



***Board of Zoning Appeals Public Hearing
September 20, 2016 — 7:00 P.M***

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| CASE NUMBER: | V-16-020 |
| PROPERTY LOCATION: | 690 Saint Regis Lane Johns Creek, GA 30022 1st District, 2nd Section Land Lot 818 |
| CURRENT ZONING: | R-4A (Single Family Dwelling District) Conditional |
| PARCEL SIZE: | 0.46 acres |
| PROPERTY OWNER(S): | Don Reichardt |
| STAFF RECOMMENDATION: | Approval with Conditions |

REQUEST

The subject property located at 690 Saint Regis Lane includes an existing 3,605 square foot single-family residence constructed in 2000. The applicant is requesting a stream buffer variance to allow for the construction of a screen porch and deck in the 75-foot no impervious surface setback. The applicant seeks to construct a 12' x 16' screen porch and a 12' x 26' open deck. The applicant intends to replace the existing deteriorating 192-square foot open deck with the 192-square foot screen porch and then construct a new 273-square foot open deck. The site plan submitted on August 10, 2016 shows the entire 192-square foot screened porch located in the 75-foot no impervious surface setback, while only 77-square feet of the proposed 273-square foot rear deck is located in the 75-foot no impervious surface setback. The total encroachment equals 267-square feet.

The existing deck and stairs are located on the west side of the rear elevation. The new proposed screen porch will be constructed of tongue and groove kiln dried pine floorboards, insect mesh screen, gable style roof, gutter and downspouts. The rails around the perimeter of the screen porch will be aluminum balusters. The new proposed open deck will be constructed of pressure treated pine wood deck boards and pine wood stairs with aluminum baluster rails surrounding the perimeter of the porch.

There will be no encroachment into the 50-foot undisturbed buffer or 25-foot state undisturbed buffer.

BACKGROUND

The subject property is located at 690 Saint Regis Lane, lot number 15 of the Saint Regis subdivision. The lot was originally platted by Fulton County and shows a creek near the rear property line without a buffer line. Even though the creek was not given a buffer, the plat also showed an existing lake to the north of the property having a "25-foot state water buffer." This would imply that all bodies of water have the "25-foot state water buffer." The final plat for the Chartwell subdivision, which is to the east of the applicant's property, shows the same creek with a "25-foot state water buffer." The rear yard topography of 690 Saint Regis Lane has a steep grade trajectory towards the stream located in the rear portion of the lot. The stream has a state 25-foot undisturbed buffer, a city 50-foot undisturbed buffer and a 75-foot no impervious surface setback on both sides

of the stream. Portions of the existing house, existing deck and stairs are encroaching into the 75' no impervious surface setback.

ADJACENT ZONING AND LAND USES

Adjacent properties to the north, south and west are zoned R-4A Conditional pursuant to Fulton County zoning case Z-96-089 and are in the Saint Regis subdivision as well. The property to the east of the applicant is zoned CUP (Community Planned Unit) conditional pursuant to Fulton County zoning case Z-97-070 and is located in the Chartwell subdivision (Unit 5).

APPLICABLE CODE REQUIREMENTS

City Code; Chapter 109: Natural Resources & Environmental Protection; Article V: Stream Buffer Protection: Section 109-118: Land Development Requirements.

- (i) 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 wretched vegetation.
- (ii) 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 CONSIDERATIONS

Staff is including the specific conditions that must be considered for a variance to be granted in an effort to assist the Board of Zoning Appeals in considering the application and its merits. These considerations include:

- (i) When a property's shape, topography or other physical conditions existing at the time of the adoption of this ordinance prevents land development unless a buffer variance is granted.
- (ii) Unusual circumstances when strict adherence to the minimal buffer requirements in the ordinance would create an extreme hardship.

ADDITIONAL STREAM BUFFER CONSIDERATIONS

Stream buffers are the areas of land immediately adjacent to the banks of state waters which facilitate the protection of water quality and aquatic habitat. Buffers also preserve green space, improve aesthetics, reduce stormwater runoff velocities, help control flooding, and keep stream water cool by providing shade. These buffers must remain undisturbed in their natural state during and after construction, however variances can be obtained that allow for encroachment under certain conditions. Stream buffers are regulated on both the state and local levels and each agency has different rules regarding buffer widths. The Georgia Environmental Protection Division (EPD) requires 25 foot buffers on both sides of a stream, measured from the point of wretched vegetation which is usually located at the tops of the banks. The City of Johns Creek requires an undisturbed buffer of 50 feet with an additional 25 feet where all impervious surfaces are prohibited. Variance applications may be granted on a case by case basis provided the applicant submit information showing the location of the stream, the extent of encroachment, and documentation of the unusual hardship should the buffer be maintained. These variance applications must also provide mitigation measures to offset the impacts of land

development or disturbance on the proposed property. Although allowed by ordinance, granting of stream buffer variances should be kept to a practicable minimum in order to preserve water quality and minimize flood risks from future, upstream development. The location and extent of buffer encroachment, long term water quality impacts, and potential, less intrusive alternate designs are all factors to be considered in determining whether to issue a variance. Stream Buffer Variances granted by the City of Johns Creek are subject to annual audits by the Metropolitan North Georgia Water Planning District and the EPD. The City must ensure that consistency and thorough examination to long term impacts are considered in order to justify granting variances.

STAFF RECOMMENDATION

The property's topography prevents reconstruction of the existing deck area into an enclosed porch unless a buffer variance is granted since the existing deck is located within the 75-foot no impervious surface setback. The placement of the proposed new deck adjacent to the porch is constrained by the steep slopes at the rear of the home and therefore, anywhere else on the rear of the property would be infeasible.

The final plat on record at the City of Johns Creek illustrates that under the original plat, the screen porch and deck could have been completed without the need for a stream buffer variance. The Department would note that the applicant has submitted a replanting plan to mitigate the proposed 269-square-foot intrusion into the stream buffer with a small tree, an assortment of shrubs, and groundcover. It appears that this plan meets the stream buffer mitigation that is required.

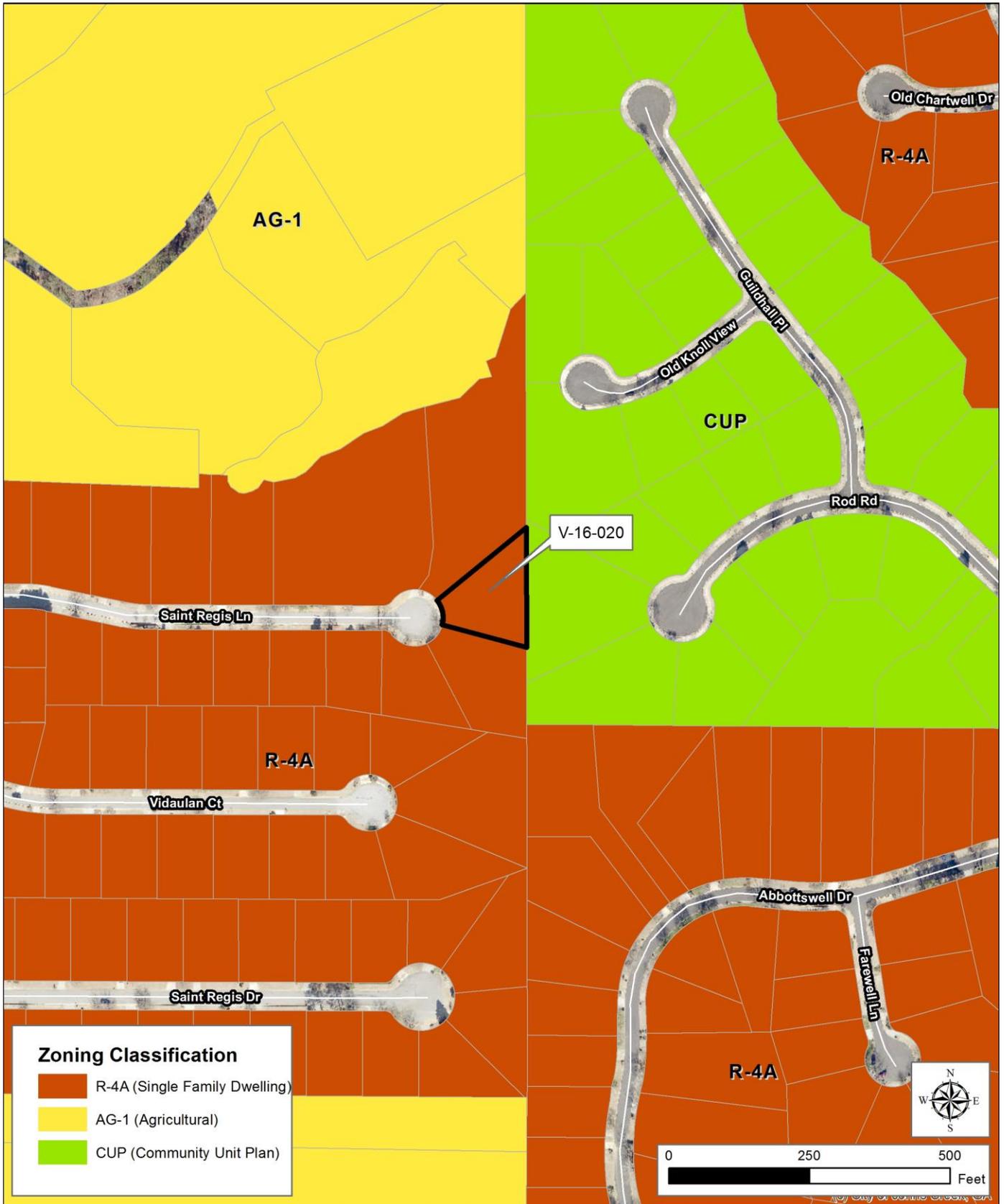
In light of the fact that that subject property had the ability to implement the proposed improvement on the lot without a variance based on the original final plat, the topography of the lot, and the applicant's agreement to implement an adequate mitigation plan; the Department of Community and Development recommends **APPROVAL WITH CONDITIONS** of this request.

RECOMMENDED CONDITIONS

Based upon the findings and conclusions herein, Staff recommends **APPROVAL WITH CONDITIONS** of this request, subject to the following conditions of approval:

1. The proposed screen porch and deck shall be limited to no more than 269-square feet of new impervious surface within the 75-foot no impervious setback, as shown on the site plan submitted to the Community Development Department on August 10, 2016.
2. Obtain required building permits from the City of Johns Creek Community Development Department.
3. The applicant is required, prior to issuance of a certificate of completion, to replant vegetation on the subject property to offset any adverse impact associated with the additional disturbance/impervious surface closer to the stream. Replanting of vegetation shall be consistent with the submitted mitigation plan dated September 9, 2016 or an alternative plan approved by the City Arborist.

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