

CITY OF SMYRNA COMMUNITY DEVELOPMENT MEMORANDUM

To: License and Variance Board

From: Ken Suddreth, Community Development Director
Joey Staubes, AICP, Planner II

Date: March 2, 2017

**RE: VARIANCE CASE V17-016
1836 Roswell Street – Allow encroachment into 50 ft. Undisturbed Stream Buffer
and 75 ft. Impervious Setback.**

BACKGROUND

The applicant is requesting a variance to allow encroachment into the City's 50 ft. Undisturbed Stream Buffer. The applicant is proposing a playground and nature park within the buffer. Regulations regarding stream buffers are located in Chapter 46, Article VI – Stream Buffer Protection.

ANALYSIS

The subject parcel is located to the east of Roswell Street (See Figure 1). The subject parcel is zoned RM-15 and occupied by an apartment complex. The property to the west is zoned R-15 and RM-12 and is occupied with single family residences and an apartment complex. To the east is zoned RM-12 and occupied by an apartment complex. To the south is zoned R-15 and occupied by single family residences. To the north is within Un-Incorporated Cobb County.

The applicant is requesting a variance to allow encroachment into the City's 50 ft. Undisturbed Stream Buffer. The property is 21.69 acres and consists of an apartment complex. The northeast corner as well as the southern and eastern side of the property is encumbered by stream buffers. The applicant is proposing a playground and nature park within the 50 ft. undisturbed stream buffer. The playground area consists of a typical slide, jungle gym, and swing set. The area of the playground has already been cleared and graded however the applicant proposes to install mulch as well as vegetation to restore the buffer area. The applicant states that the buffer area is the only location in which to have the playground on the subject property.

Community Development and the City Engineer have reviewed the request and have no objections. Staff believes that future additions of impervious surface in the buffer should be restricted, thus only allowing the playground area and nature park shown on the site plan and no more. Community Development believes the variance requested is the minimum variance needed in order to provide a recreation area for the residents on site. Community Development believes provided the buffer is restored with mulch and vegetation as shown on the site plan,

there should be no negative impacts to the stream or adjacent properties and recommends approval of the request.

STAFF COMMENTS

The applicant is requesting to deviate from the stream buffer regulations established in Chapter 46, Article VI. The applicant requests encroachment into the city 50 ft. undisturbed buffer and 75 ft. impervious setback. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. Community Development has reviewed the request against the variance review standards and found it to be in compliance with four (4) of the four (4) standards. At the time of this report, Community Development has not received any phone calls regarding the variance request. After a review of the standards above, Community Development believes that the encroachment will not adversely affect surrounding residents; therefore, staff recommends **approval** of the requested variance with the following conditions:

1. Approval is conditioned upon substantial compliance with the site plan and buffer restoration as submitted with the variance application.
2. No additional impervious area within the 50 ft. undisturbed buffer or 75 ft. impervious setback other than what is depicted on the site plan shall be allowed.

Figure – 1
Subject Property



Figure – 2
Subject Property



Figure – 3
Subject Property across Roswell Street



Figure – 4
Site Plan

