



Meeting agenda
Monday, May 23, 2022 6:00pm

1. Call to order
2. Approval of minutes: 04/25/2022
3. Brief statement about rules and procedures
4. Variance application #VA 22-003 – Shelby Stewart of Brown Haven Homes is requesting a variance from the 25' setback. The 25' setback for the Residential District starts at the 80' minimum width requirement. TMS# 162-05-01-040 addressed as 545 Peninsula Road West Union, SC 29696.
5. Variance application #VA22-002 – Jeff Edney of WK Dickson & Co., Inc is requesting a 5' variance allowing the side setbacks to be reduced to 0' thus allowing for single family attached homes. TMS#'S 254-00-01-024/025/029/031/032/055/056/061. An unaddressed parcel with the nearest address of 1707 S. Oak St. Seneca SC, 29678
6. Adjourn

**Oconee County
Board of Zoning
Appeals**

Council Chambers
415 South Pine Street
Walhalla, S.C. 29691

www.oconeesc.com

YouTube: "YourOconee"

Staff contact

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BOARD MEMBERS

Jim Codner, Chairman, District I	Marty McKee, District IV
Gwen Fowler, District II	Bill Gilster, District III
John Eager, Vice Chairman, At-Large	Tim Mays, District V
Bill Decker, At-Large	

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC



TEL (864) 638-4218 FAX (864) 638-4168

Minutes

6:00 PM – April 25, 2022

Members in Attendance

Tim Mays
Marty Mckee
John Eagar

Bill Gilster
Jim Codner

Staff

David Root, County Attorney
James Coley, Planning Director
Vivian Kompier, Senior Planner
Kyle Reid, Roads and Bridges

Media

Lauren Pierce, The Journal

ITEM 1 – Call to order – Mr. Codner called the meeting to order at 6:00 PM.

ITEM 2 – Brief statement about rules and procedures – Mr. Codner outlined the proceedings of the meeting going forward:

- Applicant will provide a presentation to state their request (5 minutes).
- Staff will be asked to make any comments regarding the request.
- The public is allowed to voice their approval or opposition to the proposed. Please do not repeat opinions that have already been stated into the record (3-5 minutes).
- Applicant rebuttal
- Board members will discuss in detail.
- Voting

ITEM 3 – Approval of minutes from February 28, 2022 – Mr. Eagar made a motion to approve the minutes from February 28th; seconded by Mr. Mays Discussion – none. Mr. Codner called for a vote. The motion passed 5/0,

ITEM 4 – Special exception application #SE22-003 – Faulk & Foster – Victoria Farmer is requesting a special exception to construct a 172' monopole telecommunications tower (182' top of lightning rod) TMS#285-00-05-001 an

unaddressed parcel with the closest address of 315 Hopewell Church Rd. Westminster, SC 29693.

Applicant's opening statement and provision of evidence:

Ms. Farmer addressed the need for the tower, as there is limited service in the area.

Staff comments:

- Mr. Coley confirmed the is required for all communication towers, and there were no variances requested in addition to this application. The requirements for tower had been met in the design.

Public comment:

- Rod Lense- in favor, lack of service in the area

Applicant rebuttal:

NA.

Board Questions:

NA

Board discussion:

NA

1. In accordance with the comprehensive plan and is consistent with the spirit, purposes, and the intent and specific requirements of this chapter, to include the definition and intent of the district in which the special exception is being requested:
 - a. Motion – Mr. Eagar made a motion in the affirmative, seconded by Mr. Mays. A brief discussion followed.
 - b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

2. In the best interests of the County, the convenience of the community and the public welfare:
 - a. Motion – Mr. Eagar made a motion in the affirmative, seconded by Mr. Mckee.
 - b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion failed.

3. Suitable for the property in question, and designed, constructed, operated, and maintained so as to be in harmony with appropriate in appearance to the existing or intended character of the general vicinity:
 - a. Motion – Mr. Eagar made a motion in the affirmative, seconded by Mr. Mays. A brief discussion followed.
 - b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

4. Suitable in terms of effects on highway traffic, parking and safety with adequate access arrangements to protect streets from undue congestion and hazards.
 - a. Motion – Mr. Eagar made a motion in the affirmative; seconded by Mr. Mckee. A brief discussion followed.
 - b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed special exception be **approved with the following condition: No Outside Boarding, pet runs, outside kennels, pet daycare.**
 - a. Motion – Mr. Eagar made a motion; seconded by Mr. Mays. No discussion.
 - b. Vote

In-favor	Opposed
5	0

ITEM 5 – Variance application #VA 21-011-Continuation from 1/24/2022 BZA hearing postponement: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1’ variance from the 50’ Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way. TMS # 150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672.

Applicant’s opening statement and provision of evidence: Ms. Smith noted that the applicant has made attempts to reach a resolution with the Ratliff’s, and have reached an been unable to resolve the issue, and are coming back to the board for a decision. She believes that they meet the criteria for the variance. The geography and topography

limit the development of the property. The lake is an additional factor limiting the applicant's ability to develop the property. It is the applicant's position that the ordinance is overly restrictive and granting of the variance will not negatively impact the adjacent property owners. Ms. Smith detailed the applicant's roadway design.

Staff comments and Board questions:

- Mr. Root stated the County position that the road is under a prescriptive easement based on institutional knowledge, but that the affidavits presented call that into question.
- Mr. Reid explained the road surface area, and the right-of-way. Right-of-way is additional space for maintenance, utility, drainage, widening. Mr. Reid explained that there is no record that the property was ever turned over to the property owners. To the best knowledge of the County staff, the road was originally a state road, that the County assumed responsibility for after the creation of the lake. Neither the state nor the County have documentation relating to Ellenburg Road. Mr. Reid also contacted Crescent to see if they had any documentation, and they did not.

Public Comment:

- Rick McDuff- The BZA does not have authority to make this decision. The Ratliff family has paved and maintained the end of the road. There is no evidence of County maintenance on the road. Institutional knowledge is not the basis for changing the proposed course of the road.
- Ken Charles- concerned about fire safety, against the variance
- Jay Ratliff- Mr. Ratliff stated his qualifications, he showed a drawing he overlaid with boats, trucks, and use of the property. Mr. Ratliff showed his revised right-of-way drawings. The family believes there will be a negative impact on the family business. The board asked about usage of the road for the business and discussion about the impacts of the variance. Mr. Ratliff confirmed that they have not been able to reach resolution. Mr. Ratliff is concerned the board is using economic interests as justification.
- Larry Brandt- The Ratliff plats and deeds show public right-of-way. Ellenburg is a public road and cannot be abandoned without following proper procedures. The applicant is willing to deed property to the Ratliff's to maintain access to the road.
- John Richardson- against, the unique property should be protected.
- Doug Cooper- Mr. Cooper thanked the board for allowing additional public comment. The developer has placed filled on the site. Mr. Cooper believes the developer has indicated they have permission from Duke, but they actually have not. Mr. Cooper believes the County does not maintain the end of the road. Mr. Cooper believes the 50' right-of-way was in effect when the property was purchased.
- Bruce Dew- against, variance is a problem for the business.

- Serena Richardson- road is dangerous and narrow. Ms. Richardson believes illegal fill has been added to the property. Ms. Richardson believes emergency services will not be able to access the property. Ms. Richardson is concerned that locals are not being looked after, and that investors are being prioritized.
- Chris Leonard- against
- Lucretia Morgan- Ms. Morgan stated issues with statements made by Mr. Johnson at the November 2021 meeting regarding this variance. Ms. Morgan provided copies of minutes from a 2006 County Council meeting where 50' right-of-way requirements for subdivisions was discussed. Ms. Morgan stated John Hamrick was in opposition to the right-of-way requirements b/c of how property would have to be divided. Ms. Morgan stated the home size statements made by the developer were inaccurate. Ms. Morgan stated the developer needs the Ratliff's in order to make their plan work. Ms. Morgan believes that economic factors are being used as part of the applicant's request. Ms. Morgan does not believe there is a need for the variance.

Applicant rebuttal: Mr. Andy Lee stated the plats along Ellenburg show the right-of-way. Mr. Lee stated the road standards have changed over the years and that roads have widened as standards have improved. Mr. Lee stated the County repaved the bad part of the road and left the remainder due to where the previous construction took place. Mr. Lee stated the portion at the end of the road could not have been abandonment as described opposition. Mr. Lee stated he does not need Duke's permission to develop. Mr. Lee reviewed the need for the variance.

Board questions for Staff:

- Mr. Root clarified that the board has the ability to make a decision.
- Mr. Reid clarified that the 200 average daily trips number was not an official estimation, and was a general statement to a question. He confirmed that a professional traffic study would be required for this development. Mr. Reid stated the work on the upper section of the road was done after construction and was a large patch job where the road was crumbling.
- Mr. Coley confirmed that Emergency Management will review turn abounds
- Mr. Reid confirmed that the Road paving on Ellenburg was at the direction of the County Engineer.

Mr. Codner made a Motion to take a 10-minute break seconded by Mr. Mays, motion passed 5-0

Mr. Codner called the meeting back to order at 7:55 pm

Board Discussion:

- Mr. Eagar the board should make a decision

- Mr. Mays the applicant still has a lot of other requirements
- Mr. Codner, the narrow point in on the applicant's property
- Mr. Mckee who will do the work on the road- the developer will be responsible to road construction
- Mr. Root discussed road abandonment
- A traffic study is required for road width determination
- Safety is paramount
- Mr. Codner everyone wants John's Marine to stay
- Discussion of use of the road as part of the business
- Discussion of if there is more space for John's Marine after the new road is constructed.
- Duke power issues are not applicable to this discussion
- County roads are not built to accommodate pedestrian traffic
- This is not being evaluated based on economic impacts
- Safety is the primary review criteria
- Mr. Coley reviewed the applicant had reached out for a decision by the Board after attempting to reach a resolution
- Discussion regarding conditions

Consideration of VA21-011:

1. There **are** extraordinary and exceptional conditions pertaining to the particular piece of property:
 - a. Motion – Mr. Eagar made a motion, seconded by Mr. Mays. No discussion.
 - b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

2. These conditions **do not** generally apply to other property in the vicinity:
 - a. Motion – Mr. Eagar made a motion, seconded by Mr. McKee. No discussion.
 - b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

3. Because of these conditions, the application of this chapter to the particular piece of property **would** effectively prohibit or unreasonably restrict the utilization of the property; and

- a. Motion – Mr. Eagar made a motion, seconded by Mr. May. Brief discussion followed.
- b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

- 4. The authorization of a variance **will not** be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.
 - a. Motion – Mr. Eagar made a motion; seconded by Mr. May. Discussion- does this harm John’s Marine? Will the impact have severe impacts? Discussion- does this harm John’s Marine? Will the impact have severe impacts?

- b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

- 5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed variance be **Approved**.

- a. Motion – Mr. Eagar made a motion; seconded by Mr. Mays. Vote. No Discussion

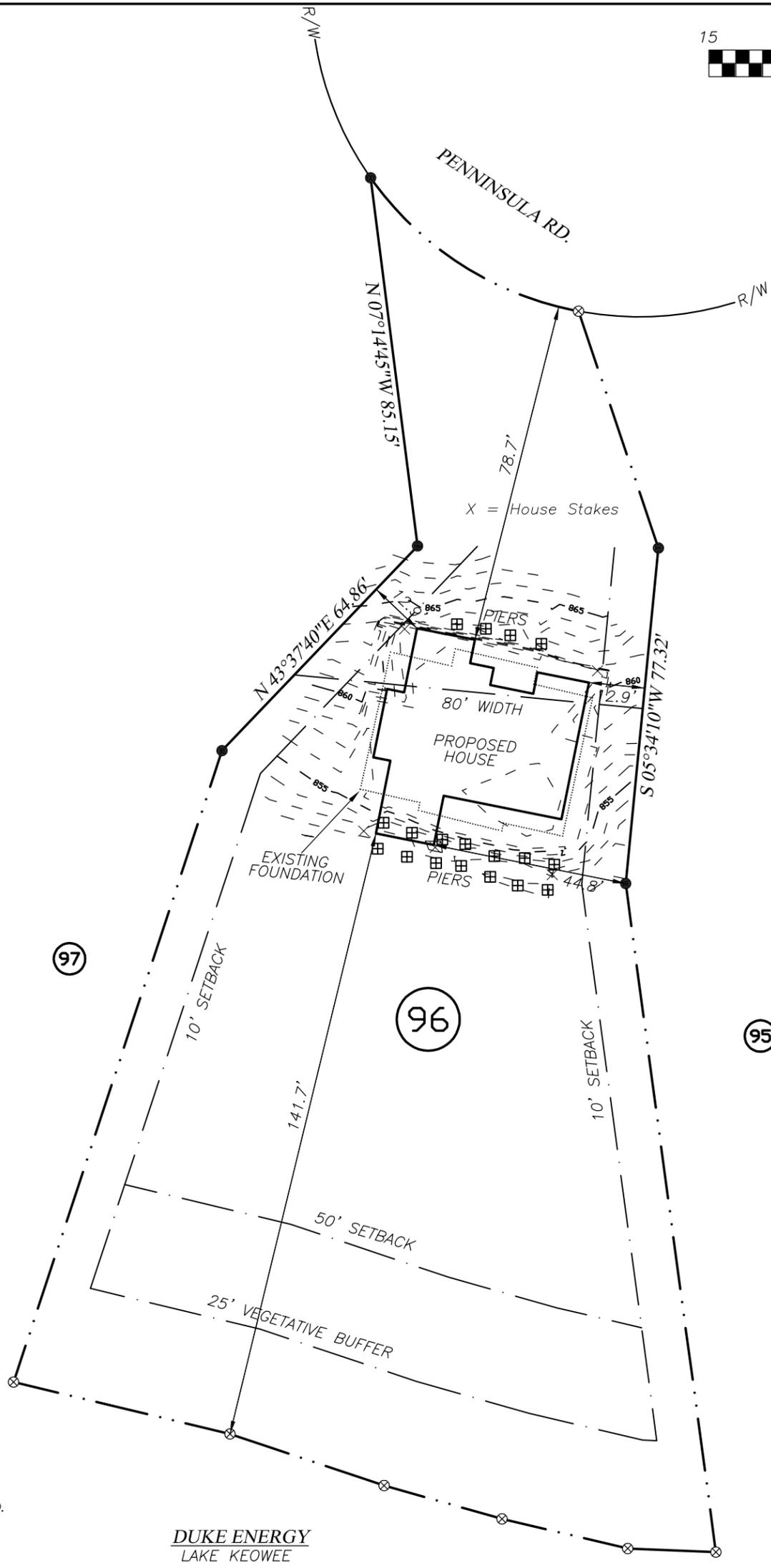
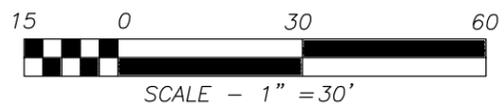
In-favor	Opposed
5	0

Mr. Codner noted that variance request was **approved** with the following conditions:

Order approved subject to proper abandonment procedures, compliance with all ordinances and state law on acceptance into the County roadway system. Developer grant/ deed John’s Marine property so that there is reasonable, unimpeded access to the new road.

Item 6 Adjourn – Mr. Eagar made a motion to adjourn; seconded by Mays. Mr. Codner called for a vote. Motion passed unanimously 5/0.

Variance application #VA 22-003 – Shelby Stewart of Brown Haven Homes is requesting a variance from the 25' setback. The 25' setback for the Residential District starts at the 80' minimum width requirement. TMS# 162-05-01-040 addressed as 545 Peninsula Road West Union, SC 29696.



- LEGEND:
- ⊙ = POINT ONLY
 - = IRON PIN SET
 - = IRON PIN FOUND
 - IPS = 1/2" REBAR SET
 - IPF = IRON PIN FOUND
 - RBF = REBAR FOUND
 - CTF = CRIMP TOP PIPE FND.
 - OTF = OPEN TOP PIPE FND.
 - CMF = CONCRETE MONUMENT FND.
 - GMF = GRANITE MONUMENT FND.
 - AIF = ANGLE IRON FOUND
 - SPK = RAILROAD SPIKE SET
 - PKS = PK NAIL SET
 - O/S = OFFSET
 - ℙ = PROPERTY LINE
 - ℄ = CENTERLINE
 - - P - - - OVERHEAD POWERLINE
 - - S - - - SANITARY SEWER
 - - X - - - FENCE
 - P.O.B. = POINT OF BEGINNING
 - B.S. = BUILDING SETBACK

BROWN HAVEN CLIENT - WILLIAMS

COUNTY: Oconee	FOR: Brown Haven Homes	STATE: South Carolina PLAT DATE: 10/27/2021 FIELD DATE: 10/18/2021 SCALE: 1" = 50' CRD FILE: 21299 DWG FILE: 21299 PARTY CHIEF: WCB DRAWN BY: RSR DEED BK/PG: 2664/186 PLAT BK/PG: B481/3 TAX P.I.D.: 162-05-01-040	LOCATION MAP
			

Variance application #VA22-002 – Jeff Edney of WK Dickson & Co., Inc is requesting a 5' variance allowing the side setbacks to be reduced to 0' thus allowing for single family attached homes. TMS#'S 254-00-01- 024/025/029/031/032/055/056/061. An unaddressed parcel with the nearest address of 1707 S. Oak St. Seneca SC, 29678

APPLICANT RESPONSES TO SECTION 38-7.1

Describe the extraordinary and exceptional condition (such as size, shape, and topography) that pertains to the subject property that does not generally apply to other land or structures in the vicinity.:

Setback requirements for the Control Free District do not allow for 0' side setback for single family residential lots which would be needed for constructing individually platted, attached single family units. This would inhibit the variety of housing products and price points the applicant wishes to provide for the community at this site. Front, rear, and end unit side setbacks will continue to meet Oconee County code

Are the circumstances affecting the subject property the result of actions by the applicant/owner? Explain.

No. Circumstance is created from the existing control free district setback requirements on individual single family lots even though attached units are allowed with 0' side setbacks if not platted separately.

Describe the ways in which application of the requirement(s) of the ordinance effectively prohibit or unreasonably restrict the utilization of the subject property.:

The requirement of a side setback prohibits individually platted single family attached residences which would eliminate providing this product to the County's residences.

Will the proposed variance result in an activity that will not be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance? Explain.:

Proposed variance will not harm the public good or character of the district. Variance would enhance available housing products and price points for the residences of the County.

Comments

Variance will also need to include parcels 254-00-01-031, 254-00-01-056, and 254-00-01-055 which will include the attached single family home portion of the subdivision. All four have the same current owners. Subdivision will also include additional parcels but the attached single family homes are not included on those parcels.

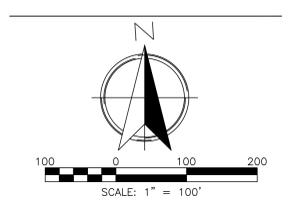
PROJECT:

Oak Street

SHEET TITLE:

**CONCEPT
PLAN B**

SEAL:



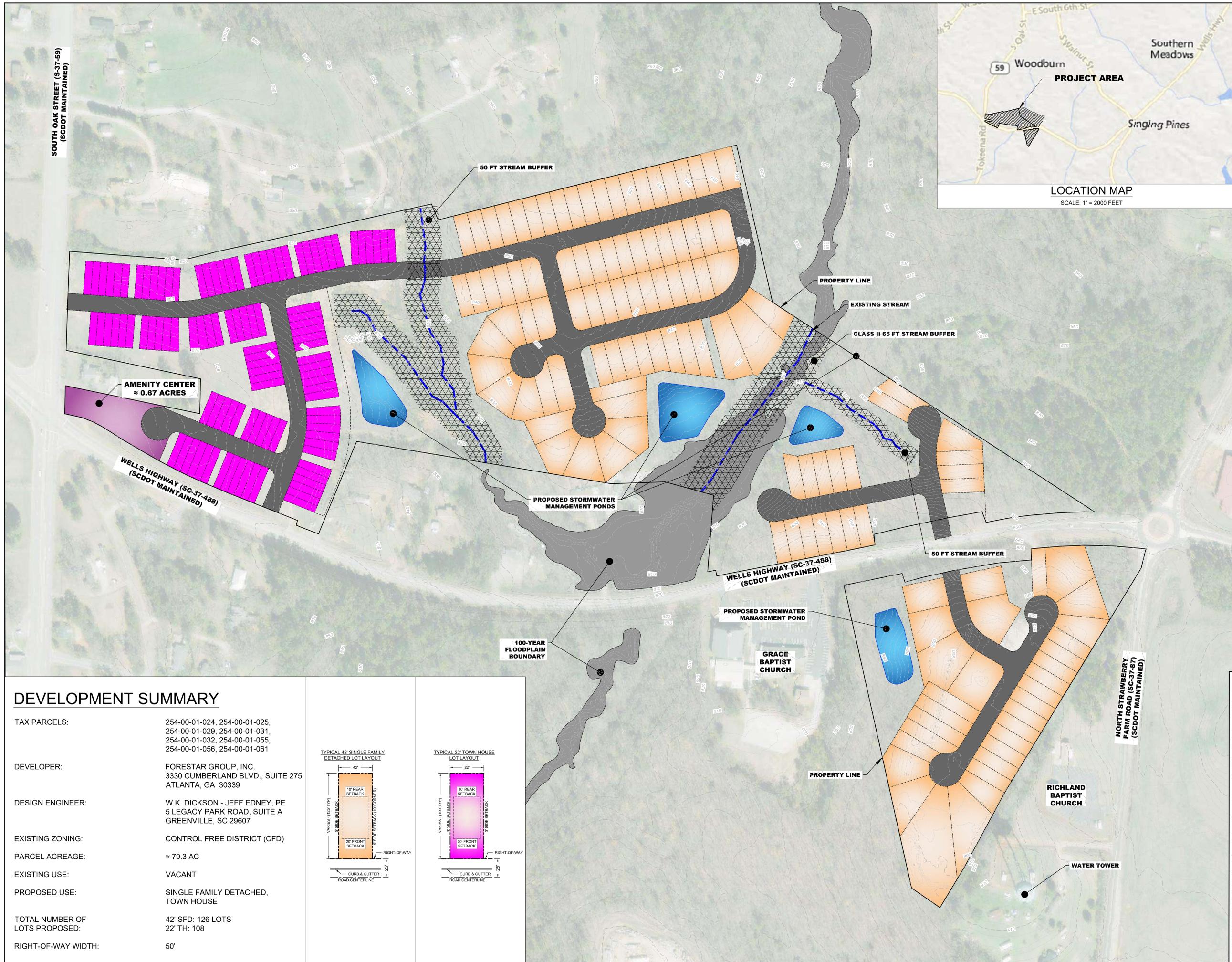
PROJ. MGR.:	JHE
DESIGN BY:	JLS
DRAWN BY:	JLS
PROJ. DATE:	MARCH 2022
DRAWING NUMBER:	1.0

WKD PROJ. NO.:
2022XXXX.00.GV

REVISION	DATE	COMMENT

PRELIMINARY DRAWINGS - DO NOT USE FOR CONSTRUCTION

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DEVELOPMENT SUMMARY

TAX PARCELS:	254-00-01-024, 254-00-01-025, 254-00-01-029, 254-00-01-031, 254-00-01-032, 254-00-01-055, 254-00-01-056, 254-00-01-061
DEVELOPER:	FORESTAR GROUP, INC. 3330 CUMBERLAND BLVD., SUITE 275 ATLANTA, GA 30339
DESIGN ENGINEER:	W.K. DICKSON - JEFF EDNEY, PE 5 LEGACY PARK ROAD, SUITE A GREENVILLE, SC 29607
EXISTING ZONING:	CONTROL FREE DISTRICT (CFD)
PARCEL ACREAGE:	≈ 79.3 AC
EXISTING USE:	VACANT
PROPOSED USE:	SINGLE FAMILY DETACHED, TOWN HOUSE
TOTAL NUMBER OF LOTS PROPOSED:	42' SFD: 126 LOTS 22' TH: 108
RIGHT-OF-WAY WIDTH:	50'

