

**AMENDMENT
TO THE UNIFIED DEVELOPMENT CODE OF OCONEE COUNTY, GEORGIA
AND THE ZONING MAPS OF OCONEE COUNTY, GEORGIA**

TITLE

An Ordinance amending the Unified Development Code of Oconee County, Georgia, and the Zoning Maps of Oconee County, Georgia, pursuant to Article 12, Division I et seq., to revise the conditions for a previously approved rezone case #P20-0143 zoning classification AR (Agricultural Residential District) pursuant to an application for rezoning of property owned by Kristen and Phillip Gibson submitted on December 18, 2023.

ENACTMENT CLAUSE

Pursuant to the authority conferred by the Constitution and Laws of the State of Georgia and after consideration of an application for zoning change submitted by Stanton Porter on December 18, 2023, requesting a rezone of a ±2.48-acre tract of land located at 1030 Garrett Road in Oconee County, Georgia, (tax parcel no. A-01-076BA), the Board of Commissioners of Oconee County does hereby ordain and enact to law the following:

SECTION 1. An Ordinance known as the “Unified Development Code of Oconee County, Georgia” as enacted and amended by the Board of Commissioners of Oconee County and the Zoning Maps described therein are hereby amended as follows:

The zoning change in conditions for the property described on the attached “Exhibit A” is hereby changed for the purpose as set forth in “Exhibit A” attached hereto.

Said rezone 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. Repeal of Conflicting Resolutions or Ordinances. All Resolutions or Ordinances and parts or sections of Resolutions or Ordinances in conflict with this Ordinance are hereby repealed.

SECTION 4. Effective Date. This Ordinance shall take effect this date.

Said Zoning Petition was submitted to the Oconee County Planning Commission and a Public Hearing was duly held by the same on October 21, 2024, and a Public Hearing was held by the Oconee County Board of Commissioners at its regular meeting on November 5, 2024.

ADOPTED AND APPROVED, this 5th of November, 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

EXHIBIT "A" TO REZONE NO P23-0287

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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 construe approval of any standard that is not in conformity with the Unified Development Code.
2. 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 improvements shall include all on-site improvements and such off-site improvements as are required by the County to provide service to subject property.

EXHIBIT "A" TO REZONE NO P23-0287

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TAX MAP

Rezone # P23-0287 - Kristen & Phillip Gibson

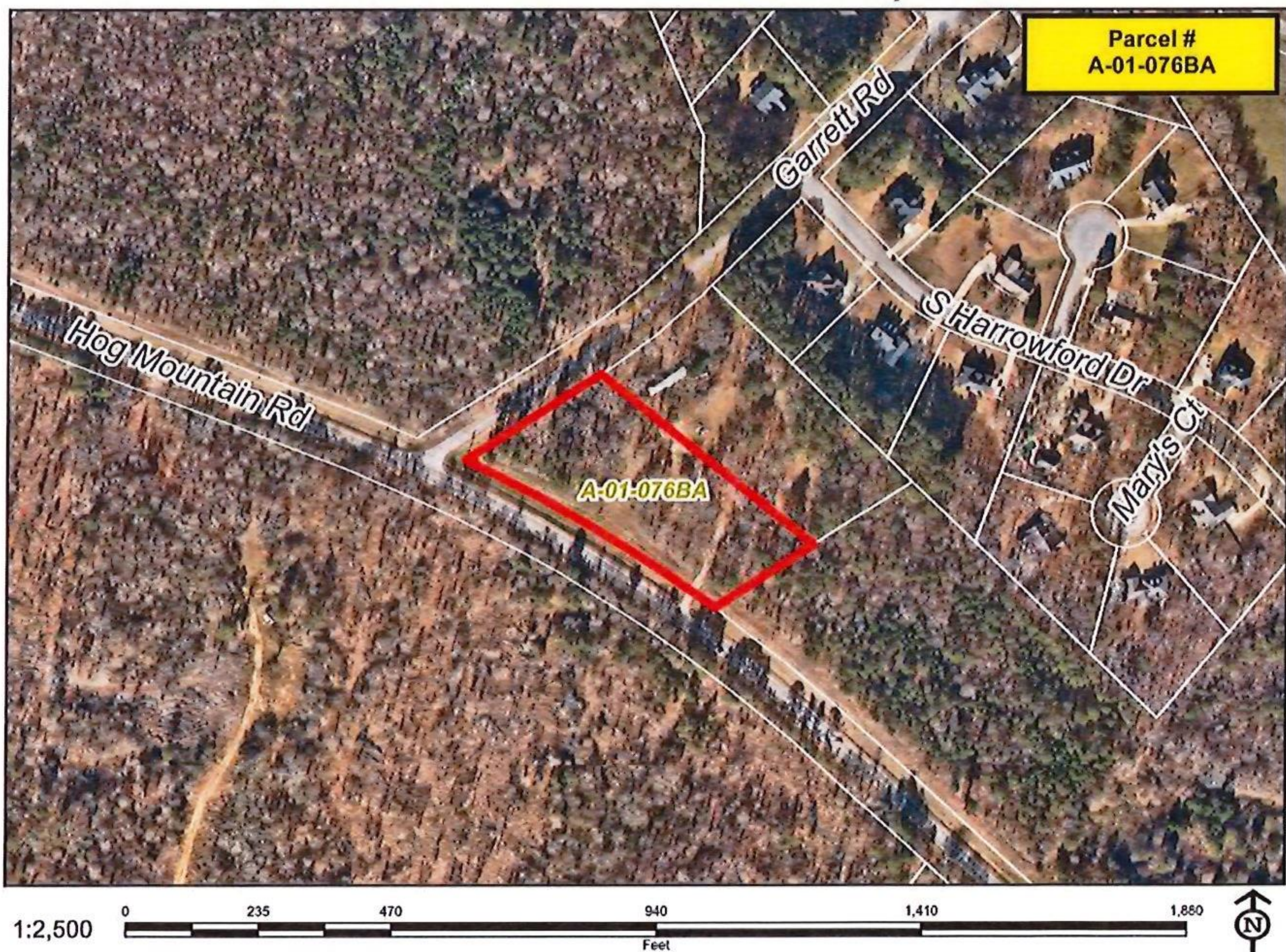


EXHIBIT "A" TO REZONE NO P23-0287

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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

EXHIBIT "A" TO REZONE NO P23-0287

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NARRATIVE

STANTONPORTER
LAW

Winder:
73 Church Street
P.O. Box 88
Winder, Georgia 30680
470.997.2010
stanton@stantonporter.com

Athens:
2005 South Milledge Avenue
Suite 101
Athens, Georgia 30606
(By Appointment Only)

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 drive way 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

REPRESENTATIVE PHOTOS



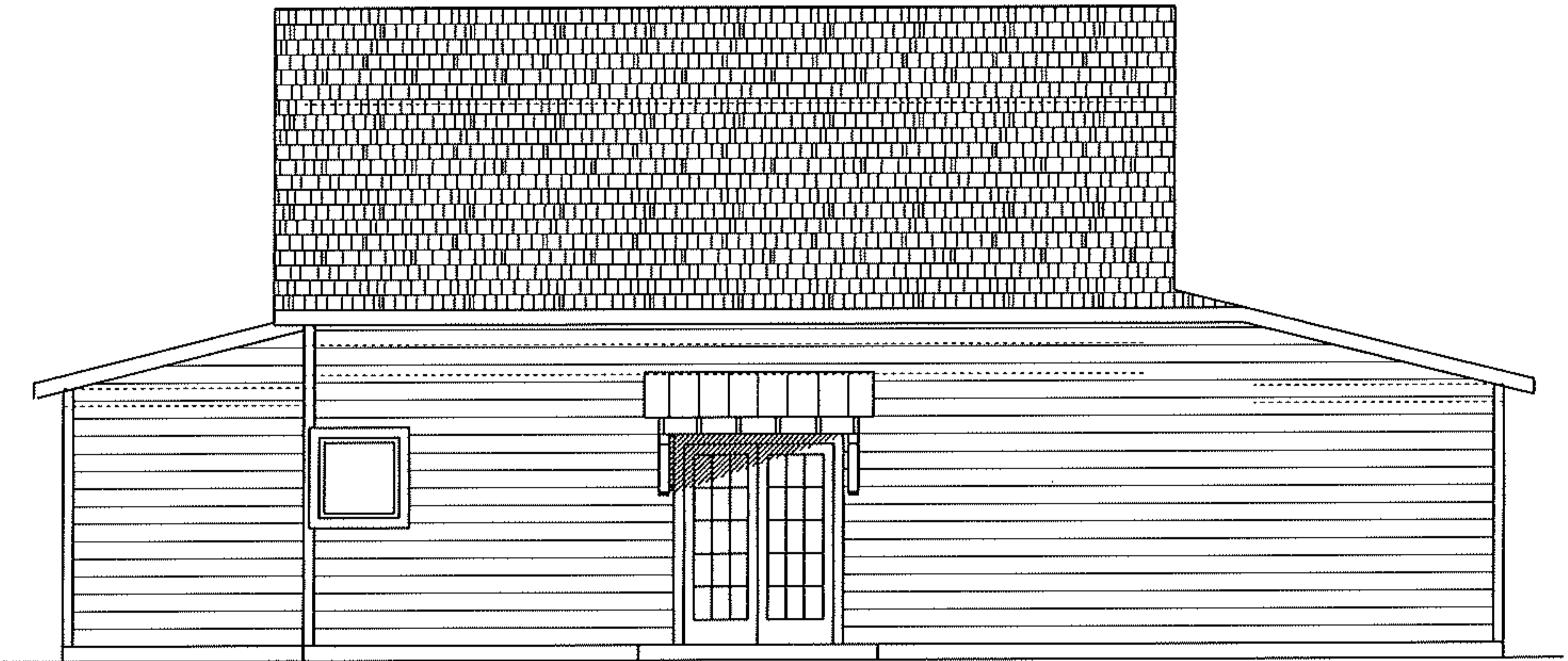
FRONT ELEVATION

REPRESENTATIVE PHOTOS



LEFT ELEVATION

REPRESENTATIVE PHOTOS



RIGHT ELEVATION

REPRESENTATIVE PHOTOS



REAR ELEVATION

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[illegible]

PLAN FOR:

KRISTEN GIBSON

223RD GEORGIA
MILITIA DISTRICT

OCONEE COUNTY

PHYSICAL ADDRESS:

1030 GARRETT ROAD
STATHAM, GA 30666

REVISIONS	DATE
REVISIONS PER OCONEE COUNTY COMMENTS	12-07-2
REVISIONS PER OCONEE COUNTY COMMENTS	01-19-2
REVISIONS PER OCONEE COUNTY COMMENTS	05-20-2
REVISIONS PER OCONEE COUNTY COMMENTS	06-06-2

DATE
10/10/23

PROJECT
23-3355S

VARIANCE CONCEPT
PLAN AND AS-BUILT

SHEET
1 OF 1



EXPIRES 12-31-2024



VICINITY MAP

NOT TO SCALE

PROJECT DATA

PROFESSIONAL CONTACT: BASELINE SURVEYING & ENGINEERING
JASON LAMON, G.S. P.E. #44647
P.O. BOX 269 WATKINSVILLE, GA 30677
JLAMON@BASELINEGA.COM
706-769-6610

1. TOTAL PROJECT ACRES: 2.48 +/- ACRES
2. TAX PARCEL #: A 01 07684
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 PAGE 2 IN THE OCONEE COUNTY CLERK OF COURTS OFFICE.
5. ZONED: AR
6. THIS PROPERTY MAY BE SUBJECT TO ANY EASEMENTS OR RIGHT OF WAY ON 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 1988, 1' CONTOUR INTERVALS SHOWN.
8. SOILS INFORMATION BASED ON A LEVEL III SOIL SURVEY FOR JUDY HATSON BY SITE ENHANCEMENT, INC. DATED NOVEMBER 11, 2018, PROVIDED TO BY CLIENT.

SYMBOL LEGEND

- Ø CALCULATED POINT
- IRON MARKER FOUND
- 1/2" IRON PIN SET
- ⊠ CONCRETE MONUMENT
- FENCE



GRID NORTH

NAD 83
NORTH AMERICAN DATUM OF 1983
HAYWARD SATELLITE POSITIONING SYSTEM
HORIZONTAL DATUM

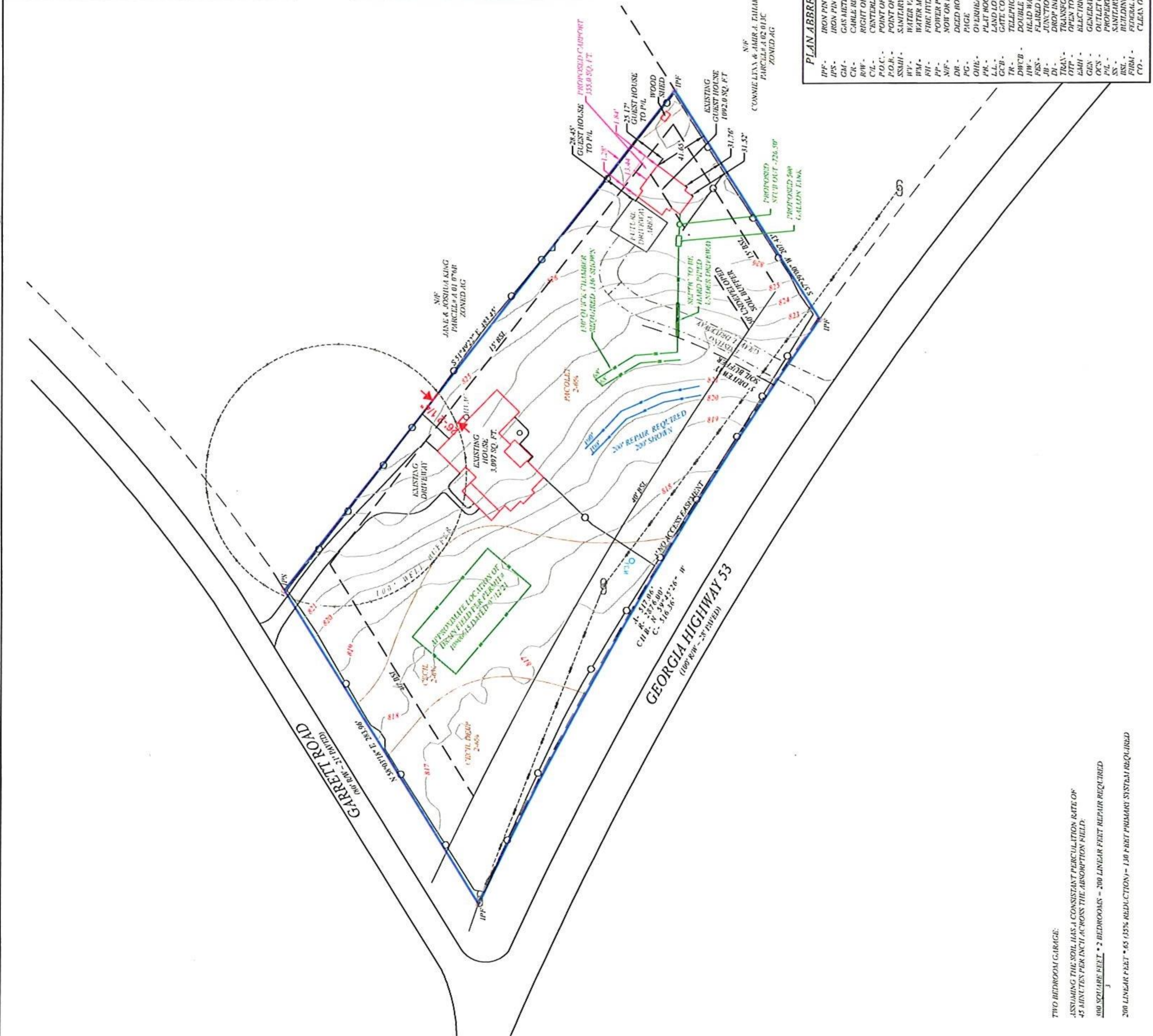
GRAPHIC SCALE



1 INCH = 50 FEET

PLAN ABBREVIATIONS

- IPF - IRON PIN FOUND
- IP - IRON PIN SET
- GM - GAS METER
- CK - CABLE RISER
- R/W - RIGHT OF WAY
- CE - CENTERLINE
- P.O.C. - POINT OF COMMENCEMENT
- P.O.B. - POINT OF BEGINNING
- SSMH - SANITARY SEWER MANHOLE
- WT - WATER TALLIE
- WM - WATER METER
- PH - FIRE HYDRANT
- PP - POWER POLE
- SIF - SINK OR FORMERLY
- DI - DEED BOOK
- PG - PAGE
- OHE - OVERHEAD ELECTRIC
- PH - PLAT BOOK
- LL - LAND LOT
- GCB - GATE CONTROL BOX
- TR - TELEPHONE RISER
- DWCB - DOUBLE WING CATCH BASIN
- HW - HEAD WALL
- FES - FLARED END SECTION
- JIB - JUNCTION BOX
- DI - DROP INLET
- TR - TRANSFORMER
- OTF - OPEN TOP PIPE
- EMH - ELECTRIC MANHOLE
- GEN - GENERATOR
- OCS - OUTLET CONTROL STRUCTURE
- PS - PROPERTY LINE
- SS - SANITARY SEWER
- BSL - BUILDING SETBACK LINE
- PSL - PAVED DRIVEWAY SETBACK MAP
- CO - CLEAN OUT



TWO BEDROOM GARAGE:

ASSUMING THE SOIL HAS A CONSTANT PERCOLATION RATE OF 45 MINUTES PER INCH ACROSS THE ABSORPTION FIELD:

200 SQUARE FEET • 2 BEDROOMS - 200 LINEAR FEET REPAIR REQUIRED

200 LINEAR FEET • 65 (15% REDUCTION) - 130 FEET PRIMARY SYSTEM REQUIRED



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

REZONE CASE #: P23-0287

DATE: September 5, 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

FUTURE DEVELOPMENT MAP CHARACTER AREA DESIGNATION: Suburban Neighborhood

ACTION REQUESTED: Change the conditions of the previous zoning (case # P20-0143), zoned AR. The requested change is to remove condition #3 which states:

3. A one-foot no-access easement on proposed tract 1 along GA Highway 53 shall be recorded at the time of administrative subdivision.

The purpose of the driveway is for a planned access to a guesthouse that was constructed without permits.

CONCURRENT APPLICATIONS:

- 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 (case #P23-0289).
- A special exception variance from Oconee County Unified Development Code Section 410.02 and Table 4.1 to reduce the minimum required side setback by 2.5 feet to construct a carport (case #P23-0288).

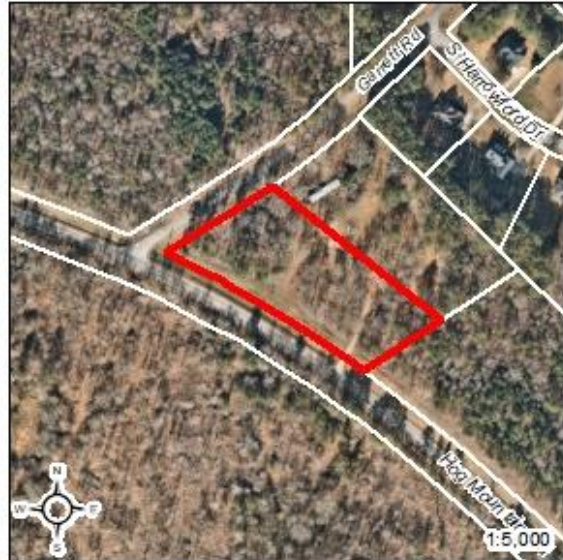
STAFF RECOMMENDATION: Staff recommends denial of this request.

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 ±23 feet 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.

DATE OF SCHEDULED HEARINGS

PLANNING COMMISSION: September 16, 2024

BOARD OF COMMISSIONERS: October 1, 2024



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 January 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.

SURROUNDING LAND USE AND ZONING

	EXISTING LAND USES	EXISTING ZONING
NORTH	Single-family residential (Harrowford Estates Subdivision)	AR (Agricultural Residential District)
SOUTH	Undeveloped/wooded	AG (Agricultural District)
EAST	Undeveloped/wooded	AG (Agricultural District)
WEST	Undeveloped/wooded	AG (Agricultural District)

PROPOSED DEVELOPMENT

- The applicant is proposing to convert the unpermitted structure to a guest house with a new detached carport.
- The proposed access for the guest house is from Highway 53, Hog Mountain Road.

PROPOSED TRAFFIC PROJECTIONS

- No additional traffic projections were required. At the time of the rezoning in 2021, the application stated an additional 19 average daily trips are projected should the present request be approved (9th Edition ITE Trip Generation Manual).

PUBLIC FACILITIES

Water:

- The property is currently served by county water.

Sewer:

- The applicant proposes an individual on-site septic system for the guest house.

Roads:

- The proposed access for the Guest House is from Highway 53, which is currently restricted by zoning and plat conditions.

Environmental:

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

COMMENTS FROM OTHER DEPARTMENTS & AGENCIES**OCONEE COUNTY PUBLIC WORKS DEPARTMENT**

- No comments received as of 9-5-24

OCONEE COUNTY WATER RESOURCES DEPARTMENT

- No comments received as of 9-5-24

OCONEE COUNTY FIRE CHIEF

- Reviewed with no comments

OCONEE BOARD OF EDUCATION

- No comments received as of 9-5-24
-

THE ANALYSIS OF THE APPLICATION IS MADE BASED UPON THE “STANDARDS FOR REZONING CONSIDERATION” AS SET FORTH IN SECTION 1207.01 OF THE *OCONEE COUNTY UNIFIED DEVELOPMENT CODE*.

- A. Whether the zoning proposal will permit a use that is suitable in view of the existing uses, development, and zoning of nearby property.**
The existing zoning and conditions allowed the construction of a single-family home on the property. The application is seeking to retroactively permit a driveway and accessory structure constructed without permits.
- B. Whether the property to be rezoned has a reasonable economic use as currently zoned.**
The existing zoning and conditions allowed the construction of a single-family home on the property. The application is seeking to retroactively permit a driveway and accessory structure constructed without permits.
- C. The extent to which the zoning proposal promotes the health, safety, morals or general welfare of the public with consideration to:**
- i. Population density and effect on community facilities such as streets, schools, water, and sewer;**
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.
 - ii. Environmental impact;**
No jurisdictional wetlands, 100-year flood plain, or state waters are known to exist on the site.
 - iii. Effect on the existing use, usability and/or value of adjoining property.**
The proposed change of conditions would affect the usability of adjoining properties by creating a potential traffic and safety hazard on Hog Mountain Road as there is no deceleration lane for the proposed driveway.
- D. The length of time the property has been vacant as zoned, considered in the context of land development in the vicinity of the property.**
This criteria is not applicable as the property is not vacant.

- E. Consistency of the proposed use with the stated purpose of the zoning district that is being requested.**
The AR zoning district is intended to “to allow medium rural residential densities and compatible agricultural activities without encouraging commercial development or multi-family development.” (Unified Development Code Sec. 205.02). Staff finds that the exiting residential lots are consistent with the stated purpose of the proposed zoning district.
- F. Whether there are other existing or changing conditions or land use patterns affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.**
There are no known existing or changing conditions or land use patterns affecting the use and development of the property.
- G. Conformity with or divergence from the Future Development Map or the goals and objectives of the Oconee County Comprehensive Plan.**
The subject property lies within the Suburban Neighborhood Character Area as shown on the Character Areas Map, 2023 Oconee County Comprehensive Plan Update. The Comprehensive Plan indicates “This Character Area consists principally of single-family detached houses with some higher density housing included in a planned development or near an established nonresidential area.”
The Comprehensive Plan indicates a strategy is to “Protect existing neighborhoods from negative impacts.” 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. Staff finds the proposed change of conditions is not supported by the Comprehensive Plan.
- H. The availability of adequate sites for the proposed use in districts that permit such use.**
This criteria is not applicable as the property has an existing home and no change in zoning district is being proposed.

STAFF RECOMMENDATION & CONDITIONAL REQUIREMENTS

Based on Board of Commissioners policies, decision-making criteria, and standards outlined in the development codes of Oconee County, staff recommends DENIAL of the request to delete condition #3 and allow an additional driveway to access Georgia Highway 53 for the property due to the following:

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.

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