



Application for a: VARIANCE

from the Zoning, Subdivision, or
 Stormwater Ordinances

Attendance at the BOA meeting is mandatory.

Application Fee: \$250 plus \$25 per additional lot.

A. Property Information

Application is hereby made to the Buncombe County Board of Adjustment for a VARIANCE located at:

PIN(s): 9667-83-0760; 9667-85-2312; 9667-85-8213

Address(es): 107 Old Charlotte Hwy; 113 Old Charlotte Hwy; Old Charlotte Hwy

Project Name/Case Numbers: ZPH2022-00031

B. Application for Variance

I request a variance/variances from the following provisions of the Ordinance:

Zoning Subdivision Stormwater

Section number(s): 26-361

Section title(s): Stormwater management objectives

Subsection letter(s) and/or number(s): (h)

Subsection title(s): Stormwater shall not be diverted from one natural drainage basin into another

Variance Description: So that the above-mentioned property can be used in a manner indicated by the proposed development plan submitted with this form, or if the plan does not adequately reveal the nature of the variance, as more fully described herein (*if applying for a variance in dimensional requirements, state the revised setbacks or height limitations desired below*):

Variance requested is to shift stormwater drainage from one basin to another, to avoid burdening the existing storm conveyance system of our west neighbors.

C. Applicant Contact Information

Civil Design Concepts, P.A.

Company/Corporate Name (if applicable)

Warren Sugg, P.E.

Applicant's Name

168 Patton Avenue

Mailing Address

Asheville, NC 28801

City, State, and Zip Code

(828) 252-5388

Telephone

wsugg@cdcgo.com

Email

D. Owner Contact Information (If different)

R.L Bailey

Owner's Name

247 Charlotte Street #1

Mailing Address

Asheville, NC 28801

City, State, and Zip Code

828-254-3139 (R.L. Bailey)
(720) 917-5818 (Jerry Bailey)

Telephone

Email

R.L. Bailey

Owner Signature

12-29-2022

Date

OFFICE USE: Date Received: _____ Case Number: ZPH _____ - _____ Hearing Date: _____

Design Professional Contact Information (If applicable)

Ed Holmes & Associates
Company/Corporate Name
200 Ridgefield Ct, Suite 208
Mailing Address
Asheville, NC 28806
City, State, and Zip Code

Robert C. Brown, P.L.S.
Surveyor/Design Professional Name
(828) 225-6562
Telephone
bob@edholmessurveying.com
Email

E. SITE-SPECIFIC DEVELOPMENT PLAN SUBMITTAL

The variance application must include a site-specific development plan, drawn to a known scale, which clearly demonstrates the variance(s) being applied for, and including the following:

- A digital version of the development plan in PDF format
- A note printed on the site plan describing the type of variance I am seeking
- All proposed and existing structures, driveways, easements/right-of-ways, and other features on the site
- Approximate location of jurisdictional streams
- Acreage of tract
- Any necessary exhibits and calculations to adequately describe the variance request

F. VARIANCE BURDEN OF PROOF

In the spaces provided below, indicate **the facts you intend to demonstrate** and **the arguments that you intend to make** to demonstrate to the Board that it can properly grant the variance(s) as provided for in *Section 78-621(4) Zoning Variances, or Section 26-362(b)(9)(a) Stormwater Variances*. The Board does not have unlimited discretion in deciding whether to grant a variance. Indicate how the proposed project meets the below requirements. If additional space is required, please provide the information on a separate sheet of paper.

1. Indicate how an 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.

We are requesting shifting existing drainage Sector 2 (per attached PDF) into Sector 3. This is to provide protection against the post-construction flows from the project site into the adjacent Eastwood Village neighborhood and its storm conveyance system. Per site visits, that system looks to already have capacity issues that would be exaserbated by development upstream, even with a permitted detention system.

2. Indicate how 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.

Per site visits, that development looks to already have storm drainage issues from the flow coming off the project site from both Sector 1 and 2. There is evidence they have made modification in the past to add structures and ditches along Old Eastwood Village Road to help with their issues, but these measures seem minor, and likely are not enough in major rain events.

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

- The drainage sectors as described have existed for years on this undeveloped portion of the project site. The neighboring developments (including the upper apartment complexes) likely underestimated the flows that would come from future development that would enter their storm system, as evidence of the storm system changes and pavement repairs they have been over the last few decades.

4. Indicate how 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.

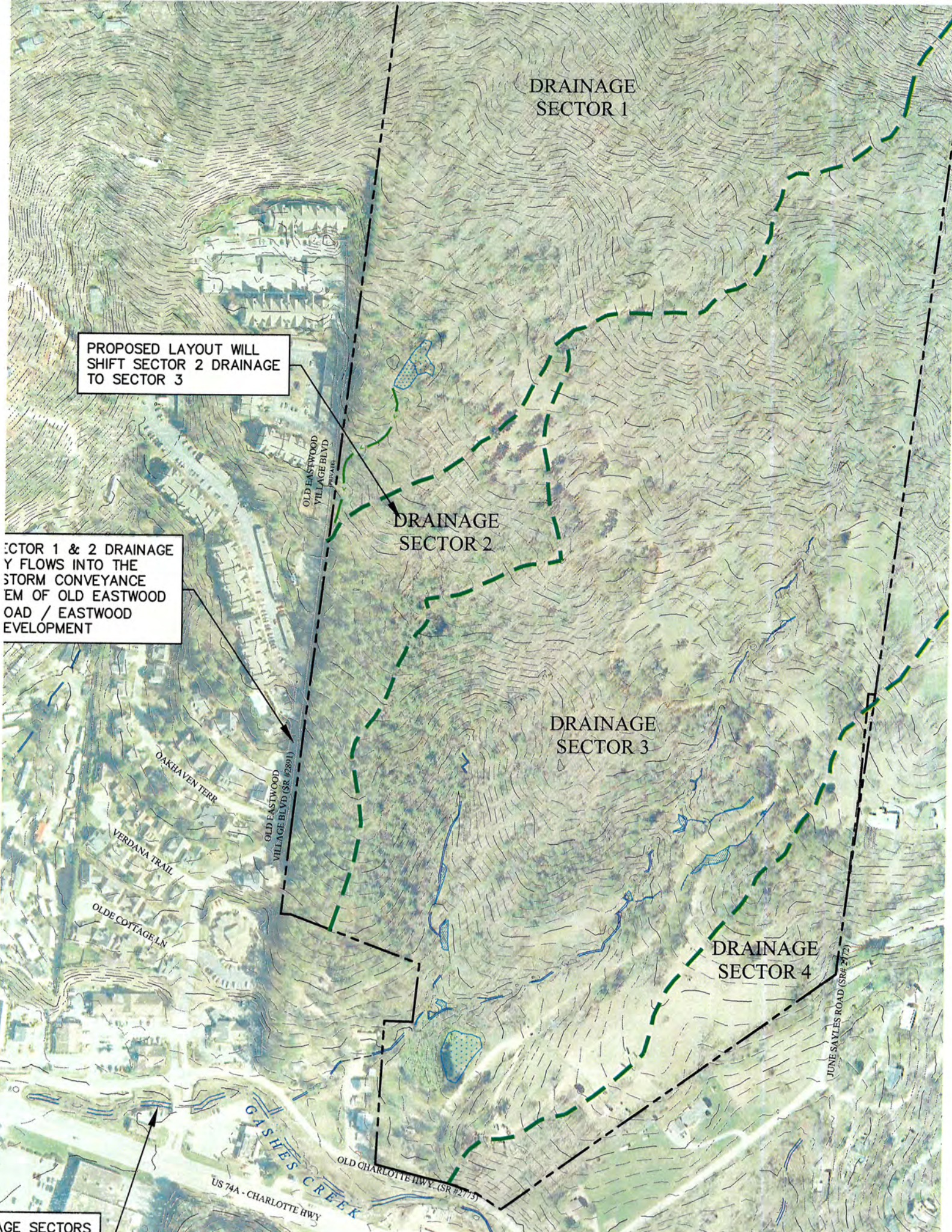
- This change is within the spirit of the ordinance, as this change is intended to protect the downstream neighborhood that already have had storm issues. Since Sector 2 and Sector 3 both drain into Gashes Creek, we ascertain that they both reside in the same drainage basin. Our project has to detain the onsite flow either way; but to have the concentrated discharge of a post-detention system that aims so close to an existing neighborhood (where Sector 2 was once mostly just sheet flow dispersed across acres) would be detrimental to those living downstream. We believe it is in the public best interest, safety and protection to approve this minor sub-drainage area shift that will assist in the overall stormwater management.

G. CERTIFICATION

- I hereby certify that all of the information presented by me on this application is accurate to the best of my knowledge, information and belief.
- I acknowledge that withdrawal of this application after notice has been made will result in forfeiture of any application fees associated with said application.
- I acknowledge that attendance at the Board of Adjustment meeting is mandatory for the review of this application.


Signature of Petitioner

Nov 3 2000
Month Day Year



DRAINAGE
SECTOR 1

PROPOSED LAYOUT WILL
SHIFT SECTOR 2 DRAINAGE
TO SECTOR 3

DRAINAGE
SECTOR 2

SECTOR 1 & 2 DRAINAGE
Y FLOWS INTO THE
STORM CONVEYANCE
EM OF OLD EASTWOOD
ROAD / EASTWOOD
EVELOPMENT

DRAINAGE
SECTOR 3

DRAINAGE
SECTOR 4

AGE SECTORS