

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
Christina Barker, Planning and Zoning Coordinator
E. Allison Ivey Cox, County Attorney

AGENDA

**Fayette County Zoning Board of Appeals
Fayette County Administrative Complex
Public Meeting Room
December 18, 2023
7:00 P.M.**

1. Call to Order.
2. Pledge of Allegiance.
3. Approval of Agenda.
4. Consideration of the Minutes of the Meeting held on November 27, 2023.

PUBLIC HEARING

5. Petition No. A-849-23 - Variance to Sec. 110-79(e)(1)(a). - To allow a detached garage in the front yard that is more than 35' from the principal structure. Variance to Sec. 110-79(e)(1)(d). - To allow a detached garage in the front yard without an attached or detached breezeway, deck, or pergola.
6. Petition No. A-850-23 - Variance to Sec. 110-142(f)(5)(a) to reduce the side yard setback from 15' to 4' for new building. Variance to Sec. 110-142(f)(5)(b) to reduce the rear yard setback from 15' to 4' for new building. Variance to Sec. 110-142(f)(6) to reduce buffer from 30' to 23' in the rear yard for parking. Variance to Sec. 110-142(f)(6) to reduce buffer from 30' to 20' in the side yard for parking. Variance to Sec. 104-221(35) to reduce the required number of parking spaces for an office building from 30 to 29.
7. Petition No. A-851-23 - Variance to Sec. 110-149(d) (6) (c) to reduce the side setback from 15' to 14' to allow an existing pool pavilion foundation to remain.

Meeting Minutes 11/27/23

THE FAYETTE COUNTY ZONING BOARD OF APPEALS met on November 27, 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: Debbie Bell, Planning and Zoning Director
Deborah Sims, Zoning Administrator
Christina Barker, Planning and 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 approve the agenda. Bill Beckwith seconded the motion. The motion carried 5-0.
4. Consideration of the Minutes of the Meeting held on September 25, 2023.
John Tate made a motion to approve the minutes of the meeting held on September 25, 2023. Marsha Hopkins seconded the motion. The motion carried 5-0.

PUBLIC HEARING

5. Consideration of the Fayette County Zoning Board of Appeals 2024 Calendar.
John Tate made a motion to approve the Fayette County Zoning Board of Appeals 2024 Calendar. Anita Davis seconded the motion. The motion carried 5-0. Deborah Bell introduced the formal presentation of the 2024 Calendar. There was a brief discussion at a former meeting, so this is the formal presentation for consideration of 2024 dates.
6. Petition No. A-844-23 - Variance to Sec. 110-93, requesting to reduce the setback for septic drain field lines.
John Tate made a motion to approve. Bill Beckwith seconded the motion. The motion passed 5-0.
Deborah Bell presents the staff report for petition A-844-23 which is a request to reduce the required setback for septic tanks and drain field lines as required in Sec. 110-93 from 25 feet to 5 feet for the location of septic drain lines. This is located at 1552 Highway 85 South in Fayetteville. Zoning is C-H. This location is the old U.S. Station and has been in commercial use since the 60's. The property has been paved for a long time and was at one time an old commercial truck stop.

A significant portion of the property is paved and as a result, it has been a challenge to find appropriate soils to provide for the septic field and the backup field. So, you can see that it's an isolated commercial parcel surrounded by A-R and R-70 and the land use in the area is residential. There aren't any significant environmental features on this property such as streams or wetlands. Ms. Bell displays an old aerial whereby the old building and the old gas canopy have already been demolished. They started some of their site preparatory work. They have a land disturbance permit. The area in question is highlighted and should include a 25' buffer along the property lines adjacent to A-R and R-70 properties. Ms. Bell displays the original landscape plan which was approved when the land disturbance package was underway.

Staff is recommending the landscaping be flip-flopped if the field is in the lower area, some of the sloped area should be landscaped and it might be needed as a backup field area in the future at which time landscaping could be provided in the old field area if they need to put septic replacement fields in this location. Ms. Bell showed a picture of the proposed paving and shows a picture of the proposed store with a drive-around detention and the proposed septic tank located in the back with fields going to the north and south. The same property owner owns the property to the north so there is no objection from that property owner. Ms. Bell states she did receive a call from a resident down to the south and after some discussion and a casual phone conversation about the request he didn't have an objection at that time. Ms. Bell reminded him that he was welcome to come to the meeting. Staff recommends conditional approval of the request to reduce the setback for the septic drain field lines subject to the following 1) The approved buffer planting should be planted between the back of the curb and the septic drain field area to provide the buffer by required by Sec. 110-144 (6) to provide the buffer per the attached landscape plan. This is a flip-flop of some of the landscaping. Any area where existing vegetation was proposed to provide the buffer shall also be planted if disturbed. Staff shall also coordinate with Environmental Health to coordinate that there is no conflict with the septic system itself.

John Tate asked if anyone was there to speak on behalf of the petitioners. Neal Brown with All Span Builders representing the Green Oil project comes forward to speak. First of all, he thanks the Planning & Zoning department for all of their patience. This is their fourth variance, but to save face they didn't know about the soil conditions when they applied for the other two. He thinks that everything has been covered and they need approval for another variance concerning expanding the field lines for the septic system to be adequate for the development. Also, thanks to Bonnie at Environmental Health for help with this project. We are all in agreement to make the changes to the landscape plan and Mr. Brown explains that it is a weird property. You have A-R, the neighbor to the south is here, the piece in the middle is commercial and then the one to the north is residential which is owned by another company of Green Oil. All that said, there are 4 properties out there with property lines through the asphalt. This plan is to remove all the old asphalt to the property lines anyway so the variance to the Average Joe you won't

know the difference that there are some more field lines to these landscape areas and so that is it in a nutshell. Thanks for your time, patience, and help and we think this is the last variance.

John Tate asks the audience if there is anyone there to speak in support of this petition. John Tate asks if anyone is there to speak in opposition to this petition. We will see if any board members have any questions or comments. Brian Haren asks if the owner they spoke with was the owner of the R-70 property. Ms. Bell clarified that the person she spoke with was the A-R property. Mr. Haren asks if anyone has spoken to the owner of the R-70 property. Ms. Bell stated that this was the only call she received. Brian Haren asks if there is no reuse of the existing drain field. The system won't tie into what's already in the ground. Bill Beckwith asked if it was necessary to remove the underground storage tanks and replace them. Mr. Brown replied that all the old tanks, the existing store, and the canopy were part of the original demolition plan. All the suitable testing, engineering reports, and such are all on file. John Tate asks what the final property that is going to be placed on this property. What is its final use?

Neal Brown replies that he understands it is going to be Whitewater AAMCO and that is what it has been tagged and permitted under in SAGES. When Neal spoke with Leslie today, they had one more comment from the Fire Marshall to deal with the commercial hood. That procedure will continue but in order to answer your question the project is separated into 3 tenants: a convenience store, and two other tenants that haven't been decided yet. Mr. Brown is not the real estate department and not sure if they have put the final ink on the deal, but they hope that the final drive-through is a Dunkin Donuts. Mr. Brown is speaking out of turn and is just the general contractor and the builder, but that is the plan and then there will be one other tenant. Brian Haren asked if this were approved would they agree to the conditions. Neal Brown said, "Oh, yes sir!"

John Tate says it appears that there is not any real issue with any of the board members or himself and on that motion, he made a motion that they approve Petition No. A-844-23 - Variance to Sec. 110-93, requesting to reduce the setback for septic drain field lines. The motion was seconded by Bill Beckwith.

Bell requested to clarify that the actual variance is 110-144 (d) (6) which is the buffer and landscape requirements. The drain field lines have a requirement that they can be within 5 feet of the property line, so the actual variance request is 110-144 (d)(6).

Tate amends the motion stating it is under conditional approval to state that with regard to Petition No. A-844-23 we move that we approve the variance to 110-144 (d)(6) and with respect to Sec. 110-93 which is to reduce the setback for septic drain field lines. The approval is based on the conditions that were outlined by the Department of Planning and Zoning and is subject to the petitioner's agreement with the particular conditions. That is the basis of the motion to

approve the variance. John Tate made a motion to approve. Marsha Hopkins seconded the motion. The motion passed 5-0 unanimously.

7. Petition No. A-845-23 - Variance to Sec. 110-149 (d)(6)(c), requesting to reduce the setback for the side yard from 15 feet to 13'2". Reduce side yard by 1'10" to allow for new construction to remain.

John Tate made a motion to approve. Anita Davis seconded the motion. The motion passed 5-0.

Deborah Bell introduces Petition No. A-845-23 - Variance to Sec. 110-149 (d)(6)(c), requesting to reduce the setback for the side yard from 15 feet to 13'2" to allow a newly constructed addition to remain. The property is located at 125 Monarch Drive in Peachtree City. The zoning is PUD-PRD, and the applicant is requesting the following per Sec. 110-149 (d)(6)(c) requesting to reduce the side yard building setback in the PUD-PRD zoning district from 15 feet to 13'2". The staff recommendation – it is the opinion of the staff that the parcel does not have unique or limiting factors, however, the encroachment is not very large, and it is unlikely that it would have a negative impact on the adjoining property.

John Tate asks if there is anyone here to speak on behalf of the petitioner. Nick McCullough is here to speak on behalf of the Bennett family. He is the general contractor on the job. Mr. McCullough said they built an addition for the family, and we pulled from the side property line, on the right side, where the owner had marked for them and either his concrete guys went over the line, or the line marked was wrong and we made a mistake and poured it over the 15-foot setback.

John Tate asks if anyone is wishing to speak in support of the petition. John Tate asks if anyone wants to speak in opposition to the petition. Thank you and we'll see if any board member wishes to make any statement or comment. Marsha Hopkins asks if the variance is not granted what would the petitioner have to do? Debbie Bell states that they would have to demolish what was built and rebuild within the boundary if it were not approved, or they could negotiate with the neighbor and perhaps do a property line shift to provide enough space. Those are really the only two options if the variance is not approved.

Brian Haren asked if construction of this type no longer requires a slab survey. Ms. Bell states that if an addition or accessory structure is built within 2 feet of a setback, then a foundation survey is required. It is up to the builder to decide whether to proceed with vertical construction prior to that because there aren't any inspection stop points between pouring the slab and starting with your vertical framing where we can place a hold. Brian Haren asks if there was not a foundation survey done. Ms. Deborah Sims says this is the foundation survey that was done. They have to do that for all residential areas, houses, and guesthouses. So, this is the foundation survey that was done and with that closeness of being within 2 feet of a setback, that is one of the holds that get put on in the building permit process. If they propose to build within 2 feet of a building setback, then they have to submit that foundation survey following the requirements on the foundation survey checklist before they can get their framing inspection.

Brian Haren says, "I am confused, what went wrong?"

Sims stated, "No, sir. This is the foundation survey, right here and we made special arrangements for Mr. McCullough to continue without passing this point with the understanding that if it is not approved, he is just going to have to tear it down. That is the only option. Mr. McCullough did ask for a special extension to have the approved foundation survey at the end instead of normally at the framing inspection. Ms. Sims states that it was her understanding that they have an elderly family member that they need to move in, so they are very optimistic that you will approve so they can get that family member in as soon as possible."

Brian Haren states that it is his opinion that we seem to have a rash of these, at least in the last 6 months, we have had something like this every month. Personally, Mr. Haren can't support this request, because it's just that somebody wasn't paying attention and he believes it is part of their job to enforce you doing your due diligence and you were in too much of a hurry and he is sorry but this this is not our job. Because, sorry your guys poured improperly, but that is your responsibility and not ours to retroactively fix things from an administrative standpoint.

Nick McCullough requests to speak and is granted permission. He states that he has been doing this for more than 30 years and we have only had 2 instances where something like this happened, it wasn't done on purpose, and it was a mistake. He is asking for your leniency on this matter as he can't afford to tear this down. Mr. Haren understands that but has the property owner approached the neighbor and tried to work out a deal whereby we adjust the property line? Mr. McCullough stated that their neighbor does not wish to sell them any of their property and if they did, it would reduce what their setbacks would be. Mr. Haren asked if the petitioner did speak with the neighbor. Mr. McCullough stated that they did speak with the neighbor, and he is not willing to do so.

Marsha Hopkins asks to tag on a little bit. We have seen a lot of these recently and even though we are only talking about a foot and a half, it is a real struggle because we have to adhere to the criteria for the variance, but then she recalls other meetings where they are called to inject an element of reasonableness into the evaluation and how does that shift the balance of this. She is just bringing this up for any further discussion that anybody would want to have or will have. It is just a tough call.

John Tate states that he is thinking along the same lines because certainly, our function is to determine whether the criteria for granting the variance has been met. Certainly, when we do this, we try to look at it from the standpoint of what created the problem. Was it something that was done in error or something that was done by the homeowner or whomever that could have been avoided? Then sometimes we have to look at the cost. That is where the reasonableness comes into play and we try to take a look at the situation where we don't want to cause

the homeowner any additional hardship if there is any way to avoid it. Especially if this is not something that was directly created by the particular homeowner. That brings us back to where we were, and Brian makes a point certainly. We can't look at things other than what is in front of us to be used as a determining factor.

Bill Beckwith asks the staff, "Granted that there have been some cases like this. Is there anything you all could do to stop this situation?"

Bell states, "I have suggested that we put in for a requirement for a box check before the slab is poured. In other words, the builder would have the surveyor out before they pour. Once they get batter boards or stakes and string up for the location of the foundation or the footer and have a survey done at that point and time to verify that it wouldn't encroach. I was told by Environmental Management that had gotten some negative feedback from the builders previously because if they did that there would be situations where if it were a property that had to have a minimum finished floor elevation and an elevation certificate. They would then have to have a surveyor out an additional time to establish the elevation certificate and they didn't think that was a good idea, but I still think it would resolve a lot of these encroachment issues that are unintentional."

Bill Beckwith says he sees what Brian said, but it seems as if this is the situation. If they did have to tear that building down, builders would get the point. If you instituted the box survey as you said, that might be a way to keep this from happening so often.

Bell stated that it is just a method she has seen used in other municipalities that seems to be pretty effective.

Bill Beckwith asks, "Can you institute that? Who institutes that?"

Bell says that it would be an inner departmental discussion because several departments are involved in the permitting process – Environmental Management, Building Safety, Planning & Zoning and four or five departments are involved as the project proceeds through. Primarily, it is Building Safety. I don't think Building Safety would object, but it would be adding an inspection step. It would put a stop to their building progress until they had those survey points done, but that would eliminate the need for the survey at this point. On properties that had floodplains, if they had a minimum finished floor elevation requirement because they had an adjacent floodplain or an adjacent stormwater structure, they would still have to have a surveyor out after it was poured to establish the elevation.

Bill Beckwith stated that his opinion is that you should do that. At least, start the conversation or institute it yourself. We are tired of this as Brian mentioned. It could be at some point that someone will have to tear down a building.

John Tate expresses that at this point we are at a point of uncertainty.

McCullough says I understand what you are saying, but to try to use me as an example when it was a mistake, and we try to do what's right. I build homes every day in Fayette County and build additions every day in Fayette County. We don't have this type of trouble. It was a mistake! The property line was marked by the homeowner, and we poured from that, and it was wrong. I was wrong. My mistake is that I should have had a surveyor come out and look at it. And as far as the box checks are concerned, I think it is a good idea that would stop this sort of thing, but a lot of surveyors don't want to survey anything unless it is already their pour. They don't want to survey stakes or even a box check. I get pushback from those guys on doing this, but this was a mistake and I wish you would just help us out because you won't have any problems from us in the future. It was not done on purpose. It would be a financial ruination for me.

Brian Haren asked, "So you said the property owner marked the line?"

McCullough says, "Yes, sir."

Haren asks if the property owner was there.

McCullough says no he is not, he is handicapped, and it is hard for him to get here.

Haren asks, "When you went out to set the forms for the pour, how was the property line marked?"

McCullough states, "He pointed out where the property line was if you look at his neighbor's home. It's on the other side of the fence. Where his neighbor's yard and his yard meet, that's where he pointed out the line for us and we staked it from there.

It is an encroachment on the setback, but it is very minor. You know I am a rule follower myself. You know I live in Fayette County; my kids go to school here; I want things to be the way they are supposed to be but sometimes mistakes that are made are not intentional. This is something that was done by mistake, I would have never done it on purpose. If I had known, I could have done something different. It was not done on purpose.

Haren says he has brought up another issue that the homeowner told me where the property line was, and I built off of that. That needs to be addressed too. I will say this. And the fact that the property owner is the one who told you where to line was the only thing that could get me to change my mind on this, but still... You know. Construction of this type and this cost, I would make darn sure as a developer that if I was putting something up it was right.

Technology malfunction at 7:44 pm – no audio available, so remaining minutes are based on staff's notes.

Haren says that we could require this to be torn down but wishes to have flexibility with the homeowner and builder as this was an admitted mistake.

Davis stated that we are taking a chance here.

Bill Beckwith says we ought to approve and gives another example from the ZBA.

John Tate says he leans towards approval and makes a motion to approve.

8. Petition No. A-846-23 - Variance to Sec. 110-125 (d)(6) requesting to reduce the setback for building from 50' to 30' to allow a 26 x 50 garage to be built on the south side of the property. Variance amount of 40%.

Brian Haren made a motion to table the Petition until January 22, 2024, Zoning Board of Appeals meeting. Bill Beckwith seconded the motion. The motion passed 5-0.

Bell reviews the staff report for 130 Winn Way. Bob Warner, the builder, states that due to the slope and the setback of the property, they are requesting a variance to construct a new detached garage.

Marsha Hopkins asks what is the additional space in the detached garage going to be used for.

The petitioner states that he is looking to have a detached garage with an area for him to store collectibles as well as a detached apartment.

Brian Haren asked if they had any other places where they could put the garage.

Bill Beckwith states this is a large amount to forgive, and it looks like he can put this detached garage perhaps somewhere else on the property.

John Tate says that it is not acceptable to ask for a variance just because you want to and that it is "not convenient" to follow the building ordinance.

Anita Davis asks the petitioner if he considered perhaps a door on the side of the home so they could put the detached garage in a location that does not require the variance and therefore does not encroach on the setback.

Bob Warner states says that the owner does not wish to have a door going out to the outside from his bedroom.

Bill Beckwith states that we are not in a position to bargain with the ordinance.

John Tate said we would like to reconsider before we make a vote, do we want to table?

Bill Beckwith said he thinks that tabling may be appropriate.

Debbie Bell says that the meeting will be in January due to the advertising requirements. The meeting date would be January 22nd.

The owner stated that with regard to the variance, it came up on Facebook and no one objected.

Bill Beckwith said that we normally would like neighbors to talk to each other and not just through Facebook. Brian Haren said that their intent is to table and give the petitioner time to find a better location on the property for the detached garage addition.

John Tate said that was his thinking as well.

Allison Cox stated that we needed time to advertise per the ZBA process.

Debbie Bell stated that they needed a 30–45-day window and time to properly advertise.

9. Petition No. A-847-23 - Variance to Sec. 110-137 (d)(5), requesting to reduce the setback for rear yard from 30' to 5'.

Brian Haren made a motion to approve. Marsha Hopkins seconded. Anita Davis voted not to approve. The motion passed 4-1.

Debbie Bell read the staff report regarding the property located at 104 Hammock Bay Drive, Fayetteville. The petitioner applied for a rear yard setback reduction from 30' to 5'.

Kimberly Waldrop spoke and explained the reasons that the variance requested was needed for a swimming pool.

John Tate requested any additional information.

Bill Beckwith asked about the septic system.

Brian Haren asked if the setback requirements were not large enough. Did she discuss it with her neighbor?

Kimberly Waldrop stated that she had not because there was a sign in her yard and one by the church.

Marsha Hopkins asked why she needed to go from a 30' setback to a 5'.

Kim Waldrop stated that Ms. Bell had made sure she requested enough so she didn't have to go back and ask for more space.

10. Petition No. A-848-23 - Variance to Sec. 110-142. O-I, (f) (6), to reduce the side yard buffer, required when an O-I zoning district abuts a Residential or A-R zoning district, from 30 feet to 15 feet.

Brian Haren made a motion to approve. Anita Davis seconded. The motion passed 5-0.

Debbie Bell read the staff report for the property located at 1336 Hwy 54, Fayetteville requesting a reduced side yard buffer from 30' to 15'.

Woody Gallaway spoke on behalf of the petitioner. He explained the need for the request due to the layout of the parcel.

Bill Beckwith asked if they had looked at the area to the south.

Woody Gallaway said that they did and there was a significant drop off to the south.

Bill Beckwith asked about the curb cuts.

John Tate asked if they were agreeable to the staff recommendations and conditions.

Chairman Tate asked is there a motion to adjourn?

Brian Haren made a motion to adjourn. John Tate seconded the motion. The motion passed 5-0.

The meeting adjourned at 8:40pm.

**ZONING BOARD OF APPEALS
OF
FAYETTE COUNTY**

JOHN TATE, CHAIRMAN

DEBORAH BELL, PLANNING & ZONING DIRECTOR

PETITION NO: A-849-23

Requested Action: Variance to allow a detached garage more than 35' from the principal structure, and to omit the required breezeway attachment.

Location: 1351 Hwy 85 S, Fayetteville, GA 30215

Parcel(s): 0442 06004

District/Land Lot(s): 5th District, Land Lot(s) 28

Zoning: R-40

Lot Size: 2.696 acres

Owner(s): Heidi R. Fleming and Larry P. Hunter

Agent: N/A

Zoning Board of Appeal Public Hearing: December 18, 2023

REQUEST

Applicant is requesting the following variance to construct a new detached garage:

1. Variance to Sec. 110-79(e)(1)(a).- To allow a detached garage in the front yard that is more than 35' from the principal structure.
2. Variance to Sec. 110-79(e)(1)(d).- To allow a detached garage in the front yard without an attached or detached breezeway, deck, or pergola.

STAFF COMMENTS

It is staff's opinion that the property presents a unique situation. The location of the utilities makes it difficult to locate the garage in another area of the lot. The garage is allowed in the front yard but a connecting structure (deck/breezeway/pergola) would block the driveway. The structure will not encroach on any setbacks. If this is approved, there are no recommended conditions.

NOTES

Per Sec. 102-286(9), a survey of the lot and foundation shall be required as part of the construction and inspection process.

Per Sec. 110-79 (e)(1)(b), the design of the detached garage shall match with the general residential architecture of the principal structure. Elevation drawings shall be submitted as part of the building permit process.

HISTORY

The subject property is a legal lot of record in the Whippoorwill Ridge S/D, with a plat recorded November 6, 1979. It is a 2.696-acre lot and is a legal, conforming lot in the R-40 zoning district.

ZONING

(e) *Residential accessory structures located in a front yard.* On a single frontage lot, the area between the street and the front building line shall be treated as a front yard with regard to the location of residential accessory structures. On a corner lot, the area between the streets and the front building lines shall be treated as a primary front yard or secondary front yard(s) with regard to the location of residential accessory structures. On a through lot, only the area between the street from which the lot is accessed and the front building line shall be treated as a front yard with regard to the location of residential accessory structures.

No residential accessory structure shall be located in a front yard except: a well/pump house consisting of 70 square feet or less; a detached garage on a single frontage lot, a through lot or in the primary front yard of a corner lot (see subsection (1) of this section for requirements); a residential accessory structure in a secondary front yard of a corner lot (see subsection (2) of this section for requirements); or a residential accessory structure on a lot in the A-R zoning district which consists of five or more acres.

(1) *Detached garage located in the front yard of a single frontage lot, a through lot, or a primary front yard on a corner lot.* Said detached garage shall meet the following requirements:

- a. The detached garage shall not be located more than 35 feet from the principal structure.
- b. The design of the detached garage shall match with the general residential architectural style inherent in the existing principal structure, including, but not limited, to: roof pitch, roof facade, facade, residential windows, and residential doors. Elevation drawings denoting compliance with these requirements shall be submitted as part of the building permit application.
- c. The detached garage shall have at least one opening for vehicular access.
- d. The detached garage shall be connected to the principal structure by at least one of the following, and elevation drawings denoting compliance with the following requirements shall be submitted as part of the building permit application:
 1. *An attached or detached breezeway.* Said breezeway shall be a minimum of six feet in width and a minimum of eight feet in height (interior measurement). A detached breezeway shall be constructed within six inches of the principal structure and the detached garage;
 2. *An attached raised deck.* Said attached raised deck shall be a minimum height of 15 inches. The deck shall have a minimum width of six feet. Said deck shall have guard rails measuring a minimum of three feet in height; or
 3. *An attached or detached pergola.* Said pergola shall consist of parallel colonnades supporting an open roof of beams and crossing rafters, shall be a minimum of six feet in width and a minimum of eight feet in height (interior measurement). A detached pergola shall be constructed within six inches of the principal structure and the detached garage.

DEPARTMENTAL COMMENTS

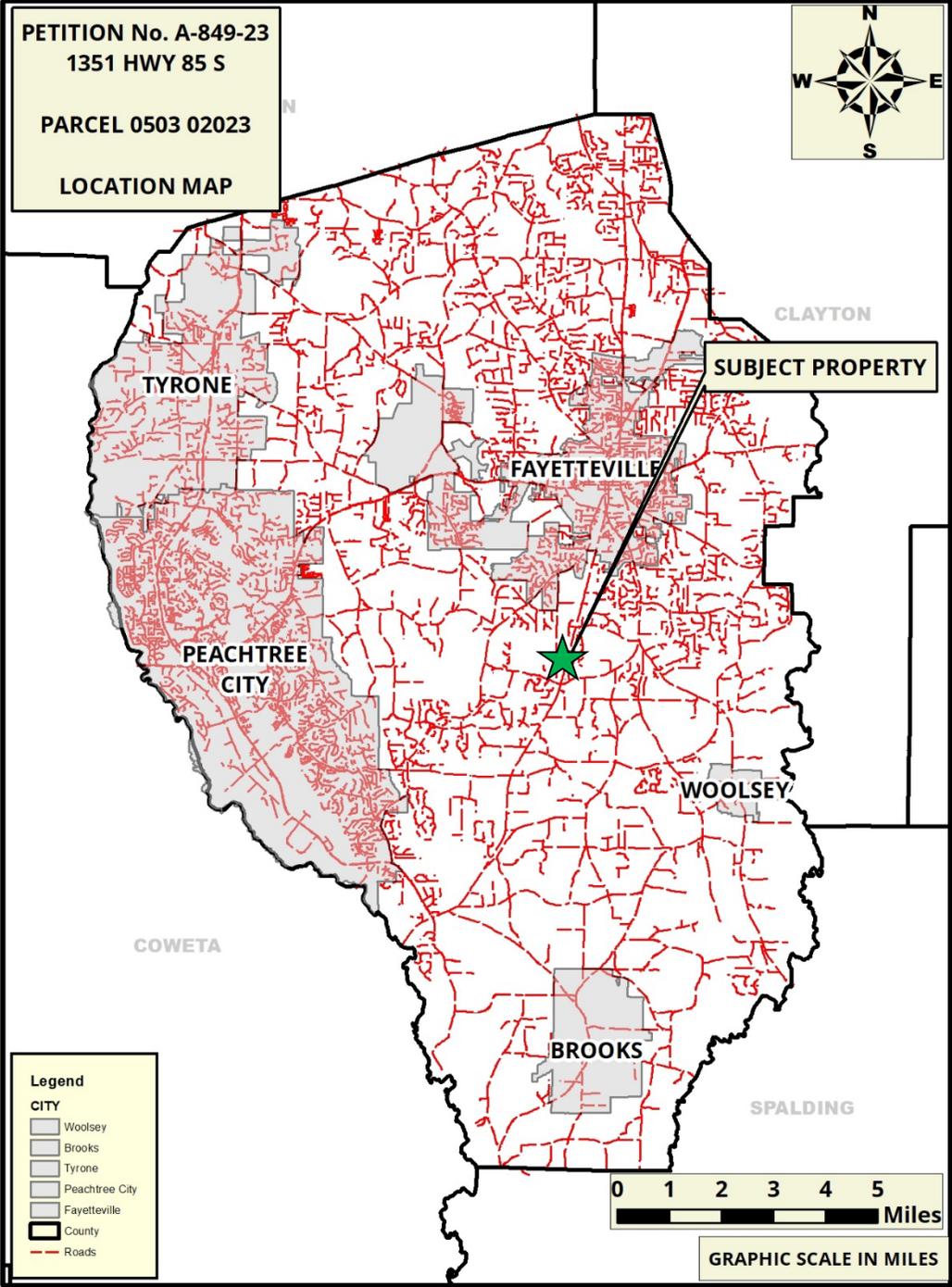
- Water System** – No comments.
- Public Works/Environmental Management** – No objection to the variance request.
- Environmental Health Department** – This office has no objection to the proposed variance.
The location of the building has been approved by EH.
- Fire** – No objections.
- Building Safety** – No objections. A building permit is required for new garage.

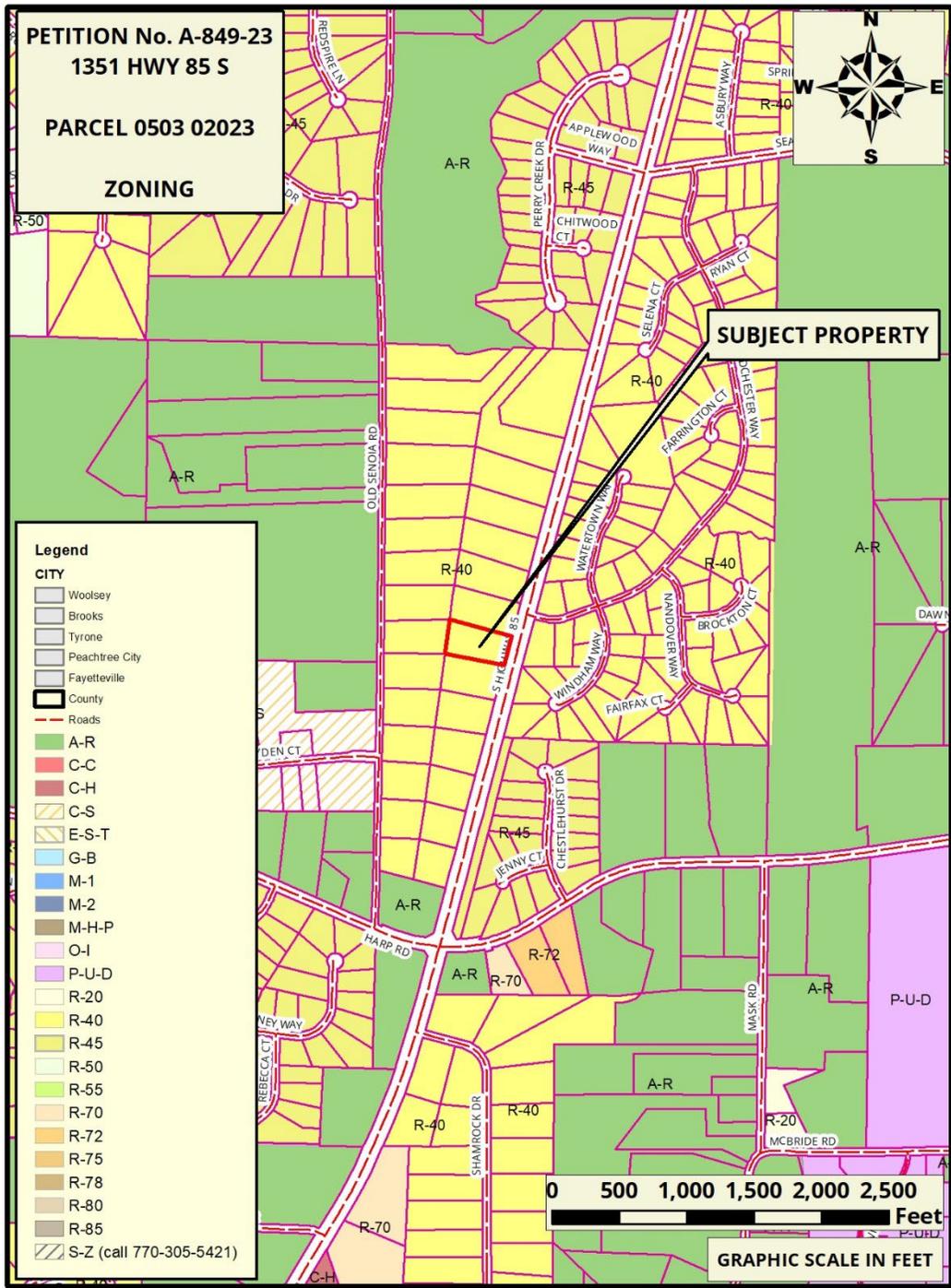
CRITERIA FOR CONSIDERATION OF A VARIANCE

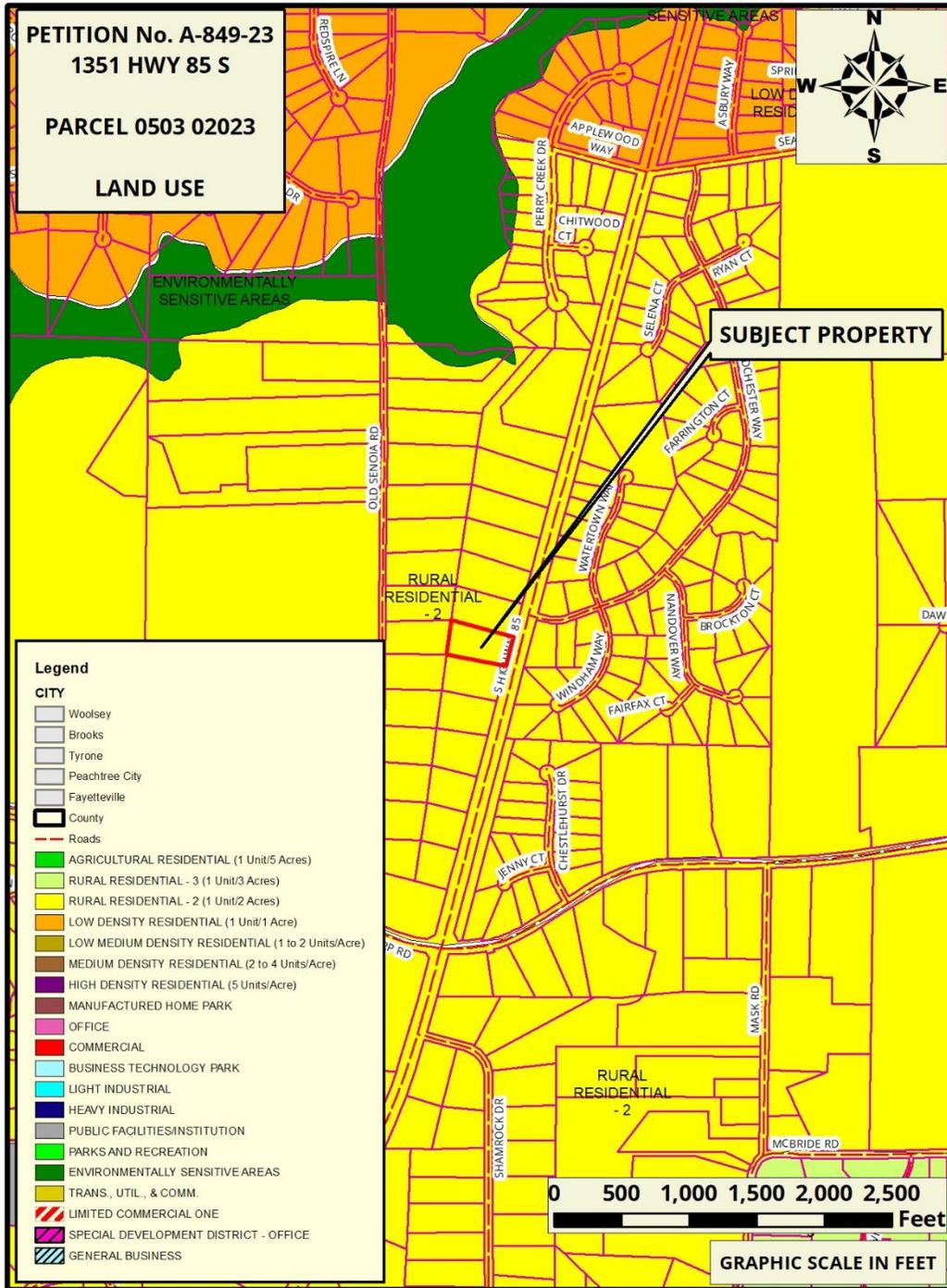
(Please see the attached application package for the applicant's responses to the criteria.)

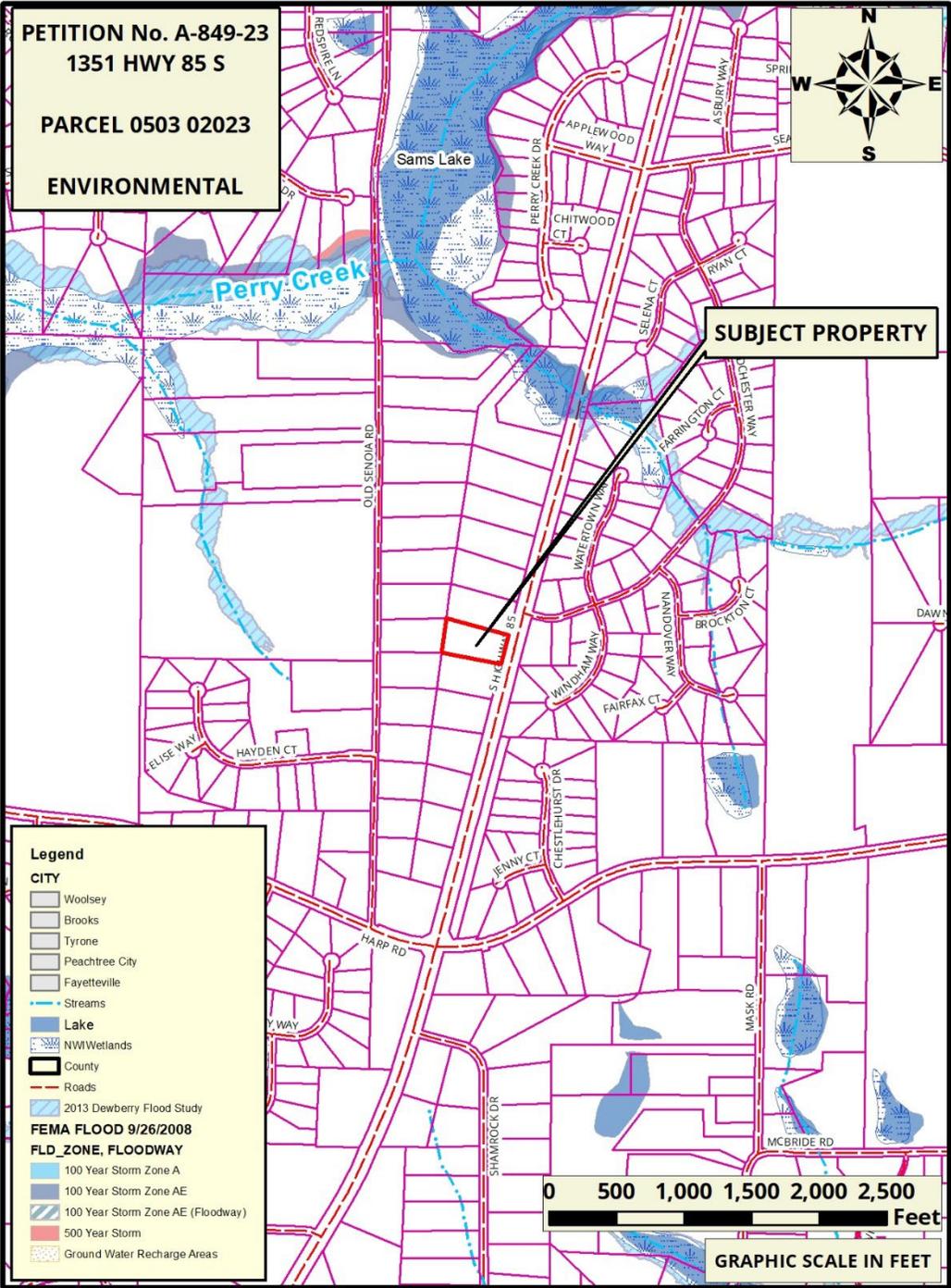
The Fayette County Zoning Ordinance, Sec. 110-242. (b) states that in order to grant a variance, the Zoning Board of Appeals shall and must find that all five (5) conditions below exist. Please read each standard below and then address each standard with a detailed response. Attach additional information/documentation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

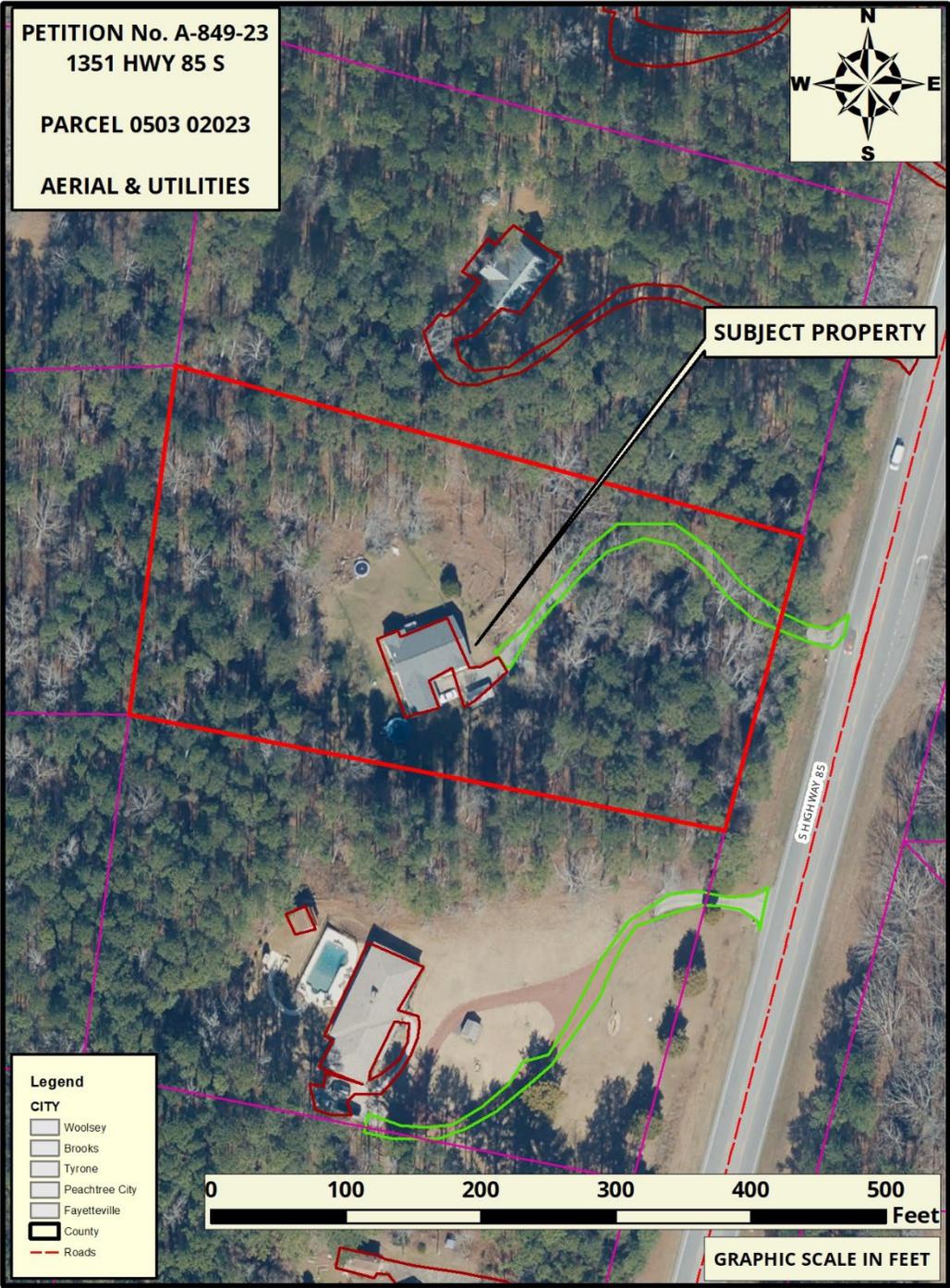
1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.
2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and,
3. Such conditions are peculiar to the particular piece of property involved; and,
4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations; provided, however, no variance may be granted for a use of land or building or structure that is prohibited by this Ordinance; and,
5. A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same District are allowed; and,

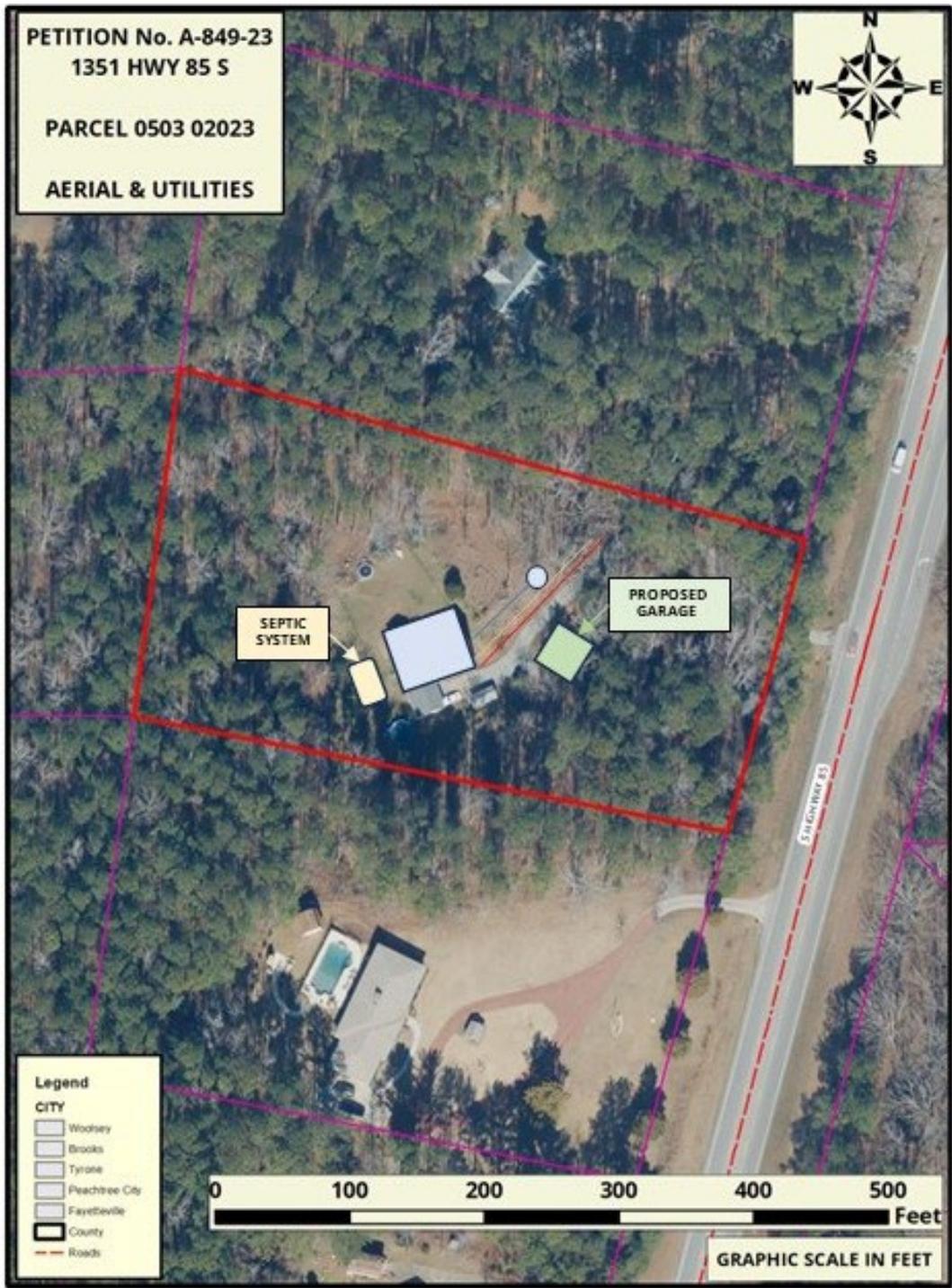




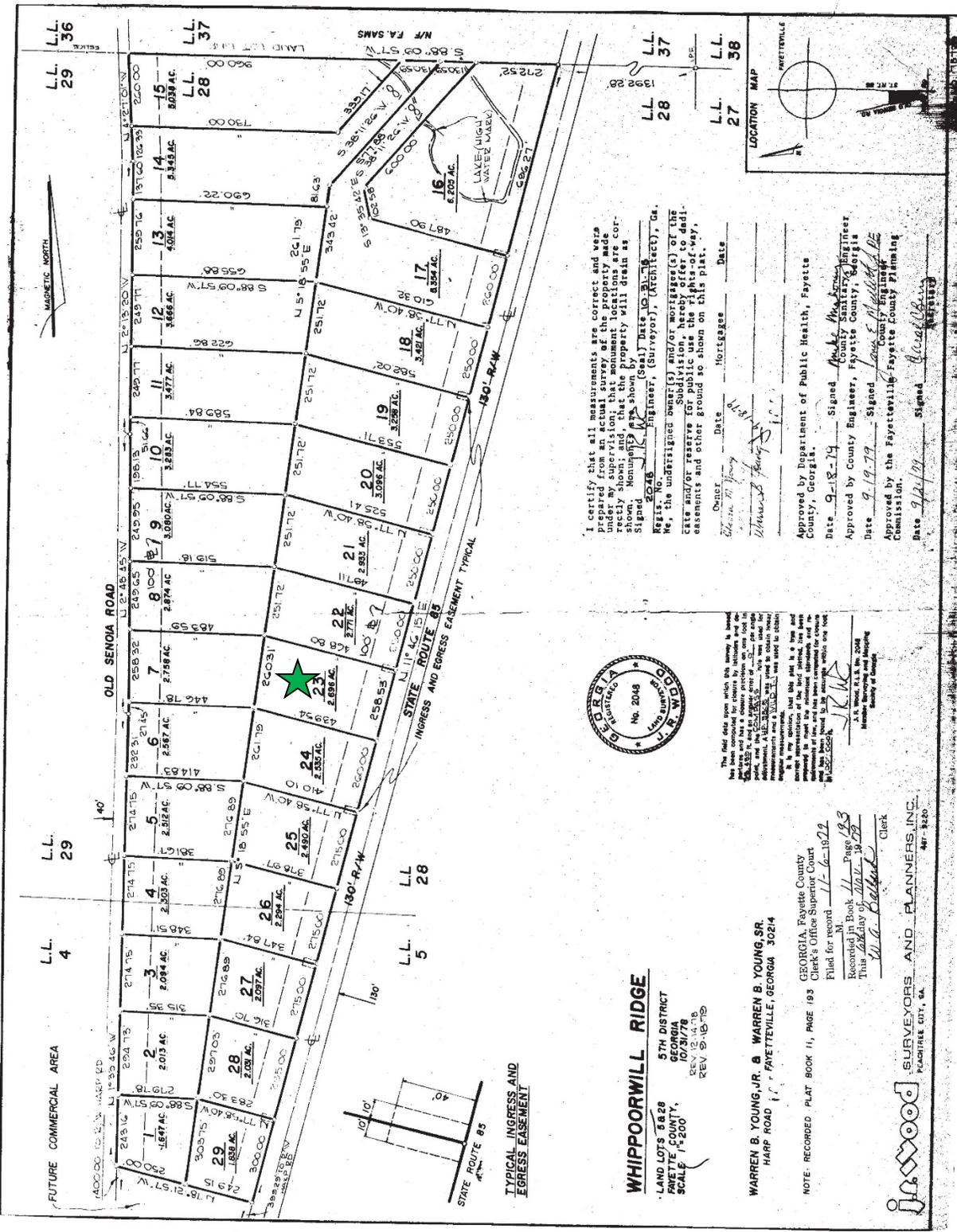








Restrictions Deed Book 210 Page 42



PETITION NUMBER: A-849-23

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY INFORMATION:

Parcel No. 050302023 Acreage: 2.696
Land Lot: 5 Land District: 01 28
Address: 1351 Hwy 85 SOUTH
Existing Zoning: R-40 Requested Zoning: R-40
Zoning of Surrounding Properties: R-40
Existing Use: SFD Proposed Use: SFD

PROPERTY OWNER INFORMATION

AGENT/DEVELOPER INFORMATION
(If not owner)

Name LARRY HUNTER
Email DOG CAT ROCK⁹ ATT.NET
Address 1351 Hwy 85 SOUTH
City FAYETTEVILLE
State GA Zip 30215
Phone 770-885-9856

Name _____
Email _____
Address _____
City _____
State _____ Zip _____
Phone _____

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-849-23

[] Application Insufficient due to lack of:

by Staff: _____ Date: _____

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

by Staff: Debra M. Smith Date: 10/24/2023

DATE OF ZONING BOARD OF APPEALS HEARING: December 18, 2023

Received from Larry P Hunter a check in the amount of \$ 200.00

for application filing fee, and \$ 50.00 for deposit on frame for public hearing sign(s).

Date Paid: 10/24/2023 Receipt Number: 19465

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:

LARRY P. HUNTER HEIDI R. FLEMING
Please Print Names

Property Tax Identification Number(s) of Subject Property: _____

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) of the 01 District, and (if applicable to more than one land district) Land Lot(s) 23 of the District, and said property consists of a total of 2.6 acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

(I) (We) hereby delegate authority to _____ 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.

Larry P. Hunter
Signature of Property Owner 1

1351 Hwy 85 South
Address

Heidi R. Fleming
Signature of Property Owner 2

1351 Hwy 85 South
Address

Signature of Authorized Agent

Address

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

10/23/2023
Date

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

10/24/2023
Date

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
110-78 e	No residential accessory structure may be located in the front yard.	Detached Garage	
110-79 (e)(1)(a)	Detached garage	more than 35' from principal structure	

VARIANCE SUMMARY (d) no breezeway attachment

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

Doesn't want to limit access to the existing garage with a breezeway.

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.

Power is located in front yard. Keep close for power.
Utilities are within the main front yard area.
Wooded backyard ~~with~~ wants to maintain.
Topography limits closer

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

This location is at the driveway. Moving to the back would require driving over water and power lines or the lines being relocated

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

House sits to the ~~SW~~ side with utilities on the N side. Not sufficient to cross on the south side and would need to move utilities to cross on north side

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.

wooded front yard - not vis. ble from Hwy 85

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

would require moving utilities to have trees in other parts of the yard

B4 Fayette County News

FAYETTE COUNTY

PETITIONS FOR VARIANCE(S)/ ADMINISTRATIVE 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, December 18, 2023, at 7:00 P.M., Fayette County Administrative Complex, Public Meeting Room, 140 Stonewall Avenue West, first floor.

Petition No.: A-849-23

Owner(s)/Agent: Larry Hunter, Owner

Property Address: 1351 Highway 85 South, Fayetteville, GA 30215

Parcel: 050302023

Zoning District: R-40

Area of Property: 2.696 acres

Land Lot(s): 5

District: 28th

Road Frontage: Highway 85 South

Request:

1. Variance to Sec. 110-79(e)(1)(a). - To allow a detached garage in the front yard that is more than 35' from the principal structure.

2. Variance to Sec. 110-79(e)(1)(d). - To allow a detached garage in the front yard without an attached or detached breezeway, deck, or pergola.

Legal Description:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN THE LAND LOT 28 OF THE 5TH DISTRICT OF FAYETTE COUNTY, GEORGIA, BEING LOT 23 OF WHIPPOORWILL RIDGE SUBDIVISION, AS PER PLAT RECORDED IN PLAT BOOK 11, PAGE 193, IN THE OFFICE OF THE CLERK OF THE SUPERIOR COURT OF FAYETTE COUNTY, GEORGIA SAID PLAT BEING MADE A PART HEREOF BY REFERENCE.

11/15

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Petition No.: A-850-23

Owner(s)/Agent: Salima Charania, Erum Ali - Beyond Horizon, LLC

Robert King - Paragon Construction

Parcel: 0713-031

Zoning District: O-I

Area of Property: 5.31 acres

Land Lot(s): 58

District: 7th

Road Frontage: Highway 54

Request:

1. Variance to Sec. 110-142(f)(5) (a) to reduce the side yard setback from 15' to 4' for new building.

2. Variance to Sec. 110-142(f)(5) (b) to reduce the rear yard setback from 15' to 4' for new building.

3. Variance to Sec. 110-142(f)(6) to reduce buffer from 30' to 23' in the rear yard for parking.

4. Variance to Sec. 110-142(f)(6) to reduce buffer from 30' to 20' in the side yard for parking.

5. Variance to Sec. 104-221(35) to reduce the required number of parking spaces for an office building from 30 to 29.

Legal Description:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING in Land Lot 58 of the 7th District, Fayette County, Georgia being more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference.

EXHIBIT A

Legal Description

TRACT ONE:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 58 OF THE 7TH DISTRICT OF FAYETTE COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 (AS ORIGINALLY LOCATED) WITH THE EAST LINE OF LAND LOT 58; RUNNING THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 (AS ORIGINALLY LOCATED) 600.0 FEET TO AN IRON PIN FOUND; RUNNING THENCE NORTH 09 DEGREES 34 MINUTES 30 SECONDS WEST 6.59 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 AS PRESENTLY LOCATED, WHICH IS THE TRUE POINT OF BEGINNING; SAID BEGINNING POINT IS ALSO BEING LOCATED AT THE SOUTHWESTERLY CORNER OF PROPERTY NOW OR FORMERLY OWNED BY REBECCA COOK AND MARVIN F. COOK, JR., AS

PRESENTLY LOCATED; SAID POINT ALSO BEING LOCATED 197.27 FEET SOUTHWESTERLY FROM THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 (AS PRESENTLY LOCATED) WITH THE RIGHT OF WAY LINE OF FLAT CREEK ROAD; RUNNING THENCE NORTH 09 DEGREES 34 MINUTES 30 SECONDS WEST ALONG THE WESTERLY LINE OF SAID COOK PROPERTY 197.98 FEET TO AN IRON PIN FOUND; RUNNING THENCE SOUTH 82 DEGREES 49 MINUTES 20 SECONDS WEST 65.84 FEET TO AN IRON PIN FOUND; RUNNING THENCE SOUTH 76 DEGREES 24 MINUTES 28 SECONDS WEST 132.04 FEET TO AN IRON PIN FOUND ON THE EASTERLY LINE OF PROPERTY NOW OR FORMERLY OWNED BY CAROLYN MCCULLOUGH AND FRANCES O. BLACK; RUNNING THENCE SOUTH 00 DEGREES 48 MINUTES 37 SECONDS WEST ALONG THE EASTERLY LINE OF SAID MCCULLOUGH/BLACK PROPERTY 201.93 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54, AS PRESENTLY LOCATED; RUNNING THENCE NORTH 69 DEGREES 36 MINUTES 35 SECONDS EAST ALONG THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54, AS PRESENTLY LOCATED, 245.65 FEET TO THE POINT OF BEGINNING BEING MORE PARTICULARLY SHOWN ON PLAT OF SURVEY PREPARED BY ROBERT M. KIRKLEY LAND SURVEYOR, DATED MAY 1, 1989.

TRACT TWO:

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11/15

PETITIONS FOR VARIANCE(S)/ ADMINISTRATIVE 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, December 18, 2023, at 7:00 P.M., Fayette County Administrative Complex, Public Meeting Room, 140

Stonewall Avenue West, first floor.

Petition No.: A-851-23

Owner(s)/Agent: Tommy & Margaret Suggs

Mark Murphy

Property Address: 195 Bel Aire Loop, Fayetteville, GA 30215

Parcel: 45116014

Zoning District: PUD

Area of Property: 1.01 acres

Land Lot(s): 225

District: 4th

Road Frontage: Bel Aire Loop

Request: Variance to Sec. 110-149(d) (6) (c) to reduce the side setback from 15' to 14'.

Legal Description:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 225 OF THE 4TH DISTRICT OF FAYETTE COUNTY, GEORGIA BEING LOT 59, CREEKSIDE AT WHITEWATER CREEK, AS PER PLAT RECORDED IN PLAT BOOK 20, PAGES 90-95, FAYETTE COUNTY RECORDS, WHICH PLAT IS INCORPORATED HEREIN BY REFERENCE AND MADE APART OF THE DESCRIPTION.

11/15

B4 Fayette County News

FAYETTE COUNTY

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Parcel: 050302023

Zoning District: R-40

Area of Property: 2.696 acres

Land Lot(s): 5

District: 28th

Road Frontage: Highway 85 South

Request:

1. Variance to Sec. 110-79(e)(1)(a). - To allow a detached garage in the front yard that is more than 35' from the principal structure.

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Petition No.: A-850-23

Owner(s)/Agent: Salima Charania, Erum Ali - Beyond Horizon, LLC

Robert King - Paragon Construction

Parcel: 0713-031

Zoning District: O-I

Area of Property: 5.31 acres

Land Lot(s): 58

District: 7th

Road Frontage: Highway 54

Request:

1. Variance to Sec. 110-142(f)(5) (a) to reduce the side yard setback from 15' to 4' for new building.

2. Variance to Sec. 110-142(f)(5) (b) to reduce the rear yard setback from 15' to 4' for new building.

3. Variance to Sec. 110-142(f)(6) to reduce buffer from 30' to 23' in the rear yard for parking.

4. Variance to Sec. 110-142(f)(6) to reduce buffer from 30' to 20' in the side yard for parking.

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Stonewall Avenue West, first floor.

Petition No.: A-851-23

Owner(s)/Agent: Tommy & Margaret Suggs

Mark Murphy

Property Address: 195 Bel Aire Loop, Fayetteville, GA 30215

Parcel: 45116014

Zoning District: PUD

Area of Property: 1.01 acres

Land Lot(s): 225

District: 4th

Road Frontage: Bel Aire Loop

Request: Variance to Sec. 110-149(d) (6) (c) to reduce the side setback from 15' to 14'.

Legal Description:

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11/15

QUITCLAIM DEED

FORM 892

CLYDE CASTLEBERRY CO., COVINGTON, GA. 30209

State of Georgia, FAYETTE County

THIS INDENTURE, made the 9th day of MAY in the year one thousand nine hundred and NINETY-FOUR, between JOHN C. FLEMING

of the County of FAYETTE, and State of GEORGIA, as party or parties of the first part, hereinafter called Grantor, and HEIDI R. FLEMING + LARRY P. HUNTER

of the County of FAYETTE, and State of GEORGIA, 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 dollar (\$1.00) and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby remise, convey and forever QUITCLAIM unto the said grantee

All that tract or parcel of land lying and being in Land Lot 28 of the 5th District of Fayette County, Georgia, being Lot 23 of Whipoorwill Ridge Subdivision, as per plat recorded in Plat Book 11, page 193, in the office of the Clerk of the Superior Court of Fayette County, Georgia said plat being made a part hereof by reference.

FILED & RECORDED
FAYETTE COUNTY, GA.
94 MAY 9 PM 3 49
W.A. BALLARD
CLERK OF SUPERIOR COURT

TO HAVE AND TO HOLD the said described premises to grantee, so that neither grantor nor any person or persons claiming under grantor shall at any time, by any means or ways, have, claim or demand any right or title to said premises or appurtenances, or any rights thereof.

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

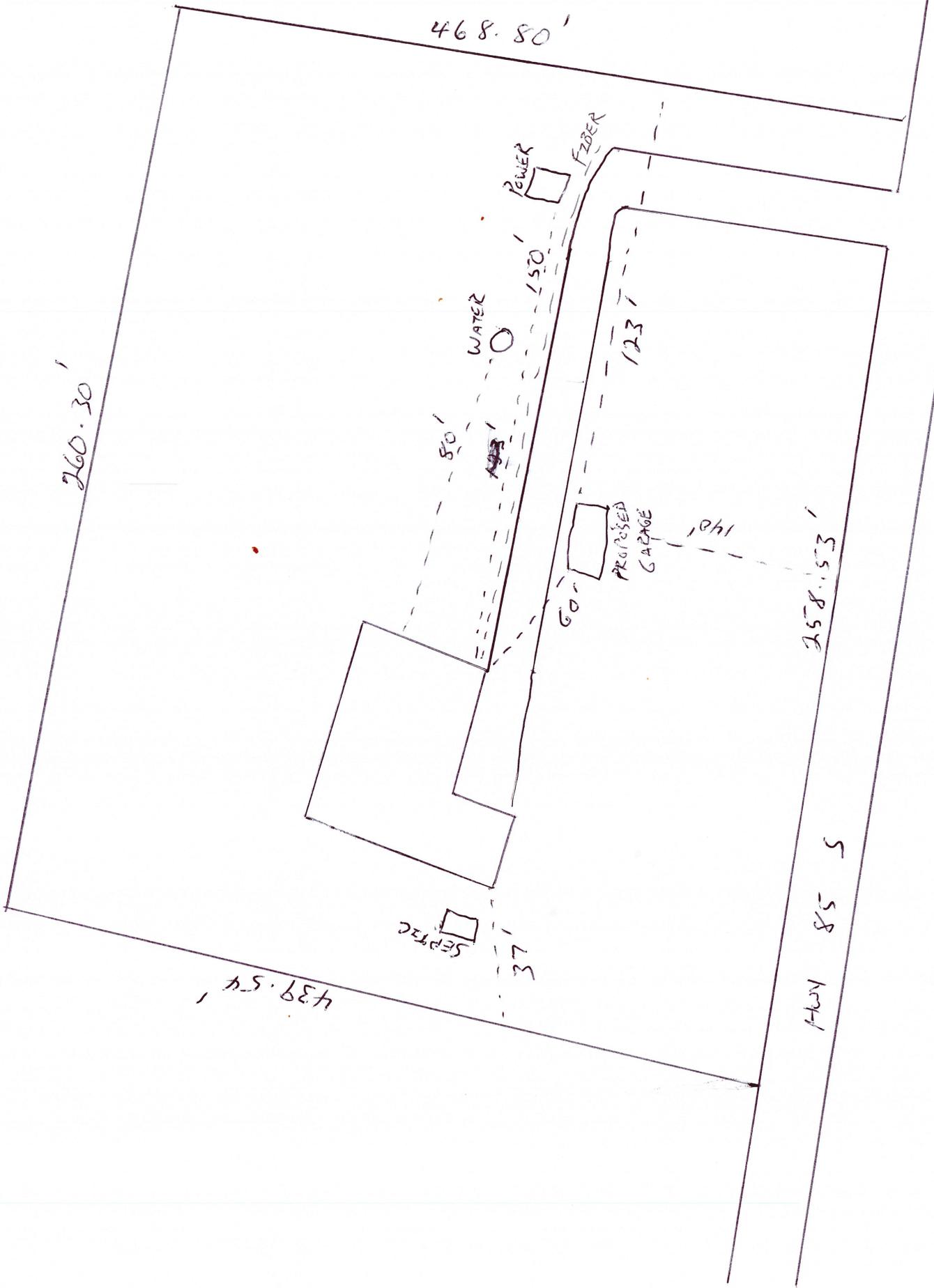
Signed, sealed and delivered in the presence of:

Maisha Mack (Seal)
Maisha Mack (Seal)
Maisha Mack (Seal)
Maisha Mack (Seal)
(Witness)
(Notary Public)



Notary Public, Fayette County, Georgia
My Commission Expires Jan. 2, 1995

BOOK 916 PAGE 291



PETITION NO: A-850-23

Requested Action: Variances to reduce the required side & rear yard setbacks, to reduce the rear yard zoning buffer adjacent to A-R zoned property, and to reduce the required number of parking spaces for construction of a new office building.

Location: Hwy 54 W, Fayetteville, GA 30214

Parcel(s): 0713 031

District/Land Lot(s): 7th District, Land Lot(s) 58

Zoning: O-I, Office-Institutional

Lot Size: 5.31 acres

Owner(s): Flat Creek Landmark LLC

Agent: Robert King, Paragon Construction Group

Zoning Board of Appeal Public Hearing: December 18, 2023

REQUEST

Applicant is requesting the following variances for the construction of a principal structure and parking:

1. Variance to Sec. 110-142.(f)(5)a., to reduce the rear yard setback from 15' to 2' at the northeast corner of the building, and 4' at the northwest corner of the building, as depicted on the attached site plan.
2. Variance to Sec. 110-142.(f)(5)b., to reduce the side yard setback, from 15' to 4' at the southeast corner of the building, as depicted on the attached site plan.
3. Variance to Sec. 110-142.(f)(6)., to reduce the required rear yard buffer from 30' to 23' to allow an encroachment of a retaining wall and parking lot.
4. Variance to Sec. 104-221(35)., to allow a reduction in the required number of parking spaces from 30 to 29.

STAFF COMMENTS

Staff recognizes that the topo and environmental conditions do create some constraints, but there is developable land on the west side of the parcel. If this request is approved, staff recommends the following conditions:

CONDITIONS:

1. The reduction of the buffer is specific to the orientation of the building, as illustrated in the site plan dated 09/19/2023 (see site plan on Page 2).
2. Granting this variance **does not** reduce the requirements for landscaping, tree density, stormwater treatment, water quality or any other requirement in the development regulations.
3. The remaining buffer shall be fully planted with a combination of large and small evergreen trees and shrubs to provide a visual screen.
4. Any trees within the remaining zoning buffers and/or landscape strip areas whose critical root zone is damaged or impacted in any way shall be replaced and shall not be counted toward existing site density units.

HISTORY

The subject property was rezoned as part of the 54 Prop LLC development in 2007 and 2008.

- Petition 1194-07 to rezone 4.76 acres from A-R and R-40 to O-I received approval by Planning Commission on April 5, 2007, and received approval by the Board of Commissioners on April 26, 2007.
- Petition 1207-08 to rezone 0.54 acres from A-R to O-I received conditional approval, on March 5, 2008, and conditional approval, by the Board of Commissioners on March 27, 2008.
 - CONDITION – The 0.54-acre tract shall be combined with the 4.76-acre tract by a revised warranty deed.

ZONING REQUIREMENTS

Sec. 110-142. Office-Institutional District.

(f) – Dimensional requirements.

(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.

Sec. 104-221. - Number of parking spaces.

(35) Office, business or professional, bank, or similar use: One space for every 300 square feet of gross floor area.

DEPARTMENTAL COMMENTS

- Water System** – Water is available in a 16” ductile iron main on the north side of SR 54.
- Public Works/Environmental Management** –
 - **General Comments:** No comments for Environmental Management or Public Works.
 - **Traffic Data** - State Route 54 is a Major Arterial Road under the jurisdiction of GDOT. The posted speed limit on Hwy 54 is 55 mph and GDOT reports AADT as 27,100 in 2022.
 - **Sight Distance** - Any proposed modifications to access the site on **SR 54** will be permitted through GDOT. Additionally, GDOT will review sight distances for proposed site plans.
 - **Floodplain Management** - The property **DOES NOT** contain floodplain per FEMA FIRM panel 13113C0083E dated September 26, 2008. The property **DOES NOT** contain additional floodplain delineated in the FC 2013 Future Conditions Flood Study.
 - **Wetlands** - The property **DOES** contain wetlands per Applicant’s Wetlands

Delineation and State Waters Review Report.

- **Watershed Protection** - There **ARE** state waters located on the subject property per the Applicant's Wetlands and State Waters Report and **WILL BE** subject to the Fayette County Watershed Protection Ordinance if subdivided.
- **Groundwater** - The property **IS** within a groundwater recharge area.
- **Post Construction Stormwater Management** - This development **WILL BE** subject to the Post-Development Stormwater Management Ordinance.
- **Environmental Health Department** - This office has no objection to the proposed variances.
- **Fire** - No objections.
- **GDOT** - Not applicable to the specific variance requests.
- **Building Safety** - No issues or conflicts. A building permit is required.

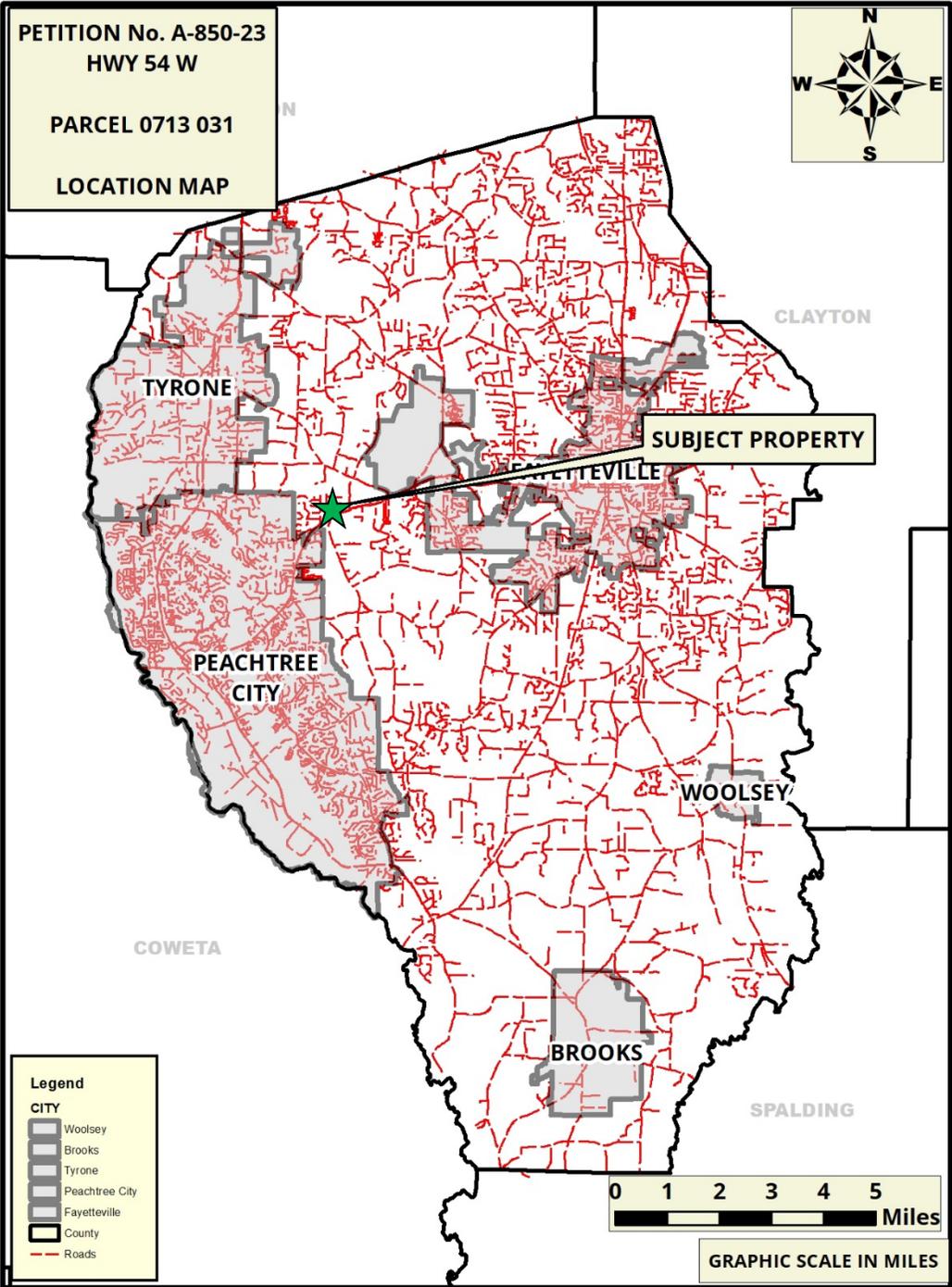
VARIANCE SUMMARY & CRITERIA FOR CONSIDERATION

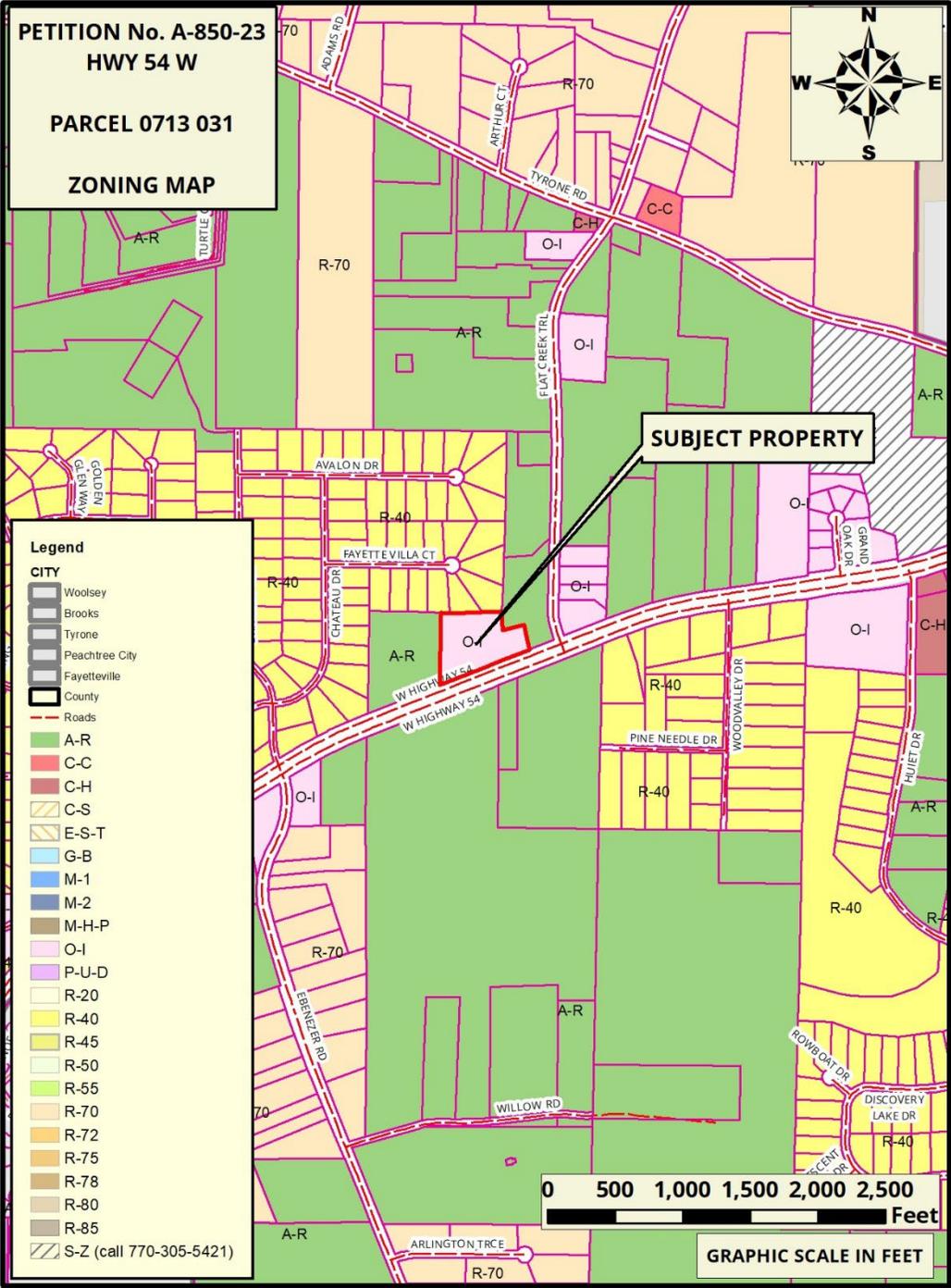
Provide a detailed and specific summary of each request. If additional space is needed, please attach a separate sheet of paper.

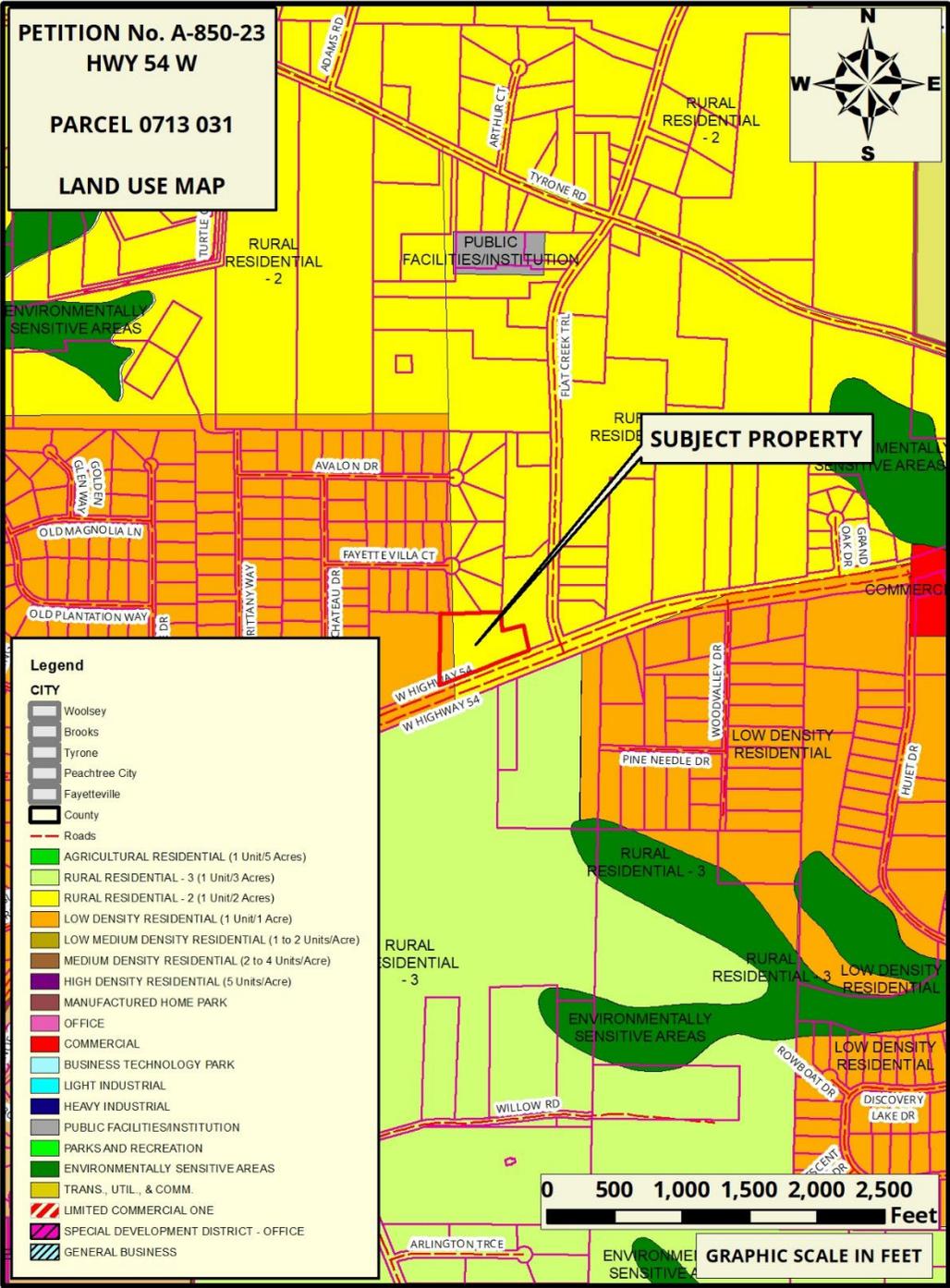
Please refer to the application form for the applicant's justification of criteria.

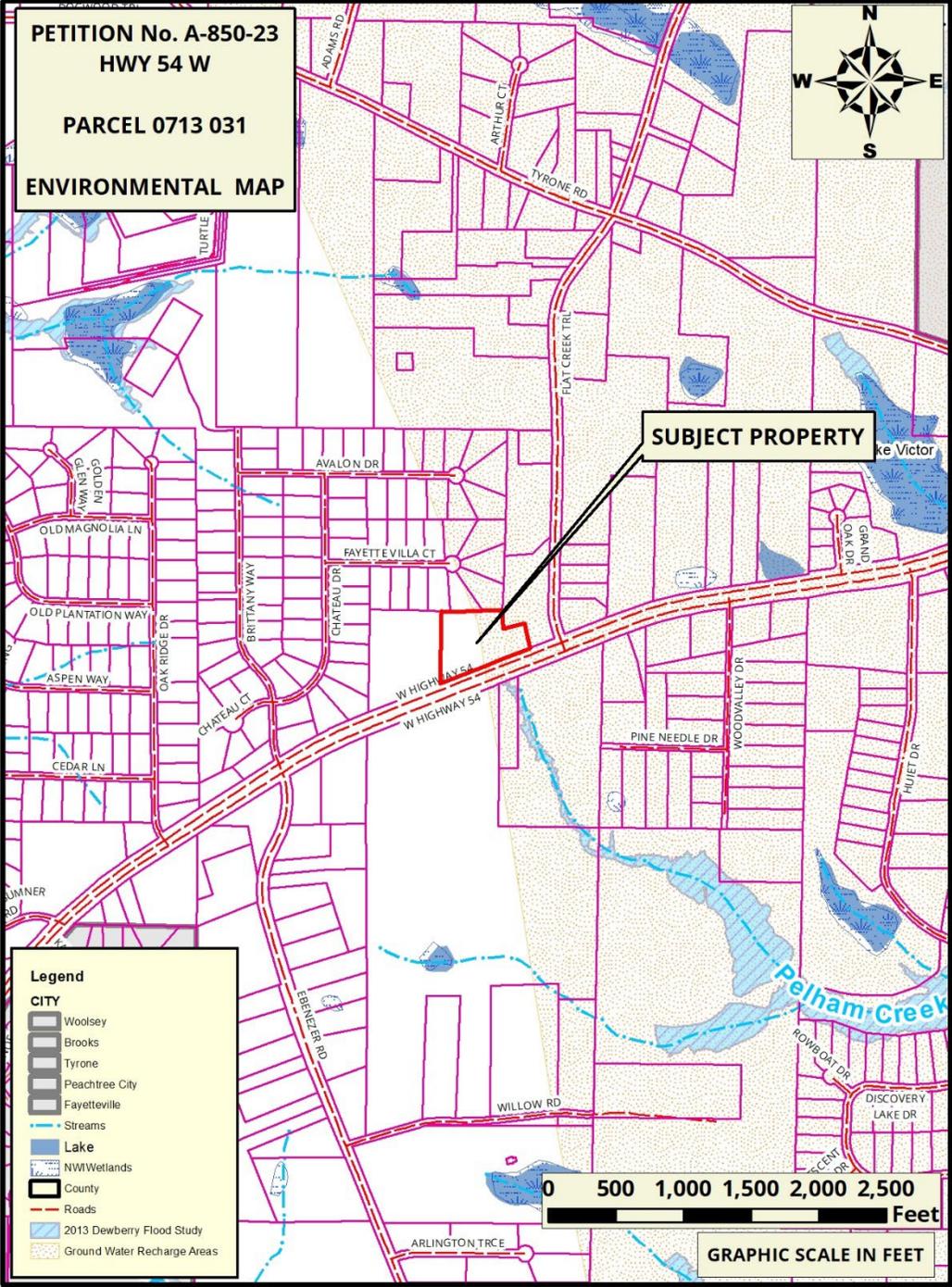
The Fayette County Zoning Ordinance, Sec. 110-242. (b) states that in order to grant a variance, the Zoning Board of Appeals shall and must find that all five (5) conditions below exist.

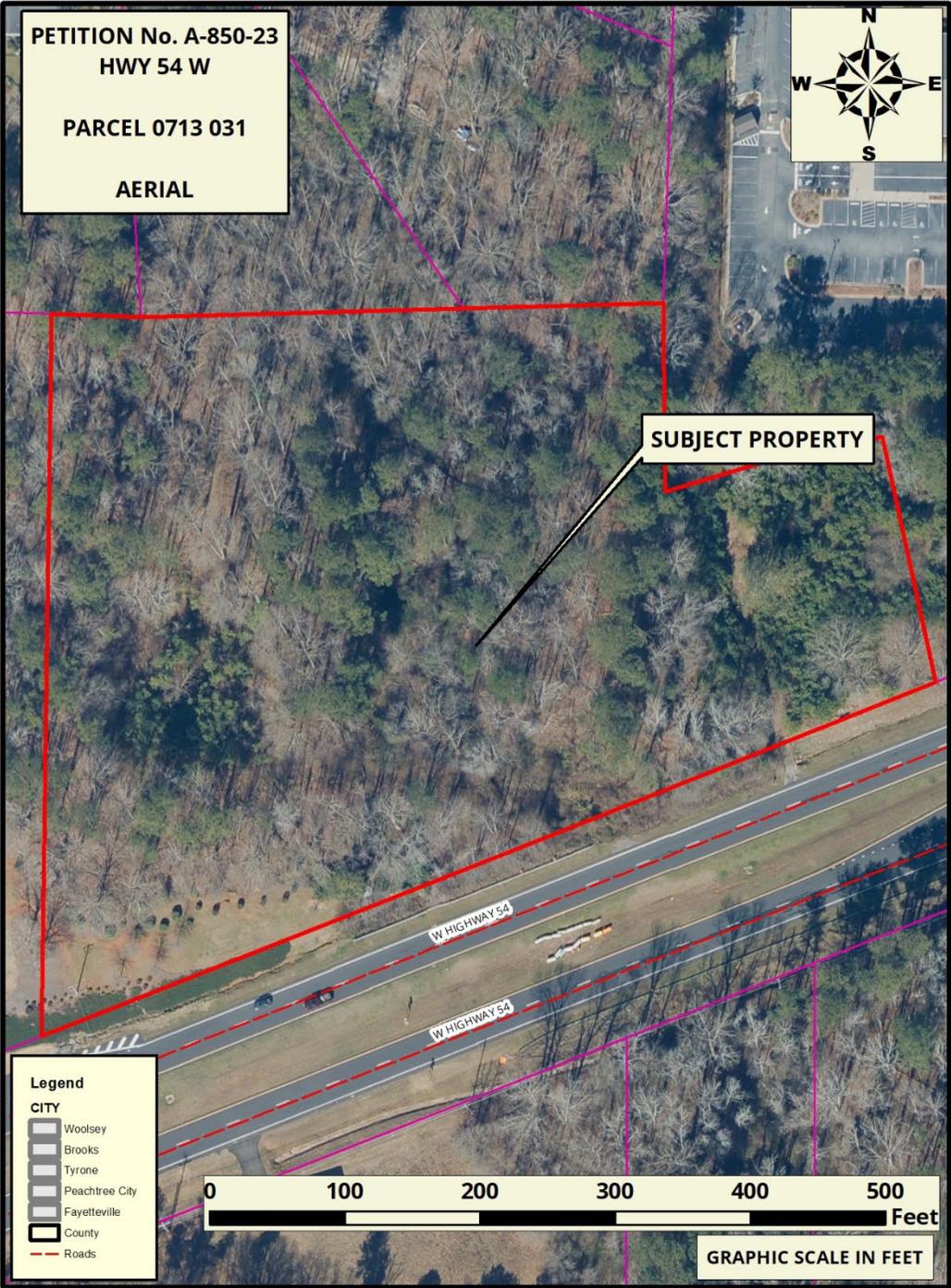
1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.
2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and,
3. Such conditions are peculiar to the particular piece of property involved; and,
4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations; provided, however, no variance may be granted for a use of land or building or structure that is prohibited by this Ordinance; and,
5. A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same District are allowed.











PETITION NUMBER: A-850-23

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY INFORMATION:

Parcel No. 0713-031 Acreage: 5.31

Land Lot: 58 Land District: 7th

Address: 1697 Hwy 54, Fayetteville, GA 30214

Existing Zoning: O&I Requested Zoning: _____

Zoning of Surrounding Properties: AR - R40

Existing Use: _____ Proposed Use: _____

PROPERTY OWNER INFORMATION

SALIMA CHARANIA
ERUM ALI
Name BEYOND HORIZON, LLC

Email batejani@gmail.com

Address 410 Nora Dr.

City Fayetteville

State GA Zip 30214

Phone 678-817-6771

AGENT/DEVELOPER INFORMATION

(If not owner)

Name PARAGON Const. GR / ROBERT

Email rking@pcgeng.com

Address 350 AIRPORT RD.

City GRIFFIN

State GA Zip 30224

Phone 770-412-7700

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-850-23

[] Application Insufficient due to lack of:

by Staff: _____ Date: _____

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

by Staff: _____ Date: _____

DATE OF ZONING BOARD OF APPEALS HEARING: _____

Received from Flat Creek Landmark, LLC a check in the amount of \$ 225⁰⁰

for application filing fee, and \$ 50⁰⁰ for deposit on frame for public hearing sign(s).

Date Paid: 11/3/2023 Receipt Number: 19551

Variance Application, Fayette County, GA

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:

Salima Charania, Erum Ali, Barkat Tejani & Alisha Tejani

Please Print Names

Property Tax Identification Number(s) of Subject Property: 0713-031

(I am) (we are) the sole owner(s) of the above-referenced property. Subject property is located in Land Lot(s) of the 7th District, and (if applicable to more than one land district) Land Lot(s) -- of the District, and said property consists of a total of 5.31 acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

(I) (We) hereby delegate authority to _____ 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

410 Nora Dr. Fayetteville, GA
Address

[Signature]
Signature of Property Owner 2

25 BARBARA Ct. FAYETTEVILLE GA 30215
Address

[Signature]
Signature of Authorized Agent Owner 3

101 REGANS WAY, TYRONES GA -30290
Address

[Signature]
Signature of Notary Public

11/02/2023
Date

[Signature]
Signature of Notary Public

11/02/2023
Date

[Signature]
Signature of Notary Public

11/02/2023
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 110-142 (f) (5)	Side Yard: 15 Feet Rear Yard: 15 Feet	Side yard: 2 feet Rear Yard: 4 feet along building, see attached	
Sec 110-142 (f) (6)	30 feet adjacent to lot lines for properties that abut A-R zoning District		
Sec 104-221 (35)	Open Space for every 300 square feet of gross floor area	From 30 req. to 29	

VARIANCE SUMMARY

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

A reduction in the set back to 2 feet along the back of the building and a reduction of 4 feet along the side of the building would be needed for our design. A reduction of the buffer for the parking is needed in the rear to 20 feet and the side parking reduction would be 23 feet along the parking lots respectively. Finally a reduction of parking to 29 spots to limit the encroachment into the buffer zone is being requested.

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 topo.

The property is positioned between two existing Churches, both zoned A-R (Agricultural-Residential). One notable feature is the presence of Flat Creek, which dissects the property. The creek creates a natural barrier and separates the land from the west, limiting access in that direction. Additionally, wetlands extend beyond the stream embankment, covering approximately 1.95 acres of the site, rendering this portion unsuitable for development. This wetland area further compounds the constraints on our ability to use the property effectively.

The east side of the property offers a limited area of approximately 0.28 acres that can be considered for building purposes. This area is defined by various zoning regulations, including a 100-foot front setback requirement, a 50-foot parking setback, a 30-foot buffer, a 15-foot building setback along the side and rear of the property, and the presence of wetlands to the west. These combined factors severely restrict the usable space for constructing any buildings or facilities on the property.

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

The application of the current regulations presents a practical difficulty and unnecessary hardship with respect to our property. Our property, situated on 5.3 acres, faces a unique set of challenges, primarily arising from the buffers and setbacks imposed by existing regulations. These restrictions reduce the usable area to 5.5% of the total land, significantly limiting our ability to develop the property effectively.

This restriction not only hamper development plans but also places an unwarranted burden as property owners. The regulations create unnecessary hardship for the community at large, as they impede the development of a valuable piece of land.

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

The conditions that necessitate this variance request are uniquely specific to our property. The property, encompassing 5.3 acres, exhibits exceptional characteristics that make it distinct from others in the area.

One peculiarity is the limited access to the west side of the property, where Flat Creek, wetlands covering 37% of the property, existing development on adjacent property and the embankment for

Highway 54 hinder access to the west of the property. These features create a distinctive challenge, impacting the property's accessibility and usability.

Additionally, the limited area of good soils for on-site sewerage further restricts the property's functional use, confining it to approximately 0.29 acres on the east side of the property. This condition adds to the uniqueness of the property's constraints.

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.

The relief we seek through this variance, if granted, will not cause substantial detriment to the public good, nor will it impair the purposes and intent of the existing regulations. We firmly believe that the proposed variance aligns with the best interests of the community, as it allows for the reasonable use of a unique property, without posing negative consequences.

It is worth noting that the property to the rear and side of the proposed development site is owned by CBJ Properties LLC and is zoned A-R (Agricultural-Residential). However, it currently hosts a church, indicating that the area is already utilized for non-residential purposes. This fact suggests that the property is unlikely to be used for residential purposes in the future. Therefore, the granting of the variance for our property would not be inconsistent with the use of surrounding properties.

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

A strict, literal interpretation of the current ordinance would undeniably deprive us of rights enjoyed by others within the same zoning district. The heart of the issue lies in the limited usable area of our property, which stands at only 5.5% of the total 5.3 acres due to the constraints imposed by the zoning regulations.

Additionally, nearly 37% of the property is covered by wetlands, rendering that portion of the land unsuitable for development. When combined with the reduced usable area, it becomes evident that the property faces extraordinary and exceptional circumstances, making it a unique case within the zoning district.

This uniqueness is highlighted by the fact that the property immediately adjacent, owned by CBJ Properties LLC, is zoned A-R (Agricultural-Residential) but currently hosts a church. The presence of the church underscores that this property is not intended for residential use in the future, aligning with the zoning regulations' intent for non-residential purposes.

CHECKLIST OF ITEMS REQUIRED TO BE SUBMITTED FOR ZBA REQUESTS

(All applications/documentation must be complete at the time of application submittal or the application will not be accepted)

- Application form and all required attachments, completed, signed, and notarized (if applicable).
- Copy of latest recorded deed, including legal description of the boundaries of the subject property, including total acreage.
- One copy of the survey plat of the property, drawn to scale with accurate dimensions, with the following indicated:

- _____ a. Location and size of existing structures (principal and accessory) and improvements on the parcel, including type (residential or non-residential), floor area, and accessory uses. Structures proposed to be removed must be indicated and labeled as such.
- x b. Minimum setbacks and buffers from all property lines of subject property required in the zoning district.
- _____ c. Location of exits/entrances to the subject property.
- _____ d. Location of all existing and proposed easements and streets on or adjacent to the subject property, indicating width of existing and proposed easements, width of right-of-way, and centerline of streets.
- _____ e. Location of all utilities, including well or water lines.
- _____ f. Location of septic tank, drainfield, and drainfield replacement area.
- _____ g. Location and elevation of the 100-year flood plain and watershed protection buffers and setbacks (if applicable).
- _____ h. Location of on-site stormwater facilities to include detention or retention facilities (if applicable).
- _____ i. Parking locations, number of parking spaces, and parking bay and aisle dimensions (if applicable).
- _____ j. Location of landscaped areas, buffers, or tree save areas (if applicable).

- Application filing fee.

PLANNING AND ZONING STAFF INFORMATION BELOW

Staff Reviewed by:	Requirements	Proposed
Name:	Lot Size:	
Lot#	Width:	
Zoning:	Front Setback:	
Flood: Yes/No MFFE:	Side Setback:	
Stream Buffers:	Rear Setback:	
Number of Frontages:	House Size:	

B4 Fayette County News

FAYETTE COUNTY

PETITIONS FOR VARIANCE(S)/ ADMINISTRATIVE 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, December 18, 2023, at 7:00 P.M., Fayette County Administrative Complex, Public Meeting Room, 140 Stonewall Avenue West, first floor.

Petition No.: A-849-23

Owner(s)/Agent: Larry Hunter, Owner

Property Address: 1351 Highway 85 South, Fayetteville, GA 30215

Parcel: 050302023

Zoning District: R-40

Area of Property: 2.696 acres

Land Lot(s): 5

District: 28th

Road Frontage: Highway 85 South

Request:

1. Variance to Sec. 110-79(e)(1)(a). - To allow a detached garage in the front yard that is more than 35' from the principal structure.

2. Variance to Sec. 110-79(e)(1)(d). - To allow a detached garage in the front yard without an attached or detached breezeway, deck, or pergola.

Legal Description:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN THE LAND LOT 28 OF THE 5TH DISTRICT OF FAYETTE COUNTY, GEORGIA, BEING LOT 23 OF WHIPPOORWILL RIDGE SUBDIVISION, AS PER PLAT RECORDED IN PLAT BOOK 11, PAGE 193, IN THE OFFICE OF THE CLERK OF THE SUPERIOR COURT OF FAYETTE COUNTY, GEORGIA SAID PLAT BEING MADE A PART HEREOF BY REFERENCE.

11/15

PETITIONS FOR VARIANCE(S)/ ADMINISTRATIVE 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, December 18, 2023, at 7:00 P.M., Fayette County Administrative Complex, Public Meeting Room, 140 Stonewall Avenue West, first floor.

Petition No.: A-850-23

Owner(s)/Agent: Salima Charania, Erum Ali - Beyond Horizon, LLC

Robert King - Paragon Construction

Parcel: 0713-031

Zoning District: O-1

Area of Property: 5.31 acres

Land Lot(s): 58

District: 7th

Road Frontage: Highway 54

Request:

1. Variance to Sec. 110-142(f)(5) (a) to reduce the side yard setback from 15' to 4' for new building.

2. Variance to Sec. 110-142(f)(5) (b) to reduce the rear yard setback from 15' to 4' for new building.

3. Variance to Sec. 110-142(f)(6) to reduce buffer from 30' to 23' in the rear yard for parking.

4. Variance to Sec. 110-142(f)(6) to reduce buffer from 30' to 20' in the side yard for parking.

5. Variance to Sec. 104-221(35) to reduce the required number of parking spaces for an office building from 30 to 29.

Legal Description:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING in Land Lot 58 of the 7th District, Fayette County, Georgia being more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference.

EXHIBIT A

Legal Description

TRACT ONE:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 58 OF THE 7TH DISTRICT OF FAYETTE COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 (AS ORIGINALLY LOCATED) WITH THE EAST LINE OF LAND LOT 58; RUNNING THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 (AS ORIGINALLY LOCATED) 600.0 FEET TO AN IRON PIN FOUND; RUNNING THENCE NORTH 09 DEGREES 34 MINUTES 30 SECONDS WEST 6.59 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 AS PRESENTLY LOCATED, WHICH IS THE TRUE POINT OF BEGINNING; SAID BEGINNING POINT IS ALSO BEING LOCATED AT THE SOUTHWESTERLY CORNER OF PROPERTY NOW OR FORMERLY OWNED BY REBECCA COOK AND MARVIN F. COOK, JR., AS

PRESENTLY LOCATED; SAID POINT ALSO BEING LOCATED 197.27 FEET SOUTHWESTERLY FROM THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 (AS PRESENTLY LOCATED) WITH THE RIGHT OF WAY LINE OF FLAT CREEK ROAD; RUNNING THENCE NORTH 09 DEGREES 34 MINUTES 30 SECONDS WEST ALONG THE WESTERLY LINE OF SAID COOK PROPERTY 197.98 FEET TO AN IRON PIN FOUND; RUNNING THENCE SOUTH 82 DEGREES 49 MINUTES 20 SECONDS WEST 65.84 FEET TO AN IRON PIN FOUND; RUNNING THENCE SOUTH 76 DEGREES 24 MINUTES 28 SECONDS WEST 132.04 FEET TO AN IRON PIN FOUND ON THE EASTERLY LINE OF PROPERTY NOW OR FORMERLY OWNED BY CAROLYN MCCULLOUGH AND FRANCES O. BLACK; RUNNING THENCE SOUTH 00 DEGREES 48 MINUTES 37 SECONDS WEST ALONG THE EASTERLY LINE OF SAID MCCULLOUGH/BLACK PROPERTY 201.93 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54, AS PRESENTLY LOCATED; RUNNING THENCE NORTH 69 DEGREES 36 MINUTES 35 SECONDS EAST ALONG THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54, AS PRESENTLY LOCATED, 245.65 FEET TO THE POINT OF BEGINNING BEING MORE PARTICULARLY SHOWN ON PLAT OF SURVEY PREPARED BY ROBERT M. KIRKLEY LAND SURVEYOR, DATED MAY 1, 1989.

TRACT TWO:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 58 OF THE 7TH DISTRICT OF FAYETTE COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN ON THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NUMBER 54, 2,425.4 FEET NORTHEASTERLY, AS MEASURED ALONG THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NO. 54 FROM THE POINT OF INTERSECTION OF THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NO. 54 AND THE WEST LINE OF LAND LOT 58; THENCE SOUTH 89 DEGREES 49 MINUTES, 376.4 FEET TO AN IRON PIN; THENCE NORTH 02 DEGREES 59 MINUTES WEST, 400 FEET TO AN IRON PIN; THENCE SOUTH 88 DEGREES 51 MINUTES EAST, 443 FEET TO AN IRON PIN; THENCE SOUTH 03 DEGREES 21 MINUTES WEST, 168 FEET TO AN IRON PIN; THENCE SOUTH 00 DEGREES 48 MINUTES WEST, 210 FEET TO AN IRON PIN ON THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY 54; THENCE SOUTH 70 DEGREES 19 MINUTES WEST, ALONG THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NO. 54, 35 FEET TO AN IRON PIN AT THE POINT OF BEGINNING. BEING KNOWN AS 1697 HIGHWAY 54, FAYETTEVILLE, GEORGIA 30214, ACCORDING TO THE PRESENT NUMBERING SYSTEM IN FAYETTE COUNTY, GEORGIA.

11/15

PETITIONS FOR VARIANCE(S)/ ADMINISTRATIVE 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, December 18, 2023, at 7:00 P.M., Fayette County Administrative Complex, Public Meeting Room, 140

Stonewall Avenue West, first floor.

Petition No.: A-851-23

Owner(s)/Agent: Tommy & Margaret Suggs

Mark Murphy

Property Address: 195 Bel Aire Loop, Fayetteville, GA 30215

Parcel: 45116014

Zoning District: PUD

Area of Property: 1.01 acres

Land Lot(s): 225

District: 4th

Road Frontage: Bel Aire Loop

Request: Variance to Sec. 110-149(d) (6) (c) to reduce the side setback from 15' to 14'.

Legal Description:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 225 OF THE 4TH DISTRICT OF FAYETTE COUNTY, GEORGIA BEING LOT 59, CREEKSIDE AT WHITEWATER CREEK, AS PER PLAT RECORDED IN PLAT BOOK 20, PAGES 90-95, FAYETTE COUNTY RECORDS, WHICH PLAT IS INCORPORATED HEREIN BY REFERENCE AND MADE APART OF THE DESCRIPTION.

11/15

B4 Fayette County News

FAYETTE COUNTY

PETITIONS FOR VARIANCE(S)/ ADMINISTRATIVE APPEAL(S)/ ON CERTAIN PROPERTIES IN UNINCORPORATED AREA OF FAYETTE COUNTY, GEORGIA

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Petition No.: A-849-23

Owner(s)/Agent: Larry Hunter, Owner

Property Address: 1351 Highway 85 South, Fayetteville, GA 30215

Parcel: 050302023

Zoning District: R-40

Area of Property: 2.696 acres

Land Lot(s): 5

District: 28th

Road Frontage: Highway 85 South

Request:

1. Variance to Sec. 110-79(e)(1)(a). - To allow a detached garage in the front yard that is more than 35' from the principal structure.

2. Variance to Sec. 110-79(e)(1)(d). - To allow a detached garage in the front yard without an attached or detached breezeway, deck, or pergola.

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Petition No.: A-850-23

Owner(s)/Agent: Salima Charania, Erum Ali - Beyond Horizon, LLC

Robert King - Paragon Construction

Parcel: 0713-031

Zoning District: O-I

Area of Property: 5.31 acres

Land Lot(s): 58

District: 7th

Road Frontage: Highway 54

Request:

1. Variance to Sec. 110-142(f)(5) (a) to reduce the side yard setback from 15' to 4' for new building.

2. Variance to Sec. 110-142(f)(5) (b) to reduce the rear yard setback from 15' to 4' for new building.

3. Variance to Sec. 110-142(f)(6) to reduce buffer from 30' to 23' in the rear yard for parking.

4. Variance to Sec. 110-142(f)(6) to reduce buffer from 30' to 20' in the side yard for parking.

5. Variance to Sec. 104-221(35) to reduce the required number of parking spaces for an office building from 30 to 29.

Legal Description:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING in Land Lot 58 of the 7th District, Fayette County, Georgia being more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference.

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TRACT TWO:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 58 OF THE 7TH DISTRICT OF FAYETTE COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN ON THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NUMBER 54, 2,425.4 FEET NORTHEASTERLY, AS MEASURED ALONG THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NO. 54 FROM THE POINT OF INTERSECTION OF THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NO. 54 AND THE WEST LINE OF LAND LOT 58; THENCE SOUTH 89 DEGREES 49 MINUTES, 376.4 FEET TO AN IRON PIN; THENCE NORTH 02 DEGREES 59 MINUTES WEST, 400 FEET TO AN IRON PIN; THENCE SOUTH 88 DEGREES 51 MINUTES EAST, 443 FEET TO AN IRON PIN; THENCE SOUTH 03 DEGREES 21 MINUTES WEST, 168 FEET TO AN IRON PIN; THENCE SOUTH 00 DEGREES 48 MINUTES WEST, 210 FEET TO AN IRON PIN ON THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY 54; THENCE SOUTH 70 DEGREES 19 MINUTES WEST, ALONG THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NO. 54, 35 FEET TO AN IRON PIN AT THE POINT OF BEGINNING. BEING KNOWN AS 1697 HIGHWAY 54, FAYETTEVILLE, GEORGIA 30214, ACCORDING TO THE PRESENT NUMBERING SYSTEM IN FAYETTE COUNTY, GEORGIA.

11/15

PETITIONS FOR VARIANCE(S)/ ADMINISTRATIVE 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, December 18, 2023, at 7:00 P.M., Fayette County Administrative Complex, Public Meeting Room, 140

Stonewall Avenue West, first floor.

Petition No.: A-851-23

Owner(s)/Agent: Tommy & Margaret Suggs

Mark Murphy

Property Address: 195 Bel Aire Loop, Fayetteville, GA 30215

Parcel: 45116014

Zoning District: PUD

Area of Property: 1.01 acres

Land Lot(s): 225

District: 4th

Road Frontage: Bel Aire Loop

Request: Variance to Sec. 110-149(d) (6) (c) to reduce the side setback from 15' to 14'.

Legal Description:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 225 OF THE 4TH DISTRICT OF FAYETTE COUNTY, GEORGIA BEING LOT 59, CREEKSIDE AT WHITEWATER CREEK, AS PER PLAT RECORDED IN PLAT BOOK 20, PAGES 90-95, FAYETTE COUNTY RECORDS, WHICH PLAT IS INCORPORATED HEREIN BY REFERENCE AND MADE APART OF THE DESCRIPTION.

11/15

After recording return to:

J. Curran D. Bowen
Walter W. Arnall, LLC
75 Jackson Street
Building 500
Newnan, GA 30263
(770) 683-9252


Doc ID: 011734280005 Type: WD
Recorded: 02/21/2023 at 09:20:00 AM
Fee Amt: \$400.00 Page 1 of 5
Transfer Tax: \$375.00
Fayette, Ga. Clerk Superior Court
Sheila Studdard Clerk of Court
BK **5589** PG **377-381**

File No.: 221127

STATE OF GEORGIA

COUNTY OF COWETA

LIMITED WARRANTY DEED

THIS INDENTURE, made and entered into this **February 13, 2023** by and between **Winn F. Martin and Patricia V. Martin**, trustees of the Martin Family Living Trust, dated October 11, 2018, (herein referred to as "Grantor"), and **Flat Creek Landmark, LLC**, a Georgia limited liability company (herein referred to as "Grantee").

WITNESSETH THAT, the said Grantor, for and in consideration of the sum of Ten and no/100 (\$10.00) Dollars, and other good and valuable consideration, in hand paid at or before the delivery of this deed, the receipt and sufficiency of which are hereby acknowledged, and pursuant to proper authority, has granted, bargained, sold and conveyed and by these presents does hereby grant, bargain, sell and convey to the said Grantee, and its successors and assigns, the following described property:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING in Land Lot 58 of the 7th District, **Fayette** County, Georgia being more particularly described on **Exhibit "A"** attached hereto and incorporated herein by this reference.

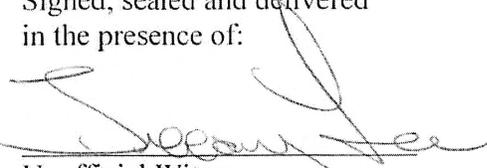
TOGETHER WITH all fixtures, structures and improvements located on such property and the easements, rights, members and appurtenances thereunto appertaining.

TO HAVE AND TO HOLD the said bargained premises, together with all and singular the rights, privileges, easements, members and appurtenances belonging or thereunto appertaining, to the only proper use and benefit of the Grantee and its successors and assigns forever in FEE SIMPLE.

AND EXCEPT for those matters set forth on **Exhibit "B"** attached hereto and incorporated herein by reference, Grantor will warrant and defend the title to said premises against the claims of all persons claiming by, through or under Grantor, but not otherwise.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed, sealed and delivered by its duly authorized officer on the date above written.

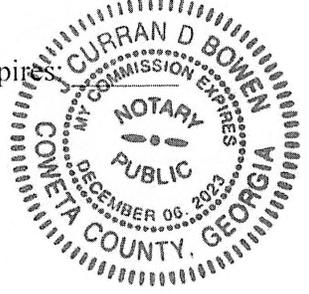
Signed, sealed and delivered
in the presence of:


Unofficial Witness


Notary Public

My commission expires

[NOTARY SEAL]



Martin Family Living Trust, dated
October 11, 2018

By:  (Seal)
Winn F. Martin, Trustee

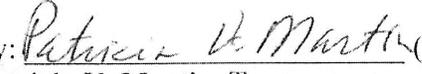
By:  (Seal)
Patricia V. Martin, Trustee

EXHIBIT A

Legal Description

TRACT ONE:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 58 OF THE 7TH DISTRICT OF FAYETTE COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 (AS ORIGINALLY LOCATED) WITH THE EAST LINE OF LAND LOT 58; RUNNING THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 (AS ORIGINALLY LOCATED) 600.0 FEET TO AN IRON PIN FOUND; RUNNING THENCE NORTH 09 DEGREES 34 MINUTES 30 SECONDS WEST 6.59 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 AS PRESENTLY LOCATED, WHICH IS THE TRUE POINT OF BEGINNING; SAID BEGINNING POINT IS ALSO BEING LOCATED AT THE SOUTHWESTERLY CORNER OF PROPERTY NOW OR FORMERLY OWNED BY REBECCA COOK AND MARVIN F. COOK, JR., AS PRESENTLY LOCATED; SAID POINT ALSO BEING LOCATED 197.27 FEET SOUTHWESTERLY FROM THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 (AS PRESENTLY LOCATED) WITH THE RIGHT OF WAY LINE OF FLAT CREEK ROAD; RUNNING THENCE NORTH 09 DEGREES 34 MINUTES 30 SECONDS WEST ALONG THE WESTERLY LINE OF SAID COOK PROPERTY 197.98 FEET TO AN IRON PIN FOUND; RUNNING THENCE SOUTH 82 DEGREES 49 MINUTES 20 SECONDS WEST 65.84 FEET TO AN IRON PIN FOUND; RUNNING THENCE SOUTH 76 DEGREES 24 MINUTES 28 SECONDS WEST 132.04 FEET TO AN IRON PIN FOUND ON THE EASTERLY LINE OF PROPERTY NOW OR FORMERLY OWNED BY CAROLYN MCCULLOUGH AND FRANCES O. BLACK; RUNNING THENCE SOUTH 00 DEGREES 48 MINUTES 37 SECONDS WEST ALONG THE EASTERLY LINE OF SAID MCCULLOUGH/BLACK PROPERTY 201.93 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54, AS PRESENTLY LOCATED; RUNNING THENCE NORTH 69 DEGREES 36 MINUTES 35 SECONDS EAST ALONG THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54, AS PRESENTLY LOCATED, 245.65 FEET TO THE POINT OF BEGINNING BEING MORE PARTICULARLY SHOWN ON PLAT OF SURVEY PREPARED BY ROBERT M. KIRKLEY LAND SURVEYOR. DATED MAY 1, 1989.

TRACT TWO:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 58 OF THE 7TH DISTRICT OF FAYETTE COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN ON THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NUMBER 54, 2,425.4 FEET NORTHEASTERLY, AS MEASURED ALONG THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NO. 54 FROM THE POINT OF INTERSECTION OF THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NO. 54 AND THE WEST LINE OF LAND LOT 58; THENCE SOUTH 89 DEGREES 49 MINUTES, 376.4 FEET TO AN IRON PIN; THENCE NORTH 02 DEGREES 59 MINUTES WEST, 400 FEET TO AN IRON PIN; THENCE SOUTH 88 DEGREES 51 MINUTES EAST, 443 FEET TO AN IRON PIN; THENCE SOUTH 03 DEGREES 21 MINUTES WEST, 168 FEET TO AN IRON PIN; THENCE SOUTH 00 DEGREES 48 MINUTES WEST, 210 FEET TO AN IRON PIN ON THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY 54; THENCE SOUTH 70 DEGREES 19 MINUTES WEST, ALONG THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NO. 54, 35 FEET TO AN IRON PIN AT THE POINT OF BEGINNING.

BEING KNOWN AS 1697 HIGHWAY 54, FAYETTEVILLE, GEORGIA 30214, ACCORDING TO THE PRESENT NUMBERING SYSTEM IN FAYETTE COUNTY, GEORGIA.

EXHIBIT B

Permitted Exceptions

1. Taxes for the year 2023 and subsequent years, not yet due and payable; and the possible additional real estate taxes which may become due and payable by reason of increased or amended assessments.

2. Easement between Rebecca Loyd Cook and Marvin F. Cook, Jr., and Harold T. Smith and Patricia R. Smith, dated August 24, 1978, filed August 28, 1978, and recorded in Deed Book 186, Page 594, Fayette County, Georgia records.

3. Right of Way Deed from Harold T. Smith and Patricia R. Smith to the Department of Transportation, dated November 30, 1988, filed December 8, 1988, and recorded in Deed Book 532, Page 495, Fayette County, Georgia records.

4. Right of Way Deed from Carolyn McCullough and Frances O. Black to the Department of Transportation, dated February 6, 1989, filed February 15, 1989, and recorded in Deed Book 541, Page 557, Fayette County, Georgia records.

After recording return to:

J. Curran D. Bowen
Walter W. Arnall, LLC
75 Jackson Street
Building 500
Newnan, GA 30263
(770) 683-9252


Doc ID: 011734290003 Type: QCD
Recorded: 02/21/2023 at 09:20:00 AM
Fee Amt: \$25.00 Page 1 of 3
Transfer Tax: \$0.00
Fayette, Ga. Clerk Superior Court
Sheila Studdard Clerk of Court
BK **5589** PG **382-384**

File No. 221127

STATE OF GEORGIA

COUNTY OF COWETA

QUIT-CLAIM DEED

THIS INDENTURE, made and entered into this **February 13, 2023** by and between **Winn F. Martin and Patricia V. Martin**, trustees of the Martin Family Living Trust, dated October 11, 2018, a Georgia limited liability company (herein referred to as "Grantor"), and **Flat Creek Landmark, LLC**, a Georgia limited liability company (herein referred to as "Grantee").

WITNESSETH: That Grantor for and in consideration of the sum of ONE AND NO/100 DOLLAR (\$1.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, cash in hand paid, the receipt of which 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 the Grantor has or may have had in and to the following described real property, to wit:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING in Land Lot 58 of the 7th District, **Fayette** County, Georgia being more particularly described on **Exhibit "A"** attached hereto and incorporated herein by this reference.

with all the rights, members and appurtenances to the said described premises in anywise appertaining or belonging.

TO HAVE AND TO HOLD the said described premises unto the Grantee, so that neither the said 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.

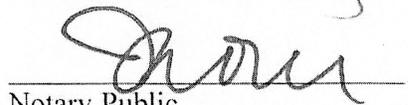
IN WITNESS WHEREOF, the Grantor has caused this instrument to be duly executed, sealed and delivered by its duly authorized officer on the date above written.

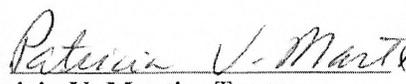
Signed, sealed and delivered
in the presence of:

Martin Family Living Trust, dated
October 11, 2018


Unofficial Witness

By:  (Seal)
Winn F. Martin, Trustee


Notary Public

By:  (Seal)
Patricia V. Martin, Trustee

My commission expires: _____

[NOTARY SEAL]

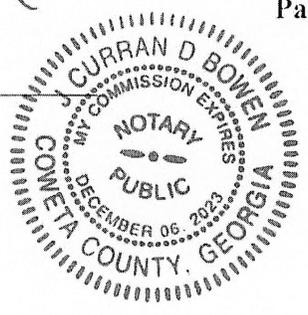


EXHIBIT A

Legal Description per Survey

ALL THAT TRACT OR PARCEL OF LAND BEING IN LAND LOT 58, 7TH DISTRICT, FAYETTE COUNTY, GEORGIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WESTERN RIGHT-OF-WAY OF FLAT CREEK TRAIL (80' RIGHT-OF-WAY) AND THE NORTHERN RIGHT-OF-WAY OF GA HIGHWAY 54 (VARIABLE RIGHT-OF-WAY) A DISTANCE OF 197.27 FEET TO AN IRON PIN FOUND; BEING THE TRUE POINT OF BEGINNING; THENCE SOUTH 69 DEGREES 58 MINUTES 01 SECONDS WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 243.60 FEET TO AN IRON PIN FOUND; THENCE SOUTH 69 DEGREES 57 MINUTES 02 SECONDS WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 36.93 FEET TO AN IRON PIN PLACED; THENCE SOUTH 69 DEGREES 58 MINUTES 07 SECONDS WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 397.82 FEET TO AN IRON PIN SET; THENCE NORTH 01 DEGREES 26 MINUTES 19 SECONDS WEST A DISTANCE OF 125.74 FEET TO AN IRON PIN FOUND; THENCE NORTH 01 DEGREES 25 MINUTES 44 SECONDS WEST A DISTANCE OF 393.84 FEET TO AN IRON PIN FOUND; THENCE SOUTH 89 DEGREES 23 MINUTES 20 SECONDS EAST A DISTANCE OF 432.68 FEET TO AN IRON PIN FOUND; THENCE SOUTH 03 DEGREES 22 MINUTES 53 SECONDS WEST A DISTANCE OF 134.82 FEET TO AN IRON PIN FOUND; THENCE NORTH 76 DEGREES 29 MINUTES 16 SECONDS EAST A DISTANCE OF 136.14 FEET TO AN IRON PIN PLACED; THENCE NORTH 82 DEGREES 43 MINUTES 20 SECONDS EAST A DISTANCE OF 62.17 FEET TO AN IRON PIN FOUND; THENCE SOUTH 09 DEGREES 32 MINUTES 51 SECONDS EAST A DISTANCE OF 190.16 FEET TO THE TRUE POINT OF BEGINNING, SAID TRACT OF LAND CONTAINING 5.306 ACRES BEING THE SAME TRACT OF LAND DESCRIBED IN DEED BOOK 3366 PAGE 637, FAYETTE COUNTY, GEORGIA RECORDS.



Policy No.: 95273-1-221127-2023.7230610-229843255

OWNER'S POLICY OF TITLE INSURANCE

Issued by

CHICAGO TITLE INSURANCE COMPANY

Any notice of claim and any other notice or statement in writing required to be given the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, CHICAGO TITLE INSURANCE COMPANY, a Florida corporation, (the "Company") insures as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
 - (a) A defect in the Title caused by
 - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
 - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
 - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
 - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
 - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
 - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
 - (vii) a defective judicial or administrative proceeding.
 - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
 - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (a) the occupancy, use, or enjoyment of the Land;
 - (b) the character, dimensions, or location of any improvement erected on the Land;
 - (c) the subdivision of land; or
 - (d) environmental protectionif a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. Title being vested other than as stated Schedule A or being defective
 - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or



- (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
 - (i) to be timely, or
 - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

IN WITNESS WHEREOF, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed by its duly authorized officers.

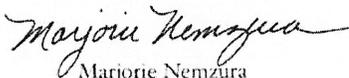
CHICAGO TITLE INSURANCE COMPANY

Countersigned:

By: 
 Authorized Officer or Agent

Walter W. Arnall, LLC
 75 Jackson St Building 500
 Newnan, GA 30263-7514
 Tel: 770-683-9252
 Fax: 770-683-9256

By: 
 Michael J. Nolan
 President

Attest: 
 Marjorie Nemzura
 Secretary

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
 - (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.



CONDITIONS

1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.

(b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.

(c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.

(d) "Insured": The Insured named in Schedule A.

(i) The term "Insured" also includes

(A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;

(B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;

(C) successors to an Insured by its conversion to another kind of Entity;

(D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the

Title

(1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named

Insured,

(2) if the grantee wholly owns the named Insured,

(3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or

(4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.

(ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.

(e) "Insured Claimant": An Insured claiming loss or damage.

(f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.

(g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.

(h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.

(i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.

(j) "Title": The estate or interest described in Schedule A.

(k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.



5. DEFENSE AND PROSECUTION OF ACTIONS

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

(c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal any adverse judgment or order.

6. DUTY OF INSURED CLAIMANT TO COOPERATE

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title, or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

(b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.

(i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

(ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

8. DETERMINATION AND EXTENT OF LIABILITY



This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

- (a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of
- (i) the Amount of Insurance; or
 - (ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.
- (b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,
- (i) the Amount of Insurance shall be increased by 10%, and
 - (ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.
- (c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

9. LIMITATION OF LIABILITY

- (a) If the Company establishes the Title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.
- (b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.
- (c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

11. LIABILITY NONCUMULATIVE

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

12. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

(a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

14. THIS SECTION INTENTIONALLY DELETED

15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.



16. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

17. CHOICE OF LAW; FORUM

(a)Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b)Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

18. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at CHICAGO TITLE INSURANCE COMPANY, Attn: Claims Department, P.O. Box 45023, Jacksonville, FL 32232-5023



SCHEDULE A

Name and Address of Title Insurance Company: Chicago Title Insurance Company

Policy Number: 7230610-229843255

File Number: 221127

Address Reference: HIGHWAY 54
FAYETTEVILLE, GA 30214

Amount of Insurance: \$ 375,000.00

Premium: \$ 787.50

Date of Policy: February 13, 2023

1. Name of Insured:
FLAT CREEK LANDMARK, LLC, a Georgia limited liability company
2. The estate or interest in the Land that is insured by this policy is:
Fee Simple
3. Title is vested in:
FLAT CREEK LANDMARK, LLC, a Georgia limited liability company
4. The Land referred to in this policy is described as follows:
SEE EXHIBIT A ATTACHED HERETO

WALTER W. ARNALL, LLC

By: 
WALTER W. ARNALL, LLC



Chicago Title Insurance Company

SCHEDULE B

File Number: 221127

Policy Number: 7230610-229843255

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees or expenses which arise by reason of:

- a. Rights or claims of parties in possession not recorded in the public records.
- b. Easements or claims of easements not recorded in the public records.
- c. Encroachments, overlaps, boundary line disputes and any matters which a correct survey and inspection of the land would disclose, and which are not shown by the public record.
- d. Any lien or right to a lien for services, labor or material arising now or later, imposed by law and not shown by the public record.
- e. Taxes, charges and assessments which are not shown as existing liens by the public record.
- f. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquired for value of record the estate or interest or mortgage thereon covered by this Commitment.
- g. THE EXACT LOCATION OF BOUNDARY LINES, UNRECORDED EASEMENTS, POSSIBLE ENCROACHMENTS AND OTHER FACTS OR CONDITIONS WHICH WOULD BE DISCLOSED BY AN ACCURATE SURVEY AND INSPECTION OF THE PROPERTY; AND RIGHTS, IF ANY, OF PERSON WHO MAY BE IN POSSESSION UNDER CLAIMS NOT APPEARING OF RECORD.
- h. All taxes for the year 2023 and subsequent years not yet due and payable, and any additional taxes, interest and/or penalties which may be assessed for prior tax years by virtue of adjustments, re-appraisals, re-assessment, appeal or other amendment to the tax records of the city or county in which the subject property is located.
- i. Easement between Rebecca Loyd Cook and Marvin F. Cook, Jr., and Harold T. Smith and Patricia R. Smith, dated August 24, 1978, filed August 28, 1978, and recorded in Deed Book 186, Page 594, Fayette County, Georgia records.
- j. Right of Way Deed from Harold T. Smith and Patricia R. Smith to the Department of Transportation, dated November 30, 1988, filed December 8, 1988, and recorded in Deed Book 532, Page 495, Fayette County, Georgia records.
- k. Right of Way Deed from Carolyn McCullough and Frances O. Black to the Department of Transportation, dated February 6, 1989, filed February 15, 1989, and recorded in Deed Book 541, Page 557, Fayette County, Georgia records.

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(221127.PFD/221127/16)

EXHIBIT A

File Number: 221127

Policy Number: 7230610-229843255

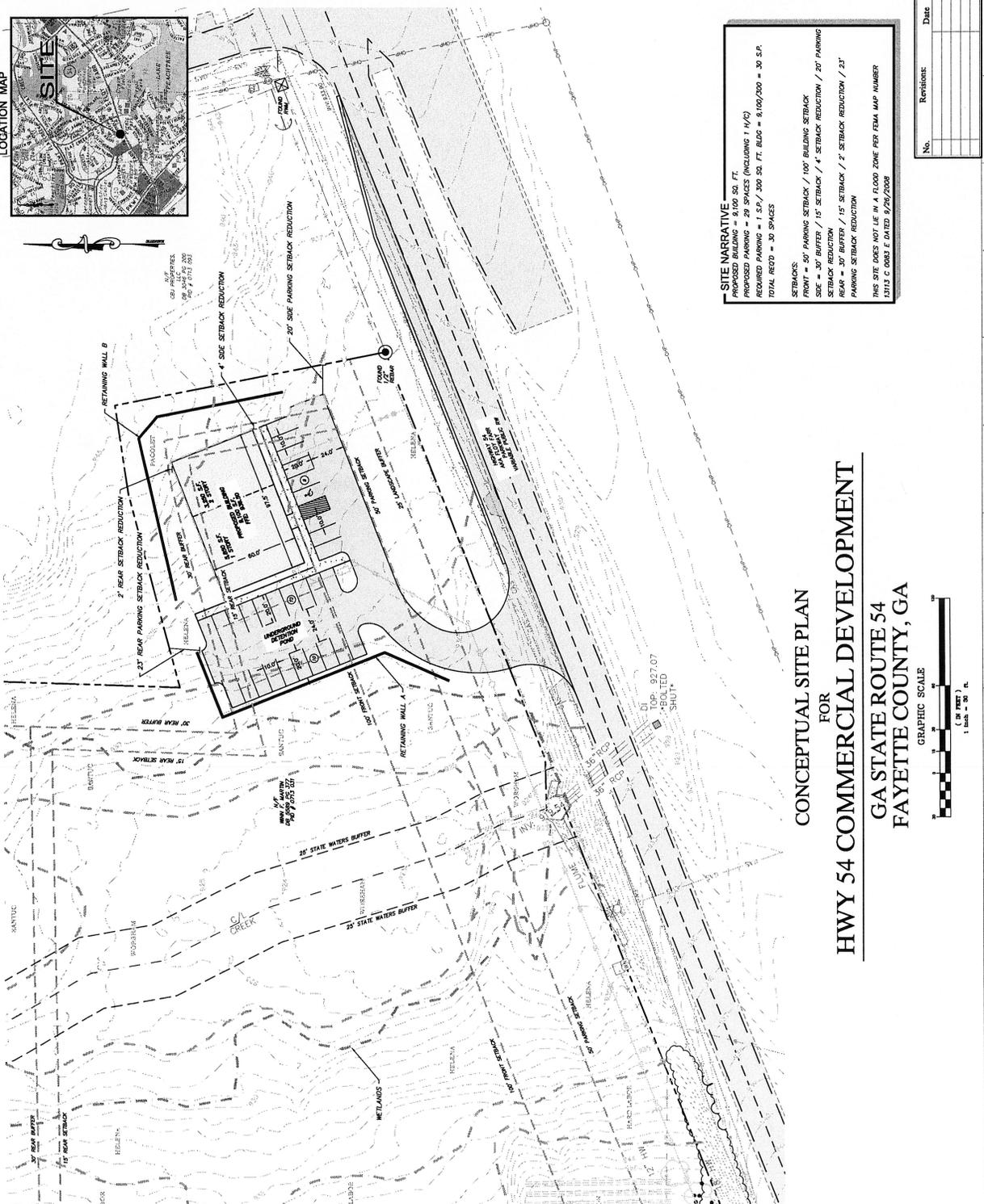
The Land referred to in this policy is described as follows:

TRACT ONE:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 58 OF THE 7TH DISTRICT OF FAYETTE COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
TO FIND THE TRUE POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 (AS ORIGINALLY LOCATED) WITH THE EAST LINE OF LAND LOT 58; RUNNING THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 (AS ORIGINALLY LOCATED) 600.0 FEET TO AN IRON PIN FOUND; RUNNING THENCE NORTH 09 DEGREES 34 MINUTES 30 SECONDS WEST 6.59 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 AS PRESENTLY LOCATED, WHICH IS THE TRUE POINT OF BEGINNING; SAID BEGINNING POINT IS ALSO BEING LOCATED AT THE SOUTHWESTERLY CORNER OF PROPERTY NOW OR FORMERLY OWNED BY REBECCA COOK AND MARVIN F. COOK, JR., AS PRESENTLY LOCATED; SAID POINT ALSO BEING LOCATED 197.27 FEET SOUTHWESTERLY FROM THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 (AS PRESENTLY LOCATED) WITH THE RIGHT OF WAY LINE OF FLAT CREEK ROAD; RUNNING THENCE NORTH 09 DEGREES 34 MINUTES 30 SECONDS WEST ALONG THE WESTERLY LINE OF SAID COOK PROPERTY 197.98 FEET TO AN IRON PIN FOUND; RUNNING THENCE SOUTH 82 DEGREES 49 MINUTES 20 SECONDS WEST 65.84 FEET TO AN IRON PIN FOUND; RUNNING THENCE SOUTH 76 DEGREES 24 MINUTES 28 SECONDS WEST 132.04 FEET TO AN IRON PIN FOUND ON THE EASTERLY LINE OF PROPERTY NOW OR FORMERLY OWNED BY CAROLYN MCCULLOUGH AND FRANCES O. BLACK; RUNNING THENCE SOUTH 00 DEGREES 48 MINUTES 37 SECONDS WEST ALONG THE EASTERLY LINE OF SAID MCCULLOUGH/BLACK PROPERTY 201.93 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54, AS PRESENTLY LOCATED; RUNNING THENCE NORTH 69 DEGREES 36 MINUTES 35 SECONDS EAST ALONG THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54, AS PRESENTLY LOCATED, 245.65 FEET TO THE POINT OF BEGINNING BEING MORE PARTICULARLY SHOWN ON PLAT OF SURVEY PREPARED BY ROBERT M. KIRKLEY LAND SURVEYOR. DATED MAY 1, 1989.

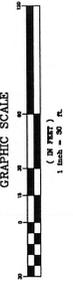
TRACT TWO:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 58 OF THE 7TH DISTRICT OF FAYETTE COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT AN IRON PIN ON THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NUMBER 54, 2,425.4 FEET NORTHEASTERLY, AS MEASURED ALONG THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NO. 54 FROM THE POINT OF INTERSECTION OF THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NO. 54 AND THE WEST LINE OF LAND LOT 58; THENCE SOUTH 89 DEGREES 49 MINUTES, 376.4 FEET TO AN IRON PIN; THENCE NORTH 02 DEGREES 59 MINUTES WEST, 400 FEET TO AN IRON PIN; THENCE SOUTH 88 DEGREES 51 MINUTES EAST, 443 FEET TO AN IRON PIN; THENCE SOUTH 03 DEGREES 21 MINUTES WEST, 168 FEET TO AN IRON PIN; THENCE SOUTH 00 DEGREES 48 MINUTES WEST, 210 FEET TO AN IRON PIN ON THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY 54; THENCE SOUTH 70 DEGREES 19 MINUTES WEST, ALONG THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NO. 54, 35 FEET TO AN IRON PIN AT THE POINT OF BEGINNING.
BEING KNOWN AS 1697 HIGHWAY 54, FAYETTEVILLE, GEORGIA 30214, ACCORDING TO THE PRESENT NUMBERING SYSTEM IN FAYETTE COUNTY, GEORGIA.

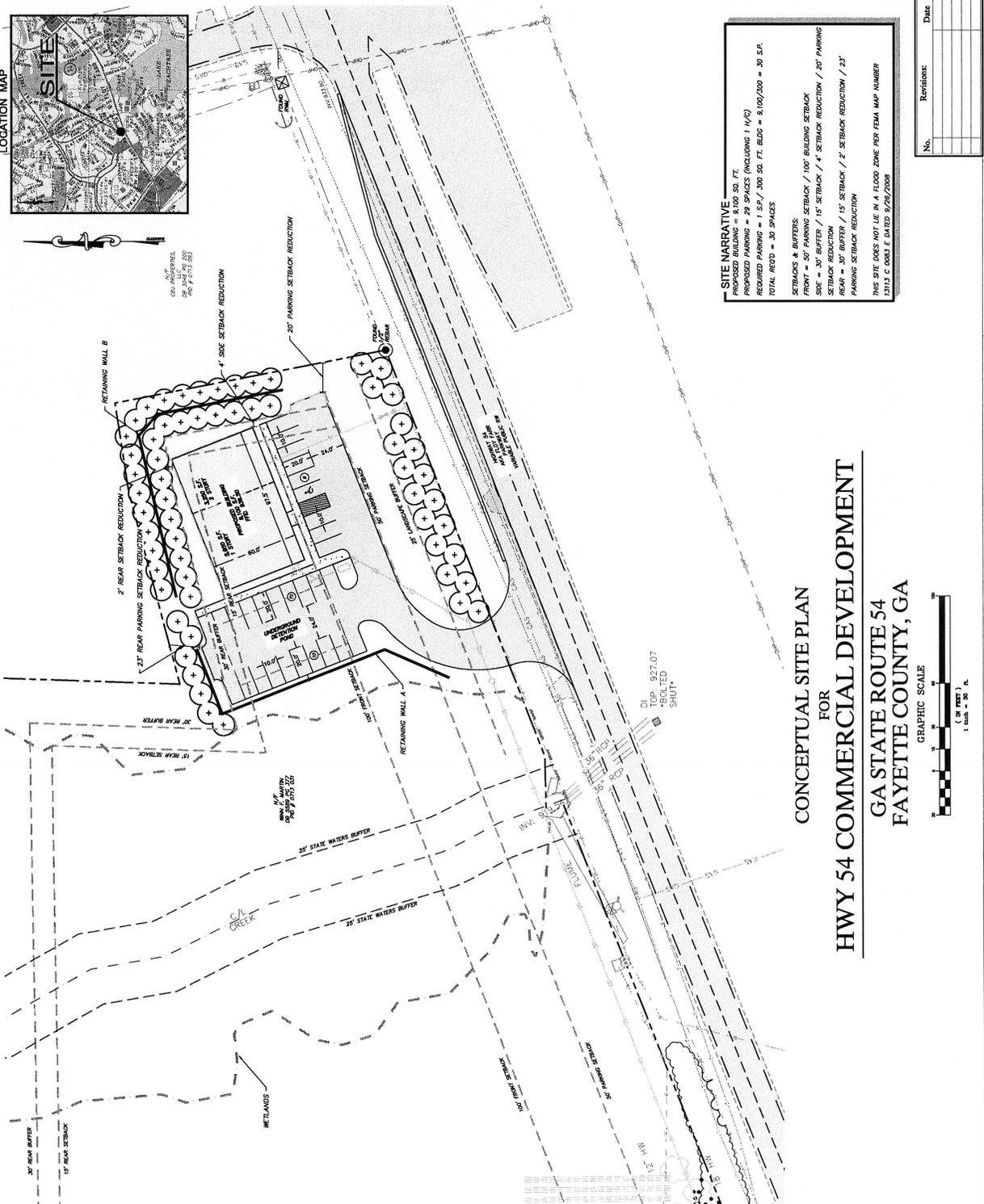


SITE NARRATIVE
 PROPOSED BUILDING = 8,100 SQ. FT.
 PROPOSED PARKING = 29 SPACES (INCLUDING 1 N/C)
 REQUIRED PARKING = 1 S.P./ 200 SQ. FT. BLDG = 9,100/200 = 30 S.P.
 TOTAL REQD = 30 SPACES
SETBACKS
 FRONT = 30' PARKING SETBACK / 100' BUILDING SETBACK
 SIDE = 30' BUFFER / 15' SETBACK / 4' SETBACK REDUCTION / 20' PARKING SETBACK REDUCTION
 REAR = 30' BUFFER / 15' SETBACK / 2' SETBACK REDUCTION / 23.7' PARKING SETBACK REDUCTION
 THIS SITE DOES NOT LIE IN A FLOOD ZONE PER FEMA MAP NUMBER 13113 C 0003 E DATED 9/29/2008

CONCEPTUAL SITE PLAN
 FOR
HWY 54 COMMERCIAL DEVELOPMENT
 GA STATE ROUTE 54
 FAYETTE COUNTY, GA



No.	Revision:	Date



SITE NARRATIVE
LIC# #: PER004167
PROPOSED BUILDING FOOTPRINT = 100' x 50' FT.
PROPOSED PARKING = 29 SPACES (INCLUDING 1 H/C)
REQUIRED PARKING = 1 S.P. / 300 SQ. FT. BLDG = 8,100/200 = 30 S.P.
TOTAL REQD. = 30 SPACES

SETBACKS & BUFFERS:
FRONT = 30' BUFFER / 15' SETBACK / 4' SETBACK REDUCTION / 20' PARKING SETBACK REDUCTION
SIDE = 30' BUFFER / 15' SETBACK / 2' SETBACK REDUCTION / 23' PARKING SETBACK REDUCTION
REAR = 30' BUFFER / 15' SETBACK / 2' SETBACK REDUCTION / 23' PARKING SETBACK REDUCTION

THIS SITE DOES NOT LIE IN A FLOOD ZONE PER FEMA MAP NUMBER 13113 C 0003 E DATED 9/26/2008

CONCEPTUAL SITE PLAN
FOR
HWY 54 COMMERCIAL DEVELOPMENT
GA STATE ROUTE 54
FAYETTE COUNTY, GA



No.	Revision:	Date

PETITION NO: A-851-23

Requested Action: To reduce the required side building setback from 15' to 14' to allow a newly constructed pool pavilion to remain.

Location: 195 Bel-Aire Loop, Fayetteville, Georgia 30215

Parcel(s): 0451 16014

District/Land Lot(s): 4th District, Land Lot(s) 225

Zoning: PUD-PRD

Lot Size: 1.01 Acres

Owner(s): Tommy M. Suggs and Margaret A. Suggs

Agent: Mark Murphy

Zoning Board of Appeal Public Hearing: December 18, 2023

REQUEST

Applicant is requesting the following:

1. Per Sec. 110-149(d)(6)(c), requesting to reduce the side yard building setback in the PUD-PRD zoning district from 15' to 14'.

STAFF COMMENTS

It is staff's opinion that granting the variance would have a minimal impact on adjacent properties. The parcel does have 2 road frontages, so the setbacks are greater than the setbacks on most residential lots. If this request is approved, there are no recommended conditions.

HISTORY

This property is part of the Creekside at Whitewater Subdivision and was rezoned to PUD-PRD on August 25, 1993. The builder obtained a building permit for the addition. However, it appears that the foundation was formed and poured in such a way that it encroaches into the side yard setback. The encroachment is at a slight angle, being approximately 11" over the side yard setback.

ZONING REQUIREMENTS

Sec. 110-149. - Planned unit development.

(d) Planned residential development.

(6) Minimum dimensional and other requirements. The minimum dimensional requirements in the PRD shall be as follows:

- a. Development size: 100 contiguous acres located within the A-R and/or residential zoning districts.
- b. Each single-family dwelling shall be placed on a separate lot.
- c. Side yard setback: 15 feet.
- d. Rear yard setback: 30 feet.
- e. Maximum density: Four units per acre (single-family attached); and one unit per acre (single-family detached). For purposes of this section, density shall be interpreted as the number of dwelling units per net acre devoted to residential development.

DEPARTMENTAL COMMENTS

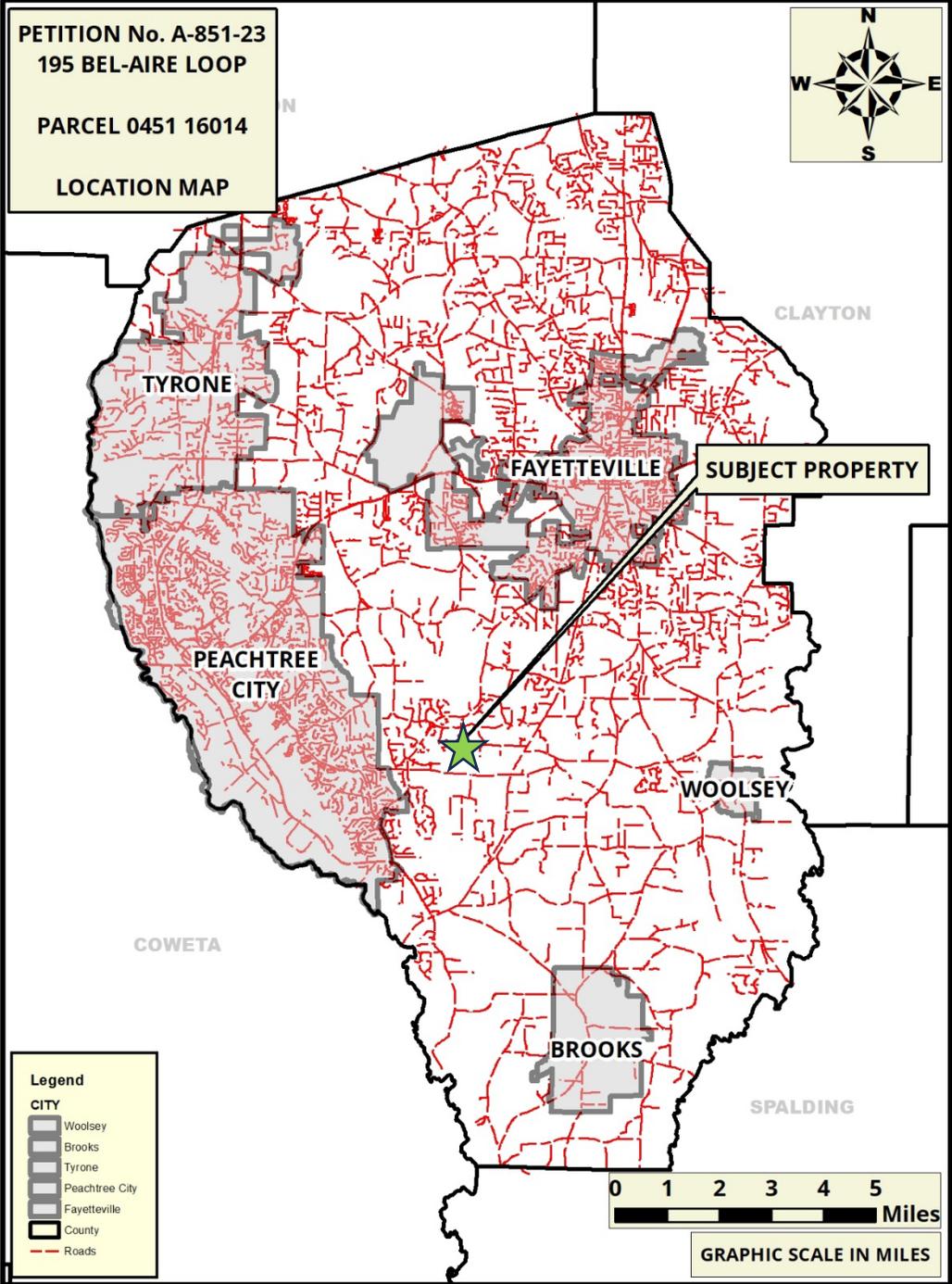
- Water System** – FCWS has no objection to the variance.
- Public Works** – No objections.
- Environmental Management** – No objections.
- Environmental Health Department** – This office has no objection to the variance. Deck has been previously approved by this office.
- Department of Building Safety** – DBS has no issue with this structure; a permit was issued RNEW-05-23-070459. Should the board approval be granted, this permit can continue with the required inspection process. Should it be denied, a demolition permit must be pulled for removal from the site.
- Fire** – No objections.

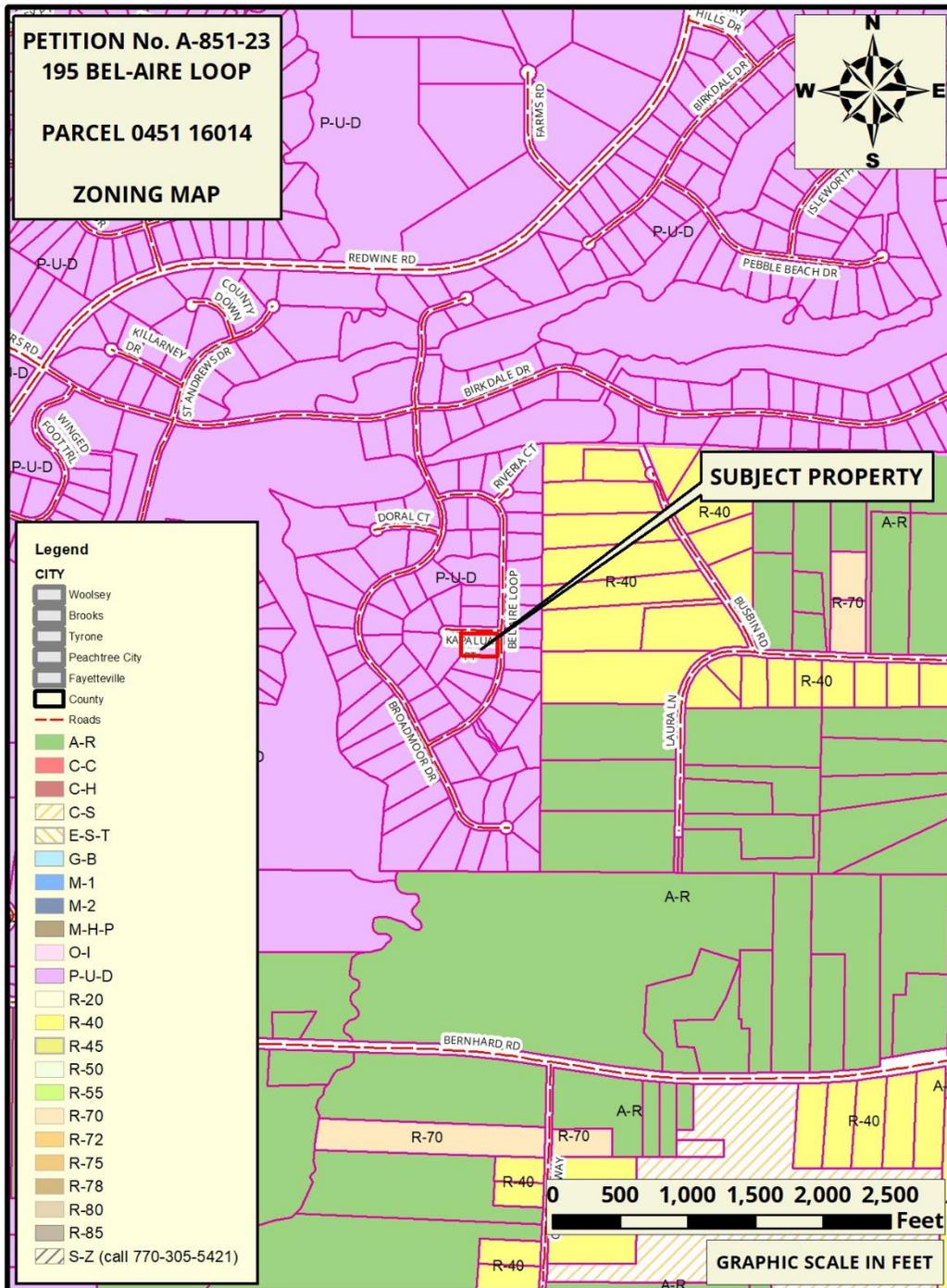
VARIANCE SUMMARY & CRITERIA FOR CONSIDERATION

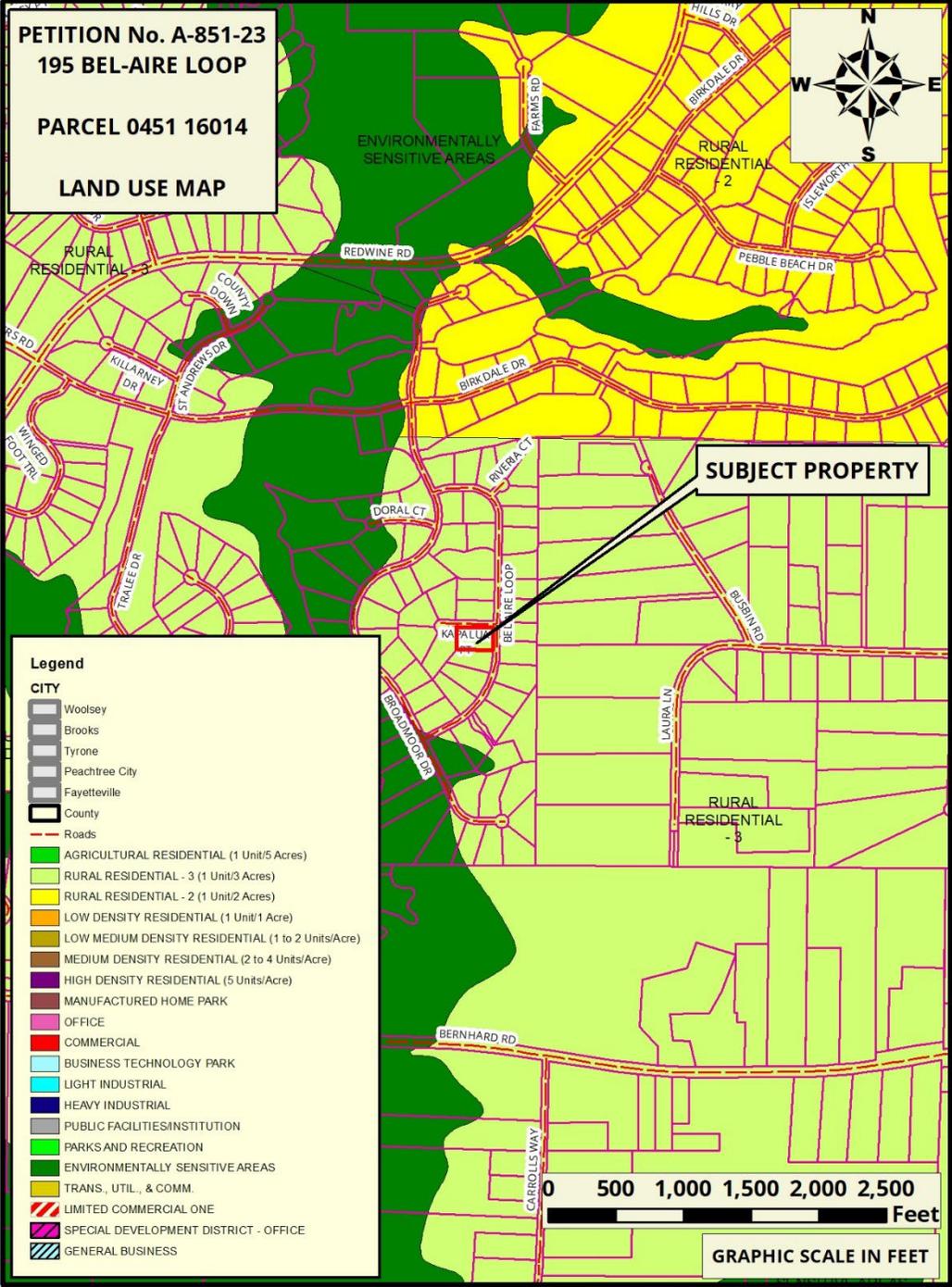
Please refer to the application form for the applicant's justification of criteria.

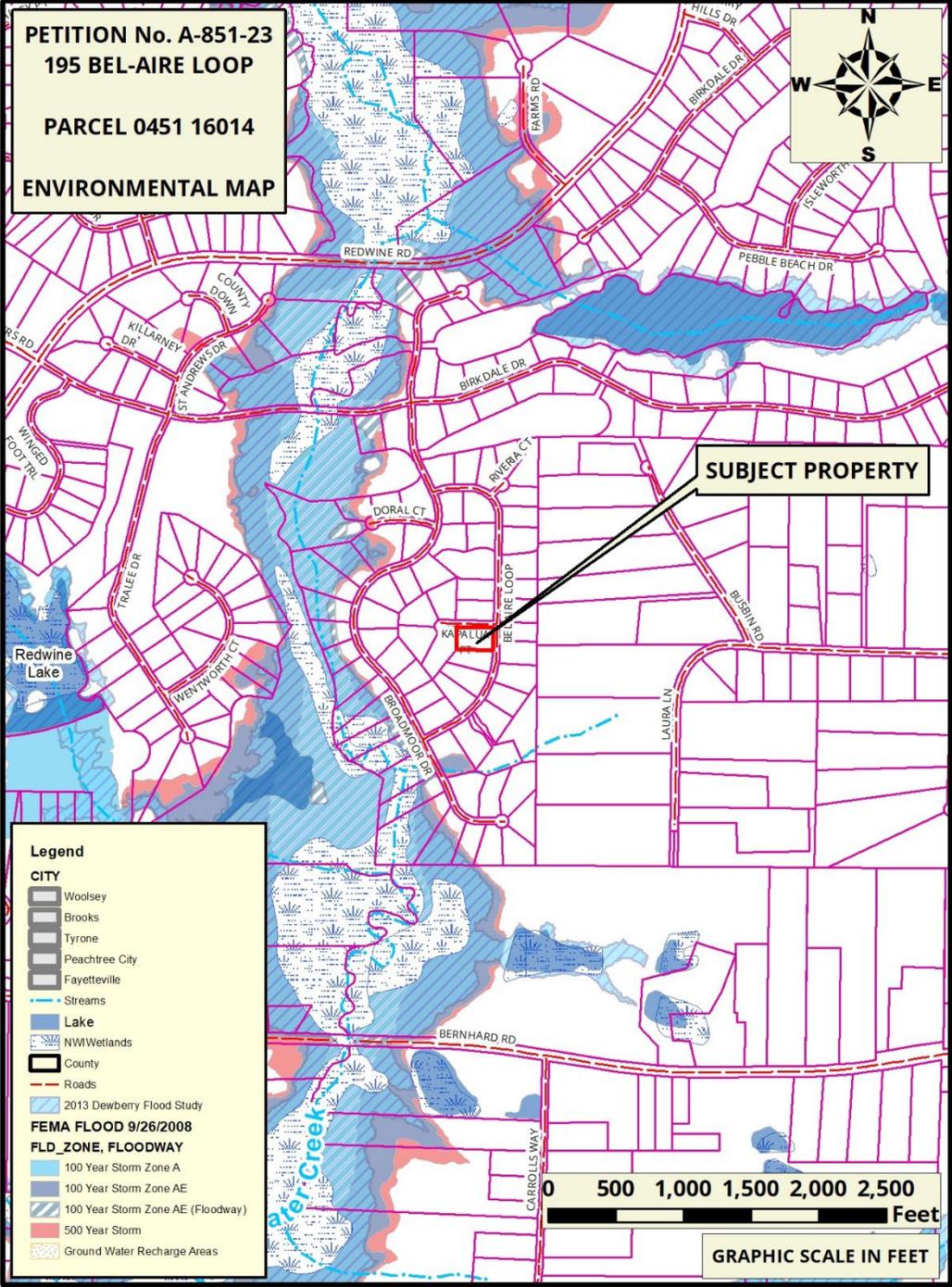
The Fayette County Zoning Ordinance, Sec. 110-242. (b) states that in order to grant a variance, the Zoning Board of Appeals shall and must find that all five (5) conditions below exist.

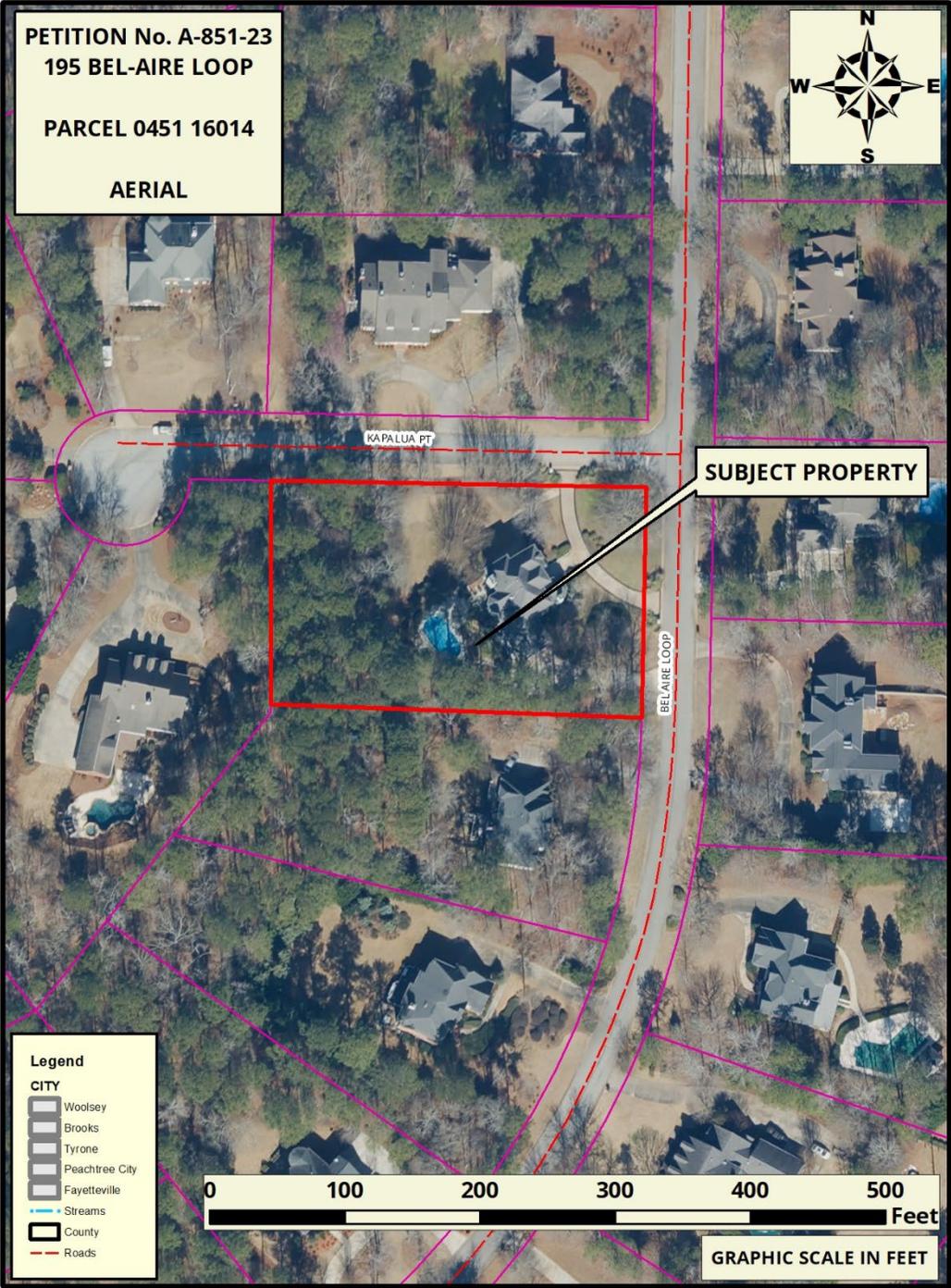
1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.
2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and,
3. Such conditions are peculiar to the particular piece of property involved; and,
4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations; provided, however, no variance may be granted for a use of land or building or structure that is prohibited by this Ordinance; and
5. A literal interpretation of this Ordinance would deprive the applicant of any rights that others in the same District are allowed; and,

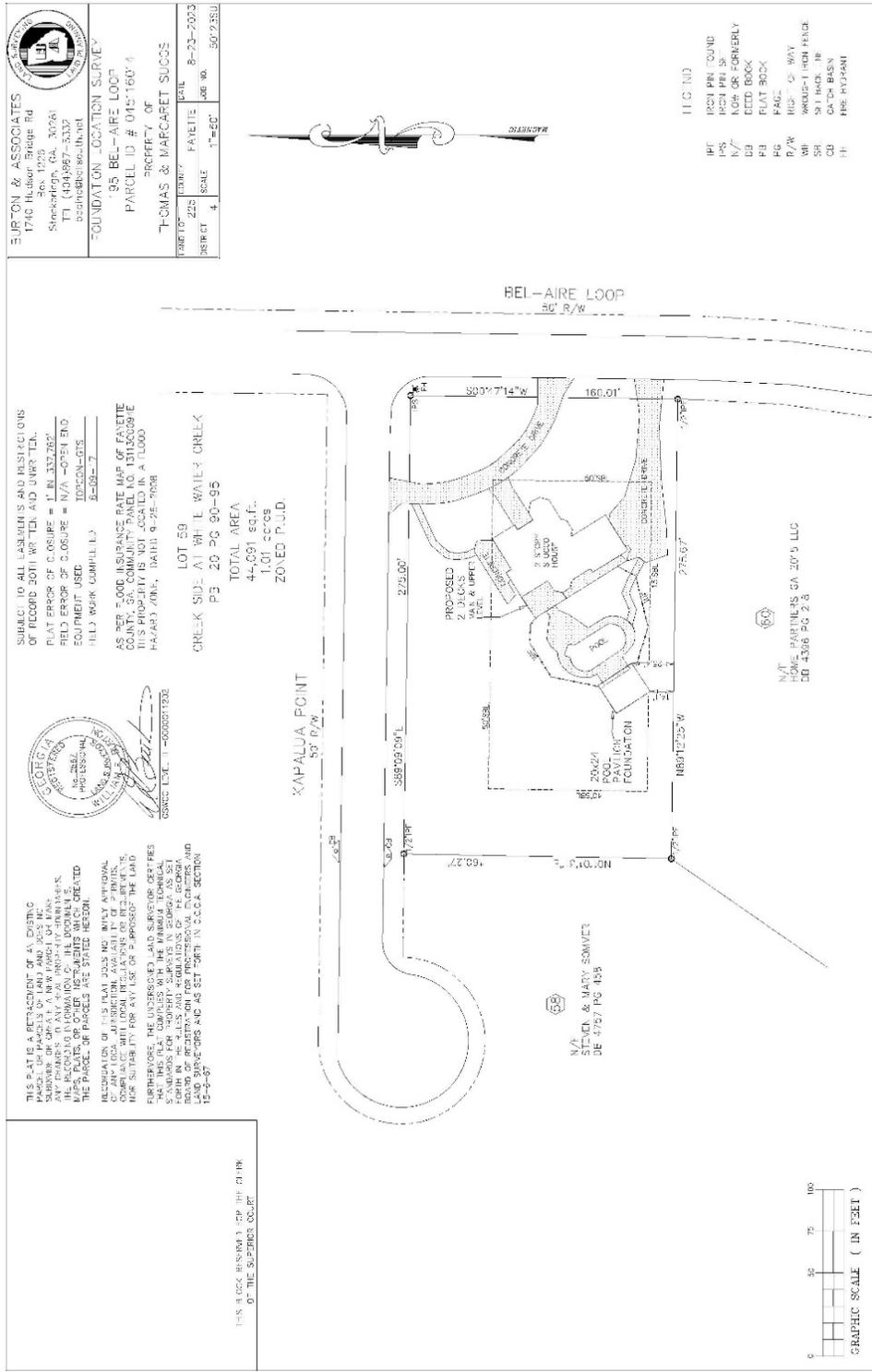




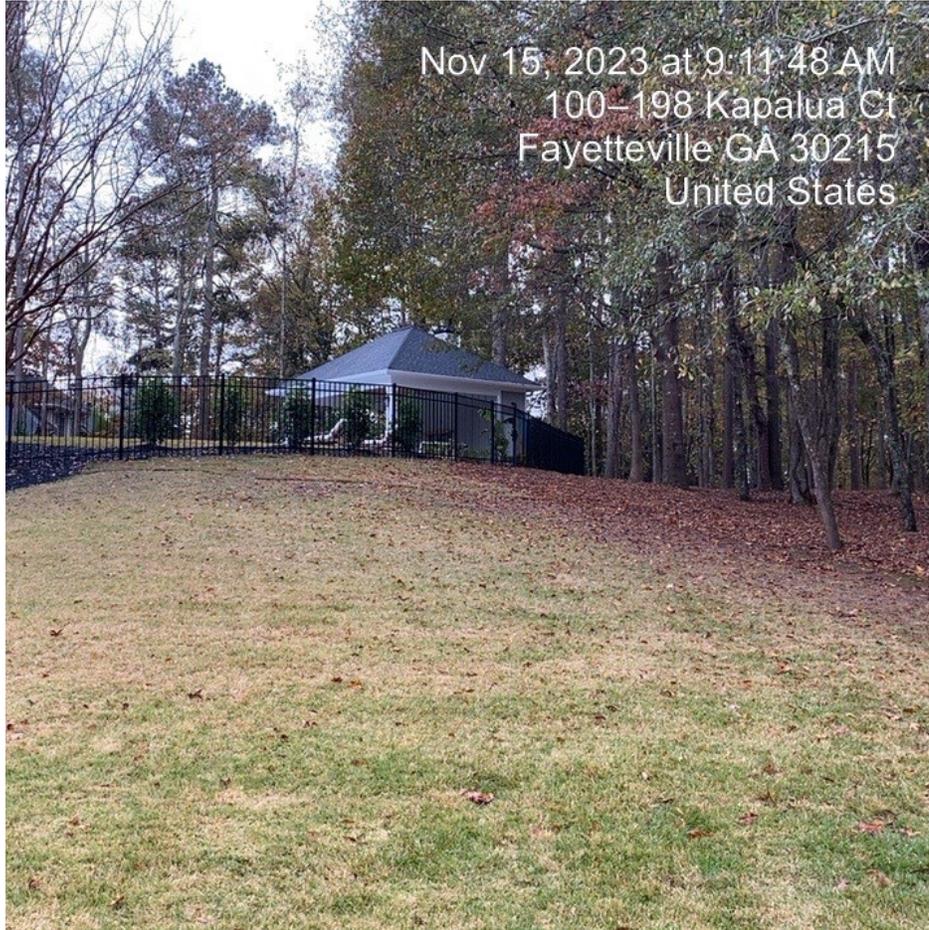








FOUNDATION SURVEY (See close-up next page)



Residential Accessory – Pool Pavilion in Back Yard

VARIANCE APPLICATION TO THE ZONING BOARD OF APPEALS

PROPERTY INFORMATION:

Parcel No. 045116014 Acreage: 1.01
Land Lot: 225 Land District: 4
Address: 195 Bel Nive Loop Fayetteville Ga
Existing Zoning: PUD-PRD Requested Zoning: _____
Zoning of Surrounding Properties: PUD-PRD
Existing Use: N/A Proposed Use: Pool Pavilion

PROPERTY OWNER INFORMATION

Name Tommy & Margaret Suggs
Email Suggstmu@aol.com
Address 195 Bel Nive Loop
City Fayetteville
State Ga Zip 30214
Phone 678/898/8030

AGENT/DEVELOPER INFORMATION

(If not owner)

Name Mark Murphy
Email markm.shs@gmail.com
Address 1104 McDonough Place
City McDonough Ga
State Ga Zip 30253
Phone 404-217-1363

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: A-851-23

[] Application Insufficient due to lack of:

by Staff: _____ Date: _____

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

by Staff: _____ Date: _____

DATE OF ZONING BOARD OF APPEALS HEARING: _____

Received from _____ a check in the amount of \$ 175.00

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

Date Paid: _____ Receipt Number: _____

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:

Thomas & Margaret Suggs.

Please Print Names

Property Tax Identification Number(s) of Subject Property: 045116014

(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) 225 of the District, and said property consists of a total of 1.01 acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

(I) (We) hereby delegate authority to Mark Murphy 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.

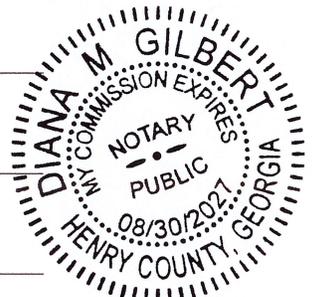
(I) (We) certify that all of the information filed with this application including written statements or showings made in any paper or plans submitted herewith are true and correct to the best of (my) (our) knowledge and belief. Further, (I) (We) understand that this application, attachments and fees 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

195 BEL AIR LOOP
Address

Diana M Gilbert
Signature of Notary Public

10/18/23
Date

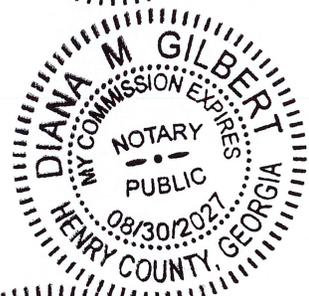


Margaret Suggs
Signature of Property Owner 2

195 BELAIRE LOOP
Address

Diana M Gilbert
Signature of Notary Public

10/18/23
Date

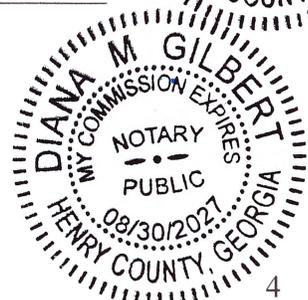


Mark Murphy
Signature of Authorized Agent

1104 McDonagh Place
Address

Diana M Gilbert
Signature of Notary Public

10/18/23
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. 110-149(d) (b)(c)	15' right side set back	14.1'	12"

VARIANCE SUMMARY

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

We have a pool pavilion that the left rear
 corner went over the setback line 9". Only
 the corner not the side or rear.

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 property is a corner lot. The pool was already installed. The house was built facing the corner of the lot, therefore the pavilion was on the opposite corner.

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

The pavilion is centered of the pool. Its 10' from waters edge to meet requirement. Moving the pavilion would be off center of the pool. Shrinking it in size would limit living area under roof.

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

- ① Corner lot
- ② house sits at an angle on the lot
- ③ Pool pavilion is already built.

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.

We have a letter from HOA & from rear neighbor stating there is no issue with the placement of pavilion. Neighbor to the left is owned by rental management company.

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

I'm not sure the question.

125 COMMERCE DR SUITE G
FAYETTEVILLE, GA 30214
JACKIE AVRETT
File No. 5940702684

WARRANTY DEED

STATE OF GEORGIA COUNTY OF FAYETTE

THIS INDENTURE, Made the 15th day of July, in the year one thousand nine hundred ninety-four, between

ACCENT HOMES PROFIT SHARING PLAN AND TRUST
of the County of FAYETTE, and State of Georgia, as party or parties of the first part, hereinafter called Grantor, and
TOMMY M. SUGGS AND MARGARET A. SUGGS

AS JOINT TENANTS WITH RIGHT 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 TEN AND NO/100 (\$10.00) DOLLARS in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

All that tract or parcel of land lying and being in Land Lot 225 of the 4th District, Fayette County, Georgia, being Lot 59, of Creekside at Whitewater Creek, as per plat recorded in Plat Book 20, Page 90-95, Fayette County Records, which plat is incorporated herein by this reference and made a part of this description.

FAYETTE COUNTY, GEORGIA
REAL ESTATE TRANSFER TAX
PAID 40.00
DATE 7-26-94
W. A. Ballard
CLERK OF SUPERIOR COURT

FILED & RECORDED
FAYETTE COUNTY, GA.

'94 JUL 26 PM 1 21

W. A. BALLARD
CLERK OF SUPERIOR COURT

This conveyance is made subject to all easements, covenants and restrictions 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.

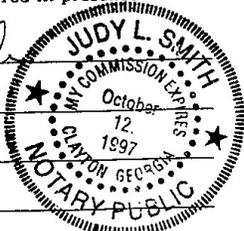
AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons whomsoever.

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

Signed, sealed and delivered in presence of:

Walter A. Miller
WITNESS

J. Smith
NOTARY PUBLIC



ACCENT HOMES PROFIT SHARING PLAN AND TRUST

By: *Jerry J. Crozier* (Seal)
JERRY J. CROZIER, TRUSTEE (Seal)

BOOK 930 PAGE 707 (Seal)

(Seal)

B4 Fayette County News

FAYETTE COUNTY

PETITIONS FOR VARIANCE(S)/ ADMINISTRATIVE 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, December 18, 2023, at 7:00 P.M., Fayette County Administrative Complex, Public Meeting Room, 140 Stonewall Avenue West, first floor.

Petition No.: A-849-23

Owner(s)/Agent: Larry Hunter, Owner

Property Address: 1351 Highway 85 South, Fayetteville, GA 30215

Parcel: 050302023

Zoning District: R-40

Area of Property: 2.696 acres

Land Lot(s): 5

District: 28th

Road Frontage: Highway 85 South

Request:

1. Variance to Sec. 110-79(e)(1)(a). - To allow a detached garage in the front yard that is more than 35' from the principal structure.

2. Variance to Sec. 110-79(e)(1)(d). - To allow a detached garage in the front yard without an attached or detached breezeway, deck, or pergola.

Legal Description:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN THE LAND LOT 28 OF THE 5TH DISTRICT OF FAYETTE COUNTY, GEORGIA, BEING LOT 23 OF WHIPPOORWILL RIDGE SUBDIVISION, AS PER PLAT RECORDED IN PLAT BOOK 11, PAGE 193, IN THE OFFICE OF THE CLERK OF THE SUPERIOR COURT OF FAYETTE COUNTY, GEORGIA SAID PLAT BEING MADE A PART HEREOF BY REFERENCE.

11/15

PETITIONS FOR VARIANCE(S)/ ADMINISTRATIVE 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, December 18, 2023, at 7:00 P.M., Fayette County Administrative Complex, Public Meeting Room, 140 Stonewall Avenue West, first floor.

Petition No.: A-850-23

Owner(s)/Agent: Salima Charania, Erum Ali - Beyond Horizon, LLC

Robert King - Paragon Construction

Parcel: 0713-031

Zoning District: O-I

Area of Property: 5.31 acres

Land Lot(s): 58

District: 7th

Road Frontage: Highway 54

Request:

1. Variance to Sec. 110-142(f)(5) (a) to reduce the side yard setback from 15' to 4' for new building.

2. Variance to Sec. 110-142(f)(5) (b) to reduce the rear yard setback from 15' to 4' for new building.

3. Variance to Sec. 110-142(f)(6) to reduce buffer from 30' to 23' in the rear yard for parking.

4. Variance to Sec. 110-142(f)(6) to reduce buffer from 30' to 20' in the side yard for parking.

5. Variance to Sec. 104-221(35) to reduce the required number of parking spaces for an office building from 30 to 29.

Legal Description:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING in Land Lot 58 of the 7th District, Fayette County, Georgia being more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference.

EXHIBIT A

Legal Description

TRACT ONE:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 58 OF THE 7TH DISTRICT OF FAYETTE COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 (AS ORIGINALLY LOCATED) WITH THE EAST LINE OF LAND LOT 58; RUNNING THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 (AS ORIGINALLY LOCATED) 600.0 FEET TO AN IRON PIN FOUND; RUNNING THENCE NORTH 09 DEGREES 34 MINUTES 30 SECONDS WEST 6.59 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 AS PRESENTLY LOCATED, WHICH IS THE TRUE POINT OF BEGINNING; SAID BEGINNING POINT IS ALSO BEING LOCATED AT THE SOUTHWESTERLY CORNER OF PROPERTY NOW OR FORMERLY OWNED BY REBECCA COOK AND MARVIN F. COOK, JR., AS

PRESENTLY LOCATED; SAID POINT ALSO BEING LOCATED 197.27 FEET SOUTHWESTERLY FROM THE INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54 (AS PRESENTLY LOCATED) WITH THE RIGHT OF WAY LINE OF FLAT CREEK ROAD; RUNNING THENCE NORTH 09 DEGREES 34 MINUTES 30 SECONDS WEST ALONG THE WESTERLY LINE OF SAID COOK PROPERTY 197.98 FEET TO AN IRON PIN FOUND; RUNNING THENCE SOUTH 82 DEGREES 49 MINUTES 20 SECONDS WEST 65.84 FEET TO AN IRON PIN FOUND; RUNNING THENCE SOUTH 76 DEGREES 24 MINUTES 28 SECONDS WEST 132.04 FEET TO AN IRON PIN FOUND ON THE EASTERLY LINE OF PROPERTY NOW OR FORMERLY OWNED BY CAROLYN MCCULLOUGH AND FRANCES O. BLACK; RUNNING THENCE SOUTH 00 DEGREES 48 MINUTES 37 SECONDS WEST ALONG THE EASTERLY LINE OF SAID MCCULLOUGH/BLACK PROPERTY 201.93 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54, AS PRESENTLY LOCATED; RUNNING THENCE NORTH 69 DEGREES 36 MINUTES 35 SECONDS EAST ALONG THE NORTHWESTERLY RIGHT OF WAY LINE OF STATE ROUTE 54, AS PRESENTLY LOCATED, 245.65 FEET TO THE POINT OF BEGINNING BEING MORE PARTICULARLY SHOWN ON PLAT OF SURVEY PREPARED BY ROBERT M. KIRKLEY LAND SURVEYOR, DATED MAY 1, 1989.

TRACT TWO:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 58 OF THE 7TH DISTRICT OF FAYETTE COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN ON THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NUMBER 54, 2,425.4 FEET NORTHEASTERLY, AS MEASURED ALONG THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NO. 54 FROM THE POINT OF INTERSECTION OF THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NO. 54 AND THE WEST LINE OF LAND LOT 58; THENCE SOUTH 89 DEGREES 49 MINUTES, 376.4 FEET TO AN IRON PIN; THENCE NORTH 02 DEGREES 59 MINUTES WEST, 400 FEET TO AN IRON PIN; THENCE SOUTH 88 DEGREES 51 MINUTES EAST, 443 FEET TO AN IRON PIN; THENCE SOUTH 03 DEGREES 21 MINUTES WEST, 168 FEET TO AN IRON PIN; THENCE SOUTH 00 DEGREES 48 MINUTES WEST, 210 FEET TO AN IRON PIN ON THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY 54; THENCE SOUTH 70 DEGREES 19 MINUTES WEST, ALONG THE NORTHWESTERLY SIDE OF GEORGIA HIGHWAY NO. 54, 35 FEET TO AN IRON PIN AT THE POINT OF BEGINNING. BEING KNOWN AS 1697 HIGHWAY 54, FAYETTEVILLE, GEORGIA 30214, ACCORDING TO THE PRESENT NUMBERING SYSTEM IN FAYETTE COUNTY, GEORGIA.

11/15

PETITIONS FOR VARIANCE(S)/ ADMINISTRATIVE 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, December 18, 2023, at 7:00 P.M., Fayette County Administrative Complex, Public Meeting Room, 140

Stonewall Avenue West, first floor.

Petition No.: A-851-23

Owner(s)/Agent: Tommy & Margaret Suggs

Mark Murphy

Property Address: 195 Bel Aire Loop, Fayetteville, GA 30215

Parcel: 45116014

Zoning District: PUD

Area of Property: 1.01 acres

Land Lot(s): 225

District: 4th

Road Frontage: Bel Aire Loop

Request: Variance to Sec. 110-149(d) (6) (c) to reduce the side setback from 15' to 14'.

Legal Description:

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11/15

B4 Fayette County News

FAYETTE COUNTY

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Area of Property: 2.696 acres

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District: 28th

Road Frontage: Highway 85 South

Request:

1. Variance to Sec. 110-79(e)(1)(a). - To allow a detached garage in the front yard that is more than 35' from the principal structure.

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Robert King - Paragon Construction

Parcel: 0713-031

Zoning District: O-1

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Road Frontage: Highway 54

Request:

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Mark Murphy

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Parcel: 45116014

Zoning District: PUD

Area of Property: 1.01 acres

Land Lot(s): 225

District: 4th

Road Frontage: Bel Aire Loop

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Legal Description:

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