



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**



Rear (northwest corner) of property with overly steep slope and new retaining wall structure



Newly installed buffer area above newly constructed retaining walls

**Recommended Action:**

**Approval, with stipulations.** The applicant, Kevin Knight, is requesting variances on behalf of Elias Nikiforov in order to prevent further soil destabilization on a severely sloped area in the northwest corner of the parcel located at 165 North Fairground Street. The property is zoned CRC (Community Retail Commercial) and is currently being renovated for commercial use. Adjacent properties to the north and west, 180 Woods Drive and 577 Fort Street, are zoned R-4 (Single Family Residential – 4 units per acre).

The property received variance approval in December 2008 to allow construction of a permanent wall within a required buffer area. During construction of the wall subsequent the variance approval grading was improperly performed, resulting in a slope that did not conform to approved grading plans and may represented a risk of further collapse that could impact the adjacent property. In addition, the slope was cut several feet beyond the subject property line. At this time staff is not aware of any agreement between property owners at 165 Fairground Street and the adjacent property owners at 180 Woods Drive and 577 Fort Street. A buffer has been established on the northern property line, including evergreen plantings and a wood fence.



**Department of Development Services**  
205 Lawrence Street  
Marietta, Georgia 30060  
Brian Binzer, Director

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Comments from the city arborist suggest required planted trees may be inappropriate since “any attempt to dig on this slope, even for groundcover would loosen the soil and hasten erosion” and pine straw will not stay on the slope. There are some recently planted trees at the base of the slope, but they are also outside of the property line and are being covered by a continual sloughing of soil off the hill.

Staff recognizes that a fence and buffer tree plantings would provide little protection for the adjacent property owners due to the significant change in elevation. However, while buffer requirements may not be necessary in this case, the property owner has an obligation to protect both adjacent property owners and himself from damages that may occur as a result of poor grading practices. Staff recommends approval with the following stipulations:

1. The owner shall correct the slope and provide an engineer’s letter stating that it is stable to the satisfaction of the Director of the Department of Public Works.