



BOARD OF ZONING APPEALS STAFF REPORT

Board of Zoning Appeals Public Hearing: Aug 17, 2021

CASE NUMBER:	V-21-003
PROPERTY LOCATION:	2261 Stone Mountain Lithonia Road (Parcel 16 124 02 011), 2241 South Stone Mountain Lithonia Road (Parcel 16-124 02 016), and 1780 Phillips Road (Parcel 16 101 03 011)
CURRENT ZONING:	Medium Density Residential (MR-1) and Local Commercial (C-1)
PARCEL SIZE:	Approximately 70.01 acres
PROPERTY OWNER(S):	Ace Homes LLC
STAFF RECOMMENDATION:	Approval
VARIANCE REQUEST:	Encroachment into the 75' stream buffer

Current Use and Zoning

Currently, the subject property is undeveloped, and not being used for any specific use. The subject property is zoned Medium Density Residential (MR-1) District and Local Commercial (C-1).

This development would need to be rezoned to be built as proposed on the site plan. Approval of this Stream Buffer Variance (V-21-003), however, is critical to the project and so the applicant is requesting this first before going through the rezoning process.

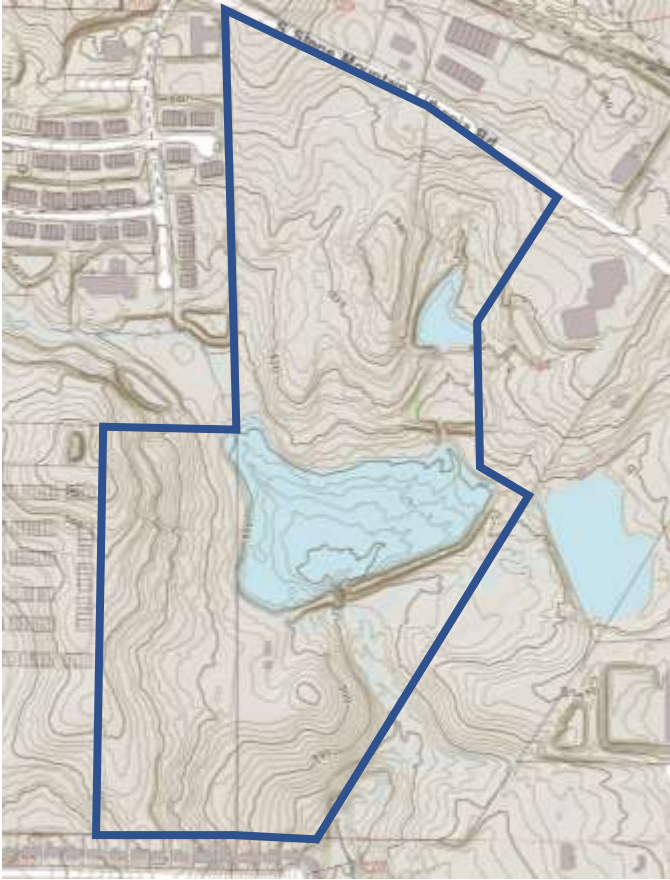
Existing Conditions

The property is currently undeveloped with a mixture of mature hardwoods and evergreens located on-site. There is an existing streams/waterway located on the property shown below:





BOARD OF ZONING APPEALS STAFF REPORT

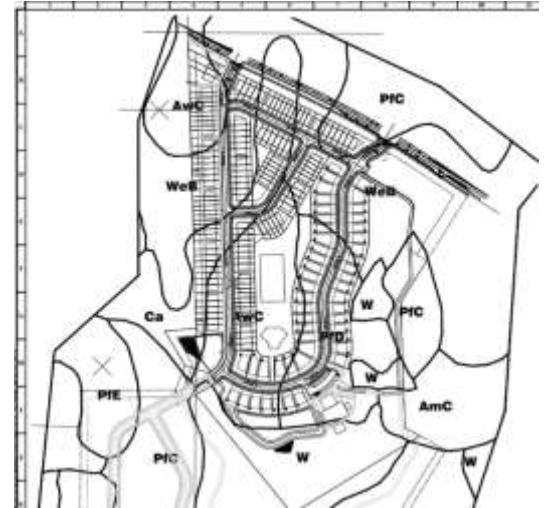




BOARD OF ZONING APPEALS STAFF REPORT

Proposed Development

The applicant is proposing to develop phase 1 of the project which consists of a subdivision consisting of 131 town homes, new asphalt road, clubhouse, pool walking trail, and pavilion. Additional phases of the project include a commercial piece which likely will be small scale and neighborhood oriented located at one of the entrances of the development, and another residential phase in the back of the project which likely will be single-family detached houses. The current concept plan for the development if built would require a rezoning to modify the boundary between the commercial piece and the townhomes, at least 3 of the proposed residential lots are located within a C-1 district which does not allow residential as a permitted use. This stream buffer variance request has no direct bearing on a potential rezoning request.



APPLICABLE CODE REQUIREMENTS

City of Stonecrest Zoning Ordinance; Chapter 14 Article VII-Stream Buffer; Section 14-543. Minimum stream buffer requirements

- (a) *Stream buffers are established along all perennial and intermittent streams in the City. These required stream buffers begin at the stream bank and extend 75 feet away from the stream. The buffers must remain undisturbed excepts as otherwise provided in section 14-544.*

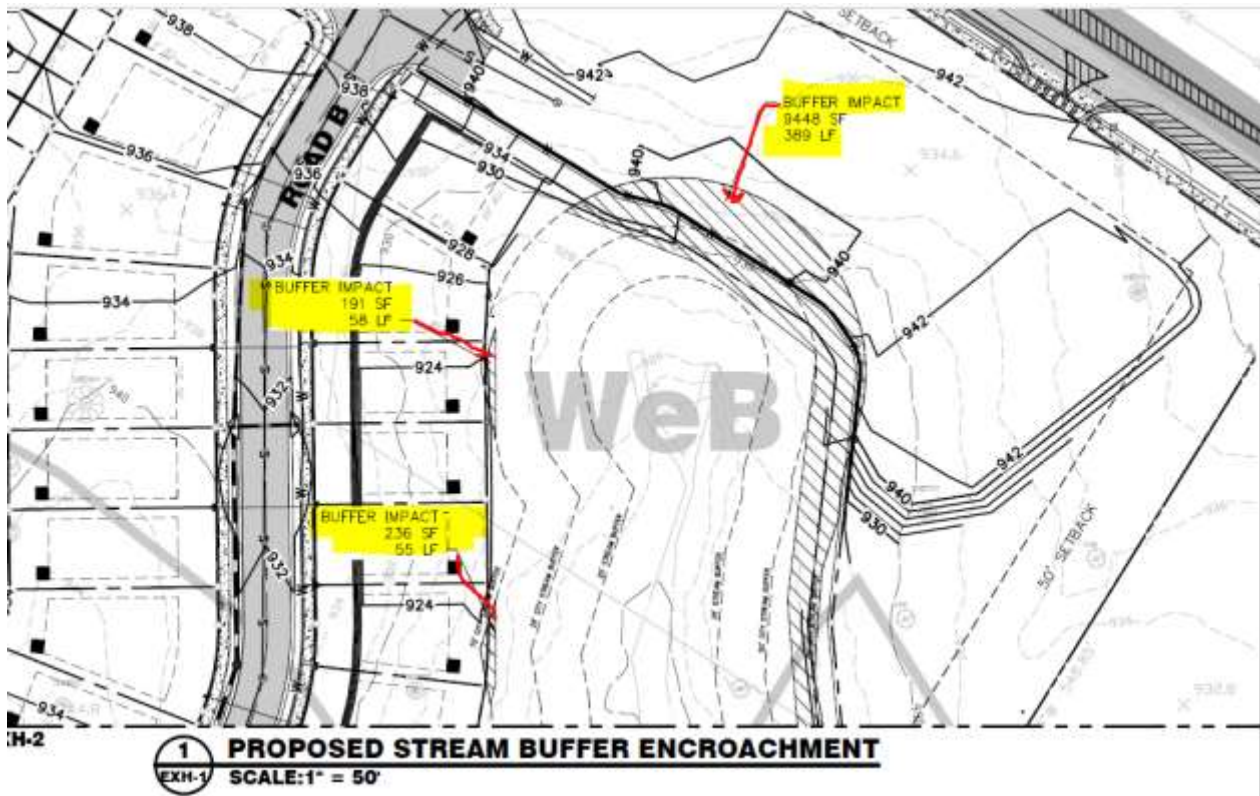


BOARD OF ZONING APPEALS STAFF REPORT

Variance Request

The applicant is requesting to encroach into the 75' and 50' no impervious buffer (s) . The applicant will encroach into the buffer in 7 locations. The first, second and third areas of encroachment is shown in exhibit 1. The applicant will encroach a total area of (9,448sf, 389 lf) into the 75' and 50' buffer this includes trails, retaining wall and some pavement. The second and third encroachments are (191 sf, 58 lf) and (236 sf , 55 lf) into the 75' buffer. The fourth, fifth, sixth and seventh areas of encroachment are shown in exhibit 2. The applicant will encroach a total of (5,495 sf, 300 lf), (146 sf, 54 lf) and (2179 Sf, 100 lf), for the trail and creek crossing serving the development.

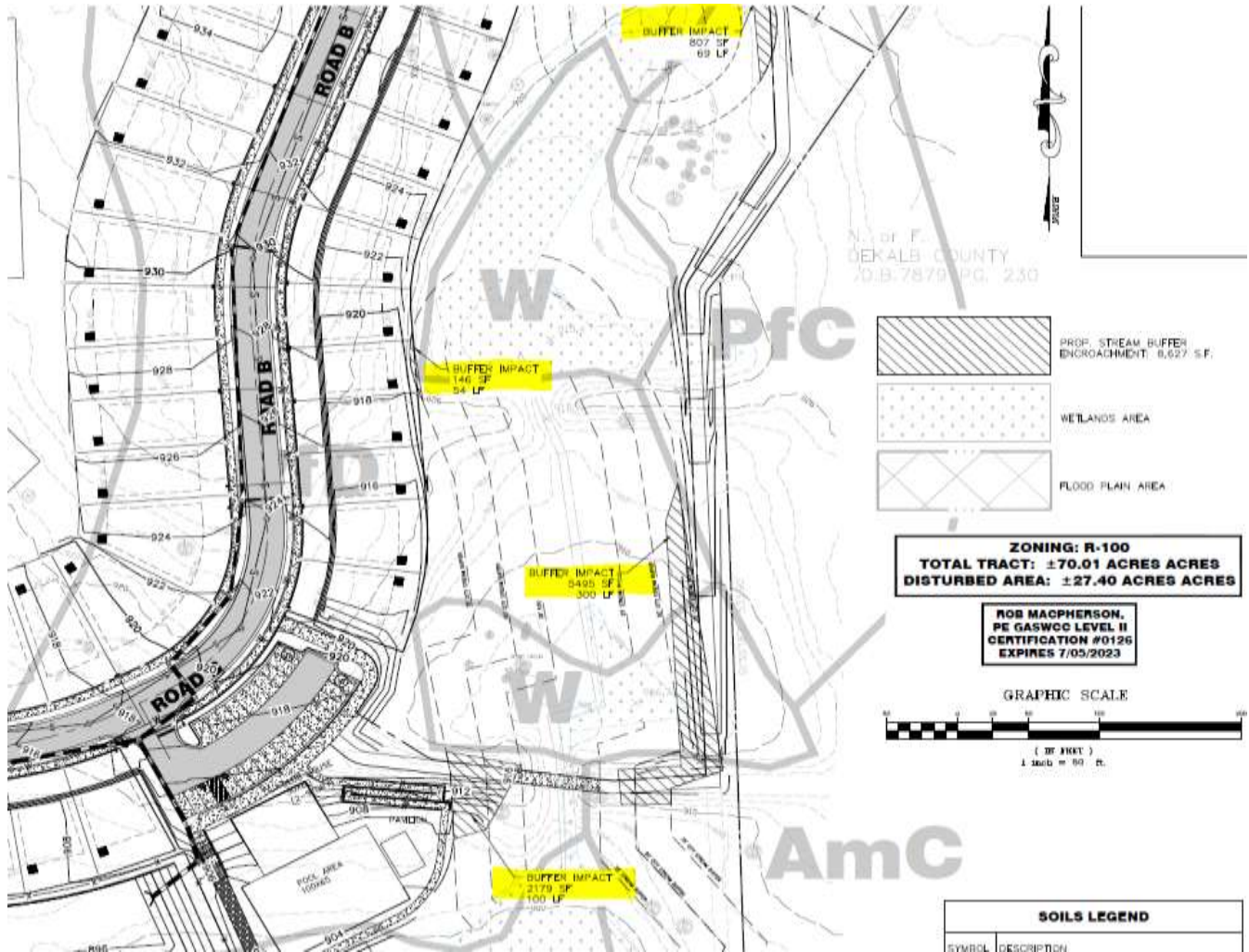
EXH 1.





BOARD OF ZONING APPEALS STAFF REPORT

EXH 2.





BOARD OF ZONING APPEALS STAFF REPORT

VARIANCE CONSIDERATIONS

Following are the specific considerations that must be considered by the Board of Zoning Appeals in order to grant a variance. These considerations include:

- A. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**
- B. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**
- C. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**
- D. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**
- E. The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.**



BOARD OF ZONING APPEALS STAFF REPORT

STAFF ANALYSIS

- A. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

There are exceptional site conditions, due to the location of the stream and the topography of the land. In order to develop the property the applicant would need encroach into the 75' and 50' stream buffers.

- B. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

Granting the variance would not go beyond the minimum necessary to afford relief and does not constitute granting special privilege which is inconsistent with the limitations upon other properties in the zoning district in which the subject property is located. Due to the shape of the subject property and the intended use, the applicant request is reasonable so the impact to the surrounding area will minimal.

- C. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

The granting of the variance will not be materially detrimental to the public welfare or injurious to the property. Based on staff analysis, there are adequate proposed water quality and stormwater mitigation steps to protect surrounding properties.

- D. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**

The literal interpretation and strict application of the applicable provision or requirements of this chapter would cause undue and unnecessary hardship on the applicant. The applicant does not have enough space on the property to construct trail ways around the property.

- E. The requested variance would be consistent with the spirit and purpose of this chapter and the Stonecrest Comprehensive Plan text.**

The requested variance would be consistent with the spirit and purpose of this chapter and the Stonecrest Comprehensive Plan, which has designated this site as Suburban on the Future Development Map. The proposed residential community is consistent with that character area. By requesting the variance applicant is seeking an alternative method of developing the subject property while trying to minimize any negative effect for the surrounding area.



BOARD OF ZONING APPEALS STAFF REPORT

RECOMMENDED CONDITIONS

Based on the findings and conclusions, it appears the applicant meets all the criteria for approval. Therefore, staff recommends **Approval of V-21-003** and be subject to the following conditions:

1. Encroachment into the 75' and 50' no impervious buffer shall be limited to the square footage/linear footage shown in exhibit 1 and 2 of the site plan.
2. Shall provide a planting mitigation plan to Stonecrest City Staff to review before issuance of a Land Disturbance Permit