



CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council **DATE:** October 10, 2012

FROM: John McDonough, City Manager

AGENDA ITEM: **RZ12-004/CV12-004** - 5975 Mitchell Road, *Applicant: St. James Anglican Church, Inc.*, Rezone from R-1 (Single Family Dwelling District) to R-5A (Single Family Dwelling District) with concurrent variances

MEETING DATE: For Submission onto the October 16, 2012, City Council Regular Meeting Agenda

BACKGROUND INFORMATION: (Attach additional pages if necessary)

See attached:

Memorandum
Rezoning Petition

APPROVAL BY CITY MANAGER: jmc APPROVED

PLACED ON AGENDA FOR: 10/16/2012

CITY ATTORNEY APPROVAL REQUIRED: () YES () NO

CITY ATTORNEY APPROVAL: SM

REMARKS:

MAYOR AND CITY COUNCIL

RZ12-004/CV12-004

**5975 MITCHEL ROAD
ST. JAMES ANGLICAN**



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: October 11, 2012 for submission onto the October 16, 2012 City Council meeting

Agenda Item: **RZ12-004 5975 Mitchell Road**, a request to rezone the subject property from R-1 (Single-family dwelling District) to R-5A (Single Family Dwelling District)

Department of Community Development Recommendation:

DEFERRAL of the request to rezone, with concurrent variances, the subject property from R-1 (Single Family Dwelling District) to R-5A (Single Family Dwelling District) to allow fourteen (14) single family dwelling units.

Background:

The site is located on the east side of Mitchell Road, about 250 feet south of the intersection of Hammond Drive and Mitchell Road. The property is currently developed with a vacant church and accessory structures.

Discussion:

At the May 17, 2012 Planning Commission meeting, the Commission recommended deferral (4-0, Frostbaum, Maziar, Tart and Rubenstein for; Duncan not voting; Pond and Squire absent). On June 19, 2012, the City Council deferred the petition to the July 19, 2012 Planning Commission and August 21, 2012 City Council meetings to allow the applicant additional time to address concerns raised by surrounding neighbors.

Subsequently, staff received information disputing the authority of the group which signed the application giving the developer permission to file the rezoning petition. As a result the applicant requested that the petition be held until the September 20, 2012 Planning Commission and October 16, 2012 City Council meetings.

Following the August 21, 2012 City Council meeting, the two church groups were still unable to resolve the authority issue that generated the request for deferral. At the September 20, 2012 Planning Commission meeting, the Commission recommended approval subject to staff conditions (4-0, Tart, Frostbaum, Rubenstein and Squire for; Pond and Maziar absent; Duncan not voting).

The Zoning Ordinance requires that, upon City Council deferral of more than twenty days, the petitioner post an updated sign on the property with new hearing dates twenty days prior to the next scheduled meeting date. This deadline was not met prior to the September 20th Planning Commission meeting. As a result, to meet the posting requirements of the ordinance, staff recommends that the petition be deferred back to Planning Commission so that the petitioner can properly post the property.

1. Variance from Section 6.9.3.F. of the Zoning Ordinance to reduce the required forty (40) foot perimeter setback to thirty (30) feet along the north property line and twenty (20) feet along the south property line.
2. Variance from Section 6.9.3.G.2. of the Zoning Ordinance to reduce the required fourteen (14) foot interior building separation to ten (10) feet.
3. Variance from Section 6.9.3.G.2. of the Zoning Ordinance to reduce the required twenty (20) foot side yard setback adjoining a local street to five (5) feet for lots #5 and #9.
4. Variance from Section 6.9.3.G.1. of the Zoning Ordinance to reduce the required twenty (20) foot front yard setback to fifteen (15) feet.



Rezoning Petition No. RZ12-004/CV12-004

HEARING & MEETING DATES

Community Zoning Information Meeting	Community Developer Resolution Meeting	Planning Commission Hearing	Mayor and City Council Hearing
March 27, 2012	April 26, 2012	May 17, 2012 July 19, 2012 September 20, 2012	June 19, 2012 August 21, 2012 October 16, 2012

APPLICANT/PETITIONER INFORMATION

Property Owners	Petitioner	Representative
St. James Anglican Church	Arrowhead Real Estate Partners, LLC	Planners and Engineers Collaborative

PROPERTY INFORMATION

Address, Land Lot, and District	5975 Mitchell Road Land Lot 123, District 17
Council District	3
Frontage and Area	244 feet of frontage along the east side of Mitchell Road. The subject property has a total area of 2.365 acres (103,019 SF).
Existing Zoning and Use	R-1 (Single-family dwelling District) currently developed with a vacant church and accessory structure(s).
Overlay District	N/A
2027 Comprehensive Future Land Use Map Designation	R5 to 8 (Residential 5 to 8 units per acre), Urban Residential.
Proposed Zoning	R-5A (Single Family Dwelling District)

INTENT

TO REZONE THE SUBJECT PROPERTY FROM R-1 (SINGLE-FAMILY DWELLING DISTRICT) TO R-5A (SINGLE FAMILY DWELLING DISTRICT), WITH CONCURRENT VARIANCES.

The applicant intends to rezone from R-1 (Single-family dwelling District) to R-5A (Single Family Dwelling District).

Additionally, the applicant is requesting four (4) concurrent variances as follows:

1. Variance from Section 6.9.3.F. of the Zoning Ordinance to reduce the required forty (40) foot perimeter setback to thirty (30) feet along the north property line and twenty (20) feet along the south property line.
2. Variance from Section 6.9.3.G.2. of the Zoning Ordinance to reduce the required fourteen (14) foot interior building separation to ten (10) feet.
3. Variance from Section 6.9.3.G.2. of the Zoning Ordinance to reduce the required twenty (20) foot side yard setback adjoining a local street to five (5) feet for lots #5 and #9.
4. Variance from Section 6.9.3.G.1. of the Zoning Ordinance to reduce the required twenty (20) foot front yard setback to fifteen (15) feet.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

**RZ12-004 - APPROVAL CONDITIONAL
CV12-004 #1 - APPROVAL CONDITIONAL**

CV12-004 #2 - APPROVAL CONDITIONAL
CV12-004 #3 - APPROVAL CONDITIONAL
CV12-004 #4 - APPROVAL CONDITIONAL

Following the August 21, 2012 City Council meeting, the two church groups were still unable to resolve the authority issue that generated the request for deferral.

PLANNING COMMISSION RECOMMENDATION - May 17, 2012

The petition was heard at the May 17, 2012 Planning Commission meeting. The Commission recommended deferral to the June 21, 2012 Planning Commission meeting (4-0, Frostbaum, Maziar, Tart and Rubenstein for; Duncan not voting; Pond and Squire absent).

MAYOR AND CITY COUNCIL ACTION - June 19, 2012

The petition was heard at the June 19, 2012 Mayor and City Council meeting. The Council deferred the petition to the July 19, 2012 Planning Commission and August 21, 2012 City Council meetings to allow the applicant additional time to address concerns raised by surrounding neighbors (6-0, Paulson, Fries, Collins, Sterling, DeJulio, and McEnery for; Galambos not voting).

Subsequently, staff received information disputing the authority of the group which signed the application to give the developer permission to file the rezoning petition. Due to the issue that has been raised, both staff and the applicant in conjunction with the City Attorney requested that the petition be held until the September 20, 2012 Planning Commission and October 16, 2012 City Council meetings to allow time for the dispute to be addressed.

PLANNING COMMISSION RECOMMENDATION - July 19, 2012

The petition was heard at the July 19, 2012 Planning Commission meeting. The Commission recommended deferral to the September 20, 2012 Planning Commission Meeting and the October 16, 2012 Mayor and City Council meeting (6-0, Frostbaum, Maziar, Pond, Squire, Tart and Rubenstein for; Duncan not voting).

MAYOR AND CITY COUNCIL ACTION - August 21, 2012

The petition was heard at the August 21, 2012 Mayor and City Council meeting. The Council deferred the petition to the September 20, 2012 Planning Commission Meeting and the October 16, 2012 meetings to allow the applicant additional time to address authority issue related to the petition being filed (6-0, Paulson, Fries, Collins, Sterling, DeJulio, and McEnery for; Galambos not voting).

PLANNING COMMISSION RECOMMENDATION - September 20, 2012

The petition was heard at the September 20, 2012 Planning Commission meeting. The Commission recommended approval subject to staff conditions (4-0, Tart, Frostbaum, Rubenstein and Squire for; Pond and Maziar absent; Duncan not voting).

Location Map

5975 Mitchell Road



BACKGROUND

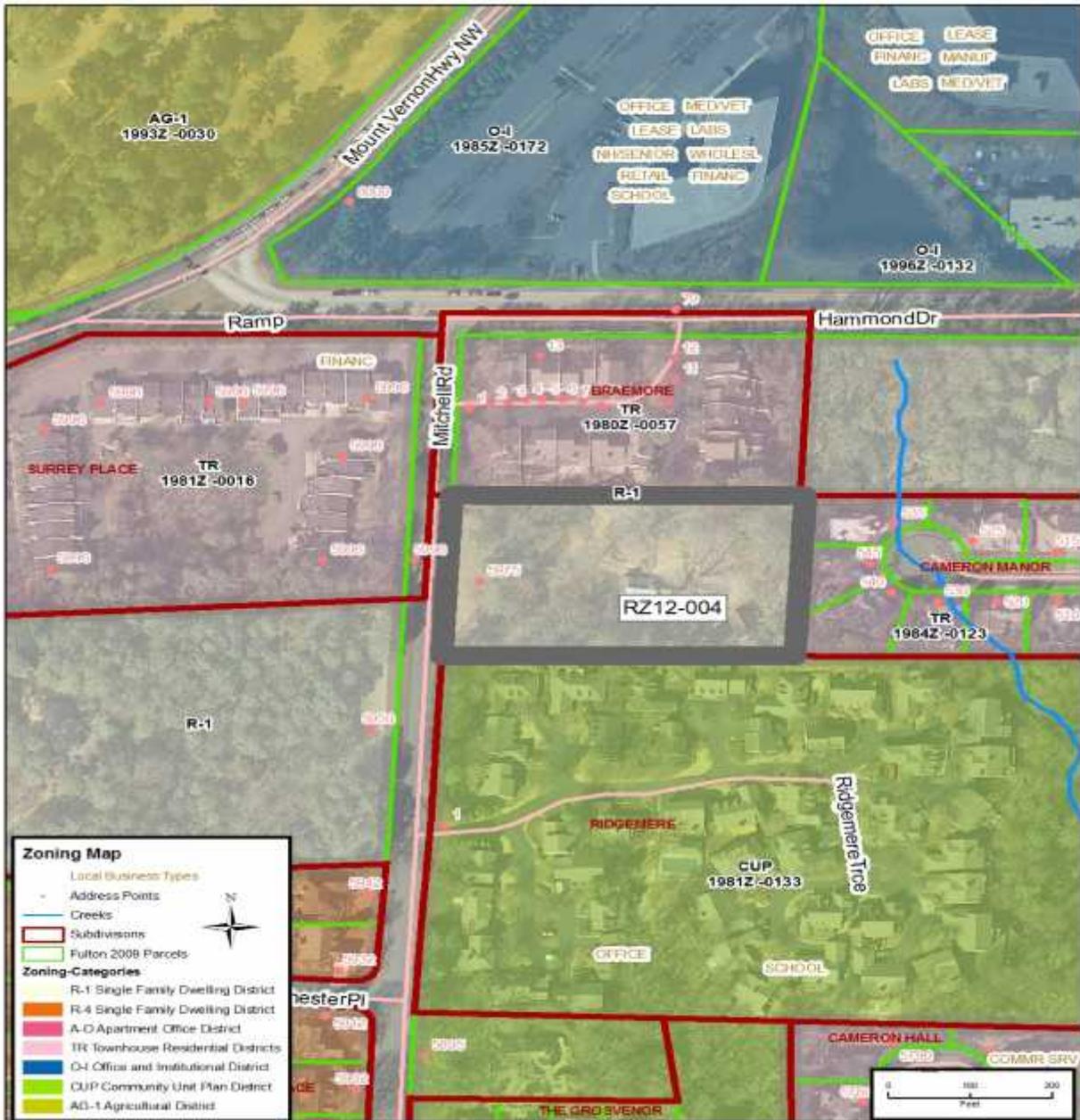
The site is located on the east side of Mitchell Road, about 250 feet south of the intersection of Hammond Drive and Mitchell Road. The property is zoned R-1 (Single-family dwelling District) currently developed with a vacant church and accessory structure(s).

EXISTING LAND USE AND ZONING OF ABUTTING PROPERTY

SUBJECT PETITION RZ12-004/CV12-004	Requested Zoning	Proposed Use	Land Area (Acres)	Square Footage or Number of Units	Density (Square Feet or Units Per Acre)
	R-5A	Fee-simple Single-family Dwellings	2.365	13 units	5.49 units/acre
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	TR Z80-057	Townhomes (Braemore)	2.45	15 units	6.12 units/acre
East	TR Z84-123	Fee-simple Single-family Dwellings (Cameron Manor)	2.53	10 units	3.95 units/acre
South	CUP Z81-133	Single-family Dwellings (Ridgemere)	11.34	44 units	3.88 units/acre
West	R-1	5950 Mitchell Rd. Single-family Home	5.05	1 unit	0.20 units/acre
West	TR Z81-016	Townhomes (Surry Place)	5.37	29 units	5.40 units/acre

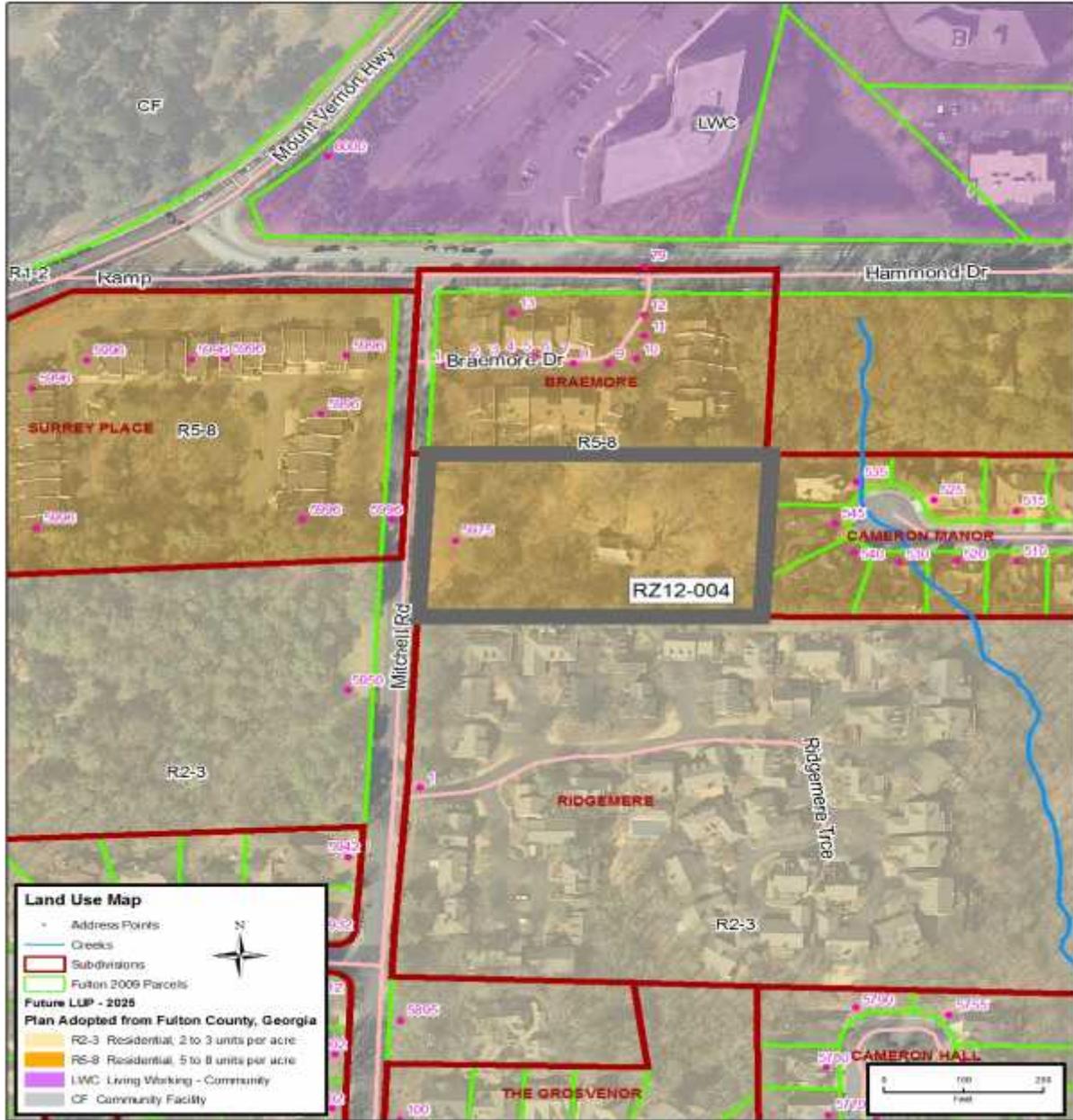
Zoning Map

5975 Mitchell Road



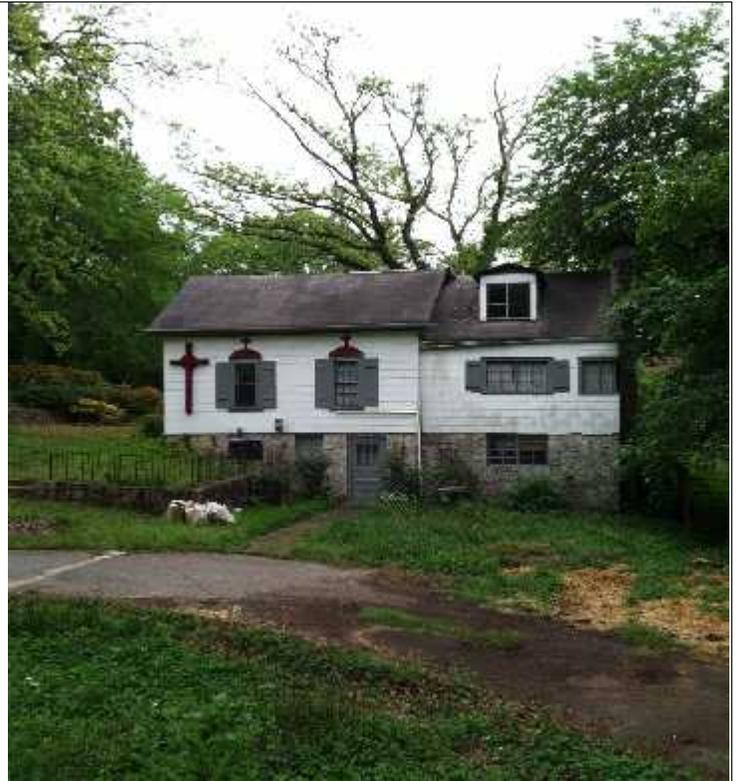
Future Land Use Map

5975 Mitchell Road





Subject Property



Subject Property



Subject Property



Subject Property



Subject Property



Subject Property



Subject Property



North of Subject Property



North of Subject Property



North of Subject Property



East of Subject Property (toward Cameron Manor)



South of Subject Property



South of Subject Property



South of Subject Property



West of Subject Property



West of Subject Property



West of Subject Property (Surrey Place)



Sign

SITE PLAN ANALYSIS

The site plan submitted shows the existing Church and Barn and shows the proposed thirteen (13) lot subdivision. The subject property is 2.365 acres and appears to be wooded and sloped toward the east and south.

PARKING

Section 18.2.1, *Basic Off-street Parking Requirements*, requires a minimum amount of 52 parking spaces (2 per unit) for overall project, and 56 spaces are provided.

LANDSCAPE ANALYSIS

It appears the entire subject property will have to be graded. This grading will affect the majority of existing vegetation; however, the Tree Conservation Ordinance will have to be followed.

ENVIRONMENTAL SITE ANALYSIS

The Environmental Site Analysis Report is sufficient and satisfies the requirements of the Sandy Springs Zoning Ordinance. The reporting on all items of the analysis stated either positive, minimal, or no environmental issues, with the exception of the following: There are slopes exceeding 25% and there are large trees growing on the property. Additionally, it is unknown if there exists any Archeological/Historic value within the subject property. The report, in its entirety, is within the case file as a matter of record.

DEPARTMENT COMMENTS

The staff held a Focus Meeting on April 4, 2012 at which the following departmental comments were provided:

BUILDING & DEVELOPMENT DIVISION	Sandy Springs Building Officer	<ul style="list-style-type: none"> The requested 10' building separation will be required to follow the Sandy Springs Ordinances and International Building Code requirements including fire safety.
	Sandy Springs Chief Engineer	<ul style="list-style-type: none"> Development shall not increase size of basin draining onto any adjacent property. Prior to permitting development, provide analysis of downstream conveyance conditions and capacities along the downstream conveyances between the project site and the point at which the project site drainage basin area is no greater than 10% of the total drainage basin area. Development shall provide stormwater management facilities as necessary to avoid exceeding capacity of downstream conveyances for up to a 100yr storm event. In addition, for interested parties to be able to evaluate impact of rezoning, it appears reasonable in this case to require a grading plan, tree conservation plan, and a stormwater management plan and report/study for the development.
	Chief Environmental Compliance Officer	<p>If the MCC decides to approve the application the following conditions could be added:</p> <ul style="list-style-type: none"> The current layout does not provide room for the existing Landmark trees to be saved. Extreme site modifications would be required to make concessions for the existing trees. Therefore, to allow the current configuration, locations of installed large canopy trees to be appropriate to provide sufficient root and canopy growth as determined by the City Arborist. Additional trees to meet the canopy requirement and/or canopy mitigation trees that cannot be installed on the site shall be paid into the tree fund. Stormwater management area to be planted to provide a water quality element and provide aesthetic value to the adjacent properties. Any necessary Buffers shall be planted to buffer standards with evergreen plant material at a planted height of 8'.
CODE ENFORCEMENT	Officer	<ul style="list-style-type: none"> There are no maintenance code violations.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	<ul style="list-style-type: none"> The requested 10' building separation will be required to follow the Sandy Springs Ordinances and International Building Code requirements including fire safety. Please ensure that there is a fire hydrant within 500' from the most remote corner of the furthest house.
TRANSPORTATION	Sandy Springs Transportation Planner	<ul style="list-style-type: none"> Construct sidewalks on Mitchell Road street frontage and provide pedestrian circulation (sidewalks/access) within development, including pedestrian access to sidewalk/street.

- There are no GDOT requirements that need to be addressed at this time.

The staff has not received any additional comments from the Fulton County Board of Education.

PUBLIC INVOLVEMENT

Required Meetings

The applicant attended the following required meetings:

- Community Zoning Information Meeting held March 27, 2012 at the Sandy Springs City Hall
- Community/Developer Resolution Meeting held April 26, 2012 at the Sandy Springs City Hall

Public Comments (also see attached letters)

Community concerns from the CZIM includes the following:

- Mature trees removed
Staff Comment: If the petition is approved, this item will be addressed at time of permitting through Tree Conservation Ordinance.
- Effective drainage and drainage facility location
Staff Comment: If the petition is approved, this item will be addressed at time of permitting through Development Regulations Ordinance.
- Front setback not being met
Staff Comment: Addressed in variance analysis below.
- The need for sidewalks on Mitchell Rd.
Staff Comment: If the petition is approved, this item will be addressed at time of permitting through Development Regulations Ordinance.
- Too much density and type of product and price point compared to surrounding properties
Staff Comment: The applicant has revised the petition from 7.95 units per acre to 5.49 units per acre.
- Building Heights
Staff Comment: If the petition is approved, this item will be addressed at time of permitting through Zoning Ordinance.
- Buffering to adjoining properties
Staff Comment: The Zoning Ordinance does not require buffers between single family residential uses.
- Location of utilities
Staff Comment: If the petition is approved, this item will be addressed at time of permitting through Development Regulations Ordinance.
- Historical significance of property
Staff Comment: The City does not have a historic preservation ordinance. Additionally, the subject site is not listed on any state or federal historic registers.
- Negative impact to traffic in the area
Staff Comment: The Public Works Department has reviewed the petition and does not anticipate a significant impact on the surrounding transportation system.

Community concerns from the CDRM includes the following:

- Preservation of landmark trees on the property

Staff Comment: If the petition is approved, this item will be addressed at time of permitting through Tree Conservation Ordinance.

- Reduce total number of lots proposed to a maximum of 10-13
Staff Comment: The applicant's most recent site plan reduces the development to a total of 13 lots.
- Justification of hardship for setback variances
Staff Comment: Addressed in variance analysis below.
- Impact, especially visual, on adjacent properties due to proximity of new homes
Staff Comment: Addressed in variance analysis below.
- Screening between new and existing homes
Staff Comment: The Zoning Ordinance does not require buffers between single family residential uses.
- General concerns over the amount of grading and impervious surface proposed, potential draining issues, and stormwater facility maintenance
Staff Comment: If the petition is approved, this item will be addressed at time of permitting through Development Regulations Ordinance.
- Construction type
Staff Comment: The applicant has provided examples of the proposed homes (please see the following link to the developer's website for examples <http://columnsgroup.com/properties.htm>).
- Height of proposed homes adjacent to Cameron Manor
Staff Comment: If the petition is approved, this item will be addressed at time of permitting through Zoning Ordinance.
- Impact and/or replacement of retaining wall adjacent to Cameron Manor
Staff Comment: The retaining wall in question is not located on the property that is the subject of this petition. However, if the petition is approved, this item will be addressed at time of permitting through Development Regulations Ordinance.
- Historic value of property and potential to save wishing well
Staff Comment: The City does not have a historic preservation ordinance. Additionally, the subject site is not listed on any state or federal historic registers.
- Traffic impact to surrounding area
Staff Comment: The Public Works Department has reviewed the petition and does not anticipate a significant impact on the surrounding transportation system.
- Braemore residents are concerned over the proposed building height of the homes
Staff Comment: If the petition is approved, this item will be addressed at time of permitting through Zoning Ordinance.

Notice Requirements

The petition was advertised in the Sandy Springs Neighbor on May 9, 2012 and May 18, 2012. The applicant posted a sign issued by the Department of Community Development along the frontage of Mitchell Road on April 13, 2012.

Public Participation Plan and Report

The applicant has met the Public Participation Plan requirements. The applicant will be required to submit the Public Participation Report seven (7) days prior to the Mayor and City Council Hearing on June 19, 2012. The Public Participation Report was submitted on or before June 12, 2012.

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 suitable in view of the use and development of adjacent and nearby property. The surrounding area consists of: Single-family uses and Townhomes (to the north, east, south, and west). The proposal allows for a proper transition between these areas. Additionally, the applicant has revised the plan so that the proposed density is more consistent with the properties in the immediate area (see page 3 of this report).

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 will not have an adverse impact on the use or usability of adjacent or nearby property.

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.

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 consistent with the Future Land Use Map, which designates the property as Residential 5 to 8 units per acre (R5-8), Urban Residential. The density proposed by the applicant is 5.49 units/acre and falls within the 5 to 8 units per acre.

The R5-8 residential category allows for a range of dwelling types, which can include detached, single-family homes, and duplexes, with prospects for lower density townhouses and apartments within planned developments. These areas are served by public water and sewer. This category has limited application in Sandy Springs – a large area north of Morgan Falls Road west of Roswell Road, an area within the Huntcliff master planned community, and other smaller sites that are transitional between lower density residential neighborhoods and live-work designations. This future land use category is implemented with the following zoning districts:

- R-6, Two Family Dwelling, 9,000 square foot lot size (4.84 Units Per Acre)
- R-5, Single Family Dwelling, 7,500 square foot lot size (5.8 Units Per Acre)
- NUP, Neighborhood Unit Plan (single-family dwellings only, up to 5 Units Per Acre)
- CUP, Community Unit Plan (if limited to 8 Units Per Acre)

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 may 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 four (4) concurrent variances as outlined below. The applicant has indicated that these variances are being requested to “allow the applicant to develop the property in a reasonable and industry-standard manner and in keeping with the development contiguous to the north, south, and east and resultingly to overcome the hardship of the narrow and confining shape of the property which condition is unique to the property”. Additionally, the applicant states that approval of these variances “would be in harmony with the policy and intent of the Zoning Ordinance and would not cause a detriment to the health, safety, and welfare of the general public while requiring compliance with the referenced development standards...would cause an extreme hardship”.

1. Variance from Section 6.9.3.F. of the Zoning Ordinance to reduce the required forty (40) foot perimeter setback to thirty (30) feet along the north property line and twenty (20) feet along the south property line.

The staff is of the opinion the variance request is in harmony with the intent of the Zoning Ordinance and with the residential developments along the north and south property lines. The following are the existing conditions with regard to setbacks along the adjoining property lines: North (Braemore) – a 10 foot landscape strip is required and provided; South (Ridgemere) – the existing spacing ranges from 10 feet to 25 feet. The original plan submitted by the applicant detailed a townhome development that did not require any variances and showing a forty (40) foot perimeter setback being met. However, the surrounding neighborhoods requested that the applicant instead propose a single family development. In order to accommodate the neighbors’ requests and to be able to have building envelopes that are of a size to develop homes that are similar to the adjacent single family neighborhoods, the applicant is now seeking the setback reduction variances outlined. Therefore, based on these reasons, the staff recommends APPROVAL CONDITIONAL of this variance request.

2. Variance from Section 6.9.3.G.2. of the Zoning Ordinance to reduce the required fourteen (14) foot interior building separation to ten (10) feet.

The staff is of the opinion the variance request is in harmony with the intent of the Zoning Ordinance. The requested 10’ building separation will be required to follow the Sandy Springs Ordinances and International Building Code requirements including fire safety, pursuant to the comments received from the Sandy Springs Fire Protection Engineer. The original plan submitted by the applicant detailed a townhome development that did not require any variances. However, the surrounding neighborhoods requested that the applicant instead propose a single family development. In order to accommodate the neighbors’ requests and to be able to have building envelopes that are of a size to develop homes that are similar to the adjacent single family neighborhoods, the applicant is now seeking the setback reduction variances outlined. Therefore, based on these reasons, the staff recommends APPROVAL CONDITIONAL of this variance request.

3. Variance from Section 6.9.3.G.2. of the Zoning Ordinance to reduce the required twenty (20) foot side yard setback adjoining a local street to five (5) feet for lots #5 and #9.

*The staff is of the opinion the variance request is in harmony with the intent of the Zoning Ordinance. Due to the size of the property and the need to accommodate the street for the single family development, the applicant is requesting a setback reduction variance along the street side of these two lots. In order to address the neighbors' request for a single family development rather than a townhome development and to be able to have building envelopes that are of a size to develop homes that are similar to the adjacent single family neighborhoods, the applicant is now seeking the setback reduction variances outlined. Therefore, based on these reasons, the staff recommends **APPROVAL CONDITIONAL** of this variance request.*

4. Variance from Section 6.9.3.G.1. of the Zoning Ordinance to reduce the required twenty (20) foot front yard setback to fifteen (15) feet.

*The staff is of the opinion the variance request is in harmony with the intent of the Zoning Ordinance. Due to the size of the property and the need to accommodate the street for the single family development, the applicant is requesting a setback reduction variance along the street frontage of the proposed lots. In order to address the neighbors' request for a single family development rather than a townhome development and to be able to have building envelopes that are of a size to develop homes that are similar to the adjacent single family neighborhoods, the applicant is now seeking the setback reduction variances outlined. Therefore, based on these reasons, the staff recommends **APPROVAL CONDITIONAL** of this variance request.*

CONCLUSION TO FINDINGS

It is the opinion of the staff that the proposal is in conformity with the intent of the Comprehensive Plan Policies, as the proposal involves a use and density that is consistent with abutting and nearby properties and provides appropriate transition. Therefore, based on these reasons, the staff recommends **APPROVAL CONDITIONAL** 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-1 (Single-family dwelling District) to R-5A (Single Family Dwelling 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 a total of thirteen (13) Single Family Dwelling Units at a density of no more than 5.49 units per acre, whichever is less.

2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Department of Community Development on June 26, 2012. Said site plan is conceptual only and 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. Variance from Section 6.9.3.F. of the Zoning Ordinance to reduce the required forty (40) foot perimeter setback to thirty (30) feet along the north property line and twenty (20) feet along the south property line.
 - b. Variance from Section 6.9.3.G.2. of the Zoning Ordinance to reduce the required fourteen (14) foot interior building separation to ten (10) feet.
 - c. Variance from Section 6.9.3.G.2. of the Zoning Ordinance to reduce the required twenty (20) foot side yard setback adjoining a local street to five (5) feet for lots #5 and #9.
 - d. Variance from Section 6.9.3.G.1. of the Zoning Ordinance to reduce the required twenty (20) foot front yard setback to fifteen (15) feet.

Attachments

Site Plan Received June 26, 2012

Letters of Intent Received March 13, 2012 and May 19, 2012

Applicant Zoning Impact Analysis received March 13, 2012

Letters of Concern/Opposition Dated Received as indicated

FIRST AMBDMMENT TO APPLICATION FOR REZONING AND CONCURRENT VARIANCES

IN RE:)	
Arrowhead Real Estate Partners, LLC)	Application Number: RZ12-004/CV12-004
APPLICANT)	
PROPERTY:)	<i>Received</i>
)	
2.365 Acres on the Easterly Side)	MAY 09 2012
of Mitchell Road commonly known as)	<i>City of Sandy Springs</i>
5975 Mitchell Road)	<i>Community Development</i>
Sandy Springs, Georgia 30328)	<i>Department</i>

Now comes Arrowhead Real Estate Partners, LLC (the "Applicant" hereunder) who does hereby modify and amend the above referenced Application for Rezoning and Concurrent Variances and associated Letter of Intent as follows:

1.

The Site Plan originally filed with the Application has been modified and amended and the original and first modified and amended Site Plans are hereby deleted and there is substituted and placed in lieu thereof the Site Plan filed on May 3, 2012.

2.

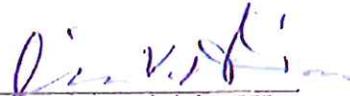
The Concurrent Variances originally requested as associated with the request for rezoning to the TR Classification are hereby deleted and there is substituted and placed in lieu thereof the four (4) Concurrent Variances more particularly stated and set forth on Exhibit "A" attached hereto and by reference thereto made a part hereof. These Concurrent Variances are requested in order to allow the Applicant to develop the Property in a reasonable and industry standard manner and in keeping with the developments contiguous and to the north, south and east and resultingly to overcome the hardship of the narrow and confining shape of the Property which condition is unique to the Property. The approval of these Concurrent Variances would be in harmony with the policy and intent of the Zoning Ordinance and would not cause detriment to the health, safety and welfare of the general public while requiring compliance with the referenced development standards which are the subject of the Concurrent Variance requests would cause an extreme hardship upon the Applicant.

3.

The original rezoning request of the Applicant was to allow the development of the Property under the TR Classification for 19 townhomes which resulted in a density of 7.95 units per acre. After meeting with the surrounding community

representatives, the Applicant modified its request to seek a rezoning of the Property under the R-5A Classification for the development of 15 detached single family homes which resulted in a density of 6.34 units per acre. Applicant's current modified Site Plan reflects a request for 14 lots which results in a density of 5.72 units per. The Sandy Springs Comprehensive Land Use Plan Map suggests residential develop on the Property at a density range of 5 to 8 units per acre. Therefore the request of the Applicant to rezone the Property at a density of 5.72 units per acre is at the low end of the suggested density range for the Property and is entirely appropriate. Further, the requested 20 foot rear yard setback requested matches the 20 foot rear yard setback of Cameron Manor contiguous and to the east and the perimeter setback request of a reduction from 40 feet to 20 feet is entirely appropriate given the distance of homes in the Braemore Townhome Development contiguous and to the north and the Ridgemere Townhome Development contiguous and to the south being some approximate 10 feet from the Applicant's northerly and southerly Property lines. Further, the Applicant does commit that the homes shall have a minimum heated floor area of 2,500 square feet and shall range up to approximately 3,500 square feet. All of these factors further evidence the appropriateness of this Application for Rezoning and Concurrent Variances and the appropriateness of this Application and the constitutional assertions of the Applicant are more particularly stated and set forth on Exhibit "B" attached hereto and by reference thereto made a part hereof.

Now, therefore, the Applicant requests that this Application for Rezoning and Concurrent Variances be approved as submitted and as modified and amended in order that the Applicant be able to proceed with the lawful use and development of the Property.


Nathan V. Hendricks III
Attorney for the Applicant

6005 Lake Forrest Drive
Suite 200
Sandy Springs, Georgia 30328
(404) 255-5161

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Community Development
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Exhibit "A"

CONCURRENT VARIANCES

1. Variance from Section 6.9.3.P. of the Zoning Ordinance to reduce the required forty (40) foot perimeter setback to twenty (20) feet, and
2. Variance from Section 6.9.3.G.2. of the Zoning Ordinance to reduce the required fourteen (14) foot interior building separation to ten (10) feet, and
3. Variance from Section 6.9.3.G.2. of the Zoning Ordinance to reduce the required twenty (20) foot side yard setback adjoining a local street to ten (10) feet for lot #1, and
4. Variance from Section 6.9.3.G.1. of the Zoning Ordinance to allow the required twenty (20) foot front yard setback to be measured from the back of curb.

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Exhibit "B"

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 1903 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 1903 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.

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MITCHELL ROAD -- TR TOWNHOME ZONING
SANDY SPRINGS
Georgia

LETTER OF INTENT

Applicant: Arrowhead Real Estate Partners, LLO

BBA Revision Number:
Phone Number: 404-607-3672

The intent of the zoning proposal is to rezone the existing church site that is currently zoned R-1 to the zoned TR -- Townhome Residential community. The proposed site is to support residential housing of 7.08 units/acre that complies with the comprehensive land use plan of 8 to 8 units per acre for this site. See below for the Sandy Springs Comprehensive Land Use Map. The site is a 2.4 acre parcel that is currently partially developed as an existing church that is in a worn condition as exists today. The site is has moderate tree coverage on the site with a few large diameter trees throughout. The site is moderately sloping from east and west toward the middle of the site and the low point is located on the southern portion of the site.

The TR zoning was determined by the applicant and the staff to be the best suited for the proposed development, the TR district allows both townhome attached product and detached single family product to be constructed on the site at a maximum density of 8 units/acre. The surrounding developments are similar to this proposal. The surrounding area has townhomes and single-family homes that help compliment the proposal of residential housing. Access to the site is located off Mitchell Road, which appears to be a 60' right of way. The entrance is to have access directly across from an existing townhome community. The proposal is to construct a private road system within the community with easements on the road for public utilities and private utilities to be constructed to support the proposal.

There will be a few concurrent variances filed with the application to adjust setbacks in order to construct the community with townhomes that interact with the streetscape and single-family homes to comply with the TR zoning and its surroundings. The site is bordered by residential zoning and to the south by a OUP development. The overall zoning fits within the comprehensive land use plan and will provide a good residential model for the surrounding area. The site will have low impacts to traffic in the area; the site is a small site with a small number of townhomes and detached product allowed to fit on this site. The site can support from a planning perspective units that would exceed the 8 units / acres threshold, however the applicant wanted to comply with the plan and limit the number to a maximum of 8 units / acre based on surrounding conditions.

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MAR 08 2012
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12712-004

MITCHELL ROAD -- TR TOWNHOME ZONING
SANDY SPRINGS
Georgia

IMPACT ANALYSIS
FORM -- B

PAE12-004
Received

MAR 18 2012

City of Sandy Springs
Community Development
Department

Applicant: Arrowhead Real Estate Partners, LLO

MSA Revision Number:
Phone Number: 404-607-3672

Analyze the Impact of the proposed rezoning:

1. Does the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby property?
 - a. The proposed use is compatible with the surrounding zonings, its similar in type of product with the townhomes and single family detached in the area.
2. Does the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?
 - a. The proposal does not affect the existing use, the church is not in use and is in poor condition as exists on the property. The proposed zoning fits much better with the surrounding area by providing the same type of uses that surround the property and the area.
3. Does the property to be rezoned have a reasonable economic use as currently zoned?
 - a. The property does not have a reasonable use as currently zoned. The existing church is not the highest and best use for the area and the property. The surrounding area proves this by having similar uses all around the site and in nearby subdivisions.
4. Will the zoning proposal result in a use that could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?
 - a. The use will not cause an excessive use, the comprehensive land use map calls for the density that is being proposed. This fits well with what is in the area and provides housing that will not have an excessive impact on the road network. The zoning utilized in the area are sufficient to support the density proposed. The proposal will enhance the surrounding area by providing nice upscale housing.
5. Is the rezoning proposal in conformity with the policies and intent of the land use plan?
 - a. Yes, the site is fully in compliance with the land use plan. The land use plan calls for residential zoning for the site to be from G to D units / acre. The proposal is to construct and zone residential housing below G units / acre, which complies not only with the area surrounding the site, but also the land use plan by Sandy Springs.
6. Are there existing or changing conditions that affect the use and development of the property which support either approval or denial of the zoning proposal?
 - a. The surrounding area around the church has been developed in accordance with the land use plan. The site as exists is not the highest and best use as shown in the land use plan. The support should be provided for the zoning based on the land use plan and the surrounding area.
7. Does the zoning proposal permit a use that can be considered environmentally adverse to the natural resources, environment and citizens of the City of Sandy Springs?
 - a. The proposed use is in compliance with the environment, the resources and area of Sandy Springs; this can be seen from the aerial image of the surrounding uses being similar.

OPPOSITION

June 19 and 21st Statement

Dear Honorable Mayor and City Council (June 19th) or (Planning Commission on the 21st), my name is Char Fortune. I am a resident of Cameron Manor, the subdivision behind and below the Mitchell property. I am here today to represent the prevailing views of the 10 homeowners in Cameron Manor Way affected by this new development. The Cameron Manor Way residents are unanimous in our opposition to the proposed plan submitted by the Petitioner for the following reasons:

- 1. He has NOT demonstrated ANY special conditions that exist on the land that creates a hardship thus making it too difficult to comply with the code's normal requirements. The property is neither unusual topographically nor by shape, nor is there anything extraordinary about the piece of property itself to warrant a zoning variance.**
- 2. The proposed development is OVERLY DENSE and NOT IN CONFORMITY WITH SURROUNDING NEIGHBOURHOODS.**
- 3. The Petitioner has HAS PROVIDED a plan that clearly demonstrates that he IS ABLE make reasonable use of the land within the current zoning ordinance by building 8 homes. We are in support of this type of development and conveyed to the Petitioner that we would work with him on a solution to get 1-2 more homes on the property; however, he has declined this offer.**
- 4. The variances are against the public interests as evidenced by the outpouring of letters from the surrounding communities that City has received in opposition to the Petitioner's plan.**

In closing, we ask the Commission/Council to deny the Petitioner's request for variances. The Sandy Springs Zoning Ordinance clearly states that a hardship variance, if approved, must relate to the unusual circumstances of the property, not the Petitioner's convenient use of the land. In this instant case, the Petitioner has shown no special hardship that would prevent him from making reasonable use of the land within the current zoning ordinance. The Petitioner has, in fact, produced a plan which clearly shows that he is able to meet the dimensional standards of the land use ordinance; however, he has chosen not to progress this because he states he wants to maximize his economic return on the property. A potential for economic loss, or something less than the maximum potential economic return to the property user, are not considered hardships by the definition of the Sandy Springs Zoning Ordinance.

Thank you in advance for your support of our position.

The current Braemore density is incorrect on the staff report. Please see attached plat or Fulton county GIS. Braemore is 2.7 acres and 13 units.

Densities in the Mitchell Road corridor

Both of these communities are located on high traffic corner parcels of Hammond Road

Braemore	Townhomes	2.7 acres	13 homes	4.81 density
Surry Place	Townhomes	5.37 acres	29 homes	5.40 density

Both of these communities are on the petitioner's Eastern and Southern boundaries,

Cameron Manor	Single family	2.53 acres	10 homes	3.95 density
Ridgemoor	Single family	11.34 acres	44 homes	3.88 density

Both of these communities are across the street and within 320 feet of this property.

5950 Mitchell	Single family	5.05 acres	1 home	0.20 density
Currently zoned R1, Future Land Use is 2-3 density				.
Manchester Place	Single family	8.3 ac est.	20 homes	2.4 density est.

Lancaster, Grosvenor, and Cameron Hall all have densities between 4.0 - 4.5 homes per acre but are developed on much larger properties (4-8 acres).
Long Island Walk and Manchester Place have densities that are much lower.

We believe that the density on this property should be no higher than 3.9 thus matching both Cameron Manor and Ridgemoor. This density would allow proper buffers and setbacks to surrounding neighbors.

Please support your constituents by introducing us to the Zoning Commission to begin discussion of correcting these ambiguities.

Prepared Speech that we were unable to be delivered to the Zoning Commission on May 19, 2012

Planning Commission Members & City Council:

I would like to begin my statement by thanking the City of Sandy Springs Community Development department in their outstanding customer service to their citizens. Especially, being patient with and answering numerous questions from concerned neighbors.

Sandy Springs was voted in to a city by this constituency because of their promises to hear the community and their needs. We all have seen what the disregard of Fulton County for the Sandy Springs area has left us with.

We, the community, ask that you honor this promise you made, and recommend R-5A zoning with no variances and a density no higher than 3.9 thereby preserving our neighborhood.

We fully support our neighbor's statements as they fully support ours.

After our analysis of the developer's site plan and staff report, we agree with their zoning impact analysis and reasons for Denial of all variance requests.

Arrowhead has not demonstrated a hardship that prevents them from reasonable use of the property within the current zoning ordinances.

The variances, if authorized, would create a development project that is so overcrowded and unattractive that it would be out of character with the surrounding neighborhood of single family homes. The inadequate buffer and setbacks would be intrusive to neighbors and infringe upon privacy.

1. There are no special circumstances or conditions that prevent the Developer from building a development that is in strict conformity with the provisions of the Zoning Ordinance;

2. We have asked them to articulate their hardship to justify this variance but they have been unclear. Only stating that "they can't make any money" if they reduce density. We find this hard to believe.
3. There are many neighborhoods in the vicinity of this proposed development that lend support to our argument that a less dense development could be built profitably in harmony with the neighborhood.

Arrowhead will say they have compromised by offering concessions from the original plan. However, if you look closely at these site plans and concessions, they are items that would require changing anyway. Every version is basically the same plan.

The community's main concerns of setbacks and density were never addressed.

We, however, do not agree with staff's conditional approval of a total density of no more than 5.92 homes per acre.

We believe this density creates an unattractive and overcrowded subdivision that is not in harmony with the community and is not appropriate for this particular property.

This property does not have frontage on a high traffic street such as Braemore and Surrey Place. It is pushing a higher density property back into the neighborhood similar to pushing a commercial store with frontage on a high traffic road into a neighborhood. This would not be done.

We understand the need for a land use plan. However, we strongly feel that there is an error in this plan concerning this property with the suggested density of 5-8 units per acre.

Likewise, this attempt of transitional zoning is not in harmony with the surrounding communities that have densities in the high 3's. Some of the discrepancies are:

1. The Cameron Manor development is included in this 5-8 but has a density in the high 3's and the Ridgemere subdivision on the property's southern border has a future land use of 2-3.
2. The other single family home across the street from this church (also zoned R1) is recommended R2-3.
3. After further analysis from numerous constituents, we have concluded that none of the higher density zoning districts (R5, R5A, R6, TR) really fit on this property without major variances and harm to its neighbors. This future land use does not naturally fit on this site or conform with adjacent subdivisions.
4. This developer had to use zoning districts in the higher density R8-12 Future Land Use designation (zoning R-5A, TR) in order to get around the minimum 7,500 sf lot size required within the true R5-8 land use and R-5 zoning.

This property is not large enough for the requested density of townhomes or single family homes within the R5-8 zoning districts of NUP and CUP as their minimum acreage requirements are 5 acres and 10 acres, respectively. This leaves only a true R-6 and R-5 zoning that should be implemented within the R5-8 future land use category.

5. In addition, only 2 small churches are in the 5-8. This recommendation entices developers to take advantage of weaknesses of these smaller churches and destroy their "holy" ground for profit. Numerous neighbors have found solace in walking this nonprofit dedicated "holy land" praying, meditating and enjoying its natural beauty. 21 churches on the future land use plan have a density of 2-3 units per acre or less. We wonder why other churches are protected with lower densities.
 - 11 Churches are Residential 1 - 2 units per acre
 - 10 Churches are Residential 2 - 3 units per acre
 - 4 Churches are Residential 3 - 6 units per acre

2 Churches are Residential 5 - 8 units per acre

- 6. A more harmonious land use will additionally ensure better protection for the 200+ year old trees on the property as they would more likely be saved from destruction. The corrected density would potentially allow future developers to work with the park like beauty of the property instead of trying to maximize density.**

As I stated before, we had no control of what Fulton County had previously done. And as you are aware did not always have Sandy Springs best interest at heart. It is now up to Sandy Springs to protect our neighborhood.

Please remember that the Land use plan says recommended not required.

The current Braemore density is incorrect on the staff report. Please see attached plat or Fulton county GIS. Braemore is 2.7 acres and 13 units.

Densities in the Mitchell Road corridor

Both of these communities are located on high traffic corner parcels of Hammond Road

Braemore	Townhomes	2.7 acres	13 homes	4.81 density
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Both of these communities are across the street and within 320 feet of this property.

3950 Mitchell	Single family	5.05 acres	1 home	0.20 density
Currently zoned R1, Future Land Use is 2-3 density				
Manchester Place	Single family	8.3 ac est.	20 homes	2.4 density est.

Lancaster, Grosvenor, and Cameron Hall all have densities between 4.0 - 4.5 homes per acre but are developed on much larger properties (4-8 acres).
Long Island Walk and Manchester Place have densities that are much lower.

As you can see from the above information, the petitioners request for 14 units on 2.365 acres (density of 5.92) is extreme and out of harmony with the surrounding neighborhood.

We believe that the density on this property should be no higher than 3.9 thus matching both Cameron Manor and Ridgemore. This would allow proper buffers and setbacks to surrounding neighbors.

Please support your constituents by voting for R-5A zoning with no variances and a density of no more than 3.9.

Staff, zoning commission and council, please review the below pictures of trees and setbacks.

Please consider requiring both a 40 foot setback and Green Giant Arborvitae buffer trees that are 10-14 foot tall planted 4-6 feet apart to ensure visual privacy for both communities.

In addition, please require the developer to replace on site any trees and bushes damaged from soil disturbance and compaction within the first 3 years as many trees will not show immediate damage.

Note: the below pictures are the buffer standard of 8 foot tall evergreens suggested by your chief environmental compliance officer. It does not protect privacy as you can see right through the buffer.

The following pictures were taken standing 10 feet from the tree line. The homes setback 25 and 35 feet from tree line. Trees are 8-10 feet tall planted 6 feet apart. The location for verification is Eastside Baptist Church, Marietta Georgia, parking lot of new addition and adjacent homes.

Building setback 35 feet from trees. Trees are 8-10 foot tall and 6 feet apart.



Building setback 25 foot from trees. Trees are 8-10 feet tall and 6 foot apart.



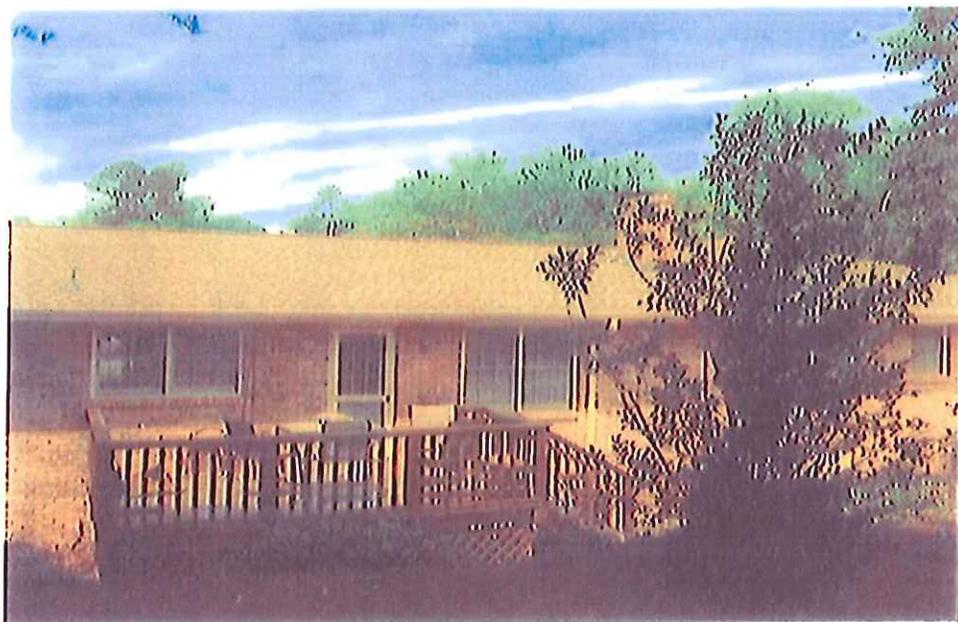
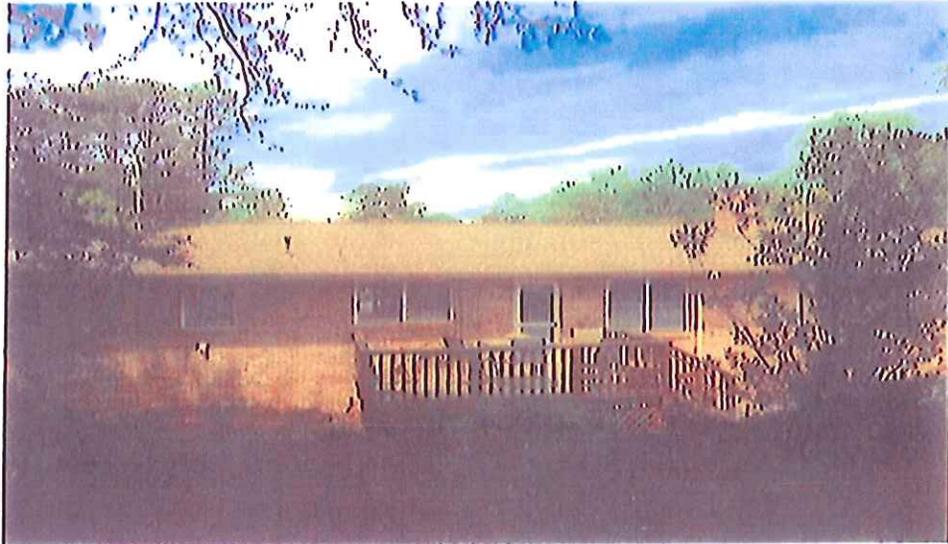
Building setback 35 foot. Trees are 8-10 feet tall and 6 foot apart. (Panorama below distorts distance)



Building setback 35 foot. Trees are 8-10 foot tall and 6 feet apart. (Panorama below distorts distance)



Building setback 35 feet from trees. Trees are 8-10 feet tall and 6 feet apart.



Again, please consider requiring both a 40 foot setback and Green Giant Arborvitae buffer trees that are 10-14 feet tall planted 4-6 feet apart to ensure visual privacy for both communities.

Citizen Comments on the rezoning of the historical property at 5975 Mitchell Road

Dear Department of Community Development and City Planning Commission,

In April 2011, the city of Smyrna planning department felt pressure to get some business going. They accepted a developer's proposal to build a couple spec homes. Even after the neighborhood voiced opposition, Smyrna city council voted for dramatic variance changes (Amendment Request Z11-001) to the property's original plan and current zoning to enable the developer to make enough profit to do the deal.

The developer promised to increase tax revenues, save the community from falling home values, and promised that they could sell these homes and finish this development.

One house sold as they already had a buyer. However, as you can see from the FMLS listing, 4558 Lots Street, Smyrna GA was listed June 14, 2011. After over 300 days on the market in the highly desirable Vinings area, this similar type home, which is proposed by Arrowhead on Mitchell Road, is still unsold today. I am assuming buyers do not want to pay this price on such a tight lot when there is so much inventory and better deals already on the market. These developers have not been good neighbors as the remaining land is littered with construction materials, an open shed, and construction trailer. In addition, they have five "dirt and wood" vacant lots still awaiting development. At this point, they have already taken advantage of the economy by getting their variances and locking up the land for future development. After getting what they wanted, code enforcement issues and being good neighbors are minor nuisances. This is just one recent example of what can happen. If this very real outcome happens at 5975 Mitchell Road and the staff, planning committee, and city council say "oops my mistake" it will be too late for this historical building, trees and surrounding communities. The developers will already have locked in their desires and profit and will wait to finish the development however long that takes. What will you then say to the citizens that you serve? The decision that you are making now for or against this neighborhood will not be forgotten for a very long time. Please considerate this heavily as if it was your own neighborhood in these economic times.

Current FMLS data shows that there are 440 homes for sale within a 3 mile radius of this property. Within 2 miles there are 225 detached single family homes listed. 100 of these homes are within the \$300,000 to \$599,000 price range. Also, within this 2 mile radius there are over 135 attached homes with 30 of these homes above \$200,000. In addition, there are 43 homes listed with 17 homes in the \$300,000 to \$599,000 price range in this immediate neighborhood. Attached are a few examples of current listings in Arrowhead's promised price range of 4 to 5 hundred thousand dollars. Please note the much larger lots and green space surrounding these homes. In addition, please explain to these current Sandy Springs citizens why you think it is a good idea to put more housing inventory on the market today at the expense of those surrounding Sandy Springs neighbors.

From Arrowhead's own statements on April 27th, 2012, they do not have financing and will piece meal it together as needed from private equity partners. They will build a couple houses then if lucky they may build a few more and so on. This would mean that this property would be a continuous construction site from 7:30am to 7:30pm for at least 2-3 years or more. Would you like this in your backyard?

We request that staff and Commission not recommend this development.

However, if this property must be clear cut and developed at this time, I have a question. Why have zoning requirements if you always give variances?

Please honor the R-5A zoning with no variances and a 40 foot perimeter setback. In addition, please require the developer to plant immediately after grading a row of 10 foot or taller Leyland cypress trees every 6-8 feet along the perimeter of the property adjoining other communities to ensure current residents quiet enjoyment and privacy of their homes. We also request that the developer be required to immediately replace on their property or adjoining property any trees damaged by this heavy equipment. Numerous trees have died within the first 3-4 years from the root stress and soil compaction of these types of developments.

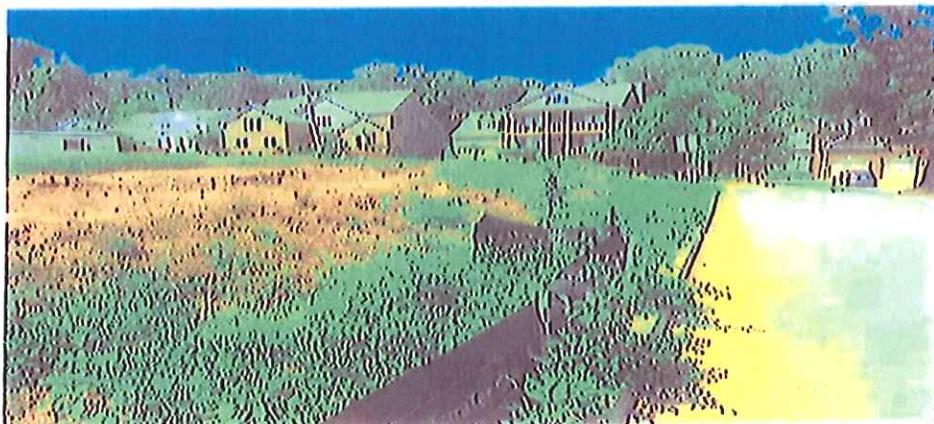
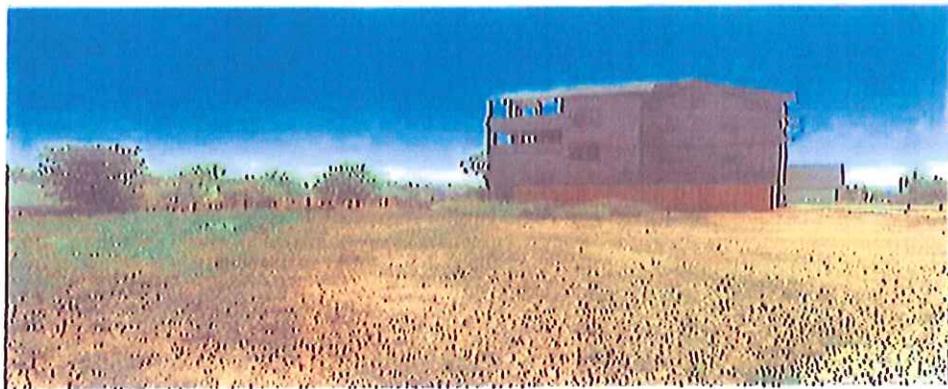
Your backyard is where you live your lives. Relax on your deck and have your morning coffee as well as play with your kids. We chose this community because we did not have someone 20 feet from our home. We believed that we would be somewhat protected from these type of profit squeezed developments with the small church and beautiful tree canopy in a park like setting next door. We assumed with an R-1 zoning that any potential development would be reasonable keeping most of the green space (maybe 5-6 homes). A high density development is not appropriate for this neighborhood as there should be a reasonable balance along this street. A 14 home development on this site destroys too much green space, tree canopy, and privacy by forcing this 20 foot setback. The developers argue that since things were built previously they should get the same. This does not take into account that this historical and beautiful church parcel is a main factor in why many neighbors paid a premium to live in this area. Those neighborhoods were built before Sandy Springs was a city and Fulton County did not always look out for Sandy Springs interest. I ask that you protect these neighbors by ensuring that Sandy Springs does not become another Atlanta. Please be more concerned about what makes Sandy Springs great, heritage and green space.

Just because you can do something does not always mean you should. Please do not recommend this development.

Thank you for your time and consideration,

Dracmore Residents

Unfinished development - Lols Street Smyrna/Vinings



Spoc house 4558 Lols Street Smyrna/Vlnhngs. Over 300 days on market.

Buyer Info Report



Bldg: 4558 Lols St, Smyrna, GA 30080
 Active: VI
 Area: 12
 County: Cobb
 State: Georgia
 Subst: 2011
 Yr Bldg: 2011
 Layers: 2
 Stories: 2
 Style: Contemporary
 City: Smyrna
 Zip: 30080
 App Date: 11/11/2011
 Vol: 11/11/2011
 Plan: 11/11/2011
 Bldg: 4558 Lols St
 High: 11/11/2011

Public: This report is for your use only. It is not to be used for any other purpose. It is not to be used for any other purpose. It is not to be used for any other purpose.

Features

Bedroom: 4
 Bath: 2
 Kitchen: 1
 Living: 1
 Dining: 1
 Total: 4
 House Area: 1500
 Lot Area: 10000
 Year Bldg: 2011
 Layers: 2
 Stories: 2
 Style: Contemporary

Other Descriptive Information

Appearance: 0300
 Exterior: 0300
 Handicap: 0300
 Fireplaces: 1
 Heat Type: Gas
 Cooling: Central Air
 Entry: 0300
 Water: Public
 Laundry: In Unit
 Deck: Yes
 Sward: Public
 Best: Yes

Legal, Financial and Tax Information

Parcel: 123456789
 Plat: 123456789
 Section: 123456789
 Lot: 123456789
 Area: 123456789
 Year: 123456789
 Status: 123456789
 Assessed: 123456789
 Annual: 123456789
 HOA: 123456789
 Agent: 123456789

Sold

Sale Price: 100000
 Original List Price: 150000
 Days on Market: 300
 Offer Date: 11/11/2011
 Closing Date: 11/11/2011
 Buyer: 123456789
 Seller: 123456789

Tuesday, May 1, 2012 10:13 AM

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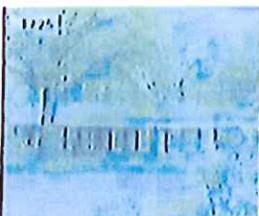
Image Based Report



Residential Detached # 400075
 Act/so Broken Area: 131 \$105000
 City: Atlanta State: Georgia County: DeKalb Zip: 30024
 Sub/Complex: Riverchase Year Built: 1954 Style: Ranch
 #Bedrm: 3 #Baths: 2.0 Stories: 1.5 Story
 Bedroom: Master On Main, Master On Main
 Master Bath: Double Vanity, Sep Tub Shower
 Interior: Dep A/C, Stone High Ceil, Hardwood Floors, Entrance Foyer, Hardwood Floors
 Parking: 2 Car Garage
 Basement: Full Basement, Partial
 Hibond: Call To Agent For Details

Lot Size: 0.3512 Acres #FF: 1 Invest/Yr: 53
 Lot Desc: Front Backyard
 EProp: Hardwood
 Public: Available for sale. This is a good property for investors. It is a large house with a full basement and a 2 car garage. The house is in excellent condition and has a great location. It is a must see property for anyone looking for a large house in a great neighborhood.

Sub Price: \$100000
 SWOP#: 400075
 Sold Information Closing Date:



Residential Detached # 400076
 Act/so Broken Area: 131 \$100000
 City: Atlanta State: Georgia County: DeKalb Zip: 30024
 Sub/Complex: Riverchase Estates Year Built: 1955 Style: Ranch
 #Bedrm: 3 #Baths: 3.11 Stories: 1.5 Story
 Bedroom: Master On Main, Master On Main, Full Bath On Main
 Master Bath: Double Vanity, Sep Tub Shower
 Interior: Dep A/C, Stone High Ceil, Hardwood Floors, Entrance Foyer, Hardwood Floors
 Parking: 2 Car Garage, Kitchen Level, Full Basement
 Basement: Full Basement, Partial
 Hibond: Call To Agent For Details

Lot Size: 0.3512 Acres #FF: 2 Invest/Yr: 53
 Lot Desc: Front Backyard, Double Backyard, Wooded
 EProp: Hardwood
 Public: Available for sale. This is a good property for investors. It is a large house with a full basement and a 2 car garage. The house is in excellent condition and has a great location. It is a must see property for anyone looking for a large house in a great neighborhood.

Sub Price: \$100000
 SWOP#: 400076
 Sold Information Closing Date:



Residential Detached # 400077
 Act/so Broken Area: 132 \$100000
 City: Atlanta State: Georgia County: DeKalb Zip: 30024
 Sub/Complex: Riverchase Year Built: 1951 Style: Ranch
 #Bedrm: 3 #Baths: 2.12 Stories: 2.5 Story
 Bedroom: Master On Main, Sep Tub Shower
 Master Bath: Double Vanity, Sep Tub Shower, Wooded Ceiling, Wooded Floor
 Interior: 9th Ceiling, Wooded Ceiling, Double Vanity, Dep A/C, Stone High Ceil, Hardwood Floors, Entrance Foyer, Hardwood Floors
 Parking: 2 Car Garage, Attached 2 Car Garage, Kitchen Level
 Basement: Full Basement
 Hibond: Call To Agent For Details

Lot Size: 0.3512 Acres #FF: 2 Invest/Yr: 53
 Lot Desc: Front Backyard, Double Backyard, Wooded
 EProp: Hardwood
 Public: Available for sale. This is a good property for investors. It is a large house with a full basement and a 2 car garage. The house is in excellent condition and has a great location. It is a must see property for anyone looking for a large house in a great neighborhood.

Dickerson, Patrice

From: Jeff Mitchell <jeffmitchell@live.com>
Sent: Tuesday, October 02, 2012 3:33 PM
To: Dickerson, Patrice
Subject: St. James rezoning Exhibit A with arguments
Attachments: Exhibit A 6-12-2012-40 ft-Setbacks.pdf

Honorable Mayor and City Council Members,

The residents of Braemore request that the City **deny the variance request** submitted by Arrowhead Development.

We are submitting as part of public record **Exhibit A**, which is a site plan given by Developer to the affected neighborhoods, drawn to scale and showing all building footprints and required setbacks for him to enjoy the benefits from this parcel of land.

As you can see, the Developer has demonstrated that there are no exceptional or extraordinary circumstances or conditions applicable to the property that would prevent him from its intended use, which is to build single family, detached homes.

You can see clearly in **Exhibit A** that the Developer can build 8 large, single family homes without relief from the current zoning ordinance. We believe this is what natural fits on the property. This proposed plan was unanimously and overwhelmingly approved by all affected neighborhoods. However, the Developer refuses to submit this rendition because, and I quote, "The plan is not as financially attractive as building 14 homes."

It is clear from the City's zoning ordinance that for a variance to be approved, the following **MUST BE** true:

A. Some unique physical characteristic of the property prevents the beneficial use of the property if the ordinance is strictly enforced;

B. Failure to approve the variance will result in undue hardship because no reasonable conforming use of the lot or parcel is possible without a variance;

C. Granting relief from the ordinance will not be detrimental to other surrounding properties.

In this instant case, NONE OF THE ABOVE IS TRUE! To the contrary, the OPPOSITE IS TRUE.

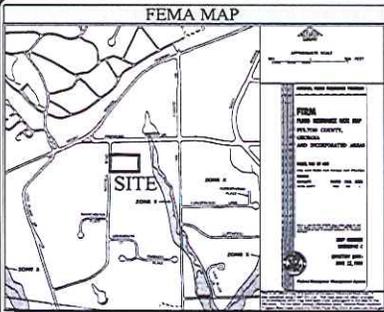
The Developer has shown in its own site plan that NO UNUSUAL PECULIARITY OF THE LAND EXISTS; NO HARDSHIP CAN BE ESTABLISHED and the reduced setback WILL INFRINGE ON THE RIGHTS OF BRAEMORE RESIDENTS TO ENJOY THE TRANQUILITY OF THEIR OWN PROPERTY.

Accordingly, the City cannot in good faith approve the Developer's plan for 14 homes when he has shown in **Exhibit A** that no relief from the Zoning Ordinance is needed. By approving the Developer's variance request and allowing him to build 14 homes, would be in direct conflict with the spirit and intent of the zoning ordinance and would clearly demonstrate that the City Council is prejudicial in granting a special privilege to the Developer that is not otherwise required or allowed by ordinance.

We believe in this position so strongly that we are willing to pursue this matter through a petition of Writ of Mandate if a setback variance is approved.

Thank you.

See attached Arrowhead plan with 40 foot setbacks



VARIANCES

SIDE YARD SETBACK	Reduce from 7' to 4' Side Yard (1/2' Between Structures)
SIDE YARD SETBACK AGAINST INTERNAL STREET	Reduce from 20' to 4' Side Lot 4 & 10
FRONT SETBACK MEASUREMENT	20' Measured From HOQ Instead of Utility Line/curb



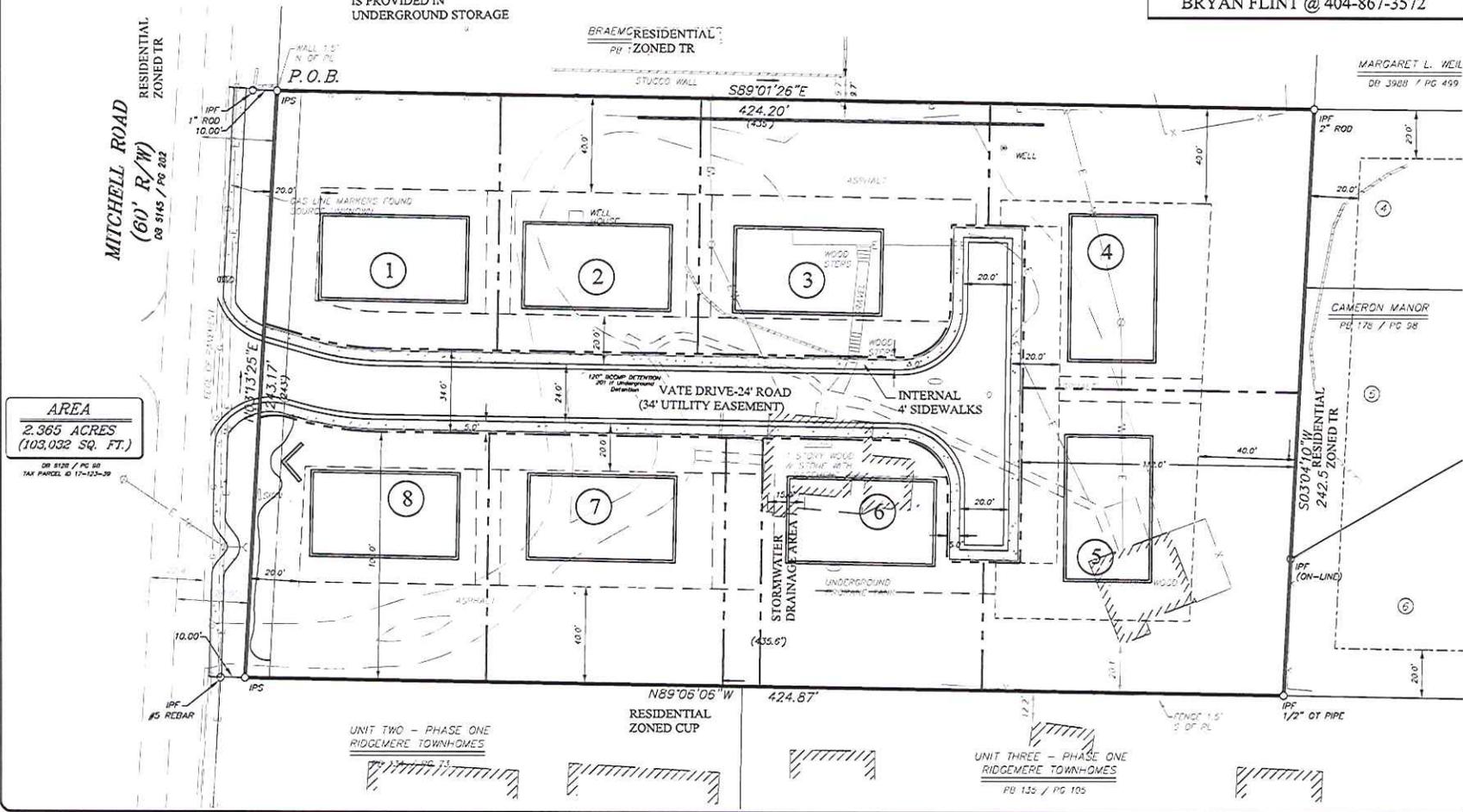
SITE DATA:

TOTAL SITE AREA	2.365 ACRES
ZONING	R-1 RESIDENTIAL
EXISTING ZONING	R-1 RESIDENTIAL
PROPOSED ZONING	R-1A RESIDENTIAL
ZONING JURISDICTION	SANDY SPRINGS
DEVELOPMENT TYPE	
MAX. HEIGHT	40 FEET
SINGLE FAMILY HOMES	4 LOTS
SINGLE FAMILY DENSITY	3.34 UNITS/AC
MIN. FLOOR AREA	150 sq. Min.
PROPERTY SETBACKS - DETACHED SINGLE FAMILY	
FRONT YARD SETBACK	20 FEET (From HOQ)
SIDE SETBACK	4 FEET (VARIANCE 7')
REAR SETBACK	10 FEET (Between Structures)
PERMITTER SETBACK	10 FEET
PARKING CALCULATIONS	VARIABLE (VARIANCE 40')
REQUIRED PARKING (2.0 SP. PER UNIT)	14 Spaces
TOTAL SPACES PROVIDED	32 Spaces (2 Car Garage/Driveway)

1. SITE ADDRESS: 5975 MITCHELL ROAD, SANDY SPRINGS, GEORGIA

NOTE: STORMWATER MANAGEMENT IS PROVIDED IN UNDERGROUND STORAGE

24 HOUR CONTACT:
BRYAN FLINT @ 404-867-3572



AREA
2.365 ACRES
(103,032 SQ. FT.)

Mitchell Road - Sandy Springs
A Master Planned Residential Community

Arrowhead Real Estate Partners, LLC
350 RESEARCH COURT
NORCROSS, GEORGIA 30092
PHONE: 404-857-3572

WE PROVIDE SOLUTIONS!
PLANNERS AND ENGINEERS COLLABORATIVE
SITE PLANNING & LANDSCAPE ARCHITECTURE & CIVIL ENGINEERING & LAND SURVEYING
350 RESEARCH COURT, NORCROSS, GEORGIA 30092 | (770) 451-2211 FAX: (770) 451-2212 | WWW.PAFCAL.COM

REVISIONS:

NO.	DATE	BY	DESCRIPTION
1	4-19-2012	PEC	Change from "R" zoning to "R-1A" zoning.
2	5-1-2012	PEC	Revised Plan for Comments.
3	5-15-2012	PEC	Revised Plan for Comments.

SHEET TITLE:
CONCEPTUAL SITE EXHIBIT

SCALE: 1" = 20'
DATE: February 30, 2012
PROJECT: 12022.00

THIS SEAL IS ONLY VALID IF COUNTER SIGNED AND DATED WITH AN ORIGINAL SIGNATURE.

1
SHEET

Dickerson, Patrice

From: Jeff Mitchell <jeffmitchell@live.com>
Sent: Tuesday, October 02, 2012 9:17 PM
To: Dickerson, Patrice
Subject: St James rezoning
Attachments: oct council pkg.docx; September rezoning.docx; Exhibit A 6-12-2012-40 ft-Setbacks.pdf

Please see attached comments

October 16th council package

Many neighbors in the Mitchell Road corridor feel that the St. James rezoning petition with its concurrent variances **should be denied for one or all of the reasons below.**

1. The developer has shown that he can build within the required zoning ordinances.

The developer has presented to the affected neighborhoods a site plan (8 home 40 foot setback) clearly showing that they can build within the required zoning ordinances.

2. Improper notification by the City of Sandy Springs and the developer/petitioner.

- a. The city of Sandy springs department of planning and zoning did not give proper notification to the community of the rezoning. There were major mistakes in the mailing. The majority of neighbors were not notified properly by mail (Cameron Manor, Surrey Place, Ridgemere). A small group was notified personally and attended these first meetings.
- b. In addition, we believe that the developer is required to send out his own mailed notification for the CZIM. **This was never done.**
- c. The signage at the Church was not updated until the day before the September commission meeting. Giving less than 24 hours notice for the commission meeting and less than a month notice for this October 16th council meeting.

In today's busy society and with the transition in technology from our greatest generation to this one, these mailed notices are very important. We believe there are numerous residents who are still not aware of this rezoning because they do not have email and/or not connected with this small group. In addition, we do not believe it is our responsibility to notify every one. It is the city's and developer's responsibility. Both of these notification issues were brought to staff's attention by different people. Nothing was done. We assumed they hoped that this would go away and there would be no need to start over with proper notification. We understand this thought process. However, with this being of such importance to everyone in our community and the rezoning precedence that would be set if approved. We feel that this needs to be addressed properly and that decision explained to your constituency.

3. Error filled application.

- a. The church is not closed.
- b. The other groups own statements sent to the city of Sandy Springs clearly show that even within their own group. The person signing the February 9th rezoning petition and sales contract did not have authority to do so. Their dates do not match up. In addition, there is no mention that they even attended church these past years and are members in good standing or why the members who actually attend were not invited to this February 18th meeting.

It is amazing to everyone that hears this story that the city total ignores this. Everyone from the department of planning, planning commission (4-0 vote), and the city attorney continue to allow this petition to continue and push this through.

Citizens now assume that anyone can rezone any property in the city as long as it fits with in the comprehensive land use plan. They do not even have to own the property. They do not have to tell the truth or even have proper authority on the rezoning application. All they have to do is get their signature notarized and say that they think their statements are truthful and they think they may or may not own the property. Once they are in the system everyone including council has to approve the petition because the land use plan says so.

Citizens that we have spoken to cannot believe that there is no policy that would kick out these rezoning petitions and make the petitioner reapply once they are corrected and any misrepresentations, errors or title issues are cleared up. There is no accountability for developers.

In the example above, the St. James group wanting to sale has clearly shown in their own statements (letter and avadavats sent to planning staff) that they did not have proper authority on the date that they presented this rezoning petition. **This has nothing to do with which group owns the Church.**

We are asking the city to examine whether they presented a truthful and correct application.

4. There are numerous discrepancies on the comprehensive land use plan.

We believe the 5-8 density was an error or that people were asleep at the wheel. It has been proven numerous times by this developer that this higher zoning does not naturally fit on the property without major variances. With other discrepancies in the Mitchell Road area, we believe that there may have been a lack of proper care to the Sandy Springs land use plan concerning this area and property. If approved with these variances, this development would have the highest density on our block.

September 2012 speech to planning commission

Planning Commission Members:

Sandy Springs was voted in to a city by this constituency because of their promises to hear the community and their needs. We, ask that you honor this promise you made, and recommend R-5A zoning with no variances and a density no higher than 4.2 thereby preserving our neighborhood.

Arrowhead has not demonstrated a hardship that prevents them from reasonable use of the property within the current zoning ordinances.

The variances, if authorized, would create a development project that is so overcrowded and unattractive that it would be out of character with the surrounding neighborhood. The inadequate buffer and setbacks would be intrusive to neighbors and infringe upon privacy.

1. There are no special circumstances or conditions that prevent the Developer from building a development that is in strict conformity with the provisions of the Zoning Ordinance;
2. Arrowhead will say they have compromised by offering concessions from the original plan. However, Our community's, main concerns of perimeter setbacks, density and proper tree buffers were never addressed.
3. As a high end quality townhome community, it has always been Braemore's position that we could care less whether they were high quality

townhomes or high quality single family homes just build them at least 40 feet from our backyard and bedroom windows with proper privacy buffers.

Also, from what we understand, the primary duty of the Comprehensive Land Use plan and zoning ordinances are to protect our neighborhoods. We cannot see how giving the requested density and concurrent variances achieve this. Staff and your own Comprehensive plan explain that the land use density range is recommended not the law. We assume that this is not law and only a recommendation for cases such as this.

The facts are that Braemore's density is 4.81, Ridgemere's density is 3.88, Cameron Manor's density is 3.95 Even the averaged density of 4.21 is much lower than the developer request for 5.5 density.

We understand the need for a Land Use plan. However, we strongly feel that there is an error in this plan concerning this property with the suggested density of 5-8 units per acre.

Likewise, this attempt of transitional zoning is not in harmony with the surrounding communities that have densities in the high 3's. Some of the discrepancies' are:

1. The Cameron Manor development is included in this 5-8 but has a density in the high 3's and the Ridgemere subdivision on the property's southern border has a future land use of 2-3.

2. The other single family home across the street from this church (also zoned R1) is recommended R2-3.
3. After further analysis from numerous constituents, we have concluded that none of the higher density zoning districts (R5, R5A, R6, TR) really fit on this property without major variances and harm to neighbors. This future land use clearly does not naturally fit on this site or conform with adjacent subdivisions.
4. In addition, only 2 small churches are in the 5-8. This high density recommendation entices developers to take advantage of the weaknesses of these smaller churches for profit.

We wonder why other churches are protected with lower densities. 21 churches on the future land use plan have a density of 2-3 units per acre or less.

We believe that some people may have been asleep at the wheel when this map was adopted. These discrepancies were overlooked because of the high traffic corner property at Hammond and Lake Forest.

It really makes a nice and easy box. I guess they assumed that everything would stay status quo... the church stay a church and nobody would tear down existing neighborhoods just to gain a little more density. Makes sense but this small mistake on the Land Use plan has now come back to haunt and detrimentally affect our neighborhood.

In addition, we have a plan from the developer showing they can build 8 homes with room to spare without any variances in the R5A zoning. We believe that with concessions on the interior setback in addition to Ridgemere's agreeable 20 foot variance this number could increase to 9 or 10 homes.

Both these option conform much better with surrounding neighborhoods, density, and the natural fit of the land.

Please remember that the Land use plan says recommended not required.

Zoning application

We also have concerns of why we even have to be here tonight to fight so hard just to protect our neighborhoods.

There are major discrepancies on the rezoning application. One that the church was never closed as stated. Some members that I have met have been attending for over 20 years. I met them personally during Sunday services this past January. The church was not closed.

More importantly other neighbors easily found discrepancies in the rezoning application date (publicly found online February 9th) and this other groups own statement of a supposed meeting voting and giving authority on February 18th. This was done after the fact weeks later and seems backwards.

This clearly shows that this applicant had no authority on the date the application was submitted. Why is this being ignored?

Bryan/Church

In conclusion, I am saddened by the actions of the developer as you know there is a dispute of ownership and authority over the church. In July when this came up I pleaded in front of the planning commission with Bryan Flint, Curtis Hicks, Arrowhead Realty and the Columns group to please perform additional due diligence to get to the truth. This has not been done. They have a list of supposed church members and refuse to verify that they even currently attend this church or voted for the sale. This simple request to explore the truth on this issue has continually been ignored. Meanwhile, these members in good standing and the vestry have been coming to every Sandy Springs rezoning meeting for the past 3 months hoping for relief and the truth to come out. While this other group whom have not attended church for years, some do not even live in Georgia (see notary on avadavat) will not come out in public. These acts of concern, accountability and transparency should speak volumes.

