

**BOARD MEMBERS**

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

STAFF

Peter A. Frisina, Director
Chanelle N. Blaine, Zoning Administrator
Howard Johnson, P & Z Coordinator

AGENDA
FAYETTE COUNTY PLANNING COMMISSION MEETING
140 STONEWALL AVENUE WEST
March 19, 2020
7:00 pm

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

1. Consideration of Minutes of the Planning Commission meeting held on February 20, 2020.
2. Consideration of Minutes of the Planning Commission meeting held on March 5, 2020.

NEW BUSINESS

3. Consideration of a Minor Subdivision Plat of Ballard Place. The property will consist of 2 lots zoned A-R, is located in Land Lot 183 of the 4th District and fronts on Fletcher Ford Road.

OLD BUSINESS

4. Discussion of the Zoning Ordinance and Subdivision Regulations.

To: Fayette County Planning Commission
From: Chanelle Blaine, Zoning Administrator
Date: March 12, 2020
Subject: Minor Subdivision Plat to be considered on March 19, 2020

MINOR SUBDIVISION PLAT

Minor Subdivision Plat of Ballard Place

OWNER/APPLICANT

William E. Ballard



Recommend **APPROVAL** for the Final Plat signed March 12, 2020.

SURVEYOR CERTIFICATION

AS REQUIRED BY SUBSECTION (C) OF O.C.G.A. SECTION 15-6-67, THIS MAP OR PLAT HAS BEEN PREPARED AND ISSUED FOR SUBMITTAL AND APPROVAL BY THE LOCAL JURISDICTION AS IS EVIDENCED BY THE APPROVAL CERTIFICATES, SIGNATURES, STAMPS, OR STATEMENTS HEREON. SUCH APPROVALS OR AFFIRMATIONS SHOULD BE CONFIRMED WITH THE APPROPRIATE GOVERNMENTAL BODIES BY ANY PURCHASER OR USER OF THE SURVEY OR MAP AS TO INTENDED USE OF ANY PARCEL. FURTHER, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS MAP, PLAT, OR PLAN COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT OCGA 15-6-67.

W.S. BODKIN GAPS #2580
DATE 3-4-2020

ZONING INFORMATION

AR ZONING DISTRICT (AGRICULTURAL-RESIDENTIAL DISTRICT)

- MINIMAL LOT AREA PER DWELLING UNIT: 217,800 SQUARE FEET (FIVE ACRES)
- MINIMAL FLOOR AREA: 1,200 SQUARE FEET
- MINIMUM LOT WIDTH: 250 FEET
- MINIMUM FRONT YARD SETBACK:
 - A. MAJOR THOROUGHFARE:
 - (1) ARTERIAL ROADS - 100 FEET
 - (2) COLLECTOR ROADS - 100 FEET
 - B. MINOR THOROUGHFARE: 75 FEET
- MINIMUM SIDE YARD SETBACK: 50 FEET
- MINIMUM REAR YARD SETBACK: 75 FEET

ZONING INFORMATION SHOW HEREON HAS BEEN TAKEN FROM THE FAYETTE COUNTY ONLINE TAX ACCESSOR MAPS AND THE FAYETTE COUNTY CODE OF ORDINANCES. ALL ZONING INFORMATION WILL NEED TO BE VERIFIED BEFORE THE APPROVAL OF FINAL PLAT.

GENERAL NOTES

THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT WHICH MAY REVEAL ADDITIONAL CONVEYANCES, EASEMENTS, OR RIGHTS-OF-WAY NOT SHOWN HEREON.

EQUIPMENT UTILIZED:

- ANGULAR - TRIMBLE S6 DR 300
- LINEAR - TRIMBLE S6 DR 300 EDM

NO NGS MONUMENT LOCATED WITHIN 500' OF SITE.

THE FIELD DATA UPON WHICH THIS SURVEY IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 22,947 FEET AND AN ANGULAR ERROR OF 0.05" PER ANGLE POINT AND WAS NOT ADJUSTED.

THE BASIS FOR THE DIRECTIONS AND ELEVATIONS SHOWN HEREON IS: GRID NORTH AS DEFINED BY NAD 83 AND NAVD 88 (GEOID 128) DATUM, GEORGIA WEST ZONE AND DETERMINED THROUGH RTK-GPS METHODS UTILIZING A GNSS REAL TIME NETWORK SOLUTION. BY W.S. BODKIN SURVEYING, L.L.C.

THE PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE TO WITHIN ONE FOOT IN 2,446,153 FEET.

A PORTION OF THIS SITE APPEARS TO BE IN A SPECIAL FLOOD AREA, ZONE A WITH NO BFE, AS DEFINED BY THE FAYETTE COUNTY F.E.M.A. F.I.R.M. COMMUNITY PANEL NUMBER 13113 C 0019 E, DATED SEPTEMBER 26, 2008.

TRACT I & TRACT II CONTAIN OR ARE ADJACENT TO A SPECIAL FLOOD HAZARD AREA IDENTIFIED IN THE FAYETTE COUNTY 2013 LIMITED DETAIL FLOOD STUDY. AS REQUIRED BY ART. IV OF THE DEVELOPMENT REGULATIONS A MINIMUM FINISHED FLOOR ELEVATION IS ESTABLISHED FOR THE LOWEST FLOOR ELEVATION INCLUDING A BASEMENT BY THIS STUDY.

WETLANDS WERE NOT DELINEATED BY THIS SURVEYOR.

FAYETTE COUNTY DOES NOT ACCEPT THE OWNERSHIP, MAINTENANCE OR RESPONSIBILITY FOR ANY DRAINAGE EASEMENT OR OVERALL DRAINAGE PLAN, OR THE LACK OF ONE, INDICATED BY THIS PLAT.

BOTH TRACT I & TRACT II WILL BE SERVED BY WELL AND SEPTIC TANK.

NO EXISTING STRUCTURES ON EITHER TRACT.

NO EXISTING EASEMENTS WERE FOUND OR PROVIDED DURING THIS SURVEY.

EACH BUILDABLE LOT HAS A MINIMUM CONTIGUOUS AREA OF 2.0 ACRES THAT IS FREE AND CLEAR OF ZONING BUFFERS AND SETBACKS, WATERSHED PROTECTION BUFFERS AND SETBACKS, JURISDICTIONAL WETLANDS, AND EASEMENTS OF ANY KIND.

SOILS SHOWN HEREON WERE DELINEATED BY OTHERS, SEE ADDITIONAL NOTES.

PER BRYAN KELLER THE 2013 FAYETTE COUNTY FLOOD STUDY IS NOT SHOWN.

WETLAND DELINEATION

I, _____ OF _____ DO HEREBY CERTIFY THAT I HAVE FIELD INSPECTED THE PROPERTY KNOWN AS _____ ON _____ AND DETERMINED THAT THE PROPERTY CONTAINS OR DOES NOT CONTAIN JURISDICTIONAL WETLANDS AS DEFINED BY THE U.S. ARMY CORPS OF ENGINEERS.

SIGNATURE OF WETLAND DELINEATOR

COMPANY ADDRESS & TELEPHONE

AREA SEIZED BY FAYETTE COUNTY

SYMBOLS
PF = ○ - AS SHOWN HEREON
PS = ● - 1/2" CAPPED REBAR TO BE SET

LEGEND
POB POINT OF BEGINNING
POC POINT OF COMMENCEMENT
N/V NOW OR FORMERLY
IF IRON PIN FOUND
PS IRON PIN SET (CAPPED 1/2" REBAR)
PL PROPERTY LINE
R/W RIGHT-OF-WAY
CA CENTERLINE
EX EXISTING
PB PLAT BOOK
DB DEED BOOK
PG PAGE
EG EDGE OF GRAVEL
B.F.E. BASE FLOOD ELEVATION

60 30 0 60 120 180
GRAPHIC SCALE IN FEET
1" = 60'

PROVERBS 22:28
REMOVE NOT THE ANCIENT LANDMARK
WHICH YOUR FATHERS HAVE SET.

DEUTERONOMY 27:17
"CURSED BE HE WHO REMOVES HIS NEIGHBOR'S LANDMARK
AND ALL THE PEOPLE SAY, 'AMEN.'"

SUBJECT PROPERTY

OWNER: WILLIAM EDWARD BALLARD
1160 ANTIOCH ROAD, FAYETTEVILLE, GA 30215
678-672-7262

SITE ADDRESS: FLETCHER FORD ROAD, FAYETTEVILLE, GA 30215

TRACT I AREA: 6.86± ACRES
TRACT II AREA: 5.20± ACRES

TOTAL AREA: 12.06± ACRES
(2 LOTS TOTAL)

ORIGINAL PARCEL #0433 058

REFERENCE: PLAT BOOK 40 - PAGE 60

LEVEL III SOIL SURVEY

I, LARRY F. MCEVER, DO HEREBY CERTIFY THAT THE LEVEL III SOIL SURVEY INFORMATION PROVIDED ON THE SOIL MAP WAS PERFORMED BY RESOURCE ENGINEERS, INC. IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN THE GEORGIA DEPARTMENT OF HUMAN RESOURCES' CURRENT MANUAL FOR ON-SITE SEWAGE MANAGEMENT SYSTEMS.

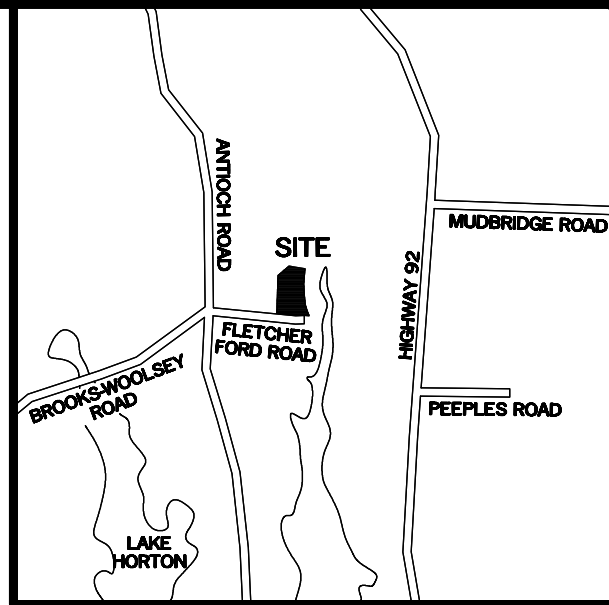
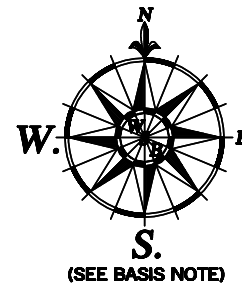
SIGNATURE OF SOIL CLASSIFIER

8305 SPENCE ROAD, FAIRBURN, GA 30213 -- 770-969-8923

COMPANY ADDRESS & TELEPHONE

SOIL TYPE	Slope %	Water inches	Resistance inches	Code	Trench Depth inches	Perk Rate min/in	Infil. Rate gal/sf/day
Appling	5 - 10	>72	>72	A	24 - 48	65@36"	0.10
Appling Wet Var.	4 - 6	>72	>72	A	18 - 24	70@24"	0.10
Cecil	4 - 8	>72	>72	A	24 - 48	45@40"	0.10
Enon	6 - 9	p30	>72	C	9 - 18	75@18"	0.10
Pacolet	2 - 8	>72	>72	A	24 - 48	45@30"	0.10

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



VICINITY MAP
N.T.S.

COUNTY APPROVALS

APPROVED BY DEPARTMENT OF ENVIRONMENTAL HEALTH

DATE: _____ SIGNED: _____
ENVIRONMENTAL HEALTH SPECIALIST

APPROVED BY DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DATE: _____ SIGNED: _____
ENVIRONMENTAL MANAGEMENT

APPROVED BY COUNTY ENGINEER OF FAYETTE COUNTY.

DATE: _____ SIGNED: _____
COUNTY ENGINEER

APPROVED BY THE FAYETTE COUNTY PLANNING COMMISSION.

DATE: _____ SIGNED: _____
SECRETARY

APPROVED BY THE FAYETTE COUNTY ZONING ADMINISTRATOR.

DATE: _____ SIGNED: _____
ZONING ADMINISTRATOR

APPROVED BY FAYETTE COUNTY FIRE MARSHAL.

DATE: _____ SIGNED: _____
FIRE MARSHAL

OWNER'S CERTIFICATE

WE, THE UNDERSIGNED OWNER(S) AND/OR MORTGAGEE(S) OF THE SUBDIVISION, HEREBY OFFER TO DEDICATE AND/OR RESERVE FOR PUBLIC USE THE RIGHTS-OF-WAY, EASEMENTS AND OTHER GROUND SHOWN ON THIS PLAT.

____ WILLIAM E. BALLARD OWNER DATE _____ N/A MORTGAGEE

ALL PROPERTY CONTAINED WITHIN THE RIGHT-OF-WAY OF FLETCHER FORD ROAD, SAID ROADS HAVING AT LEAST A MINIMUM 30 FOOT WIDTH RIGHT OF WAY AS INDICATED HEREON, ARE HEREBY DEEDED TO FAYETTE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF GEORGIA, AT NO COSTS TO FAYETTE COUNTY UPON RECORDATION OF SAID FINAL PLAT OR MINOR SUBDIVISION PLAT WITH THE FAYETTE COUNTY CLERK OF SUPERIOR COURT.

PURPOSE NOTE

THE PURPOSE OF THIS SURVEY IS TO SUBDIVIDE THE ORIGINAL TRACT (TAX PARCEL #0433 058) INTO TWO TRACTS OF LAND AS SHOWN.

DECLARATION IS MADE TO ORIGINAL PURCHASER OF THE SURVEY. IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.

SURVEY IS VALID ONLY IF PRINT HAS ORIGINAL SEAL AND SIGNATURE IN CONTRASTING INK OF SURVEYOR.



PROJECT NUMBER
19046 / 2019.348
DRAWN BY
NEW
REVIEWED BY
WSB
ISSUE DATE
9-25-19

BALLARD PLACE MINOR SUBDIVISION PLAT

NO.	REVISIONS	DATE
#2	2ND ROUND OF COUNTY COMMENTS	12-10-19
#3	3RD ROUND OF COUNTY COMMENTS	2-13-2020
#4	4TH ROUND OF COUNTY COMMENTS	2-19-2020
#5	5TH ROUND OF COUNTY COMMENTS	3-4-2020

1
OF 1

MINOR SUBDIVISION PLAT FOR:

BALLARD PLACE

FAYETTE COUNTY, GA

4TH DISTRICT

LAND LOT 183

315 CASTLEWOOD RD.
TYRONE, GA 30290
770-312-5500

W. S. BODKIN SURVEYING, L.L.C.

Zoning Ordinance Amendment List

110-60 - Conflicting requirements

110-79 – Residential accessory structures

110-81 – Walls, fences

110-105 – Telecommunication towers

110-106, 170, 169 – CBU - mailbox

110-126 – C-S

110- 127 – EST

110-128 – R-85

110-142 - - O-I, Office-Institutional District

110-144 – C-H

110-146 – M-1

110-149 – PUD-PEF

110-169 - AR wedding/event – Farm outbuildings – Storage facilities (internal & external)-

110-170 – Nonconformances

110-173 - Transportation corridor overlays

110-242 – Powers Duties

Sec. 110-60. - Conflicting requirements.

The harmonious, orderly, and progressive development of land is further facilitated by recognizing a hierarchy among the regulations and ordinances which govern the development of land. To that end it is understood there may be conflicting requirements between the Fayette County Zoning Ordinance and the Subdivision Regulations and/or the Development Regulations. Should any requirements of the Subdivision Regulations and/or Development Regulations conflict within this chapter, the Subdivision Regulations and/or Development Regulations shall control. Should any requirements conflict within this chapter ~~or with any other county requirements~~, the most restrictive shall apply.

Sec. 110-79. - Residential accessory structures and their uses.

- (a) The following residential accessory structures are permitted in A-R, all residential zoning districts and properties regulated under Sec. 110-169, pertaining to "Conditional use approval - Single-family residence and residential accessory structures and/or uses".
- (1) Well/pump house;
 - (2) Guesthouse;
 - (3) Greenhouse, permanent or temporary (see (n) temporary greenhouse);
 - (4) Swimming pool, hot tub, pool deck, pool equipment enclosure **structure**, and pool screen enclosure;
 - (5) Garage;
 - (6) Recreational court;
 - (7) Gazebo;
 - (8) Cabana/pool house, boat house, **detached** covered patio, and **detached** covered deck;
 - (9) Storage building;
 - (10) Carport;
 - (11) Solar panel (ground-mounted);
 - (12) Wind turbine/windmill (ground-mounted);
 - (13) Aircraft hangar, detached (see article V of this chapter);
 - (14) Dog house and dog pen/run;
 - (15) Playhouse/**treehouse**;
 - (16) Outdoor kitchen and/or fireplace;
 - (17) Patio; and
 - (18) Underground storm shelter.

These regulations shall not apply to farm outbuildings, including horse stables, auxiliary structures, and commercial greenhouses as regulated under Sec. 110-125, pertaining to "A-R, Agricultural-Residential District", and Sec. 110-169, pertaining to "Conditional use approval", of this chapter. A semi-trailer/box truck utilized as a farm outbuilding as regulated under Sec. 110-125, pertaining to "A-R, Agricultural-Residential District", and horse quarters, as regulated under Sec. 110-169, pertaining to "Conditional use approval". These regulations shall not apply to structures associated with nonresidential uses allowed in A-R and residential zoning districts.

- (b) *Structure limitations.* Construction of a residential accessory structure shall occur concurrently with or after the construction of the principal structure. Residential accessory structures shall not be used as dwelling units or for lodging purposes, except a guesthouse.
- (c) *Number and size.* The number and size of residential accessory structures shall conform to the requirements described herein.
- (1) Residential accessory structures shall be limited to one of the following options:
 - a. Two residential accessory structures, per individual lot, that shall not exceed a combined total footprint of 1,800 square feet or **three residential accessory structures, per individual lot**, that shall not exceed a combined total footprint of 3,600 square feet on a lot with a minimum of five acres ~~and a minimum contiguous area of two acres clear of zoning setbacks, watershed protection buffers and setbacks, jurisdictional wetlands, 100-year floodplain area, and easements of any kind.~~ One of these residential accessory structures

may include up to 700 square feet of heated and finished floor area to be utilized as a guesthouse. A residential accessory structure combined with a guesthouse, under this option, shall be deemed as one residential accessory structure:

- b. One residential accessory structure, per individual lot, footprint not to exceed 1,800 square feet. This residential accessory structure may include up to 700 square feet of heated and finished floor area to be utilized as a guesthouse. A residential accessory structure combined with a guesthouse, under this option, shall be deemed as one residential accessory structure; or
 - c. One residential accessory structure, per individual lot with a minimum of five acres ~~and a minimum contiguous area of two acres clear of zoning setbacks, watershed protection buffers and setbacks, jurisdictional wetlands, 100-year floodplain area, and easements of any kind~~, footprint not to exceed 3,600 square feet. This residential accessory structure may include up to 700 square feet of heated and finished floor area to be utilized as a guesthouse. A residential accessory structure combined with a guesthouse, under this option, shall be deemed as one residential accessory structure. ~~Under this option, a residential accessory structure shall be located only to the rear of the principal structure.~~
- (2) At least 50 percent of the square footage of a residential accessory structure building shall be fully enclosed, except as otherwise provided herein. Said enclosed area shall be surrounded by connecting adjacent walls constructed of solid materials attached to the foundation and roof.
- (3) A well/pump house, ~~pool equipment enclosure structure~~, dog house, or playhouse/~~treehouse~~ consisting of 70 square feet or less; dog pen/run; swimming pool, hot tub, or recreational court; aircraft hangar, farm outbuilding, greenhouse, horse stable, or auxiliary structure or one semi-trailer/box truck (as regulated under section 110-125, pertaining to "A-R, Agricultural-Residential District", and section 110-169, pertaining to "Conditional use approval"); ground/pole-mounted solar panel consisting of less than 200 square feet or ground-mounted wind turbine/windmill; uncovered outdoor kitchen, fireplace; patio; underground storm shelter; horse quarters (as regulated under section 110-169, pertaining to "Conditional use approval"), ~~temporary greenhouse (see (c) below)~~, or beehive shall not be included in determining the number of residential accessory structures provided herein.
- (d) *Location on lot.* Residential accessory structures shall conform to the dimensional requirements within each zoning district. A well/pump house of 70 square feet or less may be located within the setbacks.
- (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.
- (2) Residential accessory structure located in the secondary front yard of a corner lot. When a residential accessory structure is located in a secondary front yard adjacent to a street that is designated as an Internal Local the required setback shall be increased by 20 feet.
- (f) *Guesthouses.* Only one guesthouse is allowed per individual lot (see also Sec. 110-169, w). Any living area included in a residential accessory structure is a guesthouse. A guesthouse shall not be used as tenant space. A guesthouse shall not exceed 700 square feet of heated and finished floor area.
 - (g) *Architectural standards.* All residential accessory structures of 200 square feet or greater, except a detached garage located in the front yard, shall be constructed in a residential character consisting of a facade of fiber-cement siding, wood siding, wood textured vinyl siding, brick/brick veneer, rock, stone, cast-stone, stucco, or synthetic stucco, or finished/baked enamel aluminum/metal siding which establishes a horizontal pattern. These standards shall not apply to an addition to an existing residential accessory structure that is nonconforming in terms of these standards. Any addition to an existing nonconforming residential accessory structure shall match the architectural design of the existing nonconforming residential accessory structure. Elevation drawing denoting compliance shall be submitted as part of the building permit application.
 - (h) *Temporary accessory storage.* Portable on-demand storage units are only allowed on a temporary basis and only in conjunction with an ongoing a renovation project for the purpose of storage of household items for a period not to exceed one year. Portable on-demand storage units are defined as any container, storage unit, or other portable structure, other than a residential accessory structure, complying with this Section, used to store household items. Only two portable on-demand storage units are allowed per lot.
 - (i) *Carport.* The carport shall be used to house motor vehicles and trailers only. Carports shall be constructed of the same material or types of material as the principal structure on the property, or of metal.
 - (j) *Cabana/pool house, boat house, detached covered patio, and detached covered deck.* The cabana, detached covered patio, and detached covered deck may contain an outdoor kitchen, fireplace, spa/hot tub, bathroom/changing room, and/or pool pump/filter but shall not be utilized as a carport, garage, storage building, open storage, or living area. Said structures shall, at a minimum, consist of a roof with supporting posts/columns, not to exceed one story, and comply with the architectural standards for a residential accessory structure of 200 square feet or greater.

- (k) *Swimming pool, pool deck, pool equipment enclosure, and pool screened enclosure.* The pool deck, pool equipment enclosure, and pool screened enclosure shall comply with the required setbacks. A pool screen enclosure shall be constructed with insect screening commonly made of plastic, aluminum, or similar lightweight material and shall be exempt from the architectural requirements herein.
- (l) *Solar panels (ground-mounted).* Ground-mounted solar panels shall be limited to three per lot, the total cumulative square footage of ground-mounted solar panels shall not exceed 900 square feet, shall not exceed ten feet in height, shall comply with the required setbacks, and shall comply with the location of an accessory structure/use. Ground-mounted solar panels consisting of ~~less than~~ 200 cumulative square feet, ~~or less~~, shall not count toward the number of accessory structures/uses. Ground-mounted solar panels consisting of ~~more than~~ 200 cumulative square feet up to a maximum of 900 cumulative square feet shall be counted as one accessory structure/use.
- (m) *Wind turbines/windmill (ground-mounted).* Wind turbines/windmills shall not exceed 70 feet in height. The setbacks shall be equal to the height of the wind turbine, including the blades, or the applicable zoning district setbacks, whichever are greater. Each lot is limited to one ground-mounted wind turbine/windmill. The ground-mounted wind turbine/windmill shall not count toward the number of accessory structures/uses. All anchors for guyed towers shall meet the setbacks for the applicable zoning districts.
- (n) *Nonconformance.* All residential accessory structures or uses which had a building permit issued prior to January 24, 2008, are legally nonconforming and shall be allowed to be maintained and rebuilt to current size and in the existing location. All residential accessory structures or uses permitted after January 24, 2008, shall comply with the current requirements.
- (o) *Temporary greenhouse.* Temporary greenhouses shall not exceed ten feet in height. Each lot is limited to one temporary greenhouse. The side yard setback shall be a minimum of 30 feet or the minimum side yard setback of the applicable zoning district, whichever is greater, and the rear yard setback shall be a minimum of 50 feet or the minimum rear yard setback of the applicable zoning district, whichever is greater. The maximum square footage for temporary greenhouses shall be as follows:

Acreage	Square Feet
< 2	600
2 to < 3	800
3 to < 4	1,000
4 to < 5	1,200
5 or greater	2,400

Temporary greenhouses shall be maintained in good condition and the covering shall not be torn and tattered. Temporary greenhouses shall only be used for the purpose of growing or storing plants. Temporary greenhouses shall be exempt from subsections (c)(2) and subsection ~~(f)~~ (g) of this section. ~~One temporary greenhouse of 120 or less square feet on a lot shall not count toward the total square~~

~~footage or number of accessory structures for that lot.~~ Greenhouses built in the A-R zoning district as regulated under article V of this chapter shall be exempt from these requirements.

A temporary greenhouse permit will be required for all temporary greenhouses prior to construction. Scaled drawings shall be submitted to the planning and zoning department which shall include, but not be limited to: temporary greenhouse elevations including height and total square footage and location on the lot including the distance from the property lines.

Sec. 110-81. - Walls, fences, and entrance structures located in a front yard in A-R and all residential zoning districts and residential and nonresidential subdivision entrance walls and fences.

(a) All walls and fences shall comply with the following:

- (1) No wall or fence shall be constructed in a public right-of-way, and such wall or fence shall not be constructed any closer than three feet from any fire hydrant. Walls and fences in the right-of-way shall be removed.
- (2) Any vehicular driveway shall have a minimum clearance of 14 feet in width and 14 feet in height to allow for the passage of emergency vehicles.
- (3) All walls and fences shall be maintained and repaired as required in the International Property Maintenance Code.
- (4) A zoning compliance certificate will be required for all walls and fences located in a front yard prior to construction. A scaled drawing shall be submitted to the planning and zoning department which shall include, but not be limited to: wall and/or fence elevations, location, height of wall/fence, posts/columns, and ornamental statues, figurines, and light fixtures, visibility, spacing over the entire linear footage of wall/fence, changes in grade, building materials, and other requirements of this chapter.

(b) Walls and fences not exceeding four feet in height shall comply with the following:

- (1) A wall or fence shall be constructed of brick/brick veneer, stucco, synthetic stucco, rock, stone, cast-stone, wood, wrought iron, chainlink or other similar wire materials, or other architecturally engineered facades which match these materials. Barbed wire and electric fences are prohibited, except as otherwise provided herein (see subsection (e) of this section).
- (2) Posts or columns, light fixtures, ornamental statues, and figurines shall not be included in the measurement of the four foot wall height.

(c) Walls and fences exceeding four feet in height shall comply with the following:

- (1) A wall and/or fence shall be constructed of brick/brick veneer, stucco, synthetic stucco, rock, stone, cast-stone, wood, wrought iron, or other architecturally engineered facades which match these materials. Barbed wire and electric fences are prohibited, except as otherwise provided herein (see subsection (e) of this section).
- (2) A solid wall and/or fence shall not exceed four feet in height and any portion of a wall and/or fence higher than four feet shall have a minimum visibility of 50 percent which shall be uniformly spaced over the entire linear footage of the wall and/or fence. Columns and posts shall not be included in this calculation.
- (3) A vehicular entry structure shall not be subject to the four foot wall and fence requirement or the minimum visibility of 50 percent within 35 feet of either side of the driveway.

(d) Walls and fences that cannot meet height requirements due to changes in grade shall make adjustments to each section (as created by the columns or posts) of the wall or fence to meet the requirements to the greatest degree possible. In some cases, this will result in a stair-step pattern as the wall or fence moves along the grade.

(e) Exemptions. The following shall be exempt from the above requirements:

- (1) In any residential zoning district where horses are kept in accordance with article V of this chapter, a wall or fence made of chainlink or other wire materials including barbed wire and electric fences is exempt from the four-foot maximum height requirement and shall not exceed a maximum of five feet in height in a front yard.
- (2) Where the use of the property is for farming in an A-R zoning district, including the raising and selling of crops and/or livestock, the property is exempt from the four-foot maximum height requirement, and exempt from the construction requirements of brick/brick veneer, stucco,

synthetic stucco, rock, stone, cast-stone, wood, wrought iron, or other architecturally engineered facades which match these materials.

- (3) Walls and fences in any residential or A-R zoning district.
- a. On a corner lot, in order to reduce road noise, a solid wall and/or fence along a street which is classified as an arterial or collector per the county thoroughfare plan shall be exempt from the four foot maximum height requirement and the 50 percent visibility requirement. However, this exemption shall not apply to the street which the front door of the residence is facing.
 - b. Where a temporary fence is used in conjunction with a construction site, said fence is exempt from the requirements of this section.
 - c. A fence required for a telecommunication tower site shall comply with the requirements of article V of this chapter and shall be exempt from the requirements of this section.
 - d. A wall or fence used in conjunction with a storm water facility shall be exempt from the requirements of this section.
 - e. A wall or fence used in conjunction with any nonresidential permitted use or conditional use, including but not limited to: an animal hospital, kennel, cemetery and mausoleum, church or other place of worship. Colleges and universities, day care facility, private school, telephone, and electric or gas sub-station or other public utility facilities shall be exempt from the requirements of this section.
 - f. With regard to the location of a wall or fence, a through lot shall be exempt from the four foot maximum height requirement and the minimum 50 percent visibility requirement, except for the area between the street from which the lot is accessed and the front building line, which shall be treated as a front yard.
- (f) Residential and nonresidential subdivision entrance walls and fences. Subdivision entrance walls and fences shall be placed on common property under the ownership of the homeowners' association (HOA) or the property owners' association (POA). Common property shall be shown on the preliminary plat and/or final plat and/or minor subdivision plat. Said walls and fences shall not be subject to the four-foot height or 50 percent visibility requirements, but shall be constructed of brick/brick veneer, stucco, synthetic stucco, rock, stone, cast-stone, wood, wrought iron, or other architecturally engineered facades which match these materials. (Note: Check with the building permits and inspections department for any permitting requirements for walls/fences/subdivision entrances.)
- (g) Nonconformance. All walls and fences which were lawfully built and existing on October 1, 2008, and which do not conform with the provisions of this article, shall be allowed to remain in place and shall be considered to be a legally existing nonconforming wall or fence. Additionally, any walls or fences built prior to October 1, 2008, that were in compliance with all codes and ordinances when it was built except for the height of the wall or fence, and which do not conform with the provisions of this article, shall be considered a legally existing nonconforming wall or fence and shall be allowed to remain in place. All walls and fences built after October 1, 2008, shall comply with this article.

(Code 1992, § 20-5-23; Ord. No. 2012-09, § 3, 5-24-2012)

Sec. 110-105. - Standards for telecommunications antennas and towers.

- (a) *Purpose and intent.* The purpose of this chapter is to establish minimum development standards for the regulation of commercial telecommunications transmission towers, including, but not limited to: cellular and personal communications systems (PCS) towers, broadcasting towers, two-way radio towers, fixed-point microwave dishes, commercial satellites and receiving dishes, and related equipment cabinets and/or buildings. The intent of this chapter is:
 - (1) To implement the provisions of the Telecommunications Act of 1996, on a local level;
 - (2) To control placement of towers and antennas in a way that minimizes the adverse visual impact to nearby properties by locating towers and antennas in nonresidential areas or in areas where the adverse impact on the community is minimal; and
 - (3) To advocate the shared use of existing and planned tower sites through co-location, thereby discouraging the proliferation of towers throughout the county.
- (b) *Authority.* Only the board of commissioners has the authority to reduce or waive the requirements under this section through the public hearing procedure.
- (c) *Applicability.*
 - (1) *District height limitations.* Height limits specified for each zoning district shall not apply to towers and antennas. The requirements set forth herein shall govern the height of towers and antennas.
 - (2) *Governmentally owned property.* These requirements shall not apply to any governmentally owned property, including: properties owned by the board of commissioners, board of education, or a municipality, as well as, the state or federal government, that are used for the location of any tower facility.
 - (3) *Amateur radio antennas.* This chapter shall not govern any amateur radio tower, or the installation of any antenna, that is less than 70 feet in height and is owned and operated by a federally licensed amateur radio station operator.
 - (4) *Pre-existing towers and antennas.*
 - a. Any tower or antenna which existed prior to May 24, 2012, that does not comply with the requirements herein shall be deemed legally nonconforming. Any enlargement of a pre-existing tower or tower facility, shall meet the requirements herein. Co-location of an antenna which does not increase the height of the tower or placement of additional equipment cabinets or buildings within the existing tower facility shall be allowed under the provisions of site plan requirements.
 - b. Replacement of a pre-existing legally nonconforming tower structure is permitted provided that all of the following apply:
 - 1. The replacement tower is constructed within 25 feet of the existing tower and is not greater in height than the existing tower;
 - 2. The lower being replaced is removed from site within 90 calendar days from the issuance of the certificate of occupancy for the replacement tower;
 - 3. Additional co-location opportunities on the new tower are made available with the minimum users required based on tower height; and
 - 4. A site plan indicating the location of the replacement tower shall be required.
- (d) *General requirements.*
 - (1) Towers and tower facilities shall be on a lot which meets the minimum requirements for the zoning district in which it is located. Towers and tower facilities may be located on a lot containing another use. Towers and tower facilities may occupy a leased area being a portion of the lot.

- (2) Internal setbacks for towers, tower facilities, and anchors shall be measured to the boundaries of the lot, not the boundaries of the leased area. Setbacks for towers shall be measured from the base of the tower.
- a. All towers shall be set back from all adjoining properties zoned residential or A-R a distance equal to the height of the tower plus ten feet.
 - b. All towers shall be set back from all adjoining properties zoned nonresidential a distance of 100 feet.
 - c. All towers shall be set back from the street right-of-way (existing or required, whichever is greater) a distance equal to the height of the tower. Street right-of-way is based on the classification of the street (see chapter 104, development regulations).
 - d. All towers, excluding alternative tower structures, shall be set back from any off-site residence a distance equal to three times the tower height or a minimum of 500 feet, whichever is greater.
 - e. Any tower facility and anchors for guyed towers shall comply with the minimum required setbacks and/or buffers of the applicable zoning district.
 - ~~f. All towers shall be set back from all adjacent municipalities and counties a minimum distance of 1,000 feet.~~
- (3) Towers located on the same lot as a private school or day care center shall be set back a distance equal to the height of the tower from all facilities, excluding parking areas. This provision shall not apply to an alternative tower structure which is allowed in conjunction with a private school conditional use.
- (4) All towers, excluding alternative tower structures, shall be structurally designed to accommodate the following minimum numbers of carriers based on height of the tower:
- a. Up to 70 feet: one carrier;
 - b. Greater than 70 up to 120 feet: two carriers;
 - c. Greater than 120 feet up to 150 feet: three carriers;
 - d. Greater than 150 feet up to 180 feet: four carriers;
 - e. Greater than 180 feet up to 250 feet: five carriers; and
 - f. Greater than 250 feet: six carriers.
- (5) All tower facilities, excluding tower facilities associated with alternative tower structures, shall be enclosed by a steel chain-link fence not less than eight feet in height, with slat inserts for screening. Access to the telecommunication tower shall be through a locking gate. In addition, a minimum of three strands of barbed wire shall be used along the top of the fence to prevent unauthorized access to the tower.
- (6) A landscaped strip ten feet in width surrounding the perimeter of the tower facility shall be required. Landscaping shall be staggered double rows of evergreen trees a minimum of six feet in height when planted and spaced every ten feet on center. Landscaping shall be installed on the outside of the required security fence. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, the zoning administrator may determine that natural growth around the property perimeter may be sufficient in lieu of the required landscaping. If existing vegetation is to remain and requested to count toward the landscaping requirements, all such information, including location, size, and type of vegetation shall be indicated on the site/landscape plan. These requirements shall not apply to a tower facility associated with an alternative tower structure.
- (7) Maximum height for all towers and antennas is 500 feet. Tower height shall be measured from the natural grade of the ground at the location of the tower to the highest point of the tower,

including any antenna. If minimal grading (elevation of one to two feet above natural grade) is required to level the ground for the tower base, tower height shall be measured from the finished grade approved by the county engineer.

- (8) No signage, other than required safety signage, shall be placed on a tower structure or antenna.
- (9) Aesthetics and lighting requirements. The following compatibility standards shall govern the aesthetics and lighting of any tower facility, including the installation of antennas on towers:
 - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, so as to reduce visual obtrusiveness.
 - b. If an antenna is installed on a structure other than a tower, the antenna and equipment cabinets shall be architecturally compatible with, the color and texture of the supporting structure. Roof-mounted equipment cabinets shall be screened so as to make the equipment visually unobtrusive.
 - c. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority.
- (10) Removal of abandoned antennas and towers. Prior to the abandonment of any tower or antenna, a copy of the notice of intent to abandon required by the FCC shall also be submitted to the county planning and zoning department. Any antenna or tower, including pre-existing towers and antennas, that is not in use for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the governing authority notifying the owner of such abandonment. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
- (11) Performance bond required. Prior to the issuance of a certificate of occupancy for a new tower structure, every applicant shall be required to deposit a performance bond with the county. The amount of the bond shall be equal to ten percent of the total construction cost or a minimum of \$5,000.00, whichever is greater. Such bond shall be required upon compliance with all aspects of this section and shall be applicable to any assignee and owner of any permit granted hereunder, or any employee, contractor, subcontractor, or other party performing services in connection with any certificate of zoning compliance issued by the planning and zoning department. The required performance bond shall be released only upon demolition of the tower and restoration of the site to the pre-development conditions. The approved format of the bond is available in the planning and zoning department.
- (e) *Supplemental requirements.* In addition to the general requirements above, the following supplemental requirements shall apply as specified below:
 - (1) *Highway corridor.* Locating towers along the following highway corridors is permitted as an overlay zone provided all the following requirements are met:
 - a. The state and county highways included within the highway corridor are SR 54, SR 85, SR 92, SR 74, SR 314, SR 279, SR 138, and 85 Connector.
 - b. The highway corridor tower overlay zone permits towers in any zoning district when located within 1,000 feet of the right-of-way on either side of the aforementioned roads in unincorporated areas of the county.
 - c. Towers in excess of 250 feet in height in the highway corridor shall require public hearings before the planning commission and board of commissioners.
 - d. All new towers, excluding alternative tower structures, located within the highway corridor that are 70 feet or greater in height shall not be located within one statute mile from any existing or planned towers (within any local government jurisdiction) that are 70 feet or greater in height. This minimum distance requirement shall not apply from existing

governmentally owned towers where co-location is not permitted or from alternative tower structures.

(2) *Outside of the highway corridor.*

- a. Outside of the highway corridor, a tower may be located only in the following zoning districts:
 1. Manufacturing and heavy industrial district (M-2);
 2. Light Industrial District (M-1);
 3. Highway Commercial District (C-H);
 4. Community Commercial District (C-C);
 5. Planned Unit Development (PUD) excluding PUD-PRD;
 6. Agricultural-Residential (A-R); and
 7. R-70 Single-Family Residential District.
- b. Towers in excess of 180 feet in height outside of the highway corridor shall require public hearings before the planning commission and board of commissioners.
- c. All new towers, excluding alternative tower structures, located outside of the highway corridor that are 70 feet or greater in height shall not be located within 1½ statute miles from any existing or planned towers (within any local government jurisdiction) that are 70 feet or greater in height. This minimum distance requirement shall not apply from existing government-owned towers where co-location is not permitted or from alternative tower structures.

(3) *Alternative tower structures.*

- a. The purpose of an alternative tower structure is to diminish, camouflage, or conceal the appearance of towers and antennas to reduce the visual impact on surrounding properties and streets. Depending on the nature of the site, the proposed alternative tower structure shall be appropriate and in character with its surroundings. For example, the use of a monopine is more fitting on a site with stands of mature trees; whereas, the use of a flag pole or light pole alternative tower structure is more suitable for the developed portion of a site.
- b. Alternative tower structures shall comply with the general requirements herein with the exception of the setback requirements from off-site residences, security fencing requirements, landscape requirements, and tower separation requirements of both the highway corridor and outside of the highway corridor. Alternative tower structures shall be allowed in the highway corridor, outside of the highway corridor in the zoning districts listed herein, and in conjunction with the following existing conditional uses:
 1. Church or other place of worship;
 2. Developed residential recreational/amenity areas;
 3. Private school; and
 4. Telephone, electric, or gas sub-station or other public utility facilities.
- c. Alternative tower structures, in conjunction with the above listed conditional uses, shall meet the setbacks established in the general requirements or the conditional use setbacks, whichever is greater.
- d. An alternative tower in excess of 120 feet in height shall require public hearings before the planning commission and board of commissioners.
- e. A maximum of one alternative tower structure shall be allowed per lot.

- f. The alternative tower structure shall match the visual simulation depiction and engineering detail and specification drawings from the manufacturer/supplier of the alternative tower structure specifically proposed for the site.
 - g. Design review and approval process: alternative tower structures shall go through a design review and approval process before the planning commission. The purpose of this design review and approval process is to determine that the alternative tower structure type is appropriate for the site and surrounding area and set requirements for the alternative tower structure type, placement on the site, equipment structures, fencing and landscaping. The design review and approval process application shall include the following:
 - 1. An analysis of the nature and character of the site and how the alternative tower structure is appropriate in context to the site and the view from surrounding properties and streets;
 - 2. A visual simulation consisting of color photographs of the proposed site with the existing view and with a depiction of the proposed tower, from a minimum of four distinct quadrants (generally north, east, south, and west), to demonstrate the visual impact on surrounding properties and streets; and
 - 3. Engineering detail and specification drawings from the manufacturer/supplier of the alternative tower structure specifically proposed for the site which shall indicate all applicable requirements herein.
 - h. Monopine towers.
 - 1. Monopine towers shall maintain the natural conical appearance of a loblolly pine tree. Antennas shall be placed a minimum of five feet below the top of the tower, as measured from the highest point of the antenna to maintain said appearance.
 - 2. Foliage shall be green in color and the tower shall be brown in color. The antennas shall be green to blend with the foliage and the foliage shall extend a minimum of one foot beyond the antennas. The foliage shall be UV resistant to reduce degradation and fading and constructed to withstand winds of 110 mph, certification of such shall be supplied with the application. Foliage shall be placed on the tower down to the height of the foliage of surrounding trees. The structure shall have sufficient limbs at the time of initial installation so that there is no gap between the existing canopy and the lower most limbs of the monopine.
 - 3. The installation of the foliage on the monopine shall be installed prior to final inspections. Foliage on the monopine shall be maintained and/or replaced to the specifications established by the engineering detail and specification drawings from the manufacturer/supplier of the alternative tower structure specifically proposed for the site to retain the screening of the antennas. Upon notice from the county that the foliage is in need of maintenance and/or replacement, the tower owner shall have 90 days to make such repairs.
 - i. Flag pole and light pole alternative tower structures shall utilize internal antennas and slick stick design. Flag poles utilized as an alternative tower structure shall be exempt from article V, General provisions, structures permitted above the height limit.
- (f) *Public hearings required to reduce or waive requirements.*
- (1) Public hearings before the planning commission and board of commissioners are necessary to reduce or waive requirements for a proposed tower, antenna, or equipment cabinet or building that cannot comply with the general requirements, and/or supplemental requirements. The procedure for said public hearings shall follow the procedure for rezoning (see article VII of this chapter). Applicants shall apply for public hearings through the planning and zoning department. The application with deadline submittal and public hearing dates is available in the planning and zoning department. The application shall include the following:

- a. A scaled concept plan, drawn on the signed/sealed survey, graphically indicating the lot and leased area, total tower height including antennas, type and design of the tower structure, the boundary of the tower facility, all applicable setbacks (both on-site and off-site), ingress/egress, landscaping areas, and zoning of the subject property and adjacent property;
- b. Inventory of existing or planned tower sites. When a proposed tower cannot meet the separation requirements between towers, an inventory of existing or planned tower sites shall be required to sufficiently demonstrate that no existing or planned tower can accommodate the proposed antenna. Each applicant for a new tower shall contact the owners of all existing and planned tower sites, including those located within all adjacent municipalities and counties that are within the search area of the applicant's proposed tower location. The inventory shall be prepared by a radio frequency engineer. The inventory shall include the following information:
 1. All tower owners and the number of carriers for each tower site;
 2. The site location, total height, and design type of each tower;
 3. Details of all existing and planned towers or structures located within the search area and the ability of such to meet the applicant's engineering requirements, including, but not limited to: sufficient height, structural support strength, and electromagnetic interference with antennas on the existing towers or structures;
 4. Other limiting factors that render existing towers and structures unsuitable; and
 5. Letters of rejection for requests to co-locate on all existing and planned towers within the search area of the proposed tower.

The county will engage an independent expert review of the inventory of existing and planned tower sites. If the actual cost to the county for independent expert review of the document is greater than the application fee, the applicant shall be billed for the difference and payment shall be made prior to the hearing before the board of commissioners. An inventory of existing and planned tower sites which is lacking of the information above, as determined by the independent expert, shall require a resubmittal of the lacking information and postpone the tower application to the next scheduled cycle of public hearings. The inventories of existing or planned tower sites are available as an information source to assist other applicants applying for approval under this chapter, provided; however, that the planning and zoning department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

- c. A balloon test shall be conducted prior to the public hearings. The balloon shall be flown for a minimum of four daylight hours from the location of the proposed tower, at the requested height. The application shall include the date and time of the balloon test and an alternative date, in case of inclement weather. The initial balloon test shall be held on a Saturday and the alternative date may be held on any day of the week. A sign announcing the dates of the balloon test shall be posted on the property by the county a minimum of five calendar days prior to the initial balloon test; and
- d. The applicant shall submit a visual simulation, based on the balloon test, a minimum of seven calendar days prior to the planning commission public hearing. Failure to meet this deadline will postpone the tower application to the next scheduled cycle of public hearings. The visual simulation shall consist of color photographs of the proposed site with the existing view and with a depiction of the proposed tower, from a minimum of four distinct quadrants (generally north, east, south, and west), to demonstrate the visual impact on surrounding properties and streets. An affidavit certifying that the correct location and height of the tower were utilized in the balloon test shall be submitted with the visual simulation photographs.

(2) Factors considered in public hearing applications. The following factors shall be considered when evaluating a tower application:

- a. Height of the proposed tower;
- b. Distance of the tower to residential structures and residential zoning district boundaries;
- c. Nature of uses on adjacent and nearby properties;
- d. Topography of the site and its effect on the efficiency of the tower in terms of coverage;
- e. Surrounding tree coverage and foliage and its effect on the efficiency of the tower in terms of coverage, as well as, its effect on the visual impact of the tower on surrounding properties and streets;
- f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- g. Proposed ingress and egress; and
- h. The degree of the tower's compliance with the one statute mile separation (inside the highway corridor) or 1½ statute mile separation (outside the highway corridor).

In granting its approval to waive or reduce requirements, the county, through the board of commissioners or its designee, may impose conditions that are necessary to minimize the adverse effect of a proposed tower or antenna on adjoining property. A site application shall be submitted within 60 days of the date of approval by the board of commissioners or the proposed tower will no longer be deemed a planned tower.

(g) *Site application requirements.* All applicants for new tower construction shall include the following:

- (1) Completed application forms signed and notarized;
- (2) Proof of ownership of the parent tract (latest recorded warranty deed);
- (3) Site plan prepared by an engineer, architect, or landscape architect registered by the state;
- (4) Landscape plans (see general requirements);
- (5) Provide number of carriers based on maximum height of tower;
- (6) A lease agreement with a minimum of one carrier.
- (7) Site plan requirements. All tower applicants for new towers shall be required to submit a scaled site plan which complies with all applicable requirements of chapter 104, development regulations. Additional information indicated on the site plan shall include:
 - a. A signed/sealed survey by a land surveyor registered in the state of the parent tract, leased area, and ingress/egress easement, indicating the metes and bounds for each;
 - b. Total tower height including antennas;
 - c. Type and design of any tower facility, including location of equipment buildings or cabinets;
 - d. Distance from nearest off-site residences;
 - e. Fencing and gate details;
 - f. All applicable setbacks for the tower, tower facility, and anchors for guyed tower, as applicable;
 - g. Distance from existing and planned towers;
 - h. Zoning and acreage of parent tract;
 - i. Zoning of adjacent property; and
 - j. Other information necessary to assess compliance with this chapter.

Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer. Site plan submittal shall include completion of a tower application, signed and notarized by both the property owner and the tower company representative/agent.

- (h) *Revision to a site plan for the relocation of an existing tower.* The relocation of an existing tower shall require the following:
 - (1) The relocation site shall be within the same lot as the existing tower.
 - (2) Submittal of a site plan that meets the specifications of subsection (g) of this section.
 - (3) Letters from all carriers on the existing tower agreeing to the relocation of the tower.
 - (4) The existing tower being replaced shall be removed from the site within 120 calendar days from the date of the issuance of the certificate of occupancy for the relocated tower.
- (i) *Installing an antenna on an existing structure or co-locating or replacing an antenna on an existing tower.* The following scenarios shall not require submittal of a site application or site plan:
 - (1) Installing an antenna on an existing structure, so long as said installation adds no more than 20 feet to the height of said existing structure (including buildings, light/utility poles, water towers, or other freestanding nonresidential structures excluding signs and towers).
 - (2) Co-locating or replacing an antenna on any existing tower, so long as, said installation does not increase the height of the tower and/or exceed the maximum height of administrative tower approval for that location and complies with all applicable conditions of approval associated with the tower site.
 - (3) Enlargement of an existing equipment building, or placement of additional equipment cabinets or buildings at a tower site which does not require an enlargement of the existing tower facility. Prior to the co-location or replacement of any antenna on an existing tower, enlargement of an existing equipment building, or placement of additional equipment cabinets or buildings at a tower site, the applicant shall provide written notice to the zoning administrator. The notice shall include a depiction of the location, size, and configuration of such antenna on the existing tower and equipment location within the existing tower facility in reference to an existing site plan and a copy of the FCC license. A certificate of zoning compliance shall be issued by the zoning administrator upon satisfaction of all applicable requirements, and any applicable building permits/inspections shall be required subsequent to the issuance of the certificate of zoning compliance.
- (j) *Site application timeframes.* An application shall not be accepted for review unless, at minimum, it includes completed application forms (signed and notarized), proof of ownership of the parent tract (latest recorded warranty deed) and site plan prepared (sealed and signed) by an engineer, architect or landscape architect registered by the state. The zoning administrator has 30 days to determine if an application is complete. Upon notice that an application is incomplete, the applicant has 30 days to submit all necessary information to complete the application. Failure to complete the application in this timeframe shall result in an automatic withdrawal of the application and the proposed tower will no longer be deemed a planned tower and a site application shall not be submitted for the same property for 60 days. The county shall act on applications for co-locations within 90 days and all other applications within 150 days. If the zoning administrator requests additional information within the 30-day review period as mentioned above, the time it takes the applicant to respond will not count towards the 90- or 150-day timeframe limits.
- (k) *FAA determination.* Prior to the approval and issuance of the certificate of zoning compliance, a copy of a FAA determination including "Does Not Exceed," "Exceeds But Okay," or "Determination of No Hazard" shall be submitted within the 90- or 150-day timeframe limits, as applicable. Failure to submit the determination in these timeframes shall result in an automatic withdrawal of the application, and the proposed tower will no longer be deemed a planned tower, and a site application shall not be submitted for the same property for 60 days. Any tower that receives a "Determination of Hazard" shall be denied.

- (l) *FCC license.* Prior to the approval and issuance of the certificate of zoning compliance, a copy of the FCC license shall be submitted within the 90- or 150-day timeframe limits, as applicable. Failure to submit the copy of FCC license in these timeframes shall result in an automatic withdrawal of the application, and the proposed tower will no longer be deemed a planned tower, and a site application shall not be submitted for the same property for 60 days.
- (m) *Private airport or heliport zone.* A one statute mile zone is established around any private airport or heliport that is registered with the FAA to prevent a hazard to aviation operations. Since the FAA does not make a determination for a private airport or heliport, a supplemental Federal Aviation Regulations Part 77/FAA Form 7460 study and a "No Hazard" letter prepared by a firm on the GDOT prequalified 1.08 Airport Master Planning list shall be submitted within the 90- or 150-day timeframe limits for an antenna or a tower that is proposed within this zone, as applicable. Any tower that creates a hazard for a private airport or heliport shall be denied.
- (n) *Tower approval expiration.* Approval of a site application by the applicable departments for a tower shall expire 12 months from the date of approval and will no longer be deemed a planned tower, unless a certificate of occupancy has been issued for the tower or the building permit remains active.

(Code 1992, § 20-5-45; Ord. No. 2012-09, § 3, 5-24-2012; Ord. No. 2012-13, § 3, 12-13-2012; Ord. No. 2013-20, § 2, 11-14-2013)

Sec. 110-106. Mail Cluster Box Units (CBUs)

CBUs and associated shelter structures shall be prohibited within the public right-of-way and shall not be placed on private property within a subdivision. CBUs shall be placed on a lot (see Sec. 110-170., (c)) under the ownership of the homeowners' association (HOA) in a residential subdivision, or a property owner's association (POA) or developer/property management entity in a nonresidential subdivision. Any shelter structure shall fit within the aforementioned lot. Mail CBUs do not have to meet setbacks.

Sec. 110-170. - Nonconformances.

- (c) *Creation of a legal nonconforming lot for enhancements to a development.* Said lot shall not be utilized for the permitted or conditional uses of the zoning district in which the lot is located and the lot is not required to meet the applicable minimum lot size, lot width, or road frontage requirements. Said enhancements shall include stormwater facilities, ~~tot lots~~, **pocket parks**, decorative features (such as landscaping, arbors, fences/walls, fountains, sculptures, benches, arches, etc.), signs, **mail Cluster Box Units (CBUs)** and the preservation of historic and agricultural structures for ornamentation (see nonconforming structures). A ~~tot lot~~ **pocket park** shall **not exceed 10,890 square feet (1/4 acre) in size and shall only be equipped with** may contain playground equipment (swing set, slide, teeter totter, monkey bars, sandbox, etc.) intended for small children, **benches and picnic facilities including one (1) covered picnic pavilion not to exceed 400 square feet.** A minimum 15-foot setback shall be maintained **for any playground equipment within a pocket park or for** any historic or agricultural structures utilized for ornamentation. The lot must be labeled "Not a Building Lot" on the preliminary plat and/or the final plat or minor subdivision plat, as applicable. The lot shall be under the ownership of the homeowners' association, property owners' association, or developer/property management entity, as applicable.

Sec. 110-169. - Conditional use approval.

t. *Developed residential recreational/amenity areas, including, but not limited to: club house, pool, tennis/sports courts, sports fields, playground, mail CBUs and picnic area.* Allowed in subdivisions in the A-R, EST, R-85, R-80, R-78, R-75, R-72, R-70, R-55, R-50, R-45, R-40, R-20. DR-15, **PUD-PRD** and C-S zoning districts, with final plat or minor subdivision plat approval.

1. Lot area: Per zoning district.
2. Said area shall be shown on the preliminary plat and final plat or minor subdivision plat and labeled as follows: "Not a residential building lot, for recreational purposes only."
3. Landscape areas shall be required and planted in accordance with chapter 104.
4. In addition to the required landscape areas, a six-foot landscape area shall be required along the rear property line where adjacent to an A-R or residential zoning district and planted in accordance with side yard requirements in chapter 104.
5. Paved parking area is required per chapter 104.
6. ~~No activity and lighting permitted after 10:00 p.m.~~
7. The construction of one open air pavilion up to 900 square feet utilized for picnics and social gatherings shall be allowed.

Sec. 110-126. - C-S, Conservation Subdivision District.

- (a) *Purpose.* The intent of this section is to create a residential conservation subdivision procedure. A conservation subdivision is a residential subdivision where lots are reduced in size and clustered to protect the natural attributes of the site and provide open space. This open space will be protected from development in perpetuity and will be utilized to protect water quality, water bodies, wetlands, riparian buffers, woodlands, archaeological resources, historic resources, agricultural areas and scenic areas. This open space will also provide flood protection, a reduction in soil erosion and be utilized for recreation. The aforementioned attributes should be taken into consideration in the design of the subdivision. The first step in designing a conservation subdivision is to locate and delineate the area and natural attributes to be preserved. The residential lots are located outside of this area. In addition, the clustering of lots can result in lower infrastructure costs both for installation and maintenance. The creation of the conservation subdivision (C-S) zoning district is to assist the county in fulfilling the goal of permanently protecting greenspace in the county. The conservation subdivision zoning district is intended for those areas designated Low Density Residential (~~one 1 Unit/one to two 1 Acres~~) and Rural Residential - 2 (~~one 1 Unit/two to three 2 Acres~~) and Rural Residential - 3 (1 Unit/3 Acres) on the county future land use plan map.
- (b) *Rezoning requirements.* The following is required for a rezoning petition for the conservation subdivision zoning district in addition to what is normally required for a rezoning petition:
- (1) A petition for the conservation subdivision zoning district will require a yield plan. The number of lots allowed in a conservation subdivision will be determined by a yield plan which is a conventional subdivision design based on the dimensional requirements of the R-70 zoning district in those areas designated Low Density Residential (1 Unit/1 Acre) and Rural Residential - 2 (1 Unit/2 Acres) on the county future land use plan map and the based on the dimensional requirements of the R-80 zoning district in those areas designated Rural Residential - 3 (1 Unit/3 Acres) on the county future land use plan map. This concept is referred to as neutral density. The yield plan shall contain the check list requirements available in the planning and zoning department office of the zoning administrator. The rezoning petition shall not be filed with the planning and zoning department until the yield plan has been approved by the applicable departments.
 - (2) A development plan shall be required for the rezoning petition. The development plan, as approved, shall establish the layout and uses planned for the development. Any change in the approved development plan, which affects the intent and character of the development, the density or land use pattern, the location or dimensions of streets, or similar substantial changes, shall be reviewed and approved by the board of commissioners upon the recommendation of the planning commission. A petition for a revision of the development plan shall be supported by a written statement as to why the revisions are necessary. Each conservation subdivision shall consist of two areas: the residential area and the conservation area. The conservation area will consist of the environmentally sensitive areas including waterways, water bodies, watershed protection areas, floodplains, wetlands, riparian buffers and woodlands, as well as agricultural areas, existing agricultural structures and historical structures. The conservation area will remain in a natural and undisturbed state with minimal improvements. In addition to what is normally required on the development plan, the development plan shall include the following:
 - a. A delineation of the attributes (see subsection (a) of this section) of the site which will be preserved;
 - b. A delineation of the residential area and the conservation area including the acreage within each area;
 - c. Uses and improvements planned for the conservation area with the acreage devoted to each; and
 - d. Indicate and label existing structures to remain.

- (c) *Uses permitted within the residential area of a conservation subdivision.* The following permitted uses shall be allowed in the residential area of the C-S zoning district:
- (1) Single-family dwelling; and
 - (2) Residential accessory structures and uses (see article III of this chapter).
- (d) *Conditional uses permitted within the residential area of a conservation subdivision.* The following conditional uses shall be allowed in the residential area of C-S zoning district provided that all conditions specified in article V of this chapter are met:
- (1) Home occupation;
 - (2) Horse quarters; and
 - (3) Developed residential recreational/amenity areas.
- (e) *Uses permitted within the conservation area of a conservation subdivision.* The following permitted uses and structures shall be allowed in the conservation area of the C-S zoning district:
- (1) Trails and paths (impervious trails and paths are limited to five percent of the conservation area ~~and trails and paths shall comply with the watershed protection ordinance~~);
 - (2) Picnic areas which can include picnic tables, grills, benches, playground equipment (swing sets, slides, etc.). Picnic areas and one covered picnic pavilion are required to be set back 50 feet from any residential property line and are limited to five percent of the conservation area. The covered picnic pavilion shall be limited to a maximum of 900 square feet;
 - (3) Community gardens for the use of the residents of the subdivision only;
 - (4) The maintenance of existing orchards and groves including the harvesting of fruit and nuts;
 - (5) The maintenance of existing pastures including the harvesting of hay; and
 - (6) The maintenance of existing farm fields used for row crops including the harvesting of crops.
 - (7) Stormwater management facilities per chapter 104, article XIV. - Post-Development Stormwater Management for New Development and Redevelopment and mail CBU's with associated shelter structures.
- ~~Said fields shall be outside of All improvements within the conservation area shall comply with watershed protection areas as described in chapter 104, article VII Watershed Protection. All areas within a watershed protection area can no longer be used for row crops. The area within a watershed protection area could be used in accordance with subsection (e)(5) of this section.~~
- (f) *Dimensional requirements.* The minimum dimensional requirements within the residential area in the C-S zoning district shall be as follows:
- (1) Lot area per dwelling unit:
 - a. Where central sanitary sewage or central water distribution system is provided: 43,560 square feet (one acre) ~~only within an area designated Low Density Residential and Rural Residential - 2 .~~
 - b. Where neither a central sanitary sewage nor a central water distribution system is provided: 65,340 square feet (1½ acres) ~~within an area designated Low Density Residential and Rural Residential - 2 .~~
 - c. ~~Within an area designated Rural Residential - 3: 65,340 square feet (1½ acres).~~
 - (2) Lot width per dwelling unit:
 - a. Major thoroughfare:
 1. Arterial: 150 feet.
 2. Collector: 150 feet.

- b. Minor thoroughfare: 125 feet.
- (3) Floor area: 2,100 square feet.
- (4) Front yard setback:
 - a. Major thoroughfare:
 - 1. Arterial: 100 feet.
 - 2. Collector: 75 feet.
 - b. Minor thoroughfare: 50 feet.
- (5) Rear yard setback: 30 feet.
- (6) Side yard setback: 20 feet.
- (7) Height limit: 35 feet.
- (g) *Use of existing structure.* The preservation of existing historic residential structures listed in the architectural survey of the county is encouraged as these structures can be used as residences or community facilities for the subdivision. Existing residential structures used for a community facility shall meet all applicable building and safety codes and will be regulated as a conditional use under developed residential recreational/amenity areas. The preservation of existing agricultural structures is also encouraged as they will assist in maintaining a rural character. The use of these residential and agricultural structures will be subject to the approval of the zoning board of appeals in terms of nonconformance with this zoning district.
- (h) *Conservation area requirements.* The conservation area of the subdivision shall meet the following requirements:
 - (1) *Ownership.* Title to the conservation area shall be conveyed to one of the following entities:
 - a. A homeowners' association that has been established according to the Georgia Property Owners' Association Act (O.C.G.A. § 44-3-220 et seq.); or
 - b. A conservation trust organization approved by the county board of commissioners; or
 - c. The county board of commissioners (for conservation areas with no structures only).
 - (2) *Size.* Each development eligible for treatment as a conservation subdivision shall place at least 40 percent of the total subject property into the conservation area notwithstanding the yield plan. This area shall be described by metes and bounds.
 - (3) *Permanent protection.* Each conservation area regardless of ownership shall have a conservation easement as approved by the county attorney filed in the records of the county clerk of superior court. The conservation easement shall reserve the conservation area to conservation uses as defined herein in perpetuity.

(Code 1992, § 20-6-2; Ord. No. 2012-09, § 4, 5-24-2012)

Sec. 110-127. - EST, Estate Residential District.

- (a) *Purpose.* An estate residential subdivision is a residential subdivision where lots are reduced in size and clustered to provide conservation area. Each estate residential subdivision will consist of two areas, a residential area and a conservation area. The conservation area will be protected from development in perpetuity by an easement or deed restriction. The conservation area will be utilized for approved recreation for the residents of the subdivision. The clustering of lots can result in lower infrastructure costs both for installation and maintenance. The estate residential zoning district is intended for those areas designated agricultural-residential (one unit/five acres) on the county land use plan map. The creation of the EST Estate Residential District is to assist the county in permanently protecting greenspace in the county.
- (b) *Rezoning requirements.* The following is required for a rezoning petition for the estate residential zoning district in addition to what is normally required for a rezoning petition:
- (1) A petition for the estate residential zoning district will require a yield plan. The number of lots allowed in an estate residential zoning district will be determined by a yield plan which is a conventional subdivision design based on the dimensional requirements of the A-R zoning district. This concept is referred to as neutral density. The yield plan shall contain the checklist requirements available in the ~~planning and zoning department office of the zoning administrator~~. The rezoning petition shall not be filed with the planning and zoning department until the yield plan has been approved by the applicable departments.
 - (2) A development plan shall be required for the rezoning petition. The development plan, as approved, shall establish the layout and uses planned for the development. Any change in the approved development plan, which affects the intent and character of the development, the density or land use pattern, the location or dimensions of streets, or similar substantial changes, shall be reviewed and approved by the board of commissioners upon the recommendation of the planning commission. A petition for a revision of the development plan shall be supported by a written statement as to why the revisions are necessary. Each EST subdivision shall consist of two areas: the residential area and the conservation area. The conservation area will consist of the environmentally sensitive areas, including waterways, water bodies, watershed protection areas, floodplains, wetlands, riparian buffers and woodlands, as well as, agricultural areas existing agricultural structures and historical structures. The conservation area will remain in a natural and undisturbed state with minimal improvements. In addition to what is normally required on the development plan, the development plan shall include the following:
 - a. A delineation of the attributes (see subsection (a) of this section) of the site which will be preserved;
 - b. A delineation of the residential area and the conservation area including the approximate acreage within each area;
 - c. Uses and improvements planned for the conservation area with the acreage devoted to each; and
 - d. Indicate and label existing structures to remain.
- (c) *Rezoning requirements.* The following is required for a rezoning petition for the conservation subdivision zoning district in addition to what is normally required for a rezoning petition:
- (1) A petition for the conservation subdivision zoning district will require a yield plan. The number of lots allowed in a conservation subdivision will be determined by a yield plan which is a conventional subdivision design based on the dimensional requirements of the ~~R-70~~ A-R zoning district. This concept is referred to as neutral density. The yield plan shall contain the check list requirements available in the office of the zoning administrator. Staff analysis of the yield plan will add an additional month to the normal rezoning schedule. The rezoning petition shall not be filed with the planning and zoning department until the yield plan has been approved by the applicable departments.

- (2) A development plan shall be required for the rezoning petition. The development plan, as approved, shall establish the layout and uses planned for the development. Any change in the approved development plan, which affects the intent and character of the development, the density or land use pattern, the location or dimensions of streets, or similar substantial changes, shall be reviewed and approved by the board of commissioners upon the recommendation of the planning commission. A petition for a revision of the development plan shall be supported by a written statement as to why the revisions are necessary. Each conservation subdivision shall consist of two areas: the residential area and the conservation area. The conservation area will consist of the environmentally sensitive areas including waterways, water bodies, watershed protection areas, floodplains, wetlands, riparian buffers and woodlands, as well as agricultural areas, existing agricultural structures and historical structures. The conservation area will remain in a natural and undisturbed state with minimal improvements and will be regulated in a manner consistent with the Georgia Greenspace Program requirements to the greatest degree possible. In addition to what is normally required on the development plan, the development plan shall include the following:
- a. A delineation of the attributes (see subsection (a) of this section) of the site which will be preserved;
 - b. A delineation of the residential area and the conservation area, including the acreage within each area;
 - c. Uses and improvements planned for the conservation area with the acreage devoted to each; and
 - d. Indicate and label existing structures to remain.
- (d) *Uses permitted within the residential area of an estate residential subdivision.* The following permitted uses shall be allowed in the residential area of the estate residential zoning district:
- (1) Single-family dwelling; and
 - (2) Residential accessory structures and uses (see article III of this chapter).
- (e) *Conditional uses.* The following conditional uses shall be allowed in the residential area of EST zoning district, provided that all conditions specified in article V of this chapter are met:
- (1) Developed residential recreational/amenity areas;
 - (2) Home occupation; and
 - (3) Horse quarters.
- (f) *Uses permitted within the conservation area of an estate residential subdivision.* The following permitted uses and structures shall be allowed in the conservation area of the estate residential zoning district:
- (1) Trails and paths (impervious trails and paths are limited to five percent of the conservation area ~~and trails and paths shall comply with chapter 104, article VII~~);
 - (2) Picnic areas which can include picnic tables, grills, benches, playground equipment (swing sets, slides, etc.). Picnic areas and one covered picnic pavilion are required to be setback 50 feet from any residential property line and are limited to five percent of the conservation area. The covered picnic pavilion shall not exceed a maximum of 900 square feet;
 - (3) Community gardens for the use of the residents of the subdivision only;
 - (4) The maintenance of existing orchards and groves including the harvesting of fruit and nuts;
 - (5) The maintenance of existing pastures including the harvesting of hay; and
 - (6) The maintenance of existing farm fields used for row crops including the harvesting of crops.

- (7) Stormwater management facilities per chapter 104, article XIV. - Post-Development Stormwater Management for New Development and Redevelopment and mail CBU's with associated shelter structures.

~~Said fields shall be outside of~~ All improvements within the conservation area shall comply with watershed protection areas as described in chapter 104, article VII Watershed Protection. ~~All areas within a watershed protection area can no longer be used for row crops. The area within a watershed protection area could be used in accordance with subsection (e)(5) of this section.~~

- (g) *Dimensional requirements.* The minimum dimensional requirements within the residential area in the estate residential zoning district shall be as follows:
- (1) Lot area per dwelling unit: 108,900 square feet (2.5 acres).
 - (2) Lot width per dwelling unit: 160 feet.
 - (3) Floor area: 2,500 square feet.
 - (4) Front yard setback:
 - a. Major thoroughfare:
 1. Arterial: 100 feet.
 2. Collector: 75 feet.
 - b. Minor thoroughfare: 50 feet.
 - (5) Rear yard setback: 50 feet.
 - (6) Side yard setback: 25 feet.
 - (7) Height limit: 35 feet.
- (h) *Use of existing structure.* The preservation of existing historic residential structures listed in the architectural Survey of the county is encouraged as these structures can be used as residences or community facilities for the subdivision. Existing residential structures used for a community facility shall meet all applicable building and safety codes and will be regulated as a conditional use under developed residential recreational/amenity areas. The preservation of existing agricultural structures is also encouraged as they will assist in maintaining a rural character. The use of these residential and agricultural structures will be subject to the approval of the zoning board of appeals in terms of nonconformance with this zoning district.
- (i) *Conservation area requirements.* The conservation area of the subdivision shall meet the following requirements:
- (1) *Ownership.* Title to the conservation area shall be conveyed to one of the following entities:
 - a. A homeowners' association that has been established according to the Georgia Property Owners' Association Act (O.C.G.A. § 44-3-220 et seq.);
 - b. A conservation trust organization approved by the county board of commissioners; or
 - c. The county board of commissioners (for conservation areas with no structures only).
 - (2) *Size.* A minimum of 40 percent of the total subject property shall be set aside in conservation area. The conservation area described in its entirety by metes and bounds, total acreage and percentage of total subject property shall be submitted to the county zoning department in the final plat or minor subdivision plat stage prior to final plat or minor subdivision plat approval.
 - (3) *Permanent protection.* Each conservation area regardless of ownership shall have a ~~easement~~ **easement** or deed restriction as approved by the county attorney filed in the records of the county clerk of superior court. The easement or deed restriction shall reserve the conservation area to uses as defined herein in perpetuity.

Sec. 110-128. - R-85, Single-Family Residential District.

- (a) *Description of district.* This district is composed of certain lands and structures, having a low density single-family character and is designed to protect against the depreciating effects of small lot development and those uses incompatible with such a residential environment.
- (b) *Permitted uses.* The following uses shall be permitted in the R-85 zoning district:
 - (1) Single-family dwelling;
 - (2) Residential accessory structures and uses (see article III of this chapter); and
 - (3) Growing crops, gardens.
- (c) *Conditional uses.* The following conditional uses shall be allowed in the R-85 zoning district provided that all conditions specified in article V of this chapter are met:
 - (1) Church and/or other place of worship;
 - (2) Developed residential recreational/amenity areas;
 - (3) Home occupation;
 - (4) Horse quarters; and
 - (5) Private school, including, but not limited to: classrooms, administration, playground, housing, athletic fields, gymnasium, and stadium.
- (d) *Dimensional requirements.* The minimum dimensional requirements in the R-85 zoning district shall be as follows:
 - (1) Lot area per dwelling unit: 130,680 square feet (three acres).
 - (2) Lot width: ~~125~~-175 feet.
 - (3) Floor area: 3,000 square feet.
 - (4) Front yard setback:
 - a. Major thoroughfare:
 - 1. Arterial: 100 feet.
 - 2. Collector: 75 feet.
 - b. Minor thoroughfare: 50 feet.
 - (5) Rear yard setback: 50 feet.
 - (6) Side yard setback: ~~50~~ 30 feet.
 - (7) Height limit: 35 feet.

(Code 1992, § 20-6-4; Ord. No. 2012-09, § 4, 5-24-2012; Ord. No. 2018-03, § 13, 9-22-2018)

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

(h) State Route 54 West Special Development District

(2) On parcels zoned O-I with a minimum of five (5) acres the following expanded business uses are allowed:

i Internal access self-storage facility

- (i) No direct exterior access to individual storage units shall be allowed, all individual storage unit access shall be internal - the maximum size of an individual storage unit shall be 600 square feet. **The facility may contain one (1) on-site single-family dwelling unit.**
- (ii) Vehicle loading/unloading bays shall only be located on the side or rear, and not facing SR 54. Vehicle loading/unloading bays on the side of the self-storage facility shall require a canopy. Vehicle loading/unloading bays may also be internal to the structure or between two (2) structures and a shed roof meeting the overlay pitch requirements may also be used in these instances.
- (iii) Office, business and building contractor space with inside storage shall constitute a minimum of 20 percent of the total building footprint area proposed for the site excluding the footprint of a vehicle, boat, and/or trailer storage structure. This building contractor use shall only be allowed in conjunction with an internal access self-storage facility.
- (iv) No outside storage of materials or equipment shall be allowed.
- (v) A vehicle, boat, and/or trailer storage structure shall be fully enclosed. This use shall only be allowed in conjunction with an internal access self-storage facility.

Sec. 110-144. - C-H, Highway Commercial District.

- (a) *Description of district.* This district is composed of certain lands and structures to provide and encourage proper grouping and development of roadside uses, which include a wide variety of sales and services that will best accommodate the needs of the county and the traveling public, reducing traffic congestion, hazards and blight along the public streets.
- (b) *Permitted uses.* The following uses shall be permitted in the C-H zoning district:
- (1) Ambulance service, including non-emergency medical transport service;
 - (2) Amusement or recreational facility, indoor or outdoor;
 - (3) Appliance sales, ~~installation~~ and/or repair;
 - (4) Armories, for meetings and training military organizations;
 - (5) Art studio;
 - (6) ~~Auto/vehicle repair parts, tire store/installation, brake installation, muffler repair, off change, tune-up, and emission testing facilities.~~ All service, repairs and diagnostics shall be conducted within an enclosed building;
 - (7) Bakery;
 - (8) Bank and/or financial institution;
 - (9) Banquet hall/event facility;
 - (10) Bookbinding;
 - (11) Building/~~development~~, contracting, and related activities, ~~(e.g., including, but not limited to: door and window sales and/or installation, electrical, flooring sales and/or installation, entertainment system sales and/or installation, general contractor, grading, gutter sales and/or installation, insulation sales and/or installation, landscaping, lighting sales and/or installation, painting, pressure washing, plumbing, remodeling, roofing sales and/or installation, siding sales and/or installation, sales and storage of building supplies and materials, security system sales, installation and service, solar and wind equipment sales and/or installation, and incidental contractor equipment maintenance);~~
 - (12) Bus passenger station (pick-up and drop-off only);
 - (13) Cabinet manufacturing, sales, repair and/or installation;
 - (14) Car wash and/or detailing facility;
 - (15) Catering service;
 - (16) Church and/or other place of worship excluding outdoor recreation, parsonage, and cemetery or mausoleum;
 - (17) Clothing store and/or variety store;
 - (18) College and/or university, including classrooms and/or administration only;
 - (19) Copy shop;
 - (20) Cultural facility;
 - (21) Day spa;
 - (22) Department store;
 - (23) Drug store;
 - (24) Educational/instructional/tutoring facilities, including, but not limited to: academic; art; computer; dance; driving and/or DUI; music; professional/business/trade; martial arts; and similar facilities;

- (25) Electronic sales and/or repair;
- (26) Emission testing facility (inside only);
- (27) Engraving;
- (28) Firearm sales and/or gunsmith;
- (29) Flea market, indoor;
- (30) Florist shop;
- (31) Freezer locker service, ice storage;
- (32) Freight express office;
- (33) Funeral home;
- (34) Gift shop;
- (35) Glass sales;
- (36) Grocery store;
- (37) Hardware store;
- (38) Health club and/or fitness center;
- (39) Hotel;
- (40) Jewelry shop;
- (41) Laboratory serving professional requirements, (e.g., medical, dental, etc.);
- (42) Library;
- (43) Magazine publication and/or distribution;
- (44) Manufactured home and/or building sales;
- (45) Medical/dental office (human treatment);
- (46) Messenger/courier service;
- (47) Military recruiting office;
- (48) Movie theatre and/or drive-in;
- (49) Museum;
- (50) Music teaching studio;
- (51) Newspaper publication and/or distribution;
- (52) Office;
- (53) Office equipment sales and/or service;
- (54) Parking garage/lot;
- (55) Pawn shops;
- (56) Personal services, including, but not limited to: alterations; barber shop; beauty salon; clothing/costume rentals; counseling services; electrolysis and/or hair removal; fitness center; laundry drop-off/pick-up; locksmith; nail salon; photography studio; shoe repair; and tanning salon;
- (57) Pest control;
- (58) Plant nursery, growing crops/garden, and/or related sales;
- (59) Printing, graphics, and/or reproductions;

- (60) Private clubs and/or lodges;
 - (61) Private school, including classrooms and/or administration only;
 - (62) Recording studio (audio and video);
 - (63) Radio studio;
 - (64) Railroad station;
 - (65) Rent-alls;
 - (66) Restaurant, including drive-in and/or drive-through;
 - (67) Retail establishment;
 - (68) Smoking lounge (subject to state and local tobacco sales and smoking laws);
 - (69) Tattoo parlor;
 - (70) Taxidermist;
 - (71) Taxi service/limousine service/shuttle service (no on-site maintenance and/or repair);
 - (72) Television/movie studio;
 - (73) Upholstery shop; and
 - (74) Utility trailers sales and/or rental.
- (c) *Conditional uses.* The following conditional uses shall be allowed in the C-H zoning district provided that all conditions specified in article V of this chapter are met:
- (1) Adult day care facility;
 - (2) Amphitheater;
 - (3) Animal hospital, kennel (commercial or noncommercial), and/or veterinary clinic;
 - (4) Automobile, truck, farm equipment, or motorcycle sales and incidental repairs;
 - (5) Automobile service station, including gasoline sales and/or inside or outside emission testing, in conjunction with a convenience store;
 - (6) Campground facilities;
 - (7) Care home, convalescent center, and/or nursing home;
 - (8) Cemetery;
 - (9) Charter motor coach service;
 - (10) Church and/or other place of worship;
 - (11) College and/or university, including, but not limited to: classrooms, administration, housing, athletic fields, gymnasium, and/or stadium;
 - (12) Commercial driving range and related accessories;
 - (13) Child care facility;
 - (14) Dry cleaning plant;
 - (15) Experimental laboratory;
 - (16) Golf course (minimum 18-hole regulation) and related accessories;
 - (17) Home occupation;
 - (18) Horse show, rodeo, carnival, and/or community fair;
 - (19) Hospital;

- (20) Laundromat, self-service or otherwise;
 - (21) Outdoor amusement facilities, rides, structures over 35 feet in height, including, but not limited to bungee and parachute jumping;
 - (22) Private school, including, but not limited to: classrooms, administration, playground, housing, athletic fields, gymnasium, and/or stadium;
 - (23) Religious tent meeting;
 - (24) Seasonal sales, outdoor;
 - (25) Self-storage facility (external access);
 - (26) Self-storage facility (internal access);
 - (~~26~~ 27) Single-family residence and residential accessory structures and/or uses (see article III of this chapter);
 - (~~27~~ 28) Shooting range, indoor;
 - (~~28~~ 29) Stadium, athletic; and
 - (~~29~~ 30) Temporary tent sales.
- (d) *Dimensional requirements.* The minimum dimensional requirements in the C-H zoning district shall be as follows:
- (1) Lot area:
 - a. Where a central water distribution system is provided: 43,560 square feet (one acre).
 - b. Where central sanitary sewage and central water distribution systems are provided: 21,780 square feet (one-half acre).
 - (2) Lot width: 125 feet.
 - (3) Front yard setback:
 - a. Major thoroughfare:
 - 1. Arterial: 75 feet.
 - 2. Collector: 70 feet.
 - b. Minor thoroughfare: 65 feet.
 - (4) Rear yard setback: 15 feet.
 - (5) Side yard setback: 15 feet.
 - (6) Buffer. If the rear or side yard abuts a residential or A-R zoning district, a minimum buffer of 50 feet adjacent to the lot line shall be provided in addition to the required setback and the setback shall be measured from the buffer.
 - (7) Height limit: 35 feet.
 - (8) Screening dimensions for parking and service areas as provided in article III of this chapter and chapter 104.
 - (9) Lot coverage limit, including structure and parking area: 60 percent of total lot area.

Sec. 110-146. - M-1, Light Industrial District.

- (a) *Description of district.* This district is composed of certain lands and structures which are suitable for light industrial development, but where proximity to existing or proposed residential or commercial districts make it desirable to limit the manner and extent of industrial operations and thereby protect the nearby residential or commercial land.
- (b) *Permitted uses.* The following permitted uses shall be allowed in the M-1 zoning district:
 - (1) Ambulance service, including non-emergency medical transport service;
 - (2) Amusement and recreational facilities, indoor or outdoor (athletic/sports instruction facilities and recreation and athletic fields and facilities);
 - (3) Appliance sales and/or repair;
 - (4) Architectural and/or design firms;
 - (5) Armories, for meeting and training of military organizations;
 - (6) Automobile, truck, farm equipment, and heavy equipment sales and repairs, paint and/or body shop, parts store including rebuilding of parts, parking lot or garage, upholstery shop;
 - (7) Blueprinting and/or graphics service;
 - (8) Bookbinding;
 - (9) Building construction/contracting and related activities;
 - (10) Building supply sales;
 - (11) Bus passenger station;
 - (12) Cabinet manufacturing, sales, repair, and/or installation;
 - (13) Carwash and/or detailing facility;
 - (14) Charter motor coach service;
 - (15) Copy shop;
 - (16) Dental laboratory;
 - (17) Delivery and/or courier service;
 - (18) Electronic sales and/or repair;
 - (19) Emission testing facility (inside only);
 - (20) Engineering firms;
 - (21) Engraving;
 - (22) Farmer's market;
 - (23) Feed and/or fertilizer sales;
 - (24) Firearm sales and/or gunsmith;
 - (25) Flooring sales and/or installation;
 - (26) Freezer locker service;
 - (27) Freight express office;
 - (28) Furniture store;
 - (29) Glass sales;
 - (30) Grading service;

Sec. 110-149. - Planned unit development.

(g) *Planned entertainment farming.*

- (1) *Purpose* . To allow certain incidental uses to an ~~active~~ farming operation to preserve agricultural areas. ~~An active farming operation is defined as any area of 100 or more contiguous acres from which \$10,000.00 or more of agricultural products are grown and sold on an annual basis. Income verification may be required. Agricultural products are defined here as the growing of annual crops, the raising of livestock and/or horses, and dairy farming.~~ The board of commissioners may approve the proposed development with modifications which could include, but are not limited to, establishing residential densities, limitations in nonresidential uses and intensities, architectural controls, traffic improvements such as decel-accel lanes, service drives, internal street configurations, turn lanes, etc. as may be required to mitigate traffic impacts and increased setbacks, buffers and/or screening as may be required to lessen the impact and/or shield views from adjacent properties and/or streets.
- (2) *Permitted uses* . The following permitted uses shall be allowed in a PEF:
 - a. Single-family dwelling and accessory uses and structures associated with the single-family dwelling exclusively as per article III of this chapter;
 - b. Farm buildings (shall be bona fide structures related to the farming operation);
 - c. Growing of crops;
 - d. Raising and selling livestock;
 - e. Dairy farm and production;
 - f. Greenhouses and shrubbery sales;
 - g. Farmer's market (limited to sales of crops grown on premises by owner of property);
 - h. Pick-your-own produce;
 - i. Processing of agricultural products (shall meet conditional use requirements per the A-R zoning district);
 - j. Horse stables and horseback riding;
 - k. Horse show (by permit, temporary, 14 days per year);
 - l. Rodeo (by permit, temporary, 14 days per year);
 - m. Petting zoo;
 - n. Educational tours;
 - o. Picnic area;
 - p. Sit-down restaurant, banquet facility, bakery and catering (no drive-through, ~~and selling of alcoholic beverages, shall be prohibited~~) (minimum seating capacity of 50 persons);
 - q. Gift shop in association with restaurant only; and
 - r. Pay fishing and bait sales in association with pay fishing.
- (3) *Conditional uses* . The following conditional use shall be allowed in the PUD PEF zoning district provided that all conditions specified in article V of this chapter are met: home occupation.
- (4) *Minimum dimensional and other requirements* . The minimum requirements for PEF shall be as follows:
 - a. Location: A-R zoning district.
 - b. Development size: ~~100~~ 50 contiguous acres.

- c. Single-family dwellings and those accessory uses and structures associated with the single-family dwelling shall meet those requirements established within the A-R zoning district.
- d. All other nonresidential structures shall meet the following setbacks:
 - 1. Front yard: ~~200~~ 100 feet.
 - 2. Rear yard: ~~400~~ 75 feet.
 - 3. Side yard: ~~100~~ 50 feet.
- e. A site plan is required indicating the location of all structures/activities per chapter 104.
- f. All parking and access areas by type shall indicated on the Development Plan. Standards will be set through the rezoning process. ~~be paved and landscaped per chapter 104.~~
- g. All service areas shall be screened per article III of this chapter.
- ~~h. All parking and service areas shall be to the rear of any restaurant building.~~
- ~~i. Only structures whose principal purpose is for the storage of farm equipment and/or animals may have a metal facade. All other structures shall have a non-metallic facade.~~
- j. Shall comply with all county, (including fire marshal), state and federal requirements.

- (31) Greenhouse;
- (32) Home furnishings and accessories;
- (33) Horse show and equine activity facilities;
- (34) Ice storage;
- (35) Insecticide sales and/or storage;
- (36) Janitorial service and/or supply;
- (37) Land development firms;
- (38) Land surveying service;
- (39) Landscaping service;
- (40) Light manufacturing, including the following:
 - a. Appliance and/or electronic device assembly plant, including the manufacturing of parts for appliances and/or electronic devices;
 - b. Assembly of products from previously prepared materials;
 - c. Bottling and/or canning plant;
 - d. Ceramic products, provided that kilns shall only be by gas and/or electricity;
 - e. Construction of signs, including painted signs;
 - f. Cooperage;
 - g. Ice manufacturing;
 - h. Laundry, cleaning and/or dyeing plants;
 - i. Light sheet metal products such as ventilating ducts and eaves;
 - j. Manufacturing of food, cosmetic and pharmaceutical products, but not including fish and meat products, sauerkraut, vinegar, yeast and rendering plants;
 - k. Machine/welding shop and related activities;
 - l. Other manufacturing, processing, packaging, or handling of a similar nature which shall not emit or produce more smoke, noise, odor, dust, vibration, or fumes than the uses listed herein;
 - m. Production and/or sales of commercial/industrial hardware, such as tools, fasteners, fittings, machine parts, etc.;
 - n. Tinsmith and/or roofing service;
 - o. Concrete, gravel and/or mulch production and/or distribution;
- (41) Locksmith;
- (42) Magazine publication and/or distribution;
- (43) Medical laboratory;
- (44) Manufactured home and/or building assembly and/or sales;
- (45) Newspaper publication and/or distribution;
- (46) Office equipment service and repair;
- (47) Parking garage/lot;
- (48) Pest control;

- (49) Petroleum bulk plant (storage);
 - (50) Photostating;
 - (51) Planing and/or saw mill;
 - (52) Plant nursery, growing crops/garden and related sales;
 - (53) Printing plant;
 - (54) Radio studio;
 - (55) Railroad freight station;
 - (56) Railroad passenger station;
 - (57) Rent-all;
 - (58) Restaurants (drive-in/drive-through prohibited);
 - (59) Restaurant supply;
 - (60) Rodeo/rodeo facilities;
 - (61) Seed sales and/or storage;
 - (62) Security system service;
 - (63) Shell home display;
 - (64) Solar farm;
 - (65) Taxidermist;
 - (66) Taxi service/limousine service/shuttle service/charter motor coach service;
 - (67) Television/movie studio/media productions;
 - (68) Tire sales;
 - (69) Trade school;
 - (70) Uniform services;
 - (71) Utility trailer sales and/or rentals;
 - (72) Warehousing and/or distribution;
 - (73) Wholesaling; and
 - (74) Wrecker, towing, impoundment, and/or automotive recovery/transport.
- (c) *Conditional uses.* The following conditional uses shall be allowed in the M-1 zoning district provided that all conditions specified in article V of this chapter are met:
- (1) Aircraft landing area;
 - (2) Amphitheatre;
 - (3) Animal hospital, kennel (commercial or noncommercial), and/or veterinary clinic;
 - (4) Experimental labs;
 - (5) Feed lot and/or commercial barn;
 - (6) Home occupation;
 - (7) Outdoor amusement facilities, rides, structures over 35 feet in height, including, but not limited to, bungee and parachute jumping;
 - (8) Recycling facility;
 - (9) Self-storage facility (external access);

- (10) Self-storage facility (internal access);
 - (11) Shooting range, indoor;
 - (12) Shooting range, outdoor;
 - (13) Single-family residence and residential accessory structures and uses (see article III of this chapter);
 - (14) Stadium, athletic; and
 - (15) Wind farm.
- (d) *Dimensional requirements.* The minimum dimensional requirements in the M-1 zoning district shall be as follows:
- (1) Lot area:
 - a. Where a central water distribution system is provided: 43,560 square feet (one acre).
 - b. Where central sanitary sewage and central water distribution systems are provided: 21,780 square feet (one-half acre).
 - (2) Lot width: 125 feet.
 - (3) Front yard setback:
 - a. Major thoroughfare:
 - 1. Arterial: 100 feet.
 - 2. Collector: 80 feet.
 - b. Minor thoroughfare: 65 feet.
 - (4) Rear yard setback: 25 feet.
 - (5) Side yard setback: 25 feet.
 - (6) Buffer: If the rear or side yard abuts a residential or A-R zoning district a minimum buffer of 75 feet shall be provided adjacent to the lot line in addition to the required setback. The setback shall be measured from the buffer.
 - (7) Height limit: 50 feet.
 - (8) Lot coverage limit, including structure and parking area: 70 percent of total lot area.
 - (9) Screening dimensions for storage areas, loading docks and parking (see article III of this chapter and chapter 104).

(Code 1992, § 20-6-22; Ord. No. 2012-09, § 4, 5-24-2012; Ord. No. 2013-20, § 3, 11-14-2013; Ord. No. 2018-03, § 13, 9-22-2018)

Sec. 110-169. - Conditional use approval.

g. A-R wedding/event facility. The facility shall be utilized for private and public weddings and events by a third party who provides some form of consideration to the owner or his/her agent. The facility shall not be utilized for concerts, sporting events, or vehicle racing. A horse show, rodeo, carnival, community fair, and/or religious tent meeting shall also be allowed as regulated in this article and this section and the most restrictive conditions shall apply. **A business office and/or structures utilized for event preparation and sanitation shall be allowed in conjunction with the A-R wedding and event facility.** Allowed in the A-R zoning district.

1. Minimum lot size: fifteen acres.
 2. These facilities shall not be permitted on a lot which accesses a road designated as an internal local road by the county thoroughfare plan and/or the county engineer.
 3. Facilities which access an unpaved county-maintained road are limited to 12 weddings/events per calendar year. A wedding/event permit from the planning and zoning department is required prior to holding the wedding/event.
 4. A minimum 100 foot setback shall separate all buildings and areas utilized for wedding sand events from any abutting residential zoning district. Otherwise all buildings and areas utilized for weddings and events shall meet the minimum A-R setbacks.
 5. Adequate off-street parking shall be required and a 50-foot setback shall separate parking areas from any abutting residential zoning district. A prepared surface is not required for the parking areas. However, any parking area with a prepared surface shall comply with article VIII. Off-street parking and service requirements of the development regulations and must be depicted on a sketch, drawn to scale on a survey of the lot. Grassed and gravel parking areas shall be exempt from nonresidential development landscape requirements of the county development regulations. The following is required for gravel parking areas:
 - (i) Exterior and interior parking aisles shall be terminated at both ends by a landscape island.
 - (ii) Landscape islands shall be provided for each 150 feet of continuous parking length.
 - (iii) One canopy tree, six feet high at planting, is required per landscape island.
- Paved parking areas shall meet Article V, pertaining to "Non-residential development landscape requirements", of the county development regulations.
6. Hours of operation for weddings and events shall be between the hours of 9:00 a.m. and 10:00 p.m. on weekdays and 9:00 a.m. and 11:00 p.m. on weekends. These hours of operation shall not limit the setup and cleanup time before and after the wedding or event.
 7. All structures utilized ~~for~~ **in association with** weddings and events shall meet all applicable building and fire codes.
 8. Sanitation facilities shall be approved by the environmental health department.

9. Food service shall meet all state and local requirements.
10. Tourist accommodations shall not be allowed in conjunction with an A-R wedding and event facility with exception of an A-R Bed and Breakfast Inn that is compliant with section 110-169 and Article VI, pertaining to "Tourist Accommodations", of Chapter 8 of the County Code.
11. Tents shall require county fire marshal approval, as applicable.
12. A site plan meeting the full requirements of the county development regulations is not required. A sketch, drawn to scale on a survey of the lot depicting all existing buildings and specific areas utilized for weddings and events shall be required. The survey shall also depict FEMA and MNGWPD floodplain and elevations, and watershed protection buffers and setbacks as applicable. In the event that 5,000 or more square feet of impervious surface is added in conjunction with a wedding and event facility, a site plan compliant with stormwater requirements of the county development regulations shall be required. The site will be exempt from the nonresidential development landscaper requirements and tree retention, protection, and replacement of the county development regulations. A site located on a state route shall comply with the applicable transportation corridor overlay zone (Sec. 110-173) with the exception of the architectural standards.

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w. Farm outbuildings, including horse stables, auxiliary structures, and greenhouses. Allowed in the A-R zoning district. These aforementioned buildings/structures shall be exempt from [Sec. 110-79](#), pertaining to "Residential accessory structures and their uses".

1. Farm outbuilding. All structures permitted in this category shall be structures related to a bona fide farming operation and shall be utilized as a barn for livestock, storing farm equipment, and any other agricultural purposes.
2. Greenhouses. All structures permitted in this category shall be structures related to a bona fide cultivation or production of landscape planting materials.
3. Horse stables. All structures permitted in this category shall be related to the bona fide shelter and/or boarding of horses. Riding lessons and boarding only shall be permitted; however, a site plan shall be required for these uses.
4. Auxiliary structures. All structures permitted in this category shall comply with the following:
 - (i) Auxiliary structures shall be utilized for personal use only by the residents of the principal structure.
 - (ii) Auxiliary structures may be utilized as a noncommercial indoor training facility and/or artist studio.
 - (iii) Commercial/retail activity shall not be permitted.
 - (iv) An auxiliary structure shall not be utilized in conjunction with a home occupation.
5. *Lot size over ten acres, no restriction of size or number of farm outbuildings, horse stables, auxiliary structures, and greenhouses.*
6. *Lot size five to ten acres, one detached farm outbuilding, auxiliary structure, greenhouse, or horse stable consisting of a maximum of 3,600 square feet in size.*
7. *Lot size two to less than five acres, one detached farm outbuilding, auxiliary structure, greenhouse, or horse stable consisting of a maximum of 2,600 square feet in size.*
8. Farm outbuildings, auxiliary structures, horse stables and greenhouses may have plumbing and electricity, ~~but shall not be used for residential purposes.~~ A farm outbuilding, auxiliary structure or horse stable may include up to 700 square feet of heated and finished floor area to be utilized as a guesthouse. Said guesthouse shall meet all applicable building codes. Only one guesthouse is allowed per individual lot (see also Sec. 110-79.). A guesthouse shall not be used as tenant space. Farm outbuildings, auxiliary structures, horse stables, and/or greenhouses may be constructed prior to the principal residential structure.

Sec. 110-169. - Conditional use approval.

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Sec. 110-169. - Conditional use approval.

rr. Self-storage facility (**external access**). Allowed in M-1 and C-H zoning districts.

1. The maximum size of a storage bay shall be ~~550~~ 600 square feet. ~~The facility may contain one (1) on-site single-family dwelling unit.~~
2. All buildings shall maintain a decorative facing on those portions of the building which face public streets and any property zoned residential or agricultural-residential. The decorative facing shall consist of ~~fiber-cement siding (i.e., Hardiplank), wood siding, wood textured vinyl siding, brick/brick veneer, rock, stone, cast-stone, stucco (including synthetic stucco), and/or finished baked enamel metal siding which establishes a horizontal pattern~~ ~~brick, stone, stucco, or similar building materials compatible with the area~~. The transportation corridor overlay zone ~~architectural requirements~~ shall ~~apply control~~ when applicable.
3. Aisle ways adjacent to storage bays shall be used both for circulation and temporary customer parking while using storage bays. The minimum width of these aisle ways shall be 25 feet as measured from the closest part of the structure including any overhang.
4. Storage of vehicles, boats, and trailers, shall be located in the rear yard only and be screened from view from adjacent residential areas and public roads with any combination of privacy fence and/or berm, and vegetation. Covered vehicle storage up to 850 square feet per parking space, shall be allowed provided it does not exceed 25 percent of the overall gross square footage of all buildings. All covered storage shall have a peaked roof, be closed on any side that is visible from a residential or A-R zoning district or from any street, and shall be built of materials consistent with the main structure. Aisles adjacent to boat and RV parking shall be a minimum of 50 feet wide unless it is angled parking.
5. All outdoor lighting shall be shielded away from adjacent residential uses.
6. No exterior loudspeakers or paging equipment shall be permitted on the site.

~~??~~. Self-storage facility (**internal access**). Allowed in M-1 and C-H zoning districts.

1. ~~No direct exterior access to individual storage units shall be allowed, all individual storage unit access shall be internal - the maximum size of an individual storage unit shall be 600 square feet. The facility may contain one (1) on-site single-family dwelling unit.~~
2. ~~All buildings shall maintain a decorative facing on those portions of the building which face public streets and any property zoned residential or agricultural-residential. The decorative facing shall consist of fiber-cement siding (i.e., Hardiplank), wood siding, wood textured vinyl siding, brick/brick veneer, rock, stone, cast-stone, stucco (including synthetic stucco), or metal~~

siding which establishes a horizontal pattern. The transportation corridor overlay zone shall apply when applicable.

3. Vehicle loading/unloading bays shall only be located on the side or rear, and not facing a street. Vehicle loading/unloading bays on the side of the self-storage facility shall require a canopy.
4. No outside storage of materials or equipment shall be allowed.
5. A vehicle, boat, and/or trailer storage structure shall be fully enclosed.
6. No exterior loudspeakers or paging equipment shall be permitted on the site.

Sec. 110-170. - Nonconformances.

- (a) *Nonconforming lots.* A legally existing lot of record which fails to comply with the provisions herein, as of November 13, 1980, or as the result of subsequent amendments, or due to the acquisition of property for a public purpose, a rezoning, or a variance, shall be considered a legal nonconforming lot and may be utilized for the establishment of uses or the placement of structures and improvements, as long as, all applicable regulations can be met. Where the dimensional requirements of the zoning district cannot be met in terms of the placement of structures and improvements, a variance authorized by the zoning board of appeals shall be required. Any reduction in the land area of a legal nonconforming lot other than an acquisition for a public purpose which serves to make the lot more nonconforming shall result in a loss of the legal nonconforming lot status. However, any addition of property to a legal nonconforming lot which serves to make the lot more conforming shall not result in the loss of the legal nonconforming lot status.
- (b) *Landlocked property.* In the event property is landlocked, as of the effective date of November 13, 1980, the property owner shall be entitled to building permits, provided the property owner has acquired a 20-foot easement to a public street, and said easement has been duly recorded and made a part of the property deed. In the event said property is divided into two or more lots, no further building permits shall be issued until each lot complies with the requirements of street frontage for access.
- (c) *Creation of a legal nonconforming lot for enhancements to a development.* Said lot shall not be utilized for the permitted or conditional uses of the zoning district in which the lot is located and the lot is not required to meet the applicable minimum lot size, lot width, or road frontage requirements. Said enhancements shall include stormwater facilities, ~~tot-lots~~, **pocket parks**, decorative features (such as landscaping, arbors, fences/walls, fountains, sculptures, benches, arches, etc.), signs, **mail Cluster Box Units (CBUs)** and the preservation of historic and agricultural structures for ornamentation (see nonconforming structures). A ~~tot-lot pocket park~~ shall ~~not exceed 10,890 square feet (1/4 acre) in size and shall only be equipped with~~ **may contain** playground equipment (swing set, slide, teeter totter, monkey bars, sandbox, etc.) intended for small children, ~~benches and picnic facilities including one (1) covered picnic pavilion not to exceed 400 square feet.~~ A minimum 15-foot setback shall be maintained ~~for any playground equipment within a pocket park or for any historic or agricultural structures utilized for ornamentation.~~ The lot must be labeled "Not a Building Lot" on the preliminary plat and/or the final plat or minor subdivision plat, as applicable. The lot shall be under the ownership of the homeowners' association, property owners' association, or developer/property management entity, as applicable.
- (d) *Creation of a legal nonconforming lot for a legal nonconforming cemetery or burial ground.* The creation of a lot intended for the sole purpose of containing a legal nonconforming cemetery or burial ground is allowed. Said lot is not required to meet the applicable minimum lot size, lot width, or road frontage requirements. The boundary of the lot shall be set back a minimum of five feet from the location of any grave. A legal nonconforming cemetery or burial ground shall be indicated on a preliminary plat, final plat, minor subdivision plat, and/or site plan, as applicable. A minimum 20-foot public access to a legal nonconforming cemetery or burial ground shall be maintained either through fee simple ownership or an easement.
- (e) *Minimum requirements.* Individual lots, parcels, or tracts affected by proposed rezonings which are initiated by a party other than the board of commissioners of the county, shall meet the minimum lot size, lot width, and road frontage requirements of this chapter, except as otherwise provided herein. Combination or division of lots to achieve compliance with said requirements shall be accomplished as a condition of rezoning approval.
- (f) *Consideration for the rezoning of legal nonconforming lots.* Any legal nonconforming lot may be considered for rezoning to another zoning district where the lot would be made nonconforming by said rezoning. Factors of consideration, in addition to those enumerated in article IX of this chapter, would include the following:
 - (1) The degree of increase or reduction of the nonconformity of existing structures located on the subject property; and

- (2) The current zoning and land use designations of adjoining lots as indicated on the land use plan. Where the dimensional requirements of the zoning district cannot be met in terms of the placement of new structures, a variance authorized by the zoning board of appeals shall be required.
- (g) *Nonconforming uses; nonconforming open uses of land.* Any legally existing open uses of land which fails to comply with the provisions herein, as of November 13, 1980, or as the result of subsequent amendments, or due to the acquisition of property for a public purpose, a county initiated rezoning, or a variance, shall be considered a legal nonconforming open use of land. Said uses consist of storage yards, vehicle and trailer sales lots, auto wrecking, junkyards, golf driving ranges, miniature golf, and similar open uses where the only buildings on the lot are incidental and accessory to the open use of the lot, and where such use of the land is not permitted to be established herein, shall be governed by the following restrictions in addition to other requirements herein.
- (1) When a legal nonconforming open use of land has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
 - (2) Legal nonconforming open uses of land shall not be changed to any use but conforming uses.
 - (3) A legal nonconforming open use of land shall not be enlarged to cover more land.
 - (4) When any legal nonconforming open use of land is discontinued for a period in excess of six months, any future use of the land shall be limited to those uses permitted in that zoning district under the provisions herein. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.
- (h) *Nonconforming use of a structure.* Any legally existing use of a structure which fails to comply with the provisions herein, as of November 13, 1980, or as the result of subsequent amendments, or due to the acquisition of property for a public purpose, a county initiated rezoning, or a variance, shall be considered a legal nonconforming use of a structure. Said uses shall be governed by the following restrictions:
- (1) A legal nonconforming use of a structure may be changed to another nonconforming use upon a finding by the zoning board of appeals that the proposed nonconforming use is similar in its operation and effect on surrounding properties.
 - (2) A legal nonconforming use of a structure shall not be changed to another nonconforming use that generates more automobile or truck traffic; creates more noise, vibration, smoke, dust or fumes; is a more intensive use of the structure than the existing nonconforming use; or is in any way a greater nuisance to the adjoining properties than the existing nonconforming use.
 - (3) A legal nonconforming use of a structure shall not be extended or enlarged except into portions of the structure which, at the time the use became nonconforming, were already erected and arranged for, or designed for, such nonconforming use, except as provided herein. No alterations shall be made in any structure occupied by a nonconforming use, which would in any way increase the floor space, area, or volume of space occupied by the use.
 - (4) When any legal nonconforming use of a structure is discontinued for a period in excess of six months, any future use of the structure shall be limited to those uses permitted in that zoning district, except as otherwise provided for herein. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.
- (i) *Request for change of the legal nonconforming use of a structure.* The zoning board of appeals may authorize, upon appeal in specific cases, a change in the legal nonconforming use of a structure in accordance with the provisions herein.
- (j) *Request for extension or enlargement of the legal nonconforming use of a structure.* The zoning board of appeals may authorize upon appeal in specific cases an extension or enlargement of an existing legal nonconforming use which the board is specifically authorized to consider under the terms herein. Said extensions may be granted in an individual case upon a finding by the board that:

- (1) The use is a legal nonconforming use as defined in these regulations;
 - (2) The legal nonconforming use is in full compliance with all requirements of these regulations applicable to nonconformances; and
 - (3) The extension of said legal nonconforming use will not further injure a permitted use on adjacent property.
- (k) *Continuance of a legal nonconforming use.* The zoning board of appeals may allow a legal nonconforming use to be re-established after discontinuance for six consecutive months where it is deemed by the zoning board of appeals that:
- (1) The design, construction, and character of the land, building, or structure is not suitable for uses permitted in the zoning district in which the legal nonconforming use is situated;
 - (2) Undue hardship to the property owner would result in not allowing the continuance of a legal nonconforming use;
 - (3) Adjacent property would not be unduly damaged by such continuance; and
 - (4) The use is to be identical to the prior legal nonconforming use.
- (l) *Nonconforming structures; nonconforming structures.* Any legally existing structure, which fails to comply with the provisions herein, as of November 13, 1980, or as the result of subsequent amendments, or due to the acquisition of property for a public purpose, a **county initiated** rezoning, or a variance, shall be considered a legal nonconforming structure and shall be allowed to remain. The enlargement, expansion, or extension of a legal nonconforming structure which serves to increase the nonconformance, either vertical and/or horizontal, shall only be made with the authorization of the zoning board of appeals. Where the zoning board of appeals is required to determine whether a nonconforming structure may be enlarged, expanded, or extended, the provisions of a request for a variance (article IX of this chapter) shall be considered.
- (m) *Restoration and re-use of nonconforming historic structures.* Nonconforming historic structures previously used for purposes not permitted in the zoning district in which they are located shall be governed by the following restrictions:
- (1) The structure and previous use shall be identified in the architectural survey of the county. The re-use of the historic structure will be subject to the regulations of the nonconforming use of a structure (article V of this chapter).
 - (2) The structure itself shall be the subject of restoration. Any extension, enlargement, or alteration of the structure that does not comply with the minimum requirements of this chapter is subject to approval of the zoning board of appeals.
 - (3) Areas of consideration for approval of such a request include, but are not limited to:
 - a. Restriction of allowable uses;
 - b. Parking requirements; and
 - c. Buffer and landscaping requirements.
- (n) *Use of historic residential structures and agricultural structures in residential subdivisions.* The preservation of historic residential structures listed in the architectural survey of the county and agricultural structures are allowed in residential subdivisions to preserve the character of the county as these structures can be used as residences, community facilities, or as ornamentation for the subdivision. Existing structures used for a community facility shall meet all applicable building and safety codes and will be regulated as a conditional use under developed residential recreational/amenity areas. The use of these structures will be subject to the approval of the zoning board of appeals in terms of any nonconformance with the applicable zoning district.
- (o) *Reconstruction of legal nonconforming structures.* When a legal nonconforming structure is damaged by fire, flood, wind or act of God, such structure may be reconstructed as a legal nonconforming structure only if the cost of reconstruction totals less than 75 percent of the current

fair market value of the structure for tax purposes. Reconstruction costs shall include labor, materials, appliances, devices, and fixtures required for the issuance of a certificate of occupancy (per applicable International Residential Code and International Building Code). The "value of the structure" shall not include the value of any accessory building, well, septic tank, or utility in determining the extent of the damage.

(p) *Maintenance or repair of legal nonconforming structures.*

- (1) The normal maintenance and repair of a legal nonconforming structure, as is required to keep it in a safe and sound condition, may be made. However, if the structure falls into a state of disrepair where the cost of the maintenance and/or repair is 75 percent or greater of the current fair market value of the structure for tax purposes, the structure must be removed and/or brought into compliance. Reconstruction costs shall include labor, materials, appliances, devices, and fixtures required for the issuance of a certificate of occupancy (per applicable International Residential Code and International Building Code).
- (2) A property that is improved with a legally existing structure, which would become nonconforming in terms of the setbacks only within the zoning district for which a rezoning is being sought, may be considered for rezoning, except as otherwise provided in article VI of this chapter, O-I, and article VII of this chapter, transportation corridor overlay zone. Upon approval of the rezoning request, a variance authorized by the zoning board of appeals shall be necessary for the structure to remain within the setback (see article VII of this chapter). Any enlargement, expansion, or extension of said structure which serves to increase nonconformance, either vertical and/or horizontal, shall only be made with the authorization of the zoning board of appeals. Any new structure shall comply with the dimensional minimum requirements herein.

(q) *Legally existing structures.* A property that is improved with a legally existing structure, which would become nonconforming in terms of the architectural requirements within this chapter, may be considered for rezoning. Upon approval of the rezoning request, said structure shall be considered as a legal nonconforming structure in terms of architectural requirements and be allowed to remain in its architectural character, except as is required in a transportation corridor overlay zone regarding enlargement of an existing nonconforming structure.

- (1) A property that is improved with a legally existing structure, which would become nonconforming in terms of the maximum height limits within this chapter, may be considered for rezoning. Upon approval of the rezoning request, said structure shall be considered as a legal nonconforming structure in terms of height limits and be allowed to remain at said height.
- (2) A property that is improved with a legally existing residential structure, which would become nonconforming in terms of the setbacks and/or the minimum square footage requirements within the zoning district for which a rezoning is being sought, may be considered for rezoning. Any actions necessary to achieve compliance will be handled through conditions of rezoning approval.
- (3) A property that is improved with legally existing accessory structures, which would become nonconforming in terms of the accessory structure requirements within this chapter, may be considered for rezoning. Any actions necessary to achieve compliance will be handled through conditions of rezoning approval, except as otherwise provided herein.

(r) *Illegal nonconforming uses.* Notwithstanding any other provisions herein to the contrary, as to nonconforming uses, which were illegal when they were commenced, or which became illegal thereafter, prior to the adoption of the ordinance from which this chapter is derived, or amendment hereto, this section shall be deemed to impose additional regulations only. It shall not be held or construed to be permissive of such illegal use, nor as recognizing any right to the continuance of an illegal use, except in those instances where the illegal use was rendered conforming by the inclusion of the land, whereon such use was conducted within a zoning district, wherein such use is permitted, as shown upon the official zoning map of the county.

Sec. 110-173. - Transportation corridor overlay zone.

For the purposes of this section, a development shall be defined as the land where the construction of improvements to support nonresidential uses is proposed, including: a petition to rezone the land, the subdivision of property through a preliminary, final, and/or minor subdivision plat, and/or the submittal of a site plan.

- (1) *SR 54 West Overlay Zone.* All property and/or development which have road frontage and/or access on SR 54 West with nonresidential use or zoning shall be subject to the following regulations, in addition to the zoning district requirements, and other development regulations which apply. The intent of the overlay is to set standards specifically to Hwy 54 from Fayetteville to Peachtree City.
 - a. The purpose of the SR 54 West Overlay Zone is to achieve the following:
 1. To promote and maintain orderly development and an efficient traffic flow in highway corridors;
 2. To maintain a non-urban separation between Fayetteville and Peachtree City along SR 54 West; and
 3. To protect the aesthetics for existing and future residential areas in this highway corridor.
 - b. Access to each nonresidential property and/or development shall be from SR 54 West or an adjacent street designated as an arterial or collector on the county thoroughfare plan. All access points shall be required to comply with chapter 104.
 - c. Dimensional requirements.
 1. All parking areas shall be located at least 50 feet from any state route right-of-way.
 2. Front yard setbacks on SR 54 West for all structures, including gasoline canopies, shall be 100 feet.
 3. Berms for nonresidential zoning districts: Berms when required as a condition of zoning, shall be a minimum of four feet in height, and shall be placed to the inside of the applicable buffer.
 4. If the side yard abuts a nonresidential zoning district, all impervious surfaces, other than approved access, shall be located a minimum of ten feet from the side property line.
 - d. Architectural standards. Structures shall maintain a residential character. Elevation drawings denoting compliance with the following requirements shall be submitted as part of the site plan:
 1. A pitched peaked (gable or hip) roof with a minimum pitch of 4.5 inches in one foot, including gasoline canopies and accessory structures and shall be of a type and construction complimentary to the facade. A pitched mansard roof facade with a minimum pitch of 4.5 inches in one foot, and a minimum height of eight feet around the entire perimeter of the structure can be used if the structure is two stories or more or the use of a pitched peaked roof would cause the structure to not meet the applicable height limit requirements. The mansard roof facade shall be of a residential character with the appearance of shingles, slate or terra cotta.
 2. Gasoline canopy. Gasoline canopies shall also comply with the following requirements:
 - (i) Gasoline canopies, in conjunction with a convenience store, may reduce the pitch to a minimum of three inches to 12 inches to permit the height of the peak of the roof to be equal to or no more than five feet above the peak of the roof of the convenience store.

- (ii) The vertical clearance under the gasoline canopy shall not exceed a maximum of 18 feet in height.
 - (iii) The support columns for the gasoline canopies shall match the facade of the convenience store.
 - (iv) The gasoline canopy roof shall match the architectural character, materials, and color of the convenience store.
- 3. All buildings shall be constructed in a residential character of fiber-cement siding (i.e., Hardiplank), wood siding, wood textured vinyl siding, brick/brick veneer, rock, stone, cast-stone, ~~or stucco (including synthetic stucco)~~ **and/or finished baked enamel metal siding which establishes a horizontal pattern.**
- 4. Framed doors and windows of a residential character. To maintain a residential character, large display windows shall give the appearance of smaller individual panes and framing consistent with the standard residential grid pattern for doors and windows. This does not apply to stained glass windows for a church or other place of worship. Large display or storefront windows shall have a minimum two foot high knee wall consisting of fiber-cement siding (i.e., Hardiplank), wood siding, wood textured vinyl siding, brick/brick veneer, rock, stone, cast-stone, or stucco (including synthetic stucco); ~~and.~~
- 5. The design of accessory/out lot buildings shall be consistent with and coordinate with the architectural style inherent in the ~~primary-principal~~ structure on the property.
- 6. When an existing ~~nonconforming~~ structure, ~~that is nonconforming to the aforementioned architectural standards,~~ is enlarged ~~by 50 percent or less,~~ the enlargement does not have to meet the aforementioned architectural standards, but does have to match the architectural design of the existing nonconforming structure. ~~This exemption shall only apply to the first occurrence of any enlargement after the effective date of January 24, 2008. Only one structure per lot shall be entitled to the exemption. When an existing nonconforming structure is enlarged by more than 50 percent the entire nonconforming structure shall be brought into compliance with the aforementioned.~~
 - ~~(i) Architectural standards. This exemption shall expire January 24, 2015, seven years from the effective date of January 24, 2008. After the expiration date, the entire nonconforming structure shall be brought into compliance with the aforementioned architectural Standards when any enlargement is made.~~
 - ~~(ii) Note: These architectural standards shall exclude the areas of the Hospital District which includes that area north of SR 54 West, east of Tyrone Road, and west of Sandy Creek Road.~~
- e. Architectural option. An owner/developer may exercise an architectural option for structures within the overlay zone on lots adjacent to a municipality where a nonresidential architectural character has been established in the area. The purpose of this option is to achieve compatibility with surrounding areas, consistency throughout the development and greater creativity. A photographic architectural character inventory of the buildings within the area shall be submitted. Full color architectural elevation drawings of the proposed nonresidential architectural style for all building facades shall be submitted. Multiple buildings within a development shall have comparable architectural characteristics consisting of similar architectural design and elements, building materials and colors. Elevations shall be reviewed and approved by the board of commissioners and shall follow the procedure established in article IX of this chapter. Any change to the approved architectural elevation drawings shall follow the aforementioned procedure.
- f. Landscape requirements. In addition to the standard requirements of the landscape ordinance, the following landscape requirements shall apply to the overlay zone:

1. *Street frontage.* Landscape area: 50 feet along the right-of-way of SR 54 West. The first 25 feet as measured from the right-of-way is for required landscape planting only. The remaining 25 feet may be used for septic system placement; underground stormwater detention systems; and the following stormwater management facilities/structures if designed in full accordance with the specifications provided in the most current edition of the Georgia Stormwater Management Manual; vegetated channels, overland flow filtration/groundwater recharge zone, enhanced swales, filter strips, and grass channels. Septic systems and stormwater structures shall be exclusive of each other and the minimum distance of separation between wastewater and stormwater structures shall be established by the environmental health department and the county engineer. Utilities (including underground stormwater piping) and multi-use path connections may be located anywhere within the landscape area.
 2. *Side yard landscape area.* Ten feet in depth along side property lines unless adjacent to a residential district where buffer requirements will apply.
 - g. *Use of existing structure:* When property containing legally conforming structures, under the current zoning, is rezoned to O-I the dimensional requirements shall be reduced to the extent of, but only at the location of, any encroachment by the structures and said structures shall be considered legal nonconforming structures.
 - h. *Lighting and shielding standards.* Lighting shall be placed in a manner to direct light away from any adjacent roadways or nearby residential areas.
 - i. *Special locational and spatial requirements.*
 1. No more than 50 percent of the required parking can be located in the front yard along the state route as established by the front building line of any structure located on the site.
 2. No outside storage allowed.
 3. All roof-top heating, ventilation, and air conditioning equipment and satellite/communications equipment shall be visually screened from adjacent roads and property zoned residential or A-R. The screen shall extend to the full height of the objects being screened.
 4. For all new construction, garage doors and bays associated with any use within the district shall be located on the side or rear of the principal building, and not facing SR 54.
- (2) *SR 85 North Overlay Zone.* All undeveloped property and property being totally redeveloped (i.e., where all of the existing principal structures have been demolished/removed) which has road frontage on SR 85 North and/or development within 1,000 feet of the right-of-way of SR 85 North where nonresidential development commenced after the effective date of the SR 85 North Overlay Zone (03/22/07) with nonresidential use or zoning shall be subject to the requirements of the SR 85 North Overlay Zone. The intent of the overlay is to set standards specific to SR 85 North from the city limits of the City of Fayetteville north to the Fayette-Clayton county line.
- a. *Purpose.* The purpose of the SR 85 North Overlay Zone is to achieve the following:
 1. To establish and maintain a scenic gateway into the county, which projects an image of our quality lifestyle.
 2. To promote and maintain orderly development and the efficient movement of traffic on SR 85 North.
 3. To protect the aesthetics for existing and future development in this highway corridor.
 - b. *Access.* Access to each nonresidential property and/or development shall be from SR 85 North or an adjacent street designated as an arterial or collector on the county thoroughfare plan. All access points shall be required to comply with chapter 104.

c. *Dimensional requirements.*

1. All parking areas shall be located at least 50 feet from any state route right-of-way.
2. Setbacks will be as follows:
 - (i) Front yard setback on State Route 85 North: 100 feet.
 - (ii) Gasoline canopy: Front yard setback on State Route 85 North: 85 feet.
3. Berms for nonresidential zoning districts: Berms when required as a condition of zoning shall be a minimum of four feet in height and shall be placed to the inside of the applicable buffer.

d. *Architectural standards.*

1. All buildings ~~of which any portion of said building is constructed within 1,000 feet of the right-of-way of SR 85 North~~ shall be constructed of brick/brick veneer, fiber-cement siding (i.e., Hardiplank), rock, stone, cast-stone, split-face concrete masonry unit (rough textured face concrete block), stucco (including synthetic stucco), ~~and/or wood siding and/or finished baked enamel metal siding which establishes a horizontal pattern.~~
2. The design of accessory/out lot buildings shall be consistent with and coordinate with the architectural style inherent in the ~~primary-principal~~ primary structure on the property.
3. ~~When an existing nonconforming structure is enlarged by 50 percent or less, the enlargement does not have to meet the aforementioned architectural standards, but does have to match the architectural design of the existing nonconforming structure. This exemption shall only apply to the first occurrence of any enlargement after the effective date of January 24, 2008. Only one structure per lot shall be entitled to the exemption. When an existing nonconforming structure is enlarged by more than 50 percent, the entire nonconforming structure shall be brought into compliance with the aforementioned architectural Standards. This exemption shall expire on January 24, 2015, seven years from the effective date of January 24, 2008. After the expiration date, the entire nonconforming structure shall be brought into compliance with the aforementioned architectural standards when any enlargement is made.~~

e. *Landscape requirements.* In addition to the standard requirements of the landscape ordinance, the following landscape requirements shall apply to the overlay zone:

1. *Street frontage landscape area.* Fifty feet along the right-of-way of SR 85 North. The first 25 feet as measured from the right-of-way is for required landscape planting only. The remaining 25 feet may be used for septic system placement; underground stormwater detention systems; and the following stormwater management facilities/structures, if designed in full accordance with the specifications provided in the most current edition of the Georgia Stormwater Management Manual; vegetated channels, overland flow filtration/groundwater recharge zone, enhanced swales, filter strips, and grass channels. Septic systems and stormwater structures shall be exclusive of each other and the minimum distance of separation between wastewater and stormwater structures shall be established by the environmental health department and the county engineer. Utilities (including underground stormwater piping) and multiuse path connections may be located anywhere within the landscape area.
2. *Side yard landscape area.* Ten feet in depth along side property lines unless adjacent to a residential district where buffer requirements will apply.

f. *Use of existing structure.* When property containing legally conforming structures, under the current zoning, is rezoned to O-I the dimensional requirements shall be reduced to the

extent of, but only at the location of, any encroachment by the structures and said structures shall be considered legal nonconforming structures.

g. *Lighting and shielding standards.* Light shall be placed in a manner to direct light away from any adjacent roadways or nearby residential areas.

h. *Special locational and spatial requirements.*

1. Outside storage of merchandise or equipment and parts shall be allowed in the rear yards only, subject to minimum screening, setback and buffer requirements. Outside storage shall not exceed 25 percent of the gross floor area of all structures per lot.
2. All roof-top heating, ventilation, and air conditioning equipment and satellite/communications equipment shall be visually screened from adjacent roads and property zoned residential or A-R. The screen shall extend to the full height of the objects being screened.
3. For all new construction, garage doors and bays associated with any use within the district shall be located on the side or rear of the principal building, and not facing SR 85.

(3) *General state route overlay zone.* All property and/or development which have road frontage and/or access on State routes with nonresidential use or zoning shall be subject to the following regulations, in addition to the zoning district requirements and other development regulations which apply. This overlay zone specifically excludes the SR 54 West ~~Overlay Zone~~, SR 85 North ~~Overlay Zone~~, and SR 74 North ~~Overlay Zone~~, SR 138 and North SR 314 ~~Overlay Zone~~ and the Starr's Mill Historic District ~~Overlay Zone~~ at the SR 74, SR 85, & Padgett Road Intersection. ~~for which other overlay zones have been established herein.~~ The architectural standards of this overlay zone specifically excludes the L-C zoning district, for which other architectural standards have been established. **(This section to be moved to (1))**

a. *Purpose.* The purpose of the general state route overlay zone is to achieve the following:

1. To promote and maintain orderly development and an efficient traffic flow in highway corridors;
2. To protect existing and future residential areas near highway corridors; and
3. To protect the aesthetics for existing and future residential areas in this highway corridor.

b. *Access.* Access to each nonresidential property and/or development shall be from a state route or an adjacent street designated as an arterial or collector on the county thoroughfare plan. All access points shall be required to comply with chapter 104.

c. *Dimensional requirements.*

1. All parking areas shall be located at least 50 feet from any state route right-of-way.
2. Front yard setbacks on all other state routes for all structures, including gasoline canopies, shall be 100 feet.
3. Berms for nonresidential zoning districts: Berms when required as a condition of zoning shall be a minimum of four feet in height, and shall be placed to the inside of the applicable buffer.

d. *Architectural standards.* Structures shall maintain a residential character. Elevation drawings denoting compliance with the following shall be submitted as part of the site plan.

1. A pitched peaked (gable or hip) roof with a minimum pitch of 4.5 inches in one foot including gasoline canopies and accessory structures and shall be of a type and construction complimentary to the facade. A pitched mansard roof facade with a minimum pitch of 4.5 inches in one foot and a minimum height of eight feet around the entire perimeter of the structure can be used if the structure is two stories or more or

the use of a pitched peaked roof would cause the structure to not meet the applicable height limit requirements. The mansard roof facade shall be of a residential character with the appearance of shingles, slate or terra cotta.

2. Gasoline canopy. Gasoline canopies shall also comply with the following requirements:
 - (i) Gasoline canopies, in conjunction with a convenience store, may reduce the pitch to a minimum of three inches to 12 inches to permit the height of the peak of the roof to be equal to or no more than five feet above the peak of the roof of the convenience store.
 - (ii) The vertical clearance under the gasoline canopy shall not exceed a maximum of 18 feet in height.
 - (iii) The support columns for the gasoline canopies shall match the facade of the convenience store.
 - (iv) The gasoline canopy roof shall match the architectural character, materials, and color of the convenience store.
 3. All buildings shall be constructed in a residential character of fiber-cement siding (i.e., Hardiplank), wood siding, wood textured vinyl siding, brick/brick veneer, rock, stone, cast-stone, ~~or stucco (including synthetic stucco) and/or finished baked enamel metal siding which establishes a horizontal pattern. on these portions of the building facing front and side yards and/or any property zoned agricultural residential or residential.~~
 4. Framed doors and windows of a residential character. To maintain a residential character, large display windows shall give the appearance of smaller individual panes and framing consistent with the standard residential grid pattern for doors and windows. This does not apply to stained glass windows for a church or place of worship. Large display or storefront windows shall have a minimum two-foot-high knee wall consisting of fiber-cement siding (i.e., Hardiplank), wood siding, wood textured vinyl siding, brick/brick veneer, rock, stone, cast-stone, or stucco (including synthetic stucco).
 5. The design of accessory/out lot buildings shall reflect and coordinate with the general architectural style inherent in the ~~primary-principal~~ structure on the property.
 6. When an existing ~~nonconforming~~ structure, ~~that is nonconforming to the aforementioned architectural standards,~~ is enlarged ~~by 50 percent or less,~~ the enlargement does not have to meet the aforementioned architectural standards, but does have to match the architectural design of the existing nonconforming structure. ~~This exemption shall only apply to the first occurrence of any enlargement after the effective date of January 24, 2008. Only one structure per lot shall be entitled to the exemption. When an existing nonconforming structure is enlarged by more than 50 percent, the entire nonconforming structure shall be brought into compliance with the aforementioned architectural standards. This exemption shall expire on January 24, 2015, seven years from the effective date of January 24, 2008. After the expiration date, the entire nonconforming structure shall be brought into compliance with the aforementioned architectural standards when any enlargement is made.~~
- e. *Architectural option.* An owner/developer may exercise an architectural option for structures within the overlay zone on lots adjacent to a municipality where a nonresidential architectural character has been established in the area. The purpose of this option is to achieve compatibility with surrounding areas, consistency throughout the development and

greater creativity. A photographic architectural character inventory of the buildings within the area shall be submitted. Full color architectural elevation drawings of the proposed nonresidential architectural style for all building facades shall be submitted. Multiple buildings within a development shall have comparable architectural characteristics consisting of similar architectural design and elements, building materials and colors. Elevations shall be reviewed and approved by the board of commissioners and shall follow the procedure established in article IX of this chapter. Any change to the approved architectural elevation drawings shall follow the aforementioned procedure.

- f. *Landscape requirements.* In addition to the standard requirements of the landscape ordinance, the following landscape requirements shall apply to the overlay zone:
 - 1. *Street frontage landscape area.* Fifty feet in depth along state route frontage. The first 25 feet as measured from the right-of-way are for required landscape planting only. The remaining 25 feet may be used for septic system placement; underground stormwater detention systems; and the following stormwater management facilities/structures if designed in full accordance with the specifications provided in the most current edition of the Georgia Stormwater Management Manual; vegetated channels, overland flow filtration/groundwater recharge zone, enhanced swales, filter strips, and grass channels. Septic systems and stormwater structures shall be exclusive of each other and the minimum distance of separation between wastewater and stormwater structures shall be established by the environmental health department and the county engineer. Utilities (including underground stormwater piping) and multi-use path connections may be located anywhere within the landscape area.
 - 2. *Side yard landscape area.* Ten feet in depth along side property lines unless adjacent to a residential district where buffer requirements will apply.
- g. *Use of existing structure.* When property containing legally conforming structures, under the current zoning, is rezoned to O-I the dimensional requirements shall be reduced to the extent of, but only at the location of, any encroachment by the structures and said structures shall be considered legal nonconforming structures.
- h. *Lighting and shielding standards.* Lighting shall be placed in a manner to direct light away from any adjacent roadways or nearby residential areas.
- i. *Special locational and spatial requirements.*
 - 1. No more than 50 percent of the required parking can be located in the front yard along the state route as established by the front building line of any structure located on the site.
 - 2. Outside storage of merchandise or equipment and parts shall be allowed in the rear yards only, subject to minimum screening, setback and buffer requirements. Outside storage shall not exceed 25 percent of the gross floor area of all structures per lot.
 - 3. All roof-top heating, ventilation, and air conditioning equipment and satellite/communications equipment shall be visually screened from adjacent roads and property zoned residential or A-R. The screen shall extend to the full height of the objects being screened.
 - 4. For all new construction, garage doors and bays associated with any use within the district shall be located on the side or rear of the principal building, and not facing a state route.
- j. *SR 74 South Corridor Sidewalk Requirements.* In order to provide for the connection of the sidewalk system installed by GDOT when SR 74 South was widened from two lanes to four lanes, sidewalks are required as an integral component of nonresidential development in this area as identified in the SR 74 South Overlay District in the Fayette County Comprehensive Plan Land Use Element. Said sidewalks shall connect to the existing

sidewalks. In the cases where a required sidewalk is to be located on abutting parcels, an alignment shall be established and the sidewalk shall be developed so as to provide for connection at the property line.

- (4) *SR 74 North Overlay Zone.* All property and/or development which have frontage on and/or access to SR 74 North with nonresidential use or zoning shall be subject to the requirements of the SR 74 North Overlay Zone. The intent of the overlay is to set standards specific to SR 74 North from Sandy Creek Road to the Fulton county line to achieve the goals of the SR 74 North Overlay District contained in the county comprehensive plan.

a. *Purpose.* The purpose of the SR 74 North Overlay Zone is to achieve the following:

1. To maintain the efficient traffic flow of SR 74 North as the county's main connection to Interstate 85;
2. To enhance and maintain the aesthetic qualities of the corridor, as it is the gateway into the county; and
3. To protect existing and future residential areas in the SR 74 North corridor.

b. *Access.*

1. *West Side of SR 74 North access and internal roadways.* An internal collector road connecting all three of the large tracts identified in the county comprehensive plan, in the SR 74 North overlay district properties will be required, from the existing median break at Thompson Road south to Kirkley Road. The remaining large tract in the unincorporated county will be limited to one right in/right out curb cut on SR 74 North for the construction of a street to provide internal access in the tract. Lots created in conjunction with the development of these tracts will not be allowed individual curb cuts on SR 74 North or Kirkley Road. The design of the collector road will require left turn lanes at the intersections of SR 74 North and Kirkley Road as well as all intersections internal to developments. Final design approval of these intersections will be made by the county engineer.
2. *East Side of SR 74 North access and internal roadways.* To maintain efficient and safe operations on SR 74 North it is required that a parallel service drive be developed approximately 400 feet east of SR 74 North. This service drive shall be constructed when improvements are made to the portion of the property. The service drive will connect to the service drive being developed in Fairburn from Milam Road southwards to the county line. Within the county this service drive will extend from the Fulton county line into the property just north of the golf recreation facility. In addition, all residential properties proposed to be accessed through non-residentially-zoned properties along SR 74 shall be accessed via a public road built to county standards and dedicated to the county. Those affected properties are identified and addressed in the county comprehensive plan.
3. *West Side of SR 74 North multi-use path system.* In order to provide for alternative modes of transportation (including accommodation of golf cart, bicycle and pedestrian traffic), a multi-use path system is required as an integral component of site development. The multi-use path system will connect all three of the large tracts identified in the county comprehensive plan, in the SR 74 North overlay district, and will be constructed in conjunction with the roads. Said multi-use path system shall connect to any existing or proposed external multi-use paths. In the cases where a planned future multi-use path is to be located on abutting parcels, an alignment shall be established and the internal facilities shall be developed so as to provide for connection at the property line. On roadways with a planned multi-use path system the public right-of-way will be used for location of the path system components. The path will consist of a ten-foot-wide paved surface and stabilized shoulders that extend two feet beyond the paved surface. Path construction will consist of a minimum of four inches of gravel base with two inches of asphalt. Final design approval of the multi-

use path design and construction in the right-of-way will be made by the division of public works.

c. *Dimensional requirements.*

1. All parking areas shall be located at least 50 feet from any state route right-of-way.
2. Front yard setback on SR 74 North: 100 feet.
3. Berms for nonresidential zoning districts: Berms, when required as a condition of zoning, shall be a minimum of four feet in height.

d. *Architectural standards.*

1. *West Side of SR 74 North architectural standards.*

- (i) All buildings shall be constructed of brick/brick veneer, wood, fiber-cement siding (i.e., Hardiplank), rock, stone, cast-stone, split-face concrete masonry unit (rough textured face concrete block), architectural precast concrete wall panels, stucco (including synthetic stucco), ~~or and/or finished baked enamel metal siding which establishes a horizontal pattern. any architecturally engineered facades which simulate these materials.~~
- (ii) The design of accessory structures shall be consistent with and coordinate with the architectural style inherent in the primary structure on the property.
- (iii) No horizontal length of a roofline shall exceed 50 linear feet without a variation in elevation. Said variation in elevation shall not be less than two feet.
- (iv) No blank or unarticulated horizontal length of a building facade shall exceed 25 linear feet without a variation in architectural elements, including but not limited to, building materials, colors, textures, offsets, or changes in planes.

2. *East Side of SR 74 North architectural standards.*

- (i) A pitched peaked (gable or hip) roof with a minimum pitch of 4.5 inches in one foot. A pitched mansard roof facade with a minimum pitch of 4.5 inches in one foot and a minimum height of eight feet around the entire perimeter of the structure can be used if the structure is two stories or more or the use of a pitched peaked roof would cause the structure to not meet the applicable height limit requirements. The mansard roof facade shall be of a residential character with the appearance of shingles, slate or terra cotta:
- (ii) All buildings shall be constructed in a residential character of fiber-cement siding (i.e., Hardiplank), wood siding, wood textured vinyl siding, brick/brick veneer, rock, stone, cast-stone, or stucco (including synthetic stucco);
- (iii) Framed doors and windows of a residential character. To maintain a residential character, large display windows shall give the appearance of smaller individual panes and framing consistent with the standard residential grid pattern for doors and windows. This does not apply to stained glass windows for a church or place of worship. Large display or storefront windows shall have a minimum two foot high knee wall consisting of fiber-cement siding (i.e., Hardiplank), wood siding, wood textured vinyl siding, brick/brick veneer, rock, stone, cast-stone, or stucco (including synthetic stucco);
- (iv) The design of accessory structures shall reflect and coordinate with the general architectural style inherent in the ~~primary-principal~~ structure on the property including the roof pitch.

e. *Landscape requirements:* In addition to the standard requirements of the landscape ordinance, the following landscape requirements shall apply to the overlay zone:

1. *Street frontage SR 74 (major arterial) landscape area.* Fifty feet along the right-of-way of SR 74 North. The first 25 feet as measured from the right-of-way is for required landscape planting only. The remaining 25 feet may be used for septic system placement; underground stormwater detention systems; and the following stormwater management facilities/structures, if designed in full accordance with the specifications provided in the most current edition of the Georgia Stormwater Management Manual: vegetated channels, overland flow filtration/groundwater recharge zone, enhanced swales, filter strips, and grass channels. Septic systems and stormwater structures shall be exclusive of each other and the minimum distance of separation between wastewater and stormwater structures shall be established by the environmental health department and the county engineer. Utilities (including underground stormwater piping) and multi-use path connections may be located anywhere within the landscape area.
 2. *Side yard landscape area.* Ten feet in depth along side property lines, unless adjacent to a residential district where buffer requirements will apply.
 - f. *Lighting.*
 1. *Shielding standards.* Lighting shall be placed in such a fashion as to be directed away from any adjacent roadways for nearby residential areas.
 2. *Fixture height standards.* Lighting fixtures shall be a maximum of 35 feet in height within the parking lot and shall be a maximum of ten feet in height within non-vehicular pedestrian areas.
 - g. *Additional requirements.*
 1. All refuse areas and equipment shall be allowed in the side or rear yards only and shall be screened.
 2. All roof-top heating, ventilation, and air conditioning equipment and satellite/communications equipment shall be visually screened from adjacent roads and property zoned residential or A-R. The screen shall extend to the full height of the objects being screened.
 3. Bay doors shall not be allowed to directly face SR 74 North.
 4. All utilities shall be underground.
 - h. *Use of existing structure.* When property containing legally conforming structures, under the current zoning, is rezoned to O-I, the dimensional requirements shall be reduced to the extent of but only at the location of, any encroachment by the structures and said structures shall be considered legal nonconforming structures.
- (5) *SR 138 and North SR 314 overlay zone.* All property and/or development which have frontage on and/or access to SR 138 and S.R 314 north of Highland Drive with nonresidential use or zoning shall be subject to the requirements of the SR 138 and North SR 314 overlay zone. The intent of the overlay is to set standards specific to SR 138 and North SR 314 as described above.
- a. *Purpose.* The purpose of the SR 138 and North SR 314 overlay zone is to achieve the following:
 1. To maintain the efficient traffic flow on these highways as thoroughfares for Fayette and Clayton Counties;
 2. To enhance and maintain the aesthetic qualities of the corridor; and
 3. To protect existing and future residential areas.
 - b. *Access standards.* Access to each nonresidential property and/or development shall be from a state route or an adjacent street designated as an arterial or collector on the county thoroughfare plan. All access points and interparcel access shall be required to comply

with chapter 104, development regulations. A concept plan, submitted with a rezoning application, and/or a site plan shall illustrate compliance with these requirements.

c. *Dimensional requirements.*

1. All parking areas shall be located at least 50 feet from any state route right-of-way.
2. Front yard setback on SR 138: 100 feet.
3. Berms for nonresidential zoning districts: Berms, when required as a condition of zoning, shall be a minimum of four feet in height.

d. *Architectural standards.* Structures shall maintain a residential character. Elevation drawings denoting compliance with the following shall be submitted as part of the site plan.

1. A pitched peaked (gable or hip) roof with a minimum pitch of 4.5 inches in one foot including gasoline canopies and accessory structures and shall be of a type and construction complimentary to the facade. A pitched mansard roof facade with a minimum pitch of 4.5 inches in one foot and a minimum height of eight feet around the entire perimeter of the structure can be used if the structure is two stories or more or the use of a pitched peaked roof would cause the structure to not meet the applicable height limit requirements. The mansard roof facade shall be of a residential character with the appearance of shingles, slate or terra cotta.
2. *Gasoline canopy.* Gasoline canopies shall also comply with the following requirements:
 - (i) Gasoline canopies, in conjunction with a convenience store, may reduce the pitch to a minimum of three inches to 12 inches to permit the height of the peak of the roof to be equal to or no more than five feet above the peak of the roof of the convenience store.
 - (ii) The vertical clearance under the gasoline canopy shall not exceed a maximum of 18 feet in height.
 - (iii) The support columns for the gasoline canopies shall match the facade of the convenience store.
 - (iv) The gasoline canopy roof shall match the architectural character, materials, and color of the convenience store.
3. All buildings shall be constructed in a residential character of fiber-cement siding (i.e., Hardiplank), wood siding, wood textured vinyl siding, brick/brick veneer, rock, stone, cast-stone, ~~or~~ stucco (including synthetic stucco)), ~~or and/or finished baked enamel metal siding which establishes a horizontal pattern on those portions of the building facing front and side yards and/or any property zoned agricultural residential or residential.~~
4. Framed doors and windows of a residential character. To maintain a residential character, large display windows shall give the appearance of smaller individual panes and framing consistent with the standard residential grid pattern for doors and windows. This does not apply to stained glass windows for a church or place of worship. Large display or storefront windows shall have a minimum two foot high knee wall consisting of fiber-cement siding (i.e., Hardiplank), wood siding, wood textured vinyl siding, brick/brick veneer, rock, stone, cast-stone, or stucco (including synthetic stucco).
5. Structures of 35,000 square feet or greater ~~with a minimum dimension of 150 feet~~ may utilize the following architectural standards, in lieu of subsections (5)d.1, 3 and 4 of this section.
 - (i) ~~At least 50 percent of all exterior~~ Wall finishes shall be comprised of at least two of the following facade types: brick/brick veneer, wood, fiber-cement siding (i.e.,

Hardiplank), rock, stone, cast-stone, split-face concrete masonry unit (rough textured face concrete block), architectural precast concrete wall panels, stucco (including synthetic stucco) or any architecturally engineered facades which simulate these materials. Any metal facades used on the remaining portions of the exterior walls shall establish a horizontal seam pattern.

- (ii) No horizontal length of a roofline shall exceed 50 linear feet without a variation in elevation. Said variation in elevation shall not be less than two feet.
 - (iii) No blank or unarticulated horizontal length of a building facade shall exceed 25 linear feet without a variation in architectural elements, including but not limited to, building materials, colors, textures, offsets, or changes in planes.
- 6. The design of accessory/out lot buildings shall reflect and coordinate with the general architectural style inherent in the primary structure on the property.
- 7. When an existing ~~nonconforming~~ structure, that is nonconforming to the aforementioned architectural standards, is enlarged ~~by 50 percent or less~~, the enlargement does not have to meet the aforementioned architectural standards, but does have to match the architectural design of the existing nonconforming structure. ~~This exemption shall only apply to the first occurrence of any enlargement after the effective date of January 24, 2008. Only one structure per lot shall be entitled to the exemption. When an existing nonconforming structure is enlarged by more than 50 percent, the entire nonconforming structure shall be brought into compliance with the aforementioned architectural standards. This exemption shall expire on January 24, 2015, seven years from the effective date of January 24, 2008. After the expiration date, the entire nonconforming structure shall be brought into compliance with the aforementioned architectural standards when any enlargement is made.~~
 - e. *Landscape requirements.* In addition to the standard requirements of the landscape ordinance, the following landscape requirements shall apply to the overlay zone:
 - 1. *Street frontage SR 138 and SR 314 (major arterial) landscape area.* Fifty feet along the right-of-way of SR 138 and SR 314. The first 25 feet as measured from the right-of-way is for required landscape planting only. The remaining 25 feet may be used for septic system placement; underground stormwater detention systems; and the following stormwater management facilities/structures, if designed in full accordance with the specifications provided in the most current edition of the Georgia Stormwater Management Manual: vegetated channels, overland flow filtration/groundwater recharge zone, enhanced swales, filter strips, and grass channels. Septic systems and stormwater structures shall be exclusive of each other and the minimum distance of separation between wastewater and stormwater structures shall be established by the environmental health department and the county engineer. Utilities (including underground stormwater piping) and multi-use path connections may be located anywhere within the landscape area.
 - 2. *Side yard landscape area.* Ten feet in depth along side property lines, unless adjacent to a residential district where buffer requirements will apply.
 - f. *Lighting.*
 - 1. *Shielding standards.* Lighting shall be placed in such a fashion as to be directed away from any adjacent roadways for nearby residential areas.
 - 2. *Fixture height standards.* Lighting fixtures shall be a maximum of 35 feet in height within the parking lot and shall be a maximum of ten feet in height within non-vehicular pedestrian areas.
 - g. *Additional requirements.*

1. All refuse areas and equipment shall be allowed in the side or rear yards only and shall be screened.
2. All roof-top heating, ventilation, and air conditioning equipment and satellite/communications equipment shall be visually screened from adjacent roads and property zoned residential or A-R. The screen shall extend to the full height of the objects being screened.
3. Bay doors shall not be allowed to directly face SR 138 or SR 314.
4. All utilities shall be underground.
- h. *Use of existing structure.* When property containing legally conforming structures, under the current zoning, is rezoned to O-I, the dimensional requirements shall be reduced to the extent of, but only at the location of, any encroachment by the structures and said structures shall be considered legal nonconforming structures.

(Code 1992, § 20-7-5; Ord. No. 2012-09, § 5, 5-24-2012; Ord. No. 2012-14, § 7, 12-13-2012; Ord. No. 2014-10, § 1, 6-26-2014)

Sec. 110-174. - Historic district overlay zone.

Starr's Mill Historic District Overlay Zone at the SR 74, SR 85, & Padgett Road Intersection. All property and/or development located at this intersection with nonresidential use or zoning as depicted on the Future Land Use Map shall be subject to the following regulations, in addition to the zoning district requirements, and other development regulations as applicable. The General State Route Overlay Zone shall not apply to this area.

- (1) The purpose of the Starr's Mill Historic Overlay Zone at the SR 74, SR 85, and Padgett Road Intersection is to achieve the following:
 - a. To maintain the historic character of the area;
 - b. To control the intensity and aesthetic quality of development at the intersection as it is the southern gateway into Fayette County;
 - c. To promote and maintain orderly development for an efficient traffic flow in highway corridors; and
 - d. To protect existing and future residential areas outside of the intersection.
- (2) *Access.* Access to each nonresidential property and/or development shall be from SR 74, SR 85, or Padgett Road. All access points shall be required to comply with Georgia Department of Transportation regulations and/or Fayette County Development Regulations, as applicable.
- (3) *Dimensional Requirements.*
 - a. All parking areas shall be located at least 50 feet from SR 74, SR 85, or Padgett Road right-of-way.
 - b. Front yard setbacks on SR 74, SR 85, and Padgett Road for all structures, including gasoline canopies, shall be 100 feet.
 - c. Berms for nonresidential zoning districts: Berms when required as a condition of zoning, shall be a minimum of four (4) feet in height, and shall be placed to the inside of the applicable buffer.
 - d. If the side yard abuts a nonresidential zoning district, all non-structural improvements, other than approved access, shall be located a minimum of 10 feet from the side property line.
- (4) *Architectural Forms and Standards.* All new structures shall maintain the historical and aesthetic character of the area. Starr's Mill was built in the late 1800s and is a significant historic

resource in Fayette County. Starr's Mill is indicative of turn of the century architectural character common in rural areas and is a building of influence in this area. Other architectural styles such as One-Part Commercial Block and Two-Part Commercial Block associated with this period are acceptable for this overlay zone. Architectural examples are on file in the Planning and Zoning Department.

Architectural Review. An owner/developer may obtain an administrative staff approval for structures by submitting elevation drawings denoting compliance with these architectural forms and standards. Staff review and approval will take place as part of the site plan approval process. An owner/developer may exercise an architectural review option for structures within the overlay zone. The purpose of this option is to allow the owner/developer to present a creative interpretation of the architectural intent of the overlay zone. Elevation drawings, submitted as part of the site plan approval process, shall be reviewed and considered by the Board of Commissioners in a public meeting with a recommendation from the Planning Commission and Staff.

- a. **Starr's Mill:** Starr's Mill is a two-story structure with a gable roof. The roof is corrugated metal. The façade is wood clapboard siding and runs in a horizontal pattern. The structure sits on a stacked stone foundation and stacked stone pillars. Windows are wood-framed with a grid muntin pattern. Doors are also wood-framed. The structure has a covered porch with stairs and a wood picket rail banister. The building is red, the stairs, porch framing and banisters are white, the stair landings and porch decking are grey and the roof and porch covering is a grey corrugated metal.
 1. **Roof:** Gable roof with a minimum pitch of 4 ½ inches in one foot. Roofing material shall be grey corrugated metal.
 2. **Façade Material:** Clapboard siding running in a horizontal pattern on all walls. Acceptable sidings include wood and fiber-cement siding (e.g., Hardiplank). The foundation shall have the appearance of stacked stone. Façade colors shall match with the color palette on file in the Planning and Zoning Department.
 3. **Doors and Windows:** Doors and windows shall have a frame and grid muntin pattern as established by Starr's Mill. Door and window frames shall be white with a minimum width of four inches. Large display windows and glass doors shall give the appearance of grid pattern muntins and framing consistent with Starr's Mill. Grid pattern muntins shall be white. Large display or storefront windows shall have a minimum two-foot high bulkhead consistent with the Façade Materials above.
 4. **Covered Entrance:** Covered entrances shall be in character with the Starr's Mill porch consisting of a grey corrugated metal matching the roof of the main structure. A white wood picket rail banister with a minimum height of three feet shall extend the full length of the covered entrance with a maximum entrance space of three feet. All support structures shall be white.
- b. **One-Part Commercial Block:** A popular commercial design from the mid-19th to the early 20th century. The one-part commercial block is a simple, one-story box with a flat or shed roof. Common façade materials consist of brick with decorative block, stone, and concrete accents. The focal point of the front façade is the entrance and windows, consisting of a recessed doorway and display windows with a transom resting on a bulkhead (the lower panels on which the windows rest) framed by pilasters. Architectural features include a cornice, belt course and parapet wall.
 1. **Façade Material:** Brick/brick veneer shall be utilized on all walls as the primary façade material comprising a minimum of 65 percent of the wall, excluding doors, windows and associated framing. The brick color shall match with one of the colors in the brick palette on file in the Planning and Zoning Department. Painted brick shall not be allowed. The remaining 35 percent of the wall may have the appearance of a contrasting brick color, rough face decorative block, stone, and/or concrete accents

and the colors shall match with the color palette on file in the Planning and Zoning Department.

2. Entrance Doors and Windows: The entrance door and window component shall consist of entrance door(s), display windows, door and window transoms, and bulkhead. Door and window frames may be constructed with wood, metal, or vinyl. An anodized silver finish shall not be allowed for door and window frames and all colors shall match with the color palette on file in the Planning and Zoning Department. Transoms shall be a minimum of two feet high and shall be separated from the windows and door by a mullion width of four inches. A minimum two-foot high bulkhead consistent with the Façade Materials above shall be required.
 3. Architectural Features: A cornice is required. The cornice shall be a minimum of one foot in height with a minimum projection of four inches from the main façade. The projection may be gradual. A parapet wall is required along the front and side walls of the structure and shall be a minimum of two feet in height. Colors shall match with the color palette on file in the Planning and Zoning Department.
- c. Two-Part Commercial Block: A popular commercial design from the mid-19th to the early 20th century. These buildings have two primary components — first floor storefronts (similar in design to a One-Part Commercial Block) and upper floors which historically were used for residential or office space. The focal point of the first floor is the entrance and windows, consisting of a recessed doorway and display windows with a transom resting on a bulkhead (the lower panels on which the windows rest) framed by pilasters. Upper floors have one or more floors of smaller symmetrically-positioned windows. Architectural features include a cornice, belt course and parapet wall. Common façade materials consist of brick with decorative block, stone, and concrete accents.
1. Façade Materials: Brick/brick veneer shall be utilized on all walls as the primary façade material comprising a minimum of 65 percent of the wall, excluding doors, windows and associated framing. The brick color shall match with one of the colors in the brick palette on file in the Planning and Zoning Department. Painted brick shall not be allowed. The remaining 35 percent of the wall may have the appearance of a contrasting brick color, rough face decorative block, stone, and/or concrete accents and the colors shall match with the color palette on file in the Planning and Zoning Department.
 2. Entrance Doors and Windows (first floor storefronts): The entrance door and window component shall consist of entrance door(s), display windows, door and window transoms, and bulkhead. Door and window frames may be constructed with wood, metal, or vinyl, an anodized silver finish shall not be allowed for door and window frames and all colors shall match with the color palette on file in the Planning and Zoning Department. Transoms shall be a minimum of two feet high and shall be separated from the windows and door by a mullion with a minimum width of four inches. A minimum two-foot high bulkhead consistent with the Façade Materials above shall be required.
 3. Upper Floor Windows: Upper floor windows shall be symmetrically positioned. All window frames shall match with the color palette on file in the Planning and Zoning Department.
 4. Architectural Features: A cornice is required. The cornice shall be a minimum of one foot in height with a minimum projection of four inches from the main façade. The projection may be gradual. A belt course with a minimum projection of one inch from the main façade shall be required between the first floor and the second floor. A parapet wall is required and shall be a minimum of two feet in height. Colors shall match with the color palette on file in the Planning and Zoning Department.
- d. Lighting:

1. All wall lighting shall consist of period lantern or goose neck pendant lighting. These restrictions shall not apply to wall lighting required by the Fire Marshal.
2. All pole lighting shall consist of period post top globe, lantern, or pendant luminaries with rapid-ship posts.
- e. Within the 50-foot front landscape area, a wall or fence is required to run along a minimum of forty (40%) percent of the frontage. If a wall, the wall shall be a minimum of three (3) feet in height with the appearance of stacked stone. If a fence, the fence shall be a minimum of four (4) feet in height with the appearance of wrought iron, picket, split rail or horse rail fence. Fence materials are limited to metal, vinyl/plastic, pre-cast concrete and masonry for columns.
- f. Color Palette: Only those colors indicated on the color palette on file in the Planning and Zoning Department shall be allowed for structures. Any changes to the color of structures in this overlay must be submitted to Staff for approval.
- g. The design of ancillary buildings and sign structures shall be consistent with the architectural style and color inherent in the principal structure on the property.
- (5) *Landscape requirements.* In addition to the standard requirements of the landscape ordinance, the following landscape requirements shall apply to the Overlay Zone:
 - a. Street Frontage: Landscape area: Fifty (50) feet along the right-of-way of SR 74, SR 85, and Padgett Road. The first 25 feet as measured from the right-of-way is for required landscape planting only. The remaining 25 feet may be used for septic system placement; underground stormwater detention systems; and the following stormwater management facilities/structures if designed in full accordance with the specifications provided in the most current edition of the Georgia Stormwater Management Manual; vegetated channels, overland flow filtration/groundwater recharge zone, enhanced swales, filter strips, and grass channels. Septic systems and stormwater structures shall be exclusive of each other and the minimum distance of separation between wastewater and stormwater structures shall be established by the Environmental Health Department and the Environmental Management Department. Utilities (including underground stormwater piping) and multi-use path connections may be located anywhere within the landscape area.
 - b. Side Yard Landscape Area: Ten feet in depth along the side property lines unless adjacent to a residential district where buffer requirements will apply.
- (6) *Use of existing structure.* When property containing legal conforming or legal nonconforming structures, under the current zoning, is rezoned to a nonresidential zoning district the dimensional requirements shall be reduced to the extent of, but only at the location of, any encroachment by the structures and said structures shall be considered legal nonconforming structures.
- (7) *Lighting and shielding standards.* Lighting shall be placed in a manner to direct light away from any adjacent roadways or nearby residential areas.
- (8) *Special locational and spatial requirements.*
 - a. No more than 50 percent of the required parking can be located in the front yard along a State Route as established by the front building line of any structure located on the site. Sites with existing parking are exempt.
 - b. No outside storage allowed.
 - c. All rooftop heating, ventilation, and air conditioning equipment and satellite/communications equipment shall be visually screened from adjacent roads and property zoned residential or A-R. The screen shall extend to the full height of the objects being screened.

(Code 1992, § 20-7-6; Ord. No. 2012-09, § 5, 5-24-2012; Ord. No. 2016-15, § 5, 7-28-2016)

Sec. 110-242. - Powers and duties.

- (a) *Appeals from actions of the zoning administrator.* The zoning board of appeals shall hear and decide upon appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of these regulations.
- (1) *Who may appeal.* Appeals to the zoning board of appeals may be taken by any person aggrieved by any decision of the zoning administrator. Such appeals, specifying the grounds thereof shall be filed with the planning and zoning department no later than 30 calendar days after the date of notification of the zoning administrator's decision. The zoning administrator shall forthwith transmit to the zoning board of appeals all the papers constituting the record upon which the action appealed from was taken.
 - (2) *Legal proceedings stayed.* An appeal stays all legal proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the zoning board of appeals that by reason of facts stated in the certificate a stay would, in the zoning administrator's opinion, cause imminent peril to life and property. In such a case, proceedings shall not be stayed otherwise than by a restraining order from a court of competent jurisdiction.
 - (3) *Extent of the zoning board of appeals' power.* The zoning board of appeals may, in conformity with the provisions of these regulations, reverse or affirm the order, requirement, decision, or determination of the zoning administrator. The zoning board of appeals may direct the issuance of a permit. It shall be the duty of the zoning administrator to carry out the decisions of the zoning board of appeals.
- (b) *Request for a variance .* The zoning board of appeals may authorize, upon appeal in specific cases, a variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. However, no lot is eligible for a variance for reduction in lot size, lot width, or road frontage, unless the variance request is for an improved illegal lot. A variance shall not be granted for any requirements of a conditional use with the exception of a legal nonconforming conditional use (see article V of this chapter), or a use of land, building, or structure that is prohibited in the zoning district at issue, except as otherwise provided herein. In exercising the powers described in this subsection, the zoning board of appeals shall not consider any nonconforming use of neighboring lands, structures or buildings in the same zoning district, and no permitted use of lands, structures, or buildings in other zoning districts as grounds for the issuance of a variance. A variance may be granted in an individual case upon a finding by the zoning board of appeals that all of the following criteria exist:
- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; and
 - (2) The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and
 - (3) Such conditions are peculiar to the particular piece of property involved; and
 - (4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations; provided, however, no variance may be granted for a use of land, building, or structure that is prohibited herein; and
 - (5) A literal interpretation of this chapter would deprive the applicant of any rights that others in the same zoning district are allowed.

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

~~appellant/petitioner successfully passes the above enumerated factors, the zoning board of appeals shall also employ the following factors for an illegal lot seeking to be deemed a nonconforming lot:~~

- ~~(1) The transaction giving the appellant/petitioner ownership in the subject property was more than five years from the date of the appeal/petition or if the period of ownership is less than five years the subject property was made illegal more than ten years from the date of the appeal/petition;~~
 - ~~(2) The appellant/petitioner is not the person, or an immediate family member of the person, who caused the subject property to be an illegal lot. For purposes of these procedures, "immediate family" is defined as the spouse, child, sibling, parent, step child, step sibling, step parent, grandparent, grandchild, aunt, uncle, niece or nephew of the person who caused the subject property to be an illegal lot; and~~
 - ~~(3) No adjacent property is available to add to the subject property to allow the subject property to meet the minimum requirements for its zoning district. In determining whether adjacent property is available, if adding any adjacent property to the subject property would no longer allow the adjacent property to meet the minimum requirements of the adjacent property's zoning district, then the adjacent property is not available. Additionally, any adjacent property which is part of an illegal lot shall not be deemed available for purposes of these variance procedures, unless the adjacent illegal lot is unimproved and the entirety of the adjacent illegal lot is combined with the subject property. If adjacent property is available, the cost of acquiring the adjacent property shall not be a factor in determining the availability of the adjacent property.~~
- (c) *Compliance with standards.* Where an appeal/petition to the board is initiated due to an existing violation of this chapter and said appeal/petition is denied, the violation shall be required to be corrected within 30 calendar days of such denial, or as specified by the board, if a greater time period is necessary. The maximum extension of the time shall not exceed 60 calendar days.
- (d) *Forms.* Appeals, requests for variances, or any other matter within the zoning board of appeals' purview shall be made on forms, as applicable, provided by the planning and zoning department; and all information requested on the forms shall be provided by the appellant/petitioner. Forms shall be filed with the planning and zoning department along with the necessary fees. No form shall be accepted by the planning and zoning department unless it contains all pertinent information and is accompanied by the required fee.
- (e) *Request for a change of the legal nonconforming use of a structure.* The zoning board of appeals may authorize, upon appeal in specific cases, a change in the legal nonconforming use of a structure in accordance with the provisions herein.
- (f) *Request for an extension or enlargement of the a legal nonconforming use of a structure.* The zoning board of appeals may authorize, upon appeal in specific cases, an extension or enlargement of an existing legal nonconforming use which the board is specifically authorized to consider under the terms herein. Said extensions may be granted in an individual case upon a finding by the board that all of the following criteria are present:
- (1) The use is a legal nonconforming use as defined in these regulations; and
 - (2) The legal nonconforming use is in full compliance with all requirements of these regulations applicable to nonconformances; and
 - (3) The extension of said legal nonconforming use will not further injure a permitted use on adjacent property.
- (g) *Request for a Continuance of a legal nonconforming use.* The zoning board of appeals may allow, upon appeal in specific cases, a legal nonconforming use to be re-established after discontinuance for six consecutive months where it is deemed by the zoning board of appeals that all of the following criteria are present:
- (1) The design, construction, and character of the land, building, or structure is not suitable for uses permitted in the zoning district in which the legal nonconforming use is situated; and
 - (2) Undue hardship to the property owner would result in not allowing the continuance of a legal nonconforming use; and

- (3) Adjacent property would not be unduly damaged by such continuance; and
 - (4) The use is to be identical to the prior legal nonconforming use.
- (h) *Request for an illegal lot to be deemed a nonconforming lot.* The zoning board of appeals may deem, upon appeal in specific cases, ~~In addition to the above factors, if the variance being sought is for an improved an illegal lot which is smaller than the minimum lot size for its zoning district, more narrow than the minimum lot width required for its zoning district, or has less road frontage than is required for its zoning district and the lot is an illegal lot as opposed to be a nonconforming lot, the zoning board of appeals may consider such a lot for a variance. Should the appellant/petitioner be successful in obtaining a variance, the resulting lot would, for the purposes of this chapter, be deemed to be a nonconforming lot. If the appellant/petitioner successfully passes the above enumerated factors,~~ The zoning board of appeals shall ~~also~~ employ the following factors for an illegal lot seeking to be deemed a nonconforming lot:
- (1) The transaction giving the appellant/petitioner ownership in the subject property was more than five years from the date of the appeal/petition or if the period of ownership is less than five years the subject property was made illegal more than ten years from the date of the appeal/petition;
 - (2) The appellant/petitioner is not the person, or an immediate family member of the person, who caused the subject property to be an illegal lot. For purposes of these procedures, "immediate family" is defined as the spouse, child, sibling, parent, step-child, step-sibling, step-parent, grandparent, grandchild, aunt, uncle, niece or nephew of the person who caused the subject property to be an illegal lot; and
 - (3) No adjacent property is available to add to the subject property to allow the subject property to meet the minimum requirements for its zoning district. In determining whether adjacent property is available, if adding any adjacent property to the subject property would no longer allow the adjacent property to meet the minimum requirements of the adjacent property's zoning district, then the adjacent property is not available. Additionally, any adjacent property which is part of an illegal lot shall not be deemed available for purposes of these variance procedures, unless the adjacent illegal lot is unimproved and the entirety of the adjacent illegal lot is combined with the subject property. If adjacent property is available, the cost of acquiring the adjacent property shall not be a factor in determining the availability of the adjacent property.
- (h i) *Conditions on approval.* The zoning board of appeals may impose or require conditions, as may be necessary, to protect the health and safety of workers and residents in the community; to protect the value and use of property in the general neighborhoods; and provided that wherever the board shall find, in the case of any approval, that any of the conditions upon which such approval was granted are not being complied with, said zoning board of appeals shall rescind and revoke such approval after giving due notice to all parties concerned and granting full opportunity for a hearing.
- (i j) *Limitation on re-applying.* If the decision of the zoning board of appeals is to deny, an application which seeks the same relief in regard to the same property shall not be accepted for a period of 180 calendar days following the date of the decision from the zoning board of appeals.

(Ord. No. 2015-06, § 1, 3-26-2015; Ord. No. 2016-08, § 1, 5-12-2016; Ord. No. 2017-11, §§ 2, 3, 6-22-2017)