

BOARD MEMBERS

Jim Graw, Chairman
Arnold L. Martin, III, Vice-Chairman
John H. Culbreth, Sr.
Al Gilbert
Brian Haren

STAFF

Peter A. Frisina, Director of Community Services
Dennis Dutton, Zoning Administrator
Chanelle Blaine, Planning and Zoning Coordinator

AGENDA
FAYETTE COUNTY PLANNING COMMISSION MEETING
140 STONEWALL AVENUE WEST
April 7, 2016
7:00 pm

1. Consideration of the Minutes of the Meeting held on March 17, 2016.

PUBLIC HEARING

2. Consideration of Petition No. 1253-16, Trademark Quality Homes, Inc., Owner, and Moore Bass Consulting, Agent, request to rezone 26.90 acres from A-R to R-50 to develop a Single-Family Residential Subdivision. This property is located in Land Lot 59 of the 7th District and fronts on Ebenezer Road.
3. Consideration of Petition No. RP-059-16, Revision of the Recorded Plat of Jenkins Cove Phase Two to add two (2) acres to Lot 5. This property is located in Land Lot 42 & 55 of the 7th District and fronts on Adams Road.
4. Consideration of amendments to the Fayette County Code of Ordinances, Chapter 110., Article VII. - Zoning Board of Appeals, Sec. 110-242. - Powers and Duties.

THE FAYETTE COUNTY PLANNING COMMISSION met on March 17, 2016 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

MEMBERS PRESENT: Jim Graw, Chairman
Arnold L. Martin, III, Vice-Chairman
Al Gilbert
Brian Haren

MEMBERS ABSENT: John H. Culbreth Sr.

STAFF PRESENT: Pete Frisina, Director Community Services
Dennis Dutton, Zoning Administrator
Chanelle Blaine, Planning and Zoning Coordinator
Patrick Stough, County Attorney

Welcome and Call to Order:

Chairman Jim Graw called the Planning Commission Meeting to order. Chairman Graw introduced the Commission Members and Staff.

* * * * *

Chairman Graw stated that Pete Frisina asked that we add the ZBA Administrative Conditions to the agenda. He stated that John Culbreth was absent and that we would not have a full board. He urged the Planning Commission to come to a consensus on the vote because a tied vote would mean that it would not be added to the agenda.

Al Gilbert made a motion to add to the agenda the discussion of ZBA Administrative Conditions. Brian Haren seconded the motion. The motion passed 4-0. John Culbreth was absent from meeting.

1. Consideration of the Minutes of the Meeting held on March 3, 2016.

Brian Haren made a motion to approve the minutes. Al Gilbert seconded the motion. The motion passed 4-0. John Culbreth was absent.

2. Consideration of a Variance request (V/A 010-16) for proposed Flowers Field Subdivision, Scarborough Group, Inc., Owner, and Dawn Scarborough, Brent Holdings, LLC, Agent, from the Fayette County Subdivision Regulations, Section 104-597. (3). Contiguous Areas for Residential Development. This variance is to reduce the contiguous area for Lots 2, 5, 9, and 11. This property is located in Land Lot 76, of the 7th District, fronts on Flowers Road, and is zoned R-70.

Chairman Graw stated that back in 2014 the Planning Commission reviewed the preliminary plat for this subdivision. He said that at the time there was a request made by the petitioner to ask for a variance on several lots because they didn't meet the contiguous area. He added that the petitioner needed to have the variance to proceed with the preliminary plat to go ahead to the

final. He referred to the zoning analysis that was done by Pete Frisina which stated that back in 2014 the Planning Commission voted to give a variance to lots four (4), eight (8), nine (9), and 10. He said that the Planning Commission has the authority to grant variances under the subdivision regulations, and gave it to them so the petitioner could proceed with the development of the property. He stated that the petitioner has already gone ahead and done the work but found that the final lots (2), five (5), nine (9) and 11 that have been planned need variances. He added that lot five (5) had recently come up. He said that the minimum contiguous area for the R-70 zoning district is 0.9. He stated that the petitioner is asking for the following:

Lot Number	Contiguous Area/Acres
2	.76
5	.897
9	.75
11	.87

Dennis Dutton stated that when it came to staff for review there were a few discrepancies with lots two (2), five (5), and 11 due to the rerouting of the road. He added that a preliminary plat just shows you the concept of how it is going to be developed. He stated that the road department could have ask for a slight shift or change in the road, or they may have areas that they need to stay out of when doing the cul de 'sac that may have not been caught on the original preliminary plat. He stated that all the developer is asking is for a variance to correct the lots so they can meet the requirements. He added that they also submitted a diagram showing how the house, a pool, and a detached garage would fit on the lots.

Brian Haren asked if the impact of these lots two (2), five (5), and 11 were due to an engineering change imposed to them by the County.

Dennis Dutton replied yes.

Chairman Graw asked if the lot number changed.

Dennis Dutton replied no.

Chairman Graw stated that we have given approval lots for the subdivision in the past and are being asked to give approval for additional lots. He asked if the variances given to lots in 2014 null and void.

Patrick Stough replied it sounds like they still do need those variances.

Chairman Graw stated that you will have variances on seven (7) lots: two (2), four (4), five (5), nine (9), ten, and eleven if these areas are approved.

Arnold Martin asked why lot five (5) was added after the agenda packages had already been sent out to the Planning Commission.

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Dennis Dutton stated that lot five (5) has a contiguous area of 0.897 and the problem staff had been wondering was when do you round up. He said to be safe staff added it to get it squared away. He added that it is three-hundredths of a tenth of an acre.

Al Gilbert asked about the plat showing the house, pool, and detached garage had an area for the septic tank site and an alternate site.

Dennis Dutton replied yes and said that septic tanks can go in any of the setbacks.

Chairman Graw asked how many lots are in a subdivision.

Dawn Scarborough replied twelve.

Brian Haren asked before the engineering changes that the County mandated did lots two (2), nine (9), and eleven meet the contiguous area minimum of 0.90. He asked did they not need a variance previously.

Dennis Dutton replied that they did not and it was lots two (2), five (5), and eleven.

Arnold Martin stated that this variance is because of the way the road is cut.

Dennis Dutton replied that is part of it and anything dealing with environmental impact. He reiterated that a preliminary plat doesn't catch everything and no engineering studies are done until you do the final plat.

Al Gilbert stated that Watershed Protection Ordinance has an effect on the plat and at times these issues aren't seen until engineering is on the ground.

Brian Haren stated that he assumes developers are well aware of the requirements set out by the various ordinance and should account for it.

Al Gilbert said that developers are only going to spend so much money for engineering to start with. He added that that the real engineering comes after the approval.

Brian Haren said that it is not the County's responsibility to squish here and there to meet a lack of due diligence on the part of the developer.

Arnold Martin stated that the previous variance given to this development in 2014 was before his tenure with the Planning Commission. He asked if this variance different in any particular way than previous variances that have been denied.

Brian Haren said that he asked the same question earlier in the week and then he also asked how many variances have the Planning Commission addressed.

Chairman Graw said that the Planning Commission has approved several variances for subdivisions in the past.

Chairman Graw stated that the Planning Commission has only four members present tonight and that it takes three members to approve, and if it is a tie vote 2-2 than it's an automatic denial of the variance. He said to Dawn Scarborough that she has the right to table the variance until there is a full board.

Dawn Scarborough said that if the variance is denied that she has a mess on her hands.

Patrick Stough said that it can be appealed to the Board of Commissioners.

She stated that her company was not trying to pull any fast ones and that when they initially got the variances previously they thought that would be it. She added that this literally just came out a couple of weeks ago and the roads and infrastructure is already on the ground.

Chairman Graw asked would she like to continue without a full Planning Commission present.

Al Gilbert when is the next time we could here this variance.

Dennis Dutton said we will not have to advertise for this variance, because it is a part of the Subdivision regulations.

Al Gilbert stated she could be seen at the next Planning Commission meeting scheduled for April 7th, 2016.

Arnold Martin asked if Dawn Scarborough could give him any other background on the subdivision.

Dawn Scarborough said that these are minimum two (2) acre lots with a contiguous building area of .90 of an acre. She added that all of these lots are impacted by watershed and, that Fayette County does a great job of requiring setbacks and buffers. She added that the watershed affected areas impact their building area but the area can still be used. She said that they could have gone for acre lots but decided not to do that. She said that these variances they're asking for are really small and the largest one is .14. She stated that lot nine (9) has already been approved and they're just asking for lot seven (7). She added that they really did not know until most of it was done and that she doesn't think that it will be harming anything. She stated that there diagram shows plenty of room for the house, accessory structure, pool, and primary/secondary septic tanks.

Arnold Martin asked what the usual size of the watershed buffer.

Dennis Dutton replied for this particular one you have a buffer of 150 feet. He said that 100 feet is for watershed protection buffer and the 50 feet is for the setback. He added that they are now classifying that as a State tributary.

Brian Haren stated that the result here is due to County action and not that of the developer.

Chairman Graw asked Dawn Scarborough again if she wants to continue on.

Dawn Scarborough said she would like to continue.

Al Gilbert stated that they have had 10 variances, and have approved all that was able to fit in a pool and detached garage on the lot.

Chairman Graw stated that we gave variances four (4) lots back in 2014, and if we feel that it wasn't right back then we shouldn't have done it. He added that to not give them variances on these right now would be unfair.

Al Gilbert made a motion to approve the variance for lots two (2), five (5), nine (9), and eleven. Brian Haren seconded the motion. The motion passed 4-0. John Culbreth was absent from the meeting.

3. Discussion of A-R Deer Processing and Wedding /Event Facility.

Dennis Dutton stated that staff was given a charge by a County Commissioner to look into Deer Processing facilities in the A-R district of the County. He said staff researched nearby and out of state jurisdictions ordinances on Deer Processing. He added that Bartow, Harrison, and Newton Counties all have Deer Processing ordinance and Carrollton and Troup Counties are interested in creating their own ordinances. He introduces Johnny Black a Fayette County resident interested in starting his own Deer Processing facility. He added that Johnny Black has contributed valuable information to the proposed ordinance. He stated that the ordinance is comprised of nine (9) items and they all refer back to the Environmental Protection, Department of Natural Resources, landfill, parking, and sketch plans to keep the setting agricultural. He said that the following departments all commented on the ordinance: Marshalls, Environmental Health, and Environmental Management.

Brian Haren said that he was surprised that this wasn't already in the County.

Johnny Black stated that there is one (1) meat packaging facility north of the County off of Roberts Drive.

Al Gilbert stated that there use to be one (1) off of Jeff Davis and they were really busy during deer season.

Johnny Black said that the Deer Processors that were grandfathered in are a dying breed. He added that the new generation is not picking up the activity. He stated that he loves the County and processing deer and would like to help in setting up the ordinance.

Arnold Martin asked Johnny Black what the difference between deer processing and a meat packaging facility.

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Johnny Black replied that deer processing is seasonal (September-January) and it keeps the big industries from coming in doing other meats such as beef or pork. He added that the deer processing operation is a smaller scale.

Dennis Dutton stated that Wildlife Processing has to go through the DNR while beef, poultry, and pork go through the USDA.

Arnold Martin asked how people in the County process their deer meet now.

Johnny Black replied that some discard their scraps on the side of the road, some shoot the deer and just leave it there, and others go out the County to have them processed. He stated that he is not making a product and then selling it. He said he is only working on the customers deer that is brought in unlike a meat packaging facility would be mass producing it and selling it to the public.

Brian Haren asked about processing other wild game such as hogs.

Johnny Black said that the regulations for processing hogs are tougher than deer. He stated that he would just stay with deer.

Brian Haren asked if we should instead come up with an ordinance that is geared toward Wild Game.

Johnny Black said if they decide to do that they are opening themselves up to a twelve month a year operation instead of seasonal.

Brian Haren stated that maybe we should create an ordinance that is simpler and encompasses all wildlife.

Johnny Black said that he would just be interested in doing deer processing. He stated that processing wild hogs are a 12 month operation and is not worth the maintenance. He added that at the end of the season for deer processing you can shut down your coolers.

Dennis Dutton said that when the Commissioner brought this to staff it was for deer and hogs.

Chairman Graw asked what other wildlife you would process besides deer.

Johnny Black replied hogs but you have to stay open 12 months a year. He reiterated that at the end of deer season you can shut down your coolers. He stated that it's not worth the power bill to dress five (5) hogs in a month.

Chairman Graw stated that he liked Brian Haren's idea. He added that he would like for the title to be generalize.

Johnny Black said the Commissioner who is working with him on this ordinance did talk about doing for hogs and deer. He added that these were the two (2) big games in the south.

Brian Haren said he had no problems with the ordinance but he was wondering how the other Planning Commissioner's would like to structure it whether it is just deer or deer and hogs.

Chairman Graw asked if the deer processing will be done at Johnny Black's home.

Johnny Black replied yes.

Chairman Graw asked how many accessory structures he can have.

Dennis Dutton replied that he could have two (2) accessory structures and one (1) farm outbuilding.

Chairman Graw stated that he could have five (5) structures on his lot. He said this would include his home, a detached garage, two (2) accessory structures, and a farm outbuilding. He asked Johnny Black could he be able to run his business with the restrictions on accessory structures.

Johnny Black replied yes.

Chairman Graw asked what the square footage was going to be for the processing of the deer accessory structure.

Johnny Black said the square footage for the cutting room will be a maximum of 400 square feet.

Chairman Graw asked if the cutting room will be refrigerated.

Johnny Black replied yes. He stated that you have to keep the cutting room 50 degrees.

Chairman Graw asked would you have a generator just in case the power goes out.

Johnny Black replied yes.

Chairman Graw asked if it would be attached to his home.

Johnny Black replied no.

Dennis Dutton stated that the pattern the driveway will be a circular drive. He said the access will be similar to a daycare drop off driveway. He added that Mr. Black does not want his deer processing business to interfere with his home they will be two separate entities.

Arnold Martin asked if Johnny Black will be coming back before the Planning Commission.

Dennis Dutton stated that this is just a preliminary meeting just to let you know what's going on. He said that staff hasn't set up public hearings on this just yet. He added that this is just an informal meeting to tell them about the ordinance and to get feedback. He said that there will probably be questions for each departmental requirement.

Dennis Dutton said that there were questions on what to do with the hide and scraps. He was told by Johnny Black that there must be permits from the State to discard the waste in a landfill.

Johnny Black said that they considered the deer scraps to be hazardous waste and it can't be dumped at any landfill. He added that he has already received an application from the State.

Al Gilbert asked if he was trying to get started this fall.

Johnny Black replied no.

Chairman Graw asked if it was necessary for the ordinance to have that you must have a freezer and a generator.

Patrick Stough said isn't that a part of the permit process with the State.

Dennis Dutton replied that they must go through the building permit department process as well.

Johnny Black said that he will have a cooler just for the scraps until he gets ready to dispose of it.

Dennis Dutton asked if they wanted to add a cooler for the scraps to the ordinance. He stated that it could be worded that all deer processing waste not being routed to a rendering plant or other vendor shall be disposed in compliance with the guidance document disposal of deer processing waste with the Georgia Department Natural Resources and Environmental Protection Division. He added that the deer processing will be treated as a commercial solid waste and shall be disposed of in a municipal solid waste landfill and the burial of any deer processing waste is prohibited.

Chairman Graw said that doesn't address the dressed meat.

Patrick Stough said that he would look to the DNR regulations because they may require that there be a cooler and they will have to meet those regulations to comply with our zoning ordinance. He added that he doesn't see why we need to add something like that into this. He stated that we might want to look into this to make sure that something like that is already covered.

Johnny Black agreed that a designated cooler for scraps until it's carry off should be stated in the ordinance.

Dennis Dutton stated that he will check and see if that is a requirement that the DNR has.

Arnold Martin asked does this open up for anybody having A-R zoned land to have a deer processing facility.

Dennis Dutton said yes.

Arnold Martin asked if there is any way we can put limitations on the amount of deer processing facilities.

Al Gilbert said he doesn't like the beauty parlor ordinance that was drafted recently but he would never want to limit the amount of beauty parlors in the County. He added that they we're getting into personal taste and thought it to be dangerous.

Brian Haren said this business is self-limited because they are not raising deer to be slaughtered but are only processing what is brought to them.

Al Gilbert stated that the process to have a deer processing facility is not a simple process.

Johnny Black said that he wants the ordinance to be as tough as it needs to be to keep the average person from doing it. He stated that this is not an easy job. He added the hoops you have to cross to do it will discourage a lot of people from doing it.

Chairman Graw stated that he doesn't think there will be a lot of these facilities out there. He added that the market will dictate the amount that's going to be out there.

Arnold Martin said it was a great idea for our area.

Johnny Black stated that the ordinance doesn't limit the amount of livestock on A-R five (5) acre zoned property. He stated he could have a hog farm on his property. He said he would think his neighbors would rather him have a deer processing facility than a hog farm. He said it would be open less time throughout the year.

Arnold Martin asked if staff had a timeline for when they wanted this to go before the Board of Commissioners.

Dennis Dutton stated staff wanted to inform the Planning Commission about this ordinance coming down the pipe and will be having work sessions in the future.

Chairman Graw stated that we could limit the amount of facilities by establishing a minimum lot size. He added that he doesn't think it would be a good idea.

Dennis Dutton stated that the Wedding Facility ordinance has affected the Subdivision Regulations because of paved parking. He stated that we have a plan on the way off of Highway 54 where someone wants to do paved parking. He said that the individuals are going to build a barn and give it a historical appearance. He added that this lot will also have a lake on it. He

stated that once you start including paved parking and increasing the square footage of a structure you are required to have landscaping and hydrology studies. He said the first thing staff wants to do add is that paved parking complies with the 10 X 20 requirements for parking. He added that the term "as applicable" has been added for tents for the Fire Marshal. He stated that the Fire Marshal wants to have the discretion to inspect tents and not be forced to inspect tents that are really small, such as 10 X 10 tents.

Al Gilbert stated that we are not changing the initial intent of the ordinance but are saying if someone wants to do a big time development they must adhere to what a normal developer would adhere to, to get approvals.

Dennis Dutton said that the ordinance didn't address the parking.

Brian Haren asked if we put a limit to the amount of events for the Wedding Facility.

Dennis Dutton replied that it's only for the facilities that have non-paved parking and are on local streets. He said that this particular facility would be on S.R. 54 at the old barn near Manassas. He added that since this is in the overlay zone, staff still wants the parking to be 50% around the building. He stated that staff didn't want the facility to comply with the architectural standards of the overlay zone because it's a barn and it wouldn't have a residential character by definition.

Arnold Martin asked if item 12 dealt with storm water.

Dennis Dutton replied yes.

Chairman Graw asked if this had to go to Public Hearing.

Dennis Dutton replied yes.

Chairman Graw asked when staff will want to advertise.

Dennis Dutton replied that he would get with Pete Frisina tomorrow.

Chairman Graw asked how many people have applied for this.

Dennis Dutton replied two (2), but he has had 10 people call about it.

Arnold Martin asked about the press released for the 74/85 Overlay.

Al Gilbert replied that there is an ad on the County webpage about it but he doesn't know if it's been sent to the paper just yet.

5. Discussion of ZBA Administrative Conditions

Chairman Graw stated that the ZBA can impose conditions to an approval in one particular area. He added that staff would like for the approval to be its own section in the ordinance so it can be used in other areas.

Dennis Dutton reiterated that once it has its own section so it covers all request for variances. He said so they can have the power to put a condition per variance on everything.

Patrick Stough replied that the conditions the ZBA can impose only apply to variances. He said that it doesn't apply to appeals from the Zoning Administrator and extensions of non-conforming uses. He added that this would make it apply to all those things as well.

Chairman Graw stated that were just taking the same paragraph and moving it to another section. He said that the paragraph has not changed. He added by doing this the ZBA will now have the ability to establish conditions.

Arnold Martin asked without this they have not had this ability.

Dennis Dutton stated an example where the ZBA had someone come before them asking for a continuance of a non-conforming use, but there was no avenue for them to say yes and establish conditions.

Arnold Martin asked then who could establish the conditions.

Dennis Dutton replied no one, because it's not an option. He stated that it's not written in the ordinance for them to do so.

Patrick Stough replied that they would either have to approve or deny it.

Al Gilbert asked if there was anything else with the ZBA.

Dennis Dutton replied the six (6) month period was left off when the ordinance was being created. He stated that if someone applies for a variance and is turned down they will have six (6) months to make application for another variance.

Chairman Graw asked if any of the Planning Commissioners had a problem with that.

Planning Commissioners replied no.

Chairman Graw stated that this will have to be advertised and have a Public Hearing.

Bill Beckwith stated that at the last ZBA meeting the conditions would have been helpful to use. He added that they would have liked to have it continue with conditions but was unable to use them so they had to deny it.

Al Gilbert made a motion to adjourn the meeting. Chairman Graw said the meeting was adjourned at 8:15 pm.

**PLANNING COMMISSION OF
FAYETTE COUNTY**

ATTEST:

JIM GRAW, CHAIRMAN

REQUESTED ACTION: A-R to R-50

PROPOSED USE: Single Family Residential Subdivision

EXISTING USE: Undeveloped Land

LOCATION: Ebenezer Road

DISTRICT/LAND LOT(S): 7th District, Land Lot(s) 59

OWNER: Trademark Quality Homes, Inc.

AGENT: Moore Bass Consulting, Inc.

PLANNING COMMISSION PUBLIC HEARING: April 7, 2016

BOARD OF COMMISSIONERS PUBLIC HEARING: April 28, 2016

APPLICANT'S INTENT

Applicant proposes to develop a Single-Family Residential Subdivision consisting of 20 lots on 26.90 acres.

STAFF RECOMMENDATION

APPROVAL WITH TWO (2) CONDITIONS

1.

INVESTIGATION

A. PROPERTY SITE

The subject property is a 26.90 acre tract fronting on Ebenezer Road in Land Lot(s) 59 of the 7th District. Ebenezer Road is classified as a Minor Arterial road on the Fayette County Thoroughfare Plan. The subject property is undeveloped and currently zoned A-R.

B. SURROUNDING ZONING AND USES

The general situation is a 26.90 acre tract that is zoned A-R. In the vicinity of the subject property is land which is zoned R-40, A-R, and R-70. See the following table and also the attached Zoning Location Map.

The subject property is bound by the following adjacent zoning districts and uses:

Direction	Acreage	Zoning	Use	Comprehensive Plan
North	8.0	A-R	Church	Low Density Residential (1 Unit/1 to 2 Acres)
South	6.7	A-R	Single-Family Residence	Low Density Residential (1 Unit/1 to 2 Acres)
	22.5	A-R	Undeveloped	Low Density Residential (1 Unit/1 to 2 Acres)
East (across Ebenezer Road)	22.0	A-R	Single-Family Residence	Low Density Residential (1 Unit/1 to 2 Acres)
	2.6	R-70	Single-Family Residence	Low Density Residential (1 Unit/1 to 2 Acres)
	2.4	R-70	Undeveloped	Low Density Residential (1 Unit/1 to 2 Acres)
West	2.28	A-R	Single-Family Residence	Low Density Residential (1 Unit/1 to 2 Acres)
	29.5	R-40	Undeveloped (Longboat Subdivision Phase II)	Low Density Residential (1 Unit/1 to 2 Acres)
	1.75	R-40	Single-Family Residence (Longboat Subdivision Phase I)	Low Density Residential (1 Unit/1 to 2 Acres)
	1.0	R-40	Single-Family Residence (Longboat Subdivision Phase I)	Low Density Residential (1 Unit/1 to 2 Acres)
	1.0	R-40	Single-Family Residence (Longboat Subdivision Phase I)	Low Density Residential (1 Unit/1 to 2 Acres)
	1.1	R-40	Single-Family Residence (Longboat Subdivision Phase I)	Low Density Residential (1 Unit/1 to 2 Acres)

C. COMPREHENSIVE PLAN

The subject property lies within an area designated for Low Density Residential (1 Unit/1 to 2 Acres). This request conforms to the Fayette County Comprehensive Plan.

D. ZONING/REGULATORY REVIEW

The applicant seeks to rezone from A-R to R-50 for the purpose of developing a single-family residential subdivision. The subject property surrounds a 2.28 acre A-R lot identified as Tract 2 on the Concept Plan. This lot is not part of the rezoning request. The lot is a nonconforming landlocked lot platted and recorded in 1977. Tax records indicate that the house was built in 1977. Sec. 110-170. - Nonconformances. (b) states the following:

Landlocked property. In the event property is landlocked, as of the effective date of November 13, 1980, the property owner shall be entitled to building permits, provided the property owner has acquired a 20-foot easement to a public street, and said easement has been duly recorded and made a part of the property deed. In the event said property is divided into two or more lots, no further building permits shall be issued until each lot complies with the requirements of street frontage for access.

Tract 2 has an existing Ingress-Egress Easement (recorded in deed book 1099, page 102), as indicated on the Concept Plan. The owner/developer is proposing to relocate the Ingress-Egress Easement per the layout indicated on the Concept Plan. The relocated Ingress-Egress Easement must be described in metes and bounds with a minimum width of 20 feet. It is advised that the owner/developer obtain a Quit Claim Deed from the current property owner of Tract 2 for the existing Ingress-Egress Easement. Both the Ingress-Egress Easement and Quit Claim Deed must be recorded with the Clerk of Superior Court.

Platting

Should this request be approved, the applicant is reminded that before any lots can be sold or building permits issued for the proposed subdivision, the subject property must be platted per the Fayette County Subdivision Regulations, as applicable.

Right-of-Way Requirements

Per Engineering/Public Works, Ebenezer Rd. near Davis Road has an 80' R/W and the Concept Plan indicates the same. As a Minor Arterial, Ebenezer Road requires 100 feet of right of way. Per Section 104.52 of the Fayette County Development Regulations, should a proposed development adjoin an existing street, the developer shall dedicate additional right-of-way to meet one-half the minimum right-of-way requirement for the applicable functional classification as indicated on the Fayette County Thoroughfare Plan of the adjoining street.

Access

The Concept Plan indicates proposed internal local streets serving 16 lots, two (2) lots directly accessing Ebenezer Road and one (1) existing nonconforming landlocked property maintaining access to Ebenezer Road through an easement.

E. REVIEW OF CONCEPT PLAN

The applicant is advised that the Concept Plan is for illustration purposes only. Any deficiencies must be addressed at the time of submittal of the Preliminary Plat, Final Plat, and/or Site Plan, as applicable.

Deficiencies include, but not limited to:

Lot 17 appears to have 49.31 feet of road frontage. Minimum road frontage requirement is 50 feet.

F. DEPARTMENTAL COMMENTS

Water System

Water available, 16" water main on Ebenezer Road. No changes to comments.

Engineering/Public Works

Engineering/Public Works offers the following comments for Rezoning 1253-16 on Ebenezer Road:

- The 2nd concept is preferred to the first since it reduces the number of curb cuts on Ebenezer Road.
- The R-50 parcel would generate more traffic than if left as A-R, but the total number of curb cuts onto Ebenezer Rd from this parcel will be less under the R-50 zoning.

- Any new road shall meet minimum offset distances. For arterials, this is 500 feet (measured from existing edge of pavement to proposed right-of-way). The concept does not appear to meet this standard with respect to Willow Road, but staff can't tell for certain since the plan does not show Willow Road.
- We do not have an established level-of-service for Ebenezer Road but there are no known traffic issues with respect to congestion and capacity. Staff believes it is in free-flow condition for most, if not all, the day.
- Per GDOT, the Average Daily Traffic count is 3,280 vpd. The road saw significant growth from 1990 (1,649 vpd) to around 2000 (3,900 vpd) and then volumes slowly dropped to the current count.
- Sight distance is good along the parcel in question.

Environmental Management

- Floodplain** The property **DOES NOT** contain floodplain per FEMA FIRM panel 13113C0091E dated Sept 26, 2008. The property **DOES NOT** contain additional floodplain delineated in the FC 2013 Future Conditions Flood Study. Per Fayette County Floodplain Management Ordinance the elevation of the lowest floor, including basement and building access of any development shall be a least 3 feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher. A Floodplain Management Plan is required if any development activities are totally or partially within an Area of Special Flood Hazard as defined by the Floodplain Management Ordinance.
- Wetlands** The property **DOES NOT** contain wetlands per the U.S. Department of the Interior, Fish and Wildlife Service 1994 National Wetland Inventory Map. Per Section 8-4 of Fayette County Development Regulations, the applicant must obtain all required permits from the U.S. Army Corps of Engineers prior to issuance of any permits from Fayette County for any phase of development affecting wetlands.
- Watershed** There is an unnamed tributary to Camp Creek and two ponds. These state waters are more than 1000 ft. upstream of the confluence with Camp Creek. Both ponds and unnamed stream **IS** subject to a 50 ft. watershed buffer measured from wrested vegetation and a 25 ft. setback as measured from the buffer.

Groundwater The property **IS NOT** within a groundwater recharge area.

Stormwater This development is subject to the Post-Development Stormwater Management Ordinance.

Environmental Health Department

Trademark Quality Homes Concept Plan: 152 & 183 Ebenezer Road. This department has no objections to the proposed rezoning to create a potential Single Family Residential Subdivision. Prior to this department being able to sign any final plats, the proposed subdivision must complete a required subdivision review through this department. The developer will need to submit the required information (including application, application fee, level 3 soils report and soils classifier proof of insurance) to our department to complete the subdivision review and site evaluation. Additionally, as part of the review, this department will need to confirm that a septic system on Tract 2 will be fully contained within, and no closer than 5' to the new property lines.

Fire

Must show hydrants on Preliminary Plat.

STAFF ANALYSIS

This request is based on the petitioner's intent to rezone said property from A-R to R-50 for the purpose of developing Single Family Residential Subdivision. Per Section 110-300 of the Fayette County Zoning Ordinance, Staff makes the following evaluations:

1. The subject property lies within an area designated for Low Density Residential (1 Unit/1 to 2 Acres). This request conforms to the Fayette County Comprehensive Plan.
2. The proposed rezoning will not adversely affect the existing use or usability of adjacent or nearby property.
3. The proposed rezoning will not result in a burdensome use of roads, utilities, or schools.
4. Existing conditions and the area's continuing development as a single-family residential district support this petition.

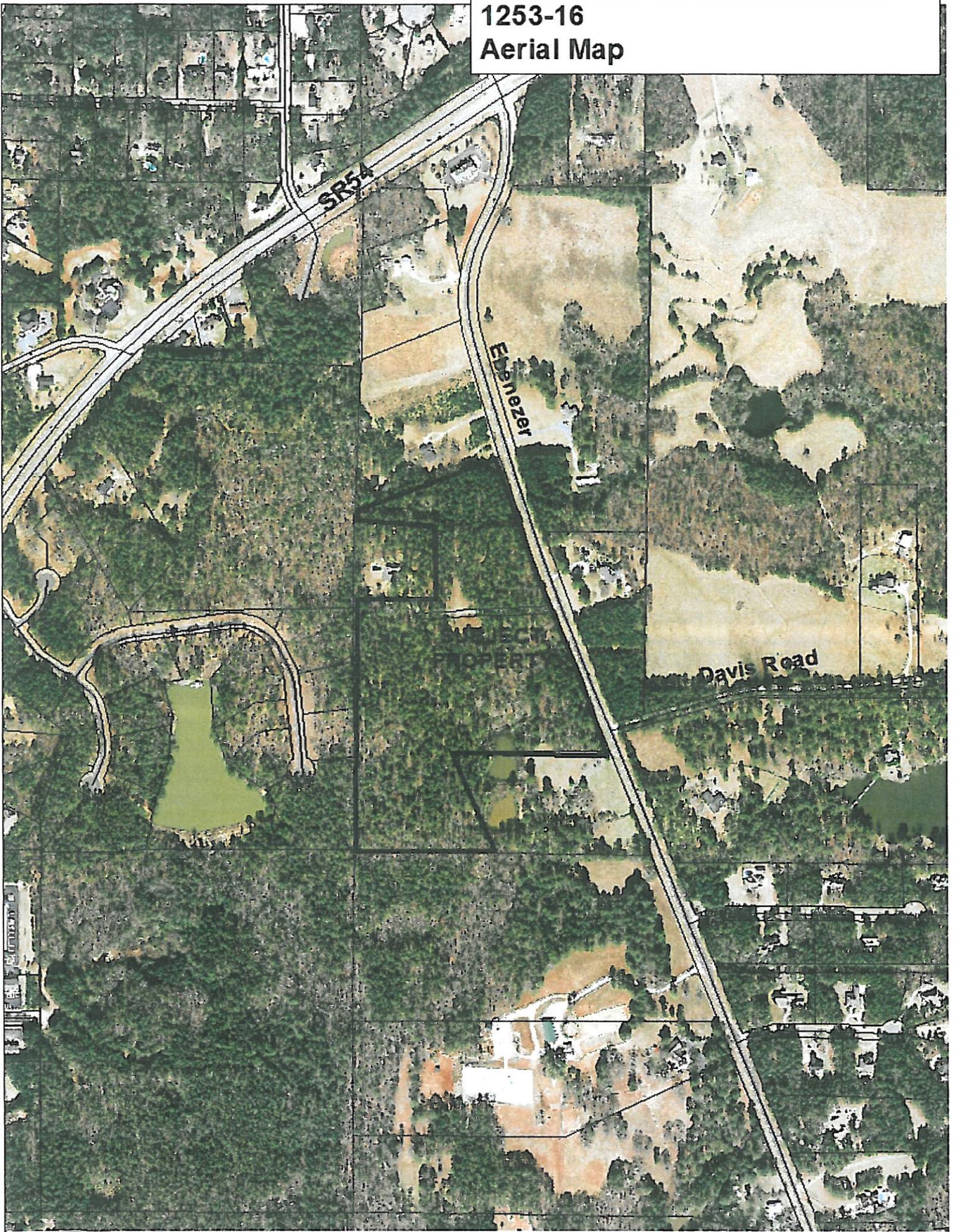
Based on the foregoing Investigation and Staff Analysis, Staff recommends **APPROVAL WITH TWO (2) CONDITIONS.**

RECOMMENDED CONDITIONS

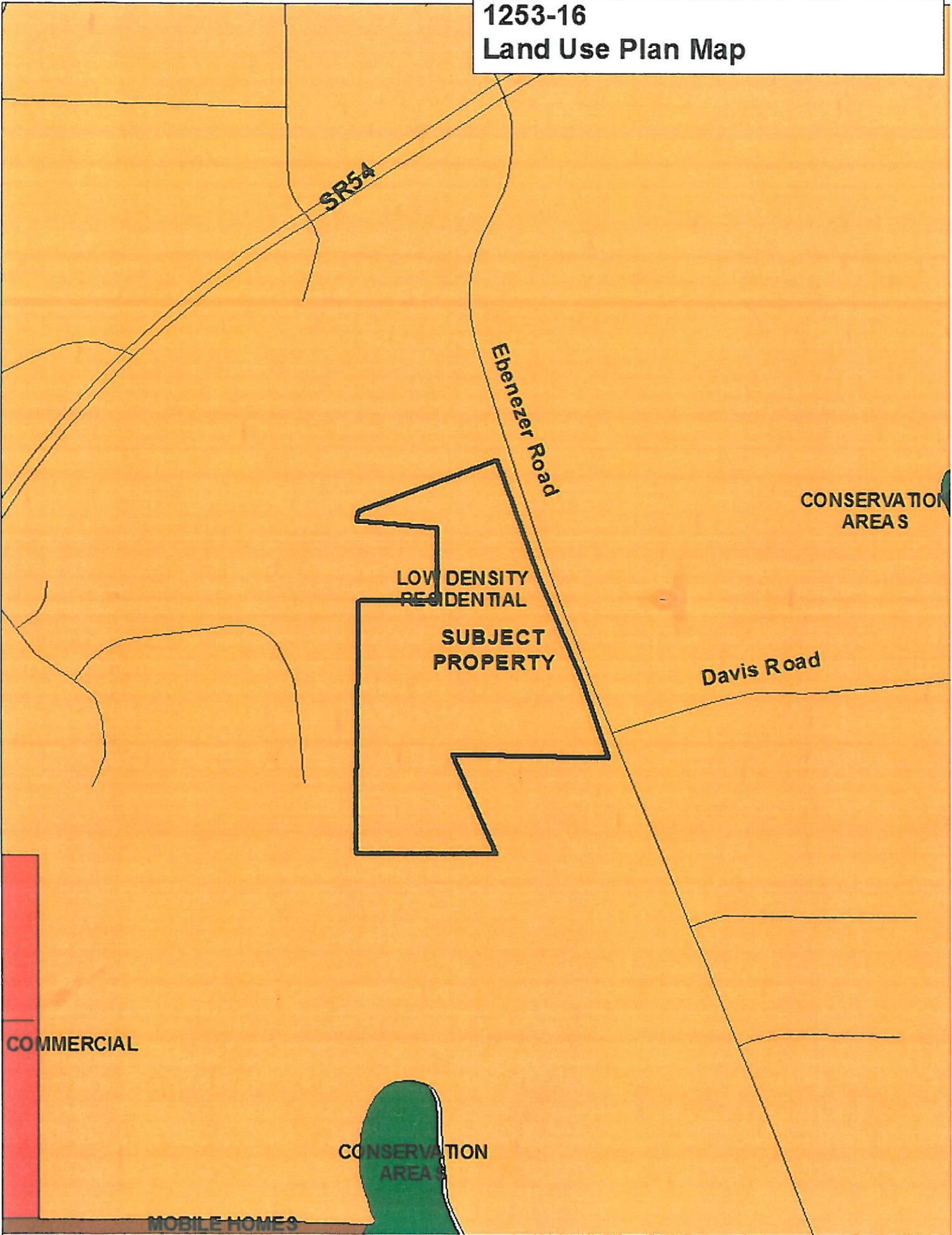
If this petition is approved by the Board of Commissioners, it should be approved R-50 **CONDITIONAL** subject to the following enumerated conditions. Where these conditions conflict with the provisions of the Zoning Ordinance, these conditions shall supersede unless otherwise specifically stipulated by the Board of Commissioners.

1. The owner/developer shall provide, at no cost to Fayette County, a quit-claim deed for 50 feet of right-of-way as measured from the centerline of Ebenezer Road prior to the approval of the Final Plats and said dedication area shall be shown on the Preliminary Plat and Final Plats.
2. That the owner/developer provides an Ingress-Egress Easement, described in metes and bounds with a minimum width of 20 feet, to the property owner of Tract 2. Said Ingress-Egress Easement shall be recorded with the Clerk of Superior Court and shown on the Preliminary Plat and Final Plat.

**1253-16
Aerial Map**



**1253-16
Land Use Plan Map**



SR54

Ebenezer Road

CONSERVATION
AREAS

LOW DENSITY
RESIDENTIAL

SUBJECT
PROPERTY

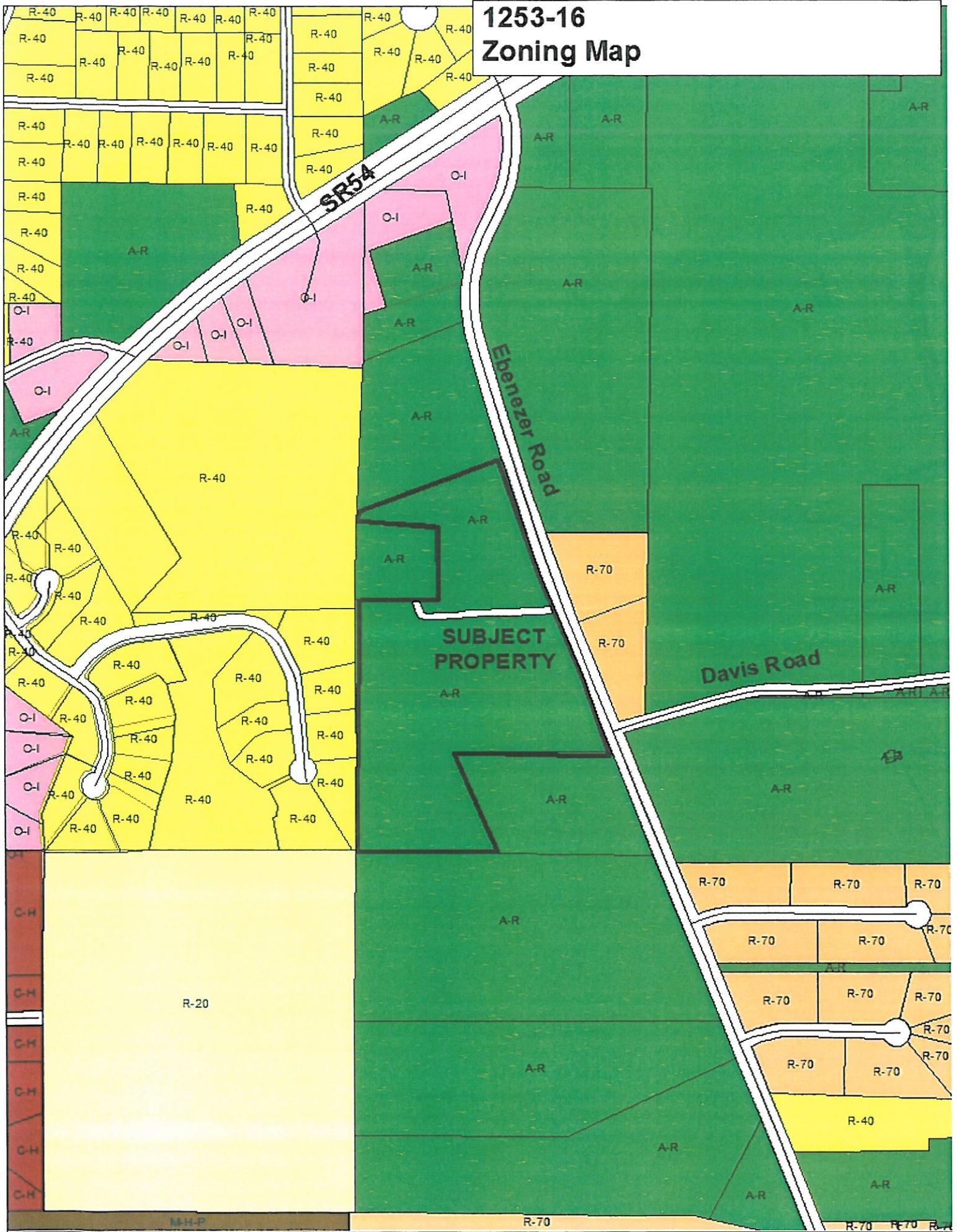
Davis Road

COMMERCIAL

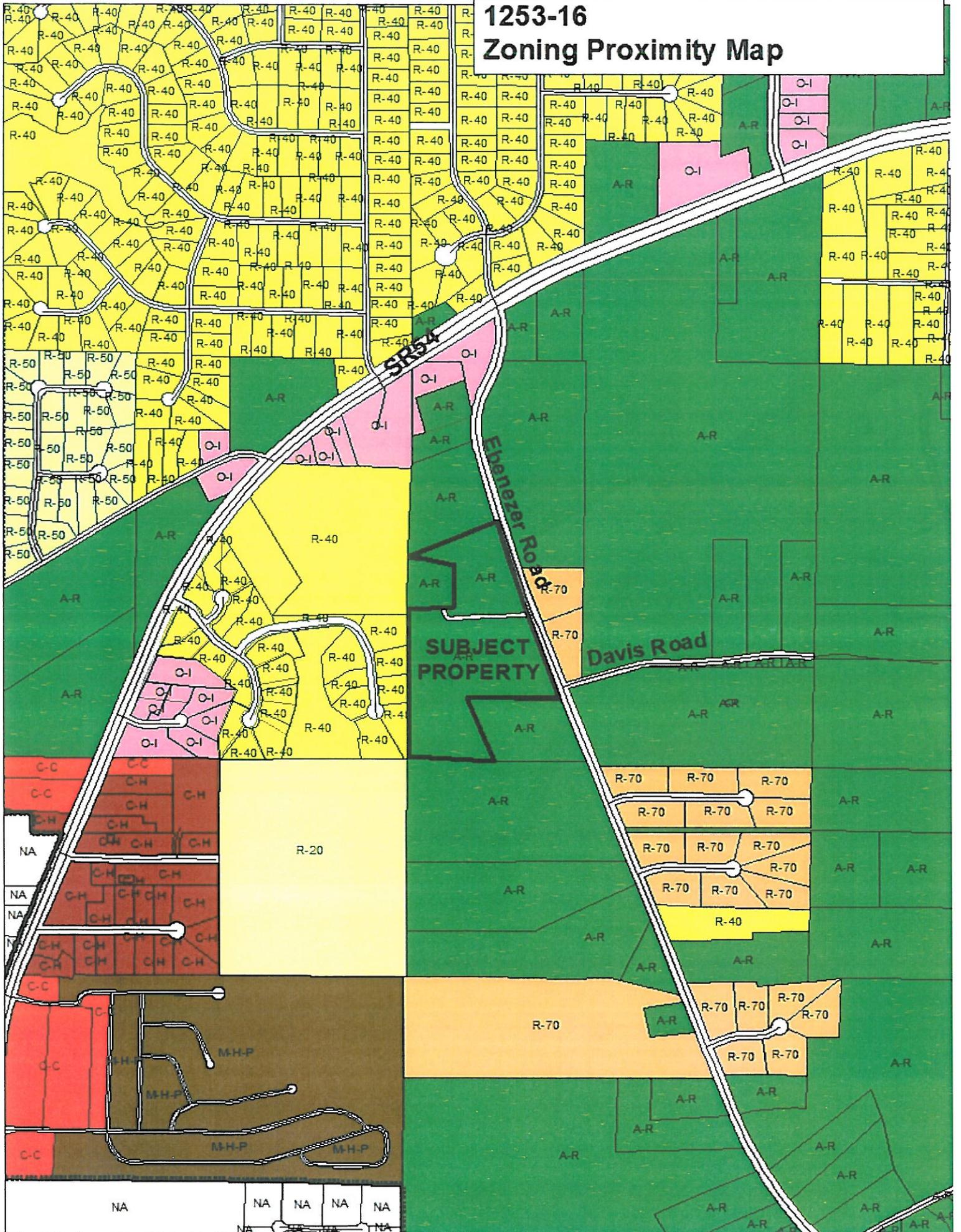
CONSERVATION
AREAS

MOBILE HOMES

1253-16 Zoning Map



1253-16 Zoning Proximity Map



PETITION NUMBER: RP-059-16

REQUESTED ACTION: Request approval of the Revision of the Recorded Final Plat of Jenkins Cove Phase Two to add two (2) acres to Lot 5.

EXISTING USE: Single-Family Residential

ZONING DISTRICT: R-70

LOCATION: Adams Road

LAND LOT/DISTRICT: Land Lot(s) 42 & 55 of the 7th District

OWNER/APPLICANT: Julia P. Yokum

INVESTIGATION

The Final Plat for Jenkins Cove Subdivision Phase Two consists of a total of six (6) single-family dwelling lots and was recorded in 1992. The request is to add two (2) acres to Lot 5.

Subdivision Regulations

Sec. 104-595. - Approval of subdivisions.

(2) **Final plat or minor subdivision plat**

j. **Revision to a recorded final plat.**

Revision to a recorded final plat. A revision to a recorded final plat shall show the name, phase (if any), date of the recorded subdivision plat being revised, and the exact citation with regard to the clerk of superior court records and the book and page number wherein said plat is recorded. See section 104-596 for requirements to be indicated on the revised final plat, as applicable. In addition, proposed revisions to a recorded final plat that substantially changes the street and/or utility layout, unless initiated by the county, shall require a revised preliminary plat in accordance with this section. Proposed revisions to a recorded final plat of any existing residential or agricultural-residential subdivisions which add property to, increases the number of platted lots, or changes the principal use on a lot will be considered in public hearings before the planning commission and the board of commissioners. The legal notice shall be advertised at least seven calendar days prior to the public hearing before the planning commission, but not more than 45 calendar days, nor less than 15 calendar days prior to the public hearing before the board of commissioners. In the event that the timeframes above cannot be met with one advertisement, the notice shall be published twice. As applicable, a revised final plat shall comply with the revised preliminary plat and shall be approved by the planning commission.

Final Plat

Should this request be approved, a Revised Final Plat for Lot 5 must be submitted, approved, and recorded.

Department Comments

Water System: .

Environmental Management:

Environmental Health Dept.:

Sheriff:

Fire Marshal:

County Engineer/Public Works Director:

STAFF ANALYSIS

Per the Fayette County Subdivision Regulations, changing the use of a lot in an existing platted residential subdivision requires public hearing approval prior to the submittal of a Revised Final Plat. The desires of surrounding property owners should be considered. Staff recommends **APPROVAL** of the request.

RP-059-16
Land Use Plan



**SUBJECT
PROPERTY**

Two Acres
Additional

RP-059-16
Land Use Plan

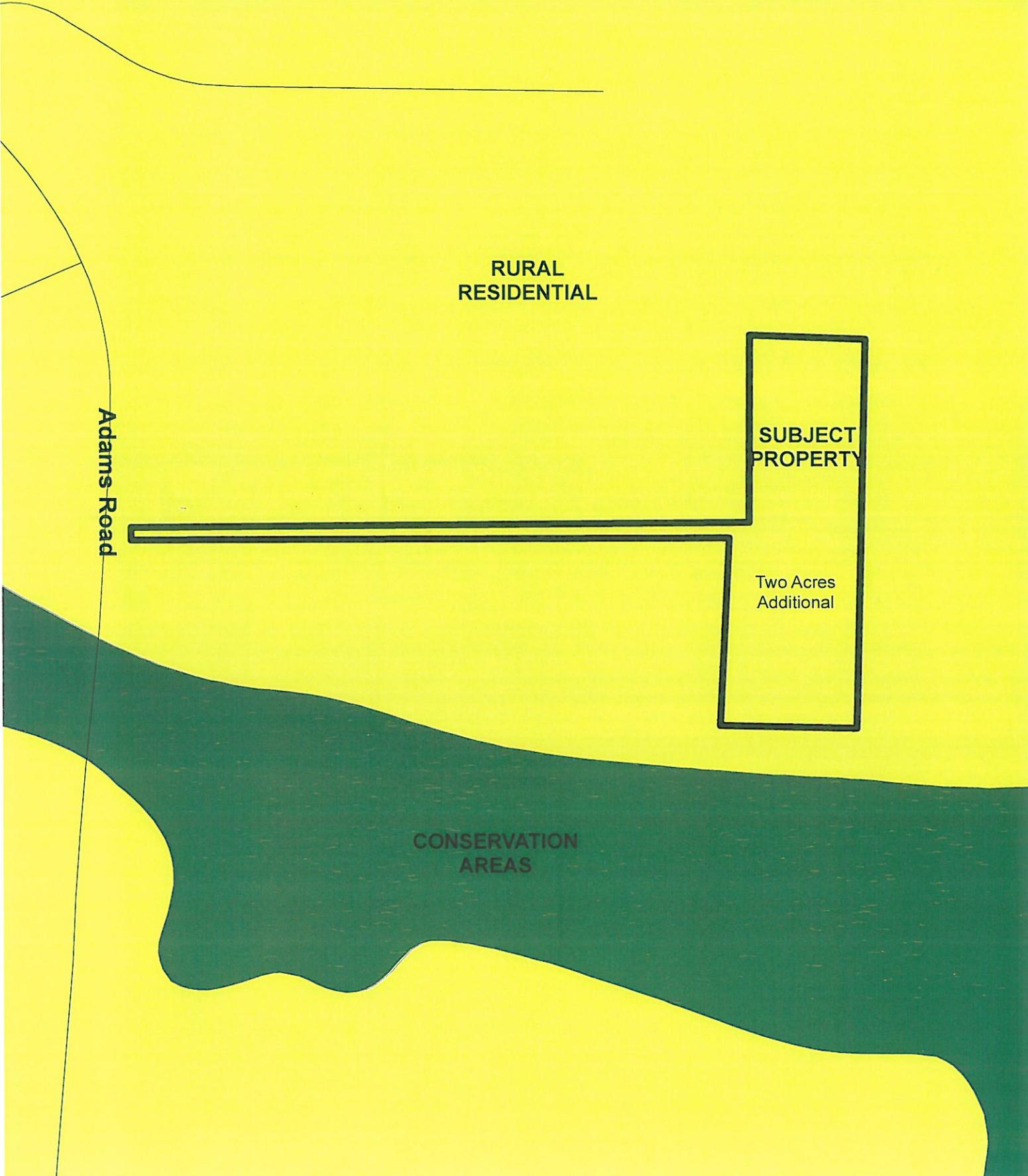
**RURAL
RESIDENTIAL**

Adams Road

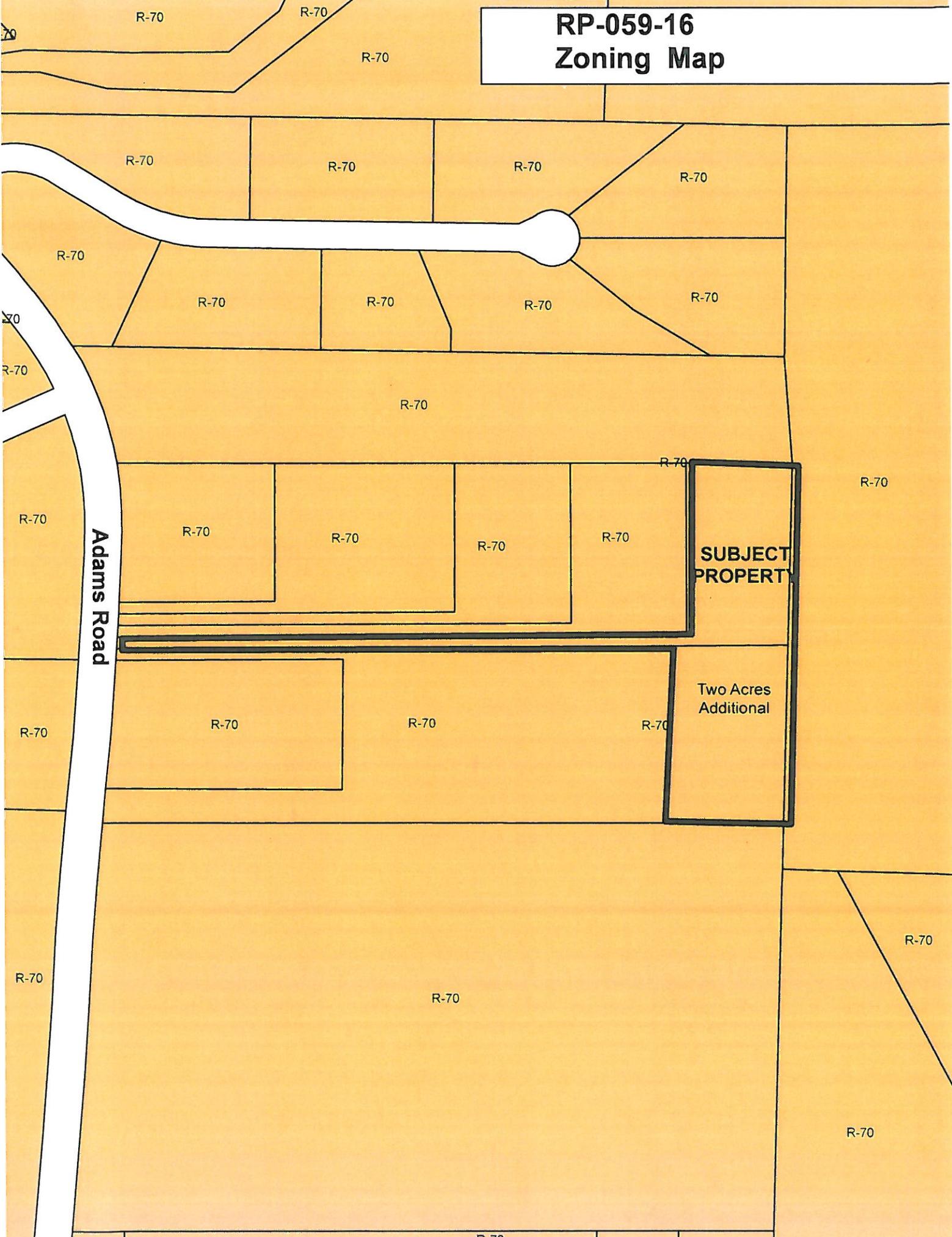
**SUBJECT
PROPERTY**

Two Acres
Additional

**CONSERVATION
AREAS**



RP-059-16 Zoning Map



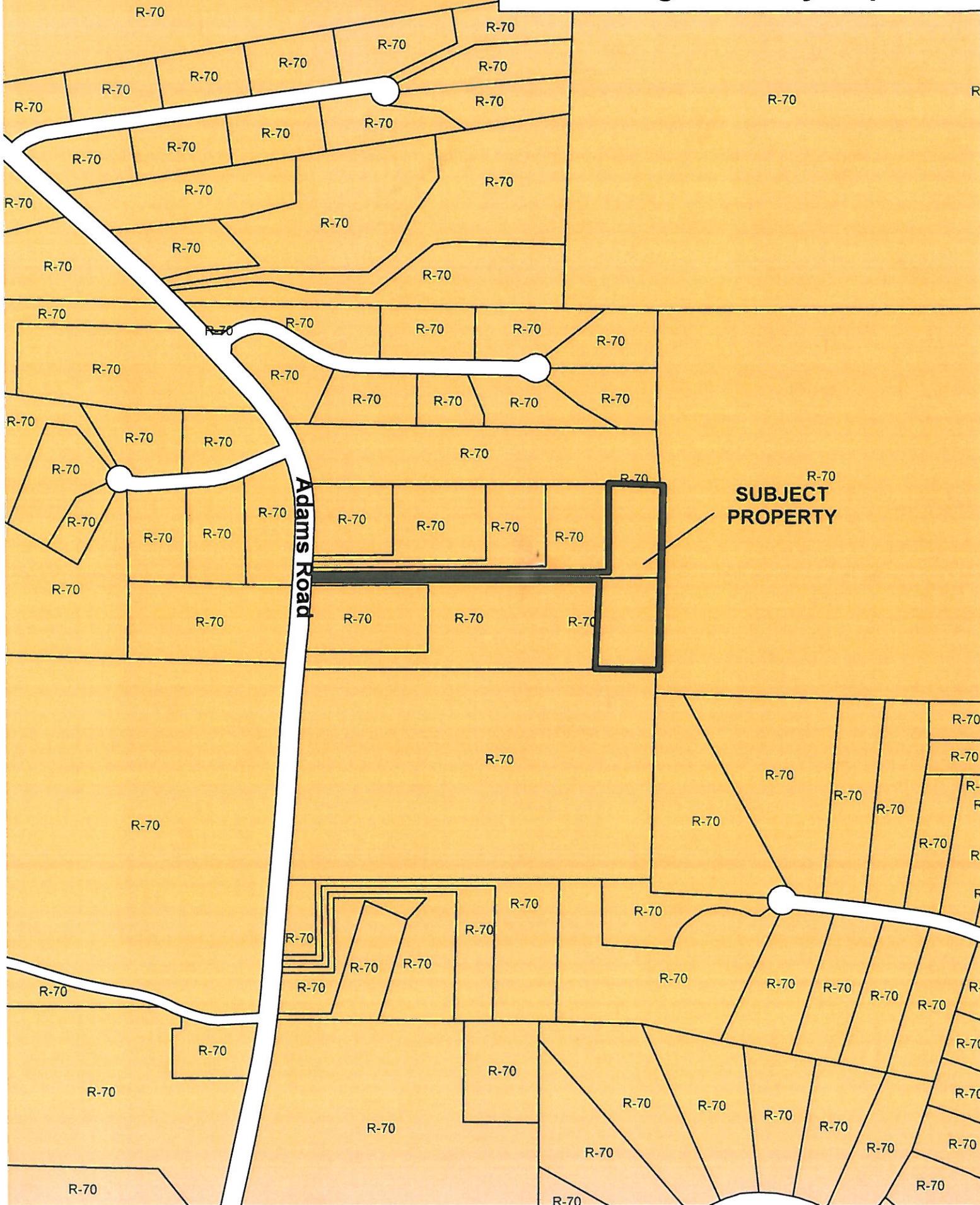
Adams Road

**SUBJECT
PROPERTY**

Two Acres
Additional

R-70

RP-059-16 Zoning Proximity Map



APPLICATION TO REVISE A RECORDED PLAT
(PUBLIC HEARING)

PETITION NO: RP- 059 - 16

NAME OF RECORDED PLAT: JENKINS COVE PHASE TWO

OWNER OF PROPERTY: JULIA P. YOKUM

MAILING ADDRESS: 317 ADAMS ROAD Fayetteville, GA 30214

PHONE: 404-630-4368

E-MAIL: yokumj@bellsouth.net

AGENT FOR OWNER: —

MAILING ADDRESS: —

PHONE: —

E-MAIL: —

LOCATION: LAND LOT(S) 42 DISTRICT 7 ROAD Adams

LEGAL DESCRIPTION ATTACHED: _____ ZONING: R-70

FIFTEEN COPIES OF CONCEPT PLAN ATTACHED: _____

TOTAL NUMBER OF LOTS: 1 TOTAL NUMBER OF ACRES: 4.50

DATE OF PLANNING COMMISSION HEARING: April 7, 2010

DATE OF COUNTY COMMISSIONERS HEARING: April 28, 2010

REASON FOR REVISION: _____

ADD ADDITIONAL PROPERTY TO LOT FIVE (5)

I respectfully submit this application and certify that the above information is correct and true to the best of my knowledge. I further certify that I am the owner or the specifically authorized agent of the above-referenced property.

February 3, 2016

February 3, 2016

Julie P. York
OWNER/AGENT'S SIGNATURE

Sharon E Batte
NOTARY PUBLIC

SIGN FEE

Received from _____ the amount of \$ _____ to cover the cost of the sign deposit. Applicant will be billed later for the cost of advertising.

Date Paid: _____

Receipt No. _____

Cash: _____

Check No. _____

PERMITS INFORMATION 12/2000

jefferson
consultants, inc.

consulting engineers • surveyor • planners
 PO BOX 2827 GEORGIA 30019
 407-9405 PEACHTREE CITY 407-9220

PREPARED FOR
JAMES C. ADAMS
 3075 BOCCO DRIVE
 ROYSEDALE, GEORGIA 30256
 PHONE (404) 476-0355

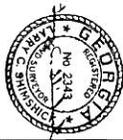
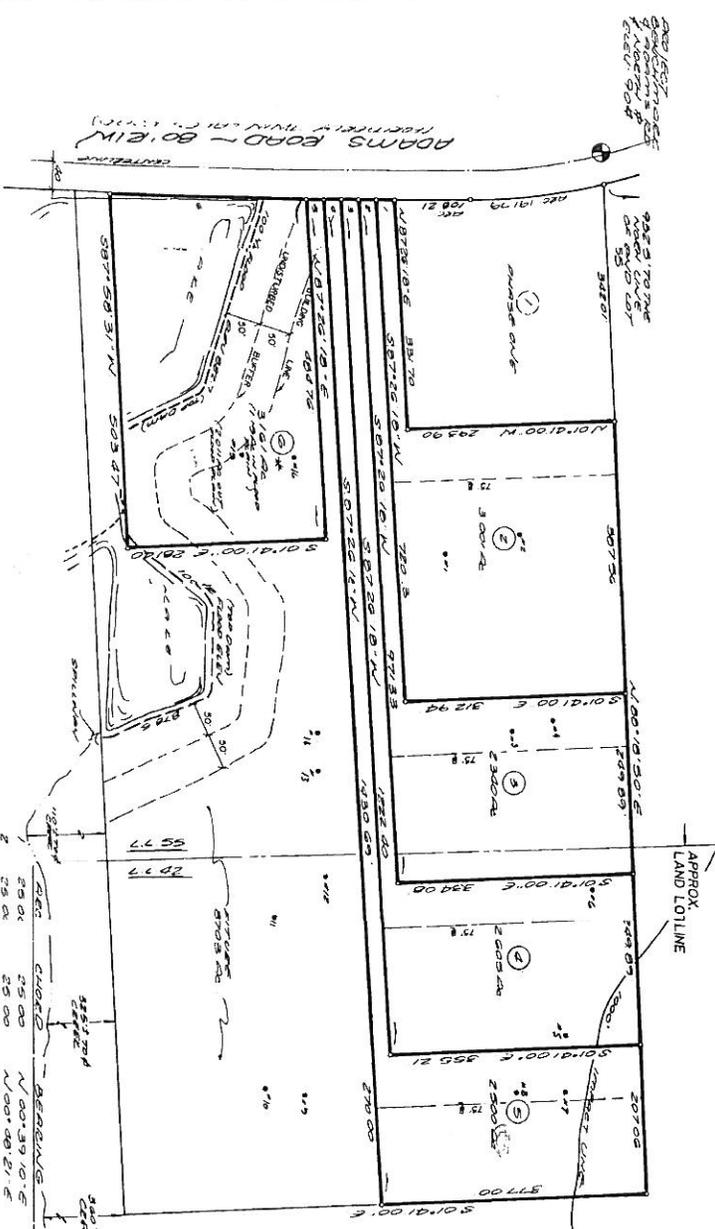
LAND LOT: 503 & 42	DATE: 1/7/92
DISTRICT: 7th	REV: 1/27/92
COUNTY: FULTON	REF:
SCALE: 1"=100'	JOB #: 911225

JENKINS COVE PHASE TWO

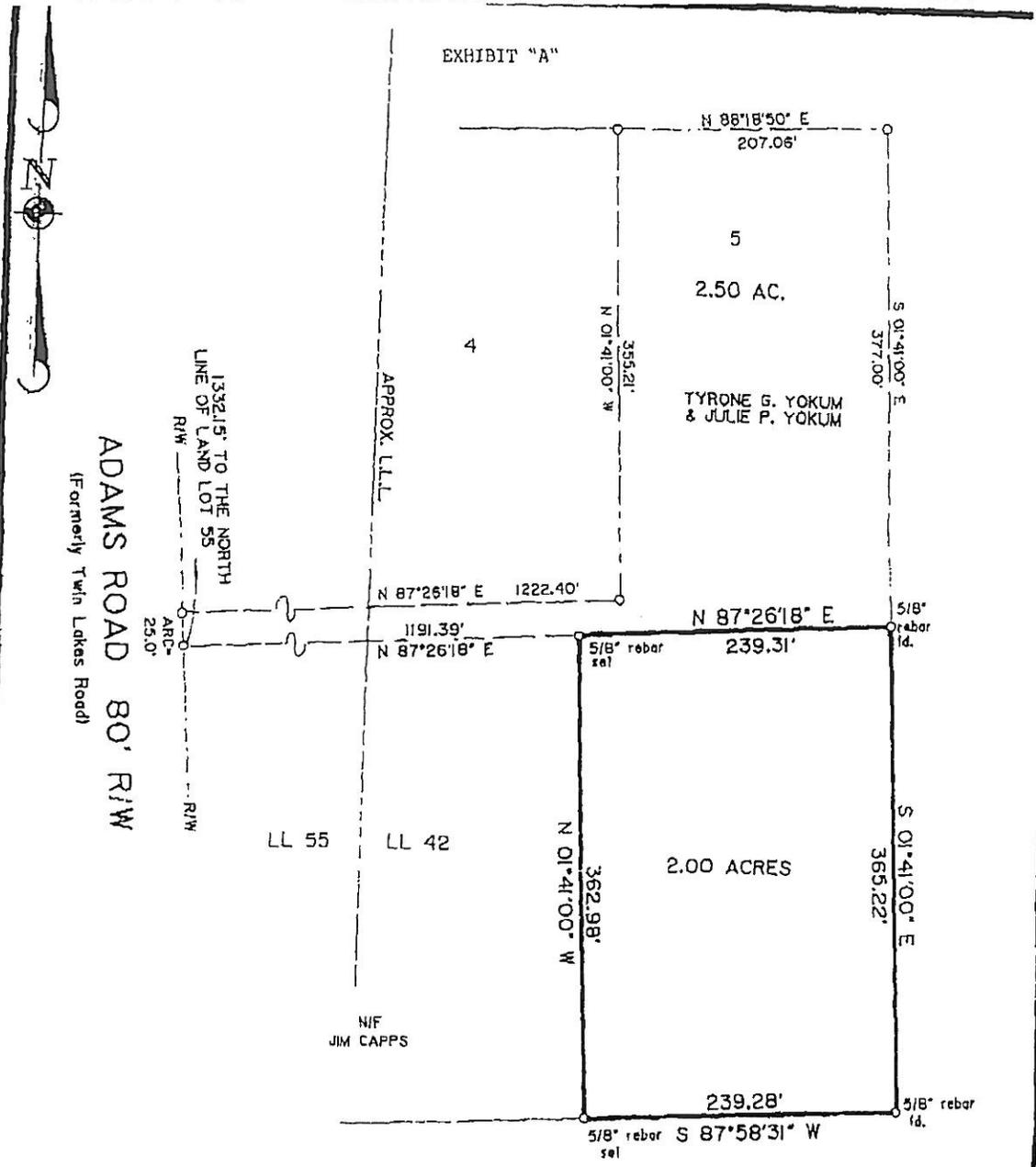
ADAMS AND ADAMS

ADAMS AND ADAMS
 1000 WOODBRIDGE
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 1000 WOODBRIDGE



GEORGIA SURVEYOR
 I am authorized to sign
 this plat on 1/19/92
 by J. C. Adams
 J. C. Adams, Surveyor



In my opinion, this property does not lie within the 100 year flood plain according to the HUD Flood Plain Map No. 130432 0040A Dated: JULY 5, 1983

In my opinion, this plot is a correct representation of the land platted and has been prepared in conformity with the minimum standards and requirements by law.

[Signature]
Larry C. Shimschick, R.L.S.



PREPARED FOR:		
TYRONE G. YOKUM & JULIE P. YOKUM		
BOOK 979 PAGE 119		
SUBDIVISION:	JENKINS COVE	
LOT:	LAND LOT: 42	DATE: 1-31-95
BLOCK:	DISTRICT: 7TH	REV:
SCALE: 1"=100'	COUNTY: FAYETTE	JOB NO: 920341

jefferson
consultants

consulting engineers • surveyors • planners
P.O. Box 2022 Fayetteville, GA 30202
Book: 4187 Page 84 Seq: 2

- **ARTICLE VII. - ZONING BOARD OF APPEALS⁽²⁾**

- **Sec. 110-238. - Membership.**

- (a) *Membership and appointments.* The zoning board of appeals shall consist of five members residing within the county and shall be appointed by the board of commissioners. None of the board members shall hold any other public office, except that one member may also be a member of the planning commission. The zoning board of appeals members shall be removed by the board of commissioners for cause, upon written charges, and after public hearing. Any member of the zoning board of appeals shall be disqualified to act upon a matter before the zoning board of appeals with respect to property in which the member has an interest. It may be deemed cause for removal should any zoning board of appeals member fail, without proper reason, to attend three consecutive meetings.
- (b) *Term of office.* The term of office for each member of the zoning board of appeals shall be for three years and the member shall remain on the board until reappointed or a successor is appointed. It is the intent of this section that their terms be staggered with no term limitation.
- (c) *Compensation.* The zoning board of appeals members shall receive compensation for their service as determined by the board of commissioners.

(Ord. No. 2015-06, § 1, 3-26-2015)

- **Sec. 110-239. - Rules and procedures.**

The zoning board of appeals shall elect one of its members as chairperson and another as vice-chairperson, each serving for one year, or until re-elected, or a successor is elected. The vice-chairperson shall have the authority to act as chairperson in the chairperson's absence. The zoning board of appeals shall appoint a secretary who shall be an employee of the county. The zoning board of appeals shall have authority to adopt rules of procedure. Meetings of the zoning board of appeals may be held at the call of the chairperson. The chairperson may administer oaths and compel the attendance of witnesses by subpoena. The zoning board of appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the planning and zoning department and shall be public record. The decisions of the zoning board of appeals shall contain a statement of the subject matter being considered by the zoning board of appeals, and the grounds for its decision reduced to written form. The full text shall be sent to the appellant/petitioner.

(Ord. No. 2015-06, § 1, 3-26-2015)

- **Sec. 110-240. - Administrative assistance.**

The planning and zoning department shall provide such technical, administrative, clerical assistance, and office space as is required by the zoning board of appeals to carry out its function under the provisions herein.

(Ord. No. 2015-06, § 1, 3-26-2015)

- **Sec. 110-241. - Public hearing.**

- (a) *Place, time, and date.* The public hearings shall be conducted as follows:
 - (1) Place: the county administrative complex.
 - (2) Time and Date: Fourth Monday, 7:00 p.m.

Any changes from the standard schedule for public hearings will be published in the newspaper which carries legal advertisements for the county in compliance with the requirements for public notification as provided herein.

- (b) *Conduct of hearing.* Public hearings shall be conducted with 20 minutes provided for the appellant/petitioner and proponents and 20 minutes provided for the opponents of an appeal/petition. An appellant/petitioner may reserve part of the allotted time for rebuttal.
 - (c) *Notice of hearing shall be given.* Before making its decision on an appeal, a request for a variance, or any other matter within the zoning board of appeals' purview, the zoning board of appeals shall hold a public hearing thereon. A notice of the date, time and place of such hearing shall be sent to the appellant/petitioner by certified U.S. mail to the appellant/petitioner's last known address.
 - (d) *Public notice in newspaper.* The zoning board of appeals shall cause public notice of the hearing to be published in the legal organ of the county, at least 15 calendar days but not more than 45 calendar days, prior to the date of the public hearing.
 - (e) *Posting of signs.*
 - (1) A sign shall be posted on property. One sign is required for each street frontage of said property. The sign shall be posted consistent with the requirements for newspaper notification.
 - (2) Signs used for posting property shall be a minimum of 18 inches by 18 inches and shall indicate the appeal/petition number, the time, date, and place of the hearing.
 - (3) A refundable sign deposit shall be required for each sign at the time of filing the appeal/petition.
 - (f) *Who may appear.* Any party may appear at the public hearing in person or by agent or attorney.
 - (g) *Zoning board of appeals' decision.* The zoning board of appeals shall approve, deny, or table each appeal/petition by a public vote. An action to table shall include justification of such action and a specific meeting date at which the appeal/petition is to be reconsidered. If there is not a full zoning board of appeals board present at the public hearing, the appellant/petitioner may request to table the appeal/petition to the next zoning board of appeals public hearing, provided the appellant/petitioner requests to table the agenda item prior to the presentation. A new legal advertisement will be required with an announcement to a specific meeting date if an appeal/petition is tabled. The property shall be reposted with new signage indicating the new public hearing dates.
 - (h) *Time limit on zoning board of appeals decision.* The zoning board of appeals shall reach a decision following a public hearing within 45 calendar days or the appeal/petition shall be deemed approved.
 - (i) *"Writ of certiorari" (appeal).* An appellant/petitioner has 30 calendar days from the date of the zoning board of appeals' decision to seek a "writ of certiorari" (appeal) with the superior court of the county.
- (Ord. No. 2015-06, § 1, 3-26-2015)

- **Sec. 110-242. - Powers and duties.**

- (a) *Appeals from actions of the zoning administrator.* The zoning board of appeals shall hear and decide upon appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of these regulations.
 - (1) *Who may appeal.* Appeals to the zoning board of appeals may be taken by any person aggrieved by any decision of the zoning administrator. Such appeals, specifying the grounds thereof shall be filed with the planning and zoning department no later than 30 calendar days after the date of notification of the zoning administrator's decision. The zoning administrator shall forthwith transmit to the zoning board of appeals all the papers constituting the record upon which the action appealed from was taken.
 - (2) *Legal proceedings stayed.* An appeal stays all legal proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the zoning board of appeals that by reason of facts stated in the certificate a stay would, in the zoning administrator's opinion, cause

imminent peril to life and property. In such a case, proceedings shall not be stayed otherwise than by a restraining order from a court of competent jurisdiction.

- (3) *Extent of the zoning board of appeals' power.* The zoning board of appeals may, in conformity with the provisions of these regulations, reverse or affirm the order, requirement, decision, or determination of the zoning administrator. The zoning board of appeals may direct the issuance of a permit. It shall be the duty of the zoning administrator to carry out the decisions of the zoning board of appeals.
- (b) *Request for a variance.* The zoning board of appeals may authorize, upon appeal in specific cases, a variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. However, no lot is eligible for a variance for reduction in lot size, lot width, or road frontage, unless the variance request is for an improved illegal lot. A variance shall not be granted for any requirements of a conditional use with the exception of a legal nonconforming conditional use (see article V of this chapter), or a use of land, building, or structure that is prohibited in the zoning district at issue, except as otherwise provided herein. In exercising the powers described in this subsection, the zoning board of appeals shall not consider any nonconforming use of neighboring lands, structures or buildings in the same zoning district, and no permitted use of lands, structures, or buildings in other zoning districts as grounds for the issuance of a variance. A variance may be granted in an individual case upon a finding by the zoning board of appeals that all of the following criteria exist:
 - (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; and
 - (2) The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and
 - (3) Such conditions are peculiar to the particular piece of property involved; and
 - (4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations; provided, however, no variance may be granted for a use of land, building, or structure that is prohibited herein; and
 - (5) A literal interpretation of this chapter would deprive the applicant of any rights that others in the same zoning district are allowed.

~~The zoning board of appeals may impose or require conditions, as may be necessary, to protect the health and safety of workers and residents in the community; to protect the value and use of property in the general neighborhoods; and provided that wherever the board shall find, in the case of any approval granted pursuant to the provisions of these regulations, that any of the conditions upon which such approval was granted are not being complied with, said zoning board of appeals shall rescind and revoke such approval after giving due notice to all parties concerned and granting full opportunity for a hearing.~~

In addition to the above factors, if the variance being sought is for an improved lot which is smaller than the minimum lot size for its zoning district, more narrow than the minimum lot width required for its zoning district, or has less road frontage than is required for its zoning district and the lot is an illegal lot as opposed to a nonconforming lot, the zoning board of appeals may consider such a lot for a variance. Should the appellant/petitioner be successful in obtaining a variance, the resulting lot would, for the purposes of this chapter, be deemed to be a nonconforming lot. If the appellant/petitioner successfully passes the above enumerated factors, the zoning board of appeals shall also employ the following factors for an illegal lot seeking to be deemed a nonconforming lot:

- (1) The transaction giving the appellant/petitioner ownership in the subject property was more than five years from the date of the appeal/petition or if the period of ownership is less than five years the subject property was made illegal more than ten years from the date of the appeal/petition;
- (2) The appellant/petitioner is not the person, or an immediate family member of the person, who caused the subject property to be an illegal lot. For purposes of these procedures, "immediate

family" is defined as the spouse, child, sibling, parent, step-child, step-sibling, step-parent, grandparent, grandchild, aunt, uncle, niece or nephew of the person who caused the subject property to be an illegal lot; and

- (3) No adjacent property is available to add to the subject property to allow the subject property to meet the minimum requirements for its zoning district. In determining whether adjacent property is available, if adding any adjacent property to the subject property would no longer allow the adjacent property to meet the minimum requirements of the adjacent property's zoning district, then the adjacent property is not available. Additionally, any adjacent property which is part of an illegal lot shall not be deemed available for purposes of these variance procedures, unless the adjacent illegal lot is unimproved and the entirety of the adjacent illegal lot is combined with the subject property. If adjacent property is available, the cost of acquiring the adjacent property shall not be a factor in determining the availability of the adjacent property.
- (c) *Compliance with standards.* Where an appeal/petition to the board is initiated due to an existing violation of this chapter and said appeal/petition is denied, the violation shall be required to be corrected within ten calendar days of such denial, or as specified by the board, if a greater time period is necessary. The maximum extension of the time shall not exceed 30 calendar days.
 - (d) *Forms.* Appeals, requests for variances, or any other matter within the zoning board of appeals' purview shall be made on forms, as applicable, provided by the planning and zoning department; and all information requested on the forms shall be provided by the appellant/petitioner. Forms shall be filed with the planning and zoning department along with the necessary fees. No form shall be accepted by the planning and zoning department unless it contains all pertinent information and is accompanied by the required fee.
 - (e) *Request for change of the legal nonconforming use of a structure.* The zoning board of appeals may authorize, upon appeal in specific cases, a change in the legal nonconforming use of a structure in accordance with the provisions herein.
 - (f) *Request for extension or enlargement of the legal nonconforming use of a structure.* The zoning board of appeals may authorize upon appeal in specific cases an extension or enlargement of an existing legal nonconforming use which the board is specifically authorized to consider under the terms herein. Said extensions may be granted in an individual case upon a finding by the board that all of the following criteria are present:
 - (1) The use is a legal nonconforming use as defined in these regulations; and
 - (2) The legal nonconforming use is in full compliance with all requirements of these regulations applicable to nonconformances; and
 - (3) The extension of said legal nonconforming use will not further injure a permitted use on adjacent property.
 - (g) *Continuance of a legal nonconforming use.* The zoning board of appeals may allow a legal nonconforming use to be re-established after discontinuance for six consecutive months where it is deemed by the zoning board of appeals that all of the following criteria are present:
 - (1) The design, construction, and character of the land, building, or structure is not suitable for uses permitted in the zoning district in which the legal nonconforming use is situated; and
 - (2) Undue hardship to the property owner would result in not allowing the continuance of a legal nonconforming use; and
 - (3) Adjacent property would not be unduly damaged-by such continuance; and
 - (4) The use is to be identical to the prior legal nonconforming use.
 - (h) *Conditions of approval.* The zoning board of appeals may impose or require conditions, as may be necessary, to protect the health and safety of workers and residents in the community; to protect the value and use of property in the general neighborhoods; and provided that wherever the board shall find, in the case of any approval, and that any of the conditions upon which such approval was granted are not being complied with, said zoning board of appeals shall rescind and revoke such approval after giving due notice to all parties concerned and granting full opportunity for a hearing.

- (i) *Limitation on re-applying.* If the decision of the Zoning Board of Appeals is to deny, an application which seeks the same relief in regard to the same property shall not be accepted for a period of six months following the date of the decision from the Zoning Board of Appeals.

(Ord. No. 2015-06, § 1, 3-26-2015)