



Planning Commission

Regular Meeting Agenda

July 22, 2024 | 6:30 PM

Peachtree City City Hall

A quorum of the Peachtree City Mayor & Council may be in attendance.

I. Pledge of Allegiance

II. Additions or Deletions

III. Announcements and Reports

IV. Approval of Minutes

1. Planning Commission Meeting June 24, 2024

V. Public Hearing

1. Rezoning request from OI Office Institutional to GC General Commercial, 1999 and 2011 Highway 54 W

VI. Old Agenda Items

VII. New Agenda Items

1. Landscape Plan, Bridge Park Medical, 2035 Commerce Drive

VIII. Workshop Items

1. Text Amendment to the Administrative Variance Zoning Ordinance

Planning Commission of Peachtree City
Meeting Minutes
Monday, June 24, 2024
6:30 PM

Pledge of Allegiance

Chairman Scott Ritneour opened the meeting at 6:30 p.m. with the Pledge of Allegiance. Other Commissioners in attendance included Vice Chairman Kenneth Hamner, Mitzi Johnston, Felicia Reeves, and Alternate Ray Liotta. Commissioner Andrew Kriz was absent. Also present were Planning Director Robin Cailloux, Senior Planner Lora Hooks, Planning Department Summer Intern Lydia Golley, Recording Secretary Martha Barksdale, and IT Specialist Jady Talman.

Additions or Deletions

A motion was made by Hamner to modify the agenda to move the new agenda items ahead of the public hearing. Johnston seconded. Motion was approved unanimously.

Announcements and Reports

None

Approval of Minutes

1. Planning Commission Meeting April 22, 2024

Johnston moved to approve the April 22, 2024, meeting minutes. Reeves seconded. Motion carried unanimously.

Public Hearing

1. Administrative Variance text amendment to Zoning Ordinance

This was a Council-initiated discussion of amending Section 1204 of the Zoning Ordinance, which dealt with administrative variances. However, Cailloux pointed out, there was no consensus from Council about what the amendments should be. Council wanted the Planning Commission's comments on this topic, and she acknowledged they would probably want to continue this topic at some workshops. Holding the public hearing tonight would comply with the requirement to have one, but there was no deadline for forwarding any recommendations to Council.

Cailloux first explained three types of decisions a municipal government could make. Ministerial decisions are used when there are objective criteria and personal judgment or discretion did not play a role. These decisions were made by staff. Quasi-judicial decisions were made by a group, City Council in Peachtree City's case, after a public hearing in which the decision makers interpret the application of existing laws. Personal preferences should not play a role, even though subjective criteria are often involved. Legislative decisions are made solely by Council to establish policies via new ordinances.

There are five types of requests that could qualify for the administrative variance

procedure:

1. Existing setback encroachment created by a previous property owner; or
2. Rear setback encroachment of up to 50% with written consent by all adjacent property owners and the homeowners association (HOA) and if the new construction used similar materials and colors to the existing structure; or
3. Any setback reduction next to a publicly-owned property, such as a greenbelt, of up to 25% with written consent by all adjacent property owners and the HOA, the new construction used similar materials and colors to the existing structure and provided there was no other possible location on the property for the proposed expansion; or
4. Parking reduction up to 25% if applicant can show that required parking could be built on the property if needed in the future; or
5. Increase in maximum fence height up to 25% if the fence is pertaining to pool barrier requirements or if justified due to topographic reasons.

The ordinance establishes an Administrative Variance Committee consisting of the Planning Director, the City Manager, and one Council Member. The review criteria is that the variance would not cause a substantial detriment to owners of the surrounding properties and not impair the purposes of the zoning ordinance. Cailloux pointed out that consent of adjacent property owners was evidence that the variance would not be detrimental to the area.

Was there one specific Council member who always served on the committee? Reeves asked, and Cailloux said former City Manager Bob Curnow improved the process. In the past, they had just reached out to whatever Council member was available, and it was usually the same one. Now it rotated among Council members.

Johnston, referring to the review criteria, asked who determined what was a substantial detriment, and Cailloux replied that was why the letters from neighbors were required. Reeves wondered how many had to agree. Cailloux said it was the HOA and all property owners adjacent to the applicant's property. A cul-de-sac property might have five adjacent properties, while a corner lot would have two.

The administrative variance was created in 1992 only for existing violations not created by the current owner. The committee at that time consisted of a Council member, the Planning Director, and a Planning Commissioner. In 2008, Council created a new type of variance in addition to the administrative variance, called a special exception. This was for setback encroachments next to public land up to 25%, parking reductions up to 25%, and fence height increases with no height limit specified. The special exception went through a public hearing process but did not have to meet hardship criteria like a normal variance. The City Manager replaced the Planning Commissioner on the administrative variance committee.

In 2021, Council combined these variances into one administrative variance. It added the neighbor notification provision, the rear setback reduction up to 50%,

and a maximum 25% increase to the fence height. The administrative variance committee makeup remained the same.

Liotta wanted to know if people discovered the violations created by previous owners when they applied for a building permit for a renovation or addition, and Cailloux said that was the usual situation, noting that these violations were somewhat common on older properties because the City did not require as-built foundation surveys in its early years.

Reeves asked why members of the administrative variance committee changed from 1992 to 2008? Cailloux said she wasn't sure, but felt it was probably because it was difficult to organize meetings for so many busy people.

She showed the number of administrative variance and standard variance applications from 1992 to 2024, saying she did not really see a trend. There had been only four special exception variances requested—one in each year of their existence. Reeves wondered how the number of applications compared to how many were approved; Cailloux said she did not know but could get that data for her.

Liotta mentioned the rise in applications over the past few years, and Cailloux said the previous Council's intent was to have fewer variances go through the standard process and more through the administrative process.

Liotta also pointed out that the administrative variance section read as if it was exclusively for residential zonings, but it did not say that and maybe it should. He asked if Cailloux knew how many applications were residential and how many were not. Parking reductions were not residential, she noted, but probably more than 90% of the other requests were. However, there was nothing in the ordinance that would prevent a business from requesting a variance through the administrative variance process.

Since 2020, there had been 12 administrative variance requests involving the rear setback, mostly for decks or to cover a patio. There had been four for a setback next to a greenbelt, one parking reduction, and two for fence heights surrounding a pool.

Staff looked at the requirements in 10 metro Atlanta cities similar in size or character to Peachtree City. All those jurisdictions had a single decision-maker who was the Planning Director or the equivalent. The types of issues for an administrative variance were all about the same as Peachtree City's, although some were unique, such as building height or sidewalk width reductions.

If these other cities measured setback reduction as a percentage, it was 10% to 33%. If distance was used, it was one to 15 feet. Peachtree City's side setback reduction was 25%, while rear setback went up to 50%. Parking reduction was

10% to 30%; Peachtree City was 25%. Fence height increases were 20% in the other cities, compared to Peachtree City's 25%. If stated in feet, the other cities allowed up to a 10-foot increase for residential and 15 feet for commercial.

Cailloux showed the specific recommendations from Councilman Clint Holland, who originally proposed changing the process, and the positions of other Council members. She said Planning Commission members should not be limited by Holland's suggestions and should feel free to add their own.

Holland thought the Planning Director should not be on the committee. This was not supported by Mayor Kim Learnard, Councilman Frank Destadio, and Councilwoman Laura Johnson. Learnard and Johnson said they would consider removing the committee altogether and having a single decision-maker.

Councilwoman Suzanne Brown proposed a sequential process, with the Planning Director ensuring the application was complete, then the City Manager reviewing it. If he or she thought it should be approved, they would pass it on to a Planning Commissioner. If the City Manager thought it should not be approved, they would deny it under Brown's plan and halt the process. The Planning Commissioner could do the same, either moving it forward to a City Council Member or denying it and ending the process. The Council Member would have the final decision, if it made it that far.

The next recommendation from Holland was to reduce the maximum rear setback reduction from 50% to two feet and remove the requirement of support from the neighbors. That was not supported by Learnard, Johnson or Destadio. Learnard and Johnson said they could support a 25% maximum reduction, while Destadio suggested 10%. Brown agreed with Holland.

Holland wanted to reduce the maximum setback from public land from 25% to two feet and remove the written neighbor consent; Brown agreed, but Learnard and Destadio did not. Johnson had no comment.

Reducing the parking reduction from 25% to 10% was another of Holland's ideas, also supported by Brown. Learnard did not support this; Johnson and Destadio had no comment. Holland wanted to change the maximum fence height increase from 25% to two feet. Learnard and Brown did not support this. Johnson and Destadio did not comment, but Destadio did want to strike the word "security."

Holland also wanted to increase the timeframe for a decision from 15 business days to 30. Brown approved of this, but others did not have an opinion.

Ritenour asked Cailloux if the public comments should be open for the entire ordinance or only Holland's proposal. She said she thought it should be for the whole ordinance since that was what Council had tasked them to examine. Cailloux also noted that it would be fine to ask for public comments at the next workshop on

this topic. Ritenour asked if anyone wished to comment in favor.

Councilwoman Brown commended Liotta for catching that this was not limited to residential properties. Brown explained that she recommended the sequential review process as a way to accommodate the schedules of so many people.

Ritenour confirmed with Cailloux that an applicant still had the avenue open to go directly to Council. She said that was always available to people who had an administrative variance denied or who couldn't meet one of the requirements, but they did have to prove a hardship in those cases.

No one wished to speak in opposition, so Ritenour turned to the Commissioners.

Hamner asked if they had received any comments from the public, and Cailloux said her office had not. He then noted that some Council members wanted the Planning Director to take an increased role. What impact would that have on the Director?

Cailloux told him she did not see applications until they were finalized and submitted. At that point, she reviewed them. Then she worked with the administrative offices at City Hall to get the variance committee meeting scheduled. If the process was changed to make the Director the sole decision-maker, she would still have to ensure the application was complete, but would not be writing staff reports, coordinating meetings, or creating presentations.

She acknowledged that lessening the administrative work would make the process easier. However, she continued, she would not be comfortable making that change considering how the current ordinance was written. There were certain elements of the ordinance that felt politically charged, she remarked, noting that the Planning Director in Peachtree City seemed subject to much more public scrutiny than Planning Directors in other communities.

If it became a sole decision-maker process, Cailloux cautioned that it could result in everyone being denied or there could be a lot of staff turnover. If they did want a sole decision-maker, she would recommend removing some of the things that currently qualified for an administrative variance, primarily the 50% rear setback because there was nothing in the ordinance about how to review it. The side setback reduction specified that there be nowhere else to put the structure on the property, but the rear setback did not. It just said you needed HOA and neighbors' approval and build it to look like the house. She would be more comfortable if it were reduced to 25% or less and given the stipulation that the structure could not be placed anywhere else.

Hamner then said Brown had remarked in her written comments that she questioned the Planning Director being involved in the decision-making process because she had had numerous conversations with applicants during the

application process. How did that comply with the quasi-judicial process?

Cailloux said if the Planning Director were the only one making the decision, it would be ministerial, not quasi-judicial, and cautions about ex-parte communications would not matter. Right now, though, she said she did not talk to applicants before receiving the application from staff. If there ever was information shared with her by the applicant, she said she would definitely share it with the other decision-makers.

Did the current process follow Georgia law? Hamner asked. From 1992 until Curnow's tenure, Cailloux said, they were not in compliance with open meetings laws because the meetings were not advertised. Once that was brought up, they began to comply.

How would lengthening the review period from 15 days to 30 impact the City and the applicant? Hamner asked. There was a time crunch to get a meeting scheduled and also meet the 24-hour notice requirement, Cailloux replied. The real impact would be on the applicants, many of whom are in the building process, with a contractor lined up, when they discover they need a variance. A longer period would be an inconvenience to them, but being compliant with the law was always their responsibility.

Johnston asked what brought about Holland's push to amend the ordinance. Cailloux said he had mentioned it at several Council meetings. His original concerns seemed to be that the number of administrative variances were increasing, which Cailloux noted was true because that's what the ordinance was designed to do, and also the scope of the variances allowed, such as 25% instead of two feet.

Johnston reflected that there was a long time period between 1992 and 2008, then just a few years between the 2021 changes and now. Cailloux pointed out that ordinances reflected policy, and the elected officials in 2021 were trying to address an uptick in administrative variances for things that reflected trends, such as adding a master on the main or a home office rather than moving to a new house. Now there was a new Council with different views.

Reeves asked about cases in which variances had been denied. Cailloux recalled one case in which the property owner wanted to build a large shed that would encroach 14 feet into the 30-foot rear setback. The committee denied this because they felt there were other options, such as building two smaller sheds or relocating the shed. She said the owner had been notified of the denial, but her office had not heard anything from them. Did people often complain that their variance was denied, but others were approved? Reeves continued, and Cailloux said they did not.

Reeves noted that Holland had some very specific recommendations, such as

reducing the rear setback from 50% to two feet, and she wondered how he arrived at his numbers and would they have an impact? It would, Cailloux replied, noting that most of the 12 rear setback variance requests they had considered were close to the 50% reduction. None of those would have been administrative variance requests under the previous versions of the ordinance or under what Holland had proposed. Reeves also said she didn't like eliminating the Planning Director from the administrative variance committee because that position had knowledge and skills they needed.

Ritenour thanked staff for gathering this information, then asked if they had copies of the ordinances of the jurisdictions they had looked at, saying he wanted to see if those differentiated between commercial and residential and also how long until there was a decision after the application was submitted. Cailloux said she could get them all the ordinances, but they were long and complex, and she would be happy to glean any information they wanted. Ritenour said that was good, but seeing the ordinances would be helpful to him.

No one else had any questions, and he closed the public hearing. He asked the Commissioners for discussion.

Liotta said he thought administrative variances should be for minimal changes. If the variances were too great and too frequent, would they impair the purposes of the zoning ordinance and change the character of the area? He did not think the Planning Director alone should make the decisions.

Hamner said he had wanted to find out more of the "why" behind this, and what he had learned was helpful. He noted there were divisions of opinions among Council on some items, but, on others, such as the rear setback, there was agreement that adjustments were needed. He felt the Planning Commission could provide guidance, and Council could come up with an ordinance everyone could tolerate and that would last more than three years.

Johnston said she agreed with what was previously stated, but the requirement of neighbor support gave her pause because it could damage relationships. Cailloux said one of the other jurisdictions mailed notices to neighbors, and the variance could be approved if there was no objection filed. This prevented any interpersonal conflicts, and Johnston said she liked that idea. Johnston also said a committee might not be necessary, but she didn't think the decision should be left to one person.

Ritenour commented that tree removal in Peachtree City required consent of the neighbor, but Cailloux said only if staff was not comfortable that the tree was on the property of the person who wanted to cut it. A tree survey could be done instead of obtaining permission.

Cailloux's presentation was a great help, Reeves noted, and said Council was

telling them this was something they should examine, and she was sure they could come up with good suggestions to send on to Council.

Circumstances and people changed over time, Ritenour noted, so it was good to take another look at these processes. Something that worked in the past might not work now. He didn't think this ordinance needed to be totally re-written, but some parts needed revision. He said they could review this again at a future workshop, maybe more than one workshop. Johnston said they definitely needed more time, and the others agreed.

Cailloux suggested another workshop at the second meeting in July. Ritenour said that was acceptable if staff had enough time to prepare.

Hamner moved to table this discussion to the July 22 meeting. Johnston seconded. Motion carried unanimously.

Cailloux asked the Commissioners to tell her what additional information they needed and also asked for suggestions on how they would like the information structured.

Old Agenda Items

None

New Agenda Items

1. Elevations - Request for Waiver, Hoshizaki Expansion, 618 HWY 74 S

Section 724 of the Land Development Ordinance gave the Planning Commission the authority to waive an architectural review for a building if it would not be visible from the road once the project is completed. The contractor was requesting this waiver for the 120,000 square foot building expansion at the Hoshizaki property on SR 74 South.

The expansion would be a two-story building, but the site's topography meant that the lower floor would be below grade and the upper floor would be at the same level as the existing building. Hooks presented photos showing that the view from the highway was screened by trees.

Hooks said staff believed the request met the ordinance requirement and recommended approval with the condition that evergreen trees, 10-12 feet in height, be added to the landscape island adjacent to the access driveway to provide additional screening for the new building from SR 74. Placement of the trees would be approved through the landscape plan approval process.

A representative of the applicant said Hoshizaki was fine with the landscaping requirement for the island and pointed out where additional landscaping was planned.

Liotta noted that form usually followed function for industrial buildings, and since staff felt this met the criteria, he was fine with the waiver. Hamner had no questions, and Johnston verified with Hooks that evergreens kept their leaves all year. Reeves asked if there was a recommended number of trees that would be planted, and Cailloux noted they would get to that during the landscape plan review.

Liotta indicated the cart path that abutted this property and noted the significant tree removal and grading on the site. He said the view of the building from the path was now wide open and suggested the applicant address this issue in the landscape plan.

The applicant said there were plans for a park and extensive landscaping. Cailloux said the contractor should reach out to her office, and they would provide the Planning Commission's comments before they created a landscape plan.

Liotta and Cailloux both said they had received a lot of comments from the public about this. Cailloux pointed out there were no required buffers along a greenbelt; the only buffer requirements were along the state route. Although they were developing within the parameters of the ordinance, requiring the Planning Commission to sign off on the landscape plan gave the City the opportunity to address unique situations like this, she remarked.

All the industrial properties to the south had extensive existing and modified buffer areas between the path and their facilities, Liotta stated.

Ritenour asked if there was a buffer requirement from the center of the cart path? Cailloux said in this case, the path was on public-owned land; it was not in an easement. The only setback requirement was that a structure could not be built within 40 feet of the pavement. There was no undisturbed buffer requirement because the path was on City property, and Hoshizaki was private property. An audience member wanted to speak, but Ritenour said this was not a public hearing. Liotta presented some photos of the conditions along the path. Cailloux said it was good that the developers knew what was expected of them in the landscape plan.

Johnston moved to approve the request for an elevation review waiver for the Hoshizaki expansion on SR 74 with the condition that evergreens of 10-12 feet be added to the island adjacent to the access driveway. Hamner seconded. Motion carried unanimously.

2. ~~Conceptual Site Plan, Magnolia Dental Center, 100 Gates Entry~~ Postponed

3. Building Elevations, Peachtree City Self-Storage, 425 HWY 74 S

This property is also located on SR 74 South, next to Gerber Collision. The building will be a total of 90,690 square feet in three stories.

The Land Development Ordinance (LDO) states buildings should be divided into a base, middle, and top, and the design achieves this through color and material changes. She showed this on a front and side elevation, pointing out brick columns that divided the façade into smaller bays. Alternating bays were taller and had cornices.

The front would be 75% brick, with the sides approximately 53%. The rear would be three colors of EIFS with the brick columns as dividers. The brick colors were shades of brown and gray, with a whitewash on the soldier course of brick that divided the sections. Paint colors for the EIFS are cream and browns. Section 725 of the LDO establishes general goals for architectural design, including compatibility with surrounding development. Hooks said this building met that requirement.

Staff was of the opinion that the proposed elevations met City ordinances and recommended approval.

Jackson Webb and his father, Tom, of Heirloom Development were present as applicants. He said they had recently finished up the new Sherwin Williams on Crosstown Court.

Liotta liked the design, but wondered if the brick columns had any dimension? Tom Webb replied that they protruded from the wall by the depth of one brick.

Reeves moved to approve the building elevations for Peachtree City Self-Storage at 425 HWY 74 S. Johnston seconded. Motion carried unanimously.

Workshop Items

There being no further business, Hamner moved to adjourn at 8:13 p.m. Johnston seconded. Motion carried unanimously.

Martha Barksdale

Scott Ritenour

CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

MEMO TO: Planning Commission

FROM: Robin Cailloux, Planning Director 7/17/2024

DATE: July 22, 2024

SUBJECT: Rezoning request from OI Office Institutional to GC General Commercial, 1999 and 2011 Highway 54 W

Recommendation:

Staff is of the opinion that the proposed rezoning does not meet a majority of the criteria for rezoning and does not recommend approval. However, should the Planning Commission recommend approval of the request to the City Council, staff recommends the following conditions:

- There shall be no vehicular access from these tracts to or from Sumner Road.
- A 25-foot undisturbed landscape buffer shall be preserved along Sumner Road. Additional evergreen landscaping may be required to create an evergreen buffer.

Discussion:

The property owners of 1999 and 2011 Highway 54 are requesting rezoning from OI Office Institutional with conditions to GC General Commercial. They propose redeveloping both properties into a single commercial car wash. See the Zoning Map and the applicants' conceptual development plan attached at the end of this memo.

The applicants made a similar zoning request in 2023, which was denied on September 21, 2023. Per Section 1302 of the Zoning Ordinance, applicants must wait six months after denial of a request to reapply. Therefore, the mandated waiting period has been satisfied.

The properties are single-family homes that were repurposed into offices. Both properties have frontage along Highway 54 and Sumner Road. They were annexed into Peachtree City in 2013, along with properties up to the Peachtree Professional building on the northwest side of Highway 54. When the properties were annexed into the City, they were zoned to OI with conditions that prohibited driveway access to Sumner Road.

In addition to the conceptual site plan, the applicants have provided a narrative and a proposed site plan, both of which are attached at the end of this memo.

Evaluation Criteria:

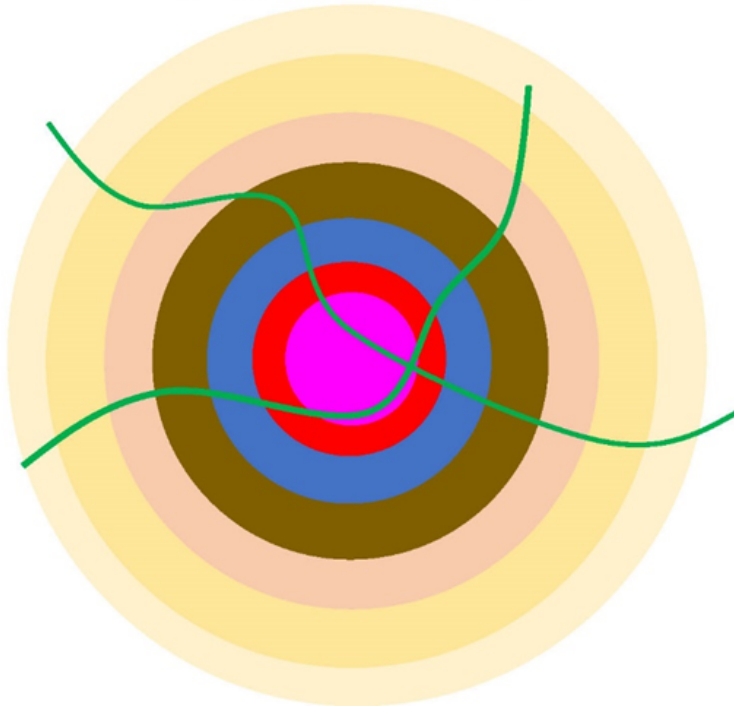
Per Section 1304 of the Zoning ordinance, City Council shall consider the following factors, where relevant, when evaluating a proposed change to the zoning map:

1. Whether the zoning proposal is in conformity with the policy and intent of the land use plan;
2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;
3. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
4. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;
5. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;
6. Whether there are other existing or changing conditions affecting the use and development of the property which give supportive grounds for either approval or disapproval of the zoning proposal.

Comprehensive Plan and Future Land Use Map

The Comprehensive Plan states that the land uses within a Village Center should follow the 'step-down' land use model, which places the most intense land uses (commercial and mixed-use) in the center and then gradually decreases land intensity outwards. This model buffers low-density residential uses from high intensity uses such as commercial.

The graphic below depicts the step-down land use model. Commercial (red) and Mixed-Use (pink) are located in the center. Then Office (blue) and Multi-Family Residential (dark brown) step the land use intensity down. The lowest-intensity land uses of residential are located on the outer rings, shown in various shades of beige. The lowest-intensity land use is Single Family Low (shown in lightest beige). The multi-use path system and greenbelts are shown as green lines connecting all land uses together.



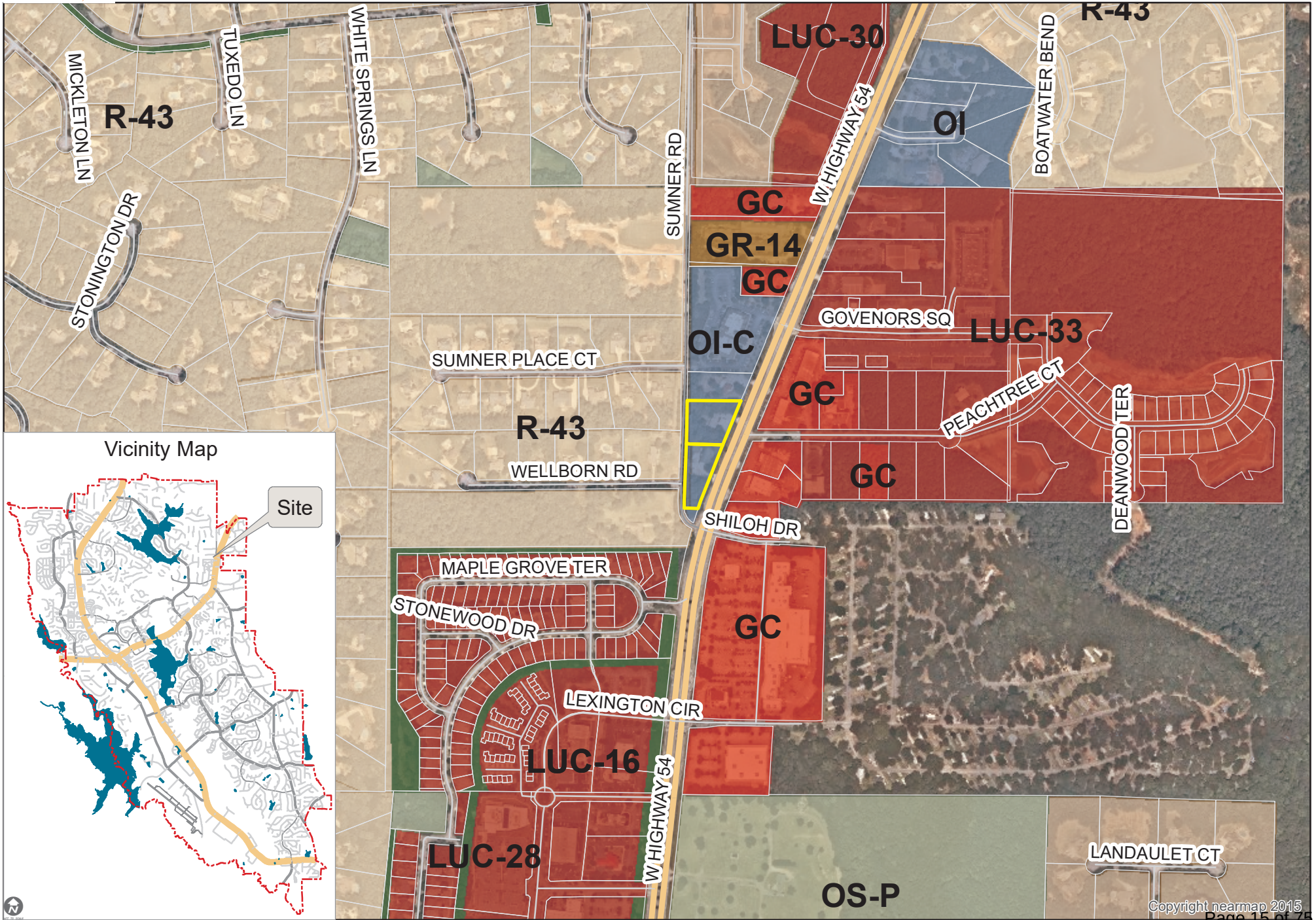
The Comprehensive Plan states that commercial, mixed-use, office, and multi-family residential uses are appropriate land uses within the larger Village Center boundaries. The attached Future Land Use map shows that the properties are located within a Village Center and have a Future Land Use designation of Office. While the requested commercial use is appropriate within a Village Center boundary, the Office designation on the Future Land Use map is a response to the low-density residential located across Sumner Road. As depicted in the step-down land use model, the proposed office use on these properties buffers the low-density residential on Sumner Road from the commercial uses on Highway 54.

Budget Impact:

There are no budget impacts associated with this item.

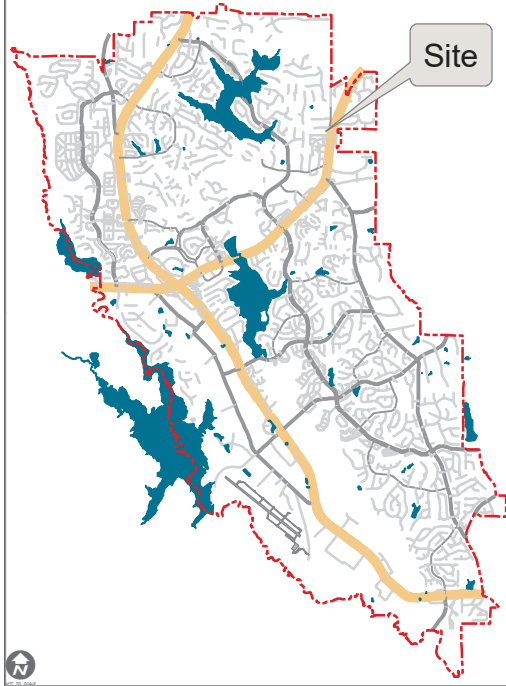
Attachments:

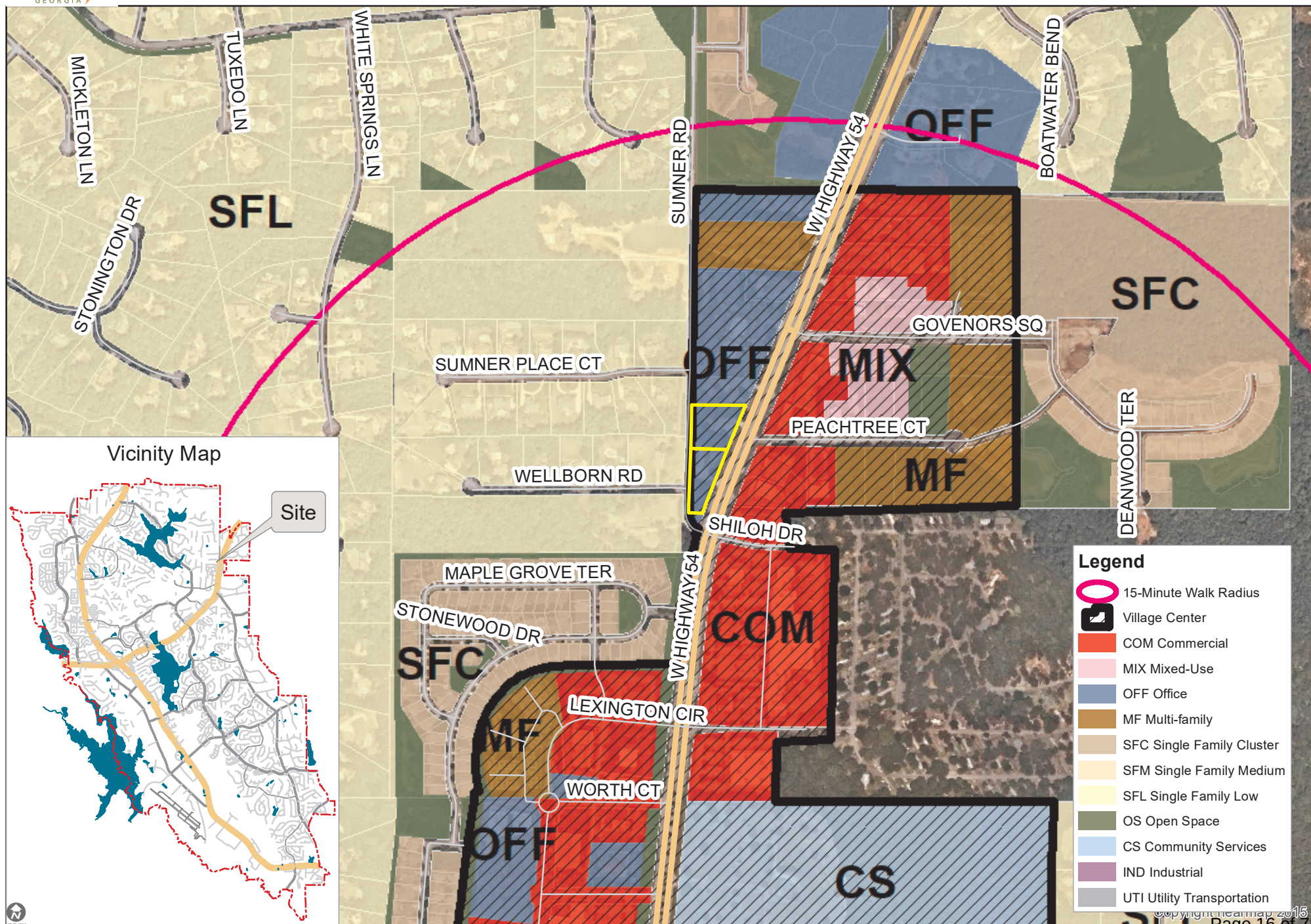
1. Zoning Map
2. Future Land Use Map
3. Applicant Narrative
4. Proposed Site Plan



Vicinity Map

Site





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June 27, 2024

VIA EMAIL: RCailloux@peachtree-city.org

Ms. Robin Cailloux, Director
Peachtree City, Georgia
Planning & Development Department
153 Willowbend Road
Peachtree City, Georgia 30269

Re: 1999 Highway 54, Fayetteville, Georgia 30214; Fayette County Parcel Identification Number: 0719 033 (the “Bost Property”); 2011 Highway 54 West, Fayetteville, Georgia 30214; Fayette County Parcel Identification Number 0719 032 (the “Paletta Property” and collectively with the Bost Property the “Property”); and Applications for Rezoning the Property (collectively, the “Application”).

Dear Ms. Cailloux:

This letter serves as the report/letter of intent and narrative (the “Report”) for the Application.

The Application seek to rezone the Property for an Auto Spa, i.e., a class-A car washes. The Applicant refers to its facility as an Auto Spa because it aims to provide a more luxurious experience for customers by focusing meticulous attention on cleaning processes and customer service. This includes using high-quality products, state-of-the-art equipment, and skilled technicians who are required to participate in regular educational events focused on adopting and mastering new techniques and processes.

The Applicant’s leadership team has open, revitalized, owned, and operated Auto Spas in locations across Georgia, including in Alpharetta, Cordell, Brunswick, Ellenwood, Fayetteville, Lithia Springs, Macon, McDonough, Riverdale, Stockbridge, and Vidalia.

The Properties

The Property consist of 1.951 +/- acres, identified as TPNs 0719 033 and 0719 032. The Property is currently zoned OI office institutional district (“OI”), under the 1977 Zoning Ordinance of Peachtree City, Georgia, as amended (the “Zoning Ordinance”), which is codified at Appendix A of the Code of Ordinances, City of Peachtree City, Georgia (the “Code of Ordinances”). Zoning Ordinance § 1005B.6. As presently zoned, an Auto Spa is not a permitted use on the Property. *Id.* The Application seeks to rezone the Property to GC general commercial (“GC”), a district in which an Auto Spa is permitted. Zoning Ordinance § 1006.2(3). As shown by Figure 1 below, an excerpt of the official zoning map of the City below, the majority of properties in proximity to the Property and also fronting on Service Road 54 West (i.e., “Highway 54”) are zoned GC or for commercial use. Zoning Ordinance § 1006.2(3). The OI zoning applied to the Property is an outlier in the general vicinity of the Property.

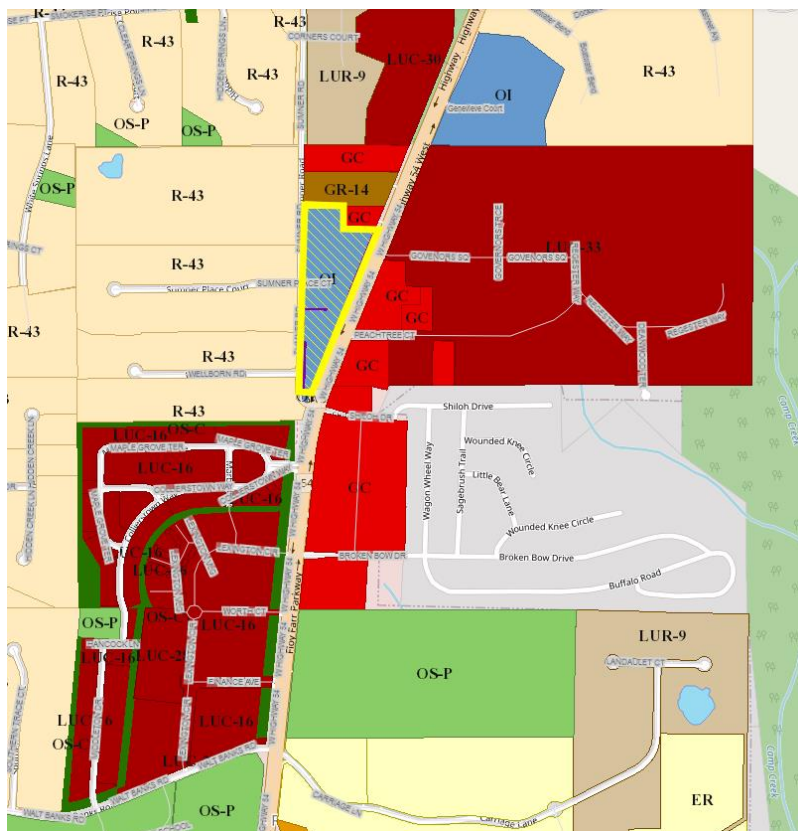


FIGURE 1

Proposed Use and Description of Daily Operations

The proposed use of the Property is an automotive car wash facility (i.e., an Auto Spa), which is a permitted use in the GC zoning district. Zoning Ordinance § 1006.2(3).

The daily operation of the Auto Spa is similar to normal car wash. However, the customer experience, maintenance, upkeep, and of the Auto Spa are anything but typical. Foremost, the Applicant is committed to exceptional customer service and experiences. Additionally, the Applicant utilizes specialized, eco-conscious chemicals and 100% water reclamation. In addition to its industry-leading chemicals, the Applicant's equipment is designed to provide scratch-free washes to the most luxurious cars and finishes, a claim that is not true of most competitors.

Upon opening and throughout the day, team members will greet customers, answer inquiries, and provide information about available services and pricing options, and assist customers with selecting the appropriate wash package and processing payments.

Before a vehicle enters the wash bay, team members perform pre-wash tasks such as removing debris, vacuuming interiors, or applying pre-wash treatments to remove stubborn stains or dirt. Once a vehicle is ready, it enters the wash bay where automated washing equipment is used to clean the exterior. This includes high-pressure water jets, brushes, foam applicators, and other cleaning tools. After the wash, air dryers, microfiber towels, or other drying methods are used to remove excess water from the vehicle's surface. The customers will then drive around to the vacuum station to vacuum their vehicles, and apply finishing touches, such as tire shine or window cleaning, to enhance the vehicle's appearance.

Throughout the day, team members will perform routine maintenance tasks to ensure the wash equipment is functioning properly. This includes checking water levels, performing inspections and maintenance on the wash equipment and water reclamation system, replacing cleaning agents, and inspecting brushes. The Applicant will employ five to eight total employees, including the manager, at this Auto Spa. The Applicant intends to hire from within the community it serves and pays industry-high wages.

Analysis of the Rezoning Factors

The Zoning Ordinance sets forth the following factors (the "*Rezoning Factors*") governing consideration of Rezoning Application, like the Application. Zoning Ordinance § 1304(1)(e). Below, each factor is restated along with the Applicant's analysis of each such factor.

(1) Whether the zoning proposal is in conformity with the policy and intent of the land use plan;

Zoning Proposal is in conformity with the policy and intent of the land use plan based on the following components:

Land Use: The Property is located along a portion of Highway 54 which is within the Lexington Village Center boundary where the majority of adjoining and nearby properties are zoned for general commercial use. City's Comprehensive Plan, adopted August 2022, (the "Comprehensive Plan" or the "Land Plan"), p. 44; Figure 1 (above). The Comprehensive Plan provides that one of the Villages Policies and Strategies, PLU 2, seeks to "[l]ocate commercial uses within a Village Center [and] . . . [d]iscourage expansion of commercial uses outside of Village Centers." Comprehensive Plan, pp. 39, 45, 49. The City's Comprehensive Plan also states that the appropriate land uses within a village center include commercial uses, and that GC is an appropriate zoning district within a village center. *Id.* Additionally, the proposed use will not have any impact on public and educational facilities because it will not add any additional residents and the majority of customers will be passersby or live in the general area.

Community Design: The Land Use & Development Pattern Map in the City's Comprehensive Plan shows commercial uses on properties nearby and adjacent to the Property. In conjunction with the Land Use component, as described above, the project fits in with the village concept. Although designed for automobiles, the proposed use is interconnected with the multi-use path.

Economic Development: The proposed Auto Spa will provide full and part-time employment opportunities within the community. The Auto Spa will require staff to operate the facility, perform car wash services, and manage customer interactions, thereby contributing to local economic growth and providing job opportunities for community members.

Potable Water: The Applicant will ensure water conservation by using eco-conscious chemicals, 100% water reclamation technology, and water-saving techniques and equipment, such as high-pressure nozzles and water recycling systems. This helps to minimize water consumption compared to washing vehicles at home or other inferior car washes, where excessive water usage is common. It also ensures that wash products remain out of local waterways and stormwater systems.

Sewer: The Auto Spa will incorporate leading-edge technologies, state-of-the-art equipment, eco-conscious chemical compositions, and 100% water reclamation to ensure the capture and treatment of after-wash water, preventing wash products from entering storm drains and local waterways.

Transportation: The Property will be designed with proper traffic flow and parking considerations, allowing adequate parking spaces and well-designed entrance and exit points which will minimize congestion and ensure that the Auto Spa does not create traffic issues that would be an excessive or burdensome use on the City's streets.

(2) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;

Yes, the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The Property is currently zoned for limited office and institutional uses; however, the development trend in the area is towards general, highway commercial uses. This is because the property fronts on a state route, Highway 54.

(3) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;

The proposal will have no adverse effects on the use or usability of the adjacent or nearby properties. As noted above, the proposed Auto Spa is consistent with the Comprehensive Plan and the development and zoning trend in the area.

(4) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

The Property's unique shape and size are different than other properties in the same district. Namely, the property is less than 2 acres and is triangle shaped, meaning the Property's developable area is limited. Without the requested rezoning, the proposed use will not be viable. While the property may be used in accordance with the existing regulations, the current zoning unreasonably limits the use of the Property and creates a substantial burden to the applicant. The uses permitted on the Property as currently zoned have diminished or destroyed the economic use of the property. Specifically, the market has dictated that the Property is suited for commercial uses, such as an Auto Spa, and not office institutional uses, which are the only uses permitted on the Property as presently zoned. Zoning Ordinance § 1005B.6.1. In fact, only 11 narrowly defined uses are permitted on the Property, as presently zoned (e.g., non-commercial club or lodge, publicly owned building, facility, or land, utility services, accessory uses, small restaurants (with no more than 60 seats), and educational facilities). The Zoning Ordinance as applied to the property creates a practical and unnecessary difficulty.

(5) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools; and

The zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. The zoning proposal will not result in any excessive or burdensome uses on the City's transportation facilities or schools because it will not add any additional students to the school system and the vast majority of trips to a car wash are pass by or local, not destination, trips. This means that an Auto Spa will not create significant new traffic because most of its daily customers will be those already traveling the roadways adjacent to the Property. Additionally, the Applicant will use an environmentally-conscious reclamation system to capture and treat the water used in the Auto Spa process so that it can be reused, thereby minimizing any excessive or burdensome uses on the City's utilities.

(6) Whether there are other existing or changing conditions affecting the use and development of the property which give supportive grounds for either approval or disapproval of the zoning proposal.

The proposed zoning map amendment would increase the value of the adjacent commercial properties, as well as drive more business to the local community by virtue of having an Auto Spa in close proximity to local shopping centers and other business establishments.

As shown above, all of the Rezoning Factors support approval of the Application. As result, the Applicant respectfully request that the Application be approved as presented without any conditions not consented to the by the Applicant.

Should you desire any additional information, please do not hesitate to contact me.

Sincerely,

/s/ Steven L. Jones

Steven L. Jones, Esq.
TAYLOR ENGLISH DUMA LLP



CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

MEMO TO: Planning Commission

FROM: Lora Hooks, Senior Planner 7/17/2024

DATE: July 22, 2024

SUBJECT: Landscape Plan, Bridge Park Medical, 2035 Commerce Drive

Recommendation:

Staff is of the opinion that the proposed landscape plan for the Bridge Park Medical Office meets the requirements of the City ordinances using the tree fund alternative compliance method and recommends approval.

Discussion:

The developer has submitted a landscape plan for the Bridge Park Medical Office located at 2035 N Commerce Drive. The property is to the north of McAlister's Deli and has frontage on HWY 74. The platted landscape buffer adjacent to HWY 74 is 30 feet. No additional landscape buffer is required.

Based on the amount of impervious surface on the site (44,027 SF), which includes buildings, drives, parking area, and sidewalks, the landscape ordinance requires at least 132 caliper inches of canopy trees and 88 caliper inches of understory trees.

The applicant is requesting to use the tree fund alternative compliance option permitted in section 1114.5 of the Land Development Ordinance (LDO) for a portion of the canopy tree requirement. Per the ordinance, once all the canopy and understory trees that can be reasonably planted on a project site are provided, the remaining trees can be considered for alternative compliance. No more than 50% of the required caliper inches of canopy and understory trees can be met using this alternative compliance method. It is the opinion of Staff that the project site has been designed to be planted to its fullest capacity and therefore qualifies for alternative compliance (see table below).

TREE CALCULATIONS

Tree Type	Inches Required	Inches Provided	% of Required	Number of Trees to Fund	Tree Fund Contribution
Understory	88	88	100%	0	\$0
Canopy	132	93	70%	13	\$5,200
Total	220	181	82%	13	\$5,200

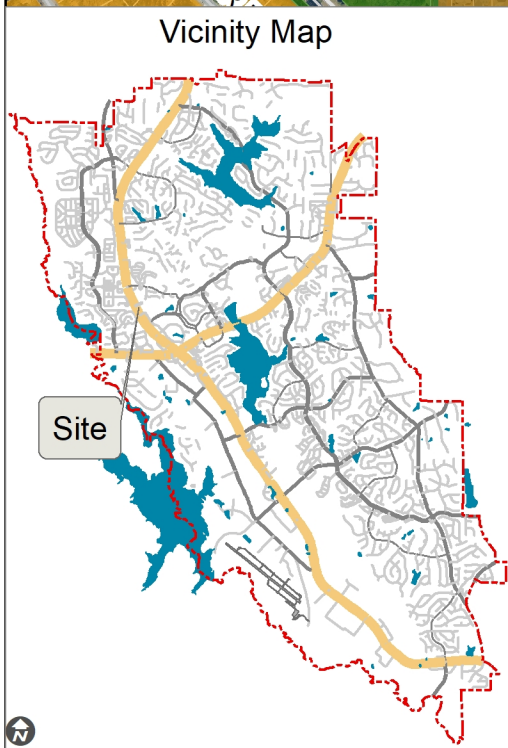
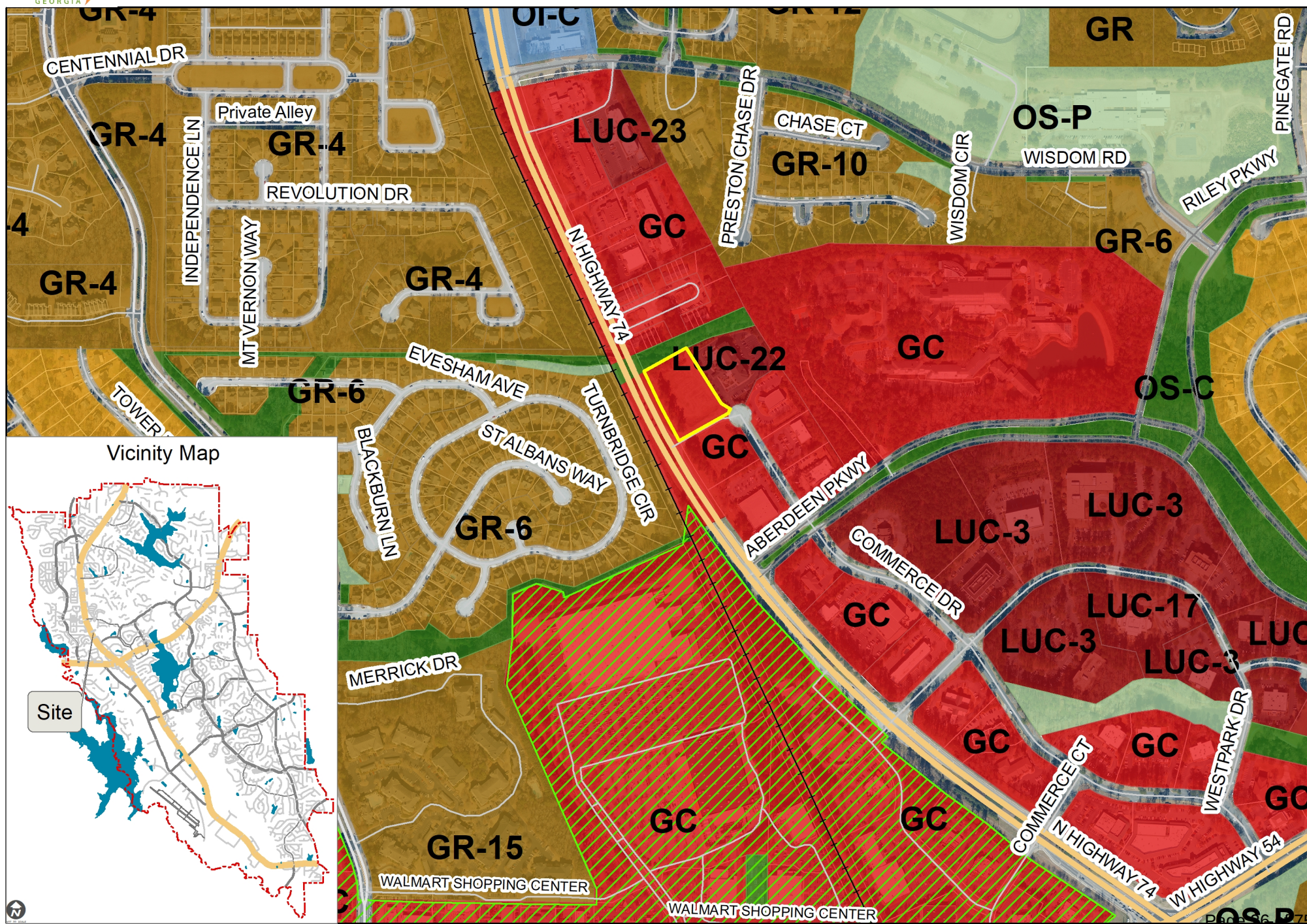
As a condition of the conceptual site plan approval, it was required that the perimeter of the stormwater pond be planted with evergreen landscaping. A mix of evergreen trees are proposed to meet this requirement. The species include Cryptomeria, Carolina Sapphire, Eastern Red Cedar, Blue Point Juniper, and Nellie Stevens Holly. This selection also contributes to the understory tree requirement.

Budget Impact:

There are no budget impacts associated with this item.

Attachments:

1. Zoning Map
2. Landscape Plan



CITY OF PEACHTREE CITY

INTEROFFICE MEMORANDUM

MEMO TO: Planning Commission

FROM: Robin Cailloux, Planning Director 7/17/2024

DATE: July 22, 2024

SUBJECT: Text Amendment to the Administrative Variance Zoning Ordinance

Recommendation:

Staff recommends that the Planning Commissioners vote on the specific details of the Administrative Variance ordinance and recommend a version for approval to the City Council.

Discussion:

Staff presented the current version of the administrative variance ordinance along with its history, a summary of other jurisdictions' ordinances, and Council comments on Councilman Holland's recommended changes. The Planning Commission requested staff to provide ordinances from other jurisdictions to inform the Commission's discussion at the July 22, 2024 meeting. These ordinances were emailed to the Commissioners on July 9 and are attached to the end of this memo.

To aid the discussion, staff provided some over-arching questions to consider. Please note that these questions are intended to initiate the discussion, not limit it. It is certain that other questions and answers will be appropriate in the discussion.

- What goals do we achieve and what problem(s) are we trying to solve with the administrative variance process?
- How does each 'type' of administrative variance solve an identified problem?
- To what degree (measurement, percentage, etc.) is a decision truly ministerial (i.e. administrative)? At what measurement does the request become a policy-based decision that should be made by City Council?
- Who or what body should be authorized to make administrative decisions?

Ordinance Revision Options

Each of the revision options are summarized below, along with a brief description of possible unintended consequences and alternatives for the Commissioners to discuss.

Administrative Variance Type (a)

The first type of case that qualifies for the administrative variance process is (a) The request pertains to an existing zoning setback violation provided that the property owner making the request is not the same property owner who was responsible for the

violation.

Staff has identified possible unintended consequences of not having more standards for approving this type of request. An example would be a porch enclosure that encroaches 12 feet into a rear setback and was built to sub-standard quality without a building permit. If a new property owner wanted to keep it and came in for an administrative variance, neighbors do not have a voice in expressing their concerns over the impacts to their property through this administrative variance process. A potential solution could be to require proof of a building permit, a letter of construction quality from a licensed contractor, or letters of support from adjacent neighbors.

Another unintended consequence is if a structure was built more than 50% into the rear setback. A recent example was a deck around an above-ground pool that was built in 1976 and encroached 18 feet into the 30-foot rear setback. The deck was built when the city did not require permits for decks, so no permit exists in the city files. The property owner wanted to rebuild the deck and fortunately gathered the written support from his neighbors. However, the way the current ordinance is written, this is not required.

A third issue is that although this variance has never been applied to a non-residential property, there is nothing in the ordinance that prohibits this. A commercial structure that no longer complies with the city's current setback could potentially use this ordinance.

Possible changes to consider for (a):

- Add residential use requirement
- Require written support from adjacent property owners and active HOA
- Limit the maximum encroachment permitted
- Require proof of permit or letter of construction quality from licensed general contractor

Administrative Variance Type (b)

The (b) type allows for a (proposed) rear setback encroachment up to 50% if they provide written consent from the HOA and adjacent property owners, and if similar building materials to the primary home are used.

At the public hearing, staff voiced concern that the 50% measurement was out of line with other jurisdictions, that ranged from 1 foot to 33%. A plurality of jurisdictions set a 10-foot maximum, with a 25% encroachment coming in second.

Staff has also noted that unlike type (c) below, there is not requirement that the proposed rear encroachment be approved if "there is no other possible location on the property that would accommodate the proposed building expansion". Councilperson Brown voiced a concern that having written consent from neighbors could create

tension in neighbor relationships.

Possible changes to consider for (b):

- Add residential use requirement
- Reduce the maximum encroachment permitted administratively
- Eliminate written neighbor support requirement
- Add certified mailing requirement
- Add the ‘no other possible location’ language as a requirement
- Eliminate this option altogether

Administrative Variance Type (c)

The (c) type allows for any setback encroachment up to 25% if adjacent to a publicly-owned property where there is no other possible location on the property to accommodate the expansion. They must provide written consent from the HOA and adjacent property owners, and use similar building materials to the primary home.

Similar issues exist with type (c) as type (b) with the neighbors’ written consent, although the 25% reduction is in line with other jurisdictions’ ordinances.

Possible changes to consider for (c):

- Add residential use requirement
- Reduce the maximum encroachment permitted administratively
- Eliminate written neighbor support requirement
- Add certified mailing requirement
- Eliminate this option altogether

Administrative Variance Type (d)

Type (d) allows a reduction in the provided parking of up to 25% as long as the property owner can show there is room on the property to build the parking if it’s required in the future.

Staff is of the opinion that this variance type adds positive value to the city as a whole beyond just the adjacent property owners. Commercial and industrial property owners know their business needs better than the City, and no property owner wants to build more parking than they need. Reducing paved areas also improved stormwater quality and reduced heat-island effects. And because the ordinance already requires proof that the parking could be built if needed in the future, the potential negative impacts to the City are mitigated.

Possible changes to consider for (d):

- Increase parking reduction percentage

- Reduce parking reduction percentage

Administrative Variance Type (e)

Type (e) allows an increase in fence height if either the fence is pertaining to a pool barrier or the increase is due to topographic reasons and not more than 25%.

Historically, all administrative variance requests for fence height increases are related to pools and on corner lots. All other fence height variance requests have gone to City Council for review.

Staff is of the opinion that this ordinance meets the needs of a majority of our residents and has not identified any unintended consequences. However, possible changes to consider for (e) are:

- Increase maximum height from 25% to a foot measurement

Decision-Making Time frame

One recommendation is to change the decision-making time frame from 15 business days to 30 business days. The only identified issue with this request is that it potentially increases the time that a property owner has to wait for a decision to be made. Changing the maximum time frame would give staff more flexibility in scheduling the committee meeting.

Decision-Making Body

The final recommendation from Councilman Holland is to change the makeup of the review committee by removing the Planning Director and adding either a City Council person or a Planning Commissioner. Another suggestion has been made to eliminate the committee altogether and make the Planning Director the sole decision maker.

At one point, a Planning Commissioner was a member of this committee, but this was changed to the City Manager. It may be that coordinating with volunteers of the Planning Commission posed challenges, which is why it was changed to the City Manager instead.

Possible changes to consider are:

- Revise committee makeup to remove Planning Director and add Council person or Planning Commissioner
- Eliminate the committee and make Planning Director the sole decision maker

Budget Impact:

There are no budget impacts associated with this item

Attachments:

1. Current Administrative Ordinance

2. Summary of Alternatives Table
3. Administrative Variance Ordinances from Other Jurisdictions

Sec. 1204. Administrative variance.

Review and approval of a request for an administrative variance shall be administered by a special administrative variance committee consisting of the zoning administrator, the city manager and a member of city council. Applications may be considered only if the following requirements are met:

- (a) The request pertains to either an existing zoning setback violation provided that the property owner making the request is not the same property owner who was responsible for the violation; or
- (b) The request is for a rear setback encroachment that would not exceed 50 percent of the required setback per the zoning district ordinance, provided that the following conditions are satisfied:
 - (1) The proposed structure uses similar building and roof materials, roof pitch, and color scheme as the primary structure; and
 - (2) The applicant provides written consent of the home owners' association, if applicable, and all property owners adjacent to the requested property; or
- (c) The request is for a decrease of not more than 25 percent of the minimum building setback, provided that the property line in question and the associated building setback adjoins a publicly-owned property and there is no other possible location on the property that would accommodate the proposed building expansion without encroaching into the established building setback, provided that the following conditions are satisfied:
 - (1) The proposed structure uses similar building and roof materials, roof pitch, and color scheme as the primary structure; and
 - (2) The applicant provides written consent of the home owners' association, if applicable, and all property owners adjacent to the requested property; or
- (d) The request is for a decrease of not more than 25 percent in the minimum number of parking spaces required by the city's parking ordinance' provided the applicant identifies on the site plan where this parking would be located if needed in the future; or
- (e) The request is for an increase in the maximum height of a fence or wall; provided that:
 - (1) Such wall or fence is justified by reason of safety and security pertaining to pool barriers or other International Building Code standards as adopted by the city, and will not unduly prevent passage of light and air to adjoining properties and is not incompatible with the surrounding neighborhood; or
 - (2) Such greater height is justified for topographic reasons, and is not more than a 25 percent increase in maximum height standards per chapter 18 of this Code, and is not incompatible with the surrounding neighborhood.

In no case shall an administrative variance be granted from the conditions of approval imposed on a parcel through a zoning change granted by the city council.

In reviewing the application, the administrative variance committee shall analyze the application to determine whether granting the request would cause substantial detriment to other property owners in the surrounding area or would impair the purposes of the zoning ordinance. If it is found that the request is in conformance with these requirements and does not adversely affect the area, the administrative variance committee shall issue an official determination in writing approving the request. The property owner, the city clerk, and the building official shall be provided with a copy of this determination.

If it is found that the request is not in conformance with these requirements or may possibly have an adverse effect on the surrounding area, the administrative variance committee shall deny the appeal in writing, stating the reasons for the denial.

The administrative variance committee shall act on all appeals within 15 working days after the application is deemed complete by the zoning administrator.

If a request for an administrative variance is denied by the administrative variance committee, the property owner may appeal this decision to the city council in accordance with the procedures identified herein.

(Ord. No. 934, § 1, 2-21-2008; Ord. No. 1195, § 2, 12-16-2021)

Table 1: Summary of Administrative Variance Revision Considerations

Administrative Variance Type		Unintended Consequences	Alternative Options
a	Existing encroachment	* Possible low-quality construction done without permit would be allowed to continue * Non-residential applicants	* Add residential use requirement * Require written support from adjacent properties * Limit the maximum encroachment permitted under this type * Require proof of permit
b	Proposed rear setback encroachment	* Structures closer to rear neighbor * Neighbor conflict if they won't support * Non-residential applicants	* Add residential use requirement * Reduce maximum reduction to 10%, 25%, 2 feet, or other * Add "no possible location" clause similar to that in type c below * Eliminate written support requirement * Change written support requirement to certified mail requirement * Eliminate option altogether
c	Proposed encroachment next to city property	* Structures closer to city property * Neighbor conflict if they won't support * Non-residential applicants	* Add residential use requirement * Reduce maximum reduction to 10%, 25%, 2 feet, or other * Eliminate written support requirement * Change written support requirement to certified mail requirement * Eliminate option altogether
d	Parking reduction		* Reduce or increase reduction
e	Increase fence height		* Increase maximum
Other Ordinance Detail		Unintended Consequences	Alternative Options
	increase decision from 15 to 30 business days	* Longer time for applicants	* Change maximum timeframe
	Change decision-making body	* Possible conflict with quasi-judicial hearings	* Revise committee makeup to remove Planning Director and add Council person or Planning Commissioner * Eliminate committee and make Planning Director sole decision maker

SECTION 5.1 DIRECTOR OF COMMUNITY DEVELOPMENT

The Director of Community Development (referred to herein as the "Director"), acting directly or through a designated representative, shall have the following responsibilities in the administration of this Ordinance and implementation of its provisions:

- A. Coordination of review and recommendations by Community Development and all City departments and local, state and federal agencies on zoning changes, variances and CLUP amendments.
- B. Interpretation of all provisions of this Ordinance.
- C. Certification of zoning on specific properties.
- D. Coordination of review and recommendations by Community Development and other departments and agencies on subdivision plats, sites development plans, and development permits.
- E. Review and approval of plans and issuance of development permits; development inspection and enforcement for private site improvements.
- F. Approval and recording of Final Subdivision Plats.
- G. Enforcement of use and review and approval of site design provisions.
- H. Issuance and enforcement of building permits, building inspections, and issuance of Certificates of Occupancy.
- I. Issuance and enforcement of sign permits and related inspections.
- J. Designation of street addresses and street names.

The Director shall have the authority to:

- A. Grant variances for up to 20% of any stipulated code requirement except those related to storm water, flood plain and tree protection.
- B. Waive buffer requirements for OI zoned property located along North Main Street.
- C. Permit the addition of property to approved master plans and/or reconfigure pod lines within master plans provided that such changes do not result in a density increase greater than 20% of the approved density.
- D. Adjust development and permit fees from time to time.

PART II - LAND DEVELOPMENT AND RELATED REGULATIONS

Chapter 80 - ZONING

ARTICLE VI. APPEALS

ARTICLE VI. APPEALS¹**Sec. 80-244. Purpose.**

The purpose of this article is to establish procedures for appealing the strict application of regulations and conditions contained herein and conditions of zoning when those regulations impose a hardship on the development of the property, and to provide for interpretation of the text of this article and the official zoning map. Appeals are authorized herein to be considered by various bodies and individuals depending on the type of appeal and its relationship to applications for use permits or rezonings.

Variances apply to the development standards and district standards per this chapter. Modifications apply to the approved conditions of zoning or use permits.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-245. Decision making authority.

The following are the powers and jurisdictions of the various decision makers and administrative bodies.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-246. City council.

The city council shall have the following powers and duties under the provisions of this section:

- (1) To hear and decide applications for re-zonings, use permits, and modifications pursuant to article VI.
- (2) To hear and decide applications for concurrent variances in conjunction with applications for rezonings, use permits, and/or zoning modifications pursuant to article VI.
- (3) To initiate a modification of approved zoning conditions.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-247. Planning and zoning commission.

The planning and zoning commission shall have the following powers and duties under the provisions of this section:

- (1) To hear and decide appeals from the interpretation of any of the provisions of this section by the director of planning in accordance with section 80-248;

¹Editor's note(s)—Ord. No. 2012-04, § 1, adopted June 11, 2012, repealed ch. 80, art. VI, §§ 80-232—80-236 and added a new ch. 80, art. VI, §§ 80-244—80-278. Former ch. 80, art. VI, pertained to appeals, exceptions, and variances and was derived from Ord. No. 2008-10Z, Exh. A, §§ 8.01—8-05, adopted August 25, 2008.

- (2) To hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, or determination made by the director of planning in the enforcement of this article.
- (3) To hear and decide appeals from a permitting or procedural decision of the director of planning regarding minor or administrative variance requests.
- (4) To hear and recommend approval or denial of re-zonings, use permits pursuant to article VI.
- (5) To hear and defer an application for re-zonings, and use permits pursuant to article VI.
- (6) Other duties as outlined in this chapter.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1); Ord. No. 2023-12, § 1(Exh. A), 7-24-2023)

Sec. 80-248. Director of planning.

The director of planning shall have the following jurisdiction, powers and duties under the provisions of this section:

- (1) To determine the type of appeal application or land use process the property owner/agent is required to apply for.
- (2) To consider and decide on minor variances to minimum yard requirements, not to exceed ten percent of such requirement, as long as property owners with standing do not object.
- (3) To consider and decide on administrative minor variances of no more than one foot.
- (4) To consider and decide on administrative variances.
- (5) To consider and decide on administrative modifications to conditions of zoning.
- (6) To interpret the provisions of the zoning ordinance related to the following:
 - a. Inconsistent, vague or obscure language;
 - b. Provisions which are in conflict or are confusing; and
 - c. Conflicting or redundant procedural requirements; and
- (7) To establish procedural requirements for review of appeal applications.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-249. Limitation on authority.

The authority and jurisdiction of boards and individuals as provided herein shall be limited as outlined in the following. In exercising this jurisdiction, each hearing board or individual shall have authority to determine whether it has jurisdiction.

- (1) There shall be no variances to permitted uses or accessory uses as specified in the zoning district regulations, administrative/use permit or zoning conditions.
- (2) There shall be no variances to the minimum lot frontage on a street as required in designated zoning districts of the zoning ordinance.
- (3) There shall be no modification to increase the density or change the use approved under the rezoning case except to allow for the development of a planned development.

- (4) There shall be no modification to revise a site plan that, as determined by the director of planning, results in a significant change in the approved concept. Such a site plan revision shall require rezoning pursuant to article VIII.

- (5) There shall be no relief or variance from the standards of article VI or article VIII.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-250. Variances.

A variance is a request for relief from the provisions of this chapter. There are four types of variance applications. The type of variance necessary shall be determined by the director of planning. The different types of appeals are listed below and described in the following sections:

- (1) Primary variance.
- (2) Minor variance/administrative minor variance.
- (3) Secondary variance/interpretation.
- (4) Concurrent variance.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-251. Variance considerations.

Variances may be considered in all districts. Primary variances and concurrent variances shall only be granted upon showing that:

- (1) Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of this chapter; or
- (2) The application of the particular provision of this chapter to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its lot size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public; or
- (3) 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.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-252. Administrative minor variance.

The director of planning may grant an administrative minor variance up to one foot from any minimum yard requirement.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-253. Minor variance.

The director of planning may grant minor variances to minimum yard requirements, not to exceed ten percent of such requirement, as long as no objection has been submitted in writing to the director of planning. The

applicant must notify the immediately adjacent property owners via e-mail and/or certified mail. Staff must be copied on all email notifications. An appeal to a minor variance decision must be filed as a secondary variance request.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-254. Primary variance.

A request for a variance from any zoning ordinance provision that is not being handled as a minor, administrative minor or concurrent variance and shall be heard and decided by the planning and zoning commission in accordance with article VI.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-255. Secondary variance/interpretation.

The planning and zoning commission shall consider appeals of administrative variance decisions and interpretations made by the director of planning authorized to grant a variance request or interpretation. This type of appeal is considered a secondary variance.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1); Ord. No. 2023-12, § 1(Exh. A), 7-24-2023)

Sec. 80-256. Concurrent variances.

The city council may consider a concurrent variance from any standards of this chapter which shall be filed simultaneously with rezoning, use permit, or zoning modification requests on the same property based on the conceptual plan submitted with the petition for the same agenda. The planning and zoning commission shall also hear and make recommendations on concurrent variances filed with rezonings or use permit applications. The city council shall consider such concurrent variance requests in accordance with the standards set forth in section 80-251. Public notification shall be in accordance with sections 80-273 and 80-291.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. No. 2023-12, § 1(Exh. A), 7-24-2023)

Sec. 80-257. Limitations on concurrent variances.

- (a) The city council may only consider variance requests as part of, or in conjunction with, a rezoning, use permit, or modification application.
- (b) If an application for a variance to the planning and zoning commission duplicates a concurrent variance request denied by the city council, such an application shall not be accepted by the director of planning prior to the expiration of six months from the date of the city council's denial of the concurrent variance request. A variance request to the planning and zoning commission cannot be considered simultaneously with the same concurrent variance request pending before the city council.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1); Ord. No. 2023-12, § 1(Exh. A), 7-24-2023)

Sec. 80-258. Application for concurrent variances.

Applications for a concurrent variance shall be submitted to the director of planning in accordance with the advertised filing deadlines for the city council meetings. A regular variance fee shall be charged, and the application shall comply with all advertising and notification requirements specified in article VIII, amendments to

zoning code and map. One notice sign may serve for both the rezoning, use permit, zoning modification, and concurrent variance request as long as the sign is marked to indicate all actions which are pending.

The variance case file number shall be included on the rezoning petition.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1); Ord. No. 2023-12, § 1(Exh. A), 7-24-2023)

Sec. 80-259. Modifications.

A modification is a request for relief from the conditions of zoning or use permit when a site development proposal does not comply with approved conditions. There are two different types of modifications which are listed below and described in the following sections:

- (1) Administrative modification;
- (2) Zoning modification.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-260. Application for modification.

A request to modify a condition of zoning or use permit may be initiated by the property owner, the planning and zoning commission, or the city council. Applications shall be submitted to the director of planning in accordance with the deadline schedule adopted by the city council. A modification application shall include a legal description of the property for which the modification is requested and a written explanation of the circumstances upon which the requested change of condition is based including the reason why development or use of the property, as approved, cannot be accomplished without the modification of a condition. Applicants shall submit a revised site plan illustrating the requested modification. The type of modification necessary is determined by the director of planning.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1); Ord. No. 2023-12, § 1(Exh. A), 7-24-2023)

Sec. 80-261. Administrative modification.

An administrative modification application may be filed if the director of planning determines that the modification request is not prohibited by section 80-249, limitation on authority and, will constitute only a technical change and does not involve significant public interest, or public interest has been addressed by letters expressing no objections from property owner(s) with standing and/or neighborhood associations. The director of planning shall review and approve administrative modifications.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-262. Appeal of an administrative modification decision.

If an applicant wishes to appeal the decision of the director of planning regarding an administrative modification, or if it is determined by the director of planning that a request will involve a matter of public interest, the applicant must file a separate application requesting a zoning modification on forms available from the director of planning. These shall be processed as secondary variances/interpretations in accordance with this article.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1); Ord. No. 2023-12, § 1(Exh. A), 7-24-2023)

Sec. 80-263. Zoning modification.

A zoning modification application shall be filed if an approved zoning condition cannot be met and it is determined by the director that the application involves significant public interest and is in compliance with section 80-249, limitation on authority. The zoning modification request shall be presented to the city council for consideration in a public hearing.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-264. General procedures.

This section contains basic steps common to all variances and modifications.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-265. Applications.

All applications for variances, interpretations, and modifications shall be filed with the director of planning on forms available in the department. The type of application process necessary to accomplish the change requested by the applicant shall be determined by the director of planning. The zoning administrator shall transmit the petition and all documents constituting the record to the appropriate hearing body or individual.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1); Ord. No. 2023-12, § 1(Exh. A), 7-24-2023)

Sec. 80-266. Standing.

Standing refers to a party or parties allowed to initiate a request for variances or modifications which are limited to the following:

- (1) *Modification petition.* A request for a modification may be initiated by the property owner or its agent, the planning commission or the city council;
- (2) *Variance petition.* A request for a variance may be initiated by the property owner of subject property or its agent;
- (3) *Secondary variance petition.* A request for a secondary variance appeal may be initiated by the property owner of the subject property or its agent, or the owner of other real property within 300 feet of the boundaries of the subject property; and
- (4) *Interpretation petition.* A request for an interpretation of a decision of the director of planning may be requested by any individual.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-267. Filing deadlines.

- (a) Applications for variances, interpretations and modifications shall be submitted in accordance with the advertised filing deadlines, depending on the type of petition in accordance with section 80-273.
- (b) Concurrent variance applications shall be filed in accordance with the filing deadline for the parent petition of either a use permit, rezoning, or zoning modification request in accordance with article VI.

- (c) The director of planning has the discretion to extend the filing deadline by two days for all applications except administrative minor and minor variance applications. A letter from the applicant explaining the delay in filing shall be submitted prior to the close of the filing deadline.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-268. Withdrawal of application.

- (a) An application may be withdrawn by the applicant in writing at any time before the public hearing notice advertisement is published and/or the notice of the hearing is posted on the property.
- (b) Applications which do not require a public hearing may be withdrawn at any time before notification of a decision is mailed.
- (c) Once the public hearing has been properly advertised, the request for withdrawal of the application must be placed on the public hearing agenda and the appropriate decision-making body shall act on the withdrawal request.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-269. Fees.

At the time of application, applicants shall pay fees as established by the city council. Fees paid are not refundable except where the zoning administrator determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment will be refunded to the applicant.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-270. Legal action stayed.

The filing of an appeal authorized by this article shall operate as a stay of any enforcement proceedings by the city until final decision on the appeal. No city council or planning and zoning commission action shall be taken on any property which is the subject of any litigation pending in state or federal court wherein the city or its agents or officials are parties.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-271. Public hearing.

A public hearing shall be conducted by the stated hearing body of each appeal application before taking action thereon except those authorized to be considered administratively. The schedule of public hearings and deadlines for the filing of an appeal shall be established by the city council.

Public hearings are not required for administrative variances, minor variances, administrative minor variances and administrative modifications; however, notification in accordance with subsection 80-273(b) is required.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-272. Evaluations and reports.

The hearing body shall have before it, at the time of hearing, a report from the director of planning which shall summarize the hardship or justification reported by the applicant as related to the application and background information for variances, modifications, and interpretations, and any other information requested by the hearing body. The hearing body shall, hear, analyze, consider, and make a written report of its decision in accordance with section 80-275, notice of decisions.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-273. Public notification.

(a) For those applications requiring a public hearing (only a hearing before the body that renders final decisions on primary variances, secondary variances, concurrent variances, and zoning modifications is required; recommending bodies do not require public hearings), the director of planning shall:

- (1) Publish notice of the public hearing in a newspaper of general circulation at least 30 days, but no more than 45 days, prior to the public hearing at which an application will be heard. The published notice shall contain the time, place, and purpose of the hearing and the location of the property, if applicable (secondary variances may not always be property-specific). Additionally, notice of the public hearing shall be sent to the owner of the property that is the subject of the proposed action at least 30 days prior to the hearing date by regular mail. Re-notification is not required when a petition is deferred by the city council or the planning and zoning commission.
- (2) The applicant or agent shall post a sign as issued by the planning and zoning department in a conspicuous location on each public street frontage of the subject site, at least 30 days, but not more than 45 days, prior to the public hearing at which an application will be heard.

The sign shall be mounted and posted as specified by the planning and zoning department. Property that is not posted on the 30th day before the scheduled hearing date will be administratively removed from the agenda. The sign will remain posted on-site until final action by the appropriate hearing body is taken.

When a petition advertised for a public hearing is deferred, an updated sign is not required.

The posted sign shall contain the date, time, place, and purpose of the hearing.

For zoning modifications, all notices shall contain all of the items listed in the previous sentence, the location of the property, the current and proposed zoning districts (if applicable), the zoning and/or use permit case number to be modified and the condition number(s) to be modified.

The posting of a sign is not required when a secondary variance is not requested by the property owner or owner's representative.

- (3) Notice of the public hearing shall be postmarked 30 days prior to the hearing date and shall be given by regular mail to all property owners within 1,000 feet of the boundaries of the property who appear on the current tax records of the city as retrieved by the city's geographic information system. When a petition advertised for a public hearing is deferred, updated mailed notices are not required.

The mailing of public notices is not required when a secondary variance is sought by an individual other than the property owner.

- (4) Additional notice. Mailed notice shall be made via USPS at least 15 days, but not more than 45 days, before the date of the public hearing to the following:

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- a. Owner(s) of record on the current tax records of the city as retrieved by the city's geographic information system;
 - b. The appellant (for appeals); and
 - c. The original applicant (for appeals, if the appellant was not the original applicant).
- (b) For those applications not requiring a public hearing, notification shall be provided as follows:
- (1) *Administrative variance.* The owners of property adjacent and contiguous across the right-of-way of the subject site shall be notified via a letter of notification.
 - (2) *Minor variance.* The owners of property adjacent and contiguous across the right-of-way of the subject site shall be notified via a letter of notification.
 - (3) *Administrative modification.* The director of planning shall determine what notification, if any, is reasonable on a case by case basis.
 - (4) *Administrative minor variance.* No written notification.
- (Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1); Ord. No. 2023-12, § 1(Exh. A), 7-24-2023)

Sec. 80-274. Planning and zoning commission decision on secondary variances/interpretations.

The planning and zoning commission may take the following actions pursuant to a secondary variance and/or an interpretation appeal:

- (1) Affirm an order, requirement, or decision, wholly or partly.
- (2) Reverse an order, requirement, or decision, wholly or partly.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

Sec. 80-275. Notice of decisions.

Written notice of all decisions shall be placed in the official case file and a letter shall be forwarded to the applicant by regular mail within ten working days from the date of the decision by the following authority:

- (1) The director of planning shall provide written notification of the planning and zoning commission's decisions;
- (2) The director of planning shall, with respect to minor variances, administrative variances, and administrative modifications provide written notification of such decisions. The approval of a building permit shall constitute notice of approval for an administrative minor variance; and
- (3) The clerk to the city council shall, with respect to zoning modifications and concurrent variances, provide written notification of the city council's decisions.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1))

Sec. 80-276. Reconsideration of denied application.

If a variance or modification application is denied by an authorized department director, city council, or the planning and zoning commission, an application for the same variance or modification item shall not be considered until:

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- (1) At least six months has elapsed from the date of the decision; or
 - (2) New information pertinent to the subject, not previously considered, is submitted by the petitioner and the six-month period is exhausted; or
 - (3) If an application is denied by the director of planning, the applicant may appeal the decision to the appropriate hearing body depending on the type of petition.

This provision is not intended to supersede provisions of article VIII and/or article IV as related to decisions regarding rezonings and/or use permits.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1); Ord. No. 2023-12, § 1(Exh. A), 7-24-2023)

Sec. 80-277. Time limitation on appeals to superior court.

- (a) The decision of the planning and zoning commission to grant or deny variances is a final decision; therefore, any appeal of such a decision shall be pursued by application for petition for review filed with the superior court of the county within 30 days of the date of the decision in accordance with O.C.G.A. § 36-66-1 et seq. and as provided for in O.C.G.A. ch. 4, tit. 5.
- (b) Appeals of decisions (secondary variances/interpretation) of the director of planning, or the director of public works shall be brought within 30 days from the date of the decision to the planning and zoning commission.
- (c) Authority to accept service. The planning and zoning director shall be authorized, without additional board or agency action, to accept service and/or to approve or issue any form or certificate necessary to perfect the petition described in the Georgia Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq., for review of lower judicatory bodies and upon whom service of such petition may be effected or accepted on behalf of the lower judicatory board or agency, during normal business hours, at the City of Fairburn City Hall.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012; Ord. of 10-28-2019(1); Ord. No. 2023-12, § 1(Exh. A), 7-24-2023)

Sec. 80-278. Expiration of variance.

If not used, a variance shall be valid only for a period of 36 months from the date it is granted. Extensions may be sought under the provisions of article VIII, amendments to zoning code and map.

(Ord. No. 2012-04, § 1(Exh. A), 6-11-2012)

9. Resubmittal.

When action is unfavorable on an application for variance or where the applicant withdraws the application prior to final action by the Planning and Zoning Commission, a substantially similar application may not be resubmitted for at least one year from the date of denial or withdrawal. This requirement may be waived for good cause by the UDO Administrator.

Sec. 104.19–22. Reserved.**DIVISION 5. ADMINISTRATIVE REVIEW PROVISIONS.****Sec. 104.23. Administrative review.**

Permits that may be approved by a UDO Administrator through the administrative review process fall under three review sub-categories:

1. Zoning and site plan review by the UDO Administrator;
2. Engineering review by the City Engineer, and
3. Building review by the Building Official.

Specifically, review responsibilities are shown in the following table:

Approval process	Ordinance reference	Review authority			
		UDO Administrator	City Engineer	Building Official	Fire Marshal
Key: R – Review A – Approval					
Administrative Variance	Sec. 104.24.	A			
Accessory Building	Sec. 401.29.	A	A	A	A
As-built drawings		A	A	A	A
Banner Permit	Sec. 406.20.3.	A			
Building Permit	Sec. 501.21.A.1.	R		A	R
Certificate of Completion	Sec. 501.38.A.	R	R	A	
Certificate of Occupancy	Sec. 501.38.B.	R	R	A	
Change of Occupancy Certificate	Sec. 501.38.B.			A	R
Commercial Building Permit	Sec. 501.21.A.1.			A	R
Commercial Electrical Permit	Sec. 501.21.A.1.			A	
Conceptual Site Plan (site)	Sec. 407.17.	A	A	R	R
Construction Plans (subdivision)	Sec. 314.26.	A	A	R	R
Construction Trailer Permit	Sec. 501.21.			A	
Demolition Permit	Sec. 501.21.A.1.			A	
Development Plan (site)	Sec. 407.18.	A	A	R	R

Fence Permit	Sec. 401.35.	R	R	A	
Film Permit		A	A	A	A
Final plat	Sec. 314.28.	A	A	R	R
Foundation Permit	Sec. 501.21.A.4.			A	
Home Occupation Permit	Sec. 207.53	A		R	R
Land Disturbance Permit	Sec. 314.27 & 407.22.	R	A	R	R
Landscape Plan	Sec. 403.53.	A			
Low-voltage Permit	Sec. 501.21.A.1.			A	
Mechanical Permit	Sec. 501.21.A.1.			A	
Mobile Food Truck Vendor	Sec. 207.32	A		A	A
Outdoor Display Permit	Sec. 207.72.	A			R/A
Plat amendment	Sec. 314.20.	A	A	R	R
Plumbing Permit	Sec. 501.21.A.1.			A	
Pool Permit	Sec. 501.21.A.1.	R	R	A	
Preliminary Plat (subdivision)	Sec. 314.25.	R	A	R	R
Parade Permit	Sec. 207.72.	R	R		R
Parking Lot Tent Sale Permit	Sec. 301.8.	A			R
Parking waiver	Sec. 104.24.H.	A			
Re-roof Permit	Sec. 501.21.A.1.			A	
Residential Electrical Permit	Sec. 501.21.A.1.			A	
Residential New Construction Permit	Sec. 501.21.A.1.			A	
Residential Remodel Permit	Sec. 501.21.A.1.			A	
Roof Permit	Sec. 501.21.A.1.			A	
Sign Permit	Sec. 406.11.	A		A	
Special Event Permit	Sec. 207.84	A	A	A	A
Storage Trailer Permit	Sec. 401.48.	A		R	R
Temporary Sign Permit	Sec. 406.21.	A			
Temporary Use Permit	Sec. 207.84.	A			
Tent Permit	Sec. 401.49.	A		A	A
Trade Permit	Sec. 501.21.A.1.			A	
Tree Removal Permit	Sec. 403.9.	A			
Utility Encroachment Permit	Sec. 301.6.	R	R	A	
Utility Restoration Permit	Sec. 501.39.		R	A	
Zoning Compliance letter	Sec. 104.25.	A			
Zoning Verification letter		A			

Sec. 104.24. Administrative variances.

A. Power to grant administrative variances.

The UDO Administrator shall have the authority to grant administrative variances (except for density and use variances) from the development standards as established in the UDO where, in their opinion, the intent of

the UDO can be achieved, and equal performance including reasonable accommodations as defined at Section 104.18.24.I. herein obtained by granting an administrative variance.

B. Limitations on administrative variances.

The authority to grant administrative variances shall be limited to the following:

C. Setbacks.

A reduction of up to 10% of the numeric standard for a minimum building setback. Such reduction shall not alleviate minimum building separation requirements identified in the Building Code.

D. Lot coverage.

An increase of up to 10% beyond the numeric standard for lot coverage.

E. Building height.

Up to but not exceeding ten feet, provided that no increase in the height for a sign or fence may be granted nor may the variance result in an increase in the number of stories than would otherwise be allowed under the applicable zoning district. Said increase shall be limited to parapet walls or screening for roof-mounted mechanical equipment.

F. Landscape buffer.

A reduction in width by no more than 50 percent where the future land use map recommends a more compatible land use on the neighboring property than that for which said property is actually zoned, or in other situations where the intent of the required buffer can be equally or otherwise achieved. Reduction of a buffer required as a condition of a rezoning or of a grant of a conditional use shall be not permitted.

G. Sidewalk.

An elimination and/or reduction of width of a required sidewalk pursuant to the following conditions:

1. The cost of the sidewalk installation exceeds 25% of the total project cost due to project scope as well as site factors, including, but not limited to, stormwater infrastructure, topography, and existing utilities;
2. In order to provide compatibility with existing conditions on adjacent properties;
3. In order to preserve existing trees and landscape materials in the landscape and sidewalk zone;
4. In order to provide continuity with planned public improvements; and
5. Lack of existing sidewalks in the general vicinity.

H. Demarcation of parking spaces.

1. Parking spaces may be left unmarked provided all of the following conditions are present:
 - a. The parking lot must be designated to serve only a multi-family residential project which is designed and intended for rental occupancy;
 - b. The parking lots must be designed in relation to the internal circulation system such that the areas reserved for parking are easily identified and clearly distinct from the interior driveways because of their location, design, orientation, or configuration, such as in parking areas with a single interior driveway having parking spaces located perpendicular to and along the sides of the access driveway, allowing the curbing to delineate the exterior dimension of the single parking bay; and
 - c. Approval for the elimination of the striping has been obtained by the applicant in writing from the City Engineer.

2. The applicant shall demonstrate, and the UDO Administrator shall find that all of the following criteria are present when approving a request for an adjustment:

- a. There are clear and compelling reasons that are not purely financial demonstrating that the required standard cannot be met;
- b. The modification is the minimum amount necessary to meet the objectives identified above; and
- c. The requested adjustment will not contravene the public interests or negatively impact adjoining properties.

I. Application procedures.

1. Application form and documentation.

Refer to Section 104.8.B. of this UDO.

2. Standards and factors governing review of administrative variance applications

The basis for approval or denial of a request for an administrative variance shall be whether the requested changes:

- a. Meet, or fail to meet, the requirements of the UDO;
- b. Are consistent, or inconsistent, with applicable design guidelines;
- c. Are consistent, or inconsistent, with the intents or purposes of this UDO; or
- d. Would result in a development that is architecturally appropriate.

If the application is denied, the reasons for denial shall be provided in writing along with a notice that the applicant may file an appeal to the Mayor and City Council as identified herein.

Sec. 104.25. Certificates.

A. Certificate of zoning compliance.

1. No building permit shall be issued for any construction, reconstruction or alteration of a structure unless the UDO Administrator has issued a certificate of zoning compliance for such construction, reconstruction or alteration. Such certificate shall be issued only when such use complies with all provisions of this UDO.
2. No existing structure or land may be used or occupied for any purpose or use for which it is not presently being used unless a certificate of compliance shall have been applied for and issued by the UDO Administrator. Such certificate shall be issued only when such proposed change of use complies with all provisions of this UDO.

B. Certificate of appropriateness.

1. The UDO Administrator shall have the authority to grant administrative certificate of appropriateness approval for minor architectural modifications as follow:
 - a. Repairing of an existing building to a similar color;
 - b. Revisions of window or door placement;
 - c. Replacement of awnings or installation of new awnings wgen utilizing two colors or less;
 - d. New construction of a deck or modifications to an existing deck; and
 - e. Paint colors for exsisting and infill residential development.
2. The basis for approval or denial of a request for the granting of an administrative certificate of appropriateness approval for minor architectural modifications shall be whether the requested changes:

ARTICLE XXII. APPEALS**Sec. 22.1. Purpose.**

The purpose of this article is to establish procedures for appealing the strict application of regulations contained herein and conditions of zoning when those regulations impose a hardship on the development of the property, and to provide for interpretation of the text of this Ordinance and the Official Zoning Map. Appeals are authorized herein to be considered by various bodies and individuals depending on the type of appeal and its relationship to applications for Use Permits or Rezoning. Variances apply to the development standards and district standards per the Zoning Ordinance.

Sec. 22.2. Decision Making Authority.

The following are the powers and jurisdiction of the various decision makers and administrative bodies.

22.2.1. *Mayor and City Council.* The Mayor and City Council shall have the following powers and duties under the provisions of this Zoning Ordinance:

- A. To hear and decide applications for rezonings and use permits pursuant to Article 22 and Article 28;
- B. To hear and decide applications for concurrent variances in conjunction with applications for rezonings and use permits pursuant to Article 22 and Article 28; and
- C. To initiate a modification of approved zoning conditions.

22.2.2. *Board of Zoning Appeals (BZA).* The Board of Zoning Appeals (BZA) shall have the following powers and duties under the provisions of this Zoning Ordinance:

- A. To hear and decide applications for primary variance requests;
- B. To hear and decide appeals from the interpretation of any of the provisions of this Ordinance by the Director of the Department of Community Development in accordance with Section 22.2.3.F;
- C. To hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, or determination made by any City of Johns Creek official in the enforcement of this Zoning Ordinance and;
- D. To hear and decide appeals from a permitting or procedural decision of the Department Director or Deputy Director regarding minor or administrative variance requests.

22.2.3. *Director of the Department of Community Development.* The Director of the Department of Community Development shall have the following jurisdiction, power and duties under the provisions of this Zoning Ordinance:

- A. To determine the type of appeal application or land use process the property owner/agent is required to apply for;
- B. To consider and decide on minor variances to minimum yard requirements, not to exceed ten percent of such requirement, as long as property owners with standing do not object;
- C. To consider and decide on administrative minor variances of no more than 1 foot;
- D. To consider and decide on administrative variances;

E. To interpret the provisions of the Zoning Ordinance related to the following:

1. Inconsistent, vague or obscure language;
2. Provisions which are in conflict or are confusing; and
3. Conflicting or redundant procedural requirements; and.

F. To establish procedural requirements for review of appeal applications.

(Ord. No. 2015-12-42, Exh. A, 1-25-2016)

22.2.4. *Limitation on Authority.* The authority and jurisdiction of Boards and individuals as provided herein shall be limited as outlined in the following. In exercising this jurisdiction, each hearing Board or individual shall have authority to determine whether it has jurisdiction.

- A. There shall be no variances to permitted uses or accessory uses as specified in the zoning district regulations, administrative/use permit or zoning conditions.
- B. There shall be no variances to the minimum lot area nor the minimum district size required in each zoning district.
- C. There shall be no variances to the minimum lot frontage on a street as required in designated zoning districts of the Zoning Ordinance.
- D. There shall be no variances to conditions of rezoning or Use Permits. Changing conditions of rezoning or Use Permits requires rezoning pursuant to Article 28.
- E. There shall be no relief or variance from the standards of Article 22 or Article 28.

Sec. 22.3. Variances.

A variance is a request for relief from the provisions of the Zoning Ordinance. There are 6 types of variance applications. The type of variance necessary shall be determined by the Director of the Department of Community Development. The different types of appeals are listed below and described in the following sections:

1. Administrative Variance
2. Minor Variance/Administrative Minor Variance
3. Primary Variance
4. Secondary Variance
5. Interpretation
6. Concurrent Variance

22.3.1. *Variance Considerations.* Variances may be considered in all districts. Primary variances and concurrent variances shall only be granted upon showing that:

- 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. Variances to Article 33 shall be in accordance with the standards enumerated therein.

Sec. 22.4. Administrative Variance.

The Director of the Department of Community Development is authorized by this Ordinance to consider an Administrative Variance whenever: (1) a property owner maintains that a provision contained in Chapter 113 (Code of Ordinances), Development Regulations, as applied to a specific situation, is not in the best interest of the public health, safety and welfare; (2) whenever there is a request for the alteration of the 10 foot improvement setback required along all buffers as required in the conditions of zoning and/or in Article 4.23.1. Minimum Landscape Strips and Buffers; and (3) whenever there is a request up to a 10% reduction in the number of required parking spaces per Article 18.2.3, Administrative Reduction of Spaces Constructed.

The authority to grant an administrative variance pursuant to this Section and Section 22.5 and 22.6 is not mandatory. If a request for an administrative variance is submitted by an applicant and the Director of Community Development does not issue a decision within thirty (30) days from the date of submission, the request shall be deemed to have been denied and the applicant may request an appeal for a Secondary variance/interpretation pursuant to Section 22.8. At any time during the 30-day period but prior to the issuance of a decision regarding the administrative variance, the applicant may request an appeal for a Primary variance pursuant to Section 22.7

Approval of an administrative variance is not guaranteed and shall require demonstration of a hardship as outlined in Section 22.3.1. or, if in the opinion of the Director of Community Development, the request would not present adverse impacts on adjacent properties.

(Ord. No. 2015-12-42, Exh. A, 1-25-2016)

Sec. 22.5. Administrative Minor Variance.

The Director of Community Development may grant an Administrative Minor Variance up to 1 foot from any minimum yard requirement. Approval of an administrative minor variance is not guaranteed and shall require demonstration of a hardship as outlined in Section 22.3.1. or, if in the opinion of the Director of Community Development, the request would not present adverse impacts on adjacent properties.

Sec. 22.6. Minor Variance.

The Director of Community Development may grant minor variances to minimum yard requirements, not to exceed ten percent of such requirement, as long as no objection has been submitted in writing to the Director of Community Development. An appeal to a minor variance decision must be filed as a Secondary Variance request. Approval of a minor variance is not guaranteed and shall require demonstration of a hardship as outlined in Section 22.3.1. or, if in the opinion of the Director of Community Development, the request would not present adverse impacts on adjacent properties.

Sec. 22.7. Primary Variance.

A request for a variance from any Zoning Ordinance provision that is not being handled as a minor, administrative minor or concurrent variance and shall be heard and decided by the Board of Zoning Appeals in accordance with Section 22.3.1.

Sec. 22.8. Secondary Variance/Interpretation.

The Board of Zoning Appeals shall consider appeals of variance decisions and interpretations made by any Department Director or Deputy Department Director authorized to grant a variance request or interpretation. This type of appeal is considered a secondary variance.

Sec. 22.9. Concurrent Variances.

The Mayor and City Council may consider a concurrent variance from any standards of the Zoning Ordinance which shall be filed simultaneously with rezoning, use permit or zoning modification requests on the same property based on the conceptual plan submitted with the petition for the same agenda. The Planning Commission shall also hear and make recommendations on concurrent variances filed with a rezoning or use permit application. The Mayor and City Council shall consider such concurrent variance requests in accordance with the standards set forth in Section 22.3.1. Public notification shall be in accordance with Section 28.3.

22.9.1. *Limitations on Concurrent Variances.*

- A. The Mayor and City Council may only consider variance requests as part of, or in conjunction with, a rezoning, use permit or modification application.
- B. If an application for a variance to the Board of Zoning Appeals duplicates a concurrent variance request denied by the Mayor and City Council, such an application shall not be accepted by the Director of the Department of Community Development prior to the expiration of 6 months from the date of the Mayor and City Council' denial of the variance request. A variance request to the Board of Zoning Appeals cannot be considered simultaneously with the same variance request pending before the Mayor and City Council.

22.9.2. *Application for Concurrent Variances.* Applications for a concurrent variance shall be submitted to the Director of the Department of Community Development in accordance with the advertised filing deadlines for the Mayor and City Council meetings. A regular variance fee shall be charged and the application shall comply with all advertising and notification requirements specified in Article 28, Rezoning and Other Amendment Procedures. One notice sign may serve for both the rezoning, use permit, zoning modification, and concurrent variance request as long as the sign is marked to indicate all actions which are pending. The variance case file number for each concurrent variance requested shall be included on the rezoning petition.

(Ord. No. 2023-06-11, 6-6-2023)

Sec. 22.10—22.12. Reserved.

Sec. 22.13. General Procedures.

This section contains basic steps common to all variances.

22.13.1. *Applications.* All applications for variances, and interpretations shall be filed with the Director of the Department of Community Development on forms available in the Department. The type of application process necessary to accomplish the change requested by the applicant shall be determined by the Director of Community Development. The Director shall transmit the petition and all documents constituting the record to the appropriate hearing body or individual.

22.13.2. *Standing.* Standing refers to a party or parties allowed to initiate a request for variances or modifications which are limited to the following:

- A. *Variance Petition.* A request for a variance may be initiated by the property owner of subject property or its agent;
- B. *Secondary Variance Petition.* A request for a secondary variance appeal may be initiated by the property owner of the subject property or its agent, or the owner of other real property within 300 feet of the boundaries of the subject property; and

- C. *Interpretation Petition.* A request for an interpretation of a decision of the Director of the Department of Community Development may be requested by any individual.

22.13.3. *Filing Deadlines.*

- A. Applications for variances, interpretations requiring public hearings shall be submitted in accordance with the advertised filing deadlines, depending on the type of petition in accordance with Section 28.2.3 of the Zoning Ordinance.
- B. Concurrent Variance applications shall be filed in accordance with the filing deadline for the parent petition of either a use permit, rezoning, or zoning modification request in accordance with Section 28.2.3 of the Zoning Ordinance.
- C. The Director of the Department of Community Development has the discretion to extend the filing deadline by two days for all applications. A letter from the applicant explaining the delay in filing shall be submitted prior to the close of the filing deadline.

22.13.4. *Withdrawal of Application.*

- A. An application may be withdrawn by the applicant in writing at any time before the public hearing notice advertisement is published and /or the notice of the hearing is posted on the property.
- B. Applications which do not require a public hearing may be withdrawn at any time before notification of a decision is mailed.
- C. Once the public hearing has been properly advertised, the request for withdrawal of the application must be placed on the public hearing agenda and the appropriate decision-making body shall act on the withdrawal request.

22.13.5. *Fees.* At the time of application, applicants shall pay fees as established by the Mayor and City Council. Fees paid are not refundable except where the Director of the Department of Community Development determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment will be refunded to the applicant.

22.13.6. *Legal Action Stayed.* The filing of an appeal authorized by this Article shall operate as a stay of any enforcement proceedings by the City of Johns Creek until final ordinance of the appeal. No Mayor and City Council or Board of Zoning Appeals action shall be taken on any property which is the subject of any litigation pending in state or federal court wherein the City of Johns Creek or its agents or officials are parties.

22.13.7. *Public Hearing.* A public hearing shall be conducted by the stated hearing body of each appeal application before taking action thereon except those authorized to be considered administratively. The schedule of public hearings and deadlines for the filing of an appeal shall be established by the Mayor and City Council.

Public hearings are not required for administrative variances, minor variances, administrative minor variances and administrative modifications; however, notification in accordance with Section 22.13.9 B is required.

22.13.8. *Evaluations and Reports.* The hearing body shall have before it, at the time of hearing, a report from the Director of the Department of Community Development which shall summarize the hardship or justification reported by the applicant as related to the application and background information for variances, modifications, and interpretations, and any other information requested by the hearing body. The hearing body shall, hear, analyze, consider, and make a written report of its decision in accordance with Section 22.13.12, Notice of Decisions.

22.13.9. *Public Notification.*

- A. For applications requiring a public hearing (Primary Variances and Secondary Variances), the Community Development Department shall ensure:

1. A notice of the public hearing is published in a newspaper of general circulation at least 30 days, but no more than 45 days prior to the public hearing at which an application will be heard. The published notice shall contain the time, place and purpose of the hearing and the location of the property if applicable (secondary variances may not always be property specific). Renotification is not required when a petition is deferred;
 2. A sign is posted in a conspicuous location on each public street frontage of the subject site, at least 30 days, but not more than 45 days, prior to the public hearing at which an application will be heard;
 3. Property that is not posted on the 30th day before the scheduled hearing date will be administratively removed from the agenda. The sign will remain posted on-site until final decision by the appropriate hearing body is taken.
 4. If the Board of Zoning Appeals defers a petition for more than 20 days, an updated sign is required to be posted with new hearing dates. If a petition is deferred by the Board of Zoning Appeals for less than 20 days, posting an updated sign is not required.
 5. The posted sign shall contain the date, time, place and purpose of the hearing,
 6. The posting of a sign is not required when a secondary variance is not requested by the property owner or owner's representative;
 7. Notice of the public hearing shall be postmarked 30 days prior to the hearing date and shall be given by regular mail to all property owners within 300 feet of the boundaries of the property who appear on the current tax records of the City of Johns Creek as retrieved by the City's Geographic Information System. Renotification is not required when a petition is deferred by the Mayor and City Council or the Board of Zoning Appeals; and
 8. The mailing of public notices is not required when a secondary variance is sought by other than the property owner.
 9. A notice shall be mailed to the owner of the property that is the subject of the variance. Such notice is only required when the variance is heard by a quasi-judicial officer, board or agency.
- B. For those applications not requiring a public hearing, notification shall be provided as follows:
1. *Administrative Variance*: The owners of property adjacent and contiguous across the right-of-way of the subject site shall be notified in accordance with Section 22.13.9(A)(3);
 2. *Minor Variance*: The owners of property adjacent and contiguous across the right-of-way of the subject site shall be notified in accordance with Section 22.13.9(A)(3); and
 3. *Administrative Minor Variance*: No written notification.

(Ord. No. 2015-12-42, Exh. A, 1-25-2016; Ord. No. 2023-06-11, 6-6-2023)

22.13.10. *Decisions*. The Mayor and City Council, Board of Zoning Appeals, and the Director of the Community Department in considering applications under this Article shall do one of the following:

- A. Approve or partially approve;
- B. Approve and impose conditions related to the application being considered;
- C. Deny;
- D. Hold for further study not less than 30 days; or
- E. Withdraw.

(Ord. No. 2015-12-42, Exh. A, 1-25-2016)

- 22.13.11. *Board of Zoning Appeals Decision on Secondary Variances/Interpretations.* The Board of Zoning Appeals may take the following actions pursuant to a secondary variance and/or an interpretation appeal:
- A. Affirm an order, requirement, or decision, wholly or partly;
 - B. Reverse an order, requirement, or decision, wholly or partly; or
 - C. *Clarify.* Present an interpretation of the text in the form of a statement of clarification. Such statement shall not contain substitute language, but shall rely upon language and definitions contained in the City of Johns Creek Zoning Ordinance, The Latest Illustrated Book of Development Definitions and definitions contained in Merriam-Webster Collegiate Dictionary, tenth edition or later edition.

(Ord. No. 2015-12-42, Exh. A, 1-25-2016)

- 22.13.12. *Notice of Decisions.* Written notice of all decisions shall be placed in the official case file and shall be forwarded to the applicant by regular mail within 7 working days from the date of the decision by the following authority:
- A. The Director of the Community Development Department shall provide written notification of the Board of Zoning Appeals' decisions;
 - B. The Director of the Community Development Department shall, with respect to minor variances, administrative variances, and administrative modifications provide written notification of such decisions. The approval of a building permit shall constitute notice of approval for an administrative minor variance; and
 - C. The Clerk to the Mayor and City Council shall, with respect to zoning modifications and concurrent variances, provide written notification of the Mayor and City Council' decisions.

22.13.13. *Reconsideration of Denied Application.*

- A. If a variance or modification application is denied by an authorized Department Director, Mayor and City Council or the Board of Zoning Appeals, an application for the same variance or modification item shall not be considered until:
 - 1. At least six months has elapsed from the date of the decision; or
 - 2. New information pertinent to the subject, not previously considered, is submitted by the petitioner and the 6-month period is waived by the hearing body.
 - B. If an application is denied by the Director of the Community Development Department, the applicant may appeal the decision to the appropriate hearing body depending on the type of petition.
- This provision is not intended to supersede provisions of Article 28.2 as related to decisions regarding rezonings and/or use permits.

(Ord. No. 2015-12-42, Exh. A, 1-25-2016)

- 22.13.14. *Time Limitation on Appeals to Superior Court.* The decision of the Board of Zoning Appeals is a final decision; therefore, any appeal of such a decision shall be pursued by a petition for review filed with the Superior Court of Fulton County within 30 days of the date of the decision. When a petition for review is filed, the Board of Zoning Appeals and the City must be designated the respondent in the petition for review. The secretary of the Board of Zoning Appeals is authorized to acknowledge service of a copy of the petition for review on behalf of the Board of Zoning Appeals, as respondent. Service upon the city as respondent must be as provided by law.

Upon filing such an appeal, the Clerk of Superior Court shall give immediate notice thereof to the Director of the Community Development Department, and within 30 days from the date of such notice, the Director of Community Development shall cause to be filed with the Clerk of Superior Court a certified copy of the proceedings and the decision of the Board of Zoning Appeals.

Appeals of decisions (Secondary Variances/Interpretation) of the Director of the Community Development Department or the Director of Public Works shall be brought within 30 days from the date of the decision.

22.13.15. *Expiration of Variance.* If not used, a variance shall be valid only for a period of 36 months from the date it is granted.

(Ord. No. 2023-06-11, 6-6-2023)

Sec. 22.14 Board of Zoning Appeals.

22.14.1. *Membership.* The City of Johns Creek Board of Zoning Appeals shall consist of seven members appointed by the Mayor and City Council of the City of Johns Creek. The members shall serve terms concurrent with the terms of the City of Johns Creek Plan-ning Commission. Members shall not hold any other public office or position in the City of Johns Creek. Annual elections shall be held by the Board of Zoning Appeals to elect one of its members chairperson for a one-year term. The chairperson may serve an unlimited number of one-year terms.

22.14.2. *Vacancies.* Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.

22.14.3. *Removal of Members.* Members may be removed for cause by the Mayor and City Council of the City of Johns Creek upon written charges and after a public hearing.

22.14.4. *Pay.* Fees to be paid to the members of the City of Johns Creek Board of Zoning Appeals for attending official meetings shall be fixed from time to time by the Mayor and City Council of the City of Johns Creek.

22.14.5. *Secretary.* The Director of the Department of Community Development shall serve as Secretary to the Board of Zoning Appeals. The Secretary shall keep minutes of proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall keep records of evidence, examinations and official actions, all of which shall be filed and shall be a public record.

22.14.6. *Policies and Procedures.* The City of Johns Creek Board of Zoning Appeals shall adopt and publish policies, procedures and rules in keeping with the provisions of this ordinance. Such shall be available in the Community Development Department.

22.14.7. *Meetings.* Meetings of the Board of Zoning Appeals shall be held at least once each month to dispose of matters scheduled. Additional meetings may be called by the chairman. The Board of Zoning Appeals scheduled meetings, places and dates, and deadlines for the filing of applications shall be approved by the Mayor and City Council and published by the Director of the Community Development Department.

Article 11 - Appeals

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Sec. 11-1. - Purpose and Intent.

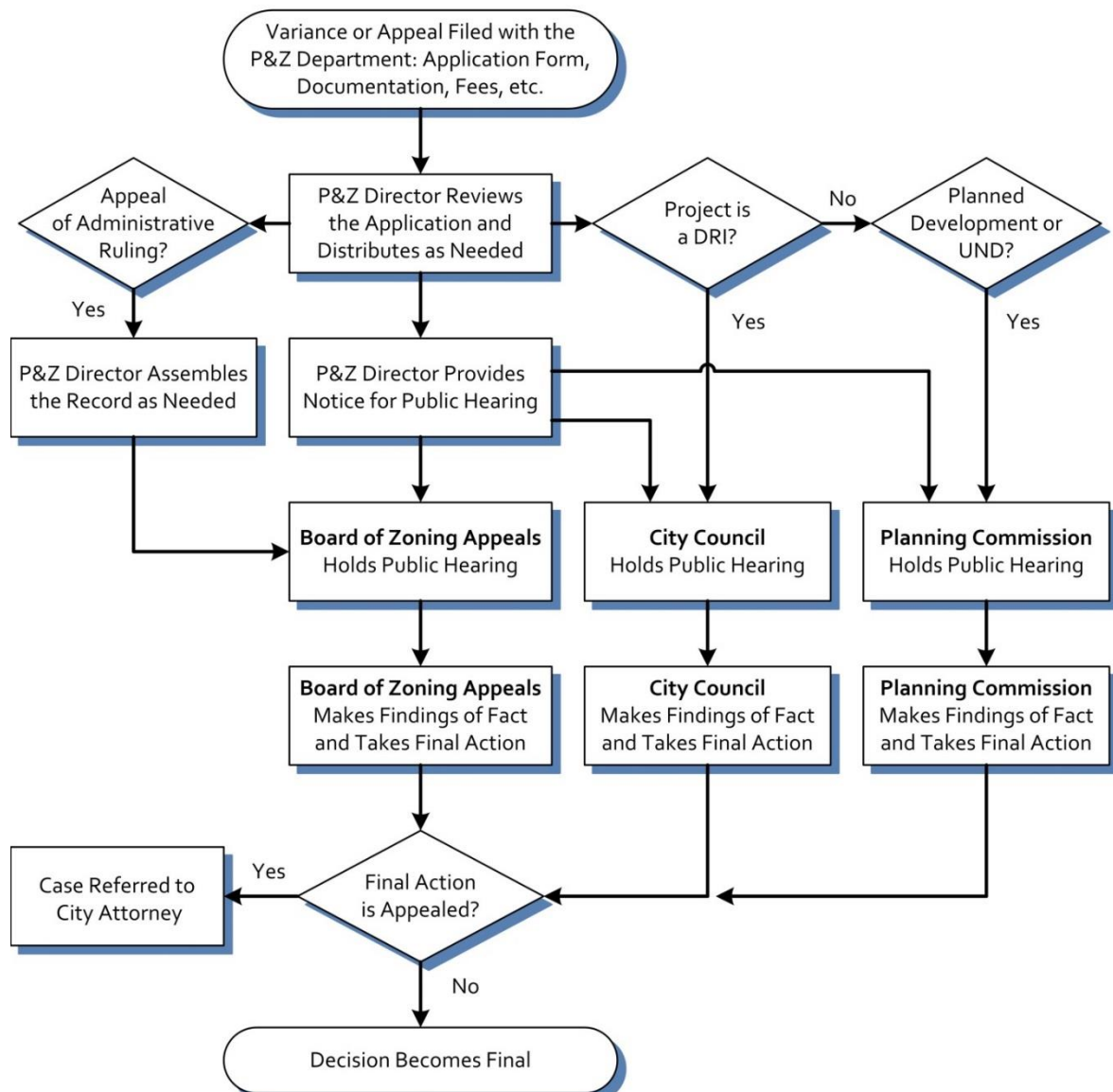
The purpose of this Article is to provide clear guidelines for the granting of variances and administrative appeals to the provisions of this Ordinance.

Sec. 11-2. - Jurisdiction and Authority.

- (a) Upon application, the Board of Zoning Appeals (BZA) shall exercise the jurisdiction and authority to grant a variance from the literal terms of this Ordinance in accordance with the procedures, standards, and limitations contained in this Article and the Administration and Enforcement Article, except as provided hereunder. This authorization shall not be construed to grant the BZA the power to rezone property.

- (b) Under the following circumstances, in lieu of the BZA, variances shall be determined by the Planning Commission or the City Council as follows:
- (1) The Planning Commission shall review and decide upon variances for properties or projects zoned for planned developments, and from the Urban Neighborhood Design (UND) guidelines, except for such requests that relate to a property or project that qualifies as a Development of Regional Impact (DRI) under the criteria contained in the Amendments to Zoning Ordinance Map Division of the Procedures and Permits Article.
 - (2) The City Council shall review and decide upon variances for properties or projects zoned for mixed use developments or for any property or project that qualifies as a Development of Regional Impact (DRI), as described in the Amendments to Zoning Ordinance and Map Division of the Procedures and Permits Article.

Variance and Appeals Process



Sec. 11-3. - Definitions Referenced.

The definitions of certain terms referenced in this Article are set forth in the Interpretation and Definitions Article.

Sec. 11-4. - Authorized Variances.

- (a) Variances (defined herein as reasonable deviations from the regulations and restrictions contained in this Ordinance) may be granted by the BZA, the Planning Commission or the City Council, as applicable, only in the following instances:
 - (1) A variance from those provisions regulating the size or area of a lot or parcel of land.
 - (2) A variance from those provisions regulating the size, area, bulk, setback, open space, yards, or location of a building or structure.
 - (3) A variance from the provisions of the Master Planned Developments Article relating to planned development projects may be granted by the Planning Commission as provided in that Article, and from the Urban Neighborhood Design (UND) guidelines in the Design Review Standards and Procedures Article.
 - (4) A variance from the provisions of the Master Planned Developments Article relating to mixed use development projects may be granted by the City Council as provided in the Application Procedures and Requirements Section of Division II in that Article.
- (b) All variance requests, whether considered by the BZA, the Planning Commission or the City Council (i.e., the hearing authority), shall be reviewed and decided according to the application and hearing procedures for variances of this Article.

Sec. 11-5. - Unauthorized Variances.

No variance from any of the provisions of this Ordinance relating to the use or density of land, buildings or structures may be granted. Nor shall a variance be granted for any use or activity within any designated floodway if any increase in the 100-year flood elevations would result. Nor shall any determination be made that has the effect of setting a new standard or rendering any provision of this Ordinance obsolete or invalid.

Sec. 11-6. - Administrative Variances.

The Planning and Zoning Director shall have the authority to grant limited minor administrative variances from certain provisions of the zoning and stream buffer ordinance where the Planning and Zoning Director determines that:

- (a) The strict application of the requirements of the ordinance would cause undue and unnecessary hardship to the property owner or authorized agent; and
- (b) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and

Sec. 11-7. - Application for Variance.

- (c) That the authorization of such modification or alteration will not be of substantial detriment to contiguous property and that the character of the zoning district will not be changed by granting the request; and
- (d) The intent and continued integrity of the ordinance can be achieved with equal performance and protection of public interests through granting of an administrative variance.
- (e) All applications for administrative variances shall be submitted to the Planning and Zoning Department. The application for an administrative variance shall be subject to the standards in Sec. 11-9 of the Zoning Ordinance and Section 10-114 (b) of the City of Newnan Code of Ordinance pertaining to Stream Buffers. The authority to grant such administrative variances shall be limited to variance from the following requirements:
 - (1) Principal Building Front, Side, Street Side and Rear Setbacks.
A variance shall not exceed 15% of the footage deducted from the required setback. Factors to be considered include the average of principal building setbacks of adjoining and contiguous properties.
 - (2) Principal Living Space.
A variance shall not exceed 25% of the square footage deducted from the required principal living space. Factors to be considered include the average of principal living space square footage calculations of adjoining and contiguous properties.
 - (3) Stream Buffer.
For lots established prior to the 2008 adoption of the City of Newnan's Stream Buffer Regulations, consideration may be given to modify the City's stream buffers. Final authorization shall be contingent upon a favorable recommendation from the City of Newnan's Engineering Department of the site development plan specific to the property that is the subject of the variance application.
 - (4) Residential Additions
A variance shall not exceed 33% of the footage deducted from the required setback for a residential addition, and the size of the proposed residential addition shall not exceed 250 square feet.

Sec. 11-7. - Application for Variance.

Any person owning property, or having a possessory or contract interest in property and the consent of the owner, may file an application for variance in regard to such property with the Planning and Zoning Director for one or more of the variances authorized above. The application shall contain the following information and such additional information as the BZA may, by rule, require:

- (a) The particular provisions or requirements of this Ordinance which prevent the proposed construction on, or use of, the property.
- (b) The existing zoning of the property, including any previously approved modifications, conditions, or proffers.
- (c) The special conditions, circumstances or characteristics of the land, building or structure that prevent the use of the land in compliance with the requirements of this Ordinance.
- (d) The particular hardship which would result if the specified provisions or requirements of this Ordinance were to be applied to the subject property.
- (e) The minimum extent to which it would be necessary to vary the requirements of this Ordinance in order to permit the proposed construction on, or use of, the property.
- (f) An explanation of how the requested variance conforms to each of the applicable findings and standards is set out in Sec. 11-9.

Sec. 11-8. - Decision on Variance Application.

Upon receipt of a complete application for a variance, the Planning and Zoning Director shall notify the hearing authority (i.e., the BZA, the Planning Commission or the City Council, as appropriate), which shall, within 45 days, hold a duly noticed public hearing thereon. In this capacity the body hearing the variance request exercises appellate jurisdiction as a quasi-judicial body, and its task is to determine that an undue hardship exists and what remedy is appropriate based on the facts of the particular situation.

- (a) Legal Notice of the public hearing shall be given in the same manner as set forth in Article 10, Section 10-38 (b).
- (b) The hearing shall be held in accordance with the procedures set forth in Article 10, Section 10-24 (b).
- (c) The hearing authority shall, after such hearing, either approve, deny or approve with conditions the application for a variance.
- (d) The decision of the body hearing the variance request shall be supported by findings of fact and conclusions with respect to the standards set out in Sec. 11-9 below.

Sec. 11-9. - Standards for Variances.

The hearing authority considering the variance request shall base its required findings of fact upon the particular evidence presented to it in each specific case where the property owner can show all of the following to be true:

- (a) The strict application of the terms of this Ordinance would effectively prohibit or unreasonably restrict utilization of the property because of all of the following:
 - (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography; and,
 - (2) Such conditions are peculiar to the particular piece of such property involved; and,

- (3) Such conditions were not imposed by the action or will of the owner of the property; and,
 - (4) The application of the Ordinance to the particular piece of property would create an unnecessary hardship other than a financial hardship in which the applicant would receive a lower rate of financial return on the use of the property if the variance is denied; and,
 - (5) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance.
- (b) In addition, the hearing authority considering the variance request shall affirmatively determine that:
- (1) The granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.
 - (2) The condition or situation of the property which gives rise to the need for such variance is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

Sec. 11-10. - Burden of Applicant.

The applicant for a variance shall bear the burden of producing evidence to establish that the requested variance satisfies all of the standards for a variance of Sec. 11-9 above.

Sec. 11-11. - Conditions and Restrictions.

- (a) As part of approving a variance, the hearing authority may impose such conditions, safeguards and restrictions upon the property or project benefited by the variance as may be necessary to avoid, minimize or mitigate any potentially adverse or injurious effect of such variance upon other surrounding or nearby properties, to carry out the general purpose and intent of this Ordinance, or to further the goals and objectives of the Comprehensive Plan.
- (b) Such conditions may consist of any of the same conditions that can be applied to a zoning map amendment and shall be treated in the same manner as required for a zoning map amendment under the Procedures and Permits Article of this Ordinance.
- (c) Change in Conditions of Approval.

Any application that proposes a change in the conditions of approval previously established for the variance shall be considered a new application and therefore subject to all procedures and provisions of this Ordinance regarding the approval of a variance.

Sec. 11-12. - Withdrawal of Application.

A variance may be withdrawn by the applicant at any time prior to the deadline for cancellation of the newspaper advertisement for the public hearing on the application. After said

deadline, an application may be withdrawn only at the advertised public hearing with the permission of the body hearing the variance request.

Sec. 11-13. - Re-Application.

If a variance is denied, no application requesting the same relief with respect to all or part of the same property shall be considered within 12 months after the date of such denial.

Sec. 11-14. - Appeals (From Administrative Ruling).

The BZA is authorized to hear appeals taken from any aggrieved person from any order, requirement, decision or determination made by any City official in the administration or enforcement of this Ordinance. In this capacity the Board exercises appellate jurisdiction as a quasi-judicial body, and its task is to determine what the Ordinance means and how the Ordinance applies to the facts of a particular situation.

Sec. 11-15. - When Administrative Appeals May Be Taken.

Appeals shall be taken within 30 days after the decision has been rendered by filing with the Planning and Zoning Director (or with the City official from whom the appeal is taken, if not the Planning and Zoning Director) a notice of appeal specifying the grounds of the appeal. The Planning and Zoning Director shall assemble all the papers constituting the record upon which the action appealed from was taken and forward such record to the chairman of the BZA (and to the City official from whom the appeal is taken, if not the Planning and Zoning Director).

Sec. 11-16. - Decisions on Administrative Appeals.

- (a) Within 90 days after the notice of administrative appeal has been filed, the BZA shall hold a public hearing which shall be advertised and posted as follows, as well as due notice given to the parties in interest.
 - (1) Legal Notice of the public hearing shall be given in the same manner as set forth in Article 10, Section 10-38 (b).
 - (2) The hearing shall be held in accordance with the procedures set forth in Article 10, Section 10-24 (b).
- (b) The BZA shall, after such hearing, decide the appeal, and file with the Planning and Zoning Director its findings of fact and conclusions with respect to the appeal. In exercising its powers, the BZA may reverse or affirm, wholly or partly, or may modify the decision appealed from. The concurring vote of a majority of BZA members shall be necessary to reverse a decision.
- (c) The Planning and Zoning Director shall provide a copy of the decision to the appellant, to the City official from whom the appeal is taken (if not the Planning and Zoning Director), and to each other person who was a party of record at the hearing.

Sec. 11-17. - Withdrawal of Application.

An administrative appeal may be withdrawn by the appellant at any time prior to the deadline for cancellation of the newspaper advertisement for the public hearing on the application. After said deadline, an appeal may be withdrawn only with the permission of the BZA at the advertised public hearing.

Sec. 11-18. - Stay of Proceedings.

- (a) A notice of appeal or an application for a variance, properly filed as herein provided, shall stay all enforcement or administrative proceedings related to the variance or appeal, unless the Planning and Zoning Director (or the responsible City official if not the Planning and Zoning Director) certifies to the hearing authority that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of a court of competent jurisdiction.
- (b) Where a building permit has been issued and the construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of this or any other City ordinance, by a lawsuit properly filed by a private party, the court may hear and determine the issues raised in the litigation even though no appeal was taken to the appropriate hearing authority. However, the City may suspend the building permit or discontinue further construction activities pursuant thereto only upon issuance of a stop work order or a restraining order by said court.

Sec. 605. Area, Yard and Height Requirements.

When developing under any Zoning Classification the requirements of Article XIV, Sections 1400 and 1401, must be met.

In all districts, except Single-Family Resident (R-LL, R-100, R-75, R-60 and R-ZT Detached) and Agriculture-Residence (RA-200) districts, the height requirements of Article XIV, Section 1401 must be met unless the applicant is granted a Special Use Permit by the City of Peachtree Corners City Council after receiving recommendations from the Director of Planning and Development and the Planning Commission and after a Public Hearing.

In all Single-Family Residence and Agriculture-Residence districts, the height requirements of Article XIV, Section 1401 must be met unless the applicant is granted a Variance by the Zoning Board of Appeals, after a public hearing.

An increase in height of ten (10) feet or less for any structure other than a sign or fence may be requested under the provisions of Article XVI, Section 1610 as an Administrative Variance, however, when no increase is involved in the number of stories which would otherwise be permitted under the applicable zoning district.

(Ord. No. 2016-02-69, Exh. A, 2-28-2016)

Sec. 1004. Administrative Variance.

In instances where an applicant shows specific and valid reasons why the requirements of Section 1002 cannot reasonably be met, and where a reduction or increase of not more than 30 percent in such requirements will not adversely affect the spirit or intent of this article, the Director of Planning and Development may administratively grant such a reduction or increase.

(Ord. No. 2016-02-69, Exh. A, 2-28-2016)

Sec. 1610. Administrative Variances.

The City Manager or his/her designee shall have the power to grant variances (except for density and use variances) from the development standards of this ordinance where, in his/her opinion, the intent of the ordinance can be achieved and equal performance obtained by granting a variance. The application for such requests may require letters of support from any adjacent residential property owners, where applicable, (including those adjoining the front, sides and rear of the property in question). The authority to grant such variances shall be limited to variances from the following requirements:

- a. Front yard or yard adjacent to public street — variance not to exceed ten (10) feet.
- b. Side yard — variance not to exceed five (5) feet.
- c. Rear yard — variance not to exceed ten (10) feet.
- d. Height:
 1. Residential: Variance up to but not exceeding ten feet, provided that no increase in the height for a sign or fence, except as permitted in Section 1610.i below, may be granted nor may the variance result in an increase in the number of stories than would otherwise be allowed under the applicable zoning district.

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2. Non-residential: Variance up to but not exceeding 15 feet, provided that no increase in the height for a sign or fence may be granted nor may the variance result in an increase in the number of stories than would otherwise be allowed under the applicable zoning district.
- e. Buffers.
1. The dimensions of a buffer between dissimilar districts as required under Section 606 of the City of Peachtree Corner Zoning Resolution may be reduced by no more than 50 percent where the Peachtree Corners Comprehensive Plan recommends a more compatible land use on the neighboring property than that for which said property is actually zoned, or in other situations where the intent of the required buffer can be equally or otherwise achieved; provided, however, that no buffer required as a condition of zoning shall be modified and the property owner requesting such reduction shall be responsible for installation and maintenance of an opaque fence or wall of at least six feet in height and landscaping consisting of double staggered rows of evergreen plantings which are at least six feet in height and spaced no more than 15 feet apart at the time of planting.
 2. The dimensions of a stream buffer as required under Section 18-50(a)(2) of the City of Peachtree Code of Ordinances may be reduced by no more than 50 percent and the property shall be developed in conformance with a plan submitted with the application for administrative variance. No additional impervious area beyond that granted by the approval of an application shall be permitted.
 3. Septic tanks and/or septic tank drain fields required under Section 18-50(a)(2) of the City of Peachtree Code of Ordinances may be placed within the stream buffer, subject to the City Manager or his/her designee's approval, if the applicant has demonstrated that no other feasible location exists on the property.
- f. Demarcation of parking spaces — parking spaces may be left unmarked, provided all the of the following conditions are present:
1. The parking lot must be designated to serve only a multi-family residential project which is designed and intended for rental occupancy.
 2. The parking lots must be designed in relation to the internal circulation system such that the areas reserved for parking are easily identified and clearly distinct from the interior driveways because of their location, design, orientation, or configuration, such as in parking areas with a single interior driveway having parking spaces located perpendicular to and along the sides of the access driveway, allowing the curbing to delineate the exterior dimension of the single parking bay.
 3. Approval for the elimination of the striping has been obtained by the applicant in writing from the Gwinnett County Traffic Engineering Division of the Engineering Department and the Fire Services Division of the Gwinnett County Public Safety Department.
- g. Accessory structures allowed within the front yard — accessory structures may be allowed within the front yard of residential zoning districts provided all the following conditions are met:
1. The residentially-zoned property contains at least three acres.
 2. The accessory structures are limited to a swimming pool, garage/carport, barn, storage building, or other similar structures.
 3. The accessory structure is setback a minimum of 100 feet from the right-of-way and located no closer than 40 feet to any side property line. (If the accessory use is for animal quarters, this must be a minimum of 100 feet from any property line.)

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4. The accessory structure shall be screened with walls, fences, or suitable landscaping so that it is not visible from the street.
- h. Reduction in unit width for villas in R-TH Zoning District, not to exceed 10 feet. The Director of Planning and Development shall have the power to grant variances from the requirements of the amendment to the 2012 Zoning Resolution of City of Peachtree Corners Regarding the Keeping of Livestock and Household Pets Within Residential Zoning Districts, where, in his/her opinion, the intent of the amendment can be achieved and equal performance be obtained by granting a variance. Other than for conditions of zoning which specified a minimum area or distances for animal quarters, the Director of Planning and Development may grant the following variances:
1. For livestock or cattery, a reduction of no more than 25 feet in the minimum distance to any property line.
 2. For Kennels and Fur Farms, a reduction of no more than 50 feet in the minimum distance to any property line.
 3. The minimum distance to any property line for any animal quarters may be further reduced when a property line abuts a Flood Hazard area, steep slopes, ravines or other features which would provide a separation between the animal quarters and the uses on abutting property equal to or exceeding the minimum requirements of the Zoning Resolution.
 4. The reduction of the minimum area required for the keeping of livestock as specified within the R-100 Single Family Residence District up to maximum of ten (10) percent of the minimum area required.
 5. Reduction of the minimum distance to any property line for animal quarters for wild animals up to a maximum of 50 feet.
- i. Variance to allow for parking of a recreational vehicle in a location other than the rear yard may be permitted where such topographic and physical features render the rear yard location infeasible, but such approval shall be limited to the current property owner and shall expire upon sale of the property.
- j. Variances to the location, height and size of an otherwise permitted ground sign may be permitted where the topographic difference between the sign location and the adjacent public right-of-way creates a hardship. Variance to the size of an otherwise permitted wall sign may be permitted where excessive distance between the building and the public right-of-way creates a hardship.
- (Ord. No. 2016-02-69, Exh. A, 2-28-2016; Ord. No. 2017-10-101, § 1, 11-20-2017; Ord. No. 2021-03-193, § 1, 4-27-2021)

Sec. 13.9. Administrative Variance

13.9.1. What is an Administrative Variance?

An Administrative Variance is the process by which an applicant can, when meeting specific hardship criteria, request a deviation from a very limited set of provisions as listed below.

13.9.2. Who Approves Administrative Variances?

The Zoning Director is authorized to approve Administrative Variances for the following:

- A. Front yard or yard adjacent to public street: variance not to exceed 15 feet;
- B. Side yard: variance not to exceed 2 feet;
- C. Rear yard: variance not to exceed 10 feet; and
- D. Distance between buildings on the same lot: variance not to exceed 10 feet.
- E. Landscaped open space and outdoor amenity space may have a combined total of 10% below the minimum required percentage.

13.9.3. Who Can Request a Variance?

Any person, firm, corporation or agency can submit an application for a Variance provided they are the owner or the owner's representative of the property for which the application is being submitted.

13.9.4. How Do I Submit a Request For a Variance?

- A. To begin, submit a complete application form, along with the required review fees, to the Community Development Department.
- B. Administrative variance application forms can be found on the City's website (www.roswellgov.com) or paper copies can be obtained from the Community Development Department.
- C. The general submittal requirements for all development review applications are listed in Sec. 13.3.3 and must be followed.

13.9.5. How is Notice Provided?

Administrative Variances are approved by the Zoning Director. Mailed notice to abutting property owners is provided as specified in Sec. 13.3.4.D.

13.9.6. How is a Request Reviewed?

- A. At least 15 calendar days prior to a decision to grant a modification, the Zoning Director must notify in writing each abutting property owner that the application for pertains to, citing the specific modification requested and the applicant's stated justification for the requested modification.

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- B. A property owner that received notice then has 10 calendar days from the date such notice is received to object to the request by sending the objection in writing to the Zoning Director and stating the reason for the objection. The Zoning Director will then contact all parties who have objected to the request and determine if the matter can be settled between all parties.
 - C. If the matter cannot be settled, the Zoning Director will deny the request and advise the property owner that they may file an application for a variance with the Board of Zoning Appeals under Sec. 13.11., within 30 calendar days of the decision.
 - D. To approve the request, the signatures of all abutting property owners consenting to the modification must be provided on a form approved by the Zoning Director that includes the specific section or sections of the UDC proposed to be modified.

13.9.7. What Approval Criteria Are Used?

The Zoning Director cannot approve an administrative variance unless all of the following conditions exist:

- A. There are practical difficulties pertaining to the particular piece of property in question because of its size, shape or topography;
- B. The requested variance will be in harmony with the purpose and intent of this UDC and will not be injurious to the neighborhood or to the general welfare; and
- C. The variance requested is the minimum variance that will make possible the proposed use of the land, building or structure.

13.9.8. What if a Request is Denied?

If the Zoning Director denies the request, you may file an application for a variance with the Board of Zoning Appeals under Sec. 13.11., within 30 calendar days of the decision.

13.9.9. What Happens After Approval?

Approval of a request for a Variance allows you to move forward with additional approvals as applicable to your project.

13.9.10. How Long is an Administrative Variance Valid?

An administrative variance runs with the land and it remains valid in perpetuity, until such time as the land is redeveloped.

Sec. 38-92. Variances.

- (a) Variances to the provisions contained in this division may be requested, in writing, at least 48 hours prior to the proposed operation or event, for consideration by the director of the department of community development and the chief of police. Such a request shall state the following:
 - (1) The reasons that a variance from the provisions of this division are needed;
 - (2) The impact that the denial of this request will have on the applicant's project or event and the surrounding properties;
 - (3) The steps which have been taken by the applicant to communicate those needs and impacts to owners of surrounding and nearby properties;
 - (4) The steps that have or will be taken to limit the impact of the proposed activity upon surrounding and nearby properties, activities and uses;
 - (5) The time at which the proposed activity that requires a variance will occur; and
 - (6) The duration of the proposed activity that requires a variance to the provisions of this division.
- (b) No variance shall be approved unless the applicant presents adequate proof that:
 - (1) Noise levels occurring during the period of the variance will not constitute a danger to public health; and
 - (2) Compliance with this division would impose an unreasonable hardship on the applicant; or
 - (3) Compliance with this division would prevent a benefit to the public equal to or greater than any detriment caused by noncompliance.
- (c) In making the determination of granting a variance, the director of the department of community development and the chief of police shall consider the following:
 - (1) The character and potential or actual degree of injury to, or interference with, the health and welfare of the public or the reasonable use of adjoining properties;
 - (2) The social and economic value of the activity for which the variance is sought;
 - (3) The ability of the applicant to apply the best practical noise control measures;
 - (4) The time and duration of the activity for which the variance is sought; and
 - (5) The location of the activity in relationship to adjoining properties, uses and activities.
- (d) If the director of the department of community development and the chief of police find that the variance application adequately demonstrates the need for a variation from the provisions of this division and adequately provides for the amelioration of the impact upon surrounding and nearby properties, an administrative variance shall be granted allowing for one variation within one, 24-hour period. For commercial development, a second administrative variance may be granted for an additional 24-hour period upon demonstration of just cause and amelioration of impact upon surrounding and nearby properties. Thereafter, a residential or commercial applicant may request up to three additional variances to the provisions of this division by submission to the zoning board of appeals.
- (e) The permit of variance may be revoked by the director of the department of community development and the chief of police if the terms of the permit of variance are violated. A variance may be revoked if there is a:
 - (1) Violation of one or more conditions of the variance;
 - (2) Material misrepresentation of fact in the variance application; or

- (3) Material change in any of the circumstances relied on in granting the variance.
- (f) Upon request of the applicant no less than 48 hours prior to the date granted for a variance, in the event of unforeseen circumstances, including without limitation forecast of inclement weather, which in the sole discretion of the director of the department of community development and the chief of police renders the approved date of the permit of variance unreasonable, impractical or impossible to carry out the stated purpose of the variance, the director of the department of community development and the chief of police shall have the authority to approve an alternative date for any permit of variance issued pursuant to this division.

(Ord. No. 2018-08-25, § I, 8-7-2018)

Sec. 74-306. Administrative variance.

The zoning administrator is empowered to review and approve a request for an administrative variance. Applications may be considered only if the following requirements are met:

- (1) The request only pertains to a zoning setback requirement; and
- (2) The request is for an encroachment that would not exceed ten percent of the required setback, up to a maximum of ten feet.

In reviewing the application, the zoning administrator shall analyze the application to determine whether granting the request would cause substantial detriment to other property owners in the surrounding area or would impair the purposes of the zoning ordinance. If the request is in conformance with these requirements and does not adversely affect the area, the zoning administrator shall issue an official determination in writing approving the request. The property owner, the town clerk, and the building official shall be provided with a copy of this determination. If the request is not in conformance with these requirements or may possibly have an adverse effect on the surrounding area, the zoning administrator shall deny the appeal in writing, stating the reasons for the denial. The zoning administrator shall act on all requests within 15 working days after the application is filed. If the request is denied by the zoning administrator, the property owner may go through a variance process.

Limitations on authority.

Notwithstanding anything to the contrary provided herein, certain issues are not eligible for variances:

- (1) There shall be no variance to the minimum lot area or size; and
- (2) There shall be no variance to the minimum lot frontage on a street.
- (3) The provisions of the zoning ordinance shall be administered by the department, in association with the Senoia Planning Commission (planning commission), and the Senoia mayor and council (city council).
- (4) The authority of quasi-judicial officers, boards, and agencies identified in this chapter and appointed by the city council to exercise delegated, quasi-judicial zoning powers, including hearing appeals of administrative decisions by such officers, boards, or agencies and hearing and rendering decisions on applications for variances, administrative permits or other similar permits not enumerated herein as a zoning decision.

(Ord. No. 17-04, 11-6-2017; Ord. No. 23-06, Art. XIV, 12-4-2023)

Sec. 113-241. Administrative variance.

The zoning administrator is empowered to review and approve a request for an administrative variance. Applications may be considered only if the following requirements are met:

- (1) The request only pertains to a zoning setback requirement; and
- (2) The request is for an encroachment that would not exceed 25 percent of the required setback, up to a maximum of ten feet.

In reviewing the application, the zoning administrator shall analyze the application to determine whether granting the request would cause substantial detriment to other property owners in the surrounding area or would impair the purposes of the zoning ordinance. If the request is in conformance with these requirements and does not adversely affect the area, the zoning administrator shall issue an official determination in writing approving the request. The property owner, the town clerk, and the building official shall be provided with a copy of this determination. If the request is not in conformance with these requirements or may possibly have an adverse effect on the surrounding area, the zoning administrator shall deny the appeal in writing, stating the reasons for the denial. The zoning administrator shall act on all requests within 15 working days after the application is filed. If the request is denied by the zoning administrator, the property owner may go through a variance process.