



Town of Clayton
Town of Clayton Planning Board Agenda
Tuesday, May 28, 2019 @ 6:00 PM
Town Council Chambers

1. CALL TO ORDER

2. ADJUSTMENT OF THE AGENDA

3. APPROVAL OF MINUTES

- a. [Clayton Planning Board - 22 Apr 2019 - Draft Minutes](#)

POTENTIAL ACTION: Approval of April 22, 2019 minutes

4. PUBLIC HEARINGS

- a. 2019-65-VAR 501 Lakeview Drive Variance **(Quasi-Judicial)**
NC PIN: 165807-68-9571
Tag #: 05H03029
Location: 501 Lakeview Drive
[Application - 2019-65-VAR - 501 Lakeview Drive](#)
[Owner's Consent - 2019-65-VAR - 501 Lakeview Drive](#)
[Newspaper Ad - 2019-64-VAR; 2019-65-VAR; 2019-66-VAR; & 2019-67-VAR - Lakeview Drive Variances](#)
[Adjacent Property Owner List - 2019-65-VAR - 501 Lakeview Drive](#)
[Adjacent Property Letter - 2019-65-VAR - 501 Lakeview Drive](#)
[Site Plan - 2019-65-VAR - 501 Lakeview Drive](#)
[Staff Report - 2019-65-VAR - 501 Lakeview Drive](#)
[Staff Report Map - 2019-65-VAR 501 Lakeview Drive](#)

POTENTIAL ACTION: Request to Approve/Deny 2019-65-VAR

- b. 2019-66-VAR 507 Lakeview Drive Variance **(Quasi-Judicial)**
NC PIN: 165807-78-0267
Tag #: 05H03197E
Location: 507 Lakeview Drive
[Application - 2019-66-VAR - 507 Lakeview Drive](#)
[Owner's Consent - 2019-66-VAR - 507 Lakeview Drive](#)
[Newspaper Ad - 2019-64-VAR; 2019-65-VAR; 2019-66-VAR; & 2019-67-VAR - Lakeview Drive Variances](#)
[Adjacent Property Owner List - 2019-66-VAR - 507 Lakeview Drive](#)
[Adjacent Property Letter - 2019-66-VAR - 507 Lakeview Drive](#)
[Site Plan - 2019-66-VAR - 507 Lakeview Drive](#)
[Staff Report - 2019-66-VAR - 507 Lakeview Drive](#)
[Staff Report Map - 2019-66-VAR 507 Lakeview Dr](#)

POTENTIAL ACTION: Request to Approve/Deny 2019-66-VAR

- c. 2019-67-VAR 601 Lakeview Drive Variance **(Quasi-Judicial)**
NC PIN: 165807-78-0281
Tag #: 05H03190A
Location: 601 Lakeview Drive
[Application - 2019-67-VAR - 601 Lakeview Drive](#)
[Owner's Consent - 2019-67-VAR - 601 Lakeview Drive](#)
[Newspaper Ad - 2019-64-VAR; 2019-65-VAR; 2019-66-VAR; & 2019-67-VAR - Lakeview Drive Variances](#)
[Adjacent Property Letter - 2019-67-VAR - 601 Lakeview Drive](#)
[Site Plan - 2019-67-VAR - 601 Lakeview Drive](#)
[Staff Report - 2019-67-VAR - 601 Lakeview Drive](#)
[Staff Report Map - 2019-67-VAR 601 Lakeview Dr](#)

POTENTIAL ACTION: Request to Approve/Deny 2019-67-VAR

- d. 2019-64-VAR 703 Lakeview Drive Lots 80 & 81 Variance **(Quasi-Judicial)**
NC PIN: 165807-77-0962
Tag #: 05E99005N
Location: 703 Lakeview Drive
[Application - 2019-64-VAR-Lot 81 - 703 Lakeview](#)
[Owner's Consent - 2019-64-VAR - 703 Lakeview Drive Lots 80 & 81](#)
[Newspaper Ad - 2019-64-VAR; 2019-65-VAR; 2019-66-VAR; & 2019-67-VAR - Lakeview Drive Variances](#)
[Adjacent Property Owner List - 2019-64-VAR - 703 Lakeview Drive Lots 80 & 81](#)
[Adjacent Property Letter - 2019-64-VAR - 703 Lakeview Drive Lots 80 & 81](#)
[Site Plan - 2019-64-VAR - 703 Lakeview Drive Lots 80 & 81](#)
[Staff Analysis - Lot Area Deviation - 2019-64-VAR - 703 Lakeview Variance Lots 80 & 81](#)
[Staff Report - 2019-64-VAR - 703 Lakeview Drive Lots 80 & 81](#)
[Staff Report Map - 2019-64-VAR 703 Lakeview Drive Lots 80 & 81](#)

POTENTIAL ACTION: Request to Approve/Deny 2019-64-VAR

5. NEW BUSINESS

- a. 2019-86-OA Recreation/Open Space Ordinance Amendment
[Application - 2019-86-OA Recreation Open Space Res SD Credits](#)
[Updated Strikethrough Copy - 2019-86-OA - Recreation Fees OA](#)
[Updated Clean Copy - 2019-86-OA - Recreation Fees OA](#)
[Staff Report - 2019-86-OA - Recreation Open Space Credits Ordinance Amendment](#)

POTENTIAL ACTION: Recommendation to Town Council

- b. 2019-101-OA Architectural Standards Ordinance Amendment
[Application - 2019-101-OA - Architectural Standards Ordinance Amendment](#)
[Staff Report - 2019-101-OA - Architectural Standards Ordinance Amendment](#)
[Updated Strikethrough Copy - 2019-101-OA - Architectural Standards Ordinance Amendment](#)
[Updated Clean Copy - 2019-101-OA - Architectural Standards Ordinance](#)

[Amendment](#)

POTENTIAL ACTION:

Recommendation to Town Council

6. INFORMAL DISCUSSION AND PUBLIC COMMENT

7. ADJOURN



**Town of Clayton
Planning Board Minutes
Monday April 22, 2019 @ 6:00 PM
Town Council Chambers**

BOARD MEMBERS PRESENT:

Andria Merritt
Ross Benson
Steven Powers
James Lipscomb
Marty Bizzell
Bob Ahlert
Frank Price
James Moore
George "Bucky" Coats

STAFF PRESENT:

Samantha Wullenwaber, Planning Director
Haley Hogg, Planner
Bob Satterfield, Council Member
Chrissy Dunn, Clerk to the Board

MEMBERS ABSENT:

1 CALL TO ORDER

- a)
Bob Ahlert called the meeting to order at 6 p.m.

2 ROLL CALL

- a)
All members of the Planning Board were present.

3 ADJUSTMENT OF THE AGENDA

4 APPROVAL OF MINUTES

- a) Approval of March 25, 2019 Planning Board Minutes

ACTION: Minutes approved as presented.

Motion: Board Member Benson
Second: Board Member Powers
Vote: Unanimous

5 REPORTS AND COMMENTS

6 OLD BUSINESS

7 NEW BUSINESS

- a) 2019-42-CUP Horne Memorial UMC Expansion Conditional Use Permit
NC PIN: 166913-02-4512
Tag #: 0501059
Location: 121 E. Second St.

Planning Director Samantha Wullenwaber requested to continue the public hearing for Item A 2019-42-CUP and Item B 2019-37-SP Horne Memorial UMC Expansion until May 2019. There are some items that need to be worked out.

ACTION: Request to continue Public Hearing approved.

Motion: Board Member Price
Second: Board Member Bizzell
Vote: Unanimous

- b) 2019-37-SP Horne Memorial UMC Expansion Major Site Plan
NC PIN: 166913-02-4512 / 16617-02-2220 / 166917-02-1222
Tag #: 05015059 / 05016040 / 05016041
Location: 121 E. Second St. / 135 E. Horne St.

- c) 2019-33-SP Johnston Area Gastroenterology Major Site Plan
NC PIN: 165801-19-6444 / 165801-19-5445
Tag #: 05G02058M / 05G02058L
Location: Located off Guy Road, within Moss Creek

Planner Haley Hogg presented this project. The applicant is requesting major site plan approval to develop a 6,114 square foot medical office on the subject property. The properties are zoned Neighborhood Business (B-2) which allows the use of a medical office. The properties are located within Moss Creek and are two separate parcels. If approved, the applicant will recombine the two parcels into one lot. There is an existing access drive that runs along the northern part of the properties and is accessed off Guy Road and Pinecroft Drive. The office will have 42 parking spaces which exceeds the required spaces. The site will have a sidewalk around the building which will connect to the north to an existing sidewalk along Guy Road. There is an existing landscape buffer that meets all applicable requirements for the required compatibility buffer at this location. Existing landscaping along Guy Road including a continuous hedgerow and street trees will also remain. The proposed use and site plan is consistent with the Comprehensive Plan 2040 and Surrounding Land Uses. Staff recommends approval. There were no questions for staff.

Applicant Donnie Adams was present and available for questions. There were no questions for the applicant.

ACTION: Recommendation to approve the request as presented by staff.

Motion: Board Member Bizzell
Second: Board Member Powers
Vote: Unanimous

8 INFORMAL DISCUSSION AND PUBLIC COMMENT

a)

Board Member Coats had a suggestion for when a project is submitted the HOA should be notified and advised of the project that will be presented involving their community. Planning Director Samantha Wullenwaber stated that by law that is not required, but will do as a courtesy to the HOA.

9 ADJOURN

a)

With there being nothing further, the meeting was adjourned at 6:10 p.m.

Robert J. Ahlert, Chair

ATTEST:

Chrissy Dunn, Clerk to the Board



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

VARIANCE APPLICATION COVER SHEET

Name of Project: Lot 73 Clayton Estates **Date:** 3/29/19

Applicant Name: True Line Surveying

The following checklist to be completed by applicant:

- ☒ Pre-Application Meeting on: 3/6 with Ana Penaloza
- ☒ Application Review fee
- ☒ Advertisement Fee
- ☒ Completed Application
- ☒ Owner's Consent Form
- ☒ Adjacent Property Owner's List
- ☒ Set of stamped, addressed, empty envelopes for adjacent property owner notification
- ☒ Copy of plan sets in PDF on USB

11 plan sets of the following:

- ☒ Preliminary plan sheet depicting the variance request
- ☒ Signed and sealed Boundary Survey

Reviewed by: Lauri Bryant



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

VARIANCE APPLICATION

Application Fee: \$250.00

Advertisement Fee: \$200.00

Please note if a variance is sought "after the fact", the application fee is \$500.00

SITE INFORMATION

Name of Project: Lot 73 Clayton Estates

Acreage of Property: 0.204 ac

Zoning District: R-E

County Tag #: 05H03029

NC Pin #: 165807-68-9571

Address/Location: 501 Lakeview Dr., Clayton, NC 27520

Existing Use: Residential

Proposed Use: Residential

Is project within a Planned Development? ☐ Yes ☒ No If yes, which: _____

Is project within an Overlay District? ☐ Yes ☒ No If yes, which: _____

APPLICANT INFORMATION

Applicant: True Line Surveying

Mailing Address: 205 W. Main St., Clayton, NC 27520

Phone Number: 919-359-0427

Fax: 919-359-0428

Contact Person: Curk Lane or Molly Herring

Email Address: curk@truelinesurveying.com or molly@truelinesurveying.com

FOR OFFICE USE ONLY

Date Received: _____ **Amount Paid:** \$ 450⁰⁰ **Permit Number:** 2019-105-VAR

PROPERTY OWNER INFORMATION

Name: Carlos Penaloza Jr.
Mailing Address: 1108 Cardinal Ct., Clayton, NC 27520
Phone Number: _____ **Fax:** _____
Email Address: pzframing@yahoo.com

BURDEN OF PROOF / EXPLANATION OF REQUEST

Variance(s) Requested: *List each requested variance. Attach additional pages if necessary.*

Code Section: 155.203 general use district standards

Code Requirement: Table 2-2 conventional subdivision regulations

Variance Sought (*describe specific request*): _____

Use this section to describe the request. An applicant seeking a variance has the burden of presenting evidence sufficient to allow the Board of Adjustment to reach conclusions for the Required Findings of Fact. Attach additional sheets/pertinent information as necessary.

This lot was created prior to the use of R-E zoning district requirements but falls beneath the required acreage listed in the R-E zoning district.

REQUIRED FINDINGS OF FACT

Section 155.716(F)(2) of the Unified Land Development Code requires applications requesting a Variance to address the following findings. The burden of proof is on the applicant and failure to adequately address the findings may result in denial of the application. Please attach additional pages if necessary.

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

Existing falls beneath require acreage allowance in R-E zoning.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from person 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 result from the fact the lot was created prior to the regulated uses of the current R-E zoning size and shape.

The hardship result from the fact the lot was created prior to the regulated uses of the current R-E zoning size and shape.

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

The hardship result from the fact the lot was created prior to the regulated uses of the current R-E zoning size and shape.

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

Correct. The rest of the neighborhood is a mobile home park.

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Board of Adjustment of the Town of Clayton to approve the subject Variance request. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Clayton, North Carolina, and will not be returned.

Molly Herning
Print Name

Molly Herning
Signature of Applicant

08/29/19
Date

The lot size does not meet the minimum lot size required for zone R-E. Our lot has 8885 sq ft we would place a mobile home with setbacks of 18' to the side, 40' to the front driveway. This lot is a total of 8,885 sq feet. The mobile home placement will not violate minimum setbacks for lot RE

Quentin R. H. H. H.
4.8.19

lot 73



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

OWNER'S CONSENT FORM

Consent is required from the property owner(s) if an agent will act on their behalf. A separate form is required from each owner. Consent is valid for one year from date of notary, unless otherwise specified. All fields must be completed.

Project Name: lot 77 Clayton Estates Address or PIN #: 1001 Lakeview Ct.

AGENT/APPLICANT INFORMATION:

True Line Surveying
(Name - type, print clearly)

205 W. Main St.
(Address)
Clayton NC 27520
(City, State, Zip)

I hereby give **CONSENT** to the above referenced agent/applicant to act on my behalf, to submit applications and all required materials and documents, and to attend and represent me at all meetings and public hearings pertaining to the following processes (*list applicable requests*):

variance

Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify that I have authority to execute this consent form as/on behalf of the property owner. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I further agree to all terms and conditions which may be imposed as part of the approval of this application.

OWNER AUTHORIZATION:

Carlos Penaloza
(Name - type, print clearly)

1108 cardinal Ct
(Address)

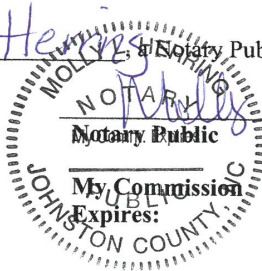
Carlos Penaloza
(Owner's Signature)

Clayton, NC, 27520
(City, State, Zip)

STATE OF NC
COUNTY OF Johnston

Sworn and subscribed before me Molly L. Herzig, a Notary Public for the above State and County, this the 29 day of March, 2019.

SEAL



July 2018

Public Notice

In accordance with NC GS 160A-364, the Clayton Planning Board will conduct the following evidentiary hearing on Tuesday, May 28, 2019, at 6 PM in the Town Council Chambers in Town Hall located at 111 East Second Street to consider the following:

- 2019-64-VAR 703 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area, minimum lot width, and side interior setback requirements of the proposed subdivision of an existing lot. The 0.43 acre property is zoned Residential-Estate; TAG # 05E99005N.
- 2019-65-VAR 501 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area requirement of an existing lot. The 0.204 acre property is zoned Residential-Estate; TAG # 05H03029.
- 2019-66-VAR 507 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area requirement of an existing lot. The 0.209 acre property is zoned Residential-Estate; TAG # 05H03197E.
- 2019-67-VAR 601 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area and lot width requirements of an existing lot. The 0.194 acre property is zoned Residential-Estate; TAG # 05H03190A.

During an evidentiary hearing, the Planning Board must make findings of fact based upon sworn testimony and other credible evidence. Citizens may give testimony in an evidentiary hearing after they have taken an oath. This is an open meeting and interested persons are invited to attend.

Damiere Powell, Planner

919-553-5002

The Johnstonian News

Please advertise on the following dates:

May 15, 2019

May 22, 2019

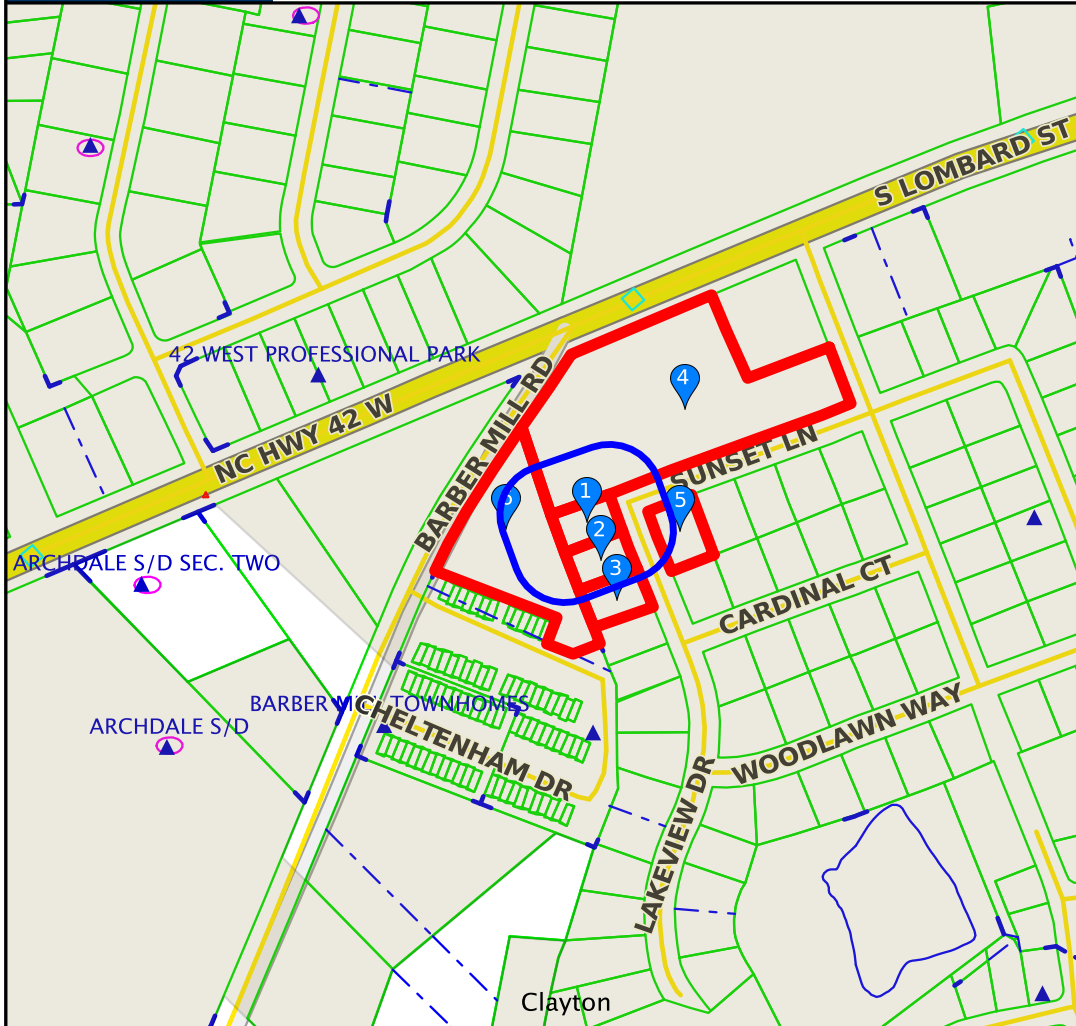
Dates are the two Wednesdays prior to the hearing

Affidavit of publication required.



*** DISCLAIMER ***

Johnston County assumes no legal responsibility for the information represented here.



Result 1

id: 05H03029
Tag: 05H03029
Owner Name 1: PENALOZA, CARLOS JR.
Owner Name 2:
Mail Address 1: 1108 CARDINAL CT
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-2802
Book: 05305
Page: 0604

Result 2

id: 05H03029J
Tag: 05H03029J
Owner Name 1: RENTERIA, BETZEIDA AVILEZ
Owner Name 2:
Mail Address 1: 1108 CARDINAL CT
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-2802
Book: 04746
Page: 0941



Scale: 1:3928 - 1 in. = 327.36 feet

(The scale is only accurate when printed landscape on a 8 1/2 x 11 size sheet with no page scaling.)

Johnston County GIS
April 23, 2019



*** DISCLAIMER ***

Johnston County assumes no legal responsibility for the information represented here.

Result 3

id: 05E99043D
Tag: 05E99043D
Owner Name 1: JOYCE J DAVIS REVOCABLE TRUST
Owner Name 2: DAVIS, JOYCE J TRUSTEE
Mail Address 1: 123 WESTOVER DR
Mail Address 2:
Mail Address 3: KNIGHTDALE, NC 27545-0000
Book: 01941
Page: 0718

Result 5

id: 05H03197L
Tag: 05H03197L
Owner Name 1: SALGADO, ARACELI PENALOZA
Owner Name 2:
Mail Address 1: 502 LAKEVIEW DR
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-2804
Book: 04580
Page: 0117

Result 4

id: 05H03029Z
Tag: 05H03029Z
Owner Name 1: INVESTIRE LP
Owner Name 2:
Mail Address 1:
Mail Address 2: PO BOX 58067
Mail Address 3: RALEIGH, NC 27658-0000
Book: 02814
Page: 0701

Result 6

id: 05G02011F
Tag: 05G02011F
Owner Name 1: HENDRICKSON, KURT M
Owner Name 2: HENDRICKSON, GAIL
Mail Address 1: 1224 BEND OF THE BARTON
Mail Address 2:
Mail Address 3: RALEIGH, NC 27614-0000
Book: 03433
Page: 0037



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

May 3, 2019

NOTICE

SUBJECT: **Project:** 2019-65-VAR – Request for a reduction of the minimum lot area requirement outlined in the Unified Development Code.

Address: 501 Lakeview Drive, Clayton, NC

Tag: 05H03029

Applicant: Ana Cristina Penaloza Avilez

Dear Clayton Area Property Owner:

Notice is hereby given that the Clayton Planning Board will hold an evidentiary hearing on **Tuesday, May 28, 2019 at 6:00pm** at Town Hall, 111 E. Second Street, to consider the variance application described above. Please see the map on the back of this letter showing the property.

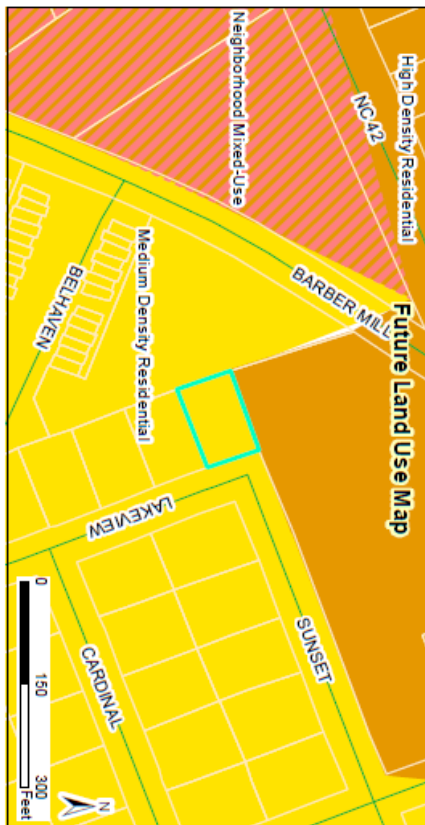
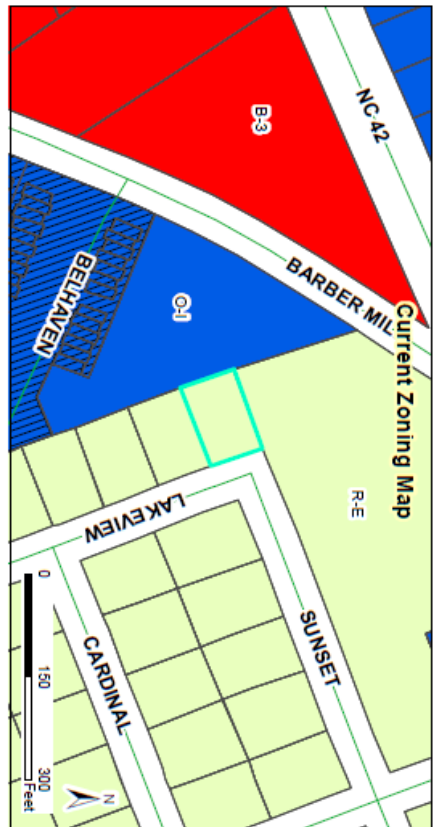
According to Section 155.719(C)(1) of the Town of Clayton Unified Development Code, the Planning Board is authorized to approve a variance to certain standards of the Unified Development Code if they will not be contrary to the public interest.

Based upon records in the Johnston County Tax Office, you are the owner of property that is within 100 feet of this request. You are invited to attend this meeting. During an evidentiary hearing, the Planning Board must make findings of fact based upon sworn testimony and other credible evidence. Citizens may give testimony in an evidentiary hearing after they have taken an oath. This is an open meeting and interested persons are invited to attend.

If you should need additional assistance or information, please contact Damiere Powell in the Planning Department at (919) 553-5002 or dpowell@townofclaytonnc.org.

Sincerely,

Damiere Powell
Planner



Staff Report Map



Request:
2019-65-VAR - Lot 73 Clayton Estates - Request for
Variance from R-E lot size and setback requirements.

Applicant: Ana Cristina Penaloza Avila
 Property Owners: Carlos Penaloza Jr.
 Tag #: 05H03029

Document Title: C:\97\ADMIN\GIS\BALANCE\2019\2019-65-VAR-601 Lakemew Drive\Staff Report Map - 2019-65-VAR-601 Lakemew Drive.mxd

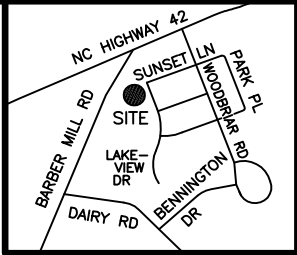
Produced by: TDC Planning
 Date: 04/16/2019
 Drawn by: TDC Planning
 Checked by: TDC Planning
 Approved by: TDC Planning
 Legend

- Site
- 100-yr Flood Zone
- Thoroughfare Overlay
- Watershed Protection Overlay

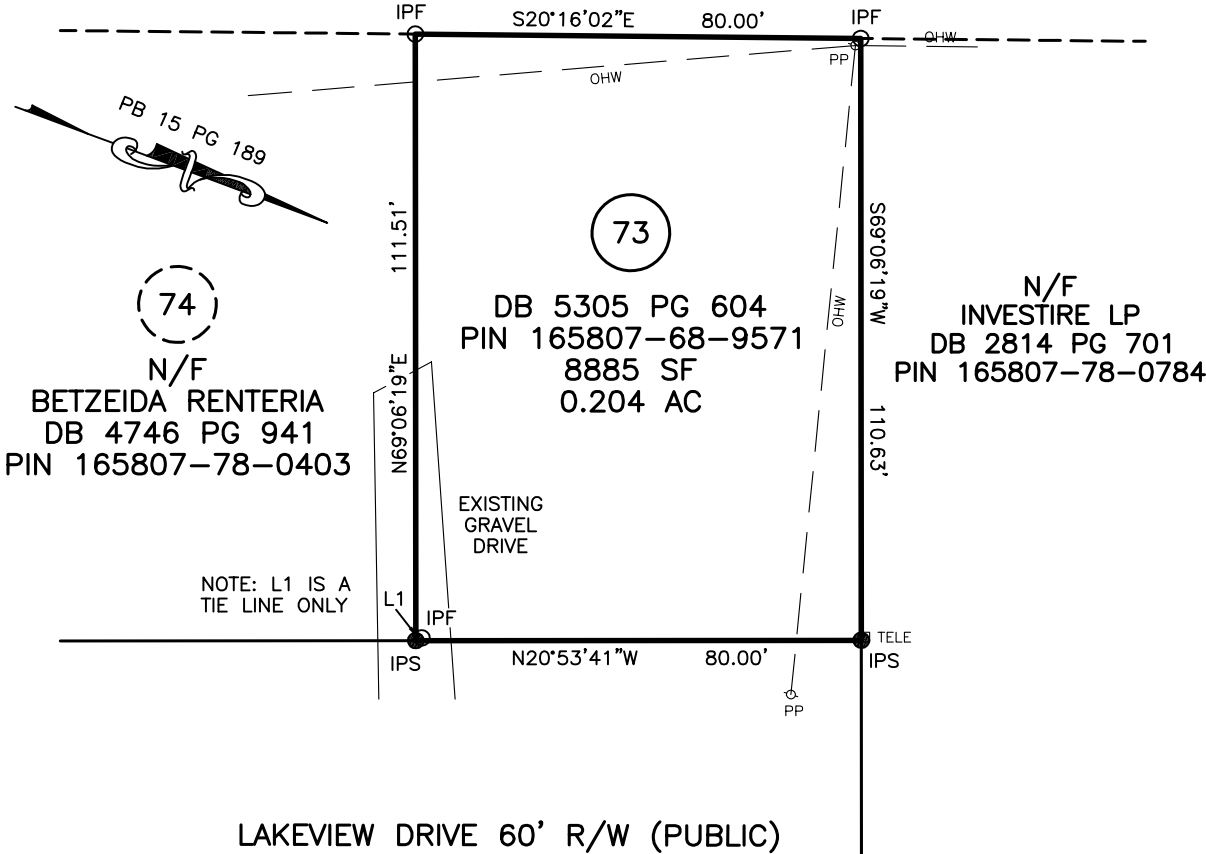
- NOTES:
- 1) ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES
 - 2) AREAS COMPUTED BY COORDINATE METHOD
 - 3) PROPERTY SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD
 - 4) NO HORIZONTAL CONTROL FOUND WITHIN 2000 FEET OF SURVEY
 - 5) BOUNDARY PREDICATED ON EXISTING MONUMENTATION FOUND IN THE FIELD
 - 6) THIS SURVEY WAS PERFORMED AND MAPPED WITHOUT THE BENEFIT OF A TITLE SEARCH BY A LICENSED NORTH CAROLINA REAL ESTATE ATTORNEY. THIS SURVEYOR ASSUMES NO LIABILITY FROM ANY FACTS AND/OR OMISSIONS (SUCH AS EASEMENTS OR UNDERGROUND PIPES, ETC.) THAT MAY BE REVEALED BY A TITLE SEARCH BY A LICENSED NORTH CAROLINA REAL ESTATE ATTORNEY.

LINE	BEARING	DISTANCE
L1	S45°51'56"E	1.19'

N/F
KURT HENDRICKSON
DB 3433 PG 37
PIN 165807-68-8415



VICINITY MAP
(not to scale)



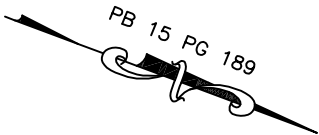
LOT 73
CLAYTON ESTATES

LEGEND ○ IPF IRON PIPE FOUND ● IPS IRON PIN SET ○ RRSF RAILROAD SPIKE ○ 1SFD 1 STORY FRAME DWELLING WV WATER VALVE WM WATER METER CO CLEAN OUT S.F. SQUARE FEET 100.0 ELEVATIONS CATV CABLE TV BOX ELEC ELECTRIC BOX PB PLAT BOOK PP POWER POLE DB DEED BOOK --- LINES NOT SURVEYED			PHYSICAL SURVEY FOR CARLOS PENALOZA JR. 501 LAKEVIEW DRIVE, CLAYTON, NC 27520 CLAYTON TOWNSHIP JOHNSTON COUNTY NORTH CAROLINA	
NOT PREPARED FOR RECORDATION			TRUE LINE SURVEYING, P.C. 205 WEST MAIN STREET CLAYTON, N.C. 27520 TELEPHONE: (919) 359-0427 FAX: (919) 359-0428 www.truelinesurveying.com C-1857	
I, CURK T. LANE CERTIFY THAT THIS MAP WAS DRAWN FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, THAT THE ERROR OF CLOSURE AS CALCULATED IS 1:10,000+. THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES.				
L - 3990 REGISTRATION NUMBER	SURVEYOR	DATE OF SURVEY: 02/28/19	DRAWN: DANNY	
		DATE: 3/28/19	CHECKED: CURK	

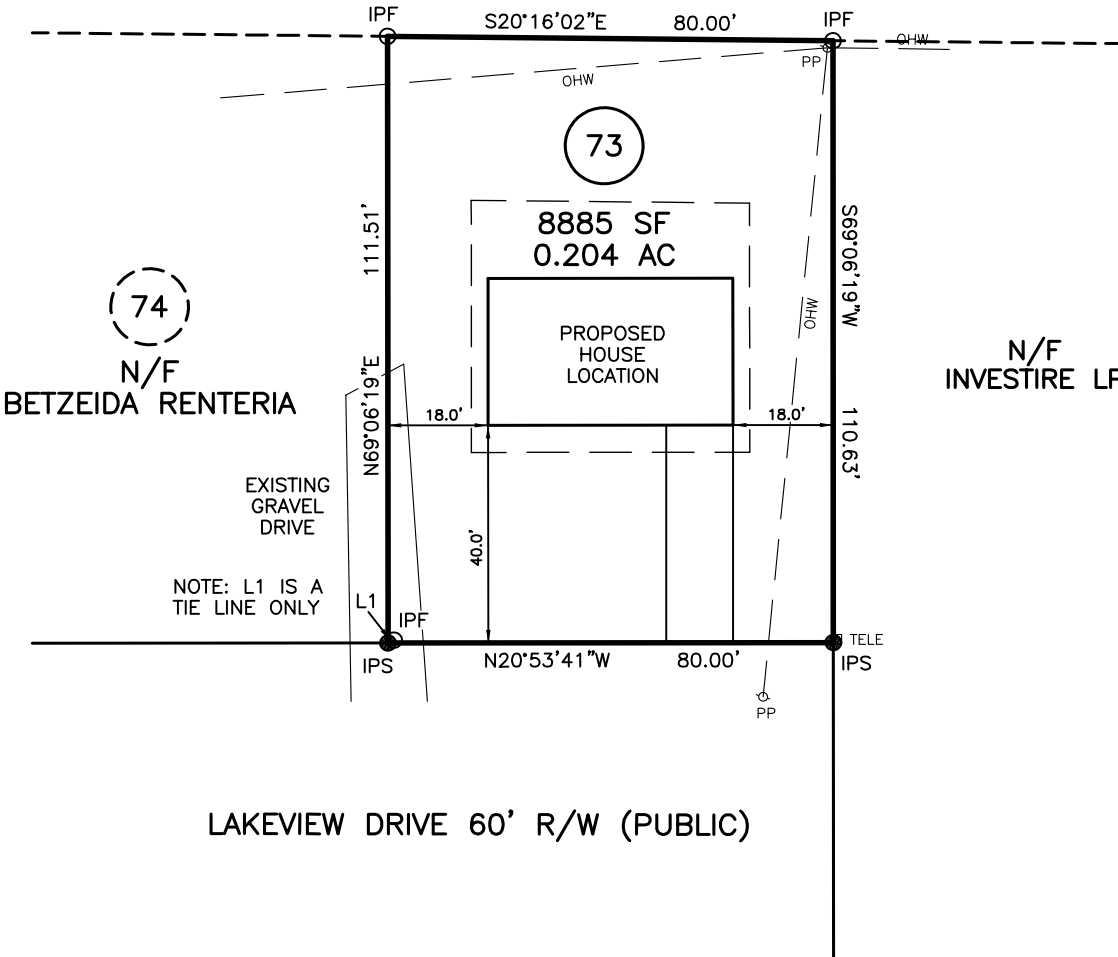
MINIMUM BUILDING SETBACKS
ZONING: R-E

FRONT.....35 FEET
SIDE.....15 FEET
REAR.....30 FEET

LINE	BEARING	DISTANCE
L1	S45°51'56"E	1.19'



N/F
KURT HENDRICKSON



LOT COVERAGE TABLE

HOUSE.....1188 SF
LOT AREA.....08885 SF
PERCENTAGE OF IMPERVIOUS AREA.....13.4%

DOES LOT HAVE STATE ROAD FRONTAGE? ☒ YES ☐ NO
DOES LOT HAVE RECORDED EASEMENT? ☐ YES ☒ NO

DRIVEWAY OR ACCESS DRIVE DRAINAGE CULVERT

TYPE AND SIZE _____

STORMWATER ADMINISTRATOR SIGNATURE _____

* THIS PLOT PLAN IS FOR PRECONSTRUCTION
PURPOSES ONLY.

NOTES:

PUBLIC WATER SYSTEM ☒ YES ☐ NO
WELL ☐ YES ☒ NO
PUBLIC SEWER SYSTEM ☒ YES ☐ NO
HOUSE DIMENSIONS: 44' x 27'

IMPERVIOUS SURFACE TABLE

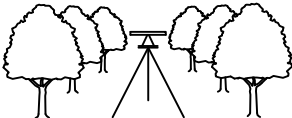
HOUSE.....1188 SF
DRIVE & WALK.....0480 SF
TOTAL.....1668 SF
LOT AREA.....08885 SF
PERCENTAGE OF IMPERVIOUS AREA.....18.8%

PLOT PLAN
OF
LOT 73
CLAYTON ESTATES
TOWN OF CLAYTON
FOR
CARLOS PENALOZA JR.

SCALE: 1" = 30'



TRUE LINE SURVEYING, P.C.



205 W. MAIN STREET
CLAYTON, N.C. 27520
TELEPHONE: (919) 359-0427
FAX: (919) 359-0428
www.truelinesurveying.com

C-1589

JOB NO: 2107.011 DRAWN: DANNY DATE: 3/28/19 CHECKED: CURK



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

Planning Board
May 28, 2019

STAFF REPORT

Application Number: 2019-65-VAR
Project Name: 501 Lakeview Drive Variance

Tag #: 05H03029
Overlay: None
Applicant: Ana Cristina Penaloza Avilez
Owner: Carlos Penaloza Jr.
Location: 501 Lakeview Drive, Clayton, NC

Public Noticing:

- Letters mailed May 3, 2019
- Sign posted May 3, 2019
- Newspaper Ad advertised May 15, 2019 and May 22, 2019

REQUEST: The applicant is requesting a variance from the following code section:

UDC Section	Requirement	Variance Request
155.203(G)(6) Conventional Subdivision Standards: Minimum Lot Area (Square Feet)	Residential-Estate Zoning District Minimum Lot Area Requirement: - Minimum Lot Area (Square Feet): 20,000 SF	The variance request is for a reduction of the minimum lot area to 8,885 square feet.

SITE DATA:

Acreage: 0.204 acres
Existing Use: Vacant



STAFF ANALYSIS AND COMMENTARY:

The applicant is requesting a variance from the above referenced code section. Please see below for an analysis:

Minimum Lot Area

The applicant is requesting a variance from minimum lot area requirements outlined in section 155.203(G)(6), which has a minimum lot size requirement of 20,000 square feet for the Residential-Estate zoning district. Currently, the existing lot area is only 8,885 square feet and is considered nonconforming, as it does not meet current lot size requirements.

Zoning District	Unit type	Lot Standards						Density (dwelling units/ acre)	Minimum Setbacks (ft.)				Building Standards		
		Min. Site Area (acres)	Min. Parcel Size (sq. ft)	Min. lot area (sq. ft)	Min. lot width (ft.)	Max. lot coverage (%)	Max. impervious surface (%)		Front	Side Interior	Side Street	Rear	Max. height (ft.)	Min. dwelling unit Size (sq. ft)	Accessory structures
R-E	Single Family with public water and sewer	-	-	20,000	80	35	50	2.1	35	15	25	30	35	1,400	See § 155.308
	Single Family with public water and septic	-	-	25,000	80	35	50	1.7	35	15	25	30	35	1,400	
	Single Family with well and septic	-	-	40,000	100	35	50	1.0	35	15	25	30	35	1,400	

The applicant is requesting a variance to place a Class A Manufactured home on an existing lot that has a lot area of 8,885 square feet which is 11,115 square feet below the required square footage of the lot.

Findings of Fact:

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

- **Applicant Response:** “Existing falls beneath required acreage allowance in R-E zoning.”
 - **Staff Commentary:** The subject property is an existing nonconforming lot. The applicant will meet all applicable setbacks with the proposed structure but they will not meet the minimum lot size of 20,000sqft.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- **Applicant Response:** “The hardship results from the fact the lot was created prior to the regulated uses of the current R-E zoning size and shape.”
 - **Staff Commentary:** The subject property, as well as some other lots within the Clayton Estates Subdivision, do not conform with current conventional subdivision standards for the Residential-Estate zoning district outlined in section 155.203(G)(6) of the Unified Development Code.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- **Applicant Response:** “The hardship results from the fact that the lot was created prior to the regulated uses of the current R-E zoning size and shape.”
 - **Staff Commentary:** The hardship is existing due to the property’s designation as R-E, Residential Estate Zoning.
4. The requested variances are consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
- **Applicant Response:** “Correct. The rest of the neighborhood is a mobile home park.”
 - **Staff Commentary:** The requested variance is in accordance with section 155.110 of the UDC, which addresses nonconforming lots. As defined by 155.110(C), nonconforming lots are lots that were lawfully created before *Chapter 155: Unified Development Code* was adopted or amended, but does not conform to the minimum lot acreage and dimensional criteria. 155.110(C)(2) states that nonconforming residential substandard lots may be granted a variance for development.

CONSIDERATIONS:

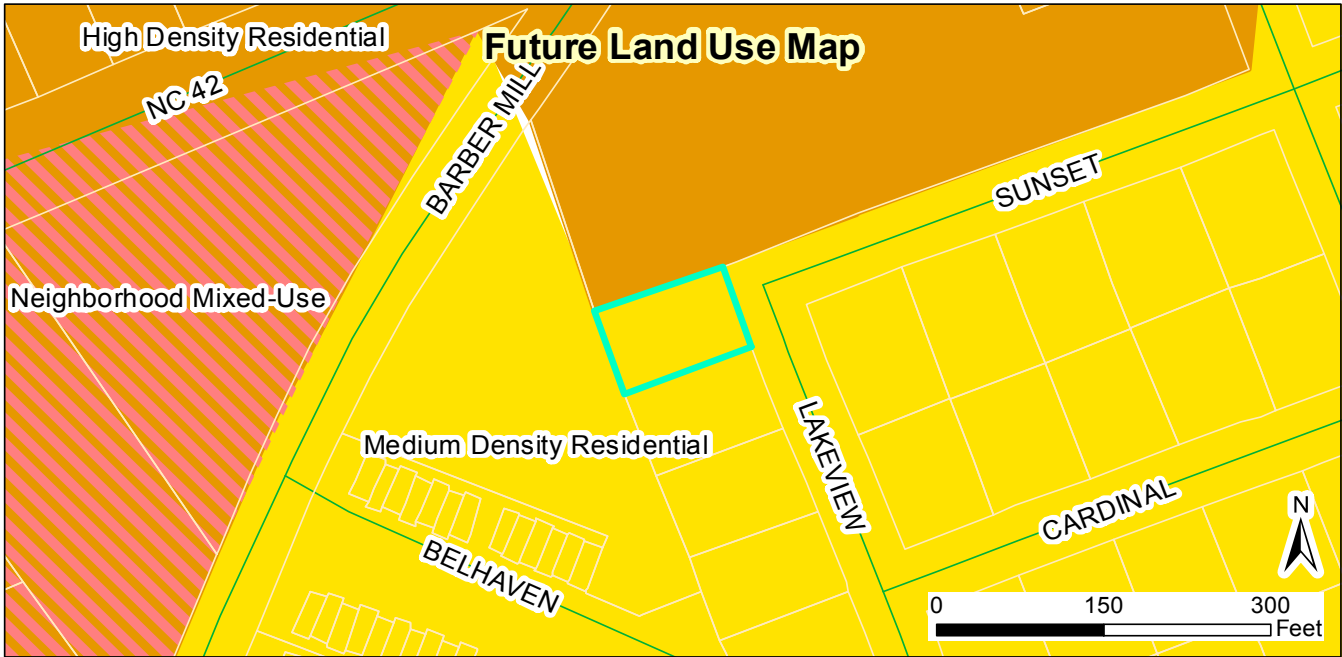
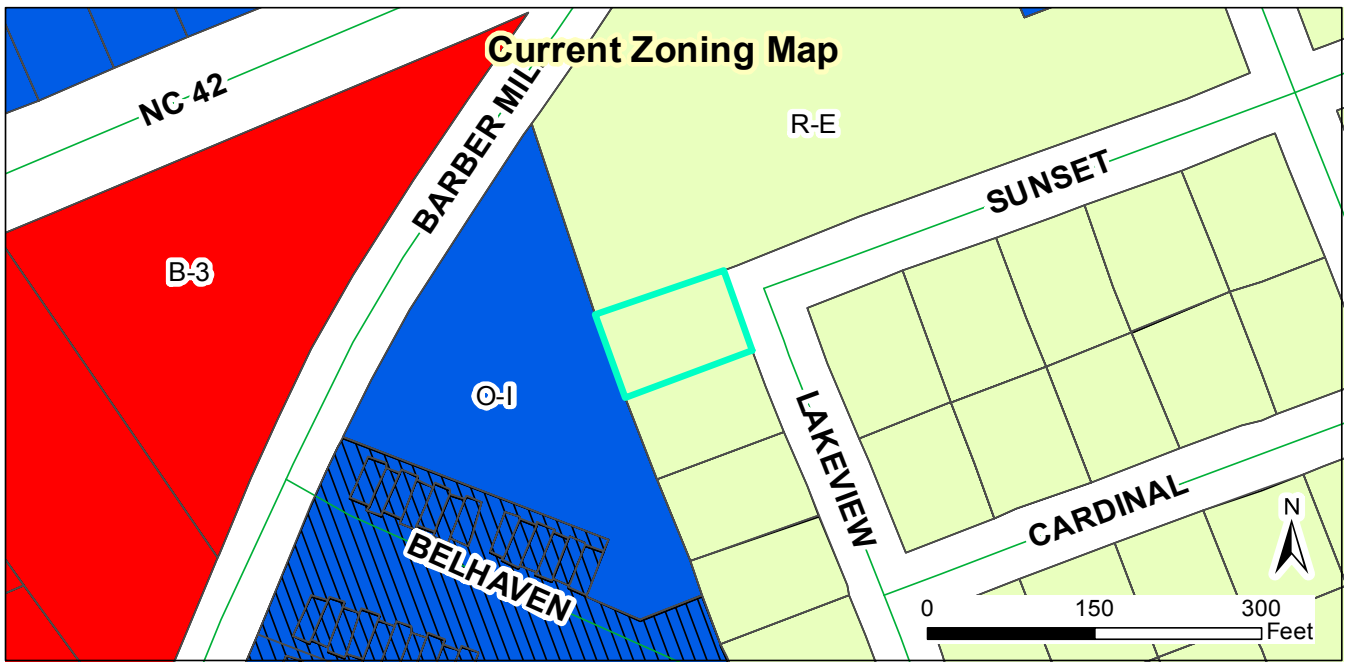
- The Planning Board shall review and make a final decision regarding Variance applications.
 - Per UDC requirements, no variance shall be approved unless all of the Findings of Fact are made.
-

FINDINGS OF FACT:

The applicant has addressed the Findings of Fact, as outlined above in this report and included as a part of the application.

ATTACHMENTS:

1. Application
2. Owner's Consent Form
3. Staff Report Maps
4. Site Plan
5. Newspaper Ad- public notice
6. Adjacent Property Letter- public notice
7. Adjacent Property Owner List



Request:
2019-65-VAR - 501 Lakeview Drive - Request for a
variance from R-E minimum lot area requirements.

Applicant: Ana Cristina Penaloza Avilez
 Property Owners: Carlos Penaloza Jr.
 Tag #: 05H03029

Staff Report Map



Document Path: O:\PLANNING\VARIANCE\2019\2019-65-VAR 501 Lakeview Drive\Map\Staff Report Map - 2019-65-VAR 501 Lakeview Drive.mxd

- Legend**
- Site
 - 100-yr Flood Zone
 - Thoroughfare Overlay
 - Watershed Protection Overlay

04/15/2019
 Produced by: TOC Planning
 Disclaimer: Town of Clayton assumes no legal
 responsibility for the quality of the data
 represented here.



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

VARIANCE APPLICATION COVER SHEET

Name of Project: Lot 76 Clayton Estates **Date:** 3/29/19

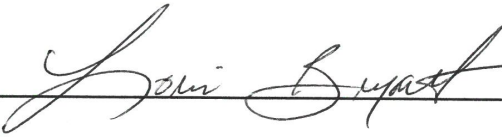
Applicant Name: True Line Survey

The following checklist to be completed by applicant:

- ☒ [✓] Pre-Application Meeting on: 2/20 with Ana Penaloza
- ☒ [✓] Application Review fee
- ☒ [✓] Advertisement Fee
- ☒ [✓] Completed Application
- ☒ [✓] Owner's Consent Form
- ☒ [✓] Adjacent Property Owner's List
- ☒ [✓] Set of stamped, addressed, empty envelopes for adjacent property owner notification
- ☒ [✓] Copy of plan sets in PDF on USB

11 plan sets of the following:

- ☒ [✓] Preliminary plan sheet depicting the variance request
- ☒ [✓] Signed and sealed Boundary Survey

Reviewed by: 



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

VARIANCE APPLICATION

Application Fee: \$250.00

Advertisement Fee: \$200.00

Please note if a variance is sought "after the fact", the application fee is \$500.00

SITE INFORMATION

Name of Project: Lot 76 Clayton Estates

Acreage of Property: 0.209 ac

Zoning District: R-E

County Tag #: 05H03197E

NC Pin #: 165807-78-0267

Address/Location: 507 Lakeview Dr., Clayton, NC 27520

Existing Use: Residential

Proposed Use: Residential

Is project within a Planned Development? ☐ Yes ☒ No If yes, which: _____

Is project within an Overlay District? ☐ Yes ☒ No If yes, which: _____

APPLICANT INFORMATION

Applicant: True Line Surveying

Mailing Address: 205 W. Main St., Clayton, NC 27520

Phone Number: 919-359-0427

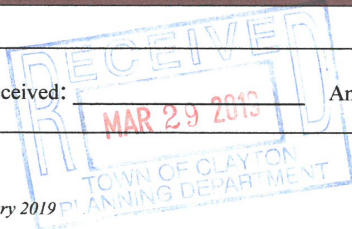
Fax: 919-359-0428

Contact Person: Curk Lane or Molly Herring

Email Address: curk@truelinesurveying.com or molly@truelinesurveying.com

FOR OFFICE USE ONLY

Date Received:



Amount Paid:

\$250.00

Permit Number:

2019-66-VAR

January 2019

2 of 5

PROPERTY OWNER INFORMATION

Name: Carlos Penaloza Jr.

Mailing Address: 1108 Cardinal Ct., Clayton, NC 27520

Phone Number:

Fax:

Email Address: pzframing@yahoo.com

BURDEN OF PROOF / EXPLANATION OF REQUEST

Variance(s) Requested: List each requested variance. Attach additional pages if necessary.

Code Section: 155.203 general use district standards

Code Requirement: Table 2-2 conventional subdivision regulations

Variance Sought (describe specific request):

Use this section to describe the request. An applicant seeking a variance has the burden of presenting evidence sufficient to allow the Board of Adjustment to reach conclusions for the Required Findings of Fact. Attach additional sheets/pertinent information as necessary.

This lot was created prior to the use of R-E zoning district requirements but falls beneath the required acreage listed in the R-E zoning district.

REQUIRED FINDINGS OF FACT

Section 155.716(F)(2) of the Unified Land Development Code requires applications requesting a Variance to address the following findings. The burden of proof is on the applicant and failure to adequately address the findings may result in denial of the application. Please attach additional pages if necessary.

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

Existing falls beneath require acreage allowance in R-E zoning.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from person 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 result from the fact the lot was created prior to the regulated uses of the current R-E zoning size and shape.

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

The hardship result from the fact the lot was created prior to the regulated uses of the current R-E zoning size and shape.

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

Correct. The rest of the neighborhood is a mobile home park.

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Board of Adjustment of the Town of Clayton to approve the subject Variance request. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Clayton, North Carolina, and will not be returned.

Molly Herring
Print Name

Molly Herring
Signature of Applicant

3/29/19
Date



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

OWNER'S CONSENT FORM

Consent is required from the property owner(s) if an agent will act on their behalf. A separate form is required from each owner. Consent is valid for one year from date of notary, unless otherwise specified. All fields must be completed.

Project Name: lot 77 Clayton Estates Address or PIN #: 1001 Lakeview Ct.

AGENT/APPLICANT INFORMATION:

True Line Surveying
(Name - type, print clearly)

205 W. Main St.
(Address)
Clayton NC 27520
(City, State, Zip)

I hereby give **CONSENT** to the above referenced agent/applicant to act on my behalf, to submit applications and all required materials and documents, and to attend and represent me at all meetings and public hearings pertaining to the following processes (*list applicable requests*):

variance

Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify that I have authority to execute this consent form as/on behalf of the property owner. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I further agree to all terms and conditions which may be imposed as part of the approval of this application.

OWNER AUTHORIZATION:

Carlos Penaloza
(Name - type, print clearly)

1108 cardinal Ct
(Address)

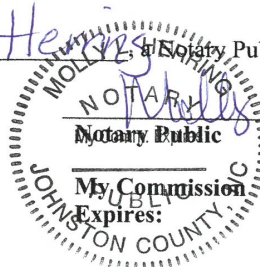
Carlos Penaloza
(Owner's Signature)

Clayton, NC, 27520
(City, State, Zip)

STATE OF NC
COUNTY OF Johnston

Sworn and subscribed before me Molly L. Herzig, a Notary Public for the above State and County, this the 29 day of March, 2019.

SEAL



July 2018

The lot size does not meet the minimum lot size required for zone R-E. Our lot has 9.095 sq feet. we would place a mobile home on the lot with no violation to the minimum setbacks required. Our setbacks would be 18' to the side and 40' to the front and no violation to the rear setbacks.

Quentin Ruff

4-8-19

10 of 76



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

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AGENT/APPLICANT INFORMATION:

True Line Surveying
(Name - type, print clearly)

205 W. Main St.
(Address)
Clayton NC 27520
(City, State, Zip)

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variance

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OWNER AUTHORIZATION:

Carlos Penaloza
(Name - type, print clearly)

1108 cardinal Ct
(Address)

Carlos Penaloza
(Owner's Signature)

Clayton, NC, 27520
(City, State, Zip)

STATE OF

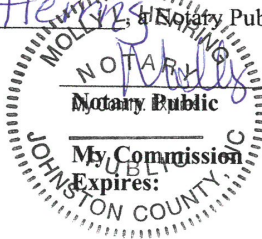
COUNTY OF

NC

Johnston

Sworn and subscribed before me Molly L. Herzig, a Notary Public for the above State and County, this the 29 day of March, 2019.

SEAL



July 2018

Public Notice

In accordance with NC GS 160A-364, the Clayton Planning Board will conduct the following evidentiary hearing on Tuesday, May 28, 2019, at 6 PM in the Town Council Chambers in Town Hall located at 111 East Second Street to consider the following:

- 2019-64-VAR 703 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area, minimum lot width, and side interior setback requirements of the proposed subdivision of an existing lot. The 0.43 acre property is zoned Residential-Estate; TAG # 05E99005N.
- 2019-65-VAR 501 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area requirement of an existing lot. The 0.204 acre property is zoned Residential-Estate; TAG # 05H03029.
- 2019-66-VAR 507 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area requirement of an existing lot. The 0.209 acre property is zoned Residential-Estate; TAG # 05H03197E.
- 2019-67-VAR 601 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area and lot width requirements of an existing lot. The 0.194 acre property is zoned Residential-Estate; TAG # 05H03190A.

During an evidentiary hearing, the Planning Board must make findings of fact based upon sworn testimony and other credible evidence. Citizens may give testimony in an evidentiary hearing after they have taken an oath. This is an open meeting and interested persons are invited to attend.

Damiere Powell, Planner

919-553-5002

The Johnstonian News

Please advertise on the following dates:

May 15, 2019

May 22, 2019

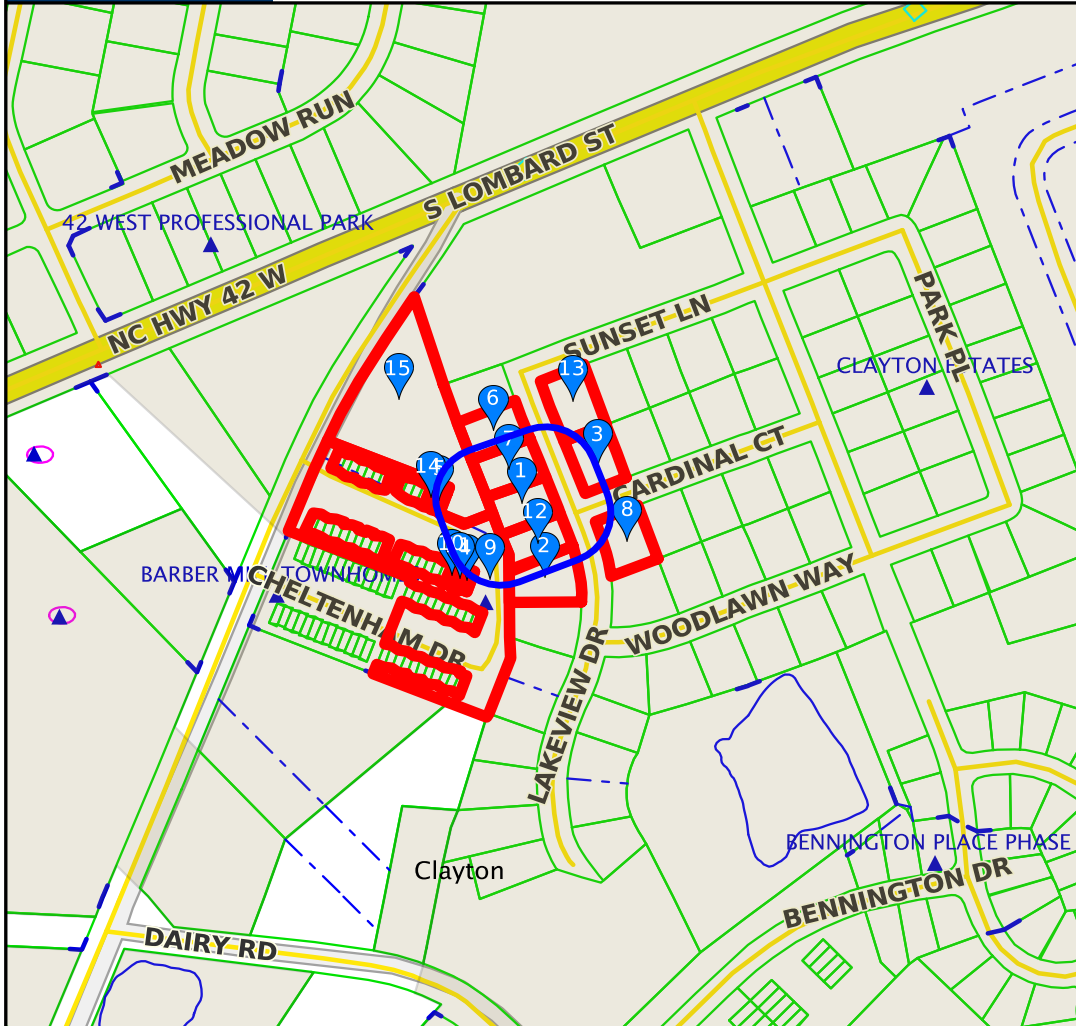
Dates are the two Wednesdays prior to the hearing

Affidavit of publication required.



*** DISCLAIMER ***

Johnston County assumes no legal responsibility for the information represented here.



Result 1

id: 05H03197E
Tag: 05H03197E
Owner Name 1: PENALOZA, CARLOS JR.
Owner Name 2:
Mail Address 1: 1108 CARDINAL CT
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-2802
Book: 05099
Page: 0840

Result 2

id: 05E99023W
Tag: 05E99023W
Owner Name 1: DEAN, MARK
Owner Name 2: DEAN, DONNA
Mail Address 1: 101 PISGAH DR
Mail Address 2:
Mail Address 3: GARNER, NC 27529-0000
Book: 03956
Page: 0520



Scale: 1:3928 - 1 in. = 327.36 feet

(The scale is only accurate when printed landscape on a 8 1/2 x 11 size sheet with no page scaling.)

Johnston County GIS
April 23, 2019



*** DISCLAIMER ***

Johnston County assumes no legal responsibility for the information represented here.

Result 3

id: 05E99024T
Tag: 05E99024T
Owner Name 1: FLORES, HONORATO CRUZ
Owner Name 2:
Mail Address 1: 2017 MADELEINE DRIVE
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-0000
Book: 04183
Page: 0422

Result 4

id: 05G02038E
Tag: 05G02038E
Owner Name 1: BAKER FAMILY PROPERTIES
LLC
Owner Name 2:
Mail Address 1: 11 CHELTENHAM DR
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-7252
Book: 04171
Page: 0332

Result 5

id: 05G02038R
Tag: 05G02038R
Owner Name 1: SEVILLA PROPERTIES, LLC
Owner Name 2:
Mail Address 1:
Mail Address 2: PO BOX 31241
Mail Address 3: RALEIGH, NC 27622-1241
Book: 05213
Page: 0054

Result 6

id: 05H03029J
Tag: 05H03029J
Owner Name 1: RENTERIA, BETZEIDA AVILEZ
Owner Name 2:
Mail Address 1: 1108 CARDINAL CT
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-2802
Book: 04746
Page: 0941

Result 7

id: 05E99043D
Tag: 05E99043D
Owner Name 1: JOYCE J DAVIS REVOCABLE
TRUST
Owner Name 2: DAVIS, JOYCE J TRUSTEE
Mail Address 1: 123 WESTOVER DR
Mail Address 2:
Mail Address 3: KNIGHTDALE, NC 27545-0000
Book: 01941
Page: 0718

Result 8

id: 05E99024N
Tag: 05E99024N
Owner Name 1: SALDANA, CARLOS EDUARDO
G
Owner Name 2: MARTINEZ, MENDOZA
VICTORIA
Mail Address 1: 600 LAKEVIEW DRIVE
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-0000
Book: 03115
Page: 0044



*** DISCLAIMER ***

Johnston County assumes no legal responsibility for the information represented here.

Result 9

id: 05G02038S
Tag: 05G02038S
Owner Name 1: BARBER MILL COMMUNITY
ASSOCIATION INC
Owner Name 2:
Mail Address 1: 205 W MILLBROOK RD STE 210
Mail Address 2:
Mail Address 3: RALEIGH, NC 27609-4492
Book: 01622
Page: 0333

Result 11

id: 05G02038D
Tag: 05G02038D
Owner Name 1: HATHAWAY, JEFFREY
Owner Name 2: HATHAWAY, HOLLY
Mail Address 1: 42 BELHAVEN DR
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-4403
Book: 04964
Page: 0208

Result 13

id: 05H03197L
Tag: 05H03197L
Owner Name 1: SALGADO, ARACELI
PENALOZA
Owner Name 2:
Mail Address 1: 502 LAKEVIEW DR
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-2804
Book: 04580
Page: 0117

Result 15

id: 05G02011F
Tag: 05G02011F
Owner Name 1: HENDRICKSON, KURT M
Owner Name 2: HENDRICKSON, GAIL
Mail Address 1: 1224 BEND OF THE BARTON
Mail Address 2:
Mail Address 3: RALEIGH, NC 27614-0000
Book: 03433
Page: 0037

Result 10

id: 05G02038C
Tag: 05G02038C
Owner Name 1: POUNDS, LINDA K.
Owner Name 2: ETTEFAGH, DANIEL A.
Mail Address 1: 3910 VICTORIA TOWNES LN
Mail Address 2:
Mail Address 3: RALEIGH, NC 27612-4330
Book: 05261
Page: 0370

Result 12

id: 05H03190A
Tag: 05H03190A
Owner Name 1: PENALOZA, CARLOS JR.
Owner Name 2:
Mail Address 1: 1108 CARDINAL CT
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-2802
Book: 05099
Page: 0840

Result 14

id: 05G02038Q
Tag: 05G02038Q
Owner Name 1: SEVILLA PROPERTIES, LLC
Owner Name 2:
Mail Address 1:
Mail Address 2: PO BOX 31241
Mail Address 3: RALEIGH, NC 27622-1241
Book: 05213
Page: 0054



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

May 3, 2019

NOTICE

SUBJECT: **Project:** 2019-66-VAR – Request for a reduction of the minimum lot area requirement outlined in the Unified Development Code.

Address: 507 Lakeview Drive, Clayton, NC

Tag: 05H03197E

Applicant: Ana Cristina Penaloza Avilez

Dear Clayton Area Property Owner:

Notice is hereby given that the Clayton Planning Board will hold an evidentiary hearing on **Tuesday, May 28, 2019 at 6:00pm** at Town Hall, 111 E. Second Street, to consider the variance application described above. Please see the map on the back of this letter showing the property.

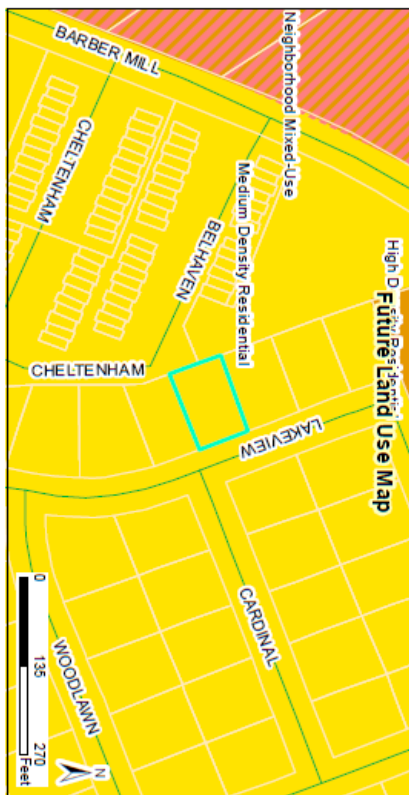
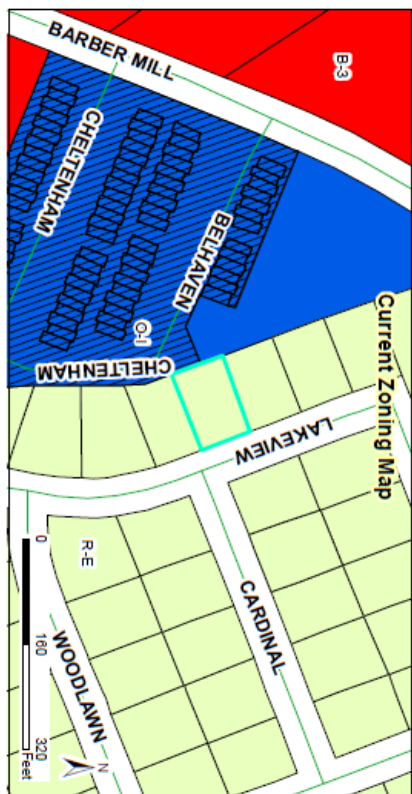
According to Section 155.719(C)(1) of the Town of Clayton Unified Development Code, the Planning Board is authorized to approve a variance to certain standards of the Unified Development Code if they will not be contrary to the public interest.

Based upon records in the Johnston County Tax Office, you are the owner of property that is within 100 feet of this request. You are invited to attend this meeting. During an evidentiary hearing, the Planning Board must make findings of fact based upon sworn testimony and other credible evidence. Citizens may give testimony in an evidentiary hearing after they have taken an oath. This is an open meeting and interested persons are invited to attend.

If you should need additional assistance or information, please contact Damiere Powell in the Planning Department at (919) 553-5002 or dpowell@townofclaytonnc.org.

Sincerely,

Damiere Powell
Planner



Staff Report Map

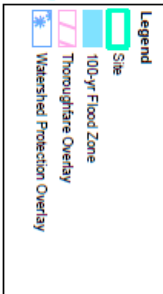
Request:
2019-66-VAR - 507 Lakeview Dr - Request for a
Variance from R-E minimum lot area requirements.

Applicant: Ana Cristina Penaloza Avilez
 Property Owners: Carlos Penaloza Jr.
 Tag #: 09H03197E



Document Path: C:\PLANNING\BLENDED\2019\45-046 507 Lakeview Drive\Staff Report Map - 2019-06-06 507 Lakeview Drive

Produced by: TDC Planning
 Date: 06/15/2019
 Disclaimer: Town of Cary does not warrant the accuracy of the information provided herein.

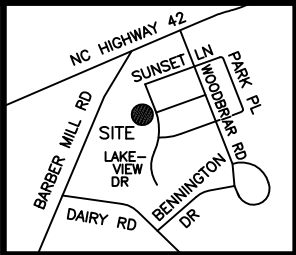


NOTES:
1) ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES
2) AREAS COMPUTED BY COORDINATE METHOD
3) PROPERTY SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD
4) NO HORIZONTAL CONTROL FOUND WITHIN 2000 FEET OF SURVEY
5) BOUNDARY PREDICATED ON EXISTING MONUMENTATION FOUND IN THE FIELD
6) THIS SURVEY WAS PERFORMED AND MAPPED WITHOUT THE BENEFIT OF A TITLE SEARCH BY A LICENSED NORTH CAROLINA REAL ESTATE ATTORNEY. THIS SURVEYOR ASSUMES NO LIABILITY FROM ANY FACTS AND/OR OMISSIONS (SUCH AS EASEMENTS OR UNDERGROUND PIPES, ETC.) THAT MAY BE REVEALED BY A TITLE SEARCH BY A LICENSED NORTH CAROLINA REAL ESTATE ATTORNEY.

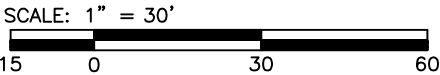
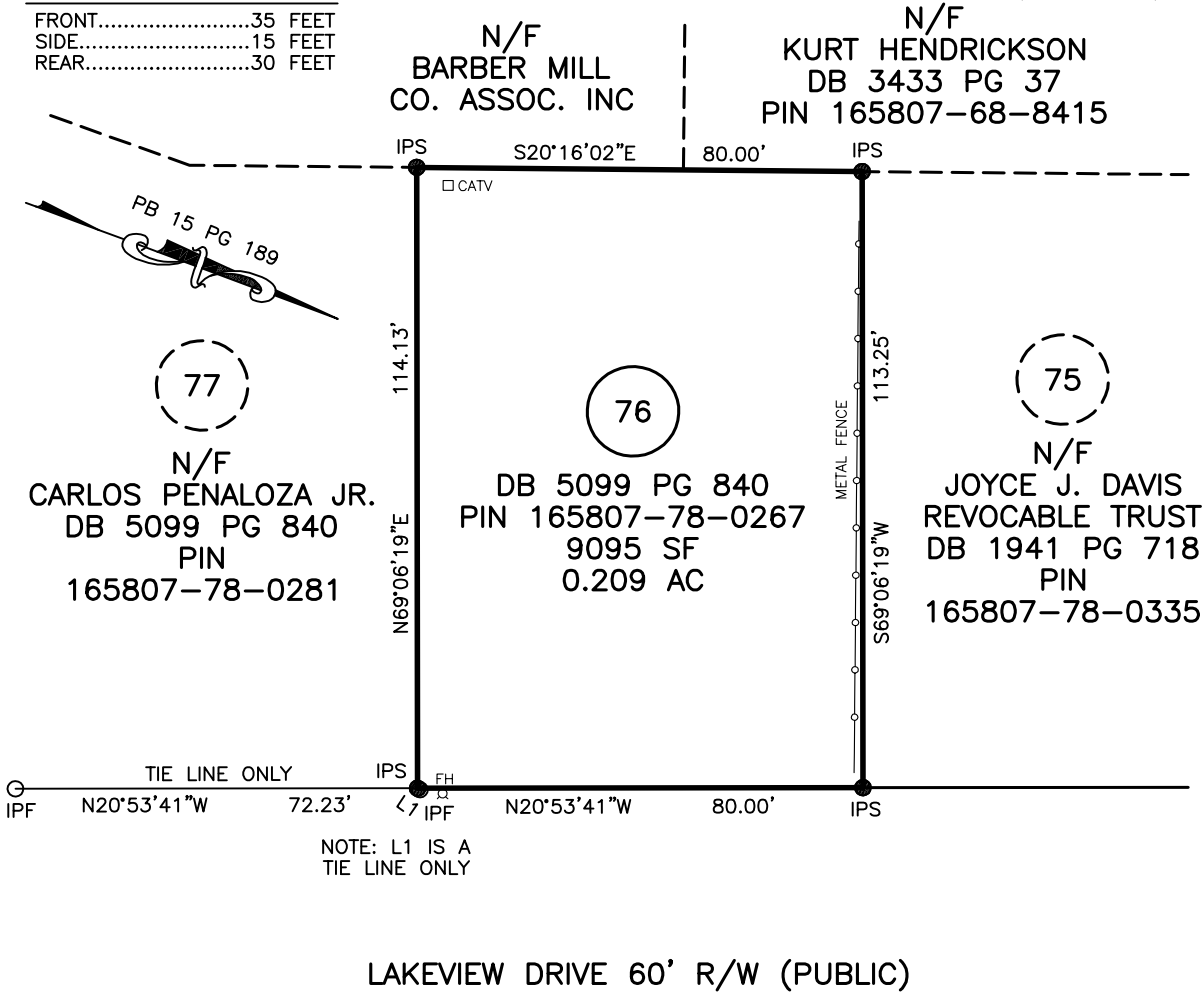
MINIMUM BUILDING SETBACKS
ZONING: R-E

FRONT.....35 FEET
SIDE.....15 FEET
REAR.....30 FEET

LINE	BEARING	DISTANCE
L1	S12°36'43"W	0.48'



VICINITY MAP
(not to scale)



LOT 76 CLAYTON ESTATES

LEGEND

- IPF IRON PIPE FOUND
- IPS IRON PIN SET
- RRSF RAILROAD SPIKE
- 1SFD 1 STORY FRAME DWELLING
- WV WATER VALVE
- WM WATER METER
- CO CLEAN OUT
- S.F. SQUARE FEET
- 100.0 ELEVATIONS
- CATV CABLE TV BOX
- ELEC ELECTRIC BOX
- PB PLAT BOOK
- PP POWER POLE
- DB DEED BOOK
- LINES NOT SURVEYED

NOT PREPARED FOR RECORDATION

JOB NO. 2107.009

I, CURK T. LANE CERTIFY THAT THIS MAP WAS DRAWN FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, THAT THE ERROR OF CLOSURE AS CALCULATED IS 1:10,000+ THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES.

L - 3990
REGISTRATION NUMBER SURVEYOR

PHYSICAL SURVEY

FOR

CARLOS PENALOZA JR.

507 LAKEVIEW DRIVE, CLAYTON, NC 27520

CLAYTON TOWNSHIP JOHNSTON COUNTY NORTH CAROLINA

TRUE LINE SURVEYING, P.C.

205 WEST MAIN STREET
CLAYTON, N.C. 27520
TELEPHONE: (919) 359-0427
FAX: (919) 359-0428
www.truelinesurveying.com

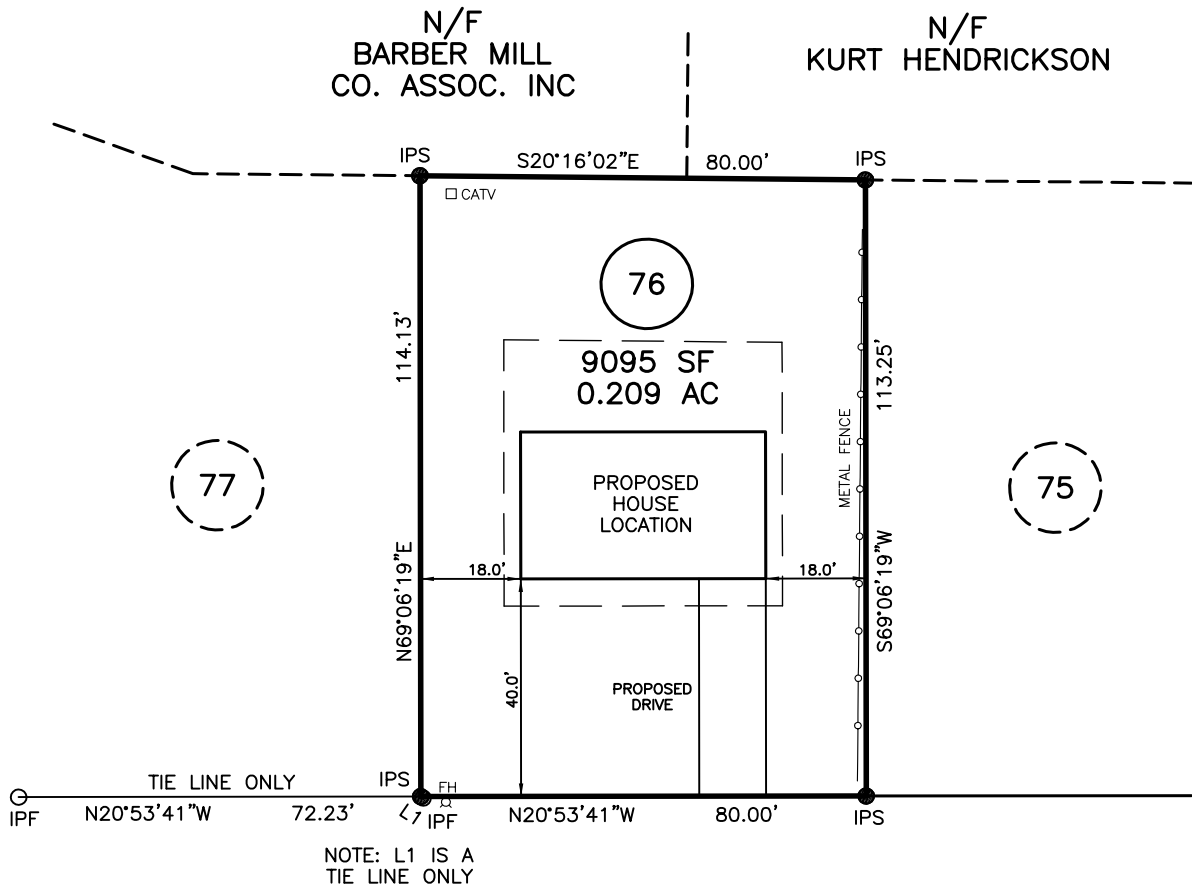
C-1857

DATE OF SURVEY: 02/28/19 DRAWN: DANNY DATE: 3/28/19 CHECKED: CURK

MINIMUM BUILDING SETBACKS
ZONING: R-E

FRONT.....35 FEET
SIDE.....15 FEET
REAR.....30 FEET

LINE	BEARING	DISTANCE
L1	S12°36'43"W	0.48'



LAKEVIEW DRIVE 60' R/W (PUBLIC)

LOT COVERAGE TABLE

HOUSE.....1188 SF
LOT AREA.....09095 SF
PERCENTAGE OF IMPERVIOUS AREA.....13.1%

DOES LOT HAVE STATE ROAD FRONTAGE? ☒ YES ☐ NO
DOES LOT HAVE RECORDED EASEMENT? ☐ YES ☒ NO

DRIVEWAY OR ACCESS DRIVE DRAINAGE CULVERT

TYPE AND SIZE _____

STORMWATER ADMINISTRATOR SIGNATURE _____

* THIS PLOT PLAN IS FOR PRECONSTRUCTION
PURPOSES ONLY.

NOTES:

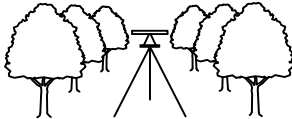
PUBLIC WATER SYSTEM ☒ YES ☐ NO
WELL ☐ YES ☒ NO
PUBLIC SEWER SYSTEM ☒ YES ☐ NO
HOUSE DIMENSIONS: 44' x 27'

IMPERVIOUS SURFACE TABLE

HOUSE.....1188 SF
DRIVE & WALK.....0480 SF
TOTAL.....1668 SF
LOT AREA.....09095 SF
PERCENTAGE OF IMPERVIOUS AREA.....18.3%

PLOT PLAN
OF
LOT 76
CLAYTON ESTATES
TOWN OF CLAYTON
FOR
CARLOS PENALOZA JR.
SCALE: 1" = 30'
15 0 30 60

TRUE LINE SURVEYING, P.C.



205 W. MAIN STREET
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C-1589

JOB NO: 2107.009 DRAWN: DANNY DATE: 3/28/19 CHECKED: CURK



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

Planning Board
May 28, 2019

STAFF REPORT

Application Number: 2019-66-VAR
Project Name: 507 Lakeview Drive Variance

Tag #: 05H03197E
Overlay: None
Applicant: Ana Cristina Penaloza Avilez
Owner: Carlos Penaloza Jr.
Location: 507 Lakeview Drive, Clayton, NC

Public Noticing:

- Letters mailed May 3, 2019
- Sign posted May 3, 2019
- Newspaper Ad advertised May 15, 2019 and May 22, 2019

REQUEST: The applicant is requesting a variance from the following code section:

UDC Section	Requirement	Variance Request
155.203(G)(6) Conventional Subdivision Standards: Minimum Lot Area (Square Feet)	Residential-Estate Zoning District Minimum Lot Area Requirement: - Minimum Lot Area (Square Feet): 20,000 SF	The variance request is for a reduction of the minimum lot area to 9,095 square feet.

SITE DATA:

Acreage: 0.209 acres
Existing Use: Single-Family Residential



STAFF ANALYSIS AND COMMENTARY:

The applicant is requesting a variance from the above referenced code section. Please see below for an analysis:

Minimum Lot Area

The applicant is requesting a variance from minimum lot area requirements outlined in section 155.203(G)(6), which has a minimum lot size requirement of 20,000 square feet for the Residential-Estate zoning district. Currently, the existing lot area is only 9,095 square feet and is considered nonconforming, as it does not meet current lot size requirements.

Zoning District	Unit type	Lot Standards						Density (dwelling units/ acre)	Minimum Setbacks (ft.)				Building Standards		
		Min. Site Area (acres)	Min. Parcel Size (sq. ft)	Min. lot area (sq. ft)	Min. lot width (ft.)	Max. lot coverage (%)	Max. impervious surface (%)		Front	Side Interior	Side Street	Rear	Max. height (ft.)	Min. dwelling unit Size (sq. ft)	Accessory structures
R-E	Single Family with public water and sewer	-	-	20,000	80	35	50	2.1	35	15	25	30	35	1,400	See § 155.308
	Single Family with public water and septic	-	-	25,000	80	35	50	1.7	35	15	25	30	35	1,400	
	Single Family with well and septic	-	-	40,000	100	35	50	1.0	35	15	25	30	35	1,400	

The applicant is requesting a variance to place a Class A Manufactured home on an existing lot that has a lot area of 9,095 square feet which is 10,905 square feet below the required square footage of the lot.

Findings of Fact:

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

- **Applicant Response:** “Existing falls beneath required acreage allowance in R-E zoning.”
 - **Staff Commentary:** The subject property is an existing nonconforming lot.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- **Applicant Response:** “The hardship results from the fact the lot was created prior to the regulated uses of the current R-E zoning size and shape.”
 - **Staff Commentary:** The subject property, as well as some other lots within the Clayton Estates Subdivision, do not conform with current conventional subdivision standards for the Residential-Estate zoning district outlined in section 155.203(G)(6) of the Unified Development Code.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- **Applicant Response:** “The hardship results from the fact that the lot was created prior to the regulated uses of the current R-E zoning size and shape.”
 - **Staff Commentary:** The hardship is existing due to the property’s designation as R-E, Residential Estate Zoning.
4. The requested variances are consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
- **Applicant Response:** “Correct. The rest of the neighborhood is a mobile home park.”
 - **Staff Commentary:** The requested variance is in accordance with section 155.110 of the UDC, which addresses nonconforming lots. As defined by 155.110(C), nonconforming lots are lots that were lawfully created before *Chapter 155: Unified Development Code* was adopted or amended, but does not conform to the minimum lot acreage and dimensional criteria. 155.110(C)(2) states that nonconforming residential substandard lots may be granted a variance for development.

CONSIDERATIONS:

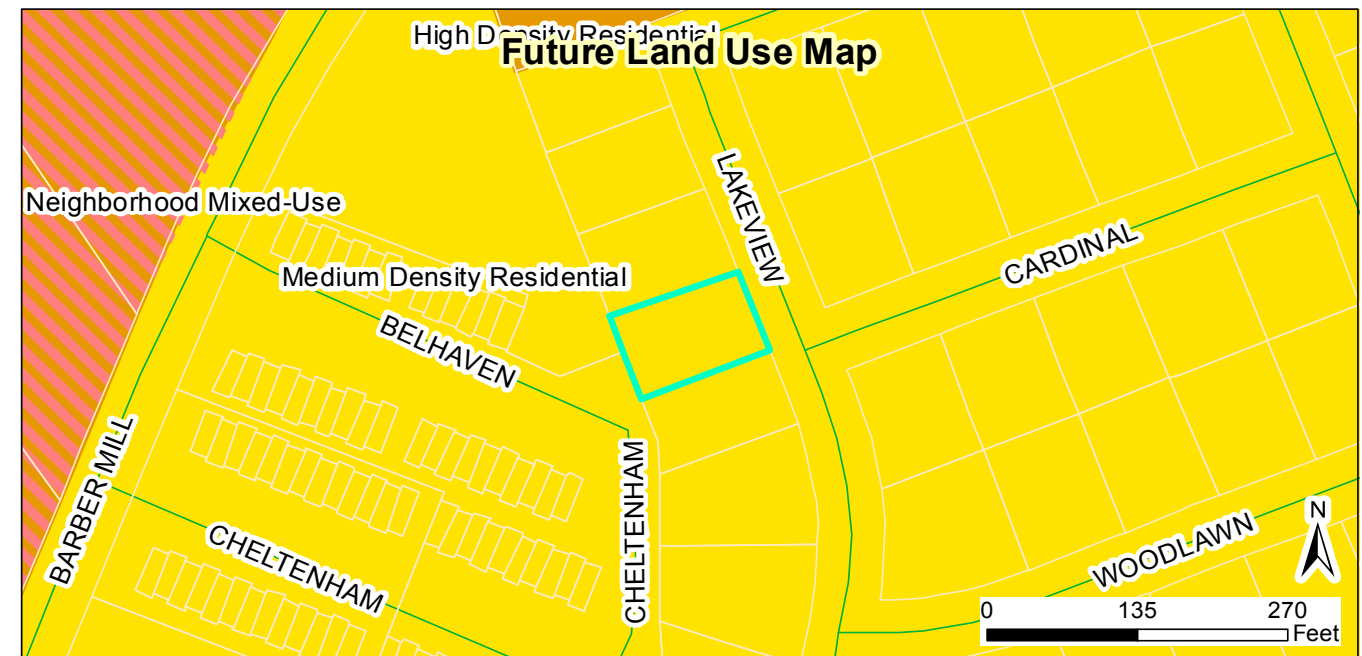
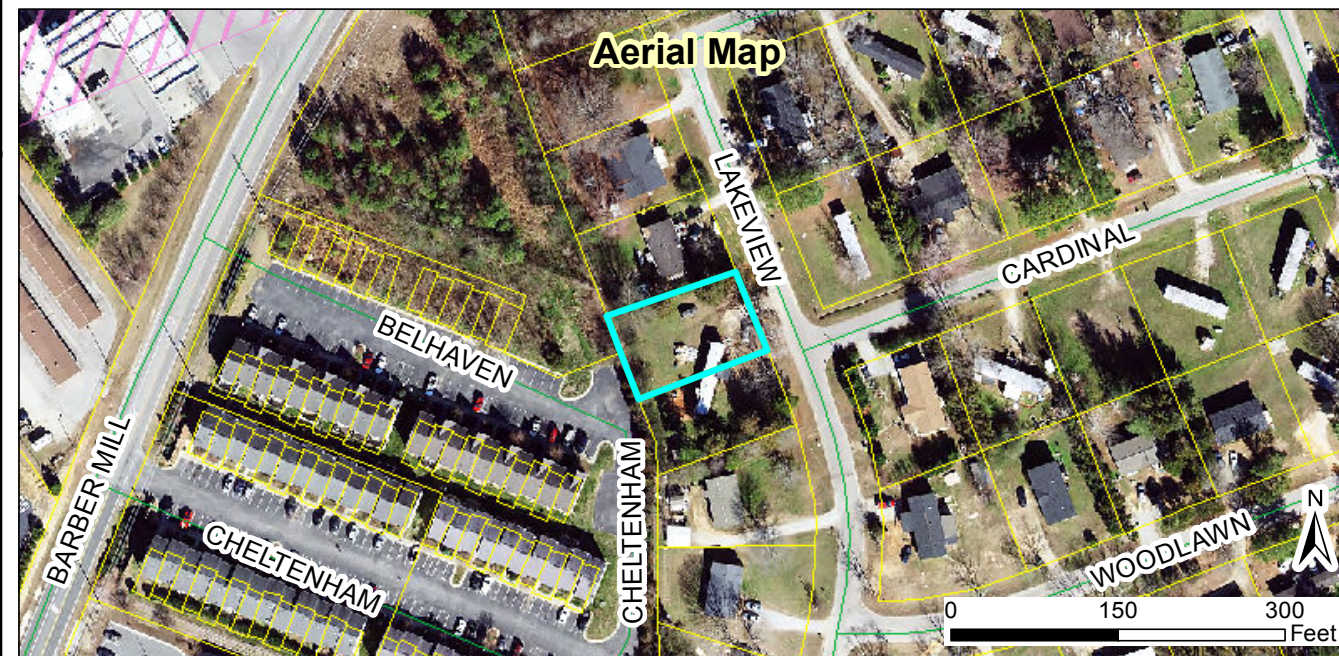
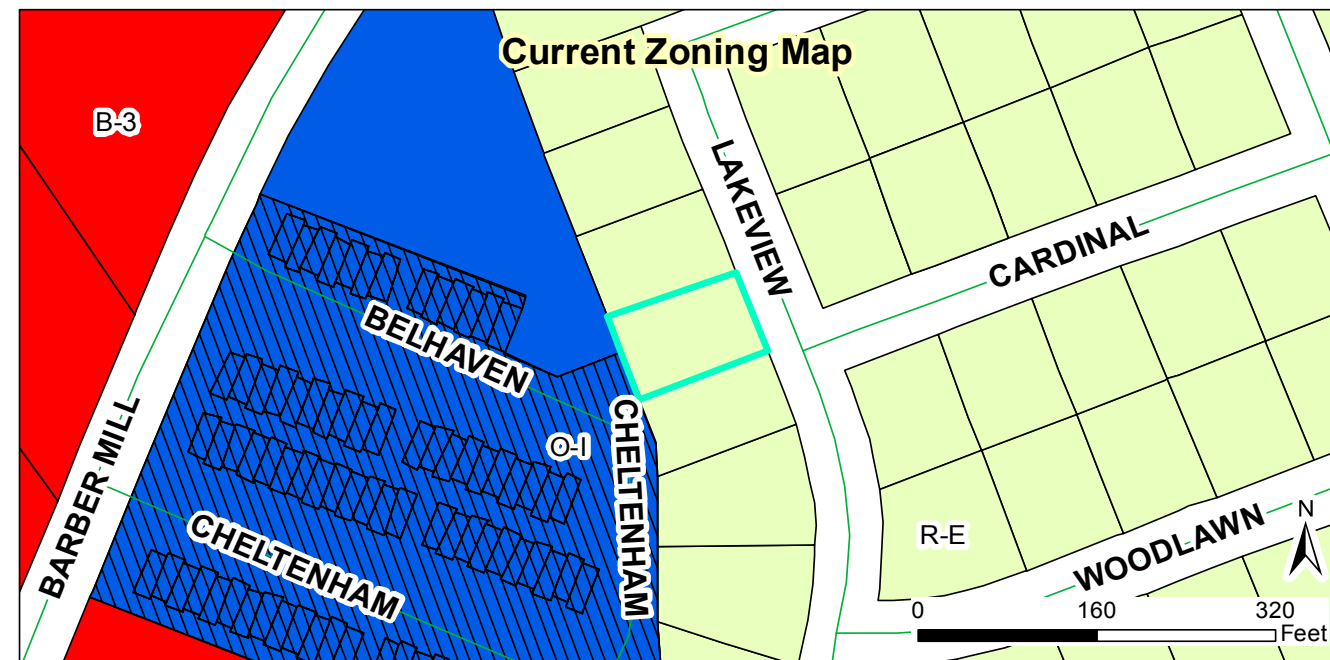
- The Planning Board shall review and make a final decision regarding Variance applications.
 - Per UDC requirements, no variance shall be approved unless all of the Findings of Fact are made.
-

FINDINGS OF FACT:

The applicant has addressed the Findings of Fact, as outlined above in this report and included as a part of the application.

ATTACHMENTS:

1. Application
2. Owner's Consent Form
3. Staff Report Maps
4. Site Plan
5. Newspaper Ad- public notice
6. Adjacent Property Letter- public notice
7. Adjacent Property Owner List



Request:
2019-66-VAR - 507 Lakeview Dr - Request for a
variance from R-E minimum lot area requirements.

Applicant: Ana Cristina Penaloza Avilez
 Property Owners: Carlos Penaloza Jr.
 Tag #: 05H03197E

Staff Report Map



Document Path: O:\PLANNING\VARANCE\2019\2019-66-VAR 507 Lakeview Drive\Map\Staff Report Map - 2019-66-VAR 507 Lakeview Dr.mxd

Legend

- Site
- 100-yr Flood Zone
- Thoroughfare Overlay
- Watershed Protection Overlay

04/15/2019

Produced by: TOC Planning
 Disclaimer: Town of Clayton assumes no legal
 responsibility for the quality of the data
 represented here.



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

VARIANCE APPLICATION COVER SHEET

Name of Project: Lot 77 Clayton Estates **Date:** 3/29/19

Applicant Name: True Line Surveying

The following checklist to be completed by applicant:

- [☒] Pre-Application Meeting on: 2/20 with Ana Penaloza
- [☒] Application Review fee
- [☒] Advertisement Fee
- [☒] Completed Application
- [☒] Owner's Consent Form
- [☒] Adjacent Property Owner's List
- [☒] Set of stamped, addressed, empty envelopes for adjacent property owner notification
- [☒] Copy of plan sets in PDF on USB

11 plan sets of the following:

- [☒] Preliminary plan sheet depicting the variance request
- [☒] Signed and sealed Boundary Survey

Reviewed by: _____



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

VARIANCE APPLICATION

Application Fee: \$250.00

Advertisement Fee: \$200.00

Please note if a variance is sought "after the fact", the application fee is \$500.00

SITE INFORMATION

Name of Project: Lot 77 Clayton Estates

Acreage of Property: 0.194

Zoning District: R-E

County Tag #: 05H03190A

NC Pin #: 165807-78-0281

Address/Location: 601 Lakeview Dr., Clayton, NC 27520

Existing Use: Residential

Proposed Use: Residential

Is project within a Planned Development? ☐ Yes ☒ No If yes, which: _____

Is project within an Overlay District? ☐ Yes ☒ No If yes, which: _____

APPLICANT INFORMATION

Applicant: True Line Surveying

Mailing Address: 205 W. Main St., Clayton, NC 27520

Phone Number: 919-359-0427

Fax: 919-359-0428

Contact Person: Curk Lane or Molly Herring

Email Address: curk@truelinesurveying.com or molly@truelinesurveying.com

FOR OFFICE USE ONLY

Date Received: MAR 29 2019

Amount Paid: \$450.00

Permit Number: 2019-67-VAR

January 2019

2 of 5

PROPERTY OWNER INFORMATION

Name: Carlos Penaloza Jr.

Mailing Address: 1108 Cardinal Ct., Clayton, NC 27520

Phone Number:

Fax:

Email Address: pzframing@yahoo.com

BURDEN OF PROOF / EXPLANATION OF REQUEST

Variance(s) Requested: List each requested variance. Attach additional pages if necessary.

Code Section: 155.203 general use district standards

Code Requirement: Table 2-2 conventional subdivision regulations

Variance Sought (describe specific request):

Use this section to describe the request. An applicant seeking a variance has the burden of presenting evidence sufficient to allow the Board of Adjustment to reach conclusions for the Required Findings of Fact. Attach additional sheets/pertinent information as necessary.

This lot was created prior to the use of R-E zoning district requirements but falls beneath the required acreage listed in the R-E zoning district.

REQUIRED FINDINGS OF FACT

Section 155.716(F)(2) of the Unified Land Development Code requires applications requesting a Variance to address the following findings. The burden of proof is on the applicant and failure to adequately address the findings may result in denial of the application. Please attach additional pages if necessary.

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

Existing falls beneath require acreage allowance in R-E zoning.

Yes, because current zoning will not allow proposed building size to fit on lot. Proposed building size will match other place dwellings in the neighborhood.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from person 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 result from the fact the lot was created prior to the regulated uses of the current R-E zoning size and shape.

Yes, the hardships are based on the size of the lot. The lot sizes are too small to fit a dwelling under current zoning regulations.

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

The hardship result from the fact the lot was created prior to the regulated uses of the current R-E zoning size and shape.

No, the hardship didn't result from the applicant. Due to current zoning the proposed dwelling sizes will not fit within building setbacks.

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

Correct. The rest of the neighborhood is a mobile home park.

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Board of Adjustment of the Town of Clayton to approve the subject Variance request. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Clayton, North Carolina, and will not be returned.

Molly Herring
Print Name

Molly Herring
Signature of Applicant

3/29/19
Date



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

OWNER'S CONSENT FORM

Consent is required from the property owner(s) if an agent will act on their behalf. A separate form is required from each owner. Consent is valid for one year from date of notary, unless otherwise specified. All fields must be completed.

Project Name: lot 77 Clayton Estates Address or PIN #: 1001 Lakeview Ct.

AGENT/APPLICANT INFORMATION:

True Line Surveying
(Name - type, print clearly)

205 W. Main St.
(Address)
Clayton NC 27520
(City, State, Zip)

I hereby give **CONSENT** to the above referenced agent/applicant to act on my behalf, to submit applications and all required materials and documents, and to attend and represent me at all meetings and public hearings pertaining to the following processes (*list applicable requests*):

variance

Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify that I have authority to execute this consent form as/on behalf of the property owner. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I further agree to all terms and conditions which may be imposed as part of the approval of this application.

OWNER AUTHORIZATION:

Carlos Penaloza
(Name - type, print clearly)

1108 cardinal Ct
(Address)

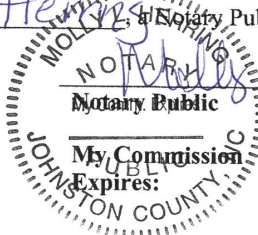
Carlos Penaloza
(Owner's Signature)

Clayton, NC, 27520
(City, State, Zip)

STATE OF NC
COUNTY OF Johnston

Sworn and subscribed before me Molly L. Herzig, a Notary Public for the above State and County, this the 29 day of March, 2019.

SEAL



July 2018

The lot does not meet the minimum lot size required for zone R-E. Our lot has 8.448 sq feet. we would place a mobile home with setbacks of 14.1' to the sides and 40' to the driveway with no violation to the rear setback.

Alicia Pauls
4-8-19

lot 77



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

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Project Name: lot 77 Clayton Estates Address or PIN #: 1001 Lakeview Ct.

AGENT/APPLICANT INFORMATION:

True Line Surveying
(Name - type, print clearly)

205 W. Main St.
(Address)
Clayton NC 27520
(City, State, Zip)

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variance

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OWNER AUTHORIZATION:

Carlos Penaloza
(Name - type, print clearly)

1108 cardinal Ct
(Address)

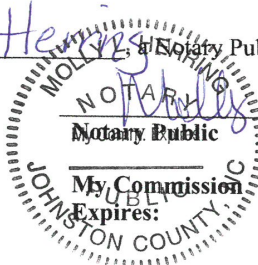
Carlos Penaloza
(Owner's Signature)

Clayton, NC, 27520
(City, State, Zip)

STATE OF NC
COUNTY OF Johnston

Sworn and subscribed before me Molly L. Herwig, a Notary Public for the above State and County, this the 29 day of March, 2019.

SEAL



July 2018

Public Notice

In accordance with NC GS 160A-364, the Clayton Planning Board will conduct the following evidentiary hearing on Tuesday, May 28, 2019, at 6 PM in the Town Council Chambers in Town Hall located at 111 East Second Street to consider the following:

- 2019-64-VAR 703 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area, minimum lot width, and side interior setback requirements of the proposed subdivision of an existing lot. The 0.43 acre property is zoned Residential-Estate; TAG # 05E99005N.
- 2019-65-VAR 501 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area requirement of an existing lot. The 0.204 acre property is zoned Residential-Estate; TAG # 05H03029.
- 2019-66-VAR 507 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area requirement of an existing lot. The 0.209 acre property is zoned Residential-Estate; TAG # 05H03197E.
- 2019-67-VAR 601 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area and lot width requirements of an existing lot. The 0.194 acre property is zoned Residential-Estate; TAG # 05H03190A.

During an evidentiary hearing, the Planning Board must make findings of fact based upon sworn testimony and other credible evidence. Citizens may give testimony in an evidentiary hearing after they have taken an oath. This is an open meeting and interested persons are invited to attend.

Damiere Powell, Planner

919-553-5002

The Johnstonian News

Please advertise on the following dates:

May 15, 2019

May 22, 2019

Dates are the two Wednesdays prior to the hearing

Affidavit of publication required.



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

May 3, 2019

NOTICE

SUBJECT: **Project:** 2019-67-VAR – Request for a reduction of the minimum lot area and lot width requirement outlined in the Unified Development Code.

Address: 601 Lakeview Drive, Clayton, NC

Tag: 05H03190A

Applicant: Ana Cristina Penaloza Avilez

Dear Clayton Area Property Owner:

Notice is hereby given that the Clayton Planning Board will hold an evidentiary hearing on **Tuesday, May 28, 2019 at 6:00pm** at Town Hall, 111 E. Second Street, to consider the variance application described above. Please see the map on the back of this letter showing the property.

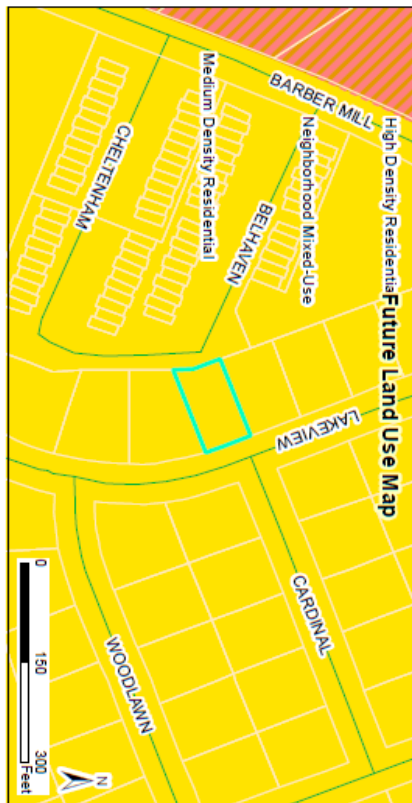
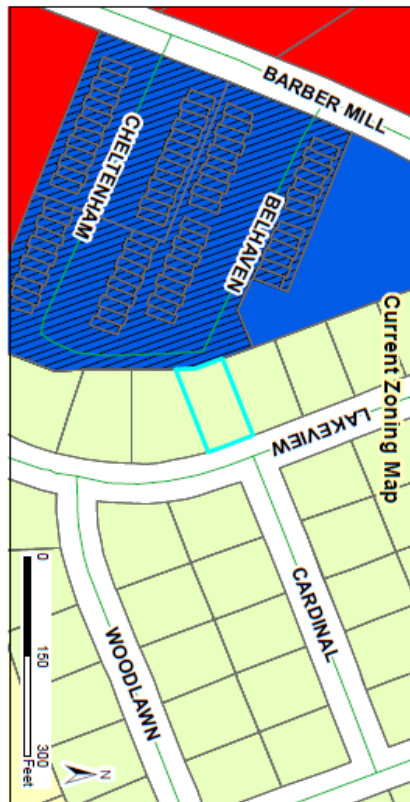
According to Section 155.719(C)(1) of the Town of Clayton Unified Development Code, the Planning Board is authorized to approve a variance to certain standards of the Unified Development Code if they will not be contrary to the public interest.

Based upon records in the Johnston County Tax Office, you are the owner of property that is within 100 feet of this request. You are invited to attend this meeting. During an evidentiary hearing, the Planning Board must make findings of fact based upon sworn testimony and other credible evidence. Citizens may give testimony in an evidentiary hearing after they have taken an oath. This is an open meeting and interested persons are invited to attend.

If you should need additional assistance or information, please contact Damiere Powell in the Planning Department at (919) 553-5002 or dpowell@townofclaytonnc.org.

Sincerely,

Damiere Powell
Planner



Staff Report Map

Request:
2019-67-VAR - 601 Lakeview Dr. - Request for a
variance from R-E minimum lot area and lot width requirements.

Applicant: Ana Cristina Penaloza Avila
 Property Owners: Carlos Penaloza Jr.
 Tag #: 05H03190A

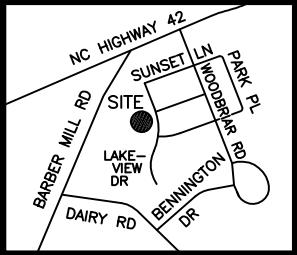


Document Path: C:\PLANNING\BALANCE2019\2019-67-VAR 601 Lakeview Drive\Staff Report Map - 2019-67-VAR 601 Lakeview Drive.dwg

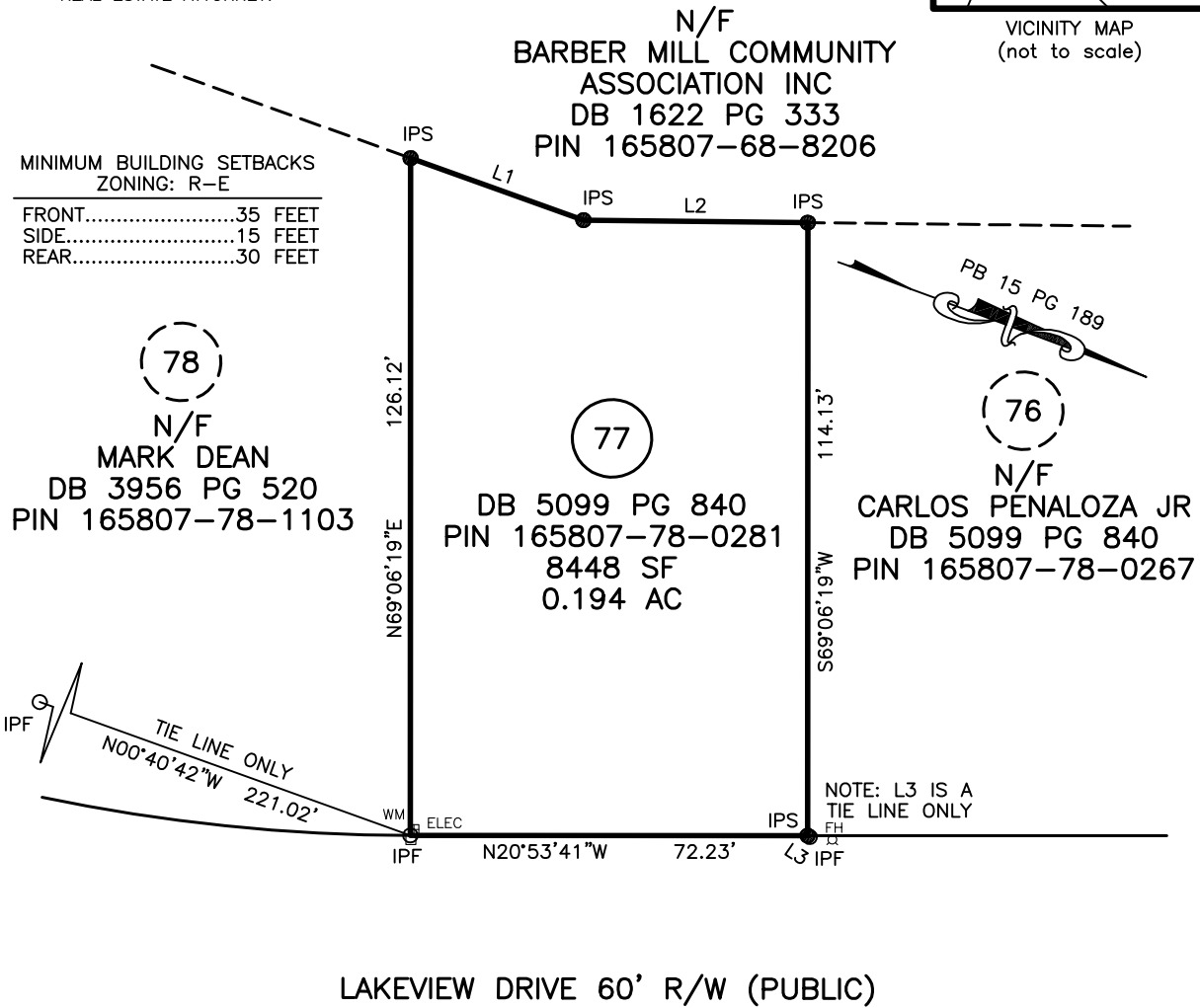
04/15/2019
 Prepared by: TDC
 Checked by: TDC
 Approved by: TDC
 Disclaimer: This map is for informational purposes only and does not constitute a guarantee or warranty of any kind. The user assumes all responsibility for the results of the use of this map.

- Legend**
- Site
 - 100-yr Flood Zone
 - Thoroughfare Overlay
 - Watershed Protection Overlay

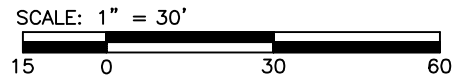
NOTES:
1) ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES
2) AREAS COMPUTED BY COORDINATE METHOD
3) PROPERTY SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD
4) NO HORIZONTAL CONTROL FOUND WITHIN 2000 FEET OF SURVEY
5) BOUNDARY PREDICATED ON EXISTING MONUMENTATION FOUND IN THE FIELD
6) THIS SURVEY WAS PERFORMED AND MAPPED WITHOUT THE BENEFIT OF A TITLE SEARCH BY A LICENSED NORTH CAROLINA REAL ESTATE ATTORNEY. THIS SURVEYOR ASSUMES NO LIABILITY FROM ANY FACTS AND/OR OMISSIONS (SUCH AS EASEMENTS OR UNDERGROUND PIPES, ETC.) THAT MAY BE REVEALED BY A TITLE SEARCH BY A LICENSED NORTH CAROLINA REAL ESTATE ATTORNEY.



VICINITY MAP
(not to scale)



LINE	BEARING	DISTANCE
L1	S00°43'43"E	33.49'
L2	S20°16'02"E	40.80'
L3	S12°36'43"W	0.48'



LOT 77
CLAYTON ESTATES

LEGEND

- IPF IRON PIPE FOUND
- IPS IRON PIN SET
- RRSF RAILROAD SPIKE
- 1SFD 1 STORY FRAME DWELLING
- WV WATER VALVE
- WM WATER METER
- CO CLEAN OUT
- S.F. SQUARE FEET
- 100.0 ELEVATIONS
- CATV CABLE TV BOX
- ELEC ELECTRIC BOX
- PB PLAT BOOK
- PP POWER POLE
- DB DEED BOOK
- LINES NOT SURVEYED

PHYSICAL SURVEY
FOR
CARLOS PENALOZA JR.
601 LAKEVIEW DRIVE, CLAYTON, NC 27520
CLAYTON TOWNSHIP JOHNSTON COUNTY NORTH CAROLINA

TRUE LINE SURVEYING, P.C.

205 WEST MAIN STREET
CLAYTON, N.C. 27520
TELEPHONE: (919) 359-0427
FAX: (919) 359-0428
www.truelinesurveying.com

C-1857

NOT PREPARED FOR RECORDATION JOB NO. 2107.010

I, CURK T. LANE CERTIFY THAT THIS MAP WAS DRAWN FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, THAT THE ERROR OF CLOSURE AS CALCULATED IS 1:10,000+, THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES.

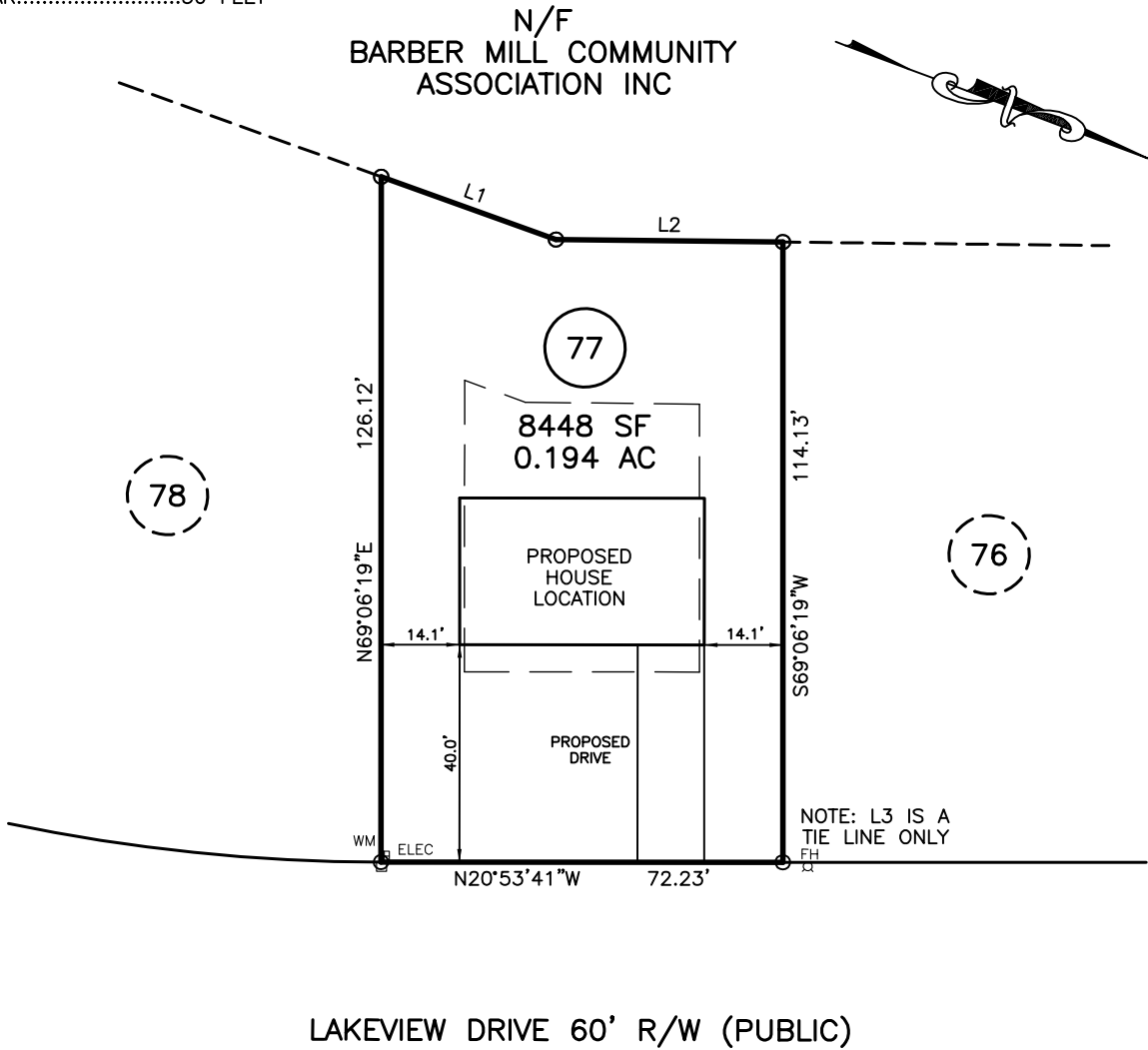
L - 3990
REGISTRATION NUMBER SURVEYOR

DATE OF SURVEY: 02/28/19 DRAWN: DANNY DATE: 3/28/19 CHECKED: CURK

MINIMUM BUILDING SETBACKS
ZONING: R-E

FRONT.....35 FEET
SIDE.....15 FEET
REAR.....30 FEET

LINE	BEARING	DISTANCE
L1	S00°43'43"E	33.49'
L2	S20°16'02"E	40.80'



LOT COVERAGE TABLE

HOUSE.....1188 SF
LOT AREA.....08448 SF

PERCENTAGE OF IMPERVIOUS AREA.....14.1%

DOES LOT HAVE STATE ROAD FRONTAGE? ☒ YES ☐ NO
DOES LOT HAVE RECORDED EASEMENT? ☐ YES ☒ NO

DRIVEWAY OR ACCESS DRIVE DRAINAGE CULVERT

TYPE AND SIZE _____

STORMWATER ADMINISTRATOR SIGNATURE _____

* THIS PLOT PLAN IS FOR PRECONSTRUCTION
PURPOSES ONLY.

NOTES:

PUBLIC WATER SYSTEM ☒ YES ☐ NO
WELL ☐ YES ☒ NO
PUBLIC SEWER SYSTEM ☒ YES ☐ NO
HOUSE DIMENSIONS: 44' x 27'

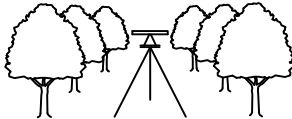
IMPERVIOUS SURFACE TABLE

HOUSE.....1188 SF
DRIVE & WALK.....0480 SF
TOTAL.....1668 SF
LOT AREA.....08448 SF
PERCENTAGE OF IMPERVIOUS AREA.....19.7%

PLOT PLAN
OF
LOT 77
CLAYTON ESTATES
TOWN OF CLAYTON
FOR
CARLOS PENALOZA JR.

SCALE: 1" = 30'

TRUE LINE SURVEYING, P.C.



205 W. MAIN STREET
CLAYTON, N.C. 27520
TELEPHONE: (919) 359-0427
FAX: (919) 359-0428
www.truelinesurveying.com

C-1589

JOB NO: 2107.010 DRAWN: DANNY DATE: 3/28/19 CHECKED: CURK



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

Planning Board
May 28, 2019

STAFF REPORT

Application Number: 2019-67-VAR
Project Name: 601 Lakeview Drive Variance

Tag #: 05H03190A
Overlay: None
Applicant: Ana Cristina Penaloza Avilez
Owner: Carlos Penaloza Jr.
Location: 601 Lakeview Drive, Clayton, NC

Public Noticing:

- Letters mailed May 3, 2019
- Sign posted May 3, 2019
- Newspaper Ad advertised May 15, 2019 and May 22, 2019

REQUEST: The applicant is requesting a variance from the following code section:

UDC Section	Requirement	Variance Request
155.203(G)(6) Conventional Subdivision Standards: Minimum Lot Area (Square Feet) & Minimum Lot Width (Feet)	Residential-Estate Zoning District Minimum Lot Area Requirement: - Minimum Lot Area (Square Feet): 20,000 SF - Minimum Lot Width (Feet): 80 feet	The variance request is for a reduction of the minimum lot area to 8,448 square feet and the minimum lot width to 72 feet.
155.203(G)(6) Conventional Subdivision Standards: Minimum Side Setback	Residential-Estate Zoning District Minimum Side Interior Setback Requirement: - Minimum Side Interior Setback (Feet): 15 feet	The variance request is for a reduction of the minimum side interior setback to 14 feet.

SITE DATA:

Acreage: 0.194 acres
Existing Use: Single-Family Residential



STAFF ANALYSIS AND COMMENTARY:

The applicant is requesting a variance from the above referenced code section. Please see below for an analysis:

Minimum Lot Area & Lot Width

The applicant is requesting a variance from minimum lot area and lot width requirements outlined in section 155.203(G)(6), which has a minimum lot size requirement of 20,000 square feet for the Residential-Estate zoning district. Currently, the existing lot area is only 8,448 square feet and is considered nonconforming, as it does not meet current lot area requirements. Additionally, the property does not meet minimum lot width requirement of 80 feet, as the current width of the property is only 72.23 feet.

Conventional Subdivision Standards															
Zoning District	Unit type	Lot Standards						Density (dwelling units/ acre)	Minimum Setbacks (ft.)				Building Standards		
		Min. Site Area (acres)	Min. Parcel Size (sq. ft.)	Min. lot area (sq. ft.)	Min. lot width (ft.)	Max. lot coverage (%)	Max. impervious surface (%)		Front	Side Interior	Side Street	Rear	Max. height (ft.)	Min. dwelling unit Size (sq. ft.)	Accessory structures
R-E	Single Family with public water and sewer	-	-	20,000	80	35	50	2.1	35	15	25	30	35	1,400	See § 155.308
	Single Family with public water and septic	-	-	25,000	80	35	50	1.7	35	15	25	30	35	1,400	
	Single Family with well and septic	-	-	40,000	100	35	50	1.0	35	15	25	30	35	1,400	

The applicant is requesting a variance to place a Class A Manufactured home on an existing lot that has a lot area of 8,448 square feet which is 11,552 square feet below the required square footage of the lot. The lots existing width is 72.23ft which is a deviation of 7.72ft from the required lot width.

Minimum Side Interior Setback

The applicant is requesting a variance from minimum side interior setback requirements outlined in section 155.203(G)(6), which has a minimum side setback requirement of 15 feet for the Residential-Estate zoning district. As shown in the site plan, the applicant requires a reduction of this setback requirement to 14 feet in order to place a Class A Manufactured home on the subject property.

Conventional Subdivision Standards															
Zoning District	Unit type	Lot Standards						Density (dwelling units/ acre)	Minimum Setbacks (ft.)				Building Standards		
		Min. Site Area (acres)	Min. Parcel Size (sq. ft)	Min. lot area (sq. ft)	Min. lot width (ft.)	Max. lot coverage (%)	Max. impervious surface (%)		Front	Side Interior	Side Street	Rear	Max. height (ft.)	Min. dwelling unit Size (sq. ft)	Accessory structures
R-E	Single Family with public water and sewer	-	-	20,000	80	35	50	2.1	35	15	25	30	35	1,400	See § 155.308
	Single Family with public water and septic	-	-	25,000	80	35	50	1.7	35	15	25	30	35	1,400	
	Single Family with well and septic	-	-	40,000	100	35	50	1.0	35	15	25	30	35	1,400	

Findings of Fact:

- Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in absence of the variance, no reasonable use can be made of the property.
 - Applicant Response:** "Existing falls beneath required acreage allowance in R-E zoning."
 - Staff Commentary:** The subject property is an existing nonconforming lot. The applicant will not meet the minimum lot size of 20,000sqft, the lot width requirement of 80 feet, or the side interior setback of 15 feet.
- 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.
 - Applicant Response:** "The hardship results from the fact the lot was created prior to the regulated uses of the current R-E zoning size and shape."
 - Staff Commentary:** The subject property, as well as some other lots within the Clayton Estates Subdivision, do not conform with current conventional subdivision standards for the Residential-Estate zoning district outlined in section 155.203(G)(6) of the Unified Development Code.
- 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.

- **Applicant Response:** “The hardship results from the fact that the lot was created prior to the regulated uses of the current R-E zoning size and shape.”
 - **Staff Commentary:** The hardship is existing due to the property’s designation as R-E, Residential Estate Zoning.
4. The requested variances are consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
- **Applicant Response:** “Correct. The rest of the neighborhood is a mobile home park.”
 - **Staff Commentary:** The requested variance is in accordance with section 155.110 of the UDC, which addresses nonconforming lots. As defined by 155.110(C), nonconforming lots are lots that were lawfully created before *Chapter 155: Unified Development Code* was adopted or amended, but does not conform to the minimum lot acreage and dimensional criteria. 155.110(C)(2) states that nonconforming residential substandard lots may be granted a variance for development.

CONSIDERATIONS:

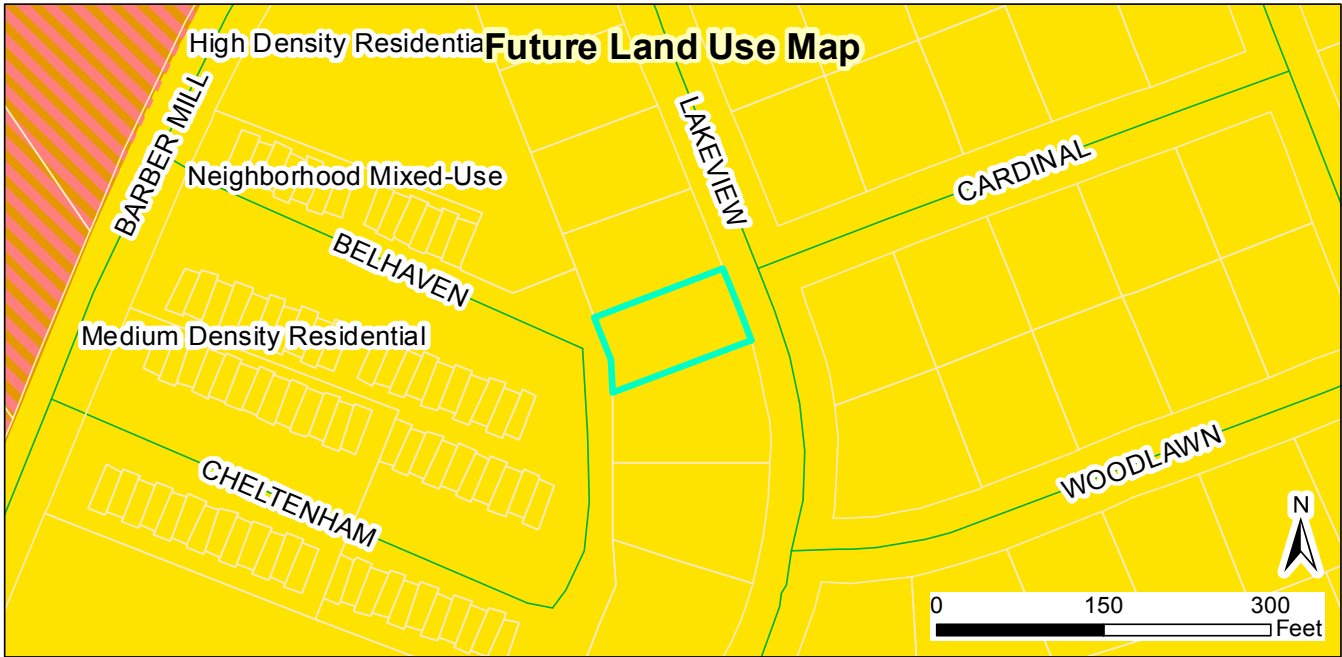
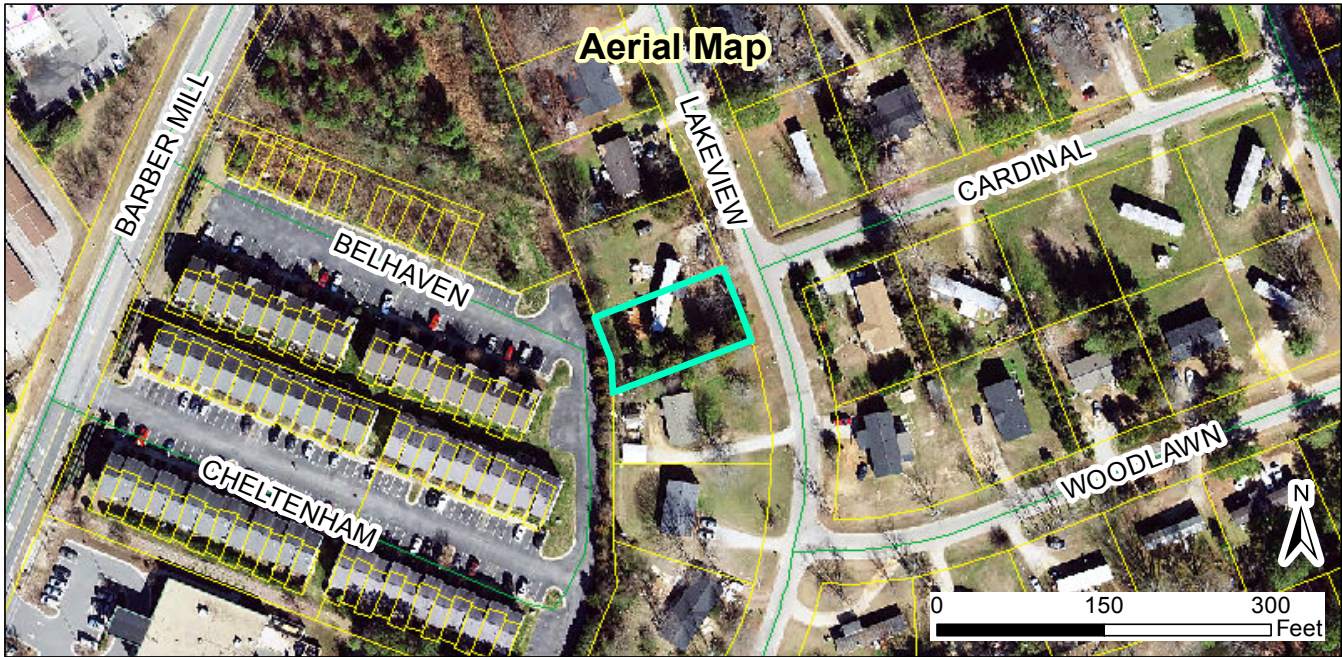
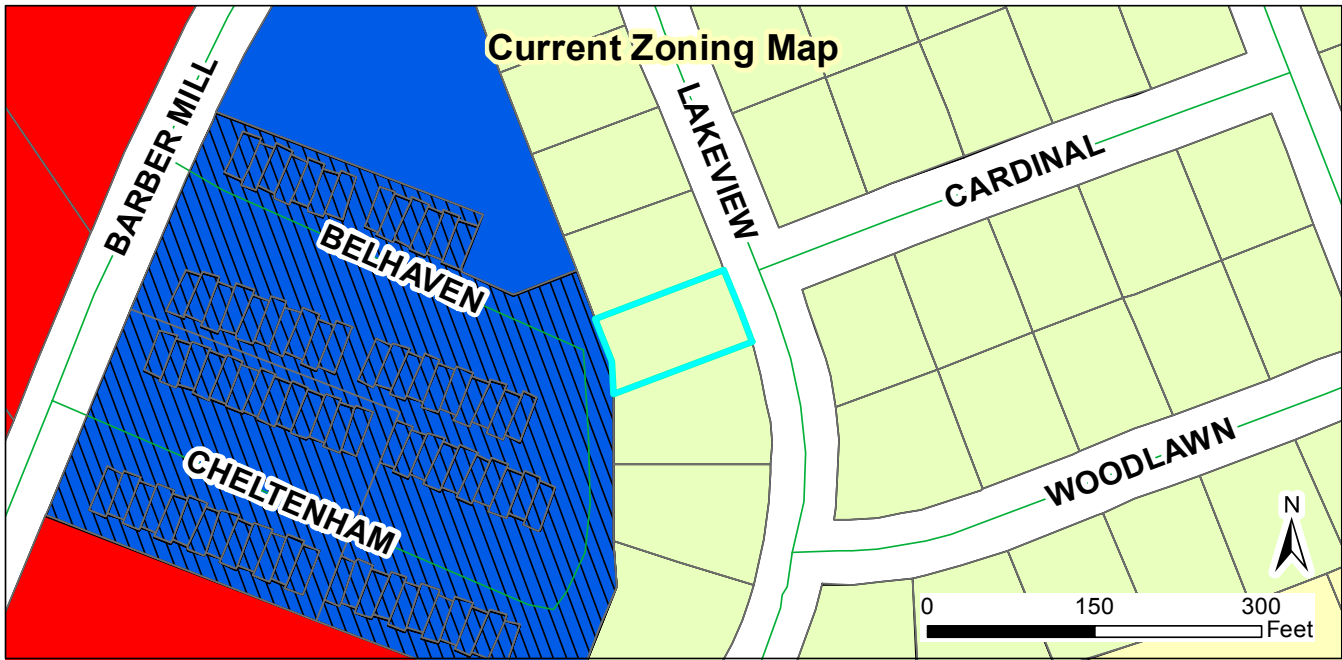
- The Planning Board shall review and make a final decision regarding Variance applications.
 - Per UDC requirements, no variance shall be approved unless all of the Findings of Fact are made.
-

FINDINGS OF FACT:

The applicant has addressed the Findings of Fact, as outlined above in this report and included as a part of the application.

ATTACHMENTS:

1. Application
2. Owner’s Consent Form
3. Staff Report Maps
4. Site Plan
5. Newspaper Ad- public notice
6. Adjacent Property Letter- public notice
7. Adjacent Property Owner List



Request:
2019-67-VAR - 601 Lakeview Dr. - Request for a
variance from R-E minimum lot area and lot width requirements.

Applicant: Ana Cristina Penaloza Avilez
 Property Owners: Carlos Penaloza Jr.
 Tag #: 05H03190A

Staff Report Map



Document Path: O:\PLANNING\VARANCE\2019\2019-67-VAR 601 Lakeview Drive\Map\Staff Report Map - 2019-67-VAR 601 Lakeview Dr.mxd

Legend

- Site
- 100-yr Flood Zone
- Thoroughfare Overlay
- Watershed Protection Overlay

04/15/2019

Produced by: TOC Planning
 Disclaimer: Town of Clayton assumes no legal
 responsibility for the quality of the data
 represented here.



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

VARIANCE APPLICATION COVER SHEET

Name of Project: lot 81 clayton estates **Date:** 4-8-19
Applicant Name: Ana cristina penaloza Avilez

The following checklist to be completed by applicant:

- ☐ Pre-Application Meeting on: _____
- ☐ Application Review fee
- ☐ Advertisement Fee
- ☐ Completed Application
- ☐ Owner's Consent Form
- ☐ Adjacent Property Owner's List
- ☐ Neighborhood Meeting Notice Letter (1 copy)
- ☐ Set of stamped, addressed, empty envelopes for adjacent property owner notification
- ☐ Copy of plan sets in PDF on USB

11 plan sets of the following:

- ☐ Preliminary plan sheet depicting the variance request
- ☐ Signed and sealed Boundary Survey

Reviewed by: _____



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

VARIANCE APPLICATION

Application Fee: \$250.00

Advertisement Fee: \$200.00

Please note if a variance is sought "after the fact", the application fee is \$500.00

SITE INFORMATION

Name of Project: 104 81 Clayton Estates
Currently 18.532
Acreage of Property: proposing 7541 Zoning District: RE
County Tag #: 05E99005N NC Pin #: 105807-77-0902
Address/Location: 703 Lakeview Dr. Clayton NC 27520
Existing Use: vacant / no use Proposed Use: subdivide lot + place mobile home
Is project within a Planned Development? ☐ Yes ☒ No If yes, which: _____
Is project within an Overlay District? ☐ Yes ☒ No If yes, which: _____

APPLICANT INFORMATION

Applicant: And Cristina Penaloza milez
Mailing Address: 703 Lakeview Dr. Clayton NC 27520
Phone Number: 919 720 5441 Fax: _____
Contact Person: self
Email Address: N/A

FOR OFFICE USE ONLY

Date Received: _____ Amount Paid: _____ Permit Number: _____

PROPERTY OWNER INFORMATION

Name: Ana Cristina Penabaz Ariz
Mailing Address: 703 Lakenew Dr. Clayton NC 27520
Phone Number: 919 720 5441 Fax: NA
Email Address: NA

BURDEN OF PROOF / EXPLANATION OF REQUEST

Variance(s) Requested: *List each requested variance. Attach additional pages if necessary.*

Code Section: 55.203 General use district standards
Code Requirement: Table 2-2 conventional subregulations
Variance Sought (describe specific request): See attachment

Use this section to describe the request. An applicant seeking a variance has the burden of presenting evidence sufficient to allow the Board of Adjustment to reach conclusions for the Required Findings of Fact. Attach additional sheets/pertinent information as necessary.

See attachment

REQUIRED FINDINGS OF FACT

Section 155.716(F)(2) of the Unified Land Development Code requires applications requesting a Variance to address the following findings. The burden of proof is on the applicant and failure to adequately address the findings may result in denial of the application. Please attach additional pages if necessary.

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

See attachment

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from person 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..

See attachment

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

See attachment

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

See attachment

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Board of Adjustment of the Town of Clayton to approve the subject Variance request. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Clayton, North Carolina, and will not be returned.

Ana C. Penabazabiler
Print Name

[Signature]
Signature of Applicant

4-8-19
Date

Describe Request.

For lot 80 & 81 the situation is a little different. Currently those lots exist as one lot and we are wanting to subdivide them back out into a configuration similar to what they were according to the original recorded plat. For the new lot (lot 81) it will need to be a little smaller than the original configuration due to the existing home and shed on lot 80. Proposed lot 81 will need a variance for the setbacks as well as the minimum size & width requirements. Proposed lot 81 is 7541 SF/0.173 AC. We will also need a variance on setbacks here as well. We will need to have 10' side setbacks for the proposed dwelling to fit on the lot. I have also attached the proposed plot plan for lot 81.

1. Original lot 81 does not fall in the lot standards of the current R-E zoning.
2. Yes, we are attempting to re-record the original lot recorded prior to R-E zoning regulations. Current zoning regulations cause original lot 81 to fall below the required square foot acreage requirements.
3. No, the hardship did not result in action taken by the homeowner.
4. Correct. The rest of the neighborhood is a mobile home park.



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

OWNER'S CONSENT FORM

Consent is required from the property owner(s) if an agent will act on their behalf. A separate form is required from each owner. Consent is valid for one year from date of notary, unless otherwise specified. All fields must be completed.

Project Name: Lot 80 Clayton Estates Address or PIN #: 703 Lakeview Dr.

AGENT/APPLICANT INFORMATION:

Twe Line Surveying
(Name - type, print clearly)

205 W. Main St.
(Address)
Clayton NC 27520
(City, State, Zip)

I hereby give **CONSENT** to the above referenced agent/applicant to act on my behalf, to submit applications and all required materials and documents, and to attend and represent me at all meetings and public hearings pertaining to the following processes (*list applicable requests*):

Variance

Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify that I have authority to execute this consent form as/on behalf of the property owner. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I further agree to all terms and conditions which may be imposed as part of the approval of this application.

OWNER AUTHORIZATION:

Ana Cristina Penalosa Arilez
(Name - type, print clearly)

703 Lakeview Dr.
(Address)

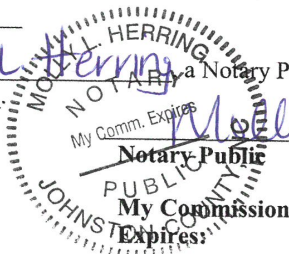
Ana Cristina Penalosa Arilez
(Owner's Signature)

Clayton NC 27520
(City, State, Zip)

STATE OF NC
COUNTY OF Johnston

Sworn and subscribed before me Molly L. Herring a Notary Public for the above State and County, this the 29 day of March, 2019.

SEAL



July 2018

Public Notice

In accordance with NC GS 160A-364, the Clayton Planning Board will conduct the following evidentiary hearing on Tuesday, May 28, 2019, at 6 PM in the Town Council Chambers in Town Hall located at 111 East Second Street to consider the following:

- 2019-64-VAR 703 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area, minimum lot width, and side interior setback requirements of the proposed subdivision of an existing lot. The 0.43 acre property is zoned Residential-Estate; TAG # 05E99005N.
- 2019-65-VAR 501 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area requirement of an existing lot. The 0.204 acre property is zoned Residential-Estate; TAG # 05H03029.
- 2019-66-VAR 507 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area requirement of an existing lot. The 0.209 acre property is zoned Residential-Estate; TAG # 05H03197E.
- 2019-67-VAR 601 Lakeview Dr. Variance; variance request from section 155.203(G)(6) of the Unified Development Code to reduce the minimum lot area and lot width requirements of an existing lot. The 0.194 acre property is zoned Residential-Estate; TAG # 05H03190A.

During an evidentiary hearing, the Planning Board must make findings of fact based upon sworn testimony and other credible evidence. Citizens may give testimony in an evidentiary hearing after they have taken an oath. This is an open meeting and interested persons are invited to attend.

Damiere Powell, Planner

919-553-5002

The Johnstonian News

Please advertise on the following dates:

May 15, 2019

May 22, 2019

Dates are the two Wednesdays prior to the hearing

Affidavit of publication required.



*** DISCLAIMER ***

Johnston County assumes no legal responsibility for the information represented here.



Result 1

id: 05E99005N
Tag: 05E99005N
Owner Name 1: AVILEZ, ANA CRISTINA PENALOZA
Owner Name 2:
Mail Address 1: 1108 CARDINAL CT
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-2802
Book: 04735
Page: 0641

Result 2

id: 05E99023W
Tag: 05E99023W
Owner Name 1: DEAN, MARK
Owner Name 2: DEAN, DONNA
Mail Address 1: 101 PISGAH DR
Mail Address 2:
Mail Address 3: GARNER, NC 27529-0000
Book: 03956
Page: 0520



Scale: 1:3928 - 1 in. = 327.36 feet

(The scale is only accurate when printed landscape on a 8 1/2 x 11 size sheet with no page scaling.)

Johnston County GIS
April 23, 2019



*** DISCLAIMER ***

Johnston County assumes no legal responsibility for the information represented here.

Result 3

id: 05E99013M
Tag: 05E99013M
Owner Name 1: STANCIL, FLEMING
Owner Name 2:
Mail Address 1: 708 LAKEVIEW DR
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-2808
Book: 04939
Page: 0380

Result 4

id: 05E99023T
Tag: 05E99023T
Owner Name 1: CLARK, KENNETH
Owner Name 2:
Mail Address 1: 707 LAKEVIEW DR
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-2807
Book: 04535
Page: 0258

Result 5

id: 05H03029Y
Tag: 05H03029Y
Owner Name 1: AVILEZ, FABIOLA PENALOZA
Owner Name 2:
Mail Address 1: 1108 CARDINAL CT
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-2802
Book: 04334
Page: 0925

Result 6

id: 05G02037J
Tag: 05G02037J
Owner Name 1: LANGFORD, STEPHEN DOUGLAS
Owner Name 2:
Mail Address 1: 616 CAPTAIN BEAM BLVD
Mail Address 2:
Mail Address 3: HAMPSTEAD, NC 28443-2323
Book: 01767
Page: 0557

Result 7

id: 05G02012X
Tag: 05G02012X
Owner Name 1: MITCHINER, HERMAN A
Owner Name 2: MITCHINER, SUE R
Mail Address 1: 427 BARBOUR ST
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-2407
Book: 03954
Page: 0676

Result 8

id: 05E99024P
Tag: 05E99024P
Owner Name 1: ECHEVESTE, ARTURO MORENO
Owner Name 2:
Mail Address 1: 704 LAKEVIEW DR
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-2808
Book: 04183
Page: 0418

Result 9

id: 05E99023U
Tag: 05E99023U
Owner Name 1: DEAN, MARK
Owner Name 2: DEAN, DONNA
Mail Address 1: 101 PISGAH DR
Mail Address 2:
Mail Address 3: GARNER, NC 27529-0000
Book: 03956
Page: 0520

Result 10

id: 05G02038S
Tag: 05G02038S
Owner Name 1: BARBER MILL COMMUNITY ASSOCIATION INC
Owner Name 2:
Mail Address 1: 205 W MILLBROOK RD STE 210
Mail Address 2:
Mail Address 3: RALEIGH, NC 27609-4492
Book: 01622
Page: 0333



*** DISCLAIMER ***

Johnston County assumes no legal responsibility for the information represented here.

Result 11

id: 05G02037A
Tag: 05G02037A
Owner Name 1: BRUINTON, SHERRY
Owner Name 2:
Mail Address 1: 48 CHELTENHAM DRIVE
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-0000
Book: 02981
Page: 0160

Result 12

id: 05H03029W
Tag: 05H03029W
Owner Name 1: SEBASTIAN, RAYMUNDO PEREZ
Owner Name 2:
Mail Address 1: 146 MARYWOOD DR
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-9066
Book: 04367
Page: 0847

Result 13

id: 05E99024O
Tag: 05E99024O
Owner Name 1: PEREZ, JOSE
Owner Name 2:
Mail Address 1: 120 Falmouth Ct
Mail Address 2:
Mail Address 3: CLAYTON, NC 27527-0000
Book: 03546
Page: 0409

Result 14

id: 05G02011E
Tag: 05G02011E
Owner Name 1: HEALTH SYSTEMS MANAGEMENT INC
Owner Name 2:
Mail Address 1: 1804 KING RD
Mail Address 2:
Mail Address 3: TIFTON, GA 31793-0000
Book: 03698
Page: 0671

Result 15

id: 05G02037
Tag: 05G02037
Owner Name 1: LINDA K ETTEFAGH POUNDS
Owner Name 2:
Mail Address 1: 3910 VICTORIA TOWNES LANE
Mail Address 2:
Mail Address 3: RALEIGH, NC 27612-0000
Book: 02568
Page: 0688

Result 16

id: 05G02037L
Tag: 05G02037L
Owner Name 1: COTTON, MICHAEL
Owner Name 2:
Mail Address 1: 49 CHELTENHAM DRIVE
Mail Address 2:
Mail Address 3: CLAYTON, NC 27520-7252
Book: 01870
Page: 0939



***** DISCLAIMER *****

Johnston County assumes no legal responsibility for the information represented here.

Result 17

id: 05G02037K

Tag: 05G02037K

Owner Name 1: KACZYNSKI, COLEMAN P.

Owner Name 2:

Mail Address 1: 47 CHELTENHAM DR

Mail Address 2:

Mail Address 3: CLAYTON, NC 27520-7252

Book: 04820

Page: 0413

Result 18

id: 05G02037B

Tag: 05G02037B

Owner Name 1: POWELL, DAVID L

Owner Name 2:

Mail Address 1: 50 CHELTENHAM DR

Mail Address 2:

Mail Address 3: CLAYTON, NC 27520-7279

Book: 04174

Page: 0983



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

May 3, 2019

NOTICE

SUBJECT: **Project:** 2019-64-VAR – Request for a reduction of the minimum lot area, minimum lot width, and minimum side interior setback requirement.

Address: 703 Lakeview Drive, Clayton, NC

Tag: 05E99005N

Applicant: Ana Cristina Penaloza Avilez

Dear Clayton Area Property Owner:

Notice is hereby given that the Clayton Planning Board will hold an evidentiary hearing on **Tuesday, May 28, 2019 at 6:00pm** at Town Hall, 111 E. Second Street, to consider the variance application described above. Please see the map on the back of this letter showing the property.

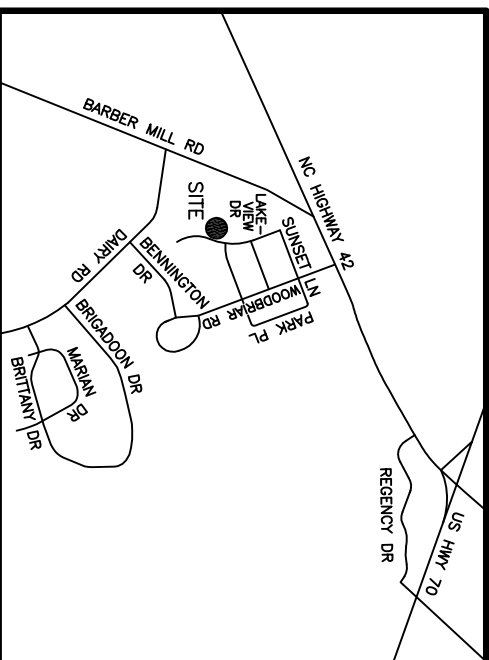
According to Section 155.719(C)(1) of the Town of Clayton Unified Development Code, the Planning Board is authorized to approve a variance to certain standards of the Unified Development Code if they will not be contrary to the public interest.

Based upon records in the Johnston County Tax Office, you are the owner of property that is within 100 feet of this request. You are invited to attend this meeting. During an evidentiary hearing, the Planning Board must make findings of fact based upon sworn testimony and other credible evidence. Citizens may give testimony in an evidentiary hearing after they have taken an oath. This is an open meeting and interested persons are invited to attend.

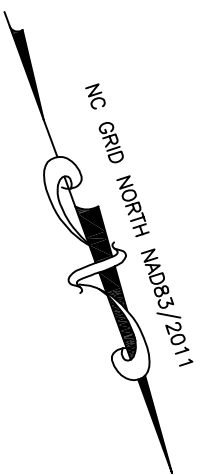
If you should need additional assistance or information, please contact Damiere Powell in the Planning Department at (919) 553-5002 or dpowell@toc.org.

Sincerely,

Damiere Powell
Planner



VICINITY MAP (NOT TO SCALE)



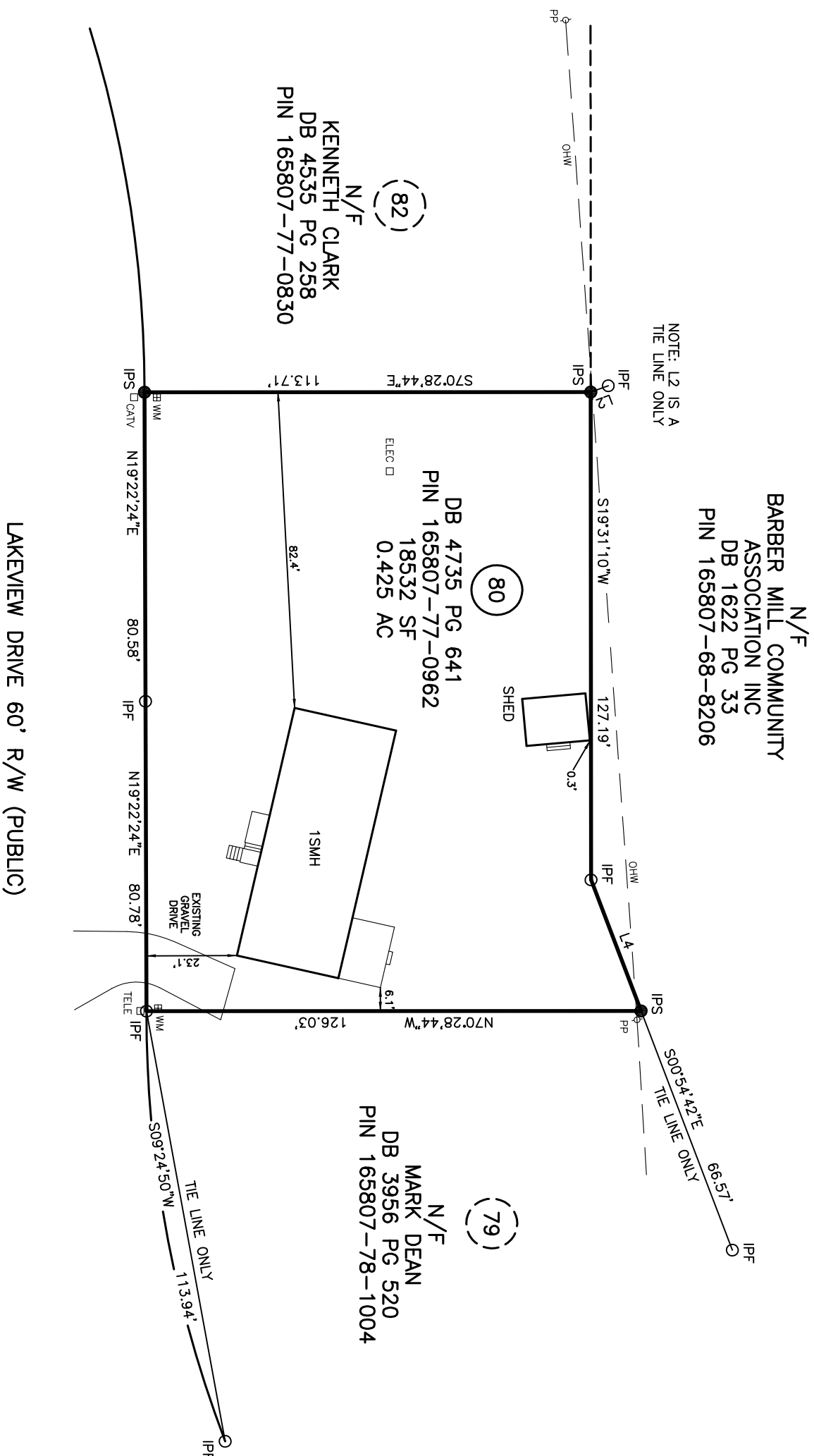
LINE	BEARING	DISTANCE
L2	N89°25'36"E	4.75'
L4	S00°54'42"E	36.46'

NOTES

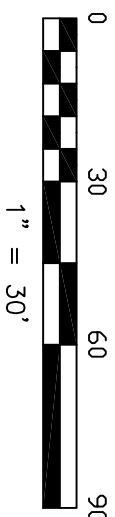
- 1) ALL DISTANCES SHOWN ARE HORIZONTAL, GROUND DISTANCES
- 2) AREAS COMPUTED BY COORDINATE METHOD.
- 3) PROPERTY SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.
- 4) NO 5 BEAR IRON STAKES WITH CAPS SET AT ALL LOT CORNERS UNLESS OTHERWISE NOTED
- 5) NO HORIZONTAL CONTROL FOUND WITHIN 2000' OF SURVEY
- 6) ZONING: R-E
- 7) PAVENT TRACT DEED DB 4735 PG 641
- 8) PARCEL COM. NO. 0556939000
- 9) NC PIN # 165807-77--0962
- 10) GRID TILE BY GPS

REFERENCES:

PB	15	PG	189
PB	52	PG	16
DB	4735	PG	641
DB	3956	PG	520
DB	4535	PG	258



MINIMUM BUILDING SETBACKS	
ZONING: R-E	
FRONT.....	35'
SIDE.....	15'
REAR.....	30'



LOT 80
CLAYTON ESTATES
FOR
ANA PENALOZA AVILEZ
CLAYTON TOWNSHIP, JOHNSTON COUNTY
NORTH CAROLINA
MARCH 28, 2019

BOUNDARY SURVEY
OF

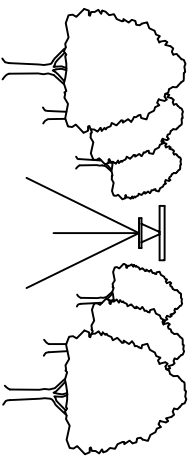
OWNER: ANA C. PENALOZA AVILEZ
703 LAKEVIEW DRIVE
CLAYTON, NC 27520

LEGEND

- [illegible]

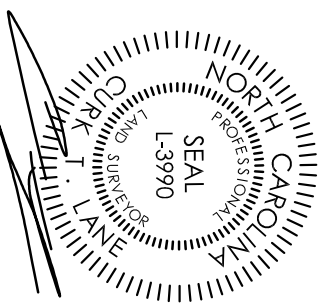
SUREKEYED BY:	MATT
DRAWN BY:	DANNY
CHECKED BY:	CURL T. LANE PLUS
DRAWING NAME:	BOUNDARY.DWG
SUREKEY DATE:	2/28/19
JOB NO.	2107.006

TRUE LINE SURVEYING, P.C.



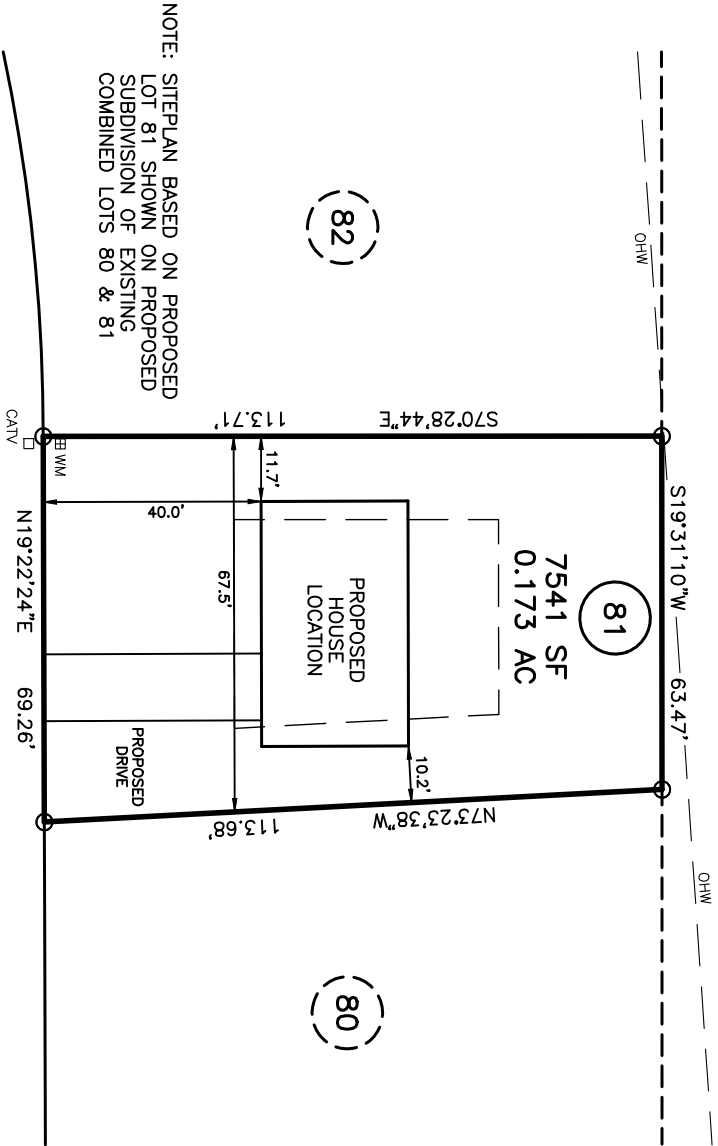
205 WEST MAIN STREET
CLAYTON, N.C. 27520
TELEPHONE: (919) 359-0427
FAX: (919) 359-0428
www.truelinesurveying.com

C-1859



MINIMUM BUILDING SETBACKS
ZONING: R-E
FRONT.....35 FEET
SIDE.....15 FEET
REAR.....30 FEET

N/F
BARBER MILL COMMUNITY
ASSOCIATION INC



NOTE: SITEPLAN BASED ON PROPOSED
LOT 81 SHOWN ON PROPOSED
SUBDIVISION OF EXISTING
COMBINED LOTS 80 & 81

LAKEVIEW DRIVE 60' R/W (PUBLIC)

LOT COVERAGE TABLE

HOUSE.....1188 SF
LOT AREA.....07541 SF
PERCENTAGE OF IMPERVIOUS AREA.....15.8%

DOES LOT HAVE STATE ROAD FRONTAGE? ☒ YES ☐ NO
DOES LOT HAVE RECORDED EASEMENT? ☐ YES ☒ NO
DRIVEWAY OR ACCESS DRIVE DRAINAGE CULVERT
TYPE AND SIZE _____

STORMWATER ADMINISTRATOR SIGNATURE _____

* THIS PLOT PLAN IS FOR PRECONSTRUCTION
PURPOSES ONLY.

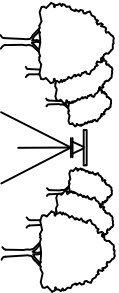
NOTES:

PUBLIC WATER SYSTEM ☒ YES ☐ NO
WELL ☐ YES ☒ NO
PUBLIC SEWER SYSTEM ☒ YES ☐ NO
HOUSE DIMENSIONS: 44' x 27'

IMPERVIOUS SURFACE TABLE

HOUSE.....1188 SF
DRIVE & WALK.....0480 SF
TOTAL.....1668 SF
LOT AREA.....07541 SF
PERCENTAGE OF IMPERVIOUS AREA.....22.1%

PLOT PLAN
OF
LOT 81
CLAYTON ESTATES
TOWN OF CLAYTON
FOR
ANA PENALOZA AVILEZ
SCALE: 1" = 30'
15 0 30 60



TRUE LINE SURVEYING, P.C.
205 W. MAIN STREET
CLAYTON, N.C. 27520
TELEPHONE: (919) 359-0427
FAX: (919) 359-0428
www.truelinesurveying.com

JOB NO: 2107.006

DRAWN: DANNY

DATE: 3/28/19

CHECKED: CURK

C-1589

**2019-64-VAR - 703 LAKEVIEW VARIANCE LOT 81
CLAYTON ESTATES NONCONFORMING LOT DEVIATION**

STAFF ANALYSIS

PROPERTY #	TAG	ACREAGE	ACREAGE REQUIREMENT	DEVIATION FROM UDC REQUIREMENT (ACRES)
1	05H03029A	0.25	0.4591	0.2091
2	05E99023V	0.204	0.4591	0.2551
3	05E99024I	0.203	0.4591	0.2561
4	05E99023M	0.279	0.4591	0.1801
5	05H03200I	0.307	0.4591	0.1521
6	05H03200T	0.218	0.4591	0.2411
7	05E99023X	0.222	0.4591	0.2371
8	05E99023P	0.244	0.4591	0.2151
9	05E99023Y	0.212	0.4591	0.2471
10	05E99005P	0.208	0.4591	0.2511
11	05E99024V	0.209	0.4591	0.2501
12	05H03194G	0.21	0.4591	0.2491
13	05E99024H	0.264	0.4591	0.1951
14	05H03029C	0.325	0.4591	0.1341
15	05H03029T	0.226	0.4591	0.2331
16	05E99024Y	0.212	0.4591	0.2471
17	05H03200X	0.236	0.4591	0.2231
18	05E99024L	0.241	0.4591	0.2181
19	05H03029G	0.269	0.4591	0.1901
20	05H03029F	0.263	0.4591	0.1961
21	05H03029V	0.257	0.4591	0.2021
22	05H03029U	0.294	0.4591	0.1651
23	05H03029W	0.217	0.4591	0.2421
24	05E99024P	0.229	0.4591	0.2301
25	05E99013M	0.44	0.4591	0.0191
26	05H03200J	0.248	0.4591	0.2111
27	05H03195G	0.271	0.4591	0.1881
28	05H03196E	0.35	0.4591	0.1091
29	05E99024O	0.279	0.4591	0.1801
30	05E99023T	0.236	0.4591	0.2231
31	05E99005N	0.429	0.4591	0.0301
32	05E99023U	0.287	0.4591	0.1721
33	05E99023W	0.283	0.4591	0.1761
34	05H03190A	0.205	0.4591	0.2541
35	05H03197E	0.226	0.4591	0.2331
36	05E99043D	0.229	0.4591	0.2301
37	05H03029J	0.225	0.4591	0.2341
38	05H03029	0.22	0.4591	0.2391
39	05H03197L	0.269	0.4591	0.1901
40	05H03029N	0.265	0.4591	0.1941
41	05E99076A	0.241	0.4591	0.2181
42	05H03029M	0.266	0.4591	0.1931
43	05H03029H	0.252	0.4591	0.2071
44	05H03029E	0.27	0.4591	0.1891
45	05H03029Q	0.266	0.4591	0.1931
46	05E99023S	0.231	0.4591	0.2281
47	05E99023Q	0.232	0.4591	0.2271
48	05H03200R	0.25	0.4591	0.2091
49	05H03029B	0.255	0.4591	0.2041
50	05H03029O	0.222	0.4591	0.2371
51	05H03195L	0.24	0.4591	0.2191
52	05E99024T	0.227	0.4591	0.2321
53	05E99024N	0.239	0.4591	0.2201
54	05E99024X	0.238	0.4591	0.2211
55	05E99024R	0.222	0.4591	0.2371
56	05E99024Q	0.243	0.4591	0.2161
57	05E99024M	0.226	0.4591	0.2331
58	05H03194F	0.204	0.4591	0.2551
59	05E99024U	0.201	0.4591	0.2581
60	05E99023L	0.227	0.4591	0.2321
61	05E99023R	0.224	0.4591	0.2351
62	05H03029D	0.237	0.4591	0.2221
63	05E99024W	0.245	0.4591	0.2141
64	05E99024S	0.226	0.4591	0.2331
65	05H03197I	0.258	0.4591	0.2011
66	05E99012H	0.239	0.4591	0.2201
67	05H03200Y	0.252	0.4591	0.2071
68	05E99024J	0.239	0.4591	0.2201
69	05E99023Z	0.249	0.4591	0.2101
70	05H03029Y	0.298	0.4591	0.1611

AVERAGE LOT DEVIATION (ACRES)	LOT 81 DEVIATION FROM UDC REQUIREMENT (ACRES)	5% OF AVERAGE DEVIATION	LOT 81 DEVIATION FROM AVERAGE LOTS
0.209385714	0.2861	0.01	36%

Analysis Summary

Section 155.110(C)(1) of the UDC establishes a frame of reference for analysis in regard to developing single family residences on nonconforming lots without a variance. The code section states that the nonconforming lot may be developed without a variance provided that the required UDC standards are not more than 20% below the minimum specified in Chapter 155, or within 5% of the average deviation on lots within the same subdivision.

Using this reference, staff has analyzed the deviation of the new proposed lot 81 from the standard code requirement, as well as the deviation of other lots within the Clayton Estates Neighborhood from code requirements. Upon comparison, the proposed lot 81 would deviate substantially more from the minimum lot size requirement of the UDC, as well as from the other nonconforming lots within the neighborhood.

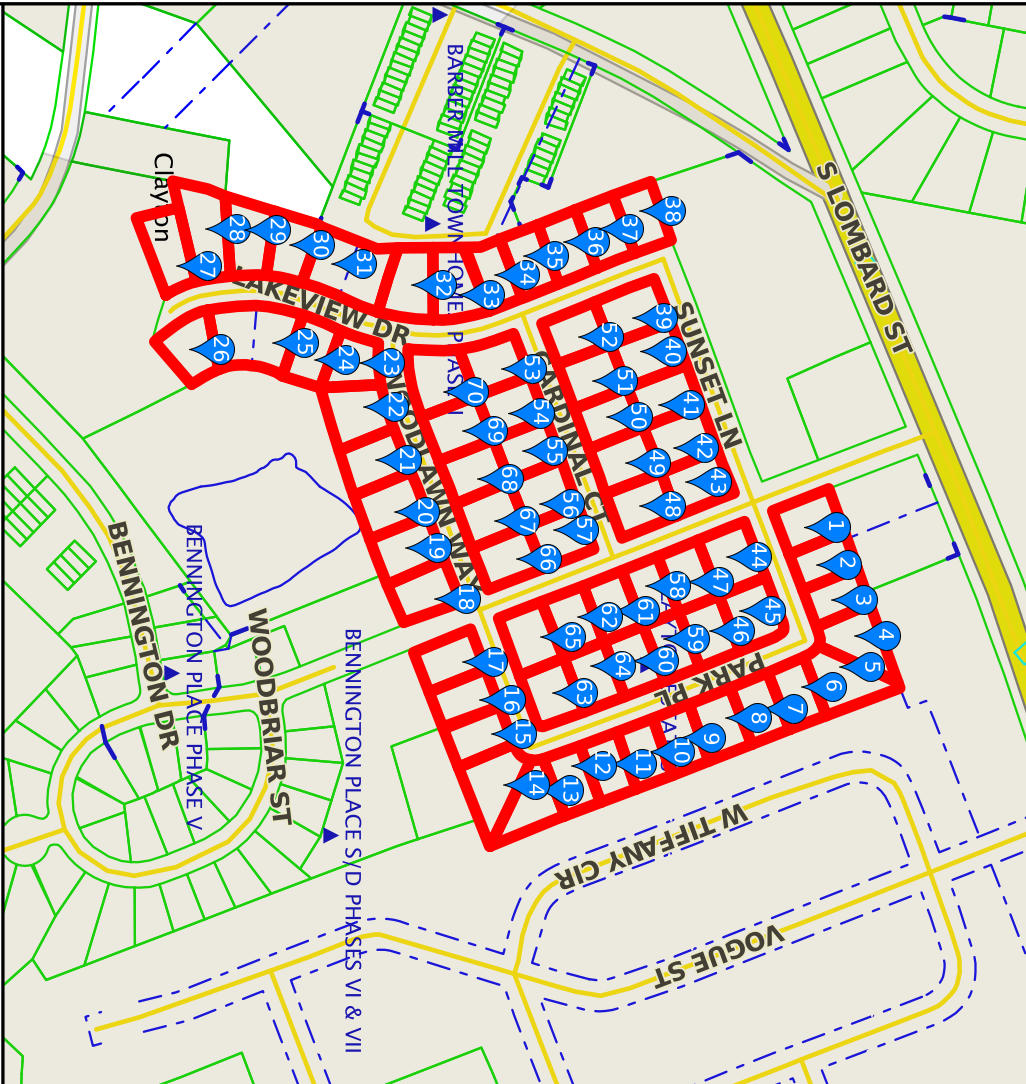
The average lot size of lots in this neighborhood are about 0.209 acres less than the 0.459 acre Code requirement.

Lot 81 would be 0.286 acres less than the 0.459 acre requirement. This deviates 36% more than the average lot in the neighborhood.

*** DISCLAIMER ***
Johnston County assumes no legal responsibility for the information represented here.

Result 1

Id: 05H03029A
Tag: 05H03029A
NCPin: 165808-78-5864
Mapsheet No: 165808
Owner Name 1: HOCUTT, WILLIAM RONALD
Owner Name 2:
Mail Address 1: 1697 RICHARDSON RD
Mail Address 2:
Mail Address 3: ZEBULON, NC 27597-0000
Site Address 1:
Site Address 2:
Book: 01601
Page: 0521
Market Value: 21300
Assessed Acreage: 0.25
Calc. Acreage: 0.25
Sales Price: 0
Sale Date: 1997-05-19



Scale: 1:3928 - 1 in. = 327.36 feet

(The scale is only accurate when printed landscape on a 8 1/2 x 11 size sheet with no page scaling.)



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

Planning Board
May 28, 2019

STAFF REPORT

Application Number: 2019-64-VAR
Project Name: 703 Lakeview Drive Lots 80 & 81 Variance

Tag #: 05E99005N
Overlay: None
Applicant: Ana Cristina Penaloza Avilez
Owner: Ana Cristina Penaloza Avilez
Location: 703 Lakeview Drive, Clayton, NC

Public Noticing:

- Letters mailed May 3, 2019
- Sign posted May 3, 2019
- Newspaper Ad advertised May 15, 2019 and May 22, 2019

REQUEST: The applicant would like to subdivide an existing lot within the Clayton Estates Subdivision, lot 80, into two lots, 80 and 81. In order to achieve this, the applicant is requesting a variance from the following code sections:

UDC Section	Lot	Requirement	Variance Request
155.203(G)(6) Conventional Subdivision Standards: Minimum Lot Area (Square Feet) & Minimum Lot Width (Feet)	81	Residential-Estate Zoning District Minimum Lot Area Requirement: - Minimum Lot Area (Square Feet): 20,000 SF - Minimum Lot Width (Feet): 80 feet	The variance request is for a reduction of the minimum lot area to 7,541 square feet and minimum lot width to 67 feet.
155.203(G)(6) Conventional Subdivision Standards: Minimum Lot Area (Square Feet)	80	Residential-Estate Zoning District Minimum Lot Area Requirement: - Minimum Lot Area (Square Feet): 20,000 SF	The variance request is for a reduction of the minimum lot size to 10,991 square feet.
155.203(G)(6) Conventional Subdivision Standards: Minimum Setbacks (Feet)	81	Residential-Estate Zoning District Minimum Setback Requirements: - Side Interior: 15 feet	The variance request is for a reduction of the minimum setback distance to meet the following: - Side Interior: 10 feet

SITE DATA:**Acreage:** 0.43 acres**Existing Use:** Single-Family Residential**STAFF ANALYSIS AND COMMENTARY:**

This variance request is running concurrently with a minor subdivision application, 2019-68-SDM 703 Lakeview Drive. It appears on Johnston County GIS that there was previously a property line at the approximate location of the proposed subdivision. The applicant intends to subdivide lot 80 into the previous two lots at this location. The proposed subdivision would not meet current lot size and setback requirements for the Residential-Estate zoning district, which are outlined in the Unified Development Code. Therefore, the applicant is requesting a variance for each proposed lot from the above referenced code sections. Please see below for an analysis of each:

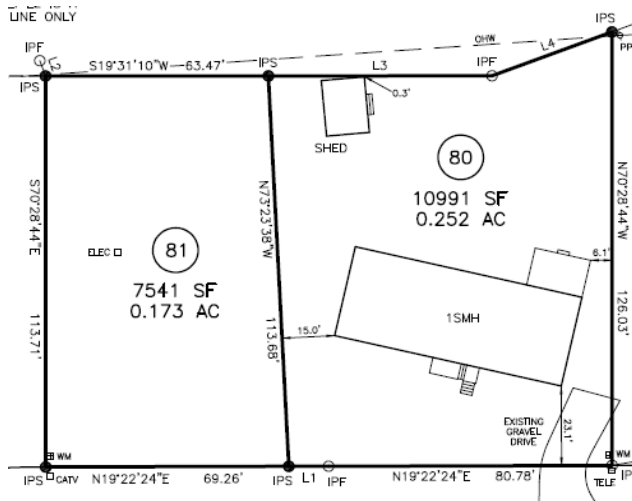
Minimum Lot Area – Lots 80 & 81

The applicant is requesting a variance from minimum lot area requirements outlined in section 155.203(G)(6), which has a minimum lot size requirement of 20,000 square feet for the Residential-Estate zoning district. Currently, the existing lot area is only 18,532 square feet and is considered nonconforming, as it does not meet current lot size requirements.

Zoning District	Unit type	Lot Standards						Density (dwelling units/ acre)	Minimum Setbacks (ft.)				Building Standards		
		Min. Site Area (acres)	Min. Parcel Size (sq. ft)	Min. lot area (sq. ft)	Min. lot width (ft.)	Max. lot coverage (%)	Max. impervious surface (%)		Front	Side Interior	Side Street	Rear	Max. height (ft.)	Min. dwelling unit Size (sq. ft)	Accessory structures
R-E	Single Family with public water and sewer	-	-	20,000	80	35	50	2.1	35	15	25	30	35	1,400	See § 155.308
	Single Family with public water and septic	-	-	25,000	80	35	50	1.7	35	15	25	30	35	1,400	
	Single Family with well and septic	-	-	40,000	100	35	50	1.0	35	15	25	30	35	1,400	

Residential-Estate Zoning District Requirements: Minimum Lot Area

The proposed variance is for a lot area of 7,541 square feet for lot 81 and a lot area of 10,991 square feet for lot 80. Please see the proposed site plan below for reference. The applicant proposes to subdivide the property to add another Class A Manufactured home on the new non-conforming lot.



Site Plan: Lots 80 & 81

Minimum Lot Width – Lot 81

The applicant is requesting a variance from minimum lot width requirements outlined in section 155.203(G)(6), which has a minimum width requirement of 80 feet for the Residential-Estate zoning district.

Zoning District	Unit type	Lot Standards						Density (dwelling units/ acre)	Minimum Setbacks (ft.)				Building Standards		
		Min. Site Area (acres)	Min. Parcel Size (sq. ft)	Min. lot area (sq. ft)	Min. lot width (ft.)	Max. lot coverage (%)	Max. impervious surface (%)		Front	Side Interior	Side Street	Rear	Max. height (ft.)	Min. dwelling unit Size (sq. ft)	Accessory structures
R-E	Single Family with public water and sewer	-	-	20,000	80	35	50	2.1	35	15	25	30	35	1,400	See § 155.308
	Single Family with public water and septic	-	-	25,000	80	35	50	1.7	35	15	25	30	35	1,400	
	Single Family with well and septic	-	-	40,000	100	35	50	1.0	35	15	25	30	35	1,400	

Residential-Estate Zoning District Requirements: Minimum Lot Width

Minimum Building Setbacks – 81

The applicant is also requesting a variance from the building setback requirements outlined in 155.203(G)(6) of the Unified Development Code. The variance would be from the side interior setback requirement, which has a minimum building setback of 15 feet.

Zoning District	Unit type	Lot Standards						Density (dwelling units/ acre)	Minimum Setbacks (ft.)				Building Standards		
		Min. Site Area (acres)	Min. Parcel Size (sq. ft)	Min. lot area (sq. ft)	Min. lot width (ft.)	Max. lot coverage (%)	Max. impervious surface (%)		Front	Side Interior	Side Street	Rear	Max. height (ft.)	Min. dwelling unit Size (sq. ft)	Accessory structures
R-E	Single Family with public water and sewer	-	-	20,000	80	35	50	2.1	35	15	25	30	35	1,400	See § 155.308
	Single Family with public water and septic	-	-	25,000	80	35	50	1.7	35	15	25	30	35	1,400	
	Single Family with well and septic	-	-	40,000	100	35	50	1.0	35	15	25	30	35	1,400	

Residential-Estate Zoning District Requirements: Minimum Side Interior Setback

The applicant is requesting that the minimum building side interior setback be reduced from 15 feet to 10 feet.

Findings of Fact:

- Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in absence of the variance, no reasonable use can be made of the property.
 - Applicant Response:** “Existing falls beneath required acreage allowance in R-E zoning.”
 - Staff Commentary:** The subject property is an existing non-conforming lot according to the R-E zoning standards. The applicant further proposes to subdivide the non-conforming lot which expands a non-conformity. The expansion of a non-conformity is not allowed by the UDC.
- 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.
 - Applicant Response:** “The hardship results from the fact the lot was created prior to the regulated uses of the current R-E zoning size and shape.”
 - Staff Commentary:** Lot 80, as well as some other lots within the Clayton Estates Subdivision, do not conform with current conventional subdivision standards for the Residential-Estate zoning district outlined in section 155.203(G)(6) of the Unified Development Code.
- 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.
 - Applicant Response:** “The hardship results from the fact that the lot was created prior to the regulated uses of the current R-E zoning size and shape.”
 - Staff Commentary:** The requested variance would further expand a nonconforming lot by subdividing the lot and creating another nonconformity. The further expansion of the

nonconformity is to place another Class A Manufactured home on the property. This suggests a financial gain as the purpose for the variance request and it is not considered a reason to grant a variance.

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

- **Applicant Response:** “Correct. The rest of the neighborhood is a mobile home park.”
- **Staff Commentary:** The requested variance which would enable the creation of lot 81 would allow a lot that deviates significantly from surrounding properties within the Clayton Estates neighborhood. The proposed lot 81 is notably smaller than the UDC minimum lot area requirement, as well as the average lot size of other properties within the neighborhood. Although, many other lots in the neighborhood are nonconforming, the average lot size in the neighborhood is only 0.20934 acres less than the UDC lot area requirement. Lot 81 would be 0.2861 acres less than the UDC lot area requirement, which is a 36% greater deviation from the UDC minimum lot area requirement than adjacent properties. It would also be the smallest lot in the neighborhood.

For reference, section 155.110(C)(1) of the UDC states that nonconforming lots may be used for a building site for single-family residences without a variance provided that the required standards are not more than 20% below the minimum specified in Chapter 155, or within 5% of the average deviation on lots adjacent to or within the same subdivision. The 36% deviation of lot 81 from neighborhood properties is a substantial difference from other lots in the subdivision, based on the standard permissible condition of 5% deviation outlined in 155.110(C)(1). Please see the attached staff analysis for reference.

Furthermore, section 155.110(A) of the UDC states the intent of the nonconformities section as “to regulate and limit the continued existence of such nonconformities; and, where possible, bring them into conformance with this chapter.” The proposed variance contradicts this intent, as it does not limit the amount of nonconformity, but generates more than what is existing.

CONSIDERATIONS:

- The Planning Board shall review and make a final decision regarding Variance applications.
- Per UDC requirements, no variance shall be approved unless all of the Findings of Fact are made.

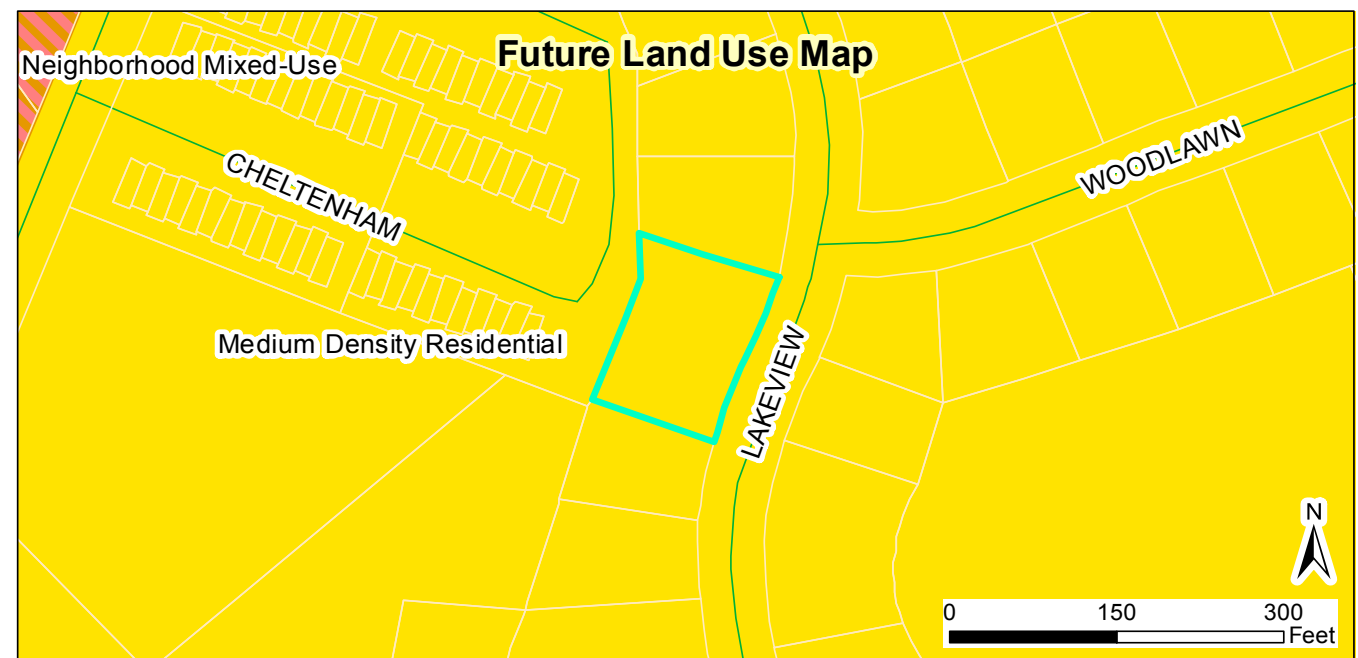
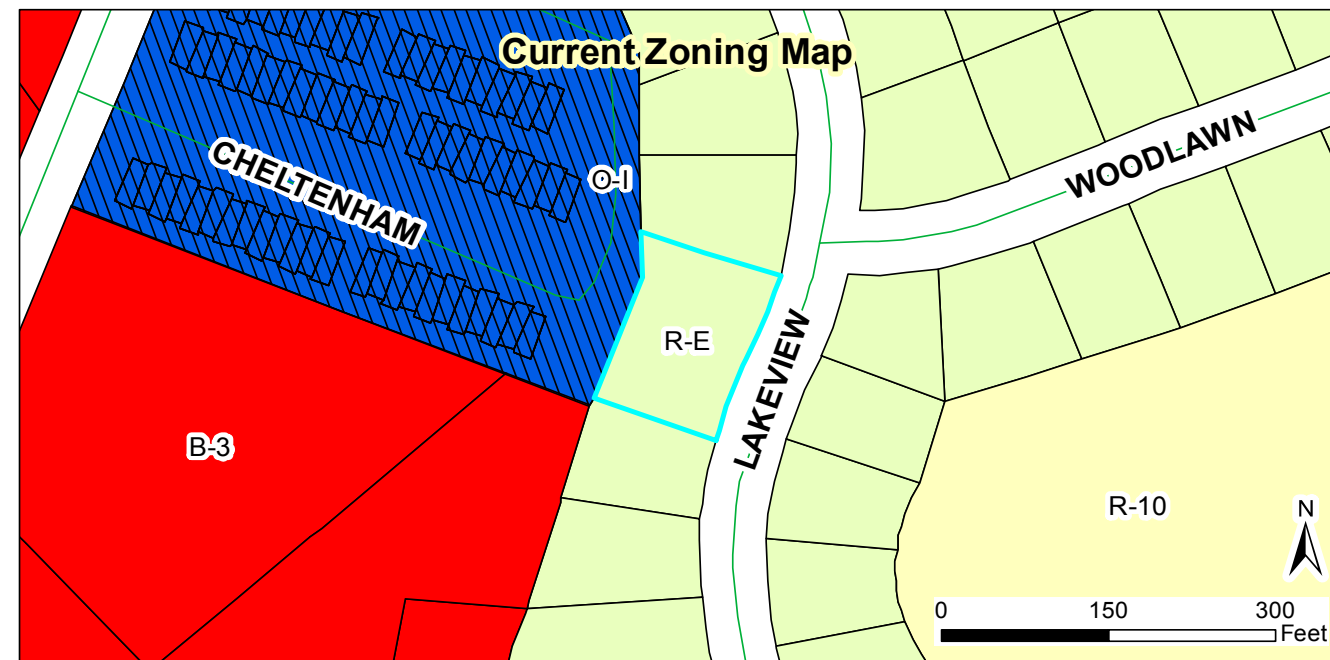
FINDINGS OF FACT:

The applicant has addressed the Findings of Fact, as outlined above in this report and included as a part of the application.

ATTACHMENTS:

1. Application

2. Owner's Consent Form
3. Staff Report Maps
4. Site Plan
5. Adjacent Property Owner List
6. Newspaper Ad- public notice
7. Adjacent Property Letter- public notice
8. Staff Analysis – Lot Area Deviation



Request:
2019-64-VAR - Lakeview Drive Lots 80 & 81 - Request for a variance from R-E minimum lot area, lot width, and setback requirements.

Applicant: Ana Cristina Penaloza Avilez
 Property Owners: Ana Cristina Penaloza Avilez
 Tag #: 05E99005N

Staff Report Map



Document Path: O:\PLANNING\VARIANCE\2019\2019-64-VAR 703 Lakeview Drive Lots 80 & 81\Map\Staff Report Map - 2019-64-VAR 703 Lakeview Drive Lots 80 & 81.mxd

Legend

- Site
- 100-yr Flood Zone
- Thoroughfare Overlay
- Watershed Protection Overlay

04/15/2019

Produced by: TOC Planning
 Disclaimer: Town of Clayton assumes no legal responsibility for the quality of the data represented here.



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

ORDINANCE AMENDMENT APPLICATION

Pursuant to Article 7, Section 155.703 of the Unified Development Code, the Town Council, Board of Adjustment, Planning Board, Planning Director, or the general public may petition the Town Council to amend the Code of Ordinances.

Application Fee: TBD

Advertisement Fee: \$100.00

All fees are due when the application is submitted.

AMENDMENT INFORMATION

Project Name: Recreation/Open Space Residential Subdivision Credits

Existing title of Code Section(s): 155.203(I) Recreation and Open Space Requirements

Code Section Number(s): 155.203(I)(3)

APPLICANT/CONTACT INFORMATION

Applicant: Planning Department

Mailing Address: PO Box 879 Clayton, NC 27528

Phone Number: 919-359-2102

Fax: _____

Contact Person: Samantha Wullenwaber / Haley Hogg

Email Address: swullenwaber@townofclaytonnc.org / hhogg@townofclaytonnc.org

DESCRIPTION OF REQUESTED CHANGES

Please provide a general justification of the requested ordinance amendment. Attach additional sheets if necessary.

Request to require 100% of recreation fees be paid for all residential subdivisions, including open space subdivisions.

FOR OFFICE USE ONLY

Date Received: 4-24-19

Amount Paid: 0 V/A

File Number: 2019-86-0A

July 2018

Page 1 of 2

REQUIRED INFORMATION (to be submitted with the application)

The following items must accompany this application for it to be deemed complete.

To be completed by the applicant:	For staff use only:				
Submit 9 copies of all materials unless otherwise noted or directed by staff	Yes	N/A	Yes	No	N/A
1. A pre-application conference was held with Town of Clayton staff. Date: _____	☐	x			
2. Review Fee and Advertisement Fee	☒				
3. Completed application	☒				
4. A bound strikethrough/underline copy of the Code section(s) proposed for revision	☒				
5. A bound "clean" copy of the Code section(s) proposed for revision	☒				

APPROVAL CRITERIA

All applications for Ordinance Amendment must address the following criteria:

1. The extent to which the proposed text amendment is consistent with the remainder of the chapter, including specifically, any purpose and intent statements.

The proposed amendment is consistent with the remainder of the chapter.

2. The extent to which the proposed text amendment represents a new idea not considered in the existing chapter, or represents a revision necessitated by changing circumstances over time.

The proposed amendment does not represent a new idea not considered in the existing chapter. The Town already charges recreation fees for all new developments. This amendment only proposes to modify the amount of recreation fees required for open space subdivisions.

3. Whether or not the proposed text amendment corrects an error in the chapter.

The proposed amendment does not correct an error in the chapter.

4. Whether or not the proposed text amendment revises the chapter to comply with state or federal statutes or case law.

The proposed amendment does not revise the chapter to comply with state or federal statutes or case law.

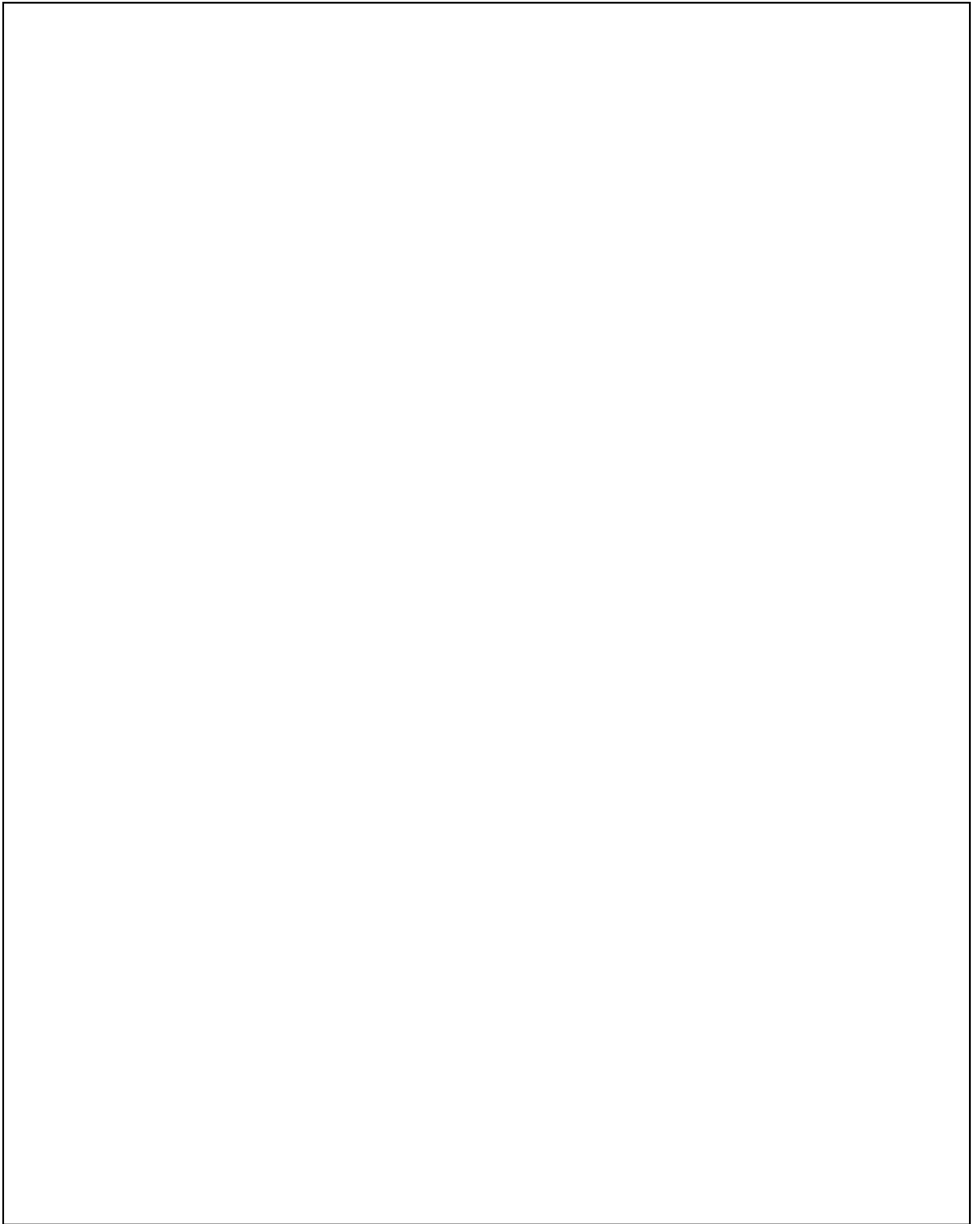
APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Town Council of the Town of Clayton to amend the Code of Ordinances as requested. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Clayton, North Carolina, and will not be returned.

Haley Hogg
Print Name

Haley Hogg
Signature of Applicant

4-22-19
Date



§ 155.203 GENERAL USE DISTRICT STANDARDS

(A) INTENT

The general use district development standards establish lot sizes and certain restrictions for residential and nonresidential development. These standards allow for variety in housing types while maintaining the overall character of neighborhoods and commercial areas of the town. Separate standards are established to regulate development in each general use district. This approach to district development standards benefits the public by:

- (1) Allowing for development that is more sensitive to the environment and encourages the preservation of open and natural areas.
- (2) Promoting quality site design and energy-efficient development.
- (3) Promoting affordable and life-cycle housing.
- (4) Promoting development intensities that maximize existing and proposed infrastructure investments.

(B) RESOURCE CONSERVATION AREAS

- (1) No resource conservation area (see §155.500) shall be counted towards lot area required by this subchapter. This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided to meet the minimum lot area requirements of this subchapter.
- (2) No resource conservation area shall be counted towards the recreation and open space requirements (see (H) of this section).

(C) CLAYTON GENERAL DESIGN GUIDELINES

The town has established a manual to guide the future growth of development. The design guidelines provide a basis for making decisions about the appropriate treatment of new construction and land development. Property owners, real estate agents, developers, tenants, architects and decision makers should use the guidelines contained in the document when considering a project. This will help establish an appropriate direction for its design. For any project subject to review, the applicant should refer to the guidelines at the outset, to avoid planning efforts that later may prove to be inappropriate.

(D) HOW TO USE THIS SECTION

This section is divided into the following:

Part 1. Residential Districts. This Part sets forth specific standards for development in residential districts.	§ 155.203(E) through § 155.203(J)
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Part 2. Nonresidential Districts. This Part sets forth	§ 155.203(K)
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specific standards for development in nonresidential districts.

Part 3. Planned Development Districts. This Part sets forth specific standards for development in planned development districts. § 155.203(L)

PART 1. RESIDENTIAL DISTRICTS

(E) PURPOSE AND INTENT

The purpose and intent of the residential districts is to provide a safe and healthy living environment for residents, protect the town's existing neighborhoods from incompatible uses, maintain natural areas and open spaces within neighborhoods, encourage connectivity and interconnectivity for multiple modes of transportation, and ensure adequate public facilities and services are available to meet the needs of current and future residents.

(F) RESIDENTIAL SUBDIVISION TYPES

Development within the residential districts allows a variety of housing types. To further the purpose of residential districts, two types of residential subdivisions are permitted, as follows.

(1) Conventional Residential Subdivision

A conventional residential subdivision is a pattern of residential development that provides a majority of property owners with substantial yards on their own property. A. recreation and open space dedication or payment of a fee-in-lieu is required for conventional residential subdivisions.

(2) Open Space Residential Subdivision

An open space residential subdivision trades conventional minimum lot size and dimensions for additional common recreation and open space. An open space residential subdivision shall be a sufficient size to ensure adequate common recreation and open space can be incorporated into the subdivision design. An open space residential subdivision may allow additional density provided certain enhancements are incorporated into the design of the subdivision.

(G) CONVENTIONAL SUBDIVISION STANDARDS

(1) Applicability

A conventional residential subdivision is permitted in all residential districts subject to the following standards.

(2) **Density**

In the R-10 and R-8 Districts, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of ten units per acre. In the R-6 District, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre.

(3) **Development Standards**

Applicants utilizing the conventional residential subdivision option shall meet all applicable development standards as set forth in § 155.400 through § 155.405 and § 155.500 through § 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(4) **Lots Not Served by Public Water and Sewer**

No permit to install a septic tank system shall be issued until the County Health Director has determined by a field investigation of the area that the site is acceptable for a septic tank system and that such a system can be installed at the site in compliance with these rules and regulations. The field investigations shall include evaluation of such factors as size and shape of the lot or lots, character and porosity of soil, percolation rate, topography, depth of the water table, rock or other impervious formations, location or proposed location of any water supply wells, and the success or failure history of any other septic tank systems in the area. The County Health Director shall not issue a permit if he determines that the site is not acceptable for septic tank systems.

(5) **Minimum Square Footage**

Minimum square footage requirements have been established for conventional subdivisions to ensure the scale of new construction is consistent with the established neighborhood patterns. Residential subdivisions which have a valid subdivision/plat approval, and additions to existing dwelling units are exempt from the minimum square footage requirements.

(6) **Dimensional Standards**

Applicants utilizing the conventional residential subdivision option shall meet the dimensional standards provided in Table 2-2. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

Table 2-2 Conventional Subdivision Regulations

Conventional Subdivision Standards																
Zoning District	Unit Type	Lot Standards							Density (dwelling units / acre)	Minimum Setbacks (ft.)				Building Standards		
		Min. Site Area (Acres)	Min. Parcel Size (sq. ft.)	Min. Lot Area (sq. ft.)	Lot Width (ft.)	Min. Lot Coverage (%)	Max Lot Coverage (%)	Max Impervious Surface (%)		Front	Side Interior	Side Street	Rear	Max. Height (ft.)	Min. Dwelling Unit Size (sq. ft)	Accessory Structures
R-E	Single Family with water and sewer	--	--	20,000	80	35	50	2.1	35	15	25	30	35	1,400	See §155.308	
	Single Family with well and septic	--	--	40,000	100	35	50	1.0	35	15	25	30	35	1,400		
	Single Family with public water and septic	--	--	25,000	80	35	50	1.7	35	15	25	30	35	1,400		
R-10	Single Family	--	--	10,000	70	35	50	4	30	10	20	25	35	1,100	See §155.308	
	Zero Lot Line	--	--	10,000	70	35	50	4	30	0	20	25	35	1,100		
	Alley Loaded	--	--	10,000	70	35	50	4	30	10	10	25	35	1,100		
	Two Family		12,000	Set by Special Use Process												
	Townhouse (2 units)		12,000													
	Townhouse (3+ units)		20,000													
Apartments	20,000															
R-8	Single Family	--	--	8,000	60	35	55	5	25	10	15	25	35	1,100	See §155.308	
	Zero Lot Line	--	--	8,000	60	35	55	5	25	0	15	25	35	1,100		
	Alley Loaded	--	--	8,000	60	35	55	5	15	10	15	25	35	1,100		
	Two Family		10,000	Set by Special Use Process												
	Townhouse (2 units)		10,000													
	Townhouse (3+ units)		20,000													
	Apartments		20,000													
R-6	Single Family	--	--	6,000	50	35	60	7	20	6	10	20	35	960	See §155.308	
	Zero Lot Line	--	--	6,000	50	35	60	7	20	0	10	25	35	960		
	Alley Loaded	--	--	6,000	50	35	60	7	10	6	10	25	35	960		
	Two Family		8,000	Set by Special Use Process												
	Townhouse (2 units)		8,000													
	Townhouse (3+ units)		20,000													
	Apartments		20,000													
Notes																
1	Minimum dwelling unit size = total heated square footage															
2	Manufactured homes and manufactured home parks shall meet the minimum requirements set forth in UDC §155.301 (F) and (G)															

Article 2 / Zoning Districts
§155.203 General Use District Standards

3	In no instance shall the area of a residential lot be less than the size determined to be adequate by the County Health Department after soil and ground water table investigations have been made.
4	A minimum of 1,245 square feet of Recreation and Open Space is required per unit for Single Family, Zero Lot Line and Alley Loaded units.
5	Public water and sewer is required in the R-10, R-8 and R-6 Zoning Districts. Within Town limits, connection to public water and sewer is also required for lots contiguous to existing service.
6	Lots using a zero side interior setback for one lot line are required to double the side interior setback requirement established for a single family unit for the opposite lot line.
7	In the R-10 and R-8 Zoning Districts, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 10 dwelling units per acre.
8	In the R-6 Zoning District, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 12 dwelling units per acre.

(H) **OPEN SPACE SUBDIVISION STANDARDS**

(1) **Intent**

The intent of an open space residential subdivision is to provide a development alternative to a conventional subdivision. An open space residential subdivision involves clustering home sites within a portion of the development site and allowing housing units on smaller lots than those permitted in a conventional residential subdivision. Open space subdivisions promote the preservation of environmentally sensitive land and allows for efficient use of the land to provide additional common open space. Open space subdivision development is encouraged by the Town in the form of these flexible design and maximum density provisions. Other purposes of an open space residential subdivision include the following:

- (a) To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.
- (b) To preserve important historic and archaeological sites.
- (c) To permit clustering of houses and structures in a manner that will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.
- (d) To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.
- (e) To promote interconnected greenways and corridors throughout the community.
- (f) To create contiguous greenspace within and adjacent to the development site.
- (g) To protect scenic views.
- (h) To protect prime agricultural land and preserve farming as an economic activity.

(2) **Applicability**

An open space residential subdivision is permitted in the R-E, R-10, and R-8 Zoning Districts subject to the following standards.

(3) **Mix of Housing Types**

Two-family, townhouse, apartment, and upper-story residential units may comprise no more than 50 percent of the total dwelling units of a proposed open space residential subdivision. In no case shall the density allowance be exceeded for the overall site. In the R-10 and R-8 Districts, townhouse parcels, apartment parcels, and upper-story residential units shall not exceed a density of ten units per acre.

(4) **Minimum Square Footage**

Minimum square footage requirements have been established for open space subdivisions to ensure the scale of new construction is consistent with the established neighborhood patterns. Existing dwelling units, including any additions thereto, are exempt from the minimum square footage requirements.

(5) **Development Standards**

Applicants utilizing the open space residential subdivision option shall meet all applicable development standards as set forth in §§ 155.400 through 155.405 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(6) **Dimensional Standards**

Applicants utilizing the open space residential subdivision option shall meet the dimensional standards provided in Table 2-3. Applicants shall comply with all other provisions this chapter and all other applicable laws.

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Table 2-3 Open Space Subdivision Regulations

Open Space Subdivision Standards															
Zoning District	Unit Type	Lot Standards						Density (dwelling units / acre)	Minimum Setbacks (ft.)				Building Standards		
		Min. Site Area (Acres)	Min. Parcel Size (sq. ft.)	Min. Lot Area (sq. ft.)	Min. Lot Width (ft.)	Max Lot Coverage (%)	Max Impervious Surface (%)		Front	Side Interior	Side Street	Rear	Max. Height (ft.)	Min. Dwelling Unit Size (sq. ft)	Accessory Structures
R-E	Single Family	10	--	12,000	48	35	50	3.7	21	9	15	18	35	1,400	See §155.308
R-10	Single Family	10	--	8,000	50	35	50	5	25	6	15	15	35	1,100	See §155.308
	Zero Lot Line	10	--	8,000	50	35	50	5	25	0	15	15	35	1,100	
	Alley Loaded	10	--	6,000	42	35	50	7	15	5	10	15	35	960	
	Two Family	10	12,000	12,000	75	35	50	3	25	6	15	15	35	960	See §155.308
	Townhouse (2 units)	10	12,000	6,000	42	35	50	3	25	6	15	15	35	960	
	Townhouse (3+ units)	10	20,000	4,000	25	35	50	10	25	15	15	15	35	700	
	Apartments	10	20,000	--	--	35	50	10	25	15	15	15	35		
R-8	Single Family	10	--	6,000	42	35	55	7	20	6	10	15	35	960	See §155.308
	Zero Lot Line	10	--	6,000	42	35	55	7	20	0	10	15	35	960	
	Alley Loaded	10	--	4,800	40	40	55	9	10	5	10	15	35	960	
	Two Family	10	10,000	9,000	65	40	55	4	20	6	10	15	35	700	
	Townhouse (2 units)	10	10,000	4,800	40	40	55	9	20	6	10	15	35	700	
	Townhouse (3+ units)	10	20,000	3,000	21	40	55	10	20	--	10	15	35	700	
	Apartments	10	20,000	--	--	40	55	10	15	10	15	20	35		
Notes															
1	Minimum dwelling unit size = total heated square footage														
2	Minimum dwelling unit size for multi-family is a per unit minimum														
3	Manufactured homes and manufactured home parks shall meet the minimum requirements set forth in UDC §155.301 (F) and (G)														
4	In no instance shall the area of a residential lot be less than the size determined to be adequate by the County Health Department after soil and ground water table investigations have been made.														
5	A minimum of 1,245 square feet per unit of public Recreation and Open Space is required in the R-E Zoning District														
6	A minimum of 12.5% of the total site acreage is required to be Recreation and Open Space in all Open Space Subdivisions.														
7	Public water and sewer is required in all residential Zoning Districts.														
8	Lots using a zero side interior setback for one lot line are required to double the side interior setback requirement established for a single family unit for the opposite lot line.														
9	In the R-10 and R-8 Zoning Districts, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 10 dwelling units per acre.														
10	The minimum building separation for townhouse parcels and apartment parcels is 20 feet.														

(7) **Utilities**

To the maximum extent feasible, utilities in open space residential subdivisions shall be placed underground.

(8) **Project Boundary Buffer**

- (a) No buffer is required where the width of the project's perimeter lots is equal to or greater than the minimum lot width of the adjoining development or the minimum lot width required by the zoning district applied to any adjoining undeveloped parcel.
- (b) Where narrower lot widths are provided, a Class C buffer shall be provided (see § 155.402) along all project boundaries of an open space subdivision.

(I) **RECREATION AND OPEN SPACE REQUIREMENTS**

(1) **Applicability**

Recreation and open space is an integral part of both conventional and open space residential subdivisions. The minimum recreation and open space requirement for each subdivision type is set forth below. No additional recreation or open space shall be required on the site, except where otherwise required by state or federal law. In the case that a subdivision is being developed in phases, the amount of recreation and open space shall be computed separately for each phase, but may be combined with existing recreation and open space in earlier phases to create a larger uniform area.

(2) **All Residential Subdivisions**

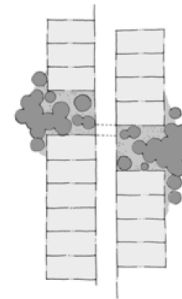
- (a) All residential development shall be required to either dedicate a portion of the land in the subdivision, or land in another location if approved by Town Council for recreation or open space use, or make a payment-in-lieu of dedication at a rate as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit. If a development is approved which provides private recreation and open space, to be maintained by a homeowner or property management organization, and meeting the minimum standards of this section, the required fee-in-lieu payment shall be as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit. A combination of dedication and payment-in-lieu may be used to meet these requirements.
- (b) At least 1,245 square feet of land shall be required for each proposed dwelling unit. Such land shall not include resource conservation areas (see § 155.500). The Town Council reserves the right to refuse to accept dedication of parcels for subdivisions, in which case the applicant shall pay the fee-in-lieu of dedication. The Town shall use fee-in-lieu payments for the acquisition or development of recreation and open space sites.

- (c) The location of the proposed recreation and open space areas, its suitability for recreational use, and any recreational plans adopted by the Town shall be considered in determining whether to accept dedication or payment of fee-in-lieu of dedication. The decision shall be made by the Town Council as a component of preliminary subdivision plans or special use permits, or by the Planning Director as a component of site plans. Any decision of the Planning Director relative to this section may be appealed to the Town Council.

(3) **Open Space Residential Subdivision**

- (a) All development utilizing the open space residential subdivision option shall provide recreation and open space equal to 12.5% of the net site area as public or private recreation and open space.

- (b) Where the Town Council accepts dedication of a portion or all of this recreation and open space, the dedicated portion shall receive 100% credit toward the requirement for recreation and open space in (1H)(2) of this section. The Town Council reserves the right to refuse to accept dedication. If dedication is not accepted by the Town Council, the development shall pay 100% of the required fee-in-lieu payment as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit.



- ~~(c) Where the recreation and open space is retained privately, or deemed unacceptable as public recreation and open space by the Town Council, it shall receive only 50% credit against the recreation and open space requirement, in recognition of a reduced burden on the Town's public recreation and open space system.~~

(4) **Configuration of Recreation and Open Space**

- (a) The minimum width for any required recreation and open space shall be 50 feet. Exceptions may be granted by the Town Council for items such as trail easements, mid-block crossings, linear parks/medians, when their purpose meets the intent of this section.
- (b) At least 60% of the required recreation and open space shall be in a contiguous parcel. For the purposes of this section, contiguous shall include any recreation and open space bisected by a residential street (including a residential collector), provided that:
1. A pedestrian crosswalk is constructed to provide access to the recreation and open space on both sides of the street; and
 2. The right-of-way area is not included in the calculation of minimum recreation and open space required.

- (c) The recreation and open space shall adjoin any neighboring areas of recreation and open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected recreation and open space.
- (d) The required recreation and open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the open space (i.e. mid-block connections in logical locations). No lot within the subdivision should be further than a one-quarter-mile radius from the required recreation and open space. This radius shall be measured in a straight line, without regard for street, sidewalk or trail connections to the open space.
- (e) Access to the recreation and open space shall be provided either by an abutting street or easement. Such easement shall be not less than 30 feet wide.
- (f) At least 25% of the recreation and open space shall be improved. Trails may be developed in accordance with the Clayton General Design Guidelines. Other improved recreation and open space areas shall be developed as set forth below. The shape, topography, and subsoils shall be appropriate to the improvements proposed. Where recreation or open space consists of prime agricultural land, this improvement requirement shall not apply.

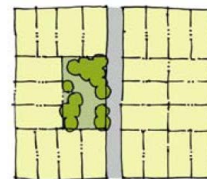
Tot Lot & Playgrounds (Private Only). *Playgrounds provide play areas for children as well as open shelter and benches. Playgrounds may be built within squares, greens, mini-parks and neighborhood parks or may stand alone within a residential block.*

Playgrounds shall be designed with commercial grade play equipment for two age groups: tot lot for children ages one to five; and separate play equipment for children ages six to ten. May include picnic units and shelters. Minimum requirements include two park benches and one trash receptacle. Must have shock absorbing surface with a maximum 2% slope. Playgrounds must meet all federal, state and local regulations and be compliant with the Americans with Disabilities Act. Due to the continuing maintenance obligations, the Town does not accept dedication of tot lots and playgrounds.



Mini-Park (Private Only). *The mini-park provides active recreational facilities for the use by the residents of the immediate surrounding neighborhood within the development.*

Size is from 2,500 sq. ft to one acre. May include: tennis courts, basketball courts, playgrounds and seating accommodations. Each mini-park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to serve. Rear facing lots are allowed. Mini-parks shall be attractively landscaped and be provided with sufficient natural or man-made screening or buffer areas to minimize any negative impacts upon adjacent residences. Due to the continuing maintenance obligations, the Town does not accept dedication of mini-parks.



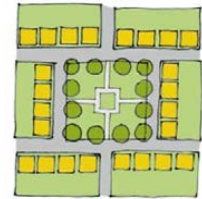
Plaza. *Plazas are for passive recreation use adjacent to a civic or commercial building. Plazas are paved in brick or another type of imperious surface.*

Plazas shall be level, stepped or gently sloping. At no time shall a plaza's horizontal length or width be greater than three times the height of surrounding buildings. Size is from 2,000 to 30,000 sq. ft.



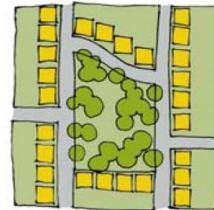
Squares. *Squares are formal areas for passive recreation use bound by streets or front facing lots.*

Squares shall be bound by streets on a minimum of three sides or 75% of their perimeter and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots allowed adjacent to a square. Trees plantings are encouraged parallel to the street right-of-way. Geometrical tree planting layouts for internal plantings are encouraged. Minimum size is 500 sq. ft. to one acre.



Green. *The green is an informal area for passive use bound by streets or front facing lots.*

A green shall be bound by streets on a minimum of three sides or 75% of their perimeter and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots allowed adjacent to a green. Tree plantings can be informal and the topography irregular. Greens may be used to preserve specimen trees. Size is 500 sq. ft. to one acre.



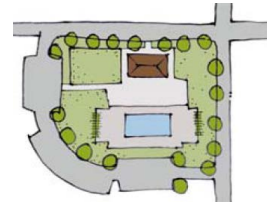
Neighborhood Park. *Neighborhood parks are designed for active or passive recreation use. Maximum park size can exceed five acres if the neighborhood park creates an open space that services an entire neighborhood or a group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake or river frontage, high ground, or significant stands of trees).*

Minimum size from one to five acres. Neighborhood parks shall be bound by streets on a minimum of 50% of their perimeter. Front facing lots are encouraged around the perimeter. Neighborhood parks shall include benches and walking paths. Neighborhood parks may include but are not limited to: tennis courts, racquet ball courts, basketball courts, volley ball courts, ball fields, swings, slides, playgrounds, dog parks, benches, restrooms, picnic units, shelters, walking paths and parking areas.



Clubhouse/Pool Amenity Area. *Clubhouse/pool areas can be found in a neighborhood park, mini-park or alone as an amenity area for the residents of a developed community. Clubhouse/pool areas can include: swimming pools, group activity room, gazebos, outdoor eating areas, and exercise stations.*

Pools should be a minimum size of 1,000 sq. ft. Clubhouses and swimming pools must meet all applicable building and health codes for the Town and the state.



Greenway. *Greenways typically follow natural or constructed features such as streams or roads and are designed to incorporate natural settings such as creeks and significant stands of trees within neighborhoods, and are used for transportation, recreation, and environmental protection. Greenways differ from parks; plazas and squares in that their detailing is natural (i.e. informally planted) except along rights-of-way, and may contain irregular topography.*

Design of the greenway should incorporate conservation of existing mature tree canopy and landscape, protection of existing natural drainage ways and creeks. Improvements shall include paved walks/trails and benches, and trash receptacles.



(5) **Adopted Municipal and County Plans**

Adopted municipal and County plans shall be taken into consideration when evaluating land proposals.

(6) **Permitted Uses of Recreation and Open Space**

Uses of recreation and open space may include the following:

- (a) Conservation areas for natural, archeological or historical resources;
- (b) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- (c) Pedestrian or multipurpose trails;
- (d) Passive recreation areas;
- (e) Active recreation areas, provided that impervious area is limited to no more than 50% of the total recreation and open space;
- (f) Golf courses (excluding clubhouse areas and maintenance facilities), provided the area does not exceed 50% of the required recreation and open space, and further

provided that impervious area is limited to no more than 10% of the total recreation and open space;

- (g) Above-ground utility rights-of- way, provided the area does not exceed 50% of the required recreation and open space;
- (h) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;
- (i) Landscaped stormwater management facilities;
- (j) Easements for drainage, access, and underground utility lines; and
- (k) Other conservation-oriented uses compatible with the purposes of this chapter.

(7) Prohibited Uses of Recreation and Open Space

Recreation and open space shall not include the following:

- (a) Community or individual wastewater disposal systems;
- (b) Streets (except for street crossings as expressly provided above) and parking areas; and
- (c) Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.

(8) Ownership and Management of Recreation and Open Space

(a) Ownership

Recreation and open space shall be accepted and owned by one of the following entities:

- 1) Town of Clayton. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the Town.
- 2) Land conservancy or land trust. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by a land conservancy or land trust.
- 3) Homeowners association. A homeowners association representing residents of the subdivision shall own the recreation and open space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the homeowner's association.

- 4) Private landowner. A private landowner may retain ownership of recreation and open space. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the private landowner.

(b) **Management**

Applicants shall submit a plan for the management of recreation and open space and other common facilities that:

- 1) Allocates responsibility and guidelines for the maintenance and operation of the recreation and open space, and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;
- 2) Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the recreation and open space and outlines the means by which such funding will be obtained or provided;
- 3) Provides that any changes to the plan be approved by the Town; and
- 4) Provides for enforcement of the plan.

(c) **Maintenance**

- 1) Passive recreation and open space maintenance is limited to removal of litter, dead tree and plant materials (that is obstructing pedestrian movement), and brush; weeding and mowing. Natural water courses are to be maintained as free-flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels.
- 2) No specific maintenance is required for agricultural uses.
- 3) Active recreation and open space areas shall be accessible to all residents of the development. Maintenance is limited to ensuring that there exist no hazards, nuisances or unhealthy conditions.

(d) **Failure to Maintain**

In the event the party responsible for maintenance of the recreation and open space fails to maintain all or any portion in reasonable order and condition, the Town may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the homeowner's association, or to the individual property owners that make up the homeowner's association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

(9) **Legal Instrument for Permanent Protection**

- (a) The recreation and open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:
- 1) A permanent conservation easement in favor of either:
 - A. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for re-transfer in the event the organization becomes unable to carry out its functions; or
 - B. A governmental entity with an interest in pursuing goals compatible with the purposes of this chapter. If the entity accepting the easement is not the Town, then a third right of enforcement favoring the Town shall be included in the easement.
 - 2) A permanent restrictive covenant for conservation purposes in favor of a governmental entity.
 - 3) An equivalent legal tool that provides permanent protection, if approved by the Town.
- (b) The instrument for permanent protection shall include clear restrictions on the use of the recreation and open space. These restrictions shall include all restrictions contained in this chapter, as well as any further restrictions the applicant chooses to place on the use of the recreation and open space. Where appropriate, the instrument shall allow for stream or habitat restoration within the easement area.

(J) **NONRESIDENTIAL DEVELOPMENT IN RESIDENTIAL DISTRICTS**

As set forth in the Use Regulation Table (Table 2-1 § 155.202(B)) certain nonresidential uses are permitted in residential districts. Permitted nonresidential uses shall meet the dimensional standards provided in table 2-4. Applicants shall comply with all other provisions of this chapter and all other applicable laws.

Table 2-4 Nonresidential Development Standards for Residential Districts

Zoning District	Lot Standards			Minimum Setbacks				Building Standards		
	Min. Lot Area (sq.ft.)	Min. Lot Width (ft.)	Public Water & Sewer	Street (Front)	Side Interior	Side Street	Rear	Max. Building Height (ft.) ⁽¹⁾	Building Coverage	Impervious Surface
R-E	20,000	80	Required	35	15	25	30	35	35%	50%
R-10	10,000	70	Required	30	10	20	25	35	35%	50%
R-8	8,000	60	Required	25	10	15	25	35	35%	55%
R-6	6,000	50	Required	20	6	10	20	35	35%	60%

			d						
Notes									
(1)	The Council may grant a special use permit in accordance with § 155.711, allowing nonresidential buildings to exceed the maximum height limits of the district.								

PART 2. NONRESIDENTIAL DISTRICTS

(K) NONRESIDENTIAL DISTRICT STANDARDS

(1) **Development Standards**

Applicants shall meet all applicable development standards as set forth in §§ 155.400 through 155.405 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(2) **Nonresidential Dimensional Standards**

- (a) As set forth in the Use Regulations Table (Table 2-1 § 155.202(B)) certain uses are allowed in nonresidential districts. Allowed uses shall meet the dimensional standards provided in Table 2-5. Applicants shall comply with all other provisions of this chapter and all other applicable laws.

§ 155.203, PART 2. Table 2-5 Nonresidential Dimensional Standards

Zoning District	Lot Standards			Minimum Setbacks (ft.)				Building Standards ⁽³⁾		
	Min. Lot Area (sq.ft.)	Min. Lot Width (ft.)	Public Water & Sewer	Street / Front (Max.)	Side Interior (abutting residential)	Side Street	Rear (abutting residential)	Max. Building Height (ft.) ⁽¹⁾	Building Coverage	Impervious Surface
O-R	6,000	50	Required	20	6 (6)	10	20 (20)	35	50%	75%
O-I	6,000	60	Required	30	10 (30)	20	20 (30)	60	50%	75%
B-1⁽¹⁾	None	None	Required	0 ⁽²⁾	0 (30)	0	0 (30)	50	--	--
B-2	6,000	50	Required	20	10 (30)	10	20 (30)	35	50%	75%
B-3	8,000	60	Required	25	15 (30)	30	30 (30)	60	50%	75%
I-1	20,000	100	Required	50	20 (30)	30	40 (40)	50	50%	75%
I-2	20,000	100	Required	50	20 (30)	30	40 (40)	50	50%	75%
PF	--	--	--	--	--	--	--	--	--	--
Notes:										
(1)	No maximum building coverage or impervious surface limits in the B-1 Zoning District									
(2)	Maximum 10 foot street yard setback in B-1 Zoning District									
(3)	Minimum Building Separation in all Zoning Districts is 20 feet									
(4)	The Town Council may grant a special use permit in accordance with § 155.711 for structures exceeding the maximum height limits									

- (b) More than one building may be permitted be on a single lot.

- (c) In the B-1 District, no rear yard shall be less than that of the nearest building facing on the same side of the street with the least rear yard depth. In no case shall the required rear yard setback exceed ten feet from the rear property line.
 - (d) The Town Council may grant a special use permit in accordance with § 155.711, allowing specified nonresidential buildings to exceed the maximum height limits of the district.
- (3) **Residential Dimensional Standards**
- (a) As set forth in the Use Regulations Table (Table 2-1 § 155.202(B)) certain residential uses are permitted in nonresidential districts. Dimensional standards for townhouses and apartments are established through the special use process (see § 155.711). Within the B-1 District, no townhouse or apartment shall be established on a parcel less than 20,000 square feet in area.
 - (b) Upper-story residential is permitted on the upper floors of a nonresidential building and shall conform to the lot, yard and bulk requirements of the principal building.
 - (c) Except in the B-1 District, townhouse and apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre in a standard residential district.

PART 3. PLANNED DEVELOPMENT DISTRICTS

(L) PLANNED DEVELOPMENT DISTRICT STANDARDS

(1) General Provisions for all Planned Developments (PD-R, PD-C, PD-I, PD-MU)

(a) *Rezoning Criteria*

In approving a rezoning for a planned development, the Town Council shall find the district designation and planned development master plan comply with the general standards for all planned development in this section and the specific standards for the proposed planned development listed in (L)(2) through (5) of this section, respectively.

(b) *Planned Development Master Plan*

The development proposed in the master plan is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties. The master plan shall be prepared by a professionally certified landscape architect, engineer or architect.

(c) *Design Guidelines and Dimensional Standards*

Each planned development shall provide a comprehensive set of design guidelines that demonstrate the project will be appropriate within the context of the

surrounding properties and the larger community. All bulk, area and dimensional standards shall be established by the Town Council at the time of approval.

(d) ***General Development Standards***

Unless specifically waived by the Town Council, all standards specified in §§ 155.400 through 155.405 shall apply.

(e) ***Resource Conservation Areas***

- 1) No resource conservation area (see § 155.500) shall be counted towards lot area. This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided.
- 2) No resource conservation area shall be counted towards the recreation and open space requirements (see below).

(f) ***Recreation and Open Space***

The planned development master plan shall meet or exceed the recreation and open space requirements of an open space residential subdivision (see § 155.203(H)).

(g) ***Stormwater Management***

When determined necessary by the Town Council, the planned development master plan shall contain a comprehensive stormwater management plan prepared by a professional engineer licensed in the state.

(h) ***Phasing***

If development is proposed to occur in phases, the planned development master plan shall include a phasing plan for the development, and if appropriate, with specific build-out dates. Guarantees shall be provided that project improvements and amenities that are necessary and desirable for residents and tenants of the project, or that are of benefit to the Town, are constructed with the first phase of the project, or, if this is not possible, then as early in the project as is technically feasible.

(2) **Planned Development-Residential (PD-R) District**

(a) ***Minimum Requirements***

- 1) The Planned Development -Residential District is an option provided to encourage a mix of housing options within a comprehensively planned development, allowing a density bonus in return for the provision of a higher quality development.

- 2) Unless waived by the Town Council, the PD-R District is permissible on tracts of land of least ten contiguous acres.

(b) **Uses**

Uses listed in the R-E, R-10, R-8, R-6 Districts are generally allowed in a PD-R District (see Table 2-1 § 155.202), subject to approval by the Town Council.

(c) **Project Boundary Buffer**

- 1) A perimeter buffer shall be required along all project boundaries of a planned residential development.
- 2) Where narrower lot widths are provided, a Class C buffer shall be provided (see § 155.402) along all project boundaries.

(3) **Planned Development-Commercial (PD-C) District**

(a) **Minimum Requirements**

- 1) The Planned Development- Commercial District is an option provided to enhance the design of a commercial development within a comprehensively planned development by allowing for additional flexibility not available in nonresidential districts.
- 2) Unless waived by the Town Council, the minimum tract of land for rezoning is two contiguous acres.

(b) **Uses**

The uses listed in the O-I, B-1, B-2, and B-3 districts are generally allowed in a PD-C District (Table 2-1 see § 155.202), subject to approval by the Town Council.

(c) **Project Boundary Buffer**

- 1) Unless waived by the Town Council, a Class B buffer (see § 155.402) shall be provided along all project boundaries abutting a nonresidential district.
- 2) Unless waived by the Town Council, a Class C buffer (see § 155.402) shall be provided all project boundaries abutting a residential district.

(4) **Planned Development-Industrial (PD-I) District**

(a) **Minimum Requirements**

- 1) The Planned Development- Industrial District is an option provided to encourage unified industrial complexes of high quality by allowing for additional flexibility not available in nonresidential districts.

- 2) The PD-I District is permissible on tracts of land of least ten contiguous acres.

(b) **Uses**

- 1) The uses listed in the B-1, B-2, B-3, I-1, and I-2 Districts are generally allowed in a PD-I District (see § 155.202), subject to approval by the Town Council.
- 2) Non-industrial or non-manufacturing uses located in a PD-I District are intended to serve the needs of the development and not the needs of a surrounding area. Areas designated for non-industrial and non-manufacturing activities shall be oriented towards the interior of the project and shall not be located on exterior or perimeter streets or property boundaries, but shall be centrally located within the project to serve the employees of the district.

(c) **Project Boundary Buffer**

A Class C buffer shall be provided (see § 155.402) along all project boundaries.

(5) **Planned Development-Mixed Use (PD-MU) District**

(a) **Minimum Requirements**

- 1) The Planned Development- Mixed Use District is an option provided to encourage coordinated mixed use developments.
- 2) Unless waived by the Town Council, the minimum tract of land for rezoning is two contiguous acres.

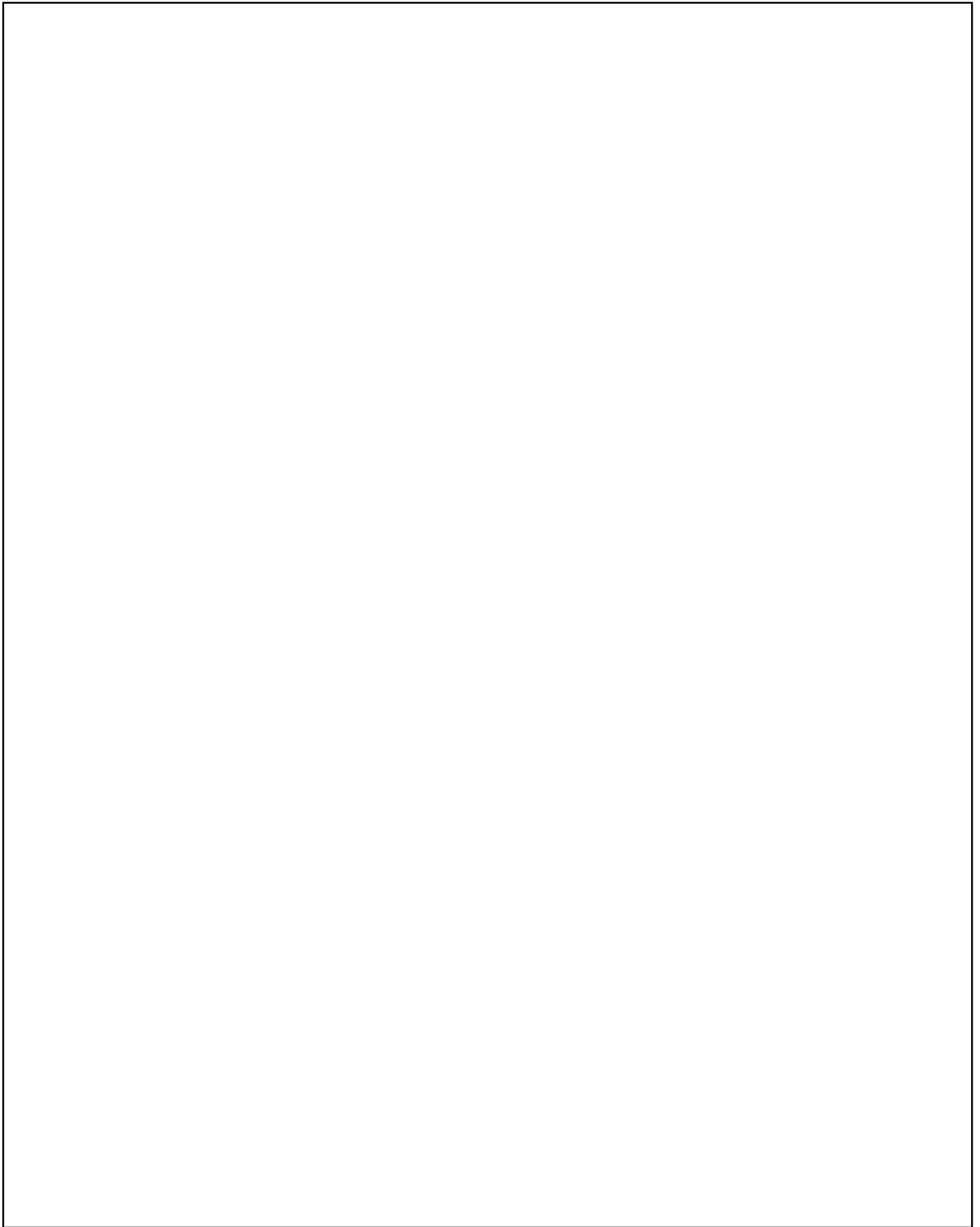
(b) **Uses**

- 1) The uses listed in the Use Regulations Table are generally allowed in a PD-MU District (Table 2-1 § 155.202), subject to approval by the Town Council.
- 2) The mix of uses shall be established by the Town Council at the time of approval.

(c) **Project Boundary Buffer**

Unless waived by the Town Council, a Class C buffer shall be provided (see § 155.402) along all project boundaries.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2017-08-05, adopted 8/7/2017)



§ 155.203 GENERAL USE DISTRICT STANDARDS

(A) INTENT

The general use district development standards establish lot sizes and certain restrictions for residential and nonresidential development. These standards allow for variety in housing types while maintaining the overall character of neighborhoods and commercial areas of the town. Separate standards are established to regulate development in each general use district. This approach to district development standards benefits the public by:

- (1) Allowing for development that is more sensitive to the environment and encourages the preservation of open and natural areas.
- (2) Promoting quality site design and energy-efficient development.
- (3) Promoting affordable and life-cycle housing.
- (4) Promoting development intensities that maximize existing and proposed infrastructure investments.

(B) RESOURCE CONSERVATION AREAS

- (1) No resource conservation area (see §155.500) shall be counted towards lot area required by this subchapter. This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided to meet the minimum lot area requirements of this subchapter.
- (2) No resource conservation area shall be counted towards the recreation and open space requirements (see (H) of this section).

(C) CLAYTON GENERAL DESIGN GUIDELINES

The town has established a manual to guide the future growth of development. The design guidelines provide a basis for making decisions about the appropriate treatment of new construction and land development. Property owners, real estate agents, developers, tenants, architects and decision makers should use the guidelines contained in the document when considering a project. This will help establish an appropriate direction for its design. For any project subject to review, the applicant should refer to the guidelines at the outset, to avoid planning efforts that later may prove to be inappropriate.

(D) HOW TO USE THIS SECTION

This section is divided into the following:

Part 1. Residential Districts. This Part sets forth specific standards for development in residential districts.	§ 155.203(E) through § 155.203(J)
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Part 2. Nonresidential Districts. This Part sets forth	§ 155.203(K)
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specific standards for development in nonresidential districts.

Part 3. Planned Development Districts. This Part sets forth specific standards for development in planned development districts. § 155.203(L)

PART 1. RESIDENTIAL DISTRICTS

(E) PURPOSE AND INTENT

The purpose and intent of the residential districts is to provide a safe and healthy living environment for residents, protect the town's existing neighborhoods from incompatible uses, maintain natural areas and open spaces within neighborhoods, encourage connectivity and interconnectivity for multiple modes of transportation, and ensure adequate public facilities and services are available to meet the needs of current and future residents.

(F) RESIDENTIAL SUBDIVISION TYPES

Development within the residential districts allows a variety of housing types. To further the purpose of residential districts, two types of residential subdivisions are permitted, as follows.

(1) Conventional Residential Subdivision

A conventional residential subdivision is a pattern of residential development that provides a majority of property owners with substantial yards on their own property. A. recreation and open space dedication or payment of a fee-in-lieu is required for conventional residential subdivisions.

(2) Open Space Residential Subdivision

An open space residential subdivision trades conventional minimum lot size and dimensions for additional common recreation and open space. An open space residential subdivision shall be a sufficient size to ensure adequate common recreation and open space can be incorporated into the subdivision design. An open space residential subdivision may allow additional density provided certain enhancements are incorporated into the design of the subdivision.

(G) CONVENTIONAL SUBDIVISION STANDARDS

(1) Applicability

A conventional residential subdivision is permitted in all residential districts subject to the following standards.

(2) **Density**

In the R-10 and R-8 Districts, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of ten units per acre. In the R-6 District, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre.

(3) **Development Standards**

Applicants utilizing the conventional residential subdivision option shall meet all applicable development standards as set forth in § 155.400 through § 155.405 and § 155.500 through § 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(4) **Lots Not Served by Public Water and Sewer**

No permit to install a septic tank system shall be issued until the County Health Director has determined by a field investigation of the area that the site is acceptable for a septic tank system and that such a system can be installed at the site in compliance with these rules and regulations. The field investigations shall include evaluation of such factors as size and shape of the lot or lots, character and porosity of soil, percolation rate, topography, depth of the water table, rock or other impervious formations, location or proposed location of any water supply wells, and the success or failure history of any other septic tank systems in the area. The County Health Director shall not issue a permit if he determines that the site is not acceptable for septic tank systems.

(5) **Minimum Square Footage**

Minimum square footage requirements have been established for conventional subdivisions to ensure the scale of new construction is consistent with the established neighborhood patterns. Residential subdivisions which have a valid subdivision/plat approval, and additions to existing dwelling units are exempt from the minimum square footage requirements.

(6) **Dimensional Standards**

Applicants utilizing the conventional residential subdivision option shall meet the dimensional standards provided in Table 2-2. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

Table 2-2 Conventional Subdivision Regulations

Conventional Subdivision Standards																
Zoning District	Unit Type	Lot Standards							Density (dwelling units / acre)	Minimum Setbacks (ft.)				Building Standards		
		Min. Site Area (Acres)	Min. Parcel Size (sq. ft.)	Min. Lot Area (sq. ft.)	Lot Width (ft.)	Min. Lot Coverage (%)	Max Lot Coverage (%)	Max Impervious Surface (%)		Front	Side Interior	Side Street	Rear	Max. Height (ft.)	Min. Dwelling Unit Size (sq. ft)	Accessory Structures
R-E	Single Family with water and sewer	--	--	20,000	80	35	50	2.1	35	15	25	30	35	1,400	See §155.308	
	Single Family with well and septic	--	--	40,000	100	35	50	1.0	35	15	25	30	35	1,400		
	Single Family with public water and septic	--	--	25,000	80	35	50	1.7	35	15	25	30	35	1,400		
R-10	Single Family	--	--	10,000	70	35	50	4	30	10	20	25	35	1,100	See §155.308	
	Zero Lot Line	--	--	10,000	70	35	50	4	30	0	20	25	35	1,100		
	Alley Loaded	--	--	10,000	70	35	50	4	30	10	10	25	35	1,100		
	Two Family		12,000	Set by Special Use Process												
	Townhouse (2 units)		12,000													
	Townhouse (3+ units)		20,000													
	Apartments		20,000													
R-8	Single Family	--	--	8,000	60	35	55	5	25	10	15	25	35	1,100	See §155.308	
	Zero Lot Line	--	--	8,000	60	35	55	5	25	0	15	25	35	1,100		
	Alley Loaded	--	--	8,000	60	35	55	5	15	10	15	25	35	1,100		
	Two Family		10,000	Set by Special Use Process												
	Townhouse (2 units)		10,000													
	Townhouse (3+ units)		20,000													
	Apartments		20,000													
R-6	Single Family	--	--	6,000	50	35	60	7	20	6	10	20	35	960	See §155.308	
	Zero Lot Line	--	--	6,000	50	35	60	7	20	0	10	25	35	960		
	Alley Loaded	--	--	6,000	50	35	60	7	10	6	10	25	35	960		
	Two Family		8,000	Set by Special Use Process												
	Townhouse (2 units)		8,000													
	Townhouse (3+ units)		20,000													
	Apartments		20,000													
Notes																
1	Minimum dwelling unit size = total heated square footage															
2	Manufactured homes and manufactured home parks shall meet the minimum requirements set forth in UDC §155.301 (F) and (G)															

Article 2 / Zoning Districts
§155.203 General Use District Standards

3	In no instance shall the area of a residential lot be less than the size determined to be adequate by the County Health Department after soil and ground water table investigations have been made.
4	A minimum of 1,245 square feet of Recreation and Open Space is required per unit for Single Family, Zero Lot Line and Alley Loaded units.
5	Public water and sewer is required in the R-10, R-8 and R-6 Zoning Districts. Within Town limits, connection to public water and sewer is also required for lots contiguous to existing service.
6	Lots using a zero side interior setback for one lot line are required to double the side interior setback requirement established for a single family unit for the opposite lot line.
7	In the R-10 and R-8 Zoning Districts, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 10 dwelling units per acre.
8	In the R-6 Zoning District, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 12 dwelling units per acre.

(H) **OPEN SPACE SUBDIVISION STANDARDS**

(1) **Intent**

The intent of an open space residential subdivision is to provide a development alternative to a conventional subdivision. An open space residential subdivision involves clustering home sites within a portion of the development site and allowing housing units on smaller lots than those permitted in a conventional residential subdivision. Open space subdivisions promote the preservation of environmentally sensitive land and allows for efficient use of the land to provide additional common open space. Open space subdivision development is encouraged by the Town in the form of these flexible design and maximum density provisions. Other purposes of an open space residential subdivision include the following:

- (a) To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.
- (b) To preserve important historic and archaeological sites.
- (c) To permit clustering of houses and structures in a manner that will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.
- (d) To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.
- (e) To promote interconnected greenways and corridors throughout the community.
- (f) To create contiguous greenspace within and adjacent to the development site.
- (g) To protect scenic views.
- (h) To protect prime agricultural land and preserve farming as an economic activity.

(2) **Applicability**

An open space residential subdivision is permitted in the R-E, R-10, and R-8 Zoning Districts subject to the following standards.

(3) **Mix of Housing Types**

Two-family, townhouse, apartment, and upper-story residential units may comprise no more than 50 percent of the total dwelling units of a proposed open space residential subdivision. In no case shall the density allowance be exceeded for the overall site. In the R-10 and R-8 Districts, townhouse parcels, apartment parcels, and upper-story residential units shall not exceed a density of ten units per acre.

(4) **Minimum Square Footage**

Minimum square footage requirements have been established for open space subdivisions to ensure the scale of new construction is consistent with the established neighborhood patterns. Existing dwelling units, including any additions thereto, are exempt from the minimum square footage requirements.

(5) **Development Standards**

Applicants utilizing the open space residential subdivision option shall meet all applicable development standards as set forth in §§ 155.400 through 155.405 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(6) **Dimensional Standards**

Applicants utilizing the open space residential subdivision option shall meet the dimensional standards provided in Table 2-3. Applicants shall comply with all other provisions this chapter and all other applicable laws.

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Table 2-3 Open Space Subdivision Regulations

Open Space Subdivision Standards															
Zoning District	Unit Type	Lot Standards						Density (dwelling units / acre)	Minimum Setbacks (ft.)				Building Standards		
		Min. Site Area (Acres)	Min. Parcel Size (sq. ft.)	Min. Lot Area (sq. ft.)	Min. Lot Width (ft.)	Max Lot Coverage (%)	Max Impervious Surface (%)		Front	Side Interior	Side Street	Rear	Max. Height (ft.)	Min. Dwelling Unit Size (sq. ft)	Accessory Structures
R-E	Single Family	10	--	12,000	48	35	50	3.7	21	9	15	18	35	1,400	See §155.308
R-10	Single Family	10	--	8,000	50	35	50	5	25	6	15	15	35	1,100	See §155.308
	Zero Lot Line	10	--	8,000	50	35	50	5	25	0	15	15	35	1,100	
	Alley Loaded	10	--	6,000	42	35	50	7	15	5	10	15	35	960	
	Two Family	10	12,000	12,000	75	35	50	3	25	6	15	15	35	960	See §155.308
	Townhouse (2 units)	10	12,000	6,000	42	35	50	3	25	6	15	15	35	960	
	Townhouse (3+ units)	10	20,000	4,000	25	35	50	10	25	15	15	15	35	700	
	Apartments	10	20,000	--	--	35	50	10	25	15	15	15	35		
R-8	Single Family	10	--	6,000	42	35	55	7	20	6	10	15	35	960	See §155.308
	Zero Lot Line	10	--	6,000	42	35	55	7	20	0	10	15	35	960	
	Alley Loaded	10	--	4,800	40	40	55	9	10	5	10	15	35	960	
	Two Family	10	10,000	9,000	65	40	55	4	20	6	10	15	35	700	
	Townhouse (2 units)	10	10,000	4,800	40	40	55	9	20	6	10	15	35	700	
	Townhouse (3+ units)	10	20,000	3,000	21	40	55	10	20	--	10	15	35	700	
	Apartments	10	20,000	--	--	40	55	10	15	10	15	20	35		
Notes															
1	Minimum dwelling unit size = total heated square footage														
2	Minimum dwelling unit size for multi-family is a per unit minimum														
3	Manufactured homes and manufactured home parks shall meet the minimum requirements set forth in UDC §155.301 (F) and (G)														
4	In no instance shall the area of a residential lot be less than the size determined to be adequate by the County Health Department after soil and ground water table investigations have been made.														
5	A minimum of 1,245 square feet per unit of public Recreation and Open Space is required in the R-E Zoning District														
6	A minimum of 12.5% of the total site acreage is required to be Recreation and Open Space in all Open Space Subdivisions.														
7	Public water and sewer is required in all residential Zoning Districts.														
8	Lots using a zero side interior setback for one lot line are required to double the side interior setback requirement established for a single family unit for the opposite lot line.														
9	In the R-10 and R-8 Zoning Districts, townhouse parcels, apartment parcels, and upper story residential shall not exceed a density of 10 dwelling units per acre.														
10	The minimum building separation for townhouse parcels and apartment parcels is 20 feet.														

(7) **Utilities**

To the maximum extent feasible, utilities in open space residential subdivisions shall be placed underground.

(8) **Project Boundary Buffer**

- (a) No buffer is required where the width of the project's perimeter lots is equal to or greater than the minimum lot width of the adjoining development or the minimum lot width required by the zoning district applied to any adjoining undeveloped parcel.
- (b) Where narrower lot widths are provided, a Class C buffer shall be provided (see § 155.402) along all project boundaries of an open space subdivision.

(I) **RECREATION AND OPEN SPACE REQUIREMENTS**

(1) **Applicability**

Recreation and open space is an integral part of both conventional and open space residential subdivisions. The minimum recreation and open space requirement for each subdivision type is set forth below. No additional recreation or open space shall be required on the site, except where otherwise required by state or federal law. In the case that a subdivision is being developed in phases, the amount of recreation and open space shall be computed separately for each phase, but may be combined with existing recreation and open space in earlier phases to create a larger uniform area.

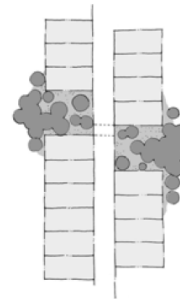
(2) **All Residential Subdivisions**

- (a) All residential development shall be required to either dedicate a portion of the land in the subdivision, or land in another location if approved by Town Council for recreation or open space use, or make a payment-in-lieu of dedication at a rate as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit. If a development is approved which provides private recreation and open space, to be maintained by a homeowner or property management organization, and meeting the minimum standards of this section, the required fee-in-lieu payment shall be as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit. A combination of dedication and payment-in-lieu may be used to meet these requirements.
- (b) At least 1,245 square feet of land shall be required for each proposed dwelling unit. Such land shall not include resource conservation areas (see § 155.500). The Town Council reserves the right to refuse to accept dedication of parcels for subdivisions, in which case the applicant shall pay the fee-in-lieu of dedication. The Town shall use fee-in-lieu payments for the acquisition or development of recreation and open space sites.

- (c) The location of the proposed recreation and open space areas, its suitability for recreational use, and any recreational plans adopted by the Town shall be considered in determining whether to accept dedication or payment of fee-in-lieu of dedication. The decision shall be made by the Town Council as a component of preliminary subdivision plans or special use permits, or by the Planning Director as a component of site plans. Any decision of the Planning Director relative to this section may be appealed to the Town Council.

(3) Open Space Residential Subdivision

- (a) All development utilizing the open space residential subdivision option shall provide recreation and open space equal to 12.5% of the net site area as public or private recreation and open space.
- (b) Where the Town Council accepts dedication of a portion or all of this recreation and open space, the dedicated portion shall receive 100% credit toward the requirement for recreation and open space in (l)(2) of this section. The Town Council reserves the right to refuse to accept dedication. If dedication is not accepted by the Town Council, the development shall pay 100% of the required fee-in-lieu payment as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit.



(4) Configuration of Recreation and Open Space

- (a) The minimum width for any required recreation and open space shall be 50 feet. Exceptions may be granted by the Town Council for items such as trail easements, mid-block crossings, linear parks/medians, when their purpose meets the intent of this section.
- (b) At least 60% of the required recreation and open space shall be in a contiguous parcel. For the purposes of this section, contiguous shall include any recreation and open space bisected by a residential street (including a residential collector), provided that:
 - 1. A pedestrian crosswalk is constructed to provide access to the recreation and open space on both sides of the street; and
 - 2. The right-of-way area is not included in the calculation of minimum recreation and open space required.
- (c) The recreation and open space shall adjoin any neighboring areas of recreation and open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected recreation and open space.

- (d) The required recreation and open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the open space (i.e. mid-block connections in logical locations). No lot within the subdivision should be further than a one-quarter-mile radius from the required recreation and open space. This radius shall be measured in a straight line, without regard for street, sidewalk or trail connections to the open space.
- (e) Access to the recreation and open space shall be provided either by an abutting street or easement. Such easement shall be not less than 30 feet wide.
- (f) At least 25% of the recreation and open space shall be improved. Trails may be developed in accordance with the Clayton General Design Guidelines. Other improved recreation and open space areas shall be developed as set forth below. The shape, topography, and subsoils shall be appropriate to the improvements proposed. Where recreation or open space consists of prime agricultural land, this improvement requirement shall not apply.

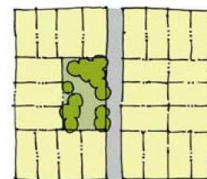
Tot Lot & Playgrounds (Private Only). *Playgrounds provide play areas for children as well as open shelter and benches. Playgrounds may be built within squares, greens, mini-parks and neighborhood parks or may stand alone within a residential block.*

Playgrounds shall be designed with commercial grade play equipment for two age groups: tot lot for children ages one to five; and separate play equipment for children ages six to ten. May include picnic units and shelters. Minimum requirements include two park benches and one trash receptacle. Must have shock absorbing surface with a maximum 2% slope. Playgrounds must meet all federal, state and local regulations and be compliant with the Americans with Disabilities Act. Due to the continuing maintenance obligations, the Town does not accept dedication of tot lots and playgrounds.



Mini-Park (Private Only). *The mini-park provides active recreational facilities for the use by the residents of the immediate surrounding neighborhood within the development.*

Size is from 2,500 sq. ft to one acre. May include: tennis courts, basketball courts, playgrounds and seating accommodations. Each mini-park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to serve. Rear facing lots are allowed. Mini-parks shall be attractively landscaped and be provided with sufficient natural or man-made screening or buffer areas to minimize any negative impacts upon adjacent residences. Due to the continuing maintenance obligations, the Town does not accept dedication of mini-parks.



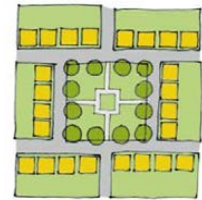
Plaza. *Plazas are for passive recreation use adjacent to a civic or commercial building. Plazas are paved in brick or another type of imperious surface.*

Plazas shall be level, stepped or gently sloping. At no time shall a plaza's horizontal length or width be greater than three times the height of surrounding buildings. Size is from 2,000 to 30,000 sq. ft.



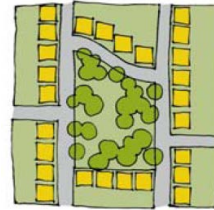
Squares. *Squares are formal areas for passive recreation use bound by streets or front facing lots.*

Squares shall be bound by streets on a minimum of three sides or 75% of their perimeter and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots allowed adjacent to a square. Trees plantings are encouraged parallel to the street right-of-way. Geometrical tree planting layouts for internal plantings are encouraged. Minimum size is 500 sq. ft. to one acre.



Green. *The green is an informal area for passive use bound by streets or front facing lots.*

A green shall be bound by streets on a minimum of three sides or 75% of their perimeter and may be bound by front facing lots on one side or 25% of their perimeter. No rear facing lots allowed adjacent to a green. Tree plantings can be informal and the topography irregular. Greens may be used to preserve specimen trees. Size is 500 sq. ft. to one acre.



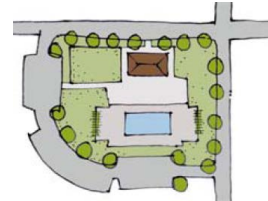
Neighborhood Park. *Neighborhood parks are designed for active or passive recreation use. Maximum park size can exceed five acres if the neighborhood park creates an open space that services an entire neighborhood or a group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake or river frontage, high ground, or significant stands of trees).*

Minimum size from one to five acres. Neighborhood parks shall be bound by streets on a minimum of 50% of their perimeter. Front facing lots are encouraged around the perimeter. Neighborhood parks shall include benches and walking paths. Neighborhood parks may include but are not limited to: tennis courts, racquet ball courts, basketball courts, volley ball courts, ball fields, swings, slides, playgrounds, dog parks, benches, restrooms, picnic units, shelters, walking paths and parking areas.



Clubhouse/Pool Amenity Area. *Clubhouse/pool areas can be found in a neighborhood park, mini-park or alone as an amenity area for the residents of a developed community. Clubhouse/pool areas can include: swimming pools, group activity room, gazebos, outdoor eating areas, and exercise stations.*

Pools should be a minimum size of 1,000 sq. ft. Clubhouses and swimming pools must meet all applicable building and health codes for the Town and the state.



Greenway. *Greenways typically follow natural or constructed features such as streams or roads and are designed to incorporate natural settings such as creeks and significant stands of trees within neighborhoods, and are used for transportation, recreation, and environmental protection. Greenways differ from parks; plazas and squares in that their detailing is natural (i.e. informally planted) except along rights-of-way, and may contain irregular topography.*

Design of the greenway should incorporate conservation of existing mature tree canopy and landscape, protection of existing natural drainage ways and creeks. Improvements shall include paved walks/trails and benches, and trash receptacles.



(5) **Adopted Municipal and County Plans**

Adopted municipal and County plans shall be taken into consideration when evaluating land proposals.

(6) **Permitted Uses of Recreation and Open Space**

Uses of recreation and open space may include the following:

- (a) Conservation areas for natural, archeological or historical resources;
- (b) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- (c) Pedestrian or multipurpose trails;
- (d) Passive recreation areas;
- (e) Active recreation areas, provided that impervious area is limited to no more than 50% of the total recreation and open space;
- (f) Golf courses (excluding clubhouse areas and maintenance facilities), provided the area does not exceed 50% of the required recreation and open space, and further provided that impervious area is limited to no more than 10% of the total recreation and open space;

- (g) Above-ground utility rights-of-way, provided the area does not exceed 50% of the required recreation and open space;
- (h) Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;
- (i) Landscaped stormwater management facilities;
- (j) Easements for drainage, access, and underground utility lines; and
- (k) Other conservation-oriented uses compatible with the purposes of this chapter.

(7) Prohibited Uses of Recreation and Open Space

Recreation and open space shall not include the following:

- (a) Community or individual wastewater disposal systems;
- (b) Streets (except for street crossings as expressly provided above) and parking areas; and
- (c) Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.

(8) Ownership and Management of Recreation and Open Space

(a) Ownership

Recreation and open space shall be accepted and owned by one of the following entities:

- 1) Town of Clayton. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the Town.
- 2) Land conservancy or land trust. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by a land conservancy or land trust.
- 3) Homeowners association. A homeowners association representing residents of the subdivision shall own the recreation and open space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the homeowner's association.
- 4) Private landowner. A private landowner may retain ownership of recreation and open space. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the private landowner.

(b) ***Management***

Applicants shall submit a plan for the management of recreation and open space and other common facilities that:

- 1) Allocates responsibility and guidelines for the maintenance and operation of the recreation and open space, and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;
- 2) Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the recreation and open space and outlines the means by which such funding will be obtained or provided;
- 3) Provides that any changes to the plan be approved by the Town; and
- 4) Provides for enforcement of the plan.

(c) ***Maintenance***

- 1) Passive recreation and open space maintenance is limited to removal of litter, dead tree and plant materials (that is obstructing pedestrian movement), and brush; weeding and mowing. Natural water courses are to be maintained as free-flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels.
- 2) No specific maintenance is required for agricultural uses.
- 3) Active recreation and open space areas shall be accessible to all residents of the development. Maintenance is limited to ensuring that there exist no hazards, nuisances or unhealthy conditions.

(d) ***Failure to Maintain***

In the event the party responsible for maintenance of the recreation and open space fails to maintain all or any portion in reasonable order and condition, the Town may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the homeowner's association, or to the individual property owners that make up the homeowner's association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

(9) **Legal Instrument for Permanent Protection**

- (a) The recreation and open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:
 - 1) A permanent conservation easement in favor of either:

- A. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for re-transfer in the event the organization becomes unable to carry out its functions; or
 - B. A governmental entity with an interest in pursuing goals compatible with the purposes of this chapter. If the entity accepting the easement is not the Town, then a third right of enforcement favoring the Town shall be included in the easement.
- 2) A permanent restrictive covenant for conservation purposes in favor of a governmental entity.
 - 3) An equivalent legal tool that provides permanent protection, if approved by the Town.
- (b) The instrument for permanent protection shall include clear restrictions on the use of the recreation and open space. These restrictions shall include all restrictions contained in this chapter, as well as any further restrictions the applicant chooses to place on the use of the recreation and open space. Where appropriate, the instrument shall allow for stream or habitat restoration within the easement area.

(J) **NONRESIDENTIAL DEVELOPMENT IN RESIDENTIAL DISTRICTS**

As set forth in the Use Regulation Table (Table 2-1 § 155.202(B)) certain nonresidential uses are permitted in residential districts. Permitted nonresidential uses shall meet the dimensional standards provided in table 2-4. Applicants shall comply with all other provisions of this chapter and all other applicable laws.

Table 2-4 Nonresidential Development Standards for Residential Districts

Zoning District	Lot Standards			Minimum Setbacks				Building Standards		
	Min. Lot Area (sq.ft.)	Min. Lot Width (ft.)	Public Water & Sewer	Street (Front)	Side Interior	Side Street	Rear	Max. Building Height (ft.) ⁽¹⁾	Building Coverage	Impervious Surface
R-E	20,000	80	Required	35	15	25	30	35	35%	50%
R-10	10,000	70	Required	30	10	20	25	35	35%	50%
R-8	8,000	60	Required	25	10	15	25	35	35%	55%
R-6	6,000	50	Required	20	6	10	20	35	35%	60%
Notes										
(1)	The Council may grant a special use permit in accordance with § 155.711, allowing nonresidential buildings to exceed the maximum height limits of the district.									

PART 2. NONRESIDENTIAL DISTRICTS

(K) NONRESIDENTIAL DISTRICT STANDARDS

(1) Development Standards

Applicants shall meet all applicable development standards as set forth in §§ 155.400 through 155.405 and §§ 155.500 through 155.502. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

(2) Nonresidential Dimensional Standards

- (a) As set forth in the Use Regulations Table (Table 2-1 § 155.202(B)) certain uses are allowed in nonresidential districts. Allowed uses shall meet the dimensional standards provided in Table 2-5. Applicants shall comply with all other provisions of this chapter and all other applicable laws.

§ 155.203, PART 2. Table 2-5 Nonresidential Dimensional Standards

Zoning District	Lot Standards			Minimum Setbacks (ft.)				Building Standards ⁽³⁾		
	Min. Lot Area (sq.ft.)	Min. Lot Width (ft.)	Public Water & Sewer	Street / Front (Max.)	Side Interior (abutting residential)	Side Street	Rear (abutting residential)	Max. Building Height (ft.) ⁽¹⁾	Building Coverage	Impervious Surface
O-R	6,000	50	Required	20	6 (6)	10	20 (20)	35	50%	75%
O-I	6,000	60	Required	30	10 (30)	20	20 (30)	60	50%	75%
B-1⁽⁴⁾	None	None	Required	0 ⁽²⁾	0 (30)	0	0 (30)	50	--	--
B-2	6,000	50	Required	20	10 (30)	10	20 (30)	35	50%	75%
B-3	8,000	60	Required	25	15 (30)	30	30 (30)	60	50%	75%
I-1	20,000	100	Required	50	20 (30)	30	40 (40)	50	50%	75%
I-2	20,000	100	Required	50	20 (30)	30	40 (40)	50	50%	75%
PF	--	--	--	--	--	--	--	--	--	--
Notes:										
(1)	No maximum building coverage or impervious surface limits in the B-1 Zoning District									
(2)	Maximum 10 foot street yard setback in B-1 Zoning District									
(3)	Minimum Building Separation in all Zoning Districts is 20 feet									
(4)	The Town Council may grant a special use permit in accordance with § 155.711 for structures exceeding the maximum height limits									

- (b) More than one building may be permitted be on a single lot.
- (c) In the B-1 District, no rear yard shall be less than that of the nearest building facing on the same side of the street with the least rear yard depth. In no case shall the required rear yard setback exceed ten feet from the rear property line.
- (d) The Town Council may grant a special use permit in accordance with § 155.711, allowing specified nonresidential buildings to exceed the maximum height limits of the district.

(3) **Residential Dimensional Standards**

- (a) As set forth in the Use Regulations Table (Table 2-1 § 155.202(B)) certain residential uses are permitted in nonresidential districts. Dimensional standards for townhouses and apartments are established through the special use process (see § 155.711). Within the B-1 District, no townhouse or apartment shall be established on a parcel less than 20,000 square feet in area.
- (b) Upper-story residential is permitted on the upper floors of a nonresidential building and shall conform to the lot, yard and bulk requirements of the principal building.
- (c) Except in the B-1 District, townhouse and apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre in a standard residential district.

PART 3. PLANNED DEVELOPMENT DISTRICTS

(L) **PLANNED DEVELOPMENT DISTRICT STANDARDS**

(1) **General Provisions for all Planned Developments (PD-R, PD-C, PD-I, PD-MU)**

(a) ***Rezoning Criteria***

In approving a rezoning for a planned development, the Town Council shall find the district designation and planned development master plan comply with the general standards for all planned development in this section and the specific standards for the proposed planned development listed in (L)(2) through (5) of this section, respectively.

(b) ***Planned Development Master Plan***

The development proposed in the master plan is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties. The master plan shall be prepared by a professionally certified landscape architect, engineer or architect.

(c) ***Design Guidelines and Dimensional Standards***

Each planned development shall provide a comprehensive set of design guidelines that demonstrate the project will be appropriate within the context of the surrounding properties and the larger community. All bulk, area and dimensional standards shall be established by the Town Council at the time of approval.

(d) ***General Development Standards***

Unless specifically waived by the Town Council, all standards specified in §§ 155.400 through 155.405 shall apply.

(e) **Resource Conservation Areas**

- 1) No resource conservation area (see § 155.500) shall be counted towards lot area. This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided.
- 2) No resource conservation area shall be counted towards the recreation and open space requirements (see below).

(f) **Recreation and Open Space**

The planned development master plan shall meet or exceed the recreation and open space requirements of an open space residential subdivision (see § 155.203(H)).

(g) **Stormwater Management**

When determined necessary by the Town Council, the planned development master plan shall contain a comprehensive stormwater management plan prepared by a professional engineer licensed in the state.

(h) **Phasing**

If development is proposed to occur in phases, the planned development master plan shall include a phasing plan for the development, and if appropriate, with specific build-out dates. Guarantees shall be provided that project improvements and amenities that are necessary and desirable for residents and tenants of the project, or that are of benefit to the Town, are constructed with the first phase of the project, or, if this is not possible, then as early in the project as is technically feasible.

(2) **Planned Development-Residential (PD-R) District**

(a) **Minimum Requirements**

- 1) The Planned Development -Residential District is an option provided to encourage a mix of housing options within a comprehensively planned development, allowing a density bonus in return for the provision of a higher quality development.
- 2) Unless waived by the Town Council, the PD-R District is permissible on tracts of land of least ten contiguous acres.

(b) **Uses**

Uses listed in the R-E, R-10, R-8, R-6 Districts are generally allowed in a PD-R District (see Table 2-1 § 155.202), subject to approval by the Town Council.

(c) **Project Boundary Buffer**

- 1) A perimeter buffer shall be required along all project boundaries of a planned residential development.
- 2) Where narrower lot widths are provided, a Class C buffer shall be provided (see § 155.402) along all project boundaries.

(3) **Planned Development-Commercial (PD-C) District**

(a) ***Minimum Requirements***

- 1) The Planned Development- Commercial District is an option provided to enhance the design of a commercial development within a comprehensively planned development by allowing for additional flexibility not available in nonresidential districts.
- 2) Unless waived by the Town Council, the minimum tract of land for rezoning is two contiguous acres.

(b) ***Uses***

The uses listed in the O-I, B-1, B-2, and B-3 districts are generally allowed in a PD-C District (Table 2-1 see § 155.202), subject to approval by the Town Council.

(c) ***Project Boundary Buffer***

- 1) Unless waived by the Town Council, a Class B buffer (see § 155.402) shall be provided along all project boundaries abutting a nonresidential district.
- 2) Unless waived by the Town Council, a Class C buffer (see § 155.402) shall be provided all project boundaries abutting a residential district.

(4) **Planned Development-Industrial (PD-I) District**

(a) ***Minimum Requirements***

- 1) The Planned Development- Industrial District is an option provided to encourage unified industrial complexes of high quality by allowing for additional flexibility not available in nonresidential districts.
- 2) The PD-I District is permissible on tracts of land of least ten contiguous acres.

(b) ***Uses***

- 1) The uses listed in the B-1, B-2, B-3, I-1, and I-2 Districts are generally allowed in a PD-I District (see § 155.202), subject to approval by the Town Council.
- 2) Non-industrial or non-manufacturing uses located in a PD-I District are intended to serve the needs of the development and not the needs of a surrounding area. Areas designated for non-industrial and non-manufacturing activities shall be

oriented towards the interior of the project and shall not be located on exterior or perimeter streets or property boundaries, but shall be centrally located within the project to serve the employees of the district.

(c) ***Project Boundary Buffer***

A Class C buffer shall be provided (see § 155.402) along all project boundaries.

(5) **Planned Development-Mixed Use (PD-MU) District**

(a) ***Minimum Requirements***

- 1) The Planned Development- Mixed Use District is an option provided to encourage coordinated mixed use developments.
- 2) Unless waived by the Town Council, the minimum tract of land for rezoning is two contiguous acres.

(b) ***Uses***

- 1) The uses listed in the Use Regulations Table are generally allowed in a PD-MU District (Table 2-1 § 155.202), subject to approval by the Town Council.
- 2) The mix of uses shall be established by the Town Council at the time of approval.

(c) ***Project Boundary Buffer***

Unless waived by the Town Council, a Class C buffer shall be provided (see § 155.402) along all project boundaries.

(Ord. 2005-11-02, passed 11-21-05; Am. Ord. 2007-04-05, passed 4-2-07; Am. Ord. 2012-04-02, passed 4-2-12; Am. Ord. 2012-12-02, passed 12-3-12; Am. Ord. 2014-06-10, passed 6-16-14; Am. Ord. 2017-08-05, adopted 8/7/2017)



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

*Planning Board
May 28, 2019*

STAFF REPORT

Application Number: 2019-86-OA

Project Name: Recreation/Open Space Ordinance Amendment

Applicant: Town of Clayton

Public Noticing:

- Newspaper ad published May 22, 2019 & May 29, 2019

REQUEST: Request to make amendments to the text of the Unified Development Code, Title XV, §155.203. This amendment seeks to amend the requirements for recreation and open space, to require 100% of recreation fees be paid for all residential subdivisions, including open space subdivisions.

SECTIONS PROPOSED FOR AMENDMENT:

The following sections of Title XV, Chapter 155 and their general description are proposed for amendment:

- 203- Recreation/Open Space Requirements

STAFF ANALYSIS AND COMMENTARY:

Overview

This amendment seeks to modify the Recreation/Open Space requirements within the UDC to require all residential subdivisions to pay 100% in recreation fees, including open space subdivisions. As the code is currently written open space subdivisions are able to receive a 50% credit towards the Town's required recreation fees.

Open Space subdivisions are already granted a density bonus in exchange for setting aside open space and amenities. The open space provided within these subdivisions is typically private and does not serve the general public. However, residents of these subdivisions will still utilize public park facilities within the Town of Clayton. After discussions with the Town's Park and Recreation Department, staff feels that open space subdivisions should be required to pay the full amount of recreation fees, as all other subdivisions are required to do. As the Town continues to grow there is an increasing need for additional Town recreational facilities, and the payment of these fees ensures that the Town is able to meet the increase in demand.

Page 1 of 2

Approval Criteria:

- **Consistency with remainder of the Chapter**
The request is consistent with the remainder of Chapter 155.

 - **Novelty of the request**
The request does not represent novel changes to the Code.
-

CONSIDERATIONS

- The Planning Board shall make a recommendation to Town Council. The Town Council shall make a final decision regarding revisions to the Town Code.
-

STAFF RECOMMENDATION:

Staff is recommending approval of the proposed amendment.

ATTACHMENTS:

- 1) Application
- 2) Draft Ordinance Amendment, in strikethrough/underline
- 3) Draft Ordinance- Clean Copy



TOWN OF CLAYTON
Planning Department
111 E. Second St., P.O. Box 879
Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

ORDINANCE AMENDMENT APPLICATION

Pursuant to Article 7, Section 155.703 of the Unified Development Code, the Town Council, Board of Adjustment, Planning Board, Planning Director, or the general public may petition the Town Council to amend the Code of Ordinances.

Application Fee: TBD

Advertisement Fee: \$100.00

All fees are due when the application is submitted.

AMENDMENT INFORMATION

Project Name: Non-residential Architectural Standards

Existing title of Code Section(s): General Development Standards (Chapter 400); new section proposed

Code Section Number(s): 155.405 Design Standards- Non-Residential & Multi-Family

APPLICANT/CONTACT INFORMATION

Applicant: Town of Clayton Planning Department

Mailing Address: PO Box 879

Phone Number: 919-553-5002

Fax: _____

Contact Person: Samantha Wullenwaber, Planning Director / Haley Hogg, Planner

Email Address: swullenwaber@townofclaytonnc.org / hhogg@townofclaytonnc.org

DESCRIPTION OF REQUESTED CHANGES

Please provide a general justification of the requested ordinance amendment. Attach additional sheets if necessary.

Request to require that any building visible from a right-of-way or adjacent parcel be architecturally consistent on all sides of the building.

FOR OFFICE USE ONLY		
Date Received: <u>MAY 20 2019</u>	Amount Paid: <u>N/A-Town initiated</u>	File Number: <u>2019-101-0A</u>

July 2018

TOWN OF CLAYTON
PLANNING DEPARTMENT

Page 1 of 2

REQUIRED INFORMATION (to be submitted with the application)

The following items must accompany this application for it to be deemed complete.

To be completed by the applicant:			For staff use only:		
Submit 9 copies of all materials unless otherwise noted or directed by staff	Yes	N/A	Yes	No	N/A
1. A pre-application conference was held with Town of Clayton staff. Date: _____	☐	X			
2. Review Fee and Advertisement Fee	☐	X			
3. Completed application	☒				
4. A bound strikethrough/underline copy of the Code section(s) proposed for revision	☒				
5. A bound "clean" copy of the Code section(s) proposed for revision	☒				

APPROVAL CRITERIA

All applications for Ordinance Amendment must address the following criteria:

1. The extent to which the proposed text amendment is consistent with the remainder of the chapter, including specifically, any purpose and intent statements.
The proposed request is consistent with the remainder of the chapter, in guiding future development for the Town.
This requirement is also outlined in the Town's adopted General Design Guidelines.
2. The extent to which the proposed text amendment represents a new idea not considered in the existing chapter, or represents a revision necessitated by changing circumstances over time.
The UDC does not currently have any architectural standards for non-residential development. However, this requested change was included in the Town's adopted General Design Guidelines. Including this in the UDC will make this guideline enforceable.
3. Whether or not the proposed text amendment corrects an error in the chapter.
This text amendment does not correct an error in the chapter.
4. Whether or not the proposed text amendment revises the chapter to comply with state or federal statutes or case law.
This amendment does not revise the chapter to comply with state/federal statutes or case law.

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Town Council of the Town of Clayton to amend the Code of Ordinances as requested. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Clayton, North Carolina, and will not be returned.

Haley Hogg

Print Name

Haley Hogg

Signature of Applicant

5-20-19

Date



Town of Clayton
Planning Department
111 E. Second Street, Clayton, NC 27520
P.O. Box 879, Clayton, NC 27528
Phone: 919-553-5002
Fax: 919-553-1720

Planning Board
May 28, 2019

STAFF REPORT

Application Number:

Project Name: Non-Residential Architectural Standards Ordinance Amendment

Applicant: Town of Clayton

Public Noticing:

- Newspaper ad published June 5, 2019 & June 12, 2019

REQUEST: Request to amend the Unified Development Code to add, Title XV, §155.405. This amendment seeks to amend the code to establish architectural standards for non-residential and multi-family development, in order to ensure that all buildings visible from a right-of-way or adjacent parcel are architecturally consistent on all sides of the building.

SECTIONS PROPOSED FOR AMENDMENT:

The following sections of Title XV, Chapter 155 and their general description are proposed for amendment:

- 405- Design Standards- Non-Residential & Multi-Family

STAFF ANALYSIS AND COMMENTARY:

Overview

This amendment seeks to modify the Unified Development Code to add a section pertaining to architectural standards for non-residential and multi-family development in the Town. The Town requests to amend the ordinance to require any building visible from a right-of-way or adjacent property be architecturally consistent on all sides of the building. This is currently a recommendation outlined in the Town's adopted General Design Guidelines. Staff is requesting to add this to the UDC in order to ensure it is enforceable for future development. This requirement will create consistency for building facades and enhance aesthetics for future non-residential and multi-family development.

Page 1 of 2

Approval Criteria:

- **Consistency with remainder of the Chapter**

The request is consistent with the remainder of Chapter 155.

- **Novelty of the request**

The request does not represent novel changes to the Code. The code currently references the Town's adopted General Design Guidelines. This section is proposed to be created to ensure that this recommendation in the guidelines is enforceable on future development.

CONSIDERATIONS

- The Planning Board shall make a recommendation to Town Council. The Town Council shall make a final decision regarding revisions to the Town Code.
-

STAFF RECOMMENDATION:

Staff is recommending approval of the proposed amendment.

ATTACHMENTS:

- 1) Application
- 2) Draft Ordinance Amendment, in strikethrough/underline
- 3) Draft Ordinance- Clean Copy

ARTICLE 4: GENERAL DEVELOPMENT STANDARDS

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§ 155.405 DESIGN STANDARDS- NON-RESIDENTIAL & MULTI-FAMILY RESIDENTIAL

- (1) All existing and proposed non-residential and multi-family residential development, for which site plan approval is required, shall meet the provisions of this section. Townhomes that are developed to single-family residential building code standards shall be exempt from the requirements of this section.
- (2) Any requirements within an overlay district shall supersede architectural standards noted within this section.

(A) BUILDING MATERIALS

- (1) Any building visible from a right-of-way or adjacent property shall be architecturally consistent on all sides of the building.

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