

***Board of Zoning Appeals Public Hearing***  
***January 19, 2016 — 7:00 P.M***

<b>CASE NUMBER:</b>	<b>V-16-001; V-16-002</b>
<b>PROPERTY LOCATION:</b>	<b>10955 Jones Bridge Road, Johns Creek, GA 30022 1<sup>st</sup> District, 1<sup>st</sup> Section Land Lots 167, 168, and 188</b>
<b>CURRENT ZONING:</b>	<b>C-1 (Community Business District) Conditional</b>
<b>PARCEL SIZE:</b>	<b>17.45 Acres (per application)</b>
<b>PROPERTY OWNER(S):</b>	<b>Monarch North Bridges, LLC</b>
<b>STAFF RECOMMENDATION:</b>	<b>DENIAL</b>

**REQUEST**

The applicant has requested two variances for a proposed ATM kiosk in the parking lot of the North Bridges shopping center at 10955 Jones Bridge Road. The first variance, V-16-001, is to exceed the eight-foot maximum height of their proposed ATM kiosk by approximately 3-inches (2 5/8"). This brings the total height of the ATM to approximately 8'3" (8' 2 5/8"). 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 North Bridges shopping center. It is located on the northeast corner of the intersection of Jones Bridge Road and State Bridge Road. The proposed ATM kiosk is located towards the end of one of the parking bays, close to Jones Bridge Road. The ATM would be visible from the public right-of-way. There was an ATM kiosk at this location previously, but it has been completely removed which triggered compliance with the current City of Johns Creek Zoning Ordinance. No parking spaces will need to be removed as the location for the ATM and the drive through is already in place.

The actual ATM kiosk is only 7' 9 5/8" tall and 5' 10" wide. However, there is an overhang attached to the ATM which increases the height to 8' 2 5/8". The depth of the overhang is 6' 5 1/2". The ATM location is approximately 318' from the front of the principal building on the site.

**ADJACENT ZONING AND LAND USES**

10955 Jones Bridge Road is located within the North Bridges Shopping Center which is on the northeast corner of the intersection of Jones Bridge Road and State Bridge Road. There are two small outparcels along Jones Bridge Road, which are also zoned C-1 Conditional (10905 & 10965 Jones Bridge Road). Additional C-1 Conditional properties abut the center to the north, along Jones Bridge Road, and to the south, along State Bridge Road. Saddle Bridge (R-4 Conditional) and Abberly Township (MIX Conditional) are adjacent to the rear of the shopping center. The three adjacent corners of the intersection are also zoned C-1 Conditional.

**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-16-001: 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.

**VARIANCE REQUIREMENTS FOR V-16-002: 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**

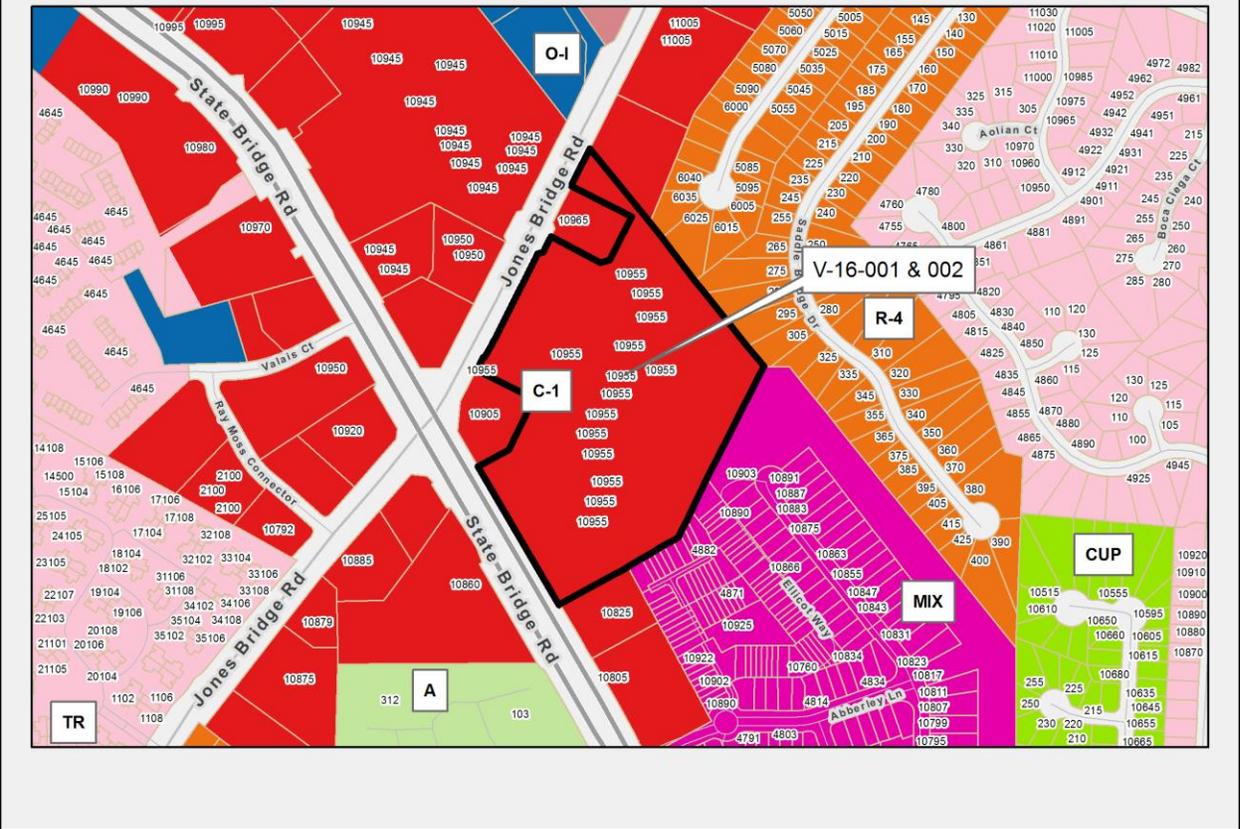
V-16-001 does not meet the standards of a hardship as described in the City's Sign Ordinance. Variances are to be granted only in cases where a hardship is caused by either the topography of a lot rendering it impossible to conform to the standards of the ordinance, or if the natural features of a lot 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-16-001.

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-16-002.

### **RECOMMENDED CONDITIONS**

Based upon the findings and conclusions herein, Staff recommends **DENIAL** of V-16-001, and V-16-002. 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 parking spaces shall be removed to accommodate the ATM kiosk.



## Community Development