



Board of Appeals

AGENDA

Thursday, July 23, 2020 ♦ 7:00 p.m.

Zoom Meeting Information

<https://zoom.us/j/7709642244>

Dial In #: (312) 626 6799

Meeting ID: 770 964 2244

- Call to Order
- Roll Call - Determination of a Quorum
- Approval of the Meeting Agenda
- Public Hearing:
 - ***Stream Buffer Variance 2020079 Strack Development/Henderson Lake*** - A request to encroach into the 50-ft undisturbed buffer and 25-ft impervious setback to conduct dam rehabilitation and modifications to Henderson Lake.
[0 Bohannon Road, Parcel ID# 09F080000310596]
- New Business: None
- Old Business: None
- Announcements/Discussion
- Board Members Comments
- Adjourn

CITY OF FAIRBURN



TO: Board of Appeals
FROM: Tarika Peeks, Director of Planning and Zoning
DATE: Thursday, July 23, 2020
SUBJECT: Stream Buffer Variance 2020079 – Strack Development/Henderson Lake

APPLICANT/PETITIONER INFORMATION

Joe Strack
Strack Family, LLC
1225 Laser Industrial Court
Fairburn, GA 30213

PROPERTY INFORMATION

Address:	0 Bohannon Road Parcel ID # 09F080000310596
Land Lot(s), and District:	Land Lot 31 & 48, District 9 th
Size:	Approximately 9.23 acres
Current Zoning:	M-1 (Light Industrial)
Overlay District:	N/A
Comprehensive Plan	Industrial
Future Land Use Map	Office/Industrial

INTENT

The applicant is proposing to conduct dam rehabilitation, maintenance, and dredging activities at the existing Henderson Lake, which contains an existing dam that has not been maintained prior to acquisition of the property by Strack Family, LLC. The rehabilitated and improved dam will serve as a stormwater management facility for the proposed roadway extension of Howell Avenue and future industrial development along the new road (Howell Avenue). A stream buffer variance is required to encroach into the 50-ft undisturbed buffer and 25-ft impervious setback to conduct the necessary maintenance and modifications to the existing dam.

The applicant has applied for a US Army Corps of Engineers (USACE) Permit. As of July 20, 2020, the permit has not been approved; however, the applicant will be required to submit a copy of the permit to the Department of Community Development before issuance of the land disturbance permit.

The applicant is requesting a stream buffer variance as follows:

- 1) Article V. Section 65-233(a)(1) and (2) to encroach in the 50-ft undisturbed buffer and 25-ft impervious setback, totaling 986 linear feet and 26,650 square feet to conduct dam maintenance, rehabilitation, and dredging activities.

Stream buffer standards of considerations:

Variances from the buffer and setback requirements may be granted in accordance with the following provisions:

- (1) Where a parcel was platted prior to the effective date of the ordinance from which this article was derived, and its shape, topography or other existing physical condition prevents land development consistent with this article, and the city administrator finds and determines that the requirements of this article prohibit the otherwise lawful use of the property by the owner, the city board of zoning appeals may grant a variance from*

the buffer and setback requirements hereunder, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel.

Findings:

Based on Fulton County Tax Assessors information, it appears as if the property was platted prior to 2004. The applicant purchased the property in 2017, and a concept plat was approved by the Planning and Zoning Commission on July 7, 2020.

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

Findings:

The existing dam in Henderson Lake is not functioning properly and is in need of rehabilitation and improvements so it can operate adequately. Presently, the outlet control structure is inoperative; the emergency spillway is non-functioning and mature vegetation occupies the dam face and abutments. The lake has accumulated sedimentation resulting in the loss of lake storage. By dredging out the lake, modifying and improving the dam, outlet pipe and outlet control structure, the lake will provide stormwater detention to reduce downstream peak run rates without having to raise the height of the dam, resulting in a stable and safe dam. Keeping the dam at the existing height will prevent increasing the dam breach on the downstream properties.

Based on the aforementioned physical conditions of the dam and lake, an encroachment into the 50-ft undisturbed buffer and 25-ft impervious setback are required to conduct the necessary modifications and improvements to the dam.

Based on these reasons, staff is of the opinion **this condition has been satisfied.**

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

Findings:

Strict adherence to the buffer requirements would create an extreme hardship in the construction of the Howell Avenue road extension and future development of industrial lots along the new roadway. As stated in the applicant's letter of intent, maintaining the vegetation on the rear of the dam would require rebuilding a new dam further upstream, which would reduce the lake area and storage volume for stormwater management. The dam height cannot be raised because this would increase the dam breach area on downstream properties.

Based on these reasons, staff is of the opinion **this condition has been satisfied.**

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:

The proposed 9.23-acre site consists entirely of Henderson Lake and mature vegetation. There are no steep slopes on the site and the site is located in the 500-year floodplain.

- b. The locations of all streams on the property, including along property boundaries;*

Findings:

The Henderson Lake is located northeast of Bohannon Road and east of Henderson Lake Road; Henderson Lake is located to the east of the site. There are two streams located on the west side of the site, as well as two wetlands area. [See attached Exhibit A]

Photo: Henderson Lake

Source: Fulton County Tax Assessors



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

Findings:

The stream buffer encroachment totals 986 linear feet and 26,650 square feet for maintenance, rehabilitation, and dredging activities to the dam. The proposed buffer encroachment will be limited to removal of canopy and sapling/shrubs that have grown on the earthen dam face and abutments. Two points of ingress/egress (80 linear feet) will be required to provide temporary access to the lake bottom for removal of accumulated sediment. Also, buffer encroachment area will be required for two areas for stormwater conveyance channels, which will be reinforced to prevent erosion and to construct an upstream water quality facility (280 linear feet), which will be used to provide water quality treatment for runoff entering the lake. Upon completion of the dam maintain work, all disturbed areas will be stabilized with Ds3/Ds4 [which consist of permanent stabilization of the site with sod].

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

Findings:

The applicant has stated that an alternative plan is not feasible because it would require rebuilding a new dam further upstream, which would reduce the lake area and available storage volume for stormwater management. Also, repairs and improvements to the dam are needed because it is not working at optimum level. The increase in impervious surfaces due to the new roadway and future development of seven (7) lots will produce an increase in stormwater runoff, which could potentially cause downstream flooding. Therefore, additional stormwater management is needed to control stormwater runoff quantity and quality.

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

Findings:

There would not be any perceived long-term impacts to water quality due to the approval of the stream buffer variance. The rehabilitation and modifications to the dam will led to the use of Henderson Lake for post-construction storm water detention (not water quality). The construction of the Howell Avenue road extension and future development of seven (7) lots along the new road will increase the impervious surfaces by +/-19 acres at completion of the build out; Henderson Lake will capture the stormwater runoff from those lots and the roadway. The proposed rehabilitation, maintenance, and modifications to the dam will result in an improved and safer dam,

lake, and stormwater management facility. Also, during the construction of the road and lots, the developers will be required to adhere to Best Management Practices and meet or exceed the City's ordinances.

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

Findings:

Staff is of the opinion that issuance of the variance is protective of the natural resources and environment because at the completion of the dam rehabilitation and modifications Henderson Lake will function as a stormwater management facility for Howell Avenue and future development along Howell Avenue. There should not be any long-term negative impacts to the buffer functions resulting from the dam maintenance work. Upon completion of the dam maintenance activities, all disturbed areas will be stabilized.

RECOMMENDATION

Staff has reviewed the request relative to the variance standards in Sections 65-233 of the City of Fairburn Code of Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the stream buffer variance.

Should the Board of Appeals choose to approve the request in its entirety, staff recommends the following conditions:

- 1) The US Army Corps of Engineers (USACE) permit shall be submitted to the Department of Community Development prior to the issuance of a land disturbance permit.
- 2) All conditions imposed by the US Army Corps of Engineers (USACE) and Georgia Environmental Protection Division (GAEPD) must be met prior to the issuance of a land disturbance permit.

ATTACHMENTS

Stream Buffer Variance Application
Letter of Intent
Alternative and Mitigation Plans
Exhibit A



APPLICATION FOR STREAM BUFFER VARIANCES

DATE 5-1-2020

ALL REQUESTS FOR A STREAM BUFFER VARIANCE SHALL HAVE A STATEMENT OF HARDSHIP. THE FOLLOWING CONSIDERATIONS SHALL BE USED IN JUSTIFYING THE HARDSHIP.

VARIANCE CONSIDERATIONS:

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

Buffer variance is needed primarily to rehabilitate and improve the existing dam which has very steep upstream and down stream slopes. The outlet structure and spillways are failing and the dam has vegetation and trees growing on it, which need to be removed for dam integrity.

Are there unusual circumstances when strict adherence to the minimal buffer requirements in the article create an extreme hardship?

Adherence to the buffer requirements would not be possible as this would require building a dam further upstream which would reduce the lake area and storage volume. The dam cannot be increased in height as this would increase a dam breach zone on downstream properties.

SECTION III LEGAL DESCRIPTION OF PROPERTY (Legal description/survey must match submitted site plan.)

SUBDIVISION NA UNIT/PHASE: NA LOT NO(S): NA

LAND LOT(S): 31 and 48 DISTRICT: 9F TAX ID: See below

PROPERTY ADDRESS 0 Bohannon Rd. SE of Henderson Lake Rd.

Tax ID

09F08 0000 310 596

09F08 0000 310 836

09F08 0000 310 588

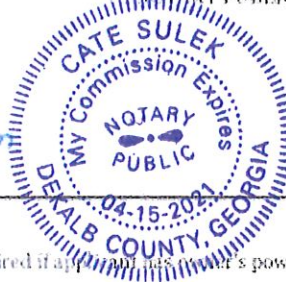
09F09 0100 480 306

Owner states under an oath that he or she is the owner of the property described in the attached legal description. [EACH OWNER'S SIGNATURE MUST BE NOTARIZED]

A.D. (Joe) Strack
TYPE OR PRINT OWNER'S NAME
125 Laser Industrial Ct
ADDRESS
Fairburn, GA 30213
CITY, STATE & ZIP CODE
A.D. Strack
OWNER'S SIGNATURE
(770) 969 1591
AREA CODE/ PHONE NUMBER
joes@strackinc.com
EMAIL ADDRESS

Sworn to and subscribed before me this 5A day of

May 20 20
Cate Sulek
NOTARY PUBLIC



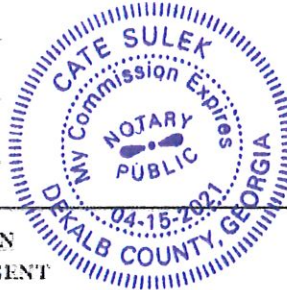
B. APPLICANT INFORMATION

A notarized authorized applicant signature is required if applicant is under the owner's power of attorney.

A.D. (Joe) Strack
TYPE OR PRINT APPLICANT'S NAME
125 Laser Industrial Ct
ADDRESS
Fairburn, GA 30213
CITY, STATE & ZIP CODE
A.D. Strack
APPLICANT'S SIGNATURE
A.D. Strack
OWNER'S SIGNATURE
(770) 969 1591
AREA CODE/ PHONE NUMBER
joes@strackinc.com
EMAIL ADDRESS

Sworn to and subscribed before me this 5A day of

May 20 20
Cate Sulek
NOTARY PUBLIC



C. ATTORNEY/AGENT INFORMATION

CHECK ONE: ☐ ATTORNEY ☐ AGENT

TYPE OR PRINT ATTORNEY/AGENT NAME
ADDRESS
CITY, STATE & ZIP CODE
AREA CODE/PHONE NUMBER

SIGNATURE OF ATTORNEY/AGENT

EMAIL ADDRESS



Fairburn Stream
Buffer....19.pdf

Strack Development, Henderson Lake Improvements Letter of Intent

For your review and approval, on behalf of Strack Family, LLC, please find attached a completed City of Fairburn Stream Buffer Variance ("SBV") application checklist and form with requisite documentation. The subject property is located in the City of Fairburn ("the City"), in Land Lots 31 and 48, in District 9F in Fulton County, Georgia. The site and Henderson Lake are located NE of Bohannon Road, East of Henderson Lake Road, on the property of Strack Family, LLC.

The primary project purpose is to conduct dam rehabilitation and maintenance and dredging activities at the existing Hendersons Lake, which is impounded by an existing earthen dam that has not been maintained prior to acquisition of the property by Strack Family, LLC. The dam and lake will be rehabilitated, improved and modified to serve as a feature and stormwater management facility for a portion of the proposed Howell Ave Extension and the Strack large lot M-2 development. Currently the outlet control structure ("OCS") is inoperative, the emergency spillway is non-functioning, mature vegetative growth occupies the dam face and abutments, and the lake has accumulated sedimentation resulting in the loss of lake storage. Maintenance activities will include dredging approximately 10,800 cubic yards of accumulated and additional material from Hendersons Lake, installation of a new emergency spillway and OCS, removal of vegetation from the earthen dam face, installation of infrastructure and regrading of dam to City of Fairburn standards. The slopes on both sides of the dam will be regarded to lessen the slopes resulting in a much more stable, maintainable and safer dam. The lake will be dredged out and modified and will be used to provide stormwater detention for the portion of the proposed Howell Avenue Extension that will drain to it as well as the remaining portion of Strack Family Land upstream of the lake. By dredging out the lake, modifying and improving the dam, outlet pipe and OCS, the lake will provide detention to reduce downstream peak runoff rates without having to raise the height of the dam, resulting in a stable and safe dam. This is being proposed without raising the dam height to prevent increasing the dam breach area on the downstream properties.

There are five areas of proposed city buffer encroachments totaling 986 linear and 26,650 square feet necessary to complete dam maintenance, rehabilitation and dredging activities. As proposed, dam maintenance and maintenance activities will necessitate encroachment into the 25-foot and 50-foot undisturbed buffers afforded State waters and thus the need for this application. There will be no long-term impacts to critical buffer functions resulting from completion of dam maintenance activities. Proposed buffer encroachments will be limited to removal of canopy and sapling/shrub vegetation that has been allowed to grow unmaintained on the earthen dam face and abutments to the detriment of long-term dam integrity. In addition, two points of ingress/egress (80 LF) will be required to provide temporary access to the lake bottom for removal of accumulated sediment/material. Buffer encroachment area will also be needed for two areas for stormwater conveyance channels, which will be armored to prevent erosion, and an area required for access to construct an upstream water quality facility (280 LF) which will be used to provide water quality treatment for runoff entering the lake. Upon completion of dam maintenance activities, all disturbed areas will be permanently stabilized with Ds3/Ds4. This work will ultimately lead to the use of Hendersons Lake for post-construction storm water detention (not water quality) and, for the secondary project purpose, construction of the Howell Ave Extension road and development of a seven lot heavy industrial park, M-2 Zoning District (i.e., Heavy Industrial Park) for which documentation is being presented for review/approval by the City for the adjoining ±32-acre property. Proposed development includes approximately 19-acres of impervious surfaces upon completion at full build out. This includes additional impervious surface(s) within the drainage basin to accommodate the future extension of Howell Avenue work to be completed by others.

The primary objective of the City of Fairburn stormwater ordinance is to provide better design practices for postconstruction stormwater management by controlling stormwater runoff quantity and quality. In addition to other best management practices, the removal of at least 80-percent of the storm water runoff total suspended solids ("TSS") load, as well as the capture and treatment of the volume of runoff that results from the first 1.2-inches of rainfall at the site are the principal components of the storm water management plan. Additionally, the ESPCP was designed to minimize erosion and preserve/protect undisturbed buffers by providing overbank flood protection up to the 100-year storm event. Gaskins prepared a Stormwater Management Report for Strack Development Hendersons & Lake Modifications to address the hydrologic impact(s) that will result from development of the property. The primary hydrologic impact of development is an increase in peak storm water runoff rates from the property. Left unmitigated the increase in peak runoff rates has the potential of increasing downstream flooding. Gaskins report provides an assessment of proposed on-site storm water management facilities in a manner consistent with the current drainage policies and regulations of the City of Fairburn and/or the Georgia Stormwater Management Manual ("the Blue Book"). Hydrologic data used in the report was based on completion of a field reconnaissance of the subject property and a field run topographic survey of the subject property, Fulton County GIS topography of the surrounding areas and the development plan for the subject property. The data was used to compute peak flow rates for the 2-, 5-, 10-, 25-, 50- and 100-year storms. In the report, peak flow rates for all existing and proposed basins were determined using the SCS Method. The report also showed that a reduction in peak flow rates for all storms after modeling the proposed stormwater facilities and proposed onsite lake modifications. The water quality storage volume was determined using the Georgia Stormwater Management Manual specifications. This water quality volume will be provided in two post-development two water quality facilities to be constructed upstream of the lake.

Alternatives are not feasible because relocating the existing dam would be very difficult if not impossible for multiple reasons. Maintaining the vegetation on the back side of the dam would require rebuilding a new dam further upstream which would reduce the lake area and available storage volume for stormwater management. The dam height cannot be raised because this would increase the dam breach area on downstream properties.

A long-term inspection and maintenance agreement will be required for this lake. The proposed rehabilitation, maintenance and modifications will result in a much improved and safer dam, lake and stormwater management facility.

Alternative Plan

Alternatives are not feasible because relocating the existing dam would be very difficult if not impossible for multiple reasons. Maintaining the vegetation on the back side of the dam would require rebuilding a new dam further upstream which would reduce the lake area and available storage volume for stormwater management. The dam height cannot be raised because this would increase the dam breach area on downstream properties.

Mitigation Plan

No mitigation plan is being purposed as there will be no long-term impacts to critical buffer functions resulting from completion of dam maintenance activities. As proposed, dam maintenance and maintenance activities will necessitate encroachment into the 25-foot and 50-foot undisturbed buffers afforded State waters and thus the need for this application. There are five areas of proposed city buffer encroachments totaling 986 linear and 26,650 square feet necessary to complete dam maintenance, rehabilitation and dredging activities. Proposed buffer encroachments will be limited to removal of canopy and sapling/shrub vegetation that has been allowed to grow unmaintained on the earthen dam face and abutments to the detriment of long-term dam integrity. In addition, two points of ingress/egress (80 LF) will be required to provide temporary access to the lake bottom for removal of accumulated sediment/material. Buffer encroachment area will also be needed for two areas for stormwater conveyance channels, which will be armored to prevent erosion, and an area required for access to construct an upstream water quality facility (280 LF) which will be used to provide water quality treatment for runoff entering the lake. Upon completion of dam maintenance activities, all disturbed areas will be permanently stabilized with Ds3/Ds4. This work will ultimately lead to the use of Hendersons Lake for post-construction storm water detention (not water quality) and, for the secondary project purpose, construction of the Howell Ave Extension road and development of a seven lot heavy industrial park, M-2 Zoning District (i.e., Heavy Industrial Park) for which documentation is being presented for review/approval by the City for the adjoining ±32-acre property. Proposed development includes approximately 19-acres of impervious surfaces upon completion at full build out. This includes additional impervious surface(s) within the drainage basin to accommodate the future extension of Howell Avenue work to be completed by others.

**Figure 4 - WOTUS/WOTS & BOUNDARY MAP
STRACK TRACT**

Land Lots 30, 31, 48 & 49 of District 9F
City of Fairburn, Fulton County, Georgia
Gaia Project No. 2017-27
Scale: 1 = 100 (Plot Size: 24x36 Inches)

