

**VARIANCE(S):**

**V-2014-014**

**CITY OF SUWANEE  
VARIANCE ANALYSIS**

**CASE NUMBER(S):** V-2014-014

**REQUEST(S):** STREAM BUFFER REDUCTION/ELIMINATION

**APPLICABLE SECTION:** SECTION 4.1 OF THE STREAM BUFFER PROTECTION ORDINANCE  
SECTION 34-209 OF THE SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL ORDINANCE

**LOCATION:** TENCH ROAD AND PEACHTREE INDUSTRIAL BOULEVARD

**DISTRICT/LAND LOT:** 7-253-074

**ZONING:** C-2 (GENERAL COMMERCIAL DISTRICT)

**APPLICANT:** MICHAEL TOOTHAKER  
4320 SUWANEE DAM ROAD STE. 1400  
SUWANEE, GA 30024

**OWNER:** CHITTRANJAN THAKKAR  
5875 PEACHTREE INDUSTRIAL BOULEVARD  
NORCROSS, GA 30092

**CONTACT:** MICHAEL TOOTHAKER  
**CONTACT PHONE:** 678-546-8100

**STAFF RECOMMENDATION:** **APPROVAL WITH CONDITIONS**

**ANALYSIS:**

The applicant seeks a variance from Section 4.1 of the City of Suwanee Stream Buffer Protection Ordinance and Section 34-209 of the Soil Erosion, Sedimentation and Pollution Control Ordinance to allow for a reduced/eliminated stream buffer for a length of 278 feet of stream on a vacant wooded parcel. If approved, the applicant would disturb 56,481 square feet of stream buffer. The variance is requested in order to allow for the development of a 40,000 square foot health club, a commercial outlot and associated site improvements. The subject property is located at the northwest corner of Peachtree Industrial Boulevard and Tench Road. The applicant proposes access for the site of Peachtree Industrial Boulevard and Tench Road. The health club would be served by approximately 400 parking spaces. The commercial outlot and a

proposed detention pond will be located along Peachtree Industrial Boulevard, while the proposed health club will be located at the rear of the site. The site total approximately 10 acres.

The subject property is zoned C-2 (General Commercial District) and is located along the heavily commercialized Peachtree Industrial Boulevard. To the north is Level Creek Elementary School, also zoned C-2. To the east, across Tench Road, is a bank located in the City of Sugar Hill. To the south, across Peachtree Industrial Boulevard, is a power substation on property zoned for C-2 uses. To the west is Tomorrow Hope Day Care which is currently under construction and is zoned PMUD (Planned Mixed Use District).

The City of Suwanee Stream Buffer Protection Ordinance requires a 50-foot wide undisturbed buffer (Section 4.1.1) supplemented by an additional 25-foot wide buffer (Section 4.1.2) that may be graded but cannot include any impervious cover (examples of impervious cover include buildings, parking lots, driveways, etc.). The Soil Erosion, Sedimentation and Pollution Control Ordinance requires a 25 foot wide stream buffer adjacent to all streams (Sec. 34-209). The applicant is proposing to pipe 278 linear feet of the stream in order to allow for the development of parking for the health club. This requires clearing and grading within the required undisturbed buffer in addition to impervious cover over the entire buffer area. As such, a variance is required from the City for both the Stream Buffer Protection Ordinance and the Soil Erosion, Sedimentation and Pollution Control Ordinance and a variance from the State EPD for the intrusion into the 25 foot undisturbed buffer.

Currently, there is a stream that enters the property at the northern property line and extends south through the property to Peachtree Industrial Boulevard for a length of approximately 900 feet. The applicant proposes to eliminate approximately 0.55 acres of the undisturbed buffer and 0.75 acres of the impervious buffer along a 278 foot stretch on northern portion of the property. If approved, the stream will be piped under the parking area for a length of 278 feet and released back into the stream. The area where the water is released from the pipe into the stream will remain undisturbed for the remaining 624 feet until it reaches the Peachtree Industrial Boulevard right-of-way. It will then enter a culvert that carries the water under Peachtree Industrial Boulevard. The stream bisects the property. The elevation of the site is as high as 1,120 feet and as low as 1,050 feet above sea level. This severe topography combined with the presence of the stream makes development of the site without a variance challenging.

The applicant is proposing some measures to mitigate the loss of stream buffer. According to the applicant's environmental specialist, they are purchasing both stream and wetland credits from the Army Corps of Engineers within the same stream basin. The applicant is also proposing erosion control measures such as engineered flumes to help reduce the amount of sedimentation and erosion that is currently taking place on the site. If approved, the site will be required to meet all of the City's stormwater management requirements.

The impacted stream is designated as wetlands, which are regulated by the United States Army Corp of Engineers (USACE). As such, the applicant is required to provide mitigation for any impacts. It is not yet determined what those mitigation measures will be.

As required, the applicant has applied for a variance from the State EPD (Environmental Protection Division of the Department of Natural Resources) in order to eliminate the 0-25 foot undisturbed buffer. The State will also be reviewing the request and determining if any additional mitigation is required.

The City has adopted landscape regulations that specifically address landscaping in parking lots. The purpose of these regulations is to provide shade throughout the parking lot. Shade reduces the urban heat island effect, and it reduces the temperature of the water from the parking lot before it enters nearby streams. As such, it is particularly important that this site meets and even exceeds the landscaping requirements for parking lots.

The City's Zoning Ordinance grants the Zoning Board of Appeals the authority to grant variances. According to Section 2006 of the Ordinance, the Board is authorized to grant variances when literal enforcement of the Ordinance will result in unnecessary hardship to a property owner. The zoning ordinance also states that variances may be granted when there are exceptional conditions pertaining to the particular property in question because of its size, shape or topography.

In conclusion, the subject property is impacted severely by its topography and the existence of a stream. The length and central location of the stream makes developing the property very difficult. Existing conditions of the property and surrounding development are currently causing sediment to erode and fill in the stream. If approved, the stream will be piped as it leaves the adjoining property which will reduce the impacts of erosion. In addition, water that travels down Tench Road will be collected and piped to the stormwater management facility on site. Currently, water along Tench Road disperses over the land which has caused a large amount of sediment to be deposited into the stream. With appropriate conditions to ensure the impact of the parking lot is minimized, approval of a variance on this site could be appropriate. Therefore, staff recommends **APPROVAL WITH CONDITIONS** of V-2014-014.

**V-2014-014**

**Planning Department Recommendation:**

Approval of a variance to reduce/eliminate the stream buffer to the following conditions:

1. Approval of the variance is contingent upon the State granting any necessary approvals and compliance with any state issued conditions of approval. This approval shall not authorize impacts to more than 280 linear feet of stream.
2. Any parking area shall provide the following:
  - a) Provide a minimum 200 square foot landscape island a minimum of every seven spaces and at both ends of the terminus for each single row of parking. Said islands shall be planted with a minimum 3-inch caliper overstory tree with an anticipated canopy of 1,600 square feet and;
  - b) Provide a minimum 6-foot wide landscaping strip (measured from back of curb to back of curb) between any double row of parking. Said strip shall be planted with minimum 3-inch caliper overstory trees planted on 40-foot centers. Said trees shall have an anticipated canopy size of 1,600 square feet and;
  - c) Provide a minimum 400 square foot island at each terminus of a double row of parking. Said islands shall be planted with two, minimum 3-inch caliper overstory trees. Said trees shall have an anticipated canopy of 1,600 square feet and;
  - d) Provide a minimum 400 square foot island at least every 15 spaces (30 if counting both rows) for each double row of parking. Said islands shall be planted with two, minimum 3-inch caliper overstory trees. Said trees shall have an anticipated canopy of 1,600 square feet and;
  - e) Compliance with the landscape conditions does not exempt the property from any other landscape requirement.

## Standards for Consideration

Pursuant to Section 2009A of the City of Suwanee Zoning Ordinance, the City finds the following standards are relevant in considering all applications for a Variance.

**A. Will approval of the variances unreasonably increase the congestion in public streets?**

Approval of the variances would not increase the congestion in public streets.

**B. Will approval increase the danger of fire or endanger public safety?**

Approval of the variances would not increase the danger of fire or endanger public safety.

**C. Will approval unreasonably diminish or impair established property values within the surrounding area?**

Approval of the variances would not unreasonably diminish or impair property values within the surrounding area.

**D. Will approval in any other aspect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City?**

Without proper mitigation, approval of the variance could impair water quality of Brushy Creek.

**C. SUWANEE SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE  
CITY OF SUWANEE ZONING BOARD OF APPEALS**

Please complete this application and submit with all necessary attachments as stated on the Stream Buffer Variance Information Form (please type or print)

APPLICANT INFORMATION

Name: MICHAEL TOOTHAKER  
Company Name: LELAW ENGINEERING (OWNER AGENT)  
Address: 4320 SUWANEE DART RD. SUITE 1400  
City: SUWANEE, GA  
State: 678. 546. 8100 x.105  
Phone: GEORGIA

OWNER INFORMATION

Name: CHITRAMAN THAKUR  
Company Name: NRCT, LLC.  
Address: 5875 PEACHTREE IND. BLVD. SUITE 340  
City: NORCROSS  
State: GEORGIA  
Phone: 30092

CONTACT PERSON: MICHAEL TOOTHAKER PHONE: 678. 546. 8100 x.105

ADDRESS OF PROPERTY SWC OF TENA ROAD & PEACHTREE INDUSTRIAL BLVD.

LAND DISTRICT 7<sup>th</sup> LAND LOT 253 PARCEL 7253-071 ACRES 10.00

PROJECT NAME ATLANTA FITNESS - SUWANEE PROJECT NAME \_\_\_\_\_

ZONING C-2

NAME OF STREAM(S) INVOLVED (if un-named, indicate the stream that this tributary flows into):  
UNNAMED TRIBUTARY OF BRUSHY CREEK

EXTENT OF ENCROACHMENT INTO STREAM BUFFER (linear feet and area of buffer to be disturbed) 278 LINEAR FEET, 32,667 SF OF 50-75' IMPROVED BUFFER IMPACTED, & 23,914 SF OF 25-50' UNDISTURBED BUFFER IMPACTED

NEED FOR VARIANCE (see A. 1-8 and expound) THE EXISTING TOPOGRAPHY AND STREAM LOCATION SEVERELY LIMITS THE OPPORTUNITY FOR DEVELOPMENT OF THE SITE WITHOUT THE APPROVAL OF A BUFFER VARIANCE.

**\*A STREAM BUFFER VARIANCE FROM A CONDITION OF ZONING CANNOT BE ACCEPTED.**

**\*\*\*The property owner, applicant and /or a representative thereof shall be present at all meetings of the Zoning Board of Appeals, Planning Commission and/or Mayor and Council at which official action is requested on any stream buffer variance or application for amendment. The failure of the property owner, applicant and/or a representative to attend such meetings shall result in the denial of said variance or application for amendment.**

V.2014.014

**Variance Application**

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**APPLICANT CERTIFICATION**

The undersigned below is authorized to make this application and is aware that an application or re-application for the same type of variance affecting the same land or any portion thereof shall not be acted upon within twelve (12) months from the date of last action by the Board of Appeals, unless waived by the Board of Appeals. An application or reapplication shall not be acted upon in less than (6) months from the date of the last action by the Board of Appeals.

CK Hester October 16, 2014  
Signature of Applicant Date

CHITPANJAN THAKUR OWNER  
Typed or Printed Name and Title

[Signature] October 16, 2014  
Signature of Notary Public Date



**PROPERTY OWNER CERTIFICATION**

The undersigned below, or as attached, is the record owner of the property considered in this application and is aware that an application or reapplication for the same type of Variance affecting the same land or any portion thereof shall not be acted upon within twelve (12) months from the date of last action by the Board of Appeals unless waived by the Board of Appeals. An application or reapplication shall not be acted upon in less than six (6) months from the date of the last action by the Board of Appeals.

CK Hester October 16, 2014  
Signature of Applicant Date

CHITPANJAN THAKUR OWNER  
Typed or Printed Name and Title

[Signature] October 16, 2014  
Signature of Notary Public Date



**DEPARTMENT OF PLANNING AND DEVELOPMENT USE ONLY**

Case Number \_\_\_\_\_ Variance \_\_\_\_\_ Administrative \_\_\_\_\_  
Date Rec'd \_\_\_\_\_ Rec'd By \_\_\_\_\_ Hearing Date \_\_\_\_\_  
Amount Rec'd \_\_\_\_\_ Receipt \_\_\_\_\_

ACTION TAKEN \_\_\_\_\_

SIGNATURE \_\_\_\_\_ DATE: \_\_\_\_\_

V. 2014.014



#### D. STANDARD QUESTIONS FOR STREAM BUFFER VARIANCE REQUEST

1. Describe the present condition of the buffer area. What kind of vegetation is present? Has the contour been altered by man's activities in the past? Are there buildings, parking lots, sewer lines, or other man-made structures present?

**Answer:**

A large portion of the area within State of Georgia buffer is a forested wetlands system and cove hardwoods system that range in age between 20 to 40 years old. There are some trees in the upper buffer area that are around 60 years old. These trees are sweetgums and tulip poplars, which have little or no value. The understory is mostly disturbed by past anthropogenic activities and privet. The lower wetland area has been greatly impact by the release of sediment from development of the school, runoff from Tench Road, development of Tench Road, a sewer line and silvicultural activities. The area in the lower buffer area and south of the stream and within the City of Suwanee's additional buffer is mostly comprised of pines for silviculture. On the north side of the development site the lower portion of the buffer area has been impacted by the development of Tench Road. Also, runoff from Tench Road has caused numerous sediment release in the vicinity of the sewer line. The upper portion of the development site was impacted in the past by agricultural practices and a homestead. At the seepage head of the stream and immediately downstream, the stream segment was formerly dammed up to hold water. Above the seepage head area, the outflow from the school has been washing sediment into the stream as well. Throughout the length of the stream, the impacts from sediment and the flashy nature of this system from the local development has resulted in there being little or no aquatic organism living in the stream.

Soils within the development area are mapped as the Chewacla Silt Loam and Madison Sandy Loam. . The Cewacla silt loam soil is located in the vicinity of the large wetland in the lowest elevation on the property. These soils are consist of deep, poorly drained, low permeable soils that are formed from silt loam residuum. Slopes associated with these soils are 0 to 2 percent. The Madison Sandy Loam is deep and very deep, well drained, moderately permeable soils that formed in loamy residuum. These soils are found on slopes and hill sides. Slopes associated with these soils are 10 to 15 percent (Figures 3a to 3c).

2. Describe the land disturbing activity proposed within the buffer area. Describe the proposed project in detail. How much of the land will be disturbed? For how long? What structures and paved or gravel areas will be built? What is the planned long-term use of the area?

**Answer:**

The proposed land disturbing activities within the proposed buffer will be the filling of 278 linear feet of stream and associated buffer for the development of a parking lot, landscaping, slopes, roadway and drainage system. South of the stream, the City's additional buffer will be developed with the slopes and retaining walls for the detention system and the development area.

The project is a proposed Fitness Center with a retail center and associated parking, landscaping, driveways, detention pond and buildings. As designed the development will impact approximately 9.5 acres of the property. It will also impact 278 linear feet of stream, 0.12 acres of wetlands, 0.4 acres of State Buffer and 0.55 acres of the City's Undisturbed Buffer and 0.75 acres of the City's Impervious Buffer.

3. Explain your need to encroach within the buffer. What would be the impact to the project if it were not allowed to be constructed within the buffer? How does the topography of the site affect the project? How wide a buffer will be left undisturbed?

**Answer:**

The encroachment into the buffer is necessary because the topography of the site is so steep that it is prohibitive for development. In order to develop the site, extensive slopes are necessary to support the parking lot, drive way and detention system. The pre-development slopes on the property range from a 10 to 15 percent grade in the development area. These grades require that long development slopes, lifts and retaining walls be constructed to meet the needs of the client and meet the requirements of the city ordinances for detention, parking, driveways and landscaping.

If the impacts to the stream buffers are not allowed, the site cannot be developed in a manner that will be economically feasible.

4. What alternatives have been considered which would keep the project outside the buffer area? Briefly explain each alternative and why they could not meet your needs. Describe other alternatives for using the property that would avoid encroachment within the buffer. Include scaling down or reorienting the proposed use. Explain why each alternative allows no opportunity for any development under any design configuration unless a buffer variance is granted.

**Answer:**

Because of the shape and orientation of the property and the location of the stream on the property, there is not a development scenario that is economically feasible that does not impact a portion of the stream buffer.

The first development scenario was to develop the corner of the property at Peachtree Industrial Boulevard and Tench Road. This scenario looked to put a larger development upfront and a smaller development in the back of the property. The impacts to the wetland areas and the stream would have required an individual permit for development of the site. A larger buffer area would have been developed and the remaining buffer

areas would have been fragmented. Finally, access to the back parcel would have been limited to one ingress/egress.

The second development scenario included keeping the State Buffer along the entire stream but having a roadway crossing above the stream headwaters area. This could not work because the roadway geometry prevented the entrance along Tench Road from being placed on a curve on a steep roadway. This location did not have the proper line of sight needed for traffic to see vehicles enter or exiting the property. Also, to achieve this the parking lot had to be fragmented. This resulted in the project not meeting the minimal parking requirements in the City Ordinances. Also, this configuration created a safety concern for the patrons.

Over the past 15 years, many developers have looked at this development site and tried many different development plans. Because of the steep nature of this property and the location and amount of stream and wetlands on the property, the cost of developing the property have been excessive. The only alternative that has worked is to develop the entire back portion of the property with one continuous development scenario. This way the development has access to Tench Road and Peachtree Industrial Boulevard, allowing a safe ingress and egress from the property. The wetland and stream impacts are eligible for a Nationwide Permit under Section 404 of the Clean Water Act. The wetland and stream system are not fragmented by the development. The water from the school site will be directed through the development site and properly released into the stream. Finally, the flow of water coming down Tench Road and being dumped on the property will be attenuated by this development.

5. What mitigation measures will be taken to offset this loss of stream buffer area? (Explain in detail) If your response to Item 5 indicates an impaired buffer function, explain in detail what mitigation measures you propose to offset the loss and how these measures will actually work. What width of undisturbed buffer would be maintained after the project is completed?

**Answer:**

The primary mitigation measure that will be development of a stormwater plan that will treat and detain water as required by the State of Georgia. Then the water that has been released from the school will be captured, run through the site and properly released into the stream. The water that runs down Tench Road and has created large sediment loads to be released in the buffer, wetland and streams will be attenuated by the development. Some of the water will be run through the detention system and some will be run across a vegetated slope and flume system that will be designed to handle the flows. Finally, water released from the detention pond will be release into the culvert that runs under Peachtree Industrial Boulevard to minimize impact to the remaining buffer from a concentrated flow of water.

Also, the State Buffer will be left intact along 624 linear feet of stream on the lower end of property before the going into a culvert that runs under Peachtree Industrial Boulevard.

6. What will the long-term impacts of the project be on the buffer area? Explain the long-term impacts of the project.

**Answer:**

The buffer in the upper portion of the property will be lost permanently. Water released from the school will be bypassed and properly release into the stream. This will eliminate a source of erosion into the stream. Then water that was running down Tench Road that has caused large releases of sediment into the stream, this water will partial run through the detention system and released onto engineered slopes or flumes that can handle the flows. This will eliminate a large source of sediment that has been eroding into the stream.





October 24, 2014

Ms. Peggy Chambers  
Environmental Specialist  
Erosion and Sedimentation Control Unit  
Environmental Protection Division  
4220 International Parkway Suite 101  
Atlanta, GA 30354

Dear Ms. Chambers:

This letter is to provide written confirmation to the Georgia Environmental Protection Division that the City of Suwanee Planning and Inspections Department is aware that Atlanta Fitness is applying for a stream buffer variance with the State. The City of Suwanee has determined that the site does include state waters and that the project as proposed requires a variance.

The City of Suwanee will also require a stream buffer variance for development as proposed. If you have any questions please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to read "Josh Campbell".

Josh Campbell  
Director of Planning and Inspections  
City of Suwanee, Georgia 30024  
770-945-8996  
[Campbell@suwanee.com](mailto:Campbell@suwanee.com)



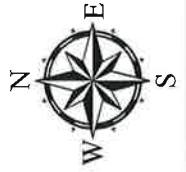















# EXHIBIT A

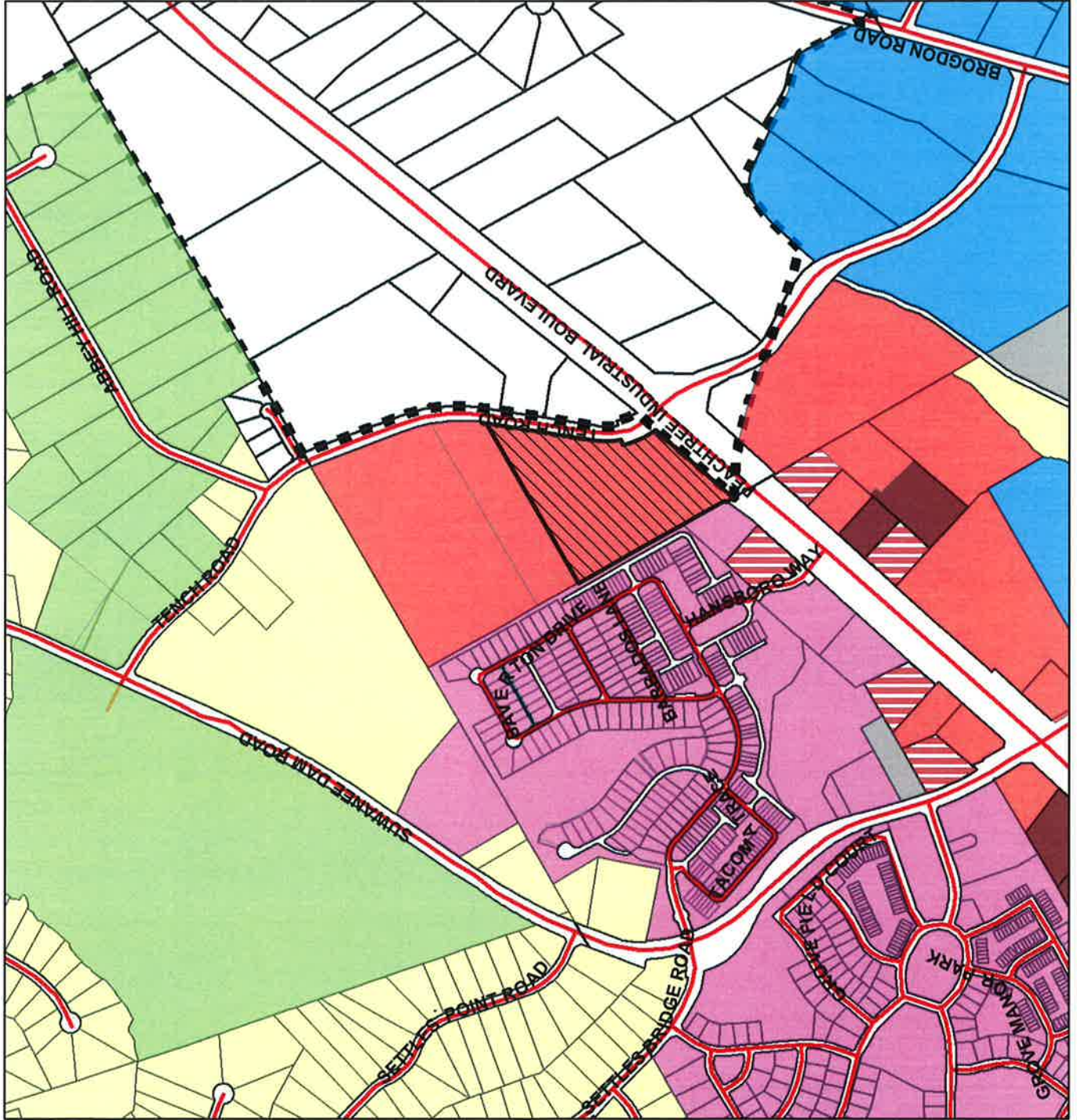
## V-2014-014

Location Map



### Legend

-  V-2014-014
-  Major Road
-  City Limits
-  C-2
-  C-2A
-  C-3
-  M-1
-  O-I
-  PMUD
-  R-140
-  R-100







# EXHIBIT B V-2014-014

Aerial Map

## Legend



V-2014-014



Major Road



City Limits

