



## MEMORANDUM

To: Honorable Mayor and City Council  
Aaron Bovos, City Manager  
Board of Zoning Appeals  
Design Review Board  
Jeanette Marchiafava, City Clerk  
Tom Wilson, Director of Community Development  
Greg Wilson, Director of Community Services  
Bill Doughty, Director of Communications  
Mike Tuller, Deputy Director of Community Development  
Abbie Jones, Stormwater/Transportation Planning  
Mark Law, Arborist

From: Angela Cutler Rambeau, Planner, Community Development

Re: Board of Zoning Appeals Agenda

**Meeting Date:**  
May 15, 2007- 7:00 PM

<i>AGENDA ITEM/ ADDRESS/ PETITIONER</i>	<i>REQUEST</i>
<i>Pledge of Allegiance</i>	
<i>Call to order</i>	
<i>Approval of previous minutes</i>	
<b>V07-006</b> 13055 Highway 9 The Sembler Company	<b>1. To allow the SuperTarget logo on the secondary ground sign. 2. To allow Pantone #186 for building decorative and accent elements, including spherical sidewalk bollards.</b>
<b>V07-001</b> 1470 Redd Road Don Baker	<b>1. Encroachment into the 10' improvement setback adjacent to the 25' cemetery buffer. (Article 34.7), 2. Reconsideration of motion to add berm along Freemanville and Redd Roads.</b>
<i>Other business</i>	
<i>Adjournment</i>	



**PETITION NUMBER(S):**  
**V007-006**

**PROPERTY INFORMATION**

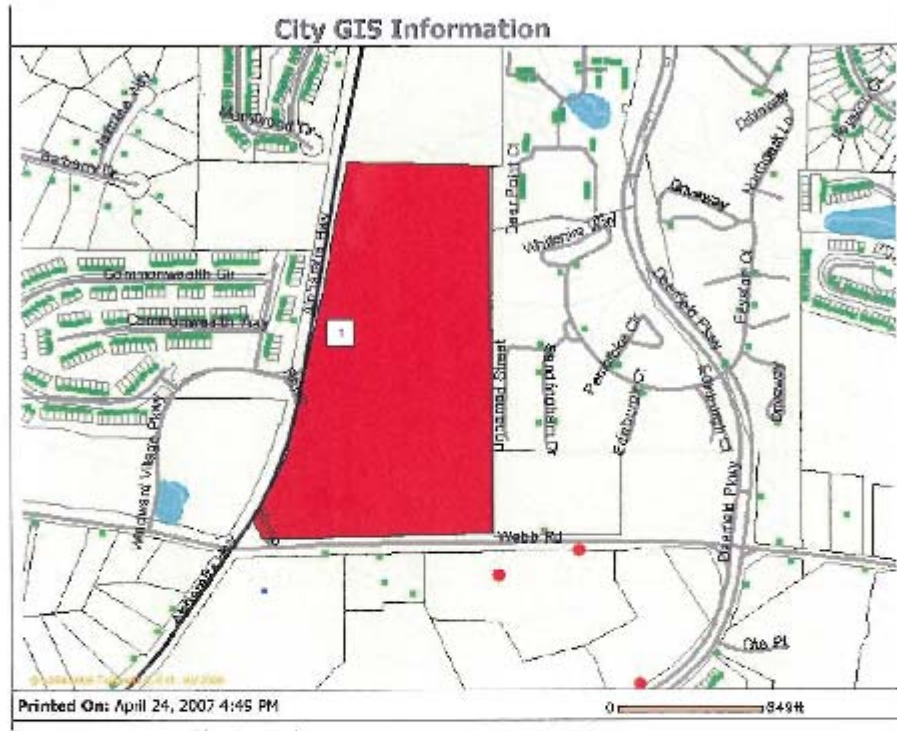
<b>ADDRESS</b>	13055 HWY 9
<b>DISTRICT, LAND LOT</b>	22,1042,1047
<b>OVERLAY DISTRICT</b>	HIGHWAY 9
<b>EXISTING ZONING</b> C-1	<b>ACREAGE</b> 31.334
<b>EXISTING USE</b>	Commercial/Retail/Service
<b>FUTURE LAND USE DESIGNATION</b>	Neighborhood Living/Working

**REQUESTED VARIANCE(S)**

1. To allow the SuperTarget logo on the secondary ground sign.
2. To allow Pantone #186 for building decorative and accent elements, including spherical sidewalk bollards

**OWNER/PETITIONER** WB Holdings-Winward LLC  
**ADDRESS** 12600 Deerfield Parkway, Suite 150  
Alpharetta, GA 30004  
**PHONE** 678.297.2700

**REPRESENTATIVE** Brian Snelling,  
Development Manager, Sembler Alpharetta I, LLC  
**ADDRESS** 1450 South Johnson Ferry Road  
Atlanta, GA 30319  
**PHONE** 404.847.1800



LOCATION MAP

**COMMUNITY DEVELOPMENT STAFF ANALYSIS**

STAFF CONTACT ANGELA RAMBEAU  
678.242.2539

**Background:**

The site, 13055 Highway 9, sits at the northeastern corner of State Route 9 and Webb Road. The property is located in the Highway 9 Overlay District. It is currently undeveloped. The property was rezoned under case numbers 2003Z0185/ 2003VC 0265, and 2005ZM 0085/2005VC 0268. The proposed project totals 297,365 square feet of gross retail space, with the 170,000 square foot SuperTarget as the anchor, and four out- parcels.

In the first part of his request, the applicant, Mr. Snelling, is seeking relief from Article 33, Section 26.1.c of the City of Milton Zoning Ordinance, to allow the SuperTarget logo on the secondary ground sign along Webb Road. Secondly, Mr. Snelling is seeking relief from Section 12.G.4.E.17, to allow Pantone #186 for building decorative and accent elements, including the fin walls and spherical sidewalk bollards in front of the SuperTarget building.

**ADDITIONAL DEPARTMENT COMMENTS**

The staff held a Focus Meeting on April 4, 2007 at which the following comments were provided:

<b>BUILDING PLAN REVIEW</b> STAFF CONTACT MELISSA HENDERSON 678.242.3292	<i>NO COMMENT</i>
<b>SITE PLAN REVIEW</b> STAFF CONTACT JIMMY SANDERS 678.242.2543	<i>NO COMMENT</i>
<b>ARBORIST</b> STAFF CONTACT MARK LAW 678.242.2552	<i>NO COMMENT</i>
<b>DOT/STORMWATER</b> STAFF CONTACT ABBIE JONES 678.242.2559	<i>NO COMMENT</i>

## Standards for Consideration:

The applicant has indicated a justification for variance based on the following standard(s):

1. The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public.

The applicant points out that along Webb Road, the floor level of the store is approximately 28' below road grade (the majority of the building wall will be concealed from view) which, in his opinion, results in diminished visibility of the store and a need for compensatory signage. These topographical concerns, according to the applicant, create the potential for drivers on Webb Road to miss the SuperTarget entrance and subsequently have to turn North onto Highway 9. Given the goal to reduce traffic on Highway 9, the applicant feels that the addition of the SuperTarget logo on the Webb Road monument sign will result in a beneficial reduction in Highway 9 traffic, as a large percentage of vehicles accessing the retail center via Webb Road will recognize the SuperTarget entrance and turn in there.

The applicant states that the project is located well to the north of the primary commercial business corridor (along Winward Parkway) and, in his opinion, suffers from the inherent loss of business opportunity associated with the decreased vehicular traffic in that particular area. Additionally, the applicant states that relief, if granted, would not cause detriment to the public; it would result in a proportional and commercially reasonable level of signage for the store.

As for the request for Pantone #186, the applicant feels that complying with the State Route 9 Overlay District restrictions will result in a significant hardship by virtue of its imposition and unreasonable limitation of SuperTarget's ability to maintain a consistent brand theme for the store. The applicant has indicated that relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of the zoning ordinance, as the request would simply result in the presentation of the tenant's nationally recognized, unobjectionable, retail branding for the store.

**Recommended conditions:**

Should the Board choose to approve the application, Staff recommends the following condition(s):

1. The sign should be constructed pursuant to the attached exhibit dated March 6, 2007.
2. The Pantone #186 red should be used in accordance with the attached elevation dated March 7, 2007.



ATTACHMENTS: Letter of appeal, sign details, elevations, site plan



LETTER OF APPEAL

MAR 07 2007

City of Milton  
Community Development

March 6, 2007

Ms. Robyn MacDonald  
City of Milton  
Department of Community Development  
13000 Deerfield Pkwy, Bldg 100  
Milton, GA 30004

Re: Deerfield Place - 13055 Highway 9 - Variance Requests  
A) Signage Variance Request - Webb Rd Monument Sign  
B) Color Variance Request - Target Architectural Elements

Please accept this correspondence as Sembler Alpharetta I, LLC's ("Applicant") official request for a variance pursuant to the City of Milton Variance Application at the above referenced project. The details of the requested variance are as follows:

Project Characteristics

The proposed project is a +/- 295,000 square foot Target anchored shopping center located within the State Route 9 Overlay District. The project was zoned under case numbers 2003ZC 0185/2003VC 0265 and 2005ZM 0085/2005VC 0268.

**A) Signage Variance Request - Webb Rd Monument Sign**

Among other limitations, the Sign Ordinance limits identification monument signage as follows: (f) 26.1.C - *Multitenant developments on corner lots are allowed an additional identification monument on the secondary street which shall not exceed a maximum surface area of 24 square feet and a maximum height of 4 feet. Content of the secondary monument is restricted to the name and address of the development. Tenant panels are prohibited.*

Variance Requested

*The Applicant is requesting the following variance: To allow a Super Target Logo to be placed on the Secondary Monument sign to be located at the Webb Rd. entrance. Refer to the attached monument sign elevation and signage details for additional clarification relative to the requested signage.*

Hardship / Statement of Justification

The application of the above noted State Route 9 Overlay District signage restrictions to the Target store will result in a significant hardship by virtue of its imposition of an inordinate and unreasonable limitation of Target's ability to advertise and thereby sustain its business operations. We offer the following in support of the request for additional signage outlined above:

- (i) The topography along the Webb Road frontage of the store is such that the floor level of the building is approximately 28' below road grade (i.e. the majority of the building wall will be concealed from view), which results in diminished visibility of the store and a need for compensatory signage.

- (ii) Traffic Engineering & Impact Study's indicate that existing and future traffic counts traveling West on Webb Road toward Hwy 9 will exceed 4,500 vehicles in a 24 HR period. Based on the topography issues outlined in (i) above, the majority of the vehicles could pass the site and not realize the entrance on Webb Rd is for the Target. This creates the potential for drivers on Webb Rd to miss the Target entrance and subsequently have to turn North onto Hwy 9. Given the goal to reduce traffic on Hwy 9, we feel the addition of the Target Logo on the Webb Rd Monument Sign will result in a beneficial reduction in Hwy 9 traffic as a large percentage of the vehicles traveling to the Center on Webb Rd will recognize the Target entrance and therefore reduce the number of vehicles on Hwy 9.
- (iii) The project is located well to the north of the primary commercial business corridor (along Windward parkway) and accordingly suffers from the inherent loss of business opportunity associated with the relatively limited vehicular traffic in the area of the project. This limitation necessitates that adequate signage be in place to capture a higher than otherwise necessary percentage of travelers in the area of the project.
- (iv) Notwithstanding the variances requested above, the proposed square footage and height of the monument sign is still within the applicable ordinance limitations. The Applicant is not requesting an increase in sign height or area not already available to all other establishments within the State Route 9 Overlay District.
- (v) Notwithstanding its location within the State Route 9 Overlay District, the immediately adjacent retail establishment, Fry's Electronics, has been granted approval for the installation of a tenant logo on the secondary monument sign which is located at the Webb Rd entrance. This establishment has advantages over the proposed Target store both in that it is situated closer to the primary commercial corridor, and that it sits well above the proposed floor elevation of the Target store, thereby blocking visibility to the proposed Target store from all northbound vehicular traffic leaving the commercial corridor at Windward Pkwy on Hwy 9. The Fry's tenant specific monument on Webb Rd also provides this establishment an advantage over the proposed Target by providing greater visibility to all westbound vehicular traffic on Webb Rd. Granting Fry's Electronics additional signage while maintaining a strict limitation on the Target signage would result in Fry's Electronics being awarded a direct and unfair competitive advantage.
- (vi) Relief, if granted would not cause substantial detriment to the public good or impair the purpose and intent of the zoning ordinance, as the request would result in a proportional and commercially reasonable level of signage for the store. Therefore, this Application for Variance is entirely appropriate and the appropriateness of the Application and the constitutional assertions of the Applicant are more particularly set forth in Exhibit "A" attached hereto and made a part hereof by reference thereto.



**B) Color Variance Request – Target Architectural Elements**

Among other limitations, the State Route 9 Overlay District Ordinance limits permitted colors as follows: *f) 12-G.4.E.17 – Permitted colors for exterior walls, building components, sign structures, accent and decorative elements shall be as specified by Table 12G-1 or as approved by the Manager of Environment and Community Development.*

Variance Requested

*The Applicant is requesting the following variance: To allow the color Pantone Red #186 to be used for Decorative and Accent elements, including the Fire Walls and Spherical Sidewalk Bollards. Refer to the attached Target elevations for additional clarification relative to the requested variance.*

Hardship / Statement of Justification

The application of the above noted State Route 9 Overlay District restrictions to the Target store will result in a significant hardship by virtue of its imposition of an inordinate and unreasonable limitation of Target's ability to maintain a consistent Target brand theme for the store. We offer the following in support of the request for additional signage outlined above:

- (i) The topography and landscape buffers along the Hwy 9 and Webb Rd frontage of the shopping center, along with the parking lot tree island requirements, is such that the store will be barely visible of the Hwy 9 Right-of-Way (ROW) and not at all from the Webb Rd. ROW (i.e. the majority of the building wall will be concealed from view).
- (ii) Relief, if granted would not cause substantial detriment to the public good or impair the purpose and intent of the zoning ordinance, as the request would simply result the presentation of the tenants nationally recognized, unobjectionable, retail branding for the store. Therefore, this Application for Variance is entirely appropriate and the appropriateness of the Application and the constitutional assertions of the Applicant are more particularly set forth in Exhibit "A" attached hereto and made a part hereof by reference thereto

Based on the above, we request approval of the variances depicted and presented on the attached exhibits. Please feel free to contact us should you have any questions.

Respectfully,

Brian Snelling



Development Manager

Exhibit "A"

APPROPRIATENESS OF APPLICATION

AND

CONSTITUTIONAL ASSERTIONS

RECEIVED  
MAY 1 1983  
COMMUNITY DEVELOPMENT DEPT.

The refusal to approve the Variance requested will result in a taking of the Appellant's valuable property rights in violation of the just compensation clause of the Constitution of Georgia 1983, Article I, Section 3, Paragraph 1 and the just compensation clause of the Fifth Amendment to the United States Constitution. Further such refusal to approve the requested Variance discriminates in an arbitrary, unreasonable, capricious and unconstitutional manner between the Appellant and owners of similarly situated property in violation of Article I, Section, Paragraph 2, of the Constitution of the State of Georgia and in violation of the equal protection clause of the Fourteenth Amendment to the United States Constitution. Additionally, such refusal to approve the requested Variance would constitute a gross abuse of discretion and would constitute a violation of the Appellant's rights to substantive and procedural due process as guaranteed by the Constitution of the State of Georgia 1983, Article I, Section 1, Paragraph 1 as well as the Fifth Amendment and Fourteenth Amendment to the United States Constitution.

Any approval of this Variance request subject to conditions which are different from the conditions requested by the Appellant, to the extent such different conditions would have the effect of further restricting the Appellant's utilization of the subject property would also constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove. The refusal to approve this requested Variance would result in a real, substantial and significantly detrimental hardship to be borne by the Appellant without any corresponding public benefit or legitimate connection to public health, safety, morals and general welfare. The community at large will not be affected by the approval of the requested Variance.





**FRONT ELEVATION**

(150 SQ.FT SIGN)

TOTAL WALL AREA= 16,961 sq.ft  
5% OF THE ABOVE= 848.06 sq.ft

City of Milton  
Community Development

MAR 07 2007

**RECEIVED**

\*-THE ABOVE IS SUBMITTED FOR DEPICTION OF BUILDING SIGNAGE ONLY.  
BUILDING MATERIALS, COLORS, ETC. SHALL CONFORM TO FINAL BUILDING  
ELEVATIONS APPROVED BY GOVERNING AUTHORITY

**DEERFIELD PLACE-----SUPER TARGET-----MILTON, GA**



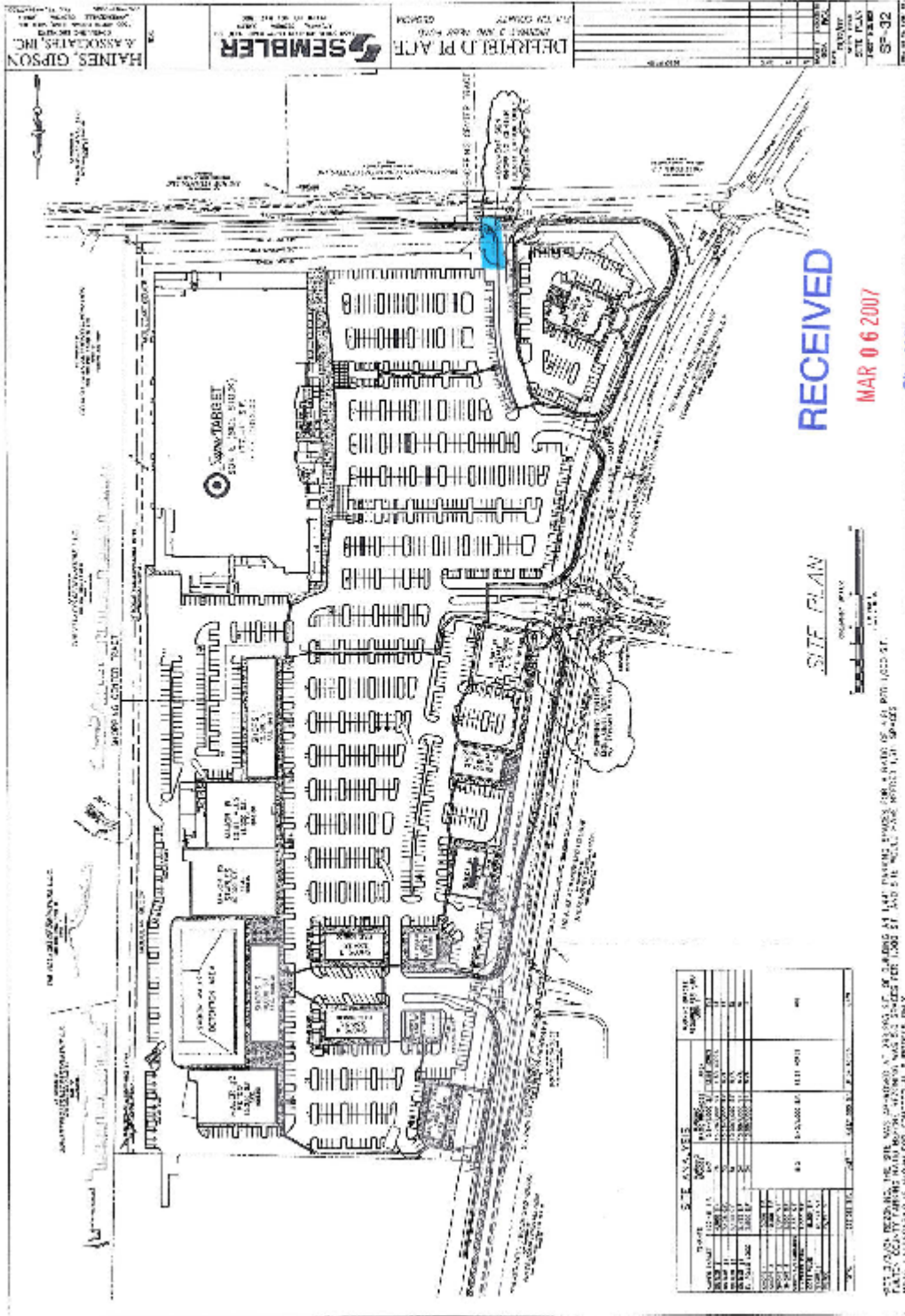
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MAR 06 2007

City of Millon  
Community Development



V07-006



SITE ANALYSIS		APPROXIMATE	
ITEM	DESCRIPTION	AMOUNT	UNIT
1	TOTAL AREA	100,000	SQ. FT.
2	IMPAVED AREA	10,000	SQ. FT.
3	PAVED AREA	5,000	SQ. FT.
4	UNPAVED AREA	5,000	SQ. FT.
5	OPEN SPACE	10,000	SQ. FT.
6	LANDSCAPING	5,000	SQ. FT.
7	UTILITIES	5,000	SQ. FT.
8	STREETS	5,000	SQ. FT.
9	DRIVEWAYS	5,000	SQ. FT.
10	PARKING	5,000	SQ. FT.
11	WALKWAYS	5,000	SQ. FT.
12	SCREENING	5,000	SQ. FT.
13	WATER	5,000	SQ. FT.
14	SEWER	5,000	SQ. FT.
15	ELECTRICITY	5,000	SQ. FT.
16	TELEPHONE	5,000	SQ. FT.
17	CABLE	5,000	SQ. FT.
18	TELEVISION	5,000	SQ. FT.
19	INTERNET	5,000	SQ. FT.
20	OTHER	5,000	SQ. FT.

THIS PLAN IS PREPARED BY THE ARCHITECT AND ENGINEER FOR THE PROJECT AND IS NOT TO BE USED FOR ANY OTHER PROJECT WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT AND ENGINEER. ALL DIMENSIONS ARE IN FEET AND INCHES. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED. THIS PLAN IS NOT TO BE USED FOR ANY OTHER PROJECT WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT AND ENGINEER.