

ACTION DENYING SPECIAL EXCEPTION VARIANCE REQUEST

APPLICATION SUBMITTED BY: Pittman Engineering

APPLICATION SUBMISSION DATE: March 22, 2021

RE: Request for a Special Exception Variance on a ±2.37-acre tract of land located at 1975 Hog Mountain Road in the 221st G.M.D., Oconee County, Georgia, (tax parcel no. B-06-007IB), to waive the requirement for a 50-foot incompatible land use buffer.

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

This 1st day of June, 2021.

OCONEE COUNTY BOARD OF COMMISSIONERS

BY:

John Daniell, Chairman

Mark Thomas, Member

Chuck Horton, Member

Amrey Harden, Member

Mark Saxon, Member

ATTEST:

Abey Stinson

Clerk, Board of Commissioners



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

VARIANCE CASE #: P21-0057

DATE: May 21, 2021

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

APPLICANT NAME: Pittman Engineering

PROPERTY OWNERS: 1973 Hog Mountain Road, LLC

LOCATION: 1975 Hog Mountain Road

PARCEL SIZE: ± 2.37 acres

EXISTING ZONING: B-2 (Highway Business District)

EXISTING LAND USE: Vacant

TYPE OF VARIANCE REQUESTED: Special Exception
Variance

REQUEST SUMMARY: The property owner is requesting a variance from UDC Sec. 806 and UDC Table 8.1 to waive the requirement for a 50-foot incompatible land use buffer. The variance request is accompanied by special use #P21-0056 for approval of modular buildings to be used in a commercial development.

DATE OF SCHEDULED HEARINGS

BOARD OF COMMISSIONERS: June 1, 2021

ATTACHMENTS:

- Application
- Narrative
- Plat
- Aerial Imagery
- Zoning Map
- Future Development Map
- Concept Plan



BACKGROUND INFORMATION & FINDINGS OF FACT

HISTORY

- The property was rezoned from AG to B-2 on 10/02/1972; no conditions or concept plan are associated with this rezone

VARIANCE DESCRIPTION

- The applicant is requesting to waive the requirement for a 50-foot incompatible land use buffer on the rear property line as shown on the concept plan.
 - **UDC Section 806 – Buffers; where required.**
A buffer meeting or exceeding the following widths shall be required between any multi-family or nonresidential development project along a side or rear lot line that abuts a less intense land use, as follows:

Table 8.1: Situations Where Buffer Required					
	① Provide a buffer on the lot of this use				
② Along a side or rear lot line next to this less intense use or zoning	1- or 2-Family Residence	Multi-Family	Office or Institutional	Commercial	Industrial
AG Agricultural land, or Active Agricultural use in any zoning district	N/A ¹	15 feet ¹	15 feet	15 feet	25 feet
1- or 2-Family Residential ²	None	25 feet	25 feet	50 feet	100 feet
Multi-Family Residential	None	None	25 feet	25 feet	50 feet
Office, Institutional, Commercial or Industrial	None	None	None	None	None

¹ See separation requirements for certain uses in Article 3.
² Includes any land zoned AR-3, AR, R-1 or R-2, and any 1- or 2-Family Residential use zoned AG or R-3.

PUBLIC FACILITIES

- County services, facilities, and infrastructure should not be affected by the present request.

ENVIRONMENTAL

- No 100-year floodplain, state waters, or jurisdictional wetland areas are known to exist on the site.

STAFF ANALYSIS

THE ANALYSIS OF THE APPLICATION IS MADE BASED UPON THE “STANDARDS FOR SPECIAL EXCEPTION VARIANCE APPROVAL” AS SET FORTH IN SECTION 1303.03 OF THE OCONEE COUNTY UNIFIED DEVELOPMENT CODE.

Special exception variances may be granted upon findings that if granted, the relief will not cause an occurrence of any of the following:

a. **Cause a substantial detriment to the public good:**

No significant negative impact to the tax base or to nearby public infrastructure, schools, or environmentally sensitive areas should result from approval of the present request. Staff holds that approval of the present request should not cause any substantial detriment to the public good.

b. **Be injurious to the use and enjoyment of the environment or of other property in the immediate vicinity:**

The adjacent property to the east is zoned single-family residential and development of a residential subdivision is currently in progress. Staff holds that inadequate screening resulting from waiving the buffer requirement could be injurious to the use and enjoyment of the environment or of other properties in the immediate vicinity.

c. **Diminish and impair property values within the surrounding neighborhood:**

It is possible that waiving the required landscape buffer could impair the property values of residences located in adjacent Village of Stonebridge Subdivision by diminishing the residential properties' privacy and protection from negative impacts of commercial activities such as noise or light pollution.

d. **Impair the purpose and intent of this Development Code:**

The intent of UDC Section 806 is to protect lower intensity land uses from potential negative impacts of adjacent higher intensity land uses. Staff holds that waiving the required landscape buffer is likely to negatively impact the adjacent residential properties because it would put single-family residential properties in proximity to commercial activities such as food sales, retail, and recreational fields without any privacy or protections from negative impacts of said commercial activities. Granting the present request would therefore impair the purpose and intent of this Development Code.

STAFF RECOMMENDATION & CONDITIONAL RECOMMENDATIONS

Based upon the standards and limitations for special exception variance approval, this request **does not meet all necessary conditions** to grant a special exception variance. Should the present request be approved, staff recommends the following conditions to be fulfilled at the owner/developer's expense.

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 variance application and attached hereto. This condition shall not construe approval of any standard that is not in conformity with the Unified Development Code.
2. A 25-foot-wide vegetated incompatible use buffer meeting the standards of UDC Sec. 808.4.b shall be installed along the rear property line adjacent to the Village of Stonebridge Subdivision.
3. A six-foot-tall opaque fence shall be installed along the rear property line adjacent to residential use.

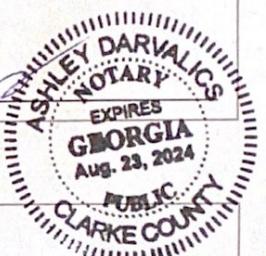


OCONEE COUNTY APPEAL APPLICATION

Type of Appeal Submitted:

Hardship Variance Appeal of Administrative Decision Flood Damage Prevention Variance

Special Exception for: a reduction of required landscape buffer between adjacent uses

ApplicantName: Frank Pittman, Pittman Engineering PCAddress: 1020 Barber Creek Drive, Suite 113
(No P.O. Boxes)
Watkinsville GA 30677Telephone: 706-340-5599Email: fpittman@pittmanengineer.com**Applicant is** (check one): the Property Owner Not the Property Owner (attach Property Owner's Authorization)**Applicant's Certification:** I hereby certify that the information contained in and attached to this application is true and correct.Signature: F. PittmanDate: 11/18/2020Notarized: ASHLEY DARVALICS**Property**Location: 1975 Hog Mountain Road

Watkinsville GA 30677

Tax Parcel Number: B 06 0071BSize (Acres): 2.37 Current Zoning: B-2Future Development Map—Character Area Designation: Civic Center**Use**Current Use: undevelopedProposed Use: community park with food sales**Attachments** (check all that apply)

Property Owner's Authorization (if applicable)
 Application Fee
 Warranty Deed(s), Legal Description, & Plat of Survey
 Disclosures
 Maps or Drawings Illustrating Variance Request
 Narrative Statement Explaining Variance Request
 Concept Plan

Appeal or Variance Requested*Provide the code section and briefly explain the requested variance*

Special Exception Variance from
UDC Section 806 - Buffers,
where required. Request is
to vary from 50' to 0' buffer
along residential property.

1975 HOG MOUNTAIN ROAD

SPECIAL EXCEPTION VARIANCE SUBMITTED 11/23/2020

INTRODUCTION

Property Address: 1975 HOG MOUNTAIN ROAD – Parcel B 06 007IB

Owner: 1973 HOG MOUNTAIN ROAD LLC

Existing Zoning: B-2

Proposed Variance Type: Special Exception Variance

Existing Use: undeveloped

Proposed Use: Community Park with Food Sales

Property Area: 2.37 acres

VARIANCE REQUEST NARRATIVE

A Special Exception Variance that is being requested to vary from *UDC Section 806 – Buffers; where required*. The request is to vary from the UDC required 50 foot buffer along the rear of the property to 0 feet (as shown on table 8.1).

1973 Hog Mountain Road LLC is the owner of the parcel at 1975 Hog Mountain Road, having purchased the property in 2016. When the owner purchased the property there was no requirement for a buffer along the rear (Eastern) boundary of the property as the adjacent property to the east was zoned B-1 and OIP at that time and those are compatible uses to the subject B-2 parcel. In late 2017, the adjacent property owner downzoned their parcel from B-1 and OIP to R-1, thus creating a requirement for a 50 foot buffer along the eastern property line of the subject B-2 property along the R-1 parcel. This buffer requirement was placed on the subject property completely due to the desire of the adjacent property owner to downzone their property. By downzoning their property it has caused substantial damage to the subject property owner by taking away 0.55 acres of developable commercial property (477 LF x 50' wide) which is 23% of the entire tract. On top of this loss of property, the cost to install the 50' buffer would be approximately \$35,000. All of this loss was created not by the property owner nor a change in the UDC but by a decision of the adjacent property owner. The request is that the now required 50' buffer be varied to the original 0' buffer that was in place when the owner purchased the property and that the property owner not be damaged by decisions and actions of the adjacent property owner.

The proposed use of the subject property at this time is for a community park with play field, pavilion, and food sales building. The property could be developed into a more intense use down the road under its B-2 zoning but the request is for the buffer requirement be varied to 0' regardless of the use of the property as this is what the buffer was before the actions of the adjacent property owner.

ADJACENT PROPERTIES

Properties to the north, south, and west of the subject parcel are all zoned B-2 and all currently developed including a daycare center, convenience store, 2 strip centers, and a tire store. The parcel to the east is zoned R-1 and is the parcel described above that was formerly zoned B-1 and OIP. At this time there are no homes built on the property to the east.

CONCLUSION

We feel like the request for a Special Exceptions Variance should be granted as the buffer requirement placed on the subject property is the result of actions taken by the adjacent property owner and not by actions of the subject owner nor any change to UDC requirements.

Variance # P21-0057 - 1973 Hog Mountain Road, LLC

Tax Parcel #
B-06-007IB
B-06-007I

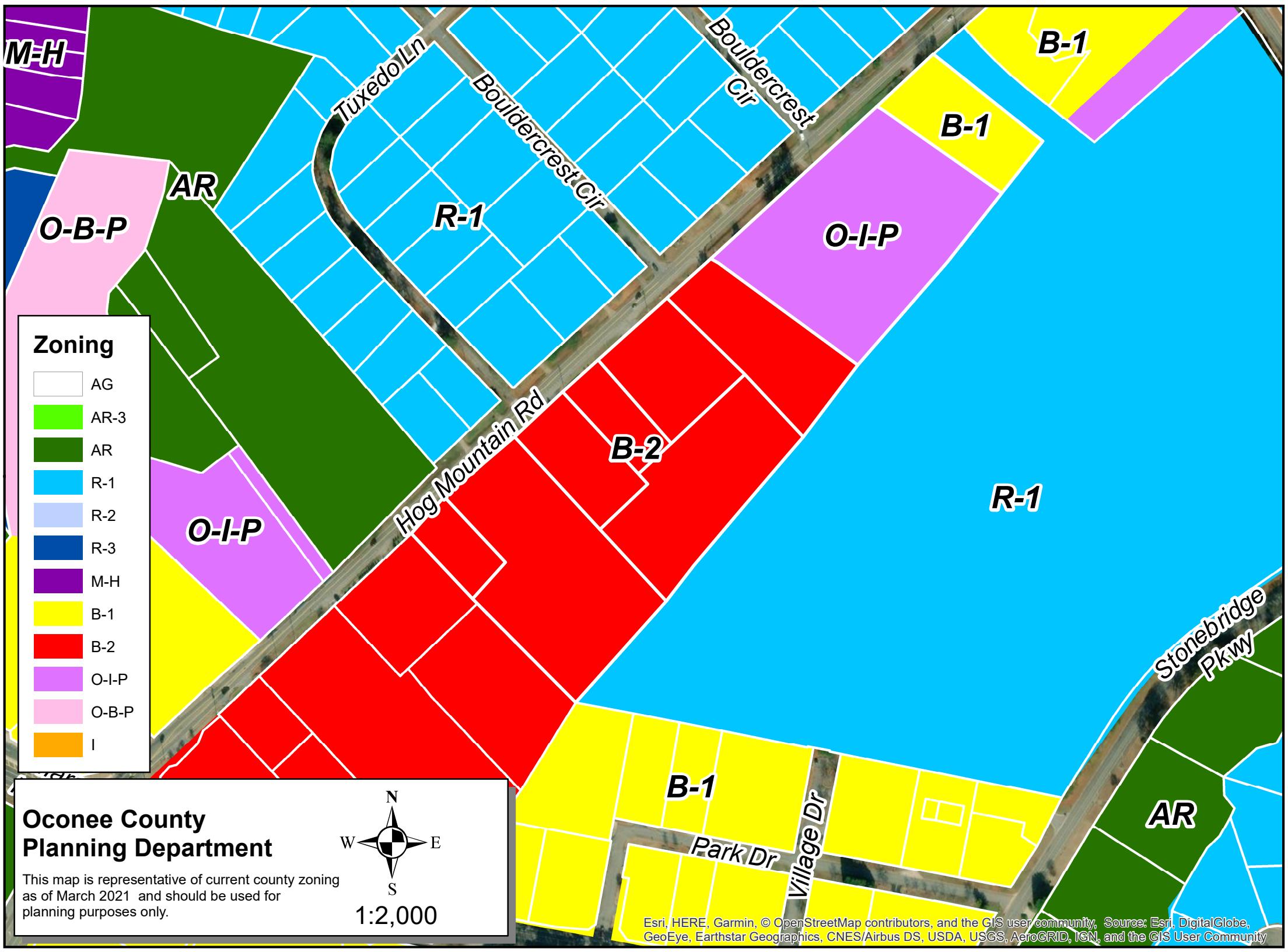


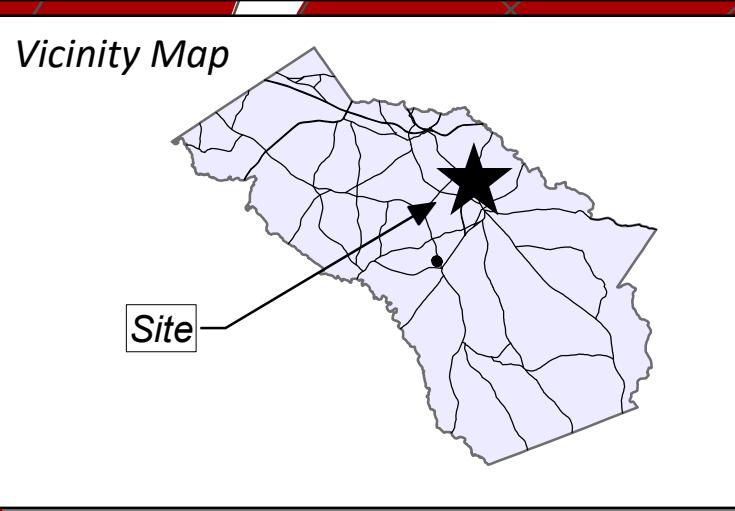
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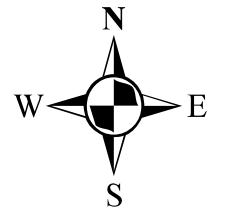
Feet







Oconee County Planning Department



This map is a representation of the future development map
and should be used for planning purposes only

