AGENDA CITY OF BERKELEY LAKE PLANNING & ZONING COMMISSION MEETING February 8, 2022 at 7:15 PM 4040 South Berkeley Lake Road

Berkeley Lake, GA 30096

I. CALL TO ORDER

II. APPROVAL OF OR CHANGES TO THE AGENDA

III. APPROVAL OF MINUTES

1. November 9, 2021

IV. OLD BUSINESS

1. O-22-242 – Amendment to Chapter 78-366 and 367 regarding expired variances

V. NEW BUSINESS

1. PZV-22-01, 562 Lakeshore Drive, Applicant Hank Liebenberg requests relief from Section 78-197(g)(7) and 78-197(g)(11) of the Zoning Ordinance to expand a single-family residence resulting in a 3-foot encroachment into the side yard and a 18.32% building coverage.

VI. CITIZEN COMMENTS

VII. DISCUSSION SESSION

VIII. ADJOURNMENT

CITY OF BERKELEY LAKE 4040 SOUTH BERKELEY LAKE ROAD BERKELEY LAKE, GEORGIA 30096 PLANNING & ZONING COMMISSION MEETING DRAFT MINUTES November 9, 2021 7:15 PM

Those in attendance at the meeting were as follows:

Commission Members:

George Kaffezakis Rand Kirkus Robin Sansone

1

City Administrator: Leigh Threadgill

Citizens Present:

I. CALL TO ORDER

Kirkus called the meeting to order at 7:15 PM. A quorum was present. City Administrator Leigh Threadgill was also present.

Kaffezakis moved to appoint Kirkus temporary acting chair. Sansone seconded. All were in favor and the motion passed.

II. APPROVAL OF OR CHANGES TO THE AGENDA

Kirkus asked if there were any suggested changes to the agenda.

Sansone moved to approve the agenda as submitted. Kaffezakis seconded the motion. All were in favor.

III. MINUTES

1. Minutes of October 12, 2021

Kaffezakis moved to approve the minutes of the October 12th meeting. Sansone seconded and all voted to approve the minutes.

IV. OLD BUSINESS

1. O-21-242 – Amendment to Chapter 78-366 and 78-367 regarding expired variances

Threadgill explained that this was just a draft of the proposed change for discussion. A vote to recommend the change can't come tonight but would need to come after a properly advertised public hearing at a future meeting.

Draft Minutes Planning & Zoning Commission Meeting November 9, 2021 Page 1 of 3 There was discussion regarding the draft language. There was a consensus that the language was consistent with the spirit and intent of the planning commission's direction to staff. It was further suggested that the language be reviewed by the city attorney prior to being brought back to a public hearing before the planning commission.

2. Amendment to Planning & Zoning Commission By-Laws regarding voting

Threadgill explained that unlike the previous agenda item, this draft could be voted on to recommend for council review and approval.

Kaffezakis moved to recommend for council review and approval the proposed by-law amendment. Sansone seconded the motion. All were in favor and the motion passed.

V. NEW BUSINESS

1. Request to allow a satellite college campus as a permitted use in O&I

Threadgill explained that the Office & Institutional use list is fairly simple but includes a category for similar uses if approved by the planning commission.

There was discussion about whether colleges would typically be permitted in O&I.

Kirkus recognized the applicant. Dr. Hyun introduced himself as the president of the Atlanta University of Health Science which offers an undergraduate and graduate acupuncture program. It is a small school founded in 2016 and is approved by the Georgia Education Commission. It is currently located at 302 Satellite Blvd. in Suwanee. It is growing, but at most there are 30 students now. He is looking to relocate to 4729 Peachtree Industrial Boulevard. The space has approximately 5000 square feet, but he is just looking for half that. There are about 25 to 30 parking spaces that would be available. The college offers conventional inperson classes mostly in the morning, with 2 classes at most. The graduate program is in the evening. There are no on-line classes anymore. There is limited enrollment in each class. This acupuncture program is the only one in Georgia.

There was further discussion about what the commission was being asked to do and specifics about the proposed college use. The commission also considered adding this use to the O&I permitted use list by ordinance amendment, as well as any related standards that may need to be codified pertaining to the use.

Kaffezakis moved to accept the proposed use of college under section 78-294 (9). Sansone seconded the motion. All were in favor. The motion passed.

VI. CITIZEN COMMENTS

There were none.

VII. DISCUSSION

There was no further discussion.

VIII. ADJOURNMENT

Draft Minutes Planning & Zoning Commission Meeting November 9, 2021 Page 2 of 3 There being no further business, Kaffezakis moved to adjourn. Sansone seconded. All voted in favor and Kirkus adjourned the meeting at 7:48 PM.

Respectfully submitted,

Leigh Threadgill City Administrator

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	City of Berkeley Lake Staff Analysis
CASE NUMBER:	TA-22-02, O-22-242
CODE SECTIONS:	78-366 AND 78-367
PURPOSE:	AUTHORIZE THE PLANNING & ZONING COMMISSION CHAIR TO GRANT A ONE-TIME, ONE-YEAR EXTENSION FOR EXPIRED VARIANCES PROVIDED CERTAIN CONDITIONS ARE MET
MEETING DATE:	FEBRUARY 8, 2022 P&Z COMMISSION

BACKGROUND:

Section 78-366(c) states that construction authorized by a variance must begin within one year of variance approval or the variance expires. If a variance expires and an applicant wants to proceed with the subject project, a new application and hearing is required before the Planning and Zoning Commission.

Sec. 78-366(c) If applicable portions of this chapter have been amended or modified, or more than one year has elapsed, prior to the commencement of construction or other activity authorized by an approved variance request, a reapplication and hearing before the planning and zoning commission shall be required.

PROPOSAL:

Projects authorized by a variance may be delayed for a variety of reasons. In order to provide a one-time, one-year extension for variances that may expire before construction begins, the Planning & Zoning Commission has requested a change to the zoning ordinance. The subject zoning ordinance amendment is intended to allow the chair to administratively grant a one-year extension for expired variances provided an application is made within one year of initial variance expiration or 24-months of variance approval.

ANALYSIS:

While variances heard by the full commission require a \$450 application fee and can take up to a month before being considered, administrative variances cost \$150 and can be decided as fast as a couple of days from receipt of an application. If the commission has already approved a variance and due to any variety of circumstances the project is delayed, applicants would be able to apply for an administrative variance to extend the variance for an additional year beyond the original expiration date. If, however, the variance expired more than a year before application is made, any application for a re-instatement of the variance will be treated as a new application and will be required to be heard by the full Planning & Zoning Commission and subject to the fees and deadlines associated with that process.

- Sec. 78-366. Variances; application for, procedure and notification.
- (a) Applications for variances.
 - (1) All applications for variances shall be submitted initially, in writing, to the planning and zoning commission of the city, which shall consider these requests at its next called meeting. The planning and zoning commission may authorize such variance from the terms of this zoning chapter as will not be contrary to the public interest. The spirit of this chapter shall be observed, the public safety, health and welfare secured and substantial justice done. At the hearing, any party may appear in person or have authorized representation. Such variances may be granted in individual cases if the planning and zoning commission finds that:
 - a. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography; and
 - b. The application of this chapter to this particular piece of property would create an unnecessary hardship; and
 - c. Such conditions are peculiar to the particular piece of property involved; and
 - d. Such conditions are not the result of any actions of the property owner; and
 - e. Relief, if granted, would not cause substantial detriment to the public nor impair the purposes or intent of this chapter; and
 - f. The variance is granted for a use of land or building or structure that is not prohibited by this chapter.
 - (2) All applications for variances shall be made by submitting a completed variance application to city hall. Applicants shall include with their application a written explanation of how the subject property meets all the conditions detailed in subsections (1) a. through f.
- (b) *Required notification.* Before the planning and zoning commission acts upon an application for a variance:
 - (1) The notice of the time and place of the hearing shall be published at least 15 days prior to the hearing in the official organ of the county in which the sheriff's advertisements are published.
 - (2) The chair of the planning and zoning commission shall ensure that a sign is erected in a conspicuous place on the property involved, which shall contain information as to the variance applied for and the time and place of the hearing. This required sign shall be erected at least 15 days prior to the hearing. Failure to erect and maintain the sign as specified shall invalidate any subsequent determination by the planning and zoning commission, or, upon appeal, by the mayor and council.
- (c) *Expiration of approved variances.* If applicable portions of this chapter have been amended or modified, or more than one year has elapsed, prior to the commencement of construction or other activity authorized by an approved variance request, a reapplication shall be required.

(Code 2004, § 39-1401; Ord. No. O-61-07, 1-17-2008; Ord. No. O-119-10, 12-16-2010)

Sec. 78-367. - Administrative variance.

- (a) *Generally.* An administrative variance may be granted at the option of the chair of the planning and zoning commission for certain variance requests. Such variances must meet one of the following conditions and to be granted, the chair of the planning and zoning commission must conclude that the intent of the ordinance can be achieved and equal performance obtained by granting a variance.
 - (1) A variance to a numerically qualified ordinance limit where the request does not exceed ten percent of that limit;

- (2) A variance for a conforming change to a nonconforming structure where such change does not increase the impact of the existing nonconformance aspects.
- (3) Per Sec. 78-366(c), a re-authorization of an expired variance if application is made within twelve months of the variance expiration. If more than twelve months has lapsed since variance expiration, or twenty-four months since variance approval, a hearing before the full planning and zoning commission shall be required.
- (b) Required notification.
 - (1) A notice shall be published in the official organ of the county in which the sheriff's advertisements are published.
 - (2) The chair of the planning and zoning commission shall ensure that a sign is erected in a conspicuous place on the property involved, which shall contain information as to the variance, its administrative approval, and the procedure for appeal. The variance becomes effective on the date the sign is erected and said sign must remain for a period of at least 15 days
 - (3) The administrative variance shall be reviewed at, and recorded in the minutes of, the next called meeting of the planning and zoning commission.
- (c) *Limitations.* An administrative variance may not be granted if any prior variances (granted or denied) were considered for the property involved within the last year. Multiple administrative variances are specifically not permitted.

(Code 2004, § 39-1401.2; Ord. No. O-61-07, 1-17-2008; Ord. No. O-119-10, 12-16-2010)

	City of Berkeley Lake Staff Analysis
CASE NUMBER:	PZV-22-01, 562 LAKESHORE DR.
RELIEF REQUESTED:	ALLOW EXPANSION TO ENCROACH 3.5 FEET INTO EAST SIDE SETBACK AND INCREASE BUILDING COVERAGE TO 18.3%
EXISTING ZONING:	R-100, RESIDENTIAL
PROPOSED USE:	SINGLE FAMILY RESIDENCE
APPLICANT/OWNER:	HANK LIEBENBERG 562 LAKESHORE DR. BERKELEY LAKE, GA 30096
MEETING DATE:	FEBRUARY 8, 2022 P&Z COMMISSION

PROPOSED PROJECT:

The applicant/owner has proposed to expand his house to add another 192 square feet to the footprint to provide two bathrooms on the terrace level and a single-car garage on the main level. Currently the house has a courtyard area to the east (left if facing the house from the street) with a retaining wall, and the expansion is proposed to be in this area. Gwinnett County Environmental Health has reviewed and approved the expansion.

FINDINGS OF FACT:

- 1.) The subject property is half an acre located on Lakeshore Drive and occupied by a singlefamily residence.
- 2.) The owner proposes to expand the existing house, which requires a variance from Section 78-197(7) and 78-197(11), to reduce the side setback by 3.5 feet and increase the allowable building coverage by 3.32%.
- 3.) The addition is proposed on the east side of the house adjacent to 558 Lakeshore Drive.
- 4.) There is no variance history on the lot. The existing house was built in 2000.
- 5.) Based on the survey submitted with the application, the existing house is non-conforming with regard to building coverage, and this application seeks to increase that non-conformity.
- 6.) While the application requests a 3-foot reduction in side setback, it appears based on the survey that the closest point of the addition might actually by 9 feet from the east side property line, requiring a 3.5-foot side setback reduction.
- 7.) Properties to the east and west are zoned R-100 and the location of single-family residences. Lake Berkeley is adjacent to the south and the right-of-way of Lakeshore Drive is adjacent to the north.

STANDARDS FOR APPROVAL:

In considering whether to grant or deny this variance request, the commission must evaluate the application based on the criteria specified in Section 78-366 (a)(1) of the zoning ordinance:

- a) Applications for variances.
 - (1) All applications for variances shall be submitted initially, in writing, to the planning and zoning commission of the city, which shall consider these requests at its next called meeting. The planning and zoning commission may authorize such variance from the terms of this zoning chapter as will not be contrary to the public interest. The spirit of this chapter shall be observed, the public safety, health and welfare secured and substantial justice done. At the hearing, any party may appear in person or have authorized representation. Such variances may be granted in individual cases if the planning and zoning commission finds that:
 - a. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography; and
 - b. The application of this chapter to this particular piece of property would create an unnecessary hardship; and
 - c. Such conditions are peculiar to the particular piece of property involved; and
 - d. Such conditions are not the result of any actions of the property owner; and
 - e. Relief, if granted, would not cause substantial detriment to the public nor impair the purposes or intent of this chapter; and
 - f. The variance is granted for a use of land or building or structure that is not prohibited by this chapter.

SITE PHOTOS





LOCATION MAP





		For Office Use Only
		Application # VAV 22-01
	Application for	Check #: 64910 Cash:
		Date Paid: 12/16/21
	Variance	P&Z hearing date:
	e on or of the ofference of the offerenc	
Doutrolour		Action:
Derkeley		Appeal filed:
City ake		Council hearing date:
of		Account 100.34.1390.2
	~	Variance App \$ 450,00
Dort 1. Applicant	Information	Variance App
Part 1: Applicant		
E-MAIL Part 2: Property C NAME(S) 50 MAILING ADDRESS CITY	k i Berbe 562 aleeta lee Lalee STATE 5430446 MOBILE 4 Owner Information H. Li 2 Lakestron	iebensberg. e DT elec G17. ZIP <u>30096</u> .
PROPERTY ADDRES PARCEL SIZE EXISTING USE I am requesting r	nd Use Information s 562 Lakestra 5 Acre, Rest deated relief from code section <u>78</u> 19	Te D PARCEL ID $Lot 66 St Section b$ zoning Rest department. 7(7)(1) for the purpose of:
Variari 36" Into to incl NOTICE: The grant	side Setback of Side Setback of Side Setback of Side Setback of Setback of Setback of Side Set	e set back. SF 12"6" I 17/50 07000 Alize corepose to 18329 remention a Building Permittor proposed construction. 10.
		be submitted with this application:
1		
		d construction, development or improvements. posed improvements on the property.

Survey of the property

Variance Application: Part 3: Property and Use Information (continued)

Applicant: Please provide written responses to the following items in order to support the request. Attach a separate sheet if necessary:

1) Explain the extraordinary and exceptional conditions pertaining to the size, shape or topography of the subject property; OR if this request is for the expansion of a non-conforming structure. explain whether granting the variance would result in an increase in the non-conforming aspects of the structure.

lof Wo The next 6 have α narrow of the existion of the lot and layout shape rist allow for, or the toant 101

2) Explain how the application of the ordinance to the subject property would create an unnecessary hardship.

Having downstairs twa bedrooms value lanit the property

3) Explain how the conditions are peculiar or unique to the subject property.

The strage MAG us house he

4) Are the conditions requiring a variance the result of any actions of the property owner? If YES, explain.

parohn ponese No Ne

5) What, if any detriment to the public or impairment to the purposes of the ordinance would result if the variance were granted.

6) Is the proposed use of land, building or structure permitted by the zoning ordinance?

'e c

I hereby make application to the City of Berkeley Lake, Georgia for the above referenced property. I do hereby affirm that the information provided here, above and contained in all material I submit for the purposes of supporting my request for a Variance, to the best of my knowledge is true, complete and accurate, and I understand that any inaccuracies may be considered just cause for invalidation of this application and any action taken as a result of this application. I understand that it is my/our responsibility to conform to all City of Berkeley Lake ordinances in full and obtain any additional permits as may be required and that failure to do approved in endorcement action taken by the City.

Applicant's Signature

Owner's Signature

Date Date

Letter of Intent

In Support of Request for Variance

562 Lakeshore dr Berkeley Lake GA 30096

This Letter of Intent is in support of my request for a variance to the 12.5 FT side yard setback requirement for our existing lot. The intention is to build two new bathrooms in the existing "Courtyard". The existing retaining wall will serve as the exterior wall for the bathrooms. I am therefor requesting a variance to permit the building of the bathrooms 36" over and into the existing setback of 12.5 FT

The proposed bathrooms will bring the total coverage to18.3% of our lot. Theallowed coverage area is15 % not calculating the driveway. Since our lot is .50Acres instead of the regular .7 acres, this makes any addition even more of a challenge.

I would ask the board to consider the following:

1) Allowing to build onto 36" of the side setback on the east

2) Allowing the addition to exceed the 15% coverage ration to a coverage of 18.32 %.

3) the proposed style and structure of the house is in step with the existing neighborhood; and

(4) The proposed project would be an improvement to the neighborhood and result in an overall increase in property value and tax base created by improvement.

(5) The neighbors at 558 Lakeshore dr does not object to the addition or my request for a variance to the 12.5 FT side yard setback requirement.

Thank you for your consideration.

Respectfully submitted

Hank Liebenberg





HOUSE FOOTPRINT: 39.97 SF4. Lot Size: 0,5 Acres. Coverage : 18,32 %

HOUSE + DRIVEWAY : 6482 SA. Lot Size: 0,5 Peres. Coverage : 29,76 9

LEGEND
Ø P.P POWER POLE
X L.P LIGHT POLE
F.H FIRE HYDRANT
& M.H SANITARY SEWER MANHOLE
W/M W.M WATER METER
O RBS- REINFORCING BAR SET
O RBF- REINFORCING BAR FOUND
O J.B JUNCTION BOX
D.I DROP INLET / YARD INLET
=== R.C.P REINFORCED CONCRETE PIPE
== C.M.P CORRUGATED METAL PIPE
N/F NOW OR FORMERLY
#4 RBF #4 REBAR FOUND
#4 RBS #4 REBAR SET (PINK CAP "LSF 789")
OE OVERHEAD POWER LINES
HWHEADWALL
• TREE
1234 STREET ADDRESS

GPS NOTES:

1.) HORIZONTAL DATUM IS NAD 83. VERTICAL DATUM IS NAVD 88.

LAKESHORE DRIVE APPARENT BO RIVE

2.) THE NORTHING, EASTING, AND ELEVATION OF THE STARTING POINTS FOR THIS SURVEY WERE OBTAINED UTILIZING A TRIMBLE 5800 GPS RECEIVER WITH A TRIMBLE TSC2 DATA COLLECTOR RECEIVING RTK CORRECTIONS VIA A CELL PHONE FROM THE EGPS SOLUTIONS REAL TIME NETWORK. THE TECHNIQUE USED WAS RTK CORRECTED MEASUREMENTS FROM THE TRIMBLE VRS REAL TIME NETWORK OPERATED BY EGPS SOLUTIONS, INC. THE RELATIVE POSITIONAL ACCURACY OBTAINED ON THE POINTS UTILIZED IN THIS SURVEY WERE 0.04 FT. HORIZONTAL AND 0.07 FT. VERTICAL AT THE 95% CONFIDENCE LEVEL.



LOCATION MAP 1" = 2000'

#4 RBF

CLERK OF THE SUPERIOR COURT RECORDING INFORMATION



#4 RBS

HN

- 2. DISTANCES ON SURVEY ARE SHOWN AS "GROUND" DISTANCES.
- 3. DISTANCES ON SURVEY ARE EXPRESSED IN U.S. SURVEY FEET.
- 4. ANGULAR DIRECTIONS ARE EXPRESSED IN DEGREES, MINUTES AND SECONDS. IF MINUTES AND SECONDS ARE NOT SHOWN, IT IS TO BE UNDERSTOOD THAT MINUTES ARE OO AND SECONDS ARE OO.
- 5. NO CEMETERIES OBSERVED WHILE SURVEYING PROPERTY.
- 6. THIS PLAT IS PREPARED FROM A FIELD SURVEY USING A TRIMBLE S-5 ROBOTIC TOTAL STATION.
- 7. CORNERS INDICATED AS 'RBS' ARE 18" LONG NO. 4 REBAR WITH PINK PLASTIC CAP STAMPED "GASKINS LSF 789".
- 8. FLOOD LINE SHOWN ON FACE OF SURVEY WAS SCALED BASED ON REFERENCED FEMA FLOOD PANEL.

LOCATION OF UTILITIES EXISTING ON OR SERVING THE SUBJECT PROPERTY IS DETERMINED BY OBSERVABLE EVIDENCE ONLY. THIS PROPERTY MAY BE SUBJECT TO EASEMENTS, CLAIMS, PRESCRIPTION AND SUBSURFACE CONDITIONS THAT ARE NOT VISIBLE OR RECORDED, THUS DEEMING THEM UNDETERMINED AND NOT SHOWN. THIS PLAT IS INTENDED FOR THE PARTIES STATED ON THE FACE OF SURVEY. USE OF THE SURVEY BY THIRD PARTIES IS AT THEIR OWN RISK.

MBER
F.I.A.)
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CURRENT OWNER:

HENDRIK W LIEBENBERG AND HANNELIE C LIEBENBERG

SURVEYOR REFERENCES:

- 1. D.B. 56149 PG. 844 (DEED FOR SUBJECT PROPERTY)
- 2. P.B. E PG. 249 (PLAT OF SUBDIVISION)
- 3. D.B. 52974 PG. 685 (DEED OF ADJOINER LOT 65)

THIS PLAT IS PREPARED FROM A FIELD SURVEY USING A TRIMBLE S-5 ROBOTIC TOTAL STATION LINEAR PRECISION OF TRAVERSE : 1/ 23,357 ; ANGULAR ERROR: 3" PER POINT. THE TRAVERSE WAS ADJUSTED USING THE COMPASS RULE. LINEAR PRECISION OF THIS PLAT: 1/126,000 . MATTERS OF TITLE ARE EXCEPTED.

(iii) THIS PLAT IS A RETRACEMENT OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT SUBDIVIDE OR CREATE A NEW PARCEL OR MAKE ANY CHANGES TO ANY REAL PROPERTY BOUNDARIES. THE RECORDING INFORMATION OF THE DOCUMENTS, MAPS, PLATS, OR OTHER INSTRUMENTS WHICH CREATED THE PARCEL OR PARCELS ARE STATED HEREON. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN 0.C.G.A. SECTION 15-6-67.

OR FSSI hich 3083 * STEVEN A. HOOKS 12/2/2020 GA RLS NO. 3083 ND SURVEYOR

DRAWN BY: MAF CHECKED BY: SAH		m LSF	BOUNDARY RETRACEMENT SURVEY FOR:
FILE: Q: \SULTING \GMNNETT\06\06_0289 FIELD DATE: 11/25/2020	=	urvey.co	LOT 66 OF SECTION SIX BERKELEY REALTY AND INVESTMENT COMPANY
OFFICE DATE: 12/2/2020 SCALE: 1"=20'	ENGINEERING SURVEYING PLANNING/CONSULTING CONSTRUCTION MGMT		PROPERTY 562 LAKESHORE DRIVE
REVISIONS	<u>Marietta Office</u> 1266 Powder Springs Rd Marietta, GA 30064 Phone: (770) 424-7168	<i>Canton Office</i> 147 Reinhardt College Pkwy Ste. 3 Canton, GA 30114 Phone: (770) 479-9698	HENDRIK AND HANNELIE LEIBENBERG
	Lawrenceville Office 558 Old Norcross Rd Ste. 204 Lawrenceville, GA 30046 Phone: (770) 299-1005	<u>Newnan Offic</u> e 4046 Ga. Hwy. 154, Ste. 109 Newnan, GA 30265 Phone: (770) 424-7168	6th DISTRICT, GWINNETT COUNTY, GA.

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SCALE IN FEET

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