



Board of Appeals

AGENDA

Thursday, July 15, 2021 ♦ 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
- Election of Officers
- Approval of the Meeting Agenda
- Approval of the July 23, 2020 Meeting Minutes
- Public Hearing:
 - **Stream Buffer Variance 2021036 Everton Commons** - A request to encroach in the 25' impervious setback, which is approximately 1,017 LF and 6,503 SF of impact to the stream [0 Brooks Drive, Parcel ID# 09F090400511263]
- New Business: None
- Old Business: None
- Announcements
- Board Members Comments
- Adjourn

CITY OF FAIRBURN

BOARD OF APPEALS MEETING MINUTES

**City Hall
56 Malone Street
Fairburn, GA. 30213
Thursday, July 23, 2020
7:00 P.M.**

Thomas Cochran, Chair
William Strawn, Vice-Chair
Board Member Brenda Cooper

Board Member Synitra Hutcherson
Board Member Eric Wallis (**Absent**)

City Planner:
City Attorney:

Tarika Peeks
Valerie Ross

- I. MEETING CALLED TO ORDER:** By Tarika Peeks at 7:01 pm
- II. ROLL CALL:** All members of Board of Appeals were present except Eric Wallis.
- III. ELECTION OF OFFICERS:** Mr. Strawn made the motion to nominate Thomas Cochran for Chair; Seconded by Ms. Hutcherson. **The motion carried.** Mr. Strawn made a motion to nominate himself for Vice-chair. Ms. Hutcherson seconded. **The motion carried.**
- IV. AGENDA FOR MEETING: (Additions, Deletions, Adoption)**
Motion and Vote: Mr. Strawn made a motion to **APPROVE** the agenda. Ms. Cooper seconded. **The motion carried.**
- V. NEW BUSINESS:**
Stream Buffer Variance 2020079 – Strack Development/Henderson Lake

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, Joe Strack, explained the purpose of the stream buffer variance which is to improve stormwater retention for the new Howell Avenue extension and for future developments on Howell Avenue. He explained that the dam is not working properly, and they will go in and repair the dam.

Motion and Vote: Mr. Strawn made the motion to **APPROVE WITH CONDITIONS** Stream Buffer Variance 2020079-Strack Development/Henderson Lake. Ms. Cooper seconded. **The motion carried.**

- VI. NEW BUSINESS:** None
- VII. OLD BUSINESS:** None
- VIII. ANNOUNCEMENTS/DISCUSSION:** Ms. Peeks invited the Board to the Comprehensive Plan 5 Year Update meeting on July 30th from 6:00 pm – 7:30 pm.
- IX. COMMENTS:** No comments
- X. ADJOURN:**

Motion and Vote: Mr. Strawn made the motion to adjourn. Ms. Hutcherson seconded. **The motion carried.**

Meeting adjourned at 7:29 p.m.

Approval Signatures	
Date Approved	
Thomas Cochran, Chair	
Tarika Peeks, Recording Secretary	



TO: Board of Appeals
FROM: Tarika Peek, Director of Planning and Zoning
DATE: Thursday, July 15, 2021
SUBJECT: Stream Buffer Variance 2021036 – Everton Commons [0 Brooks Drive, parcel ID # 09F090400511263]

APPLICANT/PETITIONER INFORMATION

Everton Commons, L.P.
1105 Kensington Park Drive
Altamonte Springs, FL 32714

PROPERTY INFORMATION

Address:	0 Brooks Drive, Parcel ID # 09F090400511263
Land Lot(s), and District:	Land Lot 51, District 9 th
Size:	Approximately 6.499 acres
Current Zoning:	RM-36 (Multi-family Residential)
Overlay District:	N/A
Comprehensive Plan/Future Land Use Map	Town Center Mixed Use

INTENT

The City of Fairburn Code of Ordinances requires:

Buffer and setback requirements. All land development activity subject to Article V - Stream Buffer Protection shall meet the following requirements:

1. An undisturbed natural vegetative buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank.
2. An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling, and earthmoving shall be minimized within the setback.
3. No septic tanks or septic tank drainfields shall be permitted within the buffer or the setback.

The applicant is proposing to develop a 78 unit multi-family residential community with a splash pad, gazebo, activity room, fitness room, and business center. The rezoning of the subject property was approved by the Mayor and Council on January 27, 2020. The Georgia Historic Preservation Division is requiring a 30' undisturbed buffer between the subject site and the Fairburn Cemetery. As a result of the 30' cemetery buffer requirement, the development must shift slightly towards the west, which requires an encroachment into the 25' impervious setback. The 25' encroachment into the impervious setback is a total impact of 1,017 +/- linear feet and 6,503 square feet.

The applicant is requesting a stream buffer variance as follows:

- 1) Article V. Section 65-233(a)(2) to encroach in the 25' impervious setback, totaling 1,017 +/- linear feet and 6,503 square feet.

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.*

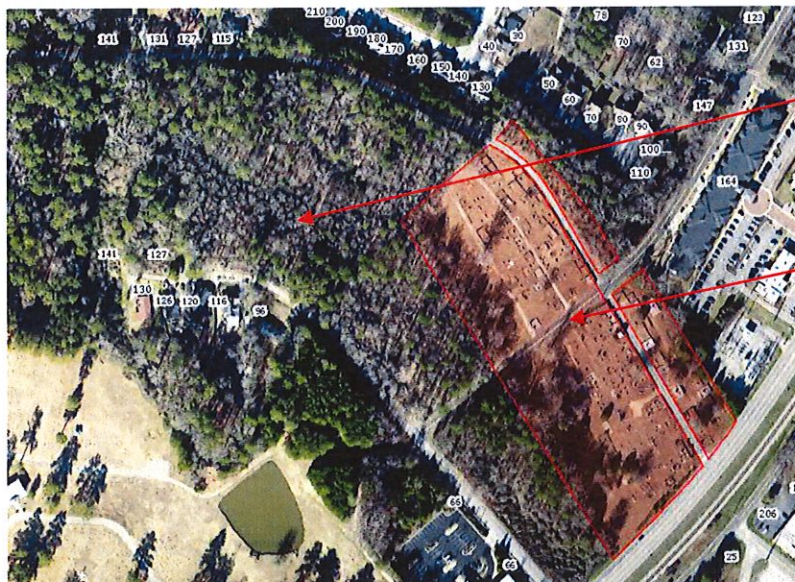
Findings:

Based on Fulton County Tax Assessors information, it appears as if the subject property was platted prior to 2004.

- 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 property's shape, topography and other physical conditions existed at the time of the adoption of the ordinance. The site is 6.499 acres with road frontages on Brooks Drive, Washington Street, and Cemetery Street. The Fairburn Cemetery is adjacent to the subject property. Due to the proximity of the proposed development to the cemetery, the Georgia Historic Preservation Division is requiring a 30' buffer between the proposed development and the cemetery. Also, the property is oddly spaced. The portion of the property fronting Washington Street is extremely narrow. The narrowness of the property fronting Washington Street and the stream which runs the entire west side of the property creates site development limitations. Subsequently, an impact to the 25' impervious setback is needed.



Subject property: 0 Brooks Drive
Parcel ID # 09F090400511263

Fairburn Cemetery
Parcel ID # 09F090400510281

Based on the physical conditions, which are the proximity of the subject lot to the Fairburn cemetery, odd shape of the property, and the 30' buffer requirement by the Georgia Historic Preservation, an encroachment into the 25' impervious setback is needed.

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:

The property has an unusual circumstance when the minimum buffer requirement is strictly applied. As stated in the applicant's letter of intent, the Georgia Historic Preservation Division is requiring a 30' buffer between the proposed development and the cemetery and due to the buffer requirement, the development must shift slightly towards the west, which causes an encroachment into the 25' impervious setback.

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;*

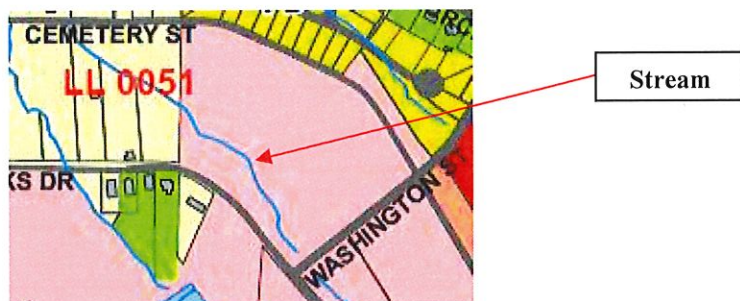
Findings:

The proposed 6.499-acre site is heavily wooded with large trees. The lot is oddly shaped due to narrowness of the southeastern portion of the lot. There are no known steep slopes on the site. The stream runs the entire west side of the lot parallel to the Brooks Drive.

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

Findings:

The stream runs approximately 682 feet parallel to the west property line (parallel to Brooks Drive). All stream buffers on the property have been identified (see site plan).



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

Findings:

The encroachment into the 25' impervious setback would not impact the entire length of the setback along the stream. The impervious setback encroachment totals 1,017 +/- linear feet and 6,503 square feet [see exhibit A]. The impact to the impervious setback is on the southern end of the stream.

- 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 of the 30' buffer requirement between the subject property and cemetery imposed by the Georgia Historic Preservation as well as the narrowness of the southeast side of lot that fronts Washington Street.

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 impervious setback encroachment. The 50' stream buffer will not be impacted. Also, during the construction of the multi-family residential development, the developer will be required to adhere to Best Management Practices [BMP]. The city will monitor the sites BMPs.

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 not as protective of the natural resources and environment as the existing site condition. The site is currently undeveloped and has no impervious surface. Therefore, the development of the site for a multi-family residential community would not be as protective of the natural resources and the environment as the existing conditions. However, if the variance request is granted, there should not be any long-term negative impacts to the natural resources and the environment.

RECOMMENDATION

Staff has reviewed the request relative to the variance standards in Sections 65-233 of the City of Fairburn Code of Ordinances. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the 25' impervious setback encroachment, totaling 1,017 +/- linear feet and 6,503 square feet.

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

- 1) The subject property shall be constructed in accordance with the proposed site plan, provided by the applicant dated received February 1, 2021, by the Department of Community Development, for the variance herein, showing an encroachment in the 25' impervious setback, totaling 1,017 +/- linear feet and 6,503 square feet, where necessary to accommodate the portion of the encroachment only.

ATTACHMENTS

Stream Buffer Variance Considerations
Letter of Intent
Site Plan



APPLICATION FOR STREAM BUFFER VARIANCES

DATE 1-26-2021

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?
The Historic Preservation Division that we have to submit to as a Georgia Department of Community Affairs requirement, is requiring a 30 foot undisturbed buffer between our proposed site and the Fairburn Cemetery. There's a stream on the other side of the site. That's why Wendover is requesting a stream buffer variance.

Are there unusual circumstances when strict adherence to the minimal buffer requirements in the article create an extreme hardship?
Historic Preservation Division are requiring a 30 foot undisturbed buffer between our proposed site and the Fairburn Cemetery. As I mention in the paragraph above. Wendover is requesting to build in the undisturbed portion of the stream buffer on the other side of the site from the Fairburn Cemetery.

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

SUBDIVISION N/A UNIT/PHASE: N/A LOT NO(S): N/A

LAND LOT(S): N/A DISTRICT: 6 TAX ID: 09F090400511263

PROPERTY ADDRESS 0 BROOKS DRIVE, FAIRBURN GA, 30213



1105 KENSINGTON PARK DRIVE, SUITE 200
Altamonte Springs, Florida 32714

TEL: (407) 333-3233 | Fax: (407) 333-3919

1/22/2021

Fairburn Letter of Intent for Stream Buffer Variance Application:

Wendover Housing Partners are proposing to develop 78 units of Multi-family located at tax parcel ID: 09F090400511263. We are applying for a stream buffer variance. The Historic Preservation Division is required by Georgia Department of Community Affairs to evaluate the proposed site. This is a requirement for DCA to fund the development and have all issues that HPD finds resolved prior to funding. HPD has asked us to provide a 30 foot undisturbed buffer between our site and the Fairburn Cemetery. We are asking the Board of Zoning Appeals to allow us to build in 25 feet of the 75 foot stream buffer. This would alleviate HPD's concern on the 30 foot buffer between our site and the Fairburn Cemetery. The HPD requirement was not known during rezoning.

Wendover Housing Partners builds, finances, and services affordable housing communities for family and seniors. As one of the Southeast's premier affordable and workforce housing companies, our expansive portfolio of affordable and mixed-income developments demonstrates our continuing ability to create housing opportunities in a variety of economically and socially diverse neighborhoods. Wendover Housing Partners has been in the development business for over 20 years.

SINCERELY,

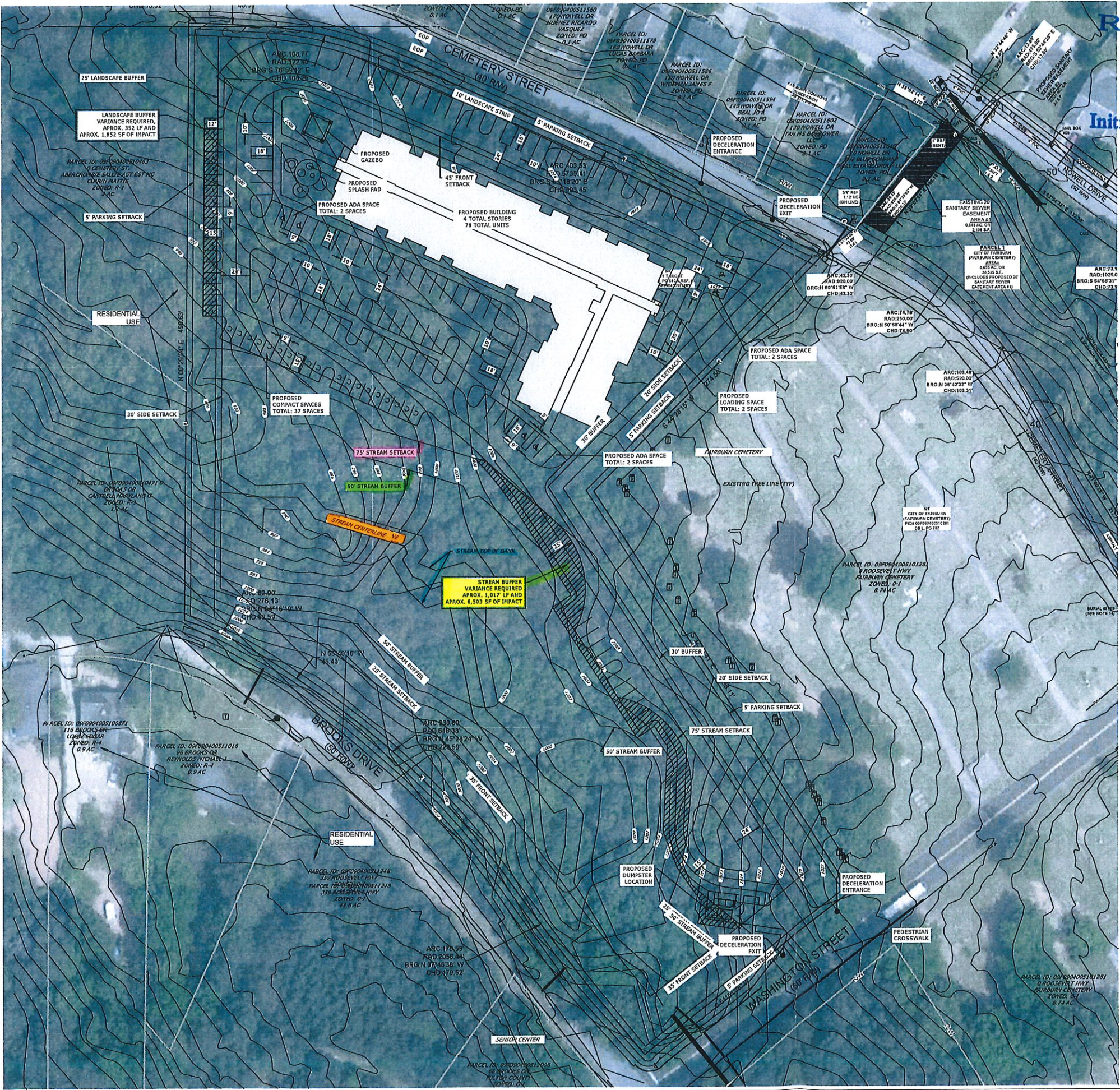
Bo Johnston

WENDOVER HOUSING PARTNERS

Everton Commons Stream Buffer Variance Explanation:

The proposed development site is very limited in space due to the required 30 foot buffer by HPD. The entrance off of Washington Street already had limited space before the required 30 foot buffer. The total stream buffer impact is 1,017 +/- Linear Feet and 6,503 Square Feet.

Due to site limitations there's no opportunity to provide mitigation on site or a mitigation plan. A secondary entrance is required for fire access and there are no alternatives that will not include some buffer impact, due to site conditions.

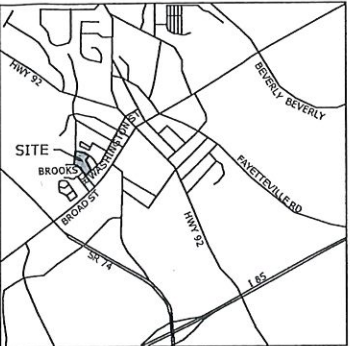


RECEIVED

FEB 01 2021

Initial: *JP*

- LEGEND
- RIGHT OF WAY
 - PROPERTY LINE
 - ADJACENT PARCEL
 - FACE OF CURB (FC)
 - BACK OF CURB (BC)
 - EDGE OF PAVEMENT (EP)
 - CENTER LINE OF PAVEMENT
 - CONCRETE SIDEWALK
 - PARCEL LINE
 - SETBACK LINE
 - LANDSCAPE BUFFER
 - SIGN
 - TREELINE
 - STREAM / CREEK
 - TOP OF BANK LIMITS
 - PERENNIAL STREAM BUFFER



CITY OF FAIRBURN, FULTON COUNTY, GA
VICINITY MAP
NOT TO SCALE

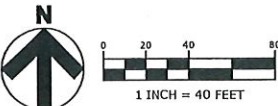
DEVELOPER:

BO JOHNSTON
(407) 333-3233 EXT. 226
BJOHNSTON@WENDOVERGROUP.COM
1105 KENSINGTON PARK DRIVE, SUITE 200
ALTAMONTE SPRINGS, FL 32714

SITE DATA:

TOTAL SITE ACREAGE:	±6.499 ACRES
TOTAL SQUARE FEET:	±280,934 SQ. FT.
SUBJECT PARCEL:	09P090400511263
CURRENT ZONING:	081-OFFICE AND INSTITUTIONAL
PROPOSED ZONING:	RM-36 MULTI-FAMILY RESIDENTIAL DISTRICT
PROPOSED LAND USE:	MULTI-FAMILY APARTMENT COMPLEX
REQUIRED SETBACKS:	FRONT: 45' SETBACK REAR: 35' SETBACK SIDE: 20' SETBACK 25' LANDSCAPE BUFFER ABUTTING LOW DENSITY RESIDENTIAL
REQUIRED BUFFER:	4 STORIES/78 UNITS -27 1BR/1BA -39 2BR/2BA -12 3BR/2BA
PROPOSED BUILDING:	156 SPACES (2 SPACES/UNIT) 156 SPACES
REQUIRED PARKING:	±6 ADA SPACES REQUIRED/PROVIDED -39 COMPACT SPACES PROVIDED (ALLOWED 39 MAX/25% OF REQUIRED PARKING) -111 REGULAR SPACES PROVIDED
PROPOSED PARKING:	
TOTAL BUILDABLE AREA:	±122,133 SQ. FT. (44% OF TOTAL SITE)
TOTAL OPEN SPACE:	±158,801 SQ. FT. (56% OF TOTAL SITE)
VARIANCE NOTES:	TOTAL STREAM BUFFER IMPACT IS APPROXIMATELY ± 1,017 LF AND 6,503 SF TOTAL LANDSCAPE BUFFER IMPACT IS APPROXIMATELY ± 352 LF AND 1,852 SF DUE TO SITE LIMITATIONS THERE IS NO OPPORTUNITY TO PROVIDE MITIGATION ON SITE -FIRE CODE REQUIRES TWO ACCESS POINTS TO THE SITE, DUE TO SITE CONDITIONS THERE ARE NO ALTERNATIVE THAT WILL NOT INCLUDE SOME BUFFER IMPACT -A STORMWATER MANAGEMENT PLAN DOES NOT APPLY TO THIS VARIANCE REQUEST

NOTE: DRAWINGS CREATED FROM SURVEY INFORMATION PROVIDED BY LECRAW ENGINEERING, INC AND FULTON COUNTY GIS DATA. THE DRAWINGS ARE PRELIMINARY AND NOT TO BE USED FOR CONSTRUCTION. THESE ARE TO BE USED AS CONCEPTUAL PLANS FOR THE REZONING SUBMITTAL ONLY.



REVISION DESCRIPTION
NO. DATE

WENDOVER HOUSING PARTNERS
EVERTON COMMONS
MULTI-FAMILY
DEVELOPMENT
FAIRBURN, GA

CONCEPTUAL SITE
PLAN LAYOUT

ISSUE:
DATE:
04-10-2020

JOB NO.:
DESIGN:
DRAWN:
CHECKED:

SHEET NO.
C-100