
CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council **DATE:** June 8, 2010

FROM: John McDonough, City Manager

AGENDA ITEM: **ZM10-004/CV10-005** - 7000 & 9000 Central Parkway, *Applicant: JMC-IV Real Estate Company*, To modify the conditions of petition Z88-032/U88-020/U88-021/U88-022/U88-023, including the approved site plan, with concurrent variances

MEETING DATE: For Submission onto the June 15, 2010, City Council Regular Meeting Agenda

BACKGROUND INFORMATION: *(Attach additional pages if necessary)*

See attached:

Memorandum
Zoning Modification Petition

APPROVAL BY CITY MANAGER: Jm **APPROVED**

_____ **NOT APPROVED**

PLACED ON AGENDA FOR: 6/15/10

CITY ATTORNEY APPROVAL REQUIRED: () **YES** () **NO**

CITY ATTORNEY APPROVAL: JM

REMARKS:



To: John McDonough, City Manager
From: Nancy J. Leathers, Director of Community Development 
Date: May 28, 2010 For Submission onto the onto the June 15, 2010 City Council meeting

Agenda Item: ZM10-004/CV10-005 7000 & 9000 Central Parkway & 6205 Peachtree Dunwoody Road,
Request for a zoning modification to the conditions of Fulton County zoning case Z88-032/U88-020/U88-023.

CMO (City Manager's Office) Recommendation:

APPROVAL CONDITIONAL of the request for a zoning modification to the conditions of Fulton County zoning case Z88-032/U88-020/U88-023.

Background:

The site is located on the west side of Peachtree Dunwoody Road, at the intersections Central Parkway and Central Park West. The property is zoned O-I (Office and Institutional District) conditional under Z88-032/U88-020/U88-023, currently developed with office complexes.

Discussion:

The applicant is requesting a zoning modification to the conditions of Fulton County zoning case Z88-032/U88-020/U88-023, including the approved site plan.

Additionally, the applicant is requesting five (5) concurrent variances as follows:

1. Variance from Section 8.1.3.B. of the Zoning Ordinance to reduce the required forty (40) foot minimum front yard setback to the extent necessary to comply in accordance with the site plan received by the Department of Community Development on March 2, 2010,
2. Variance from Section 8.1.3.C. of the Zoning Ordinance to reduce the required forty (40) foot minimum side yard setback adjacent to a street to the extent necessary to comply in accordance with the site plan received by the Department of Community Development on March 2, 2010,
3. Variance from Section 18.3.1.E. of the Zoning Ordinance to allow off-street parking within the required setback for the front yard and the side corner yard,
4. Variance from the Tree Conservation Ordinance, Administrative Standards, & Best Management Practices - Landscape Strips, Buffers, and Parking (F.1) to relieve the requirement of planting a large shade tree every 6 parking spaces for all new parking lots, and
5. Variance from Section 4.23.2 of the Zoning Ordinance to delete the parking lot landscaping requirements.

Concurrent Review:

The staff held a Focus Meeting on May 5, 2010 at which the following city departments provided comments:

- Building and Development Division
- Fire Department
- Transportation Division

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 (*comments received*)
- Fulton County Department of Public Works
- Fulton County Environmental Health Services
- 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



Zoning Modification Petition No. ZM10-004/CV10-005

HEARING & MEETING DATES

Community Zoning Information Meeting
April 27, 2010

Mayor and City Council Hearing
June 15, 2010

APPLICANT/PETITIONER INFORMATION

Property Owners	Petitioner	Representative
JMC-IV Real Estate Company	JMC-IV Real Estate Company	Nathan V. Hendricks III

PROPERTY INFORMATION

Address, Land Lot, and District	7000 & 9000 Central Parkway 6205 Peachtree Dunwoody Road Land Lot 18, District 17
Council District	5
Frontage and Area	Frontage along Peachtree Dunwoody Road, Central Parkway, and Central Park West. The subject property has a total area of approximately 58.44 acres (2,545,646 square feet).
Existing Zoning and Use	O-I (Office and Institutional District) conditional under Z88-032/U88-020/U88-023, currently developed with office complexes.
Overlay District	PCID
2027 Comprehensive Future Land Use Map Designation	Living-Working Regional (LWR), Node 6: PCID
Proposed Use	Office Complex

INTENT

MODIFICATION OF CONDITIONS OF Z88-032/U88-020/U88-023 (APPROVED BY THE FULTON COUNTY BOARD OF COMMISSIONERS ON APRIL 6, 1988), WITH CONCURRENT VARIANCES.

The applicant is requesting a zoning modification to the conditions of Fulton County zoning case Z88-032/U88-020/U88-023, including the approved site plan.

Additionally, the applicant is requesting five (5) concurrent variances as follows:

1. Variance from Section 8.1.3.B. of the Zoning Ordinance to reduce the required forty (40) foot minimum front yard setback to the extent necessary to comply in accordance with the site plan received by the Department of Community Development on March 2, 2010,
2. Variance from Section 8.1.3.C. of the Zoning Ordinance to reduce the required forty (40) foot minimum side yard setback adjacent to a street to the extent necessary to comply in accordance with the site plan received by the Department of Community Development on March 2, 2010,
3. Variance from Section 18.3.1.E. of the Zoning Ordinance to allow off-street parking within the required setback for the front yard and the side corner yard,
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5. Variance from Section 4.23.2 of the Zoning Ordinance to delete the parking lot landscaping requirements.

BACKGROUND

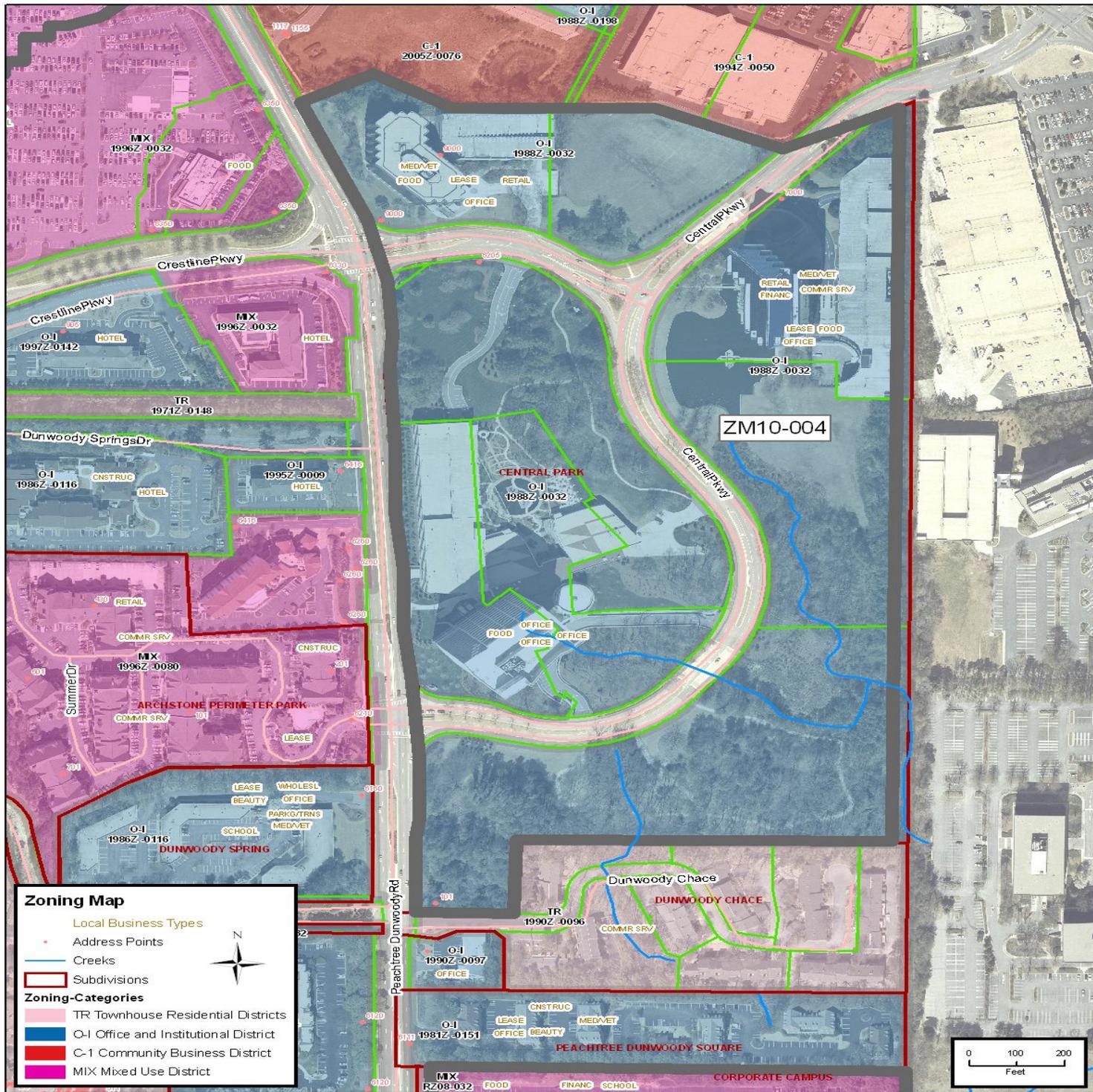
The site is located on the west side of Peachtree Dunwoody Road, at the intersections Central Parkway and Central Park West. The property is zoned O-I (Office and Institutional District) conditional under Z88-032/U88-020/U88-023, currently developed with office complexes.

EXISTING LAND USE AND ZONING OF ABUTTING PROPERTY

SUBJECT PETITION ZM10-004/ CV10-005	Proposed Use		Land Area (Acres)	Square Feet	Density (Square Feet per Acre)
	Office Complexes		58.44	4,137,600	70,801 sf/acre
Location in relation to subject property					
Location in relation to subject property	Zoning	Use	Land Area (Acres)	Square Feet or Units	Density (Square Feet per Acre or Units per Acre)
North	C-1 Conditional Z05-076	Retail & Service Commercial & Multi-family	4.5 acres	6,605 sf 216 units	1,467.78 sf/acre 48 units/acre
East	Commercial (City of Dunwoody)	Commercial	-----	-----	-----
South	TR conditional Z90-096	Townhomes (Dunwoody Chase)	7.96 acres	49 units	6.16 units/acre
West	MIX conditional Z96-080	Apartments (Century Perimeter Park) Hotel (LaQuinta)	13.39 acres	298 units 160 rooms	22.26 units/acre -----
West	O-I conditional Z95-009	Hotel (Microtel)	1.2 acres	100 rooms	-----
West	MIX Conditional Z96-032	Hotel (Extended Stay)	2.68 acres	101 rooms	-----

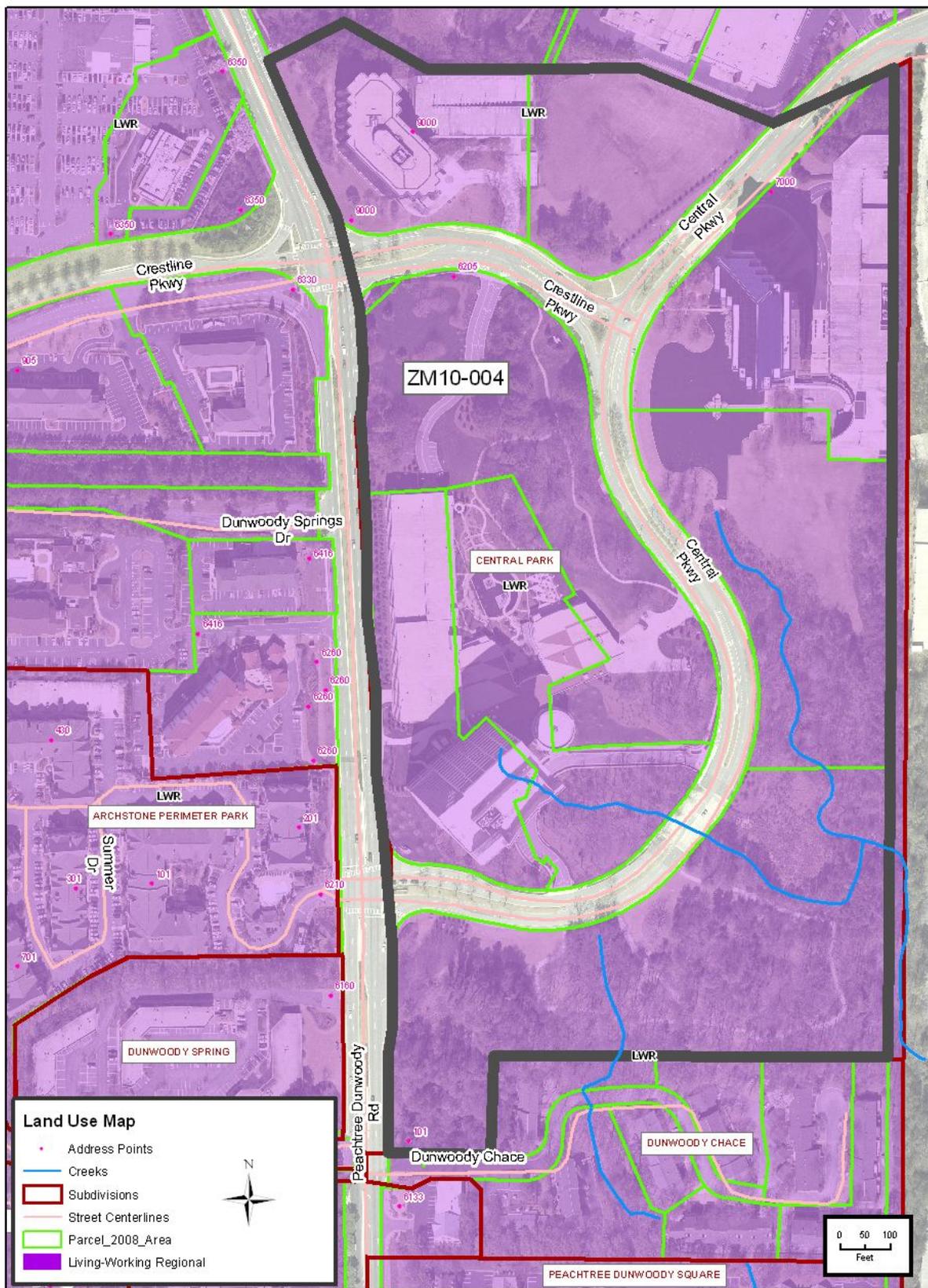
Zoning Map

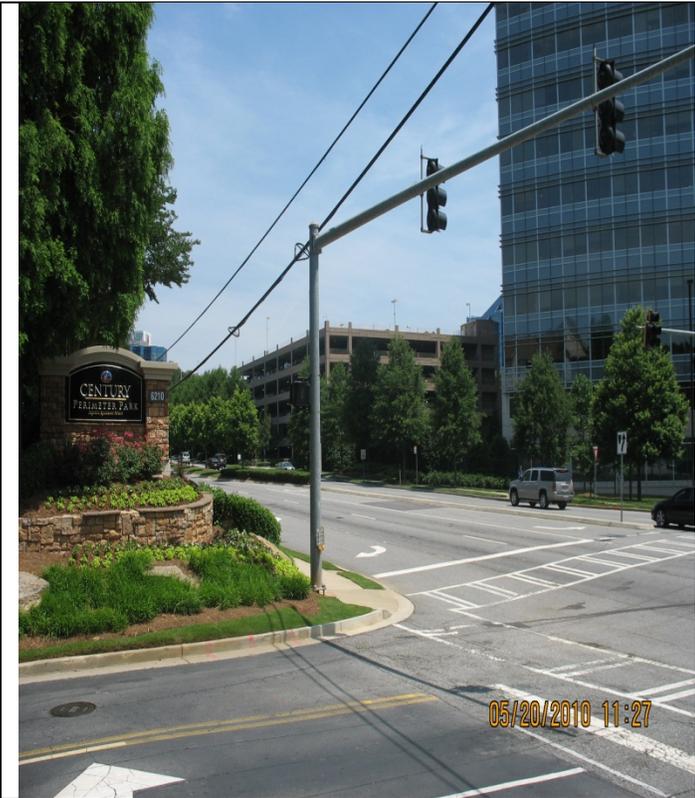
7000, 9000 Central Parkway



Future Land Use Map

7000, 9000 Central Parkway





The subject property looking northeast



The subject property looking up Central Parkway into Dunwoody



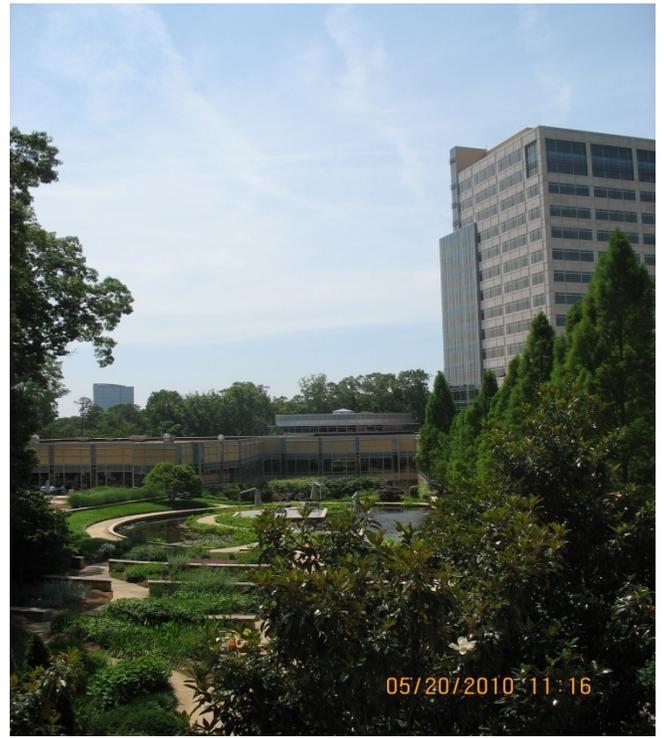
The 9000 building



The 7000 building



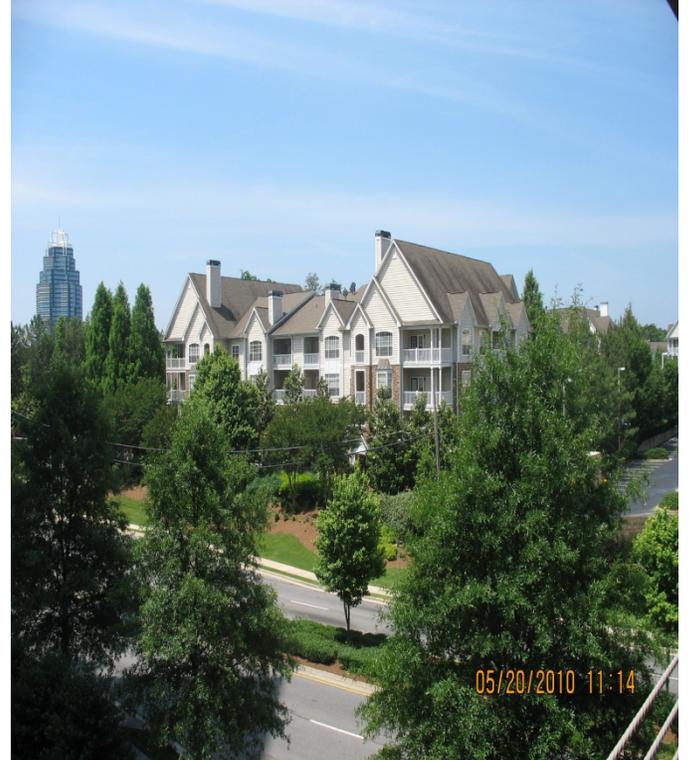
The 7000 building looking into Dunwoody



Subject property looking south



South portion of the subject property @ the intersection of Peachtree Dunwoody Road and Central Parkway.



Southwest of the subject property



West of the subject property



Northwest of subject property



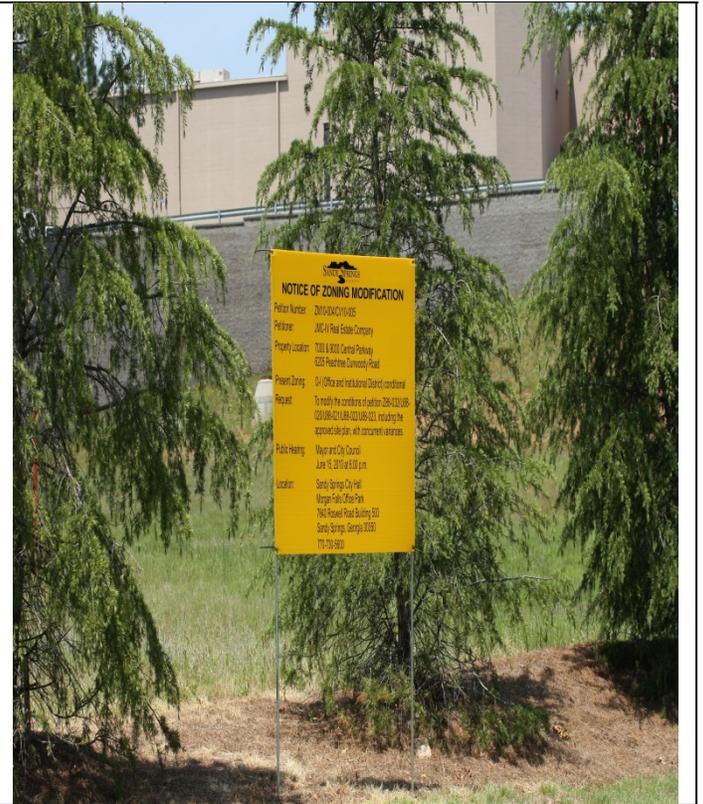
Northwest of the subject property



Northwest of the subject property



Sign



Sign



Sign

APPLICANT'S INTENT

The applicant is requesting a zoning modification to the conditions of Fulton County zoning case Z88-032/U88-020/U88-023 as follows:

1. To the owner's agreement to restrict the use of the subject property as follows:

- a. Office and accessory uses including the day care center, at a maximum density of 70,801 square feet of gross floor area per acre zoned or a total gross floor area of 4,137,600 square feet, whichever is less.
- b. Accessory retail and service commercial uses at a maximum density of 7,016 gross square feet of total floor area per acre zoned or a total floor area of 410,000 gross square feet, whichever is less. Said commercial uses shall comply with the restrictions provided in the ~~Fulton County Zoning Resolution~~ **Sandy Springs Zoning Ordinance**.
- c. A day care center consisting of a total capacity of 125 children. Prior to the commencement of operation of the day care center, the owner shall comply with all regulations of the **State of Georgia Department of Human Resources** and file a copy of the approved registration with the **Zoning Administrator Director of Community Development**.
- d. An 18-story, 350 room motel.
- e. Limit the height of the office buildings to no more 1 (one) 45-story building and 1 (one) 30-story building. All other office buildings shall not exceed 20 stories.
- f. All buildings must be entirely located within Fulton County boundaries.

2. To the owner's agreement to abide by the following:

- a. ~~To the Site Plan received by the Zoning Department on February 29, 1988 and to submit to the Director of Public Works for his approval, prior to the approval of a Land Disturbance Permit, a revised Site Plan based on a certified boundary survey of the entire property zoned, incorporating the stipulations of these conditions of zoning approval and meeting or exceeding the requirements of the Zoning Resolution.~~ **To the site plan received by the Department of Community Development dated March 2, 2010. 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 submit to the Director of ~~Public Works~~ **Community Development** for his approval, prior to any defoliation or alteration of the site, a Land Disturbance application which shall include a grading plan including phasing, a hydrological study, a separate soil sedimentation and erosion control plan, and proposed provisions for permanent storm water retention and the method of continuing maintenance of these facilities.
- c. To submit to the Director of ~~Public Works~~ **Community Development** for his approval, prior to the approval of a Land Disturbance Permit, a detailed landscape and/or tree protection plan for all required buffers, landscape strips, and tree protection zones. Said landscaping for each phase of development shall be in place within 90 days after the issuance of a Certificate of Occupancy or the connection of permanent power for each phase provided, however, that all landscaping shall be in place prior to the issuance of a Certificate of Occupancy or the connection of permanent power for the final phase of the development.

- d. To submit to the Director of ~~Public Works~~ **Community Development** for his approval, prior to the subdivision of any parcel zoned pursuant to this petition, a copy of all easement agreements for shared parking and access.

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

- a. Provide a natural buffer, undisturbed except for approved access and utility crossings, improvements, and replantings where sparsely vegetated and subject to the approval of the ~~Fulton County~~ **Sandy Springs** Arborist, adjacent to the following property lines and in the widths shown (the width of buffers shall be measured from the limits of construction for existing and proposed public roadways as applicable):

70 feet wide on the south property line, with an additional setback for all improvements of 20 feet or as may be approved by the Director of ~~Planning and Economic Development~~ **Community Development**.

- b. Provide a 10-foot wide evergreen landscape strip within the southernmost portion of the 20 foot wide additional setback referenced in 3.a. above, which shall be planted to provide a 100 percent visual screen to a height of 10 feet within 3 years of growth, subject to the approval of the ~~Fulton County~~ **Sandy Springs** Arborist

- c. Provide 40 foot wide landscape strips outside of the new dedicated right-of-way of Peachtree Dunwoody Road and Perimeter Center West. Said landscape strips shall be planted with shrubs a minimum size of 3 gallons upon installation, planted at a minimum spacing of 3 feet on center, and trees, a minimum 3 inch caliper upon installation, planted at a minimum spacing of 30 feet on center. Plantings shall be subject to the approval of the ~~Fulton County~~ **Sandy Springs** Arborist **as per the Perimeter Community Improvement District**.

- d. Provide adjacent to the following property lines in the widths shown, a landscape strip, planted with shrubs, a minimum size of 3 gallons upon installation, planted at a minimum spacing of 3 feet on center, and trees, a minimum 3 inch caliper upon installation, planted at a minimum spacing of 30 feet on center. Said plantings shall be subject to the approval of the ~~Fulton County~~ **Sandy Springs** Arborist **as per zoning case ZM01-051**:

25 feet wide on the north and east property lines.

- e. Any exterior illumination on the site shall not exceed 1.2 footcandles on any property line adjacent to a residential use or zoning district, nor will the light source be directly visible from adjoining residential properties. In addition, lighting on the top of any parking deck within 400 feet of the south property line shall not exceed a height of 4 feet unless said light sources are enclosed so as to completely shield any light source from the adjacent residential properties, subject to the approval of the Director of ~~Planning and Economic Development~~ **Community Development**.

- ~~f. No more than 3 (three) exit/entrances on Peachtree Dunwoody Road which shall consist of the 2 (two) existing exit/entrances and 1 (one) right in/right out exit/entrance, the location of which shall be subject to the approval of the Fulton County Traffic Engineer.~~

- ~~g. Access to Perimeter Center West shall be acquired through the adjacent DeKalb County parcel.~~

- ~~h. All curb cuts on the internal parkway shall be subject to the approval of the Fulton County Traffic Engineer.~~

- i. The exterior of all concrete blocks shall be coated with an architectural treatment (e.g., epoxy, stucco, brick veneer, etc.) or an alternate solution as may be approved by the Director of ~~Planning and Economic~~ **Community** Development.
 - j. The exterior of any parking structure within 400 feet of the south property line shall be completely enclosed on the south side and coated with an architectural treatment (e.g., epoxy, stucco, brick veneer, etc.) as may be approved by the Director of ~~Planning and Economic Development~~ **Community Development** and shall include exterior concrete planting boxes of a similar finish to the parking structure, running the length of each floor, at or above the third story above finished grade. Such planting boxes shall be at least 30 inches in depth and shall be used for the planting of landscape materials, including ground cover which will be expected to drape over the sides of the boxes, subject to the approval of the ~~Fulton County~~ **Sandy Springs** Arborist.
 - k. No roof signs are permitted **as per zoning case ZM01-051**.
 - 1. Provide landscape islands throughout the surface parking areas, including a minimum 10 foot wide landscape island at the end of each parking bay and 5 foot wide landscape island for each 150 feet of length. Said parking islands must be planted with shade trees, subject to the approval of the ~~Fulton County~~ **Sandy Springs** Arborist.
 - m. Provide and maintain off-street parking on the subject property during the entire construction period.
 - n. ~~Provide interparcel access to adjacent property(ies) as may be required by the Director of Public Works.~~
 - o. **Variance from Section 8.1.3.B. of the Zoning Ordinance to reduce the required forty (40) foot minimum front yard setback to the extent necessary to comply in accordance with the site plan received by the Department of Community Development on March 2, 2010. (CV10-005).**
 - p. **Variance from Section 8.1.3.C. of the Zoning Ordinance to reduce the required forty (40) foot minimum side yard setback adjacent to a street to the extent necessary to comply in accordance with the site plan received by the Department of Community Development on March 2, 2010. (CV10-005).**
 - q. **Variance from Section 18.3.1.E. of the Zoning Ordinance to allow off-street parking within the required setback for the front yard and the side corner yard. (CV10-005).**
 - r. **Variance from the Tree Conservation Ordinance, Administrative Standards, & Best Management Practices - Landscape Strips, Buffers, and Parking (F.1) to relieve the requirement of planting a large shade tree every 6 parking spaces for all new parking lots. (CV10-005).**
 - s. **Variance from Section 4.23.2 of the Zoning Ordinance to delete the parking lot landscaping requirements. (CV10-005).**
4. To the owner's agreement to abide by the following requirements, dedications and improvements;
- a. Dedicate at no cost to ~~Fulton County~~ **Sandy Springs** along the entire property frontage, prior to the approval of the next Land Disturbance Permit, sufficient land as necessary to provide the following rights-of-way, and dedicate at no cost to ~~Fulton County~~ **Sandy Springs** such additional right-of-way as may be required to provide at least 10.5 feet of right-of-way from the back of curb of all abutting road improvements, as well as allow the necessary construction easements while the rights-of-way are being improved:

50 **55** feet from centerline of Peachtree Dunwoody Road, provided, however, that a minimum of 10.5 feet of right-of-way is provided from the edge of all road improvements.

~~55 feet from centerline of Perimeter Center West.~~

~~Sufficient right of way for the internal parkway such that a minimum of 10.5 feet of right of way is provided from the edge of all road improvements, within which utilities may be located.~~

- b. Improve the following roadways along the entire property frontage ~~from the center of road to back of curb~~ as follows:

~~Add left turn lanes along Peachtree Dunwoody Road at each project entrances the design of which shall be subject to the Fulton County Traffic Engineer.~~

~~Improve the internal parkway to a four (4) lane divided section with medians and left turn lanes, subject to the approval of the Fulton County Traffic Engineer.~~

Realign Central Park West and Central Parkway as shown in the zoning concept plan. Property will be dedicated and/or current right of way quitclaimed between the applicant and the City as necessary at no cost to the City for the improved roadway design and realignment. All future rights of way will conform to City standards and shall be subject to all rules and regulations of the City. Existing right-of-way quitclaimed as a part of the realignment will take on the once adjoining/underlying zoning district and be subject to the conditions herein of the ZM10-004/CV10-005 approval.

- c. ~~Provide deceleration lanes for a distance of 200 feet and a 50 foot taper from all project entrances or as may be approved by the Fulton County Traffic Engineer.~~
- d. ~~Pay a pro-rated share of the cost of upgrading signalization at the intersections of Central Parkway with Perimeter Center West and Peachtree Dunwoody Road, or as may be required by the Fulton County Traffic Engineer.~~
- e. ~~Connect to metropolitan water and public sanitary sewer available to the site as well as pay all required tap-on fees, front footage assessments and the pro-rated share of the cost of public utility extensions, facility improvements and the Nancy Creek sewer relief system as determined by the Department of Public Works.~~
- f. Provide designated fire lanes adjacent to all structures and provide water mains, fire hydrants and access for fire-fighting equipment as required by the ~~Fulton County~~ **Sandy Springs** Fire Department.
- g. Design required on-site storm water detention facilities such that they are not located within any required buffers, landscape strips or on required parking areas or as may be approved by the Director of ~~Public Works~~ **Community Development**.
- h. ~~Construct sidewalks along entire property frontage within the rights of way of Peachtree Dunwoody Road and Perimeter Center West. Said sidewalks shall be in place prior to the issuance of a Certificate of Occupancy or the connection of permanent power for the development.~~
- i. ~~To construct a bus shelter at MARTA's bus stop nearest the site at such time as the location of said bus shelter is determined by MARTA.~~

- j. ~~Provide at no cost, the right of way and/or construction easements necessary for a MARTA rapid rail transit line, subject to the approval and design by the Metropolitan Atlanta Rapid Transit Authority, within the 40 foot wide landscape strip required under condition 3c. above and design all buildings and other improvements within the development to accommodate said rapid transit construction.~~
5. ~~Participate in off-site transportation improvements necessary to accommodate increased traffic generated by the proposed development. These improvements may include, but are not limited to the following:~~
- ~~1. New southbound on and off ramps in the northwest quadrant of the Ga. 400/Abernathy Road interchange.~~
 - ~~2. Six (6) through lanes on Abernathy Road extending from a point midway between the northbound ramp exits from Ga. 400 to the existing median located west of the new southbound ramp exit from Ga. 400 and fully actuated signalization on Abernathy Road at the new southbound on and off ramps.~~
 - ~~3. One (1) additional lane to the northbound ramp onto Ga. 400 from Abernathy Road and one additional free right turn lane onto said ramp from Abernathy Road, beginning at Peachtree Dunwoody Road.~~
 - ~~4. The extension of Mt. Vernon Highway to Barfield Road as a 6-lane section.~~
 - ~~5. The widening of Abernathy Road to six (6) lanes to Barfield Road.~~
 - ~~6. The construction of a 2-lane collector-distributor system parallel to Georgia 400.~~
 - ~~7. The construction of a new interchange at Georgia 400 between Abernathy Road and Spalding Drive.~~
 - ~~8. The construction of 2-lane on and off ramps from Georgia 400 to Hammond Drive.~~

~~Prior to the issuance of each Land Disturbance Permit, the owner shall provide to Fulton County monies for transportation improvements to the area equal to the square footage contained within a building proposed pursuant to said Land Disturbance Permit. Costs shall be based on the following rates subject to adjustment by the Board of Commissioners based on the Engineering News Record Index beginning from the approval date of these petitions:~~

~~\$ 0.45 per gross square foot of office floor area.~~

~~\$ 1.25 per gross square foot of commercial, restaurant and day care center floor area.~~

~~\$ 430.50 per motel room.~~

~~The Board of Commissioners may adjust the above-stated rates pursuant to any public policy change in said rates as adopted by the Board of Commissioners for the general development area within which the project is located.~~

6. To the owner's agreement to abide by the following:
- a. To contact the Director of ~~Public Works~~ **Community Development**, prior to the application for a Land Disturbance Permit to arrange with the ~~County~~ **Sandy Springs** Arborist an on-site evaluation of existing ~~specimen~~ trees/stands, buffers, and tree protection zones within the property boundaries.
 - b. To maintain as a minimum, the tree density requirements as prescribed by the ~~Fulton~~

County **Sandy Springs** Tree Preservation **Conservation** Ordinance ~~Administrative Guidelines~~, either through the retention of existing trees, or tree replacement, in perpetuity.

7. ~~As to the monies required of the petitioner to be paid under Conditions 4. d., 4.e. and 5. above, the petitioner shall be entitled to a credit to be applied against these monies for any verifiable escrow funds previously expended by the petitioner for the matters enumerated under the above stated Conditions 4.d., 4.e. and 5., subject to the approval of the Director of Public Works.~~

*The staff is of the opinion that the applicant's request to modify conditions of zoning, including the approved site plan, as indicated above would not adversely affect adjacent or nearby properties because the approved density under zoning case Z88-032/U88-020/U88-023 is not changing and because the proposal is in harmony with the development existing within the subject property and with the surrounding area, and due to the subject property having a contained campus-like setting. The staff has not received notice or letters of opposition from the adjacent neighbors. Therefore, the staff recommends **APPROVAL** of this modification request.*

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 five (5) concurrent variances as follows:

- 1. Variance from Section 8.1.3.B. of the Zoning Ordinance to reduce the required forty (40) foot minimum front yard setback to the extent necessary to comply in accordance with the site plan received by the Department of Community Development on March 2, 2010.

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.

*Due to the development existing within the subject property and in the surrounding area, and due to the subject property having a contained campus-like setting, 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. Therefore, based on these reasons, the staff recommends **APPROVAL** of the variance to reduce the required forty (40) foot minimum front yard setback to the extent necessary to comply in accordance with the site plan received by the Department of Community Development on March 2, 2010.*

- 2. Variance from Section 8.1.3.C. of the Zoning Ordinance to reduce the required forty (40) foot minimum side yard setback adjacent to a street to the extent necessary to comply in accordance with the site plan received by the Department of Community Development on March 2, 2010.

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.

Due to the development existing within the subject property and in the surrounding area, and due to the subject property having a contained campus-like setting, 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. Therefore, based on these reasons, the staff recommends APPROVAL of the variance to reduce the required forty (40) foot minimum side yard setback adjacent to a street to the extent necessary to comply in accordance with the site plan received by the Department of Community Development on March 2, 2010.

3. Variance from Section 18.3.1.E. of the Zoning Ordinance to allow off-street parking within the required setback for the front yard and the side corner yard.

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.

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4. Variance from the Tree Conservation Ordinance, Administrative Standards, & Best Management Practices - Landscape Strips, Buffers, and Parking (F.1) to relieve the requirement of planting a large shade tree every 6 parking spaces for all new parking lots.

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.

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5. Variance from Section 4.23.2 of the Zoning Ordinance to delete the parking lot landscaping requirements.

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.

Due to the development existing within the subject property and in the surrounding area, and due to the subject property having a contained campus-like setting, 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. Therefore, based on these reasons, the staff recommends APPROVAL of the variance to delete the parking lot landscaping requirements.

DEPARTMENT COMMENTS

The staff held a Focus Meeting on May 5, 2010 at which the following departmental comments were provided:

BUILDING & DEVELOPMENT DIVISION	Sandy Springs Building Officer and/or ADA Compliance Officer	<ul style="list-style-type: none"> There are no building and compliance requirements that need to be addressed at this time. ADA requirements must be met.
	Sandy Springs Chief Engineer	<ul style="list-style-type: none"> Development shall comply with the city's Postdevelopment Stormwater Management for New Development and Redevelopment Ordinance.
	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"> There are no Fire Department requirements that need to be addressed at this time.
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. The subject property is located on a local street (Central Parkway) and an arterial street (Peachtree-Dunwoody Road) Right-of-way dedication: 55' from centerline of Peachtree-Dunwoody Road Realign Central Park West and Central Parkway as shown in the zoning concept plan. Property will be dedicated and/or current right of way quitclaimed as necessary for the improved roadway design and realignment. All future rights of way will conform to City standards. Delete the following existing zoning conditions: 3. F, G, H, N; 4. B, C, D, E, H, I J; 5.
	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 or the Fulton County Emergency Services Department.

STAFF RECOMMENDATION

The staff recommends **APPROVAL CONDITIONAL** of the zoning modification request. The staff recommends that the conditions of Fulton County zoning case Z88-032/U88-020/U88-023 be modified to be read as follows. Where these revisions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Mayor and City Council.

1. To the owner's agreement to restrict the use of the subject property as follows:

- a. Office and accessory uses including the day care center, at a maximum density of 70,801 square feet of gross floor area per acre zoned or a total gross floor area of 4,137,600 square feet, whichever is less.
- b. Accessory retail and service commercial uses at a maximum density of 7,016 gross square feet of total floor area per acre zoned or a total floor area of 410,000 gross square feet, whichever is less. Said commercial uses shall comply with the restrictions provided in the ~~Fulton County Zoning Resolution~~ **Sandy Springs Zoning Ordinance**.
- c. A day care center consisting of a total capacity of 125 children. Prior to the commencement of operation of the day care center, the owner shall comply with all regulations of the ~~State of Georgia Department of Human Resources~~ **State of Georgia** and file a copy of the approved registration with the ~~Zoning Administrator~~ **Director of Community Development**.
- d. An 18-story, 350 room motel.
- e. Limit the height of the office buildings to no more 1 (one) 45-story building and 1 (one) 30-story building. All other office buildings shall not exceed 20 stories.
- f. All buildings must be entirely located within Fulton County boundaries.

2. To the owner's agreement to abide by the following:

- a. ~~To the Site Plan received by the Zoning Department on February 29, 1988 and to submit to the Director of Public Works for his approval, prior to the approval of a Land Disturbance Permit, a revised Site Plan based on a certified boundary survey of the entire property zoned, incorporating the stipulations of these conditions of zoning approval and meeting or exceeding the requirements of the Zoning Resolution.~~ **To the site plan received by the Department of Community Development dated March 2, 2010. 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 submit to the Director of ~~Public Works~~ **Community Development** for his approval, prior to any defoliation or alteration of the site, a Land Disturbance application which shall include a grading plan including phasing, a hydrological study, a separate soil sedimentation and erosion control plan, and proposed provisions for permanent storm water retention and the method of continuing maintenance of these facilities.
- c. To submit to the Director of ~~Public Works~~ **Community Development** for his approval, prior to the approval of a Land Disturbance Permit, a detailed landscape and/or tree protection plan for all required buffers, landscape strips, and tree protection zones. Said landscaping for each phase of development shall be in place within 90 days after the issuance of a Certificate of Occupancy or the connection of permanent power for each phase provided, however, that all landscaping shall be in place prior to the issuance of a Certificate of Occupancy or the connection of permanent power for

the final phase of the development.

- d. To submit to the Director of ~~Public Works~~ **Community Development** for his approval, prior to the subdivision of any parcel zoned pursuant to this petition, a copy of all easement agreements for shared parking and access.

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

- a. Provide a natural buffer, undisturbed except for approved access and utility crossings, improvements, and replantings where sparsely vegetated and subject to the approval of the ~~Fulton County~~ **Sandy Springs** Arborist, adjacent to the following property lines and in the widths shown (the width of buffers shall be measured from the limits of construction for existing and proposed public roadways as applicable):

70 feet wide on the south property line, with an additional setback for all improvements of 20 feet or as may be approved by the Director of ~~Planning and Economic Development~~ **Community Development**.

- b. Provide a 10-foot wide evergreen landscape strip within the southernmost portion of the 20 foot wide additional setback referenced in 3.a. above, which shall be planted to provide a 100 percent visual screen to a height of 10 feet within 3 years of growth, subject to the approval of the ~~Fulton County~~ **Sandy Springs** Arborist
- c. Provide 40 foot wide landscape strips outside of the new dedicated right-of-way of Peachtree Dunwoody Road and Perimeter Center West. Said landscape strips shall be planted with shrubs a minimum size of 3 gallons upon installation, planted at a minimum spacing of 3 feet on center, and trees, a minimum 3 inch caliper upon installation, planted at a minimum spacing of 30 feet on center. Plantings shall be subject to the approval of the ~~Fulton County~~ **Sandy Springs** Arborist **as per the Perimeter Community Improvement District**.
- d. Provide adjacent to the following property lines in the widths shown, a landscape strip, planted with shrubs, a minimum size of 3 gallons upon installation, planted at a minimum spacing of 3 feet on center, and trees, a minimum 3 inch caliper upon installation, planted at a minimum spacing of 30 feet on center. Said plantings shall be subject to the approval of the ~~Fulton County~~ **Sandy Springs** Arborist **as per zoning case ZM01-051**:

25 feet wide on the north and east property lines.

- e. Any exterior illumination on the site shall not exceed 1.2 footcandles on any property line adjacent to a residential use or zoning district, nor will the light source be directly visible from adjoining residential properties. In addition, lighting on the top of any parking deck within 400 feet of the south property line shall not exceed a height of 4 feet unless said light sources are enclosed so as to completely shield any light source from the adjacent residential properties, subject to the approval of the Director of ~~Planning and Economic Development~~ **Community Development**.
- f. ~~No more than 3 (three) exit/entrances on Peachtree Dunwoody Road which shall consist of the 2 (two) existing exit/entrances and 1 (one) right in/right out exit/entrance, the location of which shall be subject to the approval of the Fulton County Traffic Engineer.~~
- g. ~~Access to Perimeter Center West shall be acquired through the adjacent DeKalb County parcel.~~
- h. ~~All curb cuts on the internal parkway shall be subject to the approval of the Fulton County Traffic~~

Engineer.

- i. The exterior of all concrete blocks shall be coated with an architectural treatment (e.g., epoxy, stucco, brick veneer, etc.) or an alternate solution as may be approved by the Director of ~~Planning and Economic~~ **Community Development**.
 - j. The exterior of any parking structure within 400 feet of the south property line shall be completely enclosed on the south side and coated with an architectural treatment (e.g., epoxy, stucco, brick veneer, etc.) as may be approved by the Director of ~~Planning and Economic Development~~ **Community Development** and shall include exterior concrete planting boxes of a similar finish to the parking structure, running the length of each floor, at or above the third story above finished grade. Such planting boxes shall be at least 30 inches in depth and shall be used for the planting of landscape materials, including ground cover which will be expected to drape over the sides of the boxes, subject to the approval of the ~~Fulton County~~ **Sandy Springs** Arborist.
 - k. No roof signs are permitted **as per zoning case ZM01-051**.
 - 1. Provide landscape islands throughout the surface parking areas, including a minimum 10 foot wide landscape island at the end of each parking bay and 5 foot wide landscape island for each 150 feet of length. Said parking islands must be planted with shade trees, subject to the approval of the ~~Fulton County~~ **Sandy Springs** Arborist.
 - m. Provide and maintain off-street parking on the subject property during the entire construction period.
 - n. ~~Provide interparcel access to adjacent property(ies) as may be required by the Director of Public Works.~~
 - o. **Variance from Section 8.1.3.B. of the Zoning Ordinance to reduce the required forty (40) foot minimum front yard setback to the extent necessary to comply in accordance with the site plan received by the Department of Community Development on March 2, 2010. (CV10-005).**
 - p. **Variance from Section 8.1.3.C. of the Zoning Ordinance to reduce the required forty (40) foot minimum side yard setback adjacent to a street to the extent necessary to comply in accordance with the site plan received by the Department of Community Development on March 2, 2010. (CV10-005).**
 - q. **Variance from Section 18.3.1.E. of the Zoning Ordinance to allow off-street parking within the required setback for the front yard and the side corner yard. (CV10-005).**
 - r. **Variance from the Tree Conservation Ordinance, Administrative Standards, & Best Management Practices - Landscape Strips, Buffers, and Parking (F.1) to relieve the requirement of planting a large shade tree every 6 parking spaces for all new parking lots. (CV10-005).**
 - s. **Variance from Section 4.23.2 of the Zoning Ordinance to delete the parking lot landscaping requirements. (CV10-005).**
4. To the owner's agreement to abide by the following requirements, dedications and improvements;
- a. Dedicate at no cost to ~~Fulton County~~ **Sandy Springs** along the entire property frontage, prior to the approval of the next Land Disturbance Permit, sufficient land as necessary to provide the following rights-of-way, and dedicate at no cost to ~~Fulton County~~ **Sandy Springs** such additional right-of-way as may be required to provide at least 10.5 feet of right-of-way from the back of curb of all abutting

road improvements, as well as allow the necessary construction easements while the rights-of-way are being improved:

50 ~~55~~ feet from centerline of Peachtree Dunwoody Road, provided, however, that a minimum of 10.5 feet of right-of-way is provided from the edge of all road improvements.

~~55 feet from centerline of Perimeter Center West.~~

~~Sufficient right of way for the internal parkway such that a minimum of 10.5 feet of right of way is provided from the edge of all road improvements, within which utilities may be located.~~

- b. Improve the following roadways along the entire property frontage ~~from the center of road to back of curb~~ as follows:

~~Add left turn lanes along Peachtree Dunwoody Road at each project entrances the design of which shall be subject to the Fulton County Traffic Engineer.~~

~~Improve the internal parkway to a four (4) lane divided section with medians and left turn lanes, subject to the approval of the Fulton County Traffic Engineer.~~

Realign Central Park West and Central Parkway as shown in the zoning concept plan. Property will be dedicated and/or current right of way quitclaimed between the applicant and the City as necessary at no cost to the City for the improved roadway design and realignment. All future rights of way will conform to City standards and shall be subject to all rules and regulations of the City. Existing right-of-way quitclaimed as a part of the realignment will take on the once adjoining/underlying zoning district and be subject to the conditions herein of the ZM10-004/CV10-005 approval.

- c. ~~Provide deceleration lanes for a distance of 200 feet and a 50 foot taper from all project entrances or as may be approved by the Fulton County Traffic Engineer.~~
- d. ~~Pay a pro-rated share of the cost of upgrading signalization at the intersections of Central Parkway with Perimeter Center West and Peachtree Dunwoody Road, or as may be required by the Fulton County Traffic Engineer.~~
- e. ~~Connect to metropolitan water and public sanitary sewer available to the site as well as pay all required tap on fees, front footage assessments and the pro-rated share of the cost of public utility extensions, facility improvements and the Nancy Creek sewer relief system as determined by the Department of Public Works.~~
- f. Provide designated fire lanes adjacent to all structures and provide water mains, fire hydrants and access for fire-fighting equipment as required by the Fulton County **Sandy Springs** Fire Department.
- g. Design required on-site storm water detention facilities such that they are not located within any required buffers, landscape strips or on required parking areas or as may be approved by the Director of ~~Public Works~~ **Community Development**.
- h. ~~Construct sidewalks along entire property frontage within the rights of way of Peachtree Dunwoody Road and Perimeter Center West. Said sidewalks shall be in place prior to the issuance of a Certificate of Occupancy or the connection of permanent power for the development.~~

- i. ~~To construct a bus shelter at MARTA's bus stop nearest the site at such time as the location of said bus shelter is determined by MARTA.~~
 - j. ~~Provide at no cost, the right-of-way and/or construction easements necessary for a MARTA rapid rail transit line, subject to the approval and design by the Metropolitan Atlanta Rapid Transit Authority, within the 40 foot wide landscape strip required under condition 3c. above and design all buildings and other improvements within the development to accommodate said rapid transit construction.~~
5. ~~Participate in off-site transportation improvements necessary to accommodate increased traffic generated by the proposed development. These improvements may include, but are not limited to the following:~~
- 1. ~~New southbound on and off ramps in the northwest quadrant of the 6a. 400/Abernathy Road interchange.~~
 - 2. ~~Six (6) through lanes on Abernathy Road extending from a point midway between the northbound ramp exits from Ga. 400 to the existing median located west of the new southbound ramp exit from Ga. 400 and fully actuated signalization on Abernathy Road at the new southbound on and off ramps.~~
 - 3. ~~One (1) additional lane to the northbound ramp onto Ga. 400 from Abernathy Road and one additional free right turn lane onto said ramp from Abernathy Road, beginning at Peachtree-Dunwoody Road.~~
 - 4. ~~The extension of Mt. Vernon Highway to Barfield Road as a 6-lane section.~~
 - 5. ~~The widening of Abernathy Road to six (6) lanes to Barfield Road.~~
 - 6. ~~The construction of a 2-lane collector-distributor system parallel to Georgia 400.~~
 - 7. ~~The construction of a new interchange at Georgia 400 between Abernathy Road and Spalding Drive.~~
 - 8. ~~The construction of 2-lane on and off ramps from Georgia 400 to Hammond Drive.~~

~~Prior to the issuance of each Land Disturbance Permit, the owner shall provide to Fulton County monies for transportation improvements to the area equal to the square footage contained within a building proposed pursuant to said Land Disturbance Permit. Costs shall be based on the following rates subject to adjustment by the Board of Commissioners based on the Engineering News Record Index beginning from the approval date of these petitions:~~

~~\$ 0.45 per gross square foot of office floor area.~~

~~\$ 1.25 per gross square foot of commercial, restaurant and day care center floor area.~~

~~\$ 430.50 per motel room.~~

~~The Board of Commissioners may adjust the above-stated rates pursuant to any public policy change in said rates as adopted by the Board of Commissioners for the general development area within which the project is located.~~

6. To the owner's agreement to abide by the following:
- a. To contact the Director of ~~Public Works~~ **Community Development**, prior to the application for a Land Disturbance Permit to arrange with the ~~County~~ **Sandy Springs** Arborist an on-site evaluation of existing ~~specimen~~ trees/stands, buffers, and tree protection zones within the property boundaries.
 - b. To maintain as a minimum, the tree density requirements as prescribed by the ~~Fulton County~~ **Sandy Springs** Tree ~~Preservation~~ **Conservation** Ordinance ~~Administrative Guidelines~~, either through the retention of existing trees, or tree replacement, in perpetuity.
7. ~~As to the monies required of the petitioner to be paid under Conditions 4. d., 4.e. and 5. above, the petitioner shall be entitled to a credit to be applied against these monies for any verifiable escrow funds previously expended by the petitioner for the matters enumerated under the above stated Conditions 4.d., 4.e. and 5., subject to the approval of the Director of Public Works.~~

Attachments

Letter of Intent dated received March 2, 2010

Site Plan(s) received March 2, 2010

Letter Fulton County Dept. of the Environment & Community Development received May 12, 2010

Letter City of Atlanta Dept. of Watershed Management received May 16, 2010

Z88-32

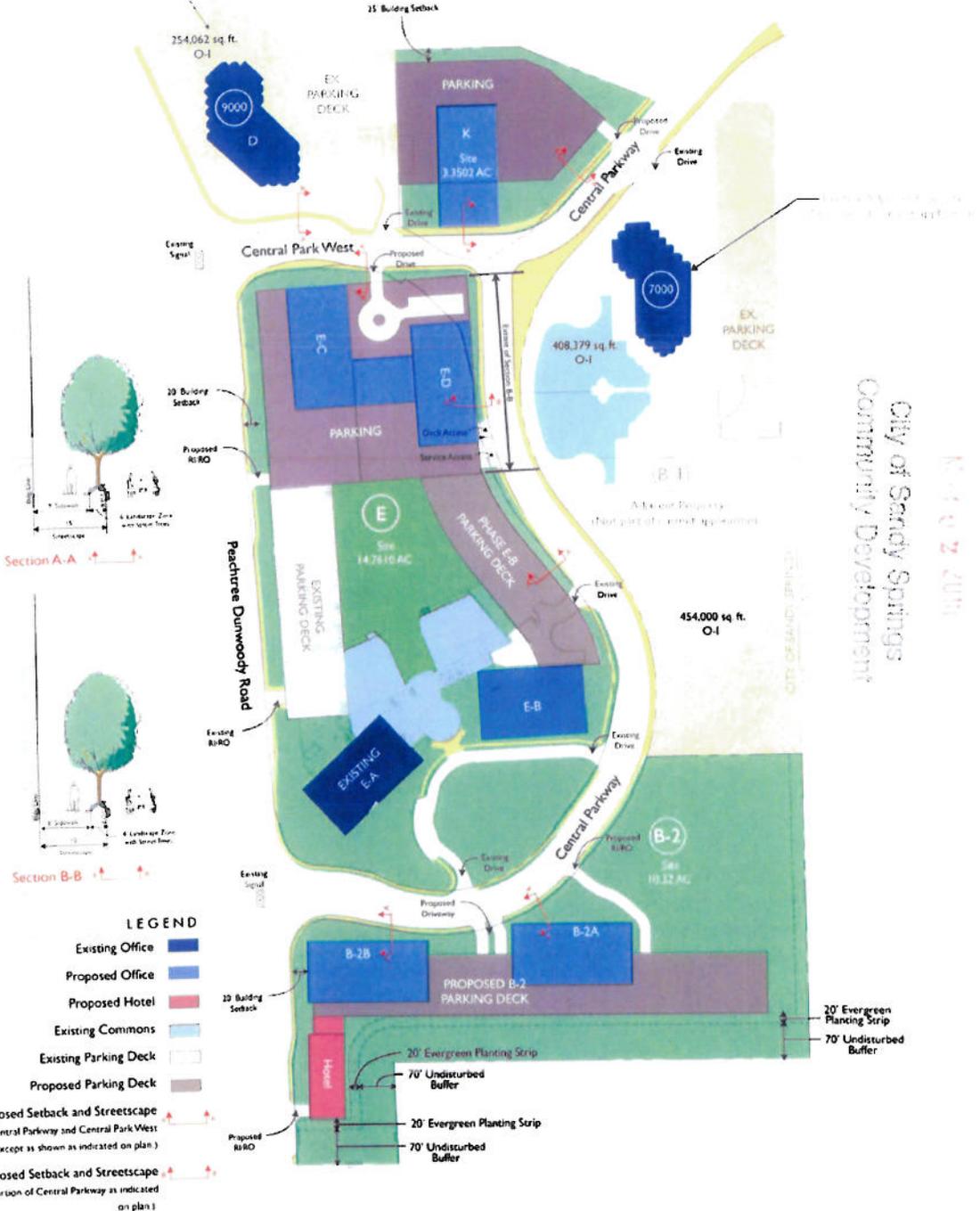
REVISED SITE PLAN

Parking Requirements Per Building
 Up to 250,000 sq. ft. O-I: 3 spaces / 1,000 sq. ft.
 Above 250,000 sq. ft. O-I: 2.8 spaces / 1,000 sq. ft.
 10% MARTA reduction available

Existing Adjacent Property (Not part of current application)

Approx. location of property line based on previous zoning

J
 Adjacent Property (Not part of current application)
 418,759 sq. ft. O-I



Section A-A

Section B-B

LEGEND

- Existing Office
- Proposed Office
- Proposed Hotel
- Existing Commons
- Existing Parking Deck
- Proposed Parking Deck
- Proposed Setback and Streetscape (For Central Parkway and Central Park West except as shown as indicated on plan.)
- Proposed Setback and Streetscape (For portion of Central Parkway as indicated on plan.)

City of Sandy Springs
 Community Development

March 2, 2010



ZM10-004

Z88-32

REVISED SITE PLAN

Parking Requirements Per Building
 Up to 250,000 sq. ft. O-I: 3 spaces / 1,000 sq. ft.
 Above 250,000 sq. ft. O-I: 2.8 spaces / 1,000 sq. ft.
 10% MARTA reduction available

Existing Adjacent Property
 (Not part of current application)

Approx. location of property line
 based on previous zoning

(J)

Adjacent Property
 (Not part of current application)

418,759 sq. ft.
 O-I

254,062 sq. ft.
 O-I

9000
 D

25' Building Setback

EX PARKING DECK

PARKING

K

Site 3.3502 AC

Central Parkway

Proposed Drive

Existing Drive

Existing Adjacent Property
 (Not part of current application)

7000

408,379 sq. ft.
 O-I

EX PARKING DECK

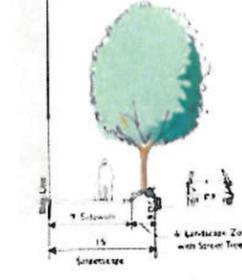
(B-1)

Adjacent Property
 (Not part of current application)

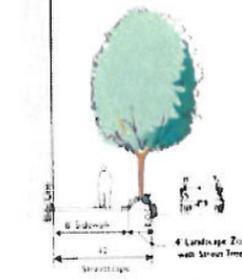
454,000 sq. ft.
 O-I

City of Sandy Springs
 Community Development

March 2, 2010



Section A-A



Section B-B

LEGEND

- Existing Office
- Proposed Office
- Proposed Hotel
- Existing Commons
- Existing Parking Deck
- Proposed Parking Deck
- Proposed Setback and Streetscape
 (For Central Parkway and Central Park West
 except as shown as indicated on plan.)
- Proposed Setback and Streetscape
 (For portion of Central Parkway as indicated
 on plan.)

20' Building Setback

20' Evergreen Planting Strip

70' Undisturbed Buffer

20' Evergreen Planting Strip

70' Undisturbed Buffer

20' Evergreen Planting Strip

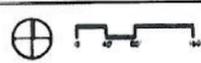
70' Undisturbed Buffer

Existing Signal

Proposed Drive

Existing Drive

Proposed Drive



MAR 6 2 2010

LETTER OF INTENT

The subject property contains approximately 28.4312 acres and is located on the easterly side of Peachtree Dunwoody Road as well as being bounded on both sides of Central Park West and Central Parkway and is commonly known as Cox Central Park (the "Property"). The Property is zoned to the O-I Classification pursuant to Z88-32 FCN, U88-20 FCN, U88-21 FCN, U88-22 FCN, U88-23 FCN, 2001ZM-0051 NFC and 2001VC-0217 NFC.

In refining the Site Plan for the construction of two (2) new office buildings and associated parking deck, the Applicant has determined the need to modify and amend the existing Site Plan and request certain variances. Specifically, the Applicant requests that Condition 2.a. of the above referenced Zoning Ordinance be modified and amended by deleting therefrom the Site Plan currently referenced and substituting and placing in lieu thereof the Site Plan filed simultaneously herewith. In an effort to comply with the desired "New Urbanism" for planning and development in this Live/Work Regional Node, the Applicant's modified Site Plan reflects the buildings and associated parking decks being pulled close to the street. Additionally, it is to be noted that the modified Site Plan reflects a realignment of Central Park West and Central Parkway close to the area of their intersection. This realignment results in a much safer traffic condition and is being coordinated with the Sandy Springs Director of Public Works and Traffic Engineer. These modifications to the Site Plan have resulted in burdening the Property with extraordinary hardships unique to the Property in having to comply with certain of the Zoning Ordinance's development standards. Accordingly, the Applicant requests a four (4) part Concurrent Variance as follows: (1) pursuant to article B.1.3.B. reduce the minimum front yard setback (B2, E, D/9000 and K) along Peachtree Dunwoody Road, Central Park West and Central Parkway as shown on the Site Plan, (2) pursuant to Article B.1.3.C. reduce the minimum side yard setback (B1, B2, D/9000 and K) along Central Park West and Central Parkway as shown on the Site Plan, (3) pursuant to Article 18.3.1.E. allow parking in the front yard and side corner yard (E) and (4) pursuant to Article 4.23.2. increase the number of parking spaces between landscape islands from 6 parking spaces to 18 parking spaces. Relief if granted would be in harmony with the general purpose and intent of the Zoning Ordinance and to require the Applicant to strictly comply with the referenced development standards would create an unnecessary hardship for the Applicant and the approval of these Concurrent Variances would not only not cause any detriment to the public but in fact would serve the public good.

Accordingly, this Modification/Concurrent Variance Application is entirely appropriate and the appropriateness of same and the constitutional assertions of the Applicant are more particularly stated and set forth on Exhibit "A" attached hereto and by reference thereto made a part hereof. The approval of this Application to enable Applicant to develop the Property as proposed in the very heart of the Sandy Springs Live/Work Regional development Node would be precisely in keeping with the policies and intent of the Zoning Ordinance and Comprehensive Land Use Plan Map for this area.

Now, therefore, the Applicant requests that this Modification/Concurrent Variance Application be approved as submitted in order that the Applicant be able to proceed with the lawful use and development of the Property.

APPLICANT:

JMC-IV REAL ESTATE COMPANY

By: TC REAL ESTATE HOLDINGS, L.L.C., General Partner

By: ACC FAMILY PARTNERSHIP, L.P., Manager

By: KTVU-ACC, INC., its general partner

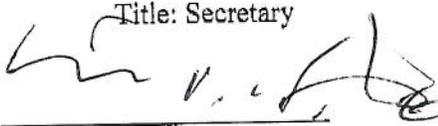
By:  (SEAL)
Name: Fred H. Beerman
Title: Vice President & Secretary

By: KPO REAL ESTATE HOLDING COMPANY, L.L.C, General Partner

By: ANTHONY FAMILY PARTNERSHIP, L.L.C., Member

By: KTVU-BCA, INC., Managing Member

By:  (SEAL)
Name: Fred H. Beerman
Title: Secretary


Nathan V. Hendricks III
Attorney for the Applicant

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

EXHIBIT "A"
APPROPRIATENESS OF APPLICATION
AND
CONSTITUTIONAL ASSERTIONS

The refusal to approve the Modification requested will result in a taking of the Applicant's valuable property rights in violation of the just compensation clause of the Constitution of Georgia 1983, Article 1, Section 3, Paragraph 1 and the just compensation clause of the Fifth Amendment to the United States Constitution. Further, such refusal to approve the requested Modification discriminates in an arbitrary, unreasonable, capricious and unconstitutional manner between the Applicant and owners of similarly situated property in violation of Article 1, Section 1, Paragraph 2 of the Constitution of the State of Georgia and in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Additionally, such refusal to approve the requested Modification would constitute a gross abuse of discretion and would constitute a violation of the Applicant's rights to substantive and procedural due process as guaranteed by the Constitution of the State of Georgia 1983, Article 1, Section 1, Paragraph 1 as well as the Fifth and Fourteenth Amendments to the United States Constitution.

Any approval of this Modification request 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 and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove. The refusal to approve this requested Modification would result in a real, substantial and significantly detrimental hardship to be borne by the Applicant without any corresponding public benefit or legitimate connection to public health, safety, morals and general welfare. The community at large will not be affected by the approval of the requested Modification.

Any approval of of this Modification without the simultaneous approval of the Concurrent Variance 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.

RECEIVED

MAR 02 2010

City of Sandy Springs
Community Development



CITY OF ATLANTA
DEPARTMENT OF WATERSHED MANAGEMENT
BUREAU OF DRINKING WATER
TECHNICAL SERVICES GROUP

KASIM REED
MAYOR

651 FOURTEENTH STREET
ATLANTA, GEORGIA 30318
OFFICE 404-235-2007
FAX 404-982-1400

ROBERT J. HUNTER
COMMISSIONER

May 14, 2010

Mr. Roger Rupnow
City Of Sandy Springs
Department of Community Development
Planning and Zoning Division
7840 Roswell Road, Building 500
Sandy Springs, GA 30350

RECEIVED

MAY 16 2010

**City of Sandy Springs
Community Development**

Subject: Water Availability at 7000 & 9000 Central Park way

Dear Mr. Rupnow,

In response to your letter we offer the following:

1. There is an existing 12-inch water main along Central Park way, 12-inch along Central Park West, 16-inch and 12-inch water mains on Peachtree Dunwoody Road. These water mains are owned and maintained by the City of Atlanta.
2. Our calculations based on the reported fire flow test results indicate the 12" main has a capacity of 3260 gpm.
3. If further investigation is required, please complete the attached Basis of Design Data form along with site utility plan.

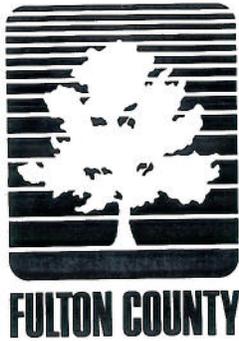
In order to access the water you must develop a set of stamped engineering drawings, and submit three copies to the City of Atlanta, Bureau of Drinking Water for approval and review.

Should additional information be needed, please contact me at 404-235-2085.

Sincerely,

Eric Glover, PE
Chief Civil Engineer

cc: file



Department of the Environment and Community Development
141 Pryor Street, SW
Suite 2085
Atlanta, GA 30303

RECEIVED

MAY 12 2010

City of Sandy Springs
Community Development

May 10, 2010

Patrice S. Ruffin, AICP, Assistant Director Planning & Zoning
City of Sandy Springs
Department of Community Development
Planning and Zoning Division
7840 Roswell Road, Building 500
Sandy Springs, Georgia 30350

Dear Ms. Ruffin:

I am in receipt of your zoning package soliciting comments on the upcoming City of Sandy Springs zoning agenda for the June Planning Commission and July Mayor and City Council Meetings. I have reviewed all items within the package and find none of them have a significant impact on Unincorporated Fulton County. Thank you for the opportunity to review the requests.

Sincerely,

Randy Beck,
Deputy Director, E&CD