

MAYOR AND CITY COUNCIL

201202498

4954 Peachtree-Dunwoody Road

Sandra Dorsey



To: John McDonough, City Manager

From: Angela Parker, Director of Community Development

A handwritten signature in black ink, appearing to be "AP", is written over the name Angela Parker.

Date: December 26, 2012 for submission onto the January 15, 2013 City Council meeting

Agenda Item: **201202498 4954 Peachtree Dunwoody Road and 17-0014-0002-035** a request to rezone the subject property from R-2 (Single family Dwelling District) to NUP (Neighborhood Unit Plan District) with a concurrent variance to allow for the development of 1 single family homes.

Department of Community Development Recommendation:

WITHDRAWAL of the request to rezone the subject property from R-2 (Single family Dwelling District) to NUP (Neighborhood Unit Plan District) with a concurrent variance, to allow for the development of 1 single family homes.

Background:

The subject site is located in the west side of Peachtree Dunwoody Road. The property is currently zoned R-2 (Single Family Dwelling District). The property contains approximately 6.5 acres and is developed with a single family house.

Discussion:

The applicant is requesting to rezone the subject property to NUP (Neighborhood Unit Plan District) to allow the development of 13 single family homes.

Additionally, the applicant is requesting one (1) concurrent variance from the Development Regulations as follows:

1. Variance from Section 103.75.b.7 to reduce the required fifty (50) foot right-of-way setback adjacent to residentially zoned property to ten (10) feet.



Rezoning Petition No. 201202498

HEARING & MEETING DATES

Table with 4 columns: Community Zoning Information Meeting, Community Developer Resolution Meeting, Planning Commission Hearing, Mayor and City Council Hearing. Dates: October 23, 2012; November 29, 2012; December 20, 2012; January 15, 2013.

APPLICANT/PETITIONER INFORMATION

Table with 3 columns: Property Owners (Sandra E. Dorsey), Petitioner (Ashton Atlanta Residential, LLC), Representative (Nathan V. Hendricks).

PROPERTY INFORMATION

Table with 2 columns: Property Information (Address, Council District, Frontage, Area, Existing Zoning, Overlay District, Future Land Use, Proposed Zoning) and Description.

INTENT

To rezone the subject property from R-2 (Single Family Dwelling District) to NUP (Neighborhood Unit Plan District) with a concurrent variance to allow for the development of 13 single family homes.

Additionally, the applicant is requesting one (1) concurrent variance from the Development Regulations as follows:

- 1. Variance from Section 103.75.b.7 to reduce the required fifty (50) foot right-of-way setback adjacent to residentially zoned property to ten (10) feet.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

201202498 -WITHDRAWAL
201202498 Variance #1- WITHDRAWAL

PLANNING COMMISSION RECOMMENDATION

201202498 -WITHDRAWAL
201202498 Variance #1- WITHDRAWAL

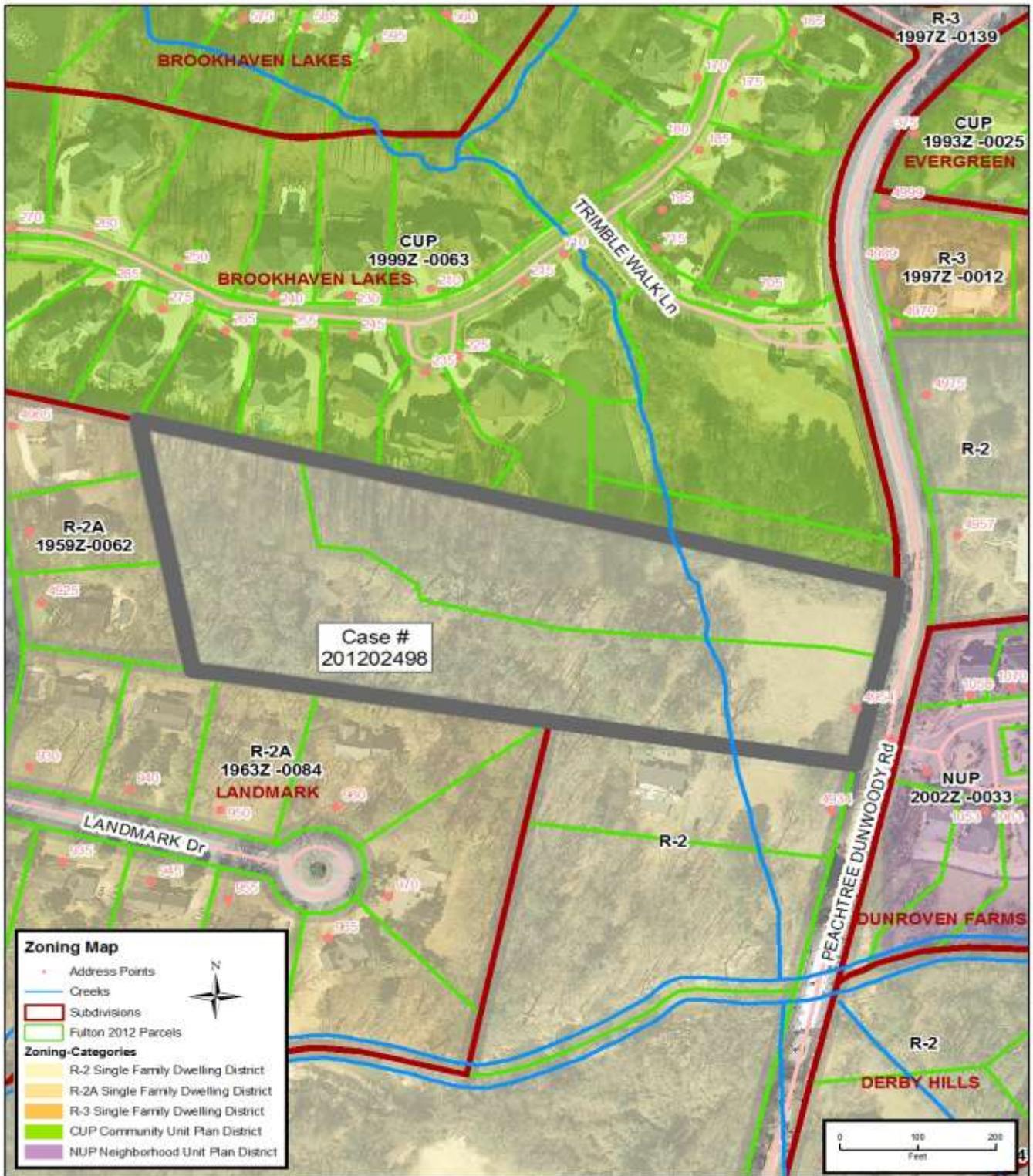
Recommendation withdrawal (5-0, Pond, Maziar, Frostbaum, Rubenstein and Squire for; Tart absent; Duncan not voting).

EXISTING LAND USE AND ZONING OF ABUTTING PROPERTY

SUBJECT PETITION 201202438	Requested Zoning	Proposed Use	Land Area (Acres)	Square Footage	Density (Square Footage per Acre)
	NUP	Single Family	6.5	13	2 units/ ac
Location in relation to subject property					
Location in relation to subject property	Zoning	Use	Land Area (Acres)	Square Footage or Number of Units	Density (Square Feet or Units Per Acre)
North	CUP Z99-0063	Brookhaven Lakes	31.94	49 units	1.54± units/ac
Northeast	R-3 Z97-0012	Single Family Residential	1.75	3 units	1.71 units/ac
East	R-2	4975 Peachtree Dunwoody Road Single Family	8.2	1 unit	.122 units/ac
East	R-2	4957 Peachtree Dunwoody Road Single Family	1.49	1 units	.671 units/ac
East	NUP Z02-0033	Dunroven Farms	7.0	11 units	1.58 units/ac
South	R-2	4934 Peachtree Dunwoody Road Single family	1.3	1 units	.769± units/ac
South	R-2A Z63-0084	Landmark	12.24±	14 units	1.14± units/ac
West	R-2A Z59-0062	Landmark	16.52±	18 units	1.1± units/ac

Zoning Map

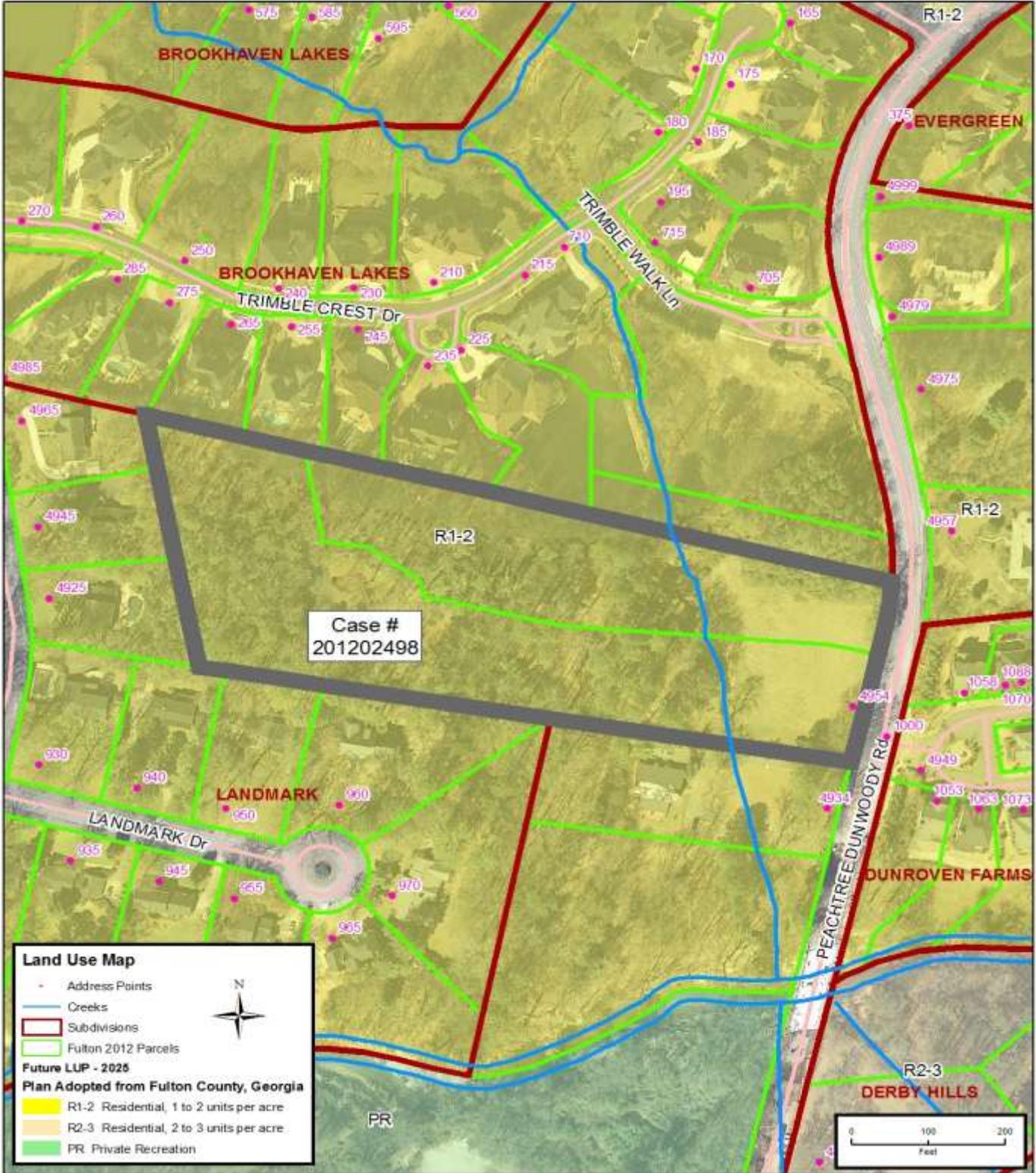
4954 Peachtree Dunwoody Road



Future Land Use Map

Prepared by the City of Sandy Springs Department of Community Development for the Mayor and City Council Meeting on January 15, 2013

4954 Peachtree Dunwoody Road



DEPARTMENT COMMENTS

The staff held a Focus Meeting with Transportation, Building and Permitting, Fire, Code Enforcement, Site Development, and the Arborist on November 7, 2012 at which the following departments had comments. The staff has received additional comments from the Fulton County Board of Education and Fulton County Department of Water Resources (see attachments).

Transportation Planner	<ul style="list-style-type: none"> ▪ Applicant shall dedicate 40 feet of right-of-way along entire property frontage of Peachtree Dunwoody Road or a one-foot from back of sidewalk, whichever is greater (Development Ordinance, Section 103-75). ▪ A 2011 Georgia DOT traffic count on Peachtree Dunwoody Road just south of proposed site indicates average daily traffic (ADT) of approximately 14,400 vehicles per day. Per Section 103-73 of the Development Ordinance, the main road exceeds the 6,000 ADT threshold for providing a left-turn lane and the 8,000 ADT threshold for providing a deceleration lane to development. ▪ Insufficient information is given on site plan to review for adequate sight distance. The engineer should certify, in writing, that adequate horizontal and vertical sight distance exists in accordance with the provisions contained in Section 103-77 of the Development Ordinance. Sight distance may be certified by a signed and sealed statement on the plat or a certification, signed and sealed, on letterhead. Statement must be specific to the project. Corner sight distance shall meet 35 mile per hour speed and adjust, as necessary, for grade. ▪ All new streets proposed to be constructed in a subdivision or other development, whether to be public or private, shall be designed and constructed to the standards of the Development Ordinance and in accordance with the classification of said street (Section 103-70). ▪ Proposed street design does not comply with General Layout Requirements for new roadways (Section 103-74). Dead-end streets greater than 150-feet in length shall provide a cul-de-sac turnaround. ▪ Minimum right-of-way or easement for private residential local road shall be 50 feet (Section 103-75). ▪ As proposed, new street entry onto Peachtree Dunwoody Road results in left-turn conflicts with existing Dunroven Farm Road. ▪ Proposed traffic island does not appear to meet requirements of Section 103-77 which requires that nothing in the island extend more than three feet above street grade. ▪ Curb and gutter and sidewalks shall meet requirements of Sections 103-79 and 103-80, respectively. Sidewalk along frontage of Peachtree Dunwoody Road shall extend to property line. Sidewalk fronting Peachtree Dunwoody Road shall be located within the public right-of-way and meet ADA requirements. Sidewalk shall be provided on both sides of new street
Landscape Architect/Arborist	<ul style="list-style-type: none"> ▪ The proposed road will impact the critical root zone of the existing 39" Water Oak greater than 20%. The tree will be considered less than fair or better condition and is considered lost. Canopy mitigation will be required.

Fire Protection Engineer	<ul style="list-style-type: none"> ▪ Provide fire hydrants within 500 feet of the most remote corner of the furthest residence per the IFC. ▪ Ensure that the bridge can hold SSFR's largest fire truck, 70,800 lbs.
Georgia Department of Transportation	<ul style="list-style-type: none"> ▪ There are no GDOT requirements that need to be addressed at this time.

PUBLIC INVOLVEMENT

Required Meetings

The applicant attended the following required meetings:

- Community Zoning Information Meeting held October 23, 2012 at the Sandy Springs City Hall
- Community/Developer Resolution Meeting held November 29, 2012 at the Sandy Springs City Hall

Public Comments (See attached letters)

Opposition

- Would like to see undisturbed buffers/perimeter setbacks
Staff Comment: The Zoning Ordinance does not require buffers between single family residential uses. However, a 40' perimeter setback is required per the NUP regulations.
- Setbacks and buildable area
Staff Comment: Setbacks are called out in the recommended conditions.
- Lower density
Staff Comment: The proposed 2 units an acre is consistent with the Comprehensive Plan.
- Concerns regarding price points and square footages of houses
Staff Comment: The City does not regulate housing prices and the square footage of the house would have to meet minimum standards of the Zoning Ordinance.
- Lot sizes are too small
Staff Comment: The Zoning Ordinance and the Comprehensive Plan recommend the development be consistent with the adjacent properties.
- Adopt development standards of adjacent properties
Staff Comment: The Zoning Ordinance and the Comprehensive Plan recommend the development be consistent with the adjacent properties.
- Have a cal-de-sac instead of proposed turnaround
Staff Comment: The proposed turnaround is required to meet all Sandy Springs Regulations.
- Location of the water quality systems
Staff Comment: If the petition is approved, this item will be addressed at time of permitting through Development Regulations Ordinance.
- Increase in traffic
Staff Comment: The Public Works Department has reviewed the petition and does not anticipate a significant impact on the surrounding transportation system.
- Creating 2 curb cuts
Staff Comment: If the petition is approved, this item will be addressed at time of permitting through Development Regulations Ordinance.
- Replanting and screening along perimeter
Staff Comment: If the petition is approved, this item will be addressed at time of permitting through Tree Ordinance.
- Setting a precedent for the area
Staff Comment: Each petition is considered on its own merits and would not set a precedent.

Support

- Similar development across the street
- Tax revenue

Notice Requirements

The petition has been advertised in the December 12, 2012 (Sandy Springs Neighbor) and December 14, 2012 (Sandy Springs Reporter). The applicant posted a sign issued by the Department of Community Development along the frontages of Peachtree Dunwoody on November 9, 2012.

Public Participation Plan and Report

The applicant has met the Public Participation Plan requirements. The applicant is required to submit the Public Participation Report seven (7) days prior to the Mayor and City Council Hearing on January 15, 2013.

ZONING IMPACT ANALYSIS

Per Article 28.4.1, *Zoning Impact Analysis by the Planning Commission and the Department*, the staff shall make a written record of its investigation and recommendation on each rezoning petition with respect to the following factors:

A. *Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.*

Finding: The staff is of the opinion that the proposed use is not suitable in view of the use and development of adjacent and nearby property. Though the proposal meets the comprehensive plans density range of 1-2 units per acre, the proposal is not consistent with surrounding lot sizes. The surrounding area consists of: Single family residential homes with lot sizes ranging from 18,000 square feet to 69,000 square feet. Also, the proposed development does not provide transitional densities with the surrounding properties (exhibit 1).

B. *Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.*

Finding: The staff is of the opinion that the proposal could have an adverse impact on the use or usability of adjacent or nearby properties because the inadequate transition between developments and the lot sizes not being consistent with adjacent properties.

C. *Whether the property to be affected by the zoning proposal may have reasonable economic use as currently zoned.*

Finding: The staff is of the opinion that the subject property has a reasonable economic use as currently zoned.

D. *Whether the zoning proposal will result in a use which will or could cause an excessive burdensome use of existing streets, transportation facilities, utilities, or schools.*

Finding: The staff is of the opinion that the proposal will not result in a use which will cause an excessive or burdensome use of the existing infrastructure. However, the proposed development entrance does not meet the current site distance standards (Section 103-77 of the Development Ordinance). The traffic counts along Peachtree Dunwoody Road meet the thresholds to provide a left turn and a deceleration lane for the proposed project.

E. *Whether the zoning proposal is in conformity with the policies and intent of the land use plan.*

Finding: The staff is of the opinion that the proposed use is not consistent with the intent of the future land use plan, which designates the property as R1-2 (Residential 1 to 2 units per acre). The proposed density of 2 units an acre does fall into the range suggest by the comprehensive plan. However, the corresponding zoning would be R-2A (Single Family Dwelling District). The proposed lots are consistent with an R-4 or R-5 zoning classification. The proposed request is not in harmony with the Land Use Policies on densities being consistent with surrounding

residential developments. The proposal does not provide a transition between the R-2A development to the south and the CUP development to the north.

F. *Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.*

Finding: The staff is of the opinion that there are no existing or changing conditions affecting the use and development of the property, which give supporting grounds for approval or denial of the applicant's proposal.

G. *Whether the zoning proposal will permit a use which can be considered environmentally adverse to the natural resources, environment and citizens of Sandy Springs.*

Finding: The staff is of the opinion that the proposal will not permit a use which could be considered environmentally adverse to the natural resources, environment, or citizens of Sandy Springs.

VARIANCE CONSIDERATIONS

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

- A. *Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance; or,*
- B. *The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public; or,*
- C. *Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements cannot be read from an adjoining public road.*

The applicant is requesting one (1) concurrent variance as outlined below. The applicant has indicated that the variance being requested to "allow the access drive along the southerly portion of the property to be shown within 50 feet of the southerly Property line. The applicant has utilized the existing driveway for the single family home on the property appreciably in its existing location due to the constrains of the flood plain" Additionally, the applicant states that approval of this variance "will be in harmony with the policy and intent of the Zoning Ordinance and will not only not result in any harm to the health, safety and welfare of the general public but in actual fact will provide a benefit to the health, safety and welfare of the general public".

1. Variance from Section 103.75.b.7 of the Development Regulations to reduce the required fifty (50) foot right-of-way setback adjacent to residentially zoned property to ten (10) feet.

*While there is some hardship with the proposed entrance road location due to site distance related to the topography of Peachtree Dunwoody Road, the staff is of the opinion the variance request is not in harmony with the intent of the Zoning Ordinance. The proposed location of the new road uses the existing driveway. The increase in traffic, storm water run-off, noise and lack of buffer would be a deterrent to the property to the south. The applicant has not provided other alternatives for the location of the proposed entrance drive. Therefore, based on these reasons, the staff recommends **DENIAL** of this variance request.*

CONCLUSION TO FINDINGS

It is the opinion of the staff that the proposal is not in conformity with the intent of the Comprehensive Plan Policies, as the proposal involves density that is not consistent with abutting and nearby properties and provides inappropriate transition. The applicant has requested to withdrawal the application. Therefore, based on these reasons, the staff recommends WITHDRAWAL of this petition and the associated concurrent variances.

STAFF RECOMMENDED CONDITIONS

Should the Mayor and City Council decide to rezone the subject property from R-2 (Single Family Dwelling District) to NUP (Neighborhood Unit Plan District), the staff recommends the approval be subject to the following conditions. The applicant's agreement to these conditions would not change staff recommendations. These conditions shall prevail unless otherwise stipulated by the Mayor and City Council.

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. To develop Single Family Dwelling Units with minimum lot sizes consistent with R-2A zoning district regulations along the south and west property lines (Landmark Subdivision) and the R-3 zoning district regulations along the north (Brookhaven Lakes Subdivision)
2. To the owner's agreement to abide by the following:
 - a. A revised site plan shall be submitted to the Department of Community Development. Said site plan must meet or exceed the requirements of the Zoning Ordinance, the Development Standards contained therein, and these conditions prior to the approval of a Land Disturbance Permit. The applicant shall be required to complete the concept review procedure prior to application for a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy.
3. To the owner's agreement to provide the following site development standards:
 - a. The minimum design standards are:
 - Minimum lot width at building line: 55 feet
 - Minimum perimeter setback: 40 feet
 - Minimum front yard: 10 feet
 - Minimum side yard: 0 feet
 - Minimum side corner yard: 20 feet
 - Minimum rear yard: 20 feet
 - Minimum Building Separation: 14 feet
 - b. Variance from Section 103.75.b.7 of the Development Regulations to reduce the required fifty (50) foot Right-of-way setback adjacent to residentially zoned property to the south to ten (10) feet. (CV-201202498 #1)
 - c. The owner/developer shall dedicate 40 feet of right-of-way along entire property frontage of Peachtree Dunwoody Road or a one-foot from back of sidewalk, whichever is greater, to the City of Sandy Springs.

Attachments

- Site Plan dated received October 5, 2012
- Applicant's Letter of Withdrawal received December 18, 2012
- Applicant's Letter of Intent received October 5, 2012
- Applicant's Amendment to the Letter of Intent received November 28, 2012
- Site Plan overlay with surrounding developments (exhibit 1)

The following information is available in the file:

- Photos
- Impact Statement Fulton County Schools
- Letter Fulton County Dept. of Water Resources November 21, 2012
- Letters of Opposition Dated Received as indicated (67)

LAW OFFICE
NATHAN V. HENDRICKS III
6085 LAKE FORREST DRIVE, SUITE 200
ATLANTA, GEORGIA 30328

December 18, 2012

OFFICE (404) 255-5161
TELECOPIER (404) 255-3899

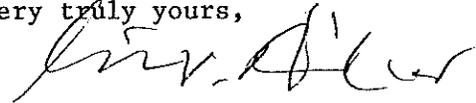
Ms. Angela Parker
Community Development Director
7840 Roswell Road, Building 500
Sandy Springs, Georgia 30350

Re: 201202498

Dear Angela:

Ashton Atlanta Residential LLC has determined to withdraw as the Applicant under the above referenced Application for Rezoning and Concurrent Variance. I would appreciate your communicating this to the Chairman and Members of the Planning Commission as well as the Mayor and Members of the City Council. Please call me if you have any questions.

Very truly yours,



Nathan V. Hendricks III
Attorney for the Applicant

NVH:sks

Received
DEC 18 2012
City of Sandy Springs
Community Development
Department

LETTER OF INTENT

The property contains approximately 6.5 acres and is located on the westerly side of Peachtree Dunwoody Road north of its intersection with Windsor Parkway and north of the soccer fields (the "Property"). The Property is currently zoned to the R-2 Classification.

The Applicant requests a rezoning of the Property to the NUP (Neighborhood Unit Plan) Classification for the development of thirteen (13) detached single family homes. This results in a density of two (2) units per acre. The immediately surrounding area is zoned and developed single family residential with housing that is compatible with that proposed by the Applicant. The City of Sandy Springs Comprehensive Land Use Plan Map suggests residential development of the Property at a density range of one (1) to two (2) units per acre. Accordingly, this Application for Rezoning complies with the policies and intent of the Comprehensive Land Use Plan Map referenced.

Given the compatibility of the proposed rezoning with the use, development and zoning of adjacent and nearby properties as well as its compliance with the policies and intent of the Zoning Ordinance and Comprehensive Land Use Plan Map, this Application for Rezoning is entirely appropriate and the appropriateness of this Application for Rezoning and the constitutional assertions of the Applicant are more particularly stated and set forth on Exhibit "A" which Exhibit "A" is attached hereto and by reference thereto made a part hereof.



Received

OCT 05 2012

**City of Sandy Springs
Community Development
Department**

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

APPLICANT:

Ashton Atlanta Residential LLC

By: [Signature]
Mike Bushet
Its: Vice President

[Signature]
Nathan V. Hendricks III
Attorney for the Applicant

6085 Lake Forrest Drive
Suite 200
Sandy Springs, Georgia 30328
(404) 255-5161

Received
OCT 05 2012
City of Sandy Springs
Community Development
Department

Exhibit "A"

APPROPRIATENESS OF APPLICATION
AND
CONSTITUTIONAL ASSERTIONS

The portions of the Zoning Resolution of the City of Sandy Springs as applied to the subject Property which classify or may classify the Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the Zoning Resolution of the City of Sandy Springs to the Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary and capricious act by the Sandy Springs City Council without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Sandy Springs City Council to rezone the Property as proposed by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the subject Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the subject Property would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

Received

OCT 05 2012

*City of Sandy Springs
Community Development
Department*

Received

NOV 28 2012

FIRST AMENDMENT TO APPLICATION FOR REZONING AND
CONCURRENT VARIANCE

*City of Sandy Springs
Community Development
Department*

IN RE:)

Ashton Atlanta Residential LLC)
APPLICANT)

Application Number: 201202498

PROPERTY:)

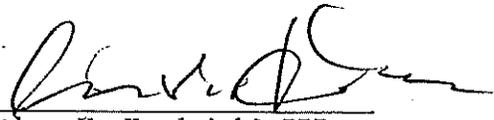
4964 Peachtree Dunwoody Road)
Sandy Springs, Georgia 30342)

Now comes Ashton Atlanta Residential LLC (the "Applicant" hereunder) who does hereby modify and amend the above referenced Application for Rezoning and and Concurrent Variance and associated Letter of Intent as follows:

1.

Due to the hardships burdening the Property which are hereunder described, the Applicant requests a Concurrent Variance pursuant to Article 103 of the Code of Ordiances to allow the access drive along the southerly portion of the Property to be within 50 feet of the southerly Property line as more particularly shown on the Site Plan. The Applicant has utilized the existing driveway for the single family home on the Property appreciably in its existing location due to the constrains of flood plain and potential wetlands immediately to the north of the referenced drive as well as the need to align the curbcut for the proposed subdivision with the curbcut for the subdivision directly across Peachtree Dunwoody Road and further to provide the best line of sight along Peachtree Dunwoody Road for the curbcut. All of these factors are constraints burdening the Property which are unique to the Property and the approval of this Concurrent Variance will be in harmony with the policies and intent of the Zoning Ordiance and will not only not result in any harm to the health, safety and welfare of the general public but in actual fact will provide a benefit to the health, safety and welfare of the general public.

Now, therefore, the Applicant requests that this Application for Rezoning and Concurrent Variance be approved as submitted in order that the Applicant be able to enjoy the use and development of the Property and the appropriateness of this Application and the constitutional assertions of the Applicant are more particularly stated and set forth on Exhibit "A" attached hereto and by reference thereto made a part hereof.



Nathan V. Hendricks III
Attorney for the Applicant

6085 Lake Forrest Drive
Suite 200
Sandy Springs, Georgia 30328
(404) 255-5161

Exhibit "A"

APPROPRIATENESS OF APPLICATION
AND
CONSTITUTIONAL ASSERTIONS

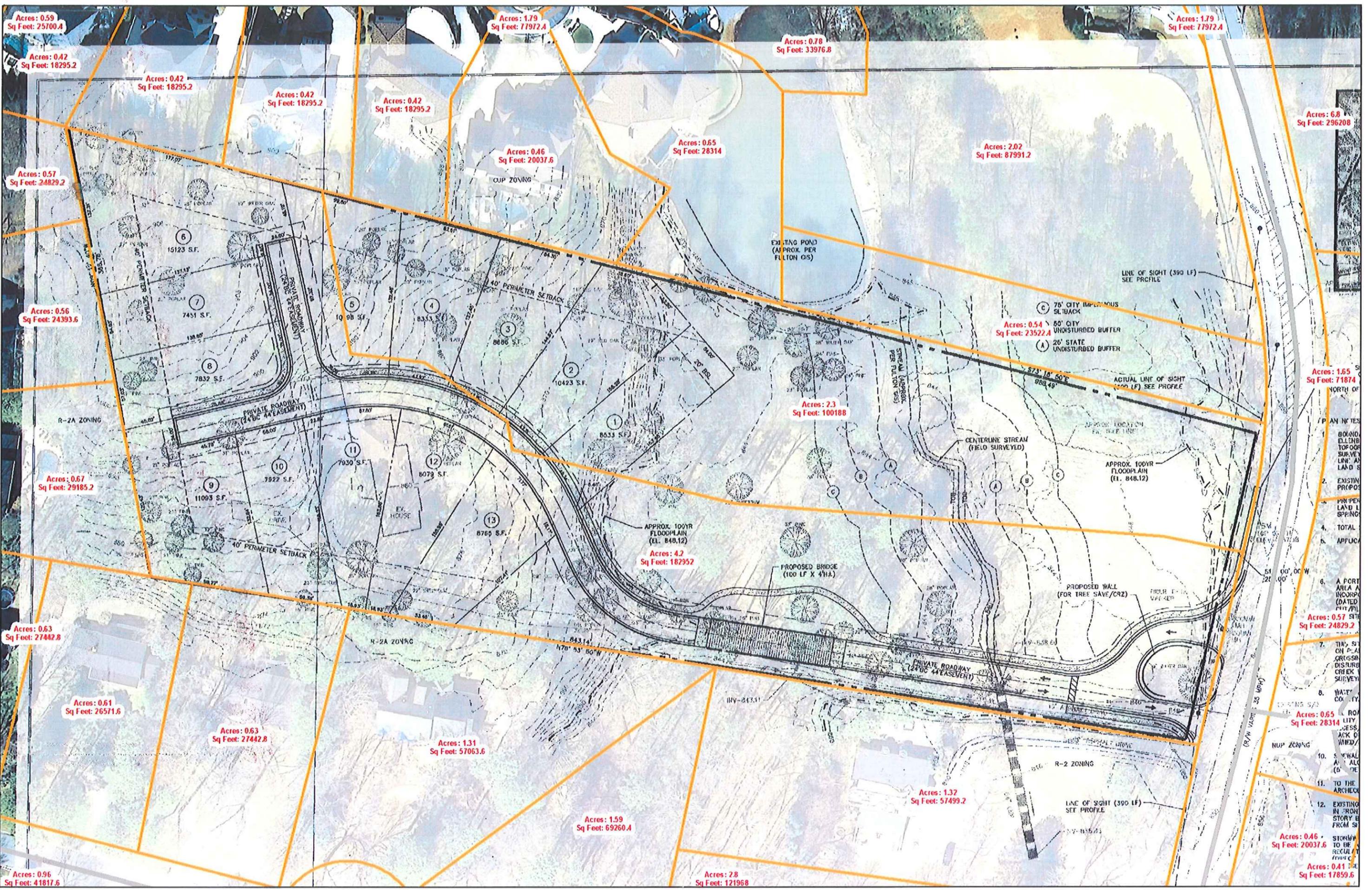
The portions of the Zoning Resolution of the City of Sandy Springs as applied to the subject Property which classify or may classify the Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the Zoning Resolution of the City of Sandy Springs to the Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary and capricious act by the Sandy Springs City Council without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Sandy Springs City Council to rezone the Property as proposed by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the subject Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the subject Property would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

Any rezoning of the Property without the simultaneous approval of the Concurrent Variances requested 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.



Acres: 6.8
Sq Feet: 296208

Acres: 1.65
Sq Feet: 71874

Acres: 0.57
Sq Feet: 24829.2

Acres: 0.65
Sq Feet: 28314

Acres: 0.41
Sq Feet: 17859.6

- PLAN NOTES
1. BOUNDARY, ELEVATION, TOPOGRAPHY, SURVEY DATA, AND LAND SURVEY INFORMATION.
 2. EXISTING PROPOSED PROJECT.
 3. PRIVATE ROADWAY (24' BC 44' EASEMENT).
 4. TOTAL AREA.
 5. APPLICATION.
 6. A PORT AREA A INCORPORATED (MAY BE SUBJECT TO DISCREPANCY).
 7. THIS SITE IS ON A PRIVATE CROSSING DISBURSE CREEK SURVEY.
 8. WAIT FOR CITY APPROVAL.
 9. ROADWAY, UTILITY, AND EGRESS JACK BOXES TO BE INSTALLED TO THE ARCHITECT'S DESIGN.
 10. SCHEDULE ALL WORK TO BE COMPLETED FROM SITE.
 11. TO THE ARCHITECT'S DESIGN.
 12. EXISTING IN-ROADWAY STORY BEING REMOVED.

- (C) 76' CITY IMPERVIOUS SETBACK
- (B) 50' CITY UNDISTURBED BUFFER
- (A) 26' STATE UNDISTURBED BUFFER

Acres: 0.59
Sq Feet: 25700.4

Acres: 0.42
Sq Feet: 18295.2

Acres: 1.79
Sq Feet: 77972.4

Acres: 0.78
Sq Feet: 33976.8

Acres: 1.79
Sq Feet: 77972.4

Acres: 0.46
Sq Feet: 20037.6

Acres: 0.65
Sq Feet: 28314

Acres: 2.02
Sq Feet: 87991.2

Acres: 0.57
Sq Feet: 24829.2

Acres: 0.56
Sq Feet: 24393.6

Acres: 2.3
Sq Feet: 100188

Acres: 0.67
Sq Feet: 29185.2

Acres: 4.2
Sq Feet: 182952

Acres: 0.63
Sq Feet: 27442.8

Acres: 0.61
Sq Feet: 26571.6

Acres: 0.63
Sq Feet: 27442.8

Acres: 1.31
Sq Feet: 57063.6

Acres: 1.59
Sq Feet: 69260.4

Acres: 1.32
Sq Feet: 57499.2

Acres: 0.96
Sq Feet: 41817.6

Acres: 2.8
Sq Feet: 121968