

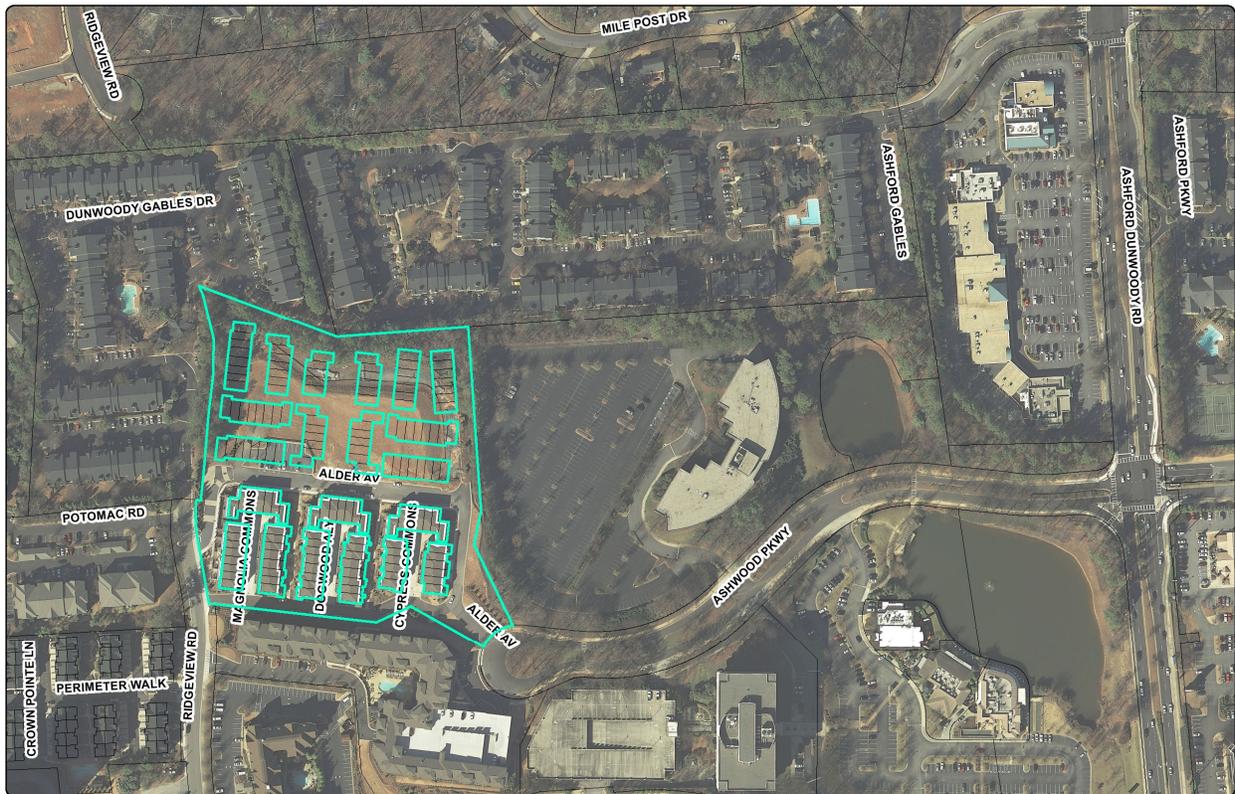
MEMORANDUM

To: Zoning Board of Appeals

From: Howard Koontz, AICP

Date: August 2, 2012

Subject: ZBA 12-081: W. Barry Dunlap, representative on behalf of Perimeter Townhomes, LLC, owner of 1166 Alder Avenue, Dunwoody, GA 30338, seeks the following: Variance from Chapter 16, Section 16-254 to encroach the stream buffer.



ITEM DESCRIPTION

This request is to reduce a 75-foot City stream buffer to 25-feet along 40' of a drainage ditch that borders the northern property line of the Gramercy Townhome property.

BACKGROUND

The site is located at the end of the Ashwood Parkway cul-de-sac, which runs west off of Ashford Dunwoody Road, south of its intersection with Mount Vernon. The property is zoned RM-HD (Multifamily Residential District), and is adjacent to RM-HD on the west and north sides. It is bordered by properties zoned OI (Office Institution District) on the south and east, and OCR (Office Commercial Residential District) to the southwest. The applicant requests Zoning Board of Appeals relief to a stream buffer to construct the second phase of a townhome development.

A stream is defined in the City of Dunwoody Code as follows:

Stream means natural, running water flowing continuously or intermittently in a channel on or below the surface of the ground, and shall include, but not be limited to, all streams depicted on the 1995 DeKalb County Geographic Information System (GIS) map maintained by the county GIS director. No stream shall be excluded from this definition due to its failure to be identified on the map. Field verification shall be performed to make a final determination as to the existence of a stream where a dispute exists. Such field verification shall be performed by the director of community development or his designee.

Stream channel means the portion of a watercourse that contains the base flow of the stream.

Streambank means a sloping land that contains a stream channel in the normal flows of the stream.

Direction	Zoning	Use	Current Land Use
N	RM-HD	Residential	Multi-family Residential
S	OI	Residential	Multi-family Residential
E	OI	Commercial	Office
W	RM-HD	Residential	Multi-family Residential

ANALYSIS

Undisturbed vegetative stream buffers provide protection for the environment in several ways. Stream buffers provide vegetative cover of the area adjacent to the stream banks. This vegetative cover acts to dissipate the energy of rainfall from eroding soil in this critical area and protects the stream banks from eroding as well as greatly reducing the resultant sedimentation. Additionally, the vegetative cover provided by the buffer acts to shade the stream channel which results in lower water temperatures. Lower water temperatures result in higher dissolved oxygen concentrations which in turn allows for greater diversity in aquatic habitat. With high water temperatures and low dissolved oxygen content, many aquatic species become distressed and die. The introduction of sediment into the stream also clogs the gills of fish further threatening their survivability.

Increased sedimentation into streams has many other significant consequences. Sedimentation of streams causes a loss of stream channel capacity which can increase flooding along the stream. Sedimentation of waterways often leads to ponds and lakes which results in a loss of lake or pond storage. The causes the reduction of flood-reduction function of the lake or pond as well as creating an aesthetic problem. Increased sedimentation of streams causes the water we use for drinking to be much more expensive to treat.

Conditions of the Zoning Ordinance

The environmental criteria enumerated for consideration are found in Chapter 16, Section 16-84(c)(3) of the Land Development and Environmental Protection ordinance. They read as follows:

In considering a request for a variance to the terms of this Article authorized in subsection (c)(1) above, the Board of Zoning Appeals shall use all of the following criteria:

- a. The request, while not strictly meeting the requirements of this chapter, will be, in the judgment of the Zoning Board of Appeals be at least as protective of natural resources and the environment as would a plan which met the strict application of these requirements. In making such a judgment, the Zoning Board of Appeals shall examine whether the request will be at least as protective of the natural resources and the environment with regard to the following factors:
 1. Stream bank or soil stabilization;
 2. Trapping of sediment in surface runoff;
 3. Removal of nutrients, heavy metals, pesticides and other pollutants from surface runoff;
 4. Terrestrial habitat, food chain, and migration corridor;
 5. Buffering of flood flows;
 6. Infiltration of surface runoff;
 7. Noise and visual buffers;

8. Downstream water quality; and
 9. Impact on threatened and endangered species, as those species are designated by law or federal or state regulation.
- b. By reason of exceptional topographic or other relevant physical conditions of the subject property that were not created by the owner or applicant, there is no opportunity for any development under any design configuration unless a variance is granted.
There are no such topographic or other physical characteristics on the site that would prevent the applicant from an alternative design consideration that would not require a variance.
- c. The request does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privileges inconsistent with the limitations upon other properties that are similarly situated.
The request does go beyond the minimum necessary to afford relief because there are other design and construction considerations that would be able to accomplish the townhome use without need for a variance.
- d. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area in which the property is located.
Staff does not see any immediate potential for the variance to be materially detrimental to the public welfare, but concern should be taken regarding regional water quality and quantity measures.
- e. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause an extreme hardship, provided the hardship was not created by the owner.
The strict application of the stream buffer would not cause an extreme hardship. The challenge of expansion on this lot is hampered by the presence of the stream and the city's requirement to remain clear of the 75-foot buffer adjacent to that stream. The property has existed up until this time without major hardship as a function of its proximity to the stream, and alternatives exist to construct the buildings without impacting the stream buffer.

RECOMMENDATION

Staff recommends the Board deny the application as discretionary, as the request does not meet all the terms of Section 16-84.

Attachments

- Location and Zoning Maps
- Application materials
- Site Plan
- Site Photos