



October 30, 2014

Danita M. Brown, Chair
Board of Zoning Adjustment
Office of Planning
55 Trinity Avenue, Suite 3350
Atlanta, Georgia 30303

RE: Appeal V-14-192, regarding Special Administrative Permit BL-13-001

Dear Chairwoman Brown,

The Atlanta neighborhood of Underwood Hills will be further barricaded from walkable amenities and Atlanta BeltLine access if the Special Administrative Permit (“SAP”) BL-13-001 is not overturned by the Board and the seven administratively granted variances (the “QuickTrip Variances”) at issue in Appeal V-14-192 (the “Martin/Burton/Gordon Appeal”) are allowed to stand. For that reason, on behalf of its members, the Underwood Hills Neighborhood Association offers this letter in support of the Martin/Burton/Gordon Appeal and asks that the QuikTrip Variances contained in SAP BL-13-001 be reversed.

More than just repugnant as an aesthetic and safety concern to the affected neighborhoods, the QuikTrip Variances, administratively granted, were not within the limited scope of those variances permitted to be granted through the abbreviated SAP process within the BeltLine Overlay District and, in granting the Variances, the Office of Planning: **(A) applied an incorrect standard;** and **(B) ignored the legislated purpose and intent of the BeltLine Overlay Zoning scheme**, as set forth in City Ordinance § 16-36.002. The decision of the Office of Planning to grant the QuikTrip Variances was categorically arbitrary, not grounded on the proper criteria for Special Administrative Permit, and contrary to the legislatively imposed purpose and intent of the Zoning Code. As such, this Board may and should revise or reverse the decision, in accordance with City Ordinance § 16-30.010.

(A) ARBITRARY STANDARDS RELIED UPON TO GRANT THE SPECIAL ADMINISTRATIVE PERMIT (“SAP”).

Pursuant to City Ordinance § 16-25.001, administrative variances are intended to be used “where complex or unusual technical determinations are involved and/or in conjunction with temporary uses” and, within the BeltLine Overlay District, may only be authorized where: (1) they “satisfy[] the public purposes and intent and provide[] public protection to an equivalent or greater degree [than the Code]”; or (2) where “strict application [of the Code] is not necessary

for the accomplishment of public purposes or the provision of public protections.” City Ordinances § 16-36.005.

However, while the above **legislatively authorized standards** for an administrative variance focus on “public protection” and “purposes” and “intent” of the Zoning Code, the findings here relied upon by the Office of Planning to grant the QuikTrip Variances, focus expressly and exclusively upon the conveniences of the Applicant and are found prescribed nowhere in the Atlanta Code of Zoning Ordinances. Specifically, the SAP’s ‘Findings of the Staff’ enumerate just two findings, cited either together or apiece, to justify the variances: (1) that “the Code allows such variation to be administratively granted due to the existing configuration of the parcel” (found to justify Variations 1, 2, 3, 4, 6 & 7); and (2) “[because of] the nature and operating characteristics of the proposed use” (found to justify Variations 1, 2, 3, & 5).

Not only then does the SAP’s ‘Findings of the Staff’ section demonstrate that standards not legislatively authorized were applied for evaluating the substantially non-conforming application, but, moreover, that the proper standards were, in fact, turned on their head so as to accommodate the Applicant. If a standard for an administrative variance really is merely that the variation may either be consistent with the “existing configuration of the parcel” or with the “characteristics of the proposed use,” then it is difficult to fathom how the limitations on administrative variances, as a practical matter, are not swallowed by such an accommodating rule. Importantly, those are not proper standards; the scope of administratively grantable variances is legislatively curtailed, and the Board should act to preserve the legislated check on administrative variances.

(B) THE VARIANCES ARE INCOMPATIBLE WITH THE PURPOSE AND INTENT OF BELTLINE OVERLAY DISTRICT ZONING.

Contrary to the purpose and intent of the BeltLine Overlay District Zoning Regulation to “[p]romote public health and safety by providing a pedestrian-oriented environment that includes active street-level uses,” City Ordinances 16-36.002(10), SAP BL-13-001 endorses a blank windowless façade along Howell Mill Road (the primary street frontage, labelled as the “rear of building” on the submitted plans).

Contrary to the purpose and intent of the BeltLine Overlay District Zoning Regulation to “[f]acilitate safe, pleasant and convenient pedestrian and bicycle circulation and minimize conflict between pedestrians and alternative transit modes,” City Ordinances 16-36.002(12), SAP BL-13-001 endorses a plan allowing for an impermissible number of driveway cutouts of impermissible lengths for a facility that will be attracting rapidly in-and-out vehicular traffic, as well as heavy truck traffic, at all hours.

Contrary to the purpose and intent of the BeltLine Overlay District Zoning Regulation to “[i]mprove the aesthetics of street and built environments,” City Ordinances 16-36.002(15), SAP BL-13-001 endorses a plan allowing impermissibly for a dumpster visible from the public right

of way, and reduces the amount of fenestration required along all three sides of the structure fronting pedestrian routes.

A primary purpose and intent of the BeltLine Overlay District Regulations is to “reduce auto dependency” and encourage pedestrian uses of the BeltLine Corridor, City Ordinance § 16-36.002. It would be hoped that enforcement of these regulations would promote pedestrian or bike access from our neighborhood to adjoining and forthcoming developments (e.g., the Atlanta BeltLine Corridor, the White Provisions District, the Waterworks). Instead, the QuikTrip Variances promote a development, with its substantial traffic impact, lengthened curb cuts and several non-compliances with the BeltLine Overlay, that, rather than invite pedestrian access, dares our neighbors play a high-stakes game of *Frogger*¹ as they escort their families across a bustling QuikTrip/Howell Mill/Defoor/Chattahoochee divide. QuickTrip has made no real attempt to comply with the intent of the BeltLine Overlay District Regulations, making it clear through its multiple SAP applications that it prefers to wedge its suburban design into an urban environment with as few changes as possible.

Not only were the administrative actions granting the SAP arbitrary, as set forth in the section above, substituting the discretion of the administrator for the Board, but they were in conflict with regulations of the BeltLine overlay such that not only must they be addressed by the Board, but also reversed.

CONCLUSION

Should QuikTrip conform its application and intended development to the existing requirements of the BeltLine Overlay District, it may be welcomed as a neighbor; however, we cannot at this early date idly allow it to come in as a gateway precedent that thumbs its nose at the BeltLine Overlay District Regulations. We ask, therefore, that you sustain the Martin/Burton/Gordon Appeal and reverse SAP BL-13-001.

Thank you for your attention to this matter and service as a steward our city.

Sincerely,



Keri F. Conley
Vice President

Eva Nason
NPU-D Representative

cc: Mayor Kasim Reed, City of Atlanta
Charletta Wilson Jacks, Director City of Atlanta Office of Planning

¹ *Frogger* is an [arcade game](http://en.wikipedia.org/wiki/Frogger) introduced in 1981, developed by [Konami](http://en.wikipedia.org/wiki/Konami). The object of the game is to direct [frogs](http://en.wikipedia.org/wiki/Frogger) to their homes one by one. To do this, each frog must **avoid cars** while crossing a busy road and navigate a [river](http://en.wikipedia.org/wiki/Frogger) full of hazards. See. <http://en.wikipedia.org/wiki/Frogger>.

Letter to Board of Zoning Adjustment

October 21, 2014

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cc cont'd: Felicia Moore, Atlanta City Council Representative District 9
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