

Hearing Request Application - Form 1  
Zoning Board of Adjustment  
City of Charlotte

Date Filed: 8/15/12

Case Number: 12 - 039

Received by: Sonda Kenne  
ZBA Clerk

Instructions

This form must be filed out completely. Please attach the appropriate additional form depending on your request type along with required information as outlined in the appropriate checklist. Please type or print legibly. All property owners must sign and consent to this application, attach additional sheets if necessary. If the applicant is not the owner, the owners must sign the Designation of Agent section at the bottom of this form.

The Applicant Hereby (check all that apply):

- ☒ Requests a variance from the provisions of the zoning ordinance as stated on Form 2  
☒ Appeals the determination of a zoning official as stated on Form 3  
☐ Requests an administrative deviation as stated on Form 4

Applicant or Agent's Name: American Roadside Burgers, Rich LaVecchia

Mailing Address: 5821 Fairview Road, Suite 104

City, State, Zip: Charlotte, NC 28204

Daytime Telephone: (704) 338-2222

Home Telephone: same

Interest in this Case (please circle one): Owner Adjacent Owner Other

Property Owner(s) [if other than applicant/agent]: Cal Park View LTD Ptshp – Bruce Goren

Mailing Address: 10866 Wilshire Blvd

City, State, Zip: Los Angeles, CA 90024

Daytime Telephone: (310) 441-8411

Home Telephone: N/A

Property Address: 5821 Fairview Road, Charlotte, NC 28204

Tax Parcel Number: 17706201

Zoning District: 01

Subdivision Name: N/A

Conditional District: YES NO

Applicant Certification and Designation of Agent

I (we) certify that the information in this application, the attached form(s) and documents submitted by me (us) as part of this application are true and correct. In the event any information given is found to be false, any decision rendered may be revoked at any time. I (we) hereby appoint the person named above as my (our) agent to represent me (us) in this application and all proceedings related to it. I (we) further certify to have received, read and acknowledged the information and requirements outlined in this packet.

8/15/12  
Date

[Signature]  
Property Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Property Owner



**Variance Application - Form 2**  
Zoning Board of Adjustment  
City of Charlotte

Date Filed: \_\_\_\_\_ Case Number: \_\_\_\_\_ Fee Collected: \_\_\_\_\_

Has work started on this project? YES ☒ NO ☐  
 If yes, Did you obtain a building permit? YES ☒ NO ☐ If yes, attach a copy.  
 Have you received a Notice of Violation for this project? YES ☒ NO ☐ If yes, attach a copy.  
 Has this property been rezoned? YES ☐ NO ☒ If yes, Petition Number: \_\_\_\_\_

(1) What zoning ordinance section numbers are you seeking a variance from? Please list each section, the requirement and the requested variance.

Item	Code Section	Code Requirement	Variance Request
<i>Example</i>	9.205 (1)(g)	45 foot rear yard	35 foot rear yard (10 foot reduction from required)
<b>A</b>	13.108-109	One detached sign in 0-1 district	Second sign to identify tenant
<b>B</b>			
<b>C</b>			
<b>D</b>			
<b>E</b>			

(2) Please describe why the variances requested are necessary.

A new restaurant tenant is occupying the first floor, outside corner at 5821 Fairview Road. The building is approximately 60' back from Fairview Road. There is no identity for the restaurant on the building itself. A sign has been installed meeting the code requirements for size and location in front of the building to identify the location of the tenant and make the store visible from the street. A sign permit was received on March 15 from the Zoning Department (attached) and the sign was installed by Casco Sign Company. Subsequent to the installation, nearly four months later a notice of violation was forwarded to the building owner on July 16 indicating that the sign is in violation of the zoning ordinance for 01 District.
The restaurant tenant feels that the variance is necessary to maintain an identity for his store from the street and encourage customers to visit the store.

(3) THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN THE WAY OF CARRYING OUT THE STRICT LETTER OF THE ORDINANCE. The courts have developed three rules to determine whether, in a particular situation, "practical difficulties or unnecessary hardships" exist. State facts and arguments in support of each of the following:

(a) If the property owner/applicant complies with the provisions of the Ordinance, the property owner can secure no reasonable return from, or make no reasonable use of his property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

The tenant has spent \$10,000 installing the sign and was unaware that the sign was in violation. There are currently two signs in front of the building: the restaurant sign (newly installed) and an existing monument sign identifying the building and its tenants (photograph enclosed). In addition, the tenant feels that removal of the sign will make the property and restaurant less visible from the street and therefore adversely impact customers and clientele from seeing the restaurant and thus reducing the viability of the business customer base.
Therefore, we are stating there are practical difficulties and unnecessary hardships that this tenant will sustain by removal



of the sign, both from a financial aspect (loss of \$10,000 investment) and the loss of potential business and customer because of lack of visibility from the street.

(b) The hardship of which the Applicant complains results from unique circumstances related to the Applicant's land. (Note: Hardships common to an entire neighborhood, resulting from overly restrictive zoning regulations, should be referred to the Charlotte-Mecklenburg Planning Department. Also, unique personal or family hardships are irrelevant since a variance, if granted, runs with the life of the land.)

As stated previously, the hardship for this tenant is unique because of the nature of the business. Restaurants are driven by customers and the success of any restaurant is based visibility and expanded customer base. A similar situation occurs one block away on 6000 Fairview Road on which a monument sign identifies the building and a separate sign identifies Ruth Chris Steakhouse (photographs enclosed). In this circumstance, we were told that the reason a second sign was permitted is because the Ruth Chris sign is identified on Piedmont Row South which is perpendicular to Fairview Road. The photograph enclosed shows that the Ruth Chris sign is not in fact on Piedmont Row South, but clearly in the line of sight of Fairview Road aligned with the 6000 Fairview Road monument sign. The situation at 5821 Fairview Road where the tenant resides, is similar. Park South Drive which is at the corner of Fairview Road and Park South at a signalized intersection will also benefit from the second sign as it faces the Park South right-of-way. We are requesting that we be given due consideration for the installation of this sign based on the fact that an identical circumstance occurs on the same street. Also, it is evident that the Ruth Chris restaurant is not visible from the street and without a sign, would likely not be identified by passersby, similar to the situation to the ARB Restaurant at 5821 Fairview Road.

(c) The hardship is not the result of the Applicant's own actions.

We feel the hardship is not the result of the applicant because the sign company secured a permit application (enclosed) and installed the sign according to the rules and regulations of the ordinance. The owner nor its agents were unaware that two signs were not permitted in the 01 District and therefore, feel that the result of this situation has nothing to do with the applicant, however, the applicant will result in varying hardships in both costs for the sign and expenses for the removal along with lack of visibility from the street which would result from the removal of the sign.

(4) THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE AND PRESERVES ITS SPIRIT. (State facts and arguments to show that the requested variance represents the least possible deviation from the letter of the Ordinance to allow a reasonable use of the land; and, that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

We feel the variance is clearly in harmony with the other buildings along Fairview Road, particularly the case which we cited for Ruth Chris Steakhouse at 6000 Fairview Road. We also feel this variance request results in the least amount of variation from the ordinance and the use of the property. If the variance is granted, we feel that the sign is not substantially detracting from the character of the neighborhood or the business district in which it presides. In fact, the sign enhances the visibility of the tenant and is complimentary to the property.

(5) THE GRANTING OF THE VARIANCE SECURES THE PUBLIC SAFETY AND WELFARE AND DOES SUBSTANTIAL JUSTICE. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the Applicant.)

The granting of this variance will secure the public safety and secure substantial justice to the tenant. If the variance

is denied, there is no measureable benefit to the public outweighing the harm suffered by the applicant. The applicant,
in this case, is the one who bears the injustice. The sign, as in any business, is complimentary and beneficial to the
business owner and his customers. A business needs a street sign to identify its location and on balance, the only way
a customer can effectively identify the space and locate it. It makes little or no sense to deny the applicant this
privilege to operate and profit in a business environment.



## CITY OF CHARLOTTE SIGN PERMIT APPLICATION

PERMIT #: \_\_\_\_\_ PROJECT #: \_\_\_\_\_ TOTAL FEE: \$ \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_ USDC #329

LOCATION

STREET # 5825 N,S,E,W Fairview STREET NAME 2d AV, RD, ST, ETCSUITE/UNIT 103 TAX PARCEL # 17706201 ZONING DISTRICT \_\_\_\_\_PROPERTY USE: American Roadside Burgers

REMARKS: \_\_\_\_\_

CONTACTS

PROPERTY OWNER Cal Park View LP ADDRESS 10860 Wilshire BlvdCITY Los Angeles STATE CA ZIP 90024 PHONE # \_\_\_\_\_SIGN OWNER American Roadside Burgers PHONE # \_\_\_\_\_ADDRESS 3560 New York Ave. Huntington STATE NY ZIP 11743SIGN CONTRACTOR Casco Signs Inc. PHONE # 704 788 9055ADDRESS PO Box 1349 CITY Concord STATE NC ZIP 28026CONTRACTOR # X3107A CONTACT PERSON Kim Fisher

PROPOSED SIGNAGE

CATEGORY: ☒ Detached ☐ Attached: ☐ Canopy/Awning ☐ Projecting ☐ WallSIGN DESCRIPTION (verbiage on sign): American Roadside BurgersPROPOSED DETACHED SIGN: 12" X 2-6" Burgers = 2.50 25 = totalHeight: 5 Ft. 5 In. x Width: 5 Ft. 5 In. = 25 Sq. Ft. Existing sign to be removedIs The Sign Illuminated?: ☒ Yes ☐ No (If Yes, Electrical Permit Application Must Be Attached)Ground Clearance of Sign: 8 Ft. 8 In. Total Height of Sign 13 Ft. 13 In.Does The Proposed Sign Flash? ☐ Yes ☒ No Will Sign Located Within Sight Triangle? ☐ Yes ☒ NoDistance Sign Located Behind Right-Of-Way: 15 Ft. 15 In. Percentage of Changeable Copy 100 %Any Existing Detached Signs On This Parcel? ☒ Yes ☐ No

Existing Sign Size: Height: \_\_\_\_\_ Ft. \_\_\_\_\_ In. x Width: \_\_\_\_\_ Ft. \_\_\_\_\_ In. = \_\_\_\_\_ Sq. Ft.

Existing Sign Height: \_\_\_\_\_ Ft. \_\_\_\_\_ In. Ground Clearance of Existing Sign: \_\_\_\_\_ Ft. \_\_\_\_\_ In.

Photos/Drawings of Existing Detached Signs Attached to Application? ☐ Yes ☐ No Street Classification? \_\_\_\_\_PROPOSED ATTACHED SIGN (for each wall elevation): ☐ Right ☐ Left ☐ Rear ☐ Front # 1

Height: \_\_\_\_\_ Ft. \_\_\_\_\_ In. x Width: \_\_\_\_\_ Ft. \_\_\_\_\_ In. = \_\_\_\_\_ Sq. Ft.

Is The Sign Illuminated?: ☐ Yes, ☐ No (If Yes, Electrical Permit Application Must Be Attached)Does The Proposed Sign Flash? ☐ Yes ☐ No Proposed Sign Projection from Building Wall? \_\_\_\_\_ Ft. \_\_\_\_\_ In.

Area of building wall: Height: \_\_\_\_\_ Ft. \_\_\_\_\_ In. x Width: \_\_\_\_\_ Ft. \_\_\_\_\_ In. = \_\_\_\_\_ Sq. Ft.

Any Existing Permitted Signs Attached to Wall Elevation? ☐ Yes ☐ No

Existing Sign Size: Height: \_\_\_\_\_ Ft. \_\_\_\_\_ In. x Width: \_\_\_\_\_ Ft. \_\_\_\_\_ In. = \_\_\_\_\_ Sq. Ft.

Percentage of Building Wall with Existing Wall Signs? \_\_\_\_\_ %

Photos/Drawings of Existing Wall Signs Attached to Application? ☐ Yes ☐ No

ORDINANCE CODE SECTION USED TO APPROVE PERMIT APPLICATION: \_\_\_\_\_

REMARKS: \_\_\_\_\_

THE UNDERSIGNED HEREBY CERTIFIES THAT HE/SHE IS EITHER THE OWNER OR THE AUTHORIZED AGENT OF THE OWNER AND HEREBY MAKES APPLICATION FOR PERMIT AND INSPECTION OF WORK DESCRIBED AND AGREES TO COMPLY WITH ALL APPLICABLE LAWS REGULATING THE WORK. SIGN APPLICATION APPROVAL DOES NOT PROVIDE ZONING APPROVAL FOR BUSINESS USE.

APPLICANT'S SIGNATURE Kim Fisher DATE 2-28-12 PRINT APPLICANT'S NAME Kim Fisher



## DRAWINGS FOR SIGN PERMIT APPLICATION

<b>L O C A T I O N</b>	STREET # (N,S,E,W) <u>5805</u>	STREET NAME <u>Fairview</u>	(AV, RD, ST, etc) <u>Rd</u>	PERMIT #
	SUITE/UNIT(S): <u>103</u>			
<b>E X A M P L E S</b>	TAX JURISDICTION: (Check One) <input type="checkbox"/> 0-Mecklenburg <input type="checkbox"/> 4-Pinoville <input checked="" type="checkbox"/> 1-Charlotte <input type="checkbox"/> 5-Matthews <input type="checkbox"/> 2-Davidson <input type="checkbox"/> 6-Huntersville <input type="checkbox"/> 3-Cornelius <input type="checkbox"/> 7-Mint Hill			
	TAX PARCEL # <u>17706201</u>		JOB #	
<b>D R A W I N G S</b>	<div style="display: flex; justify-content: space-around; align-items: flex-start;"> <div style="text-align: center;"> <p><b>SIGHT DISTANCE TRIANGLE</b></p> </div> <div style="text-align: center;"> <p><b>ATTACHED/WALL SIGN</b></p> </div> <div style="text-align: center;"> <p><b>DETACHED SIGN</b></p> </div> </div> <div style="border: 1px solid black; padding: 5px; margin-top: 10px; text-align: center;"> <b>DRAW NEW AND EXISTING SIGNS, STREET R/W'S, DRIVEWAYS, SIGHT DISTANCE TRIANGLES, ETC.</b>                  (Separate application and drawings required for each sign)             </div> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <span><b>SITE PLAN</b></span> <span><b>SIGN</b></span> </div>			
	<div style="font-size: 48px; font-family: cursive; text-align: center; margin-bottom: 20px;">Building</div> <div style="font-size: 24px; font-family: cursive;">                         Sign = 7'00h                          5'x5'sign = 25'7"                     </div> <div style="position: relative; height: 100px;"> <div style="position: absolute; right: 0; top: 0; transform: rotate(90deg); font-size: 36px; font-family: cursive;">Street</div> <div style="position: absolute; left: 60%; top: 50%; transform: translate(-50%, -50%); font-size: 24px; font-family: cursive;">New sign</div> </div>			

ALL EXISTING AND PROPOSED SIGNS ARE SHOWN WITH EXACT MEASUREMENTS.

*Kim Fisher*

APPLICANT'S SIGNATURE

228.12

DATE

*Kim Fisher*

PRINT APPLICANT'S NAME

Mecklenburg County  
Land Use and Environmental Services  
P.O. Box 31097  
700 N Tryon ST  
Charlotte, NC 28231-1097  
(704) 336-3830



Permit: **S2298218**  
Issue Date: March 06, 2012

## Sign Permit

### Property

Address:	5825 FAIRVIEW RD	Parcel:	17706201	Lot:	Block:
Tax Jurisdiction:	CHARLOTTE				
USDC:	329 - Structures other than...	Subdivision:	AMERICAN ROADSIDE BURGERS- DE		
Property Use:	AMERICAN ROADSIDE BURGERS	Project:	NR0169038		

### Contact Details

<b>Sign Owner:</b>	AMERICAN ROADSIDE BURGERS	<b>Contractor:</b>	CASCO SIGNS INC
<b>Phone:</b>		<b>Contractor Id:</b>	X31079
<b>Address:</b>	356 NEW YORK AVE HUNTINGTON, New York 11743	<b>Phone:</b>	(704) 788-9055
<b>Property Owner:</b>	CAL PARK VIEW LTD PTSHP	<b>Address:</b>	PO BOX 1349 CONCORD, NC 28026
<b>Phone:</b>			
<b>Address:</b>	10866 WILSHIRE BLVD LOS ANGELES, California 90024		

### Sign Description

Category: Detached      Type: ID - Identification

#### Attached

Signs Attached to Building:	Total Area:
Signs Attached to Wall:	Wall Signs Area:
Wall Area:	Projection:

#### Detached

Ground Clearance:	0 ft. 8 in.	Total Height:	7 ft. 0 in.	
Distance behind r/w:		Changeable Copy:		In sight distance triangle: N

#### Sign Size

Height:	5 ft. 0 in.	Width:	5 ft. 0 in.	Area: 25 sq. ft.
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#### Other

Illuminated:	N	Flashing:	N	Drawings Attached: N
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### Miscellaneous

Issue Date:	03/06/2012 12:00 am	Permit Fee:	\$130.00	Ready for Inspection: N
Issued By:	Rivers, Rhonda	Adjustment:	\$0.00	
Entered By:	Rivers, Rhonda	Total Fee:	\$130.00	
Entry Date:	03/05/2012 02:59 pm			

*This permit will expire if work either has not started within 6 months or is discontinued for a period of 12 months.  
No credit or refund will be given unless applied for within 120 days after a permit has expired*



Mecklenburg County  
Land Use and Environmental Services  
P.O. Box 31097  
700 N Tryon ST  
Charlotte, NC 28231-1097  
(704) 336-3830



Permit: **S2298218**  
Issue Date: March 06, 2012

## Sign Permit

### Remarks

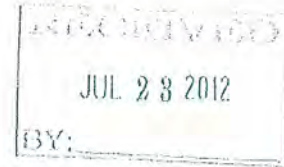
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SECTION 13.108 & 13.109

*This permit will expire if work either has not started within 6 months or is discontinued for a period of 12 months.  
No credit or refund will be given unless applied for within 120 days after a permit has expired*



Code Enforcement Division  
Southeast Service Area  
700 Parkwood Avenue  
Charlotte NC 28205



7/16/2012

AMERICA C/O PORTLAND INVESTMENT CO OF  
10866 WILSHIRE BLVD 11TH FL  
LOS ANGELES CA 90024

### ZONING NOTICE OF VIOLATION

Case Number: Z20120010706 Document # 7234

Property Address: 5821 FAIRVIEW RD CHARLOTTE NC 28209      Zoning Classification: O-1  
Tax Parcel No.: 17706201

#### Violation Summary:

ONLY ONE DETACHED IDENTIFICATION SIGN IS PERMITTED IN OFFICE DISTRICTS. REMOVE ORIGINAL IDENTIFICATION SIGN TO AVOID MONETARY CITATIONS.

Please immediately correct the violation(s). If the violation(s) are not corrected within 30 days from the date of this Notice of Violation, and there is no appeal to the Zoning Board of Adjustment, the City reserves the right to exercise any one or all of the following remedies outlined in Chapter 8 of the City of Charlotte Zoning Ordinance:

- \* Issuance of criminal summons for failure to comply with the City of Charlotte Zoning Ordinance.
  - \* Escalating monetary citations
  - \* Civil judicial remedies to include: court order to vacate occupancy and/or use of premises;
- Injunction to correct violation abatement order
- \* Revocation of certificate of occupancy

The Zoning Board of Adjustment is empowered to rule on the interpretation of the Zoning Ordinance and to grant variances when a difficulty or hardship exists. Appeals will not be heard by the Board unless an application is properly filed in the Zoning Administrator's office within 30 days of the date of this Notice of Violation. Once the deadline has passed, your right of appeal is forfeited.

Forms are available at the office address below and online at  
<http://charmeck.org/city/charlotte/planning/AboutUs/Pages/FeesApplications.aspx>.

If you have any questions as to what is required by this notice, please contact me at the number below.

JAMES WHITE

Zoning Code Inspector  
(704)759-6558

[jcwhite@ci.charlotte.nc.us](mailto:jcwhite@ci.charlotte.nc.us)





Monument sign facing Fairview Road





Monument sign facing Fairview Road





Monument sign facing Park Road South – 5825 Fairview Road





Building monument sign facing Fairview Road – 5821 Fairview Road



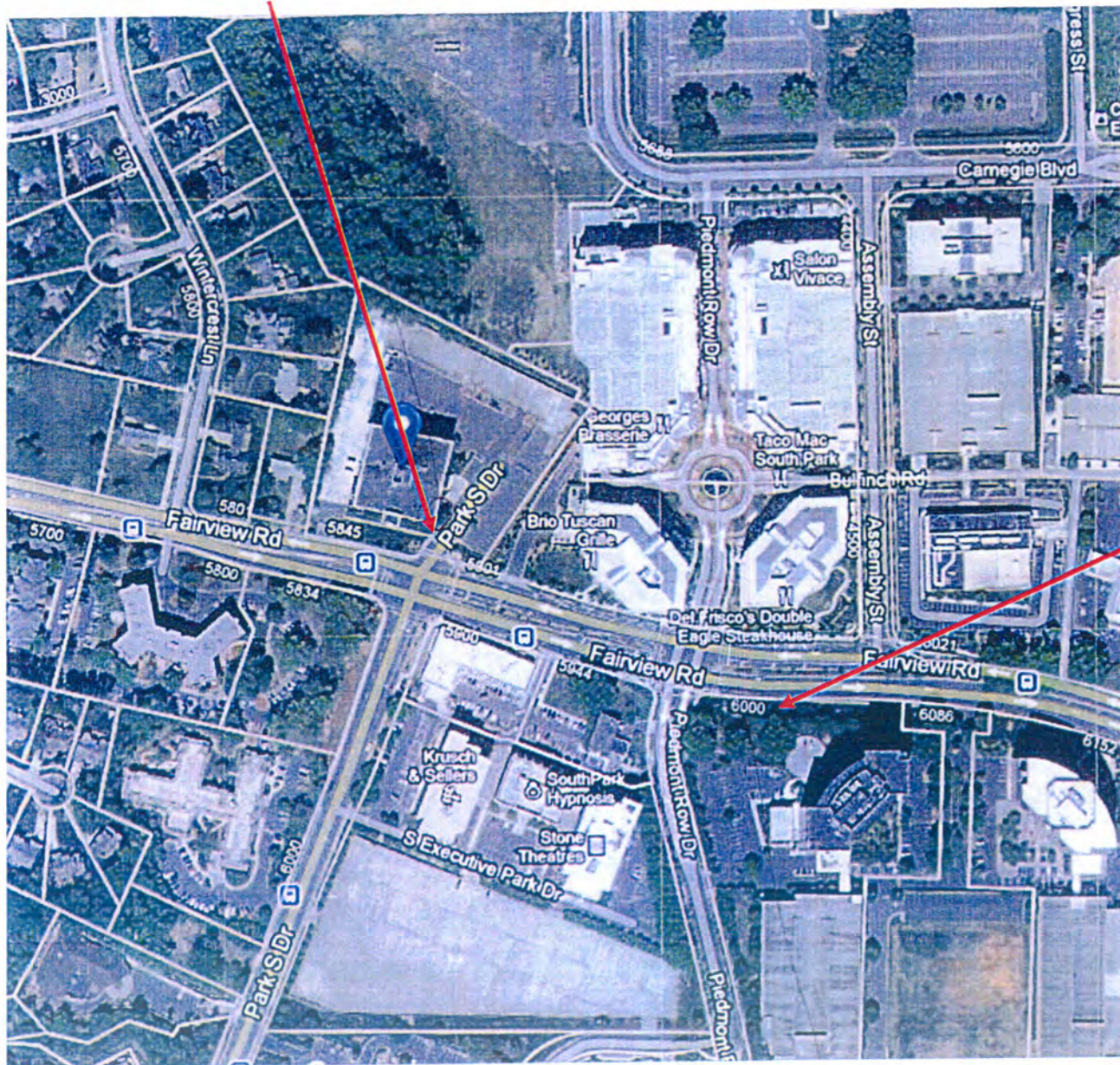


Street sign indicating  
Park South Drive  
(dedicated right-of-way)

At corner of Fairview and  
Park South Drive – 5821  
Fairview Road



5821 Fairview Road



6000 Fairview Road

Aerial view showing locations of property