



**STAFF REVIEW AND RECOMMENDATION**

**Variance Case #:** V2016-24      **Legistar #:** 20160468  
**Board of Zoning Appeals Hearing:** Monday, June 27<sup>th</sup>, 2016 – 6:00 p.m.  
**Property Owner:** Diane Costello (formerly Reynolds)  
598 Wilshire Avenue  
Marietta, GA 30062  
**Applicant:** David Hester  
598 Wilshire Avenue  
Marietta, GA 30062  
**Address:** 598 Wilshire Avenue  
**Land Lot:** 1069 & 1092    **District:** 16    **Parcel:** 0030  
**Council Ward:** 5B    **Existing Zoning:** R-4 (Single Family Residential – 4 units/acre)

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

1. Variance to allow a black, vinyl-coated chain link fence in the front and major side yard.  
[§710.04 (B)]

**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**



**Chain link fence in major side yard (Meadow Place)**



**Chain link fence along front yard (Wilshire Ave)**

**Recommended Action:**

**Denial:** The applicant – David Hester – on the behalf of the owner Diane Costello is requesting a variance for improvements recently made at 598 Wilshire Avenue. The subject property is zoned R-4 (Single Family Residential – 4 units/acre), as are all surrounding properties.

Section 710.04 (B) of the Zoning Ordinance states that decorative fences or walls shall be constructed of wood, brick, stone, or wrought iron in all zoning districts. The variance being requested is to allow a black vinyl-coated chain link fence in the front yard along Wilshire Avenue and the major side yard along Meadow Place. Mr. Hester and Ms. Costello made their request to keep the black vinyl fence, which has already been installed, so that they can safely use their outdoor space for protection of their two dogs and young child while they are playing outside within their yard.

The property's location at the corner of Wilshire Avenue and Meadow Place, and its close proximity to Cobb Parkway – a heavily trafficked roadway – at times allows vehicular traffic to travel rapidly through this neighborhood. However, except for cut-through traffic, the fence would not be highly visible, except to neighboring property owners.



**Department of Development Services**  
205 Lawrence Street  
Marietta, Georgia 30060  
Brian Binzer, Director

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Further, because this area is an older section of the City, there are several nonconforming or “grandfathered” fences on nearby properties, so this fence does not appear to be out of place in this neighborhood.

Granting approval for a black, vinyl-coated chain link fence will not be detrimental to the property or any neighboring properties, and as such **Staff recommends approval of this request.**



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

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

For Office Use Only:

Application #: V2016-24 Registar #: 20160468 BZA Hearing Dt: 6-27-16
City Council Hearing Dt (if applicable) #: PZ #: 16-255

This is a variance/appeal application for:

[X] Board of Zoning Appeals

[ ] City Council

Owner's Name Diane Costello (formerly Reynolds)

Address 598 Wilshire Avenue Zip Code: 30062

Telephone Number: 678-644-5144 Email Address: costello.diane@gmail.com

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant David Hester

Address 598 Wilshire Avenue Zip Code: 30062

Telephone Number 678-232-3728 Email Address: dlhester@geosurvey.com

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

598 Wilshire Avenue Date of Acquisition:

10920 Land Lot(s) 1069 District 16 Parcel 30 Acreage .291 Zoned R4 Ward 5B FLU RAC
1092

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

Would like to file for variance for black vinyl fence

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

4/26/16

Diane Costello + David Hester  
598 Wilshire Ave  
Marietta GA 30062  
costello.diane@gmail.com  
(678) 232-3728

To Whom It May Concern:

We are applying for a variance for the black vinyl fence that we had installed along Wilshire Ave and Meadow Place. We placed this fence in order to allow our two large dogs and 6 year old boy adequate room to safely play, exercise and enjoy the yard. If we must reconfigure the fence, we would not be able to let the dogs out without having to walk them down the steps on a leash to put them into the fenced portion.

As it is now, we can simply open the door and they ~~can~~ can go in and out of the house freely as well as our little boy to play.

We appreciate your understanding of our request to allow us to keep the fence as is.

Sincerely,

David + Diane

CASE NUMBER 16-00001570  
PROPERTY ADDRESS 598 WILSHIRE AVE

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VIOLATION: FENC QUANTITY: 1  
DESCRIPTION: FENCES OR WALL DATE: 4/14/16  
LOCATION:

## NARRATIVE :

The fence on the property is in violation of Marietta City Code 710.04 - Fences and walls. Please remove the fence, or submit a variance application in the Marietta Planning and Zoning Department within the stated time frame. If you have any questions regarding the variance process, please contact the Planning and Zoning Department at 770-794-5669. Thank you for your cooperation.

## ORDINANCE DESCRIPTION :

THERE EXISTS A FENCE, WALL OR SWIMMING POOL IN VIOLATION OF SECTION 710.04 (A-C) OF THE MARIETTA CITY CODE.

## CORRECTIVE ACTION REQUIRED :

YOU ARE HEREBY GRANTED FIVE (5) DAYS FROM THE RECEIPT OF THIS NOTICE TO BRING THE VIOLATION INTO COMPLIANCE IN ACCORDANCE WITH SAID CODE.

**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.

**V2016-24 [VARIANCE] DAVID HESTER** is requesting a variance for property located in Land Lots 1069 and 1092, District 16, Parcel 0030, 2<sup>nd</sup> Section, Marietta, Cobb County, Georgia and being known as 598 Wilshire Avenue. Variance to allow a black, vinyl-coated chain link fence in the front and major side yard. Ward 5B.

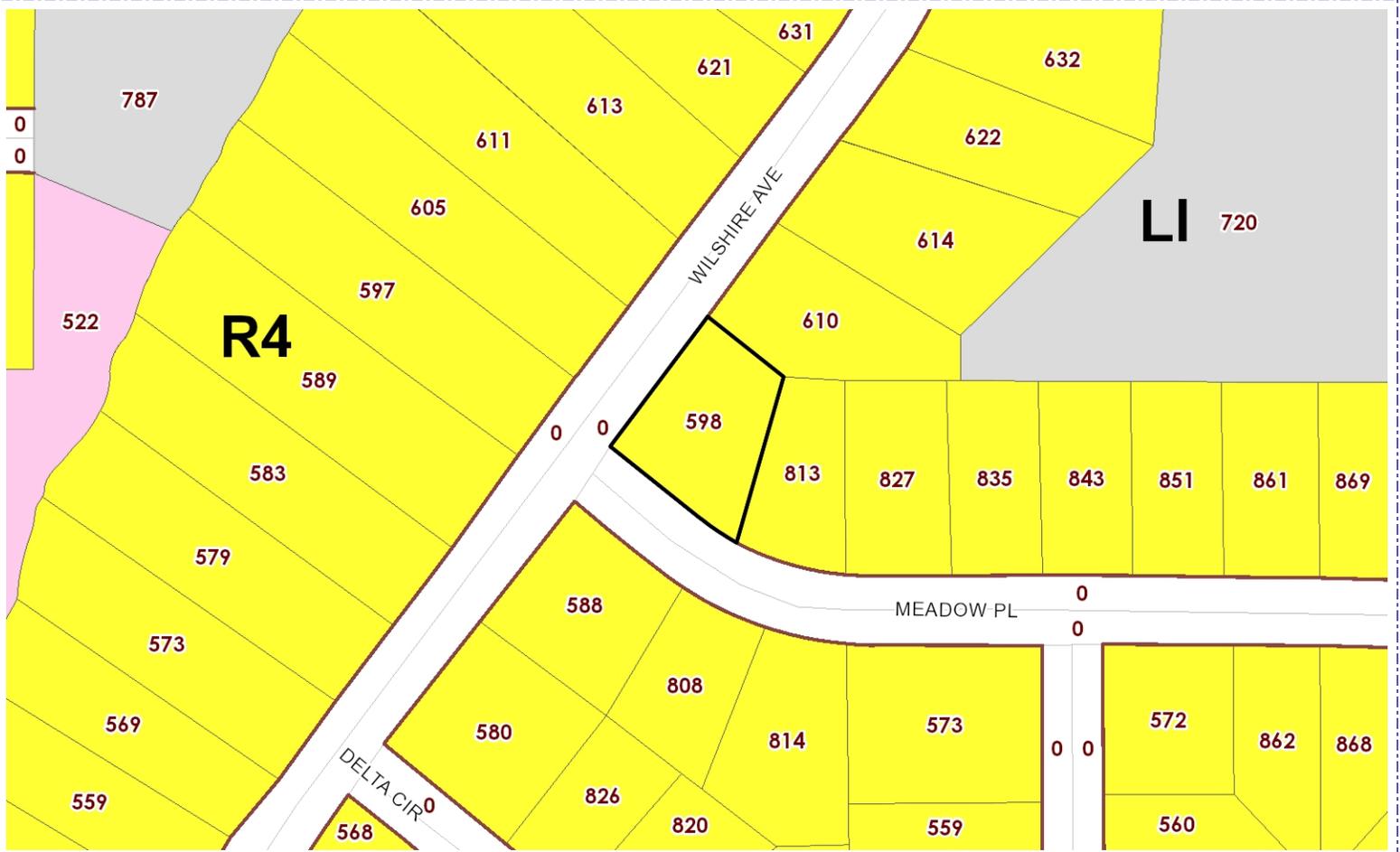
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

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

# Variance



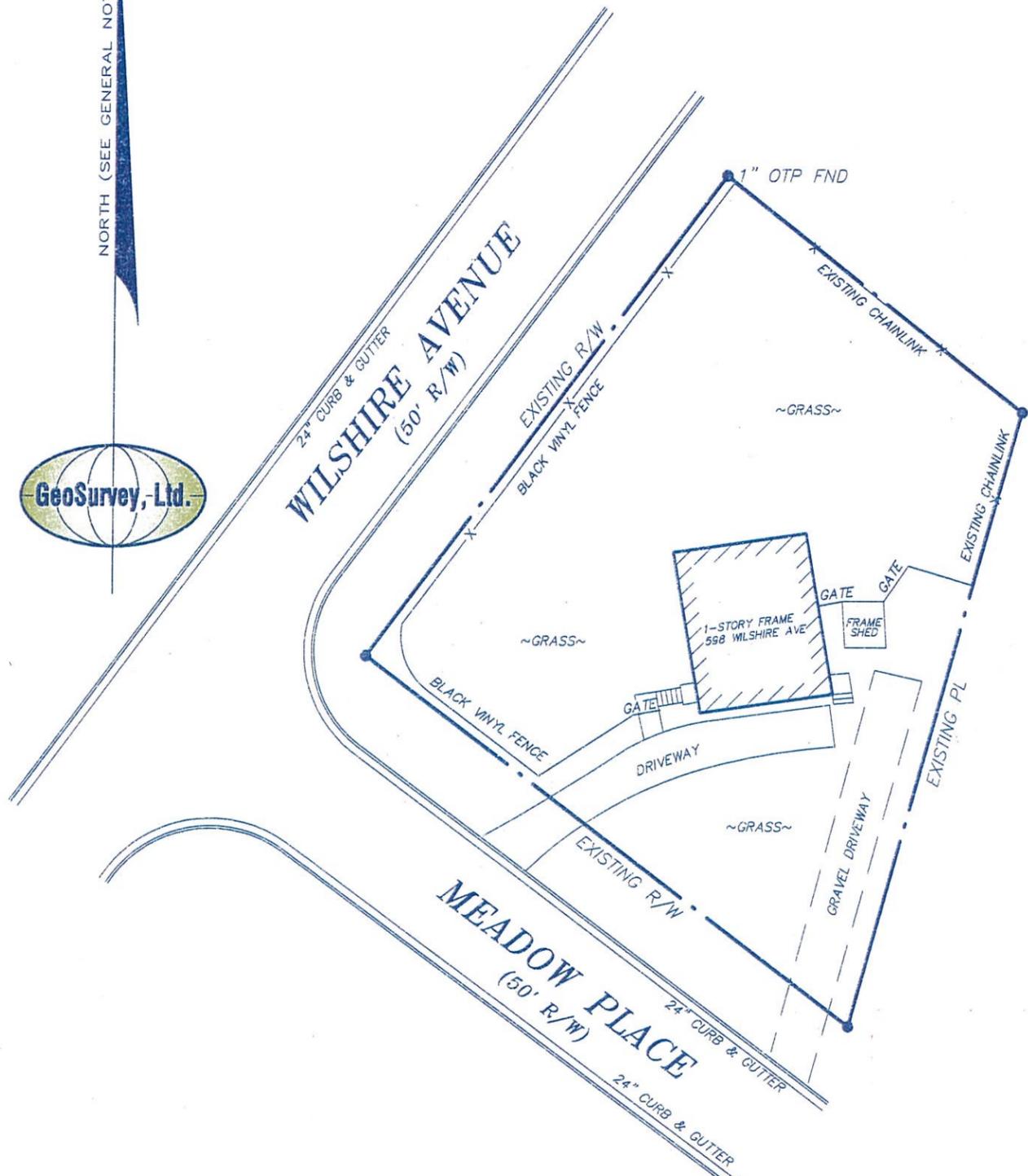
Address	Parcel Number	Acreage	Ward	Zoning	FLU
598 WILSHIRE AVE	16109200030	0.291	5B	R4	RAC

Property Owner:	Diane Costello
Applicant:	David Hester
BZA Hearing Date:	06/27/2016
Acquisition Date:	
Case Number:	V2016-24
<p><b>City of Marietta Planning &amp; Zoning</b></p>	

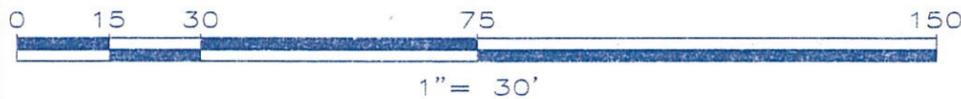
**Zoning Symbols**

- 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

NORTH (SEE GENERAL NOTES)



**GRAPHIC SCALE**



**GENERAL NOTES**

THIS SURVEY HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE PERSON OR ENTITIES NAMED HEREON. NO EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE INFORMATION SHOWN HEREON IS TO BE EXTENDED TO ANY PERSONS OR ENTITIES OTHER THAN THOSE SHOWN HEREON.

THIS EXHIBIT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE INSPECTION REPORT. EASEMENTS OR OTHER ENCUMBRANCES MAY EXIST ON PUBLIC RECORD BUT NOT BE SHOWN HEREON.

THIS PROPERTY IS NOT LOCATED IN A 100 YEAR FLOOD HAZARD AREA BASED ON THE FLOOD INSURANCE RATE MAP FOR THIS AREA. THE MAP NUMBER FOR THIS AREA IS 13067C 0109 H, AND THE DATE OF SAID MAP IS NOVEMBER 2, 2012. THIS DETERMINATION WAS MADE BY GRAPHICALLY DETERMINING THE POSITION OF THIS SITE ON SAID FIRM MAPS UNLESS OTHERWISE NOTED.

THE HORIZONTAL DATUM FOR THIS SURVEY IS BASED ON MAGNETIC NORTH.

THE SITE IS ZONED "R-4" (SINGLE FAMILY RESIDENTIAL DISTRICT).  
 MINIMUM LOT SIZE: 7,500 SQ. FT.  
 MAXIMUM DENSITY: FOUR DWELLING UNITS PER ACRE  
 MINIMUM LOT WIDTH: 75 FT./60 FT. FOR A CUL-DE-SAC  
 MAXIMUM BUILDING HEIGHT: 35 FT.  
 MINIMUM FLOOR AREA: 1,200 SQ. FT.  
 MAXIMUM BUILDING COVERAGE: 35%  
 MAXIMUM IMPERVIOUS SURFACE: 50%  
 FRONT SETBACK (ARTERIAL): 35 FT.  
 FRONT SETBACK (COLLECTOR): 25 FT.  
 FRONT SETBACK (LOCAL): 25 FT.  
 SIDE SETBACK (MAJOR): 25 FT.  
 SIDE SETBACK (MINOR): 10 FT.  
 REAR SETBACK: 30 FT.

PLEASE NOTE: ZONING AND SETBACKS SHOULD BE CONFIRMED AND VERIFIED BY PLANNING AND ZONING PRIOR TO DESIGN OR CONSTRUCTION ACTIVITIES.

**VICINITY MAP**

SITE LOCATION - LATITUDE: 33° 57' 57" LONGITUDE: 84° 31' 43"



**LEGEND**

STANDARD SYMBOLS

- POWER POLE
- GUY WIRE
- POWER LINE
- WATER METER
- FIRE HYDRANT

STANDARD ABBREVIATIONS

- CI DROP INLET
- CMF CONCRETE MONUMENT FND
- CTP CRIMPED TOP PIPE
- FND FOUND
- OTP OPEN TOP PIPE
- POB POINT OF BEGINNING
- POC POINT OF COMMENCING
- RBR IRON REINFORCING BAR
- RBS 5/8" IRON REBAR SET
- SSMH SANITARY SEWER MANHOLE



Land Surveying & Mapping  
 1660 Barnes Mill Road  
 Marietta, Georgia 30062  
 Phone: (770) 795-9900  
 Fax: (770) 795-8880

www.geosurvey.com  
 EMAIL: info@geosurvey.com  
 Certificate of Authorization #LSF-000621

SITE PLAN											
<b>598 Wilshire Avenue</b>											
FOR											
<b>DIANE COSTELLO</b>											
GS JOB NO: 598 WILSHIRE	DRAWING SCALE: 1" = 30'	DATE: 4-22-16									
CITY: COBB	STATE: GA	<table border="1"> <thead> <tr> <th colspan="3">REVISIONS</th> </tr> <tr> <th>No.</th> <th>Date</th> <th>Description</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	REVISIONS			No.	Date	Description			
REVISIONS											
No.	Date	Description									
COUNTY: MARIETTA	LAND LOTS: 1092										
REVIEWED: DLH	DISTRICT: 16TH DISTRICT: 2ND										
DWG FILE: 598 WILSHIRE.DWG											