



# 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](http://www.cityofcartersville.org)

## MEMO

**To:** BZA  
**From:** Randy Mannino/David Hardegree/Meredith Ulmer  
**CC:** Keith Lovell  
**Date:** June 8, 2021  
**Re:** File # V21-13 1010 N. Tennessee St. (Los Arcos Restaurant)

**#V21-13: Variance request to reduce the rear yard setback from 20ft to 5ft. for Los Arcos Restaurant.**

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

Variance application by LA MARA, LLC for Los Arcos Restaurant located at 1010 N. Tennessee St, zoned O-C (Office Commercial). Said property contains approximately 0.336 acres.

Los Arcos Restaurant and the property owner of 1010 N. Tennessee St, CAT DADDY CORNER LLC, have a Settlement Agreement requiring the restaurant to split from the 1010 N. Tennessee Street property and separate from the Condominium Association, CAT DADDY CORNER CONDOMINIUM ASSOCIATION, INC. A survey showing how the restaurant will be split from the condominium property is attached. All zoning requirements can be met with the exception of the rear yard setback.

The retail buildings comprising the condominium, including the Los Arcos restaurant building, were constructed in 2005-6. All zoning requirements were met by the condominium site plans.

The lot split does require that the two properties to the south, 1006 and 1008 N. Tennessee Street be rezoned to allow the construction of a new parking lot for Los Arcos. The rezoning application was reviewed and recommended for approval by the planning commission on Tuesday, June 8th.

The existing parking lot shared between Los Arcos and the condominium will stay with the condominium after the restaurant subdivision occurs, but Los Arcos may use the parking lot until the new parking lot is constructed per the Settlement Agreement.

### **The variance request is for the following:**

1. To reduce the rear yard setback from 20ft to 5ft. for the new lot.

## **Section 2. Department Comments**

**Electric Department:** Takes No Exception. Possible utility easement needed.

**Fibercom:** Takes No Exception

**Fire Department:** No comments received

**Gas Department:** Takes No Exception. Utility easement needed.

**Public Works Department:** No comments received

**Water Department:** Takes No Exception.

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

5/20: Anonymous call. General Inquiry.

## **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).*

### **9.5.3. O-C Office Commercial. Development standards.**

A. *Height regulations.* Buildings shall not exceed a height of forty-five (45) feet or three and one-half (3½) stories, whichever is higher.

B. *Front yard setback:* Twenty (20) feet.

C. *Side yard setback:* Ten (10) feet.

D. *Rear yard setback:* Twenty (20) feet.

E. *Minimum lot frontage:* One hundred ten (110) feet adjoining a street.

F. *Minimum lot width at the building line:* One hundred ten (110) feet.

G. *Minimum heated floor area per dwelling unit.*

- *3-bedroom:* Nine hundred (900) square feet.

- *2-bedroom*: Seven hundred fifty (750) square feet.
- *1-bedroom*: Six hundred (600) square feet.
- *Studio/loft (in existing buildings)*: Four hundred fifty (450) square feet.

H. *Minimum buffer requirements*. In addition to required setbacks, a minimum twenty-foot wide buffer, five (5) feet of which can be within required setback, shall be required along all property lines which abut a residential district or use to provide a visual screen in accordance with [section 4.17](#) of this chapter.

I. *Accessory structure requirements*. See [section 4.9](#) of this chapter.

J. *[Metal panel exterior]* A metal panel exterior finish product shall not be allowed on metal buildings exceeding one hundred fifty (150) square feet in gross floor area constructed or placed on lots within the O-C district with the exception that such materials may be used if finished with a product consisting of brick, stone, or hard-coat stucco.

K. *[Air conditioning units and HVAC systems]* Air conditioning units and HVAC systems shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, or landscaping on multifamily and nonresidential properties.

L. *[Gable or hip roofs]* Gable or hip roofs shall have a minimum roof pitch of 6/12. Both gable and hip roofs shall provide overhanging eaves on all sides that extend a minimum of one (1) foot beyond the building wall.

M. *[Front building facade]* The front building facade of all principal buildings shall be oriented toward street fronts or adjacent arterial street fronts.

9.5.4. *Other regulations*. The headings below contain additional, but not necessarily all, provisions applicable to the O-C district.

- City of Cartersville Landscaping Ordinance.
- City of Cartersville Sign Ordinance.

(Ord. No. 01-13, § 10, 1-3-13; Ord. No. 02-18, § 4, 1-18-18; Ord. No. 34A-18, § 4, 12-6-18)

### **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. *Variances.* 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.

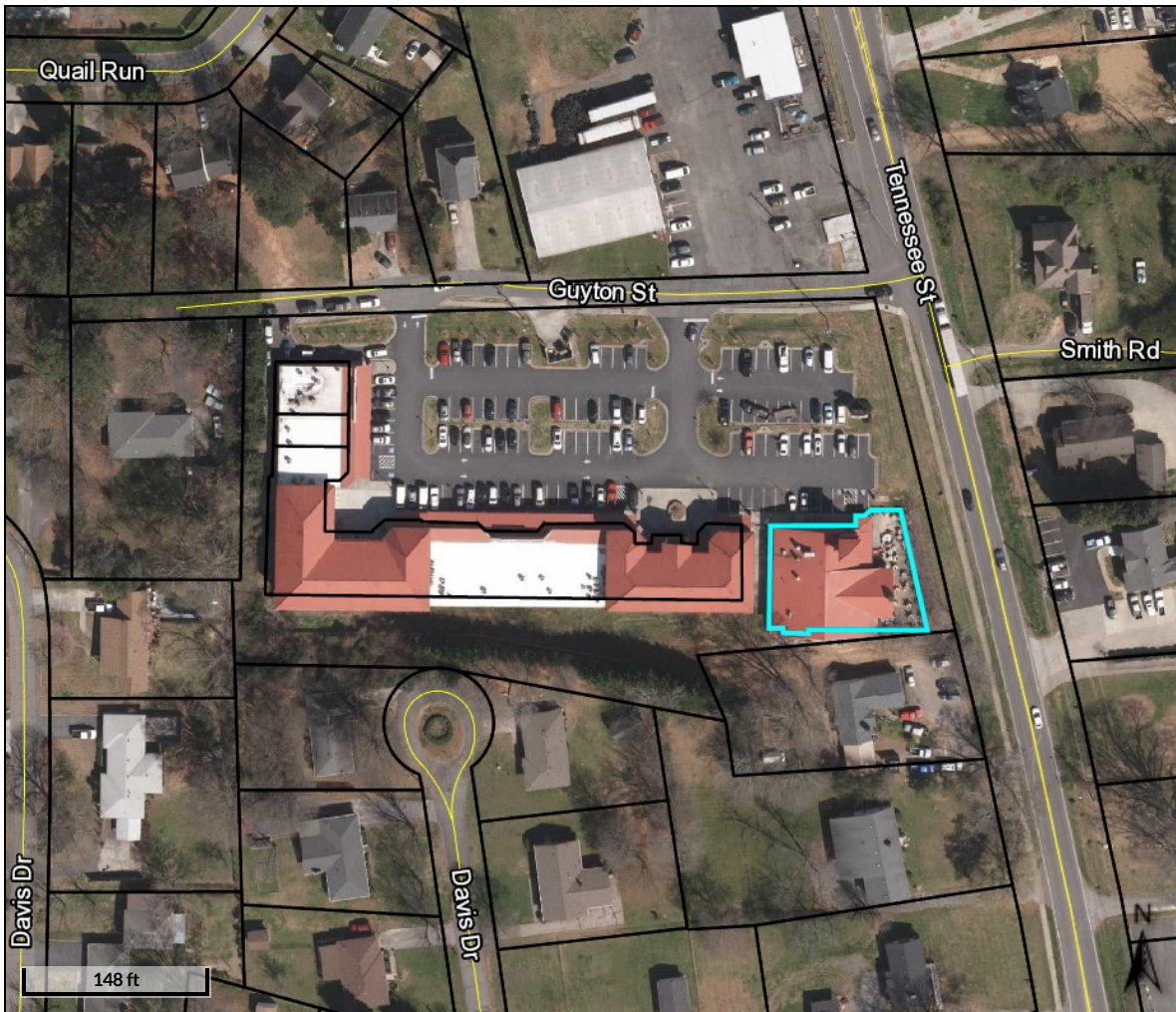
21.3.6. *Self-inflicted hardship.* The board shall not grant variances when the hardship was created by the property owner or his predecessor, and shall not grant hardship variances based on shape or topography for lots of record not existing prior to November 7, 1996. Configuring a subdivision to create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

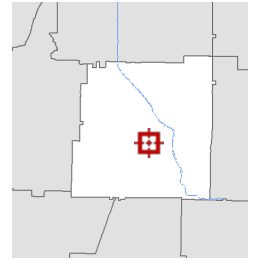


qPublic.net™

Bartow County, GA



#### Overview



#### Legend

- Parcels
- Roads

|                       |   |              |            |               |                             |
|-----------------------|---|--------------|------------|---------------|-----------------------------|
| Parcel ID             | C029-0008-079-001                         | Alternate ID | 45440      | Owner Address | LA MARA II INC              |
| Sec/Twp/Rng           | n/a                                       | Class        | Commercial |               | 1010 N TENNESSEE ST STE 100 |
| Property Address      | 1010 N TENNESSEE ST                       | Acreage      | n/a        |               | CARTERSVILLE, GA 30120      |
| District              | Cartersville                              |              |            |               |                             |
| Brief Tax Description | LL238&239 D4 BLDG ONLY CONDO Los Arcos    |              |            |               |                             |
|                       | (Note: Not to be used on legal documents) |              |            |               |                             |

Date created: 6/10/2021

Last Data Uploaded: 6/9/2021 9:47:18 PM

Developed by  Schneider  
GEOSPATIAL



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


Hearing Date: 6/14/21

5:30pm

Application Number: V21-13

Date Received: 5/11/21

|   |   |
|---|---|
| Applicant <u>LA MARA, LLC.</u><br><small>(printed name)</small>                   | Office Phone <u>770.547.3674</u>                    |
| Address <u>1010 N. Tenn St. Suite 100</u>   | Mobile/ Other Phone <u>770.547.3674</u>             |
| City <u>Cartersville</u> State <u>GA</u> Zip <u>30120</u>                         | Email <u>losarcosmexicanr@bellsouth.net</u>         |
| <u>Lauren Simonson</u><br>Representative's printed name (if other than applicant) | Phone (Rep) <u>770.387.0440</u>                     |
| <u>Lauren Simonson</u><br>Representative Signature                                | Email (Rep) <u>lsimonson@southlondengineers.com</u> |
| <u>[Signature]</u><br>Applicant Signature   |   |
| Signed, sealed and delivered in presence of: <u>[Signature]</u><br>Notary Public  | My commission expires: <u>01-23-2025</u>            |



|   |   |
|---|---|
| * Titleholder <u>LA MARA, LLC.</u><br><small>(titleholder's printed name)</small> | Phone <u>770-547-3674</u>                   |
| Address <u>1010 N. Tenn St. Suite 100</u>   | Email <u>losarcosmexicanr@bellsouth.net</u> |
| <u>[Signature]</u><br>Signature   |   |
| Signed, sealed, delivered in presence of: <u>[Signature]</u><br>Notary Public     | My commission expires: <u>01-23-2025</u>    |



|   |  |
|---|--|
| Present Zoning District <u>D-C</u>  | <u>Common AREA: C029-0008-075</u><br><u>LA MARA: C029-0008-079-001</u> |
| Acreage <u>0.336</u> Land Lot(s) <u>239</u>   | District(s) <u>4</u> Section(s) <u>3</u>                               |
| Location of Property: <u>1010 N. Tenn St.</u><br><small>(street address, nearest intersections, etc.)</small> |  |
| Zoning Section(s) for which a variance is being requested: <u>Sec. 9.5 - D-C Office / Commercial District</u> |  |
| Summary Description of Variance Request: <u>Reducing the rear setback from 20ft to 5ft</u>                    |  |
| <small>(Additional detail can be provided on Justification Letter)</small>                                    |  |

\* 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 IX Section 9.5 Subsection 3 (D)  
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. ☒ 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. ☒ The requested variance relief may be granted without substantially impairing the intent and purpose of this ordinance

Additional Comments by Applicant: Los Arcos is completely removing from the  
condominium. This means their property will now be considered stand-alone  
requiring them to abide by the O-C zoning ordinance. Since the building  
is existing, the current layout violates the required rear setback of 20 ft.  
The owner is requesting a variance to reduce the rear setback from  
20 ft to 5 ft.





May 11, 2021

City of Cartersville Planning & Zoning  
10 N Public Square  
Cartersville, GA 30120

**RE: Zoning Variance for 1010 N. Tennessee Street**

To Whom It May Concern,

This letter is to inform you that we are submitting a zoning variance on behalf of the owner, La Mara LLC, who is requesting to file a zoning variance for the development located at 1010 N. Tennessee Street in Cartersville, GA 30120. The existing property consists of a restaurant building, Los Arcos, with an attached patio. Los Arcos has decided to remove themselves from the condominium meaning their property will now be considered a stand-alone development. This will require the property to abide by the zoning ordinance for O-C (Office/Commercial District). Since the restaurant building is existing, the current layout violates the zoning O-C rear setback requirement of 20-ft. Therefore, the owner is requesting a zoning variance to reduce the rear setback from 20-ft to 5-ft. The boundary/survey plat can be found on the attached application.

Sincerely,

A handwritten signature in black ink, appearing to read 'Karl Lutjens', is written over a horizontal line.

*Karl Lutjens, P.E.*

Southland Engineering, Inc.

[email karl@southlandengineers.com](mailto:karl@southlandengineers.com)

(770) 387-0440 Office

(770) 607-5151 Fax

Consulting Engineers:

Civil · Structural · Land Surveying · Environmental · Transportation · Land Planning · Landscape Architecture

114 Old Mill Road, Cartersville, Georgia 30120

Telephone (770) 387-0440 .. Fax (770) 607-5151





**ENGINEERING**  
CIVIL ENGINEERS - LAND SURVEYORS - LAND PLANNERS  
1114 OLD MILL ROAD, CARTERSVILLE, GA 30120  
PH: 770.387.0440 FAX: 770.607.5151

PLAT REVISION FOR:

# LA MARA II, INC.

LOCATED IN LAND LOT 239  
4th DISTRICT, 3rd SECTION  
CITY OF CARTERSVILLE, BARTOW COUNTY, GEORGIA

DATE: MAY 5, 2021

DATE OF FIELDWORK: APRIL 9, 2021

|              |                 |                  |
|--------------|-----------------|------------------|
| RAWN BY: KNC | CHECKED BY: KNC | APPROVED BY: KNC |
|--------------|-----------------|------------------|

## General Notes

1. ALL PROPERTY CORNERS ARE 1/2" REBAR, EXCEPT AS SHOWN.
2. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF 1" IN 24,500 FEET, AND AN ANGULAR ERROR OF 04" PER ANGLE POINT, AND WAS ADJUSTED USING THE COMPASS RULE.
3. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN 1" IN 290,000 FEET.
4. EQUIPMENT USED: TOPCON 3005SW, TOTAL STATION, WITH DATA COLLECTOR.
5. RIGHTS OF WAY ARE BASED UPON PINS FOUND AND/OR CENTERLINES OF PATHS OF TRAVEL.

## Conformity Statement

AS REQUIRED BY SUBSECTION (D) OF O.C.G.A. SECTION 15-6-67, THIS PLAT HAS BEEN PREPARED BY A LAND SURVEYOR AND APPROVED BY ALL APPLICABLE LOCAL JURISDICTIONS FOR RECORDING AS EVIDENCED BY APPROVAL CERTIFICATES, SIGNATURES, STAMPS, OR STATEMENTS HEREON. SUCH APPROVALS OR AFFIRMATIONS SHOULD BE CONFIRMED WITH THE APPROPRIATE GOVERNMENTAL BODIES BY ANY PURCHASER OR USER OF THIS PLAT AS TO INTENDED USE OF ANY PARCEL. 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 O.C.G.A. SECTION 15-6-67.



KEVIN COONEY - GA PLS 2980



SCALE:  $1'' = 20'$  GRAPHIC SCALE

|   |   |                     |   |   |                         |   |   |                    |   |   |                        |   |   |                |
|---|---|---------------------|---|---|-------------------------|---|---|--------------------|---|---|------------------------|---|---|----------------|
|    | = | IRON PIN FOUND      |    | = | DOUBLE WING CATCH BASIN |    | = | GAS VALVE          |    | = | SEWER MANHOLE          |    | = | POWER POLE     |
|   | = | CONCRETE MON. FOUND |   | = | SINGLE WING CATCH BASIN |   | = | GAS METER          |   | = | CLEAN OUT              |   | = | GUY WIRE       |
|  | = | IRON PIN PLACED     |  | = | JUNCTION BOX            |  | = | TELEPHONE MANHOLE  |  | = | WATER VALVE            |  | = | ELECTRIC METER |
|  | = | BREAK POINT         |  | = | CURB INLET              |  | = | ELECTRIC MANHOLE   |  | = | WATER METER            |  | = | TRANSFORMER    |
|  | = | PHOTO REFERENCE     |  | = | YARD INLET              |  | = | TELEPHONE PEDESTAL |  | = | FIRE HYDRANT           |  | = | LIGHT POLE     |
|  | = | EXCEPTIONS          |  | = | DROP INLET              |  | = | SIGN               |  | = | IRRIGATION CONT. VALVE |  | = | FLOW ARROW     |
|  | = | PARKING BOLLARD     |  | = | HEADWALL                |  | = | BENCHMARK          |  | = | WELL                   |  | = | MAILBOX        |

SS \_\_\_\_\_ = STORM PIPE      OHP \_\_\_\_\_ = OVERHEAD PWR.      W \_\_\_\_\_ = WATER LINE      T \_\_\_\_\_ = COMM. LINE  
 SS \_\_\_\_\_ = SEWER PIPE      X \_\_\_\_\_ = FENCE LINE      G \_\_\_\_\_ = GAS LINE      UGP \_\_\_\_\_ = UNDERGROUND PWR.

NORTH TENNESSEE STREET  
80' PUBLIC RIGHT-OF-WAY

N/F  
CAT DADDY CORNER, LLC  
DB:2722; PG:414

TAX PARCEL: CO29-0008-075

THIS BLOCK RESERVED FOR THE CLERK OF THE SUPERIOR COURT.

| CURVE TABLE |        |          |             |       |
|-------------|--------|----------|-------------|-------|
| CURVE       | LENGTH | RADIUS   | DIRECTION   | CHORD |
| C1          | 48.75  | 18703.45 | S13°41'48"E | 48.75 |

| LINE TABLE |             |        |
|------------|-------------|--------|
| LINE       | BEARING     | LENGTH |
| L1         | S13°48'22"E | 5.56   |
| L2         | N42°04'43"E | 3.93   |
| L3         | S89°14'05"E | 24.09  |
| L4         | N65°00'29"E | 18.48  |

**TOTAL  
0.336 ACRES**

N/F  
LA MARA II, INC.  
DB:2664; PG:534  
ALL OF TAX PARCEL:  
C029-0008-079-001  
+  
PART OF TAX PARCEL:  
C029-0008-075

EXISTING BUILDING  
5,822+/- SF

GRID NORTH  
GA WEST ZONE

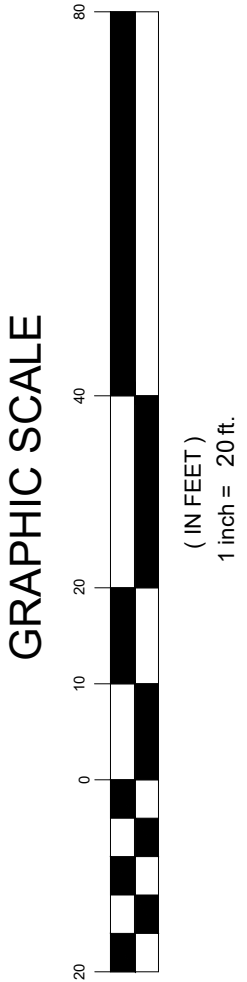
N/F  
LA MARA II, INC.  
DB:3244; PG:802

TAX PARCEL: C029-0008-073

**SOUTHLAND ENGINEERING \* SOUTHLAND ENGINEERING \* SOUTHLAND ENGINEERING \* SOUTHLAND ENGINEERING \* SOUTHLAND ENGINEERING**



CONCEPT 4: (DEMO BOTH HOMES & HANDICAP ACCESSIBLE)  
TOTAL AMOUNT OF PARKING SPACES=93  
VEHICLE PARKING SPACES=89  
HANDICAP SPACES=4 (1 VAN ACCESSIBLE)



CIVIL ENGINEERS - LAND SURVEYORS - LAND PLANNERS  
114 OLD MILL ROAD, CARTERSVILLE, GA 30120  
PH: 770.387.0440 FAX: 770.607.5151

| REVISIONS: | DATE | DESCRIPTION |
|------------|------|-------------|
| 1          |      |             |
| 2          |      |             |
| 3          |      |             |
| 4          |      |             |
| 5          |      |             |
| 6          |      |             |

PROJECT NO.:  
19XXX

DATE:  
XX/XX/19

**LOS ARCOS PARKING**  
LOCATED IN LAND LOT 239  
4TH DISTRICT, 3RD SECTION  
CITY OF CARTERSVILLE, GEORGIA



SHEET TITLE:

SITE  
PLAN

SHEET NO.:

CONCEPT 4



NIP  
CITY ENGINEERS, LLC  
DB:2725, PG:114  
TAX PARCEL: C029-0008-075

NIP  
TOWELL CHARLES W  
& LINDA J  
DB:1461, PG:565  
TAX PARCEL:  
C029-0008-067

NIP  
PASCOTE EDDIE C  
DB:510, PG:367  
TAX PARCEL:  
C029-0008-068

NIP  
BURNS VIRGINIA  
DB:307, PG:551  
TAX PARCEL: C029-0008-069

NIP  
MOHAMMED WALI A &  
GEGAM NOOR JAHAN  
DB:2570, PG:550  
TAX PARCEL: C029-0008-071

STRASBURG  
I.E. IN= 752.18  
I.E. OUT= 756.90  
SSWH  
I.E. = 760.11





Image Taken 5-19-21

Los Arcos  
Rest.



Condo Suite  
101.  
Muscadines

View to the south between Los Arcos and Suite 101. The rear property line will follow the edge of the 5ft. walkway.



Los Arcos  
Rest.



Condo Suite  
101.  
Muscadines

View to the south between Los Arcos and Suite 101. The rear property line will follow the edge of the 5ft. walkway.

Condo Suite  
101.  
Muscadines



Los Arcos  
Rest.

View to the north between Los Arcos and Suite 101. The rear property line will follow the edge of the 5ft. walkway.