

**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 Kristen and Phillip Gibson submitted on December 20, 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 Stanton Porter on December 20, 2023, regarding a ±2.48-acre tract of land located 1030 Garrett Road, Oconee County, Georgia, (tax parcel no. A-01-076BA) 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 allow a Guest House to have a separate driveway access from the principal dwelling (UDC Sec. 351.01.b(3)).

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.

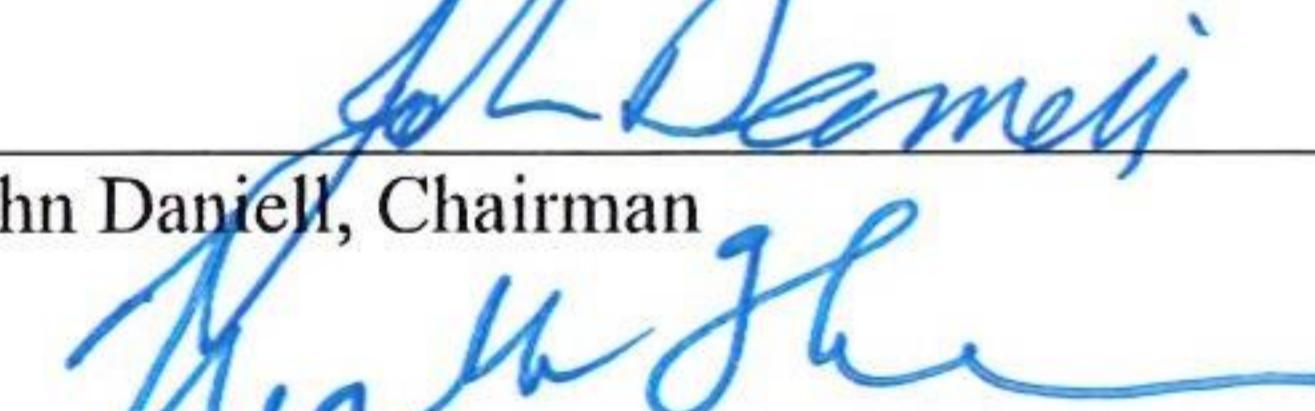
Said Special Exception Variance application was submitted to the Oconee County Board of Commissioners and a Public Hearing was duly held by the same at its regular meeting on November 5, 2024.

ADOPTED AND APPROVED, this 5<sup>th</sup> day of November, 2024.

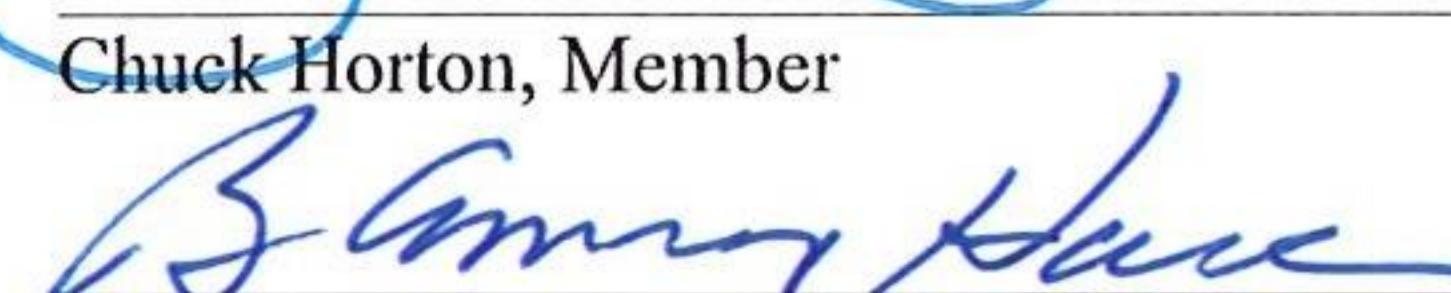
**OCONEE COUNTY BOARD OF COMMISSIONERS**

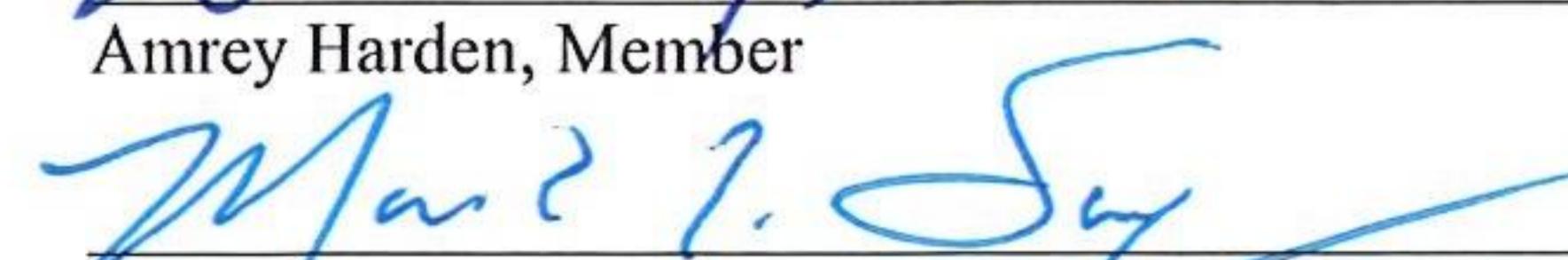
BY:

  
John Daniell, Chairman

  
Mark Thomas, Member

  
Chuck Horton, Member

  
Amrey Harden, Member

  
Mark Saxon, Member

ATTEST:

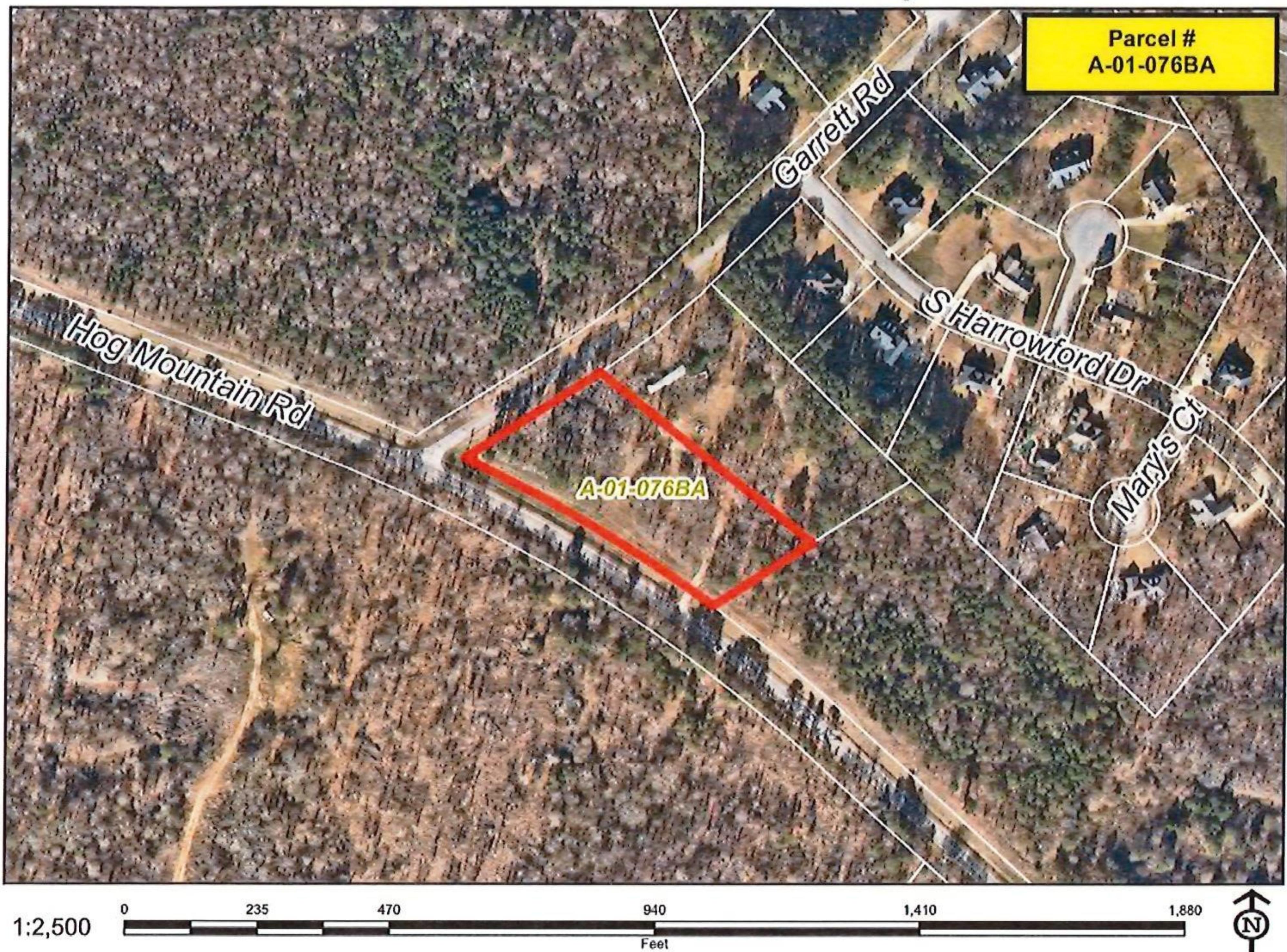
  
Holly Stephenson  
Clerk, Board of Commissioners

EXHIBIT "A" TO SPECIAL EXCEPTION VARIANCE NO. P23-0289

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TAX MAP

Variance # P23-0289 - Kristen & Phillip Gibson



**TYPED LEGAL DESCRIPTION**

**BK:1698 PG:596**

**EXHIBIT "A"**  
**Property Description**

**Closing Date:** **May 20, 2022**  
**Buyer(s):** **Kristen Sheree Gibson and Phillip David Gibson**  
**Property Address:** **1030 Garrett Road, Statham, GA 30666**

**PROPERTY DESCRIPTION:**

All that tract or parcel of land, together with all improvements thereon, situate, lying and being in the 224th District, G.M., containing 2.483 acres, more or less, and being known and designated as "Tract 1, 2.483 Acres," according to that plat of survey entitled, "Administrative Subdivision Plat for: Virginia Ashford Elliot," prepared by Chandler Surveying and Engineering, certified by Brett J. Chandler, G.R.L.S. No: 2816, as recorded in Plat Book 2021, Page 2, in the Office of the Clerk of Superior Court for Oconee County, Georgia, said plat being incorporated herein by reference and being made a part of this description.

The residence situate upon the above-described property being known and designated as 1030 Garrett Road, according to the present system of numbering for Oconee County, Georgia.

This conveyance is made subject to all zoning ordinances, easements and restrictions of record, if any.

**PARCEL NO./APN: A-01-076-BA**

**PROPERTY DESCRIPTION**

**NARRATIVE**



<p><u>Winder:</u> 73 Church Street P.O. Box 88 Winder, Georgia 30680 470.997.2010 <a href="mailto:stanton@stantonporter.com">stanton@stantonporter.com</a></p>	<p><u>Athens:</u> 2005 South Milledge Avenue Suite 101 Athens, Georgia 30606 (By Appointment Only)</p>
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July 17, 2024

Oconee County Board of Commissioners  
The Oconee County Planning Commission  
7635 Macon Highway  
Watkinsville, GA 30677

Re: Variance Application for 2.48 Acres, 1030 Garrett Road setback variance and variance from 351.01.b.3 for additional driveway for guest house and Rezone Application for Change in Condition Number Three from Case No P20-0143

Greetings:

This variance request concerns a 2.48 acre tract of land located at 1030 Garrett Road, Statham, GA 30666. The owner of the house purchased the house in May 2022 as their primary residence. The property contains an unpermitted guest house slightly over 1000 square feet on the rear of the property and the owners are seeking to bring the guest house into compliance to allow their mother to move into the house. The applicant is requesting a variance from Section 410.01 (c)(2) from 15 feet to 12.5 feet to allow for the carport as shown on the Site Plan. The site plan shows the proposed carport will be 13.16 feet from the property line. Additionally, the applicant is requesting a variance from Section 351.01.b.3 to allow a second driveway for the property to access the guest house. Using the primary driveway is not possible as it would eliminate the backyard of the property owner and encroach on their landscaping and air conditioner. Thirdly, the applicant is requesting a change in zoning condition number three from Zoning Case P20-0143 to allow a driveway through the no access easement on Highway 53 as shown on the Site Plan. The property will be on septic and water will be provided by the County.

Regarding the factors that the County should consider, the following is provided:

1. This zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The adjacent and nearby properties are presently either residential or undeveloped land. The current zoning for the property is AR and the request is consistent with an AR use. The proposed rezone is to change a condition number three of the prior zoning case P20-0143 which was a one-foot no access easement along Highway 53. The only way to feasibly create a driveway to the guesthouse is to access it from Highway 53. There currently is already a road cut and culvert where the driveway would be as it is located at an old drive/road. The vehicles accessing the drive would be very limited as a single senior lady living in the house. The setback variance is to allow the decorative additions to the existing guesthouse to improve its appearance and would only encroach on the setback line by 2.5 feet.

**NARRATIVE**

2. This zoning proposal would not adversely affect the existing use or usability of adjacent or nearby property.

3. This zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. Furthermore, fear of increased traffic is not a proper justification for the denial of this rezone.

4. This zoning proposal is in conformity with the policy and intent of the comprehensive land use plan. The area surrounding the subject property is already residential in character.

The denial of this proposed zoning, or the grant to a different zoning category, or the grant with unreasonable conditions, will result in substantial monetary damage to the owner. The subject property has been vacant for many years and cannot economically support the present value of the land as presently zoned. Furthermore, the denial of this request will violate the owner's rights of due process and equal protection, procedural and substantive, and violation of Article I, Section I, Paragraphs 1 and 2, and Article I, Section III, Paragraph 1 of the Georgia Constitution and the Fifth and Fourteenth Amendments to the United States Constitution. Denial of the rezoning will destroy owner's property rights without first paying just compensation. A denial of this application would constitute an arbitrary and capricious act by Oconee County without any rational basis therefor, constituting an abuse of discretion. A refusal to rezone the subject property so as to permit the only feasible economic use of the property would be unconstitutional and would discriminate in an arbitrary and capricious and unreasonable manner between the owner and owners' of similarly situated property. This application meets the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning as an expression of the government's police power.

For the foregoing reasons, the applicant and owner respectfully request that this rezoning application be approved.

Sincerely,

STANTON PORTER LAW, LLC

By: \_\_\_\_\_

Stanton E. Porter

ARCHITECTURAL RENDERINGS



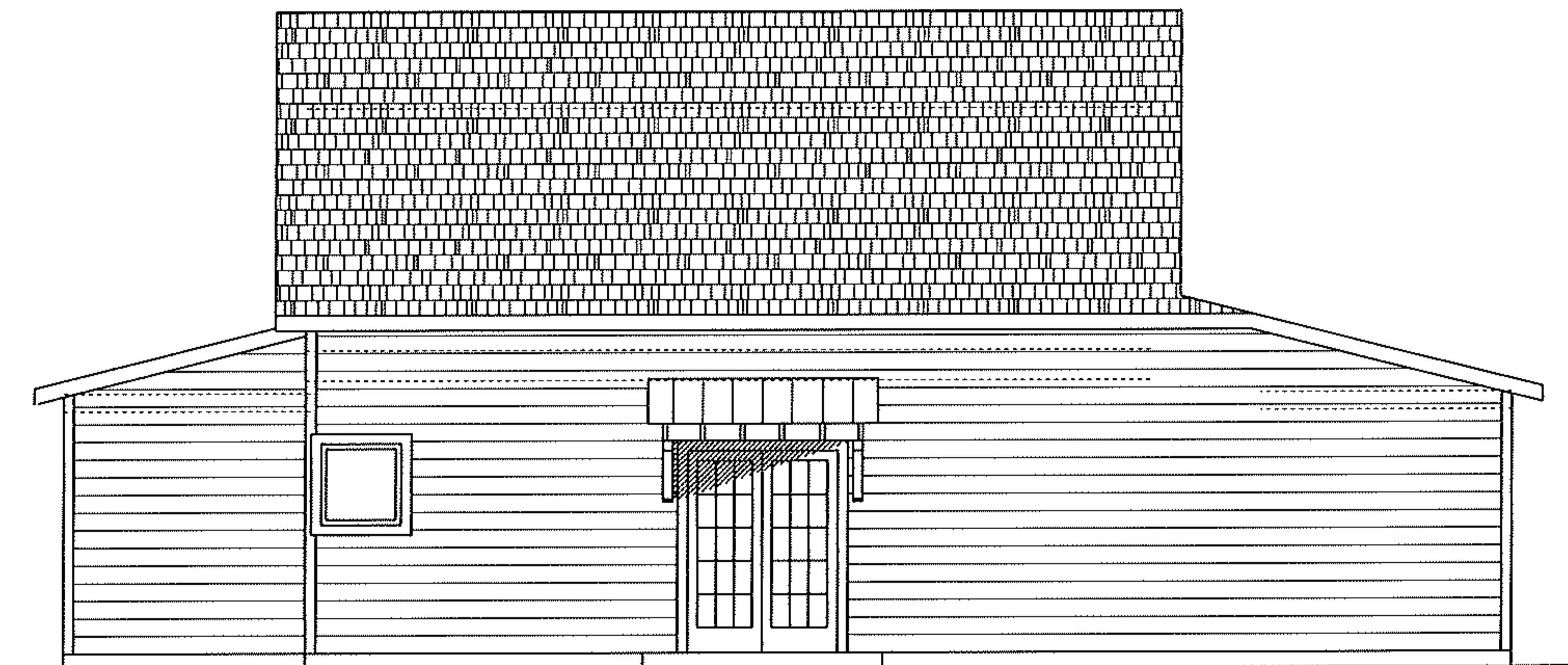
FRONT ELEVATION

ARCHITECTURAL RENDERINGS



LEFT ELEVATION

ARCHITECTURAL RENDERINGS



RIGHT ELEVATION

ARCHITECTURAL RENDERINGS



REAR ELEVATION

EXHIBIT "A" TO SPECIAL EXCEPTION VARIANCE NO. P23-0289  
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## PLAT



SURVEYING &  
ENGINEERING, INC

P.O. BOX 269  
WATKINSVILLE, GA 30677  
WWW.BASELINENEGA.COM  
PHONE: 706-769-6610



VICINITY MAP  
NOT TO SCALE

PROJECT DATA

PROFESSIONAL CONTACT: BASELINE SURVEYING & ENGINEERING  
JASON LAWSON, C.P.E. #4647  
P.O. BOX 269 WATKINSVILLE, GA 30677  
JASON@BASELINEGA.COM  
706-769-6610

1. TOTAL PROJECT ACREAGE: 2.484± ACRES
2. TAX PARCEL #: A01 076A4
3. NO ATTEMPT WAS MADE TO LOCATE UTILITIES OR IMPROVEMENTS ON OR ADJACENT TO THE SUBJECT PROPERTY EXCEPT AS SHOWN HEREON.
4. THIS IS NOT A BOUNDARY SURVEY. BOUNDARY INFORMATION DERIVED FROM PLAT BOOK 2021 PAGE 2 IN THE OCONEE COUNTY CLERK OF COURTS OFFICE.
5. ZONED: A1
6. THIS PROPERTY MAY BE SUBJECT TO ANY EASEMENTS OR RIGHT OF WAY'S OF RECORD, SHOWN OR NOT SHOWN

7. TOPOGRAPHIC INFORMATION FROM THE NOAA LIDAR DATABASE FOR OCONEE COUNTY, DATED 2019. VERTICAL RELIEF BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1989. 1' CONTOUR INTERVALS SHOWN.

8. SOILS INFORMATION BASED ON A LEVEL III SOIL SURVEY FOR JODY HATTON

BY SITE ENHANCEMENT, INC. DATED NOVEMBER 11, 2018. PROVIDED TO BY

CLIENT

PLAN FOR:  
KRISTEN GIBSON

REVISIONS	DATE
0CONEE COUNTY COMMENTS	12-07-2
0CONEE COUNTY COMMENTS	01-19-2
0CONEE COUNTY COMMENTS	05-20-2
0CONEE COUNTY COMMENTS	08-06-2

DATE  
10/10/23

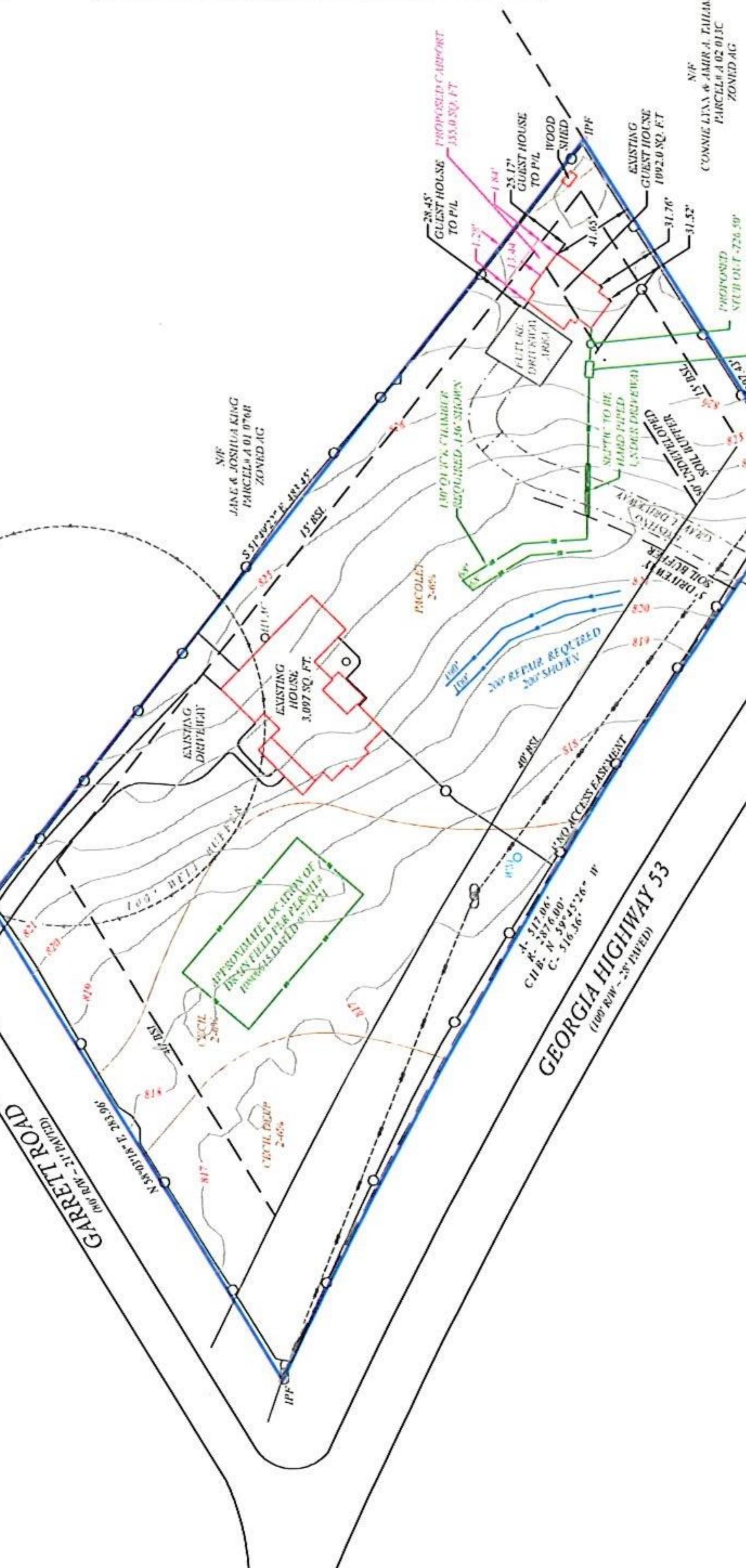
PROJECT  
23-3355S

VARIANCE CONCEP  
PLAN AND AS-BUILT

SHEET  
1 OF 1



EXPIRES 12-31-2024



PLAN ABBREVIATIONS	
IPF-	IRON PIN FOUND
IPS-	IRON PIN SET
GM-	GAS METER
CK-	CABLE KINCH
RW-	RIGHT OF WAY
CL-	CENTERLINE
P.O.C.-	POINT OF COMMENCEMENT
P.O.B.-	POINT OF BEGINNING
SSM/H-	SANITARY SEWER MANHOLE
HW-	WATER VALVE
HM-	HIGH MARK
RH-	FIRE HYDRANT
PP-	POWER POLE
MF-	NON-OR FORMERLY
DR-	DRILLED BORROW
PG-	PAGE
OHE-	OVERHEAD ELECTRIC
PH-	PLATE HOOK
LL-	LAND LOT
GCB-	GATE CONTROL BOX
TR-	TELEPHONE RISER
DWCB-	DOUBLE WING CATCH BASIN
IW-	HEAD WALL
EWS-	FLARED END SECTION
JB-	JUNCTION BOX
DR-	DROP INLET
TRAV-	TRANSFORMER
OTP-	OPEN TO PIPE
EMH-	ELECTRIC MANHOLE
GEN-	GENERATOR
OCS-	OUTLET CONTROL STRUCTURE
PIL-	PROPERTY LINE
SS-	SANITARY SEWER
BSL-	BUILDING SETBACK LINE
REFR-	REFRIGERANT LINE
PL-	PIPE
100'-0"	100 FEET
25'-0"	25 FEET
100'	100'
150'	150'

TWO BEDROOM GARAGE  
ASSUMING THE SOIL HAS A CONSISTENT PERCOLATION RATE OF  
45 MINUTES PER INCH ACROSS THE ABSORPTION FIELD.  
100 SQUARE FEET • 2 BEDROOMS = 130 LINEAR FEET REPAIR REQUIRED  
200 LINEAR FEET • 65 (35% REDUCTION) = 130 LINEAR FEET REPAIR REQUIRED

GRID NORTH  
NORTH AMERICAN PLATEAU OF THE  
GEOGRAPHIC ALBERS CONFORMAL SYSTEM  
GRAPHIC SCALE  
1 INCH = 50 FEET  
0' 25' 50' 100' 150'



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

**VARIANCE CASE #:** P23-0289

**DATE:** September 20, 2024

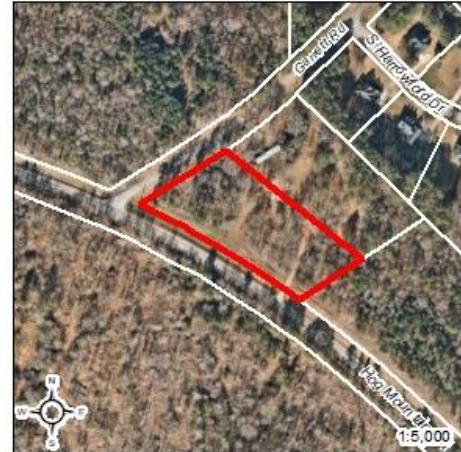
**STAFF REPORT BY:** David Webb, AICP (Senior Planner)

**APPLICANT NAMES:** Stanton Porter (attorney)

**PROPERTY OWNER(S):** Kristen and Phillip Gibson

**LOCATION:** 1030 Garrett Road  
Parcel number: A 01 076BA

**PARCEL SIZE(s):** ±2.48 acres



**EXISTING ZONING:** AR (Agricultural Residential)

**EXISTING LAND USES:** Single Family Residence

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

**REQUEST SUMMARY:** Allow a Guest House to have a separate driveway access from the principal dwelling

**CONCURRENT APPLICATIONS:**

- Change the conditions of the previous zoning (case # P20-0143), zoned AR, to remove the required 1-foot no access easement to Hog Mountain Road (GA 53).
- Setback variance from 15 feet to 12.5 feet to construct a carport adjacent to an unpermitted residential structure

**DATE OF SCHEDULED HEARINGS**

**BOARD OF COMMISSIONERS:** October 1, 2024

**ATTACHMENTS:**

- Application
- Warranty Deed
- Plat of Survey
- Concept Plan
- Narrative
- Legal Description
- Architectural Elevations

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

### **HISTORY**

- This property was rezoned to AR (Agricultural Residential) on October 6, 2020, to create a two-lot subdivision.
- There was a dirt driveway accessing Highway 53 that existed at the time of the rezoning. It was used as the driveway for a manufactured home that was on the property since 1985.
- The rezoning had a condition to no longer use the dirt driveway and instead for the property to have access only from Garrett Road.
- The Administrative Plat was approved and recorded January 6, 2021, at Plat Book 2021, Page 2 that created two lots, included the subject property. The plat includes a 1-foot no access easement to Hog Mountain Road. The approved plat indicates the legal access for the property is Garrett Road.
- A 3,214 SF single family home was permitted and constructed on the site. It received a certificate of occupancy on September 1, 2021 (PB21-0208).
- The previous property owner, Stephen Dickinson, applied to build a 1,008 SF garage on April 28, 2022
- The aerial photo dated January 7, 2022, shows the garage was already under construction at the time the garage permit was applied for.
- Comments were issued by Planning on the garage permit application on May 7, 2022. The homeowner never re-submitted items to address the comments.
- The current owners acquired the property May 20, 2022.
- According to Tax Assessor records and dated photos, the current owners continued construction work without a permit after they acquired the property.
- The Tax Assessor documented on October 27, 2022, that an additional single-family home was constructed **without permits** on the property with a size of 1,389 SF.
- The Tax Assessor documented the residential structure was built without permits in photographs in 2022 and again on July 17, 2024.
- A Notice of Violation was issued April 24, 2024, that determined: *A structure was built on your property without first obtaining a building permit (UDC §1225.01(a))*.

### **VARIANCE DESCRIPTION**

- A special exception variance from Oconee County Unified Development Code Section 351.01 for a Guest House to have a separate driveway access from the principal dwelling
- Section 351.01 (3) states: *... Access shall be provided through the principal dwelling unit's existing driveway.*
- According to the concept plan, the applicant wishes to use a driveway that leads directly to Hog Mountain Road which would violate the conditions of zoning and the platted 1' no access easement to Hog Mountain Road. There is a concurrent application to remove the zoning condition.

### **PUBLIC FACILITIES**

#### **Water:**

- The project utilizes Oconee County water services.

#### **Sewer:**

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

#### **Roads:**

- The property has legal access to Garrett Road.

### **ENVIRONMENTAL**

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

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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:**

Staff finds the allowance of a second driveway would be adverse to the intent of the Guest House standards. The allowance of a second driveway accessing Highway 53 has the potential to create a traffic hazard. The current legal access for the property is Garrett Road, where the driveway for the existing single-family dwelling is located. Staff analysis indicates that the proposed guest house could be permitted and meet UDC requirements if the applicant extends the driveway for the primary residence to the rear of the property. There is a clear  $\pm 23'$  between the HVAC unit beside the primary residence to the side property line to extend the existing driveway. If that is done, then the change of zoning conditions and variance on a guest house driveway would not be necessary.

**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 and AG (Agricultural). Staff analysis indicates that granting the requested variance could potentially diminish the enjoyment of adjacent properties by creating a traffic hazard. Allowing an additional driveway to access Hog Mountain Road without a deceleration lane would create a negative traffic impact for the Harrowford Estates Subdivision that is accessed by Garrett Road.

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

Staff analysis indicates that granting the requested variance could potentially have a negative affect the value of adjacent properties by creating a traffic safety hazard. The hardship was created by the property owner in the placement of an unpermitted structure. Allowing an additional driveway to access Hog Mountain Road without a deceleration lane would create a negative traffic impact for the Harrowford Estates Subdivision that is accessed by Garrett Road.

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

Staff finds the allowance of a second driveway would be adverse to the intent of the Guest House standards (Sec. 351.01). The intent of the standard is to provide one point of access for a residential property to reduce additional driveways and traffic hazards.

The allowance of a second driveway accessing Highway 53 has the potential to create a traffic hazard. The current legal access for the property is Garrett Road, where the driveway for the existing single-family dwelling is located. Staff analysis indicates that the proposed guest house could be permitted and meet UDC requirements if the applicant extends the driveway for the primary residence to the rear of the property. There is a clear  $\pm 23'$  between the HVAC unit beside the primary residence to the side property line to extend the existing driveway. If that is done, then the change of zoning conditions and variance on a guest house driveway would not be necessary.

## **STAFF RECOMMENDATION**

Based upon the standards and limitations for special exception variance approval, this request **does NOT meet all necessary conditions** to grant a special exception as the hardship is created by the property owner with the construction of an unpermitted structure and trying to use an access that violates the conditions of the plat. Staff recommends **denial** of the request as there does not appear to be a hardship as the driveway for the principal dwelling could be extended according to the concept plan.

## SITE PICTURES



Accessory structure under construction prior to permit application



Accessory structure under construction prior to permit application



Tax Assessor photo 4-13-2022- building with no permits



Tax Assessor photo 4-13-2022- building with no permits



Tax Assessor photo 7-3-2024- built with no permits



Tax Assessor photo 7-17-2024- built with no permits



Accessory structure constructed with no permits



Primary structure- 1030 Garrett Road



# Variance # P23-0289 - Kristen & Phillip Gibson



1:2,500

0

235

470

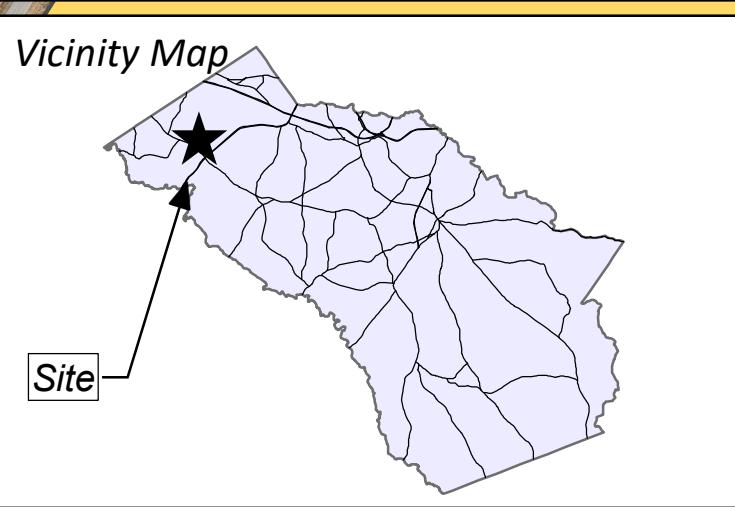
940

1,410

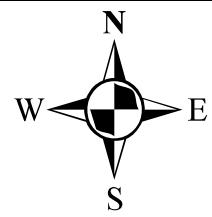
1,880

Feet





## Oconee County Planning Department

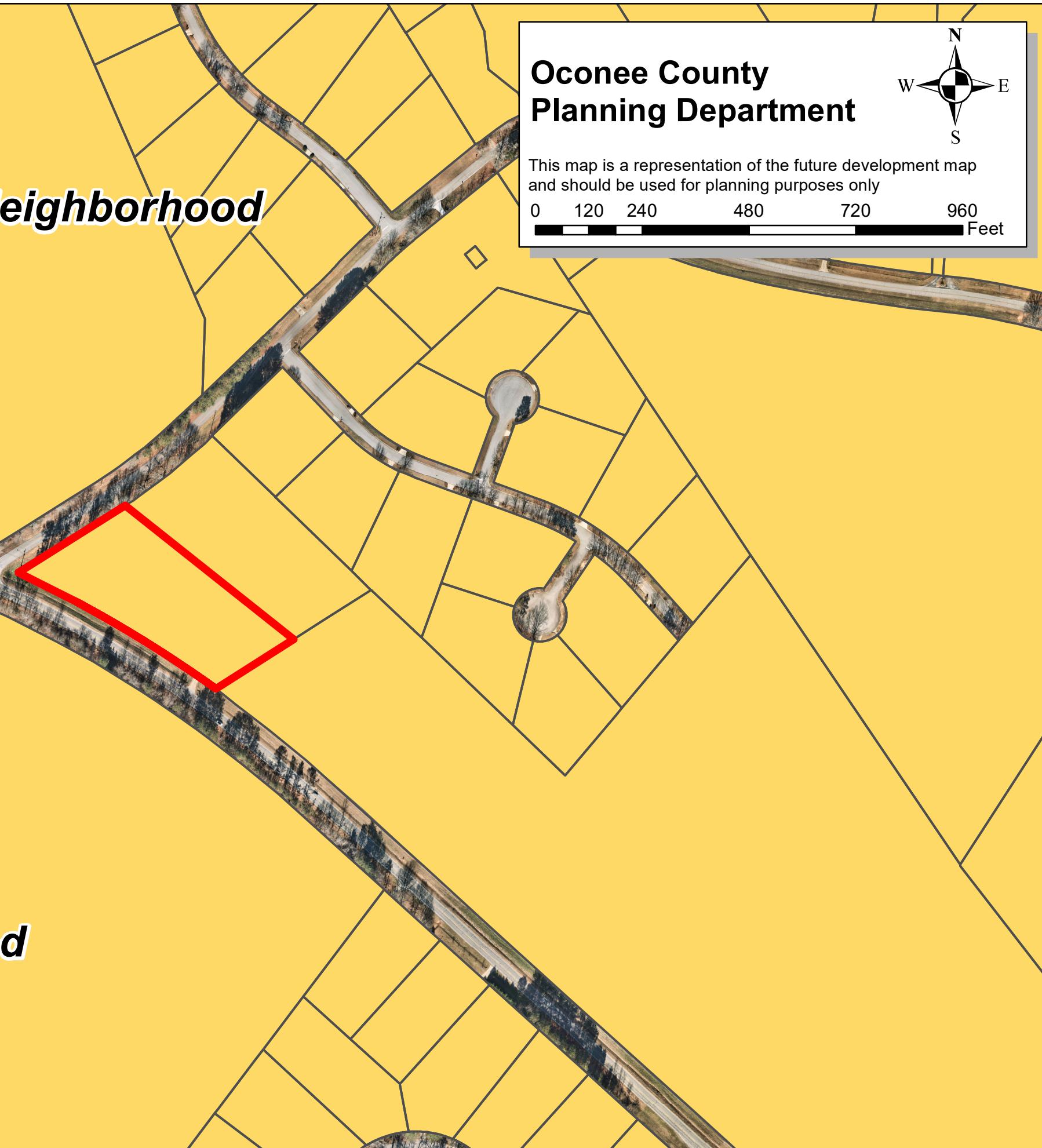


This map is a representation of the future development map  
and should be used for planning purposes only

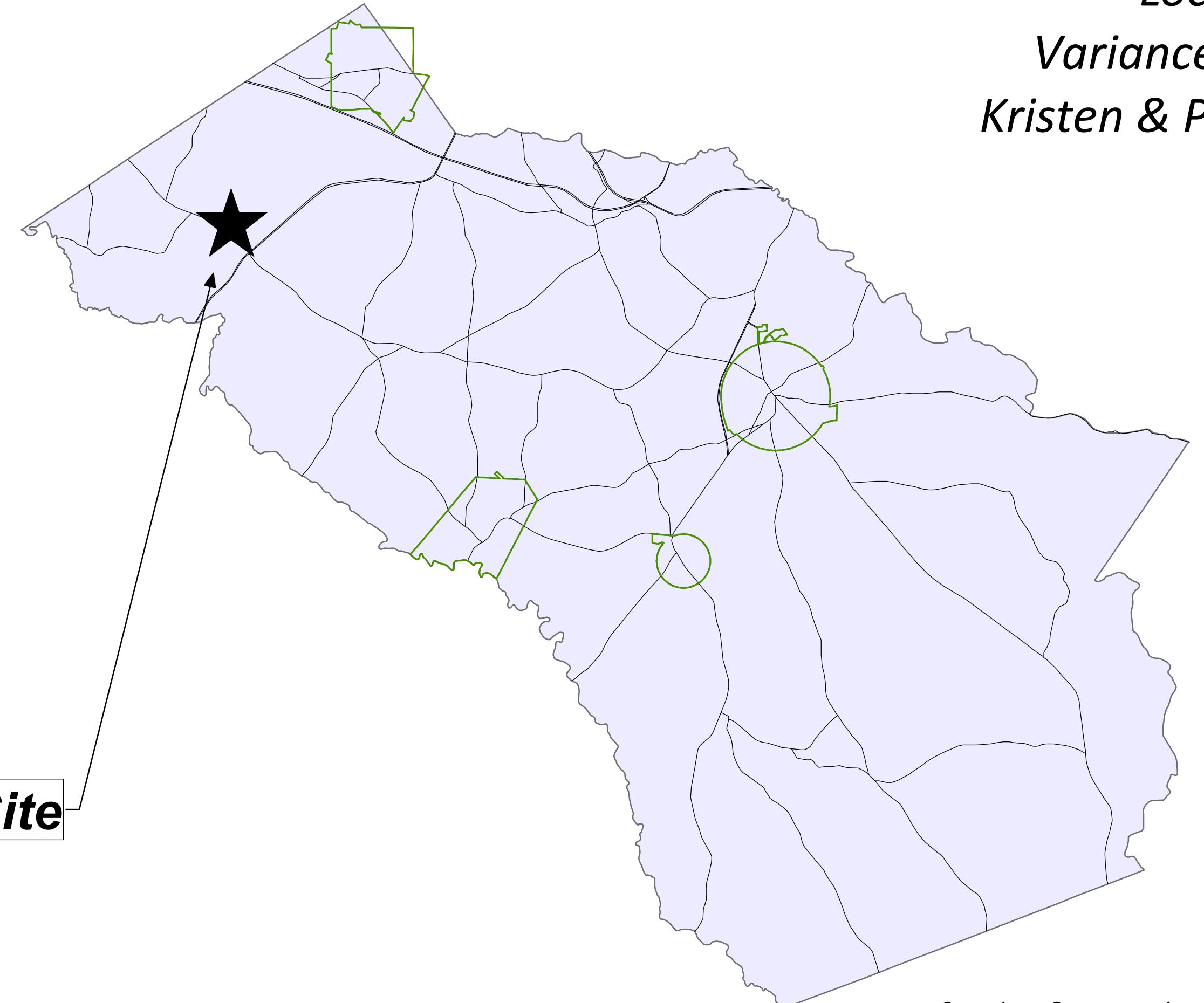
0 120 240 480 720 960 Feet

## Suburban Neighborhood

## Suburban Neighborhood



*Location Map -*  
*Variance # P23-0289*  
*Kristen & Phillip Gibson*



1:120,000

0 1 2 4 6 8 Miles

