



SANDY SPRINGS

GEORGIA

P&Z STAFF REPORT

Board of Appeals Meeting, December 7, 2022

Case: **V22-0035 – 2480 Spalding Drive**
Staff Contact: LaQuita Williams (lwilliams@sandyspringsga.gov)
Report Date: November 14, 2022

REQUEST

Request for a variance from Division 9.2. State Waters Buffer to grade into the Undisturbed Natural Vegetative Buffer and 25' Impervious Surface Setback.

APPLICANT

Property Owners: Rodney and Camille Williams	Petitioner: Ron Gudger	Representative: Ron Gudger
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RECOMMENDATIONS

Department of Community Development

Staff recommends **Denial** of **Variance(s)** V22-0035.

MATERIALS SUBMITTED AND REVIEWED

Materials:

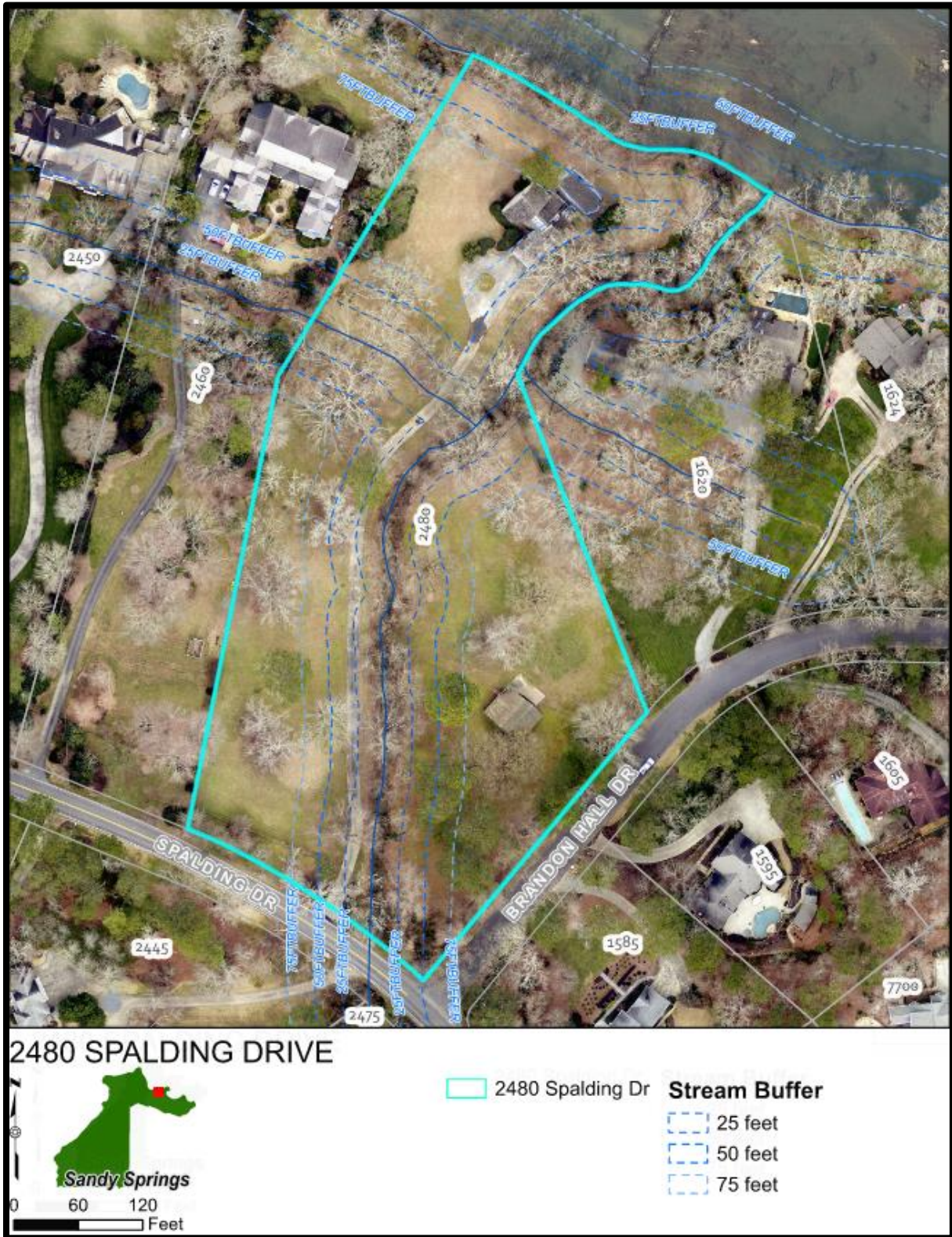
1. V22-0035 Application received November 3, 2022.

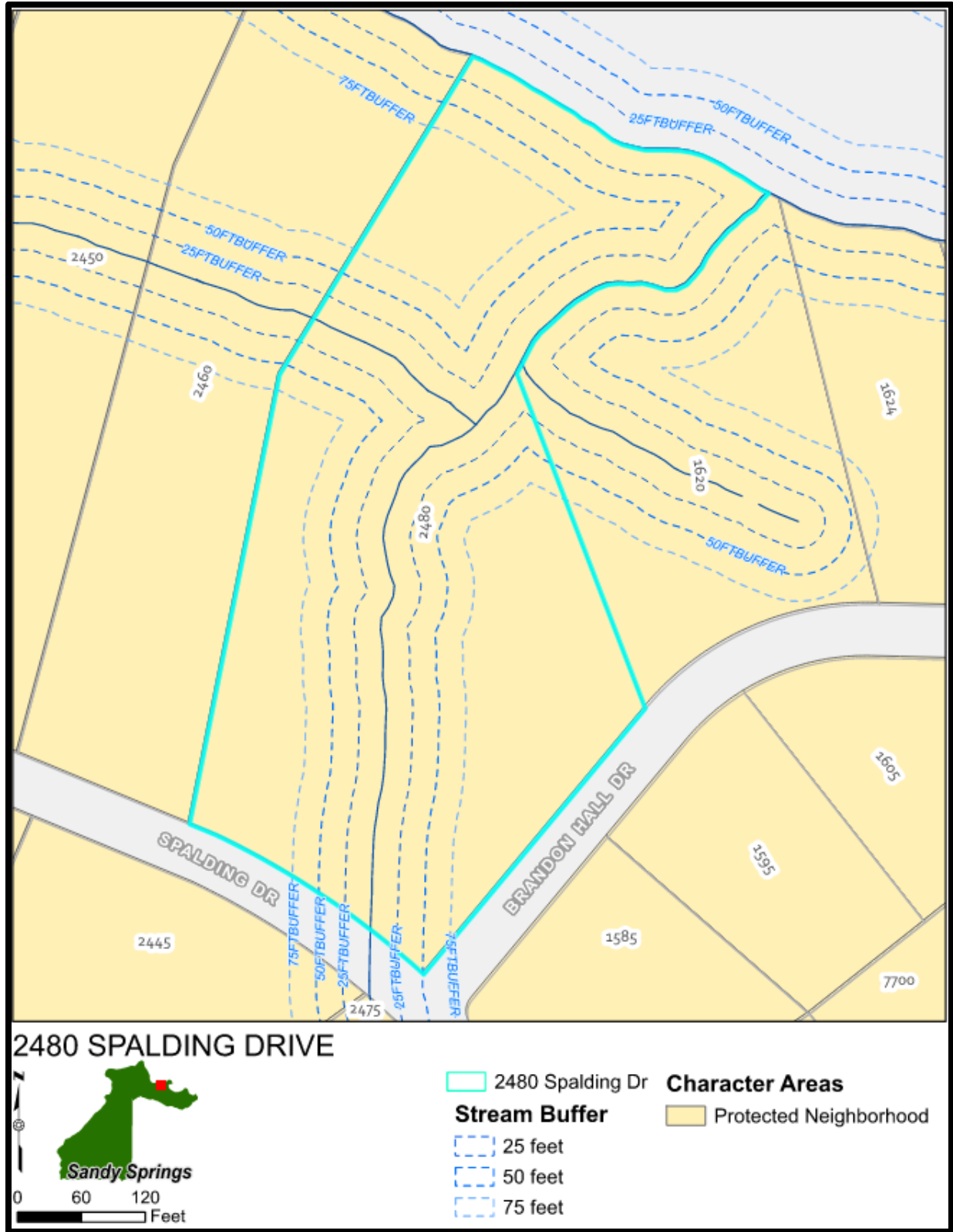
Plans:

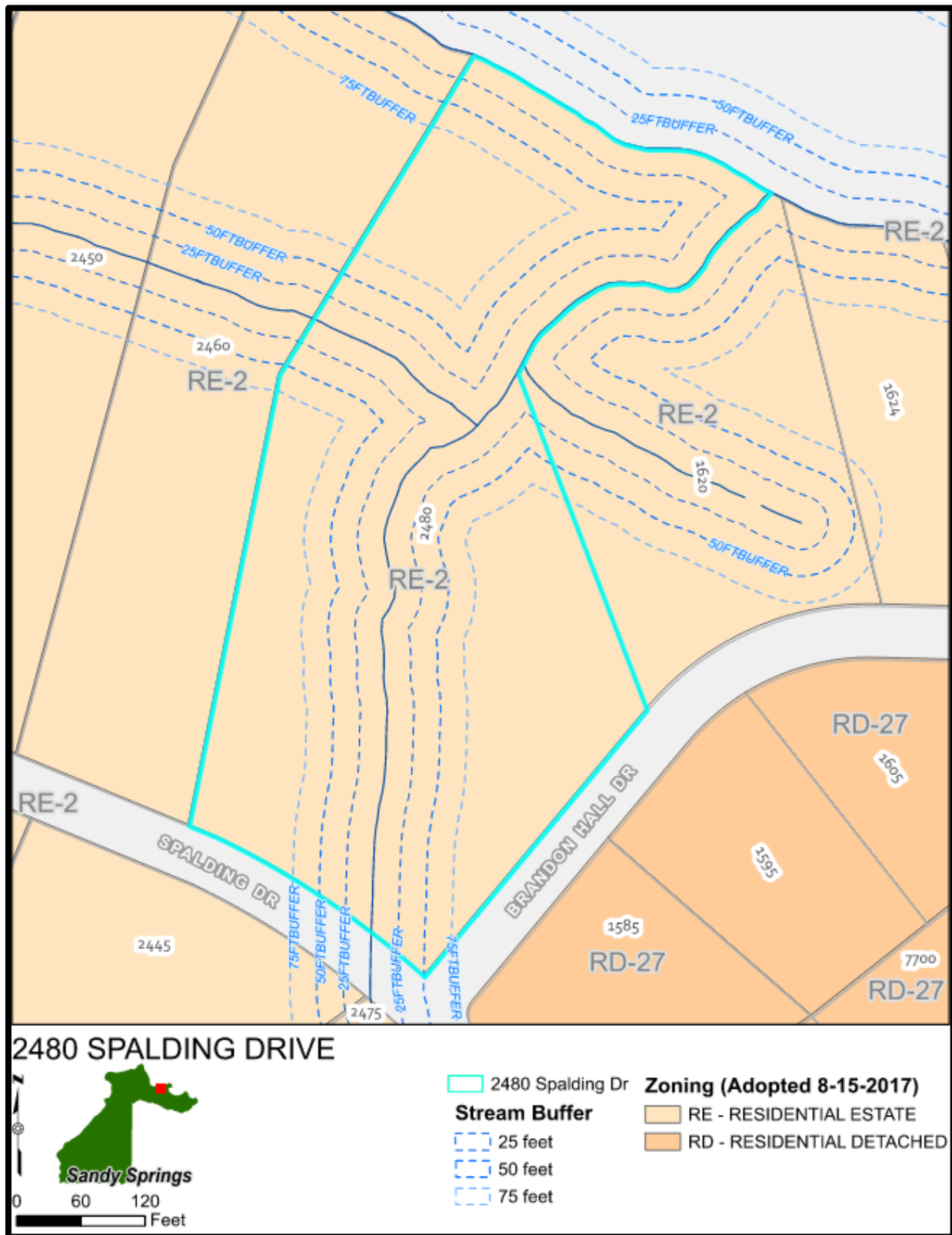
1. "Proposed Variance" prepared by Site Works Surveys & Planning dated September 22, 2022.

PROPERTY INFORMATION	
Location:	2480 Spalding Drive (Parcel # 06 0358 LL0790)
Council District:	1 – John Paulson
Neighborhood:	Rivergate Neighborhood
Road frontage:	Approximately 260 feet along Spalding Drive and approximately 326 along Brandon Hall Drive
Lot Depth	761 feet and greater
Acreage:	5.26 acres
Current Zoning	RE-2 (Residential estate – 2 acres minimum)
Existing Land Use:	Residential (vacant)
Previous Zoning Cases:	None
Character Area:	Protected Neighborhood

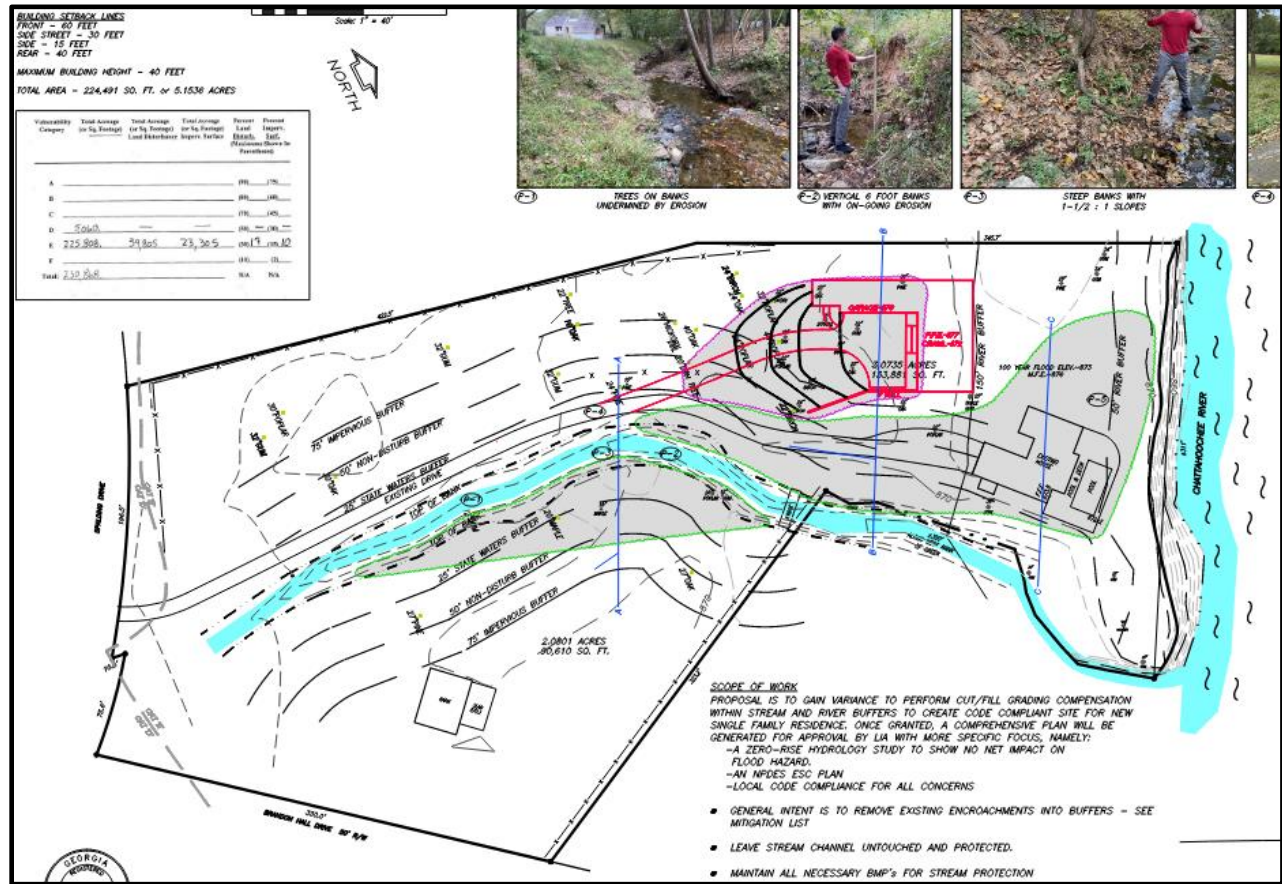
EXISTING ZONING AND LAND USES OF PROPERTY IN THE VICINITY			
Location relative to subject property	Zoning	Address(es)	Land area (acres) (approximate)
North	Chattahoochee River	-	-
East	RE-2/ Residential Estate	1620 Brandon Hall Drive	2.00 Acres
East	RD-27/ Residential Detached	1595 Brandon Hall Drive	1.00 Acres
Southeast	RD-27/ Residential Detached	1585 Brandon Hall Drive	1.00 Acres
South	RE-2/ Residential Estate	2445 Spalding Drive	2.50 Acres
West	RE-2/ Residential Estate	2460 Spalding Drive	15.77 Acres
PROPOSED DEVELOPMENT			
-	RE-2/ Residential Estate	2480 Spalding Drive	5.26 Acres





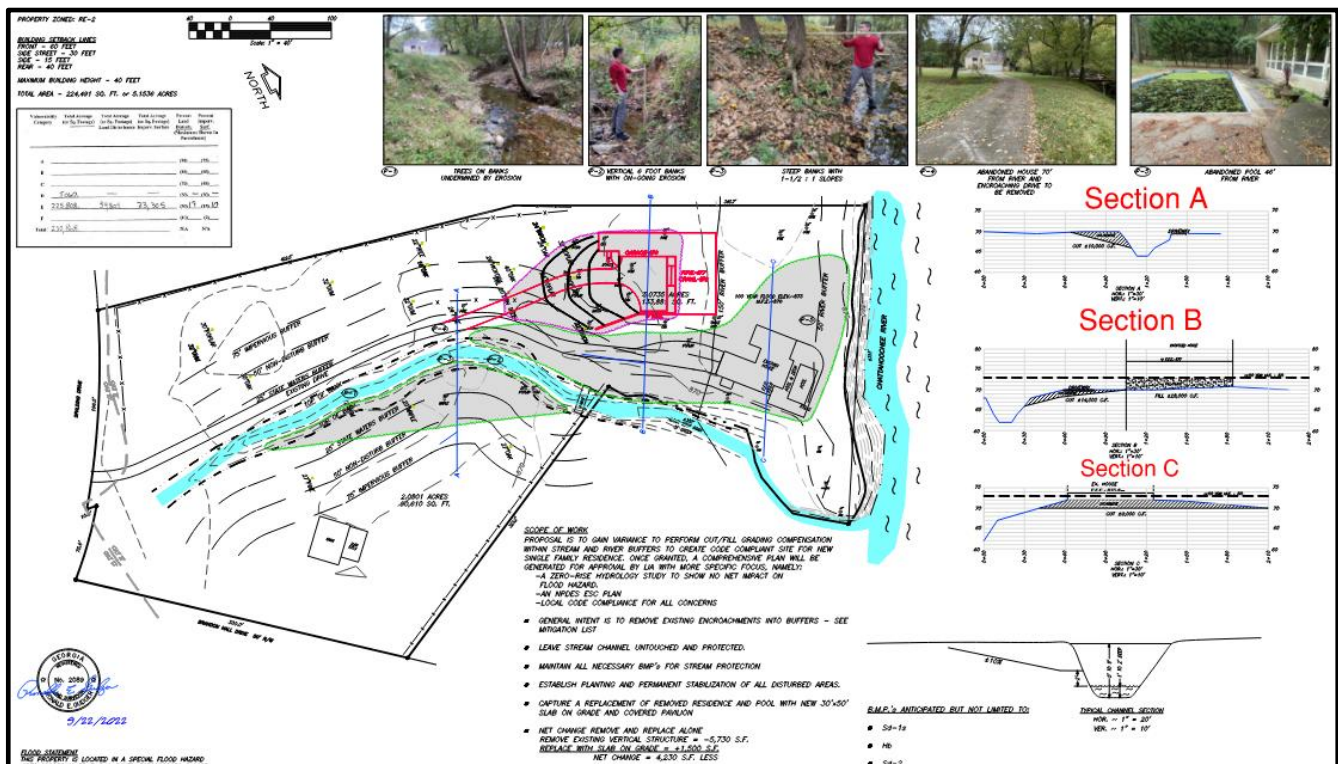


SITE PLAN (received November 3, 2022)



The teal color represents the stream and Chattahoochee River. The gray color represents the proposed cut/fill (grading), and the red outline represents the proposed home and driveway. The three vertical dark blue lines represents the cut/fill (grading) sections.

PROPOSED SITE PLAN/FINAL CONDITIONS (received November 3, 2022)



To the right of the site plan, are the cross sections of the cut/fill lines. The applicant is proposing to cut and fill to raise an area of the property above the floodplain to build a new home out of the river's buffer.

Section A shows the driveway which the applicant is proposing to cut away approximately 10,000 cubic feet to provide for additional flood capacity.

Section B shows a section close to the existing driveway which the applicant is proposing to cut away approximately 14,000 cubic feet and fill with approximately 28,000 cubic feet for the proposed home.

Finally in Section C, the applicant is proposing to cut approximately 9,000 cubic feet in an area where the existing home is to provide for additional flood capacity.

EXISTING DEVELOPMENT

The 5.26- acre subject property zoned RE-2 (Residential Estate- 2 acres minimum) has a development with a two-story single-family home, a two-car front facing garage front facing garage, and a pool behind. According to Fulton County records, the house was built in 1976 and below shows the record of sales.

Sales									
Sale Date	Sale Price	Instrument	Deed Book	Deed Page	Qualification	Sales Validity	Grantee	Grantor	Recording
5/24/2022	\$3,500,000	LW	65740	0137	Qualified	Valid Sale	WILLIAMS RODNEY S & CAMILLE R	SCOTT RITA P	65740 0137
6/16/2005	\$0	WD	40278	00656	Unqualified	Sale < = 1000	WILLIAMS RODNEY S & CAMILLE R	SCOTT JOHN S & RITA P	40278 00656
4/15/2003	\$0	WD	34864	00424	Unqualified	Related Individuals or Corporation	SCOTT JOHN S & RITA P	SCOTT JOHN S	34864 00424
4/15/2003	\$1,575,000	WD	34864	00399	Qualified	Valid Sale	SCOTT JOHN S	HOUSE DONALD L & MAY F	34864 00399
4/10/1985	\$700,000		09461	00380	Unqualified	Unvalidated/Deed Stamps			09461 00380

This lot abuts the Chattahoochee River to the north and is subject to the Metropolitan River Protection Act (MRPA). The existing house sits approximately 75 feet from the bank of the Chattahoochee River within the River Corridor's 150' buffer, the future floodplain, the Federal Emergency Management Agent (FEMA) flood hazard zone, and the northern portion of the parcel is within the future floodway. There is also a stream, that bisects the property; with associated stream buffers, that runs south to north into the Chattahoochee River. In the southwestern portion of the parcel, is a barn, approximately 430 feet away from the house, and 70 feet away from the side property line at Brandon Hall Drive. The parcel is relatively flat over most of the land area with elevation changes of two to four feet. Along the bank of the Chattahoochee River at the north property line, the elevation drops ten (10) feet over 30 feet towards the edge of river. Along the stream that bisects the parcel, there is a four (4) foot elevation change from the edge of the stream to the top of the bank on either side of the stream. This dip in elevation along the stream has a measured transect of 25 feet wide and runs along the entire length of the parcel.

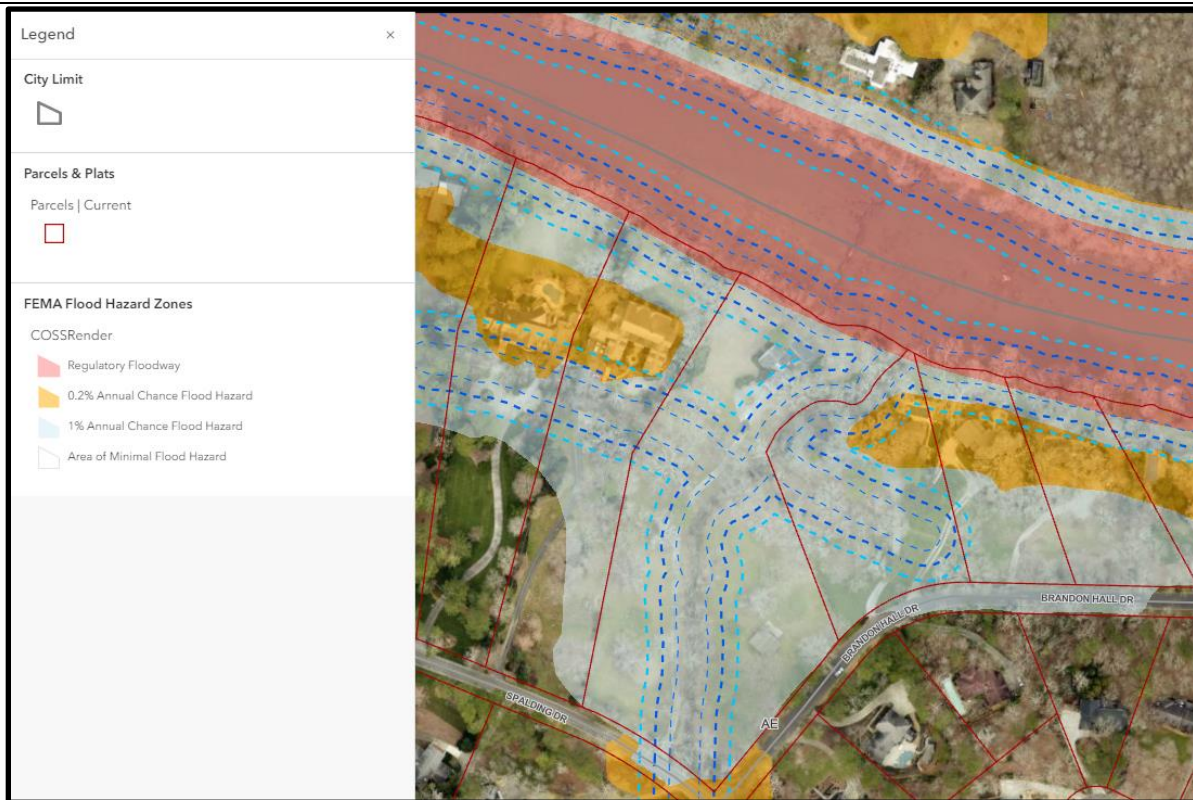
View of existing home (*bottom*)



Topographic Map



The applicant is seeking a request for a variance from Division 9.2. State Waters Buffer to grade into the Undisturbed Natural Vegetative Buffer and 25' Impervious Surface Setback.



Aerial Image demonstrates a 1% chance of annual flooding, in the light blue shade.
In this zone, construction is allowed with additional FEMA stipulations.

PROPOSED DEVELOPMENT

The applicant is seeking a variance to cut/ fill (grading of earth) within the stream buffers. The applicant proposes that the grading, totaling over an acre of land disturbance, is necessary to build a new home above the floodplain. The applicant is also proposing to demolish the existing home. On the site plan below, the applicant has highlighted three sections, A, B, C, that demonstrates the cross sections where the cut/fill will happen. In section A, the proposal includes cutting approximately 10,000 cubic feet near the driveway. In section B, the proposal includes cutting approximately 14,000 cubic feet and filling approximately 28,000 cubic feet. Finally, in section C, the proposal includes cutting approximately 9,000 cubic feet under the existing house. The applicant is attempting to provide for additional flood capacity to build a new home.

Per the Development Code Section 9.2.2. *Applicability* – A variance from the requirements of the Sandy Springs portion of any state waters buffer or additional impervious surface setback (see Sec. 9.2.4) is not required for:

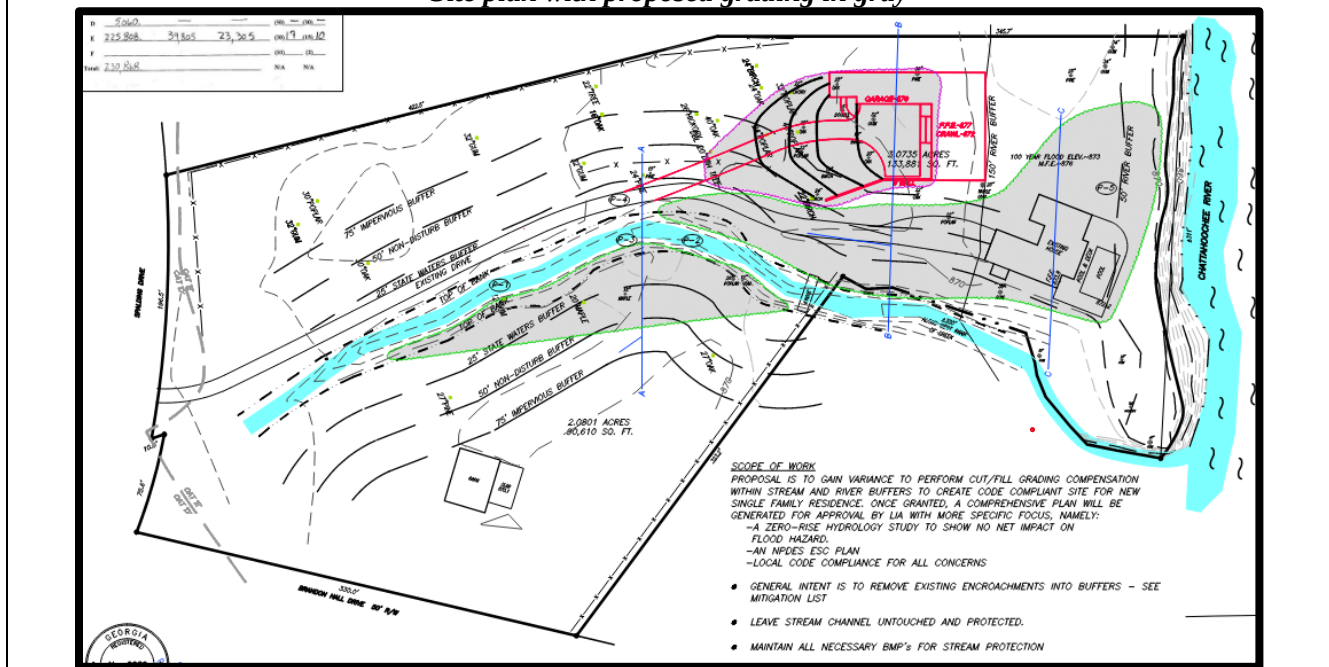
- Repair or replacement in kind of any legally approved principal structure located in the buffer that existed prior to December 12, 2005, provided that the footprint of the pre-2005 structure is not exceeded, and engineering analysis indicates that no rise in flood elevation will occur. All required permits are still necessary prior to construction.

Per the Development Code Section 9.2.4. *Land Development Requirements* – All land development activity subject to this Division must meet the following requirements:

- An undisturbed natural vegetative buffer is maintained for 50 feet, measured horizontally, on all banks of the state waters as measured from the point of wrested vegetation.
- Land development activities in the impervious surface setback may be approved by the Director if they maintain or decrease the existing stormwater runoff rates.

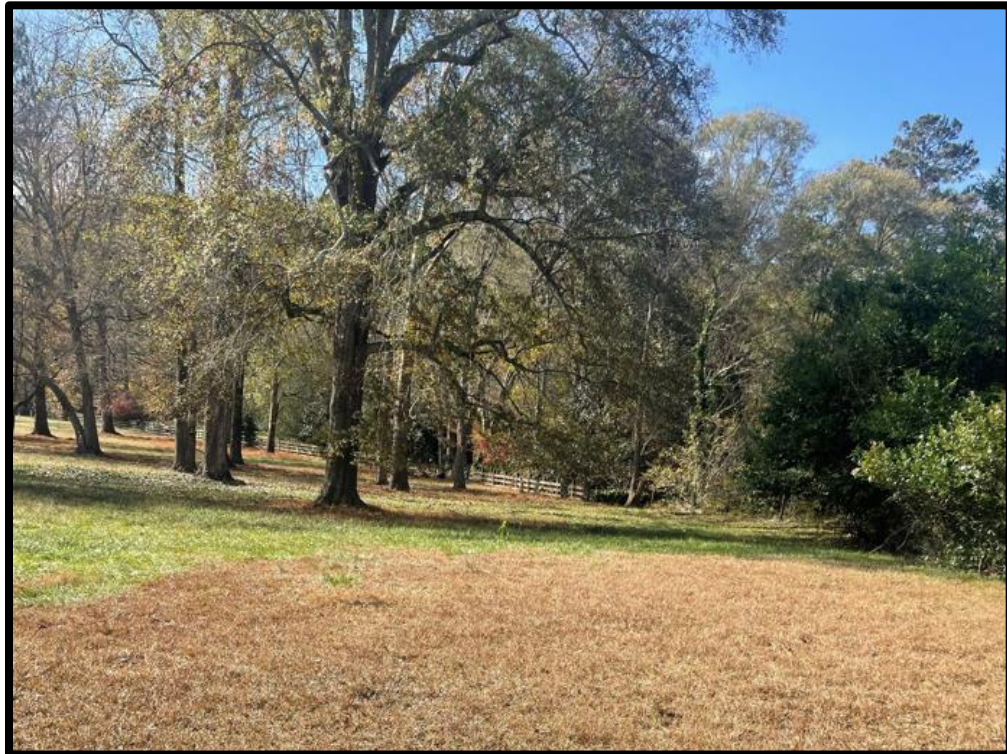
The applicant is seeking to cut and fill in the undisturbed natural vegetative buffer, state waters buffer and impervious surface setback. The City of Sandy Springs does not have the authority to allow for land disturbance in the 25' State Waters Buffer.

Site plan with proposed grading in gray





View of proposed cut and fill in section “A” facing East towards the creek (*top*)
View of proposed cut and fill in Section “B” facing West towards proposed home (*bottom*)





View of proposed cut and fill facing the Chattahoochee River (*top*)
View of existing home (*bottom*)



V22-0035 VARIANCE CONSIDERATIONS

Per Sec. 9.2.4.B.3. and Sec. 9.2.4.B.4. of the Development Code, variances may be considered for land development activity the following list factors will be considered for providing guidance when making decisions about issuing variances:

1. Variances will only be granted upon showing that:

- a. The property's shape, topography or other physical conditions existing on December 12, 2005 prevent land development unless a buffer or setback Variance is granted;**

Findings: According to Fulton County records, this property was developed in 1976, 29 years before December 2005, when the current stream buffers were put in place. Per the Development Code, a variance is not required to repair, replace or improve any structure in Sandy Springs portion of any state waters buffer or additional impervious surface setback.

- b. Unusual circumstances when strict adherence to the minimal buffer and setback requirements would create an extreme hardship.**

Findings: This property has several challenges including river and stream buffers that make strict adherence to the minimal buffer and setback requirements difficult; for the home to be relocated. The stream bisects the lot from the south towards the Chattahoochee River causing the stream buffers to follow on both sides of the stream's bank.

Variances will not be considered when actions of any property owner of a given property after December 12, 2005 have created conditions of a hardship on that property.

Findings: The actions of the property owner did not create the physical conditions of this property. The size, shape, topography, and the hydrology on the subject property existed prior to December 12, 2005. The property was developed in 1976.

- a. The Variance request would provide the minimum relief necessary to make possible the reasonable use of the property;**

Findings: The variance request would not provide the minimum relief necessary to make possible the reasonable use of the property.

The following factors will be considered in determining whether to issue a variance:

- a. The shape size, topography, slope soils, vegetation and other physical characteristics of the property;**

Findings: This parcel is fairly flat over most of the land with slight elevation changes of two to four feet within the parcel. Close to the Chattahoochee River, the elevation drops ten feet over 30 feet towards the edge of the river. Along the stream, there is a four-foot elevation change on both sides.

- b. The locations of all state waters wetlands, floodplain boundaries and other natural features on the property, including along property boundaries, as determined by field survey;**

Findings: The property is adjacent to the Chattahoochee River and therefore is subject to the Metropolitan River Protection Act (MRPA). It also has a creek that flows into the Chattahoochee River and bisects the parcel north to south. The parcel is also within the flood hazard zone.

- c. The location and extent of the proposed buffer or setback intrusion;**

Findings: By grading into the buffers, erosion will occur, and sediment will travel and impact the Chattahoochee River.

d. Whether alternative designs are possible which require less intrusion or no intrusion;

Findings: Alternative designs were not presented to Staff.

e. The long-term and water quality impacts of the proposed variance; and

Findings: This can not be determined by Staff as a thorough review of the necessary external documents i.e. FEMA Conditional Letter of Map Revision (CLOMR) and the Georgia EPD Buffer Variance have been submitted

f. Whether issuance of the variance is at least as protective of natural resources and the environment.

Findings: Staff believes the applicant's proposal may not necessarily protect natural resources and the environment. The applicant does propose to utilize best management practices for stormwater runoff during permit process.

COMMENTS FROM OTHER PARTIES**Sandy Springs Public Works:**

No comment provided.

Sandy Springs City Engineer:

THIS SITE REQUIRES THE FOLLOWING APPROVALS EXTERNAL TO SANDY SPRINGS: 1. FEMA Conditional Letter of Map Revision (CLOMR). 2. Georgia EPD Buffer Variance. City Engineer recommends the above approvals be obtained prior to consideration for Buffer Variance by City of Sandy Springs.

Sandy Springs Chief Environmental Compliance Officer:

No comment provided.

Sandy Springs Arborist:

The application does not show the site meeting the minimum canopy requirement. The site would be required to adhere to the minimum canopy requirement of 35%. Impacts to Protected Trees and Landmark Trees would occur with the proposed site plan; therefore, mitigation plantings and recompense would be required. Please be aware that Division 9.3 of the Sandy Springs Development Code details the tree conservation requirements associated with developing the site. If the variance is approved, review Section 1E, state water buffers restoration standards, in the Sandy Springs Technical Manual.

Sandy Springs Sustainability Manager:

Application is incomplete, review cannot be completed

Sandy Springs Building Official:

No comment provided.

Sandy Springs Fire Marshal:

No comment provided.

Sandy Springs Land Development Manager:

Concurs with City Engineer's comment

Sandy Springs Transportation Planner:

No comment provided.

Correspondence Received:

N/A

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATIONS
Following review, and based on the findings, Staff recommends Denial of Variance V22-0035 . Request for a variance from Division 9.2. State Waters Buffer to grade into the Undisturbed Natural Vegetative Buffer and 25' Impervious Surface Setback.

Board of Appeals

December 7, 2022



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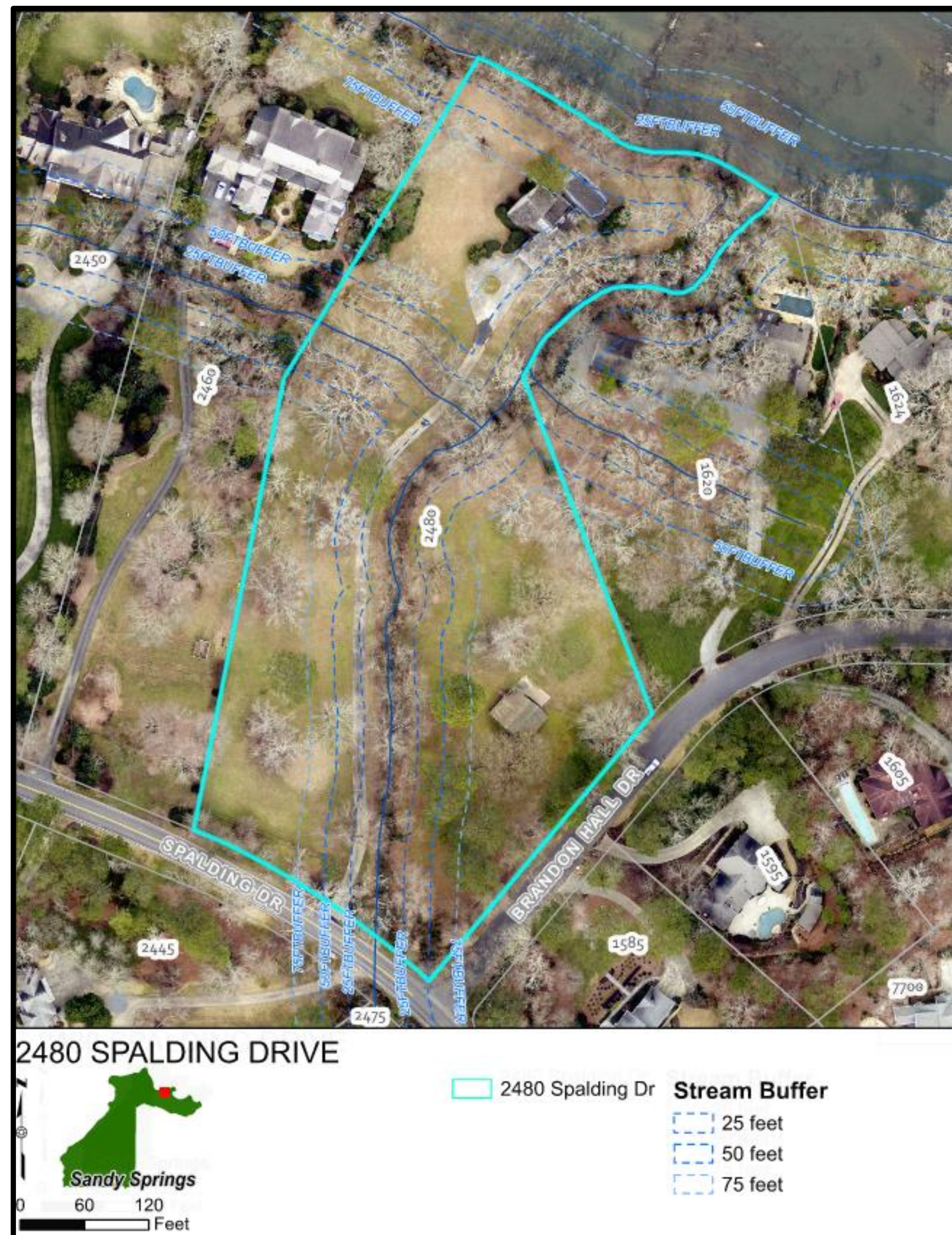
V22-0035
2480 Spalding Drive

STAFF RECOMMENDATION:
Denial

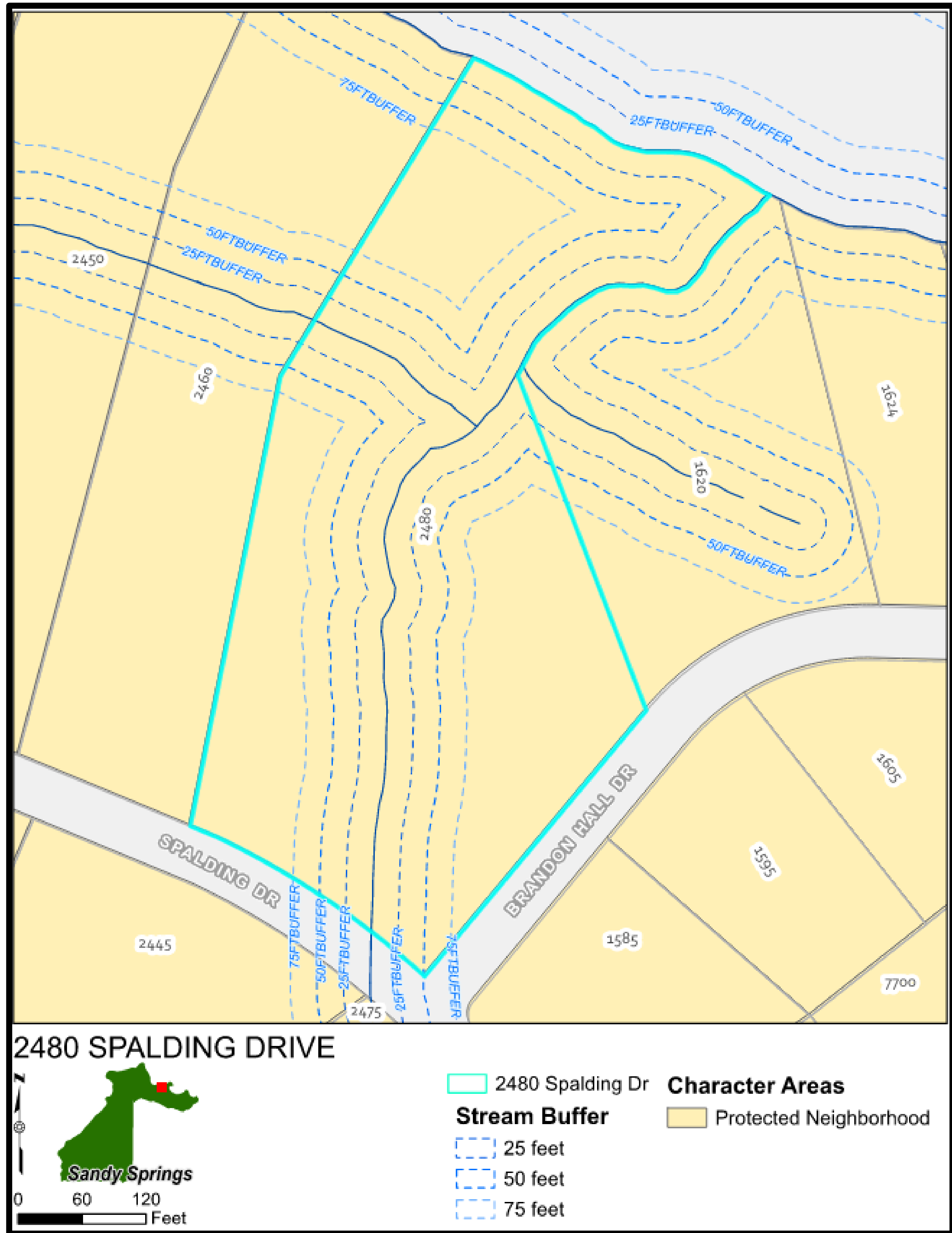
Request

Request for a variance from Division 9.2. State Waters Buffer to grade into the Undisturbed Natural Vegetative Buffer and 25' Impervious Surface Setback.

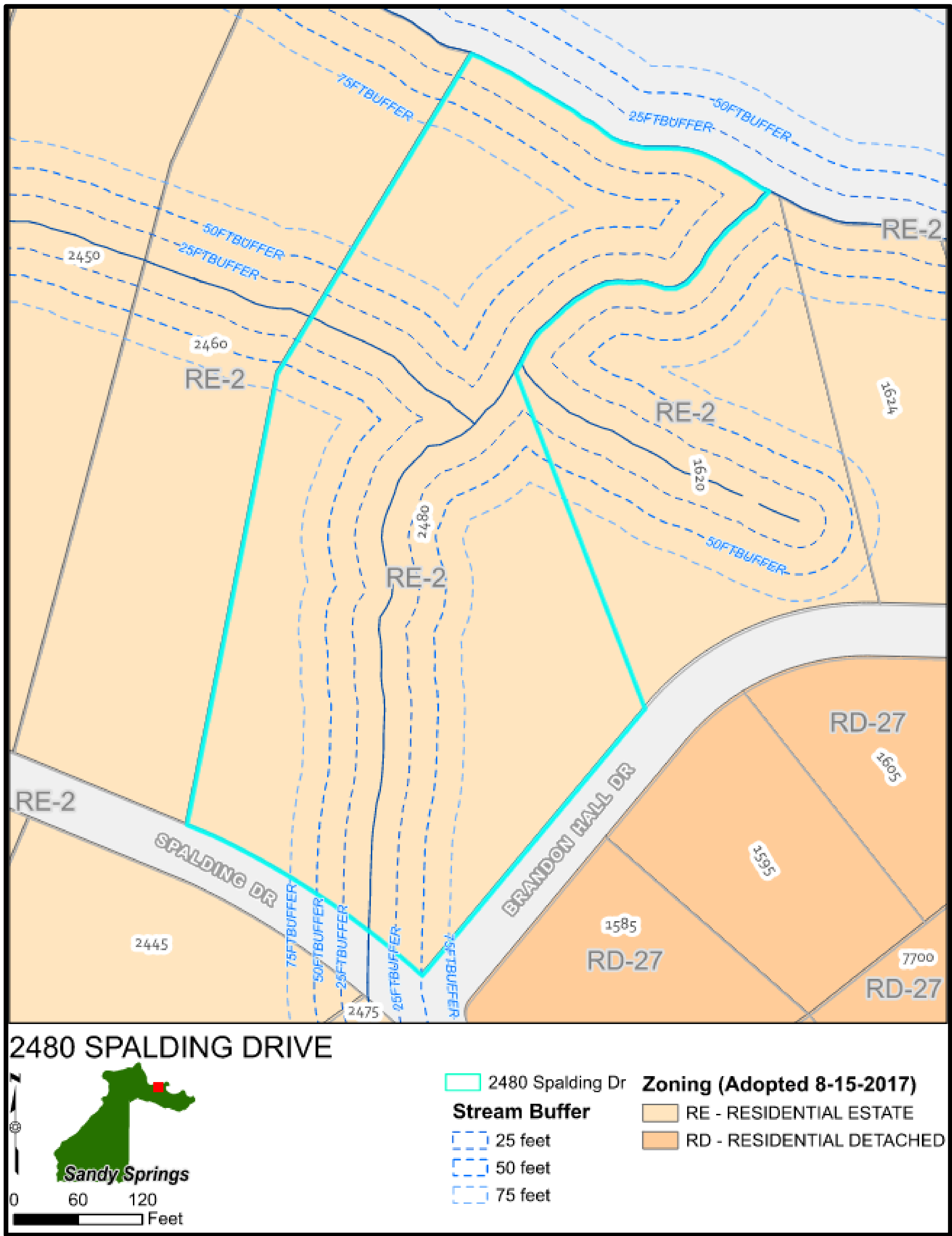
Aerial Image



Character Area Map



Zoning Map



Existing Conditions

- The 5.26- acre subject property zoned RE-2 (Residential Estate- two-acre minimum) is developed with a two-story single-family home, with a two-car front facing garage and a pool behind the house.
- This lot abuts the Chattahoochee River to the north and is subject to the Metropolitan River Protection Act (MRPA).
- The existing house sits approximately 75 feet from the banks of the Chattahoochee River well within the River Corridor's 150' buffer. There is also a stream, with associated stream buffers, that runs south to north into the Chattahoochee River that bisects the property.
- The entire parcel is in the future floodplain and is within the Federal Emergency Management Agent (FEMA) flood hazard zone. The northern portion of the parcel is within the future floodway.

Existing Conditions

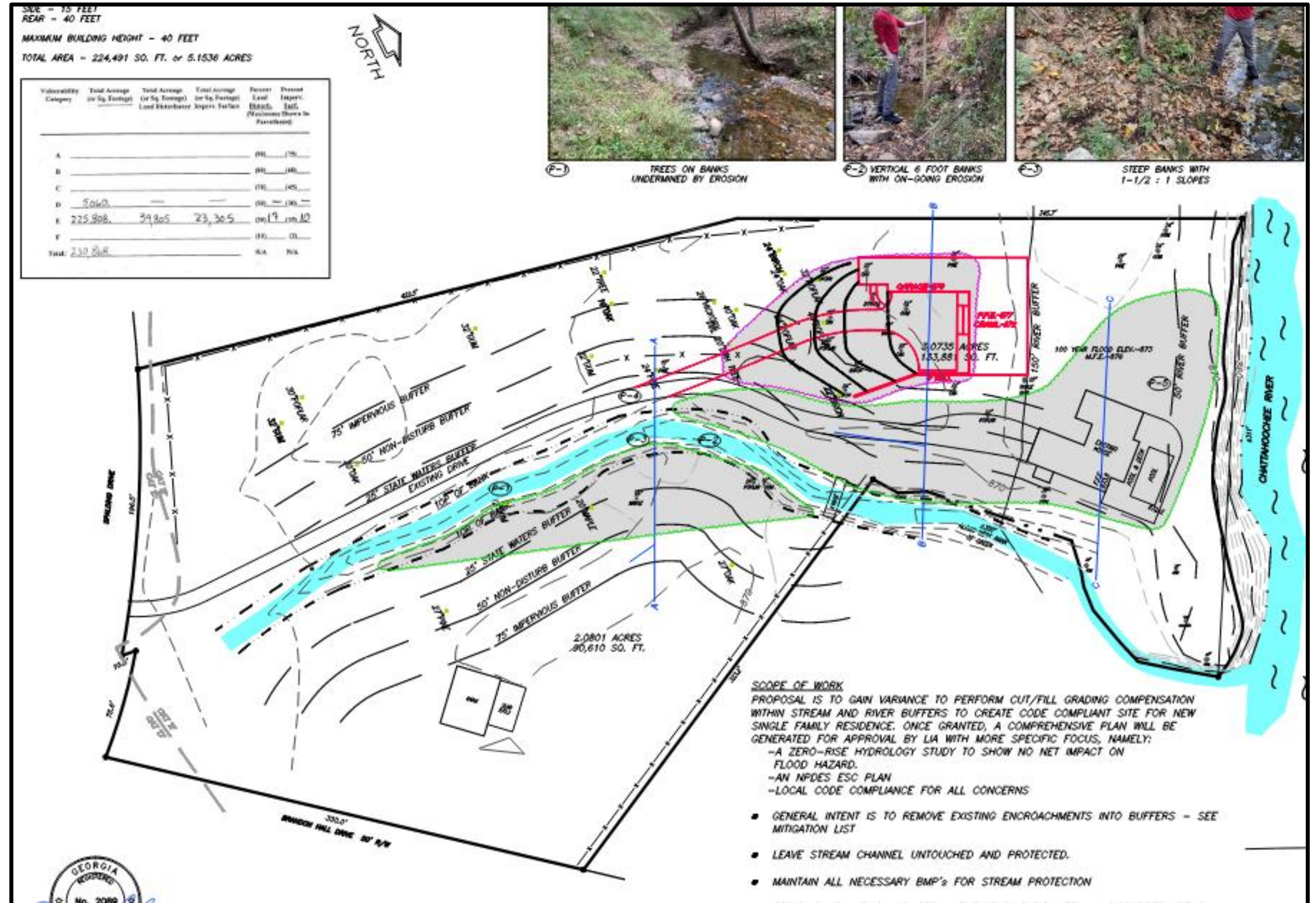


View of existing home

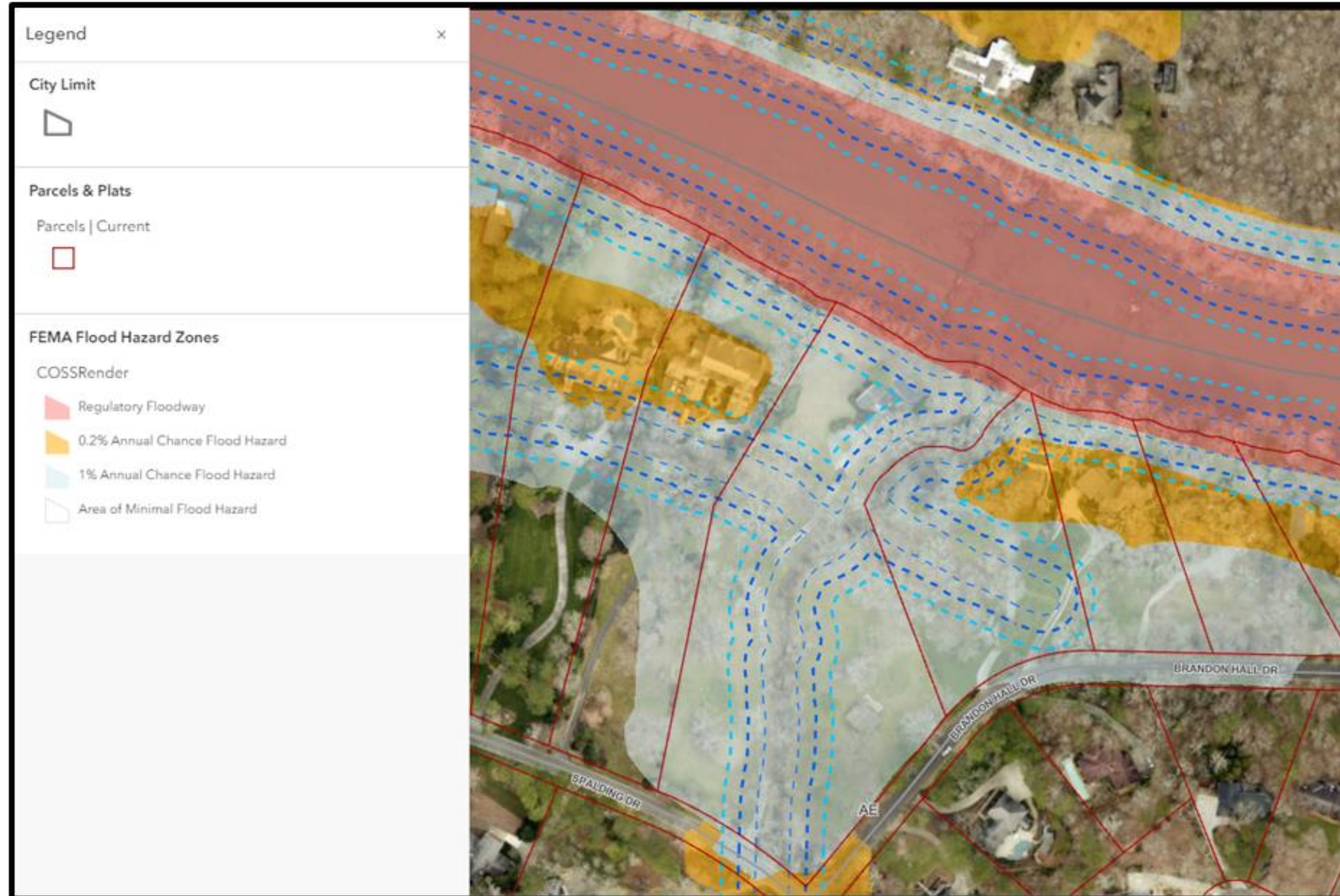


View of proposed cut and fill facing the Chattahoochee River

Site Plan



Flood Hazard Map



Aerial Image of parcel showing the 1% annual chance flood hazard zone in the light blue shade.

Proposed Development

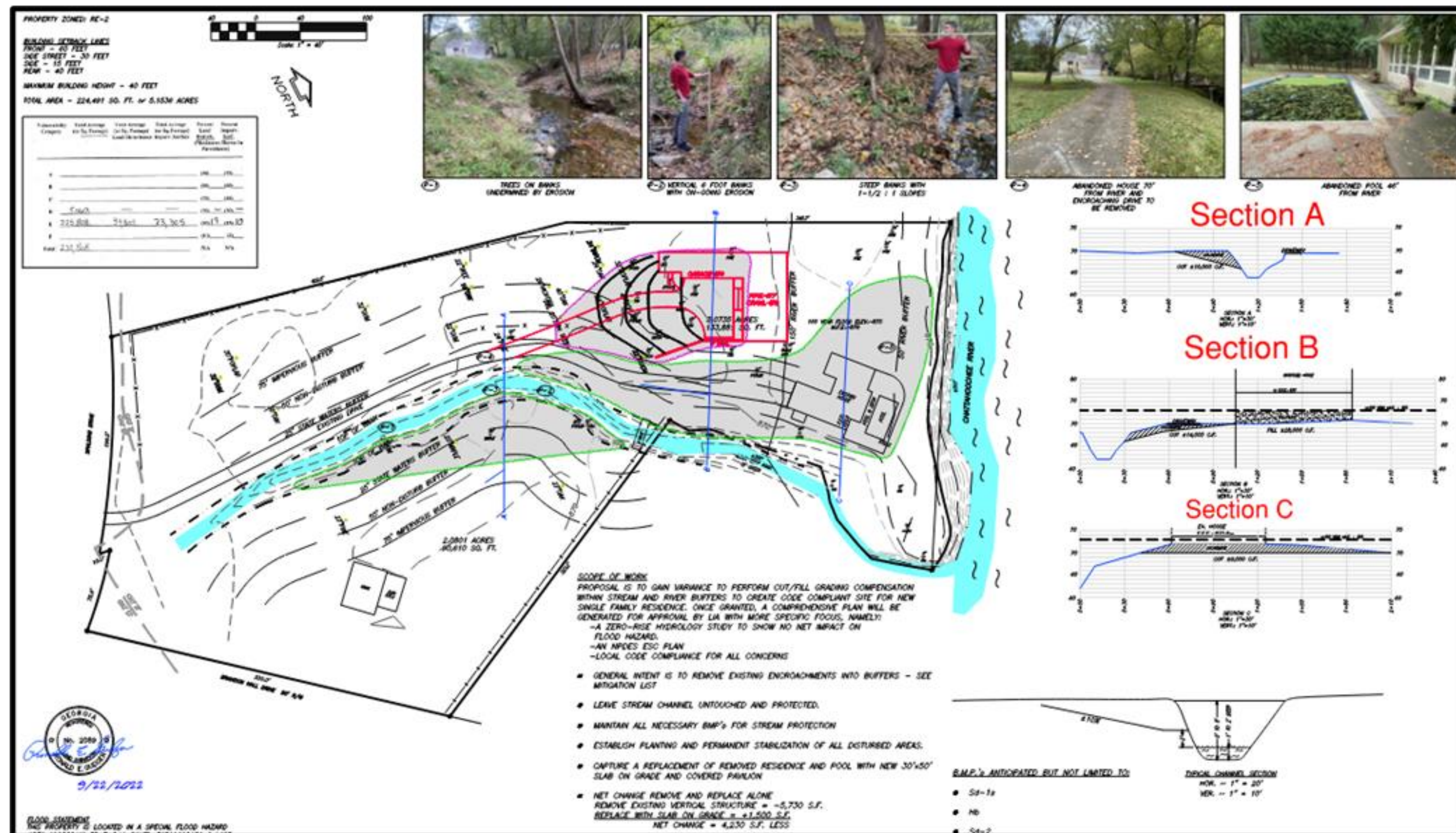
- The applicant is seeking a variance to cut/ fill (grading of earth) within the stream buffers. The applicant's proposed grading, totaling over an acre of land disturbance, is necessary to build a new home at least three feet above the floodplain. The applicant is also proposing to demolish the existing home.
- The applicant is attempting to provide for additional floodplain capacity in order to build a new home out of the 50' river buffer.
- The applicant is encroaching in the 50-foot undisturbed vegetative buffer and the 150-foot impervious surface setback on the Chattahoochee and its impoundments.
- Per the Development Code Section 9.2.2. Applicability – A variance from the requirements of the Sandy Springs portion of any state waters buffer or additional impervious surface setback (see Sec. 9.2.4) is not required for:
 - a. Repair or replacement in kind of any legally approved principal structure located in the buffer that existed prior to December 12, 2005, provided that the footprint of the pre-2005 structure is not exceeded, and engineering analysis indicates that no rise in flood elevation will occur. All required permits are still necessary prior to construction.
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 - b. Land development activities in the impervious surface setback may be approved by the Director if they maintain or decrease the existing stormwater runoff rates.

Proposed Site Plan

Section A includes cutting approximately 10,000 cubic feet near the driveway.

Section B includes cutting approximately 14,000 cubic feet and filling approximately 28,000 cubic feet.

Section C, the proposal includes cutting approximately 9,000 cubic feet under the existing house



V22-0026 Variance Considerations

- **The property's shape, topography or other physical conditions existing on December 12, 2005, prevent land development unless a Stream Buffer Variance is granted;**
 - According to Fulton County records, this property was developed in 1976, 29 years before December 2005. Per the development code, a variance is not required to repair, replace and improve any structure in Sandy Springs portion of any state waters buffer or additional impervious surface setback.
- **Unusual circumstances when strict adherence to the minimal buffer and setback requirements would create an extreme hardship**
 - This property has challenges with stream buffers and floodplain that make the strict adherence to the minimal buffer and setback requirements difficult for the home to be relocated. The creek bisects the lot from the south towards the Chattahoochee River causing the stream buffers to follow on both sides of the stream's bank.

Recommendation

Staff recommends **Denial** of V22-0035