

REZONE NO. P20-0210

**ACTION DENYING REZONE REQUEST**

APPLICATION SUBMITTED BY: Deferred Tax, LLC

APPLICATION SUBMISSION DATE: October 20, 2020

RE: Request for rezoning of a ±46.87-acre tract of land located at Mars Hill Road, Oconee Connector, Georgia Highway 316, and Virgil Langford Road in the 1331<sup>st</sup> G.M.D., Oconee County, Georgia, (tax parcel no. C-01-045, C-01-045B, and C-01-045D) from R-1 (Single-Family District), B-1 PUD (General Business District Planned Unit Development), B-2 (Highway Business District) to B-2 (Highway Business District).

After consideration and a motion and second, the Oconee County Board of Commissioners does hereby deny the above-referenced request for rezoning.

This 4<sup>th</sup> day of May, 2021.



ATTEST:

\_\_\_\_\_  
Kathy Hayes  
Clerk, Board of Commissioners

**OCONEE COUNTY BOARD OF COMMISSIONERS**

BY:

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John Daniell, Chairman

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Mark Thomas, Member

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Chuck Horton, Member

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Amrey Harden, Member

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Mark Saxon, Member



**Planning Department  
Oconee County, Georgia  
STAFF REPORT**

**REZONE CASE #:** P20-0210

**DATE:** April 19, 2021

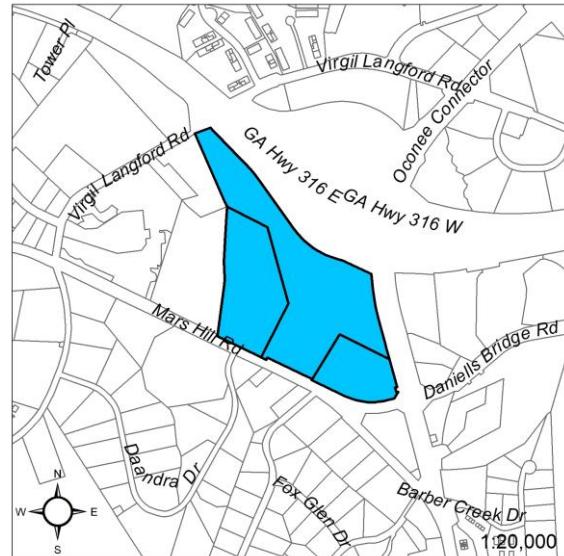
**STAFF REPORT BY:** Grace Tuschak, Senior Planner  
Monica Davis, Planner

**APPLICANT NAME:** Deferred Tax, LLC

**PROPERTY OWNER:** Deferred Tax, LLC

**LOCATION:** Tax parcels: C-01-045, C-01-045B, and C-01-045D; Mars Hill Road, Oconee Connector, Georgia Highway 316, and Virgil Langford Road

**PARCEL SIZE:** ±46.87 acres



**EXISTING ZONING:** R-1 (Single-Family Residential District), B-1 PUD (General Business District Planned Unit Development), B-2 (Highway Business District), Mars Hill Overlay

**EXISTING LAND USE:** Vacant/Undeveloped

**FUTURE DEVELOPMENT MAP CHARACTER AREA DESIGNATION:** Regional Center

**ACTION REQUESTED:** Rezone the property from R-1 (Single-Family Residential District), B-1 PUD (General Business District Planned Unit Development), and B-2 (Highway Business District) to B-2 (Highway Business District) for development of a shopping center with grocery store, retail, restaurant, and hotel uses.

**STAFF RECOMMENDATION:** Staff recommends conditional approval of this request

**DATE OF SCHEDULED HEARINGS**

**PLANNING COMMISSION:** April 19, 2021

**BOARD OF COMMISSIONERS:** May 4, 2021

**ATTACHMENTS:**

- Application
- Narrative
- Zoning Impact Analysis
- Representative Images
- Aerial Imagery
- Zoning Map
- Future Development Map
- Plat of Survey
- Concept Plan

## **BACKGROUND INFORMATION & FINDINGS OF FACT**

### **HISTORY**

- Parcel C-01-045B was rezoned from AG (Agricultural District) and AR (Agricultural Residential District) to B-2 (Highway Business District) on 10/04/1988 for development of a shopping center.
- Parcel C-01-045 was rezoned from AR (Agricultural Residential) to B-1 (General Business District) on 08/04/1992 for development of a commercial planned unit development.
- Parcel C-01-045D was rezoned from AR (Agricultural Residential) to R-1 (Single-Family Residential) on 06/02/1992 for development of a 15-lot single-family subdivision.

### **SURROUNDING LAND USE AND ZONING**

	<b>EXISTING LAND USES</b>	<b>EXISTING ZONING</b>
<b>NORTH</b>	Vacant/Undeveloped GDOT Right of Way	B-2 (Highway Business District) and AR (Agricultural Residential)
<b>SOUTH</b>	Single-Family Residential and Community-Scale Church	AG (Agricultural District), AR (Agricultural Residential District), and B-2 (Highway Business District)
<b>EAST</b>	Vacant/Undeveloped and Commercial	B-2 (Highway Business District)
<b>WEST</b>	Community-Scale Church and Single-Family Residential	AG (Agricultural District)

### **PROPOSED DEVELOPMENT**

- The proposed project would be approximately 322,507 sf of commercial and retail space. The project is to be developed in two phases, as shown on the associated concept plan and described below:
  - *Phase 1:* Approximately 69,207 sf of commercial space and site improvements as follows:
    - Grocery Store: 48,387 sf
    - Retail Space: 12,000 sf
    - Super Convenience/Gas station: 5,720 sf convenience store and 16 fuel pumps
    - Bank 3,100 sf
    - Stormwater detention pond at corner of Mars Hill and Oconee Connector
    - Four full access entrances along Mars Hill Road and one full access entrance along Oconee Connector and all required road improvements
    - Phase 1 construction is to be completed by the developer and is estimated to begin July 2021 and be completed by October 2022
  - *Phase 2:* Approximately 253,300 sf and would include fast food restaurants with drive-throughs, high-turnover sit-down restaurants, quality restaurants, as well as retail, hotel, and auto sales uses. Site improvements proposed for phase II are as follows:
    - One additional stormwater detention pond
    - One additional entrance along Mars Hill Road
    - Phase II is to be retained by the current property owner with construction estimated to begin August 2022 and be completed by August 2024
- The estimated value of the project upon completion is \$50,000,000.
- Architecture/façade materials: The project would comply with the architectural requirements and development standards of the Mars Hill Overlay District (UDC Sec. 206.04.d). Exterior building finishes are proposed to be brick veneer, stone veneer, and cement board siding with architectural tab shingle, tile, slate, or wood shakes and/or standing seam metal roofs.

### **PROPOSED TRAFFIC PROJECTIONS**

- An additional 13,430 average daily trips including 984 AM peak hour and 1,051 PM peak hour trips are projected should the request be approved (10<sup>th</sup> Edition ITE Trip Generation Manual).
- A traffic impact study dated 9/28/2020 and a signal warrant analysis dated 11/17/2020 were submitted with the rezone application.

## **PUBLIC FACILITIES**

### **Water:**

- The property is proposed to utilize County water services.
- The Water Resources Department has indicated in a letter dated 11/11/2020 that potable water is available at this location.

### **Sewer:**

- The property is proposed to utilize County sewer services.
- The Water Resources Department has indicated in a letter dated 11/11/2020 that wastewater treatment/sewer collection and transmission capacity for the requested amount of 75,000 gpd of sewer treatment is currently available at the Calls Creek Treatment Facility.

### **Roads:**

- One full access driveway on Oconee Connector with a northbound left turn lane and southbound right turn lane is proposed at the existing median break. A traffic signal is proposed at this entrance when/if it is warranted and permitted by GDOT.
- Five full-access driveways on Mars Hill Road are proposed. Four driveways along Mars Hill are to be installed during Phase I and a fifth driveway opposite DaAndra Drive is to be installed during Phase II.

## **ENVIRONMENTAL**

- The project would impact 2,660 linear feet of a stream channel, 0.5 acres of wetland, and 0.42 acres of open water, requiring a 401 permit from the Georgia Environmental Protection Division (GAEPD) and a 404 permit from the US Army Corp of Engineers (USACE). The project is currently progressing through the Stream Buffer Variance approval process with GAEPD and has been issued the 401 certificate which has been transmitted to the USACE to complete the 404/401 permitting process.
- A conservation corridor also exists along the stream on site; upon issuance of a stream buffer variance from the Georgia Environmental Protection Division, land disturbance within the conservation corridor is permitted under UDC Sec. 905.02.
- No 100-year flood plain is known to exist on the site.

## **COMMENTS FROM OTHER DEPARTMENTS & AGENCIES**

### **OCONEE COUNTY PUBLIC WORKS DEPARTMENT**

- Recommend verifying sight distance at all entrances

### **OCONEE COUNTY FIRE DEPARTMENT**

- No comments

### **OCONEE COUNTY WATER RESOURCES DEPARTMENT**

- Recommended condition: The owner at their own expense shall construct the improvements required by the County for public water and public waste services for the subject property shall convey same to the County, free of all liens. Said improvements shall include all on-site improvements and such off-site improvements as are required by the County to provide service to the subject property.

### **GEORGIA DEPARTMENT OF TRANSPORTATION**

- The left turn lane going into the development on the northbound approach along the Oconee Connector is too short due to the left turn volume queuing into the mainline.
- The left turn lane on the mainline needs to be offset so that you can see around the opposing left-turn lane
- The developer did not evaluate the location using the ICE analysis to determine the appropriate traffic control at the intersection
- The report references the county as Clark County but its Oconee County
- There is a sight distance issue exiting the facility back to the north.

### **BOARD OF EDUCATION**

- No comments

## **STAFF ANALYSIS**

THE ANALYSIS OF THE APPLICATION IS MADE BASED UPON THE “STANDARDS FOR REZONING CONSIDERATION” AS SET FORTH IN SECTION 1207.01 OF THE *OCONEE COUNTY UNIFIED DEVELOPMENT CODE*.

**A. Whether the zoning proposal will permit a use that is suitable in view of the existing uses, development, and zoning of nearby property.**

Surrounding properties are a mix of institutional, single-family residential, or commercial uses and are primarily zoned B-2, AR, and AG. Many properties have been developed and/or zoned for commercial use in the nearby vicinity; areas directly north and east of the subject property have steadily transitioned from agricultural and residential uses to commercial uses beginning in the mid-2000s. The development of Epps Bridge Centre formed a major retail shopping area at the convergence of GA-10 Loop, Epps Bridge Parkway, Oconee Connector, and GA Hwy 316. This commercial area continues to expand with commercial development along nearby roads, including the Oconee Connector and Mars Hill Road corridors. Staff holds that the zoning proposal is suitable in view of the existing uses, development, and zoning of nearby property.

**B. Whether the property to be rezoned has a reasonable economic use as currently zoned.**

The property has a reasonable economic use for single-family residential and commercial purposes as currently zoned, see the history section on page 2.

**C. The extent to which the zoning proposal promotes the health, safety, morals or general welfare of the public with consideration to:**

**i. Population density and effect on community facilities such as streets, schools, water, and sewer;**

The present request is anticipated to have a negligible impact on population density and a positive financial impact to local schools. The development would result in increased demand on water and sewer services and the Water Resource Department has indicated that water and sewer capacity is adequate to accommodate this new demand. The development is also anticipated to significantly increase demand on local streets. Based upon input received from the GA Department of Transportation, several conditions are suggested below in order to maintain traffic safety in light of future anticipated transportation improvements to the adjacent road network.

**ii. Environmental impact;**

The development would impact state waters and jurisdictional wetlands associated with the stream and freshwater pond on site as described in the Environmental section on page 3. Prior to issuance of a land disturbance permit, the developer would be required to obtain all necessary permits from the Georgia Environmental Protection Division and the US Army Corp of Engineers in order to mitigate impact to stream buffers and wetlands.

**iii. Effect on the existing use, usability and/or value of adjoining property.**

The Unified Development Code requires that all commercial site lighting be “full cut-off” and directed away from residential areas and street rights-of way (UDC Sec. 306.04). The Mars Hill Overlay further restricts site lighting, prohibits neon lighting and digital signs, requires additional trees to be used in screening parking lots and truck loading areas, and restricts several high-intensity land uses that are otherwise allowed in the B-2 zoning district (UDC Sec. 206.04.d). Several conditions are suggested below to further protect adjacent property owners across Mars Hill Road from potential negative impacts of the development. Staff holds that as conditioned below the proposed commercial development should not have a significant negative effect on the use, usability and/or value of adjoining property.

**D. The length of time the property has been vacant as zoned, considered in the context of land development in the vicinity of the property.**

The subject parcels have remained vacant since being rezoned to R-1, B-1 PUD and B-2 in the late 1980s and early 1990s. While the directly adjacent properties have not changed land uses in the last 50 years, several properties in the nearby vicinity have been developed commercially, such as the QuikTrip gas station (2010) and First Madison Bank & Trust (2018) on Oconee Connector, the Springhill Suites hotel on Daniels Bridge Road (2008), as well as several office buildings along Oconee Connector, Daniels Bridge Road, and Virgil Langford Road.

**E. Consistency of the proposed use with the stated purpose of the zoning district that is being requested.**

The B-2 zoning district is intended to “serve those business activities generally oriented to the highways” (UDC Sec. 205.10.a). Highway-oriented commercial development serves the traveling public primarily through retail

or service oriented business activities and staff holds that the proposed development is consistent with the requested zoning district.

**F. Whether there are other existing or changing conditions or land use patterns affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.**

The subject property's location along two minor arterial roads (Oconee Connector and Mars Hill Road), and close proximity to GA-10 Loop increases its suitability for higher-intensity commercial use and gives supporting grounds for approval of the zoning proposal.

**G. Conformity with or divergence from the Future Development Map or the goals and objectives of the Oconee County Comprehensive Plan.**

The subject property lies within the Regional Center Character Area (2040 Future Land Use Map). This area is "characterized by regional-serving retail and commercial services, office complexes for medical and corporate offices, hotels, restaurants and entertainment facilities" and primary recommended land uses include "hotels and meeting facilities" and "shopping centers with major retail anchors" (2018 Comprehensive Plan p. 63). Several conditions are recommended below in order ensure conformity with the Comprehensive Plan's recommended development strategies for this character area, which include the following:

- "Buffers to protect lower-density residential areas within and near the character that would be impacted by higher-density and commercial development of the Character Area"
- "Where a gradual transition [of land use intensity] is impractical, major buffering between the development and adjacent uses or other solutions should be established through zoning and site plan restrictions"
- "Plan for a community trail and sidewalk network that is as friendly to alternative modes of transportation as to the automobile" (2018 Comprehensive Plan p. 64).

Staff holds that as conditioned below the proposed development is in conformity with the Future Development Map and the goals and objectives of the Oconee County Comprehensive Plan.

**H. The availability of adequate sites for the proposed use in districts that permit such use.**

It is likely that other properties exist within the county that are zoned for commercial use. However, due to the prevalence of conditional zoning, it is unlikely that property exists in the county that would permit the development as proposed.

## **STAFF RECOMMENDATION & CONDITIONAL REQUIREMENTS**

**Based on Board of Commissioners policies, decision-making criteria, and standards outlined in the development codes of Oconee County, staff recommends conditional approval of this request subject to the following conditions to be fulfilled at the expense of the owner/developer:**

1. Development design and structures shall meet or exceed the standards indicated on the concept plan, narrative, representative architectural sketches, and other documents submitted with the zoning application and attached hereto. This condition shall not construe approval of any standard that is not in conformity with the Unified Development Code.
2. The owner at their own expense shall construct the improvements required by the County for public water and public waste services for the subject property shall convey same to the County, free of all liens. Said improvements shall include all on-site improvements and such off-site improvements as are required by the County to provide service to subject property.
3. At its expense, Owner shall make all right of way improvements and shall dedicate all rights of way which are required by the County after the County's review of Owner's development plans pursuant to the County's ordinances and regulations. All such improvements shall be shown on the preliminary site plan and site development plans for the project and no development permit shall be issued until Owner has agreed to such improvements and dedication.
4. All dumpster enclosures shall be brick or stone and shall be architecturally compatible with the commercial buildings on site.
5. All service and truck loading areas shall be screened from public view by a six foot tall masonry wall with façade material to match the exterior of the principal building.

6. Parking spaces provided for each land use shall not exceed 110% of the minimum number of parking spaces required by UDC Table 6.1: Minimum Off-Street Parking Spaces Required by Use.
7. In addition to the required 10-foot wide vehicle use area screening and landscape strip along Mars Hill Road, a 25-foot wide structural buffer shall be provided including trees as specified in UDC Sec. 808.04.b.1.b and evergreen plant material as specified in UDC Sec. 808.04.b.3.d.
8. An internal sidewalk network shall connect all uses within the development to sidewalks along Oconee Connector and Mars Hill Road. Pedestrian connectivity shall be provided throughout the development, including raised decorative crosswalks. Final design of the sidewalk network shall be subject to the approval of the Planning Director and shall be shown on the preliminary plat and site development plans for each phase of the development.
9. Pedestrian facilities shall be provided connecting the development to DaAndra Drive and Hollow Creek Lane.
10. Along the full length of the private drives in both phases of the development, no sidewalks shall be located within the 10-foot wide landscape strip/vehicle use area screening.
11. All stormwater management ponds shall be enclosed by black vinyl coated chain link fencing and screened on all sides by a 25-foot wide structural buffer including trees as specified in UDC Sec. 808.04.b.1.b and evergreen plant material as specified in UDC Sec. 808.04.b.3.d. Said buffer shall be provided in lieu of the required evergreen screening of UDC Sec. 116.03.b.5.
12. At the time of preliminary plat submittal for phase I, an updated traffic study shall be submitted to the Planning Department reflecting all applicable conditions of zoning and recommendations of County staff, GDOT and any third party review conducted by on behalf of the County.
13. Proposed site driveway #1 along Oconee Connector shall be restricted to right-in right-out only, and a southbound dedicated right turn lane into the development shall be installed.
14. Proposed site driveways #2-6 along Mars Hill Road (as described in the traffic study dated 9/28/2020) shall be reduced to two full-access entrances and one right-in right-out entrance as follows: one roundabout and one right-in right-out entrance to be installed during phase I, and one roundabout to be installed during phase II. The final entrance designs shall be subject to the approval of the Public Works Director and shall be shown on the preliminary plat and site development plans for each phase of the development.
15. For the entirety of the project's frontage along Mars Hill Road, Mars Hill Road shall be upgraded to County street design standards for arterial roads as outlined in UDC Article 10. Road improvements shall be shown on the preliminary plat and site development plans for each phase of the development.
16. A roundabout shall be installed at the intersection of the two interior private drives in phase II of the development.
17. Inter-parcel access to adjacent properties shall be required during phase II in order facilitate future access from the development to Virgil Langford Road. Said inter-parcel access shall comply with UDC Sec. 608.02 and shall be shown on the preliminary site plan and site development plans for phase II.
18. No fast food restaurants with drive-through windows shall be permitted along Mars Hill Road.
19. The total building square footage on the site shall not exceed 322,507 square feet.
20. The development shall meet all standards of the Mars Hill Overlay District as outlined in UDC Sec. 206.04 unless otherwise approved by special exception variance.



## **NARRATIVE**

### **PROJECT DESCRIPTION**

Deferred Tax, LLC currently owns 3 tracts of vacant and undeveloped land totaling 46 acres located in the NW corner of the Oconee Connector and Mars Hill Road in Oconee County. The 3 tracts of land are separately zoned R-1, B-1 PUD and B-2 and this application is submitted to rezone all tracts to B-2 to accommodate a proposed 320,000 sf commercial and retail mixed use development. The R-1 and B-1 PUD were established by a rezoning in 1992 and utilized the same concept plan allowing a project density of 16 lots and 250,000 sq. ft. of building space.

The project is proposing approximately 320,000 sf of commercial and retail mixed use and is intended to be developed in 2 separate phases. The initial phase will be approximately 69,000 sf and will include a supermarket, retail shops, gas with convenience, bank and a master stormwater pond. The initial phase will also include all roadway improvements on the Oconee Connector and Mars Hill Road required to mitigate traffic impacts for the entire project scope.

The balance of the project will be developed in a second phase and will include restaurants, retail, hotel and auto car sales uses.

### **ACCESS AND TRAFFIC**

The project will be accessed from the Oconee Connector and Mars Hill Road utilizing private access driveways. The applicant has prepared a Traffic Impact Analysis and Traffic Signal Warrant Study which proposes a traffic signal at the Oconee Connector main access and several access driveways on Mars Hill Road. The Oconee Connector main access driveway is proposed to be located at the existing median opening and will require a northbound left turn lane and a southbound right turn lane be installed. A second main access driveway is proposed on Mars Hill Road located opposite the existing DaAndra Drive connection which is proposed to be installed during Development phase II. Additional minor driveway connections are proposed along Mars Hill Road which will access the project and will be installed during Development Phase I of the project. Improvements on Mars Hill Road include a dedicated center left turn lane and right turn lanes at each driveway.

Per the 10<sup>th</sup> edition of the Institute of transportation Engineers (ITE) Trip Generation report the calculated total trip generation for the proposed development are as follows:

<u>Use</u>	<u>Units</u>	<u>Daily Trips</u>
Hotel	240 rooms	2283
Retail (Shopping Center)	26,600 sf	2443

Auto Sales	27,000 sf	744
Supermarket	48,387 sf	4643
Bank w/drive thru	3,100 sf	374
Restaurant (Quality)	3,200 sf	268
Restaurant (high turnover)	4,900 sf	550
Restaurant (fast food w/drive thru)	14,200 sf	6687
Gas w/ Convenience	16 pumps	<u>3,688</u>
<b>SUBTOTAL</b>		<b>21,680</b>
Reductions (Mixed use and Passer By)		<u>-8,503</u>
<b>TOTAL DAILY TRIPS (ADT)</b>		<b>13,177</b>

### **IMPACT TO SCHOOLS**

There will be no negative impacts to the school system due to the retail and commercial uses proposed for the project which creates no increase in student population. There will be a large tax base increase as a result of the project which could provide a positive impact for the school system operations each year.

### **WATER AND SEWER**

It is estimated that the project will utilize approximately 72,000 GPD of water and sewer capacity which the County Water Resources Department has confirmed is available for the project. The project proposes to connect to existing County water and sewer infrastructure located in Oconee Connector and Mars Hill Road.

The County system maps indicate existing 12 inch water lines within the Oconee Connector and Mars Hill Road rights of way. The project proposes to loop the water service through the site and connect at both roads. The County maps indicate an existing gravity sewer structure in the intersection of Oconee Connector and Mars Hill Road and an existing 8 inch sewer force main in Mars Hill Road. The project proposes to connect to the existing gravity sewer structure. It is intended that easements will be provided over all water and sewer infrastructure within the limits of the project for the benefit of the County.

## **GENERAL UTILITIES AND GARBAGE COLLECTION**

It is proposed to extend underground electrical, gas, telephone, cable and internet utility services to all proposed users within the project. Easements will be provided as required by each utility provider.

All project users will be required to provide the required garbage storage facilities at each location and contract services with a local private solid waste collection provider.

## **STORMWATER RUNOFF/DRAINAGE**

The project will utilize curb and gutter on all its roads and parking lots to divert stormwater runoff to a drainage collection system. The drainage system will flow to proposed storage facilities for detention and water quality prior to discharge from the site as required by Federal, State and County codes and regulations.

## **LOT DESCRIPTION**

The 46 acres project site is currently comprised of 3 tracts of land under single ownership. It is possible that up to 15 separate private lots could be created to accommodate the proposed 16 building development as shown on the Concept Plan.

## **ARCHITECTURE AND FAÇADE MATERIALS**

The project site is located within the Mars Hill Overlay District which includes Architectural requirements for Commercial zoned developments. Exterior building finishes will include brick veneer, stone, veneer and cement board siding. Façade roofs will incorporate architectural tab shingles, tile, slate or wood shakes and standing seam metal. See representative architectural images attached.

## **ESTIMATE PROJECT VALUE**

The proposed project is estimated to have a value of over \$50,000,000 at completion.

## **OWNERSHIP AND MAINTENANCE OF COMMON/OPEN SPACE**

The applicant will prepare and record a Master Declaration of Covenants, Conditions, Restrictions and Easements document which at a minimum will identify common areas, cross access, shared facilities and stipulate maintenance responsibilities for all future owners/users of

the project. It is anticipated that the current property owner will sell or lease portions of the project lots as delineated on the Concept Plan during the development process.

## **BUFFERS**

The project will provide all landscaping buffers, parking lot screening and street trees as required by the Mars Hill Overlay District and County Unified Development Code. 15 ft and 50 ft buffers will be included in areas of adjacent property incompatibility as required by the County LDC.

Buffers of the State Waters shall be impacted, mitigated, preserved per the permitted obtained from the US Army Corp of Engineers and the State of Georgia. The Concept plan shows the limits of the stream buffer impacts.

## **SIDEWALKS**

There are two main sidewalks planned for the project as shown on the Concept Plan. The first main sidewalk with required ADA ramps will be provided along the south side of the main access driveway commencing at Oconee Connector and running west. The second main sidewalk with required ADA ramps will commence at Mars Hill Road access and run north. It will be the responsibility of each individual lot development within the project to connect to these main sidewalks.

## **OUTDOOR LIGHTING**

All proposed site lighting will be designed and installed to meet the minimum standards of the County UDC. All fixtures will utilize LED lighting and be directed downward and inward to minimize glare and light pollution.

## **PUBLIC & SEMI PUBLIC AREAS**

Waterline and Sewer line easements will be dedicated to Oconee County. Easement for power, telephone cable and gas will be dedicated as required for specific provider requirements.

## **ANTICIPATED DEVELOPMENT SCHEDULE**

### **Phase I**

- Design and Permitting: October 2020 – June 2021

- Construction: July 2021 – October 2022

## Phase II

- Design and Permitting: July 2021 – July 2022
- Construction: August 2022 – August 2024

## ADJACENT LAND USES AND ZONING

Direction	Land Use	Zoning	Character Area
Northwest	Residential	AG	Regional Center
West	Church	AG	Regional Center
Southwest	Church	AG	Regional Center
South	Residential	AG	Regional Center
South	Residential	AR	Regional Center
Southeast	Vacant	B-2	Regional Center
East	Commercial	B-2	Regional Center

## ZONING IMPACT ANALYSIS

Standards Governing Consideration of a Zoning Change  
(Tax Parcels C-01-45, C-01-45b, C-01-045D)

- A. Whether a zoning proposal will permit a use that is suitable in view of the existing uses, development, and zoning of nearby property: *The proposed commercial and retail uses requested are compatible with other similar zoning classifications to the east of the Oconee Connector and south of Daniels Bridge Road. The uses are also compatible with the Mars Hill Overlay District and County Comprehensive Plan*
- B. Whether the property to be rezoned has a reasonable economic use as currently zoned: *The property consists of 3 tax parcels and are currently undeveloped and zoned R-1, B-1 PUD and B-2. The request consolidates the zoning for the parcels and will allow for a more coordinated development with greater economic impact to the County.*
- C. The extent to which the zoning proposal promotes the health, safety, morals or general welfare of the public with consideration to:
  1. Population density and effect on community facilities such as streets, schools, water and sewer. *The commercial nature of the development will not generate any population density and will not impact school capacity. The project will generate additional traffic to the area roads which will be mitigated with improvements to Oconee Connector and Mars Hill Road. The project will require approximately 72,000 qpd of water and sewer capacity which the County Water Resources Department has confirmed is available. The project will dedicate easements to the County over all water and sewer infrastructure servicing the project.*
  2. Environmental impact. *The project will impact 2,660 lf of stream channel, 0.5 acres of wetland and 0.42 acres of open water. These impacts have been permitted with the US Army Corp of Engineers and has obtained a Provisional 404 Permit. The project is currently progressing through the Stream Buffer Variance approval process with the State of Georgia. The State has issued the 401 certificate which has been transmitted to the USACE to complete the 404/401 permitting process. Any increase in stormwater runoff within the project will be mitigated with two onsite detention ponds so no additional runoff will be introduced to any areas outside the project. Water quality of storm runoff will be achieved by providing permanent pools in the extended detention ponds sized to exceed 100% of the first 1.2% of rainfall within the project area disturbed area.*

3. Effect on the existing use, usability and/or value of adjoining property. An impacts to adjacent properties will be mitigated with landscape buffers, street trees and roadway traffic improvements as required by County code. The project will provide convenience uses for nearby neighborhoods which will increase the property values in these areas.
- D. The length of time the property has been vacant as zoned, considered in the context of land development in the vicinity of the property. The property is currently undeveloped and has no history of any past development. A portion of the property was rezoned from AG to R-1 and B-1 PUD in 1992 but was never developed. The remaining portion of the property is zoned B-2.
- E. Consistency of the proposed use with the stated purpose of the zoning district that is being requested. The County Unified Development Code states that it is the intent of the B-2 Highway Business District to serve those business activities generally orientated to the Highways and allow all the proposed uses indicated on the Concept Plan.
- F. Whether there are other existing or changing conditions or land use patterns affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal. The existing commercial development along Oconee Connector north of Hwy 316 and the 1992 rezoning approval of a portion of the project site suggests a need and desire to continue the retail and commercial development on the proposed site and in the surrounding area.
- G. Conformity with or divergence from the Future Development Map or the goals and objectives of the Oconee County Comprehensive Plan. The Oconee County Joint Comprehensive Plan 2018 Update shows the proposed site and the surrounding area south of Hwy 316 to Mars Hill Road to be within the Regional Center Land Use. The proposed zoning and uses in this application are included in the Land Use and are characterized as regional serving retail and commercial services, hotels and restaurants.
- H. The availability of adequate sites for the proposed use in the districts that permit such use. Additional sites were investigated by the anchor tenant but the proposed site provides the best access and minimizes the impact to local traffic patterns compared to other sites serving the growing market along the eastern portion of Hwy 316. The site also provides visibility to Oconee Connector and Hwy 316 which other sites may not provide. This site is also sized more appropriately than the other sites for a project of this type.



**RETAIL BUILDING  
MATERIAL AND ROOF LINE  
REPRESENTATION**



**RETAIL BUILDING  
MATERIAL AND CANOPY  
REPRESENTATION**

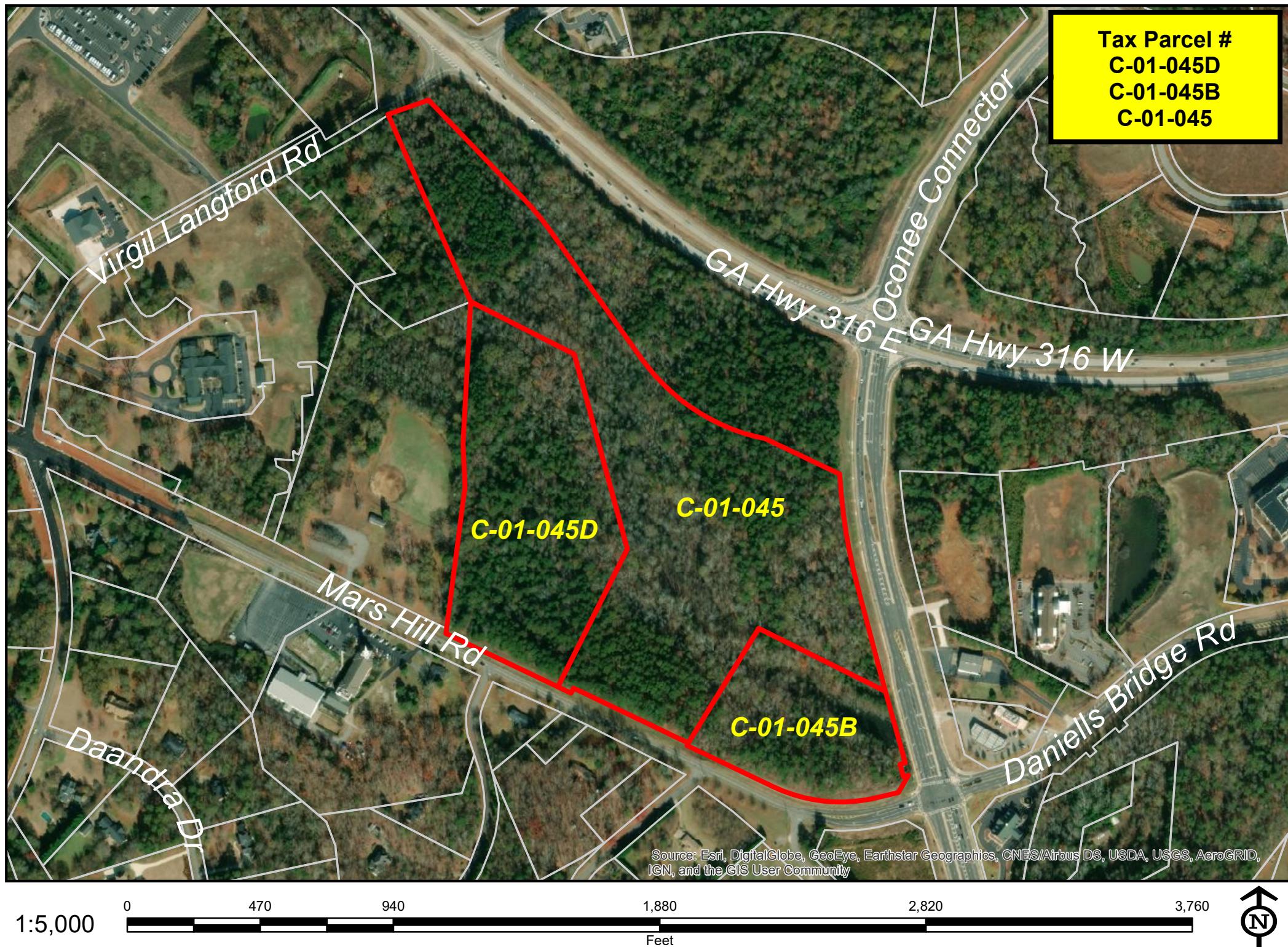


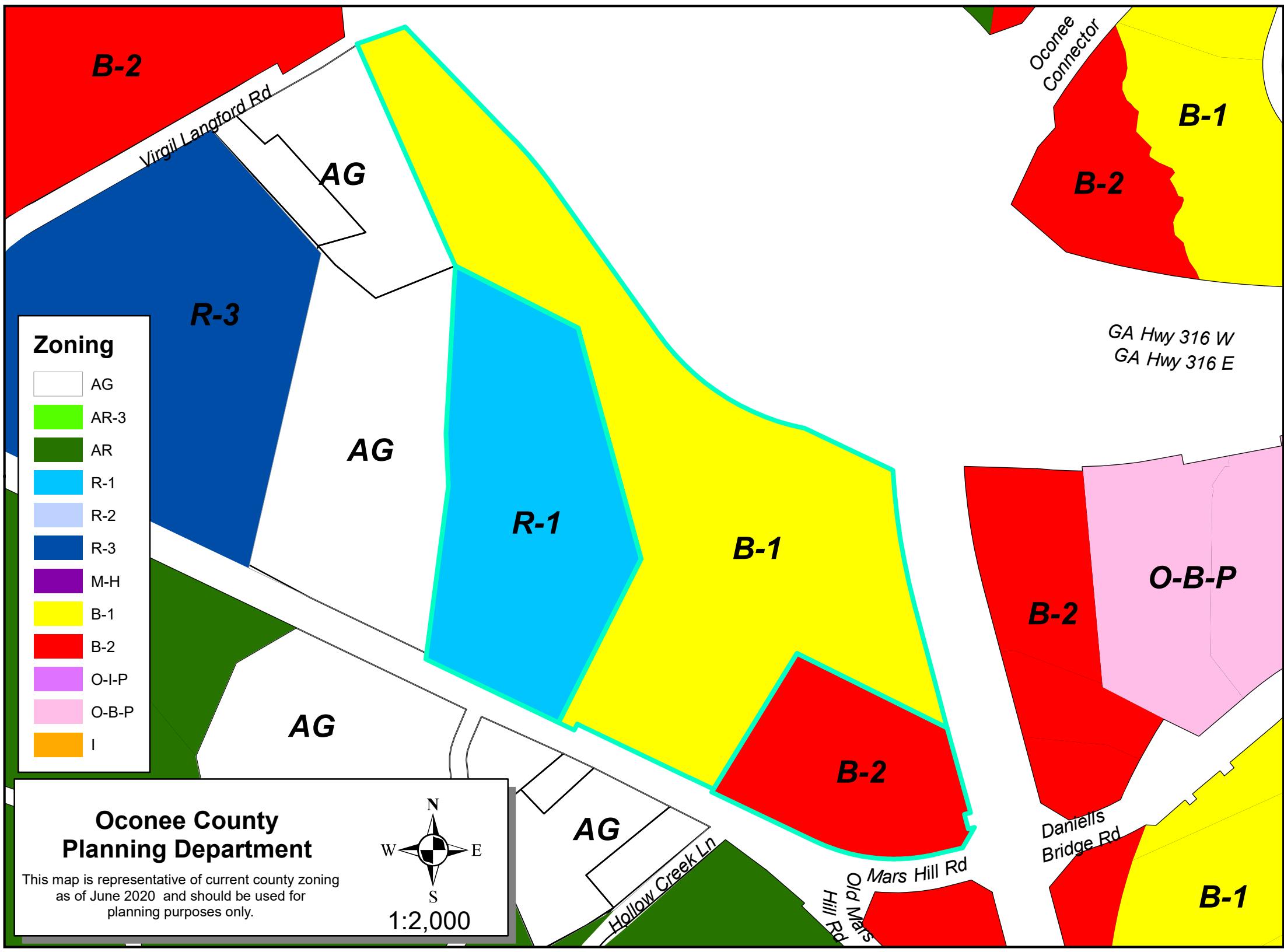
**BRICK AND STONE  
COLOR TONE REPRESENTATION**

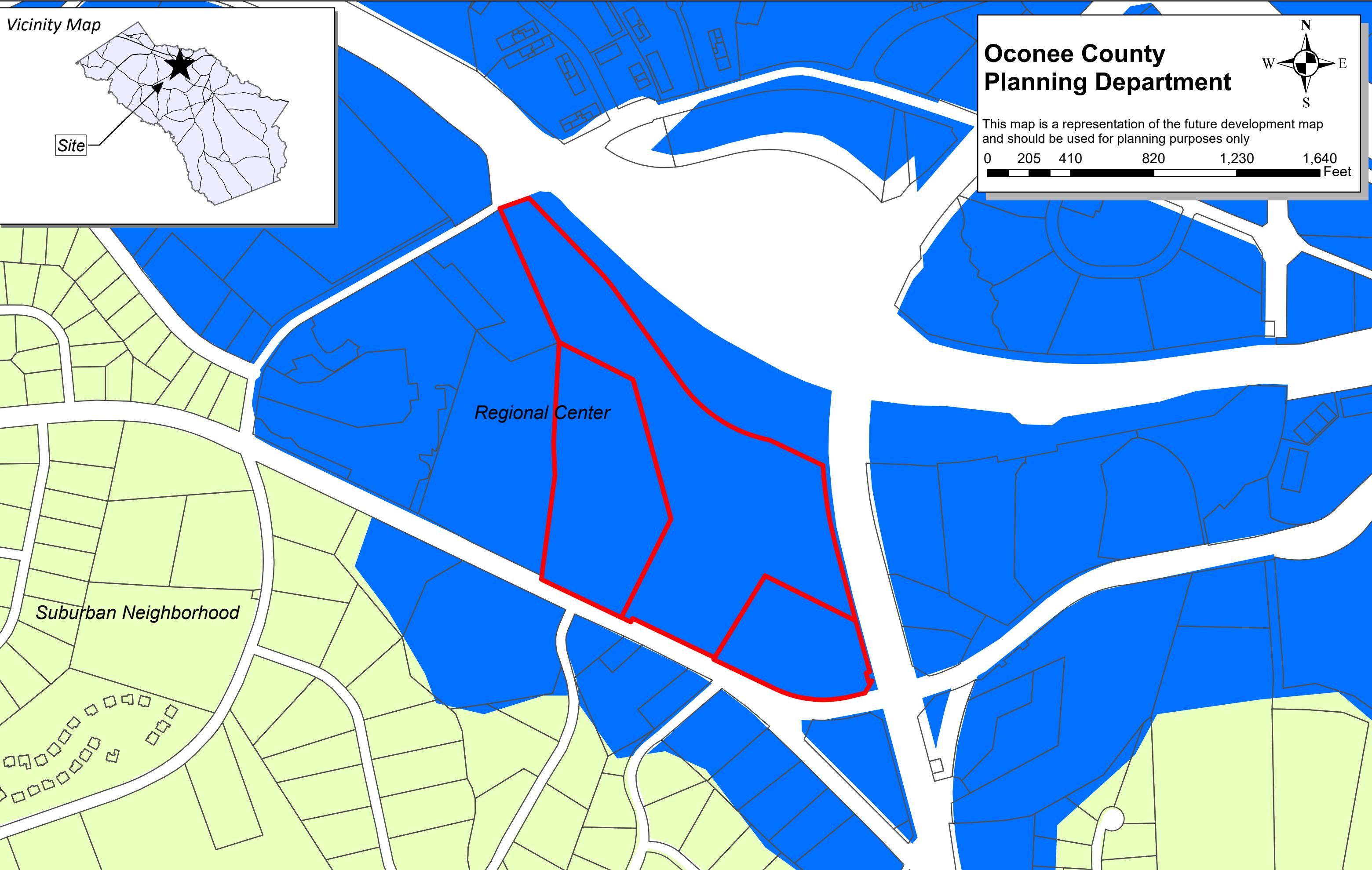


**ROOF CANOPY  
MATERIAL AND COLOR REPRESENTATION**

# Rezone # P20-0210 - Deferred Tax, LLC







CALL TABLE

LINE	CHORD BEARING	CHORD	ARC	RADIUS
1	S41°03'48"E	200.99'	201.30'	1045.92'
2	S57°10'18"E	518.17'	530.68'	703.11'
3	S09°05'01"E	405.55'	406.24'	2009.92'
4	S30°07'33"W	70.71'		
5	S75°07'33"W	60.83'		
6	N84°40'15"W	382.04'	390.07'	553.13'
7	N31°34'06"E	10.04'		
8	S25°32'31"W	20.00'		
9	N02°35'49"W	156.59'		
10	N64°27'28"W	51.79'		

LEGEND	DEFINITION
ATF	ANGLE IRON FOUNDATION
AC	ACRES
APPX	APPROXIMATE
BC	BACK OF CURB
BL	BUILDING SETBACK
BWF	BARBED WIRE FENCE
C&G	CURB & GUTTER
C/T	CRIMP TOP PIPE
CI	CURB INLET
CL	CENTER LINE
CMF	CONCRETE MONUMENT
CMP	CORRUGATED METAL
CONC	CONCRETE
DB PG	DEED BOOK, PAGE
DE	DRAINAGE EASEMENT
DI	DROP INLET
DTP	DUCTILE TRON PIPE
EP	EDGE OF PAVEMENT
EX	EXISTING
FH	FIRE HYDRANT
GP	GUY POLE
GW	GUY WIRE
HW	HEADWALL
HWF	HOG WIRE FENCE
IE	INVERT ELEVATION
IPF	IRON PIN FOUND
JB	JUNCTION BOX
LL	LAND LOT
LLL	LAND LOT LINE
LP	LIGHT POLE
MH	MANHOLE
N/F	NOW OR FORMERLY
OT	OPEN TOP PIPE
P	POWER LINE
PL	PROPERTY LINE
PS, PG	PAGE
POB	POINT OF BEGINNING
PP	POWER POLE
R	RADIUS
RB	REBAR
R/W	RIGHT OF WAY
S/W	SIDEWALK
SWCB	SINGLE WING CATCH
SF	SQUARE FEET
TBX	TELEPHONE BOX
TF	TRANSFORMER
TP	TELEPHONE POLE
TSP	TRAFFIC SIGNAL POLE
T	TELEPHONE LINE
UGP	UNDERGROUND POWER
WT	WEIR INLET
-W	WATER LINE
WM	WATER METER

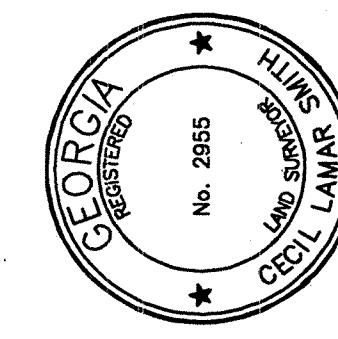
-N/F-  
MARS H.  
BAPTIST CH.

**GENERAL SITE NOTES:**

1. THE FIELD DATA, COLLECTED BETWEEN 02-08-06 & 02-09-06, UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ON FOOT IN 50.012 FEET AND AN ANGULAR ERROR OF 02 SECONDS PER ANGLE AND WAS ADJUSTED USING THE COMPASS RULE. A TOPCON GTS-313 TOTAL STATION WAS USED TO OBTAIN LINEAR & ANGULAR MEASUREMENTS.
2. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND HAS BEEN FOUND TO BE ACCURATE WITHIN ONE FOOT IN 313.720 FEET.
3. NO PORTION OF THIS PROPERTY IS LOCATED WITHIN A FLOOD HAZARD AREA AS PER FEMA FLOOD INSURANCE RATE MAP OF OCONEE COUNTY, GEORGIA AS SHOWN ON COMMUNITY PANEL NO. 130453 0030 C, DATED APRIL 17, 1995.
4. DURING THE FIELD SURVEY PERFORMED ON THIS SITE THERE WAS NO VISIBLE, ABOVE GROUND EVIDENCE OF A HUMAN BURIAL AREA OR CEMETER OBSERVED. HOWEVER A THOROUGH INSPECTION OF THE INTERIOR OF THIS SITE WAS NOT DONE BY THIS SURVEYOR. THEREFORE EXCEPTION IS MADE HEREIN TO ANY HUMAN BURIAL AREAS OR CEMETERIES THAT MAY EXIST WITHIN THE BOUNDARIES OF THIS SITE.
5. THE BEARING BASE FOR THIS PLAT IS BASED UPON "GRID NORTH" GEORGIA WEST ZONE, 1983 ADJUSTMENT AND CALCULATED FROM FIELD ANGLES, TUR EASEMENTS, IF ANY, ALONG UTILITIES DEPICTED HEREON ARE NOT KNOWN. NO RECORDED DOCUMENTATION, OTHER THAN THOSE DESCRIBED HEREON, COULD BE OBTAINED BY THIS SURVEYOR TO CLARIFY THE MATTER ANY FURTHER THAN SHOWN HEREON.
6. UNDERGROUND UTILITIES SHOWN HEREON ARE BASED ON ABOVE-GROUND, VISIBLE STRUCTURES BEING CONNECTED TOGETHER IN THE MOST LOGICAL MEANS POSSIBLE. ALL UNDERGROUND UTILITIES, HOWEVER, SHOULD BE REFERENCED AS APPROXIMATE IN LOCATION.
7. THIS PROPERTY MAY BE SUBJECT TO EASEMENTS, RESERVATIONS, RIGHTS OF WAY OR RESTRICTIONS WHICH ARE NOT RECORDED OR DISCLOSED BY THE COMMITMENT OR OTHERWISE KNOWN TO THE SURVEYOR; THEREFORE EXCEPT IS TAKEN TO ANY SUCH ITEMS.
8. WETLAND LOCATIONS SHOWN HEREON WERE FIELD LOCATED AT THE TIME OF SURVEY BASED UPON WETLAND FLAGGING FOUND ON-SITE. HOWEVER, IT IS UNKNOWN TO THIS SURVEYOR WHEN THE FLAGGING WAS PLACED OR BY WHOM. THEREFORE THIS SURVEYOR DOES NOT WARRANT ANY LIABILITY AS TO THE ACCURACY OF THE LOCATIONS.
9. A 10' PERMANENT FORCE MAIN EASEMENT EXISTS AS SHOWN HEREON. REFERENCED INFORMATION.
10. DEED BOOK 558, PAGES 684-687 & DEED BOOK 557, PAGES 101-102 F

SITE REFERENCE:  
REFER TO DB 313, PGS 280-285,  
DB 729, PGS 299-302 & PB 729,  
PG 299 FOR ADDITIONAL INFORMATION

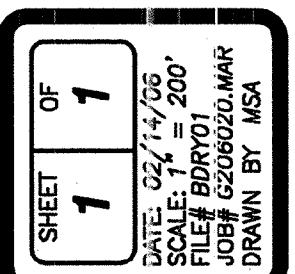
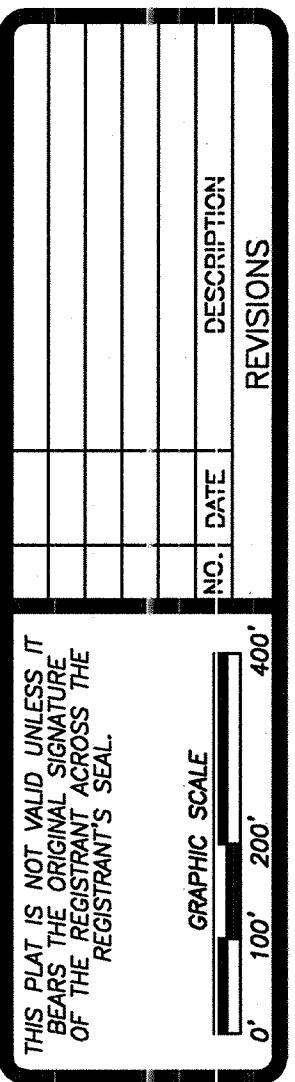
THIS PLAT IS FOR THE EXCLUSIVE USE OF  
MAXIE PRICE, LLC. USE BY ANY THIRD  
PARTIES IS AT THEIR OWN RISK.



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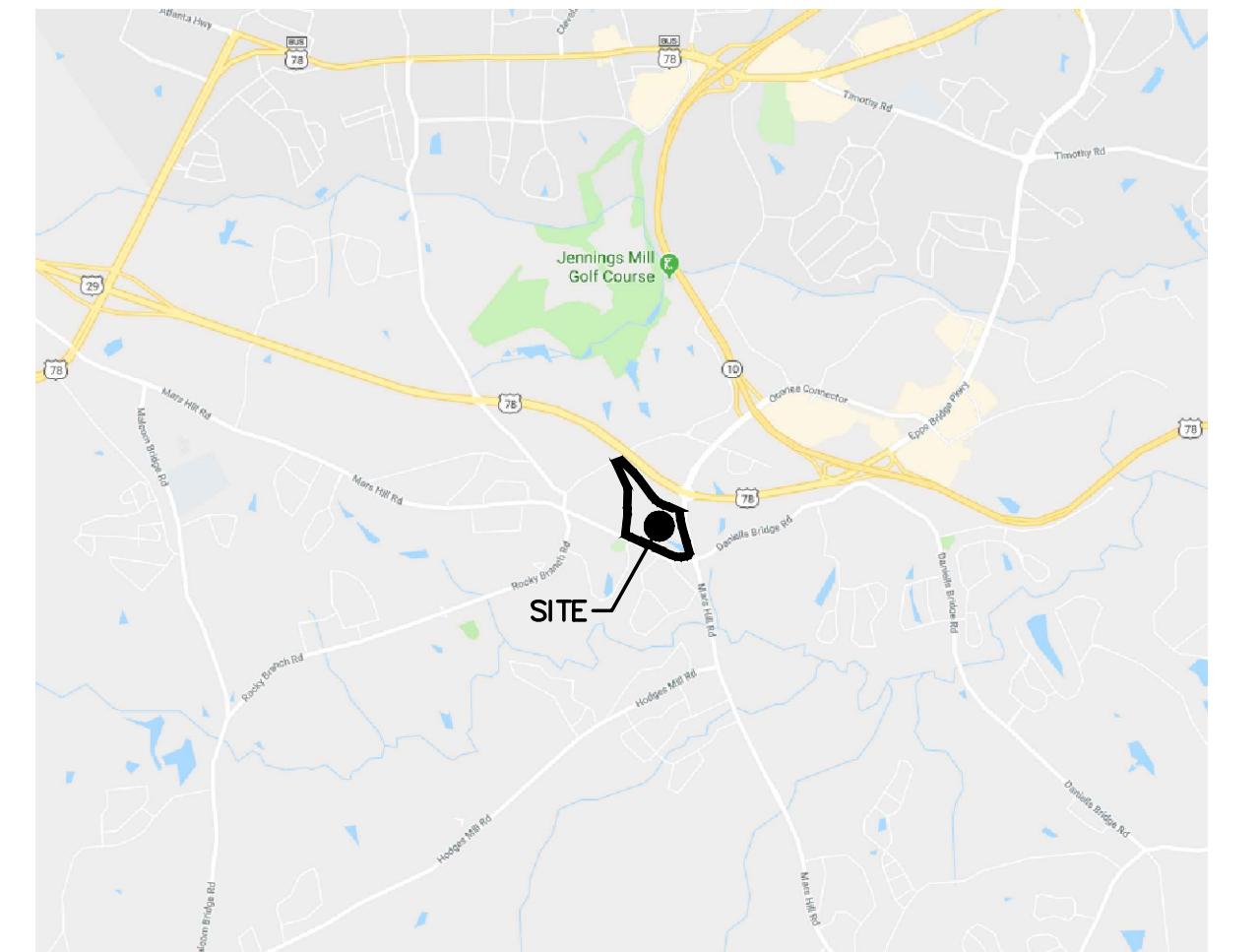
**MAXIE PRICE, LLC**  
FOR :  
**BOUNDARY SURVEY**

LOCATED IN  
GEORGIA MILITIA DISTRICT 1331  
OCONEE COUNTY, GEORGIA

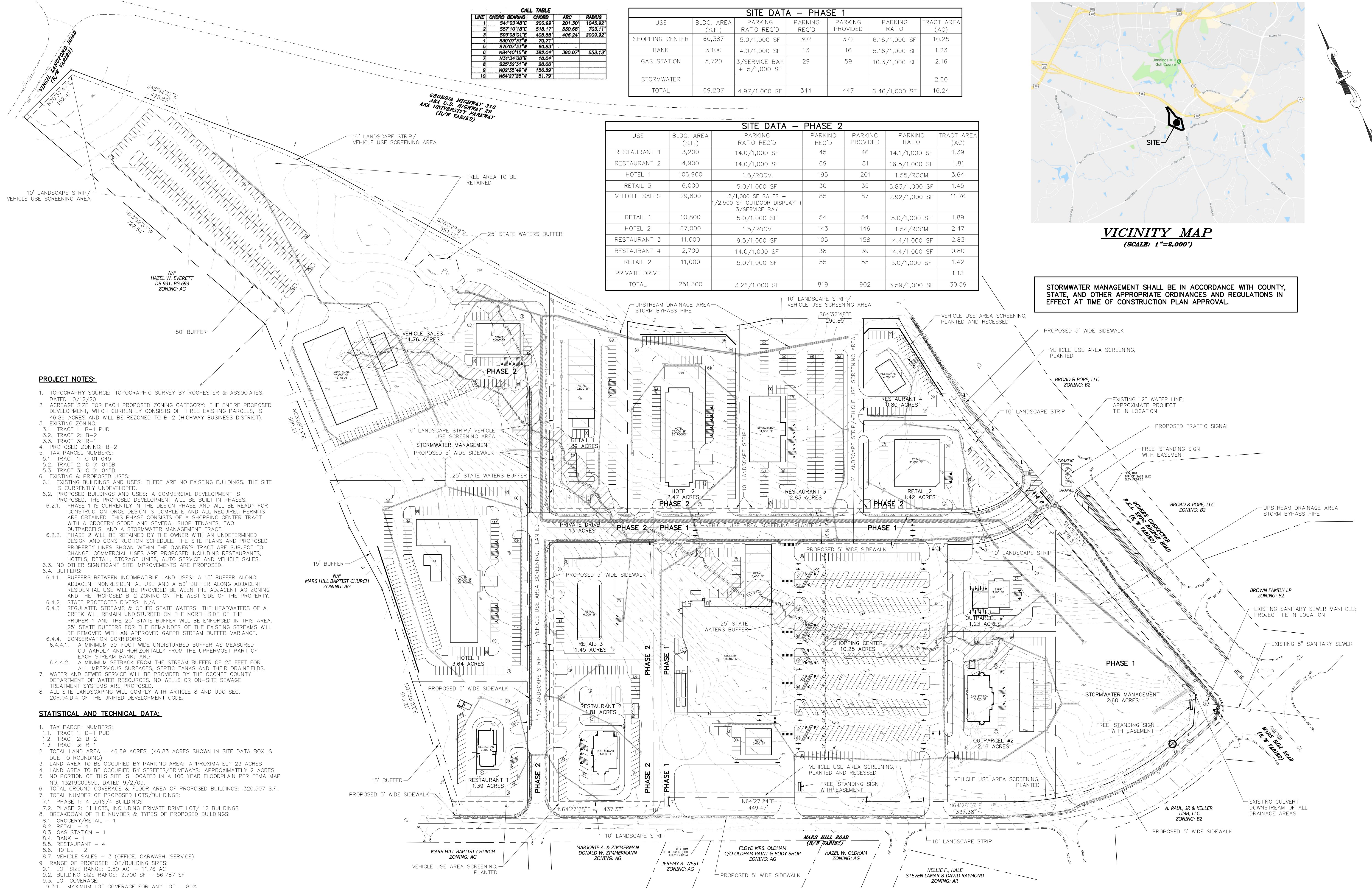
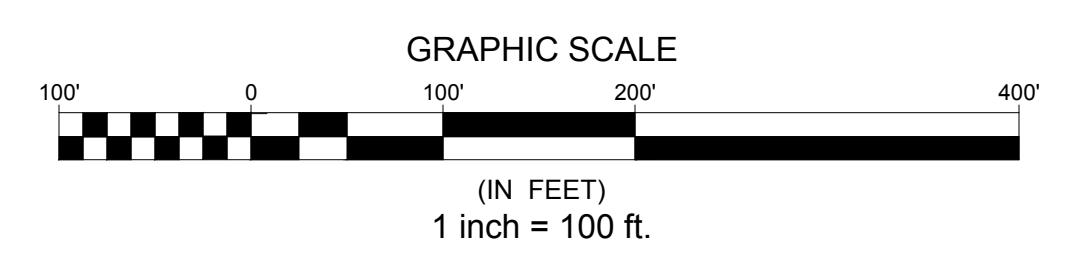


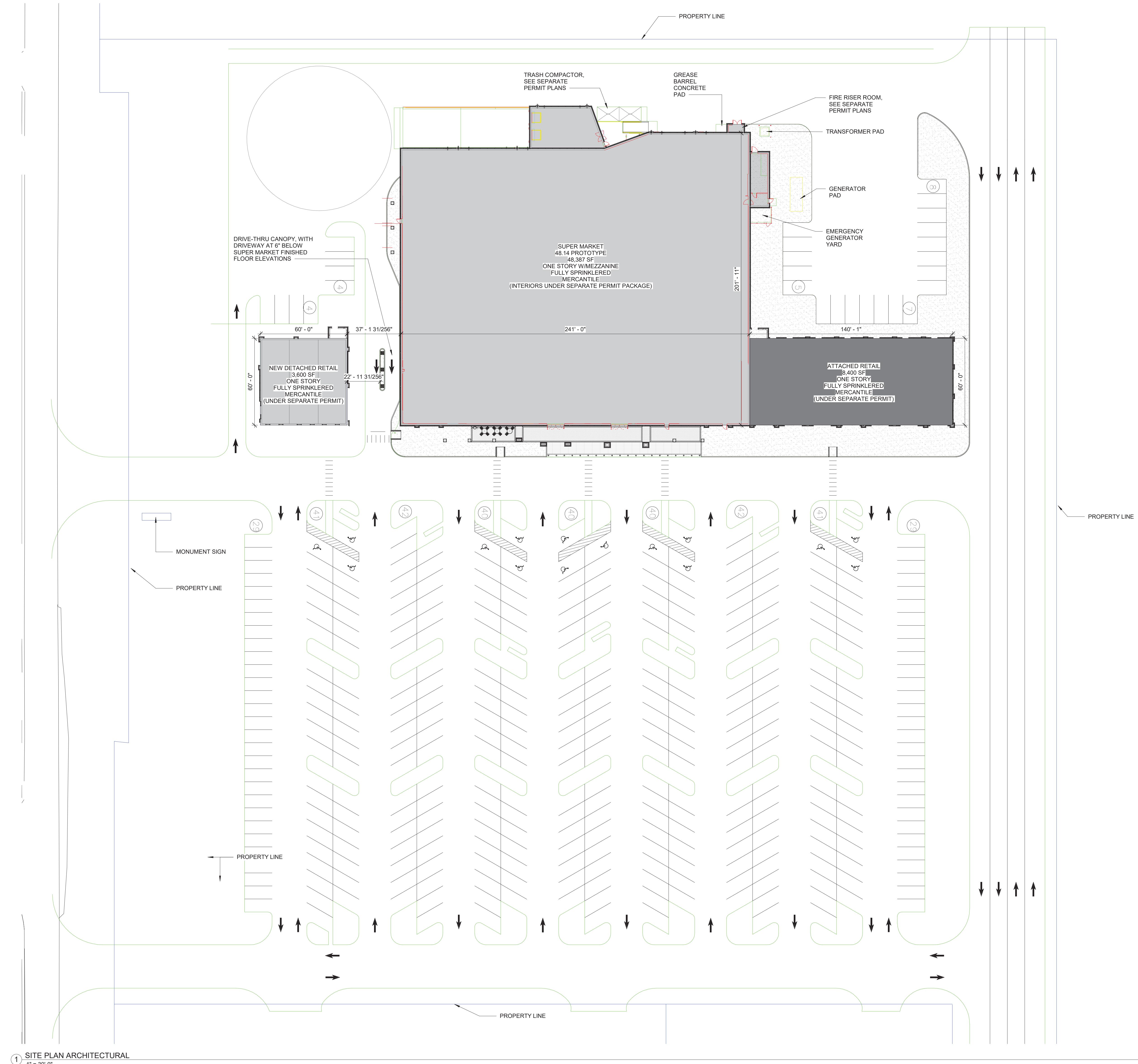


NO.	BY	DATE	DESCRIPTION
1	JCM	11/16/20	OCONEE COUNTY COMMENTS
2	JCM	11/18/20	OCONEE COUNTY COMMENTS
3	JCM	11/20/20	OCONEE COUNTY COMMENTS
			DRAWN BY JCM CHECKED BY RCL
			DATE 10/19/20
			SHEET TITLE REZONE CONCEPT PLAN
			SHEET NUMBER 1


**VICINITY MAP**  
(SCALE: 1"=2,000')

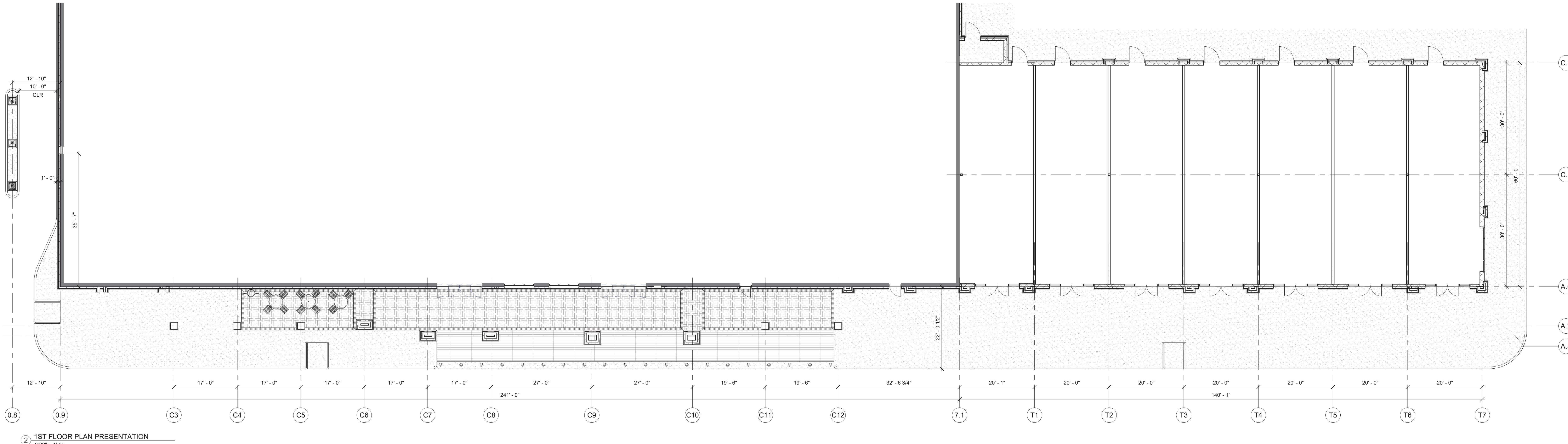
STORMWATER MANAGEMENT SHALL BE IN ACCORDANCE WITH COUNTY, STATE, AND OTHER APPROPRIATE ORDINANCES AND REGULATIONS IN EFFECT AT TIME OF CONSTRUCTION PLAN APPROVAL.


**REZONE CONCEPT PLAN**




SHOPPING CENTER AT OCONEE COUNTY

MARS HILL ROAD AND OCONEE CONNECTOR  
OCONEE COUNTY, GEORGIA

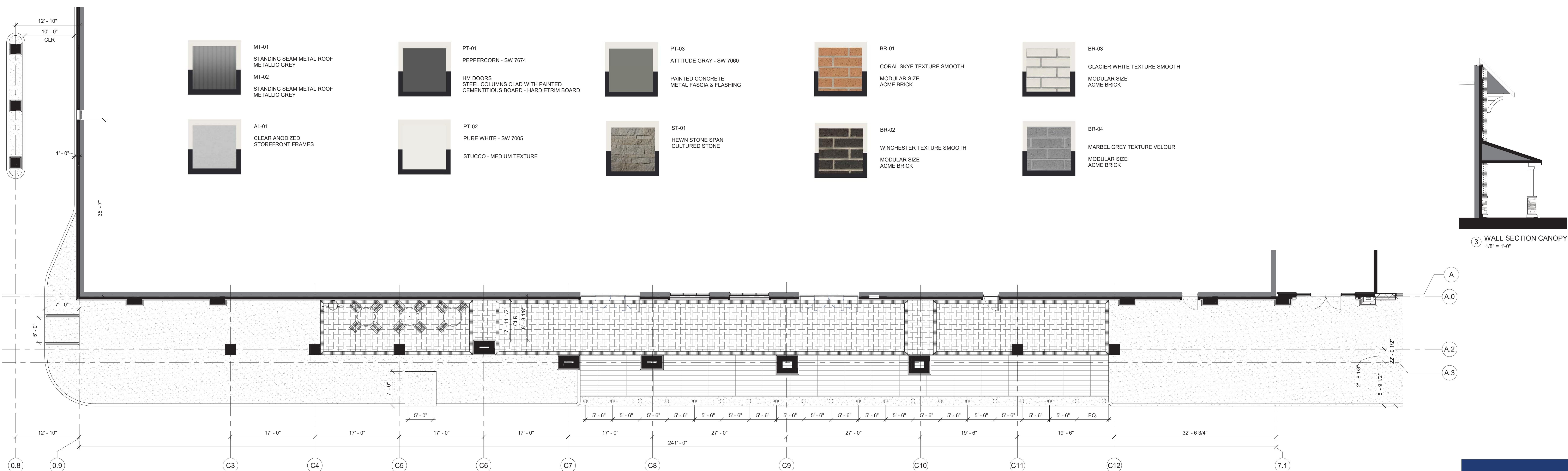
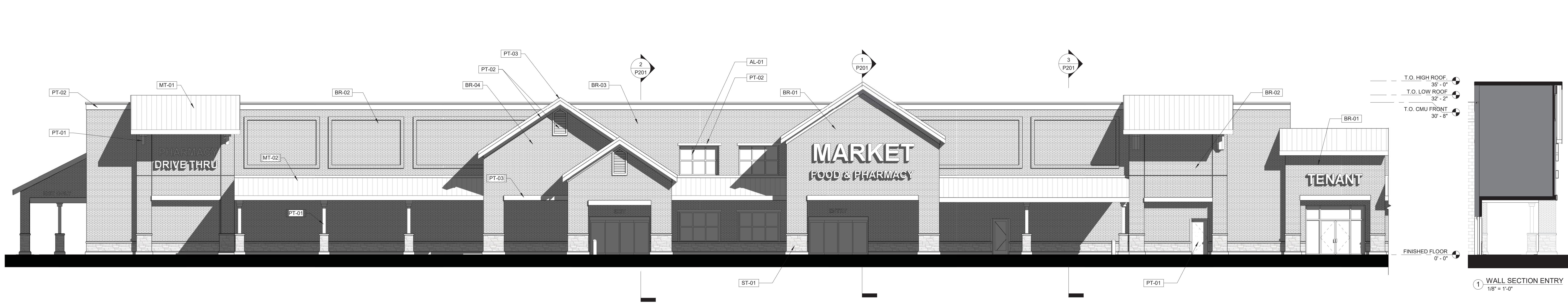


SHOPPING CENTER AT OCONEE COUNTY

MARS HILL ROAD AND OCONEE CONNECTOR  
OCONEE COUNTY, GEORGIA

EXTERIOR ELEVATION EAST

P200



SHOPPING CENTER AT OCONEE COUNTY

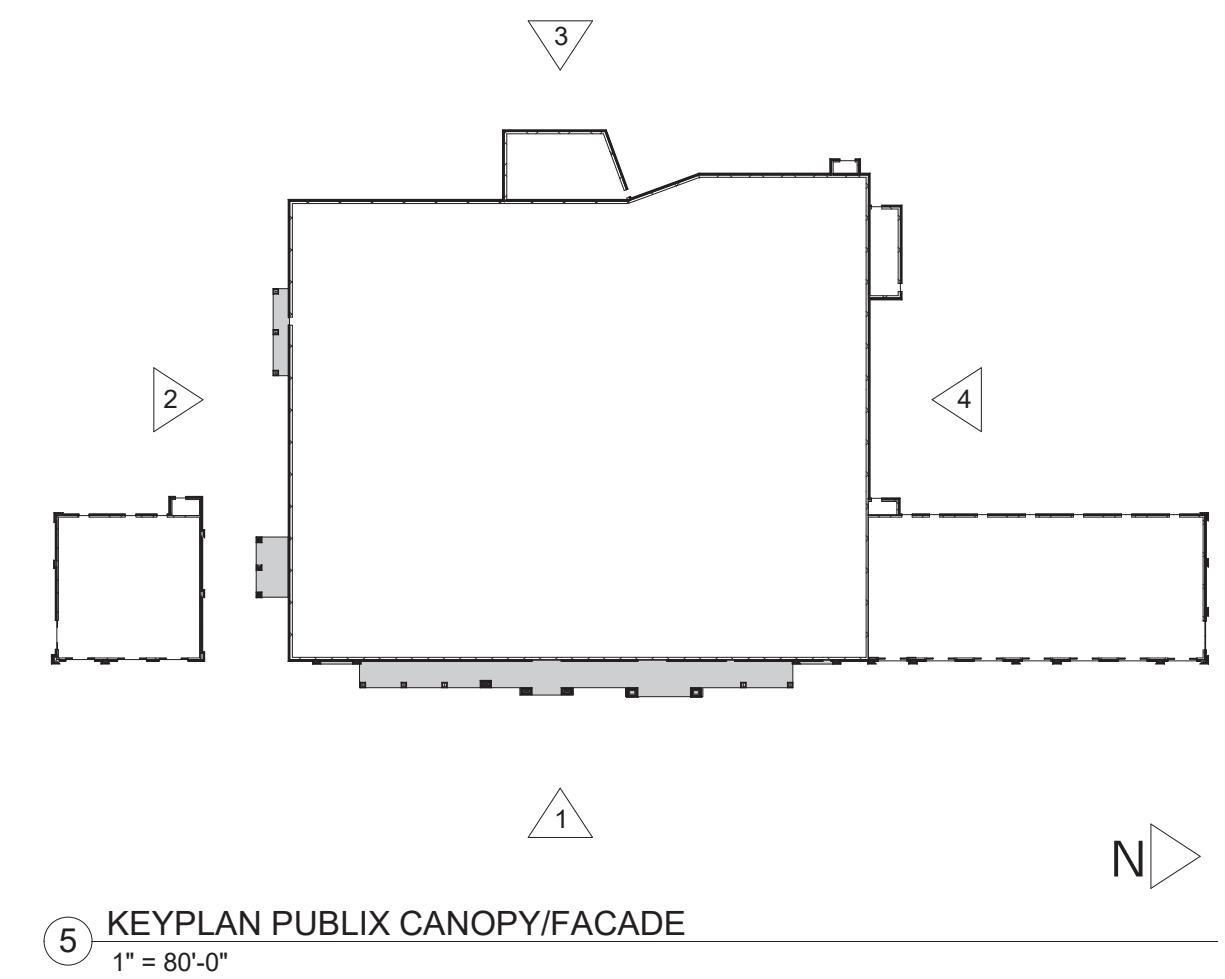
EXTERIOR ELEVATION, PLAN, & SECTIONS

MARS HILL ROAD AND OCONEE CONNECTOR  
OCONEE COUNTY, GEORGIA

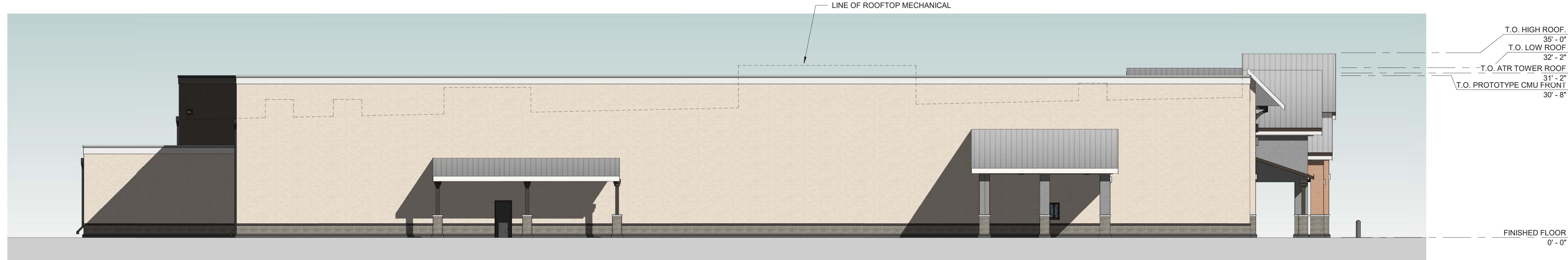
P201



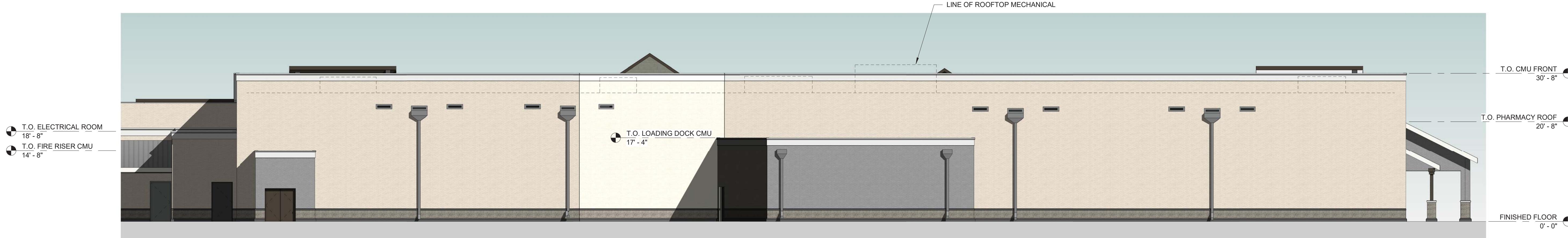
① COLOR PUBLIX EXTERIOR ELEVATION EAST  
3/32" = 1'-0"



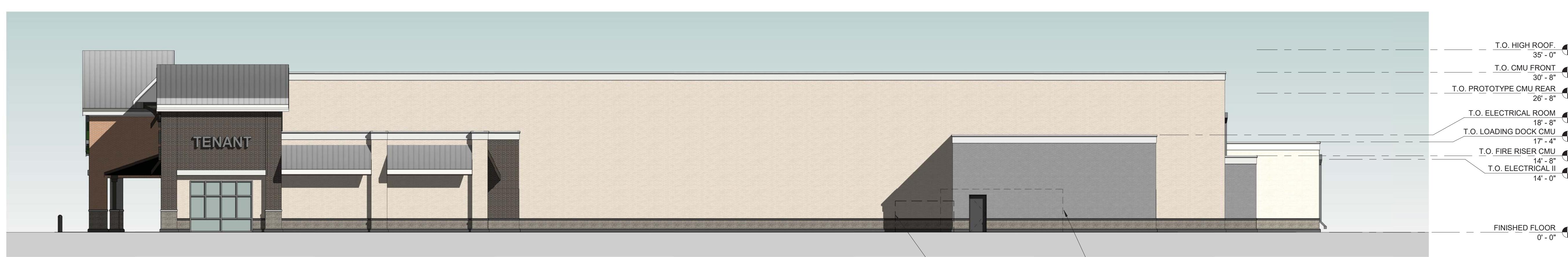
⑤ KEYPLAN PUBLIX CANOPY/FACADE  
1" = 80'-0"



② COLOR PUBLIX EXTERIOR ELEVATION SOUTH  
3/32" = 1'-0"



③ COLOR PUBLIX EXTERIOR ELEVATION WEST  
3/32" = 1'-0"



④ COLOR ALL EXTERIOR ELEVATION NORTH  
3/32" = 1'-0"



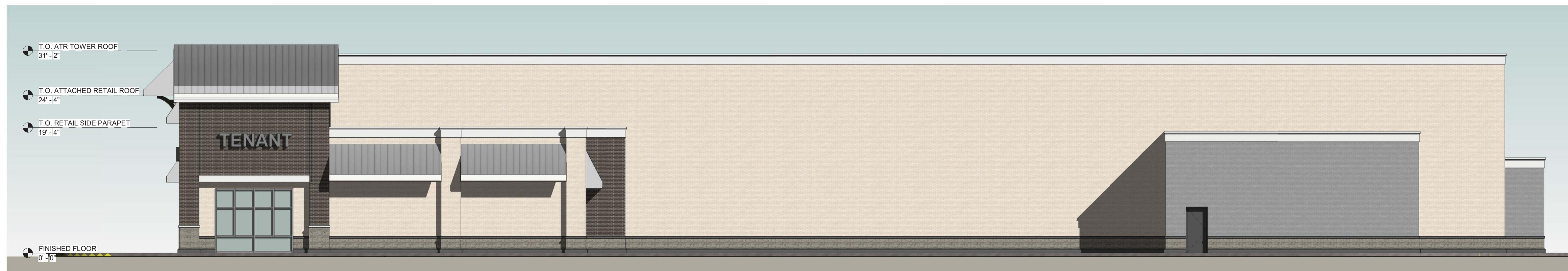
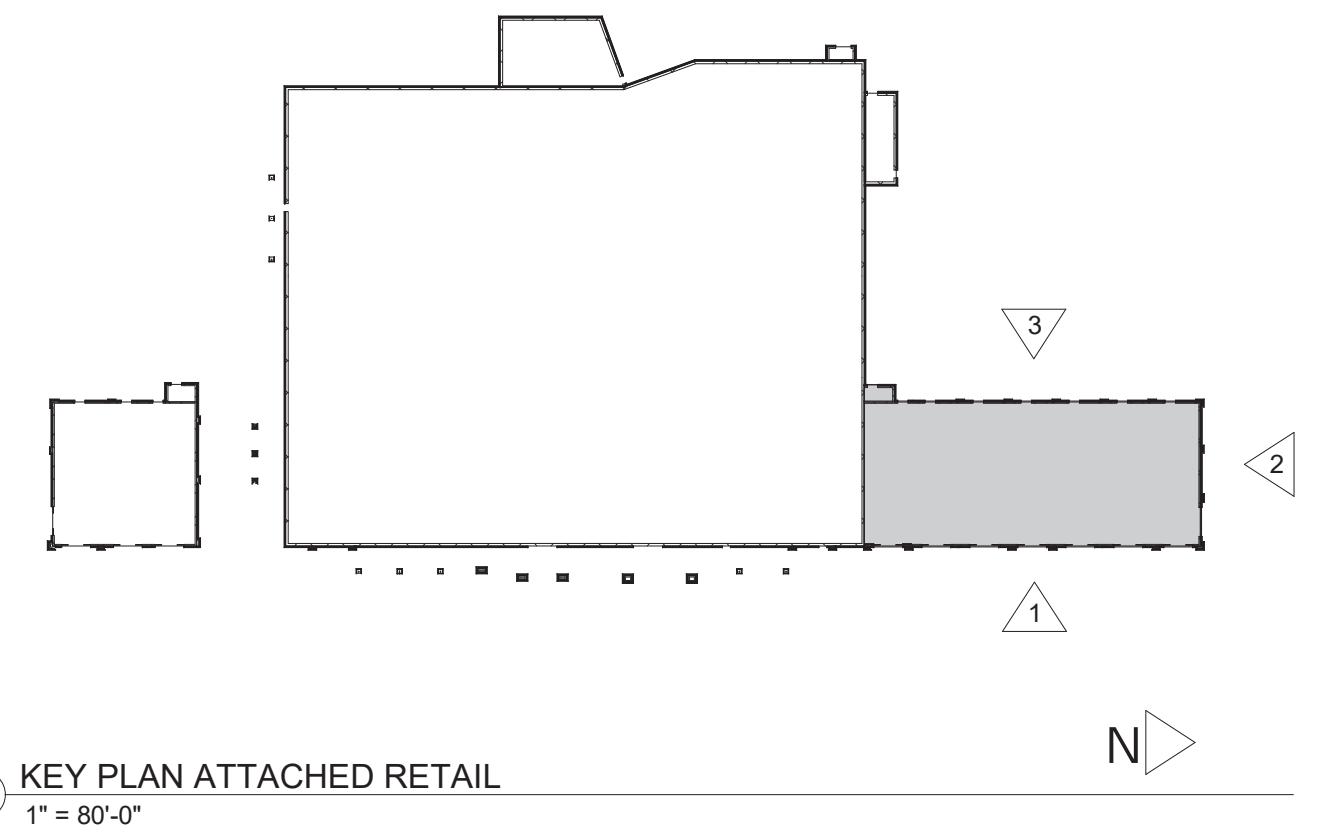
① COLOR ATR EAST ELEVATION  
1/8" = 1'-0"

T.O. ATR TOWER ROOF  
31'-2"

T.O. ATTACHED RETAIL ROOF  
24'-4"

B.O. METAL AWNING  
11'-0"

FINISHED FLOOR  
0'-0"



② COLOR ATR NORTH ELEVATION  
1/8" = 1'-0"

T.O. ATR TOWER ROOF  
31'-2"

T.O. ATTACHED RETAIL ROOF  
24'-4"

FINISHED FLOOR  
0'-0"



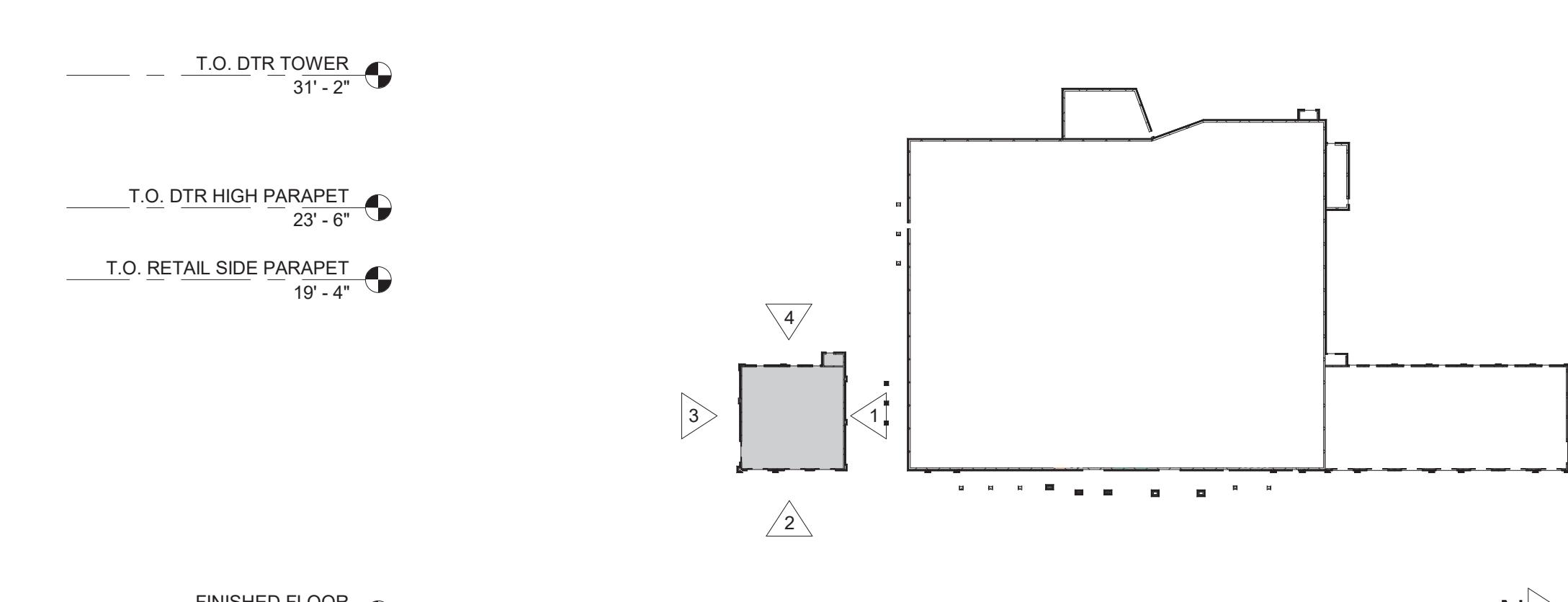
③ COLOR ATR WEST ELEVATION  
1/8" = 1'-0"



② COLOR DTR EAST ELEVATION  
1/8" = 1'-0"



① COLOR DTR ELEVATION NORTH  
1/8" = 1'-0"



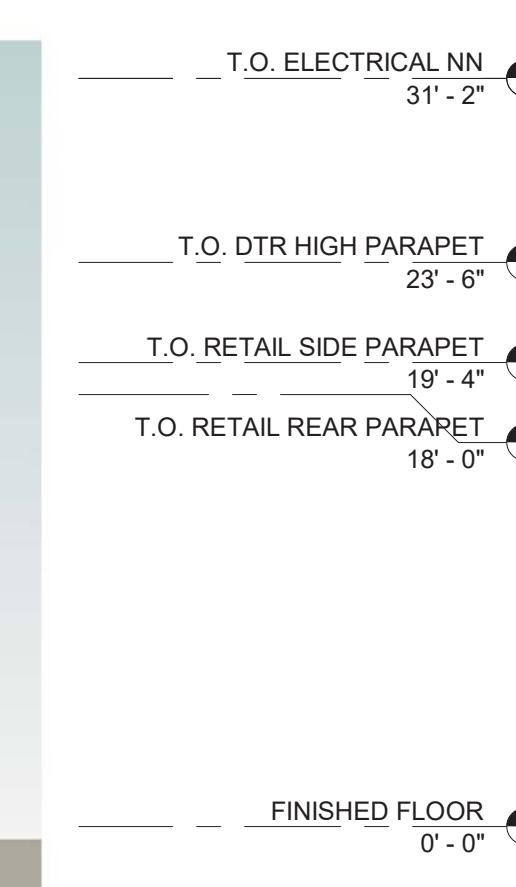
⑤ KEY PLAN DETACHED RETAIL  
1" = 80'-0"



③ DTR SOUTH ELEVATION COLOR  
1/8" = 1'-0"



④ COLOR DTR ELEVATION WEST  
1/8" = 1'-0"



⑥ DTR BUILDING SECTION  
1/8" = 1'-0"

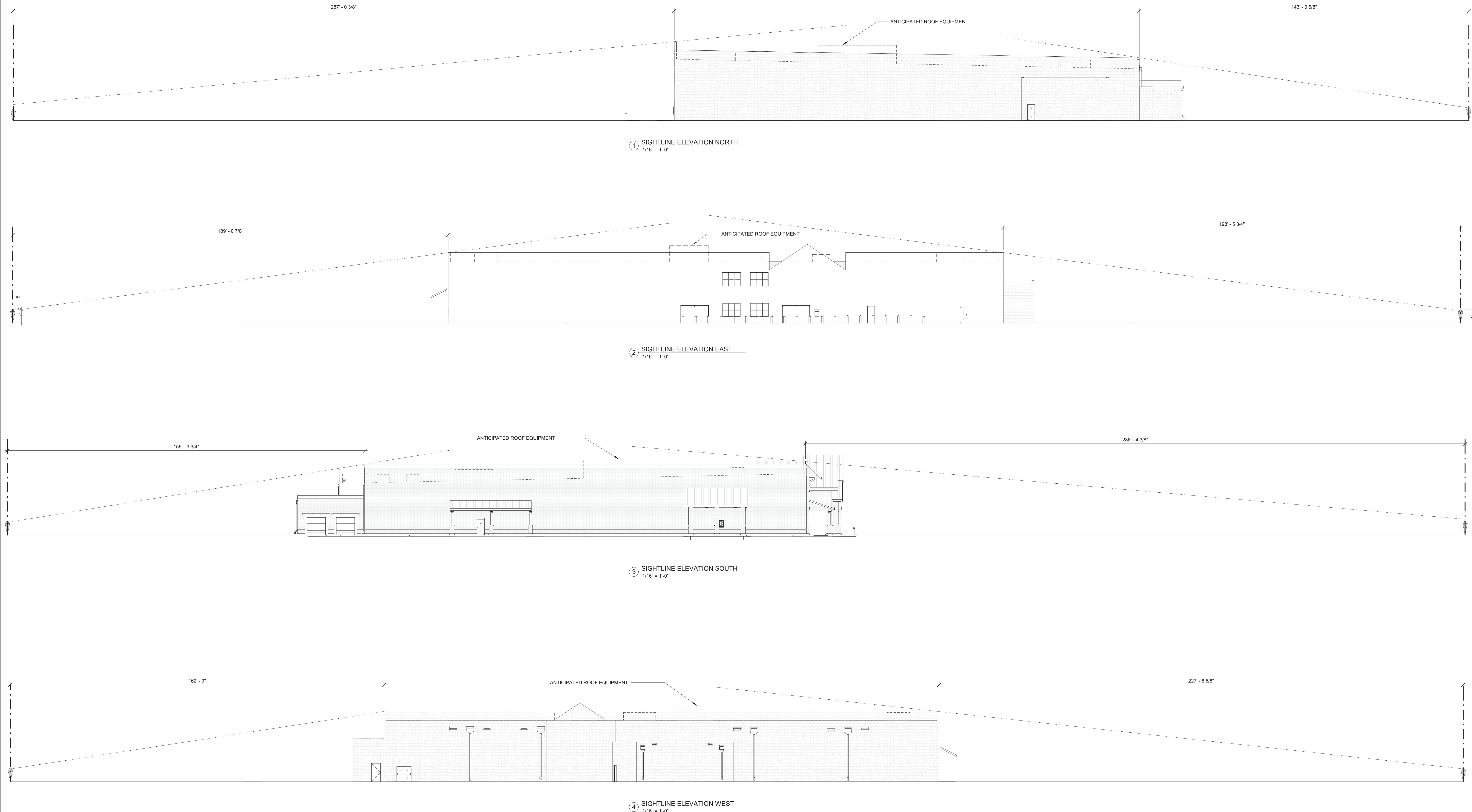


⑦ COLOR EXTERIOR EAST ELEVATION OVERALL  
1/16" = 1'-0"

## SHOPPING CENTER AT OCONE~ DETACHED RETAIL ELEVATIONS

MARS HILL ROAD AND OCONEE CONNECTOR  
OCONEE COUNTY, GEORGIA

DETACHED RETAIL EXTERIOR ELEVATIONS



## SHOPPING CENTER AT OCONEE COUNTY

MARS HILL ROAD AND OCONEE CONNECTOR  
OCONEE COUNTY, GEORGIA

SIGHT LINES STUDY

P205



## A&R Engineering Inc.

2160 Kingston Court, Suite O  
Marietta, GA 30067  
Tel: (770) 690-9255 Fax: (770) 690-9210  
www.areng.com

### Memorandum



To: Oconee County DOT.  
From: Abdul K. Amer, PE, PTOE.  
Date: January 13, 2021  
Subject: Oconee Connector Shopping Center – Oconee County, GA – A&R Project # 20-114

#### 1. Access on Oconee Connector:

Recent comments from the County stated that they preferred that the proposed access from Oconee Connector be restricted to right-in/right-out/left-in movement only. I would recommend a full access signalized intersection is appropriate at this proposed access to the shopping center and can be safely accommodated. Based on our analysis, the proposed traffic signal should not impact operations of adjacent intersections as queues do not extend from one intersection to another

The proposed interchange project at SR 316 also will not be impacted by a full access intersection or signal. According to GDOT, their project is still with the office of innovative delivery, and detailed information on project design and schedule is not available. We understand that Oconee Connector will go over SR 316 and there may be grade changes on Oconee Connector coming towards Mars Hill Road. Any proposed road grade changes at the proposed site driveway can be handled by GDOT project in a manner similar to any other driveway on the corridor including the driveway across from the proposed site driveway.

The County provided additional questions and comments regarding the queue lengths of the existing southbound left turn lanes at the signalized intersection at Mars Hill Road. The proposed northbound left turn lane requires that the inside SB left turn lane be shortened. A more detailed queueing analysis has been performed using SIMTRAFFIC micro simulation modelling and found that the 95<sup>th</sup> percentile queue for northbound left turn lane is 212 ft. The attached design provides 215 ft. storage for left turn lane into our driveway. Similarly, the 95<sup>th</sup> percentile queue in the southbound left turn lane at Mars Hill Road is 304 ft per lane. There are two left turn lanes, so we need a total of 608 ft. storage. The attached plan provides a combined storage of 617 ft. Therefore, we will have adequate queue length.

It is our understanding that this road will be a county-maintained roadway in the near future and therefore the County will have jurisdiction to make the decision relative to access to the Oconee Connector. Allowing left out movement here with the help of a traffic signal will relieve significant potential congestion that will otherwise be created at adjacent intersection of Mars Hill Road with shifted left turn movements and minimize truck movements at proposed driveways from the project to Mars Hill Road.

#### 2. Mars Hill Road Access:

The county comments recommended that Phase 1 provide only two access points on Mars Hill Road with a roundabout to be designed at one of those locations with the other being restricted to Right In/Right Out.

Given the roadway frontage on Mars Hill Road for Phase 1 and the fact that we will not be violating any county ordinances with respect to driveway spacing standards, I believe restricting the number of access points to only two is not warranted. While we had proposed four access points for phase 1, I would recommend that we eliminate one access and propose three access points to Phase 1 from Mars Hill Road. The third driveway can be located across from Old Mars Hill Road (approximately) and if necessary, it can be restricted to a right-in/right-out type driveway. I would recommend that we provide stop sign controlled driveways as the appropriate means of traffic control at all proposed access driveways (Phase I and II) on Mars Hill Road with left turn lane and right turn lane improvements provided on Mars Hill Road to minimize impact on the flow of traffic on Mars Hill Road. Stop signs for exiting traffic are the predominant means of traffic control at most secondary driveways to shopping centers. Access points to Mars Hill Road for Phase I will have to accommodate truck traffic from this commercial development. This would require a 120 ft. diameter roundabout with truck aprons. The available right of way on Mars Hill Road will not be adequate to accommodate the roundabout footprint and associated sidewalk and related grading work. There are also challenges pertaining to significant grade changes on the north side of Mars Hill Road. Designing a roundabout with such a steep grade approach from the site will be challenging. Another issue relates to the acute angle that will be formed at the access across from Hollow Creek Lane and present an issue for properly aligning the approach to the roundabout. I believe that roundabouts will unnecessarily delay through movements on Mars Hill Road by requiring all through traffic on Mars Hill Road to yield to the traffic already in the roundabout giving equal preference to the site traffic. From a county perspective, this does not provide better movement of traffic on Mars Hill Road. While there are certain locations where roundabouts are feasible and beneficial, I believe that these driveway locations are not suitable or required.

Copies of SIMTRAFFIC queue report and our recommended revised plan are attached.



A&R ENGINEERING, INC.  
2100 Krogan Court, Suite 0  
Marietta, GA 30067  
Tel: (770) 960-2626  
E-mail: [engineering@arengineering.com](mailto:engineering@arengineering.com)

SEAL

REVISIONS

No.	DATE	DESCRIPTION
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

NOT RELEASED FOR  
CONSTRUCTION

PREPARED FOR  
Kevin Letch

THE SERVICE COMPANY  
901 PINEWOOD DR.  
SUITE 200  
FL. 33077

CONCEPTE CONNECTOR RETAIL CENTER  
OVERALL  
CONCEPT PLAN

ACCESSES DESIGN

1240 CONCEPTE CONNECTOR

ABOUT CONTRACT

About Atom

(444) 610-1431

DATE:

1/20/02

PROJ. #:

D-100

CO BY:

DWY

MR

AS-BE:

20-114

SHEET:

C-1



NORTH

GRAPHIC SCALE

(IN FEET)

1 100

2 200

3 300

4 400

5 500

6 600

7 700

8 800

9 900

10 1000

11 1100

12 1200

13 1300

14 1400

15 1500

16 1600

17 1700

18 1800

19 1900

20 2000

21 2100

22 2200

23 2300

24 2400

25 2500

26 2600

27 2700

28 2800

29 2900

30 3000

31 3100

32 3200

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121 12100

122 12200

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216 21600

217 21700

218 21800

219 21900

220 22000

221 22100

222 22200

223 22300

224 22400

225 22500

226 22600

227 22700

228 22800

229 22900

230 23000

231 23100

232 2

## Intersection: 2: Oconee Conn &amp; Mars Hill Rd/Daniels Bridge Rd

Movement	EB	EB	EB	WB	WB	WB	NB	NB	NB	NB	SB	SB
Directions Served	L	T	R	L	T	R	L	T	T	R	L	L
Maximum Queue (ft)	260	426	365	187	528	310	324	440	630	495	303	305
Average Queue (ft)	253	408	264	80	160	117	131	314	316	47	203	217
95th Queue (ft)	284	439	504	155	323	267	239	454	489	192	292	304
Link Distance (ft)		409			749			1650	1650			
Upstream Blk Time (%)		35										
Queuing Penalty (veh)		268										
Storage Bay Dist (ft)	155		240	280		280	405			435	355	355
Storage Blk Time (%)	71	20			2	2		2	2			
Queuing Penalty (veh)	304	116			7	6		4	2			

## Intersection: 2: Oconee Conn &amp; Mars Hill Rd/Daniels Bridge Rd

Movement	SB	SB	SB
Directions Served	T	T	R
Maximum Queue (ft)	306	304	207
Average Queue (ft)	143	158	50
95th Queue (ft)	278	284	131
Link Distance (ft)	595	595	
Upstream Blk Time (%)			
Queuing Penalty (veh)			
Storage Bay Dist (ft)		335	
Storage Blk Time (%)			
Queuing Penalty (veh)			

## Intersection: 3: Old Mars Hill Rd/Site Drwy 2 &amp; Mars Hill Rd

Movement	EB	WB	NB	SB
Directions Served	LTR	LT	LTR	LTR
Maximum Queue (ft)	304	46	30	158
Average Queue (ft)	246	3	4	139
95th Queue (ft)	380	19	18	166
Link Distance (ft)	253	409	780	143
Upstream Blk Time (%)	25		80	
Queuing Penalty (veh)	199		0	
Storage Bay Dist (ft)				
Storage Blk Time (%)				
Queuing Penalty (veh)				

**Intersection: 7: Mars Hill Rd & Site Drwy 5 (W)**

Movement	EB	SB
Directions Served	LT	LR
Maximum Queue (ft)	251	72
Average Queue (ft)	87	17
95th Queue (ft)	269	51
Link Distance (ft)	241	143
Upstream Blk Time (%)	8	
Queuing Penalty (veh)	71	
Storage Bay Dist (ft)		
Storage Blk Time (%)		
Queuing Penalty (veh)		

**Intersection: 8: Mars Hill Rd & Site Drwy 4 (E)**

Movement	EB	SB
Directions Served	LT	LR
Maximum Queue (ft)	229	147
Average Queue (ft)	93	48
95th Queue (ft)	258	124
Link Distance (ft)	215	132
Upstream Blk Time (%)	13	20
Queuing Penalty (veh)	102	0
Storage Bay Dist (ft)		
Storage Blk Time (%)		
Queuing Penalty (veh)		

**Intersection: 9: Oconee Conn & Site Drwy 1**

Movement	EB	EB	NB	NB	NB	SB	SB	SB	SB
Directions Served	L	R	L	T	T	U	T	T	R
Maximum Queue (ft)	95	305	205	303	323	31	332	354	275
Average Queue (ft)	92	240	91	158	187	11	205	206	138
95th Queue (ft)	98	342	171	284	323	31	366	363	301
Link Distance (ft)		271		595	595		903	903	
Upstream Blk Time (%)		13							
Queuing Penalty (veh)		0							
Storage Bay Dist (ft)	55		235		250			175	
Storage Blk Time (%)	64	7		2		7	14	0	
Queuing Penalty (veh)	91	21		5		1	43	2	

**Network Summary**

Network wide Queuing Penalty: 2174

## Intersection: 2: Oconee Conn &amp; Mars Hill Rd/Daniels Bridge Rd

Movement	EB	EB	EB	WB	WB	WB	NB	NB	NB	NB	SB	SB
Directions Served	L	T	R	L	T	R	L	T	T	R	L	L
Maximum Queue (ft)	260	413	365	154	368	310	138	422	400	60	291	286
Average Queue (ft)	171	155	107	86	146	83	61	217	186	18	120	136
95th Queue (ft)	270	350	265	141	260	218	111	382	353	46	208	210
Link Distance (ft)	409				749			1650	1650			
Upstream Blk Time (%)		2										
Queuing Penalty (veh)		11										
Storage Bay Dist (ft)	155		240	280		280	405			435	355	355
Storage Blk Time (%)	16	4				1		0				
Queuing Penalty (veh)	58	18				3		1				

## Intersection: 2: Oconee Conn &amp; Mars Hill Rd/Daniels Bridge Rd

Movement	SB	SB	SB
Directions Served	T	T	R
Maximum Queue (ft)	336	347	101
Average Queue (ft)	231	250	48
95th Queue (ft)	348	355	93
Link Distance (ft)	595	595	
Upstream Blk Time (%)			
Queuing Penalty (veh)			
Storage Bay Dist (ft)		335	
Storage Blk Time (%)	0	1	
Queuing Penalty (veh)	0	2	

## Intersection: 3: Old Mars Hill Rd/Site Drwy 2 &amp; Mars Hill Rd

Movement	EB	WB	NB	SB
Directions Served	LTR	LTR	LTR	LTR
Maximum Queue (ft)	169	29	29	75
Average Queue (ft)	18	2	4	26
95th Queue (ft)	86	14	20	59
Link Distance (ft)	248	409	786	147
Upstream Blk Time (%)				
Queuing Penalty (veh)				
Storage Bay Dist (ft)				
Storage Blk Time (%)				
Queuing Penalty (veh)				

**Intersection: 7: Mars Hill Rd & Site Drwy 5 (W)**

Movement	EB	SB
Directions Served	LT	LR
Maximum Queue (ft)	31	31
Average Queue (ft)	2	17
95th Queue (ft)	14	41
Link Distance (ft)	241	148
Upstream Blk Time (%)		
Queuing Penalty (veh)		
Storage Bay Dist (ft)		
Storage Blk Time (%)		
Queuing Penalty (veh)		

**Intersection: 8: Mars Hill Rd & Site Drwy 4 (E)**

Movement	EB	SB
Directions Served	LT	LR
Maximum Queue (ft)	148	88
Average Queue (ft)	18	38
95th Queue (ft)	75	67
Link Distance (ft)	215	151
Upstream Blk Time (%)		
Queuing Penalty (veh)		
Storage Bay Dist (ft)		
Storage Blk Time (%)		
Queuing Penalty (veh)		

**Intersection: 9: Oconee Conn & Site Drwy 1**

Movement	EB	EB	NB	NB	SB	SB
Directions Served	L	R	L	T	U	R
Maximum Queue (ft)	95	286	225	252	27	52
Average Queue (ft)	82	274	114	24	5	4
95th Queue (ft)	95	287	212	137	22	23
Link Distance (ft)		271		595		
Upstream Blk Time (%)		97				
Queuing Penalty (veh)		0				
Storage Bay Dist (ft)	55		235		250	175
Storage Blk Time (%)	99	1	1	0		
Queuing Penalty (veh)	216	4	5	0		

**Network Summary**

Network wide Queuing Penalty: 2393

# FORTSON, BENTLEY AND GRIFFIN, P.A.

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OF COUNSEL  
WILLIAM C. BERRYMAN, JR.

March 2, 2021

## Via Hand Delivery

Mr. John Daniell, Chairman  
Mr. Mark Thomas  
Mr. Chuck Horton  
Mr. Amrey Harden  
Mr. Mark Saxon  
Oconee County Board of Commissioners  
23 N. Main Street  
Watkinsville, Georgia 30677

Re: Rezone Case No. P20-0210  
Deferred Tax, LLC  
Tax parcels: C-01-0145, C-01-045B, and C-01-045D

Dear Chairman Daniell and Commissioners:

This firm represents Deferred Tax, LLC, the Applicant (“Applicant”) in the above-referenced zoning application. The purpose of my letter is to provide the Commissioners with: (i) a brief history of the Property, (ii) to address issues that have been raised in the staff report and by some in the community, and (iii) to request that the Board approve Applicant’s petition subject to conditions described in this letter.

For more than a quarter century the Oconee County Board of Commissioners has followed a thorough, thoughtful, and public process to anticipate and manage growth and development in the Highway 316/Mars Hill Road Corridor and in the County as a whole. This effort has included adoption of the Oconee County Joint Comprehensive Plan in 2008, the 2018 Comprehensive Plan Update, the Future Development Map, and the M-H Mars Hill Overlay District. The Board’s work has also included design and construction of a comprehensive road network in the Mars Hill Road, Daniell’s Bridge Road, Highway 316 area and construction of water and sewer infrastructure to provide adequate road and utility capacity sufficient to accommodate anticipated growth.

Applicant’s request to rezone the Property to a B-2 zoning classification, with conditions, is wholly consistent with the Board’s vision for this area and its actions during this period. Applicant and prior owners of the property have cooperated with the County in this process and have made substantial investment decisions based upon the shared community vision developed over time to promote and support commercial growth and development in this corridor.

However, development of Applicant's property, as presently zoned, in a manner that follows the Comprehensive Plan, the Unified Development Code, and the Mars Hill Overlay District, is not possible. Without a rezoning as described in the application, the property has no reasonable economic use as currently zoned. Applicant urges the Board to approve the application subject to conditions so that the Property may be developed and enjoyed by the Oconee County community and its visitors as envisioned by long-established County policy.

This letter will discuss the following topics:

1. Property Overview.
2. Applicability of the Comprehensive Plan, Future Development Map, and Zoning Map and Ordinance.
3. Oconee Connector Access.
4. Mars Hill Road Access.
5. Environmental Permits.
6. Use as Zoned.
7. Applicant's Request for Approval.

1. Property Overview. The zoning and use history of the parcels that comprise Applicant's property are as follows:

Parcel C-01-045B ("Parcel 45B") was rezoned from AG (Agricultural District) and AR (Agricultural Residential District) to B-2 (Highway Business District) on October 4, 1988 for development of a shopping center. Parcel 45B is shown as "Tract 2, 6.855 acres" on the plat attached to the application. It was approximately 19 acres in area 1988 prior to acquisition of right-of-way for the Oconee Connector intersection. As part of construction of the Oconee Connector/Mars Hill Road/Daniell's Bridge Road intersection, a pond on Parcel 45B was drained, and the stream was piped under the intersection and beyond. This remaining portion consists of steep slopes, the stream, and the remnants of the larger pond. Development of Parcel 45B, standing alone, for any use is not feasible due to its small size, topography, and lack of road access because of its proximity to the Oconee Connector-Mars Hill Road intersection.

Parcel C-01-045 ("Parcel 45") was rezoned from AR (Agricultural Residential) to B-1 (General Business District) by resolution dated August 4, 1992 for development of a commercial planned unit development. Parcel 45 is shown as "Tract 1, 26.802 acres" on the plat attached to the application. It was approximately 49 acres at the time of the 1992 rezoning, and the site plan attached the original zoning resolution to the showed the locations of roadways which locations were apparently made binding in the rezoning resolution.

In the 29 years since the approval, substantial amounts of right-of-way have been acquired, reducing the size of the planned unit development parcel to 26.8 acres. These right-of-way acquisitions have made the existing plan unfeasible, since, among other issues, access to Virgil Langford Road has been effectively terminated due to plans for the overpass over Georgia Hwy. 316, and the road that led to Virgil Langford Road on the 1992 site plan would now be a dead end, and as such could exceed the length permitted for cul-de-sacs under the current zoning ordinance. Additionally, the right-of-way acquisitions have disrupted the building layouts and have made development according to the plan impossible.

Parcel C-01-045D (“Parcel 45D) was rezoned from AR (Agricultural Residential) to R-1 (Single-Family Residential) on June 2, 1992 for development of a 15-lot single-family subdivision. It is shown as “Tract 3, 13.234 acres” on the plat attached to the application. Although this parcel has not been affected by right-of-way acquisitions, the cul-de-sac appears to exceed the length allowed for dead end roads in the current zoning ordinance, and designing a subdivision that meets current requirements will be difficult, if not impossible. See additional discussion in Section 6 of this letter.

No development has occurred on these tracts since the time that they have been rezoned.

**2. Applicability of the Comprehensive Plan, Future Development Map, and Zoning Map.** All of the Property lies within the Regional Center Character Area of the Comprehensive Plan, as updated, as shown on the Future Development Map. According to the Comprehensive Plan:

“The area is characterized by regional-serving retail and commercial services, office complexes for medical and corporate offices, hotels, restaurants and entertainment facilities, higher-density residential planned developments, and single-family detached subdivisions. While the area is currently a ‘multi-use’ area of distinct and separate uses, planned mixed-use developments are encouraged.”

The Development Guidelines of the Comprehensive Plan provide that B-2 (Highway Business) is an appropriate zoning classification. The Regional Center designation is carried forward from the 2008 Comprehensive Plan and reflects the long-term community policy determination that the Property has been deemed suitable for the type of “regional-serving” uses that are contemplated in Applicant’s request. This policy is further reflected in a “Site Information Summary Package” for the B-2 and B-1 PUD parcels prepared in 2003 by the Oconee County Planning Department and distributed to economic development prospects. See Exhibit A. This brochure includes a list of “Permissible Uses” that are the same types of uses proposed by Applicant.

The Property lies within the Mars Hill Overlay District. Parcel 45 and Parcel 45B are within the Commercial Zoned Properties Policy Category of the Overlay District, while Parcel 45D is within the Future Development Opportunities Policy Category. Section 206.04 (c) (3) of the Unified Development Code provides that lands zoned B-1 (General Business) or B-2 (Highway Business) comprise the Commercial Zoned Properties Policy Category.

Section 206.04 (c) (5) of the Code states that “(l)ands for which rezoning for commercial or office use could be appropriate are included” in the Development Opportunities Policy Category. Notably, residential development is not contemplated in the Development Opportunities Policy Category.

Applicant’s proposed uses fit well within the guidelines and requirements of the Comprehensive Plan and the Overlay District.

The official zoning map shows that most similarly situated properties in the area have B-2 zoning, including the parcels across Oconee Connector from the Property and the other properties at the intersection of Mars Hill Road, Oconee Connector, and Daniell’s Bridge Road. Similarly, properties at the intersection of Highway 316 and Virgil Langford Road are zoned B-2.

3. Oconee Connector Access. Proposed Condition 13 of the Staff Report requires that the driveway proposed along the Oconee Connector be restricted to right-in, right-out only and that a dedicated right turn lane into the development be installed.

Applicant objects to this Condition on the ground that Applicant and the prior owners of the Property have acquired a vested right of access to the existing median break and to a commercial driveway adjacent to the median break which has been in effect for more than 24 years. Proposed Condition 13, if adopted, would be an unconstitutional taking of Applicant’s valuable property right without compensation.

As part of its careful and thoughtful process to promote and manage growth in the County (see discussion above), the Oconee County Board of Commissioners worked with the prior owners of property in the Highway 316, Epps Bridge Road, Mars Hill Road and Virgil Langford Road corridor to develop a comprehensive roadway system to serve the immediate area and the County as a whole. Beginning in 1997, Dr. James McDonald and other owners of property in the area negotiated the donation and sale of right-of-way, grant of utility easements, and management of driveway access for the area surrounding the relocated roadways. The driveway location and median break on Oconee Connector serving the Property were first established in a 1997 Memorandum of Agreement between the County and the owners of these properties as well as by authorization by the Commissioner of the Georgia Department of Transportation (“GDOT”) at the time. The location of these entitlements was later reaffirmed by an agreement between the County and the owners in 2009 as well as by email correspondence between Dr. McDonald, representatives of the Georgia Department of Transportation, and the Oconee County Commission Chairman. Applicant and the proposed developer of a portion of the Property have made substantial, investment-backed expenditures toward development of the Property in reliance of this vested right.

Specifically, the deed from the prior owner of Applicant’s property to Oconee County on June 26, 1997 for the Oconee Connector right-of-way shows the location of the median break as it is today including dedicated left turn lanes on both sides of the Connector.

Please refer to the Timeline and documents attached to it on Exhibit B, Documents 1-12 of this letter.

These documents establish that Applicant has a vested right to use of the existing median break and to a commercial driveway cut immediately adjacent to such median break as evidenced by the written agreements and by the verbal assurances of GDOT and County officials. Notably, the Future Land Use Map shows the median break at its current location. Limitation to a right in/right out driveway on Oconee Connector effectively deprives Applicant of use of this clearly established median break and commercial driveway and, if approved, would be a deprivation of Applicant's valuable property right without just and adequate compensation.

From a practical perspective, elimination of this full access will negatively impact the Oconee Connector/Mars Hill Road intersection. To return, traffic visiting the site coming from across Hwy. 316 will have to exit right and go to the Mars Hill Road/Daniell's Bridge Road intersection and queue in the left turn lane and execute a U-turn. The County's consulting traffic expert noted this problem in its report.

Applicant respectfully requests that Proposed Condition 13 be deleted from the list of Proposed Conditions.

4. Mars Hill Road Access. Proposed Condition 14 in the Staff Report would require Applicant to construct one roundabout for a site driveway onto Mars Hill Road in Phase 1 and another roundabout for a site driveway onto Mars Hill Road in Phase 2. These roundabouts would require substantial reconstruction of the public right-of-way of Mars Hill Road, including the need for possible acquisition of right-of-way from others. Applicant's traffic engineer has produced studies demonstrating that increased traffic on Mars Hill Road that would result from development of the proposed Project can be safely accommodated by the construction of standard driveways and acceleration/deceleration lanes that is typical of other commercial highway access points in Oconee County. Applicant's proposed solution, with stop signs at the development's connections with Mars Hill Road, will not affect crossing traffic. Roundabouts, however, will impact all users of Mars Hill Road.

Applicant objects to these requirements on the ground that they are not authorized pursuant to the Georgia Development Impact Fees Law (O.C.G.A. § 36-71-1 et seq.). The law authorizes local governments in Georgia to impose development impact fees on new construction to help fund additional public facilities needed to serve new growth and development only after adopting a comprehensive development impact fee ordinance that authorizes the imposition and collection of such fees. Most local governments, including Oconee County, have not adopted these ordinances. Georgia law prohibits local governments that do not have impact fee ordinances from collecting fees for "system improvements." However, local governments may collect fees related to "project improvements."

*System improvements* are defined in the statute as "capital improvements that are public facilities and are designed to provide service to the community at large, in contrast to 'project improvements.'"

*Project improvements* are defined in the statute as "site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project and are not system improvements...If an improvement or facility provides or will provide more than incidental service

or facilities capacity to persons other than users or occupants of a particular project, the improvement or facility is a system improvement and shall not be considered a project improvement.”

Roundabouts on Mars Hill Road will provide substantially more than incidental service or capacity to persons other than users and occupants of the Project—well above the level of road improvements proposed by Applicant’s traffic engineer for safe ingress and egress to the Project (and well above the level of improvements required by the County for other commercial developments). As noted, the roundabouts will unnecessarily provide “service”—unfortunately service that slows crossing traffic—to all users of the road, even those not entering the development. Roundabouts are clearly system improvements, and Applicant cannot be compelled to provide them as a condition of approval of the Project.

Even if requiring roundabouts in this case were compliant with the Development Impact Fee Law, Oconee County has not developed a policy for the use of roundabouts for commercial driveway access that provides clear criteria for their use. Applicant’s traffic engineer has noted that site conditions, including grade, make construction of roundabouts in the proposed locations impractical.

Applicant respectfully requests that Proposed Condition 14 be deleted from the list of Proposed Conditions.

5. Environmental Permits. As the staff report notes, the Property contains a stream, jurisdictional wetlands and a small pond. Applicant has applied for and received all permits required by the U.S. Army Corps of Engineers and the Georgia Department of Natural Resources, Environmental Protection Division to mitigate the impacts of the proposed development on these environmental areas.

Specifically, Applicant attaches a copy of Permit No. SAS-2019-00667 from the Corps of Engineers approving the Project proposed by Applicant, which impacts 2,660 linear feet of stream and 0.5 acre of wetland. (See Exhibit C, Document 1)

Applicant also attaches a copy of a letter dated February 5, 2021, from Richard E. Dunn, Director of the Environmental Protection Division, approving the request for a variance for encroachment on state waters as part of the proposed development on the Property. (See Exhibit C, Document 2)

The Oconee County Unified Development Code considers the grant of the permit and variance described above as satisfying the requirements of Article 9, Environmental Protection, of the Code. Applicant has now taken all steps necessary to construct the Project described in the Application in compliance with federal, state and local statutes, regulations and ordinances. Pursuant to the Georgia Constitution and applicable appellate decisions, Applicant has a vested right to develop the Property in compliance with these permits. A denial or substantial modification of Applicant’s rezoning request based in whole or in part on Applicant’s modifications to the waters and buffers on the Property, when those modifications have been

expressly permitted in accordance with law, will be an unconstitutional denial of Applicant's vested property right.

6. Use as Zoned. Applicant disagrees with Standard B of the Staff Analysis section of the Staff Report which addresses the Oconee County Standards for Consideration: "Whether the property to be rezoned has a reasonable economic use as currently zoned." Addressing this Standard, the Report states: "The property has a reasonable economic use for single-family residential and commercial purposes as currently zoned, see the history section on page 2."

For the reasons described in this letter, the three parcels that are included in the Application cannot be used as zoned, and the existing zoning classifications cause Applicant significant economic detriment and are not substantially related to the public health, safety, morality, and welfare.

Parcel 45 is zoned B-1, planned unit development, and as discussed in Section 1 of this letter, cannot be developed as zoned due to the significant changes to the original tract caused by right-of-way acquisitions that impacted the locations of lots, buildings and streets as shown in the site plan attached to the 1992 resolution.

Parcel 45B is currently zoned B-2, but it cannot be developed as a stand-alone parcel due to its size and topography constraints as described above. It can only be developed when combined with Parcel 45. Such a combination is not currently possible, however, because of the planned unit development status of Parcel 45 and the significant changes caused to it by right-of-way acquisitions.

Parcel 45D was rezoned in 1992 to R-1, single family residential, for 15 single-family residences. The resolution adopting the zoning change includes a condition requiring use of the binding site plan attached to the resolution. In the intervening years, and due to changes in development in the area, the County's comprehensive plan and the Mars Hill Overlay District now promote uses for this tract that are incompatible with single family zoning on relatively large lots. This kind of development is no longer feasible given the uses for the adjoining property and the county's land use policy for this area. Additionally, the cul-de-sac shown on the binding plan appears to exceed the length allowed for dead end roads in the Unified Development Code, and the lot layout may not be feasible under current ordinances and regulations regarding individual septic tanks. Designing a subdivision that meets current requirements will be difficult, if not impossible.

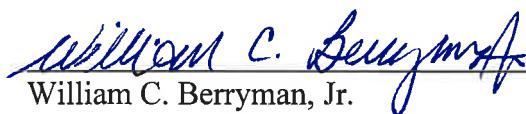
For these reasons, Applicant requests that the Board find under Standard B that the Property does not have a reasonable economic use as currently zoned.

7. Applicant's Request for Approval. For the reasons stated in this letter, Applicant respectfully requests that the Board approve its application for rezoning to B-2 subject to the Conditions 1-12 and 15-20 described in the Staff Report. The Application with Conditions is an appropriate use for the Property in accordance with the Oconee County Comprehensive Plan and Future Land Use Map and the Unified Development Code. The Property cannot be used as presently zoned, and the existing zoning classifications cause Applicant significant economic detriment and are not substantially related to the public health, safety, morality, and welfare.

Failure to approve the Application with the within-described conditions will be a denial of Applicant's rights under the United States and Georgia Constitutions as more particularly described in the amendment to the Application filed on January 15, 2021 and incorporated herein by reference. (See Exhibit D)

With kindest regards, I am

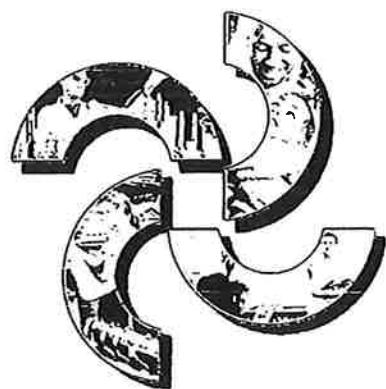
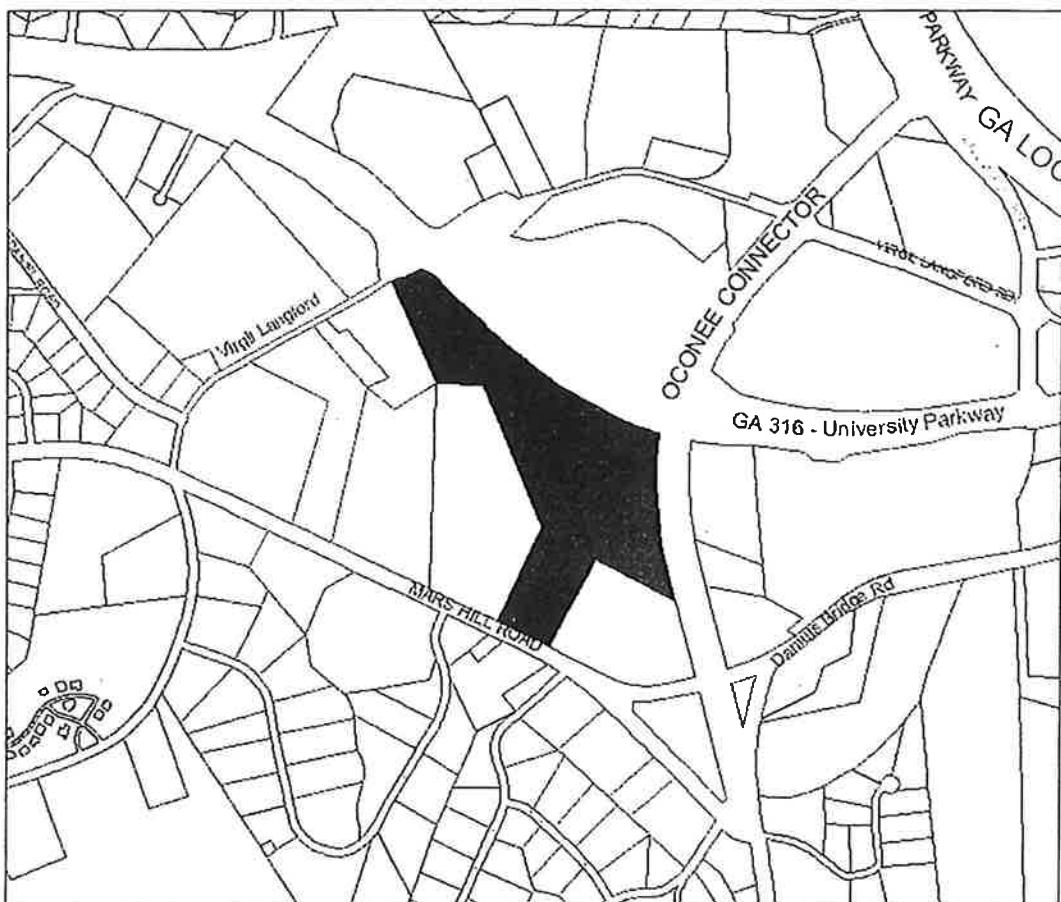
FORTSON, BENTLEY AND GRIFFIN, P.A.

  
\_\_\_\_\_  
William C. Berryman, Jr.

WCB/

# **EXHIBIT “A”**

*Site Information Summary Package*  
**Kel-Mac**  
Commercial Site



**Oconee County, Georgia**  
Planning Department  
23 N. Main Street  
P.O. Box 145  
Watkinsville, GA 30677

PH: (706) 769-3910  
FX: (706) 769-2901  
EM: [mforsee@oconee.ga.us](mailto:mforsee@oconee.ga.us)  
Web: [www.oconeecounty.com](http://www.oconeecounty.com)

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## General Info

### Size

Available: 45 Acres  
Total: 45 Acres  
Largest Tract: 45 Acres

### Environment

Zoning: B-1-PUD – General Business  
Surrounding Land Use:  
*North:* GA 316  
*East:* Undeveloped Commercial  
*South:* Residential *West:* Undeveloped

### Location

Atlanta: 56 miles West  
Athens: 1 mile East  
Address: 1291 Virgil Langford Road  
Tax ID #: C-1-45

Inside City Limits? No  
Police: Oconee County  
Fire: Oconee County  
Fire Insurance Rating: Class 6  
Distance to Fire Department: adjacent

### Development Type

Commercial Park w/ 17 lots. Site has huge potential as power center or community center were the rezone amended. Adjacent tracts of 20 acres could potentially be incorporated into an amended rezone as well.

## Utilities

### Water

Oconee County Utility Department  
Line Size: 12" main, adjacent to site  
Excess Capacity: 4.0 MGD

### Sewer

Oconee County Utility Department  
Line Size: 12" gravity main, adjacent  
Excess Capacity: 250 ThGD

### Electrical

Georgia Power Company  
Walton EMC

### Natural Gas

Local Distributor: Atlanta Gas Light  
Line Size: 4" high pressure, adjacent to site  
Supplier: Customer Choice

## Transportation

### Highways

Interstates  
I-20: 42 miles South  
I-85: 32 miles West  
Major US or State Roads:  
US 78: 3 miles West  
US 441: 4 miles East

### Access

Access is via Oconee Connector, Mars Hill Road and Virgil Langford Road. GaDOT improvements to Hwy 316, Oconee Connector and Virgil Langford may impact this site and the available access points. See page 9, "Planned Transportation Upgrades."

## Prepared By

Oconee County Planning Dept  
Economic Development Coordinator  
Phone: 706-769-3910 Fax: 706-769-2901  
[www.oconeecounty.info](http://www.oconeecounty.info)

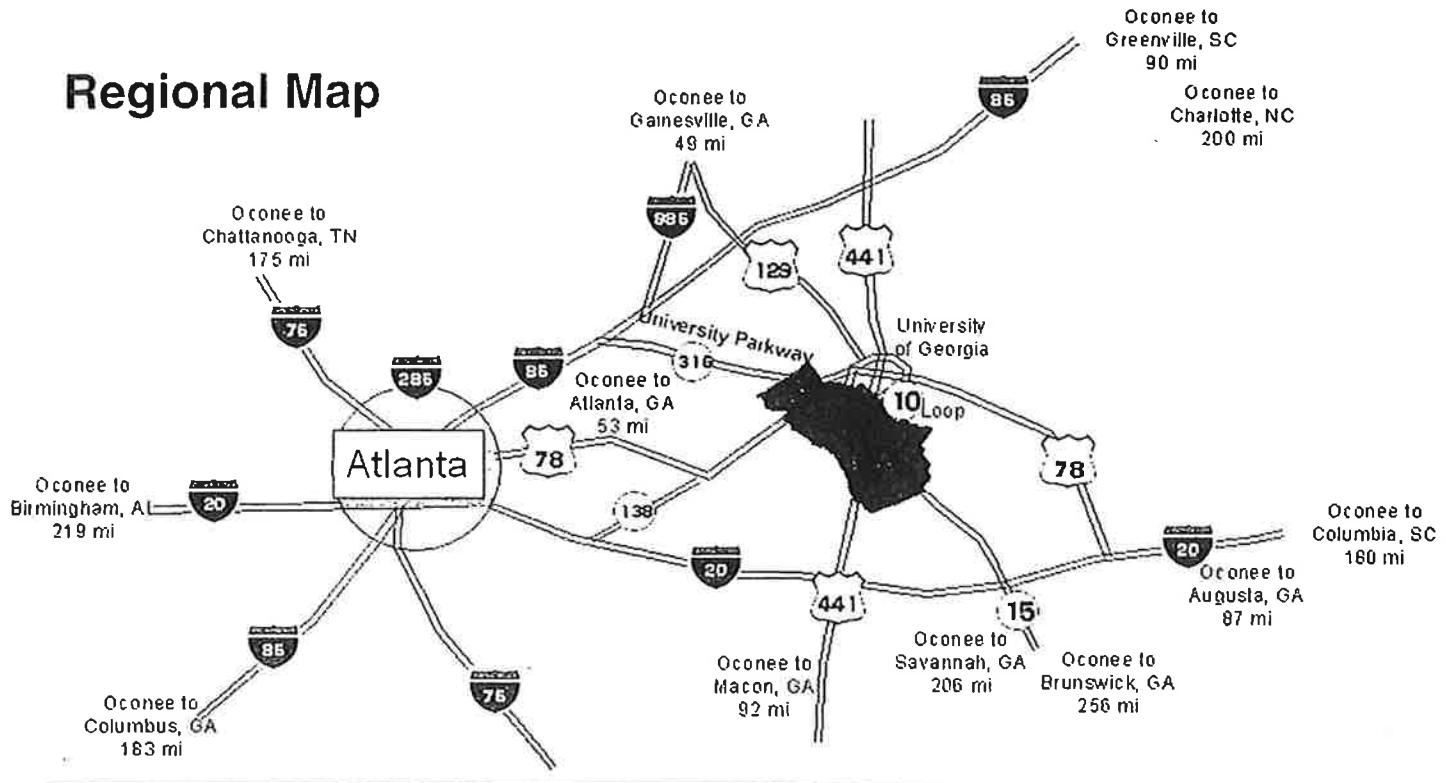


**OCONEE COUNTY**  
*Share Our Vision  
For The Future*

# Oconee County

Kel-Mac  
Site Info Package  
Oconee County, Georgia  
January 2, 2003  
Page 2 of 13

## Regional Map



## Statistical Data

2001 Estimated Population: 27,059  
2000 Census Population: 26,225  
1995 Estimated Population: 21,237  
1990 Census Population: 17,618  
2005 Projected Population: 30,615  
2010 Projected Population: 35,511  
  
Average 2001 New Home Sale Price: \$ 288,071  
  
1999 Median Household Income: \$55,211  
  
2001 Total Millage Rate: 25.080  
Tax on a \$150,000 Business: \$1,504.80

Municipalities (2000 Pop.)  
Watkinsville (2,097)  
Bogart (1,049)  
N. High Shoals (439)  
Bishop (146)

Schools (5,575 students)  
Public Schools  
1 Primary (K-2)  
4 Elementary (K-5)  
2 Middle (6-8)  
1 High (another in 2004)  
Private Schools  
2 (Pre-School-12)

Area Higher Ed  
1 Major University  
1 Technical School  
2 Private Jr. Colleges

SATs (2001)  
Verbal:525  
Math:525  
Total: 1050  
# Tested: 269  
% of Class: 82%

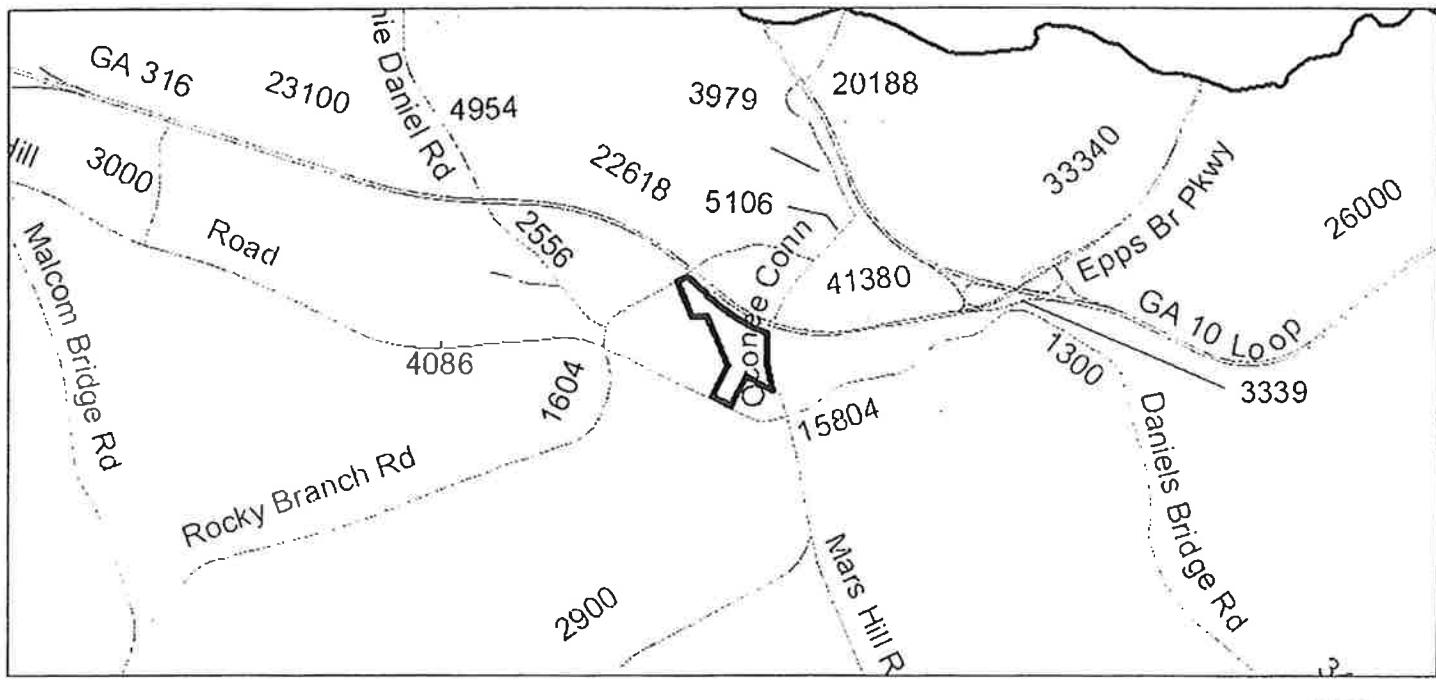
## Prepared By

Oconee County Planning Dept  
Economic Development Coordinator  
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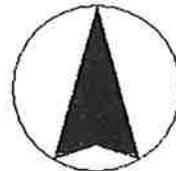
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## Traffic Counts



2001 DOT Counts

2001 ACORTS Counts



## Permissible Uses

Bank  
 Clinic  
 Credit Agency  
 Curio and Souvenir Shop  
 Drug Store, Pharmacy  
 Dry Cleaning and Laundry  
 Florist  
 Garage, Repair  
 Gasoline Service Station  
 Grocery Store

Offices, Professional, Business  
 Real Estate Office  
 Restaurant/Café (drive-through by CUP)  
 Retail Store  
 Security, Commodity Broker  
 Shopping Center  
 Tire Repair, Supplies

**Unofficial List - See Zoning Regulations for  
 Permissible and Conditional Uses complete list.**

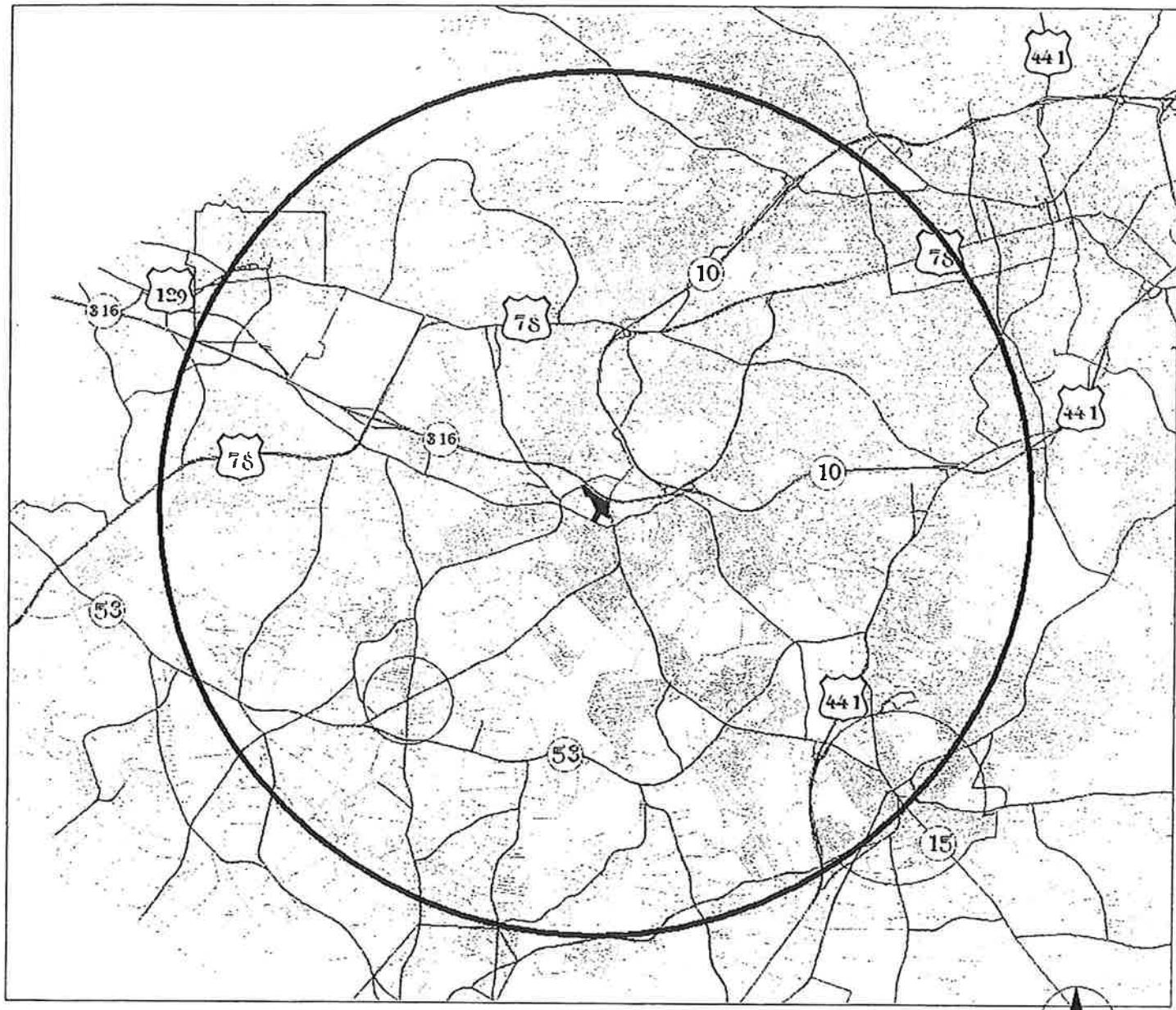
## Prepared By

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## Five Mile Radius



Five Mile Radius Trade Area

Oconee Boundary



City Boundaries



Site

County Parcels

## Prepared By

Oconee County Planning Dept  
Economic Development Coordinator  
Phone: 706-769-3910 Fax: 706-769-2901  
[www.oconeecounty.info](http://www.oconeecounty.info)

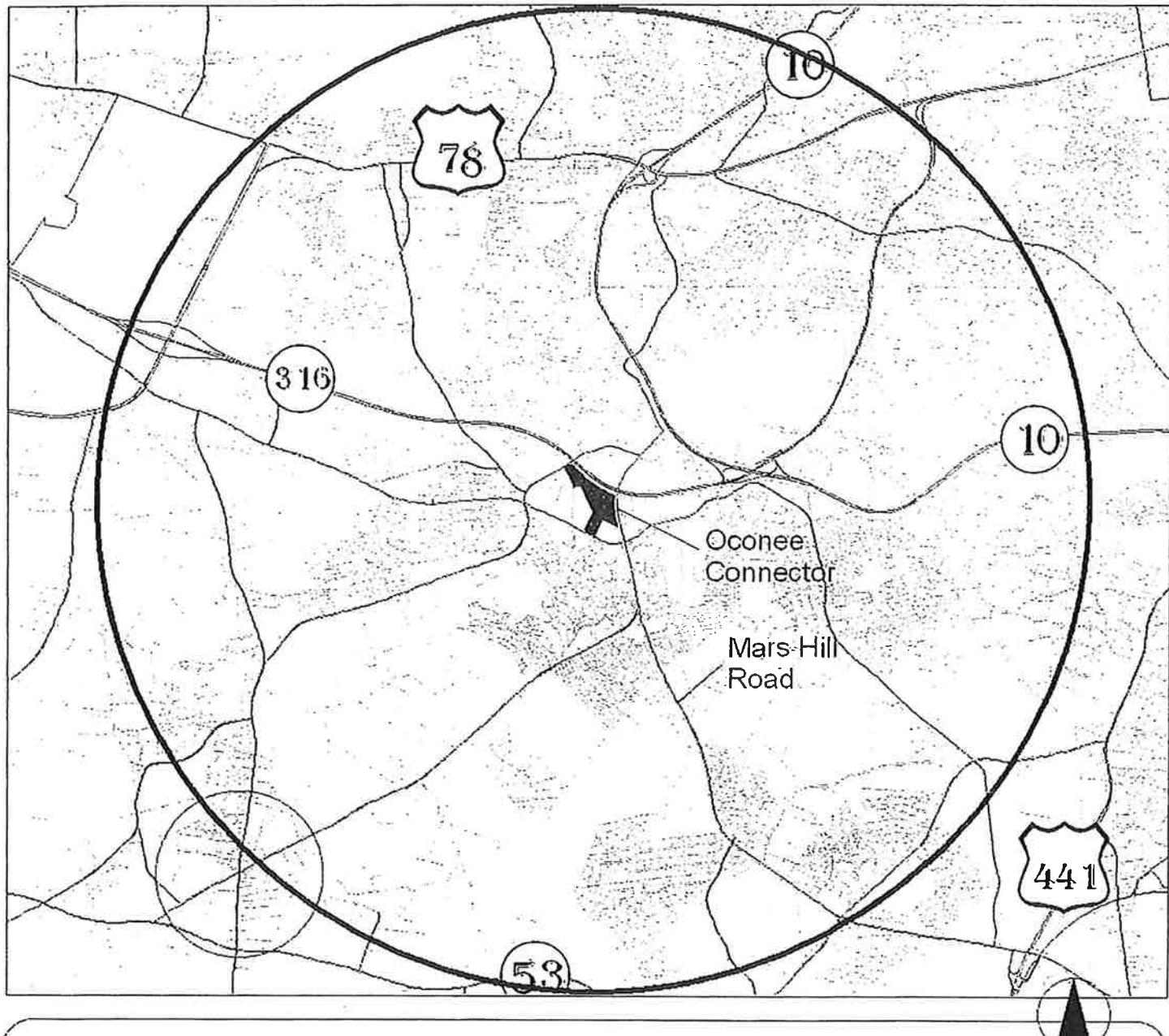


**OCONEE COUNTY**  
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For The Future*

# Oconee County

## Three Mile Radius

Kel-Mac  
Site Info Package  
Oconee County, Georgia  
January 2, 2003  
Page 5 of 13



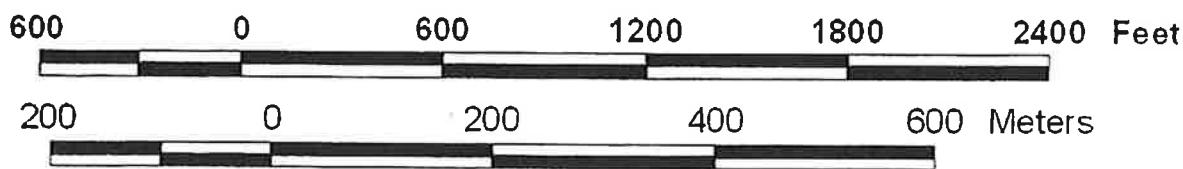
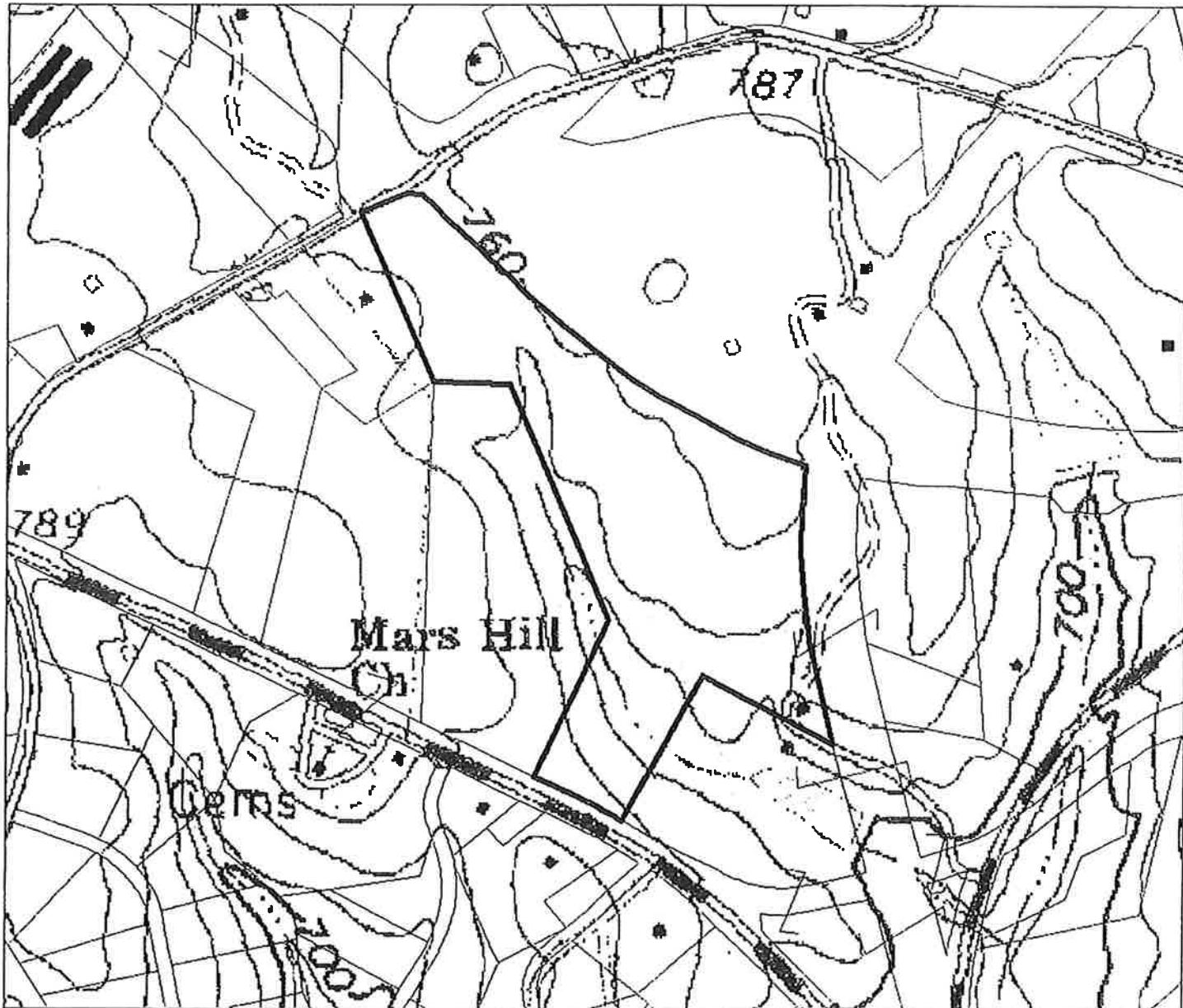
### Prepared By

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[www.oconeecounty.info](http://www.oconeecounty.info)



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## Site Topography Map



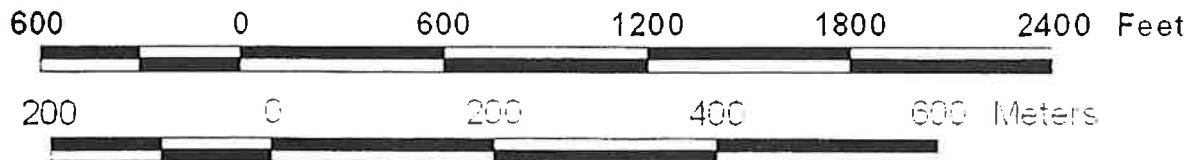
### Prepared By

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Economic Development Coordinator  
Phone: 706-769-3910 Fax: 706-769-2901  
[www.oconeecounty.info](http://www.oconeecounty.info)



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## Site Aerial Photo (1999)



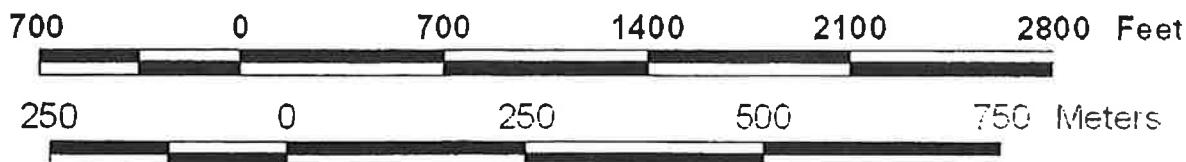
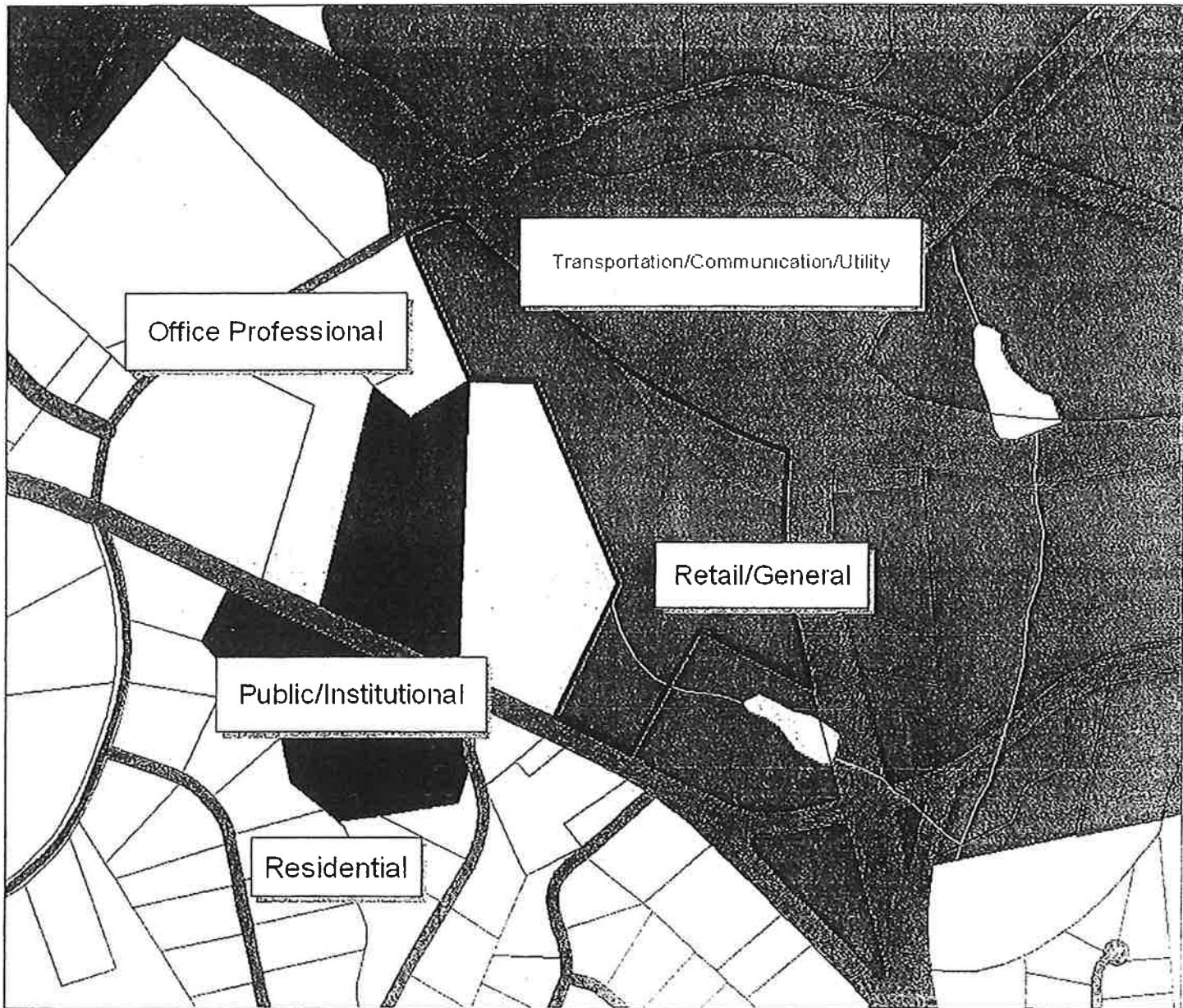
## Prepared By

Oconee County Planning Dept.  
Economic Development Coordinator  
Phone: 706-769-4910 Fax: 706-769-2860  
[www.oconee.org.us](http://www.oconee.org.us)



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## Future Land Use



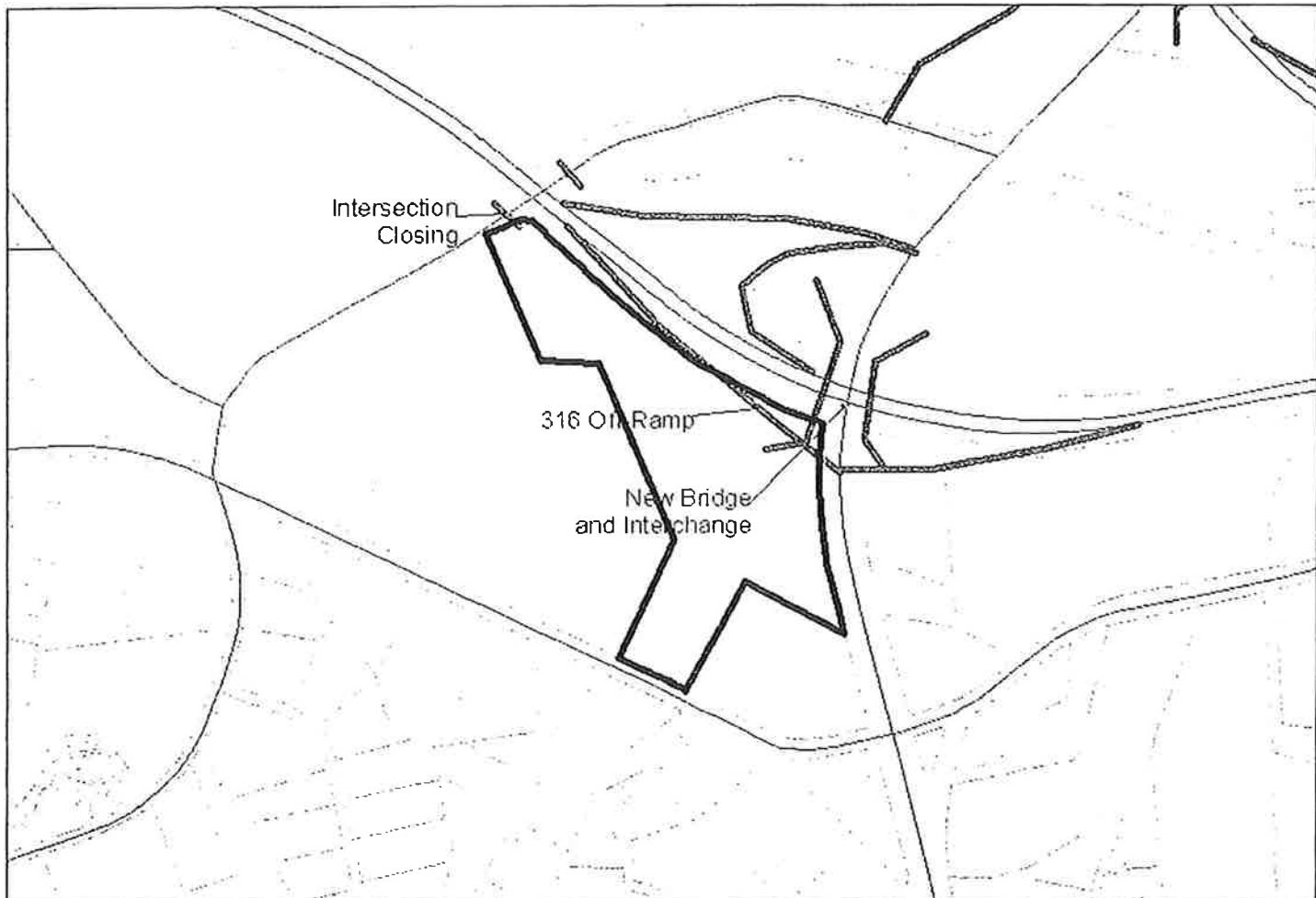
## Prepared By

Oconee County Planning Dept  
Economic Development Coordinator  
Phone: 706-769-3910 Fax: 706-769-2901  
[www.oconeecounty.info](http://www.oconeecounty.info)



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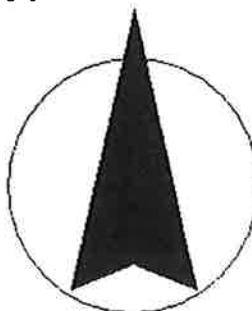
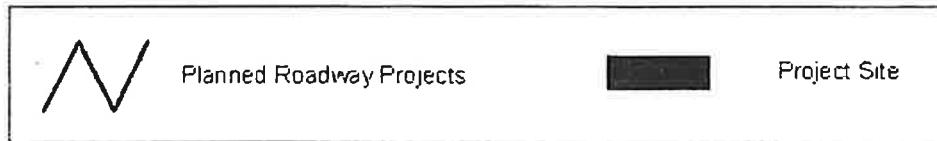
## Planned Transportation Upgrades



1000 0 1000 2000 3000 Feet



500 0 500 Meters



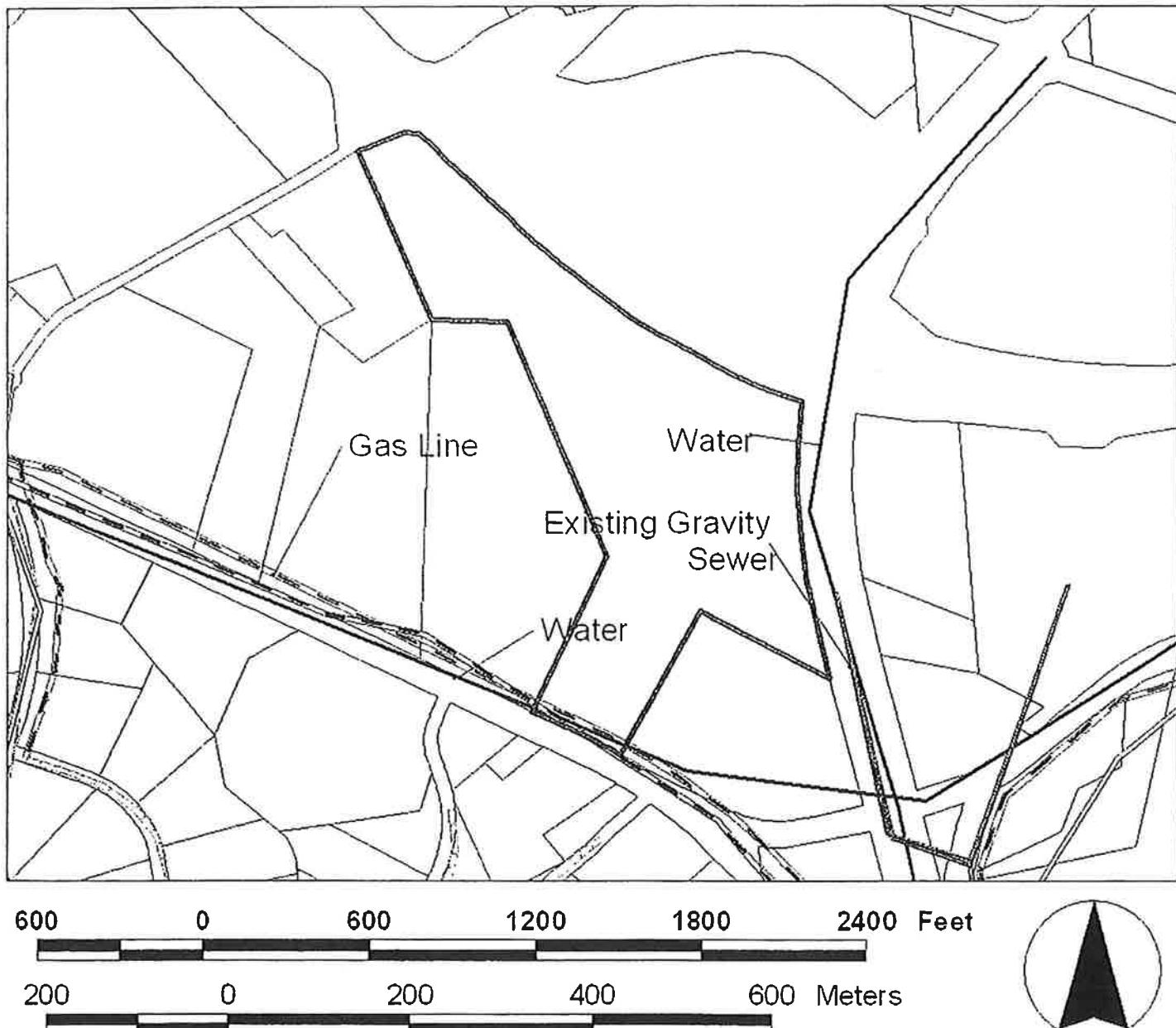
### Prepared By

Oconee County Planning Dept  
Economic Development Coordinator  
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[www.oconeecounty.info](http://www.oconeecounty.info)



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## Site Utilities



This drawing is a graphic representation only and does not purport to show the exact location of any utility lines. All information should be confirmed with the appropriate utility company.

### Prepared By

Oconee County Planning Dept  
Economic Development Coordinator  
Phone: 706-769-3910 Fax: 706-769-2901  
[www.oconeecounty.info](http://www.oconeecounty.info)



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## Flood Plain (FEMA Maps)/Wetlands Areas



600 0 600 1200 1800 2400 Feet

200 0 200 400 600 Meters



### Prepared By

Oconee County Planning Dept  
Economic Development Coordinator  
Phone: 706-769-3910 Fax: 706-769-2901  
[www.oconeecounty.info](http://www.oconeecounty.info)



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## Fire Department Coverage



### Fire Station Coverage - Five Mile Radius Coverage Area

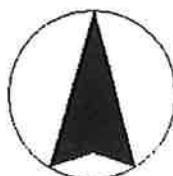


Project Site



Fire Station

County Parcels



Note: There is a mutual aid agreement between Oconee County and the neighboring jurisdictions. In the case of an emergency within another jurisdiction's station's service area, both jurisdictions will respond.

### Prepared By

Oconee County Planning Dept  
Economic Development Coordinator  
Phone: 706-769-3910 Fax: 706-769-2901  
[www.oconeecounty.info](http://www.oconeecounty.info)



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# **EXHIBIT “B”**

**Document 1**

## Oconee Connector Access Timeline

January 13, 1997 Letter from attorney Larry Walker, attorney representing former owner of the Applicant's property ("Applicant Property") and other adjacent property, to Wayne Shackelford, GDOT Commissioner, referencing Commissioner's indication of approval of "access point" on new road (subsequently named Oconee Connector) 660 feet south of Hwy. 316.

January 27, 1997 Letter from Walker to Shackelford agreeing that access rights would be relinquished as part of right-of-way acquisition "except for the access points agreed upon by you."

February 19, 1997 Letter from Commissioner Shackelford to Walker confirming Walker's earlier letter and stating "the access rights that are to be relinquished are located between Virgil Langford Rd. and the median opening (agreed upon in our meeting) located approximately 660 feet south of the proposed ramp terminal on relocated Epps Bridge Rd. We are asking Oconee County to obtain these access rights along with the necessary right of way for the relocation of Epps Bridge Road across Ga. 316. The available frontage between the median opening and the new intersection of Mars Hill Rd./relocated Epps Bridge Rd. and Daniels Bridge Rd. may accommodate commercial driveway access." Later Commissioner Shackelford says: "Also, the issue of cross easement access for the fire station to utilize the aforementioned median opening was a condition to our granting this median opening. This easement should also be obtained by Oconee County in its acquisition of the right of way for relocated Epps Bridge Road."

February 26, 1997 GDOT updated right-of-way plan showing agreed upon median break location and fire department access.

March 18, 1997 Right-of-way deed from 316 Holding Group to Oconee County conveying 5.091 acres and a permanent easement for access to County Fire Station Property; property is directly across proposed Oconee Connector from Applicant's property; GDOT right-of-way map attached to the deed notes that it was last revised on February 26, 1997 and shows "Future Median Opening" at its present location and adjacent to easement/driveway leading to fire station building; map also shows "End Limited Access" and "Begin Limited Access" adjacent to Future Median Opening

June 26, 1997 Right-of-way deed from 316 Holding Group to Oconee County conveying right-of-way for Oconee Connector; the attached GDOT right-of-way map shows a detailed design for the planned overpass crossing Hwy. 316 and related ramps; the plan for Oconee Connector shows the median break at its current—and desired—location along with

dedicated left turn lanes on both sides of the median break; the “end limited access” point is shown just north of the median break on the Applicant’s property;

July 29, 1997      Memorandum of Agreement between Oconee County and owners of Applicant property and adjacent property, including the Daniell’s Bridge Road and Oconee Connector intersection property (“MOA”); in Par. 4 County “agrees to permit commercial access curb cuts located [at locations defined on the attachment to the MOA on what is now Oconee Connector and relocated Mars Hill Road]; the Oconee Connector curb cut is shown immediately across the Connector from the curb cut for the fire station property; Note: the location of the Applicant Property and the fire station property curb cuts shown on the attachment changed slightly on the final GDOT right-of-way plans; in Par. 4, the parties agree that the County or GDOT shall drain the existing lake and construct necessary piping to properly channel water attributed to the lake and surrounding properties;

August 7, 2009      Agreement between Oconee County and owners of Applicant Property and other adjacent property ratifying, restating and confirming the 1997 MOA and resolving outstanding issues related to property at the southeastern quadrant of the Mars Hill Road/Oconee Connection intersection;

August 21, 2009      Letter from Chairman Melvin Davis to James McDonald (principal of previous owner of Applicant Property); Chairman Davis notes that the MOA and other documents from 1997 indicate agreements between Oconee County, GDOT, and the property owners “for a median cut on the Oconee Connector, as well as a cross-easement to your property and the Fire Department located on the Oconee Connector.” He also notes: “it appears the median cut is located within the regulations currently required by GDOT for median cuts in major intersections.”

October 12, 2009      Letter from Dr. McDonald to Chairman Davis describing prior discussions and agreements with Oconee County and expressing concern that median cut would be relocated at a point that was different from the agreed upon location;

October 19, 2009      Letter from Dr. McDonald to Attorney Walker reciting his understanding with GDOT re donation of right-of-way to Oconee County for the Oconee Connector, including “Full commercial access (signalized median cut) at 660 ft. from Highway 316...”; also expressing concern that the County plans to relocate the median cut to eliminate access to Applicant Property;

October 20, 2009  
(9:34 a.m.)

Email from Brent Story of GDOT to Chairman Davis referring to October 19 letter from Dr. McDonald to Attorney Walker; Story refers to GDOT records that show the 1997 MOA "grants a median opening to the 316 Holding Group Property at approximately 660-feet north of the relocated Mars Hill Rd and Epps Bridge Rd" and subsequent actions, including easement to provide access to Fire Station property and stating that the median break should be at the location agreed upon in 1997;

October 20, 2009  
(11:12 a.m.)

Email from Chairman Davis to Brent Story saying that the County is "in complete agreement with your analysis of the location of the median break as agreed upon in 1997. It is our understanding that the plans for the widening of Mars Hill Road (PI142060) will have the median break at this location."

# **EXHIBIT “B”**

**Document 2**

COPY

LAW OFFICES  
**WALKER, HULBERT, GRAY & BYRD**  
909 BALL STREET  
PERRY, GEORGIA 31069

LARRY WALKER  
DAVID G. WALKER  
DAVID P. HULBERT, JR.  
MICHAEL G. GRAY  
CHARLES W. BYRD  
JOHN D. CHRISTY  
S. E. MOODY, III

PLEASE REPLY:  
P.O. BOX 1234  
PERRY, GEORGIA 31069

Telephone: (912) 987-1415  
Telecopier: (912) 987-1077

January 13, 1997

Mr. Wayne Shackelford, Commissioner  
Georgia Department of Transportation  
2 Capitol Square  
Atlanta, Georgia 30334

**PERSONAL AND CONFIDENTIAL**

Re: 316 Holding Group Property  
Oconee County

Dear Commissioner Shackelford:

Set out herein is our impression of the general agreement between the Department of Transportation and 316 Holding Group arrived at in your office on January 6, 1997.

You indicated you would approve a plan in substantial conformity with Mr. Ed Ellis' plan for the placement of an intersection/interchange at the crossing of Georgia 316 and an Oconee County road on 316 Holding Group's property. The County road is presently referred to as the Mars Hill/Epps Bridge Relocation Project.

Basically, you indicated that you would approve an access point 660 feet south of the intersection with the County road. The Mars Hill Road intersection will be 660 feet further south of that.

The Department of Transportation will try to conform its plan to minimize the land used for the 316 crossing, interchange/construction easement, etc., within the parameters of efficiency and safety, safety being the paramount consideration.

The Department of Transportation will give 316 Holding Group data on acreage necessary to be taken. The Department of Transportation will then make a reasonable offer as to value. It is believed that all of this possibly could be accomplished by the end of February, 1997.

We appreciate the fairness and straightforwardness of the Commissioner. Accordingly, all favorable consideration will be given to the question of value.

Mr. Wayne Shackelford, Commissioner  
January 13, 1997  
Page 2

---

I am hopeful that the negotiations concerning the value of the land will be amicable and expeditious.

This sets out our impression of what the general agreement is.

We have already contacted Commissioner Wendell Dawson who is processing the plan. We have agreed to cooperate with him in every feasible way.

Very truly yours,

WALKER, HULBERT, GRAY & BYRD

Larry Walker

LW/tjl

cc: Mr. Ed Ellis  
Mr. Baxter Crane  
Dr. James J. McDonald, Jr.  
Dr. John R. Simpson  
Mr. M. Clark Fain, III  
Mr. Chuck Byrd

# **EXHIBIT “B”**

**Document 3**

LAW OFFICES  
**WALKER, HULBERT, GRAY & BYRD**

909 BALL STREET  
PERRY, GEORGIA 31069

**COPY**

LARRY WALKER  
DAVID G. WALKER  
DAVID P. HULBERT, JR.  
MICHAEL G. GRAY  
CHARLES W. BYRD  
JOHN D. CHRISTY  
S. E. MOODY, III

PLEASE REPLY:  
P.O. BOX 1234  
PERRY, GEORGIA 31069

January 27, 1997

Telephone: (912) 987-1415  
Telescopier: (912) 987-1077

Mr. Wayne Shackelford, Commissioner  
Georgia Department of Transportation  
2 Capitol Square  
Atlanta, Georgia 30334

**PERSONAL AND CONFIDENTIAL**

Re: 316 Holding Group Property  
Oconee County

Dear Commissioner Shackelford:

Reference is made to my January 13, 1997 letter to you relative to the above. I believe that clarification of the letter is needed in three areas, to-wit:

1. As I understand it, the 316 Holding Group will not seek access to the Mars Hill / Epps Bridge Road relocation alignment across from the loop ramp north of 316;
2. As I understand it, the only compensation for right-of-way anticipated by the 316 Holding Group is for the right-of-way required for the interchange with 316 and Mars Hill / Epps Bridge Road; and,
3. As I understand it, access rights will be relinquished as part of the interchange right-of-way negotiations for all of the frontage on Mars Hill / Epps Bridge Road except for the access points agreed upon by you.

Please accept this letter as an attempt by me to clarify the January 13, 1997 letter to you.

Please keep me informed of developments of which I should be aware.

Very truly yours,

WALKER, HULBERT, GRAY & BYRD

Larry Walker

LW/tjl

cc: Mr. Ed Ellis  
Mr. Baxter Crane  
Dr. James J. McDonald, Jr.  
Dr. John R. Simpson  
Mr. Jim Hudson  
Mr. M. Clark Fain, III  
Mr. Chuck Byrd

# **EXHIBIT “B”**

## **Document 4**



# Department of Transportation

State of Georgia

#2 Capitol Square, S.W.  
Atlanta, Georgia 30334-1002

WAYNE SHACKELFORD  
COMMISSIONER  
(404)656-5206

FRANK L. DANCHETZ  
CHIEF ENGINEER  
(404)656-5277

STEVEN L. PARKS  
DEPUTY COMMISSIONER  
(404)656-5212

JAMES R. MARTIN  
TREASURER  
(404)656-5224

PUBLIC INFORMATION OFFICE  
(404)656-5267

February 19, 1997

Mr. Larry Walker  
Walker, Hulbert, Gray & Byrd  
909 Ball Street  
Perry, Georgia 31069

Dear Mr. Walker:

RE: 316 Holding Group Property  
316 @ Relocated Epps Bridge Road

This is to acknowledge receipt of your letter dated January 27, 1997 referencing the above subject. I am certainly pleased that a solution could be reached in this matter that preserves the safety and capacity of the planned transportation system at this location yet also provides reasonable access to the adjoining properties. I am also glad that you recognize the need to clarify the issues discussed at our previous meeting.

Items (1) and (2) of your letter are certainly correct and the Department agrees with your understanding. Item (3) of your letter is also correct in part except that the access rights that are to be relinquished are located between Virgil Langford Rd. and the median opening (agreed upon in our meeting) located approximately 660 feet south of the proposed ramp terminal on relocated Epps Bridge Rd. We are asking Oconee County to obtain these access rights along with the necessary right of way for the relocation of Epps Bridge Road across Ga. 316. The available frontage between the median opening and the new intersection of Mars Hill Rd./relocated Epps Bridge Rd. and Daniels Bridge Rd. may accommodate



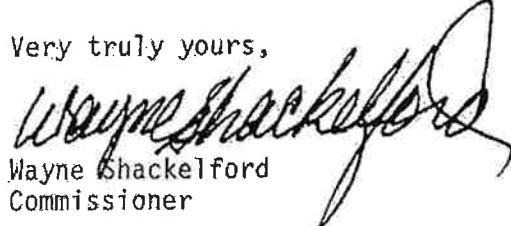
Mr. Walker  
February 19, 1997  
Page 2

commercial driveway access. The Department will begin acquisition of the interchange right of way from the 316 Holding Group in the very near future under our advanced acquisition procedures.

Also, the issue of cross easement access for the fire station to utilize the aforementioned median opening was a condition to our granting this median opening. This easement should also be obtained by Oconee County in its acquisition of the right of way for relocated Epps Bridge Road. By copy of this letter, I am asking Hugh Tyner to ensure that this easement as well as the aforementioned access rights are properly accounted for by the County.

Along with your letter, I trust this has clarified all the current issues as we know them in regard to the 316 Holding Group properties at this location. It is always a pleasure to work with you and other House and Senate members who recognize the importance of working together to address our constituents' concerns while planning for and preserving the safety and capacity of our state's transportation system.

Very truly yours,



Wayne Shackelford  
Commissioner

WS:JAK:hcc

cc: Honorable Jimmy Lester  
Chairman, State Transportation Board  
Honorable Steve Reynolds  
Member, State Transportation Board  
Frank Danchetz  
Walker Scott  
George Boulaineau  
Jim Kennerly  
David Meshberger  
Hugh Tyner

# **EXHIBIT “B”**

## **Document 5**

000435

AREA OF PERMANENT EASEMENT: 0.72 ACRES  
 AREA OF CONSTRUCTION EASEMENT: 1.09 ACRES  
 TOTAL: 1.81 ACRES

## RIGHT OF WAY DEED

GEORGIA, OCONEE COUNTY

PROJECT NO. PRN-261-2 (219)  
P.I. NO.THIS CONVEYANCE made and executed the 18<sup>th</sup> day of March, 19 97.

WITNESSETH that 316 Holding Group, the undersigned (hereinafter referred to as "Grantor"), is the owner of a tract of land in Oconee County through which the Epps Bridge Road Relocation known as Project No. PRN-261-2(219), has been laid out by the Department of Transportation being more particularly described in a map and drawing of said road on the attached plat, to which reference is hereby made.

NOW THEREFORE, in consideration of the benefit to said property by the construction and maintenance of said road, and in consideration of ONE DOLLAR (\$1.00), in hand paid, the receipt of whereof is hereby acknowledged, Grantor does hereby grant, sell and convey to Oconee County, and their successors in office so much land as to make a right of way for said road as surveyed, being more particularly described as follows:

All that tract or parcel of land lying and being in Land Lot of the Land District and/or 1331 Georgia Militia District of Oconee County, Georgia, and being more particularly described on Exhibit "A" attached hereto and made a part hereof by this reference.

Said right of way is hereby conveyed, consisting of 5.315 acres, more or less, as shown colored yellow on the plat of property prepared by the Department of Transportation, dated April 12, 1995; revised February 26, 1997, said plat attached hereto and made a part of this deed as Exhibit "B".

For the same consideration Grantor hereby conveys and relinquishes to Oconee County all rights of access between the limited access highway and approaches thereto on the above numbered highway project and Grantor's remaining real property from which said right of way is taken except at such points as designated and shown on the attached plat prepared by the Department of Transportation.

TO HAVE AND TO HOLD the said conveyed premises in fee simple and any rights Grantor has or may have in and to existing public rights of way are hereby quitclaimed and conveyed unto Oconee County.

Grantor hereby warrants that Grantor has the right to sell and convey said land and bind himself, his heirs, executors and administrators forever to defend by virtue of these presents.

IN WITNESS WHEREOF, Grantor has hereunto set his hand and seal the day above written.

Signed, Sealed and Delivered

this 18<sup>th</sup> day of March,  
19 97, in the presence of:

Incumbent  
Witness Milda Lance  
Notary Public  
Notary Public, Oconee County, Georgia  
My Commission Expires July 10, 2000  
U.S. L.I.C.

316 HOLDING GROUP  
BY: John R. Simpson (L.S.)  
John R. Simpson, Managing Partner (L.S.)

OCONEE COUNTY, GEORGIA  
SANDRA C. GLASS  
Clerk, Superior Court  
FILED FOR RECORD Mar 18 19 97 AND RECORDED  
IN BOOK # 4150 PAGE # 19  
ON 19 97 CLERK'S OFFICE  
(L.S.)

Parcel No. 4 Tracts 1 and 2

000436

PROJECT NO.: PRN 261-2 (219) OCONEE County  
P. I. NO.:  
PARCEL NO.: 4 TRACT 1  
TAKE: 221776.935 S F or 5.091 acres  
DATE OF R/W PLANS: 4-12-95  
REVISION DATE: 2-26-97

All that tract or parcel of land lying and being in Land Lot of the Land District or GMD 1331 or OCONEE County, Georgia, being more particularly described as follows:

Beginning at a point 100.00 feet left of and opposite Station 37+85.40 on the centerline of EPPS BRIDGE ROAD RELOCATION on Georgia Highway Project No. PRN 261-2 (219) From the Point of Beginning. Thence N 14-52'27"W for 378.572 feet to a point on the boundary. Thence N 00-00'00"E for 0.000 feet to the beginning of a curve, said curve having central angle 021-25'27", radius 2009.867 feet, chord bearing N 04-09'43"W, and chord distance 747.165 feet. Along the said curve for an arc distance of 751.536 feet to the end of the curve. Thence N 00-00'00"E for 0.000 feet to a point on the boundary. Thence N 30-56'11"W for 116.110 feet to a point on the boundary. Thence N 00-00'00"E for 0.000 feet to the beginning of a curve, said curve having central angle 006-45'27", radius 2989.788 feet, chord bearing S 71-19'59"E, and chord distance 352.414 feet. Along the said curve for an arc distance of 352.618 feet to the end of the curve. Thence N 00-00'00"E for 0.000 feet to a point on the boundary. Thence S 56-10'00"W for 83.420 feet to a point on the boundary. Thence N 00-00'00"E for 0.000 feet to the beginning of a curve, said curve having central angle 020-16'54", radius 1799.867 feet, chord bearing S 04-44'00"E, and chord distance 633.800 feet. Along the said curve for an arc distance of 637.122 feet to the end of the curve. Thence N 00-00'00"E for 0.000 feet to a point on the boundary. Thence S 14-52'27"E for 198.728 feet to a point on the boundary. Thence S 84-12'02"W for 44.697 feet to a point on the boundary. Thence S 24-31'15"W for 250.015 feet to a point on the boundary. Thence N 63-33'57"W for 9.568 feet to the Point of Beginning. Containing 221776.935 sf more or less or 5.091 acres more or less.

Also granted is the right to a permanent access easement for the purpose of constructing and maintaining a driveway for ingress and egress as shown colored blue on the attached plat dated 4-12-95 and last revised 2-26-97.

PROJECT  
P. I. NO.  
PARCEL N  
TAKE: 0.  
DATE OF  
REVISION

All that  
Lot of  
Georgia,

Beginnin:  
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000437

PROJECT NO.: PRN 261-2 (219) OCONEE County

P. I. NO.:

PARCEL NO.: 4 TRACT 2

TAKE: 0.224 acres

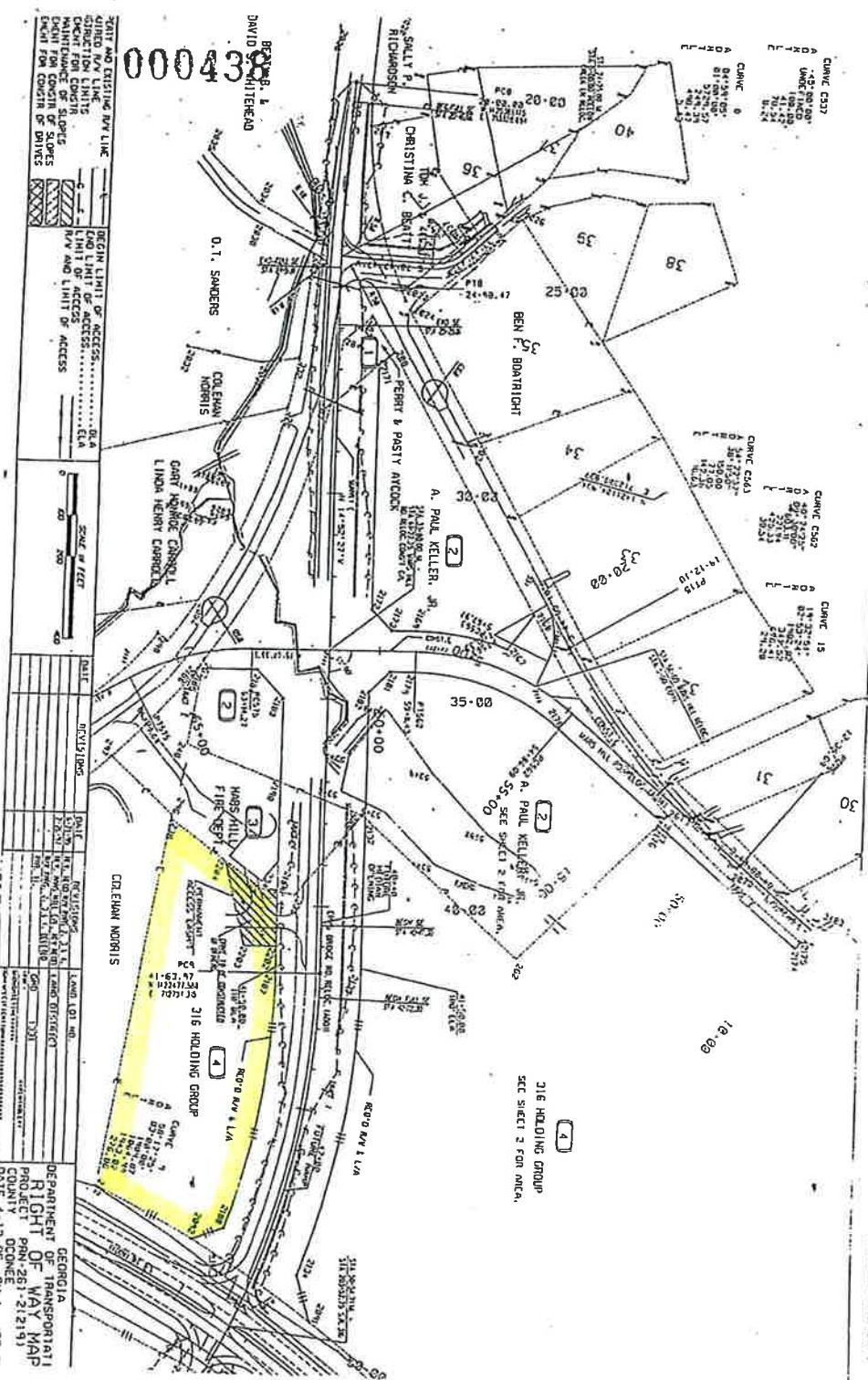
DATE OF R/W PLANS: 4-12-95

REVISION DATE: 2-26-97

All that tract or parcel of land lying and being in Land Lot of the Land District or GMD 1331 of OCONEE County, Georgia, being more particularly described as follows:

Beginning at a point 28.98 feet LEFT of and opposite Station 51+46.57 on the centerline of MARS HILL ROAD RELOCATION on Georgia Highway Project No. PRN 261-2 (219) From the Point of Beginning. Thence N 00-00'00"E for 0.000 feet to the beginning of a curve, said curve having central angle 005-59'05", radius 2022.622 feet, chord bearing N 61-28'29"W, and chord distance 211.169 feet. Along the said curve for an arc distance of 211.265 feet to the end of the curve. Thence N 00-00'00"E for 0.000 feet to a point on the boundary. Thence N 64-28'02"W for 235.691 feet to a point on the boundary. Thence N 25-31'58"E for 20.000 feet to a point on the boundary. Thence S 64-28'02"E for 449.473 feet to a point on the boundary. Thence S 30-52'31"W for 31.160 feet to the Point of Beginning. Containing 0.224 acres more or less.

00043



1  
5  
DF  
1203  
180419



000124

WARRANTY DEED

AFTER RECORDING RETURN TO:  
FORTSON, BENTLEY & GRIFFIN, P.A.  
P.O. BOX 1744  
ATHENS, GEORGIA

PAID IN OFFICE  
CLERK OF SUPERIOR COURT  
OCONEE COUNTY, GEORGIA

97 JUL 23 AM 9:07

THIS INDENTURE made and entered into this 16 day of July, 1997, between REC. BORN: 445-124-125  
in the year of our Lord One Thousand Nine Hundred and Ninety Seven (1997) DATE: 7-24-97

JJMB, L.L.C., a Georgia Limited Liability Company

of the County of Athens-Clarke, State of Georgia, as Grantor, and

JAMES J. McDONALD, JR. and MARY BETH McDONALD

of the County of Athens-Clarke, State of Georgia, as Grantee.

In this deed, wherever the context so requires, the masculine gender includes feminine and/or neuter and the singular number includes the plural. Wherever herein a verb, pronoun or other part of speech is used in the singular, and there be more than one Grantor or Grantee, said singular part of speech shall be deemed to read as the plural, and each Grantor shall always be jointly and severally liable for the performance of every promise and agreement made herein. Wherever herein Grantor or Grantee is used, the same shall be considered to mean as well, the heirs, executors, administrators, successors, representatives and assigns of the same.

WITNESSETH, that the said Grantor, for and in consideration of the sum of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATIONS, in hand paid, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee, the following described property, to wit: All of its undivided interest in and to:

Tract One:

ALL that tract or parcel of land, containing 1.083 acres, more or less, situate, lying and being in the 1331st District, G.M., Oconee County, Georgia, and being more particularly described as follows:

BEGINNING at the intersection of the property lines between lands of the Grantor and lands to the east now or formerly owned by COLEMAN NORRIS, said point being 239.46 feet left of and opposite Station 206+89.20 on the Construction Centerline of State Route 316 on Georgia Highway Project NH-003-2(76), and running thence northwesterly along a curved line to the right, having a radius of 2,764.79 feet, an arc distance of 197.40 feet to a point 251.33 feet left of and opposite Station 204+73.69 on said Centerline, thence North 13 degrees 48 minutes 10 seconds West a distance of 45.35 feet to a point 100.00 feet right of and opposite Station 53+50.00 on the Relocation Construction Centerline of Epps Bridge Road; running thence northeasterly along a curved line to the right, having a radius of 1,809.87 feet, an arc distance of 364.95 feet to a point on the property line of lands to the east now or formerly owned by COLEMAN NORRIS, said point being 100.00 feet right of and opposite Station 57+35.12 on said Relocation Centerline; thence South 04 degrees 47 minutes 37 seconds East along said property line a distance of 432.38 feet back to the point of BEGINNING.

Tract Two:

ALL that tract or parcel of land, containing 15.2676 acres, more or less, situate, lying and being in the 1331st District, G.M., Oconee County, Georgia, and being more particularly described as follows:

BEGINNING at the point of intersection of the Grantor's northwestern property line with the northern existing right of way line of State Route 316, said point being 125.00 feet left of and opposite Station 187+50.00 on the Construction Centerline of State Route 316 on Georgia Highway Project NH-003-2(76), and running thence North 36 degrees 27 minutes 04 seconds East along said property line a distance of 106.01 feet to a point 230.87 feet left of and opposite Station 187+44.50 on said Centerline; thence southeasterly along a curved line to the left, having a radius of 503.11 feet, an arc distance of 437.12 feet to a point 432.86 feet left of and opposite Station 191+16.73 on said Centerline; thence North 76 degrees 02 minutes 45 seconds East a distance of 234.25 feet to a point 620.87 feet left of and opposite Station 192+56.47 on said Centerline; thence southeasterly along a curved line to the right, having a radius of 719.41 feet, an arc distance of

OCONEE COUNTY, GEORGIA  
Real Estate Transfer Tax  
Paid S  
Date 7-24-97  
Clerk: J. C. Gandy, C.R.S.  
C.R.S.

-125

802.20 feet to a point 800.21 feet left of and opposite Station 202+23.97 on said Centerline; thence North 69 degrees 51 minutes 20 seconds East a distance of 100.40 feet to a point 865.69 feet left of and opposite Station 203+31.30 on said Centerline; thence southwesterly along a curved line to the left, having a radius of 2,009.87 feet, an arc distance of 659.22 feet to a point 214.64 feet left of and opposite Station 202+28.46 on said Centerline; thence South 64 degrees 48 minutes 16 seconds West a distance of 101.30 feet to a point on the northern existing right of way line of State Route 316, said point being 140.00 feet left of and opposite Station 201+55.45 on said Centerline; thence northwesterly along said existing right of way line a combined distance of 1,364.62 feet back to the point of BEGINNING.

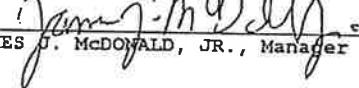
TO HAVE AND TO HOLD the said described property, with all and singular, the rights, members and appurtenances thereunto appertaining, to the only proper use, benefit and behoof of the said Grantee, his heirs, executors, administrators, successors and assigns, forever, in Fee Simple,

AND THE SAID GRANTOR will warrant and will forever defend the right and title to the above described property unto the said Grantee, his heirs, executors, administrators, successors and assigns, against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the said Grantor has hereunto set his hand, affixed his seal, and delivered these presents the day and year first above written.  
Signed, sealed and delivered in the presence of:

JJMB, L.L.C., a Georgia Limited Liability Company

  
D. Lee L. Brown  
Unofficial Witness

BY:   
JAMES J. McDONALD, JR., Manager (SEAL)

  
D. Lee L. Brown  
NOTARY PUBLIC

Notary Public, State of Georgia  
My Commission Expires May 6, 2001

000500

LIMITED WARRANTY DEED

FILED IN OFFICE  
CLERK OF SUPERIOR COURT  
OCONEE COUNTY, GEORGIA

GEORGIA

ATHENS-CLARKE COUNTY

97 JUL -3 AM 9:21

REC BOOK 408 PAGE 5007  
7-7-97  
SIMPSON, L. CLARK, CLERK

THIS INDENTURE made and entered into this 2<sup>nd</sup> day of July, in the year of our Lord One Thousand Nine Hundred and Ninety-Seven, between JOHN RUSTON SIMPSON of Oconee County, Georgia, as Party of the First Part, and MARY REYNOLDS SIMPSON, of Oconee County, Georgia, as Party of the Second Part.

WITNESSETH, that the said Party of the First Part for and in consideration of One Dollar and Other Valuable Consideration, in hand paid, at and before the delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey, and confirm unto the said Party of the Second Part, her heirs and assigns, a one-half undivided interest in 30 percent of the following described property, to-wit:

All that tract or parcel of land situate, lying and being in the 1331st G.M.D., Oconee County, Georgia, containing 69.310 acres, more or less, as shown on a plat entitled, "Survey for John Simpson", dated December 21, 1989, by Ben McLeroy & Associates, Inc., said plat being recorded in Plat Book 17, page 97 in the Office of the Clerk of the Superior Court of Oconee County, Georgia, and being incorporated herein by reference for a more particular description.

There is a mortgage loan on said property to Athens First Bank and Trust Company. Dr. Simpson agrees that he will pay the aforesaid loan which is otherwise mentioned in this instrument. Mrs. Simpson's interest in said property and the proceeds of the sale of the same shall not be reduced by the amount of the aforesaid mortgage or by taxes. The taxes and the mortgage shall be paid by Dr. Simpson.

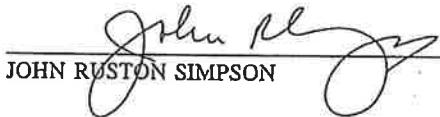
Dr. Simpson agrees that he warrants the title to said property against any other liens or claims against said property which may have been generated by any activity of his.

OCONEE COUNTY, GEORGIA  
Real Es: for Tax  
Paid \$ -0- Dis  
Date 7-3-97  
Eulyn M. Gray, CSD  
*Eulyn M. Gray, CSD*

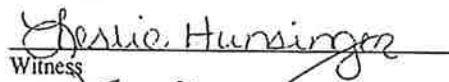
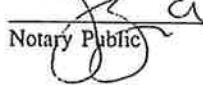
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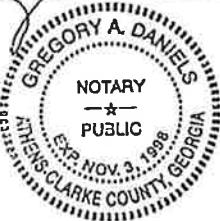
TO HAVE AND TO HOLD the said described property, with all and singular, the rights, members, and appurtenances thereunto appertaining, to the only proper use, benefit and behoof of the said Party of the Second Part, her heirs, executors, administrators and assigns as aforesaid.

IN WITNESS WHEREOF, the said Party of the First Part has hereunto set his hand, affixed his seal, and delivered these presents the day and year above written.

  
JOHN RUSTON SIMPSON (SEAL)

Signed, sealed and delivered  
in the presence of:

  
Witness  
  
Notary Public



# **EXHIBIT “B”**

## **Document 6**

DEPARTMENT OF TRANSPORTATION  
P.O. BOX 1057, GAINESVILLE, GEORGIA 30503  
RIGHT OF WAY DEED

GEORGIA, OCONEE COUNTY

PROJECT NO. NH-003-2(76)  
P.I. NO. 122870THIS CONVEYANCE made and executed the 26<sup>th</sup> day of June, 1990

WITNESSETH that 316 HOLDING GROUP, a Georgia General Partnership, the undersigned (hereinafter referred to as "Grantor"), is the owner of a tract of land in OCONEE COUNTY through which the intersection improvement of SR 316 and Epps Bridge Road Relocation, known as Project No. NH-003-2(76), has been laid out by the Department of Transportation being more particularly described in a map and drawing of said road in the office of the Department of Transportation, No. 2 Capitol Square, Atlanta, Georgia, to which reference is hereby made.

NOW, THEREFORE, in consideration of the benefit to said property by the construction and maintenance of said road, and in consideration of ONE DOLLAR (\$1.00), in hand paid, the receipt whereof is hereby acknowledged, Grantor does hereby grant, sell and convey to said Department of Transportation, and their successors in office so much land as to make a right of way for said road as surveyed, being more particularly described as follows:

All that tract or parcel of land lying and being in the 1331<sup>st</sup> Georgia Militia District of Oconee County, Georgia, and being more particularly described on Exhibit "A" attached hereto and made a part hereof by this reference.

Said right of way is hereby conveyed, consisting of 12.932 acres, more or less, as shown colored yellow on the plat of the property prepared by the Department of Transportation, said plat attached hereto and made a part of this deed as Exhibit "B".

For the same consideration Grantor hereby conveys and relinquishes to the Department of Transportation all rights of access between the limited access highway and approaches thereto on the above numbered highway project and Grantor's remaining real property from which said right of way is taken except at such points as designated and shown on the attached plat prepared by the Department of Transportation.

TO HAVE AND TO HOLD the said conveyed premises in fee simple and any rights Grantor has or may have in and to existing public rights of way are hereby quitclaimed and conveyed unto the Department of Transportation.

Grantor hereby warrants that Grantor has the right to sell and convey said land and bind himself, his heirs, executors and administrators forever to defend by virtue of these presents.

IN WITNESSETH WHEREOF, Grantor has hereunto set his hand and seal the day above written.

Signed, Sealed and Delivered  
this 26 day of June,  
1990, in the presence of:

Witness

Notary Public

Notary Public, Athens-Clarke County, Georgia  
Commission Expiration November 29, 2000

316 Holding Group, a Georgia General Partnership  
BY: John R. Simpson (L.S.)  
John R. Simpson, Managing Partner

See next page for additional signatures

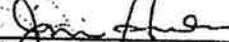
Parcel No. 16

REC. BOOK 474 PAGE 157  
97 JUN 26 PH 3:39  
FILED IN OFFICE  
CLERK OF SUPERIOR COURT  
STATE OF GEORGIA  
OCONEE COUNTY, GEORGIA

00403  
0016 000016

  
John R. Simpson, Individually (SEAL)

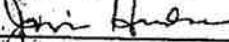
Signed, sealed and delivered  
this 27 day of June, 1997,  
in the presence of:

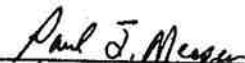

Notary Public  
Notary Public, Athens-Clarke County, Georgia  
My Commission Expires November 29, 2000

  
Mary R. Simpson, Individually (SEAL)

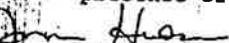
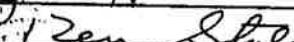
Signed, sealed and delivered  
this 27 day of June, 1997,  
in the presence of:


Notary Public  
Notary Public, Athens-Clarke County, Georgia  
My Commission Expires November 29, 2000

  
Paul J. Messer, Individually (SEAL)  
By his Attorney-in-Fact,  
Baxter Crane

Signed, sealed and delivered  
this 27 day of June, 1997,  
in the presence of:

Notary Public  
Notary Public, Athens-Clarke County, Georgia  
My Commission Expires November 29, 2000

JJMB L.L.C.  
By:   
James J. McDonald, Manager (SEAL)

Signed, sealed and delivered  
this 27 day of June, 1997,  
in the presence of:

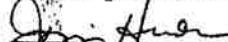
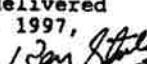
  




EXHIBIT A

PROJECT NO.: NH-003-2(76) Oconee County  
P. I. NO.: 122870  
PARCEL NO.: 16 Tract 1  
TAKE: 10.664 Acres

All that tract or parcel of land lying and being in the  
1331st Georgia Militia District of Oconee County, Georgia,  
being more particularly described as follows:

Beginning at a point 524.81 feet right of and opposite  
Station 203+83.01 on the centerline of State Route 316  
on Georgia Highway Project No. NH-003-2(76)  
From the Point of Beginning.  
Thence N 64-32'48"W for 290.889 feet to a point on the boundary.  
Thence N 00-00'00"E for 0.000 feet to the beginning of a curve,  
said curve having central angle 043-14'38", radius 703.113 feet, chord  
bearing N 57-10'18"W, and chord distance 518.169 feet. Along the  
said curve for an arc distance of 530.675 feet to the end of the curve.  
Thence N 00-00'00"E for 0.000 feet to a point on the boundary.  
Thence N 35-32'59"W for 557.133 feet to a point on the boundary.  
Thence N 00-00'00"E for 0.000 feet to the beginning of a curve,  
said curve having central angle 011-01'38", radius 1045.916 feet, chord  
bearing N 41-03'48"W, and chord distance 200.990 feet. Along the  
said curve for an arc distance of 201.300 feet to the end of the curve.  
Thence N 00-00'00"E for 0.000 feet to a point on the boundary.  
Thence N 43-52'27"W for 429.627 feet to a point on the boundary.  
Thence N 70-52'38"E for 119.570 feet to a point on the boundary.  
Thence S 48-29'01"E for 684.432 feet to a point on the boundary.  
Thence N 00-00'00"E for 0.000 feet to the beginning of a curve,  
said curve having central angle 017-22'44", radius 2989.788 feet, chord  
bearing S 59-14'07"E, and chord distance 903.390 feet. Along the  
said curve for an arc distance of 906.862 feet to the end of the curve.  
Thence N 22-04'30"E for 0.482 feet to a point on the boundary.  
Thence S 30-56'11"E for 116.110 feet to a point on the boundary.  
Thence S 83-26'59"E for 0.000 feet to the beginning of a curve,  
said curve having central angle 009-50'36", radius 2009.867 feet, chord  
bearing S 01-37'42"W, and chord distance 344.869 feet. Along the  
said curve for an arc distance of 345.294 feet to the end of the curve.  
Thence N 00-00'00"E for 0.000 feet to the Point of Beginning.  
Containing 10.664 acres more or less.

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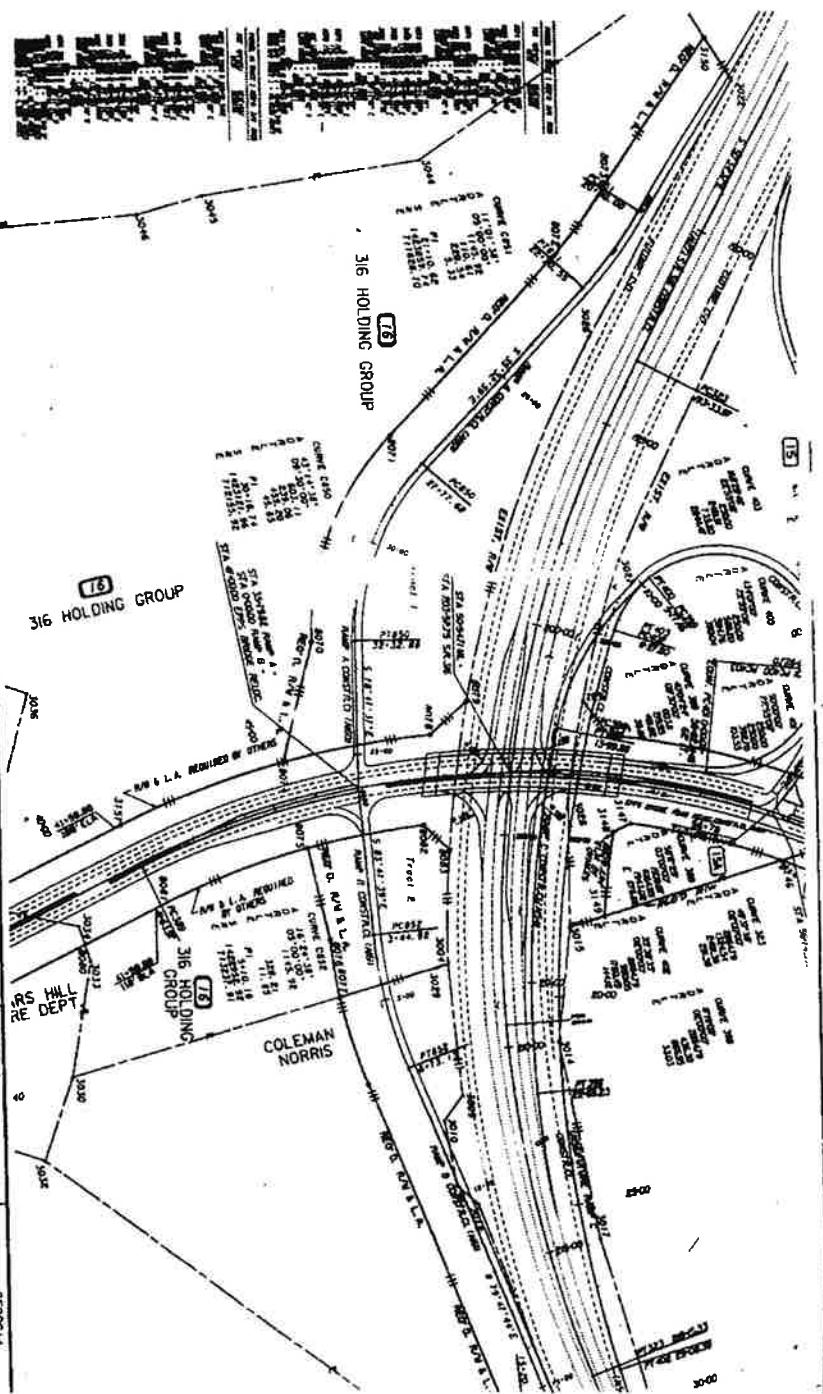
EXHIBIT A

PROJECT NO.: NH-003-2(76) Oconee County  
P. I. NO.: 122870  
PARCEL NO.: 16 Tract 2  
TAKE: 2.268 Acres

All that tract or parcel of land lying and being in the  
1331st Georgia Militia District of Oconee County, Georgia,  
being more particularly described as follows:

Beginning at a point 452.78 feet right of and opposite  
Station 205+51.55 on the centerline of State Route 316  
on Georgia Highway Project No. NH-003-2(76)  
From the Point of Beginning.  
Thence N 00-00'00"E for 0.000 feet to the beginning of a curve,  
said curve having central angle 008-42'03", radius 1799.867 feet, chord  
bearing N 01-03'26"E, and chord distance 273.063 feet. Along the  
said curve for an arc distance of 273.325 feet to the end of the curve.  
Thence S 84-35'02"E for 0.000 feet to a point on the boundary.  
Thence N 56-10'00"E for 83.420 feet to a point on the boundary.  
Thence N 00-00'00"E for 0.000 feet to the beginning of a curve,  
said curve having central angle 005-06'05", radius 2989.129 feet, chord  
bearing S 77-14'04"E, and chord distance 266.059 feet. Along the  
said curve for an arc distance of 266.147 feet to the end of the curve.  
Thence S 10-12'53"W for 0.660 feet to a point on the boundary.  
Thence S 06-02'03"E for 25.161 feet to a point on the boundary.  
Thence S 04-46'54"E for 236.205 feet to a point on the boundary.  
Thence N 00-00'00"E for 0.000 feet to the beginning of a curve,  
said curve having central angle 006-17'20", radius 1245.916 feet, chord  
bearing N 86-56'18"W, and chord distance 136.687 feet. Along the  
said curve for an arc distance of 136.755 feet to the end of the curve.  
Thence N 00-00'00"E for 0.000 feet to a point on the boundary.  
Thence S 88-11'40"W for 219.649 feet to the Point of Beginning.  
Containing 2.268 acres more or less.

**EXHIBIT "B"**



# **EXHIBIT “B”**

**Document 7**

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT made and entered into this 29th day of July, 1997, by and between, OCONEE COUNTY, a political subdivision of the State of Georgia (hereinafter referred to as the "County") and A. PAUL KELLER, JR. and JAMES J. McDONALD, JR. and MARY BETH McDONALD, (hereinafter collectively referred to as the "Owners").

W I T N E S S E T H:

WHEREAS, the County, with the assistance of the Georgia Department of Transportation, intends to construct a county road known as "Epps Bridge Relocation Project" that intersects with Georgia Hwy. 316 near or on property of Owners; and

WHEREAS, the Epps Bridge Relocation Project is more particularly described as "Project No. PRN-261-2 (219)" according to those certain Right-of-Way Plans prepared by the Georgia Department of Transportation dated April 12, 1995, last revised July 18, 1997, which plans are incorporated herein by reference thereto (hereinafter the "Right-of-Way Plans"); and

WHEREAS, the Georgia Department of Transportation (hereinafter the "DOT") has agreed to purchase certain right-of-way area from Owners for future interchange ramps at Georgia Hwy. 316; and

WHEREAS, the new road will change traffic corridors and fire station entrances in the future; and

WHEREAS, the Owners have agreed on certain matters regarding said right-of-way acquisition and road improvement.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the County and the Owners agree as follows:

1. Virgil Langford Road.

a. The Owners agree to donate or exchange, or a combination of both, all of the right-of-way they currently own between Mars Hill Road and Virgil Langford Road along the route laid out by the DOT according to the Right-of-Way Plans.

b. The Owners shall be entitled to a minimum of three (3) curb cuts to accommodate commercial access along the property of Owners which abut the new right-of-way of Virgil Langford Road.

c. The County agrees to grade and pave, at its sole cost and expense, the road within the new right-of-way of Virgil Langford Road between the New Relocated Epps Bridge Road and Georgia Hwy. 316. The paving is to be completed no later than the completion of the Epps Bridge Relocation Project.

d. Subject to the DOT approval, the County will leave open the current access afforded at the intersection of Georgia Hwy. 316 and the existing Virgil Langford Road until such time that the DOT has awarded the contracts for the construction of the future interchange ramps as shown on the Right-of-Way Plans.

e. The right-of-way for Virgil Langford Road will be conveyed by Right-of-Way Deed prepared by the DOT and approved by the Oconee County Attorney and Owners Attorney, a copy of which is attached hereto as Exhibit "A" and made a part hereof.

2. OWNERS REMAINING PARCEL LOCATED AT SOUTHEASTERN  
INTERSECTION OF NEW RELOCATED EPPS BRIDGE ROAD AND RELOCATED MARS  
HILL ROAD.

*1500 ft*  
*from*  
*W&W*

a. In consideration of the exchange of right-of-way from the Owners to the County for the New Relocated Epps Bridge Road, the County agrees to deed Owners the existing (abandoned) right-of-way of Epps Bridge Road (100' R/W) which abuts the westerly boundary of property now or formerly of Carroll et al and the northeasterly boundary of the lot of Owners captioned above (hereinafter the "Abandoned Right-of-Way"), reserving however unto Carroll et al, an easement of ingress and egress twenty-five (25') feet in width over the existing driveway appurtenant to the Carroll's property as shown on the Right-of-Way Plans. This exchange will occur simultaneous with the granting of the Right-of-Way Deed from the Owners to the County for the New Relocated Epps Bridge Road Project as described herein.

*A*

b. The existing pavement and utilities located upon, over, under or across the Abandoned Right-of-Way will be removed by the County, at its sole cost and expense, no later than the completion of the Epps Bridge Relocation Project. After removal, the County will seed grass and straw upon the Abandoned Right-of-Way.

4/1/14

c. The County agrees to permit commercial access curb cuts located at (i) Station 30 on the New Relocated Epps Bridge Road and (ii) Station 63 + 50 on the New Relocated Mars Hill Road, all as shown on that certain drawing prepared by LRE Engineering, Inc., a copy of which is attached hereto as Exhibit B and specifically made a part hereof (hereinafter the "LRE Plan").

d. At the sole option of Owners and at their sole cost and expense, Owners may contract with the County's Construction Contractor in charge of the Project, to pipe underground the current stream which bisects the Owners lot as captioned above, which construction will occur in connection with the New Relocated Epps Bridge Project.

3. OWNERS REMAINING PARCEL LOCATED AT THE SOUTHWESTERLY INTERSECTION OF NEW RELOCATED EPPS BRIDGE ROAD AND RELOCATED MARS HILL ROAD.

a. In consideration of the exchange of right-of-way from the Owners to the County for the New Relocated Epps Bridge Road, the County agrees to reduce the existing eighty foot (80') right-of-way to a sixty foot (60') right-of-way along that portion of the existing Mars Hill Road which runs from the northwesterly corner of the Owners tract as captioned above to a "to be constructed cul-de-sac" along the northerly boundary of property now or formerly of Boatright. Subject to existing utilities in use, the County agrees to convey this abandoned twenty foot (20') more or less right-of-way to Owners simultaneous with the granting of the Right-of-Way Deed from Owners to the County for the New Relocated Epps Bridge Road Project as described herein. Notwithstanding the foregoing, the County shall only be obligated to abandon so much of such right-of-way which does not require or necessitate the County to move any existing paving or construct or reconstruct any existing ditches along the existing paved roadway.

b. The County agrees to permit commercial access curb cuts located at (i) Station 30 on the New Relocated Epps Bridge Road, (ii) Station 58 on the Relocated Mars Hill Road, and (iii) at a point to be determined located on the Old Mars Hill Road right-of-way, all as shown on the LRE Plan.

c. The easement for the construction and maintenance of slopes as shown on the Right-of-Way Plans which affect the Owners tract as captioned above, will be recharacterized to reflect that such easement will be a temporary easement only for the construction and maintenance of such slopes. However, if and

when the Owners, at their option, decide to grade such slope areas to coincide with roadway elevations, the need for the easement to maintain said slopes would no longer be necessary by the DOT and thereafter said easements shall automatically terminate and be of no further force or effect.

4. OWNERS REMAINING PARCEL LOCATED AT THE NORTHWESTERLY  
INTERSECTION OF NEW RELOCATED EPPS BRIDGE ROAD AND RELOCATED MARS  
HILL ROAD.

a. The County or the DOT, or both, at their sole cost and expense, shall drain the lake currently located on Owners tract as captioned above under a provision outlined in the Roadway Contract for the construction of the New Relocated Epps Bridge Road Project and Relocated Mars Hill Road Project. In the draining of the lake, the County or the DOT, or both, shall construct all necessary underground piping in order to properly channel water attributed to the riparian issues associated with the lake and other affected parcels of Owners and other surrounding properties of third parties. After draining the lake and the construction of all necessary piping associated therewith, and if the Owners have acquired a proper DNR permit, cleared the lake bed area of trees and dried the lake area, then the DOT will provide a provision in the DOT Roadway Contract to set up a waste pit for the purpose of filling the lake area, provided however, that waste dirt is available on said Project. The County agrees to hold Owners harmless from any damage, cost, expense, liability or claims resulting from any claims or assertions made by others relative to the draining of the lake and the necessary piping associated therewith.

b. The County agrees to permit commercial access curb cuts located at (i) Station 37 on the New Relocated Epps Bridge Road, (ii) Station 56 on Relocated Mars Hill Road and (iii) Station 53 on Relocated Mars Hill Road, all as shown on the LRE Plan.

c. The easement for the construction and maintenance of slopes as shown on the Right-of-Way Plans which affect the Owners tract as captioned hereinabove, will be recharacterized to reflect that such easement will be a temporary easement only for the construction and maintenance of such slopes. However, if and when the Owners, at their option, decide to grade such slope areas to coincide with roadway elevations, the need for the easement to maintain said slopes would no longer be necessary by the DOT and thereafter said easements shall automatically terminate and be of no further force or effect.

5. OWNERS REMAINING PARCEL LOCATED AT THE NORTHEASTERLY  
INTERSECTION OF NEW RELOCATED EPPS BRIDGE ROAD AND RELOCATED MARS  
HILL ROAD.

a. In consideration of the exchange of right-of-way from Owners to the County for the New Relocated Epps Bridge Road, the County agrees to deed to the Owners as much abandoned right-of-way of the Old Epps Bridge Road as is available between the existing easterly boundary of the tract of Owners as captioned above and the current access afforded to the Mars Hill Road Fire Station. The intent herein being to enlarge the tract of Owners to its maximum possible size but reserving unto the Fire Station site access to the New Relocated Epps Bridge Road. The transfer of such abandoned right-of-way from the County to the Owners shall occur within a reasonable time subsequent to the construction of the new access to the Mars Hill Fire Station Facility along the New Relocated Epps Bridge Road.

b. The County agrees to permit commercial access curb cuts located at (i) Station 63 + 50 on New Relocated Mars Hill Road and (ii) Station 37 on New Relocated Epps Bridge Road, all as shown on the LRE Plan.

6. CURRENT TWO (2) ACRE (MORE OR LESS) MARS HILL FIRE  
STATION FACILITY.

Within five (5) years of the delivery and recordation of the Right-Of-Way Deeds contemplated herein, and in the event the County deems it in the County's best interest to relocate the existing Mars Hill Fire Station Facility, then the County shall first afford the Owners the opportunity, at the Owners sole option, to acquire a substituted fire station site in close proximity to the existing Mars Hill Fire Station Facility and after constructing a fire station thereupon of comparable size and character, exchange such substituted fire station site for the existing fire station site. The substituted fire station site must be approved by the County, which approval will not be unreasonably withheld or delayed. Further, together with such substitution, Owners will acquire non-exclusive access rights of ingress and egress over, through and across that certain "Permanent Access Easement" appurtenant to the existing fire station site as shown on the Right-of-Way Plans.

7. REVISION TO RIGHT-OF-WAY PLANS RELATIVE TO THAT PORTION OF OWNERS TRACT DESIGNATED AS A PORTION OF "PARCEL 5" ON THE RIGHT -OF-WAY PLANS WHICH IS LOCATED AT THE NORTHEASTERLY INTERSECTION OF GEORGIA HWY. 316 AND NEW RELOCATED EPPS BRIDGE ROAD.

The Right-of-Way Plans will be revised to reflect that it is the intention of the parties herein that the above-captioned tract of Owners will be purchased by the DOT and not acquired by the County.

8. UTILITY CONSTRUCTION.

After completion of the construction of the right-of-ways contemplated herein, it is contemplated that commercial development will soon occur on Owners remaining property and property of others along such new right-of-ways. The County agrees to aggressively install water and sewer utilities within such right-of-ways or gravity easement areas in order to accommodate such commercial development.

9. COMMENCEMENT AND COMPLETION OF PROJECT.

This Agreement and the delivery of the contemplated Right-Of-Way Deeds described herein are contingent upon the County acquiring all necessary approvals from the DOT and all other necessary Right-Of-Way Deeds from owners adjoining the New Relocated Epps Bridge Relocation Project. In the event the construction of the New Relocated Epps Bridge Project is abandoned or otherwise has not commenced on or before midnight of December 31, 1998 , then all properties donated shall be reconveyed from the County to the Owners. Once commenced, the County agrees to diligently complete the construction of the Project with anticipated grading to be completed within one (1) year from commencement and paving to be completed within a reasonable period of time thereafter.

10. ACKNOWLEDGMENT OF DONATION VALUE.

The County agrees to acknowledge by letter or appropriate IRS form, the receipt of the donation of the right-of-ways as described herein, at the current fair market value. Fair market value will be determined as of the time of such donation as mutually agreed by the owner's professional appraiser, James Boswell and the professional appraisers of the County and the DOT.

11. MISCELLANEOUS.

a. Time of Essence. With respect to all the terms and conditions of this Agreement, time is of the essence.

b. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto and no representations, inducements, promises or agreements, oral or otherwise, not embodied herein, shall be of any force or effect, unless same be in writing, signed by both the County and Owners and attached hereto.

c. Nonmerger. This Agreement shall not be merged into the documents executed at the closing, but shall survive the closing, and the provisions hereof shall remain in full force and effect.

d. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, assigns, personal representatives or successors in interest.

e. Norris Access. Owners agree to cooperate with the County relative to providing access to that certain 2 acre more or less tract of land owned by Norris et al located at the northwestern intersection of Virgil Langford Road and the New Relocated Epps Bridge Road.

f. DOT Acquisition. The Owners obligations under this Agreement are conditioned upon the DOT purchasing certain right of way areas from the Owners for future interchange ramps at Georgia Hwy. 316, which closing shall occur on or before August 15, 1997.

[SIGNATURES ON FOLLOWING PAGE]

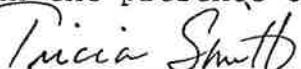
IN WITNESS WHEREOF, the undersigned have hereunto set their hands and affixed their seals, the day and year first above written.

OCONEE COUNTY

BY  (SEAL)

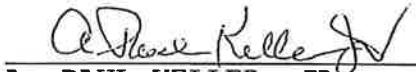
As Its: Chairman, Oconee County Board of Commissioners

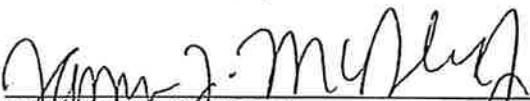
Signed, sealed and delivered  
in the presence of:

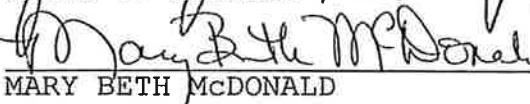
  
\_\_\_\_\_  
Unofficial Witness

  
\_\_\_\_\_  
NOTARY PUBLIC  
Notary Public, Oconee County, Georgia  
My Commission Expires January 11, 1999

OWNERS:

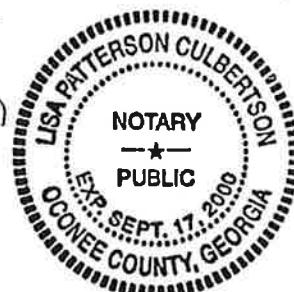
  
\_\_\_\_\_  
A. PAUL KELLER, JR. (SEAL)

  
\_\_\_\_\_  
JAMES J. MCDONALD, JR. (SEAL)

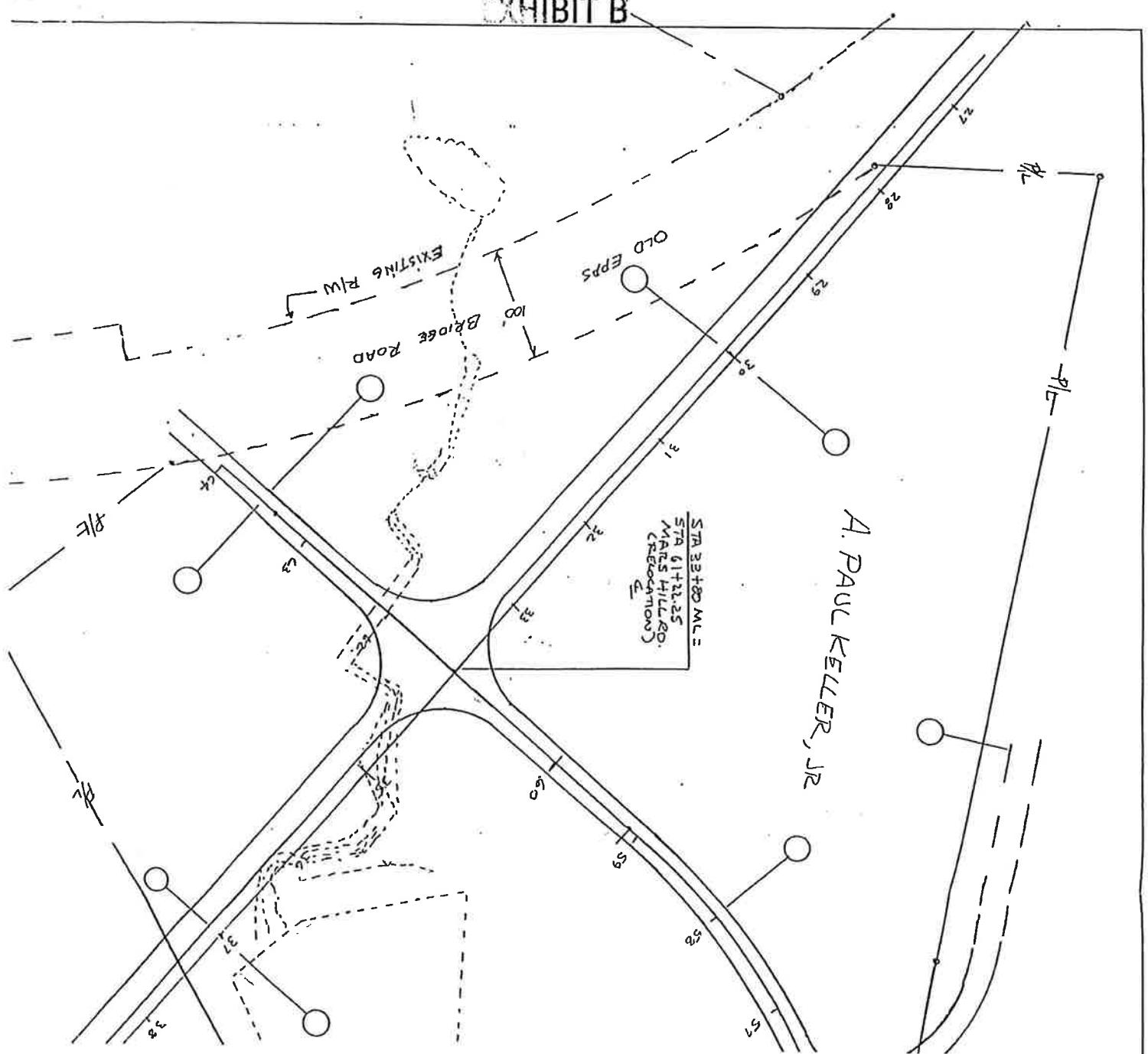
  
\_\_\_\_\_  
MARY BETH McDONALD (SEAL)

Signed, sealed and delivered  
in the presence of:

  
\_\_\_\_\_  
Unofficial Witness  
Lisa Patterson Culbertson  
NOTARY PUBLIC



**EXHIBIT B**



# **EXHIBIT “B”**

## **Document 8**

## AGREEMENT

THIS AGREEMENT made and entered into this 7<sup>th</sup> day of August, 2009, by and between OCONEE COUNTY, GEORGIA, a political subdivision of the State of the Georgia (the "County") and JJMB, LLC, a Georgia limited liability company and A. PAUL KELLER, JR. (collectively the "Owner").

### WITNESSETH:

WHEREAS, Oconee County, A. Paul Keller, Jr., James J. McDonald, Jr., and Mary Beth McDonald entered into that certain Memorandum of Agreement dated July 29, 1997, a copy of which is attached hereto as Exhibit "A" and made a part hereof (the "Memorandum"); and

WHEREAS, James J. McDonald, Jr. and Mary Beth McDonald subsequently deeded their undivided interest in the property described in the Memorandum to JJMB, LLC, a Georgia limited liability company; and

WHEREAS, the Memorandum provides for the acquisition of right of way by the County in exchange of certain property from the Owner and for certain other matters as described in the Memorandum and set forth hereinbelow; and

WHEREAS, the County and the Owner hereby ratify, restate and confirm the terms and conditions of the Memorandum; and

WHEREAS, the primary remaining issue unresolved in the Memorandum is the County's obligation to convey that certain 1.446 acres ("the Property") as fully depicted on that certain plat of survey for "JJMB, LLC" prepared by Woods & Chastain Surveyors, Inc. dated May 22, 2007, a copy of which is attached hereto as Exhibit "B" and made a part hereof (the "Plat"); and

WHEREAS, certain other matters have arisen in connection with the conveyance of the Property including but not limited to (i) the existence of certain utility easements and associated infrastructure on the Property, and (ii) the County's need to provide access to Mars Hill Road for the benefit of certain property owned by Gary and Linda Carroll (collectively "Carroll").

NOW THEREFORE, for and in consideration of the Owner's exchange of certain right of way as described in the Memorandum, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the County agree as follows:

1. Recitals. The recitals hereinabove set forth are true and accurate in each and every respect.
2. Conveyance of Property from County to Owner. Pursuant to the terms of the Memorandum, the County shall convey the Property to the Owner by Quit Claim Deed, a specimen copy of which is attached hereto as Exhibit "C" and made a part hereof.

3. County's Purchase of the Mars Hill Curb Cut from Owner. The County agrees to purchase that portion of the Property that lies within the bounds of the Mars Hill Curb Cut (as hereinbelow defined), from the Owner and the Owner agrees to sell such property to the County in accordance with the terms of this Agreement. The purchase price of such property shall be established by each party selecting a qualified licensed appraiser experienced in appraising commercial property in Oconee County, Georgia. The selection of the appraisers shall be made within fifteen (15) days of the date of this Agreement. The two (2) selected appraisers shall attempt to collaboratively arrive at the fair market value of the property. Should the appraisers fail to mutually agree upon the fair market value, then the two (2) appraisers shall select a third appraiser who shall then determine the fair market value, which determination shall be binding upon the parties and shall be the purchase price for the property. The appraisers shall take into account the encumbering value of that certain twenty-five (25') foot driveway easement which runs from Mars Hill Road to the property of Carroll and depicted as "25' Ingress Egress Easement" on the Plat. The cost of the appraisals contemplated in this Agreement shall be solely borne by the County.

4. Mars Hill Curb Cut. The County agrees to acquire the balance of the right of way shown on the plan labeled Exhibit "D" attached hereto and made a part hereof (the "Plan"), from Carroll and the owner of the property designated as Ray Goff et al resulting in the curb cuts and the entire driveway facility being a public right of way (the "Mars Hill Curb Cut"). The County does not contemplate the County's construction of the Mars Hill Curb Cut, but the County shall grant permission to any of the three (3) affected property owners desiring to proceed with the construction of same, subject to normal county procedures. The Owner shall grant the County or any adjoining owner any reasonable and necessary temporary construction easements for the construction of the Mars Hill Curb Cut shown on the Plan and the County shall obtain similar temporary construction easements from the adjoining owners.

5. Sanitary Sewer Easements. The Plat depicts certain sanitary sewer easements of varying width located on the Property and also on certain other property of the Owner which abuts the westerly boundary line of the Property (the "Owner's Abutting Property"). The Sewer Easements are more particularly shown on a copy of the Plat attached hereto as Exhibit "E" and made a part hereof (collectively the "Sewer Easements"). The County agrees to purchase a portion of the Sewer Easements (the "Purchased Sewer Easements") from the Owner and the fair market value of the Sewer Easements shall be determined by the same appraisers and the same appraisal methodology as set forth in Section 3 hereinabove. The Purchased Sewer Easements are more particularly shown as colored in red on a copy of the Plat attached hereto as Exhibit "E" and made a part hereof. The Owner agrees to donate a portion of the Sewer Easements to the County (the "Donated Sewer Easements"), at no cost to the County, and the Owner receive favorable tax treatment relative to the donation. The Donated Sewer Easements are more particularly shown as colored in blue on a copy of the Plat attached hereto as Exhibit "E" and made a part hereof. The County will reasonably cooperate in the execution of documentation required by the Internal Revenue Service in order to verify the acceptance of the Donated Sewer Easements. Upon the County's payment to the Owner of the fair market value of the Purchased Sewer Easements, the Owner shall execute and deliver to the County Sanitary Sewer Easement Agreements, specimen copies of which are labeled Exhibit "F" and Exhibit "F-1" attached hereto and specifically made a part hereof.

6. Powerline. The County acknowledges its responsibility under the Memorandum to remove the powerline currently located on the Property, and being shown as "Powerline" on the Plat. Upon not less than thirty (30) days prior written notice from the Owner to the County, the County, at its sole cost and expense, shall relocate or cause to be relocated the Powerline off of the Property.

7. Environmental Buffers. The County and Owner acknowledge that there currently exists a culvert and stream bed that runs through a portion of the Owner's Abutting Property and the Property (collectively "Owner's Properties") as shown colored in red on that certain DOT Plan labeled "Exhibit G" attached hereto and made a part hereof. At the time the Owner's Abutting Property, and other lands of Owner, were rezoned B2 (Business) in 1988, there were no "Environmental Buffers" affecting the Owner's Properties. The current Land Use Map of Oconee County depicts an "Environmental Buffer" approximately one hundred feet (100') in width running through the Owner's Properties. The County acknowledges that there are no County controlled Environmental Buffers that affect Owner's Properties and the County agrees to remove and eliminate all public records that depict County controlled Environmental Buffers affecting the Owner's Properties. Further, the County agrees to support and aid in the facilitation of any application that Owner may submit to the Georgia EPD in order to encroach upon any then existing "State Water Buffers" affecting the Owner's Properties. Further, the County agrees to support and aid in the facilitation of any application that the Owner may submit to the U.S. Army Corp. of Engineers in order to pipe the affected stream bed in such a location that maximizes the developability of the Owner's Properties.

8. Land Disturbance Permit. The County acknowledges that Owner may find it desirable to remove dirt from other property of Owner located at the southwest corner of Mars Hill Road and the Oconee Connector and utilize such dirt as fill for the purpose of developing other property of Owners. In such event, the County agrees to support and aid in the facilitation of any Land Disturbance Permit application that Owner may submit to the County for such purpose.

9. Rezoning of the Property. The County and Owner acknowledge that Owner's Abutting Property is zoned B-2 (Business) and that the Property, as a former County road right-of-way, currently has no assigned zoning classification. The County hereby covenants and agrees to use its best efforts to cause the Property to be rezoned (the "Rezoning") to the same zoning classification as currently existing on Owner's Abutting Property. The County shall take all action necessary or appropriate to cause to be prepared and filed any and all proceedings required to apply for the Rezoning by the next available filing deadline. All expenses incurred in connection with the proceedings for the Rezoning shall be solely borne by the County. The Rezoning application shall be subject to the Owner's prior written approval and the County shall impose no conditions upon the Rezoning without the Owner's prior written approval. If the Oconee County Board of Commissioners fails to affirmatively vote to rezone the Property as aforesaid, subject only to conditions approved by Owner, then Owner shall have the right to terminate this Agreement by written notice to the County. The Rezoning shall be deemed to be "final", as used herein, on the earliest date following the Rezoning after the time for the filing of any and all appeals and objections have been filed, or if any such appeal and/or objection shall have been filed, a final decision shall have been rendered with respect to such appeal and/or objection and any and all time periods for the filing of any and all appeals and/or objections to

such appeals and/or objections shall have expired without the filing of any additional appeals and/or objections.

10. Attorney's Fees. The County acknowledges that the Owner has incurred unnecessary attorney's fees associated with the settlement and resolution of the issues described in this Agreement. At the time of Closing, the County agrees to reimburse the Owner their respective attorney's fees incurred in this matter, provided however, such reimbursement shall not exceed the sum of \$32,000.00.

11. Closing. The Closing of the transactions contemplated in this Agreement shall occur within thirty (30) days following the final Rezoning of the Property. At the time of Closing, each party agrees to convey good, valid and marketable title to the other as contemplated herein, subject to the easements and encumbrances as described herein.

12. Time of Essence. With respect to all the terms and conditions of this Agreement, time is of the essence.

13. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto and no representations, inducements, promises or agreements, oral or otherwise, not embodied herein, shall be of any force or effect, unless same be in writing, signed by both the County and Owner and attached hereto.

14. Nonmerger. This Agreement shall not be merged into the documents executed at the closing, but shall survive the closing, and the provisions hereof shall remain in full force and effect.

15. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, assigns, personal representatives or successors in interest.

16. Notices. Unless otherwise provided herein, all notices and other communications which may be or are required to be given or made by any party hereto in connection with this Agreement shall be in writing and shall be deemed to have been properly given if delivered in person, registered or certified mail with return receipt requested, or by recognized overnight courier at the street address set out below. The delivery address for receipt of notice for the parties hereto are as follows:

County: Oconee County, Georgia  
Attention: G. Melvin Davis  
23 N. Main Street  
Watkinsville, Georgia 30677

Copy to: Daniel Haygood  
Oconee County Attorney  
2 South Main Street  
Suite C  
Watkinsville, Georgia 30677

Owner: JJMB, LLC  
A. Paul Keller, Jr.  
Attention: James J. McDonald, Jr.  
1010 Prince Avenue  
Athens, Georgia 30606

Copy to: G. Marcus Hodge  
Fortson, Bentley & Griffin, P.A.  
2500 Daniell's Bridge Road  
Building 200, Suite 3A  
Athens, Georgia 30606

Larry Walker  
Walker Hulbert Gray & Byrd LLP  
909 Ball Street  
Perry, Georgia 31069

17. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia.

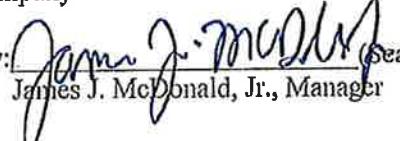
18. Exhibits. Each and every exhibit referred to or otherwise mentioned in this Agreement is attached to this Agreement and is and shall be construed to be made a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.

19. Counterparts. This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument.

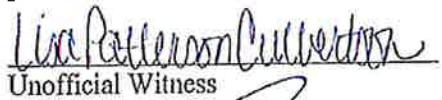
20. Scrivener Of Agreement. Should any provision of this Agreement require judicial interpretation, it is agreed that the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same. It being agreed that the agents of all parties have participated in the preparation hereof.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals the day and year first above written.

JJMB, LLC, a Georgia limited liability company

By:   
James J. McDonald, Jr., Manager

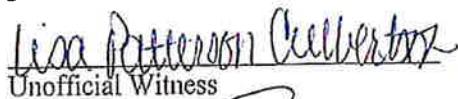
Signed, sealed and delivered in the presence of :

  
Unofficial Witness

Notary Public



Signed, sealed and delivered in the presence of :

  
Unofficial Witness

Notary Public



  
(Seal)  
A. PAUL KELLER, JR. by and through his  
duly appointed attorney-in-fact, ALEX P.  
KELLER, III

OCONEE COUNTY, GEORGIA

By: Melvin Davis (Seal)  
G. Melvin Davis, Chairman

Attest: Gina M. Lindsey (Seal)  
Gina Lindsey, County Clerk

Signed, sealed and delivered in the  
presence of:

Carolee J. Proebeek  
Unofficial Witness

DANIEL C. HAYGOOD  
Notary Public

375966.5  
007393-0003



## EXHIBIT A

### MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT made and entered into this 29th day of July, 1997, by and between, OCONEE COUNTY, a political subdivision of the State of Georgia (hereinafter referred to as the "County") and A. PAUL KELLER, JR. and JAMES J. McDONALD, JR. and MARY BETH McDONALD, (hereinafter collectively referred to as the "Owners").

#### W I T N E S S E T H:

WHEREAS, the County, with the assistance of the Georgia Department of Transportation, intends to construct a county road known as "Epps Bridge Relocation Project" that intersects with Georgia Hwy. 316 near or on property of Owners; and

WHEREAS, the Epps Bridge Relocation Project is more particularly described as "Project No. PRN-261-2 (219)" according to those certain Right-of-Way Plans prepared by the Georgia Department of Transportation dated April 12, 1995, last revised July 18, 1997, which plans are incorporated herein by reference thereto (hereinafter the "Right-of-Way Plans"); and

WHEREAS, the Georgia Department of Transportation (hereinafter the "DOT") has agreed to purchase certain right-of-way area from Owners for future interchange ramps at Georgia Hwy. 316; and

WHEREAS, the new road will change traffic corridors and fire station entrances in the future; and

WHEREAS, the Owners have agreed on certain matters regarding said right-of-way acquisition and road improvement.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the County and the Owners agree as follows:

#### 1. Virgil Langford Road.

a. The Owners agree to donate or exchange, or a combination of both, all of the right-of-way they currently own between Mars Hill Road and Virgil Langford Road along the route laid out by the DOT according to the Right-of-Way Plans.

b. The Owners shall be entitled to a minimum of three (3) curb cuts to accommodate commercial access along the property of Owners which abut the new right-of-way of Virgil Langford Road.

c. The County agrees to grade and pave, at its sole cost and expense, the road within the new right-of-way of Virgil Langford Road between the New Relocated Epps Bridge Road and Georgia Hwy. 316. The paving is to be completed no later than the completion of the Epps Bridge Relocation Project.

d. Subject to the DOT approval, the County will leave open the current access afforded at the intersection of Georgia Hwy. 316 and the existing Virgil Langford Road until such time that the DOT has awarded the contracts for the construction of the future interchange ramps as shown on the Right-of-Way Plans.

e. The right-of-way for Virgil Langford Road will be conveyed by Right-of-Way Deed prepared by the DOT and approved by the Oconee County Attorney and Owners Attorney, a copy of which is attached hereto as Exhibit "A" and made a part hereof.

2. OWNERS REMAINING PARCEL LOCATED AT SOUTHEASTERN  
INTERSECTION OF NEW RELOCATED EPPS BRIDGE ROAD AND RELOCATED MARS  
HILL ROAD.

a. In consideration of the exchange of right-of-way from the Owners to the County for the New Relocated Epps Bridge Road, the County agrees to deed Owners the existing (abandoned) right-of-way of Epps Bridge Road (100' R/W) which abuts the westerly boundary of property now or formerly of Carroll et al and the northeasterly boundary of the lot of Owners captioned above (hereinafter the "Abandoned Right-of-Way"), reserving however unto Carroll et al, an easement of ingress and egress twenty-five (25') feet in width over the existing driveway appurtenant to the Carroll's property as shown on the Right-of-Way Plans. This exchange will occur simultaneous with the granting of the Right-of-Way Deed from the Owners to the County for the New Relocated Epps Bridge Road Project as described herein.

b. The existing pavement and utilities located upon, over, under or across the Abandoned Right-of-Way will be removed by the County, at its sole cost and expense, no later than the completion of the Epps Bridge Relocation Project. After removal, the County will seed grass and straw upon the Abandoned Right-of-Way.

c. The County agrees to permit commercial access curb cuts located at (i) Station 30 on the New Relocated Epps Bridge Road and (ii) Station 63 + 50 on the New Relocated Mars Hill Road, all as shown on that certain drawing prepared by LRE Engineering, Inc., a copy of which is attached hereto as Exhibit B and specifically made a part hereof (hereinafter the "LRE Plan").

d. At the sole option of Owners and at their sole cost and expense, Owners may contract with the County's Construction Contractor in charge of the Project, to pipe underground the current stream which bisects the Owners lot as captioned above, which construction will occur in connection with the New Relocated Epps Bridge Project.

3. OWNERS REMAINING PARCEL LOCATED AT THE SOUTHWESTERLY INTERSECTION OF NEW RELOCATED EPPS BRIDGE ROAD AND RELOCATED MARS HILL ROAD.

a. In consideration of the exchange of right-of-way from the Owners to the County for the New Relocated Epps Bridge Road, the County agrees to reduce the existing eighty foot (80') right-of-way to a sixty foot (60') right-of-way along that portion of the existing Mars Hill Road which runs from the northwesterly corner of the Owners tract as captioned above to a "to be constructed cul-de-sac" along the northerly boundary of property now or formerly of Boatright. Subject to existing utilities in use, the County agrees to convey this abandoned twenty foot (20') more or less right-of-way to Owners simultaneous with the granting of the Right-of-Way Deed from Owners to the County for the New Relocated Epps Bridge Road Project as described herein. Notwithstanding the foregoing, the County shall only be obligated to abandon so much of such right-of-way which does not require or necessitate the County to move any existing paving or construct or reconstruct any existing ditches along the existing paved roadway.

b. The County agrees to permit commercial access curb cuts located at (i) Station 30 on the New Relocated Epps Bridge Road, (ii) Station 58 on the Relocated Mars Hill Road, and (iii) at a point to be determined located on the Old Mars Hill Road right-of-way, all as shown on the LRE Plan.

c. The easement for the construction and maintenance of slopes as shown on the Right-of-Way Plans which affect the Owners tract as captioned above, will be recharacterized to reflect that such easement will be a temporary easement only for the construction and maintenance of such slopes. However, if and

when the Owners, at their option, decide to grade such slope areas to coincide with roadway elevations, the need for the easement to maintain said slopes would no longer be necessary by the DOT and thereafter said easements shall automatically terminate and be of no further force or effect.

4. OWNERS REMAINING PARCEL LOCATED AT THE NORTHWESTERLY INTERSECTION OF NEW RELOCATED EPPS BRIDGE ROAD AND RELOCATED MARS HILL ROAD.

a. The County or the DOT, or both, at their sole cost and expense, shall drain the lake currently located on Owners tract as captioned above under a provision outlined in the Roadway Contract for the construction of the New Relocated Epps Bridge Road Project and Relocated Mars Hill Road Project. In the draining of the lake, the County or the DOT, or both, shall construct all necessary underground piping in order to properly channel water attributed to the riparian issues associated with the lake and other affected parcels of Owners and other surrounding properties of third parties. After draining the lake and the construction of all necessary piping associated therewith, and if the Owners have acquired a proper DNR permit, cleared the lake bed area of trees and dried the lake area, then the DOT will provide a provision in the DOT Roadway Contract to set up a waste pit for the purpose of filling the lake area, provided however, that waste dirt is available on said Project. The County agrees to hold Owners harmless from any damage, cost, expense, liability or claims resulting from any claims or assertions made by others relative to the draining of the lake and the necessary piping associated therewith.

b. The County agrees to permit commercial access curb cuts located at (i) Station 37 on the New Relocated Epps Bridge Road, (ii) Station 56 on Relocated Mars Hill Road and (iii) Station 53 on Relocated Mars Hill Road, all as shown on the LRE Plan.

c. The easement for the construction and maintenance of slopes as shown on the Right-of-Way Plans which affect the Owners tract as captioned hereinabove, will be recharacterized to reflect that such easement will be a temporary easement only for the construction and maintenance of such slopes. However, if and when the Owners, at their option, decide to grade such slope areas to coincide with roadway elevations, the need for the easement to maintain said slopes would no longer be necessary by the DOT and thereafter said easements shall automatically terminate and be of no further force or effect.

5. OWNERS REMAINING PARCEL LOCATED AT THE NORTHEASTERLY  
INTERSECTION OF NEW RELOCATED EPPS BRIDGE ROAD AND RELOCATED MARS  
HILL ROAD.

a. In consideration of the exchange of right-of-way from Owners to the County for the New Relocated Epps Bridge Road, the County agrees to deed to the Owners as much abandoned right-of-way of the Old Epps Bridge Road as is available between the existing easterly boundary of the tract of Owners as captioned above and the current access afforded to the Mars Hill Road Fire Station. The intent herein being to enlarge the tract of Owners to its maximum possible size but reserving unto the Fire Station site access to the New Relocated Epps Bridge Road. The transfer of such abandoned right-of-way from the County to the Owners shall occur within a reasonable time subsequent to the construction of the new access to the Mars Hill Fire Station Facility along the New Relocated Epps Bridge Road.

b. The County agrees to permit commercial access curb cuts located at (i) Station 63 + 50 on New Relocated Mars Hill Road and (ii) Station 37 on New Relocated Epps Bridge Road, all as shown on the LRE Plan.

6. CURRENT TWO (2) ACRE (MORE OR LESS) MARS HILL FIRE  
STATION FACILITY.

Within five (5) years of the delivery and recordation of the Right-Of-Way Deeds contemplated herein, and in the event the County deems it in the County's best interest to relocate the existing Mars Hill Fire Station Facility, then the County shall first afford the Owners the opportunity, at the Owners sole option, to acquire a substituted fire station site in close proximity to the existing Mars Hill Fire Station Facility and after constructing a fire station thereupon of comparable size and character, exchange such substituted fire station site for the existing fire station site. The substituted fire station site must be approved by the County, which approval will not be unreasonably withheld or delayed. Further, together with such substitution, Owners will acquire non-exclusive access rights of ingress and egress over, through and across that certain "Permanent Access Easement" appurtenant to the existing fire station site as shown on the Right-of-Way Plans.

7. REVISION TO RIGHT-OF-WAY PLANS RELATIVE TO THAT PORTION OF OWNERS TRACT DESIGNATED AS A PORTION OF "PARCEL 5" ON THE RIGHT -OF-WAY PLANS WHICH IS LOCATED AT THE NORTHEASTERLY INTERSECTION OF GEORGIA HWY. 316 AND NEW RELOCATED EPPS BRIDGE ROAD.

The Right-of-Way Plans will be revised to reflect that it is the intention of the parties herein that the above-captioned tract of Owners will be purchased by the DOT and not acquired by the County.

8. UTILITY CONSTRUCTION.

After completion of the construction of the right-of-ways contemplated herein, it is contemplated that commercial development will soon occur on Owners remaining property and property of others along such new right-of-ways. The County agrees to aggressively install water and sewer utilities within such right-of-ways or gravity easement areas in order to accommodate such commercial development.

9. COMMENCEMENT AND COMPLETION OF PROJECT.

This Agreement and the delivery of the contemplated Right-Of-Way Deeds described herein are contingent upon the County acquiring all necessary approvals from the DOT and all other necessary Right-Of-Way Deeds from owners adjoining the New Relocated Epps Bridge Relocation Project. In the event the construction of the New Relocated Epps Bridge Project is abandoned or otherwise has not commenced on or before midnight of December 31, 1998, then all properties donated shall be reconveyed from the County to the Owners. Once commenced, the County agrees to diligently complete the construction of the Project with anticipated grading to be completed within one (1) year from commencement and paving to be completed within a reasonable period of time thereafter.

10. ACKNOWLEDGMENT OF DONATION VALUE.

The County agrees to acknowledge by letter or appropriate IRS form, the receipt of the donation of the right-of-ways as described herein, at the current fair market value. Fair market value will be determined as of the time of such donation as mutually agreed by the owner's professional appraiser, James Boswell and the professional appraisers of the County and the DOT.

11. MISCELLANEOUS.

a. Time of Essence. With respect to all the terms and conditions of this Agreement, time is of the essence.

b. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto and no representations, inducements, promises or agreements, oral or otherwise, not embodied herein, shall be of any force or effect, unless same be in writing, signed by both the County and Owners and attached hereto.

c. Nonmerger. This Agreement shall not be merged into the documents executed at the closing, but shall survive the closing, and the provisions hereof shall remain in full force and effect.

d. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, assigns, personal representatives or successors in interest.

e. Norris Access. Owners agree to cooperate with the County relative to providing access to that certain 2 acre more or less tract of land owned by Norris et al located at the northwestern intersection of Virgil Langford Road and the New Relocated Epps Bridge Road.

f. DOT Acquisition. The Owners obligations under this Agreement are conditioned upon the DOT purchasing certain right of way areas from the Owners for future interchange ramps at Georgia Hwy. 316, which closing shall occur on or before August 15, 1997.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and affixed their seals, the day and year first above written.

OCONEE COUNTY

BY  (SEAL)

As Its: Chairman, Oconee County Board of Commissioners

Signed, sealed and delivered  
in the presence of:

Lucia Smith  
Unofficial Witness

Chris M. Shirley  
NOTARY PUBLIC

Notary Public, Oconee County, Georgia  
My Commission Expires January 11, 1999

OWNERS:

A. Paul Keller, Jr. (SEAL)  
A. PAUL KELLER, JR.

James J. McDonald (SEAL)  
JAMES J. McDONALD, JR.

Mary Beth McDonald (SEAL)  
MARY BETH McDONALD

Signed, sealed and delivered  
in the presence of:

Unofficial Witness

Lisa Patterson Culbertson  
NOTARY PUBLIC



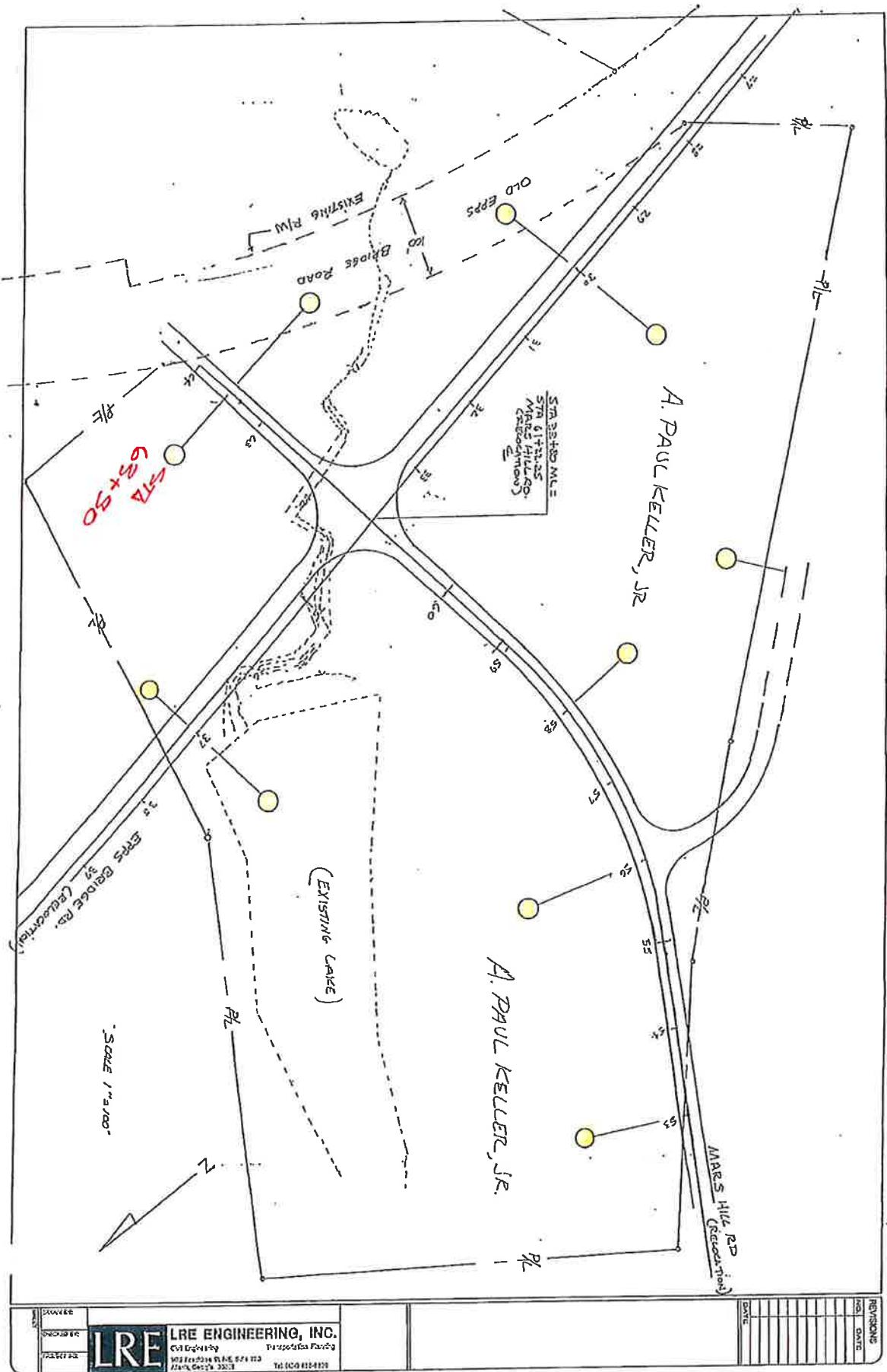


EXHIBIT B

2005-102

تَعْلَمُونَ مِنْ أَنْفُسِكُمْ وَلَا يَعْلَمُونَ مِنْ أَنْفُسِكُمْ

Rojini Woods  
16 February 2019

GRAPHIC SCALE

卷之三

148 *John R. Stilgoe*

178483

ANSWER



EXHIBIT "C"

After Recording Return To:  
G. Marcus Hodge  
Fortson, Bentley and Griffin, P.A.  
2500 Daniel's Bridge Road  
Building 200, Suite 3A  
Athens, GA 30606

**QUIT CLAIM DEED**

**GEORGIA,** County.

THIS INDENTURE, Made \_\_\_\_\_ day of \_\_\_\_\_, 2008, between  
OCONEE COUNTY, A BODY POLITIC AND CORPORATE, AND A POLITICAL  
SUBDIVISION OF THE STATE OF GEORGIA  
as Grantor, and  
JJMB, LLC, a Georgia limited liability company and A. PAUL KELLER, JR.  
of the State of Georgia, as Grantee.

In this deed, wherever the context so requires, the masculine gender includes feminine and/or neuter and the singular number includes the plural. Wherever herein a verb, pronoun or other part of speech is used in the singular, and there be more than one Grantor or Grantee, said singular part of speech shall be deemed to read as the plural, and each Grantor shall always be jointly and severally liable for the performance of every promise and agreement made herein. Wherever herein Grantor or Grantee is used, the same shall be considered to mean as well, the heirs, executors, administrators, successors, representatives and assigns of the same.

WITNESSETH, That the said Grantor, in consideration of ONE DOLLAR (\$1.00), receipt of which is hereby acknowledged, has bargained and sold, and by these presents doth remise, release and forever quit claim to the said Grantee, his heirs and assigns, all the right, title and interest, claim or demand the said Grantor has or may have had in and to the following described property, to wit:

ALL that tract or parcel of land, containing 1.446 acres, more or less, situate, lying and being in the 1331<sup>st</sup> District, G.M., Oconee County, Georgia, and being shown and designated as "1.446 ACRES" according to that certain plat of survey entitled "Survey for JJMB, LLC" dated May 22, 2007, prepared by Woods & Chastain Surveyors, Inc., and being recorded in Plat Book \_\_\_\_\_, page \_\_\_\_\_, in the Office of the Clerk of the Superior Court of Oconee County, Georgia, said plat being incorporated herein by reference thereto.

The property described herein is conveyed subject to that certain twenty-five (25') foot wide ingress egress easement for the benefit of property lying to the east labeled "Gary & Linda Carroll" as shown on the above described plat of survey.

with all the rights, members and appurtenances to said bargained property in anywise appertaining or belonging; To have and to hold the said property to the said Grantee his heirs and assigns so that neither the said Grantor nor his heirs nor any other person or persons claiming under him shall at any time hereafter, by any way or means, have claim or demand any right, title or interest in or to the aforesaid property or its appurtenances or any part thereof.

In Witness Whereof, said Grantor has hereunto set his hand, affixed his seal and delivered these presents, the date first above written.

OCONEE COUNTY

BY: \_\_\_\_\_ (SEAL)

As Its: \_\_\_\_\_

ATTEST: \_\_\_\_\_ (SEAL)

As Its: \_\_\_\_\_

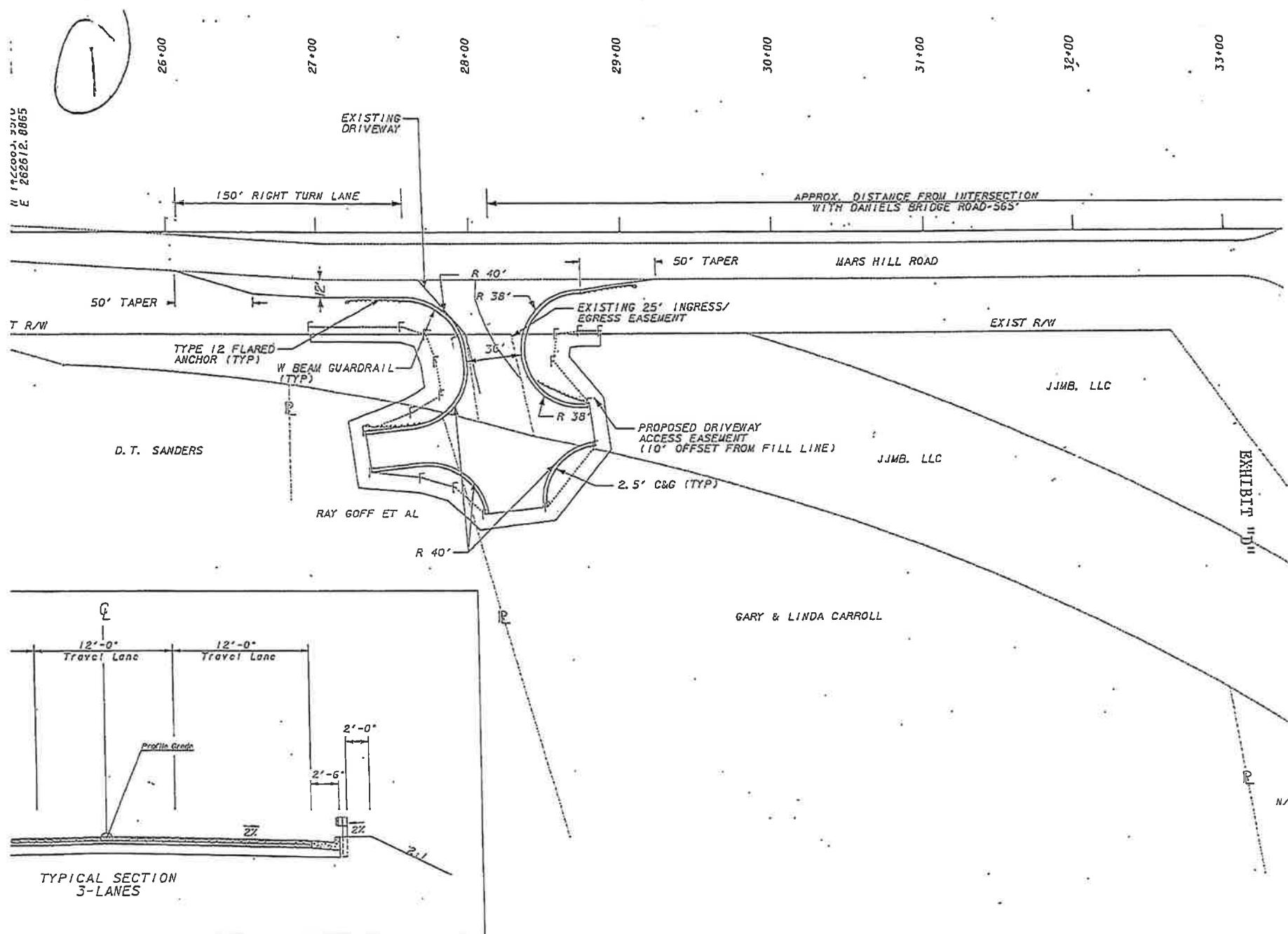
Signed, sealed and delivered in  
the presence of:

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
NOTARY PUBLIC

346357.3

N 112-222-0865  
E 262612.0865



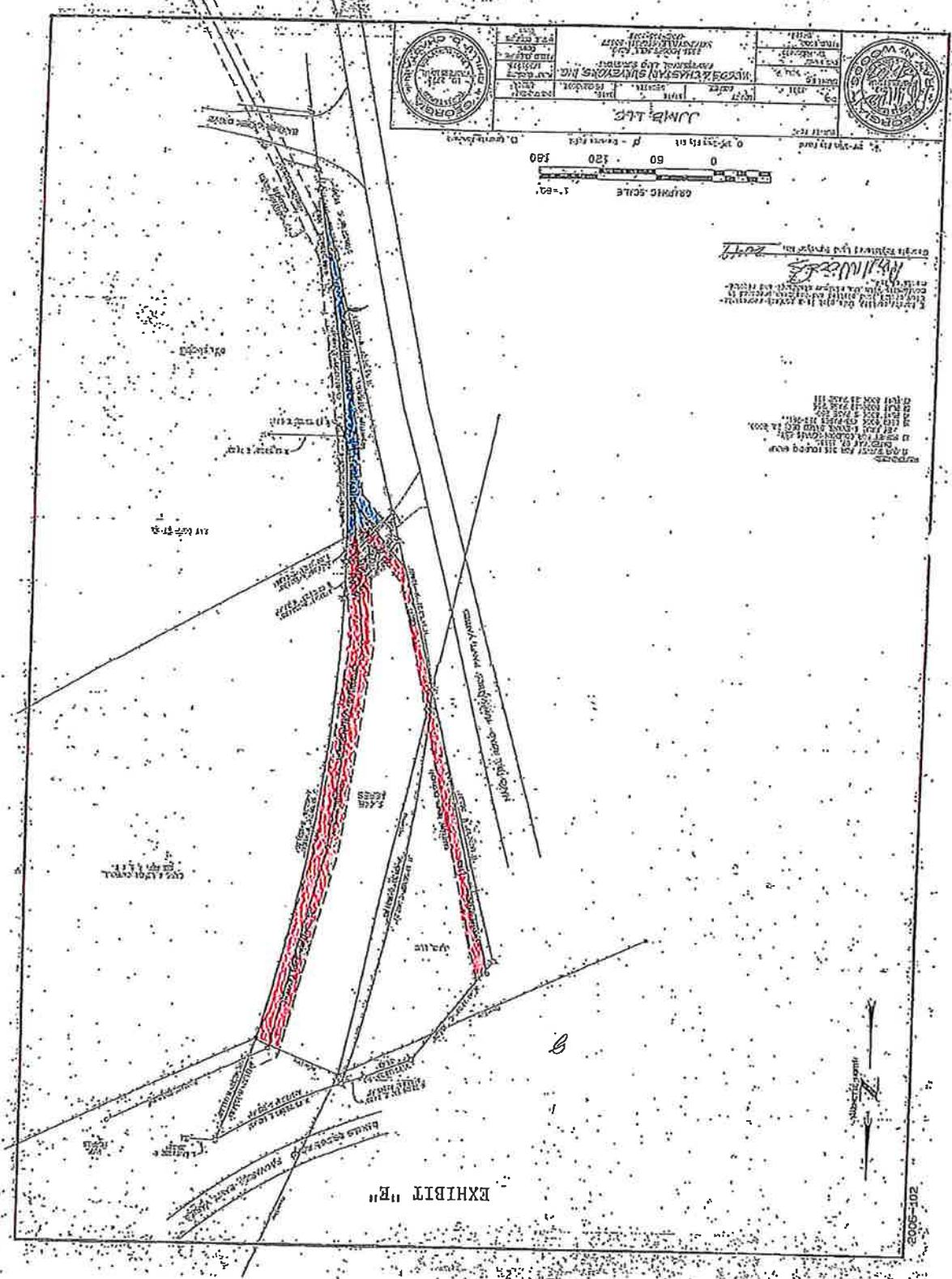


EXHIBIT "F"

After Recording Return To:  
G. Marcus Hodge  
Fortson, Bentley & Griffin, P.A.  
2500 Daniell's Bridge Road  
Building 200, Suite 3A  
Athens, GA 30606

STATE OF GEORGIA

COUNTY OF OCONEE

SANITARY SEWER EASEMENT

This Indenture made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2008, between (I) JJMB, LLC, a Georgia limited liability company, and (II) A. PAUL KELLER, JR., collectively as Grantor, and OCONEE COUNTY, GEORGIA, a political subdivision of the State of Georgia, as Grantee,

W I T N E S S E T H:

That said Grantor for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt and sufficiency whereof are hereby acknowledged, does hereby grant unto Grantee, its successors and assigns, the easement hereinafter described for the purpose of, from time to time, constructing, operating, repairing, increasing the size of, maintaining and renewing a sanitary sewer line or lines upon, under and across the lands of said Grantor, described as follows:

All that tract or parcel of land situate, lying and being in the 1331st District, G.M., Oconee County, Georgia being a permanent sanitary sewer easement varying in width and as being fully shown as colored in red on that certain plat of survey entitled "Survey For JJMB, LLC" dated May 29,2007, by Woods & Chastain Surveyors, Inc., a copy of said plat being attached hereto as Exhibit "A" and reference being made thereto for a more particular description of the easement conveyed herein.

**EXHIBIT**

2006-102

Bill Woods 2049

GRAPHIC SCALE 1" = 52

On File Name: D. W. H. H. File # 15 - Date of Record: 9. 2001



JJMB: L.W.F.  
1916  
CUBA. 1916  
ECHAÑAN SISTEMAS INC.  
SISTEMAS DE SISTEMAS  
SISTEMAS DE SISTEMAS

**EXHIBIT "F-1"**

After Recording Return To:  
G. Marcus Hodge  
Fortson, Bentley & Griffin, P.A.  
2500 Dauphin's Bridge Road  
Building 200, Suite 3A  
Athens, GA 30606

**STATE OF GEORGIA**

**COUNTY OF OCONEE**

**SANITARY SEWER EASEMENT**

This Indenture made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2008, between (I) **JJMB, LLC, a Georgia limited liability company**, and (II) **A. PAUL KELLER, JR.**, collectively as **Grantor**, and **OCONEE COUNTY, GEORGIA**, a political subdivision of the State of Georgia, as **Grantee**,

**W I T N E S S E T H:**

That said **Grantor** for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt and sufficiency whereof are hereby acknowledged, does hereby grant unto **Grantee**, its successors and assigns, the easement hereinafter described for the purpose of, from time to time, constructing, operating, repairing, increasing the size of, maintaining and renewing a sanitary sewer line or lines upon, under and across the lands of said **Grantor**, described as follows:

All that tract or parcel of land situate, lying and being in the 1331st District, G.M., Oconee County, Georgia being a permanent sanitary sewer easement varying in width and as being fully shown as colored in blue on that certain plat of survey entitled "Survey For JJMB, LLC" dated May 29,2007, by Woods & Chastain Surveyors, Inc., a copy of said plat being attached hereto as Exhibit "A" and reference being made thereto for a more particular description of the easement conveyed herein.

The said **Grantor** stipulates that no structure, buildings or portion thereof shall be built upon or over said easement, and the **Grantee** shall at all times have convenient access to said sanitary sewer line or lines.

The said **Grantor** warrants and will forever defend the title to said easement unto said **Grantee**, its successors in title and assigns, against the lawful claims of all persons whomsoever.

**TO HAVE AND TO HOLD** the herein granted easement for sanitary sewer line or lines unto the **Grantee**, its successors in title and assigns, as indicated and in perpetuity.

**IN WITNESS WHEREOF**, the said **Grantor** has hereunto set its hand, affixed its seal and delivered these presents the day and year first above written.

JJMB, LLC, a Georgia limited liability company

By: \_\_\_\_\_ (SEAL)  
JAMES J. McDONALD, JR., Manager

Signed, sealed and delivered  
in the presence of:

Unofficial Witness \_\_\_\_\_

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

\_\_\_\_\_(SEAL)  
A. PAUL KELLER, JR. by and through his  
duly appointed attorney-in-fact, ALEX P. KELLER,  
III

Signed, sealed and delivered  
in the presence of:

Unofficial Witness \_\_\_\_\_

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





# **EXHIBIT “B”**

## **Document 9**

# OCONEE COUNTY

## BOARD OF COMMISSIONERS

---

**G. Melvin Davis, Chairman**

---

August 21, 2009

Dr. James McDonald  
"Personal & Confidential"  
1010 Prince Avenue, Suite 103 South  
Athens, GA 30606

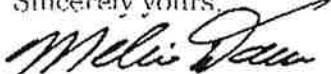
Dear Dr. McDonald:

As per our phone conversation on August 19, 2009, this is to confirm that documents have been located in Oconee County files concerning our agreement approved at the July 29, 1997 Board of Commissioners meeting between Oconee County and Keller/McDonald (copy of minutes attached). Those documents indicate agreements between Oconee County, Georgia Department of Transportation (GDOT), and Keller/McDonald for a median cut on the Oconee Connector, as well as a cross-easement to your property and the Fire Department located on the Oconee Connector.

Oconee County is forwarding to our consultants a request for design revision of Mars Hill Road which will include changes in the Oconee Connector at this site, as well as the Daniells Bridge/Mars Hill Road/Oconee Connector intersection. I do not expect any problems with GDOT since it appears the median cut is located within the regulations currently required by GDOT for median cuts in major intersections.

I trust this clears up any concerns that you have with the design of the Mars Hill Road widening project.

Sincerely yours,



Melvin Davis

GMD:jig

Attachment

C: Board of Commissioners  
Alan Theriault, Administrative Officer  
Emil Beshara, Public Works Director

# **EXHIBIT “B”**

**Document 10**

**James J. McDonald, Jr., D.M.D.  
Richard C. Manus, Jr., D.M.D.  
Oral and Maxillofacial Surgery**

**IMPLANTS • ORTHOGNATHIC • TMJ • PRE-PROSTHETIC • DENTOALVEOLAR • ORAL PATHOLOGY • TRAUMA**

FELLOWS  
AMERICAN DENTAL SOCIETY  
OF ANESTHESIOLOGY

FELLOWS  
AMERICAN ASSOCIATION OF  
ORAL AND MAXILLOFACIAL SURGEONS

DIPLOMATES  
AMERICAN BOARD OF  
ORAL AND MAXILLOFACIAL SURGERY

DIPLOMATES  
NATIONAL DENTAL BOARD  
OF ANESTHESIOLOGY

October 12, 2009

Dear Melvin

Thank you for your letter dated Aug. 21, 2009 confirming the county's decision to abide by the agreements in 1997 to access our remaining properties along the Oconee Connector. We spent a great deal of time, effort and money (attorney's, engineer's fees) in negotiating with the state and county in working out the donation of a considerable amount of property to the county for construction of the Oconee Connector as well as acquisition of the necessary property for the future ramps at the 316 interchange along the Oconee Connector. One of the primary compensations in return was a commitment from Commissioner Shackleford for a median cut to provide for a commercial driveway access. The letters enclosed address this issue. Additionally, I have enclosed plans from the GA. DOT that seem to be quite specific to a permanent access easement along with plans depicting a future median opening directly in front of the permanent access easement (crosshatched). Also in our agreement with the county we were granted specific commercial access curb cuts on our properties at the Mars Hill / Oconee Connector crossing. Given the DOT and the county committed to these detailed plans it was of great concern to us when we learned someone from the county or DOT made changes to the plans agreed upon without any consultation with us or consideration to these prior plans and commitments. These plans and curb cuts should have been in the county and DOT records. It is difficult to conceive that they were not referenced prior to any changes.

Your letter dated August 21, 2009 was well received. However on follow up conversations with you and then Emil Beshara it is of some concern the county may be considering a modification of the median cut we agreed to in 1997. Any changes that would result in anything less than what was promised to us and the county (full median opening providing for commercial driveway access) would be strongly opposed by our group. The distance between the agreed median opening and the intersection at the Oconee Connector / Mars Hill Road would seem to be critical to access of our property as well as congestion and traffic flow.

# **EXHIBIT “B”**

**Document 11**

**James J. McDonald, Jr., D.M.D.  
Richard C. Manus, Jr., D.M.D.  
Oral and Maxillofacial Surgery**

IMPLANTS • ORTHOGNATHIC • TMJ • PRE-PROSTHETIC • DENTOALVEOLAR • ORAL PATHOLOGY • TRAUMA

FELLOWS  
AMERICAN DENTAL SOCIETY  
OF ANESTHESIOLOGY

FELLOWS  
AMERICAN ASSOCIATION OF  
ORAL AND MAXILLOFACIAL SURGEONS

DIPLOMATES  
AMERICAN BOARD OF  
ORAL AND MAXILLOFACIAL SURGERY

DIPLOMATES  
NATIONAL DENTAL BOARD  
OF ANESTHESIOLOGY

October 19, 2009

Dear Larry,

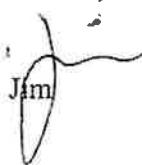
Here are the bullet points on our understanding of the DOT commitment from Commissioner Shackleford and the Design Dept. at the Ga. State DOT in 1997/1998 as part of our agreement to donate right of way to Oconee County for the Oconee Connector.

1. Full commercial access (signalized median cut) at 660 ft. from Highway 316. This would provide for an additional 660 ft. from the median cut granted to the present 4 way interchange at the Mars Hill Road and Oconee Connector. We agreed to provide to a cross easement for the fire station to facilitate their needs to access the median cut promised to our group. These plans were drawn and submitted by the Ga. State DOT not only to us but also the county for their records.

The concern we have now is that the county without our knowledge or consent has gone to the DOT and had them revise the plans by relocating the median cut initially to totally do away with access to our property and now having acknowledged their mistake trying to modify the plans again without our input. Our concerns are that they will quite possibly compromise the value of our land and possibly push the median cut too close to the present 4 way interchange at the Oconee Connector / Mars Hill intersection thereby eliminating a signalized full commercial access median cut as originally promised.

Thank you for your help and if you have any questions please call. It is my understanding that the DOT is meeting with the county tomorrow.

Thanks,



Jim

# **EXHIBIT “B”**

**Document 12**

SmartZone Communications Center  
Collaboration Suite

mcdonaldjimdina@comcast.net

Fwd: FW: Oconee Connector - Median  
Opening - 316 Holding Group Property

Monday, November 09,  
2009 9:17:43 AM

From: wkahlke@knology.net  
To: mcdonaldjimdina@comcast.net  
Cc: lwalker@whgb-law.com  
Reply to: wkahlke@knology.net

----- Original Message -----  
From: "Osmon, Elizabeth" EOsmo@dot.ga.gov  
To: "'wkahlke@knology.net'" wkahlke@knology.net  
Sent: Fri 11/ 6/09 10:47 AM  
Subject: Fwd: FW: Oconee Connector - Median Opening - 316 Holding Group  
Property

Mr. Kuhlke - please see the email below which Gerald asked me to forward to you..

Elizabeth Osmon

Executive Secretary

State Transportation Board

Georgia Department of Transportation

404-631-1001

FROM: Ross, Gerald  
SENT: Friday, November 06, 2009 9:38 AM  
TO: Osmon, Elizabeth  
SUBJECT: Fw: Oconee Connector - Median Opening - 316 Holding Group  
Property  
Could u send 2 Mr. Kluge?

-----  
FROM: Story, Brent  
TO: 'Buddy Gratton' ; 'M.J. Sheehan' ; Jeff Joyner  
CC: McCook, Jason; Rabun, Ben; 'mdavis@oconee.ga.us' ; McMurry,  
Russell; McManus, Brad; Ross, Gerald  
SENT: Fri Nov 06 09:36:43 2009  
SUBJECT: FW: Oconee Connector - Median Opening - 316 Holding Group  
Property

REFERENCE: PI 142060, MARS HILL ROAD/OCONEE CONNECTOR IN OCONEE  
COUNTY  
MJ,

GDOT and Oconee County are both in agreement that the proposed median opening currently located at the Fire Station should be moved back to the 316 Holding Group Property; approximately 660-ft north of the relocated Mars Hill Rd and Epps Bridge Rd. This was agreed upon back in 1997 by former Commissioner Wayne Shackelford, when the 2-lane Oconee Connector was developed. The Fire Station will have access to the median opening by permanent easement across the 316 Holding Group Property. Please make this change on the plans ASAP

and send me a pdf of the plan sheet for verification.

Thanks,  
BRENT A. STORY, P.E.

STATE DESIGN POLICY ENGINEER

GEORGIA DEPARTMENT OF TRANSPORTATION

( 404) 631-1600  
FROM: Melvin Davis [mailto:mdavis@oconee.ga.us]  
SENT: Tuesday, October 20, 2009 11:12 AM  
TO: Story, Brent  
CC: Ross, Gerald; McManus, Brad; McMurry, Russell; McCook, Jason;  
Mahoney, Robert; Buchan, Ben; Emil Beshara; Alan Theriault; Tom  
Moreland ; Buddy Gratton ; Jane Greathouse  
SUBJECT: RE: Oconee Connector - Median Opening - 316 Holding Group

Property

Brent-

Oconee County is in complete agreement with your analysis of the location of the median break as agreed upon in 1997. It is our understanding that the plans for the widening of Mars Hill Road (PI 142060) will have the median break at this location. All of my conversations with Mr. McDonald have confirmed this location for the median break. Also a letter dated August 21, 2009 confirming this fact was mailed to Mr. McDonald.

I am very appreciative of your efforts to resolve any additional concerns regarding the location of the median break.

If I can provide any additional information, please let me know.  
Melvin Davis

Chairman

Oconee County Board of Commissioners  
FROM: Story, Brent [mailto:bstory@dot.ga.gov]  
SENT: Tuesday, October 20, 2009 9:34 AM  
TO: Melvin Davis  
CC: Ross, Gerald; McManus, Brad; McMurry, Russell; McCook, Jason;  
Mahoney, Robert; Buchan, Ben  
SUBJECT: Oconee Connector - Median Opening - 316 Holding Group  
Property  
Commissioner Davis,

Your phone line seems to be out of order. Gerald Ross asked me to contact you about a recent letter (dated 10/19/09) from Jim McDonald to Larry Walker, concerning a proposed median break along the Mars Hill Rd/Oconee Connector project (PI 142060). We have a letter from former Commissioner Wayne Shackelford, dated February 19, 1997, that grants a median opening to the 316 Holding Group Property at approximately 660-ft north of the relocated Mars Hill Rd and Epps Bridge Rd. It also appears the right-of-way was acquired and an easement established to provide access to the adjacent Fire Station when the State-Aid project to build the two-lane Oconee Connector was done. We do not have any record of when the median break was shifted on the plans south to the Fire Station. After speaking with Gerald this morning, in our opinion, the median break should be at the location agreed upon back in 1997. Please call me if you want to discuss further.

Thanks,  
BRENT A. STORY, P.E.

STATE ROAD DESIGN ENGINEER

GEORGIA DEPARTMENT OF TRANSPORTATION

# **EXHIBIT “C”**

**Document 1**

## DEPARTMENT OF THE ARMY PERMIT

PERMITTEE: Mr. Kevin Letch  
Publix Supermarkets, Inc. c/o Sembler Corporation

PERMIT NUMBER: SAS-2019-00667

ISSUING OFFICE: Savannah District  
U.S. Army Corps of Engineers  
Piedmont Branch  
4751 Best Road, Suite 140  
College Park, Georgia 30337

NOTE: The term "you" and its derivatives used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate District or Division office of the U.S. Army Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

PROJECT DESCRIPTION: The proposed project will consist of a 45-acre mixed use development featuring a Publix Super Market with additional retailers, hotels, restaurants, and service providers in out-parcels to serve the regional and local population. As proposed, the project would impact 2,660 linear feet of stream and 0.5 acre of wetland.

PROJECT LOCATION: The project site is located on the west side of the Oconee Connector, north of Mars Hill Road, east of Virgil Langford Road, and just south of Georgia Highway 78 (latitude 33.908986, longitude -84.468278), in Oconee County, Georgia.

### 1. PERMIT CONDITIONS:

#### a. General Conditions.

(1) The time limit for completing the work authorized by this Individual Permit will end **five (5) years** from date of validation by the Corps. If you find that you need more time to complete the authorized activity, you must submit a request for your permit extension at least one month prior to the above date.

(2) You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish

to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

(3) If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

(4) If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

(5) A conditioned Water Quality Certification was issued for your project on November 4, 2020, and you must comply with conditions specified in the certification as Special Conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

(6) You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

(7) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States because of any such removal or alteration.

b. Special Conditions

1. All dredged or borrowed material used as fill in waters of the United States shall be from clean, uncontaminated sources and free from cultural resources. For the purposes these special permit conditions, the term waters of the United States includes all jurisdictional streams, wetlands, open waters, ditches, swales and other conveyance located on the project site.

2. Unless specifically authorized by this permit, no construction, discharge of fill material, excavation, mechanized land clearing, tree or other vegetation removal, stockpiling of fill material or other work/activity shall occur in waters of the United States.

3. Prior to any land disturbing activity on the project site, the permittee shall clearly

mark all waters of the United States that are authorized to be impacted (impact-waters). Acceptable forms of marking include high visibility orange construction fencing or flagging at eye level, at intervals of 25 feet or less along the entire jurisdictional boundary. Pin flags or other ground level marking is not acceptable. In addition, the permittee shall clearly mark waters of the United States that are not to be impacted (no-impact-waters), if they are located within 50 feet of any construction activities. The boundaries of impact-waters and no-impact-waters shall be marked differently, to ensure that these areas are clearly identifiable to equipment operators. All no-impact-waters marking shall be maintained until the entire project has been completed.

4. Unless specifically authorized by this permit, borrow pits or sites for stockpiling fill dirt are prohibited within 200 feet of streambanks or within 50 feet of wetlands and open waters to minimize the potential for introduction of sediment into waters of the United States.

5. Construction debris, uncured concrete, demolition debris, or other waste materials shall not be discharged into streams, wetlands, or other open waters; or placed at sites near such areas, where migration into waters of the United States could be anticipated.

6. Equipment staging areas and equipment maintenance areas are prohibited within 200 feet of streambanks or within 50 feet of wetlands and other open waters to minimize the potential for wash water, petroleum products, or other contaminants from construction equipment entering waters of the United States.

7. The permittee shall ensure that all features of the project's master drainage plan, such as drainage ditches, road-side ditches, swales and other storm-water conveyances, are designed and constructed to avoid: drainage of wetlands; diversion of storm-water away from wetlands; and other hydrologic alterations of natural drainage patterns that would adversely impact wetlands. The permittee shall be responsible for any inadvertent and/or unforeseen hydrologic impacts to waters of the United States resulting from alteration of natural drainage patterns. The permittee shall also ensure that secondary road ditches and/or small after-project drainage ditches do not inadvertently impact wetlands or waters of the United States.

8. The permittee shall minimize bank erosion and sedimentation in construction areas by utilizing Best Management Practices for stream corridors, installing and maintaining significant erosion and sediment control measures, and providing daily reviews of construction and stream protection methods. Check dams and riprap placed in streams and wetlands as erosion control measures are considered a fill and not authorized under this permit unless they were specifically authorized by this permit.

9. All work conducted under this permit shall be located, outlined, designed, constructed and operated in accordance with the requirements of the Georgia Erosion and Sedimentation Control Act of 1975 (Georgia ESCA), as amended. Utilization of

plans and specifications contained in the "Manual for Erosion and Sediment Control, (Latest Edition)," published by the Georgia Soil and Water Conservation Commission, will aid in achieving compliance with the Georgia ESCA.

10. The permittee shall install and maintain erosion and sediment control measures in upland areas of the project site, in accordance with the Georgia Erosion and Sedimentation Control Act of 1975 to minimize the introduction of sediment into and the erosion of streams, wetlands and other waters of the United States. This permit does not authorize installation of check-dams, weirs, riprap, bulkheads or other erosion control measures in streams, wetlands or other waters of the United States. The permittee shall obtain U.S. Army Corps of Engineers authorization prior to installing any erosion control measures in waters of the United States.

11. The permittee shall install and maintain erosion and sediment control measures in fill material that is authorized to be discharged in streams, wetlands and other waters of the United States, in accordance with the Georgia Erosion and Sedimentation Control Act of 1975; and permanently stabilize fill areas at the earliest practicable date.

12. Once the project site is sufficiently stabilized through re-vegetation, the permittee shall remove all silt fencing and other non-biodegradable erosion control measures from stream banks, riparian areas, wetlands and upland areas immediate adjacent to other waters of the United States.

13. The permittee shall obtain and comply with all applicable Federal, state and local authorizations required for the authorized activity. A stream buffer variance may be required from the Georgia Department of Natural Resources, Environmental Protection Division (Georgia EPD), as defined in the Georgia Erosion and Sedimentation Control Act of 1975. Information concerning variances can be obtained from Georgia EPD on their website at [www.gaepd.org](http://www.gaepd.org), or by calling (404) 463-1463.

14. If you or your contractors discover any federally listed threatened or endangered species and/or their habitat while accomplishing the activities authorized by this permit, you must immediately STOP work and notify the U.S. Army Corps of Engineers within 24 hours. The U.S. Army Corps of Engineers will contact with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service to determine if the species and/or habitat warrant further consultation.

15. Prior to the commencement of any work in jurisdictional waters of the United States for this activity, the permittee shall purchase 23,940 stream mitigation credits from Hard Labor Creek Mitigation Bank. The permittee shall provide the Corps with documentation that the required number of credits have been purchased prior to the commencement of authorized work; and shall include file number SAS-2019-00667.

16. Prior to the commencement of any permitted work in waters of the United States, the permittee shall purchase 2.38 wetland mitigation credits from Big Sandy Creek Mitigation Bank, and 2.3 wetland mitigation credits from the Monastery of the Holy Ghost Mitigation Bank. The permittee shall provide the Corps with documentation that the required number of credits have been purchased prior to the commencement of authorized work; and shall include file number SAS-2019-00667.

17. This permit does not authorize the interference with any existing or proposed Federal Project and the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein, which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

18. A copy of this permit, including the approved drawings and plans; special conditions; and any amendments shall be maintained at the work site whenever work is being performed. The permittee(s) shall assure that all contractors, subcontractors, and other personnel performing the permitted work are fully aware of the permit's terms and conditions.

19. The permittee shall notify the issuing office, in writing (electronic facsimile is acceptable), at least 10 days in advance of their intent to commence work in waters of the United States for the permitted activity. The permittee shall also notify this office, in writing, 30 days after this project is completed using the enclosed Certification of Compliance Form.

20. All work will be performed in accordance with the following attached site plan, which is incorporated in and made part of the permit: "Figure 6, Site Plan, Oconee Connector Shopping Center, Publix Marketplace, LLC, by Benz Environmental Consulting, dated 9/28/20."

21. To ensure compliance with Section 106 of the National Historic Preservation Act, the permittee shall maintain a Vegetative Buffer along the southern and western boundary of the project area and Mars Hill Road. Based on existing vegetation density, the buffer will be a minimum of 10-15 feet, as shown in the Figure entitled "Proposed Buffer Map". The 15 foot vegetated buffer will extend the full length of the western project area boundary, and the 10-foot parking lot vegetation screening will be extend along Mars Hill Road, effectively blocking views of the proposed development from the Mars Hill Church Cemetery and potentially eligible Ranch Houses outside of our permit area.

2. FURTHER INFORMATION:

- a. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).
- b. Limits of this Authorization.
  - (1) This permit does not obviate the need to obtain other federal, state, or local authorizations required by law.
  - (2) This permit does not grant any property rights or exclusive privileges.
  - (3) This permit does not authorize any injury to the property or rights of others.
  - (4) This permit does not authorize interference with any existing or proposed federal projects.
- c. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
  - (1) Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
  - (2) Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
  - (3) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
  - (4) Design or construction deficiencies associated with the permitted work.
  - (5) Damage claims associated with any future modification, suspension, or revocation of this permit.
- d. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
- e. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require reevaluation include, but are not limited to, the following:
  - (1) You fail to comply with the terms and conditions of this permit.

(2) The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

(3) Significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7, or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order, which requires you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate.

(4) You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

f. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the U.S. Army Corps of Engineers will normally consider a request for an extension of time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

  
(PERMITTEE)

Robert S. Baker, Jr.  
Publix, VP of Real Estate Strategy

This permit becomes effective when the federal official, designated to act for the Secretary of the Army, has signed below.

1-4-21

(DATE)

SIGN HERE



Digitally signed by  
THAMES.KEVIN.D.1380833  
731  
Date: 2021.01.08 11:04:10  
-05'00'

Issued for and in behalf of:

(DATE)

Daniel H. Hibner, PMP  
Colonel, U.S. Army  
Commanding

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities with compliance with its terms and conditions, have the transferee sign and date below.

---

(TRANSFeree)

---

(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To request the transfer of this permit and the associated liabilities with compliance with its terms and conditions, the permittee and transferee must sign and date below.

---

(PERMITTEE-Printed Name)

---

(PERMITTEE-Signature)

---

(DATE)

---

(TRANSFEREE-Printed Name)

---

(TRANSFEREE-Signature)

---

(DATE)

By signature below, the U.S. Army Corps of Engineers hereby validates the transfer of the permit from the permittee named above to the transferee named above.

---

Issued for and in behalf of:  
Daniel H. Hibner, PMP  
Colonel, U.S. Army  
Commanding

---

(DATE)

Regulatory Division

CERTIFICATION OF COMPLIANCE  
WITH  
DEPARTMENT OF THE ARMY

PERMIT FILE NUMBER: SAS-2019-00667

PERMITTEE NAME AND ADDRESS: Mr. Kevin Letch, Publix Supermarkets, Inc., c/o Sembler Corporation, 5858 Central Avenue, St. Petersburg, Florida 33707

LOCATION OF WORK: The project site is located on the west side of the Oconee Connector, north of Mars Hill Road, east of Virgil Langford Road, and just south of Georgia Highway 78 (latitude 33.908986, longitude -84.468278), in Oconee County, Georgia.

PROJECT DESCRIPTION: Construction of a 45-acre mixed use development featuring a Publix Super Market with additional retailers, hotels, restaurants, and service providers in out-parcels to serve the regional and local population.

WATERS OF THE US IMPACTED: 2,660 linear feet of stream channels, 0.5 acres of wetlands, and 0.42 acre of open water.

DATE WORK IN WATERS OF US COMPLETED: \_\_\_\_\_

COMPENSATORY MITIGATION REQUIRED: 23,940 stream mitigation credits and 4.68 wetland mitigation credits.

DATE MITIGATION COMPLETED OR PURCHASED (include bank name):  
\_\_\_\_\_  
\_\_\_\_\_

Within 30 days of completion of all activities authorized by this permit, sign this certification and return it to the following address:

Commander  
U.S. Army Engineer District, Savannah  
Attention: Regulatory Division  
4751 Best Road, Suite 140  
College Park, Georgia 30337-5616

Please note that your permitted activity is subject to compliance inspection by an U.S. Army Corps of Engineers' representative. If you fail to comply with the permit conditions, it may be subject to suspension, modification or revocation.

I hereby certify that the work authorized by the above referenced permit as well as any required mitigation (if applicable) has been completed in accordance with the terms and conditions of the said permit.

---

Signature of Permittee

---

Date

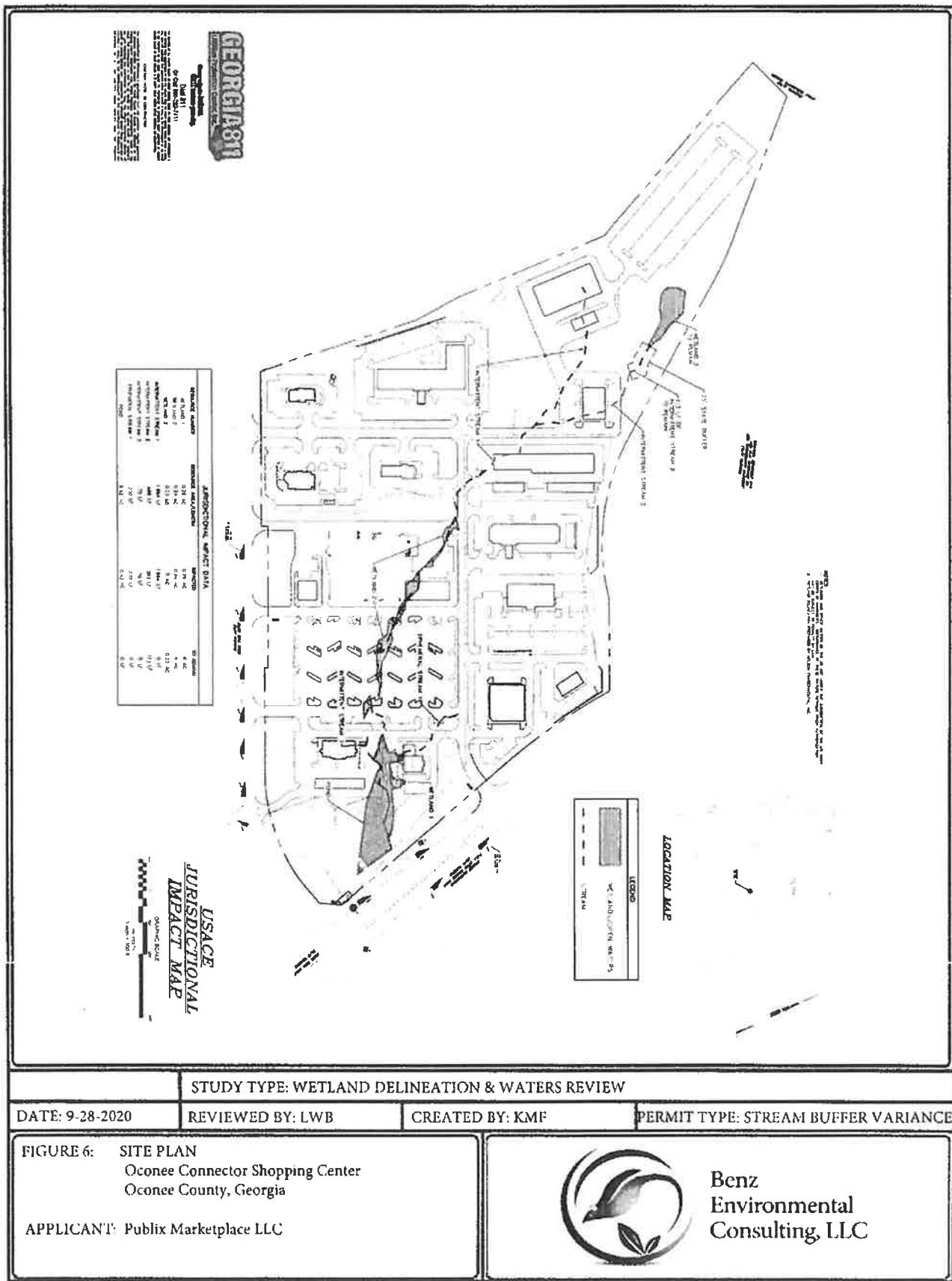


FIGURE 6: SITE PLAN

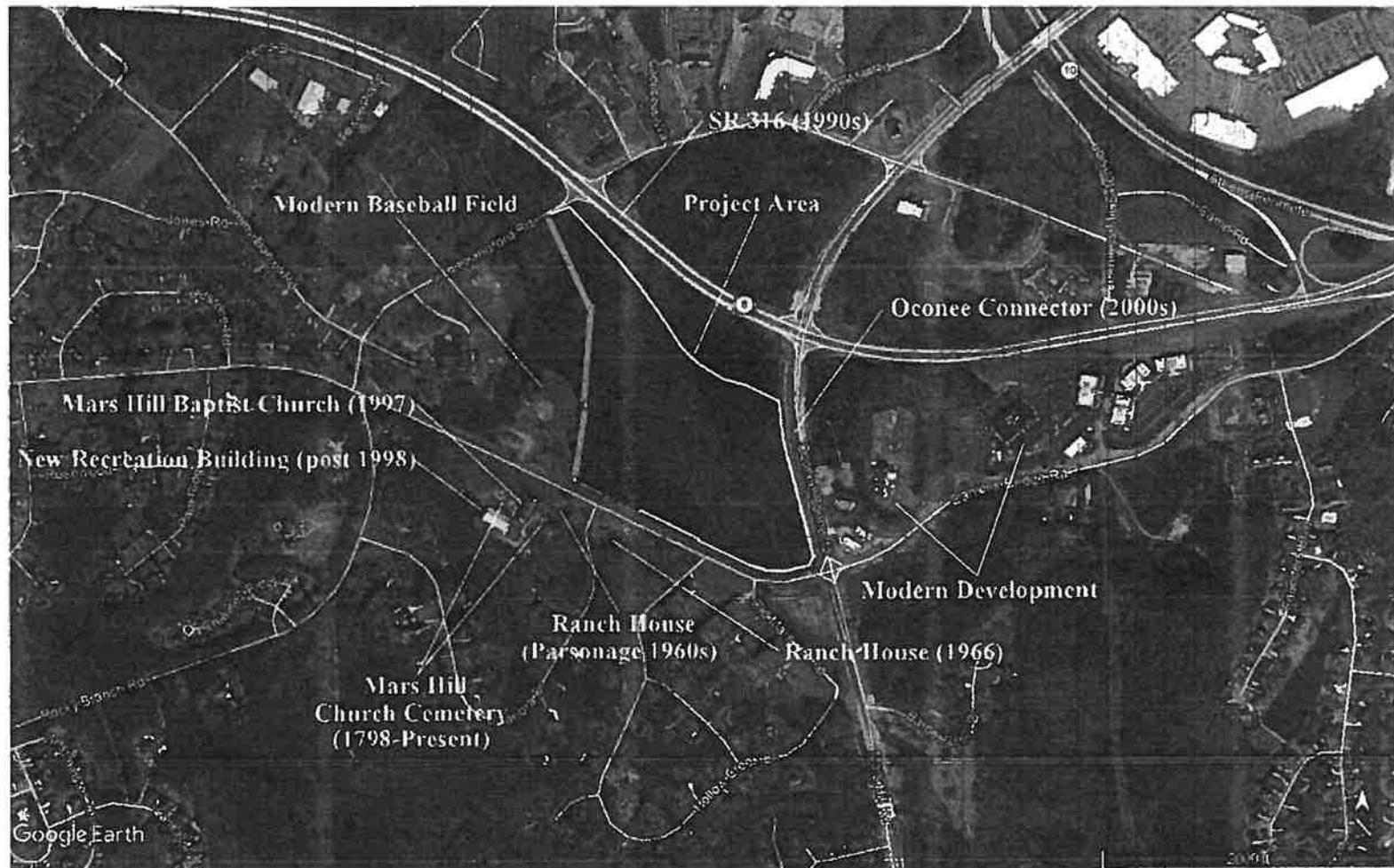
**Oconee Connector Shopping Center  
Oconee County, Georgia**

APPLICANT: Publix Marketplace LLC



Benz  
Environmental  
Consulting, LLC

2019-00667 Proposed Buffer Map (2017 Google Earth Aerial Photograph Showing the Project Area and Viewshed)



— = 10' parking lot buffer with screening per Oconee County Unified Development Code Section 803.02

— = 15' vegetated buffer

The finished floor of the proposed development will be approximately 10-20' below the existing roadway grade of Mars Hill Road. This elevation discrepancy plus the required parking lot buffer will effectively screen the proposed development from the resources of undetermined eligibility..



## ENVIRONMENTAL PROTECTION DIVISION

**Richard E. Dunn, Director**

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**EPD Director's Office**  
2 Martin Luther King, Jr. Drive  
Suite 1456, East Tower  
Atlanta, Georgia 30334  
404-656-4713

November 4, 2020

Mr. Kevin Letch  
Sembler Corporation  
5858 Central Avenue  
St. Petersburg, Florida 33707,  
as Agent for Publix Supermarkets, Inc.

Re: Water Quality Certification  
Joint Public Notice SAS-2019-00667  
Bogart Publix Shopping Center  
Oconee River Watershed  
Oconee County

Dear Mr. Letch:

In accordance with Section 401 of the Federal Clean Water Act, 33 U.S.C. § 1341, the State of Georgia has evaluated the Bogart Publix Shopping Center project submitted by Sembler Corporation as Agent for Publix Supermarkets, Inc., an applicant for a federal permit or license related to proposed activity in, on, or adjacent to the waters of the State of Georgia.

The State has examined the information regarding the Bogart Publix Shopping Center project provided to it by Benz Environmental Consulting, LLC. In accordance with that information, the State of Georgia issues this Section 401 certification to Sembler Corporation as Agent for Publix Supermarkets, Inc. This Section 401 water quality certification is subject to the following terms and conditions:

1. The applicant shall conduct all activities in a manner that will assure water quality adequate or necessary to protect and maintain designated uses. 33 U.S.C. § 1313(a)-(d); O.C.G.A. § 12-5-23(c)(2),(6),(9),(15); Ga. Comp. R. and Regs. 391-3-6-03(2)(i), (ii).
  - a. The applicant shall install in-water Best Management Practices (BMPs) to the extent practical and feasible, to minimize total suspended solids (TSS) and sedimentation for any work conducted within a state water or within the delineated boundaries of wetlands. 33 U.S.C. § 1313(a)-(d); O.C.G.A. § 12-5-23(c)(2), (6), (9), (15); O.C.G.A. § 12-5-29(a); O.C.G.A. §§ 12-7-6 to 7; Ga. Comp. R. and Regs. 391-3-6-03(5).
  - b. The applicant must ensure that any fill placed in state water must be clean fill that is free of solid waste, toxic, or hazardous contaminants. 33 U.S.C. §§ 1311; 1313(a)-(d);

Page 2  
Bogart Publix Shopping Center  
SAS-2019-00667  
Oconee County

O.C.G.A. § 12-5-23(c)(2), (6), (9), (15); O.C.G.A. § 12-5-29(a); Ga. Comp. R. and Regs. 391-3-6-.03(5), (6), (11), (14)-(16).

2. Modifications to this Project may require an amendment to these conditions. Accordingly, the applicant must notify the Georgia Environmental Protection Division of any modifications to the proposed activity including, but not limited to, modifications to the construction or operation of any facility, or any new, updated, or modified applications for federal permits or licenses for the Project. 33 U.S.C. §§ 1311-1313; O.C.G.A. § 12-5-23(c)(2),(6),(9),(15); Ga. Comp. R. and Regs. 391-3-6-.03.

The Georgia Environmental Protection Division may invalidate or revoke this certification for failure to comply with any of these terms or conditions. This certification does not waive any other permit or other legal requirement applicable to this project or relieve the applicant of any obligation or responsibility for complying with the provisions of any other federal, state, or local laws, ordinances, or regulations.

It is your responsibility to submit this certification to the appropriate federal agency. If you have any questions regarding this certification, please contact Stephen Wiedl at [Stephen.Wiedl@dnr.ga.gov](mailto:Stephen.Wiedl@dnr.ga.gov)/404-651-8459.

Sincerely,



Richard E. Dunn, Director  
Environmental Protection Division

cc: Ms. Stacy Marshall, Corps  
Mr. Eric Somerville, EPA  
Donald Imm, USFWS  
Ms. Laura W. Benz

# **EXHIBIT “C”**

**Document 2**



**Richard E. Dunn, Director**

**EPD Director's Office**  
2 Martin Luther King, Jr. Drive  
Suite 1456, East Tower  
Atlanta, Georgia 30334  
404-656-4713

05-FEB-2021

Mr. Kevin Letch  
Publix Supermarkets, Inc. c/o Sembler Corporation  
5858 Central Avenue  
St. Petersburg, FL 33707

RE: Request for Variance under Provisions O.C.G.A. 12-7-6(b)(15)  
Oconee Connector Multi-Use Development  
Oconee County

Dear Mr. Letch:

The Georgia Environmental Protection Division's Watershed Protection Branch has reviewed your stream buffer variance application for the subject project. The review was conducted to consider the potential impacts of the proposed project's encroachment on State waters within the context of the Georgia Erosion and Sedimentation Act. This review, and the variance granted herein, is limited to only the request(s) in the stream buffer variance application for permission to conduct land-disturbing activities within 25-foot areas located immediately adjacent to the banks of State waters where vegetation has been wrested by normal stream flow or wave action. To the extent there is a request in the buffer variance application to conduct land-disturbing activities within 25-foot areas located immediately adjacent to State waters where there is no vegetation that has been wrested by normal stream flow or wave action, such request has not been considered, and is not included as a part of the variance granted herein.

Pursuant to DNR Rule 391-3-7-.05(2)(h), authorization is hereby granted to encroach within the 25-foot buffer adjacent to State waters as delineated in your application dated November 17, 2020. *Buffer impacts authorized by this variance must be completed within five years of the date of this approval letter. If the approved buffer impacts cannot be completed prior to the expiration date, a time extension must be requested in writing at least 90 calendar days prior to the expiration date with justifiable cause demonstrated.*

Authorization for the above referenced project is subject to the following conditions:

- 1) All graded slopes 3:1 or greater must be hydroseeded and covered with Georgia DOT approved wood fiber matting or coconut fiber matting. If not hydroseeded, Georgia DOT approved matting that has been incorporated with seed and fertilizer must be used. All slopes must be properly protected until a permanent vegetative stand is established;
- 2) The amount of land cleared during construction must be kept to a minimum;

Mr. Kevin Letch  
Publix Supermarkets, Inc. c/o Sembler Corporation  
Page 2

- 3) All disturbed areas must be seeded, fertilized and mulched as soon as the final grade is achieved. Also, these disturbed areas must be protected until permanent vegetation is established;
- 4) A double row of Georgia DOT type "C" silt fence or an approved high performance silt fence must be installed between the land disturbing activities and State waters where appropriate;
- 5) Buffer variance conditions must be incorporated into any Land Disturbing Activity Permit issued by Oconee County for this project;
- 6) This project must be conducted in strict adherence to the approved erosion and sedimentation control plan and any Land Disturbing Activity Permit issued by Oconee County; and
- 7) Post-construction stormwater management systems must be maintained to ensure pollutant removal efficiencies for water quality protection.

The granting of this approval does not relieve you of any obligation or responsibility for complying with the provisions of any other law or regulations of any federal, local or additional State authority, nor does it obligate any of the aforementioned to permit this project if they do not concur with its concept of development/control. As a delegated "Issuing Authority," Oconee County is expected to ensure that the stream buffer variance requirements are met for this project and is empowered to be more restrictive in this regard.

If you have questions concerning this letter, please contact Victoria Adams, Erosion and Sedimentation Control Unit, NonPoint Source Program, at (404) 463-0003.

Sincerely,



Richard E. Dunn  
Director

RED:va

cc: Guy Herring, Director of Planning & Code Enforcement, Oconee County Board of Commissioners  
Laura Benz, Project Engineer  
Joseph McCown, Haines, Gipson & Associates  
Joseph Rivera, USACE  
Steve Schleiger, Wildlife Resources Division, Region 2 Fisheries Management  
Greg Walker, Georgia Soil and Water Conservation Commission  
Derrick Williams, EPD Northeast District Manager

File: BV-108-20-02

# **EXHIBIT “D”**

**SUPPLEMENT TO AN APPLICATION TO AMEND THE OFFICIAL ZONING  
MAP OF OCONEE COUNTY, GEORGIA**

APPLICANT: DEFERRED TAX, LLC

ZONING CASE NUMBER: P20-0210

PRESENT ZONING DISTRICT(S): R-1, B-1 PUD, B-2, Mars Hill Overlay

REQUESTED ZONING DISTRICT(S): B-2

PROPERTY: Tax parcels: C-01-045, C-01-045B, and C-01-045D; Mars Hill Road, Oconee Connector, Georgia Highway 316, and Virgil Langford Road

SIZE: +/- 46.87 Acres

PROPOSED DEVELOPMENT: Shopping center with grocery store anchor, commercial retail, restaurant, hotel and compatible uses

The Applicant, Deferred Tax, LLC., hereby amends its application to amend the official zoning map of Oconee County, Georgia heretofore filed by the addition of the attached Exhibit to the original application.

This 15<sup>th</sup> day of January, 2021.

DEFERRED TAX, LLC

By: \_\_\_\_\_

Maxie O. Price, Jr., Manager

### **CONSTITUTIONAL RIGHTS NOTICE**

The portions of the Oconee County Ordinance (the "Ordinance") which classify or may classify the property which is the subject of this Application (the "Property") into any less intensive zoning classification other than as requested by the Applicant, are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph II 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.

The application of the Ordinance as applied to the subject Property, which restricts its use to the present zoning classifications and/or overlay, is unconstitutional, illegal, null and void, constituting a taking of the Applicant's property in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and 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 denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

The Property is presently suitable for development under the B-2 classification as requested by the Applicant, and is not economically suitable for development under the present zoning classifications of Oconee County. A denial of this Application would constitute an arbitrary and capricious act by the Oconee County Board of Commissioners without any rational basis therefor, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Article I, Section I, Paragraph II 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.

A refusal by the Oconee County Board of Commissioners to rezone the Property to the B-2 classification with such conditions as agreed to by the Applicant, so as to permit the only feasible economic use of the Property, would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property 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. Any rezoning of the subject Property to the B-2 classification, subject to conditions which are different from the conditions by which the Applicant may amend its application, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the subject Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

Opponents to the request set forth in the Application, or in any amendments to the Application, have waived their rights to appeal any decision of the Oconee County Board of Commissioners because they lack standing, have failed to exhaust administrative remedies, and/or because they failed to assert any legal or constitutional objections.

Submission of the rezoning application by the Applicant is without prejudice to any and all property interests and vested rights owned and possessed by the Applicant.

Accordingly, the Applicant respectfully requests that the rezoning application submitted by the Applicant relative to the Property be granted and that the Property be rezoned to the zoning classification as shown on the respective application.

This 15th day of January, 2021.

Respectfully submitted,

DEFERRED TAX, LLC

Maxie O. Price, Jr., Manager



**Russell R. McMurry, P.E., Commissioner**  
One Georgia Center  
600 West Peachtree Street, NW  
Atlanta, GA 30308  
(404) 631-1000 Main Office

April 6, 2021

Deferred Tax LLC  
c/o Maxie Price  
1261 Hammond Creek Trail  
Watkinsville, GA 30677

Re: Median Break – Oconee Connector, Oconee County, Georgia  
GDOT Project ID: 0013769

Dear Mr. Price,

Thank you for your letter dated March 17, 2021 regarding the proposed full-access commercial median break and driveways on the Oconee Connector south of GA 316.

This letter confirms that GDOT will honor previous commitments and include the accommodation for a full access commercial median break and driveways in the development of the new interchange at GA 316 and the Oconee Connector. The median break location will be optimized with the design of the project, but it will be near the existing median break.

Please don't hesitate to contact me at 404-631-1004 should you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Meg B. Pirkle". The signature is fluid and cursive, with "Meg" and "B." on the first line and "Pirkle" on the second line.

Meg B. Pirkle, P.E.  
Chief Engineer

cc: Jamie Boswell, State Transportation Board  
Kelvin Mullins, District One Engineer, Gainesville  
Andrew Hoenig, Innovative Delivery  
Russell McMurry, P.E., Commissioner