



City of Cartersville

PLANNING AND DEVELOPMENT

P.O. Box 1390 • 10 North Public Square • Cartersville, Georgia 30120
Telephone: 770-387-5600 • Fax: 770-387-5605 • www.cityofcartersville.org

MEMO

To: BZA
From: Randy Mannino/David Hardegree/Meredith Ulmer
CC: Keith Lovell
Date: May 10, 2021
Re: File # V21-07

#V21-07: To omit the townhouse requirement for rear access and rear parking.

Section 1: Project Summary

Variance application by Colin Bennett, Smith-Douglas Homes, for property located at 1136 N. Tennessee St, and zoned M-U, Multiple Use. Said property contains approximately 7.45 acres. The applicant proposes the construction of (45) townhomes within eight (8) townhouse blocks. The variance request is to omit the requirement for rear access to the townhomes and rear parking.

The property has been through two (2) zoning reviews with the planning commission and city council. The first review, SU18-05, requested a special use permit to allow residential units above, below and behind commercial space for a mixed-use development. The mixed-use concept would eliminate the car wash at 1138 N Tennessee St to create a 3-story residential development over retail. A combination of mixed-use, retail, office and parking was planned for 1136 N Tennessee St. The special use was approved with conditions. Approval letter attached.

The second zoning review, Z19-06, requested a change in zoning from O-C and G-C to M-U and G-C due to financing issues with the mixed-use concept. The change in zoning was to eliminate the mixed-use concept and provide a majority residential development. The car wash would remain in place. This zoning request was approved with conditions. Approval letter attached.

For Z19-06, the site plan concept presented (37) townhomes with rear access. A parking lot and office block were included. The concept plan presented in this variance application replaces the parking lot and office block with (2) additional townhouse blocks. The townhouse blocks are pushed closer to the street to eliminate the rear access requirement. This site does allow for additional driveway length and structure distance from the street than what has been reviewed on similar projects like Everton Estates (Etowah Preserve).

All other townhouse requirements in the M-U district can be met. Table provided below.

The variance requests are for the following:

1. To omit the rear access requirement for townhouses (Sec. 9.2.3 (R)(2)(c)); and
2. To omit the rear parking requirement (Sec. 9.2.3 (R)(2)(d)).

Section 2. Department Comments

Electric Department: No comments received.

Fibercom: Takes no exception.

Fire Department: Based on the concept drawing, Cartersville Fire Department does not deem the reduction to be a danger to the public or to the neighboring property. Therefore, CFD takes no exceptions to the request.

Gas Department: No comments received.

Public Works Department: No comments received.

Water Department: As stated in the attached comments the Cartersville Water Department is recommending against consideration of the proposed variance request until more detailed plans are presented.

Section 3. Public Comments Received by Staff

None.

Section 4. Variance Justification:

Please review the following findings, as stated in the Zoning Ordinance, that are to be utilized in determining justification for approval or denial of variance request(s).

Chapter 26, Zoning, Sec. 9.2.3. Development standards for the Multiple Use Zoning District.
See table.

9.2 M-U zoning district- Townhouse Requirements

Code Sec.	Description and/ or Requirements	Required	Proposed	Notes
9.2.1	District scope and intent: Regulations in this section are the M-U district regulations. The M-U district is intended to provide land areas for medium to high density residential land uses and commercial uses complimentary to office and institutional uses as further described in section 3.1.15 of this chapter and where existing and projected traffic patterns encourage such development. The M-U district is intended to: A. Encourage the development of tracts of land in the community; B. Encourage flexible, innovative, and creative concepts in site planning; C. Encourage efficient use of land; D. Provide a stable multiple use environment compatible with surrounding uses; and E. Protect neighboring residential properties by locating less intense uses adjacent to residential developments or by locating buffers between nonresidential and residential uses.			
9.2.2	Use Regulation	---	---	---
9.2.3	Development Standards	---	---	---
A	Single-family residential buildings shall not exceed a height of thirty-five (35) feet or two and one-half (2½) stories, whichever is higher; multifamily and nonresidential buildings shall not exceed a height of forty-five (45) feet or three and one-half (3½) stories, whichever is higher.	35ft/ 2.5 stories	35ft/ 2.5 stories	---
B	Front yard setback: Ten (10) feet	10ft.	10ft. Min.	---
C	Side yard setback: Ten (10) feet. If single-family attached, ten (10) feet end of each row.	10ft.	10ft. Min.	---
D	Rear yard setback: Twenty (20) feet.	20ft.	20ft. Min.	---
E	Minimum lot area: Townhouse/attached: Two thousand (2,000) square feet.	2000sf	2000sf Min.	---
F	Maximum Density: Townhouse/attached: Twelve (12) dwelling units per acre.	12 un/ac	6 un/ac	---
G	Minimum lot width at building line: Townhouse: Twenty (20) feet per lot.	20ft.	24ft.	---
H	Minimum lot frontage: Townhouse: Twenty (20) feet per lot.	20ft.	24ft.	---
I	Minimum heated floor area per unit: Townhouse/attached: One thousand (1,000) square feet.	1000sf	1700sf. Min. (1918sf max. on fl plns)	---
I	Accessory use, building and structure requirements. See section 4.9 of this chapter.	---	---	Addressed during plan review. No indication of non-compliance

Code Sec.	Description and/ or Requirements	Required	Proposed	Notes
J	[Metal panels, metal sheathing, standard gray concrete block.] The use of metal panels or metal sheathing and/or standard gray concrete block on the exterior walls of any building or structure shall be prohibited with the exception that such materials may be used if finished with a product consisting of brick, stone, hard-coat stucco, or fiber cement siding.	---	---	Addressed during plan review. No indication of non-compliance
K	[Air conditioning units and HVAC systems.] Air conditioning units and HVAC systems shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, or landscaping on multifamily and nonresidential properties.	---	---	Addressed during plan review. No indication of non-compliance
L	[Gable or hip roofs.] Gable or hip roofs shall have a minimum roof pitch of 6/12. Both gable and hip roofs shall provide overhanging eaves on all sides that extend a minimum of one (1) foot beyond the building wall.	---	---	Addressed during plan review. No indication of non-compliance.
M	[Front building facade.] The front building facade of all principal buildings shall be oriented toward street fronts or adjacent arterial street fronts.	Front Faces Street	Front Faces Street	---
N	Minimum buffer requirements. In addition to required setbacks, all nonresidential and/or multifamily property uses within the M-U district which abut a single-family residential district or use shall provide a minimum fifteen-foot wide buffer, five (5) feet of which can be within required setback, to provide a visual screen in accordance with section 4.17 of this chapter.	Yes	Yes	Buffer required along Northpoint Subdiv. Buffer provided. No indication of non-compliance.
O	Minimum open space.	NA	---	---
P	Maximum commercial building floor area:	NA	---	---
Q	Accessory structure requirements. See section 4.9 of this chapter.	---	---	Addressed during plan review. No indication of non-compliance.
R	Other standards.	---	---	---
1	Townhouse developments shall have a minimum development area of one-half (½) acre.	0.5ac. Min.	7.45 +/- ac.	---
2	In addition to required setbacks, a fifteen-foot wide buffer is required along all property lines which abut a single-family district or use to provide a visual screen in accordance with section 4.17 of this chapter.	Yes	Yes	Buffer required along Northpoint Subdiv. Buffer provided. No indication of non-compliance.

Code Sec.	Description and/ or Requirements	Required	Proposed	Notes
(a)	Minimum lot depth: one hundred (100) feet.	100ft.	100ft. Min.	No indication of non-compliance.
(b)	No fewer than three (3) dwelling units in a row shall be allowed	Min. 3	Min. 4	---
(c)	Alley or private drive access required	Yes	No	Front Access to Townhomes using existing street
(d)	Required parking shall be allowed in the rear yard only.	Yes	No	Eliminate requirement with proposed Front Access Townhomes
(e)	Principal buildings shall front a private drive or public right-of-way.	Yes	Yes	---

Sec. 21.3. - Powers and duties of the board of zoning appeals.

The board of zoning appeals shall have the following powers and duties:

- 21.3.1. *Appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this chapter. Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, board, or agency of the City of Cartersville affected by any decision of the zoning administrator. Such appeal shall be taken within thirty (30) days of said decision by filing with the zoning administrator a written notice of appeal specifying the grounds thereof. Decisions on appeals shall be issued in writing within ten (10) business days of the hearing on the appeal.
- 21.3.2. *Continuance of a nonconforming use.* The board of zoning appeals may allow a nonconforming use to be reestablished after discontinuance for twelve (12) consecutive months. The procedure for the request shall be the same as if it was a variance. If it is deemed by the board of zoning appeals that one (1) or more of the following apply, the board may grant said request.
- A. The design, construction, and character of the building is not suitable for uses permitted in the district in which the nonconforming use is situated; and
 - B. Undue hardships to the property owner would result in not allowing the building to be reopened for a nonconforming use; and
 - C. Adjacent property would not be unduly damaged by such use of the building; and
 - D. The use is to be identical or similar to the prior nonconforming use of the building.
- 21.3.3. *Variations.* The board of appeals has the power to hear requests for variances from the provisions of this chapter. Variance may be granted only if the board finds all of the following to exist:
- A. That one (1) of the following is true, through no action or fault of the property owner or predecessor:
 - 1. The property is exceptionally narrow, shallow or unusually shaped;
 - 2. The property contains exceptional topographic conditions;
 - 3. The property contains other extraordinary or exceptional conditions; or
 - 4. There are existing other extraordinary or exceptional circumstances; and
 - B. That the strict application of the requirements of this chapter would result in practical difficulties to, or undue hardship upon, the owner of this property; and
 - C. That the requested variance relief may be granted without substantially impairing the intent and purpose of this chapter.

Variance decisions shall be issued in writing within ten (10) business days of the hearing.

- 21.3.4. *Conditions.* In granting a variance, the board of appeals may attach such conditions regarding the location, character and other features of the proposed building, structure,

property, development standards or use as it may deem advisable so that the purpose of this chapter will be served, public safety and welfare secured and substantial justice done.

21.3.5. *Limitations on variances; improper variance requests.* Variances cannot be given to totally remove a requirement or to exempt a property or applicant entirely from a requirement. If a variance is being sought that is, in the judgment of the zoning administrator, a request that would constitute a text amendment, then the application shall not be accepted. The applicant shall instead be directed to file for a text amendment. Furthermore, the board of appeals shall not be authorized to grant a density variance or a use variance to permit a use in a district in which the use is prohibited. A variance application shall not be accepted if the variance seeks something that cannot be varied. A variance application shall not be accepted if the variance is contradictory to the ordinance.

21.3.6. *Self-inflicted hardship.* The board shall not grant variances when the hardship was created by the property owner or his predecessor, and shall not grant hardship variances based on shape or topography for lots of record not existing prior to November 7, 1996. Configuring a subdivision to create lots that are difficult to build is an example of a hardship created by the property owner or predecessor, that does not justify a variance.

Sections 21.3.7, *Place of worship*, and 21.3.8, *Group homes*, omitted. *Not applicable.*



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October 16, 2018

Baha Kharazmi
c/o Tri Unity Holdings LLC
6524 Buford Hwy NE
Atlanta, GA 30340

RE: SU18-05: 1136/1138 N. Tennessee St. Special Use Permit results letter

Mr. Kharazmi,

This letter serves as verification of the outcome of your Special-Use Permit application, SU18-05, to the City Council for:

Allowing apartments and condominiums, above, below, or behind commercial and office uses in the same building

The application was **APPROVED with the following condition** by City Council on October 4th, 2018:

Council Member Hodge made a motion to approve SU18-05 subject to the fence style and location as approved by the Planning and Development and Gas Departments. The motion was seconded by Council Member Wren. Motion carried unanimously. Vote: 6-0.

No further action is required regarding this Special-Use application.

The next steps in the project approval process require building and site plans be reviewed and approved by the City of Cartersville. I will be the point of contact for the site plan approval process. David Dye, Building Official, will be the point of contact for the building plan review.

Please contact me with any questions.

Sincerely,

David Hardegree, AICP
City Planner
O. 770-387-5614
dhardegree@cityofcartersville.org



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December 20, 2019

Tri Unity Holdings, LLC
ATTN: Baha Kharazmi
1138 N. Tennessee St.
Cartersville, GA 30120

RE: Z19-06. Zoning Approval Letter for property located at 1136 N. Tennessee St.

Dear Mr. Kharazmi,

The zoning application, Z19-06, was **APPROVED with conditions** by City Council on December 5, 2019, for the following:

Change zoning from O-C (Office Commercial) and G-C (General -Commercial) to M-U (Multiple-Use) and G-C (General-Commercial) zoning. Said property contains approximately 7.42 acres.

The conditions are:

1. Allow Bradshaw Loop to remain open for use by adjacent property owners;
2. ...[install an 8ft. tall privacy fence along the Pointe North subdivision property line] subject to the fence style and location as approved by the Planning and Development and Gas Departments (per SU18-05).

See attached Ordinance No.42-19 for language specific to the zoning case. No further action is required regarding this rezoning application.

Please contact me with any questions.

Sincerely,

David Hardegree, AICP
Planning and Development Department
770-387-5614
dhardegree@cityofcartersville.org

Ordinance
of the
City of Cartersville, Georgia
Ordinance No. 42-19
Petition No. Z19-06

NOW BE IT AND IT IS HEREBY ORDAINED by the Mayor and City Council of the City of Cartersville, Georgia, that all that certain tract of land owned by Tri Unity Holdings, LLC. Property is located 1136 N Tennessee Street. Said property contains 7.42 acres located in the 4th District, 3rd Section, Land Lot 530 as shown on the attached plat Exhibit "A". Property is hereby rezoned from O-C (Office Commercial) and G-C (General Commercial) to M-U (Multiple Use) and G-C (General Commercial) Proposed Use: Townhomes, Office Space and Parking Lot (M-U); Parking Lots (G-C) with the following conditions: allows access for adjacent property owners to use Bradshaw Loop and keep the condition of an eight-foot fence between Point North Subdivision and this property per the condition approved on SU18-05. Zoning will be duly noted on the official zoning map of the City of Cartersville, Georgia.

BE IT AND IT IS HEREBY ORDAINED.

First Reading this 21st day of November 2019.

ADOPTED this 5th day of December. Second Reading.



ATTEST:

/s/ Matthew J. Santini
Matthew J. Santini
Mayor

/s/ Meredith Ulmer
Meredith Ulmer
City Clerk



LOT 3
 1.11 ACRES
 CURRENT ZONING: G-C
 NO CHANGE- SUP TO REMAIN

Building 1 (4 STORIES)
 Retail Area = 20,000sf
 Required Parking = 60spaces
 45 Residential Condos
 Required Parking = 90 Spaces

Bldg 1

REWORK EXISTING
 ROADWAY- OPTIONAL
 PARKING SPACES TO BE
 PROVIDED IF POSSIBLE-

LOT 2
 0.90 ACRES
 CURRENT ZONING: O-C
 ADD THIS PORTION TO
 THE G-C LOT

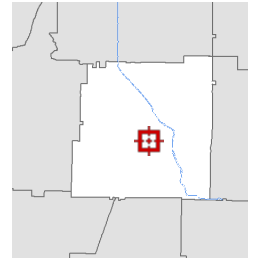
LOT 1
 6.80 ACRES
 CURRENT ZONING: O-C
 PROPOSED ZONING: M-U
 TOWNHOMES, OFFICE
 CONDO AND PARKING

FELTON WALK TOWNHOMES

The FELTON WALK - A MULTIPLE-USE DEVELOPMENT
 NORTH TENNESSEE St, CARTERSVILLE, BARTOW COUNTY, GA



Overview



Legend

- Parcels
- Roads

Parcel ID	C032-0003-015	Alternate ID	35878	Owner Address	TRI UNITY HOLDINGS LLC
Sec/Twp/Rng	n/a	Class	Commercial		6524 BUFORD HWY NE
Property Address	1136 N TENNESSEE ST	Acreage	7.45		ATLANTA, GA 30340
District	Cartersville				
Brief Tax Description	LL 166 D 4				

(Note: Not to be used on legal documents)

Date created: 5/13/2021
Last Data Uploaded: 5/12/2021 10:16:53 PM

Developed by Schneider
GEOSPATIAL

David Hardegree

From: Colin Bennett <cbennett@smithdouglas.com>
Sent: Monday, April 19, 2021 12:13 PM
To: David Hardegree
Subject: [External]Felton Walk - Updated Variance Application
Attachments: SMITH DOUGLAS CONCEPT-4-15-21.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION : This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

David,

I would like to revise my initial variance submitted to remove the rear access and allow front access townhomes.

Also, I would like to pose a 5' setback reduction variance for unit one, from 20' to 15'.

Thanks,

Colin Bennett
Land Acquisition Manager
cbennett@smithdouglas.com

C: 770.608.4086
110 Village Trail, Suite 215 Woodstock, GA 30188




Variance not required.
Setback is 10ft for west
side of Unit 1.

City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: 5/17 5:30pm

Application Number: V21-07
Date Received: 3/24/21

Applicant COLIN BENNETT, SMITH DOUGLAS HOMES Office Phone 770 608 4086
(printed name)
Address 90 TOM JONES RD. Mobile/ Other Phone _____
City KINGSTON State Ga Zip 30145 Email cbennett@smithdouglas.com
Representative's printed name (if other than applicant) _____ Phone (Rep) _____
Email (Rep) _____
Representative Signature _____ Applicant Signature [Signature]
Signed, sealed and delivered in presence of: Jill F Witter My commission expires: 9.5.21
[Signature] Notary Public **Jill F Witter**
NOTARY PUBLIC
Cherokee County, GEORGIA
My Comm. Expires 09/05/2021

* Titleholder Baha Kharazmi Phone 404.510-2242
(titleholder's printed name)
Address 3534 Darentry LN Email baha2242@yahoo.com
Signature [Signature]
Signed, sealed, delivered in presence of: [Signature] My commission expires: 6/2024
Suzette Green Notary Public 

Present Zoning District M-U
Acreage 7.45 Land Lot(s) 530 District(s) 4th Section(s) 3rd
Location of Property: 1136 N. Tennessee Street, Felton Rd + Tennessee St.
(street address, nearest intersections, etc.)
Zoning Section(s) for which a variance is being requested: _____
Summary Description of Variance Request: Mixed Use (MU) to front entry townhomes
(Additional detail can be provided on Justification Letter)

* Attach additional notarized signatures as needed on separate application pages.

CONDITIONS VERIFICATION

List the Article(s), Section(s) and Subsection(s) of the Zoning Ordinance for which a variance is requested.

Article IX Section 9.2.3 Subsection _____
Article _____ Section _____ Subsection _____
Article _____ Section _____ Subsection _____

The Board of Zoning Appeals was established to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of the zoning ordinance. The Board has the power to hear requests for variances from the provisions of the zoning ordinance, Article XXI APPEALS. See Section 21.3 for additional information pertaining to conditions.

To assist staff and the Board of Zoning Appeals in the analysis of the variance application, please check all of the following conditions that apply to your variance request:

1. _____ The property is exceptionally narrow, shallow or unusually shaped,
2. _____ The property contains exceptional topographic conditions,
3. The property contains other extraordinary or exceptional conditions; and
4. _____ There are other existing extraordinary or exceptional circumstances; and
5. _____ The strict application of the requirements of this ordinance would result in practical difficulties to, or undue hardship upon, the owner of this property;
6. The requested variance relief may be granted without substantially impairing the intent and purpose of this ordinance

Additional Comments by Applicant: _____



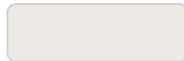
SCHEME: AF-11B



BRICK
Harper Creek



DOOR
Peppercorn



GARAGE
Snowbound



GUTTERS
White



SHAKE
Cityscape



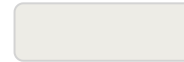
SHINGLES
Weathered



SHUTTERS
Tuxedo Grey



SIDING
Argos

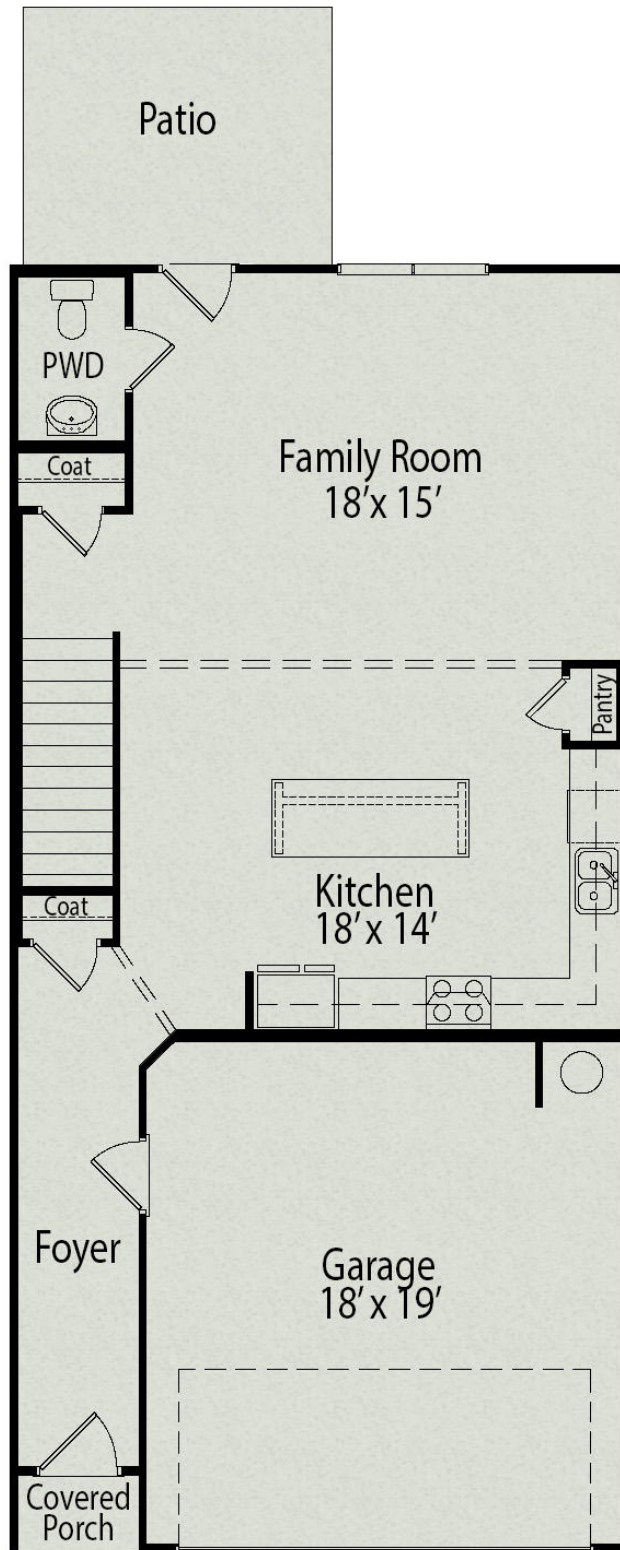


TRIM
Pure White

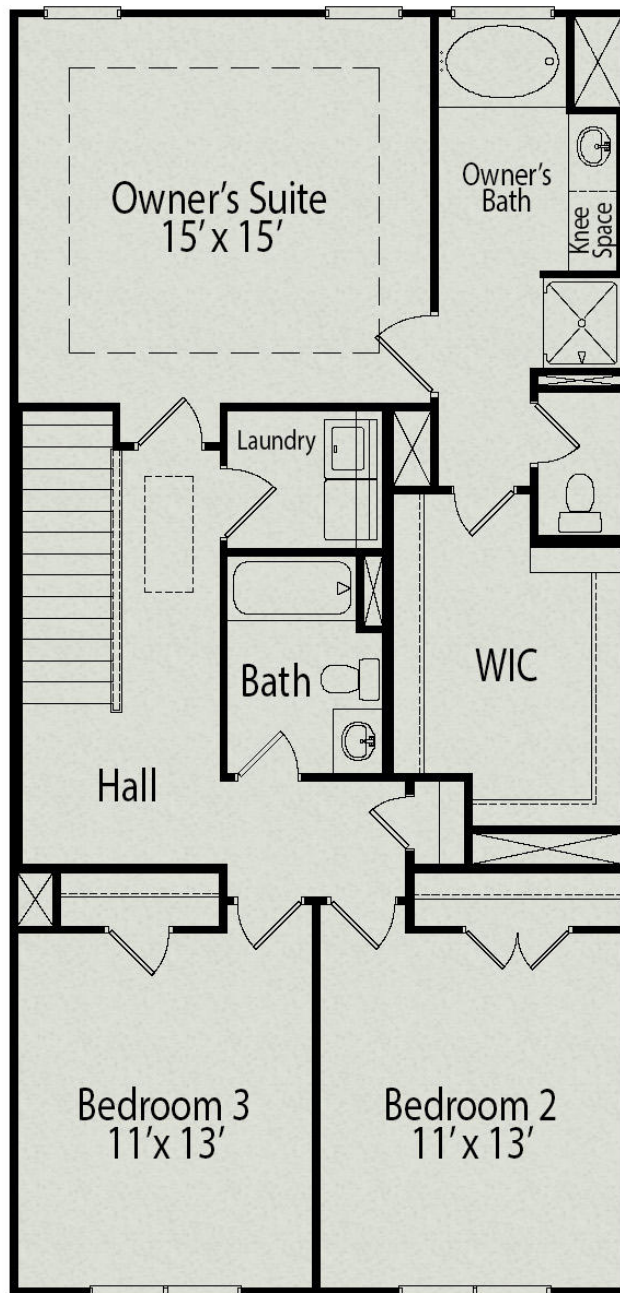


WINDOW FRAME
White

First Floor



Second Floor

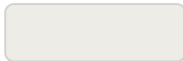




SCHEME: AF-20A



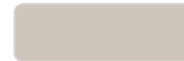
DOOR
Curio Gray



GARAGE
Pure White



GUTTERS
White



SHAKE
Worldly Gray



SHINGLES
Weathered



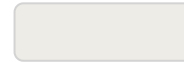
SHUTTERS
Clay



SIDING
Waterloo



STONE
Oak Island
Ledge

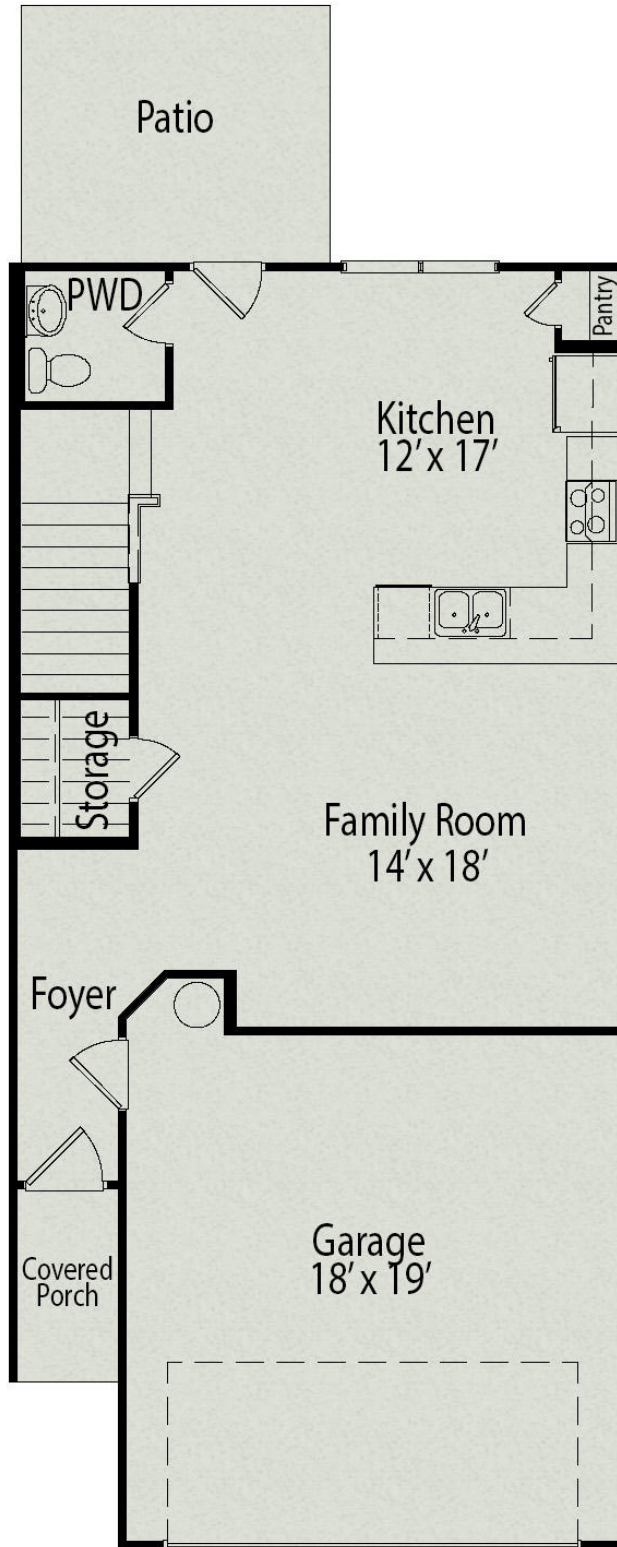


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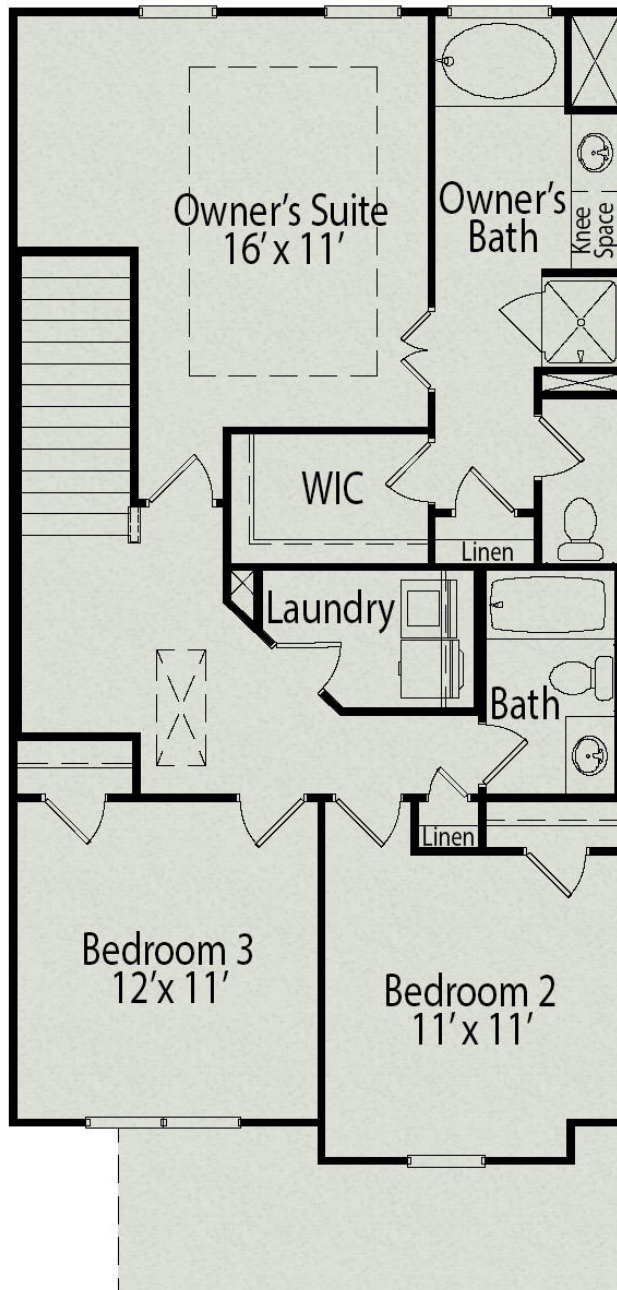


WINDOW FRAME
White

First Floor



Second Floor

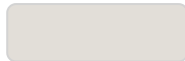




SCHEME: AF-15C



DOOR
Rainstorm



GARAGE
Eider White



GUTTERS
White



SHAKE
Felted Wool



SHINGLES
Weathered



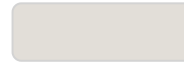
SHUTTERS
Classic Blue



SIDING
Mindful Gray



STONE
Columbia
LedgeStone

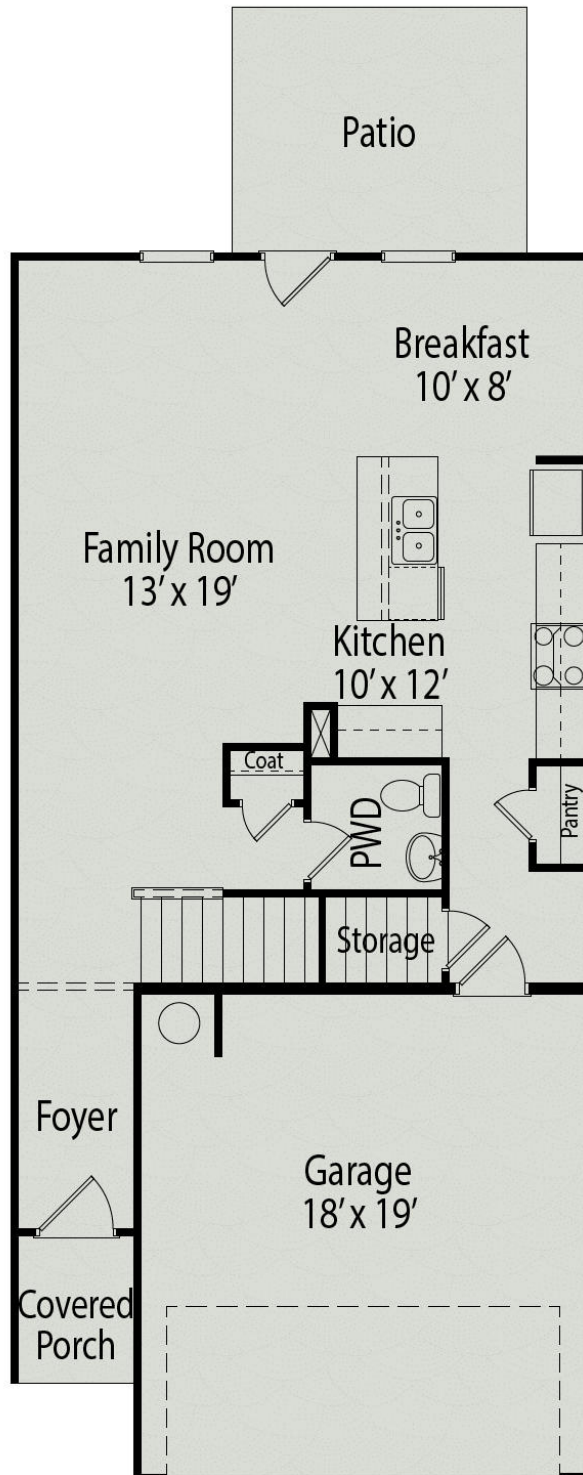


TRIM
Eider White

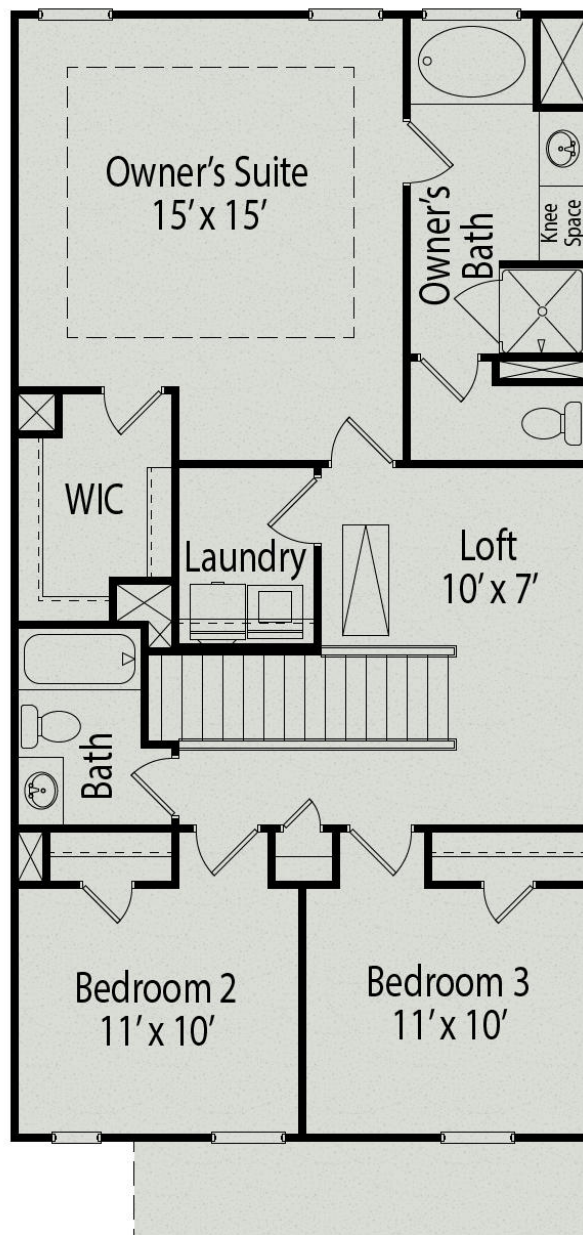


WINDOW FRAME
Almond

First Floor



Second Floor







Smith-Douglas Townhouse examples







Sign installed 4-21-21

