



**Town of Cornelius
Planning Board/Board of Adjustment**

**Agenda
July 8, 2019
6:30 PM
Assembly Room**

- 1. Call To Order**
- 2. Determination of Quorum**
- 3. Approval of Minutes**
 - A. June 10, 2019**
- 4. Public Hearing and Consideration of Approval**
 - A. VAR 02-19 Baltic Drive**
- 5. Consideration of Approval**
 - A. Land Use Plan Discussion**
- 6. Old Business**
- 7. New Business**
- 8. Next Meeting**
- 9. Adjournment**

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: July 8, 2019

To: Chair and Planning Board Members

From: Summer Smigelski, Planning Admin.

Action Requested:

Approval of Minutes

Manager's Recommendation:

Approval

ATTACHMENTS:

Name:	Description:	Type:
 Minutes_06102019_Draft_-_Copy.docx	June 10, 2019 Minutes	Backup Material

Minutes

TOWN OF CORNELIUS PLANNING BOARD

Assembly Room

June 10, 2019

6:30 p.m.

Members Present

Danielle Miller
Edward Marxen, Alternate
Lee Peterson, Vice Chair
Michael Osborne
Cameron Bearder, Alternate
Joseph Dean
Susan Johnson
Hardy McConnell

Members Absent

Keith Eicher, Chair
Phil Bechtold, Alternate

Staff Present

Summer Smigelski, Admin. Assistant
Gary Fournier, Planner
Monterai Adams, Planner
Catherine McElearney, Planner
Wayne Herron, Deputy Town
Manager/ Planning Director

VISITORS

See Sign-In Sheet

DETERMINATION OF QUORUM

Vice Chair Peterson called the Planning Board meeting to order at 6:33 pm and noted there was a quorum present.

APPROVAL OF MINUTES

Mr. Osborne made a motion of approval for the May 13th, 2019 Minutes. Mr. Dean seconded. All in favor, motion approved.

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

VAR 04-18 Piedmont Natural Gas

Ms. Johnson made a motion to open the public hearing. Mr. Dean seconded. All in favor, motion approved.

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

Vice Chair Peterson Reads:

What is a Variance

A variance is a request to deviate from current zoning requirements. If granted, it permits the owner to use his land in a way that is ordinarily not permitted by the zoning ordinance. It is not a change in the zoning law, but a waiver from the requirements of the zoning ordinance.

This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this board must make its decision. These rules are different from other types of land use decisions like rezoning cases.

The board's discretion is limited. The board must base its decision upon competent, relevant, and substantial evidence in the record. A quasi-judicial decision is not a popularity contest. It is a decision constrained by the standards in the ordinance and based on the facts presented. If you will be speaking as a witness, please focus on the facts and standards, not personal preference or opinion.

Participation is limited. This meeting is open to the public. Everyone is welcome to watch. Parties with standing have rights to participate fully. Parties may present evidence, call witnesses, and make legal arguments. Parties are limited to the applicant, the local government, and individuals who can show they will suffer special damages. Other individuals may serve as witnesses when called by the board. General witness testimony is limited to facts, not opinions. For certain topics, this board needs to hear opinion testimony from expert witnesses. These topics include projections about impacts on property values and projections about impacts of increased traffic. Individuals providing expert opinion must be qualified as experts and provide the factual evidence upon which they base their expert opinion.

Witnesses must swear or affirm their testimony. At this time, we will administer the oath for all individuals who intend to provide witness testimony.

Vice Chair Peterson called forward anyone wishing to testify to be sworn in by the Board Secretary.

Ms. Smigelski swore in applicant's and Town staff.

How Voting Works

State law requires a four-fifths majority of the board to grant a variance.

Vice Chair Peterson recognized Town staff to present VAR 04-18 Piedmont Natural Gas

Ms. Adams: "Chairman and members of the Board. My name is Monterai Adams and I will be presenting VAR 04-18 Piedmont Natural Gas. The proposed property is located at 8540 Westmoreland Road. The applicant is Piedmont Natural Gas Company. Current zoning is neighborhood residential (NR). Piedmont Natural Gas seeks a 35-foot variance from the 170-foot setback along Westmoreland Road required by LDC Sec. 5.5.4 in order to relocate an existing regulator station for natural gas. This variance is necessary because the setback consumes a majority of this 1.42-acre, triangular shaped parcel. The parcel was not created by Piedmont, and placement of the station in this area is consistent with the LDC and customer needs. Staff will present testimony at the hearing that covers the following basic facts and will introduce the Town exhibits into evidence: The subject property is within the Town of Cornelius Zoning jurisdiction and is zoned Neighborhood Residential (NR). The property is shown on the, Zoning Map as Exhibit A, Aerial Vicinity Map as Exhibit B, Aerial Property Map as Exhibit C **See (Exhibits Attached)** The Land Development Code states that all lots in the NR district along Westmoreland Rd have a 170 feet front setback. LDC section 5.5.4 is shown as Exhibit D. **(See Exhibit D Attached)** The Applicant submitted a Town of Cornelius Variance Application, which is shown as Exhibit E **(See Exhibit E Attached)** The Applicant submitted a Survey of the property showing the current 170-foot setback on

Westmoreland Rd, which is shown as Exhibit F. **(See Exhibit F Attached)** The Applicant submitted a formal request letter, which is shown as Exhibit G. **(See Exhibit G Attached)** The Applicant submitted the Right of Entry Agreement between PNG and Mary Sloop, which is shown as Exhibit H. **(See Exhibit H Attached)** The Applicant submitted the Preliminary Landscape Plans, which are shown as Exhibit I. **(See Exhibit I Attached)** The Applicant submitted an Affidavit of Edwin Peters, Keith Valtteri, and Ann Pilkington, which are Exhibits J, K, and L. **(See Exhibits J, K, and L Attached)** I went out and took a photo of the property, which is shown as Exhibit M. **(See Exhibit M Attached)** That concludes Staff Presentation.”

Vice Chair Peterson called the applicants forward

Applicant: “Good Evening Mr. Chairman and members of the board. My name is Jamie Schwedler with Parker Poe at 401 Tryon Street. I am here on behalf of the applicant, Piedmont Natural Gas. I would like to summarize what you will hear from several witnesses tonight. Piedmont Natural Gas is the applicant tonight because they are holder of permeant utilities easement across the site. As of tonight, they also offer to purchase the property subject to this variance being granted here tonight. We are seeking, as mentioned, a 35-foot variance from the 170-foot setback along Westmoreland Road. Piedmont is determined that the existing regular station, on the site is need of relocation and has gone through the site plan process that promoted this request for the variance. This variance is necessary to continue service with natural gas both within this area and within Mecklenburg County this is one of the key points. Tonight, you will hear from three witnesses that will offer competent material and substantial evidence as to each of the four factors that is our burden to show tonight. First you will hear from Mr. Keith Gualtieri, a consultant responsible for the design of this station, who will show that an unnecessary hardship will result if the variance is not granted here tonight and that the strict application of the ordinance in requiring a 170-foot setback will make it virtually impossible to go to a regulator station as designed. He will also testify as to the second requirement. That, that unnecessary hardship has created size and shape of this plot, as you can see it is a triangular piece and is heavily burdened by existing utilities prior to the utilities in the agreement entered here. The presence of those easements (Inaudible) 70 percent of the site. Third you will hear a Mr. Edwin Peters, real estate supervisor with Piedmont will testify that this new gas station is in fact needed to replace the existing station on the site and that this location is vital to the provisions of reliable service in this area. He will also testify that Piedmont neither created the size or shape of this site and that testimony will be collaborated by Ms. Ann, our title specialist, who will testify about how this parcel was not created by Piedmont but by the current owner of the site. Finally, as to the fourth requirement Mr. Keith will also testify the granting of this ordinance satisfies the intent and purpose of the setback, which we understand from records from the planning department was to preserve (Inaudible) in this area from residential development pressures that carry along Westmoreland Road. Because of the presence of the existing easements that are in place and because we are only asking for the least amount variance that we need to rebuild station would result if granted of this 35-foot will leave most of the site and just encroach on the 35-feet of the rear portion of the site. With that I would like to call my first witness Mr. Keith Gualtieri, I would like to note that because the affidavits have been submitted in (Inaudible) will only summarize in that event I will ask to admit that at the close.”

Applicant Mr. Gualtieri: “Good evening. My name is Keith Gualtieri. I’m the head project manager with Energy Land Infrastructure (ELI). Address is 4250 North Fairfax Drive, Arlington, Virginia. ELI was hired by Piedmont Natural Gas to design an irregular station at 8540 Westmoreland Road here in Cornelius. I serve as a project manager for this project and overseeing the layout and design. I have a mechanical engineering degree with NC state, I’m registered professional engineer in the state of North Carolina and

eight other states. I have over 27 years of experience in the natural gas facility field including design, construction and operation on natural gas pipelines and facilities. I have been in private sector as a consultant since 2005."

Ms. Schwedler: "At this time, based on his experience and education I would like to enter Mr. Gualtieri as an expert in engineering and natural gas line pipe facility design."

Mr. Gualtieri: "I (Inaudible) helped Piedmont with design and location of new stations but that there was already a station that has been mentioned. After evaluating the custom needs in this area, Piedmont determined that the existing station was inadequate to meet the customer demand and a new station is needed. Piedmont (Inaudible) of ELI design station and relocated on this site. As far (Inaudible) the easement (Inaudible) mechanical electrical structural engineering for a new station design. To move the station, you also need to get new easement from the property owners. Piedmont (Inaudible) easement from the property owner. Piedmont now is in the beginning of construction but needs this variance from the Planning Board before we begin. We submitted a site plan to the Town (Inaudible) showing that (Inaudible) public property. This (Inaudible) setback from Westmoreland Road, section 5.5.4 of the Town of Cornelius Code. The property is approximately 1.42 acres, triangular shape and about 251-feet deep as the deeds portion. Westmoreland Road runs along the entire edge of the property so the 175-foot setback encroaches into most of the property as it is currently showing here. The diagram (Inaudible) as you see here in exhibit A is also included in my affidavit. If you will turn to (Inaudible) Westmoreland Road at the top 170-foot setback line as the top of the triangle and the very high side of the setback is shaded in green in the exhibit before you. The main portion of this property is on about 62 hundred or 69 square feet. With that I recommend a request a variance is attached my affidavit as exhibit D. The new easement areas are shaded in gray that consists of the access area to the station, and there is also a driveway access easement going out to Westmoreland Road and a distribution easement going back over to connect to (Inaudible) distribution lines to the west. The station features include fencing, pipe, and equipment and they only encroach in the setback 34-feet therefore we are requesting a 35-foot variance from the 170-foot dimension shown in section 5.5.4. Based on my experience the size of the station cannot be removed without compromising. (Inaudible) The design (Inaudible) regulations such as natural fire protection association, natural electric code, code of federal regulations department, natural gas, and the American National (Inaudible) and distribution systems. The federal standards regulate (Inaudible) access and buffering is given a specific (Inaudible). Regulations are in place to promote safety and protect. Piedmont safety standards also requires the station to have access around this perimeter for regular maintenance and response which we designed into our site plan. The copy of the landscape plan has been included as exhibit C in the affidavit."

Ms. Schwedler: "My understanding is that the affidavits are in your packet, but they are not in this presentation."

Mr. Gualtieri: "See Landscape Plan and sections, attached as Exhibit C. Pushing the Station further south or east would require grading on the properties to the south and east, which would require a slope easement and maintenance responsibilities. These site constraints also make it impossible to rotate the station footprint and avoid the setback. As a result, the Station cannot be placed any further out of the setback while staying within the Property and satisfying applicable design and safety regulations. Due to the size and shape of the Property, the significant depth of the setback, and the topography issues, Piedmont cannot place the Station on the Property without the variance. Piedmont has completed the condemnation process, and has obtained the requisite easements from the Property owner. This variance is necessary for Piedmont to

begin construction on the Station, which it has the right to do under the condemnation proceedings. Based on my understanding of the Town's LOO and planning policies, the Westmoreland Road setback rule was the result of planning efforts in the late 1990's to preserve open space, maintain Westmoreland Road as a rural parkway, and protect the then-rural area from the pressures of residential development. See 1996 Town of Cornelius Land Plan presentation attached as Exhibit D. The proposed variance would accomplish this goal by leaving a setback of at least 130 feet in place, and keeping this area clear of buildings or structures. The only structures within the setback would be public utilities, not residential. The variance is also consistent with the intent of the underlying zoning district, Neighborhood Residential (NR) which is to "preserve a mixture of residential uses at medium densities, along with other civic uses." LOO Sec. 5.1.3. The requested variance will allow Piedmont to deliver a design for the Station that is safe and provides reliable natural gas service for its customers.

Mr. Peters: "I have a civil engineering degree from North Carolina Agricultural and Technical University, and a law degree from Campbell University. I am currently a Real Estate Representative with Piedmont Natural Gas Co., Inc., ("Piedmont"). In this role I oversee land acquisition for locating and placement of facilities along our various natural gas pipeline routes."

Ms. Schwedler: "At this time, based on his experience and education I would like to enter Mr. Peters as an expert."

Mr. Peters: "In 2016, Piedmont evaluated growing customer demand in the Mecklenburg County, including the area in and around Cornelius, NC. Piedmont determined that based upon customer needs, additional capacity would be necessary along several of its natural gas pipeline routes. Piedmont identified several upgrades along a line stretching through the Town of Cornelius, including the location and design of a new regulator station (the "Station") situated at 8540 Westmoreland Road (the "Property"). The Property contains an existing station that is adjacent to the right of way of Westmoreland Road. Piedmont engaged Energy Land & Infrastructure, PLLC ("ELI") to design the Station and its determine its location on the Property. Through the condemnation process, Piedmont acquired a permanent easement across the Property to install and maintain the Station, as well as a permanent access easement from Westmoreland Road to reach the facility. The condemnation process is now complete, Piedmont has paid the required funds to the owners of the Property, and the order has been confirmed by the Mecklenburg County Superior Court. As a result, Piedmont owns the easements necessary to construct the Station. These easements include a 10foot easement along the southern edge of the Property which connects the existing transmission pipeline to the proposed Station and a larger easement in the southeast corner of the Property, where the Station is to be located. The relocation of the Station is necessary to the reliable provision of natural gas in this area. Piedmont's capacity studies indicate that this upgrade to the Station is required to provide continued service, on which many Cornelius households depend for hot water, heat, and cooking. Piedmont did not create the size or shape of the Property, and had no involvement in creating the 170 foot setback in the Town's ordinance. Replacing the existing station with the proposed Station will ensure Piedmont's ability to continue its provision of safe, reliable natural gas to the public. Allowing the variance will enable Piedmont to place the Station in a safer location than its present location, because it will be further from Westmoreland Road and will reduce the chance of vehicular collisions.

Ms. Pilkington: "I received my law degree from Charlotte School of Law and have been practicing law for 10 years. I currently own my own firm and focus on real estate and title work. I was a Real Estate Paralegal for 25 years prior to attending law school.

Ms. Schwedler: "At this time, based on her experience and education I would like to enter Ms. Pilkington as an expert."

Ms. Pilkington: "I was engaged by Piedmont Natural Gas Co., Inc. ("Piedmont") in connection with title work at 8540 Westmoreland Road, Cornelius, North Carolina, Mecklenburg County Tax parcel #00507104 (the "Property"). In that role, I reviewed and summarized the legal title of the subject property over the last 100 years. The Chain of Title is attached hereto as Exhibit A. This search confirmed that this tract was once part of a larger tract owned by the Alexander family in 1919. See Deed Book 398, page 274. Over time, the large tract was subdivided and sold off, mainly for residential development, like the Alexander Chase development to the east of the Property. See Map Book 38, page 667, attached hereto as Exhibit B. The property immediately south was sold by the Robbins heirs to Mecklenburg County and then to the Town of Cornelius for a public park in 2011. See Deed Book 12672, p.404, attached hereto as Exhibit C. I researched title in that transaction on behalf of the Trust for Public Land and worked under Mr. Saxby Chaplin at the time. As a result of these subdivisions of the larger tract by the Alexander family heirs, the Property became a remnant parcel with an unusual triangular shape. The Town then built Westmoreland Athletic Fields to the south of the Property in 2012. During the course of my title work, I also confirmed that there are several existing easements on the property which limit development. These include a 50-foot easement in favor of Piedmont created in 1963, a 100-foot easement in favor of Duke Energy created in 1969, and a 100-foot easement in favor of Duke Energy created in 1989. See Deed Book 2400, p. 353; Deed Book 3274, p. 559; and Deed Book 6008, p. 393. Each of these easements predated the variance request and remain in place today. Together, they burden a majority of the Property. Westmoreland Road was in approximately the same location before the subdivision of the Property. Piedmont did not cause the subdivision of the Property, nor did it create its size or shape. The current property owner, Ms. Sloop acquired an interest in the property along with her siblings from their father, Mr. Eugene Alexander. She purchased her siblings' remaining interest in the Property in 2016. The Property is now subject to the new easement in favor of Piedmont to accommodate the Station. That Easement Agreement is part of the Condemnation Petition, attached as Exhibit D. An easement is an interest in real property.

Vice Chair Peterson: "Any questions or comments? None. The Vice Chair will entertain a motion to close the public hearing."

Ms. Johnson made a motion to close the public hearing. Mr. McConnell seconded. All in favor, motion approved.

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

Finding #1

Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

Mr. McConnell: "I agree, the utility itself has been a good (Inaudible) of taking care of the property. It's already there and they have done everything they can to not to encroach upon their neighbors. They have done everything they can do to keep cost down and be a good neighbor."

Mr. Dean made a motion to approve Finding of Fact #1. Ms. Johnson seconded. All in favor, motion approved."

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

Finding #2

The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

Ms. Johnson: "I think that there is a hardship there because of just the number of times that it was subdivided, and I appreciate the fact that they further explained that because in the beginning they were saying Piedmont didn't create this so further explanation of how all the real estate transactions transpired to create this triangular shape parcel really helps."

Mr. McConnell made a motion that Finding of Fact #2 has been met. Mr. Dean seconded. All in favor motion approved."

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

Finding #3

The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

Mr. Osborne: "I think that they did a good job showing that they did not create this hardship. As mentioned before the change in the property around it and the size in the way in which the lot was created was not a result of their circumstances or their doing and the easements that are currently in place also would prevent other types of use more than likely for that property. I do believe that the evidence supports that they did not find this hardship as a result of the actions taken by the applicant."

Ms. Johnson made a motion Finding of Fact #3 has been met. Mr. Dean seconded. All in favor motion approved."

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

Finding #4

The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Mr. Dean: "It believe that it is consistent with the spirit and the purpose and the intent of the ordinance."

Mr. Dean made a motion to approve Finding of Fact #4. Ms. Johnson seconded. All in favor motion approved."

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

Mr. Osborn made a motion to approve VAR 04-18. Ms. Miller seconded. All in favor motion approved.

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

VAR 01-19 Bailey Road

Ms. Osborne made a motion to open the public hearing. Mr. Dean seconded. All in favor, motion approved.

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

Vice Chair Peterson called forward anyone wishing to testify to be sworn in by the Board Secretary.

Ms. Smigelski swore in applicant's and Town staff.

Vice Chair Peterson recognized Town staff to present VAR 01-19 Bailey Road.

Mr. Fournier: "Chairman and members of the board. My name is Gary Fournier and I will be presenting VAR 01-19. The applicant is MV2 Investments of 445 S. Main St., Suite 400 in Davidson, NC 28036. The tax parcel ID is 00503201, the physical address is 10100 Bailey Road. The current zoning is industrial campus (IC). The Applicant is seeking a variance from Section 5.5.4 of the Land Development Code to reduce the front building setback from 70' to 65.5' and the parking setback from 30' to 15'. The Applicant is requesting the setback variance from the proposed right of way of the Bailey Road alignment project. The Applicant proposes to build flex space buildings on the property. Staff will present testimony at the hearing that covers the following basic facts and will introduce the Town exhibits into evidence. The subject property is within the Town of Cornelius Zoning jurisdiction and is zoned Industrial Campus (IC). The property is shown on the Zoning Map as Exhibit A, Aerial Vicinity Map as Exhibit B, and Aerial Property Map as Exhibit C. **(See Exhibits Attached)** The proposed Bailey Road alignment project is funded for FY20. The Bailey Road Concept Plan is shown as Exhibit D. **(See Exhibit D Attached)** In the Land Development Code, Section 5.5.4 Table of Dimensional Requirements, the front setback in the Industrial Campus (IC) zoning district is 70' and the

parking setback is 30'. The Land Development Code Section 5.5.4 is shown as Exhibit E. **(See Exhibit E Attached)** The Applicant submitted a Town of Cornelius Variance Application, which is shown as Exhibit F and a proposed Site Plan which is shown as Exhibit G. **(See Exhibit G Attached)** I visited the property and took two pictures, which are shown as Exhibits H and I. **(See Exhibit H and I Attached)** That concludes staff presentation."

Vice Chair Peterson: "Go back to exhibit D. Explain where the road is going in between the green lines there. Is the green the setback line?"

Mr. Fournier: "Green would be the proposed right-of-way."

Vice Chair Peterson: "Okay. The property is losing how much acreage?"

Mr. Fournier: "I do not know?"

Vice Chair Peterson: "I think it was 1.23 is that correct? Okay, 1.23. On the north side there, it drops off a bit, is that what I'm understanding?"

Mr. Fournier: "Yes. That's my knowledge. I do not know if its an actual creek or if it's a ditch."

Mr. McConnell: "Where is that proposed parking area going to? Is it right up against it?"

Mr. Fournier showed the Board where the parking was located.

Mr. McConnell: "That's where the 30 feet is requesting?"

Mr. Fournier showed the Board where it is being requested on the site plan.

Vice Chair Peterson: "Anymore questions for Gary? None. Thank you."

Vice Chair Peterson recognized the applicants MV2 Investments.

Applicant: "Brad Howard with Langtree Group. I'm going to let our engineer take this and describe what we are asking for."

Engineer; "Good evening board members. My name is Matt Grant, I'm a partner with Jordan Grant Associates. I am a professional engineer and a professional surveyor. I have been in practice for about 16years. What we are proposing on this site is flex development. We are looking for (Inaudible) on here as well as a setback area for this area. What is being created is a this is an actual stream. It flows with water (Inaudible) The general area here is the main drop off. This line that comes up through here is our swim buffer. The creation of the new road here (Inaudible) It reduces our workable area so what we are requesting is to reduce the building setback by four and a half feet and reduce the parking setback 15-feet. That is our request."

Vice Chair Peterson: "Questions?"

Mr. McConnell: "How many parking areas are you looking at total?"

Mr. Grant: "We got this section here and then we're going to have over here and this is the initial concept plan, we are still working on the details that in this area here is going to be a parking area for (Inaudible) parking center for the buildings so total around 90 to 95 spaces."

Mr. Osborne: "What was the timing of the purchase of the lot versus the Bailey Road extension announcement?"

Question was answered without approaching the podium. Conversation could not be heard to capture in the minutes.

Mr. Osborne: "You contracted the lot and then you found out about the extension, but you had not purchased the lot?"

Question was answered without approaching the podium. Conversation could not be heard to capture in the minutes.

Vice Chair Peterson: "On the Plan, where do you come in off the main roads?"

Mr. Grant: "This is the drive in, in this section and then the drive here."

Vice Chair Peterson: "Then will you be able to connect to the front parking from?"

Mr. Grant: "We are going to meet all Town requirements and have connectivity necessary."

Vice Chair Peterson: "There is no way you could move the buildings in towards the center?"

Mr. Grant: "This area here we are trying to get two story buildings. We are trying to create an outdoor area that is connected in with the greenway and as they are out walking they can take advantage with what is going on with this site. We are squeezing in we are losing what we are trying to accomplish."

Ms. Johnson: "So how are you going to do that amphitheater feel but then also have parking there?"

Mr. Grant: "It's an outdoor parking area so its parking for necessary (Inaudible) when I say amphitheater I mean you got this internal parking, the parking is going to part of it per or vendors. (Inaudible). If there is an event that is being held around the corner called (Inaudible) a lot of classic cars would show up monthly and there would be live music and food and drinks. What we decided to do was to create a concept like that. There are a lot of car enthusiast in this area that are looking for places to store their vehicles and serve as office space. I am one of them. I work out of my house and I'm going to move my office to this location. We have a couple commercial tenants that are actively perusing occupying this space. For activities one was an indoor rock climbing center. One of the things we plan to use for that middle space was a drive-in concept that we were going to place a giant movie screen projector, so you can have drive-in movie nights. The reason we love this parcel is that stream, we are planning on rehabilitating that stream and making that a central part of this project where we can have benches and seating where people can enjoy nature. We also plan, if you are familiar with the site that runs along the greenway where there is a lot of walking on the greenway and you see at the topside of this photo there is another building there. We plan on incorporating that business and that building in with the greenway. We also plan on building a pavilion that would be on site that we would share. We know that there is a long-term plan for that greenway to be connected to Birkdale, from my understanding. We want to play a big part in paying attention to that and drawing people to this site. If you have any questions I will be more than happy to answer."

Vice Chair Peterson: "Any additional questions?"

Ms. Johnson: "Exhibit D, can we go back to that? (Inaudible)"

Mr. Grant: "We would have had this application one to three months earlier we would not have had to do this because of the timing of the road."

Mr. Herron: "You would have still had to do something, but we wouldn't have had as detailed planned as what we have for you now."

Ms. Johnson: "I'm just confused because you said there is an existing building and on this picture, there isn't. Where is that in relation to, because based on that other drawing that was at the top."

Mr. Grant: "That's a new building that we will construct, that is not an existing."

Vice Chair Peterson: "Are there any public comments?"

Citizen: "My name is William Phillips and I live at 17304 Conner Quay. I think it is a great idea."

Vice Chair Peterson: "Anymore comments? None. Do I have a motion to close the public hearing?"

Ms. Johnson made a motion to close the public hearing. Vice Chair Peterson seconded. All in favor, motion approved.

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

Finding #1

Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

Mr. Dean: "I do find that unnecessary hardship would result from the strict application and I think part of that is due to the new right of way of Bailey Road. I would find that the first finding has been met."

Mr. Dean made a motion to approve Finding of Fact #1. Mr. McConnell seconded. All in favor, motion approved."

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

Finding #2

The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

Ms. Miller: "I felt this has a peculiar size as well as the location. The location is unfortunate because of the road project and the topography as well as the stream make it a hardship. I would say this is true."

Ms. Johnson made a motion that Finding of Fact #2 has been met. Mr. Dean seconded. All in favor motion approved."

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

Finding #3

The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

Mr. Marxen: "The property when they entered into the contract, as I understand it they didn't realize the new road coming in. I would say finding 3 has been met."

Mr. McConnell made a motion Finding of Fact #3 has been met. Ms. Johnson seconded. All in favor motion approved."

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

Finding #4

The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Mr. McConnell: "Yes, we have determined that is the case."

Mr. McConnell made a motion to approve Finding of Fact #4. Ms. Johnson seconded. All in favor motion approved."

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

Mr. McConnell made a motion to approve VAR 01-19 Bailey Road. Mr. Peterson seconded. All in favor motion approved.

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

Old Business

Mr. Herron made a recommendation to address citizen concerns on the BUA's before the land use plan and arts district discussion.

Mr. Herron provided an update for the board. Mr. Surane is requesting changes with the Towns application and interpretation of the ordinance.

Citizen: "My name is Steven Sellin. I'm at 17336 Conner Quay Ct. in Cornelius. Thank you for giving me the opportunity tonight to address this board. I want to thank Wayne and his staff, back in March submitted an application for BUA transfer from one property made purchase to that has a lot of built upon area availability. We were going to transfer to another property that we own on Conner Quay as well as two other properties represented by a couple of my neighbors. Wanted to make sure people understood that Jim Surane is representing one of our neighbors who is suing myself and my wife personally for impervious, which I'm trying to correct but then he is also coming and challenging the Statute and blocking going forward. Is that a correct statement, Wayne?"

Mr. Herron: "That would be correct at this time."

Mr. Sellin: "I just wanted to make sure people are aware of that and that here is a situation that we are trying to work with the board and are being blocked from correcting this. I believe also that I heard that Jim is one of the venders of impervious property as well. I think I did receive not a recommendation, but I did receive a list of names of people who are selling impervious and Surane's name was on that list. I just wanted you to be aware of the situation. Wayne, I'm a little concerned when I heard you say that you are asking for the State to make a ruling on all rather than just Cornelius's transfer."

Mr. Herron: "We have asked for an interpretation just on our program but as we had discussions with the state, this has now become more of an issue State wide. I don't know why that is and why it has all sudden become an issue but as we discussed when we were doing our amendment last year, Davidson was in the process of drafting a new ordinance. Their attorney is now very interested in what is going on here because they don't want the same issues. Several other jurisdictions who have heard about it have basically said, "Now we have people who are challenging us on similar issues. So, the state is looking to offer interpretations that can be applied state wide."

Citizen: "My name is William Phillips, 17304 Conner Quay Ct. in Cornelius. You mentioned that there was a question about the interpretation, (Inaudible)."

Mr. Herron: "No, I cannot since that was in a meeting with the attorney and that was considered confidentiality for the client I can't go into details."

Mr. Phillips: "We submitted the application on March 25th, we are now over two months. It is my understanding that when that application came up for review is when Mr. Surane objected to it."

Mr. Herron: "That is probably right about your application, but he had been making objections since December I do believe."

Mr. Phillips: "He basically was more (Inaudible) about the way he talked about it and actually caused a stop in the process."

Mr. Herron: "I am not going to elaborate or give opinions we are just on hold at this point in time because of his concerns."

Mr. Phillips: "Okay, if you could please include this discussion today in the minutes. We are trying to figure out how to get through this."

Land Use Plan and Arts District Discussion

Mr. Herron presented information for consideration about the proposed Arts District and Land Use Plan changes in the downtown area.

See attached Presentation

Mr. Herron asked the board if they have any concerns.

The board did not have concerns regarding the presented changes.

NEXT MEETING

Monday, July 8th, 2019

ADJOURNMENT

Ms. Johnson made a motion to adjourn the meeting at 8:20 p.m. Mr. McConnell second. All in favor and motion approved.

In Favor: Mr. McConnell, Mr. Dean, Ms. Miller
Ms. Johnson, Mr. Peterson, Mr. Marxen
Mr. Osborne

Opposed: None

Respectfully Submitted:

Lee Peterson
Vice Chair

Date

Summer Smigelski
Secretary

Date

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: July 8, 2019

To: Board of Adjustment Members

From: Gary Fournier, CZO - Planner

Action Requested:

The Applicant is seeking a variance from the 40' Lake Norman Watershed buffer per Town of Cornelius Ordinance number 91-00039. The applicant is asking for relief in the way of an encroachment into the 40' Lake Norman Watershed buffer to allow for the placement of a driveway and walkway.

Manager's Recommendation:

Hear evidence and render a decision

ATTACHMENTS:

Name:	Description:	Type:
 VAR_02-19_Staff_Report.docx	Staff Report	Backup Material
 Exhibit_A_Zoning_Map.pdf	Exhibit A Zoning Map	Exhibit
 Exhibit_B_Aerial_Vicinity_Map.pdf	Exhibit B Aerial Vicinity Map	Exhibit
 Exhibit_C_Aerial_Property_Map.pdf	Exhibit C Aerial Property Map	Exhibit
 Exhibit_D_Town_Ordinance_91-00039.pdf	Exhibit D Town Ordinance 91-00039	Exhibit
 Exhibit_E_Recorded_Plat.pdf	Exhibit E Recorded Plat	Exhibit
 Exhibit_F_Variance_Application.pdf	Exhibit F Variance Application	Exhibit
 Exhibit_G_Property_Survey.pdf	Exhibit G Property Survey	Exhibit
 Exhibit_H_Site_plan.pdf	Exhibit H Site plan	Exhibit
 Exhibit_I_Site_plan_aerial_photo.pdf	Exhibit I Site plan_aerial photo	Exhibit
 Exhibit_J_Property_Photo.pdf	Exhibit J Property Photo	Exhibit
 Exhibit_K_Property_Photo.pdf	Exhibit K Property Photo	Exhibit
 Exhibit_L_Birdseye_Photo.pdf	Exhibit L Birdseye Photo	Exhibit
 VAR_02-19_FoF.docx	Findings of Facts	Backup Material



**VAR 02-19
21529 Baltic Drive
Staff Analysis**

July 8, 2019

Applicant: David Murray on behalf of SMDA Development 1, LLC
1109 Greenwood Cliff
Charlotte, NC 28204

Tax Parcel Reference: 001-781-17

Location: 21529 Baltic Drive

Variance Request: The Applicant is seeking a variance from the 40' Lake Norman Watershed buffer to construct a driveway and walkway to access a proposed single-family residence.

Zoning: General Residential (GR)

Hearing Date: July 8, 2019

Staff Commentary:

The Applicant is seeking a variance from the 40' Lake Norman Watershed buffer per Town of Cornelius Ordinance number 91-00039. The applicant is asking for relief in the way of an encroachment into the 40' Lake Norman Watershed buffer to allow for the placement of a driveway and walkway.

Staff will present testimony at the hearing that covers the following basic facts and will introduce the Town exhibits into evidence:

1. The subject property is within the Town of Cornelius Zoning jurisdiction and is currently zoned General Residential (GR) and is roughly .75 acres. The property is shown on the Zoning Map as Exhibit A, on an Aerial Vicinity Map as Exhibit B, and on an Aerial Property Map as Exhibit C.
2. The Cornelius Planning Department's common practice on a development permit is to use the setbacks from the recorded plat and to use the Land Development Code for any setbacks that are not on the recorded plat.
3. Town Ordinance 91-00039 was adopted by the Town Board on 1/18/1991 to amend the zoning map and establish 22 conditions. Parcel number 001-78-117 is subject to these conditions. Condition number 19 states that "*A forty (40) foot setback shall be maintained from Lake Norman for all single-family, parking, and amenity structures.*" A driveway is considered a parking structure. This buffer is defined as a watershed buffer. Therefore, in accordance with section 16.1, the Planning Board shall serve as the Watershed Review Board. Town Ordinance 91-00039 shown as Exhibit D.
4. The subject property is recorded on a plat dated 3/4/1997 with the Mecklenburg County Register of Deeds Office in Map Book 28 Page 185 as lot number 57. There are front, side,

and rear setbacks shown on the plat. The plat also references Town Ordinance number 91-00039 in the notes. The watershed buffer on this parcel is a total of 14,682 sf. The driveway and walkway encroachment are calculated at 730 sf. This constitutes a 4.97% encroachment and is therefore, considered a minor variance request per Chapter 2. The recorded plat is shown as Exhibit E.

5. The Applicant has submitted a Town of Cornelius Variance Application, a property survey, and two site plans of the proposed driveway and walkway encroachment. The Variance Application is shown as Exhibit F, the survey as Exhibit G, and the two site plans as Exhibits H and I.
6. Staff visited the property and took two pictures which are shown as Exhibits J and K.
7. Staff has also provided a birdseye view photo of the property which is shown as Exhibit L.

The Board of Adjustment shall receive and consider all relevant evidence in the hearing and make its decision based on the competent, material and substantial evidence.

Exhibits:

<i>Exhibit A:</i>	Zoning Map
<i>Exhibit B:</i>	Aerial Vicinity Map
<i>Exhibit C:</i>	Aerial Property Map
<i>Exhibit D:</i>	Town Ordinance 91-00039
<i>Exhibit E:</i>	Recorded Plat, Map Book 28 Page 185
<i>Exhibit F:</i>	Variance Application
<i>Exhibit G:</i>	Property Survey
<i>Exhibit H:</i>	Site Plan
<i>Exhibit I:</i>	Site Plan – Aerial Photo
<i>Exhibit J:</i>	Property Photo
<i>Exhibit K:</i>	Property Photo
<i>Exhibit L:</i>	Birdseye Photo

Exhibit A Zoning Map



Lake Norman

Baltic Dr

Legend

[Light Green Box]	Rural Preservation (RP)
[Yellow Box]	General Residential (GR)
[Light Orange Box]	Neighborhood Residential (NR)
[Brown Box]	Traditional Neighborhood (TN)
[Orange Box]	Neighborhood Mixed Use (NMX)
[Teal Box]	Village Center (VC)
[Pink Box]	Town Center (TC)
[Red Box]	Highway Commercial (HC)
[Blue Box]	Business Campus (BC)
[Purple Box]	Industrial Campus (IC)
[Grey Box]	Conditional Zoning District

NORTH

0 20 40 80 Feet

Exhibit B Aerial Vicinity Map



Exhibit C Aerial Property Map



ORDINANCE NO: 91-00039

TOWN OF CORNELIUS

AN ORDINANCE TO AMEND THE ZONING MAP OF THE TOWN OF CORNELIUS

WHEREAS, the Town of Cornelius has received an application requesting the zoning classification of a parcel of land subject to the zoning regulations of the Town be reclassified;

WHEREAS, notice of public hearing on the question of the reclassification of the subject parcel has been provided through the posting of the property;

WHEREAS, notice of public hearing on the question of the reclassification of the subject parcel has been provided through advertisement in a newspaper of general circulation in the Town;

WHEREAS, property owners contiguous the subject parcel have been notified by first class mail of the public hearing on the question of the reclassification;

WHEREAS, a public hearing on the question of the reclassification of the subject parcel has been held by the Board of Commissioners and Planning Board of the Town of Cornelius; and

WHEREAS, the Planning Board of the Town of Cornelius has recommended that the Board of Commissioners approve the reclassification of the subject property.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF CORNELIUS:

That a portion of Parcel Number 001-142-02 be rezoned from R-4 Conditional Use (Multi-Family) to R-4 Conditional Use (Special Purpose District) subject to the following:

- 1) Development and site data as provided on submitted site plans is hereby approved by the Town of Cornelius subject to the terms of this ordinance;

- 2) As required by the Code of Ordinances, any proposed revision in the approved site plan shall first obtain a technical amendment to the Conditional Use Permit under the policies and conditions of the Town of Cornelius and may not materially change the zoning;
- 3) Proposed building lots shall have a minimum width of sixty (60) feet at the building line and a minimum area of 7,000 square feet. Lots shall have a minimum frontage of thirty-five (35) feet on a dedicated roadway;
- 4) The minimum front yard setback shall be thirty (30) feet. The minimum rear yard setback shall be twenty-five (25) feet. A lot shall have a minimum total side yard setback of fifteen (15) feet which may vary from five to ten (5 to 10) feet on either side as long as the minimum requirements are addressed;
- 5) Corner lots shall have a minimum twenty (20) foot side yard setback on the corner side;
- 6) A minimum fifteen (15) foot separation shall be maintained between single family dwellings;
- 7) No accessory structure shall be allowed within the front yard, nor within ten (10) feet of the side or rear property lines.
- 8) Lots on the submitted site plan are representative of the proposed lot layout. Lot widths and areas may be decreased to the minimum set forth in part (3) above. The maximum allowable total of lots is 170. It is understood that the road layout is representative and subject to revision.
- 9) Preliminary subdivision review and approval shall be conducted by the Planning Board of the Town of Cornelius. Design standards for required improvements shall address the minimum provisions of the Land Development Standards Manual of Mecklenburg County, except as noted herein. Mecklenburg Engineering shall certify that the required improvements are to specification prior to the granting of preliminary subdivision approval.
- 10) Final subdivision plat approval shall be made by the Board of Commissioners of the Town of

Cornelius. Prior to final plat approval, Mecklenburg Engineering shall certify that the required improvements have been constructed to specification or that an adequate performance bond covering the cost of the required improvements has been posted;

- 11) Two subdivision identification monument signs shall be permitted not to exceed ten (10) feet in height with sign face area and lettering not exceeding fifteen (15) square feet per sign. Signs shall be located off of public rights-of-way and outside of sight triangles;
- 12) It is understood that boat slips will be offered through a private boaters association, and that only members of the association may dock their boats in a slip. Membership will be offered to residents within Blue Stone Harbor as well as others living outside of Blue Stone Harbor. No gasoline sales or other commercial activities shall be permitted. Members of the association shall not be permitted to lease their slips. The association shall be bound by a set of recorded restrictive covenants.
- 13) A provision in the slip lease shall provide that members must maintain adequate records of waste disposal and these records must be provided to the association on an annual basis. The association shall maintain a complete record of all boats with waste disposal facilities. Failure to provide these records to the association upon request, or on an annual basis, shall be grounds for eviction. These records, in turn, shall be provided to the Town of Cornelius on an annual basis. The slip lease shall provide for the eviction of members that are caught illegally discharging waste. Any person illegally discharging waste shall be reported to the Environmental Health Department of Mecklenburg County for civil and criminal prosecution.

The failure of persons to comply with these reporting provisions, or the failure of the association to comply with all reporting and administrative requirements, shall subject the offender to a civil penalty in the amount of one hundred dollars (\$100.00) to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within

a period of seventy-two (72) hours after the offender has been cited for violation. Any action to recover the civil penalty may be joined in an action for appropriate equitable remedy, including injunctions and orders of abatement, and including an action to recover damages owing to the Town by reason of expenses incurred by the Town in abating, correcting, limiting, and otherwise dealing with the offending action. Each day of continuing violation is a separate and distinct offense.

- 14) Parking for the boat slip area shall meet Mecklenburg County Standards of one space per four slips. An off-street loading and unloading space shall be provided as per the requirements of the Cornelius Zoning Ordinance;

- 15) The following street design standards shall apply to Blue Stone Harbor:

- a) Cul-de-sac streets shall be constructed to Mecklenburg County Standard 10.07 with curb and gutter. The material used for base course shall consist of either a minimum four (4) inches of Bituminous Concrete Binder Course (BCBC-Type H), after certified compaction, or eight (8) inches of ABC stone, after certified compaction. The surface course shall consist of either one (1) inch of BCBC-Type H (with base course of 4-inch BCBC), or two and a half (2.5) inches BCBC (with a base course of 8-inches of ABC stone), installed as provided in this ordinance.

Other residential streets shall be constructed to a minimum paved width of twenty-four (24) feet with curb and gutter. The material used for base course shall consist of either a minimum four (4) inches of Bituminous Concrete Binder Course (BCBC-Type H), after certified compaction, or eight (8) inches of ABC stone, after certified compaction. The surface course shall consist of either one (1) inch of BCBC-Type H (with base course of 4-inch BCBC), or two and a half (2.5) inches BCBC (with a base course of 8-inches of ABC stone), installed as provided in this ordinance.

The 4-inch BCBC base course shall be compacted to 90% of maximum theoretical density. The 8-inch ABC stone base course shall be compacted to a density equal to 100% of that obtained by compacting a sample in accordance with AASHTO T180.

The surface course in either type pavement structure shall be compacted to a density of 95% of laboratory density as determined by the Marshall Method of Testing.

- b) As noted above, the surface course for the 4-inch BCBC base course shall be installed when at least seventy-five percent (75%) of the lots fronting the on the street or streets requested for maintenance have a habitable dwelling unit located thereon and after any defects identified by the Street Superintendent of the Town of Cornelius or Mecklenburg Engineering have been repaired.

A one and a half (1.5) inch I-2 BCSC surface course shall be installed for the 8-inch ABC stone base course and a final one (1) inch I-2 BCSC surface course shall be installed when at least seventy-five percent (75%) of the lots fronting the on the street or streets requested for maintenance have a habitable dwelling unit located thereon and after any defects identified by the Street Superintendent of the Town of Cornelius or Mecklenburg Engineering have been repaired.

- c) All road materials, construction standards and compaction testing shall conform to the standards set forth in the "Standard Specifications for Roads and Structures, North Carolina Department of Transportation" accept as amended herein, and the requirements of Mecklenburg Engineering. Where the various standards conflict, the standard deemed most stringent by the Town of Cornelius shall apply.

Proof that compaction standards are met shall be certified by an independent testing firm and shall be furnished by the developer to Mecklenburg Engineering for their review;

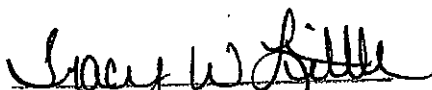
- 16) There shall be a minimum of two (2) subdivision entry roads established for Blue Stone Harbor on Knox Road;
- 17) There shall be acceleration and deceleration lanes at both entrance roads into Blue Stone Harbor on Knox Road, according to DOT and Mecklenburg County regulations;
- 18) The developer shall make provisions for fire-fighting and water supply at the boat slips subject to the approval of the Cornelius Fire Department. Locations of fire hydrants at the development are subject to the approval of the Cornelius Fire Department;
- 19) A forty (40) foot setback shall be maintained from Lake Norman for all single-family, parking and amenity structures;
- 20) There shall be no direct discharge of overground or underground drainage, or stormwater runoff from streets, parking or amenity areas, into Lake Norman;
- 21) All construction shall be in accordance with the Mecklenburg County Erosion and Sediment Control Ordinance;
- 22) Blue Stone Harbor shall place into public dedication up to fifteen-feet to complete a 30 foot dedicated right-of-way from center line of Knox Road the full length of said development.

Adopted this the 18 day of February, 19 91.

SEAL


Harold B. Little
Mayor

ATTEST:


Tracy W. Little
Town Clerk

97027827

NOTES

THIS PROPERTY MAY BE SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAY.

IRON PINS SET AT ALL CORNERS UNLESS OTHERWISE NOTED.

THIS PROPERTY DEVELOPED AS R-4 CONDITIONAL USE (SPECIAL PURPOSE DISTRICT) PER ORDINANCE NO. 91-00039.

AREAS COMPUTED BY COORDINATE METHOD.

TOTAL ACREAGE FOR THE AREA ENCOMPASSED BY THIS MAP IS 5.3102 ACRES.

TOTAL AREA MINUS RIGHT-OF-WAY FOR THIS MAP IS 4.8931 ACRES.

NO DEVELOPMENTAL STUMP HOLES REPORTED TO THIS FIRM WITHIN THE LOTS WHICH MAKE UP THIS MAP.

OFFSITE TBM - BENCHMARK 164 JAS

ONSITE TBM - NAIL IN 16" PINE TREE 95' SOUTH OF CENTERLINE INTERSECTION OF BALTIMORE DRIVE & DUFOUR COURT. ELEVATION = 778.23

LINEAR FEET OF STREET = 352'

THIS PROPERTY SUBJECT TO A 10' FLOOD EASEMENT TO DUKE POWER COMPANY.

TOTAL NUMBER OF LOTS IS 14

NO MONUMENTATION SET ALONG LAKE UNLESS OTHERWISE NOTED, WITH THE EXCEPTION OF LOT CORNERS.

SUBJECT TRACT DEED REFERENCES: DB 6387 PG 406, DB 4999 PG 327, DB 4147 PG 894.

FOR GRID TIE SEE MB 25 PG 585.

LOTS 57-63 ARE SUBJECT TO A FLOOD PROTECTION ELEVATION OF 761.00'

NOTE A:
APPROXIMATE LOCATION OF 760' CONTOUR TAKEN FROM MAP BOOK 24 PAGE 9 PRIOR TO FILL BEING PLACED IN THIS AREA. NOT FIELD SURVEYED BY ESP ASSOCIATES, P.A.

THE AREA SHOWN ON THIS PLAT COORDINATES TO THE AREA SHOWN ON FEMA FIRM COMMUNITY PANEL #370158.0015.B AND DATED 2/3/93.

Certificate of Approval for Recording
I certify that this plat is within a designated Public Water Supply Watershed, and that the owner and developer have submitted plans and obtained permits for construction prior to the effective date of the ordinance, and are exempt from its provisions.

Watershed Administrator, Town of Cornelius
3.4.97

Date

LAKE NORMAN
DUKE POWER CO.
DB 2224-355

LAKE NORMAN
DUKE POWER CO.
DB 2224-355

LEGEND

MBS = MINIMUM BUILDING SETBACK
PDE = PUBLIC DRAIN EASEMENT
CSSR = CMUD SANITARY SEWER R/W
C.M. = CONCRETE MONUMENT
R/W = RIGHT-OF-WAY
CMUD = CHARLOTTE-MECKLENBURG UTILITY DEPARTMENT
X = FENCE

THIS DRAWING AND/OR THE DESIGN SHOWN ARE THE PROPERTY OF ESP ASSOCIATES, P.A. THE REPRODUCTION, ALTERATION, COPYING OR OTHER USE OF THIS DRAWING WITHOUT THEIR WRITTEN CONSENT IS PROHIBITED AND ANY INFRINGEMENT WILL BE SUBJECT TO LEGAL ACTION.

ESP ASSOCIATES, P.A.



ESP ASSOCIATES, P.A.
engineering•surveying•planning

10100 Park Cedar Drive, Suite 154
Charlotte, NC 28210 (704) 542-7317

CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	307.00'	30.89'	15.46'	30.87'	S 88°52'31" W	05°45'51"
C2	307.00'	98.01'	49.43'	97.59'	N 79°05'48" W	18°17'30"
C3	307.00'	73.41'	36.88'	73.24'	N 63°06'02" W	13°42'03"
C4	45.00'	69.33'	43.67'	62.68'	N 64°44'44" W	88°16'42"
C5	45.00'	36.95'	19.59'	35.92'	S 47°35'40" W	47°02'28"
C6	45.00'	36.01'	19.03'	35.06'	S 01°08'48" W	45°51'16"
C7	45.00'	35.85'	18.94'	34.91'	S 44°36'21" E	45°39'02"
C8	45.00'	20.87'	10.63'	20.68'	S 80°43'05" E	26°34'25"
C9	25.00'	25.27'	13.83'	24.21'	S 65°03'00" E	57°54'36"
C10	25.00'	6.76'	3.40'	6.74'	S 28°21'02" E	15°29'19"
C11	347.00'	71.95'	36.10'	71.82'	N 78°20'33" W	11°52'47"
C12	347.00'	58.88'	29.51'	58.81'	N 89°08'37" W	09°43'21"
C13	347.00'	86.55'	43.56'	86.26'	N 64°19'34" W	16°09'08"

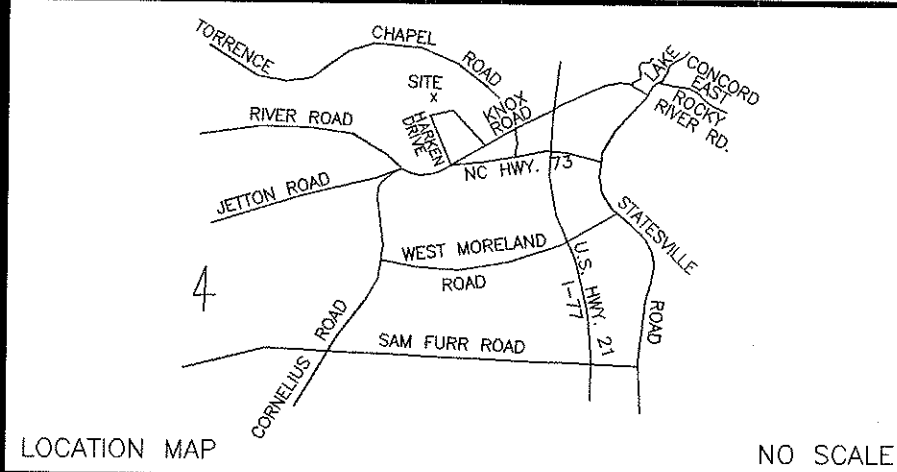
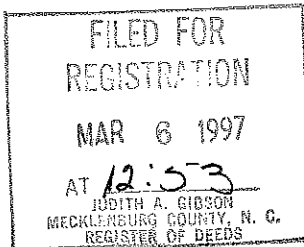
Map Book 28 Page 185

ZONING CRITERIA

FRONT: 30' AVERAGE
SIDE: 5'-10' (TOTAL 15')
REAR: 25'

APPROVED IN ACCORDANCE WITH THE ENGINEERING REQUIREMENTS OF THE SUBDIVISION ORDINANCE OF THE TOWN OF CORNELIUS, NORTH CAROLINA.

Beverly Lanning 2/25/97
(ENGINEER/STAFF) DATE



LINE BEARING AND DISTANCE

LINE	BEARING AND DISTANCE
1	N 14°25'04" E 17.69'
2	N 26°58'43" W 7.89'
3	S 39°51'10" W 19.79'
4	N 46°40'40" W 5.93'
5	N 07°53'36" E 15.71'
6	N 39°52'35" W 24.82'
7	N 68°33'33" W 47.82'
8	N 04°31'25" E 7.56'
9	N 81°43'15" W 24.37'
10	S 70°35'03" W 28.23'
11	S 81°07'06" W 10.16'
12	N 65°36'47" W 20.75'
13	S 11°12'54" E 15.98'
14	S 75°33'47" W 9.35'
15	S 45°29'21" W 16.73'
16	S 29°44'08" W 10.84'
17	S 84°50'13" W 9.57'
18	S 21°44'45" W 14.48'
19	S 63°35'25" W 10.12'
20	S 39°02'20" W 30.93'
21	S 56°22'06" W 15.40'
22	N 08°25'03" W 18.96'
23	N 21°26'43" E 18.41'
24	S 39°42'11" W 16.57'
25	S 85°05'11" W 4.26'
26	S 15°41'21" E 9.58'
27	S 25°03'50" W 20.05'
28	N 87°52'20" W 19.52'
29	N 40°00'21" W 20.74'
30	S 13°19'08" W 29.91'
31	S 45°34'35" W 16.73'
32	N 86°37'04" W 21.89'
33	N 80°06'45" W 24.02'
34	N 27°55'51" E 31.07'
35	N 51°41'50" E 69.59'
36	N 18°50'39" E 34.72'
37	S 30°10'02" E 28.45'
38	N 18°52'29" E 7.07'
39	S 56°35'50" W 43.41'
40	S 56°15'00" E 17.47'
41	N 56°19'00" W 34.32'
42	S 00°27'32" E 42.37'

CERTIFICATE OF APPROVAL FOR RECORDING

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION ORDINANCE OF THE TOWN OF CORNELIUS AND THAT THIS PLAT HAS BEEN APPROVED BY THE BOARD OF COMMISSIONERS ON _____ FOR RECORDING IN THE MECKLENBURG COUNTY DEEDS OFFICE WITHIN NINETY (90) DAYS OF THE APPROVAL DATE BELOW. THEREFORE, THIS PLAT SHALL BE VALID FOR RECORDING UNTIL _____ AFTER SUCH DATE, THIS APPROVAL SHALL BE NULL AND VOID.

3.4.97
JUDITH A. GIBSON
SUBDIVISION ADMINISTRATOR
CORNELIUS, NORTH CAROLINA

CERTIFICATE OF OWNERSHIP AND DEDICATION

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, WHICH IS LOCATED IN THE SUBDIVISION JURISDICTION OF THE TOWN OF CORNELIUS AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY FREE CONSENT, ESTABLISH MINIMUM BUILDING SETBACK LINES, AND DEDICATE ALL STREETS, WALKS, PARKS, AND OTHER SITES AND EASEMENTS TO PUBLIC OR PRIVATE USE AS NOTED. FURTHERMORE, I HEREBY DEDICATE ALL SANITARY SEWERS TO CMUD AND ALL STORM SEWER SYSTEMS TO CMUD AND ALL WATER LINES TO CMUD.

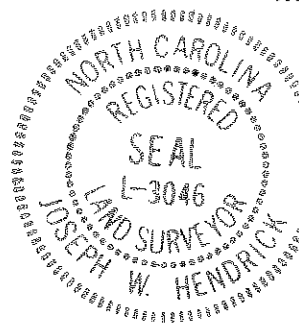
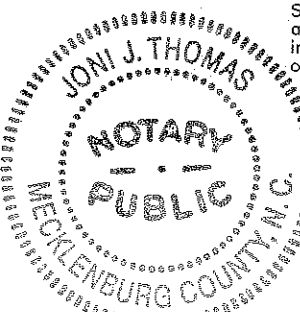
CERTIFICATE OF APPROVAL OF THE DESIGN AND INSTALLATION OF STREETS, UTILITIES, AND OTHER REQUIRED IMPROVEMENTS

I HEREBY CERTIFY THAT ALL STREETS, PUBLIC DRAINAGE AND UTILITIES, AND OTHER IMPROVEMENTS HAVE BEEN INSTALLED IN AN ACCEPTABLE MANNER AND ACCORDING TO TOWN STANDARDS OR AS OTHERWISE PROVIDED FOR IN THE SUBDIVISION ORDINANCE, OR THAT GUARANTEES FOR THE INSTALLATION OF THE REQUIRED IMPROVEMENTS IN THE AMOUNT AND MANNER SATISFACTORY TO THE TOWN OF CORNELIUS HAVE BEEN RECEIVED.

3/4/97
Beverly Lanning
ENGINEER/STAFF

North Carolina, Mecklenburg County
I, a Notary Public of the County and State aforesaid, certify that Joseph W. Hendrick, a Registered Land Surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 4TH day of AUGUST, 1995.

My Commission Expires April 17, 2007
My commission expires _____



I, Joseph W. Hendrick, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 4999, Page 427, etc.) and (Map Book _____, Page _____); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, Page _____; that the ratio of precision as calculated is 1:16,212; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this 4TH day of AUGUST, A.D., 1995.

Surveyor
L-3046
Registration Number

State of North Carolina, County of Mecklenburg

The foregoing certificate(s) of _____

a Notary Public (is) (are) certified to be correct.

This 6th day of March 1997

Judith A. Gibson, Register of Deeds

By _____ Deputy

2 REMOVED LOTS 47-49 12/10/96 HJH
1 ADDED "NOTE A" LABEL 4/17/96 HJH

FINAL PLAT OF
CAPTAIN'S POINT MAP 3
OWNER: CHARTOWN
LOCATED IN TOWN OF CORNELIUS
MECKLENBURG COUNTY
NORTH CAROLINA

LANDCRAFT
PROPERTIES, INC.

227 W. TRADE ST.
SUITE 2370
CHARLOTTE, N.C. 28202
(704) 332-9340

PROJECT NO.
HH22
SCALE
1"=100'
DATE
7/27/95
DRAWN BY
RLS/HJH
CHECKED BY
JWH
DRAWING NO.
HH22M2.DWG

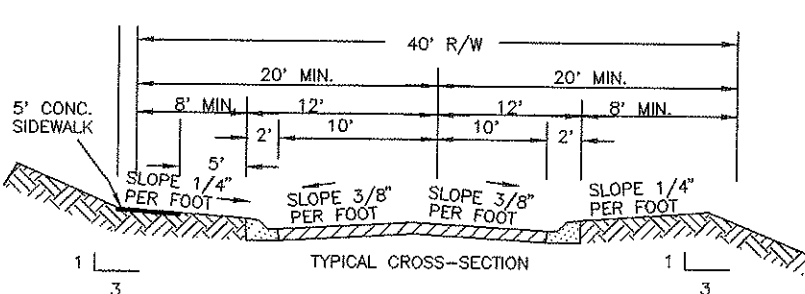


- I, Joseph W. Hendrick, RLS, CERTIFY TO ONE OR MORE OF THE FOLLOWING AS INDICATED:
- a. THAT THIS PLAT IS A SURVEY THAT CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND;
 - b. THAT THIS PLAT IS OF A SURVEY THAT IS LOCATED IN SUCH PORTION OF A COUNTY OR MUNICIPALITY THAT IS UNREGULATED AS TO AN ORDINANCE THAT REGULATES PARCELS OF LAND;
 - c. THAT THIS PLAT IS OF A SURVEY OF AN EXISTING PARCEL OR PARCELS OF LAND;
 - d. THAT THIS PLAT IS OF A SURVEY OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION;
 - e. THAT THE INFORMATION AVAILABLE TO THIS SURVEYOR IS SUCH THAT I AM UNABLE TO MAKE A DETERMINATION TO THE BEST OF MY PROFESSIONAL ABILITY AS TO PROVISIONS IN (a) THROUGH (d) ABOVE.

Joseph W. Hendrick, RLS Registration No. L-3046

DEDICATION OF COMMON AREA

LANDCRAFT PROPERTIES, INC. in recording this plat as a portion of CAPTAIN'S POINT has designated certain parts as "COMMON AREA" for use by the homeowners or tenants of CAPTAIN'S POINT not for the use by the general public but for parking, recreational, and other related activities as more fully provided for the Declaration of Covenants, Conditions, and Restrictions applicable to CAPTAIN'S POINT which Declarations will be recorded in the Mecklenburg County Register of Deeds before any lots are sold and which said Declaration is hereby made a part of this plat and incorporated herein.





TOWN OF CORNELIUS VARIANCE APPLICATION

Date Filed:	Case VAR
Fee Paid: \$	Public Hearing
Applicant: SMDA Development 1, LLC	Tax Parcel: 00178117
Location of Variance: Baltic Drive	Zoning: GR

I, SMDA Development 1, LLC c/o David W. Murray, Esq., hereby petition the Board of Adjustment for a VARIANCE from the literal provisions of the Town of Cornelius Land Development Code because, under the interpretation given to me by the Zoning Administrator, I am prohibited from using the parcel of land described above in a manner shown by the Plot Plan attached to this form. I request a variance from the following provisions of the Zoning Ordinance (cite Section and numbers) Cornelius Town Ordinance 910039(19) provides that a forty (40) foot setback shall be maintained from Lake Norman for all single family, parking and amenity structures.

Describe the variance being requested on the above referenced property: The applicant is seeking a ± 730 SF encroachment into the 40' Lake Norman setback from the 760' contour line in order to construct a driveway and walkway to a proposed single-family residential structure to be constructed on the parcel. Without the variance, no driveway access can be constructed to the buildable area on the parcel because the LDC prevents encroachment into the buffer without a variance.

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based

- A. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- D. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Please State Facts & Arguments in Support of EACH of the Following Statements:

- A. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

The purpose of the LDC is to encourage development of land. The current lot is undeveloped because vehicular driveway access cannot be built without encroaching into the Lake Norman buffer area. A variance is necessary in order to allow a driveway and walkway within the buffer area to provide access to a single-family structure on the property. Given that deed restrictions require a single-family residence of 1800 square feet and that the building envelope is small, a variance is needed to provide an improved access drive to the property.

- B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

The hardship here is the direct result of multiple factors, including, (1) the extremely unique shape of the parcel, (2) the location of the parcel adjacent to Lake Norman, (3) the 760' topographical measure existing on the property where the 40' setback is measured, and (4) the size of the width of the "arm" to Baltic Drive to provide vehicular access to the property.

- C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

The property owner, SMDA Development 1, LLC, did not create the hardships on the property.

- D. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

The intent of the watershed buffer ordinance is to provide protection for areas next to Lake Norman in order to limit development, but it is not the intent to totally prohibit use of that area since a variance can be granted. The Applicant has prepared a plan showing the minimal encroachment into the buffer in order to allow a house to be constructed on the lot. There are no public safety concerns, and to deny the variance, which also means vehicular access is denied, denies substantial justice to the property owner. Not having adequate vehicular access would also impair access for first responders to any use on the site. The purpose of the encroachment is to provide access to a single-family residential structure, which is the purpose of GR zoning. Without the variance, the intent of GR zoning cannot be achieved.

Variance Application
continued

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information and belief.

SMDA Development 1, LLC c/o David W. Murray
Name of Applicant

SMDA Development 1, LLC
Name of Owner

1109 Greenwood Cliff
Applicant's Address

21529 Baltic Drive
Owner's Address

Charlotte, NC 28204
City, State, Zip Code

Cornelius, NC 28031
City, State, Zip Code

June 7, 2019

Date

June 7, 2019

Date

704-377-7333

Telephone Number

704-377-5747

Fax Number

davidmurray@mecklaw.com

Email Address


Signature

NAMES AND ADDRESSES OF ALL ABUTTING PROPERTY OWNERS

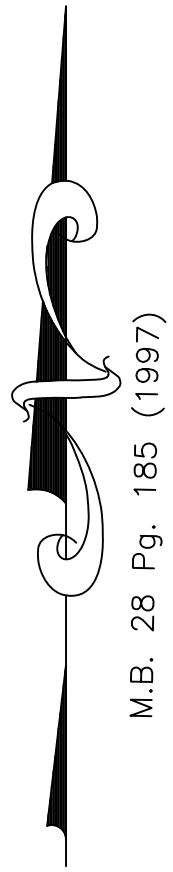
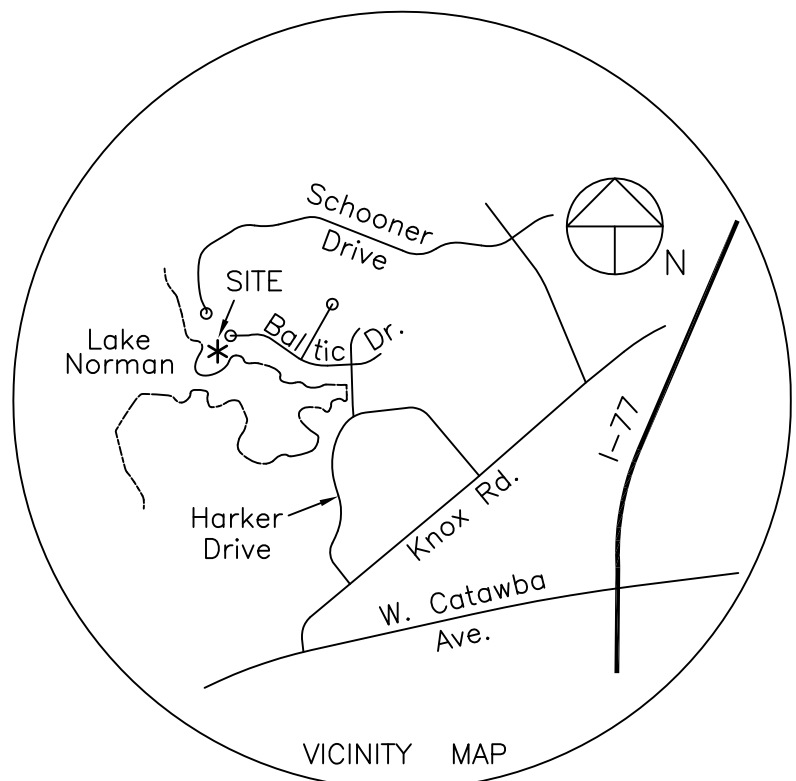
The following are individuals, firms, or corporations owning property adjoining (including those properties across the street) the property described in this application. Type or print the complete names and addresses including zip code and tax parcel number. These persons will be notified in writing of the time and place of the hearing.

Name	Address/City/State/Zip	Tax Parcel Number
Anette E. Powell	21530 Baltic Dr., Cornelius, NC 28031	00178118
Steven & Melissa Frank	21323 Baltic Dr., Cornelius, NC 28031	00178116
Daniel & Jennifer Meyers	21526 Baltic Dr., Cornelius, NC 28031	00178119
Anthony Larson	21522 Baltic Dr., Cornelius, NC 28031	00178120

Variance Application
continued

Submit or draw a Site Plan below describing property and variance request. Give all appropriate dimensions, buildings/structures and their distance to property lines, right-of-ways, etc. (ATTACHED)

A large, empty rectangular box with rounded corners, intended for drawing a Site Plan. The box is white with a thin black border and occupies the majority of the lower half of the page.



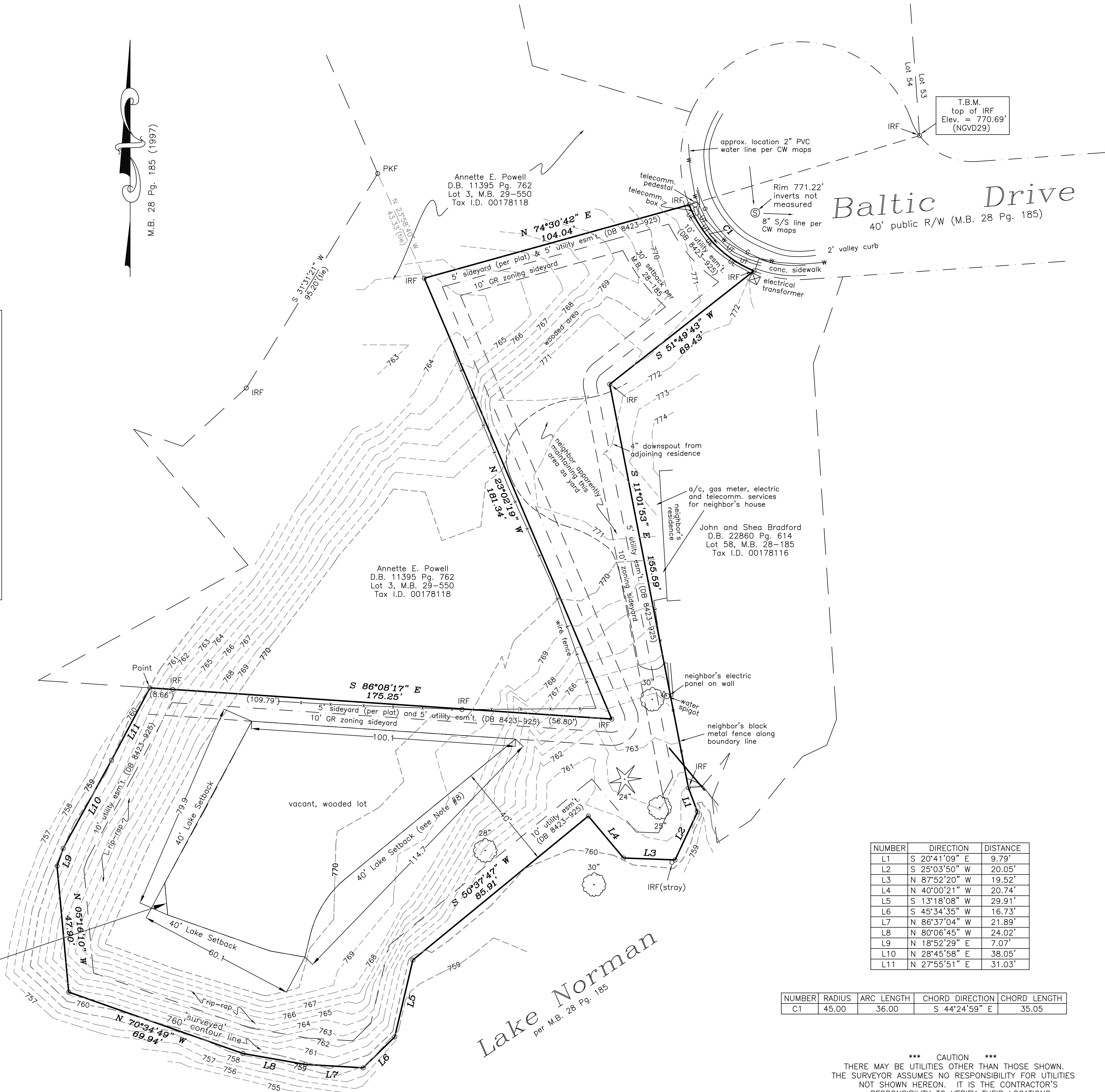
LEGEND	
ch.	chord
L/R	curve length & radius s.f.
s.f.	square feet (by coordinates)
IPF/IRF	iron pipe/rebar found
IRS	1/2" iron rebar set
MB,DB	record map, deed reference
BFP	backflow preventer
a/c	air conditioner
	irrigation control valve
	guy anchor
	power pole
	light pole
	water meter
	water vault
	gas meter
	fire hydrant
	telephone manhole
	sanitary sewer manhole
	sanitary sewer clean-out
	storm sewer manhole
	gas meter
	water valve
CW	Charlotte Water Dep't.
SS	sanitary sewer line
G	underground gas line
X	fence line
OE	overhead utilities
UT	underground telecomm. line
W	water line

LEGEND

Lake Norman
Per M.B. 28 Pg. 185

PRELIMINARY SKETCH
02-03-2017

BUILDABLE ENVELOPE
USING 40' LAKE SETBACK
= 6,200 S.F.



NUMBER	RADIUS	ARC LENGTH	CHORD	DIRECTION	CHORD LENGTH
C1	45.00	36.00	S 44°24'59" E		35.05

*** CAUTION ***
THERE MAY BE UTILITIES OTHER THAN THOSE SHOWN.
THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR UTILITIES
NOT SHOWN HEREON. IT IS THE CONTRACTOR'S
RESPONSIBILITY TO VERIFY THEIR LOCATIONS.

CALL BEFORE YOU DIG
1-800-632-4949

THIS SURVEY IS CERTIFIED ONLY TO SMDA Development 1, LLC:

I, ANDREW G. ZOUTEWELLE, do hereby certify that this map was drawn that this survey is based upon my best knowledge, information and belief; that this map was drawn under my supervision from an actual survey made under my supervision (deed description recorded in deed and map books as noted); that the boundaries not surveyed are indicated as dashed lines drawn from adjoining deed sources as shown hereon; that the ratio of precision or positional accuracy is 1:10,000; that this map meets the requirements of The Standards of Practice for Land Surveying in North Carolina (21 NCAC 56.1600). This map is not intended to meet G.S. 47-30 recording requirements.

Actual ground elevations are within 1/2 contour interval of the contour lines shown across 90% of the surveyed area.

This _____ day of _____, 2017.

PRELIMINARY - FOR REVIEW PURPOSES ONLY

Andrew G. Zoutewelle
Professional Land Surveyor
NC License No. L-3098

GENERAL NOTES

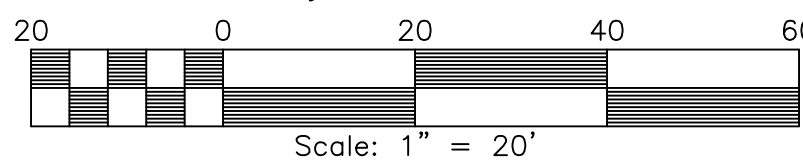
- Source of title for this property is recorded in Deed Book 20960 Page 506. This property is known as all of Lot 57 CAPTAIN'S POINT MAP 3 as recorded in Map Book 28 Page 185 Mecklenburg County Registry. Mecklenburg County Tax Identification Number for this parcel is 00178117.
- Total area of the property is 32,522 S.F. (or 0.7466 ac.), by coordinates
- This survey was done without the benefit of a complete title examination. See the following:
 - Declaration of Covenants, Conditions and Restrictions recorded in Deed Book 8423 Page 7925 and amendments to the Declaration of Covenants, Conditions and Restrictions recorded in Deed Book 8674 Page 695, Book 8750 Page 472, Book 8818 Page 192, Book 8959 Page 989 and Book 21433 Page 268. (40' Lake setback and utility easements noted in the deeds are shown hereon).
- Zoning of this parcel is GR (General Residential) per Mecklenburg County GIS. Per Map Book 28 Page 185, the building setbacks are:
 - Front setback - 30'
 - Sidyard: - 5'/10' (total 15')
 - Rearyard: - 25'
 - Lake Setback: - 40'Per the Town of Cornelius Land Development Code the building setbacks are:
 - Front - 25'
 - Sidyard - 10'
 - Rearyard - 25'
 - Lake Setback - 50'Per a letter from Becky Partin, Town of Cornelius Communication Specialist, dated December 29, 2016, Ordinance No. 91-00039 applies to this property and requires the following building setbacks:
 - Front - 30'
 - Sidyard - 5' to 10' with 15' min. building separation
 - Rearyard - 40' from Lake Norman
 - 25' non-lake rearyard

This property is located within the Lake Norman Watershed Critical Area and is subject to additional restrictions as defined in the Town of Cornelius Development Code. This survey does not reflect a complete zoning analysis. Development of this property and setback configuration is subject to the approval of the Town of Cornelius.

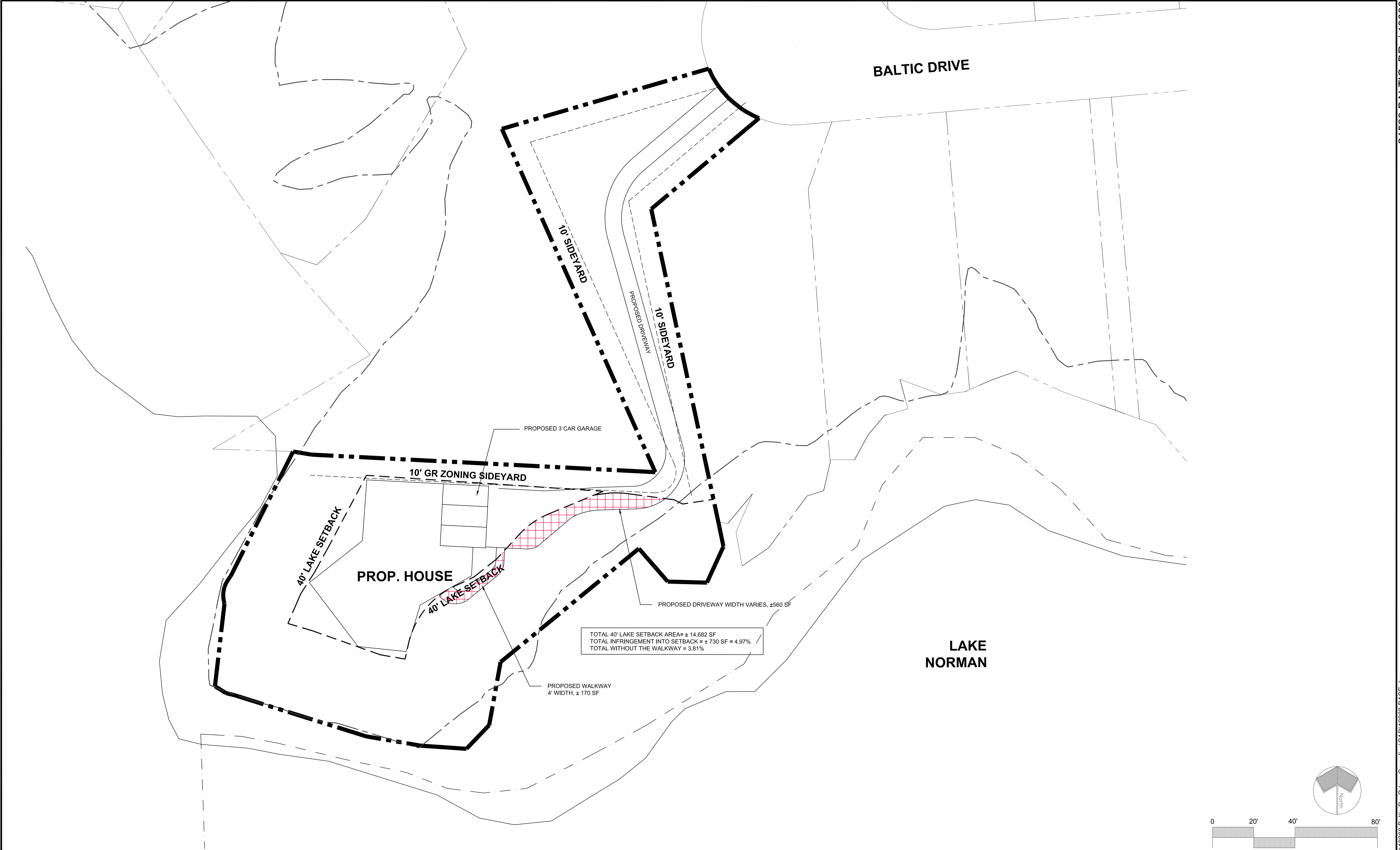
- Utilities shown hereon are based upon: (1) observed, above-ground surface indications, (2) Charlotte Water customer service maps, and (3) point designation markings by the NC ONE-CALL Utility Locating Center. It is the contractor's responsibility to contact NC ONE-CALL at 1-800-632-4949 (or 811) before beginning any design, excavation or construction.
- Vertical datum is based on the published lake level on the date of the survey, and was obtained from the Duke Power Company web site. This elevation is apparently NGVD29.
- This property is partially located within a designated Flood Hazard Area per graphic scaling from Flood Insurance Rate Map Community Panel No. 3710463300J dated September 2, 2015.
 - Base Flood Elevation (BFE) = 760.0' (NAVD88), or 760.74' (NGVD29)
 - Flood Protection Elevation (FPE) = 762.0' (NAVD88), or 762.74' (NGVD29)
- Only those trees 24" DBH and greater are shown. There are other trees not shown.
- The 40' Lake setback shown hereon is measured from the platted location of the 760' contour line as shown on Map Book 28 Page 185. This setback width should be verified with the Town of Cornelius.
- Per Mecklenburg County GIS this property is subject to a 50' SWIM (Surface Water Improvement and Management) Buffer. Developer should consult the Town of Cornelius to determine the applicability of this buffer.

Copyright 2017

TOPOGRAPHIC SURVEY
21529 Baltic Drive
CORNELIUS, MECKLENBURG COUNTY, N.C.
for SMDA DEVELOPMENT 1, LLC
Date of Survey: December 23, 2016

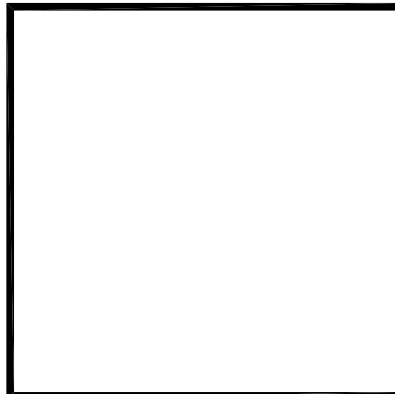
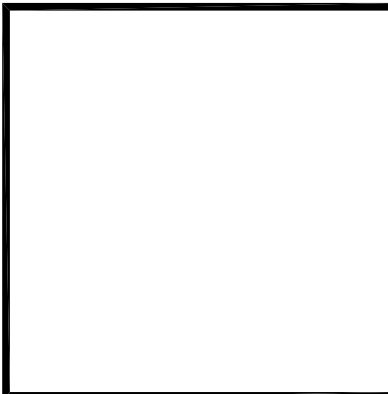


A.G. ZOUTEWELLE
SURVEYORS
1418 East Fifth St. Charlotte, NC 28204
Phone: 704-372-9444 Fax: 704-372-9555
Firm Licensure Number C-1054



Project Manager
XXX
Drawn By
AHS
Checked By
XX
Date
2019-06-25
Project Number
19038

REVISIONS:			
No.	Date	By	Description





landscape architecture
civil engineering
planning

DPR Associates, Inc. ■ 420 Hawthorne Lane ■ Charlotte, NC 28204
phone 704.332.1204 ■ fax 704.332.1210 ■ www.dprassociates.net

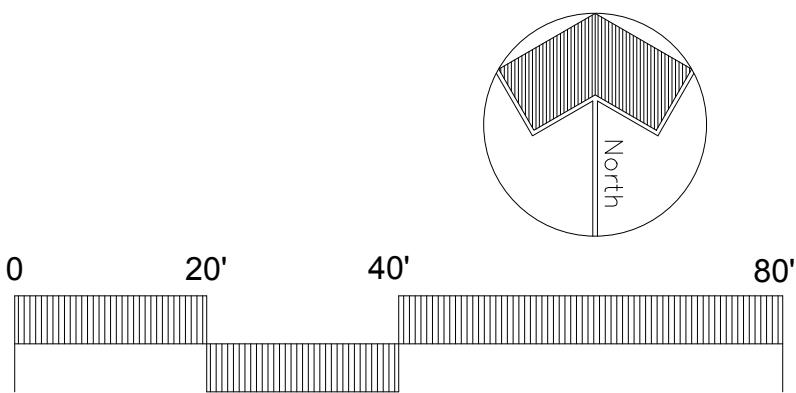
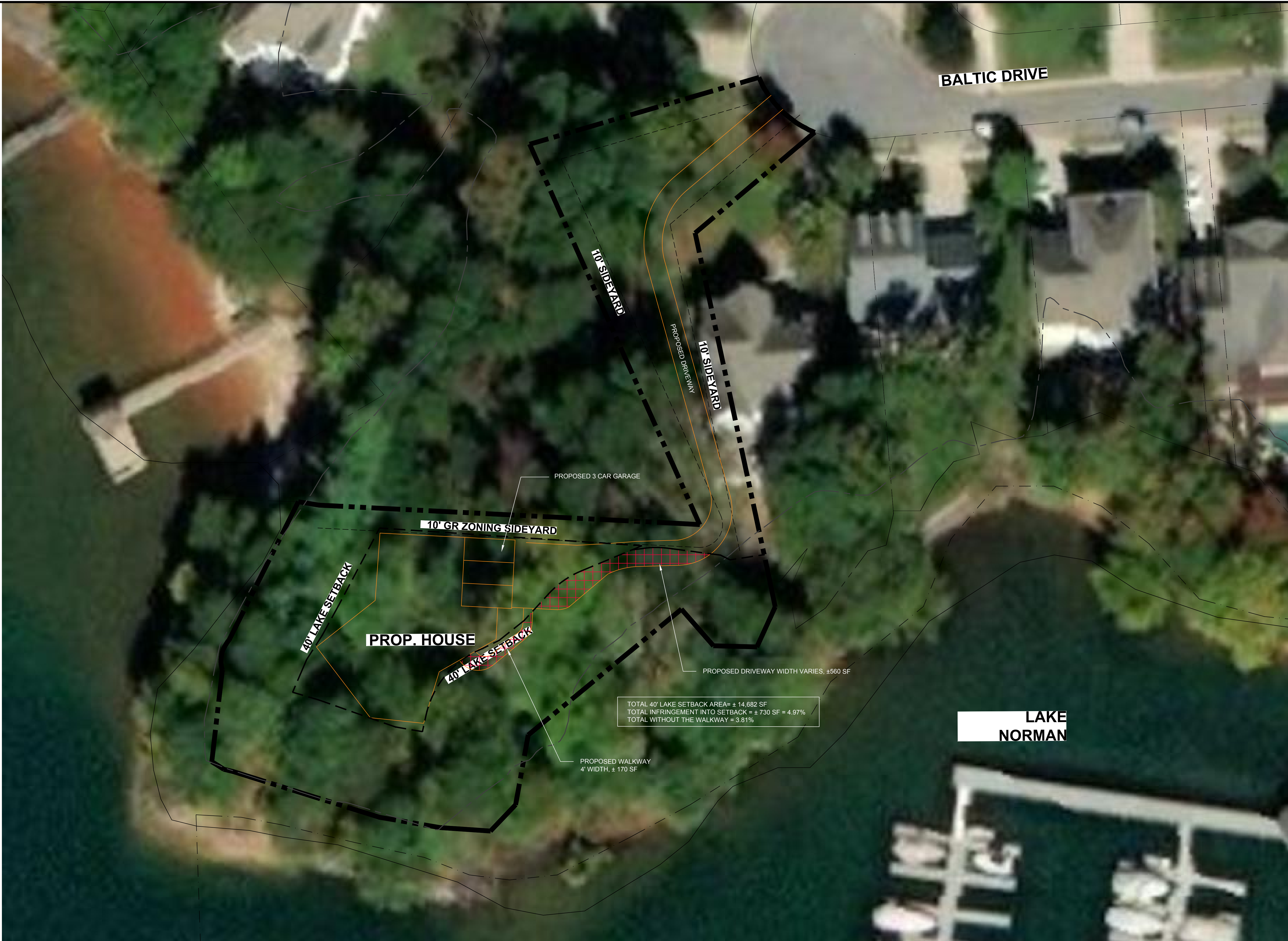
LAKE SETBACK ENCROACHMENT EXHIBIT

21529 BALTIC DR.
CORNELIUS, NORTH CAROLINA

Scale:
1" = 20'

Sheet Number
SK-1

SHEET 1 OF 1 TOTAL



Project Manager
XXX
Drawn By
AHS
Checked By
XX
Date
2019-06-25
Project Number
19038

REVISIONS:			
No.	Date	By	Description



landscape architecture
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CORNELIUS, NORTH CAROLINA

Scale:
1" = 20'

Sheet Number

SK-1

SHEET 1 OF 1 TOTAL









TOWN OF CORNELIUS

Variance FINDINGS OF FACT

Owner/Project: SMDA Development 1, LLC	Case #: VAR 02-19
Acreage: 0.75	Tax Parcel(s): 001-781-17

The Planning Board, in considering an application for a variance, shall give due consideration to the following:

- The citing of other nonconforming or conforming uses of land or structures in the same or other districts, shall not be considered grounds for the granting of a variance.
- The request for a variance for a particular use expressly, or by inference, prohibited in the district involved, shall not be granted.

The Planning Board may only grant a variance, having first held a public hearing on the matter and having made the following determinations:

- A. There are unnecessary hardships resulting from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

☐ YES

☐ NO

The decision to make this finding is based on the following facts: _____

- B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

☐ YES

☐ NO

The decision to make this finding is based on the following facts: _____

- C. The hardship does not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

☐ YES

☐ NO

The decision to make this finding is based on the following facts: _____

- D. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

☐ YES

☐ NO

The decision to make this finding is based on the following facts: _____

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: July 8, 2019

To: Planning Board Members

From: Aaron Tucker, Assistant Planning Director

Action Requested:

Staff will present information for consideration with regard to the proposed Land Use Plan changes in the Westmoreland Road/Highway 21 vicinity.

Manager's Recommendation:

Hear Presentation.

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		
