

**VARIANCE(S):**

**V-2024-006**

**V-2024-007**

**CITY OF SUWANEE  
VARIANCE ANALYSIS**

**CASE NUMBERS:** V-2024-006  
V-2024-007

**REQUESTS:** V-2024-006: STREAM BUFFER REDUCTION  
V-2024-007: PARKING REDUCTION

**APPLICABLE SECTIONS:** V-2024-006: SECTION 4.1.2 OF THE STREAM  
BUFFER PROTECTION ORDINANCE  
V-2024-007: SECTION 1502 OF THE ZONING  
ORDINANCE

**LOCATION:** 3224 WANSTEAD PARK DRIVE

**DISTRICT/LAND LOT:** 7-169-197

**ZONING:** PMUD (PLANNED MIXED-USE  
DEVELOPMENT DISTRICT) – PERMITTED  
M-1 (LIGHT INDUSTRY) USES

**APPLICANT:** QUALITY INVESTMENT PROPERTIES  
GATEWAY, LLC.  
1105 W. PEACHTREE STREET, NE SUITE 1000  
ATLANTA, GA 30309

**OWNER:** QUALITY INVESTMENT PROPERTIES  
GATEWAY, LLC.  
12851 FOSTER STREET  
OVERLAND PARK, KS 66213

**CONTACT:** DEN WEBB  
**CONTACT PHONE:** 404-815-3620

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

**ANALYSIS:**

The applicant seeks variances from Section 4.1.2 of the City of Suwanee Stream Buffer Protection Ordinance to allow for impervious surface to encroach into the 75-foot impervious setback and Section 1502 of the City of Suwanee Zoning Ordinance to provide fewer than the minimum number of required parking spaces. The variances are necessary to construct an approximately 300,000 square foot data center with office space on a parcel measuring approximately 15.37 acres.

The applicant proposes to construct an approximately 300,000 square foot data center with office space. The subject property is located on Wanstead Park Drive between Satellite Boulevard and Northolt Parkway. The proposed development would connect to 2 existing data centers to the north with access onto Satellite Boulevard. The applicant proposes to provide 70 parking spaces. The subject property would have access onto both Satellite Boulevard and Wanstead Park Drive.

The subject property and many of the surrounding properties were master planned and rezoned in 2007 to the Planned Mixed Use Development District (PMUD). The original developer went bankrupt as part of the housing bubble burst before much of the development was complete. There have been several rezoning requests in the following years to amend various conditions of zoning for this PMUD; however, none of these rezoning requests affected the subject property.

The subject property is located along Wanstead Drive and is zoned PMUD (Planned Mixed Use Development District) and specifically limited to M-1 (Light Industry District) uses. To the north are two other QTS data centers zoned M-1 (Light Industry District). Neither of these buildings were part of the master planned project from 2007. To the east are a Lowe's and a detention pond zoned PMUD. To the south are the Terraces at Suwanee Gateway apartments and the Salude rehabilitation center, both zoned PMUD. The adjacent property to the west contains Burnette Elementary School and is zoned RZT (single family zero lot line/townhouse district) in unincorporated Gwinnett County.

#### *V-2024-006*

The Stream Buffer Protection Ordinance requires a 50-foot-wide undisturbed stream buffer (Section 4.1.1). The stream buffer is supplemented by an additional 25-foot-wide impervious setback (Section 4.1.2) that may be graded but may not include any impervious ground cover. Examples of impervious cover include buildings, parking lots, and driveways. The applicant is proposing three intrusions into the no-impervious buffer, totaling 3,298 square feet. As such, a variance from the Stream Buffer Protection Ordinance is required.

The property has a stream that runs along the entire southern border of the property. The combined 75 feet of buffers along the banks of the stream result in approximately 145,582 square feet of stream buffer, totaling 21.8% of the property. Due to the property's irregular shape and the significant impact of the buffers on the property, a small portion of one of the proposed development's driveways will encroach into the 25-foot impervious setback at three different locations. The three encroachments will total approximately 3,298 square feet of impervious surface within the 75-foot impervious setback, which amounts to approximately 2.2% of the total buffer area on the property. The Stream Buffer Protection Ordinance calls for an effort to minimize impacts to streams and requires some form of mitigation. To compensate for the impervious setback impacts, the applicant will preserve approximately 5,000 square feet of landscaped area as additional buffer elsewhere onsite. Additionally, the applicant is providing onsite stormwater detention and water quality to detain and treat runoff from the proposed development before it reaches the stream.

#### *V-2024-007*

Section 1502 of the Zoning Ordinance requires 1 parking space per 2,000 square feet of warehouse floor area plus 1 space per 300 square feet of office space. The proposed data center would consist of 255,543 square feet of data center warehouse and 43,510 square feet of office. The combined data center and office space require a total of 273 parking spaces. However, the applicant is proposing

approximately 70 parking spaces. As such, a variance would be required from Section 1502 of the minimum parking requirements.

Due to the data center use, the proposed development anticipates approximately 17 employees at the site on average. This is equivalent to the existing QTS data centers on the adjacent parcels. The data centers on the adjacent parcels currently have approximately 180 parking spaces and a total of 40 employees combined. These data centers were able to accommodate more parking than the subject property, but the parking lots remain largely vacant on a daily basis. Parking lots are a significant source of pollution for streams and rivers. Providing additional, but unnecessary parking, has negative environmental impacts through increased stormwater runoff and increased urban island heat effect. This applicant has demonstrated at two other locations in Suwanee that a smaller parking lot can still serve the needs of the proposed use. If a variance is granted, the additional unused parking should be made available to users of the subject property as well.

Section 2006 of the Zoning Ordinance gives the Zoning Board of Appeals the authority to grant variances when relief if granted will not cause substantial detriment to the public good nor impair the purposes of the zoning ordinance. The applicant has demonstrated that the parking in their data centers is not well used. Additionally, approval of a variance would not create traffic congestion or harm property values in the area.

Section 4.2 of the Stream Buffer Protection Ordinance gives the Zoning Board of Appeals the authority to grant variances for the ordinance. The applicant has minimized intrusions into the buffers that cover a significant portion of the subject property and has offered mitigation in excess of the intrusions.

Therefore, staff recommends **APPROVAL WITH CONDITIONS** of V-2024-006 and V-2024-007.

Planning Department  
Recommendations

V-2024-006

The Planning Department recommends approval of a variance from Section 4.1.2 of the Stream Buffer Protection Ordinance in order to allow for impervious surface to encroach into the 75-foot impervious setback subject to the following conditions:

1. Impervious surface within the 75-foot impervious setback will be limited to no more than what is shown on Exhibit 'A' (approximately 3,298 square feet).
2. A minimum of 5,000 square feet of landscaped area will be preserved as additional no-impervious buffers elsewhere as shown on Exhibit 'A'.
3. The stormwater system will be subject to the review and approval of the consulting City Engineer.

V-2024-007

The Planning Department recommends approval of a variance from Section 1502 of the City of Suwanee Zoning Ordinance to reduce the minimum required parking subject to the following conditions:

1. A minimum of 70 parking spaces shall be provided as shown in Exhibit 'B'.
2. Inter parcel access shall be provided approximately as shown in Exhibit 'B' and parking shall be made available on the adjacent parcels as long as they are maintained under common ownership.

## 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 requested variances should not impact congestion on 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 should 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?**

Provided the mitigation requirements are properly addressed, approval of the variances 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: Quality Investment Properties Gateway, LLC  
c/o Dennis J. Webb, Jr.  
Company Name: Smith, Gambrell, and Russell, LLP  
Address: 1105 W. Peachtree St., NE, Suite 1000  
City: Atlanta  
State: Georgia, 30309  
Phone: 404.815.3620

**OWNER INFORMATION**

Name: Quality Investment Properties Gateway, LLC  
Company Name: \_\_\_\_\_  
Address: 12851 Foster Street  
City: Overland Park  
State: Kansas, 66213  
Phone: 404.815.3620

CONTACT PERSON: Den Webb

PHONE: 404.815.3620

ADDRESS OF PROPERTY 3224 Wanstead Park Drive, Suwanee, GA 30024

LAND DISTRICT 7th LAND LOT 169 PARCEL 197 ACRES 15.376

PROJECT NAME QTS data center PROJECT NAME \_\_\_\_\_

ZONING PMUD (RZ-2006-013)

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

EXTENT OF ENCROACHMENT INTO STREAM BUFFER (linear feet and area of buffer to be disturbed) Linear feet: 398 feet

Area of buffer to be disturbed: 3,298 sq.ft.

NEED FOR VARIANCE (see A. 1-8 and expound) \_\_\_\_\_

Due to the unusual shape or topography of the property as well as unusual circumstances when strict adherence to the minimal buffer requirements in the law would create an extreme hardship. See also Statement of Intent.

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

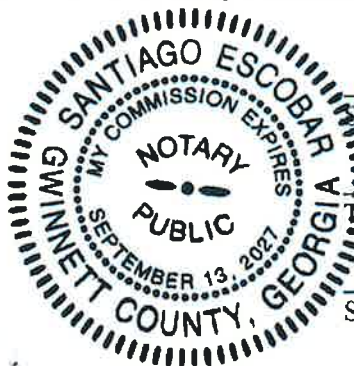
**\*\*\*The property owner, applicant and /or a representative thereof shall be present at all meetings of the Zoning Board of Appeals, Planning Commission and/or Mayor and Council at which official action is requested on any stream buffer variance or application for amendment. The failure of the property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

V-2024-006

**Variance Application**  
Page 2

**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.



Madison M. Williams 2/29/2024  
Signature of Applicant Date

MADISON M. WILLIAMS - Authorized Agent for Quality  
Investment Properties Gateway, LLC  
Typed or Printed Name and Title

Santiago Escobar 02/29/2024  
Signature of Notary Public Date

Notary Seal

**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.



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Signature of Applicant Date

MADISON M. WILLIAMS - Authorized Agent for Quality  
Investment Properties Gateway, LLC  
Typed or Printed Name and Title

Santiago Escobar 02/29/2024  
Signature of Notary Public Date

Notary Seal

**DEPARTMENT OF PLANNING AND DEVELOPMENT USE ONLY**

Case Number V-2024-006 Variance  Administrative   
Date Rec'd 3/4/24 Rec'd By \_\_\_\_\_ Hearing Date \_\_\_\_\_  
Amount Rec'd \_\_\_\_\_ Receipt \_\_\_\_\_

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

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

V-2024-006





**APPLICATION FOR VARIANCE FROM THE  
CITY OF SUWANEE ZONING BOARD OF APPEALS**

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

**APPLICANT INFORMATION**

Quality Investment Properties Gateway, LLC  
Name: c/o Dennis J. Webb, Jr. - Smith, Gambrell, and Russell, LLP  
Address: 1105 W. Peachtree St. NE, Suite 1000  
City: Atlanta  
State: Georgia, 30309  
Phone: 404.815.3620  
E-mail address: dwebb@sgrlaw.com

**OWNER INFORMATION**

Quality Investment Properties Gateway, LLC  
Name Quality Investment Properties Gateway, LLC  
Address 12851 Foster Street  
City: Overland Park  
State Kansas, 66213  
Phone: 404.815.3620

CONTACT PERSON: Den Webb

PHONE: 404.815.3620

ADDRESS OF PROPERTY 3224 Wanstead Park Drive, Suwanee, GA 30024

LAND DISTRICT 7th LAND LOT 169 PARCEL 197 LOT \_\_\_\_\_

SUBDIVISION OR PROJECT NAME (IF APPLICABLE) \_\_\_\_\_

ZONING PMUD (RZ-2006-013)

VARIANCE REQUESTED Variance to City of Suwanee Zoning Ordinance §1502, to reduce the minimum required parking

NEED FOR VARIANCE Property shape and presence of stream buffers along the property's southern property line.

**\*A VARIANCE FROM A CONDITION OF ZONING CANNOT BE ACCEPTED.  
SECTION 2007, APPLICANT AND/OR A REPRESENTATIVE.**

**\*\*\*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 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-2024-007

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Madison M. Williams 2/29/2024  
Signature of Applicant Date

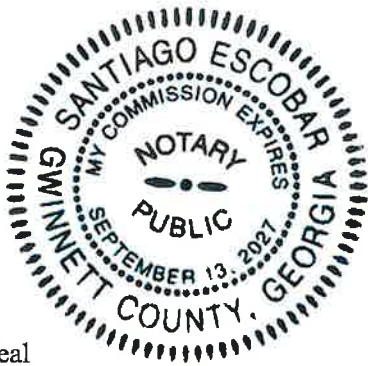
MADISON M. WILLIAMS - Authorized Agent for Quality  
Typed or Printed Name and Title Investment Properties Gateway, LLC

Santiago Escobar 02/29/2024  
Signature of Notary Public Date

Notary Seal

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Madison M. Williams 2/29/2024  
Signature of Applicant Date

MADISON M. WILLIAMS - Authorized Agent for Quality  
Typed or Printed Name and Title Investment Properties Gateway, LLC

Santiago Escobar 02/29/2024  
Signature of Notary Public Date

Notary Seal

**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-2024-007

**Variance Application**

Page 2

**APPLICANT CERTIFICATION**

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*[Handwritten Signature]*

3.4.2024

Signature of Applicant

Date

Dennis J. Webb, Jr. - Smith, Gambrell, and Russell, LLP

Typed or Printed Name and Title

*[Handwritten Signature: Kylie Thomas]*

3.4.2024

Signature of Notary Public

Date



Notary Seal

**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.

Signature of Applicant

Date

Typed or Printed Name and Title

Signature of Notary Public

Date

Notary Seal

**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: \_\_\_\_\_

*[Handwritten: U-2024-007]*

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?  
**See Statement of Intent.**
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?  
**See Statement of Intent.**
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?  
**See Statement of Intent.**
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.  
**See Statement of Intent.**
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?  
**See Statement of Intent.**
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  
**See Statement of Intent.**

V-2024-006

**LETTER OF INTENT**

and

Other Material Required by  
City of Suwanee Code of Ordinances for the  
Variance Application

of

Quality Investment Properties Gateway, LLC.

for

± 15.376 Acres of Land  
located on Land Lot 169, 7<sup>th</sup> District  
of City of Suwanee, Gwinnett County, Georgia

**Variance to City of Suwanee Stream Buffer Protection Ordinance § 4.1.2 to allow  
3,298 square feet of impervious surface into the impervious setback.**

**Variance to City of Suwanee Zoning Ordinance §1502 to reduce the minimum  
required parking.**

Submitted for the Applicant by:

Dennis J. Webb, Jr.  
Kathryn M. Zickert  
J. Alexander Brock  
Smith, Gambrell & Russell, LLP  
1105 W. Peachtree Street, N.E.,  
Suite 1000  
Atlanta, GA 30309  
404-815-3500

V-2024-006/007

**I. INTRODUCTION**

The property at issue in this application consists of one parcel totaling ± 15.376 acres of land located in Land in Lot 169, 7<sup>th</sup> District, in the City of Suwanee, Gwinnett County, Georgia (Parcel ID R7169 197) (“Subject Property”). The Subject Property is currently undeveloped and zoned PUMD (Planned Use Mixed Development) pursuant to Rezoning Ordinance RZ-2006-013 (“2006 Rezoning”). The conditions of the 2006 Rezoning note that the Subject Property shall be developed pursuant to “those uses and development standards found in the M-1 zoning district.” Quality Investment Properties Gateway, LLC (the “Applicant”) seeks to develop a ±301,048 square foot structure containing a datacenter and offices, as well as associated parking and site improvements (“Proposed Development”). The Proposed Development is more particularly depicted in the site plan titled Stream Buffer Variance – Disturbance Area by Kimley-Horn and Associates, Inc., dated 02/28/2024 (“Site Plan”). A copy of the Site Plan has been submitted with this application.

The development of the Subject Property, however, is limited by certain features. In particular, the Subject Property is an irregularly shaped parcel with a stream running along the entirety of its southern boundary. This stream contains a 50-foot undisturbed buffer with an additional 25-foot impervious setback extending from both sides of the stream bank, which limits development within these areas. The irregular shape of the property along with the large amount of onsite stream buffers are hardships necessitating relief from the City of Suwanee’s development criteria. In particular, the Applicant seeks two variances: 1) a variance from the City of Suwanee Stream Buffer Protection Ordinance (“Stream Buffer Ordinance”) §4.1.2 to allow ±3,298 square feet of impervious surface to encroach into the 75-foot impervious setback; and 2) a variance to City of Suwanee Zoning Ordinance (“Zoning Ordinance”) §1502 to reduce

Y-2024-006/007

the minimum required parking from 1 space per 2000 square feet of warehouse floor area plus 1 space per 300 square feet space of office space (approximately 230 spaces total)<sup>1</sup> to a parking ratio of 1 space per 4,301 square feet of building.<sup>2</sup>

This document is submitted as a Letter of Intent with regard to this Application and an analysis of the decision criteria set forth in the City of Suwanee Zoning Ordinance §2009 and the City of Suwanee Stream Buffer Protection Ordinance §4.2.2, as well as a preservation of the Applicant's constitutional rights.

## II. VARIANCE IMPACT ANALYSIS

### 1. **A variance from the City of Suwanee Stream Buffer Protection Ordinance §4.1.2 to allow an encroachment into the 75-foot impervious setback.**

As noted in the paragraphs above, the City of Suwanee requires a 50-foot undisturbed buffer along the banks of the stream with an additional 25-foot impervious setback extending from the undisturbed buffer.<sup>3</sup> This results in approximately 145,582 square feet or 21.8% of the overall property being covered by stream buffers. In addition, the Subject Property is an irregularly shaped parcel that further impacts its efficient layout. As a consequence of the property's shape and significant stream buffer area, a small portion of one of the Proposed Development's driveways will encroach into the 25-foot impervious setback. The Applicant has taken care to minimize the encroachment to approximately 3,298 square feet of vehicular drive in the setback (or ±2.2% of the total onsite buffers). To compensate for the impervious setback impacts, the Applicant will preserve approximately 5,000 square feet of landscaped area as additional buffer elsewhere onsite as indicated on the Site Plan. Additionally, the Applicant is

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<sup>1</sup> The Applicant is proposing approximately 166,664 square foot data center (warehouse) and 44,203 square feet of office.

<sup>2</sup> The proposed building is ±301,048 square feet total and the applicant is proposing 70 parking spaces, which equates to a parking ratio of 1 space per 4,301 square feet total.

<sup>3</sup> The undisturbed setback extends a total of 75-feet from the stream bank.



providing onsite stormwater detention and water quality to detain and treat runoff from the Proposed Development before it reaches the stream. As a result, any potential impacts to the buffer will be compensated for by the Applicant's other mitigation measures.

Pursuant to the City of Suwanee Stream Buffer Protection Ordinance §§4.2.2 and 4.2.4, the criteria for granting the variance are met. First, the Applicant has provided evidence that impacts to the buffer have been avoided or minimized to the fullest extent practicable. Second, the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property create undue hardships. Second, the location of the stream on the property creates undue hardships. Third, the location and extent of the proposed setback intrusion is minimal. Fourth, there are no alternative designs possible which require less or no intrusion. Fifth, the grant of the variance will not have any negative impacts on the long-term and construction water-quality. Finally, the issuance of the variance is at least as protective of natural resources and the environment.

**2. A variance to City of Suwanee Zoning Ordinance §1502 to reduce the minimum required parking.**

The Applicant is also requesting a reduction in the minimum parking requirements. The Suwanee Zoning Ordinance §1502 requires 1 parking space per 2000 square feet of warehouse floor area plus 1 space per 300 square feet space of office space. The proposed datacenter building will consist of 255,543 square foot datacenter (warehouse) and 43,510 square feet of office. The combined datacenter and office use will require a minimum parking of ±273 spaces per the Zoning Ordinance. The Applicant, however, is proposing approximately 70 spaces to serve the Proposed Development. Accordingly, the Applicant respectfully requests a variance to reduce the minimum parking from 1 space per 2000 square feet of warehouse floor area plus to 1

V-2024-006/007

space per 300 square feet space of office space to a proposed parking ratio of 1 space per 4,301 square feet of building. (Refer to Footnote 2 above).

The Proposed Development will not need the amount of parking that the Zoning Ordinance requires. The datacenter will have few employees on a daily basis with the Applicant anticipating approximately 17 employees at the site on average. This is equivalent to the existing datacenters that are in operation on the adjacent parcels. The existing datacenters have  $\pm 40$  employees (total for both datacenters) onsite with  $\pm 175$  to 182 parking spaces each.<sup>4</sup> It should be noted that the existing data centers are on larger parcels that are not encumbered with stream buffers, thus a larger parking area could be provided. Regardless, those sites are drastically over-parked given the small number of employees. As a result, the existing parking lots are largely vacant on a daily basis since there is no corresponding demand. Hence, there is a large amount of impervious area for no practical purpose. Essentially, the Zoning Ordinance's minimum parking requirements are exceedingly high for the actual demands of the datacenter use. The Applicant seeks to address this issue on the Subject Property by providing only the amount of parking needed for the use. Moreover, the Applicant owns the two adjacent datacenter parcels, so if additional parking is needed the extra parking can potentially be used for overflow.

In addition to the lack of need for the parking, there is no room to add enough parking to meet the Zoning Ordinance's minimum parking requirements. The odd shape of the property and the significant amount of stream buffers limits the area for parking areas. If the parking requirement is strictly enforced, the increased parking would significantly shrink the building

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<sup>4</sup> The QTS Suwanee facility located at 300 Satellite Boulevard has  $\pm 175$  parking spaces and the QTS Suwanee 2 facility located at 120 Satellite Boulevard has  $\pm 182$  spaces.

V-2024-006/007

area. This would prohibit the Applicant from developing the property for any reasonable purpose.

Pursuant to the City of Suwanee Zoning Ordinance § 2009, the criteria for granting the variance are met. First, the grant of the requested variance will not unreasonably increase the congestion in public streets. Second the variance will not increase the danger of fire or endanger the public safety. Third the variance will not unreasonably diminish or impair established property values within the surrounding area. Finally, the variance will not in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City.

**III. NOTICE OF CONSTITUTIONAL CHALLENGES AND PRESERVATION OF CONSTITUTIONAL RIGHTS**

The Applicant respectfully submits that the existing restrictions on the Subject Property are unconstitutional and constitute an arbitrary, irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia. Further, the failure to grant the requested variance would constitute a taking of private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

X-2024-006/007

The Applicant respectfully submits that the City of Suwanee Zoning Board of Appeals' failure to approve the requested variances would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Subject Property's owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

A refusal to grant the variances in question would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

A refusal to grant the variances in question would be invalid inasmuch as it would be denied pursuant to an ordinance which is not in compliance with the Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

Opponents to this request lack standing, have failed to exhaust administrative remedies, and have waived their rights to appeal by failing to assert legal and constitutional objections.

#### **IV. CONCLUSION**

For the foregoing reasons, the Applicant respectfully requests that the Variance at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Suwanee.

*[Signature on the Following Page]*

This 4<sup>th</sup> day of March, 2024.

Respectfully Submitted,

SMITH, GAMBRELL & RUSSELL, LLP

By:



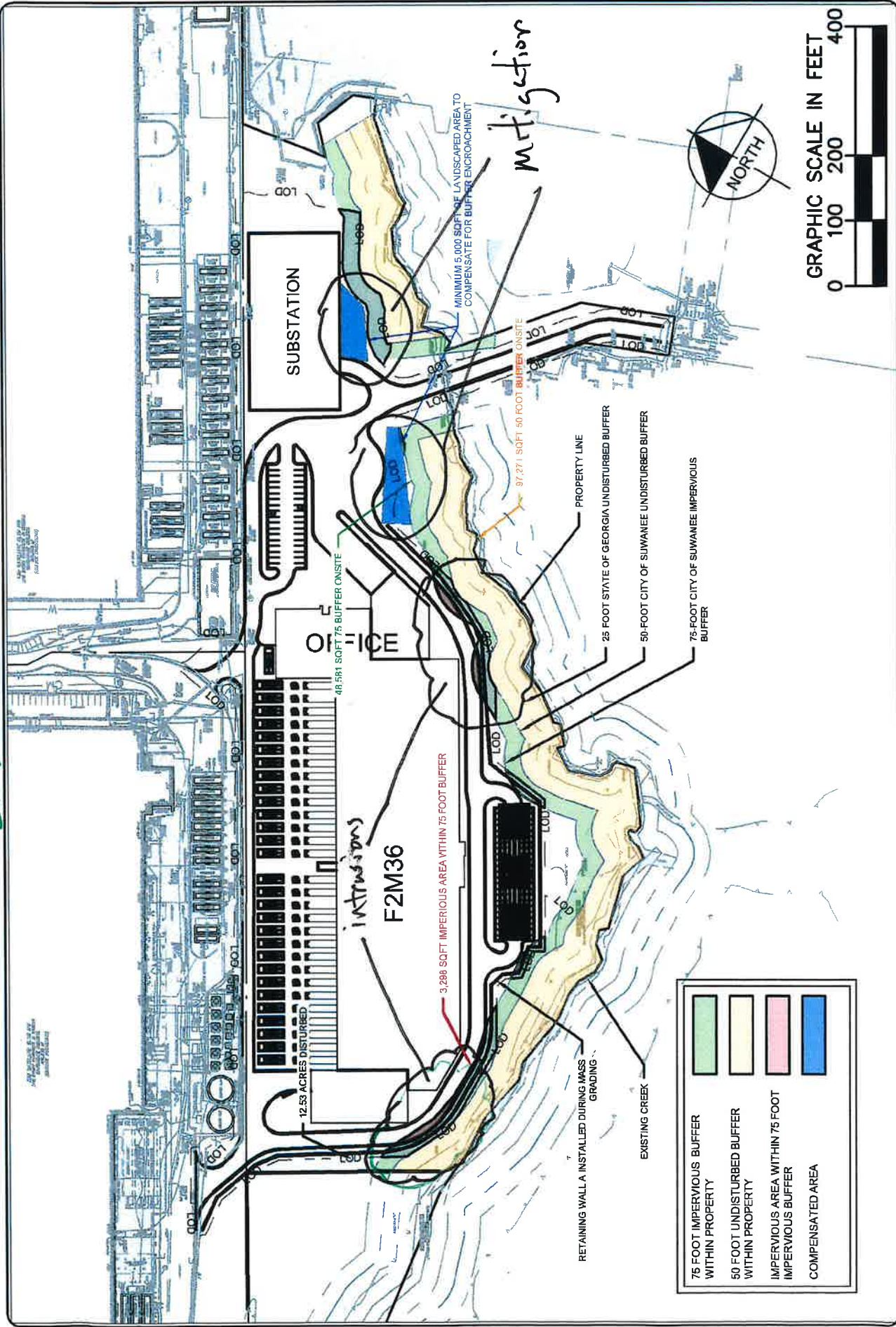
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V-2024-006/007

Exhibit 'A'

1-7-2024-006/007



JOB NUMBER:	014828011
SCALE:	
DATE:	3/4/2024
SHEET:	EXHIBIT 2

CLIENT:	QTS
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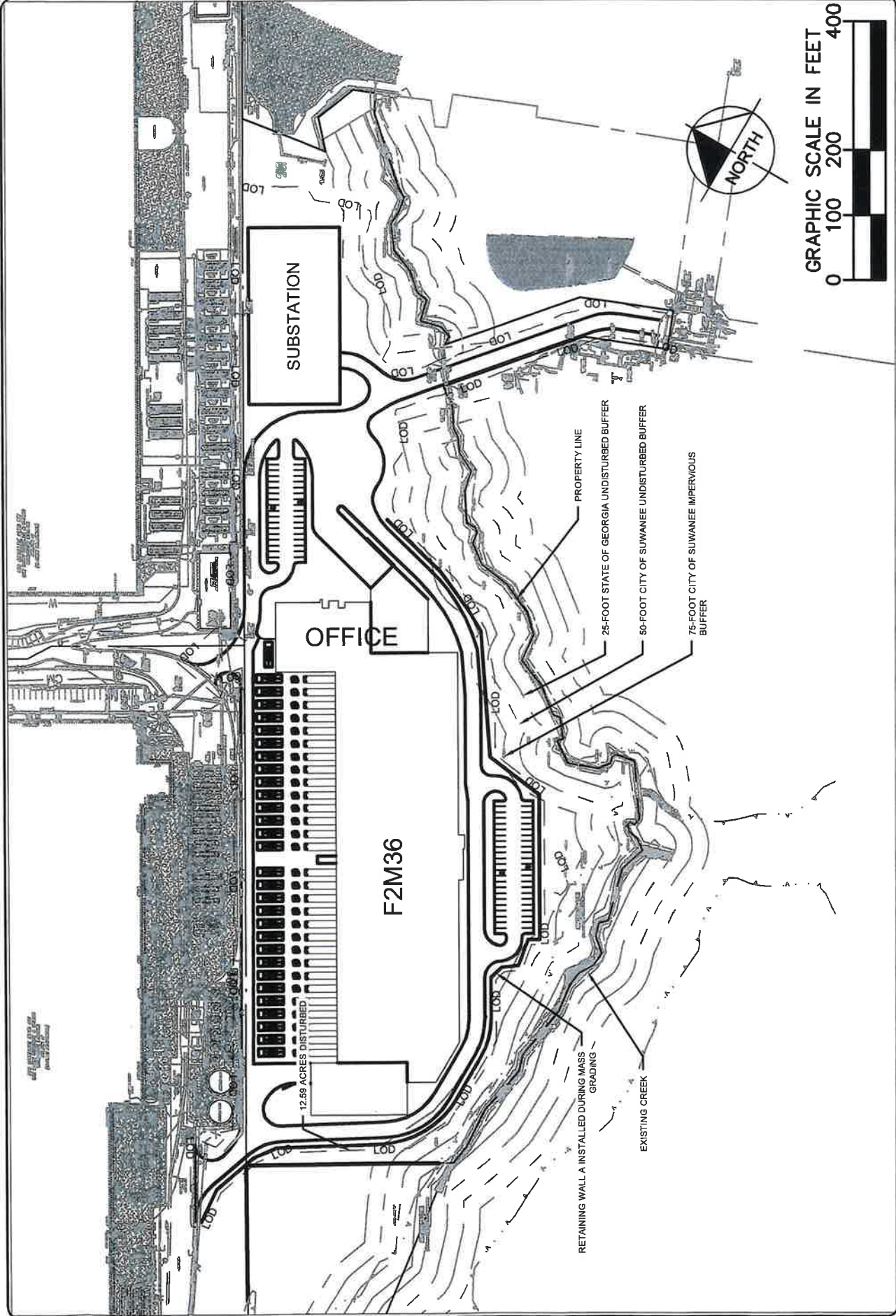
PROJECT:	DC3 SUWANEE
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TITLE:	STREAM BUFFER VARIANCE - DISTURBED AREA
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**Kimley»Horn**  
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 SUITE 600  
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Exhibit B'



K:\ALP\_PR\J014828011\_QTS Suwanee DC3\CAD\Plansheets\02-00 - STREAM BUFFER VARIANCE.dwg STREAM BUFFER SITE PLAN Feb 28, 2024 3:42pm by: Michael.Ferre

2024-006/007

JOB NUMBER:	014828011
SCALE:	
DATE:	2/28/2024
SHEET:	EXHIBIT 1

CLIENT: QTS

PROJECT: DC3 SUWANEE




TITLE: STREAM BUFFER VARIANCE - SITE PLAN

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# Location Map V-2024-006 & 007

## Legend

-  Subject Property
-  City Parcels
-  City Limits



0 300 600 1,200 Feet

