

**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
August 6, 2020
7:00 pm

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

1. Consideration of the Minutes of the Planning Commission meeting held on July 16, 2020.

NEW BUSINESS

2. Consideration of a Minor Final Plat of Phillip H. Sims Estate. The property will consist of three (3) lots zoned A-R, is located in Land Lot(s) 73 & 88 of the 7th District and fronts on Dogwood Trail.

PUBLIC HEARING

3. Consideration of Petition No. RP-076-20, William T. Murphy and Richard E. Carne, Owners, and Steven L. Jones, Agent, request to revise the Final Plats (Phases One and Two) of Bay Chappell Farms Subdivision to add property to Bay Chappell Farms Subdivision, create an additional lot in Bay Chappell Farms Subdivision, and change the principal use on a lot labeled Recreational Area (Bay Chappell Farms Phase Two) to residential use. This petition is associated with Rezoning 1292-20. This property is located in Land Lot 167 of the 4th District and fronts on Stable Creek Road.
4. Consideration of Petition No. 1292-20, William T. Murphy, Owner, and Steven L. Jones, Agent, request to rezone 10.00 acres from A-R to R-72 to add property to the Bay Chappell Farms Subdivision. This petition is associated with RP-076-20. This property is located in Land Lot 167 of the 4th District and fronts on Chappell Road.
5. Consideration of Petition No. RP-077-20, Joe L. Brown Estate -Ted W. Brown (Executor), Owner, and George Cocolos, Agent, request to revise the Final Plat of Autumn Lake Estates Subdivision to add property to the Autumn Lake Estates Subdivision and create two (2) additional lots in Autumn Lake Estates Subdivision. This property is located in Land Lot 34 of the 4th District and fronts on Village Lake Court and SR 85 Connector.
6. Consideration of Petition No. 1293-20, Wright Chancey, LLC, Owner, and, Rod Wright, Agent, request to rezone from R-55 Cond. to R-55 Cond. to amend a condition of rezoning concerning the number of driveway curb cuts. This property is located in Land

Lot 31 of the 5th District and fronts on Redwine Road.

7. Consideration of amendments to the Land Use Element and Future Land Use Plan Map of the Fayette County Comprehensive Plan for the Flat Creek Trail Corridor.
8. Consideration of amendments to Chapter 110. Zoning Ordinance, regarding Sec. 110-173. - Transportation Corridor Overlay Zone for the Flat Creek Trail Corridor.
9. Consideration of amendments to Chapter 110. Zoning Ordinance, regarding, Sec. 110-127. - EST, Estate Residential District.

This Public Hearing will be live-streamed at:

<https://livestream.com/accounts/4819394?query=fayette%20county&cat=account>

The call-in number of 770-305-5277 is provided for those who would like to make public comment during this Public Hearing.

To: Fayette County Planning Commission
From: Chanelle Blaine, Zoning Administrator
Date: July 30, 2020
Subject: Final Plat to be considered on August 6, 2020

FINAL PLAT

Minor Final Plat of Phillip H. Sims Estate

OWNER/APPLICANT

Phillip H. Sims

Recommend **APPROVAL** for the Final Plat signed July 31, 2020.

MINOR FINAL PLAT OF
PHILLIP H. SIMS ESTATE

LEGEND

B/L = BUILDING LINE
CMP = CORRIGATED METAL PIPE
F.H. = FIRE HYDRANT
L.L. = LAND LOT
M.F.F.E. = MINIMUM FINISHED FLOOR ELEVATION
N/F = NOW OR FORMERLY
OH-U = OVERHEAD UTILITIES
OTP = OPEN TOP PIPE
P.B. = POWER BOX
P/L = PROPERTY LINE
R/W = RIGHT-OF-WAY
U/P = UTILITY POLE
W.M. = WATER METER

RESERVED FOR CLERK OF SUPERIOR COURT

NOTES:

- THIS IS A RECONFIGURATION OF EXISTING TRACTS AS RECORDED IN DEED BOOK 437, PAGE 671; DEED BOOK 427, PAGE 672; DEED BOOK 3744, PAGES 80-81; DEED BOOK 4181, PAGE 596, AND ALSO REFERENCED PLAT BOOK 47, PAGE 143, FAYETTE COUNTY, GEORGIA RECORDS.
- CURRENT OWNER: PHILLIP H. SIMS PER DEED BOOK 437, PAGE 671; DEED BOOK 427, PAGE 672; DEED BOOK 3744, PAGES 80-81; DEED BOOK 4181, PAGE 596, AND ALSO REFERENCED PLAT BOOK 47, PAGE 143, FAYETTE COUNTY, GEORGIA RECORDS AS OF 03-30-2011.
- THIS SURVEY WAS AUTHORIZED BY PHILLIP H. SIMS.
- ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
- RECORD BEARING APPLIED TO WEST PROPERTY LINE.
- THERE ARE NO WETLANDS ON THIS PROPERTY PER FAYETTE COUNTY GIS (QPUBLIC.NET).
- FAYETTE COUNTY DOES NOT ACCEPT THE OWNERSHIP, MAINTENANCE, OR RESPONSIBILITY FOR ANY DRAINAGE EASEMENT OR OVERALL DRAINAGE PLAN, OR THE LACK OF ONE INDICATED ON THIS PLAT.
- THIS PROPERTY IS NOT IN A GROUNDWATER RECHARGE AREA PER FAYETTE COUNTY GIS (QPUBLIC.NET).
- THERE WERE NO RECORDED EASEMENTS FOUND ASSOCIATED WITH THIS PROPERTY BY THIS OFFICE.
- EACH RESIDENTIAL LOT HAS A MINIMUM CONTIGUOUS AREA OF 0.6 ACRES THAT IS FREE AND CLEAR OF ZONING SETBACKS, WATERSHED PROTECTION BUFFERS AND SETBACKS, JURISDICTIONAL WETLANDS, AND EASEMENTS ON ANY KIND.
- NO VISIBLE CEMETERY OR BURIAL GROUNDS WERE OBSERVED ON THIS PROPERTY BY THE SURVEYOR AT THE TIME OF THE SURVEY.
- ALL STRUCTURES ARE TO REMAIN, EXCEPT AS NOTED.
- THERE NO STATE WATERS SHOWN ON THIS PROPERTY.
- WATER TO BE PROVIDED BY FAYETTE COUNTY WATER SYSTEM OR WELL, PER FAYETTE COUNTY WATER DEPARTMENT. THERE IS A WATER MAIN ON TYRONE ROAD. THE FCWS WATER MAINS ON ELLISON ROAD AND DOGWOOD TRAIL DO NOT EXTEND THE ENTIRE PROPERTY FRONTAGE FOR THIS PROPOSED DEVELOPMENT ON EITHER ROAD. THERE IS NO GUARANTEE THEY CAN OBTAIN WATER SERVICE AT THE EXACT LOCATION THEY DESIRE WITHOUT THE BENEFIT OF A WATER MAIN EXTENTION.
- SEWERAGE TO BE PROVIDED BY AN ON-SITE SEPTIC SYSTEM.
- SITE BENCHMARK: MAGNETIC NAIL AT THE APPROXIMATE CENTERLINE INTERSECTION OF DOGWOOD TRAIL AND ELLISON ROAD - ELEVATION 934.53 (NAVD 88).

LEVEL III SOILS SURVEY

I, Eric Hamilton do hereby certify that the Level III Soil Survey information provided on this plat was performed by Applied Environmental Sciences, Inc. in accordance with the procedures specified in the Georgia Department of Human Resources current Manual for On-Site Sewage Management Systems.

Georgia DHR Soil Classifier, Professional
Geologist, or Professional Engineer
Registration No. _____

90F Glenda Trace, Suite 327
Newnan, Ga. 30265
Phone No. 678-262-4020

OWNER' S CERTIFICATE

We, the undersigned owner(s) and/or mortgagee(s) of the PHILLIP H. SIMS ESTATE Subdivision, hereby offer to dedicate and/or reserve for public use the rights-of-way, easements and other grounds shown on this plat.

Owner	Date	Mortgagee	Date
_____	_____	_____	_____
_____	_____	_____	_____

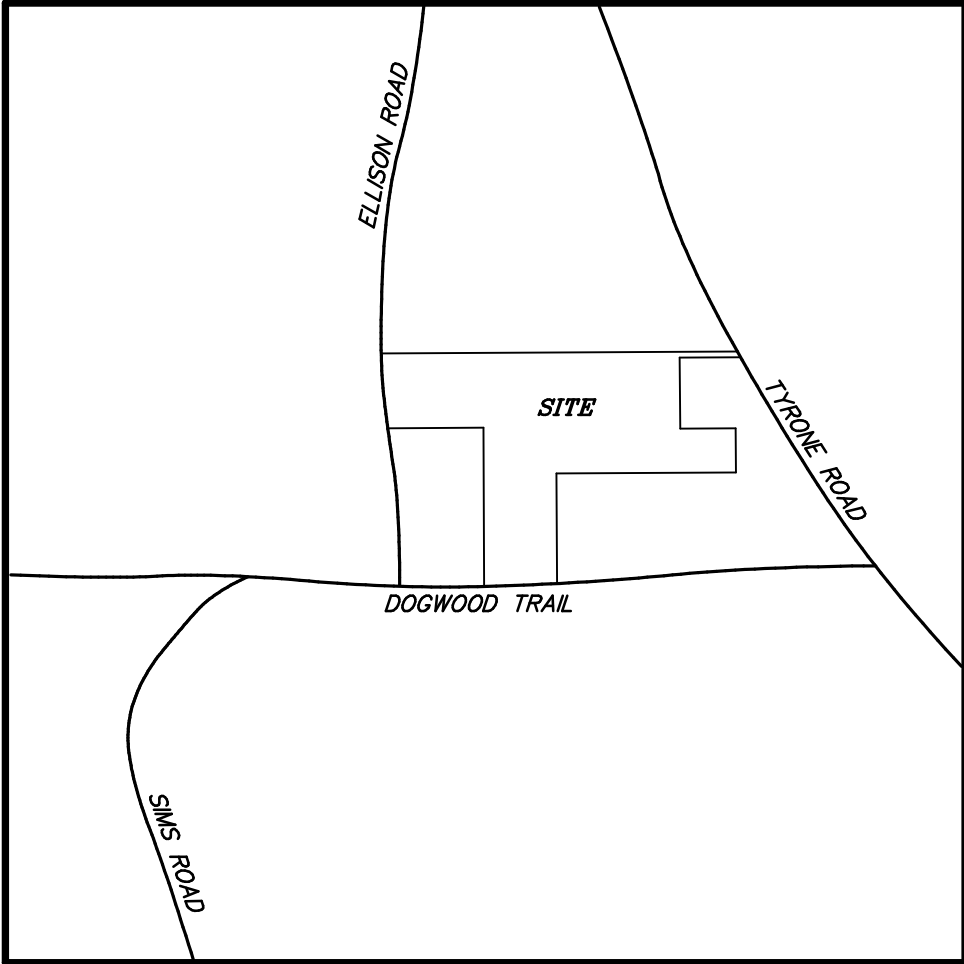
As required by subsection (d) of O.C.G.A. Section 15-6-67, this plat has been prepared by a land surveyor and approved by all applicable local jurisdictions for recording as evidenced by approval certificates, signatures, stamps, or statements hereon. Such approvals or affirmations should be confirmed with the appropriate governmental bodies by any purchaser or user of this plat as to intended use of any parcel. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

_____	07-01-2020
Larry C. Shimshick, Ga. PLS No. 2343	Date

THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS, OR ENTITY NAMED HEREON. NO CERTIFICATION OR LIABILITY IS EXTENDED TO ANY UNNAMED PERSON, PERSONS OR ENTITY WITHOUT A RECERTIFICATION BY THE SURVEYOR NAMING SAID PERSON, PERSONS OR ENTITY.

THE LATEST DATE OF FIELD WORK SHOWN IS APPLICABLE TO PROVISIONS OF STATUTES OF LIMITATION.

In my professional opinion, this property does not lie within the 100 year flood plain as shown on the FLOOD INSURANCE RATE MAP.
Map Number: 13113C0083E
Dated: SEPTEMBER 26, 2008



VICINITY MAP (NOT TO SCALE)

ZONED: A-R

MINIMUM LOT AREA = 5.00 ACRES
MINIMUM LOT WIDTH AT BUILDING LINE = 250 FEET
MINIMUM HOUSE SIZE = 1,200 SQUARE FEET
FRONT YARD SETBACK = 100 FEET
SIDE YARD SETBACK = 50 FEET
REAR YARD SETBACK = 75 FEET

NUMBER OF LOTS = 3
TOTAL ACRES = 26.21 ACRES+/-

FINAL SURVEYOR' S CERTIFICATE:

It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property made by me or under my supervision; that all monuments shown hereon actually exist or are marked as "future" and their location, size, type and material are correctly shown. This plat conforms to all requirements of the Georgia Plat Act.

By: _____
Georgia Professional Land Surveyor
No. 2343

Date: _____

PER THE STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS RULE 180-6-.09 THE TERM CERTIFICATION AS USED IN BOARD RULE 180-6-.09(2) AND (3) AND RELATING TO PROFESSIONAL ENGINEERING OR LAND SURVEYING SERVICES SHALL MEAN A SIGNED STATEMENT BASED UPON FACTS AND KNOWLEDGE KNOWN TO THE REGISTRANT AND IS NOT A GUARANTEE OR WARRANTY, EITHER EXPRESS OR IMPLIED.

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

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

THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A TITLE REPORT. THEREFORE, THE UNDERSIGNED SURVEYOR AND W.D. GRAY AND ASSOCIATES, INC. MAKE NO GUARANTEES, REPRESENTATIONS, OR WARRANTY REGARDING INFORMATION SHOWN HEREON PERTAINING TO RIGHTS-OF-WAY, EASEMENTS, RESTRICTIONS, RESERVATIONS, AGREEMENTS, SETBACK LINES, BUFFERS, AND OTHER SIMILAR MATTERS. OTHER CONDITIONS OR DOCUMENTS MAY EXIST THAT WOULD AFFECT THIS PROPERTY. NO LIABILITY IS ASSUMED FOR LOSS RELATING TO ANY MATTER THAT MIGHT BE DISCOVERED BY AN ABSTRACT OR TITLE SEARCH OF THE PROPERTY.



APPROVALS:

Approved by Fayette County Environmental Health Department
Date _____ Signed _____
Environmental Health Specialist

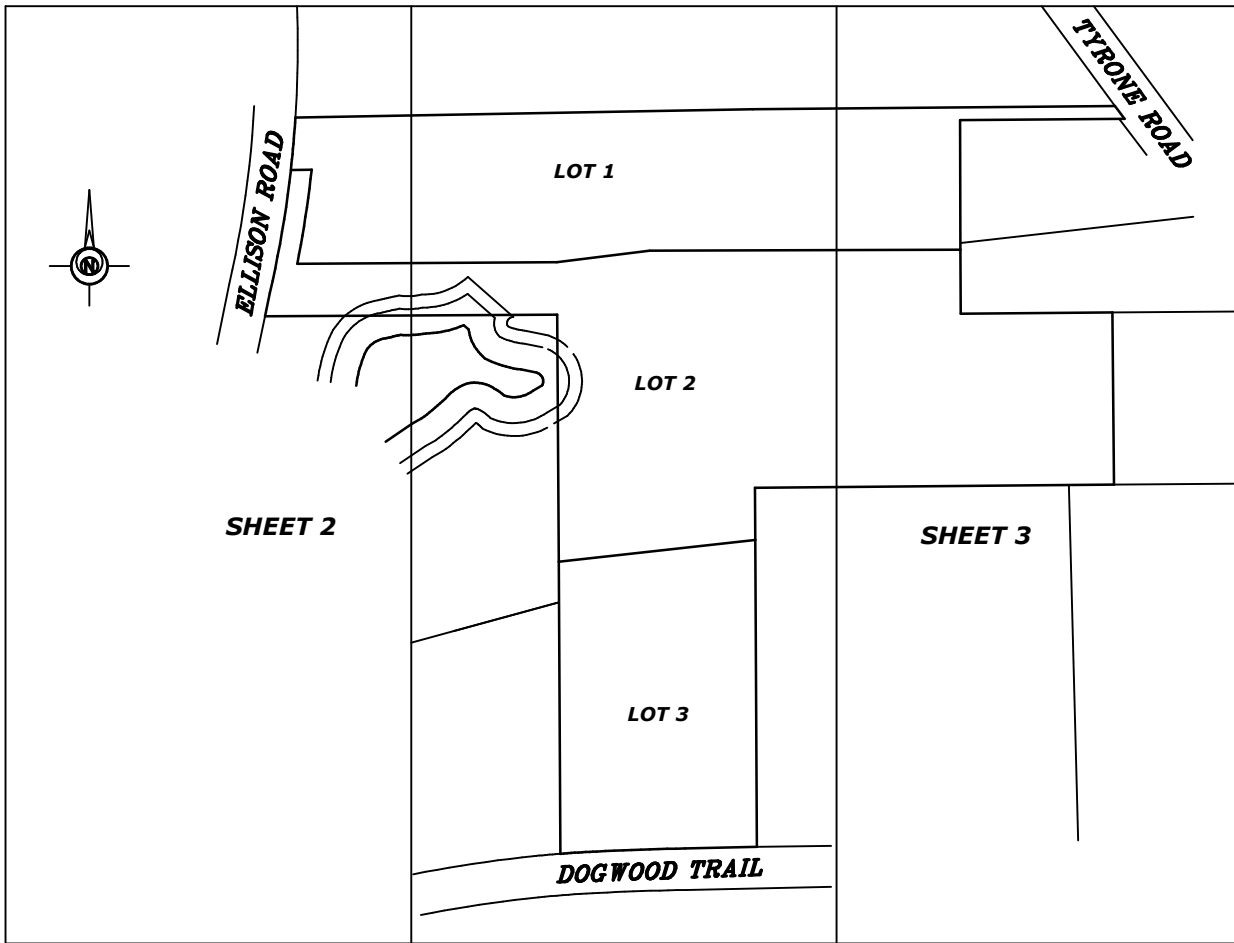
Approved by Fayette County Environmental Management Department
Date _____ Signed _____
Environmental Management

Approved by the Fayette County Engineer
Date _____ Signed _____
County Engineer

Approved by the Fayette County Planning Commission on: ____/____/____
Date _____ Signed _____
Secretary

Approved by Fayette County Zoning Administrator.
Date _____ Signed _____
Zoning Administrator

Approved by Fayette County Fire Marshal. All fire hydrant(s) located as shown.
Date _____ Signed _____
Fire Marshal



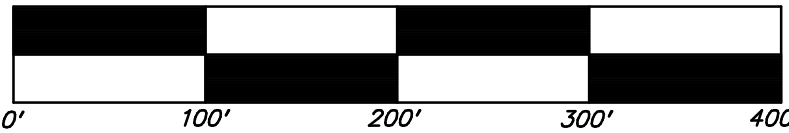
SHEET INDEX
SHEET 1: COVER
SHEETS 2 and 3: LOT LAYOUT

AS OF THE DATE OF THIS SURVEY, LOTS 2 & 3 HAVE AN AREA WITH A MEASURED SIGHT DISTANCE OF 500 FEET+ AS REQUIRED BY FAYETTE COUNTY. ACTUAL SIGHT DISTANCE MAY VARY DEPENDING ON THE AS-BUILT LOCATION OF THE NEW DRIVE, FINAL GRADE OF THE NEW DRIVE, AND ON THE ABILITY OF FAYETTE COUNTY TO MAINTAIN THEIR RIGHT-OF-WAY.

NOTE: ALL 1/2" REBARS SET ARE 18" IN LENGTH WITH YELLOW PLASTIC CAP STAMPED GA. LSF 000701

The field data upon which this survey is based has been computed for closure by latitudes and departures and has a closure precision of one foot in 20,058 ft. and an angular error of 6 seconds per angle point, and is UNADJUSTED. A GEOMAX ZOOM 90 was used to obtain linear and angular measurements. It is my professional opinion, that this plat is true and correct representation of the land platted, has been prepared to meet the minimum standards and requirements of law, and has been computed for closure and has been found to be accurate within one foot in 1,470,193 feet.

GRAPHIC SCALE: 1 inch = 100 feet



W.D. Gray and
Associates, Inc. LSF000701
land surveyors - planners

160 GREENCASTLE ROAD SUITE B TYRONE
GEORGIA 30290
PH. 770-486-7552 FAX 770-486-0496

OWNER/DEVELOPER:

PHILLIP H. SIMS
161 ELLISON ROAD
FAYETTEVILLE, GA. 30290
PHONE: 678-222-8886

LAND LOTS: 73 & 88

7th DISTRICT

FAYETTE COUNTY, GA.

SCALE: 1" = 100'

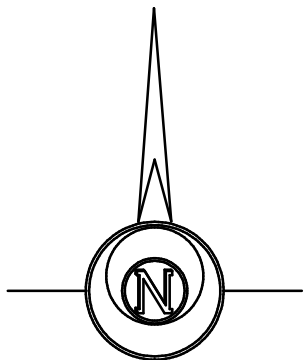
DATE OF SURVEY: 09-04-19
TO 09-09-19

DATE OF DRAWING: 02-03-20

REVISED: 07-01-20 (COUNTY
COMMENTS)

SHEET 1 OF 3
JOB NO. 1908024

RESERVED FOR CLERK OF SUPERIOR COURT



NORTH BASED ON
PLAT BOOK 100,
PAGES 171-173

LEGEND

B/L = BUILDING LINE
CMP = CORRUGATED METAL PIPE
F.H. = FIRE HYDRANT
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OTP = OPEN TOP PIPE
P.B. = POWER BOX
P/L = PROPERTY LINE
R/W = RIGHT-OF-WAY
U/P = UTILITY POLE
W.M. = WATER METER

NOTE:
WETLANDS SHOWN ON THIS PLAT ARE
UNDER THE JURISDICTION OF THE
U.S. ARMY CORPS OF ENGINEERS.
PROPERTY OWNERS MAY BE SUBJECT TO
PENALTY BY LAW FOR DISTURBANCE
TO THESE WETLANDS WITHOUT PROPER
AUTHORIZATION.

CURVE TABLE

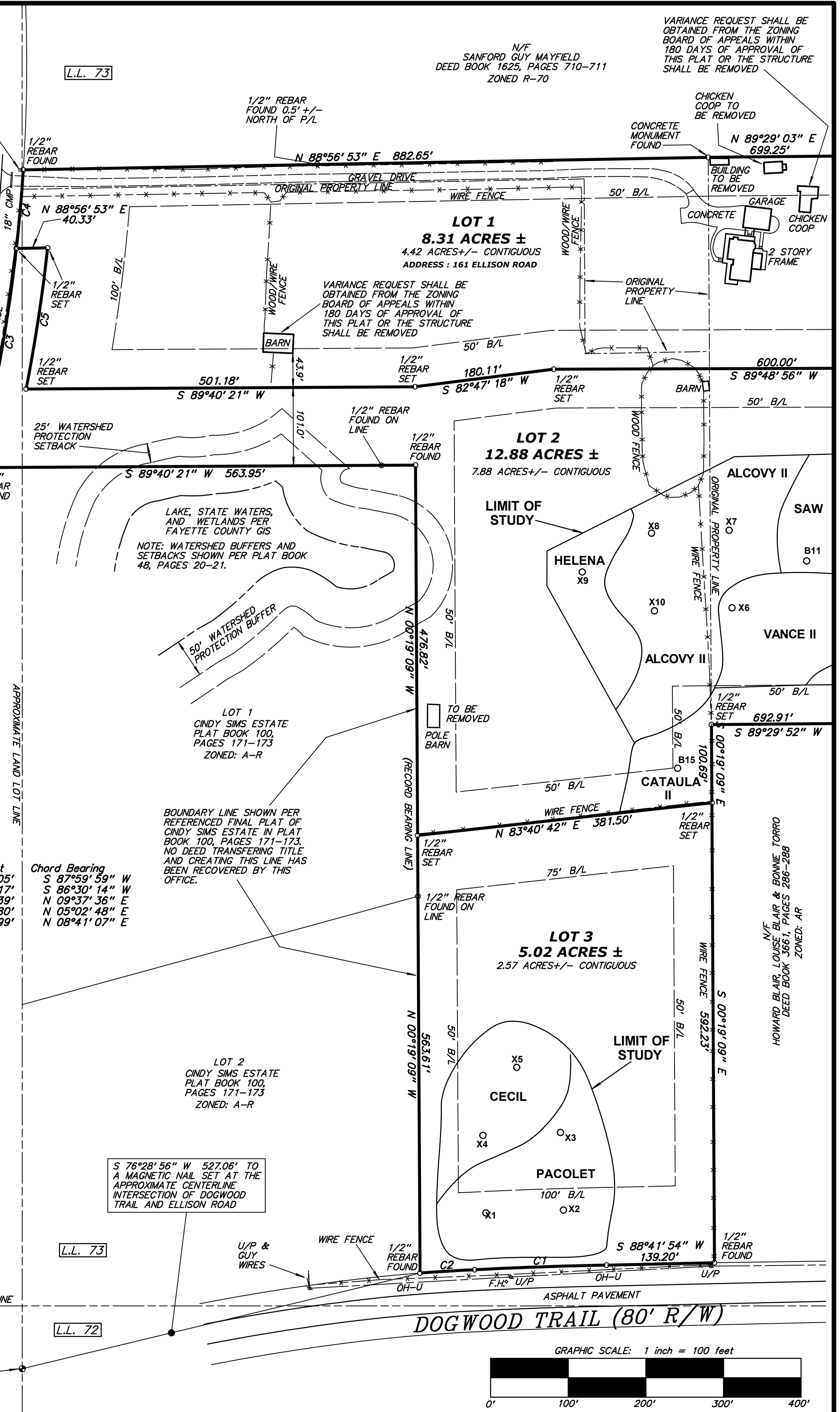
#	Radius	Delta	Length	Chord	Tangent	Chord Bearing
1	5068.98'	01°55' 21"	170.08'	170.08'	85.05'	S 87°59' 59" W
2	2230.78'	01°48' 24"	70.34'	70.34'	35.17'	S 86°30' 14" W
3	2139.96'	06°26' 24"	240.53'	240.41'	120.39'	N 09°37' 36" E
4	2139.96'	02°43' 11"	101.58'	101.57'	50.80'	N 05°02' 48" E
5	2179.96'	04°49' 57"	183.86'	183.81'	91.99'	N 08°41' 07" E

**MINOR FINAL PLAT OF
PHILLIP H. SIMS ESTATE**



In my professional opinion, this property
does not lie within the 100 year flood plain
as shown on the FLOOD INSURANCE RATE MAP.
Map Number: 13113C0083E
Dated: SEPTEMBER 26, 2008

SITE BENCHMARK:
MAGNETIC NAIL
ELEVATION = 934.53
DATUM: NAVD 88



**W.D. Gray and
Associates, Inc. LSF000701**

160 GREENCASTLE ROAD SUITE B TYRONE
GEORGIA 30290
PH. 770-486-7552 FAX 770-486-0496

OWNER/DEVELOPER:

PHILLIP H. SIMS

161 ELLISON ROAD
FAYETTEVILLE, GA. 30290
PHONE: 678-222-8886

LAND LOTS: 73 & 88

7th DISTRICT

FAYETTE COUNTY, GA.

SCALE: 1" = 100'

DATE OF SURVEY: 09-04-19
TO 09-09-19

DATE OF DRAWING: 02-03-20

REVISED: 07-01-20 (COUNTY
COMMENTS)

SHEET 2 OF 3
JOB NO. 1908024

PETITION NUMBER: RP-076-20

REQUESTED ACTION: Request to add property to Bay Chappell Farms Subdivision, create an additional lot in Bay Chappell Farms Subdivision, and change the principal use on a lot labeled Recreational Area (Bay Chappell Farms Phase Two) to residential use (associated with Rezoning 1292-20 application).

ZONING DISTRICT: R-72

LOCATION: Stable Creek Road

LAND LOT/DISTRICT: Land Lot 167 of the 4th District

APPLICANTS: William T. Murphy and Richard E. Carne

INVESTIGATION

History: The Final Plat for Bay Chappell Farms Phase One was originally recorded on October 3, 1989 and a revision was recorded on August 24, 1992. This revision added approximately .66 acres to Lot 36 from a lot labeled “Recreation Area” depicted in Chappell Farms Phase Two. The Final Plat Bay Chappell Farms Phase Two was originally recorded on June 12, 1990 and a revision was recorded on August 17, 1992. This revision also depicted the aforementioned reconfiguration of the lot labeled “Recreation Area.”

Bay Chappell Farms was originally zoned R-60. The R-60 zoning district was deleted from the zoning ordinance in 1998 and all properties in the R-60 zoning District were put into the R-72 zoning district.

A request to revise the Final Plat for Bay Chappell Farms Phase One (RP-074-19), to subdivide Lot 36 was approved by the Board Commissioners on January 23, 2020. To date, a revised final plat to subdivide lot 36 has not been submitted to the County for review.

Subdivision Regulations

Sec. 104-595. - Approval of subdivisions.

(2) Final plat or minor subdivision plat

j. Revision to a recorded final plat.

2. Proposed revisions to a recorded major final plat of any existing residential or agricultural-residential subdivisions which adds property to, increases the number of platted lots, or changes the principal use on a lot shall be considered in public hearings before the planning commission and the board of commissioners and public notification shall comply with Sec. 110-301. - Public notification. The following factors shall be considered by the planning and zoning department, the planning commission and the board of commissioners when reviewing these requests:
 - (i) *Street character.* Whether the request will result in a residence or accessory structure that will be out of character with the alignment of existing residences and accessory structures. Aspects to consider are the front setback established on the final plat, the alignment of existing residences and accessory structures, the degree a proposed residence or accessory structure will be out of alignment with the setback and/or existing residences and accessory structures and the presence of vegetation (trees, bushes, shrubbery, etc.) which may provide visual screening.
 - (ii) *Lot size character.* Whether the request will result in a lot that will be out of character with the size of existing lots. Aspects to consider are the lot width required by the zoning district, the minimum and maximum range of lots sizes, the number of lots within a size range, the average lot size and the degree proposed lots will be smaller than existing lots.
 - (iii) *Lot width character.* Whether the request will result in a lot that will be out of character with the width of existing lots. Aspects to consider are the lot width required by the zoning district, the minimum and maximum range of lot widths, the lot widths within a range, the average lot width and the degree proposed lots will more be narrow than existing lots.
 - (iv) *Change of principal use.* Whether the change of use will adversely affect the existing use or usability of adjacent or nearby property, will result in a use which will or could cause an excessive or burdensome use of existing or planned streets, or utilities, or other conditions which give supporting grounds for either approval or disapproval of the change of use proposal.

Department Comments

Planning and Zoning

This request involves two existing lots within Bay Chappell Farms subdivision, specifically, Lot 36 (which contains a single-family residence) and a lot labeled “Recreation Area”, and a 10 acre parcel adjacent to Bay Chappell Farms subdivision. Rezoning petition 1292-20 (A-R to R-72) has been submitted for this 10 acre parcel in association with the Revised Plat application. The combination of these requests is to add the 10 acre parcel to the subdivision to facilitate the subdivision of Lot 36 into two lots utilizing a portion of the 10 acre parcel and use the “Recreation Area” to provide road frontage to the remainder of the 10 acre parcel to create a flaglot. A small portion of Lot 36 will be added to the Recreation Area lot to provide 100 feet of road frontage.

The factors above are to be used to review these requests:

Street Character: The front yard setback established on the Bay Chappell Farms plats is 75 feet as was required by the R-60 zoning district. The R-72 zoning district requires a front yard setback of 50 feet. If this petition is approved, the resulting lots, as applicable, should be conditioned to abide by the 75 foot front yard setback. The buildable portion of the proposed flaglot would be approximately 800 feet from Stable Creek Road which would have no effect on the street character.

Lot size character: Per the Letter of Intent all lots are proposed to exceed the two acre minimum lot size.

Lot width character: All proposed lots would be required to meet a lot width of 150 feet per the R-72 zoning district. The R-60 zoning district also required a 150 foot lot width. The proposed lots resulting from the subdivision of Lot 36 appear to be in character with similarly shaped lots within the subdivision. There are no existing flag lots with the subdivision but the proposed flaglot is 518 feet wide in the flag portion of the lot per the Concept Plan.

Change of principal use: This request includes the change of the principal use on the lot labeled “Recreational Area” to residential use.

The Recreation Area Easement:

The designation of an area on a recorded plat showing it as a recreation area creates an irrevocable easement in favor of lot owners who buy in reference to that plat. Doughtie v. Dennisson, 240 Ga. 299 (1977). Where protective covenants exist and expire, they do not negate the easement created by the plat. Patterson v. Powell, 257 Ga. App. 336, 338 (2002). Sale of a single lot is sufficient to protect the dedicated land to its designated use. Davis v. Foreman, 311 Ga. App. 775, 778 (2011).

Further, the easement is not lost by foreclosure or tax sale. Smith v. Gwinnett Co., 248 Ga. 882, 885 (1982). The easement may only be lost by express abandonment. Hampton Ridge Homeowners' Assoc., Inc. v. Marett Properties, Ltd., 265 Ga. 655, 656 (1995). In Hampton Ridge, after taking title to their lots, the owners within the subdivision all signed onto a written Consent to be bound by a Declaration of Covenants and Restrictions, which transferred all rights to all common areas to the subdivider, thus abandoning their rights to the easement, which were transferred as part of that package. Subsequent case law makes clear that abandonment will not be presumed, must be in writing and clearly shown. So, for instance, where the initial filed plat showed a recreation area, and a subsequent plat showed a replacement recreation area at a second, different location, the unilateral action of the subdivider in filing a different plat was not able to extinguish the rights to the first area for people whose deed referenced the first plat. Davis v. Foreman, 311 Ga. App. 775, 779 (2011).

Subsequent case law makes clear that the owner of a lot previously dedicated to subdivisions owners for recreation use does not negate the underlying owner's rights to use the lot for his own purposes, provided it is not inconsistent with the dedication. Savannah Jaycees Foundation, Inc. v. Gottlieb, 273 Ga. App. 374 (2005). Thus, it is permissible to make limited use of the easement area for private purposes.

The original subdivision plat for phase two shows two lots dedicated to the subdivision owners for recreation purposes. The southernmost of those lots is encompassed within the area proposed for re-platting. No improvements were ever installed in either recreation area shown on the plat. The homeowners' association is now defunct and there is no entity that would install any recreation improvements.

The applicants have requested the ability to provide driveway access through the recreation area easement to access the buildable portion of the proposed lots. This would be a permissible allowable use of the easement area. Any recommendation approving the subdivision should make clear and be conditional on the recreation area remaining open to other owners within the subdivision for passive recreation and should limit the extent of private uses that are allowable.

With regard to the original 2.11 acre parcel indicated on Bay Chappell Farms Phase Two as Recreation Area and located within the proposed revised subdivision area, use of that 2.11 acre area by the underlying fee owner(s) is limited to construction of no more than two total driveways to service proposed Lot 2 and Lot 3 (as shown on the Concept Plan submitted with the Applications). The owner(s) of Lots 2 and 3 shall not site any permanent improvements, other than the driveways to service Lot 2 and Lot 3, in such manner as to leave the remaining areas of the Recreation Area parcel free for passive recreation by the owners of all lots in Bay Chappell Subdivision, and no current or future owner of Lot 2 or Lot 3 shall substantially interfere with the use of the Recreation Area by any current or future owner of any other lot in Bay Chappell Farms Subdivision for recreation purposes. Substantial interference shall include, but not be limited to, the erection of a fence excluding access to the Recreation Area. Additionally, before a revised final plat is recorded, the current owners of any portion of Lots 1, 2, and 3 shall indemnify and hold harmless the County from any and all future claims related to (1) the County's approval of

the Applications that include the 2.11 acre Recreation Area; and (2) the extinguishment of the original 25 foot strip connecting Lot 3 with Chappell Road. Also, the revised final plat shall indicate the area of the 2.11 acre Recreation Area in relationship to proposed Lots 2 and 3. Staff will recommend conditions accordingly.

Water System

“Lot 1” (Lot 36 Bay Chappell Farms/170 Stable Creek Rd.) has an existing water service at or very near its original western property line, the additional road frontage being granted for “Lot 2” and “Lot 3”, places this water service on future “Lot 3”. This water service will need to be relocated onto future “Lot 1” or used as a future water service for future “Lot 3” and a new water service installed for future “Lot 1”, at the expense of the developer. Additionally, water service will need to be installed for future “Lot 2”, at the developers expense. Also any other conflicts that arise with FCWS facilities as a result of this re-plat must be resolved by the developer with coordination through FCWS.

Fire

Approved

Engineering/Public Works

No Engineering comments on the proposed revised plat.

Environmental Management Dept.

Floodplain	The property DOES NOT contain floodplain per FEMA FIRM panel 13113C0113E and 13113C0083E dated Sept 26, 2008. The property DOES contain additional floodplain delineated in the FC 2013 Future Conditions Flood Study.
Wetlands	The property DOES NOT contain wetlands per the U.S. Department of the Interior, Fish and Wildlife Service 1994 National Wetland Inventory Map. Per Section 8-4 of Fayette County Development Regulations, the applicant must obtain all required permits from the U.S. Army Corps of Engineers <u>prior</u> to issuance of any permits from Fayette County for any phase of development affecting wetlands.
Watershed	The watershed protection ordinance WOULD apply to this property.
Groundwater	The property IS NOT within a groundwater recharge area.
Stormwater	This development IS NOT subject to the Post-Development Stormwater Management Ordinance.

Environmental Health Department

No objection to rezoning and revision to the plat. However, records indicate that there are challenging soils in this area and submission of a red stamped level 3 soils report will be needed for all of the lots.

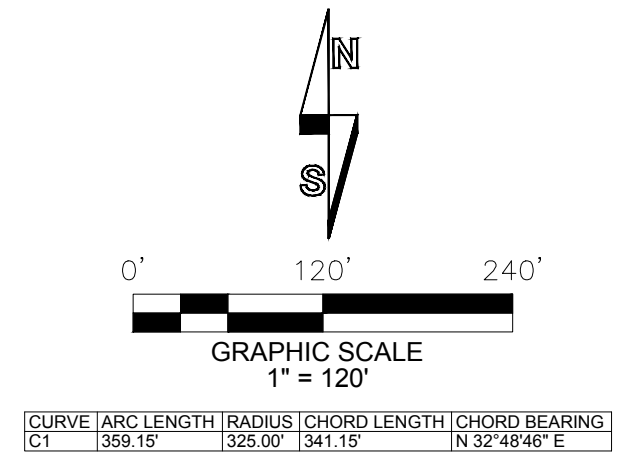
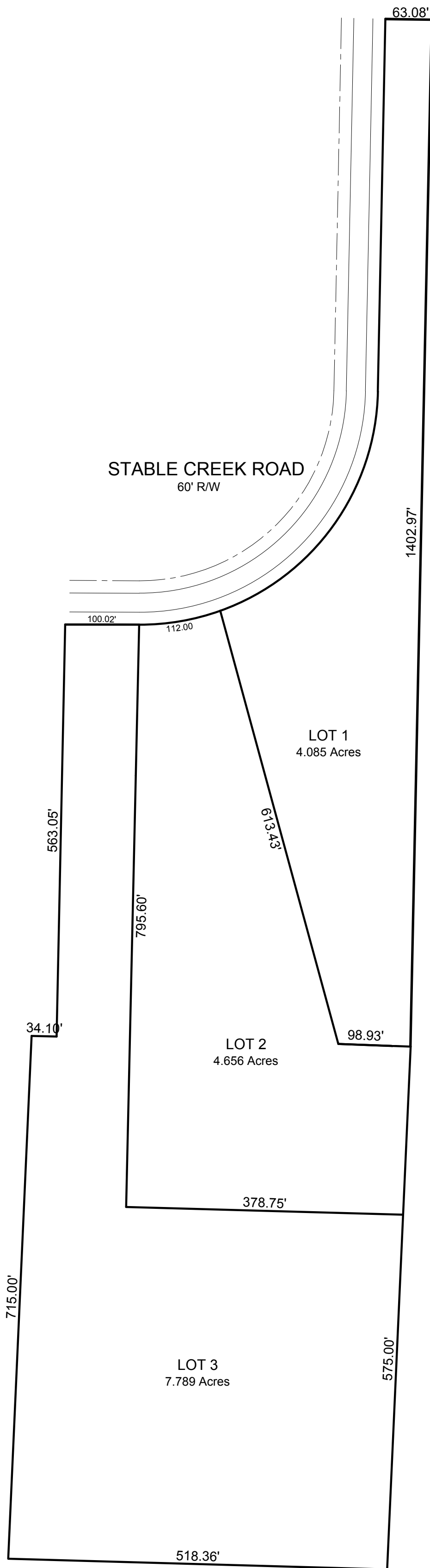
STAFF RECOMMENDATION

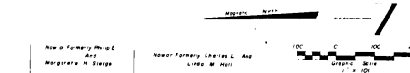
Staff recommends **APPROVAL WITH CONDITIONS** of this request to revise Bay Chappell Farms Phases One and Two to add property to Bay Chappell Farms Subdivision, create an additional lot in Bay Chappell Farms Subdivision, and change the principal use on a lot labeled Recreational Area (Bay Chappell Farms Phase Two) to residential use. This request is associated with rezoning 1292-20.

RECOMMENDED CONDITIONS

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

1. That the proposed lots will maintain a front yard setback of 75 feet and the revised plat shall indicate the 75 foot front yard setback.
2. That use of that 2.11 acre area by the underlying fee owner(s) is limited to construction of no more than two total driveways to service proposed Lot 2 and Lot 3 (as shown on the Concept Plan submitted with the Applications). The owner(s) of Lots 2 and 3 shall not site any permanent improvements, other than the driveways to service Lot 2 and Lot 3, in such manner as to leave the remaining areas of the Recreation Area parcel free for passive recreation by the owners of all lots in Bay Chappell Subdivision, and no current or future owner of Lot 2 or Lot 3 shall substantially interfere with the use of the Recreation Area by any current or future owner of any other lot in Bay Chappell Farms Subdivision for recreation purposes. Substantial interference shall include, but not be limited to, the erection of a fence excluding access to the Recreation Area. Additionally, before a revised final plat is recorded, the current owners of any portion of Lots 1, 2, and 3 shall indemnify and hold harmless the County from any and all future claims related to (1) the County's approval of the Applications that include the 2.11 acre Recreation Area; and (2) the extinguishment of the original 25 foot strip connecting Lot 3 with Chappell Road.
3. That the revised final plat shall indicate the area of the 2.11 acre Recreation Area in relationship to proposed Lots 2 and 3.





1. COMPANY/COMPANIES: THOMPSON & COMPANY MONTREAL CORPORATION,
151 MONTREAL BOULEVARD
MONTREAL, QUEBEC
H2T 1S5
2. INCIDENTS: CHINING LUNG YUEN, INC.,
A REGISTERED MAIL VENDOR,
1000 UNIVERSITY AVENUE,
SUITE 2400,
TORONTO, ONTARIO
M5G 1K6, CANADA
3. REMARKS: INFORMATION FROM POLICE FILE # MONTREAL
MONTREAL POLICE DIVISION, FILE # 100-100000-100000
MONTREAL POLICE DIVISION, FILE # 100-100000-100000
4. CHINING LUNG YUEN: A-4
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Declarations of Covenants Conditions
and Restrictions in Deed Book 573
Page 78-100



"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 PLAN."

FINAL PLAT
OF
BAY CHAPPELL FARMS
PHASE ONE
LAND LOT NO. 7
4th DISTRICT
FAYETTE COUNTY
GEORGIA

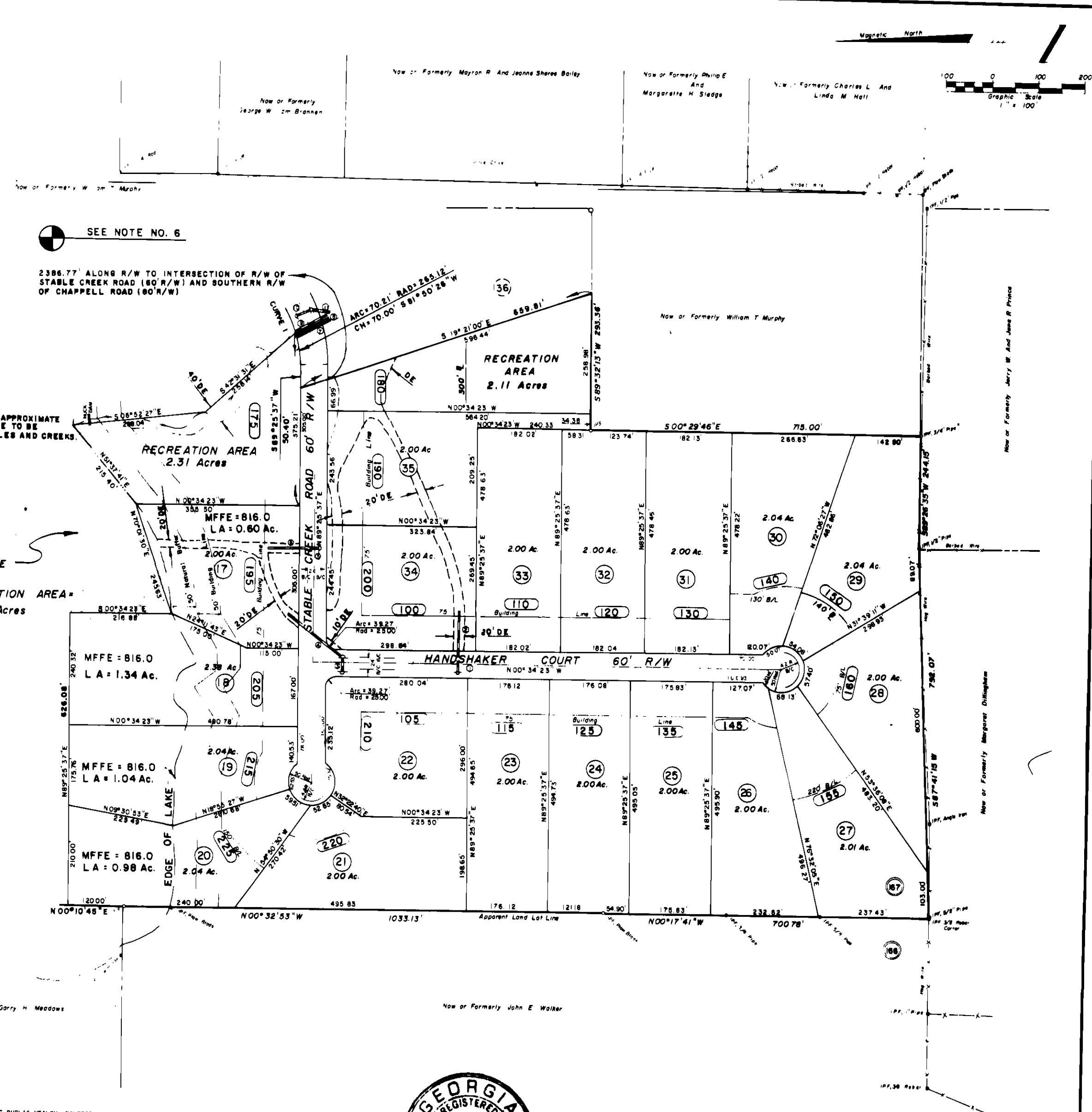
Civil Engineering Mayor Planning Surveying Construction	Benchmark Engineering Corporation 1700 California Blvd., Suite 200 San Francisco, CA 94115 (415) 774-1100	Date: August 1, 1990 Scale: 1" = 100' Job No. 003-46
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4	12° 39' 24"	750.52'	152.72'	78.3°	152.62
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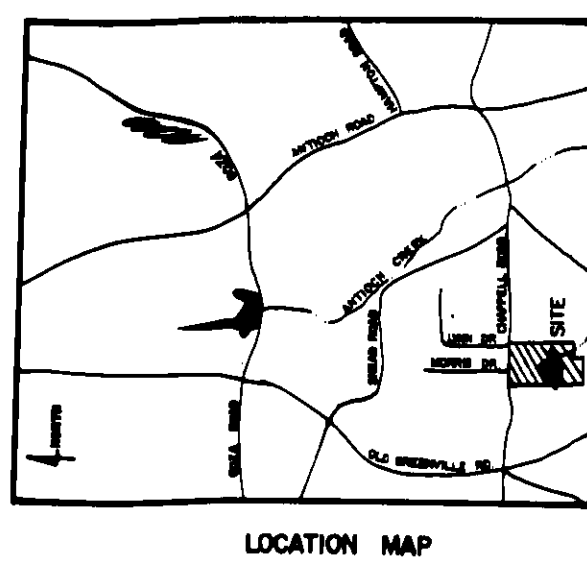
ALTER Y. PRIVATE CA FILE 8:107

LEGEND
IPP IRON PIN FOUND
IPB IRON PIN SET
E/P EDGE OF PAYMENT
DE DRAINAGE EASEMENT
CMP CORRUGATED METAL PIPE
CB CATCH BASIN
RW ROADWALL
BL BUILDING LINE
MFFE MINIMUM FINISH FLOOR ELEVATION
FPA FLOOD PLAIN AREA

GEORGIA, Fayette County
Clerk's Superior Court
Filed for record June 19, 90
Recorded in Book 21 Page 65
This 12th day of June 1990
W. H. Hall Clerk



- NOTES:**
- OWNER/DEVELOPER: THOMPSON & COMPANY MORTGAGE CORPORATION
MR. ALEX THOMPSON
105 HANDBRAN PARK
SUITE F
FAYETTEVILLE, GA 30214
(404) 461-2113
 - ENGINEER: CHAPMAN LAND VENTURES, INC.
4 EXECUTIVE PARK DRIVE
SUITE 2408
ATLANTA, GA 30329
(404) 728-8773
 - BOUNDARY INFORMATION TAKEN FROM PLAT BY BENCHMARK ENGINEERING CORPORATION TITLED "BOUNDARY SURVEY FOR THOMPSON & COMPANY MORTGAGE CORPORATION DATED NOVEMBER 9, 1988.
 - CURRENT ZONING = R-60
MINIMUM LOT SIZE = 2.00 ACRES
FRONT BUILDING LINE = 75'
SIDE BUILDING LINE = 15'
REAR BUILDING LINE = 30'
 - TOTAL TRACT = 45.74 ACRES
TOTAL NUMBER OF LOTS IN THIS PHASE = 19
 - T.B.M. - CENTERLINE INTERSECTION OF CHAPPELL ROAD AND STABLE CREEK ROAD; ELEVATION = 827.82.
 - THIS TRACT DOES NOT LIE WITHIN A 100 YEAR FLOOD PLAIN PER INSURANCE RATE MAP COMMUNITY PANEL NUMBER 130482 0095A FAYETTE COUNTY, GEORGIA, DATED JULY 8, 1983.
 - LOTS TO BE SERVED BY INDIVIDUAL SEPTIC TANKS.



OWNER'S ACKNOWLEDGEMENT

WE, THE UNDERSIGNED OWNERS OF THE PROPERTY SHOWN ON THIS PLAT HEREBY OFFER TO DEDICATE AND/OR RESERVE FOR PUBLIC USE THE RIGHT-OF-WAY, EASEMENTS, AND OTHER GRADING SO SHOWN.

OWNER: Alex Thompson DATE: 5-30-90

FINAL PLAT APPROVED BY COUNTY ENGINEER OF FAYETTE COUNTY.
ALL AS-BUILT PLANS HAVE BEEN APPROVED.

DATE: 6-8-90 SIGNED: W. H. Hall County Engineer

APPROVED BY FAYETTEVILLE - FAYETTE COUNTY PLANNING COMMISSION

DATE: 6-8-90 SIGNED: Richard S. Moore Secretary

APPROVED BY FAYETTE COUNTY ZONING ADMINISTRATION
DATE: 6-8-90 SIGNED: Perry Hiett

APPROVED BY DEPARTMENT OF PUBLIC HEALTH, FAYETTE COUNTY, GA.

THIS PLAT HAS BEEN REVIEWED BY A REPRESENTATIVE OF THE FAYETTE COUNTY HEALTH DEPARTMENT AND BASED ON REGULATION TEST RESULTS, LAY OF THE LAND, SOIL INFORMATION, ETC., THIS LAND APPEARS TO BE SUITABLE FOR THE INSTALLATION OF SEPTIC TANKS AND DRAIN FIELDS. HOWEVER, EACH LOT WILL HAVE TO BE INSPECTED TO DETERMINE LOCATION OF HOUSE, STYLE OF HOUSE, ETC. BEFORE FINAL APPROVAL CAN BE ISSUED. SEE LETTER.

DATE: MARCH 2, 1990 SIGNED: W. H. Hall Environmental Health Specialist

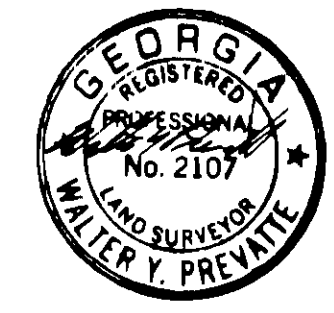
SURVEYOR'S ACKNOWLEDGEMENT

I CERTIFY THAT ALL MEASUREMENTS ARE CORRECT AND WERE PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION; THAT MONUMENT LOCATIONS ARE CORRECTLY SHOWN; AND THAT THE PROPERTY WILL DRAIN AS SHOWN. MONUMENTS ARE SHOWN BY IRON PINS.

DATE: MARCH 2, 1990 SIGNED: W. H. Hall Surveyor

WALTER Y. PRYATTE GA REG # 2107

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THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF AT LEAST ONE FOOT IN 10,000 FEET AND AN ANGULAR ERROR OF 0.8 SECONDS PER ANGULAR POINT, AND WAS ADJUSTED USING COMPASS RULE.

FIELD INFORMATION WAS OBTAINED WITH E.S.M. EQUIPMENT, STEEL TAPE, AND THEODOLITE.

THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN AT LEAST ONE FOOT IN 10,000 FEET.

WALTER Y. PRYATTE GA REG # 2107

FINAL PLAT OF BAY CHAPPELL FARMS PHASE TWO

LAND LOT 167 4th DISTRICT FAYETTE COUNTY GEORGIA

CONVEYED BY: BENCHMARK ENGINEERING CORPORATION

Benchmark Engineering Corporation
110 Commerce Plaza Drive
Fayetteville, GA 30214
(404) 461-2113

DATE: 4-18-90
SEE GRAPHIC SCALE
JOB NO. 055-06
FILE NO. 12-100

STEVEN L. JONES



sjones@boviskyle.com

Main: (770) 391-9100

Direct: (678) 338-3902

Cell: (404) 218-2756

Fax: (770) 668-0878

Thursday, July 23, 2020

VIA EMAIL (pfrisina@fayettecountyga.gov)

Mr. Pete Frisina, Director
Fayette County Department of Planning and Zoning
Stonewall Administrative Complex
140 Stonewall Avenue, West
Suite 202
Fayetteville, Georgia 30214
pfrisina@fayettecountyga.gov

**RE: Rezoning Application – TPN: 0434 097; and
Application to Revise a Recorded Plat – TPNs: 0434 02017; 0434 03021; and a portion
of 0434 097**

Dear Mr. Frisina:

Please accept this as a Letter of Intent for the following applications previously filed with your office:

- (a) an Application to Amend the Official Zoning Map of Fayette County, Georgia Number 1292-20 (the “**Rezoning Application**”) regarding Fayette County Tax Assessor Parcel Identification Number (“**TPN(s)**”) 0434 097 (10 acres); and
- (b) an Application to Revise a Recorded Plat Number RP-076-20 (the “**Plat Revision Application**”) regarding TPNs: 0434 02017; 0434 03021; and a portion of 0434 097 (collectively, 16.53 acres).

The goal of the Plat Revision Application and the Rezoning Application (collectively, the “**Applications**”) is to revise the final plats for the single-family residential neighborhood known as Bay Chappell Farms (“**Bay Chappell Farms**” or the “**Neighborhood**”) to combine portions of three (3) parcels each within the Neighborhood and one (1) parcel contiguous with the Neighborhood to create three (3) single-family residential R-72 lots of four (4) acres or more all within the Neighborhood, as shown on the concept plan (the “**Concept Plan**”) attached hereto as Exhibit “A” and previously submitted along with the Plat Revision Application.

This Letter of Intent details the history of the parcels the subject of the Applications, the necessity for the Applications, and, finally, the specifics of the Applications.

ATLANTA, GA | CUMMING, GA | GREENSBORO, NC | CHARLESTON, SC | DESTIN, FL

I. HISTORY OF PARCELS

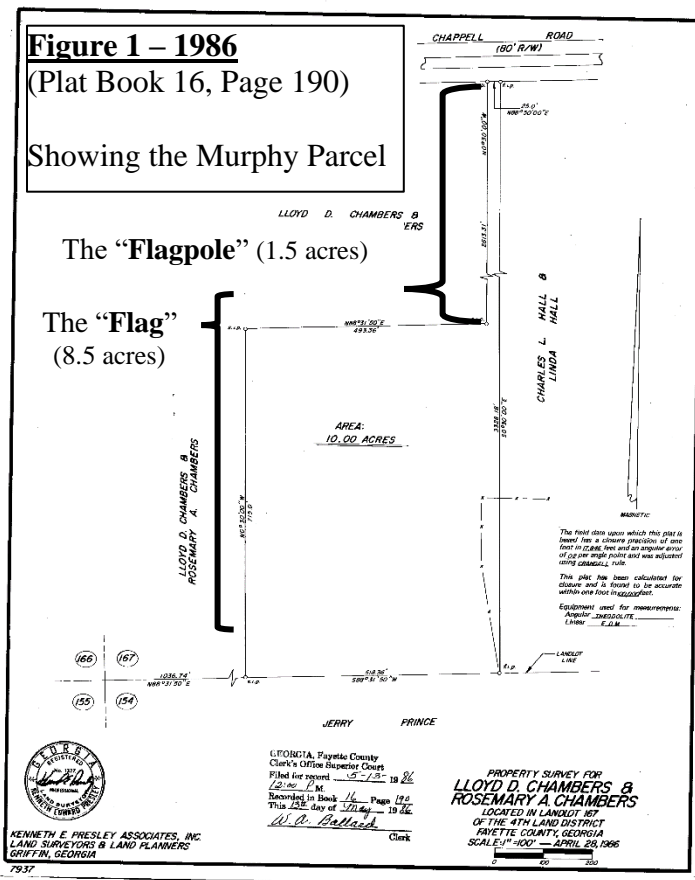
A. The Murphy Parcel

In 1986, Mr. William T. Murphy (“**Mr. Murphy**”) acquired from Mr. Lloyd D. and Mrs. Rosemary A. Chambers (the “**Chamberses**”) a ten (10) acre “flag lot” fronting on Chappell Road, identified as TPN 0434 097 (the “**Murphy Parcel**”), and shown in Figure 1 below. (*Deed Book 386, Page 786*).¹ The Murphy Parcel is south of Chappell Road between Brooks Woolsey Road and Old Greenville Road in unincorporated Fayette County. The flagpole portion of the Murphy Parcel is a *twenty-five foot (25’) wide, 2,613.31 foot long, one and a half (1.5) acre strip of land* (the “**Flagpole**”). At the time Mr. Murphy acquired the Murphy Parcel, the Flagpole was intended to serve as a driveway for the *eight and a half (8.5) acre flag-shaped portion* (the “**Flag**”) of the Murphy Parcel. (*Plat Book 16 Page 190* (Plat of the Murphy Parcel)).

Figure 1 – 1986

(Plat Book 16, Page 190)

Showing the Murphy Parcel



Under the Zoning Ordinance of Fayette County, Georgia (the “**Zoning Ordinance**”),² the Murphy Parcel has always been zoned Agricultural-Residential District (“**A-R**”).

Over time, changes in water courses that now cover a significant portion of the Flagpole and the exponentially increasing cost of paving the approximately *one half (1/2) mile long Flagpole* have made it practically and economically unfeasible to construct a driveway along the length of the Flagpole. As a result, the Murphy Parcel is practically land locked for purposes of development.

¹ All references in this letter to a Deed Book or Plat Book are references to those books in the Real Estate Records of the Clerk of Superior Court of Fayette County, Georgia.

² Chapter 110 of the Code of Ordinances of Fayette County, Georgia.

B. Bay Chappell Farms

In 1988—after Mr. Murphy acquired the Murphy Parcel—Thompson & Company Mortgage Corporation (“**Thompson**”) acquired from the Chamberses 107.81 acres (shaded orange below) contiguous with the Murphy Parcel (shaded blue below). (*Deed Book 529, Page 506*). Thompson developed those 107.81 acres into the single-family residential subdivision known as Bay Chappell Farms which is south of, and accessed via, Chappell Road. (*Plat Book 20, Page 193* (Plat of Bay Chappell Farms Phase I); *Plat Book 21, Page 193* (Plat of Bay Chappell Farms Phase II)). There are thirty-six (36) lots (“**Lot(s)**”) in the Neighborhood. Unlike the Murphy Parcel, the Neighborhood is zoned R-72, Single-Family Residential District (“**R-72**”). The R-72 zoning district allows for the development of lots of two (2) or more acres in size. The Lots in the Neighborhood range in size from two (2) to five (5) acres.



**Figure 2 - Zoning
Map (2020)**

Showing:

Bay Chappell Farms
(shaded orange); and

The Murphy Parcel
(shaded blue).

C. The Carne Parcel

In 1990, Mr. Richard E. Carne ("Mr. Carne") acquired, from Thompson, Lot 36 of Bay Chappell Farms (the "**Original Carne Parcel**") (shaded orange below). (*Deed Book 592, Page 263*). Lot 36 was originally platted as a 5.075 +/- acre parcel. (*See Plat Book 20, Page 193* (Plat of Bay Chappell Farms Phase I); *Plat Book 21, Page 193* (Plat of Bay Chappell Farms Phase II)).

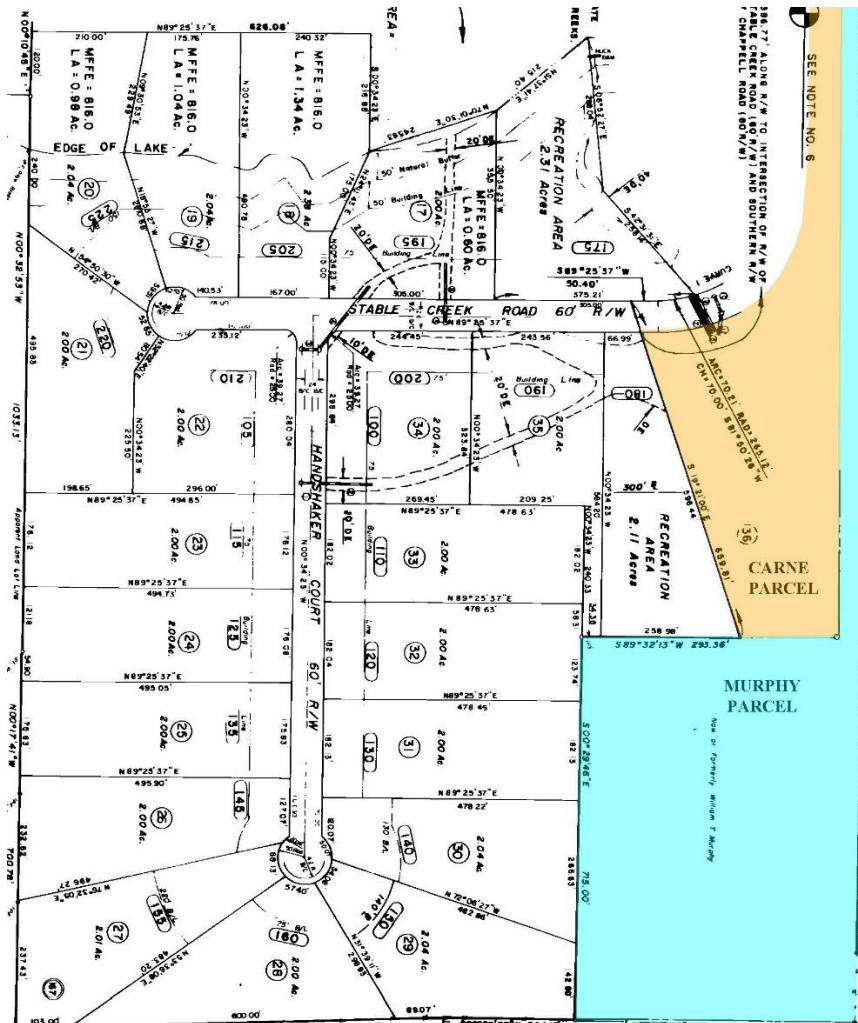


Figure 3 - 1990

Showing:

The Original Carne
Parcel (shaded orange);
and

The Murphy Parcel
(shaded blue).

D. The Recreation Area

In 1991, Thompson, in lieu of foreclosure, conveyed to Barnett Bank of Fayette County (“**Barnett**”) via a Warranty Deed the undeveloped portions of the neighborhood, including parcels originally platted—but never developed or used—as common, recreation areas (shaded yellow below). (See Deed Book 642, Page 587).

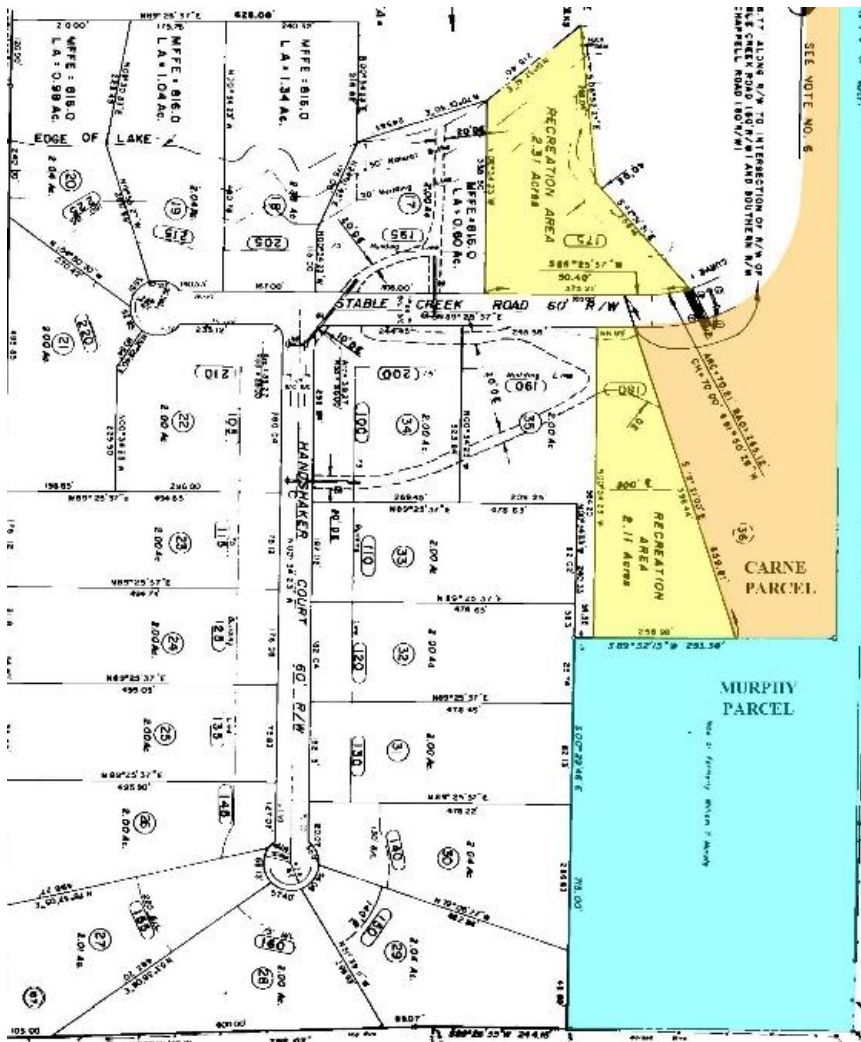


Figure 4- 1991

Showing:

The recreation areas
(shaded yellow);

The Original Carne Parcel
(shaded orange); and

The Murphy Parcel
(shaded blue).

E. The Recreation Area (Continued)

In 1992, Mr. Carne acquired 0.67 acres of the southernmost recreation area (shaded orange and outlined with a black cloud line below), and the plat for the Neighborhood was revised to reflect this acquisition. (*Deed Book 780, Page 237; Plat Book 23, Pg. 36*). After acquiring that portion of the southernmost recreation area, Mr. Carne's parcel consisted of 5.745 acres (the "**1992 Carne Parcel**," shaded orange below). As a result, the remainder of the southernmost recreation area consists of 1.46 acres (the "**Recreation Area Parcel**," shaded yellow below) identified as TPN 0434 03021.

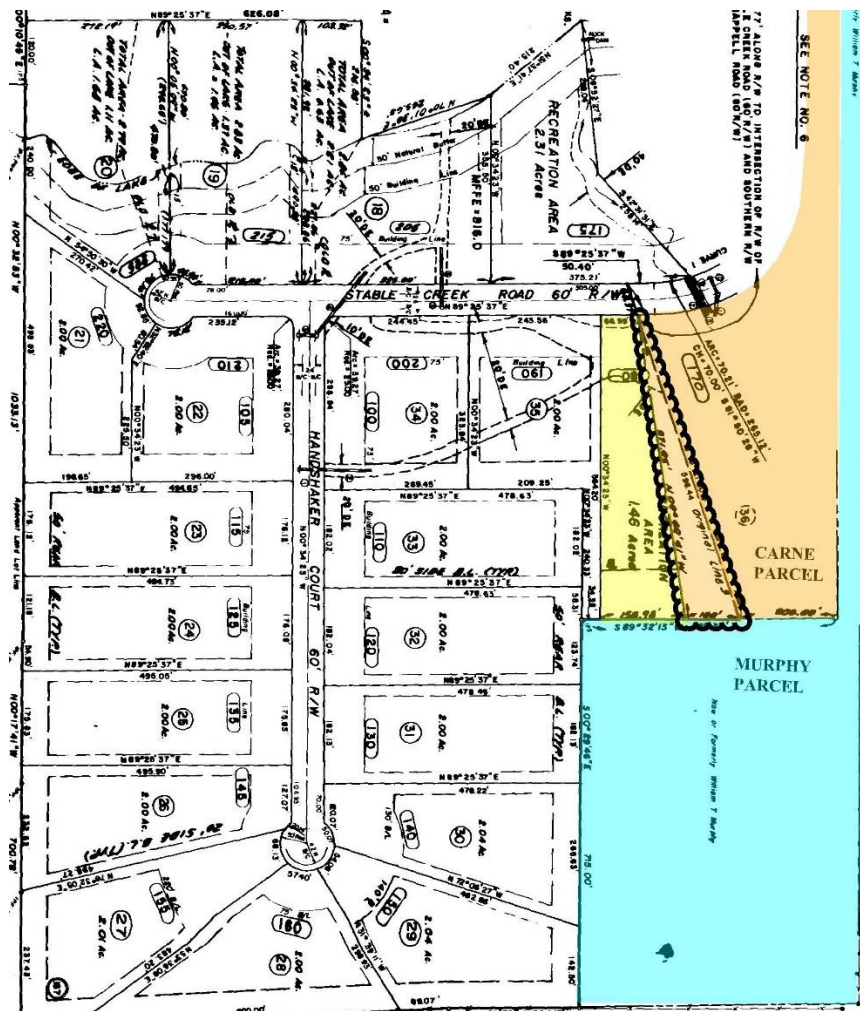


Figure 5 – 1992

Showing:

The Recreation Area Parcel
(shaded yellow);

The 1992 Carne Parcel,
(shaded orange)
including the portion of
the southernmost
recreation area acquired
by Mr. Carne in 1992
(outlined by a black
cloud line); and

The Murphy Parcel
(shaded blue).

F. The Recreation Area (Continued)

In 2008, due to Barnett's failure to pay ad valorem taxes due, the Recreation Area Parcel (shaded blue and outlined with a black cloud line below) was sold by the Sheriff of Fayette County, Georgia at a tax sale to Mr. Murphy. (*Deed Book 3438, Page 233*). The Recreation Area Parcel is wooded and has *never been developed or used as a recreation area* for Bay Chappell Farms.

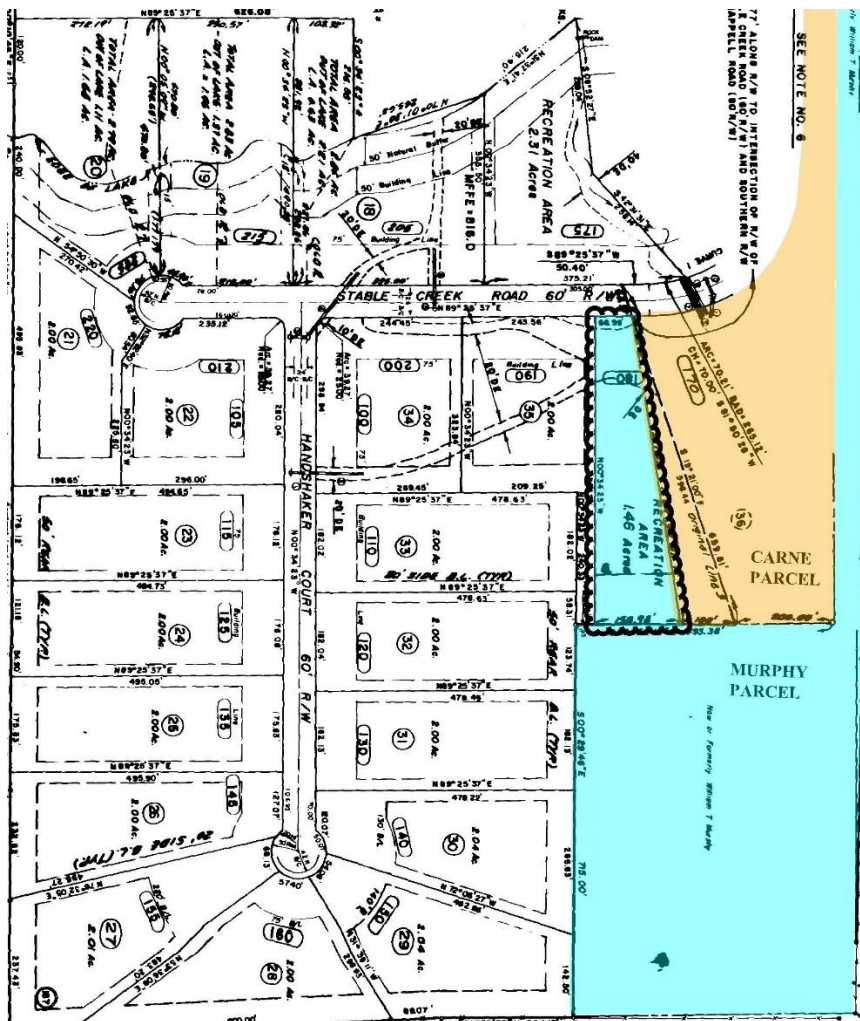


Figure 6 - 2008

Showing:

The Recreation Area Parcel
(shaded blue and outlined by a black cloud line);

The 1992 Carne Parcel
(shaded orange); and

The Murphy Parcel
(shaded blue).

G. The Williams Parcel

On January 23, 2020, the Fayette County Board of Commissioners (the “**Board of Commissioners**”) approved an Application to Revise a Recorded Plat authorizing a revision of the plat for the Neighborhood subdividing the Carne Parcel into two parcels—a 3.281 acre parcel on which Mr. Carnes’ residence is located (the “**2020 Carne Parcel**,” shaded orange below) and a 2.464 acre parcel on which Mr. Carne’s daughter and son-in-law, Mr. Eric and Ms. Cynthia Williams (the “**Williamses**”), intend to build a single-family home (the “**Williams Parcel**,” shaded purple below). A plat and deed effectuating this subdivision have not yet been recorded. The Williamses have since moved in with Mr. Carne on the 2020 Carne Parcel in anticipation of building their dream home on the Williams Parcel.

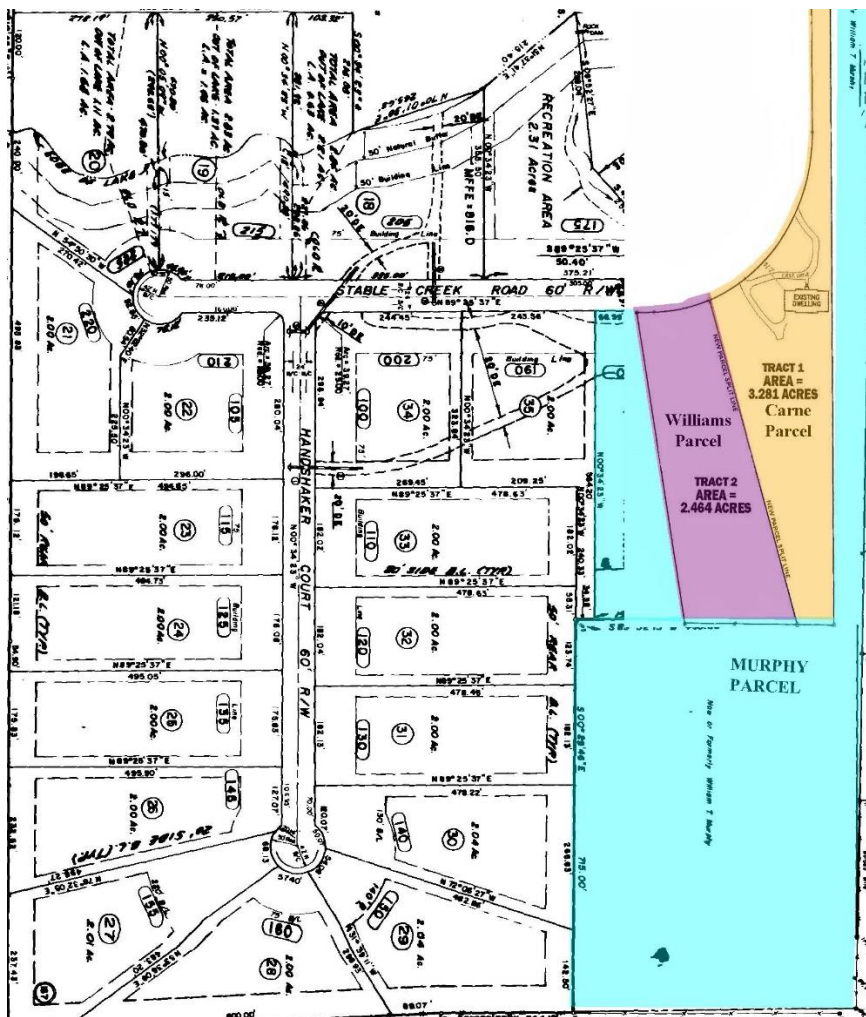


Figure 7 – 2020

Showing:

The Williams Parcel
(shaded purple);

The 2020 Carne Parcel
(shaded orange);

The Murphy Parcel
(shaded blue); and

The Recreation Area
Parcel
(also shaded blue).

II. THE NEED FOR THE APPLICATIONS

A. The Murphy Parcel

Due to its heavy forestation, limited acreage, limited actual and potential road frontage, and its location around residentially zoned parcels, the only economically viable use for the Murphy Parcel is development as one (1) single-family residential lot. The Code of Fayette County, Georgia requires the Murphy Parcel to be accessed via a driveway from Chappell Road—the only road on which the Murphy Parcel has road frontage. However, a one and a half (1.5) mile long driveway running the length of the Flagpole portion of the Murphy Parcel cannot economically, feasibly, or practically be constructed due to hydrological features that have changed since Mr. Murphy acquired the property and the ever-increasing cost of constructing a driveway. (See Exhibit “B” attached hereto (*U.S. Bureau of Labor Statistics, Producer Price Index by Industry: Cement and Concrete Product Manufacturing*, FRED, FEDERAL RESERVE BANK OF ST. LOUIS, <https://fred.stlouisfed.org/series/PCU32733273>, (last accessed June 10, 2020))). As a result, as currently zoned, the Murphy Parcel is without an economically viable use.

Section 110-67(b) of the Zoning Ordinance requires that all residential lots have at least one hundred feet (100') of immediate street frontage “maintained from the lot’s frontage on the street to the body of the lot where the minimum lot width is met.” Because it was platted before Section 110-67(b) was enacted, the Murphy Parcel, with respect to its twenty-five feet (25') of frontage on Chappell Road, is a legal nonconforming lot. (See Zoning Ordinance § 110-170(a) (Nonconforming Lots)). Thus, the Murphy Parcel could be developed as currently zoned with one (1) single-family residence, but it is neither economically nor practically feasible to construct a driveway the length of the Flagpole.

Every residential lot must have a driveway that accesses a street on which it has frontage. (See Section 104-55(c) of the Development Regulations of Fayette County Georgia (the “**Development Regulations**”)).³ Under certain circumstances, Section 110-67(b) of the Zoning Ordinance permits landlocked lots to be accessed via easement drives. The Murphy Parcel, however, is not landlocked because it has some frontage on Chappell Road via its half (1/2) mile long Flagpole. (See Zoning Ordinance Section 110-3 (A “landlocked lot” is “a lot having *no* road frontage on a street.” (emphasis added))). Therefore, the Murphy Parcel is not eligible for an easement driveway, and it is impractical, economically unfeasible, and, thus, impossible for a driveway to be constructed along the entirety of the Flagpole to Chappell Road.

Based on the above, for a driveway to be constructed to the Murphy Parcel that is economically feasible and practically viable, the driveway must be constructed through land other than the Flagpole. The Recreation Area, since it is owned by Mr. Murphy, is a viable path for a driveway. But, because the Recreation Area Parcel was platted as a recreation area, the plat for the Neighborhood must be revised. (Development Regulations Section 104-595(2)(j)). Additionally, to afford the Murphy Parcel and the Recreation Area Parcel (as combined) one hundred feet (100') of road frontage, those parcels must be combined with a portion of the Williams Parcel as one (1)

³ Chapter 104 of the Code of Fayette County, Georgia.

Lot on the plat for the Neighborhood.

B. The Williams Parcel

The Board of Commissioner's approval of the division of the Carne Parcel to create the Williams Parcel and the 2020 Carne Parcel has afforded the Williamses a homesite next to family. In order to expand the potential home sites on the Williams Parcel, the Williamses desire to increase the width and acreage of their Lot. Specifically, the Williamses would like to acquire a portion of the Recreation Area Parcel and two (2) acres of the Murphy Parcel. If the Applications are approved, the Williamses will construct their house entirely on the two (2) acres they will acquire from the Murphy Parcel.

C. The Carne Parcel

Mr. Carne would like to construct (in the same architectural style as his home) a free-standing garage behind his home on the rear, southeastern portion of his property. Finding an ideal location for the garage on the Carne Parcel, however, has proven difficult due to existing flood plain and setbacks under the Zoning Ordinance. To provide him with additional area to site a garage, Mr. Carne would like to acquire the portion of the Flagpole that is contiguous with the 2020 Carne Parcel.

III. THE APPLICATIONS

A. The Plat Revision Application

To afford the Murphy Parcel an economically viable use under the Zoning Ordinance and the Development Regulations, give the Williams Parcel a large buildable area, and give the Carne Parcel a location for a free-standing garage, the Plat Revision Application seeks to take four (4) parcels—(i) the Murphy Parcel (shaded blue in Figure 8 on page 11 below); (ii) the Recreation Area Parcel (also shaded blue in Figure 8); (iii) the Williams Parcel (shaded purple in Figure 8); and (iv) the 2020 Carne Parcel (shaded orange in Figure 8)—and create three (3) Lots all within the Neighborhood.

The resulting Lots would be as depicted on the Concept Plan (Exhibit "A") submitted with the Plat Revision Application. Figure 8 overlays the boundary lines for the Lots shown on the Concept Plan with the existing boundary lines shown in Figure 7 above for (a) the Murphy Parcel; (b) the Recreation Area Parcel; (c) the Williams Parcel; (d) the Carne Parcel; and (e) the surrounding Lots in the Neighborhood. Also on Figure 8, the Lots proposed by the Plat Revision Application are labeled Lot 1, Lot 2, and Lot 3 and outlined with a black dashdotted line. Specifically, the Lots shown on the Concept Plan are comprised as follows:

Lot 1 – 4.085 +/- acres to be owned by Mr. Carne and consisting of the following:

- (a) the *2020 Carne Parcel* (shaded orange in Figure 8); and
- (b) the portion of the *Flagpole of the Murphy Parcel* (shaded blue in Figure 8 below)

contiguous with the 2020 Carne Parcel.

Lot 2 – 4.656 +/- acres to be owned by Williamses consisting of the following:

- (a) the *Williams Parcel* (shaded purple in Figure 8) (less the approximately 0.08 +/- of an acre to be included in Lot 3 as described below);
- (b) two (2) +/- acres from the *Flag of the Murphy Parcel*; and
- (c) approximately 0.24 +/- of an acre of the *Recreation Area Parcel*.

Lot 3 – 7.789 +/- acres to be owned by Mr. Murphy consisting of the following:

- (a) the *Flag of the Murphy Parcel* (less the two (2) +/- acres included in Lot 2);
- (b) the *Recreation Area Parcel* (less the 0.24 +/- of an acre included in Lot 2); and
- (c) 0.08 +/- of an acre of the *Williams Parcel*.

The boundary lines for Lot 1 as proposed on the Concept Plan would allow Mr. Carne to construct the accessory structure he desires, a free-standing garage built in the same architectural style as his home (the existing residence on Lot 1). The boundary lines for Lot 2 as shown on the Concept Plan would allow the Williamses a large buildable area from which to select their ideal homesite and a yard two (2) acres larger than their original tract. Finally, the boundary lines for Lot 3 will afford Mr. Murphy an economically viable use of his parcels. If the Applications are approved, Mr. Murphy will convey the remainder of the Flagpole (the portion north of Lot 1) to the owners of the Lots in the Neighborhood that are contiguous with the Flagpole, if they desire to take title to the portion of the Flagpole that abuts their respective Lots.

Section 104-595(2)(j) of the Development Regulations provides that any proposed revision to a recorded “major final plat of any existing residential . . . subdivision which adds property to, increases the number of platted lots, or changes the principal use on a lot shall be considered in public hearings before the planning commission and the board of commissioners” The plats for Bay Chappell Farms Phase I and Phase II were “major final Plats” under the Section 104-593 of the Development Regulations because they divided property acquired by Thompson from the Chamberses “into two or more lots” and created new streets “to access said lots.” (Development Regulations § 104-593 (definition of “Plat, major final”)).

The Plat Revision Application seeks to (1) add property to the Neighborhood by including the Flag and a portion of the Flagpole within the Neighborhood; (2) increase the number of platted lots by adding Lot 3 to the Neighborhood; and (3) change the use of the Recreation Area Parcel. The factors by which a Plat Revision Application is to be evaluated (the “**Plat Revision Factor(s)**”) are set forth in Section 104-595 of the Development Regulations. The Fayette County Planning & Zoning Department (“**Staff**”) in its report on the Plat Revision Application (the “**Plat Revision Staff Report**”) analyzed the Plat Revision Factors and recommended approval of the Plat Revision Application with conditions. Those factors and an analysis of each are set forth beginning on the next page after Figure 8.

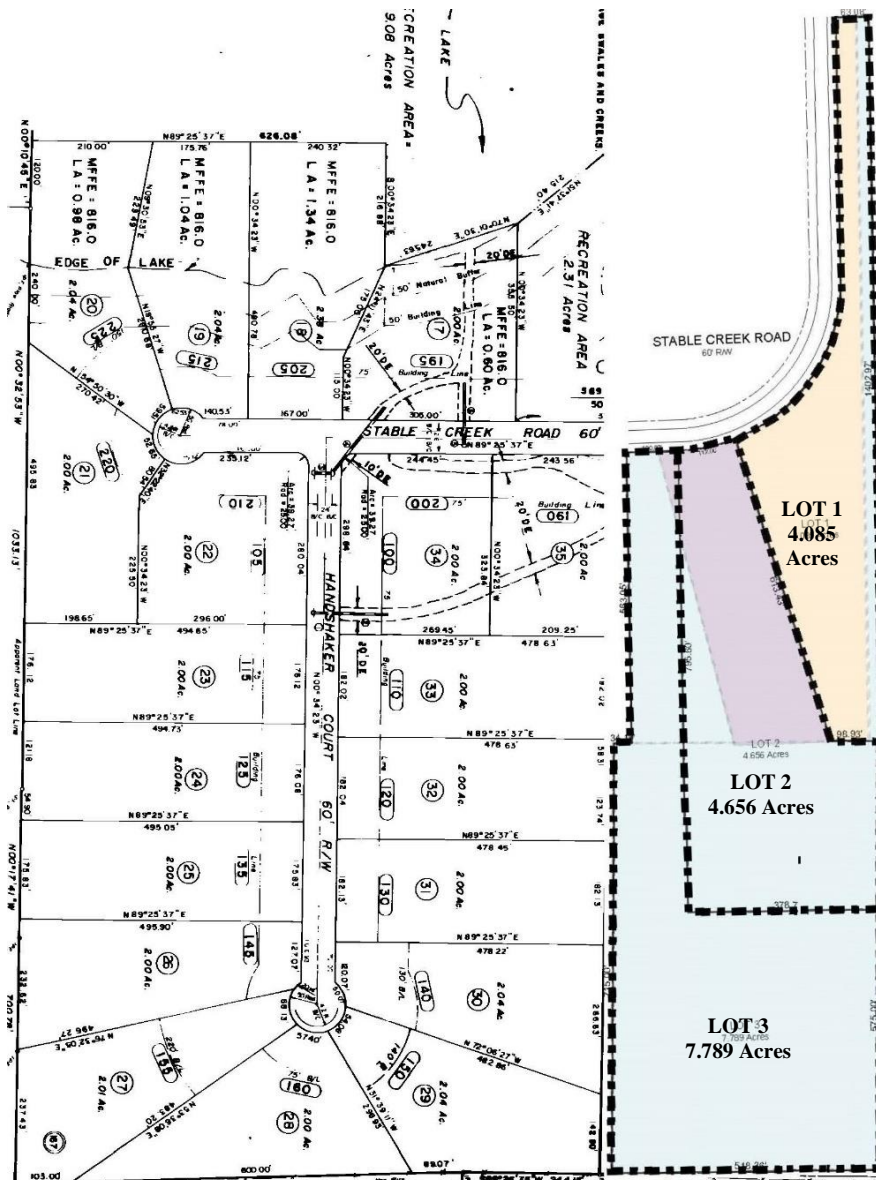


Figure 8 – 2020

Showing the Lots proposed by the Concept Plan overlaid over the following and their current boundary lines:

The 2020 Carne Parcel (shaded orange);

The Williams Parcel (shaded purple); and

The Murphy Parcel and Recreation Area Parcel (both shaded blue).

(1) *Street character. Whether the request will result in a residence or accessory structure that will be out of character with the alignment of existing residences and accessory structures. Aspects to consider are the front setback established on the final plat, the alignment of existing residences and accessory structures, the degree a proposed residence or accessory structure will be out of alignment with the setback and/or existing residences and accessory structures and the presence of vegetation (tree, brushes, shrubbery, etc.) which may provide visual screening.*

Regarding the first Plat Revision Factor, in its Plat Revision Staff Report, Staff finds states

as follows:

The front yard setback established on the Bay Chappell Farms plats is 75 feet as was required by the R-60 zoning district. The R-72 zoning district requires a front yard setback of 50 feet. If this petition is approved, the resulting lots, as applicable, should be conditioned to abide by the 75 foot front yard setback. The buildable portion of the proposed flaglot would be approximately 800 feet from Stable Creek Road which would have no effect on the street character.

Thus, Staff concluded that the Plat Revision Application will not change the street character within Bay Chappell Farms. Additionally, the only noticeable change to the street character, if the Applications are approved, will be the addition of two (2) driveways—one (1) to serve Lot 2 and one (1) to serve Lot 3. As shown in Figure 9 below, the topography of Lot 3 (and the Murphy Parcel) is such that the ideal home site is to the eastern property line. As a result, when a single-family residence is constructed on Lot 3, it will likely be set back to the south of Lot 2 and, therefore, will not be visible from Stable Creek Road or any Lot fronting on Handshaker Court. The same is true for Lot 2—if the Applications are approved, the Williamses will construct a house on the rear, two (2) acre portion of Lot 2.

The front set back established for the other Lots in Phase II of the Neighborhood (labeled as the “building line”) range from seventy-five feet (75’) to two hundred and two hundred and twenty feet (220’). Under the R-72 zoning district, the minimum lot width, which must be met at the building line, is one hundred and fifty feet (150’). Lot 3 will meet the minimum lot width to the south of Lot 2. (Zoning Ordinance § 110-3, 110-132(d)(2)(b)). Additionally, as stated above, the ideal building site for Lot 3 is towards its eastern property.

Within the Neighborhood, homes vary in how far they are set back from the street. Some homes are set back hundreds of feet, and not visible, from the street. Other homes are less than one hundred feet (100’) from the street. Given the diversity in home site selection for the Lots in the Neighborhood, the Plat Revision Application will not create a Lot (i.e., Lot 2 or Lot 3) that is out of alignment with the setback or existing residences and accessory structures. Additionally, Lot 2, Lot 3, and the surrounding Lots are heavily forested. As a result, there are a substantial amount of trees that will visually screen a home built on Lot 3 from the surrounding Lots.

Additionally, if the Applications are approved, Mr. Murphy will impose covenants on the resulting Lot 3 that ensure that the single-family residential home built thereon will be consistent in size and architectural style with the homes built on the other Lots in Bay Chappell Farms.



Figure 9– 2020

Showing

Topography of the
Murphy Parcel,
Recreation Area Parcel,
1992 Carne Parcel, and
nearby Lots

Earlier this year, the Board of Commissioners authorized the creation of the Williams parcel. The Plat Revision Application seeks to increase the size of the Williams Parcel. Specifically, it seeks to add acreage to the southern portion of the Williams parcel in exchange for giving thirty-three (33') feet of road frontage to Lot 3. Stable Creek Road, in contrast, is on the northern side of the Williams Parcel. Because the Williamses will construct their house on the rear two (2) acre portion of Lot 2 (outside any former recreation area), the Plat Revision Application will not change the street character of the Williams Parcel.

Likewise, with respect to the 2020 Carne Parcel, the Plat Revision Application merely seeks to add a twenty-five (25') foot wide strip of land to Mr. Carne's current parcel, and Stable Creek Road is on the western side of the 2020 Carne Parcel. Thus, the Plat Revision Application, if approved, will not change the street character of the 2020 Carne Parcel. Consequently, the first Plat Revision Factor supports approval of the Plat Revision Application.

(2) *Lot size character. Whether the request will result in a lot that will be out of character with the size of existing lots. Aspects to consider are the lot width required by the zoning district, the minimum and maximum range of lots sizes, the number of lots within*

a size range, the average lot size and the degree proposed lots will be smaller than existing lots.

The Plat Revision Staff Report concludes that, as to second Plat Revision Factor, “all lots are proposed to exceed the two (2) acre minimum lot size” for the Neighborhood.

Therefore, the Plat Revision Application will not create any lot out of scale with existing Lots in the Neighborhood. Additionally, if the Applications are approved, Lot 3 (7.789 acres) will be limited to use as one (1) single-family building lot, an accessory structure or use thereto, and/or a garden. (Zoning Ordinance § 110-132(b) (Permitted Use under the R-72 zoning district)). Additionally, the Lots (1, 2, and 3) that will be created if the Applications are approved will, at the their frontage with Stable Creek Road, be consistent with the other Lots in the neighborhood. The residences on Lot 2 and Lot 3 will be built to the rear of those Lots—hundreds of feet from Stable Creek Road. Therefore, but for the driveways to those single-family homes, the appearance of the Neighborhood and the sizes of the Lots therein will not change or be affected. Consequently, the second Plat Revision Factor supports approval of the Plat Revision Application.

(3) Lot width character. Whether the request will result in a lot that will be out of character with the width of existing lots. Aspects to consider are the lot width required by the zoning district, the minimum and maximum range of lot widths, the lots widths within a range, the average lot width and the degree proposed lots will [be] more narrow than existing lots.

In response to the third Plat Revision Factor, the Plat Revision Staff Report finds as follows:

All proposed lots would be required to meet a lot width of 150 feet per the R-72 zoning district. The R-60 zoning district also required a 150 foot lot width. The proposed lots resulting from the subdivision of Lot 36 appear to be in character with similarly shaped lots within the subdivision. There are no existing flag lots with the subdivision but the proposed flaglot is 518 feet wide in the flag portion of the lot per the Concept Plan.

The Plat Revision Application will result in a Lots (Lot 2 and Lot 3) that will be approximately one hundred feet (100') and one hundred and twelve feet (112') in width where they meet Stable Creek Road. This road frontage range is consistent with the other Lots in the Neighborhood. The R-72 zoning district requires a lot width of one hundred and fifty feet (150'). (Zoning Ordinance § 110-132(d)(2)(b)). At their widest points Lots 1, 2, and 3 will be approximately ~240.00 feet, 378.75 feet, and 518.36 feet, respectively. While this is wider than the minimum lot width under the R-72 zoning district, the appearance of the Lots from Stable Creek Road and surrounding and adjacent lots will be consistent with the other Lots in the Neighborhood. Above all, at their road frontage and building lines, the Lots proposed by the Plat Revision Application will not be narrower than the existing Lots in the Neighborhood. Consequently, the third Plat Revision Factor supports approval of the Plat Revision Application.

(4) *Change of principal use. Whether the change of use will adversely affect the existing use or usability of adjacent or nearby property, will result in a use which will or could cause an excessive or burdensome use of existing or planned streets, or utilities, or other conditions which give supporting grounds for either approval or disapproval of the change of use proposal.*

Finally, the Plat Revision Staff Report notes that the Plat Revision Application “includes the change of the principal use on the [Recreation Area Parcel] to residential use,” but offers a mitigating condition, noted below.

Specifically, the Plat Revision Application seeks to change the use of the Recreation Area Parcel and combine it with the Flag portion of Murphy Parcel and the Williams Parcel to create Lot 2 and Lot 3. The Recreation Area Parcel will serve as driveways for Lot 2 and Lot 3. The Recreation Area Parcel has never been developed or used as a recreation or common area for the Neighborhood. Mr. Murphy has owned it for almost a dozen (12) years. The Plat Revision Application proposes one (1) single-family residence to be built on Lot 3—a use consistent with and the same as the other Lots in the Neighborhood. Therefore, approval of the Plat Revision Application will not result adversely affect the existing use or usability of adjacent or nearby property.

As noted above, the Murphy Parcel (as a legal, nonconforming lot) could be developed as a currently zoned (and platted) with one (1) single-family residence—if it were economically and practically feasible to construct a driveway the length of the Flagpole. Therefore, approval of the Plat Revision Application will not result in or cause an excessive or burdensome use of existing or planned streets, or other utilities.

Additionally, there are other conditions that support approval of the change of use of the Recreation Area Parcel. First, the parcel is privately owned by Mr. Murphy. Second, the parcel has never been developed or used as a recreation area or common area for the Neighborhood. Third, the Murphy Parcel is a legal, nonconforming lot, but if the Plat Revision Application is approved, that legal, nonconforming lot will be combined with other land to create a legal conforming lot. Finally, the Murphy Parcel is practically landlocked without an economically viable means of access. Based on the above the fourth Plat Revision Factor supports approval of the Plat Revision Application.

Staff's Recommendation on the Plat Revision Application

Staff analyzed the Plat Revision Factors, found that they supported approval of the Plat Revision Application, and recommended that the Board of Commissioners approve the Plat Revision Application with the following conditions:

1. That the proposed lots will maintain a front yard setback of 75 feet and the revised plat shall indicate the 75 foot front yard setback.

2. That use of that 2.11 acre area by the underlying fee owner(s) is limited to construction of no more than two total driveways to service proposed Lot 2 and Lot 3 (as shown on the Concept Plan submitted with the Applications). The owner(s) of Lots 2 and 3 shall not site any permanent improvements, other than the driveways to service Lot 2 and Lot 3, in such manner as to leave the remaining areas of the Recreation Area parcel free for passive recreation by the owners of all lots in Bay Chappell Subdivision, and no current or future owner of Lot 2 or Lot 3 shall substantially interfere with the use of the Recreation Area by any current or future owner of any other lot in Bay Chappell Farms Subdivision for recreation purposes. Substantial interference shall include, but not be limited to, the erection of a fence excluding access to the Recreation Area. Additionally, before a revised final plat is recorded, the current owners of any portion of Lots 1, 2, and 3 shall indemnify and hold harmless the County from any and all future claims related to (1) the County's approval of the Applications that include the 2.11 acre Recreation Area; and (2) the extinguishment of the original 25 foot strip connecting Lot 3 with Chappell Road.

3. That the revised final plat shall indicate the area of the 2.11 acre Recreation Area in relationship to proposed Lots 2 and 3.

Mr. Murphy and Mr. Carne have consented to those conditions. As such, this Letter of Intent respectfully requests that the Board of Commissioners approve the Plat Revision Application with Staff's recommended conditions.

B. The Rezoning Application

The Murphy Parcel is zoned A-R. The Recreation Area Parcel, the Williams Parcel, and the Carne Parcel are zoned R-72. The Plat Revision Application seeks to combine portions of these four (4) parcels to create three (3) parcels—all within the Neighborhood and all containing a portion of what is now the Murphy Parcel. Therefore, if the Plat Revision Application is approved with a rezoning, the result would be the drawing of three (3) Lots all with two (2) different zoning districts (A-R and R-72) applied to each Lot. Section 110-28 of the Zoning Ordinance provides that if a parcel has more than one zoning district applied to it—such as A-R and R-72, in this case—then the parcel must be rezoned to one (1) zoning district, before, among other things, a final plat, site plan, and/or building permit is submitted.

Therefore, in order to create a buildable lot on each Lot proposed on the Concept Plan, the Murphy Parcel must be rezoned to R-72 consistent with the other Lots in the Neighborhood.⁴ Consequently, the Rezoning Application requests that the Board of Commissioners rezone the Murphy Parcel (the original 10 acre parcel) to R-72. Section 110-300 of the Zoning Ordinance sets forth the factors by which a Rezoning Application is to be evaluated (the “**Rezoning Factor(s)**”).

⁴ Should the Board of Commissioners of Fayette County prefer that Lot 3 be zoned A-R (rather than R-72), then please consider this letter a request to table the Rezoning Application and the Plat Revision Application so that the Rezoning Application can be amended and re-advertised in accordance with that preference. If this is the desire of the Board of Commissioners, the resulting Lot 3 would be zoned A-R, and Lot 1 and Lot 2 would be zoned R-72.

In its report on the Rezoning Application (the “Rezoning Application Staff Report”), Staff analyzed the Rezoning Factors, determined that they support approval of the Rezoning Application, and recommended the Rezoning Application be approved with a condition. Those factors and an analysis of each are set forth below.

(1) Whether the zoning proposal is in conformity with the land use plan and policies contained therein;

The Fayette County Comprehensive Plan 2017-2040 (the “**Comp. Plan**”) and the accompanying Future Land Use Plan (“**FLUM**”) designate the Murphy Property as “Agricultural Residential” which plans for development with a density of no less than one (1) unit per five (5) acres. The R-72 Zoning District permits parcels of two (2) acres or more. If this were a request for acreage to be subdivided, R-72 would not conform with the land use plan. However, here, the Rezoning Application is presented in conjunction with the Plat Revision Application, which, if approved, will create a 7.789-acre Lot shown as Lot 3 on the Concept Plan. Therefore, while R-72 does not conform with the Comp. Plan and FLUM, the resulting Lot 3 will conform with the Comp. Plan and FLUM. And, practically, if the Applications are approved, Lot 3 will not be able to be utilized as anything other than one (1) single-family residential Lot within the Neighborhood. Collectively, the density between Lot 1, Lot 2, and Lot 3, as proposed, is *one (1) unit per approximately five and half (5.5) acres*. Therefore, even though the Rezoning Application requests rezoning to a zoning district not listed in the Comp. Plan as compatible with the “Agricultural Residential” planning area, the Rezoning Application supports the policy of the Comp. Plan for that planning area to limit “[r]esidential density . . . to no more than one unit per five acres.” (Comp. Plan, GC-4, L-7 to L-8).

Staff (in its Rezoning Application Staff Report) determined the following with respect to the first Rezoning Factor:

The subject property lies within an area designated as Agricultural Residential (1 Unit/5 Acres). The proposed lot size of Lot 3 at 7.789 acres, as indicated on the lot layout Concept Plan, conforms to the density standard for the Agricultural Residential character area, but the requested R-72 zoning district is not one of the zoning districts permitted in that character area. As the subject property is proposed to access Stable Creek Road in the subdivision, it would properly be considered a part of the subdivision and would require re-platting of the land included within this application. The approval of this request could also serve as an impetus to other property requests for rezoning districts that require less than a five (5) acre lot size or density and thus increasing the overall density of the southern portion of the county. To protect against that contingency, staff will recommend the following condition should the rezoning petition be approved: That Lot 3, as indicated on the lot layout Concept Plan, shall maintain a minimum five (5) acre (217,800 square feet) lot size.

Other policies of the Comp. Plan also support approval of the Rezoning Application. For example, approval of the Rezoning Application would “maintain the character of established

communities [and the] suburban neighborhood[]” known as Bay Chappell Farms. (*Id.*, L-24). Likewise, the Rezoning Application, if approved, would “stabilize [the] residential neighborhood[]” Bay Chappell Farms “adjacent to [a] nonresidential [area].” (*Id.*, L-25). Further, if the Rezoning Application is approved, the result will “protect and enhance [the] existing [Bay Chappell Farms] [N]eighborhood by ensuring that development is of compatible use [and] density/intensity.” (*Id.*, L-24).

Further, approval of the Rezoning Application (and the associated Plat Revision Application) will transform a *legal nonconforming lot* (i.e., the Murphy Parcel) into a *legal conforming lot* (i.e., Lot 3) that complies with the Comprehensive Plan and the FLUM. Specifically, the Murphy Parcel’s 25-foot wide Flagpole does not comply with Section 110-67(b) of the Zoning Ordinance which requires one hundred feet (100’) of road frontage for every residential lot. The Murphy Parcel, nonetheless, is a legal, nonconforming, buildable lot under Section 110-170(a) of the Zoning Ordinance which permits a lot platted before a zoning ordinance provision, such as Section 110-67(b), to be buildable even though the lot does not comply with a subsequently-enacted zoning ordinance provision. Approval of the Rezoning Application will, therefore, further a purpose and policy of the Zoning Ordinance to eliminate nonconforming uses. (*See generally* Zoning Ordinance § 110-170).

The first Rezoning Factor, based on the above, supports approval of the Rezoning Application.

(2) *Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;*

If approved, the Rezoning Application will not adversely affect the existing use or usability of adjacent or nearby property. As shown in Figure 2 above (page 3), adjacent and nearby properties are zoned for A-R or for residential use. The majority of the parcels contiguous to the Murphy Parcel are Lots within the Neighborhood. Rezoning the Murphy Parcel to R-72 would make its zoning (and, as a result, its use) consistent with the zoning and use for the Lots within Bay Chappell Farms thereby ensuring that the use of the Murphy Parcel does not adversely affect the existing use or usability of adjacent or nearby properties. Moreover, the three (3) Lots that will result if the Rezoning Application and the Plat Revision Application are approved will have an average density of one (1) unit per approximately five and a half (5.5) acres—consistent with the Comp. Plan and FLUM. Consequently, approval of the Rezoning Application will not affect the use or usability of adjacent or nearby property.

Staff concluded that, with respect to the second Rezoning Factors, that approval of the Rezoning Application “will not adversely affect the existing use or usability of adjacent or nearby property.” Consequently, the second Rezoning Factor supports approval of the Rezoning Application.

(3) *Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing or planned streets, utilities, or schools; and*

The Murphy Parcel is currently a legal, nonconforming, buildable lot. As a result, if it were economical to build a driveway the length of the Flagpole, then the Murphy Parcel could be developed with one (1) single-family residential dwelling. Accordingly, rezoning the Murphy Parcel to R-72 will not cause or have the potential to cause an excessive or burdensome use of existing or planned streets, utilities, or schools. In other words, if the Rezoning Application is approved, the resulting density will be the same that could (in theory) be developed on the Murphy Parcel now.

Analyzing the third Rezoning Factor, Staff found that approval of the Rezoning Application “will not result in a burdensome use of roads, utilities, or schools.” Accordingly, the third Rezoning Factor supports approval of the Rezoning Application.

(4) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

As noted above, the changing hydrology over the Flagpole portion of the Murphy Parcel and the ever-increasing cost to construct a driveway the length of the Flagpole constitute existing and changing conditions, respectively, affecting the use and development of the Murphy Property. (See Exhibit “B” attached hereto (*U.S. Bureau of Labor Statistics, Producer Price Index by Industry: Cement and Concrete Product Manufacturing*, FRED, FEDERAL RESERVE BANK OF ST. LOUIS, <https://fred.stlouisfed.org/series/PCU32733273>, (last accessed June 10, 2020)). These two factors make it economically and practically impossible to construct a driveway the length of the Flagpole.

Staff, in response to the fourth Rezoning Factor, determined that “[e]xisting conditions and the area’s continuing development as an [A-R] (1 Unit/5 Acres) district[,] maintain a five acre density[,] and the recommended condition support this petition. As a result, the fourth Rezoning Factor supports approval of the Rezoning Application.

Staff’s Recommendation on the Rezoning Application

Staff, thus, recommended approval of the Rezoning Application with the following condition:

That Lot 3, as indicated on the lot layout Concept Plan, shall maintain a minimum five (5) acre (217,800 square feet) lot size.

Mr. Murphy consents to and supports Staff’s recommendation of approval with one (1) condition. This Letter of Intent, therefore, requests that the Board of Commissioners approve the Rezoning Application with the condition recommended by Staff.

IV. CONCLUSION

Based on the foregoing, this Letter of Intent respectfully requests that the Fayette County

Mr. Pete Frisina
Thursday, July 23, 2020
Page 21

Board of Commissioners approve (as filed) the Plat Revision Application and the Rezoning Application. Additionally, the Applications are related and, as a result, this Letter of Intent also respectfully requests that the Board of Commissions consistently and contemporaneously vote on both Applications.⁵ Should you have any questions or concerns regarding the request, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven L. Jones", with a stylized flourish at the end.

Steven L. Jones

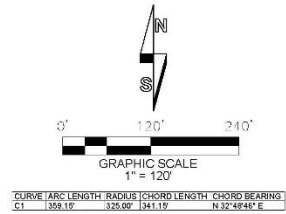
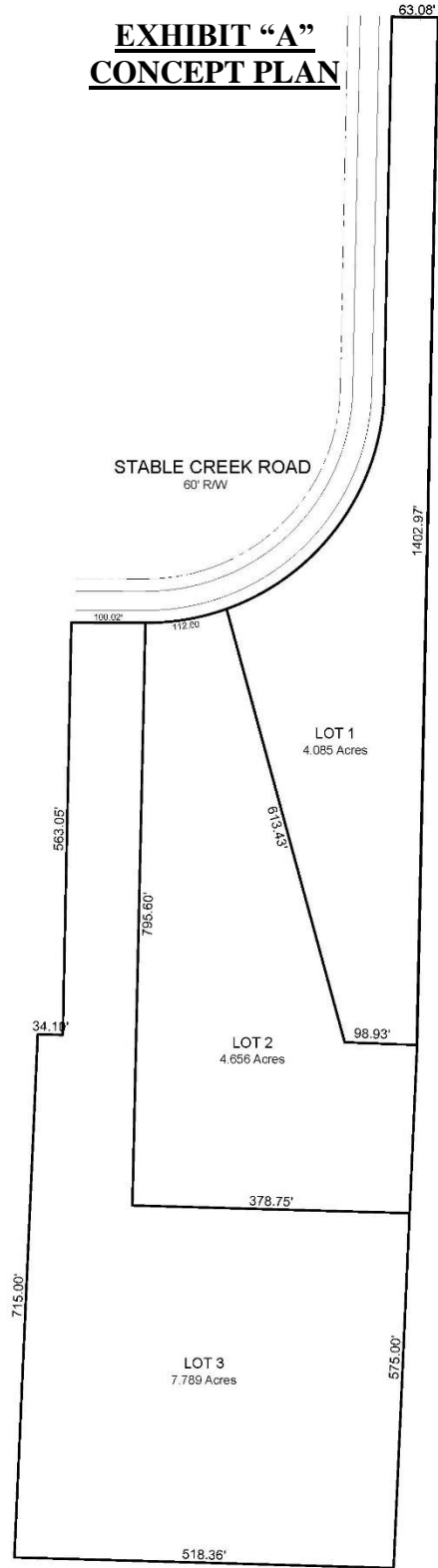
Enclosures

SLJ

cc: Mr. Howard Johnson (hjohnson@fayettecountyga.gov)

⁵ Attached hereto as Exhibit “C” and Exhibit “D” respectively are a “Constitutional Objection to Current Zoning and Development Regulations” and an “Objection Pursuant to *York v. Athens College of Ministry, Inc.*”

EXHIBIT "A" **CONCEPT PLAN**



CURVE	ARC LENGTH	RADIUS	CHORD LENGTH	CHORD BEARING
C1	159.17'	325.00'	141.17'	N 52° 48' 41" E

EXHIBIT “B”
HISTORIC PRODUCER PRICE INDEX FOR CEMENT AND CONCRETE PRODUCT
MANUFACTURING INDUSTRY

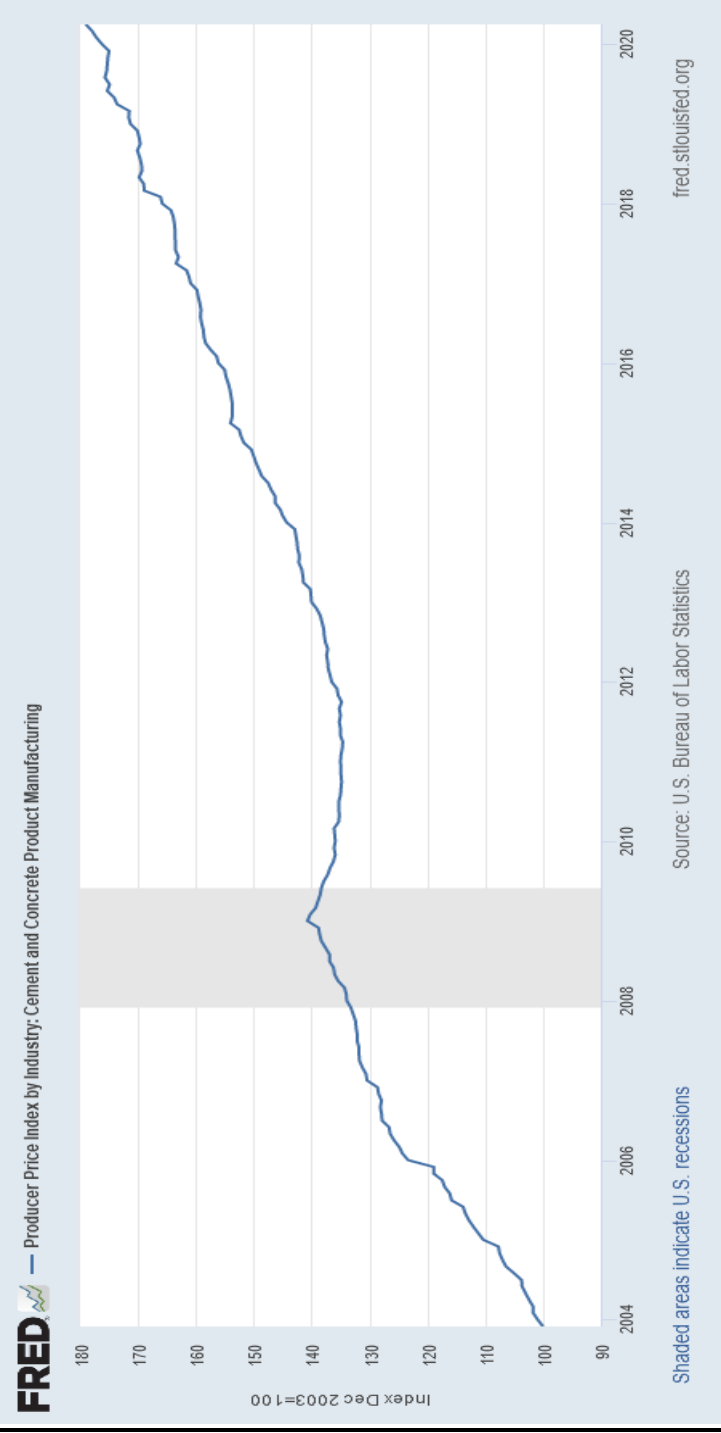


EXHIBIT “C”

CONSTITUTIONAL OBJECTION TO CURRENT ZONING AND DEVELOPMENT REGULATIONS

As applied to (1) the real property of William T. Murphy (the “Owner”) that is identified as Fayette County Tax Assessor as Parcel Identification Number (“TPN”): 0434 097 (the “Murphy Parcel”), consists of approximately 10 +/- acres, is the subject of the Application to Amend the Official Zoning Map of Fayette County, Georgia Number 1292-20 (the “Rezoning Application”), and is partially the subject of the Application to Revise a Recorded Plat Number RP-076-20 (the “Plat Revision Application”, and together with the Rezoning Application, the “Applications”), both previously filed with Fayette County, Georgia; and (2) the real property of the Owner that is identified as TPN 0434 03021 (the “Recreation Area Parcel,” and together with the Murphy Parcel, the “Subject Properties), consists of approximately 1.46 +/- acres, and is also the subject of the Plat Revision Application, the Zoning Ordinance of Fayette County, Georgia (the “Zoning Ordinance”)¹ and/or the Development Regulation of Fayette County, Georgia (the “Development Regulations”),² as presently applied to the Subject Properties³ based on the reasons set forth in the letter of intent dated June 17, 2020 previously filed with Fayette County, Georgia (the “Letter of Intent”), are unconstitutional in that the Owner’s property rights in and to the Subject Properties have been destroyed without first receiving fair, adequate, and just compensation for such property rights. For the reasons set forth in the Letter of Intent, as applied to the Subject Properties, the Zoning Ordinance and the Development Regulations deprive the Owner of constitutionally protected rights in violation of Article I, Section I, Paragraphs I-II of the Constitution of the State of Georgia of 1983; Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States.

For the reasons set forth in the Letter of Intent, Application of the Zoning Ordinance and the Development Regulations to the Subject Properties is unconstitutional, illegal, arbitrary, capricious, null, and void, constituting a taking of the Subject Properties in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States; the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States; Article I, Section I, Paragraphs I-II of the Constitution of the State of Georgia of 1983; and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 thereby denying the Owner economically viable uses of the Subject Properties while not substantially advancing legitimate state interests.

For the reasons set forth in the Letter of Intent, inasmuch as it is impossible for the Owner to use the Subject Properties and simultaneously comply with the Zoning Ordinance and/or the Development Regulations, the Zoning Ordinance and/or the Development Regulations constitute an arbitrary, capricious, and unreasonable act by Fayette County without any rational basis therefore and constitutes an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983; Article I, Section III, Paragraph I of the

¹ Chapter 110 of the Code of Ordinances of Fayette County, Georgia.

² Chapter 104 of the Code of Ordinances of Fayette County, Georgia.

³ The Murphy Parcel is currently zoned A-R, Agricultural-Residential District (“A-R”); the Recreation Area Parcel is currently zoned R-72, Single-Family Residential District (“R-72”); and the Carne Parcel is currently zoned R-72.


EXHIBIT "C"

Constitution of the State of Georgia of 1983; and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

For the reasons set forth in the Letter of Intent, application of the Zoning Ordinance and/or the Development Regulations to the Subject Properties is unconstitutional and discriminates against the Owner in an arbitrary, capricious, and unreasonable manner between the Owner and others similarly situated in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

WHEREFORE, the Owner respectfully requests that the Board of Commissioners of Fayette County, Georgia approve the Plat Revision Application and the Rezoning Application as specified and designated in the Applications.

BOVIS, KYLE, BURCH & MEDLIN, LLC
Counsel for the Owner



Steven L. Jones
Georgia State Bar No.: 639038

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(678) 338-3902

EXHIBIT “D”

OBJECTION PURSUANT TO *YORK V. ATHENS COLLEGE OF MINISTRY, INC.*

As applied to (1) the real property of William T. Murphy (the “Owner”) that is identified as Fayette County Tax Assessor as Parcel Identification Number (“TPN”): 0434 097 (the “Murphy Parcel”), consists of approximately 10 +/- acres, is the subject of the Application to Amend the Official Zoning Map of Fayette County, Georgia Number 1292-20 (the “Rezoning Application”), and is partially the subject of the Application to Revise a Recorded Plat Number RP-076-20 (the “Plat Revision Application”, and together with the Rezoning Application, the “Applications”), both previously filed with Fayette County, Georgia; and (2) the real property of the Owner that is identified as TPN 0434 03021 (the “Recreation Area Parcel,” and together with the Murphy Parcel, the “Subject Properties), consists of approximately 1.46 +/- acres, and is also the subject of the Plat Revision Application, the public hearings before and any action or recommendation by the Fayette County, Georgia Planning Commission (the “Planning Commission”) and/or the Board of Commissioners of Fayette County, Georgia (the “Board of Commissioners”) on the same are objected to based on, but not limited to, the reasons set forth herein (collectively, the “*York* Objection”), in accordance with *York v. Athens College of Ministry, Inc.*, 348 Ga App. 58, 821 S.E.2d 120 (2018):

Contemporaneous with the filing of this *York* Objection, the Owner is filing a Constitutional Objection¹ to the Zoning Ordinance of Fayette County, Georgia (the “Zoning Ordinance”)² and/or the Development Regulation of Fayette County, Georgia (the “Development Regulations”),³ currently applied of the Subject Property, and all objections set forth therein are incorporated herein by reference as if fully restated.

The Owner objects to any and all members of the public who appear at the public hearings before the Planning Commission and/or Board of Commissioners to the extent that (but not limited to) said individuals (a) do not satisfy the substantial interest-aggrieved citizen test; (b) are not under oath; (c) are not subject to cross-examination; (d) present evidence on and/or make statements that qualify as (or must or should be assessed with the aid of) expert opinion without any or all individuals being qualified as expert witnesses; (e) present evidence on and/or make statements that are not germane to the exclusive factors for rezoning set forth in Section 110-300 of the Zoning Ordinance and/or the exclusive factors for revising a recorded plat set forth in Section 104-595 of the Development Regulations; and/or (f) present evidence and/or make statements that are founded, wholly or in part, upon inadmissible, unreliable, nonprobative, insubstantial, and/or lay, nonexpert opinion evidence. Likewise, to the extent that any recommendation by the Planning Commission and/or decision by the Board of Commissioners is a quasi-judicial decision, the Owner objects to the hearings before the Planning Commission and Board of Commissioners because the time limitation imposed on the presentation of evidence and testimony in support of the Applications deprives the Owner a meaningful opportunity to be heard and preserve issues in violation of the Due Process Clause of the Fourteenth Amendment to the

¹ See Exhibit “B” to the Letter of Intent to which this Objection is attached.

² Chapter 110 of the Code of Ordinances of Fayette County, Georgia.

³ Chapter 104 of the Code of Ordinances of Fayette County, Georgia.

EXHIBIT "D"

Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of Georgia of 1983.

Additionally, the Owner objects to any recommendation of the Planning Commission that does not recommend approval of the Applications or recommends approval of the Applications with unreasonable conditions; and/or any action by the Board of Commissioners that does not approve the Applications or approves the Applications with unreasonable conditions, to the extent that (but not limited to) either is: (a) in violation of Section 50-13-19(h) of the Official Code of Georgia Annotated or otherwise: (1) in violation of constitutional, statutory, and/or ordinance provisions; (2) in excess of the constitutional, statutory, and/or ordinance authority of the Planning Commission and/or the Board of Commissioners; (3) made upon unlawful procedure; (4) affected by other error of law; (5) clearly erroneous in view of the reliable probative and substantial evidence on the whole record; and/or (6) arbitrary, capricious, and/or characterized by abuse of discretion or clearly unwarranted exercise of discretion; (b) contrary to any reports and recommendations for approval, if any, of (1) the Fayette County, Georgia Director of Planning and Zoning (or any assigns thereof); (2) the Planning Commission; and/or (3) any other Department or agency of Fayette County, Georgia or the State of Georgia; (c) founded, wholly or in part, upon inadmissible, unreliable, nonprobative, insubstantial, and/or lay, nonexpert opinion evidence; and/or (d) contrary to the exclusive factors for rezoning set forth in Section 110-300 of the Zoning Ordinance and or the exclusive factors for revising a recorded plat set forth in Section 104-595 of the Development Regulations.

By and through this *York* Objection, the Applicant hereby preserves all the above and incorporated Objections and asserts them on and within the record before, and for consideration and resolution by, the Board of Commissioners of Fayette County, Georgia.

WHEREFORE, the Owner requests that the Board of Commissioners approve the Plat Revision Application and the Rezoning Application as specified and designated in the Petition.

BOVIS, KYLE, BURCH & MEDLIN, LLC
Counsel for the Owner



Steven L. Jones
Georgia State Bar No.: 639038

200 Ashford Center North, Suite 500
Atlanta, Georgia 30338-2680
sjones@boviskyle.com
(678) 338-3902

REQUESTED ACTION: A-R to R-72

PROPOSED USE: Single-Family Residential

EXISTING USE: Undeveloped

LOCATION: Chappell Road

DISTRICT/LAND LOT(S): 4th District, Land Lot(s) 167

OWNER: William T. Murphy

AGENT: Steven L. Jones (Bovis, Kyle, Burch & Medlin, LLC)

PLANNING COMMISSION PUBLIC HEARING: August 6, 2020

BOARD OF COMMISSIONERS PUBLIC HEARING: August 27, 2020

APPLICANT'S INTENT

Applicant proposes to rezone 10.00 acres from A-R to R-72 to add property to the Bay Chappell Farms Subdivision (associated with Revised Plat RP-076-20 application).

STAFF RECOMMENDATION

APPROVAL WITH ONE (1) CONDITION

INVESTIGATION

A. PROPERTY SITE

The subject property is a 10.00 acre tract fronting on Chappell Road in Land Lot 167 of the 4th District. Chappell Road is classified as a Collector road on the Fayette County Thoroughfare Plan. The subject property is undeveloped.

History: The subject property is a portion of a parcel of approximately 119 acres owned by Lloyd and Rosemary Chambers which they purchased in 1981. The applicant purchased the subject property in 1986. In 1988, the Chambers submitted rezoning application 696-88 to rezone 108.43 acres of the 119 acre parcel from A-R to R-60 which was approved by the Board of Commissioners on September 22, 1998. This property would become Bay Chappelle Farms Subdivision. The R-60 zoning district was deleted from the zoning ordinance in 1998 and all properties in the R-60 zoning District were put into the R-72 zoning district.

The following are the conditions of the rezoning:

1. That the total number of lots shall not exceed 43 for the 108.43 acres zoned.
2. That no structure shall front on or have direct access to Chappell Road.
3. That all structures shall be set back at least 80 feet from the right-of-way of Chappell Road.
4. To provide an UNDISTURBED or planted buffer at least 20 feet deep along the right-of-way of Chappell Road, said buffer being indicated on the final plat of the subdivision.

B. SURROUNDING ZONING AND USES

The general situation is a 10.00 acre tract that is zoned A-R. In the vicinity of the subject property is land which is zoned R-72, R-85, and A-R. See the following table and also the attached Zoning Location Map.

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

Direction	Acreage	Zoning	Use	Comprehensive Plan
North	1.46	R-72	Labeled as Recreation Area on Final Plat	Agricultural Residential (1 Unit/5 Acres)
	5.75	R-72	Single-Family Residential	
	2.0	R-20	Single-Family Residential	
	15.0	A-R	Single-Family Residential	
South	6.0	A-R	Single-Family Residential	Agricultural Residential (1 Unit/5 Acres)
	5.3	A-R	Single-Family Residential	
East	9.57	A-R	Single-Family Residential	Agricultural Residential (1 Unit/5 Acres)
	2.0	A-R	Undeveloped	
	5.0	A-R	Single-Family Residential	
	7.0	A-R	Single-Family Residential	
	6.2	R-85	Single-Family Residential	
	6.2	R-85	Single-Family Residential	
	12.0	A-R	Single-Family Residential	
West	2.0	R-72	Single-Family Residential	Agricultural Residential (1 Unit/5 Acres)
	2.0	R-72	Single-Family Residential	
	2.0	R-72	Single-Family Residential	
	2.4	R-72	Single-Family Residential	
	2.0	R-72	Single-Family Residential	
	2.0	R-72	Single-Family Residential	
	2.04	R-72	Single-Family Residential	
	2.04	R-72	Undeveloped	

C. COMPREHENSIVE PLAN

The subject property lies within an area designated as Agricultural Residential (1 Unit/5 Acres). The proposed lot size of Lot 3 at 7.789 acres, as indicated on the lot layout Concept Plan, conforms to the density standard for the Agricultural Residential character area, but the requested R-72 zoning district is not one of the zoning districts permitted in that character area. As the subject property is proposed to access Stable Creek Road in the subdivision, it would properly be considered a part of the subdivision and would require re-platting of the land included within this application.

The approval of this request could also serve as an impetus to other property requests for rezoning districts that require less than a five (5) acre lot size or density and thus increasing the overall density of the southern portion of the county. To protect against that contingency, staff will recommend the following condition should the rezoning petition be approved:

That Lot 3, as indicated on the lot layout Concept Plan, shall maintain a minimum five (5) acre (217,800 square feet) lot size.

D. ZONING/REGULATORY REVIEW

The applicant seeks to rezone from A-R to R-72 to add property to the Bay Chappell Farms Subdivision and this rezoning is associated with an application (RP-076-20) to revise the Final Plats of Bay Chappell Farms to add property to Bay Chappell Farms Subdivision, create an additional lot in Bay Chappell Farms Subdivision, and change the principal use on a lot labeled Recreational Area (Bay Chappell Farms Phase Two) to residential use. The subject property is a nonconforming lot as the lot has only 25 feet road frontage, legal at the time when the lot was recorded, instead of 100 feet of road as is currently required.

Rezoning from A-R to R-72 is necessary to comply with Sec. 110-28. - Boundary rule. (4) which states:

In addition, any development which results in or is located on a lot with multiple zonings shall be rezoned to one zoning district prior to submittal of a preliminary plat, final plat, minor subdivision plat, site plan, and/or building permit, as applicable.

Bay Chappell Farms subdivision currently contains 40 lots. The aforementioned rezoning condition #1 above limits the total number of lots to 43 in the subdivision. The addition of two lots, as is proposed in conjunction with petition RP-076-20, will bring the total number of lots up to 42 which complies with the condition.

Platting

Should this request be approved, the applicant is reminded that before any lots can be sold or building permits issued for the proposed subdivision, the subject property must be platted per the Fayette County Subdivision Regulations, as applicable.

Access

The applicant indicates access will be from Stable Creek Road.

E. DEPARTMENTAL COMMENTS

Water System

“Lot 1” (Lot 36 Bay Chappell Farms/170 Stable Creek Rd.) has an existing water service at or very near its original western property line, the additional road frontage being granted for “Lot 2” and “Lot 3”, places this water service on future “Lot 3”. This water service will need to be relocated onto future “Lot 1” or used as a future water service for future “Lot 3” and a new water service installed for future “Lot 1”, at the expense of the developer. Additionally, water service will need to be installed for future “Lot 2”, at the developers expense. Also any other conflicts that arise with FCWS facilities as a result of this re-plat must be resolved by the developer with coordination through FCWS.

Public Works/Engineering

No Engineering comments on the proposed rezoning.

Environmental Management

Floodplain	The property DOES NOT contain floodplain per FEMA FIRM panel 13113C0113E and 13113C0083E dated Sept 26, 2008. The property DOES contain additional floodplain delineated in the FC 2013 Future Conditions Flood Study.
Wetlands	The property DOES NOT contain wetlands per the U.S. Department of the Interior, Fish and Wildlife Service 1994 National Wetland Inventory Map. Per Section 8-4 of Fayette County Development Regulations, the applicant must obtain all required permits from the U.S. Army Corps of Engineers <u>prior</u> to issuance of any permits from Fayette County for any phase of development affecting wetlands.
Watershed	The watershed protection ordinance WOULD apply to this property.
Groundwater	The property IS NOT within a groundwater recharge area.
Stormwater	This development IS NOT subject to the Post-Development Stormwater Management Ordinance.

Environmental Health Department

No objection to rezoning and revision to the plat. However, records indicate that there are challenging soils in this area and submission of a red stamped level 3 soils report will be needed for all of the lots.

Fire

Approved

STAFF ANALYSIS

This request is based on the petitioner's intent to rezone said property from A-R to R-72 to add property to the Bay Chappell Farms Subdivision and this rezoning is associated with an application (RP-076-20) to revise the Final Plats of Bay Chappell Farms to add property to Bay Chappell Farms Subdivision, create an additional lot in Bay Chappell Farms Subdivision, and change the principal use on a lot labeled Recreational Area (Bay Chappell Farms Phase Two) to residential use.. Per Section 110-300 of the Fayette County Zoning Ordinance, Staff makes the following evaluations:

1. The subject property lies within an area designated as Agricultural Residential (1 Unit/5 Acres). The proposed lot size of Lot 3 at 7.789 acres, as indicated on the lot layout Concept Plan, conforms to the density standard for the Agricultural Residential character area, but the requested R-72 zoning district is not one of the zoning districts permitted in that character area. As the subject property is proposed to access Stable Creek Road in the subdivision, it would properly be considered a part of the subdivision and would require re-platting of the land included within this application.

The approval of this request could also serve as an impetus to other property requests for rezoning districts that require less than a five (5) acre lot size or density and thus increasing the overall density of the southern portion of the county. To protect against that contingency, staff will recommend the following condition should the rezoning petition be approved:

That Lot 3, as indicated on the lot layout Concept Plan, shall maintain a minimum five (5) acre (217,800 square feet) lot size.

2. The proposed rezoning will not adversely affect the existing use or usability of adjacent or nearby property.
3. The proposed rezoning will not result in a burdensome use of roads, utilities, or schools.
4. Existing conditions and the area's continuing development as an Agricultural Residential (1 Unit/5 Acres) district maintaining a five acre density and the recommended condition support this petition.

Based on the foregoing Investigation and Staff Analysis, Staff recommends **APPROVAL WITH ONE (1) CONDITION.**

RECOMMENDED CONDITIONS

If this petition is approved by the Board of Commissioners, it should be approved **R-72 CONDITIONAL** subject to the following enumerated conditions. Where these conditions conflict with the provisions of the Zoning Ordinance, these conditions shall supersede unless otherwise specifically stipulated by the Board of Commissioners.

1. That Lot 3, as indicated on the lot layout Concept Plan, shall maintain a minimum five (5) acre (217,800 square feet) lot size.

R-20

R-20

R-20

Rezoning 1292-20 & Revised Plat RP-076-20 Zoning

Chappell Road

R-72

A-R

Stable Creek Road

Revised Plat
Bay Chappell
Farms
RP-076-20

Rezoning
1292-20
A-R to R-72

R-85

**Rezoning 1292-20 &
Revised Plat RP-076-20
Land Use Plan**

Chappell Road

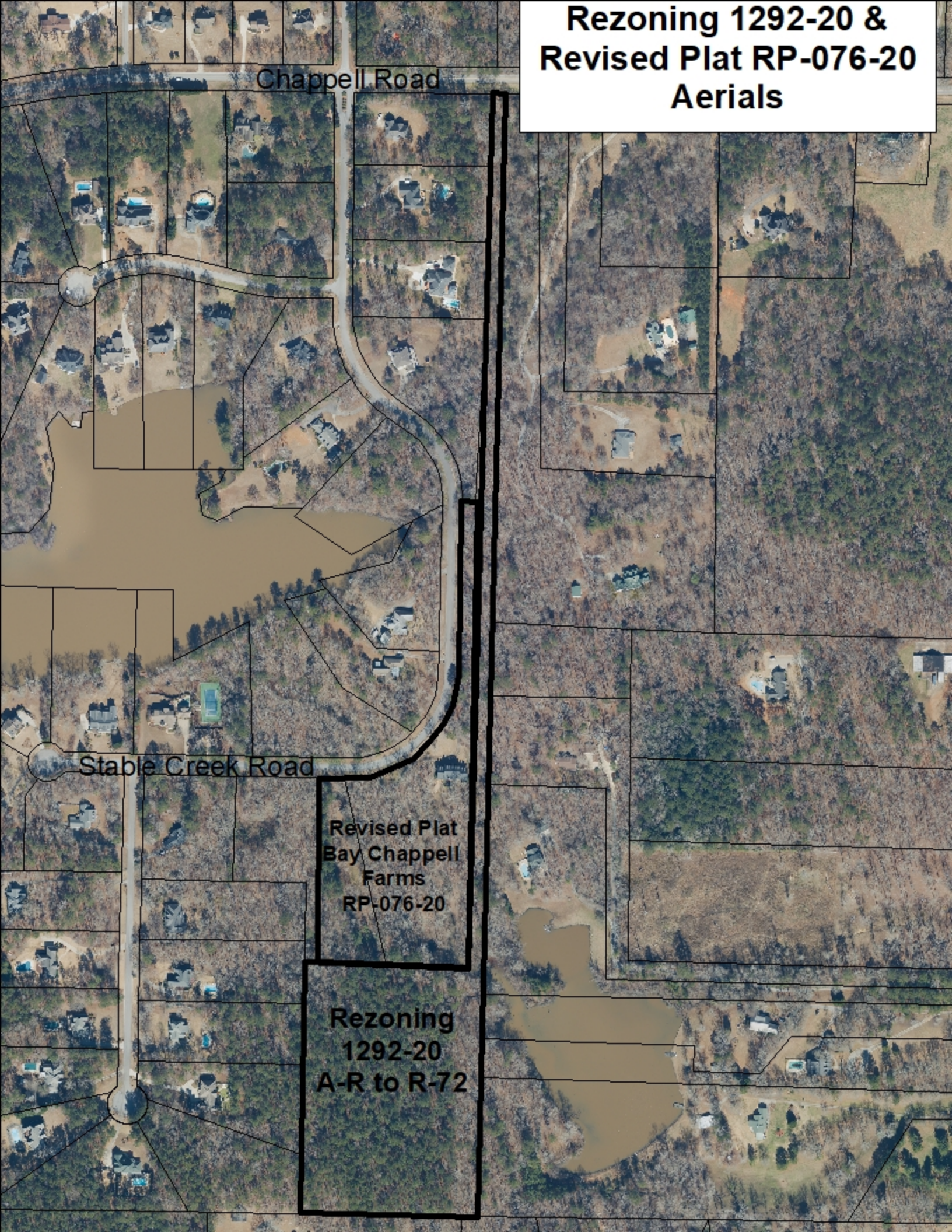
AGRICULTURAL
RESIDENTIAL

Stable Creek Road

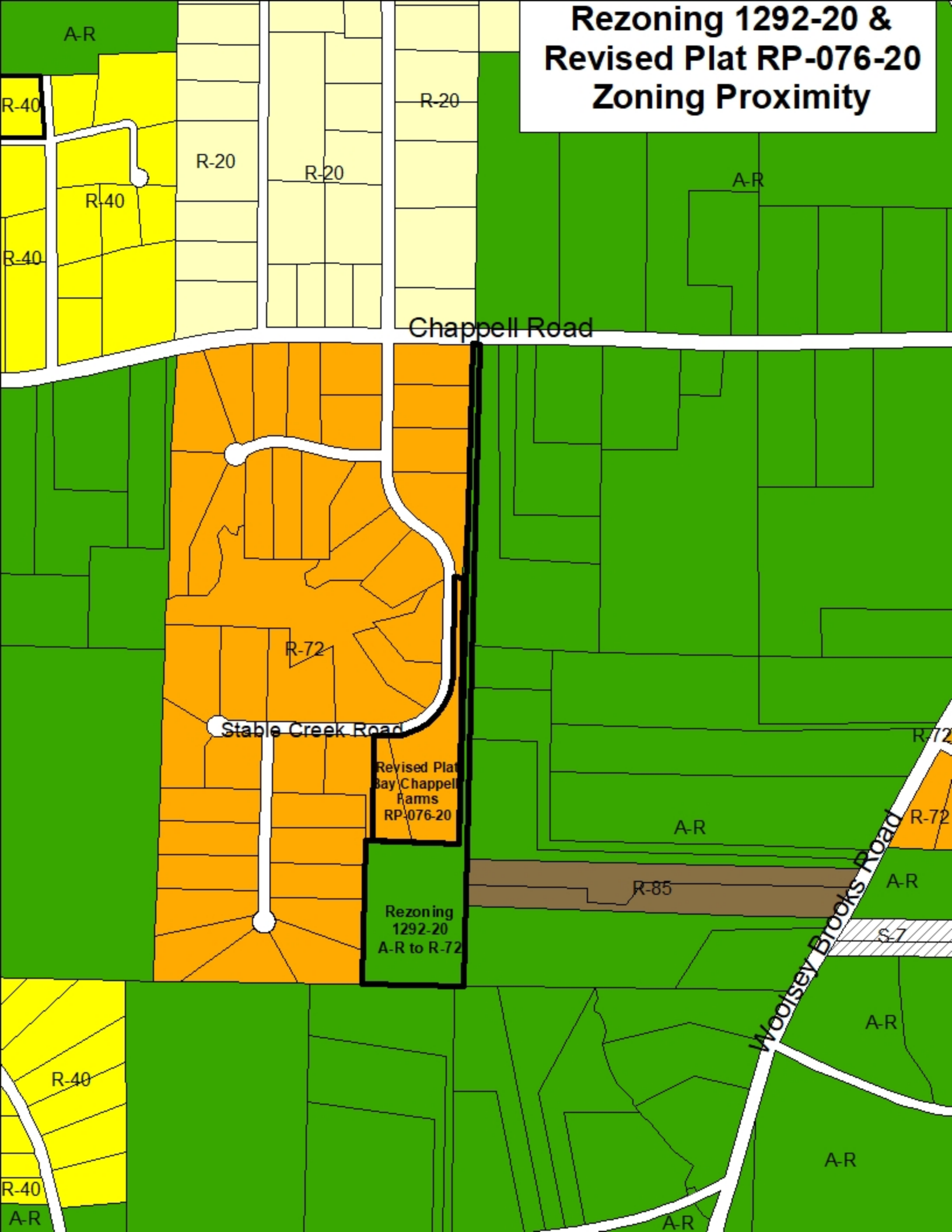
Revised Plat
Bay Chappell
Farms
RP-076-20

Rezoning
1292-20
A-R to R-72

Rezoning 1292-20 & Revised Plat RP-076-20 Aerials



Rezoning 1292-20 & Revised Plat RP-076-20 Zoning Proximity



PETITION NUMBER: RP-077-20

REQUESTED ACTION: To revise the Final Subdivision Plat of Autumn Lake Estates to add 19.675 acres to the subdivision and to create two additional lots.

ZONING DISTRICT: A-R

LOCATION: Village Lake Court and SR 85 Connector

LAND LOT/DISTRICT: Land Lot 36 of the 4th District

APPLICANT/AGENT: Joe L. Brown Estate, c/o Brown Nelms CPA/George Cocolos

INVESTIGATION

History: The Final Plat for Autumn Lake Estates was recorded on November 20, 2006. The subdivision contains 16 lots.

Subdivision Regulations

Sec. 104-595. - Approval of subdivisions.

(2) Final plat or minor subdivision plat

j. Revision to a recorded final plat.

2. Proposed revisions to a recorded major final plat of any existing residential or agricultural-residential subdivisions which adds property to, increases the number of platted lots, or changes the principal use on a lot shall be considered in public hearings before the planning commission and the board of commissioners and public notification shall comply with Sec. 110-301. - Public notification. The following factors shall be considered by the planning and zoning department, the planning commission and the board of commissioners when reviewing these requests:
 - (i) *Street character.* Whether the request will result in a residence or accessory structure that will be out of character with the alignment of existing residences and accessory structures. Aspects to consider are the front setback established on the final plat, the alignment of existing residences and accessory structures, the degree a proposed residence or accessory structure will be out of alignment with the setback and/or existing residences and accessory structures and the presence of vegetation (trees, bushes, shrubbery, etc.) which may provide visual screening.

- (ii) *Lot size character.* Whether the request will result in a lot that will be out of character with the size of existing lots. Aspects to consider are the lot width required by the zoning district, the minimum and maximum range of lots sizes, the number of lots within a size range, the average lot size and the degree proposed lots will be smaller than existing lots.
- (iii) *Lot width character.* Whether the request will result in a lot that will be out of character with the width of existing lots. Aspects to consider are the lot width required by the zoning district, the minimum and maximum range of lot widths, the lot widths within a range, the average lot width and the degree proposed lots will more be narrow than existing lots.
- (iv) *Change of principal use.* Whether the change of use will adversely affect the existing use or usability of adjacent or nearby property, will result in a use which will or could cause an excessive or burdensome use of existing or planned streets, or utilities, or other conditions which give supporting grounds for either approval or disapproval of the change of use proposal.

Department Comments

Planning and Zoning

The factors above are to be used to review these requests:

Street Character: The A-R zoning district requires a front yard setback of 75 feet on Village Lake Court and 100 feet on SR 85 Connector. Any new lots would be required to meet the same front yard setbacks.

Lot size character: The A-R zoning district requires a minimum lot size of five (5) acres. Lots in Autumn Lake Estates range in size from five (5) acres to 6.62 acres. The applicant is proposing a 5.048 acre lot and a 14.609 acre lot (shown as Tracts II and III on the Concept Plan). While one lot is substantially larger at 14.609 acres it would not be out of character given its shape (see Concept Plan).

Lot width character: The A-R zoning district requires a minimum lot width of 250 feet. Any new lots would be required to meet the same minimum lot width.

The application includes a letter from the Autumn Lake Estates HOA supporting the petition and stating that the Declaration of Restrictions and Protective Covenants will be adopted with the revision of the Final Plat as Autumn Lake Estates II.

Tract I, as depicted on the Concept Plan, is not intended to be a part of Autumn Lake Estates subdivision. This lot will be platted separately with a Minor Final Plat.

Fire

Approved

Engineering/Public Works

Engineer supports the addition of 2 drives onto Autumn Lakes Estates. It is a preferred location over HWY 85C

Environmental Management Dept.

Floodplain	The property DOES NOT contain floodplain per FEMA FIRM panel 13113C0112E dated Sept 26, 2008. The property IS NOT ADJACENT to floodplain delineated in the FC 2013 Future Conditions Flood Study.
Wetlands	The property DOES NOT contain wetlands per the U.S. Department of the Interior, Fish and Wildlife Service 1994 National Wetland Inventory Map. Per Section 8-4 of Fayette County Development Regulations, the applicant must obtain all required permits from the U.S. Army Corps of Engineers <u>prior</u> to issuance of any permits from Fayette County for any phase of development affecting wetlands.
Watershed	There ARE state waters requiring a buffer on the property, if the property is subdivided. The lake and stream would require a 50' buffer and 25' setback
Groundwater	The property IS within a groundwater recharge area.
Stormwater	This development not be subject to the Post-Development Stormwater Management Ordinance. But will require an NPDES permit and Land Disturbance Permit for Erosion, Sedimentation and Pollution Control.

Environmental Health Department

No objection to proposal.

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of this request to revise the Final Plat of Autumn Lake Estates to add 19.675 acres to the subdivision and to create two additional lots.

RP-077-20
Zoning

**SUBJECT
PROPERTY**

A-R

A-R

S-Z

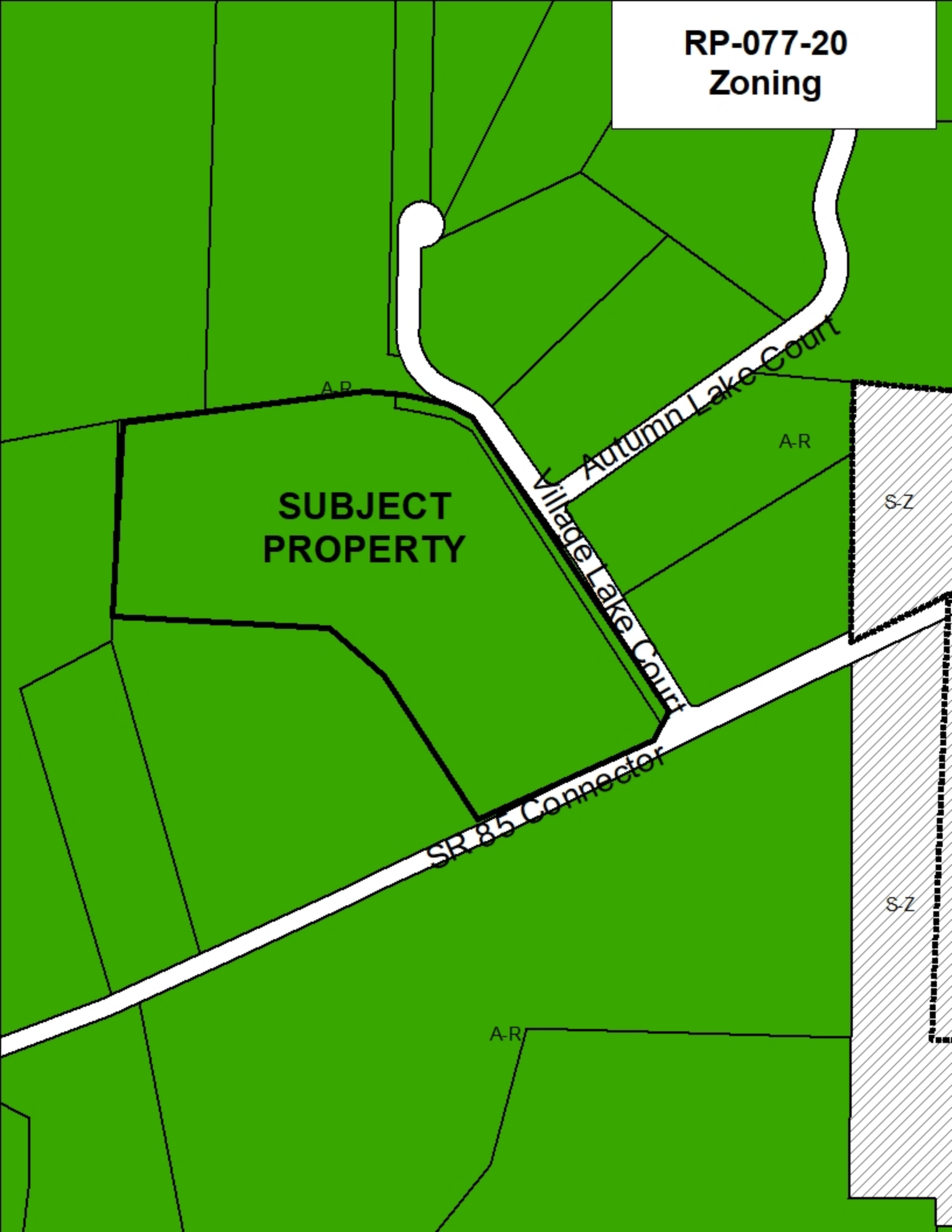
S-Z

A-R

Autumn Lake Court

Village Lake Court

SR 85 Connector



RP-077-20
Land Use Plan

**SUBJECT
PROPERTY**

AGRICULTURAL
RESIDENTIAL

Autumn Lake Court

Village Lake Court

SR 85 Connector

City Limits

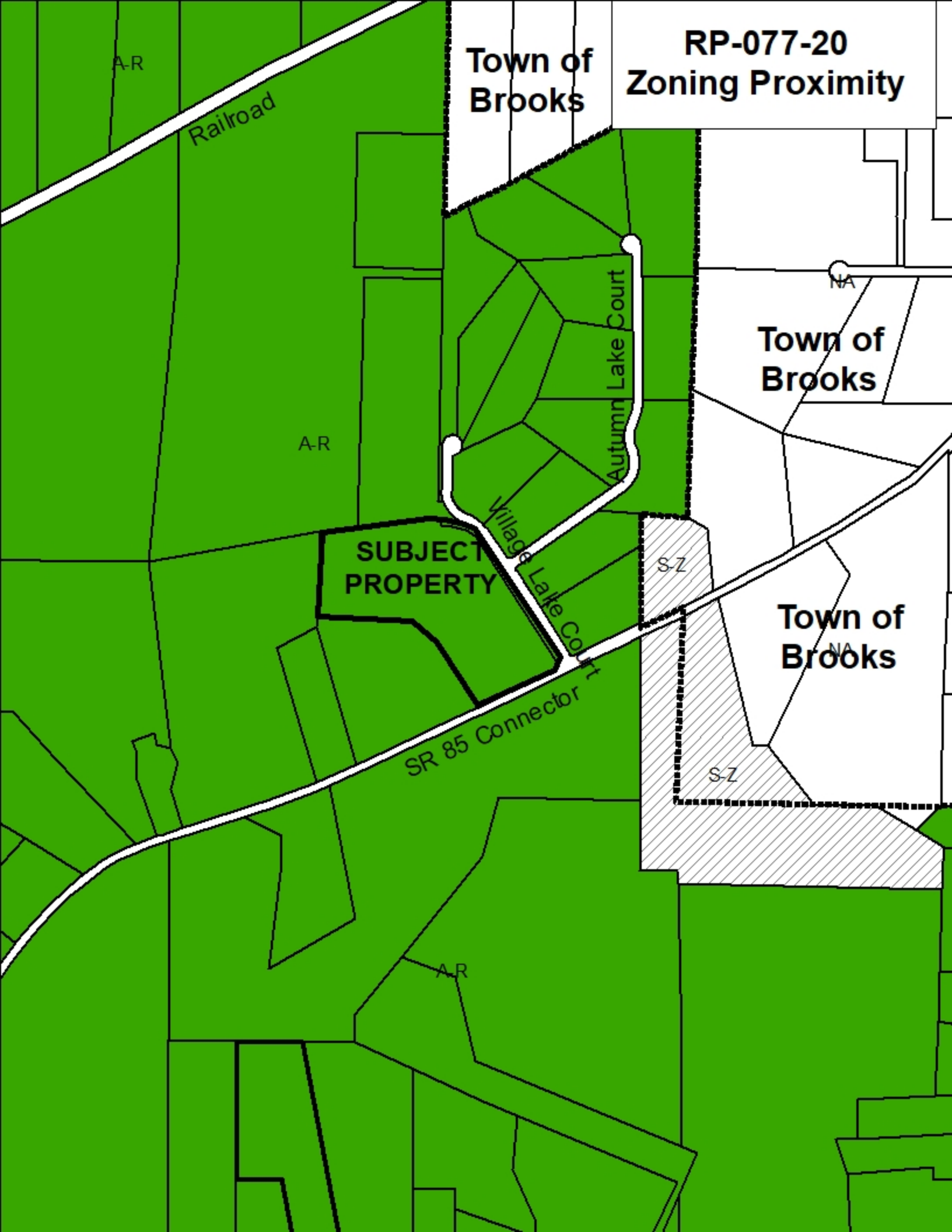
RP-077-20
Land Use Plan

**SUBJECT
PROPERTY**

Autumn Lake Court

Village Lake Court

SR 85 Connector



**RP-077-20
Zoning Proximity**

**Town of
Brooks**

**Town of
Brooks**

**Town of
Brooks**

**SUBJECT
PROPERTY**

Railroad

Autumn Lake Court

Village Lake Court

SR 85 Connector

A-R

A-R

A-R

SZ

SZ

NA

NA

Application To Revise A Recorded Plat (Public Hearing)

PETITIONS NO: RP-_____

NAME OF RECORDED PLAT: Autumn Lake Estates

OWNER OF PROPERTY: Joe L. Brown Estate – Ted W. Brown (Executor)

MAILING ADDRESS: C/O Brown Nelms CPA's – 101 World Dr. Ste 300 PTC 30269

PHONE: Office – 770-461-5502, Cell – 404-754-7116

EMAIL: ted@BrownNelms.com

AGENT FOR OWNER: George Cocolos

MAILING ADDRESS: 135 Village Lake Ct. Brooks Ga., 30205

PHONE: Cell – 678-907-7057

Email: gcoco@ceoexpress.com

LOCATION: LAND LOT(S) 36 DISTRICT 4 ROAD Hwy. 85 Connector & Village Lake Ct.

LEGAL DESCRIPTION ATTACHED: See Metes & Bounds ZONING: AR

FIFTEEN COPIES OF CONCEPT PLAN ATTACHED: Plat submitted via email for printing at county office

TOTAL NUMBER OF LOTS: Two (2) TOTAL NUMBER OF ACRES: 19.657 Acres

DATE OF PLANNING COMMISSION HEARING: August 6, 2020

DATE OF COUNTY HEARING: August 27, 2020

REASONS FOR REVISION: The proposal is for two lots to be added into the existing Autumn Lake Estates subdivision, "Autumn Lake Estates" (please see attached defined metes & bounds description, currently references as Tracts II and III). Adding these two tracts to Autumn Lake Estates will allow access to Tracts II & III from Village Lake Ct. Tract I, as shown on the plat, shall remain an independent parcel as Joe L. Brown Estates and is excluded from this proposal.

Based on several discussions with Fayette County Planning and Zoning, it is our understanding that current access to the subject property is allowed only via Hwy 85 Connector as access to Hwy 85 Connector does not require public hearings. Access to Village Lake Ct. does require public hearings as Village Lake Ct. is an internal local road to serve the lots in Autumn Lake Estates subdivision and accessing this road technically adds these lots to the subdivision. The agent/purchaser, as a current resident of Autumn Lake Estates, has concerns about the current access from Hwy 85 Connector. First and foremost is the safety aspect of placing a driveway from Hwy 85 Connector. Though this section of Hwy 85 Connector is a 45 MPH zone, several significant accidents in recent years, including a fatality and property damage, have occurred within an approximate 300 yard of either side of a driveway access. Additionally, a long driveway from the Connector running parallel to Village Lake Court based on feedback from neighbors would have an impact aesthetically. To address both issues, the request is to gain approval to allow the creation of two lots with access from Village Lake Court as Autumn Lake Estates II.

The agent/purchaser understands and agrees that being part of the Autumn Lake Estates subdivision includes the adoption of the recorded Declaration of Restrictions and Protective Covenants. The agent/purchaser reviewed the proposal concept with the Autumn Lake Estates HOA Board & Architectural Control Committee members. The concept proposal has unanimous support of both the Board and the ARC. Please see attached letter of support from the Board.

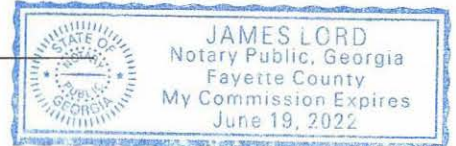
I respectfully submit this application and certify that the above information is correct and true to the best of my knowledge. I further certify that I am the owner or the specifically authorized agent of the above-referenced property.

June 30, 2020

June 30, 2020

James Lord
OWNER/AGENT'S SIGNATURE

James Lord
NOTARY PUBLIC



SIGN FEE

Received from _____ the amount of \$ _____ to cover the cost of the sign deposit. Applicant will be billed later for the cost of advertising.

Date Paid: _____

Receipt No. _____

Cash: _____

Check No. _____

June 28, 2020

RE: AUTUMN LAKE ESTATES LETTER OF SUPPORT

To whom it may concern,

On June 26, 2020, the members of the Autumn Lake Estates HOA Board of Directors and Architectural Control Committee held a meeting to review and discuss a proposal from George and Anne Cocolos to add an approximate 19.965 acre parcel of land (for a total of 2 additional lots) to the Autumn Lake Estates subdivision.

George and Anne Cocolos of 135 Village Lake Ct, Autumn Lake Estates in Brooks presented the current situation whereby they would like to acquire the property and eventually build a new personal residence with access from Village Lake Court. A draft concept plat was shared with the attendees along with details about the current access restrictions to the property via Village Lake Court, deemed an "internal local" road.

It is understood that the only way to have access to the subject property via Village Lake Court is to gain approval from Fayette County through the public hearing process by requesting this subject property to become part of Autumn Lake Estates.

The Autumn Lake Estates HOA Board of Directors and the members of the Architectural Control Committee have offered their unanimous support in favor of gaining county approval as proposed by George and Anne Cocolos to add two new lots totaling approximately 19.965 acres to Autumn Lake Estates as Autumn Lake Estates II, and which shall also adopt the existing the recorded Declaration of Restrictions and Protective Covenants.

Respectfully submitted by the Autumn Lake Estates HOA Board of Directors,

Anne Cocolos, President

Betty Wilkinson, Treasurer

Elaine Dampier, Secretary



dotloop verified
06/30/20 2:11 PM EDT
SN6G-DQ0S-CMRC-1YTZ

"SUBDIVISION OF JOE L. BROWN PROPERTY CONCEPT PLAN"

Note: *Convey*
RP-077-20
Tract II & Tract III to be
added to the Autumn
Lake Estates Subdivision
with a revised Final Plat.

THIS BLOCK RESERVED FOR THE CLERK
OF THE SUPERIOR COURT.

- LEGEND
- D.B.=DEED BOOK
 - F.W.P.D.=FIELD WORK PERFORMED DATE
 - L.L.=LAND LOT
 - L.L.L.=LAND LOT LINE
 - N/F=NOW OR FORMERLY
 - N.T.S.=NOT TO SCALE
 - O/HUL=OVERHEAD UTILITY LINES
 - OTP=OPEN TOP PIPE
 - P.B.=PLAT BOOK
 - P.G.=PAGE
 - P.O.B.=POINT OF BEGINNING
 - RBF=REBAR FOUND
 - RBS=REBAR SET
 - R/W=RIGHT OF WAY
 - S.F.=SQUARE FEET
 - U/P=UTILITY POLE

Grid North
West Zone
NAD 83

n/f
Donald K. Cheney
D.B. 2346, Pg. 357
zoned a-r

Note:
"Tract I will be platted separately with a Minor
Subdivision Plat"

n/f
Cheryl B. Buechfield
D.B. 1766, Pg. 610
zoned a-r

n/f
Andy S. & Elizabeth W. Killebrew
D.B. 1971, Pg. 562
zoned a-r

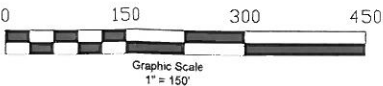
CURVE	ARC LENGTH	RADIUS	CHORD LENGTH	CHORD BEARING
C1	114.26'	151.87'	111.58'	S 56°48'48" E

LINE	BEARING	DISTANCE
L1	S 35°47'30" W	38.20'
L2	S 35°47'30" W	42.87'
L3	S 64°45'16" W	29.59'
L4	N 13°05'21" W	20.46'
L5	N 64°45'16" E	34.19'

CODE LETTER	SUITABILITY CODE DESCRIPTION
A	Soil series should have ability to function as surface absorption field with proper design, installation, and maintenance.
B	Some rock and/or heavy conditions were found. This soil should function as a surface absorption field providing that the system is not in direct contact with the rock and/or heavy conditions. (If in direct contact, the system should be designed to function as a subsurface absorption field.)
C	Due to the nature, texture, and/or drainage problems, there is a high probability of failure for conventional systems. (Your Health Department can discuss with you if an alternate system might be an option for your situation.)
F	Normally considered unsatisfactory for use for conventional absorption fields.

SOIL TYPE	Slope %	Water Inches	Resistance Inches	Code	Trench Depth inches	Perk Rate min/hr	Infil Rate gal/sf/day
Appling	2 - 8	>60	>72	A	18 - 36	75E30*	0.10
Appling Vet Var.	2 - 8	>48	>72	A	18 - 24	60E24*	0.09
Cecil	2 - 8	>72	>72	A	30 - 48	45E40*	0.10
Durham	2 - 8	>48	>72	A	18 - 24	105E24*	0.08
Enon	3 - 8	>36	>72	C	8 - 24	110E18*	0.07
Hard Labor	3 - 8	>30	>72	C	8 - 18	110E18*	0.07
Pacolet	2 - 8	>72	>72	A	18 - 48	45E30*	0.15
Tatum	2 - 8	>72	>72	A	24 - 48	45E36*	0.15

p = perched water table, a = apparent water table nsd = Not Sufficient Data
* Perk rate is the maximum perk rate expected within 12 inches of the trench bottom for the installation depths shown



Job No. SA20-016A

Drawn By: j.e.c.	Reviewed By: s.a.g.
Issue Date: 04/14/20	
F.W.P.D.: 03/05/20	
Revisions	Date

PAGE 2 OF 2



Prepared For:

TED BROWN

Property Location

Land Lot 36 Of The 4th Land District
Fayette County, Georgia

S.A. GASKINS &
ASSOCIATES, LLC

surveyors planners development consultants
P.O. BOX 321 BROOKS, GA 30205
770-460-9342
sagaskins@bellsouth.net
PSALM 51

REQUESTED ACTION: R-55 Cond. to R-55 Cond.

PROPOSED USE: Single-Family Residential

EXISTING USE: Residential

LOCATION: Redwine Rd

DISTRICT/LAND LOT(S): 5th District, Land Lot(s) 31

OWNER: Wright Chancey, LLC

AGENT: Rod Wright

PLANNING COMMISSION PUBLIC HEARING: August 6, 2020

BOARD OF COMMISSIONERS PUBLIC HEARING: August 27, 2020

APPLICANT'S INTENT

Applicant proposes to amend Condition #1. to increase the number of driveway curb cuts from four (4) to five (5) driveway curb cuts to do away with a shared driveway curb cut for lots 5 and 6.

STAFF RECOMMENDATION

APPROVAL WITH TWO (2) CONDITIONS

INVESTIGATION

A. PROPERTY SITE

The subject property fronts on Redwine Road in Land Lot 31 of the 5th District. Redwine Road is classified as a Minor Arterial road on the Fayette County Thoroughfare Plan.

History: On October 24, 2019 the Board of Commissioners approved rezoning request (1288-19) to rezone 5.85 acres from A-R to R-55 Conditional for a residential subdivision. The approved conditions are as follows:

1. That the four (4) lots within the area being rezoned, plus the two (2) proposed A-R lots, be limited to no more than four (4) driveway curb cuts and each driveway curb cut shall service no more than two (2) lots. Each driveway shall meet the minimum required sight distance. The locations of the driveway curb cuts shall be approved by the County Engineer.
2. That the Final Plat for the subject property will not be approved until the existing single-family residence is brought into compliance with the R-55 zoning district which can be achieved either by adding additional heated finished floor area to the existing single-family residence to meet the minimum required floor area or through a variance, approved by the Zoning Board of Appeals, to reduce the minimum floor area requirement, or as a third option, removing the existing single-family residence from the subject property prior to Final Plat approval. *(The Zoning Board of Appeals approved variance A-713-19 for the existing single-family residence on December 16, 2019 to satisfy Condition #2.)*

The Final Plat of The Handley Estates subdivision was recorded on February 24, 2020. The subdivision consists of four (4) lots zoned R-55 ranging in size from 1.443 acres to 1.495 acres and two (2) lots zoned A-R ranging in size from 16.901 acres to 17.073 acres. The Final Plat depicts four (4) driveway curb cuts. In the area of lots 5 and 6 two potential driveway curb cuts locations are depicted to offer a choice between the two locations to ultimately serve lots 5 and 6 with one resulting driveway curb cut. The applicant has indicated that this is the location where an additional driveway curb cut is requested due to issues with septic system placement and soils (see letter of intent).

G. DEPARTMENTAL COMMENTS

Public Works/Engineering

Engineering has checked and confirmed the two driveways requested for lots 5 and 6 (one each) have intersection sight distance that meets or exceeds the 500 feet required for a posted speed limit of 45 mph.

Environmental Management

- Floodplain** The property **DOES** contain floodplain per FEMA FIRM panel 13113C0113E and 13113C0094E dated Sept 26, 2008. The property **DOES** contain additional floodplain delineated in the FC 2013 Future Conditions Flood Study. Per Fayette County Floodplain Management Ordinance the elevation of the lowest floor, including basement and building access of any development shall be a least 3 feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher. A Floodplain Management Plan is required if any development activities are totally or partially within an Area of Special Flood Hazard as defined by the Floodplain Management Ordinance.
- Wetlands** The property **DOES** contain wetlands per the U.S. Department of the Interior, Fish and Wildlife Service 1994 National Wetland Inventory Map. Per Section 8-4 of Fayette County Development Regulations, the applicant must obtain all required permits from the U.S. Army Corps of Engineers prior to issuance of any permits from Fayette County for any phase of development affecting wetlands.
- Watershed** Whitewater Creek **IS** subject to a Watershed Protection buffer of 100 feet off the FEMA floodplain or 400 feet from rested vegetation (whichever is greater) and a 50 ft. setback from the measured buffer. Any other state waters identified on site are subject to a 50 ft. watershed buffer measured from wrested vegetation and a 25 ft. setback as measured from the buffer.
- Groundwater** The property **IS NOT** within a groundwater recharge area.
- Stormwater** This development **IS NOT** subject to the Post-Development Stormwater Management Ordinance.

Environmental Health Department

No objection to proposal.

Fire

Approved

STAFF ANALYSIS

This request is based on the petitioner's intent to rezone said property from **R-55 Cond. to R-55 Cond.** for the purpose amend Condition #1. to increase the number of driveway curb cuts from four (4) to five (5) driveway curb cuts. Per Section 110-300 of the Fayette County Zoning Ordinance, Staff makes the following evaluations:

1. The subject property lies within an area designated for Low-Density Residential (1 Unit/1 Acre). This request conforms to the Fayette County Comprehensive Plan.
2. The proposed rezoning will not adversely affect the existing use or usability of adjacent or nearby property.
3. The proposed rezoning will not result in a burdensome use of roads (see Public Works/Engineering comments above), utilities, or schools.
4. Existing conditions and the area's continuing development as a single-family residential district support this petition.

Based on the foregoing Investigation and Staff Analysis, Staff recommends **APPROVAL WITH TWO (2) CONDITIONS.**

RECOMMENDED CONDITIONS

If this petition is approved by the Board of Commissioners, it should be approved R-55, A-R **CONDITIONAL** subject to the following enumerated conditions. Where these conditions conflict with the provisions of the Zoning Ordinance, these conditions shall supersede unless otherwise specifically stipulated by the Board of Commissioners.

1. That the four (4) lots within the area being rezoned, plus the two (2) proposed A-R lots, be limited to no more than five (5) driveway curb cuts and each driveway curb cut shall service no more than two (2) lots. Each driveway shall meet the minimum required sight distance. The locations of the driveway curb cuts shall be approved by the County Engineer.
2. That the Final Plat for the subject property will not be approved until the existing single-family residence is brought into compliance with the R-55 zoning district which can be achieved either by adding additional heated finished floor area to the existing single-family residence to meet the minimum required floor area or through a variance, approved by the Zoning Board of Appeals, to reduce the minimum floor area requirement, or as a third option, removing the existing single-family residence from the subject property prior to Final Plat approval.

A-R

R-40

1293-20
Zoning

Hideaway Drive

Brown Road

R-40

A-R

R-40

SUBJECT
PROPERTY

P-U-D

A-R

A-R

Redwine Road

R-20

R-75

1293-20
Land Use Plan

Hideaway Drive

ENVIRONMENTAL
SENSITIVE AREA

Brown Road

LOW DENSITY
RESIDENTIAL

SUBJECT
PROPERTY

ENVIRONMENTALLY
SENSITIVE AREAS

RURAL
RESIDENTIAL
- 2

RURAL
RESIDENTIAL
- 2

Redwine Road

**1293-20
Aerials**

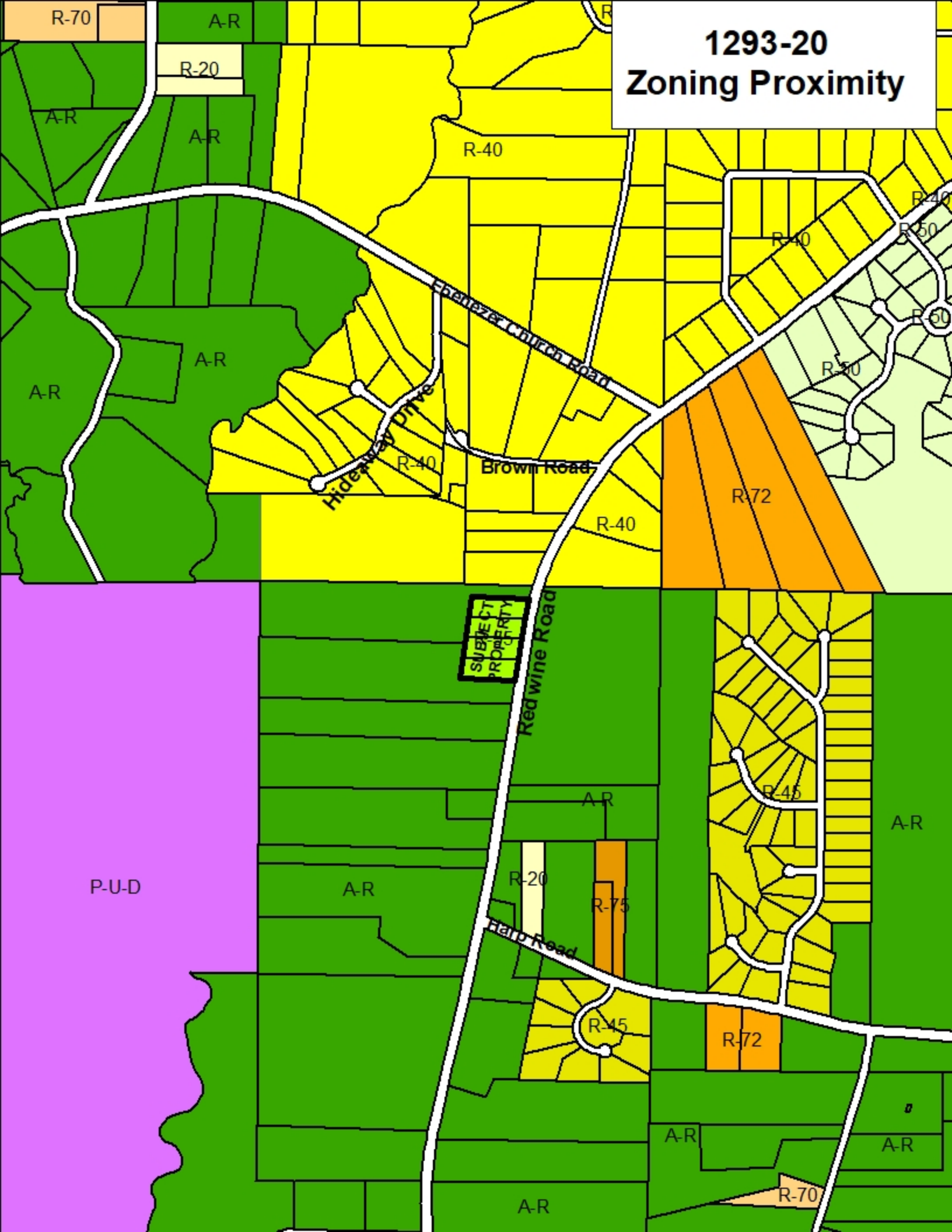
Hideaway Drive

Brown Road

**SUBJECT
PROPERTY**

Redwine Road

1293-20 Zoning Proximity



STEVEN L. JONES



sjones@boviskyle.com

Main: (770) 391-9100

Direct: (678) 338-3902

Cell: (404) 218-2756

Fax: (770) 668-0878

Thursday, July 16, 2020

VIA EMAIL (pfrisina@fayettecountyga.gov)

Mr. Pete Frisina, Director
Fayette County Department of Planning and Zoning
Stonewall Administrative Complex
140 Stonewall Avenue, West
Suite 202
Fayetteville, Georgia 30214
pfrisina@fayettecountyga.gov

**RE: Rezoning Application to Amend the Official Zoning Map of Fayette County, GA
Number 1293-20.**

Dear Mr. Frisina:

On behalf of Wright Chancey, LLC (“**Wright Chancey**”), please let this letter serve as a letter of intent regarding the above referenced Rezoning Application to Amend the Official Zoning Map of Fayette County, GA Number 1293-20 (the “**Petition**”). This letter first details the history of the real property that is the subject of the Petition and, then, describes the need for the Petition. Finally, this letter analyzes the factors (the “**Rezoning Factors**”) under 110-300 of The Zoning Ordinance of Fayette County, Georgia (the “**Zoning Ordinance**”) for consideration of the Petition. Please include this letter of intent (including the attachments hereto) as part of the record for the Petition.

HISTORY OF THE PROPERTIES

In 2019, RODWRIGHTCORP (“**RWC**”), an affiliate of Wright Chancey, entered into a contract to acquire from the Handley Family Trust 39.821 +/- acres (the “**Parent Tract**”) fronting on Redwine Road between Ebenezer Church Road and Harp Road in unincorporated Fayette County. At the time that contract was signed, only one (1) single-family, 2,046 square foot residence existed on Parent Tract. RWC hoped to subdivide the Parent Tract into six (6) lots all fronting on Redwine Road. Specifically, RWC sought to create two (2) lots zoned under the A-R, Agricultural-Residential District (“**A-R**”) and four (4) lots zoned under the R-55, Single-Family Residential District (“**R-55**”). See the recorded Plat attached hereto as Exhibit “A”.

To that end, on October 24, 2019, the Fayette County Board of Commissioners unanimously voted to approve Rezoning Application to Amend the Official Zoning Map Number

ATLANTA, GA | CUMMING, GA | GREENSBORO, NC | CHARLESTON, SC | DESTIN, FL

1288-19 (the “**2019 Rezoning Petition**”) to rezone 5.85 acres of the parent tract from A-R to the R-55 with the following two (2) conditions (the “**Conditions of Approval**”):

- (1) That the four (4) [R-55] lots within the area being rezoned, plus the two (2) proposed A-R lots, be limited to no more than four (4) driveway curb cuts and each driveway curb cut shall service no more than two (2) lots. Each driveway shall meet the minimum required sight distance. The locations of the driveway curb cuts shall be approved by the County Engineer.
- (2) That the Final Plat for the [six (6) lots] will not be approved until the existing single-family residence is brought into compliance with the R-55 zoning district which can be achieved either by adding additional heated finished floor area to the existing single-family residence to meet the minimum required floor area or through a variance, approved by the Zoning Board of Appeals, to reduce the minimum floor area requirement, or as a third option, removing the existing single-family residence from the subject property prior to Final Plat Approval.

In accordance with Condition of Approval Number 2, on December 16, 2019, the Fayette County Zoning Board of Appeals (the “**BOA**”) unanimously voted to approve RWC’s Variance Application Number A-713-19 (the “**Variance Application**”) thereby reducing the floor area requirement from 2,500 square feet to 2,046 square feet to enable the existing house to be in compliance with the R-55 zoning districts.

On December 18, 2019, Wright Chancey, LLC acquired the Parent Tract. (Deed Book 4979, Page 486-487)

On February 24, 2020, a Final Plat for Handley Estates (the “**Final Plat**”) was recorded in the Real Estate Records of the Clerk of Superior Court of Fayette County, Georgia. (Plat Book 100 Pages 202-204). The Final Plat is attached hereto as Exhibit “A”. The Final Plat shows and identifies by number, the six (6) lots (the “**Lots**” and each a “**Lot**”) and the proposed four (4) driveways, in compliance with Condition of Approval Number 1. Specifically, the Final Plat shows Lots 3 and 4 sharing a driveway and Lot 5 and Lot 6 sharing a driveway.

Subsequently, on March 5, 2020, Wright Chancey sold Lot 2, Lot 3, and Lot 5 to Jeff Lindsey Communities, Inc. (Deed Book 5004, Page 624, 635, 646). Thereafter, on March 6, 2020, Wright Chancey sold Lot 4—the lot that contains the existing house—to individual homeowners. (Deed Book 5007, Page 239). Wright Chancey continues to own Lot 1 and Lot 6—the A-R zoned lots. Upon information and belief, Jeff Lindsey Communities, Inc. has contracted to sell Lot 2.

NEED FOR THE APPLICATION

Subsequent to its sale of Lots 2-5 (the R-55 lots) to unaffiliated persons and an unaffiliated entity, Wright Chancey determined that the shared driveway for Lot 5 and Lot 6 would unavoidably place the path for a driveway through the only area on Lot 6 with soils suitable for a conventional on-site sewer (i.e., septic) system. Lot 2 is (upon information and belief) subject to a contract to be sold and no longer under the control of Wright Chancey. Therefore, the lots that

share a driveway cannot be changed to include Lot 1 or Lot 2. Additionally, Lot 4 has already shares a driveway with Lot 3, and Lot 4 has already been sold to homeowners. As a result, the only solution that allows development of a conventional septic system on Lot 5 is for Lot 5 and Lot 6 to have separate driveways. In order to allow the implementation of a conventional septic system, the Petition seeks to change Condition of Approval Number 1 to read as follows:

That the four (4) lots within the area being rezoned, plus the two (2) proposed A-R lots, be limited to no more than five (5) driveway curb cuts and the driveway curb cut shall service no more than two (2) lots. Each driveway shall meet the minimum required sight distance. The locations of the driveway curb cuts shall be approved by the County Engineer.

ANALYSIS

Section 110-300 of the Zoning Ordinance sets forth the Rezoning Factors by which the Application must be evaluated. Those factors are listed below with analysis of each factor.

(1) Whether the zoning proposal is in conformity with the land use plan and the policies contained therein;

The 2019 Rezoning Petition conformed with the land use plan and the policies contained therein. The Petition (that is the subject of this Letter of Intent) does not seek to change the zoning district applicable to any of the lots. Instead, the Petition only seeks to change a condition to allow one (1) additional driveway. Therefore, Rezoning Factor 1 supports approval of the Petition.

(2) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;

The 2019 Petition rezoned the Parent Tract to permit development of the six (6) Lots. The Petition, if approved, will not create any additional lots, nor will it change the use of any Lot. Rather, the Petition merely seeks to add one (1) additional driveway (for a total of five (5) driveways) to serve the six (6) lots. This additional driveway will have to be approved by the County Engineer and will have to meet the minimum required site distance. If it cannot do so, the additional driveway will not be permitted. Consequently, the Petition, if approved, will not adversely affect the existing use or usability of adjacent or nearby property. Rezoning Factor 2, consequently, supports approval of the Petition.

(3) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing or planned streets, utilities, or schools; and

The Petition does not seek to change the use of any Lot. Therefore, the Petition cannot result in a use which will or could cause an excessive or burdensome use of existing or planned streets, utilities, or schools. Rezoning Factor 3, based on the above, is not applicable the Petition. That said, to the extent that it could be interpreted to be applicable, the addition of one additional

driveway can hardly be said to create an “excessive or burdensome use of” existing or planned streets. As a result, Rezoning Factor 3 supports approval of the Petition.

- (4) *Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.*


Rezoning Factor 4 is, in essence, the only factor that is relevant to the Petition. The change in ownership of the Lots has created circumstances in which Lot 6 cannot be developed unless the Petition is approved thereby permitting Lot 6 to have its own driveway. The additional driveway will have to meet all required site distances and be approved by the County Engineer. For that reasons, the changed and existing conditions affecting the development and salability of Lot 6 support approval of the Petition.

CONCLUSION

Based on the foregoing Wright Chancey, LLC respectfully requests the Board of Commissioners of Fayette County approve the Application.

Sincerely,

BOVIS, KYLE, BURCH & MEDLIN, LLC


Steven L. Jones

Enclosures
cc: Wright Chancey, LLC

FINAL PLAT OF THE
HANDLEY ESTATES



Elmore Church Rd
Brookshire Rd
Redwine Rd
Lucks Cr
Lucks Cr
Perry Creek
Redwine Rd
Brookshire Rd
Elmore Church Rd
Lucks Cr
Lucks Cr

LEGEND
RBF=REBAR FOUND
RBS=REBAR SET
CTP=CRIMP TOP PIPE
L.L.=LAND LOT
P.L.=LAND LOT LINE
P.L.=PROPERTY LINE
CO=CONSTRUCTION ENTRANCE
EP=EDGE OF PAVEMENT
P.O.B.=POINT OF BEGINNING
B.L.=BUILDING SETBACK LINE
D.E.=DRAINAGE EASEMENT
N/F=NOW OR FORMERLY
F.W.P.D.=FIELD WORK
PERFORMED DATE
M.F.F.E.=MINIMUM FINISHED FLOOR ELEVATION
DB=DEED BOOK
PG=PAGE
PB=PLAT BOOK
##=HOUSE NUMBER
U/P=UTILITY POLE
R/W=RIGHT OF WAY
TBM=TEMPORARY BENCHMARK

BK 100 PG 202 - 204

Type: PLAT FILED
Recorded: 2/24/2020 6:46:00 AM
Fee Amt: \$30.00 Page 1 of 3
Fayette, Ga. Clerk Superior Court
Sheila Studdard Clerk of Court
Participant ID: 6343592050

THIS BLOCK RESERVED FOR THE CLERK
OF THE SUPERIOR COURT.

FINAL PLAT APPROVAL CERTIFICATION

APPROVED BY FAYETTE COUNTY ENVIRONMENTAL HEALTH DEPARTMENT

DATE 2/12/20 SIGNED *[Signature]*
ENVIRONMENTAL HEALTH
SPECIALIST

APPROVED BY FAYETTE COUNTY STORMWATER MANAGEMENT DEPARTMENT

DATE 2/12/20 SIGNED *[Signature]*
ENVIRONMENTAL MANAGEMENT DIRECTOR

APPROVED BY FAYETTE COUNTY ENGINEER

DATE 2/12/20 SIGNED *[Signature]*
COUNTY ENGINEER

APPROVED BY THE FAYETTE COUNTY PLANNING COMMISSION 2/12/2020

DATE 2/30/2020 SIGNED *[Signature]*
SECRETARY

APPROVED BY FAYETTE COUNTY ZONING ADMINISTRATOR

DATE 2/12/2020 SIGNED *[Signature]*
ZONING ADMINISTRATOR

APPROVED BY FAYETTE COUNTY FIRE MARSHAL

DATE 02/12/2020 SIGNED *[Signature]*
FIRE MARSHAL

OWNERS CERTIFICATION

WE, THE UNDERSIGNED OWNERS/REPRESENTATIVES OF
THE HANDLEY ESTATE SUBDIVISION, HEREBY OFFER TO
DEDICATE AND/OR RESERVE FOR PUBLIC USE THE
RIGHTS-OF-WAY, EASEMENTS AND OTHER GROUND
SHOWN ON THIS PLAT.

OWNER *[Signature]* DATE 2-20-20

OWNER *[Signature]* DATE

Job No. 19-038

Drawn By: Reviewed By:

R.D.G. R.M.B.

Issue Date: 11/27/19

F.W.P.D.: 07/24/19

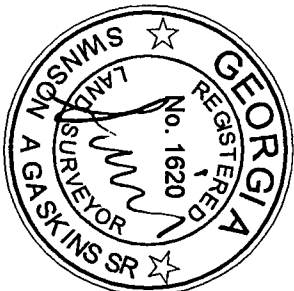
Revisions Date

COUNTY COMMENTS 01/15/20

PAGE 1 OF 3

Prepared For:

RODWRIGHTCORP



SURVEYORS CERTIFICATION

AS REQUIRED BY SUBSECTION (c) OF O.C.G.A. SECTION 16-6-67, THE REGISTERED LAND
SURVEYOR HEREBY CERTIFIES THAT THIS MAP, PLAT, OR PLAN HAS BEEN APPROVED
FOR FILING IN WRITING BY ANY AND ALL APPLICABLE MUNICIPAL, COUNTY, OR
MUNICIPAL/COUNTY PLANNING COMMISSIONS OR MUNICIPAL OR COUNTY GOVERNING
AUTHORITIES OR THAT SUCH GOVERNMENTAL BODIES HAVE AFFIRMED IN WRITING
THAT APPROVAL IS NOT REQUIRED.

FINAL SURVEYORS CERTIFICATE

IT IS HEREBY CERTIFIED THAT THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED
FROM AN ACTUAL SURVEY OF THE PROPERTY MADE BY ME OR UNDER MY
SUPERVISION. THAT ALL MONUMENTS SHOWN HEREON ACTUALLY EXIST OR ARE
MARKED AS 'FUTURE' AND THEIR LOCATION, SIZE, TYPE, AND MATERIAL ARE
CORRECTLY SHOWN. THIS PLAT CONFORMS TO ALL REQUIREMENTS OF THE GEORGIA
PLAT ACT (O.C.G.A. SECTION 16-6-67).

BY: SWINSON A. GASKINS, ST. GEORGIA REGISTERED LAND SURVEYOR NO. 1620

DATE 1/23/20

STATE OF GEORGIA
COUNTY OF FAYETTE

RESOLUTION
PETITION NO. A-713-19

WHEREAS, Rebecca A. Handley and Nancy McCond, Co-Trustees of the Handley

Family Trust, Owner, and Rodwrightcorp, Agent, having come before the Fayette County Zoning

Board of Appeals on the December 16, 2019, request variance A-713-19 pursuant to "The Zoning

Ordinance of Fayette County, Georgia, 1980", and

WHEREAS, said request being as follows: a Variance to Sec. 110-134, R-55, (d)(3),

to reduce the floor area requirement from 2,500 square feet to 2,046 square feet to enable the existing

house to be in compliance with proposed subdivided lots. This property is located in Land Lot 31 of

the 5th District, fronts on Redwine Road, and is zoned R-55; and

WHEREAS, the Fayette County Zoning Board of Appeals having convened, and considered

said request, now

BE IT RESOLVED that based on the decision of the Fayette County Board of

Appeals, said request was APPROVED.

The decision is based on the following reasons:

Relief would not be contrary to the public interest and, without relief, a literal enforcement of the

Ordinance would result in a practical difficulty and/or unnecessary hardship.

Property Location

Land Lot 31 of The 5th Land District
Fayette County, Georgia

S. A. GASKINS &
ASSOCIATES, LLC

surveyors planners development consultants
P.O. BOX 321 BROOKS, GA 30205
678-571-3054
rdgaskins19@gmail.com

GENERAL NOTES

1. OWNER:
THE HANDLEY FAMILY TRUST ESTATE
REBECCA A. HANDLEY AND NANCY MCCORD AS CO-TRUSTEES
(MS. HANDLEY), 380 DARWIN PLACE, DULUTH, GEORGIA 30088
(MS. MCCORD), 4381 QUAIL RIDGE WAY, NORCROSS, GEORGIA 30092
404-824-7134
DEVELOPER: ROD WRIGHT
116 CAMBRIDGE DRIVE
FAYETTEVILLE, GA 30215
770-294-7990
2. SURVEYOR:
S. A. GASKINS & ASSOCIATES, LLC,
P.O. BOX 321
BROOKS, GA 30205
678-571-3054
rdgaskins19@gmail.com
3. TOTAL ACREAGE: 39.821 ACRES
LOTS 1 AND 6 - ZONED R-R
- MINIMUM DIMENSIONAL REQUIREMENTS FOR A-R ZONING DISTRICT:
LOT AREA: 5 ACRES
LOT WIDTH: 250 FT
FLOOR AREA: 1,200 SQ. FT.
FRONT YARD SETBACK:
MAJOR THOROUGHFARE
ARTERIAL: 100 FEET
COLLECTOR: 75 FEET
MINOR THOROUGHFARE: 75 FEET
REAR YARD SETBACK: 75 FT
SIDE YARD SETBACK: 50 FT
- LOTS 2, 5 - ZONED R-55 - RESOLUTION NO. 1286-19 (10/24/19)
CONDITIONS OF ZONING:
1. THAT THE FOUR (4) LOTS WITHIN THE AREA BEING REZONED, PLUS THE TWO
(2) PROPOSED A-R LOTS, BE LIMITED TO NO MORE THAN FOUR (4) DRIVEWAY
CURB CUTS AND EACH DRIVEWAY CURB CUT SHALL SERVICE NO MORE THAN
TWO (2) LOTS. EACH DRIVEWAY SHALL MEET THE MINIMUM REQUIRED SITE
DISTANCE. THE LOCATIONS OF THE DRIVEWAY CURB CUTS SHALL BE
APPROVED BY THE COUNTY ENGINEER.
2. THAT THE FINAL PLAT FOR THE SUBJECT PROPERTY WILL NOT BE APPROVED
UNTIL THE EXISTING SINGLE-FAMILY RESIDENCE IS BROUGHT INTO
COMPLIANCE WITH THE R-55 ZONING DISTRICT WHICH CAN BE ACHIEVED
EITHER BY ADDING ADDITIONAL HEATED FINISHED FLOOR AREA TO THE
EXISTING SINGLE-FAMILY RESIDENCE TO MEET THE MINIMUM REQUIRED FLOOR
AREA OR THROUGH A VARIANCE. APPROVED BY THE ZONING BOARD OF
APPEALS, TO REDUCE THE MINIMUM FLOOR AREA REQUIREMENT OR AS A
THIRD OPTION, REMOVING THE EXISTING SINGLE-FAMILY RESIDENCE FROM THE
SUBJECT PROPERTY PRIOR TO FINAL PLAT APPROVAL.
- MINIMUM DIMENSIONAL REQUIREMENTS FOR R-55 ZONING DISTRICT:
LOT AREA: 1 ACRE
LOT WIDTH: 150 FT
FLOOR AREA: 2,500 SQ. FT.
FRONT YARD SETBACK:
MAJOR THOROUGHFARE
ARTERIAL: 100 FEET
COLLECTOR: 75 FEET
MINOR THOROUGHFARE: 50 FEET
REAR YARD SETBACK: 50 FT
SIDE YARD SETBACK: 25 FT
4. SEWER TO BE PROVIDED BY AN ON-SITE SEWAGE DISPOSAL SYSTEM.
5. WATER TO BE PROVIDED BY FAYETTE COUNTY WATER SYSTEM.
6. FAYETTE COUNTY DOES NOT ACCEPT THE OWNERSHIP MAINTENANCE OR
RESPONSIBILITY FOR ANY DRAINAGE EASEMENT OR OVERALL DRAINAGE PLAN
OR THE LACK OF ONE INDICATED ON THIS PLAT.
7. THIS SURVEY IS SUBJECT TO ALL EASEMENTS, RIGHTS-OF-WAY AND
RESTRICTIONS SHOWN OR NOT SHOWN, RECORDED OR NOT RECORDED.
8. THERE IS NO GROUNDWATER RECHARGE AREA ON THIS PROPERTY.
9. 1/2" REINFORCING ROOS SET AT ALL LOT CORNERS UNLESS NOTED
OTHERWISE.
10. ACCORDING TO FEMA FLOOD INSURANCE RATE MAP NUMBER 13150013E,
DATED SEPTEMBER 26, 2008, A PORTION OF THIS PROPERTY DOES LIE WITHIN A
SPECIAL FLOOD HAZARD AREA (ZONE A)
11. LOT NO. 1 & 6 EITHER 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.
12. EACH RESIDENTIAL LOT HAS A CONTIGUOUS AREA OF MORE THAN 0.3
ACRES FOR LOTS 2, 5 AND 2.0 ACRES FOR LOTS 1 & 6 THAT IS FREE AND CLEAR
OF ZONING BUFFERS AND SETBACKS, WATERSHED PROTECTION BUFFERS AND
SETBACKS, JURISDICTIONAL WETLANDS, AND EASEMENTS OF ANY KIND.
13. THERE ARE NO VISIBLE CEMETERIES OR BURIAL GROUNDS ON THIS
PROPERTY.
14. THERE ARE STATE WATERS ON THIS PROPERTY.
15. THERE ARE WETLANDS LOCATED ON THIS PROPERTY ALONG WHITEWATER
CREEK AS SHOWN ON THE FAYETTE COUNTY GIS MAPS. WETLANDS SHOWN ON
THIS PLAT ARE UNDER THE JURISDICTION OF THE U.S. ARMY CORPS OF
ENGINEERS. PROPERTY OWNERS MAY BE SUBJECT TO PENALTY BY LAW FOR
DISTURBANCE TO THESE WETLAND AREAS WITHOUT PROPER AUTHORIZATION.

EXHIBIT "A"

FINAL PLAT OF THE
HANDLEY ESTATES

THIS BLOCK RESERVED FOR THE CLERK
OF THE SUPERIOR COURT.

- LEGEND
- RBF=REBAR FOUND
 - RBS=REBAR SET
 - CTP=CRIMP TOP PIPE
 - L.L.=LAND LOT
 - L.L.=LAND LOT LINE
 - P=PROPERTY LINE
 - CO=CONSTRUCTION ENTRANCE
 - EP=EDGE OF PAVEMENT
 - P.O.B.=POINT OF BEGINNING
 - BL=BUILDING SETBACK LINE
 - DE=DRAINAGE EASEMENT
 - NF=NOW OR FORMERLY
 - F.W.P.D.=FIELD WORK PERFORMED DATE
 - O/F=OUT OF FLOOD PLAIN
 - DB=DEED BOOK
 - PG=PAGE
 - PB=PLAT BOOK
 - #(H)=HOUSE NUMBER
 - =FIRE HYDRANT
 - CTP=CRIMP TOP PIPE
 - M.F.F.E.=MINIMUM FINISHED FLOOR ELEVATION

CONTIGUOUS AREA CHART	
LOT 1	7.848 Acres
LOT 2	0.625 Acres
LOT 3	0.619 Acres
LOT 4	0.649 Acres
LOT 5	0.615 Acres
LOT 6	7.103 Acres

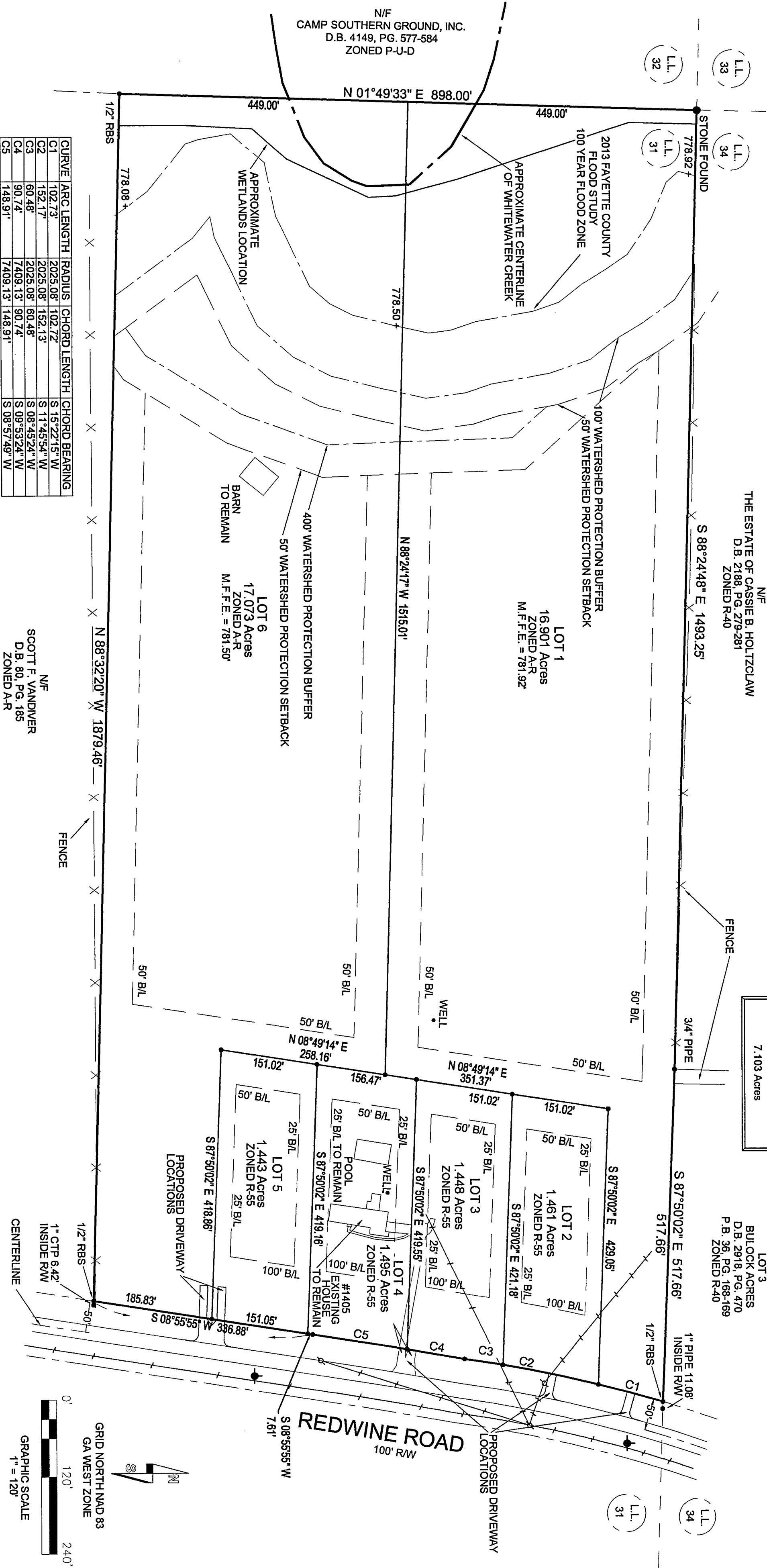
SIGHT DISTANCE CERTIFICATION

I HEREBY CERTIFY THAT THE ASHTO MINIMUM REQUIRED SIGHT DISTANCE OF 500' FOR 45 MILES PER HOUR IS PROVIDED FOR THE SIX LOTS AS SHOWN ALONG REDWINE ROAD.

BY: *dm* 1/23/20

GEORGIA REGISTERED LAND SURVEYOR NO. 1692

N/F
MARK DARBY
LOT 3
BULLOCK ACRES
D.B. 2918, PG. 470
P.B. 36, PG. 168-169
ZONED R-40



CURVE	ARC LENGTH	RADIUS	CHORD LENGTH	CHORD BEARING
C1	102.73'	2025.08'	102.72'	S 15°22'15" W
C2	152.17'	2025.08'	152.13'	S 11°45'54" W
C3	60.48'	2025.08'	60.48'	S 08°45'24" W
C4	90.74'	7409.13'	90.74'	S 08°53'24" W
C5	148.91'	7409.13'	148.91'	S 08°57'49" W

N/F
SCOTT F. VANDIVER
D.B. 80, PG. 185
ZONED A-R



CLOSURE STATEMENT
THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 42,167 FEET AND AN ANGULAR ERROR OF 00° 00' 02" PER ANGLE POINT AND HAS BEEN ADJUSTED USING THE COMPASS RULE METHOD.
THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 100,000+ FEET.
ANGULAR & LINEAR MEASUREMENTS WERE OBTAINED USING A LIECA 403 TCR TOTAL STATION

Job No. 19-038

Drawn By: R.D.G. Reviewed By: R.M.B.

Issue Date: 11/27/19

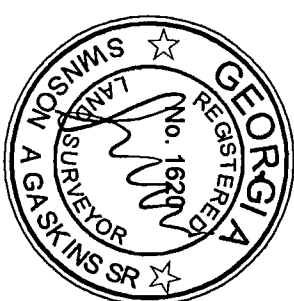
F.W.P.D.: 07/24/19

Revisions

COUNTY COMMENTS

Date 01/15/20

PAGE 2 OF 3



Prepared For:
RODWRIGHTCORP

Property Location

Land Lot 31 Of The 5th Land District
Fayette County, Georgia

S.A. GASKINS &
ASSOCIATES, LLC
surveyors planners development consultants
P.O. BOX 300 BROOKS, GA 30205
678-571-3054
rdgaskins79@gmail.com

EXHIBIT "A"

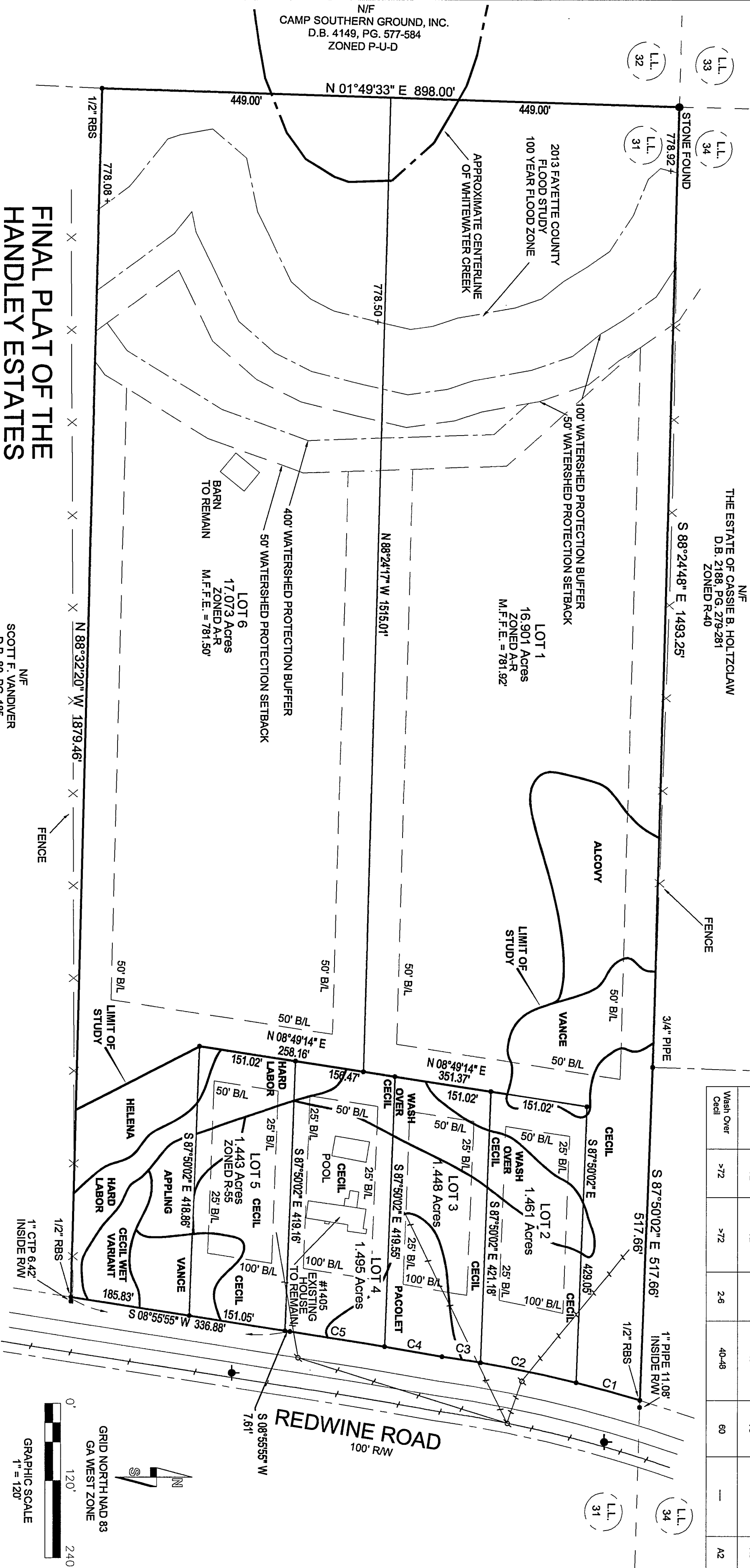
THIS BLOCK RESERVED FOR THE CLERK
OF THE SUPERIOR COURT.

SOIL SUTABILITY CODE LEGEND

- A1 Soils are typically suitable for conventional absorption field with proper design, installation and maintenance.
- A2 Soils consist of local alluvium or wash over natural soils. Residual soil is suitable for conventional absorption field installation at recommended trench depth. Storm water runoff must be diverted from this area if it is used for absorption field.
- A5 Soils are typically suitable for conventional absorption field with proper design, installation and maintenance. The Bt horizon shows some evidence of slow percolation, substratum is well drained. Trenches installed at the recommended depth should function effectively. Permeability appears to improve with depth. Further inspection with a backhoe is recommended prior to permitting.
- C1 Soils are unsuitable for conventional absorption fields due to perched water table conditions. Soils are generally suitable for alternative absorption fields with treatment system producing Class 1 effluent.
- C2 Soils are unsuitable for conventional absorption fields due to seasonal-high water table conditions. Soils are generally suitable for alternative absorption fields with treatment system producing Class 1 effluent.
- F2 Soils are unsuitable for on-site wastewater disposal due to seasonal high water table.
- Soils are typically suitable for conventional absorption field with proper design, installation and maintenance. Absorption trenches must be installed at least 24 inches above seasonal high water table to function effectively. Seasonal high water table indicators were observed between 50 and 60 inches. Installations deeper than 24 inches may require a treatment system producing Class 1 effluent.

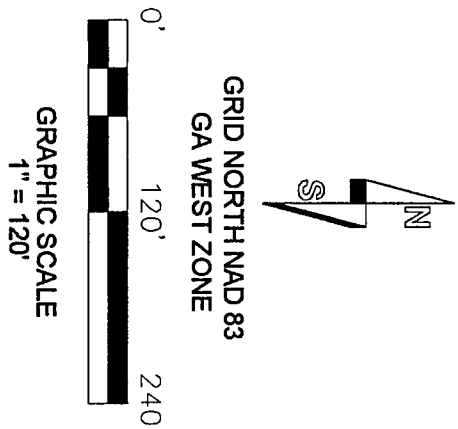
SOIL INTERPRETIVE DATA

Soil Units	Depth to Bedrock (in)	Depth to Seasonal High Water Table (in)	Slope Gradient (percent)	Recommended Trench Depth (in)	Estimated Perc Rate (in/in)	Recommended Hydraulic Loading Rate (gal/day/sq.ft.)	Soil Sult. Code
Alcoy	>72	24-30	2-6	8-12	---	0.10	C1
Appling	>72	>72	2-8	36-48	60	---	A1
Cecil	>72	>72	2-8	36-48	60	---	A1
Cecil Wet Variant	>72	50-60	6-10	24-30	60	---	P1
Hard Labor	>72	30-36	2-8	12-18	75	0.12	C2
Helena	>72	16-24	2-4	---	---	---	F2
Pacolet	>72	>72	2-10	30-48	45	---	A1
Vance	>72	>72	2-8	48+	70	---	A5
Wash Over Cecil	>72	>72	2-6	40-48	60	---	A2



FINAL PLAT OF THE
HANDLEY ESTATES

N/F
SCOTT F. VANDIVER
D.B. 80, Pg. 185



S.A. GASKINS &
ASSOCIATES, LLC

surveyors/planners/development consultants
P.O. BOX 303 BROOKS, GA 30205
678-571-3054
rdgaskins79@gmail.com

Property Location

Land Lot 31 Of The 5th Land District
Fayette County, Georgia

Prepared For:

RODWRIGHTCORP

Job No. 19-038

Drawn By: R.D.G. Reviewed By: R.M.B.

Issue Date: 11/27/19

F.W.P.D.: 07/24/19

Revisions: Date

COUNTY COMMENTS: 07/15/20

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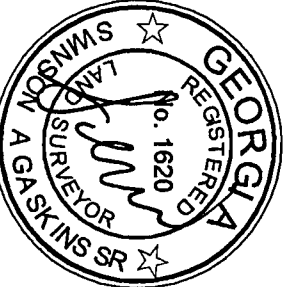


EXHIBIT “B”

CONSTITUTIONAL OBJECTION TO CURRENT ZONING

As applied to the real properties of Wright Chancey, LLC and Jeff Lindsey Communities, Inc. (the “Owners”) which are identified as Fayette County Tax Assessor as Parcel ID Nos.: 0501 059 and 0501 060 (collectively, the “Subject Property”), consist of approximately 18.516 +/- acres, and are the subject of the Application to Amend the Official Zoning Map of Fayette County, Georgia Number 1293-20 (the “Petition”) previously filed with Fayette County, Georgia, the Zoning Ordinance of Fayette County, Georgia as presently applied to the Subject Property, zoned R-55, Single-Family Residential District with conditions (“R-55”), based on the reasons set forth in the foregoing letter of intent (the “Letter of Intent”), is unconstitutional in that the Owners’ property rights in and to the Subject Property have been destroyed without first receiving fair, adequate, and just compensation for such property rights. For the reasons set forth in the Letter of Intent, as applied to the Subject Property, the Zoning Ordinance of Fayette County, Georgia deprives the Owner of constitutionally protected rights in violation of Article I, Section I, Paragraphs I-II of the Constitution of the State of Georgia of 1983; Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States.

For the reasons set forth in the Letter of Intent, Application of the Zoning Ordinance of Fayette County, Georgia to the Subject Property is unconstitutional, illegal, arbitrary, capricious, null, and void, constituting a taking of the Subject Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States; the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States; Article I, Section I, Paragraphs I-II of the Constitution of the State of Georgia of 1983; and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 thereby denying the

EXHIBIT "B"

Owners an economically viable use of the Subject Property while not substantially advancing legitimate state interests.

For the reasons set forth in the Letter of Intent, inasmuch as it is impossible for the Owners to use the Subject Property and simultaneously comply with the Zoning Ordinance of Fayette County, Georgia, the Zoning Ordinance of Fayette County, Georgia constitutes an arbitrary, capricious, and unreasonable act by Fayette County without any rational basis therefore and constitutes an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983; Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

For the reasons set forth in the Letter of Intent, application of the Zoning Ordinance of Fayette County, Georgia to the Subject Property is unconstitutional and discriminates against the Owner in an arbitrary, capricious, and unreasonable manner between the Owners and others similarly situated in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

WHEREFORE, RODWRIGHTCORP (the "Applicant") requests that Fayette County, Georgia rezone the Subject Property as specified and designated in the Petition.

BOVIS, KYLE, BURCH & MEDLIN, LLC
Counsel for Applicant



Steven L. Jones
Georgia State Bar No.: 639038

200 Ashford Center North, Suite 500
Atlanta, Georgia 30338-2680
sjones@boviskyle.com
(678) 338-3902

EXHIBIT “C”

OBJECTION TO ZONING HEARING BASED ON YORK V. ATHENS COLLEGE OF MINISTRY, INC.

As applied to the real properties of Wright Chancey, LLC and Jeff Lindsey Communities, Inc. (the “Owners”) which are identified as Fayette County Tax Assessor as Parcel ID Nos.: 0501 059 and 0501 060 (collectively, the “Subject Property”), consist of approximately 18.516 +/- acres, and are the subject of the Application to Amend the Official Zoning Map of Fayette County, Georgia Number 1293-20 (the “Petition”) previously filed with Fayette County, Georgia, the public hearings before and any action or recommendation by the Fayette County, Georgia Planning Commission (the “Planning Commission”) and/or the Board of Commissioners of Fayette County, Georgia (the “Board of Commissioners”) on the same are objected to based on, but not limited to, the reasons set forth herein (collectively, the “York Objection”), in accordance with *York v. Athens College of Ministry, Inc.*, 2018 Ga. App. LEXIS 632, 821 S.E.2d 120 (Ga. Ct. App. 2018):

Contemporaneous with the filing of this *York* Objection, the Applicant is filing a Constitutional Objection to the R-55, Single-Family Residential District with conditions (“R-55”) currently applied of the Subject Property, and all objections set forth therein are incorporated herein by reference as if fully restated.

The Applicant objects to any and all members of the public who appear at the public hearings before the Planning Commission and/or Board of Commissioners to the extent that (but not limited to) said individuals (a) do not satisfy the substantial interest-aggrieved citizen test; (b) are not under oath; (c) are not subject to cross-examination; (d) present evidence on and/or make statements that qualify as (or must or should be assessed with the aid of) expert opinion without any or all individuals being qualified as expert witnesses; (e) present evidence on and/or make statements that are not germane to the exclusive factors for rezoning set forth in Section 110-300 of the Zoning Ordinance of Fayette County, Georgia; and/or (f) present evidence and/or make

EXHIBIT “C”

statements that are founded, wholly or in part, upon inadmissible, unreliable, nonprobative, insubstantial, and/or lay, nonexpert opinion evidence. Likewise, to the extent that any recommendation by the Planning Commission and/or decision by the Board of Commissioners is a quasi-judicial decision, the Applicant objects to the hearings before the Planning Commission and Board of Commissioners because the time limitation imposed on the presentation of evidence and testimony in support of the Application deprives the Applicant a meaningful opportunity to be heard and preserve issues in violation of the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of Georgia of 1983.

Additionally, the Applicant objects to any recommendation of the Planning Commission that does not recommend approval of the Rezoning Application or recommends approval of the Rezoning Application with unreasonable conditions; and/or any action by the Board of Commissioners that does not approve the Rezoning Application or approves the Rezoning Application with unreasonable conditions, to the extent that (but not limited to) either is: (a) in violation of Section 50-13-19(h) of the Official Code of Georgia Annotated or otherwise: (1) in violation of constitutional, statutory, and/or ordinance provisions; (2) in excess of the constitutional, statutory, and/or ordinance authority of the Planning Commission and/or the Board of Commissioners; (3) made upon unlawful procedure; (4) affected by other error of law; (5) clearly erroneous in view of the reliable probative and substantial evidence on the whole record; and/or (6) arbitrary, capricious, and/or characterized by abuse of discretion or clearly unwarranted exercise of discretion; (b) contrary to any Reports and Recommendations for approval, if any, of (1) the Fayette County, Georgia Director of Planning and Zoning (or any assigns thereof); (2) the Planning Commission; and/or (3) any other Department or agency of Fayette County, Georgia or

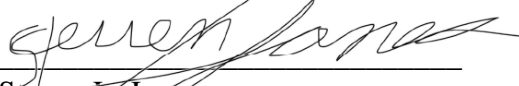
EXHIBIT “C”

the State of Georgia; (c) founded, wholly or in part, upon inadmissible, unreliable, nonprobative, insubstantial, and/or lay, nonexpert opinion evidence; and/or (d) contrary to the exclusive factors for rezoning set forth in Section 110-300 of the Zoning Ordinance of Fayette County, Georgia, including, but not limited to, the current Fayette County, Georgia Comprehensive Plan and the Fayette County, Georgia Future Land Use Plan.

By and through this *York* Objection, the Applicant hereby preserves all the above and incorporated Objections and asserts them on and within the record before, and for consideration and resolution by, the Board of Commissioners of Fayette County, Georgia.

WHEREFORE, RODWRIGHTCORP (the “Applicant”) requests that Fayette County, Georgia rezone the Subject Property as specified and designated in the Petition.

BOVIS, KYLE, BURCH & MEDLIN, LLC
Counsel for Applicant



Steven L. Jones
Georgia State Bar No.: 639038

200 Ashford Center North, Suite 500
Atlanta, Georgia 30338-2680
sjones@boviskyle.com
(678) 338-3902

APPLICATION TO AMEND
TO AMEND THE OFFICIAL ZONING MAP OF FAYETTE COUNTY, GA

PROPERTY OWNERS: Wright Chancey, LLC

MAILING ADDRESS: P.O. Box 629, Fayetteville GA 30214

PHONE: 770-460-5606 E-MAIL: thesubdivider@gmail.com

AGENT FOR OWNERS: Bob Wright

MAILING ADDRESS: P.O. Box 629, Fayetteville GA 30214

PHONE: 770-294-7990 E-MAIL: thesubdivider@gmail.com

PROPERTY LOCATION: LAND LOT 31 LAND DISTRICT 5 PARCEL 0501060
LAND LOT _____ LAND DISTRICT _____ PARCEL 0501017
0501058
0501057
0501059

TOTAL NUMBER OF ACRES REQUESTED TO BE REZONED: N/A

EXISTING ZONING DISTRICT: R-55, AR PROPOSED ZONING DISTRICT: R-55, A-R

ZONING OF SURROUNDING PROPERTIES: R55, A-R

PRESENT USE OF SUBJECT PROPERTY: Single Family Residential

PROPOSED USE OF SUBJECT PROPERTY: Single Family Residential

LAND USE PLAN DESIGNATION: A-R

NAME AND TYPE OF ACCESS ROAD: Redwine Rd.

LOCATION OF NEAREST WATER LINE: At road

(THIS AREA TO BE COMPLETED BY STAFF): PETITION NUMBER: 1293-20

☐ Application Insufficient due to lack of: _____

by Staff: _____ Date: _____

☐ Application and all required supporting documentation is Sufficient and Complete

by Staff: Ruth Jensen Date: 7/1/20

DATE OF PLANNING COMMISSION HEARING: August 6, 2020

DATE OF COUNTY COMMISSIONERS HEARING: August 27, 2020

Received from _____ a check in the amount of \$ _____ for application filing fee, and \$ _____ for deposit on frame for public hearing sign(s).

Date Paid: _____ Receipt Number: _____

1273-20

PROPERTY OWNER CONSENT AND AGENT AUTHORIZATION FORM
(Applications require authorization by ALL property owners of subject property).

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

Wright Chancey, LLC
Please Print Names

Property Tax Identification Number(s) of Subject Property: 0501 017

(I am) (we are) the sole owner(s) of the above-referenced property requested to be rezoned. Subject property is located in Land Lot(s) 31 of the 5th District, and (if applicable to more than one land district) Land Lot(s) _____ of the _____ District, and said property consists of a total of 17 acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

(I) (We) hereby delegate authority to Bob Wright to act as (my) (our) Agent in this rezoning. As Agent, they have the authority to agree to any and all conditions of zoning which may be imposed by the Board.

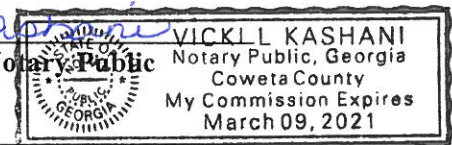
(I) (We) certify that all of the information filed with this application including written statements or showings made in any paper or plans submitted herewith are true and correct to the best of (my) (our) knowledge and belief. Further, (I) (We) understand that this application, attachments and fees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

[Signature]
Signature of Property Owner 1

P.O. Box 629, Fayetteville GA 30214
Address

Vicki L. Kashani
Signature of Notary Public

7-1-2020
Date



Signature of Property Owner 2

Address

Signature of Notary Public

Date

Signature of Property Owner 3

Address

Signature of Notary Public

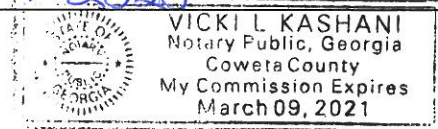
Date

[Signature]
Signature of Authorized Agent

P.O. Box 629
Fayetteville GA 30214
Address

Vicki L. Kashani
Signature of Notary Public

7-1-2020
Date



1275 20
NAME: Wright Chancey LLC PETITION NUMBER: _____

ADDRESS: P.O. Box 629, Fayetteville GA 30214

PETITION FOR REZONING CERTAIN PROPERTY IN THE UNINCORPORATED AREAS OF FAYETTE COUNTY, GEORGIA.

Rod Wright affirms that he is the owner or the specifically authorized agent of the property described below. Said property is located in a(n) _____ Zoning District. He/She respectfully petitions the County to rezone the property from its present classification and tenders herewith the sum of \$ _____ to cover all expenses of public hearing. He/She petitions the above named to change its classification to _____.

This property includes: (check one of the following)

[] See attached legal description on recorded deed for subject property or

[X] Legal description for subject property is as follows:

Per recorded plat (attached)

PUBLIC HEARING to be held by the Planning Commission of Fayette County on the 6th day of August, 2020 at 7:00 P.M.

PUBLIC HEARING to be held by the Board of Commissioners of Fayette County on the 27th day of August, 2020 at 7:00 P.M.

SWORN TO AND SUBSCRIBED BEFORE ME THIS 1st DAY OF July, 2020,

Vicki L. Kashani
NOTARY PUBLIC



[Signature]
APPLICANT'S SIGNATURE

AGREEMENT TO DEDICATE PROPERTY FOR FUTURE RIGHT-OF-WAY

I/We, Rad Wright, said property owner(s) of subject property requested to be rezoned, hereby agree to dedicate, at no cost to Fayette County, _____ feet of right-of-way along ALREADY DONE as measured from the centerline of the road.

Based on the Future Thoroughfare Plan Map streets have one of the following designations and the Fayette County Development Regulations require a minimum street width as specified below:

Local Street (Minor Thoroughfare) 60 foot right-of-way (30' measured from each side of road centerline)

Collector Street (Major Thoroughfare) 80 foot right-of-way (40' measured from each side of road centerline)

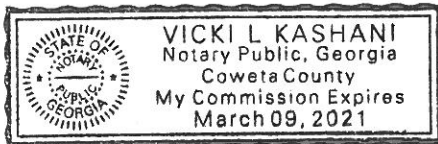
Arterial Street (Major Thoroughfare) 100 foot right-of-way (50' measured from each side of road centerline)

Sworn to and subscribed before me this 1st day of July, 2020.

[Signature]
SIGNATURE OF PROPERTY OWNER

SIGNATURE OF PROPERTY OWNER

Vicki L. Kashani
NOTARY PUBLIC



Resolution 2020-07 (To be added in its entirety to the Land Use Element of the Comprehensive Plan.)

Flat Creek Trail Overlay District: This District identifies the county's goals and recommendations for lots fronting on Flat Creek Trail north of SR 54 and south of Tyrone Road and sets out the preferred development pattern for this area. Flat Creek Trail is classified as a Collector on the Fayette County Thoroughfare Plan. As a connection between SR54 (Major Arterial) and Tyrone Road (Minor Arterial), Flat Creek Trail has become a cut through road.

Existing Development: There are 18 lots fronting on Flat Creek Trail north of SR 54 and south of Tyrone Road with a total acreage of approximately 80 acres. Eight lots front on the east side of the road and ten lots front on the west side of the road.

Ten lots have a nonresidential use and/or zoning and the total acreage associated with these lots is approximately 49 acres. Three places of worship and a cemetery lot owned by one of the places of worship, all zoned A-R, make up the majority of these nonresidential lots and combined they equal approximately 40 acres. In terms of nonresidential zoning, four lots, are zoned O-I with two developed and two undeveloped, and one lot is zoned C-H but is presently being used as a residence. A County Fire Station is located on a 3.8 acre A-R lot.

Eight lots are zoned residential with seven lots zoned A-R and one lot zoned R-70. These residential lots equal approximately 31 acres. Five of these lots are non-conforming with the minimum lots size required by the associated zoning. Seven of these lots contain a single-family residence and one lot is currently undeveloped.

Current Comprehensive Plan Land Use: The future land use designation for this District is Rural Residential - 2 (1 unit/2 acres). There is one area of 15 acres consisting of three existing lots (two contain single-family residences and one is vacant) on the west side of Flat Creek Trail that has the potential for new residential subdivision development with an internal road. These parcels also contain a pond and possible stream affected by Watershed Protection which could affect lot yield. Two lots have the potential for the subdivision of residential lots fronting on Flat Creek Trail.

Tyrone Road – Palmetto Road - Transportation Corridor Study: The study recommends improvements at the intersection of Tyrone Road and Flat Creek Trail. Recommended improvements consist of a roundabout or a signalized intersection with expanded turn lanes.

Future Development: As previously mentioned, this portion of Flat Creek Trail is becoming a cut through road connecting two major thoroughfares, SR 54 and Tyrone Road. With a majority of the lots being used and/or zoned for nonresidential uses coupled with the Rural Residential - 2 (1 unit/2 acres) land use designation, future residential subdivision development with an internal road seems unlikely. There is potential for the subdivision of residential fronting on Flat Creek Trail.

The goals of the Flat Creek Trail Overlay District are: (1) maintain the residential and institutional character of the area and (2) control the architectural character and aesthetic quality of the nonresidential development.

Recommendations: Maintain the underlying land use designation of Rural Residential - 2 (1 unit/2 acres) with the consideration of O-I zoning for lots fronting Flat Creek Trail within the Flat Creek Trail Overlay District for conversion of existing homes and construction of new office buildings. Office development is low intensity nonresidential development. Create a corresponding Flat Creek Trail Overlay Zone in the Fayette County Zoning Ordinance. Conditions could be placed on property at the time of rezoning to address unique situations.

(To be added as a note and label to the Future Land Use Plan Map of the Comprehensive Plan.)

(Note)

Flat Creek Trail Overlay District and Overlay Zone

Overlay District (see Fayette County Comprehensive Plan, Land Use Element

Overlay Zone (see Fayette County Zoning Ordinance, Sec. 110-173)

(Label)

Flat Creek Trail Overlay District and Overlay Zone (see note below)

(6) Flat Creek Trail Overlay Zone. All property with a nonresidential zoning which has road frontage on Flat Creek Trail shall be subject to the following regulations, in addition to the zoning district requirements, and other development regulations which apply. The existing O-I properties on the northeast corner of Flat Creek Trail and SR 54 shall be exempt from these requirements as they were established under the SR 54 West Overlay Zone and that overlay zone will continue to apply to those properties. The intent of the overlay zone is to set standards specifically to Flat Creek Trail between SR 54 and Tyrone Road.

a. The purpose of the SR 54 West Overlay Zone is to achieve the following:

1. To maintain the residential and institutional character of the area; and
2. To control the architectural character and aesthetic quality of the development property with a nonresidential zoning.

b. Architectural standards. Structures shall maintain a residential character and these standards shall apply to new structures built on property with a nonresidential zoning. 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 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 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. 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, stucco (including synthetic stucco), or finished/baked enamel metal siding which establishes a horizontal pattern; and
3. 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, stucco (including synthetic stucco) or finished/baked enamel metal siding which establishes a horizontal pattern.

c. Additional requirements.

1. All roof-top heating, ventilation, and air conditioning equipment and 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.
2. No outside storage shall be allowed