



City of Cartersville

PLANNING AND DEVELOPMENT

P.O. Box 1390 • 10 North Public Square • Cartersville, Georgia 30120
Telephone: 770-387-5600 • Fax: 770-387-5605 • www.cityofcartersville.org

MEMO

To: BZA
From: Randy Mannino/David Hardegree/Zack Arnold
CC: Keith Lovell
Date: December 28, 2023
Re: File # V24-01

Summary: To allow encroachment into the City's impervious stream bank buffer

Section 1: Project Summary

Variance application by Forestar Group Inc., Mathew Payne, rep., for property located at 252 Belmont Drive and zoned R-10 (Single Family Residential). The property contains approximately 211 acres, which is planned for 330 residential lots known as "Parkside at Carter Grove Plantation".

The applicant wishes to construct an access driveway adjacent to lot 14 to give the adjacent property owner to the east permanent access to their property. The proposed location of this driveway will encroach a total of 948 square feet into the City's 25ft. impervious streambank buffer per the attached site plan. No encroachment is proposed in the twenty-five foot (25ft) State or local vegetative streambank buffer.

The variance request is for the following:

1. To allow the proposed access driveway to encroach into the impervious streambank buffer for approx. 948sf. Sec. 7.5.205(a)

Section 2. Department Comments

Electric Department: Takes no exception

Fibercom: Takes no exception

Fire Department: Takes no exception

Gas Department: Takes no exception

Water Department: Takes no exception

Public Works Department: Public Works conditionally approves V24-01 Variance Request – Parkside Access Buffer Encroachment if the condition below is met:

1. Orange “Snow” fence that is made of 4-foot-high orange plastic fabric fencing stapled in 3 locations to 2x4 treated wood stakes set 6 feet on center to be installed along the 50 undisturbed buffer indicated on plans to outline and protect the 50-foot undisturbed buffer area.

Section 3. Public Comments Received by Staff

Sue Wadsworth – 93 Douthit Bridge Road – Comments regarding components of the project’s stormwater management system that are unrelated to this specific variance request. Comments received on 12-19-2023.

Section 4. Variance Justification

Please review the following findings, as stated in the Development Regulations, that are to be utilized in determining justification for approval or denial of variance request(s).

A. Sec. 7.5-205. - Land development requirements.

(a) *Buffer and setback requirements.* All land development activity subject to this article shall meet the following requirements:

- (1) An undisturbed natural vegetative buffer shall be maintained for fifty (50) feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank.
- (2) An additional setback shall be maintained for twenty-five (25) feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.
- (3) No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.

(b) *Variance procedures.* Variances from the above buffer and setback requirements may be granted in accordance with the following provisions:

- (1) Where a parcel was platted prior to the effective date of this article, and its shape, topography or other existing physical condition prevents land development consistent with this article, and the City of Cartersville finds and determines that the requirements of this article prohibit the otherwise lawful use of the property by the

owner, the board of appeals (BA) of the City of Cartersville may grant a variance from the buffer and setback requirements hereunder, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel.

(2) Except as provided above, the BA of the City of Cartersville shall grant no variance from any provision of this article without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the BA. The City of Cartersville shall give public notice of each such public hearing in a newspaper of general circulation within the city. The City of Cartersville shall require that the applicant post a sign giving notice of the proposed variance and the public hearing. The sign shall be of a size and posted in such a location on the property as to be clearly visible from the primary adjacent road right-of-way.

Variations will be considered only in the following cases:

- a. When a property's shape, topography or other physical conditions existing at the time of the adoption of this article prevents land development unless a buffer variance is granted.
- b. Unusual circumstances when strict adherence to the minimal buffer requirements in the ordinance would create an extreme hardship.

Variations will not be considered when, following adoption of this article, actions of any property owner of a given property have created conditions of a hardship on that property.

(3) At a minimum, a variance request shall include the following information:

- a. A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey;
- b. A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
- c. A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;
- d. Documentation of unusual hardship should the buffer be maintained;
- e. At least one (1) alternative plan, which does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible;
- f. A calculation of the total area and length of the proposed intrusion;
- g. A stormwater management site plan, if applicable; and
- h. Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.

(4) The following factors will be considered in determining whether to issue a variance:

- a. The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
- b. The locations of all streams on the property, including along property boundaries;
- c. The location and extent of the proposed buffer or setback intrusion; and
- d. Whether alternative designs are possible which require less intrusion or no intrusion;
- e. The long-term and construction water-quality impacts of the proposed variance;
- f. Whether issuance of the variance is at least as protective of natural resources and the environment.

(Ord. No. 52-06, 8-3-06)

Sec. 21.3. - Powers and duties of the board of zoning appeals.

The board of zoning appeals shall have the following powers and duties:

- 21.3.1. *Appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this chapter. Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, board, or agency of the City of Cartersville affected by any decision of the zoning administrator. Such appeal shall be taken within thirty (30) days of said decision by filing with the zoning administrator a written notice of appeal specifying the grounds thereof. Decisions on appeals shall be issued in writing within ten (10) business days of the hearing on the appeal.
- 21.3.2. *Continuance of a nonconforming use.* The board of zoning appeals may allow a nonconforming use to be reestablished after discontinuance for twelve (12) consecutive months. The procedure for the request shall be the same as if it was a variance. If it is deemed by the board of zoning appeals that one (1) or more of the following apply, the board may grant said request.
 - A. The design, construction, and character of the building is not suitable for uses permitted in the district in which the nonconforming use is situated; and
 - B. Undue hardships to the property owner would result in not allowing the building to be reopened for a nonconforming use; and
 - C. Adjacent property would not be unduly damaged by such use of the building; and
 - D. The use is to be identical or similar to the prior nonconforming use of the building.
- 21.3.3. *Variations.* The board of appeals has the power to hear requests for variances from the provisions of this chapter. Variance may be granted only if the board finds all of the following to exist:

- A. That one (1) of the following is true, through no action or fault of the property owner or predecessor:
 - 1. The property is exceptionally narrow, shallow or unusually shaped;
 - 2. The property contains exceptional topographic conditions;
 - 3. The property contains other extraordinary or exceptional conditions; or
 - 4. There are existing other extraordinary or exceptional circumstances; and
- B. That the strict application of the requirements of this chapter would result in practical difficulties to, or undue hardship upon, the owner of this property; and
- C. That the requested variance relief may be granted without substantially impairing the intent and purpose of this chapter.

Variance decisions shall be issued in writing within ten (10) business days of the hearing.

21.3.4. *Conditions.* In granting a variance, the board of appeals may attach such conditions regarding the location, character and other features of the proposed building, structure, property, development standards or use as it may deem advisable so that the purpose of this chapter will be served, public safety and welfare secured and substantial justice done.

21.3.5. *Limitations on variances; improper variance requests.* Variances cannot be given to totally remove a requirement or to exempt a property or applicant entirely from a requirement. If a variance is being sought that is, in the judgment of the zoning administrator, a request that would constitute a text amendment, then the application shall not be accepted. The applicant shall instead be directed to file for a text amendment. Furthermore, the board of appeals shall not be authorized to grant a density variance or a use variance to permit a use in a district in which the use is prohibited. A variance application shall not be accepted if the variance seeks something that cannot be varied. A variance application shall not be accepted if the variance is contradictory to the ordinance.

21.3.6. *Self-inflicted hardship.* The board shall not grant variances when the hardship was created by the property owner or his predecessor, and shall not grant hardship variances based on shape or topography for lots of record not existing prior to November 7, 1996. Configuring a subdivision to create lots that are difficult to build is an example of a hardship created by the property owner or predecessor, that does not justify a variance.

Sections 21.3.7, *Place of worship*, and 21.3.8, *Group homes*, omitted. *Not applicable.*

STANDARDS FOR EXERCISE OF ZONING POWERS.

- 1. *The existing land uses and zoning of nearby property.*
The surrounding properties consist of residential zoning (City) and agricultural zoning (Bartow County). All are used for residential purposes.

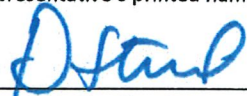

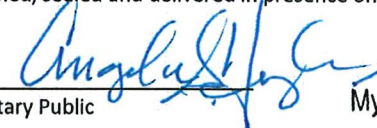
2. *The suitability of the subject property for the zoned purposes.*
The property is suitable for the zoned purposes.
3. *The relative gain to the public, as compared to the hardship imposed upon the individual property owner.*
The public gain would be minimal. A variance approval would allow the property owner to provide permanent access to the adjacent property.
4. *Whether the subject property has a reasonable economic use as currently zoned.*
The property has a reasonable economic use as currently zoned.
5. *Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.*
The proposed variance would have no effect on the use of the subject or adjacent properties.
6. *Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property.*
The proposed variance will not have an adverse effect on the existing use or usability of adjacent or nearby property.
7. *Whether the zoning proposal is in conformity with the current future development plan and community agenda of the comprehensive land use plan as currently adopted or amended in the future.*
The proposed variance has no impact on the Future Development Plan or Comprehensive Plan.
8. *Whether the zoning proposal will result in a use which will or could adversely affect the environment, including but not limited to drainage, wetlands, groundwater recharge areas, endangered wildlife habitats, soil erosion and sedimentation, floodplain, air quality, and water quality and quantity.*
A negative environmental impact is expected to be minimal due to the landscape plan that has been submitted to compensate for the buffer encroachment.
9. *Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.*
This project will not affect utilities or local infrastructure.
10. *Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.*
There are no known conditions.

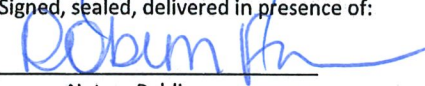
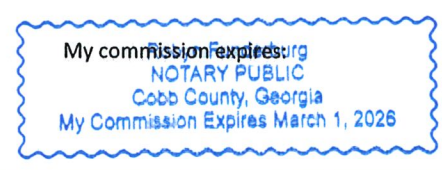
City of Cartersville
Application for Variance
Board of Zoning Appeals

Hearing Date: 1-11-2024 5:30pm

Application Number: V24-01

Date Received: _____

Applicant Forestar, Southeast Division, Matthew Payne Office Phone 770.361.6427
(printed name)
 Address 3330 Cumberland Blvd, Suite 275 Mobile/ Other Phone 770.361.6427
 City Atlanta State GA Zip 30339 Email matthewpayne@forestar.com
 David Stuart Phone (Rep) 678.437.1755
 Representative's printed name (if other than applicant) Email (Rep) dstuart@gaskinslecrow.com
 Representative Signature  Applicant Signature
 Signed, sealed and delivered in presence of: Angela S Hughes My commission expires:
 NOTARY PUBLIC
 Paulding County, GEORGIA
 My Commission Expires 09/28/2027
 Notary Public

* Titleholder ForeStar Group INC Phone 770-361-6427
(titleholder's printed name)
 Address 3330 Cumberland Blvd SE Email Matthew Payne @ ForeStar . com
 Signature 
 Signed, sealed, delivered in presence of:

 Notary Public


Present Zoning District R10 Parcel ID No. C107-0001-042
 Acreage n/a Land Lot(s) 1096, 1097, 1136, 1137 District(s) _____ Section(s) 3rd
 Location of Property: approximately located at Lot 14, Belmont Drive, address 252 Belmont Drive
(street address, nearest intersections, etc.) Article VIII, Section 7.5.205 (a)
 Zoning Section(s) for which a variance is being requested:
 Summary Description of Variance Request: allowance for driveway to encroach into a portion of the 75-foot impervious buffer.

 (Additional detail can be provided on Justification Letter)

* Attach additional notarized signatures as needed on separate application pages.

CONDITIONS VERIFICATION

List the Article(s), Section(s) and Subsection(s) of the Zoning Ordinance for which a variance is requested.

Article VIII Section 7.5.205 Subsection (a)
Article _____ Section _____ Subsection _____
Article _____ Section _____ Subsection _____

The Board of Zoning Appeals was established to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning administrator in the enforcement of the zoning ordinance. The Board has the power to hear requests for variances from the provisions of the zoning ordinance, Article XXI APPEALS. See Section 21.3 for additional information pertaining to conditions.

To assist staff and the Board of Zoning Appeals in the analysis of the variance application, please check all of the following conditions that apply to your variance request:

1. x The property is exceptionally narrow, shallow or unusually shaped,
2. x The property contains exceptional topographic conditions,
3. x The property contains other extraordinary or exceptional conditions; and
 (stream)
4. _____ There are other existing extraordinary or exceptional circumstances; and
5. x The strict application of the requirements of this ordinance would result in practical difficulties to, or undue hardship upon, the owner of this property;
6. x The requested variance relief may be granted without substantially impairing the intent and purpose of this ordinance

Additional Comments by Applicant: _____



November 13, 2023

Mr. Zack Arnold
Assistant City Planner
City of Cartersville
Planning and Development Department
2nd Floor, City Hall
10 N. Public Square
Cartersville, GA 30120
Phone: 770-607-3947

Subject: Buffer Encroachment Variance Application
Parkside at Carter Grove, Mr. Tim Wilson Driveway Buffer Encroachment

Dear Mr. Arnold:

A driveway to access property owned by Mr. Tim Wilson is being provided off Belmont Drive within the Parkside at Carter Grove Subdivision. The location of the driveway is approximately 252 Belmont Drive, SE, Cartersville, GA 30120. In order to provide access to Mr. Dixon's property, a portion of the driveway encroaches into the 75-foot impervious buffer.

To address this encroachment, a variance application and supporting documentation is required per the City's variance procedure. The required documents outlined in Article VIII.7.5-205.(3)a-h are provided herein. Also, we address the required information specific to each item with this letter. Below is a list of each item required by the variance, conditions a – h, with the applicant's response to each item:

- a. *A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey;*

Applicant Response: A map showing the location of the site and the features listed above is provided below (location Map) and in Exhibit A, Site Map, attached to this letter.

- b. *A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;*

Applicant Response: A map showing the features identified above is provided in Exhibit A, Site Map and Exhibit B, Landscape Plan.

- c. *A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;*

Applicant Response: The information outlined in Item c is provided in Exhibit B, Landscape Plan.

d. Documentation of unusual hardship should the buffer be maintained.

Applicant Response: Should the buffer be maintained, there would be no clear path for a driveway to Mr. Tim Wilson's property. Access would be significantly affected if not prohibited.

e. At least one (1) alternative plan, which does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible;

Applicant Response: Give the location of the stream buffers, the topography and lot layout, there is no practical alternative to the buffer encroachment.

f. A calculation of the total area and length of the proposed intrusion;

Applicant Response: The total area and length of the intrusion is provided on Exhibit B, Landscape Plan.

g. A stormwater management site plan, if applicable; and

Applicant Response: A storm water management plan is not applicable in this instance, given the nature of the private driveway.

h. Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.

Applicant Response: Mitigation in the form of enhanced landscaping including fencing, planting and placement of mulch provides the mitigation for the encroachment. The mitigation is shown in Exhibit B, Landscape Plan.

We believe this letter, completed application and supporting documentation provides the information needed to process and approve the request. If you have any questions, please contact me at (678) 437-1755.

Sincerely,
Gaskins LeCraw, Inc.

A handwritten signature in blue ink that reads 'D Stuart'.

David Stuart, P.E.
Director of Engineering, West

Location Map

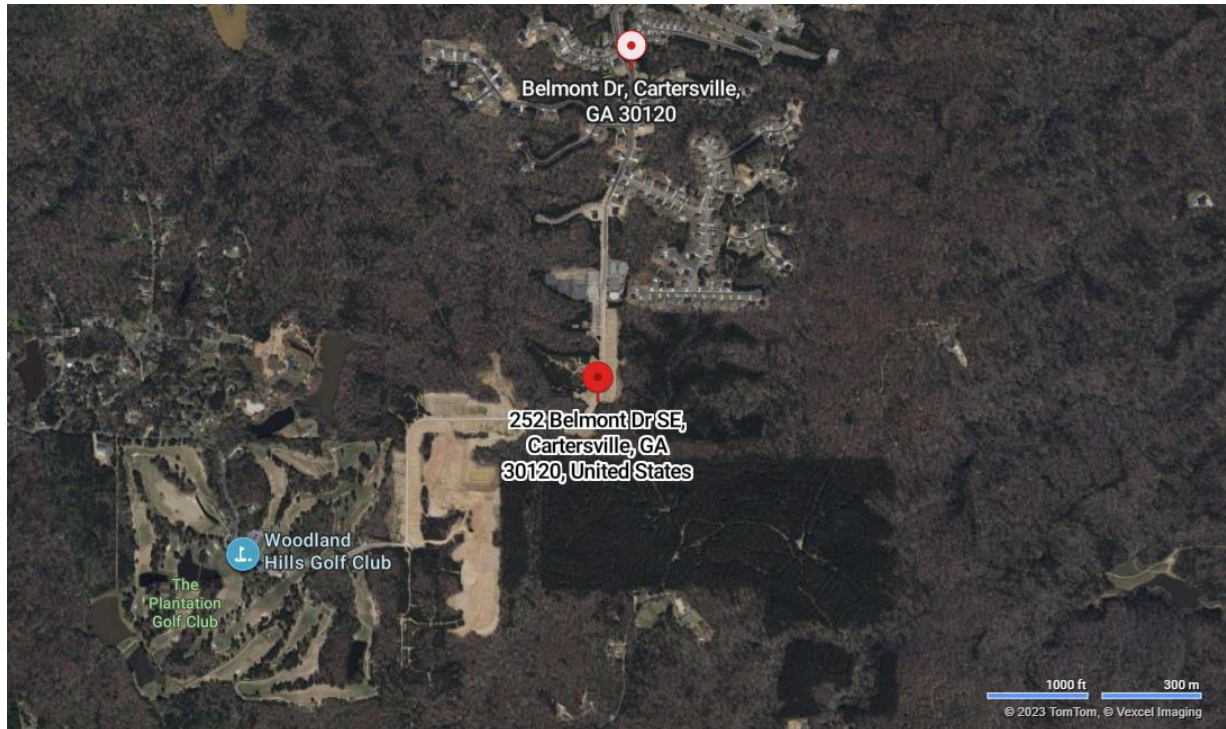
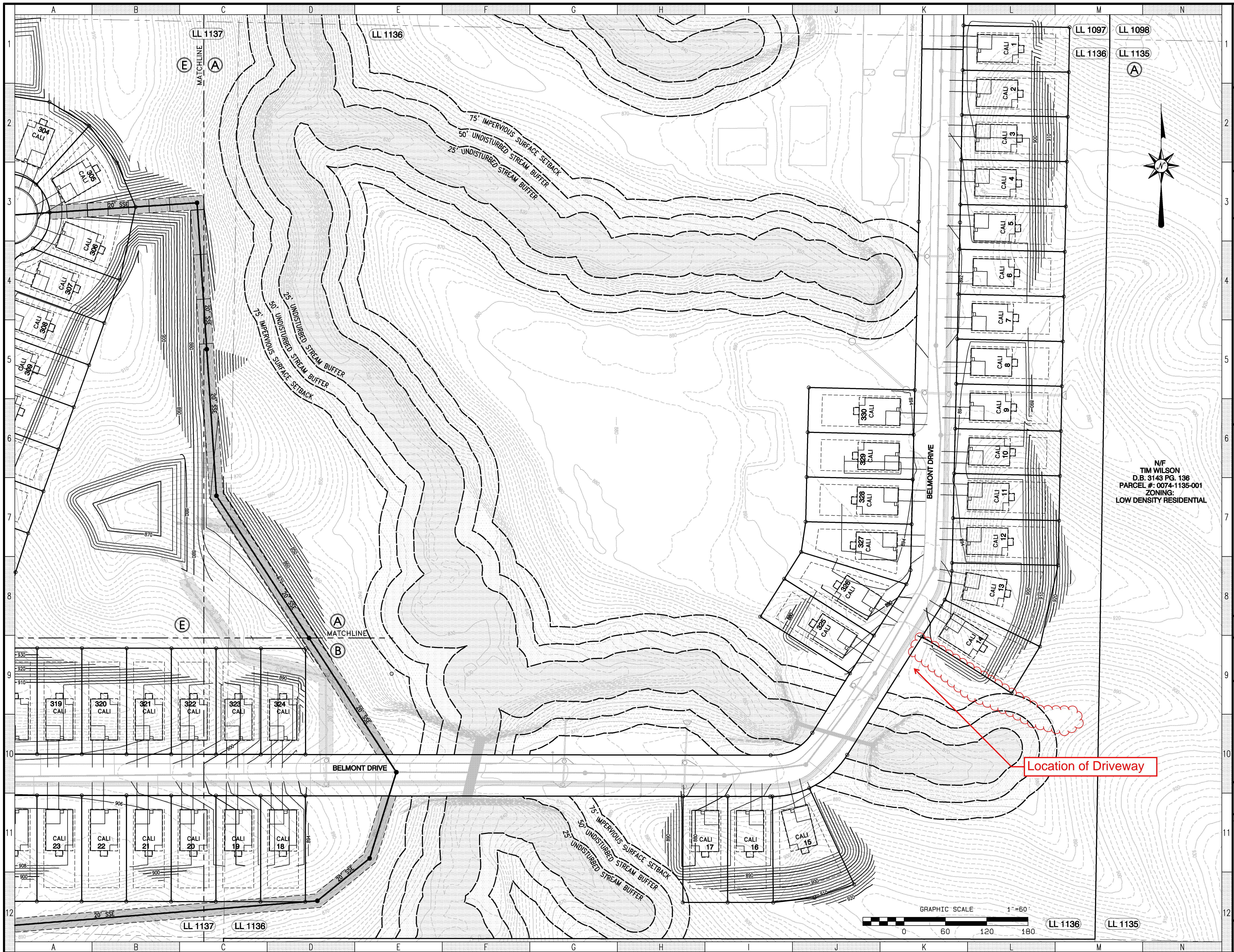


Exhibit A – Site Map



N/F
 TIM WILSON
 D.B. 3143 PG. 136
 PARCEL #: 0074-1135-001
 ZONING:
 LOW DENSITY RESIDENTIAL

Carters Grove Driveway Encroachment Exhibit A - Site Map

Exhibit B – Landscape Plan

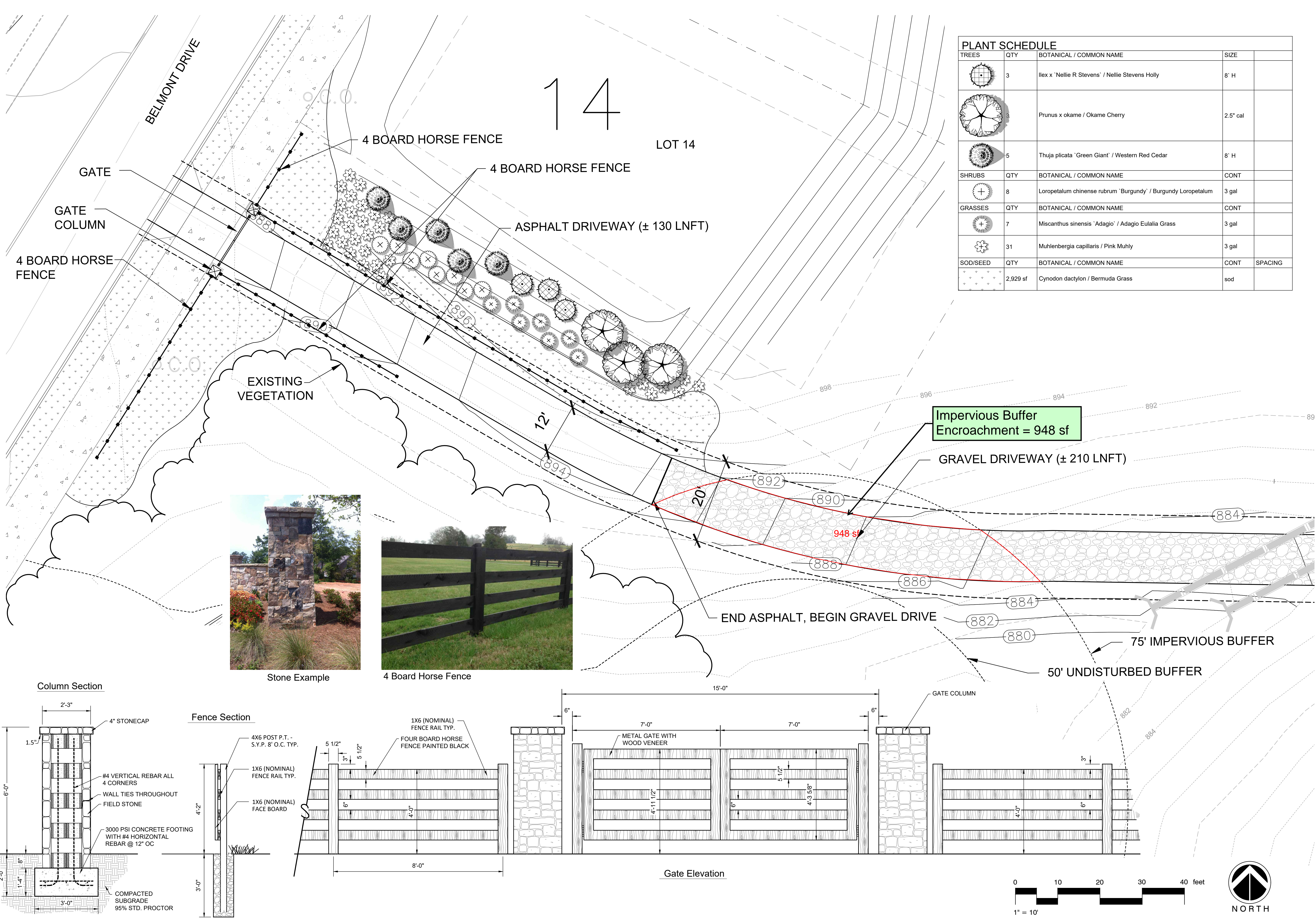


Date	Description
06/20/2022	Entrance Plan
08/03/2022	Client Comments
08/22/2022	Client Comments

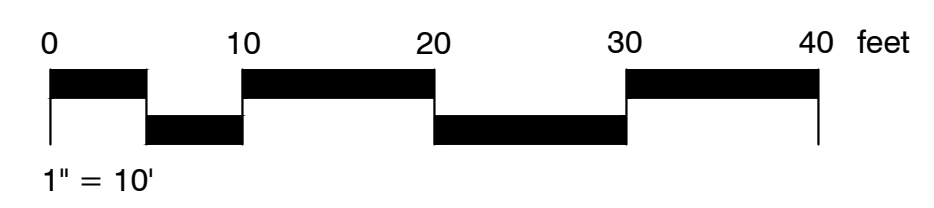
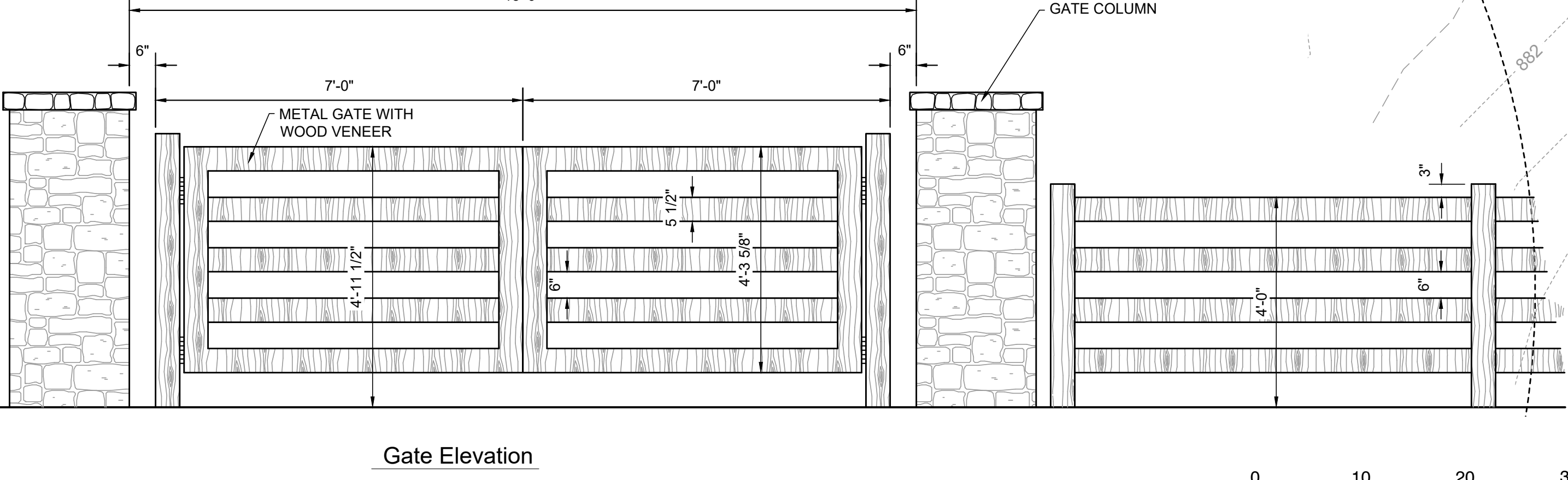
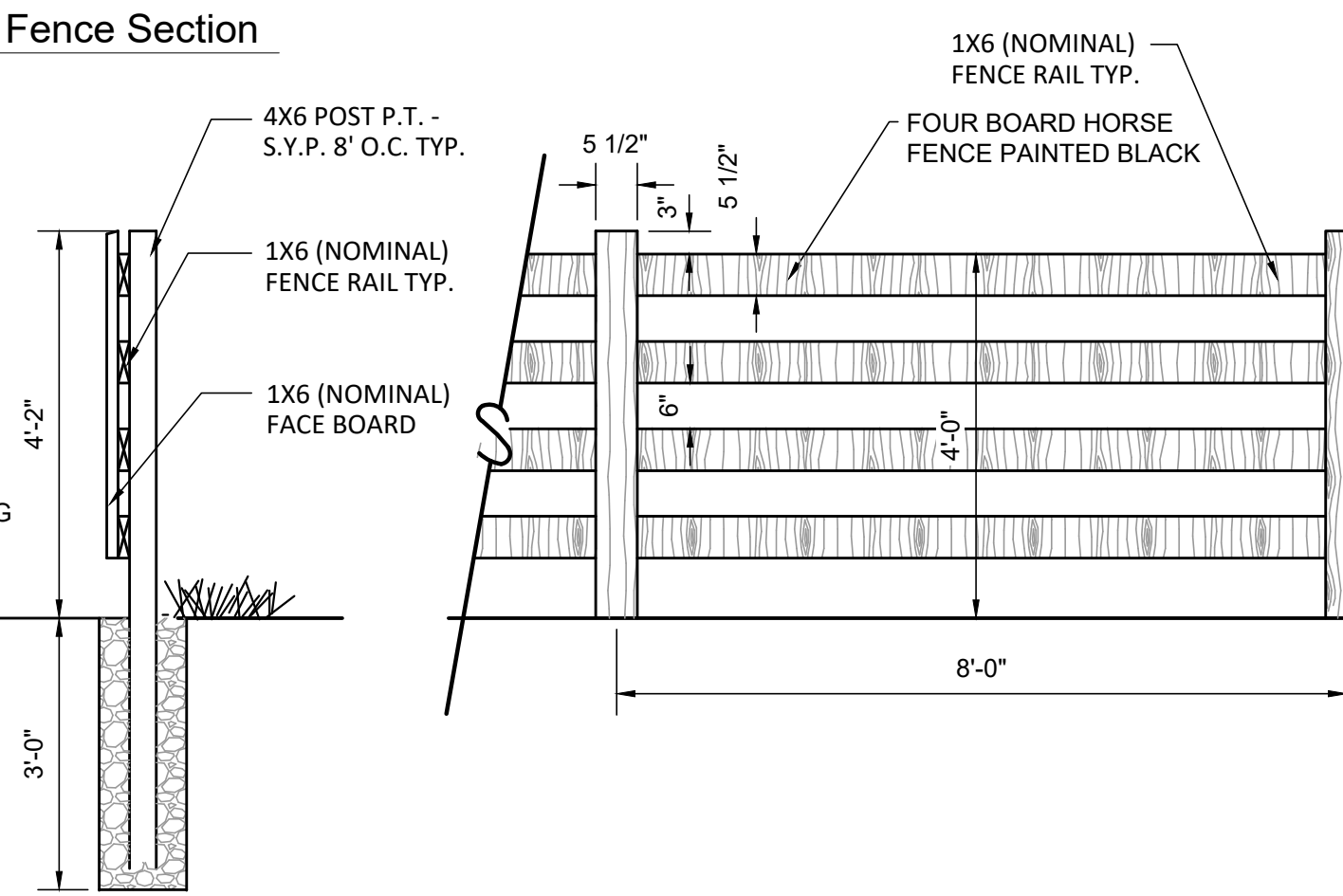
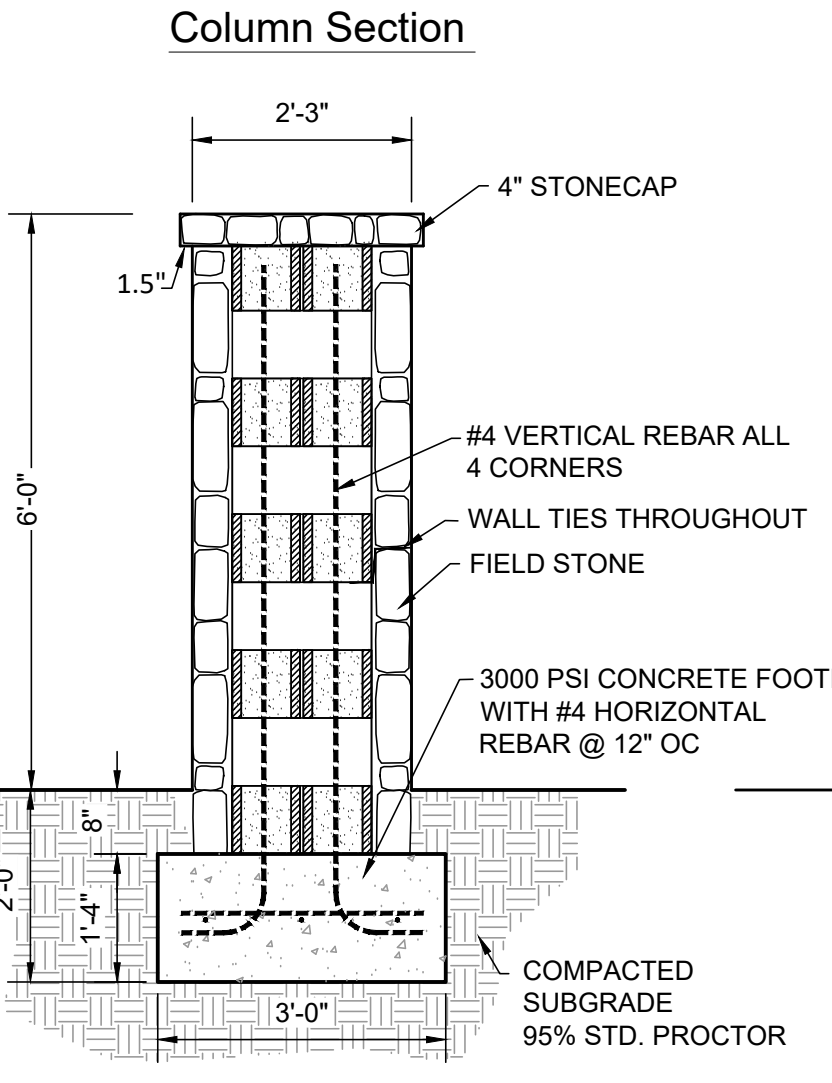
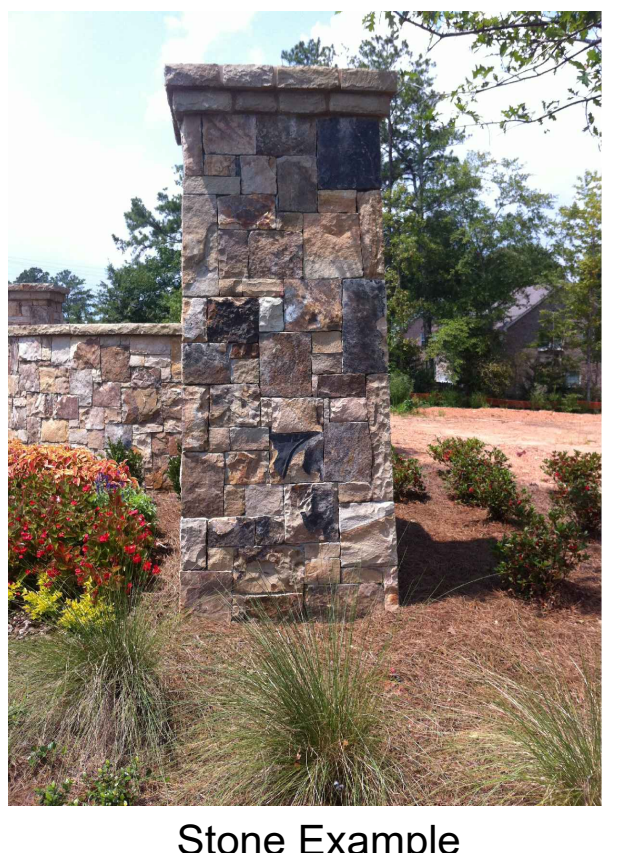
CARTERS GROVE - Cartersville, GA
 Prepared for: Forestar
 3330 Cumberland Parkway, Suite 275
 Atlanta, Georgia, 30339
 770-272-2141

Entry Plan

L1.0



PLANT SCHEDULE				
TREES	QTY	BOTANICAL / COMMON NAME	SIZE	
	3	Ilex x 'Nellie R Stevens' / Nellie Stevens Holly	8' H	
		Prunus x okame / Okame Cherry	2.5" cal	
	5	Thuja plicata 'Green Giant' / Western Red Cedar	8' H	
SHRUBS	QTY	BOTANICAL / COMMON NAME	CONT	
	8	Loropetalum chinense rubrum 'Burgundy' / Burgundy Loropetalum	3 gal	
GRASSES	QTY	BOTANICAL / COMMON NAME	CONT	
	7	Miscanthus sinensis 'Adagio' / Adagio Eulalia Grass	3 gal	
	31	Muhlenbergia capillaris / Pink Muhly	3 gal	
SOD/SEED	QTY	BOTANICAL / COMMON NAME	CONT	SPACING
	2,929 sf	Cynodon dactylon / Bermuda Grass	sod	



Dec 15, 2023 at 13:48:48
240 Belmont Dr SE
Cartersville GA 30120
United States



CITY OF CARTERSVILLE
VARIANCE NOTICE
CASE NO. V24-01
APPLICATION HAS BEEN MADE
TO THE CITY OF CARTERSVILLE
BOARD OF ZONING APPEALS
FOR VARIANCE ON THIS
PROPERTY.
A PUBLIC HEARING WILL BE
HELD AT CITY HALL
10 NORTH PUBLIC SQUARE
AT 5:30 P.M. ON 1-11-2024
FOR ADDITIONAL INFORMATION
CONTACT THE DEPARTMENT OF
DEVELOPMENT AT (770) 327-4020