

Letter of Appeal for 9095 Barkston Drive

Owner requests relief from the strict application of the Stream Buffer provisions of the Zoning Ordinance which would create an unnecessary hardship for the Owner while causing no detriment to the public. The facts are as follows:

Owner is/was the owner of a roughly 6 acre parcel of real estate located in the Country Club of the South subdivision in the City of Johns Creek (the "Property"). The Property contains or is adjacent to both a creek on one side and a golf course detention basin on another side. A copy of the Final Subdivision Approval for the Property (the "Final Approval") is included with this application.

Owner and the Applicant, Peachland Homes, Inc., worked closely and cooperatively with the City staff in order to create a final plan that complied with all of the ordinances and other requirements of the City as interpreted by the City at that time. This included the staff's determination that the Stream Buffer Ordinance applied only to streams on or adjacent to the Property and NOT to a golf course detention pond. This interpretation is consistent with similar determinations of other municipalities in the state of Georgia and across the country. Pursuant to this determination and the specific direction provided by the City, Owner and Applicant then developed the property in accordance with all the city's determinations and submitted a plat for approval which located the roads and other infrastructure to comply with all required stream buffers and other requirements as determined by the City staff. The plat was approved by the City in July 2019 and a Final Plat was recorded on 8/1/2019.

The Final Recorded Plat showed the required Stream Buffers adjacent to the streams on the Property but did not require any Stream Buffers adjacent to the detention pond. Based on the Final Approval issued by the City, Owner then spent more than a year constructing / installing the road, sewer lines, utilities and other infrastructure improvements serving the Property AS REQUIRED AND APPROVED BY THE CITY at a cost of nearly \$1MM. Owner has also spent significant time, effort and dollars promoting and marketing the subdivision in accordance with the Final Subdivision Plan approved by the City and has also already sold 4 of the 6 lots to third parties individuals. It is not possible to move the existing roads or change the lot lines at this point in time. Enforcing certain stream buffer provisions which were not contemplated by either the Owner or the City at the time of the Final Subdivision Approval would create a harsh and unnecessary hardship for the Owner. Owner will comply with and is not seeking a waiver of the 25' state stream buffer adjacent to the detention pond. In addition, Owner will comply with the required State Stream Buffer and has further agreed with City Staff to implement a storm water management plan for the Property in order to mitigate issues potentially created by the requested variance and which will ensure that there is no detriment to the Public.

RECEIVED
V-21-007
AUG 25 2021

City of Johns Creek
Community Development