

**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 Phillip W. Kinney and Faye D. Kinney submitted on May 22, 2024.

**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 Phillip W. Kinney on May 22, 2024, regarding a ±21.56-acre tract of land located 1241 Elder Road, Oconee County, Georgia, (tax parcel no. B-05-021G), 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 from the design standards of 1012.07.a.1 to allow the existing 10' private access drive to serve one additional proposed lot, and from the design standards of 1012.07.a.3 to allow the existing 10' private access drive to serve one additional proposed lot.

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.

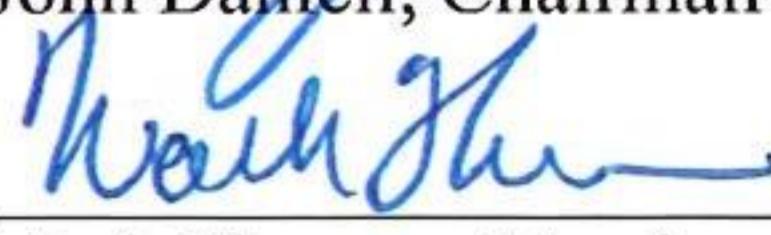
Said Special Exception Variance application was submitted to the Oconee County Board of Commissioners and a Public Hearing was duly held by the same at its regular meeting on September 10, 2024.

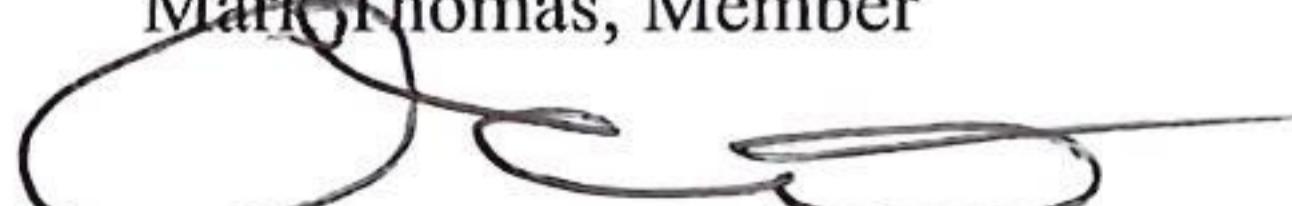
ADOPTED AND APPROVED, this 10<sup>th</sup> day of September, 2024.

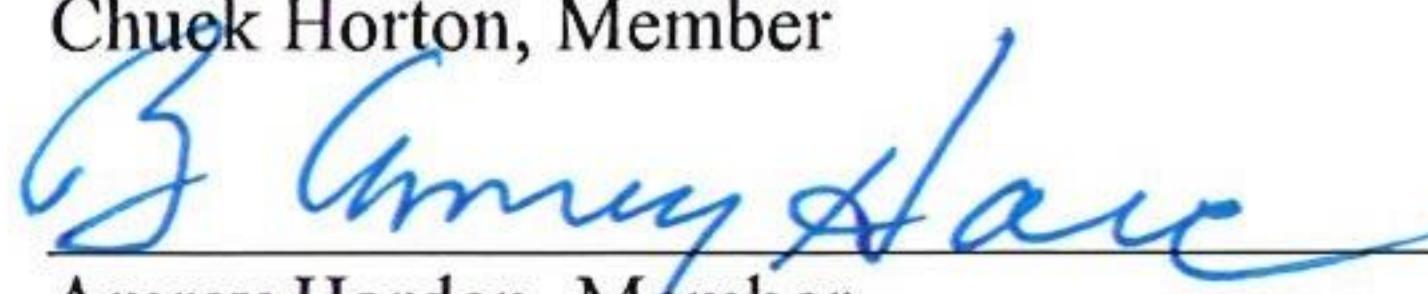
**OCONEE COUNTY BOARD OF COMMISSIONERS**

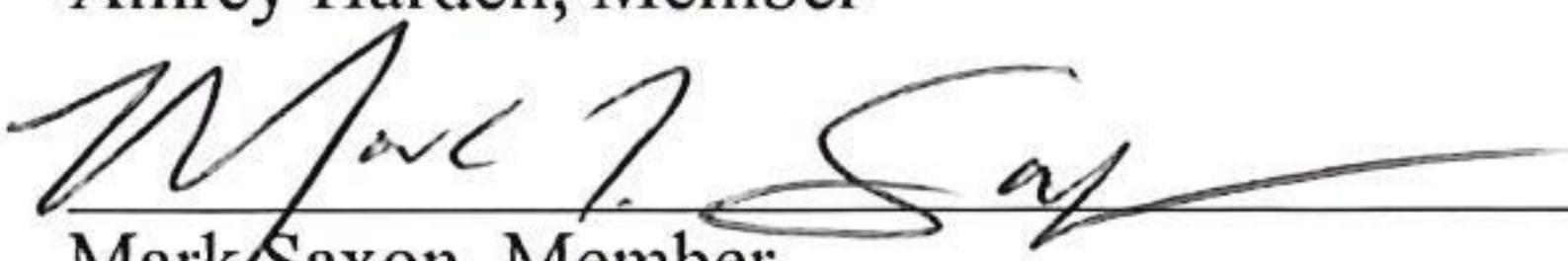
BY:

  
John Daniell, Chairman

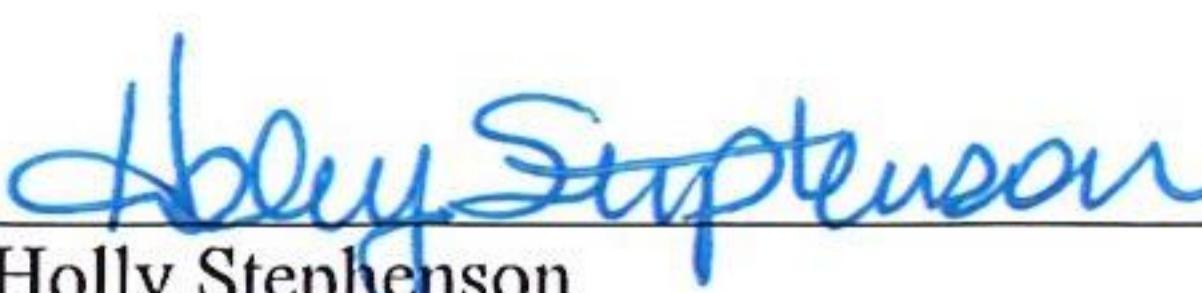
  
Mark Thomas, Member

  
Chuck Horton, Member

  
Amrey Harden, Member

  
Mark Saxon, Member

ATTEST:

  
Holly Stephenson

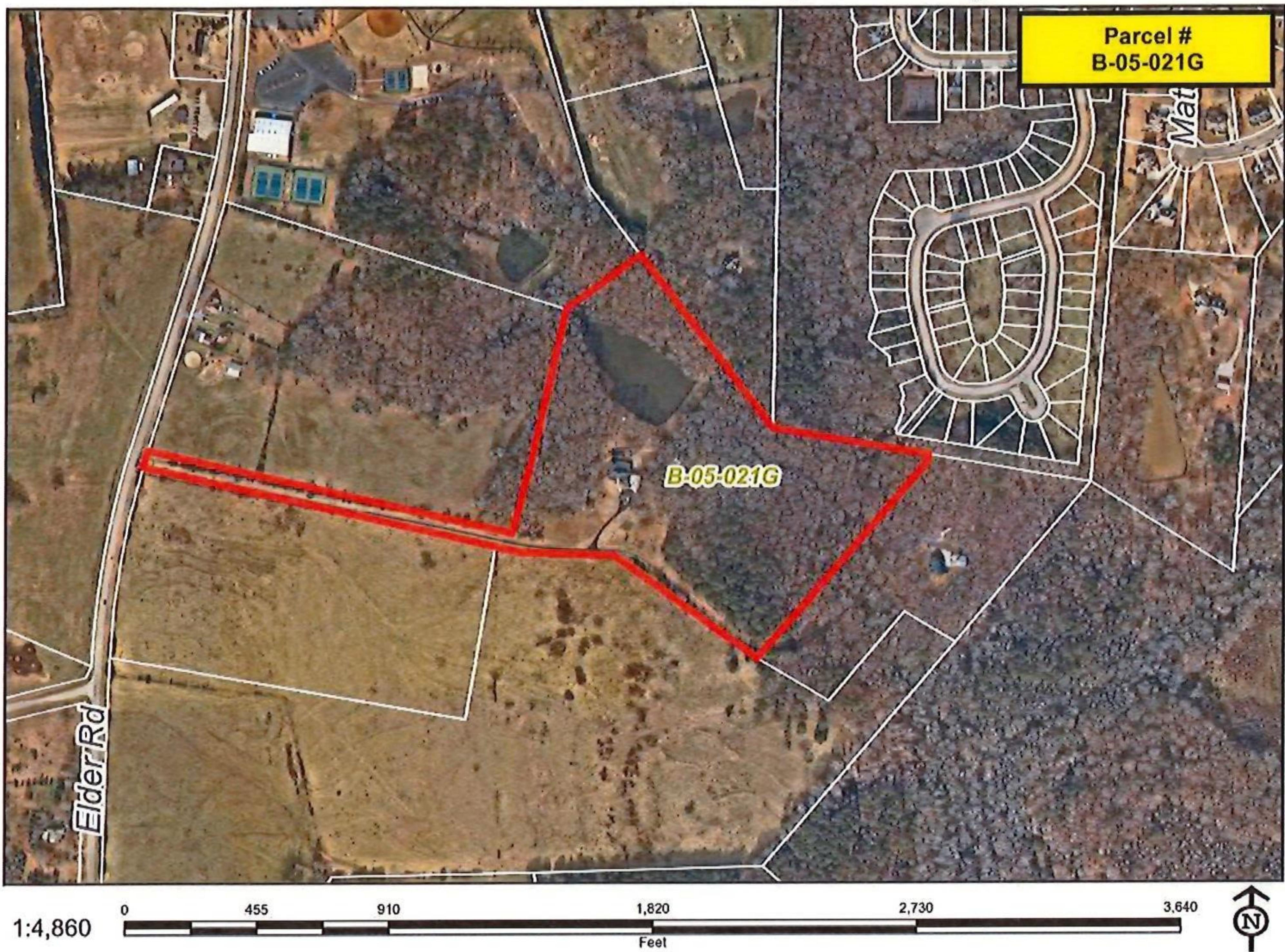
Clerk, Board of Commissioners

**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 proposed administrative plat shall include and address the recombination of parcels B 05 021G and B 05 021H done by deed without an approved plat as found in Deed Book 1145, Pages 285-286, filed July 6, 2012.

TAX MAP

Variance # P24-0101 - Phillip W. Kinney



TYPED LEGAL DESCRIPTION

All that tract or parcel of land containing 22.487 acres, more or less, situate, lying and being on the easterly side of Elder Road in the 239th District, G.M., Oconee County, Georgia; being designated Tract 1 on a plat entitled "Survey for John Thomason" by Ben McLeroy & Associates, Inc., Surveyors, dated December 3, 1984, last revised February 27, 1986, recorded in Plat Book 9, page 243, in the Office of the Clerk of Superior Court of Oconee County, Georgia; subject property fronting 50 feet on Elder Road and running back for a uniform width for approximately 1,390 feet to the main body which is bounded now or formerly and generally as follows: Westerly by land of John A. Thomason; northwesterly by H. C Micheal Park owned by Oconee County; northeasterly by land now or formerly of Beck and Streetman; also northeasterly by land of F. F. Dickens and Fred W. Dickens; southeasterly by land of John H. Thomason; and southwesterly by land of John H. Thomason; this being part of the land conveyed to Miriam K. Thomason and John Henry Thomason by Mrs. Martha W. Winn by Warranty Deed dated September 16, 1947, recorded in Deed Book AA, pages 117-118, said Clerk's office; and also described in a deed of one-half undivided interest from Miriam K. Thomason to John Henry Thomason dated January 8, 1951, recorded in Deed Book BB, page 239, said Clerk's office.

This conveyance is made subject to the following:

A perpetual non-exclusive 50-foot wide easement of ingress and egress over Tract 1 (22.487 acres) of said plat extending from Elder Road adjacent and parallel to the northerly boundary of Tract 4 to the southwesterly corner of Tract 2. Included with said easement is the right to maintain, repair, improve and dedicate said strip to public usage.

**NARRATIVE**

This is a request for a Special Exception Variance to 'Required improvements to private access drives. We want to split off by an administrative split 5.72 acres of our 21.5 acres for a lot for a future house. This would require a Special Exception Variance. The address in question is 1241 Elder Rd., Bishop, GA 30621, Parcel #B05021G. The property is zoned AG and is the home of applicant, Phillip W. Kinney, and owners, Phillip W. & Faye D. Kinney. There is no immediate plan to develop. Long term potential use will be residential. Existing users are residential.

We are requesting a Special Exception Variance to section 1012.07.a – Private Access Drives. More specifically number one (1) and three (3) of that code. Number one (1) states the minimum width of the drive shall be 16 feet. Number three (3) states that the maximum length of the drive shall be 2000 feet.

Our driveway is 3090 feet long and 10 feet wide. There is a turnaround approximately halfway down the drive and at the end. We certainly cannot shorten the drive and adding 6 feet to the width of the drive would not be feasible.

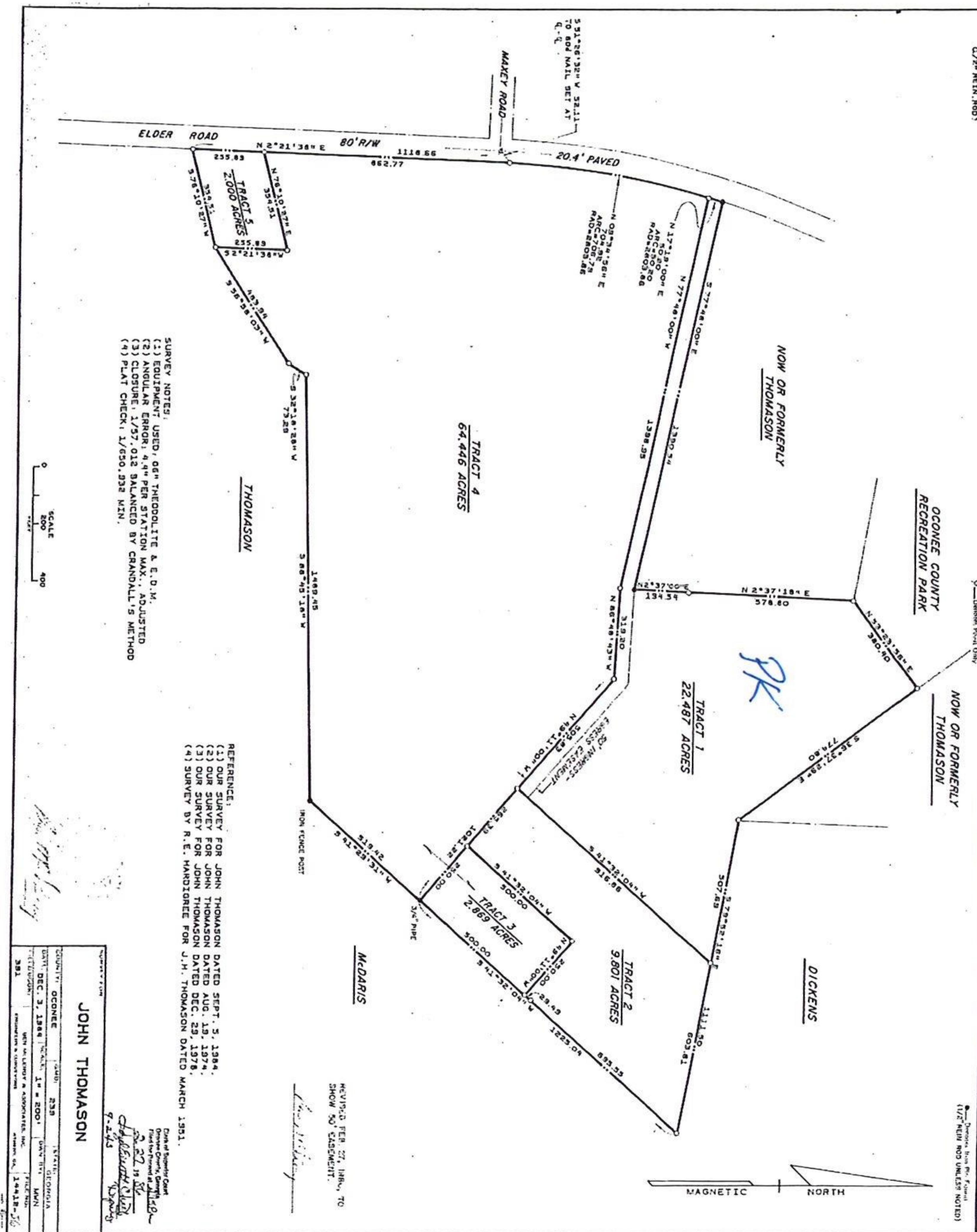
Below is a list of adjacent properties and their zoning and use:

1. Lindsey & Devin Berry – AG, Personal Home
2. John Thomason – AG, Home & pasture for horses
3. James R. Thomason – AG, Pastureland for cows
4. Jacquelyn Thomason – AG, Pastureland for cows
5. Oconee County – AG, Herman C. Michael Park
6. Scott Streetman – AG, Personal Home
7. ARS Properties – R-2-MPD, Single family building lots

We respectfully request that you approve our request for the variance. Thank you for your consideration.

EXHIBIT "A" TO SPECIAL EXCEPTION VARIANCE NO. P24-0101  
Page 5 of 6

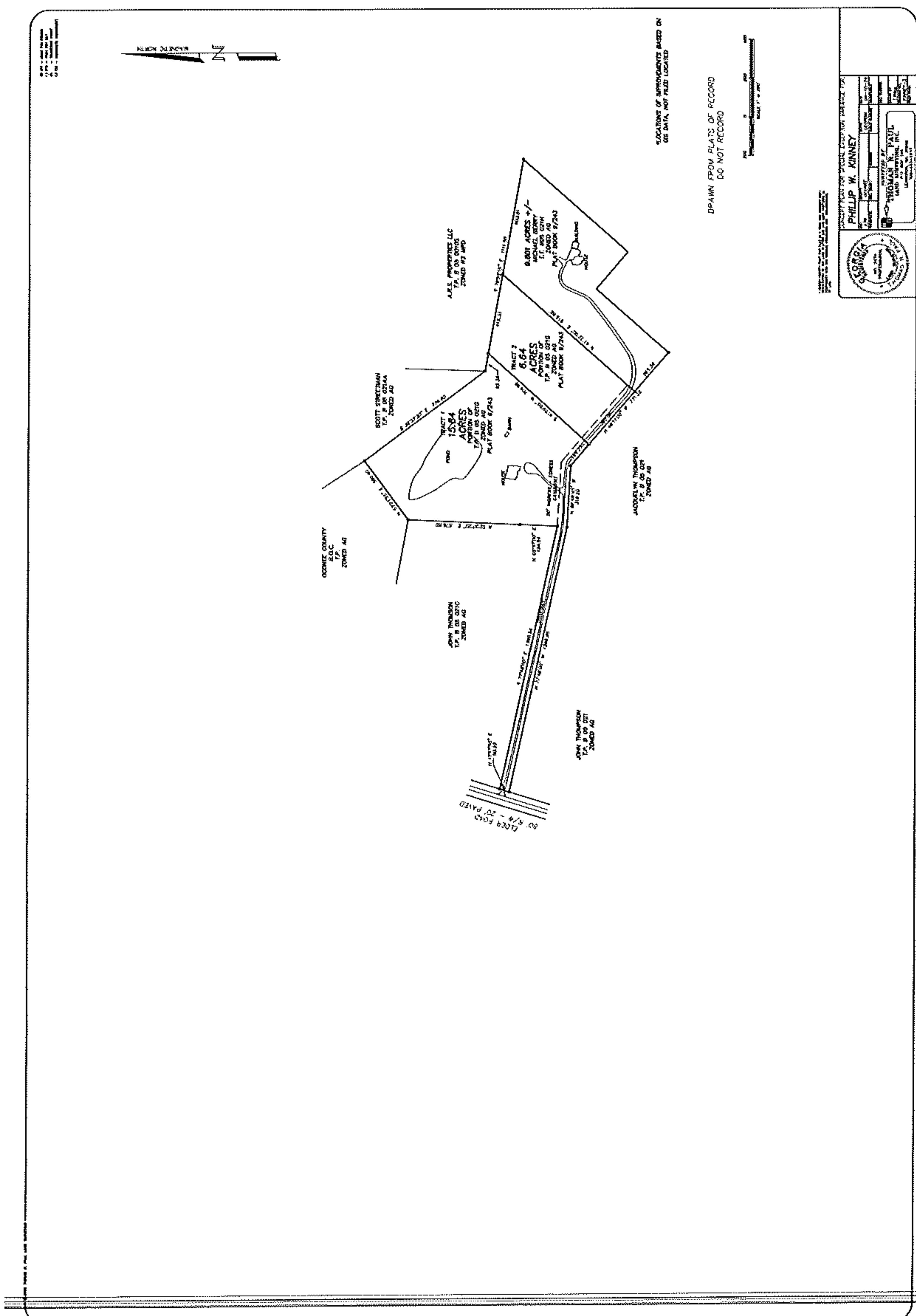
PLAT



**EXHIBIT "A" TO SPECIAL EXCEPTION VARIANCE NO. P24-0101**

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## CONCEPT PLAN





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

**VARIANCE CASE #:** P24-0101

**DATE:** August 28, 2024

**STAFF REPORT BY:** David Webb, AICP, Senior Planner

**APPLICANT NAME:** Phillip Kinney

**PROPERTY OWNER:** Phillip Kinney

**LOCATION:** 1241 Elder Rd.

Approximately 2,150 feet south of the intersection with Hog Mountain Road.

Parcel number: B 05 021G

**PARCEL SIZE:** ±22.48 acres

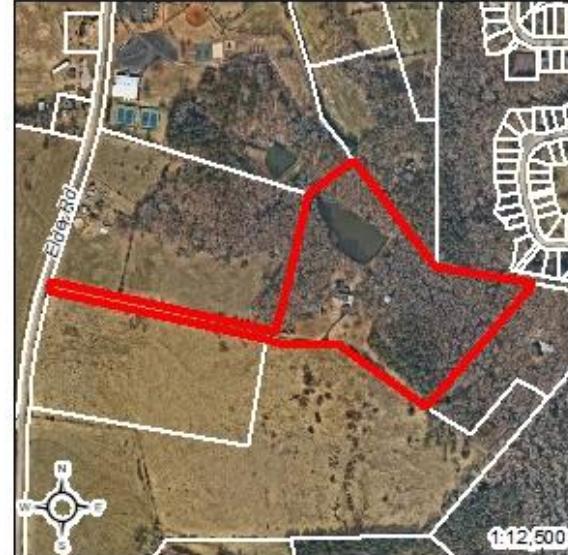
**EXISTING ZONING:** AG (Agricultural District)

**EXISTING LAND USE:** Single Family Residence

**TYPE OF VARIANCE REQUESTED:** Special Exception Variance

**REQUEST SUMMARY:** The property owner request variances from UDC Sec. 1012.07.a to allow an existing private access drive to serve an additional proposed lot as follows:

1. Variance from the design standards of 1012.07.a.1 to allow the existing 10' private access drive to serve one additional proposed lot.
2. Variance from the design standards of 1012.07.a.3 to allow the existing private access drive (measuring 3,090 feet) to exceed 2,000 feet to serve one additional proposed lot.



**DATE OF SCHEDULED HEARINGS**

**BOARD OF COMMISSIONERS:** September 10, 2024

**ATTACHMENTS:**

- Application
- Narrative
- Concept Plan
- Legal Description
- Plat of Survey

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

### **HISTORY**

- The property was platted prior to enactment of the UDC and recorded at Plat Book 9, Page 243 on February 27, 1986. The plat indicates there is an existing 50' access easement that could be used to serve the proposed lot.
- The subject parcel at that time was 22.487 acres.
- The property contains a single-family home that was constructed in 1996 according to Tax records.
- The applicant recorded a deed in 2012 that created a recombination of parcels B 05 021G and B 05 021H without an approved plat in violation of the UDC. The deed reduced the subject parcel to 21.48 acres as found in Deed Book 1145, Pages 285-286, filed July 6, 2012.
- The Planning and Code Enforcement Department does not recognize this change in lot size without an approved plat and the plat of record remains Plat Book 9, Page 243.

### **VARIANCE DESCRIPTION**

- The owner is requesting a special exception variance from section 1012.07.a to allow an existing private access drive to serve one additional proposed lot as follows:

1. Variance from the design standards of 1012.07.a.1 to allow the existing 10' private access drive to serve one additional proposed lot.

Section 1012.07.a.1 requires:

*The minimum continuous paved surface shall be 16 feet in width and paved with 2 inches of asphalt surface on a 4- inch crusher run stone base applied on a properly prepared sub-grade. Stabilized shoulders shall be provided and shall be 3 feet wide on both sides, (compacted and grassed or graveled or paved).*

2. Variance from the design standards of 1012.07.a.3 to allow the existing private access drive (measuring 3,090 feet) to exceed 2,000 feet to serve one additional proposed lot.

Section 1012.07.a.3 requires:

*Maximum centerline length of 2,000 feet as measured from the intersection with the public right-of-way line to the end of the cul-de-sac. In the case of looped drives, which extend continuously from public right-of-way line to public right-of way line, this two thousand foot maximum length may be waived, provided that public health, safety and welfare considerations are adequately addressed.*

### **PUBLIC FACILITIES**

#### **Water:**

- The applicant is proposing to use a well for water.

#### **Sewer:**

- The applicant is proposing to use an on-site septic system.

#### **Roads:**

- The site will be accessed from an existing 50' wide access easement with a 10' wide private access drive that connects to Elder Road.

### **ENVIRONMENTAL**

- There are potential State Waters on the site. The applicant will be required to follow the required permitting procedures in Article 11.
- There are potential wetlands on the site as indicated by the U.S. Fish and Wildlife Generalized Wetlands Map. The applicant will be required to follow the required permitting procedures in Article 10.
- No 100-year flood plains 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:**

The existing private drive currently serves two residential lots. The requested variance would allow the creation of one additional lot that exceeds 5 acres using an existing easement and private access drive. Due to the driveway being private and the allowance for only one additional lot, staff finds there should be no significant negative impact on the tax base, nearby public infrastructure, or schools from an approval of the request.

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

In the immediate area, there are low density residential and agricultural uses. The proposal is to use the existing private drive and not construct or expand the drive. Staff finds that approval of the request to allow an additional lot without widening the existing drive should not 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:**

Based on the configuration of the applicant’s property and surrounding properties, staff finds that approval of the requested private access drive variance should not diminish or impair the property values within the surrounding neighborhood.

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

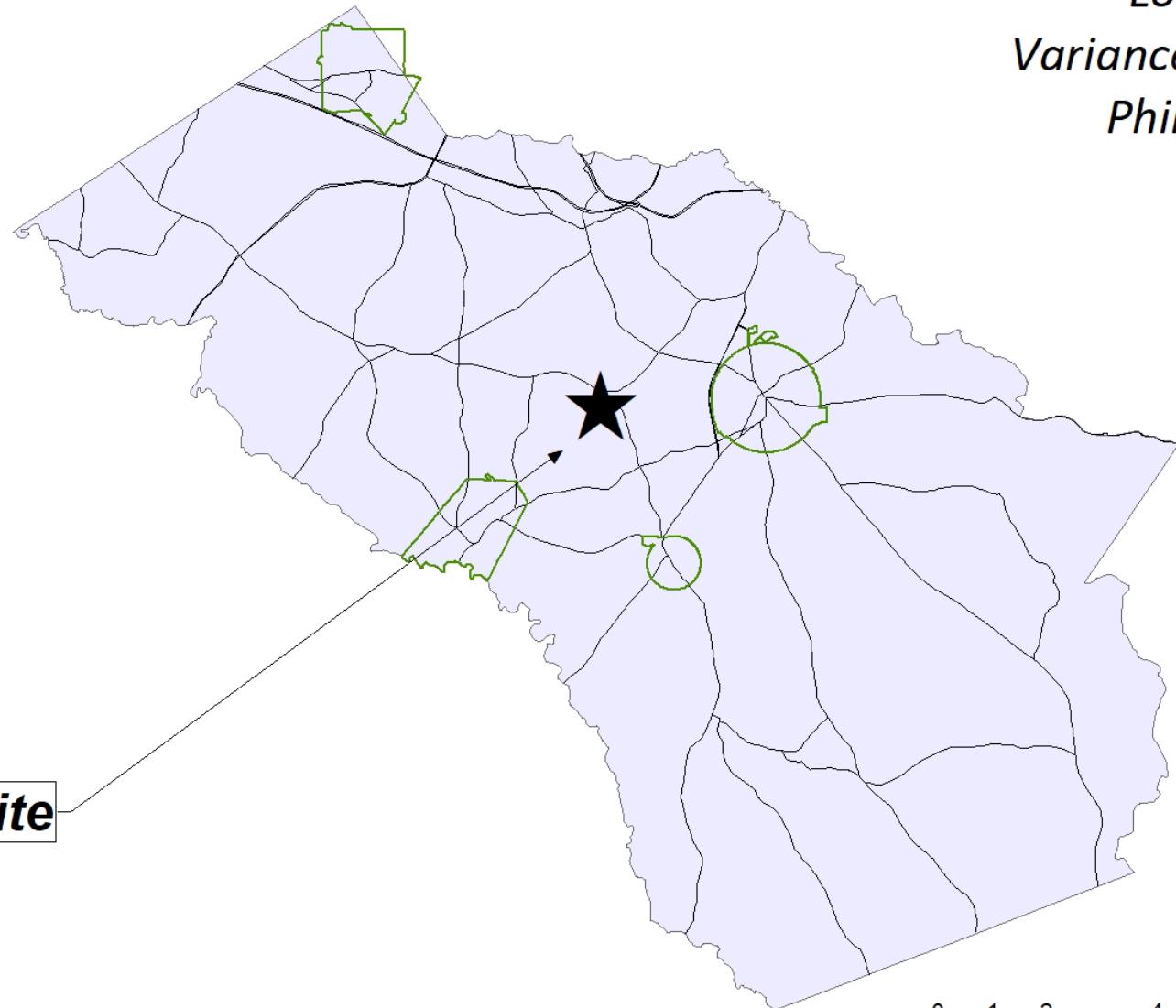
The intent of UDC Section 1012.07 is to require that private access drives be able to accommodate emergency vehicles and be of suitable quality. Staff finds that approval of this special exception variance request would not impair the UDC’s purpose and intent given the compliance with other standards identified in 1012.07 as there are existing fire truck turnarounds on the property.

## **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 for private access driveway standards. Should the present request be approved, staff recommends the following conditions to be fulfilled at the owner/developer’s expense.

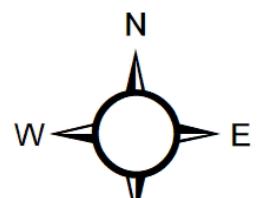
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*Location Map -*  
*Variance # P24-0101*  
*Phillip W. Kinney*

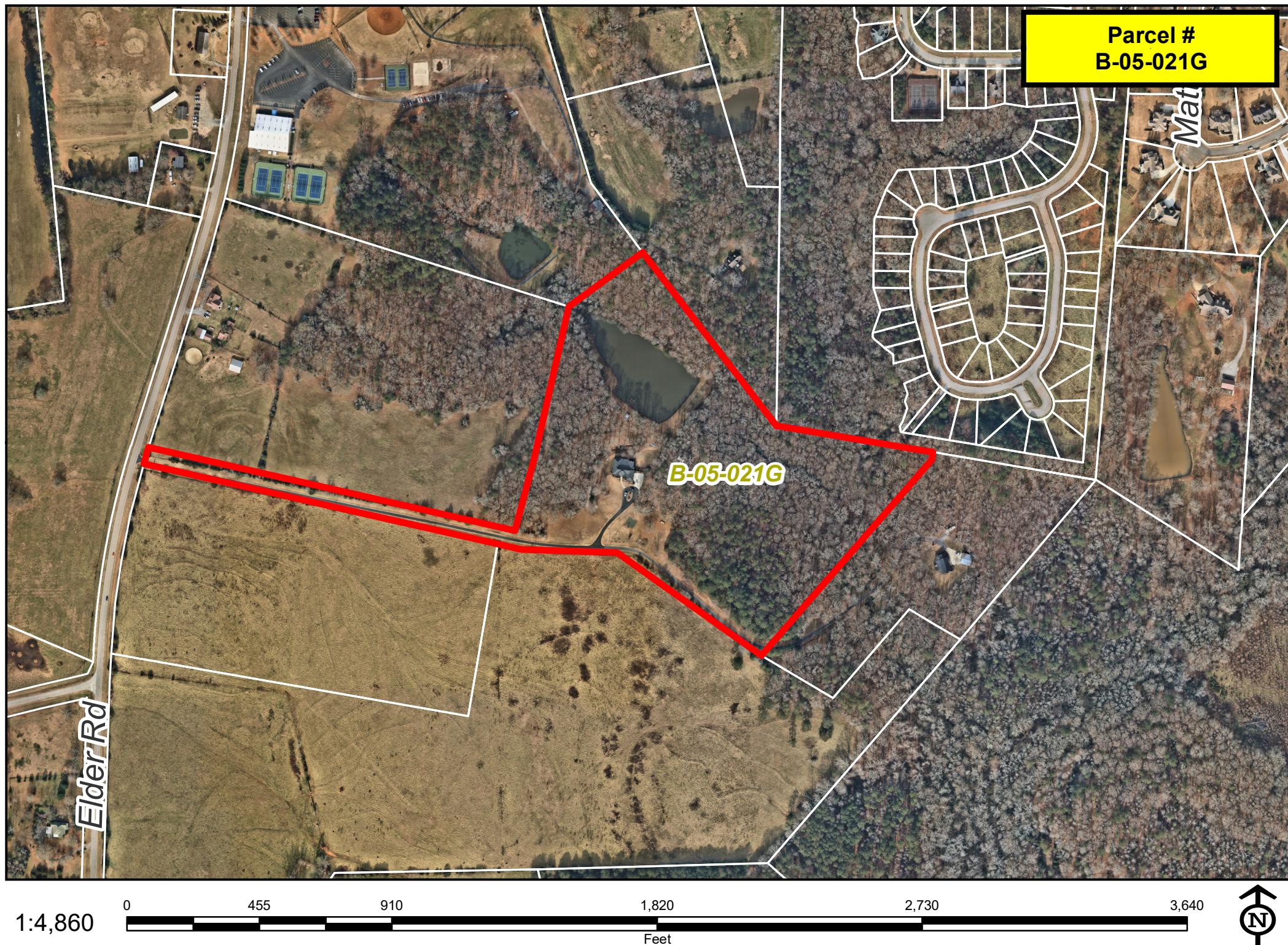


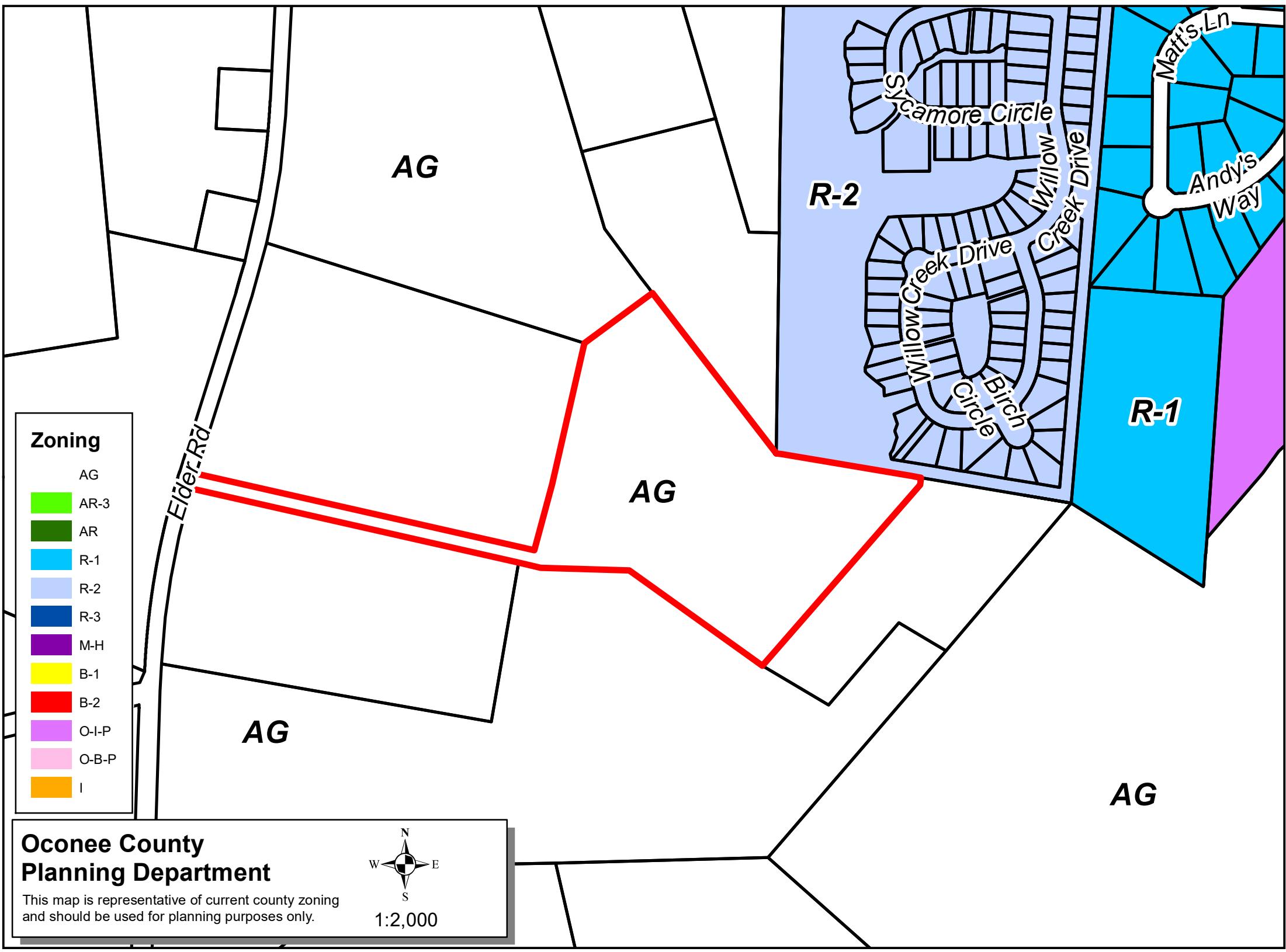
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0 1 2 4 6 8 Miles



# Variance # P24-0101 - Phillip W. Kinney





# Oconee County Planning Department

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



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