

ACTION DENYING HARDSHIP VARIANCE REQUEST

APPLICATION SUBMITTED BY: Michael J. Brutz

APPLICATION SUBMISSION DATE: September 13, 2022

RE: Request for a Hardship Variance on a ±3.50-acre tract of land located at 1047 Summit Grove Drive in the 221st G.M.D., Oconee County, Georgia, (tax parcel no. B-06-029C), to reduce the required 25-foot of spacing between large trees and to allow planted materials less than 4 feet from the public right-of-way.

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

This 13th day of September, 2022.

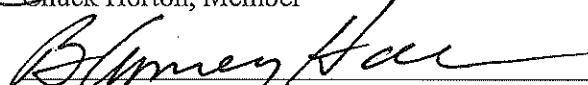
OCONEE COUNTY BOARD OF COMMISSIONERS

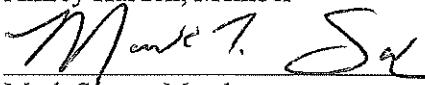
BY:


John Daniell, Chairman


Mark Thomas, Member


Chuck Horton, Member


Amrey Harden, Member


Mark Saxon, Member

ATTEST:

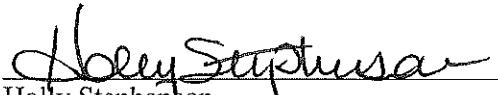

Holly Stephenson
Clerk, Board of Commissioners

EXHIBIT "A" TO HARDSHIP VARIANCE NO. P22-0119

Page 1 of 4

TAX MAP



LEGAL DESCRIPTION

All that certain tract or parcel of land, lying and being in the 221st G.M.D. of Oconee County, Georgia, containing 3.512 acres and being more fully described as follows:

Commencing at an CMF (Concrete Monument Found) at the intersection of the Northern Right-of-Way of North Main Street (Macon Hwy.) and the Eastern Right-of-Way of the Veterans Memorial Parkway, Said point being the POINT OF BEGINNING;

Thence along said Right-of-Way of the Eastern Right-of-Way of the Veterans Memorial Parkway N 27°55'47" E a distance of 166.33' to an IPS;

Thence leaving said Right-of-Way N 89°29'32" E a distance of 387.59' to an IPS on the Western Right-of-Way of Summit Grove Drive;

Thence along said Right-of-Way S 02°01'15" E a distance of 42.18' to a CMF;

Thence S 02°09'28" E a distance of 145.83' to a CMF;

Thence with a curve turning to the right with an arc length of 220.48', with a radius of 407.46', with a chord bearing of S 13°25'35" W, with a chord length of 217.80', to a CMF;

Thence S 75°15'25" W a distance of 81.37' to a CMF at the intersection of the Western Right-of-Way of Summit Grove Drive and the Northern Right-of-Way of North Main Street (Macon Hwy.);

Thence with a curve turning to the left with an arc length of 61.92', with a radius of 761.62', with a chord bearing of N 59°50'54" W, with a chord length of 61.91', to a CMF;

Thence N 62°01'07" W a distance of 298.38' to an IPF (#4 Rebar);

Thence N 14°48'37" W a distance of 102.35' to the POINT OF BEGINNING;

The above described property is more particularly shown according to a survey by Smith Planning Group (Aaron P. Blomberg, GA PLS #3100), dated July 23, 2020, entitled "Survey for Jacobs Properties, LLP".

EXHIBIT "A" TO HARDSHIP VARIANCE NO. P22-0119

Page 2 of 4

NARRATIVE

BARNESVILLE DEVELOPMENT CORPORATION
101 COMMERCE PLACE
SUITE 2
BARNESVILLE, GA 30204
(770) 468-0939

June 27, 2022

To: Monica
Fr: Mike Brutz
Re: BDC Special Exception/Hardship Variance Updated Narrative

Monica,

Per your request I have updated the narrative portion of the application.

We are seeking minor relief from Code Section 805 Landscape Strips. The Office Park is located at 1047 Summit Grove Drive, Watkinsville, GA and consists of 3.512 acres. The subject property was rezoned last year to its current zoning of OIP. The existing use of the property is for general office space. Currently the Georgia Department of Revenue occupies the first building (Number 100) consisting of approximately 10,000 sq. ft. Building 200 is currently under construction and will be approximately 6,500 sq. ft. Two of the three units in Building 200 are leased. One unit is leased to a company that consults with the medical profession on supply matters and the other to a company that works with the State of Georgia to provide state required classes for DUI and other motor vehicle related cases. It is anticipated that future tenants will consist of similar general office uses (for example, attorneys, CPA's, Insurance agents, financial consultants, etc.).

The main issue is that several trees are either less than the required four feet from the right of way or are slightly less than the required twenty-five feet apart. In no case do any of the existing trees exceed a few feet from the requirement. I have discussed relocating the trees with Southeastern Growers in Farmington who supplied and installed the trees and was informed that relocating the offending trees at this stage in their growth cycle would kill the trees.

Regarding the trees along the right of way the Applicant submits that the spacing meets the INTENT of the code section. Specifically, the intended purpose of the code is to assure that the trees are not located too close to the existing roadway (Summit Grove Drive). The concept being that when the trees eventually mature to their full size, they did not want them too close to the pavement in the event a motorist veered off the road causing a collision with a large tree. A visual inspection of the site will reveal the trees are more than forty feet from the pavement. This is due mainly to the fact that Summit Grove Drive was formerly S.R. 41 and the GDOT has a wide right of way. When the four-lane improvement to SR 441 was completed "Old S.R. 41" became Summit Grove Drive and a dead end was constructed leaving an unusually wide right of way.

Respectfully Submitted,

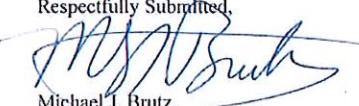

Michael J. Brutz,
President of Barnesville Development Corporation
Applicant

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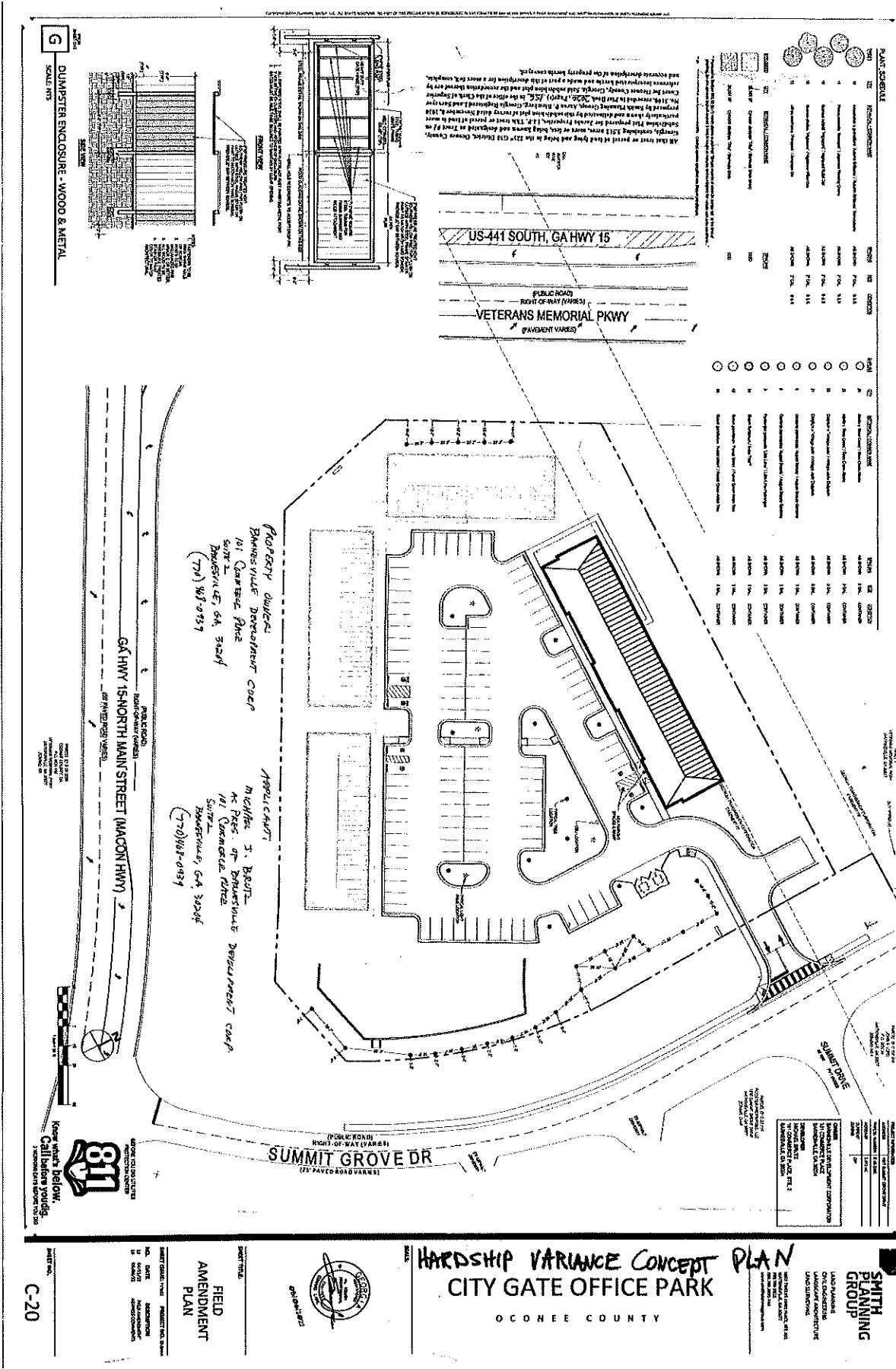
Page 3 of 4

PLAT

EXHIBIT "A" TO HARSHIP VARIANCE NO. P22-0119

Page 4 of 4

CONCEPT PLAN





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

VARIANCE CASE #: P22-0119

DATE: September 2, 2022

STAFF REPORT BY: Guy Herring, Planning Director
Monica Davis, Planner

APPLICANT NAME: Michael J. Brutz

PROPERTY OWNER: Barnesville Development Corp.

LOCATION: 1047 Summit Grove Drive

PARCEL SIZE: ± 3.5 acres

EXISTING ZONING: OIP (Office Institutional Professional District)

EXISTING LAND USE: Office and medical business park



TYPE OF VARIANCE REQUESTED: Hardship Variance

REQUEST SUMMARY: The property owner is requesting a hardship variance to reduce the required 25-foot of spacing between large trees and to allow planted materials less than 4 feet from the public right-of-way

DATE OF SCHEDULED HEARINGS

BOARD OF COMMISSIONERS: September 13, 2022

ATTACHMENTS:

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



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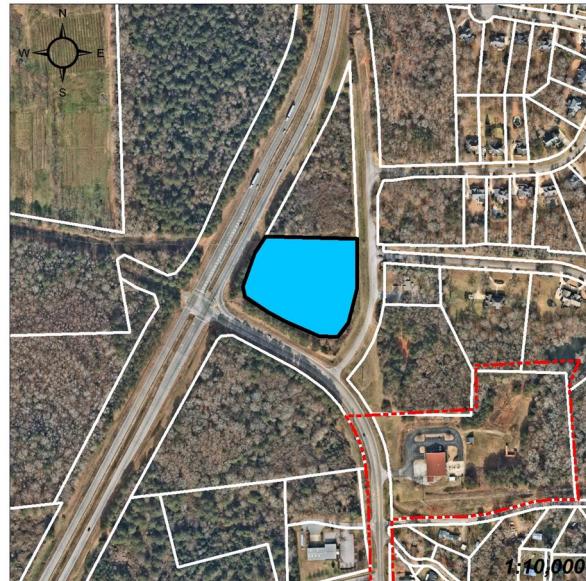
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BACKGROUND INFORMATION & FINDINGS OF FACT

HISTORY

- The property was rezoned from AR (Agricultural Residential District) to OIP (Office Institutional Professional District) on October 6, 2020, for an office and medical business park
- Construction plans were approved on 4/5/2021, and three office buildings were permitted in April 2022.

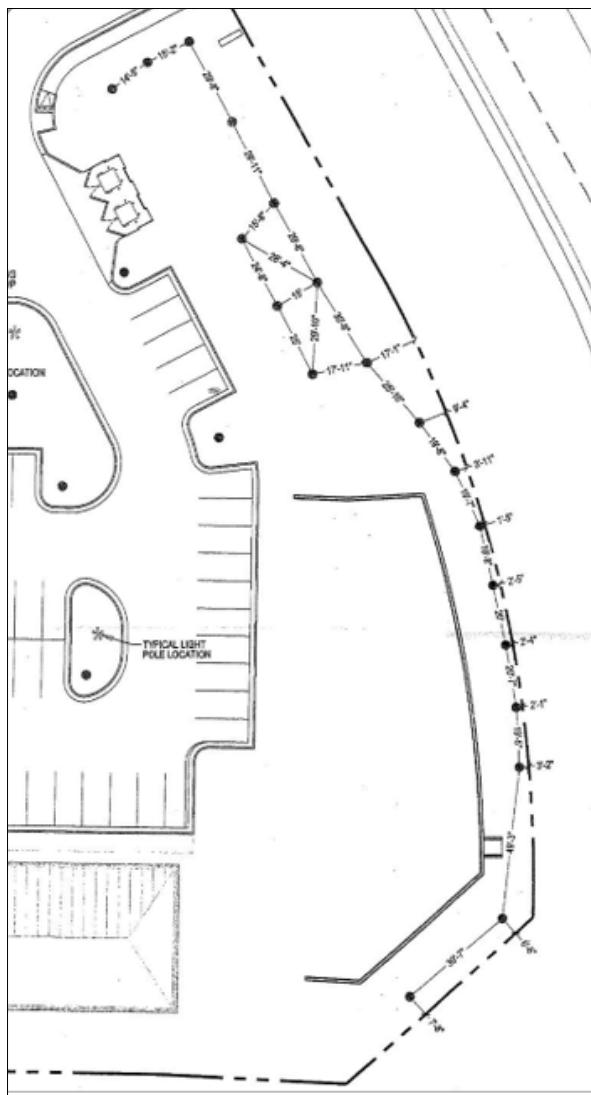
VARIANCE DESCRIPTION

- The applicant is requesting a hardship variance to reduce the required 25-foot spacing between large trees and allow planted materials less than 4 feet from the public right-of-way because the existing large trees and planted materials do not conform to the UDC Sec. 805-Landscape Trees
- **Unified Development Code Section 805– Landscape Strips**
 - *Landscape strips shall be required along any developed portion of the property adjacent to private or public streets or rights-of-way.*
 - a. *Plant materials shall consist of at least one large tree (as defined in this Development Code) for each 40 linear feet of landscape strip. These large trees are not required to be planted in a uniformly spaced single row, but may be clustered and/or staggered as space allows within the landscape strip as long as the total number of trees required is met and no large tree is within 25 feet of any other large tree*
 - b. *Plant materials shall not be planted any closer than 4 feet to the public right-of-way*

APPROVED LANDSCAPE PLAN



CONCEPT PLAN ZOOMED IN



PUBLIC FACILITIES

- The present request should not affect county services, facilities, and infrastructure.

ENVIRONMENTAL

- No 100-year flood plain, jurisdictional wetlands, or state waters are known to exist on the site.

STAFF ANALYSIS

THE ANALYSIS OF THE APPLICATION IS MADE BASED UPON THE "STANDARDS FOR HARSHSHIP APPROVAL" AS SET FORTH IN SECTION 1304.03 OF THE OCONEE COUNTY UNIFIED DEVELOPMENT CODE:

Hardship variances may be granted in such individual cases of unnecessary hardship upon a finding by the Board of Commissioners that all of the following conditions exist:

- a. **Are there extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography?**
The property's size, shape, or topography does not create extraordinary or exceptional conditions.
- b. **Does the application of requirements in the Unified Development Code create an unnecessary hardship?**
The intent of UDC 805 is to provide adequate separation of large trees in order to provide for proper growth and health of the tree and adequate separation of planted materials from the public right-of-way is required to maintain adequate distance from utilities and roadways. The application of UDC 805 does not create an unnecessary hardship.
- c. **Are conditions creating the need for the hardship variance peculiar to the particular piece of property involved?**
There are no conditions that are peculiar to the subject property.
- d. **Will relief, if granted, not cause substantial detriment to the public good or impair the purposes and intent of the Unified Development Code?**
The intent of UDC 805 is to provide adequate separation of large trees from other large trees and adequate separation of planted materials from the public right-of-way. Staff holds that granting relief would be detrimental to the public good and impair the purpose and intent of the UDC because there would be large trees growing close to each other, which would impair the growth and health of the large shade trees. In addition, planted materials would not be adequately separated from the public right-of-way and associated clear zone.

FURTHER ANALYSIS OF THE APPLICATION IS MADE BASED UPON THE "LIMITATIONS ON HARDSHIP APPROVAL" AS SET FORTH IN SECTION 1304.04 OF THE OCONEE COUNTY UNIFIED DEVELOPMENT CODE:

In no case shall hardship variances be granted if any of the following conditions exist:

- a. **Is the need for the hardship variance the result of a condition created by the applicant or an unwise investment decision or real estate transaction?** Yes, the request for a hardship variance is a result of the applicant planting large trees and other planted materials in areas that were not in the approved landscape plan.
- b. **Is the hardship variance a request to change conditions of approval imposed through a zoning change granted by the Board of Commissioners?** No.
- c. **Does the hardship variance cause a reduction of the minimum lot size required by the zoning district applicable to the property?** No.
- d. **Does the hardship variance propose a use of land or buildings, or structures that would otherwise not be allowed by the zoning district applicable to the property?** No.
- e. **Will the hardship variance provide an increase in the number of dwelling units or nonresidential building floor area which is otherwise not allowed by the zoning district applicable to the property?** No.
- f. **Does the present request concern any item or matter regulated under Article 7 of the Unified Development Code?** No.

STAFF RECOMMENDATION & CONDITIONAL RECOMMENDATIONS

Based upon the standards and limitations for hardship variance approval, this request does not meet all necessary conditions to grant a hardship variance.

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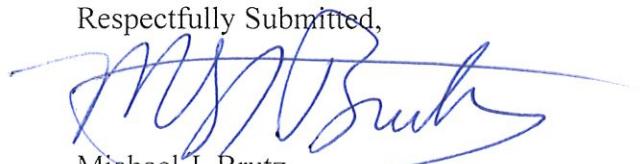
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Variance # P22-0119 - Barnesville Development Corp.

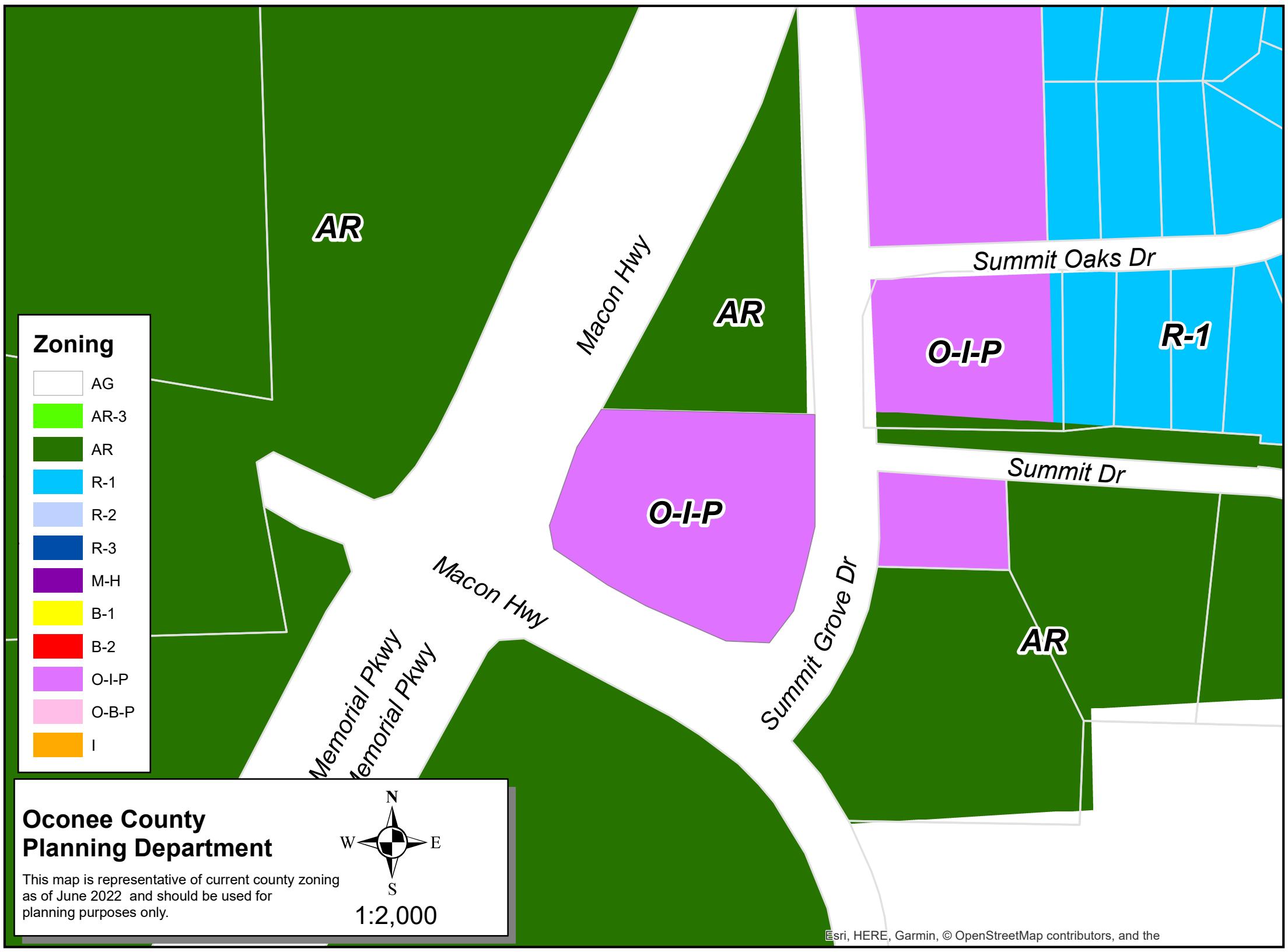


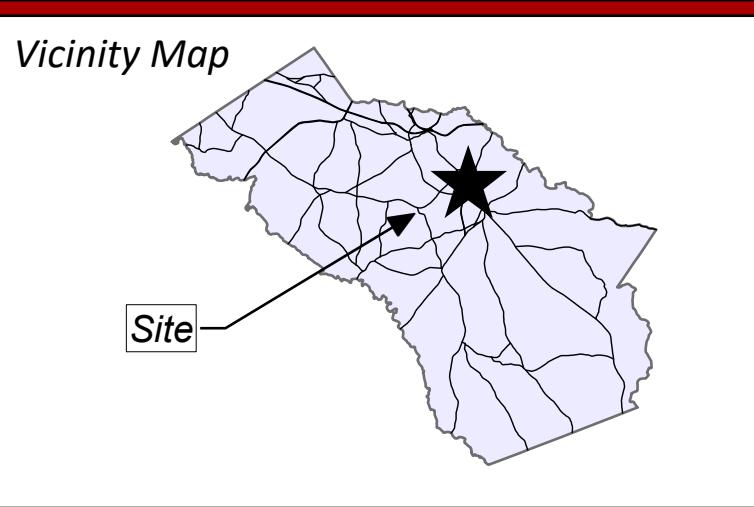
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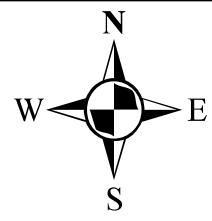




Oconee County Planning Department

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

0 120 240 480 720 960 Feet



Civic Center

Country Estates

Suburban Neighborhood

Community Village

BK:2020 PG:156-156

P2020000157

FILED IN OFFICE
CLERK OF COURT
12/03/2020 09:20 AM
ANGELA ELDER-JOHNSON, CLERK
SUPERIOR COURT
OCONEE COUNTY, GA

Angela Elder - Johnson
THIS BLOCK RESERVED FOR THE
CLERK OF THE SUPERIOR COURT.

LEGEND:

- = IPP
- = IPS W/ CAP
- ◎ = POINT ONLY
- = UTILITY POLE
- IPF = IRON PIN FOUND
- IPS = IRON PIN SET W/ CAP
- OTF = OPEN TOP PIPE FOUND
- RBF = REBAR FOUND
- R/W = RIGHT-OF-WAY
- = OVERHEAD POWERLINE
- = FENCE
- B.S. = BUILDING SETBACK
- SSMH = SANITARY SEWER MAN HOLE

NOTES:

- 1) SURVEY IS VALID ONLY IF PRINT HAS ORIGINAL SEAL AND SIGNATURE OF SURVEYOR IN BLUE INK.
- 2) SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
- 3) THE CERTIFICATION, AS SHOWN HEREON, IS PURELY A STATEMENT OF PROFESSIONAL OPINION BASED ON KNOWLEDGE, INFORMATION AND BELIEF, AND BASED ON EXISTING FIELD EVIDENCE AND DOCUMENTARY EVIDENCE AVAILABLE. THE CERTIFICATION IS NOT AN EXPRESSED OR IMPLIED WARRANTY OR GUARANTEE.
- 4) THIS SURVEY COMPLIES WITH BOTH THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND THE OFFICIAL CODE OF GEORGIA ANNOTATED (OCGA) 15-6-67 AS AMMENDED BY HB1004 (2016), IN THAT WHERE A CONFLICT EXISTS BETWEEN THOSE TWO SETS OF SPECIFICATIONS, THE REQUIREMENTS OF THE LAW.

Oconee County Planning Department
AUTHORIZED FOR RECORDING
Guy Herring
By:
Guy W. Herring
Planning Director

TOTAL AREA =
7.102 ACRES

REZONE NO. P20-0148 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 ZONING APPLICATION AND ATTACHED HERETO. THIS CONDITION SHALL NOT CONSTRAIN APPROVAL OF ANY STANDARD THAT IS NOT IN CONFORMITY WITH THE UNIFIED DEVELOPMENT CODE.

2. 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. NO DEVELOPMENT PERMIT SHALL BE ISSUED UNTIL OWNER HAS AGREED TO SUCH IMPROVEMENTS AND DEDICATION AND ALL SUCH IMPROVEMENTS SHALL BE SHOWN ON THE PRELIMINARY SITE PLAN AND SITE DEVELOPMENT PLANS FOR THE PROJECT.

3. 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 IMPROVEMENT SHALL INCLUDE ALL ON-SITE IMPROVEMENTS AND SUCH OFF-SITE IMPROVEMENTS AS ARE REQUIRED BY THE COUNTY TO PROVIDE SERVICE TO SUBJECT PROPERTY.

4. AT LEAST 80 PERCENT OF EXTERIOR WALL SURFACES OF ALL BUILDING AND STRUCTURES SHALL BE FINISHED WITH EITHER BRICK VENEER OR STONE VENEER.

5. THE TOTAL BUILDING SQUARE FOOTAGE ON THE PROPERTY SHALL NOT EXCEED 35,904.

SPECIAL EXCEPTION VARIANCE NO. P20-0176 CONDITIONS:

1. A 10-Ft WIDE PLANTED LANDSCAPE STRIP CONSISTING OF EVERGREEN VEGETATION MEETING THE STANDARDS OF THE GEORGIA TRANSMISSION CORPORATION UTILITY PLANTING GUIDE SHALL BE INSTALLED WITHIN AND ALONG THE BORDER OF THE POWER LINE EASEMENT.

2. U.S. HWY. #441 - RW VARIES
(PAVEMENT WIDTH VARIES)

3. DIVIDED HIGHWAY

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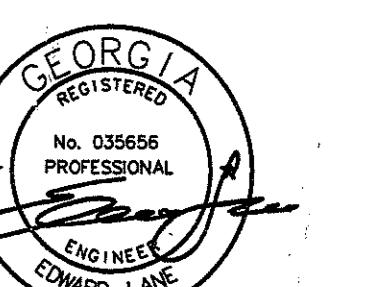
410. 15' SETBACK

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Hardscape Entrance Concept
Plat

CITY GATE OFFICE PARK

OCONEE COUNTY



05/06/2022

FIELD
AMENDMENT
PLAN

SHEET ISSUE: 11/19/20 PROJECT NO. 20-2944A

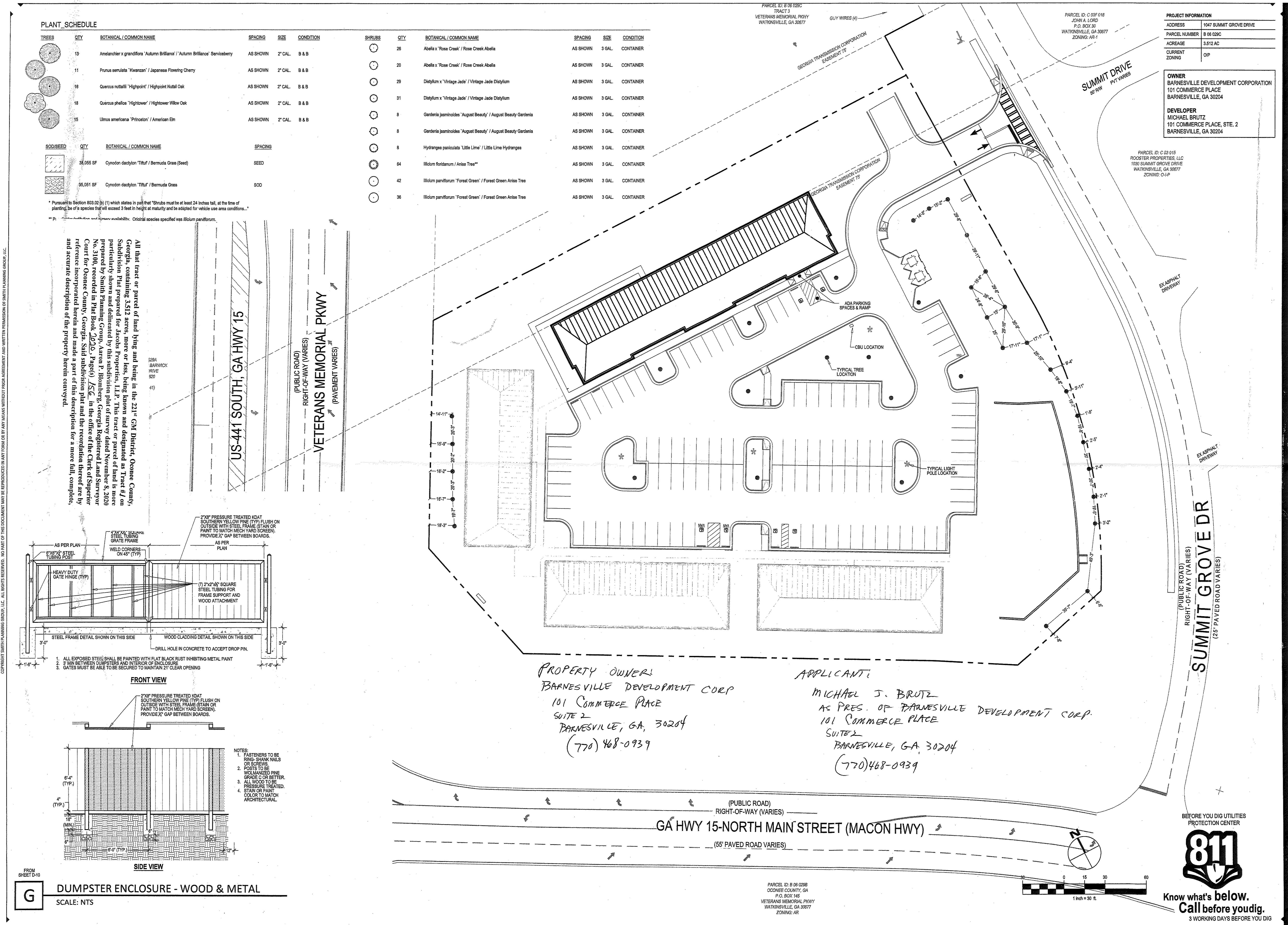
NO. DATE DESCRIPTION
15 04/15/22 FIELD AMENDMENT
16 05/06/22 ADDRESS COMMENTS

SHEET NO.

C-20



Know what's below.
Call before you dig.
3 WORKING DAYS BEFORE YOU DIG



NO.	DATE	DESCRIPTION
1	01/12/21	ADDRESS COMMENTS
2	02/11/21	GSWCC COMMENTS
3	03/05/21	ADDRESS COMMENTS
4	03/23/21	ADDRESS COMMENTS
5	09/09/21	GA. TRANS./GDOT
6	11/05/21	LANDSCAPE REVISION
7	11/16/21	FIELD AMENDMENT PLAN
8	11/17/21	FIELD AMENDMENT PLAN
9	12/05/21	FIELD AMENDMENT PLAN
10	12/10/21	PER COUNTY COMMENTS
11	12/23/21	PER COUNTY COMMENTS
12	01/12/22	PER COUNTY COMMENTS
13	01/31/22	PER COUNTY COMMENTS

