



The Honorable Burrell Ellis
Chief Executive Officer

DeKalb County Zoning Board of Appeals
Department of Planning & Sustainability
330 Ponce De Leon Avenue, Suite 500
Decatur, GA 30030



WEDNESDAY, April 11, 2012 AT 1:00 P.M.
Planning Department Staff Analysis

N-12 Case No: A-12-17714 Parcel ID(s): 18-239-06-005

Commission District: 1 Super District: 6

Applicant: Boos Development Group, Inc.
2651 McCormick Drive
Clearwater, FLORIDA 33759

Owner: Sds Real Property Holdings Ltd
P O Box 93664
Atlanta, GA 30377-0664

Project Name: 3920 Peachtree Road

Location: The property is located on the north side of Peachtree Road, about 526 feet east of Brookhaven Drive.

REQUEST: Variance requests from the DeKalb County Zoning Ordinance, to:
(1) Increase the parking from the maximum eighteen (18) spaces to thirty-nine (39) parking spaces (Section 27-7228.15.10.2);
(2) Increase the front yard setback distance from twenty (20) feet to fifty-four (54) feet (Section 27-728.15.12.d.7); and
(3) Increase the maximum space between separate buildings from twenty (20) feet to forty-six (46) feet (Section 27-728.15.12.d.10), to construct a new building, relating to the Brookhaven Zoning Overlay District.

STAFF RECOMMENDATIO WITHDRAW WITHOUT PREJUDICE

STAFF FINDING:

Table 1: Surrounding Zoning and Land Use

	Adjacent Zoning	Adjacent Land Use
North:	R-100	Single Family Residential
South:	C-1	Commercial offices fronting on Peachtree Road.
East:	C-1	Vacant building
West:	C-1	Commercial uses fronting on Peachtree Road.
Northeast:	R-100	Single Family Residential
Northwest:	R-100	Single Family Residential
Southeast:	C-1	Commercial shopping center fronting on Peachtree
Southwest:	C-1	Commercial uses fronting on Peachtree Road.
Street Type:	Major Thoroughfare	

Site Location: The subject property is located on the north side of Peachtree Road, about 526 feet east of Brookhaven Drive. The site is developed with a building which used to house a retail plant nursery and associated parking. The site backs up to single family residences and is surrounded by a Wachovia Bank Branch to the west, a Kauffman Tire store to the east, and offices and a shopping center to the south. Peachtree Road is classified as a major thoroughfare. The site is located in the Brookhaven Zoning Overlay District.

Variance Request: The applicant is requesting the following variances from the DeKalb County Zoning Ordinance, to: (1) Increase the parking from the maximum eighteen (18) spaces to thirty-nine (39) parking spaces; (2) Increase the front yard setback distance from twenty (20) feet to fifty-four (54) feet; and (3) Increase the maximum space between separate buildings from twenty (20) feet to forty-six (46) feet, to construct a new building.

The applicant submitted some of the following comments: "The subject property is part of a larger tract, the balance which is improved with a Kauffman Tire facility and a vacant building previously used as a nursery operation. The application proposes construction of a Chase Bank building containing 7,143 square feet on two floors. Kauffman Tire has an easement across the front of the entire site parallel to Peachtree Road to provide access to the private drive located at the signalized intersection of Peachtree and Colonial Drive. Parking is provided to the rear of the building to make it less visible from the street".

"The applicant seeks an increase in the parking from eighteen (18) spaces to thirty-nine (39) spaces. The requested parking is the amount that the applicant has traditionally found to be necessary for the proposed use. The applicant seeks to increase the maximum distance from a public sidewalk from twenty (20) feet to fifty-four (54) feet to accommodate a twenty-eight (28) foot wide easement along the frontage of the property to provide Kauffman Tires access to a signalized traffic light. The third request is to increase the maximum space between buildings from twenty (20) feet to forty-six (46) feet to address the existing space between the proposed Chase Bank building and the existing vacant nursery building".

Site Description: Based on the submitted materials, it appears that the site consists of 2.37 acres and is proposed to be split to create a separate parcel for the new bank building. That portion of the site is improved with a parking lot. Based on the submitted materials, the new site will have a lot width of 167.66 feet and a lot area of 1.23 acres which complies with the minimum lot size for the C-1 zoning district. The site includes a wide landscape and pedestrian zone which will be improved to the standards of the Brookhaven Overlay district (a five foot landscape strip and a fifteen foot wide sidewalk). Additional right-of-way dedication from Peachtree Road may be required during the development review process.

Variance Analysis: Based on the submitted materials, it appears that the 28 foot easement can be relocated to the rear of the property. Based on the submitted site plan, the property frontage is not a good location for the easement because it intersects the private drive too close to Peachtree Road to allow space for the queuing of vehicles at the traffic light. Based on property tax records, the subject property and the site where Kaufman Tires is located are owned by the same person. Therefore, it appears that the easement can be re-configured.

The building separation from both property lines appears to recognize the existing distance between the proposed bank building and the existing vacant building. This building is expected to be demolished to allow the site to be re-developed. Therefore, the requested variance appears to address some of the existing conditions of the site. The submitted materials provide no justification for the proposed increase in parking, especially due to recent changes in the banking industry which includes direct deposit and internet banking. Based on the submitted materials, it appears that some of the requested variances do not meet the criteria for approval, based on the following criteria:

1. By reason of exceptional narrowness, shallowness or shape of a specific lot, or by reason of exceptional topographic conditions, which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district:

Based on the submitted materials, by reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic conditions, which were not created by the owner or applicant, it appears that the strict application of the requirements of this chapter would not deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district since the property meets the minimum lot area and lot width of the C-1 zoning district and appears relatively flat.

2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located:

Based on the submitted materials, it appears that the requested variances relating to setbacks go beyond the minimum necessary to afford relief since the location of the easement can be re-negotiated. Based on county records, the request appears to constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located since the proposed new parcel is vacant and the existing building is proposed to be demolished.

3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located:

Based on the submitted materials, it appears that granting the requested variances would be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located since the proposed site plan falls far short of the density and mixed use development that is encouraged in the Brookhaven Overlay District.

4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship:

Based on the submitted materials, it appears that the literal interpretation and strict application of the applicable provisions or requirements of this chapter would not cause an undue and unnecessary hardship since the standards of the Brookhaven overlay district provide much more development than is proposed by the proposed site plan.

5. The requested variance would be consistent with the spirit and purpose of this Chapter and the DeKalb County Comprehensive Plan Text:

Based on the submitted materials, it appears that the requested variances would not be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.

FINAL STAFF ANALYSIS:

The existing site is improved with a vacant building and a parking lot. The parcel is proposed to be divided into two lots and re-developed. The request addresses the need for a larger setback from the street to accommodate a 28 foot wide access easement, a greater distance between the existing building and the new building, and additional parking. However, the existing building is proposed to be demolished; the easement can be re-negotiated to be located to the rear of the property; and there is no justification for the increased parking since the site is located within walking distance to a MARTA Transit Station. Therefore, the Department of Planning and Sustainability recommends the application be "withdrawn without prejudice".

STAFF RECOMMENDATION WITHDRAW WITHOUT PREJUDICE
