

**ACTION DENYING SPECIAL EXCEPTION VARIANCE REQUEST**

APPLICATION SUBMITTED BY: The Elizabeth Price Dolvin Foundation, LLC (attorney John Costantino)

APPLICATION SUBMISSION DATE: July 31, 2024

RE: Request for a Special Exception Variance on a ±56.10-acre tract of land located 3470 Greensboro Highway in Oconee County, Georgia, (C-06-009E), from the Short-Term Rental standards requiring owner-occupied dwellings and the owner to be present when Short Term Rental guests are present. (Sec. 352.c (6)). The applicant is requesting to allow for an off-site property manager for the requested Short-Term Rental with no on-site occupancy.

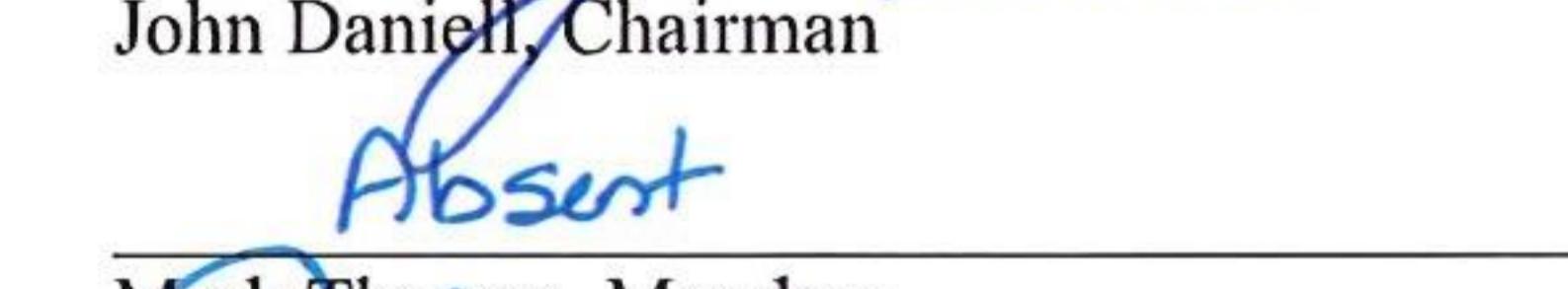
After consideration and a motion and second, the Oconee County Board of Commissioners does hereby deny the above-referenced request for a Special Exception Variance.

This 3<sup>rd</sup> day of December, 2024.

**OCONEE COUNTY BOARD OF COMMISSIONERS**

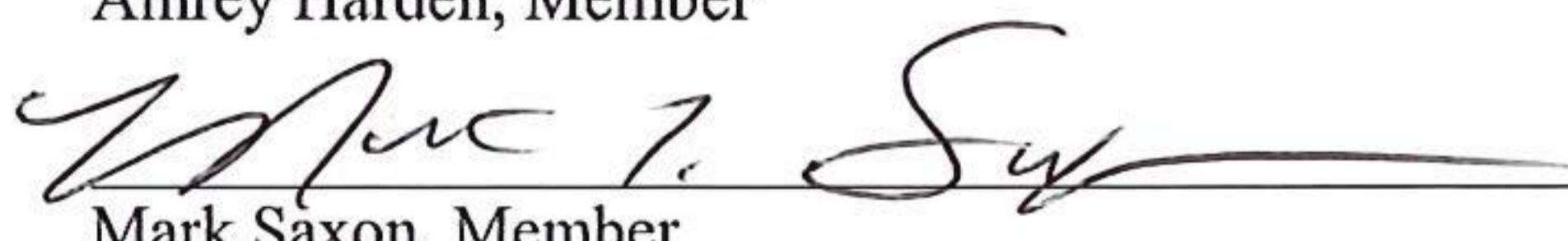
BY:

  
John Daniell, Chairman

  
Absent  
Mark Thomas, Member

  
Chuck Horton, Member

  
Amrey Harden, Member

  
Mark Saxon, Member

ATTEST:

  
Holly Stephenson  
Clerk, Board of Commissioners

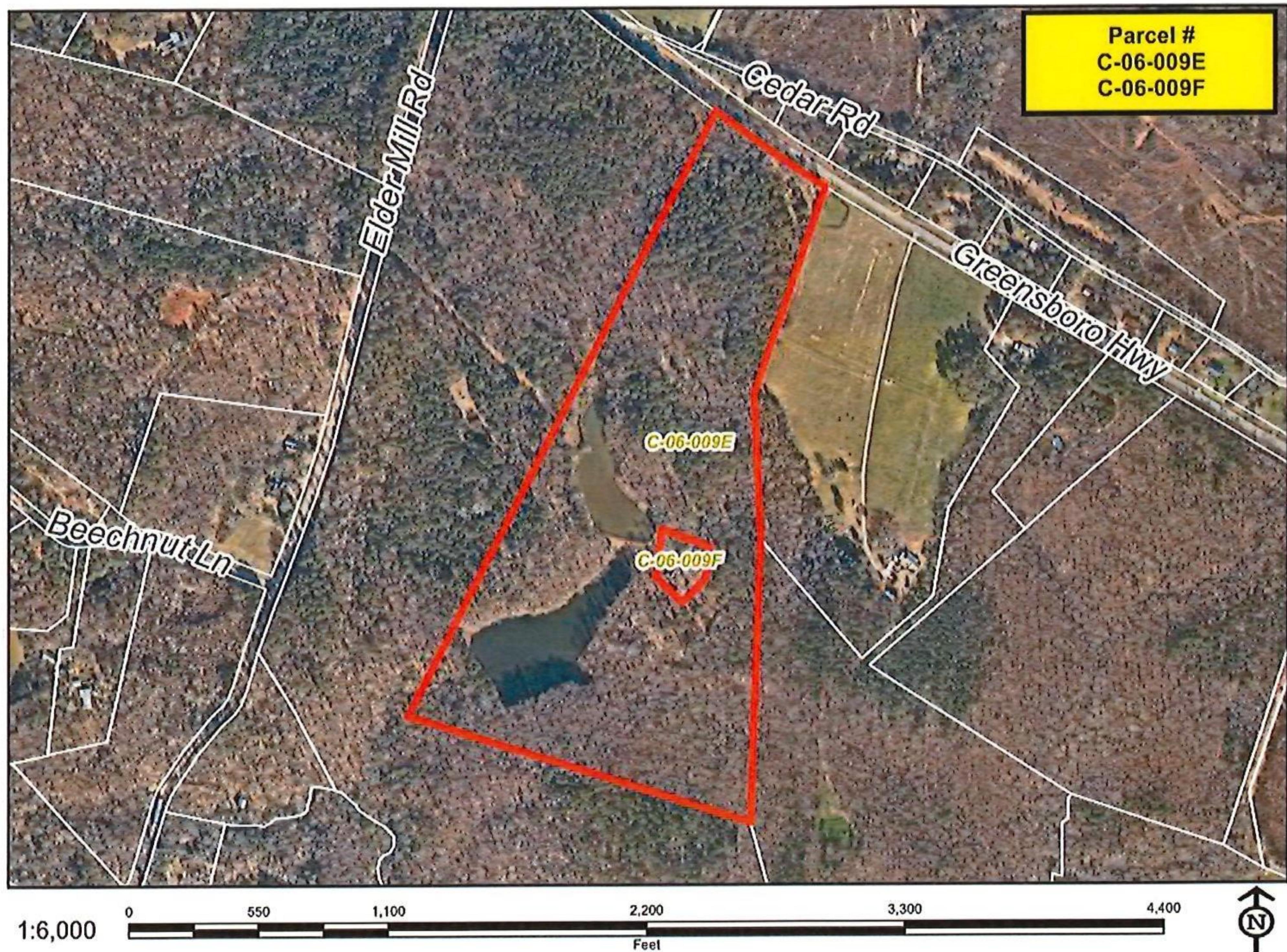
**EXHIBIT "A" TO SPECIAL EXCEPTION VARIANCE NO. P24-0144**

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**CONDITIONS**

TAX MAP

Variance # P24-0144 - Elizabeth Prince Dolvin Foundation



**TYPED LEGAL DESCRIPTION**

Legal Description – 3470 Greensboro Highway

ALL THAT CERTAIN TRACT OR PARCEL OF LAND situate, lying, and being in the 225th G.M. District of Oconee County, Georgia, containing 57.294 acres, more or less, less and except the 1.187 acres, more or less, of the property hereinafter described as Tract Two, and being the same tract or parcel of land conveyed and described in Exhibit A in the deed from Elizabeth P. Dolvin and Joseph C. Duncan, as successor co-Trustees under Item III of the Last Will and Testament of James B. Dolvin, to Elizabeth P. Dolvin, on March 4, 1987, and filed on April 14, 1987, in the office of the Clerk of Superior Court of Oconee County (the "Clerk's Office"), Book 86, Page 893, and being more particularly shown on that certain Plat of Survey dated April 1, 1986, and as revised on January 30, 1987, prepared for Elizabeth P. Dolvin by Ray N. Woods, Georgia Registered Land Surveyor No. 2049, which plat is recorded in Plat Book 13, Page 93, of the records of the Clerk's Office. The above-described tract was set aside as a Year's Support to Mrs. Elizabeth P. Dolvin by order of the Probate Court of Oconee County, Georgia, evidenced by a certificate thereof recorded at Deed Book 84, Page 411-12 of the records of the Clerk's Office.

The residence situated upon the above-described property is known and designated as 3470 GREENSBORO HIGHWAY, according to the present system of numbering houses in Oconee County, Georgia.

## NARRATIVE



22 NORTH MAIN STREET, BUILDING B  
PO BOX 209  
WATKINSVILLE, GA 30677  
706.395.5307  
JOHN@GADIRT.LAW

10.23.24

Re: 3470 Greensboro Highway Short-Term Rental Application; Narrative in Support of Variance Application by the Elizabeth Price Dolvin Foundation

*The follow is an amendment to the narrative previously submitted July 1, 2024 and in response to Departmental comments.*

### I. Introduction

The Elizabeth Price Dolvin Foundation (the "Foundation") hereby requests that the Oconee County Planning Department grant a variance to *Unified Development Code Article 3 Section 352.c.(6)* and approve the Foundation's application for authorization to host short term rentals on its property located at 3470 Greensboro Highway in Oconee County, Georgia (the "Subject Property"). Specifically, the Foundation requests that an exception to the ordinance's requirement that any short-term rental property be owner-occupied and allow for its full-time, onsite property manager to serve in such capacity, which is proper due to its conformance with the standards set forth in *Unified Development Code Article 13 Section 1304.03* as described below.

### II. Variance Requested

The Foundation requests a hardship variance to the owner-occupation requirements set forth by *Unified Development Code Article 3 Section 352.c.(6)* to allow Ms. Elizabeth Dulebohn, its full-time property manager to serve in such capacity. Such a variance is necessary due to the fact that the Foundation is a 501(c)(3) charitable foundation managed by two (2) trustees and does not have an owner capable of occupying the subject property; and, is proper due to the fact that the Foundation's property manager lives less than three hundred feet (300') from Subject Property in a basement apartment located on the ground level of the property known as 3472 Greensboro Highway also owned by the Foundation. Since there has been no construction on the Subject Property since 1988 the Foundation further requests that no formal site plan be required for the purposes of this Application.

If approved, the property manager shall provide her name, address and phone number to the Code Enforcement Department, Sheriff's Department, Fire Department and closest fire station and shall post the same visibly within the unit as required by the ordinance, specifically by the main entrance, by the doors to the outdoor patio and in the kitchen of the Subject Property. The Foundation will also gladly take any other reasonable steps deemed necessary by the planning department to facilitate this request.

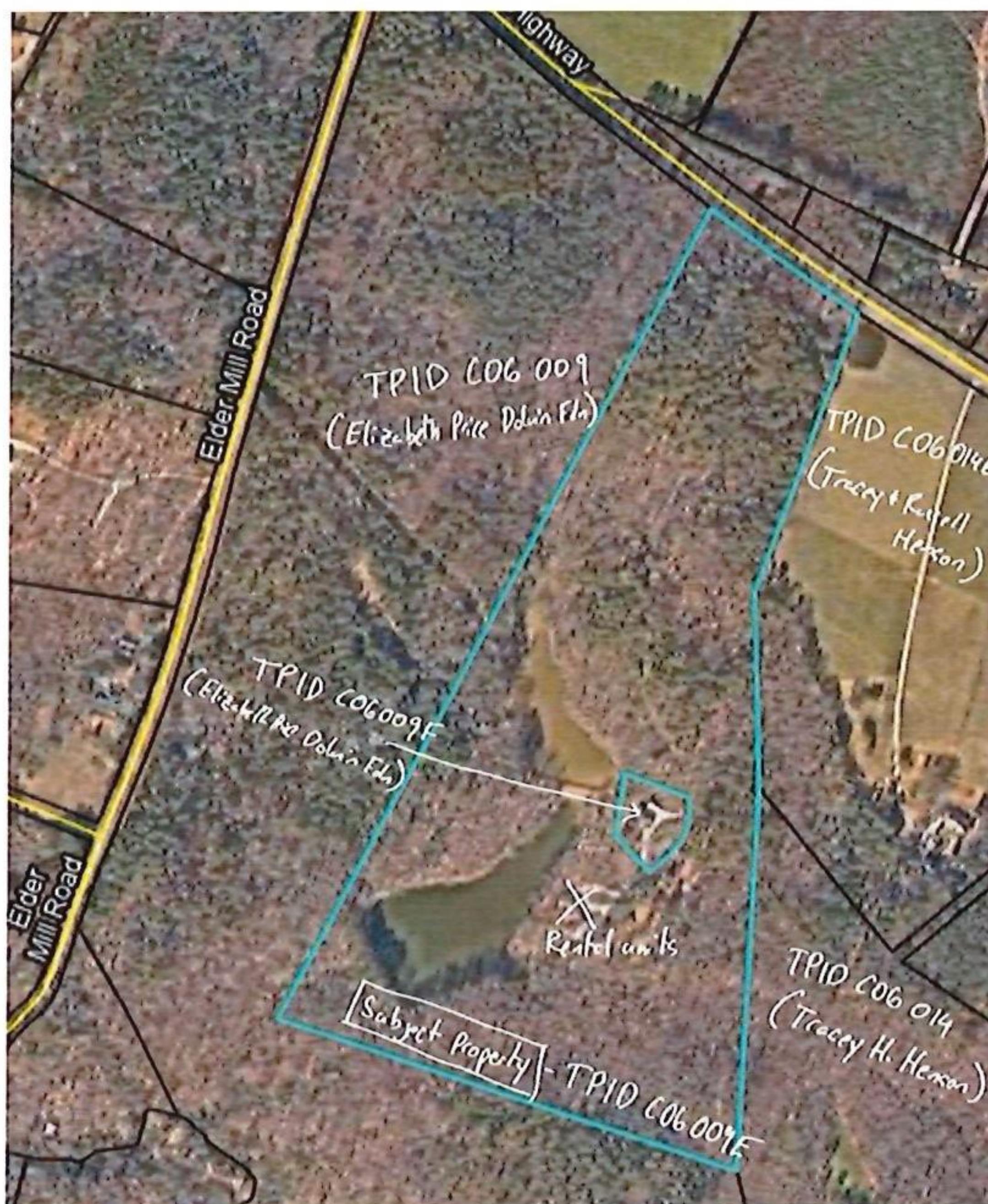
### III. Adjacent Properties

The Subject Property and all the other parties that adjoin or are adjacent to it are zoned AG and only the following two (2) adjoining properties contain any improvements or are otherwise occupied by their respective owners:

## NARRATIVE

- i. 3472 Greensboro Highway (TPID C06 009F): a single-family residence also owned by the Foundation and maintained/managed by its property manager;
- ii. 3540 Greensboro Highway (TPID C06 014G): a 31 acre parcel owned by Tracy and Russell Henson which contains a single-family residence which is separated from the Subject Property by approximately 1500 feet of dense woodlands

All other adjoining properties are unimproved timberland, much of which also belongs to the Foundation, as shown below:



#### IV. Conclusion

For the reasons set forth above, the Foundation believes that a hardship variance to *Unified Development Code Article 3 Section 352.c.(6)* is reasonable and proper for the following reasons:

**NARRATIVE**

1. There are extraordinary and exceptional conditions regarding the Subject Property's ownership, in that it is owned by a 501(c)(3) Charitable Foundation and has no individual owner capable of residing upon the premises;
2. Literal Application of *Article 3 Section 352.c.(6)* to the Subject Property would create an unnecessary hardship by depriving the Foundation of full use and enjoyment of its property due to the nature of its ownership;
3. The Foundation's ownership is uncommon if not unique in Oconee County and is particular to the Subject Property;
4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes or intent of *Article 3 Section 352.c.(6)* due to the facts that:
  - a. Its property manager, as a function of her fulltime employment, shall be charged with maintaining, supervising and operating the short-term rentals – which will be located in the same residence in which she resides – at all times.
  - b. Ample access to and parking on the Subject Property, coupled with its proximity to residences or other improvements owned by third parties

Bearing the above in mind, the Foundation respectfully requests a hardship variance for *Article 3 Section 352.c.(6)*.

## ARCHITECTURAL RENDERINGS

## Project 1

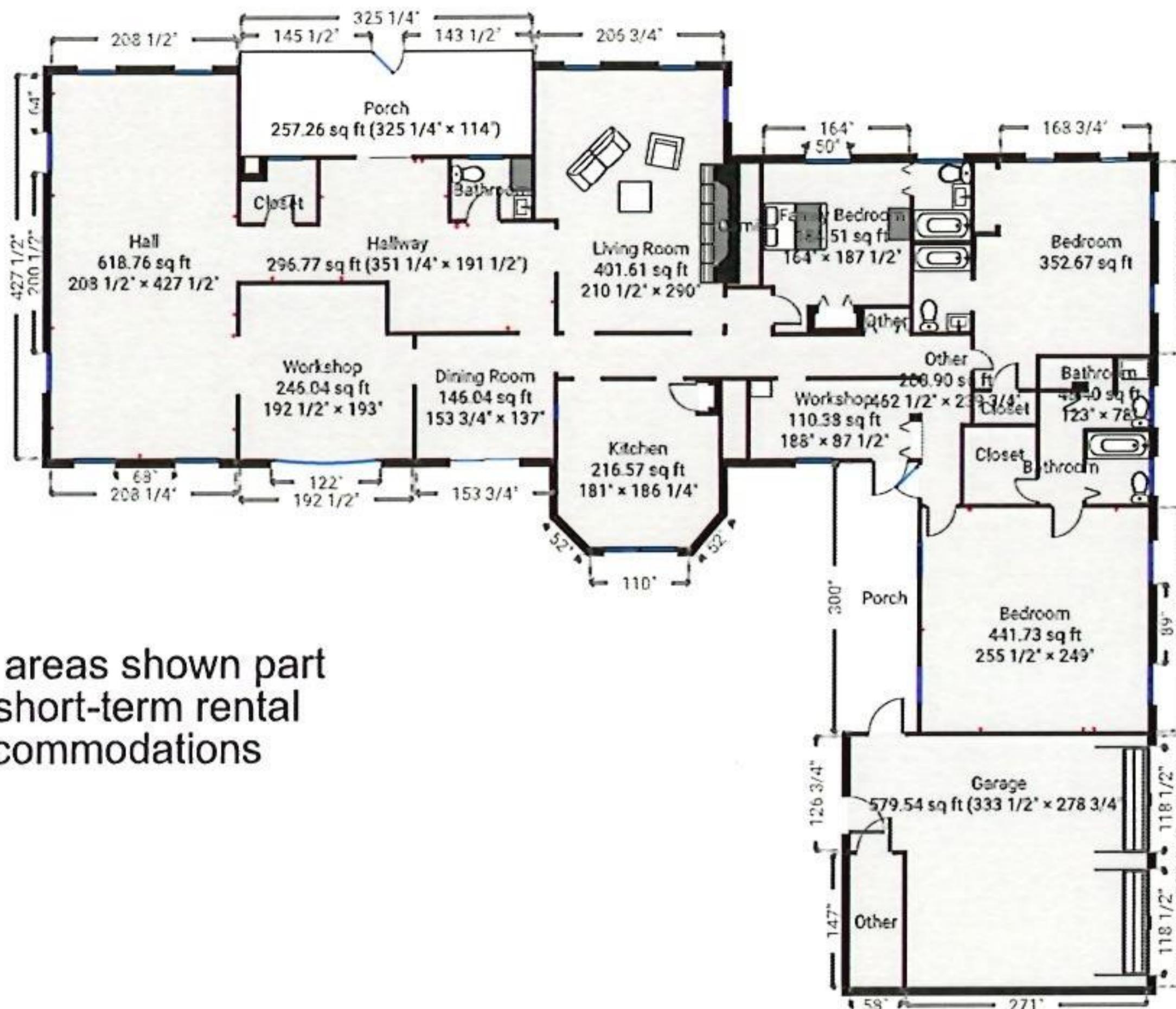
Greensboro hwy, 30677 Watkinsville , oconee, US

TOTAL AREA: 4765.33 sq ft • LIVING AREA: 4140.20 sq ft • FLOORS: 1 • ROOMS: 8



## ▼ Ground Floor

TOTAL AREA: 4765.33 sq ft • LIVING AREA: 4140.20 sq ft • ROOMS: 8



## ARCHITECTURAL RENDERINGS

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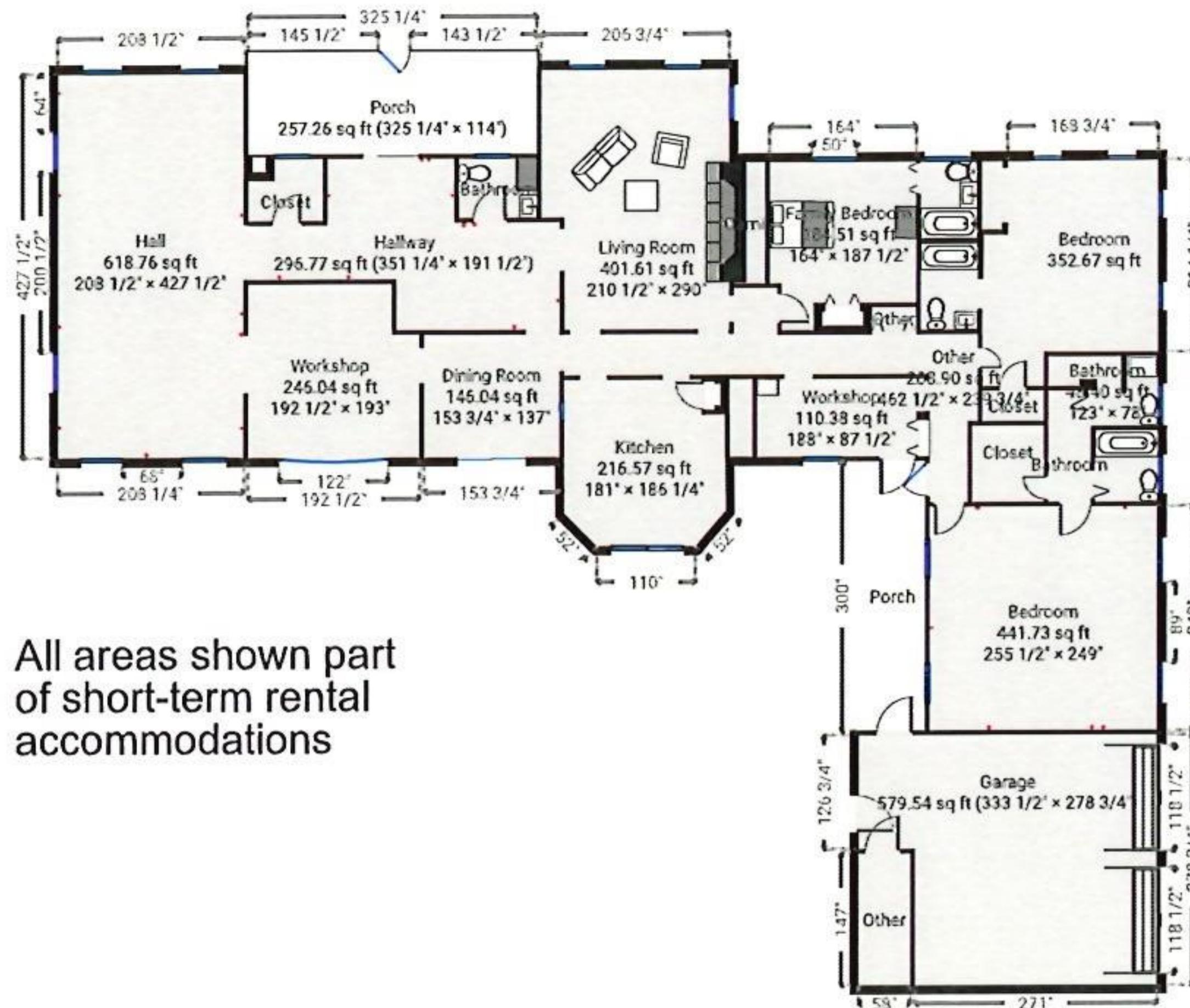
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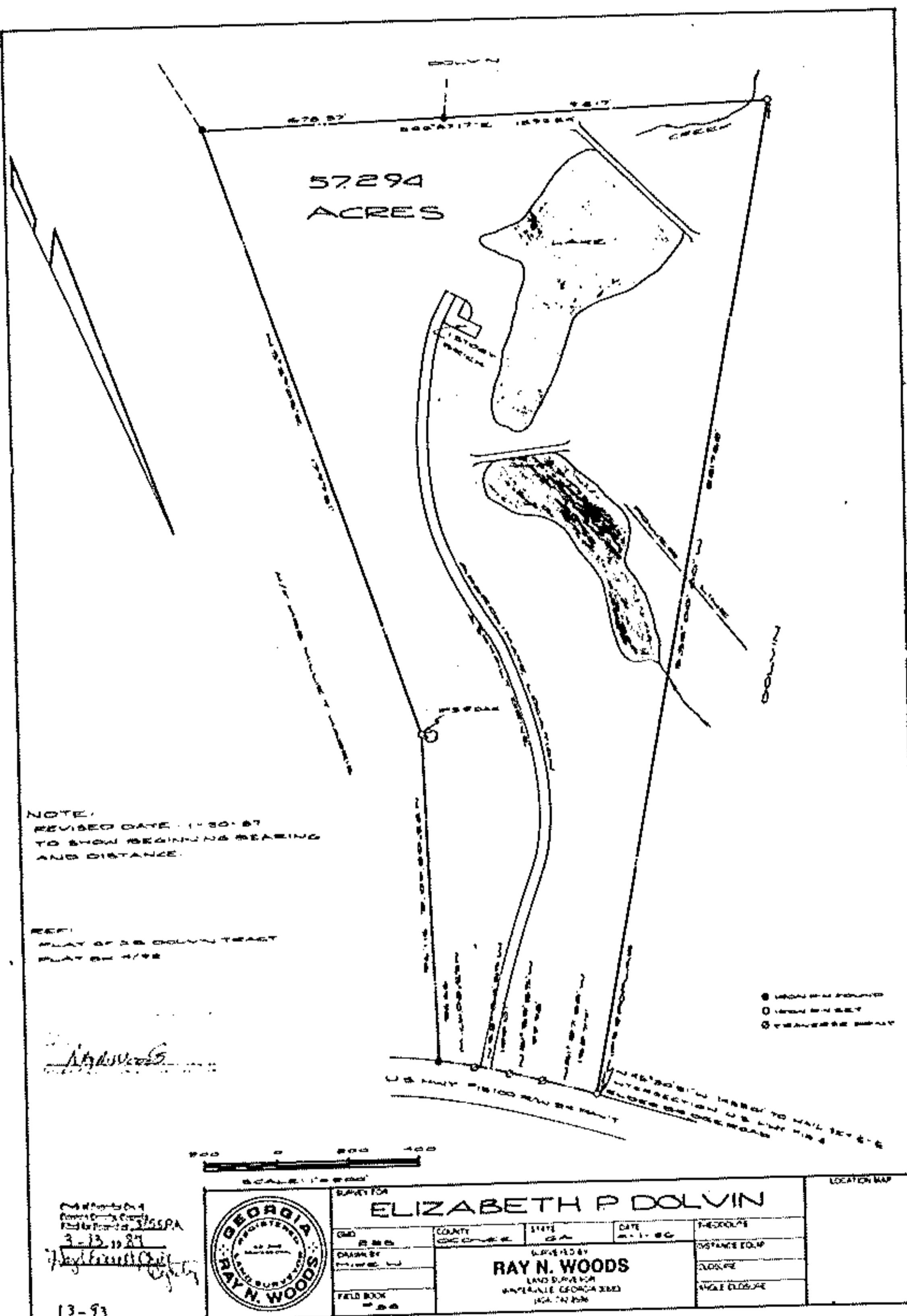


**EXHIBIT "A" TO SPECIAL EXCEPTION VARIANCE NO. P24-0144**

PLAT

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10/23/24, 4:02 PM



**EXHIBIT "A" TO SPECIAL EXCEPTION VARIANCE NO. P24-0144**  
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**PLAT**

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CONCEPT PLAN





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

**VARIANCE CASE #:** P24-0144

**DATE:** November 21, 2024

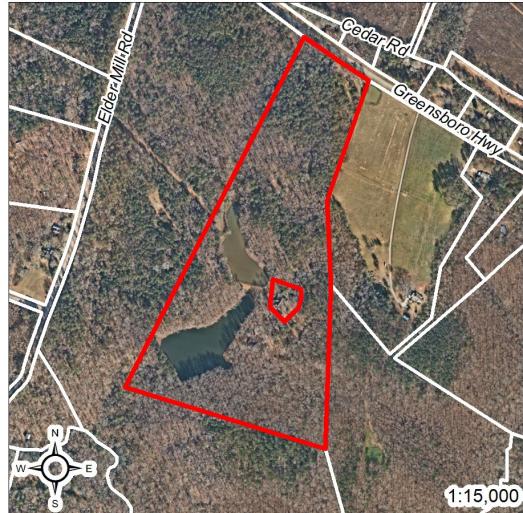
**STAFF REPORT BY:** David Webb, AICP (Senior Planner)

**APPLICANT NAMES:** The Elizabeth Price Dolvin Foundation, LLC  
(attorney John Constantino)

**PROPERTY OWNER(S):** The Elizabeth Price Dolvin Foundation, LLC

**LOCATION:** 3470 Greensboro Highway  
Parcel C 06 009E

**PARCEL SIZE(s):** ± 56.10 acres



**EXISTING ZONING:** AG (Agricultural District)

**EXISTING LAND USES:** Single Family Residence

**TYPE OF VARIANCE REQUESTED:** Hardship Variance

**REQUEST SUMMARY:** Variance from the Short-Term Rental standards requiring owner-occupied dwellings and the owner to be present when Short Term Rental guests are present. (Sec. 352.c (6)). The applicant is requesting to allow for an off-site property manager for the requested Short-Term Rental with no on-site occupancy.

**DATE OF SCHEDULED HEARINGS**

**BOARD OF COMMISSIONERS:** December 3, 2024

**ATTACHMENTS:**

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

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

### **HISTORY**

- The 50.10-acre property was created with two plats, in Plat Book 13, Page 93 (recorded 3-13-1987) and Plat Book 13, Page 264 (recorded 11-21-1988). These plats were not approved by the county at the time of recording.
- A lot was created from the parent parcel with the 1988 plat that is 1.187 acres accessed with an easement. This second lot contains another dwelling (3472 Greensboro Highway).
- According to Tax Assessor records a single-family dwelling was built in 1970 with a total square footage 5,172.

### **PROPOSED DEVELOPMENT**

- On June 11, 2024, the attorney for the applicant, John Constantino, applied for a Short-Term Rental Permit for 3470 Greensboro Highway.
- On June 19, 2024, staff informed the applicant the proposal to have a property manager instead of an owner-occupied dwelling did not meet the UDC requirements. The application requested to operate a short-term rental with an on-site property manager that is not the owner.
- The first variance narrative (dated 8-8-24) stated there would be an on-site property manager who represented the corporation.
- The revised variance narrative (dated 10-23-24) states that a property manager that lives 300' feet away will manage the Short-Term Rental. This would be an off-site property manager.

### **VARIANCE DESCRIPTION**

- Variance from the Short-Term Rental standards requiring owner-occupied dwellings and the owner to be present when Short Term Rental guests are present. (Sec. 352.c (6)). The applicant is requesting to allow for an off-site property manager for the requested Short-Term Rental with no on-site owner occupancy.
- The UDC section that is being requested to vary is 352.c (6):  
*Short Term Rentals shall be operated by the owner of record of the subject property who shall also be a Resident of the subject property and who shall be residing overnight on the property while Short Term Rental guests are present.*

### **PUBLIC FACILITIES**

#### **Water:**

- The existing house has a private well.

#### **Sewer:**

- The existing house has an on-site septic system.

#### **Roads:**

- The property has an existing access to Greensboro Highway.

#### **Environmental**

- There are wetlands and potential state waters on the site. There are no known flood plains on the site.

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THE ANALYSIS OF THE APPLICATION IS MADE BASED UPON THE “STANDARDS FOR HARSHIP VARIANCE APPROVAL” AS SET FORTH IN SECTION 1304.03 OF THE OCONEE COUNTY UNIFIED DEVELOPMENT CODE. FURTHER ANALYSIS IS MADE BASED UPON “LIMITATIONS ON HARSHIP VARIANCE APPROVAL” AS SET FORTH IN SECTION 1304.04.

**Hardship variances may be granted in such individual case of unnecessary hardship upon a finding by the Board of Commissioners that all of the following conditions exist:**

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

The applicant does not indicate there are any extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography. Staff analysis indicates the owner-occupied requirement for a Short-Term Rental would be the same for any dwelling in the county.

- b. The application of this development code to this particular piece of property would create an unnecessary hardship.**

Staff analysis indicates the owner-occupied requirement for a Short-Term Rental would be the same for any dwelling in the county. The UDC has no provision for an off-site manager for a Short-Term Rental. While this property is owned by a corporation, the Short-Term Rental requirements are for an accessory residential use. Without an owner-occupation, this would be classified as a Bed-and-Breakfast Inn that requires a Special Use Permit in the AG zoning district.

- c. Such conditions are peculiar to the particular piece of property involved.**

Staff finds there are no factors particular to this property that support circumventing the requirement the owner is present when a Short-Term Rental guest is present. The proposed operation with an off-site property manager for short-term rentals would change the use of the dwelling to a Bed-and-Breakfast Inn that requires a Special Use Permit in the AG zoning district.

- d. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this ordinance.**

If granted, the allowance for an off-site property manager for a Short-Term Rental would be a change of use. The property would no longer be a Single-Family dwelling with a Short-Term Rental as an accessory use. Staff finds this proposal would be a detriment to the intent of the ordinance as the correct application would be for a Special Use Permit to operate a Bed-and-Breakfast Inn. The public good would be impaired as a commercial operation would be permitted without the correct Special Use permit.

**Hardship variances also have the Limitations on hardship variance approval. In no case shall a hardship variance be requested or granted for any of the following:**

- a. A condition created by the applicant, including the result of an unwise investment decision or real estate transaction.**

Staff finds the proposal for an off-site property manager for a Short-Term rental by a corporate owner is a condition created by the applicant. Staff finds this criterion would prevent the granting of the variance.

- b. A change in the conditions of approval imposed through a zoning change granted by the Board of Commissioners.**

This criterion would not apply to this application.

- c. Reduction of a minimum lot size required by a zoning district.**

This criterion would not apply to this application.

- d. A use of land or buildings or structures that is not allowed by the zoning district that is applicable to the property.**

The proposal to have an off-site property manager for a Short-Term rental is a change of use as this would no longer be a single-family dwelling. Staff finds this would be classified as a Bed-and-Breakfast Inn that requires a Special Use Permit in the AG zoning district. Thus, this is not a use that can be granted through

a variance application. Staff notes the applicant changed the narrative from an on-site property owner (narrative dated 8-8-24) to an off-site property owner with the second submission (dated 10-23-24). Staff finds this criterion would prevent the granting of the variance.

**e. Any increase in the number of dwelling units or nonresidential building floor area otherwise allowed by the zoning district that is applicable to the property.**

The proposal to have an off-site property manager for a Short-Term rental is a change of use as this would no longer be a single-family dwelling. Staff finds this would be classified as a Bed-and-Breakfast Inn, which is a non-residential use that requires a Special Use Permit in the AG zoning district. Staff finds this criterion would prevent the granting of the variance.

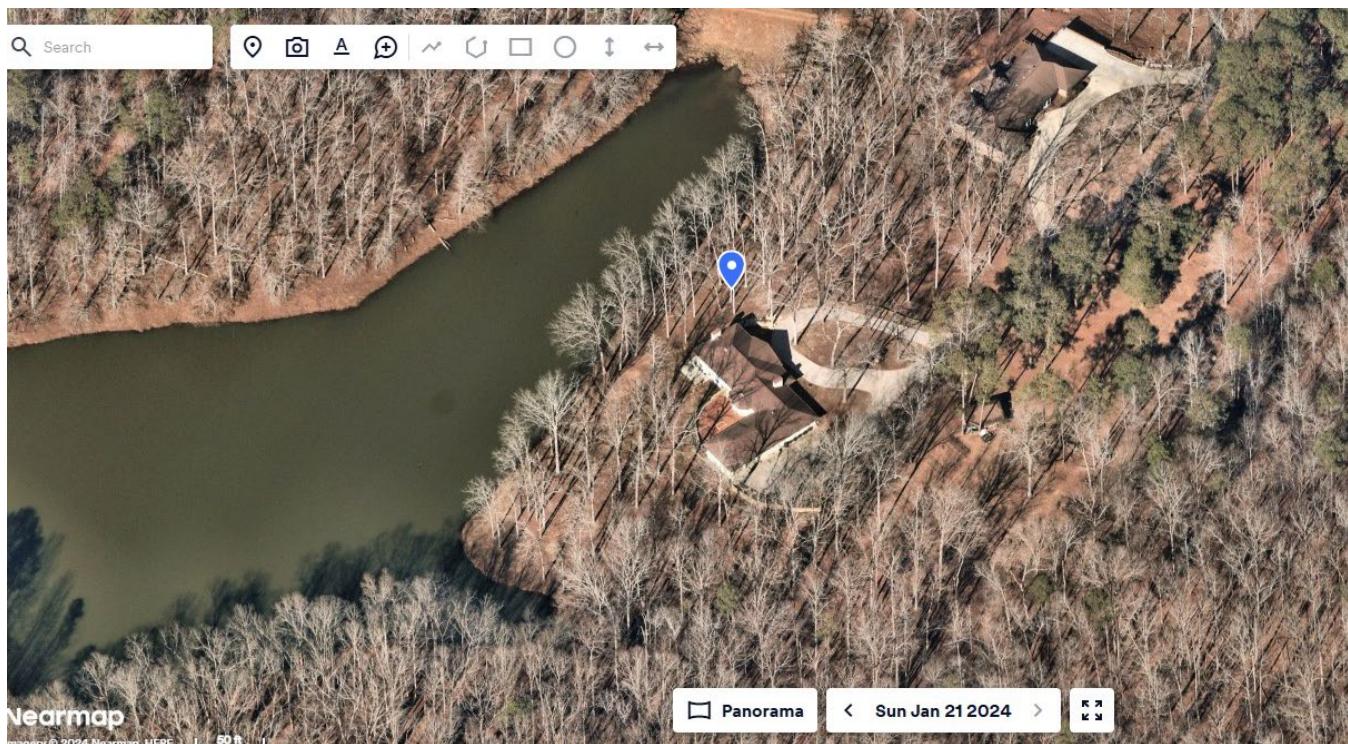
**f. Any item or matter regulated under Article 7 of this Development Code.**

Article 7 is the Sign code which is not a criterion that would not apply to this application.

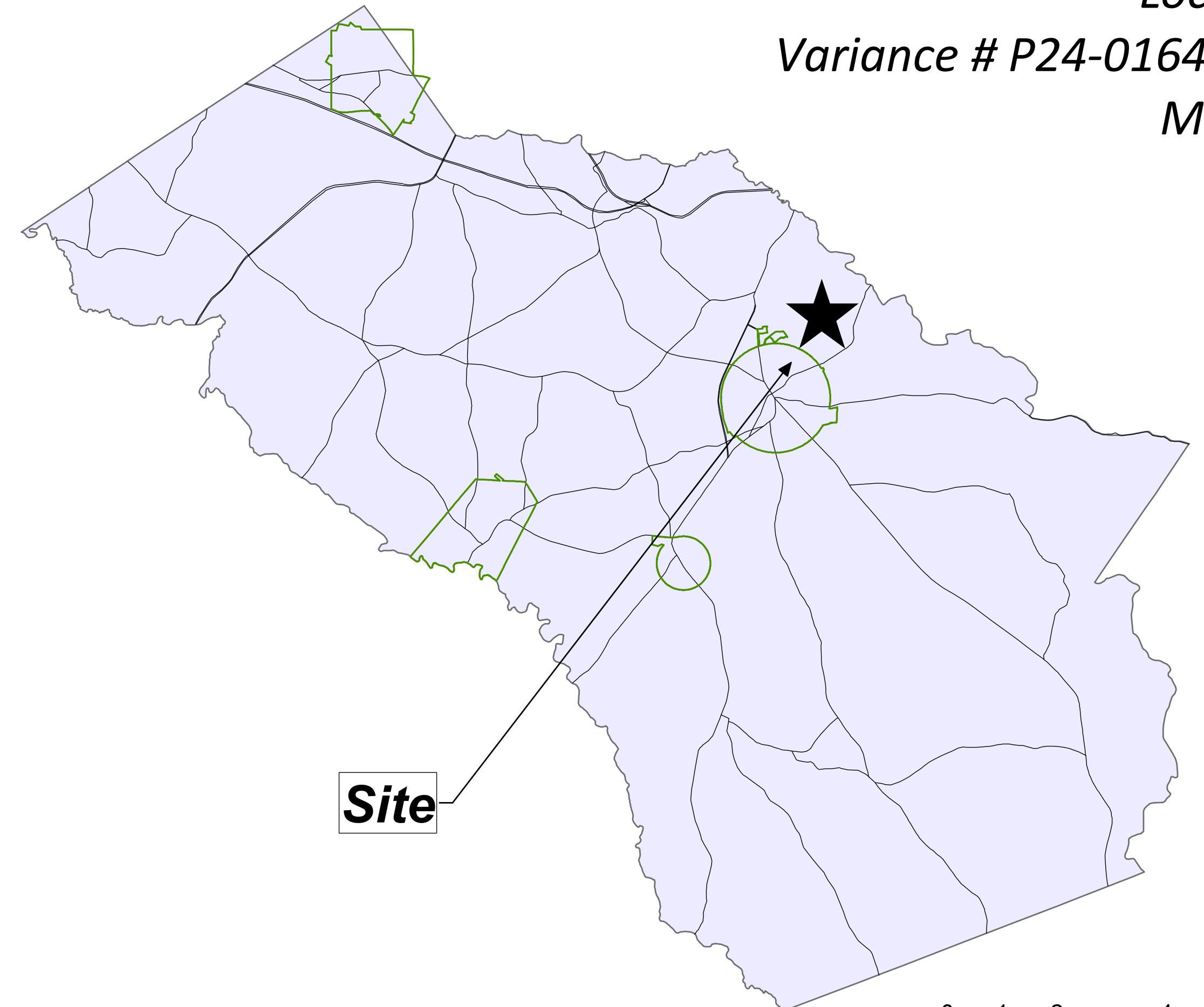
## **STAFF RECOMMENDATION**

Based upon the standards and limitations for a Hardship variance approval, this request **does NOT meet all necessary conditions** to grant a Hardship variance as this would create an unpermitted use. Staff recommends denial of the request as the application indicates there will be no on-site manager of the Short-Term Rental and thus changing the use.

Site Picture

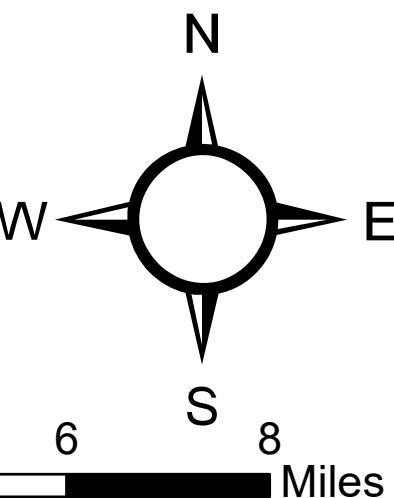


*Location Map -*  
*Variance # P24-0164 & P24-0213*  
*Michael Heath*



1:120,000

0 1 2 4 6 8 Miles



# Variance # P24-0164 & P24-0213 - Michael Heath

Parcel #  
C-03B-002E

C-03B-002E

Hickory Hill Dr



1:1,000

0

90

180

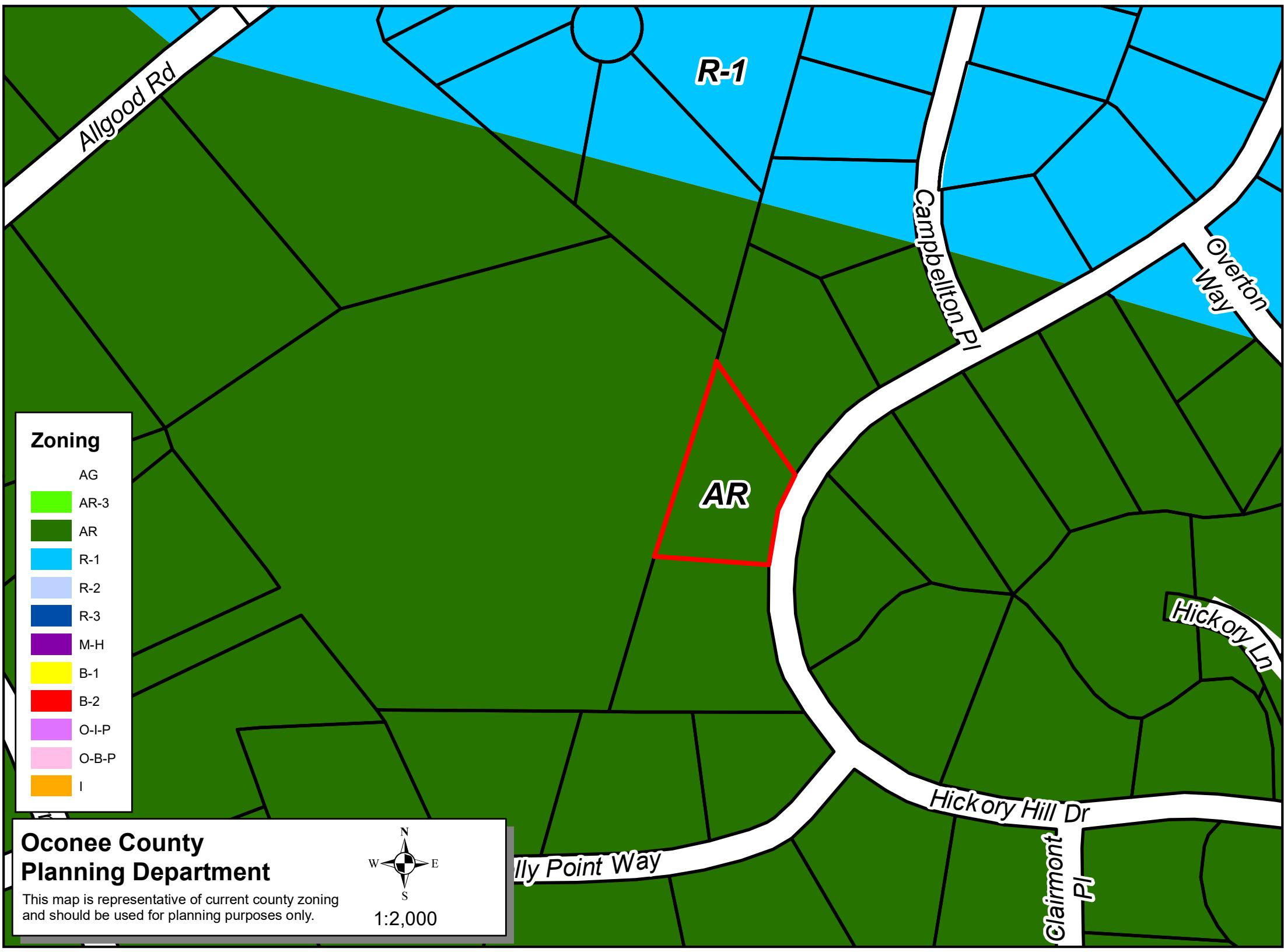
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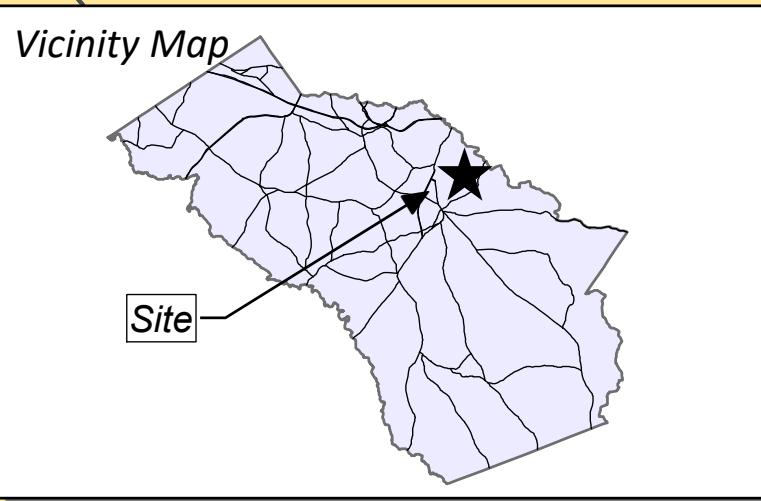
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720

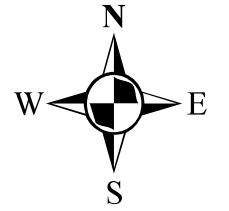
Feet







## Oconee County Planning Department



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

0 60 120 240 360 480 Feet

***Country Estates***

***Country Estates***

***Hickory Hill Drive***