



ZONING BOARD OF APPEALS AGENDA

JULY 15, 2020
7:00 PM
CITY HALL

A. Roll Call

B. Approval of Minutes: March 20, 2019

C. Approval of Agenda

D. Old Business: (None)

E. New Business:

V2020-002 Brian & Trisha Bjurmark. Request to vary from Zoning Code Section 1001.5.b to permit a recreational vehicle to be parked in the side yard of a single-family property located at 5746 Fairley Hall Court in Dist. 6, Land Lot 346, Peachtree Corners, GA

V2020-003 Rubina Habib. Request to encroach into the required 25' impervious setback area landward of the required 50' stream buffer to allow for construction of a new single-family home at 3621 Farmington Ln. in Dist. 6, Land Lot 300, Peachtree Corners, GA

V2020-004 Norcross Realty Holdings. Request to reduce the required buffer between dissimilar zoning districts from 75' to 10' and to reduce the required minimum parking from 14 to 9 spaces to allow for construction of a new gas station and retail center at 5211 Buford Hwy. in Dist. 6, Land Lot 256, Peachtree Corners, GA

F. City Business Items: (None)

G. Comments by Board Members.

H. Adjournment.



DRAFT COPY

CITY OF PEACHTREE CORNERS
ZONING BOARD OF APPEALS MINUTES
March 20, 2019
7:00PM

The City of Peachtree Corners held a Zoning Board of Appeals meeting. The meeting was held at City Hall, 310 Technology Parkway, Peachtree Corners, GA, 30092. The following were in attendance:

Zoning Board of Appeals: Wayne Knox, Post B
Marcia Brandes, Post A
Amreeta Regmi, Post C
Matthew Gries, Post D - *absent*
James Kucik, Post E
Jack DeLong, Alternate Member
Sherry Ferguson, Alternate Member

Staff: Diana Wheeler, Com. Dev. Director
Jeff Conkle, Planning & Zoning Admin.
Rocio Monterrosa, Deputy City Clerk

MINUTES: Approval of February 20, 2019 Minutes.

MOTION TO APPROVE THE FEBRUARY 20, 2019 MINUTES.

By: Marcia Brandes

Seconded: James Kucik

Vote: (5-0) (Brandes, Kucik, Knox, Regmi, Ferguson)

AGENDA: Approval of the March Agenda

MOTION TO APPROVE THE MARCH 20, 2019 AGENDA.

By: Amreeta Regmi

Seconded: Marica Brandes

Vote: (5-0) (Regmi, Brandes, Knox, Kucik, Ferguson)

OLD BUSINESS:

V2019-001 Norcross Realty Holding, LLC. (Continued from February 20, 2019) V2019-001 Norcross Realty Holding, LLC. Request to reduce the required buffer between dissimilar zoning districts from 75' to 10' and to reduce the minimum parking from 14 spaces to 9 spaces to allow for construction of a new gas station and retail center at 5211 Buford Hwy. in Dist. 6, Land Lot 256, Peachtree Corners, GA.

Diana Wheeler, Community Development Director, stated that this case was tabled

to the March meeting so that the applicant could provide the following:

- A revised layout plan that provided for adequate parking while minimizing impacts on surrounding residential properties
- Architectural elevations of the proposed buildings and structures
- Evidence of a community meeting to address the concerns of surrounding residents

The applicant has provided a new layout plan which shifts the building and gas canopy further into the site, allowing additional parking in the front of the property and thus eliminating the need for a parking variance. The rear 75' buffer is maintained and the requested side buffer reduction to 10' remains the same. Architectural elevations of the retail building have been provided and show a brick, stucco and glass storefront building. The brick and stucco cover the front and two sides, while the rear is a metal panel finish. The applicant held a community meeting with concerned neighbors on the evening of March 13, 2019.

The applicant's representative, Terry Boomer, stated that his client agrees with staff recommendations and that they met with the surrounding neighbors, they are still in opposition of request. Mr. Boomer also stated that with the new layout he is addressing traffic circulation, adding sidewalks on both frontages and deceleration lane is not being removed. They are also willing to add additional signage about dead end on Herrington Drive.

Chairman Knox opened the floor to anyone wanting to speak in favor or opposition to the application. There were 4 comments in opposition to the application stating traffic, noise, light and possible crime issues.

Commissioners asked applicant about hours of refueling pumps, need for additional retail space and the viability of the gas station at this location.

A motion was made after discussion.

BASED ON A THOROUGH REVIEW OF THE ENTIRE RECORD AND THE HEARING BEFORE THIS BODY, I MOVE THAT THE ZONING BOARD OF APPEALS MAKE THE FOLLOWING FINDINGS AND CONCLUSIONS AND DENY THE VARIANCE ON THE BASES THAT (1) THERE ARE NO EXTRAORDINARY AND EXCEPTIONAL CONDITIONS PERTAINING TO THIS PARTICULAR PROPERTY IN QUESTION BECAUSE OF ITS SIZE, SHAPE AND TOPOGRAPHY; AND, (2) THE REQUIREMENTS ON THIS PARTICULAR PIECE OF PROPERTY WOULD NOT CREATE UNNECESSARY HARDSHIP IN TERMS OF ZONING, BUT BUFFER THEY ARE REQUESTING; AND, (3) SUCH CONDITIONS ARE NOT THE RESULT OF ANY ACTIONS OF THE PROPERTY OWNER; AND, (4) RELIEF, WOULD CAUSE SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD AND IMPAIR THE PURPOSES OR INTENT OF THE RESOLUTION.

By: Marcia Brandes

Seconded: James Kucik

Vote: (5-0) (Brandes, Kucik, Knox, Regmi, Ferguson)

OLD BUSINESS:

V2019-002 Soren Thomas. Request to permit an accessory structure in the front yard and to increase the permitted height of a fence or wall at an existing residence at 3552 Jones Mill Rd. in Dist. 6, Land Lot 281, Peachtree Corners, GA.

Diana Wheeler, Community Development Director, stated that the applicant is requesting a variance to allow an accessory structure to remain in the front yard of the property and to allow a fence/wall to exceed the maximum 4' in height when located in a front yard. If approved, the applicant would be able retain the accessory structure and fence/wall in their current condition; both were built without permits. The property in question is a large, non-conforming residential parcel at the end of Jones Mill Road, approximately 2000 feet east of Winters Chapel Road. The parcel is non-conforming because it contains two single-family homes on one lot: a smaller one on the western side of the property and a larger one (relevant to this case) on the eastern side. The property has been under enforcement for code violations for approximately the last two years. The larger home and the accessory structure, which is the subject of this variance request, were renovated, expanded, and/or constructed without permits. The accessory structure in question is an open-air pavilion (termed a "gazebo" by the applicant) containing an outdoor fireplace and seating areas under a roof. The pavilion's columns and fireplace are constructed of brick with asphalt shingles on the roof. The property also has a fence/wall constructed of brick, stone and stucco that is the subject of a variance request. The variance is being requested because the wall exceeds the 4' height limit in several areas, varying from just a few inches over 4' to one foot over the 4' limit. Section 600 of the zoning ordinance permits accessory structures only in the rear yard of residential properties. The location in question is the front yard, directly adjacent to the front property line. In the letter of intent, the applicant states that the street (Jones Mill Road) has not been maintained by the city or county and thus views it as "abandoned." The applicant further states that the perceived abandonment of the street renders the definition and application of "front," "side," or "rear" yards for zoning purposes moot, thus allowing the accessory structure in its current location and the fence/wall to exceed 4' because it is not in the "front" yard.

Jones Mill Road has never been formally abandoned and regardless of this fact, the property has a front yard for zoning purposes. Additionally, maintenance of the area between the pavement and the adjacent private property is the responsibility of the adjacent private property owner, not the city, and failure to maintain it does not constitute abandonment by the city. Sec. 10-346 of the Property Maintenance Code requires "All premises yards and exterior property shall be maintained free from debris, litter, and rubbish, as well as grass and weeds in excess of 12 inches in height. The term 'exterior property' shall include all areas on the property to the edge of street pavement. All noxious weeds shall be prohibited." The code also defines "exterior property" further as "the open space on the premises and on adjoining property under the control of owners or operators of such premises." The property's 8+ acres allow for numerous viable alternative locations for accessory structures which can comply with the zoning ordinance's location requirement. Additionally, the fence/wall is clearly within the area at the front of the property that limits such structures to 4' in height.

After reviewing the applicant's request and the variance criteria, Staff finds that given the property's large size and multiple alternative ways in which to comply

with zoning regulations, a hardship cannot be justified.

If the Board does consider approval of the variance requests, Staff recommends the following conditions:

1. The accessory structure shall remain in its current state and shall not be permitted to increase in footprint or height nor otherwise expand.
2. The fence/wall shall remain in its current state and shall not be permitted to increase in height, length, area enclosed, or any other change to the current configuration.
3. The applicant shall submit an engineer's letter to the City Building Official describing the construction of the accessory structure. The applicant shall also apply for the required building permit(s).

The Applicant's representative, Wallace Nichols, stated that they are aware of the violations and are working with the City to bring the property up to compliance. Mr. Nichols also stated that the Pavilion should not be destroyed since their property is on a dead end street and not affecting anyone.

Chairman Knox opened the floor to anyone wanting to speak in favor or opposition to the application. Three applicants spoke in opposition stating, that the owners should not be exempt from following the City ordinances.

Commissioners spoke about not finding hardship on the pavilion, but see no problem with leaving the fence/wall up.

A motion was made after discussion.

BASED ON A THOROUGH REVIEW OF THE ENTIRE RECORD AND THE HEARING BEFORE THIS BODY, I MOVE THAT THE ZONING BOARD OF APPEALS MAKE THE FOLLOWING FINDINGS AND CONCLUSIONS REGARDING THE PAVILLION AND DENY THE VARIANCE ON THE BASES THAT (1) THERE ARE NO EXTRAORDINARY AND EXCEPTIONAL CONDITIONS PERTAINING TO THIS PARTICULAR PROPERTY IN QUESTION BECAUSE OF ITS SIZE, SHAPE AND TOPOGRAPHY; AND THAT ANY HARDSHIP WAS SELF-IMPOSED BY OWNER FOR NOT GETTING A PERMIT BEFORE BUILDING BECAUSE CITY WOULD NOT HAVE AGREED TO THE PERMIT TO BUILD. FROM THE STANDPOINT OF THE WALL, I MOVE THAT THE ZONING BOARD OF APPEALS MAKE THE FOLLOWING FINDINGS AND CONCLUSIONS AND APPROVE THE VARIANCE ON KEEPING THE WALL AS LONG AS ALL APPLICABLE REGULATIONS AND ENGINEERING REQUIREMENTS ARE SATISFIED ACCORDING TO THE CITY STAFF ON THE BASES THAT (1) THERE ARE EXTRAORDINARY AND EXCEPTIONAL CONDITIONS PERTAINING TO THIS PARTICULAR PROPERTY IN QUESTION BECAUSE OF ITS EROSION AND TOPOGRAPHIC IRREGULARITY ; AND, (2) THE REQUIREMENTS ON THIS PARTICULAR PIECE OF PROPERTY WOULD NOT CREATE UNNECESSARY HARDSHIP IN TERMS OF ZONIG;; AND, (3) SUCH CONDITIONS ARE NOT THE RESULT OF ANY ACTIONS OF THE PROPERTY OWNER; AND, (4) RELIEF, WOULD NOT CAUSE SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD AND IMPAIR THE PURPOSES OR INTENT OF THE RESOLUTION.

THE APPLICANT SHALL APPLY FOR A BULDING PERMIT. THE FENCE/WALL SHALL REMAIN IN IT'S CURRENT STATE AND SHALL NOT

**BE PERMITTED TO INCREASE IN HEIGHT LENGTH OR AREA ENCLOSED
OR ANY OTHER CHANGES TO THE CURRENT CONFIGURATION.**

By: Marcia Brandes

Seconded: James Kucik

Vote: (5-0) (Brandes, Kucik, Knox, Regmi, Ferguson)

CITY BUSINESS ITEMS:

Jeff Conkle, Planning and Zoning Administrator stated that there will be no Zoning Board of Appeals meeting on April.

COMMENTS BY BOARD MEMBERS:

None.

AJDOURNMENT:

MOTION TO ADJOURN THE MEETING AT 9:24 PM.

By: Amreeta Regmi

Seconded: Sherry Ferguson

Vote: (5-0) (Regmi, Ferguson, Knox, Brandes, Kucik)

Approved,

Attest:

Wayne Knox, Chairman

Rocio Monterrosa,
Deputy City Clerk

V2020-002
5746 Fairley Hall Court

**City of Peachtree Corners
Zoning Board of Appeals
July 15, 2020**

CASE NUMBER:	V2020-002
PROPERTY LOCATION:	5746 Fairley Hall Court 6th District, Land Lot 346, Parcel 043
CURRENT ZONING:	R-100
PARCEL SIZE:	0.60 acres
PROPERTY OWNER:	Brian & Trisha Bjurmark
APPLICANT:	Brian & Trisha Bjurmark

REQUEST

The applicants would like to park a recreational vehicle (“RV”) in the side yard of their property. Zoning Ordinance Sec. 1001.5.b permits the parking of an RV in the side yard only if within a garage or carport, otherwise it must be parked in the rear yard. If approved, the applicants would keep the RV parked on the existing driveway in the side yard.

LOCATION AND BACKGROUND

The property in question is a single-family parcel on the east side of Fairley Hall Court, near the Chattahoochee River, accessed by Revington Drive off Jones Bridge Circle.

The home was built in 1988; the driveway and side yard in question are on the left side of the home, as viewed from Fairley Hall Court.

VARIANCE REQUIREMENTS

Sec. 1605.3 identifies specific findings that must be made in order for a variance to be granted. These findings are as follows:

- A. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography, and
- B. the requirements on this particular piece of property would create an unnecessary hardship, and
- C. such conditions are peculiar to the particular piece of property involved, and
- D. such conditions are not the result of any actions of the property owner, and
- E. relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of this Resolution.

ANALYSIS

The zoning ordinance requires RVs to be parked within carports or garages if located in the side yard. Such vehicles may be parked in the rear yard without the need for a carport or garage if located 15' from adjacent property lines. The property owner does not want to alter the rear yard to create an RV parking area and chose to apply for this variance.

In his letter of intent, the applicants state that if they have to relocate the RV behind the house, they will be required to modify the topography and remove several existing trees, shrubs, and other landscaping that add value to their property and the neighborhood. If they were to build an enclosure to screen the RV, it would negatively affect the aesthetics of the home and, by extension, its value. The adjoining neighbors to the left and across the street were consulted and have signed letters indicating their preference to keep the RV as it is currently situated.

CONCLUSION

After reviewing the applicant's request and the variance criteria, Staff finds that maintaining the RV in its current location may be justified. However, it may be possible to install a narrow canopy, similar to a carport, over the RV to enclose it and minimize its appearance to neighboring properties. The applicant's letter of intent includes a statement concerning their willingness to include a sunset provision with an approval and a restriction to limit the approval to their existing RV.



**CITY OF PEACHTREE CORNERS
COMMUNITY DEVELOPMENT**

310 Technology Parkway, Peachtree Corners, GA 30092
Tel: 678.691.1200 | www.peachtreecornersga.gov

Case Number: V2020-002 Received Date: 3/2/20 Hearing Date: 4/15/20

**Variance Application from the Zoning Resolution
(Zoning Board of Appeals)**

Please complete this application & submit it with all attachments as stated in the Variance Application Guidelines. A variance cannot be processed unless all information accompanies the application; a variance from a condition of zoning or special use cannot be accepted.

Applicant Information	Property Owner Information
Name <u>Brian & Trisha Bjurmark</u>	Name <u>Brian & Trisha Bjurmark</u>
Address (all correspondence will be mailed to this address): <u>5746 Fairley Hall Court</u>	Address <u>5746 Fairley Hall Court</u>
City <u>Peachtree Corners</u>	City <u>Peachtree Corners</u>
State <u>GA</u> Zip <u>30092</u>	State <u>GA</u> Zip <u>30092</u>
Phone <u>678-471-0780</u>	Phone <u>678-471-0780</u>
Contact Person Name: <u>Brian Bjurmark</u> Phone: <u>678-471-0780</u>	
Email Address: <u>TheBjurmarks@Gmail.com</u>	
Applicant is the (please check or circle one of the following):	
<input checked="" type="radio"/> Property Owner <input type="radio"/> Owner's Agent <input type="radio"/> Contract Purchaser	

Address of Property 5746 Fairley Hall Court

Subdivision or Project Name Revington Lot & Block _____

District, Land Lot, & Parcel (MRN) L37 BA Revington #2

Proposed Development _____

Permit Number (if construction has begun) _____

Variance Requested Off-street parking for a recreational vehicle

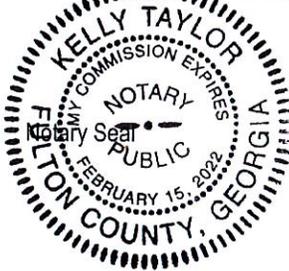
A complete application includes the following:

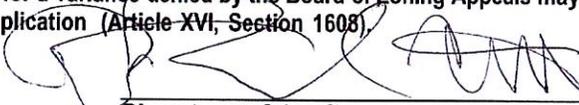
- | | |
|--|---|
| <input type="checkbox"/> Application Form (1 original and 1 electronic copy) | <input type="checkbox"/> Application Fee |
| <input type="checkbox"/> Site Plan and/or Boundary Survey (1 original, 1 8 1/2"x11" or 11"x17" reduction and 1 electronic copy.) | <input type="checkbox"/> Adjacent owner(s) written support (1 original and 1 electronic copy) |
| <input type="checkbox"/> Letter of Intent (1 original and 1 electronic copy) | <input type="checkbox"/> Additional Documentation as needed |
| <input type="checkbox"/> Signed & notarized Certification page | |



Applicant Certification

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that an application or reapplication for a variance denied by the Board of Zoning Appeals may not be made earlier than 12 months from the date of original application (Article XVI, Section 1608).

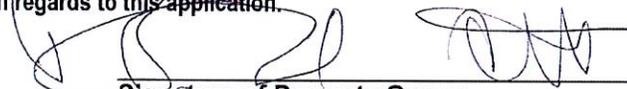


 3-2-2020
Signature of Applicant Date
Brian Bjurmark Trisha Bjurmark
Typed or Printed Name & Title
Kelly Taylor 3/2/2020
Signature of Notary Public Date

Property Owner Certification

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that an application or reapplication for a variance denied by the Board of Zoning Appeals may not be made earlier than 12 months from the date of original application (Article XVI, Section 1608). I, as the property owner, authorize the above noted applicant to represent me with regards to this application.



 3-2-2020
Signature of Property Owner Date
Brian Bjurmark Trisha Bjurmark
Typed or Printed Name & Title
Kelly Taylor 3/2/2020
Signature of Notary Public Date

Community Development Use Below Only

Fees Paid: \$100.00 By: Jc

Related Cases & Applicable Conditions:

Variance Description: VARIANCE TO ALLOW R.V. TO BE PARKED
IN SIDE YARD

Brian & Trisha Bjurmark
5746 Fairley Hall Court
Peachtree Corners, GA 30092

Diana Wheeler
City of Peachtree Corners
Community Development
310 Technology Parkway
Peachtree Corners, GA 30092

Re: Recreational vehicle parking

Ms. Wheeler,

We are requesting a variance to zone code Article X, Off-Street Parking, Section 1001-5(b), for property located at 5746 Fairley Hall Court, Peachtree Corners, GA, L37 BA Revington #2 in order to park our recreational vehicle in an area not defined as the “rear yard” of the property.

We own a Class C recreational vehicle that is approximately 32 feet long. This RV is registered in Gwinnett County and fully insured. We would like to store our RV at our home due to the financial cost of storing it at a secure facility nearby and due to security concerns. We do not have an existing garage on our property that could accommodate the RV, therefore the zoning laws would require us to keep it in the “rear yard” of our property.

Complying with the requirement that it must be kept at least 15 feet from the property line is not an issue, however, due to the orientation of our driveway and the slope of our yard behind the house it would impose a severe financial hardship to make that space suitable for our RV. Parking the RV in the “rear yard” behind our house would require the removal of numerous bushes, several hardscapes and the removal of a significant amount of dirt in order to attempt to grade the space and make it suitable for parking. Due to the severity of the slope, the removal of that much dirt would lead to a significant drop-off from the area around our rear porch. This would necessitate the construction of safety railings and stairs in order to access the lower yard from the main part of the house. All of this new construction would make the RV much more visible to our neighbors and it would negatively impact the natural aesthetics that comes from living adjacent to a wooded area. Our other option would be to construct a new enclosure for the RV. However, this would be a substantial investment and due to the slope of the driveway away from the house and the height of the RV it would also have to be

significantly taller than the RV for it to safely fit inside. This also would negatively impact the natural aesthetics enjoyed by our neighbors much more than the RV itself.

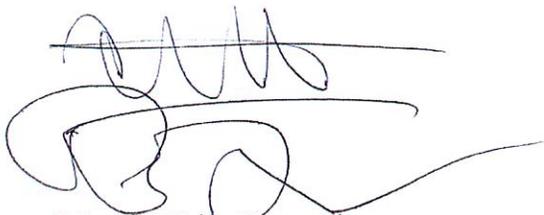
The solution we propose is to park our RV at the bottom-end of our existing driveway. Our driveway is approximate 100 feet long from the street down to the end of the concrete which extends just beyond the footprint of the house (Image 1). With the rear tires positioned at the end of the concrete and with the rear of the RV extending past the footprint of the house in to the side-rear yard, the RV would extend approximately 25 feet up toward the street. This orientation of the RV would leave approximately 75 feet between the front of the RV and where the driveway begins at Fairley Hall Court. Parking the RV in this way would have no impact on our ability to park our other vehicles in the driveway. In this position the RV would be directly visible to only two of our closest neighbors. We have contacted them about our variance request, and they are not opposed (Image 2).

We would be agreeable to the city including a condition that provides the variance shall terminate if we vacate or sell the property or if we trade in our current RV for one significantly larger. This will ensure that our neighbors will have the protection of knowing the variance is only for us and we will not trade up to a RV that is more noticeable to them than our current one. Suggested condition:

This variance is for the current owner (s) /applicant (s) only. The Recreational Vehicle allowed under this variance shall not exceed 35 feet in length. It shall terminate upon the applicant either leaving or selling the property. Should any future occupant or owner desire a similar variance, said individual (s) shall apply for a variance and go through the submission and approval process.

We appreciate your time and assistance in helping us with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian & Trisha Bjurmark". The signature is written in a cursive style with a large, sweeping flourish at the end.

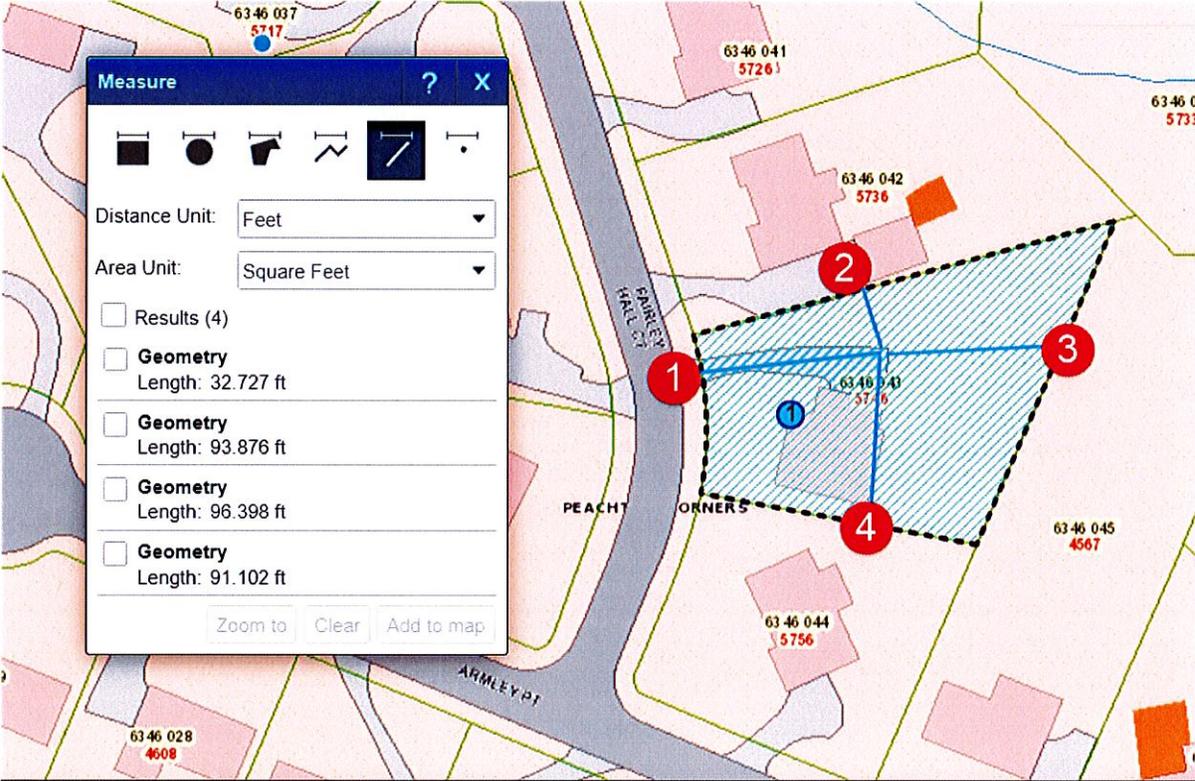
Brian & Trisha Bjurmark

Zoning Variance Request – Boundary Survey

Brian & Trisha Bjurmark

5746 Fairley Hall Court, Peachtree Corners

Distance To Relevant Property Lines From RV Location



1. Fairley Hall Court 96.4'
2. Nasuti 32.8'
3. McLaughlin 93.9'
4. Camarda 91.1'

Image 1 – Length of driveway from Fairley Hall Court to the end

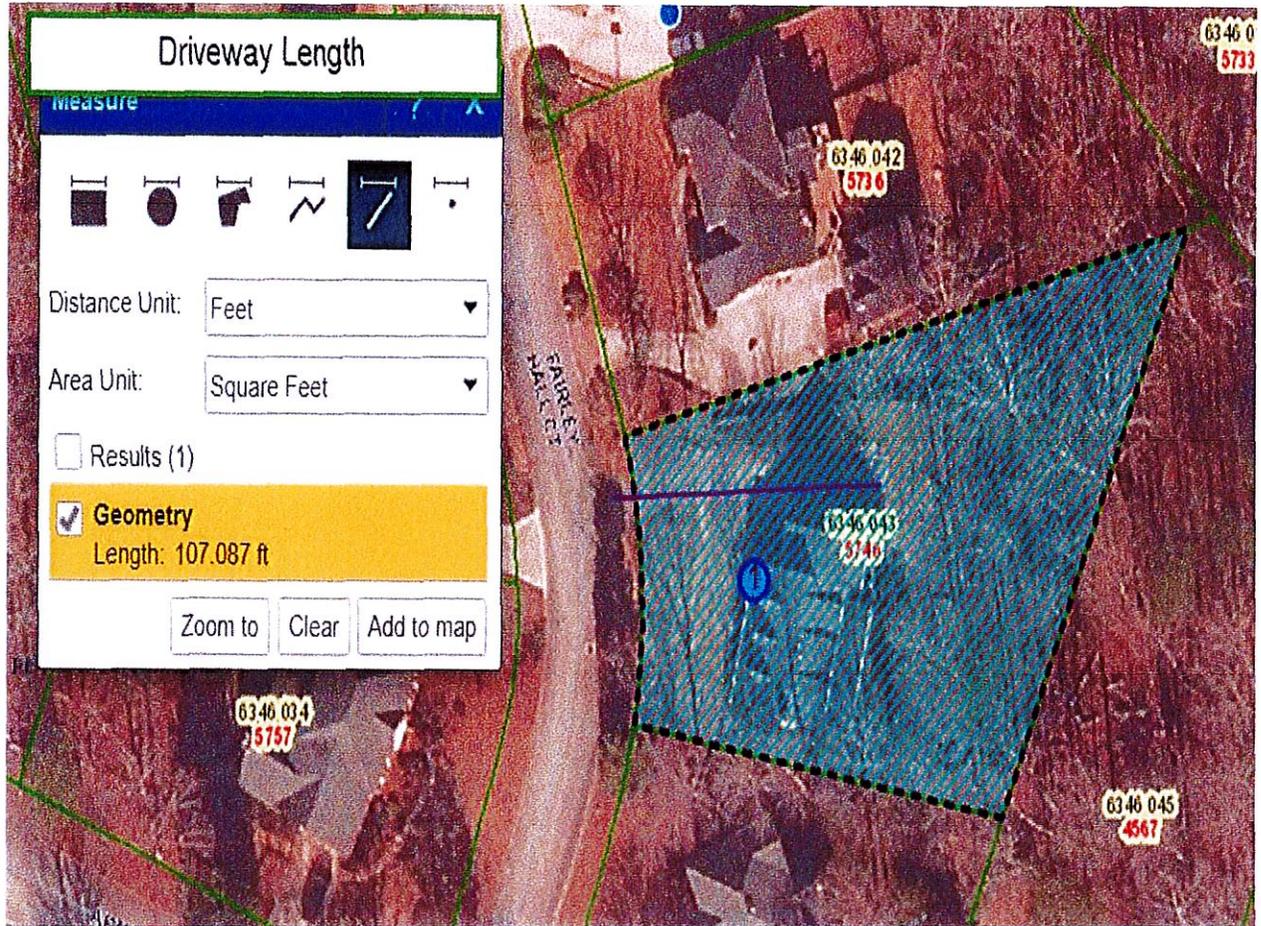


Image 2 – Location of nearest neighbors



Image 3 – “Rear Yard” elevation. Approximate 10ft in elevation change between 1 and 2



Image 4 – RV visibility from Fairley Hall Court

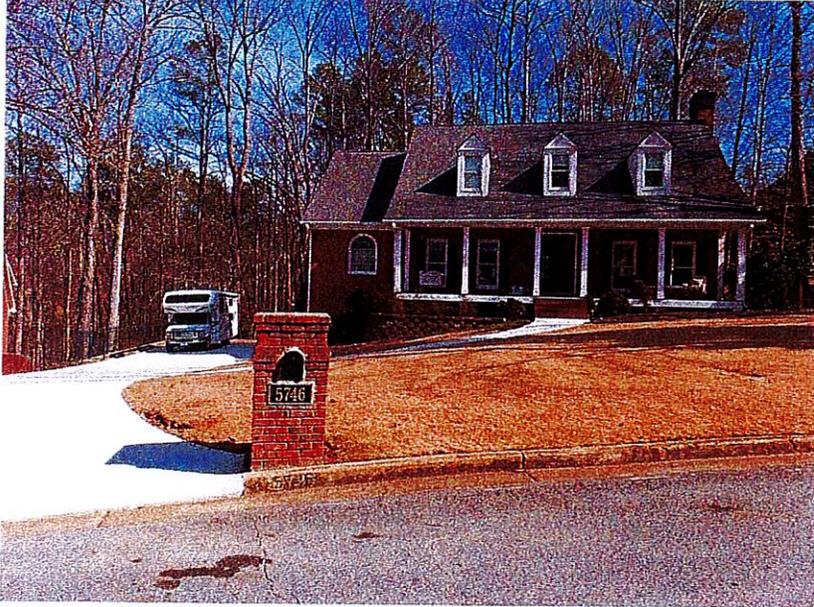


Image 5 – View of Fairley Hall Court from RV parking spot



Image 6 – View of RV from the nearest neighbor's house



Dear Neighbors,

We are requesting a variance to zone code Article X, Off-Street Parking, Section 1001-5(b), for property located at 5746 Fairley Hall Court, Peachtree Corners, GA, L37 BA Revington #2 in order to park our recreational vehicle in an area not defined as the "rear yard" of the property.

As our nearest neighbors, we are seeking your approval to permanently park our RV at the bottom of our driveway. We have no intention of using the RV as a permanent or temporary residence.

Our plan is to formally make our request to the zoning board at the next available meeting which is currently scheduled for March 18, 2020 at 7:00pm.

If you do not have any objections to our plan to park our RV in our driveway, please sign and date below.

Thank You!

Ed Stockhausen Feb. 24, 2020
Nancy Stockhausen Feb 24, 2020

Ed & Nancy Stockhausen
5737 Fairley Hall Court

Bert Nasuti February 24, 2020

Betty Nasuti February 24, 2020

Bert & Betty Nasuti
5736 Fairley Hall Court

V2020-003

3621 Farmington Lane

**City of Peachtree Corners
Zoning Board of Appeals
July 15, 2020**

CASE NUMBER:	V2020-003
PROPERTY LOCATION:	3621 Farmington Lane 6th District, Land Lot 300, Parcel 179
CURRENT ZONING:	R-100
PARCEL SIZE:	0.74 acres
PROPERTY OWNER:	Rubina Habib
APPLICANT:	Rubina Habib

REQUEST

The applicant would like to construct a new single-family home on this vacant parcel. The proposed home would extend into the 25’ impervious setback area that adjoins the 50’ buffer from the creek that forms this parcel’s rear property line.

LOCATION AND BACKGROUND

The property in question is a single-family-zoned parcel at the cul-de-sac of Farmington Lane, a street that is accessed via Wildwood Farms Drive off Bush Road. The property abuts a creek at the rear which eventually empties into the Chattahoochee River. The property was platted in 1993 and has never been built upon.

At the time of platting, the stream buffer regulations were not in place. The requirements for this and other buffers were enacted by Gwinnett County in 2005.

Today’s regulations require a 50’ undisturbed natural vegetative buffer plus an additional 25’ impervious setback (totaling 75’ from the creek), thus limiting the buildable area for a home on this property.

VARIANCE REQUIREMENTS

Sec. 1605.3 identifies specific findings that must be made in order for a variance to be granted. These findings are as follows:

- A. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography, and
- B. the requirements on this particular piece of property would create an unnecessary hardship, and

- C. such conditions are peculiar to the particular piece of property involved, and
- D. such conditions are not the result of any actions of the property owner, and
- E. relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of this Resolution.

ANALYSIS

This lot was platted prior to adoption of the current stream buffer regulations.

Recently, the property owner became interested in constructing a home on the lot. After discussion with staff, we were able to grant an administrative variance for a front setback reduction to 25' (reduced from the standard 35') to allow the home to be moved away from the buffer area. However, the property owner would like to build a ranch style home to accommodate their medical needs and a home of that type does not fit within the buildable area of the property. In order to build a one-level home, the owner will need the buffer reduction that is the subject of this request.

The adjacent home at 3631 Farmington Lane and the home two lots away at 3641 Farmington Lane both encroach into the 75' impervious setback area. Therefore, a home with the location being requested by the applicant would not be out of character for the neighborhood.

CONCLUSION

After reviewing the applicant's proposal and the variance criteria, staff finds that the buffer encroachment may be justified, as there are conditions unique to the property that are not the result of any action of the current property owner. The property owner's actions did not create the stream buffer requirements that were enacted after platting of the lot. However, the property was purchased in February 2020, so the code requirements and parcel limitations were known to the owner at that time.

If approval of the stream buffer variance is considered, the following condition is recommended:

- The applicant shall not encroach more than 25' into the impervious buffer and shall not create any additional impervious area within the impervious setback beyond that which is needed for construction of the home.



Case Number: _____ Received Date: _____ Hearing Date: _____

**Variance Application from the Zoning Resolution
(Zoning Board of Appeals)**

Please complete this application & submit it with all attachments as stated in the Variance Application Guidelines. A variance cannot be processed unless all information accompanies the application; a variance from a condition of zoning or special use cannot be accepted.

Applicant Information	Property Owner Information
Name <u>Rubina Habib</u>	Name <u>Rubina Habib</u>
Address (all correspondence will be mailed to this address): <u>4037 Leprechan Way</u>	Address <u>4037 Leprechan way</u>
City <u>Duluth</u>	City <u>Duluth</u>
State <u>GA</u> Zip <u>30097</u>	State <u>GA</u> Zip <u>30097</u>
Phone <u>5306010466</u>	Phone <u>5306010466</u>
Contact Person Name: <u>Rubina Habib</u> Phone: <u>5306010766</u>	
Email Address: <u>rubinahabib1@yahoo.cc</u>	
Applicant is the (please check or circle one of the following): <input checked="" type="radio"/> Property Owner <input type="radio"/> Owner's Agent <input type="radio"/> Contract Purchaser	

Address of Property 3621 Farmington Lane

Subdivision or Project Name WildWood Farms Lot & Block _____

District, Land Lot, & Parcel (MRN) _____

Proposed Development _____

Permit Number (if construction has begun) _____

Variance Requested Hardship Variance due to medical reasons

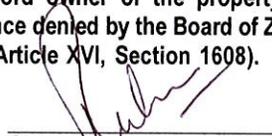
A complete application includes the following:

- | | |
|--|---|
| <input type="checkbox"/> Application Form (1 original and 1 electronic copy) | <input type="checkbox"/> Application Fee |
| <input type="checkbox"/> Site Plan and/or Boundary Survey (1 original, 1 8 1/2"x11" or 11"x17" reduction and 1 electronic copy.) | <input type="checkbox"/> Adjacent owner(s) written support (1 original and 1 electronic copy) |
| <input type="checkbox"/> Letter of Intent (1 original and 1 electronic copy) | <input type="checkbox"/> Additional Documentation as needed |
| <input type="checkbox"/> Signed & notarized Certification page | |



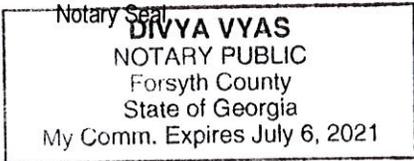
Applicant Certification

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that an application or reapplication for a variance denied by the Board of Zoning Appeals may not be made earlier than 12 months from the date of original application (Article XVI, Section 1608).


 Signature of Applicant _____ Date 03/13/2020

RUBINA HARIB (OWNER)
 Typed or Printed Name & Title _____


 Signature of Notary Public _____ Date 3-13-2020



Property Owner Certification

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that an application or reapplication for a variance denied by the Board of Zoning Appeals may not be made earlier than 12 months from the date of original application (Article XVI, Section 1608). I, as the property owner, authorize the above noted applicant to represent me with regards to this application.

 Signature of Property Owner _____ Date _____

Notary Seal

 Typed or Printed Name & Title _____

 Signature of Notary Public _____ Date _____

Community Development Use Below Only

Fees Paid: _____ By: _____

Related Cases & Applicable Conditions:

Variance Description: _____

LETTER OF INTENT

Dear Sir / Madam

I am the owner of the property 3621 Farmington Lane, Peachtree Corners, GA 30096. My reason to purchase this property was to build a Ranch Style Home for my husband and myself. We are both coming along in age and have numerous medical issues. My husband has been diagnosed with lumbar spondylosis with radiculopathy. This is a intervertebral disc disorder in lumber region. (Copy of letter from doctor enclosed)

As is evident from the letter, my husband is restricted from climbing stairs amongst other restrictions.

As our plan was to build our retirement home on this land, we are looking to have a floor plan which would have all the essential amenities on one level so that we would not have to go up and down any stairs. Please note that the existing homes in the development were built with a 25 feet stream buffer.

However, as there is a stream flowing through the property, the new state and city laws restrict us from building within 75 feet from the stream. This curtails the depth of the floor plan and does not allow us to have a ranch style home.

We request the City to kindly allows us to have a variance of 25 feet, which will reduce the existing buffer from 75 feet to 50 feet and enable us to build a proper home where we could have all the essential amenities on one level. This would allow my husband free movement in the house and reduce his dependency on others.

Kindly note that providing the variance:

It would NOT grant me any significant privileges which are denied to others similarly situated;

It would NOT violate the rights of others;

It would allow me to enjoy rights commonly enjoyed by others similarly situated.

Therefore, I earnestly request you to allow a variance of 25 feet in the rear buffer so that I can build at a distance of 50 feet from the stream.

Hoping for a positive response from you.

Sincerely

Rubina Habib (530 601 0466)

03/12/2020



Date: 03/11/2020

Re: Medical Necessity Letter

Patient Name: Javed Habib

DOB: 07/21/1959

Patient, Javed Habib is a pleasant 60 years old male that complaints of pain in the lower back, legs and knees. Patient has a history of knee surgery.

Patient is diagnosed with lumbar spondylosis with radiculopathy, low back pain and intervertebral disc disorders in lumbar region.

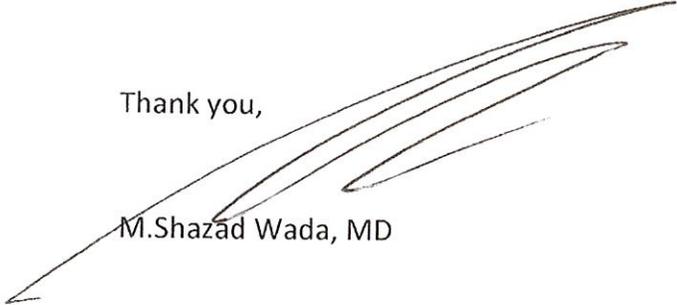
Upon assessment, abnormal findings include tenderness over the lumbar facet column in L1,2,3,4,5 distribution, pain with facet provocation in the lumbar spine, pain with extension, lateral bending and facet loading in the lumbar spine, point tenderness to palpation and percussion in the lumbar spine, pain with lumbar flexion and positive SLR on left.

Patient has experience difficulty of walking, bending, climbing and balancing.

We are strongly recommended to avoid bending, twisting, lifting and climbing stairs due to his back condition.

Please contact the office if you need any further questions.

Thank you,



M. Shazad Wada, MD



View of vacant lot at 3621 Farmington Lane

V2020-004

5211 Buford Highway

**City of Peachtree Corners
Zoning Board of Appeals
July 15, 2020**

CASE NUMBER:	V2019-001
PROPERTY LOCATION:	5211 Buford Highway 6th District, Land Lot 256, Parcel 028
CURRENT ZONING:	C-2
PARCEL SIZE:	1.112 acres
PROPERTY OWNER:	Norcross Realty Holding, LLC
APPLICANT:	Norcross Realty Holding, LLC

REQUEST

The applicant is requesting a reduction in the buffer required between dissimilar zoning districts. In this case, the applicant's C-2 property adjoins an R-75 property to the northeast at 5195 Buford Highway. If approved, the applicant would reduce the 75' buffer to a 10' buffer to allow for construction of a gas station and two, small retail tenant spaces on the property. The applicant is also requesting reduction in minimum parking from 14 spaces to 9 spaces because of the small size of the lot.

HISTORY

The property was previously the subject of the same variance request at the Zoning Board of Appeals initially in February 2019 but continued to March 2019. The ZBA ultimately denied the variance. The applicant has chosen to exercise their right to reapply after one year of time has elapsed since the last application.

The previous application first contained (at the Feb. 2019 hearing) a proposed layout that included the buffer reduction and parking variance, which is the same layout proposed in today's July 2020 hearing (see attached Exhibit A). Because of the parking and circulation concerns raised by the board members and the public in February 2019, staff drew a conceptual plan which reduced the variance requests and provided that to the applicant (see attached Exhibit B). The applicant then came back in March 2019 with a revised plan which did not mirror the staff's plan, but which did reconfigure the site to accommodate the required parking, thus reducing the variance request to just that of the buffer reduction (see attached Exhibit C). The applicant's plan submitted with this application is identical to Exhibit A, the one first proposed in February 2019.

At the hearings in 2019, area residents as well as the property owners to the immediate north and west spoke in opposition to the request.

LOCATION AND BACKGROUND

The property in question is a commercial parcel on the west side of Buford Highway at the corner of Herrington Drive. The front of the property has approximately 150' of frontage on Buford and approximately 315' of frontage on Herrington.

The property contains an existing commercial building constructed in 1974 which would be torn down to construct the proposed use.

Because of the substantial buffer requirement of 75', the property would be developable only on its southern half, thus significantly constraining the site.

VARIANCE REQUIREMENTS

Sec. 1605.3 identifies specific findings that must be made in order for a variance to be granted. These findings are as follows:

- A. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography, and
- B. the requirements on this particular piece of property would create an unnecessary hardship, and
- C. such conditions are peculiar to the particular piece of property involved, and
- D. such conditions are not the result of any actions of the property owner, and
- E. relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of this Resolution.

ANALYSIS

The zoning ordinance requires a 75' buffer between commercial and residential zoning districts to mitigate any negative impact of the adjoining uses. Because of the subject property's small size, the 75' buffer impacts approximately half of the lot, thus limiting its redevelopment potential. If the buffer requirement were applied, the buildable portion of the site would be reduced from 150 ft. to 75 ft. It would be difficult to develop the property commercially with only 75 ft. of property width. Additionally, the small site restricts the amount of parking that can be provided, thus resulting in the applicant's request to reduce the number of spaces from 14 to 9. However, it should be noted that the two small retail tenant spaces add to the need for the buffer reduction and the parking variance. Without these tenant spaces, the buffer could be reduced to 50% instead of 85% and there would be no need for a parking variance. It is possible, however, that the two retail spaces are required to make the project financially viable and removing them may make the project unbuildable in that regard.

In the letter of intent, the applicants state that the area covered by the 75' buffer requirement was previously used as parking, albeit unpaved. The buffer area is also not currently vegetated beyond some grass/groundcover. The letter also states that the residential property adjoining this site is approximately 10' higher in elevation and the applicant proposes to install new privacy fencing and landscaping in the remaining 10' buffer area to provide screening for the residential property.

Also, in the letter of intent, the applicant believes the fuel pump islands should count toward the parking requirement because gas customers are using those spaces to park during fuel purchases. If counted, the fuel parking would increase their parking count to 17.

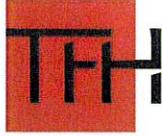
The buffer requirement affects the north and west side of the applicant's property. However, the variance request for a buffer reduction only applies to the north side of the property because the west side buffer has been met.

CONCLUSION

After reviewing the applicant's request and the variance criteria, Staff finds that given the small size of the property, the amount of buffer required for this site could be considered a hardship. Although reducing the scope of the project would decrease the buffer variance and eliminate the parking variance, it might also undermine the viability of the development.

Therefore, if the Board considers approval of the variance requests, Staff recommends the following conditions:

1. The property shall be constructed in substantial conformance with the submitted plan shown on Exhibit C (noted on the drawing as 'received on 3/5/2019') by Civil Consulting Engineers, Inc., (which does not require a parking variance).
2. The 10 ft. buffer adjacent to the residential property to the north shall include a 6 ft. high privacy fence and a landscape buffer consisting of a double staggered row of evergreen plantings at least 6' in height at the time of planting spaced 15' apart.
3. The 75 ft. buffer adjacent to the residential property to the west shall include a 6 ft. high privacy fence and a landscape buffer consisting of a double staggered row of evergreen plantings at least 6' in height at the time of planting spaced 15' apart.



TFH | LEGAL

TAYLOR | FEIL | HARPER | LUMSDEN
ATTORNEYS AT LAW

Terry Bailey
tbailey@tfhlegal.com

May 20, 2020

VIA Hand-Delivery and Electronic Mail
Community Development
City of Peachtree Corners
310 Technology Parkway
Peachtree Corners, GA 30092

Re: Variance Application for Norcross Realty Holding, LLC

To whom it may concern,

We are pleased to submit, on behalf of Norcross Realty Holdings, LLC, the following documents filed in connection with the Variance Application:

- Completed application form;
- Signed and notarized certification page;
- Letter of intent;
- Site Plan;
- Boundary survey;
- Application fee; and
- Additional documentation, including aerial pictures, architectural rendering and the limited warranty deed.

Should you have any questions or comments, please do not hesitate to contact me at tbailey@tfhlegal.com or 404.214.1214.

Sincerely,

Terry S. Bailey

Encls.



**CITY OF PEACHTREE CORNERS
COMMUNITY DEVELOPMENT**
310 Technology Parkway, Peachtree Corners, GA 30092
Tel: 678.691.1200 | www.peachtreecornersga.gov

Case Number: _____ Received Date: _____ Hearing Date: _____

**Variance Application from the Zoning Resolution
(Zoning Board of Appeals)**

Please complete this application & submit it with all attachments as stated in the Variance Application Guidelines. A variance cannot be processed unless all information accompanies the application; a variance from a condition of zoning or special use cannot be accepted.

Applicant Information	Property Owner Information
Name <u>Norcross Realty Holdings, LLC</u> <u>c/o Taylor, Feil, Harper, Lumsden, P.C.</u>	Name <u>Norcross Realty Holdings, LLC</u>
Address (all correspondence will be mailed to this address): <u>3400 Peachtree Road NE Suite 1515</u>	Address <u>1833 Lawrenceville Hwy</u>
City <u>Atlanta</u>	City <u>Decatur</u>
State <u>Georgia</u> Zip <u>30326</u>	State <u>GA</u> Zip <u>30033</u>
Phone <u>404-214-1214</u>	Phone <u>678-777-0080</u>
Contact Person Name: <u>Terry Bailey</u> Phone: <u>404-214-1214</u>	
Email Address: <u>tbailey@tfhlegal.com</u>	
Applicant is the (please check or circle one of the following): <input checked="" type="radio"/> Property Owner <input type="radio"/> Owner's Agent <input type="radio"/> Contract Purchaser	

Address of Property 5211 Buford Hwy Peachtree Corners, GA 30033

Subdivision or Project Name _____ Lot & Block 6256 028

District, Land Lot, & Parcel (MRN) R6256028

Proposed Development Convenience store with gasoline pumps

Permit Number (if construction has begun) _____

Variance Requested Reduction of transition buffer from 75' to 10'; Reduction in parking from 14 to 9

A complete application includes the following:

- | | |
|--|---|
| <input type="checkbox"/> Application Form (1 original and 1 electronic copy) | <input type="checkbox"/> Application Fee |
| <input type="checkbox"/> Site Plan and/or Boundary Survey (1 original, 1 8 1/2"x11" or 11"x17" reduction and 1 electronic copy.) | <input type="checkbox"/> Adjacent owner(s) written support (1 original and 1 electronic copy) |
| <input type="checkbox"/> Letter of Intent (1 original and 1 electronic copy) | <input type="checkbox"/> Additional Documentation as needed |
| <input type="checkbox"/> Signed & notarized Certification page | |



CITY OF PEACHTREE CORNERS
COMMUNITY DEVELOPMENT
310 Technology Parkway, Peachtree Corners, GA 30092
Tel: 678.691.1200 | www.peachtreecornersga.gov

Applicant Certification

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that an application or reapplication for a variance denied by the Board of Zoning Appeals may not be made earlier than 12 months from the date of original application (Article XVI, Section 1608).

 4/28/20
Signature of Applicant Date

Ayaz Ali - Member

Typed or Printed Name & Title

 4.28.20
Signature of Notary Public Date

Notary Seal
PARIS L STEWART
NOTARY PUBLIC
DeKalb County, Georgia
My Commission Expires 7/30/2022

Property Owner Certification

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that an application or reapplication for a variance denied by the Board of Zoning Appeals may not be made earlier than 12 months from the date of original application (Article XVI, Section 1608). I, as the property owner, authorize the above noted applicant to represent me with regards to this application.

 4/28/20
Signature of Property Owner Date

Ayaz Ali - Member

Typed or Printed Name & Title

 4.28.20
Signature of Notary Public Date

Notary Seal
PARIS L STEWART
NOTARY PUBLIC
DeKalb County, Georgia
My Commission Expires 7/30/2022

Community Development Use Below Only

Fees Paid: _____ By: _____

Related Cases & Applicable Conditions:

Variance Description: _____



Variance Application Guidelines & Information

Note: A variance application from a condition of zoning or special use must be approved by City Council and can neither be accepted nor processed through the Board of Zoning Appeals.

Application Process

The Zoning Board of Appeals (ZBA) variance process requires approval thru a public hearing and will take approximately 45 days. Please see the filing deadline and hearing date schedule. The ZBA meets on the third Wednesday of each month (unless otherwise published) at 7:00 PM, at the City of Peachtree Corners City Hall, 310 Technology Parkway, Suite 200, Peachtree Corners, Georgia. A public hearing notice sign shall be posted on the property under consideration at least 15 days before the public hearing. In addition, a legal advertisement will be published in the *Gwinnett Daily Post* at least 15 days prior to the hearing. Once advertised for public hearing, an application can NOT be withdrawn.

1. No less than one week prior to submitting an application for a Public Hearing, the applicant must complete a pre-submittal meeting with staff. The applicant should bring one copy of the completed submittal package with all required plans and supporting materials to the meeting.
2. On or before the appropriate "Submittal Deadline" day, the applicant should file one (1) original, plus 10 copies of the completed Application and supporting documents. Each set will be comprised of the completed Application with the required supporting documents attached. One full-size set of any drawings, surveys, and any other oversized materials shall be included with the original application. The additional 10 copies of these documents shall be submitted at a size no greater than 11" x 17" and shall each be folded to a size not to exceed 8.5" x 11".
3. The City of Peachtree Corners allows the applicant two (2) requests for extensions beyond the scheduled public hearing. If the request for extension is received after the Notice of Public Hearing has been published, a \$250 re-advertising fee must be paid by the applicant. If, after requesting a deferral, an applicant submits a revised application and/or site plan, a \$500 re-review fee will be assessed in addition to the \$250 re-advertising fee. An application may be withdrawn without prejudice (no waiting time to refile) at any time prior to the public hearing at which final action is taken. A request for such withdrawal must be made in writing.
4. All application fees must be paid at the time of submittal.
5. All taxes must be paid in-full and any and all outstanding code violations on the property must be rectified prior to the public hearing.
6. The applicant or an authorized agent of the applicant must be present for all public hearings to present the proposal.

Application Requirements

Included in these guidelines are the informational requirements necessary to process an application. This documentation is important in demonstrating an "unnecessary hardship." For example, if the hardship is due to severe topography, topographic information must be submitted. If the justification is due to the location of an easement, a survey showing the easement must be submitted. In some circumstances, photographs can be used to substantiate a hardship.

The following items are necessary to process a variance application:



- Cross-sections of the buffer and its relationship to uses on adjacent property.
- Cross-sections indicating improvements on adjacent residential property as may be seen through the proposed improvements on the subject site.
- Complete planting plan indicating existing vegetation and any proposed replanting. Indicate types of trees, name, size, quantity and spacing. Indicate trees proposed to be retained or planting on the cross sections and on the planting plan.
- Proposed screening fence and/or berm locations, etc., and details of same.
- Demonstrate compliance with the Buffer, Landscape & Tree Ordinance requirements.
- Show location of detention facilities and the direction of drainage flow.
- Provide details of building and parking lot lights adjacent to the proposed reduced buffer.
- Provide written consent from the adjacent property owner(s).

Sign Applications

Applications requesting a sign variance must also answer these questions:

- Are there exceptional conditions pertaining to the property where the sign is to be located as a result of the property size, shape, or topography which are not applicable to other lands or structures in the area? If "yes," please explain.
- Would the applicant be deprived of rights that are commonly enjoyed by others similarly situated? If "yes," please explain.
- Would granting the variance confer on the applicant any significant privileges which are denied to others similarly situated? If "yes," please explain.
- Are the exceptional circumstances the result of actions of the applicant or the applicant's representatives? If "yes," please explain.
- Is the requested variance the minimum necessary to allow the applicant to enjoy rights commonly enjoyed by others similarly situated? If "no," please explain.
- Would granting of the variance violate more than one standard of the Unified Development Code? If "yes," please explain.
- Would granting the variance result in allowing a sign that interferes with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic?

**If you have any questions regarding these requirements, please contact the
Community Development Department at 678-691-1200.**

LETTER OF INTENT

and

Other Material Required by
The Zoning Code of Peachtree Corners

For the Application for Variances

for

± 1.10 Acres of land located at
5211 Buford Hwy
Peachtree Corners, GA 30071
Land Lot 6256

Variance to reduce the required transitional buffer setback from 75 feet to 10 feet; and
Variance to reduce parking requirement from 14 to 9 spaces.

Submitted by:
Terry Bailey, Esq.
Taylor, Feil, Harper & Lumsden P.C.
3400 Peachtree Road N.E. Suite 1515
Atlanta, Georgia 30326
404.214.1200

SUMMARY OF PROPOSED USE

This is an application of Norcross Realty Holdings, LLC (the "Applicant") for variances from certain zoning resolutions of Peachtree Corners for property located at 5211 Buford Hwy Peachtree Corners, GA 30071 (the "Subject Property"). The Subject Property is zoned commercial ("C-2"). The Subject Property is bordered by C-2 to the Southeast and R-75 to the Northwest and Northeast. The R-75 property to the Northwest is a multi-family apartment complex. To the East, the property is bordered by Buford Highway. Along Buford Highway there are other commercial uses.

The Applicant's proposed improvements will include 6,650 feet of retail space, comprised of three units, one of which will consist of a convenience store that will serve the gasoline station.

In order to implement its redevelopment plans, the Applicant must first seek relief from the City of Peachtree Corners from its Zoning Code.

Specifically, the Applicant seeks the following variances for the Subject Property:

1. A variance to reduce the required transitional buffer setback from 75 feet to 10 feet (“Variance 1”); and
2. A variance to reduce the parking requirement from 14 to 9 spaces (“Variance 2”).

Most importantly, the stated improvements have been constructed without substantial detriment to the public. The Applicant intends to work closely with the immediate neighborhood to ensure that the variance requested does not frustrate the intent of the Zoning Code and results in the development of a project which is aesthetically pleasing and functionally appropriate for the site. As such, the proposed plan is in the public’s best interest.

This document is submitted both as the Letter of Intent for the above referenced variance applications and a preservation of the Applicant’s constitutional rights. A surveyed plat of the Subject Property has been filed contemporaneously with the Application, along with other required materials.

JUSTIFICATION FOR VARIANCES

The Zoning Code specifically authorizes the Board of Zoning Appeals (the “BZA”) to hear, grant or deny variances from applicable development standards of the Zoning Code when the strict application of any regulation enacted under said chapters would result in exceptional and undue hardship upon the owner of such property.

In accordance with Article XVI, Section 1605 of the Peachtree Corners Zoning Code, the Applicant submits the responses below to address the hardships and exceptions circumstances regarding the Subject Property:

(1) Any extraordinary and exceptional conditions pertaining to the subject property because of topography;

Variance 1: The subject site is only approximately 1.10 acres. The Zoning Code requires a transitional buffer of 75 feet. The Subject Property is currently 1.12 acres and if both buffer areas are removed from that there will only be .43 acres left on the site.

In order to comply with this requirement, the setback would have to encroach on approximately half of the property.

Variance 2: Further smaller lot makes it difficult to achieve the minimum number of parking spaces as well. With the gas station use, Applicant must maintain enough space on the Subject Property to allow for safe ingress and egress for gas tankers as well as customer vehicles.

(2) How the application of the Zoning Code standard would create an unnecessary hardship

Variance 1: Applying the Zoning code would limit the buildable footprint to approximately half of the property. With both buffer areas applied it would make the buildable area unfeasible to be redeveloped.

Variance 2: Achieving 14 parking spaces would be difficult considering the ingress and egress that is needed for gasoline tankers.

(3) How such conditions are unique to the property involved

Variance 1: Most commercial properties are larger in size and applying the required setbacks would not leave those properties with less than half of the property “as buildable space.”

Variance 2: Most commercial properties are larger in size allowing more acreage for parking.

(4) How such conditions are not the result of any actions of the property owner

Variance 1: The unique size, shape and conditions are not a result of any actions of the property owner.

Variance 2: The unique size, shape and conditions are not a result of any actions of the property owner.

(5) Would relief, if granted, cause substantial detriment to the public good or impair the purpose and intent of the Zoning Code

Variance 1 and Variance 2: The primary goal of land use planning is to eliminate or minimize the potential adverse effect of dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both “off-site” and “on-site” transition. On-site transition, which might either supplement or replace offsite transition, consists of measures imposed on or adjacent to the more intensive use to protect neighborhoods from adverse effects.

More specifically, the purpose of the setback requirements are two-fold. First, setbacks are created to provide spacing distance between different land uses (as mentioned above). Second, setbacks are created to protect things.

The proposed development will provide additional planting and a new fence allow the shared property line creating a greater buffer than what currently exists. All proposed lighting for the development will be directed and shielded from the adjacent neighboring property.

With the proposed development, the Applicant still leaves more than enough space to maneuver safely in and around the property. Accordingly, this request allows for the renovation and beautification of an older building and site which serves as an excellent complimentary use for patrons traveling the Buford Highway.

Peachtree Corners' desire is to encourage developments that hold to certain standards and support the overall viability of the surrounding area. Convenience stores with gasoline pumps are a necessity to every community so long as cars run on gasoline and are the primary source of transportation in the United States. Convenience stores being built today such as Quick Trip and RaceTrac have raised the bar in the Southeast and operators such as the Applicant have met these new development standards by building competing facilities which provide a similar convenience store experience. The proposed development, in addition to offering gasoline, will offer hot food, over the counter convenience medications, a coffee station, beverage station, deli, and larger grocery offerings.

With the vacancies in the surrounding area, the facelift and improvement of the Subject Property would unquestionably be beneficial to the public's interests.

CONCLUSION

Based upon the foregoing facts, the Applicant contends that the application of the applicable development standards of the Peachtree Corners Zoning Code to this particular piece of property would create an unnecessary hardship and that the variances requested herein would do substantial justice while preserving the spirit of the chapter shall, securing the public welfare and safety and not causing substantial detriment to the public good or impair the purpose and intent of Zoning Code of Peachtree Corners.

Further, the Applicant respectfully submits that the Zoning Code of Peachtree Corners, as amended from time to time and known as the "Zoning Code" is expressly intended to grant

variance in instances such as these described herein. Further, to forbid the requested variances in this instance would be unlawful, arbitrary, capricious, irrational and a manifest abuse of discretion; all 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.

For these reasons, we request the variances sought herein from the stated restrictions as set out in the Peachtree Corners Zoning Code.

Applicant respectfully submits that the Zoning Code and maps of Peachtree Corners, as amended from time to time, are unconstitutional to the extent that they do not allow the requested variances for the construction of the proposed improvements on the Subject Property.

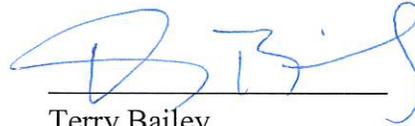
Accordingly, the Applicant respectfully submits that the denial of the variances for the construction proposed herein on the Subject Property would constitute an arbitrary and unreasonable use of the zoning and police powers because it will bear no substantial relationship to the public health, safety, morality or general welfare of the public and would substantially harm the Applicant. Additionally, issuance of the requested variances is required because it fully satisfies all standards applicable to it. A denial would constitute a taking of the Applicant'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 and the Due Process Clause of the Fourteenth Amendment of the United States Constitution and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

Further, the Applicant respectfully submits that the failure to approve the requested variances would be unconstitutional and would discriminate in an arbitrary and capricious and unreasonable manner between the Property owner and the 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.

These applications meet favorably the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's police power, Guhl v. Holcomb Bridge Road, 238 Ga. 322 (1977).

For the foregoing reasons, we respectfully requests that the variance applications be approved.

Respectfully submitted, this 20 day of May, 2020.



Terry Bailey
Attorney for Applicant

Taylor, Feil, Harper & Lumsden
3400 Peachtree Road. N.E. Suite 1515
Atlanta, GA 30326
404.214.1200
tbailey@tfhlegal.com



24-HOUR EMERGENCY CONTACT: AYAZ ALI (678) 777-0080

AERIAL PHOTOS

C2

REVISIONS:
 PROJECT: GWINNETT COUNTY C-STORE
 PROJECT ADDRESS: 5211 BUFORD HIGHWAY
 PROJECT ADDRESS: NORCROSS, GA 30071
 CLIENT: GENERAL CONSTRUCTION MANAGEMENT, LLC
 CLIENT ADDRESS: 1833 LAWRENCEVILLE HWY
 CLIENT ADDRESS: DECATUR, GA 30033
 DATE: 6/11/18
 DWG: PRJI

Civil Consulting Engineers, Inc.
 122 CEDAR WOODS TRAIL
 CANTON, GA 30114
 678-462-4072
 cecinc.com



Chevron

white spot

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BX55700 P00620

FILED AND RECORDED
CLERK SUPERIOR COURT
GWINNETT COUNTY GA

2018 FEB 12 PM 2:00

RICHARD ALEXANDER, CLERK

After recording, return to:
Michele L. Battle, Esq.
Battle Law, P.C.
One West Court Square, Suite 750
Decatur, GA 30030

PT-61# W-2018-002818
GWINNETT CO. GEORGIA
REAL ESTATE TRANSFER TAX
\$ 310.00
RICHARD T. ALEXANDER, JR. CLERK OF
SUPERIOR COURT

LIMITED WARRANTY DEED

THIS INDENTURE, made and entered into this 7th day of February, 2018 by and between Y & K AUTOLANTA, LLC, a Georgia limited liability company (herein, referred to as "Grantor"), and NORCROSS REALTY HOLDING, LLC, a Georgia limited liability company (herein referred to as "Grantee").

WITNESSETH THAT, the said Grantor, for and in consideration of the sum of Ten and no/100 (\$10.00) Dollars, and other good and valuable consideration, in hand paid at or before the delivery of this deed, the receipt and sufficiency of which are hereby acknowledged, and pursuant to proper authority, has granted, bargained, sold and conveyed and by these presents does hereby grant, bargain, sell and convey to the said Grantee, and its successors and assigns, the following described property:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING in Land Lot 256 of the 6th District of Gwinnett County, Georgia being more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference.

TOGETHER WITH all fixtures, structures and improvements located on such property and the easements, rights, members and appurtenances thereunto appertaining.

TO HAVE AND TO HOLD the said bargained premises, together with all and singular the rights, privileges, easements, members and appurtenances belonging or thereunto appertaining, to the only proper use and benefit of the Grantee and its successors and assigns forever in FEE SIMPLE.

AND EXCEPT for those matters set forth on Exhibit "B" attached hereto and incorporated herein by reference, Grantor will warrant and defend the title to said premises against the claims of all persons claiming by, through or under Grantor, but not otherwise.

(Remainder of this page intentionally left blank.)

0012600

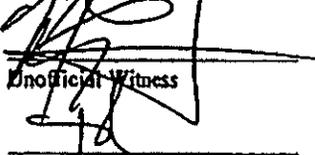
2

BK55700 PG0621

IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed, sealed and delivered on the date above written.

GRANTOR:

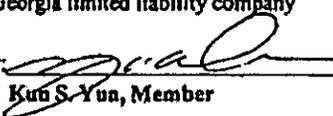
Signed, sealed and delivered
in the presence of:


Notary Public

Notary Public

My commission expires: May of 2020

Y & K AUTOLANTA, LLC,
a Georgia limited liability company

By:  (SEAL)
Kuni S. Yun, Member



BK55700 P00622

EXHIBIT "A"
LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL, together with all improvements thereon, lying and being in Land Lot 256 of the 6th District of Gwinnett County, Georgia, shown and delineated by Plat of the survey of W.T. Dunahoo & Associates, May 4, 1974, as follows:

BEGINNING at a point on the Northwestern margin of U.S. Highway #23 at the point where the southeastern margin of Herrington Road intersects and thence running North 32 degrees 30 minutes West along Herrington Road, 200.0 feet; thence North 42 degrees 55 minutes East, 160.0 feet; thence South 32 degrees 30 minutes East, 200.0 feet to U.S. Highway #23; thence South 42 degrees 55 minutes West along U.S. Highway #23, 160.0 feet to the POINT OF BEGINNING.

Also, all that tract or parcel of land lying and being in Land Lot 256 of the 6th District of Gwinnett County, Georgia, more particularly described as follows:

BEGINNING at a point on the Southeasterly margin of Herrington Road, said point being North 32 degrees 30 minutes West, 200.0 feet from the Southeast corner of the intersection of Herrington Road and U.S. Highway #23, and thence running north 42 degrees 55 minutes East, 160.0 feet; thence northwesterly, 50 feet, more or less, to a point; thence easterly, 69 feet, more or less, to a point; thence northwesterly, 20 feet, more or less, to a point; thence Southwest, 228.75 feet to Herrington Road; thence southeasterly 120 feet, more or less, to the POINT OF BEGINNING.

This includes all property of grantor located on U.S. Highway #23 and Herrington Road, Land Lot 256, 6th District, Gwinnett County, Georgia.

LESS AND EXCEPT:

All that property described in that certain Right of Way Deed in Deed Book 5398, Page 190, recorded March 30, 1989.

8X55700 PD0623

EXHIBIT "B"

PERMITTED TITLE EXCEPTIONS

1. Taxes and assessments for the year 2018 and subsequent years, not yet due and payable.
2. Slope easement contained in Right of Way Deed from Bill A. Chamblee to the Department of Transportation dated February 28, 1989, recorded March 30, 1989 in Deed Book 5398, Page 190, records of Gwinnett County, Georgia.

TAYLOR, FEIL, HARPER AND LUMSDEN P.C.

OPERATING ACCOUNT
3400 PEACHTREE RD NE, STE 1515
ATLANTA, GA 30326



9698

05/18/2020

PAY TO THE
ORDER OF City of Peachtree Corners

\$ 750.00

Seven Hundred Fifty Dollars and 00/100*****

DOLLARS

City of Peachtree Corners

John F. Harper, Pres
AUTHORIZED SIGNATURE

MEMO

⑈009698⑈ ⑆061102400⑆ 05 05264 5⑈

TAYLOR, FEIL, HARPER AND LUMSDEN P.C.

9698

INVOICE	DATE	DESCRIPTION	INV AMOUNT
	5/18/2020	Norcross Realty Holdings Variance	750.00

Check# / Date 9698 5/18/2020 City of Peachtree Corners 750.00

TAYLOR, FEIL, HARPER AND LUMSDEN P.C.

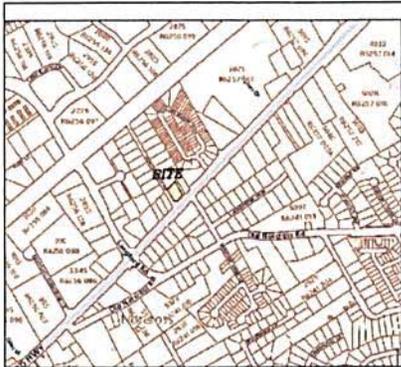
9698

INVOICE	DATE	DESCRIPTION	INV AMOUNT
	5/18/2020	Norcross Realty Holdings Variance	750.00



Security features. Details on back.

EXHIBIT A
Applicant Site Plan Version 1
February 2019



VICINITY MAP
 NTS

THIS PLAN IS BASED UPON AVAILABLE DATA. THE CITY OF PEACHTREE CORNERS, GEORGIA, DOES NOT WARRANT THE ACCURACY OF THIS PLAN. THE CITY OF PEACHTREE CORNERS, GEORGIA, DOES NOT WARRANT THE ACCURACY OF THIS PLAN. THE CITY OF PEACHTREE CORNERS, GEORGIA, DOES NOT WARRANT THE ACCURACY OF THIS PLAN.

MUNICIPALITY: CITY OF PEACHTREE CORNERS
 MUNICIPALITY ROAD ADDRESS: 310 TECHNOLOGY PARKWAY NW
 PEACHTREE CORNERS, GA 30092
 MUNICIPALITY PHONE: (678) 691-1200



ZONING MAP
 NTS



24-HOUR EMERGENCY CONTACT: AYAZ ALI (678) 777-0080



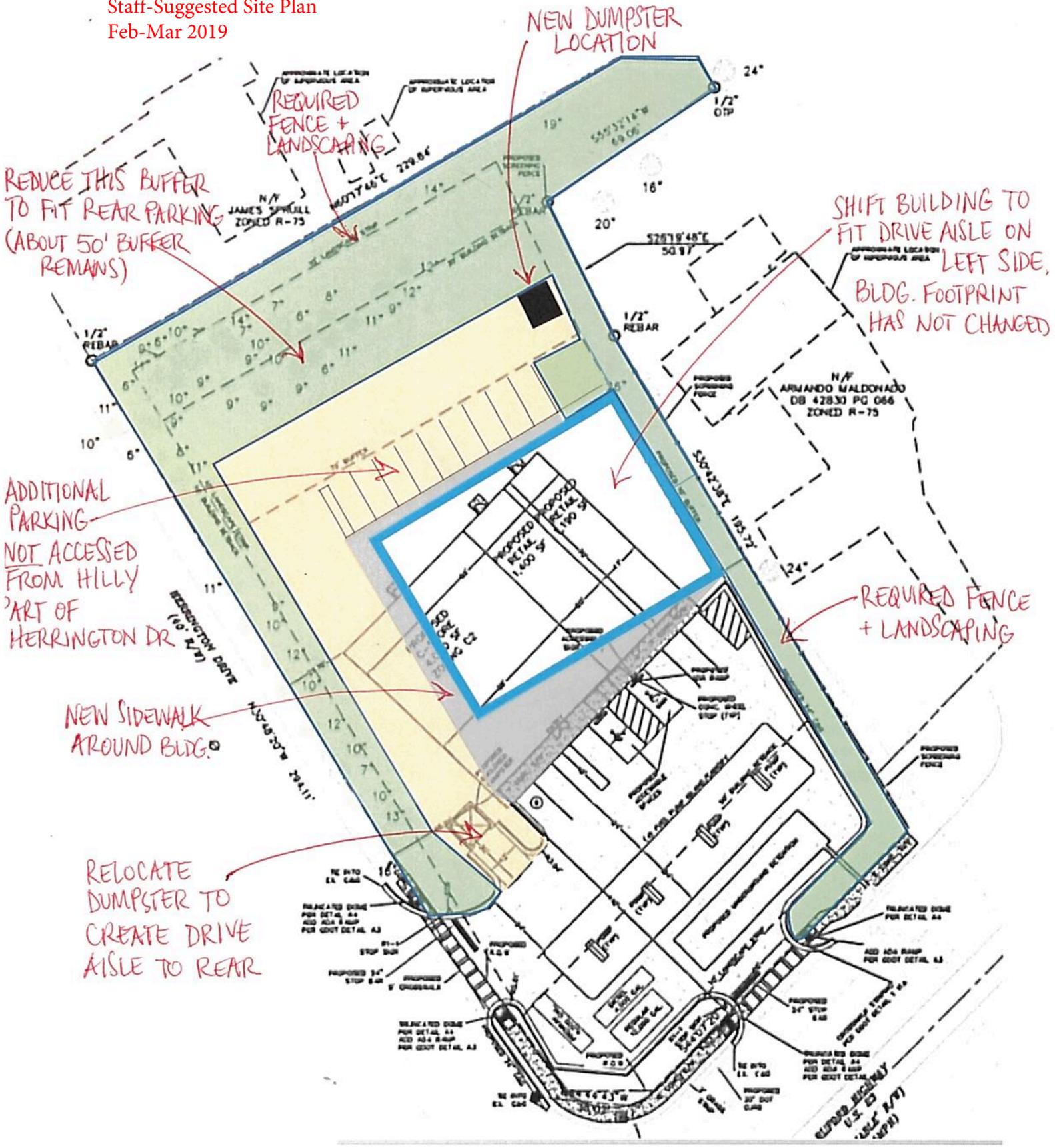
GENERAL NOTES:

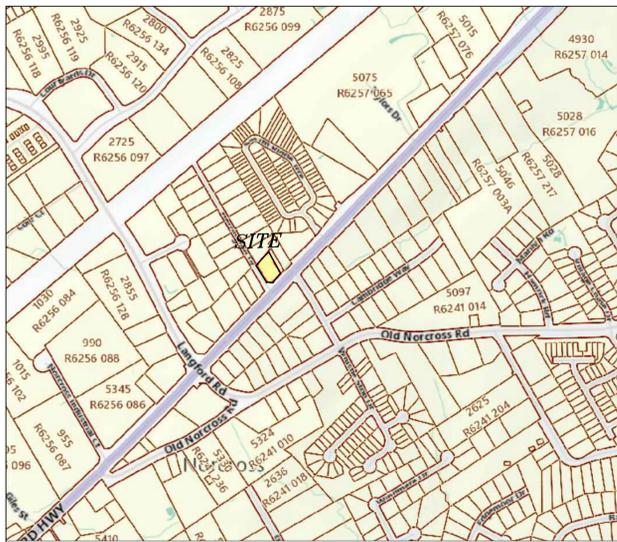
1. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE PLANS AND THE MOST APPLICABLE FEDERAL, STATE AND LOCAL CODES.
2. REPRESENT ARCHITECTURAL PLANS FOR BUILDING, STRUCTURE, TRUCK, BOILER, MECHANICAL, ELECTRICAL, PLUMBING, PAVEMENT, ETC.
3. REPRESENT ENGINEERING SURVEY, PROPERTY LINE, LOCAL ELEVATION, EXISTING UTILITIES, SITE TOPOGRAPHY WITH SPOT ELEVATIONS, EXISTING FOUNDATION, EXISTING AND EXISTING STRUCTURE LOCATIONS AS PROVIDED BY THE FOLLOWING COMPANY: SURVEYING & ENGINEERING CONSULTANTS, INC.
4. ALL DIMENSIONS ARE GIVEN AS TO THE FACE OF CURB UNLESS OTHERWISE NOTED. ALL DIMENSIONS SHOWN TO BALANCE ARE TO OUTSIDE FACE OF BUILDING.
5. ALL ACCESSIBLE PARKING SPOTS AND STOPS SHALL BE IN ACCORDANCE WITH THE AMERICAN WITH DISABILITY ACT (ADA) REGULATIONS AND STATE CODE.
6. ALL TRAFFIC SIGNS SHALL CONFORM TO THE NATIONAL TRAFFIC CONTROL MANUAL AND THE STATE OF GEORGIA DEPARTMENT OF TRANSPORTATION.
7. ALL STOPPED OR CURBED SIDE SHALL BE 6' UNLESS OTHERWISE NOTED.
8. THE CONTRACTOR IS RESPONSIBLE FOR REPAIR OF ANY DAMAGE TO ANY EXISTING IMPROVEMENTS, DRIVE OR OFF SITE, SUCH AS FURNISHING, UTILITIES, STORM DRAINAGE, ETC. THE REPAIR SHALL BE APPROVED BY THE ENGINEER AND BE EQUAL OR BETTER THAN EXISTING CONDITIONS.
9. SITE LIGHTING SHALL BE INCLUDED IN THE GENERAL CONTRACTOR'S SCOPE OF WORK.
10. CONTRACTOR SHALL OBTAIN ALL PERMITS BEFORE CONSTRUCTION BEGINS.
11. SITE CONTRACTOR SHALL SUPPLY AS-BUILT PLANS INCLUDING ALL CHANGES AND DIMENSIONS.
12. ANY DEVIATION FROM THESE PLANS MAY CAUSE THE WORK TO BE UNACCEPTABLE.
13. ANY UNANTICIPATED CONDITIONS ENCOUNTERED DURING THE CONSTRUCTION PROCESS SHALL BE REPORTED TO THE ENGINEER IMMEDIATELY.
14. ALL CONCRETE SHALL BE 3000 PSI 28 DAY COMPRESSIVE STRENGTH, MINIMUM.
15. PROJECT DAMAGE SHALL BE THE RESPONSIBILITY OF THE GENERAL CONTRACTOR.
16. ALL DIMS AND BUTTER WITHIN THE DEVELOPMENT SHALL BE 1/2" UNLESS OTHERWISE NOTED.
17. PARKING LOT STOPPING SHALL BE INCLUDED IN PARKING CONTRACTOR'S SCOPE OF WORK. ALL STOPPING TO BE DEMONSTRATED.

REVISIONS:	
PROJECT:	GWINNETT COUNTY C-STORE
PROJECT ADDRESS:	5211 BUFORD HIGHWAY
PROJECT ADDRESS:	NORCROSS, GA 30071
CLIENT:	GENERAL CONSTRUCTION MANAGEMENT, LLC
CLIENT ADDRESS:	1833 LAWRENCEVILLE HWY
CLIENT ADDRESS:	DECATUR, GA 30033
DATE:	6/11/18 DWG: PRJ1
Civil Consulting Engineers, Inc.	
	122 CEDAR WOODS TRAIL CANTON, GA 30114 678-462-4072 678-462-4072
01/08/19	SITE PLAN CI



EXHIBIT B
Staff-Suggested Site Plan
Feb-Mar 2019





VICINITY MAP
NTS

THIS PROPERTY IS NOT LOCATED WITHIN A 100 YEAR FLOOD PLAIN AS SHOWN ON F.I.R.M. COMMUNITY PANEL NUMBER 13067C0102H DATED MARCH 4, 2013.

SITE PLAN DEVELOPED FROM AVAILABLE DATA MAPS AND/OR DRAWINGS. THIS SITE PLAN WAS NOT CREATED FROM A FIELD RUN SURVEY. CCE RESERVES THE RIGHT TO REVISE THE SITE PLAN AS ADDITIONAL INFORMATION IS MADE AVAILABLE. SITE PLAN SUBJECT TO CHANGE.

MUNICIPALITY: CITY OF PEACHTREE CORNERS

MUNICIPALITY ADDRESS: 310 TECHNOLOGY PARKWAY NW
PEACHTREE CORNERS, GA 30092

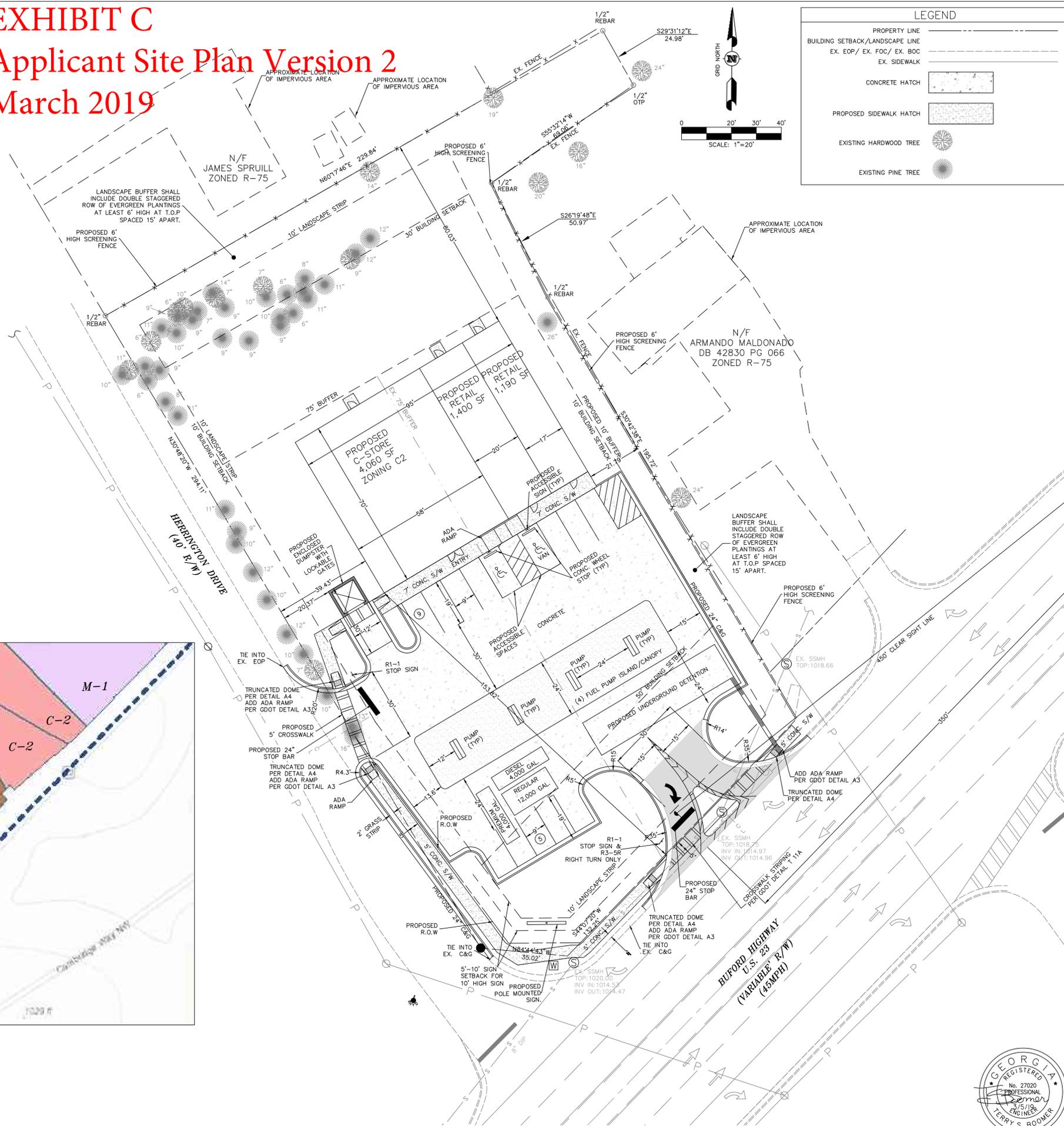
MUNICIPALITY PHONE: (678) 691-1200



EXHIBIT C

Applicant Site Plan Version 2

March 2019



LEGEND	
PROPERTY LINE	---
BUILDING SETBACK/LANDSCAPE LINE	- - - -
EX. EOP/ EX. FOC/ EX. BOC	---
EX. SIDEWALK	---
CONCRETE HATCH	[Pattern]
PROPOSED SIDEWALK HATCH	[Pattern]
EXISTING HARDWOOD TREE	[Symbol]
EXISTING PINE TREE	[Symbol]

ZONED: C2-GENERAL BUSINESS DISTRICT

PARKING:

CONVENIENCE STORE:
1 PER 500 SF

RETAIL:
1 PER 500 SF

BUILDING AREA 6,650
BUILDING HEIGHT 1-STORY

6,650/500 = 13.3
TOTAL PARKING REQUIRED = 14
TOTAL PARKING PROVIDED = 14

DIRECTION	PROPERTY USE	ZONING
NORTH	VACANT	R-75 RESIDENTIAL
EAST	VACANT	R-75 RESIDENTIAL
SOUTH	HWY	BUFORD HWY
WEST	ROAD	HERRINGTON DRIVE

TOTAL SITE AREA = 47,936 SQ. FT. ±0.11 AC (100%)

PROPOSED ON-SITE IMPERVIOUS AREA = 23,782 SQ. FT. ±0.55 AC (50%)

BUILDING = 6,650 SQ. FT. ±0.15 AC (14%)

PAVEMENT/SIDEWALK = 17,132 SQ. FT. ±0.40 AC (36%)

PROPOSED PERVIOUS AREA = 24,154 SQ. FT. ±0.55 AC (50%)

PROPOSED R.O.W IMPERVIOUS AREA = 2,263 SQ. FT. ±0.05 AC

- SITE NOTES:**
- ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE PLANS AND SITE WORK SPECIFICATIONS AND SHALL COMPLY APPLICABLE FEDERAL, STATE AND LOCAL CODES.
 - REFERENCE ARCHITECTURAL PLANS FOR BUILDING DIMENSIONS, TRUCK DOCKS, SIDEWALKS, STEPS, TRANSFORMER PADS, ETC.
 - TOPOGRAPHIC BOUNDARY SURVEY, PROPERTY LINES, LEGAL DESCRIPTION, EXISTING UTILITIES, SITE TOPOGRAPHY WITH SPOT ELEVATIONS, OUTSTANDING PHYSICAL FEATURES AND EXISTING STRUCTURE LOCATIONS WAS PROVIDED BY THE FOLLOWING COMPANY: BOUNDARY & TOPOGRAPHY: BOUNDARY ZONE, INC.
 - ALL DIMENSIONS AND RADI ARE TO THE FACE OF CURB, UNLESS OTHERWISE NOTED. ALL DIMENSIONS SHOWN TO BUILDINGS ARE TO OUTSIDE FACE OF BUILDING.
 - ALL HANDICAP ACCESSIBLE PARKING SIGNS AND STRIPING SHALL BE IN ACCORDANCE WITH THE AMERICAN WITH DISABILITY ACT (ADA) REQUIREMENTS AND STATE CODE.
 - ALL TRAFFIC SIGNS SHALL CONFORM TO THE UNIFORM TRAFFIC CONTROL MANUAL AND THE STATE OF GEORGIA DEPARTMENT OF TRANSPORTATION.
 - ALL STRIPED OR CURBED RADII SHALL BE 5' UNLESS OTHERWISE NOTED.
 - THE CONTRACTOR IS RESPONSIBLE FOR REPAIR OF ANY DAMAGE TO ANY EXISTING IMPROVEMENTS, ONSITE OR OFF SITE, SUCH AS PAVEMENT, UTILITIES, STORM DRAINAGE, ETC. THE REPAIR MUST BE APPROVED BY THE ENGINEER AND BE EQUAL OR BETTER THAN EXISTING CONDITIONS.
 - SITE LIGHTING SHALL BE INCLUDED IN THE GENERAL CONTRACTOR'S SCOPE OF WORK.
 - CONTRACTOR SHALL OBTAIN ALL PERMITS BEFORE CONSTRUCTION BEGINS.
 - SITE CONTRACTOR SHALL SUPPLY AS-BUILT PLANS INDICATING ALL CHANGES AND DEVIATIONS.
 - ANY DEVIATION FROM THESE PLANS MAY CAUSE THE WORK TO BE UNACCEPTABLE.
 - ANY UNANTICIPATED CONDITIONS ENCOUNTERED DURING THE CONSTRUCTION PROCESS SHALL BE IDENTIFIED TO THE ENGINEER IMMEDIATELY.
 - ALL CONCRETE SHALL BE 3,500 PSI 28 DAY COMPRESSIVE STRENGTH, MINIMUM.
 - PROJECT SIGNAGE SHALL BE THE RESPONSIBILITY OF THE GENERAL CONTRACTOR.
 - ALL CURB AND GUTTER WITHIN THE DEVELOPMENT SHALL BE 24" UNLESS OTHERWISE NOTED.
 - PARKING LOT STRIPING SHALL BE INCLUDED IN PAVING CONTRACTOR'S SCOPE FOR WORK. ALL STRIPING TO BE THERMOPLASTIC.

REVISIONS:

BUILDING PROTOTYPE:

PROJECT NUMBER:

PROJECT NAME: GWINNETT COUNTY C-STORE

PROJECT ADDRESS: 5211 BUFORD HIGHWAY

PROJECT ADDRESS: PEACHTREE CORNERS, GA 30071

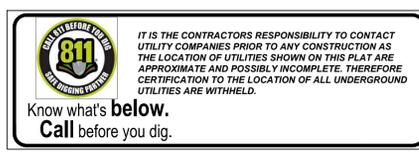
CLIENT: GENERAL CONSTRUCTION MANAGEMENT, LLC

CLIENT ADDRESS: 1833 LAWRENCEVILLE HWY

CLIENT ADDRESS: DECATUR, GA 30033

DATE: 6/11/18

DWG: PRJI



24-HOUR EMERGENCY CONTACT: AYAZ ALI (678) 777-0080



Civil Consulting Engineers, Inc.

e.inc. 211 EAST MAIN STREET
CANTON, GA 30114
678-462-4072
CivilConsultingEngineersinc.com

SITE PLAN RECEIVED 3/5/2019 CI



View of front along Buford Highway. Neighboring residential property on the right.



View of property at the corner of Buford Highway and Herrington Drive