



NEWNAN
GEORGIA • CITY OF HOMES

City of Newnan Board of Zoning Appeals

Agenda for December 5, 2023 Board of Zoning Appeals Meeting
10:00 AM, Richard A. Bolin Council Chambers, City Hall

1. Call to Order
2. Approval of Minutes
 - a. November 7, 2023 Meeting Minutes
3. Public Hearings
 - a. Appeal of Zoning Administrator's Decision - 65 Jefferson Street
 - b. Variance Request - 8 Parks Avenue - 2023-28
 - c. Special Exception - 216 Bullsboro Drive - 2023-29
 - d. Variance Request - 3 Alpine Drive - 2023-31
 - e. Variance Request - 17 Elm Street - 2023-32
4. Other Business
5. Adjourn

Any questions prior to the meeting
should be directed to the Planning and Zoning Department.

Phone: 770-254-2354

E-mail: tdunnavant@newnanga.gov



CITY OF NEWNAN
Board of Zoning Appeals
Meeting Minutes
November 7, 2023
10:00 a.m.

Board Members in Attendance: Kris Lovell, Cliff Smith, Frank Flournoy, Skin Edge, Willie Walton

Board Members Absent: Sally Hensley, Ken Parker

Others in Attendance: Tracy Dunnavant, Planning & Zoning Director
Samantha Wood, Planning & Zoning Administrative Assistant
Dean Smith, Senior Planner
Chris Cole, Senior Planner
Brad Sears, City Attorney

CALL TO ORDER

Chairman Lovell called the meeting to order at 10:00 a.m. in the Richard A. Bolin Council Chambers, City Hall, 25 LaGrange Street.

READING OF THE MINUTES

Chairman Lovell asked the Board if they had reviewed the October 3, 2023 meeting minutes. Flournoy motioned to approve the minutes. Edge seconded the motion.

MOTION CARRIED (5-0)

Special Exception – 31 Fairhaven Drive – 2023-23

Chairman Lovell opened a public hearing on the Special Exception for the property located at 31 Fairhaven Drive.

Chris Cole gave the staff report. Cole stated that the applicants, Tammie & Anthony Allen, would like to open a Class I child day care center out of their home. According to the applicant's letter of intent, "with childcare being in such high demand, I'm wanting to operate a family home childcare licensed by the State of Georgia to offer childcare to 6 children out of my home". The letter also stated the rules and regulations of Bright from the Start will always be followed and will include but are not limited to:

- 1) A full-time staff member will always be present.
- 2) The space that children will be cared for in is a total of 400 square feet.

- 3) I, as the owner of the house, will always be present when children are in care, unless an approved substitute who has been cleared by the state and has all required trainings is covering for appointments.
- 4) The play area is a total of 3,200 square feet with proper 4-foot fencing around the whole yard.
- 5) I will also have to properly put in fall zones that are required by the state licensing and make sure that the fall zones are maintained at all times.
- 6) The hours of operation will be from 7 a.m. until 5:30 p.m., with drop-off times being from 7 a.m. until roughly 8:15 a.m., and pick-up times ranging from 4 p.m. until 5:30 p.m.
- 7) All parents will drop off while being parked in my driveway so that there is not any disruption to cars being able to properly drive up and down the roadway.

The applicant, Tammie Allen, was sworn in by Brad Sears.

Allen stated she is looking to do in-home child care for up to 6 children. She said a lot of parents are having trouble finding good child care. Allen added that she is CPR and first aid certified.

Edge asked if there would be any other staff members. Allen stated that she can have 6 by herself according to state law.

Chairman Lovell asked if this would be year-round day care. Allen stated that it would be open year-round.

Edge asked about the ages of the children. Allen stated that they would be ages one to four.

Chairman Lovell asked about the hours of operation. Allen said 7 a.m. to 5:30 p.m.

Chairman Lovell asked if there was anyone else in attendance to speak in favor of the application.

Chairman Lovell asked if there was anyone in attendance to speak in opposition of the application.

With no one coming forward Chairman Lovell closed the public hearing.

Smith made a motion to approve the Special Exception for 31 Fairhaven Drive. Edge seconded the motion.

MOTION CARRIED (5-0)

Variance Request – 50 Roberts Road – 2023-24

Chairman Lovell opened a public hearing on a variance request to reduce the building setbacks from 30 feet to 15 feet at 50 Roberts Road.

Dean Smith gave the staff report. He stated that this application involves a concept plan for 12 townhouses. Dean Smith mentioned the property has previously received a stream buffer variance and the applicant is seeking a reduction in the rear setbacks to be able to shift the town homes as far away from the stream as possible. He concluded that Staff recommends approval of the variance request.

Chairman Lovell asked if this property backed up to the LINC. Dean Smith stated that yes it does back up to the LINC.

Edge asked if the townhouse development has already been approved. Dean Smith stated that it does not need approval; just the setback variance.

Neal Spradlin, representing the applicant, was sworn in by Brad Sears. Spradlin explained that this property is unique and under extraordinary constraints because of the stream. Spradlin went on to say that they want to extend a street and publicly dedicate it to the City. He added the street will meet all requirements for emergency vehicle turnarounds. Spradlin mentioned that all of the units would be fee simple units.

Edge asked what the price point would be for the units. Spradlin stated somewhere in the \$300,000's.

Flournoy asked about the size of the units. Spradlin stated that the units would be 2,000 square feet and some may be at a minimum of 1,600 square feet. Spradlin added there will be 2 parking places per unit as required and they will have front entry garages.

Chairman Lovell asked if there was anyone else present to speak in favor of the application.

Chairman Lovell asked if there was anyone present to speak in opposition of the application.

With no one coming forward, Chairman Lovell closed the public hearing.

Edge made a motion to approve the Variance Request at 50 Roberts Road.
Flournoy seconded the motion.

MOTION CARRIED (5-0)

Multiple Variance Requests for Rowe Street – 2023-25

Dean Smith gave the staff report and stated that the applicant is seeking variance requests for a rear building setback reduction from 30 feet to 15 feet, a 25-foot front setback and a 25-foot street side setback to allow for the construction of a townhome development. He stated the property has multiple streams and backs up to a cemetery. Dean Smith mentioned that the City Engineer has worked with the applicant on mitigation measures that are reflected in the overall concept plan that is part of the application. He concluded by stating that Staff recommends granting all three variances as requested.

Chairman Lovell asked if this was a single-family area. Dean Smith said yes and added that the townhomes would be fee simple.

Neal Spradlin, representing the applicant, was sworn in by Brad Sears.

Spradlin stated that this case was oddly similar to the previous one in that multiple variances are needed to help minimize any disturbance to the stream buffer. He went on to state that they would like to move the townhomes as far forward as possible and granting these variances would allow a lot of the stream buffer to remain.

Dean Smith mentioned that even with the variances, they would still be able to meet the 19' driveway minimum.

Chairman Lovell asked if there was anyone else there to speak in favor of the application.

Chairman Lovell asked if there was anyone there to speak in opposition of the application.

With no one coming forward, Chairman Lovell closed the public hearing.

Flournoy made a motion to approve the variance requests for the Rowe Street property. Cliff Smith seconded the motion.

MOTION CARRIED (5-0)

Special Exception Requests – 4 Mink Hollow Court, 19 Georgian Drive, 27 Georgian Drive, 29 Georgian Drive

Chairman Lovell opened the public hearing.

Dean Smith gave the staff report. He stated the request is for a special exception to build four new quadplex residential dwellings on separate properties. He added that all four properties previously had duplexes on them that were damaged by the tornado and had to be demolished. Dean Smith stated that Staff is not opposed to the building of the quadplexes, as long as they are able to meet all city regulations.

The applicant, Kevin Dumas, was sworn in by Brad Sears. Dumas stated that he would like to build the quadplexes because of the increase in revenue and the fact that it would provide additional affordable housing options.

Chairman Lovell asked what the rent would be for each unit. Dumas stated that a 2-Bedroom would be \$1,500/month, and 3-Bedroom would be \$2,000/month.

Chairman Lovell asked if there was anyone else there to speak in favor of the application.

Chairman Lovell asked if there was anyone there to speak in opposition of the application.

Rachel Moss came forward and was sworn in by Brad Sears. Moss stated that one of the units would share a boundary with her home. She mentioned that lot 14 is only .54 acres which is too small for a quadplex. Moss asked how these units could be considered affordable housing with their outrageous rents. She expressed concern that the property would be completely open with no fence and someone could just walk across her backyard. Moss explained that her daughter ended up face to face with someone that was running from the police. She asked the Board to add a condition that the applicant erect a wooden fence around the rear of the property if they decided to approve the request. Moss added the only reason that a quadplex is being brought up is because of greed and she would be fine with a duplex being rebuilt on the property.

Chairman Lovell asked the applicant if he would be opposed to erecting a fence.

Dumas stated that he is not opposed to putting up the fence and would work with Moss to address her concern.

With no one else coming forward, Chairman Lovell closed the public hearing and asked if there was any discussion. Brad Sears stated that there would need to be a separate motion for each lot.

Edge made a motion to approve the Special Exception Request for 4 Mink Hollow Court with the condition that each quadplex will need to meet all of the site development requirements of the City of Newnan, including, but not limited to: building setbacks; minimum parking requirements; flood plain areas and stream buffers, etc. and that a 6-foot wooden privacy fence would be erected along the rear of the property. Cliff Smith seconded the motion.

MOTION CARRIED (5-0)

Edge made a motion to approve the Special Exception Request at 19 Georgian Drive with the staff condition that each quadplex will need to meet all of the site development requirements of the City of Newnan, including, but not limited to: building setbacks; minimum parking requirements; flood plain areas and stream buffers, etc. Walton seconded the motion.

MOTION CARRIED (5-0)

Edge made a motion to approve the Special Exception Request at 27 Georgian Drive with the staff condition that each quadplex will need to meet all of the site development requirements of the City of Newnan, including, but not limited to: building setbacks; minimum parking requirements; flood plain areas and stream buffers, etc. Flournoy seconded the motion.

MOTION CARRIED (5-0)

Edge made a motion to approve the Special Exception Request at 29 Georgian Drive with the staff condition that each quadplex will need to meet all of the site development requirements of the City of Newnan, including, but not limited to: building setbacks; minimum parking requirements; flood plain areas and stream buffers, etc. Walton seconded the motion.

MOTION CARRIED (5-0)

Variance Requests 9 Smith Street

Chairman Lovell opened the public hearing.

Chris Cole gave the staff report. He stated the purpose of the hearing was to request a variance to locate a house 5 feet from the western side property line, instead of the required 12.73 feet; 8 feet from the eastern side property line, instead of the required 19.27 feet; and 142.35 feet from the rear property line, instead of the required 157.35 feet. He stated the new house is proposed to be 2,275 square feet. Cole said a demolition permit was issued by the City for the previous house on the subject property on December 8, 2021 due to fire damage. He discussed the special conditions, circumstances or characteristics that prevented the use of the land in compliance with the requirements of the Ordinance and added that the subject lot is one of the narrowest, if not the narrowest, on the block.

Cole stated Staff believes the placement of the proposed house is appropriate and will present no negative impacts. He said the small size of the lot, the narrowness of the lot and how the property slopes downward from front to back limit the amount of developable area. He concluded by recommending approval of the variance requests.

Greg Adams, the applicant, was sworn in by Brad Sears. Adams asked if another gentleman, who was there to speak on his behalf, could speak first since he needed to leave.

Jim Sells was sworn in by Brad Sears. Sells stated he lives at 7 Smith Street and he welcomes this project because this will help improve the neighborhood and increase property values.

Adams stated that he believes Sells stated his case very well. He added that this lot is the narrowest of all lots and it is impossible to build on without these variances. Adams mentioned that this would be a build to rent situation.

Edge asked if the houses around this lot are owner occupied or rentals. Adams stated that there is a good mix.

Edge asked what the price point would be. Adams stated that it would be around \$1,800 per month or whatever the market is going for at the time.

Chairman Lovell asked if there was anyone else there to speak in favor of the application.

Chairman Lovell asked if there was anyone there to speak in opposition of the application.

With no one coming forward, Chairman Lovell closed the public hearing and asked if there was any discussion.

Flournoy made a motion to approve the variance requests for 9 Smith Street. Walton seconded the motion.

MOTION CARRIED (5-0)

New Business

Tracy Dunnavant let the Board know that there would be a December meeting.

ADJOURN

Edge motioned to adjourn the meeting at 10:50 a.m. Flournoy seconded.

MOTION CARRIED (5-0)

Chairman Lovell



City of Newnan, Georgia – Board of Zoning Appeals

Date: December 5, 2023

Agenda Item: Appeal of Zoning Administrator's Decision

Prepared and presented by: Dean Smith, Planner

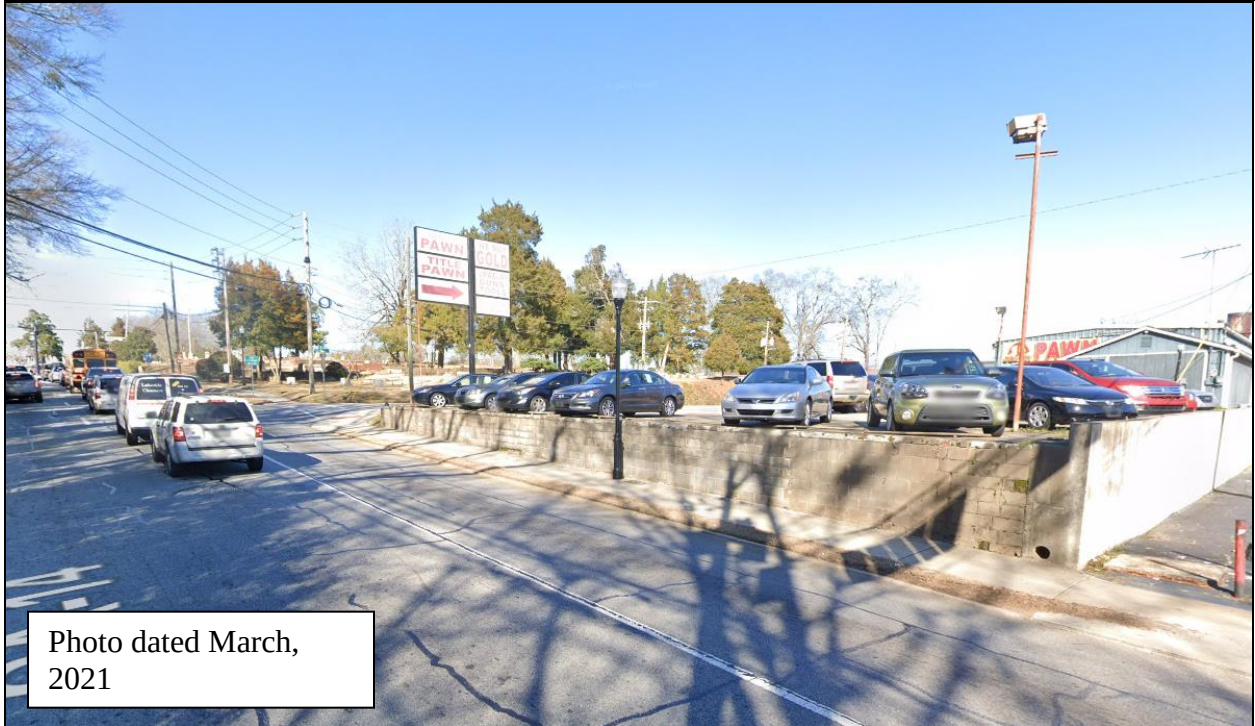
Purpose: To appeal the decision of the Planning Director regarding the nonconforming status of a used car dealership to be located at 65 Jefferson Street. The applicant is Oliver Gentry.

Background:

Recently, an application was made to the city for an Occupation Tax Certificate concerning a used car retail business. This action led to a review of the zoning of the subject property by the Planning Department. The property is currently zoned CUN – Urban Neighborhood Commercial District. The applicants' proposed use of a used car retail dealership is not currently a permitted use in the CUN zoning district. The property owner, Mr. Oliver Gentry, contends that there have been other used car retail dealerships at this location in the past. The last used car dealership that was located at 65 Jefferson Street, (Grace & Mercy Auto Brokers) recently moved to 190 Temple Avenue in Newnan. The time period since the most recent used car retail dealership was operating at 65 Jefferson Street has been over 6 months. As per the City's zoning ordinance, once a nonconforming use has been discontinued for a period of six (6) months, then the property must thereafter be used for a conforming use. Since a used car retail dealership is not an allowed use in that particular zoning district, a used car business could not be operated from that particular site.



Photo dated February, 2023



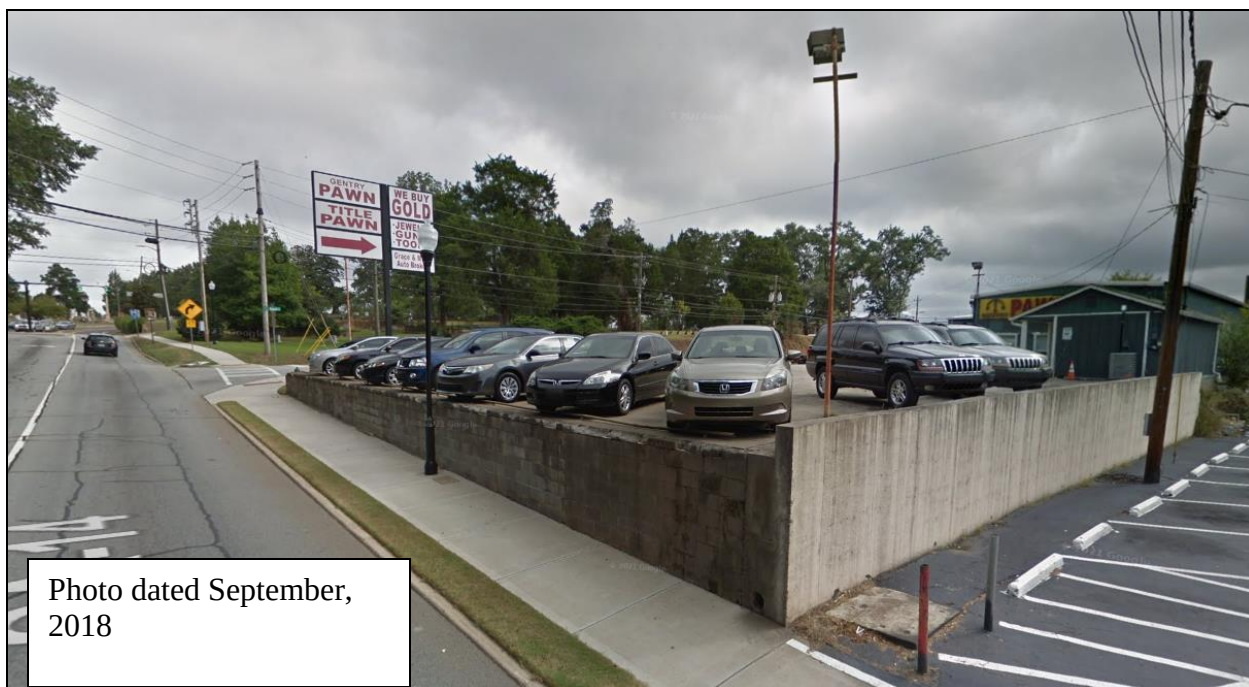
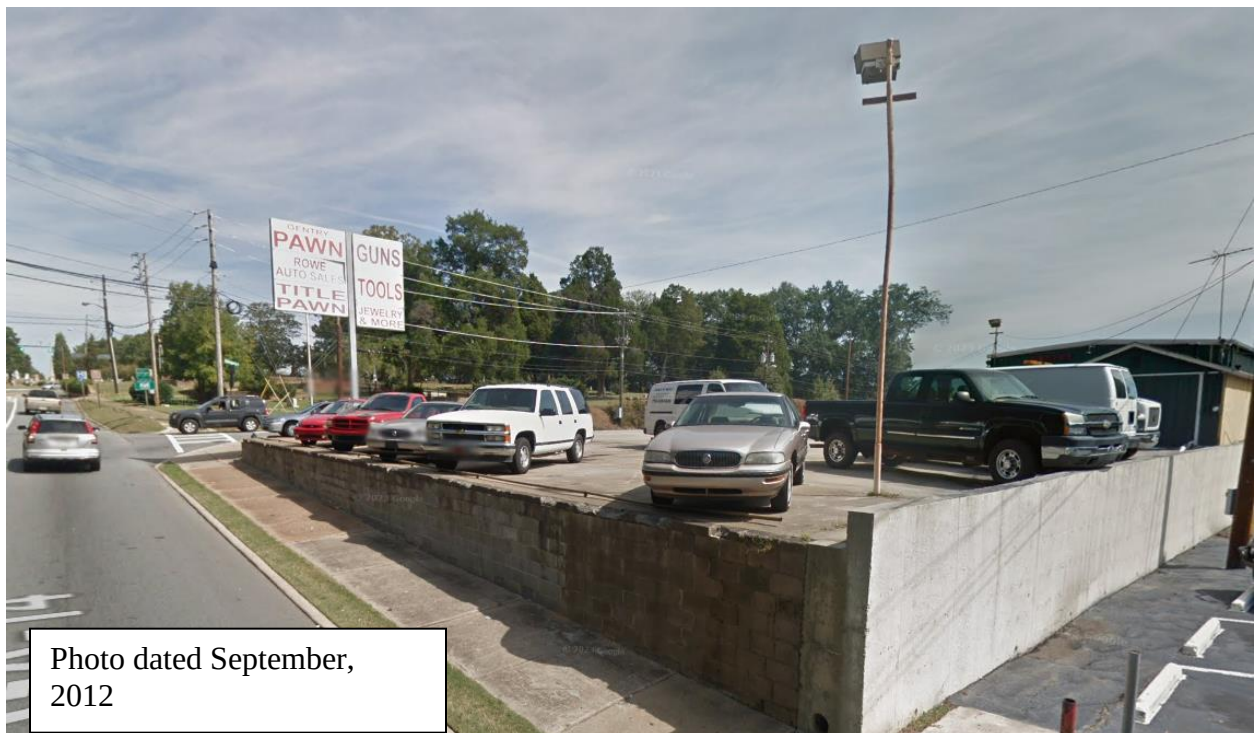


Photo dated September, 2018



Photo dated August, 2016



The question before the Board is whether or not the subject property lost its nonconforming status in the absence of no active and current Occupation Tax Certificate for more than six months. According to the Zoning Ordinance Section 1-7(c)(2) a.,3, a nonconforming use shall not be reestablished after discontinuance for 6 consecutive months or more, regardless of an intent not to abandon or to resume such use.

As with all appeals, the City will not provide an opinion as to whether or not the appeal should be granted. However, the City has no objection to the structure having its grandfathered status reestablished if the Board chooses to grant the appeal.

Options:

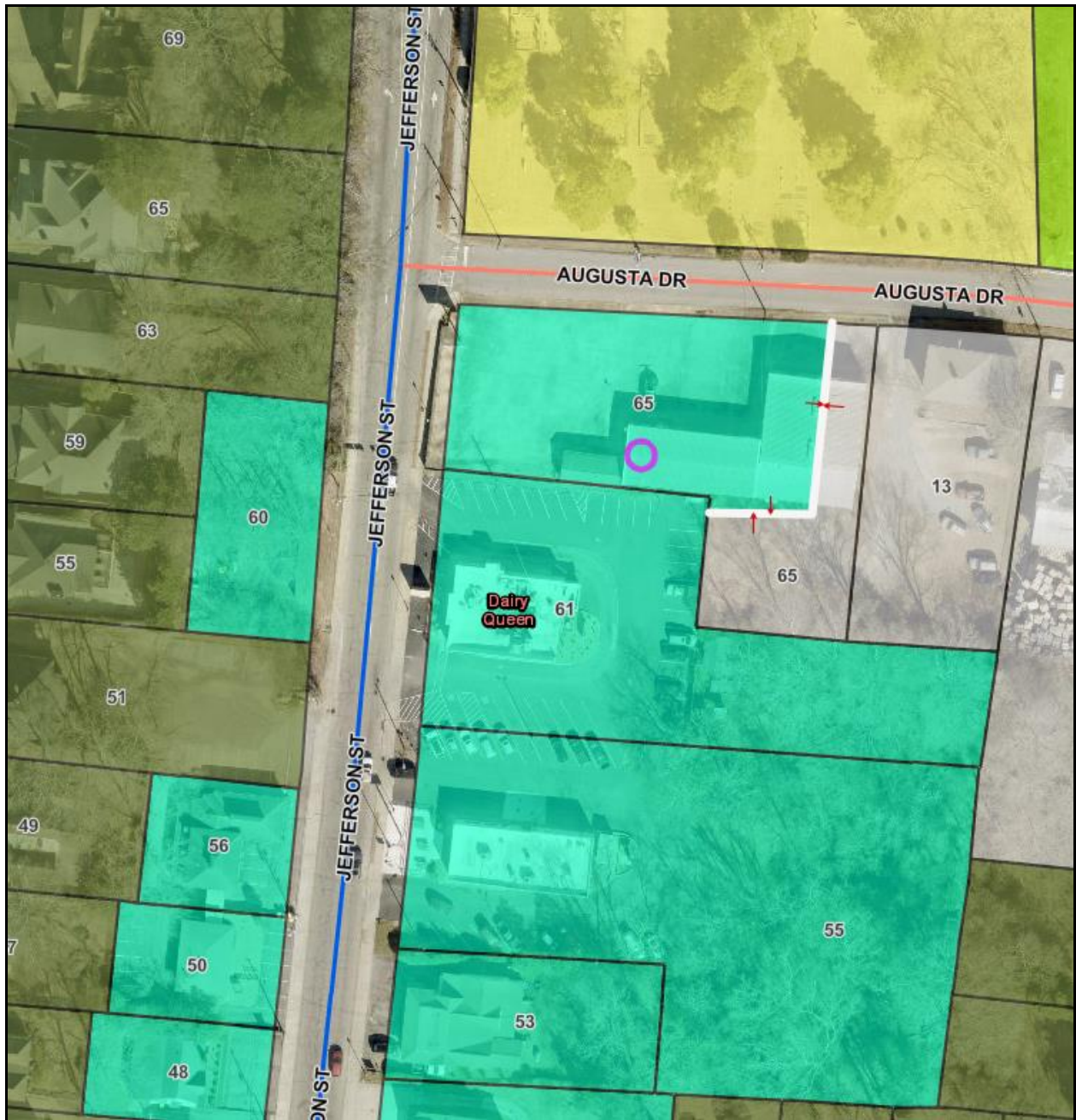
- A. Grant Applicants' appeal and allow for the reestablishment of the used car dealership.
- B. Deny the appeal.
- C. Grant Applicants' appeal with conditions.

Attachments:

Application, Location Map

Previous Discussions with BZA:

None



Attached are the leases for 65 Jefferson Street from the past 12 years. Prior to that it was owner occupied by Gentry Motor Company which was a Dodge dealership from 1970 until 1995 when they sold the Dodge portion and became only used cars but the use as a car lot has been since it was built and has not lapsed with the exception of the 7 month period in which was a transition of tenants.

Thank you in advance for your consideration in this matter.

Oliver and Beth Gentry

Gentry & Associates, Inc 15 Mayo Royal Road Newnan GA 30263 770-254-8233

REAL ESTATE LEASE

This Lease Agreement (this "Lease") is dated January 01, 2012, by and between GENTRY RENTAL ("Landlord"), and GRACE AND MERCY ("Tenant"). The parties agree as follows:

PREMISES. Landlord, in consideration of the lease payments provided in this Lease, leases to Tenant RANDY CLEVELAND (the "Premises") located at 65 JEFFERSON ST, NEWNAN, GA 30263.

LEGAL DESCRIPTION. The legal description for the premises is: WILL RENT 800.00 MONTH YEARLY . WILL RENEW EVERY 5 YEARS.

TERM. The lease term will begin on January 01, 2012 and will terminate on December 31, 2017.

LEASE PAYMENTS. Tenant shall pay to Landlord monthly installments of \$800.00, payable in advance on the first day of each month, for a total lease payment of \$48,000.00. Lease payments shall be made to the Landlord at 15 MAYO ROYAL RD, Newnan, GA 30263, which address may be changed from time to time by the Landlord.

SECURITY DEPOSIT. At the time of the signing of this Lease, Tenant shall pay to Landlord, in trust, a security deposit of \$1,600.00 to be held and disbursed for Tenant damages to the Premises (if any) as provided by law.

POSSESSION. Tenant shall be entitled to possession on the first day of the term of this Lease, and shall yield possession to Landlord on the last day of the term of this Lease, unless otherwise agreed by both parties in writing. At the expiration of the term, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord in as good a condition as when delivered to Tenant, ordinary wear and tear excepted.

FURNISHINGS. The following furnishings will be provided: OFFICE SPACE. Tenant shall return all such items at the end of the lease term in a condition as good as the condition at the beginning of the lease term, except for such deterioration that might result from normal use of the furnishings.

PARKING. Tenant shall be entitled to use 10 parking space(s) for the parking of the Tenant's customers'/guests' motor vehicle(s).

PROPERTY INSURANCE. Tenant shall maintain casualty insurance on the Premises in an amount not less than 100.00% of the full replacement value. Landlord shall be named as an

additional insured in such policies. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies. Tenant shall also maintain any other insurance which Landlord may reasonably require for the protection of Landlord's interest in the Premises. Tenant is responsible for maintaining casualty insurance on its own property.

LIABILITY INSURANCE. Tenant shall maintain liability insurance on the Premises in a total aggregate sum of at least \$0.00. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies.

TAXES. Taxes attributable to the Premises or the use of the Premises shall be allocated as follows:

REAL ESTATE TAXES. Landlord shall pay all real estate taxes and assessments for the Premises.

PERSONAL TAXES. Landlord shall pay all personal taxes and any other charges which may be levied against the Premises and which are attributable to Tenant's use of the Premises, along with all sales and/or use taxes (if any) that may be due in connection with lease payments.

TERMINATION UPON SALE OF PREMISES. Notwithstanding any other provision of this Lease, Landlord may terminate this lease upon 5 days' written notice to Tenant that the Premises have been sold.

DESTRUCTION OR CONDEMNATION OF PREMISES. If the Premises are partially destroyed by fire or other casualty to an extent that prevents the conducting of Tenant's use of the Premises in a normal manner, and if the damage is reasonably repairable within sixty days after the occurrence of the destruction, and if the cost of repair is less than \$0.00, Landlord shall repair the Premises and a just proportion of the lease payments shall abate during the period of the repair according to the extent to which the Premises have been rendered untenable. However, if the damage is not repairable within sixty days, or if the cost of repair is \$0.00 or more, or if Landlord is prevented from repairing the damage by forces beyond Landlord's control, or if the property is condemned, this Lease shall terminate upon twenty days' written notice of such event or condition by either party and any unearned rent paid in advance by Tenant shall be apportioned and refunded to it. Tenant shall give Landlord immediate notice of any damage to the Premises.

DEFAULTS. Tenant shall be in default of this Lease if Tenant fails to fulfill any lease obligation or term by which Tenant is bound. Subject to any governing provisions of law to the

contrary, if Tenant fails to cure any financial obligation within 5 days (or any other obligation within 10 days) after written notice of such default is provided by Landlord to Tenant, Landlord may take possession of the Premises without further notice (to the extent permitted by law), and without prejudicing Landlord's rights to damages. In the alternative, Landlord may elect to cure any default and the cost of such action shall be added to Tenant's financial obligations under this Lease. Tenant shall pay all costs, damages, and expenses (including reasonable attorney fees and expenses) suffered by Landlord by reason of Tenant's defaults. All sums of money or charges required to be paid by Tenant under this Lease shall be additional rent, whether or not such sums or charges are designated as "additional rent". The rights provided by this paragraph are cumulative in nature and are in addition to any other rights afforded by law.

LATE PAYMENTS. For any payment that is not paid within 1 days after its due date, Tenant shall pay a late fee of \$25.00.

HOLDOVER. If Tenant maintains possession of the Premises for any period after the termination of this Lease ("Holdover Period"), Tenant shall pay to Landlord lease payment(s) during the Holdover Period at a rate equal to the most recent rate preceding the Holdover Period. Such holdover shall constitute a month-to-month extension of this Lease.

CUMULATIVE RIGHTS. The rights of the parties under this Lease are cumulative, and shall not be construed as exclusive unless otherwise required by law.

NON-SUFFICIENT FUNDS. Tenant shall be charged \$35.00 for each check that is returned to Landlord for lack of sufficient funds.

ACCESS BY LANDLORD TO PREMISES. Subject to Tenant's consent (which shall not be unreasonably withheld), Landlord shall have the right to enter the Premises to make inspections, provide necessary services, or show the unit to prospective buyers, mortgagees, tenants or workers. However, Landlord does not assume any liability for the care or supervision of the Premises. As provided by law, in the case of an emergency, Landlord may enter the Premises without Tenant's consent. During the last three months of this Lease, or any extension of this Lease, Landlord shall be allowed to display the usual "To Let" signs and show the Premises to prospective tenants.

DANGEROUS MATERIALS. Tenant shall not keep or have on the Premises any article or thing of a dangerous, flammable, or explosive character that might substantially increase the danger of fire on the Premises, or that might be considered hazardous by a responsible insurance company, unless the prior written consent of Landlord is obtained and proof of adequate insurance protection is provided by Tenant to Landlord.

COMPLIANCE WITH REGULATIONS. Tenant shall promptly comply with all laws, ordinances, requirements and regulations of the federal, state, county, municipal and other

authorities, and the fire insurance underwriters. However, Tenant shall not by this provision be required to make alterations to the exterior of the building or alterations of a structural nature.

NOTICE. Notices under this Lease shall not be deemed valid unless given or served in writing and forwarded by mail, postage prepaid, addressed as follows:

LANDLORD:

GENTRY RENTAL
15 MAYO ROYAL RD
Newnan, Georgia 30263

TENANT:

GRACE AND MERCY
65 JEFFERSON ST
NEWNAN, GA 30263

Such addresses may be changed from time to time by either party by providing notice as set forth above. Notices mailed in accordance with the above provisions shall be deemed received on the third day after posting.

GOVERNING LAW. This Lease shall be construed in accordance with the laws of the State of Georgia.

ENTIRE AGREEMENT/AMENDMENT. This Lease Agreement contains the entire agreement of the parties and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Lease. This Lease may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

SEVERABILITY. If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

WAIVER. The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

BINDING EFFECT. The provisions of this Lease shall be binding upon and inure to the benefit

of both parties and their respective legal representatives, successors and assigns.

LANDLORD:

Gentry Rental - Florida Gateway
GENTRY RENTAL

Date: January 01, 2012

TENANT:

GRACE AND MERCY

By: Randy Cleveland
RANDY CLEVELAND,
Owner

Date: January 01, 2012

REAL ESTATE LEASE

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LEGAL DESCRIPTION. The legal description for the premises is: WILL RENT 800.00 MONTH YEARLY . WILL RENEW EVERY 5 YEARS.

TERM. The lease term will begin on January 01, 2018 and will terminate on January 31, 2023.

LEASE PAYMENTS. Tenant shall pay to Landlord monthly installments of \$800.00, payable in advance on the first day of each month, for a total lease payment of \$48,000.00. Lease payments shall be made to the Landlord at 15 MAYO ROYAL RD, Newnan, GA 30263, which address may be changed from time to time by the Landlord.

SECURITY DEPOSIT. At the time of the signing of this Lease, Tenant shall pay to Landlord, in trust, a security deposit of \$1,600.00 to be held and disbursed for Tenant damages to the Premises (if any) as provided by law.

POSSESSION. Tenant shall be entitled to possession on the first day of the term of this Lease, and shall yield possession to Landlord on the last day of the term of this Lease, unless otherwise agreed by both parties in writing. At the expiration of the term, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord in as good a condition as when delivered to Tenant, ordinary wear and tear excepted.

FURNISHINGS. The following furnishings will be provided: OFFICE SPACE. Tenant shall return all such items at the end of the lease term in a condition as good as the condition at the beginning of the lease term, except for such deterioration that might result from normal use of the furnishings.

PARKING. Tenant shall be entitled to use 10 parking space(s) for the parking of the Tenant's customers'/guests' motor vehicle(s).

PROPERTY INSURANCE. Tenant shall maintain casualty insurance on the Premises in an amount not less than 100.00% of the full replacement value. Landlord shall be named as an additional insured in such policies. Tenant shall deliver appropriate evidence to Landlord as

proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies. Tenant shall also maintain any other insurance which Landlord may reasonably require for the protection of Landlord's interest in the Premises. Tenant is responsible for maintaining casualty insurance on its own property.

LIABILITY INSURANCE. Tenant shall maintain liability insurance on the Premises in a total aggregate sum of at least \$0.00. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies.

TAXES. Taxes attributable to the Premises or the use of the Premises shall be allocated as follows:

REAL ESTATE TAXES. Landlord shall pay all real estate taxes and assessments for the Premises.

PERSONAL TAXES. Landlord shall pay all personal taxes and any other charges which may be levied against the Premises and which are attributable to Tenant's use of the Premises, along with all sales and/or use taxes (if any) that may be due in connection with lease payments.

TERMINATION UPON SALE OF PREMISES. Notwithstanding any other provision of this Lease, Landlord may terminate this lease upon 5 days' written notice to Tenant that the Premises have been sold.

DESTRUCTION OR CONDEMNATION OF PREMISES. If the Premises are partially destroyed by fire or other casualty to an extent that prevents the conducting of Tenant's use of the Premises in a normal manner, and if the damage is reasonably repairable within sixty days after the occurrence of the destruction, and if the cost of repair is less than \$0.00, Landlord shall repair the Premises and a just proportion of the lease payments shall abate during the period of the repair according to the extent to which the Premises have been rendered untenable. However, if the damage is not repairable within sixty days, or if the cost of repair is \$0.00 or more, or if Landlord is prevented from repairing the damage by forces beyond Landlord's control, or if the property is condemned, this Lease shall terminate upon twenty days' written notice of such event or condition by either party and any unearned rent paid in advance by Tenant shall be apportioned and refunded to it. Tenant shall give Landlord immediate notice of any damage to the Premises.

DEFAULTS. Tenant shall be in default of this Lease if Tenant fails to fulfill any lease obligation or term by which Tenant is bound. Subject to any governing provisions of law to the contrary, if Tenant fails to cure any financial obligation within 5 days (or any other obligation

within 10 days) after written notice of such default is provided by Landlord to Tenant, Landlord may take possession of the Premises without further notice (to the extent permitted by law), and without prejudicing Landlord's rights to damages. In the alternative, Landlord may elect to cure any default and the cost of such action shall be added to Tenant's financial obligations under this Lease. Tenant shall pay all costs, damages, and expenses (including reasonable attorney fees and expenses) suffered by Landlord by reason of Tenant's defaults. All sums of money or charges required to be paid by Tenant under this Lease shall be additional rent, whether or not such sums or charges are designated as "additional rent". The rights provided by this paragraph are cumulative in nature and are in addition to any other rights afforded by law.

LATE PAYMENTS. For any payment that is not paid within 1 days after its due date, Tenant shall pay a late fee of \$25.00.

HOLDOVER. If Tenant maintains possession of the Premises for any period after the termination of this Lease ("Holdover Period"), Tenant shall pay to Landlord lease payment(s) during the Holdover Period at a rate equal to the most recent rate preceding the Holdover Period. Such holdover shall constitute a month-to-month extension of this Lease.

CUMULATIVE RIGHTS. The rights of the parties under this Lease are cumulative, and shall not be construed as exclusive unless otherwise required by law.

NON-SUFFICIENT FUNDS. Tenant shall be charged \$35.00 for each check that is returned to Landlord for lack of sufficient funds.

ACCESS BY LANDLORD TO PREMISES. Subject to Tenant's consent (which shall not be unreasonably withheld), Landlord shall have the right to enter the Premises to make inspections, provide necessary services, or show the unit to prospective buyers, mortgagees, tenants or workers. However, Landlord does not assume any liability for the care or supervision of the Premises. As provided by law, in the case of an emergency, Landlord may enter the Premises without Tenant's consent. During the last three months of this Lease, or any extension of this Lease, Landlord shall be allowed to display the usual "To Let" signs and show the Premises to prospective tenants.

DANGEROUS MATERIALS. Tenant shall not keep or have on the Premises any article or thing of a dangerous, flammable, or explosive character that might substantially increase the danger of fire on the Premises, or that might be considered hazardous by a responsible insurance company, unless the prior written consent of Landlord is obtained and proof of adequate insurance protection is provided by Tenant to Landlord.

COMPLIANCE WITH REGULATIONS. Tenant shall promptly comply with all laws, ordinances, requirements and regulations of the federal, state, county, municipal and other authorities, and the fire insurance underwriters. However, Tenant shall not by this provision be

required to make alterations to the exterior of the building or alterations of a structural nature.

NOTICE. Notices under this Lease shall not be deemed valid unless given or served in writing and forwarded by mail, postage prepaid, addressed as follows:

LANDLORD:

GENTRY RENTAL
15 MAYO ROYAL RD
Newnan, Georgia 30263

TENANT:

GRACE AND MERCY
65 JEFFERSON ST
NEWNAN, GA 30263

Such addresses may be changed from time to time by either party by providing notice as set forth above. Notices mailed in accordance with the above provisions shall be deemed received on the third day after posting.

GOVERNING LAW. This Lease shall be construed in accordance with the laws of the State of Georgia.

ENTIRE AGREEMENT/AMENDMENT. This Lease Agreement contains the entire agreement of the parties and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Lease. This Lease may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

SEVERABILITY. If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

WAIVER. The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

BINDING EFFECT. The provisions of this Lease shall be binding upon and inure to the benefit of both parties and their respective legal representatives, successors and assigns.

LANDLORD:

Gentry Rental- Florine Gentry
GENTRY RENTAL

Date: January 01, 2018

TENANT:
GRACE AND MERCY

By: Randy Cleveland
RANDY CLEVELAND,
Owner

Date: January 01, 2018



CITY OF NEWMAN, GEORGIA

25 LaGrange Street
Newnan, Georgia 30263
770-254-2354

APPLICATION FOR APPEAL OF ZONING ADMINISTRATOR'S DECISION-\$250.00 Filing Fee

Name of Applicant Oliver Gentry
Mailing Address 2568 N Hwy 29 Newnan GA 30265
Telephone 678-873-6767 E-Mail: mrjagiii@belbouth.net
Property Owner (Use back if multiple names) 65 Jefferson St, LLC
Mailing Address 2568 N Hwy 29 Newnan GA 30263
Telephone 678-873-6767
Address/Location of Property 65 Jefferson St Unit A
Tax Parcel No.: N05 000 5002
Present Zoning Classification: CUN
Present Land Use _____
Intended Use Car lot

Any person feeling that they have been aggrieved by an officer, department, board or agency of the City may file an application for a hearing before the Board of Zoning Appeals.

If you have any questions concerning this process, you may call the Planning and Zoning Department at (770) 254-2354. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. The Board of Zoning Appeals meets on the first Tuesday of each month. Applications must be submitted by 9:00 a.m. at least forty-five (45) days prior to that date. Incomplete applications or applications submitted after the deadline will not be accepted.

In order for the Board to consider the request, it must be claimed that the interpretation of a certain section of the Zoning Ordinance has been made by the Zoning Administrator in error. Please answer the following criteria questions:

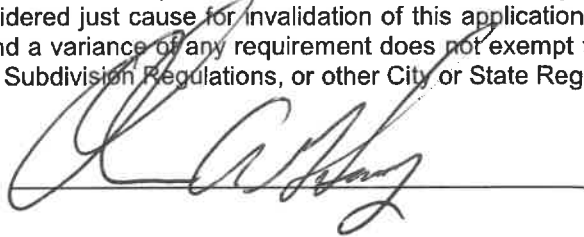
1. List the section(s) of the Zoning Ordinance that are being addressed in the appeal?
reinstating the used car lot use that was in effect until February
2. What is the error that is being made that has caused the applicant to feel aggrieved?

The Board of Zoning Appeals shall hold a public hearing which shall be advertised and posted in a manner consistent with the Zoning Procedures Act as well as decide the appeal and file with the Zoning Administrator its findings of fact and conclusions with the respect to the appeal. In exercising its powers, the BZA may reverse or affirm, wholly or partly, or may modify the decision appealed from. The concurring vote of a majority of BZA members shall be necessary to reverse a decision.

Included with the application, the following information is required:

- ✓ Check for applicable fees (\$250.00).

I (We) do hereby certify the information provided herein is both complete and accurate to the best of my (our) knowledge, and I (we) understand any inaccuracies may be considered just cause for invalidation of this application, and any action taken on this application. I (We) do hereby understand a variance of any requirement does not exempt the development from any other requirements of the Zoning Ordinance, Subdivision Regulations, or other City or State Regulations.



Signature of Property Owner(s)

FOR OFFICIAL USE ONLY

RECEIVED BY

Dean Smith

DATE OF FILING

10/5/23

BZA MEETING DATE

12/5/23

DATE OF NOTICE PUBLICATION

ACTION TAKEN (DATE)



City of Newnan, Georgia
Attachment A

Property Owner's Authorization

The undersigned below, or as attached, is the owner of the property which is the subject of this application. The undersigned does duly authorize the applicant named below to act as applicant in the pursuit of a variance for property.

Name of Property Owner

65 Jefferson St LLC

Telephone Number

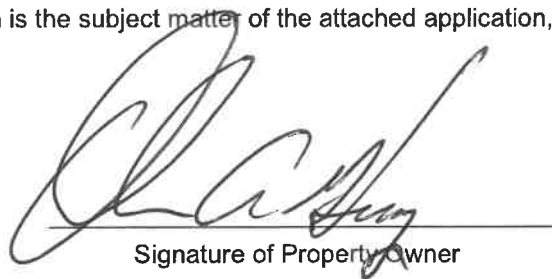
678-873-6767

Address of Subject Property

65 Jefferson St Ste A

Newnan GA 30263

I swear that I am the owner of the property which is the subject matter of the attached application, as it is shown in the records of Coweta County, Georgia.



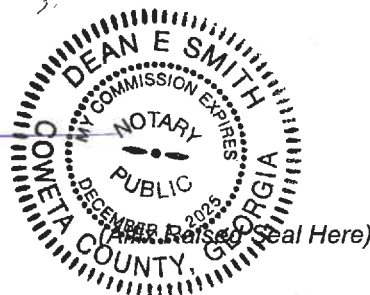
Signature of Property Owner

Personally appeared before me

who swears the information contained in this authorization is true and correct to the best of his/her knowledge and belief.



Notary Public



Date

10/5/23



NEWNAN
GEORGIA

City of Newnan, Georgia – Board of Zoning Appeals

Date: December 5, 2023

Application Number: 2023-28

Agenda Item: Variance Request –8 Parks Avenue

Prepared and Presented by: Chris Cole, Senior Planner

Purpose: To hear a request to build a swimming pool in the rear yard that will be located 8 feet from the western side property line, instead of the required 10 feet.

Applicant/Property Owners: Kevin Allen – Applicant / Kevin & Kathryn Allen – Property Owners

Zoning: Suburban Residential Single-Family Dwelling District - Medium Density (RS-15)

Present Use: Single-Family Residence

Proposed Use: Addition of a swimming pool in rear yard

Pertinent Regulations: Article 3, Section 3-12(s)(1), and Table 3-C of the Zoning Ordinance

Applicant's Position: The applicant proposes to build a swimming pool in the rear yard that will be located 8 feet from the western side property line, instead of the required 10 feet. *Staff Note – Please see the attached site plan showing the location of the proposed swimming pool.* Also, *the size of the subject property is 0.31 +/- of an acre.*

Regarding the particular provisions or requirements of the Ordinance that prevent the proposed construction on, or use of, the property, the applicant indicated, “Pool construction requirement is 10 feet from water’s edge to property line. We require 8 feet from property line for proposed construction.”

Regarding the special conditions, circumstances or characteristics of the land, building or structure that prevent the use of the land in compliance with the requirements of the Ordinance, the applicant indicated, “Our property has very tight oddly shaped property lines and a small yard.”

Regarding the particular hardship that would result if the specified provisions or requirements of the Ordinance were to be applied to the subject property, the applicant indicated, “We do not have enough space for the proposed pool construction.”

Regarding the minimum extent to which it would be necessary to vary the requirements of the Ordinance in order to permit the proposed construction on, or use of, the property, the applicant indicated, “We are requesting a variance of 2 feet which will bring the water’s edge to 8 feet from the property line.”

Basis for Granting Variances:

The Board of Zoning Appeals shall base its required findings of fact upon particular evidence presented to it in each specific case where the property owner can show all of the following to be true:

- A. The strict application of the terms of this Ordinance would effectively prohibit or unreasonably restrict utilization of the property because of all of the following:

- ✓ There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography; and,
- ✓ Such conditions are peculiar to the particular piece of such property involved; and,
- ✓ Such conditions were not imposed by the action or will of the owner of the property; and,
- ✓ The application of the Ordinance to the particular piece of property would create an unnecessary hardship other than a financial hardship in which the applicant would receive a lower rate of financial return on the use of the property if the variance is denied; and,
- ✓ Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance.

B. In addition, the Board of Zoning Appeals shall affirmatively determine that:

- ✓ The granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.
- ✓ The condition or situation of the property which gives rise to the need for such variance is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

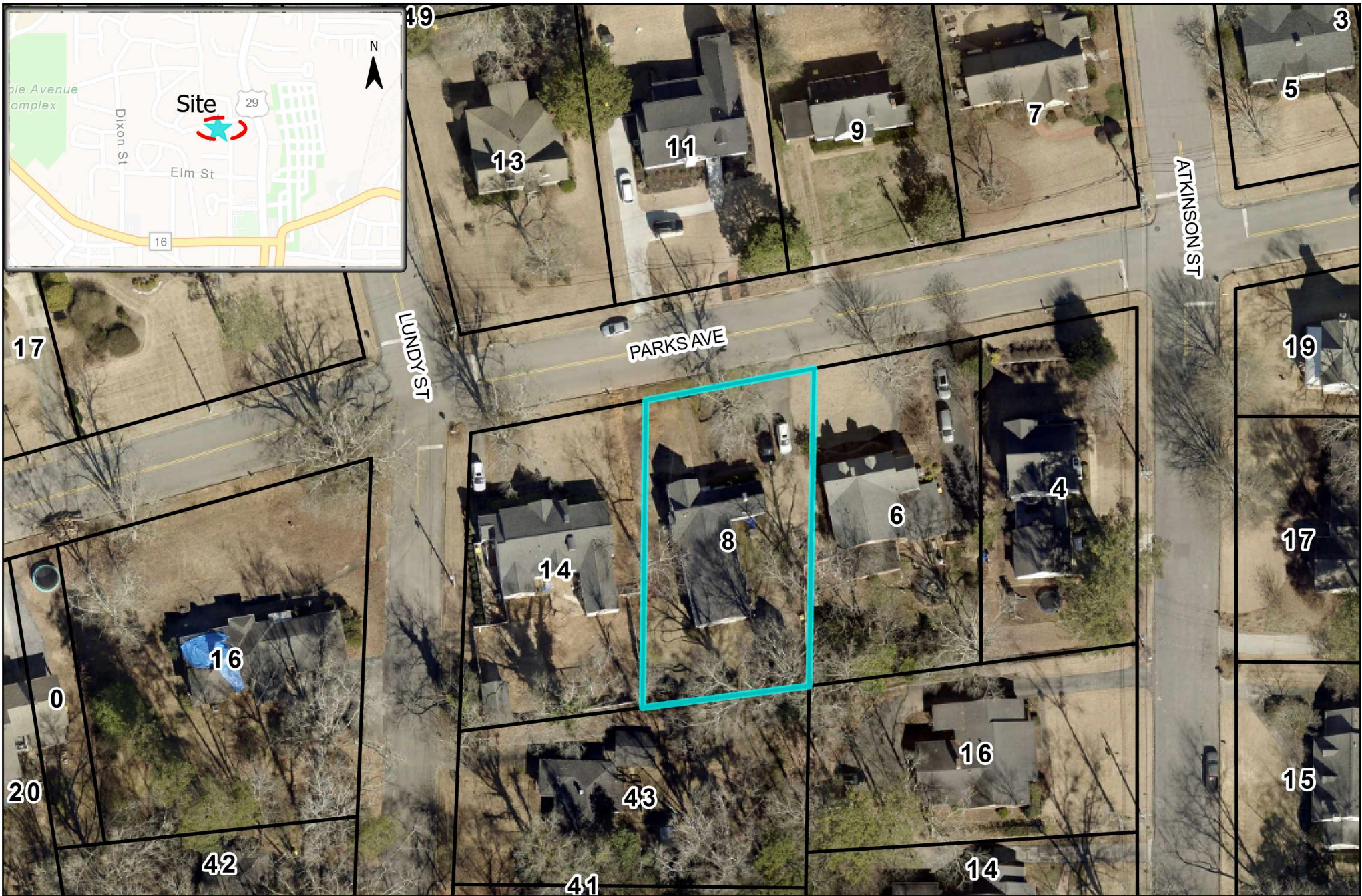
Recommendation:

Regarding the variance request to build a swimming pool in the rear yard that will be located 8 feet from the western side property line, instead of the required 10 feet, staff believes the location of the proposed pool is appropriate and will present no negative impacts. Staff also believes this proposal works within the confines of the natural restrictions of the lot's size and shape. The rear yard area is very small (as seen in the attached pictures) due to the placement of the house (which runs approximately 68 feet from north to south) and the larger front yard area. These factors provide limited space for the swimming pool in the rear yard. Regarding the adjoining properties, there is an existing fence between the subject property and the adjoining neighbor at 14 Parks Avenue, as well as a natural buffer between the subject property and the adjoining neighbor at 43 Lundy Street. There is also a fence and a partial natural buffer between the subject property and the adjoining neighbor at 6 Parks Avenue. Overall, the factors involving the size, shape, and topography of the subject property provide sound reasons for the applicant to seek the variance.

The Board also previously approved variance requests for the following properties on Parks Avenue:

- A setback reduction variance on August 1, 2023 for a house addition at 7 Parks Avenue
- A side setback variance for an attached covered parking structure at 2 Parks Avenue on April 4, 2023
- A setback reduction variance on June 2, 2020 for a new detached garage at 7 Parks Avenue
- A rear setback variance for a home addition at 15 Parks Avenue in March 3, 2015
- Also on March 3, 2015, the Board approved a side setback variance for an attached carport at 22 Parks Avenue.

After reviewing the information presented by the applicant and comparing it to the basis for granting variances, as outlined in the Zoning Ordinance, staff recommends approval of the variance request based on the following reasons. The strict application of the terms of the Ordinance would *unreasonably* restrict utilization of the property because the application of the Ordinance to the particular piece of property would create a non-financial, *unnecessary* hardship. Also, relief from the Ordinance would not cause substantial detriment to the public good or impair the purposes and intent of the Ordinance.



CITY OF NEWNAN

Project Location



1 = 780 feet

Date: 10/11/2023 8:54 AM



NEWNAN
GEORGIA

CITY OF NEWNAN
PLANNING DEPT.
25 LAGRANGE STREET
NEWNAN, GEORGIA 30263
www.NewnanGa.gov

Project Location



City Limits

Parcel # N19 0005 029

ADDRESS

8 Parks Ave
Newnan, Ga 30263

Variance – 8 Parks Avenue

View of front façade of subject property



Alternate view of front façade of subject property



Variance – 8 Parks Avenue

View of rear façade of subject property



View of part of the boundary area between subject property and adjacent neighbor at 6 Parks Avenue



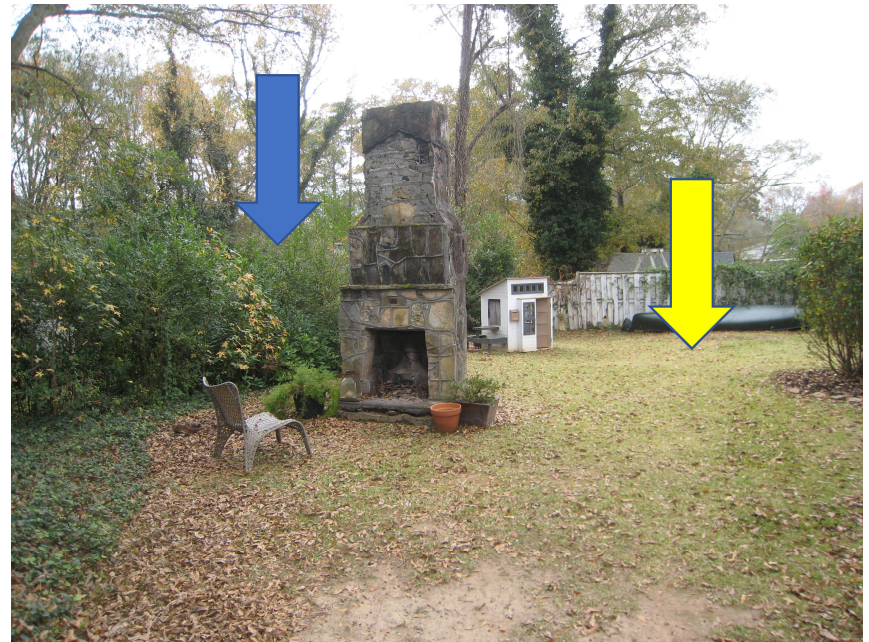
Variance – 8 Parks Avenue

Yellow Arrow marks the approximate proposed swimming pool location

View of proposed swimming pool area in rear yard (adjacent to neighbor at 14 Parks Avenue to the right). Note – The existing buffer area in the rear of the yard (blue arrow) separates the subject property from the adjacent neighbor at 43 Lundy Street.



View of proposed swimming pool area looking to the west in rear yard. To the left (blue arrow) is the existing buffer area between subject property and adjacent neighbor at 43 Lundy Street.



Variance – 8 Parks Avenue

Yellow Arrow marks the approximate proposed swimming pool location

View of proposed swimming pool area looking towards adjacent neighbor at 14 Parks Avenue



View of boundary area between subject property (to the right) and adjacent neighbor at 14 Parks Avenue (to the left)



Variance – 8 Parks Avenue

View of adjacent neighbor's front façade at 6 Parks Avenue



View to the east on Parks Avenue



Variance – 8 Parks Avenue

View of western side of neighbor's house at 6 Parks Avenue



View to the west on Parks Avenue



Variance – 8 Parks Avenue

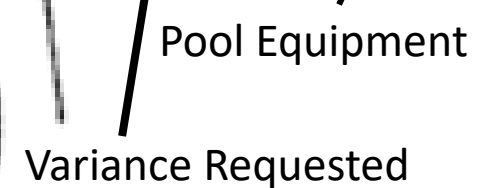
**View of boundary area between subject property
(to the left) and adjacent neighbor at 14 Parks
Avenue (to the right)**



View of adjacent neighbor at 14 Parks Avenue



Fence



8 Parks Ave
Newnan, GA 30263



CITY OF NEWNAN, GEORGIA

25 LaGrange Street
Newnan, Georgia 30263
770-254-2354

NEWNAN
GEORGIA

APPLICATION FOR VARIANCE

Name of Applicant Kevin Allen
Mailing Address 8 Parks Avenue, Newnan, GA 30263
Telephone 678-857-8800 E-Mail: Kevin@aaiair.com
Property Owner (Use back if multiple names) Kevin Allen
Mailing Address S/A
Telephone S/A
Address/Location of Property 8 Parks Avenue, Newnan, GA 30263
Tax Parcel No: _____
Present Zoning Classification: _____
Present Land Use Residential
Intended Use Residential

Any person owning property or having a possessory or contract interest in property and the consent of the owner, may file an application for variance in regard to such property with the Board.

If you have any questions concerning this process, you may call the Planning and Zoning Department at (770) 254-2354. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. The Board of Zoning Appeals meets on the first Tuesday of each month. Applications must be submitted by 9:00 a.m. at least forty-five (45) days prior to that date. Incomplete applications or applications submitted after the deadline will not be accepted.

I (We) hereby request the following variance from the provisions of section(s) _____ of the Zoning Ordinance/Subdivision Regulations: _____.

In order for the Board to consider the request, it must be claimed "application of the Ordinance to the particular piece of property would create an unnecessary hardship". Please answer the following criteria questions:

1. What are the particular provisions or requirements of the Ordinance that prevent the proposed construction on, or use of, the property?
Pool construction. Requirement is 10' from water's edge to property line. We require 8' from property line for proposed construction.

2. What is the existing zoning of the property, including any previously approved modifications, conditions, or proffers?
Residential

3. What are the special conditions, circumstances or characteristics of the land, building or structure that prevent the use of the land in compliance with the requirements of the Ordinance?
The property has very tight oddly shaped property lines and small yard.
4. What is the particular hardship that would result if the specified provisions or requirements of the Ordinance were to be applied to the subject property?
We do not have enough space for proposed pool construction.
5. What is the minimum extent to which it would be necessary to vary the requirements of the Ordinance in order to permit the proposed construction on, or use of, the property?
We are requesting a variance of 2' which will bring water's edge 8' from property line.

The Board of Zoning Appeals shall base its required findings upon the particular evidence presented in each specific case where the property owner can show:

A. The strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict utilization of the property because:

- ✓ There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.
- ✓ Such conditions are peculiar to the particular piece of such property involved.
- ✓ Such conditions were not imposed by the action or will of the owner of the property.
- ✓ The application of the Ordinance to the particular piece of property would create an unnecessary hardship. Such hardship does not include financial hardship in that if the variance were granted, the applicant could receive a higher rate of financial return on the use of the property and without the variance, a lesser but still reasonable return could be realized.
- ✓ Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Ordinance.

B. The granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.

C. The condition or situation of the property, which give rise to the need for such variance, is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.

Included with the application, the following information is required and must also be furnished in digital, pdf format:

- ✓ Plat of property, illustrating existing development and requested variance.
- ✓ Plans or drawings necessary to illustrate the requested variance.
- ✓ Legal description of property.
- ✓ List of all the names and addresses of all property owners within 250 feet of subject property. This information can be found at the Coweta County Tax Assessors Office.

Application For Variance

City of Newnan, Georgia

✓ Check for applicable fees (\$250.00).

I (We) do hereby certify the information provided herein is both complete and accurate to the best of my (our) knowledge, and I (we) understand any inaccuracies may be considered just cause for invalidation of this application, and any action taken on this application. I (We) do hereby understand a variance of any requirement does not exempt the development from any other requirements of the Zoning Ordinance, Subdivision Regulations, or other City or State Regulations.

Kevin Allen

Applicant(s) Name(s) (Please Print)

[Signature]

Signature of Applicant(s)

FOR OFFICIAL USE ONLY

RECEIVED BY Chris Cole

DATE OF FILING 10-10-2023

BZA MEETING DATE 12-5-2023

DATE OF NOTICE PUBLICATION _____

ACTION TAKEN (DATE) _____



City of Newnan, Georgia
Attachment A

Property Owner's Authorization

The undersigned below, or as attached, is the owner of the property which is the subject of this application. The undersigned does duly authorize the applicant named below to act as applicant in the pursuit of a variance for property.

Name of Property Owner

Kevin Allen

Telephone Number

678-857-8800

Address of Subject Property

8 Parks Avenue, Newnan, GA 30263

I swear that I am the owner of the property which is the subject matter of the attached application, as it is shown in the records of Coweta County, Georgia.

Signature of Property Owner

Personally appeared before me

Kevin Allen

who swears the information contained
in this authorization is true and correct
to the best of his/her knowledge and
belief.

Notary Public

10/9/23
Date





APPEARANCE STATEMENT

Public Hearing Attendance Requirements

To process an application for an item requiring a Public Hearing, the applicant or applicant's designated representative must be present and in attendance at said hearing. This includes any items to be presented to the Board of Zoning Appeals; Mayor and City Council; and the Planning Commission.

Failure to appear at a Public Hearing may result in denial of the request, or an extended waiting period before the next available meeting. Certain requests, i.e. variances or special exceptions, if denied cannot be re-submitted for consideration for a term not less than one (1) year from the date of denial by that particular governing body.

The Board of Zoning Appeals will hear your request on 12-5-2023 at 10:00 AM

The Mayor and City Council will hear your request on _____ at ~~10:00~~ 10:00 AM PM

The Planning Commission will hear your request on _____ at 7:00 PM

IMPORTANT

A zoning sign will be affixed and posted on the property in question. Owner/applicant shall notify the Planning & Zoning Department immediately if the sign is removed, defaced, incorrect, etc. After the Public Hearing date, City personnel will remove the zoning sign.

Applicant's Name: Kathryn Allen
(Please Print)

Applicant's Signature: Kathryn Allen

Date: 10-10-23

All meetings are held in the Richard A. Bolin Council Chambers located at 25 Lagrange Street, Newnan, GA 30263, unless otherwise stated.



City of Newnan, Georgia – Board of Zoning Appeals

Date: December 5, 2023

Application Number: 2023-29

Agenda Item: Special Exception Request – 216 Bullsboro Drive

Prepared and Presented by: Chris Cole, Senior Planner

Purpose: The purpose is to hear a request for a special exception to allow for an *Automobile repair and maintenance, heavy use*. The proposed business is Christian Brothers Automotive.

Applicants/Property Owners: Christian Brothers Automotive – LaToya Moten – Applicant /
RCC Shenandoah Plaza LLC – Property Owners

Zoning: General Commercial District - (CGN) within the Quality Development Corridor

Present Use: Vacant outparcel containing off-street parking for the Shenandoah Plaza shopping center.

Proposed Use: Christian Brothers Automotive

Pertinent Regulations: Article 2, Section 2-19, Table 2-B of the City of Newnan's Zoning Ordinance

Applicant's Position:

According to the applicant's Letter of Intent, the proposed Christian Brothers Automotive will feature a 5,980 square foot automotive repair facility with 30 parking spaces, setbacks, landscape buffers, and parking islands. The subject property is part of a larger tract that will be subdivided. The current size of the "parent" tract is 8.64 +/- acres. Staff Note – The applicant plans to subdivide 0.736 +/- of an acre for the proposed Christian Brothers Automotive before development commences. The subject property will have to be subdivided from the larger tract before civil plans are submitted for review. The access drive off of Bullsboro Drive (that will provide the nearest access to the proposed use off of Bullsboro Drive) will not be included in the subdivided parcel and will remain as part of the larger tract.

In terms of why the use proposed as a special exception is appropriate for the district and area, the applicant indicated, "A large majority of the services that CBA (Christian Brothers Automotive) provide are permitted in this district. Per the introductory letter provided to the City, only 1 percent of the services offered by Christian Brothers Automotive are considered 'heavy automobile repair.' Typically this service is only offered if a vehicle is brought in, in an unsafe or otherwise terminal condition. Those services, in addition to all others, will be provided indoors, and will not produce excessive noise, vibrations, or fumes. Overall, this establishment provides a use consistent with the current zoning (CGN) and the City of Newnan Future Land Use Map (Commercial)."

In terms of how the proposed special exception is a benefit to the surrounding neighborhood and city in general rather than a special privilege to an individual property owner, the applicant stated, "The proposed special exception will benefit the surrounding neighborhood and city, as it will allow Christian Brothers Automotive to provide additional services to residents of the City of Newnan and surrounding areas, as it pertains to their automobiles. The proposed special exception will not produce any excessive noise, vibrations, or fumes, nor will any work or storage be carried out outside of the building."

In terms of how the existing zoning district regulations prevent the establishment of the proposed special exception use, and why such conditions are appropriate generally but an exception should be made in this individual circumstance, the applicant indicated, "Roughly 99% of the services that Christian Brothers

Automotive provide are considered to be are light automotive repair, and are permitted. For this district, the zoning code does not permit any heavy automotive repair, which maintains 1% of the business' services. Christian Brothers Automotive does not typically repair engines or transmissions. Per the introductory letter, this level of service is only offered if a vehicle is brought in an unsafe or otherwise terminal condition. In many cases, the customer may be referred to a specialist engine/transmission/replacement facility."

In terms of the proposed period of time the special exception is requested for, the applicant indicated, "The applicant requests that the special exception remain in effect as long as the use of the Subject Property remains the same."

In terms of the additional criteria the applicant will proffer to minimize the impact of the special exception on surrounding properties, the applicant indicated, "All maintenance work will be completed interior to the building, and will not produce any excessive noise, vibrations, or fumes. Additionally, no storage of vehicles or parts will be kept outside of the building."

Issues for Consideration for a Special Exception

In considering a special exception application, the following factors shall be given reasonable consideration by the Board of Zoning Appeals. The applicant shall address all the following in its statement of justification or special exception plat unless not applicable, in addition to any other standards imposed by this Ordinance:

Questions from Staff and Responses from Applicant (in red):

- The application states more than once that the special exception will not produce any excessive noise. Can you please elaborate on this? What is considered excessive noise to the applicant? Also, what is the noise-level difference between work being done when the bay doors are closed vs. work being done when the bay doors are open (and roughly what percentage of the time are they open)?
Average noise levels are 50 to 55 dBA, for reference, this is comparable to the sound of an air conditioner. Based on the national transportation noise maps Bullsboro Dr ranges between 55 to 60 dBA. Please see the attached noise studies.
- Does CBA have any decibel studies they have done for other sites previously?
Yes, please see the attached noise study for 2 CBA sites.

Special Exception Criteria Answers from Applicant in Red:

- Whether the proposed special exception will adequately provide for safety from fire hazards and have effective measures of fire control.
The site will be designed to meet all state and local fire codes.
- The level and impact of any noise emanating from the site, including that generated by the proposed use, in relation to the uses in the immediate area.
The noise levels are in the range of other uses within this district. The nearest residential is over 1,200 ft. away from the proposed development and blocked by noise buffers such as the shopping center buildings and existing forest.
- The glare or light that may be generated by the proposed use in relation to uses in the immediate area.
All outdoor lighting proposed as part of this development will be designed to meet City of Newnan Code. Outdoor lighting will be shielded from adjacent parcels.
- The compatibility of the proposed use with other existing or proposed uses in the neighborhood, and adjacent parcels.
The immediate area is very commercialized and includes a shopping center, automotive dealer/repair, fast-food restaurants, and a bank.

- height of proposed buildings, structures, walls, and fences on the site.
The proposed building is shown at 27' – 8" tall at its highest point. See included colored elevations.
- The nature and extent of existing or proposed landscaping, screening and buffering on the site and in the neighborhood.
All landscaping will meet or exceed the City of Newnan landscaping and buffer requirements for this type of establishment in the current district.
- The timing and phasing of the proposed development and the duration of the proposed use.
Response: Construction is to start tentatively 75 days after plans are all approved. The construction process typically takes 7-8 months. The proposed use is to be permanent and stay with the building/Christian Brothers Automotive.
- Whether the proposed special exception will result in the preservation or destruction, loss or damage of any topographic or physical, natural, scenic, archaeological or historic feature of significant importance.
The site is currently a paved parking lot for the Shenandoah Plaza Shopping Center and no destruction, loss, or damage of any significant or historical features is expected. If found, proper authorities will be notified.
- Whether the proposed special exception at the specified location will contribute to or promote the welfare or convenience of the public.
The proposed development will provide additional automotive repair services to the citizens of Newnan and the greater Area.
- The traffic expected to be generated by the proposed use, the adequacy of access roads and the vehicular and pedestrian circulation elements (on and off-site) of the proposed use, all in relation to the public's interest in pedestrian and vehicular safety and efficient traffic movement.
The proposed CBA development produces minimal additional traffic. Per the ITE Trip Generation Spreadsheet, this type of development produces only 125 total trips daily.
- Whether the proposed special exception will be served adequately by essential public facilities and services.
All essential public facilities and services are expected to be of service to the current site/development.
- The effect of the proposed special exception on groundwater supply.
No effect on the groundwater supply is expected.
- The effect of the proposed special exception on the structural capacity of the soils.
No effect on the structural capacity of the soils is expected.
- Whether the proposed use will facilitate orderly and safe road development and transportation.
The proposed development will be designed to DOT and Newnan standards.
- The effect of the proposed special exception on environmentally sensitive land or natural features, wildlife habitat and vegetation, water quality and air quality.
The site is currently a paved parking lot for the Shenandoah Plaza Shopping Center. The proposed development will provide additional landscaped areas. All waste from this development is to be disposed of through proper channels.
- Whether the proposed special exception use will provide desirable employment and enlarge the tax base by encouraging economic development activities consistent with the Comprehensive Plan.
The following development will provide skilled positions to the area.

- Whether the proposed special exception considers the needs of agriculture, industry, and businesses in future growth.
The proposed use will serve industry, businesses, and residents within the City of Newnan and greater Area.
- The location, character, and size of any outdoor storage.
Outdoor storage is not proposed as part of the CBA development.
- The proposed use of open space.
Any open space will be landscaped/grassed according to City of Newnan requirements.
- The location of any major floodplain and steep slopes.
Per FEMA map 13077C0144D, no floodplain is shown on the site. No steep slopes were found in the initial investigation of the site.
- The location and type of any fuel and fuel storage.
Fuel will not be stored onsite.
- The location and use of any anticipated accessory uses and structures.
The only accessory structure is a dumpster enclosure and is shown on the preliminary site plan included with the Special Exception submittal.
- The proposed days/hours of operation.
Response: Mon- Fri 7 am – 6 pm. Only open on Saturday up to the first 180 days of operation
- The location and screening of parking and loading spaces and/or areas.
Minimal loading is needed for this use. Any loading can use the proposed 30' wide drive aisle for use. Site will be screened per City of Newnan requirements.
- The location and nature of any proposed security features and provisions.
Response: Security features to be determined by the Franchisee later.
- A description of any features above the roof line of any structures.
None proposed as part of this development.
- The number of employees.
Response: 8-10 people
- The location of any existing and/or proposed adequate on and off-site infrastructure.
Please refer to the preliminary site plan submitted as part of the Special Exception process.
- Any anticipated odors which may be generated by the uses on site.
None are anticipated.
- Whether the proposed special exception uses sufficient measures to mitigate the impact of construction traffic on existing neighborhoods and school areas.
The site is located within an existing shopping center on a main travel way within the City of Newnan. Construction traffic is not expected to impact school or residential areas.

Comments from Staff – The applicant also indicated in their application that the use is consistent with the Comprehensive Plan.

Options:

- Approve the special exception.
- Deny the special exception.
- Other direction as determined by the Board of Zoning Appeals.

Planning Department's Review and Findings:

Below are Special Exception Review Criteria that apply to an automotive repair use in districts which require special exception approval (Zoning Ordinance Section 3-23).

Sec. 3-23. - Automotive Repair.

(a) Special Exception Review Criteria.

In addition to the standards governing consideration of a special exception approval contained in the Procedures and Permits Article, the following review criteria shall apply to an automotive repair use in districts which require special exception approval:

- (1) These uses shall include repair of automobiles, motorcycles, and pickup trucks not exceeding a three-quarter ($\frac{3}{4}$) ton capacity.
- (2) Such service is infrequently used by a consumer and does not require as high level of access as general commercial uses.
- (3) Because noise unusual for even commercial districts may be generated by these uses, it may not be suitable near less intense commercial or office uses.
- (4) Automobile repair may be suitable for commercial areas where consumer shopping goods and services are of significantly lesser importance than in other commercial areas and where the provision of such goods and services will not be disrupted or displaced by the establishment of an automobile repair use.
- (5) Automobile repair may also be suitable as a use for existing buildings poorly suited for conversion to other commercial uses.

(b) Conditions of Special Exception Approval

- (1) Given the conditions existing at the specific site and the nature of the operation, requested for the site, the Board of Zoning Appeals may impose such conditions as are necessary to minimize adverse impacts on surrounding land uses, including those on the same property, as applicable. Such conditions may include but are not limited to:
 - a. Buffers and landscaping.
 - b. Noise reducing construction measures.
 - c. Additional setbacks from property lines.
 - d. Architectural compatibility with other commercial buildings in the district; or, for existing commercial buildings, façade improvements to minimize incompatibilities with other commercial buildings in the district and to correct deficiencies and deterioration.
 - e. Placing the automobile repair use in the same building with other allowed uses rather than in a separate building.
 - f. Visual limitations such as placing the automobile repair use so as to limit its visibility from the street.
 - g. Limitations on the exact nature of the automobile repair uses permitted.
- (2) The applicant shall provide such plans and drawings as are necessary to establish a clear record of conditions to be imposed and maintained.

(c) Locational Requirements.

- (1) No automobile repair use may be located where noise would have an adverse impact on commercial uses within 200 feet or located within 500 feet of a residential, office, planned development, or open space district.
- (2) Light Automobile Repair uses, as defined in this Ordinance, may be allowed as an accessory use in certain zoning districts with the following conditions:

- a. The floor area of the auto repair center does not exceed 10,000 square feet.
 - b. The auto repair center is an accessory use to a primary retail business of at least 100,000 square feet.
 - c. The auto repair center shall not be located on the front façade or any other street façade of the primary retail business.
- (d) Operating Conditions.
 - (1) Automobile repair uses shall be conducted within completely enclosed buildings.
 - (2) All vehicles which are inoperable or undergoing repair or maintenance shall be parked within the building housing the repair use or in a parking area separated from parking areas for other uses. Any vehicle not undergoing repair within 7 days of arrival shall be placed inside the building or removed from the property. A document shall be kept at the location detailing the date the vehicle arrived on site for repair.
 - (3) No parts (including vehicles to be salvaged), tools, equipment, or fluids used for automobile repair, maintenance, or painting shall be placed outside the building housing the repair use.

In the application, it is noted that only one percent of the services offered by Christian Brothers Automotive are considered “heavy automotive repair.” Staff would like to point out that according to provided research that is included as an attachment (see Sales Overview), brake work comprises 11% of the total sales for the company (their second highest labor category). In addition, the company also provides limited transmission replacements and limited engine replacements. All three of these examples are considered “Heavy” Automobile repair and maintenance. Due to these factors and the specificity of the “Light” and “Heavy” Automobile Repair and Maintenance definitions below, staff directed the applicant to apply for the Special Exception so that all the services they offer would be covered in CGN zoning.

AUTOMOBILE REPAIR AND MAINTENANCE, LIGHT. A businesses establishment that provides routine and repair services to non-commercial vehicles, limited to such activities as the following: the repair and replacement of parts commonly regarded as relatively frequent maintenance items such as spark plugs, belts, hoses, filters, fluids, windshield wiper blades, light bulbs or headlights, fuses, emission control devices, shock absorbers, tires, and the installation of small accessory items such as radios, mirrors, antennas, and trailer hitches.

AUTOMOBILE REPAIR AND MAINTENANCE, HEAVY. A business establishment that provides services to non-commercial motor vehicles that produce relatively high levels of noise, vibration and fumes and, more specifically, include the following types of services: the repair or replacement of parts requiring disassembly or removal of any item not covered under Automobile Repair and Maintenance, Light including repair or replacement of mufflers and brake system components, auto painting or body repair (such as painting, repair, or replacement of body panels or frame parts; glass; bumpers; interior or exterior trim; seats; carpeting; upholstery; or convertible tops).

Staff believes that the location of the proposed Christian Brothers Automotive is appropriate as it promotes needed automotive services that will not negatively impact others. As mentioned in the Applicant’s Special Exception Criteria responses, the use will provide skilled positions to the area (providing desirable employment) and will serve industry, businesses, and residents within the city limits and greater area.

The subject property also falls within the Quality Development Corridor Overlay and the developer will have to meet all the associated requirements if approved. Staff would agree with the applicant that the traffic impact will be minimal with only 125 total trips added daily. Staff also believes the proposed location is suitable as the site is located within an existing shopping center on a main travel way within Newnan (the 4-lane Bullsboro Drive).

It should also be noted that staff did a review of the proposed use and its adherence to the parking standards found in the Zoning Ordinance. Staff found that there would be an adequate number of parking spaces for the proposed use. The applicant and the property owner also agreed to the draft language below regarding “Auto Outparcel Parking” as part of the draft “Declaration of Easements, Covenants, and Restrictions” that is attached to this report.

Section 4.2 Auto Outparcel Parking. Notwithstanding anything to the contrary contained in this Declaration, following the substantial completion of the initial development of the Auto Outparcel, the Parking Areas located thereon shall contain parking spaces for no fewer than thirty (30) standard-sized vehicles at all times, except for any temporary closure of all or any portion of such Parking Areas pursuant to the terms of this Declaration.

The operating hours will be Monday through Friday from 7 a.m. to 6 p.m. (and only open on Saturdays up to the first 180 days of operation). Staff found it important that no work or storage will take place outside of the building Staff also believes the noise levels will be adequate based on information received from the applicant and included in this report. The City has not received any formal objections as of the date of this report (but did receive one phone call seeking general information). Staff does not feel that granting this request will cause any detriment to the surrounding neighborhood in terms of noise, traffic, compatibility of use, and other relevant factors.

Please see the following attachments (each one is labeled with a yellow title box at the top of the page):

- *Site Plan*
- *Proposed Facades*
- *TOPO Survey*
- *Noise Studies from other Locations*
- *Sales Overview*
- *Declaration of Easements, Covenants and Restrictions)*

Proffered Condition from Applicant:

- All maintenance work will be completed interior to the building, and will not produce any excessive noise, vibrations, or fumes. Additionally, no storage of vehicles or parts will be kept outside of the building.

Staff Note: If approved, the approval will be for the use only. The elevations, signage, etc. will be reviewed and approved by staff at a later date.

Attachments: Application, Photographs



CITY OF NEWNAN PLANNING DEPT. 25 LAGRANGE STREET NEWNAN, GEORGIA 30263 www.NewnanGa.gov	Project Location 1 = 2,640 feet Date: 10/17/2023 12:08 PM	Parcel # N57C 004
	Project Location City Limits	ADDRESS 216 Bullsboro Dr Newnan, Ga 30263

Special Exception – 216 Bullsboro Drive

View of closest entrance area to proposed development site (hereinafter subject property) at the existing Shenandoah Plaza Shopping Center.
Note – See Location Map for actual outline of subject property. Also, all yellow arrows in this slideshow highlight the subject property.

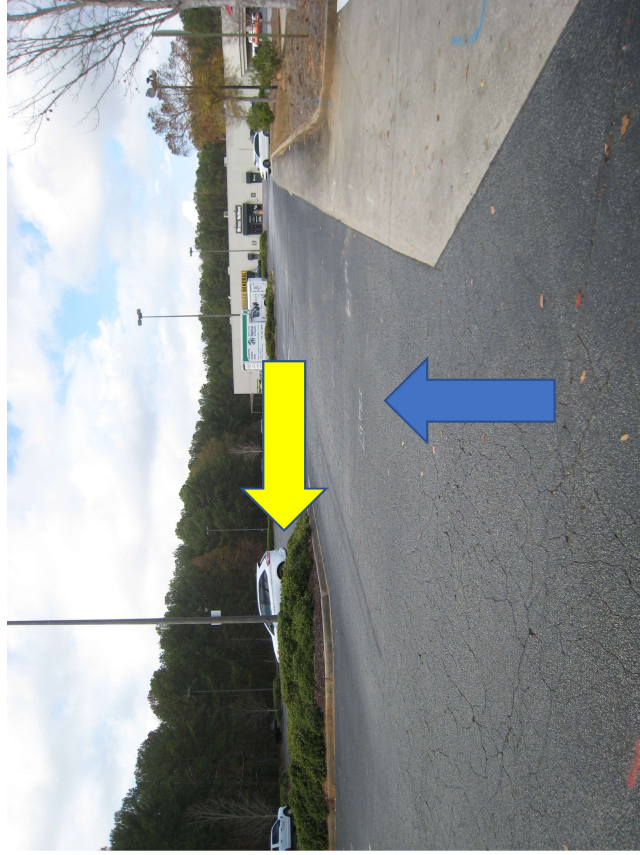


View of subject property that will be separated from the parent parcel of the existing shopping center (the shopping center is seen in background)



Special Exception – 216 Bullsboro Drive

View of existing access drive (blue arrow) that will remain adjacent to subject property. Note – The access drive will remain a part of the parent parcel.



Alternate view of subject property

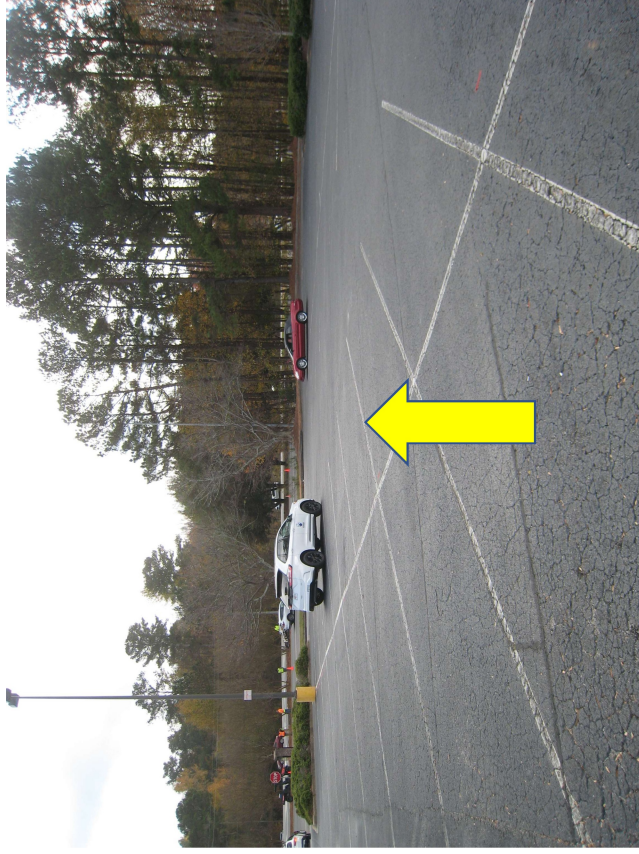


Special Exception – 216 Bullsboro Drive

View of vacant restaurant building adjacent to the existing access drive (closest to the subject property)



View of subject property looking towards Bullsboro Drive



Special Exception – 216 Bullsboro Drive

Alternate view of subject property (with shopping center in background)



View of the remainder of the existing shopping center



Special Exception – 216 Bullsboro Drive

Alternate view of subject property



Alternate view of subject property



Special Exception – 216 Bullsboro Drive

Approximate northern-boundary area of subject property (with the arrow indicating the subject property runs south towards Bullsboro Drive)



Alternate view of subject property



Special Exception – 216 Bullsboro Drive

View of existing access drive that will remain to serve subject property and the shopping center (looking towards Bullsboro Drive)



View of southern edge of subject property looking towards the east



Special Exception – 216 Bullsboro Drive

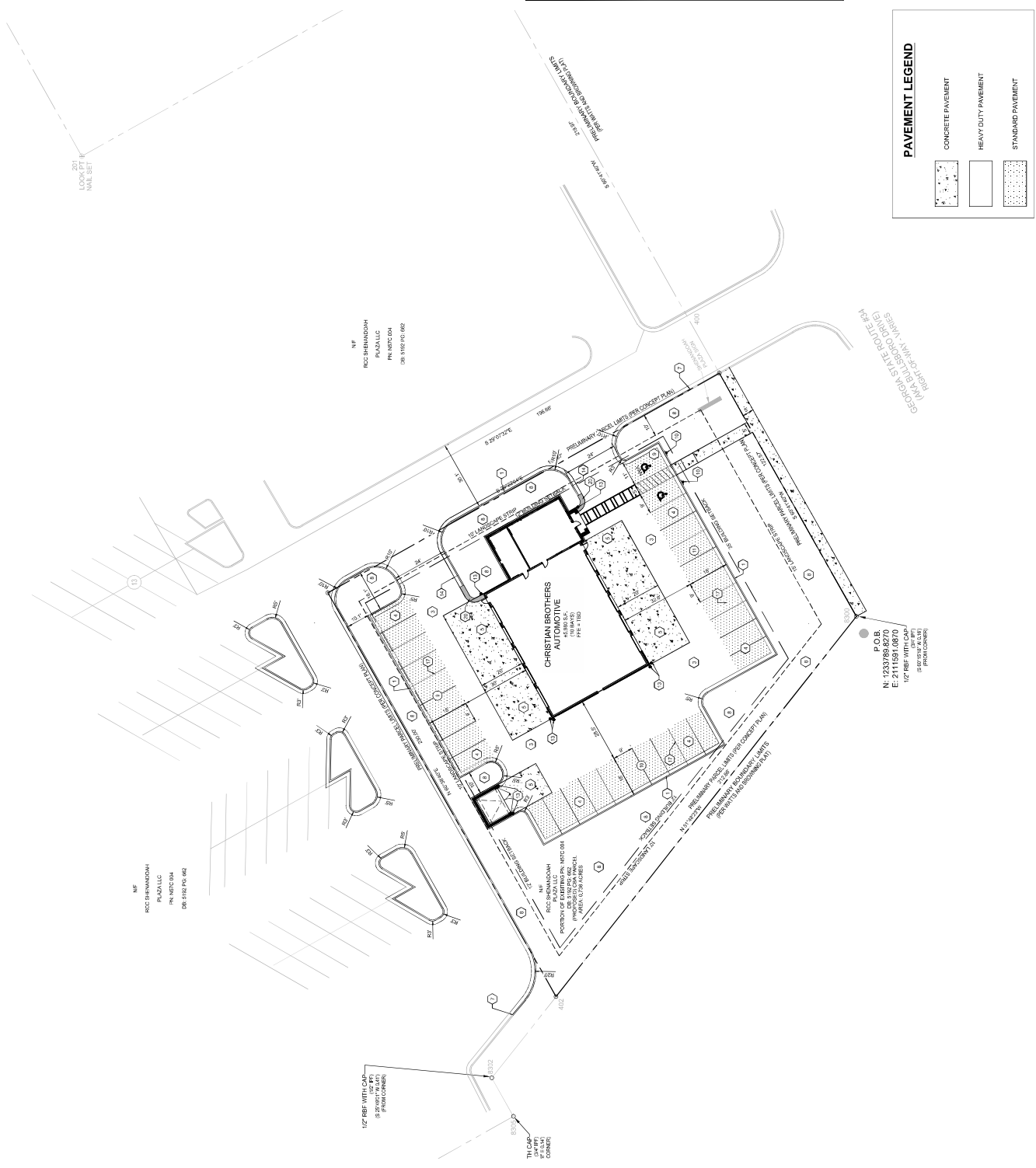
View to the west on Bullsboro Drive



View to the east on Bullsboro Drive



Site Plan



SITE AREA		SITE SUMMARY	
SITE AREA	811 ACRES	DATE APPLIED FOR PERMITS	07/26/2016
IMPERVIOUS AREA	100 ACRES	APPLICANT	THE CITY OF DENVER
PERVIOUS AREA	710 ACRES	CITY OF DENVER	
ZONING CLASSIFICATION	PDN	CONVEYANCE	FOR PERMANENT COMMERCIAL DEVELOPMENT
ADJUTANT	100 ACRES	CONVEYANCE	FOR PERMANENT COMMERCIAL DEVELOPMENT
ADJUTANT	100 ACRES	CONVEYANCE	FOR PERMANENT COMMERCIAL DEVELOPMENT
BUILDING SETBACKS	MIN 30' AND MAX 60'		
PROTECT	MIN 30' AND MAX 60'		
DEIR	12		
REAR	12		
BUILDING SUMMARY	200		
BUILDING COVERAGE	200		
PARKING SUMMARY			
PARKING FIELD	(000) 1 SPACE/100 VEHICLE		
	(000) 1 SPACE/2 1/2 BIKES/SPACE		
	NO SPACES		
	NO SPACES		
CONCRETE PAVEMENT	100 ACRES		
ASPHALT PAVEMENT	100 ACRES		
PAVED DRIVE/VEHICLE	24		

KEY NOTES	
24	CURB & GUTTER, SEE SHEET C-2.0 FOR DETAIL.
25	4" WHITE STYROPOR, SEE SHEET C-2.0 FOR DETAIL.
26	HEAVY DUTY PAVEMENT, SEE SHEET C-2.2 FOR PAVEMENT SPECIFICATIONS.
27	STANDARD DUTY PAVEMENT, SEE SHEET C-2.2 FOR PAVEMENT SPECIFICATIONS.
28	HEAVY DUTY CONCRET PAVEMENT, SEE SHEET C-2.0 FOR PAVEMENT SPECIFICATIONS. IN AREAS 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816,

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Christian Brother's Automotive
LH 10 Bay Prototype

idstudio⁴

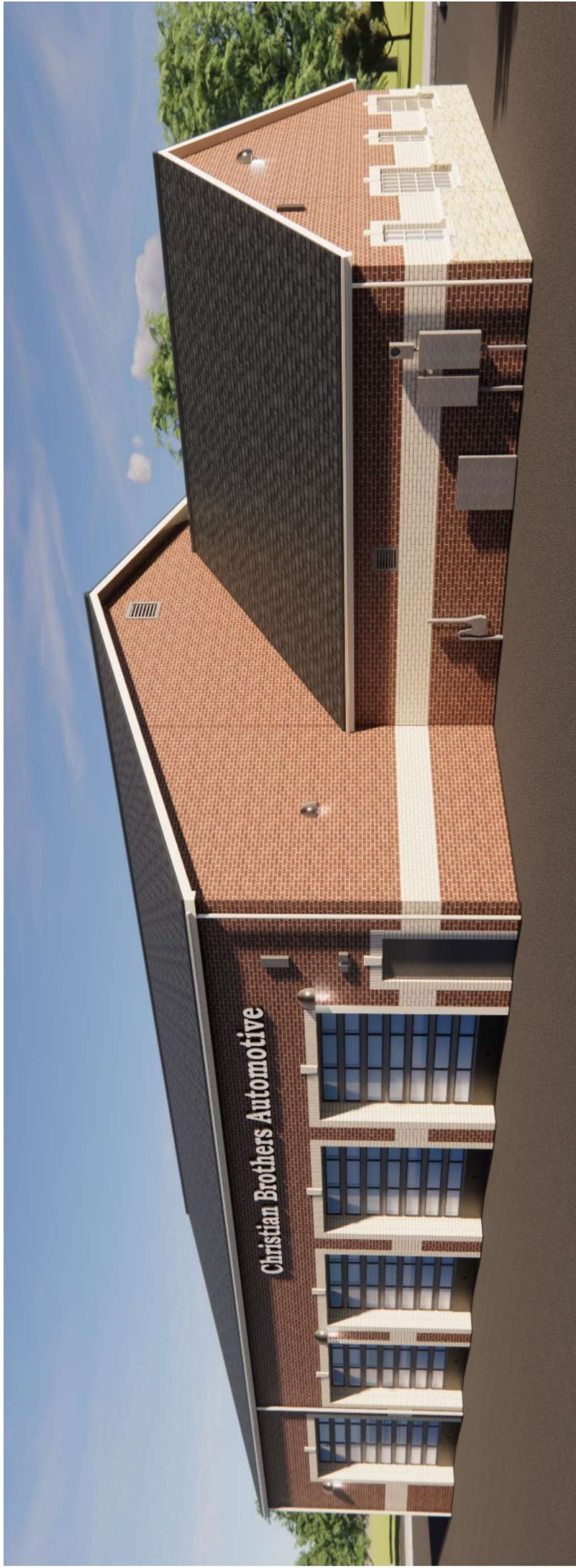




Christian Brother's Automotive

LH 10 Bay Prototype

idstudio⁴





Christian Brother's Automotive
LH 10 Bay Prototype

idstudio⁴





5 FRONT ELEVATION
SCALE: 3/8" = 1'-0"



4 BACK ELEVATION
SCALE: 3/8" = 1'-0"



2 RIGHT SIDE ELEVATION
SCALE: 3/8" = 1'-0"

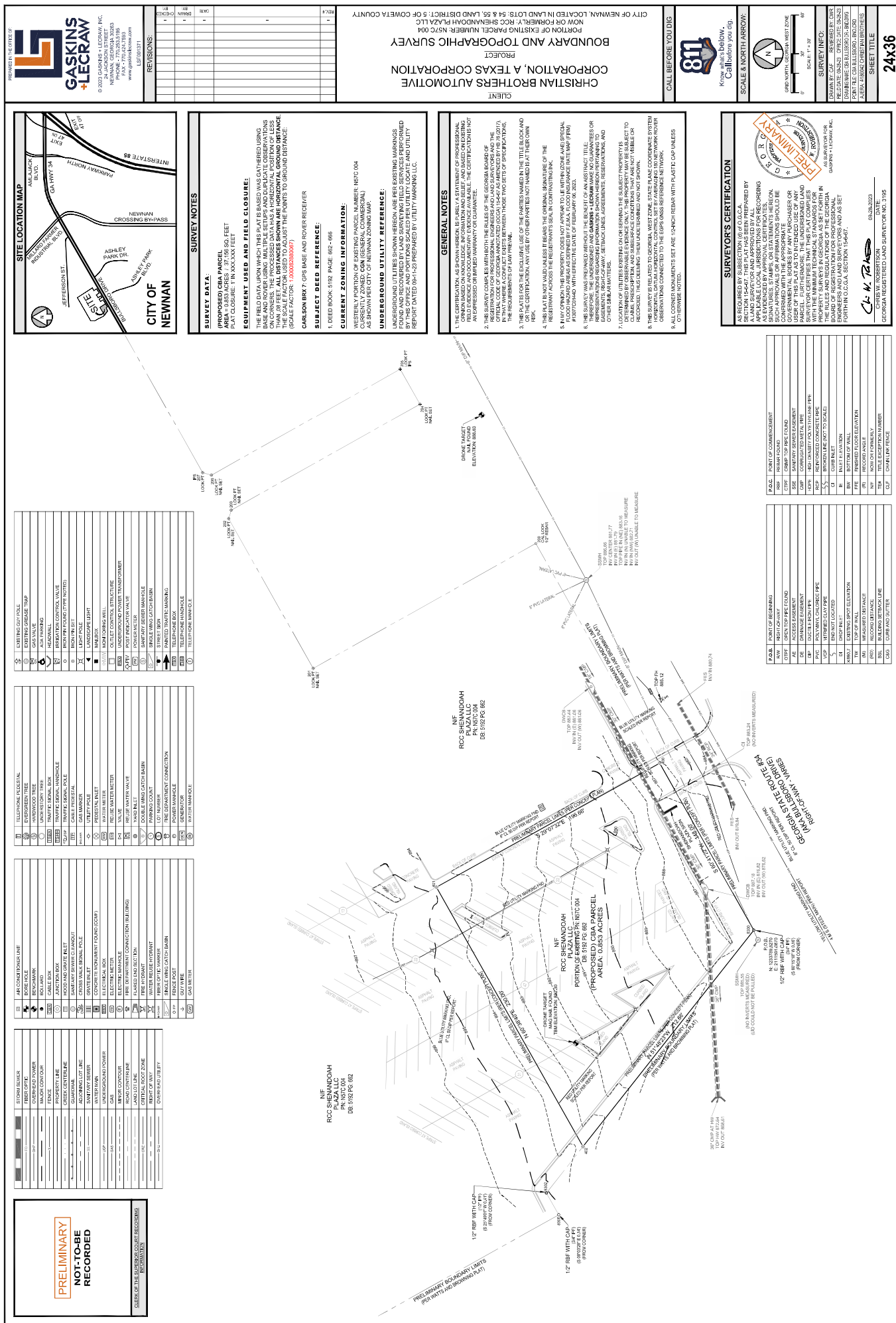


3 LEFT SIDE ELEVATION
SCALE: 3/8" = 1'-0"

PC-5 SHERWIN-WILLIAMS PAINT SW 7001 MARSHMALLOW	M-5 ACME BRICK CO. 8" X 2 1/2" MODULAR BRICK COLOR: BURGUNDY MORTAR: WHITE
PC-6 SHERWIN-WILLIAMS PAINT SW 6259 TROCKEN BLACK	M-8 ACME BRICK CO. 8" X 2 1/2" MODULAR BRICK COLOR: GLAZED WHITE MORTAR: WHITE
M-6 ROOF SHINGLES CERTAINTED LANDMARK STAR COLOR: MORE BLACK	M-10 4" NATURAL LIMESTONE SALADO QUARRY MORTAR: WHITE

NOTES:
ALL DIMENSIONS TO BE REVIEWED AND APPROVED
SEPARATELY. HATCHES ARE TO BE USED TO INDICATE
CONDENSER UNIT IS GRASS MOUNTED AS SHOWN.
CONDENSER UNIT IS TO BE GRASS MOUNTED AS SHOWN.
UNLESS METAL ROOF, PAINT TO MATCH.
EXTERNAL AIR LOCATIONS TO BE VERIFIED WITH
CSAP PRODUCT MANAGER.

TYPICAL NOTES
FOR ALL ELEVATIONS
1. 1/2" x 4" BAND, LAMBS, HEADS OF COWS AND HORSES, AND ACCENT IN CABLES AT ENTRY AND SIDE ELEVATIONS TO BE
BRICK, COLOR M-8.
2. BRICK, COLOR M-8.
3. BRICK, COLOR M-8.
4. ALL WOOD TRIM AT DOOR THRESHOLDS, EAVES, FACED SILL, ETC. TO BE ALUMINUM OR VINYL, BOND OVER EXPOSED WOOD.
5. ALL EXTERIOR LIGHTS ARE TO BE ON PHOTO CELL. TYPICAL OF ALL ELEVATIONS.



Noise Studies from Other Locations

16 pages

MEMORANDUM

To: Billy Green Jr.
Christian Brothers Automotive Corporation

From: Aaron Stolte
Kimley-Horn and Associates, Inc.

Date: 5/11/2021

Subject: Ambient Noise Monitoring and Technical Memorandum – CBA Savage, MN

EXECUTIVE SUMMARY

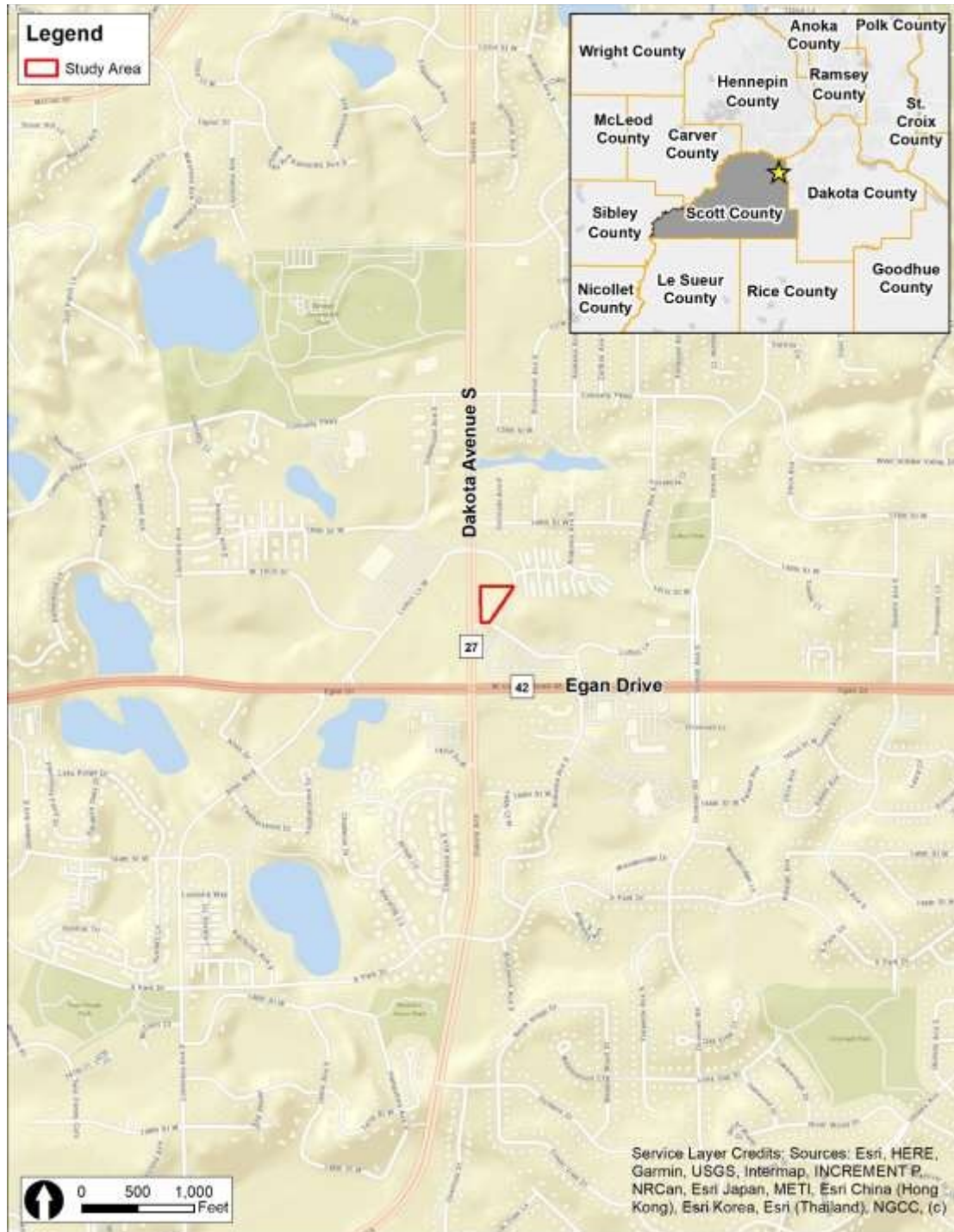
The purpose of this technical memorandum is to summarize the evaluated noise levels in the Ridgewood Lane to West 144th Street neighborhood near the proposed Christian Brothers Automotive (CBA) Savage development in the City of Savage, MN. The proposed development is located on a site northeast of the southern intersection of CSAH 27 (Dakota Ave) and Loftus Lane. The site is zoned as a Planned Mixed-Use District. Surrounding the site is an existing daycare facility (north), a grocery store (south and southeast), residential properties (east and northeast), and CSAH 27 (west). The site is located approximately 500 feet north of the intersection of CSAH 27 and CSAH 42 (Egan Drive). CSAH 27 is a minor arterial and CSAH 42 is a principal arterial. Both highways have two lanes of traffic in each direction.

PROJECT DESCRIPTION

Kimley-Horn conducted noise monitoring to analyze the existing noise environment and determine the anticipated noise levels at the proposed CBA development. This memorandum describes the proposed development, provides general information on ambient noise, outlines the methodologies and procedures for the analysis, and evaluates existing and anticipated operational noise levels from the proposed development.

The proposed development will consist of a one-story automotive repair facility, a parking lot, and a stormwater pond. The development will have access off Loftus Lane with a parking lot in the southern portion of the site. The automotive service bay doors will open southwards towards the parking lot. A stormwater pond is proposed to the north of the building. The site orientation is shown in Appendix A and the location of the proposed development is shown in Figure 1.

Figure 1. Project Location



CHARACTERISTICS OF NOISE

Noise is generally defined as unwanted sound. It is emitted from many natural and man-made sources. Sound pressure levels are usually measured and expressed in decibels (dB). The decibel scale is logarithmic and expresses the ratio of the sound pressure unit being measured to a standard reference level. Most sounds occurring in the environment do not consist of a single frequency, but rather a broad band of differing frequencies. The intensities of each frequency add together to generate sound. Because the human ear does not respond to all frequencies equally, the method commonly used to quantify environmental noise consists of evaluating all of the frequencies of a sound according to a weighting system. It has been found that the A-weighted decibel [dB(A)] filter on a sound level meter, which includes circuits to differentially measure selected audible frequencies, best approximates the frequency response of the human ear.

The degree of disturbance from exposure to unwanted sound – noise – depends upon three factors:

1. The amount, nature, and duration of the intruding noise
2. The relationship between the intruding noise and the existing sound environment; and
3. The situation in which the disturbing noise is heard

In considering the first of these factors, it is important to note that individuals have varying sensitivity to noise. Loud noises bother some people more than other people, and some individuals become increasingly upset if an unwanted noise persists. The time patterns and durations of noise(s) also affect perception as to whether or not it is offensive. For example, noises that occur during nighttime (sleeping) hours are typically considered to be more offensive than the same noises in the daytime.

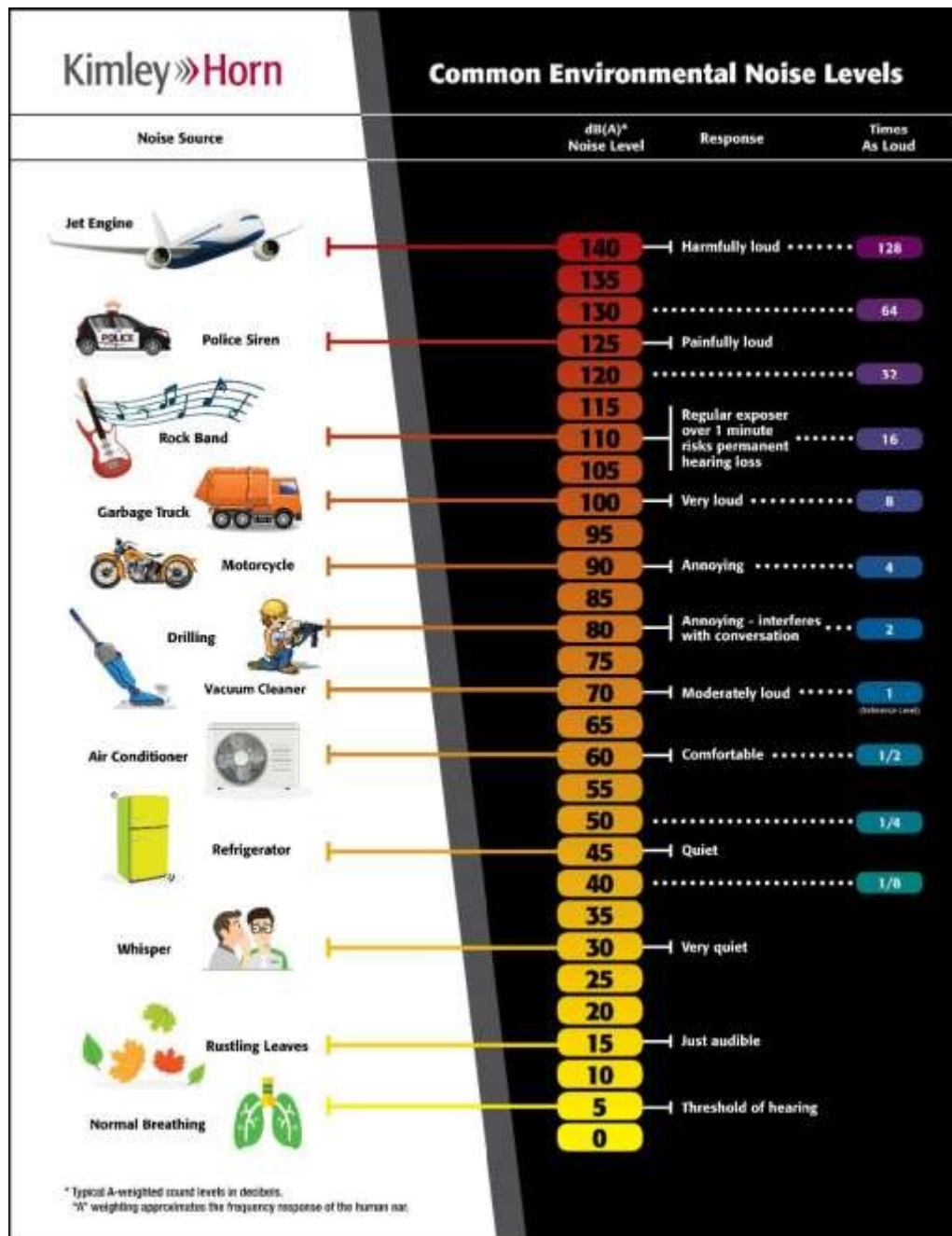
With regard to the second factor, individuals tend to judge the annoyance of an unwanted noise in terms of its relationship to noise from other sources (background noise). A car horn blowing at night when background noise levels are low would generally be more objectionable than one blowing in the afternoon when background noise levels are typically higher. The response to noise stimulus is analogous to the response to turning on an interior light. During the daytime an illuminated bulb simply adds to the ambient light, but when eyes are conditioned to the dark of night, a suddenly illuminated bulb can be temporarily blinding.

The third factor – situational noise – is related to the interference of noise with activities of individuals. In a 60 [dB(A)] environment such as is commonly found in a large business office, normal conversation would be possible, while sleep might be difficult. Loud noises may easily interrupt activities that require a quiet setting for greater mental concentration or rest; however, the same loud noises may not interrupt activities requiring less mental focus or tranquility.

As shown in Figure 2, most individuals are exposed to fairly high noise levels from many sources on a regular basis. To perceive sounds of greatly varying pressure levels, human hearing has a non-linear sensitivity to sound pressure exposure. Doubling the sound pressure results in a three decibel change in the noise level; however, variations of three [dB(A)] or less are commonly considered “barely perceptible” to normal human hearing. A five [dB(A)] change is more readily noticeable. A ten-

fold increase in the sound pressure level correlates to a 10 [dB(A)] noise level increase; however, it is judged by most people as only sounding “twice as loud”.

Figure 2: Common Noise Levels



Over time, individuals tend to accept the noises that intrude into their lives on a regular basis. However, exposure to prolonged and/or extremely loud noise(s) can prevent use of exterior and interior spaces and has been theorized to pose health risks.

NOISE STANDARDS

The City of Savage has adopted the Minnesota Pollution Control Agency (MPCA) noise standards for determining noise impacts for a variety of land uses in accordance with Minnesota Statute 166.07 and Minnesota Rules 7030.0010 to 7030.0080 (Savage City Code Chapter 95.05)

The MPCA noise standards quantify noise levels over a one-hour monitoring period. L_{10} represents the noise level that is exceeded for 10 percent of the hour, or six minutes, whereas L_{50} represents the noise level that is exceeded for 50 percent, or 30 minutes, of the hour. The CBA development is located adjacent to residential properties, thus is held to the Noise Area Classification (NAC) 1 standards. The decibels are shown in the A-weighted scale [dB(A)] with weighted frequencies that correspond to human subjective response to noise. Table 1 shows the MPCA noise limits by NAC in decibels over six minutes (L_{10}) and 30 minutes (L_{50}) of an hour during the daytime and nighttime.

Table 1. MPCA Noise Limits by Noise Area Classification

Noise Area Classification	Daytime (7 a.m. – 10 p.m.)		Nighttime (10 p.m. – 7 a.m.)	
	L_{10} [dB(A)]	L_{50} [dB(A)]	L_{10} [dB(A)]	L_{50} [dB(A)]
1	65	60	55	50
2	70	65	70	65
3	80	75	80	75

According to Table 1, noise impacts would occur to adjacent residential land uses when a daytime noise level from the proposed CBA development approaches 65 [dB(A)] (L_{10}) or 60 [dB(A)] (L_{50}). It is Kimley-Horn's understanding that the CBA store would be open from Monday through Friday from 7 a.m. to 6 p.m.; therefore, the nighttime NAC limits are not applicable.

EXISTING CONDITIONS

The site is located northeast of the southern intersection of CSAH 27 and Loftus Lane. The site is located approximately 500 feet north of the intersection of CSAH 27 and CSAH 42. Surrounding the site is an existing daycare facility (north), a grocery store (south and southeast), residential properties (east and northeast), and CSAH 27 (west). The residential properties are considered noise sensitive.

The predominant source of noise in the vicinity of the proposed CBA development is the traffic noise along CSAH 27 and CSAH 42. Other sources of noise include operational activity at the nearby grocery store and ambient environmental noise, which includes wind, birds chirping, insects, household appliances, lawn mowers, etc.

The noise-sensitive residential properties are located approximately 400 feet east of CSAH 27 and approximately 700 feet north of CSAH 42. According to the National Transportation Noise Map, the noise-sensitive residential properties are located beyond the 45 [dB(A)] noise levels generated from

the highways. According to the Minnesota Department of Transportation (MnDOT) Traffic Mapping Application, CSAH 42 had an average annual daily traffic (AADT) of 28,500 in 2019 and CSAH 27 had an AADT of 12,400 in 2019.

To assess existing noise conditions at the site, noise measurements were taken on May 4, 2021. A Larson Davis LxT Type I Precision Integrating Sound Level Meter was set up at one long-term (24-hour) noise monitoring location. Noise measurements recording the average noise level (Leq) values every minute obtained in the field ranged between 86.3 [dB(A)] and 39.0 [dB(A)]. Using the noise measurement data, Kimley-Horn calculated the average statistical values (L₁₀ and L₅₀) for daytime and nighttime hours and the results are shown in Table 2.

Table 2. Hourly Average Statistical Noise Levels

Noise Area Classification	Daytime (7 a.m. – 10 p.m.)		Nighttime (10 p.m. – 7 a.m.)	
	L ₁₀ [dB(A)]	L ₅₀ [dB(A)]	L ₁₀ [dB(A)]	L ₅₀ [dB(A)]
1	66.0	54.6	50.0	47.6

The measurements were taken using the A-weighted scale and are reported in decibels [dB(A)]. Data collected by the noise meters included time, Leq, maximum noise level (L_{max}), and instantaneous peak noise level (L_{pk}) for each interval. Average hourly noise levels (Leq(h)) were derived from the Leq values every minute. The existing noise measurements were collected under meteorologically acceptable conditions and were conducted based on the acceptable collection of existing noise level readings. The location of the monitoring is shown in Figure 3 and pictures of the field monitoring setup and site are shown in Table 3. Approximate buffers are shown on Figure 3 to reference the distances to the noise monitor and adjacent properties from the proposed operational noise of the development.

Figure 3. Noise Monitoring Location



Table 3. Site Photos

	
Photo 1: Meter looking east	Photo 4: Site looking north
	
Photo 2: Meter looking north	Photo 5: Site looking south
	
Photo 3: Meter looking west (towards site)	Photo 6: Site looking west

OPERATIONAL NOISE

The CBA development operations will produce noise due to air-powered tools, an air compressor, and heating, ventilation, and air conditioning (HVAC). A previous noise study conducted measurements at an essentially identical CBA store in Sugar Land, Texas (see Appendix B). The study found noise levels ranging from 51 to 54 [dB(A)] at approximately 54 feet from the repair operations. The service bay doors at the proposed CBA Savage facility have been situated to face south, directing operational noise away from the existing daycare facility and neighborhood to the east. The noise sensitive residential properties are located approximately 180 feet from the repair operations. At this distance, the operational noise from the CBA facility is anticipated to be similar to the ambient noise levels recorded at the site; furthermore, the operational noise levels are anticipated to be well below the MPCA NAC 1 daytime standards.

CONCLUSIONS

Kimley-Horn conducted a long-term (24-hour) noise monitoring assessment on May 4, 2021 to determine the existing noise conditions for the proposed CBA site. Kimley-Horn recorded daytime noise measurements for the area of 60.6 [dB(A)] (L_{10}) and 51.9 [dB(A)] (L_{50}). As stated above, a previous noise study conducted at an essentially identical CBA facility found noise levels ranging from 51 to 54 [dB(A)] at approximately 54 feet from the repair operations. Additionally, variations of three decibels or less are commonly considered “barely perceptible” to normal human hearing. The operational noise from the CBA Savage facility at the residential properties is anticipated to be similar to the ambient noise levels recorded at this site and below the MPCA and City of Savage noise standards.

Appendix A: Site Plan Exhibit



This document, together with the concepts and designs presented herein, is an instrument of service, is intended only for the specific purpose and use for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be deemed a breach of the Kimley-Horn and Associates, Inc. professional seal of approval and shall be subject to legal action.

No.	REVISIONS	DATE	BY

Kimley-Horn
707 DUSTY STREET, SUITE 100, ST. PAUL, MN 55114
PHONE: 651-454-1197
WWW.KIMLEY-HORN.COM

**SURROUNDING
DEVELOPMENT
EXHIBIT**

**CBA SAVAGE
PREPARED FOR
CHRISTIAN BROTHERS
AUTOMOTIVE**

EX-2

© 2021 Microsoft Corporation © 2021 Maxar © CNES (2021) Distribution Airbus DS

EGAN DR.

EXISTING
HY-VEE

EXISTING
DAYCARE

ALABAMA AVE.

EXISTING
RESIDENTIAL

DAKOTA AVE. S.

LOFTUS LANE



Appendix B: Previous Acoustic Study



May 29, 2012

Mr. Jonathan Wakefield
New Store Development Director
Christian Brothers Automotive
15995 North Barkers Landing, Suite 145
Houston, Texas 77079
832-598-0420 C, 832-655-5940 W
jwakefield@cbac.com

Re: Environmental Acoustics Study
Proposed Store Location
Allen, Texas
HFP File 7681-1

Dear Mr. Wakefield:

Per your request, HFP Acoustical Consultants Inc. (HFP) has conducted sound level testing and acoustical calculations with regard to the proposed Christian Brothers Automotive store on State Highway 5 in Allen, Texas. This letter report provides our findings with regard to compliance with the Allen noise ordinance.

Allen Noise Ordinance

The City of Allen has a noise ordinance that limits property-line noise contributions to 65 dB(A) during daytime hours (between 7:00 a.m. and 8:00 p.m.). The nighttime limit is 58 dB(A). It is our understanding that Christian Brothers stores are open Monday through Friday from 7:00 a.m. to 6:00 p.m., so only the daytime 65 dB(A) limit should be applicable. The limits given in the ordinance apply for all property lines, both residential and commercial.

Figure 1 shows the proposed site arrangement. The closest point of approach of the property line by potential service bay noise sources will be a 24-foot distance on the north side of Bay 9, on the west end of the facility. Other property lines will be farther from the bay doors, with the exception of the south (rear) façade, which will be only about 10 feet from the property line. The south façade will be solid masonry with only a few small ventilation openings.

Sound Level Measurements at Sugar Land, Texas

HFP conducted measurements of the operational sound levels at the Christian Brothers store at 8431 Homeward Way in Sugar Land, Texas on May 16, 2012. The store is essentially identical in layout to the proposed Allen store, and had vehicle repairs underway in 7 of its 9 bays, a typical work-day condition.

**6001 Savoy Drive, Suite 215
Phone: 713.789.9400**

**Houston, Texas 77036
Fax: 713.789.5493**

#1140, 10201 Southport Road S.W.
Phone: 403.259.6600

Calgary, Alberta, Canada T2W 4X9
Fax: 403.259.6611

The sound level monitor was set up approximately 54 feet from the open door of Bay 8. It could not be placed at 24 feet because it would have been in the middle of the driveway at the Sugar Land location. The general repair operations were not noisy. In the absence of aircraft overflights and nearby street traffic, the observed levels at the monitor ranged from only **51 to 54 dB(A)**.

Air-Powered Tools

The mechanics said that the air-powered impact wrench was the loudest tool they use in the course of their typical work. This noise source is not a continuous source. It is used for a few seconds at a time, primarily for removing or replacing lug nuts. A mechanic ran an Ingersoll Rand 2100G air impact wrench to emulate the worst-case noise from that procedure, and the *short term* level at 24 feet was 72 dB(A).

The mechanics said that, on very rare occasions, they may have to use an air hammer or chisel to cut seized bolts or rusted-on items. The lead mechanic said it is used only once every three months or so, and only for a few seconds. It should be a store policy to roll down the bay doors when this tool is used.

Air Compressor

The air tools are powered by a single central air compressor. At Allen, the compressor will be housed in an interior enclosure, and the property line contribution from this source will be insignificant.

Building Ventilation

The rear façade of the Sugar Land store had three small ventilation fan openings high on the wall. The noise from those openings ranged from 58 to 61 dB(A) at a distance of 10 feet. Those readings included contributions from the oil change shop next to the Sugar Land store.

General Conclusion

In terms of typical operation, the observed car repair activities were relatively quiet, and it is likely that the daytime limit for the Allen noise ordinance would be easily met over any reasonable averaging period at all locations along the property line. The likelihood of noise complaints is very small.

Figure 1 shows the estimated sound level contributions at various property line positions, based on the data and observations from the Sugar Land store.

Future Considerations

On occasion, momentary sound levels at the very closest point of the property line on the open bay side could potentially exceed the ordinance limit during air tool use for a few seconds at a time. If there are complaints or if the City of Allen chooses to enforce the limit to such a strict extent, it might be necessary to add a noise barrier on the north side property line. The barrier would need to extend along the property line from the dumpster enclosure toward the west, for approximately 100 feet. The general barrier location is shown on **Figure 1**. As a guideline, a 6-

to-8-foot tall wood fence with tongue & groove or lap & gap construction should be sufficient for this purpose. It would be preferable to add such a barrier in the future only on an as-needed basis. In the unlikely event that there are noise complaints, an engineered noise barrier could be more specifically designed to address any particular conditions that might arise.

Thank you for the opportunity to be of service. Please call if you have any questions or comments.

Sincerely,
HFP ACOUSTICAL CONSULTANTS INC.

A handwritten signature in black ink, reading "Ronald R. Spillman". The signature is fluid and cursive, with the first name "Ronald" and last name "Spillman" clearly legible.

Ronald R. Spillman, P.E.
Vice President

Attachment: Figure 1



FIGURE 1
Estimated Sound Level Contributions – Christian Brothers Automotive, Allen, Texas
All values shown are A-weighted sound levels in dB(A).



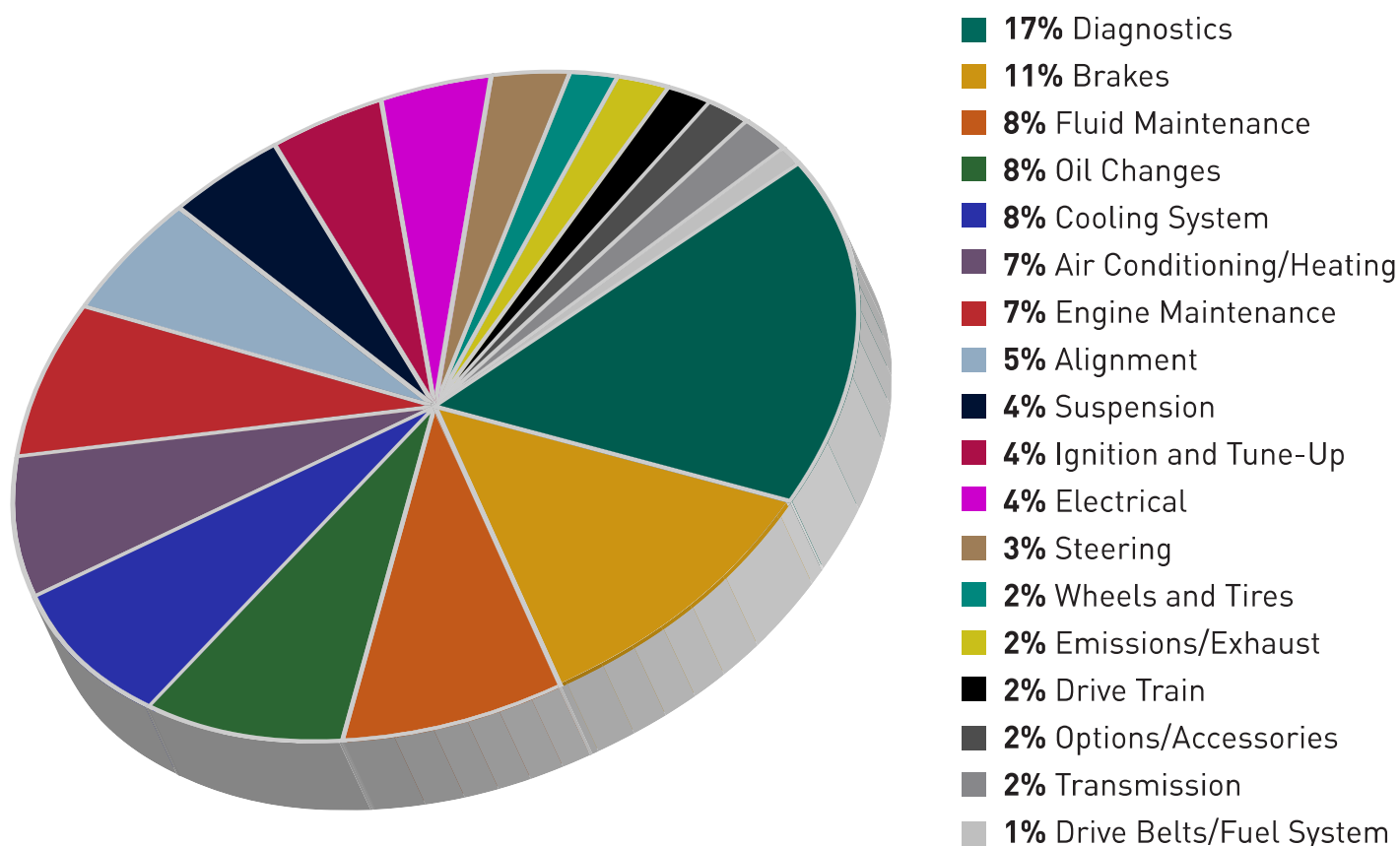
Christian Brothers

A U T O M O T I V E

What We Do

Our shops service approximately **4,200** vehicle visits per year per shop. Our shops are highly rated on Google (**4.7 star**) and have a high percentage of repeat customers (**65%-75% of all visits**). We are independently audited annually by both AAA and RepairPal for training, certifications, equipment, and customer satisfaction. We are also an authorized CarMax Warranty Service Center.

Christian Brothers Automotive - Sales by Labor Category



As you can see, the highest category of service that we provide is diagnostic testing and inspection. CBA has a heavy concentration on diagnosing engine control systems and sensors. Our heaviest training concentration is on this field of service, and we own the same vehicle specific diagnostic testing equipment that the dealerships use. Our second highest labor category is Brakes, followed by Fluid Maintenance and Oil Changes.

We understand community concern about a business with a concentration on heavy vehicle repair with on-site engine rebuilding and transmission rebuilding. I've seen those specialty businesses and often times they are not aesthetically integrated into the community landscape.

Engine Maintenance

For our shops Engine Maintenance overall, is our **7th highest** category. Most of engine maintenance services are routine services such as timing belts, seals and gaskets, and motor mounts. We do not offer on-site rebuilding of engines. The consumer value proposition is not beneficial to the consumer for doing on-site rebuilding. Instead we install factory remanufactured engines. These engines are completely assembled at a factory and simply installed locally, and carry a Nationwide 3 year / 100,000 mile warranty. We could not offer that warranty for an on-site rebuilt engine. You can see that engine replacement represents only 0.1% of the vehicles that we service, and only 0.8% of sales. Most major tire retailers such as Goodyear, Tires Plus+, and others offer a similar service for their customers. Engine replacement is driven by customer trust. Customers most often simply trade in a vehicle that needs an engine rebuild or replacement. More frequently than not, we do not know their engine is in a terminal condition until deep into our diagnostic work. At that point our only concern is doing what is best for the customer.

Transmission Maintenance

Transmission Maintenance represents **2%** of overall sales by labor category, and is our 17th place sales category. Transmission Maintenance includes Transmission Filters, Transmission Cooler hose leaks, input and output seals, as well as transmission replacement. Similar to the engine category, Transmission Maintenance includes transmission replacement. We do not provide on-site rebuilding of transmissions. Again, it is not a good consumer value proposition to offer on-site rebuilding, as a factory remanufactured transmission provides a 3 year / 100,000 mile nationwide warranty. Most transmission replacements can be completed in less than one day. The typical labor time is between 5-8 hours. A few require 10-14 hours to replace. Transmission replacement is not really any more invasive than a comprehensive 100,000 mile service. The cost is higher because of the single part - the transmission - but the labor operation is not that involved. The on site labor operation is to unbolt one part and bolt in another part. The messy portion is handled at the factory where the transmission is completely remanufactured. Because the overall cost of a transmission replacement is significantly lower than for an engine replacement, consumers are more likely to approve this repair to their vehicle. Our transmission replacements average 10-15 per year per store.

In Conclusion

I hope that this information has helped to illustrate that we are a light vehicle maintenance provider. It is very infrequent for us to offer engine or transmission replacement, and it is driven by our desire to be the long-term trusted provider of all vehicle services for the average consumer. We do not specialize in any one specific category of service, and certainly not in heavy services.



Declaration of Easements, Covenants and Restrictions

23 pages

[SUBJECT TO TITLE COMPANY REVIEW AND APPROVAL FOR RECORDING REQUIREMENTS]

Prepared By:
Brandt H. Stitzer
Hirschler Fleischer
2100 East Cary Street
Richmond, VA 23223

Tax PID: N57C 004

DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS

THIS DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS (this “Declaration”) is made as of _____, 2024, by **RCC SHENANDOAH PLAZA, LLC**, a Virginia limited liability company (“Declarant), grantor and grantee for indexing purposes.

R E C I T A L S:

R-1. Declarant owns in fee simple the real property known as 216 Bullsboro Drive, Newnan, Coweta County, Georgia, comprising approximately 8.64 acres and legally described on Exhibit A attached hereto (the “Submitted Land”). Prior to entering into this Declaration, Declarant has subdivided the Submitted Land into two (2) parcels as shown on that certain plat prepared by _____ entitled “_____”, dated as of _____, as last revised, and recorded in the land records of Coweta County, Georgia (the “Subdivision Plat”), which Subdivision Plat is attached hereto as Exhibit B and incorporated herein, with _____ as shown on the Subdivision Plat being the “Auto Outparcel”, and the Submitted Land less and except the Auto Outparcel being the “Main Shopping Center Parcel”.

R-2. Declarant has decided and intends to subject the Submitted Land to certain covenants, restrictions, reservations, easements, servitudes, liens and charges, all of which are more particularly hereinafter set forth.

R-3. Declarant deems it desirable and in the best interests of all the owners of land subject to this Declaration to protect the value and the desirability of such land by providing for the use and development of such land in accordance with a common plan and the maintenance of certain shared facilities, as provided herein.

NOW, THEREFORE, Declarant hereby grants and declares, on behalf of itself, all Owners (as defined below) and its and their respective successors and assigns, that the Submitted Land shall, from the date this Declaration is recorded, be held, conveyed, acquired and encumbered subject to the terms and provisions hereof, all of which shall run with the land (including all improvements thereon) and bind and inure to the benefit of all Persons who may now or hereafter own or acquire any right, title, estate or interest in or to any of such real property, or who may now or hereafter occupy or enter upon any portion thereof, subject to the right of Declarant to amend this Declaration in accordance with the provisions for amendment set forth herein.

ARTICLE 1 Definitions

Section 1.1 Definitions. Capitalized terms used in this Declaration shall have the meanings specified for such terms below or as otherwise set forth in this Declaration.

(1) “Affiliate” means any corporation, partnership, limited liability company or other entity owned directly or indirectly by the current members of Declarant or any other entity which is owned by, under common control with any of them or in which any of them have an ownership interest.

(2) “Applicable Laws” means applicable federal, state and local statutes, ordinances, codes, design standards, proffers, rules and regulations, including, without limitation, the County’s design standards manual.

(3) “Building” means any structure or building, including retail buildings, office buildings, storage buildings, docks, dumpsters, refrigeration structures, etc., currently located or hereafter constructed on a Parcel.

(4) “Common Area(s)” means the Private Streets, Parking Areas, Signs, Signage Areas, Environmental Area and SWM/BMP Facilities, at any given time, together with any easements, rights-of-way, licenses, and appurtenances related thereto, together with the areas or improvements Declarant may hereafter designate within the Parcels as common use and maintenance areas, either permanently or temporarily.

(5) “Common Area Plan” means the Common Area Plan attached hereto as Exhibit C (if any) showing the approximate locations of certain Common Area; provided, however, Declarant solely reserves the right to subsequently add an Exhibit C Common Area Plan (or amend the then-current Exhibit C Common Area Plan) after the recording of this Declaration and design, locate, remove and/or relocate the Common Area, from time to time, provided reasonable vehicular ingress and egress shall always be provided to and from each Parcel and at least one (1) Public Street. It is not necessary for all Common Areas to be shown on the Common Area Plan and the lack of any Common Area Plan attached to this Declaration shall in no way limit the scope of Common Area and easements created under this Declaration.

(6) “County” means Coweta County, Georgia. All references to approval by the County mean approval by the appropriate agency or official of the County.

(7) “Declarant” means RCC Shenandoah Plaza, LLC, and/or its Affiliates, and its express assigns pursuant to Article 3 of this Declaration.

(8) “Declaration” means this Declaration made and recorded among the Land Records, including all amendments made pursuant to this Declaration and, except when the context clearly requires otherwise, all Supplementary Declarations.

(9) “Environmental Area” means those portions of the Submitted Land, if any, now or hereafter used for the operation and use of a stormwater retention pond or similar facility, including, without limitation, any area shown on the Common Area Plan, or otherwise hereafter designated by Declarant, as “Environmental Area” or reserved for SWM/BMP Facilities.

(10) “GDOT” means the Georgia Department of Transportation.

(11) “Land Records” means the land records of Coweta County, Georgia.

(12) “Mortgagee” means any institutional lender (one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds or business trusts, including, but not limited to, real estate investment trusts, any

other lender regularly engaged in financing the purchase, construction or improvement of real estate, or any assignee of loans made by such lender, or any combination of any of the foregoing entities) holding a first mortgage or first deed of trust ("Mortgage") encumbering a Parcel which has notified Declarant of its status in writing and has requested all rights herein. Where the approval of a Mortgagee is required, such approval means: (i) written approval; (ii) any written waiver of approval rights; (iii) a formal letter stating no objection; or (iv) presumptive approval if a Mortgagee does not respond to a notice by certified or registered United States mail, return receipt requested, within thirty (30) days after the date the request for approval is transmitted in accordance with the notice requirements of the Declaration.

(13) "Owner" means one or more Persons who own a Parcel in fee simple, but does not mean any Person having an interest in a Parcel solely by virtue of a contract or lease or as security for an obligation.

(14) "Parcel" means each of the Main Shopping Center Parcel, the Auto Outparcel, and each portion of the Property which is now or hereafter a separate subdivided lot of record, together with any improvements now or hereafter appurtenant thereto, provided no additional Parcel may be created after the recording of this Declaration without Declarant's consent.

(15) "Parking Areas" means the parking areas and related facilities within the Submitted Land, together with those areas depicted as "Parking Areas" on the Common Area Plan or hereafter designated as "Parking Areas" by Declarant from time to time.

(16) "Person" means a natural person, corporation, limited liability company, partnership, association, trust or other entity capable of holding title to real estate, or any combination thereof.

(17) "Private Streets" means the private streets and drive aisles within the Submitted Land, including without limitation the Auto Outparcel Access Easement Area (as defined below), together with those areas depicted as "Private Streets" on the Common Area Plan or hereafter designated as "Private Streets" by Declarant from time to time.

(18) "Property" means, at any given time, the Submitted Land together with all improvements and appurtenances thereto now or hereafter existing.

(19) "Signage Areas" means the portions of the Submitted Land on which any Sign is located, together with those areas on which Declarant or its designee constructs a Sign in the future, and together with those portions of the Submitted Land depicted as "Signage Areas" on the Common Area Plan or hereafter designated as "Signage Areas" by Declarant from time to time.

(20) "SWM/BMP Facilities" means stormwater management facilities, if any, now or hereafter located on the Submitted Land, together with those identified as "SWM/BMP Facility" on the Common Area Plan and any other stormwater and/or retention areas, storm sewer lines or storm drainage lines or other drainage and retention structures located and/or installed on the Submitted Land and hereafter designated as SWM/BMP Facilities by Declarant from time to time.

(21) "Submitted Land" means the land described on Exhibit A hereto and all other land which is from time to time submitted to this Declaration by Declarant.

(22) "Supplementary Declaration" means any declaration: (i) submitting land to the terms of this Declaration and subjecting such land to the jurisdiction of Declarant, whether or not such Supplementary Declaration contains additional provisions reflecting the unique characteristics of the land being submitted; or (ii) submitting a portion of the Property to such supplementary covenants in accordance with the provisions of this Declaration.

(23) “Upkeep” means management, care, inspection, maintenance, litter removal, operation, repair, repainting, resurfacing, remodeling, restoration, improvement, renovation, alteration, re-location, replacement, reconstruction, timely removal of snow and treatment of ice accumulation, paving and repaving, striping, grass cutting, and landscaping, and/or provision of utilities, except as specifically provided otherwise.

ARTICLE 2

Easements

Section 2.1 Easements for Use and Enjoyment of Common Areas; Encroachments.

(a) Declarant hereby reserves to itself and, on behalf of itself and its successors and assigns, grants to each Owner and each Person lawfully occupying a Parcel a non-exclusive right and easement, in common with others, of use and enjoyment of the Common Area, subject to the limits and restrictions set forth herein on use of such area. Such right and easement of use and enjoyment shall be appurtenant to each Parcel, whether or not mentioned in the deed thereto. Any purported conveyance or other transfer of such rights and easements by any Owner (other than Declarant, or as expressly provided for herein) apart from the Parcel to which such rights and easements are appurtenant is void.

(b) Declarant hereby grants and reserves to itself, its designees, Owners, and their respective tenants, licensees, guests, employees, and invitees, nonexclusive easements for temporary vehicular parking (i.e., not overnight parking) over the Parking Areas along with the right of ingress and egress to said Parking Areas, subject to the limits and restrictions set forth herein on use of such area; provided, however, Declarant reserves the right, in its sole discretion, to designate portions of the Parking Area on the Main Shopping Center Parcel for exclusive use by a particular Owner or Person.

(c) Subject to Section 4.1 below, Declarant hereby grants and reserves to itself, its designees, Owners, and their respective tenants, licensees, guests, employees and invitees, nonexclusive easements for vehicular and pedestrian ingress and egress over the Private Streets for access to and from the Submitted Land to and from Bullsboro Drive (the “Public Street”); provided, however, Declarant makes no warranties or representations about the extent of such access, e.g., ability to turn right or left onto any such road, or the location of roadway medians or traffic lights, as such roads are public roadways.

(d) The Owner of a Parcel burdened by any Common Area easement granted under this Section 2.1 shall not construct any improvements within such Common Area or make any additions, alterations, changes or improvements to any retaining walls, landscaping, earth contouring, signage, hardscaping, sidewalks, irrigation systems, lighting, fencing or other improvements located in such Common Area, without the permission of Declarant, or except as provided on a site plan approved by Declarant pursuant to the terms hereof. Declarant shall have the sole right to select all landscaping, hardscaping, lighting, fencing, signage, and other improvements Declarant elects to construct or install, or permit to be installed, within the Common Areas; provided, however, that nothing in this Declaration is intended to obligate Declarant to install or construct any landscaping, hardscaping, retaining walls, lighting, fencing, signage or other improvements anywhere on the Property.

(e) Declarant reserves for itself and hereby establishes and grants a nonexclusive easement for the benefit of the Owners (with respect to and for the benefit of each Parcel) to use the SWM/BMP Facilities, together with the right to discharge surface water runoff across portions of any Parcel in accordance with the design of the SWM/BMP Facilities and Applicable Laws. The SWM/BMP Facilities shall not be used for any purposes other than stormwater management and drainage or other uses as are authorized by Declarant from time to time. Any alteration in the natural water flow which may occur as a natural consequence of normal

construction activities and the existence of the Owner's improvements (including, without limitation, building and building expansion, curbs, drives and paving) shall be permitted.

(f) The rights and easements of enjoyment created in this Section shall be subject to (in addition to any easements granted or reserved in this Declaration) the terms, limitations and restrictions set forth herein and shall be subject to all rights and powers of Declarant when exercised in accordance with the other applicable provisions set forth herein. Subject to such rules, regulations and restrictions as are set forth herein, any Person having the right to use and enjoy the Common Area may delegate such rights to such Person's employees, tenants, agents and invitees and to such other Persons as may be permitted hereunder.

Section 2.2 Easement for Encroachments. Declarant hereby declares, creates and grants forever perpetual, non-exclusive easements for unintentional minor encroachments between the Owners for use of that portion of the Property on which such improvements are located. By way of example, but without limitation, if a landscaped area in a parking lot encroaches onto an adjacent Parcel. Any easement(s) for encroachment shall include an easement(s) for the maintenance and use of the encroaching improvements in favor of the encroaching Owner. Notwithstanding the foregoing and for clarification, this provision is not a license to encroach. It is meant to address unintentional minor construction encroachments that in no way adversely affect the encumbered Parcel.

Section 2.3 No Barrier Declaration. No barriers, fences, grade changes or other obstructions shall be erected so as to impede or interfere in any way with the free flow of vehicular and pedestrian traffic between those portions of the Parcels from time to time devoted to pedestrian access, vehicular roadways or parking area, or in any manner unreasonably restrict or interfere with the use and enjoyment by any of the Owners of the rights and easements created by this Article 2. The preceding sentence shall not prohibit the designation, removal, realignment and/or relocation of Common Areas (including Private Streets and Parking Areas) by Declarant as contemplated in this Declaration. In addition, each Owner may temporarily fence off portions of its Parcel as reasonably required for the purpose of repair, construction, and reconstruction.

Section 2.4 No Dedication. Nothing contained herein shall be construed as a dedication to public use or as an assumption of responsibility for Upkeep of any Common Area by any public or municipal agency, authority or utility. Notwithstanding the foregoing, Declarant expressly reserves herein the right of access, use and maintenance, if necessary, over the Private Streets for the benefit of the County for purposes of access to and maintenance of the SWM/BMP Facilities if such SWM/BMP Facilities are not maintained as required by applicable legal requirements.

Section 2.5 Line of Sight. No monument sign, tree, hedge or other landscape feature shall be installed, planted or maintained by any Owner in a location which obstructs sight-lines for vehicular traffic on public or private streets in violation of County requirements.

ARTICLE 3

Declarant Easement and Rights

Section 3.1 Declarant Easements

(a) Declarant hereby grants and reserves to itself and its designees, the following nonexclusive blanket easements over and through the Submitted Land for the purposes of the development and completion of improvements on the Property: (i) drainage, erosion control and storm and sanitary sewer easements (including the right to cut or remove trees, bushes or shrubbery, to regrade the soil and to take any similar actions reasonably necessary; provided, however, that thereafter Declarant shall restore the affected area as near as practicable to its original condition); (ii) temporary easements for the storage (in a slightly manner) of reasonable supplies of building materials and equipment necessary to complete the improvements; and

(iii) easements for the construction, installation, operation and Upkeep of Common Areas (e.g., landscaping, sidewalks, hardscape, street lights, signage, etc.) on the Property or reasonably necessary to serve the Property.

(b) Declarant hereby grants and reserves to itself and its designees a non-exclusive blanket easement over and through each Parcel for ingress, egress, installation, replacement, operation and Upkeep of the equipment and infrastructure for providing to any portion of the Property any utilities, including, without limitation, water, sewer, telephone, television, internet access, drainage, gas, or electricity, whether public or private; provided, however, that no utility line shall run beneath a Building, gas canopies or underground storage tank areas other than the utility lines serving such Building. By accepting title to a Parcel, each Owner, upon request from Declarant, agrees to grant and convey and to join into any easement or easements, rights-of-way and licenses over, under and across its Parcel to the applicable governmental or public utility provider to establish any such utility service.

(c) Declarant hereby grants and reserves to itself and its designees, an easement over and through the Signage Areas and any Common Area for the purpose of construction, replacement, installation, operation and Upkeep of any existing signage structures and future sign structure constructed within the Signage Areas by Declarant or its designees (collectively, "Signs") and associated lighting, such easement shall include access as necessary to perform such tasks. All Signs installed in the Signage Areas shall belong to Declarant (or its designee). Declarant, and its express designees and assigns shall have, and Declarant hereby reserves, the exclusive right to determine which Owners and/or Persons shall be entitled to a place on any Sign (including any sign panel) and also the right to determine the placement, size and overall appearance of any graphic sign panels now or hereafter affixed to the Signs, the length of times such sign panels shall be displayed and the location of specific sign panels on the Signs, including the right, in its sole discretion, to permit display of sign panels on the Signs for the benefit of tenants or owners of other land which Declarant may hereafter acquire and develop adjacent to the Property. No Owner shall have the right to demand a sign panel position on the Signs nor the right to require its sign panel to be located in any particular location or position on the Signs. Acquiring ownership of a portion of the Submitted Land does not entitle an Owner to the right to a sign panel on any Sign. Declarant, in its sole discretion, may designate a specific sign panel location on one or more Signs for the use by an Owner on a temporary or permanent basis. No Owner shall engage in any conduct or activity (or enter into any agreement) in derogation of or in conflict with the rights of Declarant hereunder. The Declarant Rights granted in this Section 3.1(c) shall survive Declarant's period of ownership of a Parcel, in perpetuity. Declarant may unilaterally amend this Section 3.1(c) in its sole and absolute discretion, and no consent or joinder of any Owner or Mortgagee shall be required.

Section 3.2 Common Areas. Declarant hereby grants and reserves to itself and its designees the sole right to relocate existing Common Areas and/or remove property for facilities from Common Areas, provided that such relocation or removal will not result in any Parcel being in violation of any Applicable Laws, and further provided that if such affected areas are identified on the Common Area Plan, Declarant shall record an amendment to this Declaration subject and pursuant to Section 10.1 below. Declarant hereby grants and reserves to itself and its designees the sole right to designate new areas or facilities as Common Areas, including the right to assign Upkeep responsibilities to newly designated Common Areas. Declarant may, without obligation, record an amendment to this Declaration subject and pursuant to Section 10.1 below with respect to newly designated Common Areas. Declarant may, on such terms as Declarant determines in its sole discretion, grant access and utility easements to other adjoining property over and across the Private Streets for ingress to and from such owner's respective property and/or to connect to and tie into SWM/BMP Facilities and utilities located on the Property from time to time. Upon request, any Owner whose Parcel includes a portion of the Private Streets, SWM/BMP Facilities or other utilities shall join in a recordable easement instrument to grant, confirm and extend such easement rights to such adjoining property owner(s) as designated by Declarant.

Section 3.3 Access for Upkeep. Declarant hereby reserves, declares and grants the right of access over and through any portion of the Property (excluding any Building) to Declarant, and its designees and/or assigns, and any Owner authorized herein to perform Upkeep on portions of the Common Areas, a property manager employed by any authorized Owner, and any other Persons authorized by Declarant in the exercise and discharge of their respective powers and responsibilities, including, without limitation, to perform Upkeep of Common Area or Upkeep of a Parcel in accordance with the terms of this Declaration.

Section 3.4 Easement for Emergency Access. Declarant, on behalf of itself and its successors and assigns, hereby grants an easement (1) to all police, fire, ambulance and other rescue personnel over and through all or any portion of the Property for the lawful performance of their functions during emergencies; and (2) to Declarant over and through all Parcels, if emergency measures are required in any Parcel to reduce a hazard thereto or to any other portion of the Property.

Section 3.5 No Obligations. Except as provided in Section 5.1 below, nothing contained in this Declaration shall impose upon Declarant or its successors or assigns any obligation of any nature to build, design, construct, repair or maintain any Common Areas, and nothing contained in this Declaration shall impose upon Declarant or its successors or assigns any obligation to provide utilities or other improvements or facilities to any Owner. Neither Declarant nor its successors or assigns shall be liable to any Owner or occupant by reason of any inaction relating to the enforcement or failure to enforce any provision of this Declaration. No Owner or occupant of any portion of the Property shall bring any action or suit against Declarant to recover any damages or to seek equitable relief because of the enforcement or failure to enforce any provision of the Declaration against a third party, but the foregoing will not relieve any Owner (including Declarant) to the extent it has, in its capacity as Owner, violated this Declaration. This Section shall not be construed to release or absolve Declarant, its successors or assigns from any obligation imposed by the duly adopted ordinances of the County.

Section 3.6 Declarant Rights. “Declarant Rights” are those rights reserved for the benefit of Declarant in this Declaration, including, without limitation, Declarant’s easements under and rights created under this Article 3 and any review and approval right reserved to Declarant in this Declaration. Declarant, in Declarant’s sole discretion, may transfer Declarant Rights (or any of them, in whole or in part) to any Person, Owner, Affiliate or any management company as Declarant may select to oversee and manage development of the Property by an instrument evidencing the transfer of Declarant Rights which may be recorded among the Land Records and such assignee/transferee need not own any portion of the Submitted Land. A partial transfer of Declarant Rights does not prevent the transferor Declarant from continuing to unilaterally exercise Declarant Rights with respect to land retained by such transferor Declarant or from making further partial assignments. The transfer of property owned by Declarant shall not operate to transfer or assign any or all of Declarant’s rights, such being accomplished only by express written assignment. As soon as reasonably practicable any Person succeeding to Declarant’s Rights shall also notify all Owners, together with a copy of the instrument evidencing the transfer of Declarant’s Rights. Upon making an assignment of its obligations hereunder Declarant shall be released from any liabilities and obligations hereunder for performance of Declarant’s obligations hereunder and shall remain responsible only for its Obligations as an Owner with respect to any Parcel owned by it.

Section 3.7 Duration and Assignment of Declarant Rights. Declarant may assign its rights under this Article 3 in whole or in part to, or share such rights with, one or more other Persons or Owners, exclusively, simultaneously or consecutively without the consent of any Owner of Person. Designees of Declarant may include, without limitation, any utility company or authority, the County, GDOT or any other Person or Owner. No Person shall be a designee of Declarant unless Declarant so indicates in a writing explicitly setting forth the designated rights under this Article 3. The rights and easements reserved by or granted to Declarant pursuant to this Article 3 shall continue in perpetuity, unless specifically stated otherwise. Declarant may

terminate or release its rights under this Article 3 (or any portion thereof) at any time with respect to the entire Property or any portion thereof by a Supplementary Declaration or other recorded instrument.

Section 3.8 Limitations on Exercise of Rights and Easements.

- (a) These easements are subject to all other easements and encumbrances of record.
- (b) Declarant or any Owner, as appropriate, when exercising the rights and easements granted by this Article, shall: (i) give reasonable prior notice to all affected Owners, unless an emergency exists which precludes such notice; (ii) minimize any economic or aesthetic injury to the affected Parcels or the Common Area; and (iii) not unreasonably interfere with the affected Owners' use, enjoyment and benefit from such Owners' Parcels or the Common Area.
- (c) If an easement is relocated, the cost of such relocation shall be paid by the Owner requesting the relocation; provided, however, that no easement granted under this Declaration may be relocated without the express approval of the Declarant.
- (d) Any damage, including costs of repair and restoration, resulting from the exercise of the aforesaid rights and easements shall be promptly repaired and the site restored to the extent practicable by the Owner responsible for such damage.

ARTICLE 4
Specific Auto Outparcel Provisions

Section 4.1 Auto Outparcel Ingress and Egress. Notwithstanding anything to the contrary contained in this Declaration, with respect to the Auto Outparcel, the ingress and egress easement granted with respect to access to and from the Public Street pursuant to Section 2.1(c) of this Declaration shall be limited to those Private Streets providing access to and from the two (2) entrances to the Public Street that are nearest to the Auto Parcel (the "Auto Outparcel Access Easement Area"); provided, however, Declarant makes no warranties or representations about the extent of such access, e.g., ability to turn right or left onto any such road, or the location of roadway medians or traffic lights, as such roads are public roadways.

Section 4.2 Auto Outparcel Parking. Notwithstanding anything to the contrary contained in this Declaration, following the substantial completion of the initial development of the Auto Outparcel, the Parking Areas located thereon shall contain parking spaces for no fewer than thirty (30) standard-sized vehicles at all times, except for any temporary closure of all or any portion of such Parking Areas pursuant to the terms of this Declaration.

ARTICLE 5
Upkeep; Expenses

Section 5.1 Upkeep of Common Area; Responsibility for Shared Expenses. Except as provided in Section 5.2 below, Declarant, its designee or assignee, shall be responsible for the Upkeep of the Common Area in an orderly condition, and in a condition and repair consistent with similar retail centers in the County that have similar tenant mixes (the "Upkeep Standard"), the cost of which shall be a common expense shared by all Owners (except as provided herein) (collectively "Shared Expenses"). The Shared Expenses shall include the Declarant's payment of real estate taxes, assessments and insurance allocable to the easement areas established under this Declaration and to any Common Areas located on any Parcel owned by Declarant or its Affiliate (it being acknowledged and agreed that if the relevant taxing authority does not separately tax these areas, then the Declarant may allocate taxes and assessments for the entire Parcel owned by Declarant or its

Affiliate to these areas in its reasonable discretion) and the Declarant's actual and reasonable fees in defending the easement areas and Common Areas from claims, liability suits and condemnation, including any threat of the foregoing. For the avoidance of doubt, except as expressly provided in the immediately preceding sentence, each Owner shall be responsible for the payment of all real estate taxes, assessments and insurance applicable to the Parcel owned by such Owner. The Owners of each Parcel, by acceptance of a deed therefor, whether or not so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to Declarant, its designee or assignee, its Pro Rata Share of the Shared Expenses incurred in connection with Upkeep of the Common Area.

Each Owner's "Pro Rata Share" shall be a fraction, the numerator of which is the acreage of such Owner's Parcel and the denominator of which is acreage of all Parcels owned by all Owners who are, at the time of assessment, obligated to contribute to Common Area Shared Expenses, as reasonably determined by Declarant. Declarant reserves the right to unilaterally modify the Pro Rata Shares based on a reduction or increase in Common Area and/or Submitted Land and/or excessive use of any Common Area by a particular Owner or its tenant.

No Owner shall be liable for the payment of any part of the Shared Expenses assessed against its Parcel subsequent to the date of recordation of a conveyance by such Owner in fee of such Parcel. Prior to or at the time of any such conveyance, all liens, unpaid charges and Shared Expenses shall be paid in full and discharged. The purchaser of a Parcel shall be jointly and severally liable with the selling Owner for all unpaid Shared Expenses assessed against the latter for the amount shown on the assessment or judgment lien against the Parcel filed in the Land Records or if no assessment or judgment lien has been filed, the amount of the delinquent Shared Expenses, in any case without prejudice to the purchaser's right to recover from the selling Owner amounts paid by the purchaser therefor. The conveyed Parcel also shall remain subject to a lien for the amount owed in accordance with this Section until such amount has been paid. Notwithstanding anything in this Declaration to the contrary, (i) Declarant shall be exempt from paying any Shared Expenses on any undeveloped Parcel owned by it (i.e., no Building), and (ii) any Parcel which is not usable or developable due to the predominance of Common Area or Environmental Areas on its site shall be exempt from Shared Expenses unless and until the construction of commercial structures commences thereon. Declarant shall have the right to engage a property manager (which may be an Affiliate) for the purposes of performing the Upkeep obligations of Declarant and the costs of such property manager shall be deemed a Shared Expense.

Section 5.2 Upkeep of Parcels by Owners. Each Owner shall maintain (or cause to be maintained) such Owner's Parcel and all Buildings and improvements located on the Parcel, other than the Common Areas (subject to the provisions in this paragraph), in accordance with the Upkeep Standard at such Owner's sole expense and without reimbursement from any other Owner. In addition, Declarant reserves the sole and exclusive right, in Declarant's sole discretion, to assign to the Owner of any Parcel(s) the obligation to Upkeep all (or any portion of) Common Areas located on the Parcel at such Owner's sole expense and without reimbursement. Each Owner shall perform these responsibilities in such manner as shall not unreasonably disturb or interfere with the reasonable enjoyment by the other Owners of their Parcels. All repairs and replacements by an Owner pursuant to this Section 5.2 shall be substantially similar to the original construction and installation, but may be made with contemporary materials.

Section 5.3 Storm Water Management Facilities. The Upkeep obligations with respect to SWM/BMP Facilities shall cease and terminate if the County, through a department of public works or some similar agency, elects to maintain the SWM/BMP Facilities, or elects to maintain all such easements within the watershed where the easement is located.

Section 5.4 Permits; Bonds. Each Owner shall cooperate with the Declarant (or its designee) in obtaining any governmental approvals or permits as may be necessary for the Declarant (or its designee) to alter, improve, reconstruct or repair all or any portion of the Common Area which may be located on such

Owner's Parcel. To the extent Declarant or its designee is required to post any bonds as required by the County, GDOT and/or State authorities in connection with project wide improvements and/or development of any Parcel and that damage or deterioration of such bonded elements will delay and/or prevent the release of Declarant's or its designee's bonds, each Owner shall be deemed to have covenanted for the benefit of Declarant to promptly (i) repair and/or replace any damage or loss (including dead trees and landscaping) that occurs to any bonded improvement or landscaping located on such Owner's parcel, regardless of cause (other than due to the negligence or willful act of Declarant), and (ii) reimburse Declarant the full cost of repairing and/or replacing any bonded improvement or landscaping located outside of such Owner's Parcel where such improvement or landscaping was damaged by such Owner, its contractors, employees and agents.

Section 5.5. Mortgagees; Liens. Each Mortgagee who comes into possession of a Parcel by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Parcel free of any claims for unpaid Shared Expenses or charges against such Parcel which accrue under this Declaration prior to the time such Mortgagee or purchaser comes into possession thereof.

Section 5.6 Collection of Shared Expenses. Any Shared Expenses, or installment thereof, or other charge due hereunder not paid within thirty (30) days after the due date shall be delinquent and shall accrue a one (1) time late charge in the amount of five percent (5%) of such assessment for each Parcel. The late charge is in addition to Declarant's other enforcement powers pursuant to Article 9, including accrued interest.

Section 5.7 Damage. In the event any Common Area is damaged (beyond normal wear and tear) or requires repairs due to the wrongful or negligent acts of another Owner or its tenants, licensees, employees or invitees, such Owner causing the damage or need for repair shall be responsible for the costs incurred for repairing same.

ARTICLE 6

Additions, Alterations, and Improvements

Section 6.1. Approval of Plans.

(a) Prior to commencement of construction of any Building or other improvements on any Parcel (including signage), prior to any reduction in parking spaces on a Parcel, and prior to any additions, alterations, changes, remodeling or renovations to any such improvements on any Parcel which would be visible from the exterior of such Parcel, the Owner of such Parcel shall obtain the approval of the Declarant of the site plan and plans and specifications for such improvements or additions, alterations, changes, remodeling or renovations thereto; provided, however, that, notwithstanding anything in this Declaration to the contrary, Declarant may issue written waivers of the obligation of an Owner to comply with the terms of this Article 6. Notwithstanding the foregoing, with respect to the Auto Outparcel, Declarant's approval rights as set forth in this Section 6.1(a) shall only apply to any material amendments, alterations, additions and/or other modifications of the existing site plan and/or plans and specifications for the improvements located on the Auto Outparcel, which existing site plan and plans and specifications have been delivered to and approved by Declarant prior to the date of this Declaration.

(b) Declarant may from time to time establish requirements regarding the form and content of site plans and plans and specifications to be submitted for approval. Declarant shall have the power to impose reasonable application fees as well as the costs of reports, analyses or consultations required in connection with improvements or changes proposed by an Owner. Such fees shall be assessed against the Parcel owned by the Owner making the application; provided, however, that the Declarant shall inform the applicant Owner of the potential fees before incurring or assessing such fees and the Owner shall have the option to withdraw the application.

(c) Declarant shall act on all matters properly before it within thirty (30) days after its receipt of a complete application in the form prescribed by the Declarant.

Section 6.2 Additional Requirements. Approval by the Declarant shall not relieve an Owner from any obligation to obtain required governmental approvals and permits. If requested by Declarant, the Owner shall deliver all approvals and permits required by Applicable Law to the Declarant, as appropriate, prior to the commencement of the construction requiring such approval or permit. The requirements set forth in this Article 6 are in addition to any other requirements of record, contained in separate unrecorded agreements between an Owner and Declarant or required by Applicable Laws.

Section 6.3 Design and Construction. The Buildings constructed on the Submitted Land shall be designed so that the building wall footings shall not encroach from one Parcel onto another Parcel, except as provided for herein. The design and construction of all Buildings shall be of high quality.

Section 6.4 Compliance with Approved Plans and Specifications. Any Person obtaining approval of the Declarant shall not deviate materially from the plans and specifications approved without the prior written consent of the Declarant, or its designee, as applicable. Such Person shall notify the Declarant or Declarant when the alterations or improvements are complete.

ARTICLE 7

Use of Property

Section 7.1 Use of the Property.

(a) Permitted Uses. Except with the consent of the Declarant, Buildings in the Submitted Land shall be used for commercial purposes of the type normally found in a retail shopping center including, without limitation, financial institutions, service shops, business offices, medical offices, and retail stores. Except as otherwise restricted herein each Parcel may be occupied and used for any purposes for which such Parcel is zoned. No Parcel or the Common Area shall be used for any other purpose without the prior written approval of Declarant. Notwithstanding the foregoing, the operation of a facility primarily engaged in automotive service, repair, and/or maintenance shall be a permitted use with respect to the Auto Outparcel.

(b) Prohibited Uses. Except with the written consent of Declarant, an Owner shall not use, nor permit the use of, its Parcel for any of the uses set forth on Exhibit D.

(c) Main Shopping Center Parcel Exclusive Uses. The Owner of the Auto Outparcel shall not sell to, lease to or otherwise permit the Auto Outparcel or any portion thereof to be used for the operation of a business or businesses whose use or uses violate any of the current exclusive uses set forth in Exhibit E benefiting the Main Shopping Center Parcel (the "Main Shopping Center Parcel Existing Exclusives").

Should any of the existing tenants of the Main Shopping Center Parcel vacate their respective premises related to any of the Main Shopping Center Parcel Existing Exclusives, the related exclusive use shall be deemed expired, and this Declaration shall thereafter be deemed as amended to remove said exclusive use. Should any new tenants of the Main Shopping Center Parcel request an exclusive use provision in their lease, the Owners shall work together in good faith to accommodate the request, but nothing herein shall be construed as providing for the future use of any portion of the Main Shopping Center Parcel as automatically becoming an exclusive use or otherwise restricting the use of the other Parcels without the Owners' express written consent.

(d) Intentionally Omitted.

(e) Declarant Provision. Notwithstanding the foregoing, Declarant and its Affiliates which own any Parcel will not be deemed in violation or breach of this Section 7.1, (i) if Declarant's (or its Affiliate's) violation of the respective Main Shopping Center Existing Exclusives does not result in a violation of the applicable tenant lease which included such restriction or covenant or (ii) if such violation or breach is caused by a "rogue tenant" leasing any Parcel owned by Declarant or its Affiliate so long as Declarant or its Affiliate takes prompt good faith and commercially reasonable efforts to cause the "rogue tenant" to cease such violation following Declarant or its Affiliate receiving notice of said violation. In addition, Declarant may waive any Main Shopping Center Existing Exclusive which protects a Parcel that Declarant (or its Affiliate) owns.

Section 7.2 Construction. Any Owner undertaking development or construction activities on its Parcel shall take all steps reasonably necessary to prevent damage to adjacent Parcels or Common Areas and shall restore any land or improvement disturbed by such development or construction activities to the condition existing prior to the undertaking of such work. The Owner shall be responsible for the cleanliness of all construction vehicles working on the Property or on any portion of the Private Streets or adjoining public rights of way, during the site's development and construction. If any soil or debris is deposited on any other portion of the Property because of such development or construction, particularly on any private or public roads, such Owner, at its sole cost and expense, shall remove the same; otherwise, Declarant may perform such cleaning and charge the cost thereof to such Owner.

Section 7.3 Resubdivision. A Parcel may be subdivided or altered so as to relocate the boundaries between such Parcel and any adjoining Parcel only with the prior written approval of the Declarant. This Section is not intended to require the approval of the Declarant to leases, deeds of correction, deeds to resolve boundary line disputes or similar corrective instruments, or deeds granting any easement, right-of-way or license to any governmental or public entity, utility or the Declarant for any purpose.

Section 7.4 Rezoning and Proffer Amendments. No Owner (other than Declarant or its designees) shall seek to rezone without the prior written approval of the Declarant which may be granted or withheld in Declarant's sole discretion. Declarant reserves the right to seek to rezone or amend the zoning or proffers applicable to any portion of the Property without the approval of any Owner, except the Owner of the land described in the application and directly affected by the amendment. Each Owner shall observe and comply with the zoning and proffers in effect from time to time as and to the extent applicable to its respective portion of the Property.

ARTICLE 8

Indemnification; Insurance; Eminent Domain

Section 8.1 Indemnification. For all purposes, rights and interests granted herein, each Owner, for itself and its successors and assigns, hereby agrees to indemnify, defend and hold the other Owners harmless from and against all liabilities, obligations, claims, damages, demands, penalties, causes of actions, costs and expenses, including, without limitation, reasonable attorney's fees and litigation costs, which the indemnified Owner becomes obligated to pay on account of any bodily harm or property damage arising out of any negligent act or omission of the indemnifying Owner, its agents, servants, and/or employees related to the exercise of the easement rights granted pursuant to this Declaration, provided such liabilities, obligations, claims, damages, penalties, costs and expenses do not arise from the negligent acts or omissions of the indemnified Owner.

Section 8.2 Insurance.

(a) Each Owner of any portion of the Submitted Land shall procure and maintain in full force and effect throughout the term of this Agreement general public liability insurance and property damage insurance against claims for personal injury, death or property damage occurring upon, in or about its property, each

Owner's insurance to afford protection to the limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Each Owner shall provide the Declarant with certificates of such insurance from time to time upon written request to evidence that such insurance is in force. Such insurance may be written by additional premises endorsement on any master policy of insurance carried by the party which may cover other property in addition to the property covered by this Agreement. Such insurance shall provide that the same may not be canceled without ten (10) days prior written notice to Declarant.

(b) At all times during the term of this Agreement, each Owner shall keep improvements on its property insured against loss or damage by fire and other perils and events as may be insured against under the broad form of Uniform Extended Coverage Clause in effect from time to time in the Commonwealth of Virginia state in which the parties' respective properties are located, with such insurance to be for the full replacement value of the insured improvements.

(c) Policies of insurance provided for in this Section 8 shall name Declarant, and its designees, including any property manager engaged by Declarant to perform Upkeep, as insureds.

(d) Each Owner of any portion of the Submitted Land for itself and its property insurer hereby releases the other Owners of portions of the Submitted Land from and against any and all claims, demands, liabilities or obligations whatsoever for damage to property or loss of rents or profits resulting from or in any way connected with any fire or other casualty whether or not such fire or other casualty shall have been caused by the negligence or the contributory negligence of the party being released or by any agent, associate or employee of the party being released, this release being to the extent that such damage or loss is covered by the property insurance which the releasing party is obligated hereunder to carry or, if the releasing party is not carrying that insurance, then to the extent such damage or loss would be covered if the releasing party were carrying that insurance.

Section 8.3 Eminent Domain; Owner's Right to Award. Nothing herein shall be construed to give any Owner any interest in any award or payment made to another Owner in connection with any exercise of eminent domain or transfer in lieu thereof affecting another Owner's Parcel giving the public or any government any rights in said Parcel. In the event of any exercise of eminent domain or transfer in lieu thereof of any part of the Common Areas located in the Submitted Land, the award attributable to the land and improvements of such portion of the Common Areas shall be payable only to the owner thereof, and no claim thereon shall be made by the owners of any other portion of the Common Areas. All other owners of the Common Areas may file collateral claims with the condemning authority for their losses which are separate and apart from the value of the land area and improvements taken from another owner.

Section 8.4. Restoration of Common Areas. The owner of any portion of the Common Areas so condemned or damaged shall promptly repair and restore the remaining portion of the Common Areas within its respective Parcel as nearly as practicable to the condition of the same immediately prior to such condemnation or transfer, to the extent that the proceeds of such award are sufficient to pay the cost of such restoration and repair and without contribution from any other Owner.

ARTICLE 9

Remedies; Compliance

Section 9.1 Compliance; Relief

(a) Without limiting any remedy provided for in this Declaration, the Owners shall have the right to enforce, by proceedings at law or in equity, all easements, restrictions, and covenants imposed by the provisions of this Declaration, or any amendment hereto, including the right to prevent the violation of any such easements, restrictions or covenants and the right to recover actual, direct damages for such violation;

provided in no event may any party recover indirect or punitive damages in connection with this Declaration. Such proceedings shall include the right to restrain by injunction any violation or threatened violation by another of any of the terms, covenants, restrictions or conditions herein or to obtain a decree to compel performance thereof, it being agreed that the remedy at law for a breach of such term, covenant or condition is not adequate. No breach of these provisions shall entitle any Owner or other party to cancel, rescind or otherwise terminate the easement rights established herein, but such limitation shall not affect any of the other rights or remedies hereunder. Except for the Owners, no other Person, including any tenant of Submitted Land or portion thereof, shall have any right to enforce this Declaration.

(b) In addition to all other remedies available at law or in equity, upon the failure of a defaulting Owner to cure a breach of this Declaration within thirty (30) days following written notice thereof by Declarant (unless, with respect to any such breach the nature of which cannot reasonably be cured within such 30-day period, the defaulting Owner commences such cure within such 30-day period and thereafter diligently prosecutes such cure to completion), Declarant (and/or its designee) shall have the right to perform such obligation contained in this Declaration on behalf of such defaulting Owner and be reimbursed by such defaulting Owner upon demand for the reasonable costs thereof. Notwithstanding the foregoing, in the event of (i) an emergency, (ii) blockage or material impairment of the easement rights, and/or (iii) the unauthorized parking of vehicles, Declarant (and/or designee) may (without obligation) immediately cure the same and be reimbursed by the other Owner upon demand for the reasonable cost thereof.

(c) In any proceedings arising out of any alleged default by an Owner or any suit brought by an Owner, the prevailing party shall be entitled to recover the costs of such proceeding and reasonable attorneys' fees, even if the proceeding is settled prior to judgment.

(d) The failure of Declarant or a responsible Owner to enforce any right, provision, covenant or condition which may be granted shall not constitute a waiver of the right of Declarant or Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to Declarant or any Owner pursuant to any term, provision, covenant or condition herein shall be deemed to be cumulative, and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party herein at law or in equity.

(e) If a default by any Owner in paying any applicable sum properly assessed against such Owner's Parcel (including, without limitation, Shared Expenses) pursuant to the terms hereof continues for a period in excess of thirty (30) days, interest at five percent (5%) per annum.

(f) Failure to comply with any of the terms herein shall be grounds for relief, including, without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for herein, and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by Declarant, its designees or, if appropriate, by any aggrieved Owner and shall not constitute an election of remedies.

ARTICLE 10

Miscellaneous

Section 10.1 Amendment by Declarant. In addition to corrective amendments made pursuant to this Article, and notwithstanding anything herein to the contrary, Declarant may unilaterally, without the approval or consent of any Owner or Mortgagee (except as expressly required below), amend, modify or waive the application of any provision of this Declaration to: (1) satisfy the requirements of any government, governmental agency or Mortgagee; (2) reflect the relocation of boundary lines between the Common Area and any Parcels or among any Parcels; (3) amend Exhibit A and Exhibit C (pursuant to this Declaration);

(4) remove property from Common Areas, relocate existing Common Area or designate additional property or facilities as Common Area; provided that if the Private Streets shown on the Common Area Plan are closed or relocated, practical access between the Parcels and the Public Streets shall continue to be maintained (5) modify or waive the applicability of any of the covenants and restrictions herein with respect to any Parcel; (6) extend rights to use the Common Area to adjoining properties not included within the Submitted Land, on such terms as Declarant determines in its sole discretion; (7) to memorialize the exercise of any right reserved to Declarant in this Declaration (including the exercise of any approval, consent or waiver by Declarant herein or assignment of rights by Declarant), provided Declarant is under no obligation to record any amendment or supplement in such event; and (8) modify or amend any other provision hereof so long as no new obligation is imposed on any Owner holding title to a Parcel as of the date of such amendment. Notwithstanding the foregoing, to the extent that a modification or amendment to this Declaration for the purposes described in (2), (3), (4), (7) or (8) above would (A) change such the size or configuration of a Parcel, or (B) impose new or additional obligations on such Parcel, then the Owner and Mortgagee of such Parcel that is being subjected to the matters described in (A) or (B) will also be a necessary party to the proposed amendment or modification.

Section 10.2 Extraordinary Actions and Material Amendments. Notwithstanding anything in this Declaration to the contrary, an amendment to the Declaration shall not be considered material if made by Declarant for the purposes of correcting technical errors or for clarification or if permitted as a unilateral act of Declarant by this Article or other provisions of this Declaration. Any amendment to the Declaration adding provisions to or interpreting the application of provisions of the Declaration (contained in a Supplementary Declaration and applied to a specific portion of the Property) shall not be considered a material amendment.

Section 10.3 Corrective and Supplemental Amendments. Declarant may unilaterally sign and record a corrective amendment or supplement to the Declaration to correct a mathematical mistake, an inconsistency or a scrivener's error, to make supplemental additions to the covenants and provisions hereof which do not materially adversely affect any then-existing Owner's use of its parcel, or to clarify an ambiguity in the Declaration with respect to an objectively verifiable fact (including, without limitation, recalculating the liability for Shared Expenses or the number of votes appertaining to a Parcel), within five (5) years after the recordation of the Declaration containing or creating such mistake, inconsistency, error or ambiguity.

Section 10.4 Estoppels. Each Owner, as applicable, shall, within ten (10) business days of the written request of any Owner, deliver to any requesting Owner or any prospective mortgagee or purchaser or assignee of such requesting Owner's Parcel, an estoppel certificate which will confirm (i) that, to such party's actual knowledge, there is no default by the requesting Owner under this Declaration (or if there is such a default, specifying the default), (ii) that no sums of money are due and payable from the requesting Owner pursuant to this Declaration (or specifying the amount owed and to whom it is owed), (iii) that the Declaration has not been amended or supplemented or, if so, such estoppel certificate shall identify amendments or supplements, and (iv) such other facts as are reasonably requested.

Section 10.5 No infringement on the Rights of Existing Tenants. This Declaration and the covenants, easement and rights granted herein are subject to the rights of existing tenants under any leases (as they exist as of the date of this Declaration) encumbering the Submitted Land as of the date of this Declaration. Any easements or rights granted to third parties (including users, occupants, guests, invitees, utility providers and contractors) in this Declaration shall not include any portions of the Submitted Land which are exclusively leased by a tenant as of the date of this Declaration if such easement or right would result in a breach of the applicable lease. Declarant reserves the right to amend this Declaration to comply with the provisions of this Section 10.5.

This instrument may be executed in two or more counterparts, each of which shall constitute one and the same instrument.

EXHIBITS

- Exhibit A – Submitted Land
- Exhibit B – Subdivision Plat
- Exhibit C – Common Area Plan
- Exhibit D – Prohibited Uses
- Exhibit E – Main Shopping Center Parcel Existing Exclusives

[Signatures on the following page]

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed pursuant to due and proper authority as of the date first set forth above.

DECLARANT:

RCC SHENANDOAH PLAZA, LLC,
a Virginia limited liability company

By: HRE Fund GP III, LLC, a Delaware limited liability company
Its: Manager

By: _____ [SEAL]
Ashby R. Hackney, Managing Member

COMMONWEALTH OF VIRGINIA)
) SS:
COUNTY/COUNTY OF _____)

I, the undersigned, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Ashby R. Hackney, Managing Member of HRE Fund GP III, LLC, a Delaware limited liability company, as Manager of RCC Shenandoah Plaza, LLC, a Virginia limited liability company, whose name is signed to the foregoing instrument, has acknowledged the same before me in the aforesaid jurisdiction on behalf of the corporation.

GIVEN under my hand and seal on _____.

[SEAL]

Notary Public
Printed Name: _____
My Registration Number is: _____
My commission expires: _____

EXHIBIT A
Submitted Land
(Legal Description)

[Note the final description will be based on the Subdivision Plat]



EXHIBIT B

Subdivision Plat

[attach final subdivision plat]

EXHIBIT C

Common Area Plan

EXHIBIT D

Prohibited Uses

The following uses shall be prohibited:

1. Parking deck;
2. Any business or use which creates strong, unusual or offensive odors, fumes, dust or vapors; is a public or private nuisance; emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness; or creates unusual fire, explosive or other hazard;
3. Any operation primarily used for assembly, manufacturing, distilling, refining, smelting, agricultural, or mining operation;
4. Any flea market;
5. Any mobile home park, trailer court, labor camp, junk yard, or stockyard;
6. Any dumping, disposing, incineration or reduction of garbage;
7. Any central laundry or dry cleaning plant or any Laundromat;
8. Any mortuary, crematorium or funeral home; provided the sale of caskets and/or funeral services shall not be prohibited, so long as no remains are brought to or located on the Property and no funeral services are actually provided or conducted on the site;
9. Any adult (pornographic) book store, sex shop or any establishment selling or exhibiting pornographic materials or drug related paraphernalia;
10. Junk yard; recycling facility.

EXHIBIT E

Main Shopping Center Parcel Existing Exclusives

[forthcoming from Seller]

Prepared by:
Hirschler
2100 East Cary Street
Richmond, VA 23223

Tax PID: N57C 004

CONSENT AND SUBORDINATION AGREEMENT

FOR VALUABLE CONSIDERATION, **Ameris Bank** ("Lender"), is the owner and holder of the promissory note secured by each of (i) that certain Deed to Secure Debt, Assignment of Leases and Rents, Security Agreement, and Fixture Filing from **RCC Shenandoah Plaza, LLC**, a Virginia limited liability company ("Grantor"), to Lender, dated December 2, 2020, and recorded in the land records of Coweta County, Georgia (the "Land Records") in Deed Book 5192, Page 667 (the "DTSD"), and (ii) that certain Assignment of Leases and Rents from Grantor to Lender, dated December 2, 2020, and recorded in the Land Records in Deed Book 5192, Page 688 (the "ALR"). Lender does hereby consent to that certain Declaration of Easement, Covenants and Restrictions dated as of _____, 2024 (the "Declaration"), and executes this Consent and Subordination for subordination purposes. Lender acknowledges and agrees that the liens of each of the DTSD and the ALR is hereby subordinated to the Declaration.

IN WITNESS WHEREOF, the representative of Lender has signed this Consent and Subordination Agreement as of _____, 2024.

Ameris Bank

By: _____ (SEAL)
Name: _____
Title: _____

STATE/COMMONWEALTH OF _____)
_____ of _____), to-wit:

The foregoing instrument was acknowledged before me in the aforesaid jurisdiction, this ____ day of _____ 2024, by _____, who is _____ of Ameris Bank, on behalf of said bank. He is personally known to me or presented a drivers' license.

Notary Public
Registration Number: _____
My commission expires: _____



October 13, 2023

Board of Zoning Appeals
City of Newnan
25 LaGrange Street
Newnan, GA 30263

LETTER OF INTENT: Special Exception Request for a portion of parcel N57C004, located within the Shenandoah Plaza of Bullsboro Drive

Board of Zoning Appeals,

Please accept this Letter of Intent to provide a Special Exception for a proposed 37,156 square feet, development of a Christian Brothers Automotive located within current tax parcel N57C 004 off Bullsboro Drive. The Subject Property is currently used as off-street parking for the Shenandoah Plaza shopping center and zoned CGN (General Commercial District) within the QDC (Quality Development Corridor). The Applicant is seeking a Special Exception for the Subject Property to allow for “automobile repair and maintenance, heavy” use. The proposed Special Exception Exhibit attached hereto and dated 10/13/2023, shows a 5,980 square foot automotive repair facility with 30 parking spaces, setbacks, landscape buffers, and parking islands.

All required materials, including but not limited to a survey, legal description, site plan and architectural elevations, are included in this Special Exception application package for your review.

Thank you for your consideration of this application.

Sincerely,

Noah Chapman

Noah Chapman
Project Manager

CITY OF NEWNAN, GEORGIA



Application Form

For

Special Exception

July, 2000
Revised June, 2003
Application revised July, 2007



CITY OF NEWNAN, GEORGIA

25 LaGrange Street
Newnan, Georgia 30263
770-254-2354

APPLICATION FOR SPECIAL EXCEPTION

Date Received _____

Name of Applicant CHRISTIAN BROTHER AUTOMOTIVE - LATOYA MOTEN (PM)

Mailing Address 17725 KATY FREEWAY, SUITE 200, HOUSTON, TX 77094

Telephone 832.712.6114 E-Mail: LATOYA.MOTEN@CBAC.COM

Property Owner (Use back if multiple names) RCC SHENANDOAH PLAZA LLC

Mailing Address 228 BULLSBORO DRIVE, NEWNAN, GA 30263

Telephone 804.288.3081

Address of Property NOT ADDRESSED (LOCATED WITHIN SHENANDOAH PLAZA OFF BULLSBORO DRIVE)

Tax Parcel No.: N57C004 (PARENT PARCEL) Present Zoning Classification CGN

Proposed Special Exception Use HEAVY AUTOMOTIVE REPAIR

The special exception procedure is designed to provide an opportunity for discretionary review of requests to establish or construct uses or structures which have the potential for a deleterious impact upon the health, safety, and welfare of the public or where the impact of the use on the immediate area or the city in general related to traffic, utilities, or other factor requires additional review criteria; and, in the event such uses or structures are approved, the authority to impose such conditions that are designed to avoid, minimize, or mitigate potentially adverse effects upon the community or other properties in the vicinity of the proposed use or structure.

Applicants applying for special exceptions must provide a completed application. Please answer the following criteria questions:

1. Why is the use proposed as a special exception appropriate for the district and area for which it is being applied for?
A large majority of the services that CBA (Christian Brothers Automotive) provide are permitted in this district. Per the introductory letter provided to the City, only 1 percent of the services offered by CBA are considered "heavy automotive repair". Typically this service is only offered if a vehicle is brought in, in an unsafe or otherwise terminal condition. Those services, in addition to all others, will be provided indoors, and will not produce excessive noise, vibrations, or fumes. Overall, this establishment provides a use consistent with the current zoning (CGN) and the City of Newnan Future Land Use Map (Commercial).
2. How is the proposed special exception a benefit to the surrounding neighborhood and city in general rather than a special privilege to an individual property owner?
The proposed special exception will benefit the surrounding neighborhood and city, as it will allow Christian Brothers Automotive to provide additional services to residents of the City of Newnan and surrounding areas, as it pertains to their automobiles. The proposed special exception will not produce any excessive noise, vibrations, or fumes, nor will any work or storage be carried out outside of the building.
3. How do the existing zoning district regulations prevent the establishment of the proposed special exception use, and why are such conditions appropriate generally but an exception should be made in this individual circumstance?
Roughly 99% of the services the Christian Brothers Automotive are considered to be light automotive repair, and are permitted. For this district, the zoning code does not permit any heavy automotive repair, which maintains 1% of the business' services. Christian Brothers Automotive does not typically repair engines or transmissions. Per the introductory letter, this level of service is only offered if a vehicle is brought in an unsafe or otherwise terminal condition. In many cases, the customer may be referred to a specialist engine/transmission/replacement facility.

4. What is the proposed period of time the special exception is requested for?

The Applicant requests that the special exception remain in effect as long as the use of the Subject Property remains the same.

5. What additional criteria will you proffer to minimize the impact of the special exception on surrounding properties?

All maintenance work will be completed interior to the building, and will not produce any excessive noise, vibrations, or fumes. Additionally, no storage of vehicles or parts will be kept outside of the building.

The following information must be attached to the completed application and must also be furnished in digital, pdf format:

- a) A letter of intent giving the details of the proposed use of the property which should include, at a minimum, the following information:
- ✓ What the property is to be used for
 - ✓ The size (in acres if one acre or more and in square feet if less than one acre) of the parcel or tract
 - ✓ The zoning classification which exists at the time of the filing of this application
 - ✓ The number of lots expected (if subsequent subdivision is planned) and/or the number of dwelling units proposed
 - ✓ Dwelling unit size (if applicable)
 - ✓ For non-residential projects, provide the density of development in terms of gross square footage per acre
 - ✓ The number of parking spaces to be provided
 - ✓ The height of buildings
 - ✓ Any proposed buffers and modification to existing buffers
 - ✓ Availability of water and sewer facilities including existing distance to property
- b) Names and mailing addresses of all owners of all property within 250 feet of the subject property. This information can be obtained from the County Tax Assessor records, and this information is encouraged to be submitted in a MS Word mail merge data file format.
- c) Legal description of property with a metes and bounds description. This description must establish a point of beginning and from the point of beginning give each dimension bounding the property, which the boundary follows around the property returning to the point of beginning. If there are multiple property owners, all properties must be combined into one legal description. If the properties are not contiguous, a separate application and legal description must be submitted for each property. For requests for multiple zoning districts, a separate application and legal description must be submitted for each district requested. A copy of the deed may substitute for a separate description.
- d) A certified plat (stamped and dated) drawn to scale by a registered engineer, architect, land planner, land surveyor, or landscape architect registered in the State of Georgia, that includes the following information:
- Boundary survey showing property lines with lengths and bearings
 - Adjoining streets, existing and proposed, showing right-of-way
 - Locations of existing buildings dimensioned and to scale, paved areas, dedicated parking spaces, and other improvements on the property

- North arrow and scale
- Adjacent land ownership, zoning and current land use
- Total and net acreage of property
- Proposed building locations
- Existing and proposed driveways
- Lakes, ponds, streams, and other watercourses
- Floodplain, wetlands, and slopes equal to or greater than 20 percent
- Cemeteries, burial grounds, and other historic or culturally significant features
- Required and/or proposed setbacks and buffers
- Other elements as may be requested by the Planning Department Staff to explain application

Submit one (1) copy if the plat is 11" x 17" or smaller. For larger plats up to 36" x 48", submit twenty-five (25) folded copies or one (1) at the larger size plus twenty-five (25) clear copies at 8.5" x 11".

- e) Completed Disclosure of Campaign Contributions and Gifts form.
 - f) If the applicant and the property owner are not the same, complete a Property Owner's Authorization form and/or Authorization of Attorney form.
 - g) For multiple owners, an attached sheet with signatures duly notarized may be attached.
 - h) A community impact study must be submitted if the development meets any of the following criteria:
 - Office proposals in excess of 2000,000 gross square feet
 - Commercial proposals in excess of 250,000 gross square feet
 - Industrial proposals which would employ over 500 persons
 - Multi-family proposals in excess of 150 units
- Note:** This study shall provide a narrative and include tabular data on the proposed development's impact on schools, roads and streets, and public services including police, fire protection, sanitation, and taxes.
- i) A Development of Regional Impact (DRI) form shall be completed and submitted to the City to be transmitted to the Chattahoochee Flint Regional Development Center for review and comment. To determine whether the proposed use is a DRI, call the Planning Department at 770-254-2354.
 - j) Filing fee payable to the *City of Newnan* (**\$250.00**)

FOR OFFICIAL USE ONLY

RECEIVED BY _____

DATE OF FILING _____

BZA MEETING DATE _____

DATE OF NOTICE PUBLICATION _____

ACTION TAKEN (DATE) _____

REVIEW OF APPLICATION

An application for a special exception shall be filed with the Zoning Administrator to be considered by the Board of Zoning Appeals and shall contain such material and be processed pursuant as described below.

If you have any questions concerning this process, you may call The Planning Department at (770) 254-2354. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. The Board of Zoning Appeals meets on the first Tuesday of each month. Applications must be submitted by 9:00 a.m. at least forty-five (45) days prior to that date. Incomplete applications or applications submitted after the deadline will not be accepted.

1. Pre-Application Conference

Prior to filing an application, an applicant shall meet with the Planning Department and discuss his/her intentions with regard to a given application and questions regarding the procedures. A request for a pre-application conference shall be made in writing to the Planning Department and shall be accompanied by a sketch map of the site, a description of the proposed project or use, and a list of the issues to be discussed at the conference. No matters discussed at meeting shall be binding on either the applicant or the City. The Planning Department shall respond to each written request for a pre-application conference within fifteen (15) calendar days.

2. Review of Application for Completeness

No application shall be accepted and reviewed unless determined by the Planning Department to be complete.

3. Acceptance of Completed Application

Within seven (7) calendar day of receipt of an application, the Planning Department shall either accept the application if it is complete and forward to the applicant a notice of acceptance or reject the application if it is incomplete and forward to the applicant a notice of incompleteness specifying those areas of additional information necessary for review.

- a) If neither a notice of acceptance nor incompleteness is sent, the application shall be deemed accepted for the purposes of beginning the time limits of the Ordinance twenty-one (21) calendar days after the filing of the application.
- b) If notice of incompleteness is sent, the applicant may resubmit the application with the additional data required.
- c) If the application is not resubmitted, the Planning Department shall notify the applicant that the original application has been rejected as incomplete.

NOTE: The applicant may withdraw an application any time prior to the action on the request by the Board of Zoning Appeals.

After the official denial of an application, substantially the same application concerning any or all of the same property shall not be filed within twelve (12) months of the date of denial.



City of Newnan, Georgia

Attachment A

Disclosure of Campaign Contributions & Gifts

Application filed on _____, 2023 for action by the Board of Zoning Appeals on a special exception requiring a public hearing on property described as follows:

The undersigned below, making application for the BZA action, has complied with the Official Code of Georgia Section 36-67A-1, et.seq., Conflict of Interest in Zoning Actions, and has submitted or attached the required information on this form as provided

All individuals, business entities, or other organizations¹ having a property or other interest in said property subject of this application are as follows:

Christian Brothers Automotive Corporation (subject property currently under contract)

Have you as applicant or anyone associated with this application or property, within the two (2) years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Newnan City Council or a member of the Newnan Board of Zoning Appeals? ☐ Yes ☒ No

If YES, please complete the following section (attach additional sheets if necessary):

Name and Official Position of Government Official	Contributions (List all which aggregate to \$250 or more)	Date of Contribution (Within last 2 years)

I do hereby certify the information provided herein is both complete and accurate to the best of my knowledge.

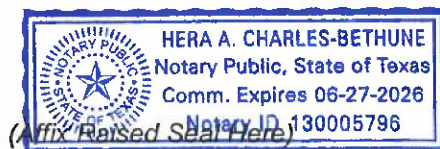
Signature of Applicant's Representative

Dana R. Mason, Vice President
Type or Print Name and Title

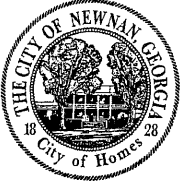
Signature of Notary Public

10/10/23

Date



¹Business entity may be a corporation, partnership, limited partnership, firm, enterprise, franchise, association, trade organization, or trust while other organization means non-profit organization, labor union, lobbyist or other industry or casual representative, church, foundation, club, charitable organization, or educational organization.



City of Newnan, Georgia

Attachment B

Property Owner's Authorization

The undersigned below, or as attached, is the owner of the property which is the subject of this application. The undersigned does duly authorize the applicant named below to act as applicant in the pursuit of a special exception of the property.

Name of Property Owner RCC Shenandoah Plaza LLC

Telephone Number 804-288-3081

Address of Subject Property 228 Bullsboro Dr

Newnan, GA 30263

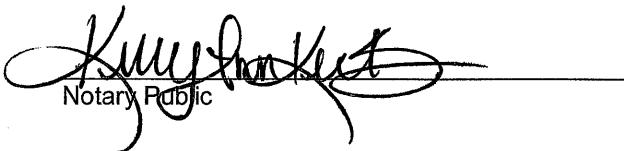
I swear that I am the owner of the property which is the subject matter of the attached application, as it is shown in the records of Coweta County, Georgia.


Signature of Property Owner

Personally appeared before me

Ashby Hackney

who swears the information contained in this authorization is true and correct to the best of his/her knowledge and belief.


Notary Public



(Affix Raised Seal Here)

10/11/2023
Date



November 20, 2023

Chris Cole – Senior Planner

City of Newnan, GA

RE: Christian Brothers Automotive – Newnan, GA – Special Exception

We are providing this response for the questions issued for the Special Exception application for the proposed Christian Brothers Automotive within the City of Newnan, GA. The questions and the responses are as follows:

Special Exception Questions:

- The application states more than once that the special exception will not produce any excessive noise. Can you please elaborate on this? What is considered excessive noise to the applicant? Also, what is the noise-level difference between work being done when the bay doors are closed vs. work being done when the bay doors are open (and roughly what percentage of the time are they open)?
Response: Average noise levels are 50 to 55 dBA, for reference, this is comparable to the sound of an air conditioner. Based on the national transportation noise maps Bullsboro Dr ranges between 55 to 60 dBA. Please see the attached noise studies.
- Does CBA have any decibel studies they have done for other sites previously?
Response: Yes, please see the attached noise study for 2 CBA sites.
- Whether the proposed special exception will adequately provide for safety from fire hazards and have effective measures of fire control.
The site will be designed to meet all state and local fire codes.
- The level and impact of any noise emanating from the site, including that generated by the proposed use, in relation to the uses in the immediate area.
The noise levels are in the range of other uses within this district. The nearest residential is over 1,200 ft. away from the proposed development and blocked by noise buffers such as the shopping center buildings and existing forest.
- The glare or light that may be generated by the proposed use in relation to uses in the immediate area.
All outdoor lighting proposed as part of this development will be designed to meet City of Newnan Code. Outdoor lighting will be shielded from adjacent parcels.
- The compatibility of the proposed use with other existing or proposed uses in the neighborhood, and adjacent parcels.
The immediate area is very commercialized and includes a shopping center, automotive dealer/repair, fast-food restaurants, and a bank.
- height of proposed buildings, structures, walls, and fences on the site.
The proposed building is shown at 27' – 8" tall at its highest point. See included colored elevations.
- The nature and extent of existing or proposed landscaping, screening and buffering on the site and in the neighborhood.
All landscaping will meet or exceed the City of Newnan landscaping and buffer requirements for this type of establishment in the current district.

- The timing and phasing of the proposed development and the duration of the proposed use.
Response: Construction is to start tentatively 75 days after plans are all approved. The construction process typically takes 7-8 months. The proposed use is to be permanent and stay with the building/Christian Brothers Automotive.
- Whether the proposed special exception will result in the preservation or destruction, loss or damage of any topographic or physical, natural, scenic, archaeological or historic feature of significant importance.
The site is currently a paved parking lot for the Shenandoah Plaza Shopping Center and no destruction, loss, or damage of any significant or historical features is expected. If found, proper authorities will be notified.
- Whether the proposed special exception at the specified location will contribute to or promote the welfare or convenience of the public.
The proposed development will provide additional automotive repair services to the citizens of Newnan and the greater Area.
- The traffic expected to be generated by the proposed use, the adequacy of access roads and the vehicular and pedestrian circulation elements (on and off-site) of the proposed use, all in relation to the public's interest in pedestrian and vehicular safety and efficient traffic movement.
The proposed CBA development produces minimal additional traffic. Per the ITE Trip Generation Spreadsheet, this type of development produces only 125 total trips daily.
- Whether the proposed special exception will be served adequately by essential public facilities and services.
All essential public facilities and services are expected to be of service to the current site/development.
- The effect of the proposed special exception on groundwater supply.
No effect on the groundwater supply is expected.
- The effect of the proposed special exception on the structural capacity of the soils.
No effect on the structural capacity of the soils is expected.
- Whether the proposed use will facilitate orderly and safe road development and transportation.
The proposed development will be designed to DOT and Newnan standards.
- The effect of the proposed special exception on environmentally sensitive land or natural features, wildlife habitat and vegetation, water quality and air quality.
The site is currently a paved parking lot for the Shenandoah Plaza Shopping Center. The proposed development will provide additional landscaped areas. All waste from this development is to be disposed of through proper channels.
- Whether the proposed special exception use will provide desirable employment and enlarge the tax base by encouraging economic development activities consistent with the Comprehensive Plan.
The following development will provide skilled positions to the area.
- Whether the proposed special exception considers the needs of agriculture, industry, and businesses in future growth.
The proposed use will serve industry, businesses, and residents within the City of Newnan and greater Area.
- The location, character, and size of any outdoor storage.
Outdoor storage is not proposed as part of the CBA development.

- The proposed use of open space.
Any open space will be landscaped/grassed according to City of Newnan requirements.
- The location of any major floodplain and steep slopes.
Per FEMA map 13077C0144D, no floodplain is shown on the site. No steep slopes were found in the initial investigation of the site.
- The location and type of any fuel and fuel storage.
Fuel will not be stored onsite.
- The location and use of any anticipated accessory uses and structures.
The only accessory structure is a dumpster enclosure and is shown on the preliminary site plan included with the Special Exception submittal.
- The proposed days/hours of operation.
Response: Mon- Fri 7 am – 6 pm. Only open on Saturday up to the first 180 days of operation
- The location and screening of parking and loading spaces and/or areas.
Minimal loading is needed for this use. Any loading can use the proposed 30' wide drive aisle for use. Site will be screened per City of Newnan requirements.
- The location and nature of any proposed security features and provisions.
Response: Security features to be determined by the Franchisee later.
- A description of any features above the roof line of any structures.
None proposed as part of this development.
- The number of employees.
Response: 8-10 people
- The location of any existing and/or proposed adequate on and off-site infrastructure.
Please refer to the preliminary site plan submitted as part of the Special Exception process.
- Any anticipated odors which may be generated by the uses on site.
None are anticipated.
- Whether the proposed special exception uses sufficient measures to mitigate the impact of construction traffic on existing neighborhoods and school areas.
The site is located within an existing shopping center on a main travel way within the City of Newnan. Construction traffic is not expected to impact school or residential areas.

Should you have any questions or require any additional information, please contact me at 678-257-1929 or via email at nchapman@gaskinslecrow.com.

Sincerely,

Noah Chapman
Gaskins + LeCraw



City of Newnan, Georgia – Board of Zoning Appeals

Date: December 5, 2023

Application Number: 2023-31

Agenda Item: Variance Request-3 Alpine Drive

Prepared and Presented by: Dean Smith, Planner

Purpose: To hear a request for a variance to reduce the side setback for a detached carport.

Applicant/Property Owner: Mary Norton
3 Alpine Drive
Newnan, GA 30263

Zoning: Suburban Residential Single-Family Dwelling District-Medium Density (RS-15)

Present Use: Single Family Residence

Proposed Use: Single Family Residence

Pertinent Regulations: Article 3, Section 3-12, Table 3-C of the Zoning Ordinance.

Applicant's Position: The following are excerpts from the applicant's variance petition: "...My proposal seeks to construct a carport on an existing lot and due to the lot's shallowness, I am seeking a variance for the left-hand side setback: I am requesting a variance from the current requirement of 5 feet to 1.5 feet and ...the rationale behind this variance request is to utilize the existing slab efficiently and to accommodate my need for a carport...The lot's shallowness leaves me with no other options for building a carport and with this variance, I would have no feasible location to construct the carport...."







Basis for Granting Variance

The Board of Zoning Appeals shall base its required findings of fact upon particular evidence presented to it in each specific case where the property owner can show all of the following to be true:

- A. The strict application of the terms of this Ordinance would effectively prohibit or unreasonably restrict utilization of the property because of all of the following:
 - ✓ There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography; and,
 - ✓ Such conditions are peculiar to the particular piece of such property involved; and,
 - ✓ Such conditions were not imposed by the action or will of the owner of the property; and,
 - ✓ The application of the Ordinance to the particular piece of property would create an unnecessary hardship other than a financial hardship in which the applicant would receive a lower rate of financial return on the use of the property if the variance is denied; and,
 - ✓ Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance.
- B. In addition, the Board of Zoning Appeals shall affirmatively determine that:

- ✓ The granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.

The condition or situation of the property which gives rise to the need for such variance is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

Planning Department's Review and Findings:

The Board of Zoning Appeals has heard similar requests for setback reductions for detached garages and carports: 31 Alpine Drive in 2021; 32 Dixon Street in 2020 and 6 Reese Street in 2014 are but to name a few.

City regulations establish a 5-foot setback for a detached structure. The proposed structure will be a carport with no power or heat source being a part of the structure.

As of the date of this report's preparation, staff have received no objections from the public as of the date of this report.

Recommendation:

Options:

- A. Grant the variance request, with the condition that construction will be consistent with the elevations and plans provided as part of this application.
- B. Deny the variance request

In summary, staff does not have any objection to granting the request, should the Board members deem it appropriate to do so. Staff recommends Option A. There are extraordinary and exceptional conditions pertaining to this particular piece of property in question because of its size and shape; Such conditions are peculiar to the particular piece of property involved and relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Ordinance and are limited based upon the subject property's location and restrictions of the property lines making it burdensome to add to the existing structure.

Attachments:

Application



CITY OF NEWNAN, GEORGIA

25 LaGrange Street
Newnan, Georgia 30263
770-254-2354

NEWNAN
GEORGIA

APPLICATION FOR VARIANCE

Name of Applicant Mary Norton
Mailing Address 3 Alpine Dr. Newnan GA 30263
Telephone 770-301-1029 E-Mail: mj.norton1029@gmail.com
Property Owner (Use back if multiple names) Mary Norton
Mailing Address 3 Alpine Dr. Newnan GA 30263
Telephone 770-301-1029
Address/Location of Property 3 Alpine Dr. Newnan GA 30263
Tax Parcel No: N29 0001 023A
Present Zoning Classification: RS-15
Present Land Use Residential
Intended Use Residential

Any person owning property or having a possessory or contract interest in property and the consent of the owner, may file an application for variance in regard to such property with the Board.

If you have any questions concerning this process, you may call the Planning and Zoning Department at (770) 254-2354. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. The Board of Zoning Appeals meets on the first Tuesday of each month. Applications must be submitted by 9:00 a.m. at least forty-five (45) days prior to that date. Incomplete applications or applications submitted after the deadline will not be accepted.

I (We) hereby request the following variance from the provisions of section(s) _____ of the Zoning Ordinance/Subdivision Regulations: _____.

In order for the Board to consider the request, it must be claimed "application of the Ordinance to the particular piece of property would create an unnecessary hardship". Please answer the following criteria questions:

1. What are the particular provisions or requirements of the Ordinance that prevent the proposed construction on, or use of, the property?

See attached letter

2. What is the existing zoning of the property, including any previously approved modifications, conditions, or proffers?

3. What are the special conditions, circumstances or characteristics of the land, building or structure that prevent the use of the land in compliance with the requirements of the Ordinance?
4. What is the particular hardship that would result if the specified provisions or requirements of the Ordinance were to be applied to the subject property?
5. What is the minimum extent to which it would be necessary to vary the requirements of the Ordinance in order to permit the proposed construction on, or use of, the property?

The Board of Zoning Appeals shall base its required findings upon the particular evidence presented in each specific case where the property owner can show:

A. The strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict utilization of the property because:

- ✓ There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.
- ✓ Such conditions are peculiar to the particular piece of such property involved.
- ✓ Such conditions were not imposed by the action or will of the owner of the property.
- ✓ The application of the Ordinance to the particular piece of property would create an unnecessary hardship. Such hardship does not include financial hardship in that if the variance were granted, the applicant could receive a higher rate of financial return on the use of the property and without the variance, a lesser but still reasonable return could be realized.
- ✓ Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Ordinance.

B. The granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.

C. The condition or situation of the property, which give rise to the need for such variance, is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.

Included with the application, the following information is required and must also be furnished in digital, pdf format:

- ✓ Plat of property, illustrating existing development and requested variance.
- ✓ Plans or drawings necessary to illustrate the requested variance.
- ✓ Legal description of property.
- ✓ ~~List of all the names and addresses of all property owners within 250 feet of subject property. This information can be found at the Coweta County Tax Assessors Office.~~

✓ Check for applicable fees (\$250.00).

I (We) do hereby certify the information provided herein is both complete and accurate to the best of my (our) knowledge, and I (we) understand any inaccuracies may be considered just cause for invalidation of this application, and any action taken on this application. I (We) do hereby understand a variance of any requirement does not exempt the development from any other requirements of the Zoning Ordinance, Subdivision Regulations, or other City or State Regulations.

Mary Norton

Applicant(s) Name(s) (Please Print)

Mary Norton

Signature of Applicant(s)

FOR OFFICIAL USE ONLY

RECEIVED BY Dean Smith

DATE OF FILING 10/11/23

BZA MEETING DATE 12/5/23

DATE OF NOTICE PUBLICATION _____

ACTION TAKEN (DATE) _____



City of Newnan, Georgia
Attachment A

Property Owner's Authorization

The undersigned below, or as attached, is the owner of the property which is the subject of this application. The undersigned does duly authorize the applicant named below to act as applicant in the pursuit of a variance for property.

Name of Property Owner Mary J. Norton

Telephone Number 703 01-1029

Address of Subject Property 3 Alpine Dr.
Newnan, GA 30263

I swear that I am the owner of the property which is the subject matter of the attached application, as it is shown in the records of Coweta County, Georgia.

Mary J. Norton
Signature of Property Owner

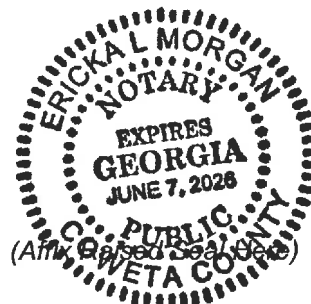
Personally appeared before me

Ericka Morgan / Rudy A. Essling

who swears the information contained
in this authorization is true and correct
to the best of his/her knowledge and
belief.

Ericka L. Morgan
Notary Public

10/5/23
Date



Mary Norton
3 Alpine Drive
Newnan, Georgia 30263

Subject: Request for Variance - Carport Construction on Existing Lot

Dear Members of the Zoning Board,

I am writing to formally request a variance to the existing zoning regulations for our property located at 3 Alpine Drive Newnan, Georgia. My proposal seeks to construct a carport on the existing lot, and due to the lot's shallowness, we are seeking a variance for two specific setbacks:

1. The left-hand side setback: I am requesting a variance from the current requirement of 5 feet to 1.5 feet.
2. The top edge of the slab setback: I am requesting a variance from the current requirement of 5 feet to 1.5 feet

The rationale behind this variance request is to utilize the existing slab efficiently and to accommodate my need for a carport. The lot's shallowness leaves me with no other options for building a carport, and without this variance, I would have no feasible location to construct the carport.

I would also like to point out that on the plat and county tax records there is already a carport/garage structure on the slab.

I want to emphasize that granting this variance would not create any adverse impact on the surrounding properties or the neighborhood. I am committed to ensuring that the construction adheres to all safety and aesthetic standards, and I am willing to work with the board to address any concerns that may arise.

Additionally, I am open to any conditions or requirements that the board deems necessary to mitigate any potential concerns.

Thank you for your time and consideration of our request. I look forward to the opportunity to discuss this matter with the Zoning Board and find a solution that meets both our needs and the requirements of the zoning regulations.

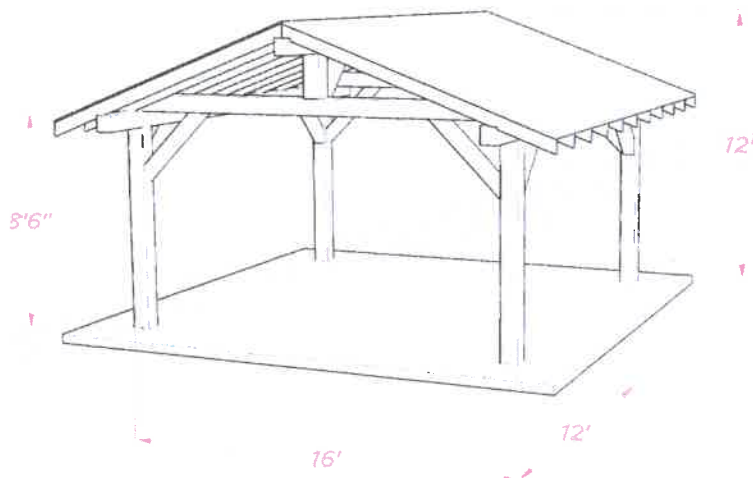
Sincerely,

Mary Norton
(770)-301-1029



16' x 12' Pavilion Plans

sweethomedecorplans.com



T. Y. MATTOX

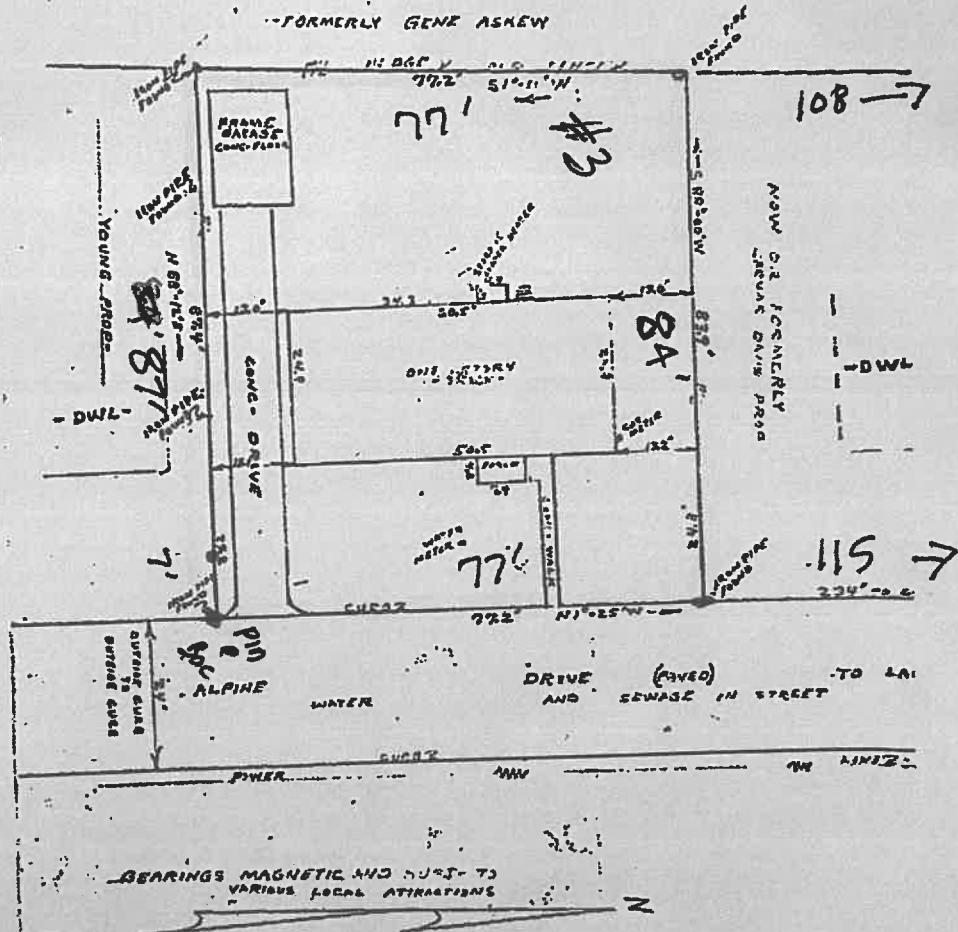
REGISTERED SURVEYOR GEORGIA NO. 10

Route 3, Box 105

Phone 253-5195

NEWNAN, GEORGIA 30263

FORMERLY GENE ASKEW



BEARINGS MAGNETIC AND ADJUSTED TO VARIOUS LOCAL ATTRACTIONS



SITUATION PLAN FOR
PATRICIA ANN STANFIELD
LOCATED IN CITY OF NEWNAN
COWETA COUNTY GEORGIA
1741101 REG. L.S. GA. 10

DATE: 11-25-70

SCALE

NOTE: PLAT SUB-RAV ALPINE

In my opinion this plat is a correct representation of the
platted and has been prepared in conformity with the minimum
and requirements of law.



Coweta County, GA



Map

Search

Sales Search

Sales List

More ▾

Owner

NORTON MARY J
3 ALPINE DR
NEWNAN, GA 30263

Land

Columns ▾

Type	Description
➤ Residential	Res-Woodbine

Residential Improvement Information

Style	1 Family (Detached)
Heated Square Feet	1200
Interior Walls	Sheetrock
Exterior Walls	Masonry (Brick)
Foundation	Crawl/Masonry
Attic Square Feet	0
Basement Square Feet	0
Year Built	1957
Roof Type	Architectural (310)
Heating Type	Central Heat/AC
Number Of Full Bathrooms	1
Number Of Half Bathrooms	0
Value	\$104,590
House Address	3 ALPINE

Accessory Information

Columns ▾

Description	Value
➤ Residential Fence	\$0
➤ Carport, detached (no slab)	\$1,944
➤ Homesite Imp: 3 Avg	\$5,000



After recording
Return to:
Donaghue & Chandler, LLC
931 Lower Fayetteville Rd Suite E
Newnan, GA 30263
Parcel ID #N29 0001 023A
File #: 23-0100

LIMITED WARRANTY DEED

**STATE OF GEORGIA,
COUNTY OF COWETA**

This Indenture made this **21st day of July, 2023** between **Julie Griffin and Shirley Rhodes** hereinafter called Grantor, of the first part, and **Mary J. Norton**, of the second part, hereinafter called Grantees (the words "Grantor" and "Grantees" to include their respective heirs, successors and assigns where the context requires or permits).

W I T N E S S E T H that: Grantor, for and in consideration TEN DOLLARS (\$10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

ALL THAT CERTAIN TRACT OR PARCEL OF LAND SITUATE, LYING AND BEING IN THE CITY OF NEWNAN, COWETA COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN ON THE WEST EDGE OF THE WEST CURB OF ALPINE DRIVE 234 FEET SOUTH OF THE INTERSECTION MADE BY THE WEST EDGE OF THE WEST CURB OF ALPINE DRIVE WITH THE CURB ON THE SOUTH SIDE OF LAGRANGE STREET AND RUNNING THENCE SOUTH 88 DEGREES WEST 83.9 FEET TO AN IRON PIN; THENCE SOUTH 1 DEGREE 11 MINUTES WEST 77.2 FEET TO AN IRON PIN; THENCE NORTH 88 DEGREES 12 MINUTES EAST 87.4 FEET TO AN IRON PIN ON THE WEST EDGE OF THE WEST CURB OF ALPINE DRIVE; THENCE NORTH 1 DEGREES 25 MINUTES WEST ALONG THE WEST EDGE OF THE WEST CURB OF ALPINE DRIVE 77.2 FEET TO THE BEGINNING POINT AS SHOWN BY SITUATION PLAN MADE FOR PATRICIA ANN STANFIELD BY T.Y. MATTOX, SURVEYOR ON 10/26/1970, RECORDED IN PLAT BOOK 15, PAGE 11, COWETA COUNTY, GEORGIA LAND RECORDS, TO WHICH PLAT REFERENCE IS HEREBY MADE FOR A MORE ACCURATE DESCRIPTION OF SAID PROPERTY TOGETHER WITH ALL BUILDINGS AND IMPROVEMENTS LOCATED THEREON, AND ALL PLANTS, TREES AND SHRUBBERY NOW ON THE PREMISES, (HEREINAFTER THE "PROPERTY).

THE ABOVE DESCRIBED PROPERTY IS CONVEYED SUBJECT TO SUCH MATTERS AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 15, PAGE 11, COWETA COUNTY, GEORGIA RECORDS.

This conveyance is made subject to all zoning, covenants, ordinances, easements, rights of way and restrictions of record affecting said bargained premises.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

AND THE SAID Grantor, for their heirs, executors and administrators, will warrant and forever defend the right and title to the above described property, unto the Grantee, their heirs and assigns, against the claims of all persons owning, holding or claiming by through or under the Grantor.

LIMITED WARRANTY DEED

**STATE OF GEORGIA,
COUNTY OF COWETA**

This Indenture made this **21st day of July, 2023** between **Julie Griffin and Shirley Rhodes** hereinafter called Grantor, of the first part, and **Mary J. Norton**, of the second part, hereinafter called Grantees (the words "Grantor" and "Grantees" to include their respective heirs, successors and assigns where the context requires or permits).

W I T N E S S E T H that: Grantor, for and in consideration TEN DOLLARS (\$10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

ALL THAT CERTAIN TRACT OR PARCEL OF LAND SITUATE, LYING AND BEING IN THE CITY OF NEWNAN, COWETA COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN ON THE WEST EDGE OF THE WEST CURB OF ALPINE DRIVE 234 FEET SOUTH OF THE INTERSECTION MADE BY THE WEST EDGE OF THE WEST CURB OF ALPINE DRIVE WITH THE CURB ON THE SOUTH SIDE OF LAGRANGE STREET AND RUNNING THENCE SOUTH 88 DEGREES WEST 83.9 FEET TO AN IRON PIN; THENCE SOUTH 1 DEGREE 11 MINUTES WEST 77.2 FEET TO AN IRON PIN; THENCE NORTH 88 DEGREES 12 MINUTES EAST 87.4 FEET TO AN IRON PIN ON THE WEST EDGE OF THE WEST CURB OF ALPINE DRIVE; THENCE NORTH 1 DEGREES 25 MINUTES WEST ALONG THE WEST EDGE OF THE WEST CURB OF ALPINE DRIVE 77.2 FEET TO THE BEGINNING POINT AS SHOWN BY SITUATION PLAN MADE FOR PATRICIA ANN STANFIELD BY T.Y. MATTOX, SURVEYOR ON 10/26/1970, RECORDED IN PLAT BOOK 15, PAGE 11, COWETA COUNTY, GEORGIA LAND RECORDS, TO WHICH PLAT REFERENCE IS HEREBY MADE FOR A MORE ACCURATE DESCRIPTION OF SAID PROPERTY TOGETHER WITH ALL BUILDINGS AND IMPROVEMENTS LOCATED THEREON, AND ALL PLANTS, TREES AND SHRUBBERY NOW ON THE PREMISES, (HEREINAFTER THE "PROPERTY).

THE ABOVE DESCRIBED PROPERTY IS CONVEYED SUBJECT TO SUCH MATTERS AS SHOWN ON PLAT OF RECORD IN PLAT BOOK 15, PAGE 11, COWETA COUNTY, GEORGIA RECORDS.

This conveyance is made subject to all zoning, covenants, ordinances, easements, rights of way and restrictions of record affecting said bargained premises.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

AND THE SAID Grantor, for their heirs, executors and administrators, will warrant and forever defend the right and title to the above described property, unto the Grantee, their heirs and assigns, against the claims of all persons owning, holding or claiming by through or under the Grantor.

IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal this day and year first above written. Signed, sealed and delivered in the presence of:

Witness

Julie Griffin

Notary Public

Shirley Rhodes by Julie Griffin,
as Attorney-in-Fact



City of Newnan, Georgia – Board of Zoning Appeals

Date: December 5, 2023

Application Number: 2023-32

Agenda Item: Variance Request- 17 Elm Street

Prepared and presented by: Dean Smith, Planner

Purpose: To hear a request for a variance to reduce a front building setback for a covered porch addition and to reduce the side and rear setbacks for a new detached garage.

Applicant/Property Owner: Roy Garner
P.O. Box 2424
Newnan, GA 30264

Zoning: Suburban Residential Single-Family Dwelling District-Medium Density (RS-15)

Present Use: Single Family Residence

Proposed Use: Single Family Residence

Pertinent Regulations: Article 4, Section 4-32, Table 4-A and Article 3, Section 3-12, Table 3-C of the Zoning Ordinance.

Applicant's Position: The applicant has provided the following statement, in part, regarding the variance request: "...It is my intention to add a front porch to my existing home on Elm Street...The dimensions of my porch would be 17 feet wide by 8 feet deep...The depth of 8 feet would put me in violation of approved allowances...Thus the reason for my variance...This addition, along with other improvements, would enhance the curb appeal and property value of my home and the neighborhood....I would also request to construct a 36-foot by 26-foot detached garage on the back corner of my property....I'm asking for a variance of 2 feet [reducing the setback from 5 feet to 3 feet] from property line to the east (side) and the north (rear)....I have a very large oak tree in almost the exact center of my back yard...the dimensions of this tree include a circumference of 17 feet, a height of 100 + feet, a root zone of at least 75 feet and an estimated age of over 100 years....It is definitely one of the largest trees on the north side of our city...allowing me to build a garage within 3 feet of my property line would hopefully protect this tree...."



Basis for Granting Variance

The Board of Zoning Appeals shall base its required findings of fact upon particular evidence presented to it in each specific case where the property owner can show all of the following to be true:

- A. The strict application of the terms of this Ordinance would effectively prohibit or unreasonably restrict utilization of the property because of all of the following:
 - ✓ There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography; and,
 - ✓ Such conditions are peculiar to the particular piece of such property involved; and,
 - ✓ Such conditions were not imposed by the action or will of the owner of the property; and,
 - ✓ The application of the Ordinance to the particular piece of property would create an unnecessary hardship other than a financial hardship in which the applicant would receive a lower rate of financial return on the use of the property if the variance is denied; and,
 - ✓ Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance.
- B. In addition, the Board of Zoning Appeals shall affirmatively determine that:
 - ✓ The granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.

The condition or situation of the property which gives rise to the need for such variance is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

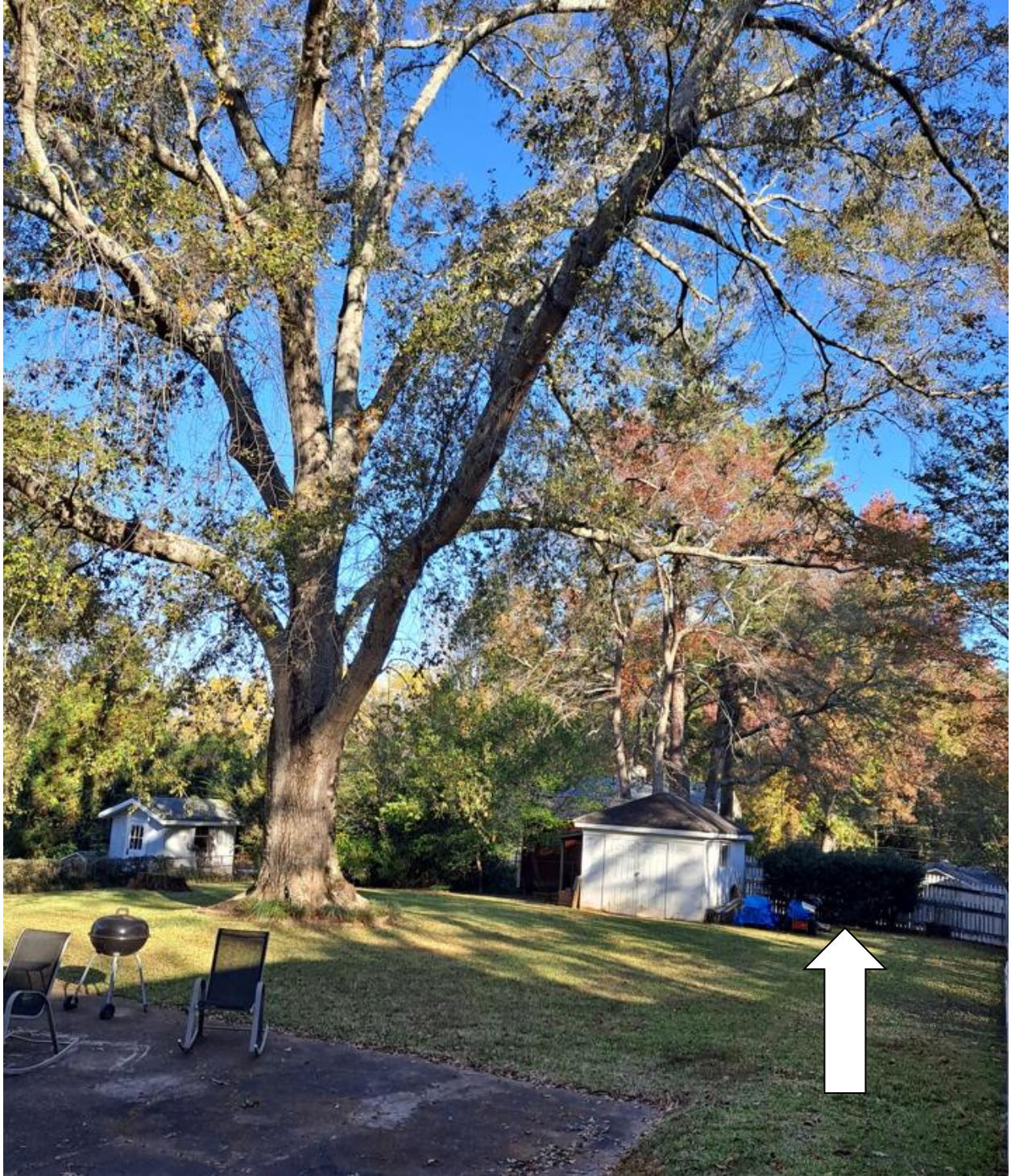
Planning Department's Review and Findings:

The front building setback within the RS-15 zoning district is 30 feet, as measured from the front of the house to the property line. The existing house is approximately 29.8 feet from the property line. An encroachment of 8 feet would effectively reduce the front setback to 21.8 feet. Staff would recommend reducing the front setback to 20 feet to provide ample room for the front porch addition.

The BZA has approved similar requests for front building setbacks: 2023 - 10 Cochran Drive and 157 Lagrange Street; 2022 - 94 Lagrange Street and 1 Alpine Drive; and 2021- 1 Alpine Drive.

The BZA has approved similar requests for detached garages/carport setback reductions: 2022-34 Jackson Street; 2021 - 31 Alpine Drive; 2020 - 32 Dixon Street; and 201-4 - 6 Reese Street.

The common denominator in these types of requests is the property owners' desire to enhance and upgrade their homes, that were developed and built prior to the current zoning ordinance and exist within the fabric and framework of older, established neighborhoods.



Recommendation:

Options:

- A. Grant the variance request to reduce the front building setback from 30 feet to 20 feet and the variance request to reduce the rear and side detached structure setbacks from 5 feet to 3 feet.
- B. Deny the variance request

In summary, staff recommends Option A to grant the variance request with the condition that the work is consistent with the rendering and drawings provided herein. The conditions are peculiar to the piece of property involved and relief, if granted, is into believed to cause substantial detriment to the public good or impair the purpose and intent of the ordinance.



CITY OF NEWNAN, GEORGIA

25 LaGrange Street
Newnan, Georgia 30263
770-254-2354

NEWNAN
GEORGIA

APPLICATION FOR VARIANCE

Name of Applicant Roy M. GARNER

Mailing Address PO Box 2424 Newnan, GA 30264

Telephone 678-357-8877 E-Mail: rgarner@newmail.org

Property Owner (Use back if multiple names) Roy M. Garner

Mailing Address PO Box 2424 Newnan, GA 30264

Telephone 678-357-8877

Address/Location of Property 17 Elm Street Newnan GA 30263

Tax Parcel No: N19-0005-010

Present Zoning Classification: RS-15

Present Land Use _____

Intended Use _____

Any person owning property or having a possessory or contract interest in property and the consent of the owner, may file an application for variance in regard to such property with the Board.

If you have any questions concerning this process, you may call the Planning and Zoning Department at (770) 254-2354. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. The Board of Zoning Appeals meets on the first Tuesday of each month. Applications must be submitted by 9:00 a.m. at least forty-five (45) days prior to that date. Incomplete applications or applications submitted after the deadline will not be accepted.

I (We) hereby request the following variance from the provisions of section(s) 4-32 + 3-12, Table 3-C of the Zoning Ordinance/Subdivision Regulations: _____

In order for the Board to consider the request, it must be claimed "application of the Ordinance to the particular piece of property would create an unnecessary hardship". Please answer the following criteria questions:

1. What are the particular provisions or requirements of the Ordinance that prevent the proposed construction on, or use of, the property?

See Attached 1-A

2. What is the existing zoning of the property, including any previously approved modifications, conditions, or proffers?

3. What are the special conditions, circumstances or characteristics of the land, building or structure that prevent the use of the land in compliance with the requirements of the Ordinance?

Porch is not within allowable footage from the center of the street or property line for the porch addition

4. What is the particular hardship that would result if the specified provisions or requirements of the Ordinance were to be applied to the subject property?

Porch - no be able to enhance the curb appeal and property value of my home and the neighborhood

5. What is the minimum extent to which it would be necessary to vary the requirements of the Ordinance in order to permit the proposed construction on, or use of, the property?

Porch - 17' x 8' addition of porch to existing house (8 feet closer to the street/property line)

The Board of Zoning Appeals shall base its required findings upon the particular evidence presented in each specific case where the property owner can show:

A. The strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict utilization of the property because:

- ✓ There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.
- ✓ Such conditions are peculiar to the particular piece of such property involved.
- ✓ Such conditions were not imposed by the action or will of the owner of the property.
- ✓ The application of the Ordinance to the particular piece of property would create an unnecessary hardship. Such hardship does not include financial hardship in that if the variance were granted, the applicant could receive a higher rate of financial return on the use of the property and without the variance, a lesser but still reasonable return could be realized.
- ✓ Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Ordinance.

B. The granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.

C. The condition or situation of the property, which give rise to the need for such variance, is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.

Included with the application, the following information is required and must also be furnished in digital, pdf format:

- ✓ Plat of property, illustrating existing development and requested variance.
- ✓ Plans or drawings necessary to illustrate the requested variance.
- ✓ Legal description of property.
- ✓ ~~List of all the names and addresses of all property owners within 250 feet of subject property. This information can be found at the Coweta County Tax Assessors Office.~~

3. What are the special conditions, circumstances or characteristics of the land, building or structure that prevent the use of the land in compliance with the requirements of the Ordinance?

Garage - long and narrow dimension of property
- huge live oak tree in almost the center of back yard (trunk circumference of 17 feet, height at 100 plus feet, root zone of at least 75 feet and age of 100 plus years)

4. What is the particular hardship that would result if the specified provisions or requirements of the Ordinance were to be applied to the subject property?

Garage - would probably have to remove my 100 plus year old healthy live oak tree.

5. What is the minimum extent to which it would be necessary to vary the requirements of the Ordinance in order to permit the proposed construction on, or use of, the property?

Garage - Build this structure 2 feet from the property line to the east (side of lot) and 2 feet from the property line to the north (rear of lot)

Application For Variance

City of Newnan, Georgia

✓ Check for applicable fees (\$250.00).

I (We) do hereby certify the information provided herein is both complete and accurate to the best of my (our) knowledge, and I (we) understand any inaccuracies may be considered just cause for invalidation of this application, and any action taken on this application. I (We) do hereby understand a variance of any requirement does not exempt the development from any other requirements of the Zoning Ordinance, Subdivision Regulations, or other City or State Regulations.

Roy M. GARNER
Applicant(s) Name(s) (Please Print)

Roy M. Garner
Signature of Applicant(s)

FOR OFFICIAL USE ONLY

RECEIVED BY Den Smith

DATE OF FILING 10/17/23

BZA MEETING DATE 12-5-23

DATE OF NOTICE PUBLICATION _____

ACTION TAKEN (DATE) _____



City of Newnan, Georgia
Attachment A

Property Owner's Authorization

The undersigned below, or as attached, is the owner of the property which is the subject of this application. The undersigned does duly authorize the applicant named below to act as applicant in the pursuit of a variance for property.

Name of Property Owner

Roy M Gardner

Telephone Number

678-357-8877

Address of Subject Property

17 Elm Street

Newnan, GA 30263

I swear that I am the owner of the property which is the subject matter of the attached application, as it is shown in the records of Coweta County, Georgia.

Roy M Gardner

Signature of Property Owner

Personally appeared before me

who swears the information contained
in this authorization is true and correct
to the best of his/her knowledge and
belief.

[Signature]
Notary Public

Date

10/17/23



(Affix Raised Seal Here)

To: Members of Board of Zoning Appeals

It is my intention to add a front porch to my existing home on Elm Street. The dimensions of this porch would be 17 feet wide and 8 feet deep. The depth of 8 feet would put me in violation of approved allowances from the center of Elm Street and/or my property line, to the new addition. Thus, the reason for my application for variance. This addition, along with other improvements would definitely enhance the curb appeal and property value of my home and the neighborhood.

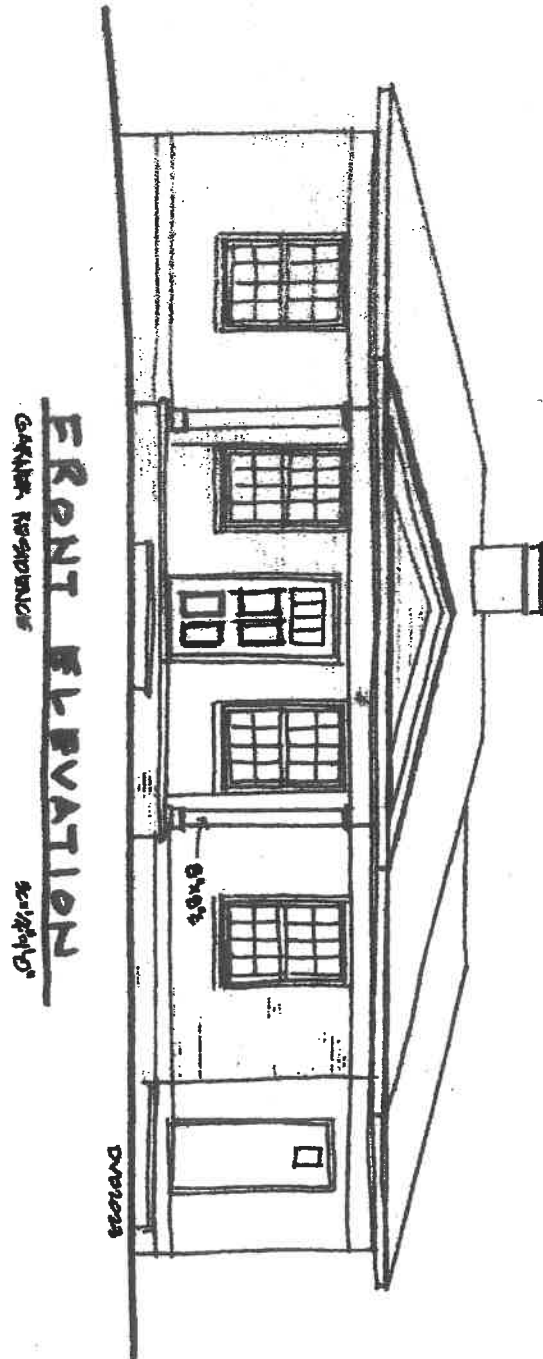
In this application, I would also request to construct a 36-foot by 26-foot detached garage on the back corner of my property. I'm asking for a variance of 2 feet instead of 5 feet from my property line to the east (side) and the north (rear). The reason for this variance consideration is simple. I have a very large white oak tree in almost the exact center of my back yard. The dimensions of this tree include a circumference of 17 feet, a height of 100+ feet, a root zone of at least 75 feet, and an estimated age of over 100 years. It is definitely one of the largest trees on the north side of our city. Allowing me to build a garage within 2 feet of my property line would hopefully protect this tree and its continued health for years to come.

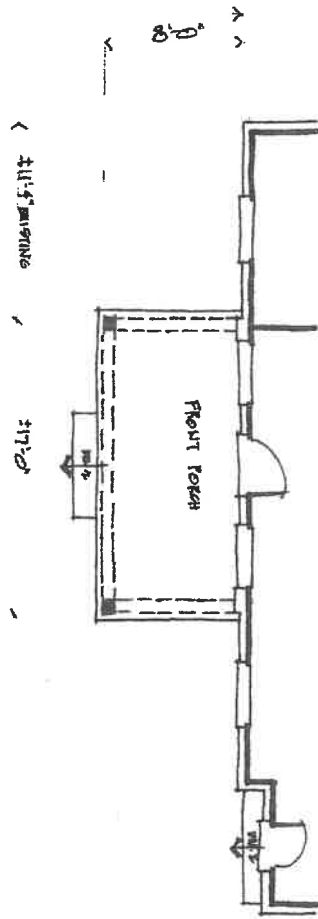
Thank you in advance for your time and consideration on this matter.

Sincerely,

A handwritten signature in blue ink that reads "Roy M. Garner". The signature is written in a cursive, flowing style.

Roy Garner





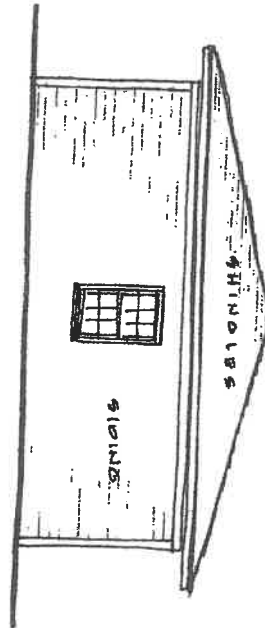
+57'-6" TO CENTERLINE
OF ELM STREET

PARTIAL FLOOR PLAN
BY CHANG
2004/10

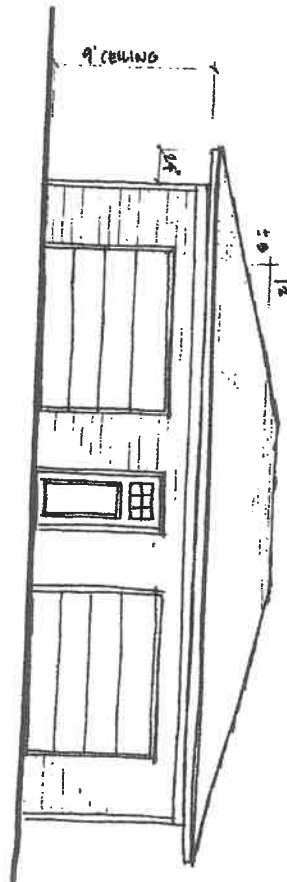
TO APPROXIMATE CURB LOCATION

ELM STREET

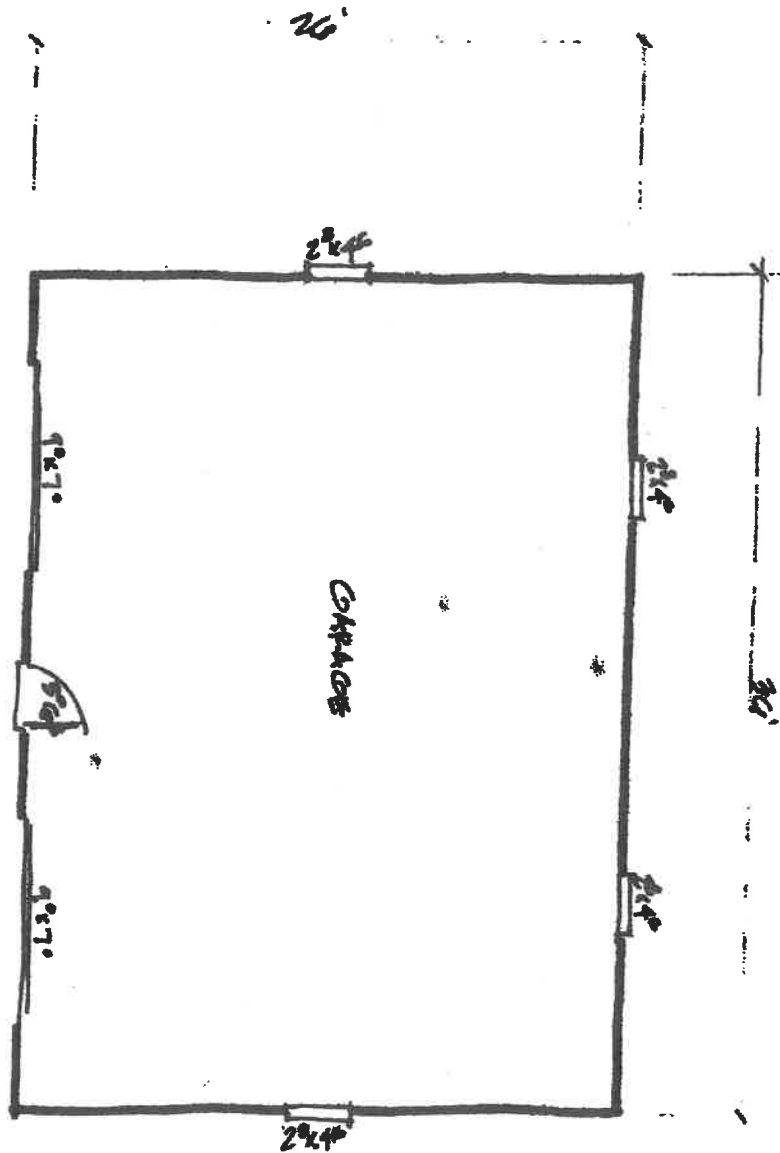
ELM STREET



LEFT ELEVATION
as shown



FRONT ELEVATION
as shown



FLOOR PLAN
7' x 7' 7' x 7' 2' x 4' 2' x 4'

