

To: John McDonough, City Manager

From: Blake J. Dettwiler, AICP, Director of Community Development BD

Date: November 23, 2010 for submission onto the December 7, 2010 City Council meeting

Agenda Item: **V10-039 Riverside Drive (Public Right-of-Way in front of 6380, 6400, 6420, 6450 Riverside Drive)**, Primary Variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to Allow Encroachments into the Seventy-five (75) Foot Buffer and Setback Requirements

CMO (City Manager's Office) Recommendation:

APPROVAL CONDITIONAL of the request for a primary variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to allow encroachments into the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback).

Background:

For the Edgewater Trail and Riverside Drive Intersection Improvement Project (T-6010), the Public Works Department has requested a primary variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to allow encroachments into the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback).

Discussion:

T-6010 Edgewater Trail and Riverside Drive Intersection Improvement will add approximately 600 feet of sidewalk along Riverside Drive to enhance pedestrian access and safety from the Riverside Subdivision to the community center. This section of Riverside Drive is currently does not have sidewalk. There is approximately two hundred eleven (211) foot section of the project that is impacts by the required twenty-five (25) state stream buffer.

Alternatives:

The City Council could choose not to approve the variance and not allow the encroachment for this area of the intersection improvement project.



Variance Petition No. V10-039

HEARING & MEETING DATES

Mayor and City Council Hearing

December 7, 2010

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner	Representative
City of Sandy Springs	City of Sandy Springs	Public Works Department

PROPERTY INFORMATION

Address, Land Lot(s), and District	Riverside Drive (Public Right-of-Way on the west side of Edgewater Drive running north 600 feet) Land Lot 168, District 17
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Council District	3
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Frontage	Approximately 600 feet of frontage along the west side of Riverside Drive
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Existing Zoning and Use	Public Right-of-Way (unzoned)
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Overlay District	N/A
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2027 Comprehensive Future Land Use Map Designation	N/A
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INTENT

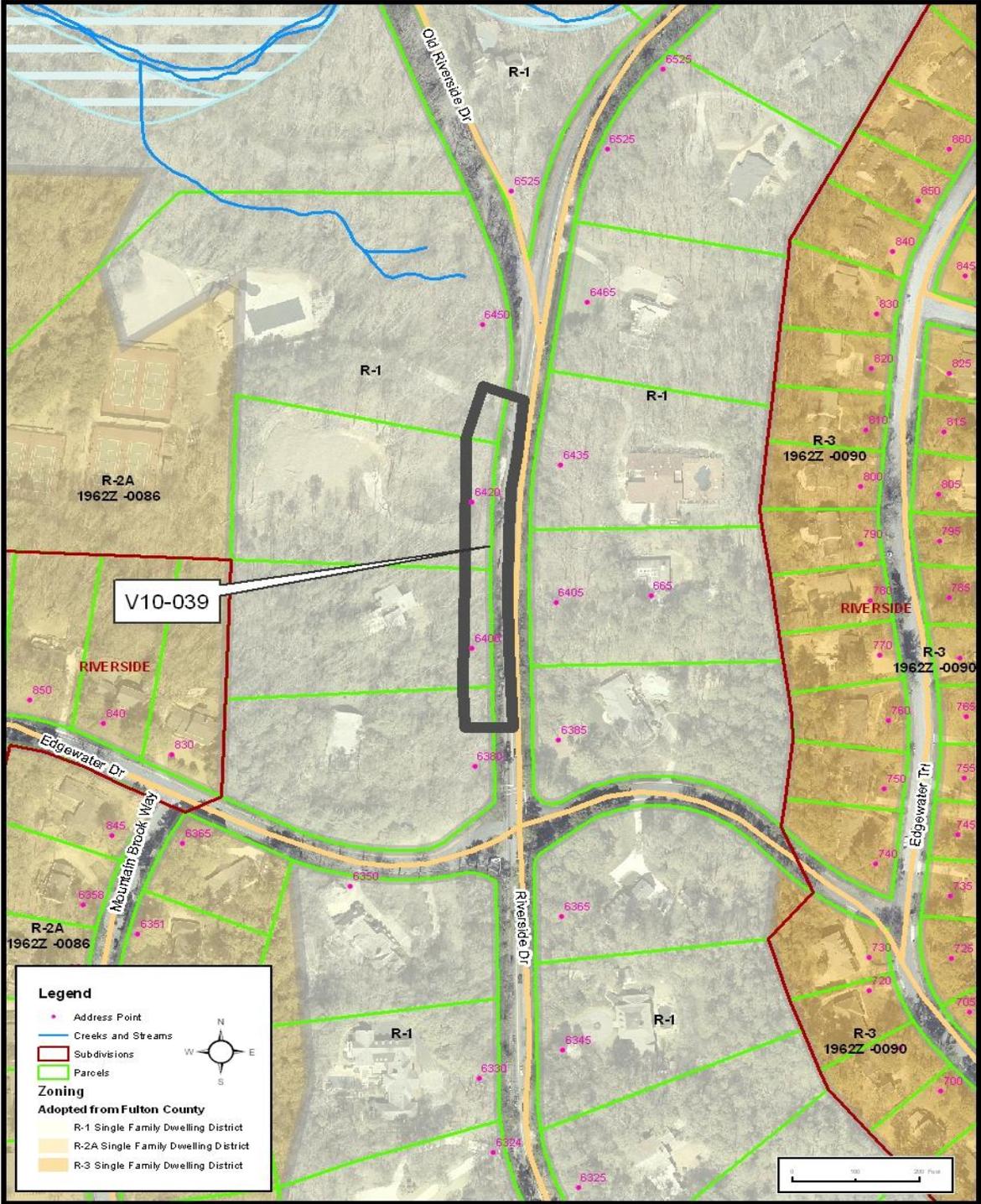
For the Edgewater Trail and Riverside Drive Intersection Improvement Project (T-6010), the Public Works Department has requested a primary variance from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to allow encroachments into the seventy-five (75) foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback).

T-6010 Edgewater Trail and Riverside Drive Intersection Improvement will add approximately 600 feet of sidewalk along Riverside Drive to enhance pedestrian access and safety from the Riverside Subdivision to the community center. This section of Riverside Drive is currently does not have sidewalk. There is approximately two hundred eleven (211) foot section of the project that is impacts by the required twenty-five (25) state stream buffer.

**DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION
V10-039 - 1) APPROVAL CONDITIONAL**

Parcel Map

Riverside Drive Sidewalk Installation



**CITY OF SANDY SPRINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
VARIANCE ANALYSIS**

Findings of Fact

The applicant is requesting variances from Section 109-225.a 1 and 2 of the Stream Buffer Protection Ordinance to reduce the 75 foot buffer and setback requirements (50 foot undisturbed natural buffer and 25 foot impervious surface setback) to zero (0) feet.

The existing roadway currently encroaches into the stream buffer. The drainage from the eastern side of Riverside Drive is piped underneath the road and the buffer begins on the west side of Riverside Drive at the headwall. Approximately, two hundred eleven (211) feet of the 600 foot sidewalk will encroach into the twenty-five (25) state stream buffer. The existing area of impervious surface in the 50 foot undisturbed natural buffer (twenty -five (25) foot City and twenty-five (25) foot State) is 8,132 square feet. The T-6010 project would add 1,860 square feet of impervious surface to this encroachment. Additionally, the project would add 1,815 square feet of impervious surface into the 25 foot impervious surface setback.

The project was reviewed by the Environmental Protection Division, Watershed Protection Branch and it was determined that the land-disturbing activities exempt from the Act and not regulated by the Local Issuing Authority (Exhibit 3)

Buffer Requirement	Current Impervious Surface	Proposed Impervious Surface	Proposed Encroachment (square feet)
25 foot state/city buffer	2,110	2,834	2,557
50 foot undisturbed natural buffer	6,022	7,158	16,477
25 foot impervious surface setback	4,810	6,625	15,282
TOTAL	12,942	17,064	17,064

The Public Works Department has provided a memorandum (Exhibit 1) detailing the project. Additionally, the department has provided a site plan (Exhibit 2) depicting the areas of existing and proposed encroachments.

Standards for Consideration

Stream Buffer Protection Ordinance

Section 109.225 of the Sandy Springs Stream Buffer Protection Ordinance provides the following:

Sec. 109-225. Land development requirements.

(b) *Variance procedures.* Variances from subsection (a) of this section may be granted in accordance with the following provisions:

(3) Variances will be considered only in the following cases:

- 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.*

Finding:

The stream buffer covers approximately four hundred forty (440) foot portion of the T-6010 project. Relief from this requirement would not be a detriment to the public as the existing roadway is currently located in the stream buffer. Staff is of the opinion that the physical conditions in the immediate area of the project prevent land development unless a buffer variance is granted. 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 this article would create an extreme hardship.*

Finding:

The stream buffer covers approximately four hundred forty (440) foot portion of the T-6010 project. The project would not be able to be completed without relief from the stream buffer requirements. Staff is of the opinion that there is an unusual circumstance when the minimum buffer requirement is strictly applied and that an extreme hardship would be created. Based on these reasons, staff is of the opinion this condition has been satisfied.

(5) 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;*

Finding:

There is approximately two hundred eleven (211) foot section of the project that is impacts by the required twenty-five (25) state stream buffer. four hundred forty (440) foot portion of the project limits falls within in the stream buffer area as shown on the site plan provided by the Public Works Department (Exhibit 2).

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

Findings:

The stream buffer covers approximately four hundred forty (440) portion of the T-6010 project as shown on the site plan provided by the Public Works Department (Exhibit 2).

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

Findings:

The proposed sidewalk will encroach two hundred eleven (211) feet into the state stream buffer. The existing area of impervious surface in the 50 foot undisturbed natural buffer (twenty -five (25) foot City and twenty-five (25) foot State) is 8,132 square feet. The T-6010 project would add 1,860 square feet of impervious surface to this encroachment. Additionally, the project would add 1,815 square feet of impervious surface into the 25 foot impervious surface setback.

d. Whether alternative designs are possible which require less intrusion or no intrusion;

Findings:

The Public Works Department has considered alternative designs and has determined the current proposal to be the safest way to enhance pedestrian access from the Riverside Subdivision to the community center due to the proximity to the existing road.

e. The long-term and construction water quality impacts of the proposed variance;

Findings:

Best Management Practice (BMP) will be required during the construction project. 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 at least as protective of the natural resources and environment as the existing site conditions.

Department Comments

The following departmental comments have been provided:

BUILDING AND DEVELOPMENT DIVISION	Sandy Springs Building Officer	<ul style="list-style-type: none"> ▪ There are no building requirements that need to be addressed at this time.
	Sandy Springs City Engineer	<ul style="list-style-type: none"> ▪ There are no Engineering comments at this time.
	Sandy Springs Chief Arborist	<ul style="list-style-type: none"> ▪ No landmark or protected trees to be removed.
FIRE DEPT.	Sandy Springs Fire Protection Engineer	<ul style="list-style-type: none"> ▪ There are no fire requirements that need to be addressed at this time.
TRANSPORTATION	Sandy Springs Transportation Planner	<ul style="list-style-type: none"> ▪ <i>See attached memorandum (Exhibit 1).</i>
	Georgia Department of Transportation	<ul style="list-style-type: none"> ▪ There are no GDOT requirements that need to be addressed at this time.

Conclusion

Staff has reviewed the request relative to the variance standards contained in Section 109.225 of the Sandy Springs Stream Buffer Protection Ordinance. Based upon this review, staff recommends **APPROVAL CONDITIONAL** of the requested variance.

Recommended Condition(s)

Should the Mayor and City Council choose to approve the request, staff recommends the following condition(s):

- 1) To the following stream buffer encroachments as shown on the site plan received by the Department of Community Development on October 26, 2010:

Buffer	Area of Encroachment (square feet)
25 foot state/city buffer	2,557
50 foot undisturbed natural buffer	16,477
25 foot impervious surface setback	15,282
TOTAL	17,064

ATTACHMENTS:

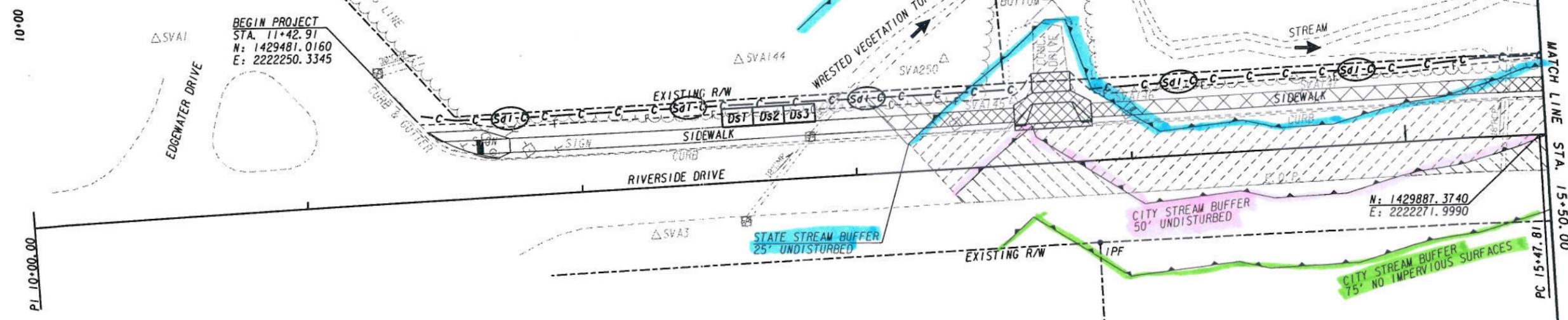
Exhibit 1 – Memorandum from the Public Works Department dated received October 26, 2010

Exhibit 2 – Site Plan dated received October 26, 2010

Exhibit 3 – Memorandum from Environmental Protection Division, Watershed Protection Branch

Photographs of Project Area dated received November 22, 2010

	AMOUNT OF STATE BUFFER TO BE DISTURBED BY CONSTRUCTION - 2557 SQ. FT. TOTAL LENGTH OF DISTURBANCE - 211 FT. AMOUNT OF IMPERVIOUS AREA TO BE ADDED IN THE STATE BUFFER - 724 SQ. FT.
	TOTAL AREA OF PROJECT IN THE CITY UNDISTURBED 50' BUFFER - 16477 SQ. FT. EXISTING IMPERVIOUS AREA IN THE CITY UNDISTURBED 50' BUFFER - 6022 SQ. FT. NEW IMPERVIOUS AREA IN THE CITY UNDISTURBED 50' BUFFER - 1136 SQ. FT. % NEW IMPERVIOUS SURFACE - 6.9%
	TOTAL AREA OF PROJECT IN THE CITY NO IMPERVIOUS SURFACES 75' BUFFER - 15282 SQ. FT. EXISTING IMPERVIOUS AREA IN THE CITY NO IMPERVIOUS SURFACES 75' BUFFER - 4810 SQ. FT. NEW IMPERVIOUS AREA IN THE CITY NO IMPERVIOUS SURFACES 75' BUFFER - 1815 SQ. FT. % NEW IMPERVIOUS SURFACE - 11.9%



LEGEND

- CUT LIMITS
- FILL LIMITS
- STREAM BUFFER
- SILT FENCE, TYPE C
- NEW SIDEWALK
- NEW ADA RAMP

RECEIVED

OCT 26 2010

City of Sandy Springs
Community Development

V10-039

POINT	NORTH	EAST	ELEV.	DESC.
1	1429387.788	2222215.470	942.138	NAIL
3	1453137.52100	2245857.30000	935.073	NAIL
144	1429599.292	2222232.947	934.543	NAIL
145	1429698.114	2222251.644	929.024	NAIL
146	1429751.310	2222248.815	926.671	NAIL
147	1429800.158	2222247.727	923.928	NAIL
250	1429673.981	2222235.658	931.356	NAIL
323	1429861.861	2222216.808	912.798	NAIL

REVISION DATES

CITY OF SANDY SPRINGS
PUBLIC WORKS

BUFFER ENCROACHMENT PLAN

RIVERSIDE DRIVE
SIDEWALK PROJECT

DRAWING No.
1 OF 2

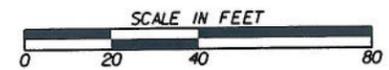
PLANS PREPARED AND SUBMITTED BY:

AEI
AMERICAN ENGINEERS, INC.
DESIGN CONSULTANT

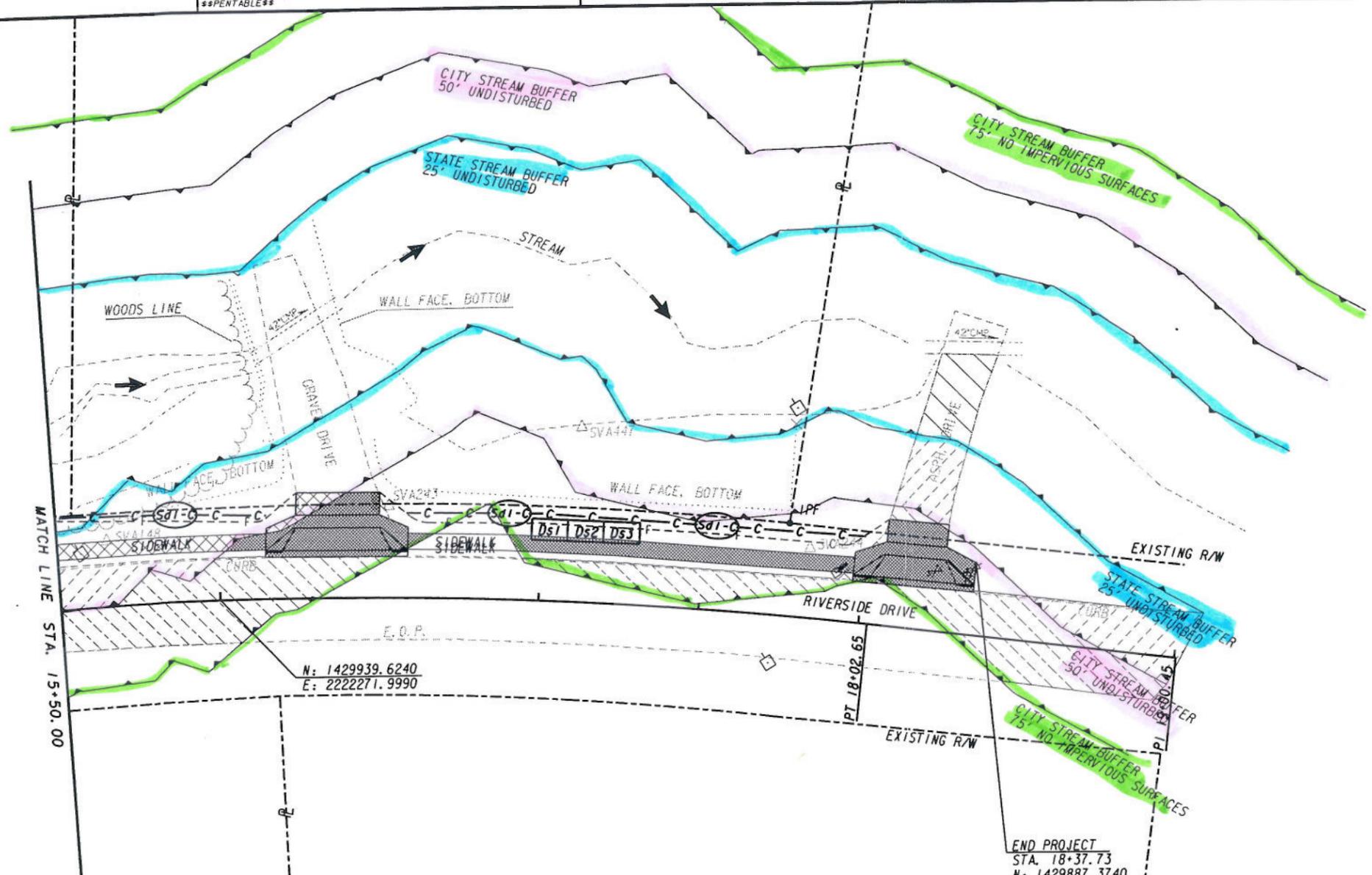
© 55 Aberdeen Drive
Sandy Springs, GA 30056
(770) 651-7220

© 2500 Nelson Mill Parkway
Louisville, KY 40223
(502) 245-1813

© 234 White Circle, Suite 100
Marietta, GA 30066
(770) 421-8422



DATE: 7/16/2010
 USER: [unclear]



LEGEND

---C---	CUT LIMITS
---F---	FILL LIMITS
———	STREAM BUFFER
-c-c-(Sd1-C)-c-	SILT FENCE, TYPE C
=====	NEW SIDEWALK
=====	NEW ADA RAMP

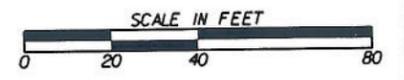
POINT	NORTH	EAST	ELEV.	DESC.
148	1429904.955	2222251.308	916.525	NAIL
243	1429993.384	2222245.826	909.600	NAIL
244	1430125.086	2222265.142	898.426	NAIL
447	1430056.103	2222224.066	904.666	NAIL

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RECEIVED
 OCT 26 2010
 City of Sandy Springs
 Community Development

PLANS PREPARED AND SUBMITTED BY:

 AMERICAN ENGINEERS, INC.
 PROFESSIONAL ENGINEERING



NO.	DATE	DESCRIPTION

CITY OF SANDY SPRINGS
 PUBLIC WORKS

BUFFER ENCROACHMENT PLAN

RIVERSIDE DRIVE
 SIDEWALK PROJECT

DRAWING No.
1 OF 2

Date: October 26, 2010

RE: City of Sandy Springs CIP Project T-6010-16 Variance Request

Mayor and City Council

This letter and attached application for The City of Sandy Springs is a locally funded Capital Improvement Project at the intersection of Edgewater Trail and Riverside Drive. The T-6010-16 Project includes crosswalk improvements at the intersection of Edgewater Trail / Riverside Drive and sidewalk on the west side of Riverside Dr. The total distance will not exceed 600ft, 211ft of which, is along a State Buffer. This section of sidewalk falls in the buffer of a drainage area that flows along the west side of Riverside Dr. and flows into Cole wood Creek. Details of the project and the location of this drainage swell can be seen in the attached construction plan sheets. The attachments to this letter also include a letter from EPD which states that they have no objection to this project

The Department of Public Works Capital Improvements section is requesting a variance in the twenty five foot stream buffer. We appreciate the stream buffer and its importance for the City. As you can see on the attached plans, the proximity to the existing roadway prohibited us from a total avoidance. Portions of the existing road are currently in the stream buffer. The only proposed design elements in the buffer is the 5ft sidewalk.

Please review the attached information, application and checklist items.

Thank you.


William H. Martin, Jr
Capital Improvements Director
City of Sandy Springs
7840 Roswell Road, Building 500
Sandy Springs, GA 30350
Marty.Martin@sandyspringsga.org

cc: Thomas Black, Public Works Director
Jean Shepherd, EPD

RECEIVED

OCT. 26 2010

City of Sandy Springs
Community Development

V10-039

Georgia Department of N

Environmental Protection Divisi
4220 International Parkway, S

Linda MacGregor, F.E., Branch Chief
404/675-6232

EXHIBIT

3

Reply To:
NonPoint Source Program
404/675-6240
FAX: 404/675-6245

October 12, 2010

Mr. William Martin Jr.
Capital Improvements Director
City of Sandy Springs
7840 Roswell Road
Building 500
Sandy Springs, Georgia

Re: Riverside Drive Sidewalk Project
City of Sandy Springs
File: BV-060-10-19

Dear Mr. Martin:

The Georgia Environmental Protection Division is in receipt of your application for a stream buffer encroachment for sidewalk improvements at the intersection of Riverside Drive and Edgewater Trail. Attached is a copy of the letter sent to the City of Sandy Springs on September 15, 2010 exempting sidewalk projects from the Erosion and Sedimentation Act of 1975, as amended.

EPD therefore considers the above-mentioned project file closed, and no further documentation is required. If you have any questions concerning this letter, please contact me at (404) 675-6240.

Sincerely,



Peggy Chambers
Environmental Specialist
Erosion and Sedimentation Control Unit

PC:kj
Attachment

cc: Blake Dettwiler

Georgia Department of Natural Resources

Environmental Protection Division, Watershed Protection Branch
4220 International Parkway, Suite 101, Atlanta, Georgia 30354
Linda MacGregor, P.E., Branch Chief
404/675-6232

Reply To:
NonPoint Source Program
404/675-6240
FAX: 404/675-6245

September 15, 2010

MEMORANDUM

TO: Local Issuing Authorities and Other Interested Parties

FROM: Linda MacGregor, P.E., Branch Chief 
EPD Watershed Protection Branch

SUBJECT: Georgia Erosion and Sedimentation Act Exemptions

The intent of this memorandum is to clarify the following exemptions of the Georgia Erosion and Sedimentation Act (O.C.G.A. § 12-7-17) and the requirements of the NPDES General Permits for Storm Water Discharges Associated with Construction Activity for land-disturbing activities not regulated by a certified Local Issuing Authority.

Land-disturbing activities exempt from the Act and not regulated by a certified Local Issuing Authority include, *but are not limited to*:

- Construction and/or maintenance projects undertaken and/or financed in whole or in part by the Department of Transportation, the Georgia Highway Authority or the State Road and Tollway Authority (O.C.G.A. § 12-7-17(9)); and
- Road construction and/or road maintenance projects (including sidewalks, bike routes and multi-use paths and trails) undertaken by any county or municipality (O.C.G.A. § 12-7-17(9)).

However, coverage under *NPDES General Permits for Storm Water Discharges Associated with Construction Activity* is required for these projects if land-disturbing activities are equal to or greater than one (1) acre. For projects where there is no certified Local Issuing Authority regulating that project, a single copy of the Erosion, Sedimentation and Pollution Control Plan (Plan) must be submitted to the EPD Watershed Protection Branch:

EPD Watershed Protection Branch
ATTN: Jan Sammons
4220 International Pkwy, Suite 101
Atlanta, GA 30354

The EPD Watershed Protection Branch will review these Plans for deficiencies using the applicable Erosion, Sedimentation Pollution Control Plan Checklist (including the identification of State Waters and State-mandated buffers).

A second copy of these Plans must be submitted to the appropriate EPD District Office. Copies of the Plans must be submitted prior to or concurrent with the Notice of Intent submittal. ***The EPD is responsible for conducting complaint investigations and initiating any enforcement actions for all projects exempt from the Act and not regulated by a certified Local Issuing Authority.***

In addition, when submitting an initial Notice of Intent for land-disturbing activities not regulated by a certified Local Issuing Authority, the Primary Permittee must pay a fee of **\$80 per acre disturbed** (to the nearest 1/10th acre) to the EPD. The NPDES General Permit forms are located on the EPD website, www.gaepd.org.

If additional information is required, please contact Frank Carubba or Catherine Samay with the EPD Watershed Protection Branch at (404) 675-6240.

LM:fmc

cc: Brent L. Dykes, Georgia Soil and Water Conservation Commission
Lauren Zdunczyk, Georgia Soil and Water Conservation Commission
Keith Gilmer, Georgia Soil and Water Conservation Commission, Region 1
Robert Amos, Georgia Soil and Water Conservation Commission, Region 2
Russell Tanning, Georgia Soil and Water Conservation Commission, Region 3
Keegan Malone, Georgia Soil and Water Conservation Commission, Region 4
Ben Mosley, Georgia Soil and Water Conservation Commission, Region 5
Rahn Milligan, Georgia Soil and Water Conservation Commission, Region 6