



CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council **DATE:** November 3, 2011

FROM: John McDonough, City Manager

AGENDA ITEM: **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

MEETING DATE: For Submission onto the November 15, 2011, City Council Regular Meeting Agenda

BACKGROUND INFORMATION: (Attach additional pages if necessary)

See attached:

Memorandum – AM11-002
Modification/Variance Application

APPROVAL BY CITY MANAGER: JFM APPROVED

_____ NOT APPROVED

PLACED ON AGENDA FOR: 11-15-2011

CITY ATTORNEY APPROVAL REQUIRED: () YES () NO

CITY ATTORNEY APPROVAL: SM

REMARKS:



July 11, 2011

Nicholas Theos
14 Leighton Court
Sandy Springs, GA 30327

Re: AM11-002/MV11-007 – An Administrative Modification/Minor Variance Request for 14 Leighton Court, Sandy Springs, GA 30327

Dear Mr. Theos:

The subject application indicates that you are requesting an Administrative Modification and a Minor Variance for property located at 14 Leighton Court. The subject property is zoned NUP (Neighborhood Unit Plan District) conditional under Z99-004 and currently developed with single-family home.

The request to modify condition 3.a. of Z99-004 by reducing the required forty (40) foot perimeter setback to thirty-six (36) feet 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.

Based on the material that you have provided, the Administrative Modification to modify the condition 3.a. of Z99-004 is hereby approved. The revised condition(s) shall read as follows:

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

a. The minimum design standards:

Minimum lot size: 27,600 square feet

Minimum dwelling size: 3,200 square feet

Minimum front yard: 25 feet

Minimum side corner yard: 10 feet, 20 feet adjacent to a street

Minimum rear yard: 20 feet

Minimum perimeter setback: 40 feet, with the exception of lot 4 (known as 14 Leighton Court/TaxPin# 170174LL170-6) having a rear perimeter setback of thirty-six (36) feet as shown on the site plan received by the Department of Community Development on June 30, 2011.

Additionally, the subject application indicates that you are requesting a Minor Variance to construct a two (2) story detached garage located a maximum of four (4) feet over the required forty (40) foot perimeter setback. The subject property is zoned NUP (Neighborhood Unit Plan District), and this variance request is within the ten (10) percent limit allowed for minor variances by the Zoning Ordinance. Additionally, you have provided statements from all of the abutting property owners indicating their support for the minor variance.

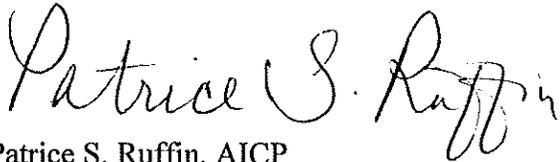
Based on the material that you have provided, the minor variance to reduce the required forty (40) foot perimeter setback to thirty-six (36) feet at 14 Leighton Court, Sandy Springs, GA 30327 is hereby approved, subject to the following condition(s):

The proposed lot shall be in accordance with the proposed site plan, provided by the applicant dated received June 30, 2011 by the Department of Community Development, for the variance(s) herein, showing a reduction of the forty (40) foot perimeter setback to thirty-six (36) feet to allow a new two (2) story detached garage, where necessary, to accommodate the portion of the encroachment(s) only.

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

RECEIVED



AM11-002 /
MV11-004

JUN 30 2011 PRE-APPLICATION REVIEW FOR MODIFICATIONS

TYPE OF MODIFICATION: ADMINISTRATIVE ZONING
City of Sandy Springs
Community Development

As indicated, the following letters are required at the time of filing:

Adjacent Property Owners: _____ Homeowner's Association: _____ Traffic Engineer: _____
Arborist: _____ Other: _____

Property Address: 14 LEIGHT CT SANDY SPRINGS Tax PIN(s): _____
GEORGIA 30327

Zoning/Use Permit Petition No. _____ Acreage: _____
Land Lot(s): 174 District: 17TH
Council District: _____
Condition(s) to be modified: REAR SETBACK

Applicant: PAUL GIRARDEAU
Phone: 770-639-0200 Fax: _____
Email: paul.girardeau@abri-ds.com

Owner: Nicholas Theos
Phone: 770-333-9484 Fax: _____
Email: ntheos@edwards-pitman.com

Representative: _____
Phone: _____ Fax: _____
Email: _____

Applicant's Intent: We would like to encroach into the rear setback by 48"
Current setback is 40'

MINOR

CONCURRENT VARIANCE(S):

Article/Section: _____ Request: 11.2.4.I.

Article/Section: _____ Request: 4' ENCROACHMENT INTO A 40' MIN. PERIMETER SETBACK.

Article/Section: _____ Request: _____

Article/Section: _____ Request: _____

Topo Map Required? _____

ATTENDANCE IS REQUIRED AT THE FOLLOWING MEETINGS: _____

Applicant's Signature: I understand the Staff and/or the City Council may add, delete, or otherwise modify any condition to the above zoning or use permit that is the subject of this modification request. To the best of my knowledge, this pre-application review is correct and complete. If additional variances are determined to be necessary, I understand that I am responsible for filing an appeal as specified by Article XXII of the City of Sandy Springs Zoning Ordinance.

Applicant: Paul Girardeau

Date: 6-29-11

Planner: 

Date: 6.30.11



JUN 30 2011

AM11-002
MV11-004

MODIFICATION/CONCURRENT VARIANCE APPLICATION
City of Sandy Springs

ALL APPLICABLE FEES 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 B150	✓
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
Zoning Modification Application page 1

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: 14 LEIGHTON CT, SANDY SPRGS 30327 TAX PIN: _____

REZONING AND/OR USE PERMIT PETITION NO. _____

CONDITION(S) TO BE MODIFIED: REAR SETBACK

REQUEST: WE WOULD LIKE TO ENCROUCH INTO THE REAR SETBACK BY 48". THE REAR SETBACK IS CURRENTLY 40'

CONDITION(S) TO BE MODIFIED: _____

REQUEST: _____

CONDITION(S) TO BE MODIFIED: _____

REQUEST: _____

CONDITION(S) TO BE MODIFIED: _____

REQUEST: _____

MINOR

REQUESTED CONCURRENT VARIANCE(S): 11.2.4.1. 4' ENCROACHMENT
INTO A 40' MIN. PERIMETER SETBACK

ARTICLE: _____ SECTION: _____

REQUESTED CONCURRENT VARIANCE(S): _____

ARTICLE: _____ SECTION: _____

REQUESTED CONCURRENT VARIANCE(S): _____

ARTICLE: _____ SECTION: _____

SECTION III. OWNER/APPLICANT/AGENT INFORMATION:

OWNER INFORMATION:

Nicholas G. Theos
TYPE OR PRINT OWNER'S NAME
14 Leighton Ct., NW
ADDRESS
Atlanta, GA 30327
CITY & STATE ZIP CODE
N.G. Theos
OWNER'S SIGNATURE

Sworn to and subscribed before me this the _____
Day of _____ 20____

NOTARY PUBLIC

770-953-3139
PHONE NUMBER

APPLICANT INFORMATION:

PAUL GIRARDEAU
TYPE OR PRINT PETITIONER'S NAME
2969 MANTOBA LANE
ADDRESS
MARIETTA GEORGIA 30062
CITY & STATE ZIP CODE
[Signature]
APPLICANT'S SIGNATURE

Sworn to and subscribed before me this the 27th
Day of June 2011

NOTARY PUBLIC

770-639-0200
PHONE NUMBER

Jamie Hux
Notary Public
Gwinnett County, Georgia
My Commission Expires May 3, 2015

ATTORNEY/AGENT INFORMATION:

Check One: Attorney Agent

TYPE OR PRINT ATTORNEY / AGENT NAME

SIGNATURE OF ATTORNEY/AGENT

ADDRESS

CITY & STATE ZIP

PHONE NUMBER

PETITIONER'S SIGNATURE

Planning and Zoning Fee Schedule

MODIFICATIONS	Any modification request	\$300 plus \$100 for each additional modification request on the same piece of property
CONCURRENT VARIANCES	Residential Districts: R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A, R-5, R-5A, NUP, CUP, MHP	\$250 plus \$50 for each additional concurrent variance requested on the same piece of property
	AG-1, R-6, TR, A, A-L, O-I, C-1, C-2, M-1A, M-1, M-2, MIX and Nonresidential Uses in Residential Districts listed above	\$350 plus \$100 for each additional concurrent variance requested on the same piece of property
	All Signs	\$350 plus \$100 for each additional request

City of Sandy Springs Sign Posting Information

The Planner will provide sign pickup date and posting deadlines.

Once you are notified:

1. The sign(s) may be picked-up at the sign company.
2. The signs are roughly 16 square feet (4 x 4). Please be prepared to obtain some type of posts that will secure the signs in the ground.
3. The signs must be posted by 8:30 a.m. on the deadline day.
4. One sign for each public street frontage is required and shall be conspicuously posted on the subject property by the applicant.
5. Sign posting on trees and utility poles is not allowed.
6. **If signs are not posted by the deadline, the application will be removed from the agenda.**
7. Please be advised that the applicant is responsible for removing the posted sign (s) within forty-eight (48) hours after the case process is fully completed. A citation will be issued for signs not removed within the forty-eight (48) hours.

Please pick up signs from:

Sandy Springs Signs
 Centre Court Shopping Center
 6066 Sandy Springs Circle
 Phone: 404-250-1990 ask for Don or Charles
 The cost of each sign is \$94.51 including tax
 (If paying by check, make payable to: "Sandy Springs Signs")

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 174, 17th Land District, City of Sandy Springs, Fulton County, Georgia, Being Lot 4, of Leighton Subdivision located in Land Lot 174, 17th Land District, City of Sandy Springs, Fulton County, Georgia and being more particularly described as follows:

Beginning at a point on the Southeasterly right-of-way of Old Powers Ferry Road, (having a right-of-way width of 50 feet), thence following along the back of curb of Leighton Court (private road) in a southerly direction a distance of 465.79 feet to a rebar pin set which is the common lot corner of lot 4 and lot 3 and said point being the POINT OF BEGINNING.

Thence South 35 degrees 54 minutes 54 seconds East for a distance of 245.49 feet to a rebar pin found;

Thence North 89 degrees 59 minutes 10 seconds West for a distance of 189.54 feet to a rebar pin found;

Thence North 20 degrees 00 minutes 59 seconds West for a distance of 163.74 feet to a rebar pin found;

Thence North 69 minutes 57 minutes 48 seconds East for a distance of 58.04 feet to a point;

Thence along a curve to the left having a radius of 192.00 feet, an arc length of 53.48 feet, and being subtended by a chord of North 61 degrees 59 minutes 02 seconds East for a distance of 53.31 feet to a rebar pin set and said point being the POINT OF BEGINNING.

Together with and subject to covenants, easements and restrictions of record.

Said property contains 27,632 square feet or 0.63 acres more or less.

Deed Book 46693 Pg 76
Filed and Recorded May-05-2008 01:32pm
2008-0104888
Real Estate Transfer Tax \$1,770.00
Cathlene Robinson
Clerk of Superior Court
Fulton County, Georgia

Return Recorded Document to:
Hale & Associates, Attorneys, LLC
3490 Piedmont Road, Suite 1000, Atlanta, GA 30305

**WARRANTY DEED
JOINT TENANCY WITH RIGHT OF SURVIVORSHIP**

State of Georgia

County of Fulton

File #: 3812-10945

THIS INDENTURE made this Twenty-eighth day of April, 2008 between, , , Piedmont Builders, Inc. of the County of Fulton, State of Georgia, as party or parties of the first part, hereinafter called Grantor, and, Linda E. Theos and Nicholas G. Theos as joint tenants with survivorship and not as tenants in common as parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantees, as joint tenants and not tenants in common, for and during their joint lives, and upon the death of either of them, then to the survivor of them, in fee simple, together with every contingent remainder and right of reversion, and to the heirs and assigns of said survivor, the following described property:

All that tract or parcel of land lying and being in Land Lot 174 of the 17th District, Fulton County, Georgia, being Lot 4, Leighton Subdivision (formerly known as 1100 Old Powers Ferry Subdivision), as per plat recorded in Plat Book 227, page 8-9, Fulton County, Georgia records, said plat being incorporated herein and made reference hereto.

THIS CONVEYANCE is made subject to all zoning ordinances, easements and restrictions of record affecting said bargained premises.

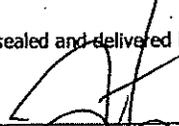
TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behalf of the said Grantees as joint tenants and not tenants in common, for and during their joint lives, and upon the death of either of them, then to the survivor of them, forever in **FEE SIMPLE**, together with every contingent remainder and right of reversion, and to the heirs and assigns of said survivor.

THIS CONVEYANCE is made pursuant to Official Code of Georgia Section 44-6-19, and it is the intention of the parties hereto to hereby create in Grantees a joint tenancy estate with right of survivorship and not tenants in common.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons whomsoever.

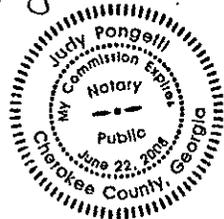
IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal this day and year first above written.

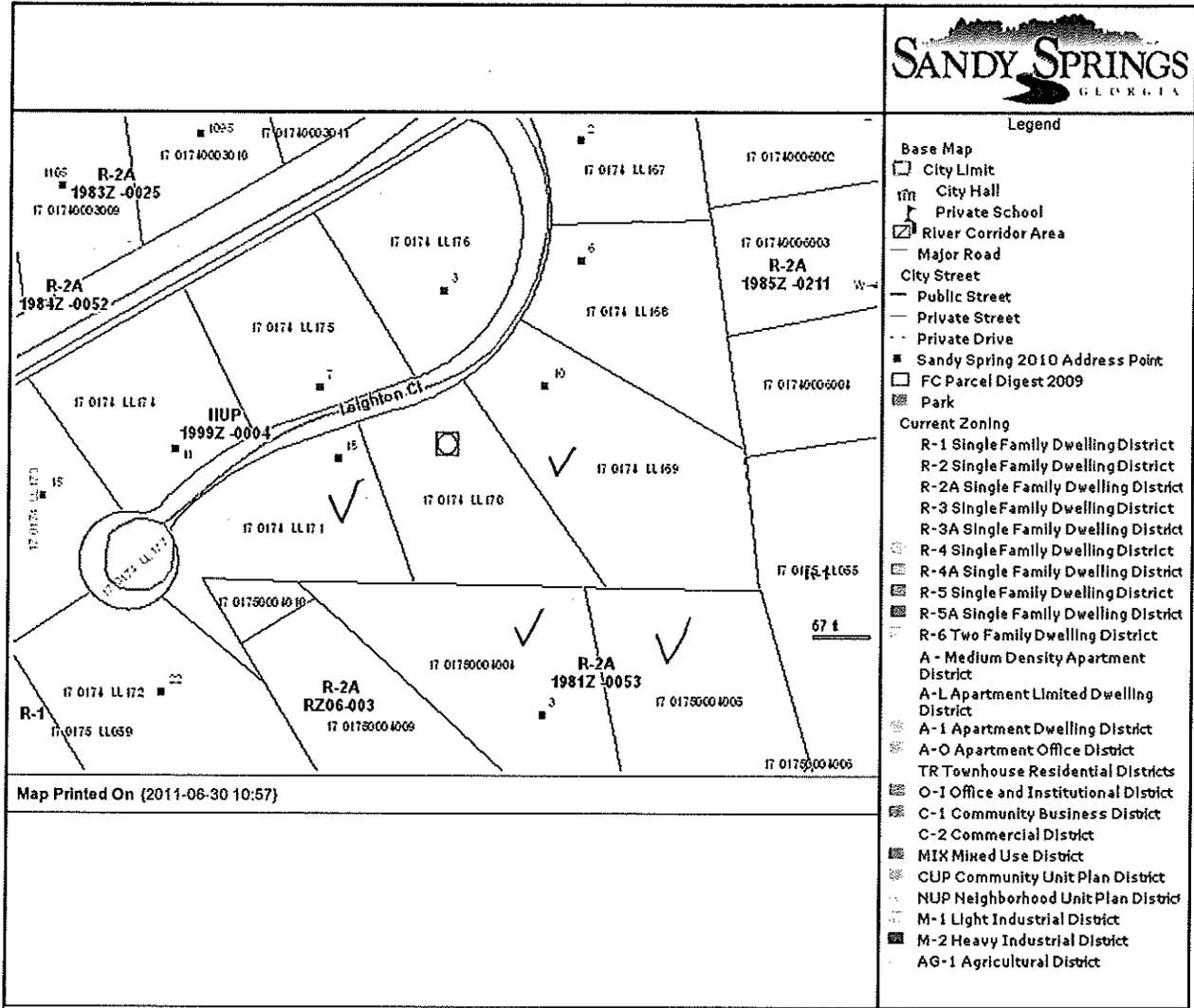
Signed sealed and delivered in the presence of:

Witness

Notary Public


Piedmont Builders, Inc.

BY: 
VP (Seal)





RECEIVED

JUN 30 2011

City of Sandy Springs
Community Development

AM 11-002/14 VII-001