

**VARIANCE(S):**  
**V-2009-004**

**CITY OF SUWANEE  
STREAM BUFFER PROTECTION ORDINANCE  
VARIANCE ANALYSIS**

**CASE NUMBER:** V-2009-004  
**REQUESTS:** IMPACT STREAM BUFFER  
**APPLICABLE SECTION:** SECTION 4.1.2  
**LOCATION:** 672 EVA KENNEDY ROAD  
**DISTRICT/LAND LOT:** 7-237-135  
**ZONING:** R-100  
**DEVELOPMENT:** ABOVE-GROUND SWIMMING POOL

**APPLICANT/OWNER:** JOHN J. BOURKE  
672 EVA KENNEDY ROAD  
SUWANEE, GA 30024

**CONTACT:** JOHN BOURKE PHONE: 770-380-5610

**RECOMMENDATION:** APPROVAL WITH CONDITIONS

**ANALYSIS:**

The applicant seeks a variance from Section 4.1.1 and Section 4.1.2, of the City of Suwanee Stream Buffer Protection Ordinance to allow for a 390 square foot (15 feet by 26 feet) above-ground swimming pool. The subject property is a 2.02-acre single-family residential lot developed with a split-level home located on Eva Kennedy Road. The site includes a sanitary sewer easement, a power-line easement, floodplain, and Brushy Creek located approximately 95 feet from the rear of the house. The variance would allow for the swimming pool and a portion of the deck to be located within the 75' no impervious buffer and a small portion of the 50' buffer.

The City of Suwanee adopted a Stream Buffer Protection Ordinance meeting the North Georgia Metropolitan District's requirements on March 15, 2005. Section 4.2 of the city's Ordinance assigns the Zoning Board of Appeals as the body to hear requests to deviate from its requirements.

Section 4.1. of the Stream Buffer Protection Ordinance states, "All land development activity subject to this ordinance shall meet the following requirements:

- 4.1.1 An undisturbed buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank. The land forming the bank is also considered part of the buffer for purposes of this ordinance.
- 4.1.2 An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback."

The Ordinance therefore requires a 50-foot wide undisturbed buffer (Section 4.1.1) supplemented by an additional 25-foot wide buffer (Section 4.1.2) that may be graded but cannot include any impervious cover (a.k.a – “no impervious” buffer). Examples of impervious cover include buildings, parking lots, driveways, pools, etc. The two areas described in Sections 4.1.1 and 4.1.2 constitute the previously mentioned 75-foot width. (See Figure 1) The applicant proposes to construct an above ground pool that would intrude up to 28 feet into the required buffer. Therefore, a variance is required in order to construct the pool.

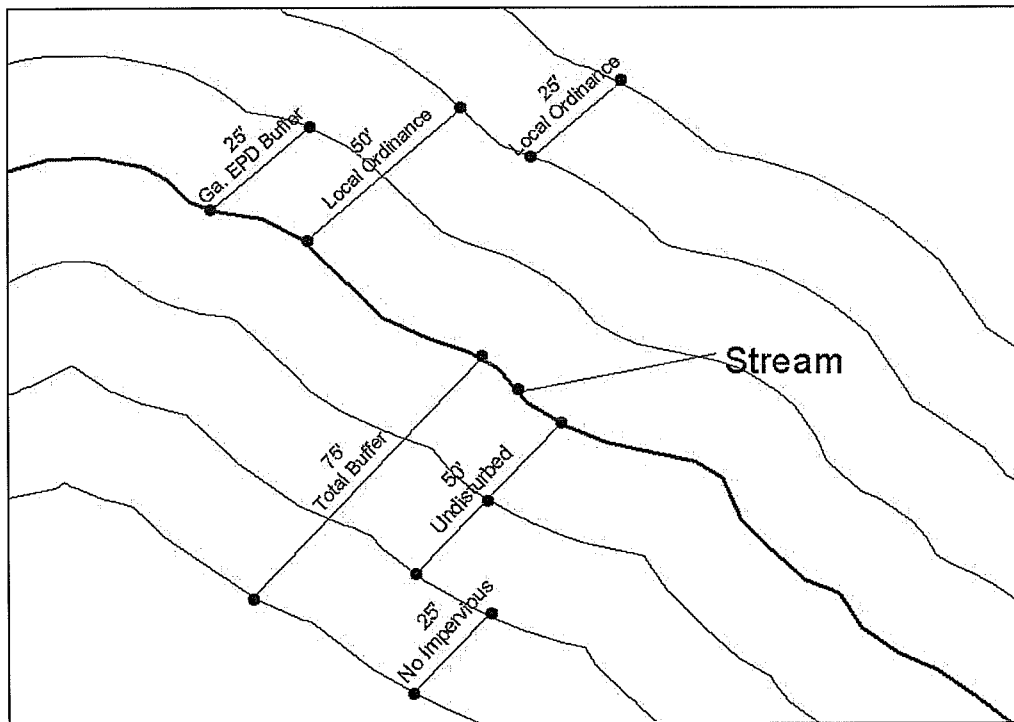


Figure 1

The subject property is located on Eva Kennedy Road and is surrounded by single-family R-100 zoned parcels. The majority of the parcel is densely wooded and slopes away from Eva Kennedy down into the floodplain and Brushy Creek.

The property owner wishes to locate the swimming pool behind an existing deck in the open area behind the house and at a reasonable distance from the woods. The pool would be placed with a minimum amount of disturbance to the ground except as required to level the area. It is possible to locate the pool outside the 75’ buffer, but it would require more land disturbance and the removal of several large trees. It should also be noted that there are similar swimming pools located within the stream buffer on adjacent parcels along Eva Kennedy Road.

The City of Suwanee Stream Buffer Protection Ordinance grants the Zoning Board of Appeals the authority to grant variances. According to Section 4.2 of the Ordinance, the Board is authorized to grant variances if “the applicant provides evidence that impacts to the buffer have been avoided or minimized to the fullest extent possible; and the buffer intrusion is mitigated.”

In conclusion, the impact to the stream buffer would be minimal. The proposed pool encroaches approximately 28' into the 75' buffer and the area of impact is small (390 sf). The applicant proposes to locate the swimming pool as close to the house as possible, while not disturbing any more land than required for the leveling of the ground. Locating the pool outside the buffer would result in more land disturbance and the removal of several large trees. Therefore, staff recommends **APPROVAL WITH CONDITIONS** of V-2009-004.

**V-2009-004**

The Planning Department recommends approval of the variance from the Stream Buffer Protection Ordinance to impact the “no impervious buffer” subject to the following conditions:

- 1) The area of impact shall be limited to the area shown on Exhibit “A”.
- 2) The builder of the pool shall make efforts to minimize the impact to the buffer. At the direction of the Planning and Inspections Department, erosion control fencing shall be provided to prevent erosion and sediment until the area is stabilized.
- 3) A minimum of one row of shrubs shall be provided around the addition that shall be planted on a minimum of three-foot centers.

## Standards for Consideration

Pursuant to Section 2009A of the City of Suwanee Zoning Ordinance, the City finds the following standards are relevant in considering all applications for a Variance.

- A. Will approval of the variance unreasonably increase the congestion in public streets?**

Approval of these variances would not increase the congestion in public streets.

- B. Will approval increase the danger of fire or endanger public safety?**

Approval of these variances would not increase the danger of fire or endanger public safety.

- C. Will approval unreasonably diminish or impair established property values within the surrounding area?**

Approval of the variance would not unreasonably diminish or impair property values within the surrounding area.

- D. Will approval in any other aspect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City?**

Approval of this request should not in any other aspect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City provided the appropriate measures are taken to ensure erosion is controlled and the appropriate mitigation is provided.

**APPLICATION FOR VARIANCE FROM THE  
CITY OF SUWANEE ZONING BOARD OF APPEALS**

Please complete this application and submit with all necessary attachments as stated on the Variance Information Form (please type or print)

**APPLICANT INFORMATION**

Name: JOHN J. BOURKE  
Address: 672 EVA KENNEDY Rd.  
City: SUWANEE  
State: GA 30024  
Phone: 770-271-8204  
E-mail address: jbpma@aol.com

**OWNER INFORMATION**

Name: SAME AS APPLICANT  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Phone: \_\_\_\_\_

CONTACT PERSON: JOHN BOURKE PHONE: 770-380-3610 (CELL)

ADDRESS OF PROPERTY 672 EVA KENNEDY Rd. SUWANEE, GA 30024

LAND DISTRICT 7 LAND LOT 237 PARCEL \_\_\_\_\_ LOT 1

SUBDIVISION OR PROJECT NAME (IF APPLICABLE) NA

ZONING R-100

VARIANCE REQUESTED Section 4.1.1 and 4.1.2 for an  
above ground swimming pool

NEED FOR VARIANCE SEE ATTACHED FOR  
VARIANCE NEEDED + LEGAL DESCRIPTION

**\*A VARIANCE FROM A CONDITION OF ZONING CANNOT BE ACCEPTED.**

**SECTION 2007, APPLICANT AND/OR A REPRESENTATIVE.**

**\*\*\*The property owner, applicant and /or a representative thereof shall be present at all meetings of the Zoning Board of Appeals, Planning Commission and/or Mayor and Council at which official action is requested on any variance or application for amendment. The failure of the property owner, applicant and/or a representative to attend such meetings shall result in the denial of said variance or application for amendment.**

17009-001

## Request for a variance

SB-2005-001 – City of Suwanee Stream Buffer Protection Ordinance  
Buffer and Setback Requirements  
Section 4.1.1 50 ft. undisturbed buffer  
Section 4.1.2 Additional 25 ft. setback (beyond the 50 ft. buffer in 4.1.1)

Regarding installation of a 15 ft. by 26 ft. above ground pool at:

672 Eva Kennedy Road  
Suwanee, GA 30024

### Legal Description of the property

All that tract or parcel of land lying and being in Land Lot 237 of the 7<sup>th</sup> District, Gwinnett County Georgia, being Lot 1, Exemption Plat for LUZ Company, Inc. as per plat recorded in Plat Book 59, Page 14, Gwinnett County Georgia Records, which plat is incorporated herein and by this reference made a part hereof.

Owner: John J. Bourke            770-271-8204

### NEED FOR VARIANCE:

As per the sketch/drawing supplied, this variance would allow the pool to be placed with easy viewing from the house/deck for safety reasons (seeing people in the pool) as well as being kept a reasonable distance from the Woods/trees, which would create additional difficulty in keeping the pool clean.

Placement of the pool is possible outside the 75 ft. buffer, but would require removal of an appreciable number of large (40 ft. high +) trees (see Exhibit #5, #7).

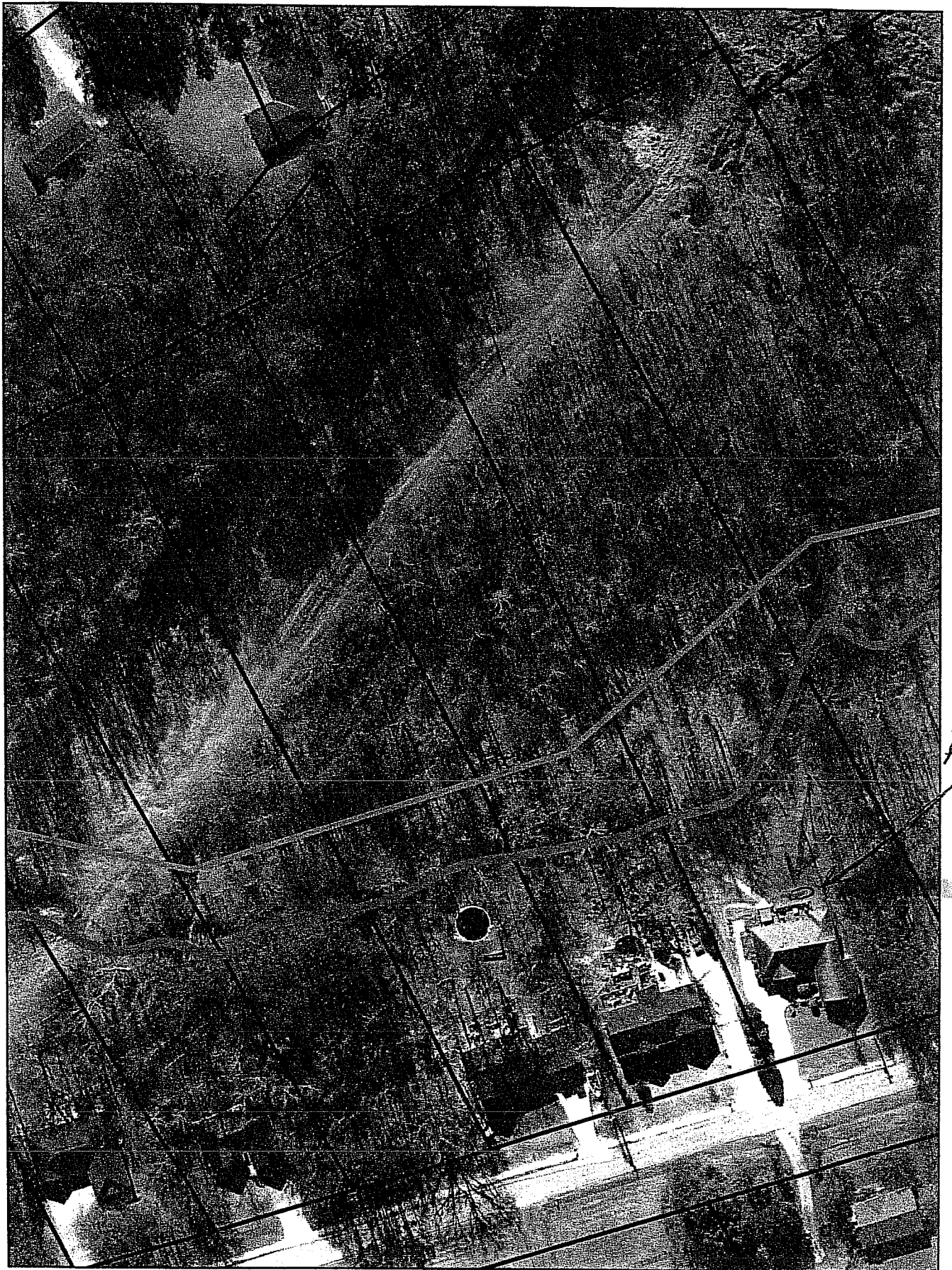
The pool would be placed with a minimum of disturbance to the ground except as required to provide for a level surface.

### Attachments (7 pages)

Plat/property layout from Plat book 59, Page 14 (2 pages)	Exhibit #1, #2
Aerial View with approximate placement of pool indicated	Exhibit #3
Sketch of proposed pool installation	Exhibit #4
Pictures of area impacted:	
From Center of Deck	Exhibit #5
From Top of Stairs to Creek bank	Exhibit #6
From Property Line edge w/deck and woods	Exhibit #7

V. 7/10/09.004





POOL  
PLACE  
ME



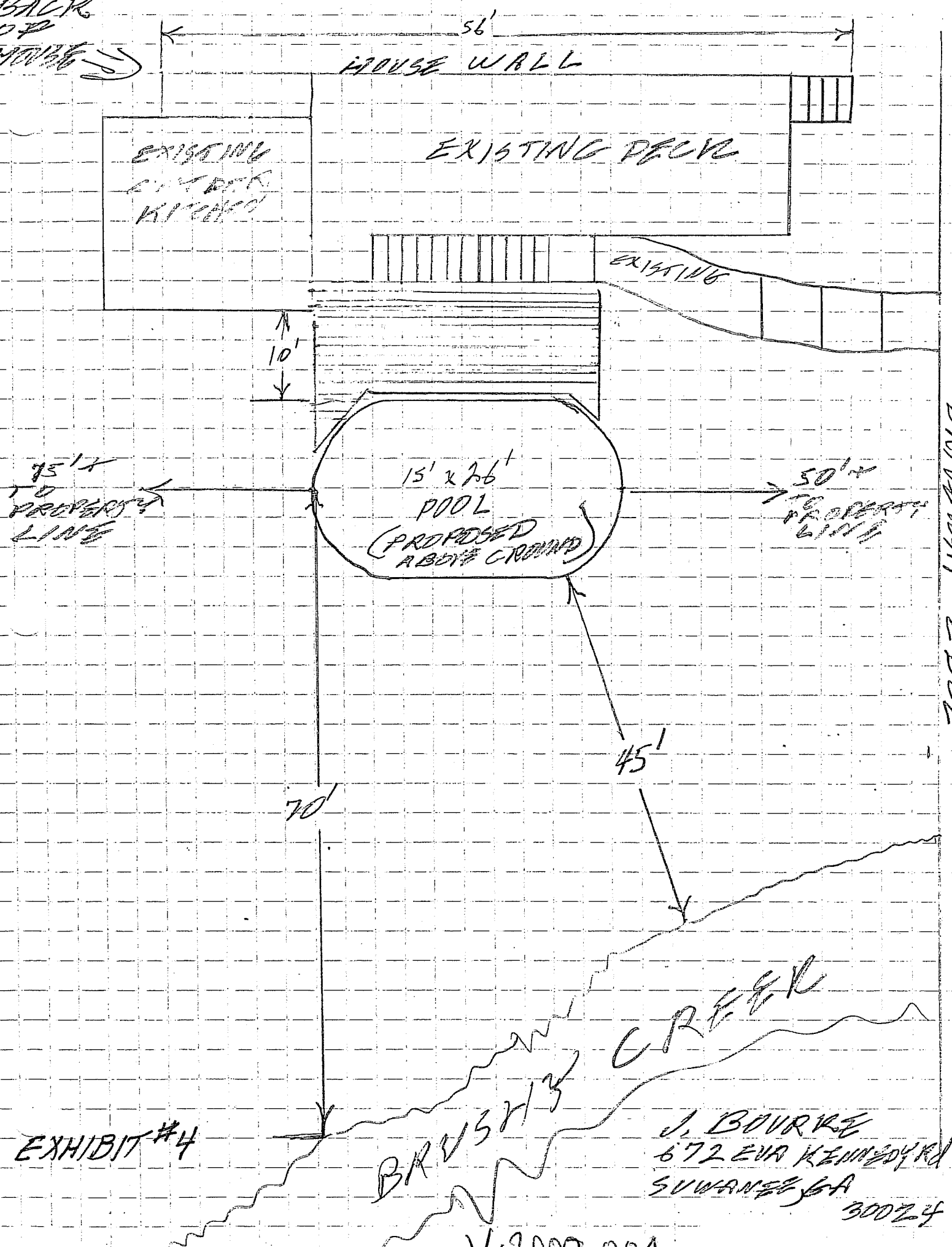
SEWER LINE



BRUSHY CREEK

EXHIBIT #3

11/2000/004



BACK OF

MOVING

56'

HOUSE WALL

EXISTING  
CUPBDR  
KITCHEN

EXISTING DECK

EXISTING

10'

15' x 26'  
POOL  
(PROPOSED  
ABOVE GROUND)

75'  
TO  
PROPERTY  
LINE

50'  
TO  
PROPERTY  
LINE

45'

70'

BRUSHY CREEK

EXHIBIT #4

J. BOURKE  
672 EUR KENNEDY RD  
SUWANEE GA  
30024

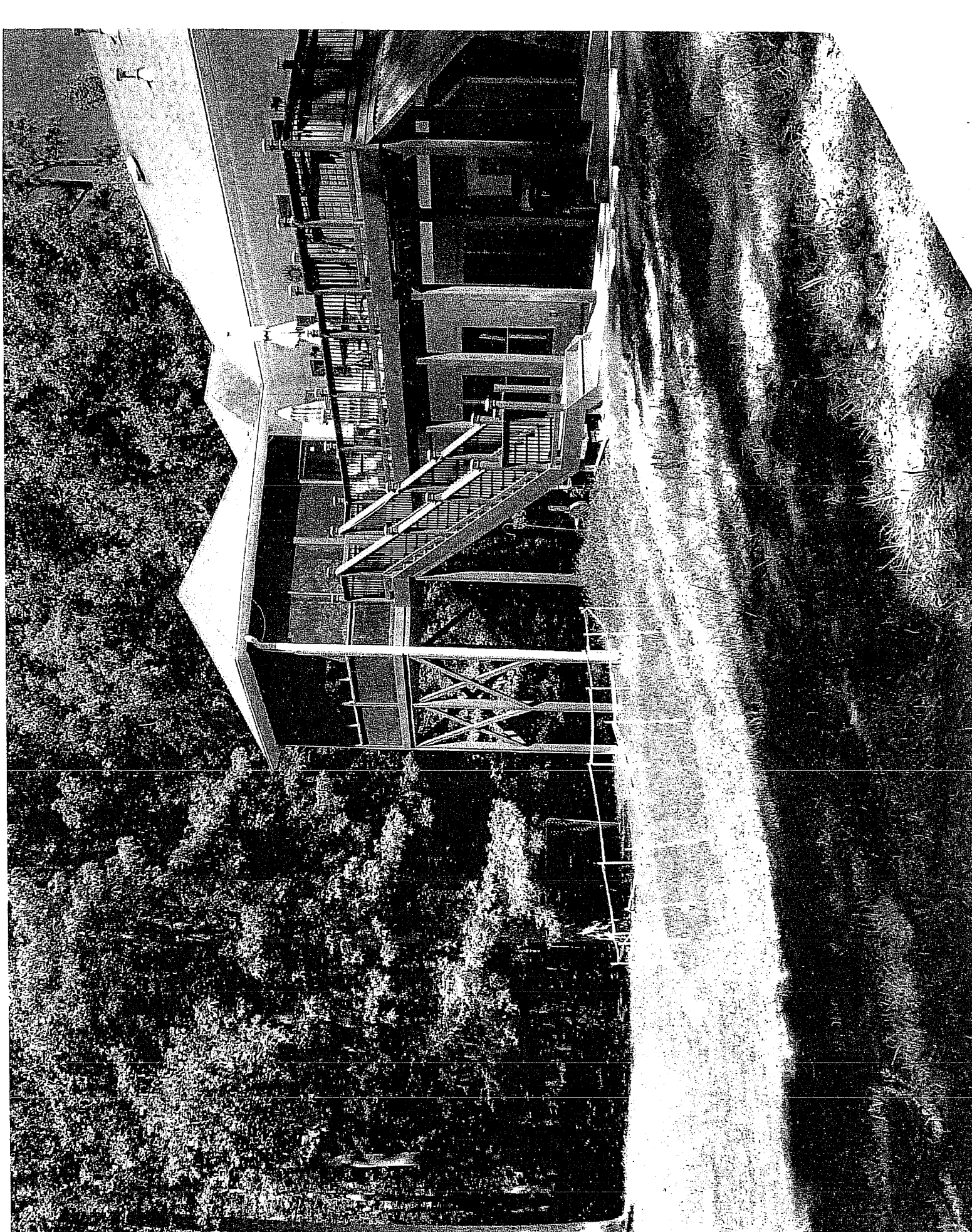


EXHIBIT #7

V. 2009 1214

City of Suwanee

CROSSROADS of PAST and FUTURE



CITY OF  
**Suwanee**  
G E O R G I A

V-2009-004

Location Map

**Legend**

— Top of Bank

**Stream Buffer**

**Distance**

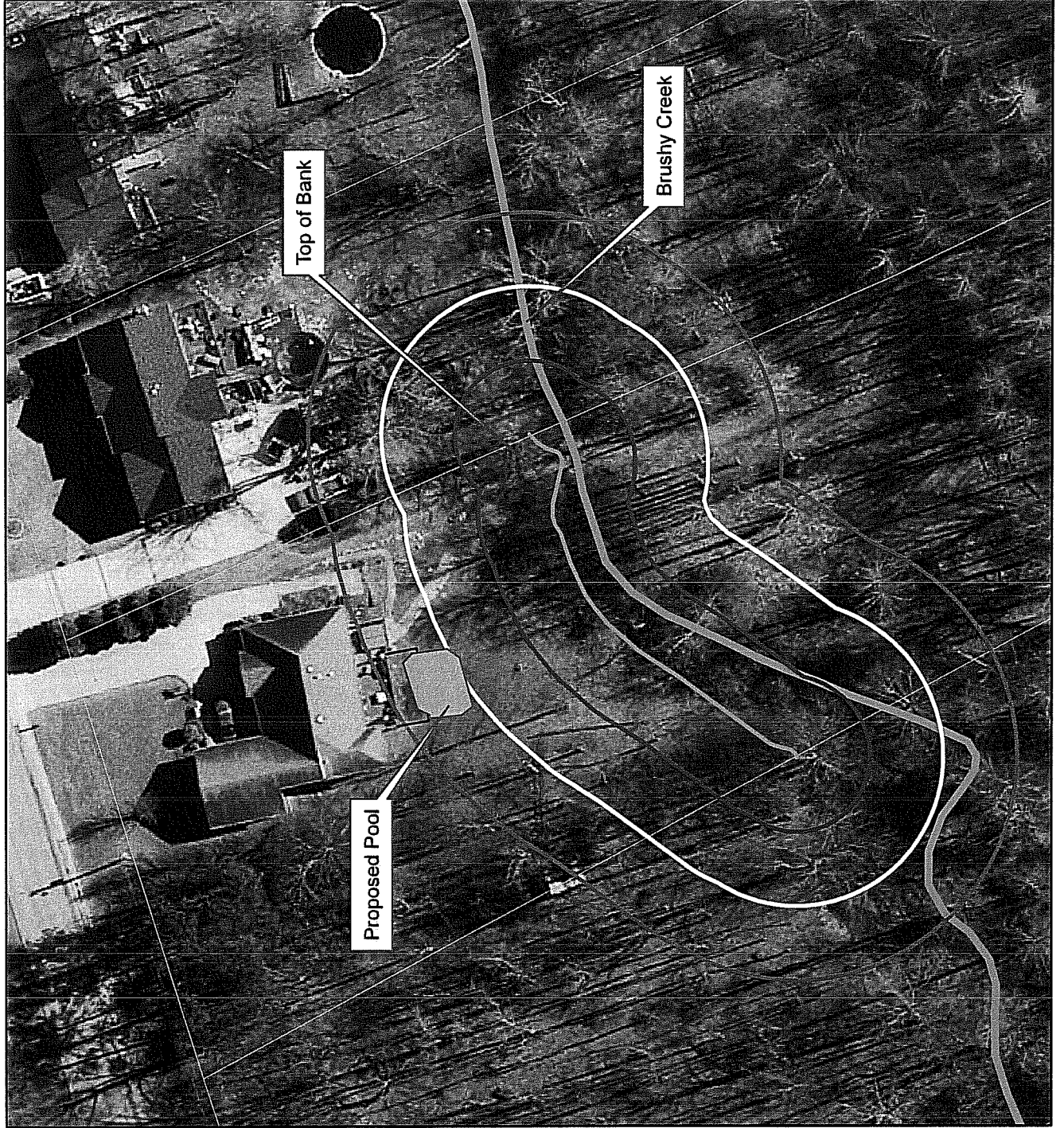
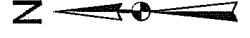
□ 25 feet

□ 50 feet

□ 75 feet

▬ Brushy Creek

□ Parcels



City of Suwanee

CROSSROADS of PAST and FUTURE





V-2009-004

Location Map

Legend

— Streets

 V-2009-004

 Parcels

