

**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 Matt Godbee submitted on December 14, 2023.

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 Matt Godbee on December 14, 2023, regarding a ±0.75-acre tract of land located 1719 Shoal Creek Way, Oconee County, Georgia, (tax parcel no. A-06E-055) 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 side building setback from 15 feet to 0.21 feet in an AR zoning district with a finding of facts that there is no encroachment into an adjacent property and the placement of the house was due to an error in locating the boundary pins (UDC Sec. 409.01, Table 4.1).

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 April 2, 2024.

ADOPTED AND APPROVED, this 2nd day of April, 2024.

OCONEE COUNTY BOARD OF COMMISSIONERS

BY:

John Daniell
John Daniell, Chairman

Mark Thomas
Mark Thomas, Member

Chuck Horton
Chuck Horton, Member

Amrey Harden
Amrey Harden, Member

Mark Saxon
Mark Saxon, Member

ATTEST:

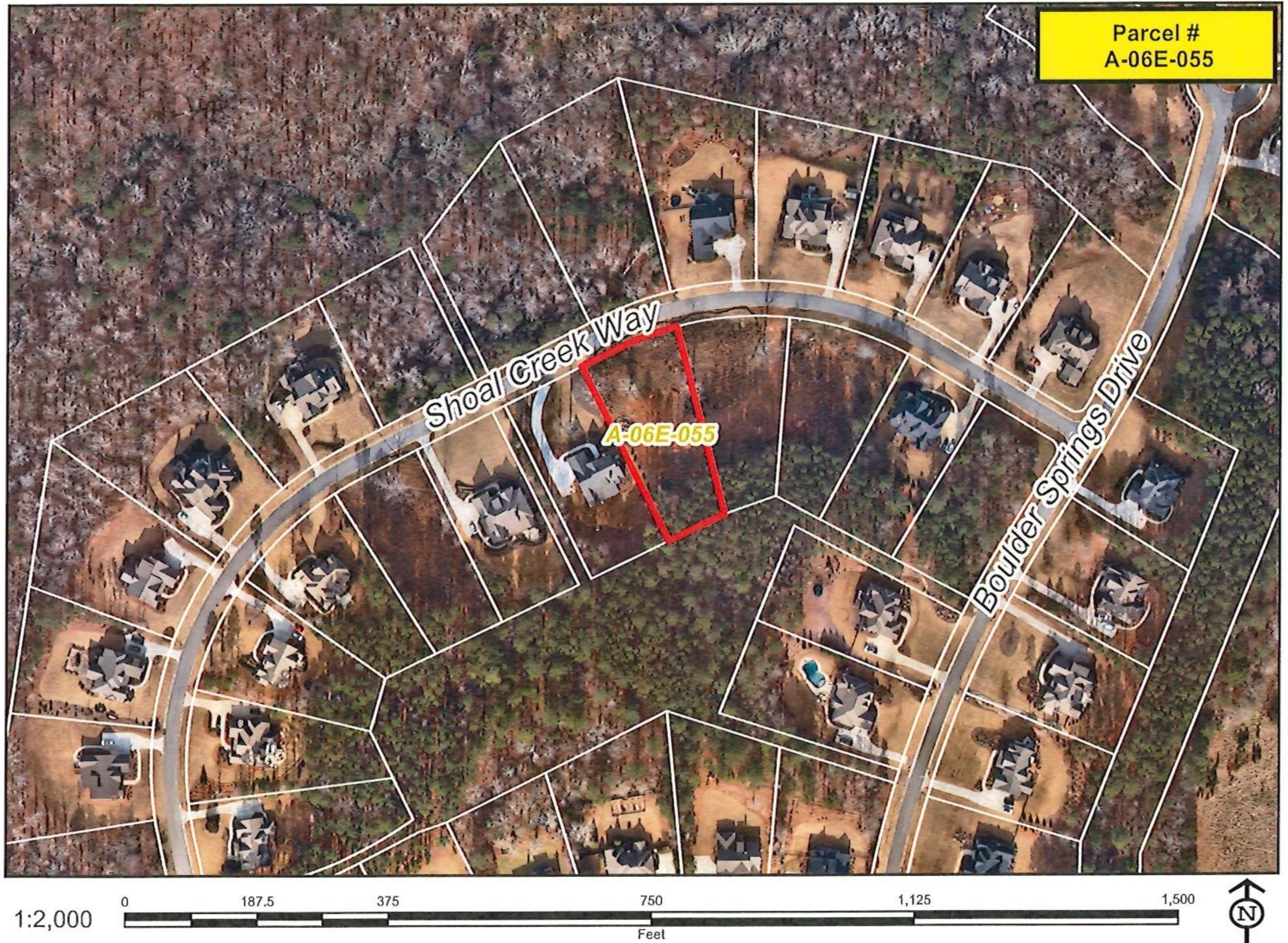
Holly Stephenson
Holly Stephenson
Clerk, Board of Commissioners

CONDITION

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 except as varied below.
2. A variance is granted to reduce the required left side setback from 15 feet to 0.21 feet in the immediate area of the setback encroachment only as shown on the concept plan and as-built survey dated 1-23-2024 by James Hull, RLS (Patrick and Associates, Inc.).

TAX MAP

Variance # P23-0282 - Matt Godbee



TYPED LEGAL DESCRIPTION

Property Legal Description

All that tract or parcel of land, together with all improvements thereon, situate, lying and being in the 239th District, G.M., of Oconee County, Georgia, being known and designated as Lot 55, Phase Four, Boulder Springs Subdivision, being more particularly shown on the survey entitled, "Final Plat for Boulder Springs Phase IV," prepared by DuSouth Surveyors, Inc., Jerry D. Wood, G.R.L.S. No. 2999, dated September 27, 2007, revised November 9, 2007, and November 26, 2007, as recorded in Plat Book 37, Pages 111-114, in the Office of the Clerk of Superior Court for Oconee County, said plat being incorporated herein by reference and being made a part of this description.

NARRATIVE

Narrative Template for Variance Application

1719 Shoal Creek Way/Bishop, GA 30621

Introduction

- We are requesting Code Section 409.01-requesting the set back between lot 55 & 56 be changed from 15' to 0.21ft.
- Special Exception variance is being requested
- 1719 Shoal Creek Way, Bishop, GA 30621
- AR
- Single Family Home
- A-06E-055
- Events leading up to house being built 20' off of the approved site plan-

This lot was a tank in first lot. The boundry pin markers between lot 55 & 56 were marked with orange flags that were in the wrong place and no one caught that from the site plan. After the septic system was installed the foundation subcontractor laid out the foundation and had the footings inspected by an independent inspector- not Oconee Co. Inspectors-which I knew nothing about- I wasn't even aware that could be done.

Variance Requested

- The code section that we are requesting variance from is section 409.01 minimum set backs
- Home was built approximately 20 ft outside of approved site plan due to the layout by the foundation contractor
- This is our personal family home

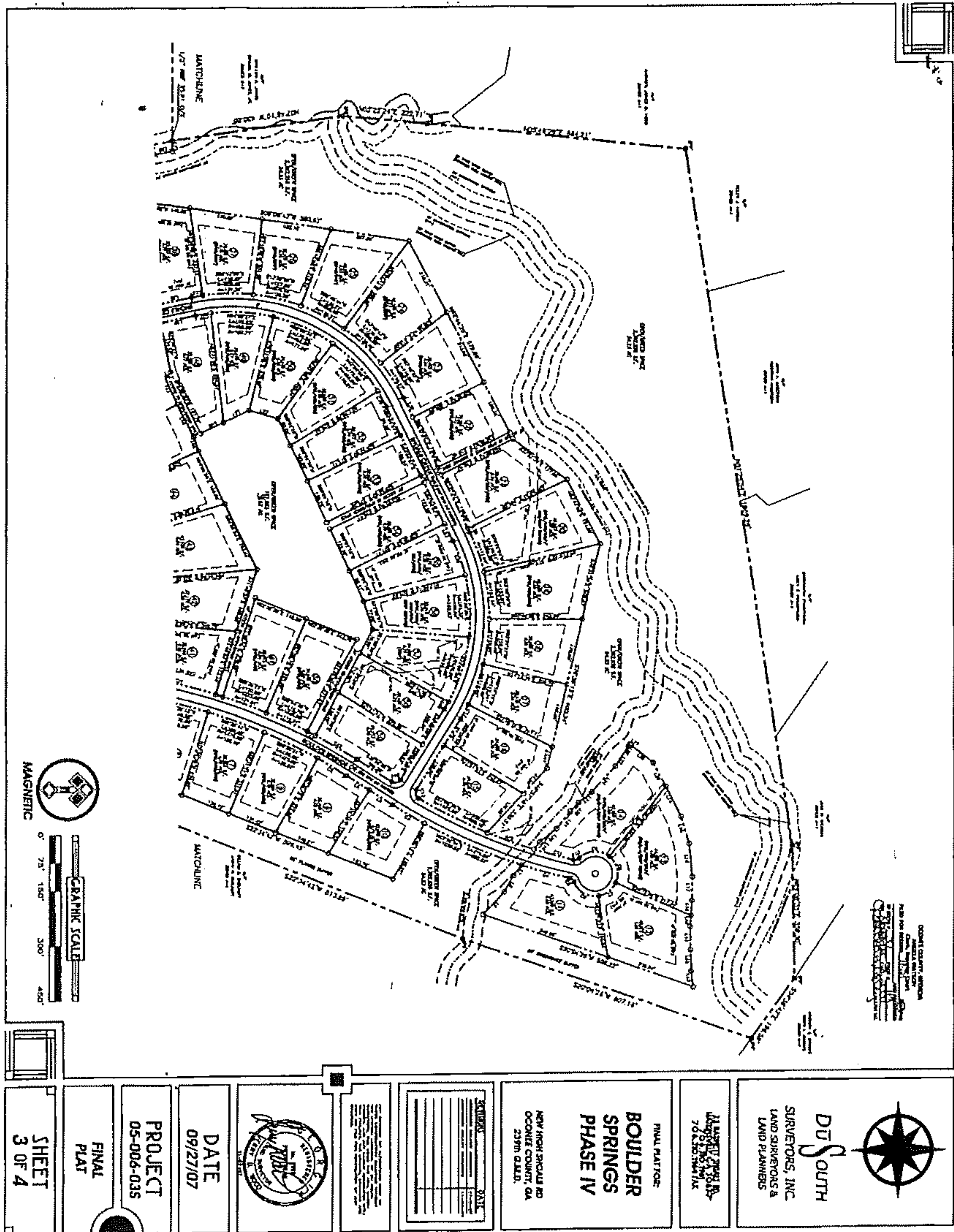
Adjacent Properties

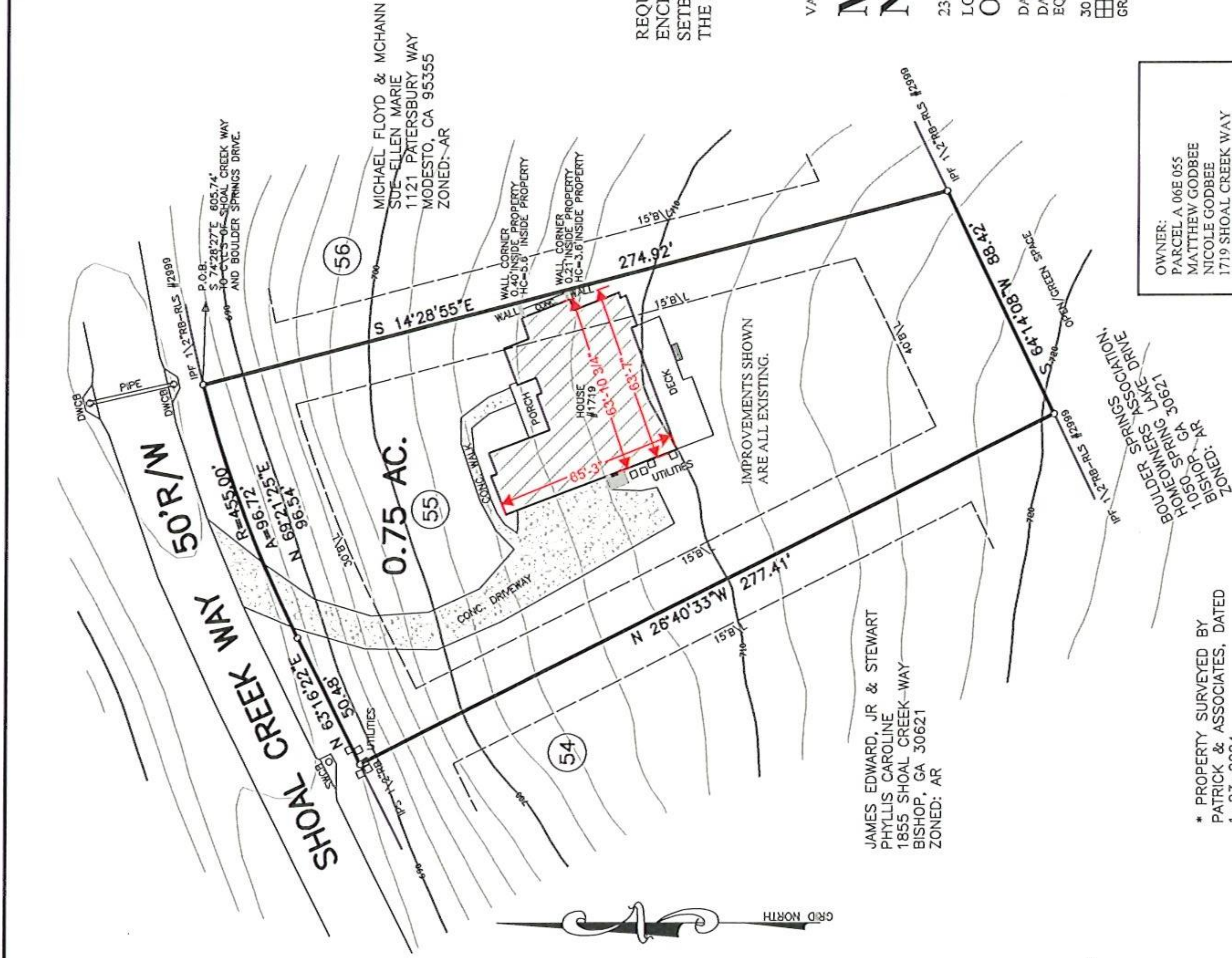
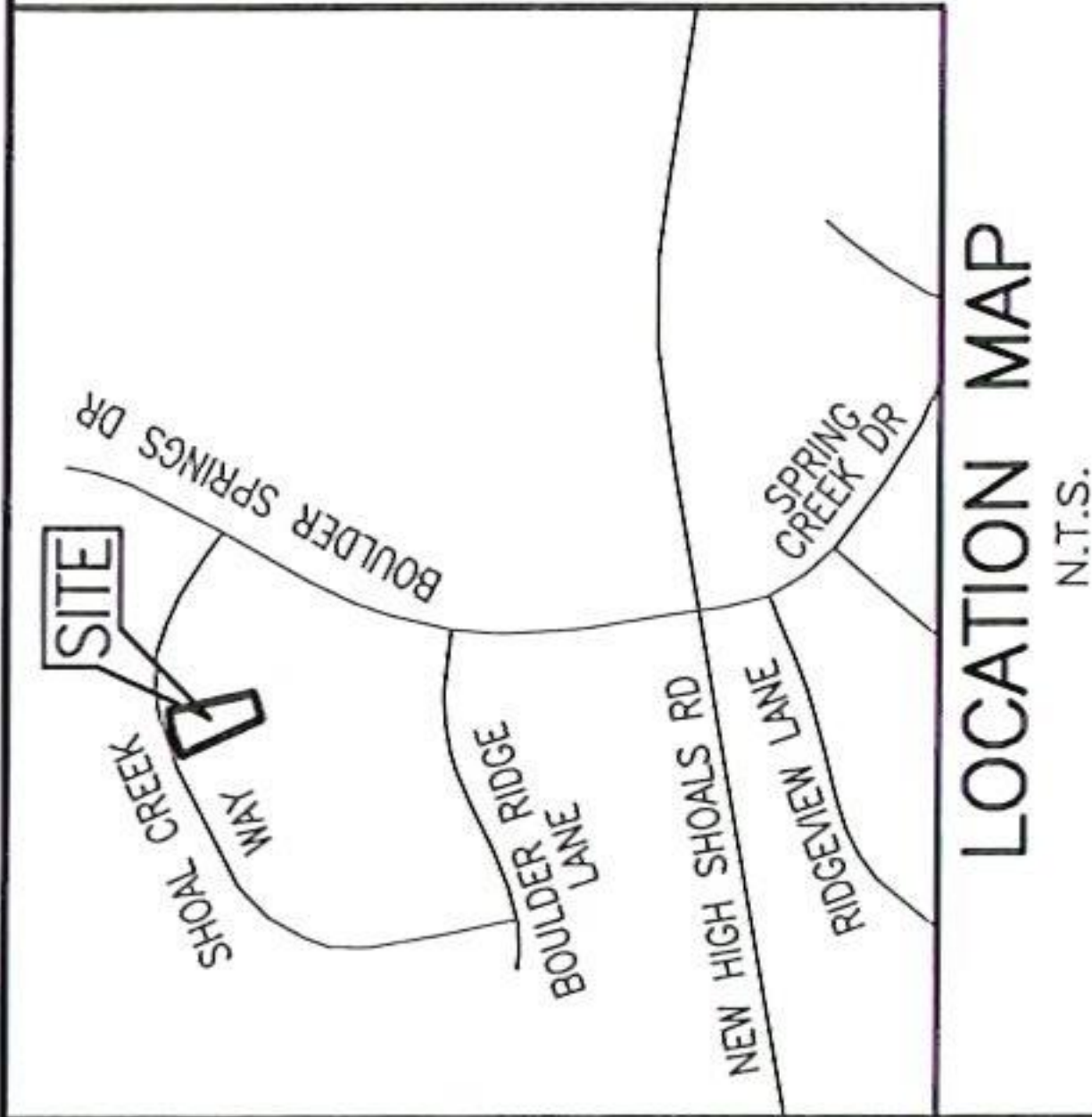
- The zoning for the adjacent properties is AR Agricultural Residential single family home/and vacant lot

Conclusion

- I'm extremely sorry to everyone involved in this situation. Ultimately, it was my responsiility to check behind all of the sub-contractors I used in building my house. At this point, we are at your mercy to approve this variance we are asking for, in order to get a CO and resolve this issue and be able to live in our home- in Oconee County.

PLAT





- TEXT LEGEND
- IPF IRON PIN FOUND
 - IPS IRON PIN SET
 - RB REBAR
 - CLF CHAIN LINK FENCE
 - CONC CONCRETE
 - DWCB DOUBLE WING CATCH BASIN
 - EM ELECTRIC METER
 - P OVERHEAD POWER
 - PP POWER POLE
 - SWCB SINGLE WING CATCH BASIN
 - TEL P TELEPHONE PEDESTAL
 - WV WATER VALVE
 - WVM WATER VALVE MARKER
 - POB POINT OF BEGINNING
 - POC POINT OF COMMENCEMENT
 - B/L BUILDING LINE
 - C/L CENTERLINE
 - R/W RIGHT-OF-WAY

UTILITY NOTE:
PATRICK & ASSOCIATES, INC. NOR THE LICENSED PROFESSIONAL ASSUME ANY LIABILITY FOR THE EXISTENCE, LOCATION, MATERIAL OR SIZE OF ANY UNDERGROUND UTILITY SHOWN ON THIS SURVEY. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY THE EXISTENCE, EXACT LOCATION, MATERIAL AND SIZE OF ANY UNDERGROUND UTILITY BEFORE BIDDING OR EXCAVATING ON THIS PROJECT.

The field data upon which this plat is based has a closure of one foot in 69,006 feet and an angular error of 01" per angle point and was adjusted using compass rule. The plat has been calculated for closure and was found to be accurate within one foot in 110,215 feet.

Note: The surveyor hereon has made no investigative or independent search for easements of record. Encumbrances, restrictive covenants, ownership title evidence or any other facts that a current title search may disclose.

Note: This plat was prepared for the exclusive use of the person, persons or entity named hereon. This plat does not extend to any person, persons or entity without the express recertification of the surveyor naming such person, persons or entity.

This property is in zone "X" a Federal Flood Area as indicated by F.I.A. Official Hazard Maps, Flood Map No. 13219C0128E, Dated: 09/15/2022.

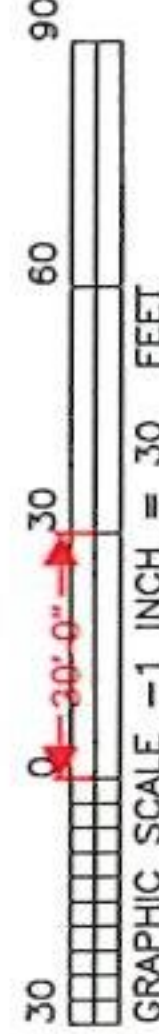
REQUESTING VARIANCE TO ALLOW THE EXISTING ENCROACHMENT INTO THE SIDE BUILDING LINE SETBACK. SETBACK REQUIRED BY CODE IS 15'; THE EXISTING SETBACK IS 3.6'.

VARIANCE CONCEPT PLAN FOR:

MATTHEW GODBEE
NICOLE GODBEE

239TH G.M.D.
LOT 55 - PHASE IV - BOULDER SPRINGS
OCONEE COUNTY, GEORGIA

DATE OF FIELD WORK: 1-19-2024
DATE OF PLAT PREPARATION: 1-23-2024
EQUIPMENT USED: TRIMBLE S6



SURVEYING & ENGINEERING
928 BLACKLAWN ROAD
CONYERS, GEORGIA 30004
PHONE: 770-483-8745

OWNER:
PARCEL A 06E 055
MATTHEW GODBEE
NICOLE GODBEE
1719 SHOAL CREEK WAY
OCONEE, GA 30621
DB 175R, PG 52

* PROPERTY SURVEYED BY
PATRICK & ASSOCIATES, DATED
1-23-2024.
* TOPOGRAPHY SHOWN TAKEN
FROM SITE PLAN FOR MATT
GODBEE.





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

VARIANCE CASE #: P23-0282

DATE: March 21, 2024

STAFF REPORT BY: David Webb, AICP (Senior Planner)

APPLICANT NAME: Matthew Godbee

PROPERTY OWNER: Matthew Godbee

LOCATION: 1719 Shoal Creek Way
(A 06 E 055)

PARCEL SIZE: ± 0.75 acres

EXISTING ZONING: Agricultural Residential District (AR)

EXISTING LAND USE: Single Family Dwelling- Under Construction (no Certificate of Compliance issued)

TYPE OF VARIANCE REQUESTED: Special Exception Variance

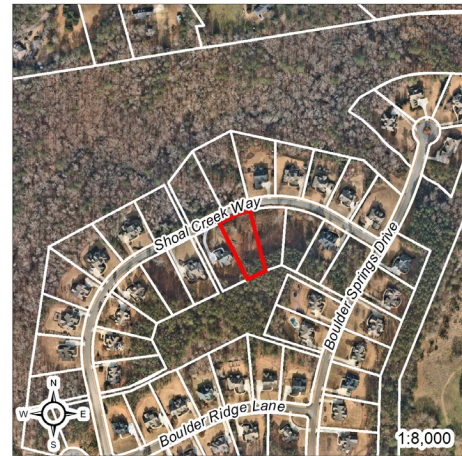
REQUEST SUMMARY: Setback variance from 15 feet to 0.21 feet

DATE OF SCHEDULED HEARINGS

BOARD OF COMMISSIONERS: April 2, 2024

ATTACHMENTS:

- Application
- Narrative
- Legal Description
- Plat of Survey
- Concept Plan
- Building Permit and Site Plan
- As-Built survey
- Adjacent property (1551 Shoal Creek Way) recorded survey
- Permit application
- Palmer Construction Inspection- Foundation for 1719 Shoal Creek Way
- Setback Final Inspection Report
- Temporary CO



BACKGROUND INFORMATION & FINDINGS OF FACT

HISTORY

- The property is part of the Boulder Springs, Phase IV subdivision. The Final Plat was recorded November 28, 2007.
- A building permit was granted April 11, 2023 to construct a single-family dwelling on the property.
- The permit application indicated that Matt Godbee, the property owner, was acting as the General Contractor.
- The approved site plan indicated the house rear corner would be 20.9 feet from the property line, meeting the required 15' setback.
- The foundation/ setback inspection was conducted by Palmer Engineering as a third-party inspector. No issue with the setback was noted on the foundation inspection.
- As the Oconee County UDC does not require an as-built survey for a structure, Planning and Inspections accepted the inspection from Palmer Engineering.
- When the final landscaping and site stabilization inspection was conducted on December 8, 2023 by Gaby Bryan, Code Enforcement Officer, it was noted the sodding and landscaping did not appear to match the plans.
- Drew Lappin, building inspector, issued a failed inspection for setbacks on December 11, 2023.
- A Temporary Certificate of Occupancy was issued December 15, 2023 as Mr. Godbee filed the variance application on December 13, 2023.
- Mr. Godbee stated in the narrative the house location was determined from the wrong property pin as it was not marked correctly.
- A submitted As-Built survey shows the retaining wall 0.21 feet from the property line. The house corner is 3.6 feet from the property line. The survey shows the size of the house is in general conformance with the building permit.
- A recorded survey for the adjacent lot at 1551 Shoal Creek Way confirms that the structure does not encroach on the adjacent lot.

VARIANCE DESCRIPTION

- The property owner requests a variance from Oconee County Unified Development Code Sections 409.01 and Table 4.1 to reduce the minimum required side setbacks from 15 feet to 0.21 feet for an existing single-family dwelling.

Table 4.1 setbacks in the AR zone

Front: 30 feet Side: 15 feet

Rear: 40 feet

PUBLIC FACILITIES

Water:

- The project utilizes Oconee County water services.

Sewer:

- The existing house has an on-site septic system.

Roads:

- The property has access to Shoal Creek Way

ENVIRONMENTAL

- There are no known state waters or floodplain areas on the property.

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 on the tax base or nearby public infrastructure, schools, or environmentally sensitive areas should result from approval of the variance request. Staff analysis indicates that approval of the variance would not cause 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 AR. All of the surrounding lots are developed or planned for residential uses. As-Built surveys indicate the structure does not encroach across the property line. Staff analysis indicates that granting the requested variance would not be injurious to the use and enjoyment of nearby properties.

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

There is no proposed change in the proposed residential use of the property. Staff analysis indicates there is no evidence that granting the setback variance will diminish or impair the value of the adjacent properties or surrounding neighborhoods.

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

The intent of UDC Section 409.01 is to provide a minimum setback distance for principal buildings. The applicant has requested a special exception variance to reduce the required minimum setback distance from 15 feet to 0.21 feet due to an error by the foundation contractor. Staff analysis indicates that approval of this special exception variance request does not appear to meet the UDC’s purpose and intent of this section. However, if the Board chooses to grant the variance, it can be supported by a finding that there is no encroachment into an adjacent property and the placement of the house was due to an error in locating the boundary pins by the foundation contractor. The UDC does not require as-built surveys to detect this issue at the foundation construction stage, therefore the issue is created by a failure of the ordinance. Staff relies on a property owner/ contractor to properly locate the parcel lines when building.

STAFF RECOMMENDATION & CONDITIONAL RECOMMENDATIONS

Based upon the standards and limitations for special exception variance approval, this request **does meet all necessary conditions** grant a special exception variance if a finding of fact is made that there is no encroachment into an adjacent property and the placement of the house was due to an error in locating the boundary pins. Should the present request be approved, staff recommends the following conditions 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 except as varied below.
2. A variance is granted to reduce the required left side setback from 15 feet to 0.21 feet in the immediate area of the setback encroachment only as shown on the concept plan and as-built survey dated 1-23-2024 by James Hull, RLS (Patrick and Associates, Inc.).

Variance # P23-0282 - Matt Godbee

Parcel #
A-06E-055

Shoal Creek Way

A-06E-055

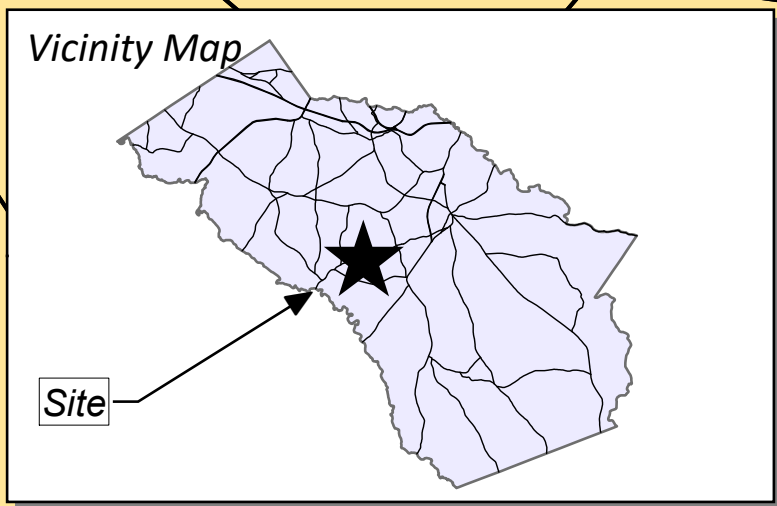
Boulder Springs Drive

1:2,000

0 187.5 375 750 1,125 1,500

Feet





Oconee County Planning Department

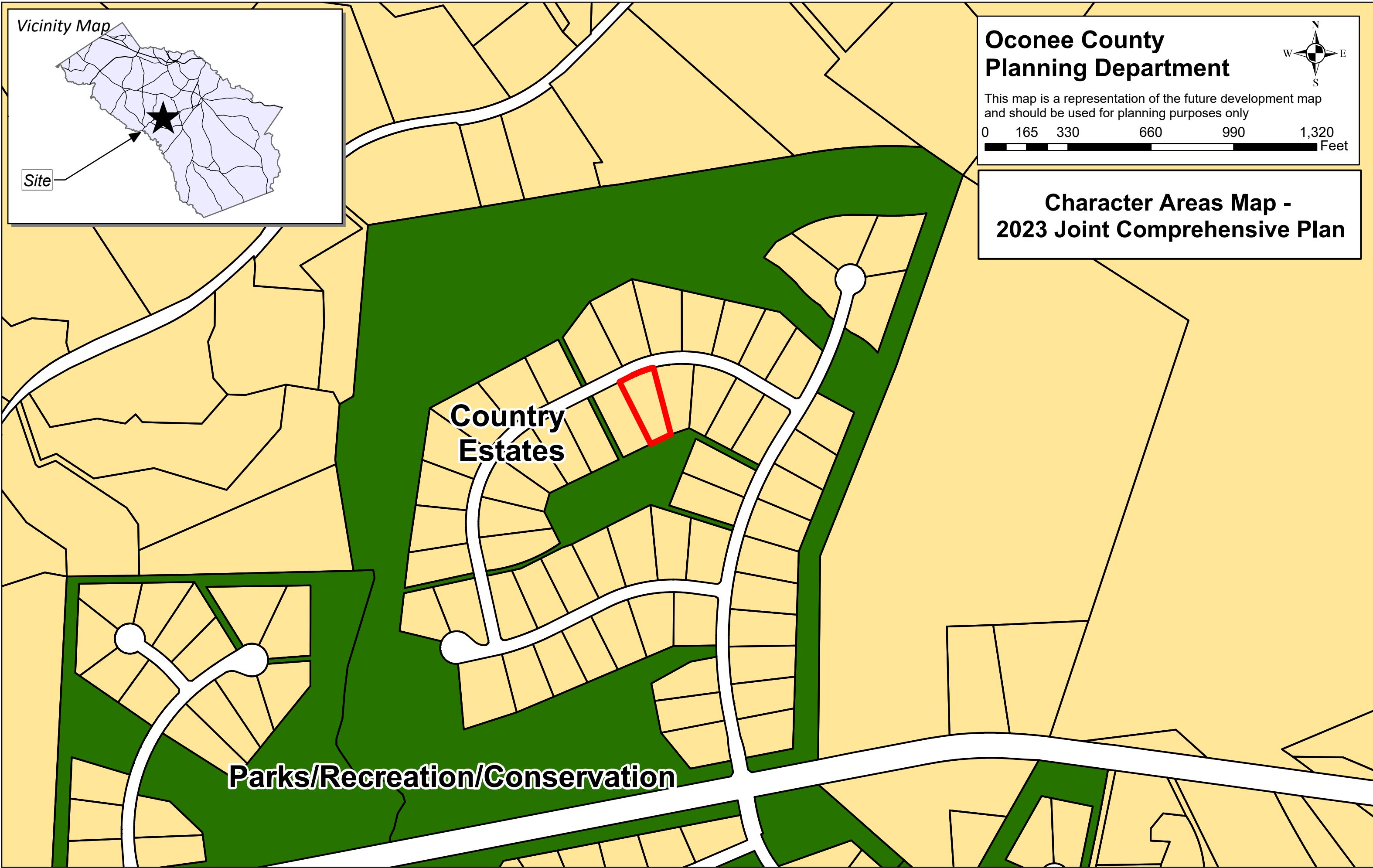
This map is a representation of the future development map
and should be used for planning purposes only

01653306609901,320

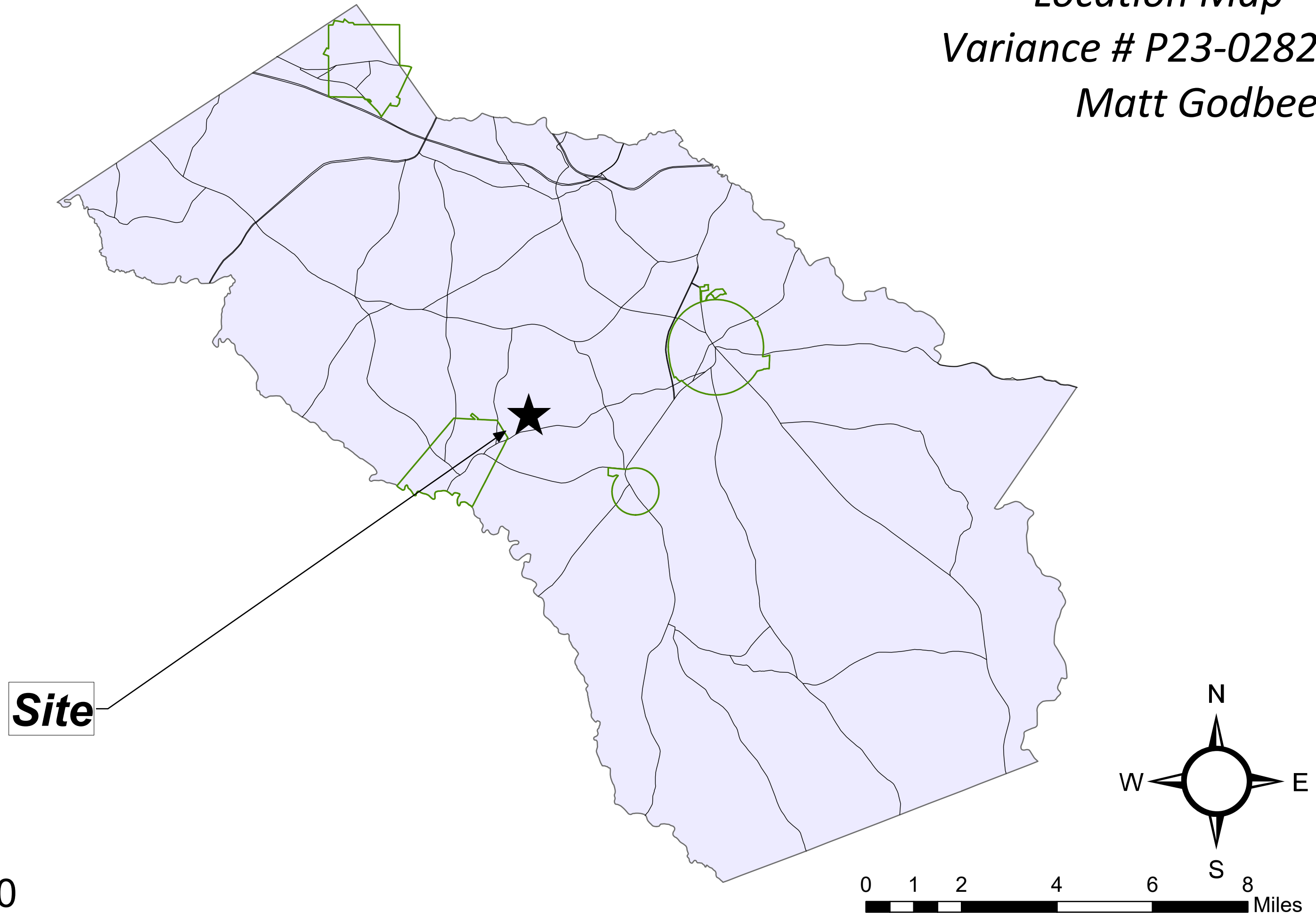
Feet

A compass rose with 'N' at the top, 'S' at the bottom, 'E' on the right, and 'W' on the left.

Character Areas Map - 2023 Joint Comprehensive Plan



*Location Map -
Variance # P23-0282
Matt Godbee*



1:120,000



Shoal Creek Way

Boulder Springs Drive

Boulder Ridge Lane



1:8,000

Zoning

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

**Oconee County
Planning Department**

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

1:2,000

