



**Jeffrey W. Cown, Director**

**EPD Director's Office**

2 Martin Luther King, Jr. Drive  
Suite 1456, East Tower  
Atlanta, Georgia 30334  
404-656-4713

Nov 29, 2023

Jim Byrne  
Marist School  
3790 Ashford Dunwoody Road NE  
Brookhaven, GA 30319

RE: Request for Variance under the Provisions of O.C.G.A. § 12-7-6(b)(15)  
Nancy Creek Stabilization  
Brookhaven, DeKalb County  
File: BV-044-23-14

Dear Mr. Jim Byrne:

The Georgia Environmental Protection Division (EPD) has reviewed your stream buffer variance application for the above-referenced project. The review was conducted to consider the potential impacts of the proposed project's encroachment on buffers to State waters within the context of the Georgia Erosion and Sedimentation Act and the potential impact to State waters within the context of Georgia's National Pollutant Discharge Elimination System (NPDES) General Permits for Stormwater Discharges Associated with Construction Activities. This review, and the variance granted herein, is limited to only the request(s) in the application that you submitted for permission to conduct land-disturbing activities within 25-foot areas located immediately adjacent to the banks of State waters where vegetation has been wrested by normal stream flow or wave action. To the extent that your buffer variance application includes a request to conduct land-disturbing activities within 25 feet of State waters where there is no vegetation that has been wrested by normal stream flow or wave action, such request has not been considered by EPD, and the related activity is not addressed in the variance granted herein.

Pursuant to Ga. Comp. R. and Regs. 391-3-7-.05(2)(a) and subject to the conditions and contingencies described further below, authorization is hereby granted to encroach within the 25-foot buffer adjacent to State waters as delineated in your application dated August 29, 2023. ***Buffer impacts authorized by this variance must be completed within five years of the date of this approval letter. If the approved buffer impacts cannot be completed prior to the expiration date, a time extension must be requested in writing at least 90 calendar days prior to the expiration date with justifiable cause demonstrated.***

Authorization for the above referenced project is subject to the following conditions and contingencies:

- 1) All graded slopes 3:1 or greater must be hydroseeded and covered with Georgia DOT approved wood fiber matting or coconut fiber matting. If not hydroseeded, Georgia DOT approved matting that has been incorporated with seed and fertilizer must be used. All slopes must be properly protected until a permanent vegetative stand is established;

- 2) The amount of land cleared during construction must be kept to a minimum;
- 3) All disturbed areas must be seeded, fertilized, and mulched as soon as the final grade is achieved. Also, these disturbed areas must be protected until permanent vegetation is established;
- 4) A double row of Georgia DOT type "C" silt fence or an approved high performance silt fence must be installed between the land disturbing activities and State waters where appropriate;
- 5) Buffer variance conditions must be incorporated into any Land Disturbing Activity Permit issued by the City of Brookhaven for this project; and
- 6) This project must be conducted in strict adherence to the approved erosion and sedimentation control plan and any Land Disturbing Activity Permit issued by the City of Brookhaven.

The granting of this approval does not relieve you of any obligation or responsibility for complying with the provisions of any other law or regulations of any federal, local or additional State authority, nor does it obligate any of the aforementioned to permit this project if they do not concur with its concept of development/control. As a delegated "Issuing Authority," the City of Brookhaven is expected to ensure that the stream buffer variance requirements are met for this project and is empowered to be more restrictive in this regard.

If you have questions concerning this letter, please contact Madison McCrary, Erosion and Sedimentation Control Unit, Nonpoint Source Program, at (470) 524-0622.

*Jeffrey W. Cown*  
Sincerely,

Jeffrey W. Cown  
Director

JWC:mm

cc: Marcus Rubenstein, Kimley-Horn and Associates, Inc.  
Dane Boegner, Kimley-Horn and Associates, Inc.  
Linda Abaray, City of Brookhaven  
John Ernst, Mayor, City of Brookhaven  
Anthony Rabern, Wildlife Resources Division, Region 2 Fisheries Management  
Robert Amos, Georgia Soil and Water Conservation Commission, Region I  
Brian Boutelle, EPD Mountain District Office, Atlanta

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