

City of Sugar Hill  
Planning Staff Report  
**VAR-24-001**

DATE: March 27, 2024  
TO: Mayor and City Council  
FROM: Planning Director  
SUBJECT: Stream Buffer Variance Request, VAR-24-001.

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REQUEST Applicant 30AIP Sugar Hill, LLC is seeking a stream buffer variance to allow disturbance and construction within the 50-foot undisturbed stream buffer and the 75-foot impervious surface setback.

**RECOMMENDED ACTION:**

Approval of the stream buffer variance with condition that on-site mitigation is accomplished in accordance with the procedures provided in the Gwinnett County Storm Water Design Manual prior to receiving a land disturbance permit.

**DISCUSSION**

- Site is proposed for development to construct a 2,325 square foot restaurant with drive-thru lane (for mobile pick-up orders only) and inter-parcel access to the adjacent Zaxby's restaurant (west) and proposed bank facility (east).
- Improvements proposed within the 50' stream buffer include paving for a drive-thru pickup lane, parking, enclosed dumpsters, and a retaining wall.
- Improvements proposed within the 75' impervious setback include paving for driveways, the remainder of the enclosed dumpster area, the primary restaurant structure, and exterior sidewalk paving.
- Applicant has also applied for a variance from Georgia Environmental Protection Division for a portion of the state buffer and filed for a nationwide permit with US Army Corp of Engineers.
- A variable width zoning buffer in accordance with AX-07-010 along the southern property line adjacent to residential uses.

**BACKGROUND**

APPLICANT: 30AIP Sugar Hill, LLC c/o Robert McCann  
OWNER: Bruce D. Duncan  
EXISTING ZONING: General Business District (BG)  
REQUEST: Stream buffer variance to disturb and construct improvements within the 50' stream buffer and 75' impervious surface setback.

PROPERTY SIZE: ± 0.738 acres

LOCATION: 5962 Cumming Highway

Parcel: R7-339-017

## FINDINGS OF FACT

The subject property accesses Highway 20 via interparcel access through adjacent properties. The property is currently developed with an 840 square foot single family residence constructed in the 1980's. A stream with associated state and city buffers is currently located adjacent to the rear property line and encroaches approximately 93 feet into the property. Proposed storm water management improvements include an underground detention facility located beneath the proposed parking lot. A water quality outlet is proposed to feed into the existing stream, which is bounded by a modular block retaining wall. Storm water management facilities are exempt from the city's stream buffer requirements. Current storm water facility design requirements and mitigation requirements are intended to provide benefits related to water quality which are like benefits provided by stream buffers.

Additionally, under Section 4.2.2.5 of the Sugar Hill Stream Buffer Protection Ordinance, a variance may be considered if the buffer intrusion is mitigated using the procedure established in the Gwinnett County Storm Water Design Manual.

The on-site mitigation procedures are fairly involved but allow flexibility in the application of the ordinance provided sufficient mitigation credits can be obtained on the subject property. It should be noted that the mitigation procedures require a conservation easement to protect the property in perpetuity.

“The amount and type of on-site mitigation does not have to be determined at the time of the [Stream Buffer Protection Ordinance] application. The applicant can identify areas of mitigation if the applicant so desires. On-site mitigation can be determined after a [Stream Buffer Protection Ordinance] variance is granted. (Gwinnett County Stormwater Design Manual - Section 9.5.2)”



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February 19, 2024

Mr. Kaipo Awana  
Planning and Development Department Director  
City of Sugar Hill  
5039 West Broad Street  
Sugar Hill, Georgia 30518

Re: Letter of Intent  
Stream Buffer Protection Variance Application  
5962 Cumming Highway, Parcel No. 7339 017  
Sugar Hill, Georgia 30518

Dear Mr. Awana,

Please accept the attached Stream Buffer Protection Variance Application package for the proposed retail/restaurant project located at 5962 Cumming Highway (Parcel No. 7339-017) in Sugar Hill, Georgia. The proposed use of the project is a quick serve restaurant. The variance requested is to encroach into the 50 foot undisturbed buffer and the additional 25 foot impervious buffer per Section 4.1.1 and 4.1.2 of the City of Sugar Hill's Stream Buffer Protection Ordinance.

An aquatic resources and state waters delineation was performed on the parcel by Contour Environmental in October 2023. The project area was found to contain 0.001 acres of wetlands and 93.33 linear feet of intermittent stream. The proposed development will include the construction of a quick serve restaurant with drive thru, parking, and associated utilities. Due to the shape of the property and topography, the city's 50 foot undisturbed buffer and additional 25 foot impervious buffer would render the site undevelopable for the proposed retail/restaurant project and impossible to provide an inter-parcel access and connectivity from the proposed project to the adjacent parcels along Cumming Highway. The 50 foot undisturbed buffer comprises 34% of the entire parcel area. When the additional 25 foot impervious buffer is added to the undisturbed buffer, the total buffer area is 54% of the entire parcel area. Additionally, the existing topography on the site hinders development because the topography slopes steadily away from the Cumming Highway road frontage and includes a total elevation fall of more than 20 feet from the front to the rear of the property.

The proposed site and grading plans have been designed to minimize the impact on the stream buffers as much as possible. In fact, the proposed design includes a retaining wall along the rear of the site to eliminate any impact to the existing stream and wetlands areas. Unfortunately, the proposed development will encroach into the city's buffers. Accordingly, we have also submitted a variance application to the Georgia Environmental Protection Division to encroach into a portion of the state's 25 foot stream buffer. The project's stormwater management plan will be designed to comply with the Gwinnett County Stormwater Design Manual.

Mr. Kaipo Awana  
February, 19, 2024  
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Based on the fact that we have designed the proposed project to eliminate any impacts to the existing intermittent stream and wetlands areas, and the fact that the proposed project would be undevelopable without a variance to encroach into city's buffers, we respectfully request your consideration and approval of the attached Stream Buffer Protection Variance Application. Thank you for your time and attention to this request. If you have any questions, please contact me at (770) 491-7550 or [bmccann@hainesgipson.com](mailto:bmccann@hainesgipson.com).

Very truly yours,  
**HAINES, GIPSON & ASSOCIATES, INC.**



Robert A. McCann, P.E.  
Principal

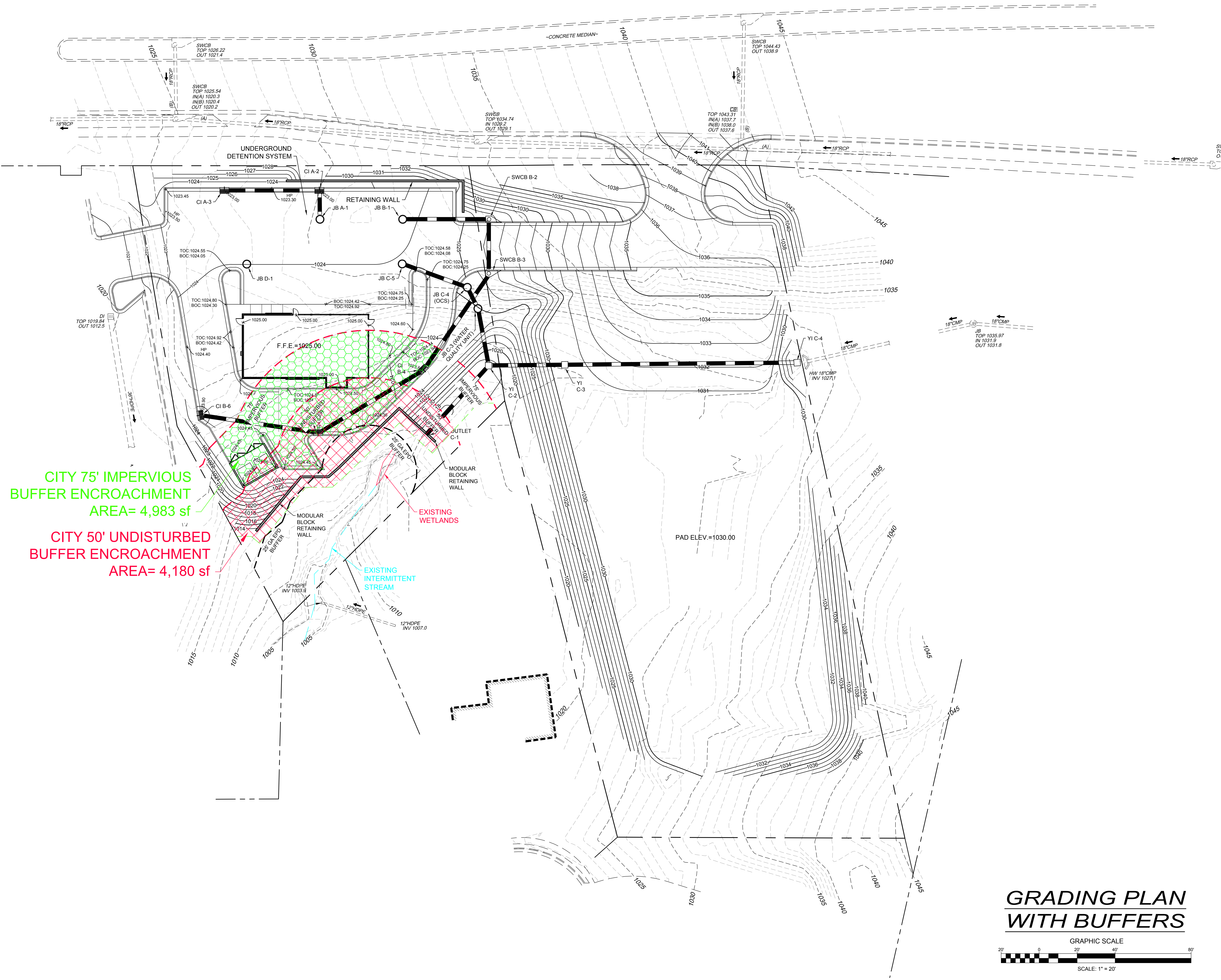
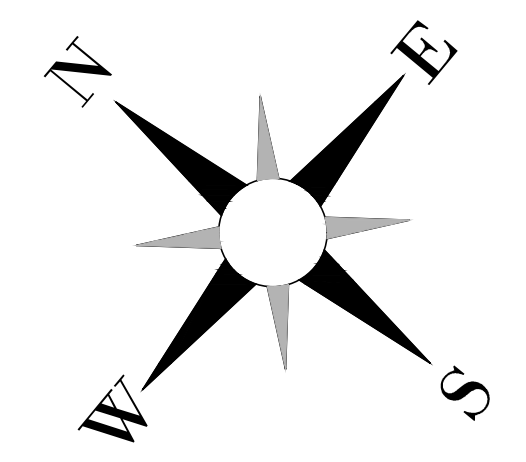
LEGEND	
PROPERTY LINES	---
EXISTING FEATURES	---
EXISTING CONTOUR ELEVATION	(1160) ---
EXISTING CONTOUR LINE	---
EXISTING STORM SEWER	---
PROPOSED FEATURES	---
PROPOSED BUILDING	---
PROPOSED CONTOUR ELEVATION	740 ---
PROPOSED SPOT ELEVATION	+740.50 ---
PROPOSED DIRECTION OF FLOW	↗
PROPOSED STORM SEWER	---
PROPOSED CURB INLET	⊠
PROPOSED DROP INLET	⊡
PROPOSED JUNCTION BOX	⊙

ALL CONSTRUCTION ON SITE MUST COMPLY WITH THE CONCLUSIONS AND RECOMMENDATIONS IN THE GEOTECHNICAL REPORT AND ADDITIONAL GEOTECHNICAL INVESTIGATION LETTERS PREPARED SPECIFICALLY FOR THIS SITE.

THE GRADES SHOWN ON THIS PLAN REPRESENT FINISHED GRADE. THE CONTRACTOR SHALL ALLOW FOR THE THICKNESS OF THE PAVEMENTS AND THE FLOOR SLABS WHEN FINISH GRADING THE SITE.

NOTE: CUT OR FILL SLOPES SHOULD NOT BE STEEPER THAN 2.0H : 1.0V.

**CITY OF SUGAR HILL STREAM BUFFER IMPACTS:**  
 WETLANDS IMPACTS: 0 sf  
 INTERMITTENT STREAM IMPACTS: 0 sf  
 50' UNDISTURBED BUFFER AREA ENCROACHMENT: 4,180 sf  
 75' IMPERVIOUS BUFFER AREA ENCROACHMENT: 4,983 sf



**CITY 75' IMPERVIOUS BUFFER ENCROACHMENT AREA= 4,983 sf**

**CITY 50' UNDISTURBED BUFFER ENCROACHMENT AREA= 4,180 sf**

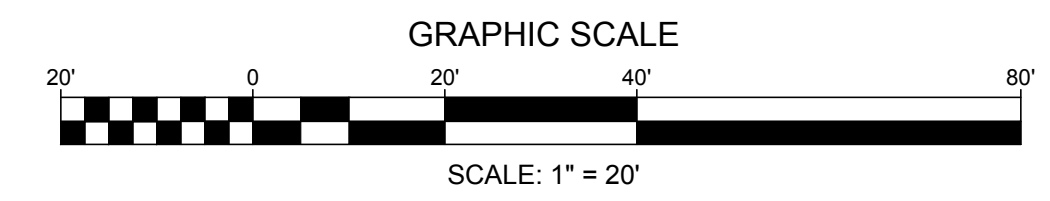


Know what's below.  
 Call before you dig.  
 Dial 811  
 Or Call 800-282-7411

THE LOCATION OF ALL UTILITIES (ABOVE OR BELOW GROUND) SHOWN ON THESE DRAWINGS ARE APPROXIMATE & WERE OBTAINED FROM OBSERVATIONS AT THE SITE AND/OR FROM THE UTILITY OWNERS. HAINES, GIPSON & ASSOC., INC., DOES NOT GUARANTEE THAT LOCATIONS SHOWN ARE EXACT. IT SHALL BE THE RESPONSIBILITY OF THE OWNER OF THE PROPERTY OR HIS AGENT AND/OR THE CONTRACTOR TO DETERMINE EXACT LOCATIONS OF EXISTING UTILITIES (ABOVE OR BELOW GROUND) & TO NOTIFY UTILITY OWNERS BEFORE BEGINNING ANY CONSTRUCTION.

**CAUTION-NOTE TO CONTRACTOR**  
 THE CONTRACTOR IS SPECIFICALLY CAUTIONED THAT THE LOCATION AND/OR ELEVATION OF EXISTING UTILITIES AS SHOWN ON THESE PLANS IS BASED ON RECORDS OF THE VARIOUS UTILITY COMPANIES AND, WHERE POSSIBLE, MEASUREMENTS TAKEN IN THE FIELD. THE INFORMATION IS NOT TO BE RELIED ON AS BEING EXACT OR COMPLETE. GA. LAW REQUIRES THE CONTRACTOR TO CALL THE UTILITY PROTECTION CENTER AT LEAST 48 HOURS (BUT NO MORE THAN 10 WORKING DAYS) BEFORE ANY EXCAVATION TO REQUEST FIELD LOCATION OF UTILITIES. LOCATE SERVICES SHALL INCLUDE TRAFFIC SIGNAL AND FIBER OPTIC EQUIPMENT. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO COORDINATE THE RELOCATION OF ALL THE UTILITIES WHICH CONFLICT WITH THE PROPOSED IMPROVEMENTS SHOWN ON THE PLANS.

**GRADING PLAN WITH BUFFERS**



**SOUTHEASTERN RETAIL DEVELOPMENT**

**SUGAR HILL RETAIL SITE**  
 5952 AND 5962 CUMMING HIGHWAY  
 LAND LOT 339, 7th DISTRICT  
 SUGAR HILL, GEORGIA

NO.	BY	DATE	DESCRIPTION

DRAWN BY	CHECKED BY
RAM	RCL
DATE	2/1/2024
SHEET TITLE	GRADING PLAN W/BUFFERS
SHEET NUMBER	C3.2