



April 18, 2014

Ms. Alice Wakefield  
City of Roswell; Director of Community Development  
38 Hill Street Suite G-30  
Roswell, Georgia 30075

Re: Septic Buffer Variance Request  
Litchfield Subdivision  
Lennar Georgia, Inc.

Dear Ms. Wakefield;

Lennar Georgia, Inc. is seeking relief from a City of Roswell Zoning Ordinance Code section that is in conflict with the State of Georgia E.P.D. and Fulton County Code. Because Fulton County is the issuing authority for the State of Georgia for review, approval, and permitting of private sewage management systems; Lennar feels, they should be able to rely on the State's designated issuing authority's approvals and past L.D.P. permitting for our project. Roswell's zoning code sections 21.1.8, (b),(c); and 21.1.9,(c); are three times more restrictive for the required separation distance between the septic absorption field line location and any non-perennial stream flow or waterway. The application of Roswell's more restrictive zoning code section would convert some of our proposed minimum one acre residential lots to be approved by the State and County and at some later date declared undevelopable by the City.

Our hardship is clearly the loss of developable lots due to a City imposed 150 foot septic buffer which is in conflict with; and is three times the 50 foot mandated septic buffer of both state regulated and designated issuing authorities as well as the Georgia Department of Health guidelines. The Roswell City Council might want to consider a possible option to granting a variance. They may elect to direct the Zoning Director to execute a project L.D.P. conditioned exclusively on the issuing authorities "septic permit approval" for the 39 lots in question in accordance with Roswell Zoning Section "21.1.11 Conditions." I am including several exhibits and applicable referenced documents for your review and use with our requested variance.

As an act of good faith, Lennar has identified only the lots that are undevelopable by the imposition of the *enhanced buffering*. Our request for relief involves only 39 of the project's 74 planned lots. We have worked well with staff in incorporating buffer averaging and redesigning street locations and lot geometry while continuing to insure that adequate water quality and detention facility areas are properly sized and located for proper stream protection. We have re-examined level 3 soils reporting by Dr. Sam Asady, P.H.D., P.E., and Soil Scientist, and have ask our other design consultants multiple times to revisit the site plan to insure Lennar minimized our request for relief. Our project has "special circumstances" in that; the site involves challenging topography combined with unfriendly soil characteristics and is further intertwined with multiple stream flow routing patterns paralleling adjacent ridge lines. As you can see, Lennar will not be coming before your

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council without having already expended considerable due diligence time and monies in investigating options and alternatives to avoid or circumvent this very much needed relief.

In the City's Council meeting minutes of June 12, 2000; Mayor Wood and Councilwoman White were unified in their support of developing a "*City of Roswell, Georgia Water Resource Map*" in order to operate the Stream Bank Protection Ordinance on a "level playing field." Said map was prepared by staff and subsequently adopted by the Council. The map identifies and differentiates perennial flowing streams from lesser flowing waterways. The Litchfield property by staff inspection of said mapping does not have any perennially flowing streams within the perimeter boundary of the property. In that same June meeting; Dr. Tom Debo, Professor at Georgia Tech, and guidance expert as a hired consultant to the City stated as his only problem with the ordinance reading was conceptually "some of the wording.....and who had approval authority." To Lennar and the project land owner his named authority issue is of great importance and deserves careful thought, consideration, and a fair and equitable determination for all parties.

Lennar's professional consultants have found that in 1997 the state of Georgia legislature transferred authority to the Georgia Department of Human Resources to adopt state-wide Septic System regulations. At that time Fulton County was issuing authority for Septic Permits for all properties within the confines of Fulton County, Georgia as they still are today. It is apparently clear that the City was not granted authority over the review, approval, installation, or inspection of septic systems for properties within Fulton County. Roswell clearly has jurisdictional authority over its streams and their needed buffers, and with that authority they can, if they so choose, enhance those buffers to be greater than the federally mandated "state waters buffers" by increasing the natural buffer widths or supplementing that buffer with an additional impervious setbacks. However, implementation of a septic buffer without authority; should be, as a minimum; guided by reason and conform to E.P.D. Chapter 391-3-16-.04 which succinctly describes small watershed buffer criteria and their respective septic setbacks as follows:

- For perennial streams outside of seven miles of water supply intake, a buffer of 50 feet on each side of stream banks.
- No impervious surface within 75 foot setback of each side of stream banks.
- Septic tanks and drain field lines are prohibited within 75 foot setback of each side of stream banks

As our small watershed property is greater than seven miles from a water supply intake and because we do not have a "mapped perennial flowing stream" qualifier; Roswell's applicable septic buffer would be expected to be less stringent than the above stated 75 septic buffer, and more likely should have mimicked the county and state published 50 foot septic buffer. However, that is not the case, and for that reason we now must seek variances or other actions from the city to resolve this most difficult position confronting Lennar and our seller.

Additionally, our consultants and researchers found that the city staff requested alternative septic systems were not in the best interest of Lennar or more importantly the City. The word "alternative" preceding the septic word says volumes for the product systems being touted by the



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manufacturers and suppliers of these state approved optional management systems. They investigated and reviewed chamber, polystyrene aggregate bundles, drip irrigation, mound systems, minimal aerobic treatment units, peat filters, and all research led them to advise Lennar to install the highly used conventional state approved systems. Meaningful study would cause one to realize that if one of the alternatives was better than the conventional system then the alternative system would soon become the newly designated conventional system and the other to be reclassified as an alternative choice; this has not happened.

A valuable issue came to light in a 2006 Metropolitan North Georgia Water Planning District paper identifying that alternative systems were found to be more failure prone than conventional systems. They had found anecdotal evidence that septic systems using reduced drain field lengths were three times more likely to fail than conventional septic systems. This amplified failure rate causes one to further study and then understand that by implementing the 150 foot city stream septic buffers; which automatically reduces the septic drain field areas, which then in turn, encourage home builders to install an alternative system which by design have reduced drain line lengths. In short, in 2000 the City might have written a self-defeating ordinance that although was well intended at the time; may in the near future, prove to be a Roswell residents greatest nightmare, sludge in their backyard.

In conclusion, Lennar would like to build this project without any septic failures and your applicable zoning buffering requirements are hindering our ability to insure our home buyers that we gave them the very best. When a septic drain field system evolves into a black matt on the bottom of the line trenches, the effluent stored sewage continues to rise until the raw sewage liquids and solids permeate the topsoil and begin to surface flow downward. These effluent liquid discharges follow the topographic slopes to eventually confluence and empty into the closest flowing streams regardless of its regulated buffer widths. Lennar does not want well intended but unfitting septic stream buffering with severe consequences to cause their future Roswell home buyers to suffer thru or endure a most avoidable tragedy.

We thank you for your most appreciated efforts and considerations.

Regards,



Jim Bowersox

V.P. Land Acquisitions and Development