

**APPROVAL OF A SPECIAL EXCEPTION VARIANCE
FROM THE UNIFIED DEVELOPMENT CODE OF OCONEE COUNTY, GEORGIA**

TITLE

A Resolution granting approval of a Special Exception Variance based upon the allowances under the Unified Development Code of Oconee County, Georgia, pursuant to Article 13, Section 1303, to grant approval of a Special Exception Variance pursuant to an application requesting approval of a Special Exception Variance on property owned by Mike and Nona Thornton submitted on May 24, 2021.

ENACTMENT CLAUSE

Pursuant to the authority conferred by the Constitution and Laws of the State of Georgia and after consideration of an application requesting Special Exception Variance approval submitted by Mike Thornton on May 24, 2021 regarding a ±0.59 acre tract of land located at 1060 Hog Mountain Road in the 221st G.M.D., Oconee County, Georgia, (tax parcel no. C-02-079A), the Board of Commissioners of Oconee County does hereby grant the following:

SECTION 1. A Resolution granting Special Exception Variance approval for the property described above and also described in the attached Exhibit "A" is hereby granted to reduce the required 50-foot incompatible land use buffer.

Said Special Exception Variance is subject to the following conditions: as set forth in "Exhibit A" attached hereto.

SECTION 2. Severability. It is intended that the provisions of this Ordinance be severable and should any portion be held invalid, such invalidity shall not affect any other portion of the Ordinance.

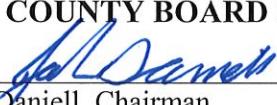
SECTION 3. Effective Date. This Resolution shall take effect this date.

Said Special Exception Variance application was submitted to the Oconee County Board of Commissioners and a Public Hearing was duly held by the same at its regular meeting on August 3, 2021.

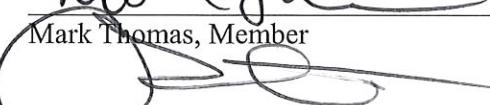
ADOPTED AND APPROVED, this 3rd day of August, 2021.

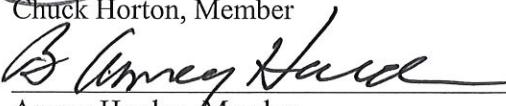
OCONEE COUNTY BOARD OF COMMISSIONERS

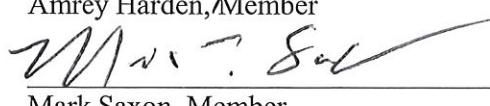
BY:


John Daniell, Chairman


Mark Thomas, Member


Chuck Horton, Member


Amrey Harden, Member


Mark Saxon, Member

ATTEST:


Holly Stephenson, Board of Commissioners

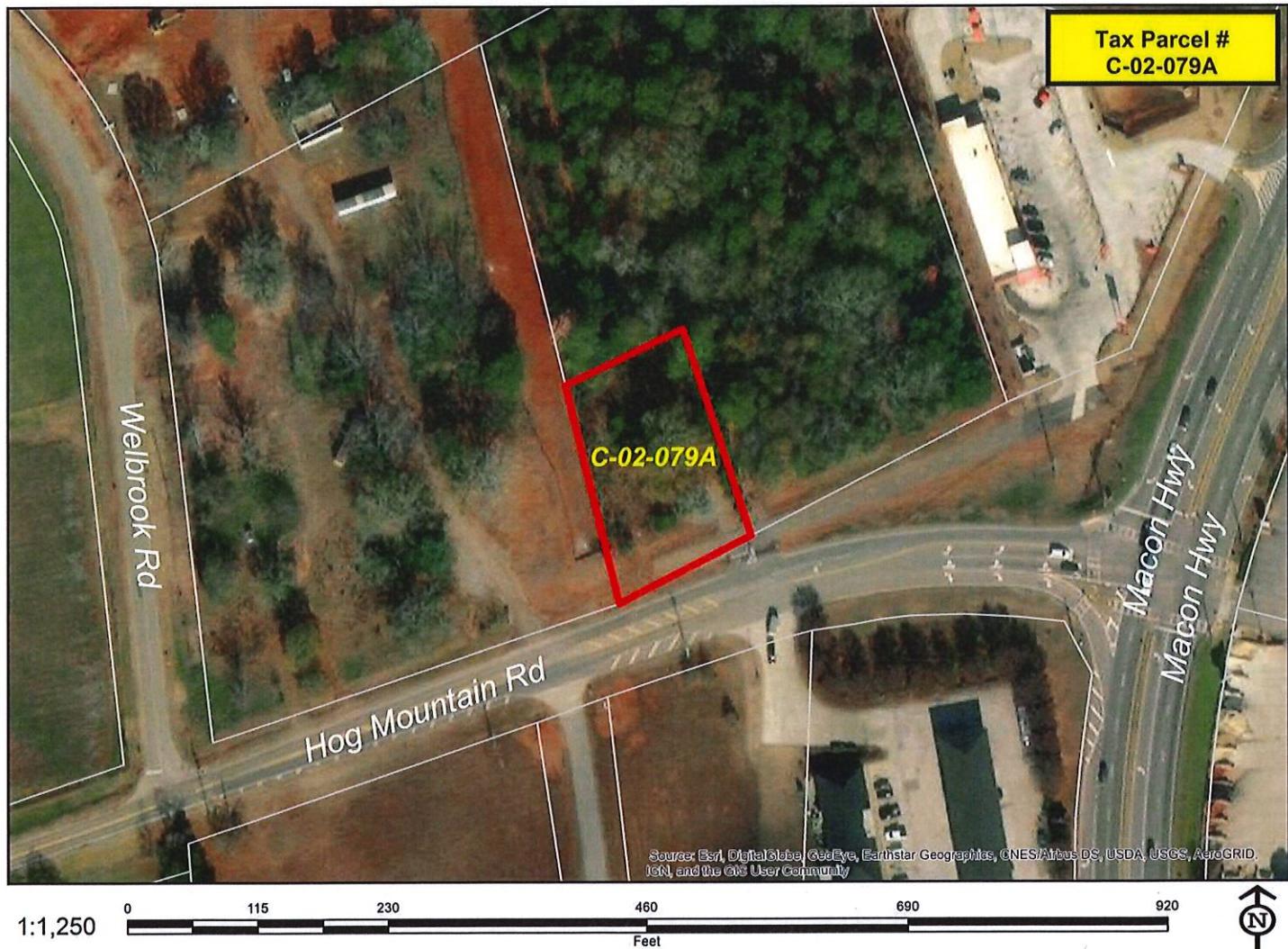
EXHIBIT "A" TO SPECIAL EXCEPTION VARIANCE NO. P21-0111
Page 1 of 4

CONDITIONS

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. The required incompatible use buffers shall be reduced to 12 feet along the side lot lines and to 15 feet along the rear lot line as shown on the associated concept plan.

TAX MAP

Variance # P21-0111 - Mike Thornton



NARRATIVE

Special Exception Variance for 1060 Hog Mountain Road

The owner of parcel C 02 079A located at 1060 Hog Mountain Road is requesting a special exception variance to reduce the 50 ft required buffer per UDC Section 806, Table 8.1. The special exception requested is for a reduction in the required 50 ft buffers to develop a proposed restaurant with drive through facility. This buffer reduction is requested as allowed under UDC Section 810 "Waiver or Reduction of Unnecessary Buffers". Stated below are some of the reasons for this request:

1. The parcel size and shape do not allow for the implementation of the full buffer required. Applying 50 ft buffers along the west, north and east would reduce the area of this lot to less than 6,000 sq ft of developable area.
2. The comprehensive plan anticipates future development on the adjoining property in the Civic Center Character area that would reduce the zoning buffer required to far below the proposed reduction shown in this request.
3. The adjacent parcel to the west is zoned AR-1 and was purchased by Westminster Presbyterian Homes in 2016. This parcel was used for construction access and well as the construction of sanitary sewer facilities during the construction of the Presbyterian Homes development.
4. The adjacent parcel to the north and east has been vacant with an unoccupied structure for several years.
5. The proposed 15 ft landscape buffer along the north / rear of the parcel and the proposed 12 ft landscape buffer along the west and east / side of the parcel are adequate to protect the health, safety and general welfare of the public.

The layout provided in the concept plan includes an opaque fence in the area of the reduced buffers as well as a mix of evergreen and deciduous trees to be installed along the property boundary.

This special exception variance for 1060 Hog Mountain Road is being submitted concurrent with a request to rezone this parcel from AR-1 to B-2 for the purpose of the proposed drive through restaurant facility as shown on the concept plan.

No objection from adjoining property owners to this buffer reduction request is anticipated.

EXHIBIT "A" TO SPECIAL EXCEPTION VARIANCE NO. P21-0111
Page 3 of 4

PLAT

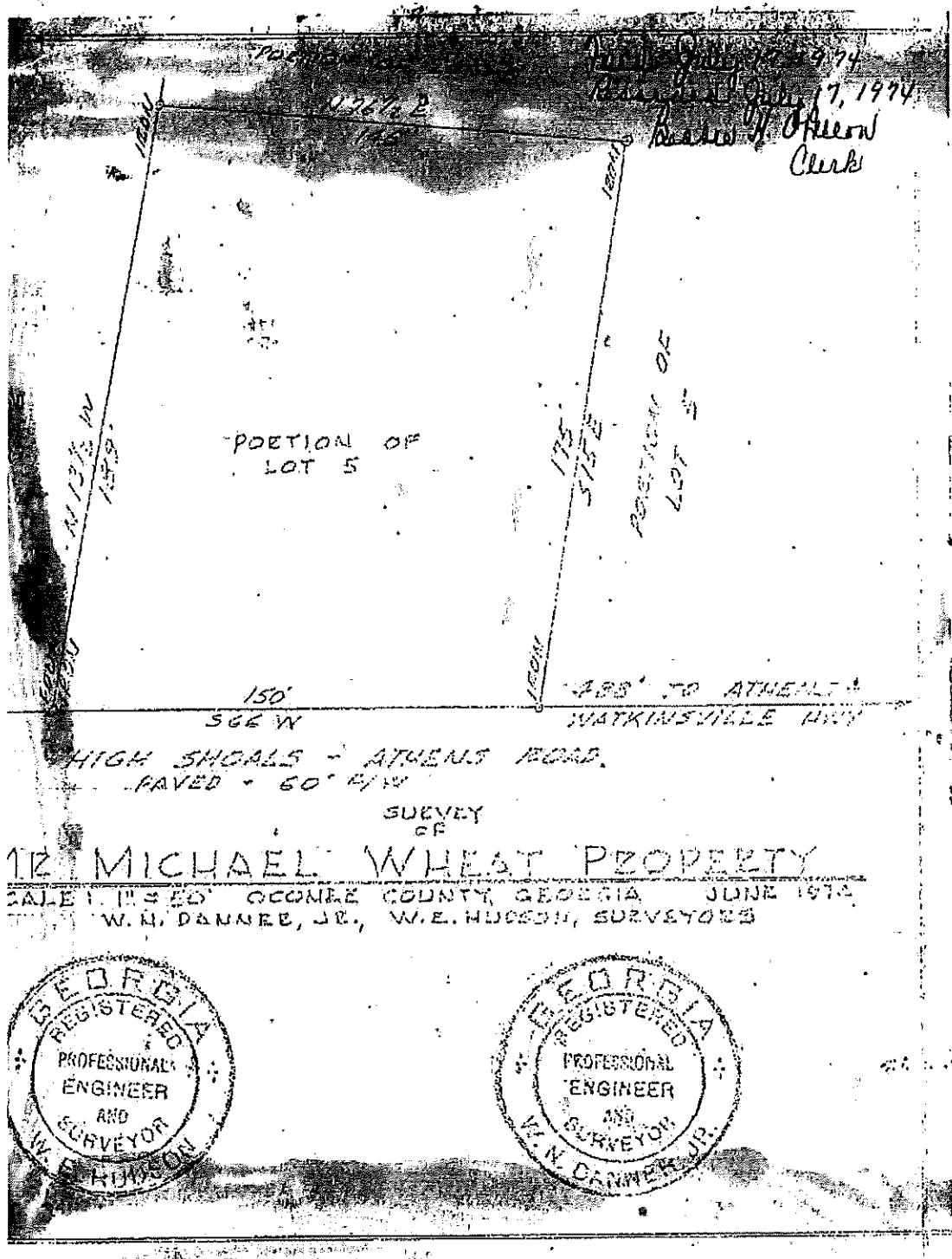
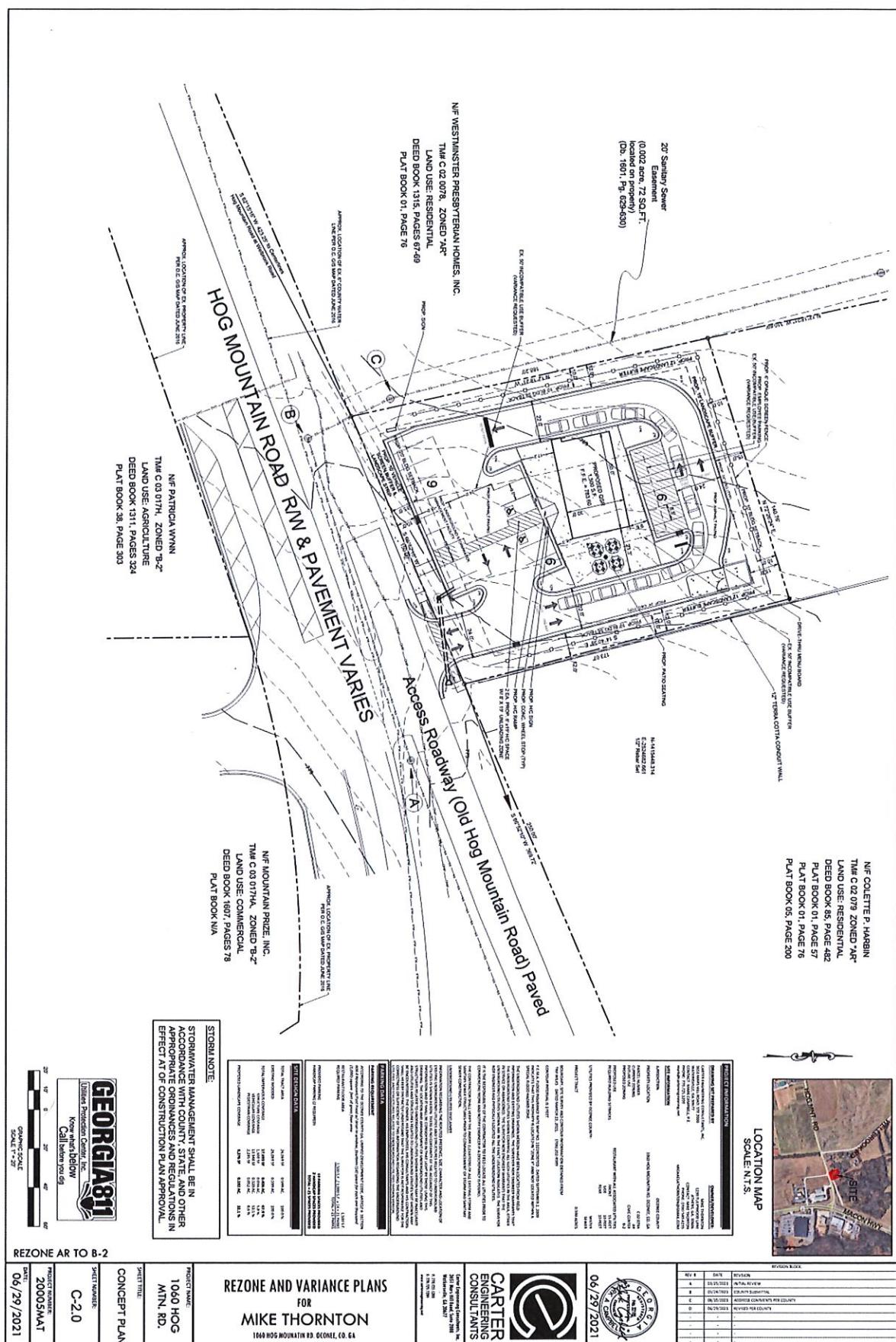


EXHIBIT "A" TO SPECIAL EXCEPTION VARIANCE NO. P21-0111
Page 4 of 4

CONCEPT PLAN





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

VARIANCE CASE #: P21-0111

DATE: July 23, 2021

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

APPLICANT NAME: Mike Thornton

PROPERTY OWNERS: Mike Thornton

LOCATION: 1060 Hog Mountain Road

PARCEL SIZE: ± 0.59 acres

EXISTING ZONING: AR (Agricultural Residential District)

EXISTING LAND USE: Undeveloped

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 reduce the required 50-foot incompatible land use buffer. The variance request is accompanied by rezone #P21-0110 to rezone the property from AR (Agricultural Residential District) to B-2 (Highway Business District) for a drive-through restaurant.

DATE OF SCHEDULED HEARINGS

BOARD OF COMMISSIONERS: August 3, 2021

ATTACHMENTS:

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



BACKGROUND INFORMATION & FINDINGS OF FACT

HISTORY

- The property has been zoned AR since the original adoption of the zoning map in 1968.

VARIANCE DESCRIPTION

- The applicant is requesting to reduce the 50-foot incompatible land use buffer to 12 feet along the side lot lines and to 15 feet along the rear lot 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 surrounding properties are zoned Highway Business District (B-2) and Agricultural Residential (AR). Although the property towards the northeast has a single-family home, the existing home has been vacant for a long period of time and the existing vegetation should provide adequate screening if the property resumes residential use in the future. In addition, the applicant is proposing a 15-foot landscape buffer along the rear and 12-foot landscape buffers along the side yards, which will add more screening. Therefore, waiving the buffer requirements should not be injurious to the use and enjoyment of the environment or other properties in the immediate vicinity.

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

Staff holds that it is unlikely that reducing the required incompatible use buffer would impair the property values of the adjacent properties because the existing vegetation and proposed landscape buffer should protect adjacent properties from the negative impacts of commercial activities.

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 reducing the required incompatible use buffer is unlikely to negatively impact the adjacent residential property because the existing vegetation and proposed landscape buffer will provide adequate privacy and protection from the negative impacts of commercial activities. Staff also notes that adjacent properties are unlikely to be used for residential development in the future, given their location within the Civic Center Character Area and proximity to a commercial node at Hog Mountain Road and Macon Highway. Staff holds that granting the present request should not 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 meet all necessary conditions** to grant a special exception variance. Should the present request be approved, staff recommends the following condition 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. The required incompatible use buffers shall be reduced to 12 feet along the side lot lines and to 15 feet along the rear lot line as shown on the associated concept plan.



OCONEE COUNTY APPEAL APPLICATION

Type of Appeal Submitted:

Hardship Variance Appeal of Administrative Decision Flood Damage Prevention Variance
 Special Exception for: LANDSCAPE BUFFERS ON THE SIDES AND REAR OF PROPERTY

ApplicantName: MIKE THORNTONAddress: 1230 TULIPWOOD LANE

(No P.O. Boxes)

ATHENS GA, 30606Telephone: (706) 540-4235Email: michaelathornton@gmail.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: Mike ThorntonDate: 06/10/2021 Notarized: Severn Perry

A handwritten signature of "Severn Perry" over a printed notary seal that reads "NOTARY PUBLIC" and "Clarke County, GEORGIA".

My Commission Expires 01/01/2024

PropertyLocation: 1060 HOG MOUNTAIN RDOCONEE COUNTY, GATax Parcel Number: C 02 079ASize (Acres): 0.599 Current Zoning: ARFuture Development Map—Character Area Designation: CIVIC CENTER**Property Owner**Name: MIKE THORNTONAddress: 1230 TULIPWOOD LANE

(No P.O. Boxes)

ATHENS, GA 30606Telephone: (706) 540-4235**Use**Current Use: VACANT LOTProposed Use: RESTAURANT WITH DRIVE THRU**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*

VARIANCE TO REDUCE THE 50 FT REQUIRED BUFFER
PER UDC SECTION 806, TABLE 8.1

Narrative

Special Exception Variance for 1060 Hog Mountain Road

The owner of parcel C 02 079A located at 1060 Hog Mountain Road is requesting a special exception variance to reduce the 50 ft required buffer per UDC Section 806, Table 8.1. The special exception requested is for a reduction in the required 50 ft buffers to develop a proposed restaurant with drive through facility. This buffer reduction is requested as allowed under UDC Section 810 "Waiver or Reduction of Unnecessary Buffers". Stated below are some of the reasons for this request:

1. The parcel size and shape do not allow for the implementation of the full buffer required. Applying 50 ft buffers along the west, north and east would reduce the area of this lot to less than 6,000 sq ft of developable area.
2. The comprehensive plan anticipates future development on the adjoining property in the Civic Center Character area that would reduce the zoning buffer required to far below the proposed reduction shown in this request.
3. The adjacent parcel to the west, Parcel C 02 078, is zoned AR and was purchased by Westminster Presbyterian Homes in 2016. This parcel was used for construction access and well as the construction of sanitary sewer facilities during the construction of the Presbyterian Homes development.
4. The adjacent parcel to the north and east is a single parcel, Parcel C 02 079, zoned AR has been vacant with an unoccupied structure for several years.
5. The proposed 15 ft landscape buffer along the north / rear of the parcel and the proposed 12 ft landscape buffers along the west and east / side of the parcel are adequate to protect the health, safety and general welfare of the public.

The layout provided in the concept plan includes an opaque fence in the area of the reduced buffers as well as a mix of evergreen and deciduous trees to be installed along the property boundary.

This special exception variance for 1060 Hog Mountain Road is being submitted concurrent with a request to rezone this parcel from AR to B-2 for the purpose of the proposed drive through restaurant facility as shown on the concept plan.

No objection from adjoining property owners to this buffer reduction request is anticipated.

MR. MICHAEL WHEAT PROJECT
MAIL: 111-65, OCONEE COUNTY, GEORGIA
W.M. DANAHER, W.E. HUGESON, SUPERVISORS
JUNE 1974

THE MICHAEL WHART PROPOSAL

M 995
.051

5 LOT 5
100 POETICAL



Variance # P21-0111 - Mike Thornton

Tax Parcel #
C-02-079A

Welbrook Rd

Hog Mountain Rd

Macon Hwy

C-02-079A

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

1:1,250

0

115

230

460

690

920

Feet



O-I-P

Welbrook Rd

B-2

Zoning

AG
AR-3
AR
R-1
R-2
R-3
M-H
B-1
B-2
O-I-P
O-B-P
I

AR

Hog Mountain Rd

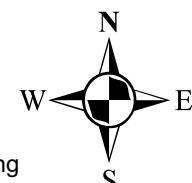
Macon Hwy

Macon Hwy

I

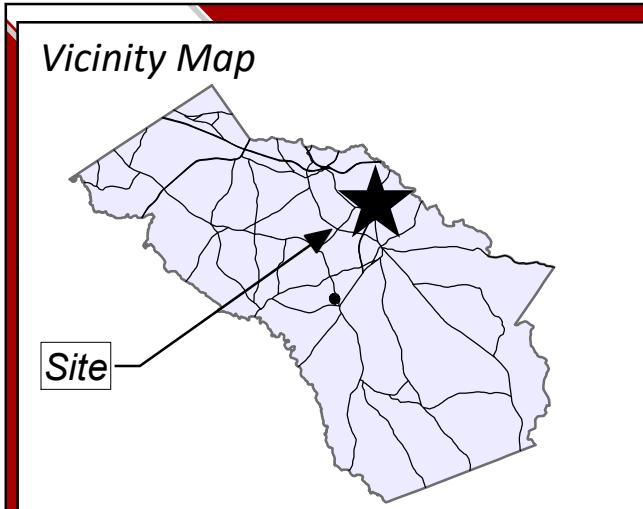
**Oconee County
Planning Department**

This map is representative of current county zoning as of March 2021 and should be used for planning purposes only.



1:2,000

B-2



Oconee County Planning Department



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

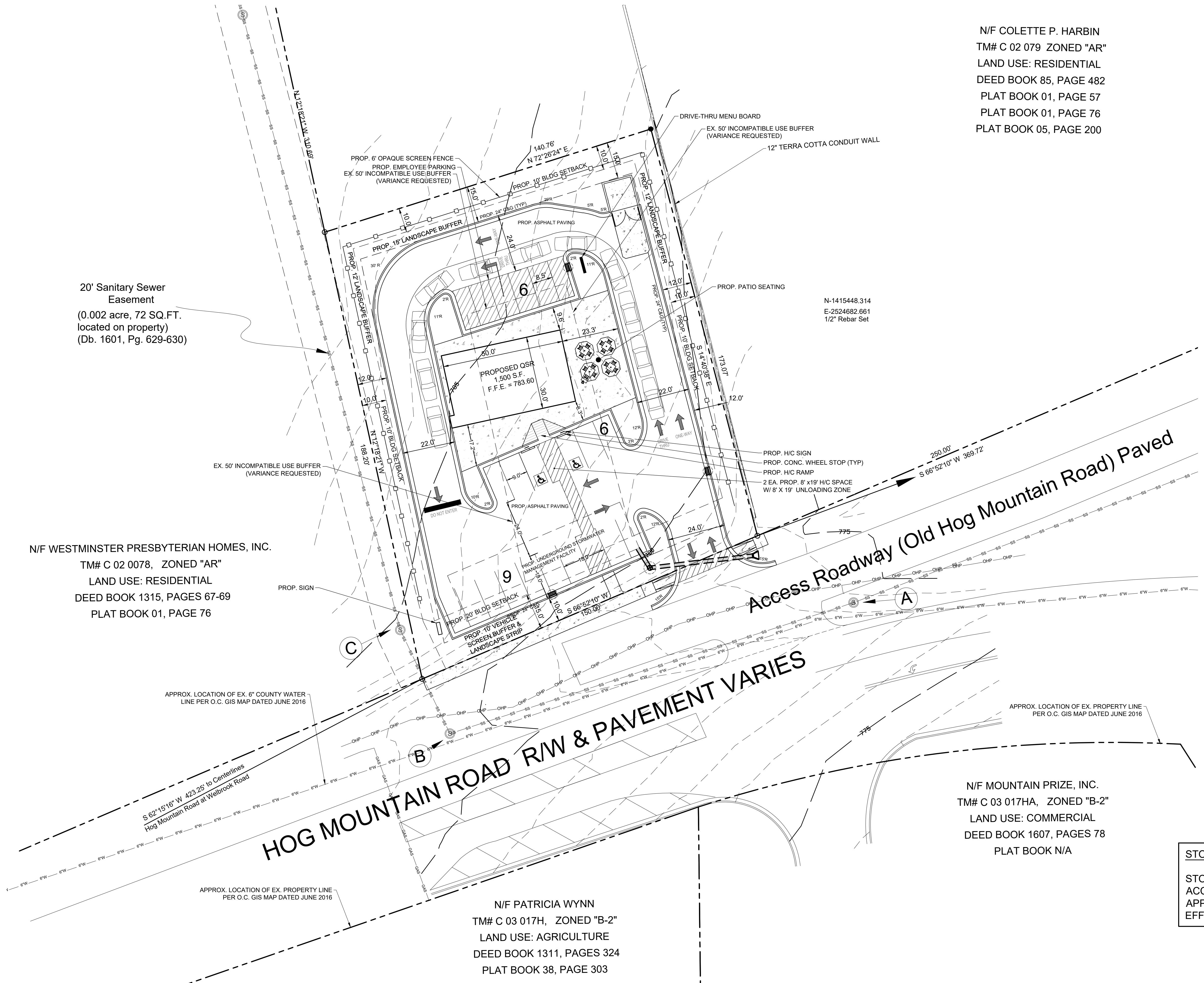


Civic Center

Welbrook Rd

Hog Mountain Rd

Macon Hwy
Macon Hwy



N/F COLETTE P. HARBIN
TM# C 02 079 ZONED "AR"
LAND USE: RESIDENTIAL
DEED BOOK 85, PAGE 482
PLAT BOOK 01, PAGE 57
PLAT BOOK 01, PAGE 76
PLAT BOOK 05, PAGE 200



LOCATION MAP

SCALE: N.T.S.

PROJECT INFORMATION	
<u>DRAWING SET PREPARED BY</u>	<u>OWNER/DEVELOPER:</u>
CARTER ENGINEERING CONSULTANTS, INC. 3651 MARS HILL ROAD, STE 2000 WATKINSVILLE, GA 30677 CONTACT: MARK CAMPBELL, P.E. PHONE: 706.542.1000	MIKE THORNTON 1230 TULIPWOOD LANE ATHENS, GA. 30606 CONTACT: MIKE THORTON



06/29/2021



CARTER ENGINEERING CONSULTANTS

Carter Engineering Consultants, Inc.
3651 Mars Hill Road, Suite 2000
Watkinsville, GA 30677

P: 770.725.1200
F: 770.725.1204
www.carterengineering.net

**REZONE AND VARIANCE PLANS
FOR
MIKE THORNTON
1060 HOG MOUNTAIN RD. OCONEE, CO. GA**

PROJECT NAME:
1060 HOG

WIR. RD.

SHEET NUMBER:

C-2.0

DATE:

08/29/2021

The logo for Georgia 811 is displayed in a large, bold, black font. The word "GEORGIA" is stacked on top of "811". Below the main text, the words "Utilities Protection Center, Inc." are written in a smaller, black, sans-serif font. To the right of the text, there is a stylized illustration of a shovel with a dotted pattern on its head, resting on a base that looks like a plowed field.

SCALE 1" = 20'

GRAPHIC SCALE

SCALE 1" = 20'

