



Community Development Department

110 Academy Street, Canton, Georgia 30114
770-704-1500

VAR2503-001

Public Hearing Application

Project # _____

1. Please check all information supplied on the following pages to ensure that all spaces are filled out completely and accurately before signing this form. State N/A, where Not Applicable
2. Please make your check payable to "City of Canton."
3. If you have questions regarding this form please contact the Department of Planning and Zoning by calling (770) 704-1530.

This form is to be executed under oath. I, Jordon Tench, do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in the Application for Public Hearing is true and correct and contains no misleading information. I, Jordon Tench, have received and thoroughly read the Public Hearing Procedures.

This 7 day of MARCH, 20 25.
Applicant: [Signature] Print Name: Jordon Tench for Bridgeview Development, LLC

Applicant Information:

Name: Bridgeview Development, LLC
Address: 850 Old Alpharetta Road
City: Alpharetta
State: GA Zip Code: 30009
Telephone: _____
Fax Number: _____
Email Address: jordont@odwyerhomes.com

Owner Information:

Name: Bridgeview Development, LLC
Address: 850 Old Alpharetta Road
City: Alpharetta
State: GA Zip Code: 30009
Telephone: _____
Fax Number: _____
Email Address: jordont@odwyerhomes.com

This Application For (Check Only One):

- | | |
|--|---|
| <input type="checkbox"/> A Annexation | <input type="checkbox"/> I Temporary Use Permit |
| <input type="checkbox"/> B Rezoning | <input type="checkbox"/> J Zoning Ordinance Text Amendment |
| <input type="checkbox"/> C Master Plans | <input checked="" type="checkbox"/> K Variance : Pre-Construction |
| <input type="checkbox"/> D Master Plan Revisions | <input type="checkbox"/> K Variance : Post-Construction |
| <input type="checkbox"/> E Conditional Use Permit | <input type="checkbox"/> Appeal |
| <input type="checkbox"/> F Land Use Modification | |
| <input type="checkbox"/> G Zoning Condition Amendment | <input type="checkbox"/> Adjustment |
| <input type="checkbox"/> H Density Transfer within Master Plan | <input type="checkbox"/> Special Exception |

Fee Schedule:

Application Type _____
Base Fee _____ + (#Acres _____ x \$25.00 = _____) = _____
+ (#Acres _____ x \$50.00 = _____) = _____
Advertising Fee _____

Staff Use Only

Amount Due: _____
Amount Due: _____
Total Fee: _____

Received By: _____

Date: _____

Amount Paid: _____



Community Development Department

110 Academy Street, Canton, Georgia 30114

770-704-1500

Authorization Of Property Owner

This form is to be executed under oath. I, Jordon Tench, do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the owner of the property, which is the subject matter of the attached application, as is shown in the records of Cherokee County, Georgia. I hereby authorize the City of Canton and its representatives to inspect the property, which is the subject of this application, and post any notices required thereon.

This 7 day of MARCH, 20 25.

Owner Signature: _____

Print Name: Jordon Tench for

Bridgeview Development, LLC

I, the above signed legal owner of the subject property, do hereby authorize the following application to be submitted to the City of Canton:

- | | |
|---|--|
| <input type="checkbox"/> A Annexation | <input type="checkbox"/> G Zoning Condition Amendment |
| <input type="checkbox"/> B Rezoning | <input type="checkbox"/> H Density Transfer within Master Plan |
| <input type="checkbox"/> C Master Plans | <input type="checkbox"/> I Temporary Use Permit |
| <input type="checkbox"/> D Master Plan Revisions | <input type="checkbox"/> J Zoning Ordinance Text Amendment |
| <input type="checkbox"/> E Conditional Use Permit | <input checked="" type="checkbox"/> K Variance |
| <input type="checkbox"/> F Land Use Modification | |

Sworn To and Subscribed Before Me This 7 Day Of March, 20 25.

Notary Signature: _____





Community Development Department
110 Academy Street, Canton, Georgia 30114
770-704-1500

Authorization Of Applicant

This form is to be executed under oath. I, Jordon Tench, do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the owner of the property, which is the subject matter of the attached application, as is shown in the records of Cherokee County, Georgia. I hereby authorize the City of Canton and its representatives to inspect the property, which is the subject of this application, and post any notices required thereon.

This 7 day of MARCH, 20 25.

Owner Signature: [Signature] Print Name: Jordon Tench for Bridgeview Development, LLC

I, the above signed legal owner of the subject property, do hereby authorize the person named below to act as applicant in the pursuit of a request for:

- | | |
|---|--|
| <input type="checkbox"/> A Annexation | <input type="checkbox"/> G Zoning Condition Amendment |
| <input type="checkbox"/> B Rezoning | <input type="checkbox"/> H Density Transfer within Master Plan |
| <input type="checkbox"/> C Master Plans | <input type="checkbox"/> I Temporary Use Permit |
| <input type="checkbox"/> D Master Plan Revisions | <input type="checkbox"/> J Zoning Ordinance Text Amendment |
| <input type="checkbox"/> E Conditional Use Permit | <input checked="" type="checkbox"/> K Variance |
| <input type="checkbox"/> F Land Use Modification | |

Name of Authorized Applicant: Bridgeview Development, LLC

Signature: [Signature] Jordon Tench for Bridgeview Development, LLC

Mailing Address: 850 Old Alpharetta Road

City: Alpharetta

State: GA Zip Code: 30005

Telephone: 770-887-2177

Fax Number: _____

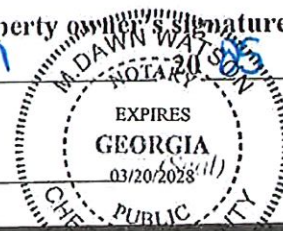
E-mail: mailto:jordont@odwyerhomes.com

Applicant Status:

- ☒ Owner
☐ Option to Purchase
☐ Leasee
☐ Area Resident
☐ Other (Explain): _____

This Authorization of Applicant Form has been completed and the property owner's signature is Sworn To and Subscribed Before Me This 7 Day Of March

Notary Signature: [Signature]





Community Development Department

110 Academy Street, Canton, Georgia 30114
770-704-1500

Disclosure Form

O.C.G.A. § 36-67A-2 / O.C.G.A. § 36-67A-3 requires disclosure of campaign contributions to government officials by an applicant or opponent of a public hearing petition. Applicants must file this form with the Department of Community Development.

1. Name of Applicant/Opponent: Jordon Tench for Bridgeview Development, LLC
Please Type Or Print All Responses

Section 1

If the answer to any of the following questions is "Yes," complete Section 2.

- A) Are you, or anyone else with a property interest in the subject property, a member of the City of Canton Planning Commission or the City of Canton Mayor and Council?
☐ YES ☒ NO
- B) Does an official of such public bodies have any financial interest in any business entity which has a property interest in the subject property?
☐ YES ☒ NO
- C) Does a member of the family of such officials have an interest in the subject property as described in (A) and (B)?
☐ YES ☒ NO
- D) Within Two (2) years of immediately preceding this application have you made campaign contributions(s) or given gifts to such public officials aggregating \$250 or more?
☐ YES ☒ NO

Section 2

1. Name and the official position of the Canton Official to whom the campaign contribution was made *(Please use a separate form for each official to whom a contribution has been made in the past (2) years):*

2. List the dollar amount/value and description of each campaign contribution made over the past two (2) years by the Applicant/Opponent to the named Canton Official:

Description

\$ _____

\$ _____

\$ _____

Note: Complete a separate form for each authorized applicant.



Community Development Department

110 Academy Street, Canton, Georgia 30114
770-704-1500

Property Information:

Address: N/A - Bridgeview Way (currently under construction)
Land Lot(s): 125, 126, 127 District: 14th Section: 2nd Map #: 14N Parcel #: 14-0126-0018;
14-0126-0028
☒ City
☐ County
Existing Zoning Of Property: R-10 Total Acreage Of Property: 26.65± (18.63 disturbed)
Proposed Zoning Of Property: N/A Existing Use(s) Of Property: under development for residential
Directions to property from Main Street in downtown Canton:
Take W. Marietta Street to Marietta Road south approx. 1.75 miles; continue to Bells Ferry Road approx. .6 miles

Adjacent Property/Owner Information: Please provide the following information for all adjacent properties, including property connected by public rights-of-way. Attach additional sheets as necessary.

	<u>OWNER NAME/ADDRESS</u>	<u>CURRENT ZONING</u>	<u>CURRENT LAND USE</u>
NORTH	SEE		
SOUTH			
EAST	ATTACHED		
WEST			
OTHER			

UTILITY INFORMATION

How is sewage from this development to be managed? City of Canton-water & sewer
Proposed managing jurisdiction: City of Canton
How will water be provided to the site? City of Canton
Proposed managing jurisdiction: City of Canton Size Limit: 8" sanitary sewer/10" water



Community Development Department

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PUBLIC SCHOOL POLICY STATEMENT

The Mayor and Council of the City of Canton hereby recognize that growth and development can, at times, have an effect on school capacity within the county and therefore recognize the need to share information on developments that have regional impact. In an effort to cooperate with the Cherokee County School Board and share information on residential rezoning requests, master plan applications, and land use modifications to the comprehensive land use plan, the Mayor and Council hereby encourage open dialogue and meeting between the applicant and the appropriate school board representative. Therefore, developers whose projects consist of 25 or more residential units shall contact the Cherokee County School Board and communicate with a school board representative to discuss their intent. The applicant should be prepared to address such communication if requested by the Mayor and Council at the meeting in which final action is to be taken. (Section 8-8-B-37) (Amended: 12/07/00)

County Schools serving this development:

HIGH _____ Cherokee High School _____
MIDDLE _____ Teasley Middle School _____
ELEMENTARY _____ Joseph Knox Elementary School _____

TRAFFIC INFORMATION

Road/Street providing access: _____ Street name TBD _____

Width at property: (Road) _____ 50 feet _____ (Right-of-way) _____ 50 feet _____

Distance to nearest major thoroughfare: _____ 0.0 miles _____ Thoroughfare Name: _____ Bells Ferry Rd. _____

Description of Road accessing property (Classification): _____ Arterial _____

In support of this request, I submit the following items, which are attached and made a part of this application:

- ☒ Boundary Survey
- ☒ Legal Description
- ☒ Letter of Intent
- ☐ Traffic Analysis Report

- ☒ Master Plan / Site Plan
- ☒ Location Map
- ☐ Hydrology Study

(Guidelines available from Planning & Zoning Dept.)

- ☒ Board of Appeals Review Criteria Response
- ☐ Petition Requesting Annexation
- ☐ Other (please explain) _____
- ☐ Elevation Plans



Community Development Department
110 Academy Street, Canton, Georgia 30114
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Canton Board of Appeals Review Criteria

Article H, Section 8-8-H-195 empowers the Board of Appeals to authorize variances from provisions of the Zoning Code pursuant to a finding based in the criteria listed below. Please respond to the following.

(Applications Type K : ONLY)

Are there any extraordinary and exceptional conditions pertaining to the subject property because of its size, shape or topography? See attached Letter of Intent

Would the application of the Zoning Code standards as they relate to the subject property create an unnecessary hardship? See attached Letter of Intent

Has the condition from which relief or variance is sought been a result from action by the applicant? See attached Letter of Intent

Are there conditions peculiar to the subject property? See attached Letter of Intent

Would relief, if granted, cause substantial detriment to the public good or impair the purpose and intent of the Zoning Code? Specifically, would the variance impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals or general welfare or the inhabitants or the City? See attached Letter of Intent

Provide a Letter of Intent, which provides the necessary information to support your application for Variance.



GARVIS L. SAMS, JR.
1952-2025
JOEL L. LARKIN
PARKS F. HUFF

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770•422•7016
TELEPHONE
770•426•6583
FACSIMILE

March 7, 2025

VIA ONLAMA ONLINE PORTAL

Mr. Steve Green, Zoning Administrator
City of Canton
110 Academy Street
Canton, GA 30114

RE: Application of Bridgeview Development, LLC for a variance request for 26.71 acres located in Land Lot 126 of the 14th District; Cherokee County, Ga.

LETTER OF INTENT

Dear Steve:

Bridgeview Development, LLC is currently constructing a single-family neighborhood consisting of 38 lots. The property was subject to litigation and previous development proposals that included a consent order allowing the property to be developed with up to 42 homes. The developer proposes to add three lots to the already-approved 38 lots. These lots are impacted by stream buffers and the applicant has designed the homes sites on these lots to limit the intrusion into the buffer, but they still require a buffer variance to add these 3 additional lots for a total of 41 lots.

The subject property is a 27-acre parcel in the city of Canton on Bells Ferry Road being developed as a single-family, for-sale neighborhood. The property is heavily impacted by streams and stream buffers. The initial site plan included 38 home sites and the developer asked the engineer to create the three additional lots in a way to minimize the intrusion into the buffer and minimize any negative impact on the state waters. The three lots range in size from 14,000 sq. ft. up to 26,000 sq. ft. and are designed for specific house plans that fit the lot with minimal buffer disturbance. The three lots have an additional .088 acres of additional impervious spread over all three lots. The plan only grading an additional .12 acres into the 50-foot stream buffer. The overall impact is minimal and the overall density is only 1.5 units per acre, well below the density of similar subdivisions.

The developer will comply with all stormwater requirements to ensure the additional impervious and grading is accounted for with water quality and stormwater runoff requirements.



March 7, 2025

Page 2

The applicant remains open to reasonable conditions on the approval of the variances that address any environmental concerns.

CANTON BOARD OF APPEALS REVIEW CRITERIA
107.02.04 Land Development Requirements

Are there exceptional and extraordinary conditions pertaining to the particular piece of property in question, due to its size, shape or topography?

The property is significantly impacted by streams and corresponding buffers that create the condition for the requested variances.

Would the application of the Zoning Code standards as they relate to the subject property create an unnecessary hardship?

Denying the variance as requested would eliminate 3 lots which is an unnecessary hardship for the developer when there is a need for additional housing in the area. The developer has created three lots with the smallest amount of buffer intrusion as possible.

Has the condition from which relief or variance is sought been a result from action by the applicant?

The circumstances surrounding the request are not the result of action by the Applicant. The shape, size and topography of the Subject Property necessitate this variance request.

Are conditions peculiar to the subject property?

The shape, size and topography of the Subject Property support the granting of this proposal and are unique to the Subject Property.

Would relief, if granted, cause substantial detriment to the public good or impair the purpose and intent of the Zoning Code? Specifically, would the variance impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals or general welfare or the inhabitants of the City?

Approval of this variance would not create a hazard, impair or diminish the quality of life or be contrary to the general welfare of the City of Canton and its citizens. Overall, the impact on the buffer is only .198 acres or an average of .066 acres per additional lot. The benefit to the community to have 3 additional homes outweighs the minimal impact.



March 7, 2025

Page 3

I look forward to working with you, the staff and the Board of Appeals regarding this request.

Sincerely,

SAMS, LARKIN & HUFF, LLP

A handwritten signature in black ink, appearing to read "Parks F. Huff". The signature is fluid and cursive, with the first name "Parks" and last name "Huff" clearly distinguishable.

Parks F. Huff

phuff@samlarkinhuff.com

PFH/jcc

South Properties							
Property Address	Property City	Owner	Mailing Address	Mailing City	Mailing ZIP	Property Zip	Mailing State
12212 Bells Ferry Rd	Canton	WESTBROOK WILLIAM HAROLD &	740 OAKDALE RD	CANTON	30114	30114	GA
		WESTBROOK WILLIAM HAROLD	740 OAKDALE RD	CANTON	30114		GA
East properties							
Property Address	Property City	Property Zip	Owner	Mailing Address	Mailing City	Mailing State	Mailing ZIP
121 North Pinecrest Dr	Canton	30114	PRICE MICHAEL B	121 PINE CREST DR	CANTON	GA	30114
			INGRAM MARGARET G	422 CHARLES REED RD	FRANKFORD	WV	24938
159 North Pinecrest Dr	Canton	30114	INGRAM MARGARET G	422 CHARLES REED RD	FRANKFORD	WV	24938
161 North Pinecrest Dr	Canton	30114	INGRAM MARGARET G	422 CHARLES REED RD	FRANKFORD	WV	24938
			INGRAM MARGARET G	422 CHARLES REED RD	FRANKFORD	WV	24938
			MITCHELL HEATHER SUZANNE	279 N PINECREST DR	CANTON	GA	30114
			MITCHELL HEATHER SUZANNE	279 N PINECREST DR	CANTON	GA	30114
			MITCHELL HEATHER SUZANNE	279 N PINECREST DR	CANTON	GA	30114
279 North Pinecrest Dr	Canton	30114	MITCHELL HEATHER SUZANNE	279 N PINECREST DR	CANTON	GA	30114
			BAKER VALENCIA MARLENE	2840 FOOTHILL TRL	MARIETTA	GA	30066
			CANTON HEIGHTS COMMUNITY	1007 TOWNE LAKE HILLS EAST	WOODSTOCK	GA	30189
West properties							
Property Address	Property City	Owner	Mailing Address	Mailing City	Mailing ZIP	Property Zip	Mailing State
8892 Knox Bridge Hwy	Canton	BOARDWALK STORAGE -	5400 LAUREL SPRINGS PKWY	SUWANEE	30024	30114	GA
8870 Knox Bridge Hwy	Canton	TATUM BONNIE LEE &	952 BETHANY RD	JASPER	30143	30114	GA
12115 Bells Ferry Rd	Canton	MARTIN B J &	12115 BELLS FERRY RD	CANTON	30114	30114	GA
12113 Bells Ferry Rd	Canton	SWEAT JOHNNY E JR &	12111 BELLS FERRY RD	CANTON	30114	30114	GA
12177 Bells Ferry Rd	Canton	BARGER SUSANNA &	12177 BELLS FERRY RD	CANTON	30114	30114	GA
North properties							
		CANTON HEIGHTS PARTNERS LLC	1007 TOWNE LAKE HILLS E	WOODSTOCK	30189		GA
8900 Knox Bridge Hwy	Canton	L AND S DUNN INC	8900 KNOX BRIDGE HWY	CANTON	30114	30114	GA
8896 Knox Bridge Hwy	Canton	CRUZ LUCIO	1078 WHISPERING WOOD DR	CANTON	30114	30114	GA



Land Use Petition: VAR2503-001

Date of Staff Report Preparation: 4/15/25

Board of Zoning Appeals Public Hearing Date: 5/12/25

Applicant: Bridgeview Development, LLC

Property Owner: Bridgeview Development, LLC

Property Location: Bells Ferry Road

Parcel ID: 14N12A 099/100

Zoning: R-10

Land Use: Bridgeview subdivision currently under construction

Lot Area: 26.65 acres

Street Frontage: +/- 380'

Existing Lot Coverage: N/A

Request(s): Applicant seeks stream buffer variances in order to obtain three new building lots.

District Standards:

___ Zoning District Standards (Primary Street)			
Impervious Surface (max.)	50%	Front Yard Setback (min.)	35'
Open Space (min.)	10 acres	Side Yard Setback (min.)	10'
Building Height (max.)	2.5/40	Rear Yard Setback (min.)	20'
Building Height (min.)		Buffer Planting (min.)	
Zoning Buffer	30'	Overlay Zone	N/A

Surrounding Land Uses and Zoning:

North – Canton Heights, R-4, Commercial, GC

South – Bells Ferry Road

East – Canton Heights, R-4, Single family homes,

R-40

West – Commercial, LI Single family homes, R-40

Location Map





Site Description: The property is currently undergoing development. The parcel contains several streams and wooded buffer areas.

Site History: The property was annexed and rezoned to R-10 in 2005. At the time of the annexation/rezoning the stream buffer requirement was 25'. Later that year the city increased the stream buffer requirement to 75' which significantly impacted the property as there are several streams traversing the parcel. Development of the property did not take place for several years. In 2018 the owner attempted to rezone the property to R-4. This request was denied. Later that year the owner applied for stream buffer variances and was denied by the Board of Zoning Appeals. After these denials the owner filed three different lawsuits, and a Writ of Certiorari Consent Order was approved by the Superior Court of Cherokee County. There were/are five conditions contained in the consent order (copy attached).

The owner/developer submitted a Land Disturbance Permit application for a total of 39 lots (development was approved for 44 lots). The LDP was approved and now the owner/developer is seeking an additional three lots to bring the total to 42.

CRITERIA TO BE APPLIED

1. The grant of the variance will not be detrimental to the public health, safety or welfare or injurious to property or improvements;
2. The variance request is based on conditions that are:
 - a. Unique to the subject property;
 - b. Not generally applicable to other properties in the same zoning district;
3. Because of the particular conditions, shape, size, orientation or topographic conditions, the strict application of the requirements of this zoning ordinance would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners;
4. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other similarly situated properties;



5. The literal interpretation and strict application of the applicable provisions or requirements of this zoning ordinance would cause undue hardship or practical difficulty, as distinguished from a mere inconvenience; and
6. The requested variance would be consistent with the spirit and purpose of this zoning ordinance and the comprehensive plan.

CONDITIONS FOR CONSIDERATION

Should the Zoning Board of Appeals approve the requested variance(s), conditions of approval to consider are:

- 1.

IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA

MOUNTAIN RESERVE, LLC)	
)	
Petitioner in Certiorari)	
)	
v.)	
)	
CANTON CITY COUNCIL)	Civil Action File No.
)	19CVE0711
Respondent in Certiorari,)	19CVE0712
)	19CVE1381
and)	
)	
CITY OF CANTON, GEORGIA)	
)	
Defendant in Certiorari)	

PETITION FOR WRIT OF CERTIORARI CONSENT ORDER

·COMES NOW, the parties to this litigation and hereby submit and agree to this Consent Order to grant a variance to Petitioner.

The property subject to this consent order, 26.52 acres (shown on the attached plan of proposed settlement) located on Bells Ferry Road within the corporate boundaries of the City of Canton, was annexed into the City of Canton and zoned R-10 in 2005, which allowed for development of a 42-home subdivision.

The City of Canton's Development Code was amended to significantly increase the stream buffers from 25 feet (in 2005) to the current 75 feet. The increased set back created a hardship affecting Petitioner's ability to develop the property under an R-10 zoning classification or to build it in the accordance with the original approval by the City for the 42-home subdivision.

Petitioner sought rezoning to the R-4 category which was denied by the City of Canton. Petitioner sought variances to allow development consistent with the proposed 2005 plan. The variances were denied by the City of Canton. Petitioner filed the three cases referenced above in order to appeal the denials.

Petitioner agrees the property should retain an R-10 zoning, and the City agrees that Petitioner has submitted a reasonable plan for a variance that accounts for the City's concerns. Therefore, the parties consent to the entry of this order granting Petitioner a variance that allows Petitioner or successors to develop the property consistent with the site plan attached as Exhibit A hereto, subject to any reasonable adjustments for engineering or environmental challenges with the following conditions (which shall not be altered in any event):

1. The development shall consist of no more than 44 lots;
2. A maximum of 17 lots may be a minimum of 7,500 sq. ft in size. Of these 17 lots, at least 16 shall be in a row on the East side of the development running North immediately from Bells Ferry Road. The seventeenth lot may be located directly across the proposed public road from any of the other 16 lots. The remaining lots each shall be at least 10,000 sq. ft. in size;
3. The buffer setback where the property adjoins the county shall be 30 feet;
4. The minimum width of the lot is reduced to 65 feet (which is a 10 foot variance). The site plan reserves approximately 11 acres as green space. Petitioner intends to develop the property according to the attached site plan but needs and is

allowed flexibility for possible engineering challenges. In no event shall the green space be less than 10 acres;

5. Any future applications for any variances or rezoning shall be decided in accordance with the City's Zoning and Variance Ordinances at such time as any application is filed.

This Consent Order resolves all issues in Civil Action File Nos. 19CVE0711, 19CVE0712, and 19CVE1381 and is the final disposition of all three cases.

SO ORDERED this _____ day of _____, 2019.



1/6/20

Honorable David Cannon, Jr.
Judge
Superior Court of Cherokee County

Presented by:

Consented to by:

/s/ H. Michael Bray
H. Michael Bray
GBN.: 078700
Attorney for Petitioner

Bray & Johnson
P.O. Box 1649
Canton, GA 30169
(770) 479-1426

/s/ Robert M. Dyer
Robert M. Dyer
GBN.:236880
Attorney for Respondent in Certiorari
and Defendant in Certiorari

Dyer & Rusbridge
291 E. Main Street
Canton, GA 30114
(770) 479-7418

IN THE SUPERIOR COURT OF CHEROKEE COUNTY
 STATE OF GEORGIA

MOUNTAIN RESERVE, LLC)	
)	
Petitioner in Certiorari)	
)	
v.)	
)	
CANTON CITY COUNCIL)	Civil Action File No.
)	19CVE0711
Respondent in Certiorari,)	19CVE0712
)	19CVE1381
and)	
)	
CITY OF CANTON, GEORGIA)	
)	
Defendant in Certiorari)	

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The City of Canton's Development Code was amended to significantly increase the stream buffers from 25 feet (in 2005) to the current 75 feet. The increased set back created a hardship affecting Petitioner's ability to develop the property under an R-10 zoning classification or to build it in the accordance with the original approval by the City for the 42-home subdivision.

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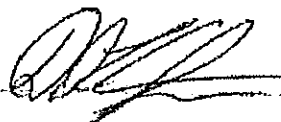
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allowed flexibility for possible engineering challenges. In no event shall the green space be less than 10 acres;

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SO ORDERED this _____ day of _____, 2019.



1/6/20

Honorable David Cannon, Jr.
Judge
Superior Court of Cherokee County

Presented by:

Consented to by:

/s/ H. Michael Bray
H. Michael Bray
GBN.: 078700
Attorney for Petitioner

Bray & Johnson
P.O. Box 1649
Canton, GA 30169
(770) 479-1426

/s/ Robert M. Dyer
Robert M. Dyer
GBN.:236880
Attorney for Respondent in Certiorari
and Defendant in Certiorari

Dyer & Rusbridge
291 E. Main Street
Canton, GA 30114
(770) 479-7418

IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA

MOUNTAIN RESERVE, LLC)	
)	
Petitioner in Certiorari)	
)	
v.)	
)	
CANTON CITY COUNCIL)	Civil Action File No.
)	19CVE0711
Respondent in Certiorari,)	19CVE0712
)	19CVE1381
and)	
)	
CITY OF CANTON, GEORGIA)	
)	
Defendant in Certiorari)	

PETITION FOR WRIT OF CERTIORARI CONSENT ORDER

COMES NOW, the parties to this litigation and hereby submit and agree to this Consent Order to grant a variance to Petitioner.

The property subject to this consent order, 26.52 acres (shown on the attached plan of proposed settlement) located on Bells Ferry Road within the corporate boundaries of the City of Canton, was annexed into the City of Canton and zoned R-10 in 2005, which allowed for development of a 42-home subdivision.

The City of Canton's Development Code was amended to significantly increase the stream buffers from 25 feet (in 2005) to the current 75 feet. The increased set back created a hardship affecting Petitioner's ability to develop the property under an R-10 zoning classification or to build it in the accordance with the original approval by the City for the 42-home subdivision.

Petitioner sought rezoning to the R-4 category which was denied by the City of Canton. Petitioner sought variances to allow development consistent with the proposed 2005 plan. The variances were denied by the City of Canton. Petitioner filed the three cases referenced above in order to appeal the denials.

Petitioner agrees the property should retain an R-10 zoning, and the City agrees that Petitioner has submitted a reasonable plan for a variance that accounts for the City's concerns. Therefore, the parties consent to the entry of this order granting Petitioner a variance that allows Petitioner or successors to develop the property consistent with the site plan attached as Exhibit A hereto, subject to any reasonable adjustments for engineering or environmental challenges with the following conditions (which shall not be altered in any event):

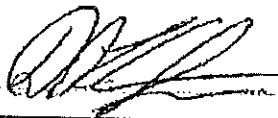
1. The development shall consist of no more than 44 lots;
2. A maximum of 17 lots may be a minimum of 7,500 sq. ft in size. Of these 17 lots, at least 16 shall be in a row on the East side of the development running North immediately from Bells Ferry Road. The seventeenth lot may be located directly across the proposed public road from any of the other 16 lots. The remaining lots each shall be at least 10,000 sq. ft. in size;
3. The buffer setback where the property adjoins the county shall be 30 feet;
4. The minimum width of the lot is reduced to 65 feet (which is a 10 foot variance). The site plan reserves approximately 11 acres as green space. Petitioner intends to develop the property according to the attached site plan but needs and is

allowed flexibility for possible engineering challenges. In no event shall the green space be less than 10 acres;

5. Any future applications for any variances or rezoning shall be decided in accordance with the City's Zoning and Variance Ordinances at such time as any application is filed.

This Consent Order resolves all issues in Civil Action File Nos. 19CVE0711, 19CVE0712, and 19CVE1381 and is the final disposition of all three cases.

SO ORDERED this _____ day of _____, 2019.



1/6/20

Honorable David Cannon, Jr.
Judge
Superior Court of Cherokee County

Presented by:

Consented to by:

/s/ H. Michael Bray
H. Michael Bray
GBN.: 078700
Attorney for Petitioner

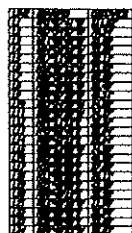
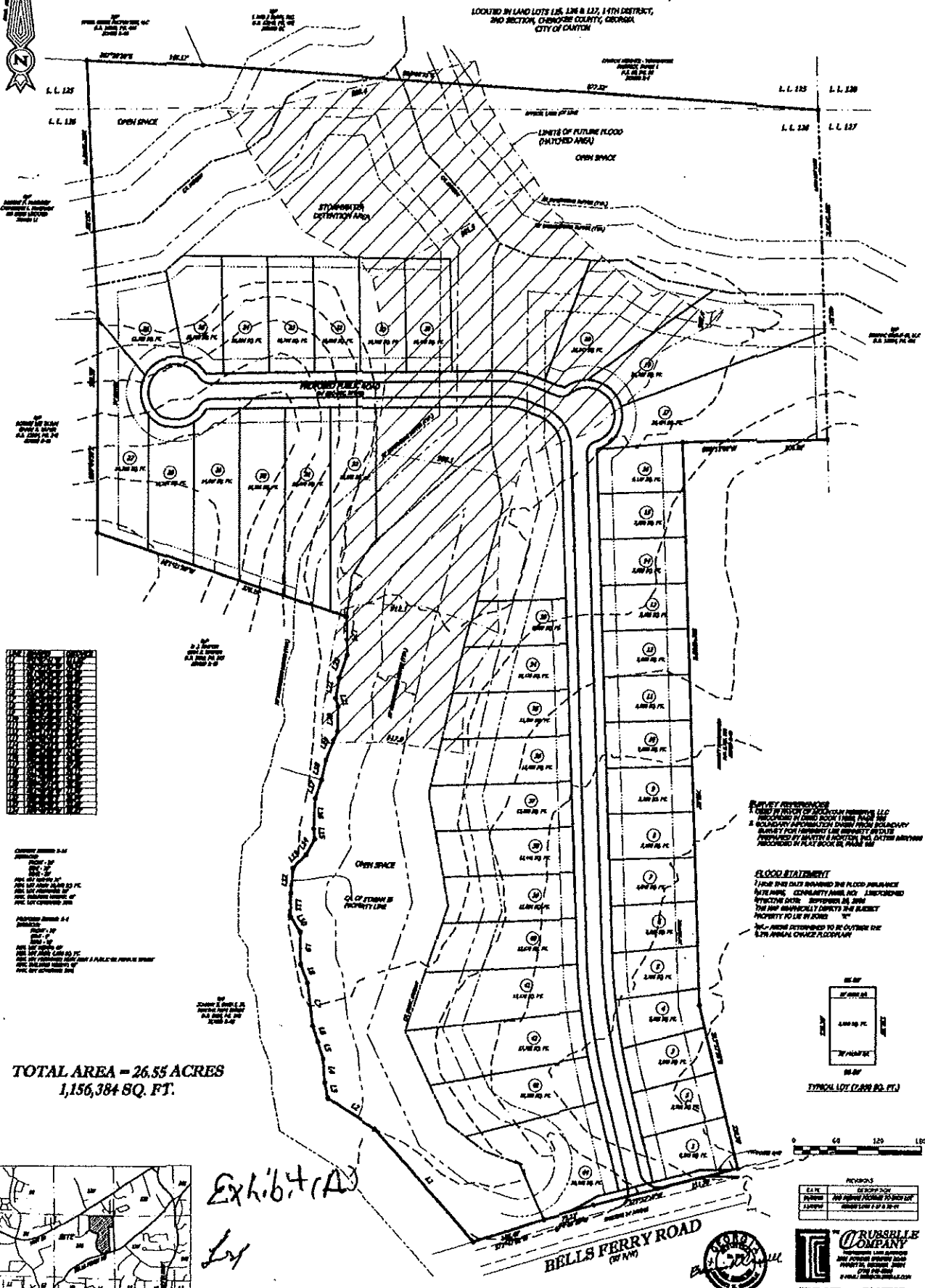
Bray & Johnson
P.O. Box 1649
Canton, GA 30169
(770) 479-1426

/s/ Robert M. Dyer
Robert M. Dyer
GBN.:236880
Attorney for Respondent in Certiorari
and Defendant in Certiorari

Dyer & Rusbridge
291 E. Main Street
Canton, GA 30114
(770) 479-7418

ZONING PLAN OF **SYDNEY POINTE AT BELLS FERRY** FOR **MOUNTAIN RESERVE, LLC**

LOCATED IN LAND LOTS 125, 126 & 127, 14TH DISTRICT,
 2ND SECTION, CHOCOMA COUNTY, GEORGIA
 CITY OF DAYTON



LEGEND
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TOTAL AREA = 26.55 ACRES
1,156,384 SQ. FT.

REVIEW REVISIONS
 1. DATE OF REVIEW
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FLOOD STATEMENT
 I HAVE BEEN ADVISED THAT THE FLOOD INSURANCE
 RATE MAPS, CIRCULARITY, AND NO. 1000
 EFFECTIVE DATE: SEPTEMBER 20, 2000
 THE MAP UNERRONEOUSLY CORRECTS THE SUBJECT
 PROPERTY TO BE IN ZONE "A"
 THE AREA DETERMINED TO BE OUTSIDE THE
 1% ANNUAL CHANCE FLOODPLAIN



TYPICAL LOT (2.00 AC. FT.)



REVISIONS	DATE	REVISION
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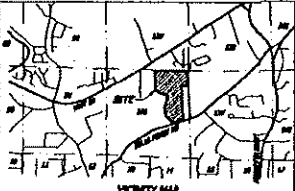
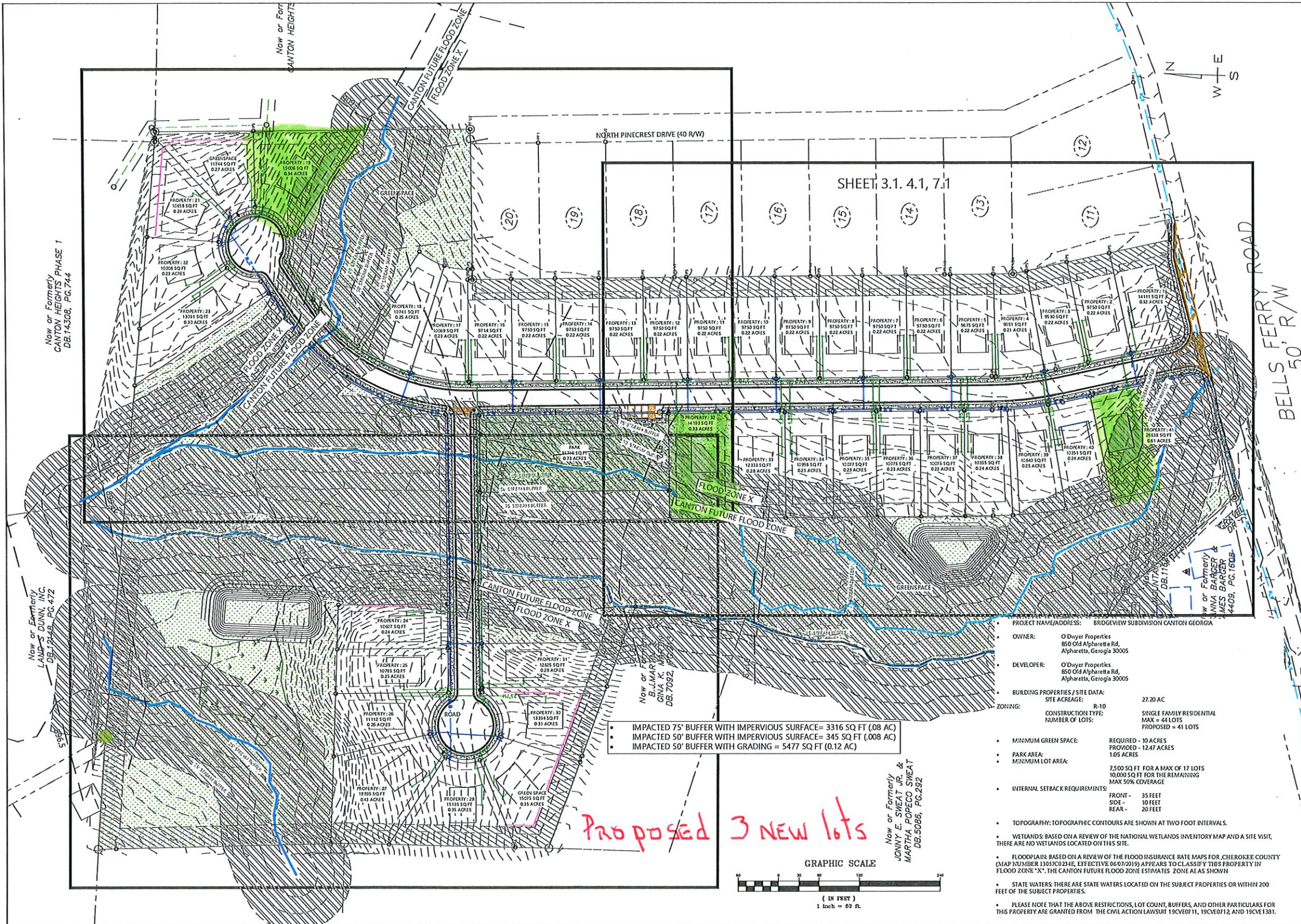


Exhibit (A)
 Ly

MM



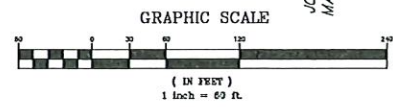
Now or Formerly
CANTON HEIGHTS PHASE 1
DB.14308, PG.744

Now or Formerly
LANDS DUNN, INC.
DB.13143, PG.472

- IMPACTED 75' BUFFER WITH IMPERVIOUS SURFACE= 3316 SQ FT (.08 AC)
- IMPACTED 50' BUFFER WITH IMPERVIOUS SURFACE= 345 SQ FT (.008 AC)
- IMPACTED 50' BUFFER WITH GRADING = 5477 SQ FT (0.12 AC)

Proposed 3 new lots

Now or Formerly
JONNY E. SWEAT JR. &
MARTHA POPECO SWEAT
DB.5086, PG.292



- PROJECT NAME/ADDRESS: BRIDGEVIEW SUBDIVISION CANTON GEORGIA
- OWNER: O'Dwyer Properties
650 Old Alpharetta Rd,
Alpharetta, Georgia 30005
- DEVELOPER: O'Dwyer Properties
650 Old Alpharetta Rd,
Alpharetta, Georgia 30005
- BUILDING PROPERTIES / SITE DATA:
- | | |
|--------------------|-------------------------------------|
| SITE ACREAGE: | 27.20 AC |
| ZONING: | R-10 |
| CONSTRUCTION TYPE: | SINGLE FAMILY RESIDENTIAL |
| NUMBER OF LOTS: | MAX = 44 LOTS
PROPOSED = 41 LOTS |
- MINIMUM GREEN SPACE: REQUIRED - 10 ACRES
PROVIDED - 1247 ACRES
- PARK AREA: 1.05 ACRES
- MINIMUM LOT AREA: 7,500 SQ FT FOR A MAX OF 17 LOTS
10,000 SQ FT FOR THE REMAINING
MAX 50% COVERAGE
- INTERNAL SETBACK REQUIREMENTS:
- | | |
|---------|---------|
| FRONT - | 35 FEET |
| SIDE - | 10 FEET |
| REAR - | 20 FEET |
- TOPOGRAPHY: TOPOGRAPHIC CONTOURS ARE SHOWN AT TWO FOOT INTERVALS.
- WETLANDS: BASED ON A REVIEW OF THE NATIONAL WETLANDS INVENTORY MAP AND A SITE VISIT, THERE ARE NO WETLANDS LOCATED ON THIS SITE.
- FLOODPLAIN: BASED ON A REVIEW OF THE FLOOD INSURANCE RATE MAPS FOR, CHEROKEE COUNTY (MAP NUMBER 13057C024E, EFFECTIVE 06/07/2019) APPEARS TO CLASSIFY THIS PROPERTY IN FLOOD ZONE "X". THE CANTON FUTURE FLOOD ZONE ESTIMATES ZONE AE AS SHOWN
- STATE WATERS: THERE ARE STATE WATERS LOCATED ON THE SUBJECT PROPERTIES OR WITHIN 200 FEET OF THE SUBJECT PROPERTIES.
- PLEASE NOTE THAT THE ABOVE RESTRICTIONS, LOT COUNT, BUFFERS, AND OTHER PARTICULARS FOR THIS PROPERTY ARE GRANTED FROM THE CIVIL ACTION LAWSUIT 19CV0711, 19CV0712, AND 19CV1301.

GOOSE CREEK LLC
1616 Airport Road
Hapeville, Georgia 31113
(770) 231-5197
Fax (770) 398-5180

BRIDGEVIEW SUBDIVISION
CANTON GEORGIA

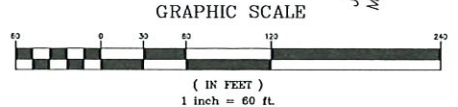
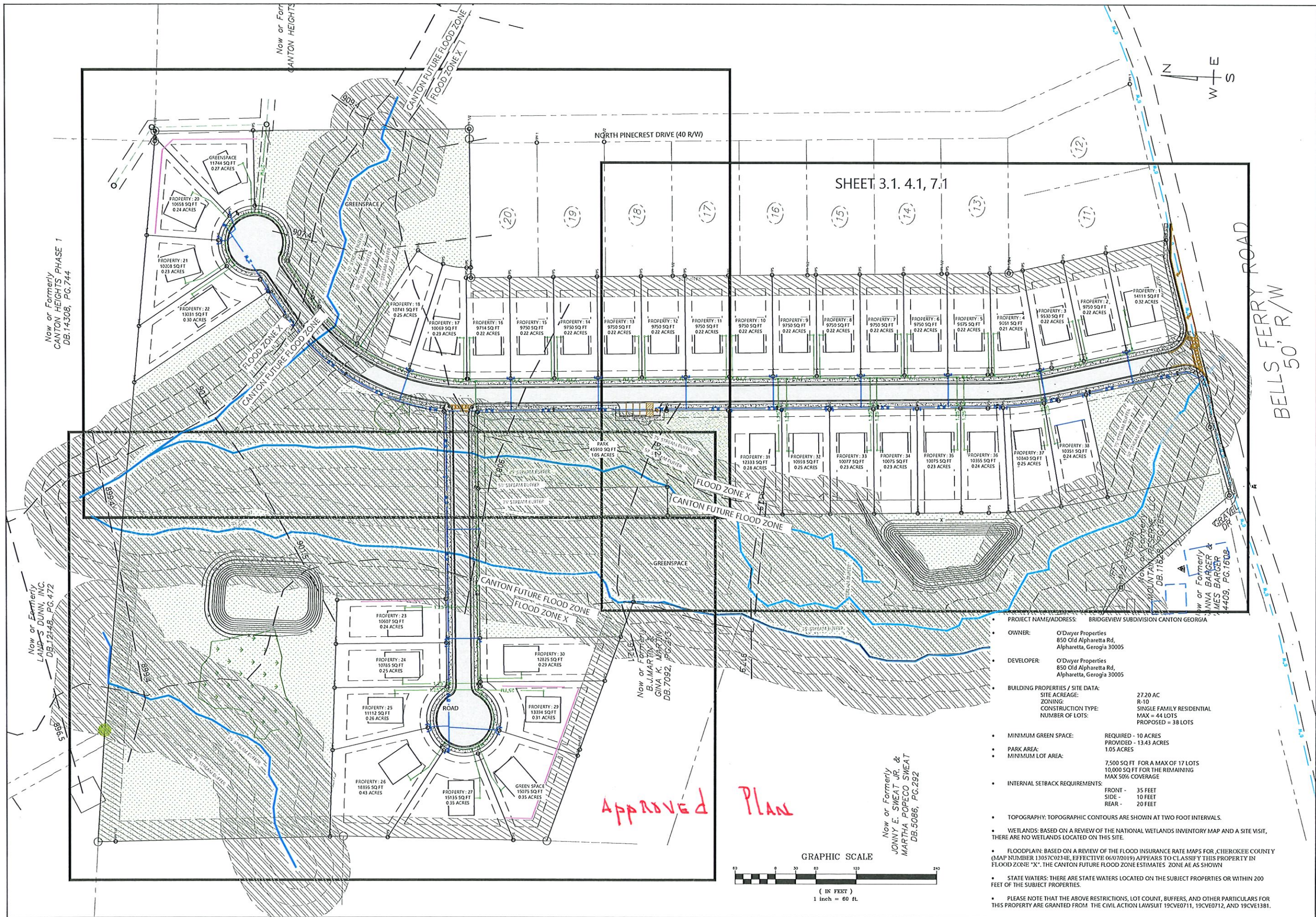
SHEET NAME:
OVERALL
LAYOUT

REVISIONS:

1.	GOOSE
2.	10/01/2023 CANTON
3.	02/05/2024 CANTON
4.	04/10/2023 CANTON
5.	05/23/2024 CANTON
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DATE: 03/26/2022
DRAWN BY: AGW
CHECKED BY: AGW
PROJECT #: 2022-18

SHEET NUMBER:
C 2.1



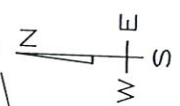
- PROJECT NAME/ADDRESS: BRIDGEVIEW SUBDIVISION CANTON GEORGIA
- OWNER: O'Dwyer Properties
850 Old Alpharetta Rd,
Alpharetta, Georgia 30005
- DEVELOPER: O'Dwyer Properties
850 Old Alpharetta Rd,
Alpharetta, Georgia 30005
- BUILDING PROPERTIES / SITE DATA:
SITE ACRES: 27.20 AC
ZONING: R-10
CONSTRUCTION TYPE: SINGLE FAMILY RESIDENTIAL
NUMBER OF LOTS: MAX = 44 LOTS
PROPOSED = 38 LOTS
- MINIMUM GREEN SPACE: REQUIRED - 10 ACRES
PROVIDED - 13.43 ACRES
1.05 ACRES
- PARK AREA: 45910 SQ FT
1.05 ACRES
- MINIMUM LOT AREA: 7,500 SQ FT FOR A MAX OF 17 LOTS
10,000 SQ FT FOR THE REMAINING
MAX 50% COVERAGE
- INTERNAL SETBACK REQUIREMENTS:
FRONT - 35 FEET
SIDE - 10 FEET
REAR - 20 FEET
- TOPOGRAPHY: TOPOGRAPHIC CONTOURS ARE SHOWN AT TWO FOOT INTERVALS.
- WETLANDS: BASED ON A REVIEW OF THE NATIONAL WETLANDS INVENTORY MAP AND A SITE VISIT,
THERE ARE NO WETLANDS LOCATED ON THIS SITE.
- FLOODPLAIN: BASED ON A REVIEW OF THE FLOOD INSURANCE RATE MAPS FOR CHEROKEE COUNTY
(MAP NUMBER 13057C0234E, EFFECTIVE 06/07/2019) APPEARS TO CLASSIFY THIS PROPERTY IN
FLOOD ZONE "X". THE CANTON FUTURE FLOOD ZONE ESTIMATES ZONE AE AS SHOWN
- STATE WATERS: THERE ARE STATE WATERS LOCATED ON THE SUBJECT PROPERTIES OR WITHIN 200
FEET OF THE SUBJECT PROPERTIES.
- PLEASE NOTE THAT THE ABOVE RESTRICTIONS, LOT COUNT, BUFFERS, AND OTHER PARTICULARS FOR
THIS PROPERTY ARE GRANTED FROM THE CIVIL ACTION LAWSUIT 19CV0711, 19CV0712, AND 19CV1381.

Now or Formerly
CANTON HEIGHTS PHASE 1
DB.14308, PG.744

Now or Formerly
LAND-S DUNN, INC.
DB.12148, PG.472

Now or Formerly
B.J. MARTIN &
GINA K. MARTIN
DB.7092, PG.213

Now or Formerly
JONNY E. SWEAT JR. &
MARTHA POPECO SWEAT
DB.5086, PG.292



SHEET 3.1. 4.1, 7.1

GOOSE CREEK LLC
1618 Airport Road
Hinesville, Georgia 31113
(912) 231-5157
Fax (912) 266-5180

BRIDGEVIEW SUBDIVISION
CANTON GEORGIA

SHEET NAME:
OVERALL
LAYOUT

REVISIONS:
1. GOOSE
2. 10/01/2023 CANTON
3. 02/05/2024 CANTON
4. 04/10/2023 CANTON
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EST. DATE: 05/26/2023
DRAWN BY: AGW
CHECKED BY: AGW
PROJECT #: 2022-18

SHEET NUMBER:
C 2.1

TOTAL AREA: 26.71 ACRES

- LEGEND :**
- POB POINT OF BEGINNING
 - LL LAND LOT LINE
 - R/W RIGHT OF WAY
 - N/F NOW OR FORMERLY
 - CTF CRIMP TOP FOUND
 - RF REBAR FOUND
 - OTF OPEN TOP FOUND
 - RBS REBAR SET
 - CMP CORRUGATED METAL PIPE
 - RCP REINFORCED CONCRETE PIPE
 - DP DUCTILE IRON PIPE
 - PVC POLYVINYLCHLORIDE PIPE
 - SWCB SINGLE WING CATCH BASIN
 - DWCB DOUBLE WING CATCH BASIN
 - CI CURB INLET
 - DI DROP INLET
 - OCS OUTLET CONTROL SYSTEM
 - JB JUNCTION BOX
 - FES FLARED END SECTION
 - HW HEAD WALL
 - WI WIER INLET
 - SSMH SANITARY SEWER MANHOLE
 - CO CLEAN OUT
 - INV INVERT
 - OHV OVERHEAD POWER LINE
 - OTL OVERHEAD TELEPHONE LINE
 - UT UNDERGROUND TELEPHONE LINE
 - EO ELECTRIC OUTLET
 - UP UTILITY POLE
 - UG UNDERGROUND POWER LINE
 - CU CUI WIRE
 - PP POWER POLE
 - LP LIGHT POLE
 - C/I/T CABLE/INTERNET/TELEPHONE
 - TH FIRE HYDRANT
 - W WATER LINE
 - WM WATER METER
 - WV WATER VALVE
 - VM VALVE MARKER
 - SI SIGN POST
 - BL BUILDING LINE
 - CL CENTERLINE
 - EP EDGE OF PAVEMENT
 - M MONITORING POINT
 - Wp MONITORING POINT
 - WETLANDS
 - SL STREET LIGHT

SURVEY NOTATION:
80% OF THE DATA SHOWN ON THIS PLAN WAS OBTAINED UTILIZING GPS. IT INCLUDES ALL HORIZONTAL AND VERTICAL CONTROL POINT INFORMATION. THE EQUIPMENT USED TO OBTAIN THIS DATA WAS A CARLSON SURVEYOR+ GLOBAL NAVIGATION SATELLITE SYSTEM WITH A CARLSON SURVEYOR+ DATA COLLECTOR. THE TECHNIQUE USED WAS RTK CORRECTED MEASUREMENTS FROM THE GPS SOLUTIONS VRS NETWORK. THE RELATIVE POSITIONAL ACCURACY OBTAINED ON THE POINTS RELATED IN THIS SURVEY WERE 0.019 FEET HORIZONTALLY AND 0.03 FEET VERTICALLY AT THE 95% CONFIDENCE LEVEL.

BASIS OF BEARINGS FOR THIS SURVEY IS GRID NORTH REFERENCED TO THE GEORGIA STATE PLANE COORDINATE SYSTEM WEST ZONE. ALL HORIZONTAL LOCATIONS ARE REFERENCED TO THE NORTH AMERICAN DATUM 1983 (NAD83).

EQUIPMENT USED: CARLSON SURVEYOR+ GLOBAL NAVIGATION SATELLITE SYSTEM AND A CARLSON SURVEYOR+ DATA COLLECTOR.

THIS PLAN HAS BEEN CALCULATED FOR PRECISION AND WAS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 571,375 FEET.

TOPO NOTES:
CONTOURS SHOWN ARE 2' CONTOUR INTERVALS. DATA IS MSL BASED ON INFORMATION RECEIVED FROM AN ACTUAL FIELD RUN SURVEY.

TREE SURVEY IS BASED ON AN ACTUAL FIELD RUN SURVEY. TREES LOCATED ON GROUND WITH EITHER GPS OR ANGLE & DISTANCE.

SURVEY NOTATION:
THIS SURVEY WAS RUN USING A GEOMAX ZOOM 90 ROBOTIC TOTAL STATION EDM UNIT. THE FIELD DATA UPON WHICH THIS PLAN IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 11,300 FEET AND AN ANGULAR ERROR OF 03" PER ANGLE POINT AND WAS ADJUSTED USING COMPASS RULE.

THIS PLAN HAS BEEN CALCULATED FOR PRECISION AND WAS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 681,879 FEET.

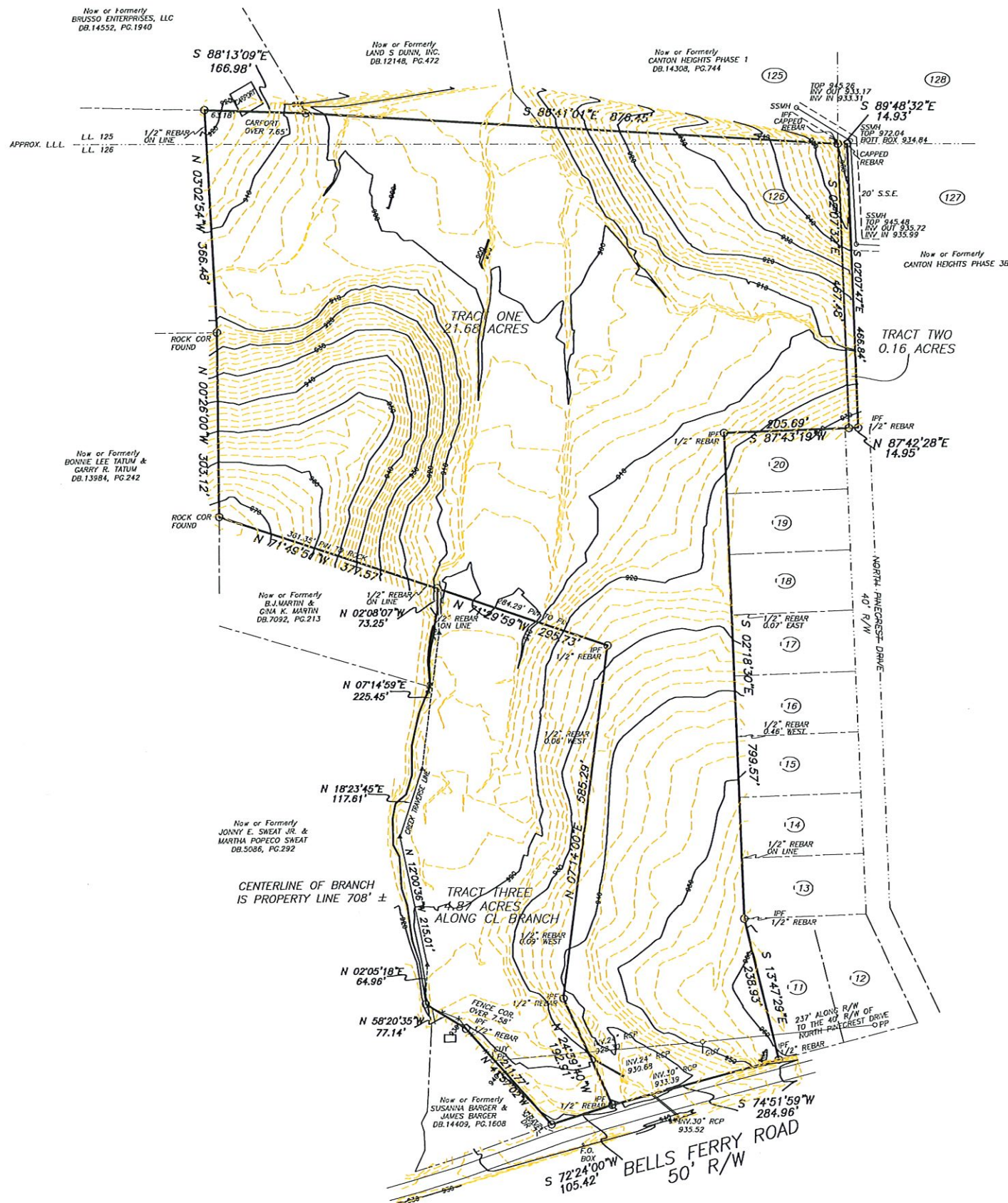
REFERENCE MATERIAL:
FINAL PLAT OF CANTON HEIGHTS, PHASE 1, PREPARED BY PBS&J DATED 08-19-2003 AND RECORDED IN PLAT BOOK 79, PAGES 159-161.
FINAL PLAT OF CANTON HEIGHTS, PHASE 2, PREPARED BY TERRA MARK LAND SURVEYORS DATED 06-29-2005 AND RECORDED IN PLAT BOOK 87, PAGES 123-128.
FINAL PLAT OF CANTON HEIGHTS, PHASE 3A, PREPARED BY GUNNIN LAND SURVEYORS DATED JAN. 31, 2019 AND RECORDED IN PLAT BOOK 118, PAGES 2113-2115.
PLAT OF SURVEY FOR HERBERT LEE BENNETT ESTATE, PREPARED BY MARTIN & NORTON, INC. DATED AUGUST 27, 1996 AND RECORDED IN PLAT BOOK 52, PAGE 168.
PLAT OF SURVEY FOR STEVE MASSEY & LISA MASSEY, PREPARED BY MARTIN-ADAMS & ASSOCIATES DATED 06-10-81 AND RECORDED IN PLAT BOOK 19, PAGE 45.
PLAT OF SURVEY FOR BENJON MARTIN JR. & GINA K. MARTIN, PREPARED BY WIKLE LAND SURVEYING, PC DATED AUGUST 26, 2002 AND RECORDED IN PLAT BOOK 72, PAGE 193.



KNOW WHAT'S BELOW. CALL BEFORE YOU DIG.
IF YOU DIG GEORGIA... CALL FIRST!

THE EXISTING UTILITIES SHOWN ON THIS PLAN WERE OBTAINED FROM VARIOUS UTILITY COMPANIES, VARIOUS GOVERNMENTAL AGENCIES, AND AERIAL PHOTOGRAPHY. THE SURVEYOR AND/OR ENGINEER HAVE NO CLAIM TO THE COMPLETENESS OF THIS INFORMATION. THE SIZE, LOCATION, OR ADDITIONAL UTILITIES MAY BE UNCOVERED UPON EXCAVATION. PRIOR TO BEGINNING ANY EARTH DISTURBING ACTIVITIES, THE UTILITY PROTECTION SERVICE FOR THIS AREA MUST BE NOTIFIED.

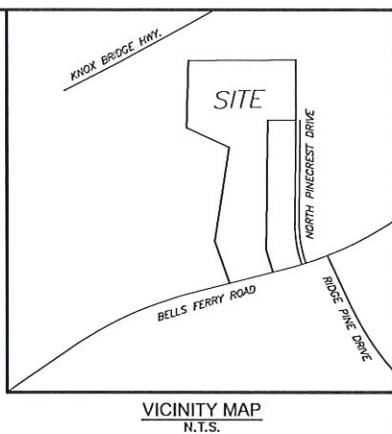
SUBJECT PROPERTY DOES NOT LIE WITHIN A 100 YEAR FLOOD HAZARD DISTRICT AS PER F.I.R.M. PANEL NO.13057C0234E DATED JUNE 7, 2019.



THIS PLAN IS A RETRACEMENT OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT SUBSTANTIATE OR CREATE A NEW PARCEL OR HAVE ANY CHANGES TO ANY REAL PROPERTY BOUNDARIES. THE RECORDING INFORMATION OF THE DOCUMENTS, MAPS, PLATS, OR OTHER INSTRUMENTS WHICH CREATED THE PARCEL OR PARCELS ARE STATED HEREON. RECORDATION OF THIS PLAN DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAN COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

KEVIN V. RINGO - RLS NO. 2278

DATE



C.S.W.C.C.
LEVEL II - 0000083083
EXPIRES 02/27/2024

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. 15-6-67.

RINGO ABERNATHY & ASSOCIATES
CONSULTANTS SURVEYORS PLANNERS
257 PINECREST LANE BRASELTON GEORGIA, 30517
Phone (770) 962-8456

COUNTY:	CHEROKEE
LAND LOT/DISTRICT:	126/14TH
SECTION:	2
DATE:	11/07/2022
SCALE:	1"=100'
JOB NO.:	22084

BOUNDARY & TOPOGRAPHIC SURVEY FOR
JORDAN TENCH

REVISIONS	NO.	DATE

SHEET

1

1 OF 1



Steve Green <steve.green@cantonga.gov>

Board of Appeals applications.

Bethany Watson <bethany.watson@cantonga.gov>

Mon, Apr 21, 2025 at 11:54 AM

To: Steve Green <steve.green@cantonga.gov>

Cc: Eric Fortner <eric.fortner@cantonga.gov>, Kevin Turner <kevin.turner@cantonga.gov>, Tyler Peoples <tyler.peoples@cantonga.gov>

Bridgeview Comments:

I would deny any structure within the 50' buffer. This not only protects the stream, but also the property owner. Streams tend to move over time and also get larger and any home built within this area is subject to possible erosion issues in the future. I would be okay with structure within a 75' buffer although not ideal. I will also require updated LD plans, flood study and hydro.

Archer Street Comments:

My only comment would be that if we do not grant the variance that the sidewalk be required to match existing. If they were to put in a sidewalk as shown on the plat, part of the sidewalk would be on private property.

**Bethany Watson, PE, AICP, City Engineer**

Direct: 770.704.1521

Fax: 770.479.1872

bethany.watson@cantonga.gov110 Academy Street | Canton, GA 30114 | cantonga.gov**Want to stay on top of what's going on in the City?**Sign up for our [e-Newsletter!](#)**Have a problem, question, comment, complaint or compliment?**

We want to hear about it! For prompt assistance, call 770.704.1500 or e-mail us at info@cantonga.gov.

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