

# Sumter City-County Board of Zoning Appeals

November 12, 2014

**BOA-14-16, 2340, 2350, 2360, 2370, 2380, 2390, &  
2395 Presidio Dr. – Presidio Park Subdivision  
(County)**

The Applicant is requesting a variance from the front yard setback of 35 feet to allow for a 25 foot front setback as required per Article 3, Section N., 3.n.5.b Setback Requirements for Agricultural Conservation District, in order to construct single-family dwellings closer to the front property line in Presidio Park Subdivision. The properties are located at 2340, 2350, 2360, 2370, 2380, 2390, & 2395 Presidio Dr., represented by Tax Map # 094-00-01-003 (Part) and zoned Agricultural Conservation (AC)



Appeals - Variance - Special Exception

# Sumter City-County Board of Appeals

November 12, 2014

## BOA-14-16, 2340, 2350, 2360, 2370, 2380, 2390, & 2395 Presidio Dr. – Presidio Park Subdivision (County)

### I. THE REQUEST

**Applicant:** Michael C. Turbeville

**Status of the Applicant:** Surveyor for Palmetto Development of Sumter, LLC (Owner)

**Request:** A 10 foot front setback variance from the required setback of 35 feet to reduce the front setback to 25 feet for construction of new homes.

**Location:** Presidio Dr., Phase 2 Section 2 of Presidio Park Subdivision (currently un-platted)

**Present Use/Zoning:** Undeveloped Residential Lots / Agricultural Conservation (AC)

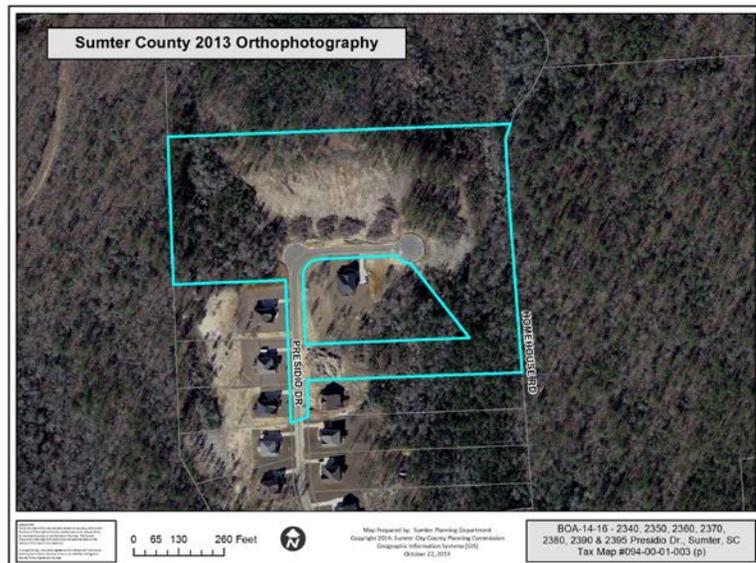
**Tax Map Reference:** 094-00-01-003 (Part)

### II. BACKGROUND

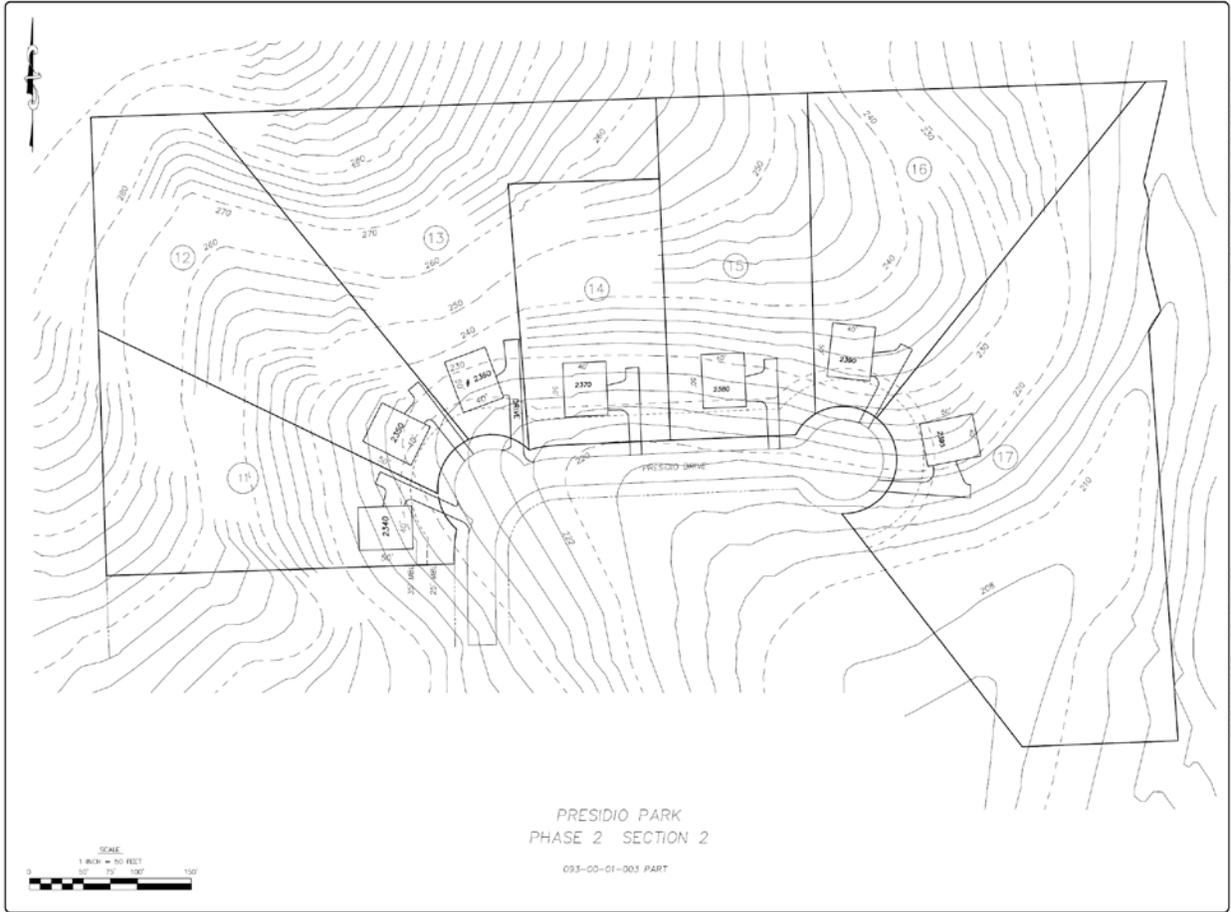
Presidio Park Subdivision was approved as a 28 lot single-family residential development in the Agricultural Conservation (AC) zoning district. The development was initially approved in December of 2007. To date, 20 of the 28 preliminarily approved lots have been constructed and are occupied.

As shown in the ortho photo to the right, although the road infrastructure, water service and stormwater management systems

are installed Phase 2, Section 2 of the development has not been platted. Prior to final plat approval, the applicant is seeking front setback variances for lot 11 through lot 17 in order to reduce the front setback on these seven (7) proposed lots from 35 ft. to 25 ft. These lots range in size from 0.76 acre to 2.54 acres with the average lot size of 1.34 acres. The reduction in front setbacks is requested due to the sloping hillside to the rear of the proposed lots.

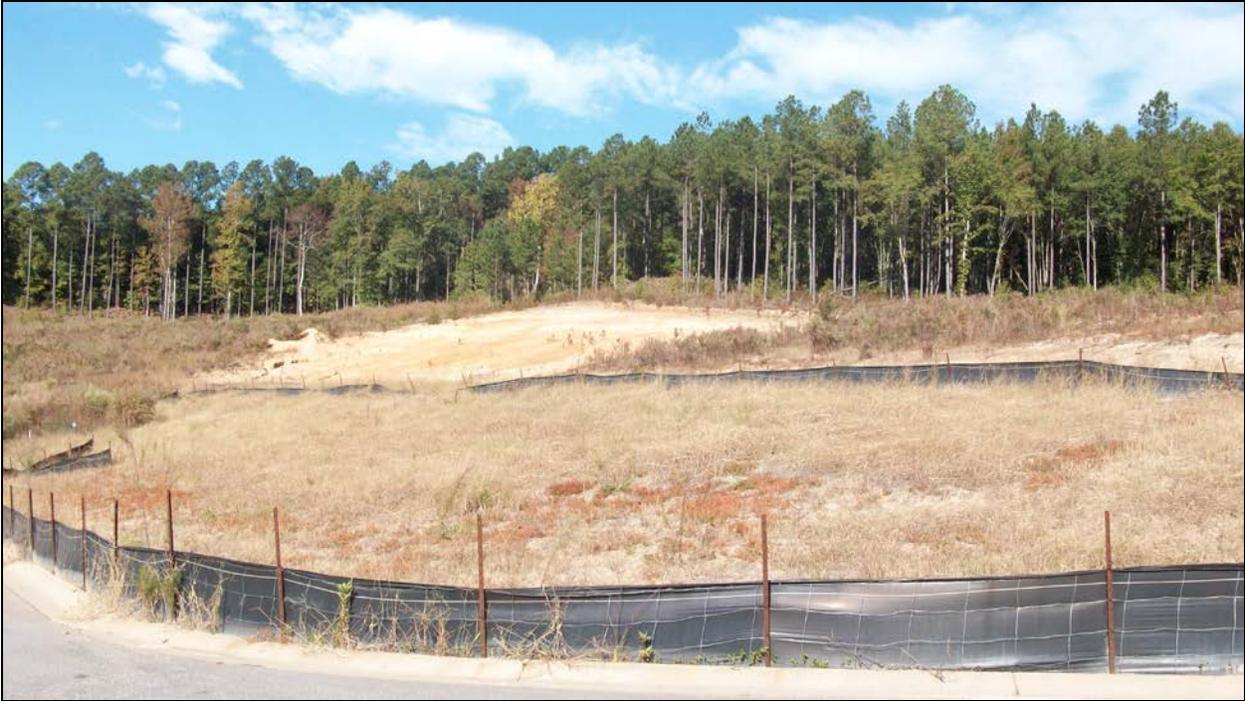


As shown in the proposed lot layout topography below, Phase 2, Section 2 of the development is located on a hillside with some fairly significant slope—as much as a 60 ft. change in grade from front to rear on some parcels. The lots under review are impacted by these slopes and are subject to topographic features not present in the previously developed sections of the subdivision. The following graphics and photographs show the existing conditions in Phase 2, Section 2.









Subdivision design and development is guided by Article 8, specifically *Article 8, Section D: Site Design Standards, 8.b.2 and 8.b.3* as follows:

**8.b.2. Subdivision and Site Design:**

- a. *Design shall take into consideration all existing local and regional plans for the surrounding City and County of Sumter.*
- b. *Development of the site shall be based on the site analysis. To the maximum extent practicable, development shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative impacts and alterations of natural features;*
- c. *The following specific areas shall be preserved as undeveloped and unplatted open space, to the extent consistent with the reasonable utilization of land, and in accordance with the South Carolina Code of Laws, i.e., 6-29-340 (b) (2) (c);*
  - 1. *Wetlands as defined in Article 10, Note: Within the unincorporated areas of Sumter County, wetlands greater than 2 acres may have a maximum of 35 percent (35%) development providing:*
    - a. *Protect existing cypress trees;*
    - b. *Obtain a Stormwater Management and Erosion Control Permit;*
    - c. *The wetlands is not controlled by federal or state agencies;*

- d. *Only detention or retention ponds required for stormwater management may be placed in the 65% undeveloped portion of the wetlands.*
- 2. *Steep slopes in excess of twenty (20%) percent unless appropriate engineering measures, as defined by a professional engineer, concerning slope stability, erosion and residential safety are taken;*
- 3. *Land in the flood way, except as permitted by 5.b.7. of this Ordinance;*
- 4. *Streams, creeks and other naturally existing water courses.*
- 5. *Buffer areas created as a result of a landscape plan.*

**8.b.3. Residential Development Design:**

- a. *In standard single-family development the Sumter City-County Planning Commission may vary lot areas and dimensions, yards, and setbacks for the purpose of encouraging and promoting flexibility, economy, and environmental soundness in layout and design, provided that the average lots' areas and dimensions, yards, and setbacks within the subdivision conforms to the minimum requirements of the zoning district;*
- b. *Residential lots shall front on residential access or sub-collector streets where feasible;*
- c. *Every lot shall have sufficient access to it for emergency vehicles as well as for those needing access to the property in its intended use;*
- d. *The placement of units in residential developments shall take into consideration topography, building height (not to exceed three stories), and drainage;*

At time of initial subdivision review in 2007, the issue of topography on lots 12 through 18 was raised, siting that development of those lots may be challenging based on the change in elevation. At time of preliminary plat approval for the subdivision, the developer did not address how development on the lots that are now part of Phase 2, Section 2 would be addressed.

**III. THE REQUEST**

The applicant is requesting a 10 foot front setback variance in order to shift the proposed dwellings to the fronts of the lots where slope changes are less significant. In order to change the front setbacks on these seven (7) lots, a variance must be granted.

**IV. FOUR-PART TEST**

- 1. ***There are extraordinary and exceptional conditions pertaining to the particular piece of property.***

The rear portion of this subdivision has a significant change in grade with some of the lots having over a 50 ft. change in elevation from front to rear. The first 20 lots that were developed in the

subdivision are on relatively level land comparatively, allowing the homes to be placed further from the road without major changes to the natural topography.

**2. *These conditions do not generally apply to other property in the vicinity.***

The previously developed lots within the subdivision have relatively level terrain with larger areas of flat land for development. The seven (7) parcels under review have changes in grade from front to back that in some instances are greater than 20% with limited flat areas for development. In order to meet the required 35 ft. front setback, large areas of excavation and fill would be required to create suitable building sites.

**3. *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.***

In accordance with Section 8.b.2.b of the Ordinance, the Applicant seeks to place the proposed structures, “...based on the site analysis. To the maximum extent practicable, development shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative impacts and alterations of natural features.” By limiting the amount of excavation and fill required to develop the lots under review, site development would comply with the intent of the Ordinance.

**4. *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.***

Setbacks are established in order to create a uniform placement of homes in a community. This variance maintains the intent of the setback requirements, while working with the site topographic conditions and limiting alterations to the rear of the parcels, and overall subdivision topography.

**V. STAFF RECOMMENDATION**

Staff recommends approval of BOA-14-16 contingent upon all dwellings on lots 11 through 17 being placed at the 25 ft. front setback in order to maintain street rhythm.

**VI. DRAFT MOTIONS**

- A. I move that the Sumter Board of Appeals approve BOA-14-16 subject to the findings of fact and conclusions contained in the draft order dated November 12, 2014, attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny BOA-14-16 on the following findings of fact and conclusions:
- C. I move an alternate motion.

## **VII. BOARD OF ZONING APPEALS – NOVEMBER 12, 2014**

The Sumter City-County Board of Appeals at its meeting on Wednesday, November 12, 2014, voted to approve this request subject to the findings of fact and conclusions contained in the draft order, dated November 12, 2014.

**Exhibit 1**  
**Order on Variance Application**  
**Sumter Board of Appeals**

**BOA-14-16, 2340, 2350, 2360, 2370, 2380, 2390, & 2395**  
**Presidio Dr. – Presidio Park Subdivision (County)**

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Date Filed: November 12, 2014

Permit Case No. BOA-14-16

The Board of Zoning Appeals held a public hearing on Wednesday, November 12, 2014 to consider the request of Michael C. Turbeville, 1205 Peach Orchard Rd., Sumter SC 29154 for a variance from the strict application of the Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the Applicant  **has** -  **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

The rear portion of this subdivision has a significant change in grade with some of the lots having over a 50 ft. change in elevation from front to rear. The first 20 lots that were developed in the subdivision are on relatively level land comparatively, allowing the homes to be placed further from the road without major changes to the natural topography.

2. The Board concludes that these conditions  **do** -  **do not** generally apply to other property in the vicinity based on the following findings of fact:

The previously developed lots within the subdivision have relatively level terrain with larger areas of flat land for development. The seven (7) parcels under review have changes in grade from front to back that in some instances are greater than 20% with limited flat areas for development. In order to meet the required 35 ft. front setback, large areas of excavation and fill would be required to create suitable building sites.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property  **would** -  **would not** effectively prohibit or unreasonable restrict the utilization of the property based on the following findings of fact:

In accordance with Section 8.b.2.b of the Ordinance, the Applicant seeks to place the proposed structures, “...based on the site analysis. To the maximum extent practicable, development shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative impacts and alterations of natural

features.” By limiting the amount of excavation and fill required to develop the lots under review, site development would comply with the intent of the Ordinance.

4. The Board concludes that authorization of the variance  will –  will not be of substantial detriment to adjacent property or to the public good, and the character of the district  will –  will not be harmed by the granting of the variance based on the following findings of fact:

Setbacks are established in order to create a uniform placement of homes in a community. This variance maintains the intent of the setback requirements, while working with the site topographic conditions and limiting alterations to the rear of the parcels, and overall subdivision topography.

THE BOARD, THEREFORE, ORDERS that the variance is  DENIED –  GRANTED, **subject to the following conditions:**

- 1) All dwellings on lots 11 through 17 must be placed at the 25 ft. front setback in order to maintain street rhythm.

Approved by the Board by majority vote.

Date issued: \_\_\_\_\_

\_\_\_\_\_  
Chairman

Date mailed to parties in interest: \_\_\_\_\_

\_\_\_\_\_  
Secretary

**Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.**