

**VARIANCE(S):**

**V-2019-014**

**V-2019-015**

**CITY OF SUWANEE  
VARIANCE ANALYSIS**

**CASE NUMBERS:** V-2019-014 and V-2019-015

**REQUESTS:** STREAM BUFFER ENCROACHMENT

**APPLICABLE SECTIONS:** SECTION 4.1 OF THE STREAM BUFFER PROTECTION ORDINANCE (V-2019-014)

SECTION 34-209 OF THE SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL ORDINANCE (V-2019-015)

**LOCATION:** SUWANEE DAM ROAD NEAR THE NORTHEAST CORNER OF THE INTERSECTION OF PEACHTREE INDUSTRIAL BOULEVARD AND SUWANEE DAM ROAD

**DISTRICT/LAND LOT:** 7-252-888

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

**APPLICANT:** POLLACK SHORES REAL ESTATE GROUP  
5605 GLENRIDGE DRIVE NE SUITE 775  
ATLANTA, GA 30342

**OWNER:** PR II/PSREG SUWANEE VILLAGE, LLC.  
5605 GLENRIDGE DRIVE NE SUITE 775  
ATLANTA, GA 30342

**CONTACT:** ELLEN PROCTOR  
**CONTACT PHONE:** 470-240-4857

**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 development within a required undisturbed stream buffer in association with a mixed-use project that includes up to 276 multi-family units and 17,900 square feet of commercial space.

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.) along all streams. The Soil Erosion, Sedimentation and Pollution Control Ordinance requires a 25-foot wide stream buffer adjacent to all streams (Sec. 34-209), or state waters.

The subject property is zoned PMUD (Planned Mixed-Use Development District) and is located along Suwanee Dam Road adjacent to the Kroger to the northeast, at the intersection of Suwanee Dam Road and Peachtree Industrial Boulevard. An undeveloped parcel zoned C-2 (General Commercial District) is located to the north of the property. Suwanee Dam Road is located to the south. Across Suwanee Dam Road, is vacant land zoned M-1 (Light Industry District). The property to the east is zoned R-100 (Residential Single Family District) and is owned by the City. The City property contains Brushy Creek, which makes the property mostly undevelopable.

The approximately 11 acre subject property is zoned for a planned mixed-use development including multi-family and commercial. A tributary of Brushy Creek runs across the entire frontage of the subject property parallel to Suwanee Dam Road. The concept plan that was approved during the rezoning process includes two stream crossings for new roads/driveways to access the site, which are allowed by both the Stream Buffer Protection Ordinance and the Soil Erosion, Sedimentation and Pollution Control Ordinance. Most of the stream and required buffers would be preserved by creating an open space at the center of the site along Suwanee Dam Road. It should be noted that on the Suwanee Dam Road side of the stream buffer, the applicant is preserving more land than is required by the regulations. The buffer around the eastern end of the stream would need to be eliminated in order to build the parking for the commercial shown in the concept plan. The PMUD (Planned Mixed-Use Development District) was created in order to minimize the number of variances needed for large scale planned projects. However, the district may eliminate/minimize the need for variances from the zoning ordinance, but it does not exempt the project from other regulations. It should be noted that the need for variances was anticipated as a possibility when the project was approved through the zoning process. Approval of these variances would be consistent with the expectations for this project.

The applicant requests these variances in order to build the project according to the approved concept plan, which provides commercial uses along Suwanee Dam Road, the most visible portion of the site. A variance from both the Stream Buffer Protection Ordinance and the Soil Erosion, Sedimentation and Pollution Control Ordinance is necessary for the portion of the

stream shown in “Exhibit A” to eliminate required buffers at the eastern end of the stream. If granted, this request would allow for the piping of approximately 200 linear feet of the subject stream to allow for grading and development of a small portion of one of the buildings and some of the parking, roads and sidewalks within the required buffer around the eastern end of the subject stream. The total buffer disturbance includes .274 acre of the 25-foot buffer, .293 acre of the 50-foot buffer, and .164 acre of the 75-foot impervious setback.

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 encroach on the 25-foot undisturbed buffers. The State will also be reviewing the request and determining if any additional mitigation is required. The state’s decision to approve or deny a buffer variance is independent of the City’s decision to approve or deny a stream buffer variance. The applicant has also applied for a permit with the Army Corp of Engineers for permission to fill in this portion of the stream. The applicant will need approvals from both of these entities and the City in order to have permission to impact the stream as proposed, beyond the site access which is exempt.

In addition to meeting the requirements of these other regulatory agencies, the subject property meets the City’s storm water requirements. The subject property demonstrated through a hydrology study that the quantity and quality of storm water coming off the site will meet City requirements. This study was prepared by a professional engineer and reviewed by the City’s consulting engineer, also a professional engineer, prior to issuance of development permit for the property. The development permit currently does not allow for intrusion into the buffer unless the subject requests are approved.

The City’s Stream Buffer Ordinance and Soil Erosion, Sedimentation and Pollution Control Ordinance grant the Zoning Board of Appeals the authority to grant variances. In this case, the subject stream buffer encumbers the entire frontage of the subject property. This hardship is a result of the construction of Suwanee Dam Road in close proximity to the stream.

It is the desire of the City to locate mixed-use centers in close proximity to Town Center and the expansion of Town Center. Preserving this buffer in its entirety would significantly reduce the visibility of the development from Suwanee Dam Road making commercial less viable and mixed-use development less feasible at this location.

In conclusion, the subject property is impacted severely by the stream along its road frontage. The location of the subject stream impedes the style and intensity of development called for by the City’s plans on the subject property. Finally the subject tributaries natural function of carrying runoff from the site to Brushy Creek will no longer be necessary in this area with the proposed development. The site would be regraded and stormwater would be handled on-site by an underground detention facility; therefore, the proposed buffer reductions should not have a negative impact down stream. Staff recommends **APPROVAL WITH CONDITIONS** of V-2019-014 and V-2019-015.

Recommended Conditions

**V-2019-014**

The Planning Department recommends approval of the requested variance to allow for a reduction/elimination of stream buffers subject to the following conditions:

1. The limits of disturbance within the stream and required stream buffers shall be generally consistent with the areas indicated in "Exhibit A."

Recommended Conditions

**V-2019-015**

The Planning Department recommends approval of the requested variance to allow for a reduction/elimination of stream buffers subject to the following conditions:

1. Comply with any conditions of approval associated with approvals from the state Environmental Protection Division and the United States Army Corp of Engineers, as applicable.
2. The limits of disturbance within the stream and required stream buffers shall be generally consistent with the areas indicated in "Exhibit A."

## 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?**

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: Ellen Proctor  
Company Name: Pollack Shores Real Estate Group  
Address: 5605 Glenridge Drive NE Suite 775  
City: Atlanta  
State: Georgia  
Phone: 470 240 4857

**OWNER INFORMATION**

Name: Michael Blair  
Company Name: PR II/PSREG Suwanee Village, LLC  
Address: 5605 Glendridge Drive NE Suite 775  
City: Atlanta  
State: Georgia  
Phone: 470 240 4857

CONTACT PERSON: Ellen Proctor

PHONE: 470 240 4857

ADDRESS OF PROPERTY Suwanee Dam Road

LAND DISTRICT 7 LAND LOT 236 and 252 PARCEL Rt 252 888 ACRES 11.07

PROJECT NAME Suwanee Village PROJECT NAME \_\_\_\_\_

ZONING PMUD

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) Within the 50 foot buffer area, there will be 0.100 acres of pervious surfaces and 0.127 acres of impervious disturbance. There will be 0.147 acres of impervious surfaces in the 75 foot setback.

NEED FOR VARIANCE (see A. 1-8 and expound) There is no opportunity for development of the site without the proposed buffer impacts. Due to challenging grades and stream features at two of the site boundaries, the site cannot meet zoning and parking requirements without the 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-2019-014



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CITY OF SUWANEE ZONING BOARD OF APPEALS**

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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) The proposed plan includes 0.0325 acres of impacts within the 25-foot stream buffer. However 4,044 square feet are for the exempt activity of a road crossing. This will result in 10,129 square feet (0.233 acres) of non-exempt impacts.

NEED FOR VARIANCE (see A. 1-8 and expound) There is no opportunity for development of the site without the proposed buffer impacts. Due to challenging grades and stream features at two of the site boundaries, the site cannot meet zoning and parking requirements without the variance.

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**\*\*\*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-2019-015



## Section D. Standard Questions For Stream Buffer Variance Request

Suwanee Village  
Suwanee Dam Road  
Gwinnett County, Suwanee, Georgia  
Dated: July 18, 2019

### Present Condition of Buffer Area

The Project Site consists of an approximate 11-acre tract located northeast of Suwanee Dam Road, approximately 350 feet southeast of the intersection with Peachtree Industrial Boulevard, in Suwanee, Gwinnett County, Georgia (34.062344°N, -84.071748°W).

During the field investigation, the Project Site was primarily wooded land. A perennial stream (Brushy Creek) was identified near the eastern boundary of the Project Site. The stream flowed from the north from off-site and crossed the eastern boundary of the site several times. The stream was over 20 feet in width and three feet in depth in some locations. Near the northeast corner of the site, a log jam, or old beaver dam slowed and widened the stream. Though the stream was generally contained to an incised channel, a small wetland area was located north of the stream near the southeast corner of the Project Site. Another stream flowed across the southern portion of the Project Site. This stream was approximately five to 15 feet in width, with approximately two inches to just under two feet of water in the channel. A wetland area was located on both sides of the stream channel along the western reach of this stream. Saturated soils, standing water, wetland plants, and other wetland characteristics were noted in these areas. Wetland areas did not generally extend more than 50 feet from the stream. The two streams converged near the southeast property corner and then flowed into a box culvert and off-site under Suwanee Dam Road. Brushy Creek is shown on the USGS topographic map; the southern stream is not.

Vegetation within the stream buffer included American Elm, Ironwood, Chinese Privet, Pines, Maples, and Oaks. Based on the most recent site survey, elevations in the stream channel were approximately 1,008 feet above mean seal level (ft amsl). Elevations along the 75-foot stream buffer were up to 1,020 ft msl and elevations along the 50-foot stream buffer were up to 1,016 ft msl. Grades sloped steeply from the northern portion of the site to the stream valleys on the southern and eastern sides of the property.

The USDA Digital Web Soil Survey was reviewed to determine soil types within the Project Site boundaries. The soil survey map indicated six soil map units located on the Project Site. These included:

- Chewacla silt loam, 0 to 2 percent slopes, frequently flooded
- Cecil sandy loam, 6 to 10 percent slopes, moderately eroded
- Madison gravelly sandy loam, 6 to 10 percent slopes, eroded
- Madison sandy clay loam, 10 to 15 percent slopes, moderately eroded
- Madison sandy clay loam, 15 to 45 percent slopes, eroded
- Wedowee sandy loam, 10 to 25 percent slopes, eroded



Evidence of previous disturbance in the buffer area included an abandoned culvert in the southern stream channel and silt fence in several locations in the stream buffer.

### Proposed Disturbance Within the Buffer and Setback Areas

Within the 50-foot buffer, there will be 0.127 acre of impervious surfaces. These primarily include parking areas, paved drives, and retaining walls. Grading activities for slopes, walls and parking will also occur within the 50-foot buffer area. This grading will result in 0.10 acre of pervious disturbance within the 50-foot buffer. Within the 75-foot impervious setback, the retail portion of a building and associated parking will result in 0.147 acre of impervious surfaces. A section of parking on the western portion of the site will include approximately 0.05 acre of pervious pavers which are not considered as impacts within the setback. The proposed plan includes 0.0325 acres of impacts within the 25-foot stream buffer. However, 4,044 square feet are for the exempt activity of a road crossing. This will result in 10,129 square feet (0.233 acres) of non-exempt impacts.

### Need for Buffer Encroachment

Without encroachment into the buffer, frontage for the small retail and restaurant portion of the development would lack the appropriate road frontage on Suwanee Dam Road. Additionally, the southern stream cuts the Project Site off from Suwanee Dam Road. disturbance to the stream buffer will be required for access to the site. The current site design is just above the required minimum parking. Configurations avoiding the stream buffers would not allow for a mixed use development on the property, as there would be difficult to meet road frontage, parking, and other zoning requirements.

### Alternatives

As previously stated, grades to the stream valleys require the buildings to be oriented in the proposed design in order to meet the required retail square footage. Building 200, which is oriented north to south, has two step-ups to accommodate the site grades. Designing this building as a smaller structure was considered. This design, however, would require burying much of the retail space, rendering unusable for this purpose. Retaining walls are incorporated into the project design in order to reduce impacts to streams, wetlands, and stream buffer areas.

### Mitigation Measures

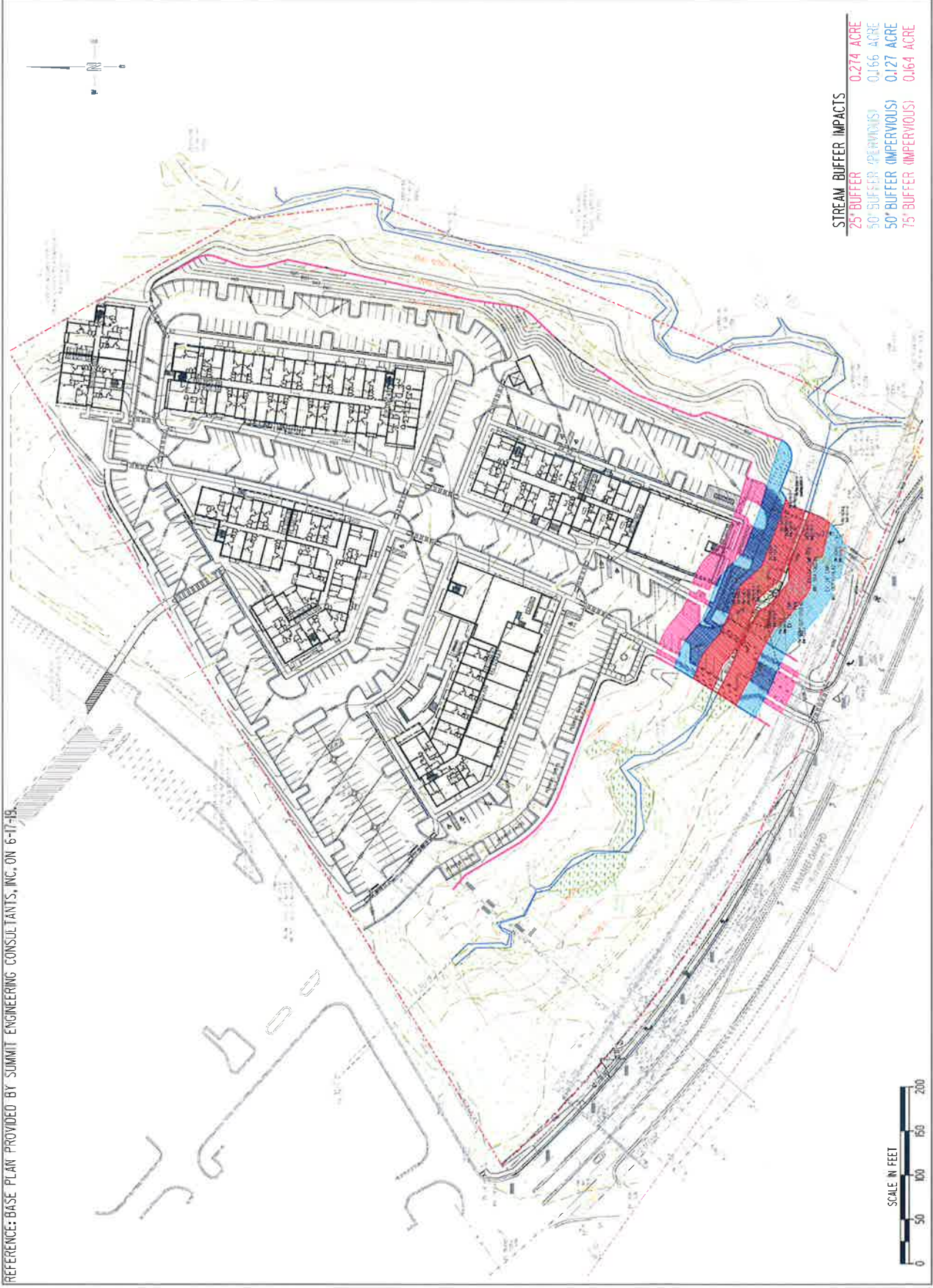
Buffer mitigation for this project is being provided in accordance with EPD guidance. Following completion of the grading activities, disturbed areas will be stabilized per the design plans. Included with this submittal is a copy of the Erosion, Sediment, and Erosion Control drawings, and Storm Water Management Report prepared by Summit Engineering Consultants, Inc. Appropriate silt fencing, temporary seeding/mulching, and other "Best Management Practices" (BMPs) will be utilized during construction. No grading operations shall be initiated until silt fence has been installed. Additionally, all erosion control measures will be maintained until permanent vegetation has been established. The plans are being submitted to the City of Suwanee for review and will satisfy the storm-water management requirements of the Georgia Storm-water Management Manual and City of Suwanee rules and regulations. The stream impacts are being mitigated in accordance with the USACE rules. Stream mitigation credits will be purchased from an approved mitigation bank prior to the start of construction in the impacted areas.

### Long Term Impacts

Parking and a portion of a building will permanently remain within the 50 and 75-foot stream buffers. Based on the results of our evaluation, the overall quality of the streams on site and riparian system is generally poor. The stream has been impacted by heavy commercial/suburban development upstream. In the proposed area of disturbance, the stream channels and riparian areas are typical of streams in the area and unique or rare habitat types and physical features were not observed. While the impacts will be permanent to the buffer area, as the given the current poor quality of the stream, stream function is not anticipated to degrade significantly due to the 50 and 75-foot buffer encroachment.



<b>EXHIBIT A</b> TITLE: STREAM BUFFER IMPACTS SUWANEE VILLAGE SUWANEE, GWINNETT COUNTY, GEORGIA	PROJECT NO: PLKSH-18-GA-02752-01 REVISIONS: 8-6-19	CLIENT: POLLACK SHORES REAL ESTATE GROUP
	DATE: 7-17-19 CHECKED: MGA PREPARED: VPV SCALE: 1" = 100'	



REFERENCE: BASE PLAN PROVIDED BY SUMMIT ENGINEERING CONSULTANTS, INC. ON 6-17-19.

*Y-2019-014 and V-2019-015*



# Zoning Map V-2019-014 and V-2019-015

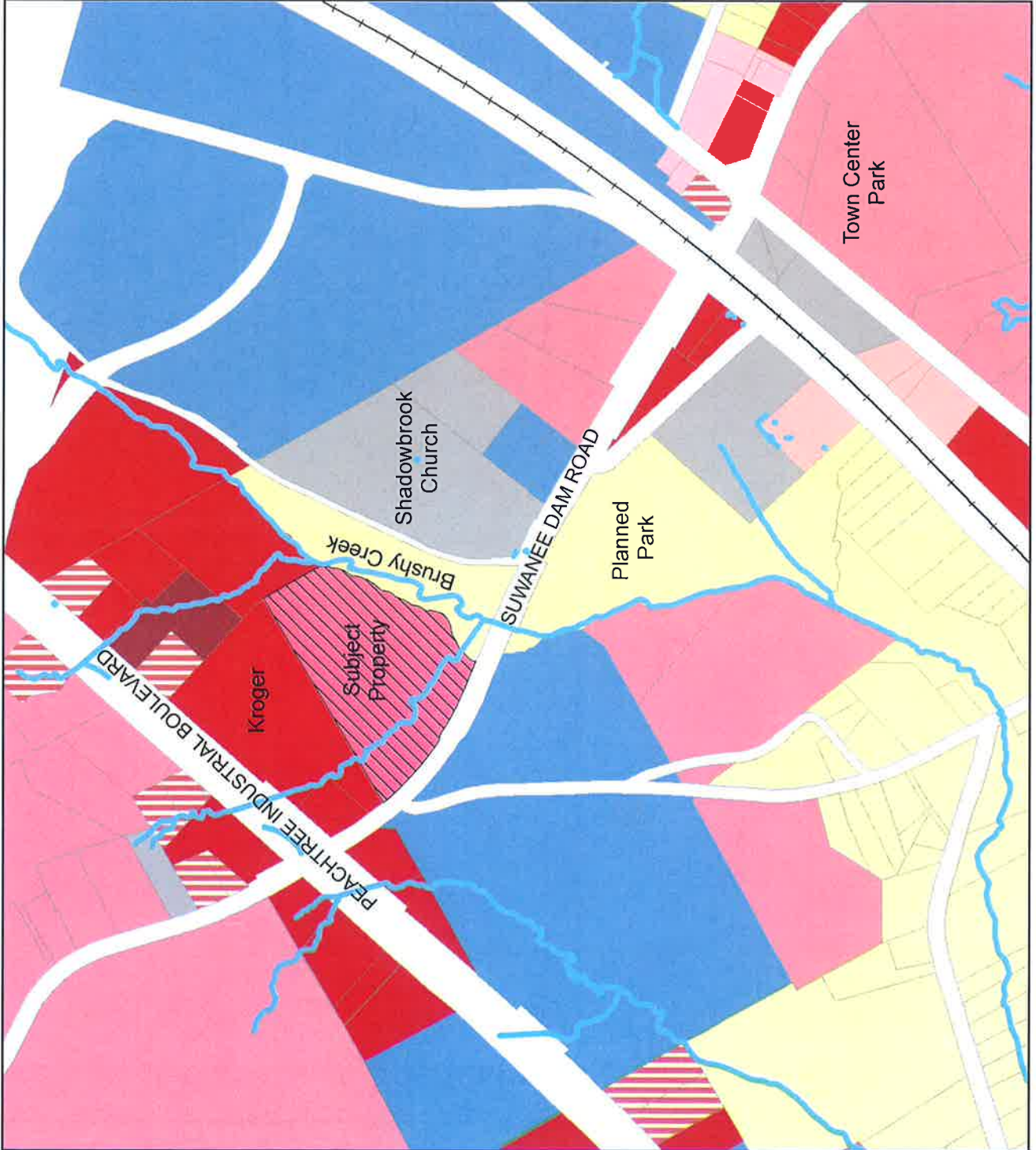


**Legend**

- streams

**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
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**Location Map  
V-2019-014  
and  
V-2019-015**



**Legend**  
— streams

