

**VARIANCE(S):**

**V-2018-014**

**CITY OF SUWANEE  
VARIANCE ANALYSIS**

**CASE NUMBER:** V-2018-014

**REQUEST:** STREAM BUFFER ENCROACHMENT

**APPLICABLE SECTION:** SECTION 4.1 OF THE STREAM BUFFER PROTECTION ORDINANCE

**LOCATION:** 862 WHITE STREET

**PARCEL:** 7-210-097

**ZONING:** PMUD (PLANNED MIXED-USE DISTRICT)

**APPLICANT:** MIKE MADDOX  
TRAVIS PRUITT AND ASSOCIATES  
4317 PARK DRIVE, SUITE 400  
NORCROSS, GA 30093

**OWNER:** JOHN BONANNO  
WHITE STREET VILLAGE, LLC  
2635 CENTURY PARKWAY, SUITE 150  
ATLANTA, GA 30345

**CONTACT:** MIKE MADDOX  
**CONTACT PHONE:** 770-695-0815

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

**ANALYSIS:**

The applicant seeks a variance from Section 4.1 of the City of Suwanee Stream Buffer Protection Ordinance to allow for grading within a required 50-foot undisturbed stream buffer in association the development of a new residential project that includes 208 single family residential dwellings.

The subject property is zoned PMUD (Planned Mixed-Use District) and is located at the northwest intersection of McGinnis Ferry Road and Buford Highway. The applicant is proposing to develop a neighborhood with a mixture of single family detached, single family detached cottages, and single family attached townhomes, totaling 208 dwellings.

The property sits south and adjacent to White Street Park, zoned R-140. It is bound by the Norfolk Southern railway to the west, McGinnis Ferry Road to the south and Buford Highway to

the east. The Old Suwanee neighborhood is across the railroad tracks from the property, but not within sight. Across Buford Highway, there is an undeveloped parcel zoned O-I (Office-Institutional), a two-story office building zoned O-I, and a single-family house zoned R-100. An existing truck terminal is on the land across McGinnis Ferry Road, with a small portion of the property belonging to the truck terminal located directly adjacent to the southern boundary of the subject property. Both this piece and the truck terminal are zoned M-1 (Light Industrial).

The subject property totals approximately 32.2 acres. The total disturbed acreage is approximately 26 acres. The site is under development, but prior to grading was heavily wooded with significant topography. The property includes an unnamed tributary that feeds into Suwanee Creek located along the southwestern portion of the property, at the intersection of McGinnis Ferry Road and Buford Highway. Significant grading is required in order to develop the site in a manner consistent with the approved concept plan.

The City of Suwanee Stream Buffer Protection Ordinance requires a 50-foot wide undisturbed buffer from the edge of streams (Section 4.1.1) supplemented by an additional 25-foot-wide buffer (Section 4.1.2) that may be graded but is not allowed to include any impervious cover (examples of impervious cover include buildings, parking lots, driveways, etc.).

The southwestern portion of the property, at the intersection of McGinnis Ferry Road and Buford Highway, is covered by the unnamed tributary of Suwanee Creek and its stream buffers. The applicant is requesting to encroach approximately 545 linear feet and 13,731 square feet (.31 acres) into the 50-foot stream buffer to allow for grading to eliminate sections of a retaining wall at the top of the slope. The existing retaining wall is 15-feet high in some places and is located behind four lots that back up to the stream.

This request is for a variance from the stream buffer requirements to allow grading within the required buffer on one side of the stream. There would be no impervious surface located in the stream buffer and the applicant is not proposing any work within the 25-foot state buffer; therefore, the applicant is not required to apply for a variance from the State EPD (Environmental Protection Division of the Department of Natural Resources). The grading within the buffer is necessary to eliminate sections of an existing 15-foot retaining wall that would be located at the rear of four lots.

The standard for issuing variances from the Stream Buffer Protection Ordinance is different than the standard for granting variances from the Zoning Ordinance. While the Zoning Ordinance requires the applicant to demonstrate a hardship, the SBPO does not. Instead the SBPO calls for efforts to minimize impacts to the streams and requires that some mitigation is offered. In this case, the applicant is proposing to mitigate the impacted buffer by setting aside an additional 13,737 square feet of buffer on the opposite side of the stream to extend the stream buffer to offset the encroachment.

The City's Stream Buffer Ordinance grants the Zoning Board of Appeals the authority to grant variances. According to Section 4.2 of the Stream Buffer Ordinance, the Board is authorized to grant variances when literal enforcement of the Ordinance will result in unnecessary hardship to a property owner. The Ordinances also state 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 this case, the alterations to the topography are necessary to meet the City's expectations for this property. Additionally, the stream is the primary reason for the approximately 6 acres located along McGinnis Ferry Road remaining undisturbed. The preservation of the significant acreage outweighs the impacts on the other side of the stream.

In conclusion, the subject property is impacted by its topography and the existence of the stream on a large portion of the southwestern portion of the property. The location of the subject stream makes developing the property per the vision of the Downtown Suwanee Master Plan difficult. If approved, the proposed buffer reduction would not eliminate the stream nor would it allow for impervious surface to be constructed within the buffer. The grading of the buffer area is minor and should not cause substantial impacts to the stream. The applicant is proposing to preserve approximately 3 acres of land on the opposite side of the creek. Staff recommends **APPROVAL WITH CONDITIONS** of V-2018-014.

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**Planning Department Recommendation:**

Staff recommends approval of the request to eliminate the stream buffer subject to the following conditions:

1. The buffer reduction shall only be applicable to the area shown in "Exhibit A". No grading shall occur outside of the identified area.
2. All land between the unnamed tributary and McGinnis Ferry Road shall be permanently preserved. Only recreational uses with minimal land disturbance and/or impervious surfaces are allowed in this area.

## 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. Approval of the variances would allow a 15-foot-tall wall located at the rear of residential lots to be converted into a slope.

**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?**

Approval of the variance would not impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.

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: Mike Maddox  
Company Name: Travis Pruitt & Associates, Inc.  
Address: 4317 Park Drive, Suite 400  
City: Norcross  
State: GA  
Phone: 770-695-0815

OWNER INFORMATION

Name: John A. Bonanno  
Company Name: White Street Village, LLC  
Address: 2635 Century Parkway, Suite 150  
City: Atlanta  
State: GA  
Phone: 678-681-9525

CONTACT PERSON: Mike Maddox

PHONE: 770-695-0815

ADDRESS OF PROPERTY 862 White Street

maddox@travispruitt.com

LAND DISTRICT 7 LAND LOT 209/210 PARCEL 7210 097 ACRES 32.238

PROJECT NAME Harvest Park PROJECT NAME \_\_\_\_\_

ZONING PMUD (RZ-2017-006)

NAME OF STREAM(S) INVOLVED (if un-named, indicate the stream that this tributary flows into):  
Unnamed tributary flows to Suwanee Creek

EXTENT OF ENCROACHMENT INTO STREAM BUFFER (linear feet and area of buffer to be disturbed) Approximately 545 linear feet and 13,731 SF (0.31 ac.)

NEED FOR VARIANCE (see A. 1-8 and expound)  
Encroach into 50' city stream buffer to eliminate retaining wall section

**\*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.**

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

The City of Suwanee Erosion and Sedimentation Act, as adopted December 19, 2000, prohibits land disturbing activities within 50 feet (horizontally measured) of state waters, unless a variance is obtained from the Director of the Environmental Protection Division and the City of Suwanee Zoning Board of Appeals. A completed application form is required for evaluating requests for such approval. Please answer all questions as thoroughly as possible. Attach answers to the following:

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? Is it flat or hilly? What kinds of soils or rock are present?
2. Describe the land disturbing activity proposed within the buffer area. Describe the proposed project in detail. How much 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?
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?
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 re-orienting the proposed use. Explain why each alternative allows no opportunity for any development under any design configuration unless a buffer variance is granted.
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?
6. What will the long-term impacts of the project be on the buffer area? Explain the long-term impacts of the project. For example, installing an underground utility

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1. Present conditions include an existing paved/gravel road that runs parallel with the 50' buffer and impervious setback. The contours and vegetation have been altered by man's activities in the past when installing the paved/gravel road. There are storm structures, a storm pipe, and paved/gravel road present. The present ground is a steep slope on either side of the existing road.
2. Land disturbing activity within the 50' stream buffer include grading, erosion control measures, and a grass slope. Approximately up to 545' and 13,731 SF (0.31 ac.) within the 50' city stream buffer will be disturbed. There will not be any manmade structures or impervious surfaces within the 50' city stream buffer. The planned long term use in this area is to be used as a stabilized grass slope.
3. The purpose for encroachment into the 50' city stream buffer is to regrade the area to help eliminate sections of a retaining wall at the top of the slope. If encroachment is not allowed then sections, up to 15' high, of the retaining wall have to stay in place in the back of four lots along the stream. Approximately 13,731 SF (0.31 ac.) of the 50' city stream buffer will be disturbed while leaving the entire 25' state waters buffer undisturbed.
4. Approved plans call for a retaining wall at the top of the slope with grading outside of the 50' city stream buffer. Based on conversations with the City of Suwanee, they think the project will be enhanced by eliminating the retaining wall as much as possible in lieu of offsetting the encroachment on the other side of the stream.
5. The encroachment within the 50' city stream buffer will be offset with the same amount, or more, of area left undisturbed on the opposite site of the creek. A portion of the 50' city stream buffer will be increased to 75' with the impervious setback increased to 100'. This portion of the site is currently wooded with no existing manmade structures. There will be a 25' undisturbed buffer north of the creek and a 75' undisturbed buffer south of the creek for a portion of the site. The 25' state waters buffer will be left undisturbed.
6. The encroachment area will become a permanent stabilized grass slope.

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Exhibit A

**OWNER**  
**WHITE STREET VILLAGE, LLC**  
 2838 CENTURY PARKWAY STE 100  
 ALPHARETTA, GA 30201  
 (770) 851-5225  
 www.whitestreetvillage.com

**PROJECT INFORMATION**  
 SITE ADDRESS: 4217 PARK DRIVE, SUITE 400  
 DISTURBED AREA: 2.8 ACRES  
 TAX PARCEL ID: 21-0037  
 LOT YIELD: 1.00  
**PROPOSED USE:**  
 • SINGLE-FAMILY RESIDENCES  
 • SINGLE-FAMILY ATTACHED HOMES (SFDH)

**LEGEND**

|          |                       |
|----------|-----------------------|
| [Symbol] | EXISTING WETLANDS     |
| [Symbol] | PROPOSED WETLANDS     |
| [Symbol] | EXISTING BUFFER ZONES |
| [Symbol] | PROPOSED BUFFER ZONES |
| [Symbol] | EXISTING DRAINAGE     |
| [Symbol] | PROPOSED DRAINAGE     |

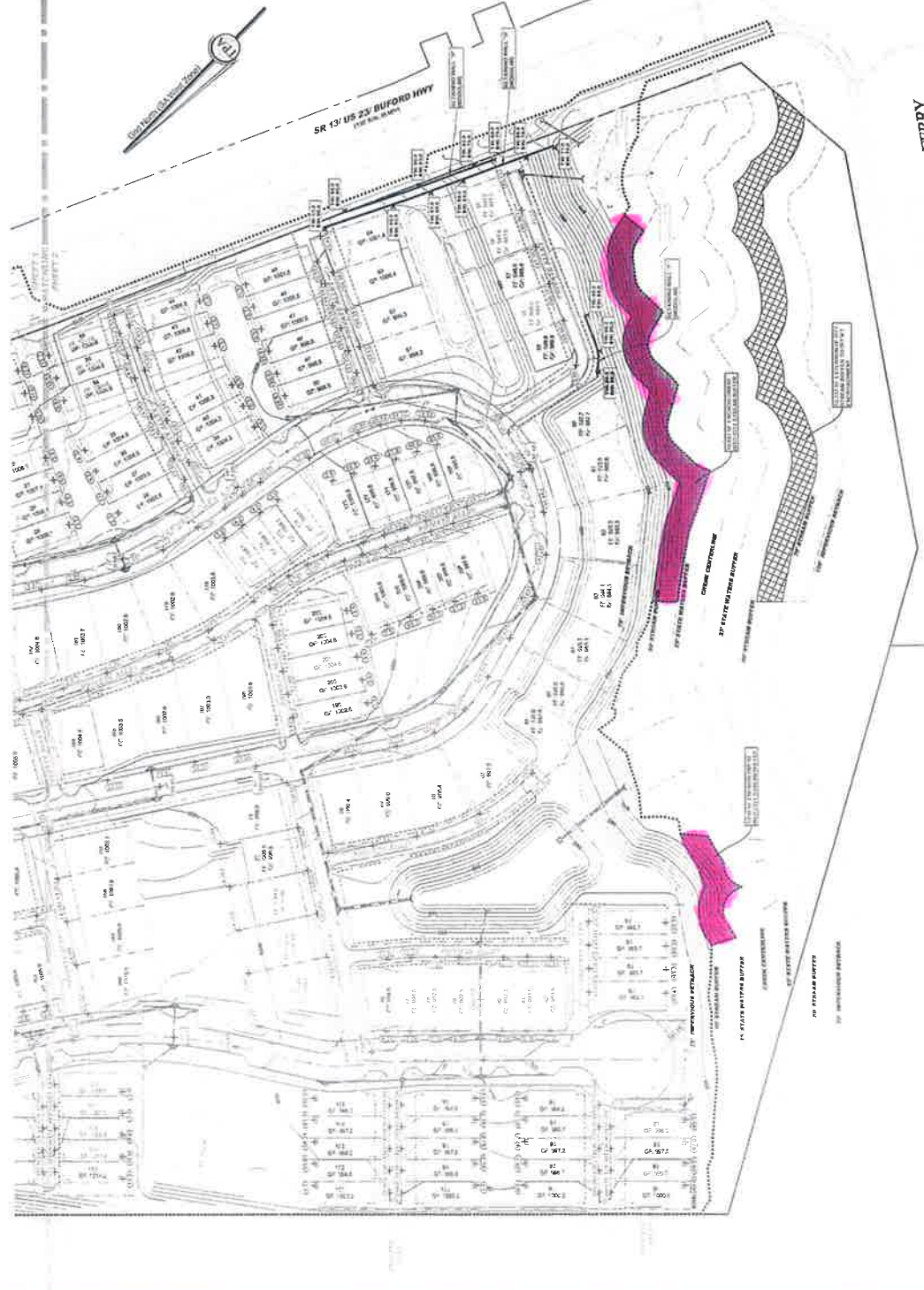


Exhibit A

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# HARVEST PARK

STREAM BUFFER VARIANCE EXHIBIT



**REVISIONS**

| NO. | DATE    | DESCRIPTION           |
|-----|---------|-----------------------|
| 1   | 8/13/18 | ISSUED FOR PERMITTING |

4217 Park Drive, Suite 400  
 Norcross, Georgia 30093  
 Phone: (770) 851-5225  
 Fax: (770) 851-5225  
 www.whitestreetvillage.com

862 WHITE STREET, SUWANEE, GA 30051 • 1/400 LOTS 208 & 209 • 7TH DISTRICT • PARCEL # 210100 • CITY OF SUWANEE • DEKALB COUNTY • GEORGIA

**WETLAND CERTIFICATION:**




THE DRAWING IS A PLAN VIEW OF THE SITE WITH THE WETLANDS AND BUFFER ZONES. THE WETLANDS AND BUFFER ZONES ARE SHOWN IN PINK. THE WETLANDS AND BUFFER ZONES ARE SHOWN IN PINK. THE WETLANDS AND BUFFER ZONES ARE SHOWN IN PINK.

**GEORGIA**  
 PROFESSIONAL ENGINEER  
 License No. 10749  
 August 13, 2018

# Location Map V-2018-014



## Legend

-  V-2018-014
-  Roads
-  parcels



1:5,000



# Zoning Map V-2018-014

## Legend



## ZONING

- C-1
- C-2
- C-2A
- C-3
- GCA
- IRD
- M-1
- OI
- OTCD
- PMUD
- R-100
- R-140
- R-75
- R-85
- RM6
- RM8

— Roads

