

**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 reduce the side building setback variance from 15 feet to 12.5 feet to construct a carport adjacent to an unpermitted residential structure (UDC Sec. 410.01, 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.

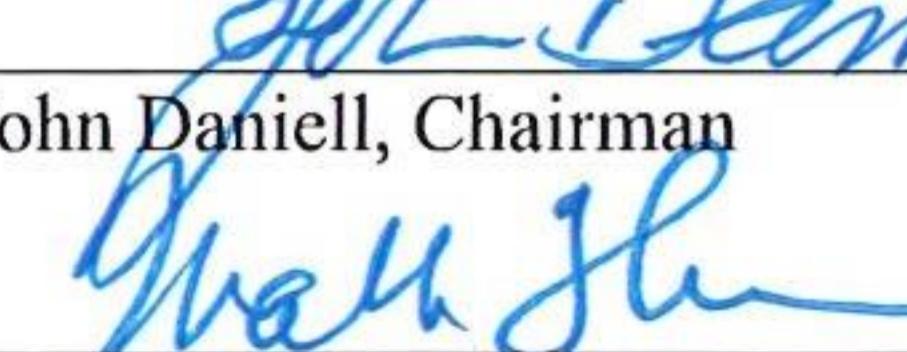
Said Special Exception Variance application was submitted to the Oconee County Board of Commissioners and a Public Hearing was duly held by the same at its regular meeting on November 5, 2024.

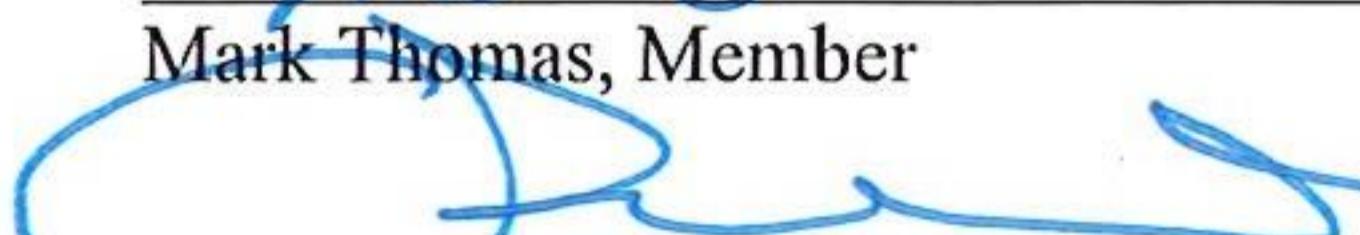
ADOPTED AND APPROVED, this 5th day of November, 2024.

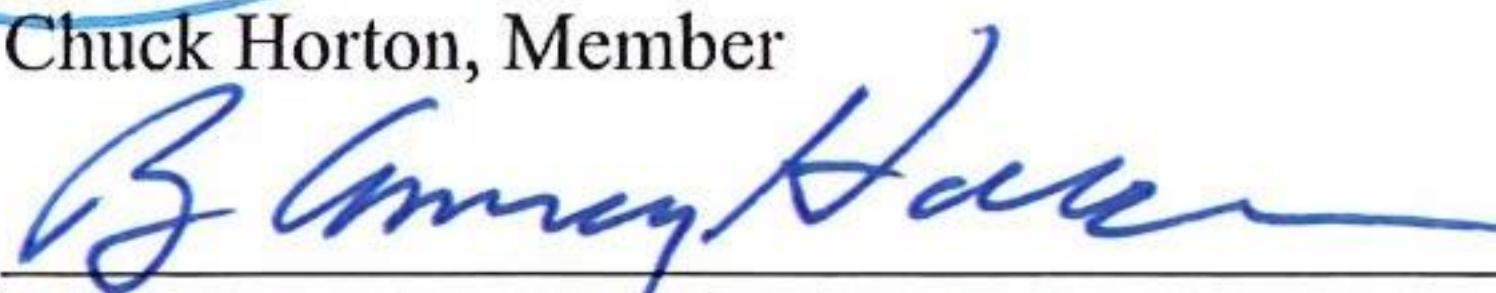
OCONEE COUNTY BOARD OF COMMISSIONERS

BY:


John Daniell, Chairman


Mark Thomas, Member


Chuck Horton, Member


Amrey Harden, Member


Mark Saxon, Member

ATTEST:

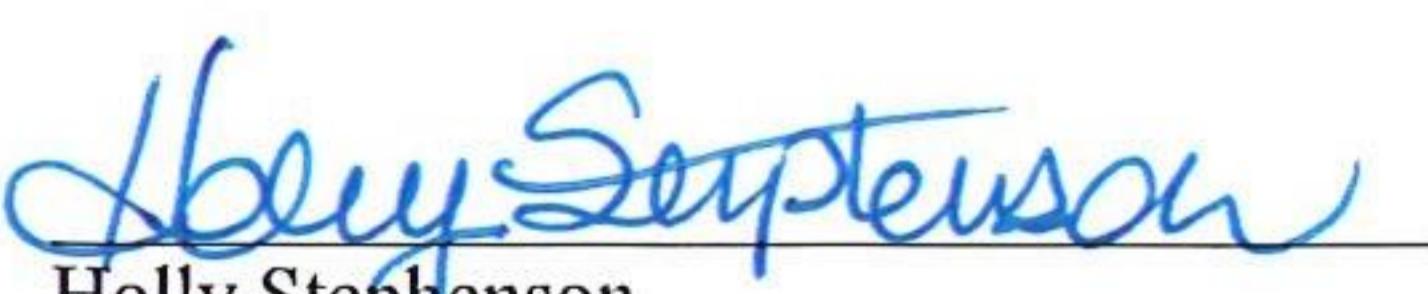
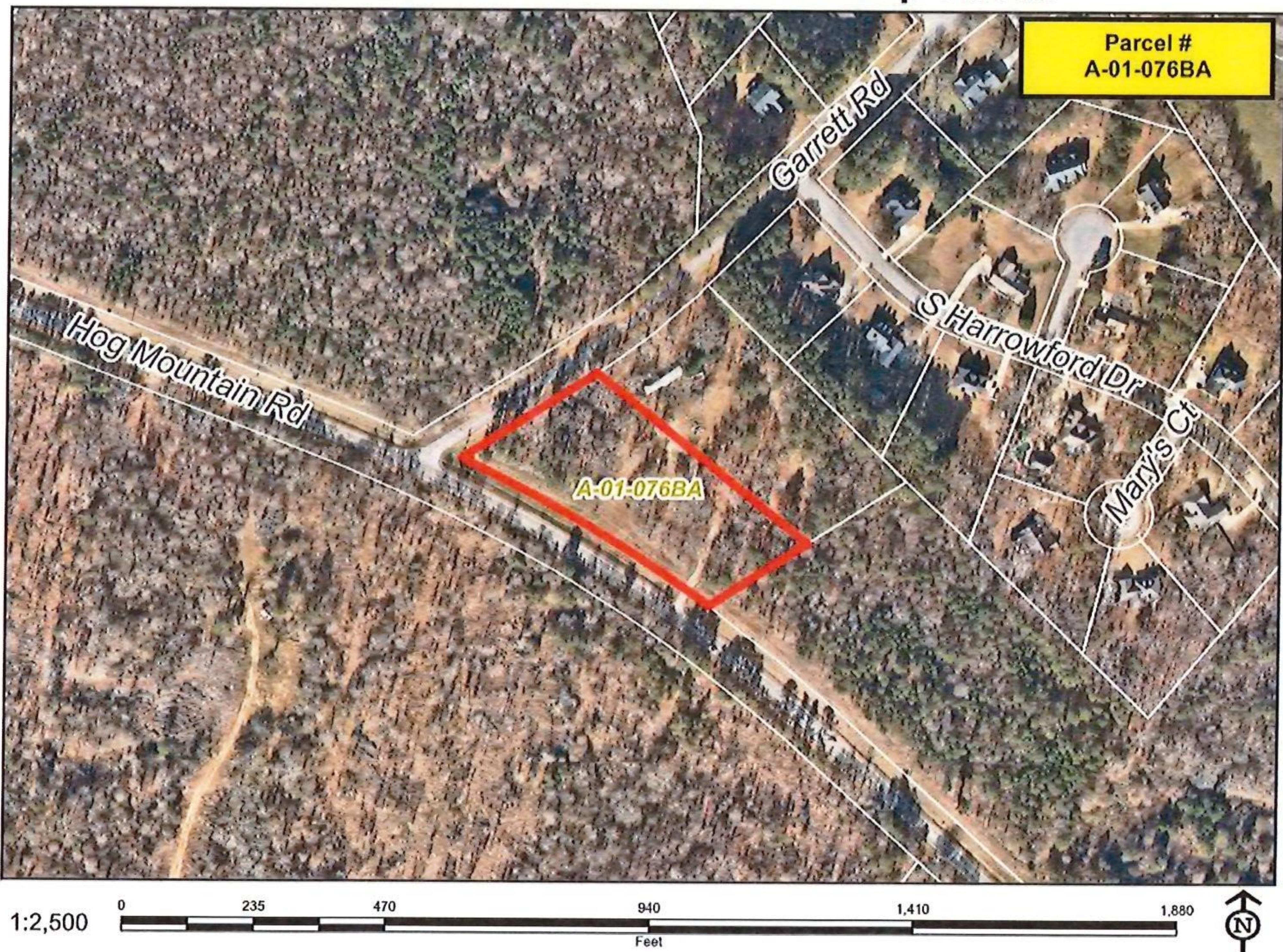

Holly Stephenson
Clerk, Board of Commissioners

EXHIBIT "A" TO SPECIAL EXCEPTION VARIANCE NO. P23-0288
Page 1 of 10

TAX MAP

Variance # P23-0288 - 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

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 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.

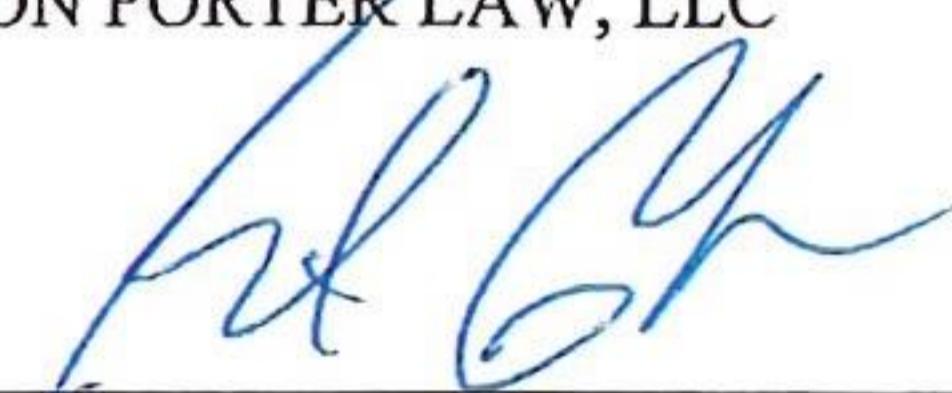
For the foregoing reasons, the applicant and owner respectfully request that this rezoning application be approved.

Sincerely,

STANTON PORTER LAW, LLC

By: _____

Stanton E. Porter

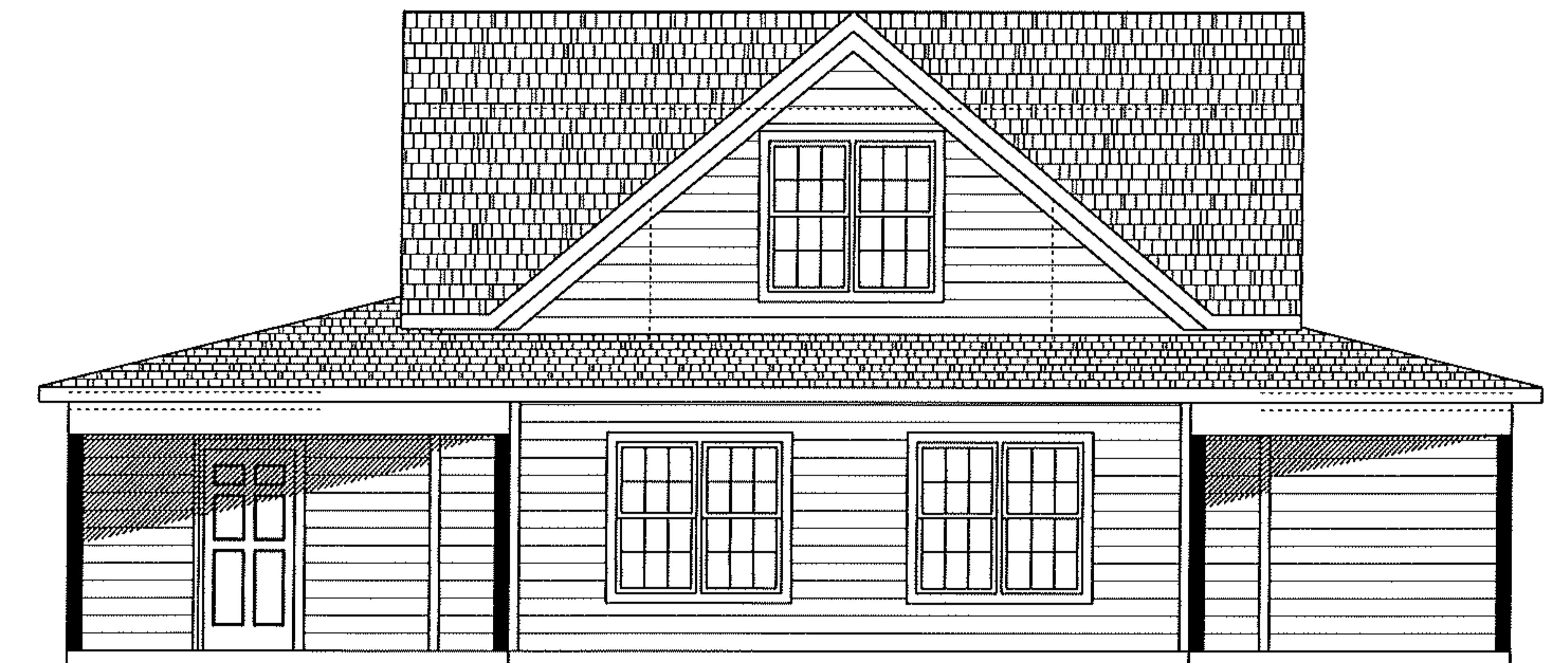


ARCHITECTURAL RENDERINGS



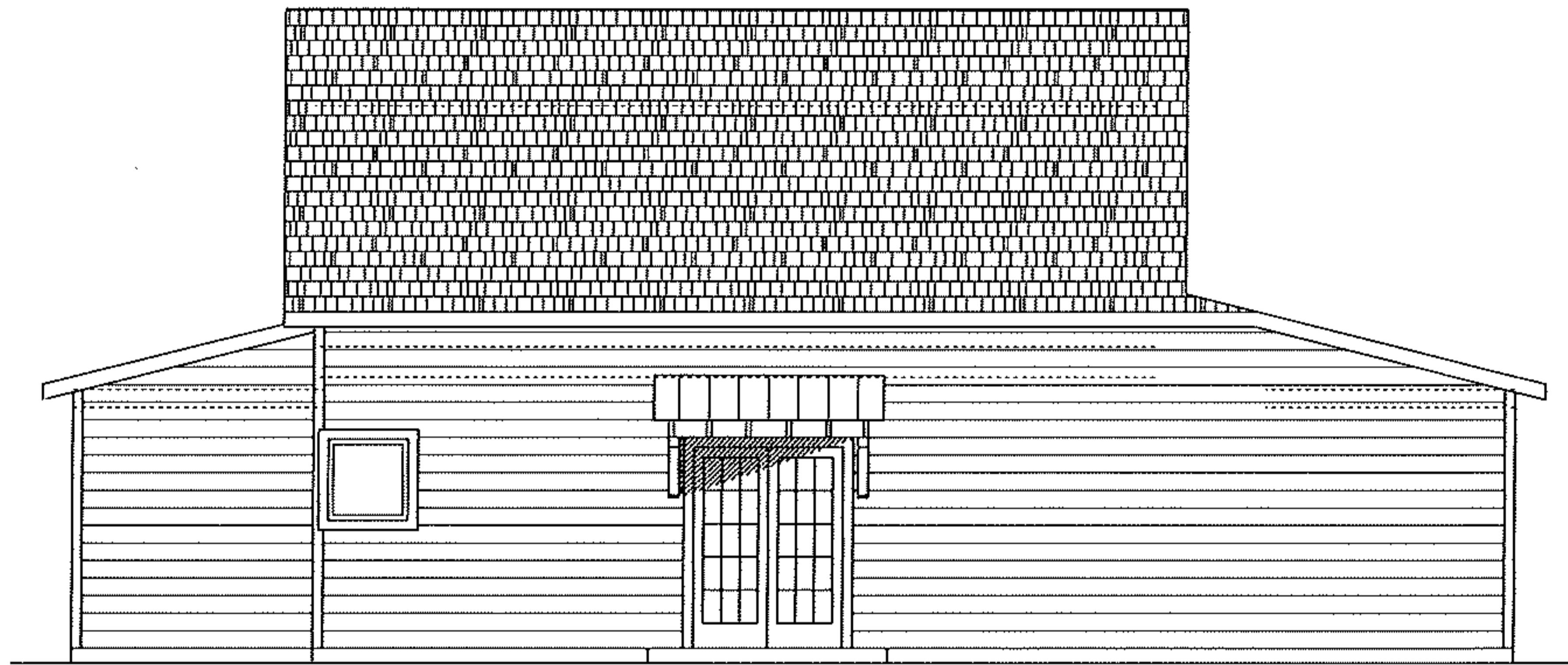
FRONT ELEVATION

ARCHITECTURAL RENDERINGS



LEFT ELEVATION

ARCHITECTURAL RENDERINGS



RIGHT ELEVATION

ARCHITECTURAL RENDERINGS



REAR ELEVATION

EXHIBIT "A" TO SPECIAL EXCEPTION VARIANCE NO. P23-0288

Page 9 of 10

PLAT

CONCEPT PLAN



**SURVEYING &
ENGINEERING, INC.**

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

*PLAN FOR:
KRISTEN GIBSON*

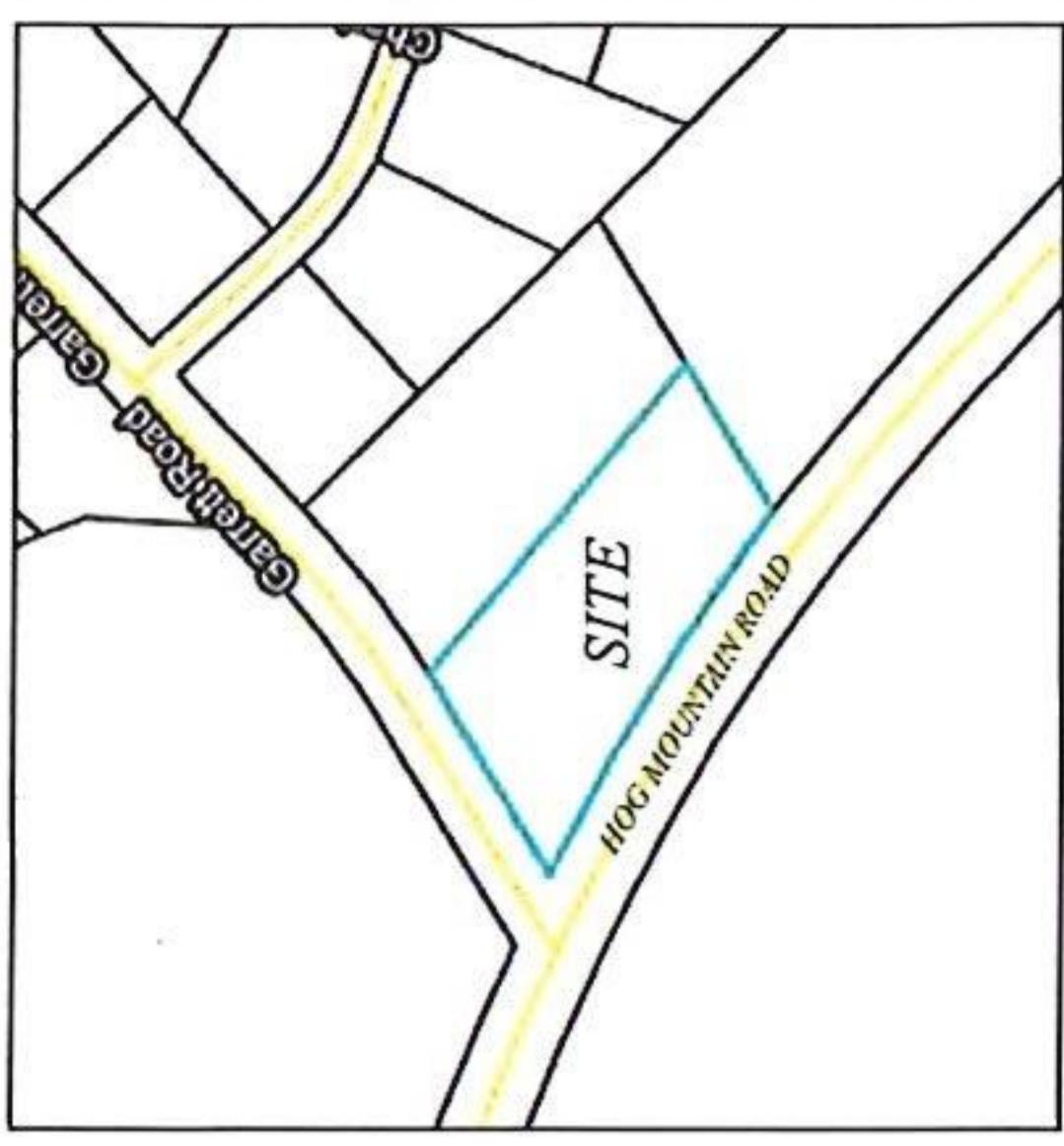
*223RD GEORGIA
MILITIA DISTRICT*
OCONEE COUNTY
PHYSICAL ADDRESS
1030 GARRETT ROAD
STATHAM, GA 30666

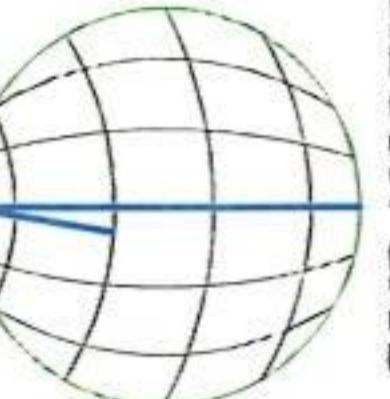
DATE
10/10/23

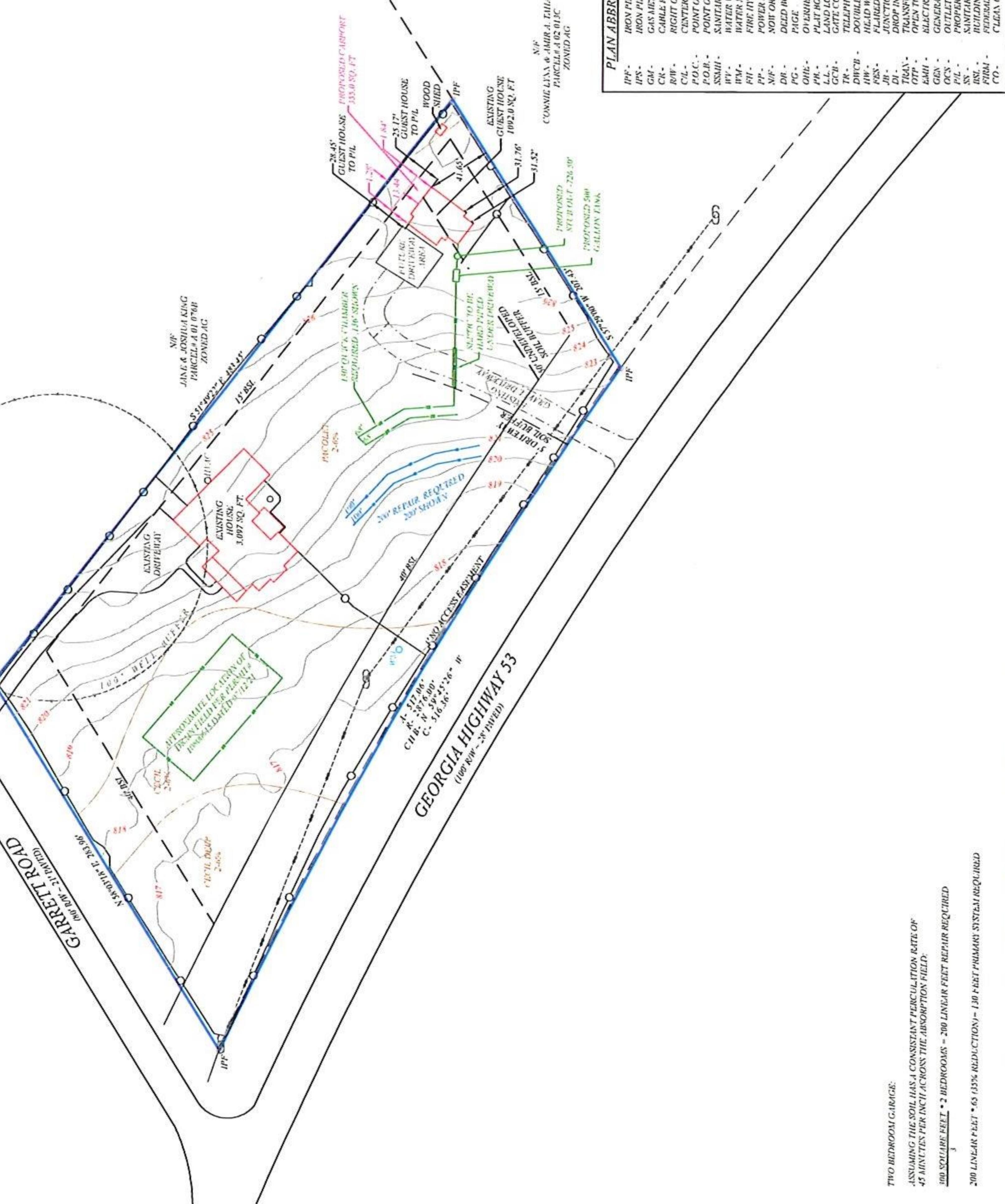
*VARIANCE CONCEPT
PLAN AND AS-BUILT*



EXPIRES 12-31-2024



VICINITY MAP											
NOT TO SCALE											
<h2>PROJECT DATA</h2>											
<p>PROFESSIONAL CONTACT: BASELINE SURVEYING & ENGINEERING JASON LAWSON, G.A. P.E. #34647 P.O. BOX 260 WATKINSVILLE, GA 30677 JASON@BASELINEGA.COM 706-769-4610</p>											
<p>1. TOTAL PROJECT ACREAGE: 2.48+/- ACRES</p>											
<p>2. TAX PARCEL #: A01 076BA</p>											
<p>3. NO ATTEMPT WAS MADE TO LOCATE UTILITIES OR IMPROVEMENTS ON OR ADJACENT TO THE SUBJECT PROPERTY EXCEPT AS SHOWN HEREON.</p>											
<p>4. THIS IS NOT A BOUNDARY SURVEY. BOUNDARY INFORMATION DERIVED FROM PLAT BOOK 2021 PAGE 2 IN THE O'ONEE COUNTY CLERK OF COURTS OFFICE.</p>											
<p>5. ZONED ASR</p>											
<p>6. THIS PROPERTY MAY BE SUBJECT TO ANY EASEMENTS OR RIGHT OF WAYS OF RECORD, SHOWN OR NOT SHOWN</p>											
<p>7. TOPOGRAPHIC INFORMATION FROM THE NOAA LiDAR DATABASE FOR O'ONEE COUNTY, DATED 2019, VERTICAL RELIEF BASED OF THE NORTH AMERICAN VERTICAL DATUM NAD83, 1' CONTOUR INTERVALS SHOWN.</p>											
<p>8. SOILS INFORMATION BASED ON A LEVEL III SOIL SURVEY FOR JODY WATSON BY SITE ENHANCEMENT, INC. DATED NOVEMBER 11, 2018, PROVIDED TO BY CLIENT</p>											
<p>DEFINITIONS</p>											
<p>MANHOLE METER DRAIN POLE FORMERLY BOOK EAD ELECTRIC BOOK DT CONTROL BOX ONE RISER TWING CATCH BASTN ALL END SECTION ON BOX LET FORMER DP PIPE JC MANHOLE</p>											
<p>CONTROL STRUCTURE TTLINE ST SEWER NG SETBACK LINE INSTRUMENT RATE MAP DT</p>											
<p>SYMBOL LEGEND</p>											
<table border="1"> <tr> <td></td> <td>CALCULATED POINT</td> </tr> <tr> <td></td> <td>IRON MARKER POINT</td> </tr> <tr> <td></td> <td>1/2" IRON PIN SET</td> </tr> <tr> <td></td> <td>CONCRETE MONUMENT</td> </tr> <tr> <td></td> <td>FENCE</td> </tr> </table>			CALCULATED POINT		IRON MARKER POINT		1/2" IRON PIN SET		CONCRETE MONUMENT		FENCE
	CALCULATED POINT										
	IRON MARKER POINT										
	1/2" IRON PIN SET										
	CONCRETE MONUMENT										
	FENCE										
<p>GRID NORTH</p>											
<p></p>											
<p>GRAPHIC SCALE</p>											
<p></p>											





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

VARIANCE CASE #: P23-0288

DATE: September 20, 2024

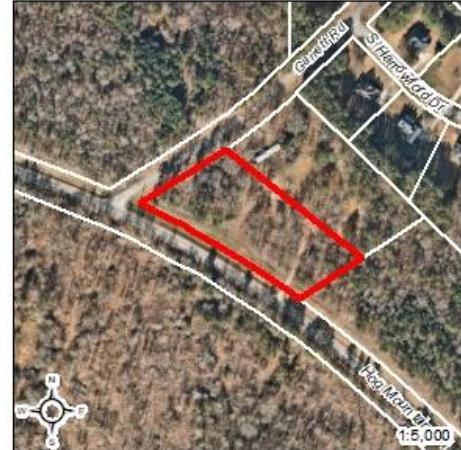
STAFF REPORT BY: David Webb, AICP (Senior Planner)

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: Setback variance from 15 feet to 12.5 feet to construct a carport adjacent to an unpermitted residential structure

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).
- 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).

DATE OF SCHEDULED HEARINGS

BOARD OF COMMISSIONERS: October 1, 2024

ATTACHMENTS:

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

- Setback variance from 15 feet to 12.5 feet to construct a carport adjacent to an unpermitted residential structure

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 legal access to Garrett Road.

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. However, staff analysis indicates that approval of the variance is a result of a hardship created by the property owner in the placement of another unpermitted structure. If the placement of the unpermitted second residence was correctly planned, there would be no need for the variance.

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 with structures too close to the property line than the required 15 feet setback.

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 with structures too close to the property line than the required 15 feet setback. The hardship was created by the property owner in the placement of another unpermitted structure. If the placement of the unpermitted second residence was correctly planned, there would be no need for the variance.

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

The intent of UDC Section 410.01 is to provide a minimum setback distance for accessory buildings and control the placement and size of buildings and structures on a lot, and the intensity of development on a lot. The applicant has requested a special exception variance to reduce the required minimum setback distance from 15 feet to 12.5 feet to construct a carport adjacent to an unpermitted structure. The applicant did not indicate why the carport cannot be placed on the south side of the unpermitted residential structure. Staff analysis indicates that the purpose of the code would be impaired by granting this request.

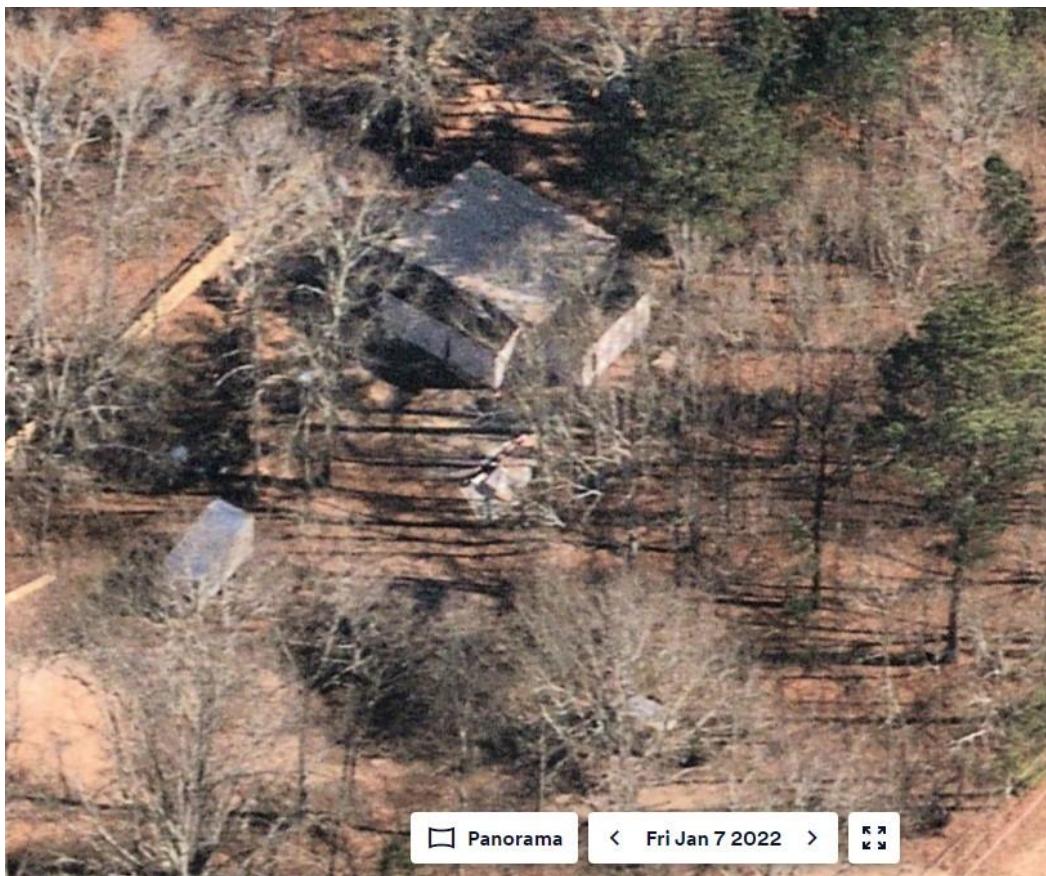
STAFF RECOMMENDATION

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. Staff recommends **denial** of the request as there does not appear to be a hardship and the applicant did not indicate why a carport cannot be placed on the south side of the unpermitted residential structure.

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 # P23-0288 - Kristen & Phillip Gibson



1:2,500

0

235

470

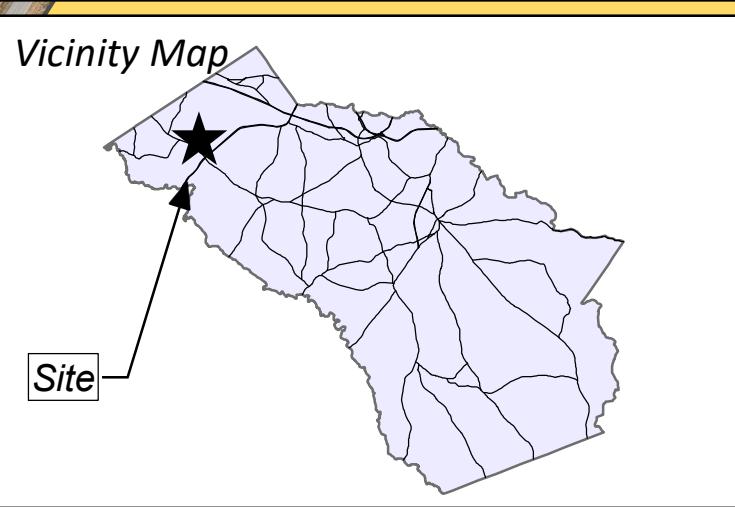
940

1,410

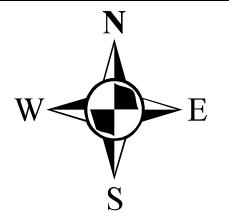
1,880

Feet





Oconee County Planning Department

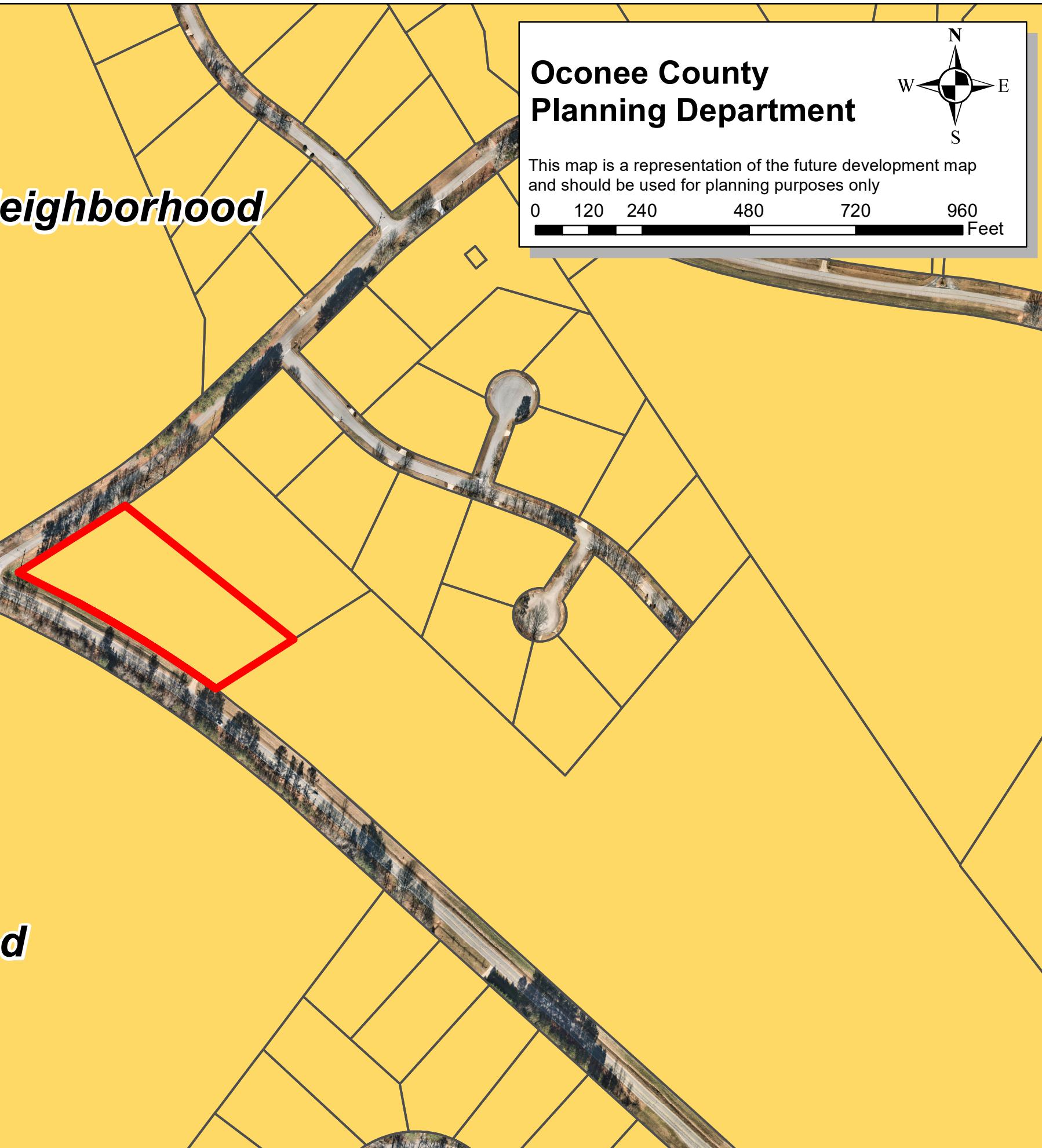


This map is a representation of the future development map
and should be used for planning purposes only

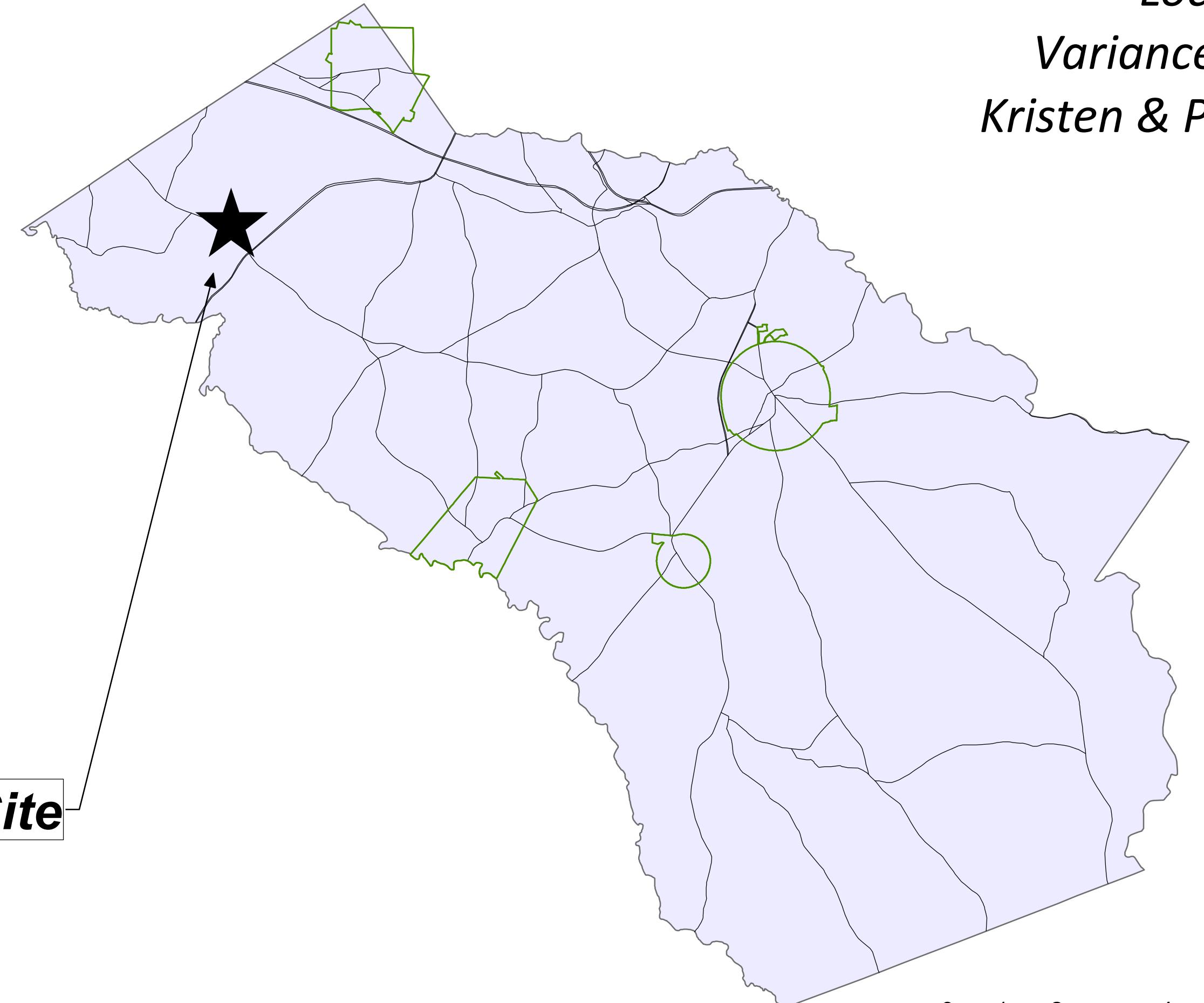
0 120 240 480 720 960 Feet

Suburban Neighborhood

Suburban Neighborhood



Location Map -
Variance # P23-0288
Kristen & Phillip Gibson



1:120,000

0 1 2 4 6 8 Miles



