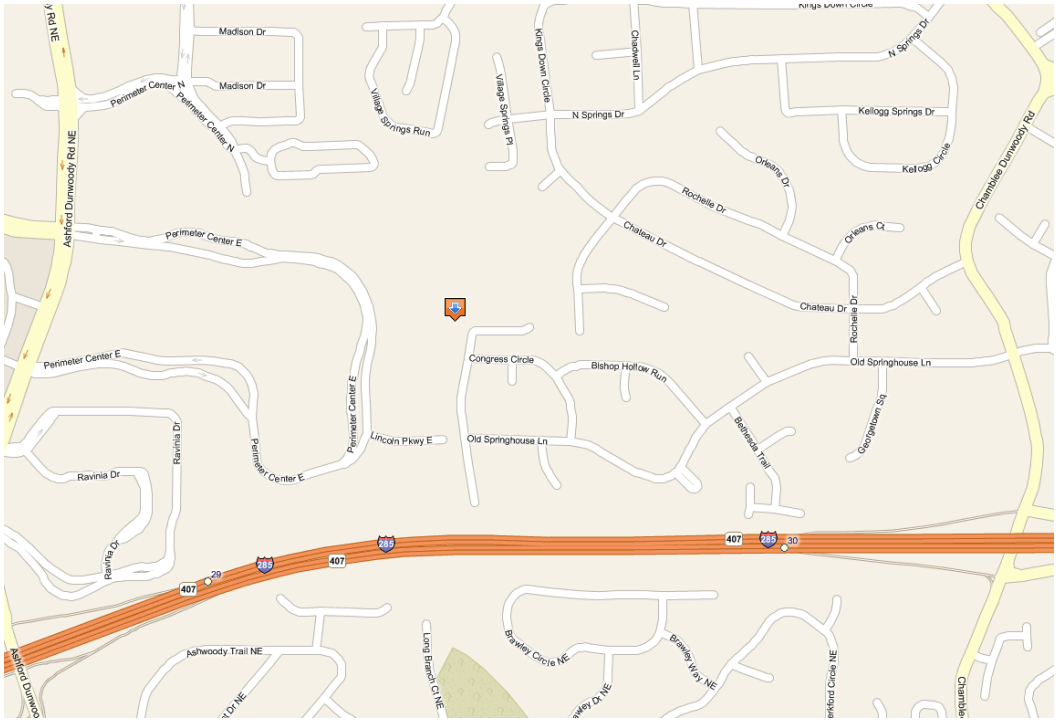
Application:	**City of Dunwoody Stream Buffer Variance**
Property Location:	**4396 Old Georgetown Trail (LL 346)** **Dunwoody, Georgia 30338**
Owner/Petitioner:	**Dick Slack & Cherie Porter**
Request:	**City stream buffer variance to construct a deck**

Vicinity Map



The site, a single family home lot in the Emerald Park subdivision, is located on the west side of Old Georgetown Trail, north of its intersection with Congress Circle. The property is currently zoned R-100 (Single family residence district) and is situated such that the North Fork of Nancy Creek bisects the lot from north to south. The applicant's request is to complete construction on a wooden deck on the rear of an existing single family home, which will exist entirely in the modern-day City of Dunwoody 75-foot stream buffer.

Site Plan Analysis

The lot on which the home sits totals 1.11 acres, or 48,214 square feet. The district is zoned R-100, and the lot in question fronts the first cul-de-sac of Old Georgetown Trail, which is also the end of Public Right of Way and the beginning of Old Georgetown Trail being a private street. The lot is generally flat & wooded, with a significant slope towards the bank of Nancy Creek in the center of the parcel, behind the existing single-family home which is built near the street side of the lot. The

tree cover is pervasive except on the east and southeast portions of the lot where there is a small yard area of turf and landscaping, and the driveway that leads to the garage. A site visit indicated that the creek itself is visible from the rear of the home despite the existing tree canopy, as the tree density on the lot decreases in proximity to the home. The property abuts single-family home development, zoned R-100, along all but its west property line; the west property line borders O-I (Office-Institutional District) of the Perimeter Center commercial district.

The proposed deck construction is indicated to comprise 460 square feet of impervious surface inside the stream buffer upon completion of the project. The entirety of the home and garage, save for 400+/- square feet of the front of the structure, now lies inside the City of Dunwoody 75-foot stream buffer. The deck is indicated to be attached to the rear of the home.

In the letter of justification & intent from the owner (attached to this document), special provisions for storm water run-off mitigation have been proposed for implementation around the deck area. These measures are proposed to compensate for the addition of impervious surfaces inside the City stream buffer, and appear to not only be adequate, but compliant with the Georgia Stormwater Management Manual.

Conditions of the Zoning Ordinance

The environmental criteria enumerated for consideration are found in Chapter 14, Article 2, §8(c)3 of the Land Development and Environmental Protection ordinance. They read as follows:

> In considering a request for a variance to the terms of this Article authorized in subsection (1) above, the Board of Zoning Appeals shall use all of the following criteria:
>
> (A) The request, while not strictly meeting the requirements of Chapter 14, will in the judgment of the Board of Zoning Appeals be at least as protective of natural resources and the environment as would a plan which met the strict application of these requirements. In making such a judgment, the Board of Zoning Appeals shall examine whether the request will be at least as protective of the natural resources and the environment with regard to the following factors:
>
> (i) Stream bank or soil stabilization;
>
> (ii) Trapping of sediment in surface runoff;
>
> (iii) Removal of nutrients, heavy metals, pesticides and other pollutants from surface runoff;
>
> (iv) Terrestrial habitat, food chain, and migration corridor;
>
> (v) Buffering of flood flows;
>
> (vi) Infiltration of surface runoff;
>
> (vii) Noise and visual buffers;
>
> (viii) Downstream water quality; and

(ix) Impact on threatened and endangered species, as those species are designated by law or federal or state regulation.

(B) By reason of exceptional topographic or other relevant physical conditions of the subject property that were not created by the owner or applicant, there is no opportunity for any development under any design configuration unless a variance is granted.

(C) The request does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privileges inconsistent with the limitations upon other properties that are similarly situated.

(D) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area in which the property is located.

(E) The literal interpretation and strict application of the applicable provisions or requirements of Chapter 14 would cause an extreme hardship, provided the hardship was not created by the owner.

Article 5, Section 5D-15 of the City of Dunwoody Zoning Ordinance identifies the following criteria for evaluation that should be examined when determining the appropriateness of a variance:

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; *The home in question was constructed prior to the institution of the City's 75' non-disturbed stream buffer. It exists today nearly entirely in the modern-day stream buffer, a condition not created by the applicant.*

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; *The applicant seeks only the amount of variance required to successfully complete the construction of the proposed deck; a use usual and customary to other homes in the same zoning district.*

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; *The applicant proposes to institute best management practices to mitigate the effect of storm water runoff towards the creek following construction of the deck.*

4. The literal interpretation and strict application of the applicable provisions or requirements of this Chapter would cause undue and unnecessary hardship; and… R*equiring strict adherence to the Dunwoody stream buffer requirements in this instance -as it relates to the very minor amount of disturbance- could be viewed as an unnecessary hardship, but that does not preclude the home from being used as it is built today with or without the variance.*

5. The requested variance would be consistent with the spirit and purpose of this Chapter and the City of Dunwoody Comprehensive Plan text. *The requested variance was applied for to*

facilitate an "accessory to residential use" in a residential district. Granting the variance, together with the implementation of best management practices, will not compromise the spirit and purpose of the zoning ordinance, or compromise the spirit and purpose of the city's comprehensive plan.

Recommendation

Staff recommends the application be approved.

Attachments

- Application
- Letter of justification & intent dated September 10 and received September 11
- Site plan, entitled 'As-Built House Location Plan for Dickie L. Slack & Ladonna C. Porter', dated 09/16/09 and stamped received by the Community Development Department 09/25/09

ZBA 09 091

Variance Application Checklist

City of Dunwoody
400 Northridge Road, Suite 1250
Atlanta, GA 30350
Phone: (678) 382-6800
Fax: (678) 382-6701

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☑ Pre-Application conference: Thursday, _____, 20_____.

Variance Application Requirements:

- ☑ Survey Plat of the subject property in accordance with the attached site plan checklist.
- ☑ Name, mailing address and phone number of all owners of the property.
- ☐ Signed & notarized affidavits of all owners.
- N/A ☑ Signed & notarized affidavits for Authorization to Act as Applicant (AAA).
- N/A ☑ Address & phone contact number for the owner's authorized agent.
- ☑ Written legal description of the property.
- N/A ☑ Statement of current zoning classification and land use of the property, and proposed land use of the property.
- ☑ Letter of Intent: Please describe your situation and how your variance request is a result of one or more of the following conditions:

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;
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;
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;
4) The literal interpretation and strict application of the applicable provisions or requirements of this Chapter would cause undue and unnecessary hardship;
5) The requested variance would be consistent with the spirit and purpose of this Chapter and the City of Dunwoody Comprehensive Plan text; and
6) How although economic considerations may be taken into *consideration* as a hardship, they are **not**, of themselves, be the *sole criteria* upon which the applicant seeks this variance.

Variance Application
Site Plan Checklist

City of Dunwoody
400 Northridge Road, Suite 1250
Atlanta, GA 30350
Phone: (678) 382-6800
Fax: (678) 382-6701

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All items must be included on the Site Plan; separate sheets may be used

1. Key and/or legend and site location map with North arrow.
2. Boundary survey of subject property which includes dimensions along property lines that match the metes and bounds of the property's written legal description and clearly indicates the point of beginning.
3. Acreage of subject property.
4. Location of land lot lines and identification of land lots.
5. Existing, proposed new dedicated and future reserved rights-of-way of all streets, roads, and railroads adjacent to and on the subject property.
6. Proposed streets on the subject site. N/A
7. Current zoning of the subject site and adjoining properties.
8. Existing buildings with square footages and heights (stories), wells, driveways, fences, cell towers, and any other structures or improvements on the subject property.
9. Existing buildings' locations and heights (stories), wells, driveways, fences, cell towers, and any other structures or improvement on adjacent properties within 200 feet of the subject property.
10. Location of proposed buildings with total square footage.
11. Layout and minimum lot size of proposed single family residential lots. N/A
12. Topography on the subject site and adjacent property up to 200 feet as required to assess runoff effects.
13. Location of overhead and underground electrical and pipeline transmission/conveyance lines.
14. Required and/or proposed setbacks.
15. 100-year flood plain horizontal limits and flood zone designations as shown on survey or FEMA FIRM maps.
16. Required landscape strips, undisturbed buffers, and any other natural areas as required or proposed. N/A
17. Required and proposed parking spaces; Loading and unloading facilities. N/A
18. Lakes, streams, wetlands, and Waters of the State and associated buffers.
19. Proposed stormwater management facilities. N/A
20. Community wastewater facilities including preliminary areas reserved for septic drain fields and points of access. N/A
21. Availability of water system and sanitary sewer system. N/A
22. Tree lines, woodlands and open fields on subject site. N/A

Variance Application

City of Dunwoody
400 Northridge Road, Suite 1250
Atlanta, GA 30350
Phone: (678) 382-6800
Fax: (678) 382-6701

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Type

Type of Request: ☒ Variance (BZA) ☐ Variance (Administrative)

Concurrent Variance(s)? ☐ Yes ☒ No If yes, please provide rezoning case #:

	Square Feet	Acre	Minimum Setback Requirements	Proposed Setback Requirements
Total Area of Lot	48,215		Front	Front
Building Footprint			Side	Front
# of Parking Spaces			Rear	Front
Height			Other	Front

Project

Name of Project/Subdivision: Deck Addition Behind House / Emerald Park

Property Address/Location: 4396 Old Georgetown Trail, Dunwoody, GA 30338

Land Lot: 346	District: 18th	Section: II	Property ID:
Lot Number: 7	Block:	Present Zoning: R-100	Proposed Zoning:

Applicant Information

Name: Dick L. Slack and L. Cherie' Porter

Company: —

Address: 4396 Old Georgetown Trail, Dunwoody, GA 30338

Phone: 770-350-8094 Fax: —

Cell: 404-915-0998 Email: Lcporter@comcast.net

Representative

Name:

Company:

Address:

Phone: Phone:

Cell: Cell:

Affidavit

To the best of my knowledge, this variance application form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filing additional materials as specified by the City of Dunwoody Zoning Ordinance. I understand that failure to supply all required information (per the relevant Applicant Checklists and Requirements of the Dunwoody Zoning Ordinance) will result in the rejection of this application. I have read the provisions of the Georgia Code Section 36-67A-3 as required regarding Campaign Disclosures. My Signed Campaign Disclosure Statement is included with the Application.

Applicant's Signature: Dick L. Slack L. Cherie Porter Date: 9/3/09

Representative's Signature: Date:

Notary

Sworn to and subscribed before me this 3rd Day of September 20 09

Notary Public: Karine Roy

Signature: Karine Roy

Date: 9/3/09

KARINE ROY NOTARY PUBLIC Exp. Jan. 14, 2013 FULTON COUNTY, GA

Office Use

Fee: $ 250.00 Payment: ☐ Cash ☑ Check ☐ CC – Visa/MC Date:

☐ Approved ☐ Denied By: Date:

Variance Application

City of Dunwoody
400 Northridge Road, Suite 1250
Atlanta, GA 30350
Phone: (678) 382-6800
Fax: (678) 382-6701

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Request

Please explain the reason for the request and attach additional information as necessary.

When our house was built in 1999, the offset/buffer was 25 feet from the creek, and our house was built very close to this line. Any additions to our current structure will now fall within the new setbacks required by the City of Dunwoody. Therefore, we are requesting this variance to be able to build a deck addition onto our existing deck, attached to the back of our house. "Letter of Intent" is attached to this application.

Orientation

Prior to the submission of a variance application, the applicant is required to schedule an orientation meeting with the approporate planner in the Planning and Zoning Division of the Community Development Department. The purpose of this meeting is to determine the number and nature of the variances requested, become familiar with the appeals process and obtain preliminary input from staff. A meeting date before the Board of Zoning Appeals will be scheduled upon a determination of completeness and compliance of the application. The applicant or representative must attend the meeting and make the presentation. An Orientation Meeting is NOT required for an Administrative Variance.

Orientation Meeting Date:

Board Meeting Date:

Remarks

Zoning Director Comments:

Planning & Zoning Director: Date:

Campaign Disclosure Ordinance

City of Dunwoody
400 Northridge Road, Suite 1250
Atlanta, GA 30350
Phone: (678) 382-6800
Fax: (678) 382-6701

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Campaign Disclosure Ordinance
Please read the law and complete the Campaign Disclosure Statement on the following page if you are requesting a Rezoning, Concurrent Variance, or Conditional Use.

GA Citation/Title
GA Code 36-67A-3, Disclosure of campaign contributions
*38069 Code, 36-67A-3

CODE OF GEORGIA TITLE 36. LOCAL GOVERNMENT PROVISIONS APPLICABLE TO COUNTIES AND MUNICIPAL CORPORATIONS CHAPTER 67A. CONFLICT OF INTEREST IN ZONING ACTIONS (Current through 2000 General Assembly)

36-67A-3 Disclosure of campaign contributions.

a) When any applicant for rezoning action has made, within two years immediately preceding the filing of that applicant's application for the rezoning action, campaign contributions aggregating $250.00 or more to a local government official ho will consider the application, it shall be the duty of the applicant to file a disclosure report with the governing authority of the respective local government showing:

   1) The name and official position of the local government official to whom the campaign contribution was made; and
   2) The dollar amount and description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.

b) The disclosures required by subsection (a) of this Code section shall be filed within ten days after the application for the rezoning action is first filed.

c) When any opponent of a rezoning action has made, within two years immediately preceding the filing of the rezoning action being opposed, campaign contributions aggregating $250.00 or more to a local government official of the local government which will consider the application, it shall be the duty of the opponent to file a disclosure with the governing authority respective local government showing:

   1) The name and official position of the local government official to whom the campaign contribution was made; and
   2) The dollar amount and description of each campaign contribution made by the opponent to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.

d) The disclosure required by subsection (c) of this Code section shall be filed at least five calendar days prior to the first hearing by the local government of any of its agencies on the rezoning application.

(Code 1981, 36-67A-3, enacted by Ga. L. 1986, p. 1269, 1; Ga. L. 1991, p. 1365, 1; Ga. L. 1993, p. 91, 36.)
Official Code of Georgia Annotated Copyright 1982 – 2000 State of Georgia.

Campaign Disclosure Statement

City of Dunwoody
400 Northridge Road, Suite 1250
Atlanta, GA 30350
Phone: (678) 382-6800
Fax: (678) 382-6701

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BY

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating $250.00 or more to a member of the City of Dunwoody City Council or a member of the City of Dunwoody Planning Commission? ☐ YES ☒ NO

Applicant / Owner	
	Signature: Dick T. Shack L. Cherie Patton
	Address: 4396 Old Georgetown Trail, Dunwoody, GA 30338
	Date: 8/28/09

If the answer above is yes, please complete the following section:

Date	Government Official	Official Position	Description	Amount

Dick L. Slack and L. Cherie' Porter
4396 Old Georgetown Trail
Dunwoody, GA 30338
September 2, 2009

City of Dunwoody
Board of Zoning Appeals

LETTER OF INTENT

To the Board of Zoning Appeals, City of Dunwoody, GA:

Our request is to build a backyard deck, approximately 520 square feet, attached to the back of our home. Our usable backyard is very narrow because the North Fork of Nancy Creek crosses our entire lot, almost exactly across the middle of the property. Our house sits on an approximately one acre lot, at 4396 Old Georgetown Trail, Dunwoody, GA 30338. When our home was built eight years ago, the only existing buffer requirement was the 25-foot top-of-slope setback. We are requesting a variance from the City of Dunwoody's 75-foot stream buffer, described in the City of Dunwoody Code of Ordinances, Chapter 14 – Land Development and Environmental Protection, Article 2 "Environmental Control," Section 14 – 3(h)(3A(i)).

Our new deck surface will be no wider than 10 feet from our house at its widest point, and approximately 36 inches high, at its highest point. The water runoff will be minor, as this portion of our yard is essentially flat. To minimize any possible environmental impact, we plan to add a layer of pea gravel under the deck to catch drip-through from the deck surface. We will establish a one foot wide by one foot deep ditch running along the front edge of the deck, also filled with pea gravel, to capture runoff from the surface and allow the water to soak into the ground before going into the creek.

There should be no nutrients, heavy metals, pesticides or other pollutants that will flow into the creek as a result of the deck surface. Our backyard next to the house is not a corridor for any local wildlife or part of their food source. Since the rainwater that normally comes from our backyard will not be impacted as to its quality, no downstream water quality will be affected. We plan to add plant life, such as small shrubs and ferns, to part of our backyard, since the deck will be our leisure area in the back, to add more help in catching surface runoff from the yard.

We do not feel that this request would exceed the minimum necessary to afford relief, since our entire home and current deck are both inside the city's 75-foot buffer. Nor do we feel that granting this request would constitute a special privilege inconsistent with limitations upon similar properties. This grant of variance would not be materially detrimental to the public welfare or injurious to the property where our home is located.

We appreciate the consideration of the Board of Zoning Appeals in reviewing our request for variance.

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By

Sincerely,

Dick L. Slack L. Cherie' Porter

Dick L. Slack and L. Cherie' Porter

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By

City of Dunwoody Sales Receipt

Thursday September 03, 2009

Permit # 3A - ZBA 09 091

Order # 1808

Transaction Date: 9/3/2009

Transaction Status: APPROVED

Transaction Amount: 250.00

Account# 8812....6117

☐ Collapse All Rows

Description	Quantity	Amount	Tran #

Signature

By clicking the process payment button, you authorize an electronic debit from your checking account that will be processed through the regular banking system. If your full order is not available at the same time, you authorize partial debits to your account, not to exceed the total authorized amount. The partial debits will take place upon each shipment of partial goods. If any of your payments are returned unpaid, you will be charged a returned item fee up to the maxium allowed by law. To exit without authorizing, click Cancel.

Dick L. Slack and L. Cherie' Porter
4396 Old Georgetown Trail
Dunwoody, GA 30338
September 26, 2009

City of Dunwoody
Board of Zoning Appeals

LETTER OF INTENT

To the Board of Zoning Appeals, City of Dunwoody, GA:

We would like to request a variance on the 75ft stream buffer as defined in Chapter 14 of the City of Dunwoody's Code of Ordinances. Our property is located at 4396 Old Georgetown Trail and the North fork of Nancy Creek crosses through our lot (see attached site plan). The reason we are requesting the variance is that we would like to construct a small deck addition to the back of our house. The proposed deck is shown on the attached site plan as well. The purpose of this letter is to elaborate on the reason for requesting a variance, explain the nature of the project, and assess the environmental impact of the project.

As shown in the attached site plan, the proposed deck is directly adjacent to our existing house. The deck is approximately 460 square feet. The depth of the deck away from the house has been calculated in order to avoid encroachment on the 25ft buffer from the top of slope that is required by the State (refer to attached site plan for dimensions of deck and top of slope line). We feel it is important to note the compliance with the State requirements since our existing house lies almost completely within the 75ft buffer zone that the City of Dunwoody has adopted. Understanding that we cannot reasonably comply with the 75ft buffer zone with the addition of any structure on our property requires us to request a variance from the City.

Per the Variance Application form requirements, the following statements address how our variance request is a result of one or more of the following conditions:

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;

While our lot is over one acre in size, our usable back yard area is extremely narrow. The North Fork of Nancy Creek runs almost exactly through the center of our lot, and the 75' stream buffer zone makes unusable a total of 150' through the entire back yard of our property. This creates an exceptional narrowness of our backyard. These conditions were created by the contractor who built our house in 1999. We purchased our house after it was built, and therefore did not create these conditions. Because our house and entire

backyard is within the 75' buffer, we cannot build any additional structures, create any recreational space for entertaining or to enjoy our backyard, without requiring a variance. We feel this deprives us as property owners of rights and privileges enjoyed by other property owners in the same zoning district.

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;

Our request for variance is for a 460 square foot deck, attached to and running the length of the back of our home, and only partially across the back of the garage. At it's maximum width from the house, it is 10' wide. We do not feel that this request would exceed the minimum necessary to afford relief. Granting this request would provide us with the ability to construct a deck on our property that is similar in size and construction as others in our neighborhood, and therefore does not constitute a special privilege inconsistent with limitations upon similar properties.

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;

We feel that allowing this deck addition will have no impact on the public welfare. It should add to the value of our individual property.

4) The literal interpretation and strict application of the applicable provisions or requirements of this Chapter would cause undue and unnecessary hardship;

Strict interpretation of the 75' stream buffer would mean that we would never be able to add any structure or external improvements to our existing house structure and property.

5) The requested variance would be consistent with the spirit and purpose of this Chapter and the City of Dunwoody Comprehensive Plan text; and

Our request for variance is strictly limited to an addition to our personal property for our individual recreational use and is not applicable to the City of Dunwoody Comprehensive plan.

*6) How although economic considerations may be taken into consideration as a hardship, they are **not**, of themselves, be the sole criteria upon which the applicant seeks this variance.*

Economic considerations are not applicable to our request for variance.

Current house and lot data	**Proposed deck**
Lot size = 1.11 acres or 48,213 square feet	461 square feet
Existing building footprint = 2,761.69 square feet	
Current lot coverage = 5.7%	0.96% additional coverage
Maximum building height allowed = 35 ft	3' (top of deck surface)
Flood Elevation = 904.70	FFE = 911.85 (Finished Floor Elevation)

We would like to note that per advice from the city, we have contacted design professionals who have knowledge and experience in the field of Civil Engineering. Our primary contact is Mr. Michael J. Slack, a registered Professional Engineer (Structural) in the State of Georgia. While he cannot comment directly on the Environmental impacts, he has been able to discuss the project with engineers who have knowledge and experience in the area of environmental impact and appropriate mitigation solutions. Roy A. Herwig, PE, served as our primary environmental expert. Roy's background includes 41 years in environmental engineering, holding positions with the GA Environmental Protection Division, and the US Environmental Protection Agency. The following proposed actions reflect the comments and opinions of those whom we have directly or indirectly contacted.

To assist the Board of Zoning Appeals in considering our request, the section below describes the impact and mitigating actions included in our proposal, in direct response to each of the criteria in Chapter 14 which apply to the variance request.

(A)...In making such a judgment, the Board of Zoning Appeals shall examine whether the request will be at least as protective of the natural resources and the environment with regard to the following factors:

(i) Stream bank or soil stabilization;
The proposed deck shall be constructed of standard wood deck materials. Support posts for the deck are 6" x 6" approximately 24" tall and spaced at 7'-0" on center throughout the length of the structure. The posts shall be founded in concrete footings that are approximately 1' diameter. These foundations are the only ground disturbance at the project site. We plan to use temporary erosion and sediment controls, specifically straw, to offset the effects of the soil disturbance at the site during construction, and until such time that any vegetation that may be disturbed can be re-established. In order to provide a permanent erosion and sediment control under the proposed deck, we plan to provide a

layer of a geotextile material covered by a layer of pea gravel. This will help prevent erosion of a potentially barren ground surface below the proposed deck.
Per recommendations from the design professionals we have contacted, we plan to provide additional means of mitigation in the riparian area between the proposed deck and the banks of the stream. This would be in the form of vegetation and native plants that will prevent channelized water flow and erosion in this area and protect the banks of the stream in normal rainfall events. Therefore, the resulting impact on the environment as it currently exists, will be kept to a minimum, and may actually be improved.

(ii) Trapping of sediment in surface runoff;
Because we are adding 461 square feet of wood surface above our existing soil surface, we plan to provide a layer of a geotextile material covered by a layer of pea gravel in order to provide permanent sediment control under the proposed deck, In addition, we will establish a one foot wide by one foot deep ditch running along the front edge of the deck, also filled with pea gravel, to capture runoff from the surface and allow the water to soak into the ground.

(iii) Removal of nutrients, heavy metals, pesticides and other pollutants from surface runoff;
Per recommendations from the design professionals we have contacted, we plan to provide additional means of mitigation in the riparian area between the proposed deck and the banks of the stream. This would be in the form of vegetation and native plants that will prevent channelized water flow and erosion in this area and protect the banks of the stream in normal rainfall events. Therefore, the resulting impact on the environment as it currently exists, will be kept to a minimum, and may actually be improved.

(iv) Terrestrial habitat, food chain, and migration corridor;
The proposed deck addition is being built upon essentially bare ground surface that is adjacent to the back wall of our house and attached garage. We know of no terrestrial habitat, food chain plants or animals, or migration corridor currently existing in this area. The vegetation and native plants that we will add could provide habitat and food source for birds and small mammals.

(v) Buffering of flood flows;
During the September 21st flooding in the greater Atlanta area, the water level of the North Fork of Nancy Creek in our backyard came no closer than 5 feet from our proposed deck footers and support posts. Also, the elevation of our proposed deck surface is 911.85, outside of the flood elevation. Therefore, according to the experts with whom we consulted, our proposed deck addition will have no impact on buffering flood flows for our property.

(vi) Infiltration of surface runoff;
Because we are adding 461 square feet of deck surface that is largely impervious, as previously stated, we plan to provide a layer of a geotextile material covered by a layer of pea gravel in order to provide permanent sediment control under the proposed deck, In

addition, we will establish a one foot wide by one foot deep ditch running along the front edge of the deck, also filled with pea gravel, to capture runoff from the surface and allow the water to soak into the ground. We plan to provide additional means of mitigation in the riparian area between the proposed deck and the banks of the stream. This would be in the form of vegetation and native plants that will prevent channelized water flow and erosion in this area and protect the banks of the stream in normal rainfall events.

(vii) Noise and visual buffers;
The deck is being built on essentially bare ground, and is attached to the back wall of our house and attached garage. The proposed vegetation and natural plants to be added to the backyard will provide additional visual buffers beyond existing conditions.

(viii) Downstream water quality; and
Downstream water quality could be affected if surface runoff, erosion, infiltration of water were impacted significantly. But, as stated in sections above addressing these factors, we feel that impact on the environment will be kept at a minimum, and may actually be improved.

(ix) Impact on threatened and endangered species, as those species are designated by law or federal or state regulation.
The proposed deck addition will have no impact on threatened or endangered species, as we know of no threatened and endangered species in this area.

(B) By reason of exceptional topographic or other relevant physical conditions of the subject property that were not created by the owner or applicant, there is no opportunity for any development under any design configuration unless a variance is granted.
Because nearly our entire house and backyard is within the 75' buffer, there is no opportunity for any development under any design configuration unless a variance is granted. The attached site plan shows the location of our house and the proposed deck in relation to the North fork of Nancy Creek. It is virtually impossible to comply with the City's requirements without obtaining a variance. These conditions were created by the contractor when our house was built in 1999. We purchased our house after it was built, and therefore did not create these conditions.

(C) The request does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privileges inconsistent with the limitations upon other properties that are similarly situated.
Our request for variance is for a 460 square foot deck, attached to and running the length of the back of our home, and only partially across the back of the garage. At it's maximum width from the house, it is 10' wide. We do not feel that this request would exceed the minimum necessary to afford relief. Granting this request would provide us with the ability to construct a deck on our property that is similar in size and construction as others in our neighborhood, and therefore does not constitute a special privilege inconsistent with limitations upon similar properties.

(D) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area in which the property is located.
We feel that allowing this deck addition will have no impact on the public welfare. It should add to the value of our individual property.

(E) The literal interpretation and strict application of the applicable provisions or requirements of Chapter 14 would cause an extreme hardship, provided the hardship was not created by the owner.
Literal interpretation and strict application of the 75' stream buffer would mean that we would never be able to add any structure or make external improvements to our existing house structure or adjacent property. The location of the house relative to the stream was chosen by the contractor in developing the property, prior to our purchase.

In summary, we would like to request a variance on the City's 75ft stream buffer in order to construct a small deck addition to the back of our existing house We have reviewed the requirements outlined in Chapter 14 of the City of Dunwoody's Code of Ordinances and consulted with design professionals to get their opinions on the impact of the proposed project, and we feel that we have addressed all of the environmental concerns for undertaking a project of this magnitude.

We appreciate the Board of Zoning Appeals' consideration of our request for variance.

Sincerely,

Dick L. Slack L. Cherie' Porter

Dick L. Slack and L. Cherie' Porter

Dick Slack

From: Mike Slack [Mslack@roughbros.com]
Sent: Monday, September 28, 2009 9:31 AM
To: Dick Slack; Cherie Porter (Shelby)
Subject: Proposed Deck - Letter of Intent

I have taken a look at the revised letter of intent, and everything appears to be in order. All points have been addressed and the responses are consistent with the recommendations I have been able to obtain and provide. Please let me know if I can be of further assistance.

Thanks,

Michael Slack, PE
mslack@roughbros.com
(513) 618-7287

Dick Slack

From: Herwig, Roy [Roy.Herwig@Woolpert.com]
Sent: Tuesday, September 29, 2009 8:40 AM
To: Dick Slack
Subject: RE: Updated Letter of Intent

Good morning Dick,

I reviewed your City of Dunwoody stream buffer variance submittal and it is, in my opinion, accurate, complete and appropriately addresses Chapter 14 of the City code. Construction of the proposed deck and appurtenances as you have described in your variance application will not impede stream flow, measureably increase downstream flow or create a negative environmental impact. Please advise if you need any more assistance.

Good luck with your endeavor.

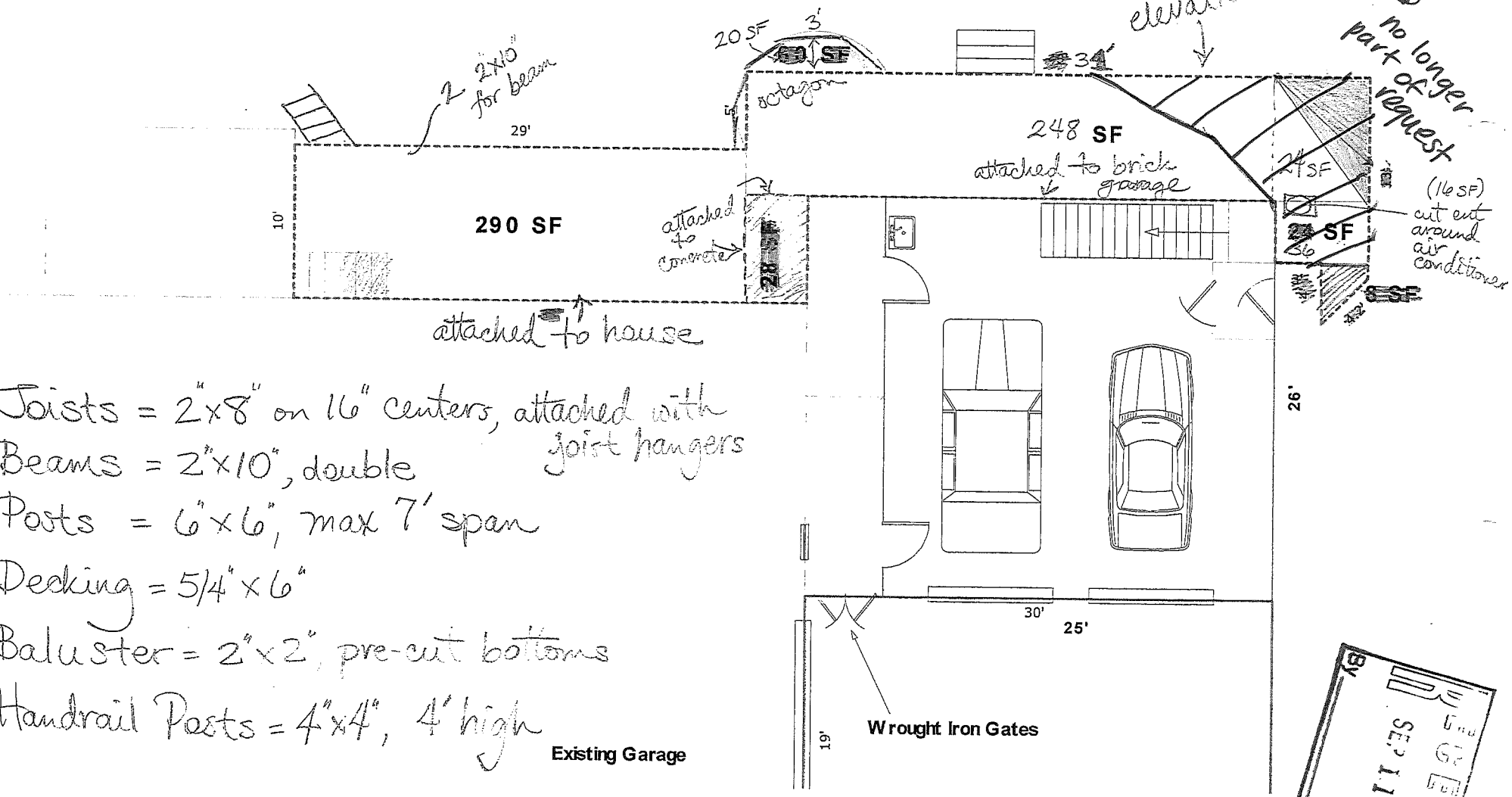
Roy

Roy A Herwig, PE | GA 8409

roy.herwig@woolpert.com |**Woolpert**|

Project Director
National Utility Management Practice Leader
Asset Management/CMOM/Regulatory Support/Flow Monitoring/SSES
375 Northridge Road, Suite 100 | Atlanta, GA 30350
|☎770.391.4095 (Office) |770.391.4104 (Facsimile)| 678.923.3909 (Mobile)
Please consider the environment before printing this e-mail
Remember - Sewage is a Resource!
♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦♦

602 square feet



Joists = 2"x8" on 16" centers, attached with joist hangers

Beams = 2"x10", double

Posts = 6"x6", max 7' span

Decking = 5/4" x 6"

Baluster = 2"x2", pre-cut bottoms

Handrail Posts = 4"x4", 4' high

NOTES:

1. THIS IS NOT A BOUNDARY SURVEY. THE PURPOSE OF THIS SURVEY IS TO PROVIDE INFORMATION PERTAINING TO PROPOSED ADDITIONS TO EXISTING STRUCTURES ON THE PROPERTY. THE SURVEYOR HAS FIELD LOCATED PROPERTY PINS AND ORIENTED TO SAID PINS. INFORMATION REGARDING THE BOUNDRY IS PROVIDED ON A FINAL PLAT PREPARED BY SURVEY SERVICES, PLAT BOOK 116, PAGE 72. DEED INFORMATION IS RECORDED IN DEED BOOK 12287,PAGE 682.

2. THE LOCATIONS OF UNDERGROUND UTILITIES SHOWN IS BASED ON ABOVE GROUND STRUCTURES AND INFORMATION SUPPLIED TO THE SURVEYOR. LOCATIONS OF UNDERGROUND UTILITIES OR STRUCTURES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES OR STRUCTURES MAY EXIST. THE SURVEYOR MAKES NO CERTIFICATION AS TO THE ACCURACY AND COMPLETENESS OF THE LOCATIONS SHOWN HEREON.

3. NO ABSTRACT OF TITLE, TITLE COMMITMENT, OR RESULTS OF ANY TITLE SEARCHES WERE FURNISHED TO THE SURVEYOR. THERE MAY BE OTHER MATTERS OF RECORD THAT AFFECT THIS PROPERTY.

4. A PORTION OF THIS PROPERTY LIES WITHIN A FLOOD HAZARD AREA AS INDICATED ON FIRM COMMUNITY PANEL NO. 13089C0012 H, DATED MAY, 7 2001. LOCATION OF FLOOD ELEVATION IS SHOWN AS IT EXISTS ADJACENT TO EXISTING STRUCTURES.

5. LOT SIZE = 1.11 ACRES OR 48,213.81 SQ. FT.

6. HEIGHT OF PROPOSED ADDTITION = 25 FEET.

7. EXISTING BUILDING FOOTPRINT = 2,089.69 SQ. FT. PROPOSED ADDITION FOOTPRINT = 672 SQ.FT.

8. TOTAL IMPERVIOUS SURFACE AREA = 3,805.59 SQ. FT.

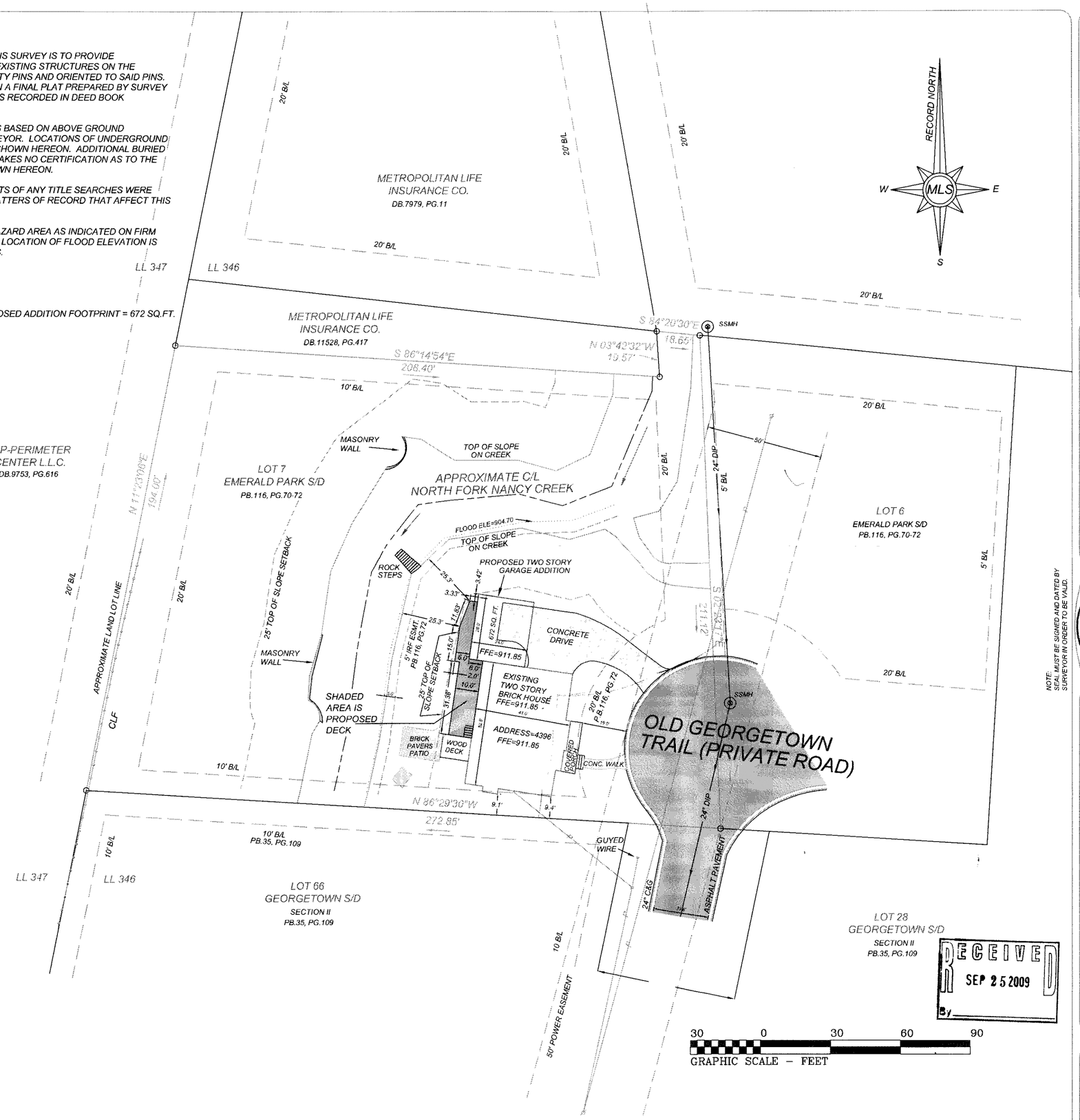
9. LOT STANDARDS

LOTS ZONED R-100 CONDITIONAL, CASE# CZ-99008
DENSITY 1.85 D U/AC
MINIMUM LOT REQUIREMENTS
FRONT 20' FROM BC
REAR 20'
SIDE 5' INTERIOR 10' EXTERIOR (VARIANCE)
MINIMUM LOT AREA = 13,000 SQ.FT. (VARIANCE)
MINIMUM DWELLING = 2,400 SQ.FT. (PER CZ-99008)
MINIMUM LOT WIDTH = 60' B.L. (VARIANCE)
MAXIMUM HEIGHT = 35 FT.
MAXIMUM LOT COVERAGE = 35 PERCENT

CONTACT INFORMATION
McGAUGHEY LAND SURVEYING
1227 BRASELTON HIGHWAY
LAWRENCEVILLE, GA. 30043
OFFICE-678-377-5673
CONTACT- ANTHONY NICELY

LEGEND

IPS	=	1/2" REBAR PIN SET
RBF	=	REBAR PIN FOUND
TP #	=	TAX PARCEL NO.
LLL	=	LAND LOT LINE
P/L	=	PROPERTY LINE
C/L	=	CENTERLINE
R/W	=	RIGHT OF WAY
B/L	=	BUILDING LINE
SSE	=	SANITARY SEWER EASEMENT
DE	=	DRAINAGE EASEMENT
C&G	=	CURB & GUTTER
LL	=	LAND LOT
GMD	=	GA. MILITIA DISTRICT
DB/PG	=	DEED BOOK/PAGE
PB/PG	=	PLAT BOOK/PAGE
POB	=	POINT OF BEGINNING
TPOB	=	TRUE POINT OF BEGINNING
P	=	POWER LINE (UP=UNDERGROUND)
T	=	TELEPHONE LINE (UT=UNDERGROUND)
G	=	GAS LINE
C	=	CABLE TV LINE (UC=UNDERGROUND)
S	=	SANITARY SEWER LINE
FM	=	SEWER FORCE MAIN
SD OR	=	STORM SEWER LINE
W	=	WATER LINE
x x x	=	WIRE FENCE
+ + +	=	CHAIN LINK FENCE
	=	WOOD FENCE
	=	BRANCH/CREEK/STREAM CENTERLINE
	=	UTILITY POLE
MH	=	MANHOLE
SS	=	SANITARY SEWER
CB	=	CATCH BASIN
JB	=	JUNCTION BOX
FH	=	FIRE HYDRANT
CMP	=	CORRUGATED METAL PIPE
DIP	=	DUCTILE IRON PIPE
PVC	=	POLYVINYLCHLORIDE PIPE
WV	=	WATER VALVE
WM	=	WATER METER
TPED	=	TELEPHONE PEDESTAL
TVPED	=	CABLE TV PEDESTAL
F.I.R.M.	=	FEDERAL INSURANCE RATE MAP



RECEIVED
SEP 25 2009
By

DRAWN BY: AN	REVISION	DATE	DESCRIPTION
CHECKED BY: KRM	1	9/16/2009	ADD PROP. DECK TO HSE.
CO: JD			
DATE: 6/13/08			
SCALE: 1" = 30'			
LAND LOT: 346			
DISTRICT: 18th			
DEKALB COUNTY			

M.L.S.
McGAUGHEY LAND SURVEYING, INC.
1227 BRASELTON HWY., PO BOX 491023
LAWRENCEVILLE, GA 30049
678-377-5673 (OFFICE)
678-623-0054 (FAX)

GEORGIA REGISTERED LAND SURVEYOR No. 2[illegible] KENNETH R. McGAUGHEY

9-16-09

NOTE:
SEAL MUST BE SIGNED AND DATED BY SURVEYOR IN ORDER TO BE VALID.

AS-BUILT HOUSE LOCATION PLAN FOR:
DICKIE L. SLACK &
LADONNA C. PORTER
LAND LOT 346- 18th DISTRICT
DEKALB COUNTY, GEORGIA
BEING LOT 7, EMERALD PARK AT GEORGETOWN S/D

JOB NO. 08035
DRAWING NO. 08035 HLP.dwg
SHEET NO. 1 OF 1

KODIAK
CAPITAL PARTNERS, LLC

RECEIVED
NOV 2 2009
By

October 28, 2009

Mr. Howard J. Koontz
Dunwoody Community Development Department
City Planner
41 Perimeter Center East
Dunwoody , GA 30346

RE: Your October 20, 2009 Letter

Dear Mr. Koontz:

As agents for the owners of 48 Perimeter Center, we object to the zoning variance applied for by Dick L. Slack and L. Cherie Porter of 4396 Old Georgetown Trail, Dunwoody, GA 30338, zoning case ZBA09-091.

Sincerely,

DW Landers
CEO/Chairman

5005 LBJ Freeway, Suite 950 | Dallas, TX 75244 | Office. 214.953.1031 | Fax. 214.560.0822 | www.kodiakcapital.com