

**BOARD OF APPEALS**

John Tate, Chairman  
Marsha Hopkins, Vice-Chairwoman  
Brian Haren  
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

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**AGENDA**

**Fayette County Zoning Board of Appeals  
SPECIAL CALLED MEETING  
Fayette County Administrative Complex  
Public Meeting Room  
June 12, 2023  
7:00 P.M.**

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1. Call to Order.
2. Pledge of Allegiance.
3. Approval of Agenda.
4. Consideration of the Minutes of the Meeting held on May 22, 2023.

**PUBLIC HEARING**

5. Petition No. A-838-23, Willie Montgomery and Laquinta M. Montgomery, Owner, request the following: Variance to Section 110-137. R-40 (d) (6), to reduce the side yard setback from 30 feet to 14 feet to allow existing detached accessory structure (garage) to remain on flag lot per Sec. 110-106. The subject property is located in Land Lot 164 of the 5<sup>th</sup> District and fronts on Victoria Drive.
6. Petition No. A-839-23, Parker Wright and Roxana Wright, Owner, request the following: 1) Variance to Sec. 110-125. A-R, (d) (4) a. 2., to reduce the front yard setback from 100 feet to 32 feet to allow existing accessory structure to remain. 2) Variance to Sec. 110-125. A-R, (d) (2) to reduce the lot width from 250 feet to 216 feet to allow for existing accessory structure to remain. 3) Variance to Sec. 110-125. A-R, (d) (6) to reduce the side yard setback from 50 feet to 25 feet to allow existing accessory structure (Conex). The subject property is located in Land Lot 3 of the 3<sup>rd</sup> District and fronts on Mask Road.
7. Petition No. A-840-23, NWE18, LLC, Owner and Adam Kaye, Attorney/Agent, request the following: Appeal to Sec. 110-207. - Appeals. and Sec. 110-242. - Powers and duties. Appeal the decision of the Zoning administrator/director of Planning & Zoning with regard to interpretation, administration and enforcement. The subject property is located in Land Lot 126 of the 5<sup>th</sup> District and fronts on Georgia Highway 54 W.

# Meeting Minutes 5/22/23

**THE FAYETTE COUNTY ZONING BOARD OF APPEALS** met on May 22, 2023, at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

**MEMBERS PRESENT:** John Tate, Chairman  
Marsha Hopkins, Vice Chairwoman  
Bill Beckwith  
Brian Haren  
Anita Davis

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

1. Call to Order.
2. Pledge of Allegiance.
3. Approval of Agenda.

*Brian Haren made a motion to accept the agenda. Bill Beckwith seconded the motion. The motion passed 5-0.*

4. Consideration of the Minutes of the Meeting held on April 24, 2023.

*Marsha Hopkins made a motion to accept the Minutes of the Meeting held o April 24, 2023. John Tate seconded the motion. The motion passed 4-0-1. Anita Davis abstained.*

## **PUBLIC HEARING**

5. Petition No. A-836-23, Jonathan Paul Campagna and Rebecca Jean Ruthberg-Campagna, Owner, request the following: Variance to Sec. 110-79. (c) (1) (a) Number and size, to increase the square footage amount from 3600 square feet to 4100 square feet for residential accessory structures on lots more than five (5) acres. The subject property is located in Land Lot 21 of the 7<sup>th</sup> District and fronts on Eastin Road.

Mr. Campagna stated his document said 3792 square feet and asked where did the 4100 come from?

Deborah Sims, Zoning Administrator, stated when Debbie Bell, the Planning and Zoning Director, started reviewing everything, she found that he needed a total of 4080 square feet. She added 4100 would give him a little buffer.

Mr. Campagna stated okay and he would go with the numbers provided. He stated he would answer any questions that the Board has.

Chairman Tate asked if there were any comments in support or opposition. There were none. He brought the discussion back to the Board.

Bill Beckwith stated he drove out to the property and saw four (4) posts near the red bard. He asked if that's where he intended to place the structure?

Mr. Campagna stated yes.

Bill Beckwith asked what was on the other side of the barn?

Mr. Campagna stated that was already overhang for the porch area and that's included as part of the original design and square footage. He stated they are asking for overhang on the right where he saw the posts.

Bill Beckwith asked what's inside the barn?

Mr. Campagna stated nothing currently.

Bill Beckwith asked how long has he owned the property?

Mr. Campagna stated since June of 2019.

Bill Beckwith asked what will the proposed use of the shed be?

Mr. Campagna stated it will keep things out of the rain. He stated they have a golf cart they use on the property since it's so large.

Bill Beckwith asked where is it kept now?

Mr. Campagna stated in the garage.

Bill Beckwith asked if there is room on the other side of the barn?

Mr. Campagna stated no because of the setback. He further stated it has the ability to have horses, they'd like for it to have some type of covering, if they decide to do that at some point, it'd be nice to have shade for the animals.

Brian Haren asked if they are only talking about a overhanging?

Mr. Campagna stated yes, to keep rain from hitting the side of the building. He stated it would be beneficial to keep the rain from hitting the concrete slab as well.

Anita Davis asked if Mr. Campagna could park the golf cart in the barn since the barn is not being used?

Mr. Campagna stated they could but they want to use the shed because when it is in use and they do have animals, the overhang would be useful. He stated that's the side where the stalls are and it will keep them out of the rain.

Chairman Tate stated his concern is that Mr. Campagna is already at the limit for an accessory structure. He stated he cannot find it justifiable based on the five (5) stipulations they must look at.

Marsha Hopkins agreed. She stated all five (5) conditions must be met to grant the variance. She stated by granting a variance they are straying from the regulations and there is a high bar for it. She stated she is not seeing the justification in what's been presented to them.

Mr. Campagna asked what the five (5) factors were?

Marsha Hopkins stated they were on the application.

Deborah Sims placed the five (5) questions on the screen for all to see.

Mr. Campagna stated when he answered the questions, it involved some confusion on exactly what to say. He stated that the main purpose of the overhang is to provide shade and shelter for when they do have animals on the property. He added he didn't know the overhang was part of square footage. He stated it would be a great assistance to them if they could have some type of overhang.

Bill Beckwith stated to grant a variance there has to be a hardship, this appears to be a convenience, especially with the animals not being there.

Mr. Campagna asked would it have made a difference if the animals were already there?

Bill Beckwith said probably not because he would probably have them inside.

Mr. Campagna asked if there is anything they can do that is within code?

Brian Haren stated that would be a question to take back to Planning and Zoning. He stated this is not the first time they've had this come up. He stated though they are not asking to enclose a living space but to expand an awning, they have to stick with the five (5) conditions. He stated he does have sympathy for Mr. Campagna's situation.

Mr. Campagna's stated he doesn't understand how this is square footage.



Brian Haren stated they have to rule on what's presented and follow the ordinance. He stated there may be other options to achieve what Mr. Campagna wants but he cannot offer any.

Chairman Tate stated their function is to look at the request and see if it fits the conditions. Beyond that they cannot provide guidance. Chairman Tate asked for a motion.

***Brian Haren made a motion to deny Petition No. A-836-23, Variance to Sec. 110-79. (c) (1) (a) Number and size, to increase the square footage amount from 3600 square feet to 4100 square feet for residential accessory structures on lots more than five (5) acres. Anita Davis seconded the motion. The motion carried 5-0.***

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Chairman Tate asked is there a motion to adjourn?

***Brian Haren made a motion to adjourn. Marsha Hopkins seconded the motion. The motion passed 5-0.***

The meeting adjourned at 7:46 pm.

**ZONING BOARD OF APPEALS  
OF  
FAYETTE COUNTY**

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**JOHN TATE, CHAIRMAN**

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**CHELSIE BOYNTON, ZBA SECRETARY**

**PETITION NO: A-838-22**

**Requested Action:** Variance to side building setback in the R-40 (Single-Family Residential) District to allow existing accessory structures to remain.

**Location:** 185 Victoria Drive, Fayetteville, GA 30214

**Parcel(s):** 05360 5010

**District/Land Lot(s):** 5<sup>th</sup> District, Land Lot(s) 164

**Zoning:** R-40

**Lot Size:** 4.370 acres

**Owner(s):** Willie J. Montgomery & Laquinta M. Montgomery

**Agent:** N/A

**Zoning Board of Appeal Public Hearing:** June 12, 2023

**REQUEST**

Applicant is requesting the following variance(s) for existing accessory structures:

1. Variance to Sec. 110-137.(d)(6). Side yard setback – to reduce the side yard setback from 30 feet to 14.5 feet to allow existing accessory structures (a detached garage and a swimming pool) to remain.

**STAFF RECOMMENDATION**

It is staff's opinion that the property presents unique situation. The structure was built approximately 40 years ago and the nonconformance is not the result of the property owners' actions. Additionally, the lot is a flag lot; although the original developer used the 30' rear setback distance on the final plat, Sec. 110-106 provides that a flag lot may use the side setback distance for all building setback requirements.

Staff recommends **APPROVAL** of the variance request.

It should be noted, however, that there is an outstanding **Stop Work Order** dated January 5, 2023, that has not been addressed. No building permits will be issued for this property until the SWO is properly addressed and released by Environmental Management.

## HISTORY

The subject property is Lot 10 of Victoria Plantation, Phase I, recorded on April 7, 1982. The parcel is zoned R-40 and contains 4.370 acres. The original house on the lot burned in 2015 and was never rebuilt. The parcel also contains an in-ground pool and detached garage. The current owners purchased the lot with existing accessory structures in 2021. When they applied for their building permit, the encroachment of the accessory structures was noted, requiring the variance to remain.

Lot 10 is a flag lot. Although the original developer used the 30' rear setback distance on the final plat, Sec. 110-106 provides that a flag lot may use the side setback distance for all building setback requirements. One option would be for the owners to request a revised development plan to amend the setbacks established by the developer from 30' to 15' (*Sec. 105-595 (2) h.4. Amend setbacks increased by a developer on a major or minor final plat*). Such an amendment would require 2 public hearings, one before the Planning Commission and one before the Board of Commissioners. However, the detached garage would still encroach on the 15' setback by a small amount and a variance would still be required. The cleanest solution is to let the recorded setbacks continue to apply and request a simple variance for the existing structures.

## DEPARTMENTAL COMMENTS

- Water System** - FCWS has no objection to the proposed variance. Water is available in an 8" main along Victoria Dr at this location.
- Public Works/Environmental Management** – A **Stop Work Order** was issued on January 5, 2023, but no one contacted Environmental Management to resolve the problems.
  - **Transportation** – This lot has an existing driveway onto the subdivision local road. However, there is an outstanding **Stop Work Order** related to damage the clearing contractor (see below) caused to the county road.
  - **Floodplain Management** - The subject property **DOES** contain floodplain per FEMA FIRM panel 13113C0101E dated September 26, 2008. The 100-year flood hazard line is show, with corrections for field-run topo.
  - **Wetlands** - The property **DOES** contain wetlands per the U.S. Department of the Interior, Fish and Wildlife Service 1994 National Wetland Inventory Map.
  - **Watershed Protection** - There **ARE** known state waters located on the subject property. There is an outstanding **Stop Work Order** on this property related to unauthorized clearing in the Flood Plain, and possibly in the stream buffer.
  - **Groundwater** – The property **IS NOT** within a groundwater recharge area.
- Environmental Health Department** – This office has no objections to the proposed variance for the 185 Victoria Dr. address, just long as this structure does not impede the location of the septic system.
- Fire** – No objections.
- Department of Building Safety** - No issues or concerns with this as an application for the new home is pending permitting.

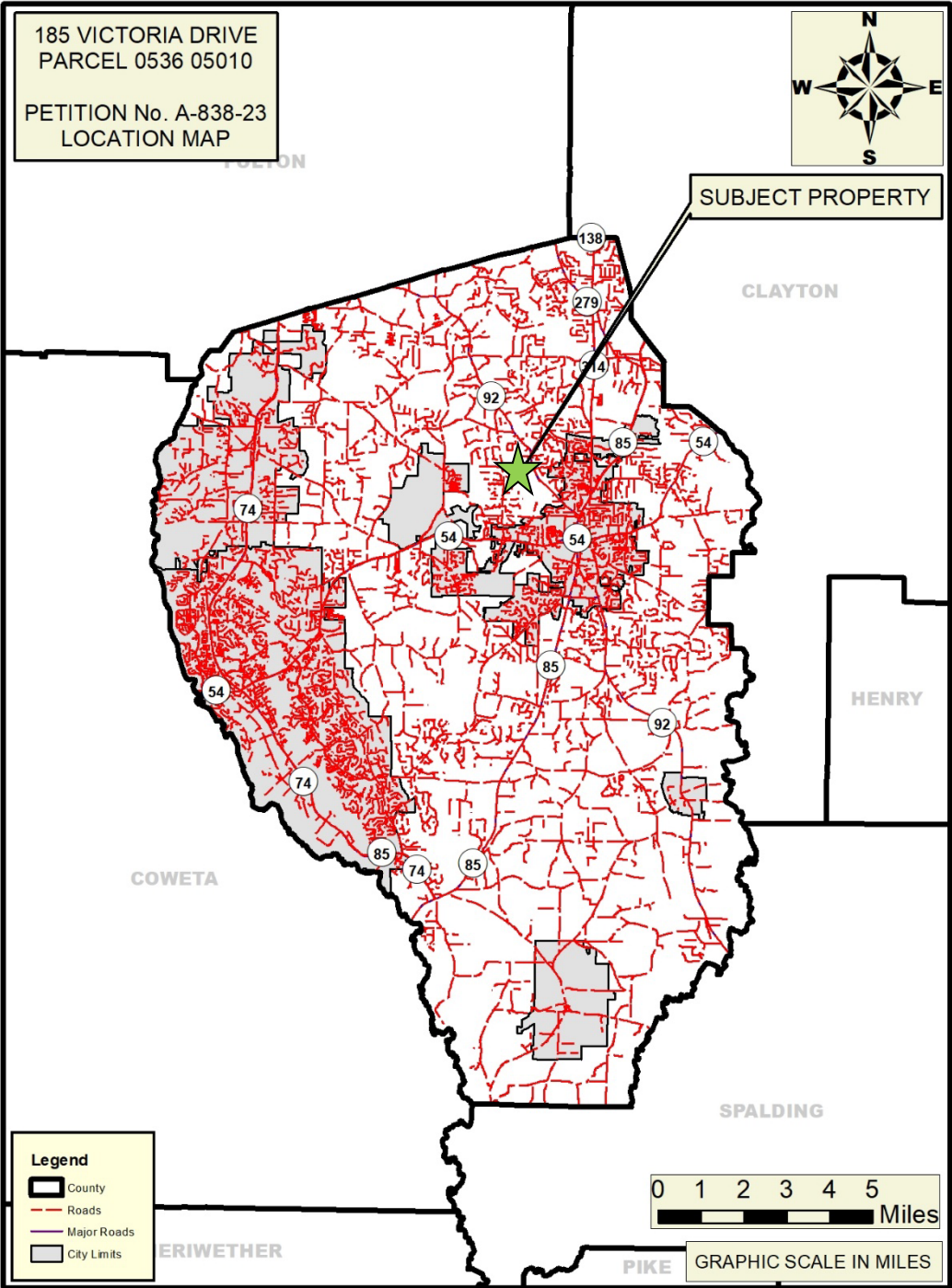
## VARIANCE SUMMARY & CRITERIA FOR CONSIDERATION

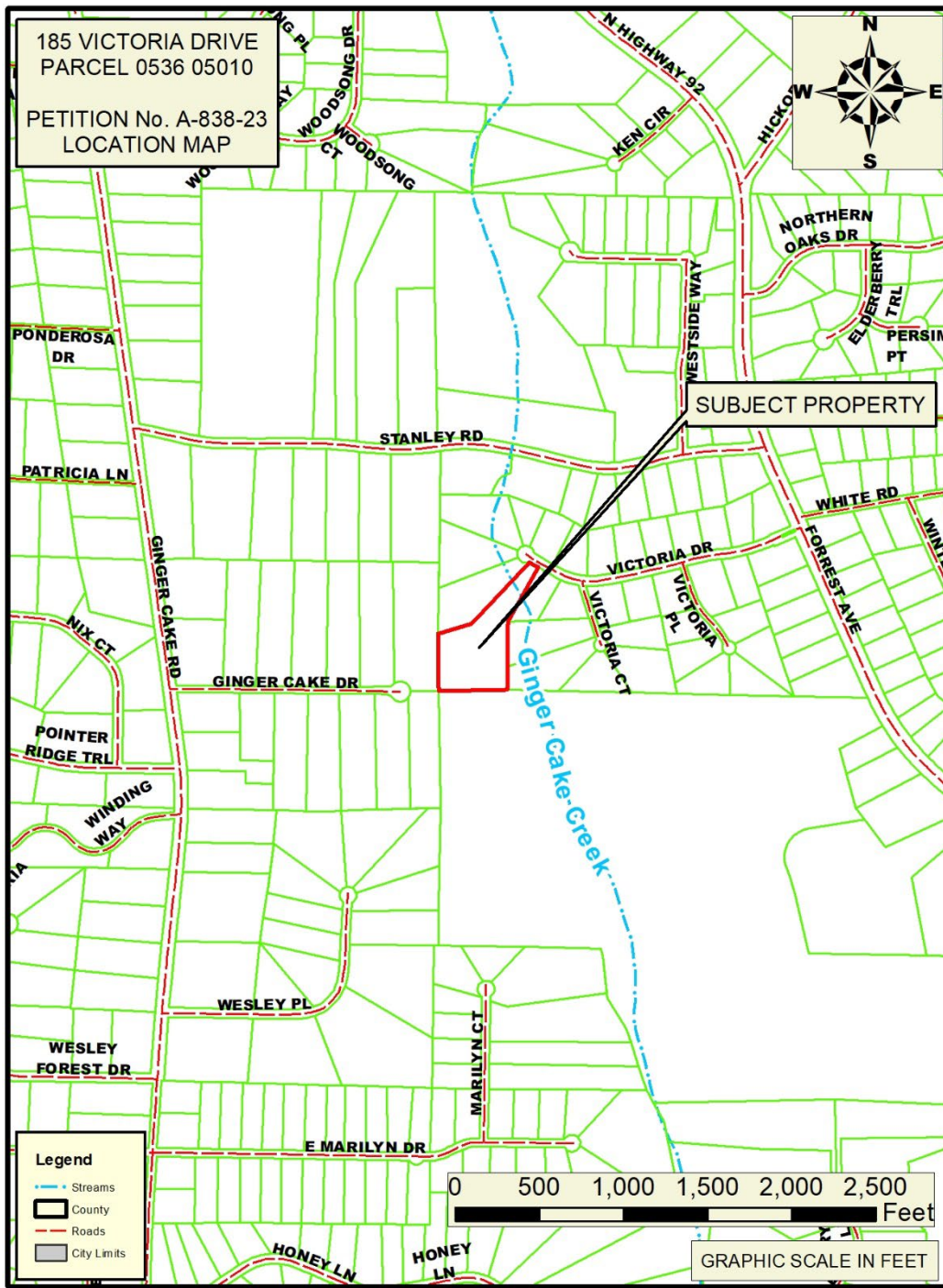
### **STAFF ASSESSMENT OF CRITERIA**

*(Please see the attached application package for the applicant's responses to the criteria.)*

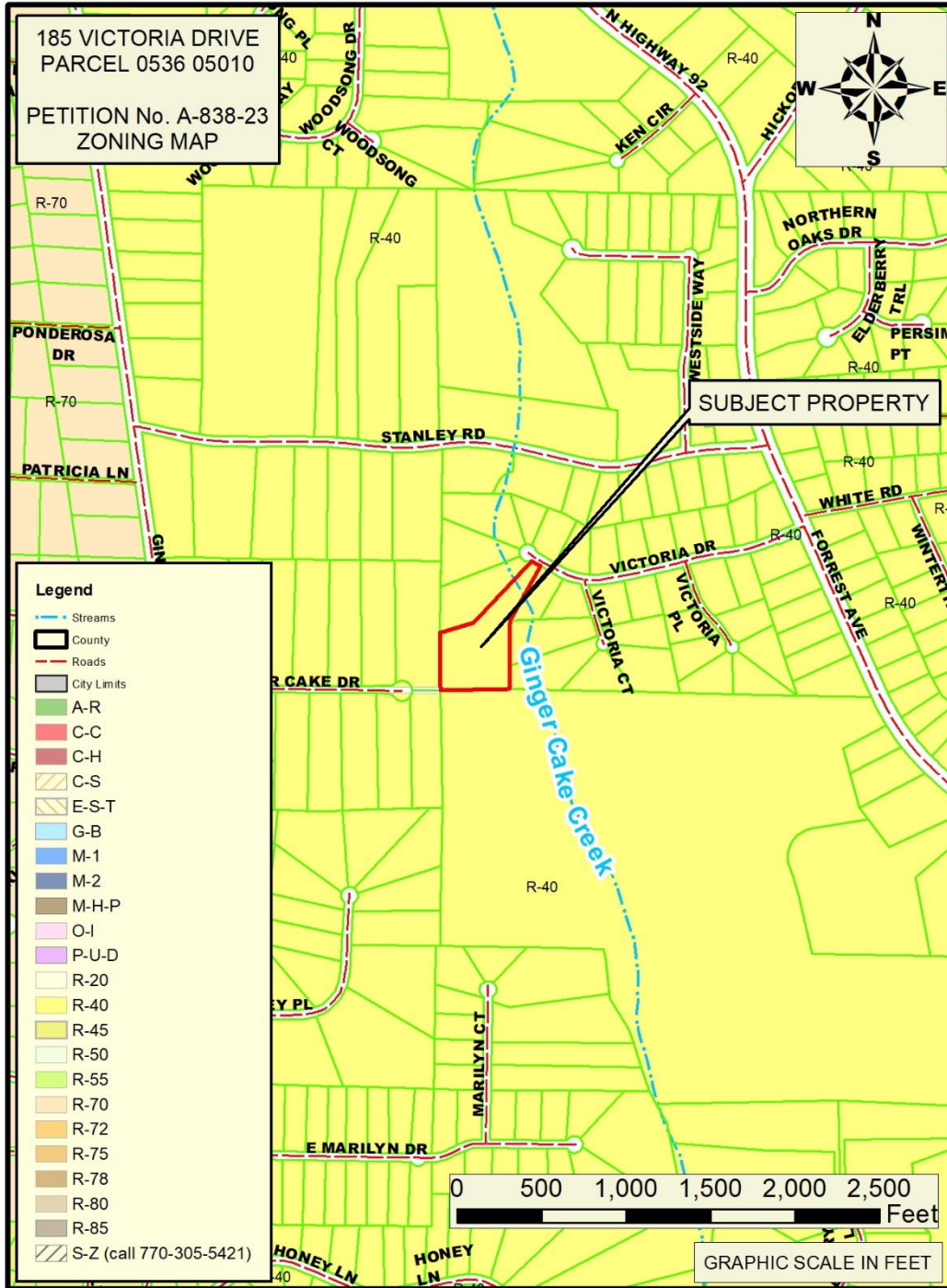
**The Fayette County Zoning Ordinance, Sec. 110-242. (b) states that in order to grant a variance, the Zoning Board of Appeals shall and must find that all five (5) conditions below exist. Please read each standard below and then address each standard with a detailed response. Attach additional information/documentation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

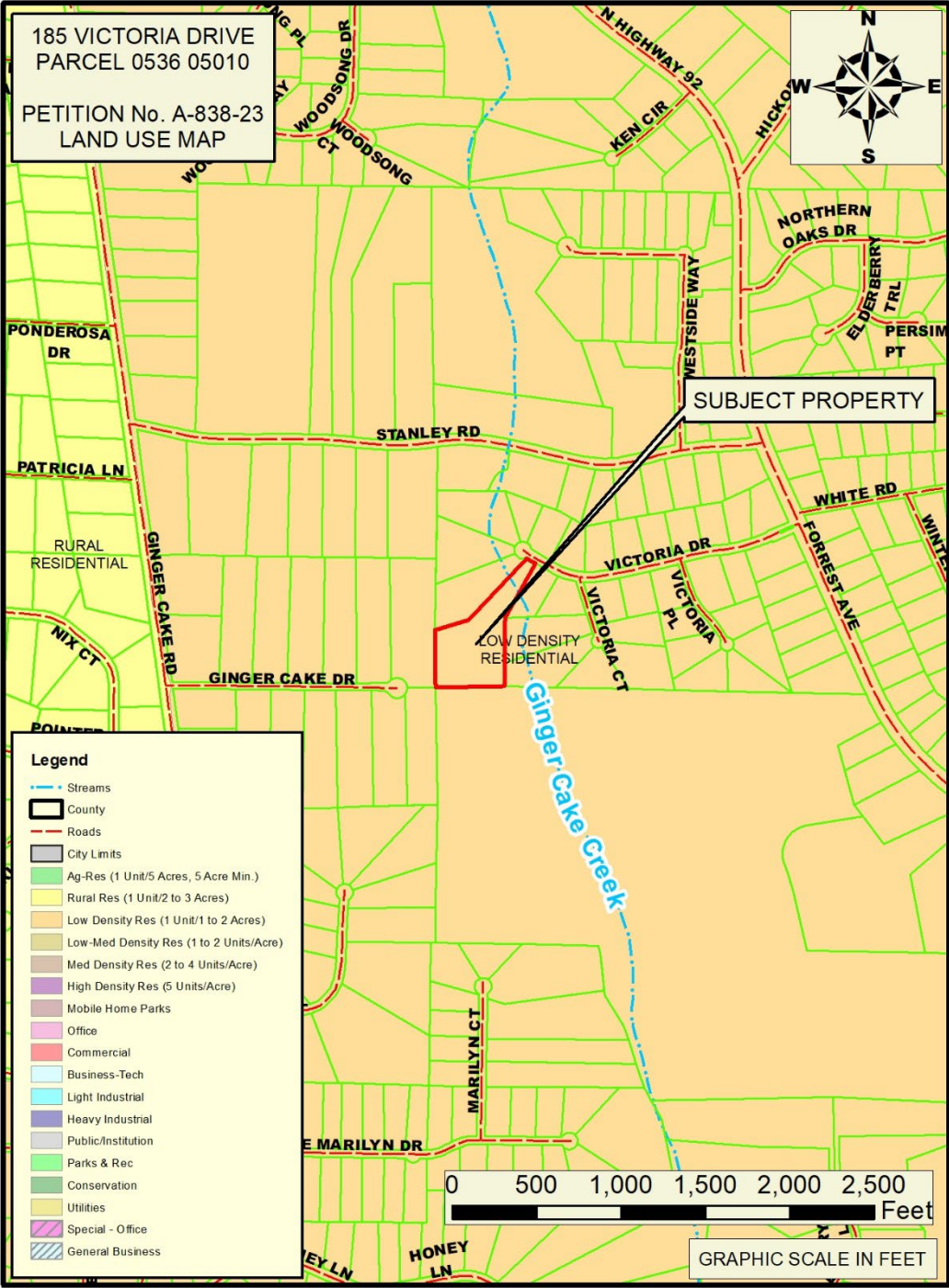
- 1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.**  
*Yes. The property is a flag lot whose shape and topography create challenges for siting a structure. Additionally, the lot has flood plain and stream buffer areas that must be avoided. These limitations, combined with the location of the former and future septic systems, restrict the buildable area.*
- 2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and,**  
*Yes. The structures were built about 40 years ago and the current owner is not responsible for the location. Relocation or removal would create a practical hardship.*
- 3. Such conditions are peculiar to the particular piece of property involved; and,**  
*Yes. The situation was brought to staff's attention when the owner applied for a building permit and is unique to this 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,**  
*This is a secluded wooded lot, and the structures are not likely to be detrimental in any way.*
- 5. A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same District are allowed;**  
  
*The nonconforming location is not a result of the property owners' actions. A literal interpretation of the ordinance would deprive them of the use of the structures if removal were required.*



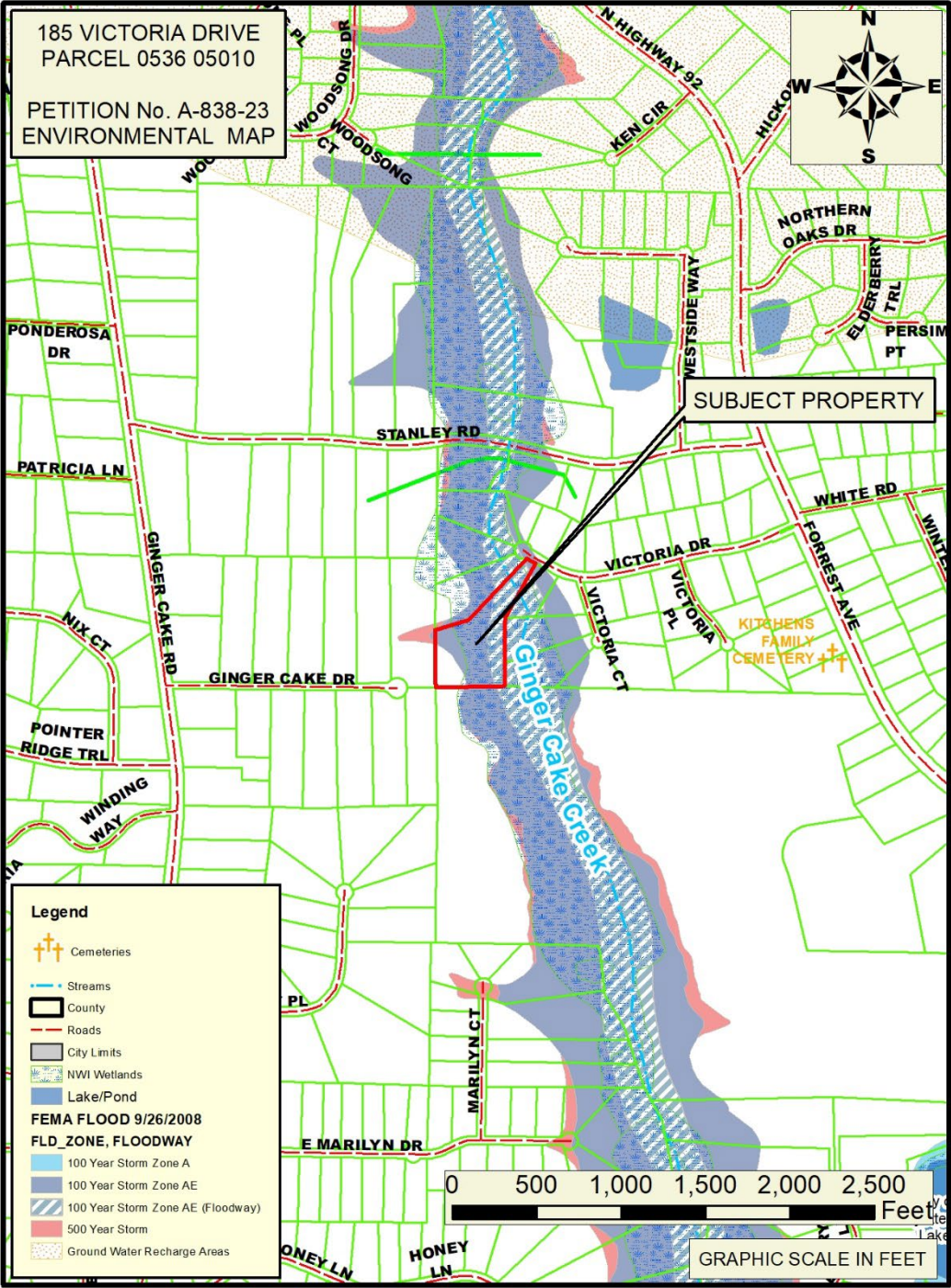






















A-838-23 – 185 Victoria Drive



A-838-23 – 185 Victoria Drive

PETITION NUMBER: A-838-23

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY INFORMATION:

Parcel No. 05360 5010 Acreage: 4.3  
Land Lot: ~~#~~ 164 Land District: 5TH  
Address: 185 Victoria Dr., Fayetteville, 30214  
Existing Zoning: R-40 Requested Zoning: R-40  
Zoning of Surrounding Properties: R-40  
Existing Use: --- Proposed Use: residential

PROPERTY OWNER INFORMATION

LAQUINTA M. MONTGOMERY ;  
Name Willie (Bill) Montgomery  
Email mbinvests1@gmail.com  
Address 325 Oak St.  
City Fayetteville  
State GA Zip 30215  
Phone 404-886-1889

AGENT/DEVELOPER INFORMATION

(If not owner)  
Name \_\_\_\_\_  
Email \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_  
State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone \_\_\_\_\_

NIA

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-838-23

[ ] Application Insufficient due to lack of:

by Staff: \_\_\_\_\_ Date: \_\_\_\_\_

[x] Application and all required supporting documentation is Sufficient and Complete

by Staff: [Signature] Date: April 12, 2023

DATE OF ZONING BOARD OF APPEALS HEARING: JUNE 12, 2023

Received from Willie & LaQuinta Montgomery a check in the amount of \$ 225.00  
for application filing fee, and \$ 50.00 for deposit on frame for public hearing sign(s).

Date Paid: April 13, 2023 Receipt Number: 017742

Variance Application, Fayette County, GA

CHECK # 2779  
TOTAL \$225.00 (\$50 Deposit Included For Sign)



**PROPERTY OWNER CONSENT AND AGENT AUTHORIZATION FORM**

*(Applications require authorization by ALL property owners of subject property).*

Name(s) of All Property Owners of Record found on the latest recorded deed for the subject property:

WILLIE ANO LAQUINTA MONTGOMERY

Please Print Names

Property Tax Identification Number(s) of Subject Property: 05360 5010

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) of the 5<sup>TH</sup> District, and (if applicable to more than one land district) Land Lot(s) 164 of the District, and said property consists of a total of 4.3 acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

(I) (We) hereby delegate authority to N/A. to act as (my) (our) Agent in this request. As Agent, they have the authority to agree to any and all conditions of approval which may be imposed by the Board.

(I) (We) certify that all of the information filed with this application including written statements or showings made in any paper or plans submitted herewith are true and correct to the best of (my) (our) knowledge and belief. Further, (I) (We) understand that this application, attachments and fees become part of the official records of the Fayette County Zoning Department and may not be refundable. (I) (We) understand that any knowingly false information given herein by me/us will result in the denial, revocation or administrative withdrawal of the application or permit. (I) (We) further acknowledge that additional information may be required by Fayette County in order to process this application.

Willie Montgomery  
Signature of Property Owner 1

325 OAK ST. FAYETTEVILLE, GA 30215  
Address

Deborah M Sims  
Signature of Notary Public

4/12/2023  
Date

Deborah M Sims  
NOTARY PUBLIC  
Coweta County, GEORGIA  
My Commission Expires 01/05/2027

L. Montgomery  
Signature of Property Owner 2

325 OAK ST. FAYETTEVILLE, GA 30215  
Address

Deborah M Sims  
Signature of Notary Public

4/12/2023  
Date

Deborah M Sims  
NOTARY PUBLIC  
Coweta County, GEORGIA  
My Commission Expires 01/05/2027

\_\_\_\_\_  
Signature of Authorized Agent

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

## VARIANCE INFORMATION

Complete the chart below with the information pertaining to each request. If additional space is needed, please provide the information on a separate sheet of paper.

Ordinance/Section	Requirement	Proposed	Variance Amount
SEC. 110-137(d)(6) EXISTING DETACHED ACCESSORY STRUCTURE	15 FEET.		

## VARIANCE SUMMARY

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

SEE ATTACHED

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\* STAFF NOTE: SIDE YARD SETBACKS APPLY IN PLACE OF REAR YARD SETBACK, BECAUSE THIS IS A "FLAG LOT" SEC. 110-106





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## 185 Victoria Drive Variance Request

1 message

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**Bill Montgomery** <mbinvests1@gmail.com>

Tue, Apr 11, 2023 at 10:48 PM

To: Bill Montgomery <mbinvests1@gmail.com>, B. & L. Montgomery <montgomerysuga@gmail.com>

### **Variance Summary, Lot 10**

185 Victoria Drive  
Fayetteville Ga 30214  
Bill Montgomery  
Laquinta Montgomery

Hello and thank you for reviewing our request. We previously owned lot #1 in Victoria Plantation and really loved our community and neighbors. Our lot was 1 acre in size. We always wanted to own more land in Fayette County and later stumbled upon a 4.3 acre vacant lot in our neighborhood. The vacant lot was lot #10. There had been a 6 bedroom & 6 bath home on this property that was unfortunately hit by lightning, burned and ended as a total loss. The remaining infrastructure of the property (gated entrance, paved driveway, swimming pool, detached garage, power and water) all remained intact. We were introduced to the owner of the property and was thrilled with the opportunity to purchase the property. We sold our existing home in the neighborhood and purchased lot #10 in the neighborhood in April of 2021.

With all of the infrastructure already in place, we agreed to purchase the property for \$150K. After two years of renting, we are now in the early planning stages of having our dream home built by Jeff Lindsey Communities on our property and was horrified to find out that the detached garage and swimming pool is not permitted with the county. We also were informed by the county that one corner of the detached garage is less than the 15 feet of required setback. The required distance is 15 feet and the one corner in question is 14 feet 4 inches from the property line.

These permitting and setback issues were not disclosed to us during the purchasing and closing process of acquiring the property in April of 2021 by the prior owner or closing attorney. We were under the impression that all infrastructure was legitimate and without issues. These amedies are major reasons why we purchased the property for our family. We as a family graciously request that you grant us this variance request due to the setback shortage of 8 inches for the one corner of the detachable garage. We never thought that we may potentially have to tear down an important structure on our property before we ever had our home built.

We will ensure that any permitting opportunities on our property are resolved according to the county's direction.

Thank you in advance again for reviewing our request



**JUSTIFICATION OF REQUEST**

The Fayette County Zoning Ordinance, Section 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.

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*See Attached*

- 2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship.

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*See Attached*

- 3. Such conditions are peculiar to the particular piece of property involved.

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*See Attached*

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.

SEE ATTACHED

5. A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same zoning district are allowed.

SEE ATTACHED



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## Justification Of Request

1 message

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**Bill Montgomery** <mbinvests1@gmail.com>  
To: Bill Montgomery <mbinvests1@gmail.com>

Wed, Apr 12, 2023 at 12:14 AM

1. There are extraordinary and exceptional conditions pertaining to this property in question because of the setback shortage. When we purchased this property in April of 2021 we were not made aware of any setback issues. This issue was not disclosed with the closing attorney's office that we used at the request of the seller at the time of purchase. The detachable was an existing structure on the property. This issue was discovered recently (April 2023) when we applied for a building permit that was denied. The detectable garage has one corner that is 8 inches too close to the rear property line.
2. We purchased this property partially due to the existing structures that were already part of the property. The detachable two car garage with a separate work room along with the inground pool were major factors in buying the property at a premium price. We sold our existing home in the neighborhood to purchase this property and have rented for the past two years planning for the building of our family home. Now that we are faced with not being granted a variance and potentially having to tear down the detachable due to the setback violation is stressful, creating building delays and requiring us to rent a home longer than expected.
3. The major issue is the setback opportunity with the detachable garage that we were made aware of in April of 2023. The lot is considered a Flag Lot which allows for a 15 feet setback in the rear of the property. One corner of the detachable is 14 feet 4 inches resulting in a 8 inch deficit. We assumed that the structure was without issue because it was existing and not called out as an issue with the closing attorney.
4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations. Relief would not grant or request access to any land, buildings or structures on anyone's property. Relief would allow for a 14 feet 4 inch setback on my side of my property as opposed to the 15 feet setback requirement.
5. We respect the interpretation of this ordinance. We request and ask that this variance/ordinance be grandfathered due to this existing structure (detachable garage) being established and an unknown violation to us at the time of purchase. We never attempted to hide these facts and are acting in good faith to maintain a structure as it was a contributing factor in purchasing the property.

Type: WD  
Recorded: 4/29/2021 5:01:00 PM  
Fee Amt: \$175.00 Page 1 of 1  
Transfer Tax: \$150.00  
Fayette, Ga. Clerk Superior Court  
Sheila Studdard Clerk of Court

Return Recorded Document to:  
Brochstein & Bantley, P.C.  
827 Fairways Court, Suite 100  
Stockbridge, GA 30281

Participant ID: 6001913266

**BK 5270 PG 605**

Property Tax Parcel Identification no. 053605010

**LIMITED WARRANTY DEED**

**STATE OF GEORGIA**

**COUNTY OF Henry**

File #: 22133986

**THIS INDENTURE**, made the 29th day of April, 2021, between **Allan J. Depoe Sr.**, party of the first part, and **Willie Montgomery**, party of the second part,

**WITNESSETH** That: the said party of the first part, for and in consideration of the sum of **TEN AND 00/100 DOLLARS (\$10.00)** and other goods and valuable considerations in hand paid, at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the said party of the second part, his heirs and assigns, the following described property:

**All that tract or parcel of land lying and being in Land Lot 164 of the 5th District, Fayette County, Georgia, being Lot 10, Victoria Plantation Subdivision, Phase 1, as per plat recorded in Plat Book 13, page 78-81, Fayette County records, which plat is incorporated herein and made a part hereof by this reference.**

As a matter of information only, the Tax Parcel Identification Number is **053605010**.

**THIS CONVEYANCE** is made subject to all zoning ordinances, easements and restrictions of record affecting said bargained 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 party of the second part, his heirs and assigns, forever, in **FEE SIMPLE**.

**AND THE SAID** party of the first part, for his heirs, executors and administrators, will warrant and forever defend the right and title to the above described property, unto the said party of the second part, his heirs and assigns, against claims of all persons owning, holding or claiming by, through or under the said party of the first part.

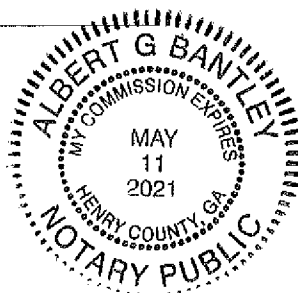
**IN WITNESS WHEREOF**, the said party of the first part has hereunto set his hand and seal, the day and year above written.

Signed, sealed and delivered in the presence of:

*Ophana H. Bias*  
Witness

*Allan J. Depoe Sr.*  
Allan J. Depoe Sr.

*Willie Montgomery*  
Notary Public



After recording, please return to:  
BURGESS TITLE & ESCROW LLC  
2330 PATRICK HENRY PARKWAY  
STE 350  
MCDONOUGH, GA 30253  
FILE #22-2383  
PARCEL # 053605010

Type: QCD  
Recorded: 7/28/2022 11:40:00 AM  
Fee Amt: \$25.00 Page 1 of 1  
Transfer Tax: \$0.00  
Fayette, Ga. Clerk Superior Court  
Sheila Studdard Clerk of Court

Participant ID: 0397807349

**BK 5523 PG 130**

# QUIT-CLAIM DEED

**STATE OF GEORGIA  
COUNTY OF HENRY**

This Indenture made this 22<sup>ND</sup> day of JULY, in the year Two Thousand Twenty-Two between

**WILLIE MONTGOMERY**

of the County of HENRY, State of GEORGIA, as party or parties of the first part, hereinunder called Grantor, and

**WILLIE J. MONTGOMERY and LAQUINTA M. MONTGOMERY**

AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP AS DEFINED AND CREATED BY GEORGIA LAWS 1976. p. 1438 and 1439 (O.C.G.A. SECTION 44-6-190) 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 **ONE AND 00/100 (\$1.00) Dollar** 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 bargained, sold, and does by these presents bargain, sell, remise, release and forever QUIT-CLAIM to Grantee all the right, title interest claim or demand which Grantor has or may have in and to:

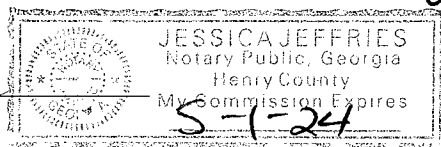
**ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 164 OF THE 5TH DISTRICT, FAYETTE COUNTY, GEORGIA, BEING KNOWN AS LOT 10, VICTORIA PLANTATION SUBDIVISION, PHASE I, AS PER PLAT RECORDED IN PLAT BOOK 13, PAGE 78 THRU 81, FAYETTE COUNTY, GEORGIA RECORDS. SAID PLAT IS SPECIFICALLY INCORPORATED HEREIN BY REFERENCE AND MADE A PART HEREOF FOR A MORE COMPLETE AND ACCURATE LEGAL DESCRIPTION.**

**TO HAVE AND TO HOLD** the said described premises unto Grantee so that neither Grantor nor any other person or persons claiming under Grantor shall at any time, claim or demand any right, title or interest to the aforesaid described premises or its appurtenances.

**IN WITNESS WHEREOF**, Grantor has hereunto set grantor's hand and seal this day and year first above written.

Signed, sealed and delivered in the presence of:

Witness \_\_\_\_\_  
Notary Public \_\_\_\_\_



*Willie Montgomery* (SEAL)  
WILLIE MONTGOMERY

**Book: 5523 Page: 130 Seq: 1**



# VICTORIA PLANTATION

## PHASE I

### FINAL PLAT

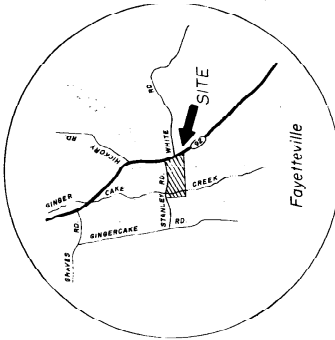
FAVETTE COUNTY DOES NOT ACCEPT THE OWNERSHIP MAINTENANCE OR RESPONSIBILITY FOR THE DRAINAGE PLAN OF THIS PLAT. INDICATED BY THIS PLAT.

*Sharon T. Johnson, L.L.*

LOT	RADIUS	LENGTH	CHORD	CHORD BEARING
1	876.7	95.4	95.43	N 73°45'20" E
2	1637.22	2488	2488	N 75°21'39" E
3	1657.22	7280	7279	N 78°00'04" E
3	384.47	8571	8553	N 85°36'58" E
4	384.47	17543	17337	N 74°55'18" W
5	60.00	40.00	40.00	N 3°25'00" W
6	60.00	4965	4844	N 84°59'03" W
7	60.00	50.00	50.85	N 43°28'50" E
8	60.00	4477	4374	DUE NORTH
9	60.00	7201	7024	S 61°48'09" E
10	464.47	12183	12183	S 61°48'09" E
11	464.47	12183	12244	S 73°18'20" E
12	60.00	91.3	82.63	S 03°08'08" E
13	60.00	8077	7481	S 85°13'25" E
14	60.00	5332	5155	N 3°34'45" E
15	60.00	8892	8103	N 37°09'39" W
16	464.47	9496	9479	N 85°05'11" E
17	1777.42	6227	6227	N 78°13'15" E
18	1777.42	40.00	40.00	N 75°34'39" E
19	1777.42	121.05	125.00	S 85°33'06" E
20	1219.08	151.25	151.00	S 72°40'53" E
21	1219.08	151.25	151.00	S 72°40'53" E
22	919.16	93.04	93.00	N 6°28'41" O4" E

"THIS PLAT IS TO BE CONSIDERED AS A COMPLETE AND FINAL PLAT OF RECORD. IT IS HEREBY CERTIFIED THAT THE SAME IS CORRECT AND COMPLETE AS SHOWN ON THE ORIGINAL RECORDS OF THE COUNTY CLERK'S OFFICE."

RECORDED IN BOOK 258-386



GEORGIA, Fayette County  
 Clerk's Office, Fayetteville, Georgia  
 Filed for record in Book 258-386  
 This plat is to be recorded in Book 258-386  
 W.A. Johnson, Clerk

PREPARED FOR  
**GUTHRIE CONSTRUCTION CO., INC.**  
 516 DISTRICT  
 FAYETTE COUNTY  
 GEORGIA  
 SCALE 1" = 100'

The field data upon which this plat is prepared was obtained by means of a transit in 10,000 and an angular error of 8 seconds per angle and was adjusted using the compass rule. Plat closure was measured by means of a second traverse and a one second theodolite were used to obtain linear and angular measurements.

I certify that all measurements are correct and were prepared from the actual monuments shown on this plat, and that monument locations are correct, shown; and, that the property will drain as shown. Monuments are shown by \_\_\_\_\_ (Seal) Date \_\_\_\_\_ Engineer, (Surveyor).

Co. Regis. No. \_\_\_\_\_  
 My type under signed \_\_\_\_\_ (and/or mortgagee(s) of the \_\_\_\_\_) is/are \_\_\_\_\_ (and/or mortgagee(s) of the \_\_\_\_\_) for public use the rights-of-way, easements and other ground to shown on this plat.

Owner \_\_\_\_\_ Date \_\_\_\_\_ Mortgagee \_\_\_\_\_ Date \_\_\_\_\_  
 Approved by County Engineer, Fayette County, Georgia  
 Date 4-2-82 Signed Bone E. Malone County Engineer  
 Approved by the Fayette County Planning Commission  
 Date 4-5-82 Signed Margaret Malone Secretary

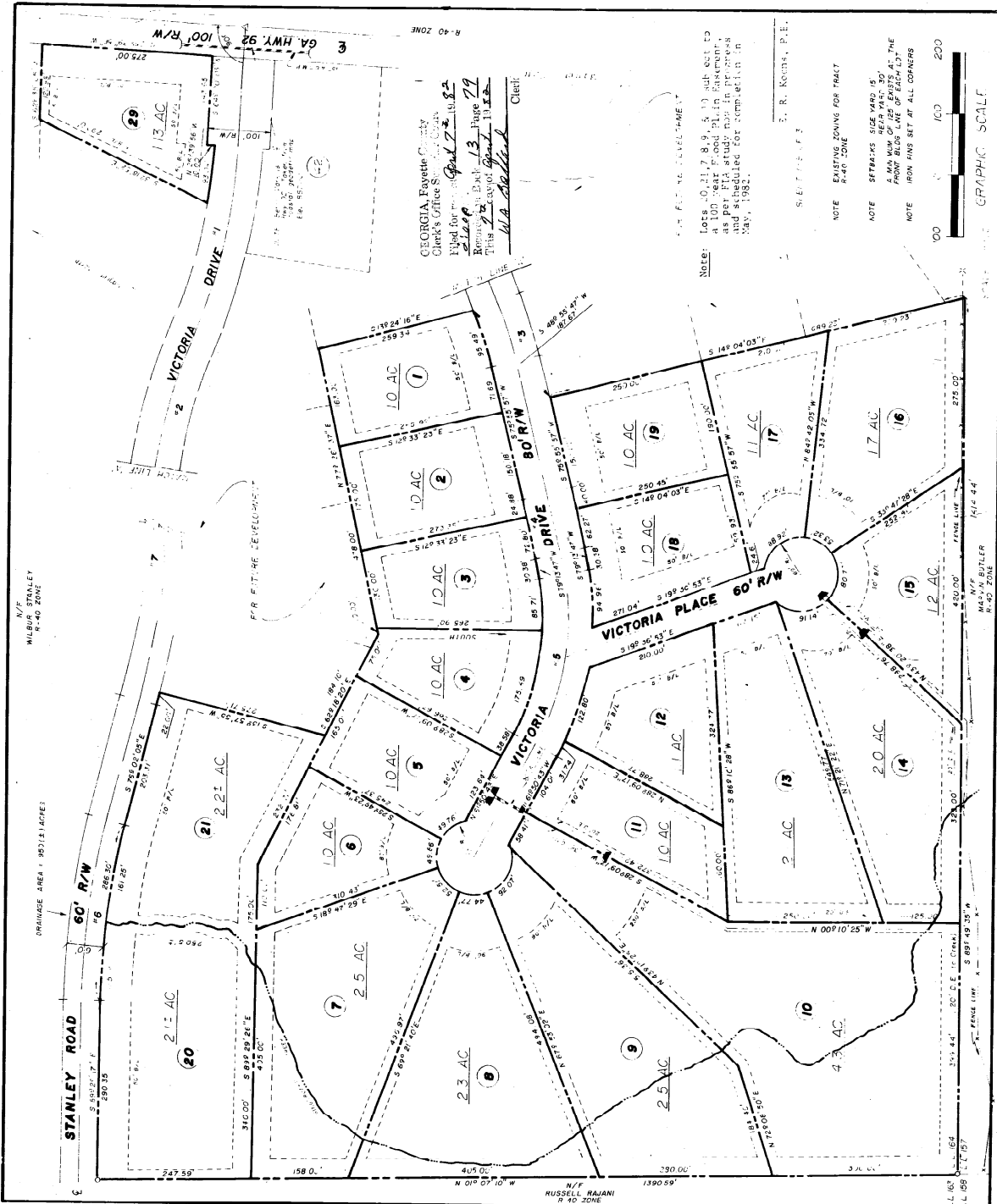
#	M	H	Δ	C CURVE DATA			
				D	L	T	
1	952.16	7	45.36	5.38-25	23759	16000	246.40
2	9.607	12	23.58	6.15-16	17950	16000	9982
3	19.225	6	17.50	3.17-13	9937	16000	9596
5	424.47	38	55.30	3.29-14	29837	15100	232.85
6	1249.08	13	27.21	4.35-13	23334	14735	292.67
7	949.82	26	3.18	6.03-32	41734	227.66	413.45

Owner/Developer  
 Guthrie Construction Co., Inc.  
 Fayetteville, Georgia 30214  
 (404) 461-6076

Sheet 1 of 3  
**Koons & Associates, Inc.**  
 412 Highway 50 West, Reathree City, Georgia 30288-1104  
 404-461-6076

Restoration recorded in Book 258-386





GEORGIA, Fayette County  
 Clerk's Office S  
 Filed for record April 2, 1992  
 2:10 P  
 Remains in Book 13 Page 29  
 This is except from 15-2  
 WA Stalder Client

NOTE:  
 Lots 10, 21, 7, 8, 9, 11, 13, sub-set to  
 a 100 year flood plain in basement  
 as per FPA study map in progress  
 and scheduled for completion in  
 May, 1992.

SHEET 1 OF 1  
 E. R. Koons, P.E.

NOTE  
 EXISTING ZONING FOR TRACT  
 R-40 ZONE

NOTE  
 SETBACKS SIZE SHOWN  
 FROM MAIN WALL OF LOT EXCEPT AT THE  
 FRONT BEHIND LINE OF EACH LOT  
 NOTE  
 IRON PINS SET AT ALL CORNERS



M/F  
 MILBURN STANLEY  
 100' 40' 200'

ORANGE AREA 1 90' 11' 100'

M/F  
 RUSSELL RAJANI  
 R-40 ZONE

M/F  
 MARY B. BUTLER  
 R-40 ZONE

**PETITION NO: A-839-22**

**Requested Action:** Variances to the lot width at building line and to the front & side building setbacks in the A-R (Agricultural-Residential) District to allow existing accessory structures to remain.

**Location:** 631 Mask Road, Brooks, GA 30205

**Parcel(s):** 0402 031; 0402 089

**District/Land Lot(s):** 4<sup>th</sup> District, Land Lot(s) 3

**Zoning:** A-R

**Lot Size:** Parcel 0402 031 contains 8.19 acres; Parcel 0402 089 contains 8.47 acres.

**Owner(s):** Parker Wright & Roxana Wright

**Agent:** N/A

**Zoning Board of Appeal Public Hearing:** June 12, 2023

**REQUEST**

Applicant is requesting the following variance(s) for existing accessory structures:

1. Variance to Sec. 110-125.(d)(2). Lot width – to reduce the lot width (at building line) from 250 feet to 216 feet to allow existing accessory structures (a barn and a conex/shipping container) to remain.
2. Variance to Sec. 110-125.(d)(4)a.2. Front yard setback – to reduce the front yard setback from 100 feet to 23 feet to allow existing accessory structures (a barn and a conex/shipping container) to remain.
3. Variance to Sec. 110-125.(d)(6). Side yard setback – to reduce the side yard setback from 50 feet to 19 feet to allow existing accessory structures (a barn and a conex/shipping container) to remain.

**STAFF RECOMMENDATION**

It is staff's opinion that the property presents unique situation. The structure was built approximately 6 years ago and the nonconformance is not the result of the property owners' actions. The applicant purchased lots 9 and 10 and proposes combining the 2 parcels to help mitigate the nonconformity.

However, it is staff's opinion that the variances should only be granted for the permanently constructed barn and that the shipping container, which is a mobile structure by nature, should not be the subject of a variance and should be relocated to a compliant site on the lot.

Regarding variance request A-839-22, staff recommends **CONDITIONAL APPROVAL** as follows, for the barn ONLY:

1. Variance to Sec. 110-125.(d)(2). Lot width – to reduce the lot width (at building line) from 250 feet to 216 feet to allow an existing accessory structure (a barn) to remain.
2. Variance to Sec. 110-125.(d)(4)a.2. Front yard setback – to reduce the front yard setback from 100 feet to 42 feet to allow existing an accessory structure (a barn) to remain.
3. Variance to Sec. 110-125.(d)(6). Side yard setback – to reduce the side yard setback from 50 feet to 47 feet to allow existing an accessory structure (a barn) to remain.

If this request is approved, staff recommends the following **CONDITIONS OF APPROVAL**:

1. Lots 9 and 10 will be combined into a single parcel, within 90 days, as represented by the proposed recombination plat prepared by W.D. Gray, and submitted as part of the application package.
2. Obtain a building permit for the barn.
3. The conex/shipping container, which is allowed as a farm outbuilding in the A-R Zoning District, shall be moved within 90 days to an area of the lot that complies with all normal building setbacks and lot width requirements.



## HISTORY

The subject property consists of Lots 9 and 10 of Watercrest S/D, recorded on December 21, 2012. The parcels are zoned A-R and contain 8.19 and 8.47 acres, respectively. The home on Lot 9 was constructed in 1988. The barn, which is located on Lot 10, was constructed in 2018 or 2019. When the applicant applied for an electrical permit for the barn, the encroachment of the accessory structures was noted, requiring the variance if they are to remain.

## DEPARTMENTAL COMMENTS

- Water System** - FCWS has no objection to the proposed variance. This property is currently outside the FCWS service area.
- Public Works/Environmental Management**
  - **Transportation** – This property has an existing driveway onto a local road.
  - **Floodplain Management** - The subject property **DOES NOT** contain floodplain per FEMA FIRM panel 13113C0165E dated September 26, 2008. The subject property **DOES** contain floodplain per the 2013 Fayette County Limited Detail Study.
  - **Wetlands** - The property **DOES** contain wetlands per the U.S. Department of the Interior, Fish and Wildlife Service 1994 National Wetland Inventory Map.
  - **Watershed Protection** - There **ARE** known state waters located on the subject property.
  - **Groundwater** – The property **IS NOT** within a groundwater recharge area.
- Environmental Health Department** – This office has no objections to the proposed variances.
- Fire** – No objections.
- Department of Building Safety** - The applicant applied for a stand-alone electric permit for an outbuilding. During the review stage by staff, it was discovered the building was never permitted and the stand-alone application was abandoned. The applicant then made an application for a RES NEW 900-sf garage. Building safety has no issue with the application and should a variance be granted the applicant would be issued a building permit by our department.

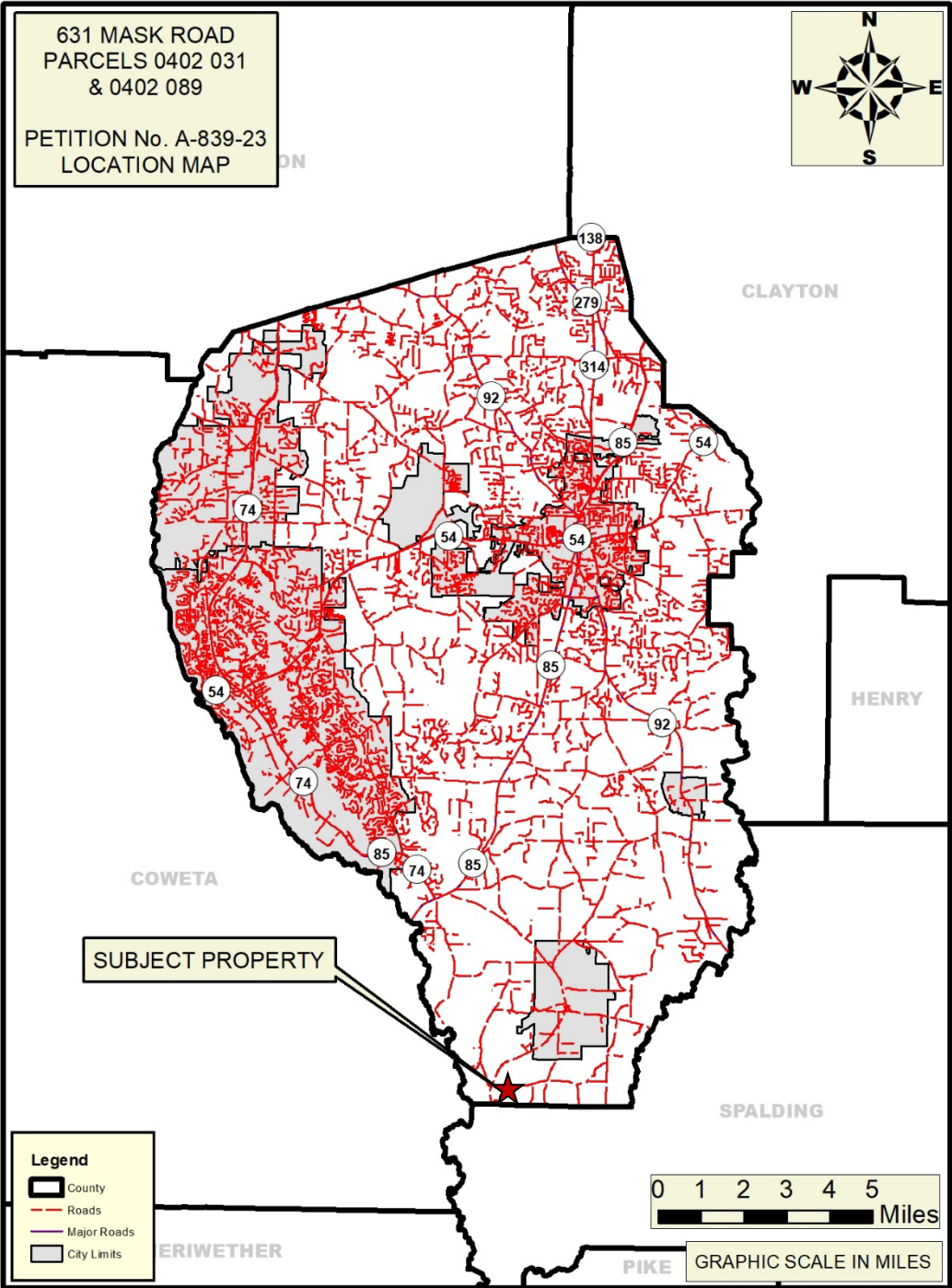
## VARIANCE SUMMARY & CRITERIA FOR CONSIDERATION

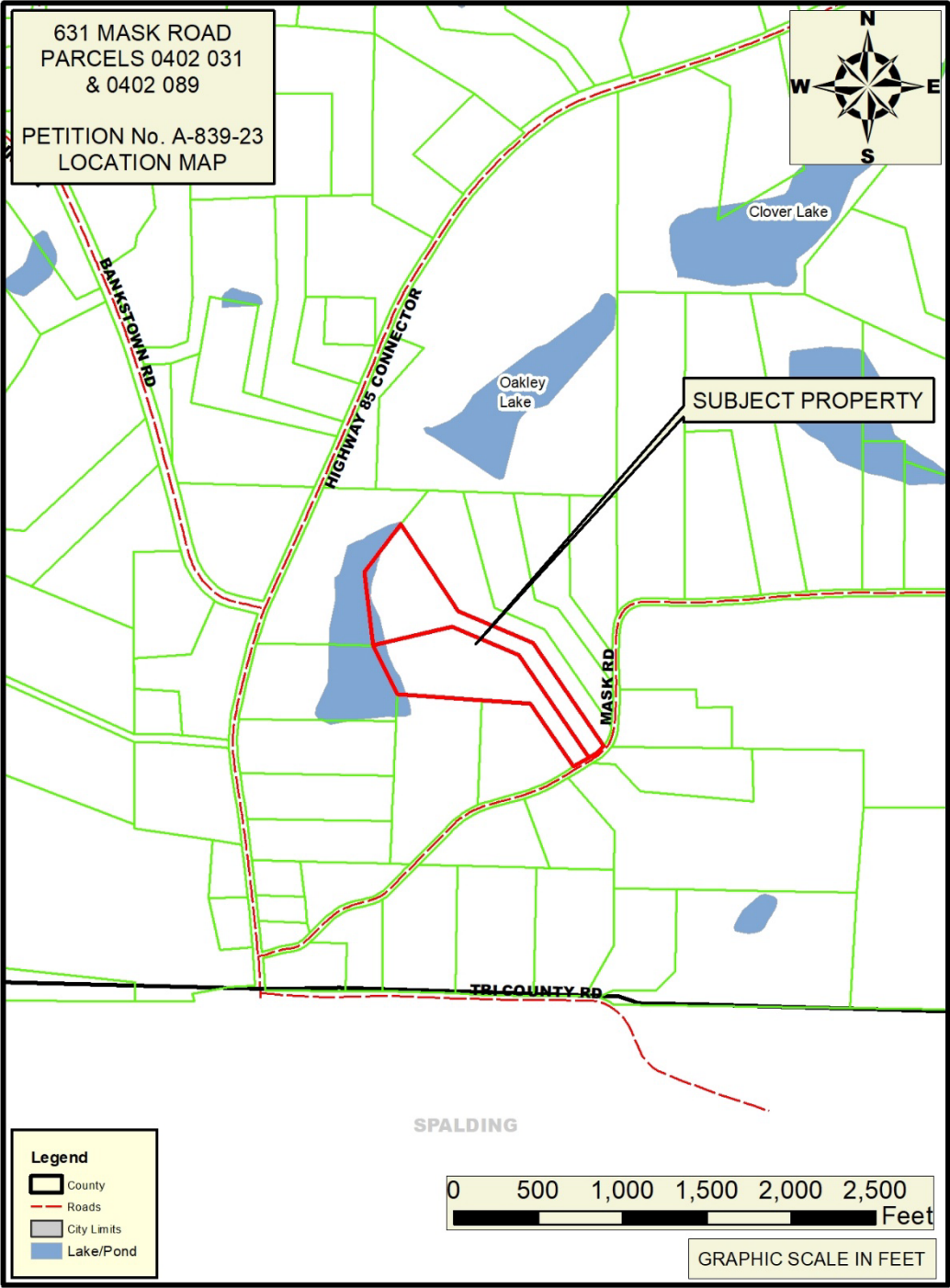
### **STAFF ASSESSMENT OF CRITERIA**

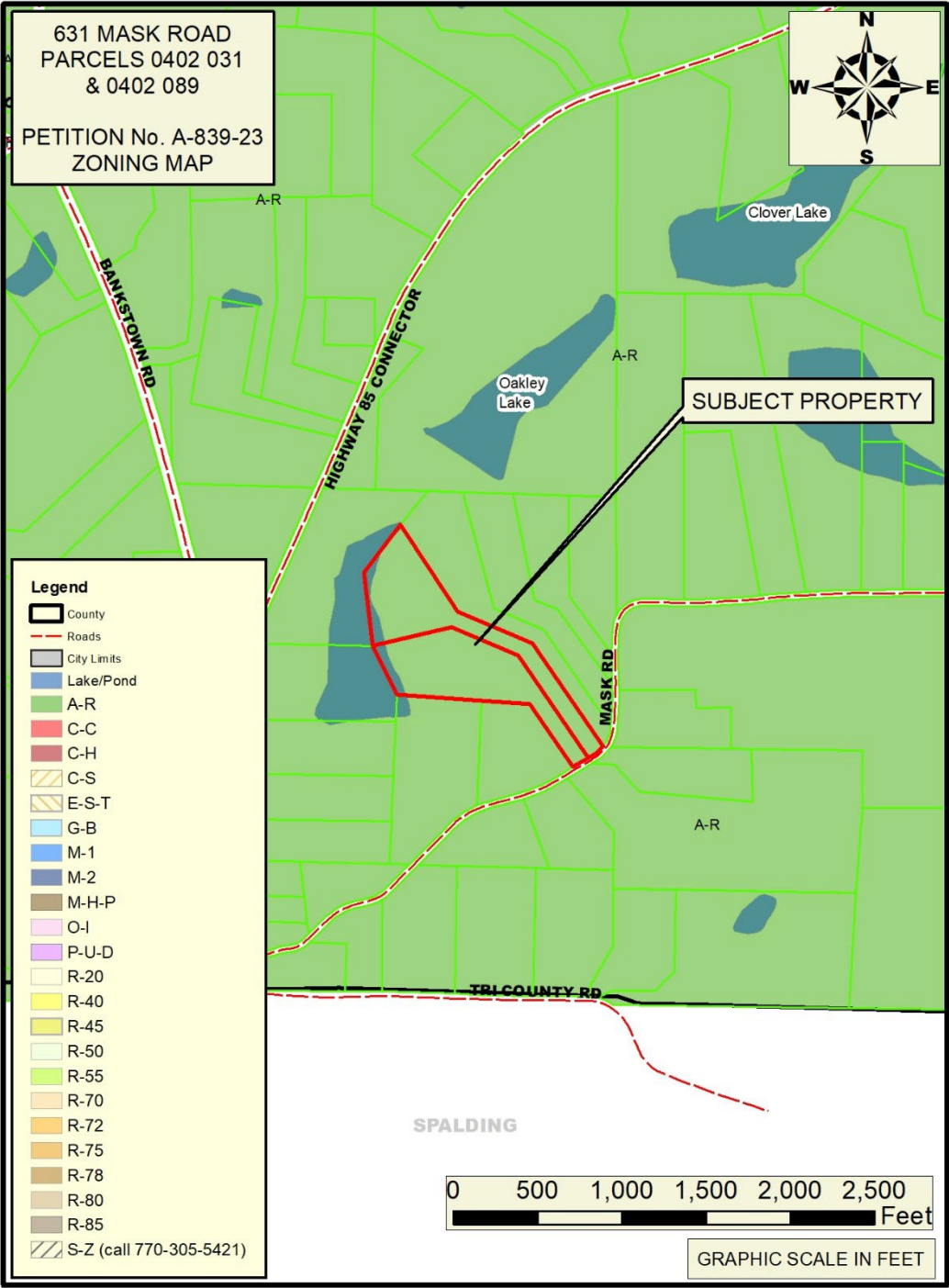
*(Please see the attached application package for the applicant's responses to the criteria.)*

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.

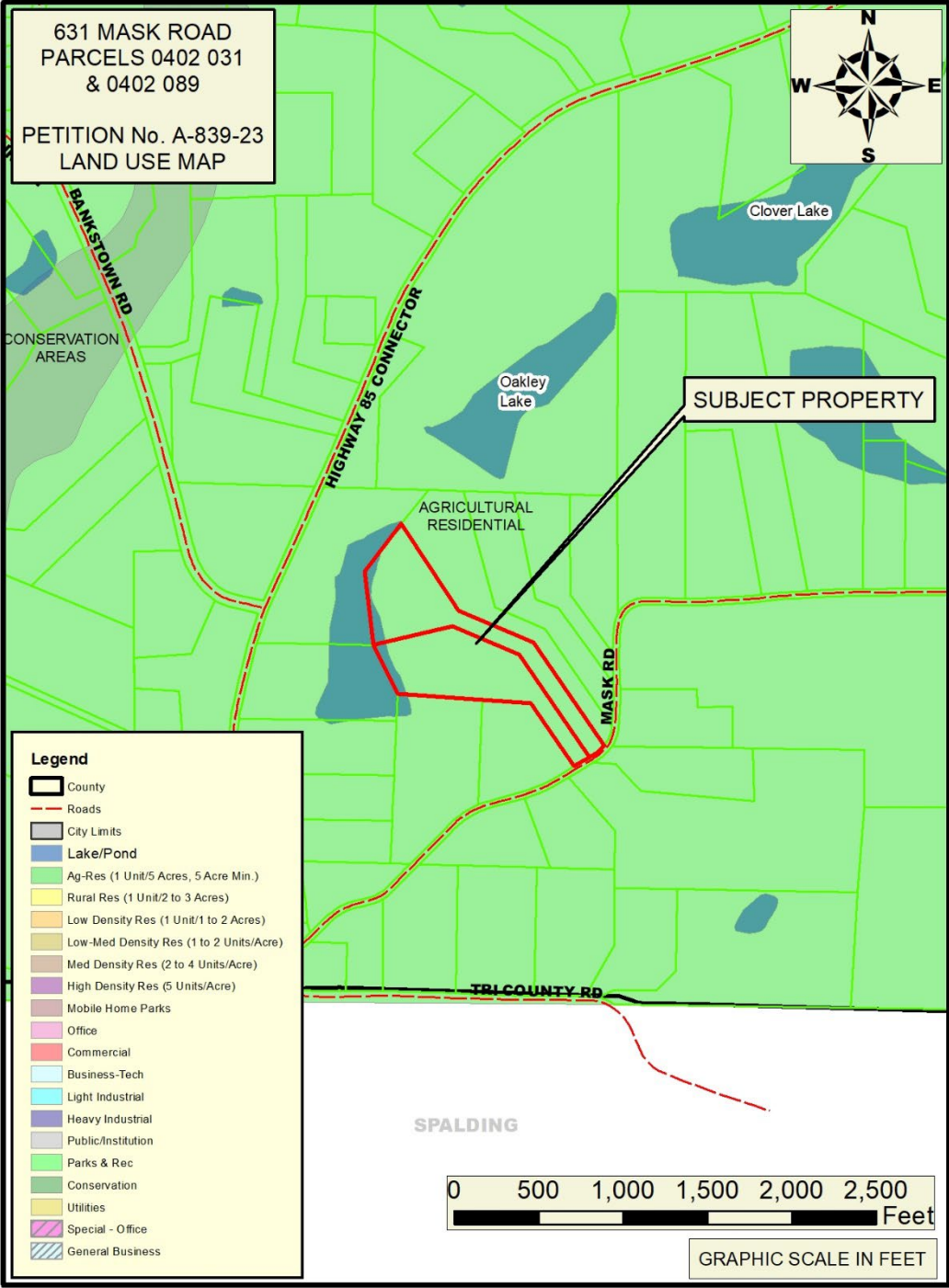
1. **There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.**  
*Yes. The parcels are originally flag lots as part of the Watercrest Subdivision, a minor final plat recorded in 2012.*
2. **The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and,**  
*Yes. The barn was built about 6 years ago and the current owner is not responsible for the location. Relocation or removal would create a practical difficulty.*
3. **Such conditions are peculiar to the particular piece of property involved; and,**  
*Yes. The situation was brought to staff's attention when the owner applied for a building permit and is unique to this 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,**  
*This is a rural lot, and the barn structure is not likely to be detrimental in any way. It is staff's opinion that the shipping container, although a permitted use in A-R, is contrary to the rural aesthetic and should be relocated on the property.*
5. **A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same District are allowed;**  
*The nonconforming location is not a result of the property owners' actions. A literal interpretation of the ordinance would deprive them of the use of the structures if removal were required.*

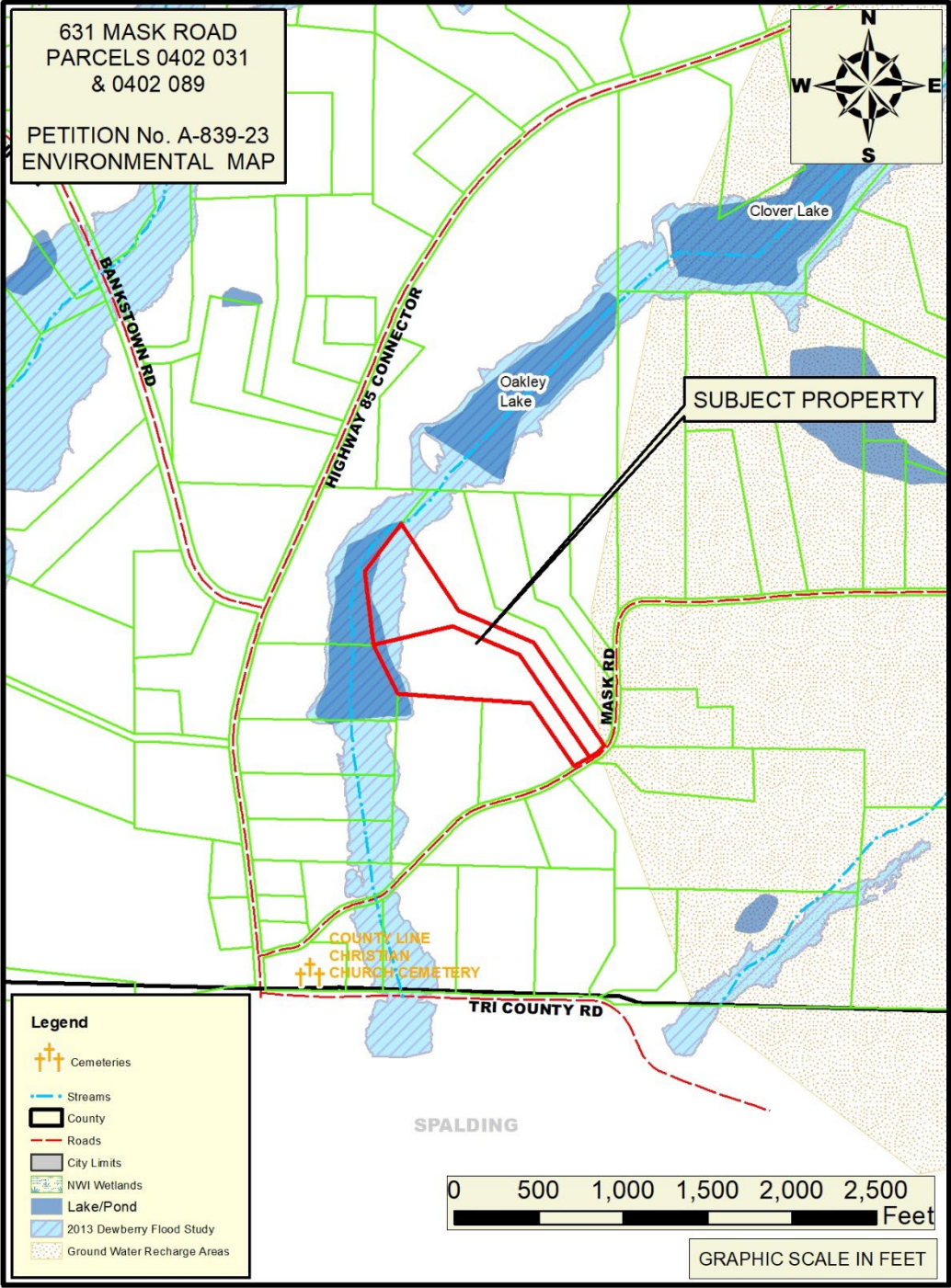




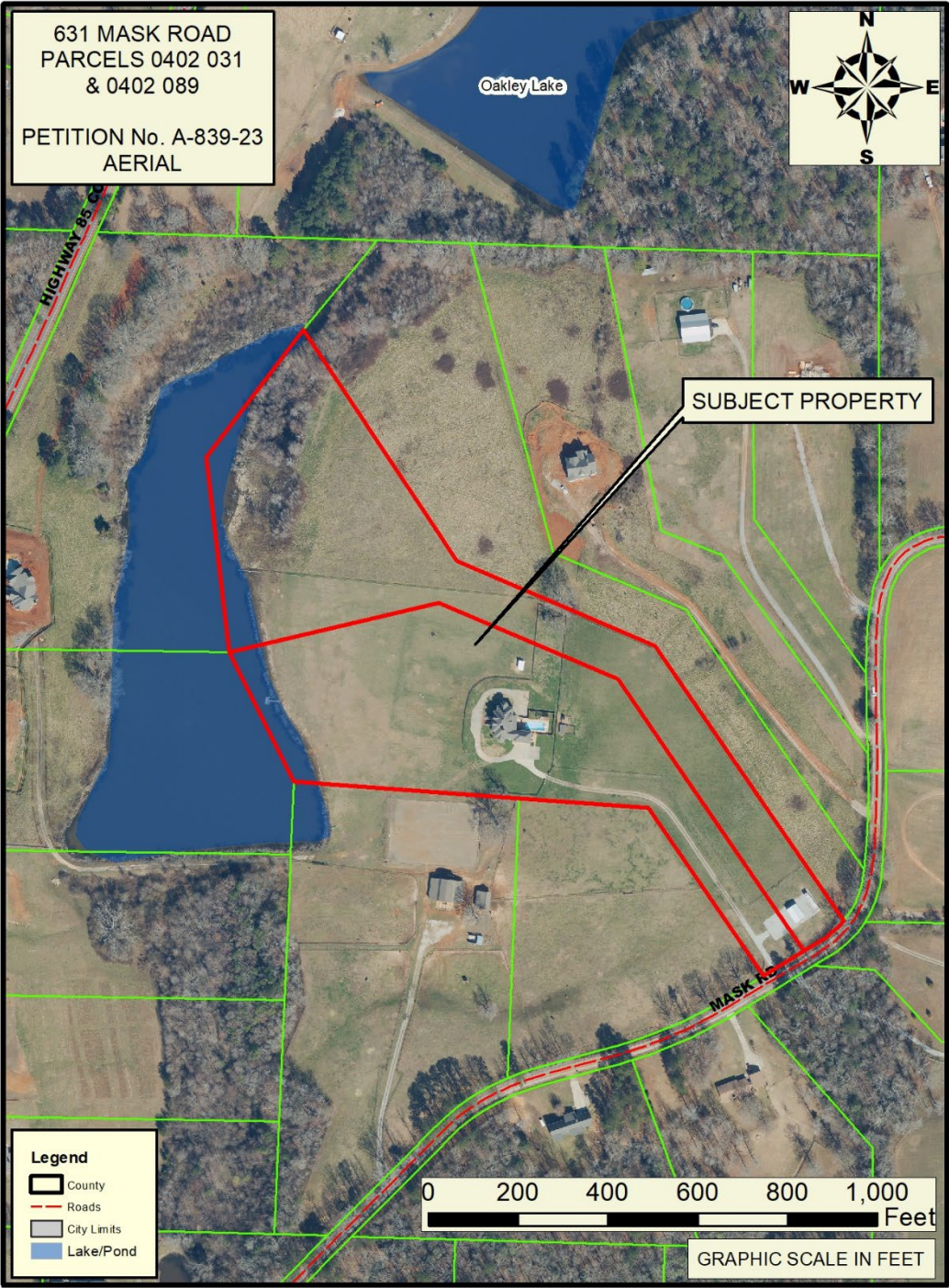




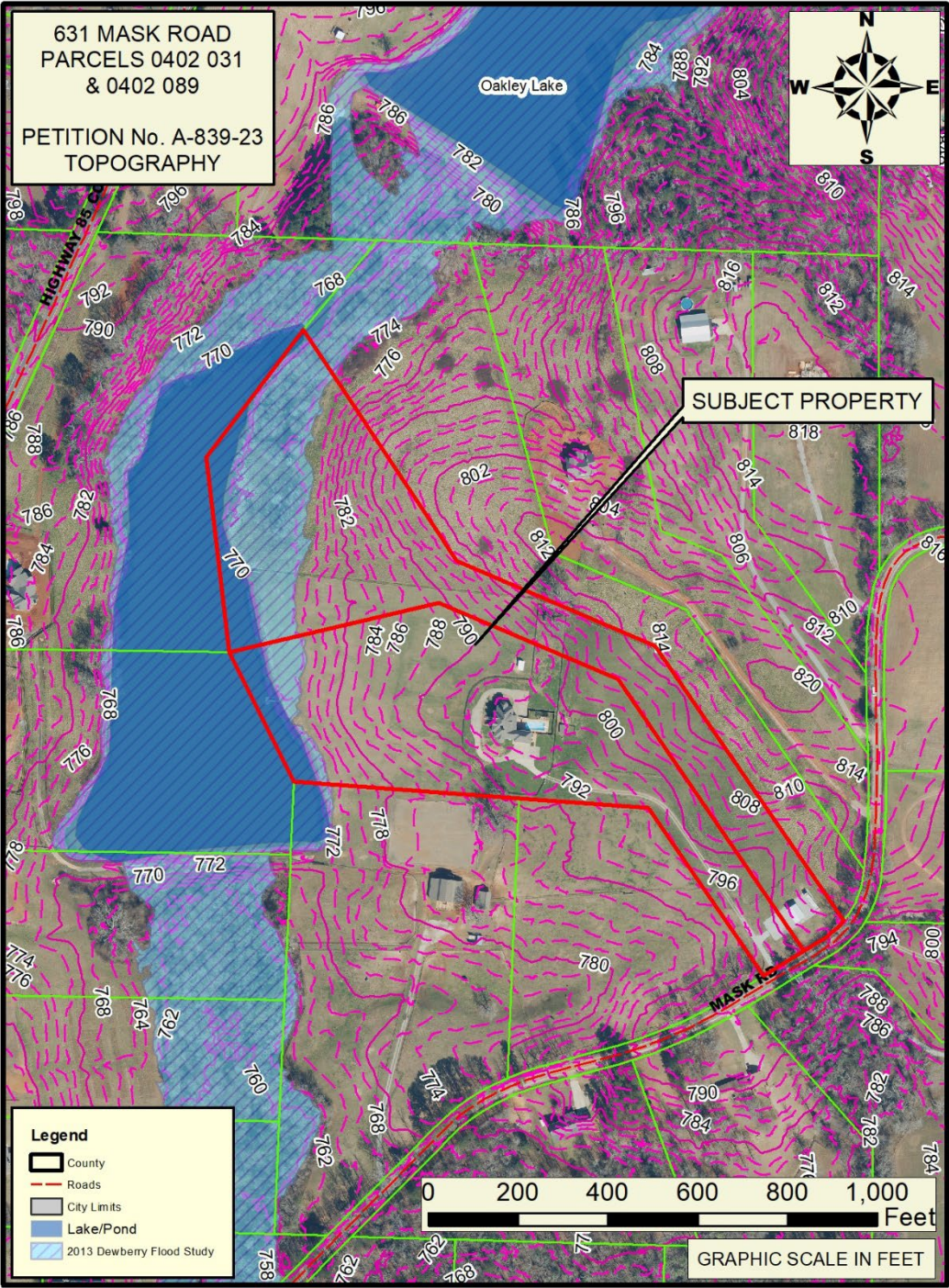


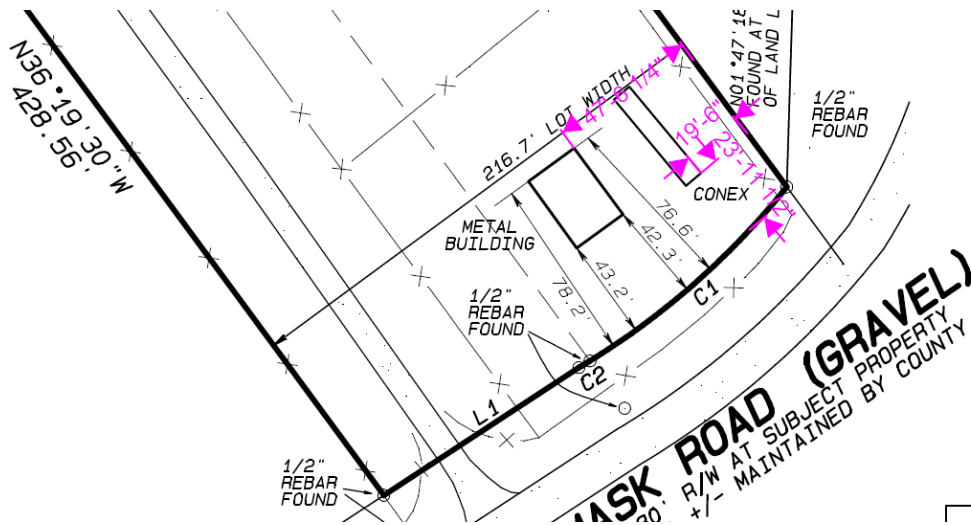




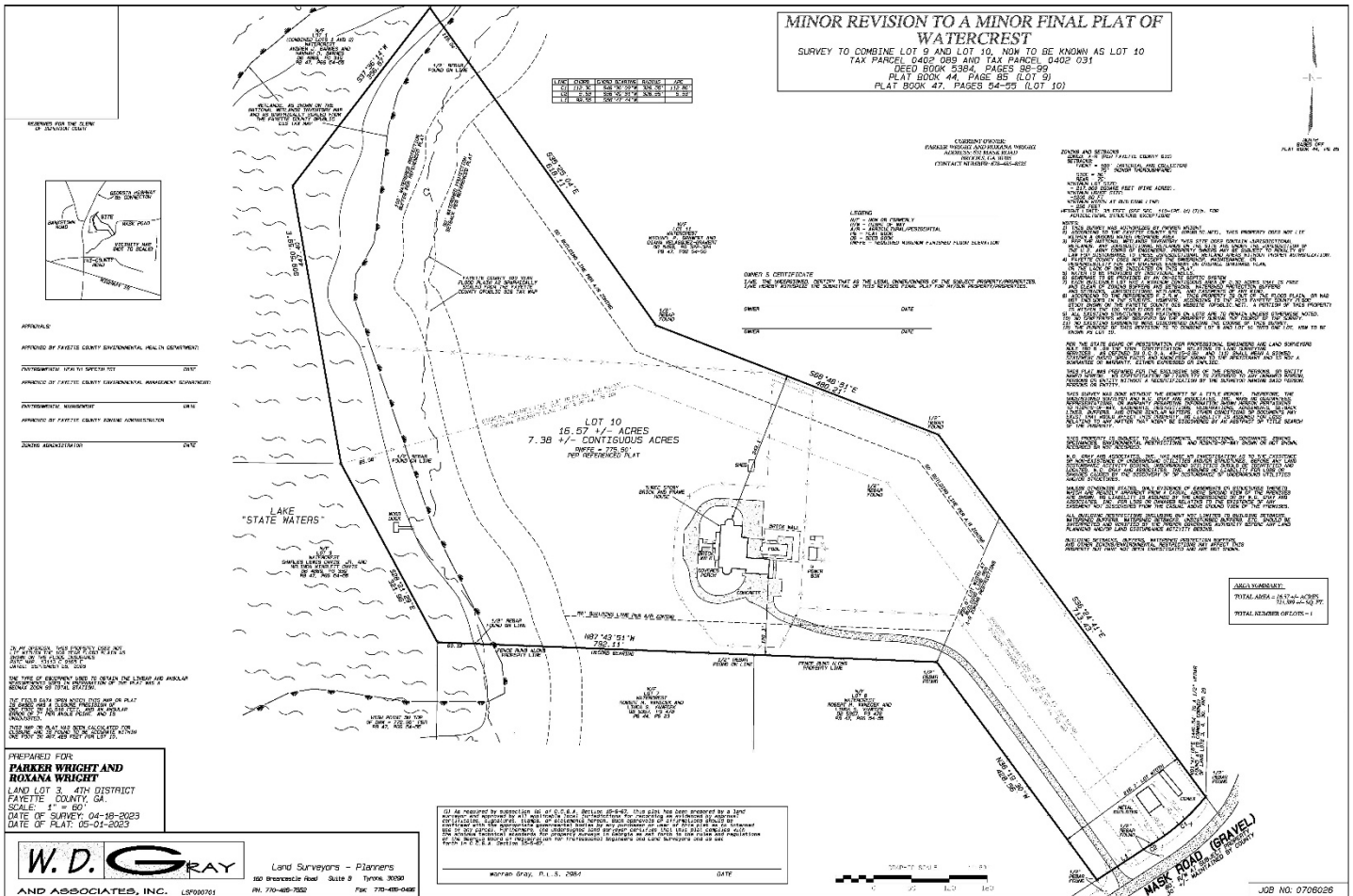








DISTANCES FROM STRUCTURES TO PROPERTY LINES



PROPOSED REVISED PLAT to COMBINE LOTS 9 and 10





631 Mark Road – Photo



631 Mark Road – Photo



631 Mark Road – Photo



631 Mark Road – Photo



PETITION NUMBER: A. 839-23

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY INFORMATION:

Parcel No. 0402089  
0402031 Acreage: 16.57

Land Lot: 3 Land District: 47B

Address: 631 MASK Rd, Brooks, GA 30205

Existing Zoning: A-R Requested Zoning: A-R

Zoning of Surrounding Properties: A-R

Existing Use: ~~residence~~ GARAGE STORAGE Proposed Use: ~~residence~~ GARAGE STORAGE

PROPERTY OWNER INFORMATION

AGENT/DEVELOPER INFORMATION

(If not owner)

Name PARKER WRIGHT

Name \_\_\_\_\_

Email Parkroxan@icloud.com

Email \_\_\_\_\_

Address 631 MASK Rd

Address \_\_\_\_\_

City Brooks

City \_\_\_\_\_

State GA Zip 30205

State \_\_\_\_\_ Zip \_\_\_\_\_

Phone 770 460 6868

Phone \_\_\_\_\_

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-839-23

[ ] Application Insufficient due to lack of:

by Staff: \_\_\_\_\_ Date: \_\_\_\_\_

Application and all required supporting documentation is Sufficient and Complete

by Staff: [Signature] Date: May 4, 2023

DATE OF ZONING BOARD OF APPEALS HEARING: June 12, 2023

Received from PARKER S or Roxana G. WRIGHT a check in the amount of \$ 325.00

for application filing fee, and \$ 100.00 for deposit on frame for public hearing sign(s).

Date Paid: May 4, 2023 Receipt Number: 017938

**PROPERTY OWNER CONSENT AND AGENT AUTHORIZATION FORM**

*(Applications require authorization by ALL property owners of subject property).*

Name(s) of All Property Owners of Record found on the latest recorded deed for the subject property:

PARKER WRIGHT AND ROXANA WRIGHT

Please Print Names

Property Tax Identification Number(s) of Subject Property: 0402 089 AND 0402 031

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) of the 4TH District, and (if applicable to more than one land district) Land Lot(s) 3 of the District, and said property consists of a total of 16.57 acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

(I) (We) hereby delegate authority to N/A to act as (my) (our) Agent in this request. As Agent, they have the authority to agree to any and all conditions of approval which may be imposed by the Board.

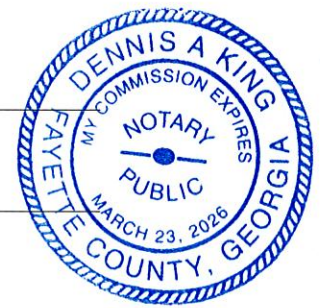
(I) (We) certify that all of the information filed with this application including written statements or showings made in any paper or plans submitted herewith are true and correct to the best of (my) (our) knowledge and belief. Further, (I) (We) understand that this application, attachments and fees become part of the official records of the Fayette County Zoning Department and may not be refundable. (I) (We) understand that any knowingly false information given herein by me/us will result in the denial, revocation or administrative withdrawal of the application or permit. (I) (We) further acknowledge that additional information may be required by Fayette County in order to process this application.

[Signature]  
Signature of Property Owner 1

631 MASK Rd Brooks GA 30205  
Address

[Signature]  
Signature of Notary Public

MAY 4, 2023  
Date

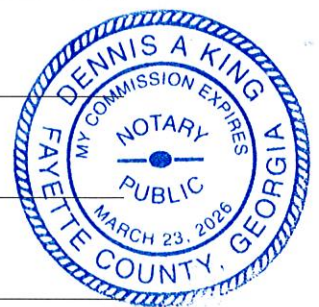


[Signature]  
Signature of Property Owner 2

631 MASK Rd Brooks GA 30205  
Address

[Signature]  
Signature of Notary Public

MAY 4, 2023  
Date



\_\_\_\_\_  
Signature of Authorized Agent

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Date



### VARIANCE INFORMATION

Complete the chart below with the information pertaining to each request. If additional space is needed, please provide the information on a separate sheet of paper.

Ordinance/Section	Requirement	Proposed	Variance Amount
<del>110-125(d) a. 2.</del> 110-125 d (4) a. 2 front setback	100'	23'	54'
110-125 <del>(a)</del> (2) Lot Width (d)	250'	216'	34'
110-125 (d)(6) Side Yard Setback	50'	19'	31'

### VARIANCE SUMMARY

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

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## JUSTIFICATION OF REQUEST

The Fayette County Zoning Ordinance, Section 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.

THE FLAG LOT PLACES SIGNIFICANT RESTRICTIONS ON PRACTICAL AND USEFUL PLACEMENT OF THE STRUCTURE DUE TO THE EXPENSE OF MOVING THEM AND THEN CREATING ACCESS, BOTH PHYSICALLY AND FOR POWER

2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship.

WE PURCHASED THIS PROPERTY OCT 13, 2021. IN THE DISCLOSURE STATEMENT, THE PREVIOUS OWNER INDICATED ALL PERMITS HAD BEEN APPROVED. IN THE PROCESS TRYING TO GET POWER TO THIS GARAGE/STORAGE BUILDING, WE FOUND HE HAD MISREPRESENTED THE FACTS. I AM RETIRED, AND RELOCATION OF THE BUILDING WOULD BE COST PROHIBITIVE. THEREFORE I SEEK TO MAINTAIN THE BUILDING IN ITS CURRENT LOCATION

3. Such conditions are peculiar to the particular piece of property involved.

THE CURRENT LOCATION, NEAR TO MASH ROAD, IS MORE USEFUL FOR THE MACHINERY (MOWER - ON TRAILER - SMALL WORKSHOP AREA) THAN OTHER AREAS ON THE PROPERTY DUE TO THE FACT THAT THE LOTS ARE "FLAG" LOTS. APPARENTLY, THE BUILDING HAS BEEN IN PLACE SINCE ~ 2016, TOGETHER WITH THE CONEX SHIPPING CONTAINER. I WOULD REQUEST TO KEEP BOTH ITEMS WHERE THEY HAVE BEEN FOR THE LAST 7 YEARS, IF POSSIBLE.

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.

Relief is for structure(s) that have been in place for years, as storage buildings. I am seeking 100AMP service for lighting and security, and to increase utility of the building

5. A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same zoning district are allowed.

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Please return to:  
Lawson, Beck & Sandlin, LLC  
1125 Commerce Drive, Suite 300  
Peachtree City, GA 30269  
File # 21-LAW-2584

Type: WD  
Recorded: 10/14/2021 10:04:00 AM  
Fee Amt: \$965.00 Page 1 of 2  
Transfer Tax: \$940.00  
Fayette, Ga. Clerk Superior Court  
Sheila Studdard Clerk of Court

Participant ID: 1138094925

STATE OF GEORGIA  
COUNTY OF FAYETTE

**BK 5384 PG 98 - 99**

**LIMITED WARRANTY DEED**

THIS INDENTURE made this 13th day of October, 2021 between

**Climagn, LLC and Thirty8, LLC**

as party or parties of the first part, hereinafter called Grantor, and

**Parker Wright and Roxana Wright as Joint Tenants With Right of Survivorship**

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 DOLLARS and other good and valuable consideration (\$10.00) 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, the following described property:

All that tract or parcel of land lying and being in Land Lot 3 of the 4th District of Fayette County, Georgia, being Lot 9 of Watercrest Subdivision, as shown on that certain plat of said subdivision recorded in Plat Book 44, Page 85, Fayette County, Georgia Records, said plat being incorporated herein and made a part hereof by reference.

Also being conveyed is:

All that tract or parcel of land lying and being in Land Lot 3 of the 4th District of Fayette County, Georgia, being Lot 10 of Watercrest Subdivision, as shown on that certain plat of said subdivision recorded in Plat Book 47, Page 54-55, Fayette County, Georgia Records, said plat being incorporated herein and made a part hereof by reference.

Subject to restrictive covenants and easements of record.


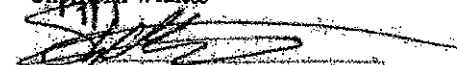
TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

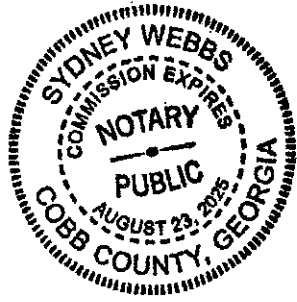
AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons claiming by through or under Grantor.



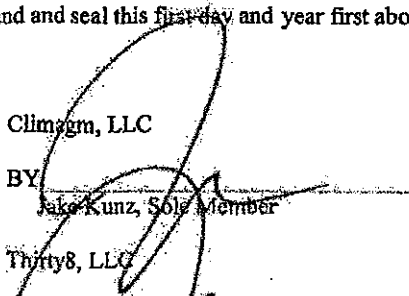
IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal this first day and year first above written.

Signature Sealed and delivered in the presence of:

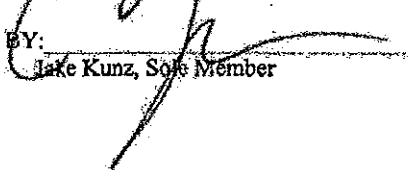
  
Unofficial Witness  
  
Notary Public



Climagm, LLC

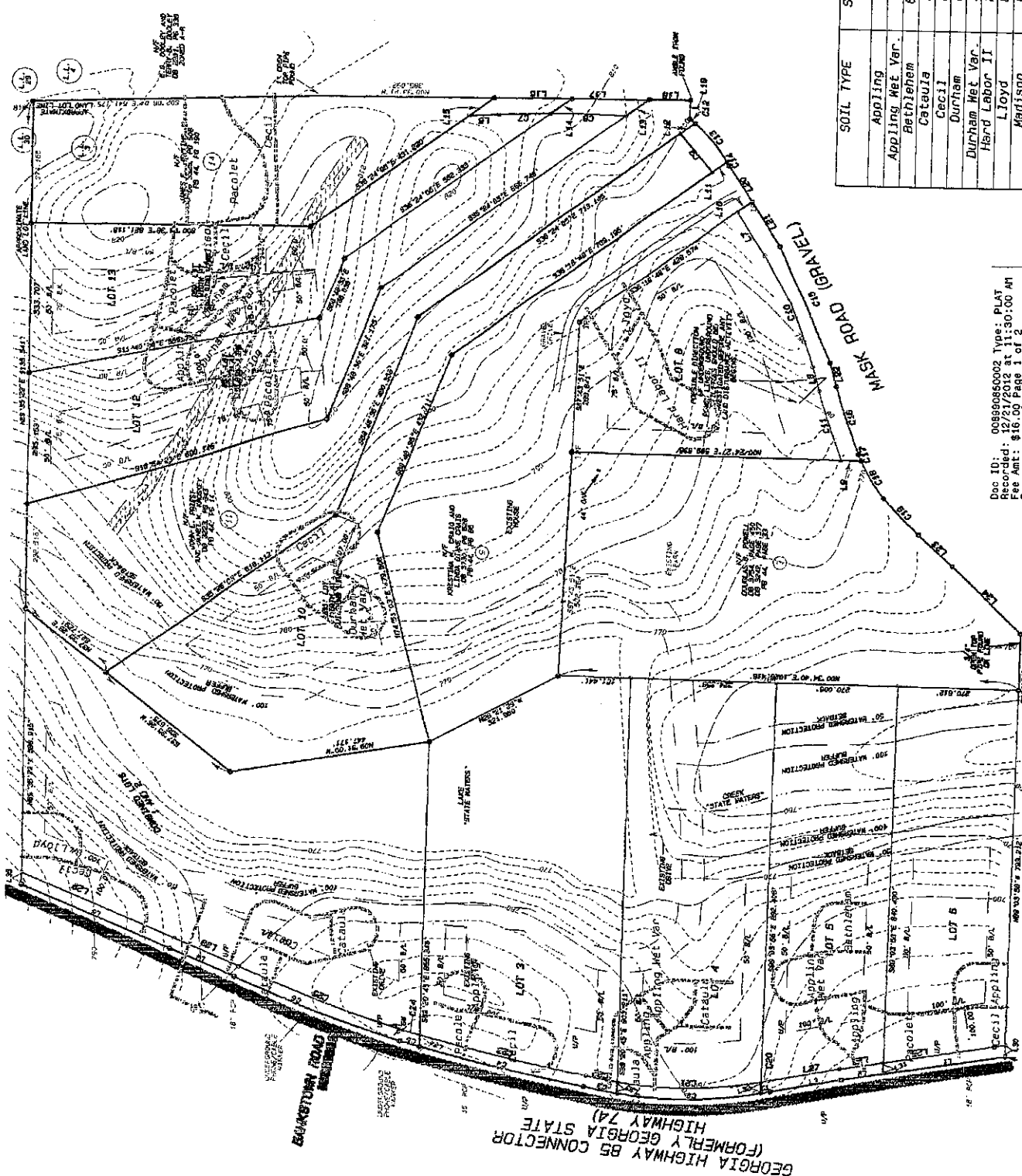
BY:   
Jake Kunz, Sole Member

Thirty8, LLC

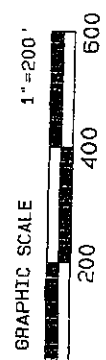
BY:   
Jake Kunz, Sole Member



CODE LETTER	SUITABILITY CODE DESCRIPTION
A	Soil service should have ability to function as suitable absorption (not with proper maintenance) to 2.0 feet.
B	Soil service should have ability to function as suitable absorption (not with proper maintenance) to 1.0 feet.
C	Soil service should have ability to function as suitable absorption (not with proper maintenance) to 0.5 feet.
F	Soil service should have ability to function as suitable absorption (not with proper maintenance) to 0.25 feet.



Doc ID: 0099050002 Type: PLAT  
 Record: \$16.00 Paid at 3:30:00 AM  
 Fayette, Ga. Clerk Superior Court  
 Sheila Studdard Clerk of Court  
**BK47** pg54-55



**LEVEL III SOIL SURVEY**  
 I, Larry F. McEwen do hereby certify that the Level III Soil Survey information provided on this plat was performed in accordance with the procedures specified in the Georgia Department of Human Resources' current Manual for On-Site Sewage Management Systems.

*Larry F. McEwen*  
 Signature of Soil Classifier Professional  
 Larry F. McEwen, PE  
 Georgia DHR Soil Classifier, Professional  
 Registration No. PE012170

Resource Engineers, Inc.  
 8305 Spence Road  
 Fairburn, GA 30213  
 770 569 6923

FOR  
 Rick Duncan  
 The Bank of Georgia  
 100 Westpark Dr  
 Peachtree City, Ga 30269  
 770 631 9488

SOIL TYPE	Slope %	Water inches	Resistance Code	Trench Depth inches	Perk Rate min/in	Infil. Rate (gal)/sf/day
Applying Met. Var.	2 - 6	>72	A	24 - 48	55630	0.15
Bethlehem	2 - 5	>72	A	18 - 30	75630	0.15
Cataula	6 - 10	>72	B	24 - 36	45624	0.10
Cecil	2 - 4	P24	C	B - 12	60812	0.10
Durham	6 - 8	>72	A	24 - 48	55635	0.15
Durham Met. Var.	6 - 8	>72	A	24 - 48	55640	0.15
Hard Labor II	4 - 6	>72	A	18 - 30	80630	0.10
Lloyd	2 - 4	264	A	18 - 30	80630	0.10
Madison	6 - 8	>72	A	24 - 48	55636	0.15
Pacollet	6 - 8	>72	A	36 - 48	45636	0.15
Pacollet	2 - 8	>72	A	30 - 48	45630	0.15

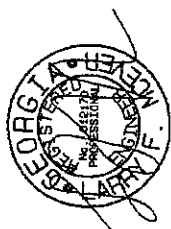
p = parched water table, a = apparent water table nsd = Not Sufficient Data

**LEVEL III SOILS STUDY**  
 LOTS 1, 2, 3, 4, 5, 6, 8, 10, 12, 13, Watercrest S/D  
 L.L. 3, District 4, Fayette County, Georgia

DATE: September 9, 2011  
 REV: September 28, 2012 (Lots)  
 REV: October 1, 2012 (Rotation)  
 REV: November 5, 2012 (Final Lots)

**RESOURCE ENGINEERS INCORPORATED**  
 8305 SPENCE ROAD  
 FAIRBURN, GEORGIA 30213  
 770 569 6923  
 EMAIL: RESO\_ENG@BELLFLOWNET

JOB NO. 2615

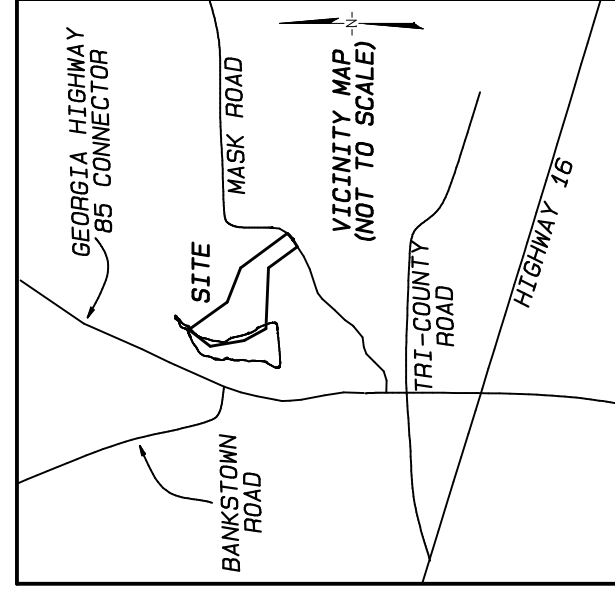


# MINOR REVISION TO A MINOR FINAL PLAT OF WATERCREST

SURVEY TO COMBINE LOT 9 AND LOT 10, NOW TO BE KNOWN AS LOT 10  
 TAX PARCEL 0402 089 AND TAX PARCEL 0402 031  
 DEED BOOK 5384, PAGES 98-99  
 PLAT BOOK 44, PAGE 85 (LOT 9)  
 PLAT BOOK 47, PAGES 54-55 (LOT 10)

LINE	CHORD	CHORD BEARING	RADIUS	ARC
C1	71.83	S56°42'44"W	358.95	172.93
C2	15.83	S88°49'31"W	358.95	9.93
L1	89.65	S56°42'44"W		

RESERVED FOR THE CLERK OF SUPERIOR COURT



**CURRENT OWNER:**  
 PARKER WRIGHT AND ROXANA WRIGHT  
 ADDRESS: 631 MASK ROAD  
 WYOMING, MISSISSIPPI 39206  
 CONTACT NUMBER: 678-485-8325

ZONING AND SETBACKS: FAYETTE COUNTY GIS  
 ZONED: R-1 (RESIDENTIAL AND COLLECTOR)  
 SETBACKS: FRONT - 60' (MINOR THROUGHFARE)  
 SIDE - 50'  
 REAR - 50' (MINOR THROUGHFARE)  
 MINIMUM LOT SIZE:  
 217,800 SQUARE FEET (FIVE ACRES).  
 MINIMUM LOT AREA:  
 12,000 SQ. FT. SIZE.  
 MINIMUM WIDTH AT BUILDING LINE:  
 35 FEET. (SEE SEC. 110-125. (d) (7) D. FOR  
 HEIGHT LIMIT.  
 AGRICULTURAL STRUCTURE EXCEPTIONS

**LEGEND**  
 N/F - NOW OR FORMERLY  
 R/W - RIGHT OF WAY  
 P/R - PLAT REVISION  
 DB - DEED BOOK  
 RMFF - REQUIRED MINIMUM FINISHED FLOOR ELEVATION

N/F  
 LOT 7  
 WATERCREST  
 MICHAEL P. GRAMANT AND  
 DIANE M. GRAMANT  
 DB 5480, PGS 322-324  
 PB 47,  
 PGS 54-55

**OWNER'S CERTIFICATE**  
 I/WE, THE UNDERSIGNED, CERTIFY THAT AS THE LEGAL OWNER(S) OF THE SUBJECT PROPERTY/PROPERTIES,  
 I/WE HEREBY AUTHORIZE THE SUBMITTAL OF THIS REVISED FINAL PLAT FOR MY/OUR PROPERTY/PROPERTIES.

OWNER \_\_\_\_\_ DATE \_\_\_\_\_  
 OWNER \_\_\_\_\_ DATE \_\_\_\_\_

APPROVED BY FAYETTE COUNTY ENVIRONMENTAL HEALTH DEPARTMENT:  
 ENVIRONMENTAL HEALTH SPECIALIST \_\_\_\_\_ DATE \_\_\_\_\_  
 APPROVED BY FAYETTE COUNTY ENVIRONMENTAL MANAGEMENT DEPARTMENT:  
 ENVIRONMENTAL MANAGEMENT \_\_\_\_\_ DATE \_\_\_\_\_  
 APPROVED BY FAYETTE COUNTY ZONING ADMINISTRATOR \_\_\_\_\_ DATE \_\_\_\_\_  
 ZONING ADMINISTRATOR \_\_\_\_\_ DATE \_\_\_\_\_

PER THE STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS  
 RULE 180-6-.09 OF THE RULES, CERTIFICATION RELATING TO LAND SURVEYING AND  
 STATEMENT BASED UPON FACTS AND KNOWLEDGE KNOWN TO THE REGISTRANT AND IS NOT A  
 GUARANTEE OR WARRANTY, EITHER EXPRESSED OR IMPLIED.

THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS, OR ENTITY  
 PERSONS OR ENTITY WITHOUT A RECERTIFICATION BY THE SURVEYOR, PERSONS SAID PERSON,  
 PERSONS OR ENTITY.

THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A TITLE REPORT. THEREFORE, THE  
 UNDERSIGNED SURVEYOR AND M.D. GRAY AND ASSOCIATES, INC. MAKE NO GUARANTEES,  
 WARRANTIES, REPRESENTATIONS, RESERVATIONS, AGREEMENTS, SETBACK  
 LINES, BUFFERS, AND OTHER SIMILAR MATTERS. OTHER CONDITIONS OR DOCUMENTS MAY  
 RELATING TO ANY MATTER THAT MIGHT BE DISCOVERED BY AN ABSTRACT OR TITLE SEARCH  
 OF THE PROPERTY.

THIS PROPERTY IS SUBJECT TO ALL EASEMENTS, RESTRICTIONS, COVENANTS, ZONING  
 ORDINANCES, ENVIRONMENTAL RESTRICTIONS, AND RIGHTS-OF-WAY SHOWN OR NOT SHOWN,  
 RECORDED OR NOT RECORDED.

M.D. GRAY AND ASSOCIATES, INC. HAS MADE NO INVESTIGATION AS TO THE EXISTENCE  
 OR NON-EXISTENCE OF UNDERGROUND UTILITIES AND/OR STRUCTURES BEFORE ANY LAND  
 LOCATED. M.D. GRAY AND ASSOCIATES, INC. ASSUMES NO LIABILITY FOR LOSS OR  
 DAMAGES CAUSED BY THE DISCOVERY OF OR DISTURBANCE OF UNDERGROUND UTILITIES  
 AND/OR STRUCTURES.

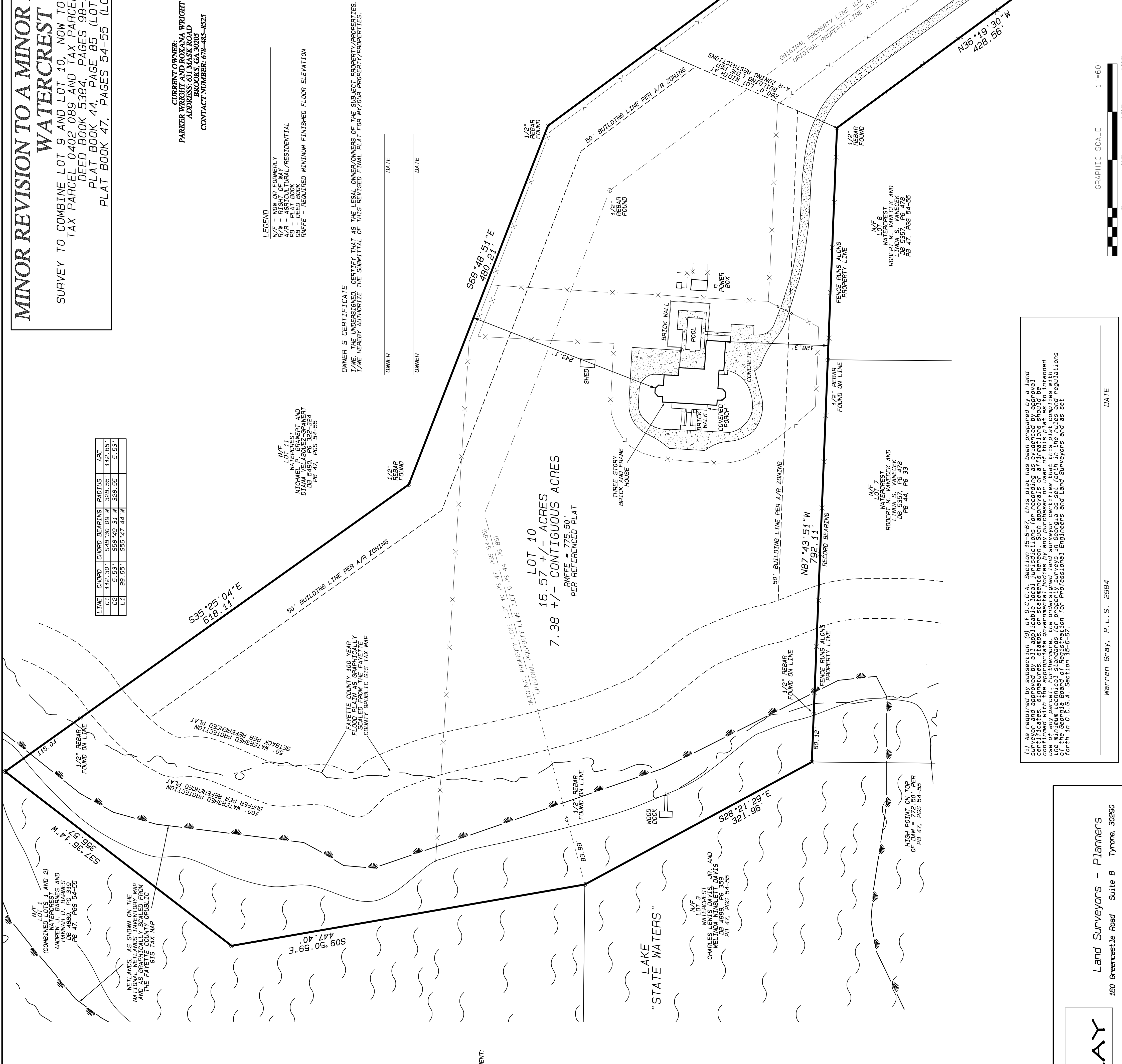
UNLESS OTHERWISE STATED, ONLY EVIDENCE OF EASEMENTS OR STRUCTURES PRESENT  
 ON THE RECORD WILL BE SHOWN. ABOVE-GROUND UTILITIES AND/OR STRUCTURES  
 ARE SHOWN. NO LIABILITY IS ASSUMED BY THE UNDERSIGNED OR BY M.D. GRAY AND  
 ASSOCIATES, INC. FOR ANY DAMAGE TO OR DISTURBANCE OF THE PREMISES  
 EASEMENT NOT DISCOVERED FROM THE CASUAL ABOVE-GROUND VIEW OF THE PREMISES.

ALL BUILDING RESTRICTIONS INCLUDING BUT NOT LIMITED TO BUILDING SETBACKS,  
 WATERSHED BUFFERS, WATERSHED SETBACKS, UNDISTURBED BUFFERS, ETC. SHOULD BE  
 INTERPRETED AND VERIFIED BY THE PROPER GOVERNING AUTHORITY BEFORE ANY LAND  
 PLANNING AND/OR LAND DISTURBANCE ACTIVITY BEGINS.

BUILDING SETBACKS, BUFFERS, WATERSHED PROTECTION BUFFER, WATERSHED SETBACKS,  
 AND OTHER ZONING/ENVIRONMENTAL RESTRICTIONS MAY AFFECT THIS  
 PROPERTY BUT HAVE NOT BEEN INVESTIGATED AND ARE NOT SHOWN.

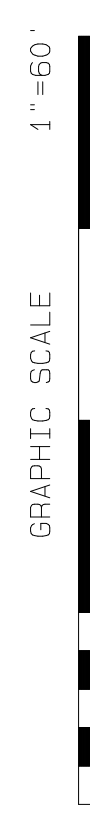
**AREA SUMMARY:**  
 TOTAL AREA = 16.57 +/- ACRES  
 721,589 +/- SQ. FT.  
 TOTAL NUMBER OF LOTS = 1

**LOT 10**  
 16.57 +/- ACRES  
 7.38 +/- CONTIGUOUS ACRES  
 RMFFE = 775.50'  
 PER REFERENCED PLAT



(I) As required by subsection (d) of O.C.G.A. Section 15-6-67, this plat has been prepared by a land  
 surveyor who is duly licensed and registered in the State of Georgia. The surveyor has  
 certified the signatures, stamps, or statements herein. Such approvals or affirmations should be  
 confirmed with the appropriate governmental bodies by any purchaser or user of this plat as to intended  
 use. The minimum technical standards for property surveys in Georgia are set forth in the rules and regulations  
 of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set  
 forth in O.C.G.A. Section 15-6-67.

Marren Gray, R.L.S. 2984



JOB NO: 0706026

**W.D. GRAY**  
 AND ASSOCIATES, INC. LSF000701  
 Land Surveyors - Planners  
 160 Greencastle Road Suite B Iyona, 30290  
 PH. 770-486-7552 Fax: 770-486-0496

PREPARED FOR:  
**PARKER WRIGHT AND ROXANA WRIGHT**  
 LAND LOT 3, 4TH DISTRICT  
 FAYETTE COUNTY, GA.  
 SCALE: 1" = 60'  
 DATE OF SURVEY: 04-18-2023  
 DATE OF PLAT: 05-01-2023

IN MY OPINION, THIS PROPERTY DOES NOT  
 LIE WITHIN THE 100 YEAR FLOOD PLAIN AS  
 SHOWN ON THE FLOOD INSURANCE RATE  
 MAP DATED SEPTEMBER 26, 2009  
 THE TYPE OF EQUIPMENT USED TO OBTAIN THE LINEAR AND ANGULAR  
 BEARINGS AND DISTANCES ON THIS PLAT WAS A  
 SEOMAX ZOOM 90 TOTAL STATION.  
 THE FIELD DATA UPON WHICH THIS MAP OR PLAT  
 WAS BASED WAS OBTAINED BY AN ANGULAR  
 ERROR OF 7" PER ANGLE POINT, AND IS  
 UNADJUSTED.  
 THIS MAP OR PLAT HAS BEEN CALCULATED FOR  
 ONE FOOT IN 487,429 FEET FOR LOT 10.



**PETITION NO: A-840-23**

**APPEAL:** An Appeal from the actions of the Zoning Director regarding the determination of the Zoning Director that a substance abuse treatment center is not listed as a permitted use in the O-I (Office-Institutional) zoning district has been filed on May 3, 2023, by M. Adam Kaye, Jr., Attorney, on behalf of Wolf Acquisitions LLC.

**PROPERTY OWNER(S):** NWE18 LLC

**LOCATION:** 1008 Highway 54 W – Parcel 0522 007

**DISTRICT/LAND LOT(S):** 5<sup>th</sup> District, Land Lot 126

**ZONING:** O-I, Office-Institutional

**EXISTING USE:** Vacant Building

**ZONING BOARD OF APPEALS PUBLIC HEARING:** June 12, 2023

**SUMMARY**

Staff's determination is that the proposed use as a substance abuse detox facility is not listed in the County's Zoning Ordinance for the O-I Zoning District, and that this use differs from a hospital use.

A substance abuse detox facility is subject to State Zoning Procedure Law as outlined in OCGA 36-66, specifically in OCGA 36-66-4(f). Title 36 in OCGA pertains to Local Governments and prescribes how Local Governments must conduct certain activities, including Zoning Procedure.

**HISTORY**

On March 21, 2023, Mr. Fitzgerald submitted a request for a zoning verification letter to the Planning & Zoning Department. He advised that his client was 'looking to possibly use the property for a substance-abuse detox facility, subject to the applicable licenses and approvals from the Georgia Department of Community Health.' Staff explained that we would provide a zoning verification that this is zoned O-I but could not confirm the substance abuse clinic as comparable to a hospice, as it is a different use, but that we would consult with the County Attorney. At Mr. Kaye's request, the County Attorney contacted him directly to discuss his request.

On April 6, P & Z sent Mr. Kaye a zoning verification letter confirming that the property is zoned O-I but did not include any assertions that a substance abuse detox facility is a permitted use.

On May 3, Mr. Kaye submitted a letter of appeal regarding staff's interpretation of the Zoning Ordinance.

Current through the 2022 Regular Session of the General Assembly.

- **Official Code of Georgia Annotated**
- **TITLE 36 Local Government**
- **Provisions Applicable to Counties and Municipal Corporations (Chs. 60 — 77)**

**CHAPTER 66 Zoning Procedures (§§ 36-66-1 — 36-66-6)O.C.G.A. § 36-66-3**

**36-66-3. Definitions.**

As used in this chapter, the term:

**(1)** “Local government” means any county or municipality which exercises zoning power within its territorial boundaries.

**(1.1)** “Quasi-judicial officers, boards, or agencies” means an officer, board, or agency appointed by a local government to exercise delegated, quasi-judicial zoning powers including hearing appeals of administrative decisions by such officers, boards, or agencies and hearing and rendering decisions on applications for variances, special administrative permits, special exceptions, conditional use permits, or other similar permits not enumerated herein as a zoning decision, pursuant to standards for the exercise of such quasi-judicial authority adopted by a local government.

**(2)** “Territorial boundaries” means, in the case of counties, the unincorporated areas thereof and any area defined in paragraph (5.1) of Code Section 36-70-2, and, in the case of municipalities, the area lying within the corporate limits thereof except any area defined in paragraph (5.1) of Code Section 36-70-2.

**(3)** “Zoning” means the power of local governments to provide within their respective territorial boundaries for the zoning or districting of property for various uses and the prohibition of other or different uses within such zones or districts and for the regulation of development and the improvement of real estate within such zones or districts in accordance with the uses of property for which such zones or districts were established.

**(4)** “Zoning decision” means final legislative action by a local government which results in:

**(A)** The adoption or repeal of a zoning ordinance;

**(B)** The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;

**(C)** The adoption or denial of an amendment to a zoning ordinance to rezone property from one zoning classification to another;

**(D)** The adoption or denial of an amendment to a zoning ordinance by a municipal local government to zone property to be annexed into the municipality;

**(E)** The grant or denial of a permit relating to a special use of property; or

**(F)** The grant or denial of a variance or conditions concurrent and in conjunction with a decision pursuant to subparagraphs (C) or (E) of this paragraph.

**(5)** “Zoning ordinance” means an ordinance or resolution of a local government establishing procedures and zones or districts within its respective territorial boundaries which regulate the uses and development standards of property within such zones or districts. The term also includes the zoning map adopted in conjunction with a zoning ordinance which shows the zones and districts and zoning classifications of property therein.

**36-66-4. Hearings on proposed zoning decisions; notice of hearing; nongovernmental initiated actions; reconsideration of defeated actions; procedure on zoning.**

(a) A local government taking action resulting in a zoning decision shall provide for a hearing on the proposed action. Where the proposed action includes any combination of zoning decisions under subparagraphs (C), (E), or (F) of paragraph (4) of Code Section 36-66-3 for the same property, only one hearing shall be required under this Code Section. At least 15 but not more than 45 days prior to the date of the hearing, the local government shall cause to be published within a newspaper of general circulation within the territorial boundaries of the local government a notice of the hearing. The notice shall state the time, place, and purpose of the hearing.

(b) If a zoning decision of a local government is for the rezoning of property and the rezoning is initiated by a party other than the local government, then:

(1) The notice, in addition to the requirements of subsection (a) of this Code section, shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property; and

(2) A sign containing information required by local ordinance or resolution shall be placed in a conspicuous location on the property not less than 15 days prior to the date of the hearing.

(c) If the zoning decision of a local government is for the rezoning of property and the amendment to the zoning ordinance to accomplish the rezoning is defeated by the local government, then the same property may not again be considered for rezoning until the expiration of at least six months immediately following the defeat of the rezoning by the local government.

(d) If the zoning is for property to be annexed into a municipality, then:

(1) Such municipal local government shall complete the procedures required by this chapter for such zoning, except for the final vote of the municipal governing authority, prior to adoption of the annexation ordinance or resolution or the effective date of any local Act but no sooner than the date the notice of the proposed annexation is provided to the governing authority of the county as required under Code Section 36-36-6;

(2) The hearing required by subsection (a) of this Code section shall be conducted prior to the annexation of the subject property into the municipality;

(3) In addition to the other notice requirements of this Code section, the municipality shall cause to be published within a newspaper of general circulation within the territorial boundaries of the county wherein the property to be annexed is located a notice of the hearing as required under the provisions of subsection (a) or (b), as applicable, of this Code section and shall place a sign on the property when required by subsection (b) of this Code section; and

(4) The zoning classification approved by the municipality following the hearing required by this Code section shall become effective on the later of:

(A) The date the zoning is approved by the municipality;

(B) The date that the annexation becomes effective pursuant to Code Section 36-36-2; or

(C) Where a county has interposed an objection pursuant to Code Section 36-36-11, the date provided for in paragraph (8) of subsection (c) of said Code section.

(e) A qualified municipality into which property has been annexed may provide, by the adoption of a zoning ordinance, that all annexed property shall be zoned by the municipality, without further action, for the same use for which that property was zoned immediately prior to such annexation. A qualified county which includes property which has been deannexed by a municipality may provide, by the adoption of a zoning ordinance, that all deannexed property shall be zoned by the county, without further action, for the same use for which that property was zoned

immediately prior to such deannexation. A municipality shall be a qualified municipality only if the municipality and the county in which is located the property annexed into such municipality have a common zoning ordinance with respect to zoning classifications. A county shall be a qualified county only if that county and the municipality in which was located the property deannexed have a common zoning ordinance with respect to zoning classifications. A zoning ordinance authorized by this subsection shall be adopted in compliance with the other provisions of this chapter. The operation of such ordinance to zone property which is annexed or deannexed shall not require any further action by the adopting municipality, adopting county, or owner of the property annexed or deannexed. Property which is zoned pursuant to this subsection may have such zoning classification changed upon compliance with the other provisions of this chapter.

**(f)** When a proposed zoning decision relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, a public hearing shall be held on the proposed action. Such public hearing shall be held at least six months and not more than nine months prior to the date of final action on the zoning decision. The hearing required by this subsection shall be in addition to any hearing required under subsection (a) of this Code section. The local government shall give notice of such hearing by:

**(1)** Posting notice on the affected premises in the manner prescribed by subsection (b) of this Code section; and

**(2)** Publishing in a newspaper of general circulation within the territorial boundaries of the local government a notice of the hearing at least 15 days and not more than 45 days prior to the date of the hearing.

Both the posted notice and the published notice shall include a prominent statement that the proposed zoning decision relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency. The published notice shall be at least six column inches in size and shall not be located in the classified advertising section of the newspaper.

**(g)** A local government delegating decision-making power to a quasi-judicial officer, board, or agency shall provide for a hearing on each proposed action described in paragraph (1.1) of Code Section 36-66-3. Notice of such hearing shall be provided at least 30 days prior to the quasi-judicial hearing, with such notice being made as provided for in subsection (a) of this Code section and with additional notice being mailed to the owner of the property that is the subject of the proposed action.

**(h)**

**(1)** Notwithstanding any other provisions of this chapter to the contrary, when a proposed zoning decision relates to an amendment of the zoning ordinance to revise one or more zoning classifications or definitions relating to single-family residential uses of property so as to authorize multifamily uses of property pursuant to such classification or definitions, or to grant blanket permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single-family residential zoning, such zoning decision must be adopted in the following manner:

**(A)** The zoning decision shall be adopted at two regular meetings of the local government making the zoning decision, during a period of not less than 21 days apart; and

**(B)** Prior to the first meeting provided for in subparagraph (A) of this paragraph, at least two public hearings shall be held on the proposed action. Such public hearings shall be held at least three months and not more than nine months prior to the date of final action on the zoning decision. Furthermore, at least one of the public hearings must be held between the hours of 5:00 P.M. and 8:00 P.M. The hearings required by this paragraph shall be in addition to any hearing required under subsection (a) of this Code section. The local government shall give notice of such hearing by:

**(i)** Posting notice on each affected premises in the manner prescribed by subsection (b) of this Code section; provided, however, that when more than 500 parcels are affected, in which case posting notice is required every 500 feet in the affected area; and



**(ii)** Publishing in a newspaper of general circulation within the territorial boundaries of the local government a notice of each hearing at least 15 days and not more than 45 days prior to the date of the hearing.

Both the posted notice and the published notice shall include a prominent statement that the proposed zoning decision relates to or will authorize multifamily uses or give blanket permission to the property owner to deviate from the zoning requirements of a single-family residential zoning of property in classification previously relating to single-family residential uses. The published notice shall be at least nine column inches in size and shall not be located in the classified advertising section of the newspaper. The notice shall state that a copy of the proposed amendment is on file in the office of the clerk or the recording officer of the local government and in the office of the clerk of the superior court of the county of the legal situs of the local government for the purpose of examination and inspection by the public. The local government shall furnish anyone, upon written request, a copy of the proposed amendment, at no cost.

**(2)** The provisions of paragraph (1) of this subsection shall also apply to any zoning decisions that provide for the abolition of all single-family residential zoning classifications within the territorial boundaries of a local government or zoning decisions that result in the rezoning of all property zoned for single-family residential uses within the territorial boundaries of a local government to multifamily residential uses of property.

**(3)** This subsection shall not apply to zoning decisions for the rezoning of property from a single-family residential use of property to a multifamily residential use of property when the rezoning is initiated by the owner or authorized agent of the owner of such property.

## Zoning Ordinance of Fayette County, Georgia

### Sec. 110-142. O-I, Office-Institutional District.

- (a) *Description of district.* This district is composed of certain lands and structures having office and institutional uses which are compatible with or provide a transition into low-intensity land uses.
- (b) *Permitted principal uses and structures.* The following permitted uses shall be allowed in the O-I zoning district:
- (1) Office;
  - (2) Art gallery;
  - (3) Bank and/or financial institution;
  - (4) Banquet hall/event facility;
  - (5) College and/or university, including classrooms and/or administration only;
  - (6) Educational/instructional/tutorial facilities, including, but not limited to: academic, art, computer, dance, driving and/or DUI, martial arts, music, professional/business/trade, and similar facilities;
  - (7) Health club and/or fitness center;
  - (8) Hotel;
  - (9) Insurance carrier, agent, and/or broker;
  - (10) Laboratory, medical, and/or dental;
  - (11) Legal services;
  - (12) Massage therapy (see chapter 8);
  - (13) Medical/dental office (human treatment);
  - (14) Military recruiting office;
  - (15) Museum;
  - (16) Performing arts theater;
  - (17) Private school, including classrooms and/or administration only;
  - (18) Professional services, including, but not limited to: accounting; advertising and marketing research services; architectural firms; bookkeeping, tax preparation; brokerage firms; computer system software design; consulting services; engineering firms; internet and web hosting firms; payroll services; photographic services; research services; specialized design services; telemarketing; and translation and interpretation services; and
  - (19) Real estate agent and/or broker.
- (c) *Permitted principal uses and structures for office parks with at least 100,000 square feet of floor area.* In an office park having at least 100,000 square feet of floor area, the following retail and service uses shall be permitted as long as collectively such uses comprise no more than ten percent of the total floor area, are located in a building in which office uses comprise at least 50 percent of the floor area and have no exterior advertising display:
- (1) Beauty shop and/or barbershop;
  - (2) Blueprinting;
  - (3) Cafeteria;
  - (4) Commercial art and/or drafting service;
  - (5) Day care facility;
  - (6) Delivery and/or messenger service;

- (7) Drug store;
  - (8) Florist;
  - (9) Gift shop;
  - (10) Photocopying and/or reproduction;
  - (11) Restaurant (limited to five percent of total floor area of office park and included in overall ten percent limitation);
  - (12) Stenographic and/or typing service;
  - (13) Teleconferencing center; and
  - (14) Travel agency and/or ticket office.
- (d) *Conditional uses.* The following conditional uses shall be allowed in the O-I zoning district provided that all conditions specified in article V of this chapter are met:
- (1) Adult day care facility;
  - (2) Animal hospital and/or veterinary clinic (with no animal boarding or outdoor runs);
  - (3) Care home, convalescent center, and/or nursing home;
  - (4) Church and/or other place of worship;
  - (5) College and/or university, including, but not limited to: classrooms, administration, housing, athletic fields, gymnasium, and stadium;
  - (6) Child care facility;
  - (7) Home occupation;
  - (8) Hospital;
  - (9) Non-emergency medical transport service;
  - (10) Private school, including, but not limited to: classrooms, administration, playground, housing, athletic fields, gymnasium, and stadium;
  - (11) Religious tent meeting; and
  - (12) Single-family residence and residential accessory structures and/or uses (see article III of this chapter).
- (e) *Auxiliary conditional uses for an office building with a minimum of 10,000 square feet of floor area.* The following auxiliary permitted uses shall be allowed within the area with a land use designation of office as indicated on the county future land use plan map defined as that area north of SR 54 West, east of Tyrone Road, and west of Sandy Creek Road. This area shall also be known as the county community hospital district (hospital district). Such uses will support and shall be compatible with the county community hospital, the medical industry, and the development of the office and institutional uses planned for this area.
- (1) *Uses.* The following auxiliary conditional uses shall be allowed in the O-I zoning district:
    - a. Durable medical and rehabilitation equipment sales/rental (i.e., wheelchairs, crutches, etc.);
    - b. Pharmaceutical sales (for the purpose of filling prescriptions only);
    - c. Counter service restaurants, including but not limited to: a bakery, cafe, coffee shop, or deli. No drive-through, drive-in, or freestanding facilities shall be allowed;
    - d. Optical care center to include prescription eyeglass/contact lens sales;
    - e. Gift shop for the sale of items usually associated with a medical condition and/or hospital stay (i.e., get well cards, etc.); and
    - f. Floral sales.
  - (2) *Auxiliary conditional use limitations.*

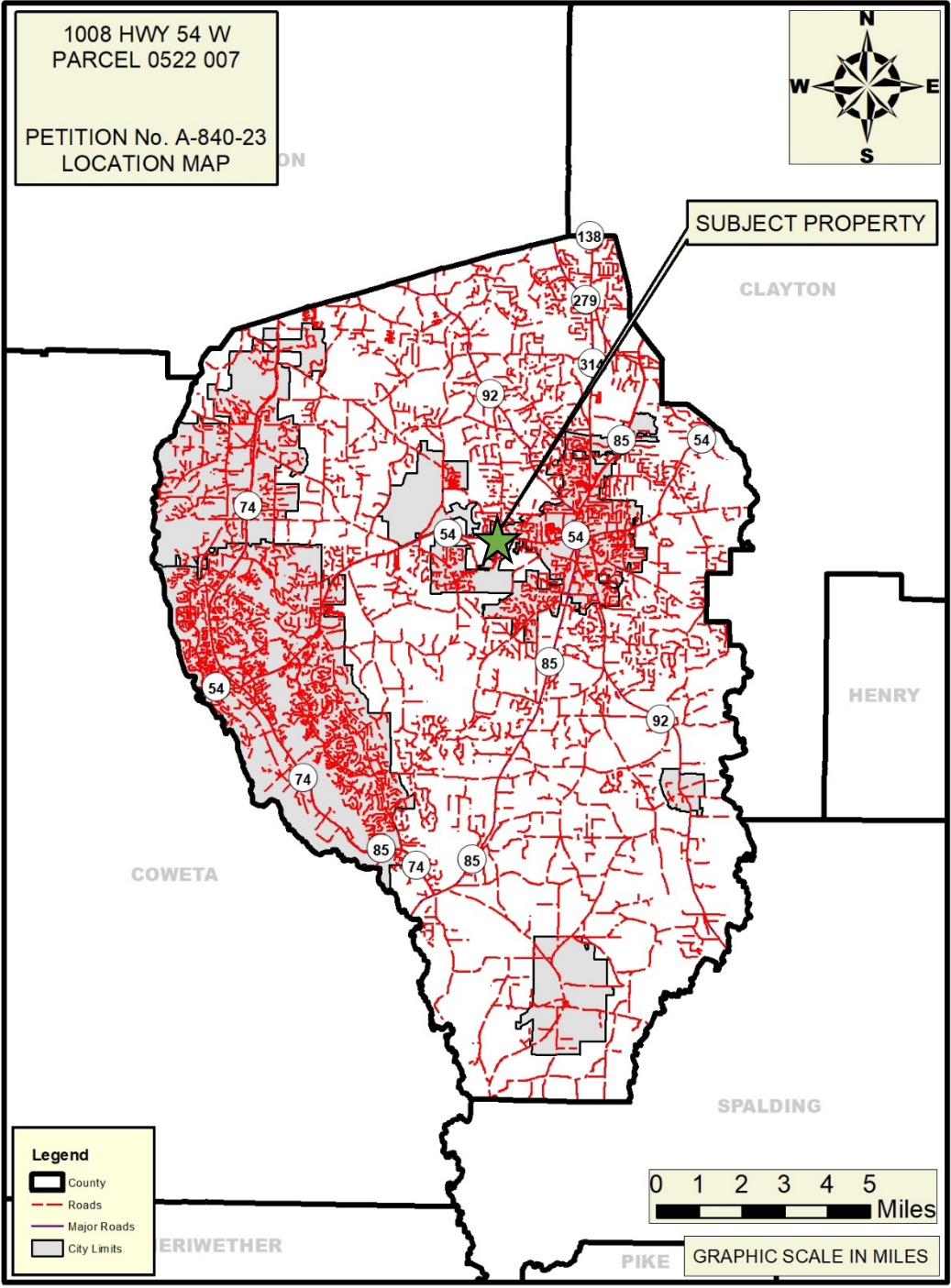
- a. These auxiliary conditional uses shall be allowed in an office building with a minimum of 10,000 square feet and such uses shall comprise no more than a total of 20 percent of the total floor area of the building and shall occupy space on the first floor of the building.
  - b. Multiple uses may be permitted concurrently, but may not exceed the 20 percent limitation.
- (3) *Architectural requirements.*
- a. Architecture shall conform to the existing hospital/medical office development. The architectural standards of the transportation corridor overlay zone shall not apply.
  - b. Elevation drawings shall be submitted as part of site plan approval.
- (f) *Dimensional requirements.* The minimum dimensional requirements in the O-I zoning district shall be as follows:
- (1) Lot area:
    - a. Where a central water distribution system is provided: 43,560 square feet (one acre).
    - b. Where central sanitary sewage and central water distribution systems are provided: 21,780 square feet (0.50 acre).
  - (2) Lot width: 125 feet.
  - (3) Outside storage shall not be permitted.
  - (4) Setbacks, yards adjoining rights-of-way:
    - a. Major thoroughfare:
      - 1. Arterial: 75 feet.
      - 2. Collector: 70 feet.
    - b. Minor thoroughfare: 55 feet.
  - (5) Setbacks, yards not adjoining rights-of-way:
    - a. Side yard: 15 feet.
    - b. Rear yard: 15 feet.
  - (6) Buffer: If the rear or side yard abuts a residential or A-R zoning district, a minimum buffer of 30 feet adjacent to such lot line shall be provided in addition to the required setback, and the setback shall be measured from the buffer. Additional buffer and setback requirements may be established as a condition of zoning approval.
  - (7) Height limit:
    - a. 40 feet as defined in article I of this chapter.
    - b. When a structure reaches a minimum height of four floors (including basements), it shall be sprinkled.
  - (8) Use of existing structure. When property containing legally conforming structures, under the current zoning, is rezoned to O-I, the dimensional requirements shall be reduced to the extent of, but only at the location of, any encroachment by the structures and said structures shall be considered legal nonconforming structures.
  - (9) Lot coverage limit, including structure and parking area: 60 percent of total lot area.
- (g) *SR 74 North-East Side Special Development District.*
- (1) The following will apply to the area identified in the county Comprehensive Plan, SR 74 North Overlay District on the east side of SR 74 North and designated as special development district and office on the county future land use plan map. The purpose of this special development district is to promote planned office development along the frontage of SR 74 North to a depth of approximately 800 feet to fulfill the stated goals for the future development of the corridor. The goals of the SR 74 North Overlay District are:

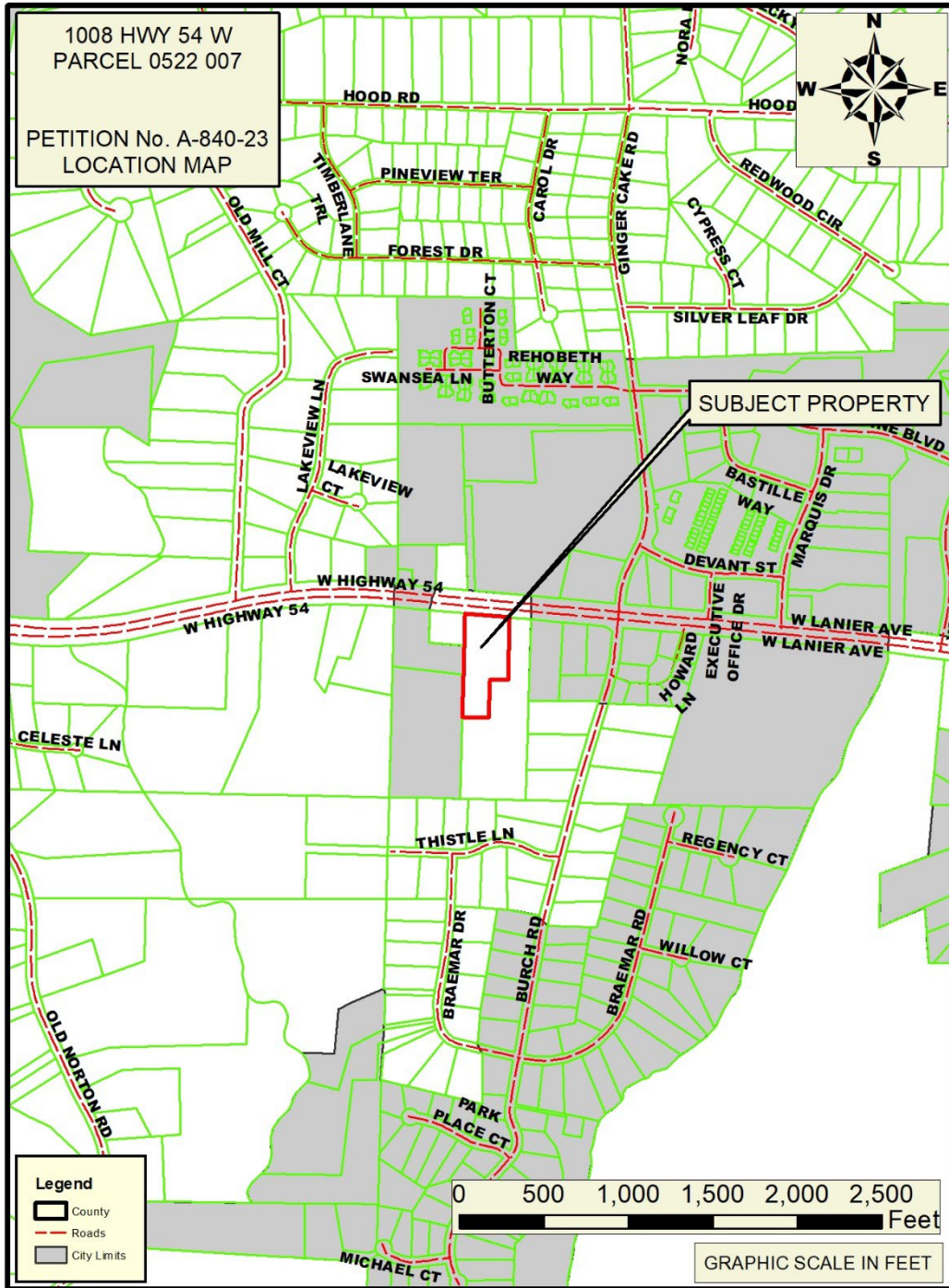


- a. To maintain the efficient traffic flow of SR 74 North as the county's main connection to Interstate 85;
  - b. To enhance and maintain the aesthetic qualities of the corridor, as it is the gateway into the county; and
  - c. To protect existing and future residential areas in the SR 74 North corridor.
- (2) The assemblage of parcels will be necessary in some areas to meet the intent of the special development district. The minimum requirements for acreage and road frontage will necessitate large tracts of land to achieve a reduction in individual curb cuts, consistency and coordination in architectural scheme, and capacity to develop a required service road where applicable.
- a. In a planned office development consisting of a minimum of ten acres and 600 feet of road frontage on SR 74 North, a maximum of 20 percent of the floor area of each individual building may consist of businesses providing support services for the larger development. Permitted support service uses include:
    - 1. Restaurants (no drive-through, drive-in, or freestanding facilities shall be allowed);
    - 2. Personal services, including, but not limited to: alterations; barber shop; beauty salon; clothing/costume rentals; electrolysis and/or hair removal; laundry drop-off/pick-up; locksmith; nail salon; photography studio; shoe repair; and tanning salon;
    - 3. Convenience store (no gasoline sales);
    - 4. Blueprinting, graphic, and/or copying service;
    - 5. Office and/or computer sales and/or service; and
    - 6. Cellular phone/communication device sales and/or service.
- (h) *State Route 54 West Special Development District.*
- (1) The following will apply to the area identified in the Comprehensive Plan as the SR 54 West Overlay District as specified in the Land Use Element and indicated on the future land use plan map. The purpose of this special development district is to expand uses in O-I on parcels of five acres or greater.
- (2) On parcels zoned O-I with a minimum of five acres the following expanded business uses are allowed:
- a. Businesses that supply services, equipment and/or resources to the film industry;
  - b. Call center;
  - c. Cellular phone/communication device sales and/or service;
  - d. Computer technology service, sales and/or repair;
  - e. Medical equipment sales, rental and/or repair;
  - f. Restaurant (no drive-through or drive-in);
  - g. Television/radio broadcasting studio, movie/music/media productions or telecommunications;
  - h. Server farm/data center; and
  - i. Internal access self-storage facility.
    - 1. No direct exterior access to individual storage units shall be allowed; all individual storage unit access shall be internal and the maximum size of an individual storage unit shall be 600 square feet.
    - 2. Vehicle loading/unloading bays shall only be located on the side or rear, and not facing SR 54. Vehicle loading/unloading bays on the side of the internal access self-storage facility shall require a canopy. Vehicle loading/unloading bays may also be internal to the structure or between two structures and a shed roof meeting the overlay pitch requirements may also be used in these instances.

3. Office, business and building contractor space with associated inside storage shall constitute a minimum of ten percent of the total building footprint area proposed for the internal access self-storage structure(s) excluding the footprint of a separate vehicle, recreational vehicle, boat, and/or trailer storage structure. This building contractor use shall only be allowed in conjunction with an internal access self-storage facility. The office, business and building contractor space may be located within the footprint of the internal access self-storage structure or an equivalent amount of office, business and building contractor space may be located outside of the footprint in an attached portion of the structure.
  4. No outside storage of materials or equipment shall be allowed.
  5. A vehicle, recreational vehicle, boat, and/or trailer storage structure shall be fully enclosed and be to the rear of the principal internal access self-storage facility structure. This use shall only be allowed in conjunction with an internal access self-storage facility. Said structure shall only be used for vehicle, recreational vehicle, boat and/or trailer storage and individual vehicle, recreational vehicle, boat and/or trailer storage units may be externally accessed.
- (3) If the side and/or rear yards abut a residential or A-R zoning district, the setbacks shall be increased five feet for every one foot of total building height over 40 feet.
- (4) Mixed residential/office use. Based on the Mixed Residential/Office Use Recommendations in the Land Use Element of the Fayette County Comprehensive Plan, where large tracts are proposed with a mix of residential and office development along SR 54, it is required at the time of rezoning for O-I and residential zoning that the concept plan depict how the entire property will be developed indicating the division between office and residential zoning districts with associated legal descriptions required for rezoning, the SR 54 entrance, and internal connecting road network.

(Code 1992, § 20-6-18; Ord. No. 2012-09, § 4, 5-24-2012; Ord. No. 2012-14, § 3, 12-13-2012; Ord. No. 2017-04, §§ 3, 4, 3-23-2017; Ord. No. 2018-03, § 13, 9-22-2018; Ord. No. 2018-11, §§ 2, 3, 10-25-2018; Ord. No. 2019-04, § 1, 6-27-2019; Ord. No. 2020-02, § 9, 5-28-2020; Ord. No. 2020-08, § 1, 10-22-2020)









1008 GA HWY 54 W



1008 GA HWY 54 W

April 5, 2023

Mr. Adam Kaye Jr.  
BakerHostetler  
1170 Peachtree Street  
Suite 2400  
Atlanta, GA 30309

Subject: 1008 Highway 54  
Land Lot 126 of the 5th District  
Tax ID # 0522-007

Mr. Kaye:

Please be advised that the above-referenced property is zoned O-I: Office-Institutional based on my review of the Official Fayette County Zoning Map. The subject property located in Land Lot 126 of the 5th Land District and consists of 3.09 acres.

The O-I: Office-Institutional Zoning District permits uses are shown in Section 110-142 (d)(3) of the Fayette County Zoning Ordinance. This property shall be subject to the regulations of the State Route 54 West Overlay Zone shown in Section 110-173 (2) of the Fayette County Ordinance.

Should you have any questions, please give me a call at 770-305-5421.

Sincerely,



Deborah Bell, RLA  
Director, Fayette County Planning & Zoning

Attachments: Sec. 110-142. - Office Institutional District  
Sec. 110-173. - Transportation Corridor Overlay Zone

# BakerHostetler

## Baker&Hostetler LLP

1170 Peachtree Street  
Suite 2400  
Atlanta, GA 30309-7676

T 404.459.0050  
F 404.459.5734  
www.bakerlaw.com

M. Adam Kaye, Jr.  
direct dial: 404.946.9772  
akaye@bakerlaw.com

May 3, 2023

### VIA EMAIL AND OVERNIGHT MAIL

Fayette County, Georgia  
Planning and Zoning Department  
Attention: Deborah Bell, Director  
Stonewall Administrative Complex  
140 Stonewall Avenue, West  
Suite 202  
Fayetteville, Georgia 30214  
Email: [dbell@fayettecountyga.gov](mailto:dbell@fayettecountyga.gov)

*Re: Notice of Appeal to Zoning Board of Appeals*

Ms. Bell:

This letter shall serve as a notice of appeal on behalf of Wolf Acquisitions LLC (the “Appellant”) of your determination—in your April 5, 2023, email conveying a zoning confirmation letter regarding Fayette County Tax Parcel Identification Number 0522 007 (the “Property”)—that “a substance abuse treatment center is . . . not listed as a permitted use in the O-I zoning district”. That email is attached hereto as Exhibit “A”.

#### **I. ZBA Power to Hear Appeal**

This appeal is taken pursuant to the Sections 110-207 and 110-242 of The Zoning Ordinance of Fayette County, Georgia,<sup>1</sup> which permit appeals “from the decision of the zoning administrator with regard to interpretation, administration, and enforcement” to the zoning board of appeals.

#### **II. Statement of Facts**

Following a request for a zoning verification letter related to a hospital and convalescence center for the treatment of substance use disorders and other mental illnesses on the Property,

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<sup>1</sup> The Zoning Ordinance is codified at Chapter 110 of The Code of Fayette County, Georgia.

Deborah L. Bell, Director

May 3, 2023

Page 2

Deborah L. Bell, Director of Planning & Zoning of Fayette County (the “Director”) issued a zoning verification letter (the “Letter”) for the Property dated as of April 5, 2023. In her email conveying the letter to co-counsel for the Appellant, the Director stated that “a substance abuse treatment center is . . . not listed as a permitted use in the O-I zoning district.” (Exhibit A).

Pursuant to the Letter, the Property is currently within the O-I zoning district, which permits the uses listed in Section 110-142 of The Zoning Ordinance of Fayette County, Georgia (the “Code”). (Exhibit A; Exhibit B). Two of those such permitted use are a hospital and a convalescent center. The Zoning Ordinance defines a “hospital” as:

any institution receiving in-patients, providing a staffed 24-hour emergency care facility, and authorized under the state law to render medical, surgical, and/or obstetrical care. The term ‘hospital’ includes a sanitarium, with an approved certificate of need (CON) from the state health planning agency, for the treatment and care of various forms of mental illness, but shall not include office facilities for the private practice of medicine, dentistry or psychiatry.”

(Zoning Ordinance § 110-3; Exhibit C). The Zoning Ordinance does not define “convalescent center”. However, Section 110-142 lists as a conditional use in the O-I district “care home, convalescent center, and/or nursing home” and the Zoning Ordinance defines a “care home” as:

a convalescent center, nursing home, rest home, home for the aged, assisted living facility, or similar use established and operated on a profit or nonprofit basis to provide lodging and/or meals and/or domiciliary care for aged, infirm, chronically ill, or convalescent persons.

(Zoning Ordinance § 110-3; Exhibit C).

The proposed use fits the Code’s definition of a hospital and has been acknowledged as such by the County Attorney; however, based on unsupported arguments, the County is attempting to deny the Applicant and the Property owner of its constitutional rights, and, in doing so, is discriminating against a protected class of disabled persons.<sup>2</sup> Additionally, the proposed use fits the Code’s definition of a care home. Accordingly, the proposed use must be deemed a conditional use under the Zoning Ordinance.

### **III. Supporting Authority**

#### **A. The Proposed Use Fits Within the Code’s Definition of a Hospital.**

The proposed use of the Property meets the Code’s definition of a hospital because the facility will (1) receive in-patients, (2) provide a staffed 24-hour emergency care facility, and

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<sup>2</sup> Substance use disorders are considered disabilities under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA).



(3) be authorized under state law to render medical care. Additionally, the facility falls within the Code's definition of a hospital because it will require an approved CON and treat various forms of mental illness. (Exhibit D). Preeminent medical organizations, such as the National Institute of Health, American Psychiatric Association, U.S. Department of Veterans Affairs, Georgia Department of Community Health, Centers for Disease Control, and the Substance Abuse and Mental Health Services Administration, the primary governmental agency responsible for tracking substance use disorders in the United States, consider the treatment of substance use disorder as a mental illness. (See Exhibit E). Therefore, the treatment of the same is the "treatment and care of [a] form[] of mental illness" and/or "infirm, chronically ill, or convalescent persons". Consequently, a facility treating such disorders is a hospital or convalescent center under the zoning ordinance.

In addition to substance use detoxification, the facility will provide medical stabilization for patients with co-occurring mental illnesses, such as generalized anxiety disorder, bipolar disorder, PTSD, and personality and mood disorders. A more detailed summary of the proposed operations at the Property can be found in Exhibit F. The proposed facility is not a traditional "drug rehab," instead, it is a hospital treating and providing 24-hour a day medical supervision for patients suffering from acute withdrawal symptoms and co-occurring mental illnesses. Exhibit F. The average length of stay will be between 2 – 5 days, following which patients will receive personalized discharge and aftercare recommendations. *Id.*

Furthermore, the proposed use falls within the State of Georgia's definition of a hospital, as defined at O.C.G.A. § 31-6-2(21) and Georgia Rules and Regulations 11-2-2-.01(31). (See Exhibit G).

During the Fayette County Planning Commission Meeting on April 20, 2023, E. Allison Ivey Cox, in her capacity as County Attorney, responded to a concern of the Planning Commission regarding the medical standards of the proposed facility by stating that "**it would be like a hospital**" and that "**O-I is appropriate.**" (See Exhibit H).

**Both the Applicant and the County recognize that the proposed use is a hospital within the definition set forth in the Code, which is a permitted use in the O-I zoning district.**

**B. The Proposed Use Fits Within the Zoning Ordinance's Definition of a Care Home.**

The proposed use of the Property also meets the Zoning Ordinance's definition of a care home, because the facility will be a (1) convalescent center or similar use, (2) providing lodging and/or meals for (3) chronically ill or convalescent persons.

Though Ms. Bell stated in her initial denial that the proposed use was not permitted, because it was "different" than a hospice (*see also* Exhibit A), as noted in Sections C and D below, in Georgia statutory text is afforded its "plain and ordinary meaning" and any ambiguities are resolved in favor of free use of the property. To that end Merriam-Webster defines "convalescent"

as “recovering from sickness or debility.” Similarly, the Oxford Dictionary defines “convalescent” as “recovering from an illness or operation.” (See Exhibit I). Further, as noted in Section A above, the Centers for Disease Control (CDC) defines substance use disorders as “treatable, **chronic** diseases characterized by a problematic pattern of use of a substance or substances leading to impairments in health, social function, and control over substance use.” (See Exhibit J).

### **C. The County’s Attempt to Invoke the State of Georgia’s Zoning Procedure’s Act is Not Applicable.**

The State of Georgia’s Zoning Procedure’s Act (the “Act”), specifically O.C.G.A. § 36-66-4(f), requires a public hearing and six (6)-months’ notice prior to any legislative “zoning decision” relating to “the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency”. Here, the proposed use is a permitted, conditional use in the O-I zoning district. Therefore, no “zoning decision” is required for the use to commence operations. (See Exhibit K). O.C.G.A. §36-66-3(4) defines a “zoning decision” as:

final **legislative** action by a local government which results in: (A) the adoption of a zoning ordinance; (B) the adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance; (C) the adoption of an amendment to a zoning ordinance which rezones the property from one zoning classification to another; (D) the adoption of an amendment to a zoning ordinance by a municipal local government which zones property to be annexed into the municipality; or (E) the grant of a permit relating to a special use of property.”

(See Exhibit L).

No legislative zoning decision is requested or required for the proposed use to commence operation. However, during the Fayette County Planning Commission Meeting on April 20, 2023, E. Allison Ivey Cox, in her capacity as County Attorney, stated that the “legislative intent” of the Act is applicable to the proposed use. However, Georgia has no record of legislative intent. Even if it did, legislative intent is not relevant or appropriate here. Under Georgia law, “where the language of a statute is plain and unambiguous, judicial construction is not only unnecessary, but **forbidden**.” *Cardale v. City of Atlanta*, 290 Ga. 521, 523, 722 S.E.2d 732 (2012). When considering the meaning of a statute, “we must presume that the General Assembly meant what it said and said what it meant.” *Arby’s Restaurant Group, Inc. v. McRae*, 292 Ga. 243, 245(1), 734 S.E.2d 55 (2012). To that end, we must afford the statutory text its “plain and ordinary meaning.” *City of Atlanta v. City of College Park*, 292 Ga. 741, 744, 741 S.E.2d 147 (2013).

If the County attorney’s position were accurate, hospitals could not treat patients suffering from substance use disorders without following the notice requirements set forth in the Act and places like Piedmont Fayette Hospital would be forced to turn away overdose victims who came to the hospital for emergency care.

Because the proposed use is permitted in the O-I district, no legislative zoning decision is required and therefore the Act's procedural requirements are inapplicable.

**D. Any Ambiguities in the Code and/or the Act Must be Resolved in Favor of the Applicant.**

If the language of the Code or the Act is ambiguous, any ambiguities must be resolved in favor of the Applicant. "The construction of a zoning ordinance is a question of law . . . . Zoning ordinances are to be strictly construed in favor of the property owner. Since statutes or ordinances which restrict an owner's right to freely use his property for any lawful purpose are in derogation of the common law, they must be strictly construed and never extended beyond their plain and explicit terms. **Any ambiguities in the language employed in zoning statutes should be resolved in favor of the free use of property.**" *Stanfield v. Glynn County*, 280 Ga. 785, 786-787(2), 631 S.E.2d 374 (2006) (emphasis added).

As noted above, during the Fayette County Planning Commission Meeting on April 20, 2023, E. Allison Ivey Cox, in her capacity as County Attorney, stated that the proposed facility "**would be like a hospital.**" As shown above, the proposed use, in fact, will be a "hospital" and "convalescent center" under the Zoning Ordinance.

**E. The Fayette County Planning and Zoning Department's Refusal to Allow the Applicant to Use the Property for a Permitted Use is Unconstitutional.**

The Fayette County Planning and Zoning Department's refusal to permit the Applicant to use the Property for the treatment of various forms of mental illness, including, without limitation, substance use disorders, is unconstitutional as a taking of property, a denial of equal protection, an arbitrary and capricious act, and an unlawful delegation of authority. Any existing inconsistent zoning of the Property pursuant to the Code deprives the Applicant and Property owner of any alternative reasonable use of the Property.

Accordingly, Applicant submits that the Director's interpretation appealed hereby constitutes an arbitrary and unreasonable use of the zoning and police powers because it bears no substantial relationship to the public health, safety, morality, or general welfare of the public and substantially harms the Applicant and Property owner. Additionally, the Director's determination constitutes an arbitrary and unreasonable use of the zoning and police powers because its bears no substantial relationship to the public health, safety, morality, or general welfare of the public and substantially harms the Applicant and Property owner. Further, the Director's determination hereby appealed constitutes a taking of the owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States.

Deborah L. Bell, Director

May 3, 2023

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Further, the Director's determination is unconstitutional and discriminates in an arbitrary, capricious, and unreasonable manner between the Applicant and Property owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

Finally, the Applicant respectfully submits that neither the County Commission nor the Planning and Zoning Department can lawfully impose more restrictive standards upon the use of the Property than presently exist in the Code, as to do so not only would constitute a taking of the Property as set forth above, but also would amount to an unlawful delegation of authority in violation of Article IX, Section IV, Paragraph II of the Georgia Constitution.

#### **IV. Conclusion.**

For the foregoing reasons the Appellant respectfully requests that the Zoning Board of Appeals reverse the Director's determination and acknowledge the proposed use as a permitted, conditional use in the O-I zoning district.

Please feel free to contact me directly at [akaye@bakerlaw.com](mailto:akaye@bakerlaw.com) or 404-946-9772 if you have any questions.

Sincerely,

*/s/ M. Adam Kaye Jr.*

M. Adam Kaye, Jr.

#### Enclosures

cc: Mr. Dennis Davenport, Esq., County Attorney (via email)  
Mrs. E. Allison Ivey Cox, Esq., County Attorney (via email)  
Hon. Comm. Eric Maxwell (via email)  
Hon. Comm. Lee Hearn (via email)  
Hon. Comm. Edward Gibbons (via email)  
Hon. Comm. Charles D. Rousseau (via email)  
Hon. Comm. Charles W. Oddo (via email)  
Mr. Steve Rapson, County Manager (via email)  
Mr. Steven Jones, Esq. (via email)



**EXHIBIT A**

## Kaye, Adam

---

**From:** Deborah L Bell <dbell@fayettecountyga.gov>  
**Sent:** Thursday, April 6, 2023 10:12 AM  
**To:** Kaye, Adam  
**Cc:** E. Allison Ivey Cox (eacoxatty@gmail.com)  
**Subject:** RE: Zoning Verification Letter - Tax Parcel No. 0522 007  
**Attachments:** Zoning Verification Letter 1008 Highway 54W (O-I) Adam Kaye Jr.pdf; 0522 007.pdf; Sec.\_110\_173.\_\_\_Transportation\_corridor\_overlay\_zone..docx; Sec.\_110\_142.\_\_\_O\_I\_Office\_Institutional\_District..docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Adam,

A zoning verification letter is attached, along with the sections for the O-I zoning district and the transportation corridor overlay. However, I think that a substance abuse treatment center is significantly different than a hospice use, and it is not listed as a permitted use in the O-I zoning district.

Thank you,

Debbie

Deborah L. Bell, RLA  
DIRECTOR, PLANNING & ZONING  
FAYETTE COUNTY BOARD OF COMMISSIONERS  
Office: 770-305-5160  
Cell: 470-606-0660  
140 Stonewall Avenue West, Suite 202  
Fayetteville, GA 30214  
[www.fayettecountyga.gov](http://www.fayettecountyga.gov)

---

**From:** Kaye, Adam <akaye@bakerlaw.com>  
**Sent:** Wednesday, March 22, 2023 1:50 PM  
**To:** Deborah L Bell <dbell@fayettecountyga.gov>  
**Subject:** Re: Zoning Verification Letter - Tax Parcel No. 0522 007

You don't often get email from [akaye@bakerlaw.com](mailto:akaye@bakerlaw.com). [Learn why this is important](#)

**\*External Email\*** Be cautious of sender, content, and links

Thank you!

M. Adam Kaye Jr.  
BakerHostetler  
Tel: 404.946.9772  
[akaye@bakerlaw.com](mailto:akaye@bakerlaw.com)

**EXHIBIT B**

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## Sec. 110-142. O-I, Office-Institutional District.

- (a) *Description of district.* This district is composed of certain lands and structures having office and institutional uses which are compatible with or provide a transition into low-intensity land uses.
- (b) *Permitted principal uses and structures.* The following permitted uses shall be allowed in the O-I zoning district:
- (1) Office;
  - (2) Art gallery;
  - (3) Bank and/or financial institution;
  - (4) Banquet hall/event facility;
  - (5) College and/or university, including classrooms and/or administration only;
  - (6) Educational/instructional/tutorial facilities, including, but not limited to: academic, art, computer, dance, driving and/or DUI, martial arts, music, professional/business/trade, and similar facilities;
  - (7) Health club and/or fitness center;
  - (8) Hotel;
  - (9) Insurance carrier, agent, and/or broker;
  - (10) Laboratory, medical, and/or dental;
  - (11) Legal services;
  - (12) Massage therapy (see chapter 8);
  - (13) Medical/dental office (human treatment);
  - (14) Military recruiting office;
  - (15) Museum;
  - (16) Performing arts theater;
  - (17) Private school, including classrooms and/or administration only;
  - (18) Professional services, including, but not limited to: accounting; advertising and marketing research services; architectural firms; bookkeeping, tax preparation; brokerage firms; computer system software design; consulting services; engineering firms; internet and web hosting firms; payroll services; photographic services; research services; specialized design services; telemarketing; and translation and interpretation services; and
  - (19) Real estate agent and/or broker.
- (c) *Permitted principal uses and structures for office parks with at least 100,000 square feet of floor area.* In an office park having at least 100,000 square feet of floor area, the following retail and service uses shall be permitted as long as collectively such uses comprise no more than ten percent of the total floor area, are located in a building in which office uses comprise at least 50 percent of the floor area and have no exterior advertising display:
- (1) Beauty shop and/or barbershop;
  - (2) Blueprinting;
  - (3) Cafeteria;



- 
- (4) Commercial art and/or drafting service;
  - (5) Day care facility;
  - (6) Delivery and/or messenger service;
  - (7) Drug store;
  - (8) Florist;
  - (9) Gift shop;
  - (10) Photocopying and/or reproduction;
  - (11) Restaurant (limited to five percent of total floor area of office park and included in overall ten percent limitation);
  - (12) Stenographic and/or typing service;
  - (13) Teleconferencing center; and
  - (14) Travel agency and/or ticket office.

(d) *Conditional uses.* The following conditional uses shall be allowed in the O-I zoning district provided that all conditions specified in article V of this chapter are met:

- (1) Adult day care facility;
- (2) Animal hospital and/or veterinary clinic (with no animal boarding or outdoor runs);
- (3) Care home, convalescent center, and/or nursing home;
- (4) Church and/or other place of worship;
- (5) College and/or university, including, but not limited to: classrooms, administration, housing, athletic fields, gymnasium, and stadium;
- (6) Child care facility;
- (7) Home occupation;
- (8) Hospital;
- (9) Non-emergency medical transport service;
- (10) Private school, including, but not limited to: classrooms, administration, playground, housing, athletic fields, gymnasium, and stadium;
- (11) Religious tent meeting; and
- (12) Single-family residence and residential accessory structures and/or uses (see article III of this chapter).

(e) *Auxiliary conditional uses for an office building with a minimum of 10,000 square feet of floor area.* The following auxiliary permitted uses shall be allowed within the area with a land use designation of office as indicated on the county future land use plan map defined as that area north of SR 54 West, east of Tyrone Road, and west of Sandy Creek Road. This area shall also be known as the county community hospital district (hospital district). Such uses will support and shall be compatible with the county community hospital, the medical industry, and the development of the office and institutional uses planned for this area.

- (1) *Uses.* The following auxiliary conditional uses shall be allowed in the O-I zoning district:
  - a. Durable medical and rehabilitation equipment sales/rental (i.e., wheelchairs, crutches, etc.);
  - b. Pharmaceutical sales (for the purpose of filling prescriptions only);

**EXHIBIT C**

*Gazebo* means a freestanding, circular roofed structure open on all sides, but enclosed by a railing, and used for outdoor seating in residential zoning districts.

*Governing authority* means the county board of commissioners.

*Greenhouse, temporary* means a structure constructed with a metal, plastic or wood framing (bent in a half round or hoop shape in the case of a hoop house), with a plastic sheet or cloth covering that is not mounted on a foundation and used for the purpose of growing or storing plants.

*Greenhouse, permanent* means a structure typically constructed with wood or metal framing and covered by glass or Plexiglas that is mounted on a foundation used for the purpose of growing or storing plants.

*Grocery store* means a retail establishment which primarily sells food and household goods, but is substantially larger and carries a broader range of merchandise than a convenience store.

*Guestroom* means a room occupied or intended, arranged or designed for occupancy by one or more occupants and used for that purpose and where overnight occupancy is allowed.

*Helicopter* means a rotary winged aircraft that depends principally upon the lift generated by one or more engine-driven rotors rotating on a substantially vertical axis for its primary means of propulsion.

*Heliport* means an area of land, water, or structure used for the sole purpose of landing and takeoff of helicopters.

*Hobby breeder* means a breeder of animals who sells less than 30 animals per year.

*Home occupation* means an occupation operated within a dwelling by residents of the dwelling.

*Horse quarters* means a structure used to house horses in the residential zoning districts.

*Horse stable* means a structure used to house and/or board horses in an A-R zoning district.

*Hospital* means any institution receiving in-patients, providing a staffed 24-hour emergency care facility, and authorized under the state law to render medical, surgical, and/or obstetrical care. The term "hospital" includes a sanitarium, with an approved certificate of need (CON) from the state health planning agency, for the treatment and care of various forms of mental illness, but shall not include office facilities for the private practice of medicine, dentistry or psychiatry.

*Hotel* means a building in which overnight accommodations are provided to the public and the innkeeper. The term "hotel" includes the terms "bed and breakfast inn" and "motel".

*Household pet* means a household pet shall include rodent pets, such as gerbils, hamsters, mice, rats, and guinea pigs; small mammal pets such as rabbits, hares, and ferrets; avian pets, such as canaries, parakeets, and parrots; reptile pets, such as turtles, lizards and snakes; and aquatic pets, such as tropical fish and frogs that is customarily kept for personal use or enjoyment primarily within a principal residence.

structures. For structures constructed without a basement or crawl space, the measurement will be taken beginning at the ground floor level. (See also [section 110-75](#), Structures Permitted above the Height Limit.)

*Building line, front*, means a line running parallel to the street which touches the nearest point of the principal structure to the street.

*Building, principal*, means a building in which the principal use of the lot is conducted.

*Cabana/pool house* means an open, partially, or totally enclosed structure used in conjunction with a pool or lake/pond, commonly containing a changing area, and/or seating area, and/or a restroom.

*Campground facilities* means any lot where two or more recreational vehicles and/or tents (which are normally associated with outdoor camping) are parked and/or erected for short-term occupancy.

*Card, gift, and/or stationery shop* means an establishment which sells products such as greeting cards, wrapping paper, photo albums, picture frames, items that are suitable as gifts or souvenirs, desktop office products, paper, calendars, pencils, pens, briefcases, and art/graphic supplies.

*Care home* means a convalescent center, nursing home, rest home, home for the aged, assisted living facility, or similar use established and operated on a profit or nonprofit basis to provide lodging and/or meals and/or domiciliary care for aged, infirm, chronically ill, or convalescent persons.

*Carport, attached*, means a roofed, open-sided motor vehicle shelter, formed by extension of a roof from a building in a residential zoning district.

*Carport, detached*, means a roofed, open-sided motor vehicle shelter.

*Cemetery* means a burial ground.

*Cemetery or burial ground, legal nonconforming*, means an existing cemetery or burial ground established before the effective date of November 13, 1980, or subsequent amendments which fail to comply with the provisions herein. These cemeteries or burial grounds could be active, inactive, or abandoned.

*Check cashing* means an establishment that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose.

*Child care facility* means an agency, organization, or individual providing care for four or more children not related by blood or marriage or not the legal wards of the attendant adult and would include those providers that offer pre-primary, pre-K, and/or kindergarten instruction.



**EXHIBIT D**

## Ga. Comp. R. & Regs. r. 111-2-2-.26 Specific Review Considerations for Psychiatric and Substance Abuse Inpatient Programs

### Georgia Administrative Code

#### Department 111. RULES OF DEPARTMENT OF COMMUNITY HEALTH

#### Chapter 111-2. HEALTH PLANNING

#### Subject 111-2-2. CERTIFICATE OF NEED

*Current through Rules and Regulations filed through April 4, 2023*

### Rule 111-2-2-.26. Specific Review Considerations for Psychiatric and Substance Abuse Inpatient Programs

#### (1) Applicability.

- (a) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing acute care adult psychiatric and/or substance abuse inpatient program. An application for Certificate of Need for a new or expanded acute care adult psychiatric and/or substance abuse inpatient program shall be reviewed under the General Review Considerations of Ga. Comp. R. & Regs. r. [111-2-2-.09](#) and the service-specific review considerations of this Rule. For purposes of these Rules, a service, facility, or program approved as an acute care adult psychiatric and/or substance abuse inpatient program may offer both acute care psychiatric and acute care substance abuse inpatient care, acute care substance abuse inpatient care alone, or acute care psychiatric inpatient care alone. A facility approved to offer acute care adult psychiatric and/or substance abuse inpatient services may not offer an acute care pediatric psychiatric and/or substance abuse inpatient program, nor any type of extended care psychiatric and/or substance abuse program without first obtaining a Certificate of Need.
- (b) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing acute care pediatric psychiatric and/or substance abuse inpatient program. An application for Certificate of Need for a new or expanded acute care pediatric psychiatric and/or substance abuse inpatient program shall be reviewed under the General Review Considerations of Ga. Comp. R. & Regs. r. [111-2-2-.09](#) and the service-specific review considerations of this Rule. For purposes of these Rules, a service, facility, or program approved as an acute care pediatric psychiatric and/or substance abuse inpatient program may offer both acute care psychiatric and acute care substance abuse inpatient care, acute care substance abuse inpatient care alone, or acute care psychiatric inpatient care alone. A facility approved to offer acute care pediatric psychiatric and/or substance abuse inpatient services may not offer an acute care adult psychiatric and/or substance abuse inpatient program, nor any type of extended care psychiatric and/or substance abuse program without first obtaining a Certificate of Need.
- (c) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing extended care adult psychiatric and/or substance abuse inpatient program. An application for Certificate of Need for a new or expanded extended care adult psychiatric and/or substance abuse inpatient program shall be reviewed under the General Review Considerations of Ga. Comp. R. & Regs. r. [111-2-2-.09](#) and the service-specific review considerations of this

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Rule. For purposes of these Rules, a service, facility, or program approved as an extended care adult psychiatric and/or substance abuse inpatient program may offer both extended care psychiatric and extended care substance abuse inpatient care, extended care substance abuse inpatient care alone, or extended care psychiatric inpatient care alone. A facility approved to offer extended care adult psychiatric and/or substance abuse inpatient services may not offer an extended care pediatric psychiatric and/or substance abuse inpatient program, nor any type of acute care psychiatric and/or substance abuse program without first obtaining a Certificate of Need.

- (d) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing extended care pediatric psychiatric and/or substance abuse inpatient program. An application for Certificate of Need for a new or expanded extended care pediatric psychiatric and/or substance abuse inpatient program shall be reviewed under the General Review Considerations of Ga. Comp. R. & Regs. r. [111-2-2-.09](#) and the service-specific review considerations of this Rule. For purposes of these Rules, a service, facility, or program approved as an extended care pediatric psychiatric and/or substance abuse inpatient program may offer both extended care psychiatric and extended care substance abuse inpatient care, extended care substance abuse inpatient care alone, or extended care psychiatric inpatient care alone. A facility approved to offer extended care pediatric psychiatric and/or substance abuse inpatient services may not offer an extended care adult psychiatric and/or substance abuse inpatient program, nor any type of acute care psychiatric and/or substance abuse program without first obtaining a Certificate of Need.

## (2) Definitions.

- (a) "Acute care psychiatric and/or substance abuse inpatient program", for purposes of these Rules, means a psychiatric or substance abuse program, as defined in Ga. Comp. R. & Regs. r. [111-2-2-.26\(1\)\(a\)](#), that provides acute and/or emergency stabilization and other treatment for acute episodes. An acute care program provides medically oriented evaluation, diagnosis, stabilization, and short-term treatment using individual and/or group therapies as well as other treatment activities. Two acute care programs are defined: adult psychiatric and/or substance abuse and pediatric psychiatric and/or substance abuse.
- (b) "Adult", for purposes of these Rules, means a person 18 years of age and over or an emancipated person.
- (c) "Expansion" or "Expanded" means exceeding a health care facility's total approved inpatient bed capacity through the addition of beds to an existing CON-authorized or grandfathered psychiatric and/or substance abuse inpatient program. A CON-authorized or grandfathered freestanding psychiatric and/or substance abuse hospital may request a letter of determination to increase its bed capacity by the lesser of ten percent (10%) of existing capacity or ten (10) beds if it has maintained an average occupancy of eighty-five percent (85%) for the previous twelve (12) calendar months provided that there has been no such increase in the prior two (2) years and provided that the capital expenditures associated with the increase do not exceed the Capital Expenditure Threshold. If such an increase exceeds the Capital Expenditure Threshold, a Certificate of Need shall be required under these Rules.
- (d) "Extended care psychiatric and/or substance abuse inpatient program", for purposes of these Rules, means a psychiatric or substance abuse program, as defined in Ga. Comp. R. & Regs. r. [111-2-2-.26\(1\)\(a\)](#), that focuses on self-help and basic living skills to enhance the patient's abilities to perform successfully in society upon discharge by emphasizing psycho-social, vocational and/or prevocational, and educational components in its treatment plan. The

**EXHIBIT E**

[Overview](#)

[Diagnosis and treatment](#)

[Finding help](#)

[Join a study](#)

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# Substance Use and Co-Occurring Mental Disorders

## Overview

Substance use disorder (SUD) is a treatable mental disorder that affects a person's brain and behavior, leading to their inability to control their use of substances like legal or illegal drugs, alcohol, or medications. Symptoms can be moderate to severe, with addiction being the most severe form of SUD.

People with a SUD may also have other mental health disorders, and people with mental health disorders may also struggle with substance use. These other mental health disorders can include [anxiety disorders](#), [depression](#), [attention-deficit hyperactivity disorder \(ADHD\)](#), [bipolar disorder](#), [personality disorders](#), and [schizophrenia](#), among others. For more information, please see the National Institute on Drug Abuse (NIDA) [Common Comorbidities with Substance Use Disorders Research Report](#).

Though people might have both a SUD and a mental disorder, that does not mean that one caused the other. Research suggests three possibilities that could explain why SUDs and other mental disorders may occur together:

- Common risk factors can contribute to both SUDs and other mental disorders.** Both SUDs and other mental disorders can run in families, meaning certain genes may be a risk factor. Environmental factors, such as stress or trauma, can cause genetic changes that are passed down through generations and may contribute to the development of a mental disorder or a substance use disorder.
- Mental disorders can contribute to substance use and SUDs.** Studies found that people with a mental disorder, such as anxiety, depression, or [post-traumatic stress disorder \(PTSD\)](#), may use drugs or alcohol as a form of self-medication. However, although some drugs may temporarily help with some symptoms of mental disorders, they may make the symptoms worse over time. Additionally, brain changes in people with mental disorders may enhance the rewarding effects of substances, making it more likely they will continue to use the substance.
- Substance use and SUDs can contribute to the development of other mental disorders.** Substance use may trigger changes in brain structure and function that make a person more likely to develop a mental disorder.

## Diagnosis and treatment

When someone has a SUD and another mental health disorder, it is usually better to treat them at the same time rather than separately. People who need help for a SUD and other mental disorders should see a health care provider for each disorder. It can be challenging to make an accurate diagnosis because some symptoms are the same for both disorders, so the provider should use comprehensive assessment tools to reduce the chance of a missed diagnosis and provide the right treatment.

It also is essential that the provider tailor treatment, which may include behavioral therapies and medications, to an individual's specific combination of disorders and



**EXHIBIT F**

## **THE NEED:**

Substance use disorders (SUDs) currently account for a significant burden of disease and place an enormous strain on the health care system in the United States and beyond. According to a recent study, the annual cost of harms associated with SUDs is high, amounting to over \$740b<sup>1</sup>. Beyond this, significant morbidity and mortality is associated with mental illness and SUDs. For the first time in half a century, the US life expectancy is decreasing among certain populations, largely as a result of the country's overdose crisis<sup>2</sup>.

Despite death tolls climbing, a myriad of evidence-based medications exists to effectively treat many mental illnesses, including SUDs. Despite the existence of such treatments, a report commissioned by the United Nations Office of Drugs and Crime identified only 1 in 6 individuals with a SUD to be in receipt of evidence-based treatment<sup>3</sup>. This occurs despite unprecedented and worsening mortality rates in the context of North America's current overdose emergency. Closing this treatment gap will require substantial investment in evidence-based treatment services. **Fortunately, for the communities willing to open its doors to such services, the investment is cost-effective, with every \$1 invested in SUD treatment generating an estimated \$7 in crime-related savings and \$12 in health care related savings**<sup>4</sup>.

Fayette County is not immune to this need, as Piedmont Fayette Hospital identified "reducing opioid-related substance abuse and overdose deaths" as one of its top seven (7) health priorities on its recent Community Health Needs Assessment<sup>5</sup>.

## **[PROPOSED] OPERATIONS AT 1008 GA-54 W:**

- **Overview:** The Program will provide comprehensive medically assisted detoxification services on an in-patient basis to individuals suffering from acute SUDs. The facility will offer medically supervised detoxification services to ensure safe and effective withdrawal from alcohol, prescription medications, and illicit substances, as well as medical stabilization for patients with co-occurring mental illnesses.
- **Capacity:** The facility is designed to accommodate up to twenty-four (24) patients at a time.
- **Staff:** The facility will be staffed with a team of medical professionals and trained counselors, who specialize in the treatment of mental illnesses, including, specifically, SUDs. The team includes a medical director, nurses, psychiatrists, and counselors.
- **Services:** The facility will provide a range of services, **24-hours a day, 7 days a week**, to support patients through the detoxification process, including, without limitation:
  - Triage for incoming patients;
  - Ongoing and frequent medical evaluation and monitoring to assess the patient's mental and physical health;

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<sup>1</sup> Substance Abuse and Mental Health Services Administration. *Mental and Substance Use Disorders*. Available at: <https://www.samhsa.gov/disorders>.

<sup>2</sup> Dowell D, Arias E, Kochanek K, et al. Contribution of Opioid-Involved Poisoning to the Change in Life Expectancy in the United States, 2000–2015. *JAMA*. 2017;318(11):1065–1067.

<sup>3</sup> United Nations Office on Drugs and Crime. *World Drug Report*. 2016. Available at: [https://www.unodc.org/doc/wdr2016/WORLD\\_DRUG\\_REPORT\\_2016\\_web.pdf](https://www.unodc.org/doc/wdr2016/WORLD_DRUG_REPORT_2016_web.pdf).

<sup>4</sup> National Institute on Drug Abuse. *Understanding drug abuse and addiction: What science says*. Available at: <https://www.drugabuse.gov/understanding-drug-abuse-addiction-what-science-says>.

<sup>5</sup> <https://www.piedmont.org/media/file/PFH-FY19-CHNA-Strategy.pdf>

- Medication-assisted treatment to alleviate withdrawal symptoms and other mental health issues; and
- Counseling to address the emotional and psychological aspects of withdrawal, SUDs and any co-occurring mental illnesses.
- **Duration of Stay:** The duration of stay in the facility will depend on the individual's needs and progress. On average, patients should expect to stay in the facility between 2 to 5 days for detoxification and stabilization.
- **Aftercare:** The facility's staff will work with each patient to provide a comprehensive aftercare plan to support the patient's recovery journey after discharging from the facility. This will include referrals to community resources and other treatment programs as needed.
- **Funding:** The facility will be funded primarily through insurance reimbursements. The facility will also provide financial assistance to individuals who cannot afford to pay for their treatment.
- **Regulatory Compliance:** The facility will be in compliance with all local, state, and federal regulations for healthcare facilities, including licensing and accreditation requirements.
- **Marketing:** The facility will be marketed to healthcare providers, social service agencies, and community organization to increase awareness, with an emphasis on the cities of Fayetteville, Peachtree City, Senoia, Fairburn, Newnan and Tyrone.

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FY22

# PIEDMONT FAYETTE HOSPITAL

## COMMUNITY HEALTH NEEDS ASSESSMENT

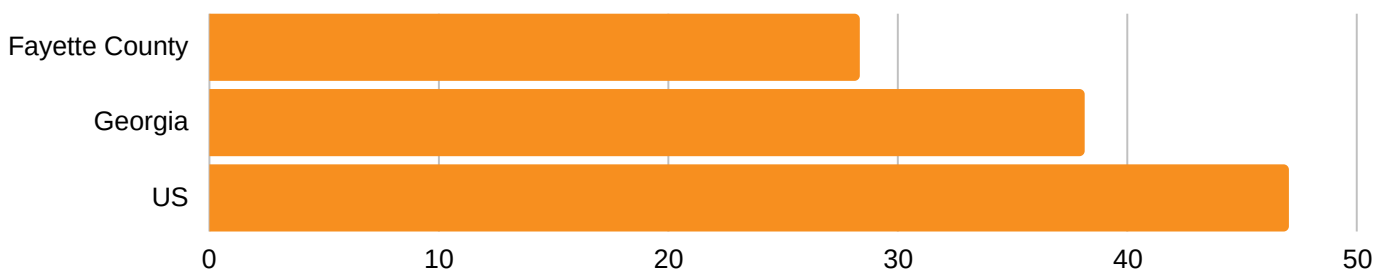


# Mental health

Mental health is a critical driver of overall health, as being in a good mental state can keep you healthy and help prevent serious health conditions. A study found that positive psychological well-being can reduce the risks of heart attacks and strokes. On the other hand, poor mental health can lead to poor physical health or harmful behaviors.

## Deaths of Despair

Deaths of despair -- suicide, drug and alcohol poisoning, and alcoholic liver disease—are at their highest rate in recorded history, according to the Centers for Disease Control and Prevention (CDC). The below chart demonstrates these rates, as occurring for every 100,000 people each year, on average, between 2016 and 2020.

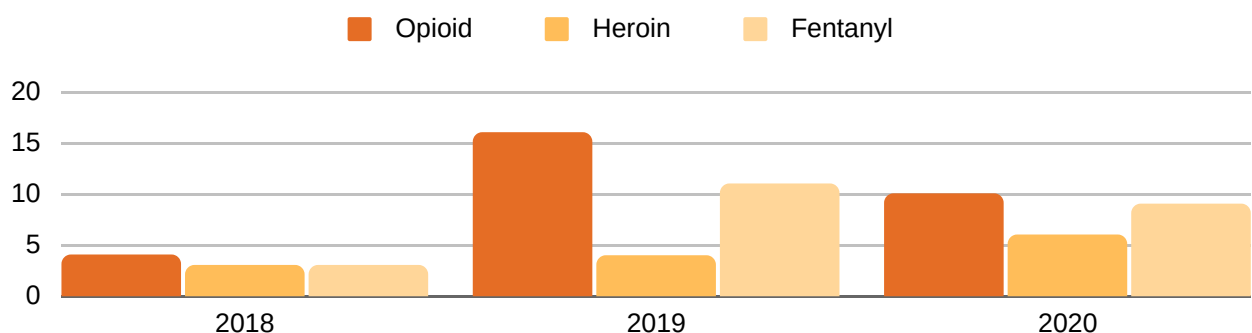


## Poor mental health days

In 2018, the last year for which data is available, county residents reported an average 3.6 poor mental health days over the last 30 days, which is lower than the state average of 4.2 poor mental health days. This is a statistic that likely sharply increased in 2020 and 2021, when the severe mental impact of COVID-19 was felt throughout the community. Additionally, in 2018, 14 percent of adults reported being in frequent mental distress, which is 14 or more poor mental health days within a 30-day period. This statistic also likely increased during 2020 and 2021.

## Opioid and substance use

In 2020, providers in Fayette County prescribed 71.283 opioid prescriptions per every 100 people, which is a figure that has been steadily decreasing each year. That said, **deaths related to all opioids have risen, particularly for heroin and fentanyl.** The below chart is for years 2018, 2019, and 2020, by drug type.





# Community stakeholders

As part of our process, we interviewed nearly 245 stakeholders, policy makers, and lawmakers representing public health, low-income populations, minorities, chronic conditions, older adults, and our communities. These included 13 stakeholders within the county, whose voices are reflected below.

## **Behavioral Health and Substance Use**

All stakeholders mentioned an ongoing need for an increase in mental health providers and substance use services for Fayette County and the surrounding areas served, with even more of a need seen during the COVID 19 pandemic, with one stakeholder stating “services are not growing as fast as the problem.” Consequently, many people requiring such services are going untreated and only seeking assistance when in crisis, particularly in local emergency rooms. Another stakeholder stated, “aside from crisis care, there are not enough ongoing resources to meet the need for mental health and substance abuse treatments.”

Since the onset of the COVID 19 pandemic, multiple stakeholders report seeing an increase in deaths of despair (suicide and substance use) due to more people going without treatment and an uptick in abuse cases, including physical, mental, and elder abuse. Mental health resources are scarce for Medicaid patients, resulting in people having to travel outside of the community for the mental care services needed, particularly for the pediatric population.

## **Access to Care**

Almost all stakeholders noted a growing need for increased access to health services, including primary care, specialty care, and dental care. Fayette County has a low number of providers that accept Medicare and Medicaid. Currently, the existing facilities do not have the capacity to keep up with the need. With high numbers of chronic conditions reported, including diabetes, hypertension, obesity, and high cholesterol, this results in people presenting in local emergency rooms when such issues create larger concerns or become unable to be managed outside of a hospital. Furthermore, specialty care is often needed. One contributing factor is a considerable amount of food insecurity reported from numerous agencies in the area.

Multiple stakeholders cited a need for transportation, especially to support the growing needs of the aging population, stating many people are housed away from access to buses and public transportation means. One interview participant pointed out “when multiple providers are needed, this particularly prohibits the ability to access providers and get the full problems addressed,” making accessing specialty care prohibitive.

Women’s health was of particular concern in the stakeholder interviews as maternal health and infant mortality are currently an issue. Additionally, some felt more resources were needed for special needs children, who have particular health and wellness challenges.

**EXHIBIT G**

[Go to previous versions of this Section](#)

# 2021 Georgia Code

## Title 31 - Health

### Chapter 6 - State Health Planning and Development

#### Article 1 - General Provisions

#### § 31-6-2. (See Editor's notes.) Definitions

**Universal Citation:** GA Code § 31-6-2 (2021)

As used in this chapter, the term:

1. "Ambulatory surgical center or obstetrical facility" means a public or private facility, not a part of a hospital, which provides surgical or obstetrical treatment performed under general or regional anesthesia in an operating room environment to patients not requiring hospitalization.
2. "Application" means a written request for a certificate of need made to the department, containing such documentation and information as the department may require.
3. "Basic perinatal services" means providing basic inpatient care for pregnant women and newborns without complications; managing perinatal emergencies; consulting with and referring to specialty and subspecialty hospitals; identifying high-risk pregnancies; providing follow-up care for new mothers and infants; and providing public/community education on perinatal health.
4. "Bed capacity" means space used exclusively for inpatient care, including space designed or remodeled for inpatient beds even though temporarily not used for such purposes. The number of beds to be counted in any patient room shall be the maximum number for which adequate square footage is provided as established by rules of the department, except that single beds in single rooms shall be counted even if the room contains inadequate square footage.
5. "Board" means the Board of Community Health.
6. "Certificate of need" means an official finding by the department, evidenced by certification issued pursuant to an application, that the action proposed in the application satisfies and complies with the criteria contained in this chapter and rules promulgated pursuant hereto.
7. "Certificate of Need Appeal Panel" or "appeal panel" means the panel of independent hearing officers created pursuant to Code Section 31-6-44 to conduct appeal hearings.
8. "Clinical health services" means diagnostic, treatment, or rehabilitative services provided in a health care facility and includes, but is not limited to, the following: radiology and diagnostic imaging, such as magnetic resonance imaging and positron emission tomography (PET); radiation therapy; biliary lithotripsy; surgery; intensive care; coronary care; pediatrics; gynecology; obstetrics; general medical care; medical-surgical care; inpatient nursing care, whether intermediate, skilled, or extended care; cardiac catheterization; open heart surgery; inpatient rehabilitation; and alcohol, drug abuse, and mental health services.
9. "Commissioner" means the commissioner of community health.
10. "Consumer" means a person who is not employed by any health care facility or provider and who has no financial or fiduciary interest in any health care facility or provider.
11. Reserved.

12. "Department" means the Department of Community Health established under Chapter 2 of this title.
13. "Destination cancer hospital" means an institution with a licensed bed capacity of 50 or less which provides diagnostic, therapeutic, treatment, and rehabilitative care services to cancer inpatients and outpatients, by or under the supervision of physicians, and whose proposed annual patient base is composed of a minimum of 65 percent of patients who reside outside of the State of Georgia.
14. "Develop," with reference to a project, means constructing, remodeling, installing, or proceeding with a project, or any part of a project, or a capital expenditure project, the cost estimate for which exceeds \$10 million. Notwithstanding the provisions of this paragraph, the expenditure or commitment or incurring an obligation for the expenditure of funds to develop certificate of need applications, studies, reports, schematics, preliminary plans and specifications, or working drawings or to acquire, develop, or prepare sites shall not be considered to be the developing of a project.
15. "Diagnostic imaging" means magnetic resonance imaging, computed tomography (CT) scanning, positron emission tomography (PET) scanning, positron emission tomography/computed tomography, and other advanced imaging services as defined by the department by rule, but such term shall not include X-rays, fluoroscopy, or ultrasound services.
16. "Diagnostic, treatment, or rehabilitation center" means any professional or business undertaking, whether for profit or not for profit, which offers or proposes to offer any clinical health service in a setting which is not part of a hospital; provided, however, that any such diagnostic, treatment, or rehabilitation center that offers or proposes to offer surgery in an operating room environment and to allow patients to remain more than 23 hours shall be considered a hospital for purposes of this chapter.

(16.1) "General cancer hospital" means an institution which was an existing and approved destination cancer hospital as of January 1, 2019; has obtained final certificate of need approval for conversion from a destination cancer hospital to a general cancer hospital in accordance with Code Section 31-6-40.3; and offers inpatient and outpatient diagnostic, therapeutic, treatment, and rehabilitative cancer care services or other services to diagnose or treat co-morbid medical conditions or diseases of cancer patients so long as such services do not result in the offering of any new or expanded clinical health service that would require a certificate of need under this chapter unless a certificate of need or letter of determination has been obtained for such new or expanded services.

17. "Health care facility" means hospitals; destination cancer hospitals; other special care units, including but not limited to podiatric facilities; skilled nursing facilities; intermediate care facilities; personal care homes; ambulatory surgical centers or obstetrical facilities; freestanding emergency departments or facilities not located on a hospital's primary campus; health maintenance organizations; home health agencies; and diagnostic, treatment, or rehabilitation centers, but only to the extent paragraph (3) or (7), or both paragraphs (3) and (7), of subsection (a) of Code Section 31-6-40 are applicable thereto.
18. "Health maintenance organization" means a public or private organization organized under the laws of this state which:
  - A. Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physicians' services, hospitalization, laboratory, X-ray, emergency and preventive services, and out-of-area coverage;
  - B. Is compensated, except for copayments, for the provision of the basic health care services listed in subparagraph (A) of this paragraph to enrolled participants on a predetermined periodic rate basis; and
  - C. Provides physicians' services primarily:
    - i. Directly through physicians who are either employees or partners of such organization; or
    - ii. Through arrangements with individual physicians organized on a group practice or individual practice basis.
19. "Health Strategies Council" or "council" means the body created by this chapter to advise the department.
20. "Home health agency" means a public agency or private organization, or a subdivision of such an agency or organization, which is primarily engaged in providing to individuals who are under a written plan of care of a physician, on a visiting basis in the places of residence used as such individuals' homes, part-time or intermittent

nursing care provided by or under the supervision of a registered professional nurse, and one or more of the following services:

- A. Physical therapy;
- B. Occupational therapy;
- C. Speech therapy;
- D. Medical social services under the direction of a physician; or
- E. Part-time or intermittent services of a home health aide.

21. "Hospital" means an institution which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. Such term includes public, private, psychiatric, rehabilitative, geriatric, osteopathic, micro-hospitals, general cancer hospitals, and other specialty hospitals.

22. "Intermediate care facility" means an institution which provides, on a regular basis, health related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide but who, because of their mental or physical condition, require health related care and services beyond the provision of room and board.

23. "Joint venture ambulatory surgical center" means a freestanding ambulatory surgical center that is jointly owned by a hospital in the same county as the center or a hospital in a contiguous county if there is no hospital in the same county as the center and a single group of physicians practicing in the center and that provides surgery in a single specialty as defined by the department; provided, however, that general surgery, a group practice which includes one or more physiatrists who perform services that are reasonably related to the surgical procedures performed in the center, and a group practice in orthopedics which includes plastic hand surgeons with a certificate of added qualifications in Surgery of the Hand from the American Board of Plastic and Reconstructive Surgery shall be considered a single specialty. The ownership interest of the hospital shall be no less than 30 percent and the collective ownership of the physicians or group of physicians shall be no less than 30 percent.

(23.1) "Life plan community" means an organization, whether operated for profit or not, whose owner or operator undertakes to provide shelter, food, and either nursing care or personal services, whether such nursing care or personal services are provided in the facility or in another setting, and other services, as designated by agreement, to an individual not related by consanguinity or affinity to such owner or operator providing such care pursuant to an agreement for a fixed or variable fee, or for any other remuneration of any type, whether fixed or variable, for the period of care, payable in a lump sum, lump sum and monthly maintenance charges or in installments. Agreements to provide continuing care include agreements to provide care for any duration, including agreements that are terminable by either party.

(23.2) "Micro-hospital" means a hospital in a rural county which has at least two and not more than seven inpatient beds and which provides emergency services seven days per week and 24 hours per day.

24. "New and emerging health care service" means a health care service or utilization of medical equipment which has been developed and has become acceptable or available for implementation or use but which has not yet been addressed under the rules and regulations promulgated by the department pursuant to this chapter.

25. "Nonclinical health services" means services or functions provided or performed by a health care facility, and the parts of the physical plant where they are located in a health care facility that are not diagnostic, therapeutic, or rehabilitative services to patients and are not clinical health services defined in this chapter.

26. "Offer" means that the health care facility is open for the acceptance of patients or performance of services and has qualified personnel, equipment, and supplies necessary to provide specified clinical health services.

27. "Operating room environment" means an environment which meets the minimum physical plant and operational standards specified in the rules of the department which shall consider and use the design and construction specifications as set forth in the Guidelines for Design and Construction of Health Care Facilities published by the American Institute of Architects.

28. "Pediatric cardiac catheterization" means the performance of angiographic, physiologic, and, as appropriate, therapeutic cardiac catheterization on children 14 years of age or younger.



**EXHIBIT H**

**BOARD MEMBERS**

Jim Oliver, Chairman  
John H. Culbreth, Sr, Vice-Chairman  
Arnold L. Martin  
Danny England  
John Kruzan

**STAFF**

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

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**AGENDA**  
**FAYETTE COUNTY PLANNING COMMISSION MEETING**  
**140 STONEWALL AVENUE WEST**  
**May 4, 2023**  
**7:00 pm**

**\*Please turn off or turn to mute all electronic devices during the  
Planning Commission Meetings**

---

**NEW BUSINESS**

1. Call to Order.
2. Pledge of Allegiance.
3. Approval of Agenda.
4. Consideration of the Minutes of the meeting held on April 20, 2023.

**PUBLIC HEARING**

5. Consideration of Amendments to Chapter 110. Zoning Ordinance, regarding Sec. 110-79. Residential Accessory Structures and their uses.
6. Consideration of Amendments to Chapter 110. Zoning Ordinance, regarding Sec. 110-241. Public Hearing.
7. Consideration of Amendments to Chapter 110. Zoning Ordinance, regarding Sec. 110-292. Public Hearing.
8. Consideration of Amendments to Chapter 110. Zoning Ordinance, regarding Sec. 110-3. Definitions.

# Meeting Minutes 4/20/23

THE FAYETTE COUNTY PLANNING COMMISSION met on April 20<sup>th</sup>, 2023 at 7:00 P.M. in the Fayette County Administrative Complex, 140 Stonewall Avenue West, Fayetteville, Georgia.

**MEMBERS PRESENT:** Jim Oliver, Chairman  
Arnold Martin  
John Kruzan  
Danny England

**MEMBERS ABSENT:** John H. Culbreth Sr., Vice Chairman

**STAFF PRESENT:** Debbie Bell, Planning and Zoning Director  
Deborah Sims, Zoning Administrator  
E. Allison Ivey Cox, County Attorney

## NEW BUSINESS

1. Call to Order.
2. Pledge of Allegiance.
3. Approval of Agenda.

*Danny England made a motion to approve the agenda. Arnold Martin seconded the motion. The motion carried 4-0. John H. Culbreth Sr. was absent.*

4. Consideration of the Minutes of the meeting held on March 2, 2023.

*Arnold Martin made a motion to approve Minutes of the meeting held on March 2, 2023. John Kruzan seconded the motion. The motion carried 4-0. John H. Culbreth Sr. was absent.*

5. Consideration of a Minor Final Plat of Metzger Manor.

Deborah Sims, Zoning Administrator briefly spoke about the plat and that it met the zoning requirements for R-40. There were no further questions or comments.

*Arnold Martin made a motion to approve Minor Final Plat of Metzger Manor. John Kruzan seconded the motion. The motion carried 4-0. John H. Culbreth Sr. was absent.*

6. Consideration of the Preliminary Plat for Liberty North.

Daniel Fields introduced himself and stated the plat had come before the Planning Commission before.

Deborah Sims stated it was the fourth review.

Arnold Martin asked if there were any major changes from the previous time.

**Page 2**  
**March 3<sup>rd</sup>, 2023**  
**PC Meeting**

Mr. Fields stated no.

There were no further questions or comments.

***Arnold Martin made a motion to approve Preliminary Plat for Liberty North. John Kruzan seconded the motion. The motion carried 4-0. John H. Culbreth Sr. was absent.***

7. Work Session – Discuss Amendments to zoning ordinance.
  - a. Discuss parking ordinance.
  - b. Discuss commercial parking in A-R.
  - c. Discuss amendments to 110-3, 110-79, 110-241 & 110-292

Debbie Bell stated staff is preparing to amendments for the May agenda. She stated they will add a few definitions. The first will be Building Line Front for a corner lot. This definition will show how staff determines the front yard on a corner lot. She stated this is because in certain overlays there are special requirements for parking in the front yard.

Jim Oliver asked if they are trying to clarify because of how the building is oriented?

Debbie Bell stated yes.

Danny England stated they've clarified this in residential lots.

Debbie Bell stated there is not anything quite like the language. She stated there is language that speaks to building things in the front of the lot but this would be a little different.

The Planning Commission spoke about the front yard being where the mailbox is placed. Chairman Oliver stated sometimes the mailbox is placed on one street and the house faces the other street.

Danny England said it was determined by the plane of the structure, that way it didn't matter what the angle was on the corner lot, one could still see the front yard based on the plane of the structure. He continued, it would be nice for the language to match.

Debbie Bell stated the only definition for Building Line Front is a line running parallel to the street which touches the nearest point to the principal structure to the street. She continued, that definition does not work for corner lots. She then referred to the Secondary Front Yard on a Corner Lot, the area parallel to the street between the property line adjacent to a street and the principal structure outside of the primary front yard.

Danny England stated they already fixed this.

Allison Cox stated the problem is with the overlay zones. There isn't a parking requirement that's causing some issues. She continued the 85 Overlay Zone mentions Building Line Front and not the front yard.

Danny England stated Building Line makes more sense because you can see the building but you can't see the property line and setbacks.

**Page 3**  
**March 3<sup>rd</sup>, 2023**  
**PC Meeting**

Chairman Oliver stated it could be the terminology too. It may be better as Building Setback Line.

Debbie Bell stated the building line could be different from the setback. In this case the building line is different from the setback because of the parking requirements.

Arnold Martin referred to the handout and asked which street would be the address?

Debbie Bell stated they can request the address for either street.

Danny England stated his concern for the language they created before not showing up.

Allison Cox stated it's possible when they added the definition it fixed the problem but it didn't fix it in the overlay zone.

Debbie Bell read the language in the overlay, "No more than 50 percent of the required parking can be located in the front yard along the state route as established by the front building line of any structure located on the site."

Allison Cox stated there are two definitions one for the front yard and one for front building line. She stated, going to the Definitions section in the ordinance, note that this would be a primary front yard.

Chairman Oliver stated the front parking is where the front of the building is regardless of which road it's facing.

Allison Cox agreed and stated the ordinance references the front building line which is defined as building parallel to the building.

Danny England asked if the amendment would only be for corner lots?

Allison Cox stated yes.

Debbie Bell stated the second definition for discussion is still in progress. She stated the office has had a few requests for a drug abuse treatment facility. She stated this is currently not a use in the ordinance. She continued they need to add a definition and a use.

Chairman Oliver asked if it would be in a residential district.

Debbie Bell stated many of the requests have been made for O-I districts which is approved for hospitals, but this is different from a hospital and the attorneys want them to address it differently. She continued there are some different requirements. There is a state law that it goes through a zoning procedure where it goes before the Planning Commission and then not before six months but not before nine months must go before the Board of Commissioners.

Chairman Oliver asked if there had been any requests for this to be in a residential district instead of the medical district.

Debbie Bell stated not at this point.



Arnold Martin stated someone could see a big house and want to use it as a treatment facility so they should prepare all the language as it relates. He asked if they would also need to be aware of all the medical standards the state requires to create the language?

Allison Cox stated it would be like a hospital and they are not specific about the language for the hospitals in the ordinance. She continued; with the drug use facility they need to be specific about the zoning procedures. She stated she thinks the legislative intent is to make the public and nearby residents aware. She suggested they put a definition in and decide which zoning districts it would be in. She continued that O-I is appropriate and they want make sure they are covering the notices to residents. She stated it would be set up as a special use of property so that each time applies to put one in it would run through a special hearing process with the Planning Commission and then with the Board of Commissioners.

Chairman Oliver asked if there is a medical office zoning?

Debbie Bell stated medical offices are allowed in O-I.

Danny England stated this would be good for the personal care homes who become medical. There will already be something zoned for it and they can move into.

John Kruzan asked if there will be a part of the definition that triggers the medical aspect such as detoxing that will differentiate from a personal care home?

Danny England stated usually your administering drugs over the course of several days to help them.

Allison Cox stated the state law considers it a halfway house, a drug rehabilitation center or any other facility for the treatment of drug dependency.

Danny England asked if there are any distance requirements from schools or anything.

Allison Cox stated she didn't see anything but that they need to develop a permitting process that puts those requirements in place. She stated O-I is probably away from most residences anyway but they can still add those in.

Danny England stated some may be close to a school or day care.

Allison Cox stated the request that is in front of them right now is for an acute detox facility that specifically help after an overdose for the first few days.

Danny England stated those may also have the most intensive medical use.

Arnold Martin asked if there is any language for prisoners that have been recently released into an halfway house?

Allison Cox suggested they add a definition for special use of property and start dropping in those things that will define drug use facility and halfway house so that it's easier to look at these things and know that they're coming.

# **EXHIBIT I**

&lt; convalescent



Dictionary

Thesaurus

GET RESOURCES &gt;

Advil

Voltaren  
ARTHRITIS PAIN

Ex

# convalescent

 1 of 2 **adjective**con·va·les·cent -'les-ənt

- 1** : recovering from sickness or debility : partially restored to health or strength  
*convalescent* patients
- 2** : of, for, or relating to [convalescence](#) or [convalescents](#)  
*convalescent* stages  
a *convalescent* ward

**adverb**

# convalescent

 2 of 2 **noun**

: one recovering from sickness



# Dictionary

Definitions from [Oxford Languages](#) · [Learn more](#)

## con·va·les·cent

*adjective*

adjective: **convalescent**

(of a person) recovering from an illness or operation.  
"a convalescent child"

Similar: recuperating recovering getting better on the road to recovery 

- relating to convalescence.  
"a convalescent home"

*noun*

noun: **convalescent**; plural noun: **convalescents**

a person who is recovering after an illness or operation.  
"convalescents benefit from relaxation"

## Origin



mid 17th century: from Latin *convalescent-* 'growing strong, recovering', from the verb *convalescere* (see convalesce).

**EXHIBIT J**





## Disease or Condition of the Week

[Disease or Condition of the Week Home](#)

# Substance Use Disorders (SUDs)

[səbstəns] [yooz] [dis-or-dr]



According to the 2020 National Survey on Drug Use and Health (NSDUH), 40.3 million Americans, aged 12 or older, had a substance use disorder (SUD) in the past year. Substance use disorders continue to be an important health issue in our country.

**Substance Use Disorders (SUDs) are treatable, chronic diseases characterized by a problematic pattern of use of a substance or substances leading to impairments in health, social function, and control over substance use. It is a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using the substance despite harmful consequences.** Patterns of symptoms resulting from substance use (drugs or alcohol) can help a doctor diagnose a person with a SUD or SUDs. SUDs can range in severity from mild to severe and can affect people of any race, gender, income level, or social class.

**EXHIBIT K**

# JUSTIA

[Go to previous versions of this Section](#)



## 2021 Georgia Code

### Title 36 - Local Government

### Chapter 66 - Zoning Procedures

### § 36-66-4. Hearings on Proposed Zoning Decisions; Notice of Hearing; Nongovernmental Initiated Actions; Reconsideration of Defeated Actions; Procedure on Zoning for Property Annexed Into Municipality

**Universal Citation:** GA Code § 36-66-4 (2021)

- a. A local government taking action resulting in a zoning decision shall provide for a hearing on the proposed action. At least 15 but not more than 45 days prior to the date of the hearing, the local government shall cause to be published within a newspaper of general circulation within the territorial boundaries of the local government a notice of the hearing. The notice shall state the time, place, and purpose of the hearing.
- b. If a zoning decision of a local government is for the rezoning of property and the rezoning is initiated by a party other than the local government, then:
  1. The notice, in addition to the requirements of subsection (a) of this Code section, shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property; and

2. A sign containing information required by local ordinance or resolution shall be placed in a conspicuous location on the property not less than 15 days prior to the date of the hearing.
- c. If the zoning decision of a local government is for the rezoning of property and the amendment to the zoning ordinance to accomplish the rezoning is defeated by the local government, then the same property may not again be considered for rezoning until the expiration of at least six months immediately following the defeat of the rezoning by the local government.
- d. If the zoning is for property to be annexed into a municipality, then:
  1. Such municipal local government shall complete the procedures required by this chapter for such zoning, except for the final vote of the municipal governing authority, prior to adoption of the annexation ordinance or resolution or the effective date of any local Act but no sooner than the date the notice of the proposed annexation is provided to the governing authority of the county as required under Code Section 36-36-6;
  2. The hearing required by subsection (a) of this Code section shall be conducted prior to the annexation of the subject property into the municipality;
  3. In addition to the other notice requirements of this Code section, the municipality shall cause to be published within a newspaper of general circulation within the territorial boundaries of the county wherein the property to be annexed is located a notice of the hearing as required under the provisions of subsection (a) or (b), as applicable, of this Code section and shall place a sign on the property when required by subsection (b) of this Code section; and
  4. The zoning classification approved by the municipality following the hearing required by this Code section shall become effective on the later of:
    - A. The date the zoning is approved by the municipality;
    - B. The date that the annexation becomes effective pursuant to Code Section 36-36-2; or
    - C. Where a county has interposed an objection pursuant to Code Section 36-36-11, the date provided for in paragraph (8) of subsection (c) of said Code section.
- e. A qualified municipality into which property has been annexed may provide, by the adoption of a zoning ordinance, that all annexed property shall be zoned by the municipality, without further action, for the same use for which that property was zoned immediately prior to such annexation. A qualified county which includes property which has been deannexed by a municipality may provide, by the adoption of a zoning ordinance, that all deannexed property shall be zoned by the county,

without further action, for the same use for which that property was zoned immediately prior to such deannexation. A municipality shall be a qualified municipality only if the municipality and the county in which is located the property annexed into such municipality have a common zoning ordinance with respect to zoning classifications. A county shall be a qualified county only if that county and the municipality in which was located the property deannexed have a common zoning ordinance with respect to zoning classifications. A zoning ordinance authorized by this subsection shall be adopted in compliance with the other provisions of this chapter. The operation of such ordinance to zone property which is annexed or deannexed shall not require any further action by the adopting municipality, adopting county, or owner of the property annexed or deannexed. Property which is zoned pursuant to this subsection may have such zoning classification changed upon compliance with the other provisions of this chapter.

f. When a proposed zoning decision relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, a public hearing shall be held on the proposed action. Such public hearing shall be held at least six months and not more than nine months prior to the date of final action on the zoning decision. The hearing required by this subsection shall be in addition to any hearing required under subsection (a) of this Code section. The local government shall give notice of such hearing by:

1. Posting notice on the affected premises in the manner prescribed by subsection (b) of this Code section; and
2. Publishing in a newspaper of general circulation within the territorial boundaries of the local government a notice of the hearing at least 15 days and not more than 45 days prior to the date of the hearing.

Both the posted notice and the published notice shall include a prominent statement that the proposed zoning decision relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency. The published notice shall be at least six column inches in size and shall not be located in the classified advertising section of the newspaper.

(Code 1981, §36-66-4, enacted by Ga. L. 1985, p. 1139, § 1; Ga. L. 1996, p. 1009, § 2; Ga. L. 1998, p. 856, § 3; Ga. L. 1998, p. 1392, § 1; Ga. L. 2004, p. 69, § 19; Ga. L. 2012, p. 775, § 36/HB 942.)

### **Editor's notes.**



**EXHIBIT L**

# JUSTIA

[Go to previous versions of this Section](#) ↓

## 2021 Georgia Code

### Title 36 - Local Government

### Chapter 66 - Zoning Procedures

### § 36-66-3. Definitions

**Universal Citation:** GA Code § 36-66-3 (2021)

As used in this chapter, the term:

1. "Local government" means any county or municipality which exercises zoning power within its territorial boundaries.
2. "Territorial boundaries" means, in the case of counties, the unincorporated areas thereof and any area defined in paragraph (5.1) of Code Section 36-70-2, and, in the case of municipalities, the area lying within the corporate limits thereof except any area defined in paragraph (5.1) of Code Section 36-70-2.
3. "Zoning" means the power of local governments to provide within their respective territorial boundaries for the zoning or districting of property for various uses and the prohibition of other or different uses within such zones or districts and for the regulation of development and the improvement of real estate within such zones or districts in accordance with the uses of property for which such zones or districts were established.
4. "Zoning decision" means final legislative action by a local government which results in:
  - A. The adoption of a zoning ordinance;
  - B. The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;

- C. The adoption of an amendment to a zoning ordinance which rezones property from one zoning classification to another;
- D. The adoption of an amendment to a zoning ordinance by a municipal local government which zones property to be annexed into the municipality; or
- E. The grant of a permit relating to a special use of property.

5. "Zoning ordinance" means an ordinance or resolution of a local government establishing procedures and zones or districts within its respective territorial boundaries which regulate the uses and development standards of property within such zones or districts. The term also includes the zoning map adopted in conjunction with a zoning ordinance which shows the zones and districts and zoning classifications of property therein.

(Code 1981, §36-66-3, enacted by Ga. L. 1985, p. 1139, § 1; Ga. L. 1993, p. 806, § 1; Ga. L. 1996, p. 1009, § 1; Ga. L. 1997, p. 1567, § 2; Ga. L. 1998, p. 1391, § 1.)

#### **Code Commission notes.**

- Pursuant to Code Section 28-9-5, in 1985, the definitions were alphabetized.

#### **Law reviews.**

- For review of 1998 legislation relating to local government, see 15 Ga. St. U. L. Rev. 194 (1998). For survey article on real property law, see 67 Mercer L. Rev. 193 (2015). For annual survey on zoning and land use law, see 70 Mercer L. Rev. 301 (2018).

#### **JUDICIAL DECISIONS**

##### **"Zoning decision" construed.**

- Both passage and rescission of a text amendment change the text of the zoning ordinance. Both actions fit squarely within the statutory definition of a "zoning decision." *Atlanta Bio-Med, Inc. v. DeKalb County*, 261 Ga. 594, 408 S.E.2d 100 (1991).

Clause in a lease agreement between a city and the city's solid waste treatment provider which might require a future amendment to a zoning ordinance did not constitute a zoning decision. *Grove v. Sugar Hill Inv. Assocs.*, 219 Ga. App. 781, 466 S.E.2d 901 (1995).

Since a real estate developer had neither concluded the purchase of property or made substantial expenditures in reliance upon the probable issuance of a building permit until after the county amended its zoning ordinance to the detriment of the developer, the developer did not acquire a vested right to develop the property in question in conformity

A. 840-23  
RJD Date  
MAY 17, 2023

**PETITIONS FOR  
VARIANCE(S)/ADMINIS-  
TRATIVE APPEAL(S)/ON  
CERTAIN PROPERTIES IN  
UNINCORPORATED AREA OF  
FAYETTE COUNTY, GEORGIA  
PUBLIC HEARING**

to be held by the Zoning Board of Appeals of Fayette County on Monday, June 12, 2023, at 7:00 P.M., Fayette County Administrative Complex, Public Meeting Room, 140 Stonewall Avenue West, first floor.

Petition No.: A-840-23

Owner(s)/Agent(s):

Owner: NWE18, LLC

Agent/Attorney: Adam Kaye

Property Address: 1008 Georgia Highway 54 W

Fayetteville, Georgia 30214

Zoning District: O-1

Area of Property: 3.09 acres

Parcel # 0522 007

Land Lot(s): 126

District: 5th

Road Frontage: Georgia Highway 54 W

Request: Appeal to Sec. 110-207. -

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

Appeal the decision of the Zoning Administrator/Director of Planning & Zoning with regard to interpretation, administration and enforcement.

Legal Description:

EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot 126 of the 5th District, Fayette County, Georgia; and being depicted as 3.09 acres, more or less, on a plat of survey prepared for Thomas B. Chandler by Seabolt & Company, Inc., dated December 15, 2006, and filed and recorded in Plat Book 44, Page 13, Fayette County, Georgia records; said plat being incorporated herein and made a part hereof by reference.

EXHIBIT "B"

**PERMITTED EXCEPTIONS**

1. Outstanding and unpaid taxes, street improvements, Easements, Exceptions of Record, Restrictive Covenants, and all superior encumbrances appearing of record.

2. All those matters as shown on that certain plat recorded in Plat Book 44, Page 13, Fayette County, Georgia Records.

3. Boundary Line Agreement between Georgia H. Huddleston, Jr. and the Board of Trustees of the Fayette Church of God of Prophecy, dated April 19, 2007, recorded in Deed Book 3218, Page 337, Fayette County, Georgia Records.

4. Declaration of Taking by the Department of Transportation, dated June 22, 1990, filed and recorded in Deed Book 642, Page 596, Fayette County, Georgia records.

05/17



**POSTING OF PROPERTY**

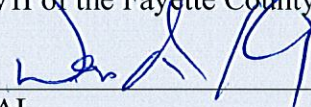
**PETITION NO:** A-840-23

**OWNER:** NWE18, LLC  
1008 Georgia Highway 54 W  
Fayetteville, Georgia 30214

**LOCATION:** Land Lot 126 of the 5th District  
Fronts on Georgia Highway 54.

**REQUEST:** Appeal to Sec. 110-207. - Appeals. and Sec. 110-242. - Powers and duties. Appeal the decision of the Zoning Administrator/Director of Planning & Zoning with regard to interpretation, administration and enforcement.

I hereby certify that a sign was posted for the above-referenced application in conformance with Article VII of the Fayette County Zoning Ordinance.

  
\_\_\_\_\_  
OFFICIAL

May 15, 2023  
\_\_\_\_\_  
DATE

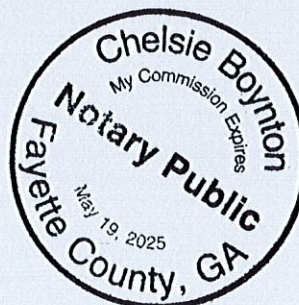
Sworn to and subscribed before me this

15<sup>th</sup> day of May, 2023.

  
\_\_\_\_\_  
NOTARY

Number of signs posted 1.

Date sign posted May 15, 2023







1008 GA HWY 54 W



1008 GA HWY 54 W



Doc ID: 010338960004 Type: FCD  
Recorded: 03/09/2018 at 09:55:00 AM  
Fee Amt: \$30.00 Page 1 of 4  
Transfer Tax: \$0.00  
Fayette, Ga. Clerk Superior Court  
Sheila Studdard Clerk of Court  
BK 4716 PG 326-329

RETURN TO:  
COLEMAN TALLEY LLP  
ATTN: WILLIAM STEINBERG  
910 N. PATTERSON STREET  
VALDOSTA, GA 31603-5437

STATE OF GEORGIA  
COUNTY OF FAYETTE

Cross-Reference: ✓  
Deed Book 3418, Pages 220-243  
Deed Book 4231, Page 276  
Deed Book 4270, Page 433  
Deed Book 4360, Page 149  
Deed Book 4490, Page 475  
Deed Book 4658, Page 490  
Deed Book 4702, Pages 657-663

**FORECLOSURE DEED**

THIS INDENTURE made and entered into this **6th day of March, 2018**, between **DOCTOR'S HOSPICE OF HENRY, LLC**, a Georgia limited liability company, acting by and through their attorney-in-fact, **NWE18, LLC**, an Oregon limited liability company, of the first part herein, and **NWE18, LLC**, an Oregon limited liability company, of the second part herein;

**WITNESSETH:**

WHEREAS, the said **DOCTOR'S HOSPICE OF HENRY, LLC** made and executed that certain Deed to Secure Debt and Security Agreement ("Security Deed") executed by Doctor's Hospice of Henry, LLC to Bank of North Georgia, a division of Synovus Bank, dated June 6, 2008 and recorded in Deed Book 3418, Pages 220-243, as amended and modified by Modification and Extension Agreement recorded in Book 4231, Page 276; Modification Agreement recorded in Book 4270, Page 433; Modification and Extension Agreement recorded in Book 4360, Page 149; Modification and Extension Agreement recorded in Book 4490, Page 475; Modification and Extension Agreement recorded in Book 4658, Page 490, as last transferred to or acquired by **NWE18, LLC** via Assignment as recorded in Book 4702, Pages 657-663, all of the Fayette County, Georgia, Deed Records; and

WHEREAS, the said Security Deed contained a power of sale authorizing a sale or sales of the property described therein in the event of default in the payment of the indebtedness secured by said Deed, and constitutes and appoints **NWE18, LLC** as the agent and attorney-in-fact for **DOCTOR'S HOSPICE OF HENRY, LLC**, to make such sale or sales and, in the name of **DOCTOR'S HOSPICE OF HENRY, LLC** and on behalf of **DOCTOR'S HOSPICE OF HENRY,**

LLC, to execute and deliver a sufficient conveyance or sufficient conveyances of the property thus sold to the purchaser or purchasers thereof; and

WHEREAS, the indebtedness secured by the Security Deed became in default and the undersigned NWE18, LLC, pursuant to the provisions of the said Security Deed, did, on the first Tuesday in March, 2018, within the legal hours of sale, expose the said property for sale at public outcry before the courthouse door of Fayette County, Georgia, after having advertised such sale pursuant to the provisions of said Security Deed and in the manner required by law in such cases; and

WHEREAS, when so exposed for sale, the real property described in Exhibit "A" attached hereto was knocked off to NWE18, LLC, who was the highest and best bidder, at and for the sum of \$1,650,000.00.

NOW, the premises considered and in consideration of said sum of \$1,650,000.00 to the undersigned in hand paid, the receipt whereof is hereby acknowledged, the said DOCTOR'S HOSPICE OF HENRY, LLC, acting by and through NWE18, LLC as their agent and attorney-in-fact, does hereby sell and convey the property described in Exhibit "A" attached hereto unto the said party of the second part, its successors and assigns.

All notices required pursuant to Official Code of Georgia § 44-14-162 et seq. have been given as required by law.

TO HAVE AND TO HOLD the said described real property in fee simple.

IN WITNESS WHEREOF the said DOCTOR'S HOSPICE OF HENRY, LLC, acting by and through their said agent and attorney-in-fact, has executed, sealed, and delivered this indenture on the day and year first above written.

DOCTOR'S HOSPICE OF HENRY, LLC, a Georgia limited liability company  
By: NWE18, LLC, an Oregon limited liability company, as Attorney-in-Fact.

Signed, sealed and delivered this 7<sup>th</sup> day of March, 2018 in the presence of:

By: \_\_\_\_\_  
Title: Manager

[Signature]  
Common Witness

Attest: [Signature]  
Title: Manager

[Signature]  
Notary Public  
My Commission Expires: 10-29-21

(SEAL)



**EXHIBIT "A"**

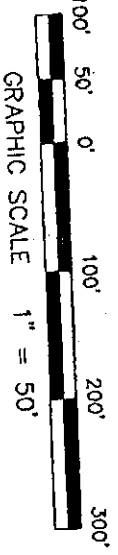
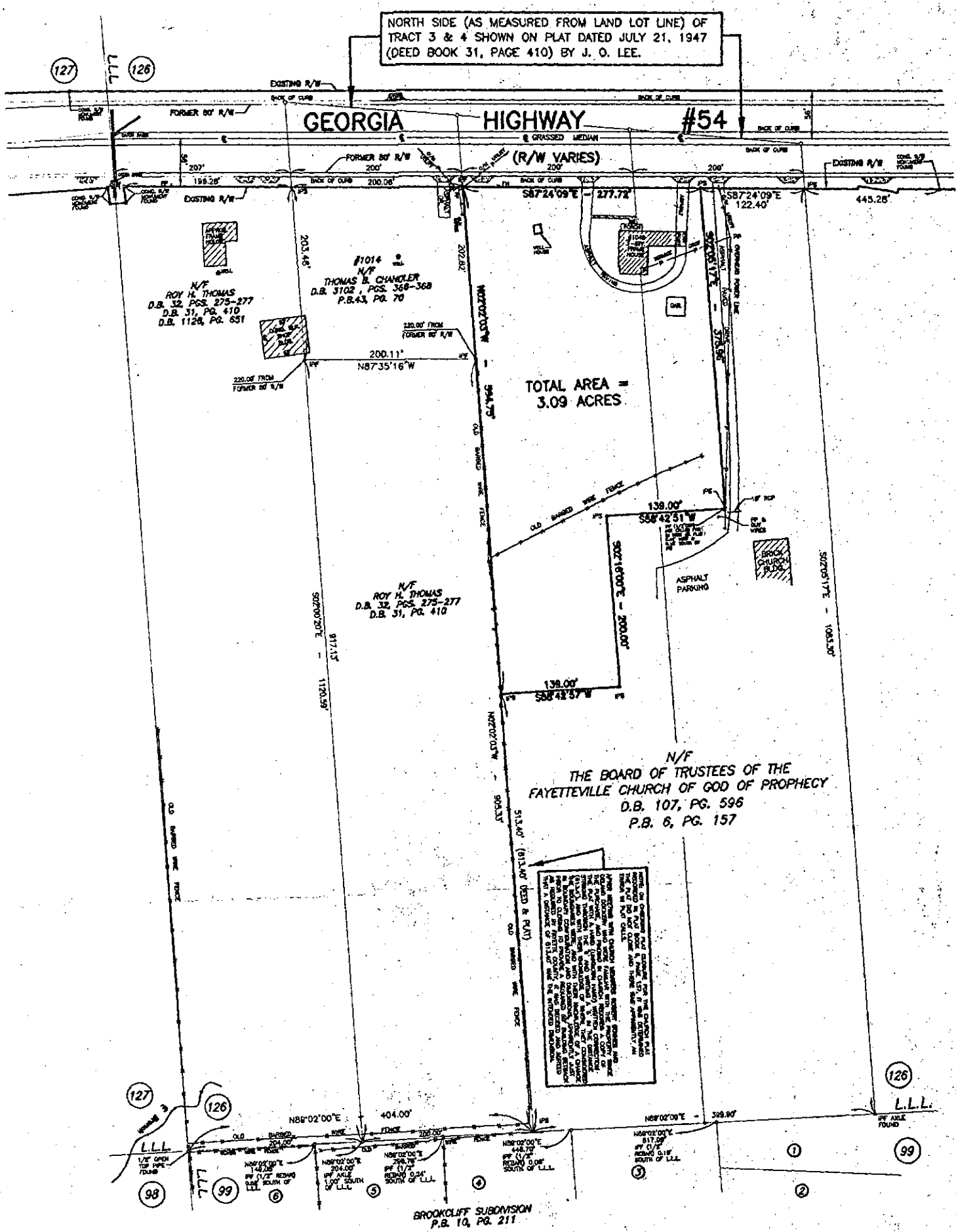
All that tract or parcel of land lying and being in Land Lot 126 of the 5<sup>th</sup> District, Fayette County, Georgia; and being depicted as 3.09 acres, more or less, on a plat of survey prepared for Thomas B. Chandler by Seabolt & Company, Inc., dated December 15, 2006, and filed and recorded in Plat Book 44, Page 13, Fayette County, Georgia records; said plat being incorporated herein and made a part hereof by reference.

**EXHIBIT "B"**

**PERMITTED EXCEPTIONS**

1. Outstanding and unpaid taxes, street improvements, Easements, Exceptions of Record, Restrictive Covenants, and all superior encumbrances appearing of record.
2. All those matters as shown on that certain plat recorded in Plat Book 44, Page 13, Fayette County, Georgia Records.
3. Boundary Line Agreement between Georgia H. Huddleston, Jr. and the Board of Trustees of the Fayette Church of God of Prophecy, dated April 19, 2007, recorded in Deed Book 3218, Page 337, Fayette County, Georgia Records.
4. Declaration of Taking by the Department of Transportation, dated June 22, 1990, filed and recorded in Deed Book 642, Page 596, Fayette County, Georgia records.





Doc ID: 007470340001 Type: PLI  
 Filed: 04/23/2007 at 01:20:00 PM  
 Fee Amt: \$8.00 Page 1 of 1  
 Fayette, Ga. Clerk Superior Court  
 Sheila Studdard Clerk of Court  
 BK 44 Pg 13

NO.	DATE	REVISION



IN MY OPINION THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMANCE WITH THE GENERAL LAWS AND REQUIREMENTS OF LAW.  
 THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PERCENTAGE OF AT LEAST ONE FOOT IN SEVEN THOUSAND FEET ANGLE AND HAS BEEN ADJUSTED USING THE COMPOUND RULE.  
 FIELD INFORMATION WAS OBTAINED WITH A WILSON-DUNN-221 AND A STEEL TAPE.  
 DATE OF LAST FIELD WORK: 12/15/06  
 LARRY J. SEABOLT  
 REGISTERED PROFESSIONAL SURVEYOR  
 GEORGIA FLORESCED LAND SURVEYOR #2136

- REFERENCE MATERIALS:**
- SURVEYED PARCEL:  
 D.B. 31, PG. 410  
 D.B. 65, PGS. 69-71
  - R/W DEEDS:  
 D.B. 2, PGS. 64-68 (Sub 340-1)  
 D.B. 39, PGS. 1 & 2 (R.R. PR 2148 (1))  
 D.B. 565, PGS. 460-462 (R.R. 164-1 (2))  
 D.B. 567, PG. 557 (R-104-1 (12))
  - GENERAL:  
 P.B. 21, PG. 61  
 P.B. 61, PG. 187  
 D.B. 332, PG. 6
- LEGEND**
- NON-FIN FOUND (VARIABLE)
  - FIN SET - 1/2" REBAR (FIN)
  - BRICK POINT (NO USES)
  - REBAR
  - CHALK TOP MARK
  - PROPERTY LINE
  - PROPERTY-ADJUT
  - CONCRETE
  - POWER POLE
  - OPEN LEAD UTILITY
  - 90° WIRE
  - REINFORCED CONCRETE PIPE
  - FINE IRONBAR (AS NOTED)
  - SMALL WIND CATCH SIGN
  - DOUBLE WIND CATCH SIGN

**PLAT OF SURVEY PREPARED FOR THOMAS B. CHANDLER**  
 LOCATED IN  
 LAND LOT 126 - 5th DISTRICT  
 FAYETTE COUNTY, GEORGIA  
**SEABOLT & COMPANY, INC.**  
 101 DEWANT STREET, UNIT 508-A  
 FAYETTEVILLE, GEORGIA 30214  
 PHONE (770) 460-9006

DATE 12/15/06  
 SCALE: 1"=100'  
 LD-PROJECT FILE  
 1014 HWY. 54  
 1014HWY54LW0  
 SURVEY  
 PROJECT NO. 2006-6  
 SHEET NO.  
 1 OF 1