



# 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: April 4, 2023  
Re: File # V23-08

**Summary: To allow Accessory Structures (Trash Compactor and Loading Dock) in the front yard of a commercial site.**

### **Section 1: Project Summary**

Variance application by Village Hill Eckstein, LLC for property located at 10 Charlie Harper Drive, zoned G-C (General Commercial). Setbacks are Front- 20ft and Side- 10ft. Said property contains approximately 3.04 acres.

The applicant has submitted site plans for two (2) 17,280 S.F. warehouses on the property. City Development Regulations require the site to have a dumpster pad. The proposed layout of the site puts the dumpster pad in the front yard along Charlie Harper Drive. The site also purposes a loading dock to service the warehouses. This is also located in the front yard along Charlie Harper Drive. The zoning ordinance for commercial accessory structures, Sec. 4.9, requires accessory structures to be installed within a side or rear yard while complying with the setbacks for the district.

The proposed location of the dumpster pad and loading dock does not encroach into the Charlie Harper Drive. right-of-way, and is behind the 20ft front yard setback.

**The variance request is for the following and per the submitted site plan:**

1. To allow Accessory Structures (Trash Compactor and Loading Dock) in the front yard of a commercial site (Sec. 4.16).

## **Section 2. Department Comments**

**Electric Department:** The Electric System takes no exception.

**Fibercom:** Takes No Exception.

**Fire Department:** No Comments Received.

**Gas Department:** Takes No Exception.

**Public Works Department:** Takes No Exception.

**Water Department:** Takes No Exception.

## **Section 3. Public Comments Received by Staff**

None received as of 4/4/2023.

## **Section 4. Variance Justification:**

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

### **Sec. 4.16. - Accessory uses, buildings or structures.**

- A. Accessory uses, buildings, or structures on residential lots shall be located within a rear yard only and be a minimum of five (5) feet from all property lines which do not abut a street right-of-way. A detached garage or carport may be allowed in a side yard of a residential lot and, if so placed, shall comply with the side yard setback requirements of the district. In the case of a residential corner lot, in which a lot abuts or adjoins the intersection of two (2) or more streets other than an alley, an accessory structure may be allowed in a side yard and, if so placed, shall comply with the side yard setback requirements of the district.
- B. Accessory uses, buildings, or structures on nonresidential lots shall not be allowed in the front yard and must comply with side and rear yard requirements established for the zoning district in which such accessory buildings or uses are located. The following accessory uses, buildings, or structures on nonresidential lots may be allowed in a front yard of a nonresidential lot and, if so placed, shall comply with the front yard setback requirements of the district: ATMs (automated teller machines) and service stations.
- C. All accessory uses, buildings, or structures in all zoning districts shall be subordinate to the principal structure. An accessory building's floor area shall be no larger than fifty (50) percent of the principal structure floor area. Accessory structures shall not exceed the height of the most prevalent roof top of the principal building on the property.

- D. Outdoor play structures or play sets in commercial districts, commonly associated with fast-food eating establishments, shall be located in a side or rear yard only and shall comply with the required yard setbacks of the district.
- E. All site plans for multifamily, commercial, and industrial buildings shall include a solid waste container pad that has easy and safe access for a front-end loader. Solid waste containers shall be screened from all streets and adjoining properties with a solid, opaque fence or wall which shall be a minimum of six (6) inches taller than the container.
- F. An amenity, as defined by this chapter, shall not be considered an accessory structure.

**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 variations 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.

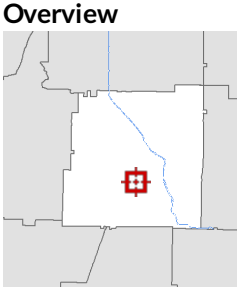
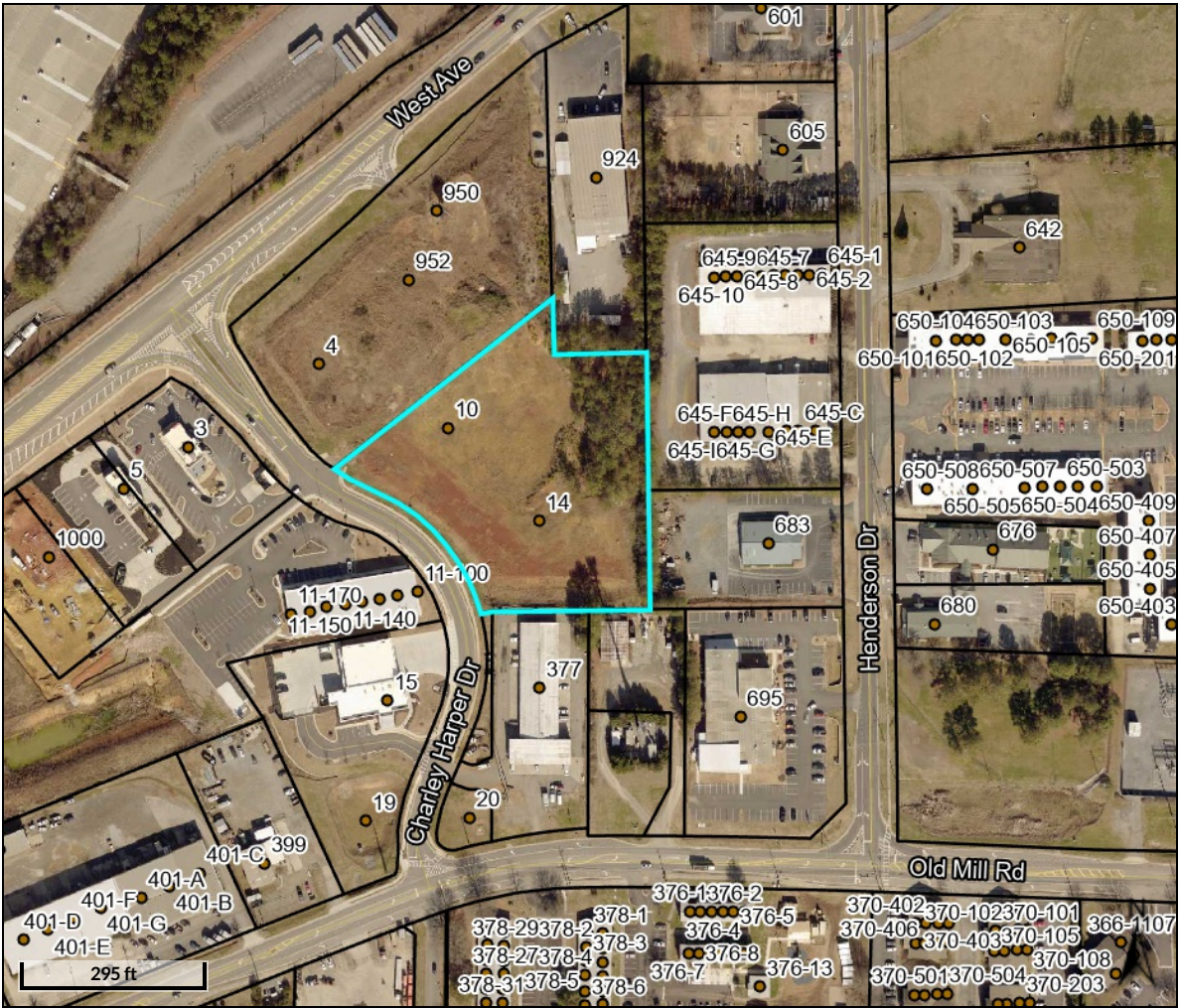
Variance decisions shall be issued in writing within ten (10) business days of the hearing.

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.*



- Legend**
- Parcels
  - Structural Numbers**
  - Abandoned or Inactive
  - Active
  - Proposed
  - <all other values>
  - Roads

<b>Parcel ID</b>	C022-0004-030	<b>Alternate ID</b>	46676	<b>Owner Address</b>	VILLAGE HILL ECKSTEIN LLC
<b>Sec/Twp/Rng</b>	n/a	<b>Class</b>	Commercial		60 BROAD STREET STE 3503
<b>Property Address</b>	CHARLEY HARPER DR	<b>Acres</b>	3.04		NEW YORK, NY 10004
<b>District</b>	Cartersville				
<b>Brief Tax Description</b>	Lot 7				

(Note: Not to be used on legal documents)

Date created: 4/5/2023  
 Last Data Uploaded: 4/4/2023 10:27:36 PM

Developed by 

**City of Cartersville**  
**Application for Variance**  
Board of Zoning Appeals

Hearing Date: 4/13/23 5:30pm

Application Number: V23-08

Date Received: 2/27/23

Applicant <u>Village Hill Eckstein, LLC</u> <small>(printed name)</small>	Office Phone <u>770-386-1400</u>
Address <u>P.O. Box 606</u>	Mobile/ Other Phone _____
City <u>Cartersville</u> State <u>GA</u> Zip <u>30120</u> Email <u>mark@handrealty.net</u>	
<u>Mark Harris</u> Representative's printed name (if other than applicant)	Phone (Rep) <u>770-386-1400</u>
 Representative Signature	Email (Rep) <u>mark@handrealty.net</u>
Signed, sealed and delivered in presence of: _____	My commission expires: _____
_____ Notary Public	

* Titleholder <u>Village Hill Eckstein, LLC</u> <small>(titleholder's printed name)</small>	Phone <u>770-386-1400</u>
Address <u>P.O. Box 606, Cartersville, GA 30120</u>	Email <u>mark@handrealty.net</u>
Signature _____	
Signed, sealed, delivered in presence of: _____	My commission expires: _____
_____ Notary Public	

Present Zoning District <u>G-C</u>	Parcel ID No. <u>C022-0004-030</u>
Acreage <u>3.50 acres</u> Land Lot(s) <u>593 &amp; 594</u>	District(s) <u>4th</u> Section(s) <u>3rd</u>
Location of Property: <u>10 Charlie Harper Drive</u> <small>(street address, nearest intersections, etc.)</small>	
Zoning Section(s) for which a variance is being requested: <u>Article IX. Sec. 4.9</u>	
Summary Description of Variance Request: <u>place Dumpster pad area on front side of Charlie Harper Drive.</u>	
_____ <small>(Additional detail can be provided on Justification Letter)</small>	

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


City of Cartersville  
Application for Variance  
Board of Zoning Appeals

Hearing Date: 4/13/23 5:30pm

Application Number: V23-08

Date Received: 2/28/23

Applicant <u>Village Hill Eckstein, LLC</u> (printed name)	Office Phone <u>770-386-1400</u>
Address <u>P.O. Box 606</u>	Mobile/ Other Phone _____
City <u>Cartersville</u> State <u>GA</u> Zip <u>30120</u> Email <u>mark@hndrealty.net</u>	
<u>Mark Harris</u> Representative's printed name (if other than applicant)	Phone (Rep) <u>770-386-1400</u>
 Representative Signature	Email (Rep) <u>mark@hndrealty.net</u>
Signed, sealed and delivered in presence of: <u>Leah Deutsch</u> Notary Public	My commission expires: <u>July 20, 2023</u> LEAH DEUTSCH NOTARY PUBLIC, State of New York No. 01DE6328042 Qualified in Kings County Commission Expires July 20, 2023

* Titleholder <u>Village Hill Eckstein, LLC</u> (titleholder's printed name)	Phone <u>770-386-1400</u>
Address <u>P.O. Box 606, Cartersville, GA 30120</u>	Email <u>mark@hndrealty.net</u>
Signature 	
Signed, sealed, delivered in presence of: <u>Leah Deutsch</u> Notary Public	My commission expires: <u>July 20, 2023</u> LEAH DEUTSCH NOTARY PUBLIC, State of New York No. 01DE6328042 Qualified in Kings County Commission Expires July 20, 2023

Present Zoning District <u>G-C</u>	Parcel ID No. <u>C022-0004-030</u>
Acreage <u>3.50 acres</u> Land Lot(s) <u>593 &amp; 594</u>	District(s) <u>4th</u> Section(s) <u>3rd</u>
Location of Property: <u>Charlie Harper Drive</u> (street address, nearest intersections, etc.)	
Zoning Section(s) for which a variance is being requested: _____	Article IX, Sec. 4.9
Summary Description of Variance Request: <u>place Dumpster pad area on front side of Charlie Harper Drive.</u>	
(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 Article IX                      Section Sec. 4                      Subsection 9  
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. \_\_\_\_\_      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; and
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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





**Utilities Protection Center, Inc.**



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**24 Hr Emergency Contact:**

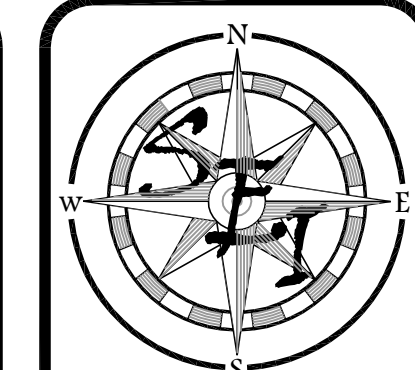
Mark Harris  
770-386-1400

**\*\*\* ELEVATION NOTE \*\*\***

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**\*\*\* CAUTION \*\*\***

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**STEPHENSON  
ENGINEERING, INC.**  
CIVIL ENGINEERING,  
LAND PLANNING &  
DEVELOPMENT CONSULTING  
P.O. BOX 3888  
110 N. TENNESSEE ST., SUITE D  
CARTERSVILLE, GEORGIA 30120  
EMAIL: STEPHENSONENGIN@YAHOO.COM  
PHONE: (770)82-297  
FAX: (770)82-3742

REVISION	DATE



THE HOLDER OF THIS DOCUMENT WAIVES ALL CLAIMS AGAINST STEPHENSON ENGINEERING, INC. OR ANY OF ITS EMPLOYEES FOR ANY UNAUTHORIZED CHANGES OR REUSE OF THIS DOCUMENT. THE DOCUMENT AND INSTRUMENT OF SERVICE OF STEPHENSON ENGINEERING, INC. OR ANY OF ITS EMPLOYEES REMAINS ALL RIGHTS OF COMMON LAW, STATUTE AND COPYRIGHT THEREIN.

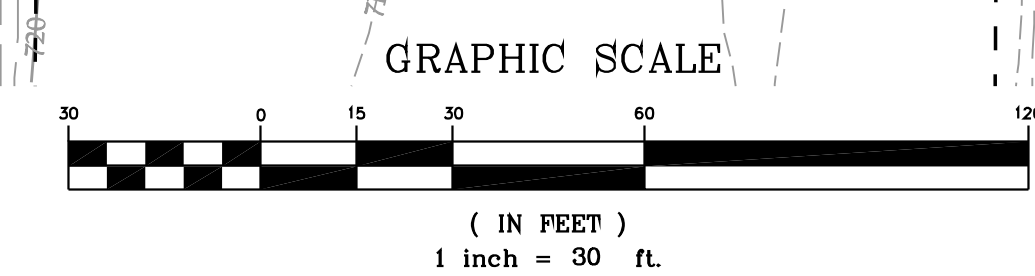
**OWNER/DEVELOPER:**  
Village Hill Eckstein, LLC  
700 Douthitt Ferry Road, Suite 770  
P.O. Box 606 Cartersville, GA 30120  
Mark Harris - 770-386-1400  
email: mark@handtrealty.net

**Office Warehouses**  
Located in Land Lots 593 & 594  
4th District, 3rd Section  
City of Cartersville, Georgia

PROJECT# 22-004 DATE 1-9-23

SHEET TITLE  
**Existing  
Conditions**

SHEET NO.  
**C1.1**



**Utilities Protection Center, Inc.**



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**\*\*\*INSTALLATION OF INFRASTRUCTURE\*\*\***

THE OWNER/DEVELOPER AND CONTRACTOR IS RESPONSIBLE FOR VERIFYING THAT THE INSTALLATION OF ANY AND ALL INFRASTRUCTURE SHALL COMPLY TO ALL CITY OF CARTERSVILLE AND ANY APPLICABLE UTILITY COMPANY, RULES, REGULATIONS AND SPECIFICATIONS. THIS REQUIREMENT APPLIES TO ALL MATERIALS, INSPECTIONS, AND INSTALLATION PROCEDURES REQUIRED FOR THIS PROJECT, BY ANY DEPARTMENT OF THE CITY OF CARTERSVILLE. THIS MAY INCLUDE REQUIREMENTS THAT ARE NOT SHOWN IN SPECIFIC DETAIL ON THIS PLAN, BUT ARE STILL REQUIRED BY THE CITY OF CARTERSVILLE. IF THERE IS ANY QUESTION REGARDING TO THIS REQUIREMENT, THE OWNER/DEVELOPER AND CONTRACTOR MUST CONTACT THE APPROPRIATE DEPARTMENT TO ENSURE ALL WORK IS DONE IN ACCORDANCE WITH ALL SPECIFICATIONS.

**ALL ACCESSIBLE RAMPS AND  
ACCESS AISLES SHALL MEET  
ALL CODES AND ADAAG REGULATIONS.**

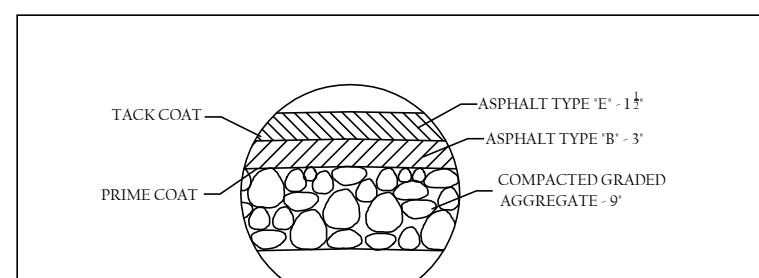
**\*\*\*CARTERSVILLE GAS & UTILITIES NOTE\*\*\***

THERE ARE NO NATURAL GAS SERVICE PROPOSED FOR THIS SITE.

PROPOSED HEAVY DUTY ASPHALT PAVED AREAS

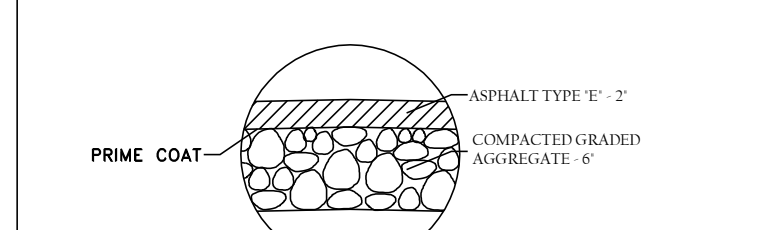
PROPOSED LIGHT DUTY ASPHALT PAVED AREAS

NOTE: SEE CROSS SECTION DETAILS



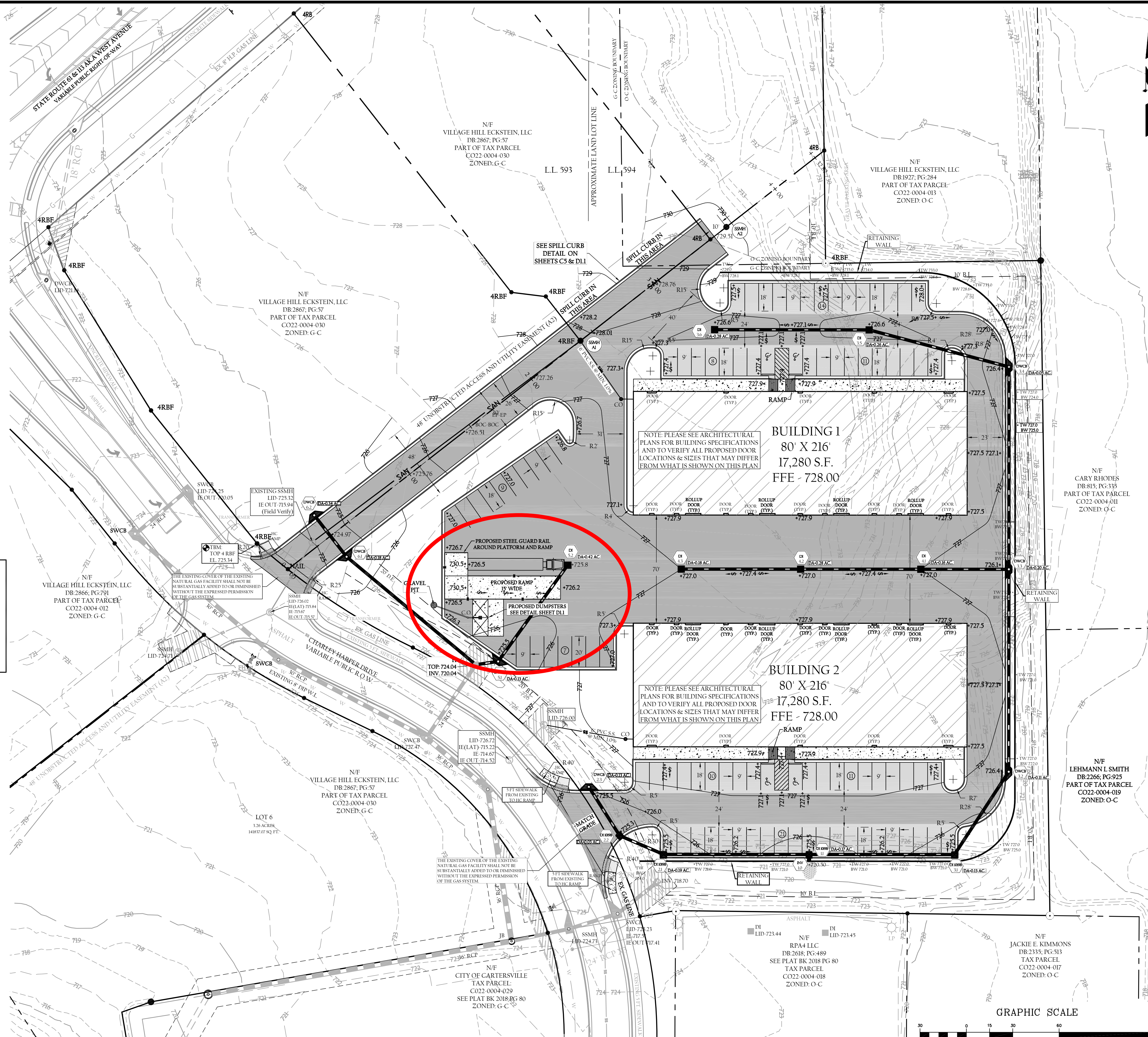
**HEAVY DUTY PAVEMENT DETAIL**

Note to developer: This paving specification was the same one used on Interstate Commerce Park. If any other paving specification is preferred, it must be approved by a Geotechnical Engineer and by the City of Cartersville.

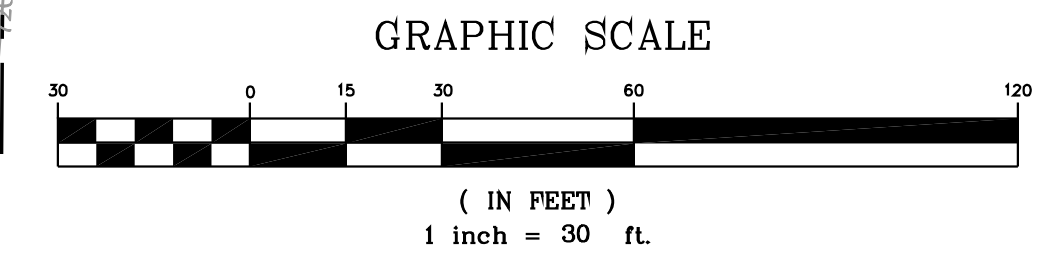


**LIGHT DUTY PAVEMENT DETAIL**

Note to developer: This paving specification was the same one used on Interstate Commerce Park. If any other paving specification is preferred, it must be approved by a Geotechnical Engineer and by the City of Cartersville.



**NOTE: SEE SHEET C3 FOR STRIPING & SIGNAGE LAYOUT**



**STEPHENSON ENGINEERING, INC.**  
CIVIL ENGINEERING, LAND PLANNING & DEVELOPMENT CONSULTING  
70 BOX 3888  
180 N. TENNESSEE ST., SUITE D  
CARTERSVILLE, GEORGIA 3020  
EMAIL: STEPHENSONENG@YAHOO.COM  
PHONE: (770) 82-797  
FAX: (770) 82-3742

REVISION	DATE

**GEORGIA REGISTERED PROFESSIONAL ENGINEER**  
No. 87439  
KEVIN T. STEPHENSON

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700 Douthett Ferry Road, Suite 770  
P.O. Box 606 Cartersville, GA 30120  
Mark Harris - 770-386-1400  
email: mark@handtrealty.net

**Office Warehouses**  
Located in Land Lots 593 & 594  
4th District, 3rd Section  
City of Cartersville, Georgia

PROJECT# 22-004 DATE 1-9-23  
SHEET TITLE Site & Grading Plan  
SHEET NO. C2

Images Taken 3-23-23

