

VARIANCE(S):

V-2023-003

**CITY OF SUWANEE
VARIANCE ANALYSIS**

CASE NUMBER: V-2023-003

REQUEST: ACCESSORY STRUCTURE EXCEEDING
MAXIMUM SQUARE FOOTAGE

APPLICABLE SECTION: SECTION 500

LOCATION: 4446 BERNICE COURT

DISTRICT/LAND LOT: 7-276-025

ZONING: R-140 (RESIDENTIAL SINGLE FAMILY)

APPLICANT/OWNER: JAMES & SHIRLEY HARWELL
4446 BERNICE COURT
SUWANEE, GA 30024

CONTACT: JAMES & SHIRLEY HARWELL
PHONE: 678-288-4732

RECOMMENDATION: **APPROVAL WITH CONDITIONS**

ANALYSIS:

The applicant seeks a variance from Section 500A.1.c of the City of Suwanee Zoning Ordinance to allow for an accessory structure exceeding the maximum permitted square footage. The applicant seeks to construct an approximately 1,800 square foot accessory structure located at the rear of the property. The 1.11 acre parcel is located at 4446 Bernice Court and is zoned R-140.

The subject property contains a two-story brick clad primary residence of approximately 2,660 square feet. The applicant is seeking to construct an accessory 36' by 50' metal structure that is approximately 1,800 square feet in size for the purpose of storing a recreational vehicle and a boat. Section 500.A.1.c of the City of Suwanee Zoning Ordinance (R-140 Zoning District Permitted Uses) states that an accessory structure "shall not exceed 800 square feet of gross floor area", and for accessory structures the primary exterior material should match the primary residence if the accessory structure is greater than 200 square feet. As such, a variance would be required in order to build the accessory structure as proposed.

The subject property is deep with large trees that obstruct the house from view from Bernice Court. The subject property is surrounded by single-family lots of varying sizes, some heavily wooded. The neighboring properties along Bernice Court and along Abbey Hill Road to the south, east, and west, are also zoned R-140. These adjacent properties are well screened by existing vegetation on the subject property and on the adjacent parcels, although the structure

would still be visible through the trees from the adjacent lots. To the north, are 2 adjacent lots in the single-family detached neighborhood called Bayswater Common which is zoned R-100. The proposed accessory structure is not well screened and would be more visible from the Bayswater Common properties than the adjacent properties in the same neighborhood.

The subject lot is approximately 200 feet wide and the proposed 36' by 50' structure would be set less than 15 feet from the northern property line and approximately 10 feet from the western property line near the northwestern corner of the property. The property is heavily screened by existing trees to the west. The structure would be 16' tall. The concrete pad was installed with the intention to build the structure upon it. Approval for construction of the pad was given due to a misunderstanding and miscommunication of its intended use between the property owner and the Planning Department. A 36' by 50' pad would be allowed without any permit, but an accessory structure requires a permit and is subject to the size restrictions of the Zoning Ordinance.

Like many of the other neighborhoods that are zoned R-140, Suwanee's largest lot residential zoning district, the lots on Bernice Court are much larger than most lots in the city. The average size for adjacent lots within the same neighborhood is 1.54 acres. The average size for the adjacent lots in Bayswater Common to the north is 0.65 acres.

Accessory structures are permitted uses in all of the City's residential zoning districts. All of the residential zoning districts have the same standard for accessory structures in terms of maximum square footage allowed. However, a 1.1-acre lot is more capable of accommodating a larger accessory building with fewer negative impacts on adjoining properties than a half-acre lot in a subdivision. The City regulates the size of accessory structures, partially, to protect homeowners from the possible negative impacts of a large accessory structure. In this case, the closest home on a neighboring property inside the City limits is located about 50 feet from the proposed accessory structure. One of the adjacent properties to the north has 2 small accessory structures with the larger structure totaling approximately 175 square feet and apparently located approximately 5 feet from the proposed property line. The other adjacent property to the north has a swimming pool as an accessory use. Both properties have a fence with one being chain link and the other a solid wood fence.

Accessory structures should be clearly subordinate to the primary structure on the property and constructed of materials consistent with the primary structure. The primary structure on the property is a two-story brick house approximately 2,660 square feet. The minimum floor area for a home in the R-140 district is 1,250 square feet. An 800 square foot accessory structure is about 64 percent of the size of the minimum floor area allowed in the district. The proposed accessory structure in the case would be about 68 percent of the size of the existing structure. As such, it would appear that the proposed accessory structure would be subordinate to the primary structure.

The City of Suwanee's Zoning Ordinance grants the Zoning Board of Appeals the authority to grant variances. According to Section 2006 of the Ordinance, the Board is authorized to grant variances when literal enforcement of the Ordinance will result in unnecessary hardship to a property owner. A variance may be granted if the conditions are unique to the property and/or

are unlikely to cause substantial detriment to the public good or if the variance will not undermine the intent of the zoning ordinance.

Last year, the Planning Department conducted a review of variance requests related to accessory structures in Suwanee. The review found that the City had received and considered 35 variance requests related to accessory structures since 2000. Of those 35 requests, 34 were approved by the Zoning Board of Appeals. The review found that most of those requests were either located in the historic Old Town area or were accessory structures proposed on lots larger than 1.5 acres. As a result, the Zoning Ordinance was amended to allow for administrative variances for accessory structures on lots larger than 1.5 acres or located in the historic Old Town area. The subject property is smaller than 1.5 acres and is not located in the historic Old Town area. As such the variance request requires consideration by the full Zoning Board of Appeals.

It should be noted that the one of the previously considered and approved variance requests for an accessory structure was for an accessory structure located on Abbey Hill Road about 1,100 feet away from the subject property. That case was considered in 2019 (V-2019-008). The subject property in that case was 2.7 acres. It involved a request for a 2,500 square foot accessory structure that was going to be used to store a boat and cars. The request was approved with conditions.

The lots along Bernice Court are slightly larger than many of the residential lots in Suwanee. These larger lots can usually accommodate more development than a typical residential lot with less impact on nearby properties. In this case, the closest home located to the north of the subject parcel, is approximately 50 feet from where the proposed accessory dwelling would be located. The proposed accessory structure would be located approximately 20 feet away from the accessory structure on the adjacent property to the north. There is currently little to no existing screening between the two properties, although it appears that the neighbors recently planted a row of Leyland Cypress along the property line.

The City has approved a number of requests related to accessory structures over the last 23 years. However, screening is often an important component of the approval. Currently, the subject property does not have any screening between the proposed accessory structure and the properties to the north. In the space where screening might be installed, the property owner has created a gravel area to store a couple of trailers. If the request is approved, the applicant should be prepared to provide screening in the area currently covered in gravel and storing trailers.

In conclusion, while there does not appear to be a hardship, the lot is larger than a typical residential lot in Suwanee. Normally under such circumstances, exceeding the maximum permitted accessory square footage is unlikely to negatively impact neighboring properties. However, the proximity of the neighboring properties to the north, the size of the accessory structure, and the lack of existing screening may be an issue in this case. This negative effect could be mitigated if appropriate measures to screen the accessory structure are taken. Therefore, approval of this variance should not be a detriment to the public good or undermine the intent of the zoning ordinance. As such, staff recommends **APPROVAL WITH CONDITIONS** of V-2023-003.

V-2023-003

Planning Department Recommendation:

The Planning Department recommends approval of a variance to allow for an accessory structure in excess of 800 square feet subject to the following condition(s):

1. Any items that currently sit on the gravel area along the northern property line must be moved to another location.
2. The accessory structure shall not exceed 1,800 square feet in size.
3. Structure may only be constructed on existing 36' x 50' concrete pad.
4. The gravel strip on the northern property line must be replaced with a landscape strip containing screening trees before a permit is issued for building.
5. The landscape strip must be planted with a minimum of 8 fast growing evergreen trees subject to the approval of the Planning Department. The evergreen trees must be minimum of 6 ft tall at time of planting and must be a maximum of 10 feet apart on center.
6. The architecture, material and design, of the accessory structure shall be consistent with variance exhibit 'A'.

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 this variance would not increase the congestion in public streets.

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

Approval of this variance 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 may 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 variance may impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City.

**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: James + Shirley Harwell
Address: 4446 Bernice Ct.
City: Suwanee
State: Georgia
Phone: 678-288-4732
E-mail address: SHarwell1957@gmail.com

OWNER INFORMATION

Name: James + Shirley Harwell
Address: 4446 Bernice Ct.
City: Suwanee
State: Georgia
Phone: 678-288-4732

CONTACT PERSON: James/Shirley PHONE: 678-288-4732

ADDRESS OF PROPERTY 4446 Bernice Ct.

LAND DISTRICT 7 LAND LOT 276 PARCEL 025 LOT _____

SUBDIVISION OR PROJECT NAME (IF APPLICABLE) Abbey Hill

ZONING R-140 ACREAGE 1.11

VARIANCE REQUESTED Section 500.A.1.c - An accessory building, to include a storage building.

NEED FOR VARIANCE The size of storage building is for our 5th wheel travel trailer + our pontoon (29th ft. long). The trailer is 44 ft. long. The concrete is already 36 x 50 ft. on our property.

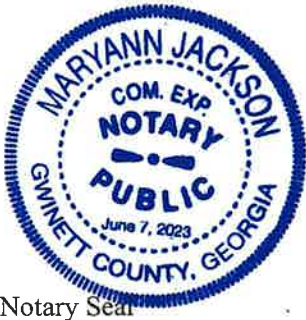
***A VARIANCE FROM A CONDITION OF ZONING CANNOT BE ACCEPTED.**

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.**

APPLICANT CERTIFICATION

The undersigned below is authorized to make this application and is aware that an application or re-application for the same type of variance affecting the same land or any portion thereof shall not be acted upon within twelve (12) months from the date of last action by the Board of Appeals, unless waived by the Board of Appeals. An application or reapplication shall not be acted upon in less than (6) months from the date of the last action by the Board of Appeals.



Notary Seal

James G Harwell 4-18-2023
Signature of Applicant Date

James G. HARWELL
Typed or Printed Name and Title

Maryann Jackson 4/18/23
Signature of Notary Public Date

PROPERTY OWNER CERTIFICATION

The undersigned below, or as attached, is the record owner of the property considered in this application and is aware that an application or reapplication for the same type of Variance affecting the same land or any portion thereof shall not be acted upon within twelve (12) months from the date of last action by the Board of Appeals unless waived by the Board of Appeals. An application or reapplication shall not be acted upon in less than six (6) months from the date of the last action by the Board of Appeals.



Notary Seal

James G Harwell 4-18-2023
Signature of Applicant Date

James G. HARWELL
Typed or Printed Name and Title

Maryann Jackson 4/18/23
Signature of Notary Public Date

DEPARTMENT OF PLANNING AND DEVELOPMENT USE ONLY

Case Number V. 2023.003 Variance _____ Administrative _____
Date Rec'd 4/18/23 Rec'd By [Signature] Hearing Date _____
Amount Rec'd \$300- Receipt _____

ACTION TAKEN _____

SIGNATURE _____ DATE: _____



To: Marty Allen, City Manager

From: Josh Campbell, Director, Planning and Inspections

Date: November 2, 2022

RE: Accessory Structure related Zoning Ordinance Amendment

At the October City Council workshop staff reported to Council that since 2000 the City processed 35 variance requests related to accessory structures and that 34 of these requests were approved by the Zoning Board of Appeals. We noted that many of these requests were on lots larger than 1.5 acres and/or located on lots in the historic Old Town. Council directed staff to explore an amendment to the Zoning Ordinance that would minimize the need for board variances in these instances.

Staff has developed an amendment to the Zoning Ordinance to address these issues. Attached is the proposed amendment, identified as Exhibit A. The amendment would create an opportunity for single family residential lots either greater than 1.5 acres in size and/or located in the Old Town Overlay District to be considered for administrative variances related to accessory structure requirements (either district specific or those in Section 604). The amendment would add paragraphs F and G to Section 2012 Administrative Variances.

With this amendment in place at the beginning of 2000, 31 of the 35 variances requested would have been eligible for consideration of administrative variances. The Zoning Ordinance places the authority to grant administrative variances with the Chairperson of the Zoning Board of Appeals. The Chairperson is not obligated to approve requests for administrative variances, and it is important to note that staff does provide a recommendation. The authority to grant administrative variances is limited to those specific instances identified in Section 2012 of the Zoning Ordinance. In the event that the Chairperson does not elect to approve an administrative variance request, the applicant may still apply for a variance that would be heard by the full Zoning Board of Appeals.

Staff is seeking to place this proposal on the November workshop for feedback and direction. If Council is comfortable moving forward with the proposed amendment then the amendment would need to proceed through the normal advertising process, which means it would be reviewed by the Planning Commission and considered by Council at their January meetings.

If you have any questions please let me know.

V-2023-003

Approximate location of structure

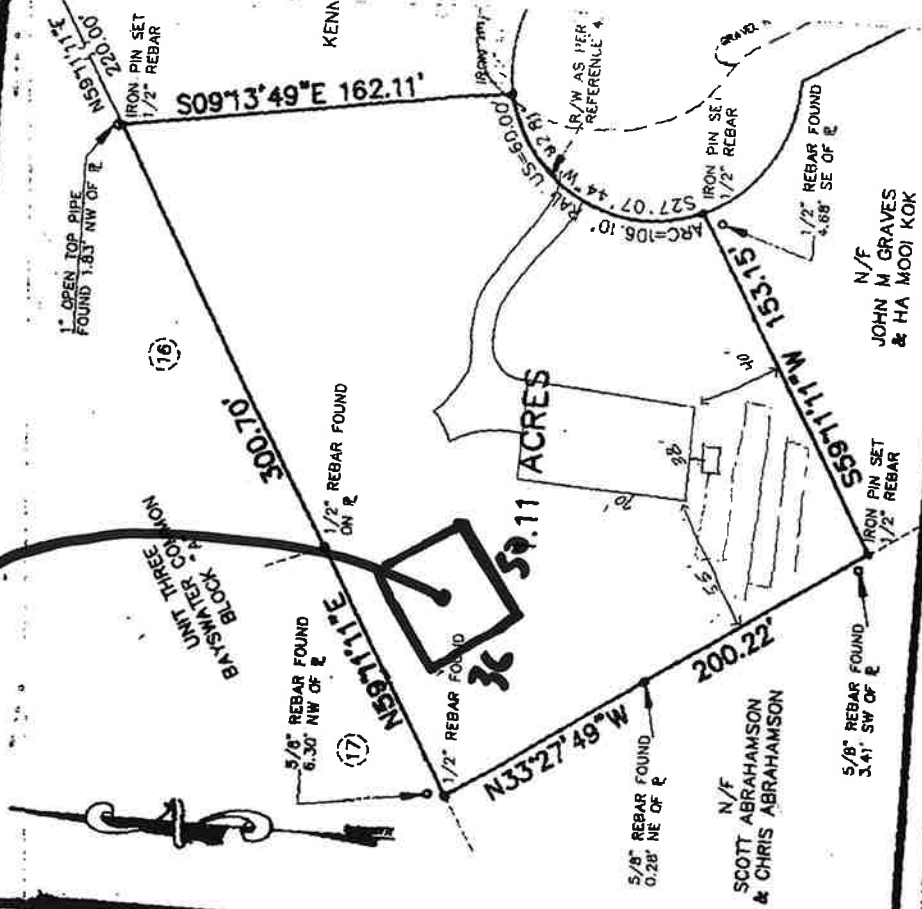
4441334 11:08 4888441535

BY GUDWIN

PAGE 82

08/22/1994 11:08 4888441535

PAGE 81



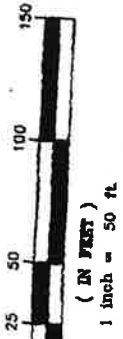
SURVEY REFERENCES:

1. PLAN FOR ABBEY HILL ASSOCIATES, JUN 17, 1980.
2. FINAL PLAT OF UNIT THREE BAYSWATER COMMON BY LAND DEVELOPING CO. DATED MARCH 18, 1988 AND RECORDED IN PLAT BOOK 45, PAGE 18, GWINNETT COUNTY RECORDS.
3. DEED BOOK 2814, PAGE 168, GWINNETT COUNTY RECORDS.
4. DEED BOOK 8140, PAGE 249, GWINNETT COUNTY RECORDS.

NOTE:

1. THE FIELD DATA UPON WHICH THIS PLAT IS BASED WAS CALCULATED AND FOUND TO BE ACCURATE TO WITHIN ONE FOOT PER ANGLE POINT. THE COMPASS RULE ADJUSTMENT WAS APPLIED. THIS PLAT HAS BEEN CALCULATED AND FOUND TO HAVE A PRECISION OF ONE FOOT IN 335,794 FEET.
2. EQUIPMENT USED: TOPCON GTS 2 (TOTAL STATION) 100' STEEL CHAIN
3. NO PORTION OF THE PROPERTY DEPICTED HEREON LIES WITHIN A FLOOD HAZARD AREA ACCORDING TO FLOOD INSURANCE RATE MAP, COMMUNITY-PANEL NO. 130322 0055 B, DATED 08-15-81, AS PUBLISHED BY THE EMERGENCY MANAGEMENT AGENCY-FEDERAL INSURANCE ADMINISTRATION.

GRAPHIC SCALE



Abby Heller Assoc.
66099

FOUNDATION LOCATION FOR JAMES G. AND SHIRLEY G. HARWELL BEING LOT 15 OF THE PLAT FOR ABBEY HILL ASSOCIATES LOCATED IN LOT 276, 7th DISTRICT, GWINNETT COUNTY, GEORGIA

DATE: 11-12-83 WLJ JOB NO.: 93-6540,8

4446 BERNICE CT. SAWANEE 30174

IN MY OPINION, THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMITY WITH THE MINIMUM STANDARDS AND REQUIREMENTS OF LAW.

Kenneth A. Dutton

W.L. JORDEN & CO., INC.
 ENGINEERS SURVEYORS PLANNERS



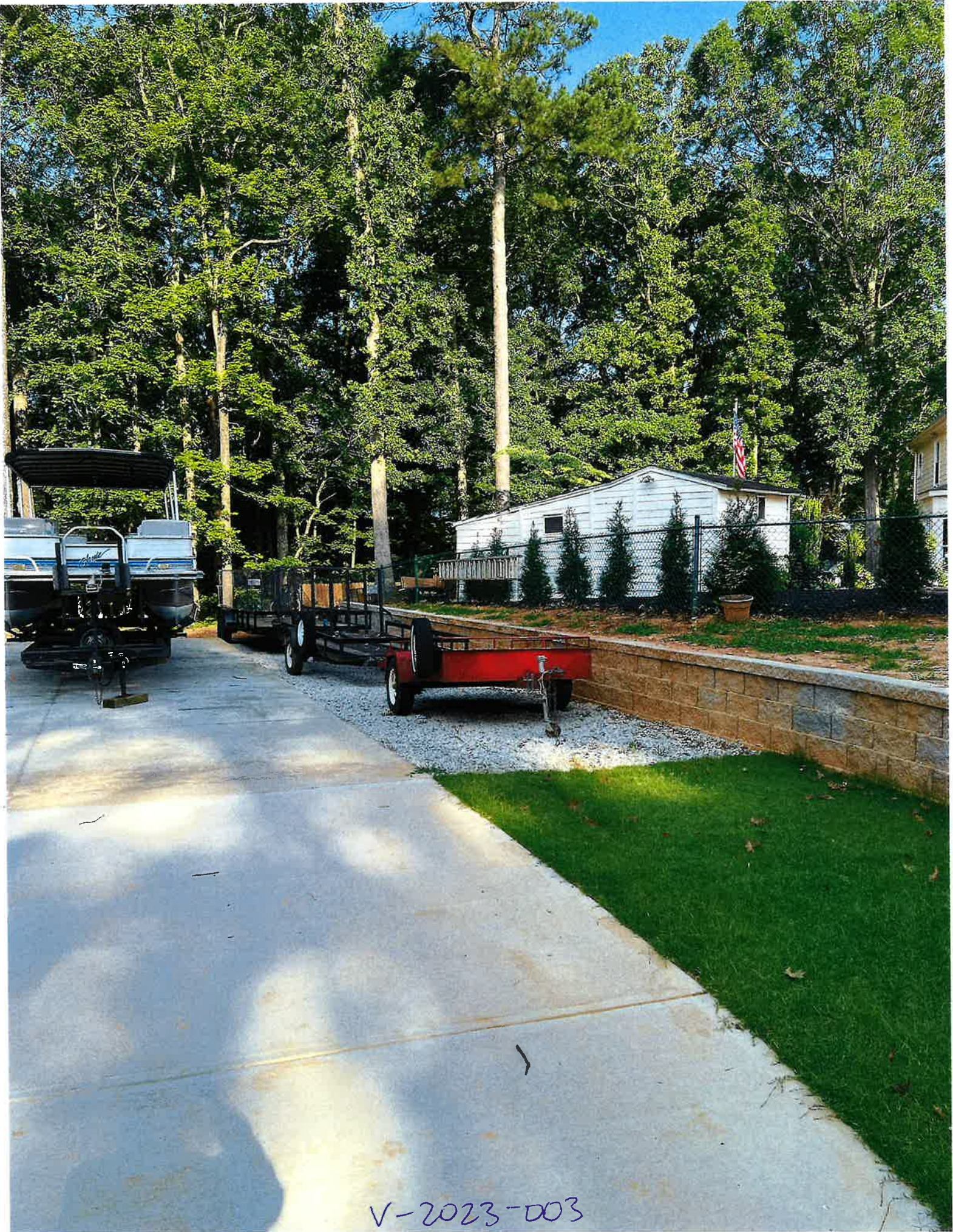
ATLANTA
 (404) 380-1000
 LAWRENCEVILLE
 (404) 867-0440

V-2023-003

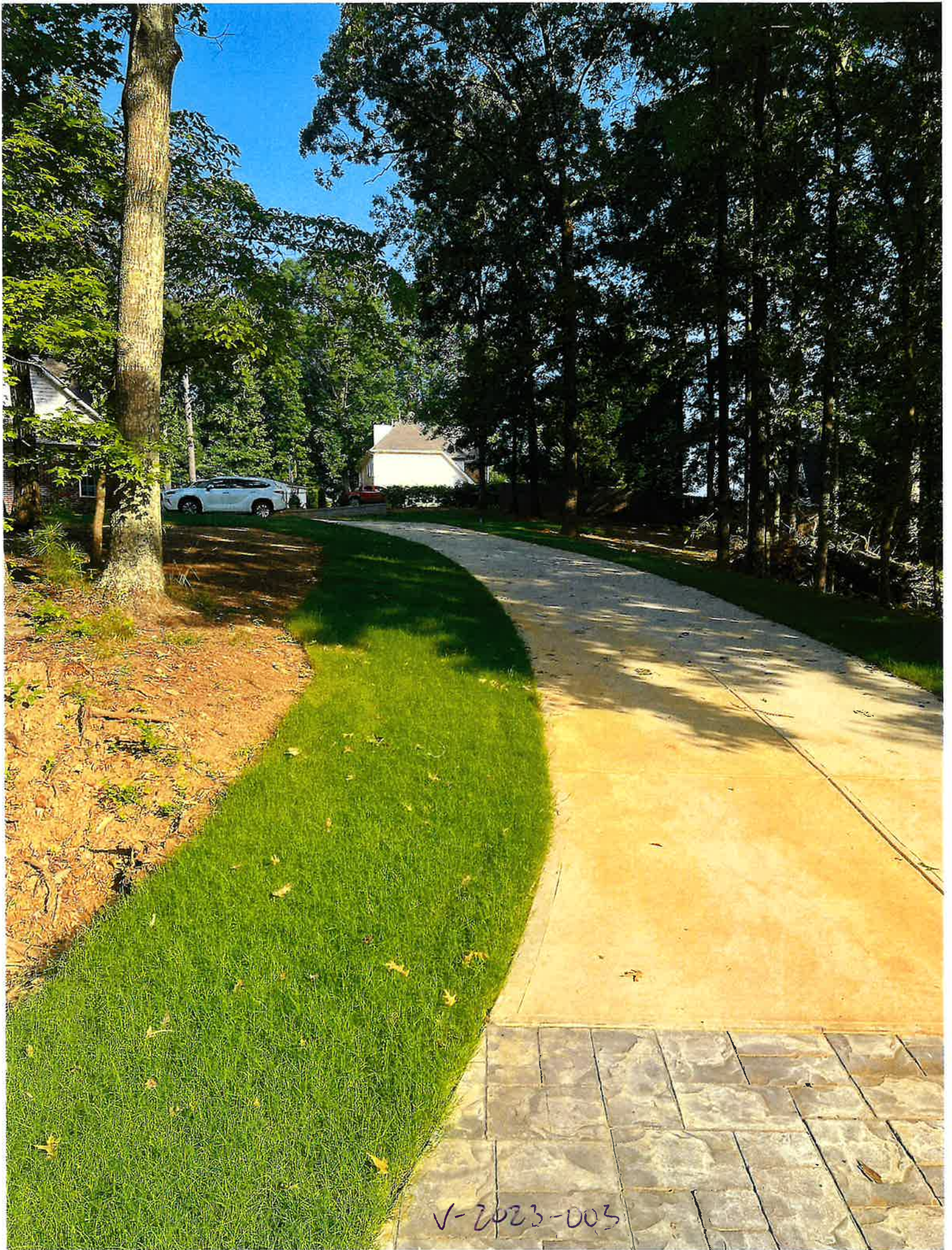
Exhibit 'A'



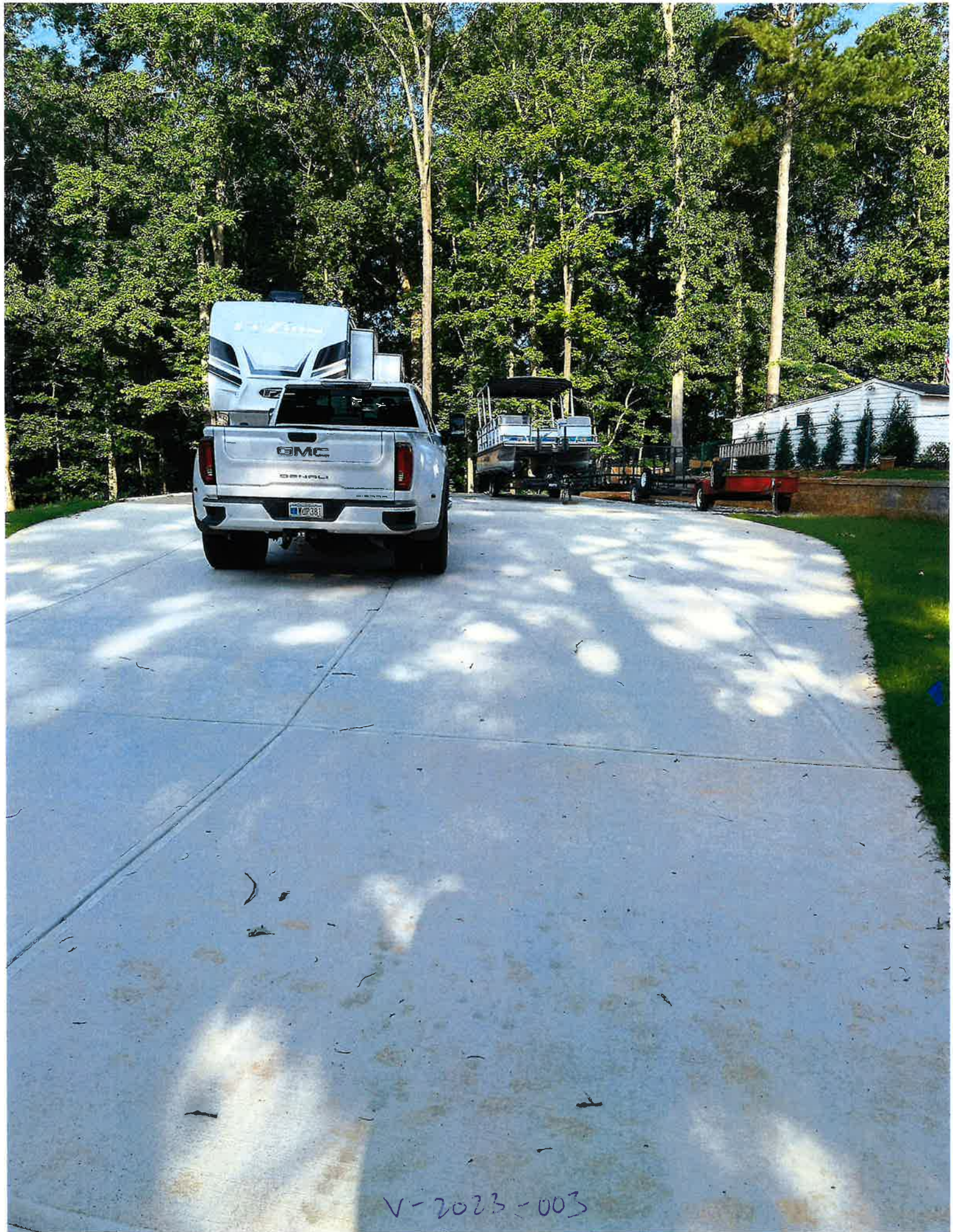
V-2023-003



V-2023-003






V-2023-003

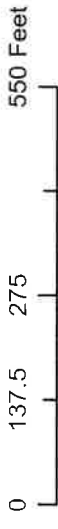


V-2023-003

Location Map V-2023-003

Legend

-  Subject Property
-  City Parcels
-  City Limits



Zoning Map V-2023-003

Legend



Esri Community Maps Contributors: Forsyth County GIS, OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnology, Inc, METI/NASA, USGS, EPA, US Census Bureau, USDA