



**APPLICANT:** Ian Carr

**PETITION No.:** V-28

**PHONE:** 404-558-7417

**DATE OF HEARING:** 03-15-2017

**REPRESENTATIVE:** Stephen Teeples

**PRESENT ZONING:** R-20

**PHONE:** 404-787-4972

**LAND LOT(S):** 35

**TITLEHOLDER:** Ian Carr and Rebekah Carr

**DISTRICT:** 20

**PROPERTY LOCATION:** On the eastern side of Old Acworth Dallas Road and north of the unopened Cobb County Right-of-Way, east of Lake Drive (4758 Old Acworth Dallas Road).

**SIZE OF TRACT:** 0.52 acres

**COMMISSION DISTRICT:** 1

**TYPE OF VARIANCE:** Waive the major side setback from the required 20 feet (previously granted V-67 of 2014) to 10 feet adjacent to the southern property line.

**OPPOSITION:** No. OPPOSED        **PETITION No.**        **SPOKESMAN**       

**BOARD OF APPEALS DECISION**

**APPROVED**        **MOTION BY**       

**REJECTED**        **SECONDED**       

**HELD**        **CARRIED**       

**STIPULATIONS:**       



**APPLICANT:** Ian Carr **PETITION No.:** V-28

\*\*\*\*\*

**COMMENTS**

**TRAFFIC:** This request will not have an adverse impact on the transportation network.

**DEVELOPMENT & INSPECTIONS:** No comments.

**SITE PLAN REVIEW:** If this variance request is approved, a subdivision plat revision must be recorded prior to the issuance of the certificate of occupancy showing all improvements on the lot along with any approved setback reductions, and referencing the variance case in the standard plat revision note. The surveyor must submit the plat to the Site Plan Review Section, Community Development Agency for review and approval prior to recording. Call 770-528-2147.

**STORMWATER MANAGEMENT:** Subject to reduction in existing drainage easement to 10 feet to be reflected on a revised subdivision plat.

**HISTORIC PRESERVATION:** After examining Civil War trench maps, Cobb County historic property surveys, county maps, and various other resources, staff has no comments regarding the impact or treatment of historic and/or archaeological resources for V-23 - V-28; V-31.

**DESIGN GUIDELINES:** Staff has determined that the subject sites are not within the boundaries of approved design guidelines study areas; therefore do not have to comply with design guidelines requirements. No Comments.

**CEMETERY PRESERVATION:** No comment.

**WATER:** No conflict.

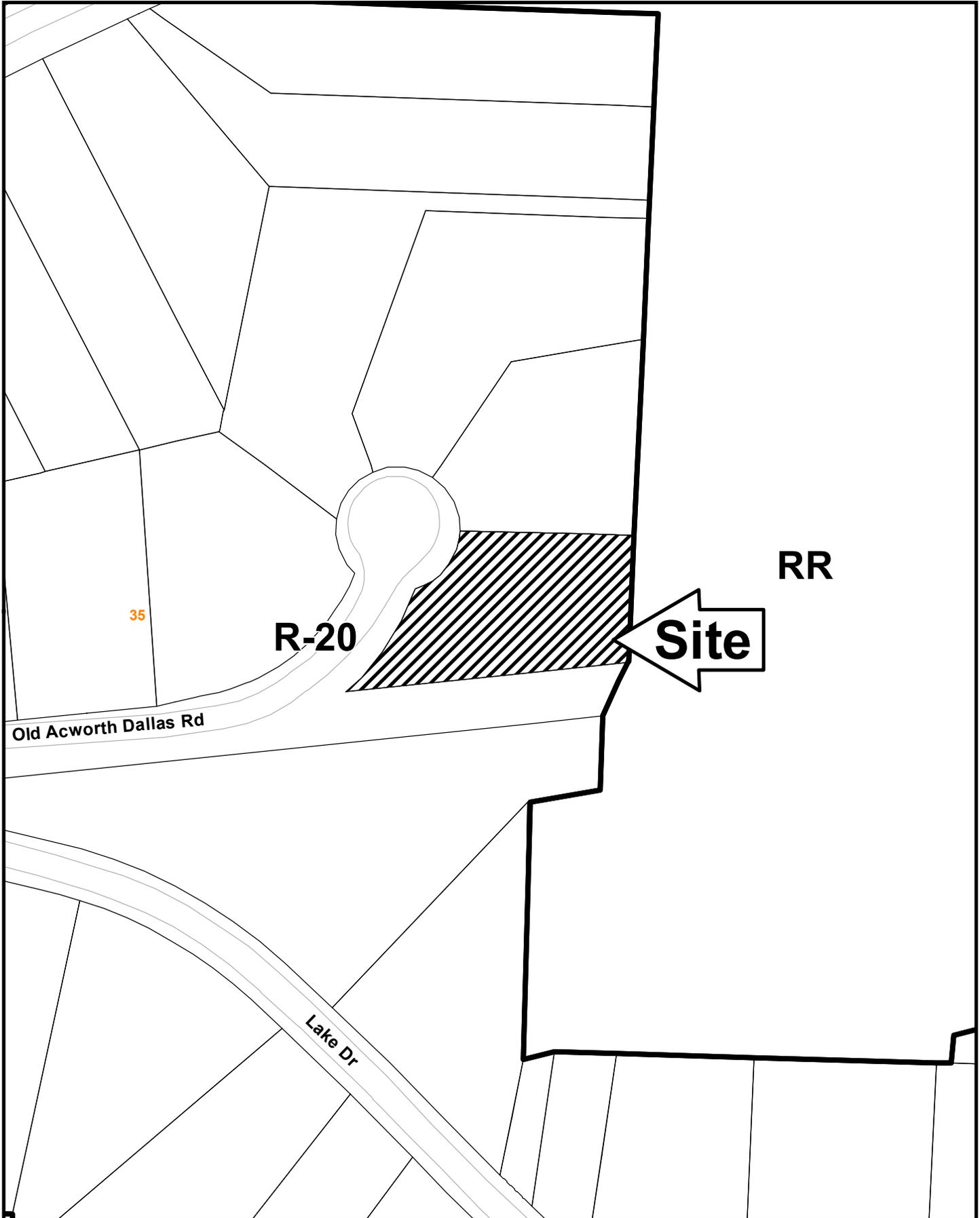
**SEWER:** No conflict.

**APPLICANT:** Ian Carr **PETITION No.:** V-28

\*\*\*\*\*

**FIRE DEPARTMENT:** No comments.

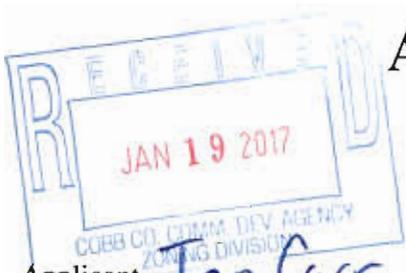
# V-28-2017 GIS



This map is provided for display and planning purposes only. It is not meant to be a legal description.

0 100 200 Feet

City Boundary  
Zoning Boundary



# Application for Variance Cobb County

(type or print clearly)

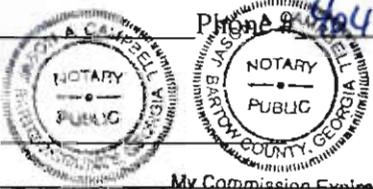
Application No. V-28  
Hearing Date: 3-15-17

Applicant Ian Carr Phone # 404-558-7417 E-mail \_\_\_\_\_

Stephen Teeples Address 21 Edgewater Dr. Cartersville, GA 30121  
(representative's name, printed) (street, city, state and zip code)

STABU Phone # 404-787-4972 E-mail teeplesconstruction@gmail.com  
(representative's signature)

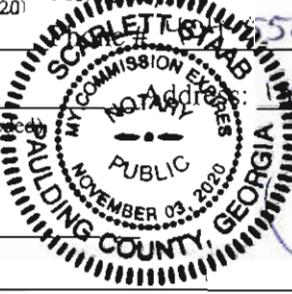
My commission expires: \_\_\_\_\_  
Signed, sealed and delivered in presence of:  
Jason A. Campbell  
Notary Public



Titleholder IAN CARR Phone # 558-7417 E-mail ICARR@DEWITTE.COM

Signature \_\_\_\_\_ Address: YORK TRACE, CARTERSVILLE, GA 30121  
(attach additional signatures, if needed) (street, city, state and zip code)

My commission expires: 11/03/2020  
Signed, sealed and delivered in presence of:  
Narlett J. Taal  
Notary Public



Present Zoning of Property R-20

Location 4758 Old Acworth Dallas Rd  
(street address, if applicable; nearest intersection, etc.)

Land Lot(s) 35 District 20th Size of Tract .5 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 .5 Shape of Property Topography of Property SLOPING Other \_\_\_\_\_

Does the property or this request need a second electrical meter? YES \_\_\_\_\_ NO X

The Cobb County Zoning Ordinance Section 134-94 states that the Cobb County 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:

SEE ATTACHED

List type of variance requested: Reduce side set back on the side of the property Right of way from a major to a minor side 10' set back

**REGULAR AGENDA (CONT.)**

**V-65**            **JOSE MENDOZA** (owner) requesting a variance to: 1) waive the front setback from the required 35 feet to 31.5 feet, and 2) waive the side setback from the required 10 feet to 0.7 feet adjacent to the easterly property line in Land Lot 305 of the 17th District. Located on the south side of Hall Drive, across from Glenn Street (2938 Hall Drive).

Mr. Pederson announced that the Applicant contacted The Zoning Office to request a continuance due to illness. The opposition was agreeable to this request. Therefore the following motion was made:

MOTION: Motion by Homan, second by Hovey, the **continue** V-65 until the September 10, 2014 Board of Zoning Appeals Variance Hearing.

VOTE: **ADOPTED** unanimously

*A recess was taken from 2:28 p.m. until 2:39 p.m.*

**V-67**            **ROBERT AND JUDY BENOWITZ** (Robert A. and Judy M. Benowitz, owners) requesting a variance to waive the major side setback from the required 25 feet to 5 feet adjacent to the south property line in Land Lot 35 of the 20th District. Located at the eastern terminus of Old Acworth Dallas Road (4758 Old Acworth Dallas Road).

The public hearing was opened and Ms. Judy Benowitz and Mr. Clay Fearnow addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Hovey, second by Williams, to **approve** variance request subject to:

- **Waive major side setback to 20 feet adjacent to the southern property line, in lieu of the requested five feet**
- **Staff comments and recommendations, *not otherwise in conflict***

VOTE: **ADOPTED** unanimously

# MEMO

Date: 1/12/2017

Subject: Ian Carr Cobb zoning variance Request



## Introduction

We are requesting a variance from Cobb County due to the hardship created by following the normal terms of the ordinance as well as our belief that the existing zoning and setbacks established in this specific circumstance do not meet the intent of the regulation and are therefore unnecessarily restrictive. This memo explains the hardship the existing zoning ordinance causes as well as describing why my specific lot does not meet the intent of a "Major" side designation and the related setback. For your convenience, we have included a summary of the discussions as well as email correspondence with representatives from Cobb County Water System, Stormwater Management Division, and Cobb County Department of Transportation.

The exhibits referenced within and attached are as follows:

- <sup>Processed</sup> Exhibit 1: Site Plan
- Exhibit 2: Aerial satellite picture
- Exhibit 3: Street view of homes in the "Awtrey Church at The Point" neighborhood
- Exhibit 4: Email from David W. Breaden, PE, CFM; Cobb County Water System, Stormwater Management Division
- Exhibit 5: Email from Fred Bentley, Cobb Department of Transportation
- Exhibit 6: Recorded plat
- Exhibit 7: Soil Analysis

## Hardship

The current designation of a "Major" side and the associated 25 foot setback (note: this was reduced to a 20 foot setback in 2014 to align with the drainage easement setback) materially reduces the buildable dimensions of the lot. This would result in a house that would be disproportional to the other homes in the neighborhood of Awtrey Church at The Point. At a best case scenario, this would lead to building a home that would bring down the fair value of the neighboring homes or, impede the ability to build a functional home that would meet the building requirements of covenants of the home owners association.

The reason that this setback has a direct impact on the building dimensions of the lot is because soil on this side is not appropriate for septic system drains lines. The only side of the lot that tests for septic system is on the opposite side of the lot (Exhibit 7). As such, the dimensions of the house are significantly limited on either side without a variance to the existing Major side setback of 20 feet.

V-28  
(2017)  
Exhibit

As a point of comparison, the contiguous homes to my lot in Awtrey Church at The Point neighborhood average a house width of approximately 78 feet wide with a mean of 80 feet wide. The width of the house that we are proposing to build is only 62 feet wide or 20% smaller. If we are not able to obtain approval to the variance request, the width of the house will not be able to be greater than 52 feet which is 33% smaller than the neighboring homes.

### Major Setback and Drainage Easement

In addition to the hardship outlined above, I want to discuss the specific situation of this lot being designated as having a "Major" side zoning setback because it is considered a corner lot because of the right-of-way ("R/W"). The type of R/W on record is a road resulting in a designation of a "Major" side zoning setback, but the R/W is noted on the recorded plat as "not in use" (Exhibit 6). As the aerial photo demonstrates (Exhibit 2), this is not an existing road and it terminates at the Corp of Engineers property.

Furthermore, Fred Bentley, Cobb Department of Transportation, and David Breden, Cobb County Water System, Stormwater Management Division indicated that they did not see a need from their departments for the 20' drainage easement setback in my property and were agreeable to reducing it to a 10' setback in alignment with a zoning requirement defined for "minor" side setback. (Exhibits 4 & 5).

We submitted a final plat revision to Community Development to reflect the adjusting the drainage easement and side setback to 10'. It is our understanding that this has been approved by the applicable parties, including Cobb County Water System, Stormwater Management Division and Cobb County Department of Transportation, with the exception of the zoning department because of the designation of a "Major" side setback. We believe that while this is true based on the zoning regulations and the type of R/W, it the "Major" side designation in this specific circumstance does not meet the intent of the zoning regulation since:

- the R/W is not developed;
- the house does not have two adjacent streets as a corner lot would;
- the R/W terminates in the Corp of Engineers buffer property for the lake providing a good indication that the R/W will never be developed; and
- Cobb DOT and Stormwater are both agreeable to the reducing drainage easement setback in alignment with a minor side setback of 10'

Thank you for your time and consideration.

Kind regards,

Ian and Becky Carr





Exhibit 2: Aerial Satellite Image



Exhibit 3: Street view of representative sample of homes in Awtrey Church at the Point neighborhood



**Carr, Ian (US - Atlanta)**

**From:** Breaden, David <David.Breaden@cobbcounty.org>  
**Sent:** Tuesday, November 22, 2016 10:48 AM  
**To:** 'Teeples Construction'; Bentley, Fred  
**Cc:** Carr, Ian (US - Atlanta)  
**Subject:** RE: Applying for an Easement

The Stormwater Management Division is amenable to the removal of the existing 20-foot recorded drainage easement from the subject parcel with the joint approval of Cobb County DOT since the actual drainage path is currently through the adjacent DOT R/W.

David W. Breaden, PE, CFM  
Cobb County Water System  
Stormwater Management Division  
770-419-6454 - office  
770-419-6444 - fax



-----Original Message-----

**From:** Teeples Construction [mailto:teeplesconstruction@gmail.com]  
**Sent:** Tuesday, November 22, 2016 10:39 AM  
**To:** Bentley, Fred; Breaden, David  
**Cc:** Ian Carr  
**Subject:** Re: Applying for an Easement

Good morning Fred & David,

I have reached out to Daniel Baker to discuss re drawing the plot without the 20' drainage easement based on our conversation last week. I explained to him that both DOT and Storm water departments would approve the remove of easement....he is insisting that he needs an email from you that states that.

I hate to ask, but could I get a quick email that says that you both approve the removal of the easement?

Thanks,  
Steve Teeples  
Sent from my iPhone

> On Nov 14, 2016, at 12:42 PM, Bentley, Fred <Fred.Bentley@cobbcounty.org> wrote:

>

> Attached is the final plan. It shows a 10' min side, 25' Major side setbacks. I cannot say how they determine which is major and which is minor. You might talk to the zoning office.

>

> I've copied David and Andrew. Their #'s are 770-419-6454 and 6452.

>

> Thank You,

>

> Fred K. Bentley, Transportation Analyst Cobb Department of  
> Transportation  
> 1890 County Services Pky

> Marietta, Ga. 30008  
> fred.bentley@cobbcounty.org  
> 770-528-1666

>  
> -----Original Message-----  
> From: Teeples Construction [mailto:teeplesconstruction@gmail.com]  
> Sent: Friday, November 11, 2016 7:37 PM  
> To: Bentley, Fred <Fred.Bentley@cobbcounty.org>  
> Cc: Ian Carr <icarr@deloitte.com>  
> Subject: Re: Applying for an Easement

>  
> 2 p.m. Works great....I will see you then.

>  
> Thank you for your help.

>  
> Sent from my iPhone

>> On Nov 11, 2016, at 6:29 PM, Bentley, Fred <Fred.Bentley@cobbcounty.org> wrote:

>>  
>> I'll be glad to meet. When might be good for you? 2pm Monday?

>> \_\_\_\_\_  
>> From: Teeples Construction [teeplesconstruction@gmail.com]  
>> Sent: Friday, November 11, 2016 3:17 PM  
>> To: Bentley, Fred  
>> Cc: Ian Carr  
>> Subject: Applying for an Easement

>>  
>> Mr.Bentley,

>> Hey Fred, my name is Steve Teeples, I have been hired to build a custom home for Ian Carr on the property address below:

>>  
>> 4758 Old Acworth Dallas Rd, Acworth, GA

>> Both you and he have talked about the drainage ditch that is located on the neighboring property.

>> I would like to see if I can make an appointment to come in to discuss what it would take to re work a drainage ditch/easement. Then get my engineer (Kevin Cooney, Southland Engineering) to draw up a plan for you to review.

>>  
>> Thanks,

>> Steve Teeples  
>> Teeples Construction  
>> Lic#RBQA 5043

>>  
>> Sent from my iPhone  
> <Awtery Filan Plat.pdf>

**Carr, Ian (US - Atlanta)**

**From:** Bentley, Fred <Fred.Bentley@cobbcounty.org>  
**Sent:** Tuesday, November 22, 2016 12:10 PM  
**To:** Teeples Construction; Breaden, David  
**Cc:** Carr, Ian (US - Atlanta)  
**Subject:** RE: Applying for an Easement

We're ok with the concept and will review. Final approval will be reviewed.

Thank You,

Fred K. Bentley, Transportation Analyst  
Cobb Department of Transportation  
1890 County Services Pky  
Marietta, Ga. 30008  
fred.bentley@cobbcounty.org  
770-528-1666



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>> Steve Teeples

>> Teeples Construction

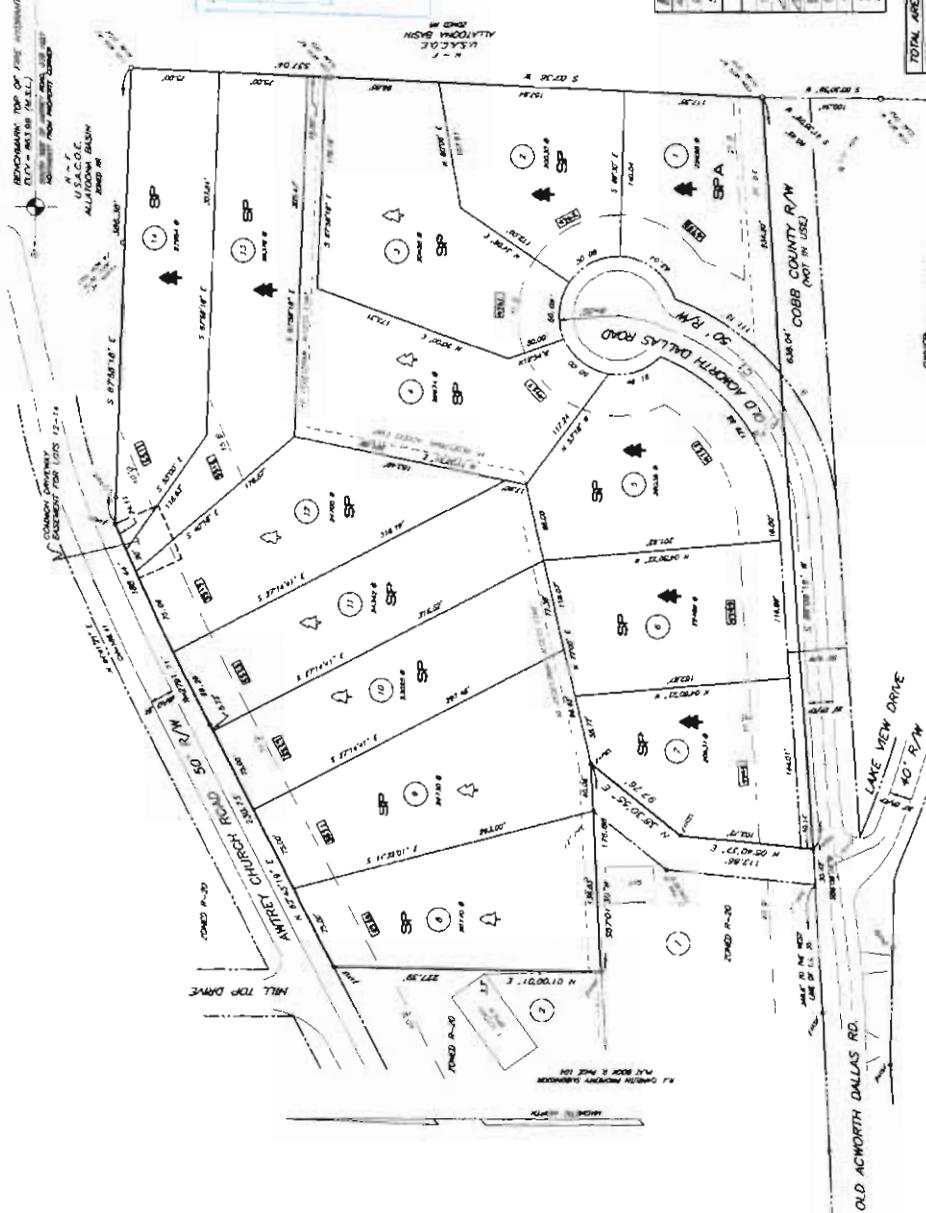
>> Lic#RBQA 5043

>>  
>> Sent from my iPhone

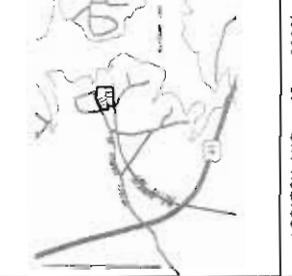
> <Awtery Filan Plat.pdf>

EXHIBIT 6

THIS PLAN IS SUBJECT TO THE ZONING ORDINANCES OF THE CITY OF ATLANTA, GEORGIA, AND THE ZONING ORDINANCES OF THE COUNTY OF DEKALB, GEORGIA. THE CITY OF ATLANTA AND THE COUNTY OF DEKALB HAVE REVIEWED THIS PLAN AND HAVE DETERMINED THAT IT IS IN CONFORMANCE WITH THE ZONING ORDINANCES OF THE CITY OF ATLANTA AND THE COUNTY OF DEKALB. THE CITY OF ATLANTA AND THE COUNTY OF DEKALB HAVE REVIEWED THIS PLAN AND HAVE DETERMINED THAT IT IS IN CONFORMANCE WITH THE ZONING ORDINANCES OF THE CITY OF ATLANTA AND THE COUNTY OF DEKALB.



REPAIRS TO THE ANTIQUE CHURCH PLANNING AND ZONING MAPS TO BE MADE BY THE CITY OF ATLANTA AND THE COUNTY OF DEKALB TO REFLECT THE CHANGES TO THE ZONING ORDINANCES OF THE CITY OF ATLANTA AND THE COUNTY OF DEKALB.



**V-28 (2017) Exhibit**

THE CITY OF ATLANTA AND THE COUNTY OF DEKALB HAVE REVIEWED THIS PLAN AND HAVE DETERMINED THAT IT IS IN CONFORMANCE WITH THE ZONING ORDINANCES OF THE CITY OF ATLANTA AND THE COUNTY OF DEKALB.

JAN 19 2017

**ABBREVIATIONS LEGEND**

SP	STANDARD PLANNING
BPA	BUSINESS PROFESSIONAL ASSOCIATION
BFB	BUSINESS FUTURE BUSINESS
...	...

**STRUCTURES LEGEND**

1	FLATTOP
2	FLATTOP WITH CHIMNEY
3	FLATTOP WITH CHIMNEY AND PORCH
4	FLATTOP WITH CHIMNEY AND PORCH AND GARAGE
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18	FLATTOP WITH CHIMNEY AND PORCH AND GARAGE
19	FLATTOP WITH CHIMNEY AND PORCH AND GARAGE AND PORCH
20	FLATTOP WITH CHIMNEY AND PORCH AND GARAGE

**STATISTICS**

TOTAL AREA = 6.53 ACRES  
 TOTAL NO. OF LOTS = 14  
 DENSITY / FIELD = 7.61 LOTS PER ACRE  
 PRESENT ZONING = B-30  
 MIN. FRONT YARD = 35'  
 MIN. SIDE YARD = 10'; MAX. SIDE = 25'  
 MIN. REAR YARD = 50'



DANIEL BAKER, PC  
 2000 W. BUCKLE  
 ATLANTA, GA 30331

OWNER:  
 J & J STIMMUS LLC  
 2144 MAIN LAKES WAY  
 MARIETTA, GA 30067  
 770-600-3177

DEVELOPER:  
 J & J STIMMUS LLC  
 2144 MAIN LAKES WAY  
 MARIETTA, GA 30067  
 770-600-3177

NOTES:  
 1. ALL LOTS TO BE DEVELOPED WITH AN ANTIQUE OR HISTORICAL CHARACTER.  
 2. THE CITY OF ATLANTA HAS APPROVED THIS PLAN TO BE DEVELOPED IN CONFORMANCE WITH THE ZONING ORDINANCES OF THE CITY OF ATLANTA AND THE COUNTY OF DEKALB.  
 3. THE CITY OF ATLANTA HAS APPROVED THIS PLAN TO BE DEVELOPED IN CONFORMANCE WITH THE ZONING ORDINANCES OF THE CITY OF ATLANTA AND THE COUNTY OF DEKALB.  
 4. THE CITY OF ATLANTA HAS APPROVED THIS PLAN TO BE DEVELOPED IN CONFORMANCE WITH THE ZONING ORDINANCES OF THE CITY OF ATLANTA AND THE COUNTY OF DEKALB.  
 5. THE CITY OF ATLANTA HAS APPROVED THIS PLAN TO BE DEVELOPED IN CONFORMANCE WITH THE ZONING ORDINANCES OF THE CITY OF ATLANTA AND THE COUNTY OF DEKALB.

**TABLE OF DEDICATION**

1	ANTWREN CHURCH ROAD	55.17'
2	LAKE VIEW DRIVE	10.00'
3	OLD ACHWORTH DALLAS ROAD	55.17'

IF YOU DIG GEORGIA...  
 CALL US FIRST!  
 1-800-282-7411  
 (METRO ATLANTA ONLY)  
 UTILITIES PROTECTION CENTER  
 IT'S THE LAW



COBB COUNTY, GA  
 2000 W. BUCKLE  
 ATLANTA, GA 30331  
 COBB COUNTY, GA

EXHIBIT 7

V-28  
(2017)  
Exhibit

RIVERBEND SOIL CONSULTING

P.O. BOX 2879

ROME, GA 30164-2879

706-234-9444



JAN 19 2017



LEVEL 4 SOILS ANALYSIS FOR:  
 ROBERT AND JUDY BENOWITZ  
 LOT 1 ACWORTH DALLAS ROAD  
 COBB COUNTY, GA

02-27-14

JOB# 3855

