Print Form

COUNTY DEPARTMENT AGENDA REQUEST

Department/Division: Planning & Zoning/Community Dev.

Department Head: Peter A. Frisina

Presenter, if needed: Dennis Dutton/Pete Frisina

Preferred Meeting Date: Thursday, October 23, 2008

Wording for the Agenda:

Consideration of Petition No. 1211-08, J. Neil and T. Kay Davis, Owners/Agents, request to rezone 2.469 acres from R-70 to O-I to develop uses allowed under the O-I Zoning District. This property is located in Land Lot 127 of the 5th District and fronts on S.R. 54 West.

Background/History/Details:

Petition No. 759-90 was denied by the B.O.C. on October 25, 1990, to rezone the subject property from R-70 to C-C to develop a banquet hall to be used in conjunction with the Old Mill Restaurant.

See attached materials for more information.

What action are you seeking from the Board of Commissioners?

Consideration for vote on the request.

The P.C. recommended denial (5-0).

If this item requires funding, please describe:

N/A

Has this issue come before the Commissioners in the past? Yes

If so, when? October 25, 1990

Do you need audio-visual for the presentation? Yes

Back-up Material Submitted? Yes

STAFF USE ONLY

Approved by Finance? Yes

Reviewed by Legal? Yes

Approved by Purchasing? Yes

Approved by Administrative Staff? Yes

Staff Notes

Administrator's Approval Yes

Confirmed Meeting Date Thursday, October 23, 2008

- ○ Recognition/ Presentation
- ◉ Public Hearing
- ○ Old Business
- ○ New Business
- ○ Consent
- ○ Report
- ○ Other

PLANNING COMMISSION REZONING REPORT

PETITION NO.: 1211-08

APPLICANT: J. Neil and T. Kay Davis
1095 S.R. 54 West
Fayetteville, Ga 30214

STAFF RECOMMENDATION: **DENIAL**

PLANNING COMMISSION HEARING: October 2, 2008

PLANNING COMMISSION RECOMMENDATION: **DENY 5-0**

BOARD OF COMMISSIONERS HEARING: October 23, 2008

COMMISSION DECISION: _____

REQUEST: Request to rezone 2.469 acres from R-70 to O-I to develop Uses allowed under the O-I Zoning District.

PARCEL SIZE: 2.469 acres

EXISTING USE: Single-Family Dwelling

PROPOSED USE: Uses allowed under the O-I Zoning District

LOCATION: Land Lot 127 of the 5th District and fronts on S.R. 54 West

ZONING OF SURROUNDING PROPERTY:

LAND USE PATTERN: Low Density Residential 1 unit/1 to 2 acres and S.R. 54 West Overlay and Conservation Areas

PLANNING COMMISSION HEARING NOTES:

See Attached Minutes.

MOTION AND VOTE OF PLANNING COMMISSION:

Tim Thoms made a motion to recommend denial the petition. Jim Graw seconded the motion. The motion recommending denial unanimously passed 5-0.

REASON(S) FOR RECOMMENDATION:

Public safety issues and vehicular/traffic hazards.

PLANNING COMMISSION RECOMMENDATION

DATE: October 2, 2008

TO: Fayette County Commissioners

The Fayette County Planning Commission recommends that Petition No. 1211-08, the application of J. Neil and T. Kay Davis to rezone 2.469 acres from R-70 to O-I, be:

_____ Approved _____ Withdrawn X Disapproved 5-0

_____Tabled until _____

This is forwarded to you for final action.

DOUGLAS L. POWELL, CHAIRMAN

AL GILBERT, VICE-CHAIRMAN

BILL BECKWITH

TIM THOMS

JIM GRAW

Remarks:

_____

_____

_____

Fayette County
GEORGIA

Where Quality Is A Lifestyle

To: Fayette County Board of Commissioners

From: Dennis S. Dutton, Fayette County Planning & Zoning

Date: October 9, 2008

Subject: Board of Commissioners Public Hearing, October 23, 2008

The attached report is submitted for your consideration and contains the Staff's and the Planning Commission's Recommendations on the rezoning applications and the revised final plat applications scheduled for public hearing on October 23, 2008.

PAGE	PETITION NUMBER	LOCATION/ REQUEST	STAFF RECOMMENDATION	PLANNING COMMISSION RECOMMENDATION
1-1	1211-08	S.R. 54 West/ O-I Uses	**DENY**	**DENY 5-0**
1-2	1212-08 and RP-043-08	S.R. 54 West and Old Mill Court/C-C Uses and Change the use of Lot 1 of Crystal Lake Estates from Single-Family Dwelling to C-C Uses	**APPROVE WITH THREE (3) CONDITIONS**	**APPROVE 3-2 WITH THREE (3) CONDITIONS #1 MODIFIED BY PC #2 AND #3 AS SUBMITTED BY STAFF RP-043-08 MOOT**

DSD/rsw

cc: Peter A. Frisina, Director of Community Development
Tom Williams, Assistant Director of Planning & Zoning
Robyn S. Wilson, P.C. Secretary/Zoning Coordinator

REQUESTED ACTION: R-70 (Single-Family Residential) to O-I (Office-Institutional)

PROPOSED USE: Uses allowed under the O-I Zoning District

EXISTING USE: Single-Family Dwelling

LOCATION: S.R. 54 West

DISTRICT/LAND LOT(S): 5th District, Land Lot(s) 127

OWNER: J. Neil and T. Kay Davis

APPLICANT: Same

PLANNING COMMISSION PUBLIC HEARING: October 2, 2008

BOARD OF COMMISSIONERS PUBLIC HEARING: October 23, 2008

APPLICANT'S INTENT

Applicant proposes to develop uses allowed under the O-I Zoning District on 2.469 acres consisting of one (1) lot.

STAFF RECOMMENDATION

DENY

INVESTIGATION

A. PROPERTY SITE

The subject property is a 2.469 acre tract fronting on S.R. 54 West in Land Lot(s) 127 of the 5th District. S.R. 54 West is classified as a Major Arterial road on the Fayette County Thoroughfare Plan. The subject property contains a single-family dwelling consisting 2,778 square feet per the tax records and is currently zoned R-70.

History:

On August 27, 1990, a letter was prepared for Mr. Davis by the Zoning Administrator at that time which stated that the subject property was incorrectly identified on the Official Fayette County Zoning Map from approximately 1983 until 1988, due to an error in the placement of the zoning boundary lines. The map was corrected in 1988, to reflect the true zoning of the subject property as R-70.

Petition No. 759-90 was denied by the B.O.C. on October 25, 1990, to rezone the subject property from R-70 to C-C to develop a banquet hall to be used in conjunction with the Old Mill Restaurant.

B. SURROUNDING ZONING AND USES

The general situation is a 2.469 acre tract that is zoned R-70. In the vicinity of the subject property is land which is zoned C-C Conditional (See Petition No. 1212-08), O-I, A-R, R-40, and R-70. See the following table and also the attached Zoning Location Map.

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

Direction	Acreage	Zoning	Use	Comprehensive Plan
North		R-70	Lake Bennett	Conservation Areas
South (across S.R. 54 West)	3.56	O-I	Vacant	Low Density Residential (1 unit/1 to 2 acres) and the S.R. 54 West Overlay Zone and Conservation Areas
	1.29	A-R	Vacant (owned by GDOT)	Low Density Residential (1 unit/1 to 2 acres) and the S.R. 54 West Overlay Zone and Conservation Areas
	2.00	C-H	Building	Low Density Residential (1 unit/1 to 2 acres) and the S.R. 54 West Overlay Zone and Conservation Areas
	10.00	A-R	Single-Family Dwelling	Low Density Residential (1 unit/1 to 2 acres) and the S.R. 54 West Overlay Zone and Conservation Areas
East	4.437	C-C Conditional See Petition No. 1212-08 from C-C Conditional to C-C)	Restaurant (currently closed), parking, drain field lines, and distribution box	Low Density Residential (1 unit/1 to 2 acres) and the S.R. 54 West Overlay Zone and Conservation Areas
	Crystal Lake Estates S/D	R-70	Single-Family Residential Subdivision	Low Density Residential (1 unit/1 to 2 acres) and the S.R. 54 West Overlay Zone and Conservation Areas
West	26.9	R-70	Building	Low Density Residential (1 unit/1 to 2 acres) and the S.R. 54 West Overlay Zone and Conservation Areas
		R-40	Single-Family Residential Subdivision (Lakeview Estates)	Low Density Residential (1 unit/1 to 2 acres) and the S.R. 54 West Overlay Zone

C. COMPREHENSIVE PLAN

The subject property lies within an area designated for Low Density Residential 1 unit/1 to 2 acres, Conservation Areas (environmentally sensitive areas, containing waterways, watershed protection areas, floodplains, poor soils and steep slopes and S.R. 54 West Overlay. In terms of the S.R. 54 West Overlay District, this request conforms to the Fayette County Comprehensive Plan. However, a great deal of the subject property is contained in Conservation Areas which is an area that would present development constraints (See Engineering Comments).

D. ZONING/REGULATORY REVIEW

The applicant seeks to rezone from R-70 to O-I for the purpose of developing uses allowed under the O-I Zoning District.

Setbacks and Buffers

Zoning District	Zoning Setbacks	Minimum Lot Size	Minimum House Size	Lot Width at Building Line	Buffer
R-70 (existing zoning district)	F - 75' Arterial F - 75' Collector F - 50' Local S - 25' R - 50'	2 Acres	1,500 sq ft	175' Arterial 175' Collector 150' Minor	N/A
O-I (proposed zoning district)	F - 75' Arterial F - 70' Collector F - 55' Minor S - 15' Side R - 15' Rear	1 Acre* 0.5 Acres **	N/A	125"	30' required adjacent to residential or A-R zoning districts

* A minimum lot size of one (1) acre where a central water distribution system is provided.

** One-half (.50) acre where a central sanitary sewage and central water distribution systems are provided.

State Route Overlay

Due to the frontage on State Route 54 West, development of the property is subject to the requirements of the State Route 54 West Overlay Zone. The Overlay Zone requirements are in addition to the zoning district requirements and any Conditional Use requirements, and in cases where there is a conflict between requirements, the most restrictive regulation applies. Overlay Zone requirements including, but not limited to, the following: a 100 foot setback from the right-of-way of SR 54, a 50 foot setback for impervious surfaces from right-of-way of SR 54, and architectural standards for buildings which require a residential character including a pitched peaked roof, a residential façade, and doors and windows of a residential character.

Right-of-Way Requirements

S.R. 54 West is classified as a Major Arterial road (major thoroughfare) on the Fayette County Thoroughfare Plan. This being a State Route, any dedication will be the responsibility of the Georgia Department of Transportation (GDOT) to secure from the property owner.

Access

The Concept Plan submitted indicates one (1) off-site driveway access from S.R. 54 West via a 25 foot easement. The existing driveway serves two additional residential lots. The subject property has approximately 130 feet of frontage along the right-of-way of S.R. 54 West; however, due to an existing bridge and guardrail, access to the subject property along its road frontage is not feasible.

Design and construction of nonresidential drives, as would be required under O-I zoning, shall satisfy both GDOT and Fayette County requirements. Providing safe means of ingress and egress is an Engineering concern as there does not appear to be room for a traditional deceleration lane. GDOT would ultimately dictate and approve required improvements within the right-of-way prior to issuing a driveway permit.

Per the Engineering Department, if the driveway is required to be shifted to the west and upgraded to meet commercial standards, as per the GDOT comments, the nonresidential access would be off-site. A separation distance of 300 feet is required between a residential and nonresidential driveway. Commercial standards for a driveway along S.R. 54 West (55 mph) includes, but is not limited to: a 350 foot deceleration lane and a 50 foot acceleration lane (taper) and an additional island may be required for a right-in/right-out access. Therefore, the existing driveway access which serves the subject property and the two (2) additional residential lots could not remain in its current location and the new driveway cut to serve the nonresidential use of the subject property would also have to provide access for the two (2) aforementioned residential lots mixing nonresidential and residential traffic in one (1) driveway cut. Given the limited area, it would not appear to be enough room for a separate driveway cut for the two (2) residential lots. As a condition of zoning, if this petition is approved, a permanent easement for other means of access shall be provided for any other lot(s) dependent upon the existing driveway for access.

Site Plan

Should this petition be approved, the owner/developer must submit a Site Plan as required by Section 8-26., c. of the Development Regulations. Access must comply with the provisions of Section 8-53. of the Development Regulations and the Georgia D.O.T., as appropriate. The subject property must comply with Fayette County ordinances

including but not limited to: Section 5-18. Screening Required and Section 5-19. Screening Standards of the Fayette County Zoning Ordinance and 8-159. Fayette County Landscape and Buffer Requirements, Article VI. Tree Retention, Protection, and Replacement, and Article VIII. Off-Street Parking and Service Requirements of the Fayette County Development Regulations.

Per the Engineering Department and Public Works Department, the site has many constraints due to its size, shape, and proximity to Whitewater Creek and does not currently meet minimal Development Standards (such as parking, landscaping and stormwater management). These requirements would have to be satisfied via an approved Site Plan prior to any O-I use on the property.

E. TRAFFIC AND TRIP GENERATION

Per the Planning & Zoning Department
Comparative Trip Generation Table
Existing R-70 Use vs. Potential O-I Use

One Dwelling Unit: Existing Structure – 2,780 sf
Lot Size: 2.5 acres

Land Use Category – Single-Family Residential			
	Weekday	**Sat.**	**Sun.**
Trip Gen. Rate	9.57	10.1	8.78
# Dwelling Unit	1	1	1
24 hr Trip Ends	**10**	**10**	**9**

Potential O-I Use as Medical/Dental Office
Existing Structure Size: 2,800 sf

Land Use Category – Medical/Dental Office			
	Weekday	**Sat.**	**Sun.**
Trip Gen. Rate	44.32	42.04	20.43
Total S.F./1,000	2.8	2.8	2.8
24 hr Trip Ends	**124**	**118**	**57**

Difference in Daily Vehicle Trips			
	Weekday	**Sat.**	**Sun.**
Single-Family Dwelling	10	10	9
Medical/Dental Office	124	118	57
24 hr Trip Ends	**+114**	**+108**	**+48**

Potential O-I Use as General Office
Existing Structure Size: 2,800 sf

Land Use Category – General Office			
	Weekday	**Sat.**	**Sun.**
Trip Gen. Rate	11.01	2.37	0.98
Total S.F./1,000	2.8	2.8	2.8
24 hr Trip Ends	**31**	**7**	**3**

Difference in Daily Vehicle Trips			
	Weekday	**Sat.**	**Sun.**
Single-Family Dwelling	10	10	9
General Office	31	7	3
24 hr Trip Ends	**+21**	**(3)**	**(6)**

F. DEPARTMENTAL COMMENTS

Water System

County water is available.

Engineering

Floodplain

The property does contain floodplain per FEMA FIRM panel 13113C0103E. Improvements to the site may be constrained because of the property's proximity to Whitewater Creek.

The subject property is located within the floodway of Whitewater Creek. Structures shall not be allowed in the floodway (Zone AE). The floodway is indicated in the hatched areas on the attached map in Figure 1.

Article IV. Floodplain Management, Section 2. Definitions states: "Floodway" or "Regulatory Floodway" means the channel of a stream or other watercourse and the adjacent areas of the floodplain which is necessary to contain and discharge the base flood flow without cumulatively increasing the base flood elevation more than one (1) foot.

Article IV. Floodplain Management, Section 4.5 Floodway Encroachments states:

> Located within Areas of Special Flood Hazard are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity flood waters, debris or erosion potential. In addition, floodways must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore the following provisions shall apply:
>
> (1) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway, except for activities specifically allowed in (2) below.
>
> (2) Encroachments for bridges, culverts, roadways and utilities within the regulatory floodway may be permitted provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway widths during the base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof; and,
>
> (3) If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway shall be issued by the Fayette County Engineering Department until an affirmative Conditional Letter of Map Revision (CLOMR) is issued by FEMA and no-rise certification is approved by the Fayette County Engineering Department.

Wetlands

The property does contain any wetlands per the U.S. Department of the Interior, Fish and Wildlife Service 1994 National Wetland Inventory Map.

Watershed	Per the USGS Fayetteville Quadrangle, there are state waters along the property. Although the County's Watershed Protection Buffers and Setbacks are not applicable since the property has not been reconfigured since 1987, the State's 25-ft state buffer (measured from edge of water) would apply to any site plan or change of use submitted as a result of rezoning.
Groundwater	The property is not within the groundwater recharge area, as delineated on the Georgia Department of Natural Resources' 1992 Ground-Water Pollution Susceptibility Map of Georgia (Hydrologic Atlas 20).
Stormwater	Stormwater management is particularly important since the City of Fayetteville's drinking water intake is located downstream of the site. Stormwater structures, including water quality and channel protection, shall not be located on top of the septic drain field, as well as, any parking.

Environmental Health Department

The installation of the individual sewage disposal system serving this property was inspected/approved by the department on 9/17/1981. The system was designed and installed to serve a three bedroom residence. The system would have the capacity to serve limited commercial functions with peak daily sewage flow considerations. Concern was expressed at the Technical Review Committee (9/9/08) by Richard Fehr regarding the age of the system.

Fire and EMS

Fire Suppression and Fire Prevention:

This property is located within the current territorial boundaries of County Fire Station #8, located on Flat Creek Trail, which would provide the initial first responding apparatus to any requests for assistance. Response time for suppression capability from Station #8 would be in the 5-8 minute range. Water and fire hydrants exist along Hwy 54.

Emergency Medical Services:

This property is located within the service delivery area of Medic #41 or #42 located on Johnson Ave. Response time for ambulance transport services is within the 8 minute accepted historical response criteria. The addition of this development or proposed changes will not materially impact EMS service delivery capability or current capacity.

Emergency Management Agency:

This property is within 100 years flood way and as built could have flooding problems. As with any other development, there is always the potential for man made or natural disasters that would impact emergency management.

Board of Education

No comments returned.

Georgia Department of Transportation

Driveway should be shifted to the west and upgraded to meet commercial standards.

STAFF ANALYSIS

This request is based on the petitioner's intent to rezone said property from R-70 to O-I for the purpose of developing uses allowed under the O-I Zoning District. Per Section 11-10 of the Fayette County Zoning Ordinance, Staff makes the following evaluations:

1. The subject property lies within an area designated for Low Density Residential 1 unit/1 to 2 acres, Conservation Areas (environmentally sensitive areas, containing waterways, watershed protection ares, flood plains, poor soils and steep slopes) and S.R. 54 West Overlay. In terms of the S.R. 54 West Overlay District, this request conforms to the Fayette County Comprehensive Plan. However, a great deal of the subject property is contained in Conservation Areas which is an area that would present development constraints (See Engineering Comments).

2. The proposed rezoning could adversely affect the existing use or usability of adjacent or nearby property. The current driveway access for the subject property is an off-site driveway access from S.R. 54 West via a 25 foot easement. The existing driveway serves two (2) additional residential lots. Per GDOT comments, the driveway cut would have to be located to the west off-site on the adjacent residential property. As the existing driveway access which serves the subject property and the two additional residential lots could not remain in its current location, the new driveway cut to serve the nonresidential use of the subject property would also have to provide access for the two (2) aforementioned residential lots mixing nonresidential and residential traffic in one (1) driveway cut as there does not appear to be enough room for a separate driveway cut for the two residential lots. In addition, the placement of a driveway cut for the subject property to the west will place it on a residential lot that would not conform with the S.R. 54 West Overlay District in terms of rezoning to O-I.

3. The proposed rezoning will not result in a burdensome use of utilities or schools. However, the proposed rezoning would result in a burdensome use of roads unless the GDOT and Fayette County Engineering standards for nonresidential driveways can be met. These standards cannot be met on-site due to an existing bridge and guardrail, access to the subject property along its road frontage is not feasible. The driveway cut would have to be located to the west on the adjacent residential property.

4. Existing conditions in terms of poor access, traffic safety and the impact on adjacent residential property do not support this request.

Based on the foregoing Investigation and Staff Analysis, Staff recommends **DENIAL.**

RECOMMENDED CONDITIONS

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

1. A permanent easement or other means of access shall be provided for any other lot(s) utilizing the driveway for access. *(The existing driveway appears to serve multiple lots.)*

Fayette County
GEORGIA
Zoning Department
105 EAST STONEWALL AVE.
FAYETTEVILLE, GA 30214
404-461-6041

Perry W. Hiott, Director

August 27, 1990

Mr. Neil Davis
1095 S.R. 54 West
Fayetteville, GA 30214

Re: 2.469 acres fronting on S.R. 54 West
Tax Map Reference Number 05-21-74
Land Lot 127 of the 5th District

Dear Mr. Davis:

This letter shall serve to confirm that the Official Fayette County Zoning Map incorrectly identified the subject property's zoning classification for more than four (4) years. Said property was incorrectly listed as being zoned C-C, Community Commercial, from approximately 1983 until 1988, due to an error in the placement of zoning boundary lines. A review of approved rezoning applications in the vicinity of the above-referenced property revealed said boundary error. As Section 13-13.,L. of the Fayette County Zoning Ordinance requires the Zoning Administrator to update the Official Zoning Maps, said Zoning Map was corrected in 1988 to reflect the true zoning of the above-referenced property, R-70.

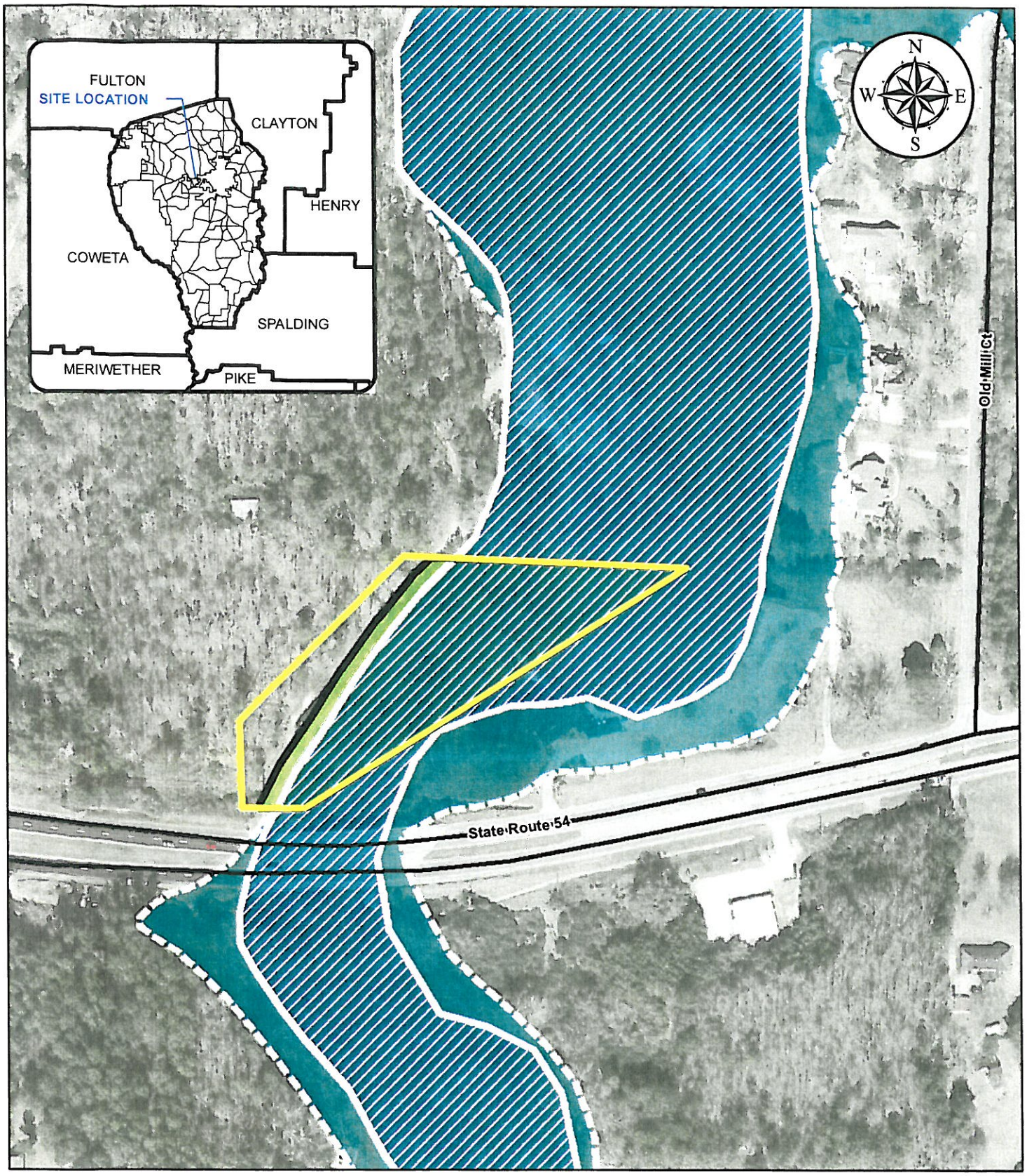
If you should have any questions, please feel free to contact me.

Sincerely,

Perry W. Hiott

Perry W. Hiott
Zoning Administrator

PWH/rsm



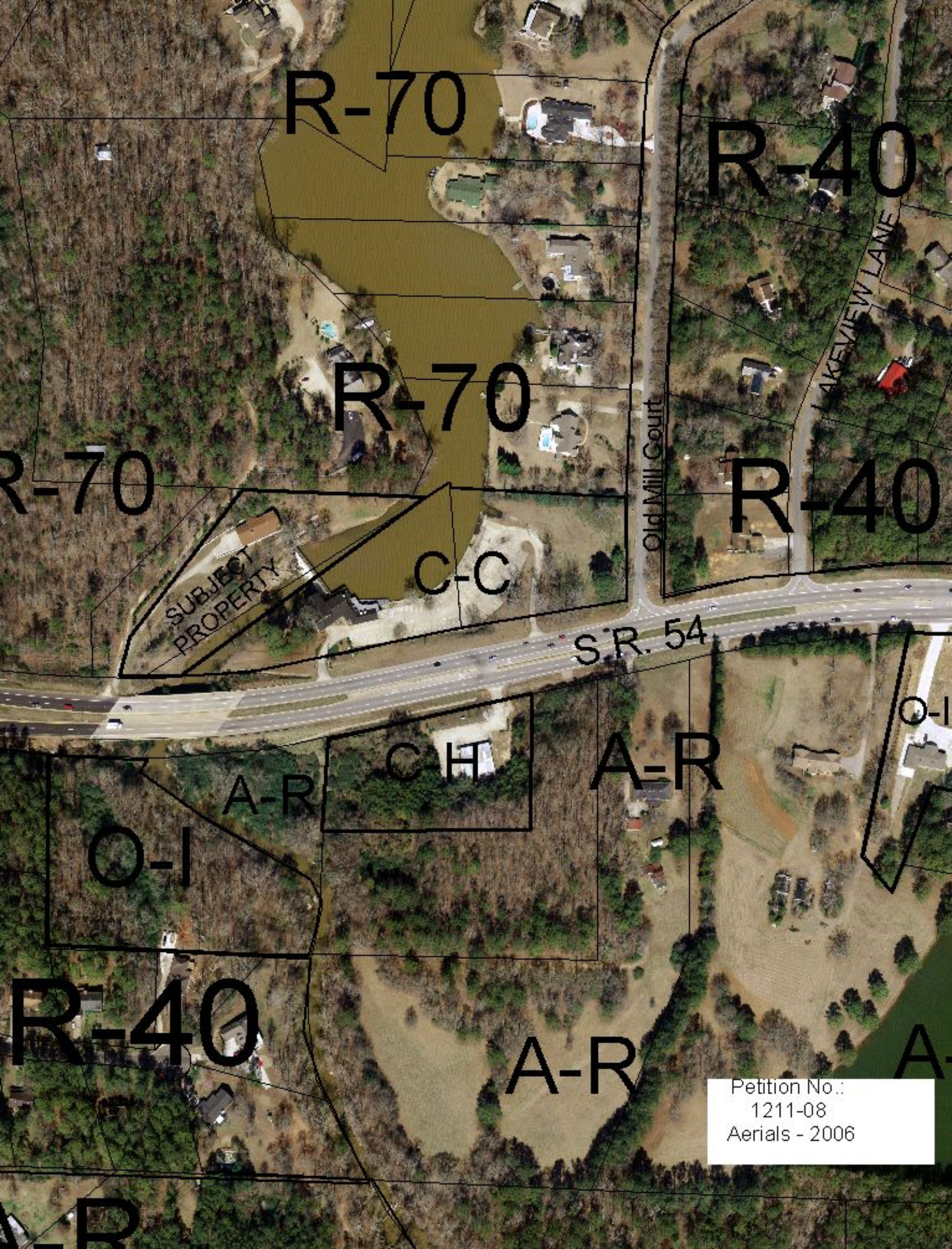
Fayette County GEORGIA

REZONING 1211-08
FIGURE 1

Legend

- 25 STATE BUFFER
- AE FLOOD PLAIN
- AE FLOODWAY

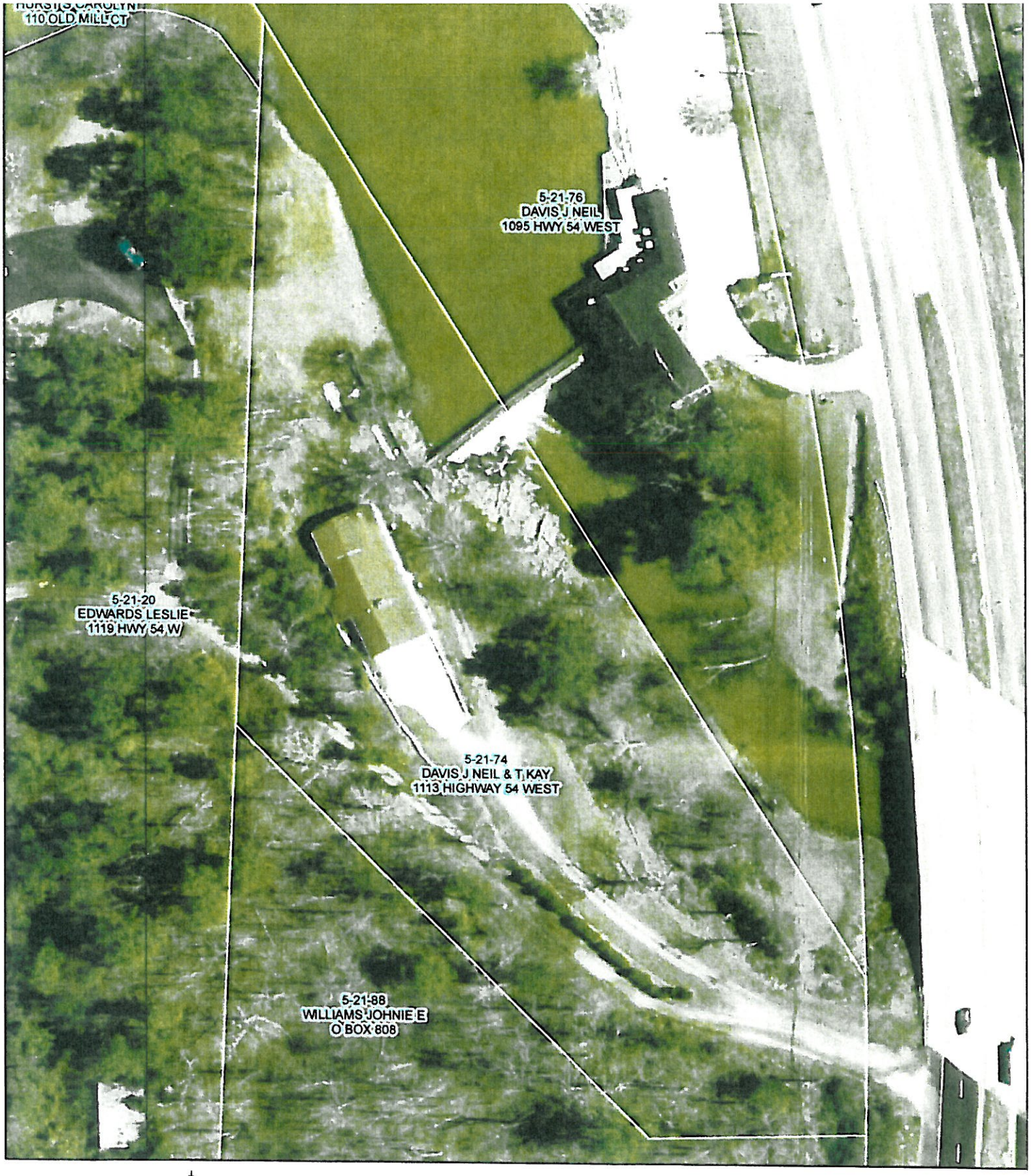
1 inch equals 196.972822 feet


R-70
R-40
R-70
R-70
R-40
Old Mill Court
LAKEVIEW LANE
C-C
SUBJECT PROPERTY
S.R. 54
C-H
A-R
A-R
O-I
O-I
R-40
A-R
Petition No.:
1211-08
Aerials - 2006

SUBJECT PROPERTY
SR 54 West
Overlay District &
Overlay Zone
Old Mill Court
Lakeview Lane
Petition No.: 1211-08

LAND USE

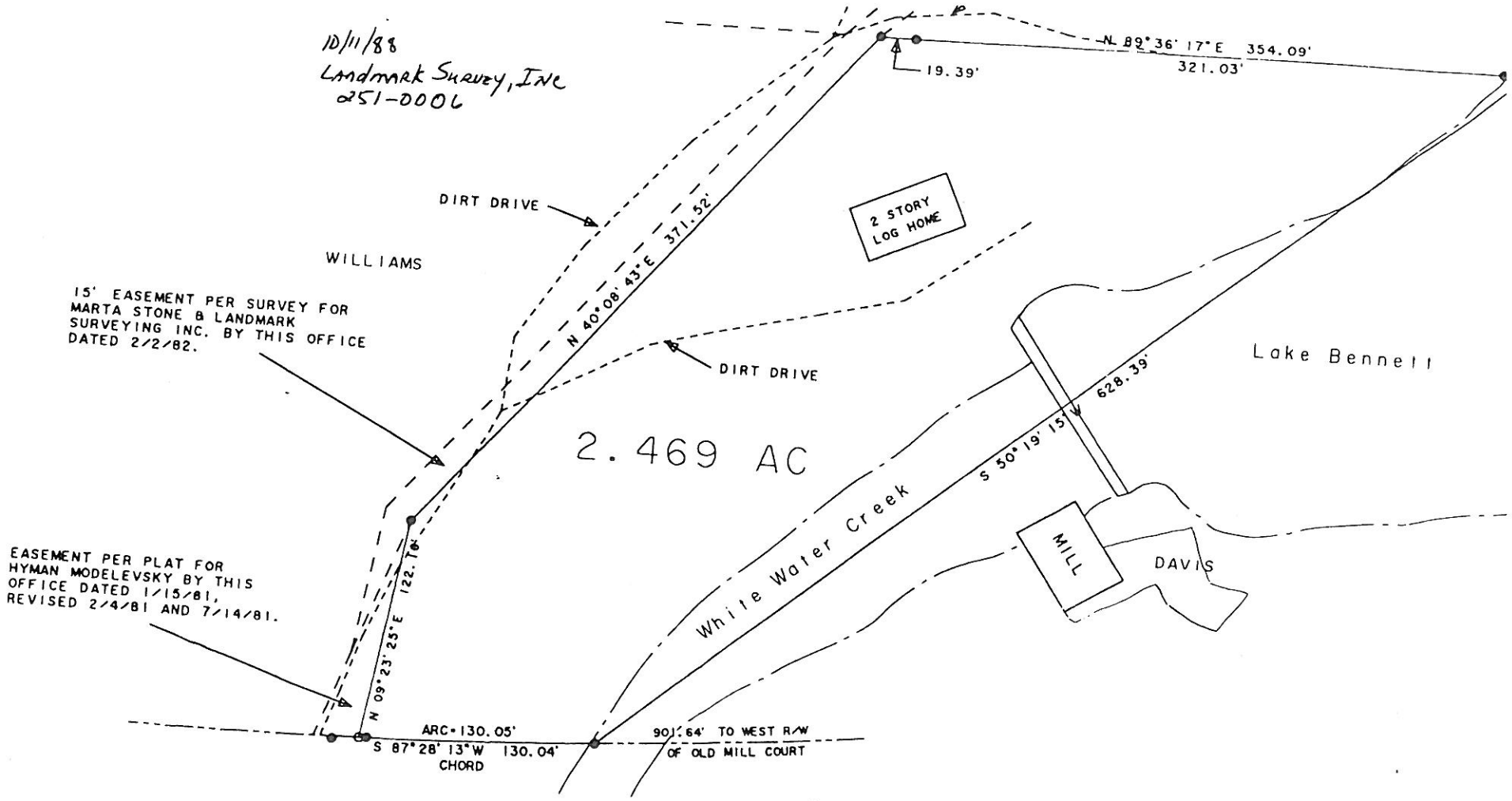
- AGRICULTURAL RESIDENTIAL (1 Unit/5 Acres, 5 Acre Min.)
- RURAL RESIDENTIAL (1 Unit/2 to 3 Acres)
- LOW DENSITY RESIDENTIAL (1 Unit/1 to 2 Acres)
- LOW MEDIUM DENSITY RESIDENTIAL (1 to 2 Units/1 Acre)
- MEDIUM DENSITY RESIDENTIAL (2 to 4 Units/1 Acre)
- HIGH DENSITY RESIDENTIAL (5 Units/1 Acre)
- MOBILE HOME PARK
- OFFICE
- COMMERCIAL
- LIGHT INDUSTRIAL
- HEAVY INDUSTRIAL
- PUBLIC FACILITIES/INSTITUTIONAL
- CONSERVATION AREAS
- PARKS AND RECREATION
- TRANS., UTIL., & COMMUNICATIONS



Fayette County
GEORGIA

1 inch equals 80 feet

10/11/88
Landmark Survey, Inc
251-0006



Owners: J. Neil & T. Kay Davis
1095 S.R. 54 West
Fayetteville, GA 30214
461-6694

● IPF
○ IPS

The Board of Commissioners of Fayette County, Georgia, met in Official Session on Thursday, October 25, 1990, 7:00 p.m., in the third floor meeting chambers of the Fayette County Courthouse, on the Square, Fayetteville Georgia.

COMMISSIONERS PRESENT: George Patton, Chairman
Bill Bonner, Vice Chairman
(entered 7:10 p.m.)
Dan Lakly
Rick Price

COMMISSIONER ABSENT: Grace Caldwell

STAFF MEMBERS PRESENT: Billy P. Beckett, County Administrator
Carol C. Mundt, Executive Assistant
Leigh A. Wright, County Clerk
William R. McNally, County Attorney

- - - - - - - - - - -

Chairman Patton called the meeting to order, offered an invocation and led the pledge to the Flag.

- - - - - - - - - - -

REZONING PETITIONS: Chairman Patton explained the procedure for conducting the public hearings on rezoning requests. He stated those speaking in favor of a petition would be heard first, followed by those speaking in opposition. He commented each person would be limited to three (3) minutes of speaking time. He further stated the same argument not be heard over and over again and encouraged only new points be raised. He added after everyone had an opportunity to speak, the petitioner would have a chance to rebut any points raised by those in opposition. He stated the Board would then discuss the petition and vote either to approve, deny or table the request.

Chairman Patton pointed out a petitioner for a rezoning hearing before the Board of Commissioners shall have the option to request and automatically receive a postponement of the consideration of the petition upon the absence of a full five member Commission on the evening the petition was scheduled to be heard. He said this policy shall not apply to those incidents where a full Commission was present but a member or members abstain from voting. He said further tabling of the petition to the next regularly scheduled meeting shall not be cause for a repetition of said tabling in the event at the next regularly scheduled meeting a full Commission is not present.

Chairman Patton said with that understanding any of the petitioners with a rezoning had a right to withdraw the petition to the next regularly scheduled meeting.

- - - - - - - - - - -

PETITION NO. 759-90: Acting Zoning Administrator Chris Venice, read Petition No. 759-90, J. Neil and T. Kay Davis, Owners/Agents, request to rezone 2.469 acres from R-70 to C-C to develop a banquet hall to be used in conjunction with the Old Mill Restaurant. This property is located in land Lot 127 of the 5th District and fronts on S.R. 54 West.

Neil Davis stated in view of the absence of two Commissioners, he would like to withdraw Petition No. 759-90.

Commissioner Lakly commented a fourth Commissioner might be coming into the meeting and asked if Mr. Davis would still want to withdraw the petition. He pointed out from now until Christmas it would be hard to have all five Commissioners present.

Chairman Patton felt a five member board would be best and suggested the petitioner come back before the Board at a later date and petitioner agreed.

- - - - - - - - - - -

PETITION NO. 760-90: Acting Zoning Administrator Chris Venice, read Petition No. 760-90, Paul E. and Susan Powers, Owners/Agents, request to rezone 3.324 acres from A-R to R-60 to develop one single-family dwelling lot. This property is located in Land Lot 168 of the 4th District and fronts on Woolsey Brooks Road.

Glen Goza, representing petitioner Paul Powers, stated Mr. Powers was not able to attend the hearing because of illness.

Chairman Patton asked if the petitioner agreed with the recommended conditions.

Commissioner Bonner entered the meeting at 7:10 p.m.

Mr. Goza stated he understood Mr. Powers had been informed of the conditions and did agree with them.

Bob Craft, 200 Bridger Point, Fayetteville stated he would like to speak in opposition to the rezoning. He said the subject of the property was spot zoning. He commented the first time he heard Lynn Westmoreland's name was when he petitioned for spot zoning with Dr. Germaine's property. He said Mr. Westmoreland had told him he had not broken the Land Use Plan. He commented now that property was being used as a precedence for the spot zoning in the Powers rezoning.

Mr. Craft stated the lack of 1.6 acres would bring the property in compliance with the Land Use Plan and this was spot zoning. He said to approve this petition would set the additional precedence for Mr. Powers, as owner/developer, adjoining property. He said this would cause a "snowball" effect until there was no A-R left in the county. He recommended the petition be denied and the Land Use Plan be upheld.

Barbara Buckley, 783 Ebenezer Road, Fayetteville stated on this particular piece of property there was no lack of adjoining property that Mr. Powers owns that he could not use that would make up the five acres needed for the tract to keep it in the A-R zoning. She said in the last three years there have only been three petitions in this area for rezoning. She urged the Commission to deny the petition.

On motion made by Commissioner Price, seconded by Commissioner Lakly to approve Petition No. 760-90 with conditions as recommended by the Planning and Zoning staff and the Planning Commission, discussion followed.

Commissioner Price stated it was evident that name dropping of people implied that something was being done by the Republican Party. He submitted this type of innuendo about the Board and that these persons are doing something immoral and illegal was wrong. He said if one had taken time to read the notes they would find that the staff had approved this rezoning with conditions and the Planning Commission had also approved the rezoning. He said the Board was always fair and reasonable. He remarked every petitioner had rights whether he was liked or disliked.

Commissioner Lakly said the rezoning did conform and fit in the Land Use Plan. He said there was no one who would disagree with staff or the Planning Commission. He said the parcel was quite substantial and similar rezonings had been granted in the area and other areas. He remarked he supported the rezoning and made his

decision based on facts and recommendations from the staff and the Planning Commission.

The motion carried 4-0. A copy of the recommended conditions, staff's analysis and investigation, identified as "Attachment No. 1", follows these minutes and is made an official part hereof. A copy of the Ordinance and Resolution approving said petition, identified as "Attachment No. 2", follows these minutes and is made an official part hereof.

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PETITION NO. 761-90: Acting Zoning Administrator Chris Venice, read Petition No. 761-90, John R. Jenkins, Owner and Stanley M. Bishop and William P. Chastain, Agents, request to rezone 2.5 acres from R-70 to O-I to develop a Day Care Center. This property is located in Land Lot 83 of the 7th District and fronts on Jenkins Road.

Stanley Bishop presented and reviewed site plans for development of the area with the Board.

Mr. Bishop said the rezoning for a day care center in this area would be based on the changes which have previously occurred in this area and would be the best use for this parcel of property. He said he was requesting the zoning be changed from R-70 to O-I with some conditional use. He commented the persons who would be operating the center were local people who reside in Fayette County. He stated the day care center would be an asset to the community. He remarked the school system which was currently being built in the area had created a use conducive with the day care center.

Mr. Bishop said traffic problems was an issue that had been brought up and stated most of the day care traffic would occur before school hours and he did not feel this to be a problem. He said the utilities were in place and road renovations already done. He requested the Board approve the petition.

Barbara Buckley, 783 Ebenezer Road, Fayetteville stated she wished to speak in opposition to the petition. She pointed out at the last Planning Commission meeting Mr. Bishop had stated there would be a drop off of approximately 150 and 250 children between 8:00 a.m. and 8:30 a.m. She pointed out this was the exact same time two schools were being dropped off and there would be a third school next fall. She said there would be a problem with transportation in that area with traffic. She urged the Board not to approve this rezoning.

Chairman Patton read a statement concerning the Land Use Plan. He said the subject property was within an area designated light/industrial on the Fayette County Land Use Plan and did not conform with the Land Use Plan.

Commissioner Bonner replied it did conform to the Land Use Plan.

Chairman Patton said the request for O-I office/institutional did not conform to the Fayette County Land Use Plan and policy, however, the construction of the three new county schools had changed the character of the Jenkins Road area to the west of the subject property. He pointed out the Land Use Plan was a changing game and the Board had to constantly be aware of it. He stated even though the Land Use Plan stated one thing, it was obvious the character of the neighborhood had changed and the day care center probably would be a good thing for the area.

Commissioner Lakly said he could not think of a better use in that area. He stated from a convenience standpoint this would benefit

a parent who had to drop a child off at a day care center and also public school.

On motion made by Commissioner Lakly, seconded by Commissioner Price to approve Petition No. 761-90 with conditions as recommended by the Planning and Zoning staff and the Planning Commission, discussion followed.

Commissioner Price asked for clarification under recommended conditions that the owner/developer shall tie into the Fayette County Water System's water line to serve said property. He pointed out in Chief Krakeel's discussion he would have to relocate a control valve in order to provide adequate water pressure for the sprinkler system under condition one and asked if the petitioner would have to pay for that.

Commissioner Lakly said it only indicated the petitioner would have to tie into the water line and nothing beyond. He felt neither the county or the Water System should bear the expense.

Commissioner Price stated he would like to withdraw his second.

Tony Parrott, Manager of the Water System stated there had been a pressure problem when the schools opened and there was a control valve problem at the present time.

Commissioner Lakly felt the schools currently on the water line would be in the same need as the day care center. He said the expense should not be born by the petitioner and said he did not feel the petitioner should come back and asked his motion to stand as approved by the Planning Commission as well as the staff.

Commissioner Price stated he would second the motion, discussion followed.

Commissioner Bonner stated the schools in the area do sprinkle and said the pressure must be alright.

Mr. Parrott said there had been a problem feeding water from the ground tank when it was put in service and it had since been resolved.

Commissioner Price said he was only concerned about the county bearing the cost of the tie in.

The motion carried 4-0. A copy of the recommended conditions, staff's analysis and investigation, identified as "Attachment No. 3", follows these minutes and is made an official part hereof. A copy of the Ordinance and Resolution, identified as "Attachment No. 4", follows these minutes and is made an official part hereof.

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PETITION NO. 759-90: Neil Davis asked the Board, in light of Commissioner Bonner's attendance, if he could now present Petition No. 759-90 and Attorney McNally stated he could.

Commissioner Lakly pointed out he had given Mr. and Mrs. Davis the opportunity to present their petition and since the meeting had not adjourned they could do so and Attorney McNally stated the petitioner could go forward with the rezoning.
Acting Zoning Administrator, Chris Venice read Petition No. 759-90, J. Neil and T. Kay Davis, Owner's Agents, request to rezone 2.469 acres from R-70 to C-C to develop a banquet hall to be used in conjunction with the Old Mill Restaurant. This property is located in Land Lot 127 of the 5th District and fronts on S.R. 54 West.

Neil Davis stated he and his wife, Kay were joint owners of the property. He said the property had been purchased with the intention of developing same in conjunction with the Old Mill property they own. He said they had paid more for the property than they wanted to because they were under the impression it was zoned C-C at the time of purchase. He said this impression came from the county when they checked the county zoning map.

Mr. Davis commented he had received a letter from Perry Hiott, former Zoning Administrator regarding the incorrect zoning classification as listed on the Zoning Map. A copy of the letter, identified as "Attachment No. 5", follows these minutes and is made an official part hereof.

Mr. Davis said the letter stated the official Fayette County zoning map incorrectly identified the subject property zoning classification for more than four years. He said in his paperwork from the Planning Commission it also stated that the zoning map was incorrect. He said before the property was purchased he had gone to the Zoning Department and was told and shown by the county the property was zoned community/commercial.

Chairman Patton asked who the acting Zoning Administrator was at the time of the alleged mistake.

Mr. Davis stated the mistake was not alleged as stated in the letter from Mr. Hiott. He said he did not know if it was Perry Hiott or Ron Martin. He said when he had checked on it Mr. Hiott was the Zoning Administrator.

Commissioner Lakly asked if Commissioner Bonner had been on the Board when the commercial zoning was put in place.

Commissioner Bonner said from his standpoint it had never been his intention to zone anything beyond what was zoned. He said he never recalled any mention of anything on the other side of the creek being rezoned. He said everything was focused on this side of the creek.

Mr. Davis asked about the property directly across the street from this property which was on the other side of the creek. He commented that property had been rezoned commercial.

Commissioner Bonner said that had occurred prior to his appointment to the Board and he could not comment on it.

Kay Davis stated they were not saying the property came up for rezoning but it was just posted wrong on the records.

Commissioner Bonner felt that did not change anything at this meeting.

Mr. Davis stated the Planning Commission had stated the property was not in agreement with the Land Use Plan. He said after reading the letter from Mr. Hiott which stated it was shown on the zoning map for a period of five years as commercial property and when the Land Use Plan was revised it should have been in agreement with it. He said they did not understand how anything could be overlooked for five years and changed without notice to the property owners that the zoning was changed on the property from what it was originally zoned.

Commissioner Bonner said just because something was shown on the map did not mean it had been rezoned. He said one must go through the zoning process. He commented just because the property was erroneously designated on the map did not mean the property was rezoned.

Mrs. Davis said they agreed but the Zoning Department was the only place in the county one could go to find out what property was zoned.

Commissioner Bonner said that had nothing to do with what the Board was considering. He said when a rezoning petition is reviewed it had nothing to do with what people thought.

Commissioner Lakly said petitioners had gone to the Zoning Department and the map indicated the property to be commercial. He said now whether the property was or was not properly zoned, the petitioners had gone into the only place in the county that one could legitimately go to review land use. He commented most people do not check the Land Use map and this couple did.

Commissioner Bonner said he did not have to vote in favor of this petition just because the map was colored a certain color.

Mr. Davis said he understood when he purchased the property it would not have to be rezoned because it was shown to be zoned what he wanted it to be.

Commissioner Bonner said anyone could come before the Board and say property was zoned a certain way.

Mrs. Davis pointed out the county had acknowledged the fact that this happened and they were not making false accusations.

Commissioner Bonner said the implication had been made that he would have to vote for the rezoning because the Davises thought it had already been rezoned.

Attorney McNally recommended that the Board allow the Davises proceed with their petition, get public input then have the Board discuss the petition.

Mr. Davis said they were present as property owners in the county to rezone a piece of property that he had been under the impression by the county as already being zoned for what they wanted to use it for. He said they were not told that the map was changed and were not notified it had been changed. He said the county had waived the expense of the zoning application and he appreciated it. He said they stood to lose a lot of potential revenue since he had bought the property to use in conjunction with the Mill. He said there were three pieces in the immediate area already zoned commercial; directly across the street, to the east and to the southeast.

Mr. Davis pointed out in the letter from Perry Hiott it had stated for over five years the property was listed on the zoning map as community/commercial at the time of purchase. He asked the Board to vote to zone the property the way it was represented by the county for the last five years. He said he did not feel they were asking for a rezoning but asking the Commissioners to make the records the way the county showed the property at the time of purchase. He felt it was a moral obligation as well as a legal obligation. He said it was not right to change records without consideration as to how seriously it affects the property owner.

Mr. Davis stated he had been advised in order to protect his rights if the Board were to deny this rezoning, it would be an act to unconstitutionally deny them benefit of their property and be an unlawful taking of the property without due process of the law.

Charlie Mask, 662 McBride Road, Fayetteville said he was a Commissioner when this happened and the Board had voted what had been presented to them at that time and not what could be changed on the records.

Tanala Topanhagen stated she represented Johnie Williams who was opposed to the rezoning requested by Mr. Davis. She read and presented a letter from Mr. Williams to the Board. A copy of the letter, identified as "Attachment No. 6", follows these minutes and is made an official part hereof. She stated also included with the letter was a sketch showing the Davis' easement located at 1205 Highway 54 on the west side of Crystal Lake.

In rebuttal, Neil Davis pointed out in the conditions proposed by the Planning Commission, one stated the driveway would not be used for non-residential traffic. He stated he had used the twenty-five (25) foot easement for the two years he had owned the property and the easement had been used nine years prior to that. He commented in the conditions the fifteen (15) foot easement referred to was the Metcalf property. He remarked the Metcalfs were not opposing the rezoning.

Commissioner Lakly stated the zoning had been placed there in order for a restaurant to be built. He felt this should be kept in perspective. He said the property was zoned commercial and it could not be changed. He commented the county had waived the fee for the Davises to come before the Board which indicates to him that the county must have felt some responsibility.

Commissioner Lakly stated he was not in favor of commercialization on Highway 54, but the circumstances surrounding this parcel of land were somewhat different. He said a burden would be placed on the individuals who purchased the property under the misimpression that it could be used as commercial. He said the petitioners had already stated the easement would not be used for egress or ingress. He restated this rezoning was unique in the fact the county had waived the filing fee and this had to be a consideration.

Commissioner Bonner asked who waived the filing fee and stated the Board of Commissioners had not waived the fee.

Chris Venice stated Perry Hiott had waived the fee.

Commissioner Lakly stated this was not influencing or impacting his decision on voting on the rezoning, but there was enough of a cloud on the issue that this has an impact on the rezoning. He said the fact of the matter was there was an old mill which was zoned commercial some time ago.

On motion made by Commissioner Price, seconded by Commissioner Bonner to deny Petition No. 759-90, discussion followed.

Commissioner Bonner stated this had been one of the first rezonings he was involved with as a new Commissioner. He said one of the reasons this rezoning had been allowed was to get rid of the "pink palace" and felt it was an exception to the overall plan. He said the Board felt this was a positive move for the county. He said there had been a lot of opposition to a restaurant from the residents in Crystal Lake.

Commissioner Bonner further stated the rezoning which had taken place for commercial had been approved by a prior commission, but if that petition came up today he would not vote for it. He remarked the Captain Video would be taken by the right-of-way and that particular business would not be there after the road was widened. He stated the area was a very high traffic area and it did not have good sight distance. He said the subdivision entrance caused traffic problems in and out onto Highway 54. He felt a restaurant would cause a problem from a traffic standpoint set up the way it was and he did not want to see anymore commercial in this area.

Commissioner Bonner stated he had seconded the motion in order to be consistent with the overall philosophy for Highway 54.

Commissioner Lakly stated he had been supportive continuously in denying rezonings on Highway 54. He said he failed to see what a denial would do. He said it would not lessen traffic because there would not be access for egress or ingress for commercial traffic. He said he failed to see any change by denying the petition. He commented rezonings had been granted adjacent to the property. He stated his conscience was telling him in voting against this issue would not change anything that was there. He said he could not support denial based on anything he had heard nor could he make a motion to support the petition.

The motion carried 3-1 with Commissioner Lakly opposing the motion. A copy of the Ordinance and Resolution denying said petition, identified as "Attachment No. 7", follows these minutes and is made an official part hereof.

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CONSENT AGENDA: On motion made by Chairman Patton, seconded by Commissioner Lakly to approve the consent agenda as presented. The motion carried 4-0.

MINUTES: Approval of the Board of Commissioners minutes of October 3, 1990.

GREEN PASTURES, INC.: Authorize Chairman Patton to execute renewal contract with Green Pastures, Inc. for one hundred (100) miles of right-of-way spraying in the amount of $15,000. A copy of the contract, identified as "Attachment No. 8", follows these minutes and is made an official part hereof.

WATER SYSTEM: Authorize Chairman Patton to renew contract with Tab Products, Inc., for burster machine at Water system in the amount of $364.

STREET ACCEPTANCE: Acceptance of Amber Crossing Subdivision, Paula Drive, Lots 1-16 for permanent maintenance as provided for under Article 9-3 of the Subdivision Regulations as amended. A copy of the memorandum, identified as "Attachment No. 9", follows these minutes and is made an official part hereof.

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STAFF REPORTS:
FISCAL PLANNING GUIDE: County Administrator Billy Beckett stated the Department of Community Affairs publishes a Fiscal Planning Guide annually and counties are grouped into six different classifications.

Mr. Beckett said Fayette County was compared with other counties overall. He commented in terms of revenue, per-capita in the State of Georgia for each county, Georgians in counties receive $5.68 per capita or 1.3% of total general revenues. He said last year Fayette County received zero per capital from the Federal Government. He remarked in State assistance in various forms, Georgians received $53.30 per capita. He said Fayette County had received $17.62 per capita. He said in terms of other local intergovernmental revenue Georgians received $1.96 per capita and Fayette County received zero.

Mr. Beckett said the results of the statistics indicated Fayette County received very little in the form of intergovernmental transfers from the State or Federal Government relative to other

STATE OF GEORGIA

COUNTY OF FAYETTE

"ATTACHMENT NO. 7"

RESOLUTION NO. 90-759

WHEREAS, J. Neil and T. Kay Davis, Owners/Agents, having come before the Fayette County Board of Commissioners on the 25th day of October, 1990, requesting an amendment to the Fayette Coun Zoning Map, pursuant to "The Zoning Ordinance of Fayette County, Georgia, 1980"; and

WHEREAS, said request being as follows: To rezone 2.469 acres from R-70 to C-C located in Land Lot 127 of the 5th District to develop a banquet hall to be used in conjunction with the Old Mill Restaurant; and

WHEREAS, The Fayette County Board of Commissioners having duly convened and considered said request;

BE IT RESOLVED the decision of the Fayette County Board of Commissioners, that said request be denied.

SO RESOLVED, this 25th day of October, 1990.

BOARD OF COMMISSIONERS

OF

FAYETTE COUNTY

George Patton

George Patton, Chairman

ATTEST:

Leigh A. Wright

Leigh A. Wright, County Clerk

3. **Consideration of Petition No. 1211-08, J. Neil and T. Kay Davis, Owners/Agents, request to rezone 2.469 acres from R-70 to O-I to develop uses allowed under the O-I zoning district. This property is located in Land Lot 127 of the 5th District and fronts on S.R. 54 West.** *Staff recommended denial.*

Kay Davis advised that the subject property was purchased in 1988. She confirmed that the property was incorrectly identified on the Official Fayette County Zoning Map and was, in fact, zoned R-70 and not C-C. She reported that they petitioned to rezone the subject property in 1990, for a banquet hall to be used in conjunction with the Old Mill Restaurant building which is approximately 170 years old; however, the petition was denied. She added that the County did not charge for the petition due to the property being incorrectly identified on the Official Fayette County Zoning Map. She stated that since S.R. 54 West had been four-laned and along with other nonresidential development such as the hospital along S.R. 54 West, they decided to petition to rezone the property. She said that the Land Use Plan had been reviewed and it was stated by the County that they encouraged all residents along S.R. 54 West to apply for O-I zoning because they were sure there would not be any problems to rezone a residence O-I because of the Land Use Plan, the close proximity to the hospital, and the fact that no one wants to live on the highway. She said that they had been upright citizens and they have tried to leave the property better than what it was when it was purchased. She appealed to the PC to rezone the property O-I.

Chairman Powell asked if there was anyone to speak in favor of the petition.

J. Neil Davis stated that he was an owner of the subject property. He reported that there was O-I zoning all along the highway. He said that he did not know of any rezoning to O-I with a house which had been denied. He confirmed that the subject property had a twenty-five (25) foot driveway which is the same as Thompson Law Office at 1034 S.R. 54 West. He remarked that this was a house which had been converted and there is not an acceleration/deceleration lane except the one (1) provided by the GDOT. He commented that they lived on the subject property prior to the widening of S.R. 54 West by the GDOT. He reported that the GDOT only required a ten (10) foot long acceleration/deceleration lane for the Old Mill Restaurant which has 365 seats and approximately 150 cars. He noted that the subject property has an eleven (11) foot lane. He said that the Staff Analysis regarding the access was hard to understand. He remarked that the GDOT left the property this way when the highway was widened with the bridge and guardrail. He stated that it seems that Staff is using the GDOT as a reason for denial of the rezoning.

Chairman Powell asked if there was anyone to speak in opposition of the petition.

Attorney Patricia Buttaro stated that she was representing the residents of Crystal Lake Estates which contains 29 homes and 27 are opposed to the petition. She said that everyone living on S.R. 54 West had not turned their home into a business. She commented that it is not necessary that properties be rezoned to commercial just because a highway has widened. She added that the highway was widened to make it easier to go from one (1) area to another. She remarked that the home was purchased in 1988, based on false information; however, the time for redress has long since passed. She said that just because the highway had been widened, there is still a beautiful, rustic looking, quaint neighborhood at Crystal Lake. She commented that she remembered the mill when there were not houses in the area. She said that if businesses are developed around the lake that it will not be beautiful anymore. She stated that the subject property is basically on the lake and behind the initial 54 highway buildings that front on the highway itself. She commented that the house is beautiful and she does not see why it is still not valued as a lakefront property. She said that doctors' offices are not very historical and this would not save Fayette County's history at all. She pointed out the driveway is also accessed by other homes and anything done to the driveway affects others, as well. She stated that people in the community would be affected by people coming in and out for a business which is not what a residential neighborhood needs. She reported that this is a unique area and not just a typical home on S.R. 54 West, but is part of Crystal Lake Subdivision and anything which happens to the house happens to the subdivision. She noted that the rezoning is not necessary because the house has not lost its use as a home. She reported that the rezoning affects so many others in an adverse way. She added that the rezoning does not just affect the community but everyone who enjoys this beautiful piece of history as they drive down the highway.

Chairman Powell confirmed that letters of opposition had been submitted from the following:

Elizabeth Barnes of 120 Lakeview Court, Lakeview Estates.

Brian A. and Suzanne M. Robbins of 170 Old Mill Court, Crystal Lake Estates.

Roger E. and Carole L. Derflinger of 180 Old Mill Court, Crystal Lake Estates.

Ben S. and Joyce S. Malcom of 200 Old Mill Court, Crystal Lake Estates.

Marla and Andrew R. Kreider, II of 285 Old Mill Court, Crystal Lake Estates.

John and Mary Sciera of 230 Old Mill Court, Crystal Lake Estates.

Will and Colleen Jourdan of 160 Old Mill Court, Crystal Lake Estates.

Alice Brown Rodriguez of 315 Old Mill Court, Crystal Lake Estates.

Anthony P. Rodriguez of 315 Old Mill Court, Crystal Lake Estates.

Stanley D. Ensley of 190 Old Mill Court, Crystal Lake Estates.

Nancy L. Barham of 150 Old Mill Court, Crystal Lake Estates.

In rebuttal, Mrs. Davis stated that Attorney Buttaro was not well prepared for her presentation because the rezoning is for her house, which is not a part of Crystal Lake Subdivision. She commented that Attorney Buttaro should thank her and her husband because of how beautiful everything is, because they are the ones who did all of the hard work which makes the property what it is today. She remarked that this is a reflection of the kind of people that she and her husband are. She said that she did not complain about the rezonings to O-I on S.R. 54 West since they were encouraged by the County to apply for O-I zoning when the Land Use Plan was amended. She pointed out that this is why they are not requesting commercial zoning. She stated that the house was for sale. She said that you have to go approximately 40 mph out of the driveway to get in front of the traffic on S.R. 54 West. She confirmed that her husband was correct about the acceleration/deceleration lane for the Old Mill Restaurant and about the Thompson property. She remarked that they were asking to do what the Land Use Plan allows. She thanked the PC for their time.

Chairman Powell closed the floor from public comments at this time.

Chairman Powell advised that the PC reviews all the materials given to them. He said that they review the Staff Analysis and ask Staff if they have any questions, listen to the public, visit the property, discuss the petition at the public hearing, and then make a recommendation to the BOC. He remarked that he had reviewed the history of the property and the confusion regarding the zoning designation on the zoning map. He read the future development aspects for S.R. 54 West as follows: 1) The goal is to maintain efficient traffic flow on S.R. 54 West as the County's only major east-west thoroughfare; 2) To maintain nonurban separation between Fayetteville and Peachtree City; and 3) To protect the existing and future residential areas in the S.R. 54 West Corridor. He commented that because of the development of the hospital and the highway 54 development, the S.R. 54 West Overlay Zone was adopted and the overlay allows, but does not encourage, residential property to rezone to O-I. He remarked that he was concerned about the comments from the GDOT and the Engineering Department regarding the stopping distance in order to turn into the driveway.

He pointed out that the deceleration lane would have to be a 350 foot deceleration lane which has to extend into the property to the west in order to make it a safe deceleration lane. He added that these are today's standards and not those in place in 1983. He noted that the Overlay Zones did not exist in 1983. He expressed concern that approval of the petition would create a traffic hazard in the area because you would have to decelerate on the bridge in order to make the turn into the property. He

said that he had made the turn a couple of times and he did not feel comfortable doing so. He added that this is his primary concern. He remarked that approval of the petition would put a burdensome use on the highway because people would have to decelerate on the bridge plus the increased traffic should the subject property be rezoned to O-I. He commented that he was hoping to get the opinion of the property owners who utilize the existing driveway; however, they were not present tonight.

Jim Graw concurred and pointed out that the Land Use Plan also calls for Low Density Residential in this area and if the property was rezoned, it would violate the Land Use Plan and could result in "spot zoning". He said that he did not feel comfortable with O-I zoning in a residentially zoned area.

Chairman Powell said he would entertain a motion.

Tim Thoms made a motion to recommend denial the petition. Jim Graw seconded the motion. The vote to recommend denial unanimously passed 5-0.

DEVELOPMENTS OF REGIONAL IMPACT (DRI)

Rezoning Applicant:

A. Please review the attached "Developments of Regional Impact Tiers and Development Thresholds" established by the Georgia Department of Community Affairs (DCA) to determine if the proposed project meets or exceeds these thresholds. If the proposed project does not meet the established thresholds (is less than those listed) then skip to section C. below and complete.

B. If the project does meet or exceed the established thresholds for the type of development proposed, the Georgia Department of Community Affairs (DCA) "Developments of Regional Impact: Request for Review Form" is available online at the following website address: www.dca.state.ga.us/DRI/.

C. I have reviewed and understand the attached "Thresholds: Developments of Regional Impact".

[✓] The proposed project related to this rezoning request DOES NOT meet or exceed the established DRI thresholds .

[ ] The proposed project related to this rezoning request DOES meet or exceed the established DRI thresholds and documentation regarding the required DRI Request for Review Form is attached.

Signed this 2nd day of September, 2008.

APPLICANT'S SIGNATURE

September 2, 2008

Fayette County Planning Commission
Fayette County Board of Commissioners
140 Stonewall Avenue West
Fayetteville, GA 30214

Re: 2.469 acres fronting S.R. 54 West
Land Lot 127 of the 5th District

Dear Commissioners:

It is my intent to rezone the above-referenced property from R-70 to O-I. The purpose of my request is to lease and/or sale the subject property for the uses listed under the O-I Zoning District per the Fayette County Zoning Ordinance.

Sincerely,

J. Neil Davis

Fayette County
GEORGIA
Zoning Department
105 EAST STONEWALL AVE.
FAYETTEVILLE, GA 30214
404-461-6041

Perry W. Hiott, Director

August 27, 1990

Mr. Neil Davis
1095 S.R. 54 West
Fayetteville, GA 30214

Re: 2.469 acres fronting on S.R. 54 West
Tax Map Reference Number 05-21-74
Land Lot 127 of the 5th District

Dear Mr. Davis:

This letter shall serve to confirm that the Official Fayette County Zoning Map incorrectly identified the subject property's zoning classification for more than four (4) years. Said property was incorrectly listed as being zoned C-C, Community Commercial, from approximately 1983 until 1988, due to an error in the placement of zoning boundary lines. A review of approved rezoning applications in the vicinity of the above-referenced property revealed said boundary error. As Section 13-13.,L. of the Fayette County Zoning Ordinance requires the Zoning Administrator to update the Official Zoning Maps, said Zoning Map was corrected in 1988 to reflect the true zoning of the above-referenced property, R-70.

If you should have any questions, please feel free to contact me.

Sincerely,

Perry W. Hiott

Perry W. Hiott
Zoning Administrator

PWH/rsm

THE OLD MILL

The stronghold of Fayette County's history "The Old Mill" was built by the Bennett family in 1837 for use as a corn mill. It is documented in Georgia's history books as "The Community Center" where they held their baptisms and all community functions for the Fayette County area.

During civil war times, it is documented that Sherman and his troups dined at "The Old Mill". At that time it was still operating as a corn mill and due to the fact that there were Negro Slaves working at "The Mill" it is one of the few sights Sherman did not burn to the ground. It continued to operate up until the 1950's as a corn mill and as the nucleus for the economic and family growth of the community of Fayette County.

This sight, when restored to its' original splendor, will not only preserve an integral part of history but will once again become a nucleus for economic growth in this area.

Owner and Parcel Information

Parcel Number:	0521 074	Owner Name:	DAVIS J NEIL & T KAY
Location Address:	1113 HIGHWAY 54 WEST	Mailing Address:	1113 HWY 54 W
Legal Description:	HWY 54 & LAKE BENNETT		FAYETTEVILLE, GA 30214
Tax District:	UNICORPORATED	Land Lot 1:	127
Mapping District:	05	Land Lot 2:	
School Exemption:	S1	Subdivision:	
Homestead Exemption:	L3	Acres:	3

Current Value Information

Land Total	Building Total	Total Market Value	Total Assessed Value
$61,100	$247,680	$308,780	$123,512

Improvement Information

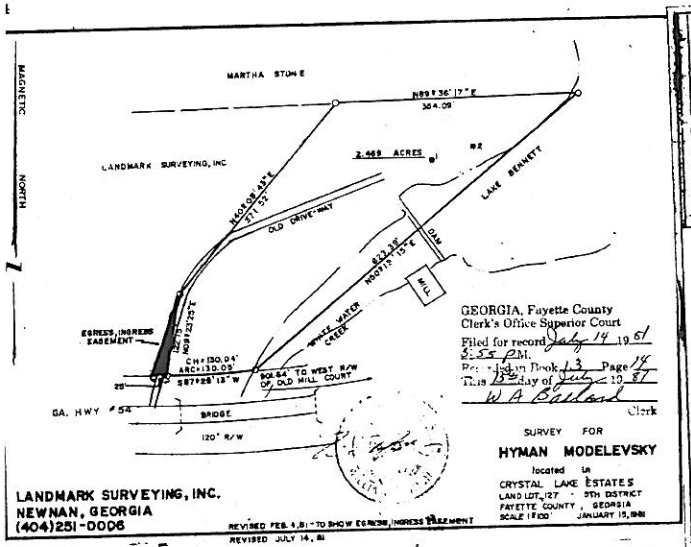
Year Built	Building Size	Building Height	Building Wall
1981	2778	2	F

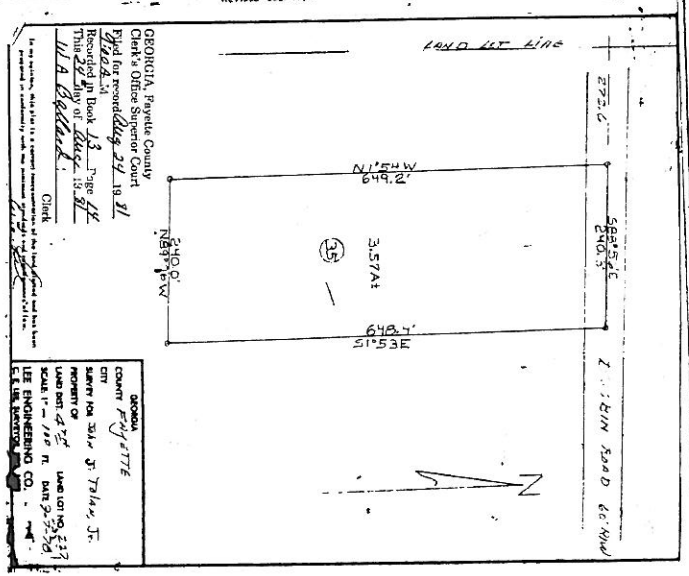
Additional Structures

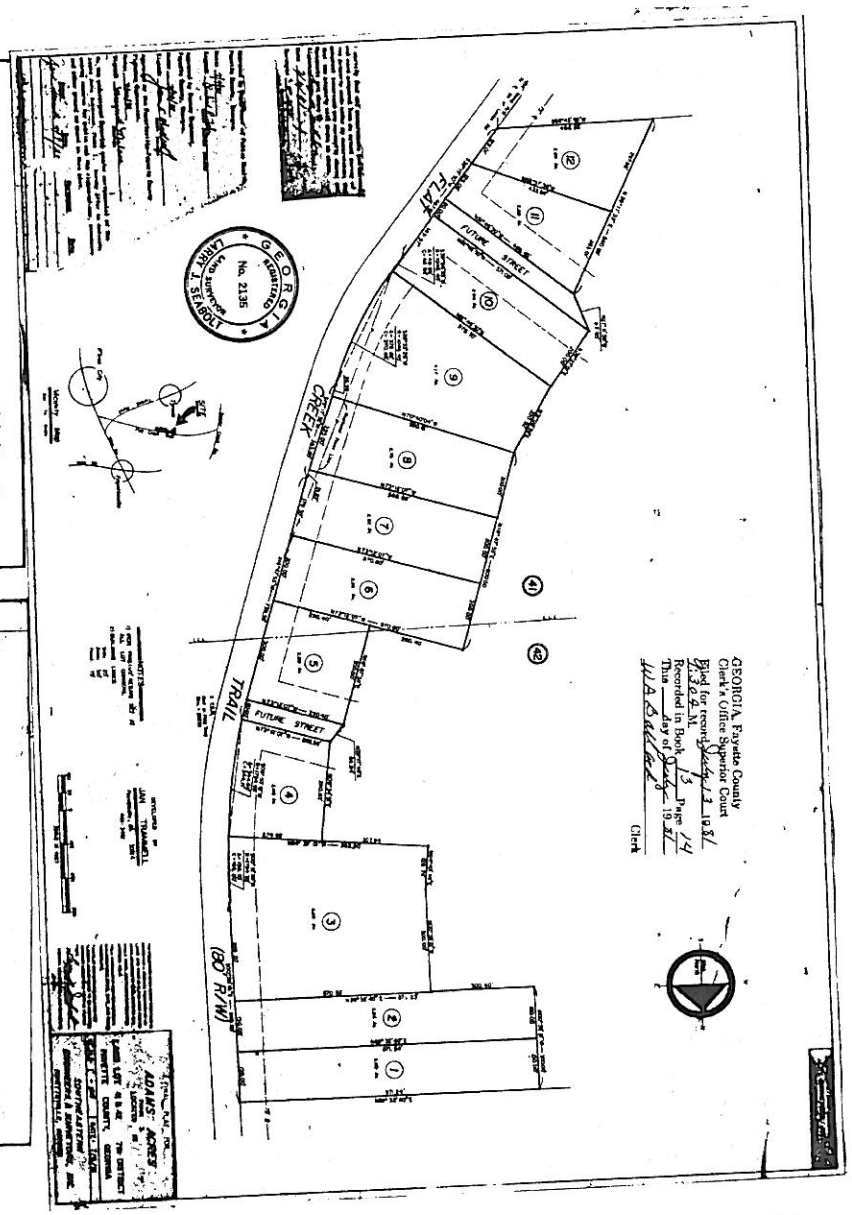
Code	Description	Type	Unit
CA	CARPORT	4	000001078
EP	CLSD PORCH		000000448
FI	FIREPLACE	1	000000000
HE		5	000000000
PL	PLUMBING		000000005
UB	UNFIN BSMT		000001708

Sales Information

Sale Date	Sale Price	Deed Page	Plat Page
/0/0	$127,000	0/0	/
/ /	$0		

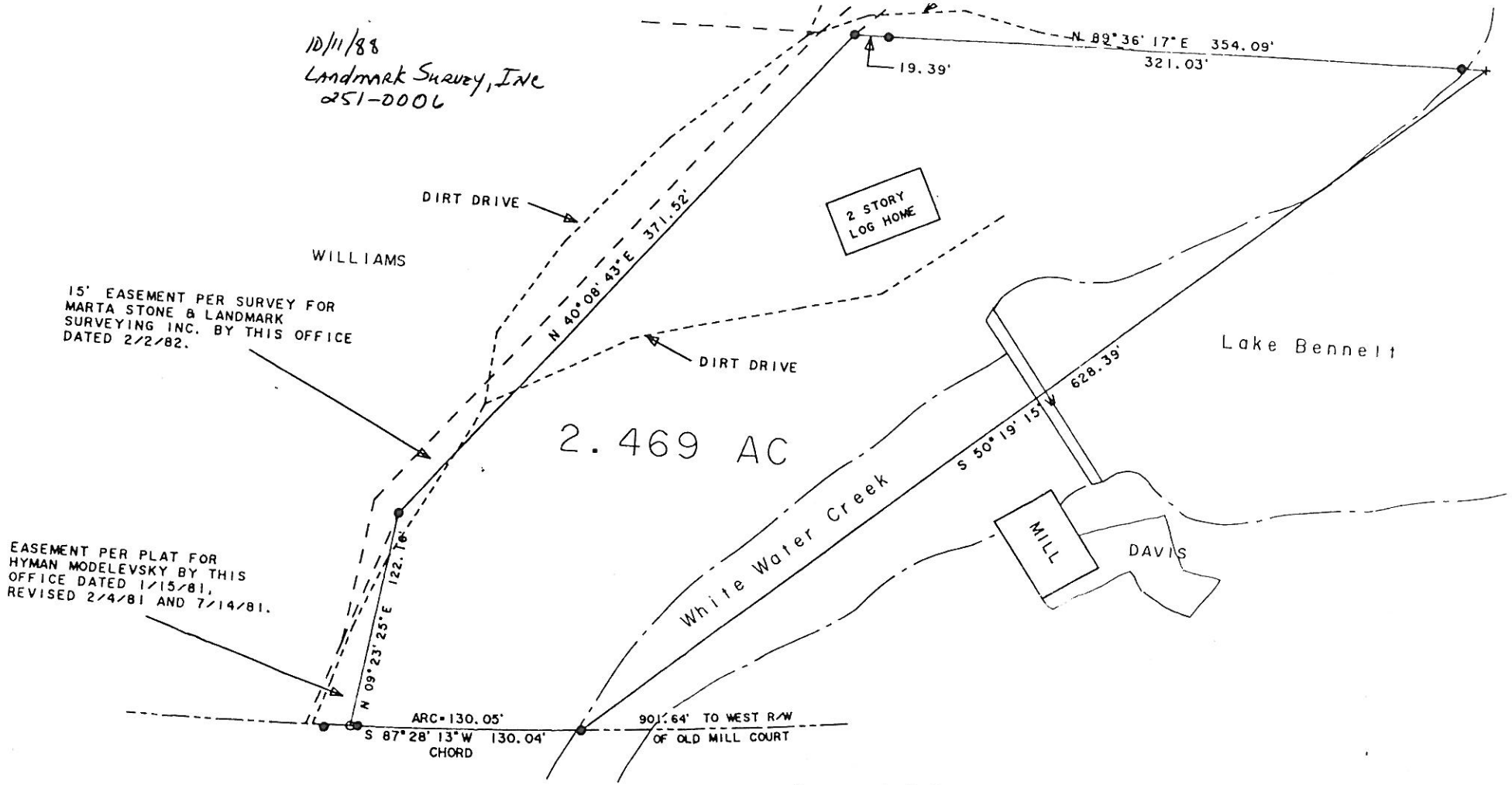

MARTHA STONE
N89°36'17"E
304.09'
LANDMARK SURVEYING, INC
2.469 ACRES
#2
LAKE BENNETT
N40°08'45"E
271.52'
OLD DRIVEWAY
DAM
MILL
N60°15'15"E
63.28'
MINNEE WATER CREEK
EGRESS, INGRESS EASEMENT
N09°32'25"E
CH=130.04'
ARC=130.05'
S87°28'13"W
ROD 64' TO WEST R/W OF OLD MILL COURT
GA. HWY #54
BRIDGE
120' R/W
MAGNETIC NORTH
LANDMARK SURVEYING, INC.
NEWNAN, GEORGIA
(404)251-0006
REVISED FEB. 4, 81 - TO SHOW EGRESS, INGRESS EASEMENT
REVISED JULY 14, 81
GEORGIA, Fayette County
Clerk's Office Superior Court
Filed for record July 14 1981
5:55 P.M.
Recorded in Book 13 Page 14
This 13th day of July 1981
W A Ballard
Clerk
SURVEY FOR
HYMAN MODELEVSKY
located in
CRYSTAL LAKE ESTATES
LAND LOT 127 5TH DISTRICT
FAYETTE COUNTY, GEORGIA
SCALE 1" = 100'
JANUARY 15, 1981


LAND LOT LINE
N1°54W
649.2'
3.57Ac
35
240.0'
N89°16W
648.4'
S1°53E
S89°56E
240.3'
ZIMRIN ROAD 60' ROW
GEORGIA, Fayette County
Clerk's Office Superior Court
Filed for record July 24 1981
Recorded in Book 13 Page 44
This 24th day of July 1981
W A Ballard
Clerk
GEORGIA
COUNTY Fayette
CITY
SURVEY FOR Sam J. Zimrin, Jr.
PROPERTY OF
LAND DIST. 4th
LAND LOT NO. 237
SCALE 1" = 100 ft.
DATE 7-23-81
LEE ENGINEERING CO.


GEORGIA
REGISTERED
No. 2135
LAMAR J. SEABOLT
LAND SURVEYOR
TRAIL
(80' R/W)
CREEK
FUTURE STREET
FUTURE STREET
GEORGIA, Fayette County
Clerk's Office Superior Court
Filed for record July 13 1981
3:30 P.M.
Recorded in Book 13 Page 14
This day of July 1981
W A Ballard
Clerk
ADAMS' ACRES
LAND LOT 4 & 5
FAYETTE COUNTY, GEORGIA
7th DISTRICT
SOUTHEASTERN ENGINEERING, INC.

File#:

10/11/88
Landmark Survey, Inc
251-0006



Owners: J. Neil & T. Kay Davis
1095 S.R. 54 West
Fayetteville, GA 30214
461-6694

● IPF
○ IPS

Fayette County
GEORGIA

1 inch equals 80 feet