



**Town of Clayton
Board of Adjustment Agenda
Wednesday, October 20, 2021 @ 6:00 PM
Council Chambers**

THE TOWN OF CLAYTON WILL FOLLOW GUIDELINES FROM THE CENTERS FOR DISEASE CONTROL AND THE NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES WITH REGARD TO SOCIAL DISTANCING.

THE BOARD OF ADJUSTMENT MEETING WILL BE HELD IN PERSON.

ANY MEMBER OF THE PUBLIC IS INVITED TO ATTEND THE MEETING.

THE PUBLIC MAY VIEW THE LIVE MEETING ON THE TOWN'S YOUTUBE CHANNEL:

https://www.youtube.com/channel/UCwz_EIU1ENyy7BkFsqmWYzQ

BELOW PLEASE FIND ADDITIONAL INFORMATION REGARDING PROCEDURES FOR IN-PERSON MEETINGS:

ALL persons attending must wear a mask.

We will be following proper social distancing at all times.

Entrance AND Exit will be main door on Horne Street.

All council or board members will be socially distanced in the council chambers and wearing face masks.*

Staff will be socially distanced and seated within the council chambers. Face masks will be worn.*

Hand sanitizer will be available, both in the lobby and council chambers.

Podium/microphone will be sanitized after each speaker.

**Masks may be lowered when speaking.*

1. CALL TO ORDER

2. ADJUSTMENT OF THE AGENDA

3. APPROVAL OF MINUTES

- a. August 18, 2021 DRAFT Minutes
[August 18 2021 DRAFT Minutes](#)

POTENTIAL ACTION: Adoption of August 18, 2021 Minutes

4. PUBLIC HEARINGS

- a. 2021-104-VAR Riverwood Ranch Ph. 1A - 1B & 2A - 2D Steep Slope Variance
Tag # 16I02026B

Location: Pritchard Road, North of Riverwood Athletic Club Planned Development

[Application - 2021-104-VAR Riverwood Ranch Ph 1A-1B, 2A-2D](#)

[Owner Consent Form - 2021-104-VAR Riverwood Ranch Ph 1A-1B, 2A-2D](#)

[Adjacent Property Letter - 2021-104-VAR - Riverwood Ranch Steep Slopes Variance](#)

[Newspaper Notice - 2021-56-VAR - O'Neil Overlook Variance](#)

[Neighborhood meeting letter Riverwood Ranch 1A-2D Variance](#)

[Neighborhood Meeting Minutes - Riverwood Ranch 1A-2D Variance](#)

[Project Explanation & Findings - 2021-104-VAR Riverwood Ranch Ph 1A-1B, 2A-2D](#)

[Steep Slopes Exhibit 2021-104-VAR Riverwood Ranch Ph 1A-1B, 2A-2D](#)

[USACE Preliminary Determination - 2021-104-VAR Riverwood Ranch Ph 1A-1B, 2A-2D](#)

[Signed Conditions of Approval - Riverwood Ranch Variance - 10122021](#)

[Survey 2021-104-VAR Riverwood Ranch Ph 1A-1B, 2A-2D](#)

[Staff Report - 2021-104-VAR - RW Ranch Ph 1A - 1B & 2A - 2D Steep Slopes](#)

[Staff Report Map - 2021-104-VAR - RW Ranch Steep Slopes](#)

POTENTIAL ACTION: Approve / Deny 2021-104-VAR Riverwood Ranch Ph. 1A - 1B & 2A - 2D Steep Slope Variance

5. NEW BUSINESS

- a. Adoption of 2022 Board of Adjustment Meeting Schedule
[Board of Adjustment 2022 Meeting Schedule](#)

POTENTIAL ACTION: Approval of 2022 Board of Adjustment Meeting Schedule

6. OLD BUSINESS

- a.
 - Additional Training by Board of Adjustment Attorney

7. ADJOURNMENT



**Town of Clayton
Board of Adjustment Minutes
Wednesday, August 18, 2021 @ 6:00 PM
Council Chambers**

BOARD MEMBERS PRESENT:

Bob Satterfield
Porter Casey
Marty Bizzell
Jim Perricone
John Saluppo
Tom Antoine
Michael Sims

STAFF PRESENT:

Frances Rasberry, Town Attorney
Heidi Holland, Deputy Town Clerk
Dick Hails, Planning Consultant
Avery Everett, Council Member

BOARD MEMBERS ABSENT:

1 CALL TO ORDER

- a) Board Chair Bizzell called the meeting to order at 6:04 p.m.

2 ADJUSTMENT OF THE AGENDA

3 APPROVAL OF MINUTES

- a) July 21 2021 DRAFT Minutes

ACTION: Adoption of July 21, 2021 Minutes

Motion: Board Member Perricone
Second: Board Member Casey
Vote: Unanimous

4 PUBLIC HEARINGS

5 OLD BUSINESS

- a) Review Findings & Conclusions
2021-56-VAR O'Neil Overlook Variance
Tag #: 05H03189K / 05H03189L / 05H03189M / 05H03189N
Location: Rollingwood Subdivision

Board Chair Bizzell began discussion on the Review of the Findings & Conclusions in regard to 2021-56-VAR O'Neil Overlook Variance from the previous case heard on July 21, 2021. Board Chair Bizzell began discussion, he asked Attorney Rasberry if he would like to make a presentation on this. Attorney Rasberry stated a copy of the suggested document had been sent over to board members of the suggested or proposed findings

affecting conclusions of the law representing the final decision in this variance case. He stated this is suggested by Council, if anyone take issue or feels it is too long or would like to edit in some way that is fine but he stated everyone has been provided copies previously.

Board Chair Bizzell asked if everyone has had a chance to review the Findings & Conclusions, he stated he has read through and does not have any changes to make, they seem to be very accurate. He asked if anyone had any comments are changes that need to be made. Board Member Satterfield asked if this needs to be voted on, Attorney Rasberry stated they would need to be voted on. Board Member Satterfield stated it was his understanding this was voted on and approved with the variance. Attorney Rasberry replied the grant of the variance was approved, however, this is the course of the final decision document which has to include financial conclusions and the signature of the chair is a statutory requirement. He stated he understands the point about action being taken to grant the variance but this is the final decision document that would need to be voted on separately. It is conceivable that a member might want to add or delete something or suggest edits.

Board Member Satterfield asked does this document make the first vote null and void. Attorney Rasberry stated because the decision was to grant the variance, this is consistent with that decision to grant that, however this is the final decision document. Board Member Perricone asked if it's fair to say this is supporting documentation for that decision and we're simply providing the documentation and approving the documentation to confirm what has already been done. Attorney Rasberry stated it is. Board Member Satterfield asked if there is a way of making the first vote the decision and adding the Findings of Conclusions into it later but not making this something that has to be voted on since the board has already voted on all the information in the first document. He stated his concern is holding up the developer 60 days to do an appeal, the process from day one of the developer is long and hard. He stated he is not in favor of adding 30 more days to this process.

Attorney Rasberry stated he understands the procedure for reaching the decision at the night of the July hearing and then what form the final decision the document takes and how that is prepared and approved is an open question. He stated he understands there has been conversation amongst town staff and council about this process. He stated the method where the board acts in some refashion to either approve or disapprove or request, generally is taken at the first meeting. He stated the board took that action the night the hearing was concluded. There was further discussion among the board on this item. There was discussion on whatever the decision on the Findings of Face for the variance is, staff notifies that applicant and developer of the decision. At that point, the developer has the green light to continue to make submissions to apply for further permits and to proceed with the project but with the understanding that the final decision has to have Findings & Conclusions and be signed by the Board Chair. The final decision will not be signed and will not be final until 30 days later. He stated that does create a circumstance where you have 30 days before the first decision, the final adoption of Findings & Conclusions 30 days later. That initiate the time period for filing an appeal. He stated it is the board's choice if they decided to advance this process by reaching the final decision by adopting Findings & Conclusions and have a document signed at the hearing when the first decision is made. He stated there is no law in the state on whether this abbreviated process is valid or not. Board Member Satterfield that is the way it has been

done in the past.

Dick Hails, Planning Consultant, shared the process of other town's that he is familiar with. He discussed further these processes as well as discussion on this process among the board.

Board Member Antoine offered a couple of opinions, he stated there are two obvious tensions between making business decisions and what legal consequences of actions are, he stated those are two things that are trying to be balanced. He stated from the business perspective the expediency of understanding a decision was made and allowing a developer to move forward in this particular economic climate, he stated he thinks is very acute from the perspective price escalations. He furthered discussed this issue. He stated time right now is more valuable than actual cost of developing drawings and going through permitting process. He stated he believes there should be some certainty to the developer to move forward and then later follow up with the Findings & Conclusions document.

Board Member Satterfield stated he agrees but his point is whoever opposes a project has 60 days to appeal. Instead of the written 30 days, he has 60 days. He stated you can do it after the first meeting another 30 days, we approve it again he has another 30 days after that. He stated everything in the Findings & Conclusions must be on record already. Board Member Antoine stated the Findings & Conclusions would be the first document a court would look at under an appeal. Board Member Satterfield confirmed if the Findings & Conclusions any different than the approved Findings of Fact. Attorney Rasberry responded the record was everything that was heard by the board. He stated the findings that were made reflect what was chosen to believe as well as important and what was found to support the decision. The Findings of Conclusions document is a reduction to a document that should support the decision.

Board Chair Perricone questioned whether the appeal started after the document had been approved. Attorney Rasberry stated the appeals period begins when the chair signs the final decision document. It was confirmed the developer has 60 days to appeal after the first vote. Board Chair Perricone addressed concern what are the risks to the developer and what are the risks to the opponents. He stated he believes there is probably more risk on the first decision because it was controversial and there were opponents, the Findings of Conclusions risks are very low. He stated from a practical standpoint as a developer, he would assess the risk of moving forward against getting stopped down the line, that would be how he makes the decision. He stated he did not think the 30 days alone would be the determining factor. He stated he agrees having this document, and having it prepared well, is better than not having it and works in the board's favor. He stated he is not in favor of having a document prepared before a meeting. Board Member Satterfield agreed.

Board Chair Bizzell stated he does not see anything out of the realm that would hurt a developer or petitioner as long as they would be able to move forward with staff in their permitting development process. Board Member Perricone asked if it would be possible to set forth a date for the board so they know what each decision what the appeal time frames would be and to keep the board apprised of any appeals filed so the board is aware of what is going on. Board Chair Bizzell stated that is a great idea.

ACTION: Motion to Approve Findings & Conclusions

Motion: Board Member Perricone

Second: Board Member Casey

Vote: Unanimous

- b) Rules of Procedures Updates
Presenter: Frances Rasberry, Town Attorney

Board Chair Bizzell began discuss stating Attorney Rasberry presented an updated file on the Rules of Procedures which included the changes discussed at the July meeting. Attorney Rasberry discussed the changes. He stated the changes were extensive, three substantive and a couple very minor changes. The first suggested change discussed alternate members and their functions and responsibilities and when they are allowed to participate fully in place of a regular member. The second suggested changes add specifics filled out regarding meetings. The third suggested meeting added language which addresses the question of what a completed application and then provides for the 60-day time-frame or scheduling a hearing after the board clerk receives a completed application. There was further discussion on the rules and procedures among the board in regard to alternates.

ACTION: Motion to Approve with Discussed Changes

Motion: Board Member Casey

Second: Board Member Sims

Vote: Unanimous

6 NEW BUSINESS

- a) Mr. Hails stated a new Planning Director, Benjamin Howell, would begin work with the Town on August 30th. He stated he has worked with the Planning Department in Morrisville for the past 9 years. He has served as President of the NC Planning Association and comes to Clayton with a lot of experience. Mr. Hails stated he has enjoyed his time with each of the board members. Board Chair Bizzell thank Mr. Hails for all he has done for the board, he stated he has been a great resource and they wished him well.

7 ADJOURNMENT

- a) With nothing further, the meeting was adjourned at 6:59 p.m.

Motion: Board Member Satterfield

Second: Board Member Perricone

Vote: Unanimous

Duly adopted this the 20th day of October, 2021.

Marty Bizzell, Chair

ATTEST:

Chrissy Freeman
Clerk to the Board

August 18, 2021
Minutes



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: Riverwood Ranch Ph 1A-1B & 2A-2D Steep Slopes Date: 08/20/2021
Applicant Name: Hearth Pointe Development

The following checklist to be completed by applicant:

- [☒] Pre-application Meeting on: 08/18/2021
[☒] Application Review fee
[☒] Advertising Fee
[☒] Completed Application
[☒] Owner's Consent Form
[☒] Neighborhood Meeting Letter
[☒] Adjacent property Owner's List
[☒] Set of Stamped, addressed, empty envelopes for adjacent owner notification
[☒] Copy of the plan in PDF on USB

11 plan sets of the following: - Submitted electronically per COVID Protocol

- [☒] 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: Riverwood Ranch Ph 1A-1B & 2A-2D Steep Slopes
Acreage of Property: 41.94 acres included in the subject phases Zoning District: PD-R
County Tag #: 16i02026b NC Pin #: 177100-10-1755
Address/Location: Located north/east of Stetson Lane off Riverwood Ranch Blvd
Existing Use: Vacant Proposed Use: Single-Family
Is project within a Planned Development? ☒ Yes ☐ No If yes, which: Riverwood Ranch
Is project within an Overlay District? ☐ Yes ☒ No If yes, which: _____

APPLICANT INFORMATION

Name: Hearth Pointe Development - Dave DeYoung & Becca Mountz
Mailing Address: 114 W Main Street Clayton, NC 27520
Phone Number: 919-670-0704 Fax: _____
Email Address: Dave@hearthpointe.com & Becca@hearthpointe.com

FOR OFFICE USE ONLY

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

PROPERTY OWNER INFORMATION

Name: Riverwood on th Neuse, LLC

Mailing Address: 400 Riverwood Drive Clayton, NC 27527

Phone Number: 919-670-0704

Fax: _____

Email Address: Dave@hearthpointe.com

BURDEN OF PROOF / EXPLANATION OF REQUEST

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

Code Section: See attachments for Explanation of Request

Code Requirement: See attachments for Explanation of Request

Variance Sought (*describe specific request*): See attachments for Explanation of 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.

See attachments for detailed explanation of request.

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 attached.

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 attached.

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 attached.

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 attached.

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.

David DeYoung

Print Name


Signature of Applicant

8/24/2021

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: Riverwood Ranch **Address or PIN #:** 177100-10-1755

AGENT/APPLICANT INFORMATION:

David DeYoung, AICP 114 W. Main Street
(Name - type, print clearly) (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*):

All entitlement processes

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.

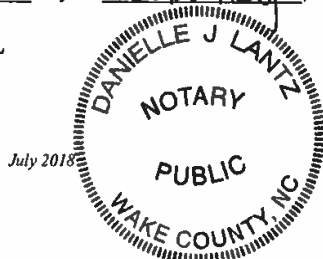
OWNER AUTHORIZATION:

Riverwood on the Neuse, LLC 400 Riverwood Drive
(Name - type, print clearly) (Address)
[Signature] Clayton NC 27527
(Owner's Signature) (City, State, Zip)

STATE OF NC
COUNTY OF JOHNSTON

Sworn and subscribed before me Danielle J. Lantz, a Notary Public for the above State and County, this the 15th day of February, 2021.

SEAL



[Signature]
Notary Public

My Commission Expires: 3-11-2024

4 of 4



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

October 6, 2021

NOTICE

SUBJECT: **Project:** **2021-104-VAR Riverwood Ranch Ph 1A – 1B & 2A – 2D Variance**
Address: **Pritchard Road**
PIN #: **16I02026B**
Applicant: **Hearth Pointe Development, LLC**

Dear Clayton Area Property Owner:

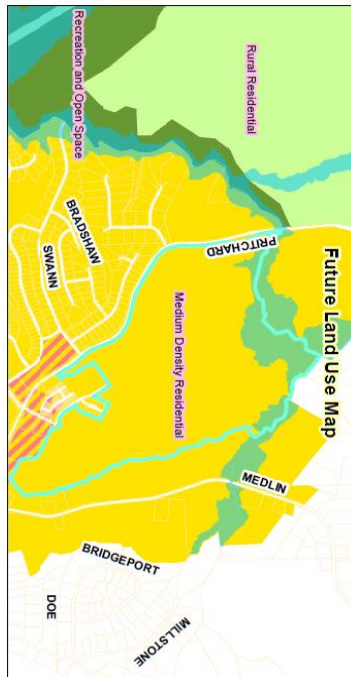
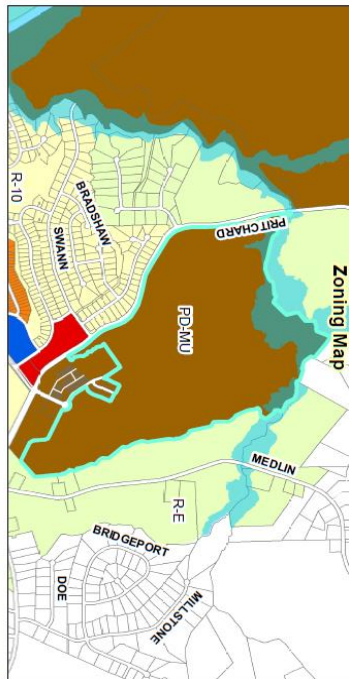
Notice is hereby given that the Clayton Board of Adjustment will hold an evidentiary (quasi-judicial) hearing on **Wednesday, October 20, 2021 at 6:00 PM** at Town Hall, 111 E Second Street, to consider the above referenced Steep Slopes Variance application. The applicant is requesting permission to construct an access road to a proposed subdivision along with additional lots on a restricted Resource Conservation Area regarding steep slopes. The subject property is located on Pritchard Road and Stetson Lane, on the future Riverwood Ranch subdivision property. Please see the map on the back of this letter.

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 (quasi-judicial) hearing, the Board of Adjustment must make findings of fact based upon sworn testimony and other credible evidence. Citizens may give testimony in an evidentiary (quasi-judicial) 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 the Planning Department at (919) 553-5002 or email at bhowell@townofclaytonnc.org.

Sincerely,

Ben Howell, AICP, CZO
Planning Director



Riverwood Ranch Variance
2021-104-VAR
Request: Variance on RCA areas
for construction of lots and roads.
 Applicant: Dave DeVYoung & Berca Mountz
 Property Owners: Riverwood on the Neuse, LLC
 Tag #: 161020268



Staff Report Map
Prepared by: TOC Planning Department
September 7, 2021
 Disclaimer: Town of Clayton assumes no legal responsibility
 for the quality to the data represented here.

Document Path: C:\PLANNING\A\REL\Map\2021\104-VAR-RW Ranch Pn 1A-1B & 2A-2D Staff Report Staff Report Map - 2021-104-VAR - RW Ranch Staff Report and

Public Notice

In accordance with NC GS 160D-302, the Clayton Board of Adjustment will conduct the following evidentiary hearing on Wednesday, October 20, 2021 at 6:00 PM in the Town Council Chambers in Town Hall, located at 111 E. Second Street:

- Request for a Variance (File # 2021-104-VAR) from Section 155.500(B) – specifically the prohibition of building impervious surface on a Resource Conservation Area classified as steep slopes above 25% grade of at least 5,000 square feet of contiguous area; TAG numbers: 06I02026B

During an evidentiary hearing, the Board of Adjustment 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.

Ben Howell, Planning Director
919-553-5002

Johnstonian Newspaper

Please advertise on the following dates:

Wednesday, October 6, 2021

Wednesday, October 13, 2021

Affidavit of publication required.



HEARTH POINTE DEVELOPMENT

September 27, 2021

Dear Clayton Area Property Owner:

The purpose of this letter is to notify you of an application filed with the Town of Clayton for a Variance request involving property adjacent to, or in close proximity to, property shown in your ownership by Johnston County tax records. Per Town of Clayton regulations, a Neighborhood Meeting will be held to provide information to area residents about the request. A representative of the applicant will be present to explain their application, answer questions, and solicit comments. The following provides details for the Neighborhood Meeting:

Meeting Date: October 7, 2021
Meeting Time: 6:00 - 8:00 PM*
Meeting Location: Virtual Meeting - Use the link below to join!
Type of Application: Variance
Project Address: North/East of Stetson Lane, north of Riverwood Ranch Blvd and Food Lion
Property TAG ID: 16i02026b

Project Description: This application pertains to Riverwood Ranch Phases 1A-1B and 2A-2D, which has already been approved to have 202 single-family lots by the Clayton Town Council. These phases of development are a part of the Riverwood Ranch Master Plan which was approved in 2008 and again in 2013, and has been actively under development over the past 13 years. Due to the natural features of this property, our team is requesting a Variance from Section 155.500(B)(3) and 155.500(D)(2) of the Town's Unified Development Code. The language in this section of code states that "slopes above 25% of at least 5,000 square feet of contiguous area" are considered to be Resource Conservation Areas (RCAs). Additionally, all RCAs shall be unoccupied or predominately unoccupied by buildings or other impervious surfaces, including roads, except as specifically authorized. Our team is requesting a Variance from this language to allow development of impervious surfaces to occur in some of these areas in order to proceed with the project as originally approved by the Town Council.

**Please note that if there are no attendees on the call by 6:30 PM then the meeting will be closed. If a neighbor is unable to attend until after 6:30 pm please contact Becca Mountz at becca@hearthpointe.com with the anticipated time to join so that our team can ensure the call remains open.*

Public Meeting: This Variance request will be heard at a public meeting by the Clayton Board of Adjustment. A meeting notice will be sent by the Town notifying adjacent property owners of this meeting date when scheduled. It is anticipated that this application will adhere to the following schedule:

- 1) Submittal: September 1, 2021
- 2) Public Hearing/Board of Adjustment: October 20, 2021
- 3) Adoption of Findings of Fact by the Board of Adjustment: November 17, 2021

HEARTHPOINTE.COM

114 W. Main Street, Clayton, NC 27520 | 919.670.0704





HEARTH POINTE DEVELOPMENT

How to join the meeting: Use the Zoom link below to access the meeting. You can also call in via the phone number provided using the access code.

<https://us02web.zoom.us/j/81694986319?pwd=QzhxUm00T0VSTFhwQ0R3VjN3U3MyZz09>

Meeting ID: 816 9498 6319

Passcode: 791189

One tap mobile

+19292056099,,81694986319#,,,,*791189# US (New York)

+13017158592,,81694986319#,,,,*791189# US (Washington DC)

Find your local number: <https://us02web.zoom.us/j/81694986319?pwd=QzhxUm00T0VSTFhwQ0R3VjN3U3MyZz09>

The following documents will be provided at the neighborhood meeting as a part of the presentation:

- A copy of the project application.
- A map that shows the location of the subject property.
- A map, drawing, or other depiction of the areas of steep slopes that a Variance is being requested for.

If you have any questions prior to or after this meeting, you may contact us at 919-813-0123. You may also contact the Town of Clayton Planning Department at 919-553-5002.

Sincerely,

David DeYoung, AICP
Director of Development

Cc: Town of Clayton Planning Department

HEARTHPOINTE.COM

114 W. Main Street, Clayton, NC 27520 | 919.670.0704



NEIGHBORHOOD MEETING ATTENDANCE ROSTER

Project: _____

Application: _____

Location/Date: _____

NAME	ADDRESS
1 Rebecca Mountz - Hearth Pointe	
2 Haley Hogg - Hearth Pointe	
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NEIGHBORHOOD MEETING SUMMARY FORM

FILL OUT THE FOLLOWING:

Application: Riverwood Ranch Variance Phases 1A-2D

Date of Mailing: 9/27/2021

Date of Meeting:

Time of Meeting: 6:00 pm

Location of Meeting: Virtually via Zoom

I hereby attest that letters were mailed to the addresses listed on the Adjacent Property Owners List (attached) ten days prior to the Neighborhood Meeting, and that all required information was presented at the Meeting:

Printed Name: Rebecca Mountz

Signature:

Meeting Summary/Minutes: *provide a summary of the discussion held at the meeting, including issues raised and any resolution discussed, and any changes made to the application as a result of the meeting.*

Please write clearly (or submit a typed summary). Use additional sheets if necessary.

Riverwood Ranch Phases 1A-1B and 2A-2D
Steep Slopes Variance Request
September 1, 2021

Our team is requesting a Variance from Section 155.500(B)(3) and 155.500(D)(2) of the Town's Unified Development Code. Section 155.500(B)(3) designates "slopes above 25% of at least 5,000 square feet of contiguous area" to be Resource Conservation Areas. Per the language of the UDC RCAs shall be unoccupied or predominately unoccupied by buildings or other impervious surfaces. Section 155.500(D)(2) states that RCAs may not include "roads, parking lots and impervious surfaces, except as specifically authorized".

Our team is requesting a Variance from this language to allow the development of impervious surfaces in areas that are considered to be "steep slopes" and therefore RCAs. The areas that the requested variance is applicable to are bubbled in pink on the plan sheet included with this Variance application submittal.

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

The language that a Variance is being sought for is vaguely written and is being strictly applied to this development. Riverwood Ranch is a vested project that was originally approved via a Master Plan in 2008 and then again in 2013 by the Town Council. When approved, these phases were granted entitlement for a certain number of single-family units. Over the years, the development of this plan has occurred in phases and steep slopes were never evaluated by the Town as the Town did not start enforcing this section of the UDC until 2020.

The language of the UDC is vague in that it considers any slope above 25% or 5,000 SF of contiguous area to be a Resource Conservation Area. Based on the ordinance, these areas shall be unoccupied or predominately unoccupied by buildings or other impervious surfaces, including roads and parking lots, unless specifically authorized. It does not define what "predominately unoccupied" entails and therefore the only avenue to relief from this section is a Variance from the Board of Adjustment.

This language applies to all steep slopes on a site including those that are not directly connected to any environmentally sensitive areas. For those slopes that are directly connected to streams/wetlands, the ordinance does not take into consideration the distance at which development is occurring in relation to the area. Instead, it is limiting development from occurring in any steep slope area regardless of the relation or distance to streams/wetlands.

In Riverwood Ranch, there are several pockets of steep slopes that are not directly tied to streams/wetlands located on the site. The remaining steep slopes impacted by development are located at least 100' from the stream itself which already is required to include a 50' stream buffer. Strict application of the ordinance is impacting this development as it would create pockets of undeveloped land leading to inefficient layout and circulation, as well as limit

development of the units that this project was entitled to by Council prior to the Town's enforcement of this language.

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

The hardship of steep slopes is unique to the property as it is caused by natural topography and environmental features on-site. This hardship is not caused by personal circumstances. While steep slopes can occur on other properties, the overall condition of steep slopes and this ordinance's impact are not common to the neighborhood or general public. Additionally, there are only a few pockets of steep slopes on this site that are directly connected to streams/wetlands and of these areas only one exceeds the 5,000 SF limit.

It is worth noting as well that the master plan that this project is a part of was entitled for a certain number of units prior to the Town enforcing this language in the Unified Development Code. In order to get close to the number of units entitled by Town Council and the project stay viable, a variance is necessary to alleviate the hardship that the new and strict enforcement of this language of the UDC has created.

- 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-inflicted hardship.**

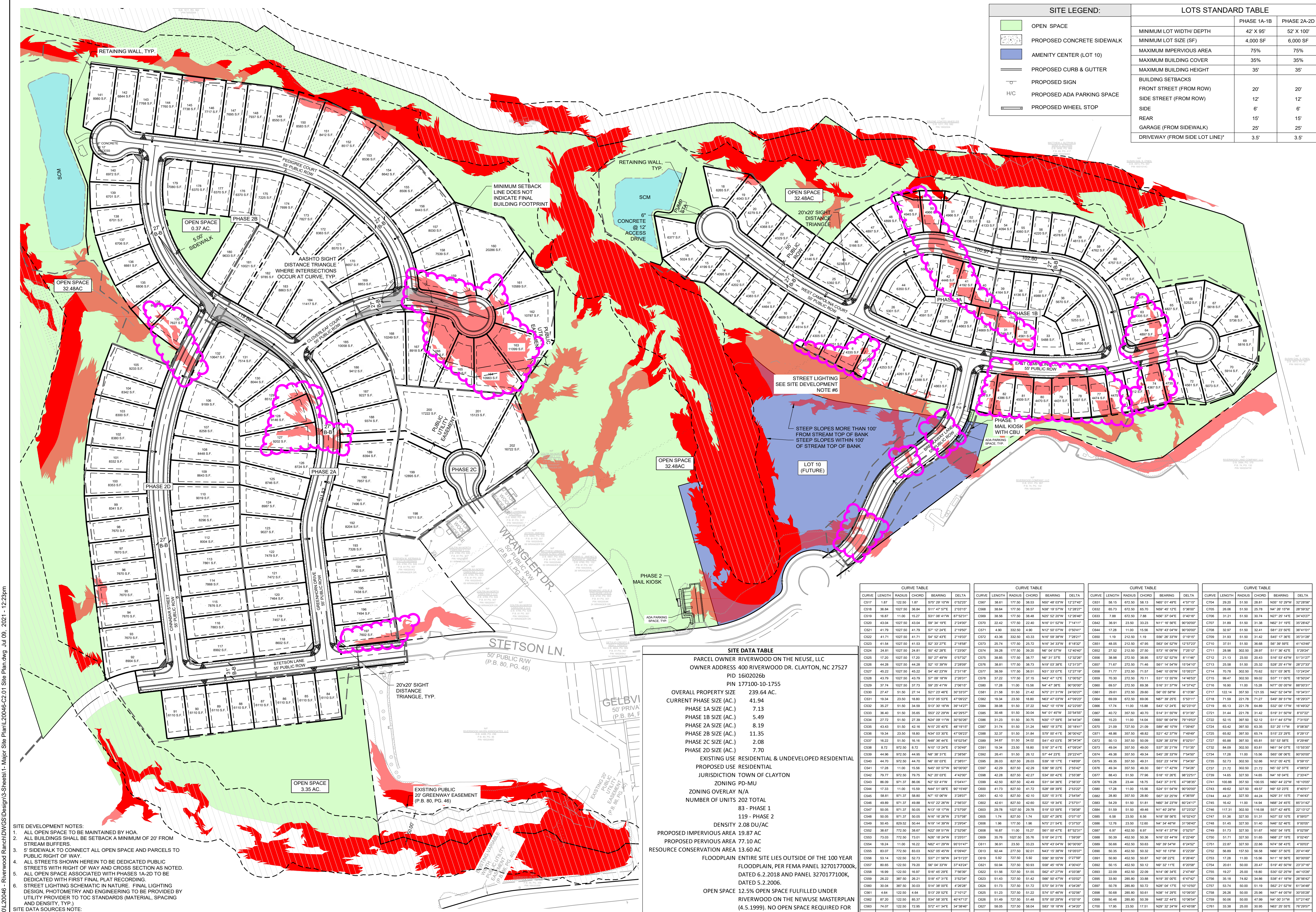
The hardship has not resulted from actions taken by the applicant or the property owners. The steep slopes that occur on site are natural topographic features and the recent enforcement/strict application of this section of the Unified Development Code has created a hardship for development in this location. The master plan for Riverwood Ranch was originally approved in 2008 and again in 2013. No conditions of approval were placed upon the development pertaining to this language in the UDC and this code language had not even been enforced by the Town until 2020. For these reasons, it was impossible to know that the Town would limit development in the future based upon this code language. In order to get close to the number of units entitled by Town Council and the project stay viable, a variance is necessary to alleviate the hardship that the new and strict enforcement of this language of the UDC has created.

- 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.**

The requested variance is consistent with the spirit, purpose, and intent of the ordinance. Public safety is secured and substantial justice is achieved. The intent of the ordinance is to protect environmentally sensitive areas. Development occurring in the areas identified on the plan as steep slopes will not negatively impact these areas on-site. Several pockets of steep slopes shown on the plan are not even directly tied to streams/wetlands. The areas identified that are

tied to the streams/wetlands are located at least 100' away, given that the stream requires a 50' buffer and the development occurring is at least another 50' away from the buffered area.

Furthermore, Town staff has acknowledged that the current language is overreaching and is looking to amend the section sometime in the near future. The timeline for this amendment though did not align with our schedule for development, hence the seeking of this Variance request.



SITE DEVELOPMENT NOTES:
1. ALL OPEN SPACE TO BE MAINTAINED BY HOA.
2. ALL BUILDINGS SHALL BE SETBACK A MINIMUM OF 20' FROM STREAM BUFFERS.
3. 5' SIDEWALK TO CONNECT ALL OPEN SPACE AND PARCELS TO PUBLIC RIGHT OF WAY.
4. ALL STREETS SHOWN HEREIN TO BE DEDICATED PUBLIC STREETS WITH RIGHT OF WAY AND CROSS SECTION AS NOTED.
5. ALL OPEN SPACE ASSOCIATED WITH PHASES 1A-2D TO BE DEDICATED WITH FIRST FINAL PLAT RECORDING.
6. STREET LIGHTING SCHEMATIC IN NATURE. FINAL DESIGN, PHOTOGRAPHY AND ENGINEERING TO BE PROVIDED BY UTILITY PROVIDER TO TCC STANDARDS (MATERIAL, SPACING AND DENSITY, TYP.).

SITE DATA SOURCES NOTE:
1. PROPERTY INFORMATION PROVIDED BY STEWART SURVEY DATED 9/10/2020. SEE SHEET C1.00 FOR SURVEY DATUM USED
2. ADJACENT PROPERTY INFORMATION SOURCED FROM JOHNSTON COUNTY GIS, MARCH 2021.
3. EXISTING WETLAND AND JURISDICTIONAL STATUS PRELIMINARY USACE DETERMINATION PROVIDED BY S&EC, DATED 10/19/2020

SITE DATA TABLE	
PARCEL OWNER RIVERWOOD ON THE NEUSE, LLC	
OWNER ADDRESS 400 RIVERWOOD DR. CLAYTON, NC 27727	
PID 16020256	
PIN 177100-10-1755	
OVERALL PROPERTY SIZE 239.64 AC.	
CURRENT PHASE SIZE (AC.) 41.94	
PHASE 1A SIZE (AC.) 7.13	
PHASE 1B SIZE (AC.) 5.49	
PHASE 2A SIZE (AC.) 8.19	
PHASE 2B SIZE (AC.) 11.35	
PHASE 2C SIZE (AC.) 2.08	
PHASE 2D SIZE (AC.) 7.70	
EXISTING USE RESIDENTIAL & UNDEVELOPED RESIDENTIAL	
PROPOSED USE RESIDENTIAL	
JURISDICTION TOWN OF CLAYTON	
ZONING PD-MU	
ZONING OVERLAY N/A	
NUMBER OF UNITS 202 TOTAL	
83 - PHASE 1	
119 - PHASE 2	
DENSITY 2.08 DU/AC	
PROPOSED IMPERVIOUS AREA 19.87 AC	
PROPOSED PAVEMENT AREA 77.10 AC	
RESOURCE CONSERVATION AREA 13.60 AC	
FLOODPLAIN ENTIRE SITE LIES OUTSIDE OF THE 100 YEAR FLOODPLAIN, PER FEMA PANEL 327017700K, DATED 6.2.2018 AND PANEL 3270177100K, DATED 5.2.2006.	
OPEN SPACE 12.5% OPEN SPACE FULFILLED UNDER RIVERWOOD ON THE NEUSE MASTERPLAN (4.5.1999). NO OPEN SPACE REQUIRED FOR PHASES 1A-2D.	
ELECTRIC PROVIDER DUKE ENERGY	
WATER PROVIDER TOWN OF CLAYTON	
SEWER PROVIDER TOWN OF CLAYTON	

SITE LEGEND:	
[Symbol]	OPEN SPACE
[Symbol]	PROPOSED CONCRETE SIDEWALK
[Symbol]	AMENITY CENTER (LOT 10)
[Symbol]	PROPOSED CURB & GUTTER
[Symbol]	PROPOSED SIGN
[Symbol]	PROPOSED ADA PARKING SPACE
[Symbol]	PROPOSED WHEEL STOP

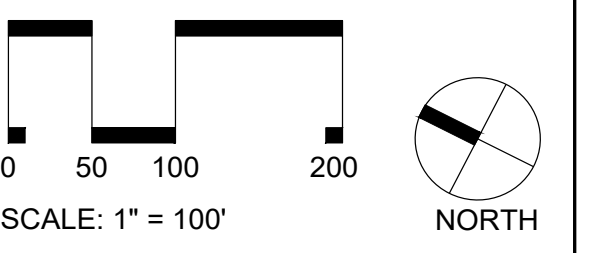
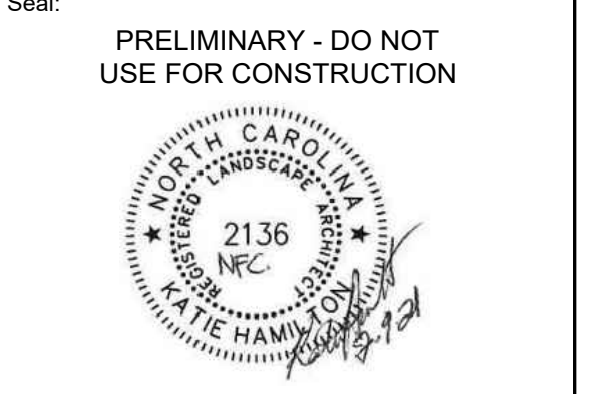
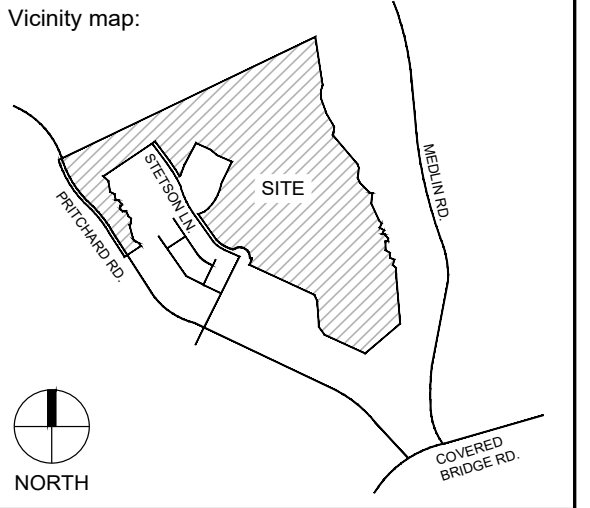
LOTS STANDARD TABLE		
	PHASE 1A-1B	PHASE 2A-2D
MINIMUM LOT WIDTH/DEPTH	42' X 95'	52' X 100'
MINIMUM LOT SIZE (SF)	4,000 SF	6,000 SF
MAXIMUM IMPERVIOUS AREA	75%	75%
MAXIMUM BUILDING COVER	35%	35%
MAXIMUM BUILDING HEIGHT	35'	35'
BUILDING SETBACKS		
FRONT STREET (FROM ROW)	20'	20'
SIDE STREET (FROM ROW)	12'	12'
SIDE	6'	6'
REAR	15'	15'
GARAGE (FROM SIDEWALK)	25'	25'
DRIVEWAY (FROM SIDE LOT LINE)	3.5'	3.5'

STEWART
101 WEST MAIN ST.
DURHAM, NC 27701
T 919.380.8750

FIRM LICENSE # C-1051
www.stewartinc.com
PROJECT # L20046

Client:
HEARTH POINTE DEVELOPMENT
114 W. MAIN STREET
CLAYTON, NC 27520

Consultants:
ENVIRONMENTAL
KEVIN MARTIN
PH 919.720.7941
EMAIL: kmartin@sandec.com



Project:

RIVERWOOD RANCH PHASES 1A-1B & 2A-2D

Issued for:

MINOR SUBDIVISION PLAN

No.	Date	Description
1	02/03/2021	PRELIMINARY
2	02/03/2021	PRELIMINARY
3	02/03/2021	PRELIMINARY
4	02/03/2021	PRELIMINARY
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99	02/03/2021	PRELIMINARY
100	02/03/2021	PRELIMINARY

Title:

SITE PLAN & PRELIMINARY PLAT - OVERALL

Project number: L20046 Sheet #: 02/03/2021

Drawn by: KH

Approved by: MPT

C2.01

L:\Projects\2020\L20046 - Riverwood Ranch\DWG\Design\3-Sheets\1- Major Site Plan\L20046-C2.01 Site Plan.dwg Jul 09, 2021 - 12:23pm

**U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT**

Action Id. SAW-2020-00581 County: Johnston U.S.G.S. Quad: NC- Clayton

NOTIFICATION OF JURISDICTIONAL DETERMINATION

Requestor: Soil & Environmental Consultants, P.A.
Steven Ball
Address: 8412 Falls of Neuse Road
Raleigh, North Carolina 27615
Telephone Number: 919-691-2114
E-mail: sball@sandec.com

Property Owner: Riverwood on the Neuse, LLC
Brian Strickland
Address: 2102 Pritchard Road
Clayton, North Carolina 27527
Telephone Number: 919-550-8086
E-mail: brian.strickland@fredsmithcompany.com

Size (acres)	<u>~240</u>	Nearest Town	<u>Clayton</u>
Nearest Waterway	<u>Neuse River</u>	River Basin	<u>Neuse</u>
USGS HUC	<u>03020201</u>	Coordinates	Latitude: <u>35.699807</u> Longitude: <u>-78.420587</u>

Location description: The project is located north of Pritchard Road, approximately 0.25 mile west of its intersection with Covered Bridge Road in the Town of Clayton, Johnston County, NC.

Indicate Which of the Following Apply:

A. Preliminary Determination

- ☒ There appear to be **waters, including wetlands** on the above described project area/property, that may be subject to Section 404 of the Clean Water Act (CWA)(33 USC § 1344) and/or Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403). The **waters, including wetlands** have been delineated, and the delineation has been verified by the Corps to be sufficiently accurate and reliable. The approximate boundaries of these waters are shown on the enclosed delineation map dated 12/4/2019. Therefore this preliminary jurisdiction determination may be used in the permit evaluation process, including determining compensatory mitigation. For purposes of computation of impacts, compensatory mitigation requirements, and other resource protection measures, a permit decision made on the basis of a preliminary JD will treat all waters and wetlands that would be affected in any way by the permitted activity on the site as if they are jurisdictional waters of the U.S. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331). However, you may request an approved JD, which is an appealable action, by contacting the Corps district for further instruction.
- ☐ There appear to be **waters, including wetlands** on the above described project area/property, that may be subject to Section 404 of the Clean Water Act (CWA)(33 USC § 1344) and/or Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403). However, since the **waters, including wetlands** have not been properly delineated, this preliminary jurisdiction determination may not be used in the permit evaluation process. Without a verified wetland delineation, this preliminary determination is merely an effective presumption of CWA/RHA jurisdiction over all of the **waters, including wetlands** at the project area, which is not sufficiently accurate and reliable to support an enforceable permit decision. We recommend that you have the **waters, including wetlands** on your project area/property delineated. As the Corps may not be able to accomplish this wetland delineation in a timely manner, you may wish to obtain a consultant to conduct a delineation that can be verified by the Corps.

B. Approved Determination

- ☐ There are Navigable Waters of the United States within the above described project area/property subject to the permit requirements of Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403) and Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.

- ☐ There are **waters, including wetlands** on the above described project area/property subject to the permit requirements of Section 404 of the Clean Water Act (CWA) (33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- ☐ We recommend you have the **waters, including wetlands** on your project area/property delineated. As the Corps may not be able to accomplish this wetland delineation in a timely manner, you may wish to obtain a consultant to conduct a delineation that can be verified by the Corps.
- ☐ The **waters, including wetlands** on your project area/property have been delineated and the delineation has been verified by the Corps. The approximate boundaries of these waters are shown on the enclosed delineation map dated **DATE**. We strongly suggest you have this delineation surveyed. Upon completion, this survey should be reviewed and verified by the Corps. Once verified, this survey will provide an accurate depiction of all areas subject to CWA jurisdiction on your property which, provided there is no change in the law or our published regulations, may be relied upon for a period not to exceed five years.
- ☐ The **waters, including wetlands** have been delineated and surveyed and are accurately depicted on the plat signed by the Corps Regulatory Official identified below on **DATE**. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- ☐ There are no waters of the U.S., to include wetlands, present on the above described project area/property which are subject to the permit requirements of Section 404 of the Clean Water Act (33 USC 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- ☐ The property is located in one of the 20 Coastal Counties subject to regulation under the Coastal Area Management Act (CAMA). You should contact the Division of Coastal Management in **Morehead City, NC, at (252) 808-2808** to determine their requirements.

Placement of dredged or fill material within waters of the US, including wetlands, without a Department of the Army permit may constitute a violation of Section 301 of the Clean Water Act (33 USC § 1311). Placement of dredged or fill material, construction or placement of structures, or work within navigable waters of the United States without a Department of the Army permit may constitute a violation of Sections 9 and/or 10 of the Rivers and Harbors Act (33 USC § 401 and/or 403). If you have any questions regarding this determination and/or the Corps regulatory program, please contact **Christopher Hopper at (919) 554-4884 (x35) or christopher.d.hopper@usace.army.mil**.

C. Basis For Determination: See the preliminary jurisdictional determination form dated 10/19/2020, and the attached Wetland Sketch Map, Riverwood Ranch, dated 12/04/2019.

D. Remarks: None.

E. Attention USDA Program Participants

This delineation/determination has been conducted to identify the limits of Corps' Clean Water Act jurisdiction for the particular site identified in this request. The delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA Program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

F. Appeals Information (This information applies only to approved jurisdictional determinations as indicated in B. above)

This correspondence constitutes an approved jurisdictional determination for the above described site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and request for appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the following address:

US Army Corps of Engineers
South Atlantic Division
Attn: Phillip Shannin, Review Officer
60 Forsyth Street SW, Room 10M15
Atlanta, Georgia 30303-8801

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **Not applicable**.

****It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this correspondence.****

Corps Regulatory Official: _____

Date of JD: **10/19/2020** Expiration Date of JD: **Not applicable**

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete the Customer Satisfaction Survey located at http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Soil & Environmental Consultants, P.A., Steven Ball		File Number: SAW-2020-00581	Date: 10/19/2020
Attached is:		See Section below	
☐	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
☐	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
☐	PERMIT DENIAL	C	
☐	APPROVED JURISDICTIONAL DETERMINATION	D	
☒	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at or <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx> or the Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the district engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

**District Engineer, Wilmington Regulatory Division
Attn: Christopher Hopper
Raleigh Regulatory Office
U.S. Army Corps of Engineers
3331 Heritage Trade Drive, Suite 105
Wake Forest, North Carolina 27587**

If you only have questions regarding the appeal process you may also contact:

**Mr. Phillip Shannin, Administrative Appeal Review Officer
CESAD-PDO
U.S. Army Corps of Engineers, South Atlantic Division
60 Forsyth Street, Room 10M15
Atlanta, Georgia 30303-8801
Phone: (404) 562-5137**

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

For appeals on Initial Proffered Permits send this form to:

District Engineer, Wilmington Regulatory Division, Attn: Christopher Hopper, 69 Darlington Avenue, Wilmington, North Carolina 28403

For Permit denials, Proffered Permits and Approved Jurisdictional Determinations send this form to:

**Division Engineer, Commander, U.S. Army Engineer Division, South Atlantic, Attn: Mr. Phillip Shannin, Administrative Appeal Officer, CESAD-PDO, 60 Forsyth Street, Room 10M15, Atlanta, Georgia 30303-8801
Phone: (404) 562-5137**

PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: 10/19/2020

B. NAME AND ADDRESS OF PERSON REQUESTING PJD: Soil & Environmental Consultants, P.A.,
Steven Ball, 8412 Falls of Neuse Road, Raleigh, North Carolina 27615

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Wilmington District, Riverwood Ranch, SAW-
2020-00581

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION: The project is located north of
Pritchard Road, approximately 0.25 mile west of its intersection with Covered Bridge Road in the Town of
Clayton, Johnston County, NC.

**(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES
AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)**

State: NC County: Johnston City: Clayton
Center coordinates of site (lat/long in degree decimal format): Latitude: 35.699807 Longitude: -78.420587

Universal Transverse Mercator:

Name of nearest waterbody: Neuse River

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☐ Office (Desk) Determination. Date:

☐ Field Determination. Date(s):

**TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO
REGULATORY JURISDICTION**

Site Number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resources in review area (acreage and linear feet, if applicable)	Type of aquatic resources (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
Stream A_Int	35.698619	-78.424202	1178 lf	Non-wetland Waters	Section 404
Stream A_Per	35.701105	-78.422482	1744 lf	Non-wetland Waters	Section 404
Stream B_Int	35.695233	-78.41652	74 lf	Non-wetland Waters	Section 404
Stream B_Per	35.699687	-78.418288	5622 lf	Non-wetland Waters	Section 404
Stream C	35.697018	-78.419651	1163 lf	Non-wetland Waters	Section 404
Stream D	35.696905	-78.41906	388 lf	Non-wetland Waters	Section 404
Stream E	35.698253	-78.419038	89 lf	Non-wetland Waters	Section 404
Stream F	35.698554	-78.418925	99 lf	Non-wetland Waters	Section 404

Stream G	35.695164	-78.416693	157 lf	Non-wetland Waters	Section 404
Stream H	35.696854	-78.423067	48 lf	Non-wetland Waters	Section 404
Wetland W1	35.696804	-78.423142	0.04 ac	Wetland	Section 404
Wetland W2	35.70124	-78.421162	0.24 ac	Wetland	Section 404
Wetland W3	35.702963	-78.419695	0.34 ac	Wetland	Section 404
Wetland W4	35.701682	-78.419001	1.04 ac	Wetland	Section 404
Wetland LW1	35.702702	-78.41977	83 sf	Wetland	Section 404

1. The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.
2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre- construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there *"may be"* waters of the U.S. and/or that there *"may be"* navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for PJD (check all that apply) Checked items are included in the administrative record and are appropriately cited:

☒ Maps, plans, plots or plat submitted by or on behalf of the PJD requestor: Steven Ball / Soil and Environmental Consultants, PA

Map: Wetland Sketch Map Riverwood Ranch

☒ Data sheets prepared/submitted by or on behalf of the PJD requestor. Datasheets:

☒ Office concurs with data sheets/delineation report.

☐ Office does not concur with data sheets/delineation report. Rationale: _____

☐ Data sheets prepared by the Corps: _____

☐ Corps navigable waters' study:

☐ U.S. Geological Survey Hydrologic Atlas:

☐ USGS NHD data:

☐ USGS 8 and 12 digit HUC maps:

☒ U.S. Geological Survey map(s). Cite scale & quad name: 24K Clayton, NC USGS Quadrangle

☒ Natural Resources Conservation Service Soil Survey. Citation: Johnston County NC Soils Survey Sheet 1 (1994)

☐ National wetlands inventory map(s). Cite name:

☐ State/local wetland inventory map(s): _____

☐ FEMA/FIRM maps:

☐ 100-year Floodplain Elevation is: _____ (National Geodetic Vertical Datum of 1929)

☒ Photographs: ☒ Aerial (Name & Date): Undated NC OneMap aerial image

or ☐ Other (Name & Date):

☐ Previous determination(s). File no. and date of response letter: _____

☐ Other information (please specify):

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Signature and date of Regulatory
staff member completing PJD
10/19/2020

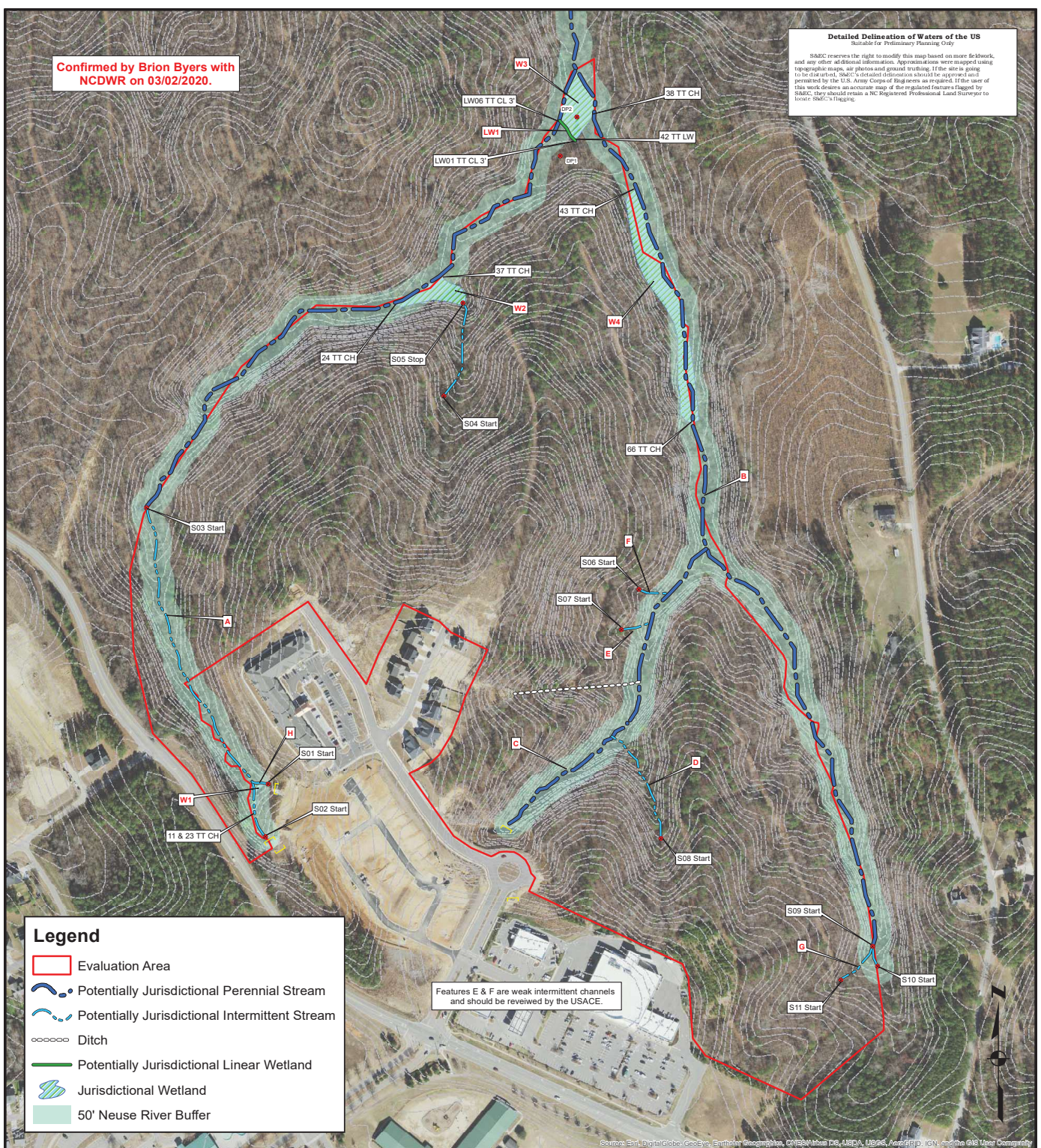
Signature and date of person requesting PJD
(REQUIRED, unless obtaining the signature is
impracticable)¹

¹ Districts may establish timeframes for requester to return signed PJD forms. If the requester does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

Confirmed by Brion Byers with
NCDWR on 03/02/2020.

Detailed Delineation of Waters of the US
Suitable for Preliminary Planning Only

S&EC reserves the right to modify this map based on more fieldwork, and any other additional information. Approximations were mapped using topographic maps, air photos and ground truthing. If the site is going to be developed, S&EC's detailed delineation should be approved and permitted by the U.S. Army Corps of Engineers as required. If the user of this work desires an accurate map of the regulated features flagged by S&EC, they should retain a NC Registered Professional Land Surveyor to locate S&EC's flagging.



Legend

- Evaluation Area
- Potentially Jurisdictional Perennial Stream
- - - Potentially Jurisdictional Intermittent Stream
- o o o o o Ditch
- Potentially Jurisdictional Linear Wetland
- / / / / / Jurisdictional Wetland
- 50' Neuse River Buffer

Features E & F are weak intermittent channels and should be reviewed by the USACE.

Project Number:	11224.W9	Map Title:	Wetland Sketch Map	0 200 400 800 Feet Soil & Environmental Consultants, PA 8412 Falls of Neuse Road, Suite 104, Raleigh, NC 27615 • Phone: (919) 846-5900 • Fax: (919) 846-9465 sandec.com
Project Manager:	SB		Riverwood Ranch	
Scale:	1" = 200'		Johnston County, NC	
Date:	12/04/2019	Source:	Aerials from NC One Map	



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

October 12, 2021

David DeYoung
Director of Development
Hearth Pointe Development
114 West Main Street
Clayton, NC 27520

Re: 2021-104-VAR Riverwood Ranch Phases 1A-1B, 2A-2D Variance Condition

Mr. DeYoung,

The Town of Clayton Planning staff is recommending to the Board of Adjustment that a condition of approval be placed upon the above referenced application, which proceeds to Board of Adjustment on Wednesday, October 20, 2021. These recommended conditions of approval are outlined on the back of this letter.

Please read through this potential condition of approval, and sign below if you are in agreement with the condition as proposed. If you are not in agreement please respond accordingly in writing. The document will be included in the agenda for Board review.

Thank you.

Sincerely,

Ben Howell, AICP, CZO
Planning Director
Town of Clayton

Page 1 of 2

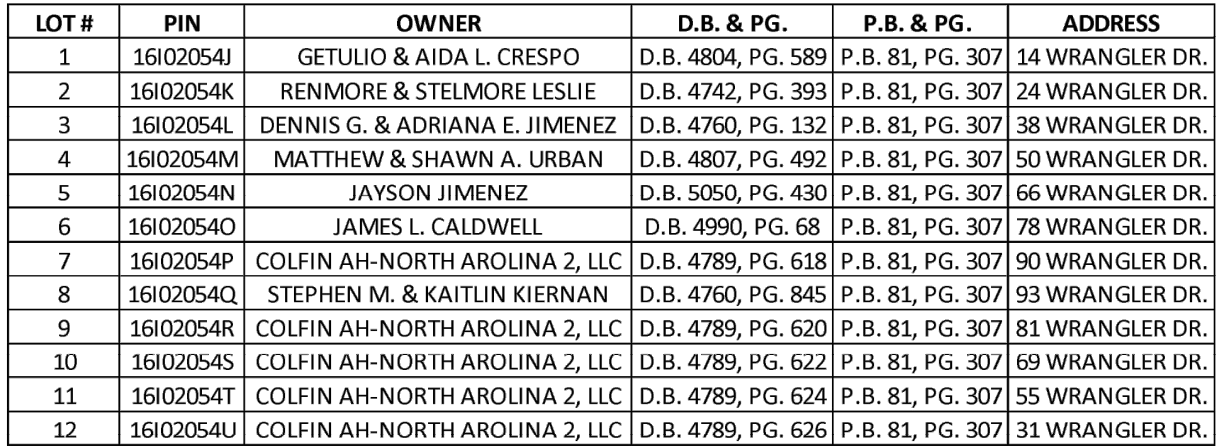
Recommend Condition of Approval (2021-104-VAR Riverwood Ranch Ph. 1A-1B, 2A-2D):

The Resource Conservation Areas shown on the associated site plan, attachment 3, that are not subject to the variance request shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument for permanent protection shall include clear restrictions on the use of the resource conservation area. These restrictions shall include all restrictions contained in Section 155.500 of the Clayton Unified Development Code, as well as any further restrictions the applicant chooses to place on the use of the resource conservation areas. Where appropriate, the instrument shall allow for stream and habitat restoration.

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby certify that I have reviewed the recommended conditions of approval and am in agreement with the conditions as they are outlined within this letter.

David Do Young [Signature] 10/2/21
Print Name Signature of Applicant Date



1. THIS SURVEY MAP IS INTENDED TO REPRESENT THE EXISTING CONDITIONS OF THE PROPERTY, INCLUDING THE EXISTING EASEMENTS, AND IS NOT A BOUNDARY SURVEY. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND THEREFORE ALL ENCUMBRANCES UPON THE PROPERTY MAY NOT BE SHOWN.

2. THE PROPERTY LINES SHOWN HEREON HAVE BEEN DETERMINED FROM A REVERSE SURVEY BY A FEWAT INC., PROPERTY LINES SHOWN TAKEN FROM REFERENCES SHOWN HEREON.

3. HORIZONTAL DATUM IS NAD 83 (2011) AND VERTICAL DATUM IS NAVD83. BASED ON GPS METHOD USING REAL-TIME KINEMATIC SOLUTIONS PROVIDED BY THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION. SOUTH CAROLINA GEODETIC SURVEY MONUMENT "MORHIAH RESET 2".

4. "MORHIAH RESET 2"
N 701370.11"
E 2146836.92"
EL. 360.75'

5. THE INITIAL STATE PLANE POSITIONS FOR THIS SURVEY WERE SCALED FROM GRID TO GROUND FROM A PROJECT LOCATION OF (TRAV-2) N70831.5E 12471595.96, AN ELEVATION OF 288.85, USING A COMBINED FACTED 0.9999999999999999.

6. THIS DRAWING DOES NOT CONFORM TO N.C. 8647-30 AND THEREFORE IS NOT FOR RECORDED.

7. UTILITIES SHOWN HEREON ARE BASED ON ABOVE-GROUND VISIBLE EVIDENCE AND UTILITY DESIGNATION MARKING SERVICES PERFORMED BY STEVENSON & COMPANY, PART OF THIS SURVEY. THE CONTRACTOR SHALL FIELD VERIFY THE LOCATION OF ALL UTILITIES BEFORE COMMENCING CONSTRUCTION.

8. TREES SHOWN HEREON MAY NOT REPRESENT ALL VEGETATION ON THE SUBJECT PROPERTY.

9. THE SUBJECT PROPERTY IS ZONED "PLANNED DEVELOPMENT - MIXED USE" (PER TOWN OF CLAYTON ZONING MAP DATED 04/16/2020).

10. THE SUBJECT PROPERTY LIES IN ZONES A (AREA DETERMINED TO BE AFFECTED BY ANNUAL FLOODING) AND ZONE B (AREA DETERMINED TO BE ANNUAL FLOODPLAIN), BASED ON THE FLOOD INSURANCE RATE MAP COMMUNITY MAP NUMBERS 37201770006 & 37201771006 DATED 06/20/2010.

I, DUSTIN J. MCCARTY, CERTIFY THAT THIS PROJECT WAS COMPLETED UNDER MY DIRECT AND RESPONSIBLE CHARGE FROM AN ACTUAL GROUND SURVEY MADE UNDER MY SUPERVISION; THAT THE IMAGERY AND/OR DATA WERE OBTAINED ON 07/02/2020; THAT THE SURVEY WAS COMPLETED ON 08/26/2020; THAT CONTOURS SHOWN AS [CONTINUOUS LINES] MAY NOT MEET THE STANDARD SPECIFIED; AND ALL COORDINATES ARE BASED ON NAD83(2011).

Digitized by:
Dustin J. McCarty 3/17/2021
807CACA05EC2671

DUSTIN J. MCCARTY, PLS L-5213



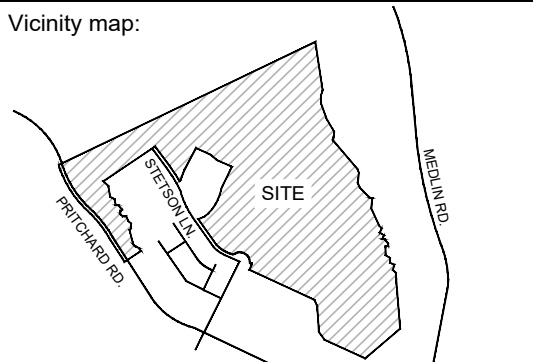
STEWART
101 WEST MAIN ST.
DURHAM, NC 27701
T 919.380.8750

FIRM LICENSE #: C-1051
www.stewartinc.com
PROJECT #: L20046

Client: HEARTH POINTE DEVELOPMENT
114 W. MAIN STREET
CLAYTON, NC 27520

Consultants:
ENVIRONMENTAL
KEVIN MARTIN
PH: 919.720.7941
EMAIL: kmartin@sandec.com

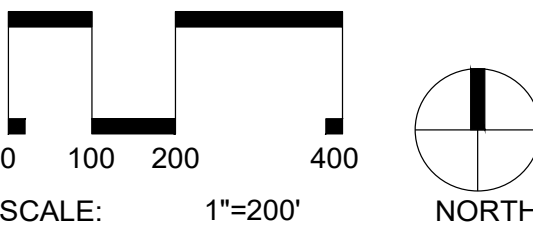
Vicinity map:



NORTH

Seal:

PRELIMINARY - DO NOT
USE FOR CONSTRUCTION



Project:

RIVERWOOD
RANCH PHASES
1A-1B & 2A-2D

Issued for:

**MINOR SUBDIVISION
PLAN**

Title:

SEALED SURVEY

Project number: L20046 Sheet #:
 Issued Date: 02.03.2021
 Drawn by: -
 Approved by: -

C1.00



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

Board of Adjustment
October 20, 2021

STAFF REPORT

Application Number: 2021-104-VAR

Project Name: Riverwood Ranch Ph. 1A – 1B & 2A – 2D Steep Slope Variance

Tag #: 16I02026B

Overlay: N/A

Applicant: Hearth Pointe Development, LLC

Owner: Riverwood on the Neuse, LLC

Location: Pritchard Road, North of Riverwood Athletic Club planned development

Project Planner:

Public Noticing dates:

- **Sign Posted:** October 6, 2021
- **Newspaper Ad Published:** October 6, 2021 and October 13, 2021
- **Adjacent Property Letters Mailed:** October 7, 2021

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

UDC Section	Requirement	Variance Request
155.500(B)(3) and 155.500(D)(2)	Slopes above 25% of at least 5,000 square feet of contiguous area shall be unoccupied or predominantly unoccupied by buildings or other impervious surfaces.	Allow development of impervious surfaces in areas that are considered to be "steep slopes" and therefore RCAs. Areas of requested variance were submitted as a site plan with subject areas bubbled in pink.

SITE DATA:

Acreage: 41.94

Existing Use: Vacant/Forested

STAFF ANALYSIS AND COMMENTARY:

A variance is being requested for the allowance of impacts to a slope that meets the definition of a "Resource Conservation Area" (RCA) as defined in Section 155.500(B)(3) of the UDC. This request is associated with phases 1A – 1B & 2A – 2D of the Riverwood Ranch planned development subdivision. The applicant is requesting a variance on RCA areas identified on a site plan with pink bubbling. The bubbled areas are related mostly to areas where the RCA overlaps with building areas on proposed lots and streets in the subdivision.

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:**

The language that a Variance is being sought for is vaguely written and is being strictly applied to this development. Riverwood Ranch is a vested project that was originally approved via a Master Plan in 2008 and then again in 2013 by the Town Council. When approved, these phases were granted entitlement for a certain number of single-family units. Over the years, the development of this plan has occurred in phases and steep slopes were never evaluated by the Town as the Town did not start enforcing this section of the UDC until 2020.

The language of the UDC is vague in that it considers any slope above 25% or 5,000 SF of contiguous area to be a Resource Conservation Area. Based on the ordinance, these areas shall be unoccupied or predominately unoccupied by buildings or other impervious surfaces, including roads and parking lots, unless specifically authorized. It does not define what "predominately unoccupied" entails and therefore the only avenue to relief from this section is a Variance from the Board of Adjustment.

This language applies to all steep slopes on a site including those that are not directly connected to any environmentally sensitive areas. For those slopes that are directly connected to streams/wetlands, the ordinance does not take into consideration the distance at which development is occurring in relation to the area. Instead, it is limiting development from occurring in any steep slope area regardless of the relation or distance to streams/wetlands.

In Riverwood Ranch, there are several pockets of steep slopes that are not directly tied to streams/wetlands located on the site. The remaining steep slopes impacted by development are located at least 100' from the stream itself which already is required to include a 50' stream buffer. Strict application of the ordinance is impacting this development as it would create pockets of undeveloped land leading to inefficient layout and circulation, as well as limit development of the units that this project was entitled to by Council prior to the Town's enforcement of this language.

- **Staff Commentary:**

The applicant is suggesting that the hardship from the code on RCA in the UDC is derived from prior approvals not taking into consideration a strict interpretation of the ordinance and therefore they have vested rights to develop under previous approvals. Also, the applicant feels that the intent of the RCA code to protect environmentally

sensitive areas is not applicable to the RCA areas that they are requesting a variance for. Areas where there RCA is protecting environmentally sensitive areas are being left alone. Strict application of the ordinance would create an inefficient layout and circulation as RCA areas overlap with necessary road connections in the proposed subdivision. There was a condition approved with the overall subdivision that states "Resource Conservation Areas shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument for permanent protection shall include clear restrictions on the use of the resource conservation area. These restrictions shall include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the use of the resource conservation areas. Where appropriate, the instrument shall allow for stream or habitat restoration." This condition remains in effect, and all other RCA areas in these phases will be protected in accordance with this condition.

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 of steep slopes is unique to the property as it is caused by natural topography and environmental features on-site. This hardship is not caused by personal circumstances. While steep slopes can occur on other properties, the overall condition of steep slopes and this ordinance's impact are not common to the neighborhood or general public. Additionally, there are only a few pockets of steep slopes on this site that are directly connected to streams/wetlands and of these areas only one exceeds the 5,000 SF limit.

It is worth noting as well that the master plan that this project is a part of was entitled for a certain number of units prior to the Town enforcing this language in the Unified Development Code. In order to get close to the number of units entitled by Town Council and the project stay viable, a variance is necessary to alleviate the hardship that the new and strict enforcement of this language of the UDC has created.

- **Staff Commentary:**

The steep slopes are caused by the natural topography and environmental features on-site and not by the applicants doing. The applicants design to maximize circulation of traffic and housing units is not feasible without impacting some of the RCA areas.

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 has not resulted from actions taken by the applicant or the property owners. The steep slopes that occur on site are natural topographic features and the recent enforcement/strict application of this section of the Unified Development Code has created a hardship for development in this location. The master plan for Riverwood Ranch was originally approved in 2008 and again in 2013. No conditions of approval were placed upon the development pertaining to this language in the UDC and this code language had not even been enforced by the

Town until 2020. For these reasons, it was impossible to know that the Town would limit development in the future based upon this code language. In order to get close to the number of units entitled by Town Council and the project stay viable, a variance is necessary to alleviate the hardship that the new and strict enforcement of this language of the UDC has created.

- **Staff Commentary:**

The applicant feels that the UDC code section on RCA has been more strictly applied since 2020 and is creating a hardship. The projects viability could be greatly impacted by a strict interpretation of the ordinance. Section 155.500 of the UDC was adopted in 2005, but may have not been evenly enforced in the past. There was a condition approved with the overall subdivision that states "Resource Conservation Areas shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument for permanent protection shall include clear restrictions on the use of the resource conservation area. These restrictions shall include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the use of the resource conservation areas. Where appropriate, the instrument shall allow for stream or habitat restoration." This condition remains in effect, and all other RCA areas in these phases will be protected in accordance with this condition.

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:**

The requested variance is consistent with the spirit, purpose, and intent of the ordinance. Public safety is secured and substantial justice is achieved. The intent of the ordinance is to protect environmentally sensitive areas. Development occurring in the areas identified on the plan as steep slopes will not negatively impact these areas on-site. Several pockets of steep slopes shown on the plan are not even directly tied to streams/wetlands. The areas identified that are tied to the streams/wetlands are located at least 100' away, given that the stream requires a 50' buffer and the development occurring is at least another 50' away from the buffered area.

Furthermore, Town staff has acknowledged that the current language is overreaching and is looking to amend the section sometime in the near future. The timeline for this amendment though did not align with our schedule for development, hence the seeking of this Variance request.

- **Staff Commentary:**

The applicant feels as though the intent of the ordinance is met with the design of the subdivision, avoiding RCA areas that are directly tied to streams/wetlands. The applicant has provided at least a 100' buffer from streams and wetland areas. Staff cannot confirm from the plans provided that all development is at least 50' way from buffered areas. Staff is working on potential text amendment options to Section 155.500 of the UDC to clarify or revise the requirements for preservation of environmentally-sensitive areas, such as steep slopes and riparian buffers, but is looking to have additional public engagement prior to presenting the text to the Planning Board and Town Council.

CONSIDERATIONS:

- The Board of Adjustment 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:

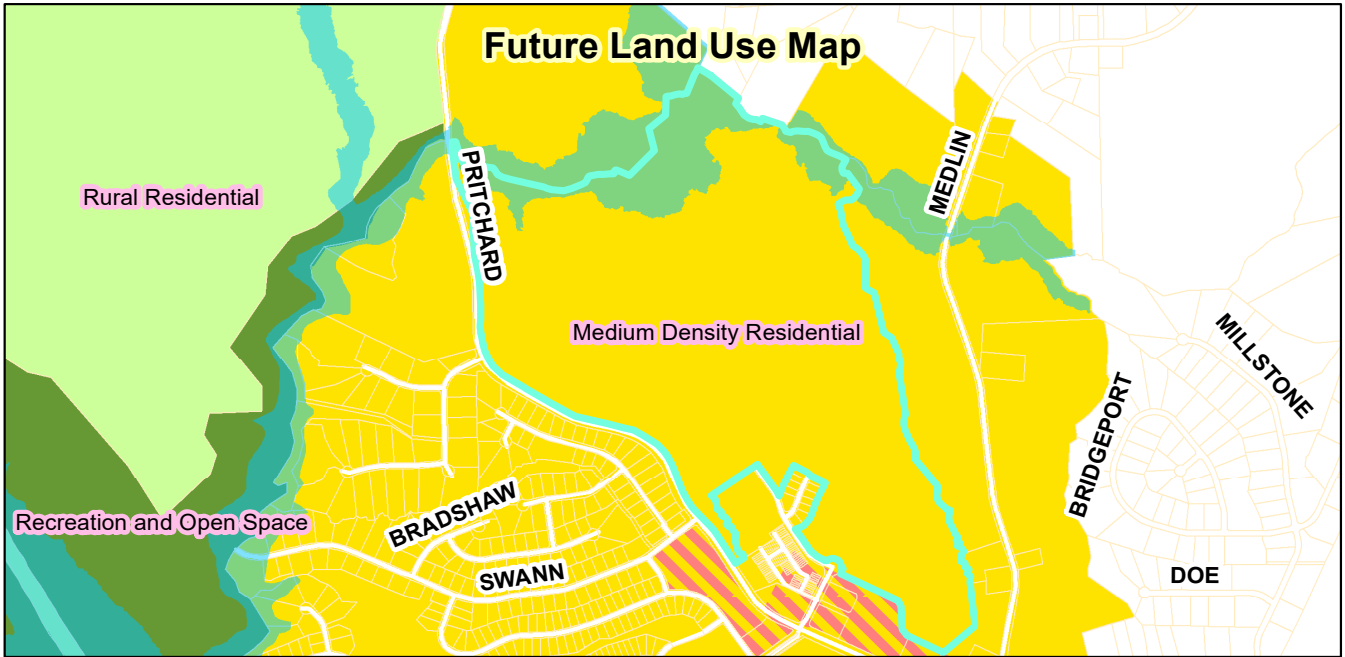
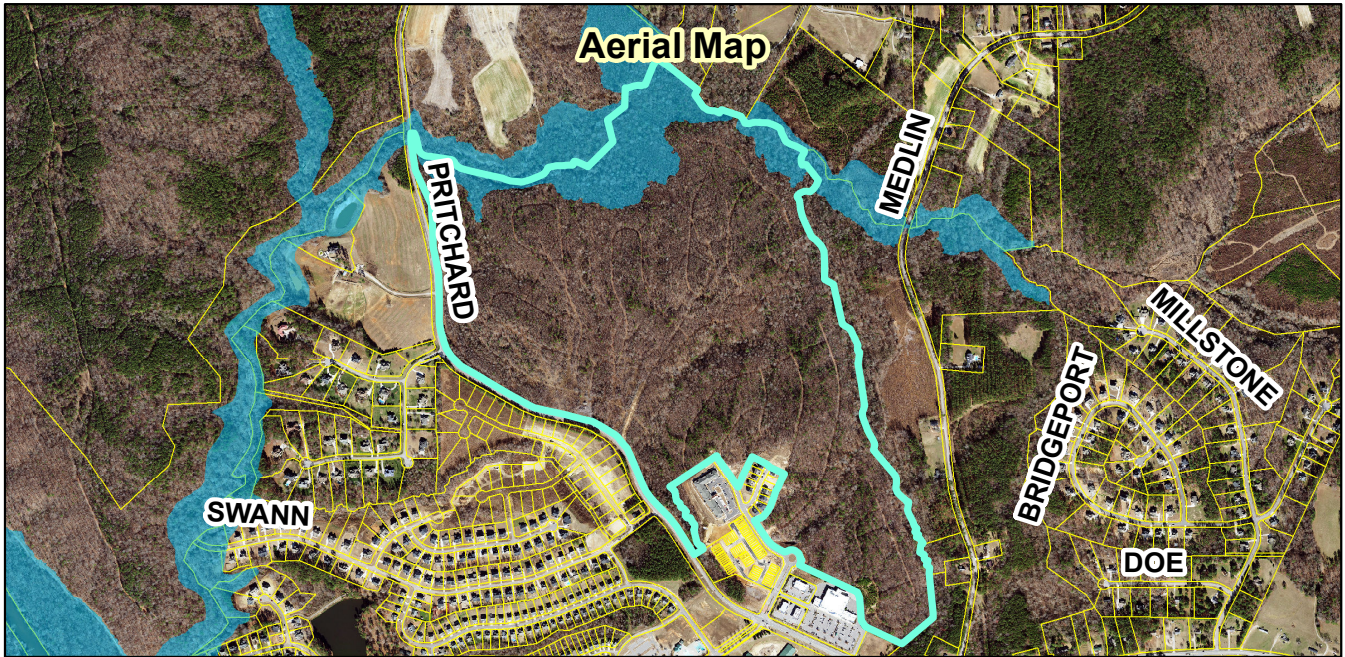
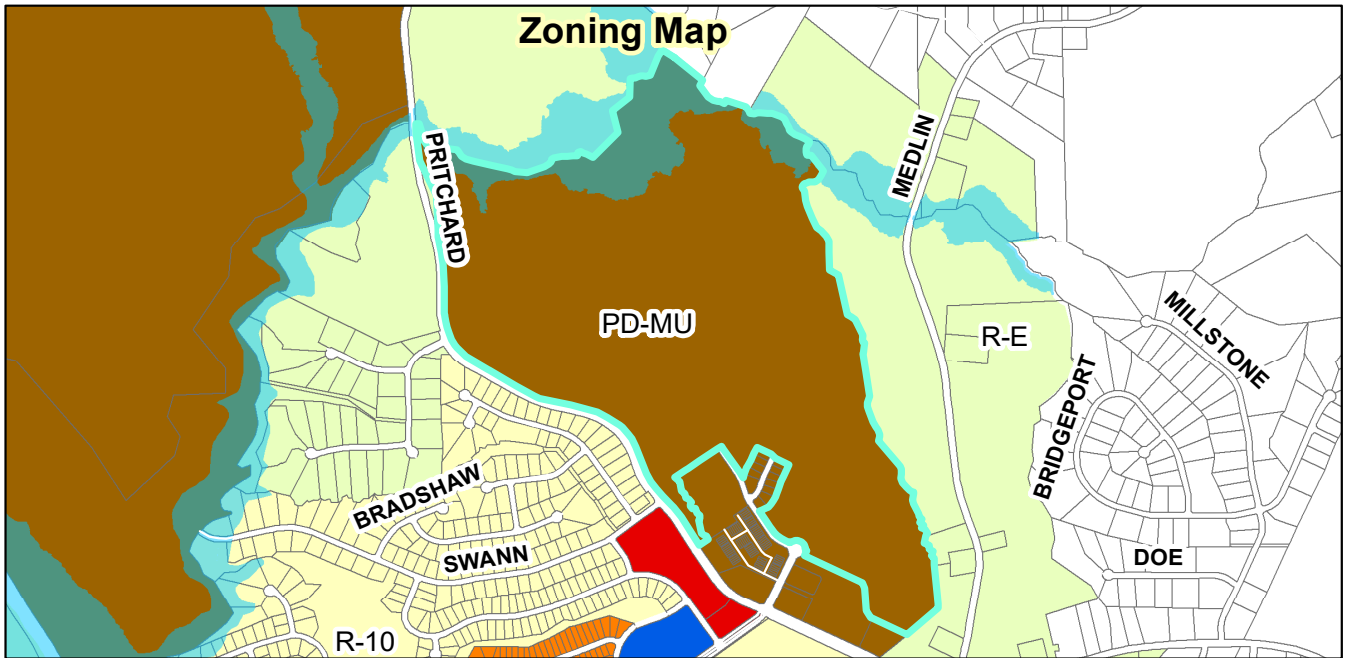
The applicant has addressed the Findings of Fact, as outlined above in this report and included as a part of the application.

RECOMMENDED CONDITION OF APPROVAL:

If approved, staff is recommending a condition of approval be placed upon the application. This condition is outlined in an attachment to the staff report. The applicant has reviewed the attachment and is in agreement with the condition proposed by staff.

ATTACHMENTS:

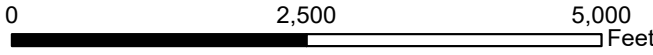
1. Staff Report
2. Staff Report Map
3. Application
4. Project Explanation and Findings
5. Owner Consent Form
6. Survey
7. Steep Slopes Exhibit
8. USACE Preliminary Determination
9. Newspaper Ad- public notice
10. Adjacent Property Letter- public notice
11. Recommended Conditions of Approval- Applicant Signed



**Riverwood Ranch Variance
2021-104-VAR**
**Request: Variance on RCA areas
for construction of lots and roads.**

Applicant: Dave DeYoung & Becca Mountz
Property Owners: Riverwood on the Neuse, LLC
Tag #: 16I02026B

-  Site
-  100-yr Flood Zone
-  Thoroughfare Overlay



Staff Report Map
Prepared by: TOC Planning Department
September 7, 2021

Disclaimer: Town of Clayton assumes no legal responsibility
for the quality fo the data represented here.

Document Path: O:\PLANNING\VARIANCE\2021\2021-104-VAR RW Ranch Ph 1A-1B & 2A-2D Steep Slopes\Staff Report Map - 2021-104-VAR - RW Ranch Steep Slopes.mxd



TOWN OF CLAYTON BOARD OF ADJUSTMENT 2022 MEETINGS

January 19, 2022

February 16, 2022

March 16, 2022

April 20, 2022

May 18, 2022

June 15, 2022

July 20, 2022

August 17, 2022

September 21, 2022

October 19, 2022

November 16, 2022

December 21, 2022

*Meetings are held on the THIRD Wednesday of the month at 6:00 p.m. in the Council Chambers in Town Hall located at 111 East Second Street, unless otherwise noted.**

In accordance with NCGS § 143-318.10, this is an official meeting of the board and is open to the public.

APPROVED BY THE TOWN OF CLAYTON BOARD OF ADJUSTMENT:

WWW.TOWNOFCLAYTONNC.ORG