Staff Report
City of Doraville, Georgia
City Arborist

Public Hearing(s): MCC Public Hearing October 25, 2010

Applicant: Halpern Enterprises, Inc.
Request: Tree Protection Ordinance Variance(s): variance from ordinance requirements to comply with total acreage and contribute to Tree Bank for trees required by the new area of disturbance.
Zoning: C-2 / R-1 (pending rezoning action)
Location: PineTree Plaza Shopping Center
Parcel ID 18-297-10-020, 5269 Buford Hwy (parent tract)
Tract Size: Approximately 13.98 +/- acres subdivided into six (6) lots

VAR - Standards of Review (§ Section 1402 of Zoning Code);

(1) ***There are extraordinary and exceptional conditions pertaining to the particular piece of property in question due to its size, shape, or topography that are not applicable to other lands or structures in the same district.*** True. The subject property was re-developed in the 1970s before impervious limits were set by code.

(2) ***A literal interpretation of the provisions of this Ordinance would deprive the Applicant of rights commonly enjoyed by other properties of the district in which the property is located.*** Result cannot be determined from available information. No similar minor construction projects have been applied for in the City because of the City's low volume of LDP's.

(3) ***Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located.*** False. Similar properties in the zoning district would have to apply for a variance to permit the construction.

(4) ***The requested variance will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood or to the general welfare.*** False. A contribution to the Tree Bank will pay for trees required by the new area of disturbance. Owner proposes to pay $600 to equal 3 trees. However, this does not meet the intent of the Tree Protection Ordinance to increase greenspace, reduce the amount of impervious cover, or plant trees on site.

(5) ***The special circumstances are not the results of the applicant.*** True. The subject property was re-developed in the 1970s before the City adopted a Tree Protection Ordinance. All new construction has had to meet the requirements since its adoption.

(6) ***The variances requested is the minimum variance that will make possible the legal use of the land, building or structure.*** True. The variance will meet minimal requirements.

(7) ***The variance is not a request to permit a use of land, buildings, or structures which is not permitted by right in the district involved.*** False. At least one of the uses being pursued on the six(6) lots which make up the shopping center (ATM machine) is a Conditional Use and not a use permitted by right.

Recommendation(s):

Staff recommends **Denial** of the requested variance as applied for by the owner. The City would be better served if the owner installed tree islands in the parking lot to achieve greenspace, reduce the amount of impervious cover, and plant trees on site.