



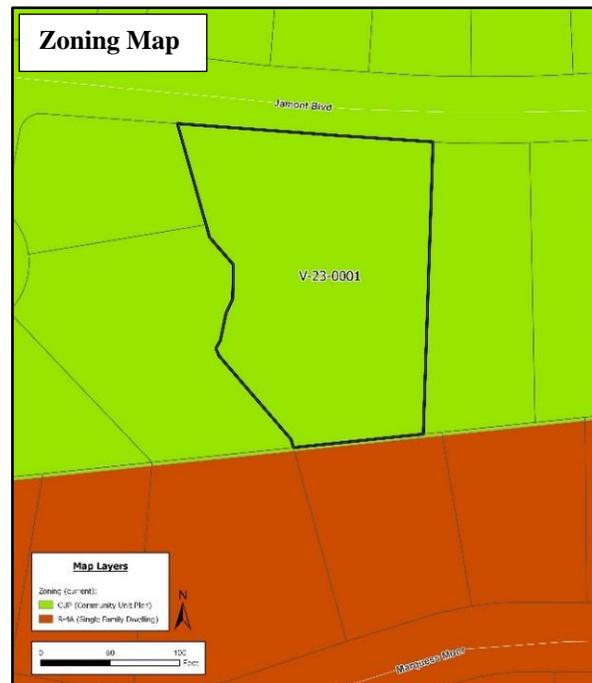
**Board of Zoning Appeals Meeting
February 21, 2023**

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| CASE NUMBER: | V-23-0001 |
| PROPERTY LOCATION: | 3373 Jamont Boulevard, Johns Creek, GA 30022 |
| CURRENT ZONING: | CUP (Community Unit District) Conditional |
| PARCEL SIZE: | 0.73 Acres |
| PROPERTY OWNER: | Deerchase Estate LLC. |
| VARIANCE REQUEST: | 50-foot encroachment into the 75-foot stream buffer to construct a single-family home and retaining wall |
| STAFF RECOMMENDATION: | APPROVAL WITH CONDITIONS |

Background

The subject property is located in the Estates at Deer Chase subdivision and is zoned CUP (Community Unit Plan District) Conditional. The subject lot was originally platted in Fulton County in 2006 with a stream and 25-foot state stream buffer. Due to the application of the City’s 50-foot undisturbed buffer and additional 25-foot impervious surface setback, the stream buffer encompasses approximately 70% of the property.

The property is currently undeveloped. The lot had a previously approved variance from 2012, V-12-019, to encroach 49 feet into the 75-foot stream buffer to construct a single-family home and retaining wall. However, the approved variance has expired due to 36 months of inactivity.



Community Development

Applicable Code Requirements

City of Johns Creek Code of Ordinances, Chapter 109: Natural Resources and Environmental Protection, Article V: Stream Buffer Protection, Section 109-118: Land Development Requirements.

(a) Buffer and setback requirements.

- (1) An undisturbed natural vegetative buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the point of wrested vegetation.
- (2) An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

Variance Request

The Applicant is requesting to encroach 50 feet into the 75-foot stream buffer to construct a single-family home. The proposal will result in 632 square feet of impervious surface (shown in green) in the 75-foot stream buffer and 1,499 square feet of disturbance (shown in red) in the 50-foot undisturbed buffer. The Applicant has not proposed any land disturbance within the State's 25-foot stream buffer.

In order to offset stormwater and environmental impacts associated with the proposed encroachment into the stream buffer, the Applicant proposes to install a drywell (shown in orange on the mitigation plan) that retains the first one inch of stormwater runoff associated with the proposed 632 square feet of impervious surface. In addition, the Applicant proposes to plant 3 large trees, 5 small trees, 32 shrubs, and 125 ground cover to mitigate for the 1,499 square feet of disturbance in the 50-foot portion of the stream buffer.

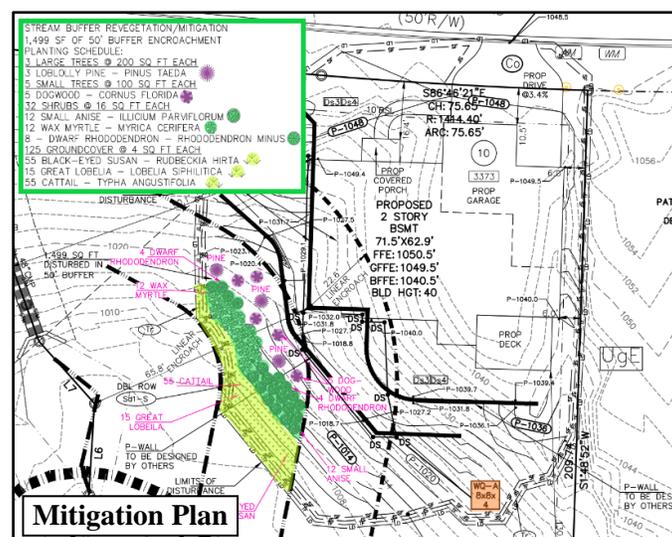
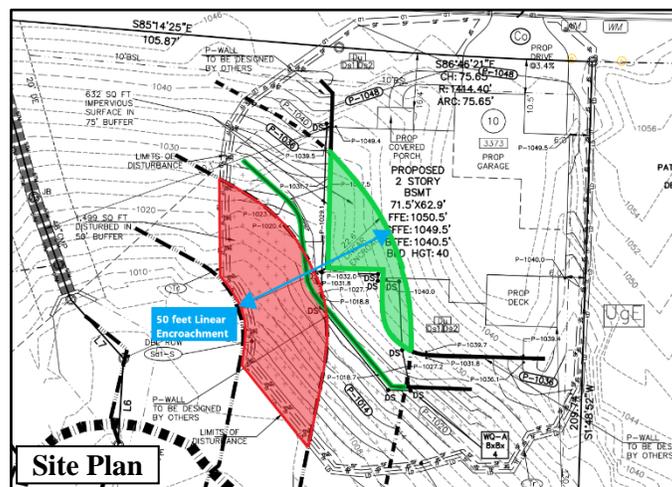
Stream Buffer Variance Review Criteria

City Code Section 109-118(b)(2) lists the following considerations for granting stream buffer variances:

- a. When a property's shape, topography or other physical conditions existing at the time of the adoption of this article prevents land development unless a buffer variance is granted;
- b. Unusual circumstances when strict adherence to the minimal buffer requirements in the article would create an extreme hardship.

Staff Analysis

The subject property was platted in Fulton County in 2006 with a stream and associated 25-foot state stream buffer. However, with the incorporation of the City, the stream buffer was expanded to 50 feet with an additional 25-foot impervious surface setback. The expansion of the stream buffer has created a hardship for the homeowner, as the buffer encompasses approximately 70% of the property. Staff is of the opinion that the requested variance is necessary to build a residential dwelling consistent in form and building size of existing



homes within the development.

Staff Recommendation

Based upon the findings and conclusions herein, staff recommends **APPROVAL** of V-23-0001, subject to the following conditions:

- 1) The proposed development shall not exceed the following encroachments, as shown on the site plan received by the Community Development Department and date stamped on January 9, 2023:
 - a. 50 linear feet of encroachment into the 75-foot stream buffer
 - b. 632 square feet of impervious surface within the 75-foot stream buffer
 - c. 1,499 square feet of disturbance within the 50-foot undisturbed buffer
- 2) The applicant shall install a drywell that retains the first 1 inch of stormwater runoff for the 632 square feet of impervious surface in the 75-foot stream buffer. The drywell location and design shall be approved by the City's Land Development Manager prior to the issuance of a building permit, and the drywell shall pass City inspection prior to the issuance of a Certificate of Occupancy for the home.
- 3) A vegetative planting plan shall be submitted to the Community Development Department for approval by the City's Land Development Manager, prior to the issuance of a building permit. Said plan shall be consistent with the mitigation plan received by the Community Development Department and date stamped on January 9, 2023. The final vegetative planting shall pass City inspection prior to the issuance of a Certificate of Occupancy for the home.