

PLANNING AND DEVELOPMENT DEPARTMENT
STAFF REPORT

Public Hearing Date: February 16, 2023

Item #: PZ2023-1106

5480 PEACHTREE ROAD RESTAURANT VARIANCES AND WAIVERS

Project Name: 5480 Peachtree Rd Restaurant
Owner: Caroline Chesnut Leslie & J. David Chesnut
Applicant: Caroline Chesnut Leslie
Site Addresses: 5480 Peachtree Road
Parcel Numbers: 18 309 09 004

EXECUTIVE SUMMARY WITH STAFF RECOMMENDATION:

Proposed Project: Renovation of an existing building into a restaurant with a patio and rooftop deck.

Requests: Five (5) variances and four (4) waivers

Summary Analysis:

- Renovation of an existing single story building for a restaurant. The renovations include converting existing hardscape into green space, addition of a sodded patio area, enclosed dining area, covered patio with a synthetic grass area enclosed by a decorative fence, and a roof top patio.
- On September of 2021, several variances and waivers were approved for the renovation of the building, pursuant to PZ2021-846. Since the 2021 approval, the applicant has made modifications to the council approved elevations and site plan. The first condition of approval requires the development to be in substantial conformity with the site plan dated July 3, 2021, which does not include a roof top deck. The change in council condition requires resubmittal of a new variance application per Section 280-35.
- The revised elevations and site plans include addition of a 148 square foot roof top deck and stairs at the rear of the building. These additions increase the total finished building area from 2,875 square feet to 3,023 square feet.

Recommendation:

Staff recommends **APPROVAL** of the following variance and waiver requests:

1. Variance from Sec. 240-7(b)(8) to allow an opaque dumpster enclosure to be made of wood instead of brick, stucco, or stone.
2. Variance from Sec. 9B4 to reduce the percentage the building is located at the back of the supplemental zone from 65% to 0%.

3. Variance from Sec. 7A2 and 7B to reduce the minimum fenestration requirements to 54.9% from the required 70%.
4. Variance from Sec. 10C2 to be relieved of the 10-foot sidewalk and 5-foot landscape strip requirements.
5. Variance from Sec. 12A4 to allow for parking between the building and street.
1. Waiver from Sec. 230-29 to be relieved of the of 18-foot floor-to-ceiling requirement.
2. Waiver from Sec. 230-27(g) to allow the existing mechanical equipment to remain between the building and street.
3. Waiver from Section 320-21(a)(5) to be relieved of the perimeter surface parking landscape strip.
4. Waiver from Section 350-2(a)(2) to be relieved of the minimum driveway spacing of 219-feet.



Current Zoning:

Planned Unit Development (PUD) District - Purpose and intent. The PUD district is intended to permit the planning and development of parcels of land that are suitable in location and character for the uses proposed as unified and integrated developments in accordance with detailed development plans. These plans may supersede the regulations included in Title 2 and Title 3 where indicated by these development plans.

Current Use:

Vacant building

Surrounding Land Use: North – PUD: Commercial Office
South – PUD: Commercial Retail
East – PUD: Commercial Retail
West – PUD: Institutional – City Hall

Site Description:

The site is a 0.34 acre lot located at the intersection of Peachtree Road and Broad Street. The lot contains a 2,138 square foot one-story building facing Peachtree Rd with parking areas in the front and rear of the building. The lot is approximately 123-feet wide at the front lot line (Peachtree Rd-facing) and there are two curb cuts along Broad Street. The southernmost curb cut provides access to the public parking lot that is situated along Peachtree Road. The property, zoned PUD, is located in the Downtown Chamblee Town Center Planned Unit Development district.

The existing streetscape along Broad Street consists of a 5-foot-wide sidewalk and a 7-foot-wide landscape strip, both approximately 27 feet in length, with a pedestrian streetlight, in the northeast corner of the lot. There is no streetscape along the rest of that frontage. There is a single tree, a mature hardwood, and a single understory tree, which are both located in the east corner of the lot in a landscape island along Broad Street. The tree, along with an AT&T utility box, an electric utility meter box, and a guy wire are located on the applicant's property within that landscape island. The understory tree, a power pole and a second guy wire are located in the right-of-way within the landscape island.

The north lot line is located approximately two feet from the exterior wall of a one-story building at 3506 Broad Street, which contains an office. The lot line is separated from the adjacent building by a strip containing pea gravel. To the east is Gus's restaurant and the Rust 'N Dust shopping center. To the west of the property is City Hall and a one-way driveway on which the applicant has an access easement. Peachtree Road is located to the south, but the property does not have any frontage directly on it. Along the south, a portion of the parking lot is located on the applicant's property, and a portion is located within the right-of-way, containing nine public parking spaces and a pocket park with an arbor, benches, a 4-foot-wide sidewalk, and 4-foot-wide landscape strip.

History of the Property:

According to tax records, the property was developed with the existing single-story commercial structure in 1953. It has previously been occupied by restaurants, most recently the Chamblee Diner, but has been vacant since around 2015. Variances and waivers were received for a brewpub in 2017, but that project did not move forward. In September of 2021, a variance to renovate the building was approved pursuant to PZ2021-846. The project included complete renovation of the interior of the building, demolition and rebuild of the eastern portion of the

building, and addition of a covered patio. In October of 2021 a Land Disturbance Permit was submitted. The application is pending approval of the revised City Council elevations and site plan, as well as DeKalb County reviews.

Description of the Proposed Project:

The applicant is proposing to renovate the existing building in order to white box it for a prospective restaurant tenant. The renovations include addition of a sodded patio area in the southwest corner, new enclosed dining area where the patio on the south façade currently exists, and a covered patio area facing Broad Street with a synthetic grass enclosed by a decorative fence. Additionally, the applicant proposes to add a 148 square foot roof top deck and stairs at the rear of the building. The finished building, as proposed, would be 3,023 square feet. The redevelopment threshold (value of the proposed construction) exceeds 70% of the taxable value of the improvements on the property, requiring the entire site to be brought into compliance with the PUD Pattern Book and the UDO. The addition of the roof top deck and stairs, triggers approval of a new variance and waiver application. Per Section 280-35, a request for changes in conditions of approval attached to an approved variance must be processed as a new variance application.

Applicant's Variance Requests:

The applicant requests a variance from the following regulations of Title 2 of the UDO:

1. Variance from Sec. 240-7(b)(8) to allow an opaque dumpster enclosure to be made of wood instead of brick, stucco, or stone.

The applicant requests a variance from the following regulations of PUD Pattern Book:

2. Variance from Sec. 9B4 to reduce the percentage the building is located at the back of the supplemental zone from 65% to 0%.
3. Variance from Sec. 7A2 and 7B to reduce the minimum fenestration requirements to 54.9% from the required 70%.
4. Variance from Sec. 10C2 to be relieved of the 10-foot sidewalk and 5-foot landscape strip requirements.
5. Variance from Sec. 12A4 to allow for parking between the building and street.

Applicant's Waiver Requests:

The applicant requests waivers from the following regulations of Title 2 and 3 of the UDO:

1. Variance from Sec. 230-29 to be relieved of the of 18-foot floor-to-ceiling requirement. The proposed project would have the new construction at 11-feet from floor-to-ceiling and the existing structure is 9.5-feet from floor-to-ceiling.
2. Variance from Sec. 230-27(g) to allow existing accessory mechanical equipment to remain between the building and street.

3. Waiver from Section 320-21(a)(5) to be relieved of the perimeter surface parking landscape strip.
4. Waiver from Section 350-2(a)(2) to be relieved of the minimum driveway spacing of 219-feet.

Per the review and approval criteria found in Sec. 280-32(a), the Mayor and City Council may authorize variances from the provisions of the UDO only after making the following findings:

- a. **There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography;**

There are no extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography. However, the property owner is trying to upgrade the existing building that does not conform to applicable codes, which does provide for a practical hardship.

- b. **The application of this zoning ordinance to the particular piece of property would create an unnecessary hardship;**

The application of this zoning ordinance to the particular piece of property would create an unnecessary hardship because this is a redevelopment of an existing building that has set vacant for many years.

- c. **Such conditions are peculiar to the particular piece of property involved;**

Certain conditions are peculiar to the subject property, but most conditions are not peculiar to this property. The configuration and ownership of the public parking area, which is part of City right-of-way, along Peachtree Rd, is rather peculiar and scarcely found elsewhere in the city. The front lot line of the property is located near the center of the driveway access aisle of the parking spaces in front of the building. This driveway currently connects through to Broad Street. The accessory mechanical utility equipment next to the corner of Peachtree Road and Broad Street is unique to this property. Having surface parking along the property line with the abutting property having the primary structure two feet from the side yard on the west side of the lot is peculiar.

- d. **Such conditions are not the result of any actions of the property owner; or**

The existing conditions are mostly the result of the property owner, who has owned the property for many years, although the presence of the accessory mechanical systems, and the lack of streetscape on Broad Street are not. The development thresholds require all redevelopments to be brought up to full code compliance when they exceed 70% of the fair market value (UDO Section 270-9). This building has set vacant for many years and is in poor shape visually, which could deflate the fair market value of the structure.

- e. **Relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of this zoning ordinance.**

Relief, if granted, would not cause substantial detriment to the public good. Staff does believe that the applicant, in good faith, is trying to be as compliant as possible with applicable codes. However, without a full tear down and rebuild, it would be extremely difficult to meet all applicable codes.

Additionally, the City's adopted Multi-modal Transportation Plan, Town Center Master Plan, and more recently, the Town Center Streetscapes Concept Plan, adopted in June of 2020, call for the curb cut on Broad St to this parking area to be closed off to promote safety and walkability and pedestrian connectivity. That plan identifies this section of Broad Street, from Peachtree Road to Irvindale Way, as the first phase of the Downtown Streetscapes Plan to be implemented once funding becomes available. These plans are taken into consideration as it relates to the variances for streetscape and curb cuts.

Staff Recommendation:

Based on the analysis of this application, using the standards and criteria found in Chapters 280 and 300 of the UDO, and in Section 2J of the PUD Pattern Book, Staff recommends the following action on the variance and waiver requests, in case PZ2023-1106.

Staff recommends **APPROVAL** of the following variance and waiver requests:

1. Variance from Sec. 240-7(b)(8) to allow an opaque dumpster enclosure to be made of wood instead of brick, stucco, or stone.
2. Variance from Sec. 9B4 to reduce the percentage the building is located at the back of the supplemental zone from 65% to 0%.
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3. Waiver from Section 320-21(a)(5) to be relieved of the perimeter surface parking landscape strip.
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Staff recommends the following conditions of approval. Please find additions/revisions in **RED**.

1. **The development shall be constructed in substantial conformity with the Site Plan and Elevations dated received by the Planning and Development Department on December**

12, 2022, with revisions required by conditions of approval as reviewed and approved by the Planning & Development Director.

2. The developer shall submit applicable engineering data to the City Engineer to ensure the artificial turf between the building and Broad Street is pervious.
3. The developer shall create a programmed space between the building and Broad Street to be approved by the Planning and Development Director. This space can be programmed to include lounging space, lawn games, fire pit(s), and/or any other approved design.
4. The applicant shall dedicate an area along the Broad Street frontage that varies from 9' to 22' maximum as depicted on the attached concept sketch dated 8/17/21 (Exhibit "B"). At the time of the street scape construction, the applicant shall provide a 5' wide construction easement immediately adjacent to the area to be dedicated to provide access and to tie the proposed work to the applicant's on-site improvements. Any improvements within the area to be dedicated shall not be required to be performed by the applicant.
5. The property owner shall submit and record an agreement to enable the City's future closure of the southeastern-most curb cut on Broad street, prior to receiving a Certificate of Completion or a Certificate of Occupancy.
6. The property owner shall enact a no access easement along the driveway on the southern end of Broad Street that connects into the public parking lot.
7. The property owner shall install planters with decorative plant material, at the property owner's expense, the driveway on the southern end of Broad Street that connects into the public parking lot, to make it inaccessible to vehicles entering or leaving the parking lot.
8. The wooden, opaque dumpster enclosure shall be constructed with treated wood and shall be approved by the Planning and Development Director.

Attachments:

Attachment 1 – Exhibit A: Site Plan and Elevations

Attachment 2 – Application

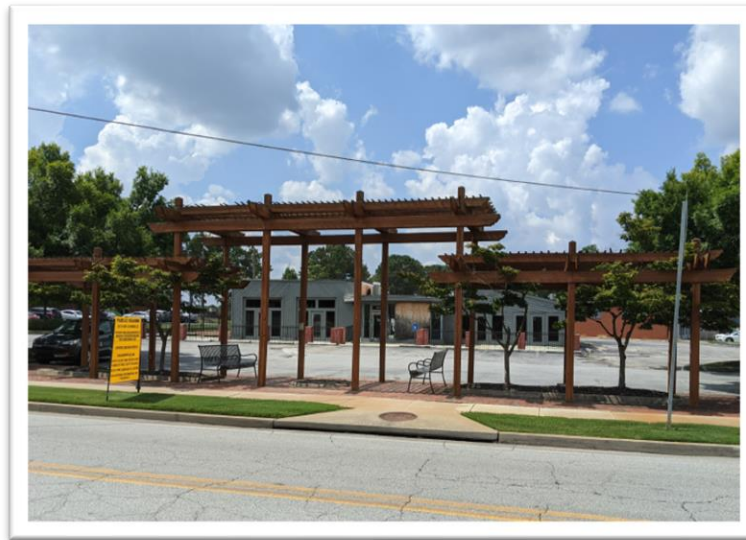
Attachment 3 – PZ2021-846 Action Letter and Previously Approved Site Plan and Elevations

Attachment 4 – Maps

Site Visit:



View from the entrance of City Hall looking toward Broad Street.



View from the opposite side of Peachtree Road.



View of the rear side of the building from City Hall.