



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

**Agenda
January 13, 2020
6:30 PM
Assembly Room**

Pre-Meeting

A. 5:30pm Training Room 204

1. Call To Order

2. Determination of Quorum

3. Approval of Minutes

A. December 9th, 2019 Minutes

4. Consideration of Approval

A. REZ 10-19 Washam Potts Townhomes

B. Built Upon Area Averaging Certificate Applications

5. Old Business

6. New Business

7. Next Meeting

8. Adjournment

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: January 13, 2020

To: Chair and Planning Board Members

From: Summer Smigelski, Planning Admin.

Action Requested:

Staff will pick up on the School of Government Training Module where we left off. The training will begin at 5:30pm, dinner provided. We will take a break at 6:20pm and then reconvene for the regular agenda at 6:30pm in the Assembly Room.

Manager's Recommendation:

Conduct Training

| <u>ATTACHMENTS:</u> | | |
|----------------------------|--------------|-------|
| Name: | Description: | Type: |
| No Attachments Available | | |

REQUEST FOR BOARD ACTION

 **Print**

Date of Meeting: January 13, 2020

To: Chair and Planning Board Members

From: Summer Smigelski, Planning Admin.

Action Requested:

Review and Approve

Manager's Recommendation:

Approval

ATTACHMENTS:

| Name: | Description: | Type: |
|---|----------------------------|-----------------|
| ☐ <u>Minutes_12092019_Draft - Copy.docx</u> | December 9th, 2019 Minutes | Backup Material |

Minutes

TOWN OF CORNELIUS PLANNING BOARD

Assembly Room
December 9th, 2019
6:30 p.m.

Members Present

Phil Bechtold, Alternate
Joseph Dean
Hardy McConnell
Edward Marxen, Alternate
Danielle Miller
Susan Johnson
Lee Peterson, Vice Chair

Members Absent

Keith Eicher, Chair
Michael Osborne
Cameron Bearder, Alt.

Staff Present

Summer Smigelski, *Admin. Assistant*
Aaron Tucker, *Assistant Planning Director*
Becky Partin, *Senior Planner*
Monterai Adams, *Planner*
Gary Fournier, *Planner*
Catherine McElearney, *Planner*

VISITORS

See Sign-In Sheet

DETERMINATION OF QUORUM

Vice Chair Peterson called the Planning Board meeting to order at 6:29 pm and noted there was a quorum present.

APPROVAL OF MINUTES

Mr. Bechtold made a motion of approval for the November 12th, 2019 Minutes. Mr. Dean seconded. All in favor, motion approved.

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

Opposed: None

VAR 06-19 Donald Morris 21207 Potts Street

Vice Chair Peterson asked for a motion to open the public hearing.

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

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

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.

Vice Chair Peterson asked for board members to disclose if they have been by the property. No board members have.

Ms. McElearney: "Good evening board. Catherine McElearney, Town Planner presenting to your variance 06-19. The address at the property is 21207 Potts Street. Our applicant is Donald S. Morris, Jr. P.O. Box 2056, Davidson, North Carolina 28036. Tax Parcel ID is 00320510. The current zoning on this property is neighborhood residential (NR). The Applicant is seeking a variance from Land Development Code 5.5.2.C to have a five (5) foot side yard setback for an accessory structure 12' x 20'. The subject property is located at 21207 Potts Street along the current alignment of Potts Street. Staff will present testimony 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: Zoning Map as *Exhibit A*, Aerial Vicinity Map as *Exhibit B*, and Aerial Property Map as *Exhibit C*. The Variance Application as submitted by the Applicant is shown as *Exhibit D*. The Proposed Accessory Structure Location is shown as *Exhibit E*. Land Development Code 5.5.2.C referenced in the Variance Application is shown as *Exhibit F*. The Land Development Code 5.5.4 Table of Dimensional Requirements is shown as *Exhibit G*. The Planning Department took a photograph of the property which is shown as *Exhibit H*. The Planning Department is including information from NCDOT U-5873 Potts-Highway 115 project for reference in *Exhibit I*. The

realignment of Potts Street for NCDOT Project U-5873 Potts-Highway 115 will impact the western portion of his rear yard. Circled in blue is the current owner of Potts, circled in blue on the right is the future alignment from the right of way and his parcel is outlined in red. That concludes staff presentation.”

Vice Chair Peterson: “Any questions for Catherine?”

Mr. Dean: “Yeah, go back to the previous screen. The new alignment of Potts Street is taking Mr. Morris, apart of his, like a third of his property in the rear?”

Ms. McElearney: “I don’t have the exact calculation but yes. This is his property and then this back area is where the new alignment is going.”

Mr. McConnell: “Your saying its coming up to about there?”

Ms. McElearney: “Yes.”

Vice Chair Peterson: “So this creates two front yards for the property owner?”

Ms. McElearney: “Correct. According to our code when he has the other road running he will then have two road frontages.”

Vice Chair Peterson: “Our code states that you cannot have a structure built in the front yard.”

Ms. McElearney: “Correct, or an accessory structure. “

Ms. Johnson: “Do you have a picture where the proposed location is?”

Ms. McElearney: “Yes, the proposed location is along the side of his house. He is showing a four-foot clearance from the house. Because of the angle of the house and the property it will get to five feet in the rear of that accessory structure if its placed there.”

Vice Chair Peterson: “The four feet clearance that is a code?”

Ms. McElearney: “I am unfamiliar with the code for (Inaudible).”

Mr. Tucker: “Just to give some information on that. There are minimum separation requirements for accessory structures by the building code. I wouldn’t quote me on this, but I think its two, three feet. There are requirements but this one is set at four feet, which isn’t at the minimum for Mecklenburg County building code. At four feet, the idea is it gives them enough room to walk between and maintain both sides of both structures.”

Mr. Dean: “The front part, the eleven feet that’s like the front corner, eleven feet to the property line that’s perfectly sufficient?”

Ms. McElearney: “Correct.”

Mr. Dean: “Its just really we are talking about the five feet on the back corner.”

Vice Chair Peterson: “On the lot to the right of this, that is owned by a commercial company, is that correct?”

Ms. McElearney: “Currently, it is.”

Vice Chair Peterson: “So they’re not encroaching as you would in a neighborhood, they’re not encroaching on a neighbor’s property? Are there any plans, because this section is in Cornelius

the rest in Davidson, are there plans for development of that section in Cornelius that we know at this point?"

Ms. McElearney: "I personally have not reviewed any plans for this property adjacent to the homeowner's property."

Mr. Dean: "Does anyone know if that's still in litigation?"

Mr. Tucker: "As far as I know, I'm sure it could have changed by now. I will point out what we are referring to when we say the neighboring property. The large property back to the right, the Town limits are somewhere along those lines and that property is one parcel and most of it is in Davidson and the other part is in Cornelius. As of now the last I have heard there was plans for development on that property in Davidson and I believe it was some sort of higher density residential, maybe apartments and nothing was shown on the Cornelius site, it was to be left undisturbed as of now so we haven't seen any proposals for development for the Cornelius side but I believe they are in a lawsuit with the Town of Davidson, so nothing is moving forward. I think that is still happening."

Mr. McConnell: "Can that unit be brought towards the street front just a little further? It would give some more access to the back, in case of an emergency."

Ms. McElearney: "I would assume that could be considered a possibility."

Ms. Johnson: "Is it a storage unit or is it a garage?"

Mr. Tucker: "It will be a garage, small garage, but he will store a car inside."

Ms. Johnson: "Seems to me that their doing the new Potts Road on the back end then he now has two front yards so there is really no other place to put this structure. Even if you pull it up a little its still likely not going to be ten feet."

Mr. Dean: "Right, I would be more concerned if there was a residential parcel next to his yard."

Mr. McConnell: "It still could be a residential, it's still zoned residential."

Ms. Johnson: "It says fence, is there in fact a fence on the side of that property?"

Mr. Tucker: "I believe there is a chain link fence that goes down that side."

Vice Chair Peterson: "Any questions for Catherine? Okay, hearing none, will the applicant please come forward."

Applicant: "I am Donald Morris. I live 21207 Potts Street, Cornelius."

Vice Chair Peterson: "How long have you lived in that property?"

Mr. Morris: "I bought that house in 2000."

Vice Chair Peterson: "At that time do you know what the setbacks were?"

Mr. Morris: "Yes, it was a five-foot setback."

Vice Chair Peterson: "Basically it changed in 2018."

Mr. Morris: "One other point, there was a regulation (Inaudible) not in the side yard. Wayne gave me approval to put side of the house so then the question was the setback. If I had room I would

build two car garages because I got two cars but there is only room for one and one of them I really need to protect.”

Vice Chair Peterson: “Basically prior to 2018 you could have applied for this and you wouldn’t even be here in front of us right now?”

Mr. Morris: “Yes sir. (Inaudible) At my age if I have to put that thing a hundred feet back behind the house (Inaudible).”

Mr. Dean: “I think it’s also important to note that Mr. Morris will also be living on a road that deadens into the new roundabout. There will not be an access. You will come down Potts and where one of those last houses in Davidson is, that’s where the road is going to veer off to the right, so his property is going to be on basically a deaden road.”

Vice Chair Peterson: “Any other questions? Any public comments? At this time I would like to ask for a motion to close the public hearing.”

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

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

Opposed: None

Board Deliberation

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 move that this has been met. It is a hardship for a couple of reasons, first, the property at the time of purchase was five feet and now there is just a corner of it also at this time the area is going to change. There is no other property that is going to be impacted for this.”

Mr. McConnell made a motion that Finding of Fact #1 has been met. Mr. Bechtold seconded. All in favor, Motion approved.”

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

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 public, may not be the basis for granting a variance.

Mr. Dean: “I think that the conditions, the hardship results from conditions that are both peculiar to the property, location and the topography all come into play there.”

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

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

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.

Ms. Miller: "Since the law changed and the code has changed since then, I would say that finding three has been met because the hardship is not created by the applicant."

Ms. Miller made a motion Finding of Fact #3 has been met. Mr. Bechtold seconded. All in favor, Motion approved."

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

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.

Ms. Johnson: "I find that finding number four has also been met and that the requesting variance is consistent with the spirit, purpose, and intent of the ordinance."

Ms. Johnson made a motion that Finding of Fact #4 has been met. Mr. Dean seconded. All in favor, motion approved."

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

Opposed: None

Mr. Bechtold made a motion to approve VAR 06-19. Mr. McConnell seconded. All in favor motion approved.

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

Opposed: None

REZ 11-19 O'Reilly Auto Part Store

Mr. Fournier presented REZ 11-19 to the board. Lawrence Development, Inc. is requesting to rezone and develop .99 acres of property located at 19425 Statesville Road. The property is currently zoned HC (Highway Commercial). Land use plan allows for general commercial services as a primary land use. The Applicant proposes to build a 7,200-sf commercial building for retail auto part sales.

Staff recommends approval of this project subject to the following conditions:

1. Town approval is contingent on review and approval by other applicable local, state and federal agencies.
2. The development shall comply with all other applicable requirements of the Town of Cornelius Land Development Code.
3. Town approval incorporates and shall comply with any and all submittals in the case file and correspondence presented to the board in support of this application, including, but not limited to the following: The site/sketch plan, architectural elevations, and any other information related to this case or improvements recommended by the Town and/or other agencies.

After discussion the board agrees to recommend approval of all three items.

Mr. Bechtold made a motion to recommend approval for REZ 11-19 O'Reilly Auto Part Store. Ms. Johnson seconded. All in favor, motion approved.

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

Opposed: None

TA 02-19 Breweries

Ms. Partin presented TA 02-19 to the board. Earlier this year, Governor Cooper signed the "Craft Beer Distribution and Modernization Act" into law. The law allows breweries to produce and sell up to 100,000 barrels annually.

In accordance with the new law, LDCAB and staff are recommending the following changes to the definitions, use table, and uses permitted with conditions in the Land Development Code:

- Modify the definition of a microbrewery to be an establishment where up to 100,000 barrels of beer and malt beverages are made on the premises and sold/distributed. The current limit is 15,000 barrels.
- Modify the definition of a large brewery to be an establishment where 100,000 or more barrels of beer and malt beverages are made on the premises and sold/distributed.
- Remove large brewery as a use allowed in Business Campus.

After discussion the board agrees to recommend approval for the changes presented.

Mr. McConnell made a motion to recommend approval for TA 02-19. Mr. Bechtold seconded. All in favor, motion approved.

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

Opposed: None

Built Upon Area Averaging Certificate Application

Ms. Adams presented BUA #1 20506 Hansels Way and Mr. Fournier presented BUA #2 16602 Flying Jib Road to the board.

After discussion the board made a motion to approve both applications.

Mr. Bechtold made a motion to approve BUA #1 20506 Hansels Way and BUA #2 116602 Flying Jib Road. Mr. Dean seconded. All in favor, motion approved.

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

Opposed: None

NEXT MEETING

Monday, January 13th, 2020

ADJOURNMENT

Mr. McConnell made a motion to adjourn the meeting at 7:23 p.m. Ms. Johnson second. All in favor and motion approved.

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

Opposed: None

Respectfully Submitted:

Lee Peterson
Vice Chair

Date

Summer Smigelski
Secretary

Date

REQUEST FOR BOARD ACTION

 Print

Date of Meeting: January 13, 2020

To: Planning Board Members
From: Monterai Adams, MPA- Planner

Action Requested:

Matt Gallagher of Blue Heel Development, LLC is seeking to develop 27 single family attached homes (townhomes) on the 6.8 acre property located at 10212 Washam Potts Road. The townhomes are proposed to each have 4 bedrooms and 3 baths.

Manager's Recommendation:

Approval with conditions.

ATTACHMENTS:

| Name: | Description: | Type: |
|---|------------------------|-----------------|
| rezoning_application_signed_CURRENT.pdf | Application | Backup Material |
| Blueheel_Washam_Potts_Zoning.pdf | Zoning Map | Backup Material |
| Blueheel_Washam_Potts_LU.pdf | Land Use Map | Backup Material |
| Blueheel_Washam_Potts_Vicinity.pdf | Vicinity Map | Backup Material |
| Blueheel_Washam_Potts_Property.pdf | Property Map | Backup Material |
| REZ_10-19(PB)_Washam_Potts_Townhomes_Staff_Report.pdf | REZ 10-19 Staff Report | Backup Material |
| Washam_Potts_Townhomes_Rezoning_p3.pdf | Site Plan | Backup Material |
| Washam_Potts_Townhomes_Rezoning_p5.pdf | Color Site Plan | Backup Material |
| PB_Consistency_Statement_REZ_10-19_(Washam_Potts_Townhomes).pdf | Consistency Statement | Backup Material |



TOWN OF CORNELIUS

Planning Department

PO Box 399 | Cornelius, NC 28031 | Phone: 704-896-2461 | Fax: 704-896-2462

| |
|--------------------|
| Staff Only: |
| Date Rec'd: _____ |
| Rec'd by: _____ |
| Case #: _____ |

LAND DEVELOPMENT APPLICATION FORM

| 1. Application Type | ✓ | Fee | | ✓ | Fee |
|---------------------------------|--------------------------|-------|---------------------------------|-------------------------------------|--------------|
| • Sketch Plan/Plat (Major Sub): | <input type="checkbox"/> | _____ | • Conditional Zoning (CZ) | <input checked="" type="checkbox"/> | <u>1,250</u> |
| • Preliminary Plat (Major Sub): | <input type="checkbox"/> | _____ | • Special Use Permit (SUP) | <input type="checkbox"/> | _____ |
| • Final Plat (Major Sub): | <input type="checkbox"/> | _____ | • Major Architectural Variation | <input type="checkbox"/> | _____ |
| • Construction Documents: | <input type="checkbox"/> | _____ | • Minor Architectural Variation | <input type="checkbox"/> | _____ |
| • General Rezoning | <input type="checkbox"/> | _____ | • Other: _____ | <input type="checkbox"/> | _____ |
| Fee Total: | | | | | <u>1,250</u> |

2. Project Information

Date of Application: 8/15/19 Name of Project: TBD - Infill Townhomes on Washam Potts

Location: 10212 Washam Potts Road Property Size (acres): 6.82 # of Units/Lots: 27

Current Zoning: NR 1 Proposed Zoning: CZ

Current Land Use: single family home Proposed Land Use: single family attached homes (townhomes)

Tax Parcel Number(s): 00509313

| | |
|--|---|
| <p>3. Contact Information</p> <p><u>Blue Heel Development, LLC</u> Owner, Applicant, or Developer <u>9606 Bailey Road, Suite 265</u> Address <u>Cornelius, NC 28031</u> City, State Zip <u>704-634-5140</u> Telephone <u>704-875-1615</u> Fax <u>704-875-0959</u> Telephone <u>Matt Gallagher</u> <u>8/15/19</u> Signature Print Name Date Email - <u>matt@blueheeldevelopment.com</u></p> | <p><u>Henson Foley</u> Agent(s) (Engineer, Architect, Etc.) <u>8712 Lindholm Dr #202A</u> Address <u>Huntersville, NC 28078</u> City, State Zip <u>704-875-1615</u> <u>704-875-0959</u> Telephone Fax <u>Jay G. Henson</u> <u>Jay Henson</u> <u>09/25/2019</u> Signature Print Name Date Email - <u>jay@hensonfoley.com</u></p> |
|--|---|

4. The following items may also be required to be considered part of a complete application, please check all that apply on this list:

| | |
|--|--|
| <input checked="" type="checkbox"/> Signed "Original" application <input checked="" type="checkbox"/> Project Fee(s) – See Fee Schedule <input checked="" type="checkbox"/> Written Summary/Description of Request can be on company letterhead. Shall include requested use or uses, sq. feet of non-residential space, or density and number of units/lots for residential, or any other applicable information. For CZ's, must also describe any variations proposed from the Land Development Code <input checked="" type="checkbox"/> Property Survey (at least one copy), including existing buildings, topography, wetlands, streams, vegetation (trees over 18" in diameter), and other natural features. <input checked="" type="checkbox"/> Site/sketch plan (at least one copy), may contain multiple pages and must be drawn to scale by an engineer or landscape architect. Shall include locations of buildings and/or lots, streets, parking, proposed grading, landscaping/screening, open space, watershed/storm water information, associated storm water measures, and proposed utilities and lighting. Shall also include general information from adjoining lots | <input checked="" type="checkbox"/> Illustrative (color) site/sketch plan for presentation purposes with same layers as described above <input type="checkbox"/> Architectural elevations, Perspective Renderings, and Architectural Review Board Checklist may include multiple pages and must be drawn to scale by an architect. Include all primary and accessory buildings (all building sides), an illustrative color package, and black and white w/dimensions. Other architectural elements/features of the site such as gazebos, trellis's, garden walls, retaining walls, or other items over 4-feet in height must also be included (NOT REQUIRED, BUT OPTIONAL FOR SINGLE-FAMILY RESIDENTIAL DEVELOPMENTS). <input checked="" type="checkbox"/> Charlotte Water Capacity Assurance Review Application Provide copy with application, and send original to CW. <input type="checkbox"/> Illustrative (color) elevations for presentation purposes for all items described above, as well as perspective (3D) renderings and photograph examples <input checked="" type="checkbox"/> Digital Files of all items listed above |
|--|--|

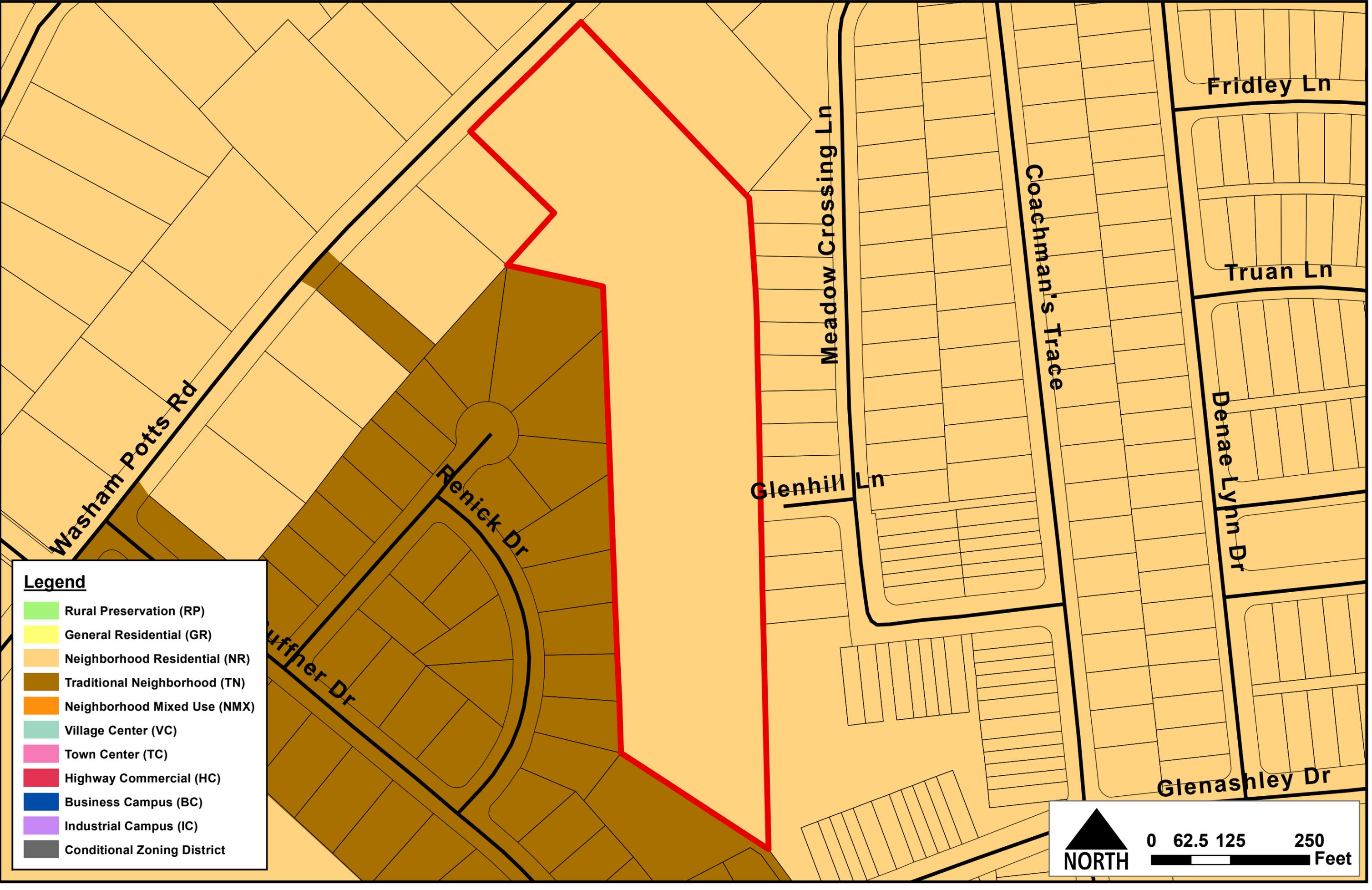


Written Summary
August 28, 2019

The existing parcel is vacant. This project proposes 27 townhome units each with 4 bedrooms and 3 baths. There will be 2 parking spaces per unit for a total of 54 parking spaces.

Sincerely,

Jay Henson, ASLA
HensonFoley



Legend

- Rural Preservation (RP)
- General Residential (GR)
- Neighborhood Residential (NR)
- Traditional Neighborhood (TN)
- Neighborhood Mixed Use (NMX)
- Village Center (VC)
- Town Center (TC)
- Highway Commercial (HC)
- Business Campus (BC)
- Industrial Campus (IC)
- Conditional Zoning District

NORTH

0 62.5 125 250 Feet

Washam Potts Rd

Renick Dr

Meadow Crossing Ln

Glenhill Ln

Coachman's Trace

Fridley Ln

Truan Ln

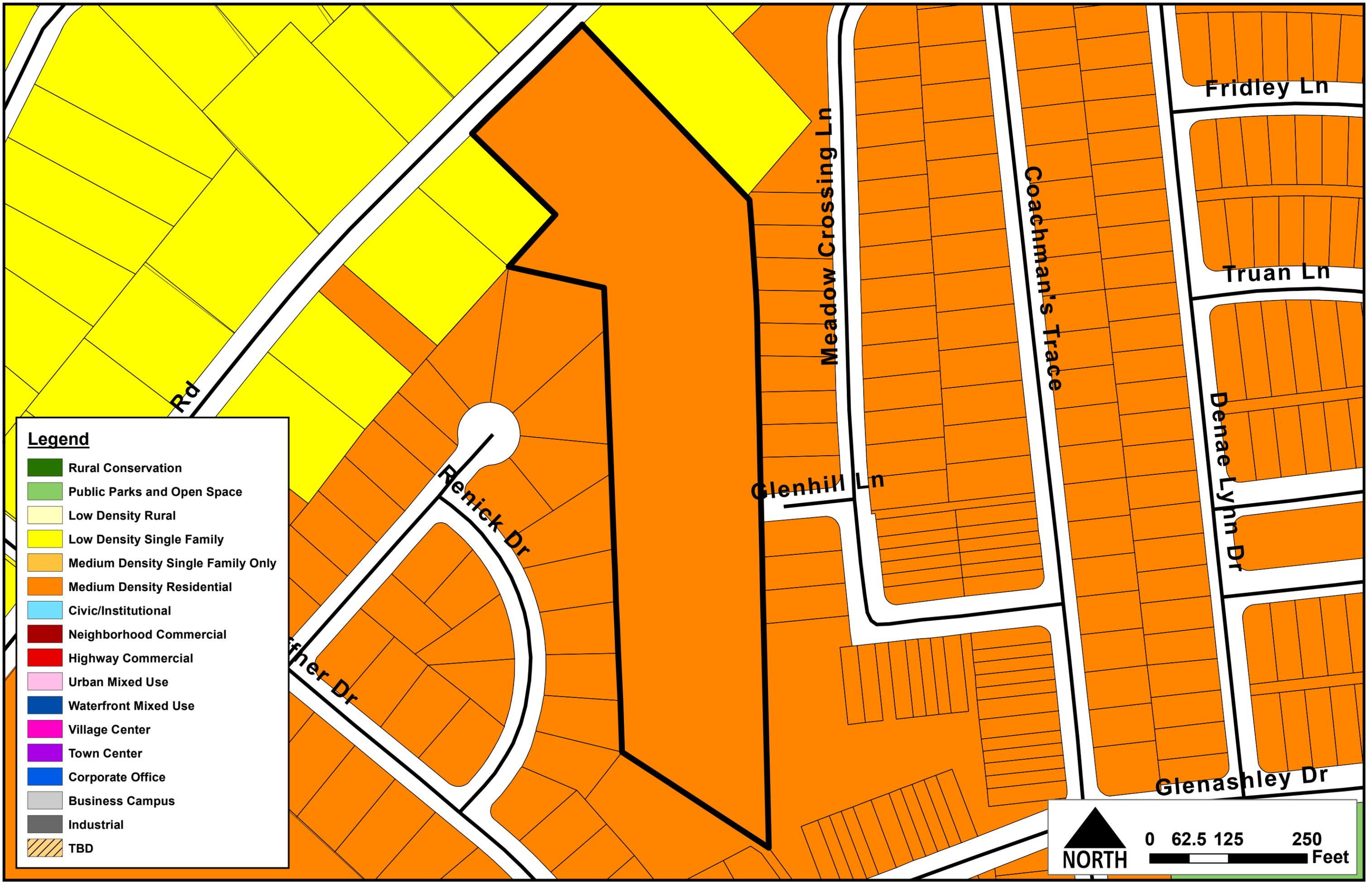
Denaë Lynn Dr

Glenashley Dr

Sufferer Dr

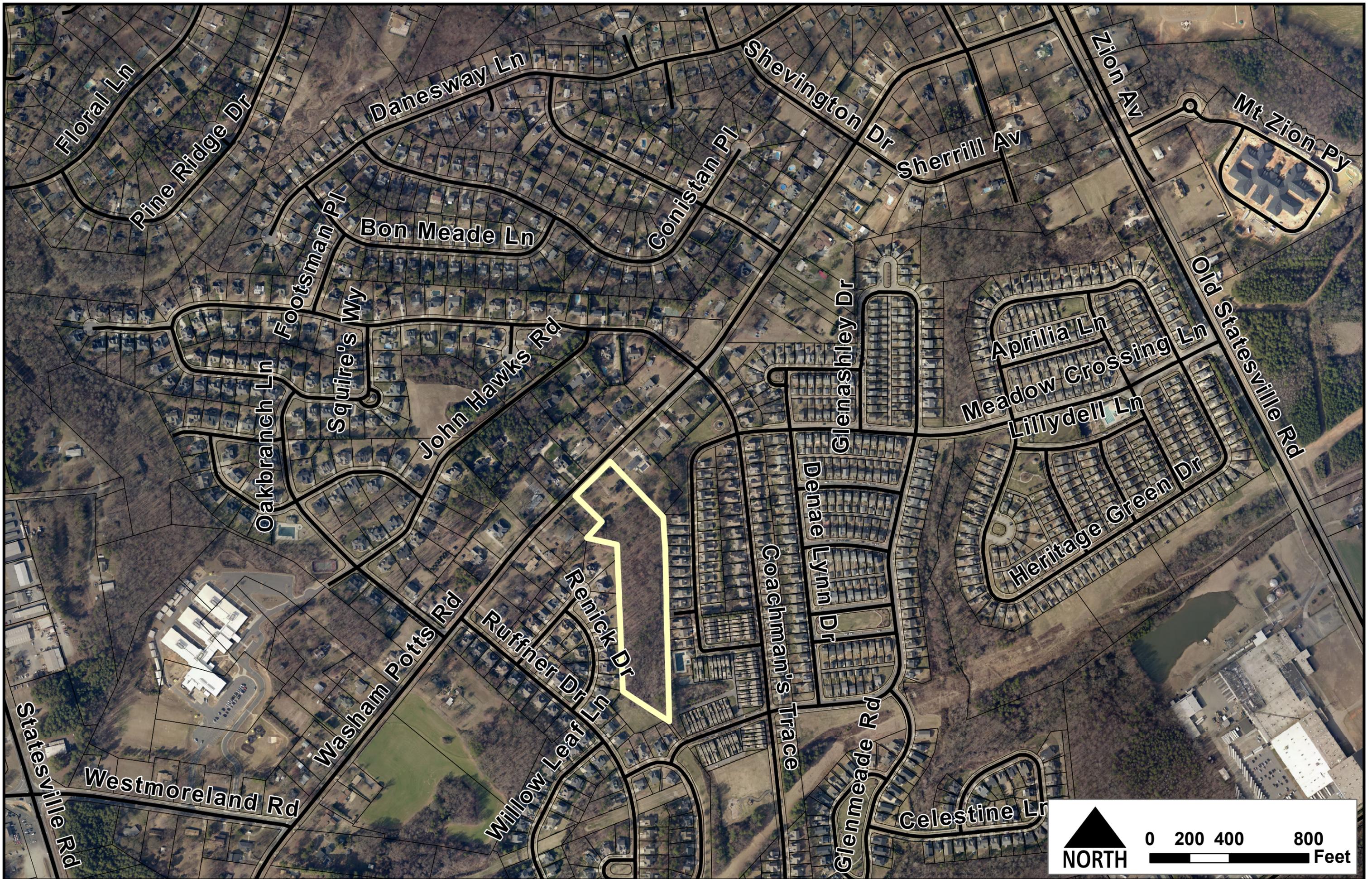
Legend

- Rural Conservation
- Public Parks and Open Space
- Low Density Rural
- Low Density Single Family
- Medium Density Single Family Only
- Medium Density Residential
- Civic/Institutional
- Neighborhood Commercial
- Highway Commercial
- Urban Mixed Use
- Waterfront Mixed Use
- Village Center
- Town Center
- Corporate Office
- Business Campus
- Industrial
- TBD



NORTH

0 62.5 125 250 Feet



Floral Ln

Pine Ridge Dr

Danesway Ln

Bon Meade Ln

Shevington Dr

Sherrill Av

Zion Av

Mt Zion Py

Footsman Pl

Conistan Pl

Oakbranch Ln

Squire's Wy

John Hawks Rd

Glenashley Dr

Aprillia Ln

Meadow Crossing Ln

Lillydell Ln

Old Statesville Rd

Heritage Green Dr

Washam Potts Rd

Ruffner Dr

Renick Dr

Coachman's Trace

Denaee Lynn Dr

Glenmeade Rd

Celestine Ln

Statesville Rd

Westmoreland Rd



NORTH

0 200 400 800 Feet



Washam Potts Rd

Allison Taylor Ct

Renick Dr

Ruffner Dr

Meadow Crossing Ln

Glenhill Ln

Coachman's Trace

Denaë Lynn Dr

Fridley Ln

Truan Ln

 NORTH

0 60 120 240 Feet





REZ 10-19
Washam Potts Townhomes

Conditional Zoning Request

Planning Board Meeting
January 13, 2020

OWNER/APPLICANT: Blue Heel Development, LLC
9606 Bailey Rd.
Suite 265
Cornelius, NC 28031

AGENT: Henson Foley
8712 Lindholm Dr.
202 A
Huntersville, NC 28078

PROPERTY LOCATION: 10212 Washam Potts Rd.
(PID#: 00509313)

PROPERTY SIZE: 6.82 acres total

CURRENT LAND USE: Single Family Home

PROPOSED LAND USE: Single Family Attached Homes (townhomes)

EXISTING ZONING: NR (Neighborhood Residential)

PROPOSED ZONING: CZ (Conditional Zoning)

EXISTING CONDITIONS:

1. Description of Adjoining Zoning and Land Uses – This property has approximately 245 feet of road frontage along Washam Potts Road. To the north are single family homes that are zoned NR (Neighborhood Residential). To the south and west this parcel directly touches the Oakhurst development zoned TN (Traditional Neighborhood). Properties to the east are zoned NR (Neighborhood Residential) and are part of the Glenridge development. Both Oakhurst and Glenridge were developed in the late 1990's and early 2000's. In 2014, the Town adopted two different land use designations on Washam Potts based on existing development in the area.
2. Topography – The property has a continuous slope towards the back end of the property. The back end of the property also includes a spring and wetlands.
3. Vegetation – The majority of this property is covered with tree canopy. The applicant has is proposing undisturbed buffers as noted on the plan using existing trees towards the required buffer.

4. Infrastructure – The applicant has provided a Charlotte Water Capacity Assurance form to ensure water and sewer capacity is available for the site. Currently, water and sewer access is available.

STAFF COMMENTS:

1. Project Overview - Matt Gallagher of Blue Heel Development, LLC is seeking to develop 27 single family attached homes (townhomes) on the property located at 10212 Washam Potts Road. The townhomes are proposed to each have 4 bedrooms and 3 baths.
2. History - This site currently includes one single family home that was built in 1936.
3. Land Use Plan Consistency -The Land Use Plan adopted by the Town Board on January 6th, 2014 designates this property as “Medium Density Residential,” which allows a maximum of 4 dwelling units an acre. This plan is consistent with the land use plan at 3.9 units per acre.
4. Pre-Development Review Committee - The sketch plan was presented to the PDRC on March 4, 2019. The plan proposed had 31 townhomes shown. The PDRC was generally supportive of the proposed development but asked that the applicant follow the Land Use Plan policy pertaining to density (4 units per acre).
5. Community Meeting - The applicant held the required community meeting on Thursday, November 7, 2019. Around 20 citizens attended the meeting. They were concerned about the number of townhomes as well as traffic on Washam Potts. The residents in the Oakhurst neighborhood that abut the property had concerns about the buffer requirement and asked if a larger buffer could be provided.
6. Transportation Advisory Board - The meeting was held on Tuesday November 19, 2019. The Board analyzed the capacity for the number of proposed townhomes on Washam Potts and determined that the added traffic won't be detrimental to the area.
7. Town Board Public Hearing #1 - The meeting was held Monday November 18, 2019. The applicant asked for a continuance do to a change in board members from the recent election on November 6th. The board continued the public hearing to Monday December 16, 2019. The citizens that were in attendance voiced concerns about the buffers, traffic, school overcrowding, the number of proposed units, and the type of housing being proposed.

STAFF RECOMMENDATIONS:

Staff recommends approval with conditions. The following conditions are listed below:

1. Town approval is contingent on review and approval by other applicable local, state and federal agencies.
2. The development shall comply with all other applicable requirements of the Town of Cornelius Land Development Code.
3. Town approval incorporates and shall comply with any and all submittals in the case file and correspondence presented to the board in support of this application, including, but not limited to the following: The site/sketch plan, architectural elevations, and any other information related to this case or improvements recommended by the Town and/or other agencies.
4. The US Postal Service has notified the Town that all future subdivision approvals must utilize a community mail delivery system. Locations and details of the proposed community mailboxes must be included in the Construction Documents, and must be reviewed and approved by the Post Master for this area. The applicant(s) must provide the Town with written confirmation that the local Post Master is in agreement with the proposed box locations.
5. Buffer areas not identified as undisturbed areas shall be designed and planted in accordance with the type "A" buffer planting requirements of the Land Development Code. Amenities required as part of the improved open space requirements may not encroach into the required perimeter buffers.
6. All undisturbed buffer areas are to be retained, but shall be supplemented, if necessary, with evergreen plantings. Amenities required as part of the improved open space requirements may not encroach into the required undisturbed buffers.
7. The maximum height of the townhomes must be 26'. This is to be measured from grade to the pitch of the roof.
8. The pedestrian bridge that connects the proposed new public street sidewalks Glenhill Lane shall be maintained by the Washam Potts Townhome's HOA and shall provide lighting in accordance with the Town of Cornelius lighting policy and the Land Development Code.
9. The applicant will construct a 5' sidewalk along Washam Potts Road for the entire length of the site.



| SITE DATA | |
|------------------------------|--|
| TOTAL SITE AREA | 6.83 AC (297,514 SF) |
| OPEN SPACE REQUIRED | 20% OF SITE = 59,502 SF |
| OPEN SPACE PROVIDED | 41% OF TOTAL SITE = 123,520 SF |
| IMPROVED OPEN SPACE REQUIRED | 25% OF REQUIRED OPEN SPACE = 14,875 SF |
| IMPROVED OPEN SPACE PROVIDED | 26% OF TOTAL OPEN SPACE = 15,660 SF |
| TOTAL NUMBER OF LOTS | 27 |
| AVERAGE LOT SIZE | 26' X 100' |

OUTDOOR AMENITY 3D RENDERING



GAZEBO 3D RENDERING



HensonFoley
 Landscape Architecture | Civil Engineering | Surveying
 8712 Lindholm Dr Suite 202A, Huntersville, NC 28078
 P: 704.875.1616 | F: 704.875.0959 | www.hensonfoley.com
 NC ENGINEERING BOARD LICENSE # C-3781
 NC LAND SURVEYING BOARD LICENSE # PL-1580

NORTH ARROW
 GRAPHIC SCALE 1"=60 FT.

Washam Potts Townhomes
 PIN # 00509313
 10212 WASHAM POTTS RD., CORNELIUS, NC 28031

REVISIONS:

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|-----------------|------------|
| RENDER BASE.DWG | |
| PROJECT NUMBER: | 219002 |
| DATE: | 09/09/2019 |
| DRAWN BY: | TSF |
| SHEET | OF |

**REASONABLENESS AND CONSISTENCY
OF PROPOSED ZONING MAP AMENDMENTS**

REZ 10-19 Washam Potts Townhomes

Blue Heel Development LLC, applicant, initiated the process to rezone and develop the property located at 10212 Washam Potts Road (PID 00509313), which consists of 6.8 acres, to *Conditional Zoning District* as shown on *Exhibit A*, and to use the property in accordance with the conditions set forth in *Exhibit B*.

The Planning Board considers the proposed plan to be reasonable and consistent with the Town of Cornelius Land Use Plan “Medium Density Residential” category in that townhomes are a primary land use that serves the greater community and the proposed plan is in the public interest.

Keith Eicher, Planning Board Chair

January 13, 2020

Exhibit B

Conditions of REZ 10-19

1. Town approval is contingent on review and approval by other applicable local, state and federal agencies.
2. The development shall comply with all other applicable requirements of the Town of Cornelius Land Development Code.
3. Town approval incorporates and shall comply with any and all submittals in the case file and correspondence presented to the board in support of this application, including, but not limited to the following: The site/sketch plan, architectural elevations, and any other information related to this case or improvements recommended by the Town and/or other agencies.
4. The US Postal Service has notified the Town that all future subdivision approvals must utilize a community mail delivery system. Locations and details of the proposed community mailboxes must be included in the Construction Documents, and must be reviewed and approved by the Post Master for this area. The applicant(s) must provide the Town with written confirmation that the local Post Master is in agreement with the proposed box locations.
5. Buffer areas not identified as undisturbed areas shall be designed and planted in accordance with the type "A" buffer planting requirements of the Land Development Code. Amenities required as part of the improved open space requirements may not encroach into the required perimeter buffers.
6. All undisturbed buffer areas are to be retained, but shall be supplemented, if necessary, with evergreen plantings. Amenities required as part of the improved open space requirements may not encroach into the required undisturbed buffers.
7. The maximum height of the townhomes must be 26'. This is to be measured from grade to the pitch of the roof.
8. The pedestrian bridge that connects the proposed new public street sidewalks Glenhill Lane shall be maintained by the Washam Potts Townhome's HOA and shall provide lighting in accordance with the Town of Cornelius lighting policy and the Land Development Code.
9. The applicant will construct a 5' sidewalk along Washam Potts Road for the entire length of the site.

REQUEST FOR BOARD ACTION

 Print

Date of Meeting: January 13, 2020

To: Watershed Review Board Members

From: Catherine McElearney, Planner

Action Requested:

Review built upon area (BUA) averaging certificate applications and associated plats for the following properties:

- BUA #1 -- 16717 Yardarm Lane (recipient)
- BUA #2 -- 16612 Flying Jib Road (recipient)

Manager's Recommendation:

Review and approve BUA averaging certificates for the following properties:

- BUA #1 -- 16717 Yardarm Lane (recipient)
- BUA #2 -- 16612 Flying Jib Road (recipient)

ATTACHMENTS:

| Name: | Description: | Type: |
|--|--|---------|
|  BUA_Averaging_Certificate_Application_16717_Yardarm.pdf | BUA #1 16717 Yardarm Lane application | Exhibit |
|  16717_Yardarm_Ln.jpg | BUA #1 16717 Yardarm Lane aerial photo (recipient) | Exhibit |
|  BUA_16717_Yardarm_Lane_plat.pdf | BUA #1 16717 Yardarm Lane plat | Exhibit |
|  18632_Nantz_Road.jpg | BUA #1 and #2 donor lot | Exhibit |
|  Donor_Deed_PID_00186161.pdf | BUA #1 and #2 donor deed | Exhibit |
|  BUA_Averaging_Certificate_Application_16612_Flying_Jib.pdf | BUA #2 16612 Flying Jib application | Exhibit |
|  16612_Flying_Jib_Road_(recipient).jpg | BUA #2 16612 Flying Jib aerial photo (recipient) | Exhibit |
|  BUA_16612_Flying_Jib_plat.pdf | BUA #2 16612 Flying Jib plat | Exhibit |



TOWN OF CORNELIUS

Planning Department

PO Box 399 | Cornelius, NC 28031 | Phone: 704-896-2461 | Fax: 704-896-2462

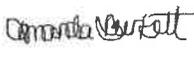
| |
|-------------------|
| Staff Only: |
| Date Rec'd: _____ |
| Fee Rec'd: _____ |

BUILT-UPON AREA (BUA) AVERAGING CERTIFICATE APPLICATION

1. Project Description

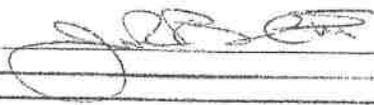
Impervious Reallocation

2. Receiving Parcel Information

Property Owner's Name(s): Mike & Amanda Burkett
 Property Owner's Mailing Address: 16717 Yardsarm Lane
 Phone Number: 612-325-8927 Email Address: Rosemiller@cbcarolinas.com
 Tax Parcel Number(s): 00180108 Property Size (acres): .556
 Zoning District: GR Watershed Overlay District: _____
 Existing Impervious Coverage: 5539 (sq.ft.) Amount Receiving from Donor Parcel: 1500 (sq.ft.)
 Has a watershed variance ever been granted for this parcel? Yes _____ No
 Property Owner's Signature(s): X Michael Burkett  12/18/2019 09:32 PM GMT Amanda Burkett 

12/19/20 03:16 PM

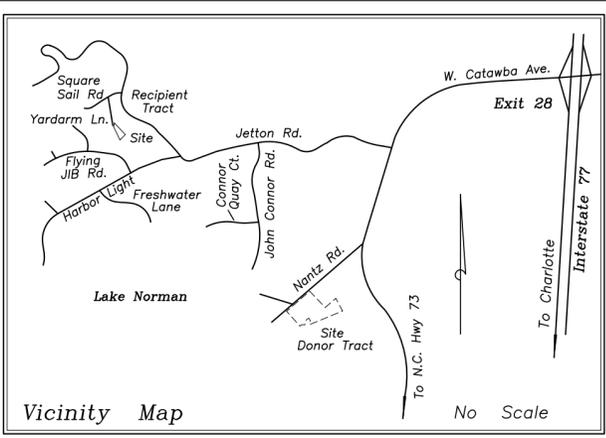
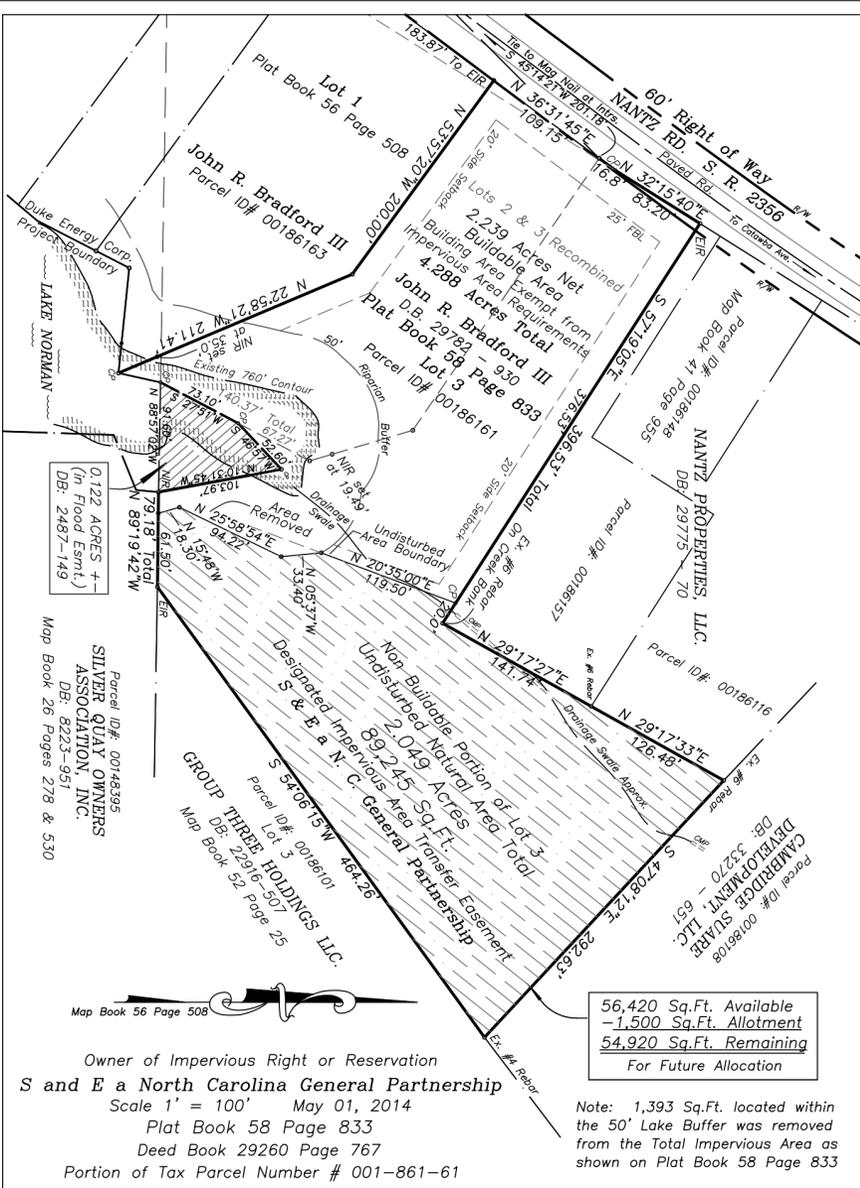
3. Donor Parcel Information

Property Owner's Name(s): John R. Bradford III
 Property Owner's Mailing Address: 18632 Nantz Rd. Cornelius NC
 Phone Number: 704-453-9348 Email Address: JBradford@parkaveproperties.com
 Tax Parcel Number(s): 00186661 Property Size (acres): 2.239
 Zoning District: GR Watershed Overlay District: _____
 Existing Impervious Coverage: 0 (sq.ft.)
 Has a watershed variance ever been granted for this parcel? Yes _____ No
 Property Owner's Signature(s): J.R. Bradford 

***Built-Upon Area Averaging Plats must be reviewed by Town of Cornelius Planning Department staff and approved by the Watershed Review Board.

Recipient: 16717 Yardarm Ln.





I Hereby Certify that the Subdivision Plat shown hereon is exempt from the Subdivision Provisions of the Land Development Code of the Town of Cornelius and therefore is exempt from its provisions. This Plat has been found to comply with the Zoning Regulations of the Land Development Code and has been approved by the Town of Cornelius, N. C. for recording in the Office of the Register of Deeds of Mecklenburg County, N. C.

Date _____ Planning Director, Town of Cornelius, N. C.

Certificates of Approval for Recording
 This property is located within a Public Water Supply Watershed. Development restrictions may apply. I Certify that the Plat shown hereon complies with the Watershed Protection Ordinance and is approved by the Town of Cornelius for recording at the Mecklenburg County Register of Deeds Office.

Date _____ Watershed Administrator, Town of Cornelius

State of North Carolina, County of _____
 I, _____, Review Officer of _____ County,
 Certify that the Map or Plat to which this certification is affixed meets all statutory requirements for recording.

Date _____ Review Officer

Built-Up Area Transfer Plat
 This Plat represents a transfer of Built-Up Area through preservation of a dedicated, undisturbed natural area for properties within the Jurisdiction of the Town of Cornelius. The resulting action may or may not create tracts of land that are compliant with the Cornelius Land Development Code (LDC). This Parcel is subject to the (LDC) built-upon averaging standards: Any change to the development proposal affecting the approved built-upon area allowance requires amendment to the existing Built-Upon Area Averaging Certificate and approval by the Cornelius Watershed Review Board. The Planning Director reserves the right to make periodic site inspections to ensure compliance with these conditions.

Date _____ Planning Director, Town of Cornelius, N. C.

Descriptive Notes

Donor Tract - Lot # 3 Contains 4.288 Acres Total Area Impervious Right or Reservation Owned by S & E a North Carolina General Partnership

Plat Book 58 Page 833 Zoned: General Residential with 89,245 Sq.Ft. - 2.049 Acres of Designated Impervious Area Previous allotments 332,825 Sq.Ft., Leaving 54,920 Sq.Ft. Remaining This allotment 1,500 Sq.Ft., Leaving 53,420 Sq.Ft. for future Allocation

Recipient Tract - Lot # 451 of The Peninsula Phase XVI, Map 2 Plat Book 27 Page 104 Parcel # 001-801-08 Contains 0.556 Acres ± Zoned: General Residential

General Notes

Minimum Building Setback For Lot # 3 on Nantz Rd. 25' Front, 10% of Lot Width on Side (8' Min.), 25' Rear 50' Riparian Buffer along Lake Frontage 5' Setback Side and 50' Rear for Accessory Structures

Minimum Building Setbacks For Lot # 451 on Yardarm Lane 30' Front, 6' Side Setback, 45' Rear Setback, 15' Side on Street Side, Accessory Structures Setback Side and Rear = 10' if Less than 600 SF, 15' if Greater than 600 SF

All Restrictions shown on Noted Record Plats and Plats Previous to those Apply except the Restriction being remediated hereon

The Parcels of Land as shown on this Plat are located in the W.S. IV C.A. of the Lake Norman Water Supply Watershed

Portion of Property is located within a Special Flood Hazard Area according to the FEMA-FIRM Community Panel # 371046 3300J for Lot # 3, effective date March 02, 2009, and "Zone AE" as shown on Panel # 371046 2300L for Lot # 451, Effective date March 02, 2009

Any Construction or Use within the areas delineated as Floodway are subject to the restrictions imposed by the Cornelius Flood Damage Prevention Ordinance

The Natural Area shown above shall remain Undisturbed in perpetuity No N. C. Geodetic Survey Markers found within 2000'

Property is subject to any Easements or Rights of Way on record and any unrecorded written or implied Easements that may exist but were not apparent as of the date of this Survey

New Iron Rods set at Corners of Lot 3 unless noted otherwise

Survey Date of Lot 3 shown to the above April 25, 2014

Metes and Bounds Description of the Undisturbed Natural Area
 Beginning at a #6 Rebar, Thence N 29°17'27" E 141.74' to a #6 Rebar, Thence N 29°17'33" E 126.48' to a #6 Rebar, Thence S 47°08'12" E 292.63' to a #4 Rebar, Thence S 54°06'15" W 464.26' to an EIR, Thence N 89°19'42" W 61.50' to a computed point at the 50' Lake Buffer, Thence, with the Lake Buffer Line, to computed points at the following three calls (1) N 15°48' W 18.30', (2) N 25°58'54" E 94.22', (3) N 5°37' W 33.40' to a computed point at the western limit of the Undisturbed Area, Thence with the western line of the Undisturbed Area, N 20°35'00" E 119.50' to a computed point, Thence S 57°19'05" E 20.00' to the beginning point. Containing 2.049 Acres (89,245 Sq.Ft.) more or less.

I, Dale B. Hilderbran, Hereby Certify that this Plat was drawn from an actual survey made under my direct supervision (Deed Description recorded in Deed Book 19520, Page 869 and Deed Book 29260, Page 767); that the Ratio Precision is 1 : 20,000 ± as calculated, that the boundaries not surveyed are shown as broken lines plotted from information as referenced hereon; that this Plat was prepared in accordance with General Statute 47-30 as amended.

Witness my Hand and Official Seal this 7th day of January, 2020 a.d.

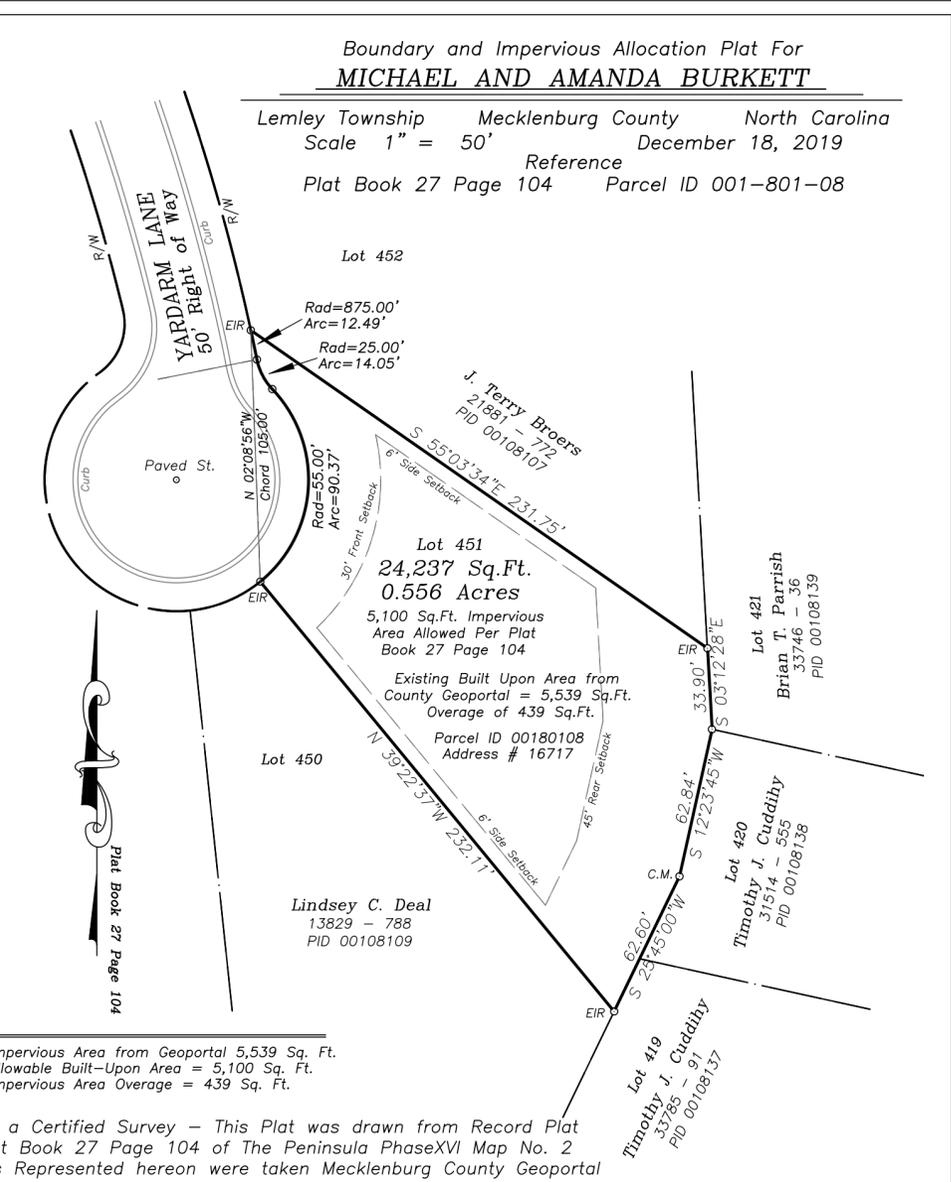
Preliminary Plat - Not For Recordation Conveyances or Sales
 N. C. Professional Land Surveyor L-2861

I hereby Certify that this Survey is of an Existing Parcel or Parcels of Land

N. C. Professional Land Surveyor L-2861

I (We) Hereby Certify that: I am (We are) the Owner(s) of the property shown and described hereon, which is located in the Jurisdiction of the Town of Cornelius, that I (We) do hereby adopt this plan with my(our) free consent, establish minimum building setback lines, preserve and protect all significant trees over 18 inches in diameter in the tree and root protection area, plant supplementary trees if required, and dedicate all Streets, alleys, walks, parks and other sites and easements to public or private uses as noted. Once the Streets have been accepted by the Town or the State, street trees shall be maintained and cared for by the Owner adjacent to the tree, except in Subdivisions where the Property Owners Association provides maintenance and care. Prior to Street acceptance the developer shall be responsible for ensuring maintenance and care. Maintenance shall include replacement and trimming as necessary. Furthermore I (We) do hereby dedicate all sanitary sewer, storm sewer, and water that are located in public utility easements or rights of way to the Town of Cornelius and Charlotte Water.

Owner _____ Date _____
 Owner _____ Date _____
 Owner _____ Date _____



Note
 Total Impervious Area from Geoport = 5,539 Sq. Ft.
 Total Allowable Built-Upon Area = 5,100 Sq. Ft.
 Total Impervious Area Overage = 439 Sq. Ft.

Not a Certified Survey - This Plat was drawn from Record Plat Plat Book 27 Page 104 of The Peninsula Phase XVI Map No. 2 Values Represented hereon were taken Mecklenburg County Geoport

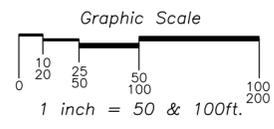
| Site Data Table | Donor Parcel | Recipient Parcel |
|-----------------------------------|---------------|------------------|
| Parcel ID | 001-811-61 | 001-801-08 |
| Total Site Area | 4.288 Ac. | 16,439 Sq.Ft. |
| Current Allowed Built Upon Area | 56,420 Sq.Ft. | 5,100 Sq.Ft. |
| Built Upon Area Allocated | -1,500 Sq.Ft. | +1,500 Sq.Ft. |
| New Allowed Built Upon Area | 54,920 Sq.Ft. | 6600 Sq.Ft. |
| Existing Surveyed Built Upon Area | 00 Sq.Ft. | 5,539 Sq.Ft. |
| Remaining Allowed Built Upon Area | 00 Sq.Ft. | 1,061 Sq.Ft. |

IMPERVIOUS ALLOCATION PLAT FOR LOT # 451 OF THE PENINSULA, PHASE XVI, MAP 2
MICHAEL A. BURKETT and wife AMANDA R. BURKETT
 Town of Cornelius - Lemley Township - Mecklenburg County - North Carolina
 Scale 1" = 50' & 100' Platted January 7, 2020
 Reference
 Deed Book 31238 Page 420 Parcel ID # 001-801-08

Owner of Record of Lot 3 on Nantz Rd.
 John R. Bradford III
 18632 Nantz Rd.
 Cornelius, N. C. 28031

Owners of Record of Lot # 451 of The Peninsula Phase XVII
 Michael and Amanda Burkett
 16717 Yardarm Lane
 Cornelius, N. C. 28031

DALE B. HILDERBRAN, PLS.
LAND SURVEYING and SUBDIVISION PLANNING
 2389 Kens Drive Sherrills Ford, N. C. 28673
 Phone (828) 478-3234 Mobile (980) 721-5025



Legend

EIP.....Existing Iron Pipe
 EIR.....Existing Iron Rod
 NIR.....New Iron Rod
 C.M.....Concrete Monument
 R/W.....Right of Way

| Revision Table | | Description | By |
|----------------|------|-------------|----|
| No. | Date | | |
| | | | |
| | | | |
| | | | |

For Review Purposes Only

Donor: 18632 Nantz Road



FOR REGISTRATION
J. David Granberry
REGISTER OF DEEDS
Mecklenburg County, NC
2014 JUN 20 04:18:29 PM
BK: 29260 PG: 767-772
FEE: \$26.00
EXCISE TAX: \$550.00
INSTRUMENT # 2014069836
PHETSL



Excise Tax \$550.00

Tax Lot No. Parcel Identifier No. a portion of 001-861-17
Mail after recording to: Grantee
This instrument was prepared by: Yates W. Faison, III, Attorney at Law (Morehead Title)
Brief description for the Index:

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 20th day of June, 2014, by and between

GRANTOR
S and E, a North Carolina
General Partnership

19520 W. Catawba Ave., Ste 114
Cornelius, NC 28031

(hereinafter Grantor)

GRANTEE
JOHN R. BRADFORD, III

21523 Baltic Drive
Cornelius, NC 28031

(hereinafter Grantee)

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the Town of Cornelius, Mecklenburg County, North Carolina, and more particularly described as follows:

Tract I:

BEING all of Lot 3, as shown on "Minor Subdivision Plat for S and E, a North Carolina General Partnership" recorded in Map Book 56, Page 508 of the Mecklenburg County Public Registry

Tract II:

BEGINNING at an iron rod in the line of the property of Silver Quay Owners Association, Inc., a corner of Lot 3 on the Plat above-described, the same being located at southernmost point of the "Impervious Area Boundary" shown on said Plat, and running thence with two lines of said Lot 3 as follows: (1) N. 10-31-45 W. 103.97 feet to a point; and (2) S. 46-56-58 W. 52.60 feet to a point in the waters of Lake Norman; thence S. 27-50-58 W. 73.10 feet to a point; thence S. 88-57-02 E. 91.60 feet to an iron rod, the point and place of BEGINNING, and being the parcel denominated "0.122 acres + - (in Flood Esmt.)" on the Plat above-described

Subject, however, to the reservation of certain rights and Deed Restrictions by Grantor as set forth in Exhibit A attached hereto and incorporated herein. Notwithstanding said reservation, however, Grantee shall have the right of first refusal to the last 3,000 square feet of Impervious Allocation Area (or earlier, at Grantee's election) in accordance with the terms of the Offer to Purchase and Contract, dated June 18, 2014, between the parties hereto, which is incorporated herein

Being a portion of the same property conveyed to Grantor by deed recorded in Map Book 29241, Page 835 of the Mecklenburg Public Registry

All or a portion of the property herein conveyed ___ includes or x does not include the primary residence of a Grantor.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And Grantor covenants with Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions: Restrictions and easements of record, and 2014 ad valorem property taxes, which Grantee agrees to pay as a part of the consideration hereof

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officer, this the day and year first above written.

S and E, a North Carolina General Partnership

By:  (SEAL)
Susan Surane, General Partner

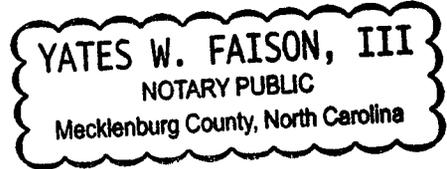
By:  (SEAL)
Walter J. Estes, III, General Partner

STATE OF NORTH CAROLINA, MECKLENBURG COUNTY

I, YATES W. FAISON III, a Notary Public for the County and State aforesaid, certify that Susan Surane, either being personally known to me or proven by satisfactory evidence, personally appeared before me this day and acknowledged that she is General Partner of S and E, a North Carolina General Partnership, and that, being authorized to do so, she voluntarily executed the foregoing instrument on behalf of said company for the purposes stated therein. Witness my hand and official stamp or seal, this 20~~12~~ day of June, 2014.

Yates W. Faison, III
Yates W. Faison, III Notary Public

My commission expires: 2/20/2018



STATE OF NORTH CAROLINA, MECKLENBURG COUNTY

I, Yates W. Faison, III, a Notary Public for the County and State aforesaid, certify that Walter J. Estes, III, either being personally known to me or proven by satisfactory evidence, personally appeared before me this day and acknowledged that he is General Partner of S and E, a North Carolina General Partnership, and that, being authorized to do so, he voluntarily executed the foregoing instrument on behalf of said company for the purposes stated therein. Witness my hand and official stamp or seal, this 20~~12~~ day of June, 2014.

Yates W. Faison, III
Yates W. Faison, III Notary Public

My commission expires: 2/20/2018

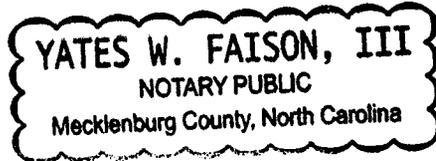


EXHIBIT A

DEED RESTRICTION
GRANTOR'S RESERVATION OF CERTAIN RIGHTS:

In addition to the rights and privileges reserved by Grantor elsewhere herein, upon conveyance and acceptance of Deed, Grantor and Grantee specifically acknowledge and agree:

1. That notwithstanding the sale and transfer of the property as described in this General Warranty Deed, Grantor, its designees, and Grantor's agents, employees, contractors, licensees, successors and assigns, shall have and retain the right to re-enter upon and temporarily occupy the property for the purpose of surveying, and performing other similar or related work.

2. Upon Grantor's request(s) and through Grantee's acceptance of this General Warranty Deed, Grantee, his heirs, successors, and/or assigns, (hereinafter referred to as "Grantee") covenant and agree to join with Grantor in the granting, delivery and/or dedication of any impervious allocation(s) to any person, firm, or entity that Grantor directs and authorizes, and to execute any instruments or documents necessary or appropriate thereto. Grantee further agrees that by accepting this General Warranty Deed, Grantee waives and releases any and all rights, interests or claims Grantee might otherwise have in and to the impervious allocation as set forth on that portion of Lot 3 as shown on the cross hatched section entitled "Non Buildable Portion of Lot 3 Designated Impervious Area for Future Allocation" (hereinafter referred to as the "Impervious Allowance") of the recorded Plat Map recorded at Book 56 at Page 508 (hereinafter referred to as the "Plat Map"), whether in law or equity, on account of Grantor's sale and reallocation of the Impervious Allowance shown on the Plat Map.

3. That Grantor, and its successors, designees and assigns, until the reallocation of all of the Impervious Allowance as shown on the portion of Lot 3 entitled "Non Buildable Portion of Lot 3 Designated Impervious Area for Future Allocation" is sold, or the passing of one hundred (100) years from the date of the parties execution of this Deed Restriction, by Grantor and/or reallocated to third parties, Grantor, shall have the right to convey interests in the Impervious Allocation to other persons upon such terms and conditions as Grantor shall deem necessary and/or appropriate.

4. That Grantor reserves the right unto itself, and its successors and assigns, to delete, reallocate, realign and grant to other persons all of Grantor's interest in and to the Impervious Allocation over, under and on the property being purchased by Grantee which Grantor shall determine to be necessary or desirable, and Grantee hereby consents and agrees to execute and deliver such documents and instruments and do such other things as may be necessary to effectuate the same.

5. Grantor's rights and privileges as reserved in this General Warranty Deed shall constitute a burden on and a covenant running with the property and any person who succeeds to Grantee's rights and interest in the property time shall be bound by and observe Grantor's rights and privileges reserved in this General Warranty Deed. Any mortgages, deeds of trusts, or liens of any kind or nature placed upon the property shown on the Plat Map depicting Lot 3, shall be subordinate to Grantor's right, title and interests in an to the Impervious Allocation described herein.

GRANTEE'S COVENANTS:

By acceptance of this General Warranty Deed, Grantee acknowledges and agrees as follows:

1. That Grantee has read, understands and accepts all of the terms and conditions of this General Warranty Deed, this Deed Restriction, and the Exhibits attached to this General Warranty Deed, all of which are incorporated herein by reference.

2. That the property Grantee is purchasing is subject to and governed by the terms of this Deed Restriction which limits the Grantee's use of that portion of Lot 3 as shown on the Plat Map entitled "Non Buildable Portion of Lot 3 Designated Impervious Area for Future Allocation".

3. Through acceptance of this General Warranty Deed, Grantee, his heirs, successors, and assigns are agreeing to abide by and be bound by the terms and provisions of this Deed Restriction

4. Through acceptance of this General Warranty Deed, Grantee, his heirs, successors, and assigns are agreeing to join in, execute and deliver any dedication or grants as described in this Deed Restriction, and that Grantee shall not be entitled to or receive and profits or proceeds resulting from Grantor's sale of impervious

allocations as described herein. The foregoing covenant of the Grantee shall be a covenant running with the land.

5. That Grantor's reservation of certain rights as described hereinabove, Grantee's promises and agreements contained herein are covenants running with the property and any document of conveyance by which Grantee sells or transfers any interest in the property shall be subject to and describe said reservations, promises and agreements and any and all liens placed upon the property affecting Lot 3 as shown on the Plat Map shall be subordinate to the Grantor's reservation of rights in the Impervious Allocation as described in this Deed Restriction.

6. Grantee further acknowledges that Grantor has reserved various rights, including those enumerated in the foregoing paragraphs, and that by signing below Grantee does hereby agree to promptly execute any and all documents and to do all other things as may be necessary or convenient to confirm or implement the foregoing covenants by Grantee and reservations by Grantor, and Grantee does also hereby specifically and irrevocably appoint Grantor to act on Grantee's as the attorney-in-fact on behalf of Grantee, solely for the limited purpose(s) of effectuating and/or accomplishing the terms, conditions, and covenants set forth in this Deed Restriction. The foregoing powers vested in the Grantor are irrevocable, are intended to be a "power given as security" and a "power coupled with an interest" and shall survive the recordation of this General Warranty Deed.

7. Nothing contained herein shall preclude Grantee from improving any portion of Lot 3, including but not limited to the area described as "Non Buildable Portion of Lot 3 Designated Impervious Area for Future Allocation", subject to Grantee obtaining necessary approvals from local governing authorities.

DEFINITIONS:

The word "person" includes natural persons, business organizations and any other entity the law allows to own property or conduct business;

The words "Grantor" and "Grantee" include the persons named in this General Warranty Deed and those who take over or succeed to that person's rights or interests, whether by purchase, inheritance, operation of law or otherwise.



TOWN OF CORNELIUS

Planning Department

PO Box 399 | Cornelius, NC 28031 | Phone: 704-896-2461 | Fax: 704-896-2462

| |
|-------------|
| Staff Only: |
| Date Rec'd: |
| Fee Rec'd: |

BUILT-UPON AREA (BUA) AVERAGING CERTIFICATE APPLICATION

1. Project Description

Impervious Reallocation

2. Receiving Parcel Information

Property Owner's Name(s): Thomas and Shari Johnston

Property Owner's Mailing Address: 16612 Flying Jib

Phone Number: 704-237-3256 Email Address: TomJ675@aol.com

Tax Parcel Number(s): 00181102 Property Size (acres): .377

Zoning District: GR Watershed Overlay District:

Existing Impervious Coverage: 5935 (sq.ft.) Amount Receiving from Donor Parcel: 1500 (sq.ft.)

Has a watershed variance ever been granted for this parcel? Yes No

Property Owner's Signature(s): Thomas and Shari Johnston

3. Donor Parcel Information

Property Owner's Name(s): John R Bradford III

Property Owner's Mailing Address: 18632 Nantz Rd Cornelius NC

Phone Number: 704-453-9348 Email Address: JBradford@parklaneproperties.com

Tax Parcel Number(s): 00186661 Property Size (acres): 2.239

Zoning District: GR Watershed Overlay District:

Existing Impervious Coverage: 0 (sq.ft.)

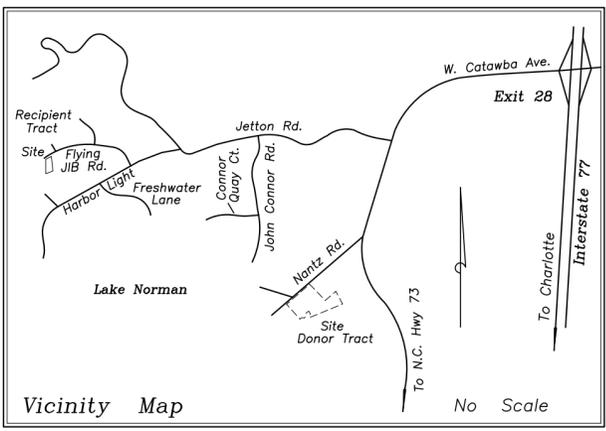
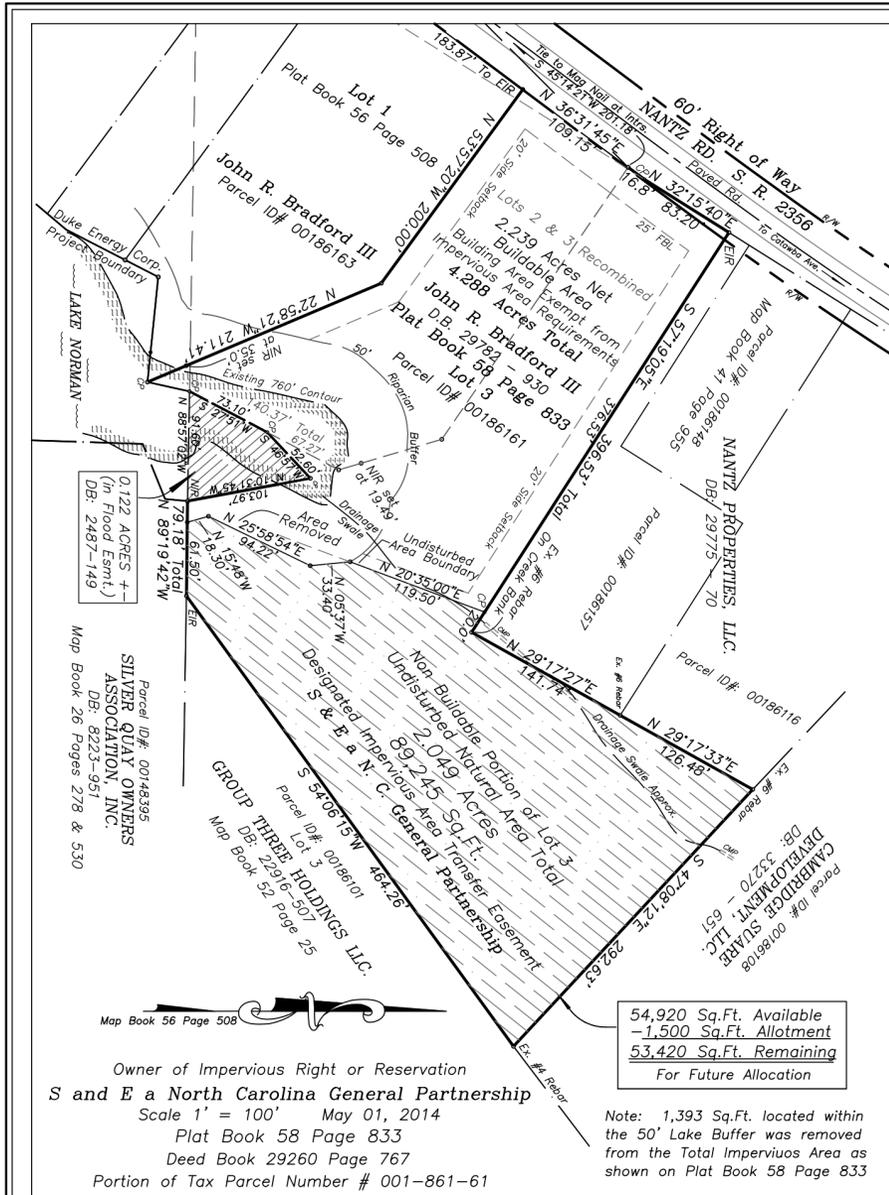
Has a watershed variance ever been granted for this parcel? Yes No

Property Owner's Signature(s): J.R. Bradford

***Built-Upon Area Averaging Plats must be reviewed by Town of Cornelius Planning Department staff and approved by the Watershed Review Board.

Recipient: 16612 Flying Jib Road





I Herby Certify that the Subdivision Plat shown hereon is exempt from the Subdivision Provisions of the Land Development Code of the Town of Cornelius and therefore is exempt from its provisions. This Plat has been found to comply with the Zoning Regulations of the Land Development Code and has been approved by the Town of Cornelius, N. C. for recording in the Office of the Register of Deeds of Mecklenburg County, N. C.

Date _____ Planning Director, Town of Cornelius, N. C.

Certificates of Approval for Recording
 This property is located within a Public Water Supply Watershed. Development restrictions may apply. I Certify that the Plat shown hereon complies with the Watershed Protection Ordinance and is approved by the Town of Cornelius for recording at the Mecklenburg County Register of Deeds Office.

Date _____ Watershed Administrator, Town of Cornelius

State of North Carolina, County of _____
 I, _____, Review Officer of _____ County,
 Certify that the Map or Plat to which this certification is affixed meets all statutory requirements for recording.

Date _____ Review Officer

Built-Upon Area Transfer Plat
 This Plat represents a transfer of Built-Upon Area through preservation of a dedicated, undisturbed natural area for properties within the Jurisdiction of the Town of Cornelius. The resulting action may or may not create tracts of land that are compliant with the Cornelius Land Development Code (LDC). This Parcel is subject to the (LDC) built-upon averaging standards: Any change to the development proposal affecting the approved built-upon area allowance requires amendment to the existing Built-Upon Area Averaging Certificate and approval by the Cornelius Watershed Review Board. The Planning Director reserves the right to make periodic site inspections to ensure compliance with these conditions.

Date _____ Planning Director, Town of Cornelius, N. C.

Descriptive Notes

Donor Tract - Lot # 3 Contains 4.288 Acres Total Area Impervious Right or Reservation Owned by S & E a North Carolina General Partnership

Plat Book 58 Page 833 Zoned: General Residential with 89,245 Sq.Ft. - 2.049 Acres of Designated Impervious Area Previous allotments 332,825 Sq.Ft., Leaving 54,920 Sq.Ft. Remaining This allotment 1,500 Sq.Ft., Leaving 53,420 Sq.Ft. for future Allocation

Recipient Tract - Lot # 584 of The Peninsula Phase XVII, Map 4 Plat Book 27 Page 557 Parcel # 001-811-02 Contains 0.377 Acres ± Zoned: General Residential

General Notes

Minimum Building Setback For Lot # 3 on Nantz Rd. 25' Front, 10% of Lot Width on Side (8' Min.), 25' Rear 50' Riparian Buffer along Lake Frontage 5' Setback Side and 50' Rear for Accessory Structures

Minimum Building Setbacks For Lot # 584 on Flying Jib Road 30' Front, 6' Minimum One Side 8' Minimum on Opposite Side 50' Riparian Buffer along Lake Front, Accessory Structure Setbacks Side and Rear = 10' if Less than 600 SF, 15' if Greater than 600 SF

All Restrictions shown on Noted Record Plats and Plats Previous to those Apply except the Restriction being remediated hereon

The Parcels of Land as shown on this Plat are located in the W.S. IV C.A. of the Lake Norman Water Supply Watershed

Portion of Property is located within a Special Flood Hazard Area according to the FEMA-FIRM Community Panel # 371046 3300J for Lot # 3, effective date March 02, 2009, and "Zone AE" as shown on Panel # 371046 2300L for Lot # 584, Effective date March 02, 2009

Any Construction or Use within the areas delineated as Floodway are subject to the restrictions imposed by the Cornelius Flood Damage Prevention Ordinance

The Natural Area shown above shall remain Undisturbed in perpetuity No N. C. Geodetic Survey Markers found within 2000'

Property is subject to any Easements or Rights of Way on record and any unrecorded written or implied Easements that may exist but were not apparent as of the date of this Survey

New Iron Rods set at Corners of Lot 3 unless noted otherwise

Survey Date of Lot 3 shown to the above April 25, 2014

Metes and Bounds Description of the Undisturbed Natural Area
 Beginning at a #6 Rebar, Thence N 29°17'33" E 126.48' to a #6 Rebar, Thence S 47°08'12" E 292.63' to a #4 Rebar, Thence S 54°06'15" W 464.26' to an EIR, Thence N 89°19'42" W 61.50' to a computed point at the 50' Lake Buffer, Thence, with the Lake Buffer Line, to computed points the following three calls (1) N 15°48' W 18.30', (2) N 25°58'54" E 94.22', (3) N 5°37' W 33.40' to a computed point at the western limit of the Undisturbed Area, Thence with the western line of the Undisturbed Area, N 20°35'00" E 119.50' to a computed point, Thence S 57°19'05" E 20.00' to the beginning point. Containing 2.049 Acres (89,245 Sq.Ft.) more or less.

I, Dale B. Hilderbran, Hereby Certify that this Plat was drawn from an actual survey made under my direct supervision (Deed Description recorded in Deed Book 19520 Page 869 and Deed Book 29260 Page 767); that the Ratio Precision is 1 : 20,000 ± as calculated, that the boundaries not surveyed are shown as broken lines plotted from information as referenced hereon; that this Plat was prepared in accordance with General Statute 47-30 as amended.

Witness my Hand and Official Seal this 7th day of January, 2020 a.d.

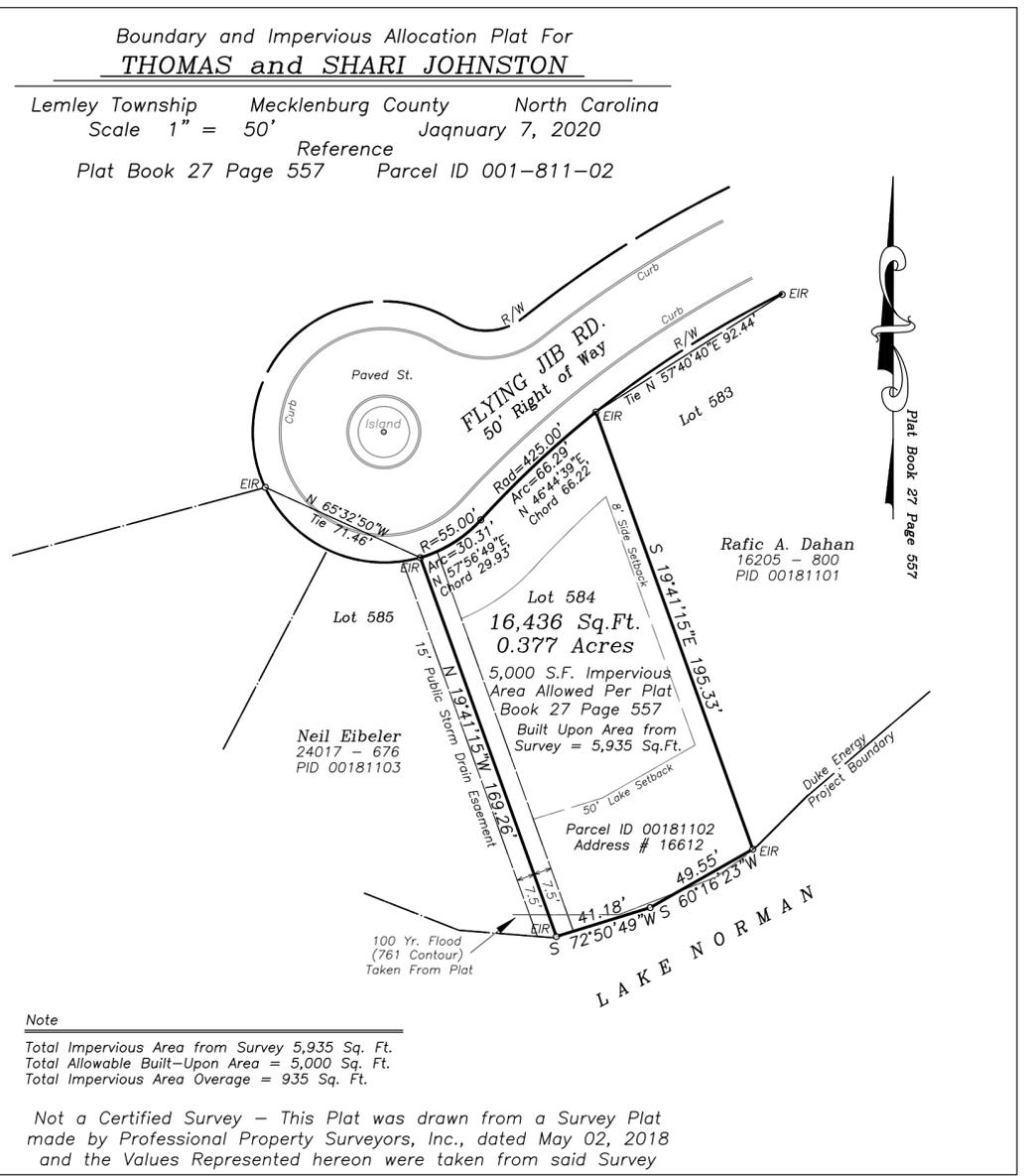
Preliminary Plat - Not For Recordation Conveyances or Sales
 N. C. Professional Land Surveyor L-2861

I Herby Certify that this Survey is of an Existing Parcel or Parcels of Land

N. C. Professional Land Surveyor L-2861

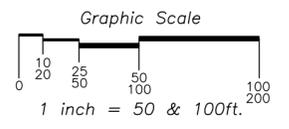
I (We) Herby Certify that: I am (We are) the Owner(s) of the property shown and described hereon, which is located in the Jurisdiction of the Town of Cornelius, that I (We) do hereby adopt this plan with my(our) free consent, establish minimum building setback lines, preserve and protect all significant trees over 18 inches in diameter in the tree and root protection area, plant supplementary trees if required, and dedicate all Streets, alleys, walks, parks and other sites and easements to public or private uses as noted. Once the Streets have been accepted by the Town or the State, street trees shall be maintained and cared for by the Owner adjacent to the tree, except in Subdivisions where the Property Owners Association provides maintenance and care. Prior to Street acceptance the developer shall be responsible for ensuring maintenance and care. Maintenance shall include replacement and trimming as necessary. Furthermore I (We) do hereby dedicate all sanitary sewer, storm sewer, and water that are located in public utility easements or rights of way to the Town of Cornelius and Charlotte Water.

Owner _____ Date _____
 Owner _____ Date _____
 Owner _____ Date _____



The Purpose of this Plat is to Allocate 1,500 Square Feet of allowable built-upon area from PID # 001-861-61 (donor parcel) to PID # 001-811-02 (recipient parcel). Each parcel is located in the same watershed.

| Site Data Table | Donor Parcel | Recipient Parcel |
|-----------------------------------|---------------|------------------|
| Parcel ID | 001-811-61 | 001-811-02 |
| Total Site Area | 4.288 Ac. | 16,439 Sq.Ft. |
| Current Allowed Built Upon Area | 54,920 Sq.Ft. | 5,000 Sq.Ft. |
| Built Upon Area Allocated | -1,500 Sq.Ft. | +1,500 Sq.Ft. |
| New Allowed Built Upon Area | 53,420 Sq.Ft. | 6500 Sq.Ft. |
| Existing Surveyed Built Upon Area | 00 Sq.Ft. | 5,935 Sq.Ft. |
| Remaining Allowed Built Upon Area | 00 Sq.Ft. | 565 Sq.Ft. |



Legend

EIP.....Existing Iron Pipe
 EIR.....Existing Iron Rod
 NIR.....New Iron Rod
 C.M.....Concrete Monument
 R/W.....Right of Way

IMPERVIOUS ALLOCATION PLAT FOR LOT # 584 OF THE PENINSULA, PHASE XVII, MAP 4
THOMAS W. JOHNSTON and wife SHARI JOHNSTON
 Town of Cornelius - Lemley Township - Mecklenburg County - North Carolina
 Scale 1" = 50' & 100' Platted January 7, 2020

Reference
 Deed Book 21196 Page 480 Parcel ID # 001-811-02

Owner of Record of Lot 3 on Nantz Rd.
 John R. Bradford III
 18632 Nantz Rd.
 Cornelius, N. C. 28031

Owners of Record of Lot # 584 of The Peninsula Phase XVII
 Thomas and Shari Johnston
 16612 Flying Jib Rd.
 Cornelius, N. C. 28031

DALE B. HILDERBRAN, PLS.
 LAND SURVEYING and SUBDIVISION PLANNING
 2389 Kens Drive Sherrills Ford, N. C. 28673
 Phone (828) 478-3234 Mobile (980) 721-5025

| Revision Table | | Description | By |
|----------------|------|-------------|----|
| No. | Date | | |
| | | | |
| | | | |
| | | | |