



ZONING BOARD OF APPEALS MEETING

Stonecrest City Hall ZOOM-Virtual, 6:00 PM

August 17, 2021

A G E N D A

As set forth in the Americans with Disabilities Act of 1990, the City of Stonecrest will assist citizens with special needs given notice (7 working days) to participate in any open meetings of the City of Stonecrest. Please contact the City Clerk's Office via telephone (770.224-0200).

I. Call to Order

II. Roll Call

III. Minutes: Approval of the Zoning Board Meetings Minutes Summary dated May 18, 2021.

IV. Old Business: None

V. New Business:

Public Hearing(s):

LAND USE PETITION:	V-21-003
PETITIONER:	ACE Homes LLC (representative Prime Engineering Inc)
LOCATION:	2261 Stone Mountain Lithonia Rd, Stonecrest, GA 30038
CURRENT ZONING:	MR-1
PROPOSED DEVELOPMENT:	Request to encroach into the 75 feet stream buffer

VI. Adjournment



BOARD OF ZONING APPEALS STAFF REPORT

Board of Zoning Appeals Public Hearing: Aug 17, 2021

CASE NUMBER:	V-21-003
PROPERTY LOCATION:	2261 Stone Mountain Lithonia Road (Parcel 16 124 02 011), 2241 South Stone Mountain Lithonia Road (Parcel 16-124 02 016), and 1780 Phillips Road (Parcel 16 101 03 011)
CURRENT ZONING:	Medium Density Residential (MR-1) and Local Commercial (C-1)
PARCEL SIZE:	Approximately 70.01 acres
PROPERTY OWNER(S):	Ace Homes LLC
STAFF RECOMMENDATION:	Approval
VARIANCE REQUEST:	Encroachment into the 75' stream buffer

Current Use and Zoning

Currently, the subject property is undeveloped, and not being used for any specific use. The subject property is zoned Medium Density Residential (MR-1) District and Local Commercial (C-1).

This development would need to be rezoned to be built as proposed on the site plan. Approval of this Stream Buffer Variance (V-21-003), however, is critical to the project and so the applicant is requesting this first before going through the rezoning process.

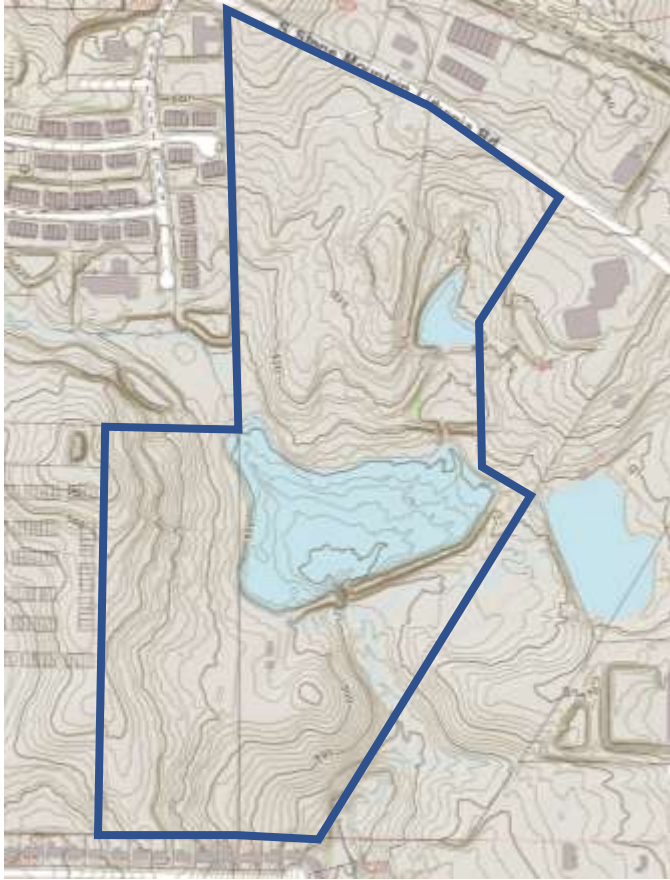
Existing Conditions

The property is currently undeveloped with a mixture of mature hardwoods and evergreens located on-site. There is an existing streams/waterway located on the property shown below:





BOARD OF ZONING APPEALS STAFF REPORT

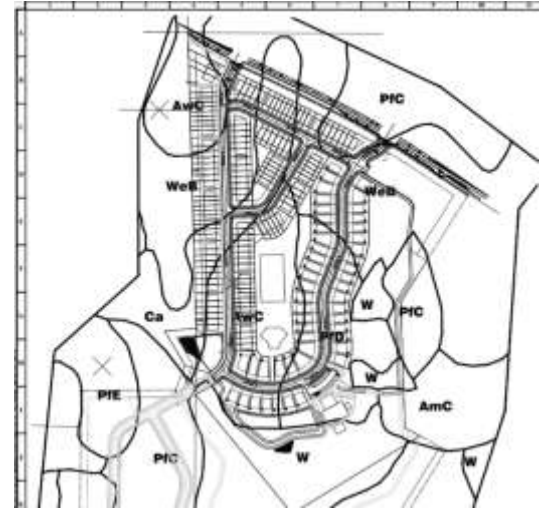




BOARD OF ZONING APPEALS STAFF REPORT

Proposed Development

The applicant is proposing to develop phase 1 of the project which consists of a subdivision consisting of 131 town homes, new asphalt road, clubhouse, pool walking trail, and pavilion. Additional phases of the project include a commercial piece which likely will be small scale and neighborhood oriented located at one of the entrances of the development, and another residential phase in the back of the project which likely will be single-family detached houses. The current concept plan for the development if built would require a rezoning to modify the boundary between the commercial piece and the townhomes, at least 3 of the proposed residential lots are located within a C-1 district which does not allow residential as a permitted use. This stream buffer variance request has no direct bearing on a potential rezoning request.



APPLICABLE CODE REQUIREMENTS

City of Stonecrest Zoning Ordinance; Chapter 14 Article VII-Stream Buffer; Section 14-543. Minimum stream buffer requirements

- (a) Stream buffers are established along all perennial and intermittent streams in the City. These required stream buffers begin at the stream bank and extend 75 feet away from the stream. The buffers must remain undisturbed excepts as otherwise provided in section 14-544.*

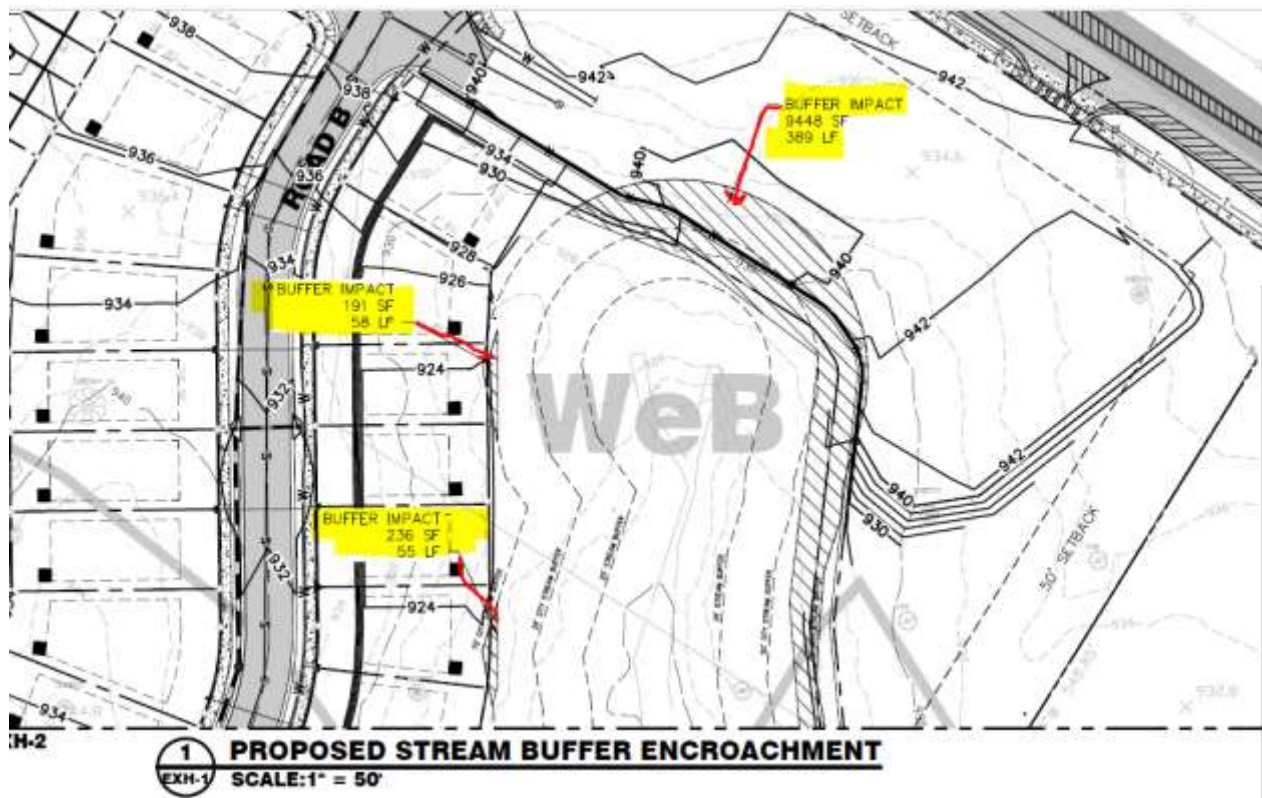


BOARD OF ZONING APPEALS STAFF REPORT

Variance Request

The applicant is requesting to encroach into the 75' and 50' no impervious buffer (s) . The applicant will encroach into the buffer in 7 locations. The first, second and third areas of encroachment is shown in exhibit 1. The applicant will encroach a total area of (9,448sf, 389 lf) into the 75' and 50' buffer this includes trails, retaining wall and some pavement. The second and third encroachments are (191 sf, 58 lf) and (236 sf , 55 lf) into the 75' buffer. The fourth, fifth, sixth and seventh areas of encroachment are shown in exhibit 2. The applicant will encroach a total of (5,495 sf, 300 lf), (146 sf, 54 lf) and (2179 Sf, 100 lf), for the trail and creek crossing serving the development.

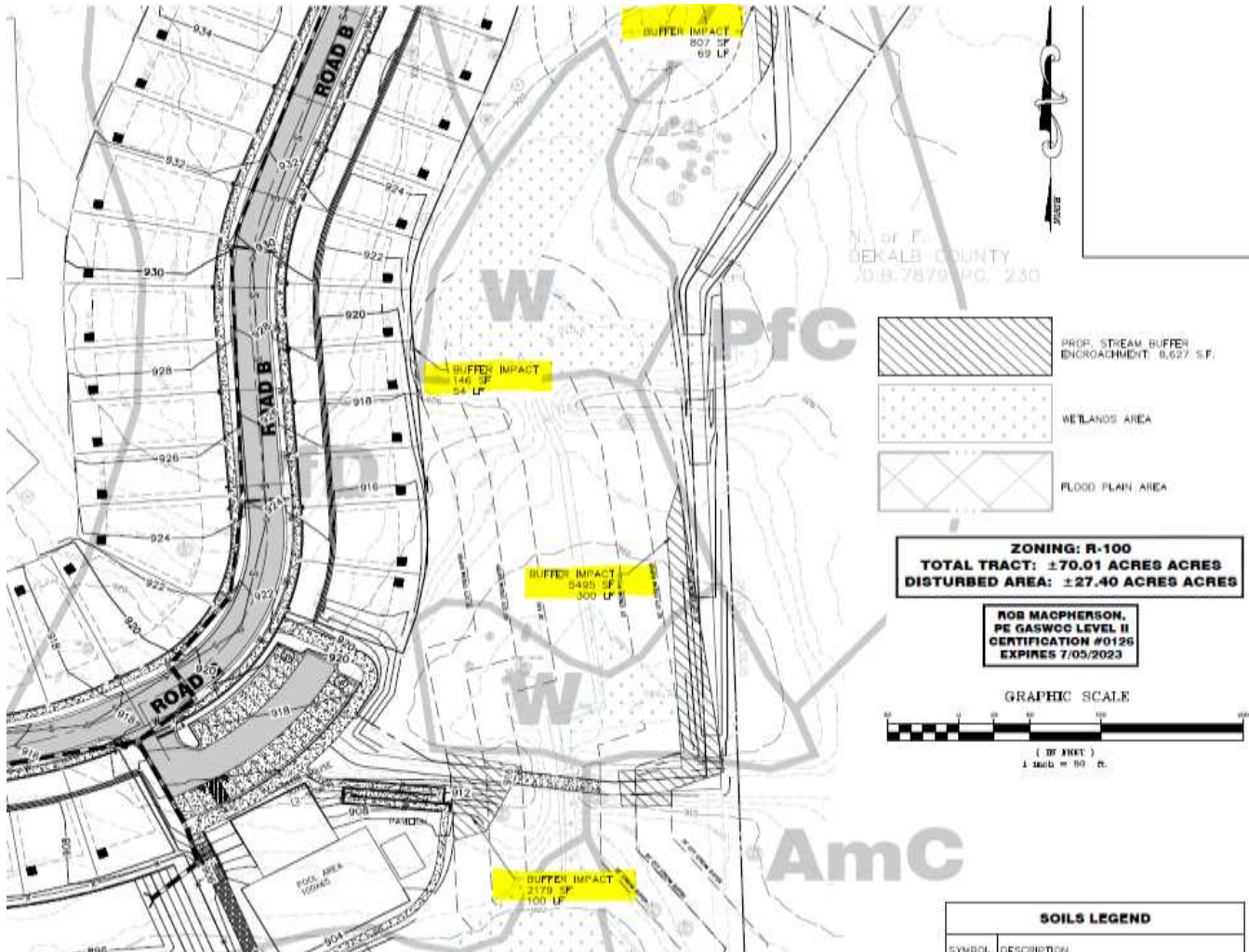
EXH 1.





BOARD OF ZONING APPEALS STAFF REPORT

EXH 2.





BOARD OF ZONING APPEALS STAFF REPORT

VARIANCE CONSIDERATIONS

Following are the specific considerations that must be considered by the Board of Zoning Appeals in order to grant a variance. These considerations include:

- A. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**
- B. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**
- C. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**
- D. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**
- E. The requested variance would be consistent with the spirit and purpose of this chapter and the DeKalb County Comprehensive Plan text.**



BOARD OF ZONING APPEALS STAFF REPORT

STAFF ANALYSIS

- A. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

There are exceptional site conditions, due to the location of the stream and the topography of the land. In order to develop the property the applicant would need encroach into the 75' and 50' stream buffers.

- B. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

Granting the variance would not go beyond the minimum necessary to afford relief and does not constitute granting special privilege which is inconsistent with the limitations upon other properties in the zoning district in which the subject property is located. Due to the shape of the subject property and the intended use, the applicant request is reasonable so the impact to the surrounding area will minimal.

- C. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

The granting of the variance will not be materially detrimental to the public welfare or injurious to the property. Based on staff analysis, there are adequate proposed water quality and stormwater mitigation steps to protect surrounding properties.

- D. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**

The literal interpretation and strict application of the applicable provision or requirements of this chapter would cause undue and unnecessary hardship on the applicant. The applicant does not have enough space on the property to construct trail ways around the property.

- E. The requested variance would be consistent with the spirit and purpose of this chapter and the Stonecrest Comprehensive Plan text.**

The requested variance would be consistent with the spirit and purpose of this chapter and the Stonecrest Comprehensive Plan, which has designated this site as Suburban on the Future Development Map. The proposed residential community is consistent with that character area. By requesting the variance applicant is seeking an alternative method of developing the subject property while trying to minimize any negative effect for the surrounding area.



BOARD OF ZONING APPEALS STAFF REPORT

RECOMMENDED CONDITIONS

Based on the findings and conclusions, it appears the applicant meets all the criteria for approval. Therefore, staff recommends **Approval of V-21-003** and be subject to the following conditions:

1. Encroachment into the 75' and 50' no impervious buffer shall be limited to the square footage/linear footage shown in exhibit 1 and 2 of the site plan.
2. Shall provide a planting mitigation plan to Stonecrest City Staff to review before issuance of a Land Disturbance Permit



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Application

Type Project Owner Information Affidavit Notary Office Use	Type of Request: <input type="checkbox"/> Zoning <input type="checkbox"/> Administrative Variances <input checked="" type="checkbox"/> Stream Buffer <input type="checkbox"/> Sign <input type="checkbox"/> Other				
	Applicable Zoning/Sign Code Section:				
	Nature of Request:		Required:	Proposed:	Minimum Setback Requirements Proposed Setback Requirements
	<input type="checkbox"/> Setback <input type="checkbox"/> Sign <input type="checkbox"/> # Parking Spaces <input checked="" type="checkbox"/> Other		(See Chart to the Right)		Front Side Rear Other
Name of Project/Subdivision: <u>Stonecrest Estates</u> Present Zoning: <u>R-100</u> Property Address/Location: <u>2261 Stone Mountain Lithonia Road, Lithonia, GA 30058</u> District: <u>16th</u> Land Lot: <u>101, 124</u> Block: Property ID: <u>16-124-02-001</u>					
Is this development and/or request seeking any incentives or tax abatement through the City of Stonecrest or any entity that can grant such waivers, incentives, and/or abatements? <div style="text-align: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</div>					
Name: <u>Mehbs Omar (Ace Homes LLC.)</u> Address: <u>5945 Peachtree Corners East, Norcross, GA 30071</u> Phone: <u>(770) 560-5069</u> Fax: Cell: <u>(678) 249-8971</u> Email: <u>acehomes@bellsouth.net</u>					
Name: Address: Phone: Fax: Cell: Email:					
To the best of my knowledge, this variance application form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filing additional materials as specified by the City of Stonecrest Zoning Ordinance. I understand that failure to supply all required information (per the relevant Applicant Checklists and Requirements of the Stonecrest Zoning Ordinance) will result in the rejection of this application. I have read the provisions of the Georgia Code Section 36-67A-3 as required regarding Campaign Disclosures. My Signed Campaign Disclosure Statement is included					
Applicant's Name: <u>MEHBS OMAR</u>					
Applicant's Signature: <u>[Signature]</u>				Date: <u>04/15/2021</u>	
Sworn to and subscribed before me this <u>15th</u> Day of <u>April</u> 20 <u>21</u>					
Notary Public: <u>Tabish Chaudhary</u>					
Signature: <u>[Signature]</u>					
Date: <u>4-15-2021</u>					
Application Received By:				Project Title: Project Number:	
<input type="checkbox"/> Application Fee <input type="checkbox"/> Sign Fee <input type="checkbox"/> Legal Fee					
Fee: \$		Payment: <input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> CC		Date:	
<input type="checkbox"/> Approved <input type="checkbox"/> Approved with Conditions <input type="checkbox"/> Denied				Date:	

Property Line Description: Craft Homes

All that tract or parcel of land lying and being in Land Lot 124 and Land lot 101 of the 16th District, 2nd Section, Dekalb County, Georgia, and being more particularly described as follows:

Commencing at a common corner to land lots 100, 125, 124 & 101' Thence along common land lot line to L.L. 124 and 101; Thence South 01 degrees 10 minutes 20 seconds East, 17.50 feet to a point at the south right of way line of Stone Mountain Lithonia Road (Variable R/W); Said point being the POINT OF BEGINNING.

Thence along the south right of way line of Stone Mountain Lithonia Road (Variable R/W) South 63 degrees 58 minutes 10 seconds East, 583.15 feet to a point;

Thence continuing along said the south right of way line a curve to the right, an arc distance of 447.7 feet, said curve having a radius of 3619.84 feet and being subtended by a chord of 447.41 feet, at South 60 degrees 29 minutes 25 seconds East, to a point; Thence continuing along said the south right of way line South 57 degrees 00 minutes 39 seconds East, 110.28 feet to a point; Thence continuing along said the south right of way line a curve to the right, an arc distance of 216.13 feet, said curve having a radius of 7667.09 feet and being subtended by a chord of 216.12 feet, at South 56 degrees 11 minutes 37 seconds East, to a point;

Thence continuing along said the south right of way line South 55 degrees 22 minutes 34 seconds East, 8.38 feet to a point;

Thence leaving said the right of way South 32 degrees 05 minutes 20 seconds West, 548.85 feet to a point;

Thence South 01 degrees 50 minutes 18 seconds East, 533.9 feet to a 1/2" rebar set;

Thence South 61 degrees 01 minutes 24 seconds East, 199.94 feet to a 1/2" rebar set;

Thence South 31 degrees 56 minutes 22 seconds West, 1472.10 feet to a 1/2" rebar set;

Thence North 89 degrees 04 minutes 31 seconds West, 788.73 feet to a 1/2" rebar set;

Thence North 01 degrees 05 minutes 35 seconds East, 627.79 feet to a 1/2" rebar set;

Thence North 00 degrees 46 minutes 32 seconds East, 861.56 feet to a 1" open top;

Thence North 89 degrees 23 minutes 38 seconds East, 398 feet to a 1/2" rebar set;

Thence North 20 degrees 56 minutes 50 seconds East, 111.99 feet to a point at center of stream;

Thence (a tie line-centerline stream is property line) North 30 degrees 29 minutes 42 seconds West, 167.8 feet to a point;

Thence leaving the stream North 84 degrees 35 minutes 20 seconds East, 133.34 feet to an axle found;

Thence North 01 degrees 36 minutes 11 seconds West, 1238.71 feet to a point at the south right of way line of Stone Mountain Lithonia Road (Variable R/W); said point being the POINT OF BEGINNING;

Said tract or parcel of land contains 70.01 acres.




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Campaign Disclosure Statement

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Stonecrest City Council or a member of the City of Stonecrest Planning Commission?

☐ YES
☒ NO


Applicant / Owner	Signature: 
	Address: 5945 PEACHTREE CORNERS EAST, NORCROSS GA 30071
	Date: 04/15/2021

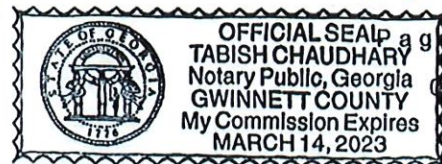
If the answer above is yes, please complete the following section:

Date	Government Official	Official Position	Description	Amount

Sworn to & subscribed before me this 15 day of April 2021

Variance Application

Signature: 
Date: 4-15-2021






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08-25-2017



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Property Owner(s) Notarized Certification

The owner and petitioner acknowledge that this variance application form is correct and complete. By completing this form, all owners of the subject property certify authorization of the filing of the application for variance(s), and authorization of an applicant or agent to act on their behalf in the filing of the application including all subsequent application amendments.

Property Owner	Signature: 	Date: 03/30/2021	
	Address: 5945 PEACHTREE CORNER EAST	City, State: NORCROSS, GA	Zip: 30071
	Phone: 770-560-5069		
	Sworn to and subscribed before me this 30 th day of March, 2021		
	Notary Public: 		
Property Owner (If Applicable)	Signature:	Date:	
	Address:	City, State:	Zip:
	Phone:		
	Sworn to and subscribed before me this _____ day of _____, 20____		
	Notary Public:		
Property Owner (If Applicable)	Signature:	Date:	
	Address:	City, State:	Zip:
	Phone:		
	Sworn to and subscribed before me this _____ day of _____, 20____		
	Notary Public:		

PRIME ENGINEERING INCORPORATED®

April 1, 2021

Mr. Chris Wheeler
City of Stonecrest
3120 Stonecrest Blvd.
Stonecrest, GA 30038

Re: **Stream Buffer Variance for 2261 Stone Mountain Lithonia Rd.**

Dear Mr. Wheeler:

This letter of Intent is to request a stream buffer variance for the above referenced property. Please find attached the required submittal package supporting the stream buffer request.

The following questions from the application and our responses are found below:

What is the adverse, material hardship provided by the existing buffer and how does it affect the following:

Due to the extended encroachment of the 75 foot buffer the depth of the commercial property is greatly impacted in it's ability to be used for it's intended purpose. By allowing encroachment into the buffer(s), the commercial lot can be appropriately used, the walking trail can fully encircle the property and individual properties will not require small retaining walls. See attached exhibits.

1. The shape, size, topography, slope, soils, vegetation and other physical characteristics.
2. The locations of all streams on the parcel including along parcel as well as adjacent properties.

One of the stream's spring head is located on this parcel and bisects the eastern portion of the parcel. In order to get the walking train all around the property, we need to encroach into the city buffer to construct the trail. Typically trails are allowed to be constructed within city buffers and perpendicular to state buffers.

3. The location and the extent of the proposed buffer or setback intrusions.

There are several intrusions noted in Exhibits 1 and 2. They are as follows:

- A. Intrusion 1 includes trail, retaining wall and some pavement. Total area within the initial 75' and 50' buffer is 9448 SF, 389 LF. See EXH 1.*
- B. Intrusion 2 into the 75' buffer for grading only is 191 SF, 58 LF. See EXH 1.*
- C. Intrusion 3 into the 75' buffer for grading only is 236 SF, 55 LF. See EXH 1.*
- D. Intrusion 4 into the 75' buffer for trail only is 807 SF, 69 LF. See EXH 2.*
- E. Intrusion 5 into the 75, 50' and 25' buffers for trail only, crossing creek is 5495 SF, 30 LF. See EXH 2.*
- F. Intrusion 6 into the 75' buffer for making the trail ADA compliant is 2179 SF, 100 LF. See EXH*

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Mr. Kevin Condra

March 4, 2013

Page 2

2.

G. Intrusion 7 into the 75' and 50' buffers for grading only is 146 SF, 54 LF.

4. Alternatives which have no intrusions or less intrusions

All alternatives require retaining walls to be constructed. However these walls prevent the sheet flow into the wetlands. 2. Alternatives will make the commercial property unusable due to inadequate depth.

5. the water quality impacts of proposed variance

There should be no water quality impacts as all water will flow thru water quality treatment systems prior to being discharged into the wetlands or streams with the exception of the trail. The trail will be constructed of pervious materials.

6. whether the proposed mitigation compensates for the lost buffer or setback functions and otherwise maintains the function of the required buffer or setback at the same site where the impact will occur and provides at least the same protection of the water provided by the natural features to be disturbed or removed.

We can provide additional land area outside the buffers for mitigation purposes if required. However many of these areas will already fall under the HOA control property and is unusable land.

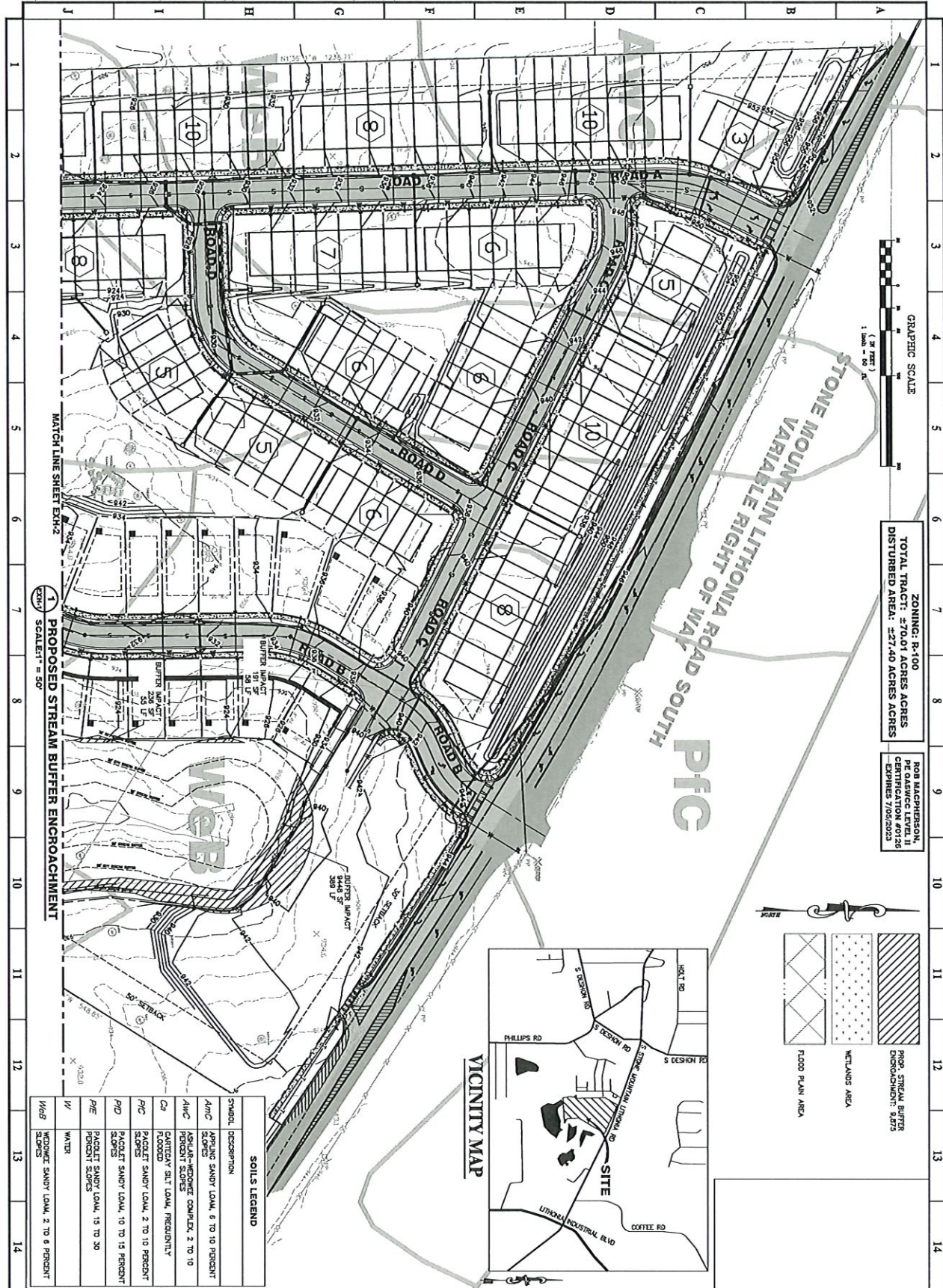
We appreciate the city's consideration of this request. Should you have any questions or need supplemental information, please feel free to contract me at 404-425-7124 or rmacpherson@prime-eng.com.

Sincerely,

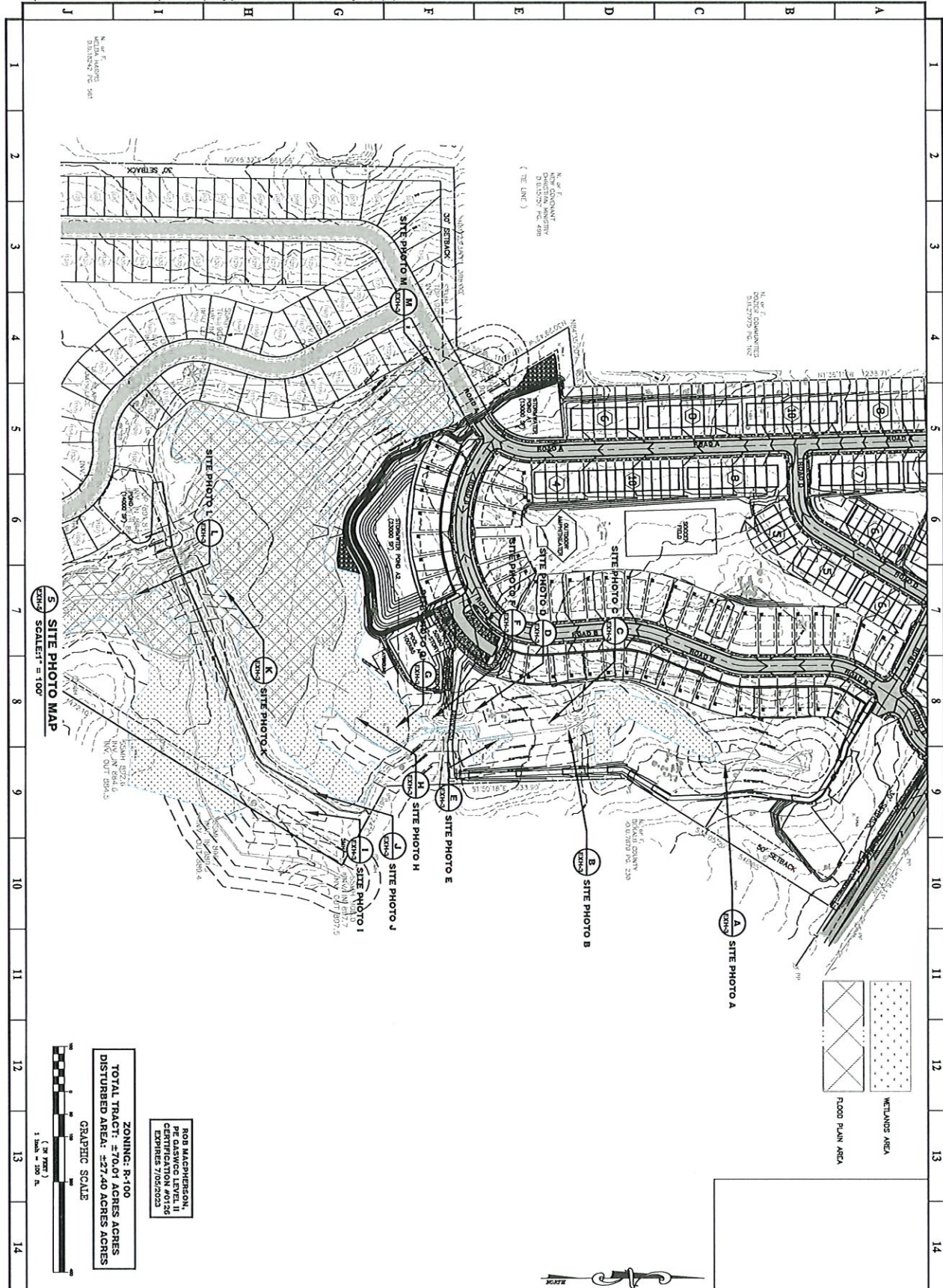


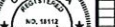
Robert MacPherson
Vice President
Prime Engineering, Inc.

Attachments:



DRAWING DATE 03/16/21		DRAWN BY TMB		DRAWING TITLE PROPOSED STREAM BUFFER ENCROACHMENT		© 2010 PRIME ENGINEERING, INC. Scale, as stated herein, are valid on the original drawing the dimensions of which are 11 by 17 inches. These scales, noted herein, are hereby changed by the ratio of the overall sheet dimensions of the original drawing. This drawing is the property of PRIME ENGINEERING, INCORPORATED and is not to be reproduced or copied in whole or in part. It is only to be used for the project and the specifically identified herein and is not to be used on any other project. It is to be returned upon request.		SEAL DATE 03/16/21		REVISIONS <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>		NO.	DATE	DESCRIPTION																PROJECT: STONECREST ESTATES PHASE I PREPARED FOR: CRAFT HOMES, LLC		PRIME ENGINEERING INCORPORATED 3715 NORTHSIDE PARKWAY NW SUITE 200 ATLANTA, GEORGIA 30317 404.415.7100	
NO.	DATE	DESCRIPTION																															
DRAWING SCALE 1" = 50'		DESIGNED BY RRM		CHECKED BY RRM		SYMBOL DESCRIPTION APPLYING SANDY LOAM, 6 TO 10 PERCENT SLOPES APPLICABLE-MEADOW COMPLEX, 2 TO 10 PERCENT SLOPES CARRYING SALT LOAM, FREQUENTLY FLOODED PLOTTET SANDY LOAM, 2 TO 10 PERCENT SLOPES PLOTTET SANDY LOAM, 10 TO 15 PERCENT SLOPES PLOTTET SANDY LOAM, 15 TO 30 PERCENT SLOPES WATERS WOODS SANDY LOAM, 2 TO 6 PERCENT SLOPES		PROJECT NUMBER EXH-1 NOT ISSUED FOR CONSTRUCTION		DRAWING NUMBER 1445-0002																							



DRAWING DATE 03/16/21	DRAWN BY TJIB	DRAWING TITLE SITE PHOTOS MAP	© 2010 PRIME ENGINEERING, INC. Scales, as stated herein, are valid on the original drawing. The dimensions of sheets are 22 by 34 inches. These scales, noted hereon, are hereby changed by the ratio of the overall sheet dimensions of the print to corresponding dimensions of the original drawing. This drawing is the property of PRIME ENGINEERING, INCORPORATED and is not to be reproduced or copied in whole or in part. It is only to be used for the project and site specifically identified herein and is not to be used on any other project. It is to be returned upon request.	SEAL	<div></div>	REVISIONS	PROJECT: STONECREST ESTATES PHASE I	<div>PRIME ENGINEERING INCORPORATED</div>		
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