



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

**Agenda  
September 14, 2020  
6:30 PM  
Assembly Room**

- 1. Call To Order**
- 2. Determination of Quorum**
- 3. Approval of Minutes**
  - A. August 10, 2020
  - B. August 24, 2020 Special Meeting
- 4. Public Hearing and Consideration of Approval**
  - A. VAR 05-20 Foxcroft Equity LLC 21529 Baltic Drive
- 5. Consideration of Approval**
  - A. TA 03-20 Major/Minor Subdivisions
  - B. TA 01-20 Brewery Buffers
  - C. Built Upon Area Averaging Certificate Applications
- 6. Old Business**
- 7. New Business**
  - A. Land Use Plan Update
- 8. Next Meeting**
- 9. Adjournment**

## REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 14, 2020

**To:** Chair and Planning Board Members

**From:** Summer Smigelski, Planning Admin.


**Action Requested:**

Approve and Review

**Manager's Recommendation:**

Approval

**ATTACHMENTS:**

Name:	Description:	Type:
 <a href="#">PB_Minutes_08102020_Draft_-_Copy.docx</a>	August 10th, 2020 Minutes	Backup Material

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Minutes

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**TOWN OF CORNELIUS PLANNING BOARD**

Assembly Room  
August 10<sup>th</sup>, 2020  
6:30 p.m.

**Members Present**

Joseph Dean  
Hardy McConnell  
Danielle Miller  
Lee Peterson, Vice Chair  
Michael Osborne  
Phil Bechtold, Alternate  
Cameron Bearder, Alt.  
Susan Johnson

**Members Absent**

Edward Marxen, Alternate  
Keith Eicher, Chair

**Staff Present**

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

**VISITORS**

See Sign-In Sheets

**DETERMINATION OF QUORUM**

Vice Chair Peterson called the Planning Board meeting to order at 6:32 pm and noted there was a quorum present.

**APPROVAL OF MINUTES**

Mr. Osborne made a motion of approval for the June 29<sup>th</sup>, 2020 Minutes. Mr. McConnell seconded. All in favor, motion approved.

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

**Opposed:** None

**VAR 05-20 Foxcroft Equity LLC 21529 Baltic Drive**

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

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

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

**Opposed:** None

Citizen announces that she is hearing impaired and is legally disabled.

Staff provided a portable hearing device.

Mr. Fournier: "Chairman and members of the board. My name is Gary Fournier and I speaking about variance 05-20. We have a late request, matter of fact the citizen is here, for us to

provide hearing assistance for her. We spoke to the Town Attorney, we were advised that we should do more than just the headphone set, we should do a teleprompter. Staff would also like to have the Town Attorney present when this case heard, so we are asking the board to table this to a future meeting.

Vice Chair Peterson: "Any questions or comments? Anyone like to make a motion to table the variance?"

Mr. Dean: "I make a motion to table variance 05-20, at the request of the Town in light of the circumstances, for a future meeting."

Vice Chair Peterson: "Do I have a second?"

Mr. McConnell: "Second."

All those in favor

Applicant announces he wishes to be heard on this

Vice Chair Peterson allows it

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.

Applicant: "Members of the Board, I ask that you proceed with this hearing tonight. We filed out variance application with the hopes of being heard in July. We obviously under the COVID situation, but we are hoping to push forward on this because the property is under contract (INADUBILE) and the request to delay was I believe was made today. Unfortunately, the history between the property owner who is requesting it and my client is not good and so that's why we believe that the request for delay is being made. Obviously, we respect what the city attorney has to say here. We're prepared and ready to go and we would respectfully request that you will proceed with hearing on our variance request this evening. Thank You!

Mr. Dean: "What was the Town Attorney's opinion (INAUDIBLE) side of caution?"

Mr. Tucker: "That is correct. Also, it was the attorney's opinion they would like to be present during this case."

Ms. Johnson: "I have a question. He was saying that is was under contract and clearly, we were not able to hear this in July and then now another month. Would that potentially create an issue with proceeding with that closing?"

Applicant: "Obviously, members of the board its subject to your approval to hear the variance. It would delay. August 13<sup>th</sup> is the original date that was set and we if time because we thought we were going to be heard in July. Obviously with COVID there are some questions about what's going on. This variance is nearly identical to a variance that was approved on this property a year ago. Our testimony tonight is basically identical to our testimony a year before. We had a buyer before and the buyer pulled out at the last

minute. There is a six-month limitation on variances and, so we must seek a new variance. We are here and ready to proceed fully on our request.

Vice Chair Peterson: "The Town Attorney recommends that they be present for this variance. We are also recommending that we have a teleprompter for those that are hearing impaired. I think that its important that we table this until our next meeting. Do I have a motion to table?"

Mr. Dean made a motion to table variance 05-20 until a future meeting. Ms. Miller seconded. All in favor, motion approved.

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

**Opposed:** None

#### **REZ 08-17 Alexander Farm**

Ms. McElearney Presented an update to the board.

Staff is still waiting on the traffic impact analysis (TIA). At the applicant's request, staff recommends tabling this rezoning until the August 24<sup>th</sup> Planning Board Special Meeting to allow for staff review and TIA approval.

Mr. McConnell made a motion to table until August 24<sup>th</sup>. Ms. Johnson seconded. All in favor, motion approved.

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

**Opposed:** None

#### **REZ 01-20 The Forest at Bailey's Glen Phase 3 V.2**

Mr. Tucker informed the board that there were some concerns with a potential conflict of interest with this project and Chairman Eicher. After discussion, the Town and the applicant agreed to move forward we would have the Planning Board rehear this rezoning proposal without Chairman Eicher present.

Mr. Tucker called Mr. Fournier forward to present REZ 01-20 The Forest at Bailey's Glen Phase 3 V. 2

Mr. Fournier presented REZ 01-20 The Forest at Bailey's Glen Phase 3 V.2 to the board. The property sits on 13.52 acres and is located at Barnhardt Road and Bailey Road. The existing zoning is conditional zoning (CZ). The proposed development will include 11 single family homes and an Amenity Center. The Land Use Plan allows for a range of .5 to 2 dwelling units/acre. Project proposes 1.66 units/acre for the development as a whole.

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.
4. Dumpster enclosure must comply with Chapter 3 of the Town of Cornelius Land Development Code (LDC).
5. All exterior amenity lighting shall comply with Section 7.5 of the LDC. Full cutoff fixtures must be used for exterior parking lot lighting and a lighting plan must be submitted with the construction drawings. Light poles shall not exceed 15' with cutoff lights installed.
6. Must provide a 50' Type A-1 landscape buffer along Bailey Road and Barnhardt Road.
7. All signage for the development shall be permitted by Mecklenburg County and shall comply with Chapter 10 of the LDC.
8. Storm water issues will be addressed during construction document review and site inspections by Charlotte-Mecklenburg Storm Water Services.
9. Must meet all NCDOT driveway requirements, to include site triangles, for the amenity area on Barnhardt Road.
10. The amenity center shall not be leased, rented, or used by any parties other than those that reside in the Bailey's Glen or The Forest at Bailey's Glen developments.
11. All prior conditions from The Forest at Bailey's Glen Phase 1 and Phase 2 (aka. Baileys Glen II) remain in effect.
12. The applicant has agreed to voluntary annexation of this property into the Town of Cornelius Corporate Limits. Voluntary annexation requires a petition meeting all State statutory requirements for the entire property, and must be presented to the Town and approved by the Town Board prior to the recordation of the first final plat.
13. The development shall comply with Sections 92.25 and 92.26 Noise of the Town of Cornelius, Code of Ordinances. Outside amplified music will terminate at 10pm.
14. Any required sidewalks installed along Barnhardt Road will be outside the NC DOT right of way and developer will work within the grade to install sidewalks.

Vice Chair Peterson asked the applicant to please come forward

The applicant, Jake Palillo announced he would allow Mr. Violette, who is opposed speak first.

Mr. Violette requested his attorney Mr. Davies speak first.

Ken Davies: "I first want to thank this board for rehearing this matter. I just have four things I want to talk about. First, I need to ask is Bluestream agreed to condition number 10?"

Mr. Palillo: "Yes, I agree."

Mr. Davies: "Next thing is this is being called an amenity center and I would just like to ask the Planning Director where that fits in as far as use categories?"

Mr. Tucker: "Under the current Land Use Plan, secondary land use in this area as part of the land use plan designation, amenity centers are within the uses allowed."

Mr. Davies: "Okay, because I didn't see is as a use category at all. Our petition is obviously that the event center was pitched as a clubhouse and an event center. A clubhouse is understandable

the community can use that and enjoy it also good things can go on there. The event center is what triggered this strong opposition that hopefully you will consider that the event center doesn't belong there. Since we now have condition that the clubhouse and that property can only be used by the residence of the community, not leased out or rented out for weddings or parties. The event center is a 10,000-square foot event center is simply not needed. Furthermore, it doesn't seem to fit with any permitted use in the rural preservation category. I know I mentioned this last time. I do not believe this event center fits within your zoning ordinance. If it's a country club its called a country club. It seems to (INAUDIBLE) fit under dense gallery facility indoors (INAUDIBLE) and that is just simply not allowed in rural preservation. Perhaps I'm a little ignorant of the ordinance, perhaps it could be explained a little better because as I read this, I just don't see how this fit. I hope that you will consider encouraging Bluestream to drop this event center."

Vice Chair Peterson: "So what your describing it as an event center and the developer describes it as an amenity center."

Mr. Palillo: "It's a club house, sir."

Mr. Davies: "Is it a country club? Is it a private club? What kind? Its not a category that I see in chapter five of your Land Use Ordinance. If it fits somewhere in here in an unnamed category we are entitled to know that. Thank you!"

Kevin Violette: "I live at 18410 Barnhardt Road in Davidson. We are opposed to this. We bought our property ten years ago. Based on the zoning and neighbor we thought this house would be a home with families and kids and it would be a quiet road. To change into a clubhouse and event center is a big change from what we expected as property owners. We have a significant investment in. First it was 28 acres and now we bought five and a half acres next to us and now we are at almost 33 acres. To have a 10,000-square foot wedding pavilion across the street and if you look at the position of my home its literally in my front yard. We don't have a problem with a clubhouse and people using the clubhouse for playing cards and events, we have a problem with a 10,000 square foot wedding pavilion and we think that a big change from the intent of the property and we oppose it. Furthermore, the developer was granted an amenity parcel on Bailey Road, which I would hope someone could pull the map up, but he already has an amenity center that was approved by your board and, so we ask that he use that parcel and if he claimed at the last meeting it wasn't big enough and if its not well put the wedding pavilion there and use this home as the clubhouse. That would keep the noise and traffic to a minimum in our family's front yard and on Barnhardt Road which has no shoulder, its dangerous because of the high school traffic back and forth. Thank you very much."

Mr. Palillo: "I'm Jake Palillo, I'm the developer. It's a clubhouse, a clubhouse for a 55 and older community. Its not a wedding Pavilion unless some of the seniors want to get married, which we haven't had that happen. He claims that the high traffic of the kids running disturbs his piece and, yet he drives a motorcycle and shoots guns out there so obviously noise is not a factor to him. So, we can clear us some stuff because we have a stenographer here. We would like to make the record clear that it's a clubhouse. Is that in your ordinance?"

Mr. Tucker: "With conditional zoning you are pretty much establishing your own district and your own set of uses as a part of the approved site plan. Its appropriate whatever you want to label it."

Mr. Palillo: "It's not a banquet, I want to be clear, it's a clubhouse. You can call it a country club if you want. What would you prefer to call it so we can get the correct wording?"

Discussion continued what to appropriately call the center

Mr. Palillo: "There is a clubhouse in the Peninsula, there is clubhouses at River Run, there's clubhouses at North Stone Country Club. Most communities have a clubhouse or amenity center. We are back here again because of this ongoing litigation so if were going to resolve this lets let him state what he would like to call it."

Mr. Violette asked to address some comments that were made.

Vice Chair Peterson denied the request since Mr. Violette addressed the board already and to give others the ability to speak on this matter.

Vice Chair Peterson asked if anyone else wishes to speak.

No other requests to speak.

After discussion the board recommend approval of the project with an amendment to condition number 10. The reworded condition should only allow residents of Bailey's Glen and Forest at Bailey's Glen to use or lease the amenity center.

Mr. Osborne made a motion recommend approval. Ms. Johnson seconded. All in favor, motion approved.

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

**Opposed:** None

Mr. Osborne made a ;motion to approve the consistency statement. Mr. Dean seconded. All in favor, motion approved.

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

**Opposed:** None

### **Built Upon Area Averaging Certificate Applications**

Ms. Adams presented:

- BUA #1 - 16600 Mizzen Court (Receiving 1,000 sq. ft.)
- BUA #2 – 18624 Town Harbour Road(Receiving 500 sq. ft.)
- BUA #3 – 18504 Square Sail Road(Receiving 2,555 sq. ft.)
- BUA #4 - 18628 Square Sail Road(Receiving 500 sq. ft.)
- BUA # 5 - 18310 Town Harbour Road(Receiving 3,500 sq. ft.)

After discussion the board made a motion to approve the present BUA applications.

Mr. Osborne made a motion to approve the requested BUA's. Ms. Johnson seconded. All in favor, motion approved.

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

**Opposed:** None

**NEXT MEETING**

Monday, August 24<sup>th</sup>, 2020 Special Meeting

**ADJOURNMENT**

Ms. Johnson made a motion to adjourn the meeting at 7:15 p.m. Mr. Osborne second. All in favor and motion approved.

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

**Opposed:** None

Respectfully Submitted:

\_\_\_\_\_  
Lee Peterson  
Vice Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Summer Smigelski  
Secretary

\_\_\_\_\_  
Date

## REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 14, 2020

**To:** Chair and Planning Board Members


**From:** Summer Smigelski, Planning Admin.

**Action Requested:**

Review and Approve

**Manager's Recommendation:**

**ATTACHMENTS:**

Name:	Description:	Type:
 <a href="#">PB_Minutes_08242020_Draft_-_Copy.docx</a>	August 24th Special Meeting Minutes	Backup Material

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Minutes

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**TOWN OF CORNELIUS PLANNING BOARD**

Assembly Room  
August 24<sup>th</sup>, 2020  
6:30 p.m.

**Members Present**

Joseph Dean  
Hardy McConnell  
Danielle Miller  
Lee Peterson, Vice Chair  
Michael Osborne  
Phil Bechtold, Alternate  
Cameron Bearder, Alt.  
Susan Johnson  
Keith Eicher, Chair

**Members Absent**

Edward Marxen, Alternate

**Staff Present**

Summer Smigelski, *Admin. Assistant*  
Aaron Tucker, *Planning Director*  
Monterai Adams, *Planner*  
Catherine McElearney, *Planner*

**VISITORS**

See Sign-In Sheets

**DETERMINATION OF QUORUM**

Chair Eicher called the Planning Board meeting to order at 6:32 pm and noted there was a quorum present.

**REZ 08-17 Alexander Farm**

Ms. McElearney presented REZ 08-17 to the board. The applicant, WIN Development, requests to rezone 54 acres of property located at the corner of West Catawba Avenue and Westmoreland Road. The development summary of the preliminary plan calls for mixed building heights, 77 single-family detached lots, 130-unit resort style retirement community, and approximately 120,000 square feet of commercial development to be constructed from 2021-2023. The development also includes a 3.2-acre park (outside Duke Energy right-of-way).

Ms. McElearney introduced Matt Peach, the traffic engineer representing Stantec.

Mr. Peach presented the analysis to the board. ***See attached TIA report***

Ms. Johnson: "You talked about a left-hand turn lane staying in the athletic complex?"

Mr. Peach: "That is Correct. That left-hand turn is retained. However, the NCDOT improvements along this area, you will no longer be able to make a left turn out of the athletic complex. In order to do so, what NCDOT would ask that drivers do would be to go to the roundabout, make a U-turn and come back. Having received NCDOT recommendations last week, the next steps regarding the applicant's process is to coordinate their construction drawings with NCDOT to determine which improvements get constructed based on NCDOT timeframe, their timeframe and to get the approval, i.e. driveway permit and encroachment agreement from NCDOT."

Ms. Johnson: "You said that basically based on traffic patterns, you had looked at for 2020, but not necessarily when it first was proposed in 2018 and clearly, in 2020 early part of this year,

during COVID, you know, obviously there were not nearly the number of cars that go along those two roads any given time. I understand and appreciate that it was approved but what does actual, typical traffic outside of COVID look like if that's even possible to even contemplate at this point in time?"

Mr. Peach: "That's a great question and it is certainly one that we're getting on a lot of projects these days. Just given the very unusual nature of how pandemic altered traffic patterns. I can certainly attest because starting in late March of this year, I started working from home and have been working from home ever since. Where I used to be out, I no longer am. What I will say is collected traffic data in 2019, specifically May, and we ran our numbers based on that, not 2020 volumes. We then grew that traffic that we collected in 2019 to 2023, as well as buildout year plus five, which is 2028. In terms of studying COVID altered traffic, we did not do that for this study."

Chair Eicher call forward the applicant to address the board.

Applicant: "Good Evening. I'm Susan Irvin, representing the applicant. I would like to thank the Planning Board for having this meeting tonight. We appreciate the fact that this is not your regular meeting time, and I would like to say that we have our entire team representatives from our entire team here tonight. Richard Bartlett, the architect with BHM Architects, Owen Ewing, Michael Wickline with Design Resource Group and Sean Paone with Cole Jenest. We have everyone here to answer any questions you may have. I am going to ask Richard to come present a portion of the PowerPoint, and I'm going to speak at the end. I do want to say that we come a long way on this plan. We started out with 170 townhomes, a convenience store, a gas station and no publicly dedicated park. That evolved but we had numerous community meetings an in those community meetings, we heard that a convenience store and gas station was not what the community wanted and that was too many townhomes and also there was discussion at the time about adding the fire station. The applicant came back after several months of reworking it and took the convenience store gas station off. We also, heard that a park was wanted. Added the fire station, and during the last round of reviews, we understood from the Town that this was not the location that they were looking for the fire station, so we removed that, but we've made a few other changes. I will go over those at the end."

Ms. Irvin asked Richard Bartlett to address the board.

Mr. Bartlett presented his design.

After discussion between the applicants and the board, Ms. McElearney presented the following conditions.

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

- Town approval is contingent on review and approval by other applicable local, state and federal agencies.
- The development shall comply with all other applicable requirements of the Town of Cornelius Land Development Code.
- 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.

- 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.
- The applicant shall be responsible for completing any roadway improvements, on site and off site, per the approved Traffic Impact Analysis (TIA) SC-2019-003, including the Congestion Management Review Report and Addendum, as required by NCDOT.
  - Applicant shall coordinate with the NCDOT during construction document approval(s) for a phasing analysis to determine interim improvement timelines. All interim improvements shall be per the Traffic Impact Analysis (TIA) SC-2019-003, including the Congestion Management Review Report and Addendum. This includes but is not exclusive to:
    - a. Applicant shall restripe southbound left turn on West Catawba (SR 5544) between Harborside Drive and Village Harbor Drive with storage as required by NCDOT.
    - b. Applicant shall construct a right turn lane on SR 5544 at Village Harbor Drive onto proposed Eagleridge Way Lane Extension intersection.
    - c. Internal protected storage to the site including a 550' internal protected stem on Eagleridge Way Lane shall be constructed by the applicant.
    - d. Applicant shall coordinate improvements at Westmoreland Road (SR 2147) and the entrance to the Westmoreland Athletic Complex, including right-in right-out for driveways on both sides of Westmoreland Road and channelization that will provide a left turn lane into the Westmoreland Athletic Complex. This intersection design will prohibit left turns into the proposed development. The intersection design and detail will meet NCDOT requirements. The applicant will be responsible for the design and construction as required by NCDOT.
    - e. Applicant shall coordinate with NCDOT for the roundabout or approved interim driveway configuration and associated improvements on SR 2147, the acquisition of Eagleridge Way land, and the proposed Eagleridge Way Lane Extension Intersection.
    - f. Applicant shall construct on SR 2147 at Statesville Road (US 21) a 400' right turn lane as required by NCDOT.
    - g. Applicant shall coordinate with NCDOT on restriping and extending the existing EB turn lane at SR 2147 (Westmoreland Road) and Washam Potts Road (SR 2600).
  - Applicant shall coordinate with the NCDOT on a phasing analysis to determine permanent (2040 TIP Design Year) improvement timelines. All permanent improvements shall be per the Traffic Impact Analysis (TIA) SC-2019-003, including the Congestion Management Review Report and Addendum and as required by NCDOT during the construction document and driveway permit approval process. This includes but is not exclusive to:

SR-5544 (West Catawba Av) @ Village Harbor Drive & Proposed Eagle Ridge Way

- Proposed Eagleridge Way Ln Ext
  - Two-lane cross section: one ingress, one egress
  - Egress: Right-Turn Lane

Maximize 550' Internal Protected Stem

SR-2147 (Westmoreland Road) @ Athletic Complex & Proposed Road A Intersection

Widen Westmoreland Road to a four-lane section (i.e. two-lanes in either direction) between West Catawba Avenue and the roundabout at Eagle Ridge Way Lane.

- EB SR-2147 (Westmoreland Road)
  - Restripe Right-Turn Lane to Thru/Right Lane and extend Eastward to Eagleridge Way Ln (as part of 4-laning described above)
- WB SR-2147 (Westmoreland Rd)
  - Restripe Separate Right-Turn Lane to Thru/Right Lane and Extend Westward to SR-5544 (West Catawba Av) (as part of 4-laning described above)
- SB Proposed Road A
  - Two-lane cross-section: one ingress, one egress
  - Egress: Right-Turn Lane

Maximize 175' Internal Protected Stem

SR-2147 (Westmoreland Road) @ Eagleridge Way Ln & Proposed Eagleridge Way Ln Ext Intersection

- WB SR-2147 (Westmoreland Rd)
  - Restripe Left-Turn Lane to 150' Left/Thru Lane
  - Restripe Thru Lane to Thru/Right Lane
- SB Proposed Eagleridge Way Ln Ext
  - Three-Lane cross-section: one ingress, one egress
  - Egress: Left/Thru Lane and 100' Right-Turn Lane
  - Maximize 300' Internal Protected Stem
- If phasing is proposed, all phases must touch public streets in order to provide public access.
- Residential Street D shall have pavement connect to pavement within public street Chagrin Drive prior to recording a plat or the issuance of a certificate of occupancy related to residential street D. Improvements may be bonded through Mecklenburg County as part of a plat approval.
- All infrastructure, pavement markings, crosswalks, and landscaping shown or required must be installed or guaranteed prior to recording a plat or the issuance of a certificate of occupancy, whether entire plan or per phase as decided by applicant.
- The applicant shall construct a 10' multi-use path designed with Town approval on the north side of Residential Street E to connect the proposed greenway to the Eagle Ridge Way Lane extension prior to recording a plat or the issuance of a certificate of occupancy.
- The applicant shall construct the proposed greenway shown within the park land area.
- All Land Development Code and site requirements will be required to be installed or guaranteed either for the entire property or for any approved phasing/plat that may be requested and considered by the Town.
- All areas shown as park land whether inside or outside utility rights-of-way and easements shall be transferred and deeded to the Town in a manner acceptable to the Town prior to recording a plat or the issuance of a certificate of occupancy.

- A development agreement shall be provided for Town Board consideration and approval. The agreement shall include the terms for the provision of infrastructure within the development, but shall not be limited to:
- a multi-use path within the park area to connect Caleb Jordan Drive and Lake Breeze Drive to other internal pedestrian facilities.
- Acquisition of right-of-way for the Eagle Ridge Way Extension connection to the proposed round-about at Westmoreland Road.

All other items agreed on by the applicant and the Town

After extensive discussion the board recommended approval

Mr. McConnell made a motion to recommend approval of REZ 08-17. Mr. Peterson second. All in favor and motion approved.

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

**Opposed:** None

Chair Eicher read the REZ 08-17 Alexander Farm consistency statement and asked for a motion to approve.

Ms. Johnson made a motion to approve REZ 08-17 consistency statement. Mr. Osborne second. All in favor and motion approved.

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

**Opposed:** None

### **ADJOURNMENT**

Ms. Johnson made a motion to adjourn the meeting at 7:39 p.m. Mr. Osborne second. All in favor and motion approved.

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

**Opposed:** None

Respectfully Submitted:

\_\_\_\_\_  
Keith Eicher  
Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Summer Smigelski  
Secretary

\_\_\_\_\_  
Date

## REQUEST FOR BOARD ACTION

 **Print**

**Date of Meeting:** September 14, 2020

**To:** Planning Board/Board of Adjustment

**From:** Gary Fournier, CZO - Planner


**Action Requested:**

The Applicant is seeking a variance from the 40' Lake Norman Watershed buffer to construct a driveway to access a proposed single-family residence. On August 10th, the Planning Board continued the hearing for VAR 05-20 until September 14th.

**Manager's Recommendation:**

Hear evidence and render a decision

**ATTACHMENTS:**

Name:	Description:	Type:
 <a href="#">VAR_05-20_Staff_Report.docx</a>	Staff Report	Backup Material
 <a href="#">Exhibit_A_Zoning_Map.pdf</a>	Exhibit A Zoning Map	Exhibit
 <a href="#">Exhibit_B_Aerial_Vicinity_Map.pdf</a>	Exhibit B Aerial Vicinity Map	Exhibit
 <a href="#">Exhibit_C_Aerial_Property_Map.pdf</a>	Exhibit C Aerial Property Map	Exhibit
 <a href="#">Exhibit_D_Town_Ordinance_91-00039.pdf</a>	Exhibit D Town Ordinance 91-00039	Exhibit
 <a href="#">Exhibit_E_Recorded_Plat.pdf</a>	Exhibit E Recorded Plat	Exhibit
 <a href="#">Exhibit_F_Variance_Application.pdf</a>	Exhibit F Variance Application	Exhibit
 <a href="#">Exhibit_G_Site_Plan.pdf</a>	Exhibit G Site Plan	Exhibit
 <a href="#">Exhibit_H_Site_Plan_overlaid_on_Aerial_Image.pdf</a>	Exhibit H Site Plan overlaid on Aerial Image	Exhibit
 <a href="#">Exhibit_I_VAR_02-19_Approval_Letter.pdf</a>	Exhibit I VAR 02-19 Approval Letter	Exhibit
 <a href="#">Exhibit_J_Property_Survey.pdf</a>	Exhibit J Property Survey	Exhibit
 <a href="#">Exhibit_K_Topographical_Map.pdf</a>	Exhibit K Topographical Map	Exhibit
 <a href="#">Exhibit_L_Aerial_Photo_of_Surrounding_Parcels.pdf</a>	Exhibit L Aerial Photo of Surrounding Parcels	Exhibit
 <a href="#">Exhibit_J_Proeprty_Photo.pdf</a>	Exhibit M Property Photo	Exhibit
 <a href="#">Exhibit_K_Proeprty_Photo.pdf</a>	Exhibit N Property Photo	Exhibit
 <a href="#">Exhibit_L_Birdseye_Photo.pdf</a>	Exhibit O Birdseye Photo	Exhibit
 <a href="#">VAR_05-20_FoF.docx</a>	VAR 05-20 Finding of Facts	Backup Material



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

**September 14, 2020**

**Applicant:** David Murray on behalf of Foxcroft Equity 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 to access a proposed single-family residence.

**Zoning:** General Residential (GR)

**Hearing Date:** September 14, 2020

**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.

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 of the Town of Cornelius Land Development Code, 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 recorded plat is shown as Exhibit E.

5. The Applicant submitted a Town of Cornelius Variance Application, two site plans, the Approval Letter for VAR 02-19, a property survey, a topographical map, and an aerial photo of surrounding parcels. The first site plan shows the watershed buffer on this parcel to be a total of 15,477 sf and the driveway encroachment as 769 sf. This constitutes a 4.97% encroachment and is therefore considered a minor watershed variance request per Chapter 2 of the Town of Cornelius Land Development Code. The Variance Application is shown as Exhibit F, the two site plans as Exhibits G and H, the Approval Letter for VAR 02-19 as Exhibit I, the property survey as Exhibit J, the topographical map as Exhibit K, and the aerial photo of surrounding parcels as Exhibit L.
6. Staff visited the property and took two pictures which are shown as Exhibits M and N.
7. Staff has also provided a birdseye view photo of the property which is shown as Exhibit O.

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>	Site Plan
<i>Exhibit H:</i>	Site Plan overlaid on Aerial Image
<i>Exhibit I:</i>	VAR 02-19 Approval Letter
<i>Exhibit J:</i>	Property Survey
<i>Exhibit K:</i>	Topographical Map
<i>Exhibit L:</i>	Aerial Photo of Surrounding Parcels
<i>Exhibit M:</i>	Property Photo
<i>Exhibit N:</i>	Property Photo
<i>Exhibit O:</i>	Birdseye Photo



Exhibit A Zoning Map



**Lake Norman**

**Baltic Dr**

**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



0 20 40 80 Feet



Exhibit B Aerial Vicinity Map



Lake Norman

Schooner Dr

Sandy Cove Rd

Dufour Ct

Baltic Dr

Trintella Ln

Holiday Marina

Nautique Bv

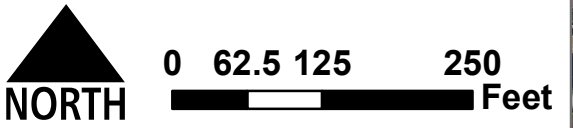




Exhibit C Aerial Property Map





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;



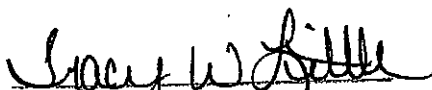
- 16) There shall be a minimum of two (2) subdivision entry roads established for Blue Stone Harbor on Knox Road;
- 17) There shall be acceleration and deceleration lanes at both entrance roads into Blue Stone Harbor on Knox Road, according to DOT and Mecklenburg County regulations;
- 18) The developer 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

FILED FOR  
REGISTRATION

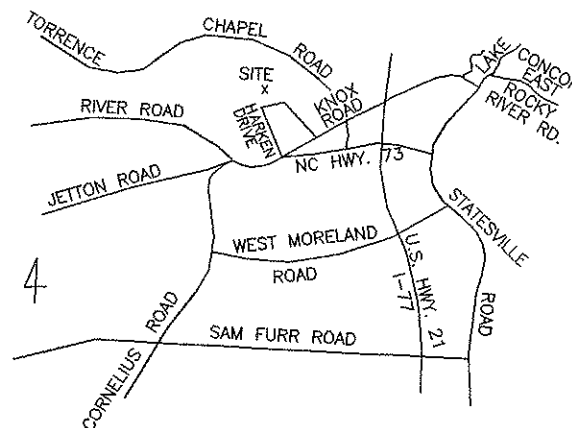
MAR 6 1997

AT 12:53

JUDITH A. GIBSON

MECKLENBURG COUNTY, N. C.

REGISTER OF DEEDS



LOCATION MAP

NO SCALE

#### CERTIFICATE OF APPROVAL FOR RECORDING

LINE	BEARING AND DISTANCE	17.69'
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	16.96'
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'

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.

Judith D. Brown  
SUBDIVISION ADMINISTRATOR  
CORNELIUS, NORTH CAROLINA

3.4.97  
DATE

#### 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.

CHARTOWN  
By: R. J. Hendrick, Jr., RLS  
OWNER(S)  
DATE 3/13/97

#### 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.

Beverly Lanning  
ENGINEER/STAFF

3/4/97  
DATE

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.

Joseph J. Thomas  
Notary Public  
My Commission Expires April 17, 2007

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 28, Page 185); that the boundaries not surveyed are clearly indicated as drawn from information found in Book 4999, Page 427; 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.

Joseph W. Hendrick  
Surveyor  
L-3046  
Registration Number

State of North Carolina, County of Mecklenburg  
The foregoing certificate(s) of

Joseph J. Thomas

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

This 6th day of March 1997

Judith A. Gibson, Register of Deeds

By: Carolyn W. Mayzack 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

BAR SCALE 1"=100'  
0 25 50 100 200



## TOWN OF CORNELIUS VARIANCE APPLICATION

Date Filed:        /        /	Case #: <b>VAR 05-20</b>
Fee Paid: \$	Public Hearing:        /        /
Applicant: Foxcroft Equity LLC	Tax Parcel: 00178117
Location of Variance: 21529 Baltic Drive	Zoning: GR

I, Foxcroft Equity 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 Land Development Code (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: A variance was previously granted on July 12, 2019, for a 4.97% encroachment into the 40' Lake Norman setback. After obtaining the variance, the applicant (previous LLC) contracted with an interested buyer to purchase the property. The buyer terminated the contract in December 2019, a few weeks before the 6-month expiration deadline from the previous variance. The applicant now has the property under contract with a second interested buyer to purchase the property and is seeking what is effectively a reissuance of the previous variance. The applicant has updated the survey and exhibits for this reapplication. The applicant is again seeking a 4.97% encroachment, as was granted previously, into the 40' Lake Norman setback from the 760' contour line in order to construct a driveway 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:

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act (G.S. 160A-388), the Board is required to reach the following conclusions as a prerequisite to the issuance of a variance:

- 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 proposed single-family structure on the property. Given that the 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. Further, the Planning Board has previously found the circumstances on this property result in an unnecessary hardship.

- 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 a 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 and adjacent to 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. Further, the Planning Board has previously found the hardship results from conditions that are peculiar 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, Foxcroft Equity LLC, nor its predecessor SMDA Development 1, LLC, did not create the hardships on the property. Further, the Planning Board has previously found that the applicants did not cause 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 minor variance of up to 5% 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 serviced by a driveway. There are no public safety concerns with building the driveway, and to deny the variance, which has previously been granted, substantial justice to the property owner to make beneficial use of the property. Not having adequate vehicular access would also impair access for first responder vehicles to any structure on the property. The purpose of the encroachment is to

*Variance Application*  
*continued*

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. Further, the Planning Board has previously found that the requested variance of 4.97% is consistent with the ordinance such that public safety is secured and substantial justice achieved.

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

Foxcroft Equity LLC c/o David W. Murray, Esq.  
Name of Applicant

Foxcroft Equity 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 11, 2020  
Date

June 11, 2020  
Date

704-377-7333  
Telephone Number

704-377-5747  
Fax Number

davidmurray@mecklaw.com  
Email Address

  
Signature

**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.**

**Exhibit 1 – Site Plan**

**Exhibit 2 – Site Plan overlaid on Aerial Image (updated 9/2/20)**

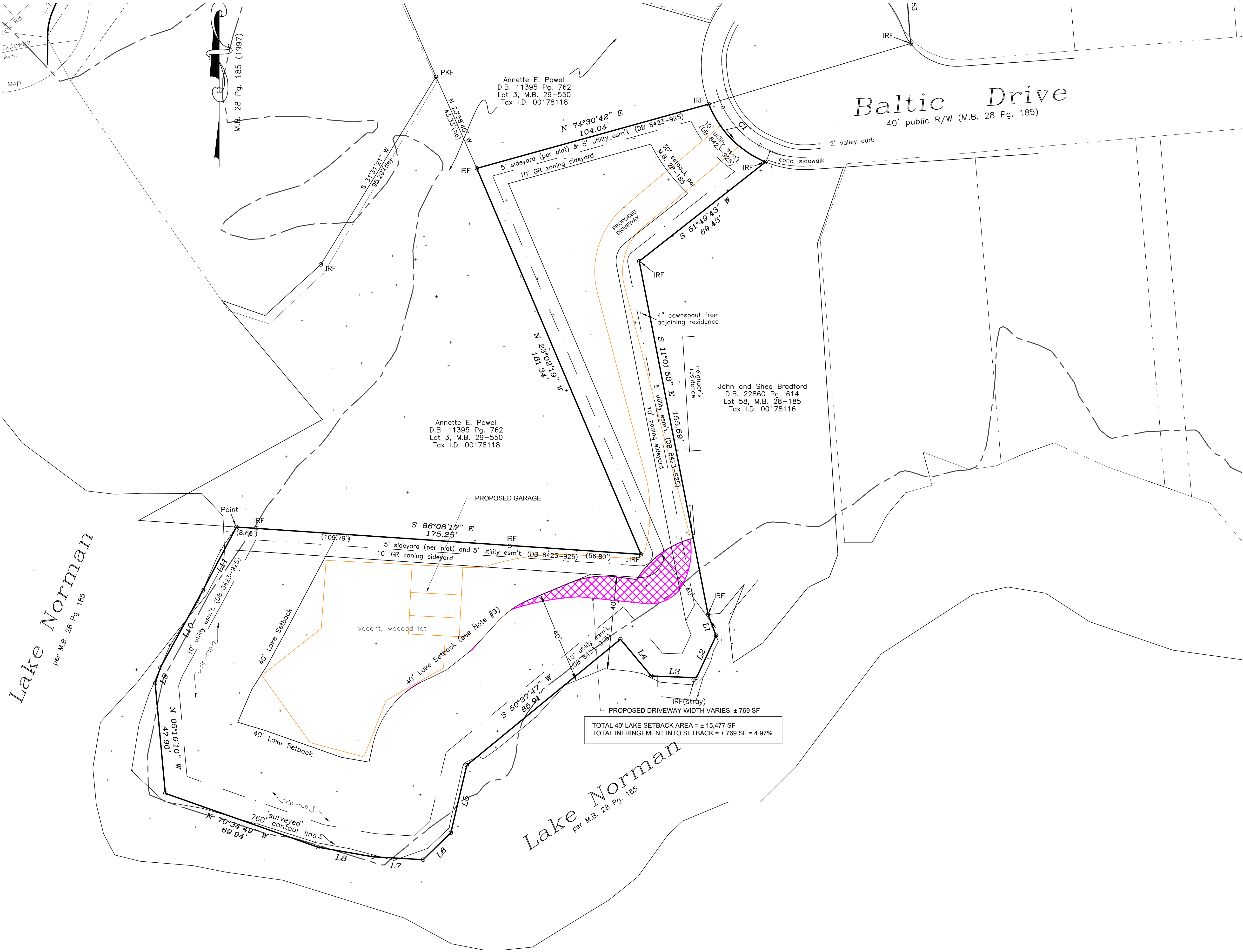
**Exhibit 3 – July 12, 2019 Variance Approval Decision Letter**

**Exhibit 4 - Survey for Site Plan (added 9/2/20)**

**Exhibit 5 - Mecklenburg County Topographical Map (added 9/2/20)**

**Exhibit 6 - Mecklenburg County Aerial of Surrounding Parcels (added 9/2/20)**





# BALTIC DR. - CORNELIUS | LAKE SETBACK ENCROACHMENT EXHIBIT

21529 BALTIC DR.

DATE: 06.08.2020  
CLIENT: ODOM  
PROJ #: 19038  
DRAWN BY: BL

PLOTTED: C:\DPR Dropbox\\_Projects\Active\2019\19038 Baltic Dr.-Odom-Cornelius\CAD\19038-BASE.dwg / 6/11/2020 12:51 PM

EXHIBIT  
1





BALTIC DR. - CORNELIUS | LAKE SETBACK ENCROACHMENT EXHIBIT

21529 BALTIC DR.

DATE: 08.10.2020  
CLIENT: ODOM  
PROJ #: 19038  
DRAWN BY: BL

PLOTTED: D:\19038-BASE.dwg / 8/10/2020 2:39 PM

EXHIBIT  
2 (Updated)





MAYOR

WOODY WASHAM, JR.

MAYOR PRO-TEM

MICHAEL F. MILTICH

COMMISSIONERS

DENIS BILODEAU

DAVID GILROY

KURT NAAS

THURMAN ROSS, JR.

TOWN MANAGER

ANDREW GRANT

Planning Department  
July 12, 2019

EXHIBIT

3

exhibitstickler.com

SMDA Development 1, LLC  
1109 Greenwood Cliff  
Charlotte, NC 28204

*Subject:* **VAR 02-19** Tax Parcel References 00178117  
Planning Board Approval of Variance Request

Dear SMDA Development 1, LLC:

On Monday, July 08, 2019, the Town of Cornelius Planning Board, under the authority vested to that board under the provisions of Sections 16.1 and 16.6 of the Town of Cornelius *Land Development Code*, conducted a Public Hearing to consider granting a variance to Section 5.5.4, Table of Dimensional Requirements.

Following the opening of the Quasi-Judicial Hearing, the Planning Board received the sworn testimony from planning staff, applicant and witnesses. Under the provisions of Section 16.6, the Planning Board determined the following findings of fact based upon the evidence and testimony presented:

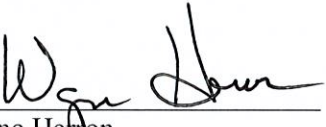
- A. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.  
Vote: 7 Yes/0 No – Finding approved.
- B. The hardship results from conditions that are 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 public, may not be the basis for granting a variance.  
Vote: 7 Yes/0 No – Finding approved.
- 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.  
Vote: 7 Yes/0 No – Finding approved.
- 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.  
Vote: 7 Yes/0 No – Finding approved.

These findings serve as the basis for the Town of Cornelius Planning Board to render the decision to approve this variance request.

Approved: 7 Yes/0 No

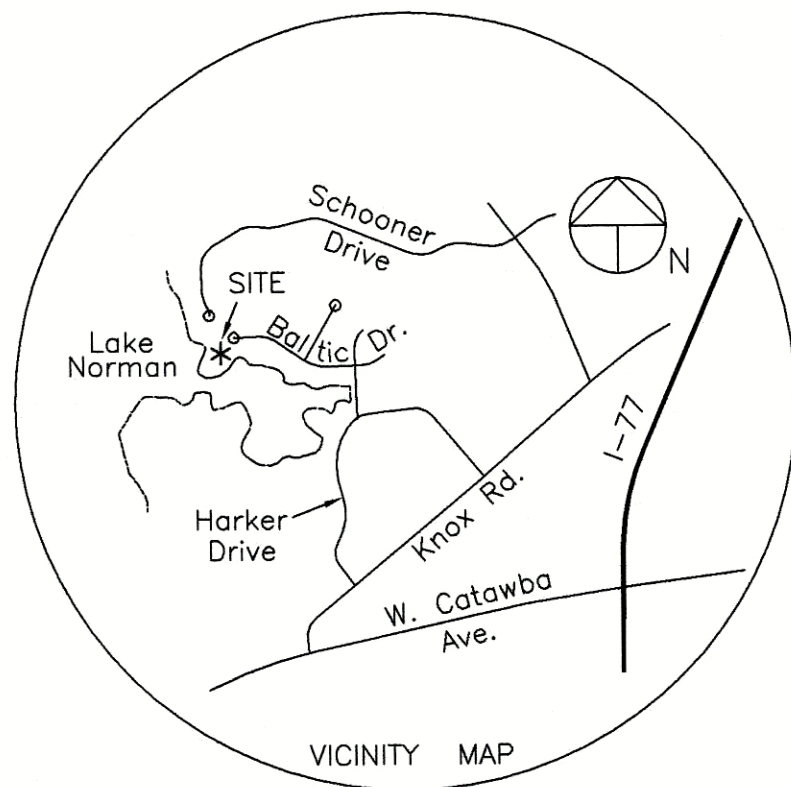
This decision shall be subject to review by the Superior Court Division of the General Court of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within thirty (30) days after the decision of the Board is filed in the office of the Zoning Enforcement Officer, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Zoning Enforcement Officer or the Chairman of the Planning Board at the time of the Board's hearing of the case, whichever is later.

So, ordered and entered into the official record of Case VAR 02-19 on July 08, 2019.

  
Wayne Herron  
Deputy Town Manager/ Planning Director

  
Keith Eicher  
Planning Board Chairman





#### 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.  
sanitary sewer line  
G underground gas line  
X fence line  
OE overhead utilities  
UT underground telecomm. line  
W water line

EXHIBIT  
4

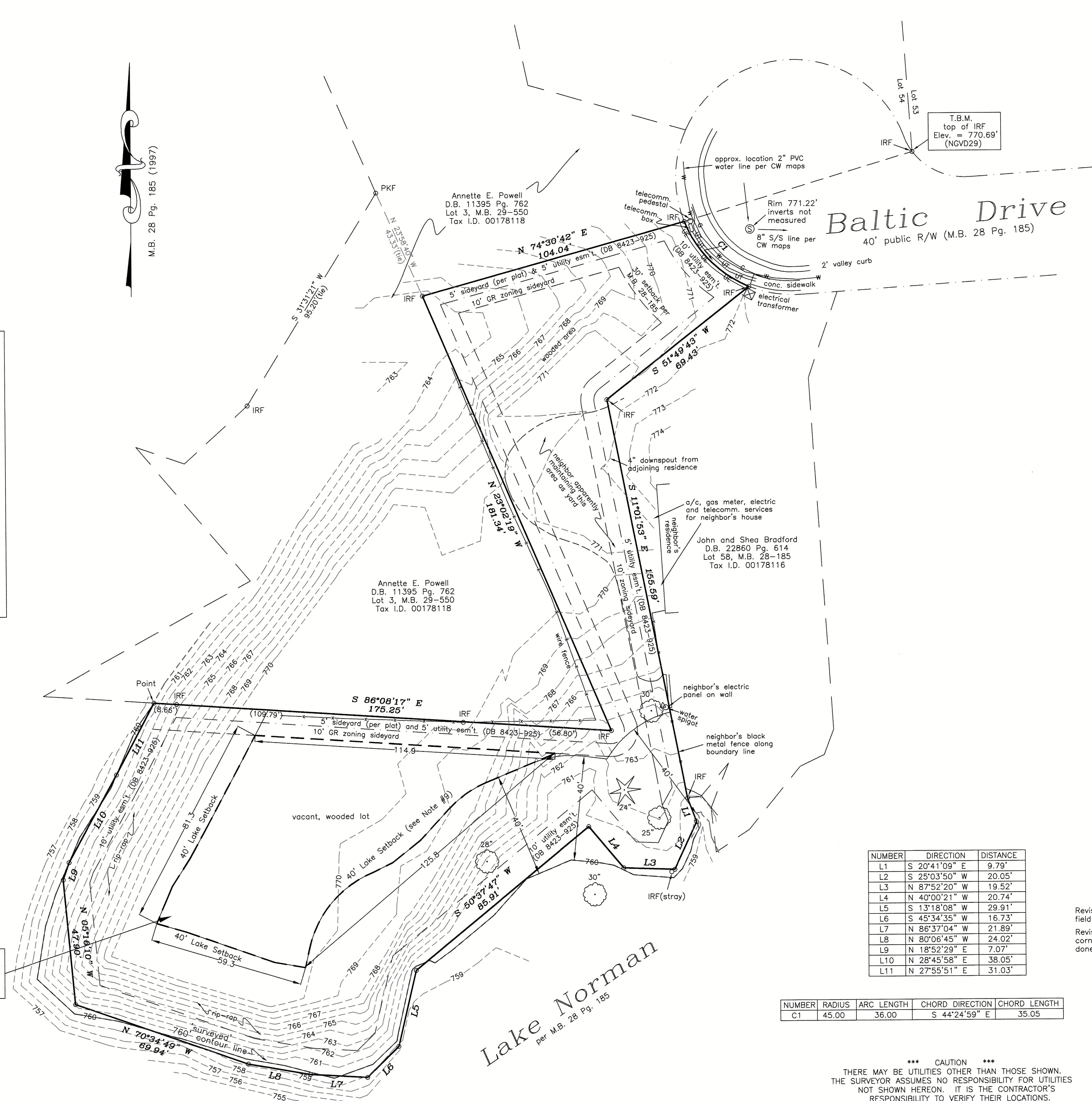
Lake Norman  
per M.B. 28 Pg. 185

PRELIMINARY SKETCH  
04-05-2017

BUILDABLE ENVELOPE  
USING 40' LAKE SETBACK  
= 6,390 S.F.

14,744 S.F. of buffer area  
(using the property line)

15,477 S.F. of buffer area  
(using the 760' line)



NUMBER	DIRECTION	DISTANCE
L1	S 20°41'09" E	9.79'
L2	S 25°03'50" W	20.05'
L3	N 87°52'20" W	19.52'
L4	N 40°00'21" W	20.74'
L5	S 13°18'08" W	29.91'
L6	S 45°34'35" W	16.73'
L7	N 86°37'04" W	21.89'
L8	N 80°06'45" W	24.02'
L9	N 18°52'29" E	7.07'
L10	N 28°45'58" E	38.05'
L11	N 27°55'51" E	31.03'

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 27th day of MAY, 2020.



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'
  - Sideway: - 5'/10' (total 15')
  - Rearyard: - 25'
  - Lake Setback: - 40'Per the Town of Cornelius Land Development Code the building setbacks are:
  - Front - 25'
  - Sideway - 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'
  - Sideway - 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 field-located location of the 760' contour line, per Wayne Herron, Town of Cornelius Planning Director.
- 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.

Revised 04-05-17: Change Lake Setback to 40' from field-located 760' contour line, per Wayne Herron.

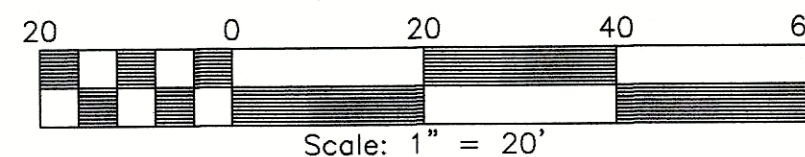
Revised 05-27-20: Revise Lake Setback at SE corner of property. No new field surveying was done at this time.

Copyright 2020

TOPOGRAPHIC SURVEY  
21529 Baltic Drive  
CORNELIUS, MECKLENBURG COUNTY, N.C.

for SMDA DEVELOPMENT 1, LLC

Date of Survey: December 23, 2016



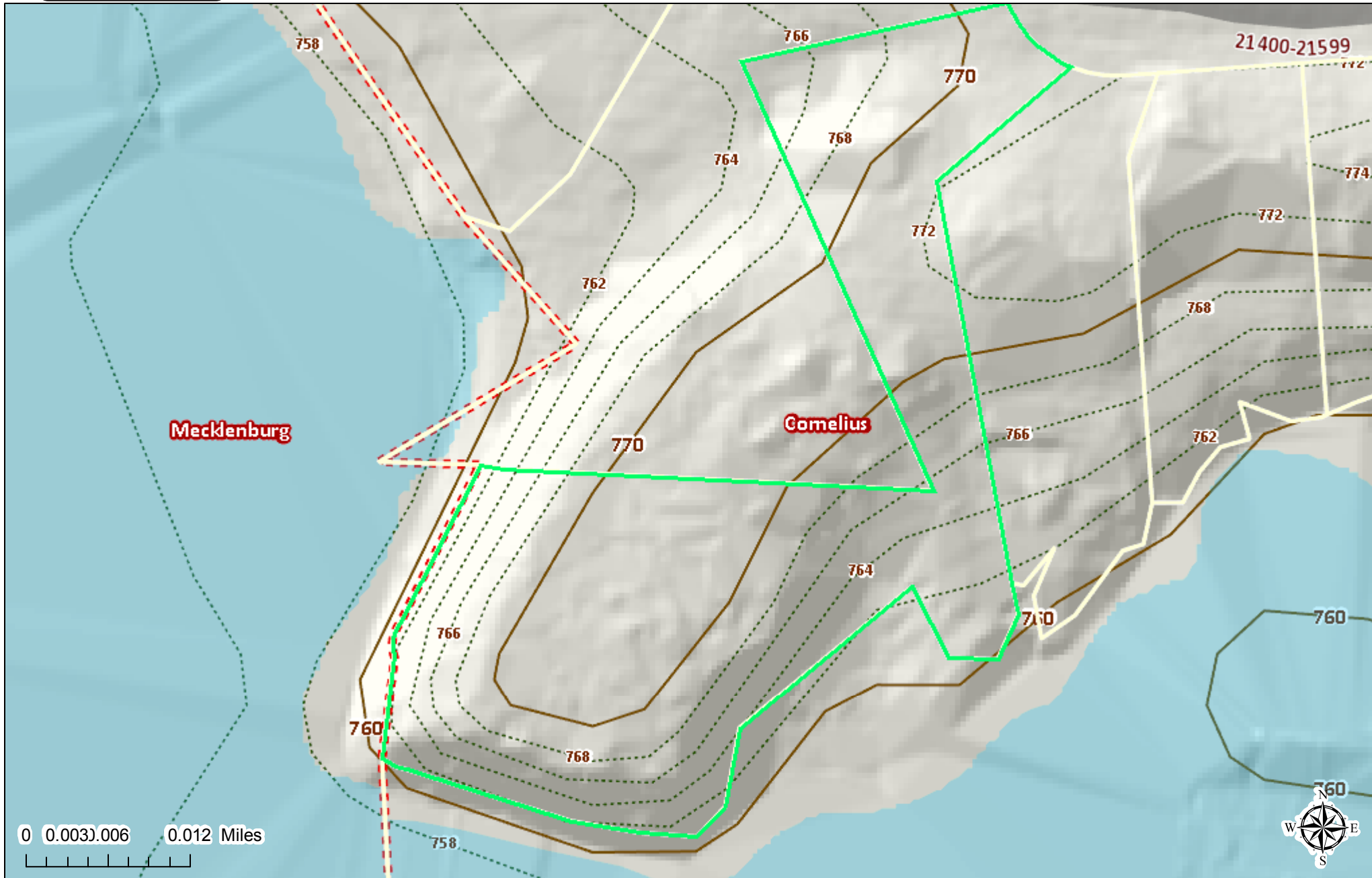
A.G. ZOUTEWELLE  
SURVEYORS

1418 East Fifth St. Charlotte, NC 28204  
Phone: 704-372-9444 Fax: 704-372-9555  
Firm License Number C-1054



## Polaris 3G Map – Mecklenburg County, North Carolina

Date Printed: 9/2/2020 3:57:10 PM

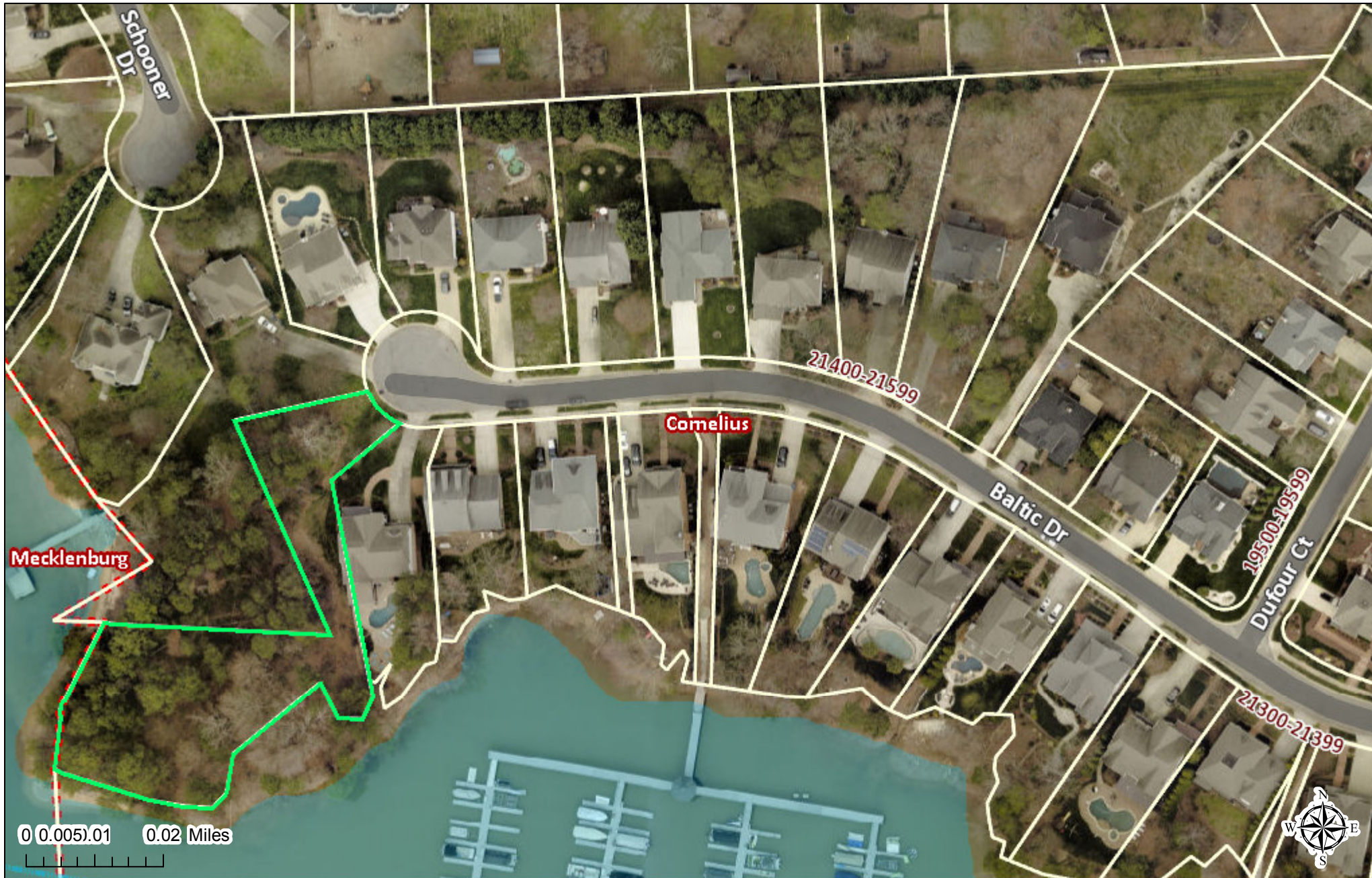


This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.



## Polaris 3G Map – Mecklenburg County, North Carolina

Date Printed: 9/2/2020 3:59:09 PM



This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.

















## TOWN OF CORNELIUS

### Variance FINDINGS OF FACT

<b>Owner/Project: Foxcroft Equity LLC</b>	<b>Case #: VAR 05-20</b>
<b>Acreage: 0.75</b>	<b>Tax Parcel(s): 001-781-17</b>

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: \_\_\_\_\_

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- 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: \_\_\_\_\_

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- 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: \_\_\_\_\_

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- 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: \_\_\_\_\_

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# REQUEST FOR BOARD ACTION

 [Print](#)

**Date of Meeting:** September 14, 2020

**To:** Planning Board Members

**From:** Becky Partin

Senior Planner

## **Action Requested:**

The Town has been working closely with stakeholders over the last year with regard to subdivision approval process. There has been strong concern for years that Cornelius requires Town Board approval of all subdivisions greater than 4 lots. The Town is committed to the protection of existing neighborhoods and residents, but also has one of the most stringent and quality driven ordinances for new subdivision standards. In response to this concern, the Land Development Code Advisory Board and staff recommend allowing subdivisions of more than 4 lots, but less than 25 lots, by right as long as all other Land Development Code requirements are met. This will be known as a Major-Standard Subdivision. The current threshold between major and minor subdivisions will remain at 4 lots.

The specific changes to the Code include:

## **Proposed Major-Standard Subdivision Definition:**

A Major-Standard Subdivision produces more than four (4) lots but less than 25 lots, and meets all other requirements of the Code (setbacks, lot size, buffers, street cross sections, etc.). Special Use Permits (SUP) are not allowed with Major-Standard subdivisions. Major-Standard Subdivisions are allowed by right in all zoning districts.

## **Proposed Major-Conditional Subdivision Definition:**

A Major-Conditional Subdivision produces more than four (4) lots and propose some deviation or modification from the Code such as setbacks, lot size, buffers, street cross sections, etc., or produces 25 or more lots. All Major-Conditional subdivisions shall utilize the Conditional Zoning (CZ) process.

## **Proposed Minor Subdivision Definition:**

A minor subdivision produces four (4) or fewer lots. Minor subdivisions do not require improvements such as sidewalk, lighting, landscaping, buffers, storm water improvements, etc.



In addition to providing the standardized method for general development, the amendment would also be an added benefit for economic development. Many potential economic development projects express concern regarding the timing of conditional zoning review for standard subdivisions that meet all Code requirements.

The above changes are proposed to be reflected in Chapters 2, 5, 12, and 18.

LDCAB has recommended the changes noted.

**Manager's Recommendation:**

Hear presentation and make recommendation.

<b>ATTACHMENTS:</b>		
Name:	Description:	Type:
 <a href="#">ORD-TA_03-20_Major-Minor_Subdivision.pdf</a>	ORD TA 03-20 Major/Minor Subdivisions	Ordinance
 <a href="#">PB_Consistency_Statement_TA_03-20_Major-Minor_Subdivision.docx</a>	PB Consistency Statement TA 03-20	Backup Material

---

**AN ORDINANCE TO AMEND THE TOWN OF CORNELIUS  
LAND DEVELOPMENT CODE**

**WHEREAS**, the Town Board of Commissioners on March 19, 2018 adopted an ordinance which regulates the classification and use of property within its zoning jurisdiction, including its extra-territorial jurisdiction; and,

**WHEREAS**, proper statutory notice of public hearing on the issue of amending the Cornelius Land Development Code has been provided through advertisement in a newspaper of general circulation in the Town; and,

**WHEREAS**, the Planning Board of the Town of Cornelius has recommended that the Town Board of Commissioners amend the Cornelius Land Development Code; and

**WHEREAS**, a public hearing on the amendment has been held by the Town Board of Commissioners on \_\_\_\_\_.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Commissioners of the Town of Cornelius, North Carolina that the following chapters of the Land Development Code be amended as shown in Exhibit A:

- Chapter 2, Definitions
- Chapter 5, Zoning & Use Regulations
- Chapter 12, Development Review Process
- Chapter 18, Text Rezoning Amendments

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Woody T. Washam, Jr., Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lori A. Harrell, Town Clerk

\_\_\_\_\_  
Town Attorney

## Exhibit A

**TA 03-20: Major/Minor Subdivision**

**MODIFY** Section 2.6, Definitions, as follows:

**Subdivision, Minor**

A Minor Subdivision produces four (4) or fewer lots. Minor subdivisions do not require improvements such as sidewalk, lighting, landscaping, buffers, storm water improvements, etc.

~~A minor subdivision is defined as a subdivision where all of the following conditions exist:~~

- ~~1. No public right-of-way dedication; and,~~
- ~~2. The entire tract to be subdivided is ten (10) acres or less in size; and,~~
- ~~3. The resultant subdivision will produce four (4) or fewer lots.~~

**Subdivision, Major-Conditional**

A Major-Conditional Subdivision produces more than four (4) lots and proposes some deviation or modification from the Code such as setbacks, lot size, buffers, street cross sections, etc., or produces 25 or more lots. All Major-Conditional subdivisions shall utilize the Conditional Zoning (CZ) process.

~~A major subdivision is defined as a subdivision where any one or more of the following conditions exist:~~

- ~~1. Dedication of public right-of-way or other public tracts; or,~~
- ~~2. The entire tract to be subdivided is greater than ten (10) acres; or,~~
- ~~3. The resultant subdivision will produce more than four (4) lots.~~

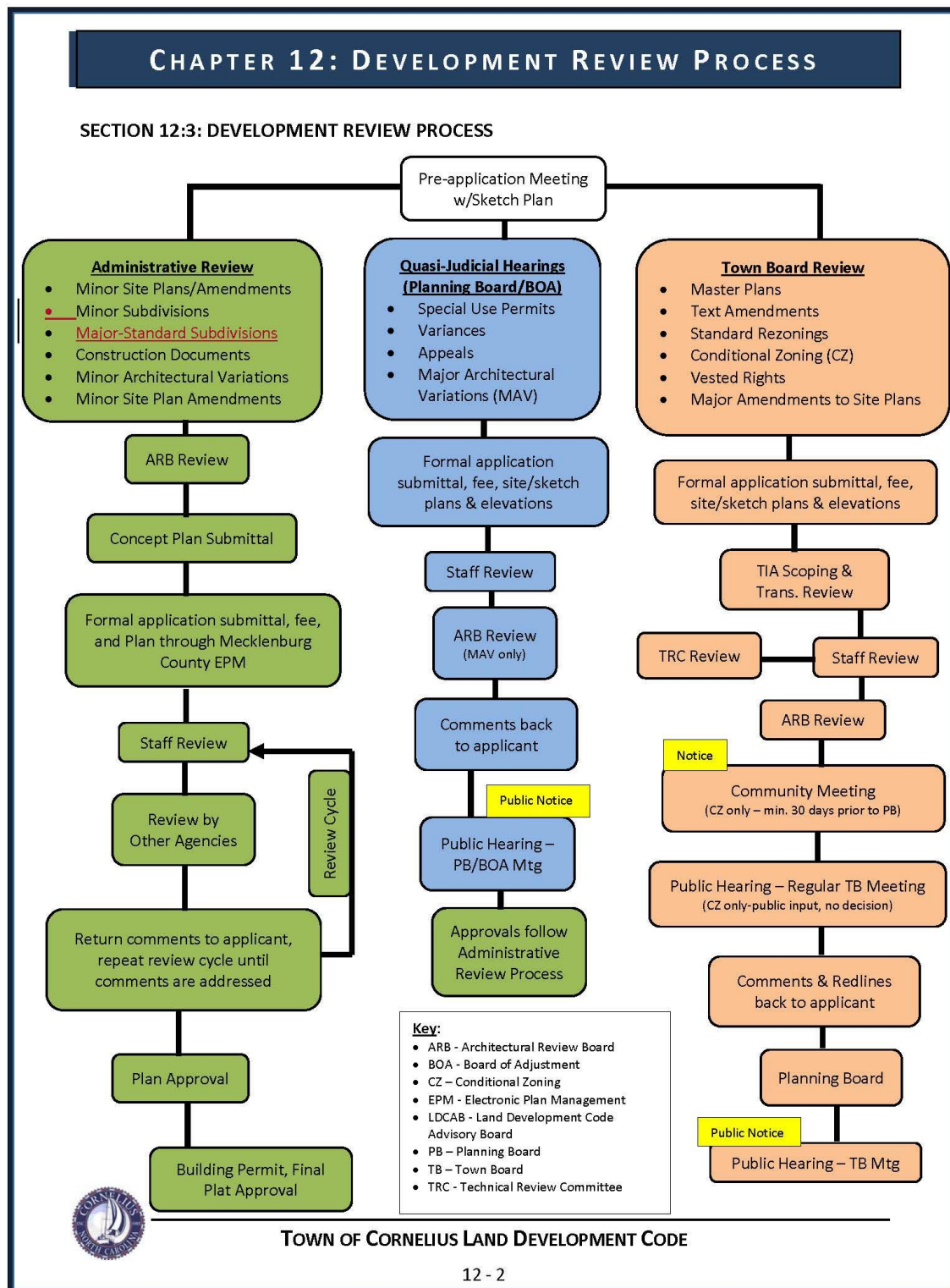
### Subdivision, Major-Standard

A Major-Standard Subdivision produces more than four (4) lots but less than 25 lots, and meets all other requirements of the Code (setbacks, lot size, buffers, street cross sections, etc.). Special Use Permits (SUP) are not allowed with Major-Standard Subdivisions. Major-Standard Subdivisions are allowed by right in all zoning districts.

**MODIFY** Section 5.4.2, Table of Uses, as follows:

[illegible]

**MODIFY** Section 12.3, Development Review Process, as follows:



**MODIFY** Section 12.5, Procedures for Administrative Approval, as follows:

The Planning Director or designee will determine that an application is complete based on review of the plans for compliance with the Code and all related plans and policies. Concept plans and construction documents may then be prepared in accordance with the specifications of Section 13.6, Construction Document Requirements. Submittals for Minor Architectural Variations may include elevations and any other drawings or documents that the Planning Director or designee deem necessary to render a decision.

The Planning Director or designee may require that the plans be circulated to the relevant Town, County and State agencies, and officials for comments as to the proposed development's conformance to all applicable standards and requirements and whether approval is recommended.

Once the Planning Director or designee deems the plans or construction documents to be complete and in compliance with all provisions of this Ordinance, it may be approved. Approval of construction documents also constitutes approval of the preliminary plat. Final plats for minor subdivisions and major-standard subdivisions will also be reviewed by the Planning Department and approved administratively.

**MODIFY** Section 12.9, Review and Approval of Construction Documents, as follows:

Following approval of the development plan by the Planning Board or Board of Commissioners, the applicant may submit construction documents in accordance with Section 13.6, Construction Document Requirements. The Planning Department and other agencies as necessary shall review the construction documents for conformance with the approved plan.

If the application is denied, the reasons for denial shall be provided to the applicant in writing. Following denial, the applicant may file a new application and associated fee and follow the procedures as prescribed in this subsection.

Approval of the construction documents shall also constitute preliminary plat approval for Major-Standard Subdivisions and Zoning Permit Approval for Site Plans.

No grading or infrastructure construction work may commence until the construction documents are approved.

Final plats shall be prepared in accordance with Section 13.8, Final Plat Requirements, and shall be approved administratively by the Planning Department.

**MODIFY** Section 12.13.4, Construction Document Process for Vested Site Specific Plans, as follows:

Preliminary plats for minor subdivisions and major-standard subdivisions with previously vested site specific plans shall be reviewed for compliance and consistency and subsequently approved by the Zoning Administrator or designee in accordance with the provisions of Section 12.5, Procedures for Administrative Approval, providing the proposed preliminary plat for the minor subdivision or major-



| standard subdivision does not deviate from, and is subdivided in accordance with the previously approved site specific plan.

Preliminary plats with previously vested site specific plans shall be reviewed for compliance and consistency by the Zoning Administrator or designee and subsequently approved by the Town Board of Commissioners in accordance with the provisions of Section 12.7.3, Consideration by the Town Board of Commissioners, providing the proposed preliminary plat does not deviate from, and is subdivided in accordance with the previously approved site specific plan.

**MODIFY** Section 18.5, Conditional Zoning District (CZ), as follows:

Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community. There are also circumstances in which a general district designation allowing such a use by right, would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted "Land Use Plan", and/or other adopted plans. The development of these uses cannot be predetermined or controlled by general district standards.

Conditional Zoning Districts (CZ) may be utilized to accommodate such situations by reclassification of property into a Conditional Zoning district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties. This Section establishes specific development standards for these uses, which allow for flexibility in development while protecting existing developed areas.

The rezoning process will apply to uses that are enumerated as "Conditional Zoning" in the "Table of Uses" in Section 5.4.2. Conditional Zoning shall be subject to the specific procedural rules of this chapter. Major-Conditional Subdivisions ~~that meet the eligibility standards of a Conditional Zoning District~~ shall be reviewed and acted upon as part of the rezoning process specified within this Section of the ordinance.

## **CONSISTENCY STATEMENT OF PROPOSED TEXT AMENDMENT**

### **TA 03-20, Major/Minor Subdivision**

The Town of Cornelius initiated a process to allow subdivisions greater than four (4) lots, but less than 25 lots, by right. This change is in response to concerns expressed by the homebuilder community, which stated Cornelius was the only municipality in the state that required Town Board approval for all subdivisions greater than four (4) lots.

To address the concern, a new subdivision category, Major-Standard Subdivision, has been added to the Land Development Code. A Major-Standard Subdivision produces more than four (4) lots but less than 25 lots, and meets all other requirements of the Land Development Code (setbacks, lot size, buffers, street cross sections, etc.). Special Use Permits (SUP) are not allowed with Major-Standard Subdivisions. Major-Standard Subdivisions are allowed by right in all zoning districts.

The existing Major Subdivision definition has been renamed, Major-Conditional Subdivision, and clarified. The Minor Subdivision definition has also been clarified.

In considering the proposed text amendment, TA 03-20 allowing some major subdivisions by right, the Planning Board recommends approval based on the amendment being business friendly and therefore better aligned with “The Cornelius Way”, consistent with the Town’s Land Use Plan, and is in the public’s interest.

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Keith Eicher, Planning Board Chair

September 14, 2020

## REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 14, 2020

To: Planning Board Members  
From: Becky Partin  
Senior Planner

### Action Requested:

The Land Development Code Advisory Board and Staff are recommending a change to the Land Development Code to remove the Type A buffer requirement for microbreweries and large breweries, as specified in Chapter 6 (Uses Permitted with Conditions). According to the requirement, a Type A buffer is required for these uses when adjacent to residential. Adjacent includes the front yard, even across a street.



Chapter 9, Environmental Protection, requires a Type A buffer in the "rear and/or side transition yard between existing residential zoning and all proposed uses and developments". This requirement is still in place and will continue to protect residential zoned properties to the rear and side.

Also recommended is the deletion of the "Restaurant, Brewpub" definition and use specified in Chapters 2, 5, and 6. This is an unnecessary use as such businesses can utilize the brewery (micro or large) or restaurant use categories.

### Manager's Recommendation:

Recommend approval.

### ATTACHMENTS:

Name:	Description:	Type:
 <a href="#">ORD-TA_01-20_Brewery_Buffers.pdf</a>	ORD TA 01-20 Brewery Buffers	Ordinance
 <a href="#">PB Consistency Statement TA 01-20_Brewery_Buffers.docx</a>	PB Consistency Statement TA 01-20	Backup Material

**AN ORDINANCE TO AMEND THE TOWN OF CORNELIUS  
LAND DEVELOPMENT CODE**

**WHEREAS**, the Town Board of Commissioners on March 19, 2018 adopted an ordinance which regulates the classification and use of property within its zoning jurisdiction, including its extra-territorial jurisdiction; and,

**WHEREAS**, proper statutory notice of public hearing on the issue of amending the Cornelius Land Development Code has been provided through advertisement in a newspaper of general circulation in the Town; and,

**WHEREAS**, the Planning Board of the Town of Cornelius has recommended that the Town Board of Commissioners amend the Cornelius Land Development Code; and

**WHEREAS**, a public hearing on the amendment has been held by the Town Board of Commissioners on \_\_\_\_\_, 2020.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Commissioners of the Town of Cornelius, North Carolina that the following chapters of the Land Development Code be amended as shown in Exhibit A:

- Chapter 2, Definitions
- Chapter 5, Zoning & Use Regulations
- Chapter 6, Uses with Conditions

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Woody T. Washam, Jr., Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lori A. Harrell, Town Clerk

\_\_\_\_\_  
Town Attorney

## Exhibit A

### TA 01-20: Brewery Buffers

**MODIFY** Section 2.6, Definitions, as follows:

**DELETE** the following definition:

**Restaurant/Brewpub**

~~An establishment where food, beer, and malt beverages are made on the premises where 40% or more of the beer produced on site is sold and/or consumed on site. Where allowed by law, brewpubs may sell beer “to go” and/or distribute to offsite accounts, and must meet all North Carolina ABC laws.~~

**MODIFY** the following definition:

**Taproom**

A room that is ancillary to the production of beer at a large brewery or microbrewery, ~~and restaurant/brewpub~~ where the public can purchase and/or consume only the beer produced on site.

**MODIFY** Section 5.4.2, Table of Uses as follows:

P - Permitted By Right PC - Permitted w/ Supp. Conditions	S -Special Use Permit Required CZ - Conditional Zoning Approval Required							A - Accessory Use Only AC - Accessory w/ Supp. Conditions			
	RP	GR	NR	NMX	WMX	TC	VC	HC	BC	CO	IC
Restaurant, Drive Through							PC	PC			
Restaurant, Non-Drive Through				P	P	P	P	P	P	P	
<del>Restaurant, Brewpub</del>	-	-	-	<del>CZ</del>	<del>PC</del>	<del>PC</del>	<del>PC</del>	<del>PC</del>	<del>PC</del>	<del>PC</del>	<del>-</del>
Salvage											
School, Elementary, Middle, Senior High and College (public & private)*	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ	
School, Vocational*				CZ	CZ	CZ	CZ	CZ	CZ	CZ	CZ

**MODIFY** the following sections in Chapter 6, Uses Permitted with Conditions:

#### **6.2.7: BREWERY, LARGE**

A. Outdoor storage of goods and materials used in assembly, fabrication, or processing shall not exceed twenty-five percent (25%) of the gross floor area of all buildings on a lot.

~~B. A Type ‘A’ screening buffer is required where a large brewery is adjacent to a residentially zoned property.~~

#### **6.2.8: BREWERY, MICRO**

A. Production cannot exceed 100,000 barrels of beer per year.

B. Shall provide a taproom, except if located in IC.

C. Outdoor storage of goods and materials shall not be permitted in the Neighborhood Mixed Use, Town Center, Village Center Districts, or Waterfront Mixed Use.



D. Outdoor storage of goods and materials used in assembly, fabrication, or processing in the Business Campus, Corporate Office, and Highway Commercial Districts shall be screened from view, and shall not exceed twenty-five percent (25%) of the gross floor area of all buildings on a lot.

~~E. A Type 'A' screening buffer is required where a microbrewery is adjacent to a residentially zoned property.~~

#### **~~6.2.36: RESTAURANT/BREW PUB~~**

~~A. No outdoor amplified sound will be permitted after 11 PM.~~

~~B. Forty percent (40%) or more of the beer produced on site is to be sold on site.~~

~~C. Minimum size of associated restaurant shall be twenty percent (20%) of the gross floor area, or fifteen hundred (1,500) square feet, whichever is less.~~

~~D. Cannot exceed five thousand (5,000) square feet in Neighborhood Mixed Use, Village Center and Town Center Districts.~~

~~E. A Type 'A' screening buffer is required where a restaurant/brewpub is adjacent to a residentially zoned property.~~

#### **6.2.43: TAPROOM**

A. Must be an ancillary use to the production of beer at a large brewery, or microbrewery ~~or restaurant/brewpub~~.

B. Only the beer produced on site may be purchased and/or consumed.

## **CONSISTENCY STATEMENT OF PROPOSED TEXT AMENDMENT**

### **TA 01-20, Brewery Buffers**

The Town of Cornelius initiated a process to eliminate a front yard buffer requirement in Chapter 6 of the Land Development Code, Uses Permitted with Conditions, specifically for microbrewery and large brewery uses. A similar requirement is not in place for other uses. The side and rear yard buffer requirement for properties adjacent to existing residential zoned properties is, and will be maintained, in Chapter 9, Environmental Protection, for all uses.

Included with this modification is the elimination of the “Restaurant, Brewpub” definition as such businesses can utilize the brewery (micro or large) or restaurant use categories as appropriate.

In considering the proposed text amendment, TA 01-20, the Planning Board recommends approval to modify the specific condition of buffer requirements for brewery uses based on the amendment being consistent with buffer requirements for other uses. The Planning Board also recommends approving the elimination of the “Restaurant, Brewpub” definition as being consistent with the Town’s Land Use Plan, and is in the public’s interest.

---

Keith Eicher, Planning Board Chair

---

Date

## REQUEST FOR BOARD ACTION

 **Print**

**Date of Meeting:** September 14, 2020

**To:** Watershed Review Board Members  
**From:** Gary Fournier, CZO - Planner  
Catherine M. McElearney - Planner

**Action Requested:**

Review Built Upon Area (BUA) Averaging Certificate Application and associated plat for the following property:










BUA #1 - 17336 Connor Quay Court (recipient)

BUA #2 - 18819 Flat Shoals (recipient)

**Manager's Recommendation:**

Approve BUA Averaging Certificates

**ATTACHMENTS:**

Name:	Description:	Type:
 <a href="#">Application.pdf</a>	BUA #1 Application	Backup Material
 <a href="#">17336_Connor_Quay_Ct.pdf</a>	BUA #1 Recipient Aerial Photo	Backup Material
 <a href="#">21545_Lake_Point_Ln.pdf</a>	BUA #1 Donor Aerial Photo	Backup Material
 <a href="#">SELLIN PRELIMINARY PLAT Rev 3- Recombo Impervious Allocation Comments.pdf</a>	BUA #1 Plat	Backup Material
 <a href="#">Donor_Deed.pdf</a>	BUA #1 Donor Deed	Backup Material
 <a href="#">Application.pdf</a>	BUA #2 Application	Backup Material
 <a href="#">18819_Flat_Shoals_Dr.pdf</a>	BUA #2 Recipient Aerial Photo	Backup Material
 <a href="#">18632_Nantz_Road.pdf</a>	BUA #2 Donor Aerial Photo	Backup Material
 <a href="#">Imp25_200714.pdf</a>	BUA #2 Plat	Cover Memo
 <a href="#">18632_Nantz_Rd_Deed.pdf</a>	BUA #2 Donor Deed	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 \_\_\_\_\_

Fee Rec'd \_\_\_\_\_

### BUILT-UPON AREA (BUA) AVERAGING CERTIFICATE APPLICATION

#### 1. Project Description

Transfer BUA rights from donating parcel,  
PID:001-431-60, to receiving parcel, 001-841-44  
& PID: 001-841-66

#### 2. Receiving Parcel Information

Property Owner's Name(s): Steven and Theresa Sellin  
Property Owner's Mailing Address: 17336 Connor Quay Ct, Cornelius  
Phone Number: 404-906-4999 Email Address: steven@stevensellin.com  
Tax Parcel Number(s): 001-841-44 & 001-841-66 Property Size (acres): 0.408  
Zoning District: 6R Watershed Overlay District: Lake Norman Critical  
Existing Impervious Coverage: 7957 (sq. ft.) Amount Receiving from Donor Parcel 1757 (sq. ft.)  
Has a watershed variance ever been granted for this parcel? Yes \_\_\_\_\_ No X  
Property Owner's Signature(s): Steven Sellin Theresa Sellin

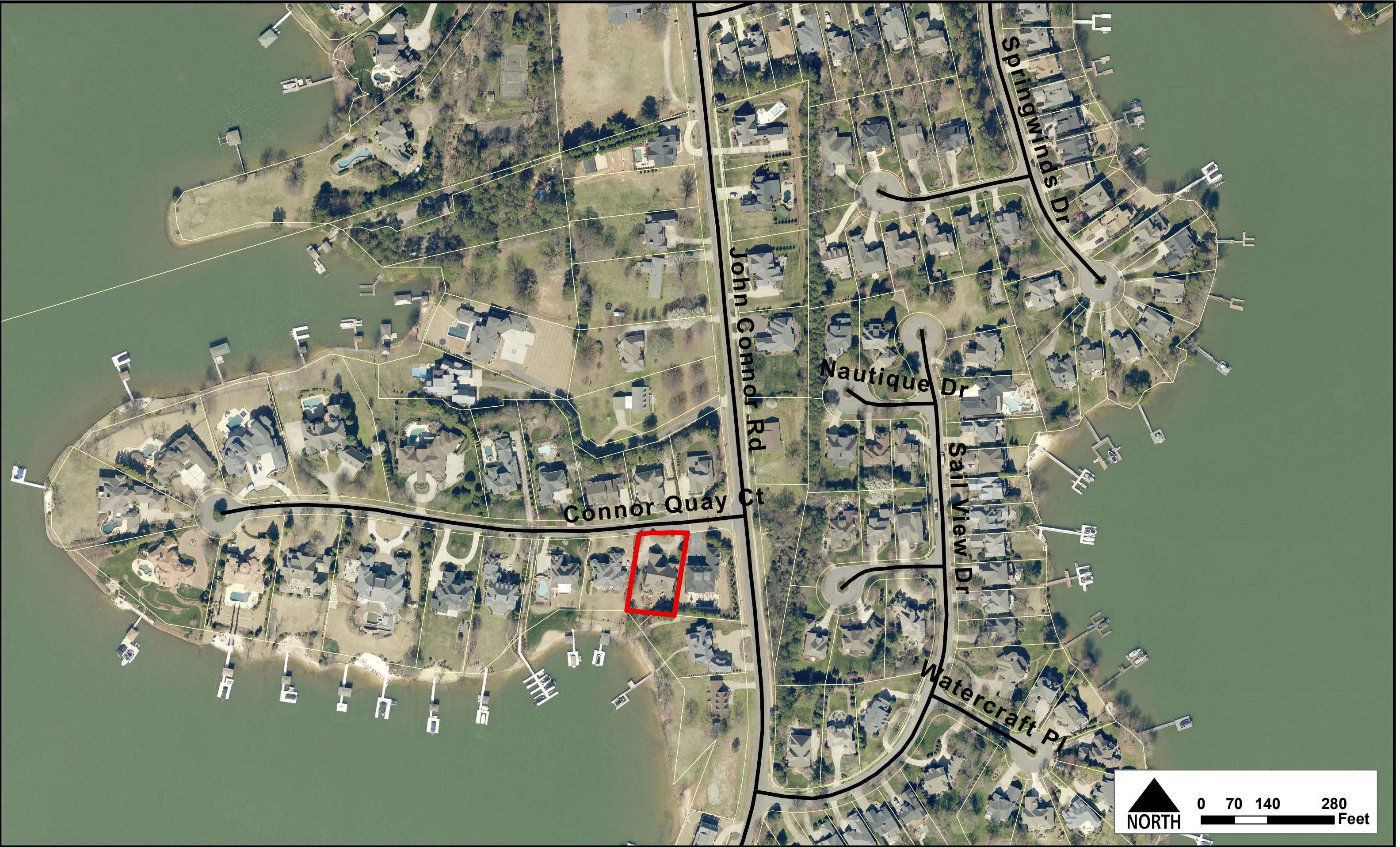
#### 3. Donor Parcel Information

Property Owner's Name(s): Jersey Development Corp / Arlene Bayne, C.O.O.  
Property Owner's Mailing Address: 20212 Teak Court Cornelius, N.C. 28031  
Phone Number: 704-724-0098 Email Address: arl.bayne@gmail.com  
Tax Parcel Number(s): 001-431-60 Property Size (acres): \_\_\_\_\_  
Zoning District: 6R Watershed Overlay District: Lake Norman Critical  
Existing Impervious Coverage: 4073 (sq. ft.)  
Has a watershed variance ever been granted for this parcel? Yes \_\_\_\_\_ No X  
Property Owner's Signature(s): Arlene Bayne, C.O.O.

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



Recipient: 17336 Connor Quay Ct.





Donor: 21545 Lake Point Ln.





CERTIFICATE OF OWNERSHIP AND DEDICATION:

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREIN, WHICH IS LOCATED IN THE JURISDICTION OF THE TOWN OF CORNELIUS AND THAT I HEREBY ADOPT THIS PLAN WITH MY FREE CONSENT, ESTABLISH MINIMUM BUILDING SETBACK LINES, PRESERVE AND PROTECT ALL SIGNIFICANT TREES OVER 18 INCHES 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 STREETS HAVE BEEN ACCEPTED BY THE TOWN OR THE STATE, STREET TREES SHALL BE MAINTAINED AND CARED FOR BY THE PROPERTY 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 HEREBY DEDICATE ALL SANITARY SEWER, STORM SEWER, AND WATER LINES THAT ARE LOCATED IN PUBLIC UTILITY EASEMENTS OR RIGHTS-OF-WAY TO THE TOWN OF CORNELIUS AND CHARLOTTE WATER.

LOT 2 OWNERS:	(THERESA PULLEGA)	DATE	(STEVEN SELLIN)	DATE
TRACT 2 OWNERS:	(THERESA PULLEGA)	DATE	(STEVEN SELLIN)	DATE
PID#001-431-60 OWNERS:	(OWNER)	DATE	(OWNER)	DATE

WATERSHED CERTIFICATE

CERTIFICATE 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.

WATERSHED ADMINISTRATOR, TOWN OF CORNELIUS

DATE

CERTIFICATE OF APPROVAL FOR RECORDING

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON IS EXEMPT FROM THE SUBDIVISION PROVISIONS OF THE CORNELIUS LAND DEVELOPMENT CODE, AND IS THEREFORE EXEMPT FROM ITS PROVISIONS. THE PLAT HAS BEEN FOUND TO COMPLY WITH THE ZONING REGULATIONS OF THE CORNELIUS LAND DEVELOPMENT CODE, AND HAS BEEN APPROVED BY THE TOWN OF CORNELIUS FOR RECORDING IN THE OFFICE OF THE REGISTER OF DEEDS OF MECKLENBURG COUNTY.

PLANNING DIRECTOR

DATE

REVIEW OFFICER CERTIFICATION

I, REVIEW OFFICER OF MECKLENBURG COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER

DATE

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 AREA 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

RECOMBINATION & IMPERVIOUS ALLOCATION SURVEY

FOR LOT 2 OF CONNOR QUAY, MAP 1 (REVISED) & PID#001-841-66

-OWNER -  
Theresa Pullega & Steven Sellin  
Lot 2 of Connor Quay, Map 1 (Revised), Per Map Book 33 Page 407  
as Recorded in Deed Book 25428 Page 490  
Tract 2; as Recorded in Deed Book 25428 Page 490  
Address: 17336 Connor Quay Court  
Town of Cornelius, Mecklenburg County, North Carolina  
Lemley Township (Tax Parcel: 001-841-44) & (Tax Parcel: 001-841-66)

-OWNER -  
Donald & Kimberly Montgomery  
LOT 13A OF THE MARK WHITTAKER PROPERTY (REVISED)  
AS RECORDED IN DEED BOOK 31760, PAGE 720  
AS RECORDED PER MB 58, PG 936  
ADDRESS: 21545 LAKE POINT LANE, TOWN OF CORNELIUS,  
MECKLENBURG COUNTY, NORTH CAROLINA  
LEMLEY TOWNSHIP TAX PARCEL: 001-431-60

PLAT DATE: August 21, 2020

Professional  
Surveyors, Inc.  
Firm License: C-3666

18335 Old Statesville Rd.  
Suite A  
Cornelius, N.C. 28031  
(704) 765-5134 Phone/Fax

CONNOR QUAY COURT

VARIABLE PUBLIC R/W  
(MB. 34, PG. 591)

CURVE	LENGTH	RADIUS	CHORD	CHORD BRG
C10	42.21'	477.88'	42.20'	N 89°32'44" E
C11	34.43'	333.78'	34.42'	N 89°55'01" E

RECIPIENT  
"LOT 2"

LEGEND:

#4 REBAR FOUND  
COMPUTED POINT  
SUBJECT PROPERTY LINE  
ADJOINER PROPERTY LINE  
BUILDING SETBACK  
FENCE LINE  
ELECTRIC BOX

NORTH PER MB 39, PG 407

B.U.A.  
HOUSE = 3673 SQ.FT.  
DRIVE & WALK = 2328 SQ.FT.  
PATIO & WALLS = 1573 SQ.FT.  
WATER FEATURE = 147 SQ.FT.  
A/C PADS = 18 SQ.FT.  
CONC PAD = 10 SQ.FT.  
FOUNTAIN = 9 SQ.FT.  
TOTAL 7,975 SQ.FT.

APPROXIMATE SOFT. LAKE BUFFER  
PER MECK. CO. GS

APPROXIMATE FLOOD FRINGE  
LINE (ZONE AE) OF FEMA MAP  
PANEL 3710462200K, DATED 3/02/2009

Graphic Scale  
Scale of Drawing 1 Inch = 30 Feet

LINE	BEARING	DISTANCE
L10	N 84°17'02" E	25.20'
L11	N 48°28'34" E	39.64'
L12	N 35°43'35" W	39.04'
L13	N 89°20'44" W	3.73'

RECIPIENT (LOT 2)

PID: 001-841-44 & PID: 001-841-66

(17336 Connor Quay Court, Cornelius, NC 28031)

Total Site Area of Lot 2 PID: 001-841-44 & 001-841-66 is 17,773 sq. ft. (0.408 Acres)

Current maximum allowed impervious area 6,200 sq. ft. Per M.B. 39, PG 407

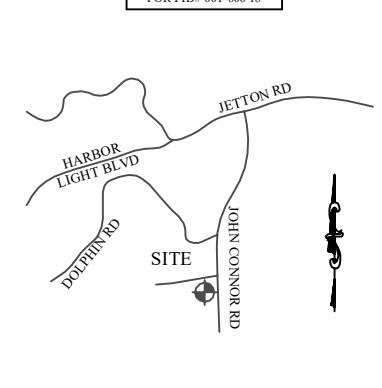
Impervious surface on site at date of survey: 7,957 sq. ft.

Impervious allowance received from PID 001-431-60: 1,757 sq. ft.

New Maximum Allowed Impervious 7,957 SQ.FT.

((0) sq. ft. remaining to be used as of Plat Recording Date)

VICINITY MAP



I, BRIAN K. EVERSOLE, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION/DEED DESCRIPTIONS RECORDED IN BOOK AND PAGES AS NOTED); THAT BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION IN FOUND IN DEED BOOKS AND PAGES AS NOTED; THAT THE RATIO OF PRECISION AS CALCULATED IS GREATER THAN 1:10,000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS DAY OF A.D., 2020.

PRELIMINARY

BRIAN K. EVERSOLE FOR RECORD PROFESSIONAL LAND SURVEYOR L-4674

THIS SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT ORDERED SURVEY, OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION.

UNDISTURBED NATURAL AREA "A"

Beginning at a found rebar; thence N 02°26'39" E a distance of 15.86' to a found rebar; thence N 02°52'38" W a distance of 53.94' to a found rebar; thence N 09°41'15" W a distance of 13.91' to a computed point at the Gas Line Right of way; thence N 09°41'15" W a distance of 81.46' to a Found #4 Rebar; thence S 77°15'00" E a distance of 23.32' to a computed point; thence with a curve turning to the right with an arc length of 40.49', with a radius of 525.31', with a chord bearing of S 74°57'47" E, with a chord length of 40.48' to a computed point; thence S 06°51'25" W a distance of 147.66' to a computed point; thence N 88°49'27" W a distance of 35.88' to the point of beginning, having an area of 7,868 square feet, 0.199 acres.

UNDISTURBED NATURAL AREA "B"

Beginning at a found rebar; thence S 09°51'25" E a distance of 19.30' to a point; thence with a curve turning to the left with an arc length of 77.79', with a radius of 510.31', with a chord bearing of N 64°32'07" W, with a chord length of 77.72', to a point; thence N 21°05'52" E a distance of 15.00' to a point; thence with a curve turning to the right with an arc length of 67.75', with a radius of 525.31', with a chord bearing of S 65°12'27" E, with a chord length of 67.70', to the point of beginning, having an area of 1091 square feet, 0.025 acres

SITE DATA TABLE

PID:	DONOR PARCEL	RECIPIENT PARCEL "A"
TOTAL SITE AREA	001-431-60	001-841-44
CURRENT ALLOWED BUILT-UPON AREA FOR PARCEL	14,295 SQ.FT.	6,200 SQ.FT.
BUILT-UPON AREA ALLOCATED	-1,757 SQ.FT.	+1,757 SQ.FT.
NEW ALLOWED BUILT-UPON AREA	12,538 SQ.FT.	7,957 SQ.FT.
EXISTING SURVEYED BUILT-UPON AREA	4,073 SQ.FT.	7,957 SQ.FT.
REMAINING ALLOWED BUILT-UPON AREA	8,465 SQ.FT.	0 SQ.FT.

THE PURPOSE OF THIS PLAT IS TO RECOMBINE THE PROPERTY LINES OF LOT 2 OF MAP BOOK 33, PAGE 407 AND TRACT 2 AS RECORDED IN DEED BOOK 25428, PAGE 490. THE RECORDING OF THIS PLAT WILL SUPERCEDE THE PROPERTIES SHOWN ON MAP BOOK 33, PAGE 407 & SUPERCEDE ONLY LOT 13A OF MB. 61, PG 759 & THE IMPERVIOUS RIGHTS FOUND IN DB. 31744, PG 484.

IN ADDITION, THE PURPOSE OF THIS PLAT IS TO ALLOCATE 1,757 SQUARE FEET OF ALLOWABLE BUILT-UPON AREA FROM PID 001-431-60 (DONOR PARCEL) TO PID 001-841-44 (RECEIVING PARCEL). EACH PARCEL IS LOCATED WITHIN THE SAME WATERSHED.

NOTES APPLICABLE TO ALL PROPERTIES

- NO NCGS MONUMENTS FOUND WITHIN 2000'.
- PROPERTY MAY BE SUBJECT TO OTHER COVENANTS, RESTRICTIONS, EASEMENTS OR RIGHTS-OF-WAY THAT MAY BE OF RECORD.
- ALL DISTANCES SHOWN ARE SURFACE HORIZONTAL DISTANCES.
- IRON PINS FOUND OR SET AT ALL PROPERTY CORNERS UNLESS OTHERWISE NOTED.
- ALL AREAS SHOWN HEREON WERE COMPUTED USING THE COORDINATE COMPUTATION METHOD.
- THE SETBACKS SHOWN ARE PER CORNELIUS PLANNING DEPARTMENT ON 04/23/20 FOR LOT 2.
- LOT 2  
\*PRINCIPLE STRUCTURE:  
FRONT = 25'  
SIDES = 10'  
REAR = 25' FROM THE PROPERTY LINE OR 50' FROM THE 760' CONTOUR LINE, WHICHEVER IS GREATER.  
\*ACCESSORY STRUCTURE:  
\*ACCESSORY STRUCTURES LESS THAN 600SF: 10' FROM THE SIDE PROPERTY LINES. 10' FROM THE REAR PROPERTY LINE OR 50' FROM THE 760' CONTOUR LINE, WHICHEVER IS GREATER.  
\*ACCESSORY STRUCTURES 600SF AND LARGER: 15' FROM THE SIDE PROPERTY LINES. 15' FROM THE REAR PROPERTY LINE OR 50' FROM THE 760' CONTOUR LINE, WHICHEVER IS GREATER.
- IMPERVIOUS RESTRICTION FOR LOT 2 IS 6,200 SQ.FT. PER MB 39, PG 407.
- THE DONATED AREA SHALL REMAIN IN AN UNDISTURBED NATURAL STATE. THE DONATED AREA SHALL BE IRREVOCABLE UNLESS AMENDED PER THE REQUIREMENTS OF THIS ORDINANCE PRIOR TO THE UNDERTAKING OF ANY DEVELOPMENT ACTIVITY ON THE PARTICIPATING PARCELS.
- SUBJECT PARCELS ARE IN THE LAKE NORMAN CRITICAL WATERSHED AREA.
- LOT 2 IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA ACCORDING TO FEMA FLOOD INSURANCE RATE MAP - PANEL #3710462200K; EFFECTIVE DATE: 3/02/2009.
- LOT 13-A IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA ACCORDING TO FEMA FLOOD INSURANCE RATE MAP - PANEL #3710464400K; EFFECTIVE DATE: 3/02/2009.
- FLOOD ZONES DEPICTED HEREIN WERE NOT FIELD LOCATED BY PPS AND ARE SHOWN USING INFORMATION FROM FEMA PANEL #3710462200K, DATED 3/02/2009, FEMA PANEL #3710464400K; EFFECTIVE DATE: 3/02/2009 AND ALSO USING INFORMATION PROVIDED BY MECKLENBURG COUNTY FLOOD ZONE MAPPING.
- THE FLOOD MAPS ARE SUBJECT TO CHANGE WHEN FLOOD INSURANCE RATE MAPS (FIRM'S) ARE UPDATED AND ADOPTED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). THESE CHANGES SUPERCEDE THE RECORDED PLAT.
- THE UNDISTURBED NATURAL AREA IS FOR THE BENEFIT OF THE RECIPIENT OF THIS PLAT, AND WILL BE IN EFFECT AT THE TIME OF RECORDING.
- UNLESS SIGNED AND SEALED, THIS PLAT IS PRELIMINARY, AND NOT FOR RECORDATION, SALES, OR CONVEYANCE.
- CONSULT WITH GOVERNING AGENCY FOR PREVAILING LAND DEVELOPMENT AND ZONING REQUIREMENTS PRIOR TO DESIGN OR CONSTRUCTION OF ANY IMPROVEMENTS.
- ALL LOTS SHOWN HEREON ARE CURRENTLY ZONED GR (GENERAL RESIDENTIAL).
- TOTAL SITE AREA PER THIS PLAT IS 40,017 Sq. Feet (0.919 Acres).
- TOTAL SITE AREA PER THIS PLAT IS 40,017 Sq. Feet (0.919 Acres).
- ANY CONSTRUCTION OR USE WITHIN THE AREAS DELINEATED AS FLOODWAY ARE SUBJECT TO THE RESTRICTIONS IMPOSED BY THE CORNELIUS FLOOD DAMAGE PREVENTION ORDINANCE.

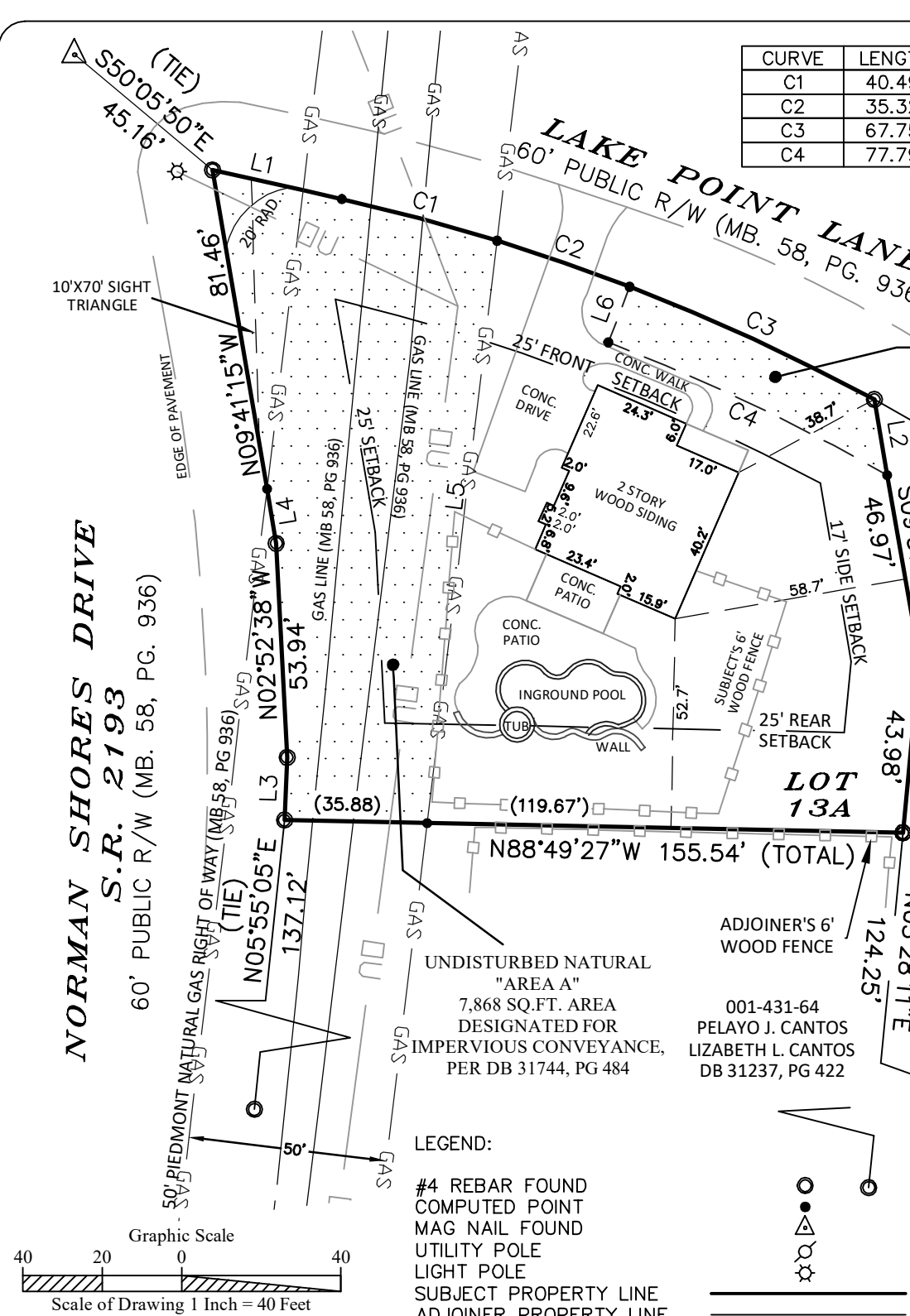
CURVE	LENGTH	RADIUS	CHORD	CHORD BRG
C1	40.49'	525.31'	40.48'	S 74°57'47" E
C2	35.32'	525.31'	35.31'	S 70°49'43" E
C3	67.75'	525.31'	67.70'	S 65°12'27" E
C4	77.79'	510.31'	77.72'	N 64°32'07" W

"DONOR"

UNDISTURBED NATURAL  
"AREA B"  
1,091 SQ. FT. AREA  
DESIGNATED FOR  
IMPERVIOUS CONVEYANCE,  
PER DB 31744, PG 484

001-431-59  
DENISE GOOD JULIAN  
WILLIAM L. JULIAN  
DB 31588, PG 845

LINE	BEARING	DISTANCE
L1	S 77°15'00" E	23.32'
L2	S 09°51'25" E	19.30'
L3	N 02°26'39" E	15.86'
L4	N 09°41'15" W	13.91'
L5	S 06°51'25" W	147.66'
L6	N 21°05'52" E	15.00'



DONOR

PID: 001-431-60

(21545 Lake Point Lane Cornelius, N.C. 28031)

Total Site Area of PID: 001-431-60 22,244 sq.ft. (0.511 Acres)

Existing impervious area on site as of survey date: 4,073 sq.ft.

Impervious Restriction of 80 percent is 17,795 sq. ft.

Area Designated for Allotment per DB 31744, Pg 484 is 8,959 sq.ft.

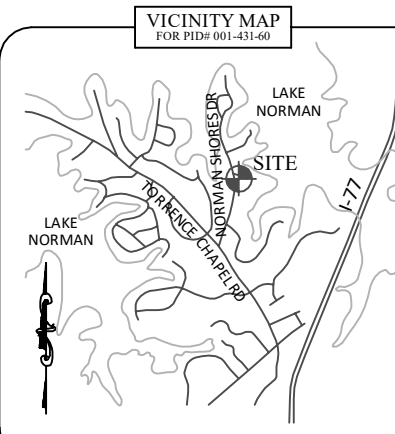
Impervious Area Donated to PID: 001-806-18: 2,200 sq.ft. per MB.61, PG.759

Impervious Area Donated to PID: 001-431-60: 3,500 sq.ft. per MB. TO BE, PG. RECORDED

Impervious Area Donated to PID: 001-811-44: 1,757 sq.ft.

Area Remaining to be used for Lot 13A is 8,836 sq.ft.

Area Remaining for Allotment 1,502 SQ.FT. (FOR DB 31744, PG 484)



For Registration Fredrick Smith  
 Register of Deeds  
 Mecklenburg County, NC  
 Electronically Recorded  
 2017 Apr 28 03:29 PM RE Excise Tax: \$ 840.00  
 Book: 31760 Page: 720 Fee: \$ 26.00  
 Instrument Number: 2017055937

*Fredrick Smith*

### NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$ **840.00**

Parcel Identifier No. OUT of 00143160

Mail/Box to: GRANTEE

This instrument was prepared by: THEBEAU & ASSOCIATES, PA 19600 W. Catawba Ave., Bldg A-100, Cornelius, NC 28031

Brief description for the Index: LOT 13A, Minor Subdivision of Mark Whittaker

**DOCUMENT PREPARATION ONLY – NO TITLE OPINION RENDERED NOR IMPLIED**

THIS DEED made this 27<sup>th</sup> day of April 2017, by and between

GRANTOR	GRANTEE
Jersey Development Corp., a North Carolina Corporation	Donald Montgomery, and wife, Kimberly Montgomery
17041 Hugh Torance Parkway Huntersville, NC 28078	21545 Lake Point Lane Cornelius, NC 28031

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, parcel of land or condominium unit situated in the City of Cornelius, Township, Mecklenburg County, North Carolina and more particularly described as follows:

BEING all of LOT 13A, as shown on Boundary Survey and Minor Subdivision for Mark Whittaker, Map Book 58, Page 936, a revision of Map Book 58, Page 895 (which subdivides Lot 13 of Lake Point Shores, Map Book 20, Page 57) in the Mecklenburg County Public Registry.

The Property described herein is subject to the Reservation of Right to Impervious Allocation recorded in Book 31744, Page 484, Mecklenburg County Public Registry.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 30720 at Page 762.

A map showing the above described property is recorded in Map Book 58 Page 936.

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 the Grantor covenants with the 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 all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions: All easements, restrictions and conditions of record, and the lien for ad valorem real property taxes not yet due and payable.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

~~Jersey Development Corporation~~

(SEAL)

By: Arlene Bayne, COO. (Entity Name)

(SEAL)

Print/Type Name & Title: Arlene Bayne, Chief Operating Officer

(SEAL)

By: \_\_\_\_\_ (SEAL)

Print/Type Name & Title: \_\_\_\_\_

State of \_\_\_\_\_ - County of \_\_\_\_\_

I, the undersigned Notary Public of the County of \_\_\_\_\_ and State aforesaid, certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of April 2017.

My Commission Expires: \_\_\_\_\_  
(Affix Seal)

\_\_\_\_\_  
Notary Public  
Notary's Printed or Typed Name

State of \_\_\_\_\_ - County or City of \_\_\_\_\_

I, the undersigned Notary Public of the County or City of \_\_\_\_\_ and State aforesaid, certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_  
(Affix Seal)

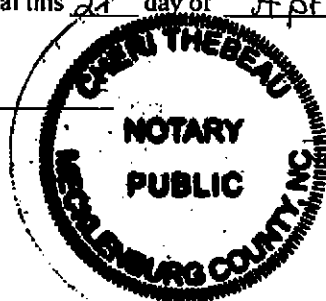
\_\_\_\_\_  
Notary Public  
Notary's Printed or Typed Name

State of North Carolina - County or City of Mecklenburg

I, the undersigned Notary Public of the County or City of Mecklenburg and State aforesaid, certify that Arlene Bayne personally appeared before me this day and acknowledged that he is the Chief Operating Officer of Jersey Development Corporation, a North Carolina Corporation, and that by authority duly given and as the act of such entity, she signed the foregoing instrument in its name on it behalf as its act and deed

Witness my hand and Notarial stamp or seal this 27<sup>th</sup> day of April, 2017.

My Commission Expires: 1-17-2022  
(Affix Seal)



Cheri Thebeau Notary Public  
Notary's Printed or Typed Name



## 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): Marisa Rath and Charles Rath

Property Owner's Mailing Address: 18819 Flat Shoals Dr

Phone Number: 302-379-6953 Email Address: RISARATH@comcast.net

Tax Parcel Number(s): 00181117 Property Size (acres): .54

Zoning District: GR Watershed Overlay District: CA

Existing Impervious Coverage: 5680 (sq.ft.) Amount Receiving from Donor Parcel: 1000 (sq.ft.)

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

Property Owner's Signature(s): CA Rath

### 3. Donor Parcel Information

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

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

Phone Number: 704-453-9348 Email Address: JBradford at Park and property, co

Tax Parcel Number(s): 00186161 Property Size (acres): 2.239

Zoning District: GR Watershed Overlay District: CA

Existing Impervious Coverage: 0 (sq.ft.)

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

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

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

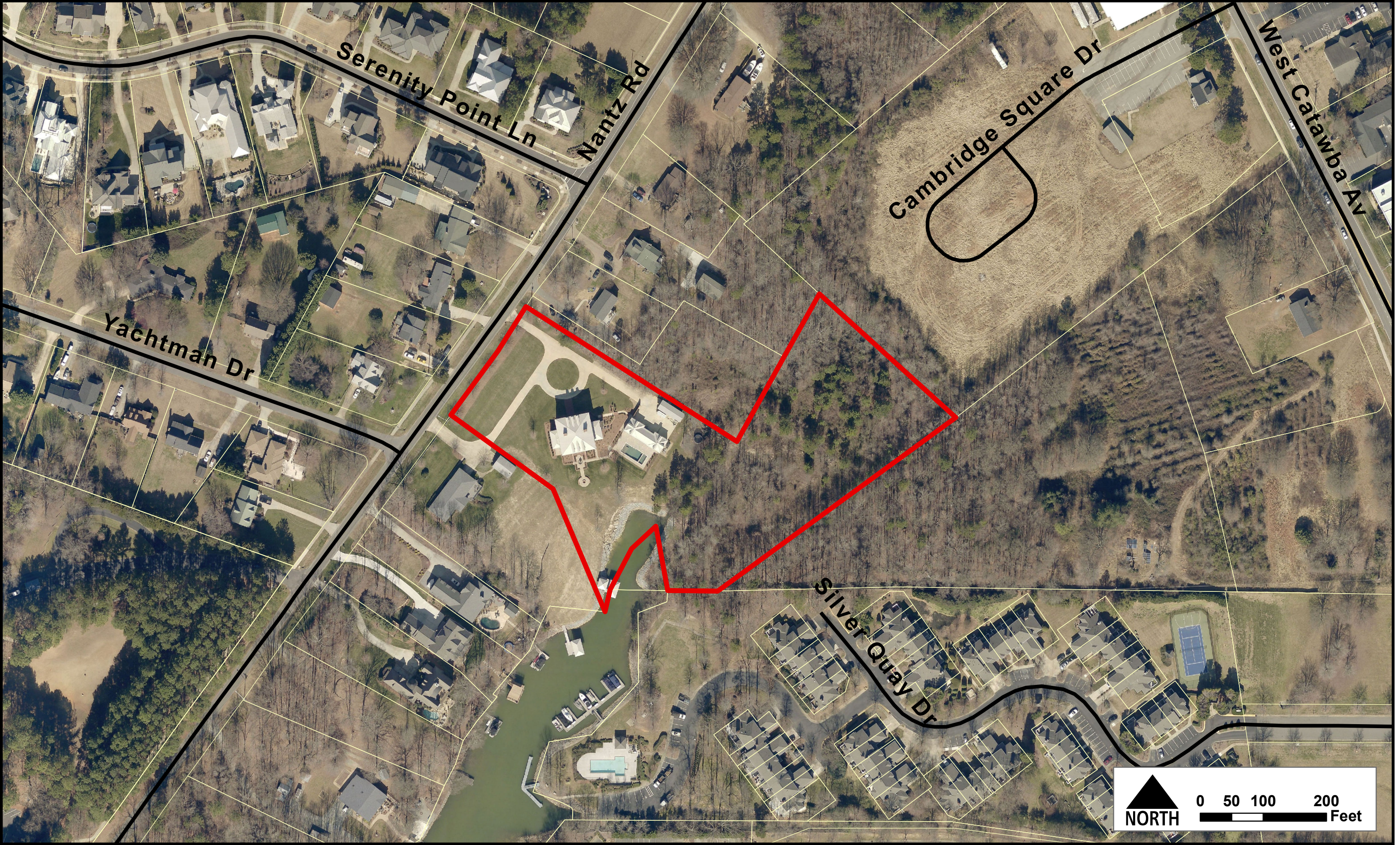


Recipient: 18819 Flat Shoals Dr.

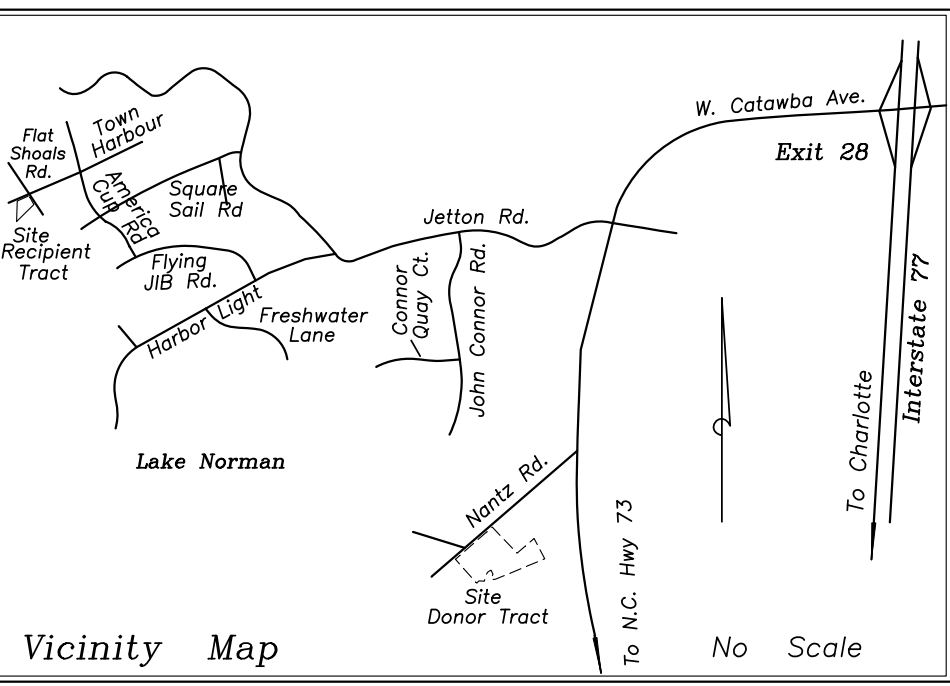
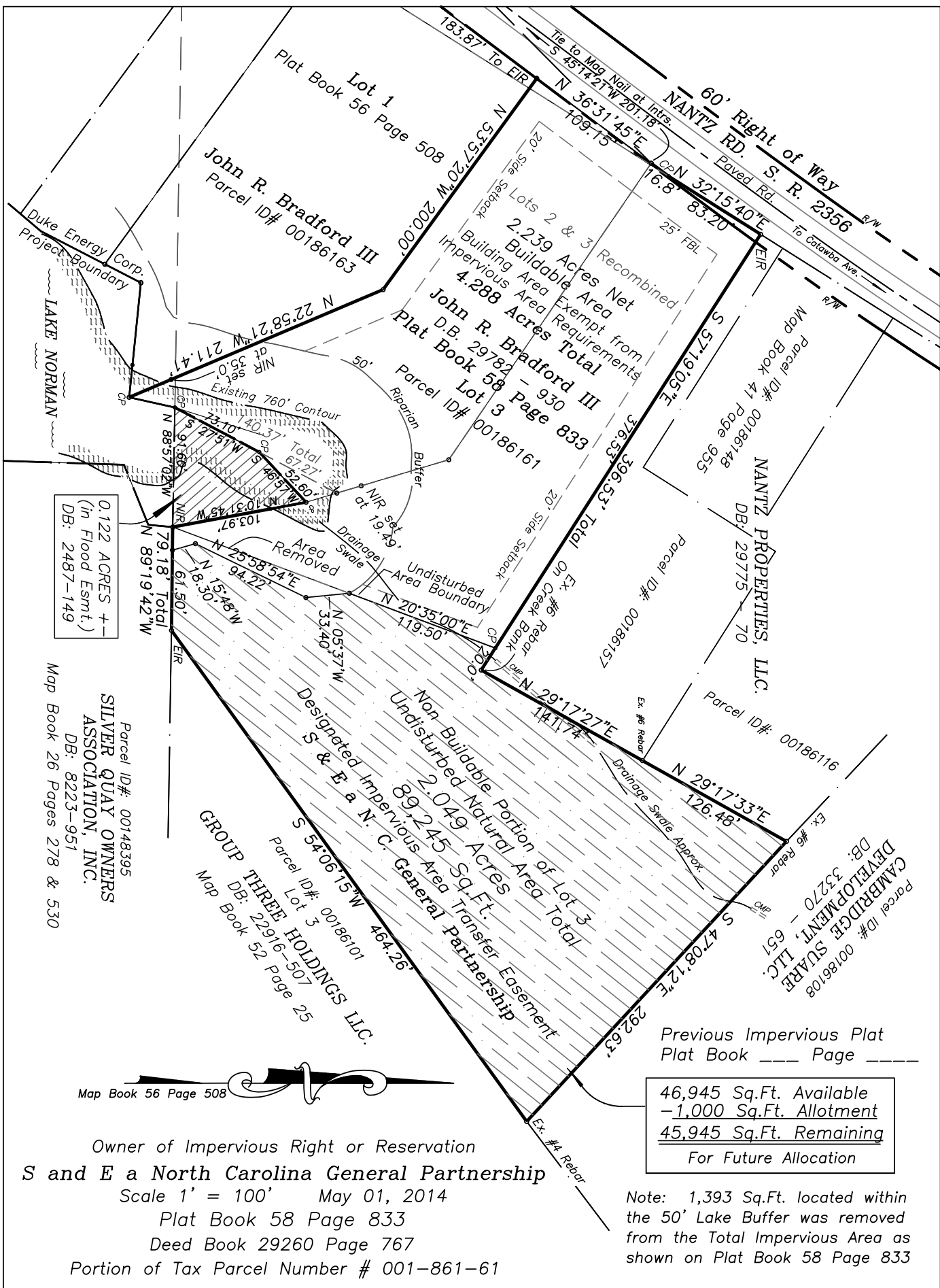




Donor: 18632 Nantz Road







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.

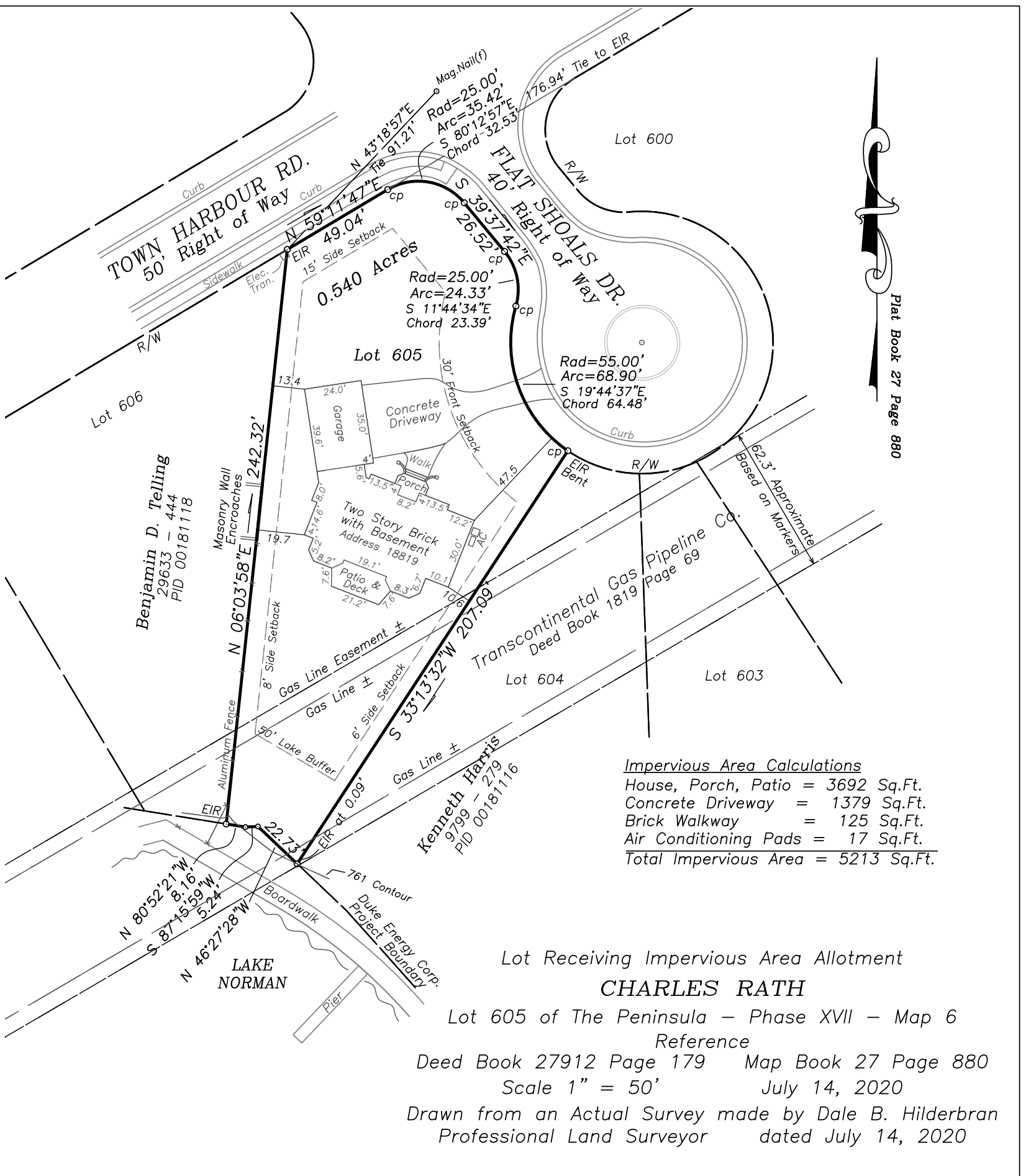
Date Watershed Administrator, Town of Cornelius

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 Upon Area Transfer Plat**  
This Plat represents a transfer of Built-Up 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-Up 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.



**Impervious Area Calculations**  
House, Porch, Patio = 3692 Sq.Ft.  
Concrete Driveway = 1379 Sq.Ft.  
Brick Walkway = 125 Sq.Ft.  
Air Conditioning Pads = 17 Sq.Ft.  
Total Impervious Area = 5213 Sq.Ft.

Lot Receiving Impervious Area Allotment  
**CHARLES RATH**  
Lot 605 of The Peninsula - Phase XVII - Map 6  
Reference  
Deed Book 27912 Page 179 Map Book 27 Page 880  
Scale 1" = 50' July 14, 2020  
Drawn from an Actual Survey made by Dale B. Hilderbran  
Professional Land Surveyor dated July 14, 2020

**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 42,300 Sq.Ft., Leaving 46,945 Sq.Ft. Remaining from previous record Plat found in Plat Book \_\_\_\_\_ Page \_\_\_\_\_  
This allotment 1,000 Sq.Ft., Leaving 45,945 Sq.Ft. for future Allocation  
Recipient Tract - Lot # 605 of The Peninsula Phase XVII, Map 6  
Plat Book 27 Page 880 Parcel # 001-811-17  
Contains 0.540 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 # 666 on Town Harbour Rd.  
30' Front, 6' One Side 8' on Opposite Side, 45' Rear Setback  
15' Street Side Setback, 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 Critical Watershed Area  
Portion of Property is located within a Special Flood Hazard Area according to the FEMA-FIRM Community Panel # 3710463 300I for Lot # 3, effective date March 02, 2009, and "Zone AE" as shown on Panel # 3710462 300L for Lot # 605, 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 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 the 15th day of July, 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

For Review Purposes Only

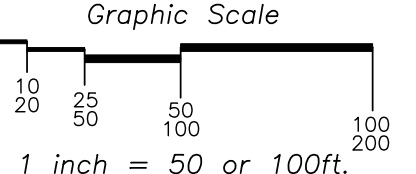
The Purpose of this Plat is to Allocate 1,000 Square Feet of allowable built-upon area from PID # 001-861-61 (donor parcel) to PID # 001-811-17 (recipient parcel). Each parcel is located in the same watershed.

Site Data Table	Donor Parcel	Recipient Parcel
Parcel ID	001-861-61	001-811-17
Total Site Area	4.288 Ac.	0.540 Acres
Current Allowed Built Upon Area	46,945 Sq.Ft.	5,000 Sq.Ft.
Built Upon Area Allocated	-1,000 Sq.Ft.	+1,000 Sq.Ft.
New Allowed Built Upon Area	45,945 Sq.Ft.	6,000 Sq.Ft.
Existing Surveyed Built Upon Area	00 Sq.Ft.	5,213 Sq.Ft.
Remaining Allowed Built Upon Area	00 Sq.Ft.	787 Sq.Ft.

IMPERVIOUS ALLOCATION PLAT FOR LOT # 605 OF THE PENINSULA, PHASE XVII, MAP 6  
**CHARLES RATH**  
Town of Cornelius - Lemley Township - Mecklenburg County - North Carolina  
Scale 1" = 50' & 100'  
Platted July 15, 2020  
Reference  
Deed Book 27912 Page 179 Parcel ID # 001-811-17

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 # 605 of The Peninsula Phase XVII  
Judith A. Perlman  
18819 Flat Shoals 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



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

Revision Table	By	Description
No.	Date	

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 20<sup>TH</sup> day of June, 2014, by and between

GRANTOR	GRANTEE
S and E, a North Carolina General Partnership	JOHN R. BRADFORD, III
19520 W. Catawba Ave., Ste 114 Cornelius, NC 28031	21523 Baltic Drive Cornelius, NC 28031
(hereinafter Grantor)	(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

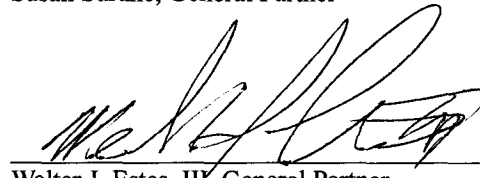
**IN WITNESS WHEREOF**, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officer, this the day and year first above written.

S and E, a North Carolina General Partnership

By:

 (SEAL)  
Susan Surane, General Partner

By:

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

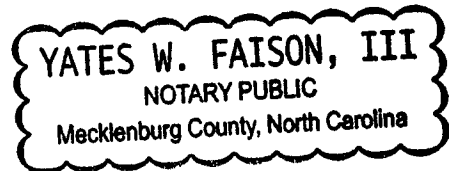
## STATE OF NORTH CAROLINA, MECKLENBURG COUNTY

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<sup>th</sup> day of June, 2014.

Yates W. Faison, III

Notary Public

My commission expires: 2/20/2018



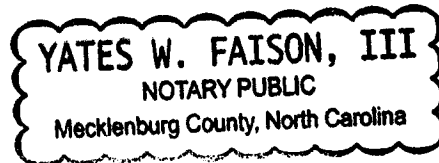
## STATE OF NORTH CAROLINA, MECKLENBURG COUNTY

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<sup>th</sup> day of June, 2014.

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.

## REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: September 14, 2020

**To:** Planning Board Members  
**From:** Aaron Tucker, Planning Director

**Action Requested:**

It is common to update Land Use Plan policy documents. Planning staff plans to kick off the 2020 Land Use Plan update with the Planning Board. Staff will provide an overview and schedule of the update and take feedback from the Board.

**Manager's Recommendation:**

Discuss the 2020 Land Use Plan update.

**ATTACHMENTS:**

Name:	Description:	Type:
No Attachments Available		

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