



LAWRENCEVILLE

GEORGIA

BOARD OF APPEALS AGENDA

Tuesday, January 17, 2023
6:00 PM

Council Assembly Room
70 S. Clayton St, GA 30046

Call to Order

Approval of Agenda

New Business

Discussion on variance requests will be limited to 10 minutes per side. Questions from Board of Appeals members and the resulting answers will not infringe on time limit.

1. VAR2022-00091; Lawrenceville Land Holdings, LLC; Gwinnett Drive

Final Adjournment



LAWRENCEVILLE

GEORGIA

AGENDA REPORT
MEETING: BOARD OF APPEALS
AGENDA CATEGORY: NEW BUSINESS

Item: VAR2022-00091; Lawrenceville Land Holdings, LLC; Gwinnett Drive

Department: Planning and Development

Date of Meeting: Tuesday, January 17, 2023

Presented By: Todd Hargrave

Action Requested: Review of Appeal to Director's interpretation letter

Summary: Appeal to Director's interpretation of Zoning Ordinance Section 102.5(C) to require a rental restriction in the mandatory homeowners association document for the property's townhouse development.

Attachments/Exhibits:

VAR2022-00091_Application

VAR2022-00091_Letter of Intent/Appeal

VAR2022-00091_letter from Planning and Development



LAWRENCEVILLE

Planning & Development

1.

VARIANCE APPLICATION

☐ ADMINISTRATIVE

☒ BOARD OF APPEALS

☐ CITY COUNCIL

GENERAL INFORMATION

Unless otherwise provided for in the Code of the City of Lawrenceville, Development Regulations, Subdivision Regulations and Zoning Ordinance, the Board of Appeals (BOA) and City Council has the authority to grant variances from the requirements of the Code of the City of Lawrenceville, Development Regulations, Subdivision Regulations and Zoning Ordinance, in accordance with the standards and procedures as set forth in the Code of the City of Lawrenceville, Chapter 10 – Building and Building Regulations, Section 10-242, Means of Appeals, Chapter 20 Environment, Article III – Noise Control, Section 20.48. Generally, Subsection (8) Construction Noise, Development Regulations, Article III Amendment to Drainage Regulations of 1989, Article VIII Floodplain Management Ordinance, Article XVIII Model Floodplain Management/Flood Damage Prevention Ordinance and Article XIX Model Stream Buffer Protection Ordinance, Subdivision Regulations, Article XII General Administration, Section 6. Appeals and the Zoning Ordinance, Article 9 Administration and Enforcement,

The Director of the Planning and Development Department shall have the power to grant a variance (except for density and use) from the development standards of the Zoning Ordinance where, in their opinion, the intent of the Zoning Ordinance can be achieved and equal performance obtained by granting a variance. The authority to grant such a variance shall be limited from the following requirements: 1. Front Yard or Yard adjacent to a public street – variance not to exceed ten (10) feet; 2. Side Yard – variance not to exceed five (5) feet; 3. Rear Yard – variance not to exceed ten (10) feet.

APPLICANT INFORMATION

APPLICANT NAME: **Lawrenceville Land Holdings, LLC**

EMAIL: **c/o eric@universalplanningllc.com**

PHONE: **678-571-4843 cell**

STREET ADDRESS: **6083 Shadburn Ferry Road**

SUITE:

CITY: **Buford**

STATE: **GA**

ZIP CODE: **30518**

SIGNATURE OF APPLICANT:

12-02-2022
DATE:

PROPERTY OWNER INFORMATION (as applicable)

PROPERTY OWNER NAME: **Same as Applicant**

EMAIL:

PHONE:

STREET ADDRESS:

SUITE:

CITY:

STATE:

ZIP CODE:

SIGNATURE OF PROPERTY OWNER:

12-02-2022
DATE:

SITE INFORMATION

VARIANCE DESCRIPTION:

To permit Build for Rent Townhouse located in a RM-8 zoning district

STREET ADDRESS: **No Address created yet**

SUITE/UNIT #:

CITY: **Lawrenceville**

STATE: **GA**

ZIP CODE:

PIN: **5141 268, 5141 405, 5141 329**

LOT NO.: **+/-12.23 acres**

BLOCK NO.:



ZONING INFORMATION

The act or process of partitioning a city, town, or borough into zones reserved for different purposes (such as residence or business).

ZONING CLASSIFICATION: **RM-8 w/ Conditions**

ZONING CASE: **RZM2021-00032 / SUP2021-00057**

PRINCIPAL USE: **Townhomes (multi-family)**

SECONDARY USE (AS APPLICABLE):

STANDARDS FOR GRANTING A VARIANCE

A variance shall not be granted unless evidence is presented supporting conclusions that the variance meet the following criteria:

- a. *Arises from a condition that is unique and peculiar to the building, land, and structures involved.*

The proposed variance is due to an interpretations from the City of Lawrenceville dated 11/21/2022, we believe the Property as zoned RM-8 can be used as Build to Rent Townhouses.

- b. *Is necessary because the particular physical surroundings, the size, shape or topographical condition of the specific property involved would result in unnecessary hardship for the owner, lessee or occupants; as distinguished from a mere inconvenience, if the provisions of the Code of the City of Lawrenceville, Development Regulations, Subdivision Regulations or Zoning Ordinance literally enforced.*

RM-8 zoning ordinance, Section 102.5, Paragraph, specifically deals with single family units. The townhouse unit in the City's code is clearly defined as a multi-family dwelling and should not be subject to this code section in RM-8.

- c. *The condition requiring the requested relief not ordinarily found in properties of the same zoning classification as the subject property.*

The Applicant has no insight on this, however, the City has permitted Build For Rent Townhouses on another RM-8 zoned Property located in the City.

- d. *The condition is created by the regulations of the Code of the City of Lawrenceville, Development Regulations, Subdivision Regulations, or Zoning Ordinance and not by action or actions of the property owner or the applicant.*

Yes, the City's Zoning Ordinance is causing this hardship along with the City's interpretation of their own code.

- e. *The granting of the variance will not impair or injure other property or improvements in the neighborhood in which the subject property is located, or impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, create a hazard to air navigation, endanger the public safety, or substantially diminish or impair property values within the neighborhood.*

No, the granting of this variance will not have any impact on the Property, as the Property is already zoned for Townhouse uses and the question at hand deals with a single owner versus up to 126 individual owners.

- f. *The variance granted the minimum variance that will make possible the reasonable use of the building, land or structures.*

Yes, the granting of the variance will provide a reasonable economic use of the Property with Build For Rent Townhouses.

- g. *Does the variance desired meet the general spirit and intent of the Code of the City of Lawrenceville, Development Regulations, Subdivision Regulations, Zoning Ordinance and/or the purpose and intent of the City of Lawrenceville 2040 Comprehensive Plan?*

We believe so as the Property is zoned RM-8, which is a multi-family zoning district. The use of the Property as Build For Rent Townhouses will allow a defined multi-family unit to be used on the Property as the definition of Dwelling, Townhouse implies and permits.

December 2, 2022

VIA HAND DELIVERY AND EMAIL
(karen.pierce@lawrencevillega.org)
(todd.hargrave@lawrencevillega.org)

Karen Pierce
City of Lawrenceville City Clerk
70 S Clayton Street
City Hall Fourth Level
Lawrenceville, GA 30046

Todd Hargrave
Director, Planning and Development Department
City of Lawrenceville
70 S Clayton Street
City Hall Main Level
Lawrenceville, GA 30046

Re: Notice of Appeal of Director's November 21, 2022 Interpretation of Zoning Ordinance Pursuant to City of Lawrenceville Zoning Ordinance § 903(C)(2) Regarding Proposed 126 unit Townhouse Development Located on Gwinnett Drive Consisting of an Assemblage Totaling 12.23 Acres (the "Property")

Dear Ms. Pierce and Mr. Hargrave:

This firm represents Universal Planning and Development, LLC ("Universal"), acting on behalf of Lawrenceville Land Holdings, LLC ("LLH"), the owner of the above-referenced Property, with respect to same. This appeal concerns Director Hargrave's November 21, 2022 interpretation of Zoning Ordinance Section 102.5(C) to require a rental restriction in the mandatory homeowners association document for the Property's Townhouse development. This interpretation is error because Section 102.5(C) requires such rental restrictions only for "single-family units," not Townhouses.

I. The Rental Restriction Does Not Apply to the Property.

On September 23, 2022, Universal sent an email to Director Hargrave requesting an interpretation of the Ordinance and setting forth why the rental restriction identified

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in Ordinance Section 102.5(C) did not apply to the Property and proposed Townhouse development. A copy of that email is attached hereto as Exhibit A. As explained in that email, the rental restriction does not apply because the proposed units on the Property are townhouses which will be owned and managed by a single owner.

The Property is zoned RM-8 Townhouse Residential District. Lawrenceville City Council approved this zoning on May 6, 2022 upon the application of LLH. Under Ordinance Section 102.5(C), all townhome subdivision developments under RM-8 must create a mandatory community association. Section 102.5(C) further requires the recorded covenants of the mandatory community association include the following restrictive covenant:

[S]aid covenants shall include a restriction that no more than 10% of the single-family units (with an additional 5% hardship) may be leased to third parties by individual owners. (emphasis added).

On its face, the plain language of the rental restriction in Section 102.5(C) applies only to “single-family units.” Further, such restriction would only apply to limit rentals by “individual owners” of those single-family units, *i.e.* it does not apply to a scenario where a single owner owns and manages all units in the townhouse development in a build-to-rent capacity. The only proper reading of this Section in the context of Universal’s and LLH’s intended use for the Property—a multifamily townhouse development with only one owner of all units—is that the rental restriction does not apply.

On November 21, 2022, Director Hargrave responded to Universal’s request for interpretation. A copy of that letter response is attached hereto as Exhibit B. The response letter notifies Universal of the City’s intent to apply the rental restriction to the Property in direct contravention of the plain language Section 102.5(C). Director Hargrave attempts to sidestep the plain reading of the Ordinance by relying on an improper reading of Ordinance’s definition of “Dwelling, Single-Family.” In the November 21, 2022 letter, Director Hargrave contends that a “single-family” unit may include townhouses because townhouses are not specifically excluded from “Dwelling, Single Family” under the Ordinance. The response letter does not even attempt to address the inapplicability of the rental restriction to a townhouse community owned by a single owner as opposed to multiple, individual townhouse owners. This is error and disregards the definitions of both “Dwelling Unit” and “Dwelling, Townhouse” under the Ordinance.

Under the Ordinance, a “Dwelling Unit” is “single unit providing complete, independent living facilities for one or more persons.” Importantly, the definitions for “Dwelling, Single-Family” and “Dwelling, Townhouse” are mutually exclusive. While a “Dwelling, Single-Family” is a “dwelling containing one and only one dwelling unit, other than a manufacture home,” a “Dwelling, Townhouse” is a “multifamily dwelling unit constructed in a group of” no less than three units. So, under the

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Ordinance, a Townhouse, a multifamily unit consisting of no less than three dwelling units, cannot be Single-Family because it does not include “one and only one” dwelling unit.

Thus viewed through the City’s own definitions set forth in the Ordinance, the rental restriction contained in Section 102.5(C) applying to “single-family units” does not apply to townhouse units. Likewise, even if the same restriction could be interpreted to apply to townhouse units, which it does not, the restriction would not apply to Universal’s and LLH’s development of the Property as a build-to-rent townhouse community owned and managed by a single owner. Accordingly, the Zoning Board of Appeals should overturn the Director’s erroneous interpretation of the Ordinance as applied to the Property and provide a zoning confirmation to Universal and LLH that the Property may be developed as a build-to-rent townhouse community.

II. Universal and LLH Have Obtained Vested Rights to Use the Property for a Build-to-Rent Townhouse Community.

Universal has incurred significant expenses in reliance on the City rezoning the Property to RM-8 Townhouse Residential District and the plain language of Zoning Ordinance Section 102.5(C), which, as shown above, does not impose the rental restriction to townhouses owned and managed by a single owner for rent to end users. Accordingly, Universal and LLH have obtained vested rights to use of the Property for a build-to-rent townhouse community.

At the outset, LLH purchased the Property for \$2,062,000 with the intention of developing the Property for build-to-rent townhouses. The City rezoned the Property to RM-8 Townhouse Residential District. Since purchasing the Property and obtaining rezoning approval, Universal and LLH have undertaken significant effort develop the Property for the intended build-to-rent townhouse community, including extensive costs for engineering and material costs for horizontal development. Universal and LLH have incurred an additional \$424,276 in costs to develop the Property, for a total of \$2,486,276 in expenditures to date spent in reliance on the City’s rezoning and proper interpretation and application of Ordinance Section 102.5(C). Further, LLH has a signed letter of intent to purchase the Property and is currently in contract negotiations to sell the Property for upwards of several million dollars, all of which is contingent on the ability to use the Property for a build-to-rent townhouse community.

Erroneously applying the rental restriction in Ordinance Section 102.5(C) to the Property will result in the loss of the expected full economic value of this intended build-to-rent townhouse community. In purchasing and rezoning the Property, LLH and Universal intended to develop the Property as a build-to-rent townhouse community in reliance on the language in Section 102.5(C) that any rental restriction applicable to RM-8 districts only applied to “single-family units.” Enforcing the City’s improper interpretation of its own Ordinance will destroy LLH’s and Universal’s ability to realize

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the expected value of the purchase of the Property and increase its carry costs and other costs of development.

III. The Rental Restriction is Unconstitutional and Unlawful.

Even if the City's interpretation of the rental restriction is correct, which it is not, the rental restriction is unlawful and unconstitutional. Universal and LLH will seek to have Section 102.5(C) invalidated if the City enforces it against them to prohibit rentals.

Specifically, application of the rental restriction to Universal and LLH because they offer for-rent townhouses treats them differently from similarly situated developers of for-sale townhouses without rational basis, in violation of the Equal Protection Clauses of the Georgia and U.S. Constitutions. See College Area Renters & Landlord Assn. v. City of San Diego, 42 Cal.App.4th 543 (1996).

Application of the rental restriction is also arbitrary and capricious, running afoul of the substantive due process clauses of the Georgia and U.S. Constitutions. See Tirpak v. Borough of Point Pleasant Beach Board of Adjustment, 457 N.J. Super. 447, 455 (2018).

So burdened by the rental restriction, development of the Property is at a standstill, and there is no use whatsoever for the Property, resulting in a taking in violation of the Georgia and U.S. Constitutions.

The rental restriction also violates the principle of free alienation of property. See Gangemi v. Zoning Board of Appeals of the Town of Fairfield, 255 Conn. 143 (2001) (noting that a no rental restriction strips a property owner of one of the bundle of rights that constitutes the essence of property ownership, constitutes a significant restriction on the right of ownership, significantly reduces the fair market value of the property, imposes a limitation on that owner different from all others in the same zoning district, and results in a grossly unfair advantage over the property with that restriction in comparison to others in the same district, and violates the public policy against economic waste).

The rental restriction violates the home rule powers of the Georgia Constitution, as it goes beyond the power to regulate property and instead regulates occupancy. Ga. Const. Art. IX, § II, ¶¶ 2 & 4.

Finally, the rental restriction raises serious Fair Housing Act concerns. See Town of Huntington, N.Y. v. Huntington Branch, N.A.A.C.P., 188 U.S. 15 (1988) (the Supreme Court of the United States found a prima facie case of disparate impact where "a disproportionately high percentage of households that use and that would be eligible for subsidized rental units are minorities, and because the ordinance restricts private construction of low-income housing to the largely minority urban renewal area, which

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‘significantly perpetuated segregation in the Town.’”); Woda Cooper Development, Inc. v. City of Warner Robins, 2021 WL 1093630 (M.D. Ga. 2021).

IV. Constitutional Notice of Universal’s and LLH’s Claims.

Failure to grant the appeal and reverse Director Hargrave’s decision would unreasonably impair and destroy Universal’s and LLH’s property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

Failure to grant the appeal would be unconstitutional, illegal, null and void, constituting a taking of Universal’s and LLH’s property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States.

Failure to grant the appeal would unconstitutionally discriminate, in an arbitrary, capricious, and unreasonable manner, between Universal’s, LLH’s, and other similarly situated property owners in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

Failure to grant the appeal would also constitute an unreasonable and extreme hardship upon Universal and LLH without remotely advancing the public health, safety and welfare and would constitute an arbitrary and capricious act without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

Failure to grant the appeal would violate Article I, Section I, Paragraph X of the Constitution of the State of Georgia of 1983.

We urge you to reverse your position on the meaning of Section 102.5(C) before all parties needlessly expend additional resources and time litigating a very clear misinterpretation by the City. This is not even a close call and I have no doubt that the Court will see it that way. As a result, we will most likely recover not only attorneys’ fees but also damages for a temporary taking. If we end up losing the current contract to sell the Property, we will pursue the City and all those that propagated this clearly erroneous reading of the Ordinance.

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If you will not reverse your position, please place us on a hearing calendar before year-end.

Sincerely,

BLOOM PARHAM, LLP



Simon H. Bloom

Enclosures

EXHIBIT A

Eric Johansen

From: Eric Johansen <eric@universalplanningllc.com>
Sent: Friday, September 23, 2022 11:04 AM
To: 'Todd Hargrave'
Cc: 'Jay Williams'; 'Sonya Hathaway'; 'Brenda Taylor'; 'Julie Sellers'
Subject: Zoning Certification Request - Gwinnett Drive Townhouses
Attachments: ZON-ORD-2022-4 - final conditions.pdf; RM-8 Zoning & Definitions.pdf

Todd,

To follow-up on our conversation, we are requesting a written Zoning Confirmation from the City of Lawrenceville regarding our proposed 126 unit Townhouse development located on Gwinnett Drive consisting of the assemblage totaling 12.23 acres (the "Property"). The Zoning Confirmation will be a document we can provide to potential builders of the actual townhouse units certifying what they are permitted and zoned to do with the Property.

Requester: Universal Planning and Development, LLC, on behalf of the property owner Lawrenceville Land Holdings, LLC

Requester Address: 6083 Shadburn Ferry Road, Buford, GA 30518

We have two items we would like confirmed by the City of Lawrenceville regarding the property:

1. Zoning of the Property
 - We understand the Zoning of the Property to be RM-8 subject to the Approved Zoning Conditions of RZM2021-00032 & SUP 2021-00057 (see attached)
2. That **Build to Rent** is an option on the Property based on the following points (see attached)
 - Mandatory HOA document: add in the following language to the HOA document "...said covenants shall include a restriction that no more than 10% of the single family units (with an additional 5% hardship) may be leased to third parties by individual owners.
 - By definition in the City of Lawrenceville regulation under Article 10, the definition of **#97 Dwelling, Townhouse** is as follows: "A multifamily dwelling unit constructed in a group of three attached units, but no more than eight attached units in which each unit extends from foundation to roof and with a yard or public right of way on at least two sides. Each unit is separated from any other unit by one or more vertical common fire-resistance-rated walls. A townhouse shall have at least two stories."
 - We meet this provision as we are planning to construct townhouse units on the Property that follow this definition of **Dwelling, Townhouse**.
 - We are not constructing any **#96 Dwelling, Single Family** units on the Property, which are the only types of Dwellings that are restricted by the rental restriction.
 - Under a **Build to Rent scenario** as we are requesting clarification from the City of Lawrenceville, there are not any **individual owners** of any single family units, there is a **single owner of all 126 multi-family units**.
 - Based on a single owner owning all 126 townhouse units on the Property, we believe this option is available to a potential builder on the Property provided the entire Property is professionally managed and maintained by one owner or management company.

If you need anything from us please reach out by email at eric@universalplanningllc.com or by phone at 678-571-4843

Thanks

Eric Johansen | RLA
Vice President of Development
Universal Planning and Development, LLC
(678) 571-4843 cell
eric@universalplanningllc.com

EXHIBIT B



LAWRENCEVILLE

GEORGIA

November 21, 2022

Via Electronic Mail
eric@universalplanningllc.com

Eric Johansen
 Vice President of Development
 Universal Planning and Development, LLC
 6083 Shadburn Ferry Road
 Buford, Georgia 30518

**Re: Request for Zoning Certification for Property Located on
 Gwinnett Drive in Lawrenceville Containing 12.23 Acres**

Mr. Johansen:

After careful review of your email and the discussion of this matter with my staff and legal counsel, I have determined that while your email is entitled "Zoning Certification Request", the email contains two separate and distinct requests.

The first request is for a zoning certification or confirmation letter. In response to that request, the property is currently zoned RM-8 (Townhome Residential District). This zoning is defined in the City of Lawrenceville's Zoning Ordinance 2020. The property is subject to the conditions approved in Case No. RZM2021-00032. A copy of the Ordinance approving that rezoning is attached hereto as Exhibit A. The property is also subject to a Special Use Permit which allows 32 front entry units, and a Special Use Permit that allows an increase in density. These SUPs were approved in Case Number SUP2021-00057 and SUP2021-00058. Copies of the Ordinances approving these SUPs are attached hereto as Exhibit B and Exhibit C. The property is also subject to all conditions contained in the Ordinances approving the Special Use Permits.

The second request contained in your email is a request for my interpretation as Director of the Planning and Development Department of certain provisions of the Lawrenceville Zoning Ordinance and how these provisions may apply to your specific zoning on the subject property. Specifically, you asked me to confirm your interpretation of the

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Lawrenceville Zoning Ordinance as it relates to your specific zoning. Under your interpretation, you do not believe that your development is subject to certain provisions contained in Section 102.5, Paragraph C of the Lawrenceville Zoning Ordinance. This provision of the Lawrenceville Zoning Ordinance requires that all townhome subdivision developments create a mandatory homeowners association and that the recorded covenants for these developments contain certain provisions. Specifically, you contend that your development is not bound by the portion of this section which reads "Said covenant shall include a restriction that no more than 10% of the single-family units (with an additional 5% hardship) may be leased to third parties by individual owners." Your interpretation is based on the inclusion of the word "single-family units".

I do not agree with your interpretation of these provisions of the Lawrenceville Zoning Ordinance and how they apply to the provisions of your individual zoning. Under the Lawrenceville Zoning Ordinance, the following definitions exist:

96. Dwelling, Single-Family

A dwelling containing one and only one dwelling unit, other than a manufactured home.

97. Dwelling, Townhouse

A multifamily dwelling unit constructed in a group of three attached units, but no more than eight attached units in which each unit extends from foundation to roof and with a yard or public way on at least two sides. Each unit is separated from any other unit by one or more vertical common fire-resistance-rated walls. A townhouse shall have at least two stories. This definition shall not include Dwelling Apartment, Dwelling Duplex, Dwelling Residential/Business or Dwelling Villa.

99. Dwelling Unit

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

87. Dwelling

A building which is designed or used exclusively for residential purposes, including single-family, multifamily residential buildings, rooming and boarding houses, fraternities, sororities, dormitories, manufactured homes, but not including hotels and motels.

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Your property is zoned RM-8 Townhouse Residential District. The provisions of Section 102.5 Paragraph C are contained under the provision RM-8 Townhouse Residential District and are clearly intended to apply to all RM-8 Townhouse Residential District developments. The Section requires that a mandatory homeowners association be created for each development, that the creation of the homeowners association be recorded on the deed records either as written restrictive covenants or on the plat for the development. The Section further provides that the mandatory homeowners association shall be responsible for maintenance of all common areas, enforcement of customary property maintenance standards, and shall comply with Georgia law regarding renewal of the covenants.

The provision then contains the following statement "Subject to applicable City, local, and federal rules, laws, regulations and rulings of courts having competent jurisdiction over the subject property, said covenants shall include a restriction that no more than 10% of the single-family units (with an additional 5% hardship) may be leased to third parties by individual owners". While this sentence contains the words "single-family units" I will point out to you that the definition of single-family dwelling under the Lawrenceville Zoning Ordinance is as follows: "A dwelling containing one and only one dwelling unit, other than a manufactured home". Unlike the other dwelling definitions contained in the zoning ordinance, single-family dwelling does not exclude other types of dwellings located within the City of Lawrenceville. All other dwelling definitions specifically exclude other types of dwelling units. When I read all of the definitions contained within the Lawrenceville Zoning Ordinance together, it is my interpretation and determination that it was not the intent of the Lawrenceville City Council that the provisions of Section 102.5 Paragraph C not apply to townhome developments. It is my interpretation that the provisions of Section 102.5 Paragraph C of the Lawrenceville Zoning Ordinance do apply to townhome developments and specifically apply to your development.

If you disagree with my interpretation of the Ordinance, the Ordinance contains the process by which you may appeal this interpretation. If you desire a variance from the provisions of Section 102.5 Paragraph C for your development, the zoning ordinance also provides the process for you to file for a variance from the specific provisions of the Ordinance.

Sincerely,



Todd Hargrave

Director

Planning and Development Department

City of Lawrenceville, Georgia

Exhibit A

ORDINANCE NO: ZON-ORD-2022-4

CASE NO: RZM2021-00032

MAYOR AND COUNCIL
CITY OF LAWRENCEVILLE, GEORGIA
ORDINANCE

READING AND ADOPTION:

At the regular meeting of the Mayor and Council of the City of Lawrenceville, held at City Hall, 70 S. Clayton Street, Lawrenceville, Georgia.

<u>PRESENT</u>	<u>VOTE</u>
<u>David R. Still</u> , Mayor	<u>Yes</u>
<u>Glenn Martin</u> , Mayor Pro Tem	<u>Yes</u>
<u>Victoria Jones</u> , Council Member	<u>Yes</u>
<u>Marlene Taylor-Crawford</u> , Council Member	<u>Yes</u>
<u>Austin Thompson</u> , Council Member	<u>Abstain</u>

On motion of Council Member Jones, seconded by Mayor Pro Tem Martin, which carried 4-0, the following ordinance was ADOPTED:

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP

WHEREAS, the Planning Commission of the City of Lawrenceville has held a duly advertised public hearing and has filed a formal recommendation with the Mayor and Council of the City of Lawrenceville upon an Application to Amend the Official Zoning Map from BG (General Business District) to RM-8 (Townhome Residential District) by Lawrenceville Land Holdings, LLC for the proposed use of Townhomes on a tract of land described by the attached legal description, which is incorporated herein and made a part hereof by reference; and

ORDINANCE NO: ZON-ORD-2022-4CASE NO: RZM2021-00032

WHEREAS, notice to the public regarding said Amendment to the Official Zoning Map has been duly published in THE GWINNETT DAILY POST, the Official News Organ of the City of Lawrenceville; and

WHEREAS, a public hearing was held by the Mayor and Council of the City of Lawrenceville on March 28, 2022 and objections were not filed.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Lawrenceville this the 28th day of March, 2022, that the aforesaid application to amend the Official Zoning Map from BG (General Business District) to RM-8 (Townhome Residential District) is hereby APPROVED WITH CONDITIONS.

Approval as RM-8 (Townhome Residential District) for a townhouse development, subject to the following enumerated conditions:

1. To restrict the use of the property as follows:
 - A. Residential townhouse units at a maximum of 126 units on approximately 12.23 acres at a density of 10.3 Units Per Acre (UPA).
 - B. The maximum number of Front Entry Units shall be thirty-two (32). Front Entry Units shall be prohibited along Gwinnett Drive.
 - C. The development shall be designed and constructed in general accordance with the site plan presented at the Council meeting on March 28, 2022, with the exception that the plan may be modified with the removal of all or some of the front entry townhomes and replaced with rear entry townhomes. Final approval shall be subject to the review and approval of the Director of the Planning and Development Department.
 - D. The townhouse units shall be designed in general accordance with the elevations being predominantly 3-side masonry, which could be brick, stone or a combination of brick and stone (with accents of fiber cement siding), covered front porches with metal roofs and corner end units having expanded

porches for rear entry townhomes. Front entry townhomes shall have a covered rear porch. Final design shall be subject to the review and approval of the Director of the Planning and Development Department.

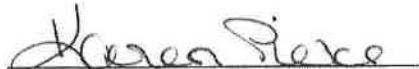
- E. The proposed landscaping shall be designed and installed in general accordance with the trees and plant materials shown on the site plan titled "Rezoning Site Plan - 3, Gwinnett Drive Towns," prepared by Universal Planning & Development, LLC, dated March 25, 2022. Final approval shall be subject to the review and approval of the Director of the Planning and Development Department.
 - F. All dwellings shall have a double car garage with carriage-style garage doors. Final design shall be subject to the review and approval of the Director of the Planning and Development Department.
 - G. All Rear Entry Units shall be a minimum of three (3) stories or thirty-five (35) feet in height, as measured from the lowest elevation of the rear-entry-garage-floor. Final design shall be subject to the review and approval of the Director of the Planning and Development Department.
 - H. All townhouse units shall consist of a two (2) car garages, with a driveway measuring eighteen (18) feet in width and twenty-six (26) feet in depth, providing sufficient space for two (2) passenger vehicles. Final design shall be subject to the review and approval of the Director of the Planning and Development Department.
 - I. Development shall be designed and consist of fifty-five (55) on-street parking spaces or one additional space per townhouse unit within the project for guest and overflow parking. Final design shall be subject to the review and approval of the Director of the Planning and Development Department.
2. To satisfy the following site development considerations:
- A. The development shall abide by all applicable standards of the Development Regulations, unless otherwise specified in these conditions, or through approval of a variance administratively, or by the Zoning Board of Appeals, as appropriate.
 - B. All grassed areas on dwelling lots shall be sodded.
 - C. All underground utilities shall be provided throughout the development.

ORDINANCE NO: ZON-ORD-2022-4CASE NO: RZM2021-00032

- D. Allow a ten (10) foot encroachment into the required twenty-five (25) foot Front Yard Setback along Gwinnett Drive. The Front Yard Setback along Gwinnett Drive shall be reduced fifteen (15) feet.
- E. The property shall be gated with interior private streets permitted.
- F. The developer shall upgrade off site sewer at no cost to the City of Lawrenceville or Gwinnett County including design, acquisition of easements, and construction in accordance with direction and approval from Gwinnett County.


David R. Still, MayorDate Signed: 5/6/2022

ATTEST:


Karen Pierce, City Clerk



LEGAL DESCRIPTION OF ASSEMBLED PARCELS

All that tract(s) or parcel(s) of land situate, lying and being in Land Lot 141, 5th District, City of Lawrenceville, Gwinnett County, Georgia, and being Tax Parcel ID 5141 268 (HHE, Inc), Tax Parcel 5141 329 (Euro Star Investments, LLC), and a portion of Tax Parcel ID 5141 133 (Lawrenceville Church of God) and being more particularly described as follows:

Beginning at the Intersection of the Northeasterly right-of-way Line of Gwinnett Drive (80 foot right-of-way) and the Land Lot Line common to Land Lot Line 141 and Land Lot Line 142; thence N 59°52'53" E, leaving said Northeasterly right-of-way line, and along said Land Lot Line, a distance of 230.92 feet to a point; thence S 25°55'07" E, leaving said Land Lot Line, a distance of 249.65 feet to a point; thence N 59°53'31" E, a distance of 1,038.07 feet to a point; thence S 29°54'35" E, a distance of 498.72 feet to a point; thence S 59°50'00" W, a distance of 553.63 feet to a point on said Northeasterly right-of-way line of Gwinnett Drive (80' right-of-way); thence Northwesterly, along a curve to the left (having a radius of 756.20 feet and a chord length of 122.35 feet that bears N 83°35'45" W) an arc length of 122.48 feet to a point; thence continuing along the same curve (having a radius of 756.20 feet and a chord length of 150.62 feet that bears S 85°42'56" W) and arc length of 150.87 feet to a point; thence S 80°00'00" W, a distance of 118.77 feet to a point; the next three (3) calls being coincident with said Northwesterly right-of-way line thence along a curve (having a radius of 532.96 feet and a chord length of 148.70 feet that bears S 88°01'13" W) an arc length of 149.19 feet to a point; thence Northwesterly along a curve to the right (having a radius of 532.96 feet and a chord length of 28.67 feet that bears N 82°25'11" W) an arc length of 28.68 feet to a point; thence Northwesterly, along a curve to the right (having a radius of 532.96 feet and a chord length of 457.87 feet that bears N 55°26'21" W) an arc length of 473.27 feet to a point; thence N 30°00'00" W, a distance of 55.42 feet to a point; thence Northwesterly, along a curve to the right (having a radius of 1,105.92 feet and a chord length of 12.66 feet that bears N 23°38'57" W) an arc length of 12.66 feet to the Point of Beginning.

Said tract containing 12.23 acres, more or less.

RZM2021-00032 SUP2021-00057 SUP2021-00058
Received: January 31, 2022
Planning and Development Department

Exhibit B

ORDINANCE NO: ZON-ORD-2022-4

CASE NO: SUP2021-00058

MAYOR AND COUNCIL
CITY OF LAWRENCEVILLE, GEORGIA
ORDINANCE

READING AND ADOPTION:

At the regular meeting of the Mayor and Council of the City of Lawrenceville, held at City Hall, 70 S. Clayton Street, Lawrenceville, Georgia.

<u>PRESENT</u>	<u>VOTE</u>
<u>David R. Still</u> , Mayor	<u>Yes</u>
<u>Glenn Martin</u> , Mayor Pro Tem	<u>Yes</u>
<u>Victoria Jones</u> , Council Member	<u>Yes</u>
<u>Marlene Taylor-Crawford</u> , Council Member	<u>Yes</u>
<u>Austin Thompson</u> , Council Member	<u>Abstain</u>

On motion to APPROVE the requested Special Use Permit by Council Member Jones, seconded by Mayor Pro Tem Martin, which carried 4-0, the following ordinance was ADOPTED:

AN ORDINANCE TO APPROVE A SPECIAL USE PERMIT

WHEREAS, the Planning Commission of the City of Lawrenceville has held a duly advertised public hearing and has filed a formal recommendation with the Mayor and Council of the City of Lawrenceville upon an Application for a Special Use Permit from Lawrenceville Land Holdings, LLC for the proposed use of townhouse development with an increase in density on a tract of land described by the attached legal description, which is incorporated herein and made a part hereof by reference; and

ORDINANCE NO: ZON-ORD-2022-4CASE NO: SUP2021-00058

WHEREAS, notice to the public regarding said Amendment to the Official Zoning Map has been duly published in THE GWINNETT DAILY POST, the Official News Organ of the City of Lawrenceville; and

WHEREAS, a public hearing was held by the Mayor and Council of the City of Lawrenceville on March 28, 2022 and objections were not filed.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Lawrenceville this the 28th day of March, 2022, that the aforesaid application for a Special Use Permit is hereby APPROVED WITH CONDITIONS.

Approval of a Special Use Permit for an increase in density, subject to the following enumerated conditions:

1. To restrict the use of the property as follows:
 - A. Residential townhouse units at a maximum of 126 units on approximately 12.23 acres at a density of 10.3 Units Per Acre (UPA).

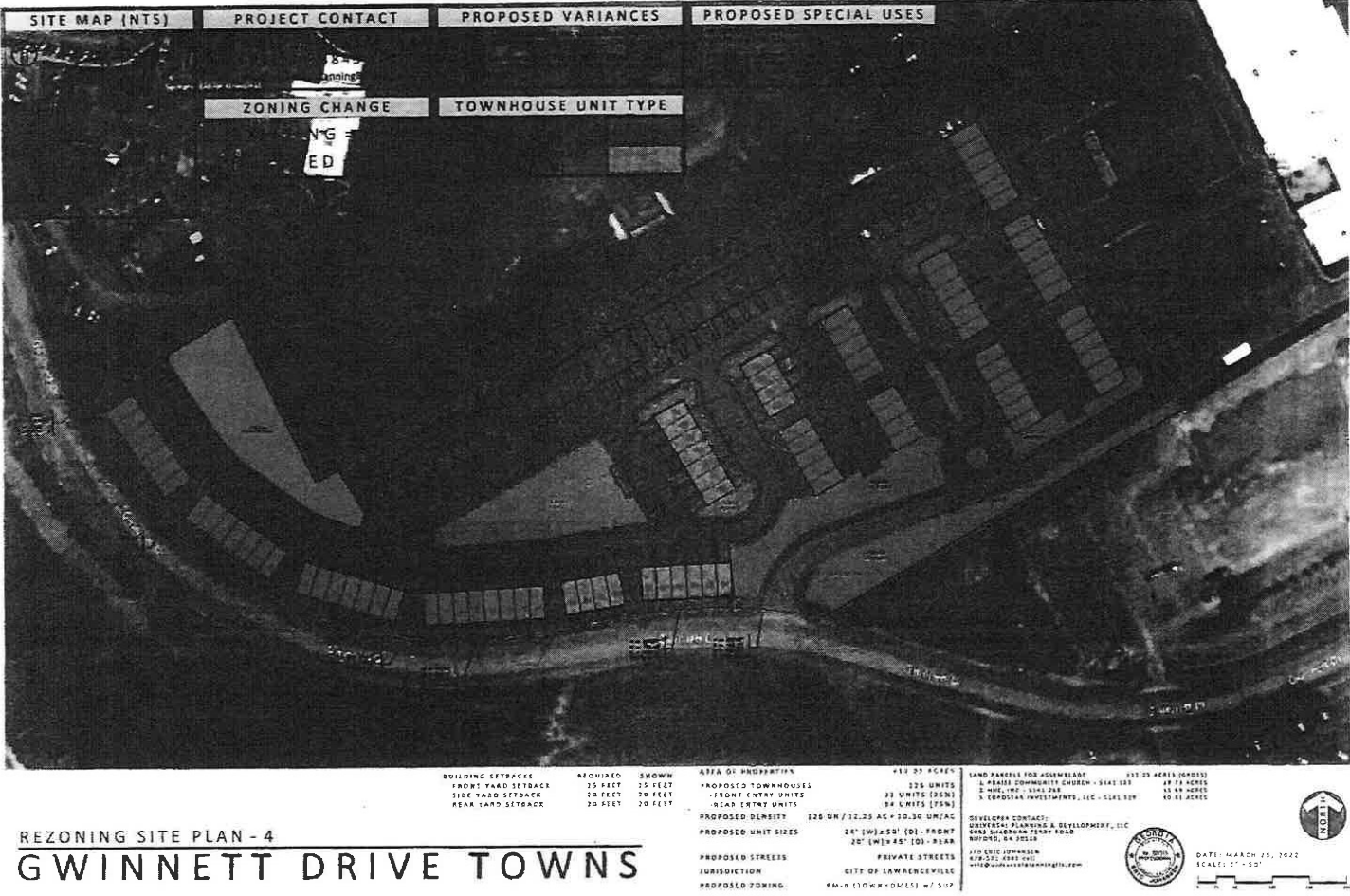


David R. Still, Mayor

Date Signed: 5/6/2022

ATTEST:


Karen Pierce, City Clerk



VAR2022-00091
RECEIVED 12.02.2022
PLANNING AND DEVELOPMENT

LEGAL DESCRIPTION OF ASSEMBLED PARCELS

All that tract(s) or parcel(s) of land situate, lying and being in Land Lot 141, 5th District, City of Lawrenceville, Gwinnett County, Georgia, and being Tax Parcel ID 5141 268 (HHE, Inc), Tax Parcel 5141 329 (Euro Star Investments, LLC), and a portion of Tax Parcel ID 5141 133 (Lawrenceville Church of God) and being more particularly described as follows:

Beginning at the Intersection of the Northeasterly right-of-way Line of Gwinnett Drive (80 foot right-of-way) and the Land Lot Line common to Land Lot Line 141 and Land Lot Line 142; thence N 59°52'53" E, leaving said Northeasterly right-of-way line, and along said Land Lot Line, a distance of 230.92 feet to a point; thence S 25°55'07" E, leaving said Land Lot Line, a distance of 249.65 feet to a point; thence N 59°53'31" E, a distance of 1,038.07 feet to a point; thence S 29°54'35" E, a distance of 498.72 feet to a point; thence S 59°50'00" W, a distance of 553.63 feet to a point on said Northeasterly right-of-way line of Gwinnett Drive (80' right-of-way); thence Northwesterly, along a curve to the left (having a radius of 756.20 feet and a chord length of 122.35 feet that bears N 83°35'45" W) an arc length of 122.48 feet to a point; thence continuing along the same curve (having a radius of 756.20 feet and a chord length of 150.62 feet that bears S 85°42'56" W) and arc length of 150.87 feet to a point; thence S 80°00'00" W, a distance of 118.77 feet to a point; the next three (3) calls being coincident with said Northwesterly right-of-way line thence along a curve (having a radius of 532.96 feet and a chord length of 148.70 feet that bears S 88°01'13" W) an arc length of 149.19 feet to a point; thence Northwesterly along a curve to the right (having a radius of 532.96 feet and a chord length of 28.67 feet that bears N 82°25'11" W) an arc length of 28.68 feet to a point; thence Northwesterly, along a curve to the right (having a radius of 532.96 feet and a chord length of 457.87 feet that bears N 55°26'21" W) an arc length of 473.27 feet to a point; thence N 30°00'00" W, a distance of 55.42 feet to a point; thence Northwesterly, along a curve to the right (having a radius of 1,105.92 feet and a chord length of 12.66 feet that bears N 23°38'57" W) an arc length of 12.66 feet to the Point of Beginning.

Said tract containing 12.23 acres, more or less.

RZM2021-00032 SUP2021-00057 SUP2021-00058
Received: January 31, 2022
Planning and Development Department

Exhibit C

ORDINANCE NO: ZON-ORD-2022-4

CASE NO: SUP2021-00057

MAYOR AND COUNCIL
CITY OF LAWRENCEVILLE, GEORGIA
ORDINANCE

READING AND ADOPTION:

At the regular meeting of the Mayor and Council of the City of Lawrenceville, held at City Hall, 70 S. Clayton Street, Lawrenceville, Georgia.

<u>PRESENT</u>	<u>VOTE</u>
<u>David R. Still</u> , Mayor	<u>Yes</u>
<u>Glenn Martin</u> , Mayor Pro Tem	<u>Yes</u>
<u>Victoria Jones</u> , Council Member	<u>Yes</u>
<u>Marlene Taylor-Crawford</u> , Council Member	<u>Yes</u>
<u>Austin Thompson</u> , Council Member	<u>Abstain</u>

On motion to APPROVE the requested Special Use Permit by Council Member Jones, seconded by Mayor Pro Tem Martin, which carried 4-0, the following ordinance was ADOPTED:

AN ORDINANCE TO APPROVE A SPECIAL USE PERMIT

WHEREAS, the Planning Commission of the City of Lawrenceville has held a duly advertised public hearing and has filed a formal recommendation with the Mayor and Council of the City of Lawrenceville upon an Application for a Special Use Permit from Lawrenceville Land Holdings, LLC for the proposed use of townhouse development consisting of thirty-two (32) Front Entry Units on a tract of land described by the attached legal description, which is incorporated herein and made a part hereof by reference; and

WHEREAS, notice to the public regarding said Amendment to the Official

ORDINANCE NO: ZON-ORD-2022-4CASE NO: SUP2021-00057

Zoning Map has been duly published in THE GWINNETT DAILY POST, the Official News Organ of the City of Lawrenceville; and

WHEREAS, a public hearing was held by the Mayor and Council of the City of Lawrenceville on March 28, 2022 and objections were not filed.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Lawrenceville this the 28th day of March, 2022, that the aforesaid application for a Special Use Permit is hereby APPROVED WITH CONDITIONS.

Approval of a Special Use Permit for Front Entry Garage Units, subject to the following enumerated conditions:

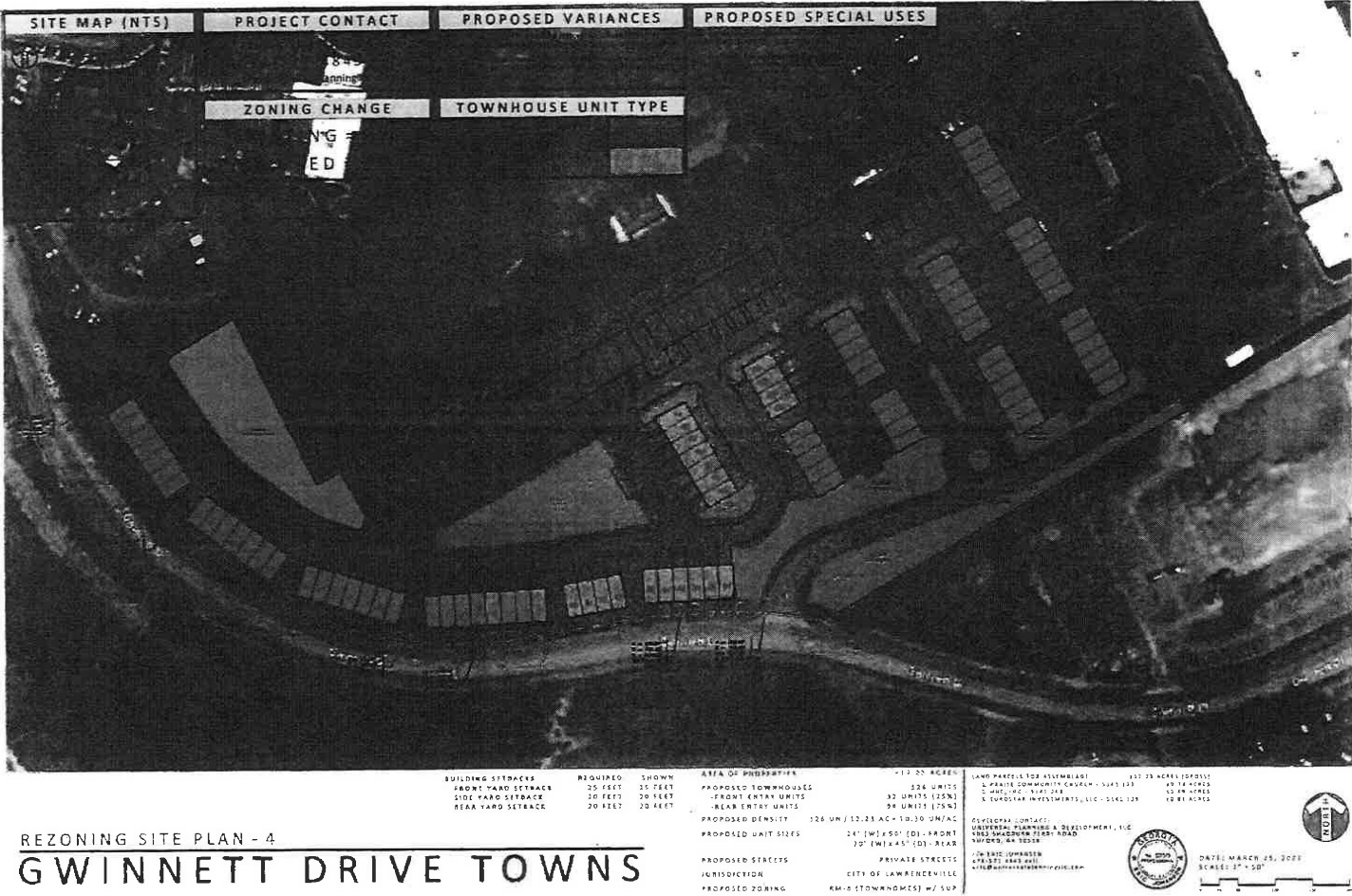
1. To restrict the use of the property as follows:
 - A. The maximum number of Front Entry Units shall be thirty-two (32). Front Entry Units shall be prohibited along Gwinnett Drive.


David R. Still, Mayor

Date Signed: 5/6/2022

ATTEST:


Karen Pierce, City Clerk



LEGAL DESCRIPTION OF ASSEMBLED PARCELS

All that tract(s) or parcel(s) of land situate, lying and being in Land Lot 141, 5th District, City of Lawrenceville, Gwinnett County, Georgia, and being Tax Parcel ID 5141 268 (HHE, Inc), Tax Parcel 5141 329 (Euro Star Investments, LLC), and a portion of Tax Parcel ID 5141 133 (Lawrenceville Church of God) and being more particularly described as follows:

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Said tract containing 12.23 acres, more or less.

RZM2021-00032 SUP2021-00057 SUP2021-00058
Received: January 31, 2022
Planning and Development Department



LAWRENCEVILLE

GEORGIA

November 21, 2022

Via Electronic Mail
eric@universalplanningllc.com

Eric Johansen
 Vice President of Development
 Universal Planning and Development, LLC
 6083 Shadburn Ferry Road
 Buford, Georgia 30518

**Re: Request for Zoning Certification for Property Located on
 Gwinnett Drive in Lawrenceville Containing 12.23 Acres**

Mr. Johansen:

After careful review of your email and the discussion of this matter with my staff and legal counsel, I have determined that while your email is entitled "Zoning Certification Request", the email contains two separate and distinct requests.

The first request is for a zoning certification or confirmation letter. In response to that request, the property is currently zoned RM-8 (Townhome Residential District). This zoning is defined in the City of Lawrenceville's Zoning Ordinance 2020. The property is subject to the conditions approved in Case No. RZM2021-00032. A copy of the Ordinance approving that rezoning is attached hereto as Exhibit A. The property is also subject to a Special Use Permit which allows 32 front entry units, and a Special Use Permit that allows an increase in density. These SUPs were approved in Case Number SUP2021-00057 and SUP2021-00058. Copies of the Ordinances approving these SUPs are attached hereto as Exhibit B and Exhibit C. The property is also subject to all conditions contained in the Ordinances approving the Special Use Permits.

The second request contained in your email is a request for my interpretation as Director of the Planning and Development Department of certain provisions of the Lawrenceville Zoning Ordinance and how these provisions may apply to your specific zoning on the subject property. Specifically, you asked me to confirm your interpretation of the

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November 21, 2022
Page 2

Lawrenceville Zoning Ordinance as it relates to your specific zoning. Under your interpretation, you do not believe that your development is subject to certain provisions contained in Section 102.5, Paragraph C of the Lawrenceville Zoning Ordinance. This provision of the Lawrenceville Zoning Ordinance requires that all townhome subdivision developments create a mandatory homeowners association and that the recorded covenants for these developments contain certain provisions. Specifically, you contend that your development is not bound by the portion of this section which reads "Said covenant shall include a restriction that no more than 10% of the single-family units (with an additional 5% hardship) may be leased to third parties by individual owners." Your interpretation is based on the inclusion of the word "single-family units".

I do not agree with your interpretation of these provisions of the Lawrenceville Zoning Ordinance and how they apply to the provisions of your individual zoning. Under the Lawrenceville Zoning Ordinance, the following definitions exist:

96. Dwelling, Single-Family

A dwelling containing one and only one dwelling unit, other than a manufactured home.

97. Dwelling, Townhouse

A multifamily dwelling unit constructed in a group of three attached units, but no more than eight attached units in which each unit extends from foundation to roof and with a yard or public way on at least two sides. Each unit is separated from any other unit by one or more vertical common fire-resistance-rated walls. A townhouse shall have at least two stories. This definition shall not include Dwelling Apartment, Dwelling Duplex, Dwelling Residential/Business or Dwelling Villa.

99. Dwelling Unit

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

87. Dwelling

A building which is designed or used exclusively for residential purposes, including single-family, multifamily residential buildings, rooming and boarding houses, fraternities, sororities, dormitories, manufactured homes, but not including hotels and motels.

November 21, 2022
Page 3

Your property is zoned RM-8 Townhouse Residential District. The provisions of Section 102.5 Paragraph C are contained under the provision RM-8 Townhouse Residential District and are clearly intended to apply to all RM-8 Townhouse Residential District developments. The Section requires that a mandatory homeowners association be created for each development, that the creation of the homeowners association be recorded on the deed records either as written restrictive covenants or on the plat for the development. The Section further provides that the mandatory homeowners association shall be responsible for maintenance of all common areas, enforcement of customary property maintenance standards, and shall comply with Georgia law regarding renewal of the covenants.

The provision then contains the following statement "Subject to applicable City, local, and federal rules, laws, regulations and rulings of courts having competent jurisdiction over the subject property, said covenants shall include a restriction that no more than 10% of the single-family units (with an additional 5% hardship) may be leased to third parties by individual owners". While this sentence contains the words "single-family units" I will point out to you that the definition of single-family dwelling under the Lawrenceville Zoning Ordinance is as follows: "A dwelling containing one and only one dwelling unit, other than a manufactured home". Unlike the other dwelling definitions contained in the zoning ordinance, single-family dwelling does not exclude other types of dwellings located within the City of Lawrenceville. All other dwelling definitions specifically exclude other types of dwelling units. When I read all of the definitions contained within the Lawrenceville Zoning Ordinance together, it is my interpretation and determination that it was not the intent of the Lawrenceville City Council that the provisions of Section 102.5 Paragraph C not apply to townhome developments. It is my interpretation that the provisions of Section 102.5 Paragraph C of the Lawrenceville Zoning Ordinance do apply to townhome developments and specifically apply to your development.

If you disagree with my interpretation of the Ordinance, the Ordinance contains the process by which you may appeal this interpretation. If you desire a variance from the provisions of Section 102.5 Paragraph C for your development, the zoning ordinance also provides the process for you to file for a variance from the specific provisions of the Ordinance.

Sincerely,

Todd Hargrave

Todd Hargrave
Director
Planning and Development Department
City of Lawrenceville, Georgia