

**APPROVAL OF A HARDSHIP VARIANCE  
FROM THE UNIFIED DEVELOPMENT CODE OF OCONEE COUNTY, GEORGIA**

**TITLE**

A Resolution granting approval of a Hardship Variance based upon the allowances under the Unified Development Code of Oconee County, Georgia, pursuant to Article 13, Section 1304, to grant approval of a Hardship Variance pursuant to an application requesting approval of a Hardship Variance on property owned by David and Carol Shadley submitted on March 26, 2018.

**ENACTMENT CLAUSE**

Pursuant to the authority conferred by the Constitution and Laws of the State of Georgia and after consideration of an application requesting Hardship Variance approval submitted by David Shadley on March 26, 2018 regarding a ±15.70-acre tract of land located on the west side of Clotfelter Road in the 224<sup>th</sup> G.M.D., Oconee County, Georgia, (tax parcel number B 02 100), the Board of Commissioners of Oconee County does hereby grant the following:

SECTION 1. A Resolution granting Hardship Variance approval for the property described above and also described in the attached Exhibit "A" is hereby granted for the purpose of relief from Unified Development Code Section 1012.07 (a), to increase the number of lots allowed access along a private access drive to six.

Said Hardship Variance is subject to the following conditions: as set forth in "Exhibit A" attached hereto.

SECTION 2. Severability. It is intended that the provisions of this Ordinance be severable and should any portion be held invalid, such invalidity shall not affect any other portion of the Ordinance.

SECTION 3. Effective Date. This Resolution shall take effect this date.

Said Hardship Variance application was submitted to the Oconee County Board of Commissioners and a Public Hearing was duly held by same at its regular meeting on June 5, 2018.

ADOPTED AND APPROVED, this 5<sup>th</sup> day of June, 2018.

**OCONEE COUNTY BOARD OF COMMISSIONERS**

BY: \_\_\_\_\_

*John Daniell*  
John Daniell, Chairman

*Mark Thomas*  
Mark Thomas, Member

*Chuck Horton*  
Chuck Horton, Member

*W. E. "Bubber" Wilkes*  
W. E. "Bubber" Wilkes, Member

*Mark Saxon*  
Mark Saxon, Member

ATTEST:

*Kathy Hayes*  
Kathy Hayes  
Clerk Board of Commissioners



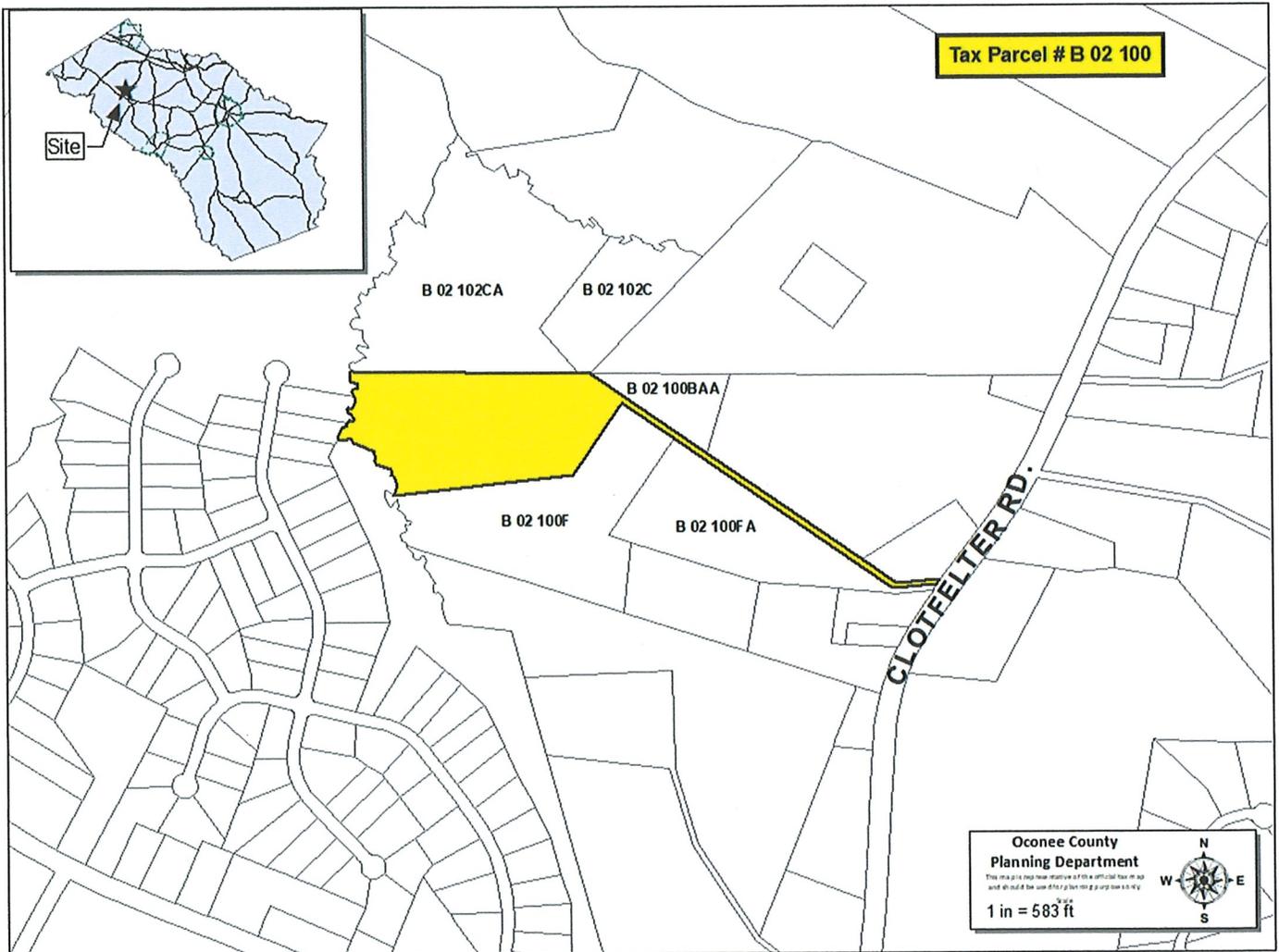
**EXHIBIT "A" TO HARDSHIP VARIANCE #7437**

**Page 1 of 1**

**CONDITIONS**

- 1. The subject private access drive shall serve no more than six tracts. Access shall be limited to the following tax parcels: B 02 100; B 02 100F; B 02 102C; B 02 102CA; B 02 100FA; and B 02 100BAA.**
- 2. The private access drive shall be maintained in good condition by the owner(s), their heirs and assigns.**

**TAX MAP**







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

**VARIANCE CASE #:** 7437

**DATE:** May 21, 2018

**STAFF REPORT BY:** Gabriel Quintas, Planner

**APPLICANT NAME:** David Shadley

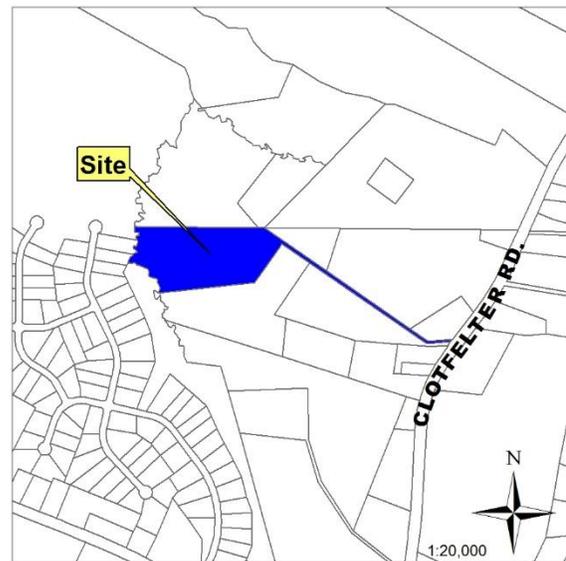
**PROPERTY OWNER:** David & Carol Shadley

**LOCATION:** 1321 Clotfelter Road, west side of Clotfelter Road

**PARCEL SIZE:** ± 15.70 acres

**EXISTING ZONING:** A-1

**EXISTING LAND USE:** Single-family residence with a private drive serving four lots.



**TYPE OF VARIANCE REQUESTED:** Hardship Variance

**REQUEST SUMMARY:** The owner is requesting approval of a hardship variance to increase the number of tracts currently allowed access on a private access drive.

**DATE OF SCHEDULED HEARINGS**

**BOARD OF COMMISSIONERS:** June 5, 2018

**ATTACHMENTS:** Application  
Variance Narrative  
Aerial  
Tax Map  
Staff Map  
Copy of Variance Resolution # 3068

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

### **HISTORY**

- The subject private drive lies on property owned by Mr. David Shadley and Mrs. Carol Shadley.
- The BOC granted a variance (no. 3068) in 2003 to allow the subject drive to serve four tracts and to allow a centerline length of 2,220 feet.
- The Public Works Department inspected the drive in November 2004 and determined that the subject drive had been constructed in full compliance with the conditions imposed upon the approval of variance no. 3068 and the private access drive standards in effect at the time.
- The following parcel numbers have existing access to the subject drive: B 02 100 – Owners David and Carol Shadley; B 02 100F – Owner Nancy C. Aquino; B 02 102C – Owners Harvey F. and Annie H. Smith; B 02 102CA – Owners Gregory S. and Tandekah S. Smith

### **SITE VISIT DESCRIPTION**

- The subject drive has grassed shoulders, is paved with an asphalt surface, and extends roughly 2,220 feet west of Clotfelter Road.
- Two new gravel drives providing access (unauthorized by the County) to tax parcels B 02 100FA and B 02 100BAA were present along the subject drive upon inspection of the property on 05/23/18.

### **VARIANCE DESCRIPTION**

- The owner is requesting approval of a hardship variance for relief from Section 1012.07 (a) of the Unified Development Code:
  - Section 1012.07 – Private access drives.
    - a. *A private access drive which meets all of the following standards may serve a maximum of 5 lots within the OIP, OBP, B-1, B-2, and I districts. Within all other zoning districts, a private access drive, which meets all of the following standards, may serve a maximum of 3 lots.*
- The owner is requesting that the subject drive be allowed to serve three lots in addition to the four that are currently allowed under variance approval no. 3068. Approval is requested for the following lots:
  - B 02 100FA – 10 acres; current access to Clotfelter Road is via a 33.30-foot wide strip of land (forming part of the tract) immediately adjacent to the south of the subject drive. The property owners, James M. & Marsha Lewis, are in the process of constructing a single-family residence on the property.
  - B 02 100BAA – 3 acres; currently has access to Clotfelter road via a 25-foot wide ingress-egress easement which lies directly north of the subject drive and runs through tax parcel number B 02 100BA. The owners, Thomas A. & Stacia J. Coggins, are in the process of constructing a single-family residence on the property.
  - B 02 102C – 5.56 acres; currently has approved access to Clotfelter road via the subject private drive. The owners, Harvey F. & Annie H. Smith, were the petitioners associated with variance approval no. 3068. Mr. and Mrs. Smith wish to further subdivide their property in the future and allow the additional lot access to Clotfelter Road via the subject private drive. However, the conditions imposed on approval for variance number 3068 do not allow the further subdivision of B 02 102C beyond what was indicated on the concept plan submitted with the application for the same variance; the subdivision depicted on said concept plan took place in 2004 (PB 35, PG 88).

### **PUBLIC FACILITIES**

- County services, facilities, and infrastructure should not be affected by the present request.

### **ENVIRONMENTAL**

- No 100-Year Flood Plain or Jurisdictional Wetland areas are located along the subject private access drive.

**STAFF ANALYSIS**

THE ANALYSIS OF THE APPLICATION IS MADE BASED UPON THE “STANDARDS FOR HARDSHIP APPROVAL” AS SET FORTH IN SECTION 1304.03 OF THE OCONEE COUNTY UNIFIED DEVELOPMENT CODE:

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

- a. **Are there extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography?** There do not appear to be any extraordinary topographical conditions affecting the existing access to tracts B 02 100FA and B 02 100BAA. The terrain along the current access to both lots has a very mild slope and should not pose any issue for the construction of a drive. Furthermore, the configuration and size of these lots do not present any impediment to the use of the existing access to said tracts.
  
- b. **Does the application of requirements in the Unified Development Code create the unnecessary hardship to this particular piece of property?** Yes. The strict application of the requirements of the UDC would create an unnecessary hardship to the *existing* properties (B 02 100FA and B 02 100BAA) for which access is being requested in so far as the property owners would incur the unnecessary expense of constructing separate drives. Approval of the present request for the existing lots would eliminate the need for the construction of additional drives along Clotfelter Road; staff believes that this would present a favorable situation as it would orient traffic accessing said lots to the subject drive and thereby reduce the number of access points along Clotfelter Road. However, with respect to tax parcel B 02 102C, staff believes that the inability to *create* an additional lot accessing the subject drive does not present an unnecessary hardship. Accordingly, staff believes that if the present request is granted, approval should be limited to the two aforementioned existing lots.
  
- c. **Are conditions creating the need for the hardship variance peculiar to the particular piece of property involved?** There are no known conditions peculiar to the properties involved that would necessitate the current request.
  
- d. **Will relief, if granted, not cause substantial detriment to the public good or impair the purposes and intent of the Unified Development Code?** The purpose of UDC Section 1012.07 is to limit the number of tracts accessed along a roadway (in this case, a private access drive) that is not improved to the County standards required by UDC Section 1008. However, the public interest would be better served if relief were granted to allow the drive to serve the two existing parcels because such relief would eliminate the need for additional access points along Clotfelter Road. On the other hand, granting relief for a lot that has not been created *would* impair the intent of the Unified Development Code as such relief would only serve to encourage the subdivision of lots along private access drives that have met or exceeded the limitation imposed by Section 1012.07 (a). Furthermore, in the case that a seventh lot were approved through the present request for access to the drive, the owners of tax parcel B 02 102C would nevertheless be required to seek separate approval from the BOC to subdivide the tract further because of the conditions imposed by variance resolution no. 3068. Accordingly, staff believes that any additional allowance of access to the subject drive should be limited to the two existing parcels previously mentioned.

FURTHER ANALYSIS OF THE APPLICATION IS MADE BASED UPON THE “LIMITATIONS ON HARDSHIP APPROVAL” AS SET FORTH IN SECTION 1304.04 OF THE OCONEE COUNTY UNIFIED DEVELOPMENT CODE:

*In no case shall hardship variances be granted if any of the following conditions exist:*

- a. **Is the need for the hardship variance the result of a condition created by the applicant or the result of an unwise investment decision or real estate transaction?** No.
  
- b. **Is the hardship variance a request to change conditions of approval imposed through a zoning change granted by the Board of Commissioners?** The present hardship variance is, in effect, a request to change the conditions imposed upon variance approval no. 3068. The variance resolution does not allow the subject

private access drive to serve more than four tracts and does not allow the subdivision of tax parcel B 02 102C beyond what was indicated in the concept plan submitted with the application. Staff notes that the owners' intent to further subdivide the tract would be in violation of the resolution without separate variance approval from the Board of Commissioners.

- c. **Does the hardship variance cause a reduction of the minimum lot size required by the zoning district applicable to the property?** No.
- d. **Does the hardship variance propose a use of land or buildings or structures that would otherwise not allowed by the zoning district applicable to the property?** No.
- e. **Will the hardship variance provide an increase in the number of dwelling units or nonresidential building floor area which is otherwise not allowed by the zoning district applicable to the property?** No.
- f. **Does the present request concern any item or matter regulated under Article 7 of the Unified Development Code?** No.

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### **STAFF RECOMMENDATION & CONDITIONAL RECOMMENDATIONS**

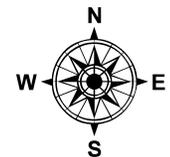
**Based upon the standards and limitations for hardship variance approval, this request does not meet the necessary criteria to grant a hardship variance. However, should the present request be approved, staff recommends the following conditions to be fulfilled by the owner at his expense:**

1. The subject private access drive shall serve no more than six tracts. Access shall be limited to the following tax parcels: B 02 100; B 02 100F; B 02 102C; B 02 102CA; B 02 100FA; and B 02 100BAA.
2. The private access drive shall be maintained in good condition by the owner(s), their heirs and assigns.

# David & Carol Shadley



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# OCONEE COUNTY APPEAL APPLICATION

Type of Appeal Submitted:

- Hardship Variance     Appeal of Administrative Decision     Flood Damage Prevention Variance
- Special Exception for: \_\_\_\_\_

### Applicant

Name: David Shadley

Address: 1321 CLOTFELTER  
(No P.O. Boxes)

### Property Owner

Name: CAROLYN DAVID SHADLEY

Address: SAME  
(No P.O. Boxes)

Telephone: 706 542 5922

Telephone: \_\_\_\_\_

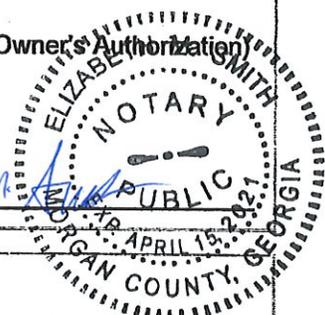
Applicant is (check one):  the Property Owner     Not the Property Owner (attach Property Owner's Authorization)

**Applicant's Certification:** I hereby certify that the information contained in and attached to this application is true and correct.

Signature: David Shadley

Date: 3-26-18

Notarized: Ellynn M. Smith



### Property

Location: 1321 Clotfelter Road

### Use

Current Use: Residential

Tax Parcel Number: B 02 100

Proposed Use: Residential

Size (Acres): ± 15.70    Current Zoning: A-1 (Agricultural)

Future Development Map—Character Area Designation: Suburban Living and Conservation Corridor

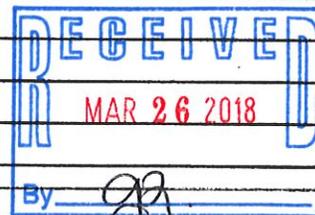
### Attachments (check all that apply)

- Property Owner's Authorization (if applicable)
- Application Fee
- Warranty Deed(s), Legal Description, & Plat of Survey
- Disclosures
- Maps or Drawings Illustrating Variance Request
- Narrative Statement Explaining Variance Request
- Concept Plan

### Appeal or Variance Requested

*Provide the code section and briefly explain the requested variance*

UDC Section 1012. 07 (a) – Hardship variance  
requested to increase the number of lots allowed  
on a private drive to Mr. S. V. N.



By: ga

*For Oconee County Staff Use Only*

**Application**

Date Received: 03/26/18    Date Accepted: 03/26/18

DRI Transmitted to RDC  Date: \_\_\_\_\_  N/A

Review Submitted: \_\_\_\_\_    Location Map: \_\_\_\_\_

Posted: \_\_\_\_\_    Ad: \_\_\_\_\_    Ad: \_\_\_\_\_

Application Withdrawn  Date: \_\_\_\_\_

**Action**

APPLICATION NUMBER

Administrative Appeal: Date: \_\_\_\_\_

Approved     With Conditions     Denied     N/A

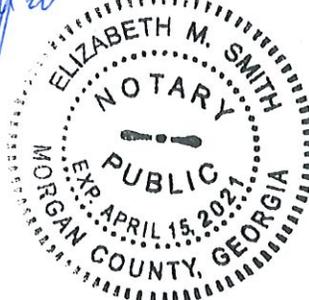
Board of Commissioners Date: 06/05/18

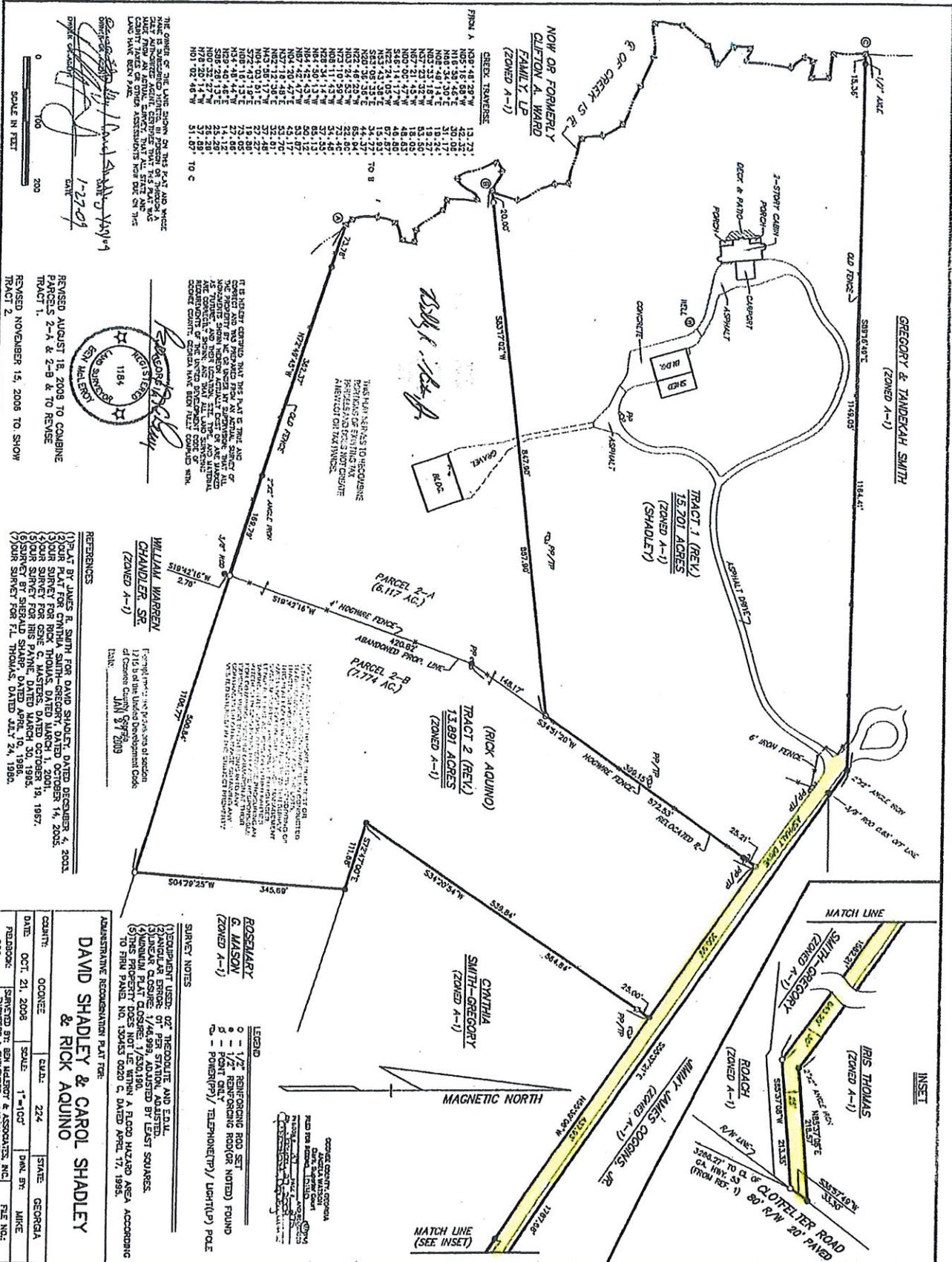
Approved     With Conditions     Denied     N/A

March 26, 2018

I am petitioning the Board of Commissioners to accept the present request to add an additional three lots to the private drive that I own. The following parties would like to be allowed to use my private drive to provide access to their property: Mr. and Mrs. James Lewis who are currently building their home on tax parcel number B 02 100FA; Mr. and Mrs. Thomas Coggins who intend on building their home on tax parcel number B 02 100BAA in the near future; and Mr. and Mrs. Harvey Smith who intend on further subdividing their property (tax parcel number B 02 102C) sometime in the future. Four lots are currently using my private drive, and the approval was given in 2003 under variance approval number 3068. Maintenance of the drive is currently shared amongst the current land owners accessing my drive, and any future land owners using my drive will be equally responsible for the maintenance of said drive.

David Shadley





**RECEIVED**

MAR 26 2018

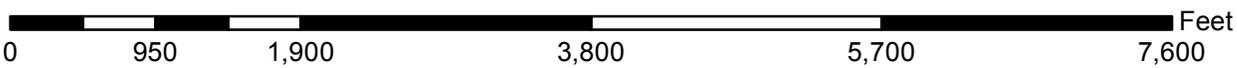
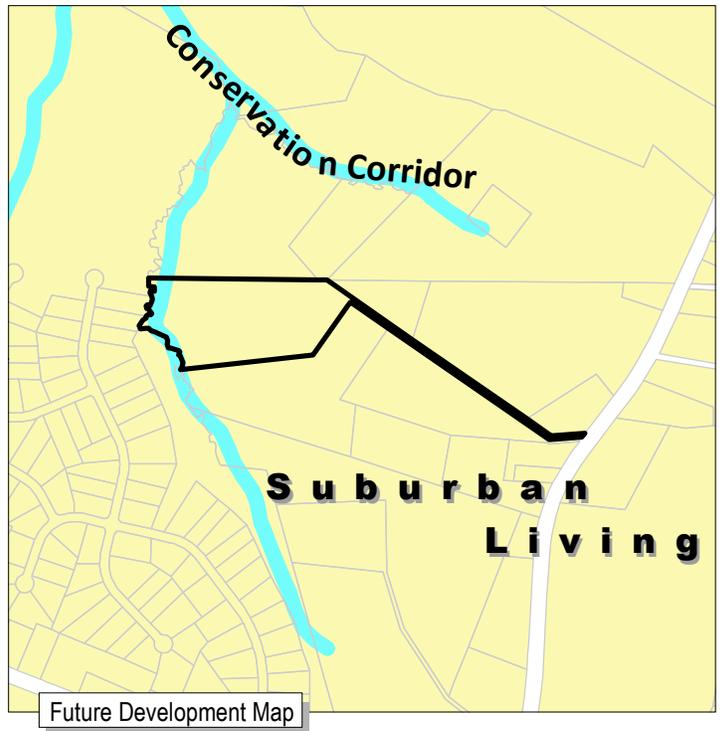
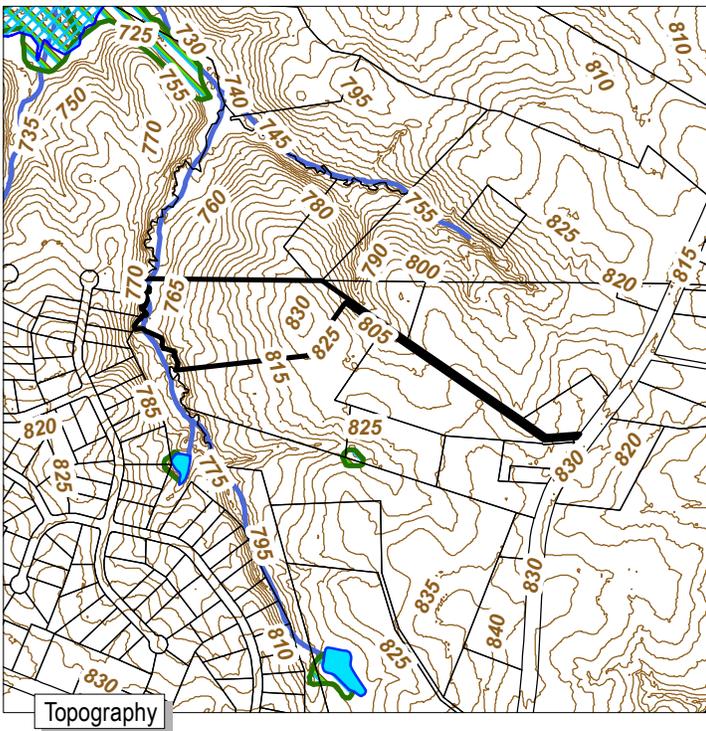
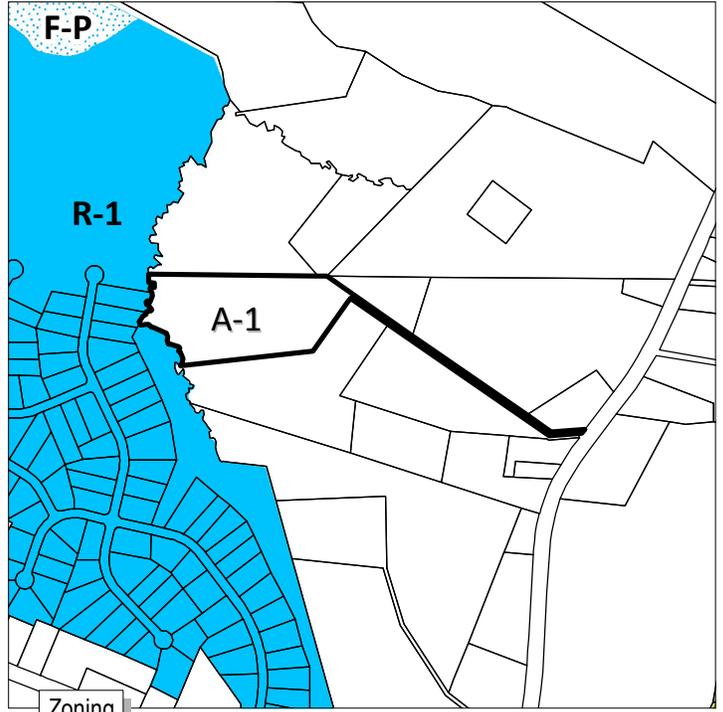
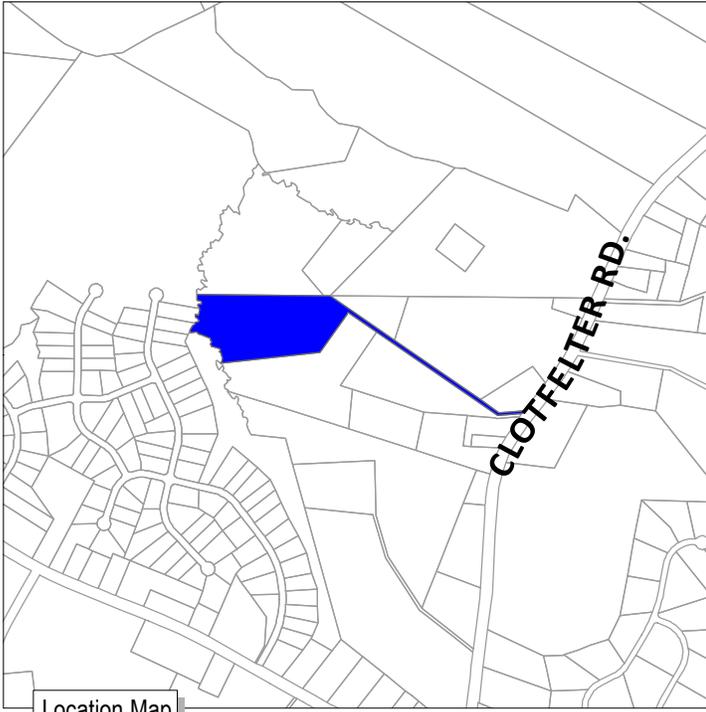
By *[Signature]*

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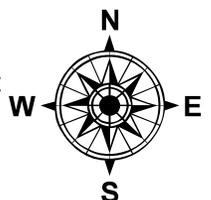
**EXHIBIT**

A-1

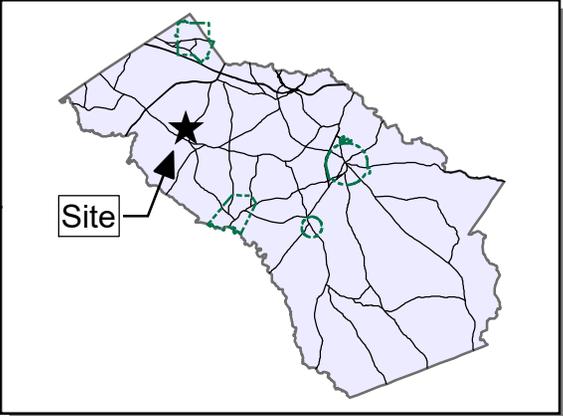
# David & Carol Shadley Variance Site Review



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**Tax Parcel # B 02 100**



B 02 102CA

B 02 102C

B 02 100BAA

B 02 100F

B 02 100FA

**CLOTFELTER RD.**

**Oconee County  
Planning Department**

This map is representative of the official tax map  
and should be used for planning purposes only.

Scale  
1 in = 583 ft

