



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2015-48 **Legistar #:** 20150954
Board of Zoning Appeals Hearing: Monday, November 30, 2015 – 6:00 p.m.
Property Owner: Wal-Mart Real Estate Business Trust
201 SE 10th Street
Bentonville, AR 72716
Applicant: Greenbergfarrow
Federico Olivares
1430 W. Peachtree St NW
Suite 200
Atlanta, GA 30309
Address: 1787 Cobb Pkwy S
Land Lot: 730 & 731 **District:** 17 **Parcel:**
Council Ward: 7A **Existing Zoning:** CRC (Community Retail Commercial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to increase the allowable canopy sign area from 10 square feet to 24 square feet for one side and 46 square feet for the other side. [§714.05 (C)]
2. Variance to allow a mechanically changeable sign. [§714.06 (A.6)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



1787 Cobb Parkway South



Facing Cobb Parkway from subject property



Facing east from subject property



Facing west from subject property

Recommended Action:

Approval with stipulations. The applicant, Greenbergfarrow, is requesting variances to increase the gas canopy signage on two sides as well as to allow the signs to be changed mechanically on a 0.69 acre parcel of property at 1787 Cobb Parkway South. The subject property is zoned CRC (Community Retail Commercial) and is located on Cobb Parkway – an arterial road. The requested variance would allow a Murphy USA gas station to display their logo and gas prices with a larger sign on their canopy for visibility; and would also allow a mechanically changeable device. The property was recently subdivided from a larger parcel owned by Wal-Mart Real Estate Business Trust to be used as a gas station. However, the subject property will utilize the same access easement with the present Wal-Mart and used car dealership. All adjacent parcels to the subject property are zoned CRC.

The location is within the AICUZ (Air Installation Compatible Use Zone) overlay district. The AICUZ overlay district is “established to contribute to the safe operation of Dobbins Air Reserve Base (ARB), to facilitate orderly development around the airfield, to protect property values, and to control and minimize noise and potential accident impacts on the surrounding areas of the City of Marietta.” Its intent for the designated areas is to promote development suitable for the airfield vicinity by limiting land uses which require or generate large concentrations of individuals to protect the public’s safety and welfare. The subject property has been given a letter of approval from Dobbins Air Reserve Base (ARB), as well as from FAA for the new construction of the Murphy USA gas station.

The Zoning Ordinance allows canopies with the purpose of covering gas pumps to erect signage up to 10 square feet on up to 3 sides, giving a total of 30 square feet. Murphy USA wishes to display their logo and price on the front of the canopy – at 46 square feet – and to display two price signs on one side – at 24 square feet. The price signs will individually be 12 square feet each and the logo will be 34 square feet. There will be no wall signage placed upon the kiosk.

The applicant has stated that the adjacent property to the north is heavily wooded and the terrain is approximately 22 feet above the subject property, and visibility to the site is blocked due to this situation. Also, Wal-Mart will not give permission to share their current monument sign. Therefore, Murphy USA would prefer to use their canopy at an elevation of 18 feet and 9 inches for visibility – rather than its kiosk at an elevation of 10 feet and 7 inches.

According to the City’s Zoning Ordinance – section 714.06, A.6 prohibits “*Electronic message boards, signs that contain tri-vision panels or other changeable faces, LCD, LED, or plasma panels or screens, or any similar electronic signage devices or technology, except where specifically allowed.*” Gas prices changes daily and sometimes more than once in a 24hr period – therefore, to limit the safety concerns of employees using a ladder to change the prices – Murphy USA wishes to use a mechanically changeable device to change the gas prices mechanically. If the variances are approved, the gas price signs will be erected at an elevation of 18 feet and 9 inches and illuminated by back-lighting.

The Board of Zoning Appeals have approved variances in a similar case – V2003-23 – which allowed an increase in the square footage per side from 10 square feet to 30 square feet, while reducing the allowable number of signs on the canopy from 3 to 1. ***Therefore, staff recommends approval of the variances requested, with the following stipulation:***

- 1. The allowable signage shall be limited to up to two sides of the canopy.***



Department of Development Services
 205 Lawrence Street
 Marietta, Georgia 30060
 Brian Binzer, AICP, Director
 Phone (770) 794-5440

APPLICATION FOR VARIANCE OR APPEAL
 (Owner/Applicant/or Representative must be present at all public hearings)

Application #: V2015-48 Hearing: 11-30-15 Legistar # _____

This is a variance/appeal application for:

PZ #: _____



Board of Zoning Appeals



City Council

Owner's Name Wal-Mart Real Estate Business Trust

Address 201 S.E. 10th Street Bentonville AR Zip Code: 72716

Telephone Number: 479-273-4000 Email Address: Nathan.Hamblen@walmart.com

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant Greenbergfarrow

Address 1430 W. Peachtree Street NW Suite 200 Zip Code: 30309

Telephone Number 404-601-4000 Email Address: folivares@greenbergfarrow.com

Federico Olivares 770-289-9379

Address of property for which a variance or appeal is requested:

1787 Cobb Parkway South

Date of Acquisition: _____

Land Lot (s) 730,731 District 17 Parcel 1A Acreage 0.69 Zoned CRC Ward 7A FLU CAC
07300 0080 33.86

List the variance(s) or appeal requested (please attach any additional information):

Variance to install (3) 12 s.f. canopy price signs which exceed the max area allowed of 10 s.f. each.

Variance to install these price signs that update mechanically once per day. Variance to exceed the maximum allowable area for canopy signage.

Required Information

1. -Application fee (\$250)
2. -Completed notarized application. **The original application must be submitted with ALL original signature(s) – Copies of the application or signature(s) will NOT be accepted.**
3. Legal description of property. **Legal description must be in a WORD DOCUMENT.**
4. -Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. Site plan – drawn to scale. Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
 Copies Required: One (1) - (8 1/2" x 11") or (11" x 17") drawn to scale.
 If Plat size (24"x 36"), then 25 copies REQUIRED.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.
7. -Documentation authorizing applicant to submit application by property owners if applicant is not owner.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

1430 West Peachtree Street, NW
Suite 200
Atlanta, GA 30309
t: 404 601 4000

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SHANGHAI
MEXICO CITY

GreenbergFarrow

Re: Application for Variance
Proposed Murphy USA Gasoline Service Station
To be located at:
1787 Cobb Parkway S.
Marietta GA, 30067

September 21, 2015

To City of Marietta Board of Zoning Appeals,

WRITTEN PETITION FOR A VARIANCE

Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings with the same zoning classification and land use area. The Murphy Oil fueling station contains a 208 square foot prefabricated attendant kiosk to service the station. The intent of the station is to provide one stop shopping along with the Wal-Mart to obtain gas. This project is unique due to the purpose and small building square footage, and due to the proposed location of the development.

- A. Section 714.05.C Special Conditions – Maximum allowable canopy signage area for Gas Stations with Canopy Covering Pumping Area is 10.s.f. per side with a maximum of 3 sides.
1. Variance is requested to exceed the maximum allowed square footage for canopy signage due to the following hardships:
 - a. The main source of advertising for a gasoline service station are canopy signs or free standing signs such as pylon signs and monument signs. Pylon signs are prohibited (per section 714.06) and are therefore not an option. Although Murphy is technically allowed one monument sign, there is no practical location to add this sign due to the existing signage of the Wal-Mart and adjacent business signage in the vicinity of the entrance drive off Cobb Parkway. **Wal-Mart has also stated that they will not allow Murphy Oil to share the existing Wal-Mart monument sign.**
 - b. The smallest price signs that are visible are 11.97 s.f. in area each. Smaller price signs are difficult to manufacture and are not visible from any reasonable distance from the canopy.
 - c. Existing topographical conditions also severely limit visibility of the proposed canopy signage. To the north and northwest of the proposed Murphy site is a heavily wooded

area and an existing car dealership which completely block visibility to the site. To the south and southwest, the terrain of the adjacent development is approximately 22 feet higher than the proposed finish floor elevation of the Kiosk, and approximately 3 feet higher than the top of the canopy, which also completely block visibility to the canopy.

2. Grating of the variance would not present any visual, auditory, or structural hindrances to vehicles or pedestrians traveling in the south or northbound direction off Cobb Parkway since the canopy will not be visible except from the entrance to the Wal-Mart site and from the Wal-Mart parking lot. The proposed signage is the minimum needed for Murphy Oil to sufficiently display their business logo and the fuel prices available at this site.

B. Section 714.06.A.6 Prohibited Signs, states that changeable copy signs are prohibited.

1. Variance is requested to install price signs that use mechanically changeable copy.
 - a. The proposed price signs are depicted in the attached color rendering and supporting drawings and are considered changeable copy since the numbers can be changed mechanically.
 - b. The price signs are illuminated using back lighting, and will be used to display the price of fuel as required by law. The numbers displayed are changed once per day using a scrolling mechanism which uses electricity.
 - c. Manually changing the numbers in the canopy price signs represents a danger to the employee making the change since this would require him/her to climb a tall ladder and use a long poles with suction cups to replace/update any numbers.
 - d. The proposed price signs do not represent a visual, auditory or structural hindrance which would interfere with any traffic signs, signals or devices, or with vehicle or pedestrian traffic. The proposed signs are subordinate to the aesthetic harmony of the surrounding development.

On behalf of Murphy Oil we ask that the above variances be considered and approved. Please feel free to contact us with any questions or clarification.

Respectfully,



Federico Olivares,
Greenbergfarrow – Civil Engineering Consultant for Murphy Oil, USA.

TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: November 13, 2015

PUBLIC NOTICE OF VARIANCES

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following variance requests. The Board of Zoning Appeals will consider the following requests on **Monday, November 30, 2015 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2015-48 [VARIANCE] GREENBERGFARROW is requesting variances for property located in Land Lots 730 & 731, District 17, Parcel 0080, 2nd Section, Marietta, Cobb County, Georgia and being known as 1787 Cobb Parkway South. Variance to increase the allowable canopy sign area from 10 s.f. to 24 s.f. for one side and 46 s.f. for the other side; variance to allow mechanically changeable copy. Ward 7A.

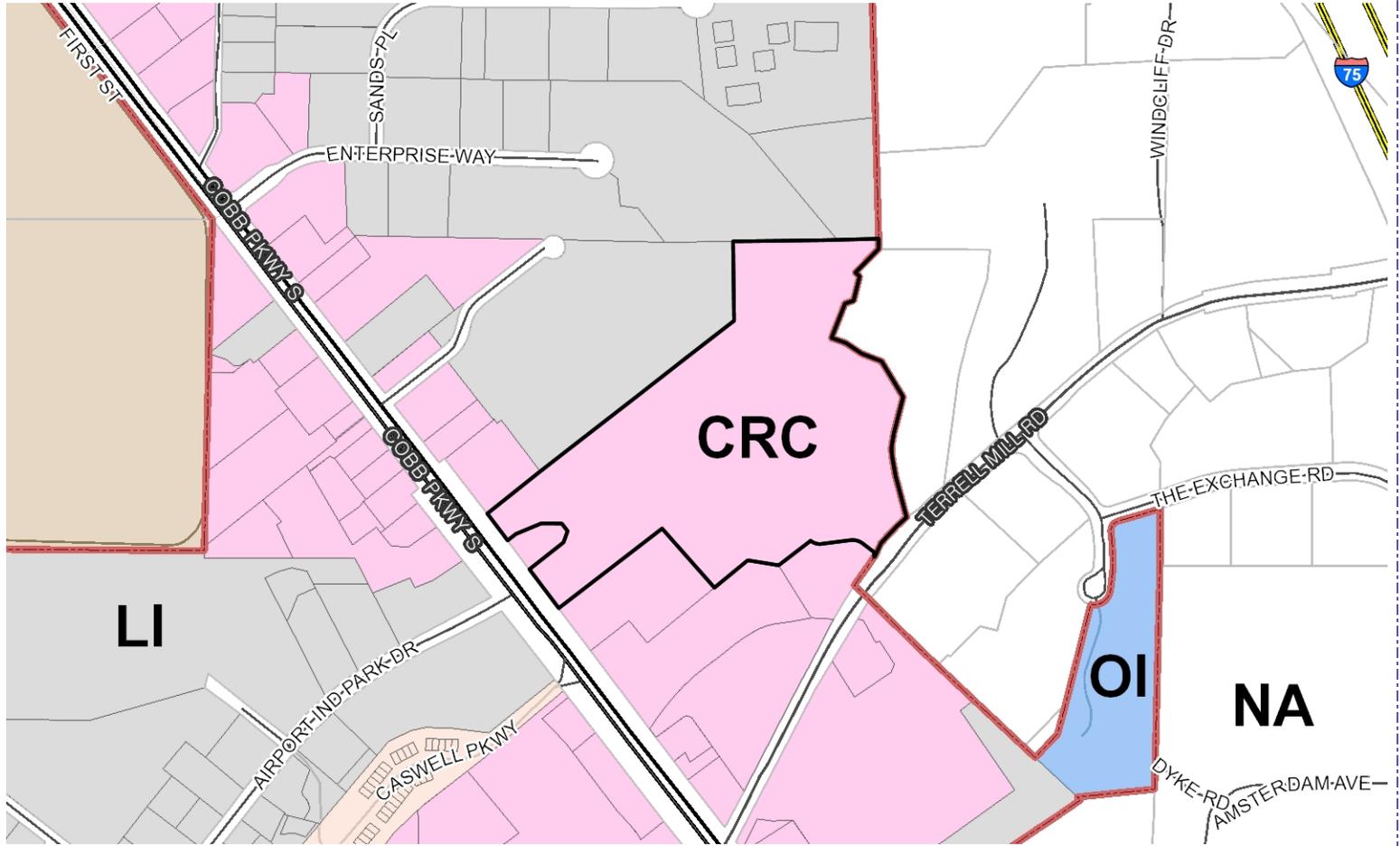
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

For additional information please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call Mr. Patrick Henley, ADA Coordinator, at 770-794-5558 (voice) or 770-794-5560 (TDD) no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060

Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
1785 COBB PKWY S	17073000080	32.156	7A	CRC	CAC

Property Owner: Walmart Real Estate Business Trust

Applicant: Greenbergfarrow

BZA Hearing Date: 11/30/2015

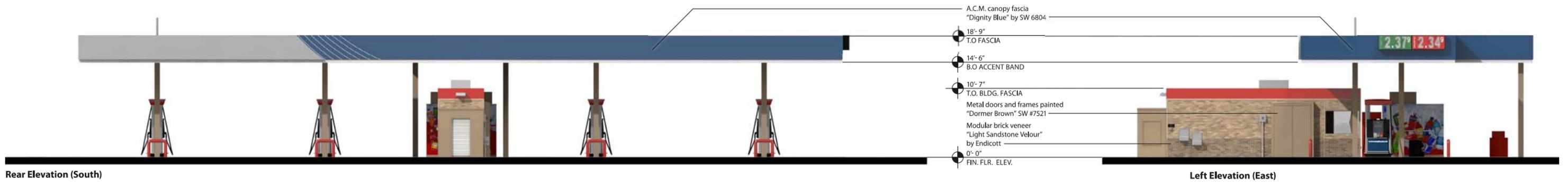
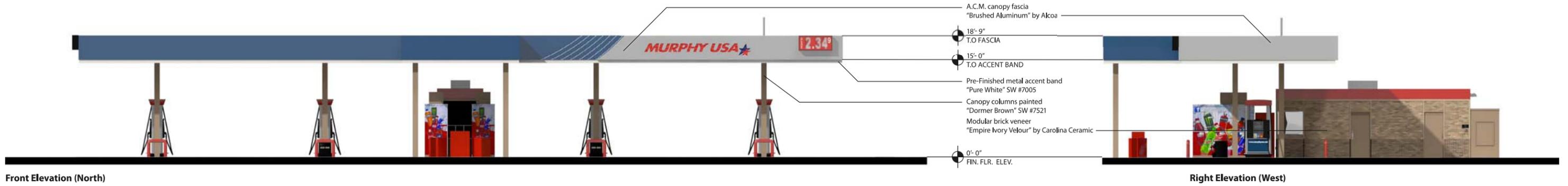
Acquisition Date:

Case Number: V2015-48

City of Marietta Planning & Zoning

Zoning Symbols

- Railroads
- City Limits
- Cobb County Pockets
- NA
- R1 - Single Family Residential (1 unit/acre)
- R2 - Single Family Residential (2 units/acre)
- R3 - Single Family Residential (3 units/acre)
- R4 - Single Family Residential (4 units/acre)
- RA4 - Single Family Residential - Attached
- RA6 - Single Family Residential - Attached
- RA8 - Single Family Residential - Attached
- MHP - Mobile Home Park
- PRD-SF - Planned Residential Dev. Single Family
- RM8 - Multi Family Residential (8 units/acre)
- RM10 - Multi Family Residential (10 units/acre)
- RM12 - Multi Family Residential (12 units/acre)
- RHR - Residential High Rise
- PRD-MF - Planned Residential Dev Multi Family
- NRC - Neighborhood Retail Commercial
- CRC - Community Retail Commercial
- RRC - Regional Retail Commercial
- PCD - Planned Commercial Development
- LI - Light Industrial
- HI - Heavy Industrial
- PID - Planned Industrial Development
- MXD - Mixed Use Development
- CBD - Central Business District
- OIT - Office Institutional Transitional
- LRO - Low Rise Office
- OI - Office Institutional
- OS - Office Services
- OHR - Office High Rise



Snack Alley



Trash Enclosure

8'-0" H. smooth face cmu with Fibertech composite fence gates painted "Dormer Brown" SW #7521

Sign	Qty.	Height	Width	Area	Total S.F.
Murphy USA logo sign (canopy)	1		Graphic Area	33.54	33.54
Mini Canopy Price Sign	3	28.25"	61.00"	11.97	35.91
Total Building Signage					69.45

