



**Board of Zoning Appeals Meeting
January 16, 2024**

CASE NUMBER:	V-23-0019
PROPERTY LOCATION:	6620 McGinnis Ferry Road, Johns Creek, GA 30097 11695 Medlock Bridge Road, Johns Creek, GA 30097 11695 Johns Creek Parkway, Johns Creek, GA 30097 6440 East Johns Crossing, Johns Creek, GA 30097 6470 East Johns Crossing, Johns Creek, GA 30097 6460 East Johns Creek, Johns Creek, GA 30097
CURRENT ZONING:	C-1 (Community Business District) Conditional M-1A (Industrial Park District) Conditional
PETITIONER:	City of Johns Creek
VARIANCE REQUEST:	Encroachment into the 75-foot stream buffer for stream restoration and bank stabilization project and construction of 10-foot wide greenway path
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS

Background

The stream restoration and bank stabilization project focuses on a tributary stream of Johns Creek, situated between McGinnis Ferry Road and East Johns Crossing. This portion of the creek runs through a corporate park, surrounded by hotels, corporate office buildings, and associated parking lots. Within this context, an existing walking path, integral to a larger sidewalk/multi-trail network within the Town Center area, meanders along the east bank within the corporate park. The current state of the stream reveals severe erosion and deeply incised banks. The severe bank erosion has created near vertical banks (greater than 10 feet vertically) causing adverse impacts to nearby infrastructure, notably affecting the existing 5-foot sidewalk, creating a concern for public safety and prompting the City to temporarily close it until this project is completed. For visual reference, the photos to the right, illustrates the extent of the eroded banks and highlights the necessity of the proposed stream restoration and bank stabilization project. This segment of the stream is



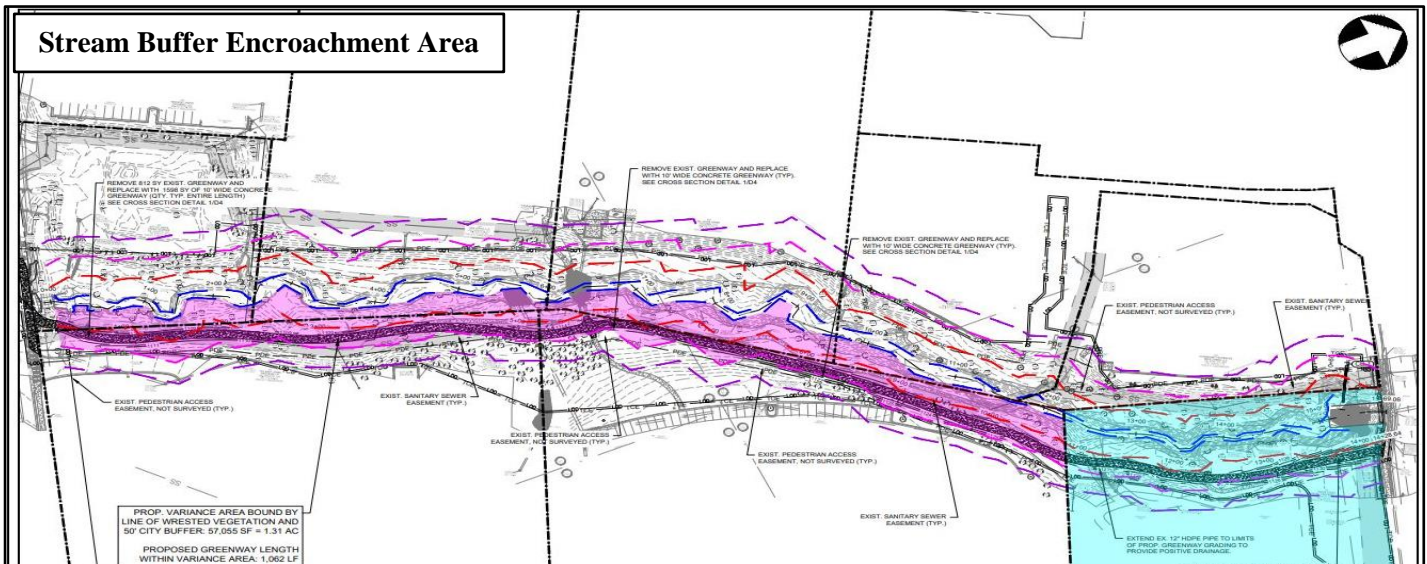
upstream of Creekside Park and this project will help to positively impact the stormwater management improvements planned for Creekside Park.

Project Description and Variance Request

As part of the stream restoration and bank stabilization project, the City of Johns Creek proposes the removal and replacement of a 5-foot sidewalk with a 10-foot wide greenway path to provide an ADA-complaint walkway that is situated farther away from the stream to protect the newly restored stream bank and preserving future public accessibility in the immediate area.



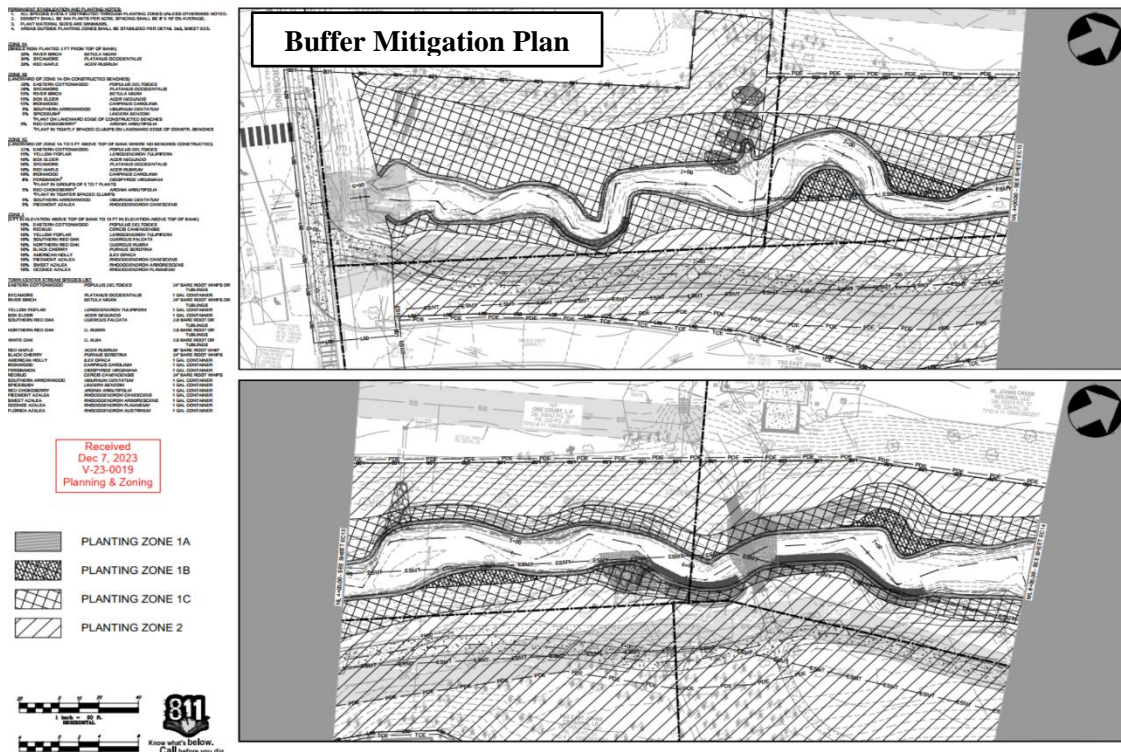
Within the City's 50-foot stream buffer, there is approximately 1,063 linear feet (5,369 square feet) of existing sidewalk. Within the City's 75-foot impervious setback, there is approximately 21 linear feet (348 square feet) of existing sidewalk. The new greenway will result in a 50-foot stream buffer encroachment of approximately 1,062 linear feet (10,464 square feet) to realign it away, further to the east, from the stream bank, and a 75-foot impervious setback encroachment of approximately 128 linear feet (286 square feet). Encroachment into the 75-foot impervious setback is limited to specific areas where it connects into the existing pedestrian access and in small sections where the path deviates further away from the stream. The total buffer disturbance, encompassing the entire stream corridor along the east bank is approximately 57,055 square feet (1.31 acres), measured from the point of wrested vegetation to the limits of disturbance required within the City's stream buffer.



As required to perform work within State waters, the City of Johns Creek submitted a stream buffer variance (BV-060-23-27) to the Georgia Environmental Protection Division (GA EPD) on November 3, 2023, and also a nationwide permit with the U.S. Army Corps of Engineers on November 13, 2023. As of December 22, 2023, the City received approval from GA EPD, while the nationwide permit is still under review with an expected review timeframe of 2-3 months.

Mitigation Plan

The City has proposed restoration activities within the 50-foot stream buffer including step-pool structures at eroding outfalls to eliminate headward erosion and bank stabilization practices, including grading banks to more stable slopes and planting native riparian forest vegetation. Bioswale areas are proposed along the east bank to capture and filter stormwater runoff before the water enters the existing stream. Per the submitted Planting Plan, the area directly impacted by this variance is identified as Zone 2, which includes extensive planting of various native vegetation within the disturbed area for installation of the greenway path. The proposed restoration activities will stabilize the eroding stream banks and protect vulnerable infrastructure from future erosion, while mitigating the disturbance associated with the removal of the existing sidewalk and construction/realignment of the new 10-foot greenway path within the City’s stream buffer.



Applicable Code Requirements

City of Johns Creek Code of Ordinances, Chapter 109: Natural Resources and Environmental Protection, Article V: Stream Buffer Protection, Section 109-118: Land Development Requirements.

(a) *Buffer and setback 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 point of wrested vegetation.
- (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.

Variance Review Criteria

Zoning Ordinance Section 22.3.1 lists the following considerations for granting a variance:

- a. Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance; **or**
- b. The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public.

Staff Analysis

The project is designed to avoid and minimize impacts to the City's stream buffer to the furthest extent practicable. Much of the work associated with the stream restoration and bank stabilization will take place within the State's 25-foot buffer. The additional disturbance required within the City's 50-foot and outer 75-foot buffer is required to ensure ample separation is provided between the stream bank and greenway path for public safety and restoration purposes. Complete avoidance of impact to the City's stream buffer is not feasible due to the nature of the project and existing elements of the built environment.

The project will help to restore the entire stream corridor from McGinnis Ferry Road to East Johns Crossing, improve aquatic resources and enhance environmental and stormwater functions from what exists today.

Staff Recommendation

Based upon the findings and conclusions herein, staff recommends **APPROVAL** of V-23-0019, **subject to the following conditions:**

- 1) The proposed development shall not exceed the following encroachments, as shown on the site plan received by the Community Development Department on December 7, 2023:
 - a. 57,055 square feet of new disturbance within the City's stream buffer.
 - b. 10,750 square feet of total impervious surface, including 5,033 square feet of net new impervious surface within the City's stream buffer.
- 2) The Applicant shall submit a mitigation plan as part of the Land Disturbance Permit. Said plan shall be consistent with the planting plan received by the Community Development Department on December 7, 2023.
- 3) The Applicant shall provide the following documents, prior to the issuance of a Land Disturbance Permit:
 - a. Written approval or acquisition of needed land and/or easements from all property owners where construction will occur, approving the scope of work on their respective sites;
 - b. Written approval of Georgia EPD stream buffer variance (BV-060-23-27); and
 - c. Written approval of U.S. Army Corps of Engineers nationwide permit (SAS-2023-00811).