

Sumter City-County Zoning Board of Appeals

March 12, 2025

BOA-25-04, 2870 Old Field Rd. (City)

The applicant (Cypress Winds, LLC) is requesting variances from the "Patio Home" minimum front and side exterior (corner lot) building setback requirements outlined in *Article 3.d.5: (GR District) Development Standards; Article 3, Exhibit 3-3: Development Standards for Uses in the GR District; and Article 4.f.5: Side Yards* of the City of Sumter Zoning & Development Standards Ordinance (the "Ordinance") to facilitate the establishment of 21 new "Patio Home" lots with a front building setback of 25 ft. and side exterior (corner lot) setback of 12.5 ft. The Ordinance requires a 35 ft. front building setback and a 17.5 ft. side exterior (corner lot) building setback. The property is located at 2870 Old Field Rd., is zoned General Commercial (GC), and is represented by TMS# 187-00-02-018.



Appeals - Variance - Special Exception

Sumter City-County Zoning Board of Appeals

March 12, 2025

BOA-25-04, 2870 Old Field Rd. (City)

I. THE REQUEST

Applicant: Cypress Winds, LLC (Doc Dunlap)

Status of the Applicant: Property Owner

Request: The applicant is requesting variances from Patio Home minimum front and side exterior (corner lot) building setback requirements to facilitate the development of 21 new Patio Home lots.

City Council Ward: Ward 1

Location: 2870 Old Field Rd.

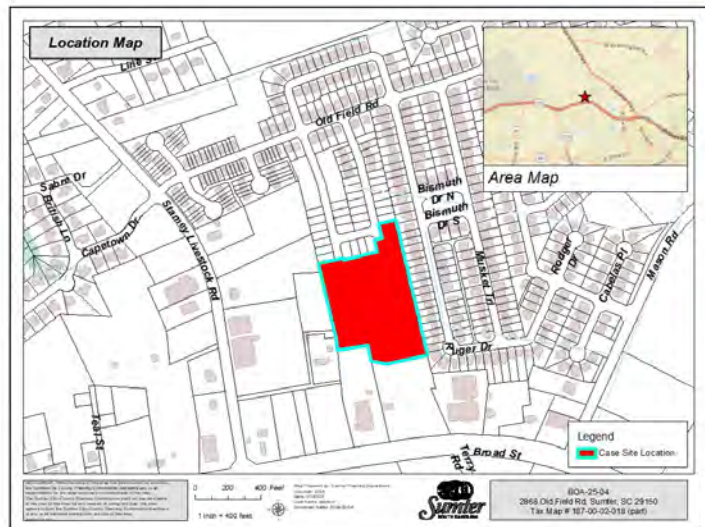
Present Use/Zoning: Undeveloped / General Residential (GR)

Tax Map Reference: 187-00-02-018

II. BACKGROUND

The applicant is requesting variances from Patio Home” minimum front and side exterior (corner lot) setback requirements in order to develop Phase 2 of the Canopy of Oaks Subdivision.

The Canopy of Oaks Subdivision is located off Old Field Rd., and Phase 2 consists of an extension of Canopy Dr. with 21 additional Patio Home” lots. The property is shown in red on the location map to the right.



After approval to develop Phase 1 of the subdivision, the City of Sumter revised residential front setback requirements to a standard 35 ft. for most residential uses. Development in Phase 1 was allowed to proceed with a vested 25 ft. front setback requirement for new patio home units. The

remaining undeveloped area behind Phase 1 is not subject to the same vested rights protections and is required to comply with the current 35 ft. front setback requirements, and subsequently 17.5 ft. side exterior (corner lot) setback requirements. The applicant is requesting to develop under the same conditions as those vested under Phase 1.

A timeline of events to date pertaining to the Canopy of Oaks Subdivision is provided below:

- January 26, 2022** - Planning Commission approved a preliminary plat (Case# SD-21-04) for the development of a 65-unit subdivision consisting of townhome dwellings and single family attached dwellings on the front portion of the property only. Staff notes that initial plans received under the request included 98 townhome units on the entirety of the property, but revised plans for the front area only were submitted for approval during the review process to eliminate immediate fire access concerns.

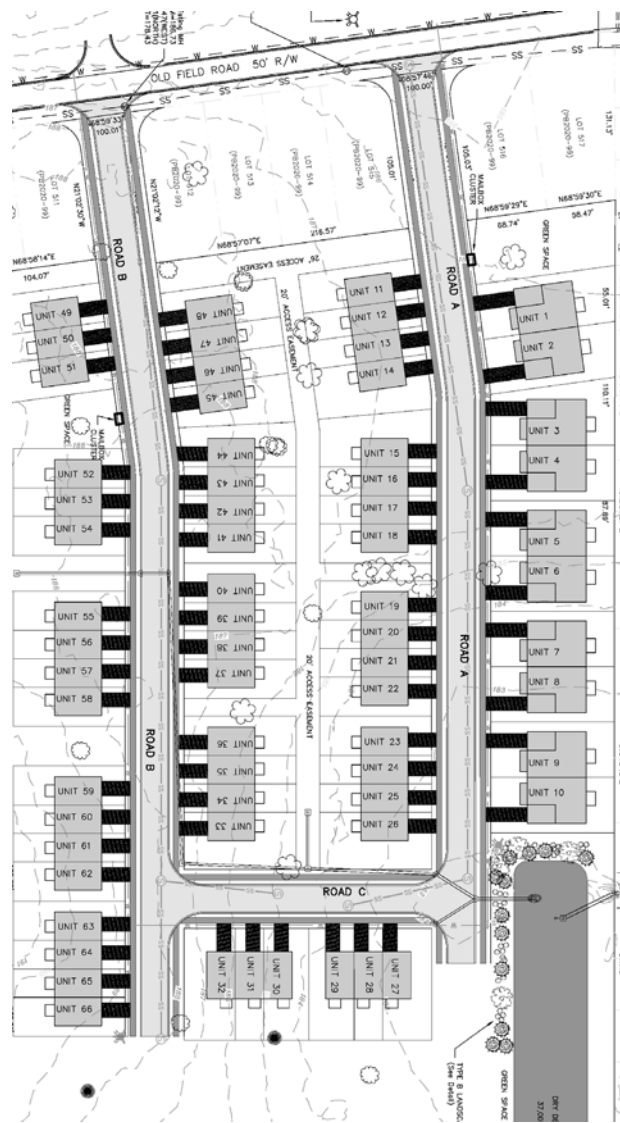


Figure 1: SD-21-04 Preliminary Plat Approved on January 26, 2022

- **July 19, 2022** – City Council approved an amendment (Case# OA-22-08) to the City Zoning & Development Standards Ordinance, effectively establishing a standard 35 ft. front setback for most new residential development.
- **May 18, 2023** – A revision to the initial preliminary plat (Case# SD-21-04 Revision 1) was approved at the staff level. This revision changed the housing type from townhome dwellings and single family attached dwellings to patio home dwellings, a single family detached product permitted on smaller lots with off-set side setback requirements. This change reduced the total number of lots and overall density of the project and reflects what is currently being built. It was determined that the initial setbacks vested under the initial approval were also vested for the approved change.



Figure 2: SD-21-04 Revision1 Preliminary Plat Approved on May 18, 2023



Scope:

- Front Setback to 25 ft. For All Proposed Lots
- Lot #15 – Additional Side Exterior Setback Reduction to 12.5 ft.

Figure 4: Scope of Variance Request

The table below outlines exhibits attached to this staff report.

Exhibit Reference Table	
Exhibit 1	Applicant Background/Justification & Setback Exhibit
Exhibit 2	Lot Layout Plan for Canopy of Oaks Phase 2

Ordinance Requirements:

Article 3, Exhibit 3-3

**EXHIBIT 3-3
DEVELOPMENT STANDARDS FOR USES IN GR DISTRICT**

	Non-Residential Uses	Single Family Detached Dwellings ¹	Single Family Attached Dwellings	Duplex Dwellings ²	Patio Home Dwellings	Urban Townhome Dwellings ³	Suburban Townhome Dwellings ³	Triplex and Quadplex Dwellings ⁴	Manufactured Home Park ⁵
Minimum Lot Area ⁴	N/A	5,000 sq. ft. (per structure)	3,000 sq. ft. (per unit)	8,000 sq. ft. (per structure)	5,000 sq. ft. (per structure)	2,000 sq. ft. (per unit)	2,000 sq. ft. (per unit)	10,000 sq. ft. (per structure)	5,000 sq. ft. (per structure)
Minimum Site Area	N/A	N/A	N/A	N/A	1 acre	N/A	2 acres	N/A	5 acres
Minimum Lot Width	N/A	50 ft.	30 ft.	80 ft.	45 ft.	16 ft.	16 ft.	100 ft.	45 ft.
Minimum Setback, Per Structure:									
Front ⁷	35 ft.	35 ft. (local/collector) 45 ft. (arterial)	35 ft. (local/collector) 45 ft. (arterial)	35 ft. (local/collector) 45 ft. (arterial)	35 ft. (local/collector) 45 ft. (arterial)	15 ft. (local/collector) 15 ft. (arterial)	35 ft. ⁸ (local/collector) 45 ft. ⁸ (arterial)	35 ft. (local/collector) 45 ft. (arterial)	35 ft. (local/collector) 45 ft. (arterial)
Side	25 ft.	8 ft.	0 ft. / 8 ft. ⁹	8 ft.	0 ft. / 8 ft. ¹⁰	0 ft. / 7.5 ft. ¹¹	0 ft. / 7.5 ft. ¹¹	12 ft.	25 ft.
Rear	50 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	25 ft.
Minimum Distance Between Buildings	30 ft.	N/A	N/A	N/A	N/A	15 ft.	15 ft.	N/A	N/A
Maximum Impervious Surface Percentage	45%	45%	45%	45%	45%	65%	65%	60%	45%
Common Open Space Ratio (% project area)	N/A	N/A	N/A	N/A	N/A	N/A	20% ¹²	25% ¹²	10%
Maximum Density (units per gross acre)	N/A	8	14	10	8	20	14	16	8
Maximum Height of Buildings	45 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.

Article 4.f.5: Side Yards

4.f.5 Side Yards: *Where a side yard abuts a street (i.e., corner lot), the minimum side yard requirement shall not be less than 50% required on the lot lying to the rear, when the rear lot faces a side street and no accessory building on said corner lot shall extend beyond the front yard line of the lot to the rear. If, however, the rear lot faces the opposite street, and in fact constitutes another corner lot, then the side yards setback for the district in which the lot is located shall prevail. Provision established herein may be excluded from a Planned Development (PD) which utilizes the Traditional Neighborhood Development (TND) design conventions.*

III. FOUR PART TEST

In order to grant the requested variance, the request must meet all parts of a State-mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request. In granting a variance, the Board may attach to it such conditions regarding location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to promote the public health, safety, or general welfare.

Staff Review:

1) *There are extraordinary and exceptional conditions pertaining to the particular piece of property.*

The property is a +/- 8-acre undeveloped section of the Canopy of Oaks Subdivision. Previous approvals for the front portion of the subdivision have vested rights protection for a 25 ft. front setback, as this was the standard in place at the time of initial approval. With a 25 ft. front setback requirement, the exterior side (corner lot) setback is 12.5 ft.

The remaining undeveloped section of the property does not have the same vested rights protection and is subject to the more restrictive 35 ft. front setback requirement, and subsequently the more restrictive 17.5 side exterior setback.

A linear stormwater pond intended to serve the larger Canopy of Oaks Subdivision has been completed on the west side of the property. This somewhat limits the ability to modify lot sizes in order to place the applicant's desired housing product. The applicant's builder has stated that that same type of units constructed in Phase 1 cannot be done with an increased front setback requirement.

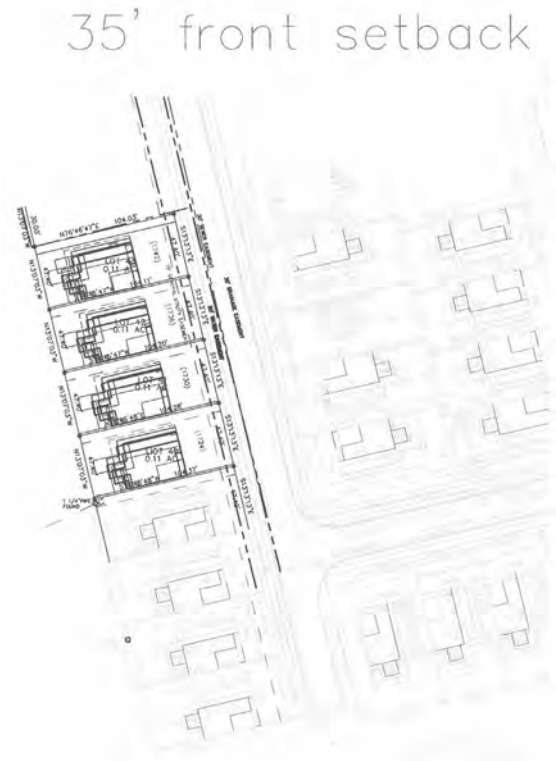


Figure 5: Graphic Submitted By Applicant Showing 35 ft. vs. 25 ft. Front Setback

2) *These conditions do not generally apply to other property in the vicinity.*

All property in the GR zoning district, not otherwise protected via non-conformity protections or vested rights protections, are subject to the newly adopted 35 ft. front setback requirement.

3) *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

The application of the ordinance to the particular property would preclude the applicant from constructing the desired housing footprint on the proposed lots. However, it is noted an alternate footprint could be proposed or changes to the design of the development could be proposed to mitigate some of this issue.

- 4) *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.*

Approval of this variance will ultimately result in 21 new lots with development standards that will mirror those of the houses already complete in Phase 1. Thus, a continuation of the lot sizes and building footprints that have already been, or will soon be, completed. City Council elected to adopt more restrictive residential front setback requirements in 2022 to mitigate parking impacts that were primarily seen in new residential subdivisions with front setbacks of 25 ft. or less. Impacts include excess on-street parking of vehicles causing access challenges for larger emergency vehicles and the blocking of sidewalks by vehicles parked in designated off-street driveways due to insufficient space. These stated concerns would not be addressed if the variance is approved. While impacts to adjacent property would likely be minimal, there is the potential for impact to the overall public good that must be balanced against the desire for uniformity within the development.

IV. STAFF RECOMMENDATION

Staff recommends no additional conditions of approval *if* the Board makes the necessary findings to approve this request.

V. DRAFT MOTIONS for BOA-25-04

- A. I move the Zoning Board of Appeals **approve** BOA-25-04, subject to the findings of fact and conclusions developed by the BZA and so stated:
- B. I move the Zoning Board of Appeals **deny** BOA-25-04, subject to the following findings of fact and conclusions:
- C. I move the Zoning Board of Appeals enter an alternative motion for BOA-25-04.

VI. BOARD OF APPEALS – March 12, 2025

Exhibit 1

Variance Request associated with Technical Review SD-21-04 for Canopy of Oaks Phase 2 (21 lots)

The Canopy of Oaks Subdivision plan was drawn and presented prior to the beginning of Phase I, understanding that a Phase II would follow. As with any subdivision, stormwater must be included and, in this case, determines the size of buildable space you have for homes in both Phases. Phase I is well underway and doing quite well.

An application has been filed for Phase II and at the Technical review we were advised that the City has a new 35 ft front setback. There is a contract to purchase this property to continue to develop and the purchaser, Great Southern Homes, has advised us that 35 ft will compromise the rear setback requirements and will not afford sufficient space to construct similar homes as are in Phase I. A single page attached drawing shows the location of homes both at 25 and 35 ft setbacks. Without some relief from this new requirement, the contract will not be finalized, and the future of this property is uncertain. A lot has gone into this development as a parcel of land on Broad Street had to be purchased to provide emergency access to the subdivision even though there are currently 2 entrances. Codes say that the distance between the entrances is not sufficient, and a 3rd emergency entrance has to be in place. This time the request is for us to pave it where all others in the past have been rock based since it is very unlikely it will ever be used. We are still working that side but unless this request is approved it is unlikely that 21 homes will be built and land was purchased for no reason.

If we had known about the 35 ft amendment we could have appealed at that time or the plan could have been changed, including stormwater requirements that would have allowed a different design. We request that Phase II be allowed to develop with the same guidelines and setbacks that are currently in Phase I.

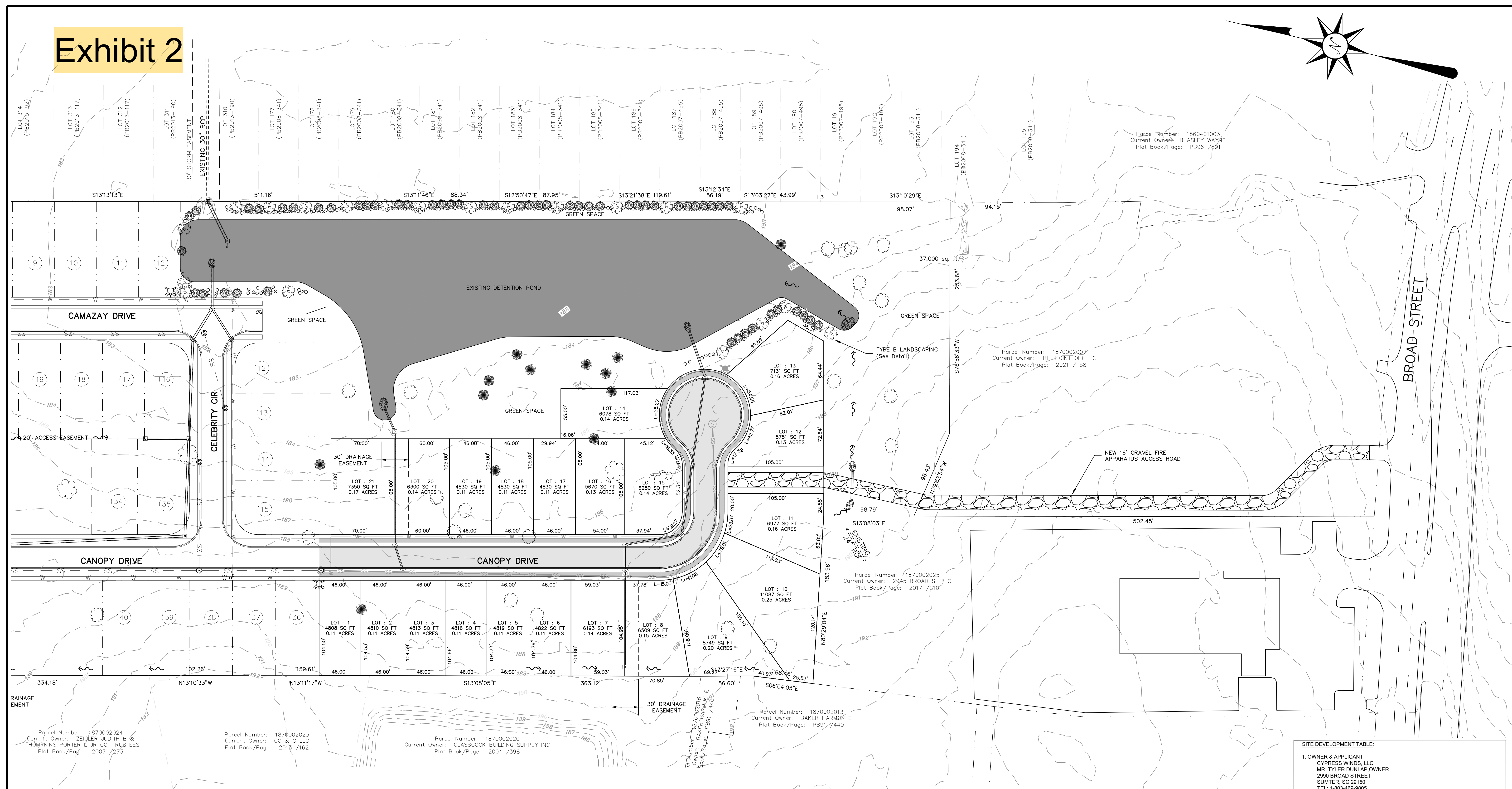
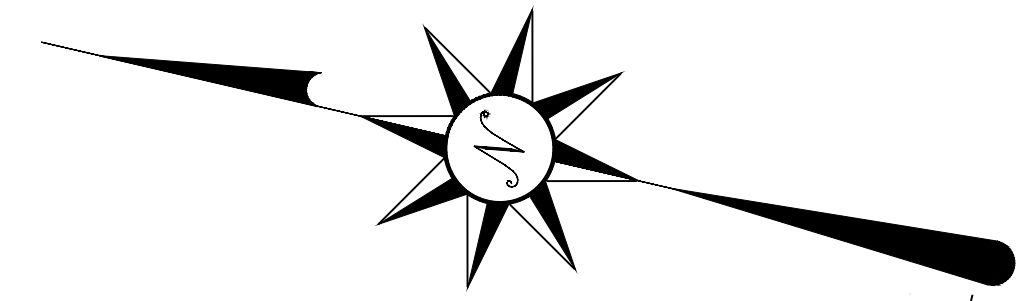
35' front setback



CA

T/S: 00-10-00
11/15/11

Exhibit 2

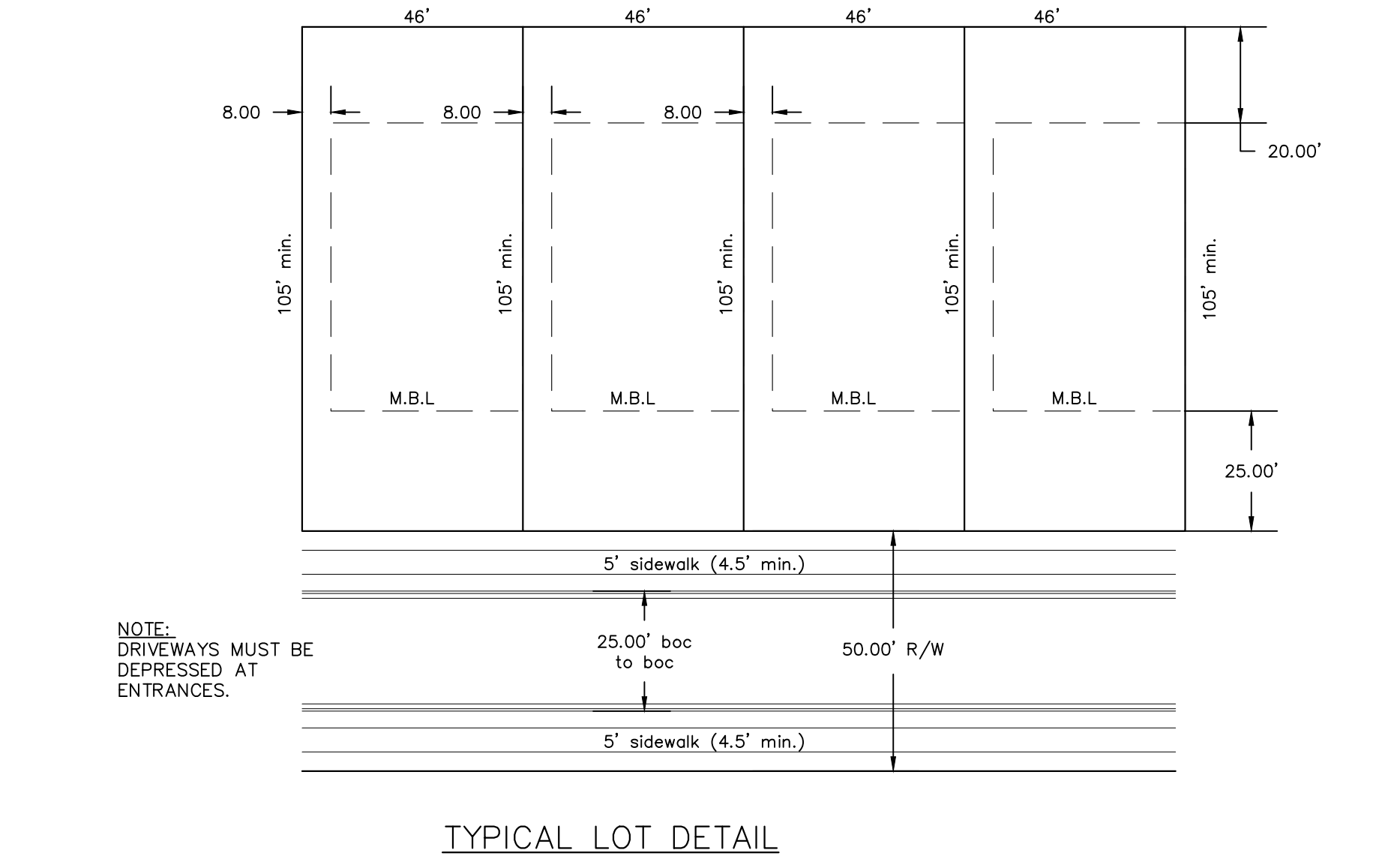


REFERENCES:

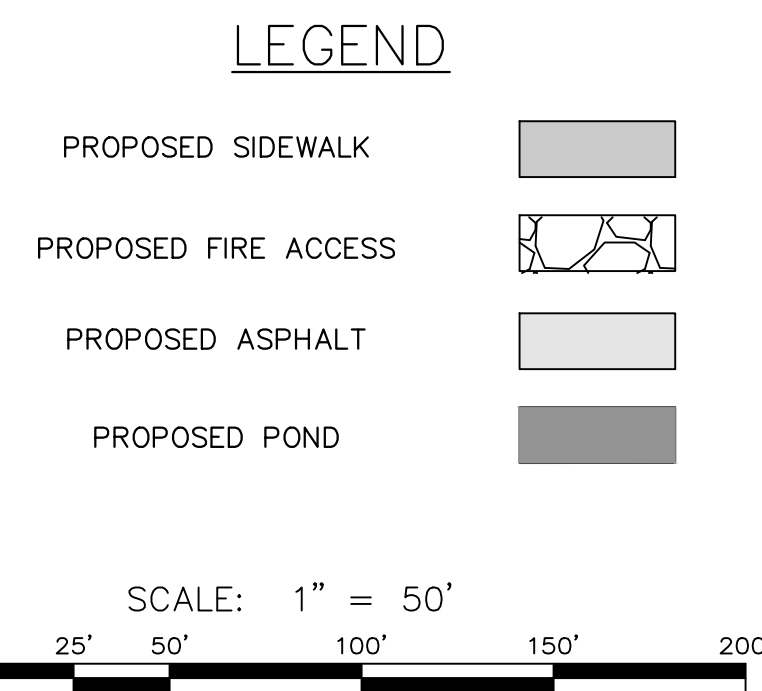
- BOUNDARY, TOPOGRAPHIC DATA AND EXISTING IMPROVEMENTS TAKEN FROM SURVEY DRAWING BY BLACKRIVER LAND SURVEYING, INC.
- SOIL DATA TAKEN FROM SUMTER COUNTY GIS DATABASE.

NOTES:

- THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING THE EXACT LOCATIONS AND CONDITIONS AND IF SIGNIFICANTLY DIFFERENT FROM THAT SHOWN ON THE PLANS, STOP WORK AND NOTIFY THE ENGINEER.
- UNDERGROUND AND OVERHEAD UTILITIES MAY EXIST WHICH HAVE NOT BEEN SHOWN ON THIS PLAN. THE LOCATION OF UNDERGROUND UTILITIES AS SHOWN HEREON IS BASED ON ABOVE GROUND STRUCTURES AND RECORD DRAWINGS PROVIDED. LOCATIONS OF UNDERGROUND UTILITIES/STRUCTURES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES/STRUCTURES MAY BE ENCOUNTERED. BEFORE EXCAVATIONS ARE BEGUN CALL PALMETTO UTILITY LOCATION SERVICE AT 811 PER "S.C. UNDERGROUND UTILITY DAMAGE PREVENTION ACT".



LANDSCAPE LEGEND				
SYMBOL	PROPOSED # OF PLANTS	TYPE (TYP.)	PLANTING CALIPER	HEIGHT OF PLANTING
	CANOPY TREES (4)	OAK TREES	2"	7'
	EVERGREEN (10)	SWEET BAY MAGNOLIA PINE	2"	7'
	TALL SHRUBS (20)	WAX MYRTLE	5 GALLON	3'



SITE DEVELOPMENT TABLE:	
1. OWNER & APPLICANT	CYPRESS WINDS, LLC. MR. TYLER DUNLAP, OWNER 2990 BROAD STREET SUMTER, SC 29150 TEL: 1-803-469-9805 EMAIL: DODDUNLAP@GMAIL.COM
2. ENGINEER CONTACT	MIKE WEATHERLY, P.E. P.O. BOX 50215 COLUMBIA, SC 29150 TEL: 803-765-2463 EMAIL: MEWPE1@AOL.COM
3. TAX MAP PARCELS	187-00-02-018
4. SITE ADDRESS	2870 OLD FIELD ROAD SUMTER COUNTY
5. ZONING: GR	PROPOSED USE: SINGLE FAMILY (ZERO LOT LINE HOUSING)
6. FEMA INFORMATION	ZONE: X FIRM PANEL 45085C0283E / 0281E EFFECTIVE DATE 9-28-2018
7. SIZE OF PARCEL(S)	8.0 ACRES
8. AREA OF OPEN AREA	4.4 ACRES
9. AREA OF LOTS	2.8 ACRES
10. AREA OF ROAD R/W	0.8 ACRE
11. OPEN SPACE	55%
12. SETBACKS REQ.	FRONT - 25' SIDE - 0 & 8' SECONDARY SIDE - 12.5' REAR - 20'
13. LOT WIDTH TYP.	>46'
14. PROPERTY IS SERVED BY CITY OF SUMTER WATER AND SEWER.	

DESIGNED BY: MEW
DRAWN BY: MEW
CHECKED BY: MEW
DATE: 9-20-2021
SCALE: HOR: 1"=50'
VERT: N/A
FIELD BOOK: /
DRAWING NO.: 21021
PLANS/XXXX

APPROVED	REVISION	DATE

DESCRIPTION:

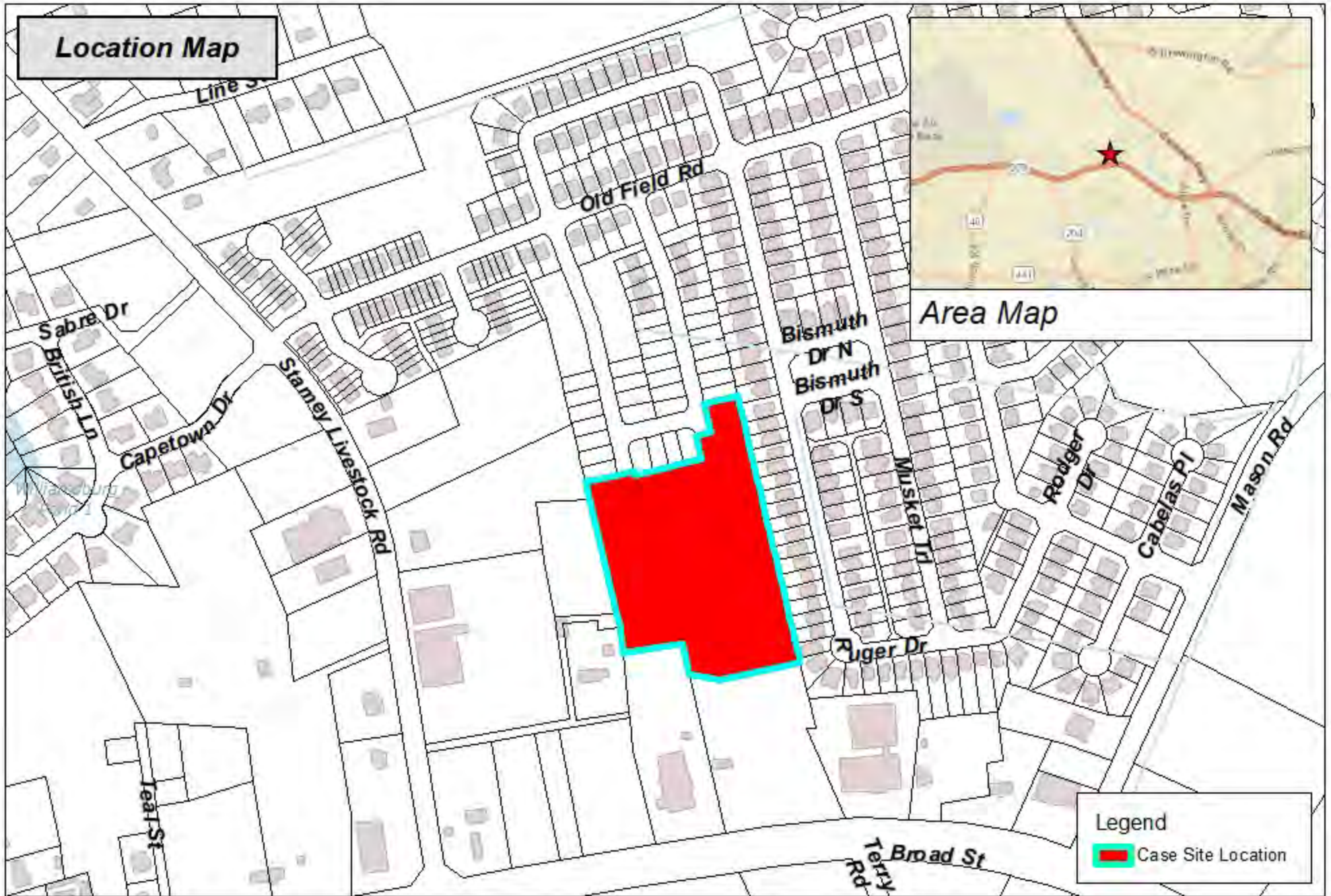
SITE PLAN

PROJ. NO. SHEET	21021 C3A
OF 17	

MICHAEL E. WEATHERLY, P.E.
CONSULTING ENVIRONMENTAL & CIVIL ENGINEER
 160 Gills Creek Parkway - P.O. Box 50215 - Columbia, S.C. 29250 - (803)765-2463
CANOPY OF OAKS SUBDIVISION - PHASE II
SUMTER, SC
SITE AND LANDSCAPE PLAN




Location Map

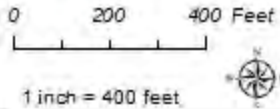


Area Map

Legend

 Case Site Location

DISCLAIMER: Whichever date of this map has been issued for zoning, the Sumter City-County Planning Commission disclaims any and all responsibility for the exact accuracy or timeliness of this map. The Sumter City-County Planning Commission shall not become liable to the user of this map for any reason. In using this map, the user agrees to hold the Sumter City-County Planning Commission harmless in any and all liabilities arising from the use of this map.

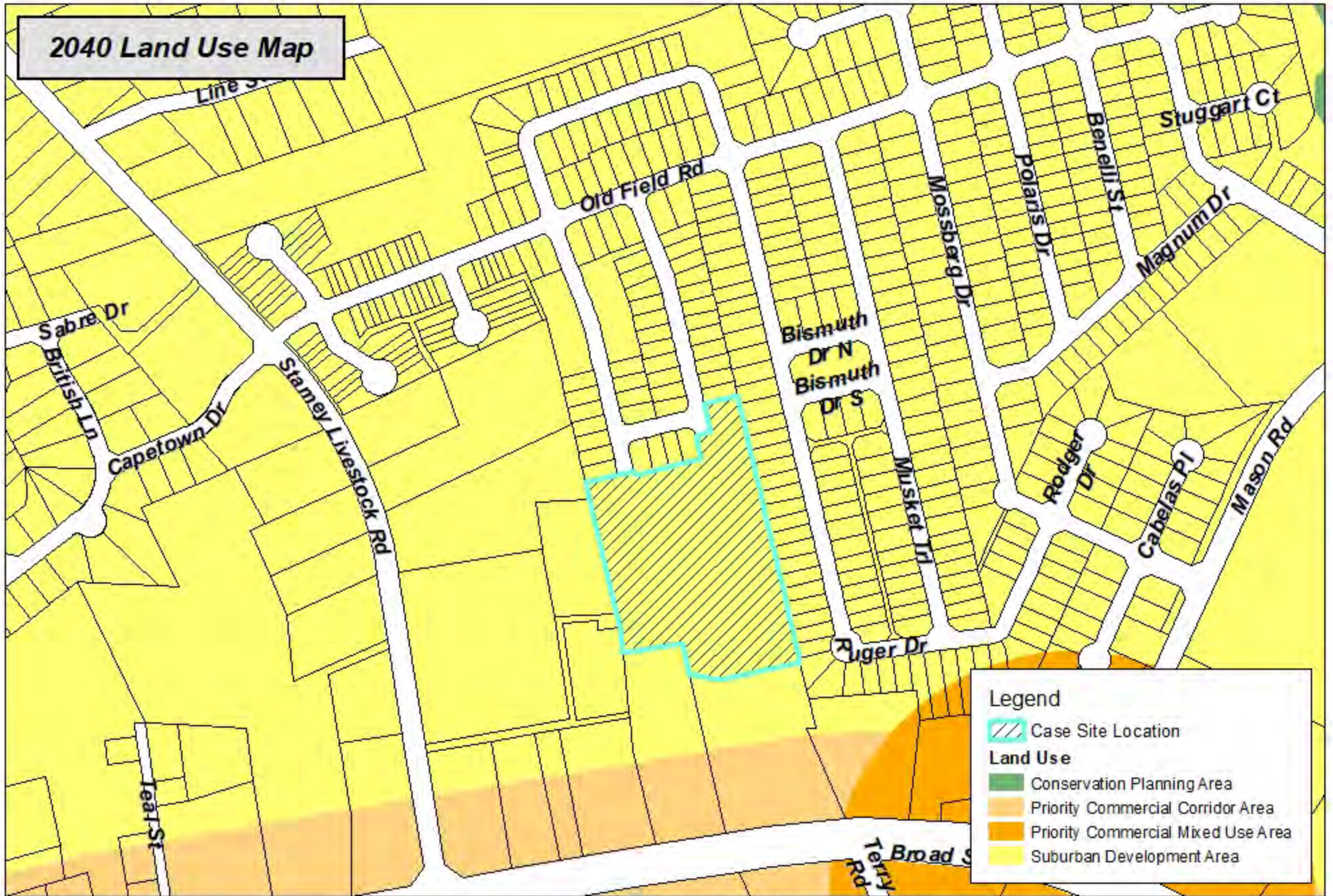


Map Prepared by: Sumter Planning Department
Copyright 2025
Date: 10/20/25
User Name: glenwood
Document Name: BOA-25-04



BOA-25-04
2868 Old Field Rd, Sumter, SC 29150
Tax Map # 187-00-02-018 (part)

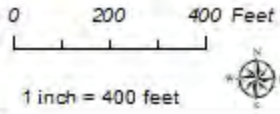
2040 Land Use Map



Legend

-  Case Site Location
- Land Use**
-  Conservation Planning Area
-  Priority Commercial Corridor Area
-  Priority Commercial Mixed Use Area
-  Suburban Development Area

DISCLAIMER: While the date of this map has been noted for accuracy, the Sumter-Clay County Planning Commission disclaims any and all responsibility for the exact accuracy or completeness of the map. The Sumter-Clay County Planning Commission shall not be liable to the user of this map for any reason. In using this map, the user agrees to hold the Sumter-Clay County Planning Commission harmless of any or all liabilities arising from the use of this map.

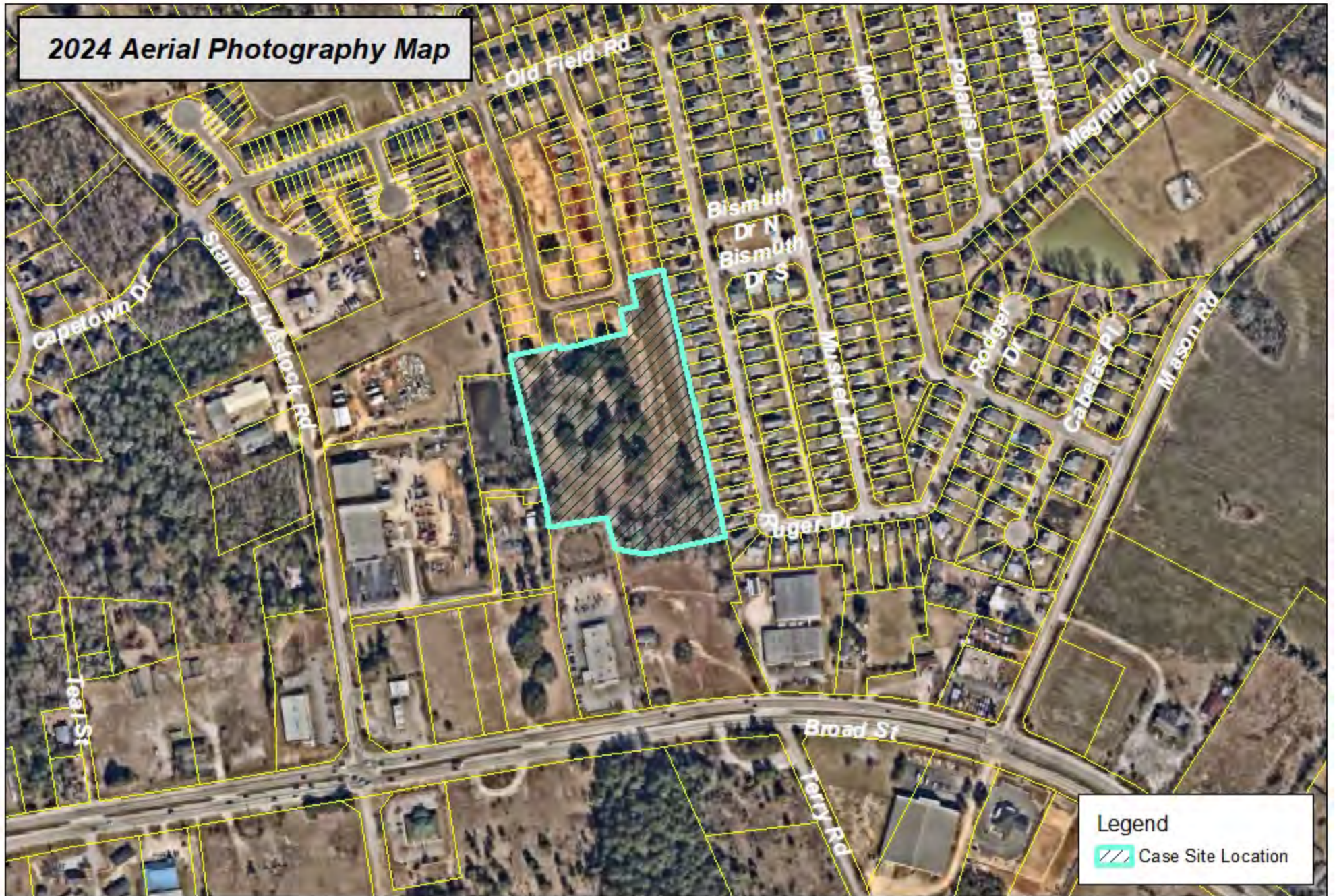


Map Prepared by: Sumter Planning Department
 Copyright 2025
 Date: 10/2/25
 User Name: splanw
 Document Name: BOA-25-04

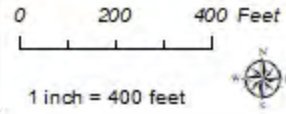


BOA-25-04
 2868 Old Field Rd, Sumter, SC 29150
 Tax Map # 187-00-02-018 (part)

2024 Aerial Photography Map



DISCLAIMER: While the date of this map has been noted for accuracy, the Sumter-City County Planning Commission disclaims any or all responsibility for the exact accuracy or completeness of the map. The Sumter-City-County Planning Commission shall not become liable to the user of this map for any reason. In using this map, the user agrees to hold the Sumter-City-County Planning Commission harmless of any or all liabilities arising from the use of this map and its contents.

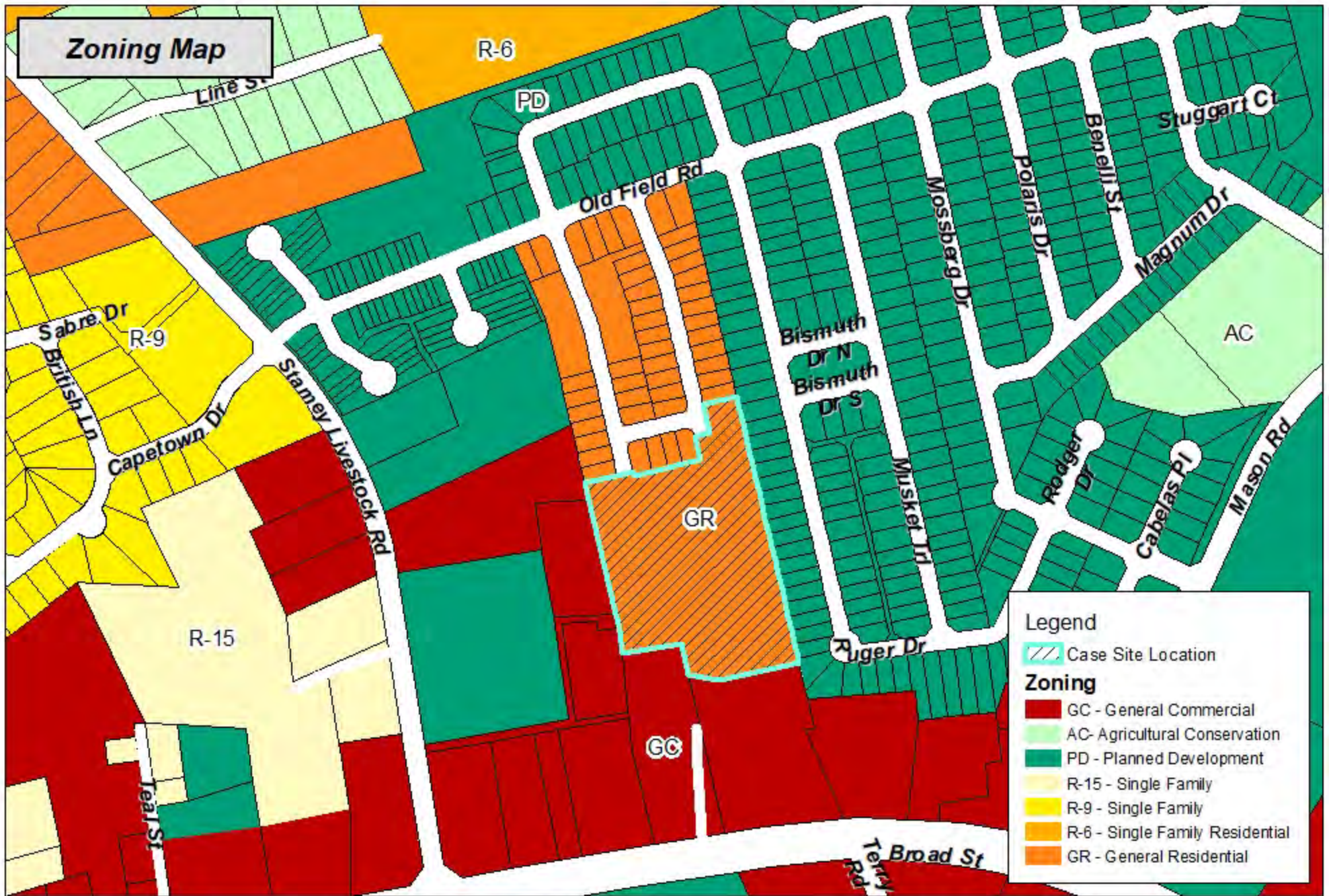


Map Prepared by: Sumter Planning Department
Copyright 2025
Date: 3/3/2025
User Name: gherwood
Document Name: BOA-25-04



BOA-25-04
2868 Old Field Rd, Sumter, SC 29150
Tax Map # 187-00-02-018 (part)

Zoning Map



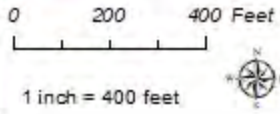
Legend

Case Site Location

Zoning

- GC - General Commercial
- AC - Agricultural Conservation
- PD - Planned Development
- R-15 - Single Family
- R-9 - Single Family
- R-6 - Single Family Residential
- GR - General Residential

DISCLAIMER: While the date of this map has been noted for accuracy, the Sumter City-County Planning Commission disclaims any or all responsibility for the exact accuracy or completeness of the map. The Sumter City-County Planning Commission shall not become liable to the user of this map for any reason. In using this map, the user agrees to hold the Sumter City-County Planning Commission harmless of any or all liabilities arising from the use of this map.



Map Prepared by: Sumter Planning Department
 Copyright 2025
 Date: 3/25/25
 User Name: glenwort
 Document Name: BOA-25-04



BOA-25-04
 2868 Old Field Rd, Sumter, SC 29150
 Tax Map # 187-00-02-018 (part)