

STAFF REPORT

February 20, 2019

To: Southwest Consolidated Zoning Board
Fr: Diane Wicklund, AICP, Principal Planner
Re: Application No. SW-PP/FP-3446(GA)



APPLICATION INFORMATION

Applicant: Phelps Engineering, Incorporated
Landowners: Thomas and Jan Duffy
Application Type: Preliminary and Final Plat
Requested Action: To divide approximately 20 acres into 2 residential lots to be known as Duffy Farms
Site Address: 183rd Street and Moonlight Road
Legal Description: Part of the Northwest Quarter of Section 31, Township 14, Range 23
Existing Land Use and Zoning: Residential and agricultural uses and Rural District Zoning
Existing Improvements: Two Single-family residences (each residence will be platted on a separate lot) and accessory farm buildings
Site Size: About 20 acres

Project Description: The applicant proposes platting a 20-acre parcel into two (2) residential lots. Both lots will be 10 acres (nominal*) in size, to be known as Duffy Farms. The property is at the southeast corner of 183rd Street and Moonlight Road. Both lots will have frontage onto 183rd St. No new streets are proposed (*preliminary and final plats are attached*). *According to the Regulations, the following is the definition for a Nominal Lot: " For purposes of compliance with the minimum lot area requirements in the RUR, Rural District, the PRUR, Planned Rural District, or the PRLD, Planned Residential Low-Density District, the lot size that is determined by the sum of the lot area and the area of abutting street rights-of-way between the front lot line and the land Section Line or the centerline of the street, whichever is the case adjacent to the property."

Please note that there are two existing homes (one occupied and one vacant) on the subject property. The homes were built in 1900 and one in 1945. It is unknown, at this time, the legal status of those homes and what the zoning regulations were in effect in 1900 (the County did not have Zoning and Subdivision Regulations then) and 1945 (the County did have Zoning and Subdivision Regulations at this time, but there is not a copy on file in the Planning Department to review for conformance).

Recommendation Summary: Staff is recommending approval of the preliminary and final plats because, subject to approval of the requested plat exceptions, they comply with the *Johnson County Zoning and Subdivision Regulations* (the *Regulations*). There are also two plat exceptions requested from the front yard setback requirement for the two existing residences and Staff is recommending approval of the plat exceptions. For more detail, please see the entire staff report.

Zoning and Subdivision History: The property was zoned RUR, Rural District, as part of the countywide rezoning in 1994. A tract split was approved via SW-TS-3241, on February 18, 2016, creating this 20-acre tract.



Aerial View of Subject Property (outlined in blue)



Aerial View of Surrounding Area (subject property outlined in blue)

Minimum Infrastructure Requirements:

The Johnson County *Zoning and Subdivision Regulations*, Article 9, Section 2.G. requires that all Minimum Infrastructure Requirements, as specified in Article 31 of the *Zoning and Subdivision Regulations*, be met prior to the rezoning or platting of any site. The infrastructure categories for RUR zoning are reviewed below.

A. **Fire Station Service Area:** *There is not a "Fire Station Service Area" requirement for parcels in the Rural Zoning District.* Fire protection is provided by Johnson County Fire District No. 1. The nearest fire station is Johnson County Fire District #1 - Station 122, located at 29000 W. 183rd St. in Gardner, approximately 1 mile to the west from the subject property, by roads.

Police protection is provided by the Johnson County Sheriff's Office.

B. **Roads:** Access to the proposed subdivision will be from 183rd Street (via existing driveway entrances). 183rd Street is a 20-foot wide gravel road and is County-maintained. CARNP designates 183rd Street as a Type I Minor Arterial Street. No new streets or driveway entrances are proposed with this plat. There are three existing driveway entrances on subject property and the entrances comply with the street frontage requirements of the Regulations.

Category 1 (Required) External Roads Serving Subdivisions or Development Tracts in the Rural District:

a. *A minimum of one road, with at least a 20-foot wide gravel driving surface, shall provide continuous access from the subdivision or development tract to a road constructed with at least*

an asphaltic concrete surface. 183rd Street is 20-foot wide gravel road which connects to Moonlight Road, which is a paved street. ***This application meets this requirement.***

- b. *All abutting gravel roads shall have at least a 20 foot wide driving surface. 183rd Street is the abutting road and it is a 20-foot wide gravel road. ***This application meets this requirement.****
- c. *Lots with RUR, Rural and PRUR, Planned Rural District Zoning shall comply with the frontage and other requirements of Article 30, Section 2(B)(2) of these regulations. In this instance, Article 30 requires 330 feet of frontage per driveway onto 183rd St. Proposed Lot 1 has two existing driveways and 1,130 feet of frontage on 183rd Street and Proposed Lot 2 has one existing driveway and 642 feet of frontage on 183rd St. ***This application meets this requirement.****

C. **Stormwater (Required):** According to the Regulations, storm drainage systems and facilities shall be available or designed and constructed to comply with the then applicable County design criteria, construction standards, policies and regulations for storm drainage systems and facilities. The development shall also comply with the then applicable County floodplain regulations.

This infrastructure category has four components as follows:

- 1. *Storm drainage.* The Preliminary Stormwater Management Plan has been submitted to Public Works and accepted. The Final Stormwater Management Plan shall be submitted and reviewed and accepted by Public Works prior to the zoning board meeting.
- 2. *Storm water quality management.*, The Preliminary Stormwater Quality Management Plan has been submitted to Public Works and accepted. The Final Stormwater Quality Management Plan shall be submitted and reviewed and accepted by Public Works prior to the zoning board meeting.
- 3. *Floodplain.* There is no County-regulated floodplain on the subject property.
- 4. *Storm water systems in conjunction with new streets.* No new streets or street related storm water systems are proposed.

This application meets this requirement.

D. **Wastewater (Category 1/Required):** *Wastewater collection and treatment shall be available or provided in accordance with the then applicable County policies, regulations and standards for onsite wastewater disposal and the Environmental Sanitary Code of the County.*

The property is not located within an established sewer district. Septic systems are allowed on lots larger than 2 acres, each, per the Environmental Sanitary Code. Any required wastewater permits must be obtained from the Department of Health and Environment prior to any building permits being issued on either lot. ***This application meets this requirement.***

E. **Water Supply (Category1/Recommended):** *For lots within the Rural Zoning District, potable water from a public water source is recommended, but not required. Minimum fireflow requirements for the development are not required in the Rural Zoning District.*

The property is served by Rural Water District 7 (a public water source) and a 4-inch water main runs along the east side of 183rd St. to serve the property. ***This application meets this requirement.***

Summary: The proposed plat meets all of the Minimum Infrastructure Requirements.

Subdivision Regulations:

The proposed preliminary and final plats have been reviewed with respect to the *Zoning and Subdivision Regulations* and the *Rural Comprehensive Plan: A Plan for the Unincorporated Area of Johnson County*. The following is a listing of the review criteria and staff comments, if any, with respect to each:

- A. Protection from Undue Water Pollution:** The primary water pollution concerns associated with this application involve soil erosion and wastewater disposal. These topics are addressed under the respective headings below.
- B. Availability of Water:** The property is located within Water District 7 and a water main runs along 183rd St. to serve the property (please see Item E in the Minimum Infrastructure discussion, above).
- C. Soil Erosion:** The points at which soil erosion can occur are (i) during grading in preparation for the construction of buildings and (ii) if vegetative cover is not well maintained on the site, especially near a waterway or stream. Therefore, erosion shall be avoided by minimizing the destruction of vegetative land cover prior to and during any future individual lot construction. The use of structural erosion control devices such as silt fences and basins, among other requirements, shall occur according to County Land Disturbance Requirements. Further, all applicable County stormwater, land disturbance and post construction water quality requirements shall be addressed prior to any future construction or land disturbance activities.
- D. Highway or Public Road Congestion:** No new local/subdivision streets are proposed with this plat. The two proposed lots take direct access to 183rd Street. Each lot exceeds the 330 feet of street frontage required along 183rd St.

60 feet of right-of-way, which is required, has already been dedicated along 183rd St. Therefore, no additional right-of-way dedication is required.
- E. Wastewater Disposal:** The property is not within an established sewer district. The two existing residences (one on each proposed lot) have existing septic systems, which will continue to be utilized.
- F. Scenic, aesthetic, historic, rare or irreplaceable features:** A review of aerial photographs does not reveal any rare, historic trails, or irreplaceable features on this site.
- G. Water Quality:** Please see the Stormwater discussion, Item C, within the Minimum Infrastructure analysis, above.
- H. Groundwater:** The primary groundwater concern is wastewater disposal, as discussed above (in Subsection E).

- I. Stormwater Controls:** Please see the Stormwater discussion, Item C, within the Minimum Infrastructure analysis, above.
- J. Mineral Resources:** The landowner has indicated that any mineral rights/deposits on the property, will be sold with the land.
- K. Preservation of Public Open Space:** Board of County Commissioners Resolution No. 046-94 enacted policies and procedures to guide the implementation of the Park Land Dedication requirements. The proposed plat is not considered a Development Project according the Resolution and therefore it is not subject to the parkland dedication or fee requirements.
- L. The Comprehensive Plan:** The *Rural Comprehensive Plan: A Plan for the Unincorporated Area of Johnson County (Plan)* indicates that this property is located in an area designated by the *Plan* as Urban Fringe near the City of Gardner. The purpose of the Urban Fringe Area is, in part, to:
- . . . allow for “balanced and orderly” growth - preserving existing residences, active agricultural uses, and valuable open space, while enabling the gradual transition of portions of this area to development through close cooperation between the County and adjacent cities as well as through coordinated planning with utility and other service providers (e.g., electricity, fire protection, and schools).

The City of Gardner Planning Department was notified about this application and had the following comments on the plat: (1) City development of this area will not occur for many years, (2) the City’s future land use map from the 175th Street & I-35 Interchange Subarea Plan, which this property is within the boundaries of, identifies this area for part of the potential realignment and interchange of Moonlight Road. The remainder is identified for Community Mixed Use land uses, and (3) the City stated that they believe this plat will not hinder future development. Therefore, the proposed plat does not impact the City of Gardner Future Land Use Plan and, as such, it does not impact the implementation of Urban Fringe policies in the *Rural Comprehensive Plan* and it is in keeping with those policies.

- M. Uses and Character Of Nearby Properties:** There is urban density residential uses to the north and west of I-35 Highway, within the City of Gardner. I-35 Highway runs along the north of the subject property. There are residential and agricultural uses in the surrounding area (on the east side of I-35 Highway) to the north, south, and east of the subject property. This plat is composed of two large lots (10 acres in size) and would, therefore, be in keeping with other rural and residential uses and density in the area.
- N. Lot Depth to Width Ratio Calculation/Requirement:** This calculation was done on both lots. Both lots comply with the lot depth to width ratio of 1:4. Although the lot configurations are unusual and have a non-linear lot line separating them, both lots still comply with this requirement. In addition, the landowner has stated that the reason for the unusual lot configuration is so that existing accessory structures can remain on one lot after the platting is completed.

PLAT EXCEPTION REQUESTS:

Article 27, Section 5 of the *Regulations* provides for plat exceptions. The *Regulations* specifically state: "Plat Exceptions shall not be recommended for approval by the Zoning Board nor approved by the Board of County Commissioners unless they find that such approval shall be compatible with the surrounding neighborhood and shall not be contrary to the public interest or unnecessarily burden the County, and shall not annul the intent and purpose of these regulations."

1. *The Regulations require, in addition to the front yard setback required in the appropriate zoning district, an additional setback along arterial streets of 60 feet from the section line at the center of the street.* The Rural Zoning District requires a front yard setback of 50 feet, so all structures on both proposed lots would need to be set back 110 feet from the section line (the Official Street Line).
 - a. The existing home (constructed in 1945) on proposed Lot 1 was constructed before this regulation was in place and is about 104 feet from the section line (Art.17, Sec. 5).
 - b. The existing home (constructed in 1900) on proposed Lot 2 was constructed before this regulation was in place and is about 90 feet from the section line (Art.17, Sec. 5).

Reasons to recommend approval of the Plat Exceptions listed above:

1. The requested plat exceptions are compatible with the surrounding neighborhood because, in this instance, there are only two other homes (east of I-35 Highway) in this area along 183rd Street to compare the requested plat exceptions for compatibility. These two homes are separated by distance, over 750 feet, from the subject property. In this rural area (and along this portion of 183rd St. and east of I-35 Highway), there is no uniform or established front yard setback lines, because there are generally larger, farm parcels in the area, which create large distances between residences and also have varying setbacks from the street because of the location of the homes. In addition, while the setbacks for the two homes in the area exceed the current setback requirements (built in 1976 and 1994 and they have different setbacks from the street), they are still not uniform and do not establish a similar setback line/pattern along the street. While the homes on the subject property are closer to the street than the current standard allows, they are not out of keeping with and are therefore compatible with the surrounding area.
2. The requested plat exceptions are not contrary to the public interest because, whether or not this plat and these plat exceptions are approved, the homes on proposed Lots 1 and 2 have been located where they are for over 74 and 119 years, respectively. Moreover, they are likely to remain where they are for many years to come.
3. The requested plat exceptions do not unnecessarily burden the County because the location of the homes will not change regardless of any actions taken on this plat. Furthermore, the Public Works Department has reviewed these plat exception requests and has stated that the current location of the existing homes are not located in the right-of-way and that there is sufficient existing half street right-of-way (60- feet dedicated) along 183rd St., for future road improvements. Therefore, there would be no burden to the County with respect to the existing homes remaining in their current location.

4. The requested plat exceptions do not annul the intent and purpose of these *Regulations* because the intent and purpose of the pertinent *Regulations* is to prevent construction of structures that would be located in the right-of-way or front yard setback. While the two existing homes do not meet the current setback requirements completely, they come close to meeting the requirements. The current setback requirement is 110 feet from the centerline of the street. One house is about 104 feet from centerline and the other house is about 90 feet. This plat proposes no new structures in any location on the property, so the purpose and intent of the minimum setback *Regulations* are not annulled.

Plat Exception Recommendations:

Planning staff recommends **approval** of the two requested plat exceptions for the reasons stated above.

COUNTY AND OTHER AGENCY DEPARTMENT COMMENTS

Public Works Department: See attached memo.

City of Gardner: See Section L on Page 5 of this report.

Building Codes Department: See attached memo. Please note that the two comments that the Building Official stated in his Memo have been addressed. The first comment about requiring a 100-foot separation between homes. The two existing homes are separated by more than 100 feet. In addition, a stipulation has been added that the final plat shall be revised to show a 50-foot side and rear yard setback line. The second comment stated was that the landowner shall obtain a certification letter from the Fire District stating/certifying that the Fire District/Station can shuttle a minimum of 250 gallons to the site. The owner has stated that he is currently working on obtaining that letter and has already talked with the Fire District about the letter.

Water District 7: See attached memo.

RECOMMENDATIONS

Staff recommends **approval** of (1) the preliminary and final plats because, subject to approval of the requested plat exceptions, the proposed lots comply with the County's Zoning and Subdivision Regulations and (2) approval of two Plat Exceptions for the reasons stated on Pages 7-8 of this staff report.

Recommended Stipulations:

1. The following notes and/or changes shall be made to the preliminary and final plat drawings:
 - a. Add this note to the Final Plat: All applicable County code and regulation requirements, including but not limited to building code, fire code, wastewater, stormwater, land disturbance, and post construction water quality shall be met prior to any construction or land disturbance activities.
 - b. Add all property owner names to the Execution Section.
 - c. Change all dates to 2019.

- d. Change the Vicinity Map label on both plat drawings to read : 183rd St.
 - e. The “Commitment for Title Insurance” Section/Block” shall be updated to reflect 2019 title search information.
 - f. All existing and new utility easements shall be shown on the Final Plat.
 - g. The Preliminary Plat shall be revised to show the setback dimensions (from the new property lines) for all existing structures. The setback required for all structures is 25 feet from side and rear property lines.
 - h. On the Final Plat, the right of way dimension shown for 183rd St. on the east side of Lot 2 shall be corrected to read 60 feet instead of 30.30 feet.
 - i. A 50-foot side and rear yard setback line shall be shown on both lots on the Final Plat.
 - j. Add this note to the Final Plat: Lot 1 is allowed two driveway entrances onto 183rd St. Lot 2 is allowed one driveway entrance onto 183rd St.
 - k. Add this note to the Final Plat: A driveway entrance permit shall be required for any proposed or reconstructed entrance. The entrance shall conform to County standards for Residential Entrances. Sight distance requirements shall be met for all driveway entrances.
 - l. Add this note to the Final Plat: All new structures shall comply with the then current setback requirements.
 - m. Add this note to the Final Plat: Plat Exception No. 3-28-19 (A) was granted to allow the existing house on Lot 1 to remain at 104 feet from the section line along 183rd St., rather than the 110 feet as otherwise required by the Regulations.
 - n. Add this note to the Final Plat: Plat Exception No. 3-28-19 (B) was granted to allow the existing house on Lot 2 to remain at 90 feet from the section line along 183rd St., rather than the 110 feet as otherwise required by the Regulations.
2. The applicant shall submit revised preliminary and final plats to the Planning Department prior to recording the revised final plat.
 3. A driveway entrance permit shall be required for any proposed or reconstructed entrance. The entrance shall conform to County standards for Residential Entrances. There are no new driveway entrances proposed with this development. Verification of adequate sight distance for existing and new entrance locations shall be provided to the Public Works Department for review by the applicant’s engineer prior to the Zoning Board Meeting. The analysis shall take into consideration any drainage structures, floodplain, stream buffers, minimum distance from the centerline of any intersecting Parkway or Arterial Street, and any other conflict which could prohibit the location of an entrance. The Standards for entrance sight distance are included in the *Street Construction and Storm Drainage Standards for Subdivisions*. If the sight distance verification does not comply with the requirements as stated above, then the landowner would have the option (and could be stipulated) to correct the

sight distance issue and/or the application may need to be continued or put on hold until the issue is resolved.

4. A Preliminary Stormwater Management Plan conforming to APWA 5600 has been submitted and accepted by the Public Works Department. Prior to the Zoning Board meeting, the Final Stormwater Management Plan shall be submitted and accepted by the Public Works Department.
5. A Preliminary Stormwater Water Quality Management Plan has been submitted and accepted by the Public Works Department. Prior to the Zoning Board meeting, the Final Stormwater Quality Management Plan shall be submitted and accepted by the Public Works Department.
6. If the proposed development will disturb more than one acre, a Land Disturbance Permit will be required prior to any land disturbing activities. *A LD Permit is required for any LD activities that are part of a larger, phased, staged, common plan of development shall be considered a single site for the purposes of calculating the disturbed area.*
7. Provide certification that all existing blanket easements have been absolved or are shown on the final plat in a defined boundary, prior to the Zoning Board meeting.
8. All new structures on both lots shall comply with the then current setback requirements.

PLAT EXCEPTIONS:

- (1) to allow the existing house on Lot 1 to remain at 104 feet from the section line along 183rd St., rather than 110 feet as otherwise required by the Regulations.
- (2) to allow the existing house on Lot 2 to remain at 90 feet from the section line along 183rd St., rather than 110 feet as otherwise required by the Regulations.

Enclosures: Vicinity Map, Preliminary and Final Plat Drawings, Public Works Memo, Water District 7 Memo, and Building Codes Memo

Johnson Co AIMS Map

SW-PP/FP-3448 (GA)

LEGEND

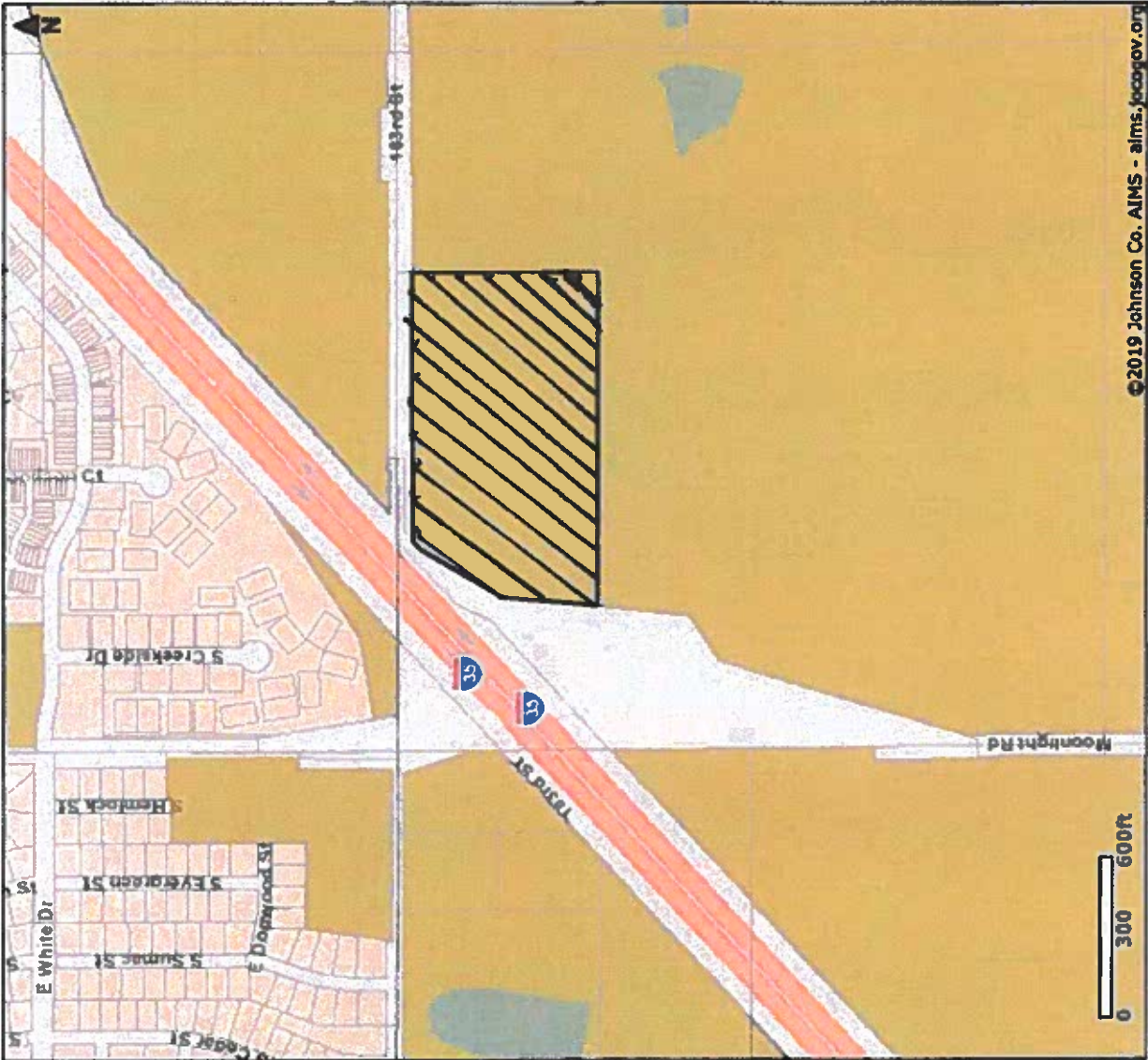
- Address Point
- Building/Structure
- Property
 - Untaxed
 - Vertical
 - Unplatted
 - Mineral Rights
 - Common Interest
 - Platted
 - Right-of-way
 - Leased Land



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JOHNSON COUNTY
GA

AIMS GIS E. Mapping 1/13/2019



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Memorandum

**To: Diane Wickland
Planning Department**

**From: Keith Markway, P.E.
Public Works**

Date: February 7, 2019

**Subject: SW-PP/FP-3446 (GA)
Preliminary and Final Plat – Duffy Farms**

1. There is an existing home, shed, and horse shelter on proposed Lot 1 with 2 existing driveways onto 183rd Street. Lot 1 has 1,130.14 feet of frontage along 183rd Street. 183rd Street is a Type 1 CARNP Route. Lot 1 meets the design standard minimum of 330-feet of street frontage required per driveway in Article 30 of the Zoning and Subdivision Regulations. There is an existing house, and 4 barns on proposed Lot 2 with an existing driveway onto 183rd Street. Lot 1 has 642.50 feet of frontage along 183rd Street. Lot 2 also meets the design standard minimum of 330-feet of street frontage required per driveway in Article 30 of the Zoning and Subdivision Regulations
2. A driveway entrance permit will be required for any proposed or reconstructed entrance. The entrance shall conform to County standards for Residential Entrances. There are no new driveway entrances proposed with this development. Verification of adequate sight distance for existing and new entrance locations shall be provided to the Public Works Department by the applicant's engineer prior to the Recording of the Plat. The analysis must take into consideration any drainage structures, floodplain, stream buffers, minimum distance from the centerline of any intersecting Parkway or Arterial Street, and any other conflict which could prohibit the location of an entrance. The Standards for entrance sight distance are included in the *Street Construction and Storm Drainage Standards for Subdivisions*.
3. A Preliminary Stormwater Management plan conforming to APWA 5600 has been submitted. The Final Stormwater Management Plan will be required prior to approval of the final plat.
4. The Preliminary Stormwater Water Quality Management Plan has been submitted. Prior to approval of the Final Plat, a Final Stormwater Quality Management Plan will be required.
5. A Land Disturbance Permit will be required prior to any land disturbing activities. *A LD Permit is required for any LD activities that are part of a larger, phased, staged, common plan of development shall be considered a single site for the purposes of calculating the disturbed area.*

Wicklund, Diane, PLN

To: Fardipour, Anoush, PLN
Subject: RE: ZAP notice for plat on 183rd street - 2 lots

From: Fardipour, Anoush, PLN
Sent: Tuesday, February 12, 2019 12:16 PM
To: Wicklund, Diane, PLN <Diane.Wicklund@jocogov.org>
Subject: Re: ZAP notice for plat on 183rd street - 2 lots

Hi Diane,

My comments are that same as for all 10 Acres lot and larger.

If there is no fire hydrant with adequate flow (1,000 gpm) for duration of 2 hrs available within 600 feet of the property then we need verification that local fire district can provide (shuttle) minimum 250 gpm of fire flow to the site.

Also the new single family dwellings shall have 50 feet setbacks from the property lines and 100 feet from the single family in adjacent property. Proper fire access road for fire truck to the single family in each property shall be provided.

Anoush Fardipour
Building Official
Planning, Development, and Codes

Wicklund, Diane, PLN

To: Allan Soetaert
Subject: RE: SW-PP/FP-3446 (GA) Duffy Farms - Zoning Application Notice

From: Allan Soetaert [mailto:asoetaert@water7.com]
Sent: Monday, February 11, 2019 5:40 PM
To: Wicklund, Diane, PLN <Diane.Wicklund@jocogov.org>
Subject: RE: SW-PP/FP-3446 (GA) Duffy Farms - Zoning Application Notice

Diane,

I have reviewed the above-referenced zoning application notice and offer the following comments, on behalf of Water District No. 7 (JO7):

- The proposed tract is located within the service area, and corporate boundary of JO7
- JO7 has a 4" water main located adjacent, and parallel to, the east side of the Frontage Road (as it leaves Moonlight Road, south of I-35 HWY) to a point that the Frontage Road enters into 183rd Street, at which point the 4" water main crosses 183rd Street and follows the south side of the I-35 HWY ROW. (See Attached System Map)
- There is no nearby fire suppression service available to the tract(s) from JO7.
- Proposed Lot 1, which has a dwelling on it, is currently served (domestic) by JO7.
- To establish service to Proposed Lot 2, a water main extension would be required. If desired, the property owner(s) would be responsible for petitioning JO7 for such service.

Please let me know if you should have any questions regarding my comments.

Thanks,
Allan Soetaert

 **Allan Soetaert, Manager**
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