Johns Creek

Board of Zoning Appeals Public Hearing
February 16, 2016 — 7:00 P.M

CASE NUMBER:	**V-16-003; V-16-004**
PROPERTY LOCATION:	**3005 Old Alabama Road, Johns Creek, GA 30022** **1st District, 2nd Section Land Lots 868, 869**
CURRENT ZONING:	**C-1 (Community Business District) Conditional**
PARCEL SIZE:	**2.48 Acres (per application)**
PROPERTY OWNER(S):	**Old Alabama Square Station, LLC**
STAFF RECOMMENDATION:	**DENIAL**

REQUEST

The applicant has requested two variances for a proposed ATM kiosk in the parking lot of the Old Alabama Square shopping center at 3005 Old Alabama Road. The first variance, V-16-003, is to exceed the eight-foot maximum height of their proposed ATM kiosk by 23". This brings the total height of the ATM to 9'11". The second variance, V-16-002, is to allow the proposed ATM kiosk to be located in the front of the parking lot, where it is not adjacent to the building. An ATM kiosk is considered an out of store marketing device which is a sign. It is required to be installed adjacent to the building per the Community Standards in Article XII.

The City of Johns Creek Zoning Ordinance defines an *Out of Store Marketing Device* as "any facility or equipment which is located outside of a primary building on a site zoned for non-residential uses, which is used for the primary purpose of providing a product or service without the owner's immediate presence, and which is manufactured to include a color, form, graphic, illumination, symbol, and/or writing thereon to communicate information regarding the product or service provided thereby to the public. Examples of out-of-store marketing devices include: fuel pumps, bank ATM units, vending machines, newspaper racks, drink machines, ice boxes, and phone booths.

The subject property is zoned C-1 (Community Business District) Conditional and is located within the Old Alabama shopping center. The shopping center is located to the south of Old Alabama Road. The proposed ATM kiosk is located towards the end of one of the parking bays, close to Old Alabama Road. The ATM would be visible from the public right-of-way.

The area proposed for the ATM is currently used for striped parking spaces. The applicant is proposing to remove 10 parking spaces in order to install the ATM and its drive aisle. The parcel currently has 105 parking spaces, of which 75 are required per the Zoning Ordinance. If approved, the center will be left with 95 parking spaces, which meets the requirements of the Zoning Ordinance.

The actual ATM kiosk is only 100.2" tall and 54.8" wide. However, there is an overhang attached to the ATM which increases the height to 119" (9'11"). The depth of the overhang is 80". The ATM location is approximately 200' from the front of the principal building on the site.

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The Department would note that variances may only be granted to exceed the allowable height of a sign by not more than 20 percent. The applicant's request of a 119" ATM kiosk exceeds this maximum permitted variance for height by 3.8". If the requested variance is granted, the applicant would be required to reduce the proposed sign height by 3.8".

At the January 19, 2016 BZA Hearing, the board reviewed a similar application for a freestanding ATM kiosk at 10955 Jones Bridge Road (V-16-001; V-16-002). The variance for the increased height of the structure was denied, while the variance for the location of the ATM was approved.

ADJACENT ZONING AND LAND USES

3005 Old Alabama Road is located within the Old Alabama Square shopping center which is located to the south of Old Alabama Bridge Road. The shopping center is made up of several buildings and four parcels. The Haynes Market shopping center, which has a Kroger grocery store as its anchor tenant, is located across Old Alabama Road and is zoned C-1 Conditional. Sunrise Ivey Ridge Assisted Living is also located across Old Alabama Road and it is zoned O-I Conditional. The Chartwell neighborhood (R-4A) is adjacent to the rear of the shopping center. The same shopping center is located to the east and the west of the subject property.

APPLICABLE CODE REQUIREMENTS

City of Johns Creek Zoning Ordinance; Article XXXIII: Signs; Section 33.26: Restrictions Based on Location; E. Commercial and Mixed Use Districts; 7. Out of Store Marketing Device:

> Out of store marketing devices shall be allowed, shall not exceed eight (8) feet in height, and shall not be illuminated except for illumination intrinsic to the device. No permit shall be required.

City of Johns Creek Zoning Ordinance; Article XII-E: Community Standards; Section 12E.5.2: Miscellaneous Provisions:

> Outside storage is prohibited except LP tanks, garden centers and plant nurseries. A maximum of two out of store marketing devices (ie. Drink machines, video drop-boxes) may be permitted, provided they are located adjacent to the building.

VARIANCE REQUIREMENTS FOR V-16-003: HEIGHT OF OUT OF STORE MARKETING DEVICE (SIGN)

Staff is including the specific conditions that must be considered for a variance to be granted in an effort to assist the Board of Zoning Appeals in considering the application and its merits. These considerations from Section 33.12 of the Zoning Ordinance include:

1. The topography of the lot on which the sign is located or to be located renders it impossible to comport with the strict standards of this Article; or
2. The natural features of the lot on which the sign is located or to be located, or of the land immediately adjacent to the Lot, impairs the visibility of the sign such that it cannot be seen.

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VARIANCE REQUIREMENTS FOR V-16-004: LOCATION OF OUT OF STORE MARKETING DEVICE

Staff is including the specific conditions that must be considered for a variance to be granted in an effort to assist the Board of Zoning Appeals in considering the application and its merits. These considerations from Section 22.3.1 of the Zoning Ordinance include:

1. 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 Ordinance; or

2. The application of the particular provision of the Zoning Ordinance to a particular 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.

STAFF RECOMMENDATION

V-16-001 does not meet the standards of a hardship as described in the City's Sign Ordinance. Variances are to be granted only in cases where a hardship is caused by either the topography of a lot rendering it impossible to conform to the standards of the ordinance, or if the natural features of a lot impair the visibility of a sign. The subject property does not meet either of these conditions. There are no topographical challenges that would affect the applicant's ability to install an ATM meeting the standards of the zoning ordinance, nor are there any natural features on the lot that would impair the visibility of an ATM constructed in such a way as to avoid the necessity of variances. Therefore the Department recommends **DENIAL** of V-16-003.

V-16-002 does not meet the standards of a hardship as described in the City's Appeal section of the Zoning Ordinance. The freestanding ATM does not have to be located near the street and away from the building as there are no size, shape or topography issues which yield the area adjacent to the building unusable. In addition, placing the ATM kiosk at the street does not meet the intent of the Community Standards which include establishing "a uniform procedure and regulations for providing for the protection, enhancement, preservation, unity of design and use of places, sites, buildings, structures, streets, neighborhoods, and landscape features in the City of Johns Creek." Placing the ATM at the street draws too much attention to the structure, allowing it to act as an advertising device. It also visually distracts from the parking lot and its landscape areas, which are also regulated by the Zoning Ordinance to provide quality in the built environment. Therefore the Department recommends **DENIAL** of V-16-004.

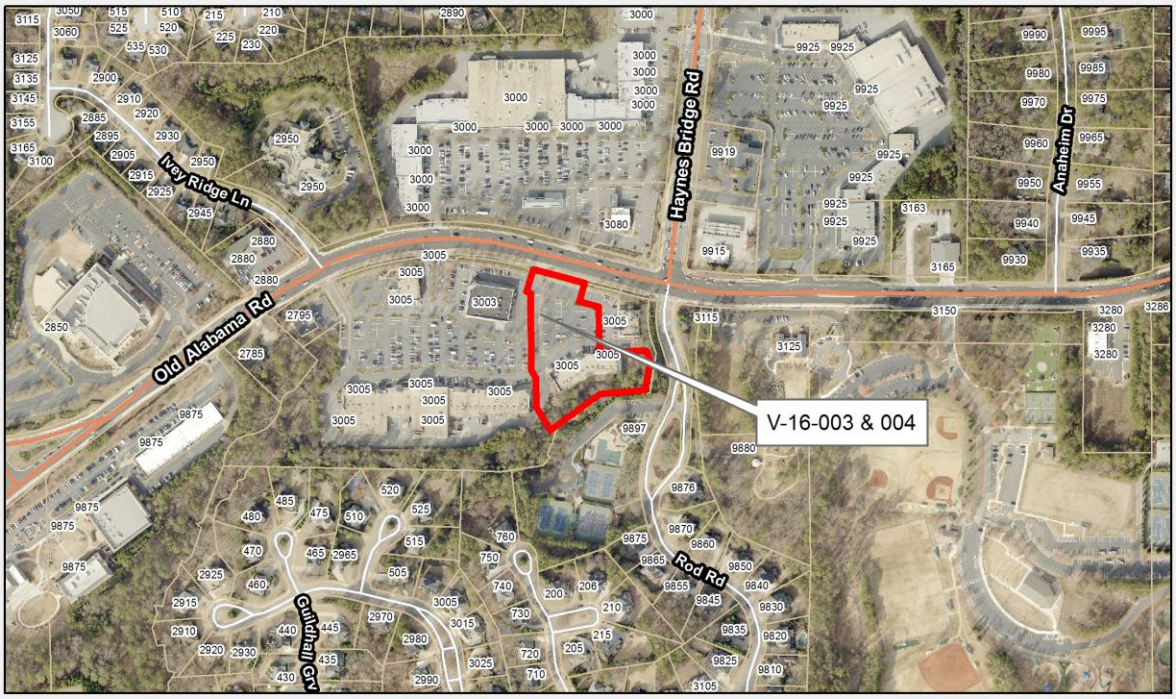
RECOMMENDED CONDITIONS

Based upon the findings and conclusions herein, Staff recommends **DENIAL** of V-16-003, and V-16-004. If the variances are approved, Staff recommends the following conditions:

1. The ATM shall be constructed in general accordance with the site plan received by the Community Development Department on December 1, 2015.

2. No more than 10 parking spaces shall be removed in order to accommodate the ATM kiosk.

3. The applicant shall reduce the height of the sign to 115.2" in order to meet the requirements of the Sign Ordinance for variances for sign height.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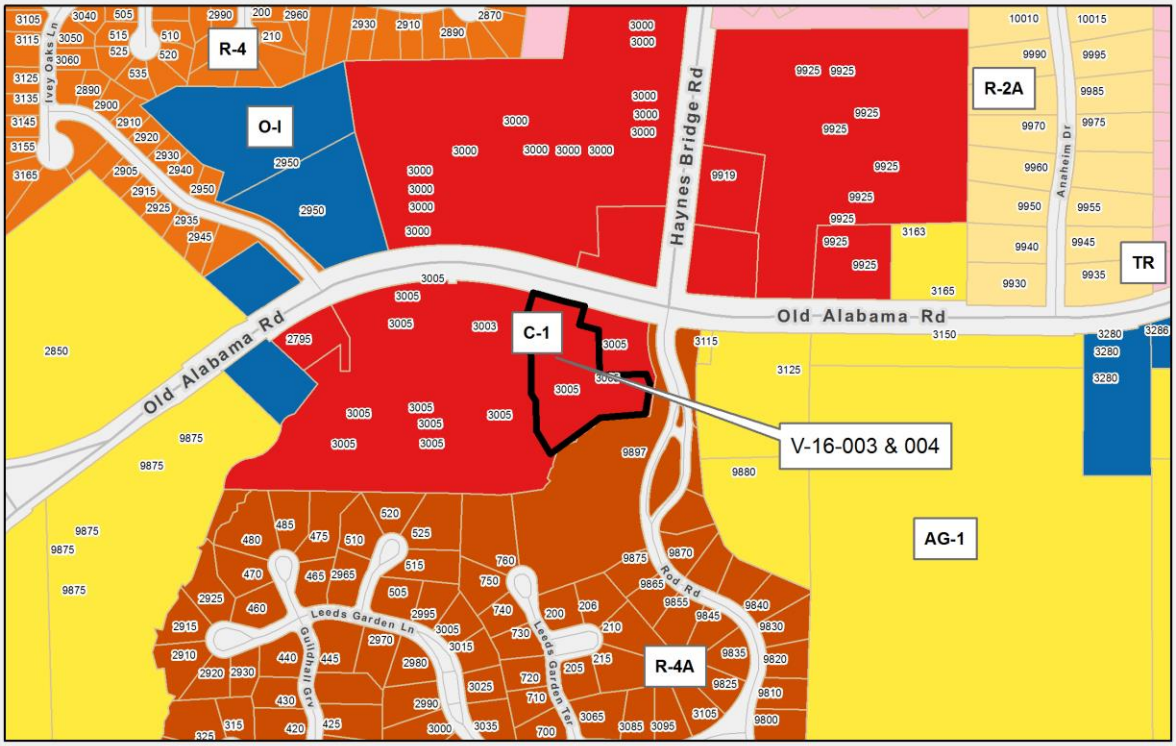
Old Alabama Rd
Haynes Bridge Rd
Anaheim Dr
Rod Rd
Guildhall Grv
V-16-003 & 004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Rod Rd
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