



CITY OF MABLETON, GEORGIA
5656 Mableton Parkway , Mableton , GA 30126
August 14, 2025 at 6:00 PM

BZA Member Conrad A. Woods
BZA Member Gerri Alrdige
BZA Member Helen Butler-Simmons
BZA Member Christopher S. Semler
BZA Member Wendy Brown-Sanders
BZA Member Jenelle Weithers

BOARD OF ZONING APPEALS REGULAR MEETING AGENDA

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES**
- 4. PROCEDURALS ADOPTION**
 - a. Rules and Procedures for Adoption**
- 5. UNFINISHED BUSINESS**
- 6. NEW BUSINESS**
 - a. Case # V-2025-002: A request by Jamilia Brown to reduce the overall min lot size of 20,000 square feet to 12,000 square for 6247 Allen Ivy Road (Tax Parcel 18018600490) and to exceed the maximum height of 35 feet.**
 - b. Case # v-2025-003: A request by Collection at Sweetwater, LLC for encroachment in the City of Mableton 50' and 75' stream water buffer for a total area of 5,253 square feet.**
- 7. ADJOURNMENT**

Persons with special needs relating to handicapped accessibility, disability, or foreign language may contact the City Clerk at (404) 927-9502 or susan.hiott@mableton.gov at least three days prior to the meeting. The clerk can be located at the City of Mableton Offices, Riverside EpiCenter, 135 Riverside Pkwy, Austell, Georgia 30168 during regular office hours.

***BOARD OF ZONING
APPEALS RULES AND
PROCEDURES***

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BOARD OF ZONING APPEALS
RULES AND PROCEDURES

SECTION 1. MEETINGS

- A. Regular and special zoning meetings of the Board of Zoning Appeals (“BZA”), (also individually or collectively may be referred herein as the body, members) shall be as determined in accordance with the Official Code of the City Of Mableton, Georgia (“Code”). For BZA, meetings shall be convened at 6:00 P.M. on the second Thursday of each month or as may be set in accordance with State law, and may not begin before the prescribed time of which the public has been notified.
- B. An adjourned meeting is a continuation of the meeting immediately preceding, whether a regular or special meeting.
 - 1. If the scheduled business of the BZA is not completed, due to time constraints or emergency, the meeting shall be adjourned to the following day or a specific day scheduled by the BZA to allow for the completion of pending business.
 - 2. In an adjourned meeting (regular or special), only business which would have been proper to consider at the prior meeting may be considered and acted upon at the adjourned meeting.
 - 3. Adjourned meetings resume business under the same rules, limitations and rights as the original meeting which was adjourned.
- C. Executive Session Meetings shall be conducted in accordance with the O.C.G.A. §50-14-3 and §50-14-4, or as these sections may be amended from time to time.

SECTION 2. QUORUM

Any three (3) of the members, or the chair and any two (2) members, shall constitute a quorum for any meeting of the BZA.

- A. If a quorum is not present thirty (30) minutes following the scheduled hour for convening, the chair the vice-chair, or in their absence, the city attorney (or his/her designee) may adjourn the meeting until the next day or by unanimous consent, those present may select another hour and day.
- B. If during the meeting there ceases to be a quorum, all business must stop except that the remaining members of the BZA by majority vote to be recorded in the minutes (naming those present at the time of the vote) may:
 - 1. fix another day at which to reconvene;
 - 2. adjourn and return at the next regular meeting;
 - 3. recess to determine if a quorum will be present within a short period of time.

SECTION 3. CHAIRMAN

- A. The BZA members shall elect one of its members as chairman, who shall serve for one year or until he/she is reelected or a successor is elected as set forth in the Code.

- B. The chair shall have the same right and privileges of the other members with respect to rights to make motions, debate and vote. Additionally, his/her duties during meetings shall include:
 - 1. presiding over meetings of the body;
 - 2. calling the meeting to order at the scheduled hour;
 - 3. determining that a quorum is present;
 - 4. preserving decorum and order at all meetings;
 - 5. making the members aware of the substance of each motion;
 - 6. calling for the vote;
 - 7. announcing the results of each vote;
 - 8. calling for a recess at such times as deemed advisable; and
 - 9. other duties as prescribed in the Code.

SECTION 4. VICE-CHAIRMAN

For the conduct of zoning and land use hearings, the vice chair shall have all rights, privileges and duties of the chair in the absence of the chair. The BZA shall elect a vice chair from among the members as prescribed by the Code.

SECTION 5. ABSENCE OF CHAIRMAN AND VICE-CHAIRMAN

In the absence of the chair and vice-chair, the clerk or city attorney shall determine whether a quorum is present, and if a quorum is present shall call for the election of a temporary chair. The temporary chair shall preside over that meeting or until the conclusion of the business immediately pending at the time the chair or vice-chair arrives.

SECTION 6. FILINGS, EXHIBITS AND DISCLOSURES

- A. All documentation and exhibits shall be marked and filed with the clerk prior to presentation to the members.

- B. The deadline for receiving any additional information, changes or modifications for consideration by the members shall be 12:00 Noon on Wednesday of the week preceding the public hearing. In the event an applicant or opposition submits revised plats or revised information, changes or modifications after such cut-off, the applicant or opposition shall only be allowed to present such documentation at the public hearing. It shall be in the body's discretion as to whether or not it desires to accept the information, changes or modifications and further determine if the information merits holding the application until the next regular hearing. Should an applicant turn in such material late a second time for a regularly scheduled public hearing, then it shall be grounds to dismiss the application with prejudice, hold or continue the application.

- C. Reserved.
- D. Reserved.

SECTION 7. PUBLIC HEARING AGENDA

- A. An agenda for the meetings will be established and prepared by the Zoning Division Manager, and posted by the Clerk. The agenda will be available to the members in advance of the advertised meeting.
- B. Except in cases where it is not feasible, an agenda work session will be held for the BZA with as many of the members as are available to attend.
- C. The order of business shall be as follows: Consent cases, Held cases, Continued cases, Regular cases, Other Business items and non-agenda items. The order of business listed in the agenda summary may be changed by unanimous consensus or upon a 4/5¹ vote of the body. Should only three (3) or four (4) members of the body be present, a unanimous vote shall be required.

SECTION 8. PUBLIC HEARING AGENDA ITEMS

Section 8.01 Consent Agenda

- A. A portion of the agenda may be designated as a consent agenda by the Zoning Division staff for the BZA and all items contained therein may be voted on en gross.
- B. Prior to any item being considered on any consent agenda, the Zoning Division staff shall make available online all staff comments, conditions and stipulations.
- C. Prior to the vote on the consent agenda, the following may cause the case to be removed from Consent and placed on the Regular Agenda for a full public hearing:
 - 1. a member may request an item be removed;
 - 2. upon objection by the applicant of any staff comment, condition or stipulation; or
 - 3. if opposition is present, a member or staff may elect to remove the case.

Section 8.02 Held Case Agenda

- A. Held cases are those wherein public hearings have already been held; however, the members delayed action, based upon an exercise of discretion, such as when there is a desire for the applicant and opposition to meet further or where additional information or further evaluation by staff is needed.

¹ Rationale: Frequently the business can be facilitated by changing the order in which business is considered. Since items are not designated a specific time, it is the responsibility of the interested parties to be available throughout the meeting until items which interest them have been disposed of.

- B. The applicant or representative shall update the respective board on any aspects of the case which have been revised. Public input shall be allowed as provided for within Section 10.
- C. These cases will be voted on following the presentation and questions.

Section 8.03 Continued Case Agenda

- A. Continued cases are those wherein public hearings were not conducted due to recommendation of staff, mutual consent by the applicants and opponents or due to reasons set forth within the Code.
- B. Continued cases are voted on following a public hearing conducted in accordance with the procedures outlined in Section 10.

Section 8.04 Regular Agenda

- A. Regular cases are those wherein, in the opinion of staff and/or the BZA, issues exist that should be considered following a full public hearing.
- B. Each case will be considered in the order assigned it in the Variance Agenda Summary except when agreed upon by unanimous consensus or upon a 4/5 vote of the body. Should only three (3) or four (4) members of the body be present, a unanimous vote shall be required.
- C. Voting on cases on the Regular Agenda will take place immediately following the close of the public hearing of the same case.

Section 8.05 Reserved.

Section 8.06. Reserved.

SECTION 9. ADDITION OF NON-AGENDA ITEMS

A non-agenda item shall be defined as that which is deemed by a member to require urgent attention but has not been placed on the published agenda.

- A. Adequate information, including the specific topic, shall be given on any items requested to be added as non-agenda items.
- B. A vote of 4/5 shall be required to add a non-agenda item. Should only three (3) or four (4) members of the body be present, a unanimous vote shall be required.

SECTION 10. PUBLIC PARTICIPATION IN MEETINGS

The City of Mableton welcomes visitors to its meetings and is willing to hear any person or persons desiring to appear; however, during work sessions the public may only observe the meeting. Speakers at all other meetings are subject to these rules as follows:

- A. Time limitations.
 - 1. Zoning hearings.
 - a) Applicants/representatives and those in favor, as a group, and opponents/representatives, as a group, shall be given a maximum of ten (10) minutes for each side to present its application or opposition, unless, by general consensus, more time is allotted by the BZA. Any groups which are present are encouraged to choose a spokesperson to present their views so as not to repeat the same information.
 - b) Reserved.
 - c) As each application is called, all non-attorney witnesses for the applicant and opponents shall first be sworn prior to making their presentations.
 - 2. The City Attorney or designee shall be responsible for keeping time.
- B. No further public input will be allowed following the close of the public hearing except in response to questions from members of the BZA.
- C. All remarks must be related to the application. No person shall be allowed to make impertinent, derogatory, offensive or slanderous remarks while addressing the body.
 - 1. A person may be barred from further speaking before the BZA in that meeting if his/her conduct is deemed "out of order".
 - 2. A person, once barred for improper conduct shall not be permitted to continue or again address the body in that meeting unless a majority vote of the body allows.
 - 3. In the event the speaker thus barred fails to obey the ruling, the chair may take such action as is deemed appropriate, including the removal of such person from the assembly.
 - 4. The body may bar a person from addressing meetings for up to sixty (60) days for improper conduct.
 - 5. A person barred by the body for this period may request a hearing, by written request to the chair stating reason(s) for a reversal of the decision.
 - 6. The hearing shall be placed on the next available agenda and heard by the body. A 4/5 vote of the entire BZA shall be required to overturn the previous decision to bar the person(s).
- D. When the meeting leader asks for a count of those in opposition, whether an early head count or at the calling of the matter, a count of those in favor shall also be made.

SECTION 11. MOTIONS

- A. Following presentation of both sides, the public hearing shall be closed and the body shall discuss the application prior to the district member making a motion.

- B. These motions shall take precedence in order in which they are listed below:
1. Adjourn;
 2. Recess;
 3. Motions of privilege;
 4. Call the question;
 5. Limit discussion or debate by the body;
 6. Hold/continue until a time certain;
 7. Refer back to staff; or refer to staff;
 8. Amend;
 9. Main motion.
- C. When needed for clarity and prior to taking the vote, the chair should state the motion (or resolution) or its substance.

SECTION 12. MAIN MOTION

A main motion shall be a motion whose introduction brings business before the body.

- A. Possible dispositions of such a motion include:
1. adopted/approved, with or without deletions, stipulations or conditions;
 2. defeated/denied/rejected;
 3. referred to staff for further information or recommendations;
 4. held until _____ (a definite time);
 5. continued;
 6. withdrawn, with or without prejudice;
- B. All main motions shall require a second² and, if such motions fail to obtain a second the chair shall state, "Since there is no second, the motion is not before this meeting."
- C. Once a motion has been moved and seconded it belongs to the entire body and not to the maker of the motion; therefore, if a member wishes to withdraw a motion that is officially before the body, action of the BZA must be taken in either of the following ways:
1. The chair will ask the BZA if there are any objections to the motion being withdrawn. If there are no objections, the motion shall be withdrawn by unanimous consent, without the need for the seconder to withdraw his/her second or any further motion.
 2. If there is an objection to the motion being withdrawn, the person requesting permission or another member may make a motion to grant permission. A second is required if the motion is made by the person requesting permission but not if by another member. The chair shall take an official vote. A majority vote shall be required to adopt the motion to grant permission to withdraw a motion.

² The member who seconds a main motion, or any procedural motion, implies that he/she wishes that the motion be discussed and voted upon, but does not indicate support for the motion and may speak for or against the motion.

SECTION 13. SUBSIDIARY MOTIONS

During the course of debate, members may introduce motions that propose a particular action on the main motion. These subsidiary motions allow a body to reach a conclusion on the main motion.

Three of these subsidiary motions – amend, limit discussion or debate and call the question – can also apply to other subsidiary motions.

Section 13.01. Amend

- A. If any member feels that the main motion might be more acceptable in a way other than the way presented, the member may amend through substitution, insertion or deletion of stipulations/conditions, or striking out portions. Such proposed amendments shall be handled in one of the following ways:
 - 1. by unanimous consent of the members. The chair, or another member, through the chair, may suggest changes or stipulations, and if there are no objections from the members the motion shall be amended by unanimous consent.
 - 2. with a second, discussion on the amendment only and a majority vote, on the proposed amendment.
- B. If a proposed amendment fails to obtain unanimous consent or a majority vote, or lacks a second, the main motion considered shall be the one originally presented.
- C. An amendment must be germane (relating to the substance of the main motion) and may not introduce an independent question.
- D. Improper amendments shall be:
 - 1. one which is not germane;
 - 2. one which would make the adoption of the amended motion equivalent to a rejection of the motion; or
 - 3. one which is frivolous or absurd.

Section 13.02. Hold/Continue Until a Time Certain

A motion to hold or continue to a time certain (postpone) may be used if a majority of the BZA feel that the motion before them should be considered at a later date or if the discussion shows that more information from staff or the applicant is needed or that the facts as presented are not adequate for their final vote. A second shall be required and discussion shall be limited to the reason for holding the motion or the time to which it is to be held. A majority is needed to pass it. If this motion fails, the motion to be considered shall be that motion which was on the floor prior to the motion to hold.

Section 13.03. Limit Discussion or Debate

If a member feels that the period of time for discussion of a motion should be limited as to time for the motion as a whole, or as to individual time given, the member may move to "limit discussion (or debate)

to __ minutes." This motion shall require a second and no discussion on the motion shall be allowed. It shall require a 4/5 vote to adopt. Should only three (3) or four (4) members of the body be present, a unanimous vote shall be required.

Section 13.04. Call the Question

A member may "call the question" (a motion to end discussion) when it is clear that further discussion is unnecessary or that discussion is becoming repetitive. This motion shall require a second and no discussion on the motion shall be allowed. It shall require a 4/5 vote to adopt. Should only three (3) or four (4) members of the body be present, a unanimous vote shall be required. If this motion fails to gain the necessary 4/5 vote, debate continues as if this motion had not been made. This motion and vote is separate from and before the vote on the motion to which it is applied.

SECTION 14. PRIVILEGED MOTIONS OR MATTERS

Privileged motions facilitate the running of the meeting. They do not address or relate to the main motion and can be introduced whether or not there is a main motion under consideration. Privileged motions take precedence over all subsidiary motions. Debate is not allowed on these motions.

Section 14.01. Motions of Privilege

If any matters occur such as to impede a member in attending to the business, e.g., too much noise, the microphone not working, matters that affect the safety, orderliness, or comfort of the members, or that affects the honor of an individual commissioner/member, such member may state to the chair that he/she has a question of privilege and the matter must be addressed before the pending business of the body continues. No vote is required unless a motion arises out of the privilege.

Section 14.02. Recess for breaks and/or lunch

A recess may be declared by the chair, in his/her discretion, when he/she deems it advisable or by a request of a member. If the body unanimously consents, no motion is required. If there is an objection from a member, then a motion and a second is required, it is not debatable and an affirmative majority vote shall be required to recess.

Section 14.03. Adjourn

The highest ranking motion shall be the motion to adjourn, requiring a second and a majority vote with no discussion allowed, except that the motion shall contain a time to hear any non-completed items on the agenda, if such exist. If all business on the agenda has been completed, the chair may assume the motion, and without a second, obtain unanimous consent to adjourn.

SECTION 15. INCIDENTAL MOTIONS

Incidental motions have no rank but shall be decided immediately before business may proceed and may be used throughout the meeting. These motions allow members to exert their rights as a member of the body.

Section 15.01. Point of Order. A member may call for a point of order if he/she believes that the chair has failed to notice a breach in the rules. A second is not required. This point of order shall be decided by the presiding officer without debate, unless in doubtful cases he submits the question to the body for decision.

Section 15.02. Appeal From the Chair's Decision. Whenever a member believes that the chair is mistaken in his/her ruling, a member may appeal from the chair's decision. An appeal shall require a second and shall be debatable with the chair speaking first explaining his/her ruling, and the chair may close out the debate by a statement at the end defending the ruling. An appeal may be made only on a ruling and may not be made:

- A. in response to a parliamentary inquiry or point of information;
- B. in areas that challenge verifiable rulings of factual nature.

The chair shall state the motion as "Shall the chair's decision be sustained?" A tie vote shall sustain the chair because a majority of those voting shall be required to overturn the chair's ruling.

Section 15.03. Parliamentary Inquiry. A parliamentary inquiry is a question directed to the chair to obtain information on a matter of parliamentary law or the rules of the body. The chair will answer such questions or may ask the city attorney or parliamentarian for an opinion. The motion does not require a second, is not debatable and does not involve a vote. The chair's reply, whether or not he/she has requested advice from the city attorney or parliamentarian, is not a ruling, but is an opinion. If a member does not agree with the chair's opinion, he/she may act in a way contrary to this opinion, and if ruled out of order, may then appeal the chair's ruling. The chair is not obligated to respond to hypothetical questions.

SECTION 16. VOTING

- A. All votes shall be taken by either raised hand or electronic means, at the discretion of the Chair, except those which the chair handles through unanimous consent, i.e., "If there are no objections...". A single objection will require that a counted vote be taken. An affirmative vote of at least three members, or the chair and two members, shall be required to adopt a motion, except where otherwise indicated.
- B. When an entire section of the agenda is to be voted upon by engross, a member may, without discussion, state that he/she is voting in the affirmative on all of the agenda items contained within that section of the agenda except certain ones (which he/she will name by number). In such cases, the vote of the member(s) will be recorded as negative for the items named.
- C. If a motion has been voted on without discussion and a member feels that it is necessary to explain his/her vote, he/she may have no more than one minute to give public reasons for his/her vote.

This shall not be construed as an opportunity to repeat discussion that has already taken place at the same meeting.

- D. A tie vote shall cause all procedural motions to be defeated.
1. Reserved. **For the BZA**, a tie vote on a main motion shall keep the motion as pending before the Board and the motion shall be rescheduled for another time.
- E. No member who is present at any meeting of the body at which an official decision, ruling or other official act is to be taken or adopted may abstain³ from voting in regard to any decision, ruling, or act, and a vote shall be recorded or counted for each such member present, except when, with respect to any such member, there is or appears to be a possible conflict of interest⁴ as defined in ~~Section 2-47 and Section 2-55 of The Official Code of Cobb County~~, Mableton, Georgia. In such cases the abstaining member shall give his/her reason for abstaining on the record.
- F. A member has the right to change his/her vote up to the time that a new matter is called, e.g. if the member notices the registered vote is different than intended, the member may correct his/her vote.
- G. Voting for the various sections occurs as follows:
- Consent – Following the reading of the consent agenda, as it may be amended, the body shall vote on agenda en gross.
 - Held cases, continued cases and regular cases – Each individual case shall be voted on following the presentation and any discussion.
 - Reserved.
 - Reserved.

SECTION 17. MOTIONS USED TO BRING BACK AN ISSUE

Except as otherwise provided by law, if a member wishes to bring back to the BZA a matter which has been adopted, he/she may do so through: motion to reconsider, motion to amend something previously adopted, or motion to rescind. These shall have the same rank as a main motion.

Section 17.01. Reconsider.

- A. In the same meeting but at any time within that meeting provided the applicant is still in attendance (if applicant is no longer present, then notice is required pursuant to Section 17.02), when it appears that mistake or a different result might better reflect the will of the BZA, any

³ "It is a general rule that a legislative body cannot only compel the attendance of its members, but that it can also require them to vote unless excused by the body from voting." Mason's Manual of Legislative Procedure.

⁴ "It is a general rule that no members can vote on a question in which they have a direct personal or pecuniary interest. The right of members to represent their constituencies, however, is of such major importance that members should be barred from voting on matters of direct personal interest only in clear cases and when the matter is particularly personal." Mason's Manual of Legislative Procedure.

member (regardless of how he/she originally voted on the matter) may move to reconsider the vote with respect to any zoning matter. A motion to reconsider may be applied to a vote that was either affirmative or negative and shall propose no specific change in a decision but simply shall propose that the motion be re-opened for discussion. A second shall be required for this motion and discussion shall be allowed as to the reasons for wishing to reconsider the vote.

- B. A majority vote shall be required to adopt the motion to reconsider.
- C. If the motion to reconsider is adopted, the original decision will be voided. The body will return to debate on the original motion. Another majority vote will be required to adopt the original motion or as the motion may be amended.
- D. If the reconsideration is moved while another subject is before the assembly, it cannot interrupt the pending business, but, as soon as that has been disposed of, if called up it has preference over all other main motions and general orders.

Section 17.02. Amend Something Previously Adopted

If a member wishes to amend an action taken at the current or a previous meeting, the motion to amend something previously adopted should be used. This motion is used if only a part of the text is to be changed or to substitute a different version of the motion. This motion may be done in the same meeting at any time within that meeting provided the applicant is still in attendance. The form would be as follows: "I move to amend the motion relating to ... by inserting..." A second shall be required and full discussion shall be allowed.

- A. If the motion is proposed at the same meeting, a vote of 4/5 of the Board shall be required to pass the proposed amendment. Should only three (3) or four (4) members of the body be present, a unanimous vote shall be required.
- B. If the motion is placed on the agenda for the following regularly scheduled zoning/land use meeting, a majority vote shall be required for adoption of the amendment. Should only three (3) or four (4) members of the body be present, a unanimous vote shall be required. This motion shall not be in order if irreversible action has been done as a result of the vote to implement the earlier action adopted.

Section 17.03. Rescind.

- A. If any member wishes to annul an action taken at a previous meeting on any zoning matter, the motion to rescind may be used. The motion to rescind shall require prior notice at a regularly scheduled zoning meeting of the intent to rescind a motion at the next scheduled zoning meeting. After the announcement at a public hearing, the motion to rescind shall be placed on the agenda for the following regularly scheduled BZA hearing. The property shall also be posted immediately with an appropriate sign of a color different from the initial sign, and notification shall be provided by staff by telephone, email or mail to known interested parties.

- B. The motion to rescind shall not be in order if:
 - 1. the motion to reconsider may be made, i.e., at the same meeting; or
 - 2. the motion to reconsider was taken and lost; or
 - 3. only part of the action is proposed to be changed, in which case the motion to “amend something previous adopted” shall be used; or
 - 4. irreversible action has occurred as a result of the vote to implement the earlier action adopted.
- C. At the subsequent zoning meeting, when the motion to rescind is made, a second shall be required, and discussion may go into the merits of the motion to rescind. A majority shall be required to pass the motion to rescind after such prior notice.
- D. If the motion to rescind is adopted, the original decision is voided. This action leaves the original application before the body so a public hearing shall be conducted, after which a new motion on the substantive matter will be in order. The new substantive motion will require a second, will allow discussion, and will require a majority vote to adopt.

SECTION 18. MINUTES

- A. All actions of the body, except for actions described in the O.C.G.A. §50-14-3 and §50-14-4, or as those sections may be amended from time to time, shall be accurately recorded by the clerk (or his/her designee) in the minutes, which shall include:
 - 2. all main motions, substantially as worded when adopted (including amendments or stipulations);
 - 3. the name of the maker of all important motions;
 - 4. disposition of all main motions, whether:
 - a) adopted/approved, with or without deletions, stipulations or conditions;
 - b) defeated/denied/rejected;
 - c) referred to staff for further information or recommendations;
 - d) held until ____ (a definite time);
 - e) continued;
 - f) withdrawn, with or without prejudice;
 - g) dismissed, with or without prejudice.
 - 5. how each member voted;
 - 6. Clerk’s Note: a member’s comments are printed in the minutes if, when requested by the member, the majority votes (or agrees by unanimous consent) to have the remarks included. This is to emphasize a discussion item that would typically not appear on the summary minutes.
- B. The responsibility for correcting and approving the minutes shall be vested only in the members of the body for their respective minutes. The minutes of each meeting shall indicate their subsequent approval/correction. The minutes may be corrected whenever an error is noticed, regardless of the

time which has elapsed.⁵ A member may vote to approve the minutes even though he/she was not in attendance at that meeting.

- C. The minutes shall be attested to by the clerk or deputy clerk.

SECTION 19. APPEALS

Section 19.01 Of Administrative Decisions and Decisions of City Boards Where Provided in the Code (BZA)

- A. Filing of appeals from decisions of administrative officers for which provision is made in sections 134-94 and 134-95 of the Code and decisions of city boards where review by the BZA is provided in the Code shall be filed with the city clerk no later than thirty (30) days from the date of the final decision of the administrative officer or board unless otherwise provided in the Code. An appeal of an administrative officer requires a filing fee of \$100.00, payable to the City of Mableton Zoning Division and should accompany the notice when filed with the Clerk. Any notice filed shall fully set forth:
 1. the jurisdictional grounds for appeal,
 2. the decision being appealed,
 3. the relief desired from such decision,
 4. the reason(s) why such relief should be granted, and
 5. documents relative to the issues raised in the appeal.

A copy of the appeal and documents filed with the city clerk shall be delivered by the clerk to the administrative officer whose decision is being appealed and to the members of the reviewing body.

- B. The city clerk shall notify the appellant, the administrative officer and the members of the reviewing body of the time and date of the hearing on the appeal, such notice to be in writing. Said notice shall be sent to the Appellants via certified mail and email, if known. All other notice and any subsequent mailings/pleadings may be accomplished via email and/or U.S. mail.

The hearing shall take place within 90 days from the date of the filing with the city clerk except as otherwise provided by the Code. Public notice of the hearing shall be accomplished by publication in the legal organ of the city for at least one (1) insertion, at least 15 but not more than 45 days prior to the date of the hearing. Additionally, a Notice of Appeal Hearing shall be posted on the second floor bulletin board.

- C. Each party has the right but not the obligation to submit a position paper detailing its position to the reviewing board prior to the hearing. The paper should be emailed or personally delivered to the City Clerk's office who will then distribute the paper to the board members and the opposing party.

⁵ Mason, Paul. Mason's Manual of Legislative Procedure. The American Society of Legislative Clerks & Secretaries in cooperation with the National Conference of State Legislatures, 1989.

- D. The procedures for appeal hearings shall be as follows: 1) any pre-hearing motions heard and ruled on; 2) if the hearing is to proceed, each side presents an opening statement limited to three minutes; 3) each side has twenty minutes to present their case, inclusive of cross examination, with the appellant presenting first; each witness shall be subject to cross examination by the opposing party; 4) each side may present a summation limited to three minutes; 5) the members of the reviewing body may question each witness and such shall not count against any party's allotted time. The appellant may reserve any of his remaining time for rebuttal. Upon request, the reviewing body may in its discretion allow additional time for each side.
- E. If the aggrieved party is not the property owner, the property owner or its representative may fully participate in the hearing or elect to simply make a ten-minute presentation to the reviewing body. The property owner may only address the issue(s) before the Board on appeal. It may not expand the appeal.
- F. The rules of evidence as set forth in the Georgia Civil Procedures Act shall not apply to the hearings described in this section. Upon objection by either party, the hearing officer shall rule on the admissibility and evidence shall be admitted, if necessary, to serve substantial justice.
- G. The legal standard of review to be applied by the reviewing body shall be "abuse of discretion."
- H. If the hearing has not been concluded before 5:30 p.m., the hearing may be continued to a "date certain" specially called meeting or to a date to be "announced" later (pursuant to notification requirements set forth in 19.B.).
- I. At the conclusion of the hearing, the reviewing body may issue a ruling or may take the case "under advisement". In the event the reviewing body takes the case under advisement:
 - 1. The chair will announce the Board's intent to render a ruling within approximately X number of days (does not have to be date/time certain).
 - 2. The reviewing body may direct the parties to submit, within X number of days, written proposed decisions.
 - 3. The reviewing body may discuss at the next work session; however, the final determination must be announced at a public meeting which has been properly posted and notice given.
 - 4. Counsel shall not discuss the case particulars with members during the advisement period. No emails or public statements on this issue that occurred after the date of the hearing should be taken into consideration by the members.
- J. Following a decision by the reviewing body, a written decision shall be issued to Appellants and property owner.

Section 19.02. Reserved.

SECTION 20. PARLIAMENTARIAN

The city attorney or his/her designee shall serve as parliamentarian, and shall advise and assist the chair and the body in matters of parliamentary law. A professional parliamentarian may be consulted as deemed necessary.

SECTION 21. PARLIAMENTARY AUTHORITY

The latest edition of **ROBERTS' RULES OF ORDER NEWLY REVISED, 11th Edition** shall govern the BZA in all areas not addressed and which are not inconsistent with these rules adopted by the members or higher law.

SECTION 22. AMENDMENTS TO THESE RULES AND PROCEDURES

These rules may be amended by a 4/5 vote of the entire BZA at a regular or special meeting of the BZA provided notice has been given of the amendment(s) at the meeting prior to the vote on the amendment(s).

**APPENDIX
PARLIAMENTARY DEFINITIONS**

The following parliamentary definitions apply to the ZONING AND LAND USE HEARING PROCEDURES adopted on January 11, 1994, amended on April 26, 1994 (Section 8, Regular Agenda, paragraph "F"), and comprehensively amended on April 15, 1997; further amended on August 17, 1999 (Held Case Agenda, paragraph "B", and Other Business, paragraph "A"; further amended on November 16, 1999 (Section 12. Filings and Exhibits paragraph "B"); further amended on January 28, 2003 (Section 26. *Reconsider*, and Section 27. *Rescind*); further amended on May 11, 2004 (Section 8. *Other Business*, and Section 12. *Filings and Exhibits*); further amended on October 19, 2004 (Section 11. *Voting Session*, paragraph "D").

adjourn - to officially terminate the meeting.

adjourned meeting - a meeting that is a continuation at a later specified time of an earlier regular or special meeting.

adopt - to approve or pass by whatever vote is required for the motion.

affirmative vote - a vote in favor of the motion as stated.

agenda - the official list of items of business planned for consideration during the meeting.

approval of minutes - formal acceptance of the record of a meeting thus making this record the official minutes of the body.

Board of Zoning Appeals – board as created by Section 134-91 of the Code with the limited powers as described in detail at Section 134-94 of the Code.

Body - Board of Zoning Appeals.

chair (Chairman) - the presiding member.

Clerk – the duly appointed City Clerk.

Code - The Official Code Mableton, Georgia.

Commission – the City of Mableton Planning Commission.

commissioner - any person named or elected to that position.

common parliamentary law - the body of rules and principles that is applied by the courts in deciding litigation involving the procedure of any organization; does not include statutory law or particular rules adopted by any organization or board.

convene - to open a meeting.

debate - formal discussion of a motion under the rules of parliamentary law and more often, herein, referred to as discussion.

defer or hold - to delay action by referring the motion to staff for more information, or by postponing a vote to a time certain.

demand - an assertion of a parliamentary right by a member.

dilatory motions or tactics - misuse of procedures or motions that are out of order or would delay or prevent progress in a meeting.

floor - when a person receives formal recognition from the chair, he/she "has the floor" and is the only person entitled to speak.

germane amendment - an amendment relating directly to the motion to which it is applied.

germane discussion - discussion relating directly to the matter involved.

hearing - a meeting for the purpose of listening to the views of an individual or of a particular group on a particular subject.

in order - permissible and right from a parliamentary standpoint.

majority vote - an affirmative vote of at least three members, or the chair and two members.

minutes - the legal record of the action of the body.

motion - a proposal submitted to the body for its consideration and decision; it is introduced by the words "I move that..."

objection - the formal expression of opposition to a proposed action.

order of business - the adopted order in which the business is presented to the meeting of the body.

out of order - not correct, from a parliamentary standpoint, at the particular time.

parliamentary authority - the code of procedure adopted by the BZA as its parliamentary guide, governing in all parliamentary situations not otherwise provided for in the ZONING AND LAND USE RULES AND PROCEDURES, the Code or higher governing bodies.

pending motion - sometimes referred to as pending question; any motion that has been proposed and stated by the chair for the member's consideration and that is awaiting decision by vote.

precedence the rank or priority governing the motion.

precedent - a course of action that may serve as a guide or rule for future similar situations.

procedural motion - motions to assist the body in treating or disposing of a main motion; or, motions relating to the pending business or to business otherwise at hand.

proposal or proposition - a statement of a motion of any kind for consideration and action.

O.C.G.A. - Official Code of Georgia Annotated.

quorum - the number of persons that must be present at a meeting of the body to enable it to act legally on business.

recognition - acknowledgement by the chair, giving a person sole right to speak.

reconsider - to review again a matter previously disposed of, and to vote on it again; must be made on the same day of business.

request - a statement to the chair asking a question or some "right".

rescind - to nullify or cancel out a previous action; cannot be made if irreversible action has already been taken to implement the motion it wishes to rescind.

resolution - a formal motion, usually in writing, and introduced by the word "resolved" that is presented to the body for a decision.

ruling - the chair's decision as it relates to the procedure of the BZA.

second - a member's statement that he/she is willing to have the motion considered.

seriatim - a consideration by sections or paragraphs.

statute - a law passed by the legislature.

technical inquiry - request for information relevant to the business at hand.

tie vote - vote in which the affirmative and negative votes are equal on a motion.

unanimous consent - deciding on a vote without voting on it but where no member voices objection; with a single objection a vote must be taken.

unfinished business - any business that is postponed definitely to a time certain.



*City of Mableton, Georgia Variance Application and
Instructions*

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All information submitted is a public record and is subject to the Open Records Act. This information will be posted online. Do not include any sensitive or personal information on the application, or in your submitted application packet.

The following items are required for submitting an application for variance:

1. **Rezoning Application.** Attachment A) Original notarized signatures of titleholder(s) and representative(s) are required.
2. **Corporate Documentation.** If the titleholder(s) is a domestic or foreign corporation, then the following documentation shall also be required:

Written authentication with the presence of the corporate seal, or a facsimile thereof, attested by the secretary or assistant secretary of the corporation, or other officer to whom the bylaws or the directors have delegated the responsibility for authenticating records of the corporation, shall attest:

- a) That the corporate seal or facsimile thereof affixed to the document is in fact the seal of the corporation or true facsimile thereof, as the case may be;
- b) That any officer of the corporation executing the document does in fact occupy the official position indicated, that one in such position is duly authorized to execute such document on behalf of the corporation, and that the signature of such officer subscribed thereto is genuine; and
- c) That the execution of the document on behalf of the corporation has been duly authorized.

3. **Warranty Deed.** A copy of the warranty deed that reflects the current owner(s) of the property. (Mark as Attachment B)

4. **Disclosure Forms.** Zoning Application Disclosure forms (Attachments C1 and C2) must be completed.

5. **Legal Description.** A current legal description of the subject property. If the application consists of several tracts, a legal description of each tract is required. A separate legal description of each zoning classification is also required, as well as an overall description of all tracts and/or classifications combined. No legal description should include more property than is included in the

application for rezoning. (Mark as Attachment C)

6. **Site Plan.** A copy of a current plot plan and current boundary survey drawn to scale by a registered engineer, architect, land planner, or land surveyor currently registered in accordance with applicable state laws. The plan must be stamped by the applicable professional. The plan must include the information listed below. If any item is inapplicable, please explain why. (Mark as Attachment D)

- a) north arrow
- b) land lot lines
- c) district lines
- d) lot lines
- e) angles
- f) total acreage
- g) bearing and distances
- h) adjoining street with right-of-way (present and proposed)
- i) paving widths
- j) the exact size (dimensions and square footage) and location of all buildings along with intended use
- k) building setback
- l) buffer areas
- m) parking spaces and parking deck location
- n) lakes and streams
- o) utility easements
- p) limits of the 100-year floodplain and acreage of floodplain
- q) cemeteries
- r) access points
- s) wetlands
- t) stormwater detention/retention areas
- u) calculation of impervious surface before and after changes to the property
- v) stream buffers (minimum 50' buffer)
- w) architectural or archeological landmarks
- x) lot sizes (if the property will be subdivided)

7. **Sign Variances Only.** Any sign variance request must provide a sign rendering that shows: size, height, shape, illumination (external/internal) and structural details (footings). (Mark as Attachment F)

8. **Tax Receipt.** A copy of the paid tax receipt for the subject property, or a statement signed by an official in the Tax Commissioner's Office or other official document issued by the Tax Commissioner's Office indicating the taxes have been paid. Properties with delinquent taxes may be withdrawn by the staff or may be delayed or denied by the Board of Zoning Appeals. (Mark as Attachment G)

9. **Septic Tanks.** Documentation from the Cobb County Health Department if the property is or will be on a septic tank. (Attachment H)

Variance Process Requirements

1. **Signs.** Signs provided by the City must be posted on or near the right-of-way of the nearest public street thirty (30) days before the public hearing. Signs must be posted every 500 feet of public road frontage. Failure to post and maintain signs continuously may prohibit consideration of the application at any scheduled public hearing. It is the responsibility of the applicant to ensure that signs remain posted throughout the advertising period, including the day of the public hearing and to remain posted until the final decision by the Board of Zoning Appeals.

2. **Public Hearing.** Applicant, or representative for applicant, must attend the Variance Hearing. Failure to attend may result in dismissal with prejudice, rejection of the application or continuance of the hearing at the Board’s sole discretion.

3. **Application Fees.** Fees must be paid by credit card or Venmo. To qualify for the residential fee schedule, the applicant must be the present or future resident.
 - a. Residential - \$150.00
 - b. Churches -\$450.00
 - c. Livestock - \$25.00
 - d. Builders -\$450.00
 - e. Commercial - \$500.00

4. **Mailings.** Applicants are required to provide a Certificate of Mailing that demonstrates that all property owners adjacent to the subject property have been notified of the Variance application. Applicants are encouraged to provide the letter to city staff for a cursory review prior to completing the Certificate of Mailing. The notice must be postmarked 30 calendar days prior to the Planning Commission Hearing. The applicant/representative is required to file with the Zoning Division proof of the mailing no later than 21 days prior to the Planning Commission Zoning Hearing for which the application is scheduled to be considered. Staff is authorized to continue any pending case in which the above requirements are not met. The notification must include:
 - a. A legible copy of the application and site plan
 - b. Phone numbers and email addresses for the applicant and the City zoning office.

5. **Reduction in Lot Size or Public Road Frontage.** Variances for a reduction in lot size or a reduction in public road frontage cannot be heard by the Board of Zoning Appeals. These two types of variances can only be heard by the Mayor and Council via the “Other Business” process. Please see the “Other Business” application for the requirements, fees and hearing dates.

6. **Public Contact.** Variance applications are public information and will be visible on the City website, advertised in the newspaper and otherwise disseminated to the general public. Applicants and their representatives should expect communication (phone calls, emails) from members of the public and should respond to their questions and concerns with complete, factual information and courtesy.

7. **Reconsideration.** Any variance request may not be reconsidered for a period of twelve (12) months after it has been rejected by the Board of Zoning Appeals, unless by court order or pursuant to a settlement of litigation approved by the Board of Zoning Appeals.

List of Attachments

- Attachment A – Variance Application
- Attachment B – Warranty Deed
- Attachments C1 & 2 – Disclosure Forms
- Attachment D – Legal Description
- Attachment E – Site Plan
- Attachment F – Sign Variances Only
- Attachment G – Tax Receipt
- Attachment H – Septic Tank Documentation

Application for Variance Mableton, Georgia

(type or print clearly)

Application No. _____
Hearing Date: _____

Applicant _____ Phone # _____ E-mail _____

(representative's name, printed) Address _____
(street, city, state and zip code)

(representative's signature) Phone # _____ E-mail _____

Signed, sealed and delivered in presence of:

My commission expires: _____

Notary Public

Titleholder _____ Phone # _____ E-mail _____

Signature _____ Address: _____
(attach additional signatures, if needed) (street, city, state and zip code)

Signed, sealed and delivered in presence of:

My commission expires: _____

Notary Public

Present Zoning of Property _____

Location _____
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) _____ District _____ Size of Tract _____ Acre(s) _____

Please select the extraordinary and exceptional condition(s) to the piece of property in question. The condition(s) must be peculiar to the piece of property involved.

Size of Property _____ Shape of Property _____ Topography of Property _____ Other _____

Does the property or this request need a second electrical meter? YES _____ NO _____.

How many stories is the proposed building? _____ How many square feet? _____

The City of Mableton Zoning Ordinance Section (insert) states that the City of Mableton Board of Zoning Appeals must determine that applying the terms of the Zoning Ordinance without the variance would create an unnecessary hardship. Please state what hardship would be created by following the normal terms of the ordinance.

List type of variance requested: _____

PROPERTY/FINANCIAL DISCLOSURE REPORT¹ BY APPLICANT²

(A separate form must be completed by each applicant* - please see definition below)

Does any member of the Mayor and Council or Planning Commission have a property interest (direct or indirect ownership, including any percentage of ownership less than total) in the subject property?

If so, describe the nature and extent of such interest:

Does any member of the Mayor and Council or Planning Commission have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is ten percent (10%) or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property? _____

If so, describe the nature and extent of such interest:

Does any member of the Mayor and Council or Planning Commission have a spouse, mother, father, brother, sister, son or daughter who has any interest as described above?

If so, describe the relationship and the nature and extent of such interest:

I certify that the foregoing information is true and correct, this _____ day of _____, 20

Applicant's Signature

¹If the answer to any question is "Yes," then the Mayor or the member of the Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the City Council of Mableton, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney, or other person representing or acting on behalf of a person who applies for a rezoning action

ATTACHMENT C2

CAMPAIGN DISCLOSURE REPORT¹ BY APPLICANT²

(A separate form must be completed by each applicant - please see definition below)*

Has the applicant² made, within two (2) years immediately preceding the filing of this application for rezoning, campaign contributions aggregating two hundred fifty dollars (\$250.00) or more or made gifts having in the aggregate a value of two hundred fifty dollars (\$250.00) or more to a member or members of the Mayor and Council or Planning Commission who will consider the application?

If so, the applicant and the attorney representing the applicant must file a disclosure report with the Mayor and Council of Mableton within ten (10) days after this application is first filed.

Please apply the following information that will be considered as the required disclosure:

The name of the member(s) of the Mayor and Council or Planning Commission to whom the campaign contribution or gift was made:

The dollar amount of each campaign contribution made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application and the date of each such contribution:

An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application:

I certify that the foregoing information is true and correct, this _____ day of _____, 20

_____.

Applicant's Signature

¹If the answer to any question is “Yes,” then the member of the Mayor and Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the City Council of Mableton, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

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City of Mableton
 Community Development | Planning and Zoning Division
 6116 Mableton Parkway, Suite 144
 Mableton, GA 30126
 (470) 417-4220
 www.mableton.gov

BOARD OF ZONING APPEAL STAFF REPORT

GENERAL INFORMATION

CASE NUMBER: VAR2025-002

APPLICANT: Jamilia Brown

REQUEST: To reduce the overall lot size from 24,637 square feet to 12,000 square feet.

PROPERTY LOCATION: 6247 Allen Ivey Road, Mableton, Georgia

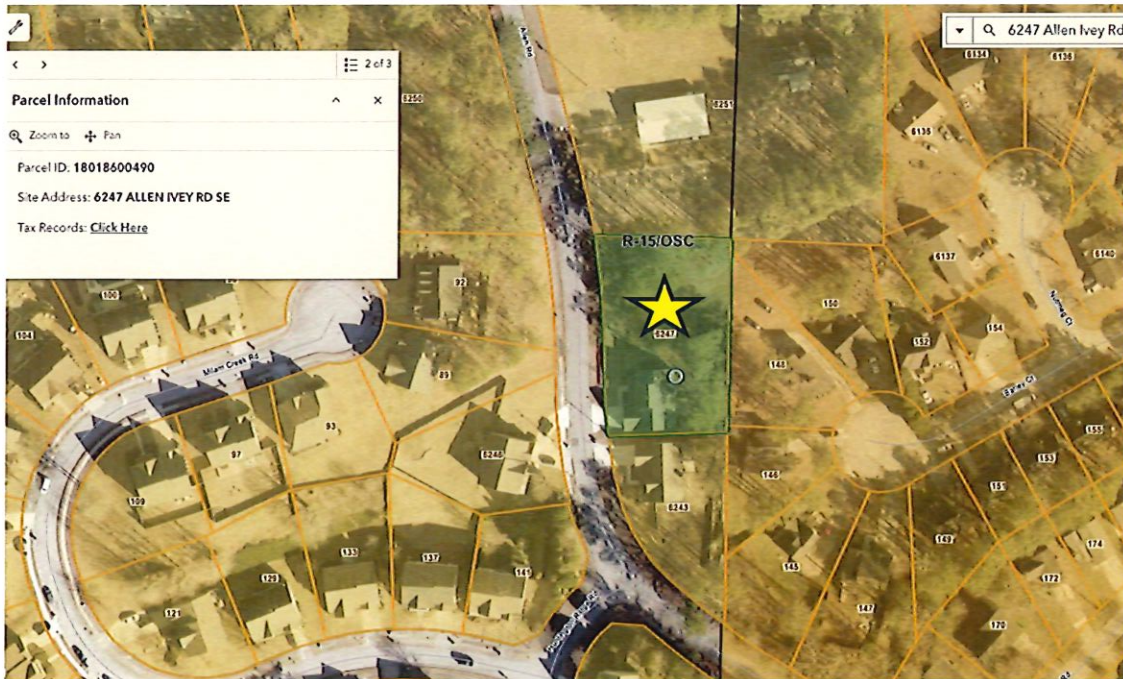
PARCEL ID: 18018600490

ACREAGE: 0.56

HEARING DATE: August 14th 2025

DISTRICT: 3

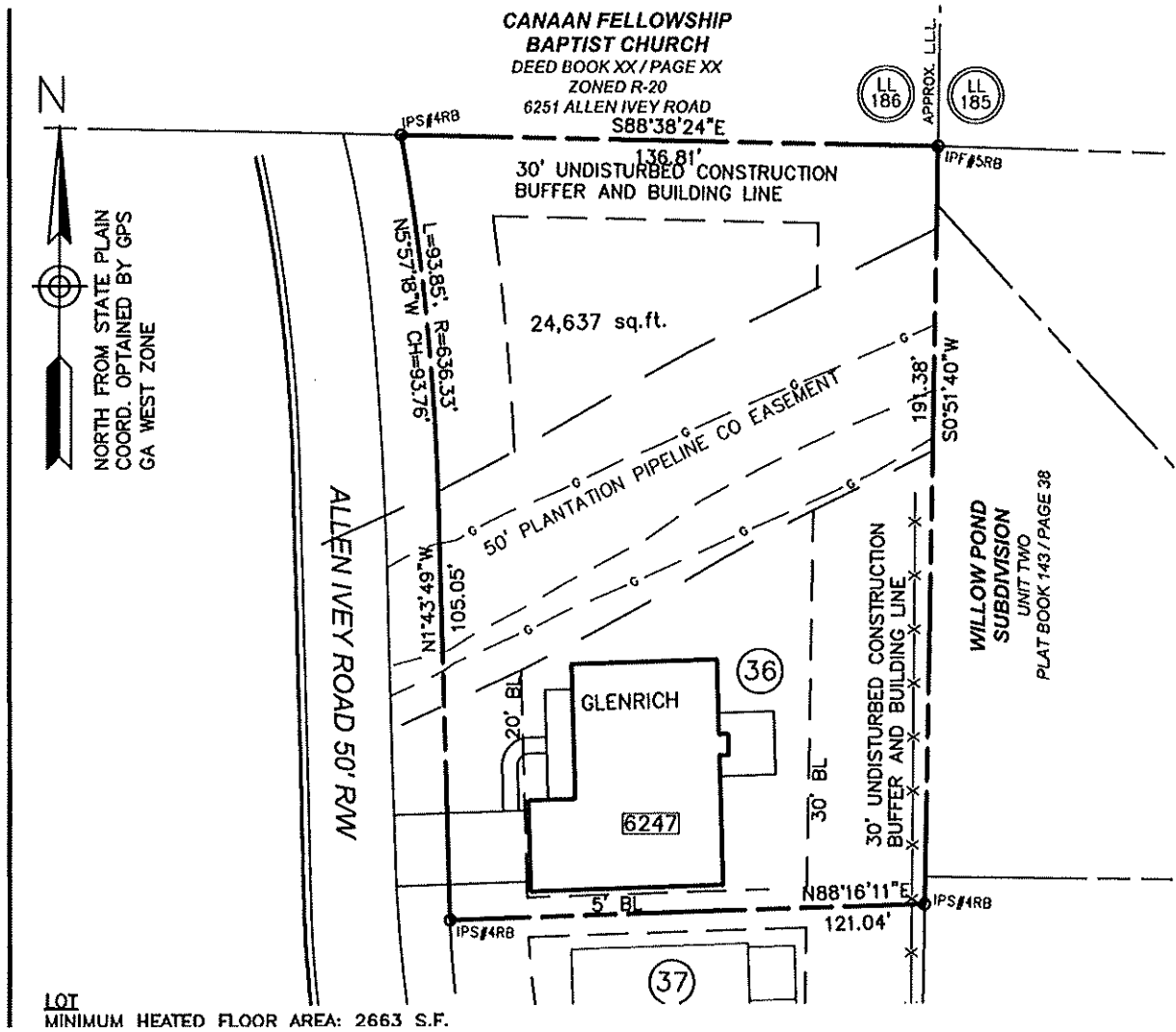
ZONING MAP

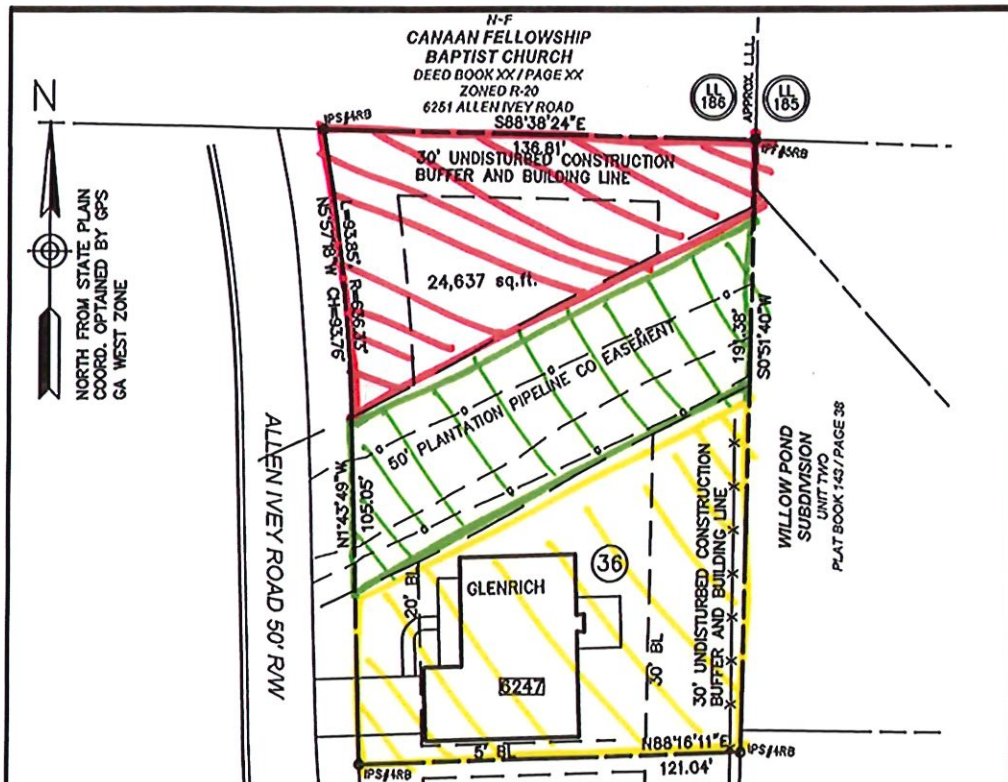


I. Purpose of Request

The applicant is requesting a variance to reduce the minimum lot size requirement from 24,637 square feet to 12,000 square feet in order to subdivide the existing parcel into two separate lots. The purpose of the request is to facilitate the construction of a new single-family residence on the newly created lot, within the established Hunting Ridge Subdivision, which is characterized by similar residential development patterns.

Survey





*Red Hatched area is proposed new lot of 12,000 square feet

*Green Hatched area is 50' Plantation Pipeline Easement

*Yellow Hatched area is existing single family home.

II. Code Requirements

Per Code Sec Table 3-3 Bulk Use Regulations, a minimum lot size for R-15 parcel is 15,000 square feet. Variances may only be granted upon meeting specific hardship criteria and/or where impacts can be mitigated.

III. Staff Analysis

i) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.

The subject property is larger than many other lots in the subdivision and includes a 50-foot gas pipeline easement that bisects the site. While this easement may limit development in certain areas of the lot, the property remains functional as a single-family lot and is not encumbered to the point of preventing reasonable use. Additionally, it appears that the property was originally platted as a single lot, and no evidence has been presented to suggest that the original developer was prevented from subdividing it at the time of development. As such, while the site may

contain some unique characteristics, they do not clearly rise to the level of extraordinary or exceptional conditions that would support a variance under this criterion.

ii) The application of this chapter to this particular piece of property would create an unnecessary hardship

The existing property is currently developed with a single-family home and is consistent with the permitted use and density allowed under the zoning ordinance. While the applicant seeks to subdivide the lot, the current regulations do not prevent the continued use and enjoyment of the property in its present condition. As such, the request appears to reflect a desire to increase the development potential of the lot rather than to relieve a hardship that denies reasonable use. Therefore, the criteria for unnecessary hardship may not be fully met in this instance

iii) Such conditions are peculiar to the particular piece of property involved

The lot's existing size—24,637 square feet—is atypical for the Hunting Ridge Subdivision, where many parcels are closer to or below the 12,000 square-foot range. This makes the property uniquely suited for subdivision in a way that is harmonious with the established development pattern of the neighborhood.

iv) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this chapter

The proposed subdivision would result in the creation of an additional residential lot within an established single-family neighborhood. The resulting lot sizes—approximately 12,000 square feet—would fall within the existing range of lot sizes in the subdivision, which vary from approximately 11,000 to 25,000 square feet. Infrastructure and public services are already available to support additional residential development, and the new lot would be accessed from an existing public street.

However, approval of the variance could raise concerns about setting a precedent for further subdivision requests in similarly zoned areas, potentially impacting the consistency and intent of the zoning code's minimum lot size standards. The request may also alter the original development pattern envisioned for the subdivision if the intent was for the lot to remain as a single parcel. Whether the variance undermines the purpose and intent of the chapter depends on how strictly the city interprets and upholds its zoning standards related to density, lot size uniformity, and neighborhood character.

v) No variance may be granted for a use of land or building or structure that is prohibited by this chapter, or that would conflict with a stipulation or condition imposed by the city council

The proposed use—construction of a detached single-family residence—is permitted by right in the zoning district. The request does not conflict with any conditions or stipulations imposed by the City Council and does not alter the permitted use of the property.

Staff Recommendation.

Staff finds that the variance request does not meet several of the required criteria for approval under the zoning ordinance. The property is already in lawful and reasonable use, and no hardship exists that would justify the reduction of lot size. Therefore, staff recommends denial of the variance.



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- a) That the corporate seal or facsimile thereof affixed to the document is in fact the seal of the corporation or true facsimile thereof, as the case may be;
- b) That any officer of the corporation executing the document does in fact occupy the official position indicated, that one in such position is duly authorized to execute such document on behalf of the corporation, and that the signature of such officer subscribed thereto is genuine; and
- c) That the execution of the document on behalf of the corporation has been duly authorized.

3. **Warranty Deed.** A copy of the warranty deed that reflects the current owner(s) of the property. (Mark as Attachment B)

4. **Disclosure Forms.** Zoning Application Disclosure forms (Attachments C1 and C2) must be completed.

5. **Legal Description.** A current legal description of the subject property. If the application consists of several tracts, a legal description of each tract is required. A separate legal description of each zoning classification is also required, as well as an overall description of all tracts and/or classifications combined. No legal description should include more property than is included in the

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- d) lot lines
- e) angles
- f) total acreage
- g) bearing and distances
- h) adjoining street with right-of-way (present and proposed)
- i) paving widths
- j) the exact size (dimensions and square footage) and location of all buildings along with intended use
- k) building setback
- l) buffer areas
- m) parking spaces and parking deck location
- n) lakes and streams
- o) utility easements
- p) limits of the 100-year floodplain and acreage of floodplain
- q) cemeteries
- r) access points
- s) wetlands
- t) stormwater detention/retention areas
- u) calculation of impervious surface before and after changes to the property
- v) stream buffers (minimum 50' buffer)
- w) architectural or archeological landmarks
- x) lot sizes (if the property will be subdivided)

7. **Sign Variances Only.** Any sign variance request must provide a sign rendering that shows: size, height, shape, illumination (external/internal) and structural details (footings). (Mark as Attachment F)

8. **Tax Receipt.** A copy of the paid tax receipt for the subject property, or a statement signed by an official in the Tax Commissioner's Office or other official document issued by the Tax Commissioner's Office indicating the taxes have been paid. Properties with delinquent taxes may be withdrawn by the staff or may be delayed or denied by the Board of Zoning Appeals. (Mark as Attachment G)

9. **Septic Tanks.** Documentation from the Cobb County Health Department if the property is or will be on a septic tank. (Attachment H)

Variance Process Requirements

1. **Signs.** Signs provided by the City must be posted on or near the right-of-way of the nearest public street thirty (30) days before the public hearing. Signs must be posted every 500 feet of public road frontage. Failure to post and maintain signs continuously may prohibit consideration of the application at any scheduled public hearing. It is the responsibility of the applicant to ensure that signs remain posted throughout the advertising period, including the day of the public hearing and to remain posted until the final decision by the Board of Zoning Appeals.

2. **Public Hearing.** Applicant, or representative for applicant, must attend the Variance Hearing. Failure to attend may result in dismissal with prejudice, rejection of the application or continuance of the hearing at the Board’s sole discretion.
3. **Application Fees.** Fees must be paid by credit card or Venmo. To qualify for the residential fee schedule, the applicant must be the present or future resident.
 - a. Residential - \$150.00
 - b. Churches -\$450.00
 - c. Livestock - \$25.00
 - d. Builders -\$450.00
 - e. Commercial - \$500.00
4. **Mailings.** Applicants are required to provide a Certificate of Mailing that demonstrates that all property owners adjacent to the subject property have been notified of the Variance application. Applicants are encouraged to provide the letter to city staff for a cursory review prior to completing the Certificate of Mailing. The notice must be postmarked 30 calendar days prior to the Planning Commission Hearing. The applicant/representative is required to file with the Zoning Division proof of the mailing no later than 21 days prior to the Planning Commission Zoning Hearing for which the application is scheduled to be considered. Staff is authorized to continue any pending case in which the above requirements are not met. The notification must include:
 - a. A legible copy of the application and site plan
 - b. Phone numbers and email addresses for the applicant and the City zoning office.
5. **Reduction in Lot Size or Public Road Frontage.** Variances for a reduction in lot size or a reduction in public road frontage cannot be heard by the Board of Zoning Appeals. These two types of variances can only be heard by the Mayor and Council via the “Other Business” process. Please see the “Other Business” application for the requirements, fees and hearing dates.
6. **Public Contact.** Variance applications are public information and will be visible on the City website, advertised in the newspaper and otherwise disseminated to the general public. Applicants and their representatives should expect communication (phone calls, emails) from members of the public and should respond to their questions and concerns with complete, factual information and courtesy.
7. **Reconsideration.** Any variance request may not be reconsidered for a period of twelve (12) months after it has been rejected by the Board of Zoning Appeals, unless by court order or pursuant to a settlement of litigation approved by the Board of Zoning Appeals.

List of Attachments

- Attachment A – Variance Application
- Attachment B – Warranty Deed
- Attachments C1 & 2 – Disclosure Forms
- Attachment D – Legal Description
- Attachment E – Site Plan
- Attachment F – Sign Variances Only
- Attachment G – Tax Receipt
- Attachment H – Septic Tank Documentation

Application for Variance Mableton, Georgia

(type or print clearly)

Application No. _____

Hearing Date: _____

Applicant Collection at Sweetwater, LLC Phone # 770-887-2177 E-mail jordont@odwyerhomes.com

Jordon Tench

(representative's name, printed)

Address 850 Old Alpharetta Road, Alpharetta, GA 30005

(street, city, state and zip code)



(representative's signature)

Phone # 770-887-2177

E-mail jordont@odwyerhomes.com


Signed, sealed and delivered in presence of



My commission expires: 3/20/2008

Notary Public

Titleholder O'Dwyer Properties, LLC Phone # 770-887-2177 E-mail jordont@odwyerhomes.com

Signature 
(attach additional signatures, if needed)

Address: 850 Old Alpharetta Road, Alpharetta, GA 30005

(street, city, state and zip code)

Signed, sealed and delivered in presence of



My commission expires: 3/20/2008

Notary Public

Present Zoning of Property RA-4, Cluster Residential

Location 1035 Old Bankhead Highway, Mableton, GA 30126

(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 1296 & 1297 District 19th Size of Tract 4.17 Acre(s)

Please select the extraordinary and exceptional condition(s) to the piece of property in question. The condition(s) must be peculiar to the piece of property involved.

Size of Property _____ Shape of Property _____ Topography of Property _____ Other

Does the property or this request need a second electrical meter? YES _____ NO

How many stories is the proposed building? 3 How many square feet? 2,834

The City of Mableton Zoning Ordinance Section (insert) states that the City of Mableton Board of Zoning Appeals must determine that applying the terms of the Zoning Ordinance without the variance would create an unnecessary hardship. Please state what hardship would be created by following the normal terms of the ordinance.

The 4.17-acre property is encumbered with both a 100-foot Georgia Power easement and two streams which create a large stream buffer area. This leaves an area of less than 0.85-acre where buildings can be constructed. If the requested variance is not granted, the two townhome units will be placed further in the site below the Georgia Power easement creating additional impacts to the enhanced stream buffer due to the construction of an access drive extending to this lower area.

List type of variance requested: Cobb County Code Sec. 50-75(15); Encroachment of land disturbing activities into a Cobb County enhanced stream buffer is necessary for the grading and construction of two townhome units and an underground stormwater management facility that will provide runoff reduction and detention storage beneath a graded and grassed open space as well as for the installation of drainage structures including an 18-inch reinforced concrete outlet pipe, concrete headwall, and stone outlet protection serving as a stormwater drainage outfall discharging to the buffered stream. This results in a total of 5,253 square feet of impact, including 380 square feet of proposed impervious area. There is a 13,862-square-foot portion of the site that is south of the Georgia Power easement bordering the enhanced buffer that will be granted as an additional buffer conservation area to provide the required area for buffer averaging. Therefore, there will be no net decrease in the square footage of the county-mandated buffer.

Date of this notice: 12-02-2024

Employer Identification Number:
33-2189726

Form: SS-4

Number of this notice: CP 575 B

COLLECTION AT SWEETWATER
DANIEL S ODWYER MBR
850 OLD ALPHARETTA ROAD
ALPHARETTA, GA 30005

For assistance you may call us at:
1-800-829-4933

IF YOU WRITE, ATTACH THE
STUB AT THE END OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 33-2189726. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

Taxpayers request an EIN for their business. Some taxpayers receive CP575 notices when another person has stolen their identity and are opening a business using their information. If you did **not** apply for this EIN, please contact us at the phone number or address listed on the top of this notice.

When filing tax documents, making payments, or replying to any related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear-off stub and return it to us.

Based on the information received from you or your representative, you must file the following forms by the dates shown.

Form 1065

03/15/2025

If you have questions about the forms or the due dates shown, you can call us at the phone number or write to us at the address shown at the top of this notice. If you need help in determining your annual accounting period (tax year), see Publication 538, *Accounting Periods and Methods*.

We assigned you a tax classification (corporation, partnership, estate, trust, EPMF, etc.) based on information obtained from you or your representative. It is not a legal determination of your tax classification, and is not binding on the IRS. If you want a legal determination of your tax classification, you may request a private letter ruling from the IRS under the guidelines in Revenue Procedure 2020-1, 2020-1 I.R.B. 1 (or superseding Revenue Procedure for the year at issue). Note: Certain tax classification elections can be requested by filing Form 8832, *Entity Classification Election*. See Form 8832 and its instructions for additional information.

A limited liability company (LLC) may file Form 8832, *Entity Classification Election*, and elect to be classified as an association taxable as a corporation. If the LLC is eligible to be treated as a corporation that meets certain tests and it will be electing S corporation status, it must timely file Form 2553, *Election by a Small Business Corporation*. The LLC will be treated as a corporation as of the effective date of the S corporation election and does not need to file Form 8832.

This instrument prepared by and return to:

Tax Parcel ID No.: 19129600430

Slutzky, Wolfe and Bailey, LLP
2255 Cumberland Parkway, Northwest
Building 1300
Atlanta, Georgia 30339

LIMITED WARRANTY DEED

THIS INDENTURE, made and entered into as of the 10th day of December, 2024, by and between **ADP OLD BANKHEAD HIGHWAY LLC**, a Georgia limited liability company, having an address of 1298 Concord Road, Smyrna, Ga, 30080, USA (hereinafter called "Grantor"), and **O'DWYER PROPERTIES, LLC.**, a Georgia limited liability company, having an address of 850 Old Alpharetta Road, Alpharetta, GA, 30005, USA (hereinafter called "Grantee").

WITNESSETH:

That Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency whereof are hereby acknowledged, has granted, bargained, sold, aliened and conveyed and by these presents does grant, bargain, sell, alien and convey unto Grantee, its successors and assigns, all that tract or parcel of land, and/or interests in land, described in **Exhibit "A"**, attached hereto and by this reference incorporated herein.

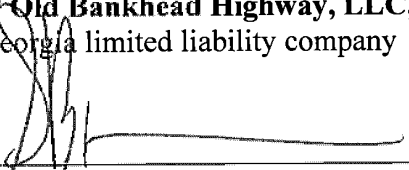
TO HAVE AND TO HOLD the said bargained premises, together with all and singular the rights, members and appurtenances thereof, to the same being, belonging or in anywise appertaining, to the only proper use, benefit and behoof of Grantee, its successors and assigns, forever, IN FEE SIMPLE; subject, however, to the matters set forth in **Exhibit "B"**, attached hereto and by this reference incorporated herein.

And the said Grantor, for itself, its successors, legal representatives and assigns does warrant and will forever defend the right to the aforescribed premises unto the said Grantee, its

successors and assigns, against the lawful claims of all persons by, through or under Grantor, except as to claims arising from matters set forth in said **Exhibit "B"**.

IN WITNESS WHEREOF, Grantor, acting by and through its duly authorized general partner, has caused this indenture to be executed under seal as of the date first above written.

ADP Old Bankhead Highway, LLC,
a Georgia limited liability company

By: 
Name: Joseph Burke
Its: Manager

**Signed, sealed and delivered
in the presence of:**


UNOFFICIAL WITNESS


NOTARY PUBLIC

My Commission expires: _____

(Affix Notarial Seal here)

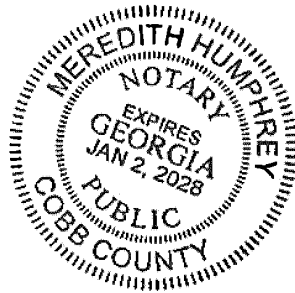


EXHIBIT "A"

Legal Description

All that tract or parcel of Land Lying in Land lots 1296 and 1297 of the 19th District and 2 Section of Cobb County, Georgia. Said tract being in Mableton, Ga., and better described as follows; Beginning at a point on the South side of Old U.S. Highway No. 78 (a.k.a. as Old Bankhead Hwy.), and the West right-of-way of Georgia Power Company; Thence running North 46 degrees - 35 minutes - 40 seconds East for 215.68 ft. to the iron pin; Thence running South 75 degrees - 56 minutes - 20 seconds East for 465.13 ft. to iron pin; Thence running South 08 degrees - 33 minutes 54 seconds East for 259.01 ft. to iron pin; Thence running South 04 degrees - 01 minute - 33 seconds West for 149.3 ft. to iron pin; said call being the west R/W of Brenda Drive, a part of said street not open; Thence running North 86 degrees - 28 minutes - 37 seconds West for 200.0 ft. to iron pin; Thence running North 04 degrees - 12 minutes - 33 seconds East for 103.7 ft. to iron pin; (said last call running to the South R/W of Georgia Power Company); Thence running South 80 degrees - 40 minutes - 58 seconds West for 21.6 ft. to iron pin; Thence running North 58 degrees - 40 minutes - 37 seconds West for 250.85 ft. to iron pin; Iron Pin on West R/W of Haggard Drive, a street that comes to a "dead end" at the said Georgia Power Company R/W; Thence continue along South R/W of Georgia Power Company North 58 degrees - 35 minutes - 26 seconds West for 244.11 ft. to iron pin on the South side of Old U.S. Highway No. 78 and the Point of Beginning.

Said parcel of land to contain a total of 4.195 acres. Said property being known as 1035 Old Bankhead Hwy, Mableton, GA 30126 according to the present system of numbering houses in and around Cobb County, Georgia.

Tax ID#:19129600430

LESS AND EXCEPT any portion of subject property falling within the bounds of the following deeds:

- a. Deed Book 537, Page 410;
- b. Deed Book 822, Page 147;
- c. Deed Book 10273, Page 369;
- d. Deed Book 13404, Page 597;
- e. Deed Book 13701, Page 2247;
- f. Deed Book 14010, Page 2602; and
- g. Deed Book 15711, Page 2256, Cobb County, Georgia records.

PROPERTY/FINANCIAL DISCLOSURE REPORT¹ BY APPLICANT²

(A separate form must be completed by each applicant* - please see definition below)

Does any member of the Mayor and Council or Planning Commission have a property interest (direct or indirect ownership, including any percentage of ownership less than total) in the subject property?

NO

If so, describe the nature and extent of such interest:

Does any member of the Mayor and Council or Planning Commission have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is ten percent (10%) or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property?

NO

If so, describe the nature and extent of such interest:

Does any member of the Mayor and Council or Planning Commission have a spouse, mother, father, brother, sister, son or daughter who has any interest as described above?

NO

If so, describe the relationship and the nature and extent of such interest:

I certify that the foregoing information is true and correct, this 23 day of JUNE, 2025

Applicant's Signature

¹If the answer to any question is "Yes," then the Mayor or the member of the Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the City Council of Mableton, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney, or other person representing or acting on behalf of a person who applies for a rezoning action

ATTACHMENT C2

CAMPAIGN DISCLOSURE REPORT¹ BY APPLICANT²

(A separate form must be completed by each applicant - please see definition below)*

Has the applicant² made, within two (2) years immediately preceding the filing of this application for rezoning, campaign contributions aggregating two hundred fifty dollars (\$250.00) or more or made gifts having in the aggregate a value of two hundred fifty dollars (\$250.00) or more to a member or members of the Mayor and Council or Planning Commission who will consider the application?

NO

If so, the applicant and the attorney representing the applicant must file a disclosure report with the Mayor and Council of Mableton within ten (10) days after this application is first filed.

Please apply the following information that will be considered as the required disclosure:

The name of the member(s) of the Mayor and Council or Planning Commission to whom the campaign contribution or gift was made:

N/A

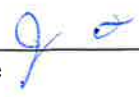
The dollar amount of each campaign contribution made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application and the date of each such contribution:

N/A

An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application:

N/A

I certify that the foregoing information is true and correct, this 23 day of JUNE, 2025

Applicant's Signature 

¹If the answer to any question is "Yes," then the member of the Mayor and Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the City Council of Mableton, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney or other person representing or acting on behalf of a person who applies for a rezoning action

DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING IN LAND LOTS 1296 AND 1297 OF THE 19TH DISTRICT AND 2ND SECTIOB OF COBB COUNTY, GEORGIA, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT A REBAR SET ON THE SOUTH SIDE OF OLD U.S. HIGHWAY NO. 78 (A.K.A. AS OLD BANKHEAD HIGHWAY)(60' R/W), AND THE WEST RIGHT OF GEORGIA POWER COMPANY, THENCE RUNNING N46°35'40"E ALONG SOUTHEAST RIGHT OF WAY OF OLD US. U.S. HIGHWAY NO. 78 A DISTANCE OF 217.52 FEET TO A REBAR SET, THENCE RUNNING S75°56'20"E A DISTANCE OF 459.20 FEET TO A 1/2" REBAR, THENCE RUNNING S08°33'54"E A DISTANCE OF 259.01 FEET TO A 1/2" REBAR, THENCE RUNNING S04°01'33"W ALONG THE SAID EAST RIGHT OF WAY OF BRENDA DRIVE A DISTANCE OF 149.30 FEET TO A 1/2" REBAR, THENCE RUNNING N86°28'37"W A DISTANCE OF 200.01 FEET TO 3/8" REBAR, THENCE N04°12'33"E A DISTANCE OF 103.70 FEET TO A 1/2" REBAR, THENCE RUNNING S80°40'58"W A DISTANCE OF 21.60 FEET TO A 1/2" OPEN TOP PIPE, THENCE RUNNING N58°40'37"W A DISTANCE OF 250.85 FEET TO A 3/8" REBAR, THENCE RUNNING N58°35'26"W A DISTANCE OF 238.93 FEET TO A REBAR SET AND POINT OF BEGINNING.

SAID TRACT OR PARCEL CONTAINING 4.170± ACRES OR 181,647± SQ. FT.

BEING THE SAME PROPERTY AS DESCRIBED IN NATIONAL TITLE INSURANCE OF NEW YORK, INC. (EXHIBIT A)

TITLE COMMITMENT NO. 3325.3-0

DATE DECEMBER 16, 2020



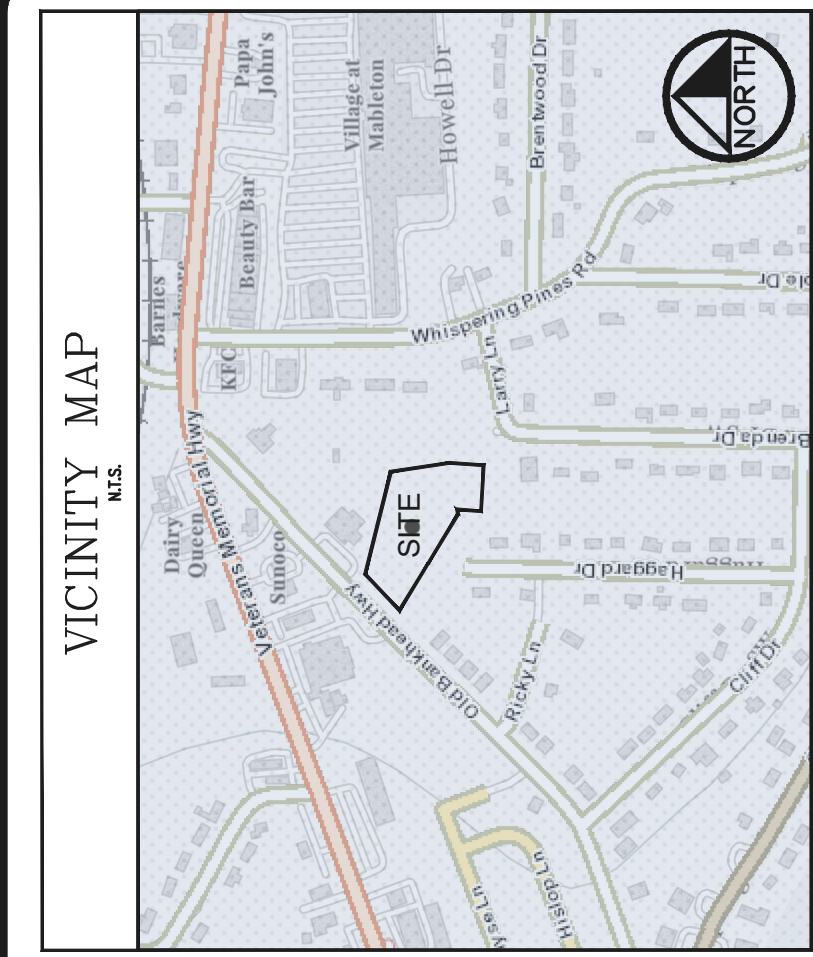
Project No. P-2423	Design By: WBD
Checked By: WBD	Date: 3-25-2025
Scale: 1" = 30'	

No.	Revision

COLLECTION AT
SWEETWATER, LLC
850 OLD ALPHARETTA ROAD
ALPHARETTA, GA 30005

STREAM BUFFER VARIANCE PLAN
OLD BANKHEAD TOWNHOMES
1035 OLD BANKHEAD HIGHWAY
19TH DISTRICT, 2ND SECTION
CITY OF MABLETON, COBB COUNTY, GEORGIA

Drawing No. **ZZ**



SITE DATA

PARCEL ID: 19129800430
ADDRESS: 1035 OLD BANKHEAD HIGHWAY
LOT AREA: 4.17 ACRES (181,647 SF)
DISTURBED AREA: 2.18 ACRES (94,960 SF)
EXISTING ZONING: NS & R20
PROPOSED ZONING: RA-4

EXISTING USE: DEVELOPED, WOODED ATTACHED RESIDENTIAL
PROPOSED USE: TOWNHOMES, SINGLE-FAMILY ATTACHED RESIDENTIAL

MAXIMUM DENSITY: 4 UNITS PER ACRE
PROPOSED UNITS: 14
PROPOSED DENSITY: 3.4 UNITS PER ACRE

MAXIMUM BUILDING HEIGHT: 35'
PROPOSED BUILDING HEIGHT: 29.87' (EACH BLDG WILL HAVE A MIX OF 2-STORY & 3-STORY UNITS)

BUILDING 1 GROSS FLOOR AREA: 10,164 SF
BUILDING 2 GROSS FLOOR AREA: 12,591 SF
BUILDING 3 GROSS FLOOR AREA: 12,591 SF

EX. IMPERVIOUS LOT COVERAGE: 0 SF (0%)
PROP. IMPERVIOUS LOT COVERAGE: 42,745 SF (24%)

PROPOSED SETBACKS:
FRONT YARD: 25' (PER VARIANCE)
NORTHERN SIDE YARD: 15' (PER VARIANCE)
SOUTHERN SIDE YARD: 20'
REAR YARD: 40'

MINIMUM DISTANCE BETWEEN BUILDINGS: 15'

AREA LEGEND

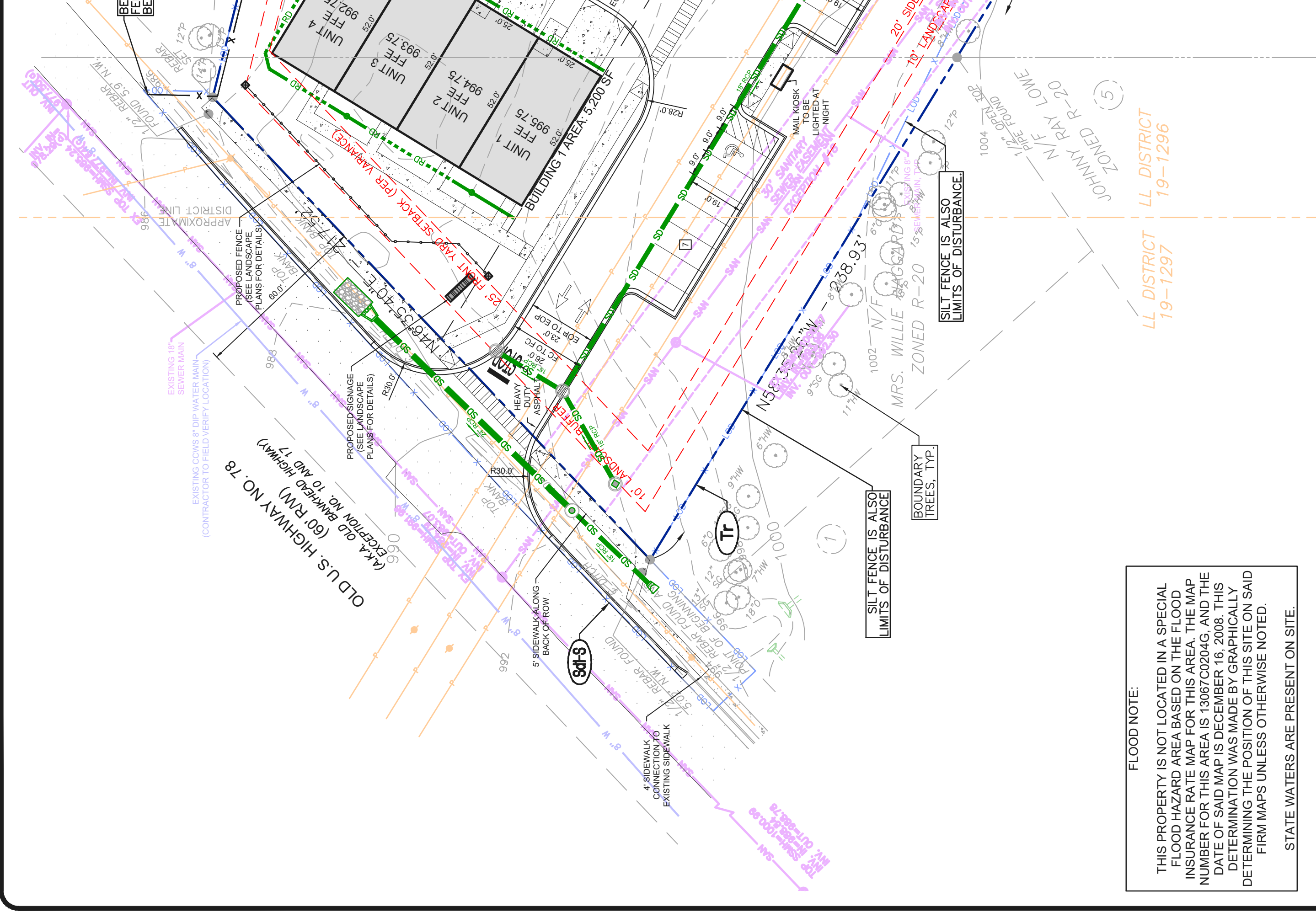
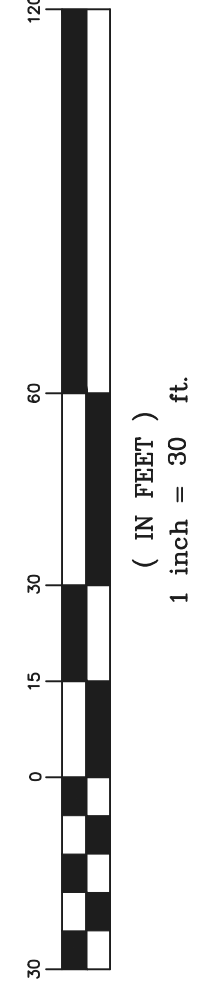
- PROPOSED IMPACT WITHIN 75' COUNTY IMPERVIOUS BUFFER = 4,640 SF
- PROPOSED IMPACT WITHIN 50' COUNTY UNDISTURBED BUFFER = 655 SF
- PROPOSED IMPACT WITHIN 25' STATE STREAM BUFFER = 860 SF
- PROPOSED IMPERVIOUS AREA WITHIN 75' COUNTY IMPERVIOUS BUFFER = 380 SF
- PROPOSED ADDITIONAL BUFFER CONSERVATION AREA = 13,862 SF



GEORGIA 811
Utility Protection Center, Inc.
Know what's below
Call 811 or (800) 282-7411
Before You Dig

*****CAUTION*****
THE UTILITIES SHOWN HEREON ARE FOR THE CONTRACTOR'S CONVENIENCE ONLY. THERE MAY BE OTHER UTILITIES NOT SHOWN ON THESE PLANS. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR THE LOCATIONS SHOWN AND IF THE UTILITIES ARE NOT FOUND, THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE LIMITS OF THE WORK. ALL DAMAGE MADE TO EXISTING UTILITIES BY THE CONTRACTOR SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR.

GRAPHIC SCALE



FLOOD NOTE:
THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON THE FLOOD INSURANCE RATE MAP FOR THIS AREA. THE MAP NUMBER FOR THIS AREA IS 13087C0204G, AND THE DATE OF SAID MAP IS DECEMBER 16, 2008. THIS DETERMINATION WAS MADE BY GRAPHICALLY DETERMINING THE POSITION OF THIS SITE ON SAID FIRM MAPS UNLESS OTHERWISE NOTED.
STATE WATERS ARE PRESENT ON SITE.

THIS SITE IS NOT LOCATED WITHIN THE 100-YEAR FLOOD PLAIN.

Cobb County Unincorporated Areas
1-30052

NATIONAL FLOOD INSURANCE PROGRAM
FIRM
FLOOD INSURANCE RATE MAP
COBB COUNTY, GEORGIA
AND UNINCORPORATED AREAS
PANEL 204 OF 202
MAP NUMBER 13087C0204G
MAP REVISED DECEMBER 16, 2008
Federal Emergency Management Agency

MAP SCALE 1" = 500'
250 0 500 1000 FEET
250 0 500 1000 METERS



Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
Phone: 770-528-8600
Fax: 770-528-8679

Payer:
Joseph Burke

ADP OLD BANKHEAD HIGHWAY LLC

Payment Date: 10/15/2024

Table with 7 columns: Tax Year, Parcel ID, Due Date, Appeal Amount, Taxes Due. Row 1: 2024, 19129600430, 10/15/2024, Pay: N/A or, \$0.00

Table with 6 columns: Interest, Penalty, Fees, Total Due, Amount Paid, Balance. Row 1: \$0.00, \$0.00, \$0.00, \$0.00, \$1,447.20, \$0.00



Scan this code with your mobile phone to view this bill!



Printed: 6/25/2025

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
 Phone: 770-528-8600
 Fax: 770-528-8679

Payer:
Joseph Burke

ADP OLD BANKHEAD HIGHWAY LLC

Payment Date: 10/15/2024

Tax Year	Parcel ID	Due Date	Appeal Amount		Taxes Due
2024	19129600430	10/15/2024	Pay:	N/A or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$1,447.20	\$0.00



Scan this code with your mobile phone to view this bill!



BOARD OF ZONING APPEAL STAFF REPORT

GENERAL INFORMATION

CASE NUMBER: VAR2025-003

APPLICANT: Collection at Sweetwater, LLC

REQUEST: To encroach into the Mableton Stream Buffer, for a total of 5,253 square feet.

PROPERTY LOCATION: 1035 Old Bankhead Hwy, Mableton, Georgia

PARCEL ID: 19129600430

ACREAGE: 4.9

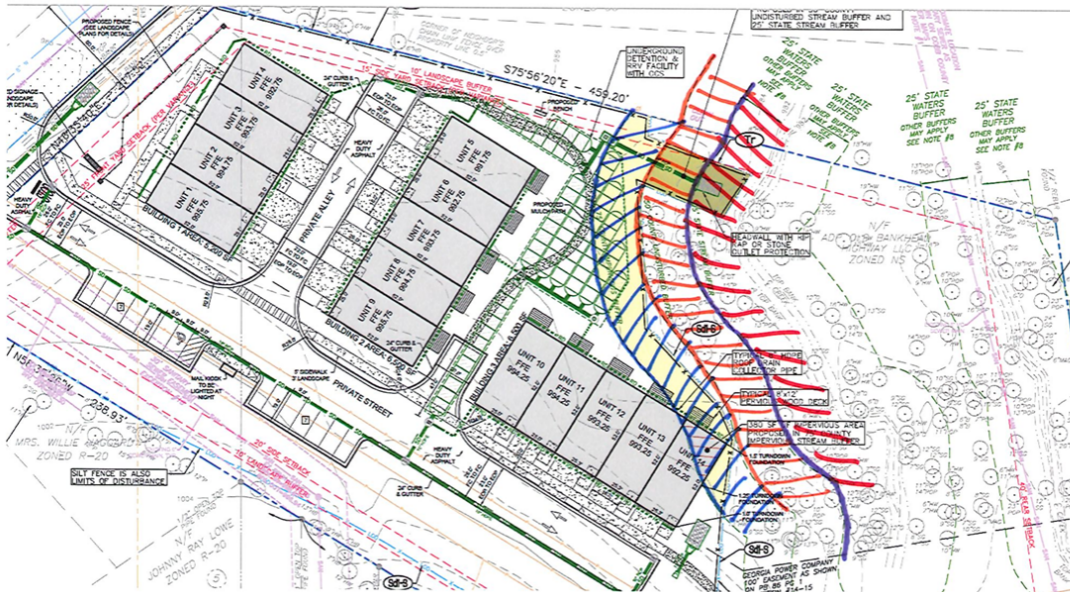
HEARING DATE: August 14th 2025

DISTRICT: 3

ZONING MAP



Stream Buffer Highlighted in Color



*Blue Hatched area is 75' no impervious setback area

*Orange Hatched area is 50' undisturbed buffer area

*Purple-Red area is 25' state undisturbed buffer area

II. Code Requirements

Per Code Sec 50-75(15), a minimum **75-foot impervious surface setback** and **50-foot undisturbed buffer** must be maintained from the top of bank of all state waters. Variances may only be granted upon meeting specific hardship criteria and where impacts can be mitigated.

III. Staff Analysis

i) Extraordinary and exceptional conditions pertaining to the particular piece of property due to size, shape, or topography

The subject property contains a 100-foot-wide Georgia Power easement that traverses the site in an east-west direction, generally bisecting the parcel. In addition, a stream runs from north to south through the property, resulting in state-mandated stream buffer requirements, including a 50-foot undisturbed buffer and a 75-foot impervious surface setback.

These combined constraints — the utility easement and stream buffers — significantly limit the developable area and contribute to the property's unusual and challenging site conditions.

ii) Application of this chapter to this property would create an unnecessary hardship

Strict enforcement of the stream buffer regulations would prevent reasonable development of the site, particularly for uses consistent with zoning and the surrounding neighborhood. The hardship is not self-imposed and arises due to the environmental constraints specific to this property.

iii) Such conditions are peculiar to the property involved

The lot's unique characteristics—such as powerline easement and stream buffer—are not generally applicable to nearby properties. These peculiarities justify individualized consideration.

iv) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this chapter

The applicant proposes proposed to reduce environmental impacts with mitigation measure proposed of 13,862 square feet of additional buffer located at the southern portion of the site. No impacts to downstream properties or public infrastructure are anticipated. The intent of the ordinance to protect water quality and stream health.

v) No variance may be granted for a prohibited use or in conflict with stipulations

The proposed residential use is permitted in the underlying zone district. No prior stipulations or zoning conditions prohibit this type of encroachment or construction, and the variance does not exceed the limitations for setback reductions specified in the ordinance.

Staff Recommendation.

Staff finds that the variance request does meet the required criteria for approval under the zoning ordinance. Therefore, staff recommends approval of the variance with the following stipulations;

1. Allowable encroachment of 5,253 square feet into the 50' foot buffer and 380 square feet of impervious in the 75' no impervious setback.
2. The applicant must provide and maintain 13,862 square feet of additional stream buffer at the southern portion of the site as proposed and placed in a conversation easement. The conservation easement agreement must be submitted to Community Development Staff for final approval.
3. No construction, grading, or impervious surfaces shall be permitted within the 50-foot undisturbed buffer, except as approved by the variance.
4. The development must comply with best management practices (BMPs) to prevent erosion, sedimentation, and other negative impacts to the stream.
5. The applicant must obtain written consent or confirmation from Geogia Department of Natural Resources regarding any encroachment into the 25' Undisturbed buffer and Army Core Engineer for proposed disturbance in the stream.

