

**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 D.R. Horton Inc. submitted on December 9, 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 W&A Engineering on December 9, 2024, regarding a ±0.23-acre tract of land located at 1308 Westland Court, Oconee County, Georgia, (tax parcel no. A-02D-011E), 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 yard setback from 10 feet to 9 feet.

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 March 4, 2025.

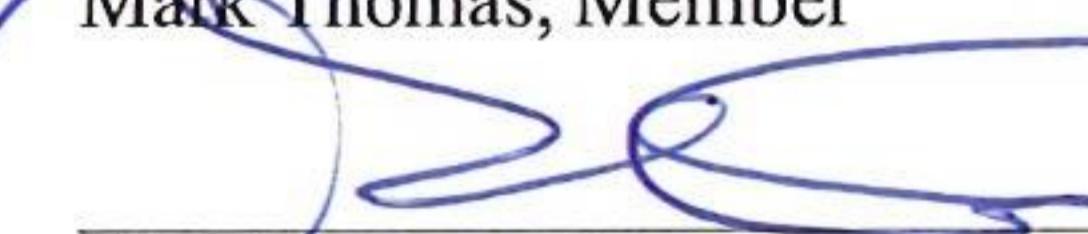
ADOPTED AND APPROVED, this 4<sup>th</sup> day of March, 2025.

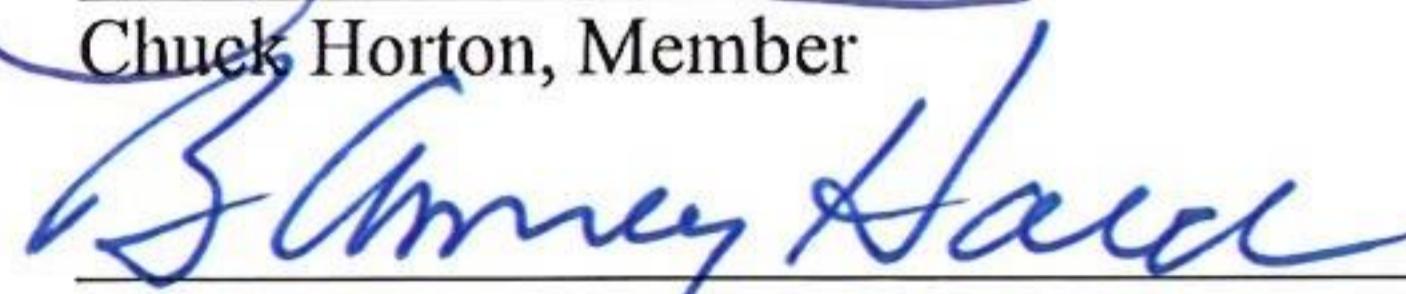
**OCONEE COUNTY BOARD OF COMMISSIONERS**

BY:

  
John Daniell, Chairman

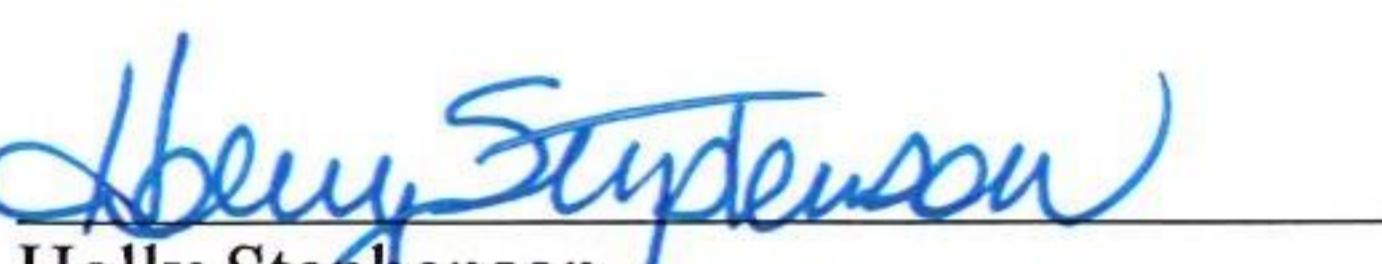
  
Mark Thomas, Member

  
Chuck Horton, Member

  
Amrey Harden, Member

  
Mark Saxon, Member

ATTEST:

  
Holly Stephenson

Clerk, Board of Commissioners

**CONDITIONS**

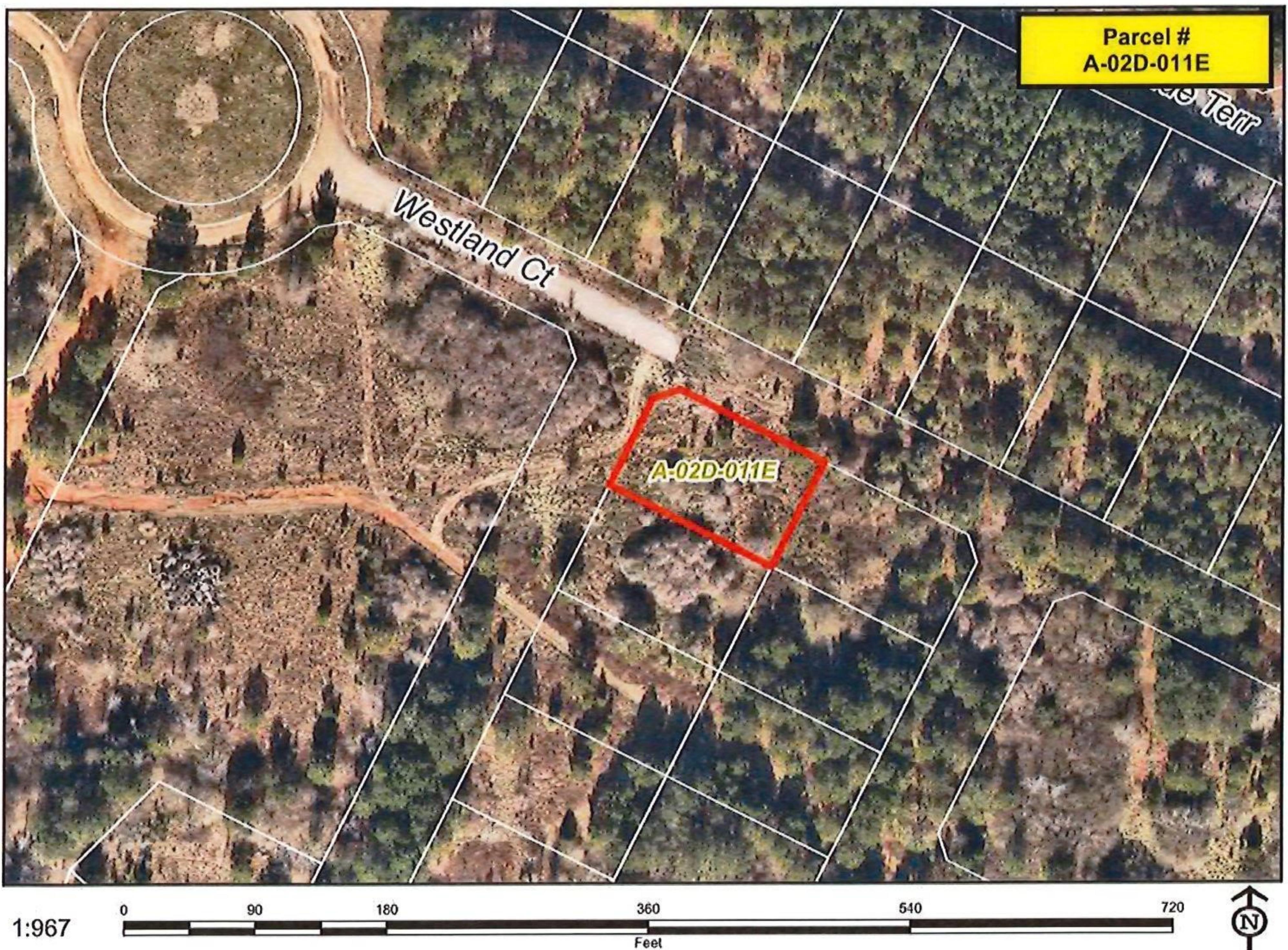
1. Development design and structures shall meet or exceed the standards indicated on the concept plan, narrative, and other documents submitted with the variance application and attached hereto. This condition shall not construe approval of any standard that is not in conformity with the Unified Development Code except as varied below.
2. A variance is granted to reduce the required right-side setback from 10 feet to 9 feet in the immediate area of the setback encroachment only as shown on the concept plan and as-built survey dated 2-3-2025 by John F. Brewer, RLS (W & A Engineering).

EXHIBIT "A" TO SPECIAL EXCEPTION VARIANCE NO. P24-0259

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TAX MAP

Variance # P24-0259 - D.R. Horton



**TYPED LEGAL DESCRIPTION**

Survey Legal Description for Westland Subdivision Phase 2 Lot E10, also known as 1139 Riverpoint Drive (Tax Parcel A02D0110):

All that tract or parcel of land, together with improvements thereon, lying and being in GMD 224, Oconee County, Georgia, containing 0.230 acres.

COMMENCING at a nail found at the centerline intersection of Westland Court and Riverpoint Drive; thence South 10 degrees 24 minutes 39 seconds East with a distance of 48.98 feet to a  $\frac{1}{2}$ " rebar at the southeastern mitered right-of-way intersection; thence along the eastern right-of-way of Riverpoint Drive South 26 degrees 42 minutes 18 seconds West with a distance of 66.18 feet to a scribe on a power box; which is the TRUE POINT OF BEGINNING.

Thence leaving said right-of-way South 63 degrees 16 minutes 12 seconds East with a distance of 125.02 feet to a nail found on a storm box; thence South 26 degrees 45 minutes 19 seconds West with a distance of 80.01 feet to a  $\frac{1}{2}$ " rebar; thence North 63 degrees 17 minutes 55 seconds West with a distance of 125.03 feet to a  $\frac{1}{2}$ " rebar on the eastern right-of-way of Riverpoint Drive; thence following said right-of-way North 26 degrees 45 minutes 52 seconds East with a distance of 80.07 feet to a scribe on a power box; which is the TRUE POINT OF BEGINNING.

**TYPED LEGAL DESCRIPTION**

Survey Legal Description for Westland Subdivision Phase 2 Lot E11, also known as 1309 Riverpoint Drive (Tax Parcel A02D011E):

All that tract or parcel of land, together with improvements thereon, lying and being in GMD 224, Oconee County, Georgia, containing 0.227 acres of land, more or less, and being more particularly described as:

COMMENCING at a nail found at the centerline intersection of Westland Court and Riverpoint Drive; thence South 10 degrees 24 minutes 39 seconds East with a distance of 48.98 feet to a  $\frac{1}{2}$ " rebar at the southeastern mitered right-of-way intersection, which is the TRUE POINT OF BEGINNING.

thence along said mitered right-of-way intersection North 71 degrees 46 minutes 28 seconds East with a distance of 19.77 feet to a  $\frac{1}{2}$ " rebar;

thence following the southern right-of-way of Westland Court South 63 degrees 12 minutes 22 seconds East with a distance of 111.03 feet to a  $\frac{1}{2}$ " rebar;

thence leaving said right-of-way South 26 degrees 42 minutes 34 seconds West with a distance of 80.02 feet to a nail found on a storm box;

thence North 63 degrees 16 minutes 12 seconds West with a distance of 125.02 feet to a scribe on a power box on the eastern right-of-way of Riverpoint Drive;

thence following along said right-of-way North 26 degrees 42 minutes 18 seconds East with a distance of 66.18 feet to a  $\frac{1}{2}$ " rebar found; which is the TRUE POINT OF BEGINNING.

## NARRATIVE



### 1308 Westland Court Special Exception Variance Narrative 12.09.2024

#### Introduction:

This is a request for a special exception variance to allow a reduction in a side yard setback from 10' to 9' to allow for an existing structure to be compliant with the Oconee County UDC.

The subject parcel is in the new Westland Neighborhood. The parcel address is 1308 Westland Court, Tax parcel A 02D 011E. The lot is zoned R1 MPD and is 0.23 AC. The lot contains a newly constructed single-family home that was accidentally constructed approximately 8" over the southern side yard setback. At the time of this application the property is under contract for purchase. The closing of this property has been delayed by the need to establish legal zoning compliance for the property.

#### Variance Request:

The requested special exception variance is a request for relief from the code section found in Table 4.1 which requires a 10' side yard setbacks for R1 lots. The applicant is asking for the setback requirement to be reduced to 9' to provide clear compliance for the existing structure.

#### Adjacent Properties:

The adjacent property (south of the subject parcel) is a similar newly constructed single-family home. The adjacent structure has been constructed with a few feet of additional buffer from its respective side yard setback. This additional buffer provides an appropriate separation between the two homes regardless of the subject property's minor encroachment.

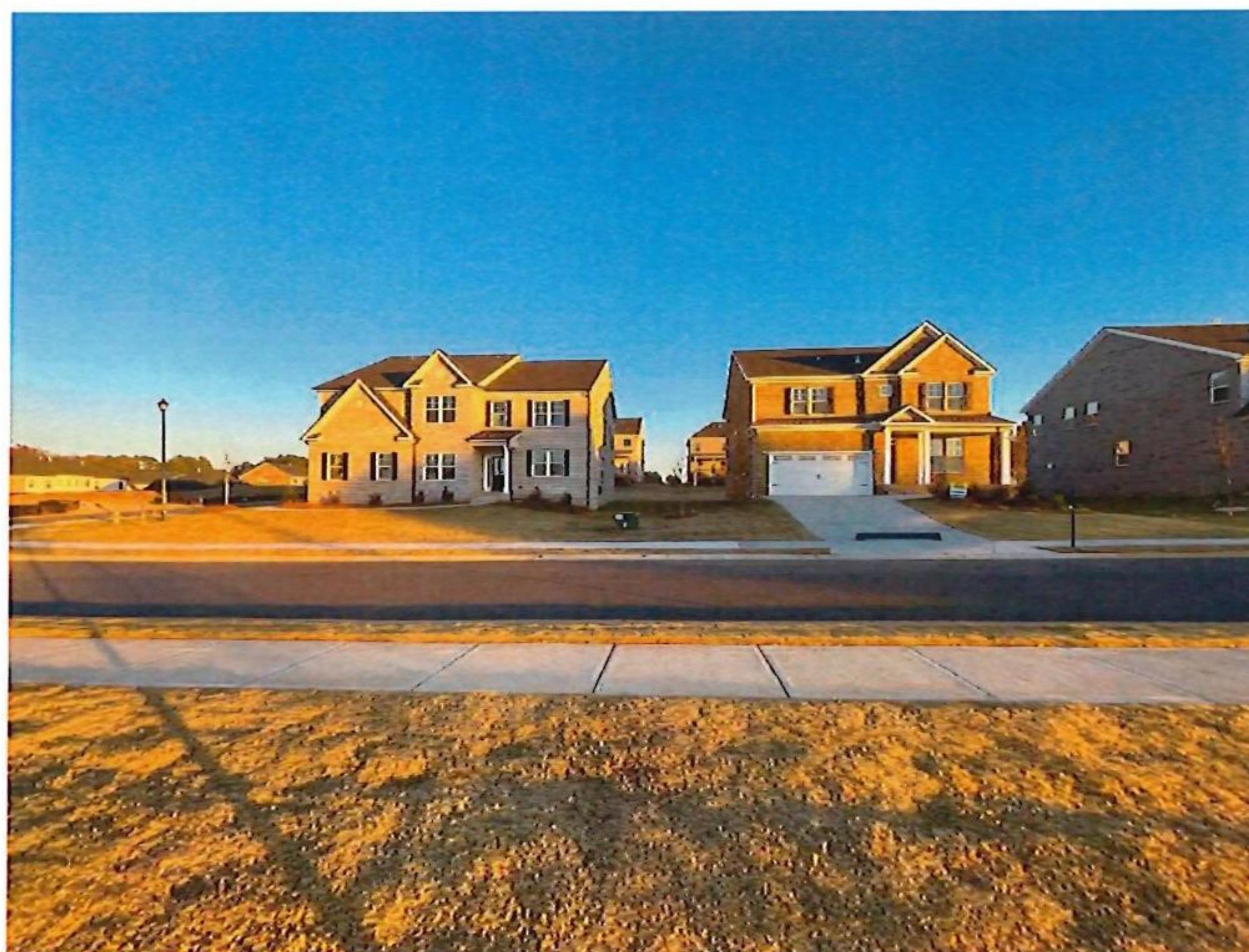
#### Conclusion:

The approval of this variance would not result in any impact to the adjacent parcel and will allow for the property to be legally compliant with the UDC. This compliance will allow for the property closing to go forward subsequently allowing for the potential purchasing family to occupy their newly constructed home.

**NARRATIVE**



1308 Westland Court  
Special Exception Variance Narrative  
12.09.2024



# EXHIBIT "A" TO SPECIAL EXCEPTION VARIANCE NO. P24-0259

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## PLAT

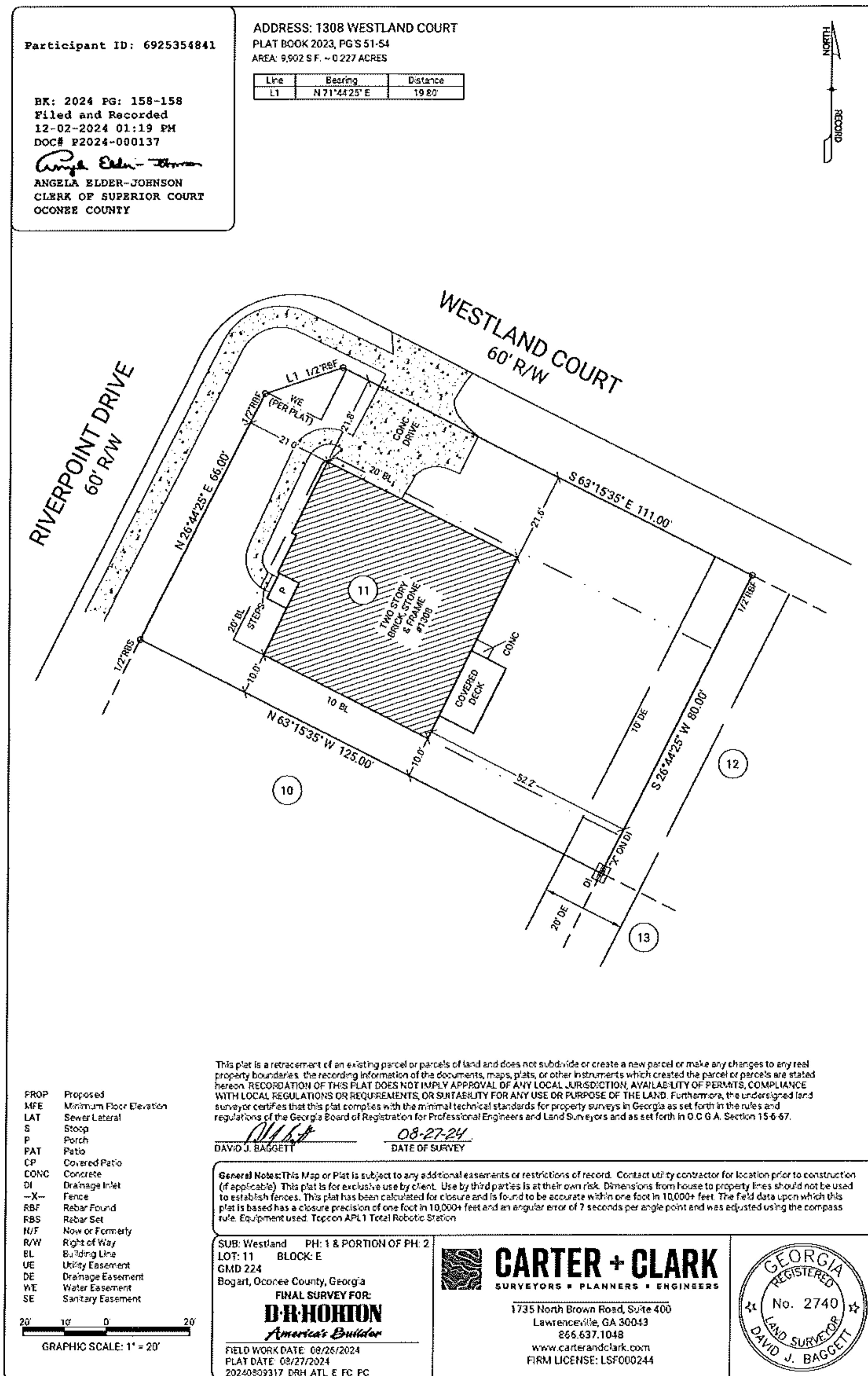
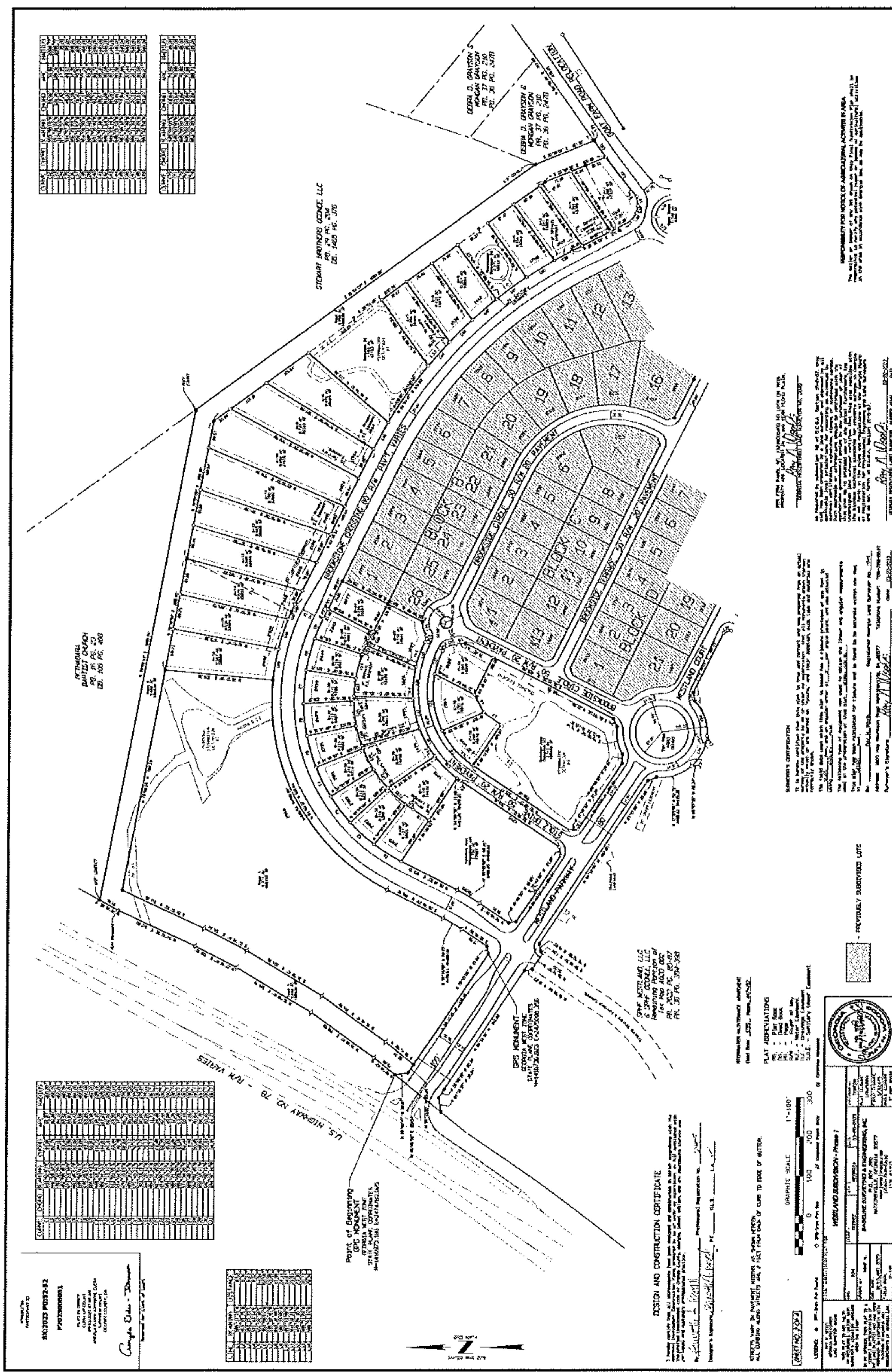
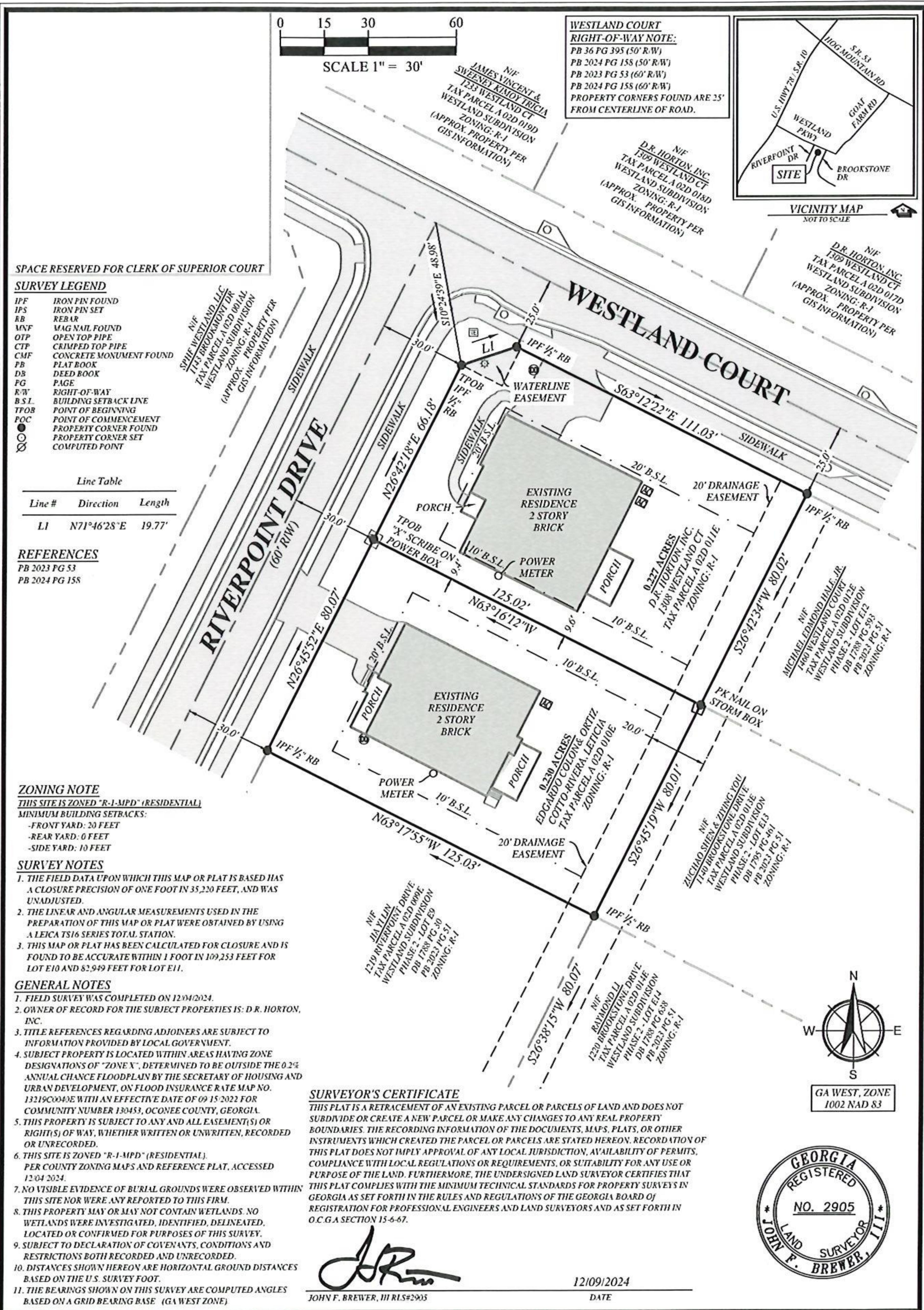


EXHIBIT "A" TO SPECIAL EXCEPTION VARIANCE NO. P24-0259

## PLAT







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

**VARIANCE CASE #:** P24-0259

**DATE:** February 21, 2025

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

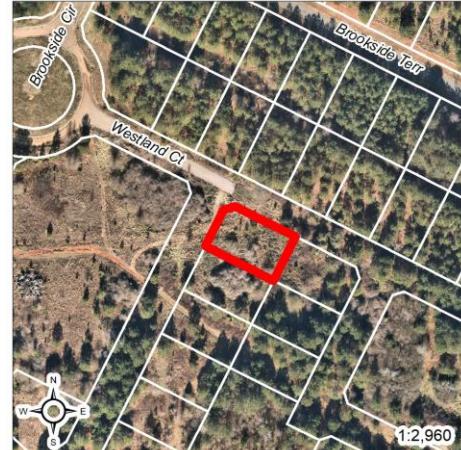
**APPLICANT NAME:** W & A Engineering

**PROPERTY OWNER:** D.R. Horton

**LOCATION:** 1308 Westland Court

Parcel: A 02D 011E

**PARCEL SIZE:**  $\pm 0.227$  (9, 902 SF)



**EXISTING ZONING:** R-1 (Single Family Residential) / Westland- MPD (Master Planned Development)

**EXISTING LAND USE:** Single Family Dwelling

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

**REQUEST SUMMARY:** Setback variance from 10 feet to 9 feet

**DATE OF SCHEDULED HEARINGS**

**BOARD OF COMMISSIONERS:** March 4, 2025

**ATTACHMENTS:**

- Application
- Narrative
- Legal Description
- Plat- Westland Phase 2
- As-Built survey #1
- Concept Plan- As-Built Survey #2

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

### **HISTORY**

- The 9, 902 SF (0.227 acre) lot was created as part of the Westland Phase 2 plat recorded 4-11-2023 (Plat book 2023, Pg 51-54)
- A building permit was issued to construct a 3,661 SF home for this lot (E-11) on 8-23-2024.
- The approved site plan indicated the house would be 48.0 x 61.3 feet. This site plan was created by Carter and Clark Surveyors dated 2-6-2024.
- The house was proposed to be built 10 feet from the right-side property line, meeting the required setbacks.
- The house passed all inspections, relying on the property owner (D.R. Horton) to provide property line and structure locations.
- A Certificate of Occupancy was issued on 10-22-2024.
- Carter and Clark Surveyors recorded an as-built survey with the Clerk of Court on 12-2-2024 (PB 2024, Pg 158).
  - This survey showed the house was located exactly 10 feet from the right-side property line.
  - This survey showed the house is 48.5' wide but it was permitted to be 48' wide.
  - County inspectors rely on a property owner/ contractor to properly locate the parcel lines and building location when it is under construction.
  - An As-Built Survey is not required by the UDC.
- W & A Engineering submitted another as-built survey signed 12-9-2024 showing the house is 9.4 feet from the right-side property line, contrary to what the Carter and Clark survey showed.
  - The survey showed the house is located 9.4 feet from the property line.
  - This survey shows the house is 48.83' wide but it was permitted to be 48' wide.
  - County inspectors rely on a property owner/ contractor to properly locate the parcel lines and building location when it is under construction.
  - An As-Built Survey is not required by the UDC.

### **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 10 feet to 9 feet for an existing single-family dwelling.

**Table 4.1 setbacks in the R-1 Zone**

Side: 10 feet

- The Westland MPD setbacks are also indicated to be:
  - Front Yard: 20 feet
  - Rear Yard: 0 feet
  - Side Yard: 10 feet

### **PUBLIC FACILITIES**

#### **Water:**

- The project utilizes Oconee County water services.

#### **Sewer:**

- The project utilizes Oconee County sewer services.

#### **Roads:**

- The property has access to Westland Court and Riverpoint Drive, existing public roads within the Westland Master Planned Development.

### **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 R-1/ MPD. All of the surrounding lots are developed or planned for residential uses. The first As-Built survey indicated the house met setbacks. A second As-Built survey indicated the house was built within the side setback. 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:**

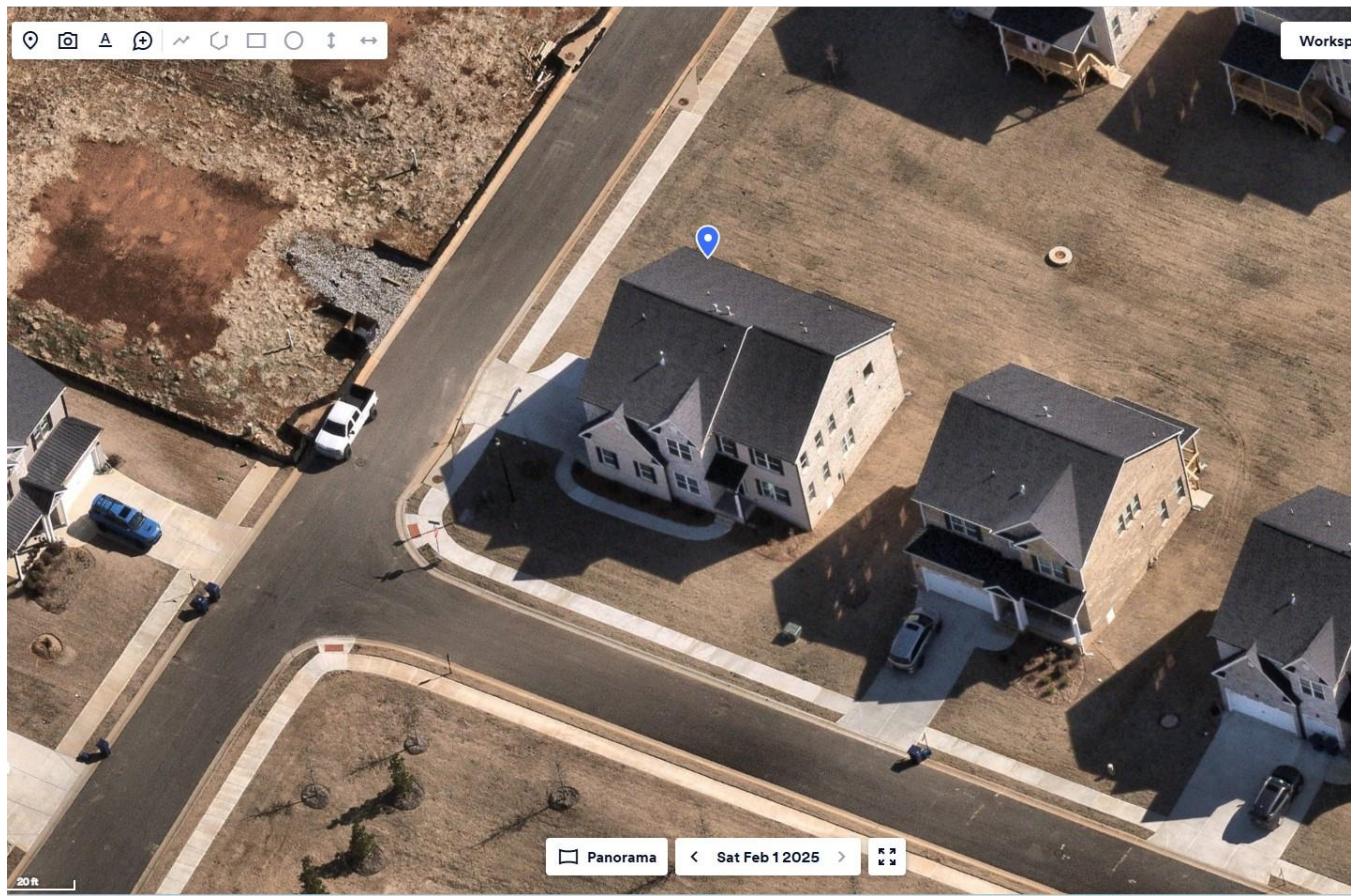
The intent of UDC Section 409.01 is to provide a minimum setback distance for principal buildings. The applicant has requested a special exception variance to reduce the required minimum setback distance from 10 feet to 9 feet due to an error by the original surveyor. Staff analysis indicates that approval 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 by the first surveyor and the contractor building the house wider than permitted. 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 by the original surveyor and the contractor building the house wider than permitted. 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, 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 right-side setback from 10 feet to 9 feet in the immediate area of the setback encroachment only as shown on the concept plan and as-built survey dated 2-3-2025 by John F. Brewer, RLS (W & A Engineering).

Site Picture



# Variance # P24-0259 - D.R. Horton

Parcel #  
A-02D-011E

Westland Ct

A-02D-011E

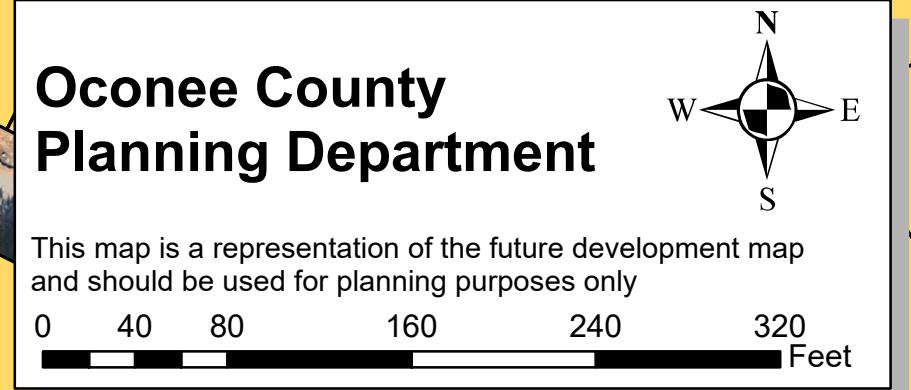
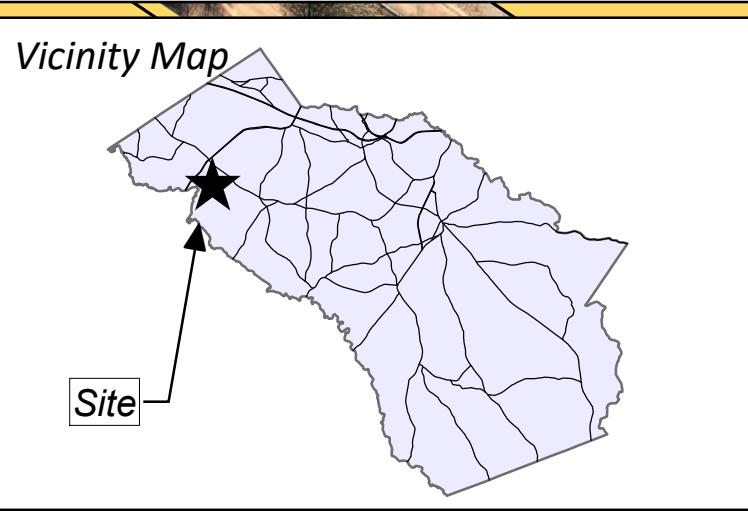
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Feet

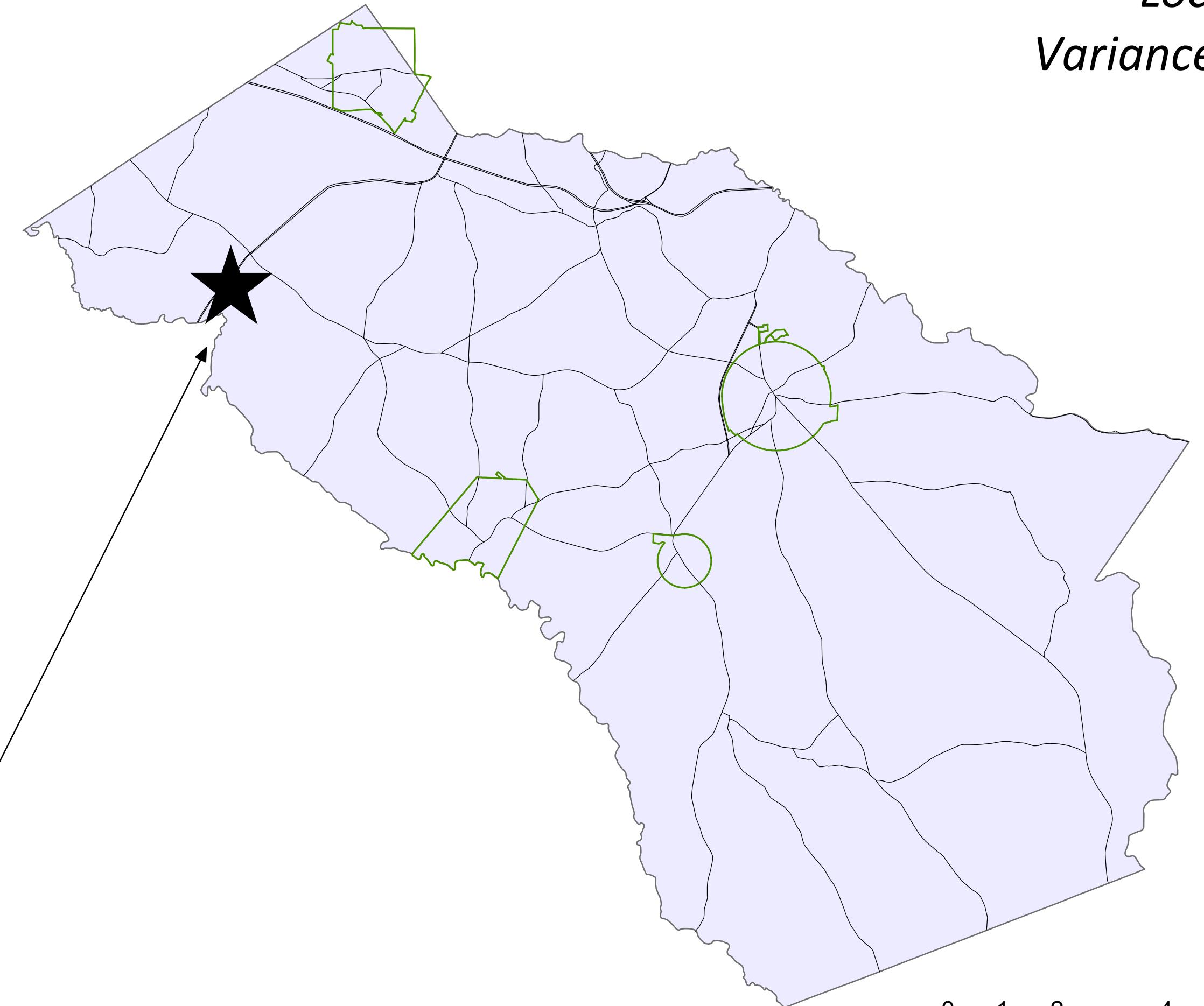


***Suburban  
Neighborhood***

***Suburban Neighborhood***



*Location Map -*  
*Variance # P24-0259*  
*D.R. Horton*



1:120,000

0 1 2 4 6 8 Miles



1:2,960

