

VARIANCE(S):

V-2014-008 & V-2014-010

**CITY OF SUWANEE
VARIANCE ANALYSIS**

CASE NUMBER(S): JVA-2014-008
JVA-2014-010

REQUEST(S): JVA-2014-008: REDUCED FRONT YARD
SETBACK
JVA-2014-010: REDUCED BUFFER AREA

APPLICABLE SECTION: JVA-2014-008: SECTION 509 (C) DISTRICT
DEVELOPMENT STANDARDS

JVA-2014-010: SECTION 509 (C) DISTRICT
DEVELOPMENT STANDARDS

LOCATION: 3390 ANNANDALE LANE
DISTRICT/LAND LOT: 7-194-012
ZONING: M-1 (LIGHT INDUSTRY DISTRICT)

APPLICANT(S): MAISER ABONEAAJ
1960 SATELLITE BOULEVARD STE. 4000
DULUTH, GA 30097

OWNER(S): NAZARETH GROUP, LLC
1960 SATELLITE BOULEVARD STE. 4000
DULUTH, GA 30097

CONTACT: MARIAN ADEIMY
CONTACT PHONE: 770-822-0900

STAFF RECOMMENDATION: JVA-2014-008: **APPROVAL WITH CONDITIONS**
JVA-2014-010: **APPROVAL WITH CONDITIONS**

ANALYSIS:

The applicant seeks two variances from Section 509 of the Zoning Ordinance. The first variance (V-2014-008) is from Section 509 C.4 to allow for a reduction of the required front yard for M-1 properties. The second variance (V-2014-010) is from Section 509 C.8 to allow for a reduction of the minimum buffer area. The variances are requested in order to allow for the development of a 40,000 square foot addition onto a 43,750 square foot office warehouse building located at 275 Satellite Boulevard. The owner, S&A Industries provides design, consultation and renovation services to hotel chains. They purchased the adjacent property at 3390 Annandale Lane and rezoned it to M-1 in order to accommodate the proposed addition. A portion of 3390

Annandale Lane, currently developed with a single family dwelling, was set aside to remain R-100.

The two adjoining properties total 6.05 acres. The existing office/warehouse building is 43,750 square feet and is on a 3.34 acre parcel at 275 Satellite Boulevard located at the intersection of Satellite Boulevard and Annandale Lane. The applicant proposes to expand the office/warehouse onto the adjacent property (currently occupied by the single-family dwelling) including the expansion of an existing truck court and the construction of a stormwater management facility. The applicant plans to combine the existing 3.34 acre parcel with a portion of the adjacent parcel to accommodate the expansion. The remaining portion of 3390 Annandale Lane that contains the single family home will remain R-100 and be subdivided into its own lot.

The property is surrounded by industrial, institutional and residential uses. To the north are single family homes and Annandale Village, zoned R-100 and PMUD respectively. Annandale Village provides life assistance and housing to adults with developmental disabilities. To the east across Annandale Lane, is a small multi-tenant office building zoned M-1. To the south across Satellite Boulevard, is a large industrial building zoned M-1. The property to the west is located in unincorporated Gwinnett County and is zoned M-1.

The City's Zoning Ordinance grants the Zoning Board of Appeals the authority to grant variances. According to Section 2006 of the Ordinance, the Board is authorized to grant variances when literal enforcement of the Ordinance will result in unnecessary hardship to a property owner. The zoning ordinance also states that variances may be granted when relief would not cause substantial detriment to the public good nor impair the purposes or intent of the Zoning Ordinance.

JVA-2014-008

Section 509 (C) of the Zoning Ordinance regulates M-1 district development standards. Section 509 C.4 states:

- C. DISTRICT DEVELOPMENT STANDARDS.
 - 4. Minimum Yard Abutting a Public Street.
 - a. 50 feet

The applicant proposes to construct an addition to the existing office/warehouse located at 275 Satellite Boulevard. The proposed addition is 40,000 square feet and is located on the west side of the building. The addition follows the front building line of the existing structure. However, due to an irregularity of the right-of-way along this stretch of Satellite Boulevard the southwest corner of the proposed expansion encroaches into the minimum required front yard. The adjacent front property lines of the properties to the east and west of the subject property are 28 feet and 18 feet closer to the road than the subject parcel's front property line. If the right-of-way of Satellite Boulevard was consistent along this portion of Satellite Boulevard, the building addition would be behind the required 50 foot front yard setback. The encroachment is roughly nine feet, thus proposing a building 41 feet away from the right-of-way.

In conclusion, the subject property does appear to have a situation which rises to the level of hardship as a result of the irregularity of the right-of-way. If the right-of-way was consistent, the proposed building would be in compliance with the zoning ordinance. Adjacent buildings are similarly located from the edge of the road. In addition, the applicant is proposing to match the front building line which is logical and allows for more separation from the remaining single family home at the rear of the site. As such, the Planning Department recommends **APPROVAL WITH CONDITIONS** of V-2014-008.

V-2014-010

Section 509 (C) of the Zoning Ordinance regulates M-1 district development standards. Section 509 C.8 states:

C. DISTRICT DEVELOPMENT STANDARDS.

8. Minimum Buffer Area.
 - a. 50 feet if abutting a residential zoning district in accordance with standards set forth in the ordinance.

The applicant is requesting a variance to allow for a reduced buffer area between the M-1 zoned property and the R-100 zoned property, both owned by the applicant, in order to allow for construction of a stormwater management facility in the 50 foot buffer area. The applicant is proposing a 10 foot buffer area in place of the typical 50 foot buffer area, requiring a variance of 40 feet.

The proposed stormwater management facility would be a detention pond that provides stormwater quantity and quality protection. This type of facility is typically a grassed pond with some vegetation. This means the intrusion into the required buffer area will be pervious. The intent of the buffer ordinance is to prevent buildings, parking areas, accessory uses and the noises associated with light industrial uses from negatively impacting adjacent residential properties. The closest impervious parking area is approximately 100 feet from the residentially zoned property.

Even with the encroachment of the stormwater management facility into the required buffer area, there is still room for additional tree planting. A mix of trees, both deciduous and evergreens, along with shrubs and other vegetation should be provided for screening and to minimize visual impacts from the warehouse facility. In addition, the residentially zoned property is currently owned by the applicant and was purchased to accommodate the expansion. The applicant made the decision to amend their zoning request and maintain the portion of the property with the house as residential. This provides a better transition between the industrial uses along Satellite Boulevard and residential property along Annandale Lane than if the entire parcel were zoned to M-1. Provided the single family residence is not sold to another owner until after the grading in the buffer area is completed, the residential parcel should not be adversely affected.

In conclusion, the subject property does not appear to have a situation which rises to the level of hardship. However, since the owner of the residential parcel is also the owner of the expansion,

provided the property does not change hands, approving a variance for a reduced buffer would not undermine the intent of the Zoning Ordinance. The applicant is interested in minimizing the visual impact of the building addition and stormwater management facility from residential properties. As such, it is likely that approval of this variance would not cause a substantial detriment to the public good nor impair the purposes or intent of the Zoning Ordinance. Therefore, staff recommends **APPROVAL WITH CONDITIONS** of V-2014-010.

V-2014-008

Planning Department Recommendation:

Approval of a variance to allow for a reduction of the minimum front yard setback subject to the follow conditions:

1. The site shall be developed substantially similar to the site plan labeled Exhibit "C"
2. The building addition shall use the similar building materials and colors as the existing office/warehouse.
3. The front yard setback shall be reduced by no more than 10 feet.

V-2014-010

Planning Department Recommendation:

Approval of a reduction of the minimum buffer area subject to the following conditions:

1. The stormwater facility shall be the only intrusion into the minimum buffer area.
2. Additional supplemental plantings, including deciduous and evergreen trees and shrubs, shall be provided between the residential property and the stormwater facility, particularly within the area between the pond and Annandale Lane. A landscape plan shall be approved by the Planning and Inspections Director.
3. Buffer impacts shall be minimized. Buffer shall be a minimum of 10 feet.
4. Prior to selling the residential portion of the property, an exemption plat creating the residential lot shall be submitted to the City for review and approval. If the residential land sells prior to the completion of the proposed expansion, the City shall be provided with a letter from the purchaser stating their knowledge of the reduced buffer. Said letter shall be provided prior to closing of the sale of the property.

Standards for Consideration

Pursuant to Section 2009A of the City of Suwanee Zoning Ordinance, the City finds the following standards are relevant in considering all applications for a Variance.

A. Will approval of the variances unreasonably increase the congestion in public streets?

Approval of the variances would not increase the congestion in public streets.

B. Will approval increase the danger of fire or endanger public safety?

Approval of the variances would not increase the danger of fire or endanger public safety.

C. Will approval unreasonably diminish or impair established property values within the surrounding area?

Approval of the variances would not unreasonably diminish or impair property values within the surrounding area.

D. Will approval in any other aspect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City?

Approval of the variances would not impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

**APPLICATION FOR VARIANCE FROM THE
CITY OF SUWANEZ ZONING BOARD OF APPEALS**

Please complete this application and submit with all necessary attachments as stated on the Variance Information Form (please type or print)

APPLICANT INFORMATION

Name: Maiser Aboneaaj
Address: 1960 Satellite Blvd., Suite 4000
City: Duluth
State: Georgia
Phone: (770) 822-0900
E-mail address: madeimy@atclawfirm.com

OWNER INFORMATION

Name: Nancy A. Blakeman
Address: 3390 Annandale Lane
City: Suwanee
State: Georgia
Phone: (770) 945-3566

CONTACT PERSON: Marian C. Adeimy, Attorney for Applicant

PHONE: (770) 822-0900

ADDRESS OF PROPERTY 3390 Annandale Lane, Suwanee, Georgia

LAND DISTRICT 7 LAND LOT 194 PARCEL 012 LOT _____

SUBDIVISION OR PROJECT NAME (IF APPLICABLE) _____

ZONING M-1

VARIANCE REQUESTED Variance from the front setback along Satellite Boulevard from 50 feet to 41.1 feet for the south corner of the proposed building.

NEED FOR VARIANCE Existing right of way and property shape require minor variance to square and develop warehouse addition for the existing business located at 725 Satellite Blvd. (S&A Industries). The subject property also has a pending rezoning request from R-100 to M-1, to allow for warehouse and distribution uses.

***A VARIANCE FROM A CONDITION OF ZONING CANNOT BE ACCEPTED.
SECTION 2007, APPLICANT AND/OR A REPRESENTATIVE.**

*****The property owner, applicant and /or a representative thereof shall be present at all meetings of the Zoning Board of Appeals, Planning Commission and/or Mayor and Council at which official action is requested on any variance or application for amendment. The failure of the property owner, applicant and/or a representative to attend such meetings shall result in the denial of said variance or application for amendment.**

ANDERSEN | TATE | CARR

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Marian C. Adeimy
Direct Phone: (678) 518-6855
Direct Fax: (770) 236-9702

Email: madeimy@atclawfirm.com

June 27, 2014

Via Hand-Delivery

City of Suwanee Zoning Board of Appeals
c/o City of Suwanee Planning Department
Attn: Josh Campbell, Planning Director
330 Town Center Avenue
Suwanee, Georgia 30024

Re: LETTER OF INTENT IN SUPPORT OF VARIANCE APPLICATION FOR APPLICANT MAISER ABONEAAJ

In conjunction with the pending rezoning request, JRZ-2014-005, the Applicant, Maiser Oboneaaj (the "Applicant"), principal for S&A Industries, submits this Application for a Variance from the front setback for the existing business, property and expansion located at 275 Satellite Blvd. and 3390 Annandale Lane, Suwanee, Georgia (collectively, the "Property"). The Applicant seeks a front setback variance from 50 feet to 41.1 feet, due to the existing property line, right of way and building design, to allow for a warehouse expansion to the existing business.

S&A Industries provides world class development and property investment, design, consultation and renovation services to major investors and hotel chains throughout the Southeast, U.S. and internationally. S&A's members are active members of the Suwanee and Gwinnett communities and their business promotes economic growth and stability for the City of Suwanee. S&A has had no complaints or code violations at its current location, and would use both Properties to build a quality expansion and continue its successful business.

S&A's current property location, 275 Satellite Blvd., is zoned O&I and has permitted their business operations and any non-conforming uses. However, the Applicant also seeks to add a 40,000 square foot warehouse, distribution, and additional access on the adjacent parcel, 3390 Annandale Lane. While currently operating under the existing, non-conforming use, the Applicant is seeking to rezone both Properties to M-1, to allow for the continued warehouse and distribution uses. Upon obtaining approval of the pending rezoning and requested variance, the Applicant plans to use quality building materials, consistent with the existing building and in accordance with all applicable ordinances, and subject to staff approval.

As stated in the 2030 Comprehensive Plan for the City of Suwanee and the I-85 Business District (p. 55) promote "a moderate intensity commercial area combining a significant inventory of industrial and business park uses" for this area. The Plan also

identifies numerous commercial and industrial sites ready for development. The intent of that 2030 Comprehensive Plan is met by the proposed expansion, variance, and continued commercial and warehouse uses.

The requested rezoning proposes a use and continued business and warehousing use that is absolutely compatible with the character of the industrial and business corridor within which the Property is located. Nearby properties already feature similar industrial and commercial uses. The remaining single family uses are not compatible or consistent with the Comprehensive Plan and neighboring uses in the area. Similar warehousing, distribution and industrial uses have proven to be entirely compatible with the property in the vicinity of the subject Property, further demonstrating the suitability of the uses proposed by this Variance Application.

The property has access to a public water supply, public sanitary sewer, and convenient access to collector streets, major thoroughfares and a major state highway. The Property has remained undeveloped due to its size and zoning. If the Variance Application is not approved, the current zoning and proposed zoning conditions under the M-1 zoning district, property shape and size make the Property unmarketable with no reasonable, economic use.

The Applicant respectfully requests that the Zoning Board of Appeals and staff recommend and approve the Applicant's Variance request.

II. Constitutional and Statutory Justifications

The portions of the Zoning Ordinance for the City of Suwanee which classify or condition the Property into any more or less intensive zoning classification and/or zoning conditions other than as requested by the Applicant and property owner are and would be unconstitutional in that they would destroy the Applicant's and property owner's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the City of Suwanee Zoning Ordinance, as applied to the Property, which restricts its use to the present zoning classification, uses, regulations, requirements, and conditions is unconstitutional, illegal, null and void, constituting a taking of the Applicant's and the property owner's property in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia of 1983, and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States denying the Applicant and property owner any economically viable use of the Property while not substantially advancing legitimate state interests.

The Property is presently suitable for development subject only to the approval of the requested variance and rezoning hereby requested by the Applicant, and is not economically suitable for development under its present zoning and development classification, conditions, regulations, and restrictions due to its location, shape, size, surrounding development, and other factors. A denial of any of the requested variances would constitute an arbitrary and capricious act by the Mayor, Council, and/or Zoning Board of Appeals without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Zoning Board of Appeals to approve the Applicant's and property owner's requested variance, with only such additional conditions as agreed to by the Applicant, so as to permit the only feasible economic use of the Property, would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution.

Any conditions subjecting the Property to conditions which are different from the requested variances and conditions by which the Applicant may amend its application, to the extent such different conditions would have the effect of further restricting the Applicant's and the Owner's utilization of the subject Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions as set forth hereinabove.

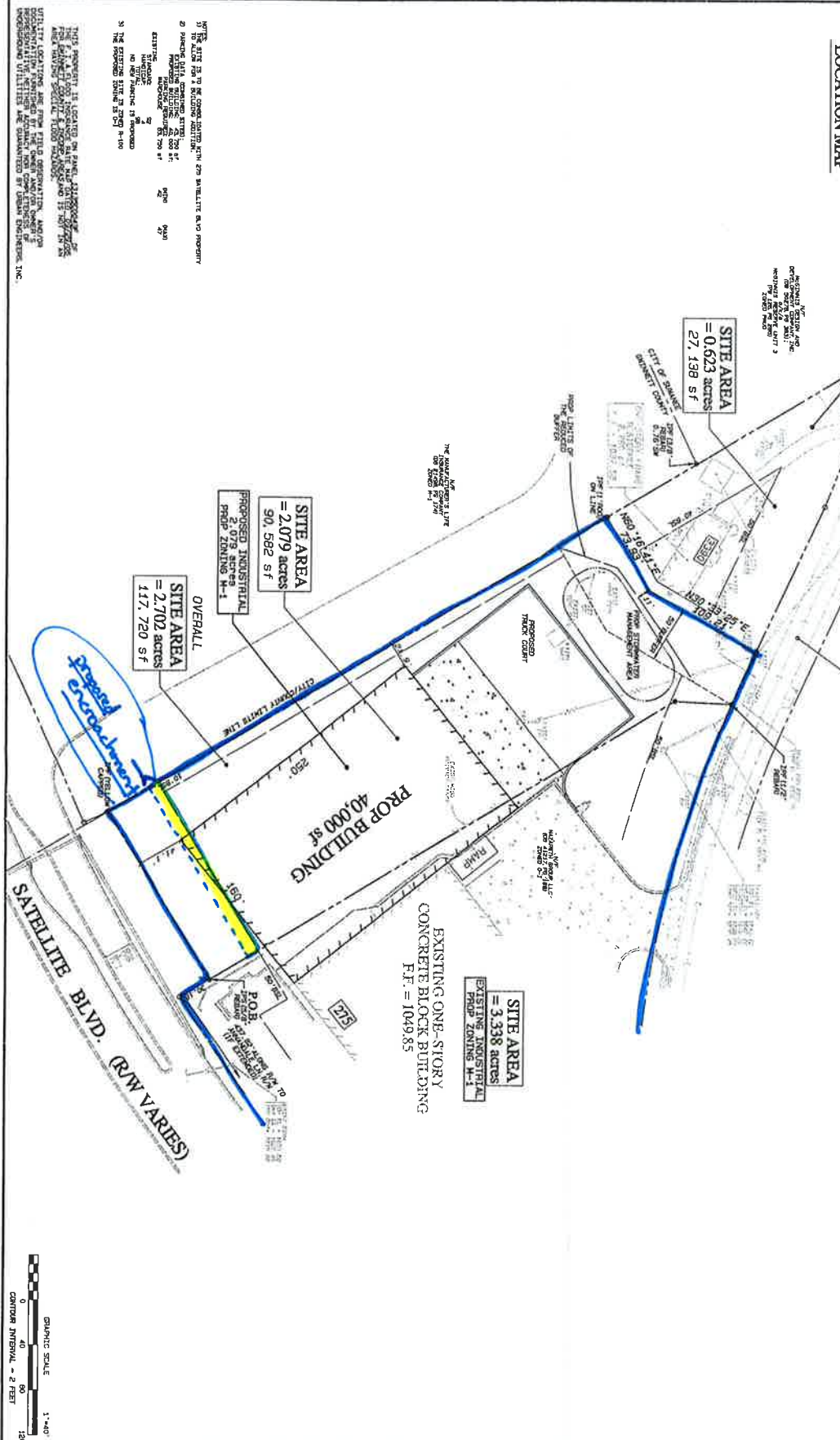
III. Conclusion

Thank you in advance for your time and consideration of the Applicant's variance request. Approval of these requests will result in a continued, quality business in the City of Suwanee. The Applicant and its representatives welcome the opportunity to meet with the Zoning Board of Appeals and staff. The Applicant respectfully requests your approval of this Variance Application.

Respectfully submitted this 27th day of June, 2014.



Marian C. Adeimy
Attorney for Applicant



THIS PROJECT IS LOCATED ON LAND ADJACENT TO THE LAND OF THE CITY OF SUWANEE, GEORGIA. THE CITY OF SUWANEE HAS REVIEWED AND APPROVED THIS PROJECT AND THE CITY ENGINEER HAS ISSUED A PERMIT FOR THE PROJECT. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE PROJECT AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON.

- 1) THE SITE IS IN THE COMMERCIAL ZONING DISTRICT AND IS SUBJECT TO THE CITY OF SUWANEE'S ZONING ORDINANCES.
- 2) THE CITY OF SUWANEE HAS REVIEWED AND APPROVED THIS PROJECT AND THE CITY ENGINEER HAS ISSUED A PERMIT FOR THE PROJECT.
- 3) THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE PROJECT AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON.

UTILITY LOCATIONS ARE FROM FIELD OBSERVATION AND REPRESENTATIVE FIELD DATA. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE PROJECT AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON.

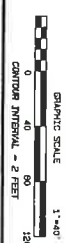
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Exhibit "C"

V.2014.008



PROJECT No.	21404-3
LAND LOT (S)	194
DISTRICT	720
COUNTY	SWANETT
SCALE	1" = 40'
DATE	05/29/14

SITE PLAN

NAZARETH GROUP, LLC
 275 SATELLITE BLVD NW
 SUWANEE, GA 30024

REVISIONS	
DATE	DESCRIPTION
7/21/14	1 UPDATED PER CLIENT COMMENT



Urban Engineers, Inc.

1904 MONROE DRIVE, N.E., SUITE 100
 ATLANTA, GEORGIA 30324

PHONE: (404) 878-5874 / FAX: (404) 878-5877



**APPLICATION FOR VARIANCE FROM THE
CITY OF SUWANEЕ ZONING BOARD OF APPEALS**

Please complete this application and submit with all necessary attachments as stated on the Variance Information Form (please type or print)

APPLICANT INFORMATION

Name: Maiser Aboneaaj
Address: 1960 Satellite Blvd., Suite 4000
City: Duluth
State: Georgia
Phone: (770) 822-0900
E-mail address: madeimy@atclawfirm.com

OWNER INFORMATION

Name: Nazareth Group, LLC
Address: 1960 Satellite Blvd., Suite 4000
City: Duluth
State: Georgia
Phone: (770) 945-3566

CONTACT PERSON: Marian C. Adeimy, Attorney for Applicant

PHONE: (770) 822-0900

ADDRESS OF PROPERTY 3390 Annandale Lane, Suwanee, Georgia

LAND DISTRICT 7 LAND LOT 194 PARCEL 012 LOT _____

SUBDIVISION OR PROJECT NAME (IF APPLICABLE) S&A Industries

ZONING M-1

VARIANCE REQUESTED Additional variance to reduce the transitional zoning buffer adjacent to the subdivided, residential tract also located at 3390 Annandale Lane from 50 feet to 10 feet, where the properties will be sufficiently buffered by the detention pond to be placed on the property.

NEED FOR VARIANCE Existing property shape and size require minor buffer variance to allow for a detention pond to be placed on the property for the warehouse addition to the existing business located at 725 Satellite Blvd. (S&A Industries). The subject property and adjacent industrial property and business are owned by the same business owner.

***A VARIANCE FROM A CONDITION OF ZONING CANNOT BE ACCEPTED.**

SECTION 2007, APPLICANT AND/OR A REPRESENTATIVE.

*****The property owner, applicant and /or a representative thereof shall be present at all meetings of the Zoning Board of Appeals, Planning Commission and/or Mayor and Council at which official action is requested on any variance or application for amendment. The failure of the property owner, applicant and/or a representative to attend such meetings shall result in the denial of said variance or application for amendment.**

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Direct Fax: (770) 236-9702

Email: madeimy@atclawfirm.com

July 15, 2014

Via E-mail

City of Suwanee Zoning Board of Appeals
c/o City of Suwanee Planning Department
Attn: Matt Dickinson
330 Town Center Avenue
Suwanee, Georgia 30024

Re: AMENDED LETTER OF INTENT IN SUPPORT OF PENDING REZONING AND VARIANCE APPLICATIONS FOR APPLICANT MAISER ABONEAAJ AND S&A INDUSTRIES (the "Applicant"); Rezoning No. JRZ-2014-005 and Variance (filed 6-27-14) ("Zoning Requests")

Dear Matt:

Please see the attached revised and amended site plan and amended requests for the pending Rezoning Application, JRZ-2014-005, and Variance Application filed on June 27, 2014. Please accept this amended site plan and the revised requests outlined herein as amendments to the pending Zoning Requests for the property located at 275 Satellite Blvd. and 3390 Annandale Lane, Suwanee, Georgia (collectively, the "Property").

Rezoning Amendment:

Specifically, upon additional review, the Applicant requests that the property located at 3390 Annandale Lane be partially rezoned M-1, to allow for the 40,000 sq. ft. building expansion to S&A Industries' current business, but that the M-1 rezoning be limited to the 2.079 acre tract identified on the attached site plan, as amended July 11, 2014. This zoning division would allow the remaining .623 acre tract and existing residential home to retain its R-100 status, as currently zoned, and allow for subdivision of those tracts at a later date.

The Applicant continues to seek a rezoning of the property located at 275 Satellite Blvd. to M-1, consistent with the existing business and warehouse uses already located on that property.

Variance Amendment:

As part of the Variance request, the Applicant requested and continues to seek a front setback variance from 50 feet to 41.1 feet, due to the existing property line, right of way and building design, to allow for a warehouse expansion to the existing business.

However, due to the requested division of the residential tract, the Applicant also amends its Variance application and requests a buffer variance for the buffer between the newly formed residential tract and industrial tract. That variance would allow for a 10 ft. minimum buffer where the proposed detention pond is adjacent to the future residential property line. The Applicant believes that this additional variance is appropriate because the pond serves as a natural buffer between those properties. The Applicant would continue and meet the 50 ft. buffer line shown on either side of the pond. The pond and connected buffer lines serve to meet the intent of the ordinance, to provide an appropriate buffer between uses.

Thank you in advance for your time and consideration of the Applicant's amended requests. The Applicant and its representatives welcome the opportunity to meet with the City, Council and Board Members to answer any questions.

Respectfully submitted this 15th day of July, 2014.



Marian C. Adeimy
Attorney for Applicant



EXHIBIT A

V-2014-008

V-2014-010

Location Map

Legend

-  Subject Parcels
-  Major Road

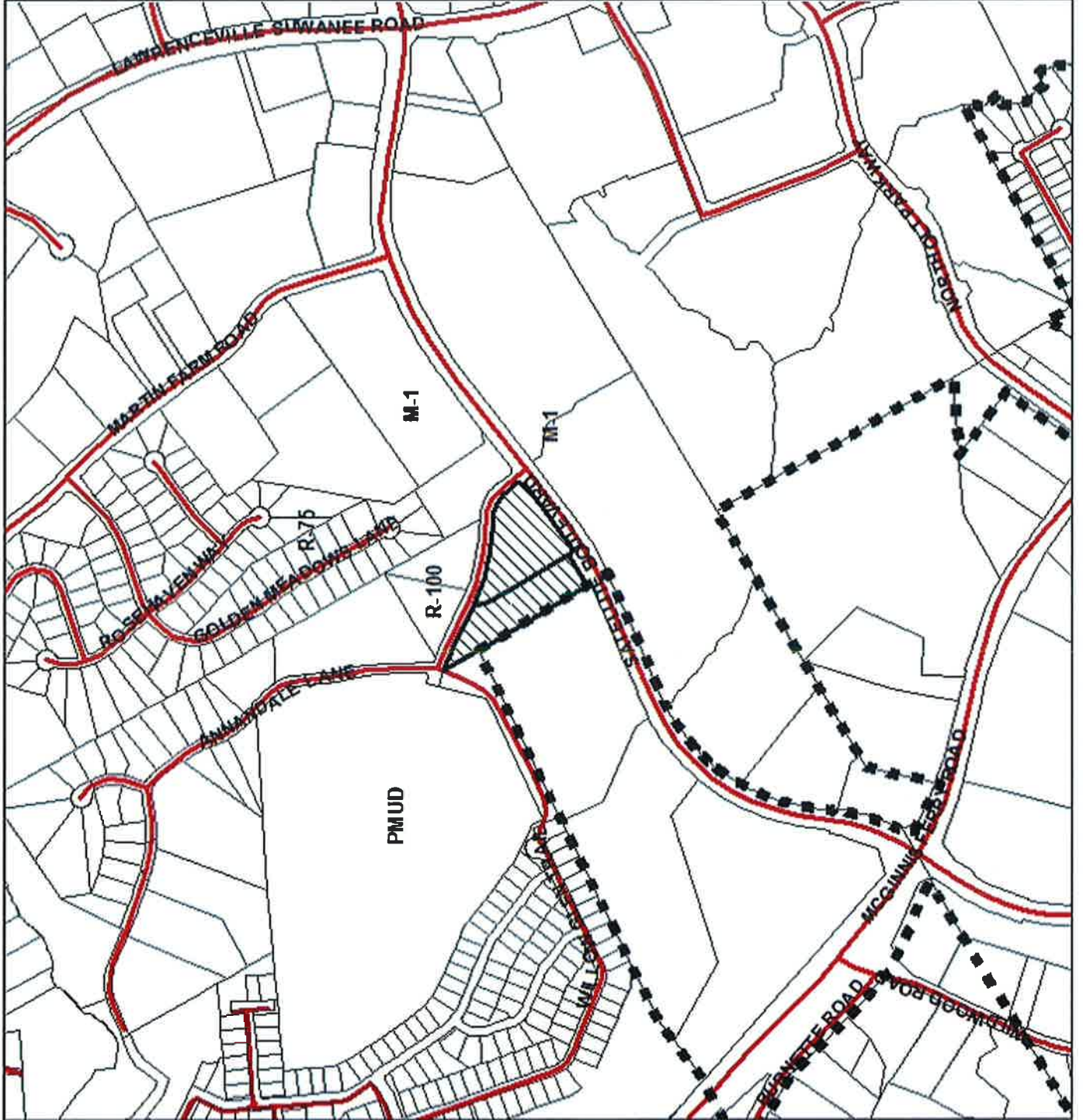




EXHIBIT B

V-2014-008

V-2014-010

Aerial Map

Legend



Subject Parcels

Major Road

