



P&Z STAFF REPORT

Board of Appeals Hearing; August 10, 2017

Case: **V17-0030 – 5965 Riverside Drive**

Staff Contact: Paul Leonhardt (pleonhardt@sandyspringsga.gov)

Report Date: July 27, 2017

REQUEST

Variance from Section 109-225 of the Development Regulations to allow three recently constructed retaining walls to remain in the 50-foot City stream buffer and in the associated 25-foot City additional impervious surface setback.

APPLICANT

Property Owner: Kayode Fasae	Petitioner: Tony Koury	Representative: -
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PROPERTY INFORMATION

Location:	5965 Riverside Drive
Council District:	3 - Burnett
Road frontage:	Approximately 260 feet on Coldstream Court Approximately 220 feet on Riverside Drive
Acreage:	Approximately 1.9 acres
Existing Zoning:	R-2
Existing Land Use:	Single-family Dwelling
Overlay District:	N/A
Character Area	Protected Neighborhood

UPDATE JULY 27, 2017

At the July 13, 2017 hearing, the Board of Appeals deferred the case to the August 10, 2017 hearing.

PROPOSED DEVELOPMENT

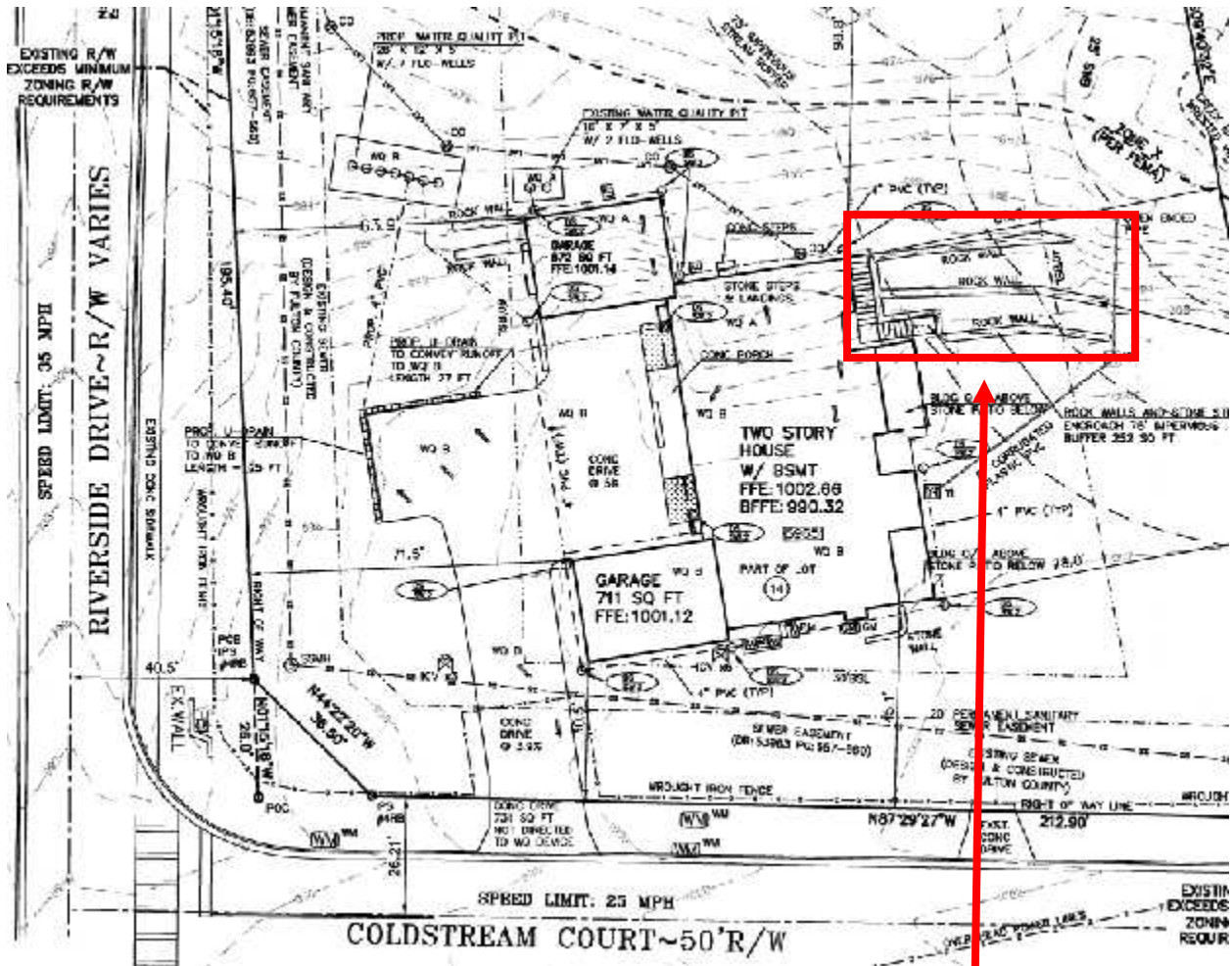
As part of the construction of a new single-family residence, the applicant has recently installed three rock retaining walls that encroach into the 50-foot City stream buffer and the associated 25-foot additional impervious surface setback, exceeding the approved limits of disturbance. Subsequently, the applicant received a Notice of Violation, and applied for this Variance to bring the three walls into conformity.

RECOMMENDATION

Department of Community Development

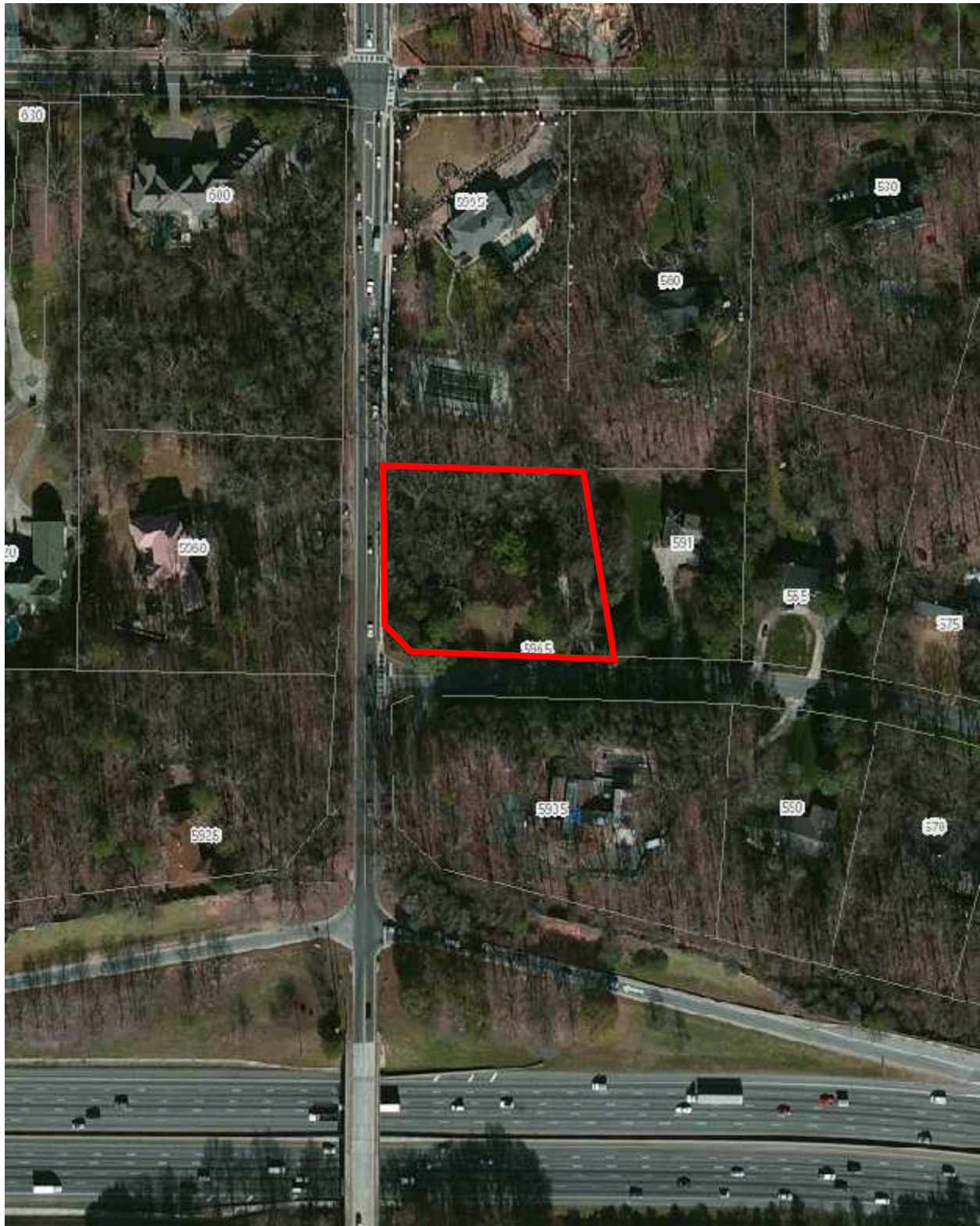
Staff recommends APPROVAL of V17-0030.

SITE PLAN (FULL SITE PLAN AS ATTACHMENT)



Subject retaining walls

AERIAL IMAGE



ZONING MAP



VARIANCE CONSIDERATION

Per Section 109-225 of the Development Regulations, Variances will be considered only in the following cases:

A. When a property's shape, topography or other physical conditions existing at the time of the adoption of the ordinance from which the article is derived prevents land development unless a buffer variance is granted.

B. Unusual circumstances when strict adherence to the minimal buffer requirements would create an extreme hardship.

Variances will not be considered when, following adoption from this article is derived, actions of any property owner of a given property have created conditions of a hardship on that property.

Update July 27, 2017: Should the board deny the applicant's request for the retaining walls to remain, the applicant will have to remove the retaining walls. The City's River, Tributary, and State Waters Buffer-Revegetation Standards (*Exhibit 1*) requires the applicant to revegetate the disturbed area within the 25-foot State and 50-foot City buffer with a mix of 25% large trees, 25% small trees, 25% shrubs, and 25% ground cover/perennials.

For the additional 25-foot impervious surface setback, the City Development Regulations require grading, filling, and earthmoving to be minimized. Department of Community Development policy (*Exhibit 2*) requires post-development slopes of no greater than 4:1 or post-construction conditions to be comparable to or exceed pre-construction conditions. Also, should the Board not grant the Variance, Community Development Staff will issue citations for the encroachments work without a permit, which would lead to a hearing in the Sandy Springs Municipal Court.

Finding: The subject parcel is a corner lot on Riverside Drive and Coldstream Court, and has Heards Creek roughly run along the northern property line. In 2014, the applicant applied for a building permit to construct a single-family detached house without encroaching into the stream buffer or the additional impervious surface setback. Eventually, the applicant began construction in 2016. During construction, a City Inspector noticed the placement of silt fencing outside of the approved limits of disturbance, and warned the applicant to stay outside of the stream buffer. The applicant failed to comply with the approved plan set and the City Inspector's warning, and subsequently installed the three rock walls in their present location.

The site is steep, with a 20 to 30-foot drop-off from the rear yard to the stream. While the site is presently stabilized, removing the rock walls would leave a steep open slope, which would lead to soil erosion into the stream and diminish water quality. Therefore, Staff finds that removal of the three rock walls would create a less desirable outcome, increasing the possibility of negatively impacting the stream.

At 331 square feet, the encroachment into the stream buffer and impervious surface setback is small. The design of the rock wall allows water to infiltrate partially into the soil beneath. In addition, the applicant proposes to revegetate the buffer area and the level areas between the rock walls. The vegetation will

include native grasses, shrubs, and trees, and will comply with City buffer standards. Staff finds that the proposed mitigation will improve water quality in the stream and will reduce soil erosion when compared to the alternative scenario (which is removal, stabilization, and replanting) should the Board of Appeals not grant this Variance request.

COMMENTS FROM OTHER PARTIES

No comments received.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

Staff has reviewed the request relative to the variance standards contained in Section 109-225 of the Sandy Springs Development Regulations. Based upon this review, staff recommends **APPROVAL** of variance request V17-0030 to allow three recently constructed retaining walls to remain in the 50-foot City stream buffer and in the associated 25-foot City additional impervious surface setback.

Should the Board of Appeals choose to approve the request, Staff recommends the following conditions:

1. To allow three recently constructed retaining walls to remain, as shown on the site plan prepared by Frontline Surveying & Mapping, Inc., dated May 2, 2017, and received by the Department of Community Development May 22, 2017, to remain.
2. The applicant must provide a landscape plan that is conceptually similar to the buffer mitigation plan prepared by Land Architect Studio, LLC, dated May 10, 2017, and received by the Department of Community Development May 22, 2017. That landscape plan must meet or exceed the requirements of the City River, Tributary, and State Waters Buffer-Revegetation Standards.
3. Any revisions of the submitted site plan must be reviewed and approved by Staff.
4. A zoning inspection must be satisfactorily conducted and site conditions must adhere to all aforementioned conditions prior to issuance of a certificate of occupancy.
5. Prior to issuance of a certificate of occupancy, the applicant must provide an as-built survey.



P&Z STAFF REPORT

Board of Appeals Hearing; August 10, 2017

Case: **V17-0035 – 77 Angus Trail**

Staff Contact: Paul Leonhardt (pleonhardt@sandyspringsga.gov)

Report Date: July 27, 2017

REQUEST

1. Variance from Section 109-225 of the Development Regulations to encroach into the 25-foot Stream impervious surface setback for a front porch.
2. Variance from Section 6.4.3.B of the Zoning Ordinance to encroach into the minimum front yard for a second story addition to an existing residence.
3. Variance from Section 6.4.3.C of the Zoning Ordinance to encroach into the minimum side yard to enclose a carport.

APPLICANT

Property Owner: Nathaniel & Kaylee Estes	Petitioner: Elaine Guarino, DirectBuild	Representative: -
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PROPERTY INFORMATION

Location:	77 Angus Trail
Council District:	3 - Burnett
Road frontage:	Approximately 140 feet
Acreage:	Approximately 0.4 acres
Existing Zoning:	R-3
Existing Land Use:	Single-family Dwelling
Overlay District:	N/A
Character Area	Protected Neighborhood

PROPOSED DEVELOPMENT

The applicant is proposing to add a second story, enclose an existing carport, and a front porch to the existing one-story detached house that recently suffered tree damage, rendering it presently

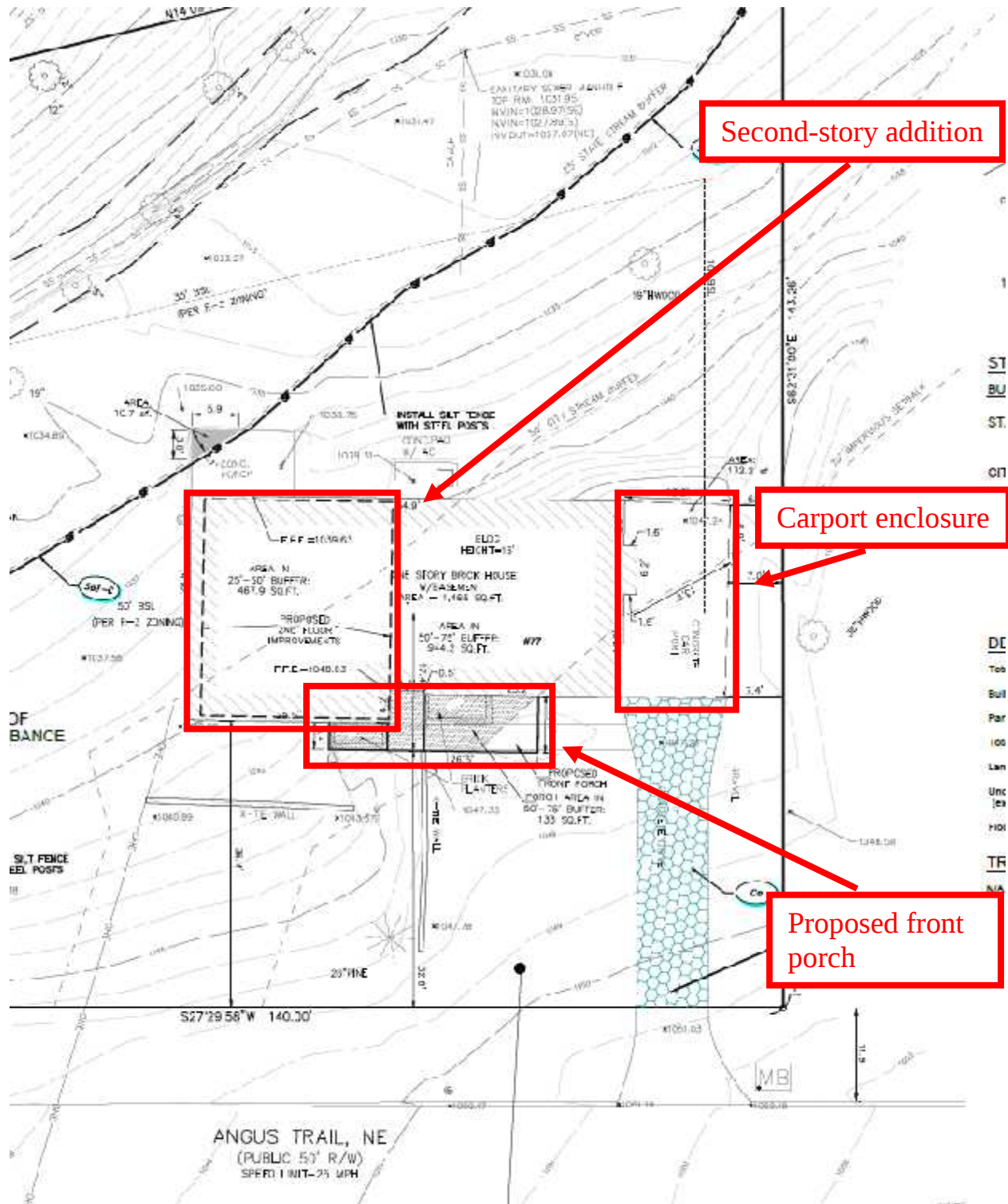
uninhabitable. The second story will maintain existing linear encroachments into the front and side setbacks as well as the 50-foot City stream buffer and the additional 25-foot impervious surface setback. A 133 square-foot section of the proposed front porch creates new encroachment into the additional 25-foot impervious surface setback.

RECOMMENDATION

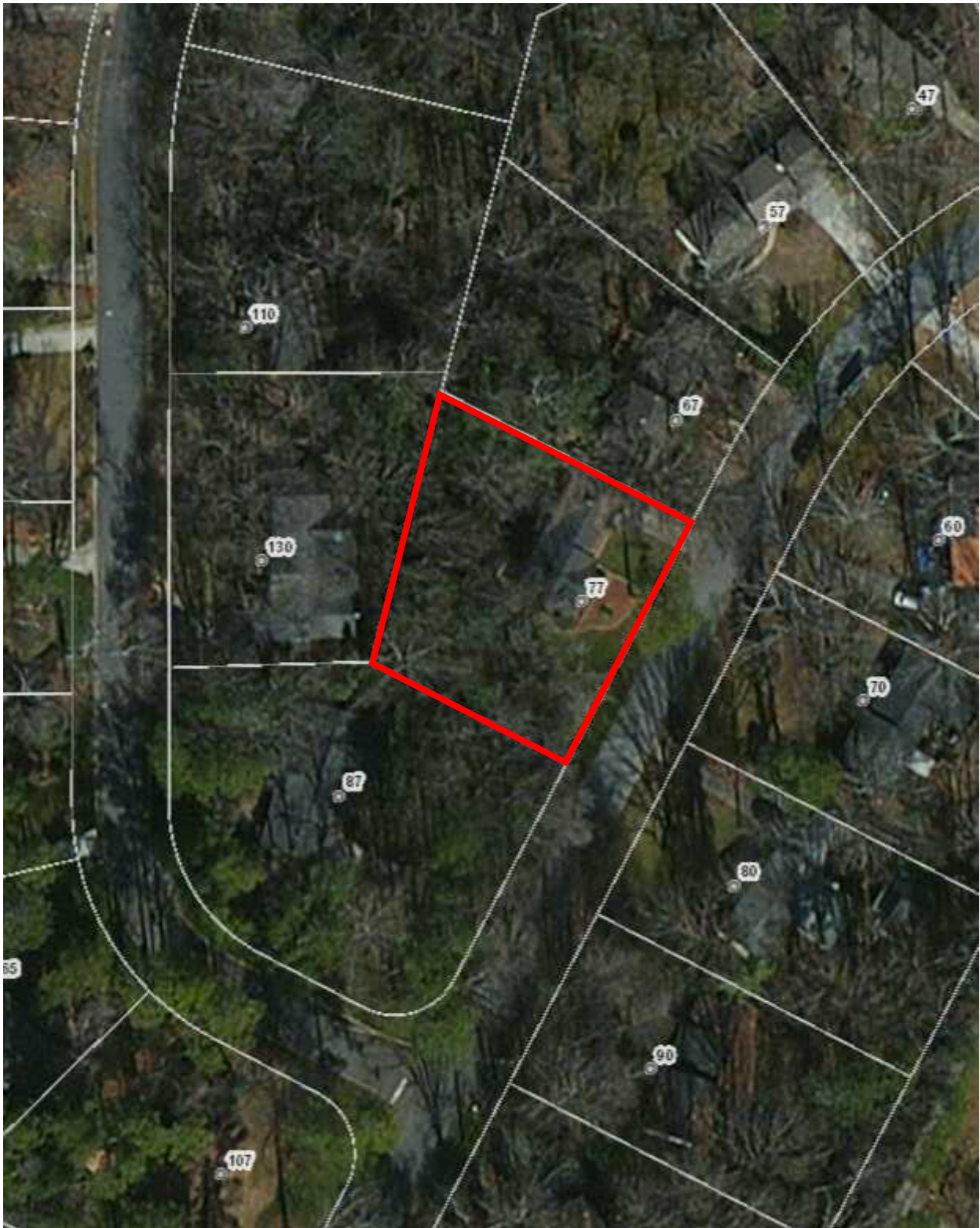
Department of Community Development

Staff recommends **APPROVAL** of V17-0035.

SITE PLAN (FULL SITE PLAN AS ATTACHMENT)



AERIAL IMAGE



ZONING MAP



VARIANCE CONSIDERATION – STREAM BUFFER VARIANCE

Per Section 109-225 of the Development Regulations, Variances will be considered only in the following cases:

A. When a property's shape, topography or other physical conditions existing at the time of the adoption of the ordinance from which the article is derived prevents land development unless a buffer variance is granted.

B. Unusual circumstances when strict adherence to the minimal buffer requirements would create an extreme hardship.

Variances will not be considered when, following adoption from this article is derived, actions of any property owner of a given property have created conditions of a hardship on that property.

VARIANCE CONSIDERATION – SETBACK VARIANCE

Per Article 22.3.1, Variance Considerations of the Zoning Ordinance, primary variances and concurrent variances shall only be granted upon showing that:

For new development (including the expansion of an existing development):

- 1. The application of the Zoning Ordinance would create an unnecessary hardship, and not merely an inconvenience to the petitioner; or*
- 2. There are extraordinary and exceptional conditions due to the size, shape, or topography, which are specific to the subject property and not generally found in similar properties;*

Further, the application shall demonstrate that:

- 3. Such conditions are not the result of action or inaction of the current property owner; and*
- 4. The variance request would provide the minimum relief necessary to make possible the reasonable use of the property; and*
- 5. The variance request would result in development that is consistent with the general intent of the Zoning Ordinance, with the Comprehensive Plan policies, and would not be detrimental to the public good, safety and welfare.*

Findings: The subject parcel is currently improved with a one-story single-family detached house built in 1959, prior to the City's stream buffer regulations. At present, the structure is uninhabitable due to tree damage. In conjunction with the necessary repair work, the property owners are proposing additions to the existing house, including a second-story addition on top of part of the residence, enclosure of the existing carport, and the addition of a front porch.

For historic reasons unknown to Staff, and not caused by the current property owners, the existing structure encroaches up to 13.6 feet into the 50-foot minimum front yard and up to 3.3 feet into the 10-foot minimum side yard. The second-floor addition and the carport enclosure will be entirely within the existing footprint. The proposed front porch would be an additional 3.4 feet closer and be 32.6 feet from the front property line.

The front porch, would add 133 square feet of additional impervious surface in the additional 25-foot impervious surface setback (75-foot setback) with no additional encroachment into the 25-foot State or

50-foot City stream buffer. Since the encroachment is small and on the far side of the house from the stream, Staff anticipates limited impacts on the stream water quality.

Due to the location of the existing residence, the property owners have no option to construct an addition without obtaining a variance. The only buildable area is a 10- by 4-foot triangular sliver to the right of the residence. Therefore, Staff finds that the size, shape, and physical conditions on the property prevent any form of land development. In addition, Staff finds that the inability to add to the residence would create a hardship to the property owners.

Staff commends the applicant's efforts to design the additions to minimize impacts on stream water quality by utilizing the existing house footprint. The small additional amount of impervious surface is on the far side of the residence away from the stream. In addition, the applicant has proposed a comprehensive revegetation plan that meets City standards (*Exhibit 1*). Said replanting will cover the area between the residence and the stream with a mix of large trees, small trees, shrubs and ground cover/perennials. Compared to the existing conditions, largely exposed soil, these plantings will stabilize the soil and slope, filter surface runoff into the stream, and support habitat for native species.

The applicant has explored several alternative mitigation proposals that included engineered solutions such as a stormtech chamber, a french drain, and a rain garden. However, due to the limited distance to the stream, these solutions would have required significant land disturbance within the 50-foot buffer area, causing soil erosion into the stream. In addition, typically, engineered solutions become less efficient the closer they are to a stream due to limited absorption capacity of the soil. Staff finds that the applicant's replanting plan will provide similar mitigation outcomes without the land disturbance.

COMMENTS FROM OTHER PARTIES

Staff has received 8 letters in support of the application. This includes support from the neighbors on both sides of the property as well as support from the neighbor immediately opposite on Angus Trail.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

Staff has reviewed the three requests relative to the variance standards contained in Section 109-225 of the Sandy Springs Development Regulations and Section 22.3.1 of the Zoning Ordinance. Based upon this review, staff recommends **APPROVAL** of the three variance requests contained in V17-0035:

1. Variance from Section 109-225 of the Development Regulations to encroach into the 25-foot Stream impervious surface setback for a front porch.
2. Variance from Section 6.4.3.B of the Zoning Ordinance to encroach into the minimum front yard for a second story addition to an existing residence.
3. Variance from Section 6.4.3.C of the Zoning Ordinance to encroach into the minimum side yard to enclose a carport.

Should the Board of Appeals choose to approve the three requests, Staff recommends the following conditions:

1. To allow the construction of additions to an existing residence, as shown on the site plan prepared by Atwell, dated June 27, 2017, and received by the Department of Community Development July 6, 2017.
2. The applicant must provide a landscape plan that is conceptually similar in extent and design to the hand-drawn revegetation plan, undated, and received by the Department of Community Development July 25, 2017. That landscape plan must meet or exceed the requirements of the City River, Tributary, and State Waters Buffer-Revegetation Standards.
3. Any proposed water quality installations shall not encroach into the 50-foot stream buffer.
4. Any revisions of the submitted site plan must be reviewed and approved by Staff.
5. A zoning inspection must be satisfactorily conducted and site conditions must adhere to all aforementioned conditions prior to issuance of a certificate of occupancy.
6. Prior to issuance of a certificate of occupancy, the applicant must provide an as-built survey.



P&Z STAFF REPORT
Board of Appeals Hearing; August 10, 2017

Case: V17-0036 – 1600 Dunwoody Club Drive

Staff: Andy Mendzef (amendzef@sandyspringsga.gov)

Contact:

Report Date: July 17, 2017

REQUEST
Variance from section 19.3.5 of the Zoning Ordinance: <u>Golf Course</u> to allow the addition of an existing parking lot that encroaches into the minimum 100 foot setback and the minimum 50 foot buffer. The existing and proposed parking area would be five feet from the property line adjacent to Dunwoody Club Drive.

APPLICANT			
<table><tr><td>Property Owner: Dunwoody Country Club of Atlanta</td><td>Petitioner: BJ Martin</td><td>Representative: BJ Martin</td></tr></table>	Property Owner: Dunwoody Country Club of Atlanta	Petitioner: BJ Martin	Representative: BJ Martin
Property Owner: Dunwoody Country Club of Atlanta	Petitioner: BJ Martin	Representative: BJ Martin	

PROPERTY INFORMATION	
Location:	1600 Dunwoody Club Drive
Council District:	1; Paulson
Road frontage:	Approximately 3,800 feet along Dunwoody Club Drive and 1,350 along Jett Ferry Road
Acreage:	200.77 acres
Existing Zoning:	AG-1 (Agricultural District)
Existing Land Use:	Country Club Golf Course
Overlay District:	N/A
Special Planning Area:	N/A
Future Land Use Designation:	Protected Neighborhood

SUMMARY
The applicant is requesting a variance to reduce the parking setback from 100 feet to five feet along the right-of-way of Dunwoody Club Drive and to encroach into the required 50-foot buffer to expand their parking lot. The Zoning Ordinance requires a 100 foot setback and a 50-foot buffer adjacent to roadways for parking areas associated with golf courses. The

Dunwoody Country Club is comprised of 200 acres located at the intersection of Dunwoody Club Drive and Jett Ferry Road. Primary access to the property is from Dunwoody Club Drive at its intersection with Ball Mill Road where there is a four way stop. A brick entrance feature is located on each side of the driveway entrance. Dunwoody Country Club received its charter from the State of Georgia in 1969 and shortly thereafter took over Ansley Country Club. The initial improvements to the site included the clubhouse, swimming pool and tennis courts, which were completed in 1970. It is noted that tennis courts and parking areas are located within the required 50-foot buffer and 100-foot setback.

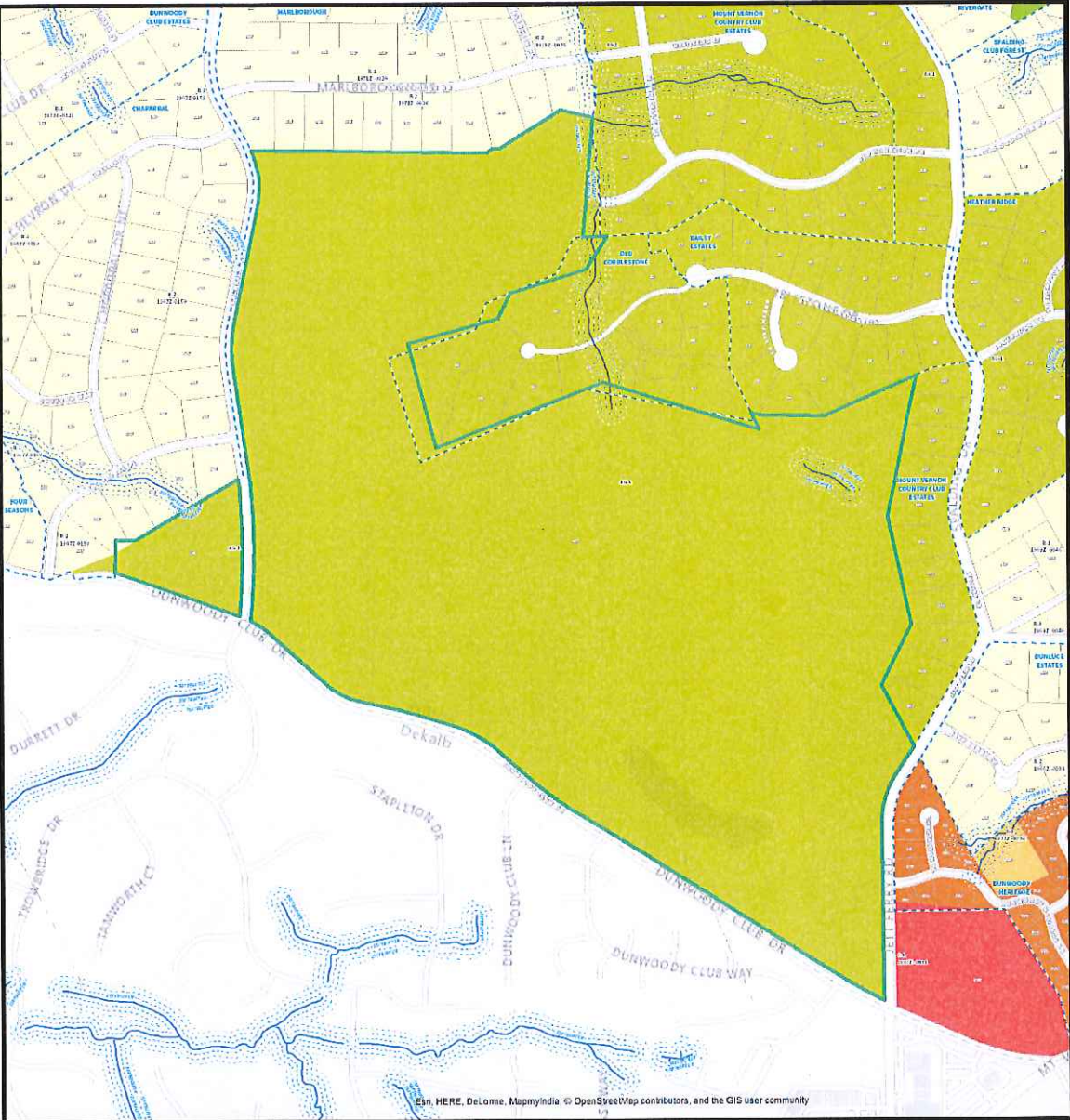
There are currently 303 parking spaces for the entire site and the parking expansion is needed to reduce parking shortfalls during overlapping club activities. There are several parking areas; however, the proposed expansion would be for the parking lot nearest to the street and directly to the right side or southeast of the site's entrance. This parking area currently has 44 parking spaces and would be redesigned and expanded further to the southeast resulting in an additional 37 or a total of 81 parking spaces. There is currently a hedgerow and coated chain-link fence along the parking area, which screens the existing parking lot from residences across from the property and Dunwoody Club Drive, which are located within the City of Dunwoody. A proposed landscape plan shows the existing hedge, fence and slight fence relocation and shade trees, which would be planted throughout the redesigned and expanded parking lot.

RECOMMENDATION
Department of Community Development
Approval Conditional of the variance request

AERIAL IMAGE



ZONING MAP



VARIANCE CONSIDERATION

Per Section 22.3.1. of the Zoning Ordinance, variances, administrative variances, and concurrent variances shall only be granted upon showing that:

For new development (including the expansion of an existing development):

- 1. The application of the Zoning Ordinance would create an unnecessary hardship, and not merely an inconvenience to the petitioner; or*
- 2. There are extraordinary and exceptional conditions due to the size, shape, or topography, which are specific to the subject property and not generally found in similar properties;*

Further, the application shall demonstrate that:

- 3. Such conditions are not the result of action or inaction of the current property owner; and*
- 4. The variance request would provide the minimum relief necessary to make possible the reasonable use of the property; and*
- 5. The variance request would result in development that is consistent with the general intent of the Zoning Ordinance, with the Comprehensive Plan policies, and would not be detrimental to the public good, safety, and welfare.*

Request: (19.3.5) *Request to allow the parking lot expansion within the 100-foot setback and 50-foot buffer, encroaching to within five feet of Dunwoody Club Drive.*

Finding:

The existing Dunwoody Country Club and accessory uses pre-date the City's Land Development requirements and is well established within the community. The requested Variance would allow the applicant to expand a parking lot that encroaches approximately 95 feet into the required 100-foot setback and 50-foot buffer adjacent to Dunwoody Club Drive. Site improvements include the clubhouse, swimming pool and tennis courts and several parking areas, which have existed for many decades. It is noted that tennis courts and parking areas are currently located within the required 50-foot buffer and 100-foot setback and approximately as close as five feet from the property line. Although there are several parking sections on the property, expanding the proposed parking area seems to be the most logical extension. Two of the parking sections are closer to residential lots and the other two are restricted by either existing improvements or the golf course. The existing parking area has coexisted in the community for several years and extending the parking lot along the roadway for approximately 120 feet could be appropriate if proper conditions are incorporated to ensure compatibility with nearby residential neighborhoods. There is a row of hedges and a fence that screens the parking lot from the roadway. Extending this row of hedges and fence if necessary to screen the expanded parking lot would assist in addressing any visual adverse impacts on residences across the street. The requested parking lot expansion would be considered relatively small and with mitigating conditions, would not be expected to adversely impact the

residences across Dunwoody Club Drive. The existing Country Club and accessory uses seem to be compatible with the residential community and the Variance would allow minimum relief for the additional 37 parking spaces. Approval of the Variance would be consistent with the general intent of the zoning ordinance and would not be expected to be detrimental to the public good, safety, and welfare. Therefore, staff recommends approval conditional of the Variance request.

*Staff recommends **APPROVAL CONDITIONAL***

COMMENTS FROM OTHER PARTIES
None

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION
Staff has reviewed the request relative to the variance standards stated in Section 22.3.1 of the Zoning Ordinance, variances, administrative variances, and concurrent variances and based upon this review, staff recommends <u>APPROVAL CONDITIONAL</u> of variance request V17-0036 to allow the parking lot expansion within the 100-foot setback and 50-foot buffer adjacent to the Dunwoody Club Drive right-of-way. Should the Board of Appeals choose to approve the requests, staff recommends the following conditions: 1. To reduce the minimum 100 foot setback and 50 foot buffer to allow expansion of the parking lot to within five feet of the Dunwoody Country Club right-of-way, as shown on the submitted site plan dated January 18, 2017 (plat date) and received by the Department of Community Development on July 5, 2017. 2. Maintain and extend the existing row of hedges along the right-of-way to properly screen the parking expansion from residences along Dunwoody Club Drive as shown on Exhibit C, dated July, 2017 and received by the Department of Community Development on July 5, 2017. This shall include the existing fence and any minor adjustments to the fence and landscaping as determined by the Department of Community Development. 3. Obtain necessary permits from the Department of Community Development for all additions /expansions. 4. Minor revisions of the submitted site plan, as determined by the Department of Community Development, may be reviewed and approved by staff. Any revision shall not include further encroachment of the parking lot expansion. Any improvements that meet current setbacks would also be permitted. 5. A zoning inspection must be satisfactorily conducted and site conditions must adhere to all aforementioned conditions prior to issuance of a certificate of occupancy. 6. Prior to issuance of a certificate of occupancy, the applicant must provide an as-built survey.



SANDY SPRINGS

GEORGIA

P&Z STAFF REPORT

Board of Appeals Hearing, August 10, 2017

Case: **V17-0037 – 391 Windsor Parkway**
Staff Contact: Alexandra Horst (ahorst@sandyspringsga.gov)
Report Date: July 31, 2017

REQUEST

Variance for relief from Section 109-225 of the Development Regulations, to encroach into the 50' undisturbed natural vegetative buffer and additional 25' impervious surface setback to remove the existing house and construct a new single family residence.

APPLICANT

Property Owner: Shawn and Brenda McAleer	Petitioner: Shawn and Brenda McAleer	Representative: N/A
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MATERIALS SUBMITTED

Materials:

1. Application prepared by Shawn and Brenda McAleer, received July 5, 2017
2. Application for a 25-foot Vegetative Buffer Encroachment (State stream buffer variance application) prepared for Shawn McAleer by Corblu Ecology Group, dated April 11, 2017, received July 5, 2017
3. Decision letter by Richard E. Dunn (State stream buffer variance application), received July 5, 2017

Plans:

1. "391 Windsor Pkwy" plan set (containing various documents), received July 31, 2017
2. "Construction Plans for 391 Windsor Parkway" (containing various documents) by Engineering 303 Stream Restoration, prepared, signed, and sealed by Zachary C. Truelove, P.E., received July 31, 2017
3. "Site Plan for: Mr. Shawn McAleer, 391 Windsor Parkway," Sheet S-1, by Engineering 303 Stream Restoration, prepared, signed, and sealed by Zachary C. Truelove, P.E., dated August 22, 2016, last revised July 28, 2017, received July 31, 2017
4. Untitled revegetation plan, received July 31, 2017

PROPERTY INFORMATION

Location:	391 Windsor Parkway Parcel # 17 006600010103
Council District:	5 – DeJulio
Road frontage:	Approximately 100.3 feet along Windsor Parkway
Acreage:	Approximately 0.49 acre

Existing Zoning:	R-4 (Single Family Dwelling District)
Existing Land Use:	Residential (single family dwelling)
Overlay District:	N/A
Character Area:	Protected Neighborhood

PROPOSED DEVELOPMENT

Because a stream and stream buffers cover a significant portion of the 0.49-acre site, there is little buildable area. The applicant requests a stream buffer variance to remove the existing house and construct a new single family residence on the site. The applicant proposes a two (2) story residence with basement, garage, wood deck, driveway, paver walkway, walls, and stone storage infiltration trench that collects roof downspouts. The applicant intends to keep the existing concrete abutment/wall at the eastern property line that the creek bisects after exiting the culvert under Windsor Parkway, existing retaining wall, and some pavement to the west of the concrete abutment/wall but not in the buffers. The proposed house would encroach into the 50' undisturbed natural vegetative buffer and additional 25' impervious surface setback but be set back farther from the stream than is the existing house.

Specifically, in the 25' State stream buffer, the applicant proposes to remove existing impervious area, keeping some pavement to the west of the concrete abutment/wall but not in the buffers. In the 50' stream buffer, the applicant proposes a small encroachment for the proposed house and wood deck and to remove existing pavement area. In the 75' setback (the additional 25' setback), the applicant proposes encroachment for the proposed house, wood deck, garage, driveway, paver walkway, and stone storage infiltration trench and to remove existing pavement area.

RECOMMENDATION

Department of Community Development

Staff recommends **conditional approval** of variance request V17-0037.

IMAGES



Vegetation around the stream and in the stream buffers; view from the Windsor Parkway sidewalk looking southwest towards the stream and, beyond, 391 Windsor Parkway



The stream and surrounding vegetation and culvert; view south from the Windsor Parkway sidewalk



Driveway and house at 391 Windsor Parkway looking south



Driveway and backyard of 391 Windsor Parkway; view south



Rear of the house and driveway of 391 Windsor Parkway; view towards the stream to the east and neighboring house



Vegetation and neighboring house; view from 391 Windsor Parkway looking east towards the stream



Vegetation by the stream and in the stream buffers; view from 391 Windsor Parkway looking east towards the stream



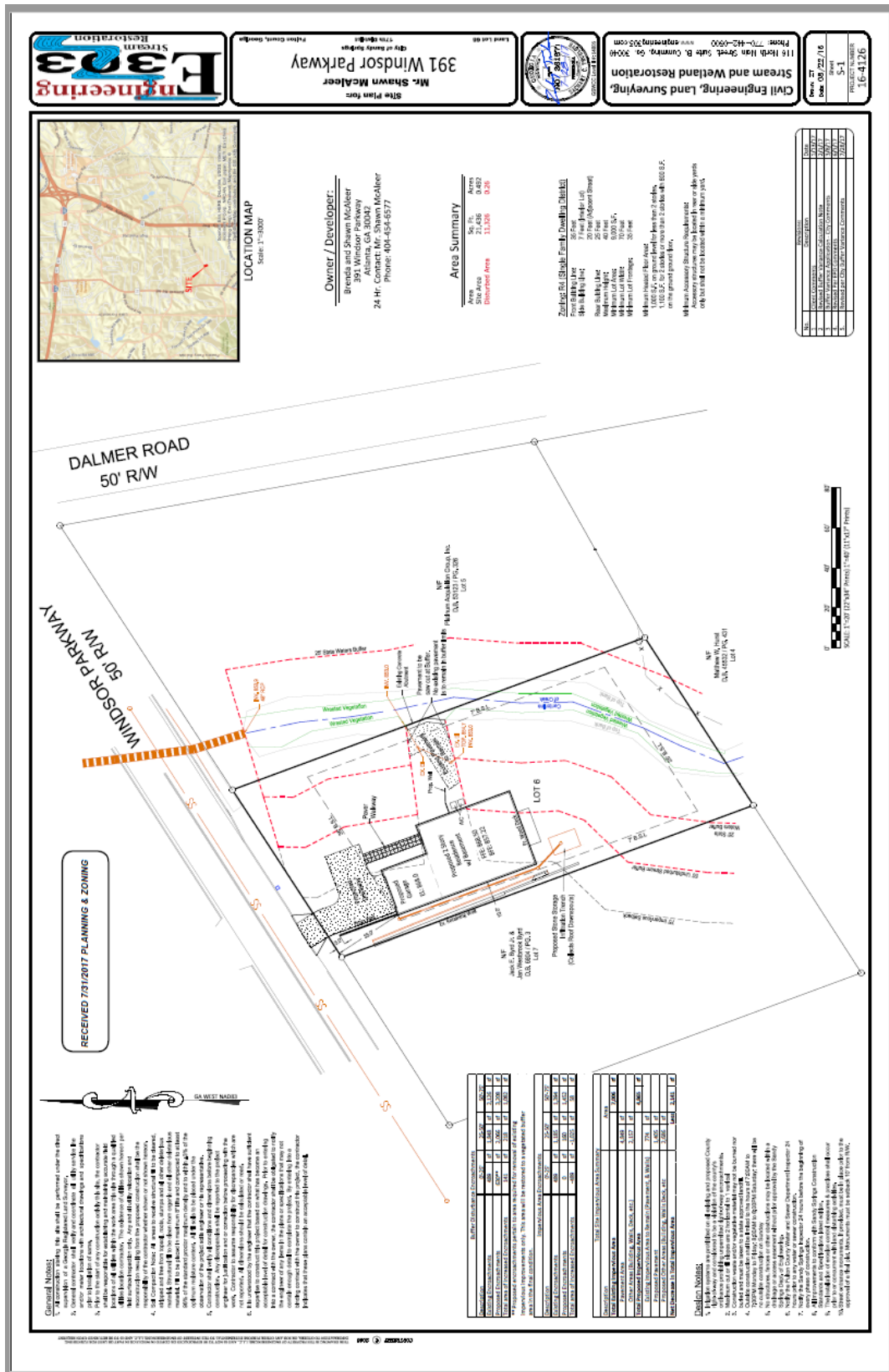
Stream, culvert, and vegetation; view from 391 Windsor Parkway looking northeast towards the culvert

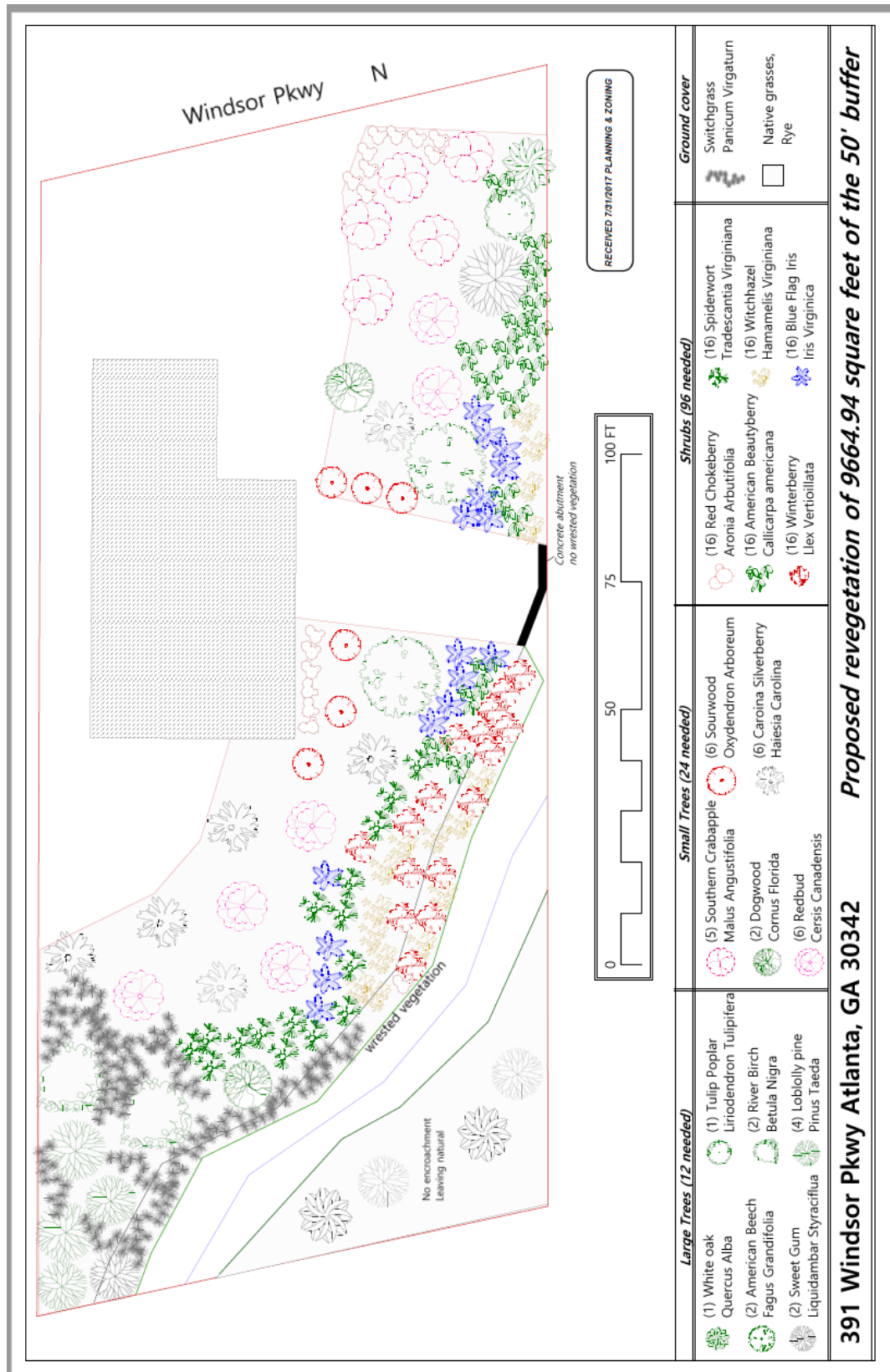


View of stream, vegetation, and house from Windsor Parkway; view south

(Photographs by Alexandra Horst, July 21, 2017)

SITE PLAN (received July 31, 2017)

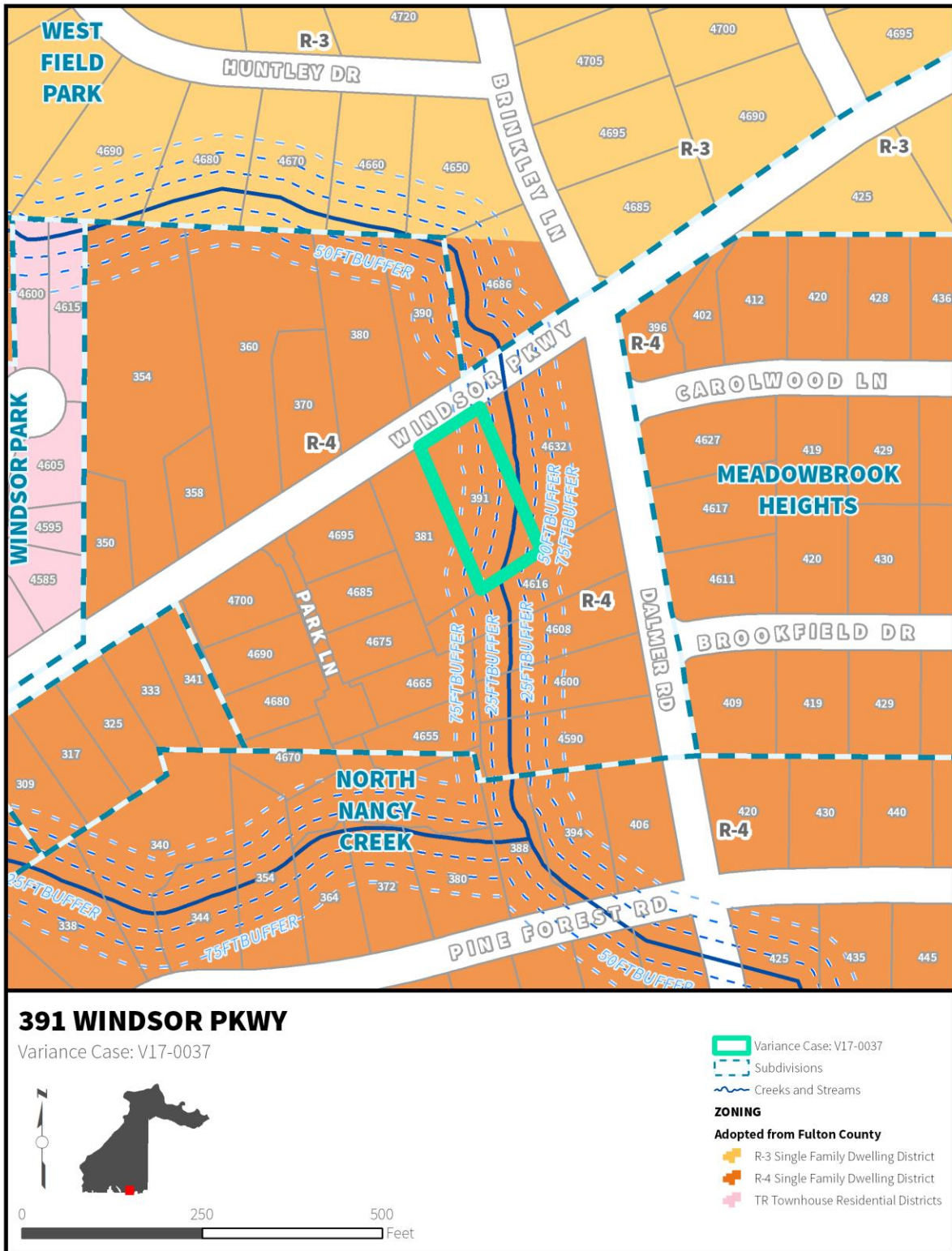




AERIAL IMAGE



ZONING MAP



VARIANCE CONSIDERATION

Per Section 109-225 of the Development Regulations, Variances will be considered only in the following cases:

A. When a property's shape, topography or other physical conditions existing at the time of the adoption of the ordinance from which the article is derived prevents land development unless a buffer variance is granted.

B. Unusual circumstances when strict adherence to the minimal buffer requirements would create an extreme hardship.

Variances will not be considered when, following adoption of the ordinance from this article is derived, actions of any property owner of a given property have created conditions of a hardship on that property.

Request: (Sec. 109-225 of the Development Regulations) Variance for relief from Section 109-225 of the Development Regulations, to encroach into the 50' undisturbed natural vegetative buffer and additional 25' impervious surface setback to remove the existing house and construct a new single family residence.

Finding: Section 109-225 of the Development Regulations requires 25', 50', and 75' stream buffers/setbacks. Specifically, an undisturbed natural vegetative buffer shall be maintained for 50', measured horizontally, on both banks of a stream, as measured from the point of wrested vegetation. An additional setback shall be maintained for 25' feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover is prohibited and grading, filling, and earthmoving is minimized. Septic tanks and drain fields are not permitted within any of the stream buffers.

The Stream Buffer Ordinance further states that where a parcel was platted prior to the effective date of the Ordinance, its shape, topography, or physical conditions prevent land development, and the City determines that the requirements prohibit lawful use of the property, the Board of Appeals may grant a variance, provided such variance requires mitigation measures to offset the effects of any proposed land development on the parcel.

The plat including the subject parcel is dated 1953. Because a stream and stream buffers cover a significant portion of the 0.49-acre site, there is little buildable area. The existing conditions include a one (1) story brick/daylight basement house, wood deck, extensive asphalt and concrete, retaining wall, chain link fence, and concrete abutment/wall at the eastern property line that the creek bisects after exiting the culvert under Windsor Parkway. The current house, which was built in 1957, according to the Fulton County Tax Assessors, encroaches into the stream buffers. The property falls approximately 20' in a southeasterly direction and is very overgrown.

The applicant requests a stream buffer variance to remove the existing house and construct a new single family residence on the site. The applicant proposes a two (2) story residence with basement, garage, wood deck, driveway, paver walkway, walls, and stone storage infiltration trench that collects roof downspouts. The applicant intends to keep the existing concrete abutment/wall, retaining wall, and some pavement to the west of the concrete abutment/wall but not in the buffers. The proposed house would encroach into the 50' undisturbed natural vegetative buffer and additional 25' impervious surface setback but be set back farther from the stream than is the existing house.

Specifically, in the 25' State stream buffer, the applicant proposes to remove existing impervious area, keeping some pavement to the west of the concrete abutment/wall but not in the buffers. In the 50'

stream buffer, the applicant proposes a small encroachment for the proposed house and wood deck and to remove existing pavement area. In the 75' setback (the additional 25' setback), the applicant proposes encroachment for the proposed house, wood deck, garage, driveway, paver walkway, and stone storage infiltration trench and to remove existing pavement area.

As shown in the table below, the total area of increased encroachments into the buffers would be 141 square feet from 0'-25', 218 square feet from 25'-50', and 1,082 square feet from 50'-75'. The total area of impervious area encroachments would be a decrease of 489 square feet from 0'-25', a decrease of 1,025 square feet from 25'-50', and an increase of 58 square feet from 50'-75'.

	Existing Buffer Disturbance Encroachment (square feet)	Proposed Buffer Disturbance Encroachment (square feet)	Total Area of Increased Buffer Disturbance Encroachments (square feet)	Existing Impervious Area Encroachments (square feet)	Proposed Impervious Area Encroachments (square feet)	Total Area of Increased Impervious Area Encroachments (square feet)
0'-25'	489	630	141	489	0	-489
25'-50'	1,848	2,066	218	1,185	160	-1,025
50'-75'	2,126	3,208	1,082	1,394	1,452	58

As shown in the table below, the total existing impervious area is 7,006 square feet, and the total proposed impervious area is 4,865. Thus, there is a net decrease in total impervious area of 2,141 square feet.

Existing Pavement Area (square feet)	Other Existing Impervious Areas (building, walls, deck, etc.) (square feet)	Total Existing Impervious Area (square feet)	Existing Impervious Area to Remain (pavement and walls) (square feet)	Proposed Pavement (square feet)	Other Proposed Impervious Areas (building, walls, deck, etc.) (square feet)	Total Proposed Impervious Area (square feet)	Net Decrease in Total Impervious Area (square feet)
4,849	2,157	7,006	774	1,405	2,686	4,865	-2,141

Regarding mitigation, the applicant proposes a revegetation plan which includes large and small trees, shrubs, and ground cover. The southeast corner of the property is proposed to remain natural. The applicant proposes revegetation of 9,664.94 square feet of the 50' buffer. The plan is acceptable to City Staff.

COMMENTS FROM OTHER PARTIES

Sandy Springs Arborist: No comment was provided at this time.

Sandy Springs City Engineer: No comment was provided at this time.

Sandy Springs Chief Environmental Compliance Officer: No comment was provided at this time.

Neighboring property owners on two (2) of the three (3) sides adjacent to 391 Windsor Parkway signed letters saying that they have been made aware of the variance request.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

Following review, Staff recommends **conditional approval** of variance request V17-0037, variance for relief from Section 109-225 of the Development Regulations, to encroach into the 50' undisturbed natural vegetative buffer and additional 25' impervious surface setback to remove the existing house and construct a new single family residence.

Should the Board of Appeals choose to approve the request, Staff recommends the following conditions:

1. To allow encroachment into the 50' undisturbed natural vegetative buffer and additional 25' impervious surface setback to remove the existing house and construct a new single family residence, as shown on the "*Site Plan for: Mr. Shawn McAleer, 391 Windsor Parkway,*" Sheet S-1, by Engineering 303 Stream Restoration, prepared, signed, and sealed by Zachary C. Truelove, P.E., dated August 22, 2016, last revised July 28, 2017, and received by the Department of Community Development on July 31, 2017. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
2. To abide by the untitled revegetation plan received by the Department of Community Development on July 31, 2017. The plan must meet or exceed the requirements of the City River, Tributary, and State Waters Buffer-Revegetation Standards. Said revegetation plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
3. Any revisions of the submitted site plan must be reviewed and approved by Staff.
4. A zoning inspection must be satisfactorily conducted and site conditions must adhere to all aforementioned conditions prior to issuance of a Certificate of Occupancy.
5. Prior to issuance of a Certificate of Occupancy, the applicant must provide an as-built survey.