



V16-0119

VARIANCE APPLICATION
(Excludes Stream Buffer Variances)

Application checklist:

Page No.	Item	Completed/ Included in Submittal
1	Project Information Sheet	<input checked="" type="checkbox"/>
2 - 4	Detailed Process and Instructions	N/A
5 - 6	Authorization Forms	<input checked="" type="checkbox"/>
	Additional requirements:	
7	Letter of Intent	<input checked="" type="checkbox"/>
7	Variance Analysis	<input type="checkbox"/> s.g
7	Chattahoochee River Corridor Certificate	<input type="checkbox"/> or N/A <input checked="" type="checkbox"/>
8-9	Survey, Site Plan and Legal Description	<input checked="" type="checkbox"/>
10	Fee schedule	N/A
10	Meeting schedule	N/A

Provide also:

All the documents electronically (CD/DVD, thumb drive or via email) Note: The Legal Description must be in a Word document	<input checked="" type="checkbox"/>
Site plan: one (1) copy on 11"x17" and two (2) full-scale copies	<input checked="" type="checkbox"/>

The Director reserves the right to request additional information deemed necessary to analyze the request. Incomplete applications will not be accepted.

Planner's initials: JB



Case No.:

V16-0119
Planner's initials: JB

PROJECT INFORMATION SHEET

PROPERTY	Address(es): 4735 Roswell Road	
	Parcel Tax ID: 17-0094-0005-032-9	
	Land Lot(s): 94	Land District(s): 17th
	Total acreage: 4.904 acres	Council district: 5
	Current zoning: A-L	Current use: Multi Family-under const.
	Overlay district: Suburban Overlay District	Future land use: LWN,Node 2A

APPLICATION	Detailed request (include Ordinance/Code Section No.):	
	Zoning Ordinance Article 18.3.1.D states that off-street loading areas shall be provided in the rear or interior side yards. The request is to allow a Loading Zone, screened by evergreen vegetation, to be located in the front yard (along Franklin Road), subject to conditions.	
	Agent: Christopher Harreil - charrell@summitcon.net o: 770-667-0094 / 6250 Smith Rd c: 404-401-9695 / Ste 100 Alpharetta, GA 30007 charrell@summitcon.net	
	Petitioner: Worthing Chastain L.P.	
	Petitioner's address: 5909 Peachtree Dunwoody Rd, Ste 400 Atlanta, Georgia 30302	
	Phone: 770-522-5775	Email: dwcollier@worthingse.com

OWNER	Property owner: Worthing Chastain L.P.	
	Owner's address: 5909 Peachtree Dunwoody Rd, Ste 400 Atlanta, Georgia 30302	
	Phone: 770-522-5775	Email: dwcollier@worthingse.com
	Signature (authorizing initiation of the process): <i>Dwight Collier</i>	
	If the property is under contract and the owner is unavailable to sign, provide a copy of the contract	

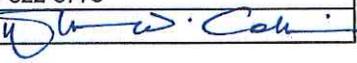
- TO BE FILLED OUT BY P&Z STAFF -

Pre-application meeting date: August 3, 2016	Anticipated application date: September 6, 2016
Anticipated PC date: N/A <input checked="" type="checkbox"/>	Anticipated BOA date: 10/13/2016
ADDITIONAL INFORMATION (if needed):	



AUTHORIZATION FORM – PART I

A- If the applicant is also the owner of the subject property:
 Fill out the following section and have it notarize.

Owner states under oath that he/she is the owner of the property described in the attached legal description, which is made part of this application.	
Owner's name: Worthing Chastain L.P.	Sworn and subscribed before me this <u>26</u> day of <u>August</u> 20 <u>16</u> Notary public:  Seal:  Commission expires:
Address: 5909 Peachtree Dunwoody Rd, Ste 400	
City, State, Zip Code: Atlanta, Georgia 30302	
Email address: dwcollier@worthingse.com	
Phone number: 770-522-5775	
Owner's signature: 	

B- If the applicant is *not* the owner of the subject property:
 Fill out the following section, check the appropriate statement, and have it notarized.

Applicant states under oath that:	
<input type="checkbox"/> He/she is the executor or Attorney-in-Fact under a Power-of-Attorney for the owner (<i>attach a copy of the contract</i>); or <input type="checkbox"/> He/she has an option to purchase the subject property (<i>attach a copy of the contract</i>); or <input type="checkbox"/> He/she has an estate of years which permits the applicant to apply (<i>attach a copy of the lease</i>)	
Applicant's name:	Sworn and subscribed before me this _____ day of _____ 20 ____ Notary public: Seal: Commission expires:
Company name:	
Address:	
City, State, Zip Code:	
Email address:	
Phone number:	
Applicant's signature:	

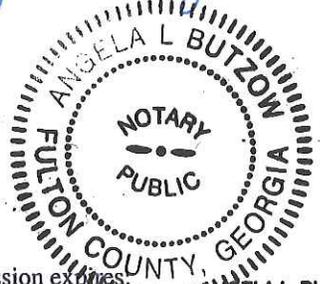


AUTHORIZATION FORM – PART II

C- If an agent or attorney will represent the owner and/or the applicant:
Fill out the following section and have it notarized.

Agent's name: Christopher Harrell
Company: Summit Engineering Consultants, Inc.
Address: 6250 Shiloh Road, Ste 100
City, State, Zip Code: Alpharetta, GA 30005
Email address: charrell@summitcon.net
Phone number: 770-667-0094
Agent's signature: <i>[Signature]</i>
Applicant's signature: <i>[Signature]</i>

Sworn and subscribed before me this <i>26th</i> day of <i>August</i> 20 <i>16</i>
Notary public: <i>Angela L Butzow</i>
Seal:



Commission expires *10/2/2018*
ANGELA L. BUTZOW
NOTARY PUBLIC
STATE OF GEORGIA
MY COMMISSION EXPIRES OCT 2 2018

LETTER OF INTENT

The property is approximately 4.904 acres and is located at the southwest corner of the intersection of Franklin Road and Roswell Road (the "Property"). The Property is a part of a larger development known as "The Towns at Chastain" zoned to the A-L classification.

Pursuant to Petition 201402051, the Mayor and City Council rezoned the Property from its previous A-1 classification to the A-L classification at their Regular Meeting on November 18, 2014. By her letter of December 1, 2014, the Director of the Community Development Department memorialized the Conditions of Zoning to which the Property is subject. Subsequent to the rezoning, permits to construct improvements on the Property including Demolition Permits, a Land Disturbance Permit, and Building Permits have been issued and construction is underway.

The Owner of the Property has determined that a loading space for the temporary parking of moving vans and trucks would be by allowing new tenants direct access to the structure, reduce the likelihood of illegal parking or blocking of travel lanes on Franklin Road. The only feasible and logical place for this space has been determined to be proximate to the leasing office along the Franklin Road frontage. Section 18.3.1.D of the Sandy Springs Zoning Ordinance states that "off street loading areas shall be provided in the rear or interior side yards". Since Franklin Road is not considered to be a rear or interior side yard property line, a variance must be sought for this use to be allowed.

The approval of this variance request will not cause any harm to the health and general safety of the public and will, instead, provide for a safe operation of moving activities and the avoidance of traffic obstruction on Franklin Road near the intersection of Roswell Road. Therefore, this application for variance is entirely appropriate and the appropriateness of this variance request and the constitutional assertions of the Applicant are more particularly stated and set forth on Exhibit "B" attached hereto and by reference thereto made a part hereof.

Now, therefore, the Applicant requests that this Variance Application be approved as submitted in order that the Applicant be able to proceed with the lawful use and development of the Property.

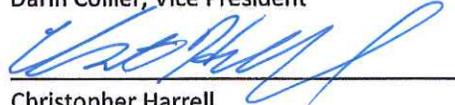
APPLICANT:

Worthing Chastain L.P.

By: Worthing Chastain Investors LLC

By: 

Darin Collier, Vice President



Christopher Harrell

Agent for the Applicant

6250 Shiloh Road, Ste 100
Alpharetta, GA 30005

APPROPRIATENESS OF APPLICATION
AND
CONSTITUTIONAL ASSERTIONS

The refusal to approve the Variance requested will result in a taking of the Applicant's valuable property rights in violation of the just compensation clause of the Constitution of Georgia 1983, Article 1, Section 3, Paragraph 1 and the just compensation clause of the Fifth Amendment to the United States Constitution. Further, such refusal to approve the requested Variance discriminates in an arbitrary, unreasonable, capricious and unconstitutional manner between the Applicant and owners of similarly situated property in violation of Article 1, Section 1, Paragraph 2 of the Constitution of the State of Georgia and in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Additionally, such refusal to approve the requested Variance would constitute a gross abuse of discretion and would constitute a violation of the Applicant's rights to substantive and procedural due process as guaranteed by the Constitution of the State of Georgia 1983, Article 1, Section 1, Paragraph 1 as well as the Fifth and Fourteenth Amendments to the United States Constitution.

Any approval of this Variance request subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the subject property would also constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove. The refusal to approve this requested Variance would result in a real, substantial and significantly detrimental hardship to be borne by the Applicant without any corresponding public benefit or legitimate connection to public health, safety, morals and general welfare. The community at large will not be affected by the approval of the requested Variance.

Exhibit "B"

VARIANCE ANALYSIS

There are extraordinary and exceptional conditions due to the size, shape, topography, and other entitlement issues that are specific to the subject property and are not generally found in similar properties.

The Property prior to development had severe topographic slopes. Franklin Road has 36 feet of vertical slope across the Property frontage and Roswell Road has 26 feet of vertical slope. The result is a stepping site (project) that has relationships in the rear and side yards that do not allow for a vehicular pull off. In addition to building split walls to make upgrade, there is an earth retaining wall along the entire eastern side that has a height of approximately 6 feet.

This Property is a corner lot reducing the available number of "side" property lines.

This Property is located on a Georgia State Route (Roswell Road) and Ingress Egress are controlled by GDOT and by requirements that are part of a Development of Regional Impact determination. The entrance location, configuration, and connection from Roswell to Franklin Road are dictated by those conditions, limit opportunities for additional uses as well as define the limits of the project.

The only other potential location on the Property where a loading space could physically be located is in a courtyard on the opposite side (south) of the project. This location has no direct access to a main entry without entering through a stair. Due to topography, this location cannot be made handicap accessible. Supervision of this location would be difficult due to its distance from the management office. This location is also inside of the taper and dedicated right turn only lane for the main project entrance, therefore causing a traffic hazard.

The aforementioned conditions are not the result of an action or inaction on behalf of the current property owner.

The location of the proposed loading area has been designed and revised to be as far from Franklin Road as physically possible, enters from the private drive, and will be screened with 100% opaque planting of evergreen trees and shrubbery. Granting of the requested variance would provide the minimum relief necessary to make possible the reasonable use of the property and would result in a development that is consistent with the general intent of the zoning ordinance, with comprehensive plan policies and would be beneficial to the public good, safety, and welfare.

A loading space is not required by the Zoning Ordinance for a project of this size, and was therefore not planned. The Applicant has extensive experience owning and operating these kinds of complexes. As such, they have found that the absence of well managed loading areas can lead to moving vehicles operating and parking in public roadways and otherwise becoming both a visual detriment and potential safety concern for the public. The granting of this

variance will actually serve to remove congestion on roads and streets, secure safety for traffic and emergency vehicles, promote the health and general welfare, promote desirable living conditions, protect property from blight and depreciation and encourage the proper and most appropriate use of land in the City of Sandy Springs.

All that tract or parcel of land lying and being in Land Lot 94 of the 17th District, City of Sandy Springs, Fulton County, Georgia and being more particularly described as follows:

BEGINNING at the northernmost mitered intersection of the southerly Right of Way of Franklin Road (Variable R/W) and the easterly Right of Way of Roswell Road (Variable R/W), from point thus established and running along said Right of Way of Franklin Road North 89° 57' 31" East a distance of 453.80 feet to a point; thence leaving said Right of Way and running South 00° 00' 01" East a distance of 88.13 feet to a point; thence running along a curve to the left an arc length of 74.43 feet, (said curve having a radius of 130.00 feet, with a chord bearing of South 16° 24' 12" East, and a chord length of 73.42 feet) to a point; thence South 32° 48' 23" East a distance of 93.64 feet to a point; thence running along a curve to the right an arc length of 206.03 feet, (said curve having a radius of 120.00 feet, with a chord bearing of South 16° 22' 51" West, and a chord length of 181.64 feet) to a point; thence South 65° 34' 04" West a distance of 49.89 feet to a point; thence running along a curve to the left an arc length of 104.25 feet, (said curve having a radius of 500.00 feet, with a chord bearing of South 59° 35' 41" West, and a chord length of 104.06 feet) to a point; thence South 53° 37' 18" West a distance of 100.51 feet to a point; thence running along a curve to the right an arc length of 31.20 feet, (said curve having a radius of 250.00 feet, with a chord bearing of South 57° 11' 47" West, and a chord length of 31.17 feet) to a point; thence South 60° 46' 16" West a distance of 9.39 feet to a point on the easterly Right of Way of the aforementioned Roswell Road; thence along said Right of Way the following courses: along a curve to the left an arc length of 19.07 feet, (said curve having a radius of 1498.00 feet, with a chord bearing of North 29° 25' 35" West, and a chord length of 19.07 feet) to a point; thence North 29° 47' 28" West a distance of 255.00 feet to a point; thence running along a curve to the right an arc length of 302.89 feet, (said curve having a radius of 1184.95 feet, with a chord bearing of North 22° 28' 06" West, and a chord length of 302.07 feet) to a point on the southernmost aforementioned miter; thence along said miter North 29° 55' 55" East a distance of 56.03 feet to the TRUE POINT OF BEGINNING. Said tract contains 4.904 Acres.