

**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 submitted on March 09, 2018, requesting approval of a Hardship Variance on property owned by the following: Deloris Gardner, as Trustee of the Gardner Revocable Trust; Harriet Deloris Gardner; Ronald B. & Lisa E. Sawhill; and Penelope M. Lyman & Lynn D. Hanna.

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 Harriet Deloris Gardner on March 9, 2018 regarding a private access drive accessing Flat Rock Road in the 225th G.M.D., Oconee County, Georgia, (tax parcel numbers: D 02 004N; D 02 004VA; D 02 004V; D 02 004NA), 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 allow an additional lot access along a private access drive not meeting the standards required by the aforesaid section.

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 July 3, 2018.

ADOPTED AND APPROVED, this 3rd day of July, 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 #7456

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CONDITIONS

1. The subject private access drive shall serve no more than three tracts.
2. The private access drive shall be maintained in good condition by the owner(s), including their heirs and assigns, of properties accessing said drive.

TAX MAP

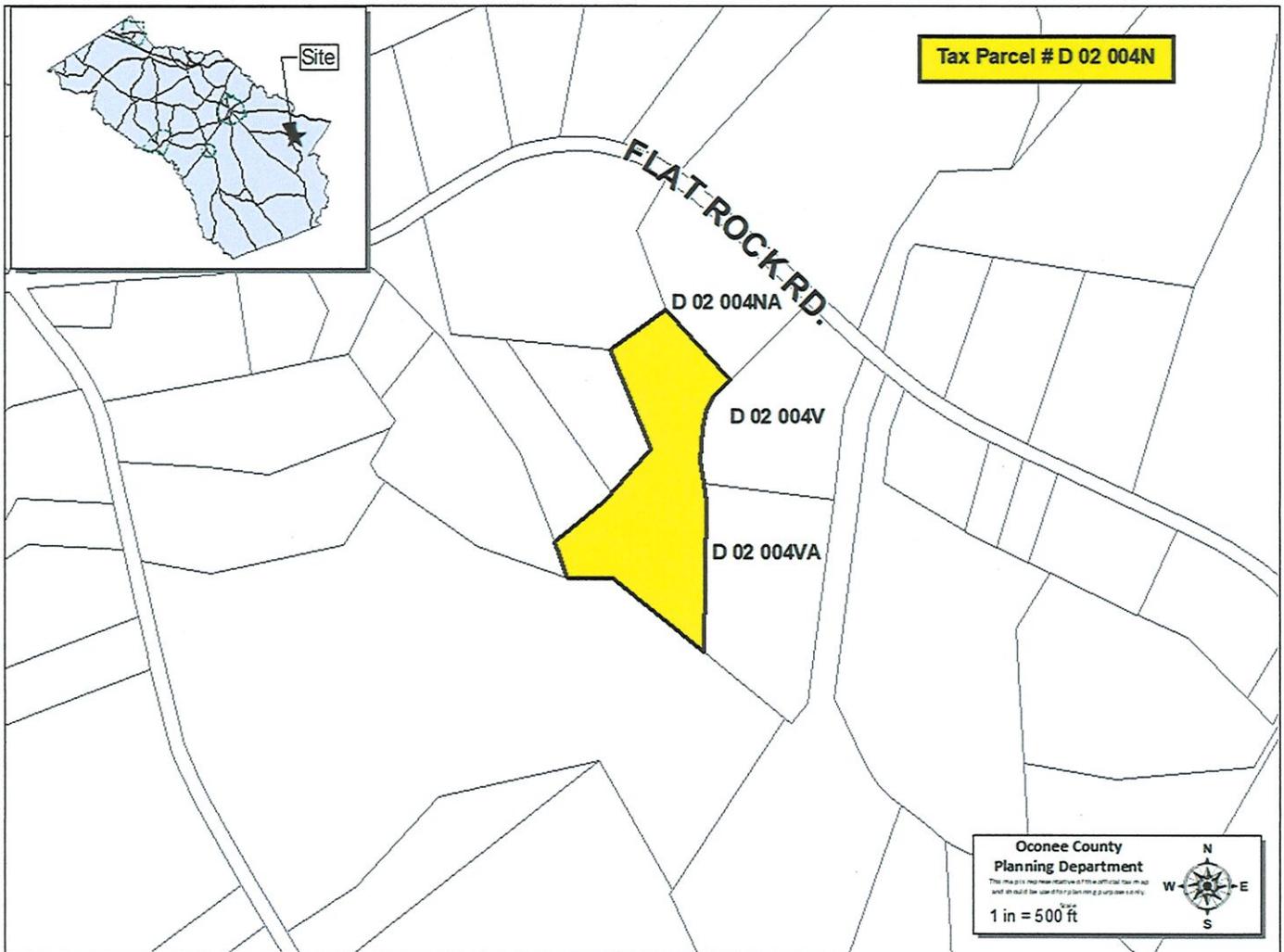
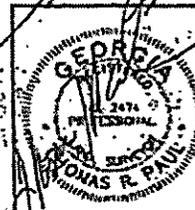
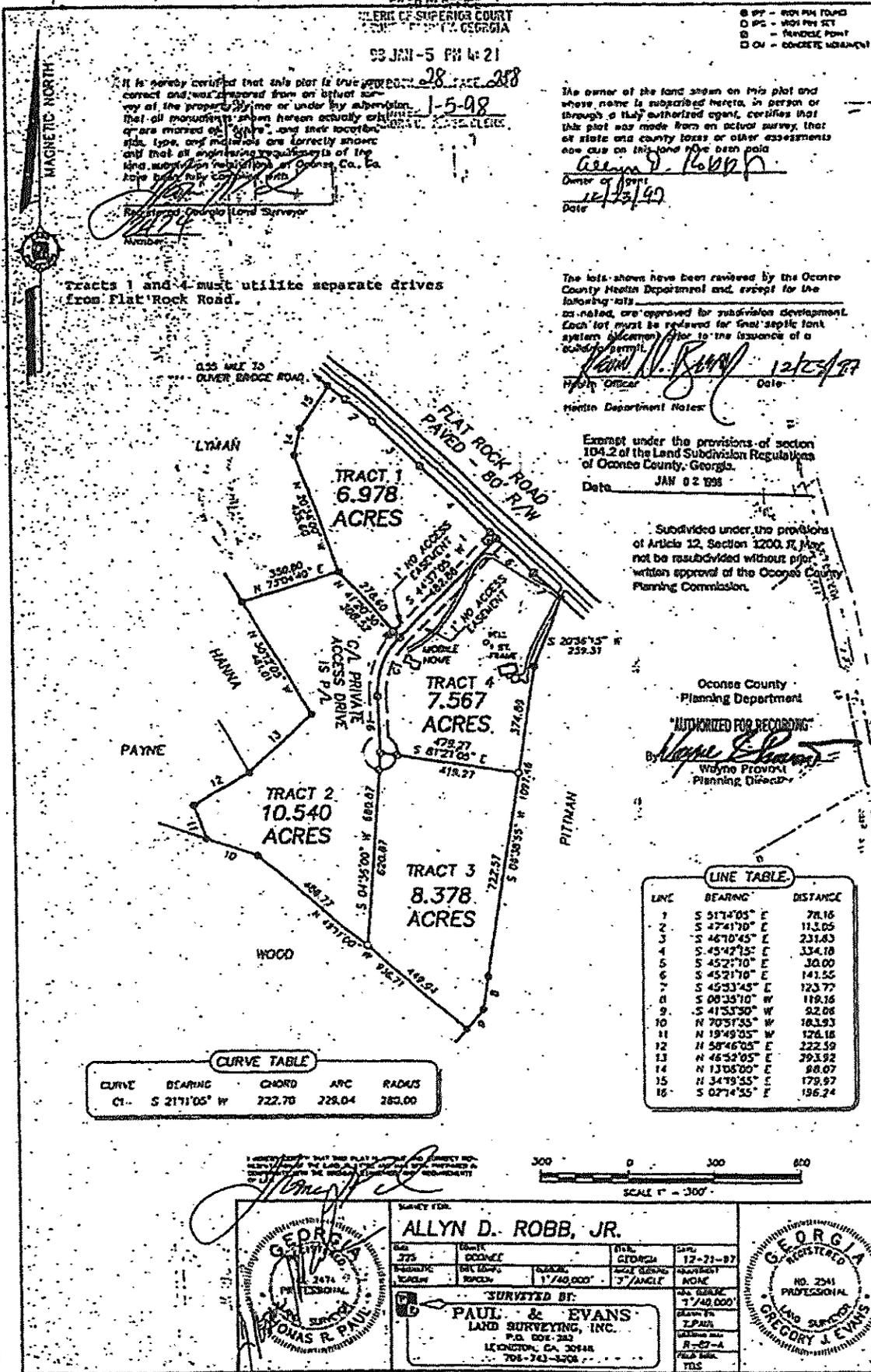


EXHIBIT "A" TO HARDSHIP VARIANCE #7456

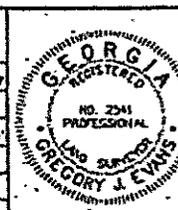
Page 2 of 3
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ALLYN D. ROBB, JR.

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12-23-97	12-23-97	12-23-97	12-23-97

SURVEYED BY:
PAUL & EVANS
LAND SURVEYING, INC.
LEONTON, GA 30548
706-743-3208





**Department of Planning and Code Enforcement
Oconee County, Georgia
STAFF REPORT**

VARIANCE CASE #: 7456

DATE: June 19, 2018

STAFF REPORT BY: Gabriel Quintas, Assistant Director

APPLICANT NAME: Harriet Deloris Gardner

PROPERTY OWNER: The subject private access drive lies on property owned by the following: Harriet Deloris Gardner; Ronald B. & Lisa E. Sawhill; Penelope M. Lyman & Lynn D. Hanna

LOCATION: Private access drive providing access to Flat Rock Road to two tracts – 2942 and 2944 Flat Rock Road

PARCEL SIZE: ± 10.54 acres (2944 Flat Rock Road)

EXISTING ZONING: A-1

EXISTING LAND USE: Single-family residential

TYPE OF VARIANCE REQUESTED: Hardship Variance

REQUEST SUMMARY: The owner is requesting approval of a hardship variance to allow an additional tract access to Flat Rock Road along a private access drive not meeting the standards of UDC Section 1012.07 (a).

DATE OF SCHEDULED HEARINGS

BOARD OF COMMISSIONERS: July 3, 2018

ATTACHMENTS: Aerial
Application
Concept Plan
Plat of Survey
Tax Map
Site Review
Variance Narrative



BACKGROUND INFORMATION & FINDINGS OF FACT

HISTORY

- The subject private drive lies on property owned by Harriet Deloris Gardner (D 02 004N & D 02 004VA), Ronald B. and Lisa E. Sawhill (D 02 004V), and Penelope M. Lyman and Lynn D. Hanna (D 02 004NA).
- The following parcel numbers have access to the subject drive: D 02 004N and D 02 004VA.
- In late 2016, the present applicant made improvements to the subject drive in the form of regrading, paving, and digging of ditches on either side to facilitate drainage of storm water.

SITE VISIT DESCRIPTION

- Upon inspection of the private drive on 03/28/18, staff from both the P.A.C.E. Department and the Public Works Department observed that the drive is paved with asphalt, contains grassed shoulders and ditches along either side of the drive, contains a turn-around at the termination of the drive, and is crowned for drainage.
- The centerline of the private access drive measures approximately 970 feet from the point of intersection with the public right-of-way line to the end of the turn-around.

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 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 minimum overall easement width shall be 25 feet; greater width may be required to accommodate necessary utilities. The minimum continuous paved surface shall be 16 feet in width and paved with 2 inches of asphalt surface on a 4- inch crusher run stone base applied on a properly prepared sub-grade. Stabilized shoulders shall be provided and shall be 3 feet wide on both sides, (compacted and grassed or graveled or paved).*
- Maximum centerline slope of 17% and cross sloped or crowned for drainage.*
- Maximum centerline length of 2,000 feet as measured from the intersection with the public right-of-way line to the end of the cul-de-sac. In the case of looped drives, which extend continuously from public right-of-way line to public right-of-way line, this two thousand foot maximum length may be waived, provided that public health, safety and welfare considerations are adequately addressed.*
- A paved turning area shall be provided at the termination of cul-de-sac drives with a minimum outside radius of 47 feet plus 3-foot wide stabilized shoulders, contained within the easement boundaries.*
- In subdivisions which are subject to the provisions of the Oconee County Water System Ordinance, the lot(s) served by a private access drive shall also be served by water lines and fire hydrants in accordance with the County's adopted Water and Wastewater Standards. Such water lines, if installed along the alignment of the private access drive, shall include, as an appurtenance thereto, a perpetual maintenance easement of sufficient dimensions as required by the County's adopted Water and Wastewater Standards to provide for the maintenance of said water lines. Similar easement(s) shall be provided for sewer service and/or other utilities as applicable.*
- Private access drives shall be clearly marked as such on all subdivision plats and shall comply with the signage provisions of these Regulations and shall comply with the provisions of applicable County Ordinances.*
- Private access drives which do not meet each and all of the above standards shall serve no more than 2 lots and shall comply with the provisions of applicable County Ordinances.*

- The present applicant, owner of parcel D 02 004N, is requesting that the subject drive be allowed to serve one additional lot for a total of three lots accessing the private access drive. Approval is requested for a two-acre lot that the applicant wishes to subdivide from the aforementioned parcel and give to a family member. The applicant cites a financial hardship as the basis for the present request due to the high cost of regrading, extension of existing drainage pipes, tree removal, and relocation of the ditches along the drive to accommodate the additional feet of pavement required by the UDC for three lots.
- Upon inspection of the subject drive, staff from both the Public Works Department and the P.A.C.E. Department noted the following nonconformities with UDC Section 1012.07 (a):
 - The width of the asphalt pavement measures roughly 10 feet along the entire drive. The UDC requires a minimum width of 16 feet.
 - The grassed shoulders running along both sides of the drive are less than three feet wide in some areas. The UDC requires the stabilized shoulders running along the entire length of the drive to have a consistent width of at least three feet.
 - The turn-around present at the termination of the drive is only partially paved. The UDC requires a turning area that is entirely paved.

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 conditions relating to the size, shape, or topography of the subject private access drive that would prevent the improvement of the drive to the standards required by UDC Section 1012.07 (a).
- b. **Does the application of requirements in the Unified Development Code create the unnecessary hardship to this particular piece of property?** The strict application of the requirements of the UDC would not create an unnecessary hardship to parcel number D 02 004N (henceforth referred to as the subject parcel). Staff holds that the inability to *create* an additional lot accessing the nonconforming subject drive does not present an unnecessary hardship.
- 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 the standards required by UDC Section 1012.07 is to ensure adequacy of a roadway serving more than two residential lots to accommodate emergency vehicles and the anticipated traffic generated by the residential properties. Staff holds that the substandard width of the existing pavement may not be sufficient to easily accommodate large emergency vehicles. Additionally, staff has concerns that granting relief for a lot that has not been created would serve to encourage the subdivision of lots along private access drives that do not meet the standards required by

Section 1012.07 (a). Accordingly, staff believes that approval of the present request *would* impair the purposes and intent of the aforementioned Code section.

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?** No.
- 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.

STAFF RECOMMENDATION & CONDITIONAL RECOMMENDATIONS

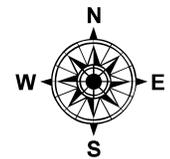
Based upon the standards and limitations for hardship variance approval, this request does not meet the necessary criteria to grant a hardship variance. However, should the present request be approved, staff recommends the following conditions to be fulfilled by the owner at his expense:

1. The subject private access drive shall serve no more than three tracts.
2. The private access drive shall be maintained in good condition by the owner(s), including their heirs and assigns, of properties accessing said drive.

Deloris Gardner



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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: Harriet Deloris Gardner

Address: 2944 Flat Rock Road, Watkinsville, GA
(No P.O. Boxes)

Telephone: (706) 769-0222 or (706) 296-5444

Property Owner

Name: Deloris Gardner, Trustee of Revocable Trust (D 02 004N); Harriet Deloris Gardner (D 02 004VA); Ronald B. & Lisa E. Sawhill (D 02 004F); Penelope M. Lyman & Lynn D. Hanna (D 02 004NA)

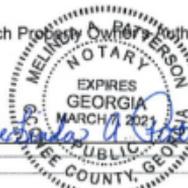
Address: 2944 Flat Rock Road; 2942 Flat Rock Road; 2960 Flat Rock Road;
2940 Flat Rock Road
(No P.O. Boxes)

Telephone: (706) 769-0222

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: Harriet Deloris Gardner Date: 3/28/18 Notarized: Melinda A. Patterson



Property

Location: 2944 Flat Rock Road; 2942 Flat Rock Road; 2960 Flat Rock Road;
2940 Flat Rock Road

Tax Parcel Number: D 02 004N; D 02 004VA; D 02 004V; D 02 004NA

Size (Acres): N/A Current Zoning: A-1 (Agricultural)

Future Development Map—Character Area Designation: Rural Places

Use

Current Use: Access to 2942 and 2944 Flat Rock Road

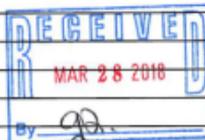
Proposed Use: To allow an additional lot to be accessed via the existing private drive

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) - to allow access to a third lot via a private drive not meeting the standards of Section 1012.07 (a)



For Oconee County Staff Use Only

Application

Date Received: 03/27/18 Date Accepted: 04/19/18

DRI Transmitted to RDC Date: _____ N/A

Review Submitted: _____ Location Map: _____

Posted: _____ Ad: _____ Ad: _____

Application Withdrawn Date: _____

APPLICATION NUMBER

Action

Administrative Appeal: Date: 07/03/18

Approved With Conditions Denied N/A

Board of Commissioners Date: _____

Approved With Conditions Denied N/A

Dear Sirs:

Regarding my property at 2944 Flad Rock Road, 10.54 acres, it is my desire to allow my nephew and his wife to gain access to a building lot of approximately 2 acres. I would not even consider allocating a building lot if it were not for a family member. I have no desire or intention to develop any kind of subdivision on my property. If it turns out that they cannot afford to build on the property, then I would not sell or otherwise build on it and would sign an agreement to that effect.

My reasons for this are multiple:

1. My husband and I are getting older and my husband is confined to a wheel chair or his bedroom and unable to maintain anything around the property. It would be advantageous to us to have a younger nephew and his sons to help out on occasion, to maintain the property.

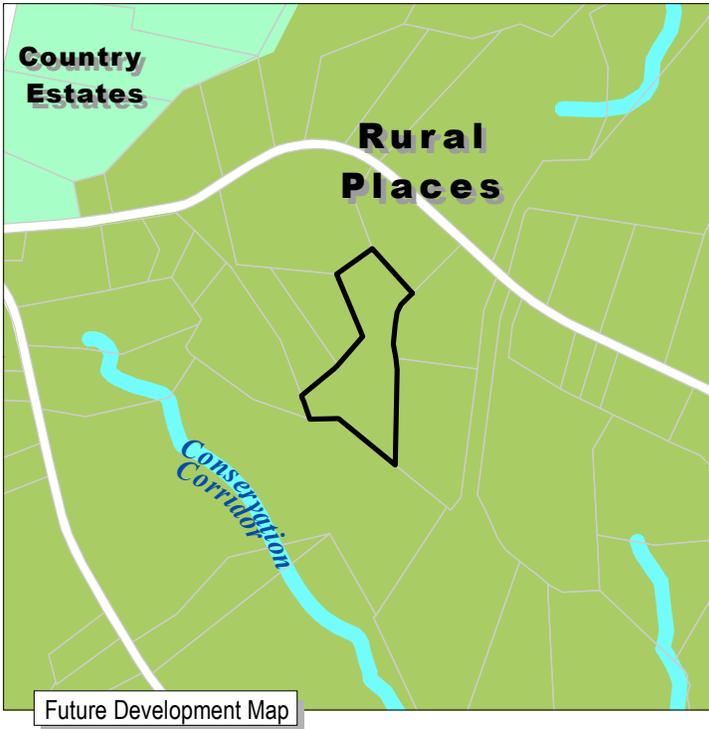
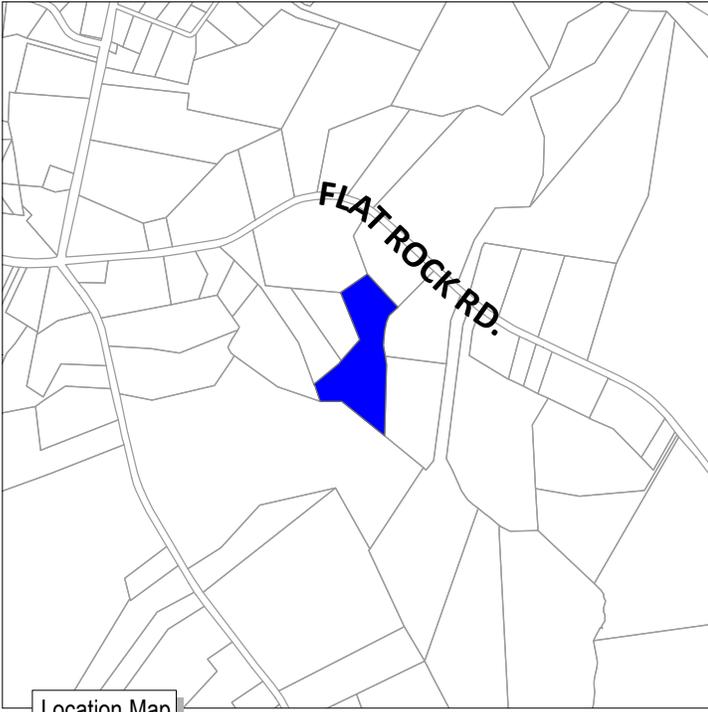
2. Our nephew Chandler Morris, is an army ranger currently on deployment, and his wife would clearly love to settle down in her own home near family members when he returns. Chandler's father and mother (my husband's sister) reside at 2942 Flad Rock Rd. For their son to be able to build on this property would be beneficial to them also. However financially it would be hard for Chandler and Lauryn to afford a property to build on nearby.

Currently there are no such properties available in this area. Also the fact that Chandler is a trained army ranger adds to our overall feeling of security in this increasingly dangerous world.

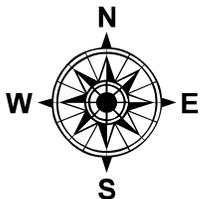
3. When I originally purchased this property and built my home, the road was the same size it currently is, but I've had to always make substantial improvements to even be able to use it occasionally. Prior to regrading and grading, the road would be overrun with rain water when we had downpours and create large ditches across the road. Even after the grade work, it would still overflow in the low water areas and wash out the road. I subsequently had to place a larger pipe to take the rainwater under the road. After that was done I hired Cement Paving to back top the existing road so is, which was approximately 10 ft across. It is paved with from 2-3 inches of asphalt from Flad Rock to past my driveway. When the ditches required for draining rainwater, a larger road would be very costly, requiring pipes and added road material. At the low water crossing area it would require a bridge to be constructed.

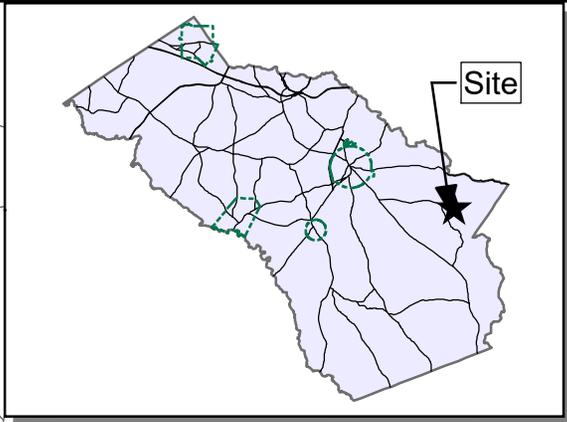
Thank you for your consideration.

Deloris Gardner Variance Site Review



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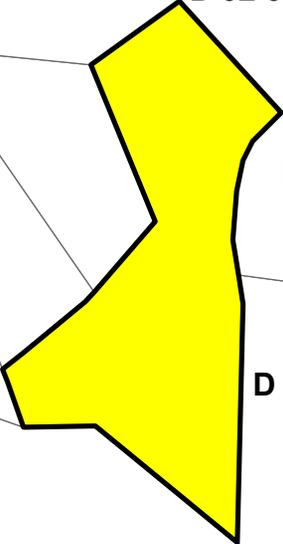
Tax Parcel # D 02 004N

FLAT ROCK RD.

D 02 004NA

D 02 004V

D 02 004VA



**Oconee County
Planning Department**

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

Scale
1 in = 500 ft

