

To: John McDonough, City Manager

From: Ed Shoucair, Acting Director of Community Development



Date: November 1, 2011 for submission onto the November 15, 2011 City Council meeting

Agenda Item: **Confirmation of Administrative Modifications**

Director of Community Development Recommendation:

Confirmation by the Mayor and City Council of the Department of Community Development Administrative Modification decisions.

Background:

Per Section 22.11, *Administrative Modification*, an Administrative Modification application may be filed if the Director of the Department of Community Development determines that the request is not prohibited by Section 22.2.4, *Limitation on Authority* and, will constitute only a technical change to the approved conditions of zoning and does not involve significant public interest, or public interest has been addressed by letters expressing no objections from property owner(s) with standing and/or neighborhood associations. Rendered Administrative Modification decisions are required to be sent to the City Council for Confirmation.

Discussion:

The following is a list of Administrative Modifications to conditions of zoning, which have been acted upon by the Department of Community Development. Said Administrative Modifications are now submitted for review and confirmation by the City Council.

ITEMS FOR CONSENT AGENDA			
ADMINISTRATIVE MODIFICATIONS			
Agenda Item	Council District	Staff Action	Action Date
1. AM11-001 5009 Roswell Road (SR 9) Applicant: 5009 Roswell LLC ▪ To modify condition 2.a. of RZ05-002 by modifying the site plan/legal description.	5	AM11-001 – Approved	04/12/11
2. AM11-002 14 Leighton Court Applicant: Nicholas Theos ▪ To modify condition 3.a. of Z99-004 by reducing the required forty (40) foot perimeter setback to thirty-six (36) feet.	6	AM11-002 – Approved	07/11/11
3. AM11-003 365-375 Northridge Road Applicant: KBS SOR Northridge Center, LLC ▪ To delete condition 4.e. of Z87-0121/U87-0089 related to signage.	1	AM11-003 – Approved	10/05/11



April 12, 2011

Mitchell Taylor
Childress Klein Properties
300 Galleria Parkway, Suite 200
Atlanta, GA 30339

Re: AM11-001/AV11-001 – An Administrative Modification/Administrative Variance Request for 5009 Roswell Road, Sandy Springs, GA 30342

Dear Mr. Taylor:

The subject application indicates that you are requesting an Administrative Modification and Administrative Variances for property located at 5009 Roswell Road. The subject property is zoned C-1 (Community Business District) conditional under RZ05-002 and currently developed with an office and/or institutional building.

The request to modify condition 2.a. of RZ05-002 by modifying the site plan/legal description is within that allowed by administrative approval by the Zoning Ordinance, and you have provided the needed documentation to gain approval for the Administrative Modification. Additionally, the request for variances is within that allowed by administrative approval by the Zoning Ordinance, and you have provided the needed documentation to gain approval for the Administrative Variances.

Based on the material that you have provided, the Administrative Modification to modify the condition 2.a. of RZ05-002 is hereby approved. The revised condition(s) shall read as follows:

2. To the owner's agreement to the following site development considerations:
 - a. To the ~~revised site plan~~ and Letter of Intent received by the Department of Community Development on May 10, 2006, and to the site plan received by the Department of Community Development on March 1, 2011. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance 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.

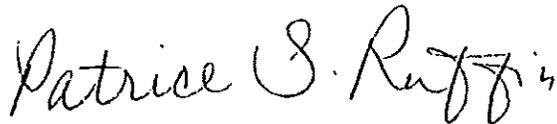
Additionally, based on the material that you have provided, the two (2) Administrative Variances are hereby approved as follows:

1. Variance from Section 4.23.1 of the Zoning Ordinance to reduce the required ten (10) foot improvement setback from the south side property line to approximately eight (8) feet as shown on the site plan received by the Department of Community Development on March 1, 2011.
2. Variance from Section 4.23.1 of the Zoning Ordinance to reduce the required ten (10) foot improvement setback from the north side property line to approximately nine (9) feet as shown on the site plan received by the Department of Community Development on March 1, 2011.

Please include a copy of this letter as a part of any applications for permits that you may seek in accordance with this administrative modification/administrative variance.

Should you have any questions, please do not hesitate to contact me at (770) 730-5600.

Sincerely,



Patrice S. Ruffin, AICP
Assistant Director of Planning and Zoning

PSR/dt

Administrative Modification\Approval AM11-011.doc



ZM11-001
CV11-002

MODIFICATION/CONCURRENT VARIANCE APPLICATION

ALL APPLICABLE ITEMS ARE DUE AT THE TIME OF FILING. AN INCOMPLETE APPLICATION WILL NOT BE ACCEPTED.

APPLICANT'S CHECKLIST

ITEM #	REQUIRED ITEM	NUMBER OF COPIES	CHECK
1. ✓	Pre-Application Review Form	1 copy	✓
2. ✓	Application	1 original	✓
3. ✓	Disclosure Form	1 original	✓
4. ✓	Fee	See attached schedule	✓
5. ✓	Site Plan (drawn to scale)	3 copies; one of the required copies must be 8 1/2" x 11"	✓
6. ✓	Survey with Topography and Trees Proposed For Removal	1 copy	✓
7. ✓	Legal Description of Property	1 copy	✓
8. ✓	Letter of Intent	1 original	✓
9. ✗	Adjacent Property Owner Letters (Administrative Modifications)	1 original of each	
10. ✗	Departmental Sign-off Letters (if applicable)	1 original	

- ITEM 1. **PREAPPLICATION REVIEW MEETING AND FORM:** Prior to submitting an application, all applicants are required to meet with a current planner who will review the applicant's proposal and site plan and complete a Pre-application Review Form. This meeting must be completed by the Friday before Tuesday's filing deadline. Applicants are required to bring the site plan and tax parcel identification number(s) to the meeting. Call 770-730-5600 to schedule an appointment.
- ITEM 2. **APPLICATION FORM:** Original and notarized signatures of the property owner(s) and applicant(s) or notarized statement by the applicant as to ownership are required.
- ITEM 3. **DISCLOSURE FORM:** If the owner, applicant and/or applicant's representative has made a campaign contribution to the Mayor or any member of the City Council for \$250.00 or more within the past 2 years, Sections 1 through 4 of the Disclosure Form (Form C) must be completed. If no contributions have been made, No should be circled and Section 4 of the form completed.
- ITEM 4. **FEE:** See attached fee schedule.
- ITEM 5. **SITE PLAN:** Site plans should be no larger than 30" x 42" (one should be 8 1/2" x 11") and drawn to scale.
- ITEM 6. **SURVEY WITH TOPOGRAPHY AND TREES PROPOSED FOR REMOVAL:** Survey plans should be no larger than 30" x 42" (one should be 8 1/2" x 11") and drawn to scale.
- ITEM 7. **LEGAL DESCRIPTION:** The legal description must be a *metes and bounds* description of the property that establishes a point of beginning and gives directions (bounds) and distances (metes) of property lines. If the property consists of more than one parcel, all parcels must be combined into one legal description.
- ITEM 8. **LETTER OF INTENT:** The Letter of Intent should explain the circumstances of the requested change in the condition of zoning. Include the reason why the development or use of the property cannot be accomplished without modification of the condition and identify the zoning/use permit case number

and specific condition(s) being addressed.

ITEM 9. **ADJACENT PROPERTY OWNER LETTERS.** Letters from adjacent property owners/neighborhood associations are required if the request is for an administrative modification.

ITEM 10. **DEPARTMENTAL SIGN-OFF LETTERS.** If a request for an administrative modification requires sign-off by another Department or staff member, a letter from that Department or staff member is required at the time of filing.

SECTION I. TYPE OF MODIFICATION.

PLEASE CHECK TYPE OF MODIFICATION REQUESTED:

1) **ADMINISTRATIVE MODIFICATION:** A modification of conditions of zoning and/or use permit that does not require a public hearing. A decision will be made by the Director of the Department Community Development and confirmed by the Mayor and City Council.

2) **ZONING MODIFICATION:** A modification of conditions of zoning and/or use permit where public interest has been determined and therefore requires a public hearing by the Mayor and City Council. The Department of Community Development will make a recommendation to the Mayor and City Council. A concurrent variance may be requested in connection with a Zoning Modification request and may be considered if filed concurrently with the Zoning Modification petition.

3) **CONCURRENT VARIANCE:** A concurrent variance to standards of the Zoning Ordinance may be requested concurrently with a Zoning Modification.

SECTION II. DESCRIPTION OF MODIFICATION REQUEST. Please provide written details of the requested modification.

ADDRESS: 5009 ROSWELL ROAD TAX PIN: PARCEL A 17 0093 0003 098 8
PARCEL B 17 0093 0003 097 0
PARCEL C 17 0093 0003 036 3

REZONING AND/OR USE PERMIT PETITION NO. _____

CONDITION(S) TO BE MODIFIED: SITE PLAN MODIFICATION

REQUEST: MODIFY SITE PLAN TO CONFORM EAST BOUNDARY AND PARTIAL SOUTH BOUNDARY TO ALIGN W/ ADJACENT PROPERTY (DENBERAY ISUB APTS)

CONDITION(S) TO BE MODIFIED: _____

REQUEST: _____

CONDITION(S) TO BE MODIFIED: _____

REQUEST: _____

CONDITION(S) TO BE MODIFIED: _____

REQUEST: _____

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Community Development

REQUESTED CONCURRENT VARIANCE(S): 1.4 FEET TO SOUTH IMPROVEMENT
SETBACK (OF 10').

ARTICLE: 4.23.1 SECTION: _____

REQUESTED CONCURRENT VARIANCE(S): 1.0 FEET TO NORTH IMPROVEMENT
SETBACK (OF 10').

ARTICLE: 4.23.1 SECTION: _____

REQUESTED CONCURRENT VARIANCE(S): _____

ARTICLE: _____ SECTION: _____

SECTION III. OWNER/APPLICANT/AGENT INFORMATION:

OWNER INFORMATION:

5009 Roswell Road, LLC, by: Childress Klein
TYPE OR PRINT OWNER'S NAME Properties, its
300 Galleria Parkway, Ste. 200 manager
ADDRESS
Atlanta, GA 30339
CITY & STATE ZIP CODE

[Signature]
OWNER'S SIGNATURE

770-859-1200
PHONE NUMBER

Sworn to and subscribed before me this the

28th Day of February 2011
[Signature]
NOTARY PUBLIC

Susanne G. Davis
Notary Public, Cobb County, GA
My Commission Expires August 10, 2014

APPLICANT INFORMATION:

5009 Roswell Road, LLC, by: Childress Klein
TYPE OR PRINT PETITIONER'S NAME Properties, its
300 Galleria Parkway Ste 200, Manager
ADDRESS
Atlanta, GA 30339
CITY & STATE ZIP CODE

[Signature]
APPLICANT'S SIGNATURE

770-859-1223
PHONE NUMBER

Sworn to and subscribed before me this the

28th Day of February 2011
[Signature]
NOTARY PUBLIC

Susanne G. Davis
Notary Public, Cobb County, GA
My Commission Expires August 10, 2014

ATTORNEY/AGENT INFORMATION:

Check One: Attorney Agent

TYPE OR PRINT ATTORNEY / AGENT NAME

ADDRESS

CITY & STATE ZIP

PHONE NUMBER

SIGNATURE OF ATTORNEY/AGENT

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PETITIONER'S SIGNATURE

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Zoning Modification Application page 3

DISCLOSURE REPORT

Office use only
PETITION #: _____ MAYOR AND CITY COUNCIL HEARING DATE: _____

Within the (2) years immediately preceding the filing of this zoning petition have you, as the applicant or opponent for the rezoning petition, or an attorney or agent of the applicant or opponent for the rezoning petition, made any campaign contributions aggregating \$250.00 or more or made gifts having an aggregate value of \$250.00 to the Mayor or any member of the City Council.

CIRCLE ONE: YES **NO**

If the answer is YES, proceed to sections 1 through 4.
If the answer is NO, complete only section 4.

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1. CIRCLE ONE: Party to Petition In Opposition to Petition MAR 01 2011

If party to petition, complete sections 2, 3 and 4 below.
If in opposition, proceed to sections 3 and 4 below.

**City of Sandy Springs
Community Development**

2. List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition: _____

3. CAMPAIGN CONTRIBUTIONS:

Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more

4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) Gordon A. Buchmiller, Jr
Signature: *GAB* Date: 2-28-11

CHILDRESS KLEIN
P R O P E R T I E S

March 1, 2011

Sandy Springs Board of Appeals
Sandy Springs City Hall
7840 Roswell Road, 500 Building
Sandy Springs, GA 30350

RE: Letter of Intent, Site Plan Modification by 5009 Roswell Road, LLC (the "Applicant") for property commonly known as 5009 Roswell Road, Sandy Springs, Georgia, which property is more particularly described on Exhibit "A" attached hereto (the "5009 Property")

Members of the Board:

Please accept this letter as overview and explanation of the following requests for the Applicant's property located at 5009 Roswell Road:

- Site Plan Modification
- Concurrent Variance Request to encroach 1.4' into 10' improvement setback (south property line)
- Concurrent Variance Request to encroach 1.0' into 10' improvement setback (north property line)

HISTORY

5009 Roswell Road is located north of Belle Isle, on the east side of Roswell Road and shares a common eastern, and partial southern, boundary with Dewberry Isle Apartments (the "Dewberry Isle Property"). Property was rezoned by the current ownership in 2006 to C-1 (Z05-002/CV05-001). At the time, the common boundary with the Dewberry Isle Property was confirmed by survey as a part of the due diligence prior to acquisition.

In 2010, as part of refinancing the 5009 Property, a different surveyor determined the boundary as recorded for the 5009 Property contained both a "gap" and an "overlap" relative to that of the Dewberry Isle Property (see exhibit B attached hereto, survey of gap and overlap conditions.).

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City of Sandy Springs
Community Development

300 Galleria Parkway, SE
Suite 200
Atlanta, Georgia 30339

770-859-1200
(fax) 770-859-1299

Sandy Springs Board of Appeals
March 1, 2011
Page two

In an effort to resolve this boundary discrepancy, Applicant and the Owners of the Dewberry Isle Property are recognizing the recorded boundary of the Dewberry Isle Property. As a result, the owners of the Dewberry Isle Property are providing a quit claim of the "gap parcel" to Applicant, and Applicant is providing a quit claim of the "overlap parcel" to the owners of Dewberry Isle Property.

SITE PLAN MODIFICATION (per article 2.A)

Applicant is requesting a Site Plan Modification from the Board, to revise the site plan from its present configuration to recognize and conform to the boundary of the Dewberry Isle Property. As a result, Applicant will include the "gap parcel" of 1,020 square feet in its property limits, and quit claim the 629 square feet of the "overlap parcel" to the owners of the Dewberry Isle Property, resulting in a net increase of 391 square feet to the 5009 Property, and thus maintaining the currently stipulated maximum zoning density.

CONCURRENT VARIANCE TO ENCROACH 1.4' (per article/section 4.23.1)

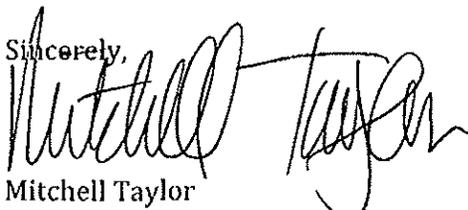
As a result of quit claiming the "overlap parcel" to Dewberry Isle, a 1.4' encroachment will result into the 10' improvement setback for a limited portion of the southern boundary. The Site Plan modification cannot be accomplished without this setback variance.

CONCURRENT VARIANCE TO ENCROACH 1.0' (per article/section 4.23.1)

In performing the Site Plan and boundary survey, a 1' encroachment of the retaining wall supporting parking in the northeast corner of property was noted and 5009 requests a variance for this encroachment into the 10' improvement setback. As a result of the original zoning, a planted buffer and fencing were required and completed and modifications to the parking would result in parking spaces smaller than the code required dimensions.

Thank you for your consideration of these requests.

Sincerely,


Mitchell Taylor
Childress Klein Properties, Inc.
It's Manager for:
5009 ROSWELL ROAD, LLC, a
Georgia limited liability company

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Community Development

**SURVEY DESCRIPTION OF PROPERTY
(5009 ROSWELL ROAD)**

ALL OF THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 93 OF THE 17TH DISTRICT, CITY OF SANDY SPRINGS, FULTON COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE POINT OF BEGINNING, COMMENCE AT A NAIL PLACED AT THE INTERSECTION FORMED BY THE NORTHWESTERLY RIGHT-OF-WAY LINE OF BELLE ISLE ROAD (VARIABLE R/W) WITH THE EASTERLY RIGHT-OF-WAY LINE OF ROSWELL ROAD, GEORGIA HIGHWAY NO. 9 (VARIABLE R/W) AND PROCEED IN A NORTHERLY, EASTERLY AND WESTERLY DIRECTION ALONG THE EASTERLY RIGHT-OF-WAY LINE OF ROSWELL ROAD, GEORGIA HIGHWAY NO. 9 (VARIABLE R/W) THE FOLLOWING COURSES AND DISTANCES: 1) NORTH 04°49'50" EAST, A DISTANCE OF 161.39 FEET TO A POINT; 2) THENCE SOUTH 88°53'12" EAST FOR A DISTANCE OF 22.55 FEET TO A POINT; 3) THENCE NORTH 04°49'29" EAST FOR A DISTANCE OF 99.23 FEET TO A POINT; 4) THENCE NORTH 88°40'19" WEST FOR A DISTANCE OF 3.23 FEET TO AN IRON PIN PLACED (1/2"RE-BAR) AND THE POINT OF BEGINNING.

FROM THE POINT OF BEGINNING THUS ESTABLISHED, PROCEED IN A NORTHERLY DIRECTION ALONG THE EASTERLY RIGHT-OF-WAY LINE OF ROSWELL ROAD, GEORGIA HIGHWAY NO. 9 (VARIABLE R/W, AS PER DEED BOOK 43653, PAGE 309), NORTH 04°43'07" EAST, A DISTANCE OF 150.19 FEET TO AN IRON PIN PLACED (1/2"RE-BAR); THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE OF ROSWELL ROAD, GEORGIA HIGHWAY NO. 9 AND PROCEED SOUTH 89°15'20" EAST FOR A DISTANCE OF 312.96 FEET TO AN IRON PIN FOUND (1"CRIMPED TOP PIPE); THENCE SOUTH 88°23'46" EAST FOR A DISTANCE OF 165.04 FEET TO AN IRON PIN FOUND (1"OPEN TOP PIPE); THENCE NORTH 80°15'21" EAST FOR A DISTANCE OF 15.39 FEET TO AN IRON PIN FOUND (1/2"RE-BAR); THENCE SOUTH 04°40'56" WEST FOR A DISTANCE OF 175.39 FEET TO AN IRON PIN FOUND (1/2"RE-BAR); THENCE NORTH 89°20'16" WEST FOR A DISTANCE OF 149.90 FEET TO AN IRON PIN FOUND (1/2"RE-BAR); THENCE NORTH 47°16'32" WEST FOR A DISTANCE OF 15.27 FEET TO A POINT; THENCE NORTH 02°02'31" WEST FOR A DISTANCE OF 11.47 FEET TO AN IRON PIN FOUND (5/8"RE-BAR); THENCE NORTH 88°40'19" WEST FOR A DISTANCE OF 329.69 FEET TO AN IRON PIN PLACED (1/2"RE-BAR) ON THE EASTERLY RIGHT-OF-WAY LINE OF ROSWELL ROAD AND THE POINT OF BEGINNING.

SAID TRACT OR PARCEL CONTAINING 1.79547 ACRES OR 78,211 SQUARE FEET.

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City of Sandy Springs
Community Development

