

James L. Napier
13655 Hopewell Road
Milton, GA 30004

August 7, 2024

Detailed Letter Regarding Secondary Variance Application for Appeal

Secondary variance request(s)

- I am making a secondary variance request regarding the interpretation by the Community Development Director regarding retaining walls as indicated in the City Code and UDC. I am also appealing to a review that the required engineered drawings and permit procedures have been provided and followed in reference to the following codes:

64-2403- Retaining Walls

(2)

Applicability and exemptions. The regulations and requirement contained herein shall apply to all retaining walls erected in the City of Milton, except the following:

a.

Retaining walls measuring a height of less than four feet, which shall be exempt from requiring a permit.

f.

Height limitation. No single retaining wall shall exceed six feet in height at any point except as allowed in subsection [64-2403\(2\)b.i.](#)

g.

Permitting. A permit shall be required for all retaining walls that retain four or more feet of unbalanced fill. Any retaining wall greater than six feet tall allowed by variance shall require engineered drawings:

i.

Walls above four feet in height shall require engineered drawings for city staff to review and approval.

UDC-

All of 9.3.7 Regarding retaining wall and required engineered drawings, approval, and permitting.

- I am making a secondary variance request regarding the interpretation by the Community Development Director regarding the definition of a Subdivision and Minor Subdivision as indicated in the City Code. I am also appealing that the procedures regarding Public Notice were not followed as required and in reference to the following codes:

Sec. 50-1. - Definitions.

Subdivider means any property owner, person, individual, firm, partnership, association, corporation, estate, trust, agent of property owner, or any other group or combination acting as a unit dividing or proposing to divide land so as to constitute a subdivision.

Subdivision, *major*, means a subdivision that does not qualify as a minor subdivision.

Subdivision, *minor*, means a subdivision of no more than three lots, or if any number of single family residential lots provided are each a minimum of three acres or more in size, that, at the time of subdivision, does not necessarily, but may involve:

(1)

A land disturbance permit;

(2)

New streets; or

(3)

The extension of a utility or other municipal facility.

Subdivision, *residential and nonresidential*, means any division of a lot, tract or parcel, regardless of its existing or future use, into two or more lots, tracts or parcels. The term "subdivision" means the act or process of dividing property, except that, where appropriate to the context, the term "subdivision" may be used in reference to the aggregate of all lots held in common ownership at the time of subdivision.

Sec. 50-71. - Compliance with city procedures and guidelines required.

All proposals to subdivide combine or recombine parcels of land under the provision of these regulations shall be in compliance with the City of Milton's Standard Procedures and Guidelines for Subdividing Property.

(1)

All final plats, replats and minor plats shall have the consent of the owners of all affected lots shown on said plat. Replats or new plats showing modifications to common areas shall require the consent of owners of all lots shown in the original final plat.

(2)

Proposals for the subdivision, combination or recombination of lawful previously platted lots or parcels, or portions thereof, shall be in compliance with the zoning ordinance ([chapter 64](#)).

- I am making a secondary variance request regarding the interpretation by the Community Development Director regarding Demolition as indicated in the City Code. I am also

appealing that the procedures regarding Public Notice were not followed as required and in reference to the following codes:

DIVISION 5. - DEMOLITION PERMITS

Sec. 64-2423. - Purpose.

In support and furtherance of its findings and determination that the historical, cultural, and aesthetic heritage of the City of Milton, Georgia is among its most valued and important assets and that the preservation of this heritage is essential to the promotion of the health, prosperity, and general welfare of the people.

The Milton City Council hereby declares it to be the purpose and intent of this article to establish criteria for approving demolition permits and provide for penalty provisions for the protection, perpetuation and use of buildings, having historical, cultural, archeological or aesthetic interest or value, in accordance with the provisions of the division.

([Ord. No. 15-05-246](#), § 1, 5-18-2015)

Sec. 64-2424. - Applicability.

A demolition permit shall be submitted to the community development department for the request of demolition for all buildings, structures, or objects and shall be reviewed by the City of Milton Design Review Board.

Sec. 64-2427. - Public hearings.

The design review board shall conduct a public hearing with respect to each demolition permit application before considering the application. The hearing shall be conducted according to the procedures established in [section 64-2082](#). Notice of the hearing shall be published in the newspaper utilized by Milton as the legal organ not less than 30 and not more than 45 days prior to the date set for the public hearing. Notice shall also be mailed to the owner of the property as reflected on the current tax records of Fulton County as retrieved by the city's geographic information system.

([Ord. No. 23-09-542](#), § 1, 9-6-2023)

Sec. 64-2082. - Regulations.

(g)

The department shall give notice by regular mail to the subject property owner and all property owners or current residents within 500 feet of the boundaries of the subject property with a minimum of 75 owners who appear on the city tax records as retrieved by the city's geographic information system. The notices shall be mailed a minimum of 14 days prior to the community zoning information meeting (CZIM). Renotification by mail is required when a petition is recommended for deferral by the planning commission for any amount of time or is deferred by the mayor and city council.

- I am making a secondary variance request regarding the interpretation by the Community Development Director regarding Permitting as indicated in the UDC. I am also appealing that the procedures regarding Public Notice were not followed as required and in reference to the following codes:
- **12.1.1. Summary of Review Authority**
- Table 12.1.1 summarizes the review, approval, and appeal authority of the various review bodies and
- officials that implement and administer this UDC. The table is not all-inclusive. If there are conflicts
- between Table 12.1.1 and the text of this UDC, then the text governs.
- **Table 12.1.1. Summary of Review Authority**
- Key:
- R = Review & Recommendation
- D = Final Decision
- A = Appeal
- PH = Public Hearing
- C = Confirmation
- **Approval Process**
- **Approval Authority**
- Cross Reference
- Design Review
- Board
- Comm. Dev.
- Director
- HPC
- Board of Zoning
- Appeals
- Planning
- Commission
- City Council **Legislative Review**
- UDC Text Amendment (Zoning) Sec. 12.3 R R-PH D-PH
- UDC Text Amendment (Not Zoning) Sec. 12.3 R D-PH
- Zoning Map Amendment (Rezoning) Sec. 12.3 R R R-PH D-PH
- Regulating Plans, Infill Regulating
- Plans (Form-Based Codes) Article 7 R R R-PH D-PH
- Use Permit Sec. 12.5.2 R R R-PH D-PH
- **Subdivision Review**
- Preliminary Plat Sec. 12.6.3 D R-PH A-PH
- Final Plat Sec. 12.6.4, R D-PH
- Minor Plat Sec. 12.6.5 D A-PH
- **Form-Based Code Review**
- Code Compliance Certificate Article 7 D A-PH
- **Permit Review**
- Administrative Permit Sec 12.5.1 D A-PH
- Land Disturbance Permit Sec.12.8.2 R[1] D A-PH
- Certificate of Endorsement Sec. 12.8.1 R D A-PH
- Certificate of Appropriateness Sec. 12.7.4 D A
- Building Permit Sec. 12.2.3 R[1] D A-PH
- Demolition Permit Sec. 12.8.6 D A-PH

- Tree Removal Permit Sec. 11.1 D A-PH
- **Relief**
- Administrative Variance, Administrative
- Minor Variance, Minor Variance Sec. 12.4.2.A D
- A-PH
- Administrative Modification Sec. 12.4.2.B D[2] C
- Warrant (Form-Based Codes) Article 7 D
- Primary Variance Sec. 12.4.2.A R D-PH[3]
- Secondary Variance Sec. 12.4.2.A D-PH
- Concurrent Variance Sec. 12.4.2.A R R R-PH D-PH
- Zoning modification Sec. 12.4.2.B R D-PH
- Tables notes:
- [1] Review is limited. See Sec. 12.2.3 [2] Appeals are processed as a Zoning Modification.
- [3] Includes stream buffer variances that are not concurrent with rezoning, use permit, or zoning modification.

12.2.3. Design Review Board

E. Notice of Design Review Board Meetings

Associated with Rezoning and Use Permit

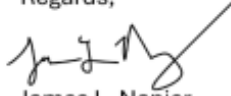
Applications

1. Notice of the Design Review Board must be given at least 10 days before the date of the Design Review Board meeting and must be published in a newspaper of general circulation. The notice must contain the location, applicant and the date, time, and location of the meeting.
2. The Director must give notice by regular mail to all property owners or current residents within 500 feet of the boundaries of the subject property with a minimum of 75 owners who appear on the Fulton County tax records as retrieved by the City's GIS. The notices must be mailed at least 10 days before the Design Review Board meeting. It

must contain the location, applicant,
date, time, and location of the meeting.

Thank you for your consideration and acceptance of my application to appeal.

Regards,



James L. Napier