

BOARD OF APPEALS

John Tate, Chairman
Marsha Hopkins, Vice-Chairwoman
Tom Waller
Bill Beckwith
Anita Davis

STAFF

Deborah L. Bell, Planning and Zoning Director
Deborah Sims, Zoning Administrator
Chelsie Boynton, Planning and Zoning Coordinator
E. Allison Ivey Cox, County Attorney

AGENDA

**Fayette County Zoning Board of Appeals
Fayette County Administrative Complex
Public Meeting Room
December 19, 2022
7:00 P.M.**

1. Approval of Agenda
2. Consideration of the Minutes of the Meeting held on November 28, 2022.

PUBLIC HEARING

3. Petition No. A-814-22, Kimberly & Derric Chamblee, Owner, request the following:
1) Variance to Sec. 110-125. A-R. (d) (5) to reduce the rear yard setback from 100 feet to 66 feet to allow an existing single-family dwelling to remain. 2) Variance to Sec. 110-125. A-R. (d) (5) to reduce the rear yard setback from 100 feet to 5 feet to allow an existing residential accessory structure (swimming pool) to remain. The subject property is located in Land Lot 221 of the 13th District and fronts on Old Ford Road.

Meeting Minutes 11/28/22

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on October 24th 2022, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

MEMBERS PRESENT: John Tate, Chairman
Anita Davis
Bill Beckwith
Tom Waller

MEMBERS ABSENT: Marsha Hopkins, Vice Chairwoman

STAFF PRESENT: Deborah Sims, Zoning Administrator
Chelsie Boynton, Planning & Zoning Coordinator
E. Allison Ivey Cox, County Attorney

1. Approval of Agenda

Bill Beckwith made a motion to accept the agenda for the November 28th, 2022 meeting. Tom Waller seconded the motion. The motion passed 4-0. Marsha Hopkins was absent.

2. Consideration of the Minutes of the Meeting held on October 24, 2022.

Tom Waller made a motion to approve the minutes of the meeting held on October 24, 2022. Anita Davis seconded the motion. The motion passed 4-0. Marsha Hopkins was absent.

PUBLIC HEARING

3. **Petition No. A-807-22, Terry and Kristie Ferrell, Owner, request the following: 1. Variance to Sec. 110-79. Residential accessory structures and their uses, (g). Architectural standards, to allow for the construction of a metal accessory structure with vertical pattern siding, as opposed to the required horizontal pattern. The subject property is located in Land Lot 72 of the 4th District and fronts on Woods Road. Applicant has alternate solution therefore, staff requests that the board withdraw the petition.**

Chairman Tate made a motion to withdraw Petition No. A-807-22 1.) Variance to Sec. 110-79. Residential accessory structures and their uses, (g). Architectural standards, to allow for the construction of a metal accessory structure with vertical pattern siding, as opposed to the required horizontal pattern. Anita Davis seconded the motion. The motion passed 4-0. Marsha Hopkins was absent.

4. **Petition No. A-813-22, Arthur D. Schultz, Owner, request the following: Variance to Sec. 110-125. A-R, (d) (6) to reduce the side yard setback from 50 feet to 20 feet to allow for construction of a residential accessory structure (i.e. garage). The subject property is located in Land Lot 57 of the 7th District and fronts on Tyrone Road.**

Chairman Tate reminded Mr. Schultz that he could table the petition since there was not a full board. Mr. Schultz decided to continue with the hearing.

Mr. Schultz explained that his property is zoned Agricultural Residential and stated he has a side yard setback of 50 feet. He continued that his house was built in the early 1900s and over the years that lot has been divided. He added that due to where the septic tank and septic field is there is no other place to build the garage. He stated to place it on either side yard would still be about 20 feet away from the side property line.

Chairman Tate stated there was no one else in the audience for opposition or support. He asked the Board if there were any questions or comments?

Bill Beckwith asked Mr. Schultz how long he's owned the property?

Mr. Schultz answered since 2019. He added his house is 130 years old and because of the multiple subdividing of the lot, the house isn't 50 feet from the property line.

Anita Davis asked if he has spoken to any of his neighbors?

Mr. Schultz stated he spoke to Brett Fowler, his neighbor to the right, and he had no objection. He stated there is no one currently living in the house to the left of him. He continued that her house sits far back from the property line. He added it would be at least 100 feet between their garage door and where his garage would be.

Chairman Tate asked if there were any utilities located directly behind his house?

Mr. Schultz stated his septic tank is directly behind house and the field goes into the backyard. He stated the plans are to place the garage about four (4) feet from his house. He continued the contractor didn't feel good about attaching it to the house due to the age of the house. He stated the four (4) feet will provide a walkway between the home and the garage.

Tom Waller asked if his home was the original home on the lot?

Mr. Schultz state he did not know.

Tom Waller asked if there was a garage with the home?

Mr. Schultz stated he didn't think there has ever been a garage. He added he does believe his home is the original home because the other homes around him look newer.

Chairman Tate asked if the garage would be built near the rear part of the house?

Mr. Schultz stated yes. He added it will be towards the rear and there will be a side door.

Chairman Tate stated there doesn't seem to be any other location to place the garage.

Chairman Tate made a motion to approve Petition No. A-813-22, Variance to Sec. 110-125. A-R, (d) (6) to reduce the side yard setback from 50 feet to 20 feet to allow for construction of a residential accessory structure (i.e. garage). Bill Beckwith seconded the motion. The motion passed 4-0. Marsha Hopkins was absent.

Chairman Tate asked is there a motion to adjourn?

Anita Davis made a motion to adjourn. Chairman Tate seconded the motion. The motion passed 4-0. Marsha Hopkins was absent.

The meeting adjourned at 7:16 pm.

**ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY**

JOHN TATE, CHAIRMAN

CHELSIE BOYNTON, ZBA SECRETARY

PETITION NO: A-814-22

Requested Action: Variance to rear building setback in the A-R (Agriculture- Residential) District to allow the existing primary structure to remain & a variance to the rear building setback to allow an existing accessory structure to remain.

Location: 296 Old Ford Road, Fayetteville, GA 30214

Parcel(s): 1302 06001

District/Land Lot(s): 13th District, Land Lot(s) 221

Owner(s): Kimberly P. Chamblee & Derric F. Chamblee

Agent: n/a

Zoning Board of Appeal Public Hearing: December 19, 2022

REQUEST

Applicant is requesting the following variances for an existing principal structure:

1. Variance to Sec. 110-125.(d)(5). Rear yard setback – to reduce the front yard setback from 75 feet to 66 feet to allow an existing principal structure (the primary residence) to remain.
2. Variance to Sec. 110-125.(d)(5). Rear yard setback – to reduce the front yard setback from 75 feet to 5 feet to allow an existing accessory structure (pool) to remain.

STAFF RECOMMENDATION

It is staff's opinion that the property presents unique situation. The encroaching structures were built by a prior owner or builder and the current owner/applicant is working to resolve the nonconformity.

Regarding variance request A-814-22, part 1., requesting to reduce the rear building setback for an existing principal structure to remain, staff recommends **APPROVAL**.

Regarding variance request A-814-22, part 2., requesting to reduce the rear building setback for an existing accessory structure to remain, staff recommends **APPROVAL**.

HISTORY

The subject property is part of Old Ford Acres subdivision, recorded December 8, 1980. The house and pool were built in 2000, under the original owner or builder. The applicants purchased the property in 2020 with the existing house and pool that are the subjects of the requests.

Staff confirmed that the original building permit proposed the location of the house in an appropriate position. However, the house was built before foundation surveys were required. The encroachment into the setbacks was identified as part of a building permit application for a new accessory structure.

DEPARTMENTAL COMMENTS

- ☐ **Water System** - FCWS has no objection to this proposed variance. Water is available in an 16" DIP water main along north side of Old Ford Rd.
- ☐ **Public Works/Environmental Management** – No objections
 - **Transportation** – The right-of-way on Old Ford Road is adequate. Any new driveways will require a driveway permit.
 - **Floodplain Management** - The subject property **DOES NOT** contain floodplain per FEMA FIRM panel 13113C0036E dated September 26, 2008, nor per the FC 2013 Dewberry Limited Flood Study.
 - **Wetlands** - The property **DOES NOT** contain wetlands per the U.S. Department of the Interior, Fish and Wildlife Service 1994 National Wetland Inventory Map.
 - **Watershed Protection** - There **ARE NO** known state waters located on the subject property.
 - **Groundwater** – The property **IS NOT** within a groundwater recharge area.
- ☐ **Environmental Health Department** – No objections.
- ☐ **Fire** – No objections.

VARIANCE SUMMARY & CRITERIA FOR CONSIDERATION

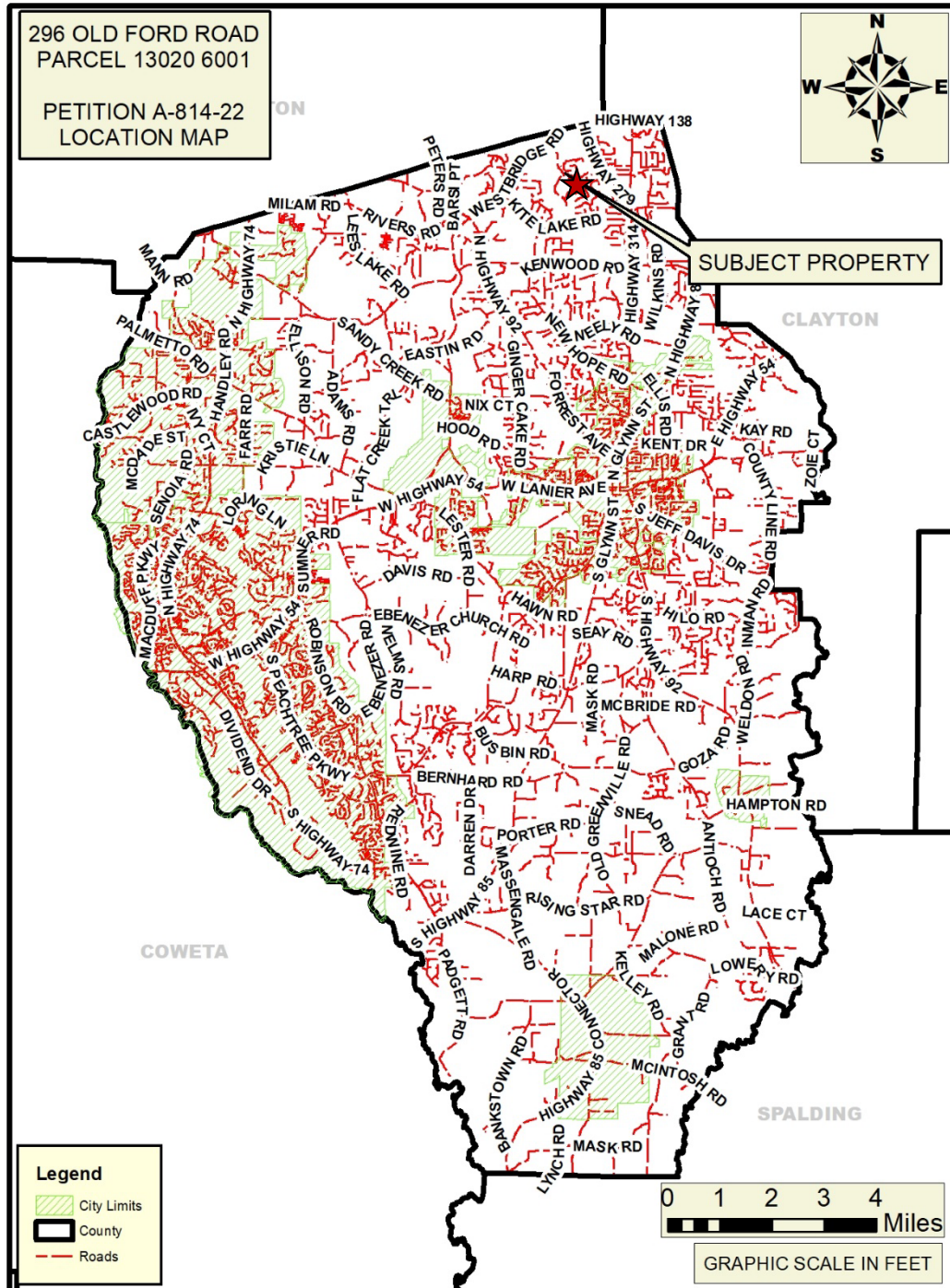
The applicant provides the following information

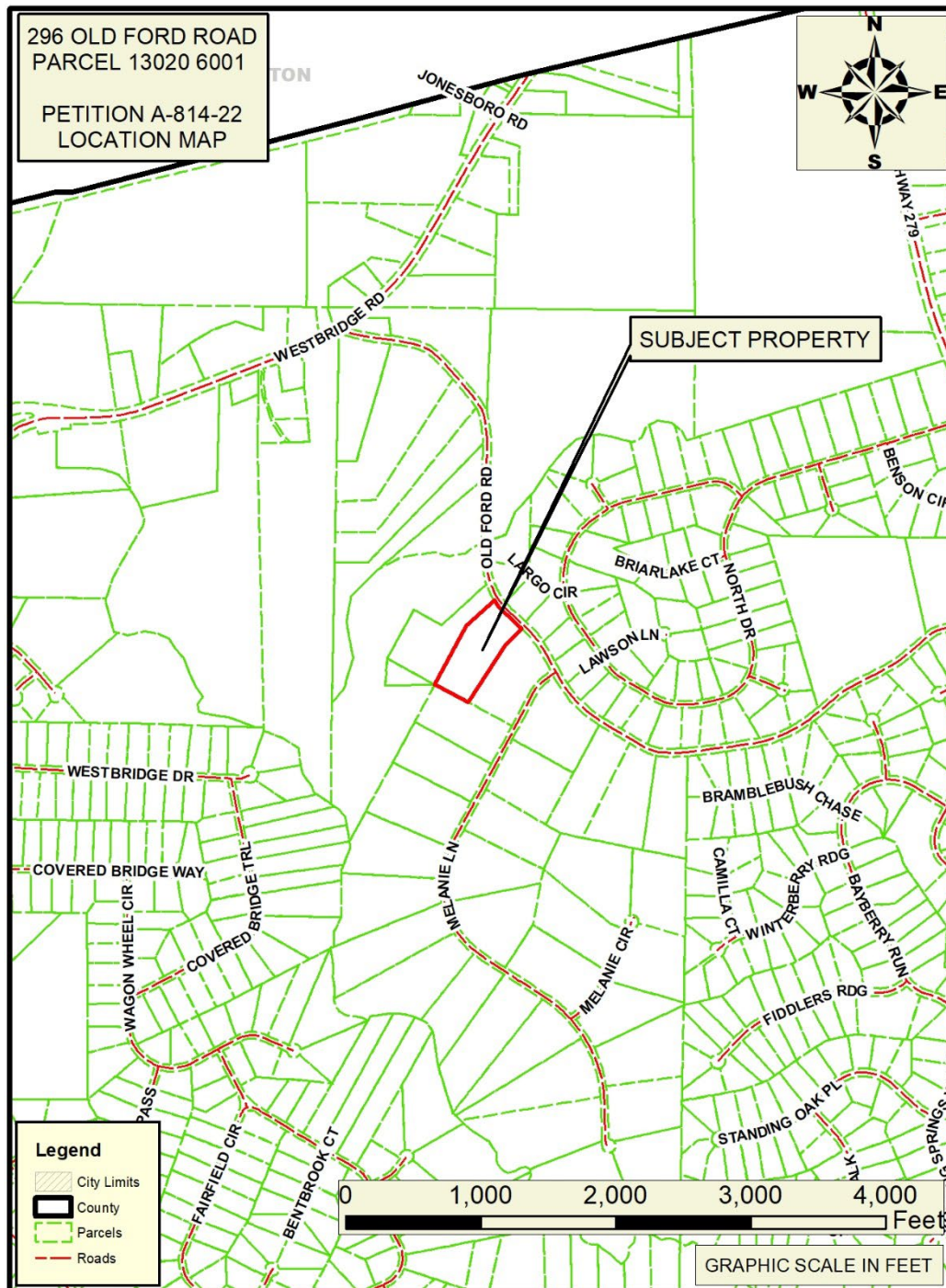
Provide a detailed and specific summary of each request. If additional space is needed, please attach a separate sheet of paper.

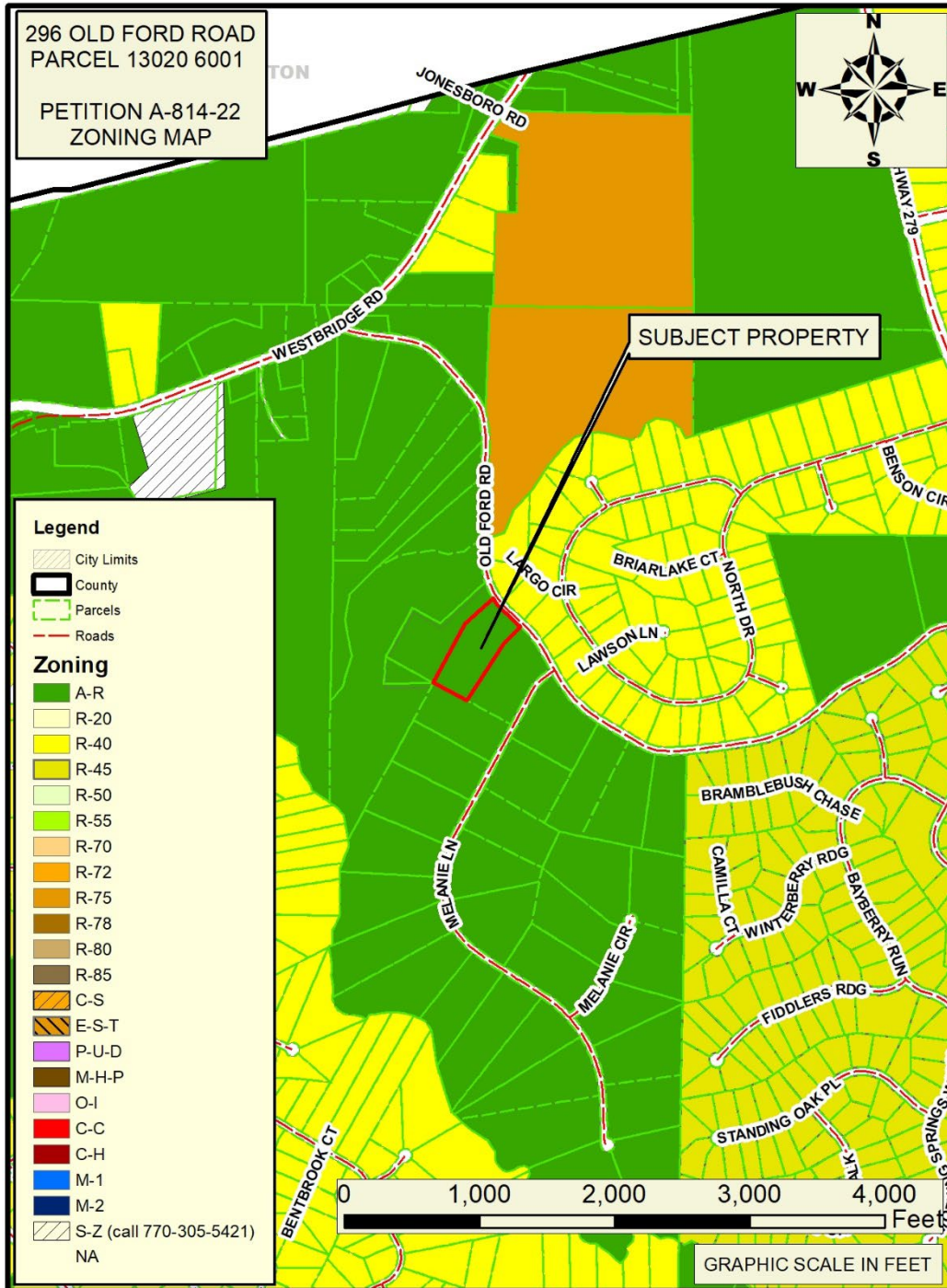
We are seeking variances to the current zoning so my primary residence will be allowed to remain to include the pool.

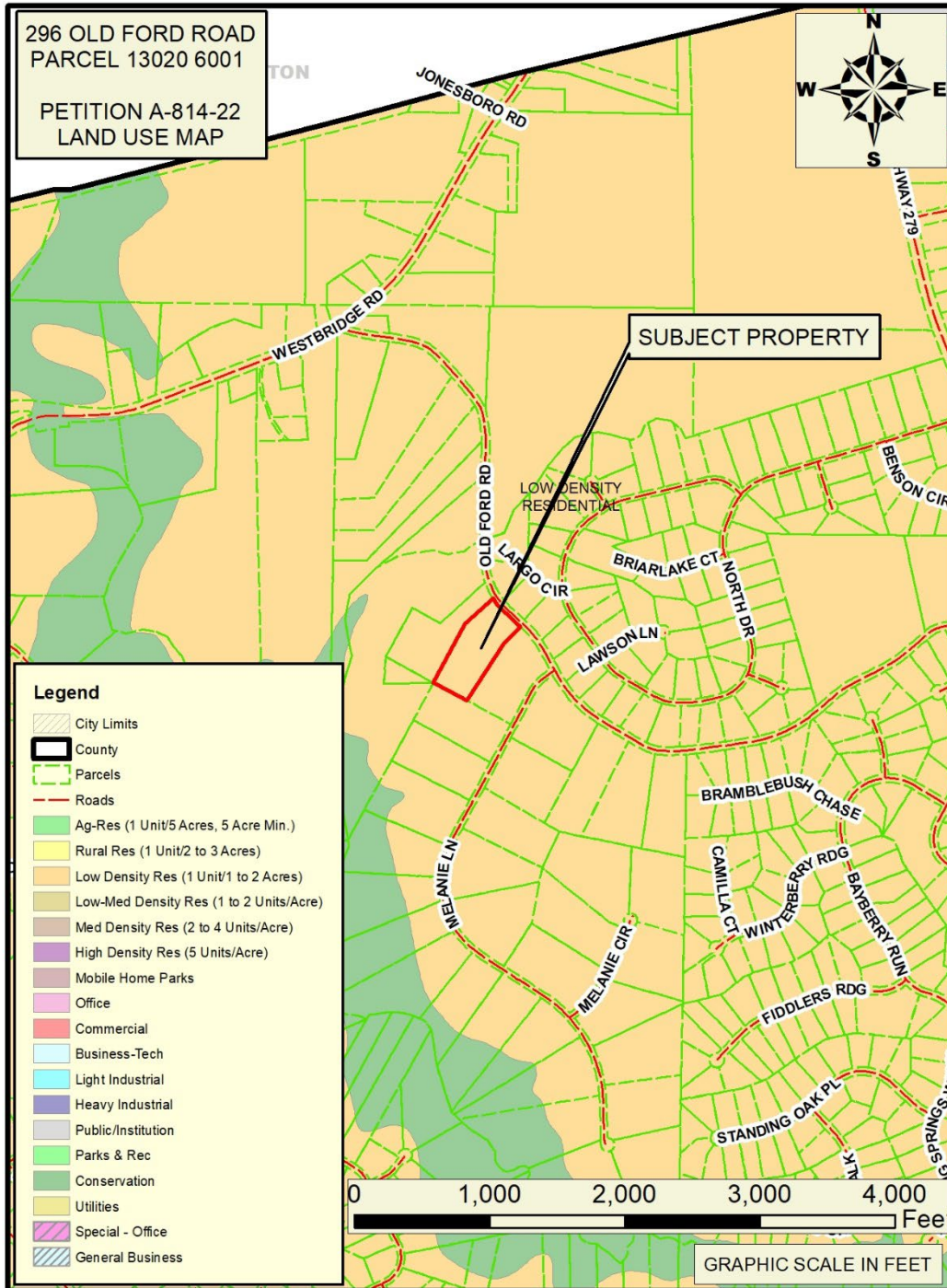
The Fayette County Zoning Ordinance, Sec. 110-242. (b) states that in order to grant a variance, the Zoning Board of Appeals shall and must find that all five (5) conditions below exist. Please read each standard below and then address each standard with a detailed response. Attach additional information/documentation as necessary.

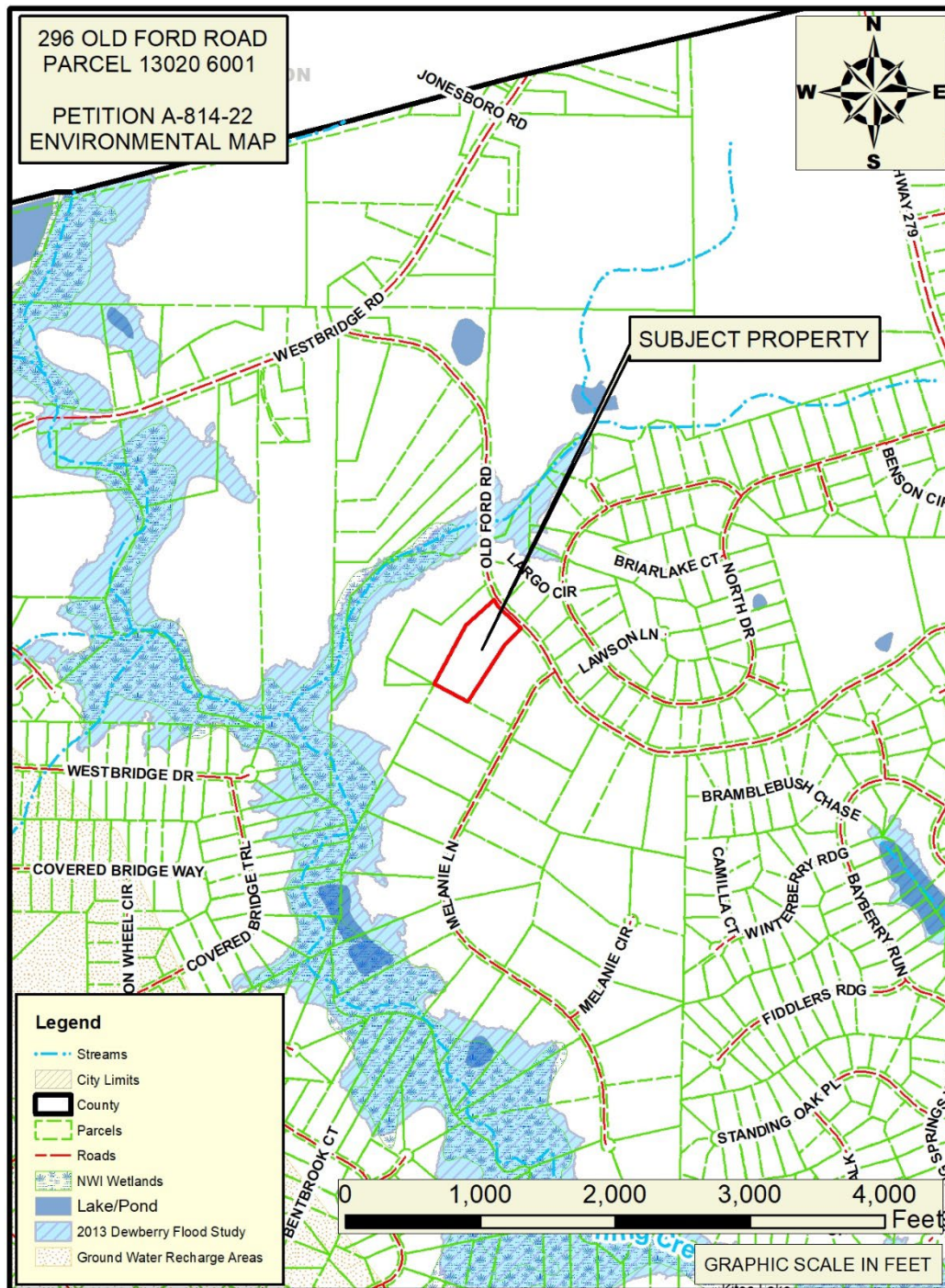
- 1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.**
 - a. The house was built in 2000 prior to the ordinance requiring it to be 100 ft from the property line. [Staff Note: the setback requirement has not changed; the house was sited incorrectly when built by a previous owner/builder.]*
 - b. The pool was already established with the home when we purchased it in 2022.*
- 2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and,**
 - a. This is our primary residence and we would be homeless if this variance is not approved.*
 - b. To have to remove the pool or have it demolished would cause a severe financial hardship as well as a hardship to our property. We maintain and take care of it.*
- 3. Such conditions are peculiar to the particular piece of property involved; and,**
 - a. There is nothing peculiar about our house. We maintain it and it is not visible from the street. [Staff Note: The issue in this case is that an earlier builder or owner sited the house incorrectly on the parcel.]*
 - b. There is nothing peculiar about the pool. It is inside a gate and not visible to anyone unless on the property.*
- 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 or building or structure that is prohibited by this Ordinance; and,**
 - a. Our home would in no way cause detriment to the public good or impair purposes and intent of these regulations.*
 - b. Allowing our pool to remain would not cause substantial detriment to the public good.*
- 5. A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same District are allowed; and,**
 - a. When we purchased this home, we were unaware of the ordinances. We have since had an updated survey and taken steps to correct.*
 - b. When we purchased this home, we were unaware of the ordinances. We have since had an updated survey and taken steps to correct.*



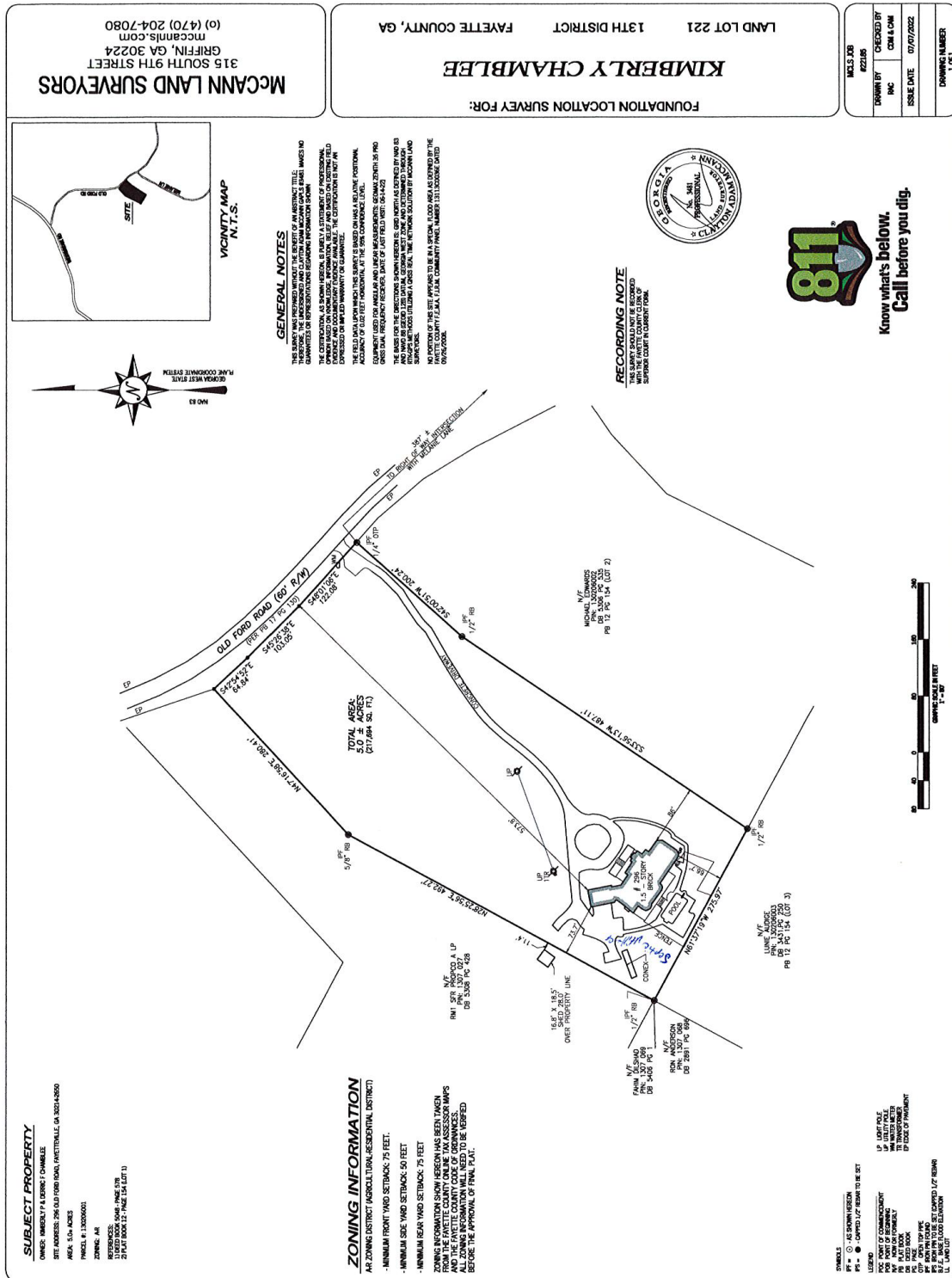












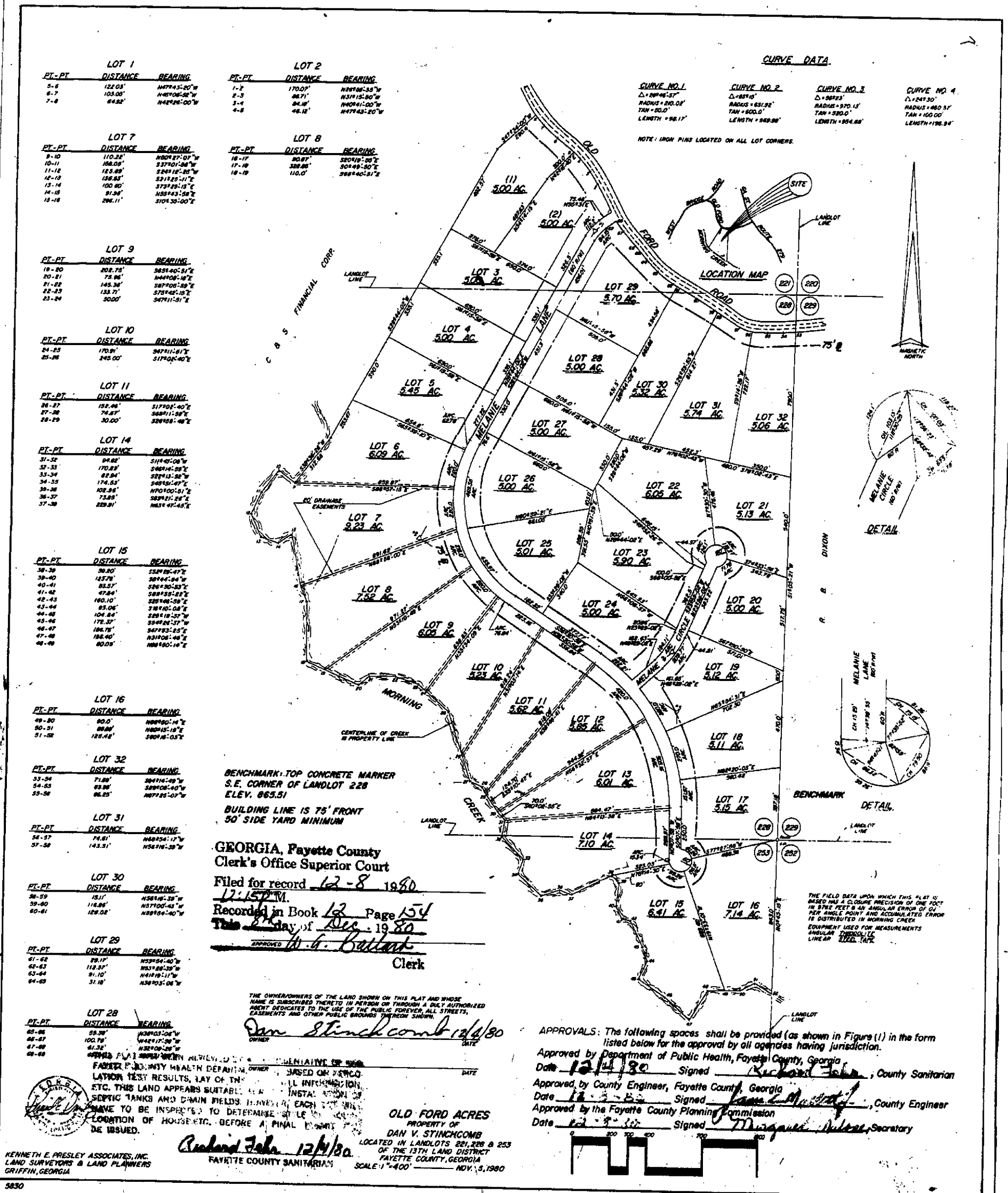


296 Old Ford Road (A-814-22)

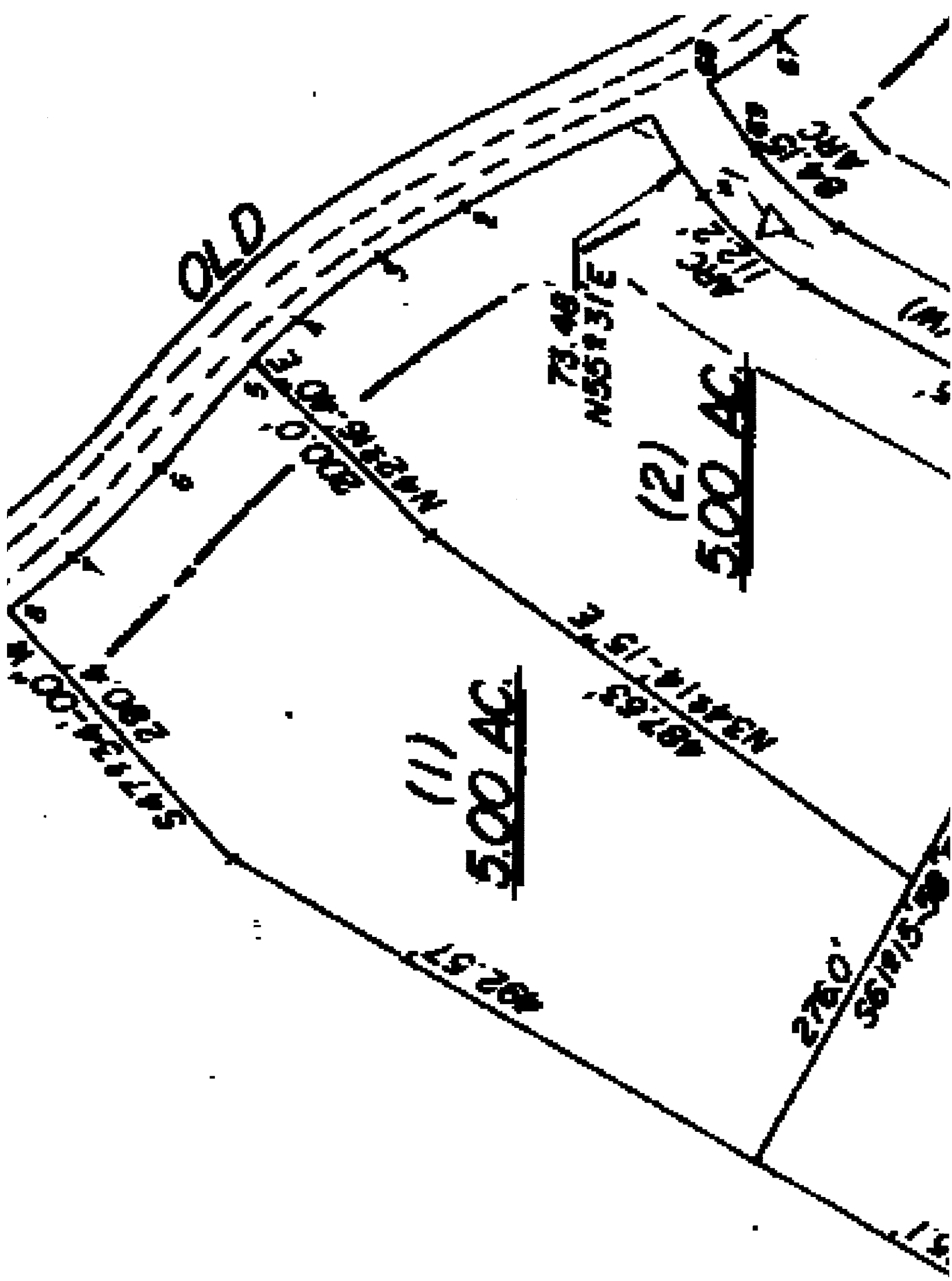


296 Old Ford Road (A-814-22)

Restrictions recorded Book 233-315



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After Recording Return To:
McMichael & Gray, P.C.
120 Howard Lane
Fayetteville, GA 30215

Doc ID: 010909210002 Type: WD
Recorded: 06/01/2020 at 11:35:00 AM
Fee Amt: \$830.00 Page 1 of 2
Transfer Tax: \$805.00
Fayette, Ga. Clerk Superior Court
Sheila Studdard Clerk of Court
BK 5048 PG 578-579

Order No.: FAY-200043-PUR

Property Appraiser's Parcel I.D. Number:
130206001

LIMITED WARRANTY DEED

STATE OF GEORGIA

COUNTY OF FAYETTE

THIS INDENTURE, made this 19th day of May, 2020, between

Ronnie Holt, As Trustee of the Ronnie Holt Standby and Disability Trust

of the County of Fayette, State of Georgia, as party or parties of the first part, hereinafter called Grantor, and
Kimberly P Chamblee and Derric F Chamblee
as Joint Tenants with Rights of Survivorship and not as Tenants in Common

as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of Ten And No/100 Dollars (\$10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

All that tract or parcel of land lying and being in Land Lot 221 of the 13th District of Fayette County, Georgia, being Lot 1, Old Ford Acres Subdivision, as per plat recorded in Plat Book 12, Page 154, Fayette County, Georgia Records, being improved property known as No. 296 Old Ford Road, Fairburn, Georgia 30213.

Parcel ID: 130206001
Known as 296 Old Ford Road, Fayetteville, GA

SUBJECT to all zoning ordinances, easements and restrictions of record affecting said premises.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in **FEE SIMPLE**.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons owning, holding or claiming by, through or under the said Grantor.

R.H.

IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year above written.

Signed, sealed and delivered in the presence of:

[Signature]
Unofficial Witness

[Signature]
Notary Public

My Commission Expires: 11/10/21
[Notary Seal]

The Ronnie Holt Standby and Disability Trust 6230 Tennis
Dr.

By: Ronnie Holt trustee

(Corporate Seal)

