



PLANNING DATE
04/28/2022
COUNCIL DATE
05/12/2022

P&Z STAFF REPORT

PREPARED BY:

Phillip Trocquet, Town Planner
ptrocquet@tyrone.org | (770) 881-8322

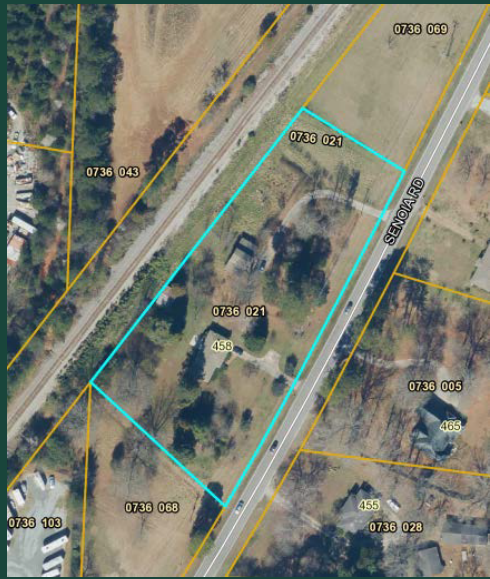
DOCKET/APPLICATION #	APPLICANT	ADDRESS/PARCEL #
RZ-2022-02	Teresa Shell	Parcel 0736-021 458 Senoia Rd.

SUMMARY & HISTORY

Applicant Teresa Shell has applied for a rezoning of 458 Senoia Road from R-12 (Residential 1,200 s.f. min) to C-1 (Downtown Commercial). The stated intent of this rezoning is to accommodate a Montessori school/daycare at this property. The current configuration of structures on the property would accommodate C-1 development regulations and setback requirements without creating nonconformities. The barn on the north end of the property and the house both lie outside of the setback and buffer requirements for adjoining residential for C-1. Ms. Shell applied for the same request in August of 2021. Planning Commission recommended approval of the request with the condition that a traffic study be performed. Town Council denied the petition. Prior to January of 2022, the character area for this property and others west of Senoia Road was for Production and Employment consistent with development on that side of the road. It was Council's determination that this future land use character area was not appropriate for the undeveloped or currently residential properties west of Senoia Road and thereby amended the Comprehensive Plan and Future Land Use Map in accordance with O.C.G.A standards in a public hearing.

STAFF DETERMINATION

This property currently lies as a border property on the Future Land Use map between Production and Employment and the Estate Residential character areas. Situated within the Estate Residential Character area, the property would ideally assume a residential zoning. The Future Development Map, however, is a guiding document with properties situated on the edge as potentially assuming a different zoning based on unique circumstances. Given that 458 Senoia Rd. borders an already zoned C-2 property as well as a very active rail line, C-1 or O-I could be appropriate classifications since they would be considered transitional step-down zoning districts in terms of intensity. Commercial zoning would also remove zoning buffers incurred on the C-2 property to the south that make it impractical to build on. Staff determines either residential or light commercial such as O-I (Office-Institutional) as appropriate zoning classifications for this property. Heavy Commercial or Industrial zoning would not be consistent for this property.



SOURCE: FAYETTE COUNTY TAX ASSESSOR

EXISTING ZONING	PROPOSED ZONING	EXISTING LAND USE	SURROUNDING ZONING	SITE IMPROVEMENTS	PROPERTY ACREAGE
R-12 Residential 1200 s.f. minimum house size	C-1 Downtown Commercial	Vacant Single-Family Residence	North: AR South: C-2 East: R-12 West: AR & M-2	Home Barn	2 acres

COMPREHENSIVE PLAN & FUTURE DEVELOPMENT MAP COMPATABILITY

Reference Staff Determination: This petition is not wholly consistent with the Comprehensive Plan as the amended Future Development strategy reflects residential in this area, however, the property exists on the border of two character areas making zoning compatibility flexible depending on the circumstances, potential conditions, and use.

ZONING ORDINANCE COMPATABILITY & IMPACT ASSESSMENT

- Will Zoning permit suitable uses with surrounding properties?** C-1 zoning is not explicitly permitted within the Estate Residential character area, however, C-1 zoning is compatible with commercial properties to the south. Land to the north, although zoned residential, is likely too narrow for construction of a building. Commercial to residential buffers would be applied to the north and east of the property for the purpose of protecting residential properties within a certain proximity.
- Will Zoning adversely affect adjacent properties?** Commercial properties to the south will not be adversely affected and would recapture buildable area with the removal of a buffer requirement currently in place due to the current residential zoning of this property. This property will be subject to residential buffers to the north and east for adjacent owner protection and be required to submit a traffic impact analysis with a site plan if used for commercial purposes that require site improvements.
- Does the property have reasonable economic use as currently zoned?** It is staff's determination that the property does have reasonable economic use given its Future Land Use Character Area designation unless evidence to the contrary in the form of sale and occupancy records is reported to the Town due to site or other conditions.
- Would the proposed zoning result in a use which will or could be excessively burdensome on existing infrastructure?** It is staff's determination that this zoning would not result in an excessive burden on existing infrastructure. Higher intensity commercial or industrial land uses exist along Senoia Road in this area of Town. A lower-intensity commercial zoning would likely not overburden Senoia Road. Specific site considerations on traffic movement will be identified during the site planning portion of any further development for the property. Schools must provide a circular drive for pickup and drop-off which can be done on this property given the preexisting curb cuts. If a traffic study yields data suggesting an unacceptable impact on roads, the site plan will need to be adjusted until such impact is proven to be mitigated or resolved.

458 Senoia Road



Overview



Legend

 Parcels

 Addresses

 Roads

 2013 Fayette Coun
Flood Study Future
100-year

 2013 Fayette Coun
Flood Study
Existing 100-year

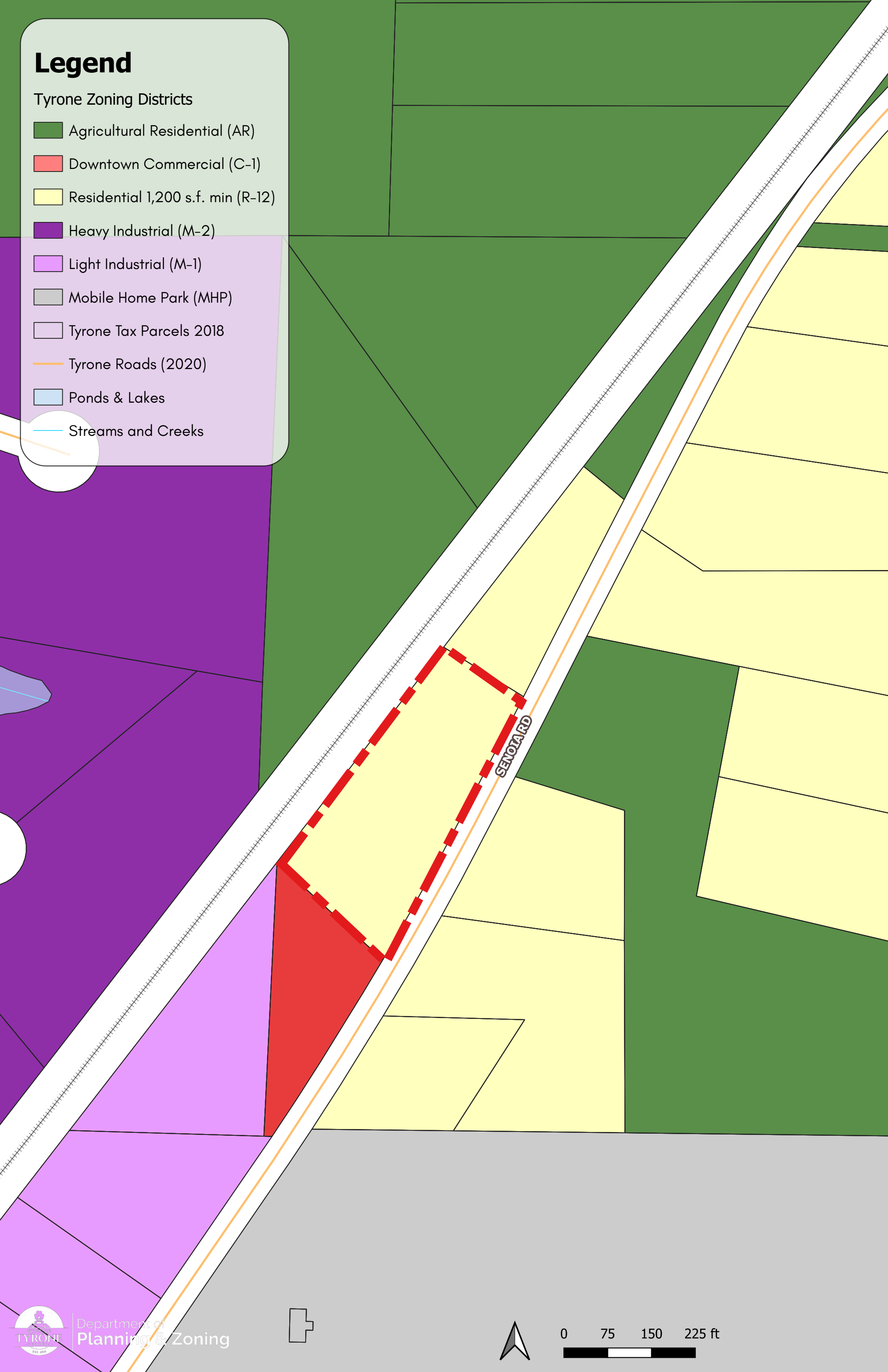
Parcel ID	0736 021	Alternate ID	00008760	Owner Address	HOOVER GARY
Sec/Twp/Rng	--	Class	R3		13739 RIVER FOREST DR
Property Address	458 SENOIA RD	Acreage	2		FORT MYERS, FL 33905
District	03				
Brief Tax Description	SENOIA ROAD				
	(Note: Not to be used on legal documents)				

Date created: 8/6/2021
Last Data Uploaded: 8/6/2021 7:09:22 AM

Legend

Tyrone Zoning Districts

-  Agricultural Residential (AR)
-  Downtown Commercial (C-1)
-  Residential 1,200 s.f. min (R-12)
-  Heavy Industrial (M-2)
-  Light Industrial (M-1)
-  Mobile Home Park (MHP)
-  Tyrone Tax Parcels 2018
-  Tyrone Roads (2020)
-  Ponds & Lakes
-  Streams and Creeks



AS PER F.I.R.M. FLOOD MAPS FOR FAYETTE COUNTY,
GEORGIA: MAP NUMBER 13113C0078E EFFECTIVE DATE REPT. 26, 2008
THIS PROPERTY IS NOT LOCATED IN A FEDERALLY DESIGNATED FLOOD HAZARD AREA.

This block is reserved for the Clerk
of the Superior Court.

THE FIELD DATA UPON WHICH THIS PLAT
IS BASED HAS A CLOSURE PRECISION OF
ONE FOOT IN 32,485 FEET OR BETTER
AN ANGULAR ERROR OF .01 PER ANGLE
POINT, AND HAS BEEN ADJUSTED USING
THE LEAST SQUARES RULE.

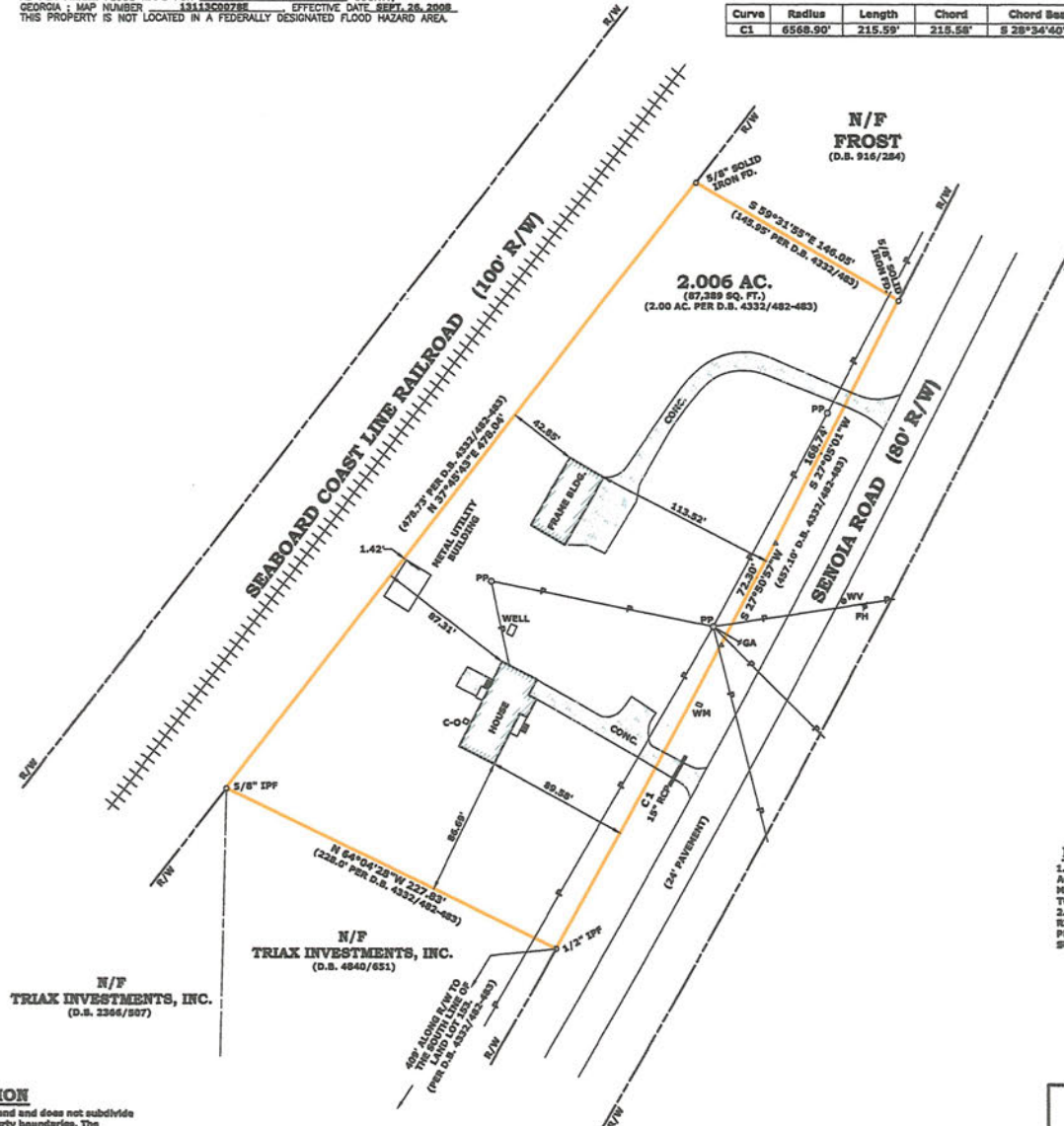
THIS PLAT HAS BEEN CALCULATED FOR
CLOSURE AND HAS BEEN FOUND TO BE
ACCURATE TO WITHIN ONE FOOT IN
310,041 FEET OR BETTER.

ANGULAR AND LINEAR MEASUREMENTS WERE
OBTAINED BY USING A GEDMAX ZOOM 35 PRO
TOTAL STATION.

BASIS OF ELEVATIONS AND NORTH ORIENTATION
OBTAINED BY USING A LEICA GS16 GPS BASE &
NETWORK ROVER UTILIZING THE EGPS SOLUTIONS,
INC. REFERENCE NETWORK.

CURVE TABLE

Curve	Radius	Length	Chord	Chord Bear.
C1	6568.90'	215.59'	215.58'	S 28°34'46" W

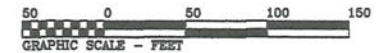


LEGEND:

IPF = IRON PIN FOUND
N/F = NOW OR FORMERLY
D.B. = DEED BOOK
P.B. = PLAT BOOK
R/W = RIGHT-OF-WAY
WH = WATER METER
WV = WATER VALVE
PH = FIRE HYDRANT
C-O = CLEAN OUT
RCP = REINFORCED CONCRETE PIPE
PP = POWER POLE
GA = GUY ANCHOR
— = OVERHEAD POWER LINE

LEGEND:

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A CURRENT &
ACCURATE TITLE REPORT. EASEMENTS & OTHER ENCUMBRANCES OF RECORD
MAY EXIST BUT MAY NOT BE SHOWN BY THIS SURVEY. THIS PLAT IS SUBJECT
TO ANY FINDINGS THAT A TITLE REPORT MAY DISCLOSE.
2. NO RECORD RESEARCH PERFORMED BY THIS OFFICE RELATIVE TO
RIGHT-OF-WAY WIDTHS. RIGHT-OF-WAY WIDTHS TAKEN FROM VARIOUS
PLATS AND DEEDS ON RECORD FOR SURROUNDING PROPERTIES. THIS PLAT IS
SUBJECT TO ANY OTHER RIGHT-OF-WAY WIDTHS OTHER THAN THOSE SHOWN.



REVISED 06-16-2021 TO SHOW NAME CHANGE.

TURNER & ASSOCIATES LAND SURVEYORS, P.C.
10 SHACK HUNTER RD. SHARPSBURG, GEORGIA 30277

TELE: (770) 583-2300 EMAIL: turnerlandsurveyors@gmail.com
JASON D. TURNER GEORGIA REGISTERED LAND SURVEYOR NO. 2795

RETRACEMENT SURVEY FOR:

TERESA & SPENCER SHELL

TAX PARCEL ID: 0736 021
LOCATED IN LAND LOT 183 7th LAND DISTRICT
TOWN OF TYRONE FAYETTE COUNTY, GEORGIA

SCALE: 1" = 50'	PLAT DATE: 06-07-2021	REVISED: 06-16-2021
DATES OF FIELD WORK:	06-03-2021	DESK #: 2021
		DRAWING #: 2021051

SURVEYORS CERTIFICATION

This plat is a retracement of an existing parcel or parcels of land and does not subdivide
or create a new parcel or make any changes to any real property boundaries. The
recording information of the documents, maps, plats, or other instruments which
created the parcel or parcels are cited herein. RECORDATION OF THIS PLAT DOES NOT
IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS,
COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR
ANY USE OR PURPOSE OF THE LAND. 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 15-9-57.



Jason D. Turner GA. R.L.S. # 2795

06-07-2021
Date



Rezoning Request Application

Petition#:

Applicant & Property Owner Information

Applicant Name: Teresa Shell Email: teresa.shell@gmail.com
Applicant Address: 3388 Paces Forest Road, Atlanta, Ga 30327 Phone: (404) 310-3398
Company Name: PTC Property Holdings, LLC

Property
Owner Name: Teresa and Spencer Shell Email: teresa.shell@gmail.com
Property
Owner Address: 3388 Paces Forest Road, Atlanta, Ga 30327 Phone: ()

Property Details

Property
Address: 458 Senoia Road, Tyrone, Ga 30290 Lot# 153

Reason Requesting Rezoning:

The Rezoning Application seeks to rezone the property from R-12 to C-1 for the development of a small Montessori school for children 2-6 years of age. The Property is bounded by Senoia Road in front, a railroad in the rear. Adjoining properties are zoned Highway Commercial, Light Industrial and Heavy Industrial. Limited R-12 zoning is located across Senoia Road. The requested rezoning is consistent with the Future Land Use Map which identifies the property for commercial (production/employment) development.

Current Zoning of Property: R-12 Proposed Zoning of Property: C-1

Parcel #: 0736021 Total Number of Acres to be Rezoned: 2.006

Present Use of Subject Property: Vacant

Proposed Use of Subject Property: Small child Care Facility

Land Use Plan Designation: Commercial(production/employment) development

Name & Type of Access Road: Senoia Road

Location of Nearest Water Line: Senoia Road

(This Area to be Completed by Staff)

☐ Application Insufficient due to lack of: _____
☐ Application & all required supporting documentation is sufficient and complete.
By Staff _____ Date _____
Received from _____ a check in the amount of \$ _____
Date of Planning Commission Hearing: _____ Date of Town Council Hearing: _____



Petition for Rezoning

Petition#:

Name: Teresa Shell Email: teresa.shell@gmail.com

Petition Number: _____

Address: 458 Senoia Road, Tyrone, Ga 30290 Phone#: (404) 310-3398

PETITION FOR REZONING CERTAIN PROPERTY IN THE INCORPORATED AREA OF TYRONE, GEORGIA.

Teresa Shell affirms that he/she is the owner or the specifically authorized agent of the property described below. Said property is located in a(n) R-12 Zoning District. He/She respectfully petitions the Town to rezone the property from its present classification and tenders herewith the sum of \$ 500.00 to cover all expenses of the public hearing. He/She petitions the above named to change its classification to C-1

This property includes (Check one of the following):

- ☒ See attached legal description on recorded Warranty Deed for subject property
- ☐ Legal Description for subject property is as follows:

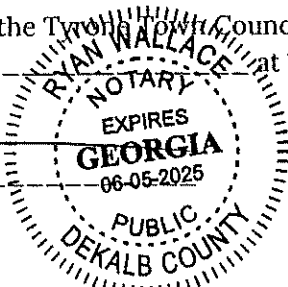
By: Teresa Shell
Owner/Agent

SWORN TO AND SUBSCRIBED BEFORE ME THIS 23 DAY OF February 2022.

PUBLIC HEARING to be held by the Town of Tyrone Planning Commission on the _____ day of _____ at 7:00 p.m.

PUBLIC HEARING to be held by the Tyrone Town Council on the _____ day of _____ at 7:00 p.m.

[Signature]
NOTARY PUBLIC



[Signature]
APPLICANT'S SIGNATURE



Property Owner Consent & Agent Authorization Form

(Application requires authorization by ALL property owners of a subject property)

Name(s) of All Property Owners of Record found on the latest recorded Warranty Deed for the subject property:

Teresa and Spencer Shell

(Please Print Names)

Property Tax Identification Number(s) of Subject Property: 0736021

(I am) (We are) the sole owner(s) of the above-referenced property requested to be rezoned. Subject property is located in the Land Lot(s) 153 of the 7th District, and (if applicable to more than one land district) Land Lot(s) _____ District, and said property consists of a total of acres (legal description corresponding to most recent recorded plat for the subject property is attached herewith).

(I) (We) hereby delegate authority to Teresa Shell to act as (my) (our) Agent in this rezoning. As Agent, they have the authority to agree to any and all conditions of zoning, which may be imposed by the Board.

(I) (We) certify that all of the information filed with this application including written statements or showing made in an paper or plans submitted herewith are true and correct to the best of (my) (our) knowledge and belief. Further, (I) (We) understand that any knowingly false information given herein by me/us will result in the denial, withdrawal or administrative withdrawal of the application or permit. (I) (We) further acknowledge that additional information may be required by Fayette County in order to process this application.

Teresa Shell

Signature of Property Owner 1

3388 Paces Forest Road, Atlanta, Ga 30327

Address

Spencer Shell

Signature of Property Owner 2

Address

Signature of Property Owner 3

Address

[Signature]

Signature of Notary Public

02/21/2022

Date

[Signature]

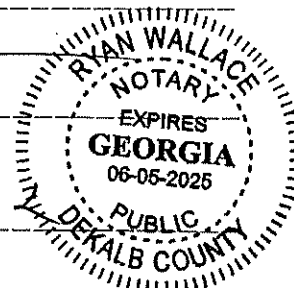
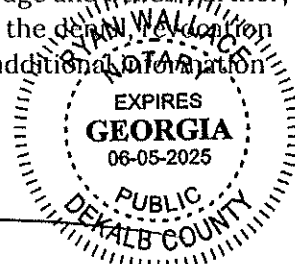
Signature of Notary Public

02/23/2022

Date

Signature of Notary Public

Date





Conflict of Interest in Zoning Actions Application Form

(Please Complete for each Property Owner)

Petition#:

The undersigned, making application for rezoning, variance, or special exception, has compiled with the Official Code of Georgia Section 36-64 A01, et seq., Conflict of Interest in Zoning Actions and has submitted or attached the required information on the forms provided.

Signature of Property Owner

Teresa Shell, Owner

Type or Print Name and Title

Signature of Owner's Attorney or Representative

Newton M. Galloway, Galloway & Associates, LLC

Type or Print Name and Title

Signature of Notary Public

02/23/2022

Date

Teresa Shell only



DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Have you, within two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Tyrone Planning Commission or member of the Tyrone Town Council?

☐ YES

☒ NO

Signature of Applicant

If the answer is yes, please complete the following section:

Name and Official Position of Government Official	Contributions (List all which aggregate to \$250.00 or more)	Date Contribution was made (Within last 2 years)

Attach additional sheets if necessary to disclose or describe all contributions

EXHIBIT A

Legal Description

Exhibit "A"
Legal Description

All that tract or parcel of land lying and being in Land Lot 153 of the 7th District of Fayette County, Georgia, and being more particularly described as follows:

Beginning at a point on the westerly right-of-way of Senoia Road (having an 80-foot right-of-way), located 409.0 feet northerly from the intersection of the westerly right-of-way of Senoia Road with the south line of Land Lot 153; running thence North 64 degrees 19 minutes West 228.0 feet to a point on the easterly right-of-way of the Seaboard Coast Line Railroad; running thence along the easterly right-of-way of the Seaboard Coast Line Railroad North 37 degrees 33 minutes East 478.73 feet to a point; running thence South 59 degrees 41 minutes East 145.95 feet to a point located on the westerly right-of-way of Senoia Road; running thence along the westerly right-of-way of Senoia Road South 26 degrees 59 minutes West 257.10 feet to a point continuing thence along the westerly right-of-way of Senoia Road South 28 degrees 39 minutes West 200.0 feet to the point of beginning; being a tract of 2.00 acres as shown on plat of survey dated April 15, 1994, prepared by R. M. Boyd and Associates, Georgia Registered Land Surveyor No. 2227.

EXHIBIT B

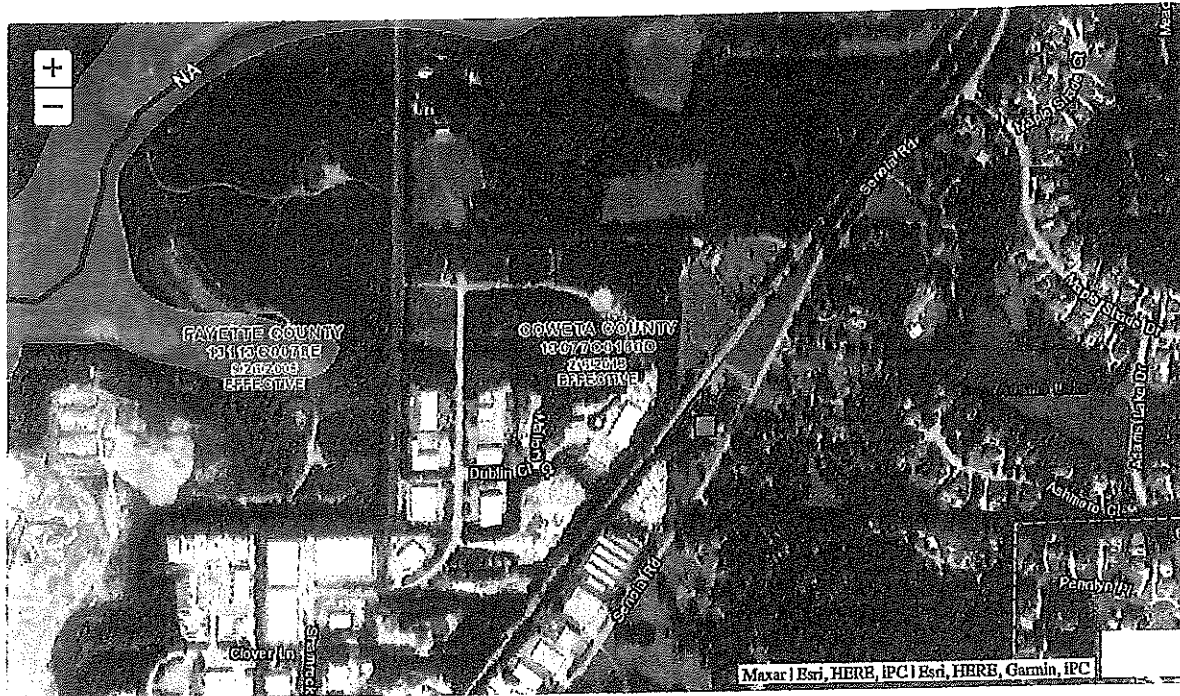
Plat (3 copies)



EXHIBIT C

Existing Regional Flood Plain and Structures

458 Senioa Road, Tyrone, GA 30290



Legend with Flood Zone Designations

— Flood Control Structures	1% Flood - Floodway (High Risk)	1% Flood - Zone VE (High Risk)	Floodway Decrease
— Base Flood Elevations	1% Flood - Zone AE (High Risk)	Area Not Included	Floodway Increase
— Cross Sections	1% Flood - Zone A, AH, or AO (High Risk)	Letters of Map Revision	100-Year Flood Zone Decrease
--- Coastal Transects	0.2% Flood - X-Shaded (Moderate Risk)	Coastal Barrier Resource Area	100-Year Flood Zone Increase
□ FIRM Panel Index	Area of Undetermined Flood Hazard	Limit of Moderate Wave Action	Zone Change

Disclaimer: This data is not to be used to determine any base flood elevations or flood zone designations for NFIP (National Flood Insurance Program) purposes. For NFIP flood insurance and regulation purposes, concern. Values displayed for Current Flood Zone, Preliminary Flood Zone, Flood Zone Change Type, and Probability of Flooding over a 30-year period based on center of dot location, not extent of structure(s).

EXHIBIT D

Names of Owners of Abutting Property
Impact of the Proposed Rezoning

Town of Tyrone Rezoning Request Application: Supplemental Information

Property: 458 Senoia Road, Tyrone, GA 30290

Current Zoning: R-12

Proposed Zoning: C-1

Purpose: To establish a small Montessori school for ages 2 to 6 on the property.

Owners of the Property:

Teresa and Spencer Shell, 3388 Paces Forest Rd, Atlanta, GA30327

Owners of Abutting Property:

To the North: Barbara Frost

To the South: Triax Investments, Inc., 430 Senoia Road, Tyrone, GA 30290

To the West: Seaboard Cost Line Railroad

Impact of the Proposed Rezoning:

- a. The proposed use of this property is a small, family-oriented Montessori school. The structures on the property will remain but will be cleaned up and renovated to improve the property. Adjacent properties are fields or properties with similar structures. General Commercial properties are adjacent to this property already.
- b. The proposed use of this property will not adversely affect the adjacent properties. Additional parking will be added to the property, but it will have a natural tree buffer between the parking and the road, so it will remain unnoticeable.
- c. Currently, the property has a barn and a small home and, as zoned, provides no economic use to the Town of Tyrone.
- d. This property has two driveways, which will be remodeled as long circular driveway. The circular driveway will allow any visitors to the site to drive onto the property in one direction for drop off/pick up and the exit the property promptly. The length of the driveway also allows for multiple vehicles to wait on the property rather than back up onto Senoia Road. Thus, no additional traffic would be created on Senoia Road.
- e. The Town of Tyrone's Comprehensive Land Use Plan currently lists this property as proposed commercial.
- f. By rezoning this property to allow for a small school, the Town receives the benefits of a new commercial property which promotes economic growth, but also maintains the charm that the area currently exhibits. The school will provide a safe, warm, and loving environment to the Town's youth and continue to foster a sense of community.

In re:

TERESA SHELL/SPENCER SHELL
Rezoning Application No. _____
458 Senoia Road

CONSTITUTIONAL OBJECTION TO RESTRICTIONS IN THE
ZONING ORDINANCE OF THE TOWN OF TYRONE, GEORGIA

As applied to the following property: 2.006 acres, more or less, 458 Senoia Road, Tyrone, Fayette County, Georgia, Teresa and Spencer Shell, Owners/Applicants, said property being located within the City Limits of the Town of Tyrone, Georgia and identified as Tax Parcel No. 0736021, pursuant to the current parcel numbers assigned by the Fayette County Tax Assessor (the "Subject Property"), being currently zoned R-12 (R-12), subject of the above-referenced Rezoning Application, the Zoning Ordinance of the Town of Tyrone, Georgia and the current R-12 zoning as applied to the Subject Property is unconstitutional in that the Owners'/Applicants' property rights in and to the Subject Property have been destroyed without first receiving fair, adequate and just compensation for such property rights. As applied to the Subject Property, the Zoning Ordinance of the Town of Tyrone, Georgia deprives the Owners/Applicants of constitutionally protected rights in violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

Application of the Zoning Ordinance of the Town of Tyrone, Georgia to the Subject Property is unconstitutional, illegal, arbitrary, capricious, null and void, constituting a taking of

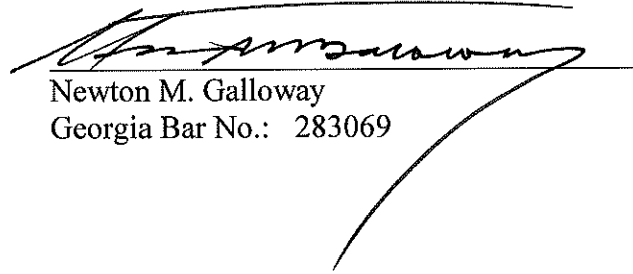
the Subject Property in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, Article I, Section I, Paragraph 1, and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia of 1983, and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States thereby denying the Owners/Applicants an economically viable use of the Subject Property while not substantially advancing legitimate state interests.

Inasmuch as it is impossible for the Owners/Applicants to use the Subject Property and simultaneously comply with the Zoning Ordinance of the Town of Tyrone, Georgia, the Zoning Ordinance constitutes an arbitrary, capricious, and unreasonable act by the Town of Tyrone, Georgia without any rational basis therefore and constitutes an abuse of discretion in violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

Application of the Zoning Ordinance of the Town of Tyrone, Georgia to the Subject Property is unconstitutional and discriminates against the Owners/Applicants in an arbitrary, capricious, and unreasonable manner between the Owners/Applicants and others similarly situated in violation of Article I, Section I, Paragraph 2 of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

WHEREFORE, Owners/Applicants request that the Town of Tyrone, Georgia approve this Rezoning Application and rezone the Subject Properties to C-1 Downtown Commercial District as specified and requested herein.

GALLOWAY & LYNDALL, LLP
Counsel for Owners/Applicants



Newton M. Galloway
Georgia Bar No.: 283069

The Lewis-Mills House
406 North Hill Street
Griffin, Georgia 30223
770) 233-6230
ngalloway@gallyn-law.com

In re:

TERESA SHELL/SPENCER SHELL

Rezoning Application No. _____

458 Senoia Road

EVIDENTIARY OBJECTIONS TO ZONING HEARING BASED ON
YORK V. ATHENS COLLEGE OF MINISTRY, INC.

As applied to the following property: 2.006 acres, more or less, 458 Senoia Road, Tyrone, Fayette County, Georgia, Teresa and Spencer Shell, Owners/Applicants, said property being located within the City Limits of the Town of Tyrone, Georgia and identified as Tax Parcel No. 0736021, pursuant to the current parcel numbers assigned by the Fayette County Tax Assessor (the "Subject Property"), being currently zoned R-12 (R-12), subject of the above-referenced Rezoning Application, Owners/Applicants give notice of the following evidentiary objections based on *York v. Athens College of Ministry, Inc.*, 348 Ga. App. 58, 632, 821 S.E.2d 120 (2018):

With the Rezoning Application, Owners/Applicants filed a Constitutional Objection to the denial thereof which is incorporated herein by reference as if fully set forth.

Owners/Applicants object to comments provided by any and all members of the public presented before the Mayor and Council in opposition to the Rezoning Application to the extent that (but not limited to) such individuals lack standing to challenge the Rezoning Application because they: (a) do not satisfy the substantial interest-aggrieved citizen test; (b) are not under oath; (c) are not subject to cross-examination; (d) lack sufficient training or expertise to present evidence on and/or make statements that would otherwise require presentation by witness(es) constituting expert opinion without such individuals being qualified as experts; (e) present evidence on and/or make statements that are irrelevant and/or immaterial to the factors for approval of a rezoning under the Zoning Ordinance; and/or (f) present evidence and/or make statements that

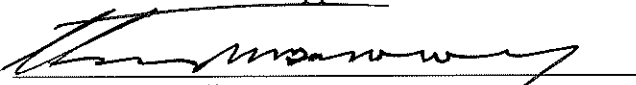
are founded, wholly or in part, upon inadmissible, unreliable, nonprobative, insubstantial and/or lay, nonexpert opinion and hearsay evidence.

Additionally, Owners/Applicants object to any action of the Mayor and Council that does not approve the Rezoning Application or approves it subject to unreasonable conditions to the extent that (but not limited to) the same are: (a) in violation of O.C.G.A. § 50-13-19(h); (b) in violation of constitutional, statutory or ordinance provisions; (c) in excess of the statutory or constitutional authority of either the Mayor and Council; (d) made upon unlawful procedure; (e) affected by other error of law; (f) clearly erroneous in view of the reliable probative and substantial evidence on the whole record; or (g) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; (h) founded, wholly or in part, upon inadmissible, unreliable, nonprobative, insubstantial, unsubstantiated and/or lay, nonexpert opinion evidence; and/or (i) contrary to the exclusive factors for approval of a variance set forth in the Zoning Ordinance.

By and through this *York* Objection, Owners/Applicants preserve all the above and incorporated Objections and assert them on and within the record before, and for consideration and resolution by, the Mayor and Council of the Town of Tyrone, Georgia.

WHEREFORE, Owners/Applicants request that the Town of Tyrone, Georgia approve the Rezoning Application set forth above.

GALLOWAY & LYNDALL, LLP.
Counsel for Owners/Applicants



Newton M. Galloway
Georgia Bar No.: 283069

The Lewis-Mills House
406 North Hill St.
Griffin, GA 30223
(770) 233-6230
ngalloway@gallyn-law.com