

## **MEMORANDUM**

**To:** Mayor and Council

**From:** Steve Foote, AICP

**Date:** August 25, 2014

**Subject:** **AP 14-084:** Appeal of Administrative Decision for the Approval of a Revised Final Plat at 5258 Vernon Lake Drive, Dunwoody, GA 30338. The Tax Parcel Number is 18 374 03 017.

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### **ITEM DESCRIPTION**

The applicants, Eleanor Goodwin, Constance Nagle, and Erika Harris, make an official appeal to reverse staff's approval of a revised final plat for Lot 17 in the Dunwoody Club Forest subdivision, which split the property at 5258 Vernon Lake Drive into two lots.

Pursuant to Section 16-207(e),

"The decision of the city manager to approve or disapprove the final plat may be appealed to the city council by request in writing to the city manager within 30 days of the city manager's decision. If no appeal is made within the 30-day period, the decision of the city manager is final. If an appeal is made to the city council, the city council must set a hearing date for the appeal within 30 days of the appeal being requested and the decision of the city council is final. The city council decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law."

This appeal was received within the 30-day limitation. The applicant's appeal lists several objections associated with the lot split and construction of additional residences; however, there are no errors referenced in regard to staff's application of City regulations.

### **SITE LOCATION**

The subject property is located at the corner of Dunridge Court and Vernon Lake Drive, north of its intersection with Mount Vernon Road, in the Dunwoody Club Forest Subdivision. It measures a total of 103.37 feet along Dunridge Court and 281.5 feet along Vernon Lake Drive. The property is zoned R-100 (Single-Dwelling Residential District), and abuts single-family home development on all sides.

The total area of the lot is approximately 0.896 acres (39,043 square feet), and the approved final plat proposes to split Lot 17 into two lots: Lot 17-A consists of 19,561 square feet and Lot 17-B consists of 19,482 square feet.

### **BACKGROUND**

The process by which the developers subdivided the property is outlined in Chapter 16, Section 16-207(q), "Revised Final Plat (Plat Amendments)." In summary, any revisions to previously recorded final plats due to "some error, required adjustment or *desired adjustment*," require that an applicant comply with the procedures in Section 16-207(q).

The requested action is considered a major change to the original final plat because it is characterized as follows: "changing or moving lot lines, *increasing or decreasing the number of lots*, changing the location of any public facilities or utilities, and revising protective covenants applying to the property." Per Section 16-207(q)(d), this major change was processed in the same way as a new final plat.

The final plat review process required the applicant to submit paperwork and requisite information for staff to determine whether the proposed subdivision complies with "all city zoning, environmental, and subdivision ordinances and regulations and all applicable state and federal laws." Through the administrative review performed by the City's Planning, Engineering, GIS, and Public Works divisions, the request showed such compliance—thus, requiring that staff approve the request, as it is a by-right request. Based on the plats conformance with established City regulations, the City Manager and Community Development Director signed the plat on May 22, 2014.

The final plat has yet to be recorded with DeKalb County as the developers need to receive a demolition permit for the existing home and Certificate of Completion for the work. Subsequent to the land subdivision process, the developers will need to pursue the land development and building permit processes and must comply with codes for those administrative requests as well, including contextual setbacks, building height, maximum lot coverage, tree protection, drainage, access management, etc.

## **RECOMMENDATION**

The City Council's role is to reverse or affirm staff's decision, wholly or partly, or modify the decision based on the evidence presented herein and during the public hearing.



LEGEND

IPF = IRON PIN FOUND  
IPS = IRON PIN SET  
BL = BUILDING LINE  
CL = CENTERLINE  
PL = PROPERTY LINE  
LLL = LAND LOT LINE  
R/W = RIGHT OF WAY  
MH = MANHOLE  
WM = WATER METER  
DE = DRAINAGE EASEMENT  
SSE = SANITARY SEWER EASEMENT  
CB = CATCH BASIN  
CD = CROSS DRAIN  
HW = HEAD WALL

CURVE DATA

LINE	ARC	RADIUS	CHORD BEARING	CHORD
C1	103.37'	343.31'	N71°20'12"E	102.98'
C2	85.86'	746.20'	S36°14'27"E	85.81'
C3	182.78'	542.96'	S28°23'30"E	181.92'

BOUNDARY LINE DATA

LINE	BEARING	DISTANCE
L1	S37°38'50"E	12.86'

DRAINAGE EASEMENT

LINE	BEARING	DISTANCE
E1	S48°39'08"E	13.64'
E2	S07°44'07"E	178.16'
E3	S89°22'13"W	15.21'
E4	S05°50'40"E	186.69'

This plat has been submitted to and accepted by the Community Development Director of the City of Dunwoody, Georgia and complies with all city zoning, environmental, and subdivision ordinances and regulations and all applicable state and federal laws.

Dated this 22 day of May 2014

By: Steve Toole  
Community Development Director.

This revised plat has been submitted to the city manager of the City of Dunwoody, Georgia, and has been approved as required by state law and municipal codes as meeting all conditions precedent to recording in the county superior court. This plat is hereby approved subject to any protective covenants shown hereon.

Dated this 22<sup>nd</sup> day of May 2014

By: Steve Toole  
City Manager as designee of the City of Dunwoody

Surveyor's acknowledgement.

In my opinion, this plat, drawn by me or under my supervision, was made from an actual survey, and is a correct representation of the land platted and has been prepared in conformity with the minimum standards and requirements of law.

William P. Greham 2880  
Ga. R.L.S. No.

Owner's acknowledgement.

I, James M. Burkhalter, the owner of the land shown on this plat and whose name is subscribed hereto, acknowledges that this plat was made from an actual survey, and for value received the sufficiency of which is hereby acknowledged, do hereby convey all streets and rights-of-way, water mains and sewer lines shown hereon in fee simple to the City of Dunwoody, and further dedicate to the use of the public forever all alleys, parks, watercourses, drains, easements and public places hereon shown for the purposes and considerations herein expressed. In consideration of the approval of this development plan and other valuable considerations, the owner further releases and holds harmless the City of Dunwoody from any and all claims, damages or demands arising on account of the design, construction and maintenance of the property shown hereon; on account of the roads, fills, embankments, ditches, cross-drains, culverts, water mains, sewer lines, and bridges within the proposed rights-of-way and easements shown; and on account of backwater, the collection and discharge of surface water, or the changing of courses of streams. And further the owner warrants that he owns fee simple title to property shown hereon and agrees that the City of Dunwoody shall not be liable to him, his heirs, successors or assigns for any claims or damages resulting from the construction or maintenance of cross-drain extensions, drives structures, streets, culverts, curbs or sidewalks, the changing of course of streams or rivers, flooding from natural creeks or rivers, surface waters and any other matter whatsoever. I further warrant that I have the right to sell and convey the land according to this plat and do hereby bind myself and owners subsequent in title to defend by virtue of these present.

In witness whereof, I hereunto set my hand this

22nd day of May 2014

James M. Burkhalter  
Owner

Witness: Lillie Road  
Notary Public.



Owner  
James M. Burkhalter  
5258 Vernon Lake Drive  
Dunwoody, GA 30338  
770.717.1044

Developer  
James L. Millam  
1945 Woodland Way  
Dunwoody, GA 30338  
404-502-0090

NOW OR FORMERLY  
ELEANOR GOODWIN  
PARCEL 18 374 03018  
DEED BOOK 4844, PAGE 443

NOW OR FORMERLY  
JOHN MCLARTY  
PARCEL 18 374 03013  
DEED BOOK 8085, PAGE 10

NOW OR FORMERLY  
MATTHEW MCNAMARA  
PARCEL 18 374 03016  
DEED BOOK 15125, PAGE 746

GENERAL NOTES

A TOPCON 6TS-2B TOTAL STATION AND HP-48GX(TDS) DATA COLLECTOR WERE USED TO GATHER FIELD INFORMATION USED IN THE PREPARATION OF THIS PLAT. THIS INFORMATION WAS CALCULATED FOR CLOSURE AND FOUND TO HAVE A CLOSURE PRECISION EXCEEDING 1" IN 10,000' AND WAS ADJUSTED BY USING COMPASS RULE. THE CALCULATED CLOSURE FOR THIS PLAT EXCEEDS 1" IN 100,000'. NO STATE PLANE COORDINATE MONUMENT WAS FOUND WITHIN 500 FEET OF THIS PROPERTY.

PROTECTIVE COVENANTS (ORIGINAL FINAL PLAT)

LOTS SHOWN ON THIS PLAT ARE SOLD SUBJECT TO THE FOLLOWING RESTRICTIONS WHICH ARE COVENANTS RUNNING WITH THE LAND AND MAY BE ENFORCED BY THE OWNER OF ANY LOT SHOWN ON THIS PLAT AND SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL 1993.

1. DEVELOPER RESERVES THE RIGHT TO APPROVE ALL HOUSE PLANS.
2. ALL RECESSED GARBAGE CANS.
3. NO EXPOSED CLOTHES LINE.
4. NO FENCES IN FRONT OF BUILDING LINE.
5. ALL CARPORTS TO ENTER FROM SIDE OR REAR.
6. SAID PROPERTY SHALL BE USED FOR SINGLE FAMILY RESIDENCE PURPOSES ONLY.
7. NO TEMPORARY HOUSE, SHACK, OR TENT SHALL BE ERECTED ON ANY PROPERTY TO BE USED FOR RESIDENTIAL OR CHURCH PURPOSES. ALSO, NO LOTS SHALL BE USED FOR SCHOOLS OR KINDERGARTENS.
8. NO LOT SHALL BE SUBDIVIDED, NOR SHALL MORE THAN ONE HOUSE BE ERECTED ON ANY LOT.
9. NO HOUSE SHALL BE BUILT NEARER TO A STREET LINE THAN IS INDICATED BY THE BUILDING LINES INDICATED ON THIS PLAT NOR NEARER TO A SIDE LAINE THAN 10 FEET.
10. NO ONE-STORY BUILDING LESS THAN 1800 SQ.FT. OF FLOOR SPACE, OR IF MORE THAN ONE STORY, LESS THAN 1200 SQ.FT. OF FLOOR SPACE ON THE FIRST STORY SHALL BE ERECTED.

WATER AND SEWER NOTES:

- ALL DESIGN AND CONSTRUCTION FOR WATER, SEWER, FIRE LINES, LIFT STATIONS AND BACKFLOW PREVENTION SHALL COMPLY WITH DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT DESIGN STANDARDS 2009 EDITION, VERSION 1.0. ACTUAL FIELD CONDITIONS COULD DICTATE MORE STRINGENT REQUIREMENTS IF DEEMED NECESSARY BY THE CONSTRUCTION INSPECTOR.
- CONTRACTOR MUST JET CLEAN NAD TV SANITARY SEWER LINES AFTER CONNECTIONS ARE MADE TO THE EXISTING SEWER TIE IN POINTS. TRACER WIRE TO BE INSTALLED OVER NON-FERROUS/PVC PIPES.

NOTES:

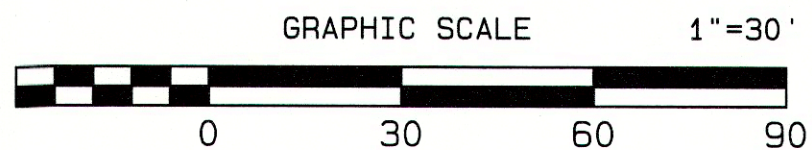
- THIS PLAT IS A MAJOR CHANGE TO THE FINAL PLAT PURSUANT TO SECTION 16-207-q(1)(b).
- ORIGINAL FINAL PLAT OF UNIT ONE, DUNWOODY CLUB FOREST, RECORDED IN PLAT BOOK 56, PAGE 120.
- THE REVISIONS TO THE ORIGINAL RECORDED FINAL PLAT ARE AS FOLLOWS:
  1. FRONT YARD BUILDING SETBACKS.
  2. ORIGINAL LOT 17 DIVIDED INTO TWO LOTS.
- WATER QUALITY AND STORM WATER MANAGEMENT FACILITIES ARE TO BE HANDLED ON A PER LOT BASIS UPON OBTAINING BUILDING PERMITS. STORM-TECH CHAMBERS OR EQUIVALENT WILL BE USED TO SATISFY WQ AND SMMF.
- REGULATIONS OF THE ZONING ORDINANCE (E.G. SETBACKS) ARE SUBJECT TO CHANGE BASED ON SUBSEQUENT AMENDMENTS TO THE ORDINANCE.
- HOLD C.O.'S FOR SIDEWALK AND WATER QUALITY CERTIFICATION.

50' R/W DUNRIDGE COURT

LOT 17-B  
19482.0 S.F.  
0.447 ACRES  
# 5266

LOT 17-A  
19561.0 S.F.  
0.449 ACRES  
# 5256

KERNON LAKE DRIVE



FINAL PLAT FOR:

DUNWOODY CLUB FOREST  
LOTS 17 - A and 17 - B

LAND LOT 374 of the 18th DISTRICT  
CITY OF DUNWOODY  
DEKALB COUNTY, GEORGIA

REVISIONS		DESCRIPTION	
NO.	DATE		



DATE	12-11-2013
SCALE	1" = 30'
JOB NO.	131211-10
SHEET	OF
1	1
DRAWN	RLS
CHECKED	SDE

#1.1



# ADMINISTRATIVE APPEAL APPLICATION



41 Perimeter Center East | Dunwoody, GA 30346  
Phone: (678) 382-6800 | Fax: (770) 396-4828

Project #: \_\_\_\_\_ Date Received: \_\_\_\_\_

**\* Project:**

Name of Project / Subdivision: <u>Proposed subdivision of Lot 17 / Dunwoody Club Forest</u>	Zoning: <u>R100</u>
Property Address / Location: <u>5258 Vernon Lake Drive Dunwoody GA 30338</u>	
District: <u>18</u>	Land Lot: <u>374</u> Block: <u>03</u> Property ID: <u>017</u>

**\* Owner Information:**

Owner's Name: <u>James Burkhalter</u>	
Owner's Address: <u>PO Box 464552 Lawrenceville GA 30042</u>	
Phone: <u>770-717-6094</u>	Fax: _____ Email: <u>jim.burkhalter@gmail.com</u>

**\* Applicant Information:** ☐ Check here if same as Property Owner

Contact Name: <u>Eleanor L. Goodwin</u>	
Address: <u>1759 Dunridge Court</u>	
Phone: <u>770-393-9339</u>	Fax: _____ Email: <u>rwgoodwin2003@comcast.net</u>

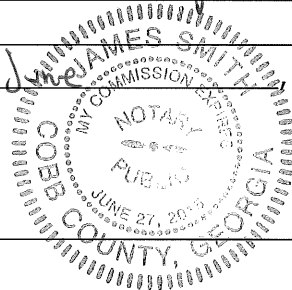
**\* Terms & Conditions:**

I hereby certify that to the best of my knowledge, this application form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filing additional materials as specified by the City of Dunwoody Ordinances. I understand that failure to supply all required information (per the relevant Applicant Checklists and Requirements of the Dunwoody Ordinances) will result in the rejection of this application.

Applicant's Name: <u>Eleanor L. Goodwin</u>	
Applicant's Signature: <u>Eleanor L. Goodwin</u>	Date: <u>June 13, 2014</u>

**\* Notary:**

Sworn to and subscribed before me this <u>13th</u> Day of <u>June</u> , 20 <u>14</u>	
Notary Public: <u>James Smith</u>	
Signature: _____	
My Commission Expires: <u>6270</u>	



**\* Office Use:**

Application Fee: <input type="checkbox"/> \$250 for Single-Family <input type="checkbox"/> \$350 for Commercial (sign fee not required) Fee: \$ _____	
Payment: <input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> CC Date: _____	
<input type="checkbox"/> Admin. Decision Confirmed <input type="checkbox"/> Admin. Decision Reversed Date: _____	

RECEIVED  
16-18-14  
CB

# Property Owner(s) Notarized Certification

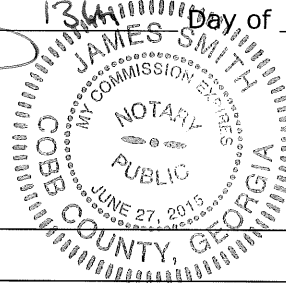
Community  
Development  
**Dunwoody**  
\* Smart people - Smart city \*

41 Perimeter Center East | Dunwoody, GA 30346  
Phone: (678) 382-6800 | Fax: (770) 396-4828

The owner and petitioner acknowledge that this application form is correct and complete. By completing this form, all owners of the subject property certify authorization of the filing of the application for administrative appeal(s), and authorization of an applicant or agent to act on their behalf in the filing of the application including all subsequent application amendments.

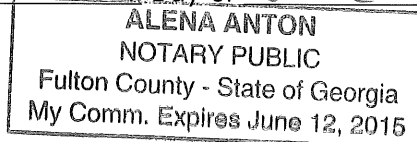
**\* Property Owner (If Applicable):**

Owner Name: <u>Eleanor L. Goodwin</u>	
Signature: <u>Eleanor L. Goodwin</u>	Date: <u>6/13/2014</u>
Address: <u>1759 Dunridge Court</u>	
Phone: <u>770-393-9339</u> Fax: _____	Email: <u>rwgoodwin2003@comcast.net</u>
Sworn to and subscribed before me this <u>13th</u> Day of <u>June</u> , 20 <u>14</u>	
Notary Public: <u>[Signature]</u>	



**\* Property Owner (If Applicable):**

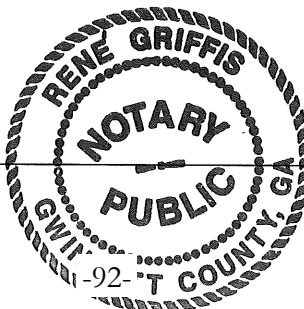
Owner Name: <u>Constance B. Nagle</u>	
Signature: <u>Constance B. Nagle</u>	Date: <u>6/14/14</u>
Address: <u>5272 Vernon Lake Drive Dunwoody GA 30338</u>	
Phone: <u>770-394-5506</u> Fax: _____	Email: <u>cbnagle@bellsouth.net</u>
Sworn to and subscribed before me this <u>14th</u> Day of <u>June</u> , 20 <u>14</u>	
Notary Public: <u>[Signature]</u>	



**\* Property Owner (If Applicable):**

Owner Name: <u>Erika Harris</u>	
Signature: <u>[Signature]</u>	Date: <u>6/18/2014</u>
Address: <u>1735 Houghton Ct. S. Dunwoody GA 30338</u>	
Phone: <u>(770) 551-0245</u> Fax: _____	Email: <u>erikaleighh@gmail.com</u>
Sworn to and subscribed before me this <u>18th</u> Day of <u>June</u> , 20 <u>14</u>	
Notary Public: <u>[Signature]</u>	

MY COMMISSION EXPIRES 12-10-2017



June 10, 2014

Honorable Mayor Michael G. Davis  
Members of the Dunwoody City Council

We, the property owners of the homes in the immediate vicinity of 5258 Vernon Lake Drive in Dunwoody Club Forest (DCF) subdivision, respectfully appeal the decision of the City Manager to allow the subdivision of this property (Parcel 18 374 03017) into two lots.

Dunwoody Club Forest was conceived as a neighborhood in the early 1970s. The plot layout for the neighborhood was designed in advance of home building, with consistent lot sizes sufficient to contain spacious homes with ample yards, trees and foliage. While the properties were developed by several builders, resulting in homes of varying designs, it is the placement of the homes, and their proximity to the streets and each other, that is a key characteristic of Dunwoody Club Forest. It is this element that is appealing to current homeowners and visitors alike, and “defines” our neighborhood.

We are appealing the subdivision of the property at 5258 Vernon Lake Drive, and request that the City Council consider the following factors in evaluating our appeal:

- The subdivision of the plot and subsequent building of two homes will likely result in homes erected in much closer proximity to each other and existing homes than is typical for the neighborhood. This will likely result in properties which are not in synch with aesthetic of the remainder of the neighborhood.
- In order to accommodate the size homes proposed by the property owner and developer, not only would the structures likely be closer to each other and existing homes than the neighborhood norm, it is anticipated that the structures will be significantly taller than adjacent homes. Given the corner setbacks and anticipated height, there is concern that the new properties will “dwarf” adjacent homes, particular the residence directly behind at 1759 Dunridge Court.
- Allowing the subdivision of this lot sets a precedent for the potential subdivision of other lots in DCF, further eroding the look and feel of the neighborhood.
- The subdivision of one lot into two is inconsistent with the original intent and layout of the neighborhood. The protective covenants of DCF explicitly placed the following restriction on lot subdivisions; “8. No lot shall be subdivided, nor shall more than one house be erected on any lot”. While we recognize that the covenants expired in 1993, many of the current homeowners purchased while these covenants were still in effect, with the expectation that the covenants would remain in place, retaining the original character of the neighborhood.
- Continuity of policy and practice. It is our understanding that a proposal to subdivide two adjacent lots into three is subject to a discretionary decision by the City Council, whereby this proposal to subdivide one lot into two, which we believe could equally impact the character of

the community, is governed by an administrative decision by the City Planning Office. We are confused by the different processes for seemingly the same event.

- Potential diminution of the values of proximate properties as the prevailing "price per lot" may be devalued with subdivision of one lot into two.

We recognize the Dunwoody is a highly desirable area for many families, and undeveloped properties available for new home building are limited. As such, we understand that homes and their associated lots may be purchased with the intent of razing the current dwelling and building a new home. We are not opposed to such development, presuming that the home and related property are consistent with others in the DCF. We have had positive experiences in DCF with such conversions, which we believe have added to both the property value and aesthetic of our neighborhood. However, these have been new construction of one home on one lot. Our opposition is primarily directed to the subdivision of a single property into two.

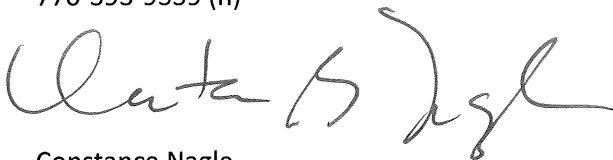
We are proud to be residents of Dunwoody, and have strong desire to work with our City government to retain those elements of Dunwoody which make it such a great place to live.

We appreciate your consideration, and request that you overturn the decision of the City Manager and maintain the property at 5258 Vernon Lake Drive as one lot.

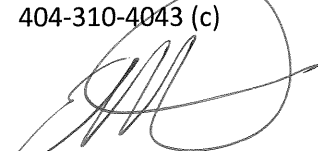
Sincerely,



Eleanor Goodwin  
1759 Dunridge Court  
770-393-9339 (h)



Constance Nagle  
5272 Vernon Lake Drive  
404-310-4043 (c)



Erika Harris  
1735 Houghton Court South  
President, Dunwoody Club Forest Neighbors  
770-551-0245 (h)