

**STAFF PERSON:
BOARD OF SUPERVISORS:**

**Megan Nedostup
February 20, 2019**

Staff Report for Special Exception to vary the Code of Development for Old Trail Village (ZMA2015-00001) to allow lots and disturbance within the stream buffers(s) and to modify the Application Plan Open Green Space Areas to reflect the current stream buffer(s).

VARIATIONS FROM APPROVED PLANS, CODES, AND STANDARDS OF DEVELOPMENT

The applicant is requesting to vary the Code of Development for Old Trail Village to allow residential lots within small portions of the stream (WPO- Water Protection Ordinance) buffer(s) and also to modify the Stream Buffer Area (labeled as "Open Green Space" on the exhibit) as identified on the Application Plan to accurately reflect on site locations of streams and the buffer.

Staff has reviewed the request for zoning and planning aspects of the regulations for the areas outlined in Attachment C and supports the request, with conditions. The Block areas with staff comments for each disturbance are described below:

Blocks 7 and 35D (Page 1 of Attachment C):

The County Engineer evaluated this area and found that buffer vegetation was not adequate or well vegetated and that an enhanced 75-ft buffer will result in an equal or better condition than maintaining the existing 100 foot buffer without any improvements. Additionally, staff recommends buffer mitigation with a ratio of 2:1 be provided elsewhere within Old Trail Village to offset the impacts and create a more established stream buffer for the betterment of the stream.

Block 32 (Page 2 of Attachment C):

The County Engineer evaluated this area and found that again the stream buffer is not well vegetated and Lots 68-70 could be extended into the buffer in this area with impacts mitigated elsewhere throughout the development and through application of 2:1 mitigation as noted above. The other disturbances shown were anticipated with the rezoning application for the road network and stormwater management.

A portion of "Open Green Space" outside of the stream buffers shown with Block 32 does not match the current GIS Web WPO stream buffer, and the other area requesting to be revised was anticipated to be impacted during the rezoning. The County Engineer has reviewed this area and found that what was depicted on the Application Plan is not consistent with the WPO buffer. The "Open Green Space" shown on the rezoning Application Plan was intended to capture the stream buffers and other environmental features. There are no additional environmental features outside of the stream buffers that would require this additional area.

Blocks 24, 25, 33, and 34 (Page 3 of Attachment C):

The majority of the stream disturbance in this area is for the road network and was anticipated with the rezoning application. There is minor disturbance (340 square feet and 250 square feet) for lot disturbance. The County Engineer has evaluated this area and finds the disturbance acceptable considering the existing buffer condition. Staff recommends conditions for buffer mitigation at the ration of 2:1 and minimize the impact to the buffer.

The "Open Green Space" shown on the rezoning Application Plan was intended to capture the stream buffers. After a site visit, the County Engineer and staff performed a stream determination in this location and found that a portion of the streams are intermittent and do not

require a buffer. Staff finds the modification of the Open Green Space meets the intent of the rezoning application in the protection of stream buffers.

In addition to the above, variations are considered by the Board of Supervisors as a Special Exception under County Code §§ 18-33.43 through 18-33.51. Staff analysis under County Code § 18-8.5.5.3(c) is provided below.

1) The variation is consistent with the goals and objectives of the comprehensive plan.

Within the Natural Resources chapter of the Comprehensive Plan there are recommendations that state that well vegetated buffers should be retained. However, since the areas to be impacted with this proposal are areas that are not well vegetated, or were anticipated with the rezoning application, staff finds that the mitigation proposed will enhance the health of the stream in other areas within Old Trail and will provide for equal or better stream health throughout the development.

2) The variation does not increase the approved development density or intensity of development.

No increase in density is requested.

3) The variation does not adversely affect the timing and phasing of development of any other development in the zoning district.

The timing and phasing of the development is unaffected.

4) The variation does not require a special use permit.

A special use permit is not required.

5) The variation is in general accord with the purpose and intent of the approved rezoning application.

While the rezoning application stated that lots would not be permitted within the buffer, the areas identified to be disturbed have been found to have inadequate vegetation, or very minimal vegetation as determined by the County Engineer. In some cases, remaining buffer areas adjacent the impacts will be enhanced, which was not previously proposed or required. The stream buffer mitigation plan will establish a more consistent buffer that is for the betterment of the stream and its health. Staff finds that these minimal impacts are in general accord with the purpose and intent of the approved rezoning application.

The intent of the rezoning was to protect the stream buffers within Old Trail. Staff finds the modification of the Open Green Space meets the intent of the rezoning application to protect stream buffers.

Staff recommends approval of this request with the following conditions:

1. Stream buffer mitigation shall be provided at a 2:1 ratio in accordance with a buffer mitigation plan for Old Trail Village ZMA2015-001, as approved by the County Engineer.
2. Disturbance to the buffer shall be limited to the areas depicted on pages 1-4 of the exhibit prepared by Roudabush, Gale & Associates, Inc., entitled "WPO Stream Buffer Impact Exhibit Blocks 19, 24-25, 32-43" dated January 23, 2018, with a revision date of December 6, 2018.

3. Modification of the "Open Green Space" shall be limited to the areas depicted on pages 1-4 of the exhibit prepared by Roudabush, Gale & Associates, Inc., entitled "WPO Stream Buffer Impact Exhibit Blocks 19, 24-25, 32-43" dated January 23, 2018, with a revision date of December 6, 2018.