



BOARD OF APPEALS APPLICATION

APPLICATION FOR VARIANCE, WAIVER OR APPEAL

City of Snellville
Planning & Development Department
2342 Oak Road, 2nd Floor
Snellville, GA 30078
Phone 770.985.3515 Fax 770.985.3551 www.snellville.org

RECEIVED

OCT 3 2022

DORIAN DR @ LENORA CHURCH RD #2200578
BOA VARIANCE BOA 22-06
PARCEL- R5028-008
Dorian Drive

CITY OF SNELVILLE

PLANNING & DEVELOPMENT

Applicant is: (check one)

- Owner's Agent
- Contract Purchaser
- Property Owner

Owner (if not the applicant): Check here if there are additional property owners and attach additional sheets.

STEVEN HOLLIDAY
 Name (please print)
 350 RESEARCH CT, SUITE 200
 Address
 NORCROSS, GA 30092
 City, State, Zip Code
 678-684-6284
 Phone Number(s) Fax

HUNT DAVID E, BRITT TONY
 Name (please print)
 2044 JANMAR CT
 Address
 SNELVILLE, GA 30078
 City, State, Zip Code
 Phone Number(s) Fax

Contact Person: STEVEN HOLLIDAY Phone: 678-684-6284 Fax:
 Cell Phone: E-mail: SHOLLIDAY@PEC.PLUS

Application for: (check one)

- Appeal (describe):
- Variance or Waiver from Unified Development Ordinance (describe below)

UDO Section requested for VARIANCE or WAIVER consideration: 401-5.3.C.1 and 401-2.2.B.1 Describe Request:
 request to waive requirement for all dead-end roads to end in cul-de-sac and eliminate 6% recreation space requirement

Property Address/Location: DORIAN DRIVE @ LENORA CHURCH ROAD Tax Parcel Number(s) R5028 008
 State the purpose of this request: to facilitate a new, as-of-right, 40 townhome development

At a minimum, the following items are required with submittal of this application. INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.

- Letter of Intent explaining the reason (and demonstrated hardships) for the request for the variance, appeal, or waiver.
- Attachment A - Analysis of impact (if variance application) or details of grievance (if appeal) or details of waiver request (if waiver).
- Attachment B - Certifications: the names, addresses, and original notarized signatures of the applicant and/or property owner(s).
- Recorded Warranty Deed, Security Deed, or Quit Claim Deed including property legal description demonstrating evidence of property ownership;
- Verification by Gwinnett County that all property taxes owed have been paid.
- VARIANCE or WAIVER applications only: As-Built, Site or Concept Plan drawn to scale, showing: (a) north arrow; (b) district, land lot(s) and parcel number(s); (c) the dimensions with bearing and distance; (d) acreage; (e) location of the tract(s), (f) the present zoning and land use classification of all adjacent parcels, (g) the proposed location of structures, driveways, parking and loading areas; (h) the location and extent of required buffer areas; and (i) location of floodplains. Site and Concept Plan shall be prepared by an architect, engineer, landscape architect, or land surveyor whose Georgia state registration is current and valid. Site plan must be stamped and sealed by one of the four above-mentioned professionals no more than six (6) months prior to the date of submittal. All documents must be folded to 8-1/2" x 11";
- Exhibits and accompany documentation to support application and request for variance, appeal, or waiver.
- Nine (9) stapled or bound copies of: the application original and one (1) unbound application (original) bearing original signatures and all other required documents.
- A USB flash drive or CD-ROM containing a digital .pdf file of the application submittal.
- Payment of the appropriate application, public notice sign, and adjoining property owner notification fees. Make checks payable to City of Snellville;

Pre-submittal appointment recommended a minimum of five (5) business days prior to Application deadline to ensure application is complete, accurate, and includes all required attachments/exhibits and required signatures

If request is for an APPEAL, please discuss your grievance in detail. You may attach additional sheets and provide additional documentation as appropriate:

SEE ATTACHMENT

A VARIANCE from the terms of the Unified Development Ordinance shall not be granted by the Board of Appeals unless and until the applicant has **demonstrated and explained** the following. You may attach additional sheets and provide additional documentation as appropriate:

1) **Demonstrate and explain** how special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district. SEE ATTACHMENT

2) **Demonstrate and explain** how literal interpretation of the provisions of the UDO would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the UDO. SEE ATTACHMENT

3) **Demonstrate and explain** how the special conditions and circumstances do not result from the actions of the applicant. SEE ATTACHMENT

4) **Demonstrate and explain** that granting the variance (or waiver) requested will not confer on the applicant any special privilege that is denied by the UDO to other lands, structures, or buildings in the same zoning district. SEE ATTACHMENT

Please Note: No non-conforming use of neighboring lands, structures, or buildings in the same zoning district, and no permitted or nonconforming use of lands, will be considered grounds for issuance of a variance or waiver. Peculiar conditions or circumstances which are the result of actions of the owner of property covered by this application cannot be considered as grounds justifying a variance. A "use variance", i.e. a variance for the purpose of using land or a structure, or combination thereof for a purpose prohibited by the present zoning classification of the property covered by this application will not be considered.

9/30/2022

Re: **Attachment A**
Dorian Drive @ Lenora Church Road – Variance Application – Cul-de-Sacs (Section 401-5.3.C.1)
PEC+ Project No. 21103.00B

Dear City of Snellville Zoning Board of Appeals,

Please see below the responses to the variance criteria on Attachment A:

1. **Demonstrate and explain** how special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district.

The conditions and circumstances that make the strict application of the zoning ordinance infeasible are unique to the site, and are not applicable to land, structures or buildings in the same zoning district. As noted in the letter of intent, nearly 30 percent of the site is unbuildable due to existing hydrological conditions, and another 40 percent of the site has harsh, 2:1 slopes. The site itself is a strained, triangular shape that is cut off from the major surrounding roadways, leaving little room for flexibility in site planning. Neither of these features are the result of the applicant or developer, and severely limit the ability to develop large impervious cul-de-sacs on the site in all of the locations where they are required.

2. **Demonstrate and explain** how literal interpretation of the provisions of the UDO would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the UDO.

The literal interpretation of the provisions of the UDO would deprive the applicant of the rights commonly enjoyed by other properties in the same zoning district. The site is severely constrained by existing natural features, and the shape of the parcel. The requirement for large areas of the site to be dedicated to impervious cul-de-sacs is prohibitive to the feasibility of the development, especially considering hammerheads achieve the same circulation result with less coverage, while still meeting the IFC regulations for fire safety.

3. **Demonstrate and explain** how the special conditions and circumstances do not result from the actions of the applicant.

The special conditions and circumstances do not result from the actions of the applicant. This site is already zoned RM, meaning that the townhome development would be by-right. The hydrological features, slopes, and awkward, triangular shape are not the result of the actions of the developer. Because of the limitations in site configuration, the cul-de-sacs are limited by these features regardless of actions of the developer.

4. **Demonstrate and explain** that granting the variance (or waiver) requested will not confer on the applicant any special privilege that is denied by the UDO to other lands, structures, or buildings in the same zoning district.

The variance will not confer on the applicant special privilege that is denied by the UDO to other lands in the same zoning district. The unique conditions of the site make the strict adherence of the code to the site prohibitive for virtually any by-right development. By requesting relief from this provision of the code, the developer will be able to utilize the highly constrained property for a by-right use that is otherwise unbuildable.

Sincerely,
Planners and Engineers Collaborative, Inc.



9/30/2022

Re: **Attachment A**
Dorian Drive @ Lenora Church Road – Variance Application – Recreation Space (Section 401-2.2.B.1)
PEC+ Project No. 21103.00B

Dear City of Snellville Zoning Board of Appeals,

Please see below the responses to the variance criteria on Attachment A:

1. **Demonstrate and explain** how special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district.

The conditions and circumstances that make the strict application of the zoning ordinance infeasible are unique to the site, and are not applicable to land, structures or buildings in the same zoning district. As noted in the letter of intent, nearly 30 percent of the site is unbuildable due to existing hydrological conditions, and another 40 percent of the site has harsh, 2:1 slopes. The site itself is a strained, triangular shape that is cut off from the major surrounding roadways, leaving little room for flexibility in site planning. Neither of these features are the result of the applicant or developer, and severely limit the ability to safely include the prescribed recreation space on-site.

2. **Demonstrate and explain** how literal interpretation of the provisions of the UDO would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the UDO.

The literal interpretation of the provisions of the UDO would deprive the applicant of the rights commonly enjoyed by other properties in the same zoning district. The site is severely constrained by existing natural features, and the shape of the parcel. Forcing the applicant to include the 6% recreation space on the site where over 30 percent is already open and unbuildable is prohibitive for the development.


3. **Demonstrate and explain** how the special conditions and circumstances do not result from the actions of the applicant.

The special conditions and circumstances do not result from the actions of the applicant. This site is already zoned RM, meaning that the townhome development would be by-right. The hydrological features, slopes, and awkward, triangular shape are not the result of the actions of the developer. The amount of buildable space (open, recreational, residential or otherwise) is severely limited by the existing site conditions.

4. **Demonstrate and explain** that granting the variance (or waiver) requested will not confer on the applicant any special privilege that is denied by the UDO to other lands, structures, or buildings in the same zoning district.

The variance will not confer on the applicant special privilege that is denied by the UDO to other lands in the same zoning district. The unique conditions of the site make the strict adherence of the code to the site prohibitive for virtually any by-right development. By requesting relief from this provision of the code, the developer will be able to utilize the highly constrained property for a by-right use that is otherwise unbuildable.

Sincerely,
Planners and Engineers Collaborative, Inc.



BOARD OF APPEALS CERTIFICATIONS

In the event an owner's agent or contract purchaser is filing this application, both of the certifications below must be completed. If the owner is filing the application, only the Owner's Certification must be completed.

APPLICANT'S CERTIFICATION

The undersigned below does hereby, swear or affirm under penalty of perjury under the laws of the State of Georgia, is authorized to make this application for Appeal, Waiver or Variance and that the statements and documents submitted as part of this application are true and accurate to the best of my knowledge or belief. The undersigned is aware that no application or re-application affecting the same land shall be submitted less than twelve (12) months from the date of denial.

[Signature] 9/29/2022
Signature of Applicant Date

Steven Holliday / Project Manager
Type or Print Name and Title



[Signature] 9/29/2022
Signature of Notary Public Date

PROPERTY OWNER'S CERTIFICATION

The undersigned below, or as attached, swear and affirm that I am (we are) the owner of property that is subject to this application, as shown in the records of Gwinnett County, Georgia which is the subject matter of the attached application. I further authorize _____ to file this application. The undersigned is aware that, in granting any variance or waiver, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with the Unified Development Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance or waiver is granted, shall be deemed a violation of the UDO and punishable under Article 3 of the UDO. If an application for a variance or waiver is denied by the Board of Appeals, a reapplication for such for such variance or waiver may not be made earlier than twelve (12) months from the date of the original application.

Check here if there are additional property owners and attach additional "Property Owner's Certification" sheets.

Signature of Owner Date

Type or Print Name and Title

Notary Seal

Signature of Notary Public Date

BOARD OF APPEALS CERTIFICATIONS

In the event an owner's agent or contract purchaser is filing this application, both of the certifications below must be completed. If the owner is filing the application, only the Owner's Certification must be completed.

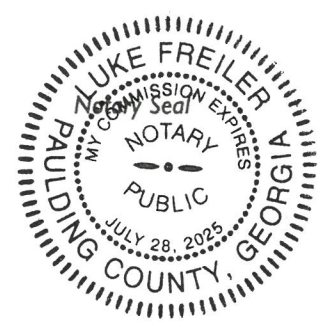
APPLICANT'S CERTIFICATION

The undersigned below does hereby, swear or affirm under penalty of perjury under the laws of the State of Georgia, is authorized to make this application for Appeal, Waiver or Variance and that the statements and documents submitted as part of this application are true and accurate to the best of my knowledge or belief. The undersigned is aware that no application or re-application affecting the same land shall be submitted less than twelve (12) months from the date of denial.

[Signature] 9-30-22
Signature of Applicant Date

DAVID E HUNT Partner
Type or Print Name and Title

[Signature] 9/30/22
Signature of Notary Public Date



PROPERTY OWNER'S CERTIFICATION

The undersigned below, or as attached, swear and affirm that I am (we are) the owner of property that is subject to this application, as shown in the records of Gwinnett County, Georgia which is the subject matter of the attached application. I further authorize _____ to file this application. The undersigned is aware that, in granting any variance or waiver, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with the Unified Development Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance or waiver is granted, shall be deemed a violation of the UDO and punishable under Article 3 of the UDO. If an application for a variance or waiver is denied by the Board of Appeals, a reapplication for such for such variance or waiver may not be made earlier than twelve (12) months from the date of the original application.

Check here if there are additional property owners and attach additional "Property Owner's Certification" sheets.

[Signature] 9.30.22
Signature of Owner Date

DAVID E HUNT
Type or Print Name and Title

[Signature] 9/30/22
Signature of Notary Public Date



WARRANTY DEED

BK48782PG0450

FILED & RECORDED
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA
08 APR 16 AM 8:00
TOM LAWLER, CLERK

Return Recorded Instrument to:
JOHN B. TURPEN, ATTORNEY
2323 Pate Street
Snellville, GA 30078
File No. T-17925 - Hunt/Britt

PT-61 # 067-2008-009440
GWINNETT CO. GEORGIA
REAL ESTATE TRANSFER TAX
\$ 90.00

TOM LAWLER CLERK OF
SUPERIOR COURT
LIMITED
WARRANTY DEED

GWINNETT COUNTY

STATE OF GEORGIA

THIS INDENTURE is made this 14th day of April, 2008, by and between DAVID E. HUNT (hereinafter referred to as "Grantor") and TONY BRITT (hereinafter referred to as "Grantee") ("Grantor" and "Grantee" to include their respective heirs, successors, executors, administrators, legal representative and assigns where the context requires or permits).

WITNESSETH, THAT, Grantor, in consideration of TEN DOLLARS (\$10.00) and other valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and does hereby grant, bargain, sell, alien, convey and confirm unto GRANTEE:

AN UNDIVIDED ONE-HALF (1/2) INTEREST IN AND TO:

All that tract or parcel of land lying and being in Land Lot 28 of the 5th District of Gwinnett County, Georgia, and being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, begin at the point marking the common corners of Land Lots 4, 5, 28 & 29 of said District and County; thence, run North 31 degrees 41 minutes 00 seconds West, along the line dividing said Land Lots 5 & 28, 602.90 feet to a 1/2-inch rebar set and the TRUE POINT OF BEGINNING; thence, from said TRUE POINT OF BEGINNING, continue running North 31 degrees 41 minutes 00 seconds West, along the line dividing said Land Lots 5 & 28, 1,023.40 feet to a rock found on the Southeasterly line of property now or formerly owned by Edward L. Bowen; thence, run North 58 degrees 01 minutes 05 seconds East, along the Southeasterly line of said Bowen property, 272.69 feet to a 1/2-inch rebar found; thence, South 54 degrees 15 minutes 13 seconds East, 249.79 feet to a 1/2-inch rebar set on the Northeasterly side of the right of way of Dorian Drive (50-foot right of way) at the Southerly terminus of said right of way; thence, run South 44 degrees 16 minutes 11 seconds East, along the terminus of said Dorian Drive, 50.77 feet to a 1/2-inch rebar set, located on the Southeasterly side of the right of way of said Dorian Drive; thence, South 54 degrees 40 minute 25 seconds East, 284.27 feet to a 1/2-inch rebar set; thence, South 17 degrees 40 minutes 42 seconds West, 303.43 feet to a 1/2-inch rebar set; thence, South 31 degrees 12 minutes 11 seconds East, 286.10 feet to a 1/2-inch rebar set; thence, South 58 degrees 29 minutes 29 seconds West, 258.00 feet to the TRUE POINT OF BEGINNING; being an 8.1366-acre tract of land, the foregoing description of which is made in accordance with a plat of survey prepared for David E. Hunt by Benny L. Bruner, GRLS #1646, dated September 24, 1997.

This deed is given subject to all restrictions and easements of record affecting the above property.

TO HAVE AND TO HOLD the Land with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or anywise appertaining, to the only proper use, benefit and behoof of Grantee forever in Fee Simple.

AND GRANTOR WILL WARRANT and forever defend the right and title to the Land unto Grantee against the claims of all persons whomsoever owning, holding or claiming by, through or under the Grantor herein.


IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year above written.

Signed, sealed and delivered
In the presence of:

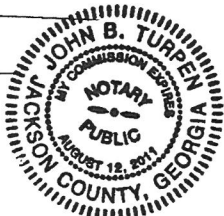

Unofficial Witness



DAVID E. HUNT (Seal)



Notary Public



0039609

**GWINNETT COUNTY
TAXES PAID**

Attention Gwinnett Property Owners: Tax bills have been mailed and are due on 11/01/22. You may view/pay online [here](#).

Check wait times and required paperwork in advance.

[Make an Appointment](#)



BILL DETAIL

[View/Pay Your Taxes](#) / [Account Detail](#) / [Bill Detail](#)

Tax Account

Mailing Address:
HUNT DAVID E
2044 JANMAR CT
SNELLVILLE, GA 30078-2186

SITUS:
0 DORIAN DR
Tax District:
SNELLVILLE

Parcel ID	Property Type	Last Update
R5028 008	Real Property	9/29/2022 8:09:00 PM

Legal Description
LENORA CHURCH RD

Tax Values

Description	Market Value	Assessed Value
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Description	Market Value	Assessed Value
Land	\$192,600.00	\$77,040.00
Improvement	\$0.00	\$0.00
Total	\$192,600.00	\$77,040.00



Class Codes 300-Commercial Vacant Land

Assessments

	Net Tax	Savings
<u>School Taxes</u>	\$1,644.81	\$0.00
<u>County Incorporated No Police</u>	\$882.11	\$0.00
Total Tax	\$2,526.92	\$0.00

Tax Installment Information

Period	Bill Number	Due Date	Tax Year	Tax	Penalty/Fee	Interest	Total Due
INST 1	24427955	10/15/2021	2021	\$0.00	\$0.00	\$0.00	\$0.00
Total Due:				\$0.00	\$0.00	\$0.00	\$0.00

Payment History

Tax Year	Bill Number	Receipt Number	Amount Paid	Last Paid
2021	24427955	B21.122482	\$2,526.92	10/13/2021

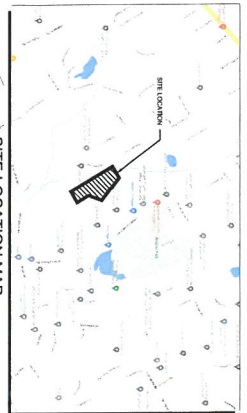
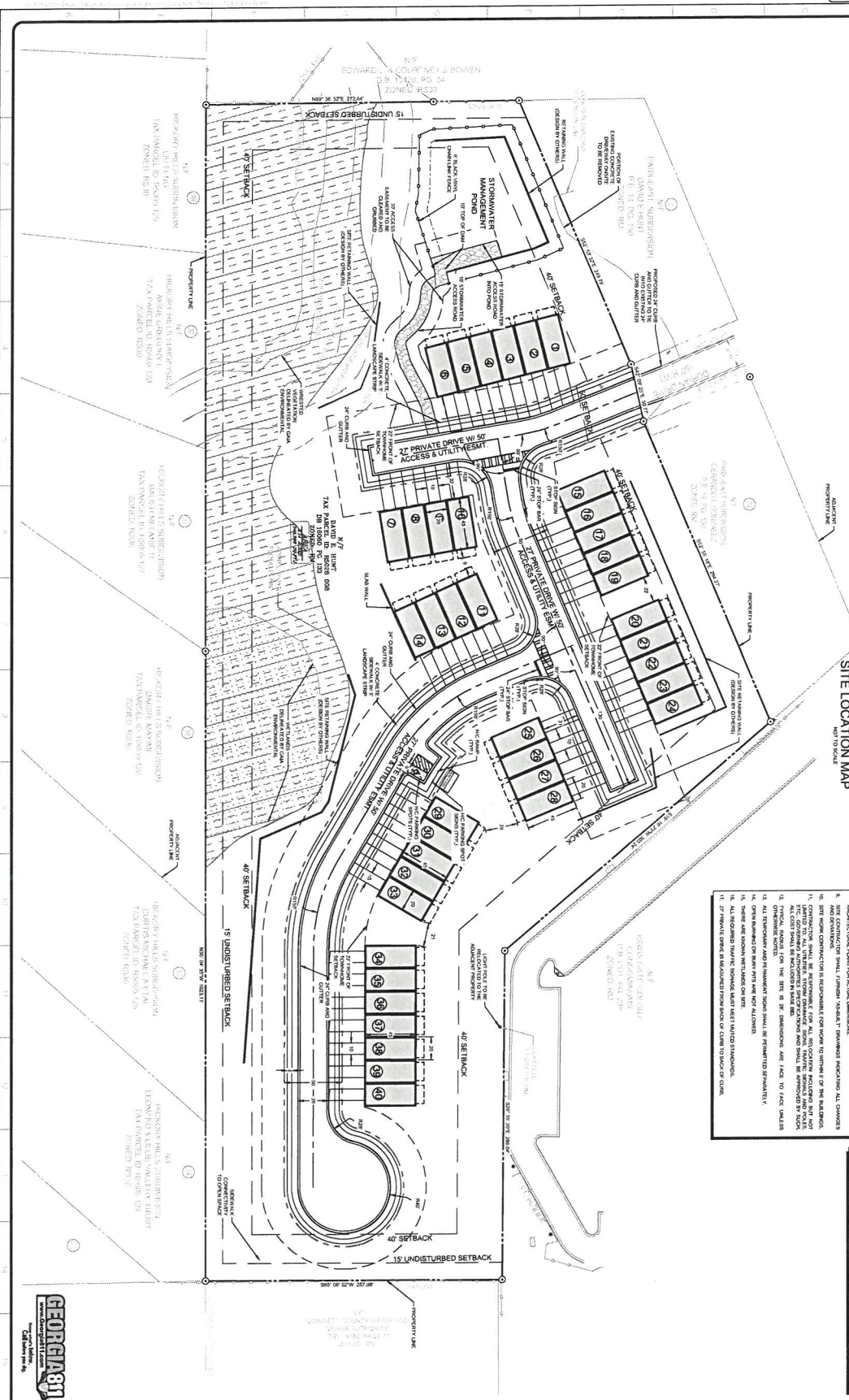
Select Language | ▼

SITE PLAN / EXHIBITS

ALTA / NSPS LAND
TITLE SURVEY

1ST LDP SUBMITTAL SITE PLAN

REVISED SITE PLAN
WITH CUL-DE-SAC



- SITE NOTES:**
1. ALL SETBACKS AND DIMENSIONS TO BE MEASURED TO THE EXTERIOR CORNER OF THE BUILDING UNLESS OTHERWISE NOTED.
 2. AT ALL CORNERS ALONG THE PUBLIC RIGHT OF WAY WHERE THE EXISTING CURB HEIGHT CHANGES, THE CURB SHALL BE RAMPED TO THE EXISTING CURB HEIGHT AND THE EXISTING CURB SHALL BE MAINTAINED TO THE EXISTING CURB HEIGHT.
 3. FROM THE EXISTING CURB TO THE EXISTING CURB, THE EXISTING CURB SHALL BE MAINTAINED TO THE EXISTING CURB HEIGHT.
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 26. THE EXISTING CURB SHALL BE MAINTAINED TO THE EXISTING CURB HEIGHT.
 27. THE EXISTING CURB SHALL BE MAINTAINED TO THE EXISTING CURB HEIGHT.

SITE DATA:

ADDRESS	6000 N. BAYVIEW CHURCH RD
CITY	SMITHVILLE, GA 30078
COUNTY	WALTON COUNTY
PROJECT	DORIAN DR. @ LENORA CHURCH RD
OWNER	LENORA CHURCH RD DEVELOPMENT
DESIGNER	PLANNERS & ENGINEERS COLLABORATIVE + PESC+
DATE	08/21/2022
SCALE	1" = 40'
PROJECT	21103.008
SHEET	C3.00

REVISIONS

NO.	DATE	BY	DESCRIPTION
1	08/27/2022	SP	15' SETBACK SUBMITTAL

GEORGIA
Professional Seal
PLANNERS & ENGINEERS COLLABORATIVE + PESC+

SITE PLAN

SCALE: 1" = 40'
DATE: 08/21/2022
PROJECT: 21103.008

PLANNERS & ENGINEERS COLLABORATIVE + PESC+

6000 N. BAYVIEW CHURCH RD
SMITHVILLE, GA 30078
TEL: 770-451-2741
F: 770-451-3915

DORIAN DR. @ LENORA CHURCH RD

6000 N. BAYVIEW CHURCH RD
SMITHVILLE, GA 30078

BUYSIDE CAPITAL ADVISORS, LLC

5481 ROSNELL RD.
SUITE 100
ATLANTA, GA 30342
P: 404-372-8802

WALTON COUNTY

11.25
11.25
11.25

PLANNERS & ENGINEERS COLLABORATIVE + PESC+

6000 N. BAYVIEW CHURCH RD
SMITHVILLE, GA 30078
TEL: 770-451-2741
F: 770-451-3915

GEORGIA
Professional Seal
PLANNERS & ENGINEERS COLLABORATIVE + PESC+

Section 103-7.2. Powers and Duties

The Board of Appeals has the following powers and duties:

A. Administrative Review

To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by a staff member of the Department in the enforcement of this UDO. See Sec. 103-7.3 (Administrative Decision Appeals).

B. Variances and Waivers

To authorize, upon appeal in specific cases, such variance from the terms of this UDO as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the UDO would result in unnecessary hardship. A variance may not be granted by the Board of Appeals unless and until:

- I. A written application for a variance or waiver is submitted demonstrating:
 - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district;
 - b. That literal interpretation of the provisions of this UDO would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this UDO;
 - c. That the special conditions and circumstances do not result from the actions of the applicant;
 - d. That granting the variance or waiver requested will not confer on the applicant any special privilege that is denied by this UDO to other lands, structures, or buildings in the same zoning district.

Any application for an administrative review, variance, and/or waiver must be submitted by noon 36 days before the date on which it is to be considered by the Board of Appeals. The applicant must submit nine stapled or bound copies of the application and any supporting documents, in addition to one unbound application bearing original signatures. In addition, a digital copy in .pdf (and .dwg format, as appropriate) of all materials must be submitted using email, flash drive, or other means approved by the Director. The submitted application must also include: Verification by Gwinnett County that all property taxes owed have been paid; a certificate of title for all lots subject to the application; and a map indicating the subject property(ies) and the adjacent properties, identified by tax parcel number. An initiating party must also file any other information or supporting materials that are required by the City Council, Planning Commission, and/or the Department and must pay any filing fee.

The Department must notify the owners of adjoining properties of the property for which the variance is sought and/or their agent by certified mail with return receipt requested as shown by the Gwinnett County GIS Data Browser. The notification must be mailed not fewer than 15 days, nor more than 45 days before the Board of Appeals hearing. The notification must include a description of the application and the date, time, and place of the public hearing.

2. The City must provide notice of the public hearing at least 15 days before the public hearing. Notice of such hearings must be posted on the property for which the variance or waiver is sought and at city hall.
3. Due notice of the Board of Appeals hearing must be published in the newspaper which carries the legal advertisements of the City, by advertising the application and date, time, place and purpose of the public hearing not fewer than 15 days, nor more than 45 days before the date of the Board of Appeals hearing.
4. The public hearing must be held. Any party may appear in person, or by agent or attorney.
5. The Board of Appeals must further make findings that the requirements of this paragraph B have been met by the applicant for a variance or waiver.
6. The Board of Appeals must further make a finding that the reasons set forth in the application justify the granting of the variance or waiver is the minimum variance that will make possible the reasonable use of the land, building, or structure.
7. The Board of Appeals must further make a finding that the granting of the variance or waiver will be in harmony with the general purpose and intent of this UDO, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this UDO. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, will be deemed a violation of this UDO that is punishable under its provision.

Section 103-7.3. Administrative Decision Appeals

- A. Appeals to the Board of Appeals concerning interpretation or administration of this UDO may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by any decision of a staff member of the Department of Planning and Development. Appeals must be filed with the Department within 15 days of said decision on the form/application provided by the City, including payment of fees. The Director must forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.
- B. An appeal stays all proceedings in furtherance of the action appealed from unless the Director certifies to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in their opinion, cause imminent peril, to life or property. In such a case, proceedings may not be stayed otherwise than by the Zoning Board of Appeals or by a restraining order granted by a court of record on application, and notice to the Director for good cause shown.
- C. The person requesting the appeal must first submit to Department a written statement clearly defining the nature of the disagreement, the specific reference to the sections of the regulations at issue, and the applicant's own opinion.
- D. If the Department fails to respond within 10 business days from the date of transmittal of the appeal, the Department must automatically forward a copy of the appeal to the Board of Appeals for final action in their normal course of business.

- E. The Board of Appeals must hear and act upon within 45 days of receipt and give public notice thereof. At the hearing, any party may appear in person or by agent or attorney.
- F. In exercising the above-mentioned powers, the Board of Appeals may, so long as such action is in conformity with the terms of the this UDO, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end will have the powers of the Department staff member from whom the appeal is taken.

Section 103-7.4. Reapplication

If an application for a variance or waiver is denied by the Board of Appeals, a reapplication for such variance or waiver may not be made earlier than 12 months from the date of the original application.

Section 103-7.5. Appeals

Any person aggrieved by a decision or order of the Board of Appeals may appeal by certiorari to the Superior Court of Gwinnett County. Such appeal must be filed within 30 days from the date of the decision of the Board of Appeals. Upon failure to file the appeal within 30 days, the decision of the Board of Appeals will be final.