



Planning and Development Department Case Information

Case Number: Z23030037

Meeting Dates: Planning Commission 05-04-2023

Board of Commissioners 06-06-2023

Current Zoning: A1

Request: Rezone 1.05 acres from A1 to B3 to be combined with property beside that is already zoned B3 to create a single entrance from Tommy Dillard Rd

Address: 3351 Tommy Dillard Road, Monroe, Georgia 30656

Map Number: C1780052

Site Area: 1.05 acres

Character Area: Highway Corridor

District 4: Commissioner – Lee Bradford Planning Commission – Brad Bettis

Applicant:
Cattle Barn, LLC, c/o Dillard Sellers
1776 Peachtree Street, NW, Suite 415-S
Atlanta, Georgia 30309

Owner:
Herbert Price
3351 Tommy Dillard Road
Monroe, Georgia 30656



Existing Site Conditions: Property consists of 1.05 acres.

The surrounding properties are zoned A2, B3, and A1.



Staff Comments/Concerns: The property beside this property – C1780047A00 - 7.715 acres was rezoned to B3 in October, 2022 for commercial purposes. This is the property that Applicant would like to come with the 1.05 acres.

History: No History

Comments and Recommendations from various Agencies:

Public Works: Public Works has No Issue with Approval of this Request.

Sheriffs' Department: This case will not impact the Sheriff's Office.

Water Authority: This property is not currently served by WCWD, however the area is served by an existing 12" diameter water main along Highway 78 (static pressure: 115 psi, Estimated fire flow available: 900 gpm @ 20 psi). A new 8" water main will be required to distribute water within the development. Please coordinate with WCWD.

Per Morris Jordan with the Walton County Water Authority – Application shows that water is available from Walton County Water on the application. **WE DO NOT HAVE WATER ON THAT SECTION OF TOMMY DILLARD ROAD.**

Fire Marshal Review: Shall comply with all current codes and ordinances set forth by State Fire Safety Minimums, NFPA, International Fire Code, and Walton County Ordinances. Fire Hydrant shall be located within 500' of all buildings erected.

Fire Department Review: Hazardous material stored or used on site shall initiate a haz-mat response.

Board of Education: Will have no effect on the Walton County School District.

Development Inspector: No comment received.

DOT Comments: Will have no effect on GDOT.

PC ACTION 5/4/2023:

1. Rezone Z23030037 - 1.05 acres from A1 to B3 to be combined with property beside that is already zoned B3 to create a single entrance from Tommy Dillard Rd- Applicant: Cattle Barn LLC c/o Dillard Sellers/Owner: Herbert Price-Property located at 3351 Tommy Dillard Rd, Map/Parcel C1780052 – District 4.

Presentation: Jeff Haymore, Attorney for Applicant, represented the case. The applicant is the owner of the proposed business, Bill Hartley was also present. He owns an industrial cleaning business with no storage. This property beside this property was previously rezoned from A1 to B3. Mr. Price approached Mr. Hartley about purchasing this property and rezone it with the same classification as the recently rezoned property around him; and it makes sense for it to be rezoned to B3. There is no permanent structure on the property and to the east are existing businesses. This complies with the comprehensive plan which is a guide for development. This will improve the area and they will be hiring people. This will also serve as a place for people looking for a suitable place for commercial development. This property is not

suitable for agriculture or residential. B3 is exactly what this should be zoned, and it is consistent with the comprehensive plan. There will be no problem with egress or ingress. This will be a fully enclosed business. Wesley Sisk verified the business is an environmental contractor for industrial cleaning.

Speaking: No one

Recommendation: John Pringle made a motion to recommend approval as submitted with a second by Timothy Kemp. The motion carried unanimously.

Rezone Application # 223030037
Application to Amend the Official Zoning Map of Walton County, Georgia

Planning Comm. Meeting Date 05-04-2023 at 6:00PM held at **WC Historical Court House, 111 S. Broad St, Monroe, Ga (2nd Floor)**

Board of Comm Meeting Date 06-06-2023 at 6:00PM held at **WC Historical Court House - 111 S. Broad St. - 2nd floor**

You or your agent must be present at both meetings

Map/Parcel C1780052

Applicant Name/Address/Phone #

Property Owner Name/Address/Phone

Cattle Barn, LLC c/o Dillard Sellers

Herbert Price

1776 Peachtree St, NW, Suite 415-S

3351 Tommy Dillard Rd

Atlanta, GA 30309

Monroe, GA 30656

E-mail address: jhaymore@dillardsellers.com

(If more than one owner, attach Exhibit "A")

Phone # (404) 665-1243

Phone # 470-365-7042

Location: 3351 Tommy Dillard Rd Requested Zoning B3 Acreage 1.05

Existing Use of Property: Vacant residential lot

Existing Structures: none

The purpose of this rezone is See attached

Property is serviced by the following:

Public Water: Yes Provider: Walton County Water and Sewer Authority Well: No

Public Sewer: No Provider: _____ Septic Tank: Yes

The above statements and accompanying materials are complete and accurate. Applicant hereby grants permission for planning
 upon and inspect the property for all purposes allowed and required by the Comprehensive Land

John L. Dugan 3/29/23 \$ 450
 Signature Date Fee Paid

Public Notice sign will be placed and removed by P&D Office

Signs will not be removed until after Board of Commissioners meeting

Office Use Only:

Existing Zoning: A1 Surrounding Zoning: North A2 South A1 B3
 East B3 West A1 B3

Comprehensive Land Use: Highway Corridor **DRI Required?** Y N

Commission District: 4-Lee Bradford Watershed: TMP

I hereby withdraw the above application _____ Date _____

**AUTHORIZATION
BY PROPERTY OWNER**

I swear that I am the property owner of the property which is the subject matter of the attached Petition for Rezoning/Conditional Use Application, as is shown in the records of Walton County, Georgia.

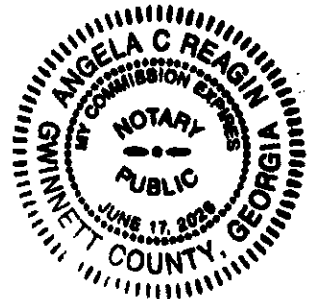
I authorize the named below to act as Applicant in the pursuit of a Petition for Rezoning/Conditional Use Application.

Name of Applicant: William Hartley
Address: 1266 Eth Street, Macon, GA 31206
Telephone: (478) 719-6075
Location of Property: 3351 Tommy Dillard Rd.
Macon, GA 30656
Map/Parcel Number: C1780052
Current Zoning: A1 Requested Zoning: B3

| | |
|---|-------------------|
| <u>Herbert M. Paic</u> Property Owner Signature | _____ |
| Print Name: <u>Herbert M. Paic</u> | Print Name: _____ |
| Address: <u>3351 Tommy Dillard Rd</u> <u>Macon, GA 30656</u> | Address: _____ |
| Phone #: <u>(478) 365-7042</u> | Phone #: _____ |

Personally appeared before me and who swears that the information contained in this authorization is true and correct to the best of his/her knowledge.

Angela C Reagin 3/21/23
Notary Public Date



Article 4, Part 4, Section 160 Standard Review Questions:

Provide written documentation addressing each of the standards listed below:

1. Existing uses and zoning of nearby property;

See attached

2. The extent to which property values are diminished by the particular zoning restrictions;

See attached

3. The extent to which the destruction of property values of the plaintiffs promotes the health, safety, morals or general welfare of the public;

See attached

4. The relative gain to the public, as compared to the hardship imposed upon the individual property owner;

See attached

5. The suitability of the subject property for the zoned purposes; and

See Attached

6. The length of time the property has been vacant as zoned, considered in the context of land development in the area in the vicinity of the property

See Attached

LETTER OF INTENT

**Walton County, GA
Rezoning Application**

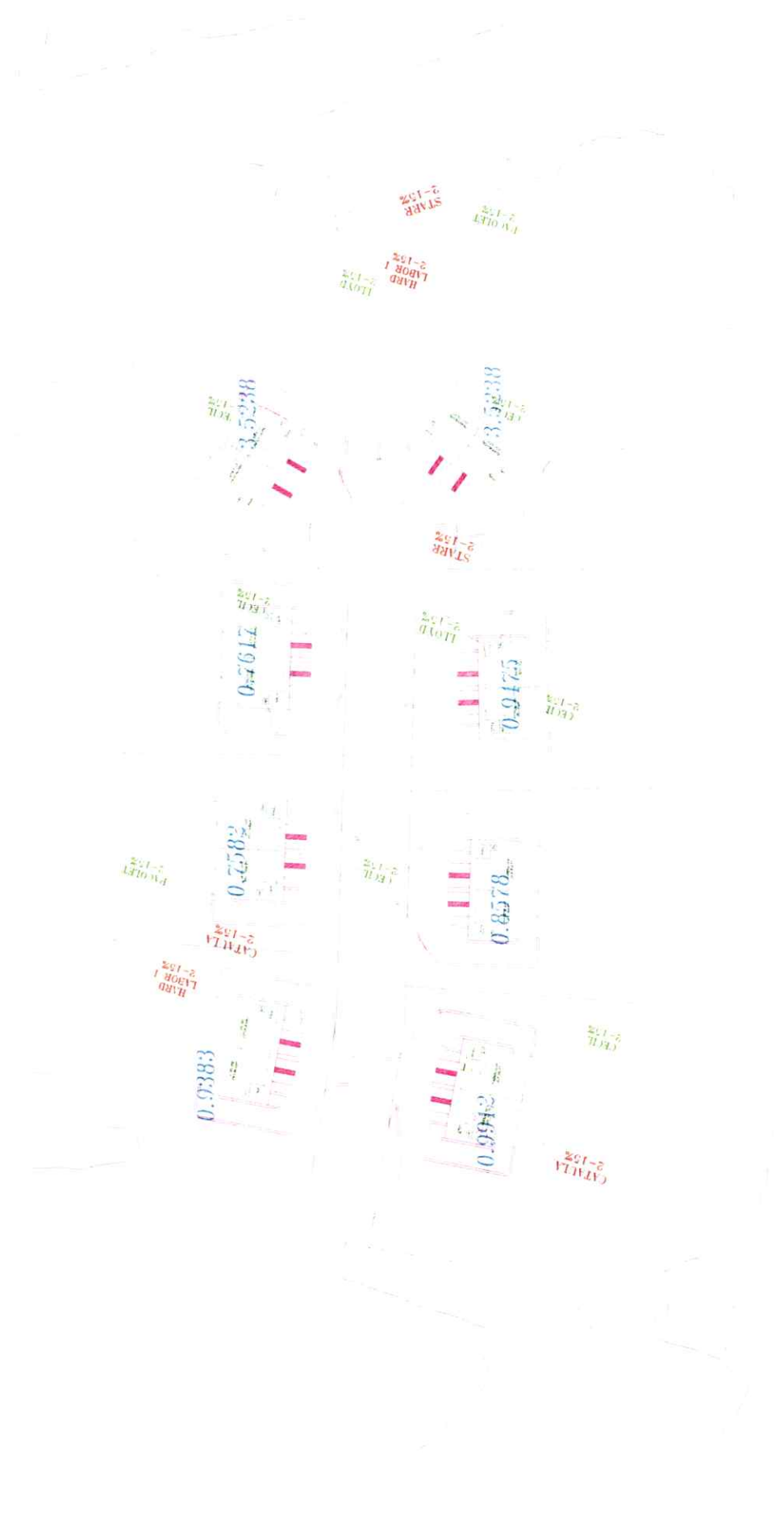
Applicant:
Cattle Barn, LLC
c/o Jeff Haymore, Dillard Sellers

Property:
3351 Tommy Dillard Rd.

Parcel ID Nos.:
C1780052

Submitted for Applicant by:

Jeff Haymore
DILLARD SELLERS
1776 Peachtree Street NW, Suite 415-S
Atlanta, Georgia 30309
(404) 665-1243
jhaymore@dillardsellers.com



STAIR 2-15%

EQUI 2-15%

HARD LABOR 2-15%

0.35338

0.35338

STAIR 2-15%

EQUI 2-15%

FLOOR 2-15%

0.4617

0.4617

EQUI 2-15%

0.5582

0.5578

PAVING 2-15%

EQUI 2-15%

CAPITA 2-15%

HARD LABOR 2-15%

0.9383

EQUI 2-15%

0.9942

CAPITA 2-15%

I. INTRODUCTION

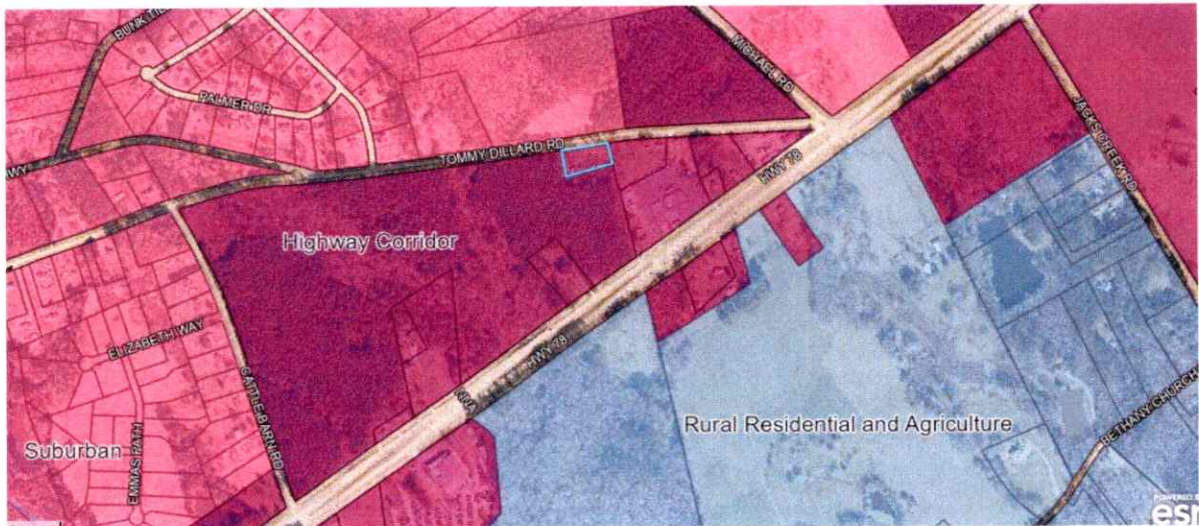
Cattle Barn LLC, doing business as First Environmental (hereafter “Applicant”) applies to rezone approximately +/- 1.05 acres (“The Property”) located at 3351 Tommy Dillard Rd., Monroe, GA 30656 in unincorporated Walton County, from A-1 (“Current Zoning”) to B-3 (“Proposed Zoning”) for the purpose of combining it with the property development occurring adjacent to the parcel. The Property is Highway Corridor on the County’s future land use map. The Proposed Zoning is compatible with the Highway Corridor land use designation. The Current Zoning is not compatible with the Highway Corridor land use designation.

Applicant owns the adjacent parcel, which the County rezoned, At Applicant’s request, on October 4, 2022, from A-1 to B-3 with conditions (Z22070026) as amended on February 7, 2023 (AZ23010004). Applicant is under contract with the Property owner to purchase the Property to create a single entrance onto the development where Applicant will develop First Environmental’s Walton County office, minimizing the number of curb cuts needed onto Tommy Dillard Road.



The Property is an isolated A1 parcel in an area that is and continues to be commercial in nature. This is illustrated in the County’s future land use map, which designates the area boarded by Tommy Dillard Road to the North and Highway 78

to the South as a Highway Corridor. Highway Corridor, as described by the Walton County Comprehensive Plan 2022-2026 is intended for commercial development. B3 is a zoning district that is compatible with the Highway Corridor character area while the A1 district is not. The Property itself does not meet the standards of the A1 district, intended for Rural Estates which Section 120 of the Walton County Land Development Ordinance (“Zoning Ordinance”) states should be two acres, almost double the just over one acre that the Property encompasses.



By rezoning the Property and combining it with the neighboring parcel, the County will be addressing the concerns that were previously raised about the traffic impact onto Tommy Dillard Road. The new site plan for First Environmental will use existing curb cuts onto the Property as opposed to creating additional curb cuts and access on the adjacent parcel, thus limiting access onto Tommy Dillard Road to the one entry/exit. Applicant respectfully requests approval of this rezoning application to rezone the Property to B3.

II. IMPACT ANALYSIS

The Applicant satisfies the criteria for a zoning map amendment approval as set for in Section 160 of the Zoning Ordinance as set forth below:

1. Existing uses and zoning of nearby property:

The Property has an underutilized, aged home and other minor improvements that is currently unoccupied. The Property is zoned A1 while all the adjacent property is zoned B3 for commercial use. This, combined with the future land use designation of Highway Corridor makes the residential use of the Property unlikely.

2. The extent to which property values are diminished by the particular zoning restrictions:

The Property is surrounded by commercial uses on either side, as well as to the south of the Property. By maintaining the A1 zoning of the Property, the value is diminished as it is unattractive for residential or agricultural use, for which the A1 zoning is intended. This is especially true as the Property is barely over one acre, while the A1 zoning calls for minimum lot area of two acres.

3. The extent to which the destruction of property values of the plaintiffs promotes the health, safety, morals or general welfare of the public:

The Current Zoning on the Property constitutes a significant destruction of property values, which destruction is not in furtherance of the promotion of the health, safety, morals or general welfare of the public. The Current Zoning only promotes continued Property vacancy and aesthetic blight while the Proposed Zoning will result in a new and aesthetically pleasing business office development of the Property consistent with the Highway Corridor land use designation. The

4. The relative gain to the public, as compared to the hardship imposed upon the individual property owner:

The Current Zoning constitutes a significant detriment to the property owner and the Applicant, which is not justified by any gain to the public. On the contrary the Current Zoning only promotes the continuation of the Property's vacancy and blight. Approving the rezoning to B3 would bring consistency to the zoning along Tommy Dillard Road as the road approaches Highway 78. Additionally it would benefit the public as it would make the zoning consistent with the character area/future land use of Highway Corridor. There is no gain to the public by

keeping it zoned A1. This is confirmed by the County's Highway Corridor land use designation, which recommends B3 and not A1 zoning. An outdated zoning classification which is incompatible with a more recently adopted Comprehensive Plan is generally held to be unconstitutional. *Jackson v. Goodman*, 247 Ga. 683 (1981) (affirming trial court's invalidation of outdated low-density residential zoning where the property abuts the highway and the current comprehensive plan "called for a higher density than existing zoning").

5. The suitability of the subject property for the zoned purpose:

The Property is not suitable for redevelopment as agriculture or residential as required by the Current Zoning. In contrast, the Property is suitable for commercial use as proposed by Applicant because the Property is boarded by parcels that are already B3. B3 is also consistent with the character area/future land use. As this Property will be utilized as access to an adjacent parcel, it will eliminate the need for additional curb cuts onto Tommy Dillard Road.

6. The length of time the property has been vacant as zoned, considered in context of land development in the area in the vicinity of the property.

It appears that the Property has been in a state of disinvestment for some time with no apparent prospects for re-investment by the current or any future owner under Current Zoning. While there is an existing home on the Property, it appears to be unoccupied. Commercial development to the east of the Property and the proposed commercial development by the Applicant to the south and west of the Property make it unattractive for residential use under Current Zoning. Maintaining the Current Zoning only perpetuates vacancy and blight. Approval of the Proposed Zoning is in keeping with the commercial land development in the area and will result in additional jobs and tax base.

III. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that this Rezoning Application be granted as requested by the Applicant. If there are any

questions about this request, please do not hesitate to contact me at (404) 665-1243 or jhaymore@dillardsellers.com.

Sincerely,

DILLARD SELLERS, LLC

A handwritten signature in black ink, appearing to read "Jeffrey S. Haymore". The signature is written in a cursive style with a long horizontal flourish at the end.

Jeffrey S. Haymore
Attorney for the Applicant

CONSTITUTIONAL AND ANTE LITEM NOTICE

The portions of the Walton County Zoning Ordinance, facially and as applied to the Property, which restrict the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than that proposed by the Applicant are unconstitutional in that they would destroy the Owner's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I and Section III, Paragraph I 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.

The application of the Walton County Zoning Ordinance, facially and as applied to the Property, which restricts the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than in accordance with the Application is unconstitutional, illegal, null and void, constituting a taking of Owner's property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States; Article I, Section I, Paragraph I, and Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Owner an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of the Application would be unconstitutional under the Takings Clause of the Fifth Amendment to the Constitution of the United States and the Just Compensation Clause of Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983. A refusal by the Walton County Board of Commissioners (including its members in both their official and individual capacity) to grant the Application as requested would constitute a taking of the Applicant's Property. Because of this unconstitutional taking, Walton County would be required to pay just compensation to the Applicant.

A denial of the Application would constitute an arbitrary and capricious act by the Walton County Board of Commissioners (including its members in both their official and individual capacity) without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Section III,

Paragraph I 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.

A refusal by the Walton County Board of Commissioners (including its members in both their official and individual capacity) to grant the rezoning for the Property in accordance with the criteria as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Owner and owners of similarly situated property in violation of Article I, Section I, Paragraph II 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. Any approval of the Application subject to conditions which are different from the conditions requested by the Applicant, if any, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the Property would also constitute an arbitrary, capricious, and discriminatory act in zoning the Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

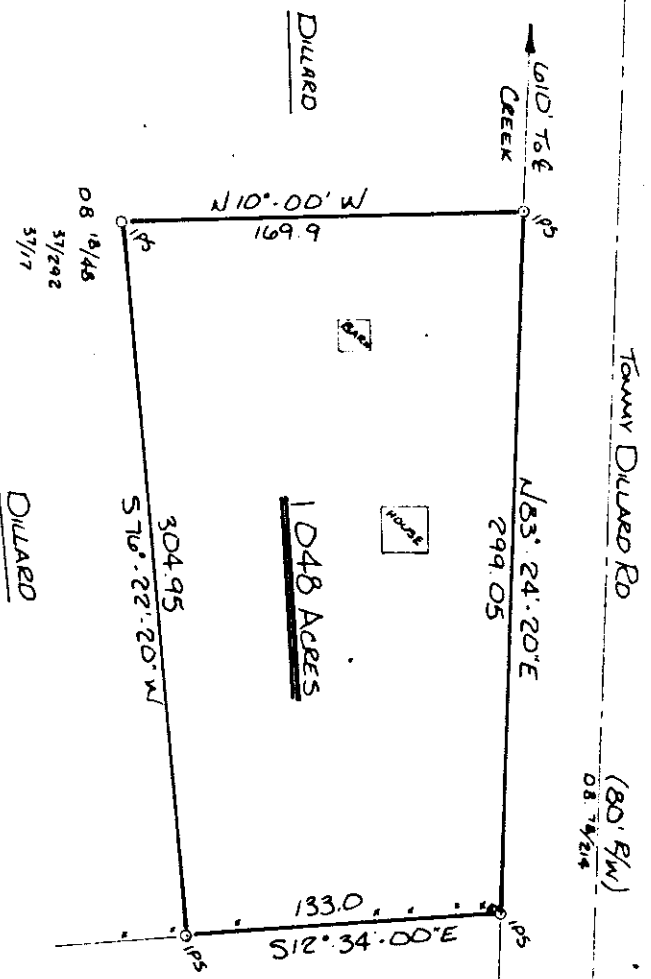
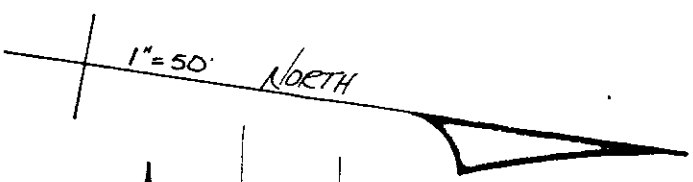
Standing Objection

Applicant further objects to the standing of each and every surrounding resident and/or property applicant or owner to challenge, whether before the Planning Commission, Board of Commissioners or any court of competent jurisdiction, any zoning decision by the Walton County Board of Commissioners in that he/she has not shown, nor can show, that he/she will suffer special damages within the meaning of Georgia law as a result of said decision. The applicant raises this objection before the Planning Commission and Board of Commissioners and requests each to determine the standing of any individual who challenges or objects to the Board of Commissioner's decision to rezone the Property. The applicant further raises this objection before the Walton County Board of Commissioners to preserve said objection on appeal, if any, to any court of competent jurisdiction.

Evidence Objection

Applicant objects to the testimony and documentary evidence proffered by anyone opposed to the Application based on relevancy, inadmissibility, hearsay, lack of foundation and any other applicable evidentiary objection.

We respectfully request that the County cure the aforementioned unconstitutional Current Zoning of the Property by approving the Application. Should the County have any questions, suggestions and/or concerns, we ask that you bring these to our attention so they can be timely addressed.



DILLARD

DILLARD

FOSTER

DB 119/341

Survey For
BOBBY HOWARD

LOCATED IN G.M.D.
WALTON COUNTY, GEORGIA

SCALE: 1" = 50' OCTOBER 2, 1979

SURVEYED BY
GREGG ASSOCIATES
MARIETTA, GEORGIA

RECORDED

This 3 day of Nov, 1979

Glenn S. Bachelor
Clerk, Walton Superior Court