



SANDY SPRINGS

GEORGIA

P&Z STAFF REPORT

Board of Appeals Hearing; December 11, 2018

Case: **V18-0027 – 8045 Innsbruck Drive**

Staff: Madalyn Smith (madalyn.smith@sandyspringsga.gov)

Contact:

Report Date: November 15, 2018

REQUEST

Variance from Section 2.2.2 of the Development Code to encroach into the required side setback for the construction of an attached garage.

APPLICANT

Prop. Owner:
Nick Lanese

Petitioner:
Nick Lanese

Representative:
Nick Lanese

PROPERTY INFORMATION

Location:	8045 Innsbruck Drive
Council District:	District 1; Paulson
Road frontage:	149.8'
Acreage:	1.098 acres
Existing Zoning:	RE-2
Existing Land Use:	Single Family Residence
Character Area	Protected Neighborhood

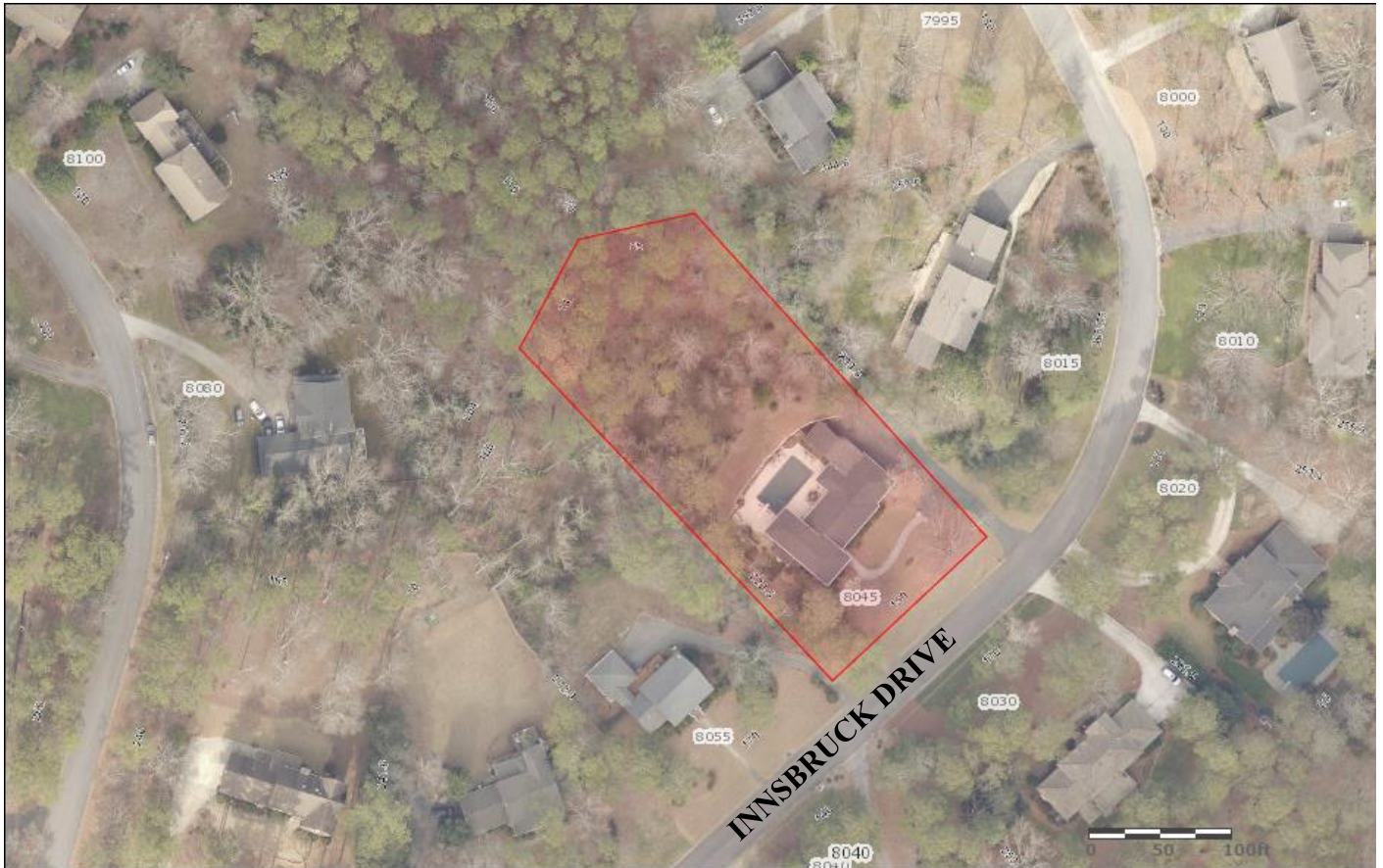
SUMMARY

The applicant is requesting one variance to encroach 6 feet into the required 25-foot side yard setback along the northeast property line to allow for the construction of an attached garage. The subject property is located in the Four Seasons (Unit Three) Subdivision along Innsbruck Drive, located northeast of the intersection of Spalding Drive and Dunwoody Club Drive. The site is developed with an existing 2476 square foot single family residence. The existing home was constructed in 1970 and the southwest side of the house currently encroaches into southwest side setback, but otherwise meets the City's required front, rear, and opposite side yard setbacks.

The applicant is proposing to demolish an existing carport and remove approximately 1000 square feet of driveway. The applicant intends to construct a 626 sf attached garage, of which approximately 150 square feet would encroach into the side yard setback on the northeast side of the house.

RECOMMENDATION
Department of Community Development
Approval Conditional of the variance request

AERIAL IMAGE



SITE VISIT 11-19-2018

Site:



Existing Carport:



Existing retaining wall:



LETTER OF SUPPORT

Barbara Gardner

8015 Innsbruck Drive
Atlanta, GA 30350

October 15, 2015

To Whom It May Concern:

I understand my neighbors, Nick Lanese and Scott Palmer are needing a permit for building a garage on their property.

Because of a recent zoning change from R1 to R2, the setbacks have changed. I do not have any problem or issue with my neighbors building the garage even though the setback now allows for a 25 foot setback instead of a 15 foot setback from the property line. That there would be a six foot encroachment of the setback to the property line, is not a problem for me, nor do I object to the building of the new structure.

My address is as indicated above. My telephone number is: [REDACTED] Please contact me if you have any questions.

Thank you,



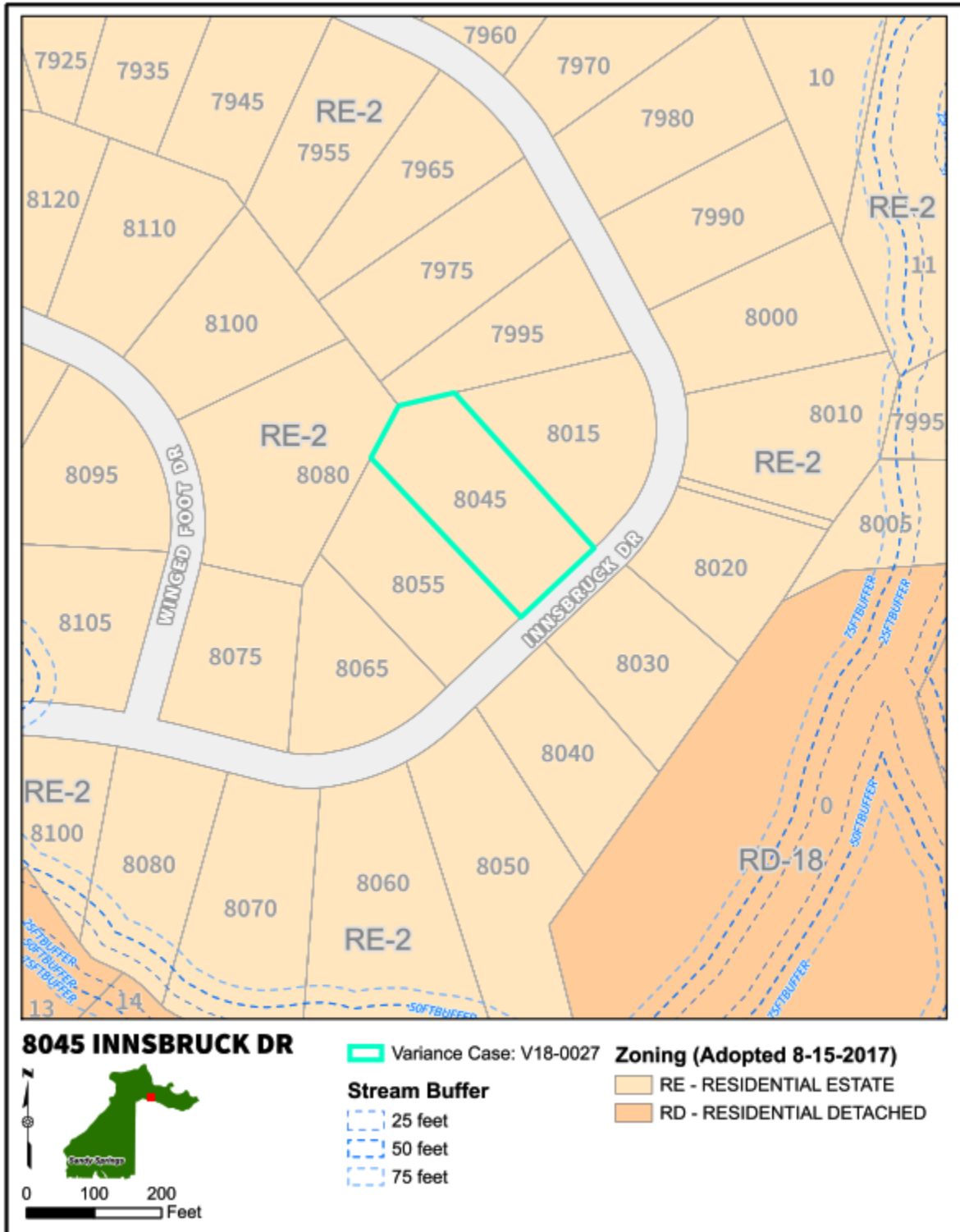
Barbara Gardner

RECEIVED

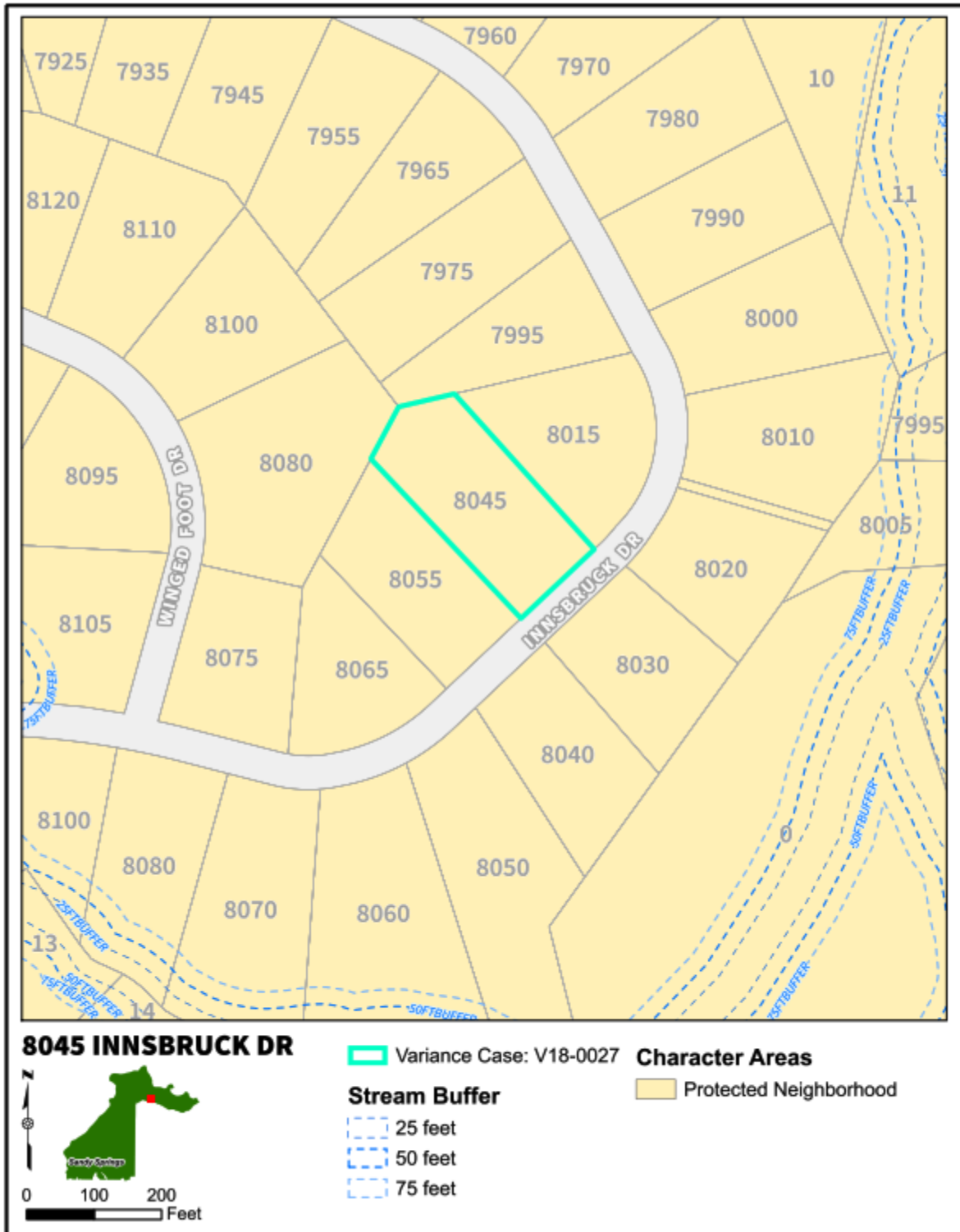
NOV 02 2018

City of Sandy Springs
Community Development

ZONING MAP



CHARACTER AREA MAP



VARIANCE CONSIDERATIONS

Per Section 11.6.2.G. of the Development Code,

1. *Variances will only be granted upon showing that:*
 - a) *The application of this Development Code would create an unnecessary hardship, and not merely an inconvenience to the applicant; or*
 - b) *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;*
2. *Further, the application must demonstrate that:*
 - a) *Such conditions are not the result of action or inaction of the current property owner; and*
 - b) *The variance request would provide the minimum relief necessary to make possible the reasonable use of the property; and*
 - c) *The variance request would result in development that is consistent with the general intent of this Development Code, with the Comprehensive Plan policies, and would not be detrimental to the public good, safety and welfare.*

Findings

Request: *Relief from Section 2.2.2.C to allow an encroachment of 6 feet into the required 25-foot side yard setback to allow for the construction of an attached garage.*

Findings: The subject lot is part of the Four Seasons subdivision and is currently developed with a single family detached house with an attached carport in the rear and a six foot retaining wall that bisects the lot horizontally. The existing lot, house, and accessory structures pre-date the City's Development Code requirements.

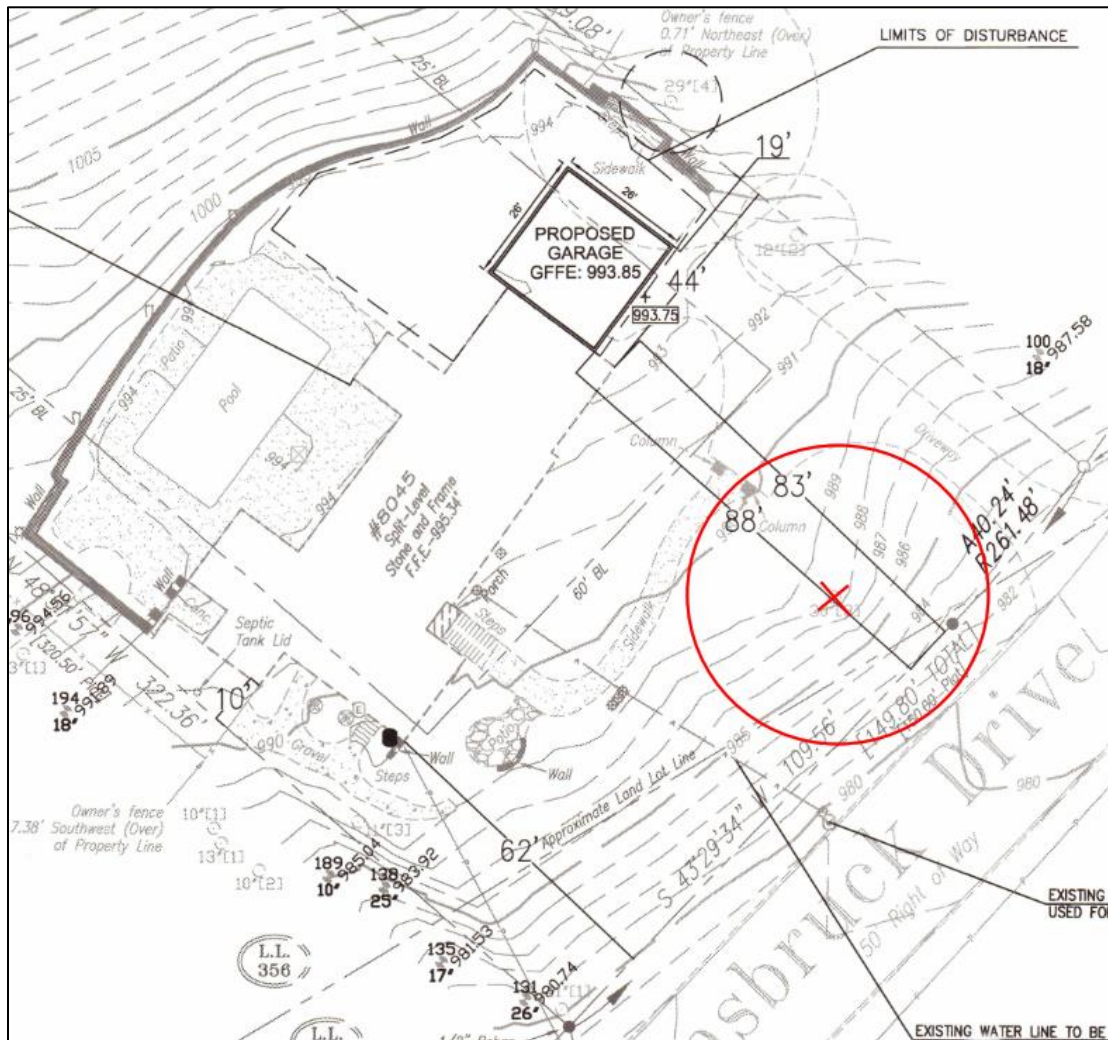
The lot topography is fairly flat until it meets the retaining wall. **In the plan below, please note the buildable in area in yellow. The red line demarcates a 6 foot retaining wall, which bisects the property, cutting the buildable area in half.** Behind the retaining wall is a moderately steep slope (roughly a 15% slope from the top of the wall to the rear property line). Due to the challenging topography, the property owner is extremely limited in potential locations for the proposed garage.



The most exceptional challenge for this property is the lot size and shape. **This property is deficient in both lot size and lot width for the zoning district RE-2.** RE-2 requires a minimum lot size of two acres and a minimum lot width of 200 feet. This property is 1.1 acres and 149.8 feet wide. The configuration of the lot as it exists is legal non-conforming, but the **25-foot side setbacks that are being imposed are intended for lots at least 50 feet wider and 1 acre larger than the subject property.** Based on the actual lot dimensions, this property would typically fall under the RE-1 zoning classification and had the property been zoned RE-1 in the zoning map update, the applicant would have no trouble meeting the requirements of the Development Code.

The challenging topography and deficient lot width are not due to the action or inaction of the property owner. The retaining wall was constructed at the time of the house and the creation of the lot pre-dates the existing code by 40 years.

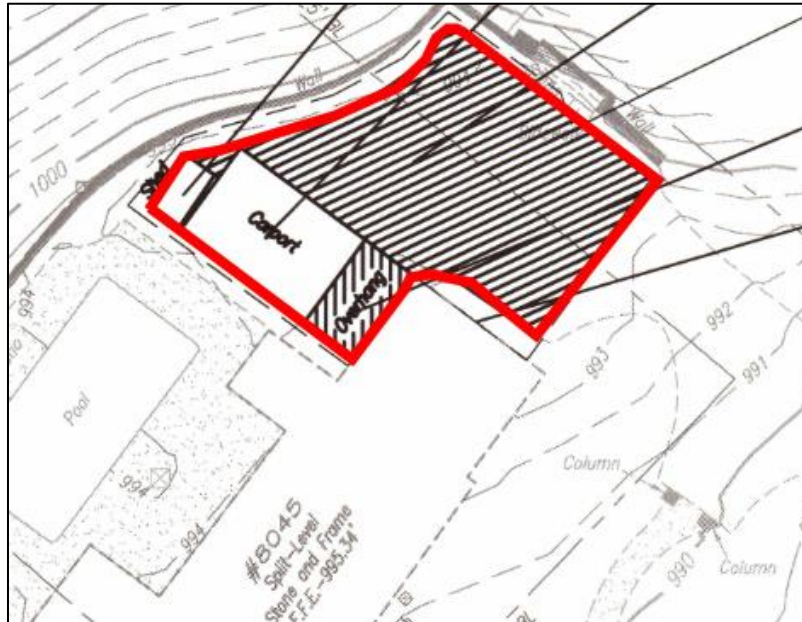
Alternative designs were considered and rejected. The applicant could enclose the existing carport or relocate the proposed garage in the same location, but it would not allow for the removal of any impervious surface. The applicant noted in their application that there are drainage issues that are exacerbated by the current location of the carport. The current carport also covers up windows in the rear of the house. Making the attached garage smaller would require the relocation of the driveway, which would require the removal of an existing 30'' DBH oak tree in the front yard, which is demarcated by a red "X" in the plan below along with the approximate location of the critical root zone represented by the red circle. The current proposal represents the best option for the property owner and constitutes the minimum relief necessary.



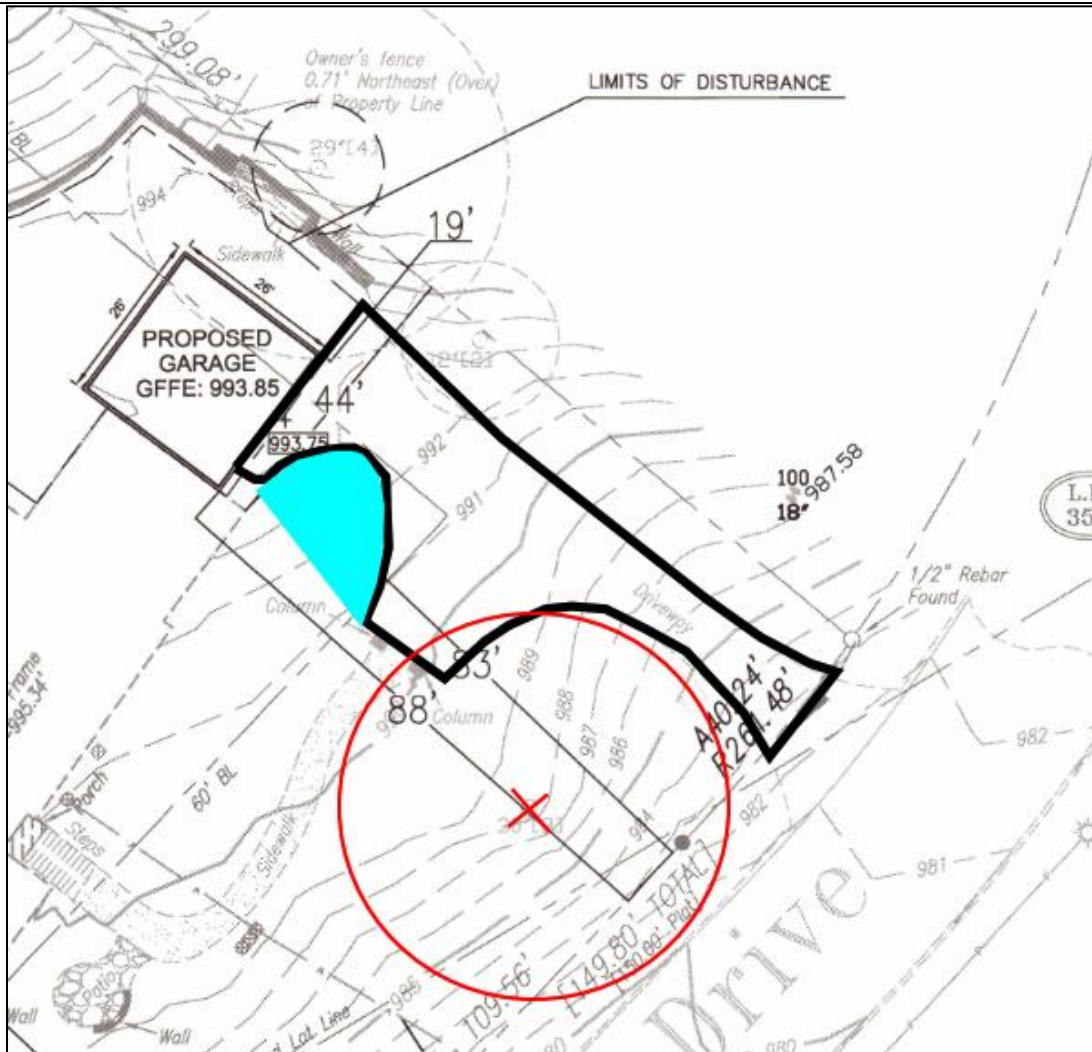
Houses in the Four Seasons subdivision have varying side yard setbacks, with many homes built 10 to 15 feet from the side lot lines. Allowing the applicant to encroach into the side yard

setback would not have a significant impact on neighborhood appearance. **The proposed garage has support from the next door neighbor who would feel the most impact.** You can view her letter of support on page 5 of this report.

In addition, the proposed attached garage will not require the removal of any trees and will reduce the lot coverage significantly. Below you can see all of the impervious surface the applicant is proposing to remove outlined in red, which adds up to approximately 2,250 square feet.



The proposed garage will add 626 square feet of impervious surface back. This is the only impervious surface the applicant is currently proposing, but **staff believes for the proposed garage to be functional, an additional 300 square feet of driveway will need to be added**, the location of which is shown below in blue in the plan below. This addition would not affect the large oak tree in the front yard, as it will not impact the critical root zone of the tree.



The proposed garage and driveway addition will add approximately 926 square feet of impervious back. **The net loss of impervious surface will be approximately 1330 square feet, which is a significant improvement** that will also help alleviate the drainage issues by increasing the amount of pervious surface.

Therefore, staff finds that granting the variance request would not be detrimental to the public good, safety, and welfare, and would be consistent with the intent of the Development Code and Comprehensive Plan.

COMMENTS FROM CITY STAFF

Building Plan Reviewer:

This appears to be a hardship imposed by the City-initiated rezoning rather than the applicant's actions. With that said and recognizing that the proposed change may result in a reduction of impervious surface on the property, it does seem possible for the applicant to construct a garage without infringing on the new setback.

It also appears that, while no work to the existing drive is indicated, it will be necessary to rework the drive and to remove a large ornamental tree. If this is correct, that work should be shown, as well.

Site Engineer:

A Form Survey performed by a Professional Land Surveyor will be required prior to pouring the foundation. Provide Note in the Site Plan prior to approval of Permit.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

Staff has reviewed the request relative to the variance standards contained in Section 11.6.2.G of the Development Code. Based upon this review, staff recommends **APPROVAL** of variance request V18-0027 to encroach up to 6 feet into the minimum side yard setback to allow for the construction of an attached garage.

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

1. To allow the attached garage to encroach up to 6 feet into the minimum side yard setback, as shown on the site plan dated October 1st, 2018 and received by the Department of Community Development on November 2nd, 2018.
2. A Form Survey performed by a Professional Land Surveyor will be required prior to pouring the foundation.
3. Any minor revisions of the submitted site plan shall not include any further encroachment of the structure.
4. Prior to issuance of a certificate of occupancy, the applicant must provide an as-built survey.



P&Z STAFF REPORT

Board of Appeals Meeting, December 11, 2018

Cases: **V18-0031 & V18-0032 – 80 Johnson Ferry Road**
Staff Contact: Catherine Mercier-Baggett (cmercier-baggett@sandyspringsga.gov)
Report Date: November 29, 2018

REQUESTS

Request for a **Variance** (V18-0031) from Sec. 8.2.7 of the Sandy Springs Development Code to allow for a building or structure with associated parking. The Variance requested is to allow a maximum 10' encroachment into the 20' required District Boundary Buffer and to waive the wall requirement.

Request for a **Stream Buffer Variance** (V18-0032) from the State Waters Buffer Protection standards detailed in Div. 9.2 of the Sandy Springs Development Code to allow for the construction of a building or structure with associated parking. The Stream Buffer Variance requested is to allow encroachment into the City's 25' undisturbed natural vegetative buffer and additional 25' impervious surface setback on the south side of Marsh Creek.

APPLICANT

Property Owner: Stephen F. Johnston, Sr.	Petitioner: City of Sandy Springs on behalf of Stephen F. Johnston, Sr.	Representative: N/A
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SUMMARY

The applicant requests a **Variance** to allow a maximum 10' encroachment into the 20' required District Boundary Buffer and to waive the wall requirement and a **Stream Buffer Variance** to allow encroachment into the City's 25' undisturbed natural vegetative buffer and additional 25' impervious surface setback on the south side of Marsh Creek. The purpose of these requests is to accommodate future redevelopment. The consideration of these requests is to comply with a Federal court-ordered mediation agreement. As such, plans are not yet prepared and will not be until the mediation agreement is approved. The requests, should they be approved by the Board of Appeals, shall be conditioned on Community Development approval at submittal of the Land Disturbance Permit.

PROPERTY INFORMATION

Location:	80 Johnson Ferry Road NE Parcel # 17 008800020098
Council District:	3 – Chris Burnett
Road frontage:	Approximately 101 feet of frontage on Johnson Ferry Road NE
Acreage:	Approximately 0.78 acre

PROPOSED DEVELOPMENT

The following images show the existing conditions of the subject property. The property currently contains a commercial use in a converted single-family residential structure, with detached garage and warehouse structures behind. The property contains a stream and stream buffers and is located immediately adjacent to the Marsh Creek Rain Garden Park. There is currently no plan for the proposed development. The purpose of these requests is to allow the property to be redeveloped for future commercial use.



View from Johnson Ferry Road



View of the existing front parking lot and Johnson Ferry Road



View of left side of the property



View to the rear of the existing primary structure and of the detached garage and warehouse structures



View to the rear of the subject property and Marsh Creek Rain Garden Park



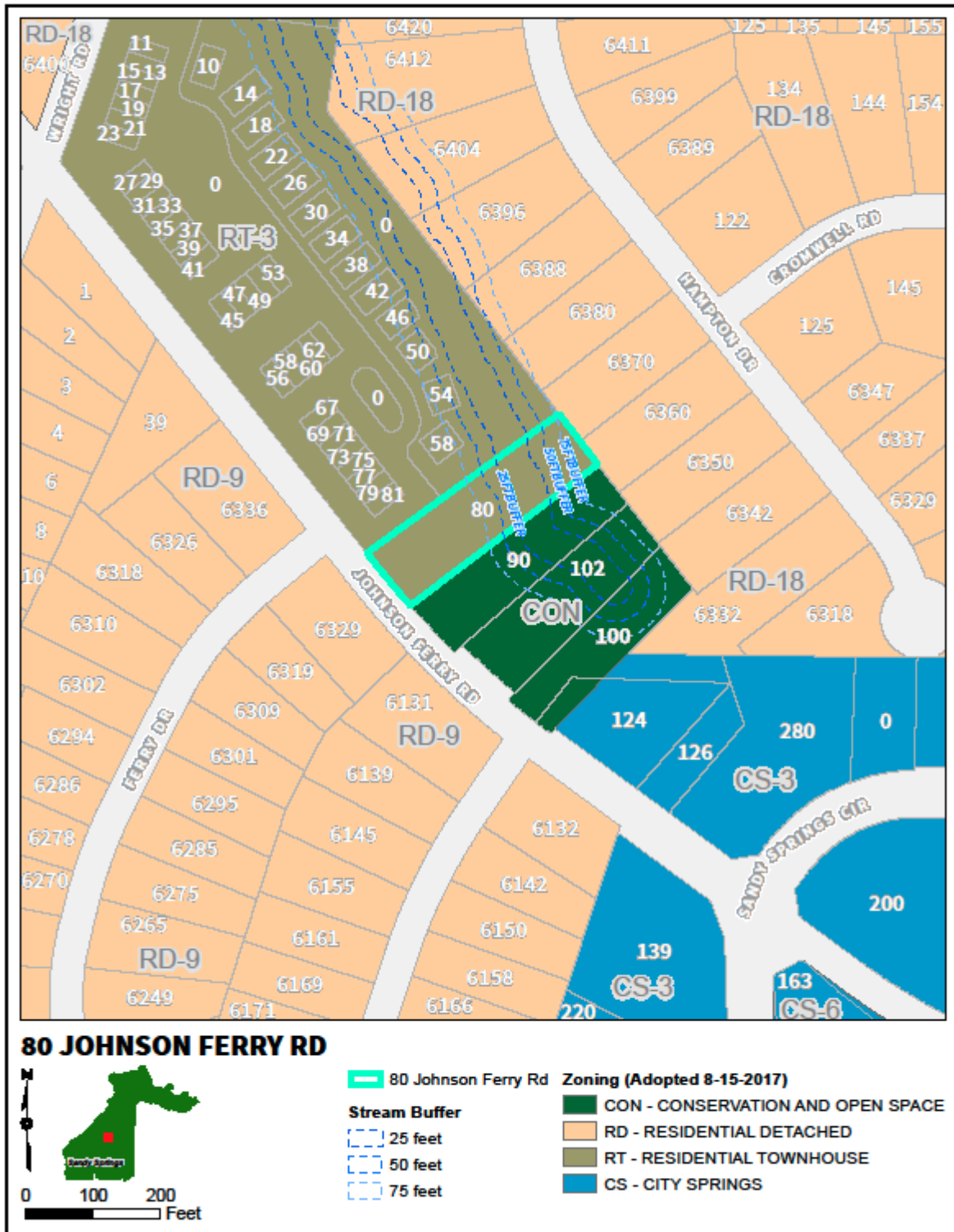
View from Marsh Creek Rain Garden Park looking to the right of the subject property

(Photographs by Staff, October 30, 2018)

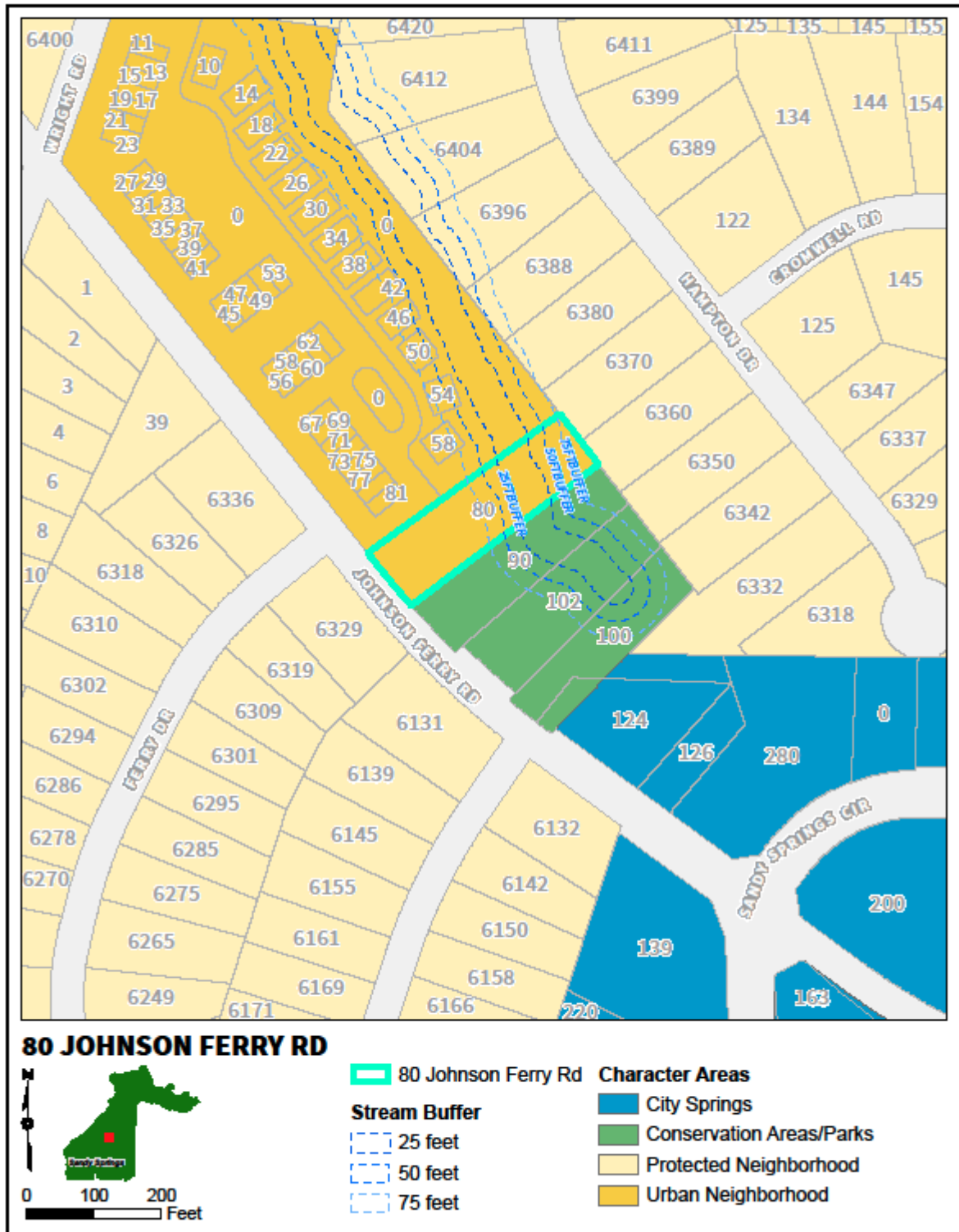
AERIAL IMAGE



ZONING MAP



CHARACTER AREA MAP



VARIANCE (V18-0031) CONSIDERATIONS

Per Sec. 11.6.2.G of the Development Code, the following list of approval criteria for a Variance provides guidance for making decisions on approval.

Variances will only be granted upon showing that:

- a. The application of this Development Code would create an unnecessary hardship, and not merely an inconvenience to the applicant; or*
- b. 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 must demonstrate that:

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

Findings:

The property at 80 Johnson Ferry Road if amended on the Character Area Map from Urban Neighborhood to City Springs, and rezoned from Residential Townhouse (RT-3) to City Springs (CS-3) would exist under the following hardship for which the City on behalf of the applicant is seeking relief:

Due to the nature of the very limited amount of information available, Staff estimates that approving this particular Variance would increase the buildable area of the lot by approximately 1,800 square feet as illustrated in “Exhibit B.”

Fully substantiating hardship at this time is difficult as no plan has been proposed.

STREAM BUFFER VARIANCE (V18-0032) CONSIDERATIONS

Per Sec. 9.2.4 of the Development Code, Variances may be granted in accordance with the following provisions:

- 1. Where a parcel was platted prior to December 12, 2005, and its shape, topography or other existing physical condition prevents land development consistent with this Division, and the City finds and determines that the requirements of this Division prohibit the otherwise lawful use of the property by the owner, 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.*
- 3. Variances will be considered only in the following cases:*
 - a. When a property’s shape, topography or other physical conditions existing on December 12, 2005 prevents land development unless a buffer or setback Variance is granted.*
 - b. Unusual circumstances when strict adherence to the minimal buffer and setback requirements in this Division would create an extreme hardship.*
- 6. 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;*
- 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;*
- c. *The location and extent of the proposed buffer or setback intrusion;*
- d. *Whether alternative designs are possible which require less intrusion or no intrusion;*
- e. *The long-term and water quality impacts of the proposed Variance; and*
- f. *Whether issuance of the Variance is at least as protective of natural resources and the environment.*

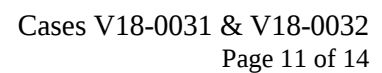
Findings:

The property at 80 Johnson Ferry Road if amended on the Character Area Map from Urban Neighborhood to City Springs, and rezoned from Residential Townhouse (RT-3) to City Springs (CS-3) would exist under the following hardship for which the City on behalf of the applicant is seeking relief:

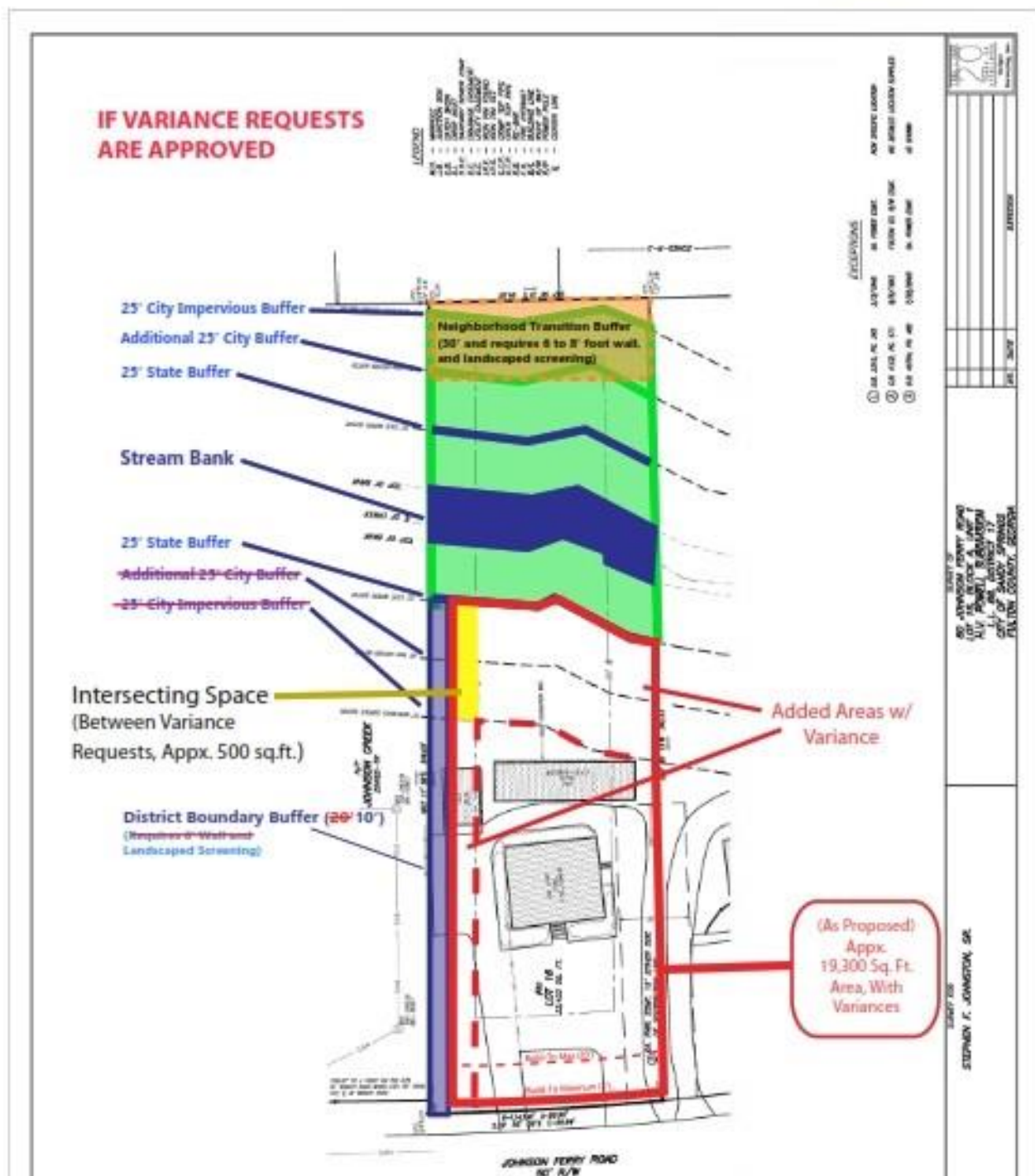
Due to the nature of the very limited amount of information available, Staff estimates that approving this particular Variance would increase the buildable area of the lot by approximately 4,000 square feet, as illustrated in “Exhibit B.”

Fully substantiating hardship at this time is difficult as no plan has been proposed.

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STAFF SURVEY EVALUATION – EXHIBIT B – Site if variances granted (full size in package)



COMMENTS FROM OTHER PARTIES

Sandy Springs Public Works:

No comment was provided at this time.

Sandy Springs Transportation Engineer:

Regarding V18-0031:

1. Reduce access to single driveway.
2. At Building Permit or Land Disturbance Permit submittal, provide projected trip generation study per ITE Trip Generation Manual, current edition. Trip generation study shall be prepared by a Professional Engineer registered in the State of Georgia.
3. Dedicate, at no cost to the City, Right of Way measuring a minimum of 31' from Centerline of Johnson Ferry Road.
4. A variance should not be approved without submittal of a site plan

Regarding V18-0032:

1. Reduce driveway access to one (1) point of ingress-egress.
2. Dedicate, at no cost to the City, Right of Way measuring 36 feet from Centerline of Johnson Ferry Road.
3. Provide a traffic study by a Professional Engineer registered in the State of Georgia.
4. No variance should be approved without a site plan.

Sandy Springs Arborist:

Regarding V18-0031:

No site plan to review.

Regarding V18-0032:

No comment due to unavailability of a site plan showing what disturbance is actually being proposed within the buffer.

Sandy Springs Environmental/Site:

The applicant has not submitted any information to properly review and substantiate the requests to vary these requirements of the Development code.

Sandy Springs Building Official:

It is impossible to give a considered assessment of the request without a site plan to examine.

Sandy Springs Fire Marshal:

No comment was provided at this time.

Sandy Springs City Engineer:

Regarding V18-0031:

1. A Variance should not be approved without a Site plan.

Regarding V18-0032:

1. A variance should not be approved without a Site Plan.

Regarding V18-0031:

1. Reduce driveway access to one (1) point of ingress-egress.

2. Dedicate, at no cost to the City, Right of Way measuring 36 feet from Centerline of Johnson Ferry Road.
3. A variance should not be approved without the submittal of a site plan.
4. Provide a trip generation study by a Professional Engineer registered in the State of Georgia.

Regarding V18-0032:

1. Reduce driveway access to one (1) point of ingress-egress.
2. Dedicate, at no cost to the City, Right of Way measuring 36 feet from Centerline of Johnson Ferry Road.
3. Provide a traffic study by a Professional Engineer registered in the State of Georgia.
4. No variance should be approved without a site plan.

A site plan must be provided at the time of permit submittal that complies with the terms.

Three public comments about V18-0031 were received from the Homeowners Association and an individual owner of the adjacent residential subdivision to the north and northwest, indicating their concerns, including regarding the use of the subject property, traffic, noise, and safety, environmental changes, lighting, hours of operation, and its preferences regarding the variances and any potential development.