

To: John McDonough, City Manager

From: Patrice S. Ruffin, AICP, Manager of Planning and Zoning PR

Date: August 8, 2011 for submission onto the August 16, 2011 City Council meeting

Agenda Item: U11-001/CV11-003 8725 Dunwoody Place, a Use Permit to allow and expand the existing Private Secondary School (grades 7-12) within an existing office complex.

CMO (City Manager's Office) Recommendation:

APPROVAL CONDITIONAL of the Use Permit to allow and expand the existing Private Secondary School (grades 7-12) within an existing office complex.

Background:

The site is located on the northeast side of Dunwoody Place, about 550 feet southeast of the intersection of Roswell Road and Dunwoody place. The subject property is zoned O-I (Office and Institutional District) under zoning case Z82-136 and conditioned to Office and accessory uses.

Even though the applicant states the school has been operating out of this location for eight (8) years, Staff notes the Business License approved by the Planning & Zoning Staff on March 18, 2011 indicates the use is only for administrative offices for the School. Additionally, Code and Fire Inspections have cited the property for failure to comply with regulations as they apply to school occupancy.

The school currently has a fulltime enrollment of approximately thirty-five (35) students, has seven (7) classrooms, and occupies a total of 3,600 square feet with largest assembly area having 400 square feet.

Discussion:

This is a Use Permit to allow and expand the existing Private Secondary School (grades 7-12) within an existing office complex. The School currently operates out of an approximately 10,286 square foot building numbered 8725 Dunwoody Place. It has seven (7) classrooms and occupies a total of 3,600 square feet with largest assembly area having 400 square feet. The applicant intends to expand the school in the 8725 building to have nine (9) classrooms and occupy 5,100 square feet with the largest assembly area having 1,000 square feet. The school currently has a fulltime enrollment of approximately thirty-five (35) students, and the owner/applicant intends to have no more than forty-eight (48) students enrolled full time.

Three (3) concurrent variances are also being requested as follows:

1. Variance from Section 19.4.40.B.3. of the Zoning Ordinance to allow an existing refuse area to be located within one hundred (100) feet of a Residential District, and
2. Variance from Section 19.4.40.B.6. of the Zoning Ordinance to allow an existing Parking area to be located within fifty (50) feet of a Residential District, and

3. Variance from Section 18.2.1. of the Zoning Ordinance to allow 110 total parking spaces where 188 total spaces are required.

Concurrent Review:

The staff held a Focus Meeting on June 8, 2011 at which the following city departments provided comments:

- Building and Development Division
- Fire Department
- Transportation Division
- Code Enforcement

In addition, the following external departments were contacted for comment:

- Atlanta Regional Commission
- Fulton County Board of Education
- Fulton County Department of Environment and Community Development
- Fulton County Department of Public Works
- Fulton County Environmental Health Services (*comments received*)
- Sandy Springs Council of Neighborhoods
- Sandy Springs Revitalization Inc.
- Georgia Department of Transportation
- City of Atlanta Department of Watershed Management (*comments received*)
- U.S. Postal Service Address Management Systems
- MARTA
- Fulton County Emergency Management



Rezoning Petition No. U11-001/CV11-003

HEARING & MEETING DATES			
Community Zoning Information Meeting May 24, 2011	Community Developer Resolution Meeting June 30, 2011	Planning Commission Hearing August 4, 2011	Mayor and City Council Hearing August 16, 2011

APPLICANT/PETITIONER INFORMATION			
Property Owners Atlantis Partners Dunwoody, LLC	Petitioner Atlanta Country Day School	Representative Dennis J. Webb, Jr.	

PROPERTY INFORMATION	
Address, Land Lot, and District	8725 Dunwoody Place Land Lot 368, District 6
Council District	2
Frontage and Area	375 feet of frontage along the northeast side of Dunwoody Place. The subject property has a total area of approximately 2.953 acres (128, 633 square feet).
Existing Zoning and Use	O-I (Office and Institutional District) conditional under zoning case Z82-136. The subject property is currently developed with an office complex.
Overlay District	Suburban
2027 Comprehensive Future Land Use Map Designation	Living-Working Regional (LWR), Node 14: Northeast Corner of the Roswell Road and Dunwoody Place Intersection

Proposed Use Use Permit to allow and expand the existing Private Secondary School (grades 7-12).

INTENT
A USE PERMIT TO ALLOW AND EXPAND THE EXISTING PRIVATE SECONDARY SCHOOL WITHIN AN EXISTING OFFICE COMPLEX, WITH CONCURRENT VARIANCES.

This is a Use Permit to allow and expand the existing Private Secondary School (grades 7-12) within an existing office complex. The School currently operates out of an approximately 10,286 square foot building numbered 8725 Dunwoody Place. It has seven (7) classrooms and occupies a total of 3,600 square feet with largest assembly area having 400 square feet. The applicant intends to expand the school in the 8725 building to have nine (9) classrooms and occupy 5,100 square feet with the largest assembly area having 1,000 square feet. The school currently has a fulltime enrollment of approximately thirty-five (35) students, and the owner/applicant intends to have no more than forty-eight (48) students enrolled full time.

Three (3) concurrent variances are also being requested as follows:

1. Variance from Section 19.4.40.B.3. of the Zoning Ordinance to allow an existing refuse area to be located within one hundred (100) feet of a Residential District, and
2. Variance from Section 19.4.40.B.6. of the Zoning Ordinance to allow an existing Parking area to be located within fifty (50) feet of a Residential District, and
3. Variance from Section 18.2.1. of the Zoning Ordinance to allow 110 total parking spaces where 188 total spaces are required.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

U11-001 - APPROVAL CONDITIONAL
CV11-003#1 - APPROVAL CONDITIONAL
CV11-003#2 - APPROVAL CONDITIONAL
CV11-003#3 - APPROVAL CONDITIONAL

PLANNING COMMISSION RECOMMENDATION

U11-001 - APPROVAL CONDITIONAL
CV11-003#1 - APPROVAL CONDITIONAL
CV11-003#2 - APPROVAL CONDITIONAL
CV11-003#3 - APPROVAL CONDITIONAL

The petition was heard at the August 4, 2011 Planning Commission meeting. The Commission recommended approval subject to Staff conditions amended as follows: Add a condition that the subject Private School shall not have an outdoor playground; add a condition that the subject Private School shall not sequester common area for exclusive use in violation of the restrictive covenants of the North River Square Association, Inc.; add a condition that the applicant shall, by August 15th of every year, provide the City an annual affidavit detailing the total maximum enrollment for their academic year, subject to the approval of the Department of Community Development; and eliminate staff recommended condition 1.d. Approved (5-0, Thatcher, Pond, Rubenstein, Maziar, and Tart for; Duncan not voting; Rupnow absent).

Location Map

8725 Dunwoody Place



BACKGROUND

The site is located on the northeast side of Dunwoody Place, about 550 feet southeast of the intersection of Roswell Road and Dunwoody place. The subject property is zoned O-I (Office and Institutional District) under zoning case Z82-136 and conditioned to Office and accessory uses.

Even though the applicant states the school has been operating out of this location for eight (8) years, Staff notes the Business License approved by the Planning & Zoning Staff on March 18, 2011 indicates the use is only for administrative offices for the School. Additionally, Code and Fire Inspections have cited the property for failure to comply with regulations as they apply to school occupancy.

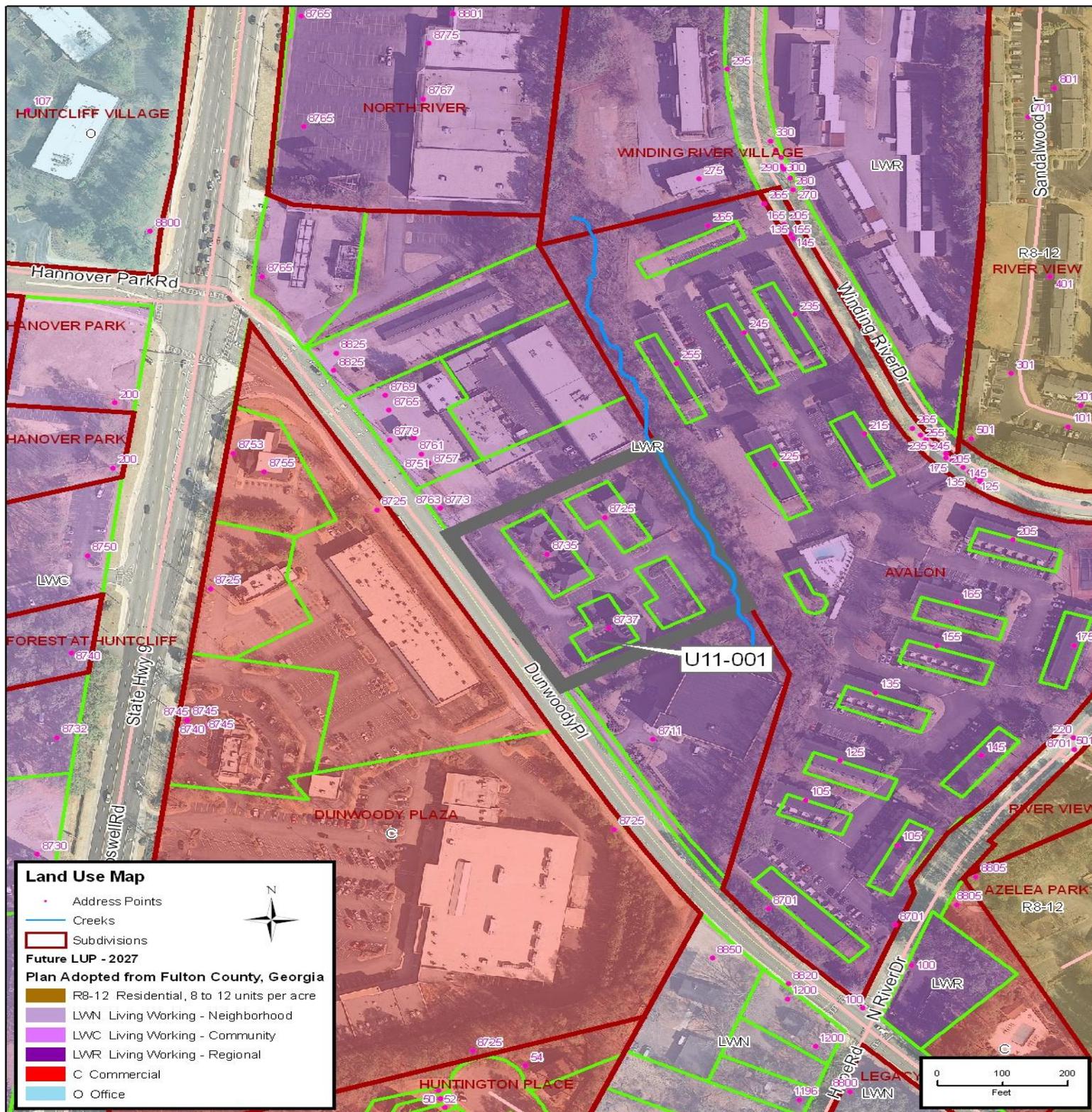
The school currently has a fulltime enrollment of approximately thirty-five (35) students, has seven (7) classrooms, and occupies a total of 3,600 square feet with largest assembly area having 400 square feet.

EXISTING LAND USE AND ZONING OF ABUTTING PROPERTY

	Current Zoning	Proposed Use	Land Area (Acres)	Square footage or Number of Units	Density (Square footage or Units per Acre)
SUBJECT PETITION U11-001/ CV11-003	O-I	Private Secondary School	2.953 acres	46,974 SF (when built-out)	15,907.20 SF/ac
Location in relation to subject property	Zoning	Use	Land Area (Acres)	Square Footage or Number of Units	Density (Square Feet or Units Per Acre)
Northwest	C-2 Z94-026	Shopping Center/Mini Warehouse	1.95 acres	28,000 SF	14,359 SF/acre
Northeast	A RZ06-008	Multi-family (Avalon)	14.60 acres	133 units	9.11 units/acre
Southeast	C-1 Z97-089	Commercial (Self Storage)	1.90 acres	105,120 SF	55,326 SF/acre
Southwest	C-1 Z91-035	Shopping Center (Dunwoody Plaza)	11.73 acres	145,392 SF	12,395 SF/acre

Future Land Use Map

8725 Dunwoody Place



Photographs



Subject Property (looking West)



Subject Property (looking Northeast)



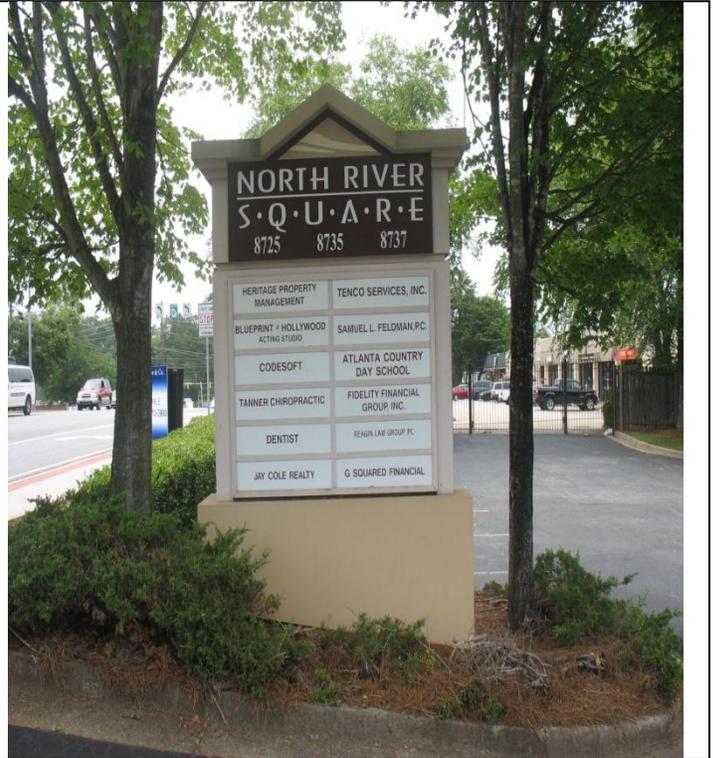
Subject Property (looking east)



Adjacent Property to the Southeast (Self Storage)



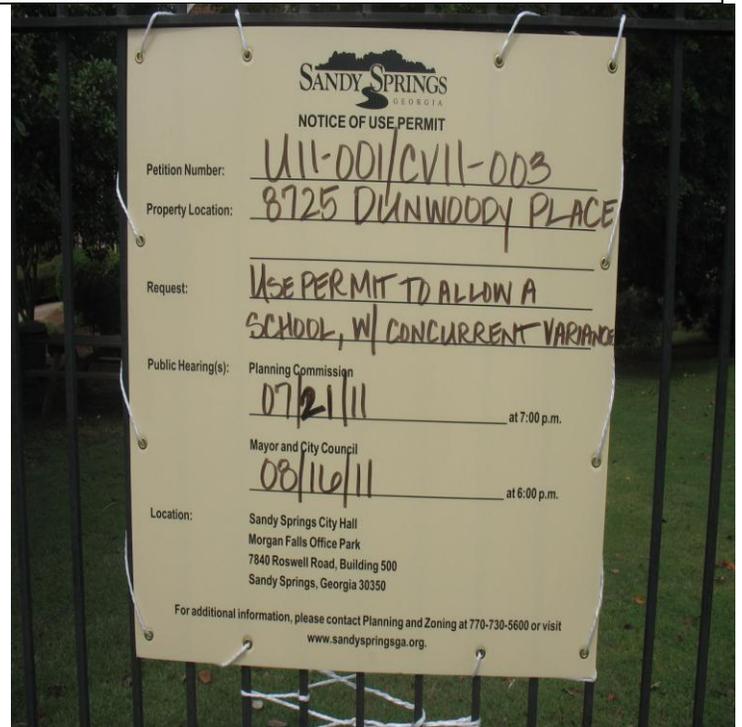
Adjacent Property to the Southwest
(Dunwoody Plaza)



Looking Northwest toward Roswell Road



Adjacent Property to the Northwest



Sign

SITE PLAN ANALYSIS

The overall site plan, provided by the applicant, indicates the subject property is divided, by ownership, into five (5) tracts. The subject property has a square shape and has a stream running the length of the rear property line. Under the Z82-136 approval, up to four (4) buildings may be constructed. The site plan shows three (3) of the four (4) buildings currently located on the site.

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 is a stream running the length of the rear property line. The report, in its entirety, is within the case file as a matter of record.

USE PERMIT CONSIDERATIONS

The applicant is requesting a use permit to allow and expand the existing Private Secondary School (grades 7-12).

Per Article 19.2.4, *Use Permit Considerations*, the City Council shall consider each of the following:

- A. *Whether the proposed use is consistent with the Comprehensive Land Use Plan and/or Economic Development Revitalization plans adopted by the City Council;*

Finding: The staff is of the opinion that the proposed use is consistent with the Future Land Use Map, which designates the property as Living-Working Regional (LWR), Node 14: Northeast Corner of the Roswell Road and Dunwoody Place Intersection. The proposal is appropriate for LWR designated areas where the overall intent is to have a mixture of land uses that includes institutional uses such as the existing and proposed Private Secondary School (grades 7-12).

- B. *Compatibility with land uses and zoning districts in the vicinity of the property for which the Use Permit is proposed;*

Finding: The staff is of the opinion the proposed use is compatible with the land uses and zoning districts within the vicinity of the property.

- C. *Whether the proposed use may violate local, state and/or federal statutes, ordinances or regulations governing land development;*

Finding: The staff is of the opinion the proposed uses would not violate any local, state, and/or federal statutes, ordinances, or regulations.

- D. *The effect of the proposed use on traffic flow, vehicular and pedestrian, along adjoining streets;*

Finding: The staff is of the opinion that the proposal will not result in a use that will cause an excessive or burdensome use of the existing infrastructure. Public Works does not anticipate that the proposed use permit will cause an excessively burdensome use of existing streets or transportation facilities.

E. *The location and number of off-street parking spaces;*

Finding: The *Basic Off-street Parking Requirements* for the facility are as follows:

- $41,874 / 1,000 = 41.874 \times 2.34 = 98$ spaces required for Offices when built-out (Grandfathered ratio)
- $10 \text{ (spaces)} \times 9 \text{ (proposed classrooms)} = 90$ spaces required for proposed Secondary School (grades 7-12)

The total parking required is 188, and the applicant is providing 110 parking spaces.

F. *The amount and location of open space;*

Finding: The applicant provided a site plan showing a property that, when (and if) fully developed according to the Z82-136 approval, will have: a ten (10) foot landscape strip along the front property line, landscape islands within the parking field, and significant green space around the perimeter of the property.

G. *Protective screening;*

Finding: The proposed use and associated structure are well screened from surrounding properties by a heavily wooded buffer zone/landscape area separating the facility from the multi-family residential property to the northeast.

H. *Hours and manner of operation;*

Finding: The standard hours and manner of operation would be from 8:45 a.m. to 3:45 p.m. and would be consistent with other schools.

I. *Outdoor lighting; and*

Finding: Any modification to or addition of outdoor lighting will not adversely impact adjacent and/or surrounding properties.

J. *Ingress and egress to the property.*

Finding: Ingress and egress to the property will not be modified as current ingress and egress to the property is adequate for the use and the proposed use thereof.

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 three (3) concurrent variances as follows:

1. Variance from Section 19.4.40.B.3. of the Zoning Ordinance to allow an existing refuse area to be located within one hundred (100) feet of a Residential District.

The applicant has indicated this variance will not result in any harm to the health and safety of the general public and that application of the requirement would place a hardship on the applicant. The applicant has indicated that this variance is in harmony with the area and in harmony with the general purpose and intent of the Zoning Ordinance.

The staff is of the opinion the variance request is in harmony with the intent of the Zoning Ordinance and the proposal will not pose a detriment to the public because the refuse area is existing and is sufficiently screened from surrounding properties by a heavily wooded buffer zone/landscape area separating the facility from the multi-family residential property to the northeast. Therefore, based on these reasons, the staff recommends APPROVAL of the variance to allow an existing refuse area to be located within one hundred (100) feet of a Residential District.

2. Variance from Section 19.4.40.B.6. of the Zoning Ordinance to allow an existing Parking area to be located within fifty (50) feet of a Residential District.

The applicant has indicated this variance will not result in any harm to the health and safety of the general public and that application of the requirement would place a hardship on the applicant. The applicant has indicated that this variance is in harmony with the area and in harmony with the general purpose and intent of the Zoning Ordinance.

The staff is of the opinion the variance request is in harmony with the intent of the Zoning Ordinance and the proposal will not pose a detriment to the public because the Parking area is existing and is sufficiently screened from surrounding properties by a heavily wooded buffer zone/landscape area separating the facility from the multi-family residential property to the northeast. Therefore, based on these reasons, the staff recommends APPROVAL of the variance to allow an existing Parking area to be located within fifty (50) feet of a Residential District.

3. Variance from Section 18.2.1. of the Zoning Ordinance to allow 110 total parking spaces where 188 total spaces are required.

The applicant has indicated this variance will not result in any harm to the health and safety of the general public and that application of the requirement would place a hardship on the applicant. The applicant has indicated that this variance is in harmony with the area and in harmony with the general purpose and intent of the Zoning Ordinance.

The staff is of the opinion the variance request is in harmony with the intent of the Zoning Ordinance and the proposal will not pose a detriment to the public because the amount of parking spaces has adequately served the entire facility for the eight (8) years the school has operated there and the owner/applicant has proffered to limit the total enrolment to forty-eight (48) students. Additionally, Staff notes that not every student would drive themselves, especially those in grades seven (7) through nine (9). Therefore, based on these reasons, the staff recommends APPROVAL of the variance to allow 110 total parking spaces where 188 total spaces are required.

DEPARTMENT COMMENTS

The staff held a Focus Meeting on June 8, 2011 at which the following departmental comments were provided:

BUILDING & DEVELOPMENT DIVISION	Sandy Springs Building Officer	<ul style="list-style-type: none"> ▪ The School at 8725 Dunwoody Place will have to comply with the applicable sections of the Life Safety Code and the International Building Code.
	Sandy Springs Chief Engineer	<ul style="list-style-type: none"> ▪ There are no Site Development requirements that need to be addressed at this time.
	Sandy Springs Landscape Architect/ Arborist	<ul style="list-style-type: none"> ▪ There are no landscape and stream requirements that need to be addressed at this time.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	<ul style="list-style-type: none"> ▪ Provide a supervised NFPA 13 sprinkler system throughout the structure per NFPA 101: 15.3.5. ▪ Provide a fire alarm per 101: 15:3.4.
CODE ENFORCE	Officer	<ul style="list-style-type: none"> ▪ All fire safety requirements must be met at this location prior to approval of Use Permit to be in compliance with code requirements. Please contact Officer Al Ferrell, or Fire Marshall- Cheryl Walls for status.
TRANSPORTATION	Sandy Springs Transportation Planner	<ul style="list-style-type: none"> ▪ Public Works does not anticipate that the proposed zoning modification will cause an excessively burdensome use of existing streets or transportation facilities.
	Georgia Department of Transportation	<ul style="list-style-type: none"> ▪ 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 INVOLVEMENTRequired Meetings

The applicant attended the following required meetings:

- Community Zoning Information Meeting held May 24, 2011 at the Sandy Springs City Hall
- Community/Developer Resolution Meeting was held June 30, 2011 at the Sandy Springs City Hall

Public Comments

- Public comments have been made regarding how a school could have been operating under these conditions for eight (8) years.

Notice Requirements

The petition was advertised in the Daily Report on July 14, 2011 and on July 28, 2011. The applicant has posted signs issued by the Department of Community Development along the frontage of Dunwoody Place on June 17, 2011.

Public Participation Plan and Report

The applicant will meet the Public Participation Plan requirements. The applicant is required to submit the Public Participation Report seven (7) days prior to the Mayor and City Council Hearing on August 16, 2011. The Public Participation Report will be submitted on or before August 9, 2011.

CONCLUSION TO FINDINGS

It is the opinion of the staff that the petition for Use Permit to allow for a Private School is in conformity with the policies of the Comprehensive Plan and the intent of the Future Land Use Map. Therefore, based on these reasons, the staff recommends APPROVAL CONDITIONAL of the petition for the Use Permit, with concurrent variances, subject to conditions.

STAFF RECOMMENDED CONDITIONS

Should the Mayor and City Council decide to grant the Use Permit and Concurrent Variances, the staff recommends that 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 abide by the following:
 - a. To the site plan received by the Department of Community Development dated May 6, 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. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy.
 - b. To locate a Private School, with associated accessory uses, on Tract B (a.k.a. 8725 Dunwoody Place/TaxPin# 06036800070030). The aforementioned Private School shall operate out of nine (9) classrooms and occupy a total of 5,100 square feet with the largest assembly area having 1,000 square feet.
 - c. To restrict the total number of enrolled students to no more than 48.
 - d. The applicant shall, by August 15th of every year, provide the City an annual affidavit detailing the total maximum enrollment for their academic year, subject to the approval of the Department of Community Development.
 - e. The subject Private School shall not have an outdoor playground.
 - f. The subject Private School shall not sequester common area for exclusive use in violation of the restrictive covenants of the North River Square Association, Inc.
2. To the owner's agreement to provide the following site development standards:
 - a. To reduce the zoning regulations to the extent necessary for all the existing non-conforming (grandfathered) structure(s) to comply in accordance with the site plan received by the Department of Community Development dated May 6, 2011.

Attachments

Letter of Intent received July 1, 2011

Applicant Use Permit Considerations dated July 1, 2011

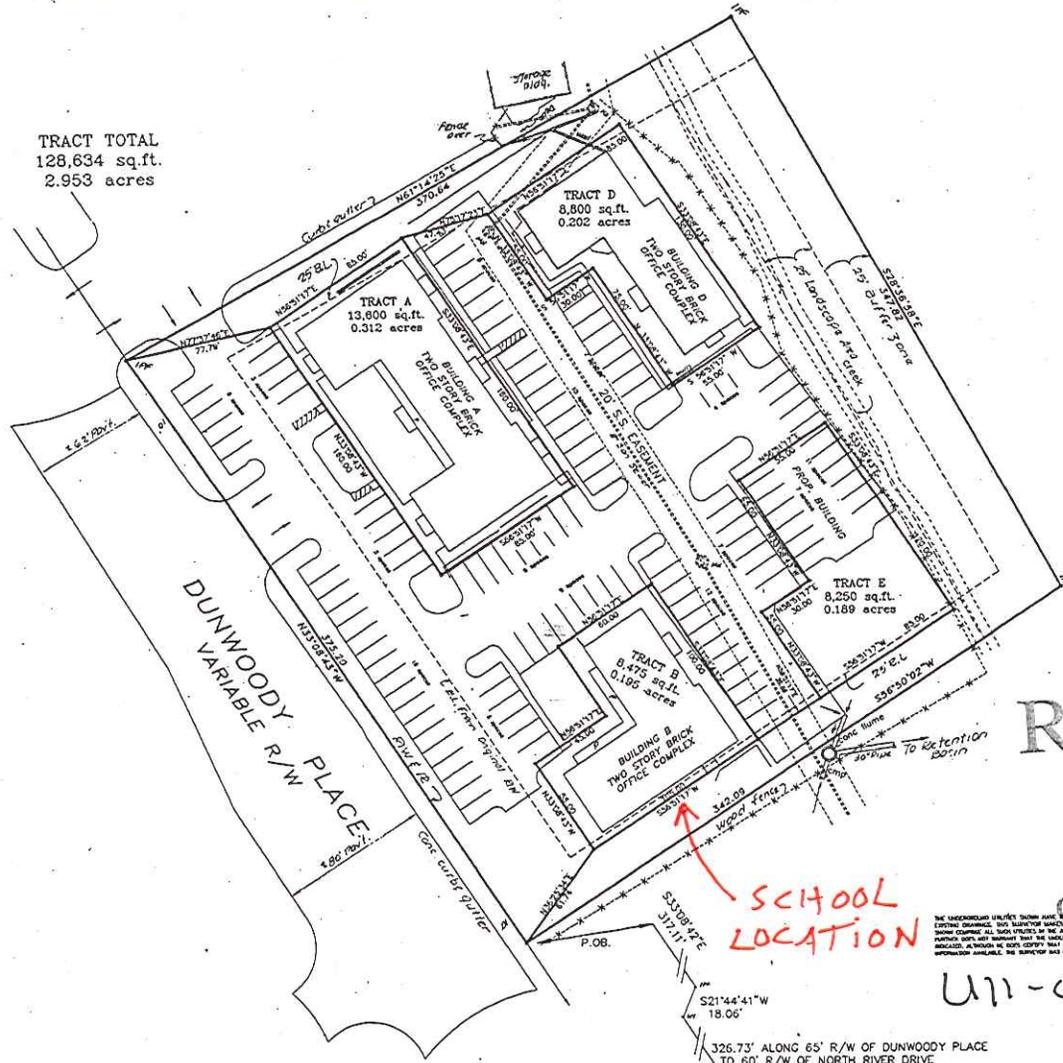
Letter of Intent addressing Concurrent Variances received July 1, 2011

Site Plan(s) received May 6, 2011

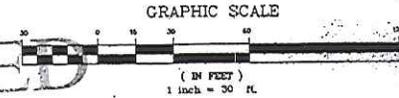
Letter Fulton County Dept. of Health and Wellness dated received July 18, 2011

Letter City of Atlanta Dept. of Watershed Management received July 6, 2011

TRACT TOTAL
128,634 sq.ft.
2.953 acres



- LEGEND**
- STAB. - ABREVIATION
 - P.P. - POWER POLE
 - L.P. - LIGHT POLE
 - D.I. - DROP INLET
 - M.W. - HEAD WALL
 - R.C.P. - REINFORCED CONCRETE PIPE
 - M.H. - MAN HOLE
 - R/W - RIGHT OF WAY
 - E.P. - EDGE OF PAVEMENT
 - W.M. - WATER METER
 - I.P.F. - IRON PIN FOUND
 - WATER VALVE
 - GAS VALVE
 - FENCE LINE
 - OVERHEAD UTILITY LINE
 - FIRE HYDRANT
 - G.M. - GAS METER



RECEIVED

MAY 06 2011

City of Sandy Springs
Community Development

SCHOOL
LOCATION

U11-001/EV11-003

The undersigned hereby certifies that this plat was prepared by him or under his direct supervision and that he is a duly Licensed Professional Engineer in the State of Georgia. He further certifies that the information furnished hereon is in the best of his knowledge and belief true and correct and that he is not aware of any facts or circumstances which would render the same misleading or deceptive. He also certifies that he is not aware of any facts or circumstances which would render the same misleading or deceptive. He also certifies that he is not aware of any facts or circumstances which would render the same misleading or deceptive.

A.S. Ciometti 0-24-2000



- All iron pins are 1/2" diameter unless otherwise noted.
- Equipment used: Topcon GTS Total Station
- The field notes upon which this plat is based have a closure precision of 1 foot in 25,000 feet and an angular error of 0.3 seconds per angle point.
- This plat has been calculated for closure and is found accurate within one foot in 137,643 feet.
- This plat subject to all easements public and private.
- In my opinion this plat or survey is a correct representation of the land plotted and has been prepared in conformity with the minimum standards and requirements of the law.

A.S. Ciometti & Associates, Inc.
Civil Engineers Land Surveyors Landscape Architects
107 Peachtree Park Drive, N.E. Atlanta, Ga. 30309
Phone: (404) 365-8888

NORTH RIVER SQUARE
Land Lot 368 6th District
Fulton County, Georgia
SCALE 1" = 30' 8/24/2000

Plat Book: _____ Page: _____
Deed Book: _____ Page: _____

Area = 128,634 S.F. (2.953 Acres)
This plat may be based on a recorded plat from town pins referenced on said plat for closure use-in accordance to F.I.R.M. Comm. Panel dated 6/22/1990. This property is not located in an area having special flood hazards.

Computed by: MDC
Drawn by: JLF
Checked by: ASG

Party/Client: NEN
Date Surveyed: 7/12/2000
Date Drawn: 8/24/2000

- LEGEND**
- = Barbed Wire
 - = Chain Link Fence
 - SS = Sanitary Sewer
 - SSM = Sewer Manhole
 - FFH = Fire Hydrant
 - SSC = Sanitary Sewer Cess
 - PP = Power Pole
 - JB = Junction Box
 - IPP = Iron Pin Placed
 - II = Inlet
 - IFP = Iron Pin Found
 - PL = Property Line
 - MON = Monument
 - CM = Corrugated Metal Pipe
 - LP = Light Pole
 - RCP = Reinforced Concrete
 - EP = Edge Pavement
 - BE = Bridge Estimation
 - OTP = Open Top Pin
 - WV = Water Valve
 - CTP = Drop Top Pin
 - WM = Water Meter
 - CC = Back of Curve
 - RV = Right of Way
 - CL = Centerline
 - = Power Line

PLAT AND SURVEY FOR
NORTH RIVER PARTNERS, LLC
PRIMARY CAPITAL ADVISORS, LC
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

R. Cobb & Son, LLC
Branch, Banking and Trust Company
Old Republic National Title Insurance Company

AMENDED STATEMENT OF INTENT

and

Other Material Required by
City of Sandy Springs Zoning Ordinance
For a Use Permit (School, Private or Special: 19.4.40) and Concurrent Variances

of

ATLANTA COUNTRY DAY SCHOOL

for

± 2.953 Acres of Land Located in
Land Lot 368, 6th District
Fulton County, Georgia

Submitted for Applicant by:

Kathryn M. Zickert
Dennis J. Webb, Jr.
Smith, Gambrell & Russell, LLP
Promenade II, Suite 3100
1230 Peachtree Street, NE
Atlanta, Georgia 30309
(404) 815-3500

RECEIVED

JUL 01 2011

City of Sandy Springs
Community Development

U11-001

CV11-003

I. INTRODUCTION

Atlanta Country Day School (“ACDS” or the “School”) is an independent, nonsectarian, coeducational, college preparatory school for students in grades 7-12. It began in 1977 in unincorporated Sandy Springs. The School currently has a fulltime enrollment of approximately 35 students and is designed for:

- College bound students of average to above average abilities;
- Creative students who need a supportive environment individualized to recognize their unique talents; and
- Students who learn best in small group classes that incorporate multi-sensory instruction.

Fulltime students attend classes Monday-Thursday and benefit from the 6:1 student-teacher ratio, which enables each to receive extensive personal attention. ACDS also offers “Extended Day” programs year round, which are individualized programs custom-designed to meet the unique needs of a particular student. “Extended Day” programs focus on students who have failed a course in the past, want to get ahead in their academic career or for any reason have not been able to finish a semester at their existing school. Further, ACDS offers a summer school program, a Home Schooling/Distance Learning Program, and special, customized traveling programs for young artists, athletes and others whose special talents and goals prevent them from enrolling in a traditional day school program; ACDS has several nationally-known recording artists currently in this program.

Since 2003, the ACDS campus has been located at 8725 Dunwoody Place in an O-I (Office Institutional) zoned building east of Roswell Road (the “Subject Property”). It currently

RECEIVED

JUL 01 2011

U11-001

SGR8959501.1

uses approximately 3,600 square feet of space in a stand alone building. ACDS has seven (7) classrooms and the largest assembly area contains roughly 400 square feet. It intends to expand its facilities in the current building by approximately 1,500 square feet and ultimately have nine (9) classrooms and an assembly area of roughly 1,000 square feet. The expansion will allow ACDS to serve up to an additional ten (10) fulltime students. ACDS does not intend to make any changes to the exterior of the current building, the parking areas, or the setbacks or buffers; from an exterior standpoint, ACDS plans to use the existing structure and grounds "as is".

II. CRITERIA TO BE APPLIED TO USE PERMITS

A. **Whether the proposed use is consistent with the Comprehensive Land Use Plan and/or Economic Development Revitalization Plans adopted by the City Council.**

Yes. The Subject Property is designated "Living-Working Regional" on the Comprehensive Land Use Plan. This category envisions a mix of uses, including an "institutional" use like that proposed. 2027 Comprehensive Plan, p. 40. Further, "Schools, Private or Special," are allowed by Use Permit in every zoning district in the City.

B. **Compatibility with land uses and zoning districts in the vicinity of the property for which the use permit is proposed.**

The Subject Property fronts Dunwoody Place and is in immediate proximity to Roswell Road. As stated above, it has been home to ACDS for eight (8) years. The Subject Property is part of an OI-zoned office park that contains a total of three (3) buildings and houses a variety of office uses. It surrounded on the south, west and north by commercially zoned (C-1 and C-2) parcels. Adjacent and to the east is a property zoned "A Medium Density Apartment," which is intended for medium density multi-family dwellings. A significantly forested buffer and a grade drop-off separate the Subject Property from this parcel.

RECEIVED

JUL 01 2011

City of Sandy Springs
Community Development

011-001

C. Whether the proposed use may violate local, state and/or federal statutes, ordinances or regulations governing land development.

As alluded to above, the proposed use is allowed in the OI zoning district with a Use Permit. Further, the Applicant is unaware of any state or federal statutes, ordinances or regulations governing land development with which this request does not comply. Certain variances, however, may be needed because the Subject Property has already been developed:

1. 19.4.40(B)(3): Allow building and refuse areas to remain where currently located;
2. 19.4.40(B)(6): Allow parking areas to remain where located; and
3. 18.2.1: Allow for Existing Number of Parking Spaces.

D. The effect of the proposed use on traffic flow, vehicular and pedestrian, along adjoining streets.

Again, ACDS has operated at the Subject Property for eight (8) years. The ACDS student-body is small and has had no recognizable effect on traffic flow, vehicular or pedestrian. The Applicant notes that it is proposing a small, \pm 1,500 square foot addition but, again, impacts from this addition will be *de minimus*. According to the *Institute of Transportation Engineers, Trip Generation* (7th Edition (High School (530))), the addition could increase vehicular traffic by an average of four (4) trips in the AM peak hour and one (1) trip in the PM peak hour, which generally does not coincide with office and commercial PM peak hours.

E. The location and number of off-street parking spaces.

The City's Zoning Ordinance, section 18.2.1 (Schools), would require 29 spaces based on 1,000 square foot assembly area. ACDS has at least 35 dedicated spaces and other spaces available.

U11-001

RECEIVED

JUL 01 2011

City of Sandy Springs
Community Development

F. The amount and location of open spaces.

The Subject Property already is developed, so this Application will have no effect on the amount or location of open spaces.

G. Protective screening.

Protective screening is not necessary for the Subject Property, which has been used as a school for eight (8) years and is surrounded by commercial and multi-family uses. The Applicant notes further that the multi-family parcel to the east is buffered by a heavily forested area at least 50 feet in width and a grade change.

H. Hours and manner of operation.

The hours and manner of operation will be as they have been for the last eight (8) years. The regular school day is from 8:45 am to 3:45 pm, Monday through Thursday. The School also offers after school assistance and, on Friday and Saturday, individual meetings by appointment for special projects and tutoring. The number of students involved in after school activities and individual Friday and Saturday meetings by appointment is small (i.e. 3-4 total).

I. Outdoor lighting.

This proposal will not affect outdoor lighting, which already exists on the Subject Property.

J. Ingress and egress to the property.

Ingress and egress to the school will not change.

III. PRESERVATION OF CONSTITUTIONAL RIGHTS

As owner of the property, the Applicant respectfully submits that the current zoning classification of and rules relative to a private school's right to use the Subject Property established in the Sandy Springs Zoning Ordinance, to the extent they prohibit this use,

RECEIVED

JUL 01 2011

City of Sandy Springs
Community Development

constitute an arbitrary, irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the property owner in violation of the due process and equal protection rights of the property owner guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia. Further, the failure to allow this use would constitute a taking of the owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

Further, the Applicant respectfully submits that the City Council's failure to approve the requested Use Permit would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the property owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

A refusal to allow the use in question would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to allow the use in question would be invalid inasmuch as it would be denied pursuant to an ordinance which is not in compliance with the Zoning Procedures Law, O.C.G.A.

RECEIVED

JUL 01 2011

U11-001

§ 36-66-1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

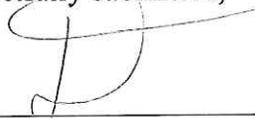
Finally, the Applicant raises the defense of failure to exhaust administrative remedies, including but not limited to, the failure to appeal to the Board of Zoning Appeals the interpretations and determinations of the Sandy Springs officials authorized to interpret the zoning ordinance.

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that a Use Permit be granted, along with the concurrent variances. The Applicant also invites and welcomes any comments from Staff or other officials of Sandy Springs so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 1 day of ^{July} June, 2011.

Respectfully submitted,



Kathryn M. Zickert
Dennis J. Webb, Jr.
Attorneys For Applicant

Smith, Gambrell & Russell, LLP
Promenade II, Suite 3100
1230 Peachtree Street, N.E.
Atlanta, Georgia 30309-3592

RECEIVED

JUL 01 2011

City of Sandy Springs
Community Development

011-001

AMENDED STATEMENT OF INTENT ADDRESSING CONCURRENT VARIANCES

and

Other Material Required by
City of Sandy Springs Zoning Ordinance
For a Use Permit (School, Private or Special: 19.4.40) and Concurrent Variances

of

ATLANTA COUNTRY DAY SCHOOL

for

± 2.953 Acres of Land Located in
Land Lot 368, 6th District
Fulton County, Georgia

Submitted for Applicant by:

Kathryn M. Zickert
Dennis J. Webb, Jr.
Smith, Gambrell & Russell, LLP
Promenade II, Suite 3100
1230 Peachtree Street, NE
Atlanta, Georgia 30309
(404) 815-3500

RECEIVED

JUL 01 2011

City of Sandy Springs
Community Development

U11-001

CV11-003

I. INTRODUCTION

Atlanta Country Day School (“ACDS” or the “School”) is an independent, nonsectarian, coeducational, college preparatory school for students in grades 7-12. It began in 1977 in unincorporated Sandy Springs. The School currently has a fulltime enrollment of approximately 35 students and is designed for:

- College bound students of average to above average abilities;
- Creative students who need a supportive environment individualized to recognize their unique talents; and
- Students who learn best in small group classes that incorporate multi-sensory instruction.

Fulltime students attend classes Monday-Thursday and benefit from the 6:1 student-teacher ratio, which enables each to receive extensive personal attention. ACDS also offers “Extended Day” programs year round, which are individualized programs custom-designed to meet the unique needs of a particular student. “Extended Day” programs focus on students who have failed a course in the past, want to get ahead in their academic career or for any reason have not been able to finish a semester at their existing school. Further, ACDS offers a summer school program, a Home Schooling/Distance Learning Program, and special, customized traveling programs for young artists, athletes and others whose special talents and goals prevent them from enrolling in a traditional day school program; ACDS has several nationally-known recording artists currently in this program.

Since 2003, the ACDS campus has been located at 8725 Dunwoody Place in an O-I (Office Institutional) zoned building east of Roswell Road (the “Subject Property”). It currently uses approximately 3,600 square feet of space in a stand alone building. ACDS has seven (7) classrooms and the largest assembly area contains roughly 400 square feet. It intends to expand

RECEIVED

JUL 01 2011

U11-001

SGR\8959180.1

City of Sandy Springs
Community Development

its facilities in the current building by approximately 1,500 square feet and ultimately have nine (9) classrooms and an assembly area of roughly 1,000 square feet. The expansion will allow ACDS to serve up to an additional ten (10) fulltime students. ACDS does not intend to make any changes to the exterior of the current building, the parking areas, or the setbacks or buffers; from an exterior standpoint, ACDS plans to use the existing structure and grounds “as is”.

II. APPLICATION OF VARIANCE CONSIDERATIONS (22.3.1) TO VARIANCES SOUGHT

As alluded to above, the Subject Property was developed several decades ago. The changes the Applicant proposes for the Subject Property are all internal to the existing building; the exterior will remain “as is,” as will the parking areas, buffers, setbacks and other site features. Therefore, the Applicant seeks variances simply to address and allow for existing conditions.

A. 19.4.40(B)(3): Allow Buildings and Refuse Area to Remain Where Currently Located

A multi-family development exists east of the Subject Property. Section 19.4.40(B)(3) states that “[b]uildings, and refuse areas shall not be located within 100 feet of a residential district and/or AG-1 district used for single family.” The Applicant needs relief from this provision because of existing conditions.

Building “D” as reflected on the As-Built Survey submitted with the application sits approximately 60 feet, at its closest point, from the eastern property line.¹ Similarly, refuse containers for the entire office park are located in what would be the southeast corner of Tract “E”, and roughly 42 feet, at their closest point, from the eastern property boundary. These conditions have existed for many years and are screened from the parcel to the east by a heavily

¹ Tract “E” as reflected on the As-Built Survey was never developed.

011-001

RECEIVED

JUL 01 2011

City of Sandy Springs
Community Development SGR18959180.1

wooded buffer at least 50 feet in width and a grade change. The Applicant seeks a variance to allow these two (2) site features to remain where currently situated. This variance request should be granted (1) because it is in harmony with the general purpose and intent of the zoning ordinance and (2) because the application of this provision of the zoning ordinance to the Subject Property, due to extraordinary and exceptional conditions pertaining to the Subject Property, would create an unnecessary hardship for ACDS while causing no detriment to the public.

B. 19.4.40(B)(6): Allow Parking Areas to Remain Where Located

Section 19.4.40(B)(6) states that “[p]arking areas shall not be located within 50 feet of any residential district and/or AG-1 district used for single family. Again, a multi-family development exists to the east. According to the As-Built Survey, portions of the parking area may be as close as 42 feet to the eastern property line. As before, this parking has been in place for years and is adequately buffered. The Applicant makes this variance request to allow all existing parking within 50 feet of the eastern property boundary to remain.

C. 18.2.1: Allow for Existing Number of Parking Spaces

The Subject Property currently has 110 parking spaces, and has for almost 30 years. Parking is not now and has never been an issue. According to the Planning Staff, the Zoning Ordinance would require this 45 student school to provide 90 parking spaces, or 78 more than are on-site now. The fact that the Subject Property is fully developed, along with its size, shape, topography, make this impossible and eight (8) years of history demonstrate that it is unnecessary.² Therefore, the Applicant seeks a variance to allow the Subject Property to continue to operate with the existing 110 parking spaces. The Applicant’s request should be granted (1) because it is in harmony with the general purpose and intent of the zoning ordinance

² For example, for 2011-2012 school year, 8 staff members (faculty and administration) and 10 students will drive to and park at the school.

RECEIVED

JUL 6 1 2011

SGR\8959180.1

City of Sandy Springs
Community Development

U11-001

3

CV 11-003

and (2) because the application of the particular provision of the zoning ordinance to the Subject Property, due to extraordinary and exceptional conditions pertaining to the Subject Property would create an unnecessary hardship for ACDS while causing no detriment to the public.

III. PRESERVATION OF CONSTITUTIONAL RIGHTS

As owner of the property, the Applicant respectfully submits that the current zoning classification of and rules relative to a private school's right to use the Subject Property established in the Sandy Springs Zoning Ordinance, to the extent they prohibit this use, constitute an arbitrary, irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the property owner in violation of the due process and equal protection rights of the property owner guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia. Further, the failure to allow this use would constitute a taking of the owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

Further, the Applicant respectfully submits that the City Council's failure to approve the requested variances would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the property owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

U11-001
C11-003

RECEIVED

JUL 01 2011

City of Sandy Springs
Community Development

SGR\8959180.1

A refusal to allow the use in question would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to allow the use in question would be invalid inasmuch as it would be denied pursuant to an ordinance which is not in compliance with the Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

Finally, the Applicant raises the defense of failure to exhaust administrative remedies including, but not limited to, the failure to appeal the interpretations and determinations of Sandy Springs officials charged to interpret the zoning ordinance to the Board of Zoning Appeals.

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the requested variances be granted. The Applicant also invites and welcomes any comments from Staff or other officials of Sandy Springs so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 1 day of ^{July} June, 2011.

Respectfully submitted,



Kathryn M. Zickert
Dennis J. Webb, Jr.
Attorneys For Applicant

Smith, Gambrell & Russell, LLP
Promenade II, Suite 3100
1230 Peachtree Street, N.E.
Atlanta, Georgia 30309-3592

RECEIVED

JUL 01 2011

011-001



CITY OF ATLANTA

KASIM REED
MAYOR

BUREAU OF OPERATIONS
651 14TH STREET, NW
ATLANTA, GEORGIA 30318
Office: (404) 235-2020 Fax: (404) 982-1400

DEPARTMENT OF
WATERSHED MANAGEMENT
JO ANN MACRINA
Commissioner

June 28, 2011

Ms. Patrice S. Ruffin
City of Sandy Springs
Department of Community Development
Planning and Zoning Division
7840 Roswell Road, Building 500
Sandy Springs, GA. 30350

Subject: Water Availability at 8725 Dunwoody Place.

Dear Ms. Ruffin:

Our records indicate there is an existing 6-inch water main and an existing 12-inch water main along Dunwoody Place which are owned and maintained by the City of Atlanta.

To integrate into Atlanta Water System or rearrange water facilities, the developer must submit the following to the City of Atlanta-Bureau of Drinking Water:

1. A set of stamped engineering drawings showing their developmental objectives for review and approval,
2. The enclosed basis of design,
3. A two thousand dollar deposit (\$2,000.00). Check must be made payable to City of Atlanta.

Once the plans have been approved, the developer will then receive additional instructions regarding the process and procedures from the Bureau of Drinking Water.

Should you need additional information, please contact me at 404-235-2095.

Sincerely

Nar Chaudhry, P.E. Chief Engineer
Bureau of Drinking Water
Department of Watershed Management
651 14th Street, N.W.
Atlanta, Georgia 30318
Phone 404-235-2095
Fax 404-235-1400
E-mail nar.chaudhry@atlwater.com

RECEIVED

JUL 6 6 2011

City of Sandy Springs
Community Development



MEMORANDUM

TO: Patrice S. Ruffin, Assistant Director of Planning & Zoning
City of Sandy Springs, Department of Community Development

FROM: Monica Robinson, B.S., M.B.A., Environmental Planner
Department of Health Services, Office of the Director

DATE: July 13, 2011

SUBJECT: Zoning Comments for July 21, 2011 Mayor and City Council Hearing

AGENDA ITEM	ZONING COMMENTS
RZ11-004	<p>If property lines are to be altered, the Fulton County Department of Health and Wellness requires that the plat be submitted for review and approval regarding water supply and sewage disposal prior to the approval by the appropriate jurisdiction and the recording of the plat. The owner may not sell, offer for sale, lease, begin construction or begin physical improvements of a residential development, nor shall a building permit be issued until this Department has reviewed and approved the plat.</p> <p>If the property is to be served by an onsite sewage management system, the owner/developer/subdivider must submit the required supportive data for the review and approval of the plat by this department.</p>
U11-001/ CV11-003	<p>The Fulton County Department of Health Services recommends that this proposed expansion of private secondary school in the existing building be approved, provided that the internal plumbing is inspected and adequate for the proposed use and that the property is served by public water and public sanitary sewer.</p> <p>This department is requiring that plans indicating the number and location of outside refuse containers along with typical details of the pad and approach area for the refuse containers be submitted for review and approval.</p> <p>If this proposed expansion includes a food service facility, the owner must submit kitchen plans for review and approval by this department before issuance of a building permit and beginning construction. The owner must obtain a food service permit prior to opening.</p>

RECEIVED

JUL 18 2011

City of Sandy Springs
Community Development