

**AMENDMENT  
TO THE UNIFIED DEVELOPMENT CODE OF OCONEE COUNTY, GEORGIA  
AND THE ZONING MAPS OF OCONEE COUNTY, GEORGIA  
TITLE**

An Ordinance amending the Unified Development Code of Oconee County, Georgia, and the Zoning Maps of Oconee County, Georgia, pursuant to Article 12, Division I et seq., to rezone from zoning classifications R-1 MPD (Mixed Use Residential and Commercial Master Planned Development) to R-1 MPD with Modifications pursuant to the settlement agreement with REO Funding Solutions III, LLC, a/k/a ACA Holdings, LLC, in the case of REO Funding Solutions III, LLC. v. Oconee County, Georgia, et al., Civil Action File No. SU-CV-2017-000085.

**ENACTMENT CLAUSE**

Pursuant to the authority conferred by the Constitution and Laws of the State of Georgia and after consideration of a zoning change initiated by Oconee County Board of Commissioners, on ± 15 acres of land owned by REO Funding Solutions, III, LLC a/k/a ACA Holdings, LLC, located on the south side of U.S. Hwy 78 and west of SR 53 in the 224<sup>th</sup> G.M.D., Oconee County, Georgia, (Lot # Block B 1-13, Block B 16-26, Block C 1-13, Block D 1-7, Block D 19-21), the Board of Commissioners of Oconee County does hereby ordain and enact to law the following:

SECTION 1. An Ordinance known as the “Unified Development Code of Oconee County, Georgia” as enacted and amended by the Board of Commissioners of Oconee County and the Zoning Maps described therein are hereby amended as follows:

The zoning classification for the property described on the attached “Exhibit A” is hereby changed from R-1 MPD ( to R-1 MPD with Modifications, pursuant to the settlement agreement with REO Funding Solutions III, LLC, in the case of REO Funding Solutions III, LLC. v. Oconee County, Georgia, et al., for the purpose as set forth in “Exhibit A” attached hereto.

Said rezone is subject to the following conditions: as set forth in “Exhibit A” attached hereto.

SECTION 2. Severability. It is intended that the provisions of this Ordinance be severable and should any portion be held invalid, such invalidity shall not affect any other portion of the Ordinance.

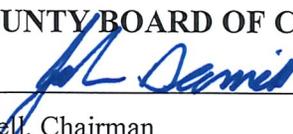
SECTION 3. Repeal of Conflicting Resolutions or Ordinances. All Resolutions or Ordinances and parts or sections of Resolutions or Ordinances in conflict with this Ordinance are hereby repealed.

SECTION 4. Effective Date. This Ordinance shall take effect this date.

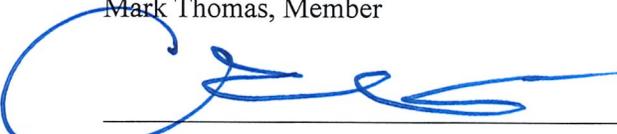
On December 10, 2018, the present Zoning Petition was first presented and discussed at the public hearing conducted by the Oconee County Planning Commission in its regular meeting. Said Zoning Petition was subsequently considered at a Public Hearing held by the Oconee County Board of Commissioners at its regular meeting on January 8, 2019.

ADOPTED AND APPROVED, this 8<sup>th</sup> day of January, 2019.

**OCONEE COUNTY BOARD OF COMMISSIONERS**

BY:   
John Daniell, Chairman

  
Mark Thomas, Member

  
Chuck Horton, Member

  
W. E. “Bubber” Wilkes, Member

  
Mark Saxon, Member

ATTEST:

  
Kathy Hayes  
Clerk, Board of Commissioners



CONDITIONS

**Staff recommends approval of Rezone #7638 from R-1 MPD to R-1 MPD with Modifications, subject to the following conditions which shall be fulfilled by the developer at its expense:**

1. The zoning for the 100-year flood plain portion of this property shall remain FP (Flood Prone District). The zoning for the remainder of this development shall remain R-1- MPD (Master Planned Development). By approval of the master plan, the entire site's acreage will be used to calculate any MPD requirements. The preliminary plats/preliminary site plans, construction plans, final plats, covenants, conservation easements and homeowners' association shall meet the standards set forth in the Oconee County Unified Development Code for an R-1-MPD.
2. The conservation corridors shown on the Future Land Use Plan shall be shown on all plans and plats and shall be protected by a minimum 100' wide undisturbed buffer (to be centered on the creek) except that necessary utility crossing(s) may be made generally perpendicular to said conservation corridors. Pedestrian crossing shall be allowed as shown on the concept plan.
3. The development must be connected to the Oconee County water system and sewer system in a manner approved by Oconee County Utility and Public Works Departments. The costs associated with connecting the development to the systems shall be as set forth in these conditions.
4. At a minimum, developer shall comply with storm water management regulations in effect at the time of construction plan approval.
5. All streets within the development shall include sidewalks on both sides of the street. Said sidewalks shall be located outside the 50' right-of-way corridor on the lots within cross easements and maintained by the property owners association or shall be located within the storm drain corridors in a 60' wide right-of-way, or as otherwise approved by Oconee County.
6. Developer shall plant a minimum of 887 trees throughout the development (2 trees per acre). Said trees shall be a mix of native shade trees and evergreen trees. The shade trees shall be as defined in the Unified Development Code and be at least two inch (2") caliper and 10 feet in height. The evergreen trees shall be at least 6 feet in height. These trees may be located as street trees, lot trees or as supplements to the green space areas outside of the 50' wide perimeter buffer. These trees are in addition to any required landscaping in the through-road corridor. The trees may be planted in phases corresponding to the phases of the development. Tree locations must be designated on future plans for the development.
7. Except for the addition of supplemental material in the buffer, wherever construction is to occur within 50 feet of the "50' Perimeter Buffer", the buffer edge must be clearly marked in the field with erosion control fencing and protected. No construction material or debris shall be allowed to be stored or located within the buffer. No storm water detention areas, other than drainage corridors, shall be located within the 50' perimeter buffer.
8. All areas shown on the concept plan as "open space" areas shall be allowed to revert to a natural state and shall not be mowed or maintained except for the maintenance of trails and paths and any maintenance related to Georgia Forestry best management practices such as the removal of diseased, dying or dead trees. These areas shall also be placed under a Conservation Easement as allowed for under the "Georgia Uniform Conservation Easement Act."
9. On at least 66% of the homes, all exterior building walls visible from the project streets shall be finished in predominately (80%) masonry exteriors (brick, stone, stucco, etc.). All homes shall have brick or stone foundations. All non-predominate masonry homes shall include unique architectural details. As part of the required covenants and at the time of Preliminary Plat and/or Preliminary Site Plan submittal, the developer shall submit for approval to Oconee County a "Home Builder's Plan Requirements Document" which shall include descriptive requirements and photos/illustrations of unique architectural elements (specific requirements for columns, lighting fixtures, windows, doors, dormers, molding, shutters, etc., showing them to be exceptional architectural elements) that a builder must include in a home in order to satisfy this condition. No Certificate of Occupancies will be issued for non-predominate masonry homes that do not substantially meet the requirements outlined in the "Home Builder's Plan Requirements Document".
10. The preliminary and final subdivision plats shall indicate the location of both the flood hazard area boundary located by field run survey and the wetlands boundary field located by a qualified wetlands consultant.

## EXHIBIT "A" TO REZONE #7638

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11. No land disturbing activities shall be permitted within fifty feet (50') of the Wetlands Protection District except in compliance with the Oconee County Wetlands Protection Ordinance. This area shall be clearly marked on the preliminary plats, final plats, and construction plans as an undisturbed stream and wetlands buffer.
12. All through road corridor setbacks shall be as shown on the concept plan.
13. All perimeter buffers shall be as shown on the concept and representative buffer drawings.
14. Applicant must receive approval of project naming and street name from Planning and Code Enforcement. Applicant must also submit a Unit Numbering System Plan to Planning and Code Enforcement for approval.
15. In cases where the Unified Development Code does not address it, alleys shall be designed and built in compliance with AASHTO standards in effect at time of construction plan approval.
16. Developer shall erect a minimum 6' tall fence along the property line between this property and that owned by Davison.
17. The County will retain the amounts previously paid to the County by the Westland Owners (or their predecessors in title) to reserve sewer capacity for the Westland Development. The County will provide sewer service to the Westland Development on and subject to the terms and conditions set forth below, including the number of agreed lots within the Westland Development. The Owners or their successors must pay the connection fees in the amounts required at the time applications for building permits are made. The County shall retain sewer capacity reservation funds previously paid for lots in excess of the number of lots permitted by the revised zoning amendments contemplated by this settlement proposal and shall apply such funds to pay connection fees at the current rates when such connection fees become due until such credits are exhausted.
18. The County shall have no obligation to reserve sewer capacity for either or both the Developments after December 31, 2030 if fewer than 80% of the lots within the respective Development have been platted by that date. Beginning January 1, 2025, the Westland Owners must pay minimum sewer service charges for each remaining lot until certificates of occupancy have been issued for 90% of the residential units. As remaining lots, if any, within the Westland Development are connected to sewer during the year, the minimum monthly sewer service charges due from Westland shall be reduced by the number of lots added. If the County rescinds capacity because less than 80% of the Westland lots have been platted by December 31, 2030, the Westland Owners have no further obligation to pay service charges for Remaining Lots.
19. The number of residential units the Westland Owners may develop shall not to exceed 399 units. Residential construction shall be limited to single family detached housing and no townhomes, zero lot line or other multi-family type homes may be built. Development shall be in general conformity with the new proposed site plan for the Westland Development (the "Westland Master Site Plan") attached to these conditions. The following minimum lot widths shall apply: 37 lots 60' minimum 2- Phase 2C 59 lots 70' minimum 3- Phase 2D 20 lots 80' minimum 1- Phase 2B
20. Lots in the Westland development may, but are not required to be age restricted to 55 and older "Active Adult Residents." If the Westland Owners determine to perform age restricted development, that development must be concentrated in one or more clusters or phasings. If Westland Owners determine to build age restricted development, Westland Owners will record in the County land records covenants restricting those lots (the "Westland Age Restricted Lots") within the Westland Development to ownership by persons 55 and older, and shall take all necessary steps to ensure that the covenants and this portion of the Westland Development comply with 42 U.S.C. §§807(b)(2)(C), 3601 et seq. (as amended) and all implementing regulations.
21. Construction of lots in the Westland Development shall occur in multiple phases, approximately over no less than a four- to five-year period from the date the appeal period has expired, following the County's adoption of the rezoning. In no event shall the Westland Owners be entitled to building permits for in excess of seventy-five (75) lots per year on a cumulative basis. In any year in which less than 75 building permits are issued, the difference between 75 and the number issued will "roll-over" into the next year in addition to the next 75 allowed.
22. Prior to commencement of construction for the Westland commercial/retail portion of the Westland Development, Westland shall submit a new site plan for that portion of the Westland Development to the County for review and approval by the Board of Commissioners, which submittal will be in accordance with code requirements in effect on the date of the submittal (which shall include restrictions such as not allowing certain users, billboards, hookah bars or adult entertainment). Office use has

## EXHIBIT "A" TO REZONE #7638

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been eliminated from the Westland Master Site Plan. Any retail development will target tenants that complement the residential community such as a daycare facility, restaurants (including restaurants with drive-through services), pharmacy, bank and/or other services.

23. With respect to foundations, all homes in the Westland Development shall be constructed in accordance with the applicable County UDC criteria in effect on the date that proper applications for building permits are submitted; provided however, homes on Westland Age Restricted Lots may be constructed with slab-on-grade foundations. Slab foundations are permitted for the lots in Phase 1A according to the previous final plat.
24. Except for Westland pump station(s), existing water and sewer infrastructure and utilities in the Westland Development may remain in place subject to successful testing and inspection witnessed by a County employee that all existing infrastructure is in accordance with County standards existing at the time they were installed. There shall be a one (1) year warranty period on materials and installation from the time infrastructure is accepted by Oconee County and placed in operation. Any modifications to existing water and sewer infrastructure required by the design architect or project engineer shall be subject to review and approval by the Oconee County Water Resources Department.
25. The lift station(s) and lift station infrastructure constructed in the future in the Westland Development must meet the County's current design standards, performance requirements and specifications. The water and sewer infrastructure and utilities to be constructed in the future will be accepted by the County upon successful pressure testing, visual inspection (gravity sewer), and demonstration that such infrastructure and/or utilities have been certified that they meet the County's current performance and infrastructure specifications for such developments.
26. Westland Owners will not begin discharging sewage into the County sewer system from any homes within the Westland Development until after September 1, 2019. Westland Owners must complete the infrastructure as designed or required by the County to collect and convey effluent to a point determined by the County to allow to flow to Calls Creek WRF. Previous owners of the Westland Development designed and installed a sewer force main and water reuse main from the Westland property to the Rocky Branch Road LAS Facility. Said offsite sewer infrastructure shall be subject to design verification by a certified Professional Engineer that the facilities are adequately sized to accommodate and convey the projected sewer flows from the Westland development. If proven sufficient the infrastructure shall be subject to successful testing and inspection of all existing infrastructure in accordance with County standards existing at the time they were installed. There shall be a one (1) year warranty period on materials and installation from the time said offsite infrastructure is accepted by Oconee County and placed in operation.
27. Westland Owners will pay for the full cost (including design and construction) of an upgrade to the Brookshire Pump Station (PS#8) and new force mains to convey Westland effluent to the Brookshire Pump Station and connect the Pump Station Discharge to the existing 10-inch County force main on Rocky Branch Road at an approximate cost of \$500,000.00 (the "Upgrade"); provided, however, that the maximum amount the Westland Owners shall be required to pay for completing all off-site infrastructure, including the Upgrade, is the not-to-exceed amount of \$500,000.00 (the "Cap"), to be documented by actual out-of-pocket expenses.
28. The Westland Owners are responsible for timely completing the off-site construction of infrastructure contemplated by this Paragraph 14 pursuant to an Encroachment Agreement with the County. Westland Owners will provide cost and performance updates and documentation to the County upon its reasonable request. If the Upgrade and any other required off-site improvements are not completed on or before September 1, 2019, as a result of the County's acts or omissions (or the acts or omissions of the County's consultants, contractors, attorneys, or other agents), the dates in Paragraph 2 applicable to the Westland Development shall be extended by one (1) day for each day of delay in completion of the Upgrade and any other required off-site improvements.
29. The County may require the Westland Owners to obtain and keep in place maintenance bonds on all existing water and sewer infrastructure for two (2) years after Certificates of Occupancy have been issued for 90% of the approved lots in the Westland Development or ten years from the date of the revised zoning ordinance for the Westland Development, whichever occurs first. All bonds required herein shall be 100% bonds
30. The Westland Owners may only assign the reserved sewer capacity to a new land owner acquiring all or part of the Westland Owners' property who will then have the right to assign reserved sewer capacity to a subsidiary of the new land owner or to any entity that has purchased land, phases, pods, or lots within the boundaries of the Westland Development. Before such assignment is effective, written notice must

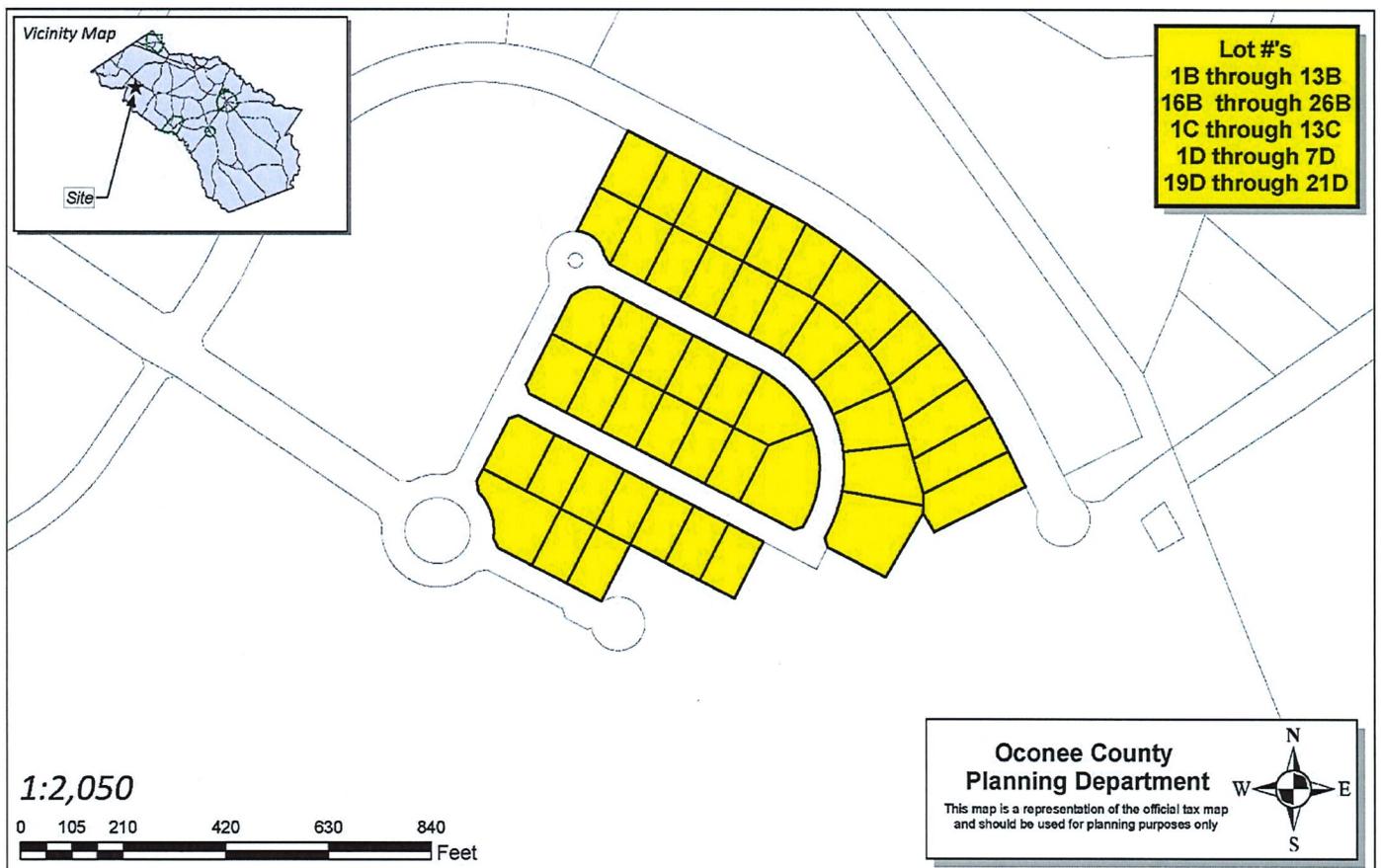
## EXHIBIT "A" TO REZONE #7638

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be provided to the County. The Westland sewer capacity cannot be transferred for use by third parties outside the boundaries of the Westland Development.

31. A portion of the Westland Development's "green space area" totaling approximately 125 acres shall be placed under a conservation easement with an entity similar to the Athens Land Trust to hold the easement. Such green space area may fulfill the green space zoning requirements for the Westland Development.
32. Along with its submission to the County of the plat for the next construction phase of the Westland Development, Westland will submit a letter from the Georgia Department of Transportation and proof of right-of-way allowing improvement to and construction of Goat Farm Road. Prior to issuance of any Certificates of Occupancy for residential homes in the Westland Development, the improvement to and construction of Goat Farm Road must be completed and dedicated to the County.
33. Existing road infrastructure in the Westland Development may remain in place, subject to any modifications required by the design architect or project engineer of the Westland Development. Existing roads in the Westland Development must be brought to County standards and specifications in effect at the time the roads were constructed and the cost thereof must be borne by the Westland Owners. Roads constructed in the future in the Westland Development must meet then current County standards. Roads not previously dedicated or accepted by the County will be accepted by the County in the manner required by current policies or development regulations. The County may require the Westland Owners to obtain and keep in place maintenance bonds on roads until two (2) years after Certificates of Occupancy have been issued for 75% of the homes in the phase served by the road.
34. In order to increase the treatment capacity of the existing system and assist in allowing the County to serve the Developments, after the County's approval of the next final plat of the respective development, the Westland Owners shall each contribute \$150,000 to the Oconee County Water Resources Department earmarked for the County's Infiltration & Inflow Maintenance Program.

### TAX MAP



LEGAL DESCRIPTION

A portion of the tract or parcel of land containing 379.976 lying and being in the county of Oconee, State of Georgia, GMD 224, and described acres on a survey by Woods & Chastain Surveyors, dated January 21, 2003 for Riverside Management Corp., more particularly described as follows:

Beginning at a right-of-way marker located on the southeastern right-of-way way of US Hwy 78 approximately 101.42 feet from the centerline of US Hwy 78 and Goat Farm Road;

- Thence N 39°05'45" E, a distance of 309.97 feet to a point;
- Thence along a curve having a radius of 5729.53 feet, being subtended by a chord of 504.97 feet at N 36°17'48" E, a distance of 504.81 feet to a point;
- Thence N 39°06'25" E, a distance of 307.60 feet to a point;
- Thence N 36°00'25" E, a distance of 198.50 feet to a point;
- Thence N 31°19'25" E, a distance of 220.70 feet to a point;
- Thence N 27°39'25" E, a distance of 120.10 feet to a point;
- Thence N 25°03'16" E, a distance of 217.80 feet to a right-of-way marker;
- Thence N 29°06'24" E, a distance of 53.80 feet to an iron pin;
- Thence S 78°48'35" E, a distance of 1,269.74 feet to a point;
- Thence S 35°31'49" E, a distance of 1062.88 feet to an iron pin;
- Thence S21°48'23"E, a distance of 2,703.56' to an iron pin;
- Thence S02°30'57"E, a distance of 225.55' to an iron pin;
- Thence S39°58'53"E, a distance of 491.33' to an iron pin;
- Thence S43°37'29"W, a distance of 1,396.73' to an iron pin;
- Thence N64°07'18"W, a distance of 471.59' to an iron pin;
- Thence N68°27'21"W, a distance of 2,004.37' to an iron pin;

- Thence S77°08'14"W, a distance of 38.68' to a point;
- Thence S41°59'56"W, a distance of 33.84' to a point;
- Thence N60°56'31"W, a distance of 36.45' to a point;
- Thence S44°40'57"W, a distance of 36.97' to a point;
- Thence N79°21'53"W, a distance of 48.75' to a point;
- Thence S59°45'47"W, a distance of 27.51' to a point;
- Thence S87°04'58"W, a distance of 85.02' to a point;
- Thence N25°22'47"W, a distance of 57.72' to a point;
- Thence N83°56'33"W, a distance of 14.70' to a point;
- Thence S29°19'23"W, a distance of 25.38' to a point;
- Thence S63°38'22"W, a distance of 16.50' to a point;
- Thence N55°14'03"W, a distance of 36.40' to a point;
- Thence N29°59'47"W, a distance of 59.13' to a point;
- Thence N77°27'56"W, a distance of 55.64' to a point;
- Thence N13°05'56"W, a distance of 55.85' to a point;
- Thence N59°44'04"W, a distance of 40.45' to a point;
- Thence N34°40'15"W, a distance of 48.14' to a point;
- Thence N27°58'55"W, a distance of 42.65' to a point;
- Thence N03°18'05"W, a distance of 31.48' to a point;
- Thence S71°10'22"W, a distance of 38.77' to a point;
- Thence S80°11'33"W, a distance of 99.48' to a point;
- Thence S50°56'21"W, a distance of 19.36' to a point;

- Thence S83°01'23"E, a distance of 552.39' to an iron pin;
  - Thence N34°52'54"W, a distance of 470.17' to an iron pin;
  - Thence N43°20'58"E, a distance of 101.42 to the point of beginning.
- Containing 379.976 acres, more or less.
- END OF DESCRIPTION.

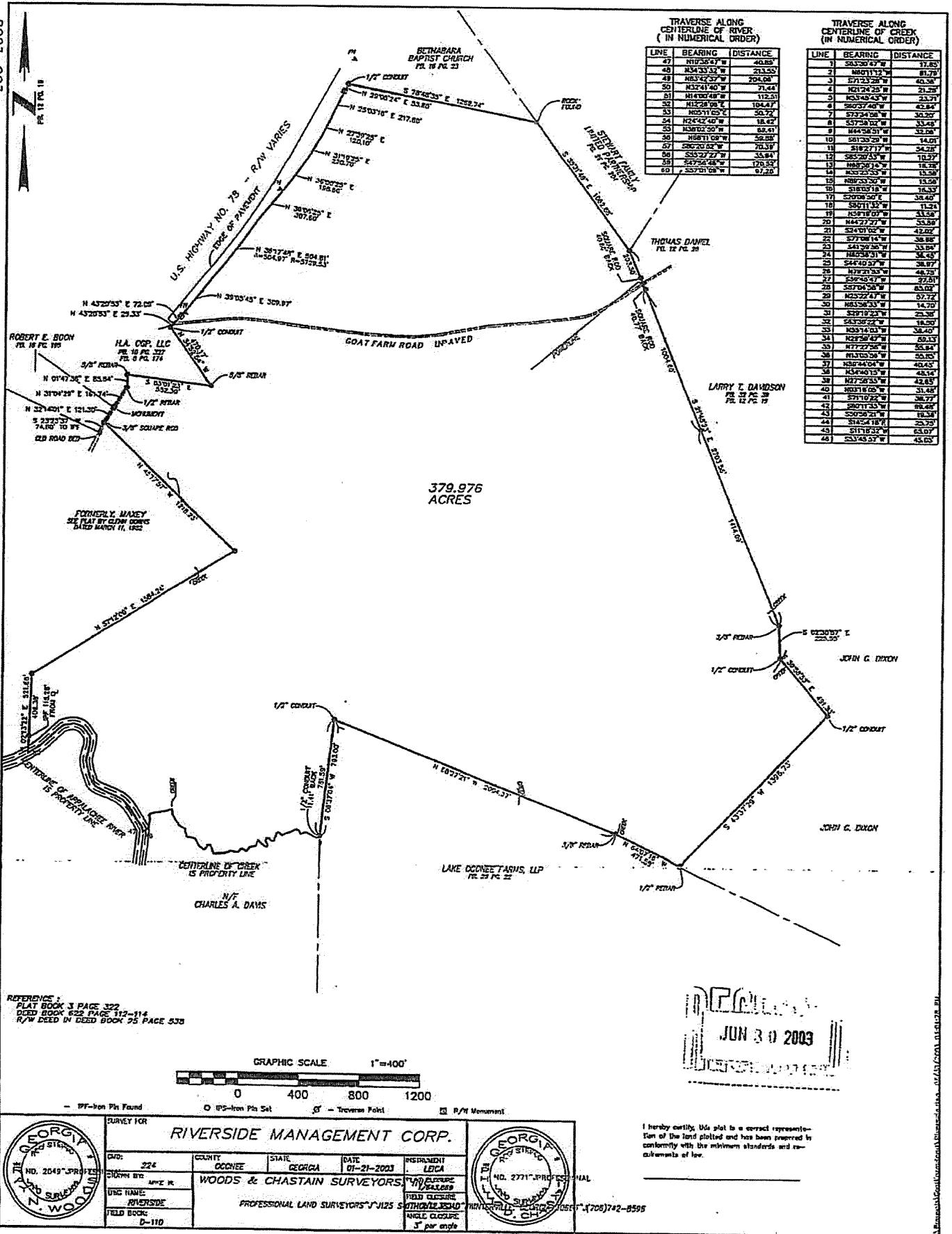
- Thence S06°37'04"W, a distance of 793.00' to a point;
- Thence S63°30'47"W, a distance of 17.85' to a point;
- Thence N60°11'12"W, a distance of 81.79' to a point;
- Thence S71°23'28"W, a distance of 40.36' to a point;
- Thence N21°24'25"W, a distance of 21.28' to a point;
- Thence N53°45'43"W, a distance of 23.71' to a point;
- Thence S60°37'40"W, a distance of 42.64' to a point;
- Thence S73°34'56"W, a distance of 30.20' to a point;
- Thence S57°59'02"W, a distance of 33.46' to a point;
- Thence N44°58'51"W, a distance of 32.06' to a point;
- Thence S61°35'29"W, a distance of 14.01' to a point;
- Thence S19°27'17"W, a distance of 54.28' to a point;
- Thence S65°20'53"W, a distance of 10.27' to a point;
- Thence N68°38'14"W, a distance of 16.78' to a point;
- Thence N35°23'33"W, a distance of 15.58' to a point;
- Thence N89°33'30"W, a distance of 15.56' to a point;
- Thence S18°03'18"W, a distance of 16.33' to a point;
- Thence S20°06'50"E, a distance of 38.40' to a point;
- Thence S60°11'32"W, a distance of 11.24' to a point;
- Thence N59°19'07"W, a distance of 33.56' to a point;
- Thence N44°27'27"W, a distance of 35.59' to a point;
- Thence S24°01'02"W, a distance of 42.02' to a point;

- Thence S14°54'18"E, a distance of 25.75' to a point;
- Thence S11°18'32"W, a distance of 65.07' to a point;
- Thence S53°45'57"W, a distance of 45.05' to a point;
- Thence N10°38'47"W, a distance of 40.89' to a point;
- Thence N34°33'32"W, a distance of 213.55' to a point;
- Thence N63°42'37"W, a distance of 204.06' to a point;
- Thence N32°41'40"W, a distance of 71.44' to a point;
- Thence N14°00'49"W, a distance of 112.51' to a point;
- Thence N12°26'06"E, a distance of 104.47' to a point;
- Thence N05°11'05"E, a distance of 50.72' to a point;
- Thence N24°42'40"W, a distance of 18.42' to a point;
- Thence N38°02'50"W, a distance of 69.41' to a point;
- Thence N68°11'09"W, a distance of 59.88' to a point;
- Thence S80°20'52"W, a distance of 70.39' to a point;
- Thence S55°27'27"W, a distance of 35.64' to a point;
- Thence S47°56'46"W, a distance of 170.52' to a point;
- Thence S57°01'06"W, a distance of 97.28' to a point;
- Thence N02°13'22"E, a distance of 521.66' to an iron pin;
- Thence N57°12'00"E, a distance of 1,584.24' to an iron pin;
- Thence N45°17'57"W, a distance of 1,218.23' to an iron pin;
- Thence N32°14'01"E, a distance of 121.30' to an iron pin;
- Thence N31°04'29"E, a distance of 161.74' to an iron pin;
- Thence N01°47'36"E, a distance of 85.64' to an iron pin;

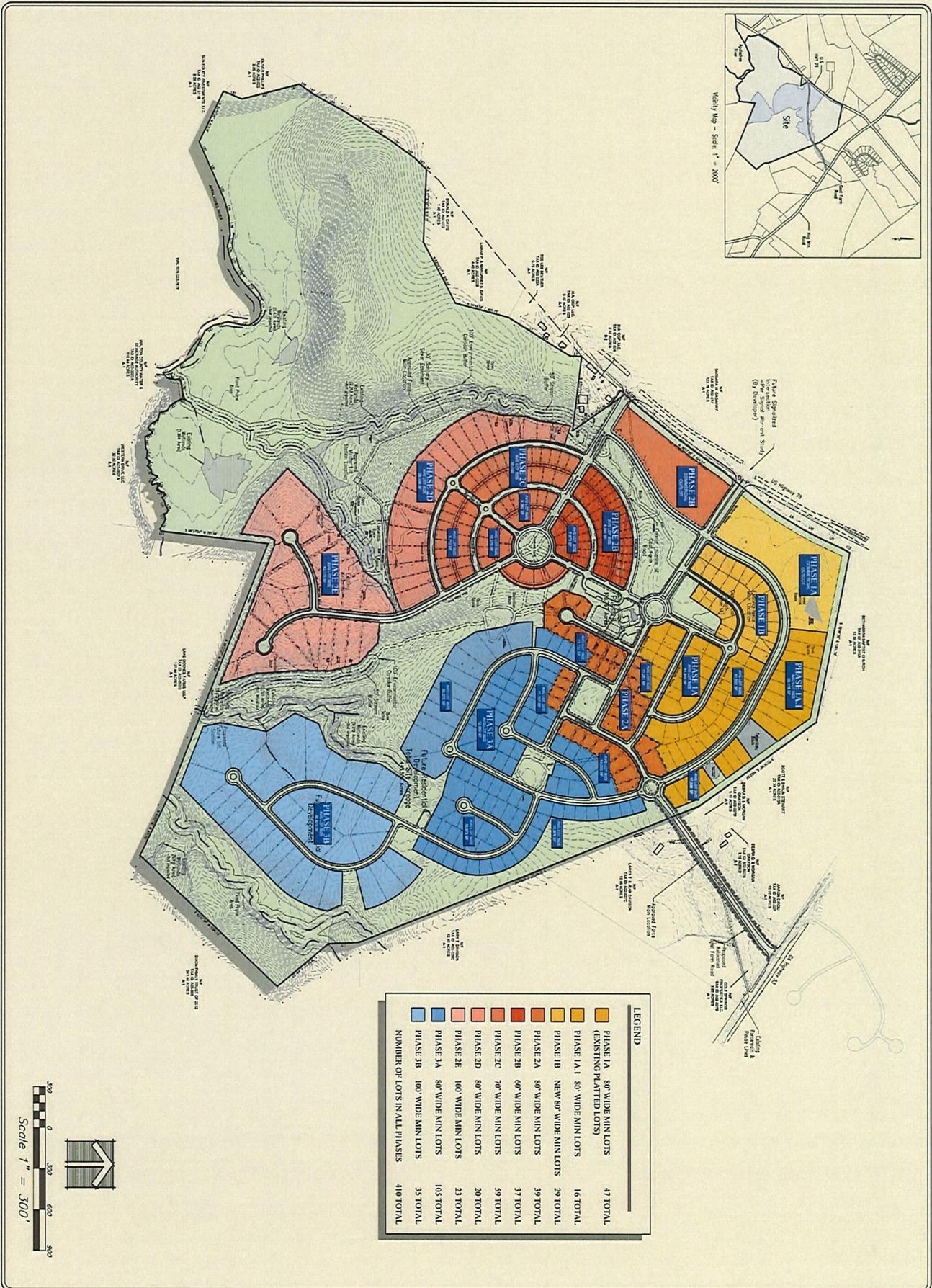
EXHIBIT "A" TO REZONE #7638

PLAT

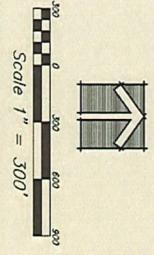
2003-003



CONCEPT PLAN



LEGEND		
PHASE 1A	80' WIDE MIN LOTS (EXISTING PLATTED LOTS)	47 TOTAL
PHASE 1B	NEW 80' WIDE MIN LOTS	16 TOTAL
PHASE 2A	80' WIDE MIN LOTS	29 TOTAL
PHASE 2B	60' WIDE MIN LOTS	37 TOTAL
PHASE 2C	70' WIDE MIN LOTS	59 TOTAL
PHASE 2D	80' WIDE MIN LOTS	20 TOTAL
PHASE 2E	100' WIDE MIN LOTS	23 TOTAL
PHASE 3A	80' WIDE MIN LOTS	105 TOTAL
PHASE 3B	100' WIDE MIN LOTS	35 TOTAL
PHASE 3C	100' WIDE MIN LOTS	410 TOTAL
NUMBER OF LOTS IN ALL PHASES		410 TOTAL



NOTICE: THESE DRAWINGS ARE INSTRUMENTS OF PROFESSIONAL SERVICE AND ARE PROTECTED BY COMMON LAW, STATUTORY, AND OTHER RESERVED RIGHTS INCLUDING COPYRIGHT. THESE DRAWINGS MAY NOT BE REPRODUCED OR USED FOR ANY PURPOSE WITHOUT THE WRITTEN CONSENT OF BEALL AND COMPANY AND ASSOCIATED PROJECT CONSULTANTS.

	DATE: 1-15-17
	SCALE: 1" = 300'
	BY: [Signature]
	FOR: [Signature]

REVISION	DATE
1. Modified Exhibit Plan	11/16/16
2. Modified Exhibit Plan	8/1/16

<b>OWNERS:</b> Kentland LLC, LLC 3405 Peachtree Industrial Blvd NE Atlanta, GA 30328 24 HOUR CONTACT: Shabir Hossain 404-964-0033	<b>Westland</b> Master Planned Development Total Project Acreage 443.50 - US Hwy 78 Oconee County, Georgia	<b>Beall &amp; Company</b> Land Planning, Architecture Site Engineering 3601 West 83rd Road Suite 1100 Ocala, FL 32067 (352) 543-9077 www.beallandcompany.com
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**Planning and Code Enforcement Department  
Oconee County, Georgia  
STAFF REPORT**

**REZONE CASE #:** 7638

**APPLICANT NAME:** Oconee County Board of Commissioners

**PROPERTY OWNER:** REO Funding Solutions III, LLC

**LOCATION:** South side of US Hwy 78 and west of GA SR 53

**PARCEL SIZE:** ± 15 Acres

**EXISTING ZONING:** R-1 MPD (Single-Family Residential Master-Planned Development)

**2040 CHARACTER AREAS MAP:** Suburban Neighborhood & Civic Center

**EXISTING LAND USE:** Vacant residential subdivision and undeveloped land

**ACTION REQUESTED:** Rezone R-1 MPD to R-1 MPD with modifications.

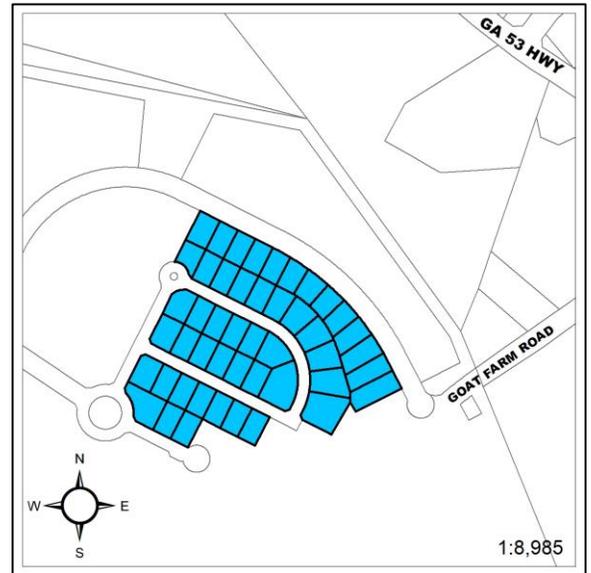
**REQUEST SUMMARY:** The Oconee County Board of Commissioners is initiating and will consider a rezone modification of the subject property pursuant to the settlement agreement with REO Funding Solutions III, LLC, in the case of REO Funding Solutions III, LLC, v. Oconee County, Georgia, et al. (Civil Action File No. SU-CV-2017-000085)

**DATE OF SCHEDULED HEARINGS**

**PLANNING COMMISSION:** December 10, 2018

**BOARD OF COMMISSIONERS:** January 8, 2019

**ATTACHMENTS:** Comparison Tables Provided by Kenneth Beall  
Revised Concept Plan  
Staff Recommendation and Conditions  
Staff Report for Rezone no. 3291 (09/02/2003)  
Settlement Agreement (Civil Action File No. SU-CV-2017-000085)



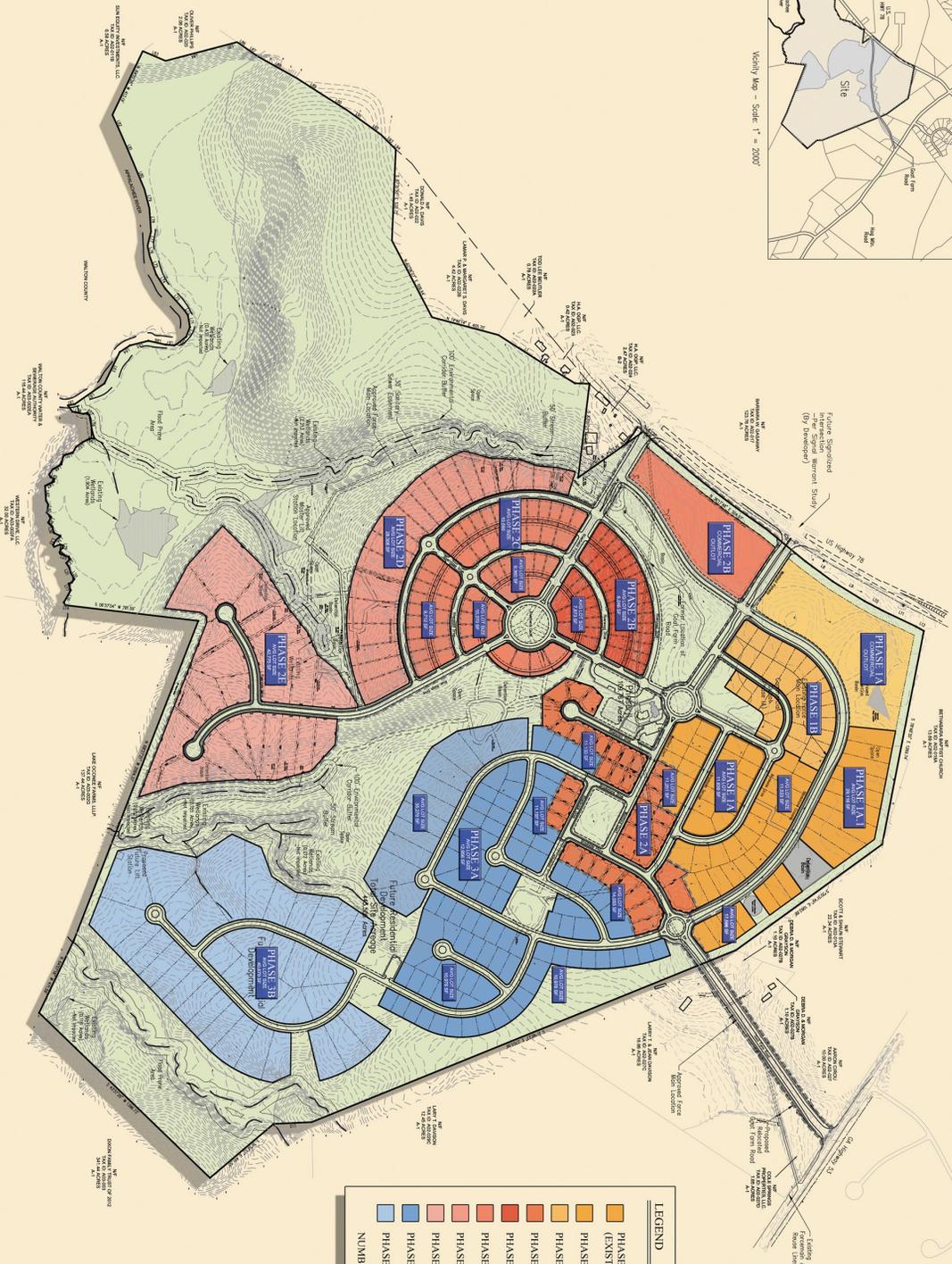
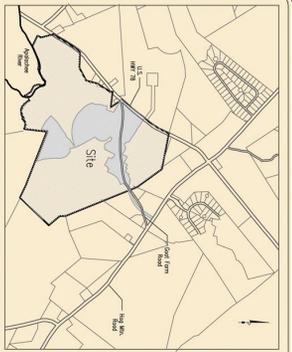
## Westland Comparison

	2003 Re-Zone Ordinance	2019 Re-Zone Ordinance
Number of SF Residential lots: Allowed by MPD Zoning	430 units	Maximum of 399 units; replaced 50' lots with 60' and 70' lots which are lot sizes more in line with market demand
Included in Master Plan design	420 units	Master Site Plan design includes 410 units; 11 lots selected by owner will remain vacant or be re-combined as desired
With Reserved Sewer Capacity	Sewer capacity reservation fees paid for 420 units	Receive credit for sewer capacity reservation fees already paid for the reduced number of lots allowed by the 2019 Re-Zone Ordinance (to be applied to future sewer connection fees)
Sewer Capacity Reservation	N/A	County may rescind any remaining sewer capacity reservation after December 31, 2030 if at least 80% of the single family lots in the Westland development have not been platted.
Monthly Sewer Charges	N/A	After January 1, 2025 the County may begin charging minimum monthly sewer service charges (currently \$15.44 per month per lot) for each remaining lot in the Westland development upon which a home has not been completed until certificates of occupancy have been issued for at least 90% of the residential units
Townhomes, zero lot line homes	Permitted	Eliminated and replaced with SF Residential Lots
Office	Permitted	Eliminated and replaced with SF Residential Lots
Retail	Permitted	Permitted; allows restaurants with drive-through services

Type of Foundation	No prohibition of slab foundations.	Final platted lots (Phase 1A) are grandfathered to allow slab foundations; other lots are subject to current UDC criteria (which may prohibit slab foundations)
Existing On-Site Roads	Constructed subject to 2005 County Standards	To be completed subject to 2005 County Standards
Future On-Site Roads	Constructed subject to 2005 County Standards	To be constructed subject to current County Standards
Existing On-Site Water, Sewer and Infrastructure	Constructed subject to 2005 County Standards	To be completed subject to 2005 County Standards; requirement for successful County testing and inspection; Owner to provide a 1 year warranty from first operation
Future water, sewer and infrastructure standards	Constructed subject to 2005 County Standards	Must meet current UDC criteria; requirement for successful County testing and inspection
Proposed Build-Out	Approximately 5 years	Approximately 5 years; maximum 75 single family residential building permits issued per year (cumulative)
Lift Stations – On-Site	Three; to be constructed subject to 2005 County Standards	Three; to be constructed subject to current County standards
Existing Off-Site Sewer Infrastructure	Complete force main, re-use lines and pipeline connections to Rocky Branch LAS Plant	Existing force main to be tested and inspected prior to County acceptance; Owner to provide a 1 year warranty on materials and installation;
Future Off-Site Sewer Infrastructure	Complete required pipeline connections to Rocky Branch LAS Plant	Complete pump station upgrade and required pipeline connections to Calls Creek Sewer Plant at a not to exceed cost for owner of \$500,000
Maintenance Bonds:		
Existing and Future Water and Sewer Lines	10% maintenance bonds required on all existing water and sewer infrastructure (plus 110% performance bonds)	100% bonds required on all existing water and sewer infrastructure until earlier of i) 2 years after COs have been issued for 90% of homes or ii) 10 years from date of 2019 Re-Zone Ordinance
	20% maintenance bonds	100% bonds required on all roads until 2 years after COs

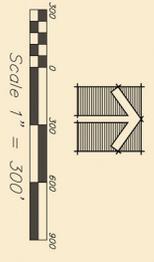
Existing and Future Roads	required on all roads shown in subdivision plat (plus 110% performance bonds)	have been issued for 75% of homes in the subdivision phase served by the roads
Additional Requirements	N/A	Payment of \$150,000 for County Inflow and Infiltration Maintenance program;
	Approximately 167 acres required for green space	Conservation Easement for approximately 125 acres of the green space to be held by a land trust; and
	N/A	No discharge of effluent into County sewer system before September 1, 2019
Additional Rights	N/A	County gives Westland right to pursue the surety in the name of the County for collection and/or enforcement of the performance and maintenance bonds including: i) sewer and lift station installation bond in the amount of \$400,000, ii) road and drainage construction and right-of-way grassing bond in the amount of \$91,429, iii) road maintenance and paving bond in the amount of \$195,279 and iv) the water and sewer maintenance bond in the amount of \$83,964 and to use any such collected proceeds for completion of the on-site improvements; Westland to indemnify County

Provided by Kenneth Beall on November 28, 2018



**LEGEND**

PHASE 1A - 80' WIDE MIN. LOTS (EXISTING PLATTED LOTS)	47 TOTAL
PHASE 1A.1 - 80' WIDE MIN. LOTS	16 TOTAL
PHASE 1B - NEW 80' WIDE MIN. LOTS	29 TOTAL
PHASE 2A - 80' WIDE MIN. LOTS	39 TOTAL
PHASE 2B - 60' WIDE MIN. LOTS	37 TOTAL
PHASE 2C - 70' WIDE MIN. LOTS	59 TOTAL
PHASE 2D - 80' WIDE MIN. LOTS	20 TOTAL
PHASE 2E - 100' WIDE MIN. LOTS	23 TOTAL
PHASE 3A - 80' WIDE MIN. LOTS	105 TOTAL
PHASE 3B - 100' WIDE MIN. LOTS	35 TOTAL
<b>NUMBER OF LOTS IN ALL PHASES</b>	<b>410 TOTAL</b>



NOTICE: THESE DRAWINGS ARE INSTRUMENTS OF PROFESSIONAL SERVICE AND ARE PROTECTED BY COMMON LAW, STATUTORY, AND OTHER RESERVED RIGHTS INCLUDING COPYRIGHT. THESE DRAWINGS MAY NOT BE REPRODUCED OR USED FOR ANY PURPOSE WITHOUT THE WRITTEN CONSENT OF BEALL AND COMPANY AND ASSOCIATED PROJECT CONSULTANTS.

NO.	REVISION	DATE
1		
2		
3		
4	Modified Exhibit Plan	5/5/18
5	Modified Exhibit Plan	8/8/18

DATE: 1.14.19  
 SHEET: 105 OF 105  
 NOT VALID FOR CONSTRUCTION



**OMNIS**  
 1445 Peachtree Road, N.E.  
 Suite 600  
 Atlanta, GA 30309  
 24 HOUR CONTACT:  
 Sandra Jackson  
 404-524-5555

**Westland**  
 Master Planned Development  
 Total Project Acreage 443.50 - US Hwy 78  
 Oconee County, Georgia

**Beall & Company**  
 Lead Planning  
 Landscape Architecture  
 3001 S. Dogwood  
 Suite 1400  
 Marietta, GA 30067  
 www.beallandcompany.com

## STAFF RECOMMENDATION

**Staff recommends approval of Rezone #7638 from R-1 MPD to R-1 MPD with Modifications, subject to the following conditions which shall be fulfilled by the developer at its expense:**

1. The zoning for the 100-year flood plain portion of this property shall remain FP (Flood Prone District). The zoning for the remainder of this development shall remain R-1-MPD (Master Planned Development). By approval of the master plan, the entire site's acreage will be used to calculate any MPD requirements. The preliminary plats/preliminary site plans, construction plans, final plats, covenants, conservation easements and homeowners' association shall meet the standards set forth in the Oconee County Unified Development Code for an R-1-MPD.
2. The conservation corridors shown on the Future Land Use Plan shall be shown on all plans and plats and shall be protected by a minimum 100' wide undisturbed buffer (to be centered on the creek) except that necessary utility crossing(s) may be made generally perpendicular to said conservation corridors. Pedestrian crossing shall be allowed as shown on the concept plan.
3. The development must be connected to the Oconee County water system and sewer system in a manner approved by Oconee County Utility and Public Works Departments. The costs associated with connecting the development to the systems shall be as set forth in these conditions.
4. At a minimum, developer shall comply with storm water management regulations in effect at the time of construction plan approval.
5. All streets within the development shall include sidewalks on both sides of the street. Said sidewalks shall be located outside the 50' right-of-way corridor on the lots within cross easements and maintained by the property owners association or shall be located within the storm drain corridors in a 60' wide right-of-way, or as otherwise approved by Oconee County.

6. Developer shall plant a minimum of 887 trees throughout the development (2 trees per acre). Said trees shall be a mix of native shade trees and evergreen trees. The shade trees shall be as defined in the Unified Development Code and be at least two inch (2") caliper and 10 feet in height. The evergreen trees shall be at least 6 feet in height. These trees may be located as street trees, lot trees or as supplements to the green space areas outside of the 50' wide perimeter buffer. These trees are in addition to any required landscaping in the through-road corridor. The trees may be planted in phases corresponding to the phases of the development. Tree locations must be designated on future plans for the development.
7. Except for the addition of supplemental material in the buffer, wherever construction is to occur within 50 feet of the "50' Perimeter Buffer", the buffer edge must be clearly marked in the field with erosion control fencing and protected. No construction material or debris shall be allowed to be stored or located within the buffer. No storm water detention areas, other than drainage corridors, shall be located within the 50' perimeter buffer.
8. All areas shown on the concept plan as "open space" areas shall be allowed to revert to a natural state and shall not be mowed or maintained except for the maintenance of trails and paths and any maintenance related to Georgia Forestry best management practices such as the removal of diseased, dying or dead trees. These areas shall also be placed under a Conservation Easement as allowed for under the "Georgia Uniform Conservation Easement Act."
9. On at least 66% of the homes, all exterior building walls visible from the project streets shall be finished in predominately (80%) masonry exteriors (brick, stone, stucco, etc.). All homes shall have brick or stone foundations. All non-predominate masonry homes shall include unique architectural details. As part of the required covenants and at the time of Preliminary Plat and/or Preliminary Site Plan submittal, the developer shall submit for approval to Oconee County a "Home Builder's Plan Requirements Document" which shall include descriptive requirements and photos/illustrations of unique architectural elements (specific requirements for columns, lighting fixtures,

windows, doors, dormers, molding, shutters, etc., showing them to be exceptional architectural elements) that a builder must include in a home in order to satisfy this condition. No Certificate of Occupancies will be issued for non-predominate masonry homes that do not substantially meet the requirements outlined in the “Home Builder’s Plan Requirements Document”.

10. The preliminary and final subdivision plats shall indicate the location of both the flood hazard area boundary located by field run survey and the wetlands boundary field located by a qualified wetlands consultant.
11. No land disturbing activities shall be permitted within fifty feet (50’) of the Wetlands Protection District except in compliance with the Oconee County Wetlands Protection Ordinance. This area shall be clearly marked on the preliminary plats, final plats, and construction plans as an undisturbed stream and wetlands buffer.
12. All through road corridor setbacks shall be as shown on the concept plan.
13. All perimeter buffers shall be as shown on the concept and representative buffer drawings.
14. Applicant must receive approval of project naming and street name from Planning and Code Enforcement. Applicant must also submit a Unit Numbering System Plan to Planning and Code Enforcement for approval.
15. In cases where the Unified Development Code does not address it, alleys shall be designed and built in compliance with AASHTO standards in effect at time of construction plan approval.
16. Developer shall erect a minimum 6’ tall fence along the property line between this property and that owned by Davison.
17. The County will retain the amounts previously paid to the County by the Westland Owners (or their predecessors in title) to reserve sewer capacity for the Westland Development. The County will provide sewer service to the Westland Development on and subject to the terms and conditions set forth below, including the number

of agreed lots within the Westland Development. The Owners or their successors must pay the connection fees in the amounts required at the time applications for building permits are made. The County shall retain sewer capacity reservation funds previously paid for lots in excess of the number of lots permitted by the revised zoning amendments contemplated by this settlement proposal and shall apply such funds to pay connection fees at the current rates when such connection fees become due until such credits are exhausted.

18. The County shall have no obligation to reserve sewer capacity for either or both the Developments after December 31, 2030 if fewer than 80% of the lots within the respective Development have been platted by that date. Beginning January 1, 2025, the Westland Owners must pay minimum sewer service charges for each remaining lot until certificates of occupancy have been issued for 90% of the residential units. As remaining lots, if any, within the Westland Development are connected to sewer during the year, the minimum monthly sewer service charges due from Westland shall be reduced by the number of lots added. If the County rescinds capacity because less than 80% of the Westland lots have been platted by December 31, 2030, the Westland Owners have no further obligation to pay service charges for Remaining Lots.

19. The number of residential units the Westland Owners may develop shall not to exceed 399 units. Residential construction shall be limited to single family detached housing and no townhomes, zero lot line or other multi-family type homes may be built. Development shall be in general conformity with the new proposed site plan for the Westland Development (the "Westland Master Site Plan") attached to these conditions. The following minimum lot widths shall apply:

- |             |         |             |
|-------------|---------|-------------|
| 1- Phase 2B | 37 lots | 60' minimum |
| 2- Phase 2C | 59 lots | 70' minimum |
| 3- Phase 2D | 20 lots | 80' minimum |

20. Lots in the Westland development may, but are not required to be age restricted to 55 and older “Active Adult Residents.” If the Westland Owners determine to perform age restricted development, that development must be concentrated in one or more clusters or phasings. If Westland Owners determine to build age restricted development, Westland Owners will record in the County land records covenants restricting those lots (the “Westland Age Restricted Lots”) within the Westland Development to ownership by persons 55 and older, and shall take all necessary steps to ensure that the covenants and this portion of the Westland Development comply with 42 U.S.C. §§807(b)(2)(C), 3601 et seq. (as amended) and all implementing regulations.
21. Construction of lots in the Westland Development shall occur in multiple phases, approximately over no less than a four- to five-year period from the date the appeal period has expired, following the County’s adoption of the rezoning. In no event shall the Westland Owners be entitled to building permits for in excess of seventy-five (75) lots per year on a cumulative basis. In any year in which less than 75 building permits are issued, the difference between 75 and the number issued will “roll-over” into the next year in addition to the next 75 allowed.
22. Prior to commencement of construction for the Westland commercial/retail portion of the Westland Development, Westland shall submit a new site plan for that portion of the Westland Development to the County for review and approval by the Board of Commissioners, which submittal will be in accordance with code requirements in effect on the date of the submittal (which shall include restrictions such as not allowing certain users, billboards, hookah bars or adult entertainment). Office use has been eliminated from the Westland Master Site Plan. Any retail development will target tenants that complement the residential community such as a daycare facility, restaurants (including restaurants with drive-through services), pharmacy, bank and/or other services.
23. With respect to foundations, all homes in the Westland Development shall be constructed in accordance with the applicable County UDC criteria in effect on the

date that proper applications for building permits are submitted; provided however, homes on Westland Age Restricted Lots may be constructed with slab-on-grade foundations. Slab foundations are permitted for the lots in Phase 1A according to the previous final plat.

24. Except for Westland pump station(s), existing water and sewer infrastructure and utilities in the Westland Development may remain in place subject to successful testing and inspection witnessed by a County employee that all existing infrastructure is in accordance with County standards existing at the time they were installed. There shall be a one (1) year warranty period on materials and installation from the time infrastructure is accepted by Oconee County and placed in operation. Any modifications to existing water and sewer infrastructure required by the design architect or project engineer shall be subject to review and approval by the Oconee County Water Resources Department.
25. The lift station(s) and lift station infrastructure constructed in the future in the Westland Development must meet the County's current design standards, performance requirements and specifications. The water and sewer infrastructure and utilities to be constructed in the future will be accepted by the County upon successful pressure testing, visual inspection (gravity sewer), and demonstration that such infrastructure and/or utilities have been certified that they meet the County's current performance and infrastructure specifications for such developments.
26. Westland Owners will not begin discharging sewage into the County sewer system from any homes within the Westland Development until after September 1, 2019. Westland Owners must complete the infrastructure as designed or required by the County to collect and convey effluent to a point determined by the County to allow to flow to Calls Creek WRF. Previous owners of the Westland Development designed and installed a sewer force main and water reuse main from the Westland property to the Rocky Branch Road LAS Facility. Said offsite sewer infrastructure shall be subject to design verification by a certified Professional Engineer that the facilities are adequately sized to accommodate and convey the projected sewer flows from the

Westland development. If proven sufficient the infrastructure shall be subject to successful testing and inspection of all existing infrastructure in accordance with County standards existing at the time they were installed. There shall be a one (1) year warranty period on materials and installation from the time said offsite infrastructure is accepted by Oconee County and placed in operation.

27. Westland Owners will pay for the full cost (including design and construction) of an upgrade to the Brookshire Pump Station (PS#8) and new force mains to convey Westland effluent to the Brookshire Pump Station and connect the Pump Station Discharge to the existing 10-inch County force main on Rocky Branch Road at an approximate cost of \$500,000.00 (the "Upgrade"); provided, however, that the maximum amount the Westland Owners shall be required to pay for completing all off-site infrastructure, including the Upgrade, is the not-to-exceed amount of \$500,000.00 (the "Cap"), to be documented by actual out-of-pocket expenses.
28. The Westland Owners are responsible for timely completing the off-site construction of infrastructure contemplated by this Paragraph 14 pursuant to an Encroachment Agreement with the County. Westland Owners will provide cost and performance updates and documentation to the County upon its reasonable request. If the Upgrade and any other required off-site improvements are not completed on or before September 1, 2019, as a result of the County's acts or omissions (or the acts or omissions of the County's consultants, contractors, attorneys, or other agents), the dates in Paragraph 2 applicable to the Westland Development shall be extended by one (1) day for each day of delay in completion of the Upgrade and any other required off-site improvements.
29. The County may require the Westland Owners to obtain and keep in place maintenance bonds on all existing water and sewer infrastructure for two (2) years after Certificates of Occupancy have been issued for 90% of the approved lots in the Westland Development or ten years from the date of the revised zoning ordinance for the Westland Development, whichever occurs first. All bonds required herein shall be 100% bonds

30. The Westland Owners may only assign the reserved sewer capacity to a new land owner acquiring all or part of the Westland Owners' property who will then have the right to assign reserved sewer capacity to a subsidiary of the new land owner or to any entity that has purchased land, phases, pods, or lots within the boundaries of the Westland Development. Before such assignment is effective, written notice must be provided to the County. The Westland sewer capacity cannot be transferred for use by third parties outside the boundaries of the Westland Development.
31. A portion of the Westland Development's "green space area" totaling approximately 125 acres shall be placed under a conservation easement with an entity similar to the Athens Land Trust to hold the easement. Such green space area may fulfill the green space zoning requirements for the Westland Development.
32. Along with its submission to the County of the plat for the next construction phase of the Westland Development, Westland will submit a letter from the Georgia Department of Transportation and proof of right-of-way allowing improvement to and construction of Goat Farm Road. Prior to issuance of any Certificates of Occupancy for residential homes in the Westland Development, the improvement to and construction of Goat Farm Road must be completed and dedicated to the County.
33. Existing road infrastructure in the Westland Development may remain in place, subject to any modifications required by the design architect or project engineer of the Westland Development. Existing roads in the Westland Development must be brought to County standards and specifications in effect at the time the roads were constructed and the cost thereof must be borne by the Westland Owners. Roads constructed in the future in the Westland Development must meet then current County standards. Roads not previously dedicated or accepted by the County will be accepted by the County in the manner required by current policies or development regulations. The County may require the Westland Owners to obtain and keep in place maintenance bonds on roads until two (2) years after Certificates of Occupancy have been issued for 75% of the homes in the phase served by the road.

34. In order to increase the treatment capacity of the existing system and assist in allowing the County to serve the Developments, after the County's approval of the next final plat of the respective development, the Westland Owners shall each contribute \$150,000 to the Oconee County Water Resources Department earmarked for the County's Infiltration & Inflow Maintenance Program.

**NOTE: The following staff report was written based on the application for rezone no. 3291 and is provided for reference purposes only. The report does not analyze the proposed development as modified in the settlement agreement with REO Funding Solutions III, LLC.**

OCONEE COUNTY PLANNING DEPARTMENT  
STAFF REPORT  
September 2, 2003

**TO:** Oconee County Board of Commissioners  
Oconee County Planning Commission

**FROM:** Matt Forshee, Senior Planner  
Brad Callender, Planner

**SUBJECT:** Rezone Application #3291

**APPLICANT:** Beall, Gonnson & Co.

**OWNER:** Oconee Development Partners, Goat Farm Development LLC & Life Estate  
to James Maxey

**REQUESTED ACTION:** Rezone from A-1, R-1 & FP to R-1 MPD & FP

**PURPOSE:** Residential & Commercial Master Planned Development (430 residential units, approximately 152,000 sf office/commercial, 206 acres greenspace)

**LOCATION:** Goat Farm Road & U.S. Hwy. 78

**SIZE:** ± 443.276 acre tract

**EXISTING LAND USE:** Agricultural pasture/timber tract w/several small existing frame houses to be removed prior to development

**NOTE:** This project was deemed to be a Development of Regional Impact (DRI). As such it was submitted to the Department of Community Affairs (DCA) through the Northeast Georgia Regional Development Center (NEGRDC). The RDC finding is attached.

STANDARDS GOVERNING EXERCISE OF ZONING POWER

**A) Surrounding land use and zoning:**

North- A-1; Residential and Undeveloped, some Agricultural  
South- A-1; Undeveloped and some Agricultural, Apalachee River and Walton  
County  
East- A-1; Residential and Undeveloped, some Agricultural  
West- A-1; U.S. 78, Residential and Undeveloped, some Agricultural

**B) The extent to which property values of the applicant are diminished by the restrictions of the current zoning:** The site is currently under multiple zoning classifications. Tax Parcel # A-2-26 has three zoning classifications on the property, R-1 (Single Family Residential District), A-1 (Agricultural District), and F-P (Flood Prone District). Tax Parcel # A-2-21 is zoned as A-1 (Agricultural District).

Permissible and conditional uses in A-1 zoning include associations (club & lodges), athletic club, daycare center, churches, ceramics and pottery studios, schools, electric power substation, greenhouse, nursery, commercial kennel, tractor repair garage, gas station, grocery store and others as shown in the Oconee County Zoning Regulations. The R-1 section is currently zoned for 222 lots of a minimum of 30,000 sf. As such, the properties have great value as currently zoned.

However, it is also true that a higher value would most probably exist under the proposed development plan, considering the number of residential units and the commercial/office components.

**C) The extent to which the restrictions of the current zoning promotes the health, safety, morals and welfare of the public with regard to:**

**1. Population density and the effect on community facilities, services and utilities:**

**Traffic:** Based on the traffic study performed for the applicant, referencing the Institute of Transportation Engineers, Trip Generation Manual, and the proposed development plan, the property would yield about ±25,790 ADT (average daily trips) with about 1,559 A.M. peak hour trips and 2,200 P.M. peak hour trips.

The applicant's narrative indicates construction of deceleration lanes and

acceleration tapers at each entrance to the development. Access to the development will be via two entrances from U.S. Hwy. 78 and one entrance from Goat Farm Road to a new road network constructed throughout the development. The commercial component will use the entrances from U.S. Hwy. 78. The applicant is proposing to acquire additional right-of-way along Goat Farm Road, which is currently unpaved, in order to rebuild and upgrade the road to current County standards. The applicant has asked to do a ROW exchange with Oconee County in order to perform the re-alignment of Goat Farm Road through the development.

As part of the MPD requirement, the applicant was required to submit a traffic study prepared by a Traffic Engineer. This was submitted and it stated that once the development is completed, traffic will operate at acceptable levels of service at all entrances based on what is shown on the concept plan except that a signal will be needed at the easternmost entrance on U.S. 78, and center turn lanes may be required at the Goat Farm Road intersection with GA Hwy. 53. All entrances on U.S. 78 and GA Hwy. 53 will need to meet the approval of GA D.O.T.

All streets within the development are proposed to be public. Staff has some concerns about some of the street design elements, such as islanded cul-de-sacs and the use of roundabouts, in place of intersections. These are elements which have not normally been found in Oconee County developments. Regardless, all designs for public streets will need to meet approval of Oconee County Public Works.

Also, MPD regulations require that on any through-road corridor (roads carrying traffic through or adjacent to the property), parking lots and buildings must be set back from the ROW by a minimum of 50'. The applicant has shown this along the U.S. 78 corridor, but has not along the realigned Goat Farm Road corridor. The MPD regulations allow for a reduction or waiver in this setback if the Board of Commissioners approves it as part of the Master Plan. The through-road corridor setback was designed in cases where a large amount of traffic would be moving through the property. Though some traffic may use this as a through-road, staff believes, based on the road design, that it will be a relatively small amount of traffic doing so.

**Water Service:** A 12" county water main exists in the eastern right-of-way of U.S. Hwy. 78, near the project. The applicant proposes new 8" water mains to be constructed throughout the development forming several internal loops. The applicant proposed to stub out water mains along the main for future connections with adjoining roads and properties.

Probable water demand is estimated by the applicant to be at least  $\pm 129,000$  GPD. Lawn sprinkling especially during the summer months may heavily increase peak

flows. The water system must be modeled at construction plan review to determine adequate pressure, flow and line size for the development.

The Oconee County Utility Department and Oconee County Public Works Department have reviewed the proposal and indicated there is available water capacity for the project.

**Sewer Service:** The applicant proposes that the project's internal sewer system will gravity-flow to a pump station located on the site where it would be pumped along force mains to the County's LAS facility on Rocky Branch Road. The Oconee County Public Works and the Oconee County Utility Department have reviewed the proposal and indicated there is currently capacity available for this project, though that capacity is not guaranteed until the developer purchases the capacity.

**Capitol Expenditures Impact:** Based on the current Oconee County School Board statistics, the residential sections of the proposed development would yield the following demand for educational system expansion:

10.3 additional teachers (no. houses/100 x 2.4)

10.3 additional classrooms (no. houses/100 x 2.4)

5.2 additional school buses (no. houses/100 x 1.2)

5.2 additional school bus drivers (no. houses/100 x 1.2)

2.6 additional administrative and/or support personnel (no. houses/100 x 0.6)

Based on the most recent figures (2002), capital expenditures by the Board of Commissioners to support the new school facilities in terms of roads and sewer will be \$258,000 for this development. This does not include water system capacity, maintenance costs or other government services but represents only initial capital expenses for the 430 dwellings related to school system expansion. Based on 2002 tax figures, the residential portion of this property will have a tax yield to Oconee County of \$966,859 if it were built to the average home price of \$231,847 over all the development. Of this, \$636,654 would go to school maintenance and operations, \$221,496 would go to Oconee County government operations and administration, and \$74,906 would go to Oconee County public safety operations. Of course, the tax yield could be higher or lower depending on the actual average price. This figure does not take into account the commercial portion of the property, which, when taken into account, would raise the potential tax yield.

**Other Governmental Services:** Other governmental services such as law enforcement, emergency services, recreational facilities, roads, courts and general administration also will experience an increased demand from this residential and proposed development.

**Buildings:** The applicant proposes a mixture of home styles in three different "neighborhoods." "Neighborhood A" includes 85 single-family detached homes of an average size of 3,000 sf. on lots of around 30,000 sf., with an average price of \$327,400. "Neighborhood B" includes 186 single-family detached homes of an average size of 2,150 sf. on lots averaging in size of 11,951 sf., with an average price of \$240,800. "Neighborhood C" includes 75 single-family detached village style homes of an average size of 1,650 sf. on lots averaging in size of 7,252 sf., with an average price of \$181,500. "Neighborhood D" includes 20 quadruplex style townhomes (five single-story buildings with four units) of an average size of 2,156 sf., with an average price of \$215,600. "Neighborhood E" includes 64 townhouse style homes of a minimum size of 1,350 sf., with an average price of \$143,000.

According to the representative architectural sketches provided by the applicant and the description in the narrative, the building exteriors of "Neighborhood A" and Neighborhood B" will be constructed of predominantly brick. The building exteriors of "Neighborhood C" will be constructed in a variety of materials of brick, to brick and stucco, to brick with hardy-plank detailing, to all stucco, to all hardy-plank siding and detailing with brick foundations. "Neighborhood D" and "Neighborhood E" will be constructed predominantly of brick. All single-family units on lots of less than 10,000 sf. or less, have a required 400 sf. private yard or patio area and all town homes have a required 200 sf. private yard or patio area per the MPD requirements.

The commercial section of the project is shown on the concept plan with 7 commercial units on 7 separate tracts for a total of 14.014 acres. The concept plan indicates there will be a drug store with a unit size of 16,500 sf., a "big box" retail store with a unit size of 24,000 sf., a casual dining restaurant with a unit size of 15,300 sf., a bank with a unit size of 10,000 sf., two fast food restaurants with a unit size of 4,750 sf., and a convenience store with gas fueling with a unit size of 4,320 sf. The allowed uses would be any of those permitted under B-1. The representative architectural sketches provided by the applicant indicate the buildings to be one and two story structures with a "colonial" and "contemporary" style of architecture. The commercial area will front along the site on U.S. Hwy. 78 and will be connected to the residential section via roads and sidewalks.

The office section of the development is represented by a total of 16 individual office buildings across 8.195 acres. The units will average 2,422 sf. in size. The units would house standard professional offices such as real estate, tax & accounting, medical, etc. The representative architectural sketches show the office buildings as one to two-story masonry facade buildings with a "colonial

home" style architecture, similar to most office park buildings in Oconee County. The office park areas would also be connected to the residential section via sidewalks and roads.

**Buffers, Amenities and Other Features:** The property is proposed to have curb & gutter streets with sidewalks throughout. Representative photos show street tree plantings. As part of the MPD zoning requirements, at least 20% of the overall property is required to be dedicated green space. The applicant has designated 210.238 acres (47.4% of the property) as green space area. A minimum 50 foot natural green space buffer is proposed to be located around the sides and rears of the property. This buffer area as well as all of the dedicated green space area would not be located on individual lots, but on separate tracts. The applicant has also indicated the location of "state waters" on the proposed site. The applicant's concept plan indicates the state waters will have a 25 ft. buffer. In addition, the applicant recognizes the conservation corridors shown on the Future Land Use Plan and has shown 100 ft.wide buffers along these areas.

The applicant is showing 7.229 acres as additional open space with 4.635 acres as active recreation areas to include a two clubhouses, tennis courts, a multi-use court, playground, and two swimming pools. In addition, the applicant is proposing to include walking trails throughout the development. As active recreation areas are a requirement of the MPD zoning districts, the applicant would not have to submit a CUP (Conditional Use Permit) application for the amenities, only site development plans before construction.

**2. Environmental impact:** Post-development runoff must be maintained at pre-development rates for the 2, 5, 10, 25 and 50 year storm events. Applicant proposes detention facilities for this purpose. Applicant is also proposing a minimum 500 foot buffer between any major land development activities on the site and the Apalachee River. This area will contain some walking trails.

**3. Adjoining property values:** The proposed price range for homes ( $\pm$ \$143,000 to \$327,400) is comparable to the average price in nearby subdivisions including Ashland (\$154,408), Oconee Crossing (\$220,045) and Power's Ridge (\$268,406). This is a new type of residential product in Oconee County. The inclusion of town homes, village style homes, small lots on sewer, and commercial/office components makes it difficult for Staff to determine how this project will affect the neighboring properties and their value. If this is developed to be a "high-end" product with quality construction materials and adequate buffering, appropriate design element location and green space preservation, Staff feels that the overall concept could be an asset to the community.

**D) Relative gain to public vs. hardship on property owner in maintaining current zoning:** The public benefits from maintaining a less intense zoning district are lower density, less traffic and road maintenance, less demand for school system expansion, and less demand for law enforcement and fire suppressions activities, emergency services, recreational facilities, courts and other County services.

The hardship on the property owner would be a reduced return on investment in this property.

**E) Length of time property has been vacant as zoned considered in the context of land development trends in the vicinity:** The property has been primarily used as pasture land with timber stands throughout with several small frame houses. The land development trends in the greater area have been moving towards high-end residential, with commercial and office at major nodal intersections. The property known as Tax Parcel #A-2-26 was rezoned earlier in January to R-1 zoning with F-P along the Apalachee River.

**F) Conformity with the Land Use Plan or nearby land use trends:** The Future Land Use Plan shows this property as a mix of "Low Density Residential" along the U.S. Hwy. 78/Goat Farm Road corridor and "Transitional/Agricultural" on the back of the property. There are also sections of "Park/Recreation/Conservation" which the applicant has shown as being protected by 100' buffer corridors.

The overall residential development density (number of dwelling units/total project area) is 0.97 du/acre. The general density in a traditional R-1 subdivision is 0.68 du/acre and the general density in a traditional AR-1 subdivision is 1 du/acre, so this development falls between the two.

**G) Availability of adequate sites for the proposed use in districts which permit such use:** There are numerous residential lots available in various stages of platting and development in many areas of Oconee County. There are also a number of available undeveloped commercial and office zoned properties in the developing areas of Oconee County. However, this would be one of the first developments in Oconee County that includes townhouse condominiums as a residential product as well as a mix of residential and commercial/office.

**H) Suitability of the site for the proposed use relative to the requirements of the Zoning Ordinance (parking, setbacks, buffers, etc.):** The property appears to be able to meet the requirements of the Zoning Ordinance.

## RECOMMENDATIONS:

If this Zoning Amendment is approved, staff recommends that it be subject to the following conditions being fulfilled by developer at its expense:

1. The zoning for the 100 year flood plain portion of this property shall be FP (Flood Prone District). The zoning for the remainder of this development shall be R-1-MPD (Master Planned Development). By approval of the master plan, the entire site's acreage will be used to calculate any MPD requirements. The preliminary plats/preliminary site plans, construction plans, final plats, covenants, conservation easements and homeowners' association shall meet the standards set forth in the Oconee County Zoning and Subdivision Regulations for an R-1-MPD.
2. The conservation corridors shown on the Future Land Use Plan shall be shown on all plans and plats and shall be protected by a minimum 100' wide undisturbed buffer (to be centered on the creek) except that necessary utility crossing(s) may be made generally perpendicular to said conservation corridors. Pedestrian crossing shall be allowed as shown on the concept plan.
3. The development must be connected to the Oconee County water system and sewer system at the developer's expense in a manner approved by Oconee County Utility and Public Works Departments.
4. At a minimum, developer shall comply with storm water management regulations in effect at the time of construction plan approval.
5. Developer shall reconstruct Goat Farm Road from S.R. 53 to U.S. 78 to applicable County road standards. The intersections for all streets connecting to State and Federal highways shall be permitted and constructed to D.O.T. standards.
6. All streets within the development shall include sidewalks on both sides of the street. Said sidewalks shall be located outside the 50' right-of-way corridor on the lots within cross easements and maintained by the property owners association or shall be located within the storm drain corridors in a 60' wide right-of-way, or as otherwise approved by Oconee County.
7. Developer shall plant a minimum of 887 trees throughout the development (2 trees per acre). Said trees shall be a mix of native shade trees and evergreen trees. The shade trees shall be as defined in Zoning Article X and be at least two inch (2") caliper and 10 feet in height. The evergreen trees shall be at least 6 feet in

height. These trees may be located as street trees, lot trees or as supplements to the green space areas outside of the 50' wide perimeter buffer. These trees are in addition to any required landscaping in the through-road corridor. The trees may be planted in phases corresponding to the phases of the development. Tree locations must be designated on future construction plans for the development.

8. Except for the addition of supplemental material in the buffer, wherever construction is to occur within 50 feet of the "50' Perimeter Buffer", the buffer edge must be clearly marked in the field with erosion control fencing and protected. No construction material or debris shall be allowed to be stored or located within the buffer. No storm water detention areas, other than drainage corridors, shall be located within the 50' perimeter buffer.
9. All areas shown on the concept plan as "open space" areas shall be allowed to revert to a natural state and shall not be mowed or maintained except for the maintenance of trails and paths and any maintenance related to Georgia Forestry best management practices such as the removal of diseased, dying or dead trees. These areas shall also be placed under a Conservation Easement as allowed for under the "Georgia Uniform Conservation Easement Act."
10. On at least 66% of the homes, all exterior building walls visible from the project streets shall be finished in predominately (80%) masonry exteriors (brick, stone, stucco, etc.). All homes shall have brick or stone foundations. All non-predominate masonry homes shall include unique architectural details. As part of the required covenants and at the time of Preliminary Plat and/or Preliminary Site Plan submittal, the developer shall submit for approval to Oconee County a "Home Builder's Plan Requirements Document" which shall include descriptive requirements and photos/illustrations of unique architectural elements (specific requirements for columns, lighting fixtures, windows, doors, dormers, molding, shutters, etc., showing them to be exceptional architectural elements) that a builder must include in a home in order to satisfy this condition. No Certificate of Occupancies will be issued for non-predominate masonry homes that do not substantially meet the requirements outlined in the "Home Builder's Plan Requirements Document".
11. All commercial building facades shall be predominantly brick, stone, stucco, glass, or wood facades, as shown in the representative architectural sketches.
12. The preliminary and final subdivision plats shall indicate the location of both the flood hazard area boundary located by field run survey and the wetlands boundary field located by a qualified wetlands consultant.

13. No land disturbing activities shall be permitted within fifty feet (50') of the Wetlands Protection District except in compliance with the Oconee County Wetlands Protection Ordinance. This area shall be clearly marked on the preliminary plats, final plats, and construction plans as an undisturbed stream and wetlands buffer.
14. All public street designs within the development, including the use of roundabouts and cul-de-sac islands, must meet the approval of Oconee County. The project access points (road intersections) and the streets shall be designed and constructed to the appropriate road classifications for the build out traffic volumes
15. All through road corridor setbacks shall be as shown on the concept plan.
16. All perimeter buffers shall be as shown on the concept and representative buffer drawings.
17. Applicant must receive approval of project naming and street name from EMA. Applicant must also submit a Unit Numbering System Plan to EMA for approval.
18. In cases where the Zoning and Subdivision Regulations do not address it, alleys shall be designed and built in compliance with AASHTO standards in effect at time of construction plan approval.

## Settlement Agreement

On October 8, 2018, Oconee County (the “County”), Parkside Property Development, LLC (“Parkside”), Westland-TLG, LLC (“Westland”), and REO Funding Solutions and its successor ACA Holdings, LLC (collectively referenced as “REO”) (Westland and REO collectively referenced below as the “Westland Owners”) agreed, pending formal approval by the Board of Commissioners and compliance with the Zoning Procedures Law, to resolve the three matters styled Parkside Property Dev. v. Oconee County, Georgia, et al., Civil Action File No. SU-CV-000087; Westland-TLG, a Georgia limited liability company, v. Oconee County, Georgia, et al., Civil Action File No. SU-CV-2017-000084; and REO Funding Solutions III, LLC v. Oconee County, Georgia, et al., Civil Action File No. SU-CV-2017-000085 (the “Lawsuits”) pending against the County in the Superior Court of Oconee County on the following terms:

1. The County will retain the amounts previously paid to the County by Parkside (or its predecessors in title) to reserve sewer capacity for the Parkside Development and the amounts previously paid to the County by the Westland Owners (or their predecessors in title) for the Westland Development. The County will provide sewer service to the Parkside Development and the Westland Development (collectively the “Developments”) on and subject to the terms and conditions set forth below, including the number of agreed lots within the respective Developments. The Owners or their successors must pay the connection fees in the amounts required at the time applications for building permits are made. The County shall retain sewer capacity reservation funds previously paid for lots in excess of the number of lots permitted by the revised zoning amendments contemplated by this settlement proposal and shall apply such funds to pay connection fees at the current rates when such connection fees become due until such credits are exhausted.
2. The County shall have no obligation to reserve sewer capacity for either or both the Developments after December 31, 2030 if fewer than 80% of the lots within the respective Development have been platted by that date.
  - a. Beginning July 1, 2027, Parkside must pay minimum monthly sewer service charges for each remaining lot until certificates of occupancy have been issued for 90% of the residential units. As remaining lots, if any, within the Parkside Development are connected to sewer during the year, the minimum monthly sewer service charges due from Parkside shall be reduced by the number of lots added. If the County rescinds capacity because less than 80% of the Parkside lots have been platted by December 31, 2030, Parkside has no further obligation to pay service charges for Remaining Lots.
  - b. Beginning January 1, 2025, the Westland Owners must pay minimum sewer service charges for each remaining lot until certificates of occupancy have been issued for 90% of the residential units. As remaining lots, if any, within the Westland Development are connected to sewer during the year, the minimum monthly sewer service charges due from Westland shall be

reduced by the number of lots added. If the County rescinds capacity because less than 80% of the Westland lots have been platted by December 31, 2030, the Westland Owners have no further obligation to pay service charges for Remaining Lots.

3. All bonds required herein shall be 100% bonds.
4. Reserved.
5. Parkside will agree to record in the County land records covenants restricting 269 lots (the "Parkside Age Restricted Lots") within the Parkside Development to ownership by persons 55 and older. Parkside and its successors shall take all necessary steps to ensure that the covenants and this portion of the Development comply with 42 U.S.C. §§ 807(b)(2)(C), 3601 et seq. (as amended) and all implementing regulations. The locations of the Parkside Age Restricted Lots are shown as "The Seasons" and "The Preserve" neighborhoods on the attached Parkside Master Site Plan, which is included as a condition of this settlement proposal. There is no phasing requirement on the construction of homes on the Parkside Age Restricted Lots within the Parkside Development.
6. Parkside will have the right to construct single family detached homes on up to 507 lots within the Parkside Development (the "Traditional Residential Lots"). Each Traditional Residential Lot must contain at least 18,000 square feet, as shown on the attached Parkside Master Site Plan. Homes on the Traditional Residential Lots shall be built out over at least eight (8) years from the date the appeal period has expired following the County's adoption of a rezoning for the Parkside Development. The velocity of development will be influenced by market demand for single-family homes. The actual number of Traditional Residential Lots platted and developed per year will be determined by Parkside based on such market demand, but in no event shall the County issue building permits in excess of seventy-five (75) Traditional Residential Lots per year on a cumulative basis. In any year in which less than 75 building permits are issued, the difference between 75 and the number issued will "roll-over" into the next year in addition to the next 75 allowed.
7. Prior to commencement of construction on the "Commercial" portion of the Parkside Development, Parkside shall submit a new site plan for that portion of the Parkside Development to the County for review and approval by the Board of Commissioners, which submittal will be in accordance with code requirements in effect on the date of the submittal (which shall include restrictions such as not allowing certain users, billboards, hookah bars, or adult entertainment). Any retail development will target tenants that complement the residential community such as a daycare facility, restaurants (including those with drive through services), pharmacy, bank and/or other services. All restrictions relating to the "Commercial" area contained in the current zoning approval for the Parkside Development shall be removed.

8. The Westland Owners agree to reduce the number of residential units approved in the current MPD-R1 zoning for the Westland Development to an amount not to exceed 399 units. Additionally, the Westland Owners will agree to amend the MPD-R1 zoning to eliminate all townhomes and zero lot line or other multi-family type homes, thereby limiting residential construction to single family detached housing. The Westland Owners have produced a new proposed site plan for the Westland Development (the “Westland Master Site Plan”) that, among other things, eliminates all townhomes and zero lot line multi-family homes and increases the size of most of the lots around the “wheel” (central area with lots radiating in a circular design) which is shown in the Westland Master Site Plan as follows:

1-	Phase 2B	37 lots	60’ minimum
2-	Phase 2C	59 lots	70’ minimum
3-	Phase 2D	20 lots	80’ minimum

The Westland Master Site Plan (attached) is a condition of this settlement proposal. The size and number of each type lot is contained in the legend shown on the Westland Master Site Plan.

9. The lots in the Westland development may, but are not required to be age restricted to 55 and older “Active Adult Residents.” If Westland Owners determine to perform age restricted development, that development must be concentrated in one or more clusters or phasings. If Westland Owners determine to build age restricted development, Westland Owners will record in the County land records covenants restricting those lots (the “Westland Age Restricted Lots”) within the Westland Development to ownership by persons 55 and older. If Westland Owners and their successors do determine to build age restricted development they shall take all necessary steps to ensure that the covenants and this portion of the Westland Development comply with 42 U.S.C. §§807(b)(2)(C), 3601 et seq. (as amended) and all implementing regulations.
10. Construction of lots in the Westland Development shall occur in multiple phases, approximately over a four- to five-year period from the date the appeal period has expired, following the County’s adoption of the rezoning, the velocity of which will be influenced by market demand for single family homes. The actual number of lots platted and developed per year will be determined by Westland based on such market demand, but in no event shall the County issue building permits in excess of seventy-five (75) lots per year on a cumulative basis. In any year in which less than 75 building permits are issued, the difference between 75 and the number issued will “roll-over” into the next year in addition to the next 75 allowed.
11. Prior to commencement of construction for the Westland commercial/retail portion of the Westland Development, Westland shall submit a new site plan for that portion of the Westland Development to the County for review and approval by the Board of Commissioners, which submittal will be in accordance with code requirements in effect on the date of the submittal (which shall include restrictions

such as not allowing certain users, billboards, hookah bars or adult entertainment). Office use has been eliminated from the Westland Master Site Plan. Any retail development will target tenants that complement the residential community such as a daycare facility, restaurants (including restaurants with drive-through services), pharmacy, bank and/or other services.

12. With respect to foundations, all homes in the Parkside Development shall be constructed in accordance with the applicable County UDC criteria in effect on the date that proper applications for building permits are submitted; provided however, homes on Parkside Age Restricted Lots may be constructed with slab-on-grade foundations.
13. With respect to foundations, all homes in the Westland Development shall be constructed in accordance with the applicable County UDC criteria in effect on the date that proper applications for building permits are submitted; provided however, homes on Westland Age Restricted Lots may be constructed with slab-on-grade foundations. The County acknowledges that slab foundations are permitted for the lots in Phase 1A that were final platted.
14. All existing water and sewer infrastructure and utilities in the Parkside Development may remain in place, subject to successful testing and inspection witnessed by a County employee that such water and sewer infrastructure and utilities can function under County standards existing at the time they were installed, including a one (1) year warranty period on materials and installation from the time infrastructure is accepted by Oconee County and placed in operation. Any modifications to existing water and sewer infrastructure required by the design architect or project engineer shall be subject to review and approval by the Oconee County Water Resources Department. Future water and sewer infrastructure and utilities will be accepted by the County upon demonstration that such infrastructure and/or utilities have been certified that they meet the County's current design standards, performance requirements and specifications for such developments.

Parkside will agree that it will not begin discharging sewage into the County sewer system from any homes within the Parkside Development until after September 1, 2019. Before any discharge, Parkside must complete the infrastructure required to connect sewer within the Development to the County's Daniels Bridge Pump Station. The route and design of such line (the "Connecting Sewer Line") will be determined by the County. Parkside shall pay for the design of the Connecting Sewer Line. Any necessary easements or other property interests (collectively the "Utility Easements") required for installation of the Connecting Sewer Line will be acquired by the County. Parkside shall reimburse the County for its cost of the design work and acquisitions (cost of the interest, closing costs, attorneys' fees, and condemnation expenses, if any), within 30 days after Parkside's receipt of the County's request for reimbursement, accompanied by evidence of the County's payment. Parkside will construct the Connecting Sewer Line within the easements obtained by the County subject to an Encroachment Agreement entered into by the County and Parkside.

The County may require Parkside to construct the Connecting Sewer Line that is larger than necessary to serve the Parkside Development, in which case the County will reimburse Parkside for the difference in cost for the line necessary to serve the Parkside Development and the Line installed (e.g. 18" vs. 24").

If the Connecting Sewer Line is not completed on or before September 1, 2019, as a result of the County's acts or omissions (or the acts or omissions of the County's consultants, contractors, attorneys, or other agents), the dates in Paragraph 2 applicable to the Parkside Development shall be extended by one (1) day for each day of delay in completion of the Connecting Sewer Line. The County shall expedite and pursue its work to implement the Connecting Sewer Line in good faith. The County shall acquire the Utility Easements as soon as possible and in no event later than August 1, 2019.

15. Except for Westland pump station(s), existing water and sewer infrastructure and utilities in the Westland Development may remain in place subject to successful testing and inspection witnessed by a County employee that all existing infrastructure is in accordance with County standards existing at the time they were installed, including a one (1) year warranty period on materials and installation from the time infrastructure is accepted by Oconee County and placed in operation. Any modifications to existing water and sewer infrastructure required by the design architect or project engineer shall be subject to review and approval by the Oconee County Water Resources Department. The lift station(s) and lift station infrastructure constructed in the future in the Westland Development must meet the County's current design standards, performance requirements and specifications. The water and sewer infrastructure and utilities to be constructed in the future will be accepted by the County upon successful pressure testing, visual inspection (gravity sewer), and demonstration that such infrastructure and/or utilities have been certified that they meet the County's current performance and infrastructure specifications for such developments.

The Westland Owners will agree that they will not begin discharging sewage into the County sewer system from any homes within the Westland Development until after September 1, 2019. Westland Owners must complete the infrastructure as designed or required by the County to collect and convey effluent to a point determined by the County to allow to flow to Calls Creek WRF. The parties acknowledge that the previous owners of the Westland Development designed and installed a sewer force main and water reuse main from the Westland property to the Rocky Branch Road LAS Facility. Said offsite sewer infrastructure shall be subject to design verification by a certified Professional Engineer that the facilities are adequately sized to accommodate and convey the projected sewer flows from the Westland development. If proven sufficient the infrastructure shall be subject to successful testing and inspection of all existing infrastructure in accordance with County standards existing at the time they were installed, including a one (1) year

warranty period on materials and installation from the time said offsite infrastructure is accepted by Oconee County and placed in operation. The Westland Owners will also be required to pay for the full cost (including design and construction) of an upgrade to the Brookshire Pump Station (PS#8) and new force mains to convey Westland effluent to the Brookshire Pump Station and connect the Pump Station Discharge to the existing 10-inch County force main on Rocky Branch Road at an approximate cost of \$500,000.00 (the "Upgrade"); provided, however, that the maximum amount the Westland Owners shall be required to pay for completing all off-site infrastructure, including the Upgrade, is the not-to-exceed amount of \$500,000.00 (the "Cap"), to be documented by actual out-of-pocket expenses.

The Westland Owners are responsible for timely completing the off-site construction of infrastructure contemplated by this Paragraph 15 pursuant to an Encroachment Agreement with the County. Westland Owners will provide cost and performance updates and documentation to the County upon its reasonable request. If the Upgrade and any other required off-site improvements are not completed on or before September 1, 2019, as a result of the County's acts or omissions (or the acts or omissions of the County's consultants, contractors, attorneys, or other agents), the dates in Paragraph 2 applicable to the Westland Development shall be extended by one (1) day for each day of delay in completion of the Upgrade and any other required off-site improvements; provided, however, that the County shall expedite and pursue its work to implement the Upgrade and any other required off-site improvements in good faith.

The County shall waive any conflicts and shall authorize the Westland Owners to pursue Developers Surety and Indemnity Company (the "Surety") at their cost in the name of the County, including litigation, to recover on the four bonds (the "Bonds") (Bond Numbers 592665S, 592666S, 592667S, and 592668S) that were issued (and continued) by the Surety for the benefit of the County Board of Commissioners and/or the Oconee Utility Department as obligee(s). The County shall provide reasonable cooperation, including providing witnesses and documents in the event litigation is pursued against the Surety. The County grants and assigns the Westland Owners the right to receive and utilize the proceeds of the Bonds, which proceeds recovered in settlement or litigation shall be used solely for the purpose of completing the on-site pump station and other required infrastructure (including roads, water pipes, and sewer pipes) in the Westland Subdivision (in accordance with the purpose of the Bonds) and reimbursement of the actual fees and costs of pursuing the Surety in litigation, if necessary. Westland Owners shall indemnify and hold harmless the County from any damages, attorneys' fees, costs or expenses that arise for the County as the result of Westland Owners pursuing any rights under this authorization. This indemnification will be set forth in a separate agreement.

16. The County may require Parkside to obtain and keep in place maintenance bonds on all existing water and sewer infrastructure for two (2) years after Certificates of Occupancy have been issued for 90% of the approved lots in the Parkside Development or ten years from the date of the revised zoning ordinance for the Parkside Development, whichever occurs first.
17. The County may require the Westland Owners to obtain and keep in place maintenance bonds on all existing water and sewer infrastructure for two (2) years after Certificates of Occupancy have been issued for 90% of the approved lots in the Westland Development or ten years from the date of the revised zoning ordinance for the Westland Development, whichever occurs first.
18. Parkside may assign all or part of the reserved sewer capacity for the Parkside Development to a new land owner acquiring all or part of Parkside's property who will then have the right to assign reserved sewer capacity to a subsidiary of the new land owner or to any entity that has purchased land, phases, pods, or lots within the boundaries of the Parkside Development. Before such assignment is effective, written notice must be provided to the County. The Parkside sewer capacity cannot be transferred for use by third parties outside the boundaries of the Parkside Development.
19. The Westland Owners may assign all or part of the reserved sewer capacity to a new land owner acquiring all or part of the Westland Owners' property who will then have the right to assign reserved sewer capacity to a subsidiary of the new land owner or to any entity that has purchased land, phases, pods, or lots within the boundaries of the Westland Development. Before such assignment is effective, written notice must be provided to the County. The Westland sewer capacity cannot be transferred for use by third parties outside the boundaries of the Westland Development.
20. Parkside agrees to construct for the County a road (the "Access Road") connecting the County's park adjacent to the Parkside Development (the "Park") to the main road through the Parkside Development (the "Spine Road") in order to provide alternative means of ingress to and egress from the Park. The location of the Access Road is depicted on the Parkside Master Site Plan. The timing of construction of the Access Road will be mutually agreed. Upon completion, the Access Road will be dedicated to and thereafter maintained by the County and no maintenance bond shall be provided by Parkside with regard to the Access Road.
21. A portion of the Westland Development's "green space area" totaling approximately 125 acres shall be placed under a conservation easement with an entity similar to the Athens Land Trust to hold the easement, provided such green space area continues to fulfill the green space zoning requirements for the Westland Development.
22. Along with its submission to the County of the plat for the next construction phase of the Westland Development, Westland will submit a letter from the Georgia

Department of Transportation and proof of right-of-way allowing improvement to and construction of Goat Farm Road. Prior to issuance of any Certificates of Occupancy for residential homes in the Westland Development, the improvement to and construction of Goat Farm Road must be completed and dedicated to the County.

23. Road infrastructure in the Parkside Development may remain in place, subject to any modifications required by the design architect or project engineer of the Parkside development. Existing roads in the Parkside Development must be brought to County standards and specifications in effect at the time the roads were constructed and the cost thereof must be borne by Parkside. Roads constructed in the future in the Parkside Development must meet then current County standards. Roads constructed in the future will be accepted by the County in the manner then required by current policies. Parkside shall keep in place a maintenance bond on the Spine Road connecting GA Highway 53/Hog Mountain Road and Mars Hill Road until the sooner of two (2) years after the time at which final plats are recorded containing 75% of the residential lots in the Parkside Development, or ten (10) years from the date of this agreement. The County may require Parkside to obtain and keep in place maintenance bonds on other roads until two (2) years after Certificates of Occupancy have been issued for 75% of the homes in the pod served by the road.
24. Road infrastructure in the Westland Development may remain in place, subject to any modifications required by the design architect or project engineer of the Westland Development. Existing roads in the Westland Development must be brought to County standards and specifications in effect at the time the roads were constructed and the cost thereof must be borne by the Westland Owners. Roads constructed in the future in the Westland Development must meet then current County standards. Roads not previously dedicated or accepted by the County will be accepted by the County in the manner required by current policies or development regulations. The County may require the Westland Owners to obtain and keep in place maintenance bonds on roads until two (2) years after Certificates of Occupancy have been issued for 75% of the homes in the phase served by the road.
25. In order to increase the treatment capacity of the existing system and assist in allowing the County to serve the Developments, Parkside and the Westland Owners, after the County's approval of the next final plat of the respective development, shall each contribute \$150,000 to the Oconee County Water Resources Department earmarked for the County's Infiltration & Inflow Maintenance Program.
26. The County will not unduly delay processing of completed applications by Parkside for approval of any County required permits or plats for the Parkside Development. At the time of site plan submission, Parkside shall cause to be submitted a palette book depicting architecture to be approved by the Board of Commissioners.

27. The County will not unduly delay processing of completed applications by the Westland Owners for approval of any County required permits or plats for the Westland Development. At the time of site plan submission, the Westland Owners shall cause to be submitted a palette book depicting architecture to be approved by the Board of Commissioners.
28. The settlement terms and conditions, any other agreements and the revised Parkside Master Site Plan shall be incorporated into a revised zoning amendment for the Parkside development, and thereafter such amendment will be addressed at a public hearing before the Oconee County Planning Commission and then considered at the following regularly scheduled meeting of the Board of Commissioners. The County anticipates that this matter will be heard before the Oconee County Planning Commission on December 10, 2018 and before the Board of Commissioners on January 8, 2019.
29. The settlement terms and conditions, any other agreements and the revised Westland Master Site Plan shall be incorporated into a revised zoning amendment for the Westland development, and thereafter such amendment will be addressed at a public hearing before the Oconee County Planning Commission and then considered at the following regularly scheduled meeting of the Board of Commissioners. The County anticipates that this matter will be heard before the Oconee County Planning Commission on December 10, 2018 and before the Board of Commissioners on January 8, 2019.
30. Within ten (10) days following i) the final approval by the County of the revised zoning amendment containing the Parkside settlement terms and conditions, including the Parkside Master Site Plan and ii) expiration of time available for appeal of such final approval by the County, the Parkside lawsuit will be dismissed with prejudice; and within ten (10) days following i) the final approval by the County of the revised zoning amendment containing the Westland settlement terms and conditions, including the Westland Master Site Plan and ii) expiration of time available for appeal of such final approval by the County, the Westland lawsuit and the REO lawsuit will be dismissed with prejudice.
31. Nothing in this Settlement or any of the agreements referenced herein shall foreclose any claim, cause of action, demand or right of any party hereto to enforce the provisions of this Agreement, a zoning or other land use decision arising from or related to this Agreement, or the ordinances, codes and regulations of Oconee County as otherwise allowed by Georgia law.

Fully executed this \_\_\_\_\_ day of October, 2018.

CAROTHERS & MITCHELL, LLC



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THOMAS M. MITCHELL  
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Attorneys for Defendants

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(770) 932-6348

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Fully executed this 25<sup>th</sup> day of October, 2018.

CAROTHERS & MITCHELL, LLC

---

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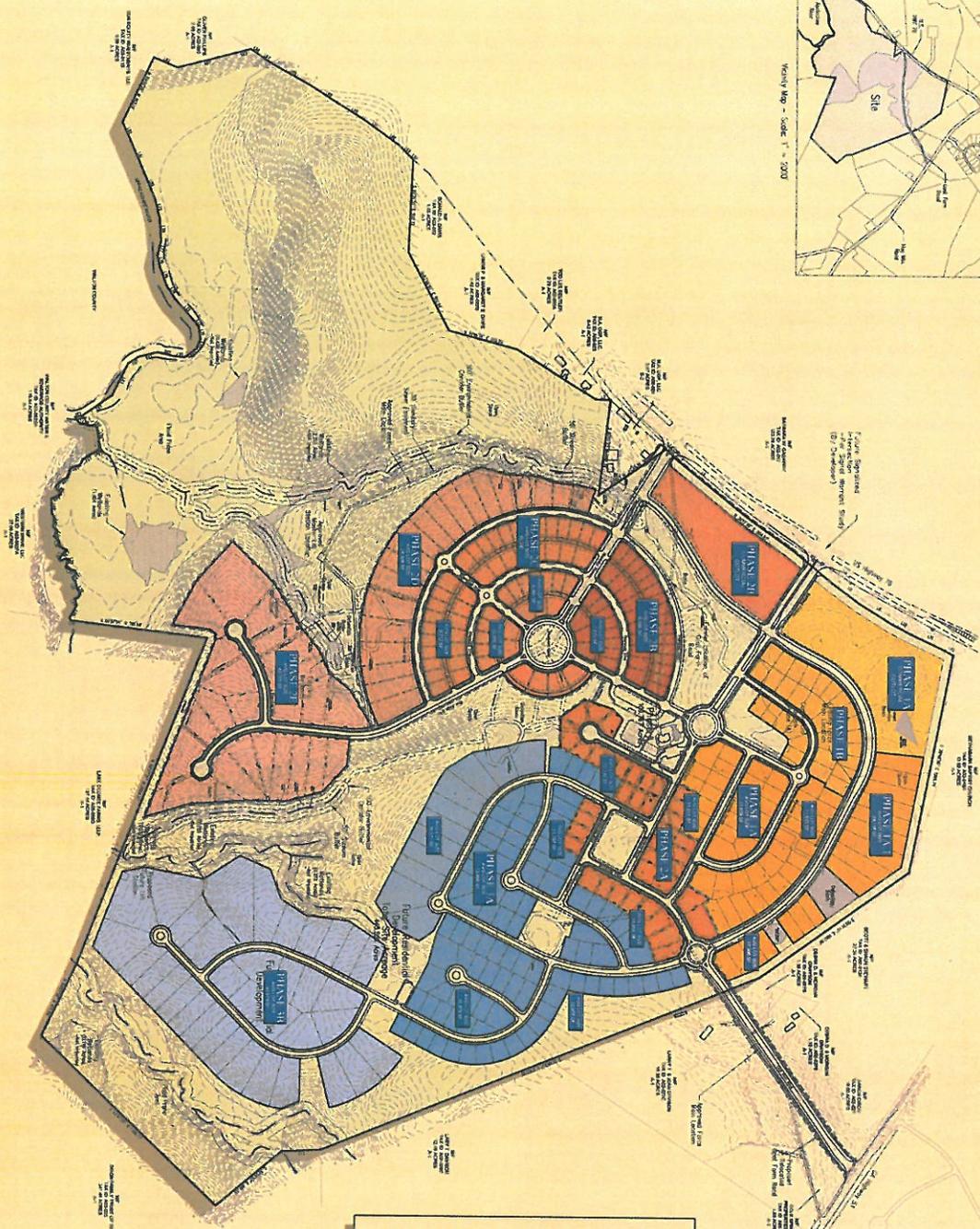


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WILLIAM J. SHEPPARD [signed w/exp. permission]  
Georgia Bar No. 641980  
Attorneys for Plaintiff Parkside Property  
Development, LLC

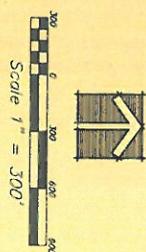
3399 Peachtree Road  
Suite 1700  
Atlanta, GA 30326  
(404) 997-6020  
(404) 997-6021 FAX





**LEGEND**

PHASE 1A - 80' WIDE MIN. LOTS (EXISTING PLATTED LOTS)	47 TOTAL
PHASE 1A1 - 80' WIDE MIN. LOTS	16 TOTAL
PHASE 1B - NEW 80' WIDE MIN. LOTS	29 TOTAL
PHASE 2A - 80' WIDE MIN. LOTS	39 TOTAL
PHASE 2B - 60' WIDE MIN. LOTS	37 TOTAL
PHASE 2C - 70' WIDE MIN. LOTS	49 TOTAL
PHASE 2D - 80' WIDE MIN. LOTS	29 TOTAL
PHASE 2E - 100' WIDE MIN. LOTS	23 TOTAL
PHASE 3A - 80' WIDE MIN. LOTS	109 TOTAL
PHASE 3B - 100' WIDE MIN. LOTS	35 TOTAL
<b>NUMBER OF LOTS IN ALL PHASES</b>	<b>410 TOTAL</b>



NOTICE: THESE DRAWINGS ARE INSTRUMENTS OF PROFESSIONAL SERVICE AND ARE PROTECTED BY COMMON LAW, STATUTORY, AND OTHER RESERVED RIGHTS INCLUDING COPYRIGHT. THESE DRAWINGS MAY NOT BE REPRODUCED OR USED FOR ANY PURPOSE WITHOUT THE WRITTEN CONSENT OF BEALL AND COMPANY AND ASSOCIATED PROJECT CONSULTANTS.

**SETTLEMENT EXHIBIT**

NO.	REVISION	DATE
1		
2		
3	Modified Exhibit Plan	5/18/04
4	Modified Exhibit Plan	6/11/04

DESIGNED BY: [Signature]  
 CHECKED BY: [Signature]  
 DATE: 11.13.11  
 SCALE: 1" = 300'

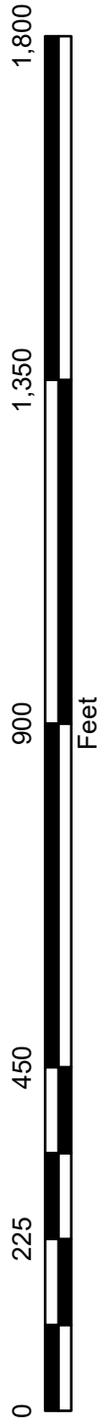


**OWNERS**  
 WESTLAND DEVELOPMENT, LLC  
 3415 S.W. 15th Street, Suite 450  
 Atlanta, GA 30336  
 24 HOUR CONTACT  
 Scottie Richardson  
 404-244-0000

**Westland**  
 Master Planned Development  
 Total Project Acreage 143.50 - US Hwy 78  
 Oconee County, Georgia

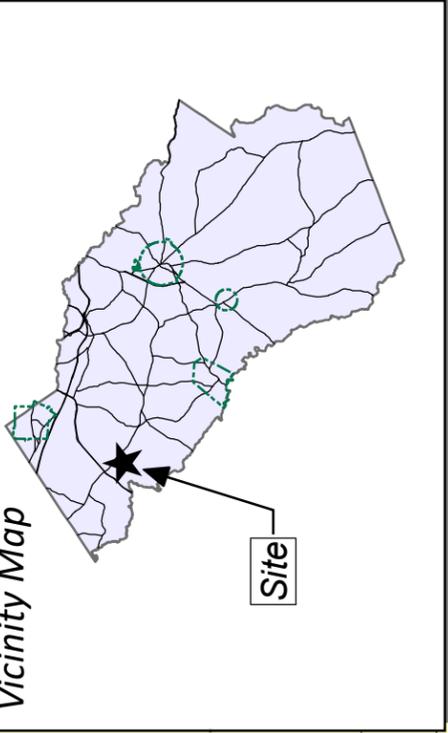
**Beall & Company**  
 Landscape Architecture  
 3001 West Hill Street  
 Marietta, GA 30067  
 (770) 545-0077  
 www.beallandcompany.com

# Westland REO Funding Solutions III Aerial View



1:3,000

Vicinity Map



Suburban Neighborhood

Suburban Neighborhood

**Oconee County  
Planning Department**

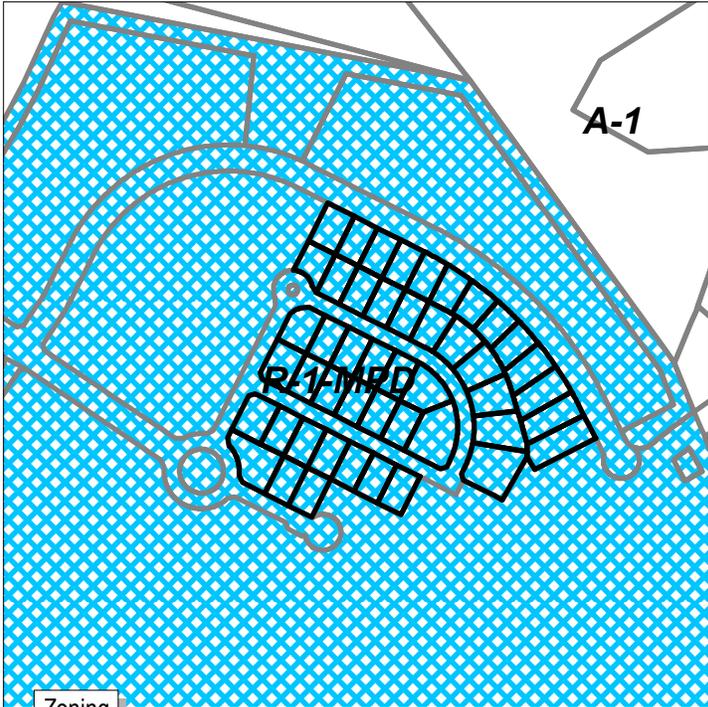
This map is a representation of the future development map and should be used for planning purposes only

0 115 230 460 690 920 Feet

# Westland REO Funding Solutions III, LLC Site Review



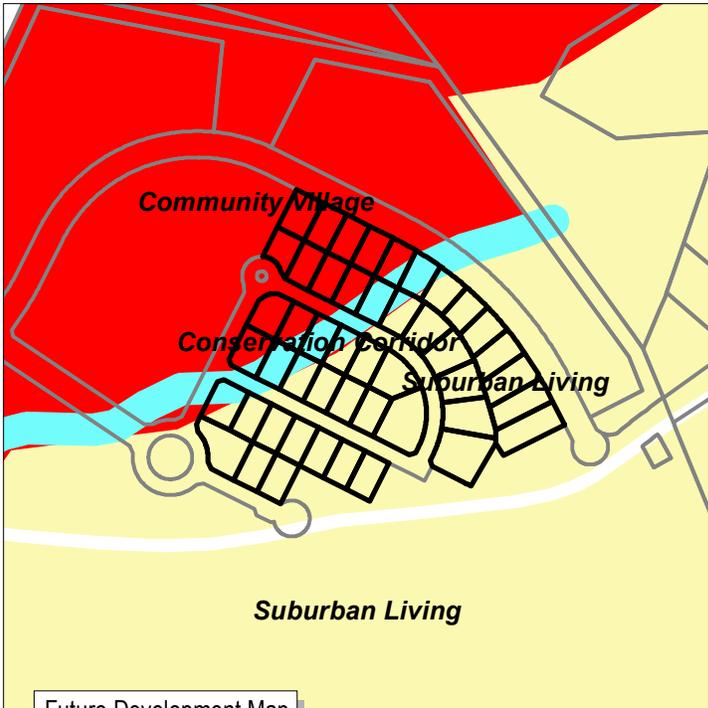
Location Map 1:7000



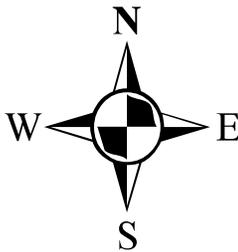
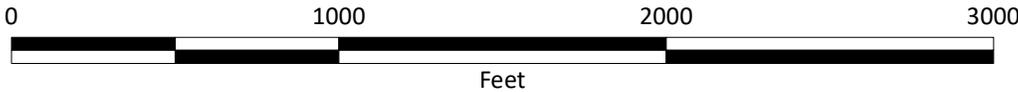
Zoning



Topography

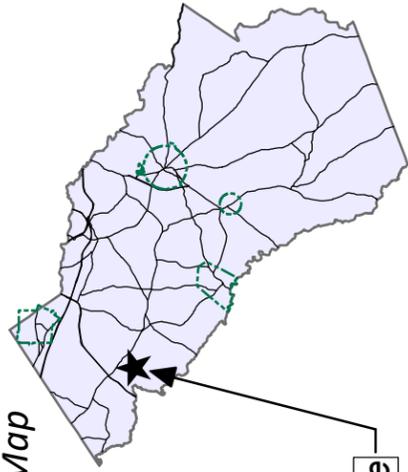


Future Development Map



1:7000

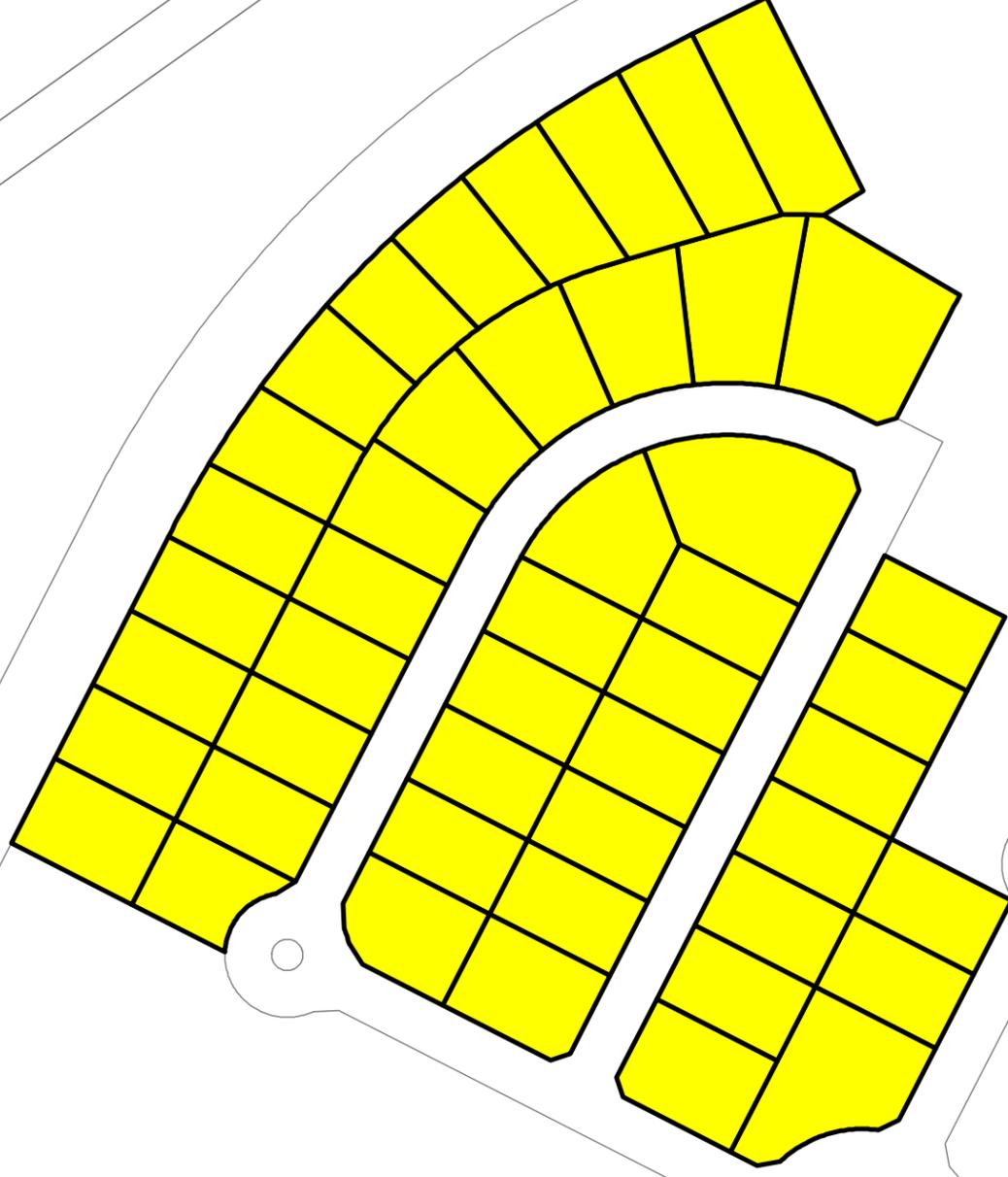
Vicinity Map



Site

**Lot #'s**

- 1B through 13B
- 16B through 26B
- 1C through 13C
- 1D through 7D
- 19D through 21D



**1:2,050**



**Oconee County  
Planning Department**

This map is a representation of the official tax map  
and should be used for planning purposes only

