



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2016-27 **Legistar #:** 20160472
Board of Zoning Appeals Hearing: **Monday, June 27th, 2016 – 6:00 p.m.**
Property Owner: Florestina R. Burke-Davis
574 Allgood Road
Marietta, GA 30060
Applicant: Same as above
Address: 574 Allgood Road
Land Lot: 1090 **District:** 16 **Parcel:** 0040
Council Ward: 4B **Existing Zoning:** R-3 (Single Family Residential – 3 units/acre)

Special Exception / Special Use / Variance(s) Requested:

1. Special land use requested to allow group home with more than 6 residents, inclusive of resident staff. [*§712.02 (B.2)*]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



574 Allgood Road



Proposed area for addition

Recommended Action:

Denial. The owner – Florestina R. Burke-Davis – is requesting a Special Land Use Permit (SLUP) to provide a group home for more than six (6) residents/staff at 574 Allgood Road. The subject property is approximately 1.52 acres – and is zoned R-3 (Single Family Residential – 3units/acre). The adjacent properties to the south and west – across Allgood Road are zoned R-3. The adjacent properties to the north and east are zoned OI (Office Institutional). The adjacent OI properties are vacant. The applicant is requesting to be allowed to house nine (9) residents and two (2) staff members. Mrs. Burke-Davis’ group home currently operates with four (4) residents and one (1) staff member. The addition of residents and staff will include a one story addition to the existing structure, along the south property line.

Until recently, group homes with six or fewer residents, inclusive of resident staff, were permitted within the R-1, R-2, R-3, and R-4 zoning districts, with the following provisions:

- a) The structure meets all aspects of the Standard Housing Code including minimum dwelling space requirements.
- b) The operator of the group home obtains certification from the appropriate state licensing body.
- c) No other such facility or halfway house is located within 1,000 feet as measured from property line to property line.

Also, homes with more than six residents, inclusive of resident staff, were permitted within the R-1, R-2, R-3, and R-4 zoning districts only if granted a Special Land Use Permit (SLUP) after a public hearing before the Board of Zoning Appeals.

However, on June 8, 2016, City Council voted to amend those regulations, as follows:

1. *Group homes with 3 or fewer residents, exclusive of resident staff, are permitted uses within the R-1, R-2, R-3, and R-4, zoning districts, provided:*
 - a) *The structure meets all aspects of the Standard Housing Code including minimum dwelling space requirements.*
 - b) *The operator of the group home obtains certification from the appropriate state licensing body.*
 - c) *No other such facility or halfway house is located within 1,000 feet as measured from property line to property line.*
2. *Group homes with more than (3) residents, exclusive of resident staff, may be permitted within the R-1, R-2, R-3, and R-4 zoning districts only if granted a Special Land Use Permit (SLUP) after a public hearing before the Board of Zoning Appeals.*

It is clearly the City Council’s intent that there should not be substantially more people living in group homes than in the single family homes within the surrounding neighborhood.

Ms. Burke-Davis has stated that she operates the business with her husband and often receives calls from agencies and family members for availability. As an experienced registered nurse – she stated that the reason her home is appealing to others is due to affordability, closer supervision, and personal care.

The proposed expansion would result in reclassification from a small to large facility under state rules. So, if approved, the Fire Department will require fire sprinkler and fire alarm protection in the new addition to comply with regulations for Large Facility and Community Living Arrangement (NFPA 101, 2012 Edition, Chapter 33, Section 33.3 and 33.5). This code is regulated by the Rules and Regulations of the Safety Fire Commissioner. Also – the facility would have to undergo an evacuation capability assessment upon completion of expansion to be classified as either prompt or slow evacuation.

Since the Marietta regulations for community residences - including assisted living facilities, group homes, etc. – have recently been revised by City Council, it is clear that they would prefer to reduce the number of allowable residents and staff in assisted living facilities and group homes. The City’s intent for community residences is for them to be compatible with the surrounding community, which will help to maintain more viable neighborhoods. The subject property is within a neighborhood of majority single-family residences – therefore to allow an increase in residents and staff will not be compatible with the City’s intended purpose for residential neighborhoods.

The applicant currently operates a viable business on the property and has not provided any justifiable hardship to substantiate the need to expand. As such, ***Staff recommends denial of this variance request.***



Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Brian Binzer, AICP, Director

APPLICATION FOR VARIANCE OR APPEAL SPECIAL LAND USE PERMIT
(Owner/Applicant/or Representative must be present at all public hearings)

For Office Use Only:

Application #: V2016-27 SWUP Registrar #: 20160472 BZA Hearing Dt: 6-27-16
City Council Hearing Dt (if applicable) #: PZ #: 16-259

This is a variance/appeal application for:



Board of Zoning Appeals



City Council

Owner's Name Floristina R. Burkhardt
Address 574 Allgood Road Marietta Ga Zip Code: 30060
Telephone Number: 646 346 9795 Email Address: FRBurkhardt@aol.com

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant
Address Zip Code:
Telephone Number Email Address:

Address of property for which a variance or appeal is requested:

574 Allgood Road Date of Acquisition: 11-09-2011
Land Lot (s) 10900 District 16 Parcel 16 1090 Acreage 1.52 Zoned R3 Ward 4B FLU MDR

List the variance(s) or appeal requested (please attach any additional information):

special land use permit to allow personal care home with 9 residents + 2 staff (currently 4 Res / 1 staff)

Required Information

- 1. Application fee (\$250)
2. Completed notarized application. The original application must be submitted with ALL original signature(s) - Copies of the application or signature(s) will NOT be accepted.
3. Copy of the deed that reflects the current owner(s) of the property.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. Site plan - drawn to scale. Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s). Copies Required: One (1) - (8 1/2" x 11") -or- (11" x 17") drawn to scale. Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 25 copies REQUIRED.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.
7. Documentation authorizing applicant to submit application by property owners if applicant is not owner.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

May 9th, 2016

From: Floristina Burke-Davis
4269 Chastain Pointe NW
Kennesaw, GA 30144

To: The Department of Development Services
205 Lawrence Street
Marietta, GA 30060

Re: Variance Request

To the Attention of the Marietta Board of Zoning:

I am writing this letter as a request for a special land use permit to expand the property located on 574 Allgood Road in Marietta. My husband and I own this property and run a small personal care home with a current census of four residents and one staff. I often receive inquiries from both agencies and family members looking for a personal care home for their loved ones. As a registered nurse with over thirty years of Long Term Care experience, I know that some of the reasons why these community services have become increasingly appealing to families is because of their affordability, closer supervision, and personal care.

I respectfully ask this Board to grant us the opportunity to expand our property. I would like to increase the bed availability from four residents and one staff to nine residents and two staff. Such expansion would be beneficial to the community because it will create jobs in addition to providing housing for more residents. According to Marietta city code it would be difficult to expand without getting this special permit. An approval from the Board would give us the opportunity to continue to serve the Marietta community even more effectively.

Thank you for your consideration.

Sincerely,

Floristina Burke-Davis.

TO: Marietta Daily Journal
FROM: City of Marietta
RUN DATE: June 10, 2016

PUBLIC NOTICE OF VARIANCES and SPECIAL LAND USE PERMITS

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following variance requests. The Board of Zoning Appeals will consider the following requests on **Monday, June 27, 2016 at 6:00 P.M.**, City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2016-27 [SPECIAL LAND USE PERMIT] FLORESTINA R. BURKE-DAVIS is requesting a Special Land Use Permit for a personal care home with 9 residents and 2 staff at property located in Land Lot 1090, District 16, Parcel 0040, 2nd Section, Marietta, Cobb County, Georgia and being known as 574 Allgood Road. Ward 4B.

A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

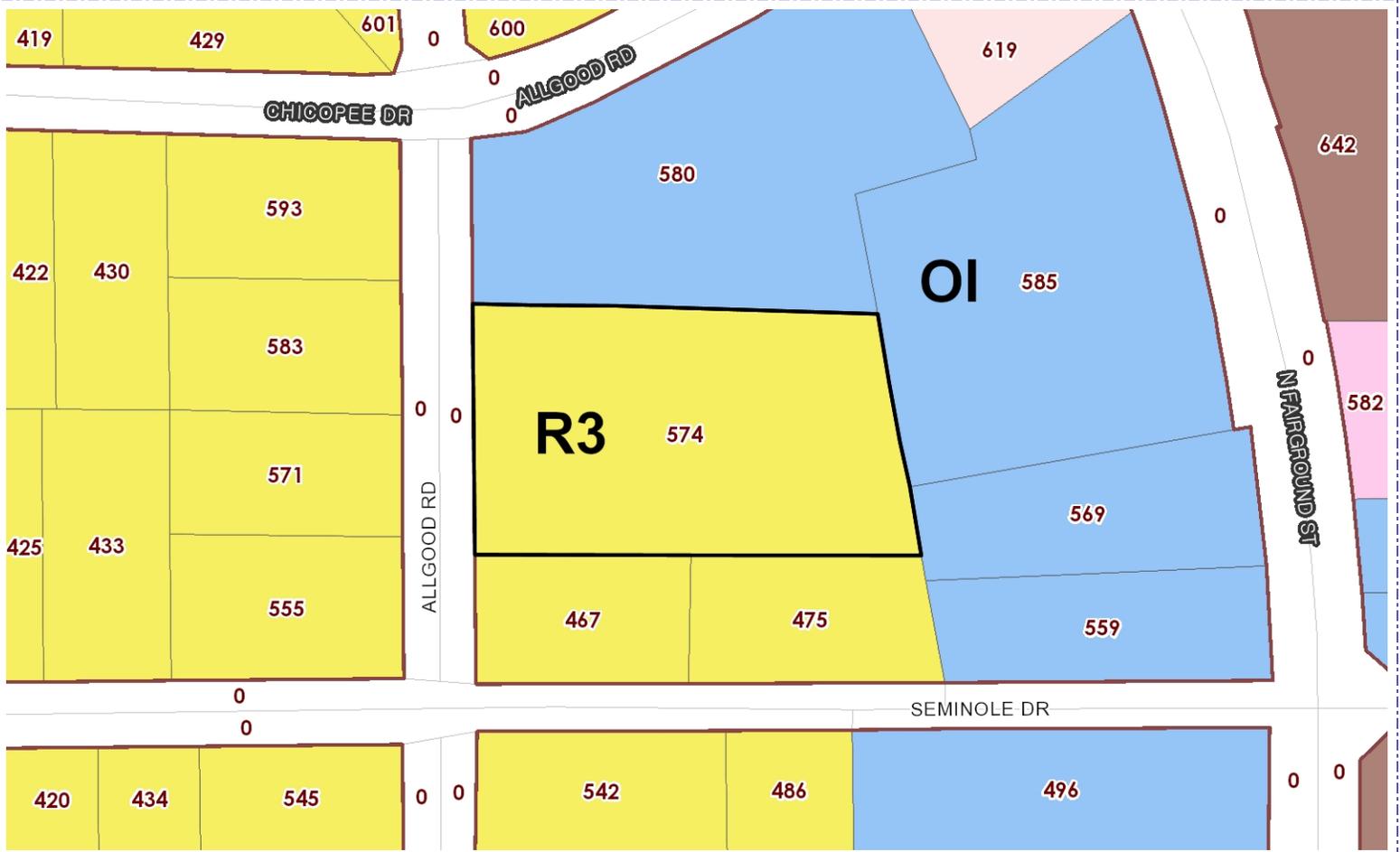
For additional information please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call Mr. Patrick Henley, ADA Coordinator, at 770-794-5558 (voice) or 770-794-5560 (TDD) no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060



Special Land Use



Address	Parcel Number	Acreage	Ward	Zoning	FLU
574 ALLGOOD RD	16109000040	1.52	4B	R3	MDR

Property Owner:	Florestina R. BurkeDavis	Zoning Symbols - - - Railroads City Limits Cobb County Pockets NA R1 - Single Family Residential (1 unit/acre) R2 - Single Family Residential (2 units/acre) R3 - Single Family Residential (3 units/acre) R4 - Single Family Residential (4 units/acre) RA4 - Single Family Residential - Attached RA6 - Single Family Residential - Attached RA8 - Single Family Residential - Attached MHP - Mobile Home Park PRD-SF - Planned Residential Dev. Single Family RM8 - Multi Family Residential (8 units/acre) RM10 - Multi Family Residential (10 units/acre) RM12 - Multi Family Residential (12 units/acre) RHR - Residential High Rise PRD-MF - Planned Residential Dev Multi Family NRC - Neighborhood Retail Commercial CRC - Community Retail Commercial RRC - Regional Retail Commercial PCD - Planned Commercial Development LI - Light Industrial HI - Heavy Industrial PID - Planned Industrial Development MXD - Mixed Use Development CBD - Central Business District OIT - Office Institutional Transitional LRO - Low Rise Office OI - Office Institutional OS - Office Services OHR - Office High Rise
Applicant:		
Agent:		
Proposed Use:		
BZA Hearing Date:	6/27/2016	
City Council Hearing Date:		
Case Number:	V2016-27	
City of Marietta Planning & Zoning		

LEGEND:

IPS	IRON PIN SET
IPF	IRON PIN FOUND
OT	OPEN TOP PIN
CT	CRIMP TOP PIN
RB	REINFORCING BAR (REBAR)
CB	CAPPED REBAR
CL	CENTERLINE
R/W	RIGHT-OF-WAY
CONC	CONCRETE
PP	POWER POLE
LP	LIGHT POLE
GV	GAS VALVE
GM	GAS METER
SS	SANITARY SEWER
X	FENCE
PROP	PROPOSED
CMF	CONC MONUMENT FOUND
Z	OVERHEAD UTILITY LINE(S)
SSMH	SANITARY SEWER MAN HOLE
MHT	MAN HOLE TELEPHONE
DWCB	CATCH BASIN
JB	JUNCTION BOX
DI	DROP INLET
SWCB	SINGLE WING CATCH BASIN
POB	POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
WV	WATER VALVE
WM	WATER METER
CO	SANITARY SEWER CLEANOUT
LL	LAND LOT LINE
HW	HEAD WALL
CMP	CORRUGATED METAL PIPE
RCP	REINFORCED CONCRETE PIPE
SSE	SANITARY SEWER EASEMENT
FH	FIRE HYDRANT
DE	DRAINAGE EASEMENT
PB	ELECTRIC POWER BOX

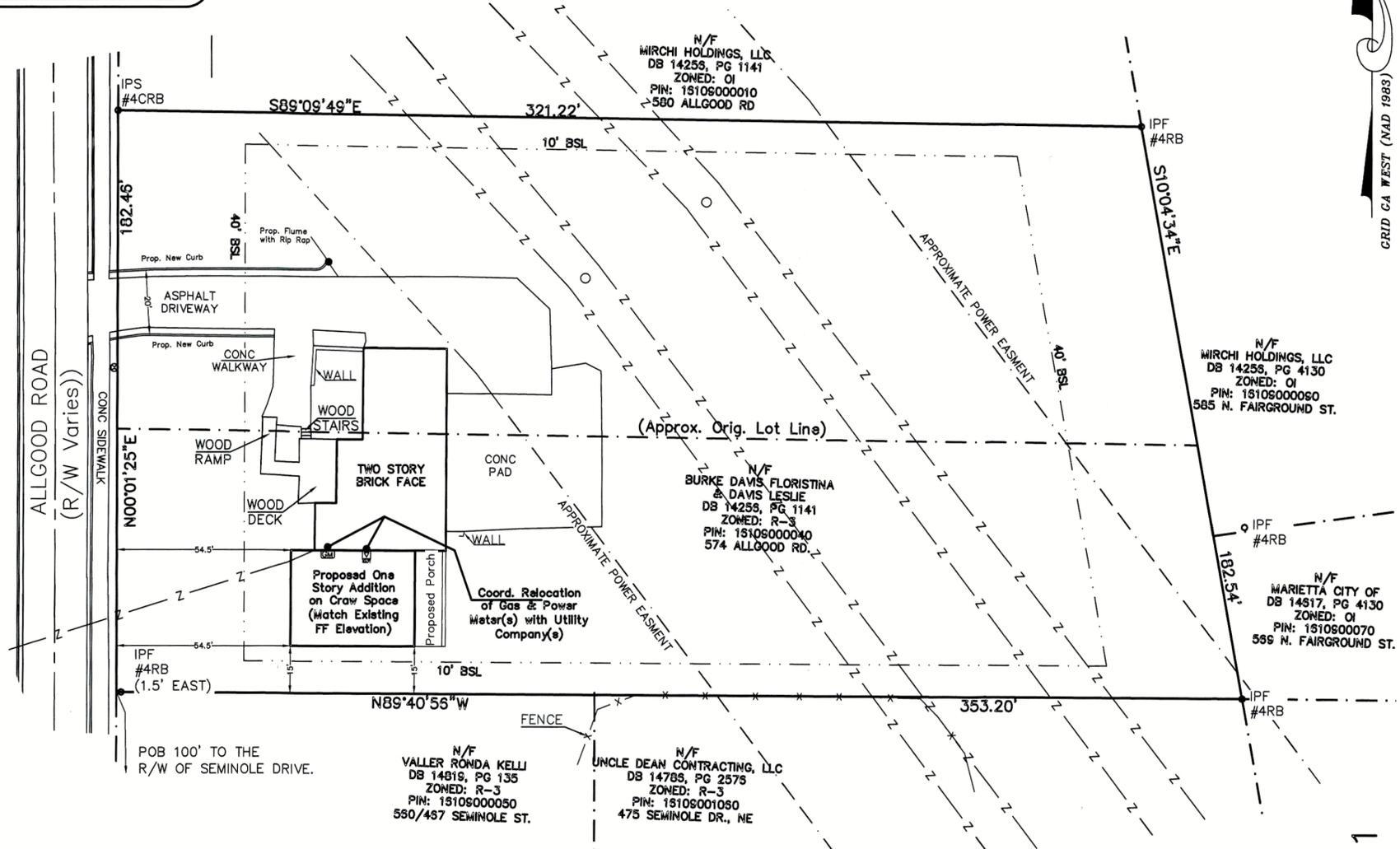
CURRENT ZONING:
R-3

FRONT SETBACK= 40'
SIDE SETBACK= 10'
REAR SETBACK= 40'
MIN LOT WIDTH = 75'
MIN REAR YARD = 40'

Residential Proposed Addition Plan FOR:
FLORISTINA BURKE-DAVIS

574 ALLGOOD RD
LAND LOT 1090, 16th DISTRICT
COBB, GEORGIA
CITY OF MARIETTA
EXISTING ZONING: R-3
PIN: 16109000040
TIN: 16 10900 0050

61,010 SQ FT
1.40 ACRES



SURVEY NOTES:

- BOUNDARY SURVEY BY FRONTLINE SURVEYING & MAPPING, INC. DATE OF SURVEY: 10/05/2015.
- EQUIPMENT USED: TOPCON ELECTRONIC TOTAL STATION & TRIMBLE 5800 GPS RECEIVER.
- ANGULAR ERROR: 06 SECONDS PER ANGLE.
- PRECISION: 1:28,844
- ADJUSTED BY LEAST SQUARES.
- PLAT CLOSURE: 1:100,000+
- DISTANCES SHOWN ARE HORIZONTAL.
- BEARINGS SHOWN REFER TO GRID NORTH OF THE "GEORGIA COORDINATE SYSTEM OF 1983 WEST ZONE" AND ARE COMPUTED FROM ANGLES TURNED.
- ALL PROPERTY CORNERS FOR LOTS TO BE SET IN FIELD AS 1/2" (#4) REBAR WITH PINK CAPS MARKED FLS CORNER. FLS 631 UNLESS OTHERWISE STATED.

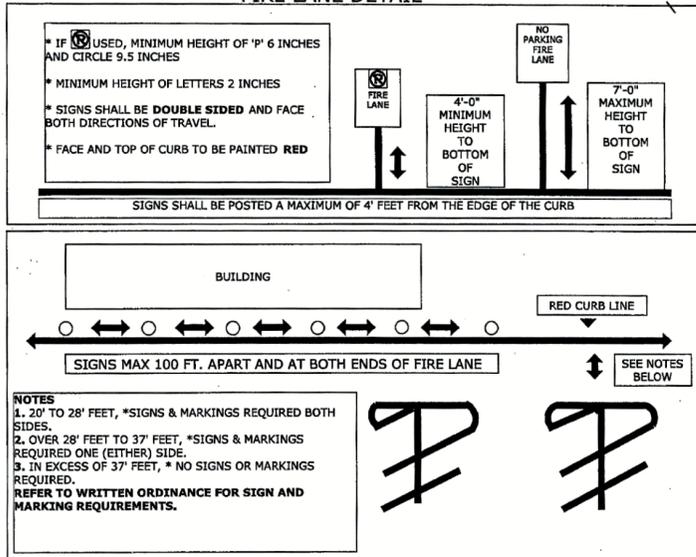
SURVEY REFERENCES:

- A DEED RECORDED IN THE COBB COUNTY CLERK OF SUPERIOR COURTHOUSE IN DEED BOOK 14255, PAGE 1141

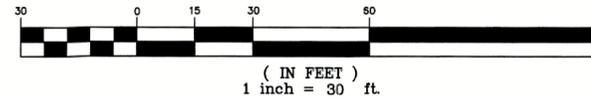
GENERAL NOTES:

- INFORMATION REGARDING THE REPUTED PRESENCE, SIZE, CHARACTER, AND LOCATION OF EXISTING UNDERGROUND UTILITIES AND STRUCTURES IS SHOWN HEREON. THERE IS NO CERTAINTY OF THE ACCURACY OF THIS INFORMATION AND IT SHALL BE CONSIDERED IN THAT LIGHT BY THOSE USING THIS DRAWING. THE LOCATION AND ARRANGEMENT OF UNDERGROUND UTILITIES AND STRUCTURES SHOWN HEREON MAY BE INACCURATE AND UTILITIES AND STRUCTURES NOT SHOWN MAY BE ENCOUNTERED. THE OWNER, HIS EMPLOYEES, HIS CONSULTANTS, HIS CONTRACTORS, AND/OR HIS AGENTS SHALL HEREBY DISTINCTLY UNDERSTAND THAT THE SURVEYOR IS NOT RESPONSIBLE FOR THE CORRECTNESS OR SUFFICIENCY OF THIS INFORMATION SHOWN HEREON AS TO SUCH UNDERGROUND INFORMATION.
- RIGHT-OF-WAYS ARE BASED ON CENTERLINES OF EXISTING PATHS OF TRAVEL, UNLESS NOTED OTHERWISE.
- ALL MATTERS PERTAINING TO TITLE ARE EXCEPTED.
- PURSUANT TO RULE 180-6.09 OF THE GEORGIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS, THE TERM "CERTIFY" OR "CERTIFICATION" RELATING TO LAND SURVEYING SERVICES SHALL MEAN A SIGNED STATEMENT BASED ON FACTS AND KNOWLEDGE KNOWN TO THE LAND SURVEYOR AND IS NOT A GUARANTEE OR WARRANTY, EITHER EXPRESSED OR IMPLIED.
- DEED/PLAT DISCLAIMER: THIS PLAT MAY NOT CONFORM TO THE BEARINGS AND DISTANCES RECORDED ON THE DEED AND/OR PLAT OF RECORD DUE TO SEVERAL FACTORS INCLUDING, BUT NOT LIMITED TO, THE NATURE OF THE ADVANCES IN SURVEYING TECHNOLOGY SUCH AS ELECTRONIC MEASURING DEVICES, MORE PRECISE ANGULAR MEASUREMENTS AND THE ADVENT OF SATELLITE SURVEYING TECHNIQUES USING "GPS" AND "GLONASS" SATELLITE CONSTELLATIONS. SURVEYS USING SATELLITE OBSERVATIONS ARE CORRECTED TO THE GEORGIA WEST STATE PLANE COORDINATE SYSTEM AND USE "GEODETIC" OR "GRID" NORTH AS OPPOSED TO "MAGNETIC" NORTH.

FIRE LANE DETAIL



GRAPHIC SCALE



This survey was prepared in conformity with The Technical Standards for Property Surveys in Georgia as set forth in Chapter 180-7 of the Rules of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in the Georgia Plat Act O.C.G.A. 15-6-67, Authority O.C.G.A. Secs. 15-6-67, 43-15-4, 43-15-6, 43-15-19, 43-15-22.

SHEET 1 OF 1

3595 Canton Road
Suite 116, PMB 272
Marietta, GA 30066
Ph. (678) 355-9905
Fax (678) 355-9805
www.frontlinesurveying.com



DATE 10/05/2015
SCALE 1" = 30'
COBB COUNTY, GEORGIA
BY: DATE:

16th DISTRICT 2nd SECTION
UNIT
BLOCK 2 & 3
SUBDIVISION Property Of Lewis Waldrop PHASE

FLORISTINA BURKE-DAVIS
LAND LOT 1090
LOT (S) 2 & 3



I HAVE THIS DATE EXAMINED THE "FIA OFFICIAL FLOOD HAZARD MAP" AND FOUND THAT BY GRAPHIC FLOODING ONLY THE REFERENCE PARCEL (S) (IS NOT) IN AN HAVING SPECIAL FLOOD HAZARDS.
MAP ID: 13067C0208J
EFFECTIVE DATE: MAR/CH 03, 2013

6 SECONDS PER ANGLE POINT AND WAS ADJUSTED USING THE LEAST SQUARES METHOD. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND FOUND TO BE ACCURATE TO 1 FOOT IN 28,844 FEET. AN ELECTRONIC TOTAL STATION AND A 100' CHAIN WERE USED TO GATHER THE INFORMATION USED IN THE PREPARATION OF THIS PLAT. NO N.G.S. MONUMENT WAS FOUND WITHIN 500 FEET OF THIS PROPERTY. THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS OR ENTITY NAMED HEREON. THIS PLAT DOES NOT EXTEND TO ANY UNNAMED PERSON, PERSONS, OR ENTITY WITHOUT EXPRESS RECERTIFICATION BY THE SURVEYOR NAMING SAID PERSON, PERSONS OR ENTITY. THESE DOCUMENTS, INSTRUMENTS OF SERVICE REMAIN THE PROPERTY OF FRONTLINE SURVEYING & MAPPING, INC. AND NO PART THEREOF MAY BE USED, COPIED OR REPRODUCED IN ANY FORM WITHOUT WRITTEN PERMISSION. COPYRIGHT 2013 FRONTLINE SURVEYING AND MAPPING, INC. *** ALL MATTERS PERTAINING TO TITLE ARE EXCEPTED ***

REVISION
DATE:

PG. 58
PG. 1141
JOB # 56150