicant will lose the equivalent of four (4) units of space or 10% of the overall square footage, which is a significant loss of floor area.

c. The Variance request would result in development that is consistent with the general intent of this Development Code, with the Comprehensive Plan policies, and would not be detrimental to the public good, safety and welfare.

Finding: The “*Artistic Rendering: Cliftwood Flats*” provided by the applicant shows an attractive building with architectural variation and interest. The building is proposed to contain for sale, multi-unit residences, which would promote homeownership and provide higher density housing in an appropriate district; this development would also support one of the “Key Actions” of The Next Ten to achieve a better housing balance and further intent of the Development Code to promote diverse housing options.

Were the Variance to be granted, it would not adversely affect these benefits. The proposed offerings are unique in the City Springs district. This helps to diversify the Sandy Springs housing stock. Thus, Staff finds that the requested Variance would be consistent with the general intent of the Development Code and the Comprehensive Plan policies and would not be detrimental to the public good, safety, and welfare.

Sandy Springs Public Works:

Comment / No comment provided.

Sandy Springs Transportation Engineer:

Comment / No comment provided.

Sandy Springs City Engineer:

Comment / No comment provided.

Sandy Springs Chief Environmental Compliance Officer:

Comment / No comment provided.

Sandy Springs Architect:

On this, I agree with the architect. The purpose of the setback is to assure light and sky view at the pedestrian level and to minimize a claustrophobic “canyon” effect that could come from a street lined with tall buildings. Cliftwood is excessively wide in this segment and, if the pedestrian realm here will suffer from anything, it is the design of the street and not the design or massing of the proposed building.

I do not agree that waterproofing requirements are a valid basis for a variance. Detailing for occupied roofs is pretty typical and we already have quite a few of them in the City. In fact, their rendering shows 12’x24’ porches. Even though they are covered, they will require similar detailing.

Conversely, if they are required to maintain the setback, as I recall, they could convert some of the second level parking to (smaller) dwelling units and maintain the desired unit count.

Sandy Springs Sustainability Manager:

Comment / No comment provided.

Sandy Springs Building Official:

Comment / No comment provided.

Sandy Springs Fire Marshal:

Comment / No comment provided.

Correspondence Received:

14 public comments were received in support of the application.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

Following review, and based on the findings, Staff recommends **Approval** of **Variance** V20-0013, request for a Variance from Section 4.7.3.F. to eliminate the required 20-foot minimum upper floors setback at 135 & 145 Cliftwood Drive.

Should the Board of Appeals choose to approve the request, Staff does not recommend any conditions, including that this application be conditioned to the site plan.



SANDY SPRINGS™
GEORGIA

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

VARIANCE APPLICATION

(Excludes Stream Buffer Variances)

Application Checklist:

Page No.	Item	Completed/ Included in Submittal
1	Project Information Sheet	<input checked="" type="checkbox"/> ✓
2-3	Detailed Process and Instructions	N/A
4-5	Authorization Forms	<input checked="" type="checkbox"/> ✓
6 <i>Pete</i>	Letter of Intent	<input checked="" type="checkbox"/> ✓
6-7 <i>Pete</i>	Variance Analysis	<input checked="" type="checkbox"/> ✓
7	Chattahoochee River Corridor Certificate	<input type="checkbox"/> or N/A <input checked="" type="checkbox"/>
7-8	8½" x 11" copy of Survey	<input checked="" type="checkbox"/> ✓
7-8	8½" x 11" copy of Site Plan	<input checked="" type="checkbox"/> ✓
7-8	11" x 17" copy of Survey	<input checked="" type="checkbox"/> ✓
7-8	11" x 17" copy of Site Plan	<input checked="" type="checkbox"/> ✓
7-8	Two (2) full-scale copies of Survey	<input checked="" type="checkbox"/> ✓
7-8	Two (2) full-scale copies of Site Plan	<input checked="" type="checkbox"/> ✓
7	8½" x 11" copy of Legal Description (must be in Word format)	<input checked="" type="checkbox"/> ✓
<i>Brooks</i>	11" x 17" copy of Elevations and/or Sections	<input checked="" type="checkbox"/> ✓ or N/A <input type="checkbox"/>
9	Meeting Schedule	N/A
9	Fee Schedule	N/A
10	Sign Specifications	N/A
9	Fee Payment	<input checked="" type="checkbox"/> ✓
	All documents in electronic form (jump drive)	<input checked="" type="checkbox"/> ✓

The Director reserves the right to request additional information deemed necessary to analyze the request. Incomplete applications will not be accepted.

Planner's initials: MS

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development



SANDY SPRINGS™
GEORGIA

Case No.: V20-0013
Planner's initials: MS

PROJECT INFORMATION SHEET

PROPERTY	Address(es): 135 and 145 Cliftwood Drive, Sandy Springs, Georgia 30328	
	Parcel Tax ID: 17-00900003039 & 17-009000030325	
	Land Lot(s): 90	Land District(s): 17th
	Total acreage: 0.843	Council district: 3
	Current zoning: CS-3/Request for CS-6	Current use: Office use in existing homes
	Character Area: City Springs	

APPLICATION	Detailed request (include Ordinance/Code Section No.):	
	VARIANCE ^{from} Required compliance with rendering a part of Section 4.7.3.F. requiring a 20' setback above the third floor of a building as to Height and Mass in the CS District facing a street of primary access.	
	Petitioner: Nexcity Development LLC (GARY DWELL)	
	Petitioner's address: [REDACTED]	
Phone: [REDACTED]		

OWNER	Property owner: HDK Properties LLLP	
	Owner's address: [REDACTED]	
	Phone: [REDACTED]	
	Signature (authorizing initiation of the process):	By: George D. Steinheimer Limited Partner
If the property is under contract, provide a copy of the contract Attached		

- TO BE FILLED OUT BY P&Z STAFF -

Pre-application meeting date: February 14, 2020	Anticipated application date: March 3, 2020 (deadline)
Anticipated BOA date: April 1, 2020	2/28/2020 (actual application date)
ADDITIONAL INFORMATION NEEDED:	

RECEIVED

FEB 28 2020



SANDY SPRINGS

GEORGIA

City of Sandy Springs
Community Development

AUTHORIZATION FORM - PART I

A- The property owner must fill out the following section and have it notarized. If a property has multiple owners, each owner must separately fill out a copy of the authorization form.

Owner states under oath that he/she is the owner of the property described in the attached legal description, which is made part of this application.	
Owner's name: HDK PROPERTIES, LLLP	Sworn and subscribed before me this <u>18</u> day of <u>Feb</u> 20 <u>20</u>
[Redacted]	
Owner's signature: <u>[Signature]</u> Agent for the General Partner	Notary public: <u>[Signature]</u>
	Seal:
	Commission expires:

B- If the applicant is *not* the owner of the subject property:

Fill out the following section, check the appropriate statement, and have it notarized.

Applicant states under oath that:	
<input type="checkbox"/> He/she is the executor or Attorney-in-Fact under a Power-of-Attorney for the owner (<i>attach a copy of the contract</i>); or	
<input checked="" type="checkbox"/> He/she has an option to purchase the subject property (<i>attach a copy of the contract</i>); or	
<input type="checkbox"/> He/she has an estate of years which permits the applicant to apply (<i>attach a copy of the lease</i>)	
Applicant's name: <u>GARY LNEII</u>	Sworn and subscribed before me this <u>25</u> day of <u>Feb</u> 20 <u>20</u>
Company name: <u>HEX CITY DEVELOPMENT LLC</u>	
[Redacted]	Notary public: <u>[Signature]</u>
Phone number: <u>404-731-6704</u>	Seal:
Applicant's signature: <u>[Signature]</u>	Commission expires: <u>4/26/20</u>

RECEIVED

FEB 28 2020



SANDY SPRINGS

GEORGIA

City of Sandy Springs
Community Development

AUTHORIZATION FORM – PART II

C- If an agent or attorney will represent the owner and/or the applicant:
Fill out the following section and have it notarized.

Agent's name: <u>Nathan V. Hendricks III</u>
Company name: <u>Self</u>

Agent's signature <u>[Signature]</u>
Applicant's signature: <u>Nexcity Development LLC</u>

By: [Signature]
Gary Unell
Its: Manager

Sworn and subscribed before me this
27 th day of February 2020
Notary public: <u>[Signature]</u>
Seal:
Commission expires:



RECEIVED 11/27/2019 PLANNING & ZONING

Deed Book 58566 Pg 579
Filed and Recorded Mar-16-2018 08:58am
2018-0067519
Real Estate Transfer Tax \$0.00
Georgia Intangible Tax Paid \$0.00
CATHELENE ROBINSON
Clerk of Superior Court
Fulton County, Georgia

After recording, please return to:
MICHAEL G. LEFF, P.C.
3789 Roswell Road, NE
Atlanta, GA 30342
770-644-0800

AFFIDAVIT of AUTHORITY

COMES NOW, DOROTHY K. STEINHEIMER, sole General Partner of:
CMDK Properties, LLLP;
HDK Properties, LLLP;
HDKS Properties, LLLP
MHD Investments, LLLP;
Steinheimer/Kaufmann, LLLP;

All being Georgia limited liability limited partnerships (the "Partnerships"), who does in her capacity as General Partner confirm under oath the following;

1. In accordance with the Limited Liability Limited Partnership Agreements of the
aforedescribed Partnerships (the "Agreements"), I act for and on behalf of the Partnerships;
2. Under the powers granted me in the Agreements, I do hereby appoint GEORGE D.
STEINHEIMER ("George") as Agent for me as General Partner with regard to any and all matters
pertaining to purchase and sale of properties of the Partnership and the conducting of the day
to day business of the Partnership, including all matters for which my authority exists;
3. George shall execute such deeds and documents and to do such other acts as are
reasonable and necessary to carry out the business of the Partnership.
4. This appointment shall remain in effect until I or my successor shall personally terminate it
in writing.

In furtherance of Partnership business, I hereby execute this Resolution this 31st day of
December 2017.

CMDK Properties, LLLP;
HDK Properties, LLLP;
HDKS Properties, LLLP
MHD Investments, LLLP;
Steinheimer/Kaufmann, LLLP;

Dorothy K. Steinheimer
Dorothy K. Steinheimer,
General Partner

Sandra Neull

Witness
Sworn to and subscribed before me
This 31st day of December 2017

Michael G. Leff

Notary
Commission expires _____

SEAL:



RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

**AGREEMENT FOR THE
PURCHASE AND SALE OF REAL PROPERTY**

THIS AGREEMENT, made and entered into this the 5 day of September, 2019, by and between HDK Properties LLLP ("Seller"), and BRU Group LLC., a Georgia corporation ("Purchaser").

WITNESSETH

WHEREAS, Seller is the owner of certain real property located in Fulton County, Georgia, with an address of 135 and 145 Cliftwood Drive , Sandy Springs, Georgia 30328, as more particularly described on Exhibit "A" attached hereto and by this reference incorporated herewith (said real property, together with all improvements thereon, all easements, privileges, appurtenances thereunto belonging, all fixtures used in connection therewith or attached thereto, and all plants, trees and shrubberies located thereon, are hereinafter collectively referred to as the "Property"); and

WHEREAS, Seller desires to sell the Property and Purchaser desires to purchase the Property, all upon the terms and conditions as are set forth in this Agreement;

NOW THEREFORE, for and in consideration of the premises, the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by all parties to this Agreement, the parties do hereby agree as follows:

1. AGREEMENT TO PURCHASE AND SELL. Purchaser agrees to purchase and Seller agrees to sell the Property for the price and on the terms and conditions set forth in this Agreement.

2. PURCHASE PRICE. The purchase price shall be _____
(hereinafter the "Purchase Price").

The Purchase Price, less the amount of the "Earnest Money" (as herein defined) paid by Purchaser, and subject to appropriate proration and adjustments as provided in this Agreement, shall be paid at the time and place of closing of this transaction by Purchaser to seller in cash or other funds immediately available at the time and place of closing.

3. EARNEST MONEY. Within three (3) business days after the Effective Date: (as hereafter defined), Purchaser shall deliver to Michael G. Leff, P.C. ("Escrow Agent") an initial deposit in the amount of TEN THOUSAND AND NO/100 DOLLARS (\$ 10,000.00) (the "Earnest Money"). Once Rezoning is approved, then within three (3) business days, Purchaser will deliver to Escrow Agent an additional FIFTY THOUSAND DOLLARS (\$50,000.00) as additional Earnest Money. At that point, all Earnest Money becomes non-refundable, as liquidate damages and not as a penalty. However, all Earnest Money shall be applied to the Purchase Price at Closing.

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

The parties agree that the Earnest Money when deposited with Escrow Agent, shall be held and disbursed as follows: (a) Escrow Agent shall deposit the Earnest Money in its Georgia Bar required IOLTA Trust Account, in which all interest earned is automatically transferred to the Georgia Bar Association and will not be credited to Purchaser, Seller or Escrow Agent; and (b) except as otherwise provided elsewhere in this Agreement, the Earnest Money shall be credited to and considered as payment of part of the total purchase price for the Property at the time of and upon consummation of the Closing.

In the event the purchase and sale contemplated hereunder is not consummated because of Seller's default, then the Earnest Money shall be returned to the Purchaser plus \$50,000.00 as liquidated damages and not as penalty or at Purchaser's Option, Purchaser may pursue specific damages at Seller's default. Purchaser waives and disclaims all other remedies at law or equity, including specific performance.

In the event the purchase and sale contemplated hereunder does not close due to Purchaser's inability, failure or refusal to perform Purchaser's obligations hereunder, including Purchaser's responsibility to actively pursue the requested rezoning of the Property, and for reasons other than the denial of the requested rezoning, the parties do hereby declare and determine that Seller's damages would be difficult if not impossible to determine, and the Earnest Money and all interest earned thereon (if any) shall be delivered to Seller as Seller's full liquidated damages, and thereafter, no party shall have any further rights, claims, obligations or liabilities hereunder.

4. CLOSING.

- a. Closing Date. The closing of this transaction (the "Closing") shall be held on a date and at a time mutually agreed to by Purchaser and Seller (the "Closing Date"), however in no event later than November 30, 2020, at a place reasonably designated by Purchaser in or about the metropolitan Atlanta, Georgia area.
- b. Closing Costs. At Closing, Seller shall pay the State of Georgia Real Estate Transfer Tax and all recording fees necessary to clear title. Purchaser shall pay all recording fees on the deed transferring title and all other Closing Costs as charged by either Purchaser's lender or the Closing attorney. Each party shall be responsible for, each party's own attorney's fees.
- c. Prorations. Any ad valorem property taxes assessed against the Property for the year in which the Closing occurs shall be prorated as of the Closing Date. If the current year's taxes have not been determined at the time of the Closing Date, proration shall be based upon the previous year's taxes and Purchaser and Seller shall adjust between themselves any difference in the proration after the actual amount for the year of Closing has been determined.
- d. Deliveries at Closing. At the Closing, the following documents, in addition to the other documents called for herein and all documents customarily executed in connection with the purchase and sale of real property in Georgia, shall be executed and/or delivered:

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

- i. Seller and Purchaser shall execute and deliver to each other a Closing statement which shall, among other items, set forth the Purchase Price, all credits against the Purchase Price and the amounts of all prorations and other adjustments.
- ii. Seller shall execute and deliver to Purchaser a limited warranty deed, in recordable form conveying fee simple title to the Property, as described on Exhibit "A".
- iii. Seller shall execute and deliver to Purchaser a Quitclaim Bill of Sale quitclaiming and releasing to purchaser all right, title and interest of Seller, if any, in any personal property located on or under Property.
- iv. Seller shall deliver to Purchaser an owner's affidavit in a form sufficient to cause Purchaser's title insurance company to issue Purchaser a title insurance policy with only "Standard Exceptions," including Permitted Title Exceptions as defined in section e below.
- v. Seller shall execute and deliver to Purchaser an Affidavit of Seller's Residence as contemplated under O.C.G.A. §47-7-128, which evidences that Seller is not subject to any withholding tax on the sale of the Property.
- vi. Seller shall deliver to Purchaser the information required for IRS Form 1099S.
- vii. Seller shall execute and deliver to Purchaser a Certification of Non-Foreign Status in accordance with Section 1445 of the Internal Revenue Code of 1986, as amended.
- viii. Purchaser shall deliver to Seller evidence of the authority and power of Purchaser to perform its obligations hereunder and to execute and deliver all documents required hereby in form and substance reasonably satisfactory to Seller.
- ix. Purchaser and Seller shall execute affidavits regarding commercial real estate brokers, in form and substance reasonably satisfactory to Purchaser and Purchaser's title insurance company.
- x. Such other documents as may be reasonably required by Purchaser or Seller to close this transaction in accordance with the terms and conditions set forth in this Agreement shall be executed and delivered by Seller and Purchaser.

e. Title. At Closing, Seller shall convey fee simple title to the Property to Purchaser by limited warranty deed free and clear of all liens, encroachments and encumbrances other than the "Permitted Title Exceptions" (as hereafter defined). The Property shall not be subject to any mortgage, deed to secure debt, deed of trust or other title exception or defect that is monetary in nature, and Seller hereby agrees to pay and satisfy of record any such title defects or exceptions, including any outstanding loan deeds or deeds to secure debt, prior to or at Closing and at Seller's expense. As used herein "Permitted

FEB 28 2020

City of Sandy Springs
Community Development

Title Exceptions" shall mean (i) state, county and city ad valorem taxes and assessments on the Property not yet due and payable; (ii) general utility easements of record for utility service lines serving the Property; (iii) zoning ordinances affecting the Property, (iv) matters that would be disclosed by a current and accurate survey and inspection of the Property and which are not objected to by Purchaser; and (v) such other items as Purchaser shall in writing expressly agree to accept as restrictions or encumbrances upon the title to the Property. Seller agree to execute such documentation at Closing which, in the reasonable opinion of Purchaser's attorney or lender, are necessary or prudent to evidence title as set forth in this Agreement.

5. OBJECTIONS TO TITLE.

Purchaser shall have the Inspection Period (as hereinafter defined), in which to search title to the Property, and in which to furnish to Seller a written statement of any objections affecting said title and any matters disclosed on the Survey. Seller shall have ten (10) days after the receipt of written notice of such objections to satisfy all title objections and if Seller fails to satisfy such title objections or to provide Seller's agreement to satisfy such objections to title at Closing (together with evidence reasonably satisfactory to Purchaser) within such ten (10) day period, then, at the option of Purchaser, evidenced by written notice to Seller given within five (5) days after the expiration of said 10- day period, Purchaser may, at its sole remedy, elect either (i) to terminate this Agreement and the Earnest Money shall be immediately refunded to Purchaser, or (ii) to close the transaction contemplated hereby and receive the instruments required herein from Seller irrespective of such title objections and without reduction of the Purchase Price except that all encumbrances which can be cured by the mere payment of sums of money may be paid by Purchaser at Closing out of the Purchase Price. If Purchaser does not elect to proceed under either clause (i) or (ii) above, within said 5-day period, Purchaser shall be deemed to have elected to proceed under clause (i) above. In addition, Purchaser shall be entitled to raise further objections to title at any time prior to the Closing Date should any updates to Purchaser's title examination or reports from its title insurer disclose additional title exceptions or objections occurring since the effective date of Purchaser's last such title examination or update thereof. Purchaser shall have the right to provide Seller with notice of any such additional objections at any time prior to Closing; provided, that Closing shall be extended to allow for Seller's 10- day response period and Purchaser's 5-day election period, as set forth in this Paragraph.

6. SELLER'S WARRANTIES.

As a material inducement for Purchaser to enter into this Agreement and as a condition for Purchaser to consummate the transactions provided for herein. Seller docs hereby warrant and represent to, and covenant and agree with Purchaser to the best of Seller's knowledge as follows:

- a. Seller possesses fee simple title to the Property.
- b. The Property is not subject to any zoning restrictions on its use whatsoever, except for zoning conditions reflected in the record of the Planning and Zoning Department of the City and or County where the Property is located;
- c. All water, storm, sewer, tele phone, gas, electricity, and cable utilities are available to the Property at the property line of the Property.

FEB 28 2020

City of Sandy Springs
Community Development

- d. There are current leases on the Property. Said leases are short in term and will not be in affect at time of closing. (see Special Stipulation 4)
- e. The Property has not been used as a landfill or dump for garbage, refuse, or hazardous waste or hazardous substances;
- f. There is no suit or action pending or contemplated against or affecting the Property, either directly or indirectly;
- g. There is no sales contract, offer, or right of first refusal executed for sale of any part or portion of the Property which has not been terminated;
- h. No party claims any rights to any purported contract for the sale or lease of all or any portion of the Property;
- i. No condition exists on or with respect to the Property which violates any law, right, ordinance, order, regulation or requirement;
- j. That, within the previous ninety-five (95) days, there have been no improvements made, and no improvements will be made in the future to the Property which have not been paid for in full;
- k. To the best of Seller's knowledge, there is no outstanding indebtedness secured by an interest in the Property, whether recorded or not.
- l. There has never been an underground storage tank located on the Property;
- m. That no hazardous materials or hazardous substances have been stored upon the Property;
- n. Seller has no knowledge of any sub-soil, geological or other condition with respect to the Property which would materially increase the cost of development thereof;
- o. To the best of Seller's knowledge, there are no taxes, fees, assessments of any kind or nature whatsoever which are presently due, or which are presently known or will become due, with respect to the Property, except for the ad valorem taxes of the current year.

All of the foregoing warranties and representations of Seller are made for the sole benefit of Purchaser and may be waived by Purchaser, in whole or in part by written waiver delivered to Seller. None of the foregoing warranties and representations shall be affected by any investigation or verification to or by anyone on behalf of any party hereto. Notwithstanding anything contained herein to the contrary the obligations of Purchaser hereunder are expressly made contingent upon and subject to the truth and accuracy, as of the date of this Agreement and as of the date of the Closing, of each and every warranty or representation made herein by Seller.

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

7. INSPECTION.

From and after the Effective Date, Purchaser, its agents, engineers, surveyors, and other representatives shall have the right, during the term of this Agreement to enter upon the Property to inspect, bore, photograph, examine, survey and conduct such other engineering tests and studies of the Property as Purchaser deems necessary. Purchaser agrees to indemnify Seller from any and all claim, expense or other damage, including attorneys' fees and court costs incurred in enforcing this indemnity, which arise out of Purchaser's inspection of the Property. Purchaser further agrees to indemnify and hold Seller harmless for any and all claims of materialmen, architects, engineers, and other laborers, mechanics or suppliers who supply goods or services to the Property. Seller agrees to assist and cooperate with Purchaser in Purchaser's inspection, study and surveying of the Property, and at Purchaser's sole cost, Seller agrees to take such actions as may be reasonably necessary to allow Purchaser to enter into and inspect any portion of the Property leased to any third parties. Purchaser agrees that if the sale contemplated herein does not close for reasons other than Seller's default, the Property will be returned to Seller in the same or better condition as it is on the Effective Date herein.

Purchaser shall have, in its sole and absolute discretion, the right, to terminate this Agreement for any reason whatsoever at any time during the period of time commencing with the Effective Date and ending on the date which is ninety (90) days following the Effective Date (the " Inspection Period"). In the event of such termination, the initial Earnest Money shall be returned to Purchaser within ten (10) days of the date Seller receives written notice of Purchaser's timely election herein.

In order to assist Purchaser in its due diligence inspections of the Property, Seller agrees to deliver to Purchaser within five (5) days after the " Effective Date" to the extent in its possession or otherwise reasonably available to Seller, copies of any title report, title policies and any instruments noted as exceptions therein, land surveys, maps, agreements , engineering studies, aerial photographs, topographical maps, development plans, environmental reports, zoning authorizations, correspondence with governmental authorities relating to the Property, wetlands surveys, rock test pit results, and any other document or materials incident to the Property as may be reasonably requested by Purchaser from time to time. If Purchaser fails to close for any reason, all materials relating to the Property shall be promptly returned to Seller .

8. CONDEMNATION.

If, at any time prior to the Closing Date, any action or proceeding is filed or threatened. under which the Property, or any portion thereof, may be taken pursuant to any law, ordinance or regulation, or by condemnation or the right of eminent domain, then Seller shall promptly give Purchaser written notice of the occurrence of the initiation of such proceeding or threat. In such event, then, at the option of Purchaser, this agreement shall terminate and be of no further force and effect and all the Earnest Money shall be returned to Purchaser, or (b) this Agreement shall remain in full force and effect, and Seller at the time of the Closing of this transaction, shall transfer and assign to Purchaser all of Seller's right, title and interest in and to any proceeds received or which may be received by reason of such taking, or a sale in lieu thereof, said option to be exercisable by Purchaser by delivering to Seller written notice of such exercise on or before the tenth (10th) day following the date on which Purchaser receives

FEB 28 2020

City of Sandy Springs
Community Development

notice that such suit has been filed or is threatened. In the event that Purchaser fails to exercise said option within said 10-day period, then Purchaser shall be deemed to have elected the alternative set forth in section (b) herein. Purchaser agrees that if the sale contemplated herein does not close for reasons other than Seller's default, the Property will be returned to Seller in the same or better condition as it is on the Effective Date herein.

9. DAMAGE BY FIRE OR CASUALTY.

If, at any time prior to the closing of this transaction, all or any material part of the improvements shall be destroyed, removed, stolen or damaged (excluding normal wear and tear), Seller shall deliver written notice to Purchaser of same and of the amount and extent of Seller's insurance coverage. This Agreement shall remain in full force and effect, and Seller, at the time of the closing of this Transaction, shall transfer and assign to Purchaser all of Seller's right, title and interest in and to any proceeds received or which may be received less any proceeds received for personal property of Seller. Said option shall be exercisable by Purchaser delivering to Seller written notice of such exercise on or before the tenth (10th) day following the date on which Purchaser receives notice that casualty has occurred.

10. BROKERS.

Cott Properties represents the Seller and shall be paid commission by the Seller at time of Closing. The Principal of Purchaser is a licensed Real Estate Agent in the State of Georgia and is not receiving any commission on this transaction.

11. NOTICES.

All notices and communications shall be in writing, signed by the party making same, and either (i) personally delivered, or (ii) sent by U.S. Certified Registered Mail, return receipt requested, postage prepaid, or (iii) Federal Express or similar service, to the party being given such notice at the following addresses:

TO SELLER: H D K Properties, LLLP
 P.O. Box 888758
 Atlanta, GA 30356

With a copy to: Stuart Cott
 Cott Properties

TO PURCHASER: BRU Group LLC
 195 Chaseland Rd
 Sandy Springs, GA 30328

The effective date of such notice or communication shall be the date of personal delivery or mailing, as the case may be. The notice of termination provided for under Paragraph 7 shall be timely given if same

FEB 28 2020

City of Sandy Springs
Community Development

is mailed certified mail to Seller at the address specified in this Agreement for notices to Seller and is postmarked on or before the expiration of the Inspection Period. The addresses of each party hereunder shall be subject to change by written notice from said party; however, until said notice is actually received by the other parties, the last address known to said party shall be the address used for the giving of all notice required in this Agreement.

12. REZONING

Notwithstanding anything contained herein to the contrary, Purchaser's obligation to Close the transaction contemplated herein shall be contingent upon Purchaser's ability to rezone the Property to a zoning category of CS-6, which will permit no less than [redacted] residential units and up to six (6) story building on the Property with such condition, if any, acceptable to Purchaser in its sole discretion (the "Rezoning"). For purposes of this Agreement, Rezoning shall mean that the Property has been rezoned to the aforementioned zoning category pursuant to all applicable zoning ordinances and land use regulations and ordinances and the expiration of all applicable appeal periods following the meeting at which the Rezoning of the Property was approved without any appeal or litigation challenging the rezoning or seeking to impose any conditions to such Rezoning having been filed during such period.

Purchaser agrees that it will, pursuant to the terms set forth in Exhibit "C" attached hereto and incorporated herein, at its sole expense file and thereafter, diligently process the necessary zoning applications and supply the necessary exhibits therefore. If Rezoning is denied, Purchaser shall have the right, as its sole remedy, to either: (i) waive the rezoning contingency set forth in this Agreement and proceed to Closing, or (ii) terminate this Agreement, whereupon no party shall have any further obligations hereunder and all Earnest Money will be returned to Purchaser. If Purchaser elects (i) above, Purchaser shall provide Seller written notice within three (3) day from the date the Rezoning has been denied.

Purchaser further agrees that will indemnify and hold harmless Seller from any and all claims, costs, attorney's fees and the like suffered by Seller because of or related to Purchaser's pursuit of the Rezoning of the Property, including but not limited to attendance of hearings by Seller or Seller's representative and defense of any action or suit brought against Seller or the Property as a result of the application for Rezoning.

13. MISCELLANEOUS TERMS AND CONDITIONS.

- a. Purchaser shall have the right to assign this Agreement or any interest herein, without the consent of Seller, to any partnership, limited liability company, or company or any other entity.
- b. Possession of the Property will be granted to Purchaser at Closing. (see Special Stipulation 4).
- c. This Agreement shall be binding upon and shall inure to the benefit of Seller and Purchaser,

FEB 28 2020

City of Sandy Springs
Community Development

their respective successors, successors-in-title, legal representatives, heirs and assigns.

It is the express intention of the Parties not to violate *any* laws of the State of Georgia. If any part of this Agreement, or any covenant, warranty or other provision of this Agreement is held to be invalid, illegal or incapable of being enforced by reason of any rule of law or public policy, all other agreements, covenants, warranties and the remaining provisions of this Agreement shall, never the less, remain in full force and effect and no agreement, covenant, warranty or other provision of this Agreement shall be deemed dependent upon any other agreement, covenant, warranty or other provision, whether predicated on this Agreement or otherwise, unless so expressed in this Agreement. This Agreement may be assigned by the Seller or Purchaser.

- d. In the event that the date for taking any action under this Agreement (including, but not limited to, the giving of a notice of termination or closing) falls on a Saturday, Sunday or legal holiday, then such time period shall automatically be extended through the close of business on the next regularly scheduled business day in Atlanta, Georgia.
- e. Time is of the essence in this Agreement.
- f. The parties agree that this Agreement contains their entire agreement with respect to the matters set forth herein. No failure by either party hereto to exercise any right, power or privilege given under this Agreement or otherwise, and no failure to insist upon strict compliance by the other party with any agreement, covenant, warranty or other obligation under this Agreement or otherwise, and no practice of the parties at variance with the terms hereof shall be construed as a waiver or relinquishment of any right granted hereunder. Waiver by either party hereto of any particular default by the other party shall not affect or impair any of the non - defaulting party's rights, powers or privileges in respect to any subsequent default of the same or of a different nature, nor shall any delay or omission of the non - defaulting party to exercise any right, power or privilege arising from such Default affect or impair the non-defaulting party's power or privilege as to such default or any subsequent default. The parties do hereby acknowledge that this Agreement was executed in the State of Georgia, is to be performed within the State of Georgia and this Agreement shall be construed and interpreted in accordance with the laws of the State of Georgia. No amendment to this Agreement shall be binding upon any of the parties hereto unless said amendment is in writing and signed by the party against whom enforcement of said amendment is sought. All titles or captions of the paragraphs set forth in this Agreement are inserted only a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement, or the intent or any provisions hereof.
- g. This Agreement may be executed in separate counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. This Agreement shall be fully executed when each party whose signature is required has signed and delivered to the parties at least one counterpart.

14. EFFECTIVE DATE.

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

The Effective Date as used herein shall mean the date shown on the signature page of this Agreement as the date of the last of Seller or Purchaser to execute this Agreement or otherwise to agree by initialing or dating any counteroffer.

IN WITNESS WHEREOF, the parties have herunto executed this Agreement and affixed their hands and seals as of the day and year first above written.

SELLER:

H D K Properties, LLLP

By: 

Printed Name: George D Sevier

Date: Sept 5, 2019

PURCHASER:

BRU Group LLC

By: 

Printed Name: GARY HOWELL

Date: 9-5-19

EXHIBIT "A"
(Legal Description)

All that tract or parcel of land lying and being in

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

EXHIBIT "B"

N.A.

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

EXHIBIT "C"
Special Stipulations

1. Purchaser shall have a preliminary site plan within 60 days from the Acceptance Date of the Agreement.

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

2. Purchaser agrees to file a rezoning request to the City of Sandy Springs within 90 days from the Acceptance Date of this Agreement.
3. The Closing as per Paragraph 4 herein shall occur within 120 days of Final Rezoning Approval, including the expiration of any applicable Appeal Periods or within 15 months from Acceptance Date of this Agreement. If rezoning is deferred by City of Sandy Springs, Seller agrees to extend the Closing up to an additional 90 days.
4. Purchaser understands and agrees that by the time Purchaser has received notice of the Rezoning, Seller's tenants will be on a month to month basis. Because the timing of Purchaser's desire to Close may not coincide with the beginning of a normal rental month, the parties agree that Closing may be extended by that portion of a month for which a tenant has the right to remain or for that period for which the Seller must take dispossessory action against a tenant holding over. Such extension of the Closing date shall not constitute a Seller default.

A handwritten signature in black ink, appearing to be 'J. M. M.', is written below the text of item 4.

FEB 28 2020

City of Sandy Springs
Community Development

The Effective Date as used herein shall mean the date shown on the signature page of this Agreement as the date of the last of Seller or Purchaser to execute this Agreement or otherwise to agree by initialing or dating any counteroffer.

IN **WITNESS WHEREOF**, the parties have hereunto executed this Agreement and affixed their bands and seals as of the day and year first above-written

SELLER:

H D K Properties, LLLP

By: _____

Printed Name: _____

Date: _____

PURCHASER:

BRU Group LLC

By: *Gary Unell* *Mrgy Member*

Printed Name: GARY UNELL

Date: 9-5-19

EXHIBIT "A"
(Legal Description)

All that tract or parcel of land lying and being in

RECEIVED

LETTER OF INTENT

FEB 28 2020

The property contains approximately 0.834 acres and is located on the southerly side of Cliftwood Drive and is commonly known as 135 and 145 Cliftwood Drive (the "Property"). The Property is currently zoned to the CS-3 Classification and pursuant to RZ19-0006, the Applicant has requested that the Property be rezoned to the CS-6 Classification and it is Section 4.7.3.F. of the Sandy Springs Development Code from which the Applicant seeks this Variance relief. Specifically, the Applicant requests that the proposed six (6) story building not be required to have a 20' setback above the third floor facing the primary street of Clifwood Drive. The proposed building is to contain 30 condominium units or flats ranging in size from approximately 2,100 square feet to approximately 3,400 square feet. The parking is proposed to be on the lowest two floors and there will be approximately 7,000 square feet consisting of a common lobby, amenity and storage areas with the total square feet of the entire building being approximately 82,045 square feet. All units will be "For Sale." No retail shall be associated with this proposed development. Given the residential nature of the proposed development same shall be capable of being accessed on a daily 24 hour basis and there is anticipated to be up to three employees consisting of a person for maintenance, one as a concierge and one for security. One of the floors designated for parking shall be buried with five floors of residential use above the floors designated for parking. Given the constraint of the 48" storm waterline running through the Property, it was not reasonably possible to consider alternative plans for the development of the Property.

Attached hereto and by reference thereto made a part hereof as Exhibit "A" is a copy of the diagram appearing in the Development Code reflecting exactly how the 20' setback from the primary street is to appear. You will note that blank walls appear at both the first three floors as well as the upper three floors. Further attached hereto and by reference thereto is made a part hereof as Exhibit "B" is a copy of the Architect's illustration of the degree of articulation and fenestration reflected in the proposed building's facade which is much more in keeping with the desired street facing of a building thus avoiding a wall or canyon street facing effect.

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

Accordingly, this Variance request would result in development that is consistent with the general intent of the Development Code, with the Comprehensive Plan policies, and would not be detrimental to the public good, safety and welfare. Therefore, this Variance Application is entirely appropriate the the appropriateness of this Variance Application and the constitutional assertions of the Applicant are more particularly stated and setforth on Exhibit "C" attached hereto and by reference thereto made a part hereof.

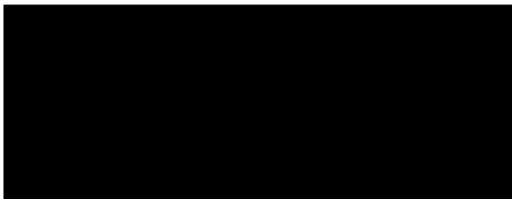
Now, therefore, the Applicant requests that this Variance Application be approved as submitted in order the the Applicant be able to proceed with the lawful use and development of the Property.

APPLICANT:

Nexcite Development LLC

By: *Gary Unell*
Gary Unell
Its: Manager

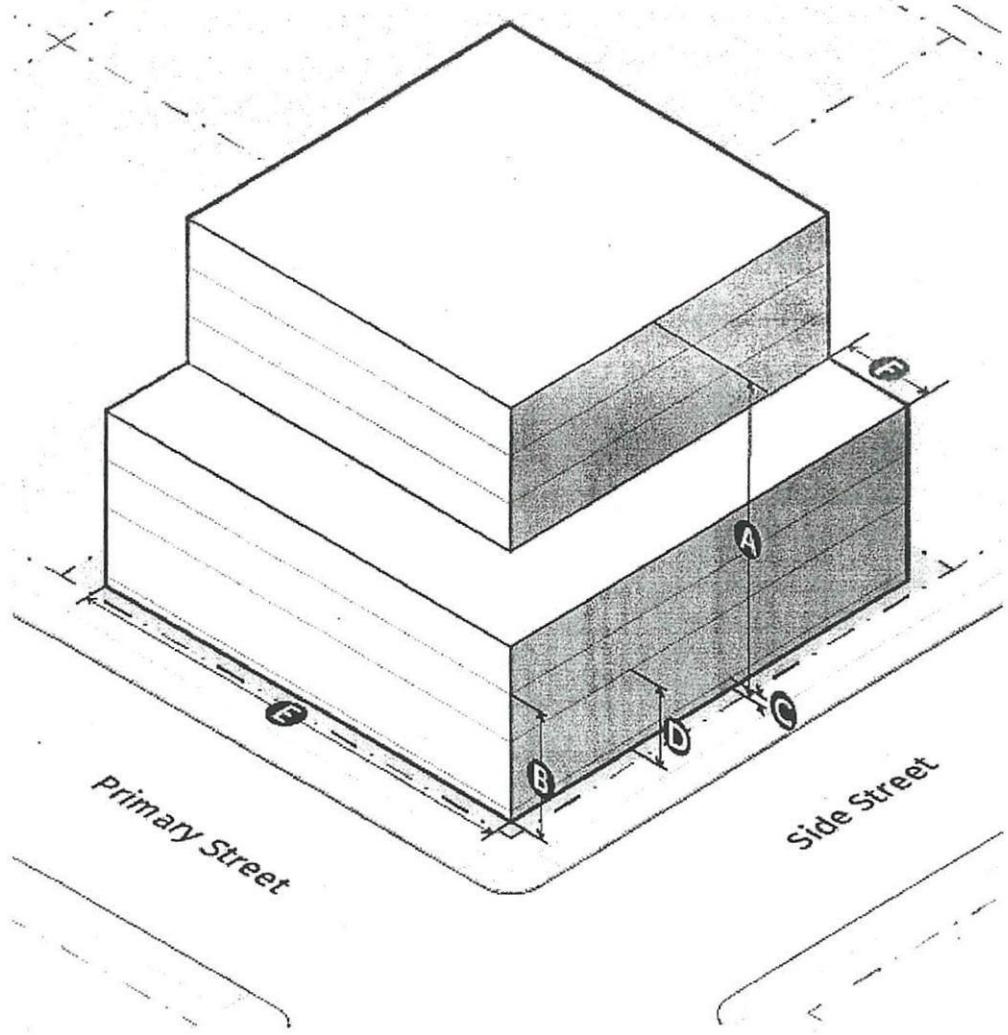
Nathan V. Hendricks III
Nathan V. Hendricks III
Attorney for the Applicant



RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

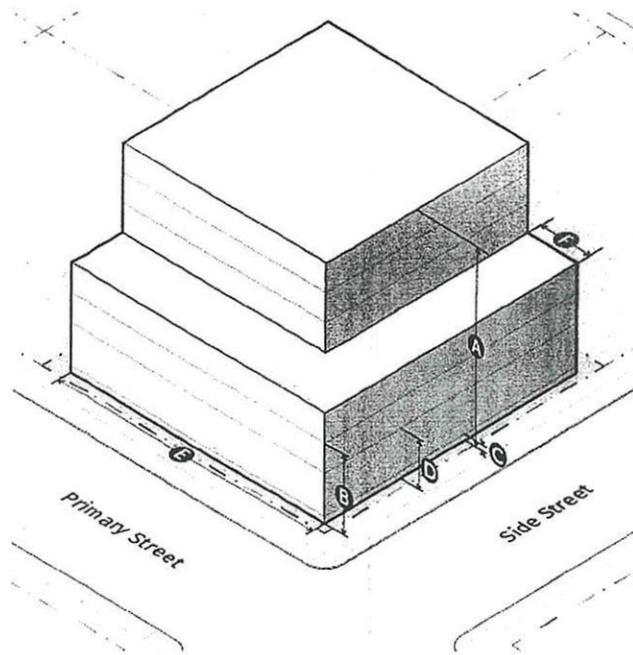


FEB 28 2020

Sec. 4.7.3. - Height and Mass

City of Sandy Springs
Community Development

SEC. 4.7.3. HEIGHT AND MASS



Building Height

A	Maximum height	
	CS-3	3 stories max/53' max
	Adjacent to RE- or RD-	3 stories max/42' max
	CS-4	4 stories max/67' max

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

	Adjacent to RE- or RD-	4 stories max/56' max
	CS-5	5 stories max/81' max
	Adjacent to RE- or RD-	5 stories max/70' max
	CS-6	6 stories max/95' max
	Adjacent to RE- or RD-	6 stories max/84'
	Within a transition area	2 stories/28' max
ⓑ	Minimum height	2 stories min
Story Height		
ⓒ	Ground floor elevation, residential	2' min/5' max
	Ground floor elevation, nonresidential	0' min/2' max

RECEIVED
FEB 28 2020

City of Sandy Springs
Community Development

D	Ground story, residential	12' min
	Ground story, nonresidential	14' min
Building Mass		
E	Street-facing building length	200' max
F	Upper floors setback (4th, 5th and 6th)	20' min

(Ord. of 4-17-2018(3), § 4-11; Ord. No. 2019-01-01, § I, 1-15-2019)

RECEIVED

FEB 28 2020

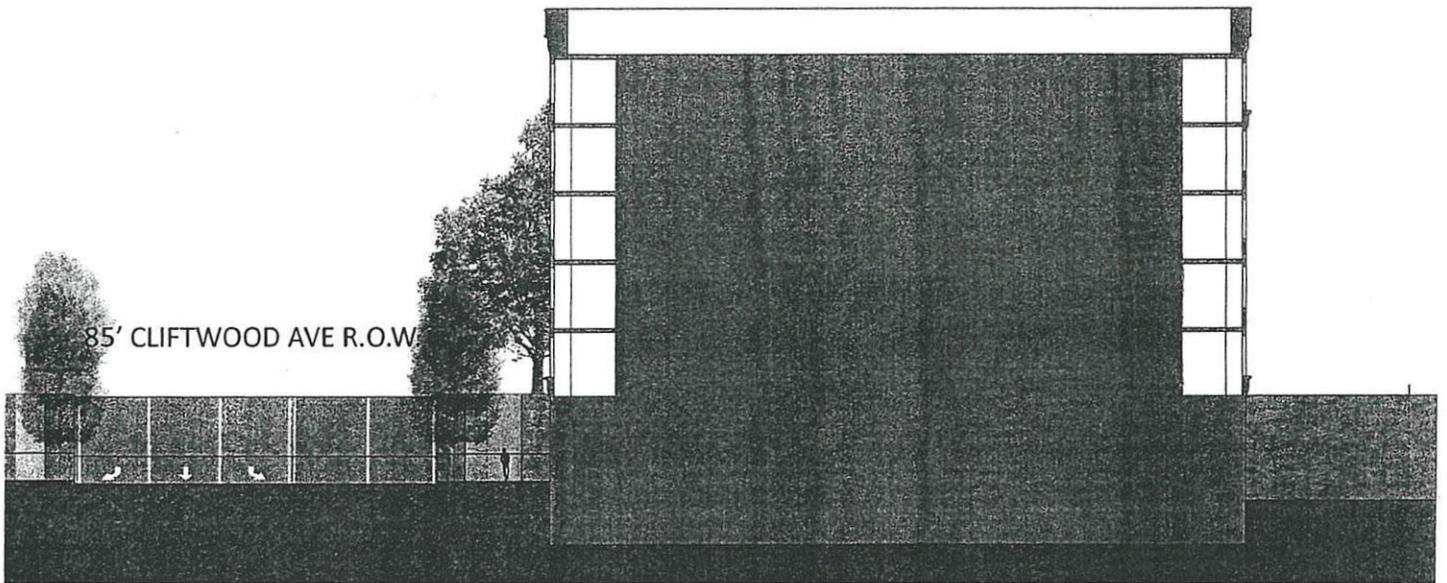
City of Sandy Springs
Community Development

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

ILLUSTRATIVE SECTION



Cliftwood Flats, Sandy Springs, GA

NEXCITY DEVELOPMENT, LLC

archetype
design

© COPYRIGHT 2019 ARCHETYPE DESIGN, LLC. THIS DRAWING IS THE PROPERTY OF THE ARCHITECT AND MAY NOT BE REPRODUCED OR USED WITHOUT WRITTEN PERMISSION.

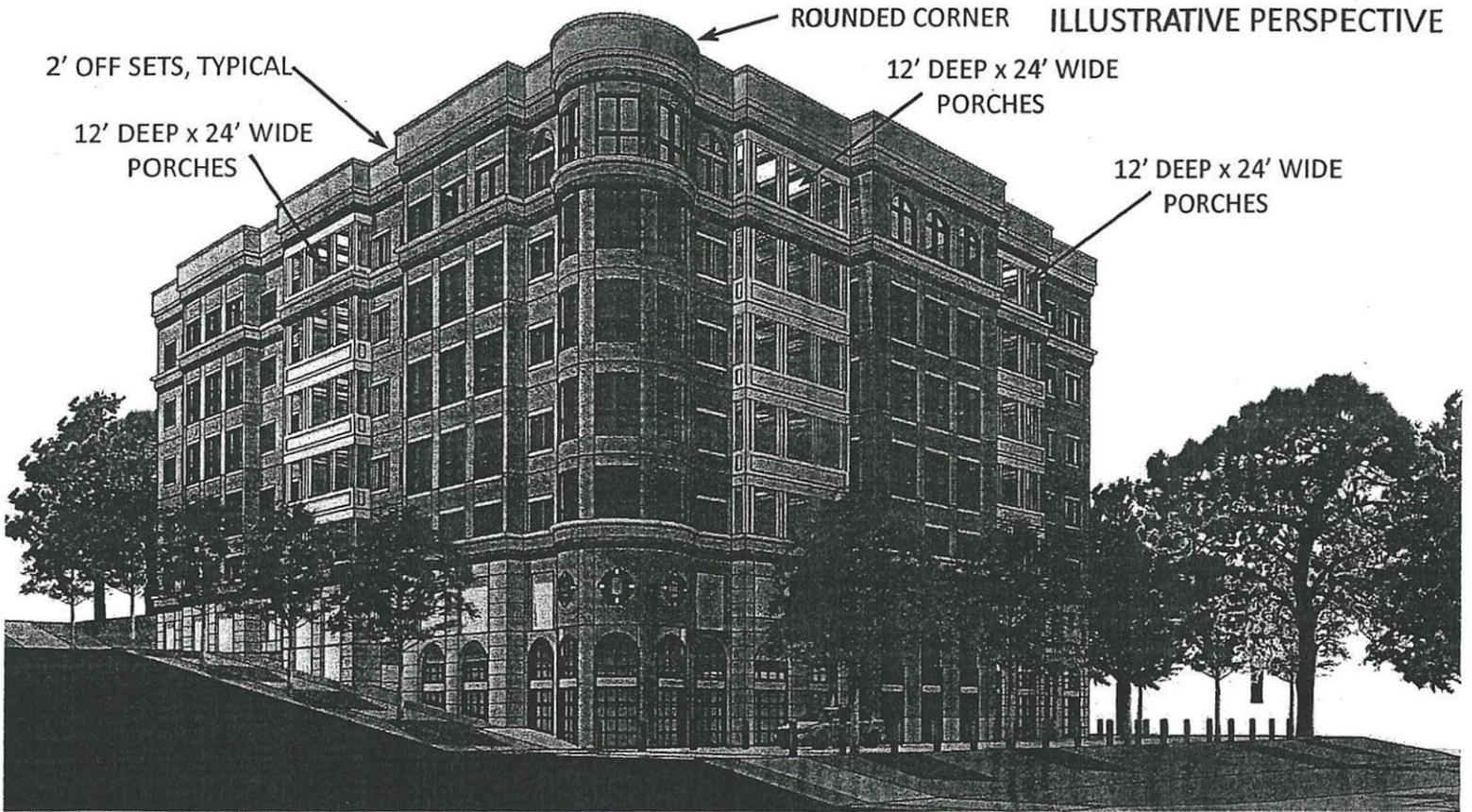
Gary Unell • craftmastergary@bellsouth.net • 404.731.6704

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

ILLUSTRATIVE PERSPECTIVE



Cliftwood Flats, Sandy Springs, GA

NEXCITY DEVELOPMENT, LLC

archetype
design

© COPYRIGHT 2019 ARCHETYPE DESIGN, LLC. THIS DRAWING IS THE PROPERTY OF THE ARCHITECT AND MAY NOT BE REPRODUCED OR USED WITHOUT WRITTEN PERMISSION.

Gary Unell • craftmastergary@bellsouth.net • 404.731.6704

RECEIVED

FEB 28 2020

APPROPRIATENESS OF APPLICATION

AND

City of Sandy Springs
Community Development

CONSTITUTIONAL ASSERTIONS

The refusal to approve the Variance requested will result in a taking of the Appellant's valuable property rights in violation of the just compensation clause of the Constitution of Georgia 1983, Article 1, Section 3, Paragraph 1 and the just compensation clause of the Fifth Amendment to the United States Constitution. Further such refusal to approve the requested Variance discriminates in an arbitrary, unreasonable, capricious and unconstitutional manner between the Appellant and owners of similarly situated property in violation of Article 1, Section, Paragraph 2, of the Constitution of the State of Georgia and in violation of the equal protection clause of the Fourteenth Amendment to the United States Constitution. Additionally, such refusal to approve the requested Variance would constitute a gross abuse of discretion and would constitute a violation of the Appellant's rights to substantive and procedural due process as guaranteed by the Constitution of the State of Georgia 1983, Article 1, Section 1, Paragraph 1 as well as the Fifth Amendment and Fourteenth Amendment to the United States Constitution.

Any approval of this Variance request subject to conditions which are different from the conditions requested by the Appellant, to the extent such different conditions would have the effect of further restricting the Appellant's utilization of the subject property would also constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove. The refusal to approve this requested Variance would result in a real, substantial and significantly detrimental hardship to be borne by the Appellant without any corresponding public benefit or legitimate connection to public health, safety, morals and general welfare. The community at large will not be affected by the approval of the requested Variance.

Exhibit "C"

RECEIVED

FEB 28 2020

VARIANCE APPLICATION RESPONSES TO Section 11.6.2. Standards for
Variance Application Pertaining to 135 and 145 Cliftwood Drive

City of Sandy Springs

1. The application of the Development Code would create an unnecessary hardship and not merely an inconvenience to the petitioner for several reasons.

- a. As stated and set forth in the Letter of Intent attached hereto and by reference thereto made a part hereof as Exhibit "A" is a copy of the diagram appearing in the Development Code reflecting exactly how the 20' setback from the primary street is to appear. You will note that blank walls appear at both the first three floors as well as the upper three floors. Further attached hereto and by reference thereto is made a part hereof as Exhibit "B" is a copy of the Architect's illustration of the degree of articulation and fenestration reflected in the proposed building's facade which is much more in keeping with the desired street facing of a building thus avoiding a wall or canyon street facing effect.
- b. Further attached hereto and by reference thereto is Exhibit "C" which is made a part hereof is a copy of the Letter of Mr. Steve Ray, Registered Professional Engineer with Professional Credentials noted, confirming that from a construction standpoint the creation of a 20' shelf being weather exposed will create an area ripe for water leaks into areas of intended residential occupation.

There are extraordinary and exceptional conditions which are specific to the subject property that are not generally found in similar properties.

- a. As stated and set forth in the Letter of Intent given the constraint of the 48" storm waterline running through the Property, it was not reasonably possible to consider alternative plans for the development of the Property. It is further to be noted that the width of the right-of-way of Cliftwood Drive is 85' which is extremely expansive. Thus in essence this hardship is based on the 48" storm waterline, which is not the property of, nor controllable by the Applicant and should be considered as a reason to abandon the upper story setback which as noted fronts on an overscaled road.
2. The conditions above noted are not the result of action or inaction of the current property owners and the variance request would provide the minimum relief necessary to make possible the reasonable use of the Property and most importantly the variance request would result in development that is consistent with the general intent of the Development Code, with the Comprehensive Plan policies which include redevelopment in the City Springs Character Area and particularly providing a diverse housing option ("For Sale" Condominium Units) and bringing a pedestrian engaging use to the Property with proximity to retail and movie theatre options in the shopping center directly across Cliftwood Road which Property further has ease of access to the bus routes along Roswell Road (being 800' from the Property). Lastly approval of this variance request would not be detrimental to the public good, safety and welfare.
 3. In furtherance of its efforts to conserve land and natural resources, the Applicant has reached out to Fulton County, owner of the property at the intersection of Cliftwood Drive and Sandy Springs Circle, to purchase that property and as an inducement to Fulton County, the Applicant has agreed to deed restrict that property to its current use as open space and not be developed.

FEB 28 2020

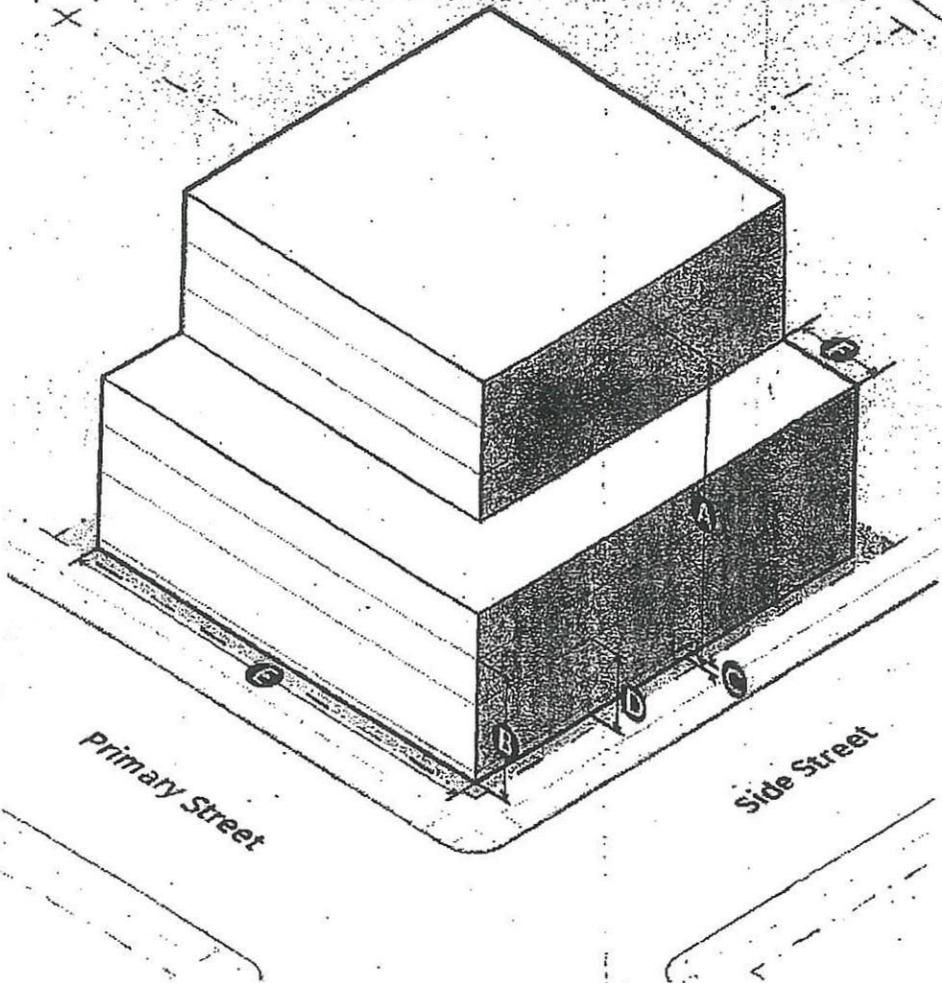
City of Sandy Springs
Community Development

4. In an effort to promote the preservation and enhancement of tree canopy in the area, the Applicant has committed to meet with the Sandy Springs Arborist to formulate a tree planting plan for the Property.
5. Through the development plan of the Applicant for the proposed building demonstration is made to the introduction of a diversified housing use of the Property as "For Sale" Condominium Units which is a reinvestment in the area which does have single family residential use of properties along Lake Forrest Drive and Cliftwood Drive it will preserve the unique character of the single family housing in the area.
6. The Applicant's development plan demonstrates the promotion along transit corridors (Roswell Road) that enhances their function as mixed-use, walkable centers that serve surrounding residential neighborhoods as noted in Paragraph 2 above.
6. Given the existing Sterling Place building at 8 stories along Allen Road and The Cliftwood at 6 stories in the immediate area of the Property, the Applicant has provided standards for compatible transitions of use, building scale, and height between existing and new development.
7. As may be seen from the Architect's illustration of the proposed building provision has been made for building form, placement and uses that contribute to the quality of the public realm which proposed building is truly unique as to the treatment of the facade.
8. As stated in Paragraph 2 above with the parking being provided on the first two floors access standards that appropriately balance pedestrian and vehicular needs result in safe pedestrian environments of the highest quality.
9. As noted in Paragraph 4 above, the Applicant has committed to meet with the Sandy Springs Arborist to not only formulate a tree planting plan but also a landscape plan. Again reference is made to the Architect's illustration of the proposed building design which shall advance the function and beauty of Sandy Springs.
10. The Site Plan as it shall be finalized and the elevations which shall serve as the basis for the Land Disturbance Permit and Building Permit to be submitted provide clear regulations and processes that result in predictable, efficient, and coordinated development review.
11. Given that the Variance request is limited to Section 4.7.3.F. there is evidence of the conservation of land, energy, and natural resources.
12. Reference is again made to the Architect's illustration of the proposed building to confirm that it promotes sustainable building and site design practices.
13. As has been stated in the Letter of Intent, the building being proposed is "For Sale" Condominium units and bring to this area of Sandy Springs a diverse housing option with access to one of the City's major corridors (Roswell Road).
14. The Applicant shall provide bicycle standards as a part of this development and as noted in Paragraph 2 above a pedestrian engaging development shall result with immediate access to public transit (bus service along Roswell Road). No provision is being made for standards of interconnected streets as none is needed.

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

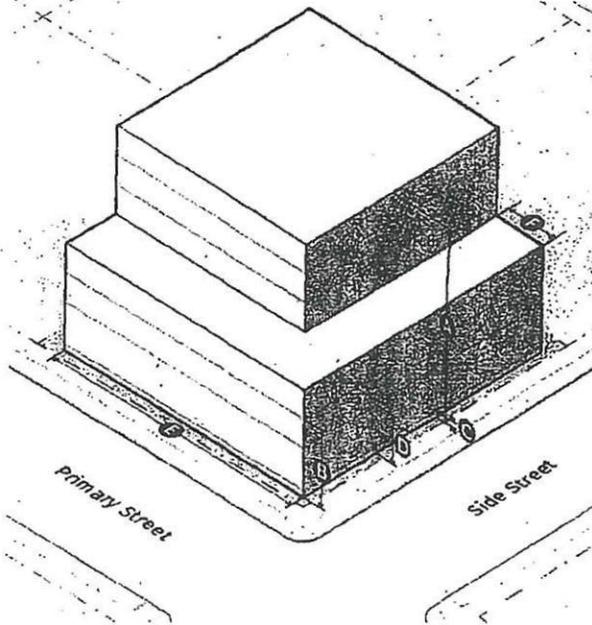


FEB 28 2020

City of Sandy Springs
Community Development

Sec. 4.7.3. - Height and Mass

SEC. 4.7.3. HEIGHT AND MASS



Building Height

A	Maximum height	
	CS-3	3 stories max/53' max
	Adjacent to RE- or RD-	3 stories max/42' max
	CS-4	4 stories max/67' max

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

	Adjacent to RE- or RD-	4 stories max/56' max
	CS-5	5 stories max/81' max
	Adjacent to RE- or RD-	5 stories max/70' max
	CS-6	6 stories max/95' max
	Adjacent to RE- or RD-	6 stories max/84'
	Within a transition area	2 stories/28' max
^B	Minimum height	2 stories min
Story Height		
^C	Ground floor elevation, residential	2' min/5' max
	Ground floor elevation, nonresidential	0' min/2' max

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

D	Ground story, residential	12' min
	Ground story, nonresidential	14' min
Building Mass		
E	Street-facing building length	200' max
F	Upper floors setback (4th, 5th and 6th)	20' min

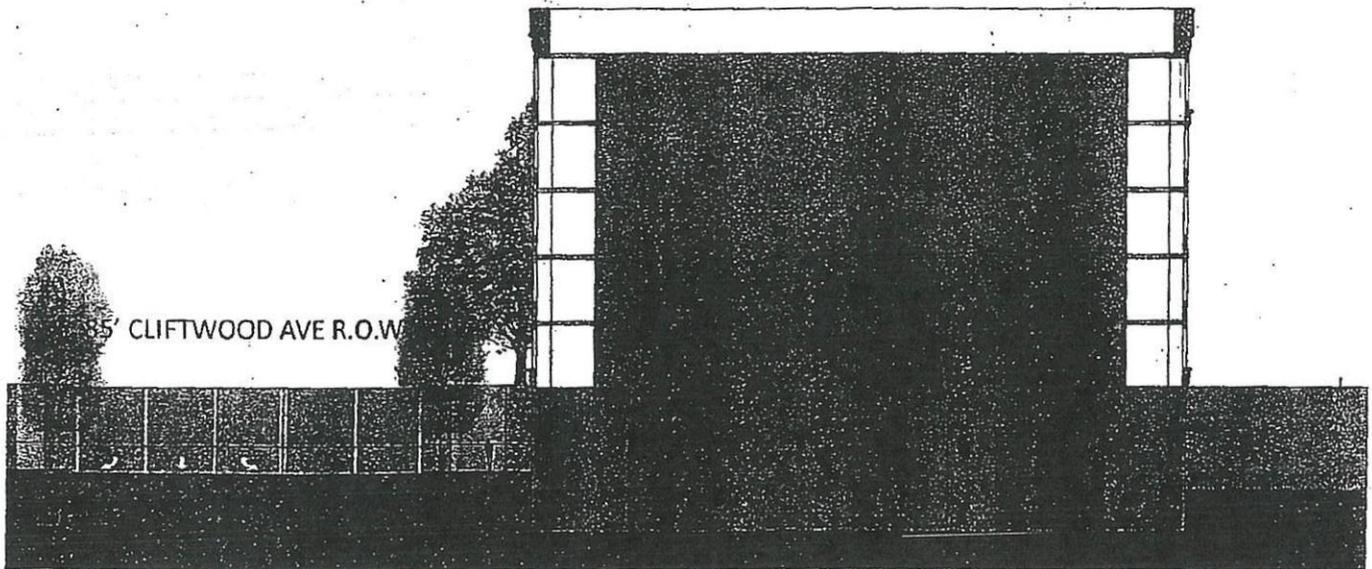
(Ord. of 4-17-2018(3), § 4-11; Ord. No. 2019-01-01, § 1, 1-15-2019)

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

ILLUSTRATIVE SECTION



Cliftwood Flats, Sandy Springs, GA

NEXCITY DEVELOPMENT, LLC

archetype
d e s i g n



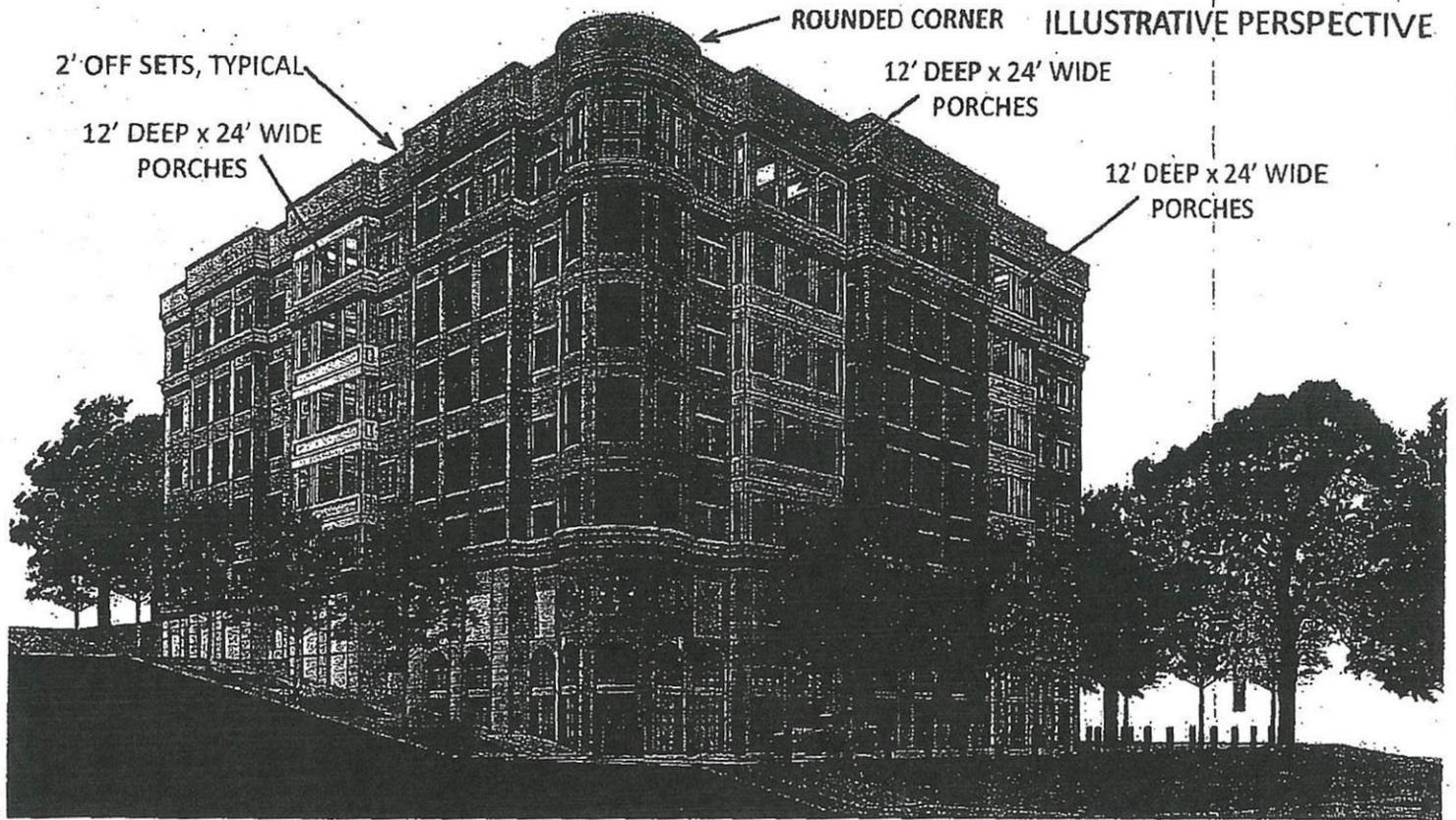
© COPYRIGHT 2019 ARCHETYPE DESIGN, LLC. THIS DRAWING IS THE PROPERTY OF THE ARCHITECT AND MAY NOT BE REPRODUCED OR USED WITHOUT WRITTEN PERMISSION.

Gary Unell • craftsmastergary@bellsouth.net • 404.731.6704

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development



Cliftwood Flats, Sandy Springs, GA

NEXCITY DEVELOPMENT, LLC

archetype 
d e s i g n

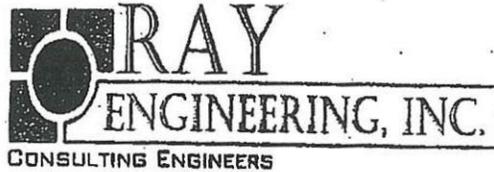
© COPYRIGHT 2019 ARCHETYPE DESIGN, LLC. THIS DRAWING IS THE PROPERTY OF THE ARCHITECT AND MAY NOT BE REPRODUCED OR USED WITHOUT WRITTEN PERMISSION.

Gary Unell • craftmastergary@bellsouth.net • 404.731.6704

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development



February 26, 2020

Mr. Gary Unell

**RE: CLIFTWOOD FLATS • SANDY SPRINGS, GEORGIA
BUILDING REVIEW**

Dear Mr. Unell:

As requested, I have reviewed the prepared plans for the six story Cliftwood Flats project and the SEC 4.7.3 of the Sandy Springs Building Code regarding the height and mass requirement for buildings above three stories. As a consulting professional structural engineer for over 40 years, and having been involved in multi-family construction throughout the southeast, it is my opinion that having to set the upper stories of the building back from the lower floors will represent a hardship and future maintenance problems for the following reasons.

1. **HVAC Plumbing and Electrical Stacking** – Generally, the accepted practice in construction is to stack the electrical, mechanical and plumbing chases and vents from one floor to another to allow easier construction and eliminate offsets in plumbing and vent stacks. Construction costs will be greatly increased by offsetting the stacked units.
2. **Balconies Above Living Spaces** – One thing I have learned during my career regarding balconies above living spaces is that there are those that leak and those that are going to leak. It is my opinion that balconies above living spaces should be avoided at all costs, since they will be an on-going maintenance problem for many years.

In conclusion, it is my opinion that offsetting the building represents a hardship and elevated construction costs.

A handwritten signature in black ink, appearing to read "S. Ray", is written over a horizontal line.

Steven W. Ray, P.E.
Georgia Registration No. 18300

Exhibit "C"
Page 1 of 6



FEB 28 2020

City of Sandy Springs
Community Development

Civil ♦ Structural ♦ Forensic Engineering
770.923.1122 ♦ 866.374.0728
770-923-0099 fax
rayengineering@ray-engineering.com

RETURN HOME	ABOUT RAY ENGINEERING	ENGINEERING STAFF	SERVICES & PROJECTS	REFERENCES	OUR OFFICE
-------------	-----------------------	-------------------	---------------------	------------	------------

Ray Engineering, Inc.'s experience and expertise relates well to all aspects of the construction industry. This is a significant advantage to our diverse commercial and residential clients. Our organization of licensed professional engineers and architectural support has an accumulation of over one hundred years of experience in the single-family, multi-family, and commercial construction markets. Our continued growth has been the result of the talent, experience, and service that our staff provides to each client.

Ray Engineering, Inc. prides itself on an excellent track record in completing engineering services on time and within budget. With Ray Engineering, clients can be assured that they will receive quality service from concept to completion.

Professional Services Include

Property Managers

- ♦ Structural Reviews
- ♦ Restoration Plans and Specifications
- ♦ Contract Administration
- ♦ Review of Building Exterior Finishes
- ♦ Capital Reserve Analysis
- ♦ Bid Packages
- ♦ Construction Monitoring
- ♦ Review of Asphalt/Concrete Parking & Drive Areas
- ♦ Drainage and Erosion Reviews
- ♦ Property Condition Assessment
- ♦ Roof Reviews

Lending Institutions

- ♦ Pre-Construction Analysis
- ♦ Contract Administration
- ♦ Property Condition Assessment
- ♦ Construction Monitoring

Architectural/General Contractors

- ♦ Site Development & Structural Design
- ♦ Contract Administration
- ♦ Code Conformance Analysis

Developers/Realtors

- ♦ Structural Reviews
- ♦ Flood Plain Analysis
- ♦ Reconstruction Design
- ♦ Physical Needs Assessments
- ♦ Condominium Conversions
- ♦ Site Development Design
- ♦ Drainage Reviews

WHAT IS A CAPITAL RESERVE ANALYSIS?

A Capital Reserve Analysis is an in-depth evaluation of a property's physical components and an analysis of its reserve funds. Based on a thorough on-site inspection, a reserve study details anticipated replacements or repairs to common-area elements and recommends annual reserve funding to cover capital expenditures for the next 30 years.

Reserve studies give community association managers, board members and property owners assurance that future major property expenses are identified early and that a funding plan is in place to pay for those expenses.

MERITS OF A RESERVE STUDY

- ♦ The Board gains an opportunity to orchestrate projects rather than reacting to events or crisis.
- ♦ A Board that experiences annual turnovers will gain a sense of continuity, by being able to plan the year's agenda.
- ♦ Collection of funds can be distributed equitably over the homeowners and over the life of the property.
- ♦ Reserve planning allows time for the Board to solicit competitive bids and to evaluate contractors.

FEB 28 2020

City of Sandy Springs
Community Development

- ◆ Major repairs can be scheduled away from holidays, weekends or periods of inclement weather.

WHY RAY ENGINEERING, INC.?

There are four Reserve Specialists employed by Ray Engineering, Inc. Our four Reserve Specialists have earned recognition under the Community Associations Institute, Directory of Credentialed Professionals. The Reserve Specialist designation is awarded to qualified individuals who, through their experience, can ensure that community associations prepare their reserve budgets as closely as possible. All Reserve Specialists must meet the following requirements:

- ◆ Prepared at least 30+ reserve studies within the past three years
- ◆ Hold a bachelors degree in construction management, architecture, or engineering (or equivalent), and
- ◆ Hold a bachelors degree in construction management, architecture, or engineering (or comply with rules outlined by the Professional Reserve Specialist Code of Ethics.

Professional Affiliations

- ◆ Southern Building Code Congress - International
- ◆ American Society of Civil Engineers
- ◆ National Society of Professional Engineers
- ◆ Community Associations Institute
- ◆ American Concrete Institute
- ◆ National Council of Examiners for Engineering and Surveying

Professional Engineer Registration

- ◆ Alabama
- ◆ Florida
- ◆ Georgia
- ◆ Mississippi
- ◆ New Jersey
- ◆ North Carolina
- ◆ Ohio
- ◆ Pennsylvania
- ◆ South Carolina
- ◆ Tennessee
- ◆ Texas
- ◆ Virginia

STEVEN W. RAY, P.E., RS, President

Mr. Ray received his Bachelor of Science degree in Civil Engineering from Memphis State University. He is a Registered Professional Engineer in several states, as well as a General Contractor with an Unlimited License and has earned his Reserve Specialist designation. His construction career began with the industrial division of Daniel International Corporation, where for five years he was the Civil Engineer and Engineering Manager on several \$200 million plus industrial projects. Mr. Ray's experience includes twelve years in Hilton Head Island, South Carolina, working as Senior Project Manager over several multi-family residential projects. As Director of Construction, Mr. Ray was responsible for horizontal and vertical construction involving development activity of over \$40 million. He also served as Executive Vice President of a development consulting firm where he designed over 100 multi-family and commercial projects and worked extensively with lending institutions performing facility reviews on existing structures. He has also supervised the completion of distressed properties for the lending community. Mr. Ray's comprehensive experience enables him to provide consulting services for engineering and construction related problems for a variety of clients.

CARTER A. NELSON, E.I.T., Project Engineer

Mr. Garmon is a graduate of Southern Polytechnic State University, with a Bachelor of Science in Civil Engineering Technology. He obtained his Professional Engineer License in June of 2014 and has earned his Reserve Specialist designation. Mr. Garmon joined Ray Engineering, Inc., in 1997, as a Project Manager. His responsibilities include capital reserve analyses for residential, multi-family and commercial clients, preparation of residential and multi-family roof audits, residential and commercial structural inspections, multi-family rehabilitation and restoration projects and construction monitoring.

MICHAEL W. MOREY, RS, Project Engineer

Mr. Morey has a Bachelor of Science degree in Civil Engineering from the University of South Florida. His construction career began with an owned subsidiary of General Electric Company, Trafalgar Developers of Florida, where he served for over ten years as project engineer and owner's representative. He was involved in all aspects of project development from directing land development operations on large tract planned unit developments to managing construction of mid-rise commercial office buildings. He has also worked for a large commercial leader providing in-house construction support services for their asset management group. At Ray Engineering, Inc., Mr. Morey is currently employed as a Project Manager providing pre-construction analysis, existing property evaluations, physical need assessments, construction and forensic inspections and contract administrations services for various local, state and commercial institutions. Mr. Morey has earned his Reserve Specialist designation.

ROBERT "NICKO" ROMEO, Project Engineer

Nicko started as an intern with Ray Engineering, Inc., while in college at Southern Polytechnic State University, now known as Kennesaw State University. Upon graduation in 2016, he was employed as a Project Engineer responsible for reserve analysis, compliance inspections, providing various details using AutoCAD and performing inspection.

DARKO KOLAR, Project Architect

Darko is responsible for AutoCAD drawings for architectural plans and construction plans for commercial, multifamily and residential projects, as well as architectural drawings for condominium conversions.

CLIENT LIST

Ray Engineering, Inc.'s association with the construction industry has enabled us to provide services for lending institutions, property management companies, and commercial businesses, as well as a variety of private clients.

- | | |
|------------------------------|---|
| Greystar
Atlanta, Georgia | Community Management Associates
Atlanta, Georgia |
| Tribridge Residential | Heritage Property Management |

FEB 28 2020

City of Sandy Springs
Community Development

Atlanta, Georgia

Homeside Properties
Alpharetta, Georgia

Team Management, Inc.
Marietta, Georgia

NuRock
Alpharetta, Georgia

Ram Partners, LLC
Atlanta, Georgia

GW & Associates
Lawrenceville, Georgia

Access Management Group
Roswell, Georgia

Lincoln Property Services
Duluth, Georgia

Atlanta, Georgia

Staben & Associates, Inc.
Suwanee, Georgia

Synovus
Columbia, South Carolina

Abacus Property Management
Atlanta, Georgia

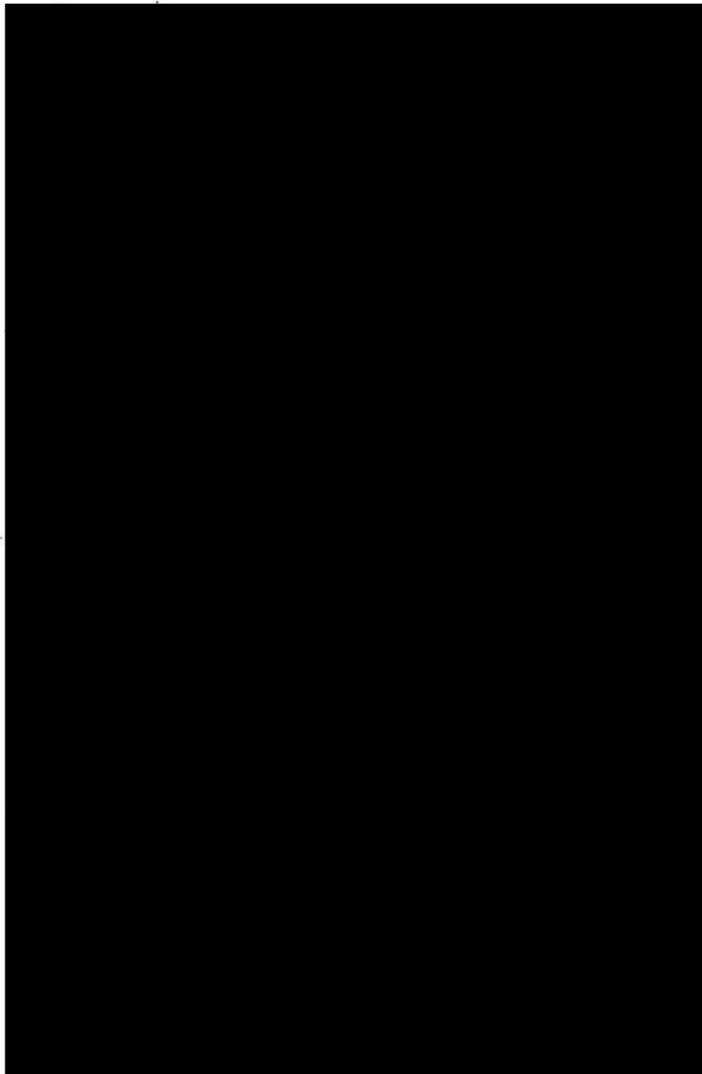
CWS Partners
Atlanta, Georgia

Bank of North Georgia
Alpharetta, Georgia

Parkside Management
Atlanta, Georgia

Waypoint Residential
Atlanta, Georgia

REFERENCES



RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

STEVEN W. RAY, P.E., R.S.

EXPERIENCE

1990 - Present -- President and Owner of Ray Engineering, Inc., Consulting Engineering.

Provide consulting services for civil/structural and construction related problems for various condominium, apartment, single family, residential, and commercial properties. Provide design and specifications for restoration of deficiencies. Conduct forensic investigations and provide expert testimony. Prepare Property Condition Assessments and Capital Reserve Analyses.

1989 - October 1990 -- Director of Operations - EJ Construction, Atlanta, GA

Responsibilities included directing operations for civil/structural consulting firm and responsible for evaluation of construction deficiencies related to commercial and single-family construction. Provided project management services for several projects including \$6,000,000 building restoration in Charleston, SC from hurricane Hugo.

1986 - 1989 -- Executive Vice President - Development Management Inc./Liberty Homes, Hilton Head Island, SC. Partner in a development management firm where responsibilities included all construction related activities. Directly responsible for procuring consulting services for projects, obtaining all governmental and regulatory agency approvals, building permits, sitework, general contractor contract negotiations and implementation, construction quality control. Project of significance is 22 story, 122 unit hotel in Myrtle Beach, SC.

1981 - 1986 -- Director of Construction - The Delta Group, Hilton Head Island, SC

Responsible for all construction related activities for a major developer on Hilton Head Island, SC., including interaction with consulting architects and engineers, procurement of all approvals and permits, contract implementation and supervision of all sitework, negotiating contracts with general contractor, and providing quality control during construction. Developments were basically multi-story condominium projects.

1978 - 1981 -- Senior Project Manager - Construction Management Services, Hilton Head Island, SC.

Project Manager for the construction of a large oceanfront condominium project. Responsibilities included all direct employment and supervision of seventy construction personnel, coordination of all sub-contractors, all construction scheduling, and direct linkage with developer's representative.

1974 - 1978 -- Engineering Manager - Daniel Construction Company, Greenville, SC.

Responsible for all engineering activities for a large industrial project. Duties included coordination between construction and design consultants, CPM and bar chart scheduling, and all material requisition and purchasing.

FEB 28 2020

City of Sandy Springs
Community Development**EDUCATION AND TRAINING**

Bachelor of Science in Civil Engineering, Memphis State University, 1974

Outstanding Civil Engineering Student.

Engineer In Training, Tennessee, 1973.

Registered Professional Engineer in Alabama, Florida, Georgia, Mississippi, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas and Virginia.

Unlimited General Contractor's License in South Carolina. ASTM E-1527 Phase I Standard, 1995, with continuing education.

Member of the American Society of Civil Engineers

Member National Society of Professional Engineers.

Designated Reserve Specialist (RS) through Community Associations Institute, 2007.

Survey Legal Description (Consolidated)

All that tract or parcel of land lying and being in Land Lot 90 of the 17th District, Fulton County, Georgia, City of Sandy Springs, being Part of Lot 6 and Part of Lot 7, Block B, Bristol Hills Subdivision, as per plat recorded in Plat Book 56, Page 93, Fulton County records and being more particularly described as follows:

BEGINNING at a ½" Rebar Found on the Southern variable right of way of Cliftwood Drive at Grid North Georgia West Zone Coordinates: Northing: 1424403.228 Easting: 2231240.293, said point being located 812.30 feet Westerly along said right of way from the variable right of way of Roswell Road (State Rout 9) (U.S. Route 19), thence leaving said right of way South 04 Degrees 07 Minutes 07 Seconds West a distance of 164.53 feet to a ½" Rebar Found, thence North 89 Degrees 45 Minutes 32 Seconds West a distance of 106.00 feet to a ½" Rebar Found thence North 89 Degrees 45 Minutes 32 Seconds West a distance of 113.60 feet to a ½" Rebar Set, thence North 03 Degrees 38 Minutes 22 Seconds East a distance of 165.64 feet to a ½" Rebar Found (Bent) on said Southern right of way of Cliftwood Drive, thence along said right of way South 89 Degrees 32 Minutes 09 Seconds East a distance of 115.80 feet to a ½" Rebar Found, thence continuing along said right of way South 89 Degrees 21 Minutes 10 Seconds East a distance of 105.11 feet to a ½" Rebar Found and the POINT OF BEGINNING.

Said tract having an area of 36,313 Sq. Ft., 0.834 Acres, as shown and described on Survey by Georgia Land Surveying Co., bearing the seal and certification of Josh L. Lewis IV, Georgia Registered Land Surveyor No. 3028, and being referenced as Job Number 201068.

RECEIVED

FEB 28 2020

City of Sandy Springs
Community Development

TO: Madalyn Smith[madalyn.smith@sandyspringsga.gov]
FROM: Pete Hendricks [REDACTED]
DATE: March 2, 2020 [REDACTED]
RE: V20-0013

Madalyn. Attached is the Modification and Amendment that you requested to the above referenced for the purpose of confirming that the relief being sought is the minimum relief necessary to make possible the reasonable use of the Property. I would appreciate your confirming your receipt of the attached. Thank you. Pete Hendricks.

FIRST AMENDMENT TO VARIANCE ANALYSIS

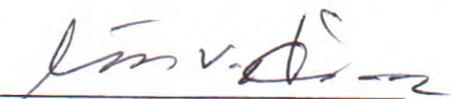
IN RE:)
 NexCity Development LLC) Application Number: V20-0013
 APPLICANT)
)
 PROPERTY:)
)
 135 & 145 Cliftwood Drive

Now comes NexCity Development LLC (the "Applicant") hereunder who does hereby modify and amend the above referenced Variance Application as follows:

1.

Paragraph 2 of the Variance Application Responses to Section 11.6.2. is hereby modified and amended by confirming that the relief being sought would provide the minimum relief necessary to make possible the reasonable use of the Property in that relief from Section 4.7.3.F. so as not to require that above the third floor on a building as to Height and Mass in the CS District facing a street of primary access would for the combination of the reasons stated in Paragraph 1 a. and b. be capable of delivering the building proposed by the Applicant evidencing the articulation and fenestration reflected on the Exhibit "B" being the Architect's illustration of the proposed building and further avoiding the weather exposed 20' shelf having structural concern as raised in the Letter of Mr. Steve Rāy, the Registered Professional Engineer which is attached as Exhibit "C".

Now, therefore, the Applicant requests that this Variance Application as submitted and as modified and amended hereunder be approved so as to enable the Applicant to proceed with the lawful use and development of the Property.



 Nathan V. Hendricks III
 Attorney for the Applicant



4' 35" Magnetic North
4' 35" Declination
Grid North
GA West Zone
Reading Held

TOTAL AREA
36,313 SQ. FT.
0.834 ACRES

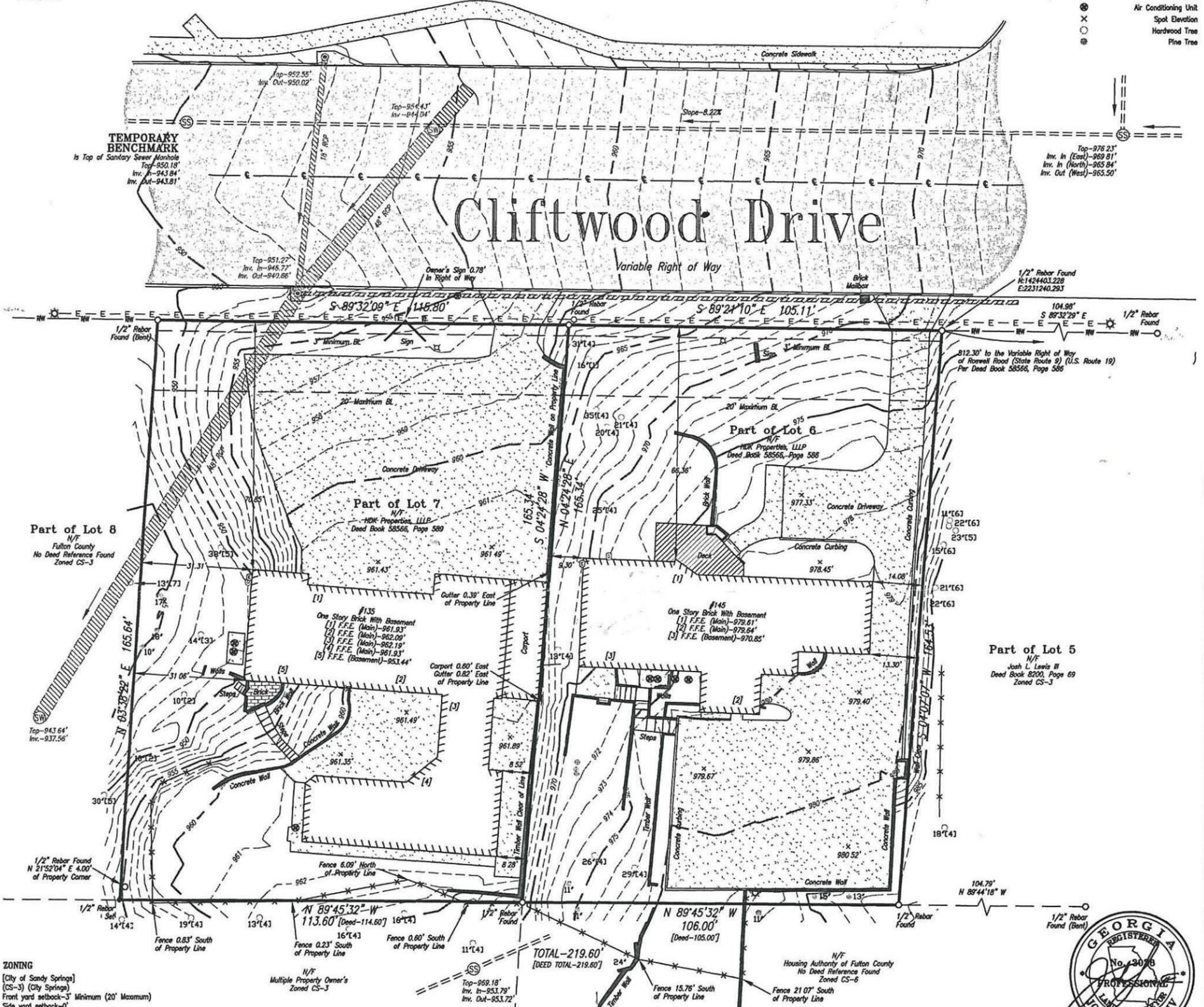
#135 AREA
18,942 SQ. FT.
0.435 ACRES

#145 AREA
17,371 SQ. FT.
0.399 ACRES

LEGEND

- These standard symbols may be found in the drawing.
- X Fence
 - X Neighbor's Fence
 - E Overhead Electric Line
 - Sanitary Sewer
 - Sanitary Sewer (Not Field Located)
 - Stormwater Pipe
 - Stormwater Pipe (Not Field Located)
 - Right of Way Line
 - 1/2" Rebar Set
 - Iron Pin Found
 - Building Line
 - Junction Box
 - Catch Basin Lid
 - Light
 - Light Pole
 - Power Pole
 - Electric Meter
 - Control Valve
 - Water Meter
 - Sanitary Sewer Manhole
 - Sewer Clean Out
 - Gas Meter
 - Mailbox
 - Air Conditioning Unit
 - Spot Elevation
 - Hardwood Tree
 - Pine Tree

Cliftwood Drive



ZONING
[City of Sandy Springs] (CS-3) (City Springs)
Front yard setback-3' Minimum (20' Maximum)
Side yard setback-0'
Rear yard setback-0'
Note: Graphic depiction of setback lines are the interpretation of the Surveyor and should be verified with a zoning official prior to design work.

SURVEY NOTES
1. Elevations are based on N.A.V.D. 88 datum.
2. Contour lines are at one (1) foot intervals.
3. Equipment used: Leica 1200 robotic total station and Allegro MX data collector.
4. Software used: Carlson Survey 2013 and Carlson Surva.

SPECIAL FLOOD HAZARD NOTE
I have this date, examined the "F.L.R.M. official flood hazard map" and found in my opinion referenced parcel is not in an area having special flood hazards, without an elevation certification the Surveyor is not responsible for any damage due to its opinion for said parcel map ID 13121C0142F effective date 9/18/2013.

TREE SPECIES CHART

[1]	Species
[1]	Hickory
[2]	Magnolia
[3]	Maple
[4]	Oak
[5]	Poplar
[6]	Sweetgum
[7]	Sycamore

CLOSURE STATEMENT
The field data used to compile this plot was gathered by differential adjusted G.P.S. coordinates and radial survey measurements and has a positional tolerance of 0.1 feet.
This map or plot has been calculated for closure and is found to be accurate within one foot in 749,773 feet.



This plot is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated herein. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plot complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

By: *Josh Lewis*
Josh Lewis, N., Registered Land Survey Number 3028

N.T.S.

155 CLIFTWOOD DRIVE - ATLANTA, GEORGIA 30328 - TELEPHONE: (404) 255-4671 - FAX: (404) 255-6607 - WWW.GEORGIALANDSURVEYING.COM

JOB NUMBER 201068:4	TOPOGRAPHIC/TREE SURVEY PLAT FOR: 135 & 145 Cliftwood Drive, Sandy Springs Georgia 30328	DATE: 9/9/19	SCALE: 20'	
	T.B.D.	REVISION	BY DATE	
DRAWING NUMBER F-3988	LAND LOT: 90	17th DISTRICT	SECTION	FULTON COUNTY, GA
	LOT: Part of 6, Part of 7	BLOCK: B	UNIT:	PHASE:
	SUBDIVISION: Bristol Hills			
	PLAT BOOK 56, PAGE 93	PARTY CHIEF: DR	FIELD DATE:	
	DEED BOOK 58566, PAGE 586/589	DRAFTER: BMS	9/20/19	SHEET 1 OF 1



THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS OR ENTITY NAMED HEREON. THIS PLAT DOES NOT EXTEND TO ANY UNNAMED PERSON, PERSONS, OR ENTITY WITHOUT EXPRESS RECTIFICATION BY THE SURVEYOR NAMING SAID PERSON, PERSONS, OR ENTITY. ALL MATTERS PERTAINING TO THIS ARE EXCEPTED.

FEB 28 2020
City of Sandy Springs
Community Development

G. Approval Criteria

1. Variances will only be granted upon showing that:

a. The application of this Development Code would create an unnecessary hardship, and not merely an inconvenience to the applicant; or

The site is within the City Springs zoning district which is intended to support greater density than surrounding areas. The required setback at the top of the building will reduce the available SF by +9,000sf which is roughly 4 units. The Mayor and City council have allowed for up to 36 units and this would reduce the number from the proposed 30 units to 24 units which is an unnecessary hardship to the viability of the project and is in conflict with the desired higher density for the district.

The setback creates an unnecessary waterproofing risk to the future residents given the required roof setback. The 20' setback above the third floor complicates waterproofing above occupied space. This additional roof transition will require rainwater piping above occupied space through the plenum as well as re-routed sanitary lines. This poses a risk of leakage and flooding for all units beneath the transition.

b. There are extraordinary and exceptional conditions due to the size, shape, or topography, which are specific to the subject property and not generally found in similar properties that prohibits the proposed scope of work from being able to comply with the Development Code.

This property is located on an exceptionally large local road which is not currently pedestrian friendly. The road proportion does not benefit from a 20' setback as it is not a narrow public way which may benefit from a reduction in mass and greater access to sunlight at the public way.

In the Architect's opinion, an appropriate ratio of height to width is as follows: overall height should be equal to or less than the width of the right-of-way. It is unusual that such a wide (+85') and minimally traveled right-of-way should require a step in the adjacent building facades and there is no precedent in the area to justify this condition.

This setback would have no effect on the pedestrian way, yet the reduction in density would affect the likelihood of the project moving forward. The current street frontage along Cliftwood has no sidewalk and is in mediocre condition. A strong building presence with active sidewalk would best be achieved by the proposed design which has been specifically referenced by the Mayor and City Council as that which is desired.

The building site has an exceptional amount of grade change which will be accommodated by nestling the building into the grades at great expense. This

was done intentionally to diminish the scale of the building while providing an appropriate amount of secure parking for residence. Every effort has been made to work with the existing grades while maintain an attractive design aesthetic. This focus on attractive building design along with a desirable active streetscape is a costly endeavor and worthy of consideration. The applicant makes this request for a variance to achieve the density which will allow for these vast improvements to existing streetscape conditions.

2. Further, the application must demonstrate that:

a. Such conditions are not the result of action or inaction of the current property owner; and

The current property owner had no input into the scale of the adjacent right-of-way.

b. The variance request would provide the minimum relief necessary to make possible the reasonable use of the property; and

Relief from the 20' upper floor setback would yield a more efficient, water-tight building envelope.

The Building presence would be greatly improved verses an arbitrary “wedding cake” step in the façade which we think does nothing to benefit the street scape or adjacent properties. This “wedding cake” step will only produce an asymmetrical design criteria which is not desirable. This lack of symmetry would be apparent from the corner perspective and is not responsive to the site location nor does it further reinforce any precedents by surrounding properties. When the building concept was designed it was done so by studying this specific site. View corridors, topography, existing streetscape and the surrounding properties where studied to achieve a desirable look and presence.

This variance would allow for a site specific design which will be a quality building which the community will be proud to have in the downtown district.

c. The variance request would result in development that is consistent with the general intent of this Development Code, with the Comprehensive Plan policies, and would not be detrimental to the public good, safety and welfare.

The building as we currently have conceptually envisioned is very attractive and has been well received by the adjacent neighborhoods. The general intent of the development code and the comprehensive plan is to reinforce an attractive architectural downtown fabric which is varied and reinforces an active walkable downtown area. The requested variance does nothing which is detrimental to intent of these documents and will not be detrimental to the public good, safety and welfare.

The City Council approved our rezoning subject to the condition that the building be constructed consistent with the current conceptual drawings presented to date (“Artistic Rendering: Cliftwood Flats”) prepared by Archetype Design, dated October 14, 2019.

Based on these facts and the lack of objection by our impacted neighbors on Cliftwood, we respectfully request Staff support for this variance.

**Best,
Brooks Hall
Managing Partner
Archetype Design, LLC**

Received:
03/10/2020

City of Sandy Springs
Community Development Department

To: Variance Board

In Re: Park Springs

From : Penny and Marvin Shefsky

2/29/2020

Dear Board:

We are asking you to remove the condition of the 20 foot setback above the third floor on the main street view of the condominium. We feel this will not be aesthetically pleasing and not a good street view of the property.

We have been Sandy Springs residents for the past twenty years and very excited to see a property of this caliber being built as it will surely be an asset to the city and a showplace for which the city can be proud.

So please consider our request that the setback not be approved for this project.

Penny And Marvin Shefsky

Residents of Blue Stone Condos

On Monday, March 2, 2020, 06:33:38 PM EST, Kenneth Seitz <[REDACTED]> wrote:

Ed, As I have expressed to you previously, I have been a resident of Sandy Springs since 1971-72 and lived in 3 different homes during the last 48 years. I am excited about project and planning on purchasing a unit for my family. In my opinion, this is exactly what is needed in Sandy Springs, a beautiful building, great new construction for people to occupy. My opinion is that this type of construction, midrise and all flats will be the first of many to follow. Numerous of my contemporaries have been talking about moving, but have nothing available in Sandy Springs that is upscale. If you would like to personally talk to me, I can be reached at [REDACTED] Thanks for your consideration, Kenny Seitz

Sent from my iPhone

As a follow-up thought, this project and others like it will keep Sandy Springs residents in Sandy Springs, and not forced to move to Buckhead because no appropriate product is available in Sandy Springs.

Sent from my iPhone

Condo project

From: Sheryl Adair [REDACTED]

To: [REDACTED]

Date: Monday, February 24, 2020, 09:54 PM EST

Dear Edward

It was a pleasure to meet you and hear about the condo project that you and Gary Unell are proposing for Sandy Springs.

To my knowledge, there is nothing quite like it in Sandy Springs. In our 70's, the all-on-one floor high quality units that you propose have great appeal. This would allow us to get the type of housing we desire and stay in the heart of Sandy Springs.

Please keep us abreast of your plans.

Sheryl Adair
Mark Weinstein

Sent from my iPhone

Park Springs

From: Cohen, Sherman A. ([REDACTED])

To: [REDACTED]

Date: Saturday, February 29, 2020, 03:09 PM EST

To The Sandy Springs Variance Board:

I would like to express my strong support for the planned Park Springs mid-rise project on the corner of Cliftwood Road and Sandy Springs Circle in Sandy Springs. As 20 year residents of Sandy Springs, my wife and I have been looking for a secure and aesthetically attractive project in the walkable portion of "downtown" Sandy Springs, so we are very excited and hopeful about Park Springs. We believe that the design of the project and its attractive vertical set backs will make up for the lack of horizontal setback which requires the variance.

Thanks for your consideration and support of the requested variance.

Sherman A. Cohen

[REDACTED]
Sandy Springs, Georgia 30328

Note:

This message and any attachments from the law firm Arnall Golden Gregory LLP may contain CONFIDENTIAL and legally protected information. If you are not the addressee and an intended recipient, please do not read, copy, use or disclose this communication to others; also, please notify the sender by replying to this message, and then delete it from your system. Thank you.

From: Cohen, Sherman A. [REDACTED]
Subject: Reference: Zoning of Cliftwood at Sandy Springs Circle (Case #RZ
19-0006)
Date: Jan 30, 2020 at 5:32:01 PM
To: Ed Goldberg [REDACTED]

This letter is in support of a residential real estate project that Gary Unell and Ed Goldberg are planning for Sandy Springs on Cliftwood Drive near Sandy Springs Circle. I have seen the plans and believe the project will greatly enhance the neighborhood from an aesthetic standpoint and provide a wonderful opportunity for those of us who live in Sandy Springs and want to experience an exciting urban, walkable living experience. We also think the project will improve the immediate area and provide strong support for all the business establishments (restaurants, movie theaters, shops, etc.) in the neighborhood.

Thanks for your consideration and support for this project.

Sherman A. Cohen
[REDACTED]

Sandy Springs, GA 30328

Note:

This message and any attachments from the law firm Arnall Golden Gregory LLP may contain CONFIDENTIAL and legally protected information. If you are not the addressee and an intended recipient, please do not read, copy, use or disclose this communication to others; also, please notify the sender by replying to this message, and then delete it from your system. Thank you.

Use the form below to send your comments to City staff.

Your Information

1. First Name

Kenny

2. Last Name

Seitz

3. Email Address

[REDACTED]

4. Address

[REDACTED]

5. City

Sandy Springs

6. State

Georgia

7. ZIP Code

30328

Petition Information

8. Case Number

RZ19-0006

This number can found on the petition page and begins with RZ or U. If you came to this form by clicking a link on the petition page, it will still be open in another browser tab.

9. Comments

To all involved in the decision involving this rezoning. I have lived in Sandy Springs since 1971-72, in three homes all in city of Sandy Springs. I met with Mr. Unell about buying one of the units if the application is improved. My opinion is that this project will be the beginning of a new phase of Sandy Springs. Many of my friends have moved from their house's and downsized their homes and obligations of maintaining a single family home. None of them live in Sandy Springs because we do not presently have a upscale condo development. My present home [REDACTED], 30328 is too large for my family now and requires too much attention to maintain. I have a condo in Longboat Key Florida, and I enjoy the ease of maintenance, paying a fee and letting others do the work. At 77 years old, I want convenience. I urge you to approve this project and let Sandy Springs enter the upscale condo market. I can be reached at [REDACTED] or [REDACTED] currently live about 3 blocks from proposed new development. Thanks for your consideration. Kenny Seitz

From: ava Wilensky [REDACTED]
Subject: REFERENCE Zoning of Cliftwood at Sandy Spring Circle or
Case #RZ 19-0006
Date: Jan 20, 2020 at 11:38:23 AM
To: Ed Goldberg [REDACTED]

Dear Ed and Gary:

To say that we are excited about your new condo building in Sandy Springs is an understatement! We have been asking for this type of development for almost 10 years! There are so many of us who love Sandy Springs and want to stay here as we move into a new stage of life. However, what we do not want are stairs or an elevator to get to the master bedroom. Having a single story home is the obvious answer, but there is virtually nothing in our city that provides that. This beautiful, new condominium building will bring a quality product to those of us who feel Sandy Springs is our "forever" city! We are so looking forward to moving as soon as possible!

Best regards,
Ava & Bob Wilensky

Zoning of Cliftwood at Sandy Spring Circle

From: David Krischer ([REDACTED])

To: [REDACTED]

Date: Saturday, January 18, 2020, 01:53 PM EST

Dear Ed

Congratulations on your proposed residential development in Sandy Springs.

I have been a resident of Sandy Springs for 35 years. With the recent development of City Springs and your proposed development it is nice to see that our community is attracting a lot of high quality new construction.

Please feel free to share this letter with the Sandy Springs planning department. I would like them to know that we believe in you and feel your project would be a positive addition to our City.

Sincerely,
David Krischer

From: [REDACTED]
Subject: Condo building
Date: Jan 12, 2020 at 9:15:47 PM
To: [REDACTED]

Dear Mr. Unell and Mr. Goldberg,

I am writing to tell you how excited I am about your new condo project! As a residential Realtor who has sold homes in Sandy Springs for over 38 years and a Leadership Sandy Springs active alum, it is very important to me that future development in Sandy Springs be high quality. You two have impeccable reputations as both developers and builders in the Sandy Springs luxury home market and I am sure that this will be a signature project for you.

Our community is aging and many empty nesters are searching for a high quality and spacious place to downsize that is walkable to all that the City center has to offer. Until now, that has never existed in Sandy Springs. There is no doubt that the demand is high for this type of product. You have both lived and worked in Sandy Springs for over 40 years so you are very familiar with the style, tastes and needs of the high end buyer here. What I have seen so far of your plans is very tasteful and I think will appeal to the owners who buy a home there and to the people who drive by the building every day on the way to work or home.

Thank you for contributing to making Sandy Springs the best city in the South to live, work and play in!

Debbie Sonenshine

Coldwell Banker Residential Brokerage

Sandy Springs Office

5252 Roswell Rd

Sandy Springs, GA 30342

From: Helena Solodar [REDACTED]
Subject: Zoning of Cliftwood at Sandy Springs/ Case #RZ19-0006
Date: Jan 12, 2020 at 5:27:20 PM
To: Ed Goldberg [REDACTED]

We currently live in Sandy Springs in the subdivision known as [REDACTED]. My husband and I feel strongly that this condominium project will help the continuing development of the upscale vibe and stability of Sandy Springs. We wholeheartedly support the zoning and building of this residential community and we actively plan to look at a unit in the building as a viable option for our primary residence.

Thanking you in advance.

Helena and Seymour Solodar

[REDACTED]
[REDACTED]

REFERENCE Zoning of Cliftwood at Sandy Spring Circle or Case #RZ 19-0006.

From: barbara hubschman ([REDACTED])

To: [REDACTED]

Date: Saturday, January 11, 2020, 05:51 PM EST

As a resident of Sandy Springs for over 20 years I am happy to finally see a residential living project of this quality and design.

I support Gary and Ed's efforts to improve the area.

Thank you,

Barbara Hubschman

[REDACTED]
Sandy Springs, GA 30328