

# GOVERNMENT OF THE CITY OF SOUTH FULTON

ODIE DONALD II  
CITY MANAGER



SHAYLA REED  
DIRECTOR  
COMMUNITY DEVELOPMENT SERVICES

## MEMORANDUM

**TO:** Zoning Board of Appeals  
**FROM:** Planning & Zoning Division  
**SUBJECT:** **V-19-001 for o Camp Creek Parkway**  
**DATE:** May 16, 2019

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The applicant seeks a variance to reduce the front yard setback from 35 feet to 25 feet.

**STAFF RECOMMENDATION: DENIAL**

cc: Diane White, City Clerk

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**APPLICATION INFORMATION**

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Applicant Information:	Michelle Battle for Hybrass Overlook, LLC Battle Law Group P.C. One West Court Square Suite 750 Decatur, GA 30030
Status of Applicant:	Attorney
City Council District(s):	1
Parcel ID Number:	14F-0069-LL0145 (R-4), 14F-0069-LL0111 (R4), 14F-0069-LL0137 (rear) (R-4)
Area of Property:	The property is composed of approximately 34.73 acres.
Existing Zoning:	R-4 (Single Family Residential)
Current/Past Use of the Property:	The subject properties consist of vacant lots that have not been subdivided.
Prior Zoning Cases/History:	<b>Z60-018</b> , request to rezone property from AG-1 (Agricultural District) to R-4 (Single Family Dwelling district) APPROVED <b>Z006-0042</b> , request to rezone property AG-1 (Agricultural District) and R-4 (Single Family Dwelling district) to CUP- APPROVED

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**SPECIFIC INFORMATION**

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**REQUEST:**

The applicant seeks a variance to reduce the front yard setback from 35 feet to 20 feet due to topography challenges.

**BACKGROUND:**

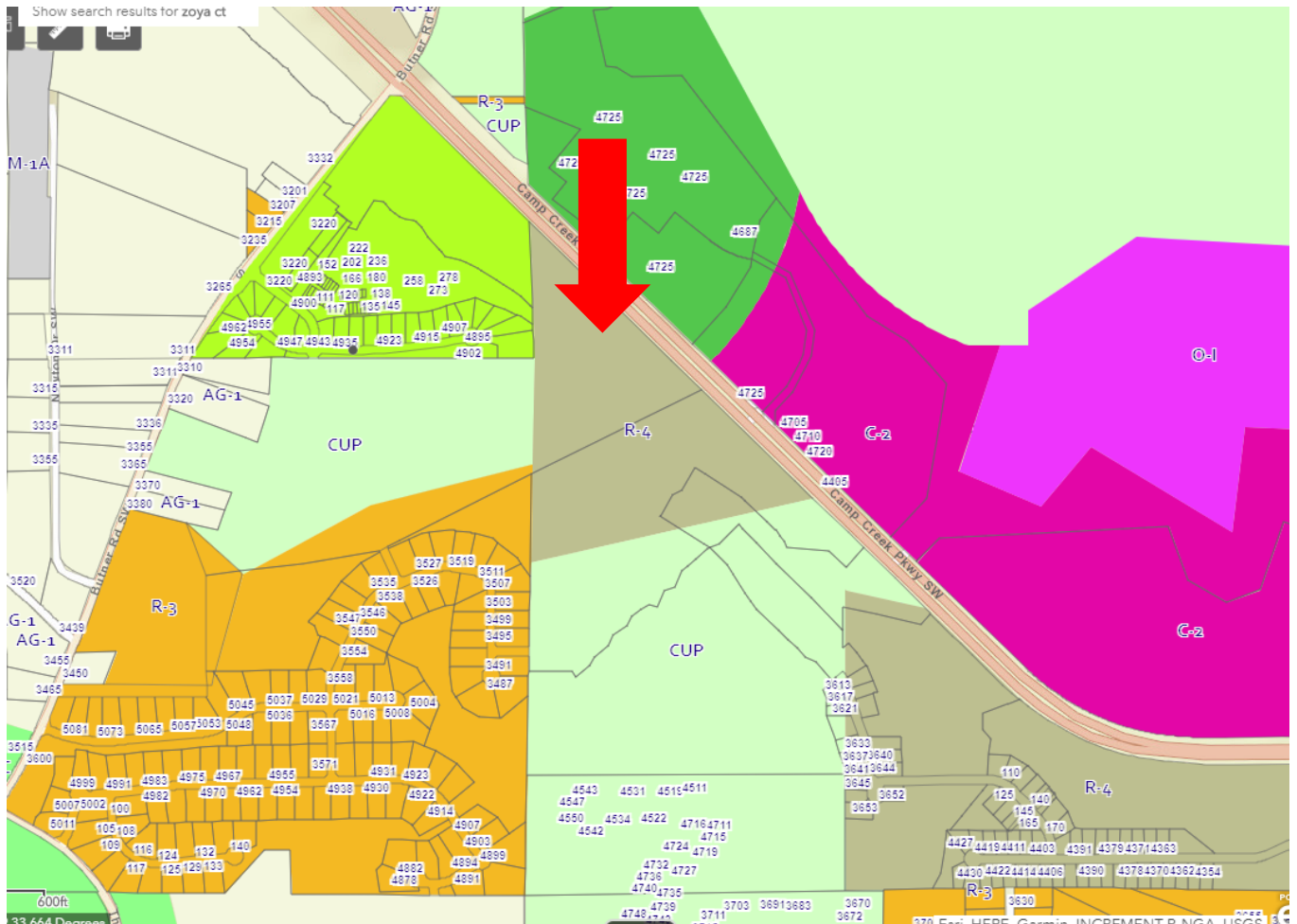
The subject property is a part of a subdivision named the Bluffs at Camp Creek (formerly The Overlook at Camp Creek). In 2006 (case 2006Z 0042), a rezoning was granted to allow for a CUP (Community Unit Plan) and it was approved for the development of up to 255 residential lots with 25ft front setbacks. Currently, there is an application for a modification to reduce those setbacks to 20 feet to allow for unity. There was a pause in development and change of

ownership. When the applicant was ready to continue the development, they were not able to do so due to a moratorium in place.

In late 2018, the applicant met with Staff to obtain guidance on how to proceed with the limited zoning options available at that time. There was a moratorium in existence that prevented the applicant from seeking a rezoning petition. The only option staff was able to present to the applicant was to retain the current zoning and seek a variance for relief.

**ADJACENT ZONING AND LAND USES:**

The properties to the east of the subject property are zoned MIX (Mixed Use District), CUP (Community Unit Plan), and R-3 (Single Family Dwelling District). The properties to the west are zoned A (Medium Density Apartment District) and CUP. The properties to the south are zoned R-4 & CUP. The properties to the west are zoned R-3. The properties to the north are zoned R-4.



## **APPLICABLE CODE REQUIREMENTS**

**5.1.3.B. Minimum Setbacks:** Front yard: 60 feet; Side Yard: 25 feet adjacent to interior line; Rear yard: 50 feet

**5.1.3 Minimum Accessory Structure Requirements.** Accessory structures may be in rear or side yards but shall not be located within a minimum yard

## **VARIANCE CONSIDERATIONS**

Staff is including the specific conditions that must be considered for a variance to be granted to assist the Zoning Board of Appeals in considering the application and its merits. These considerations include:

- (i) Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the *Zoning Resolution*; or,
- (ii) The application of the provision of the *Zoning Resolution* to a piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public; or,
- (iii) Conditions resulting from existing foliage or structures bring about a hardship whereby a sign meeting minimum letter size, square footage and height requirements cannot be read from an adjoining public road.

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## **PUBLIC PARTICIPATION**

The applicant had one person in attendance, and he wanted to understand the request and make certain it was consistent with the previous variance request.

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## **STAFF COMMENTS**

Engineering: No comments

Arborist: No comments

Environmental: No comments

Public Works: No comments

Transportation: No comments

MARTA: No comments

Fulton County Schools: No comments

Fire: No comments

Legal: No Comments

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**STAFF RECOMMENDATION**

The applicant has petitioned to reduce the required front yard setback from 35 ft to 20 ft to allow for construction on the remaining 34.73 acres.

The variance application was submitted within the filing deadline of March 27, 2019. It was discovered shortly afterwards, there has not been a submittal of a subdivision plat for this parcel. A Land Disturbance Application is in the review cue. Staff is unsure if LDP request encompasses the variance request.

It is staff's opinion the applicant has not demonstrated that the existing zoning regulations present a difficulty in making use of the subject property. The site plan submitted is conceptual and does not depict the actual layout of the proposed development. It is of Staff's opinion an unnecessary hardship is being created.

The variance before us creates an unnecessary hardship. The applicant is seeking to reduce setbacks on lots that do not exist. The applicant has not received approval from the City Engineer regarding the submitted Land Disturbance Permit and there has been no division plat submitted to the City of South Fulton. It is Staff's opinion that a hardship is not currently present in terms of size, shape and topography; however, if this variance is granted, it would remain in harmony with the general purpose and intent of this Zoning Resolution and would not cause detriment to the public.

Staff recommends **DENIAL** on the basis that no hardship was found in terms of the size, shape and topography of the subject lot. Staff recommend the applicant to return after they have received approval from Engineering to proceed with the subdivision plat.

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PREPARED BY:

Keedra T. Jackson, Senior Planner

REVIEWED BY:

Shayla Reed, Director