BOARD OF ZONING APPEALS
JANUARY 16, 2025

ALPHARETTA CITY HALL
COUNCIL CHAMBERS
2 PARK PLAZA
5:30 PM

1. CALL TO ORDER

A. Election of Chair and Vice Chair for 2025

2. ROLL CALL

3. APPROVAL OF MEETING MINUTES

A. Approval of Meeting Minutes of 7-18-24

4. ITEMS FROM BOARD MEMBERS

5. ITEMS FROM STAFF

6. PUBLIC HEARING

A. V-25-01 12539 Darvish Lane Setback Variance
Consideration of a variance from Unified Development Code (UDC) Subsection 2.3.3 (B) and UDC Subsection 2.3.3 (C) to reduce a swimming pool setback from 20' to 10'. The property is located at 12539 Darvish Lane and is legally described as being located in Land Lots 1165 & 1166, 2nd District, 1st Section, Fulton County, Georgia.

B. PH-24-21 4098 Big Creek Overlook Appeal to Administrative Decision
Consideration of an appeal to an administrative decision related to a fine issued for violations of Unified Development Code (UDC) Subsection 3.1.1(D)(2) working without the required land disturbance permit, UDC Subsection 3.1.1(D)(3) failure to provide minimum erosion and sedimentation control measures, UDC Subsection 3.1.1(C)(3) and UDC Subsection 3.3.2 disturbance of stream buffers along state waters, and UDC Subsection 3.4.4(C) development within regulatory areas of special flood hazard. The property is located at 4098 Big Creek Overlook and is legally described as being located in Land Lots 47 & 86, 1st District, 1st Section, Fulton County, Georgia.

7. ADJOURNMENT

BOARD OF ZONING APPEALS
JULY 18, 2024

UNOFFICIAL MINUTES

ALPHARETTA CITY HALL
COUNCIL CHAMBERS
2 PARK PLAZA
5:30 PM

1. CALL TO ORDER

Chair Gelber called the meeting to order at 5:30 p.m.

2. ROLL CALL

A. Board Members Present
- Marc Gelber (Chair)
- Michael Gordy (Vice -Chair)
- Kirk Driskell
- Anne Holcombe
- Donna Shaw Murphy
- Lisa Shippel
- Dereje Teshale

B. Staff Present:
- Michael Woodman, Planning & Development Services Manager
- James Drinkard, Assistant City Administrator

3. APPROVAL OF MEETING MINUTES

A. Approve BZA Minutes of 5-16-24

- Board Member Shaw-Murphy offered a motion to approve.
  - Board Member Gordy seconded the motion.
  - Motion carried (7-0)

4. ITEMS FROM BOARD MEMBERS

5. ITEMS FROM STAFF

6. PUBLIC HEARING

A. V-24-19 Kaplan/120 Broadwell Oaks Court Variance
Michael Woodman, Planning & Development Manager presented consideration of a variance to reduce the rear setback from 30′ to 15′ to allow for a deck replacement and expansion at a single-family detached home on 0.42 acres. The property is located in the Broadwell Oaks subdivision, which has a platted rear setback of 30′. The property is located

at 120 Broadwell Oaks Court and is legally described as being located in Land Lot 1249, 2nd District, 2nd Section, Fulton County, Georgia.

The 0.42-acre property is zoned R-15 (Dwelling, 'For-Sale', Residential) and developed with a two story, 2,697 square foot single-family detached home with an attached wooden deck at the rear. Surrounding properties are zoned R-15 and within the Broadwell Oaks subdivision.

The R-15 zoning district requires a twenty-five-foot (25') rear setback. However, the platted rear setback for the Broadwell Oaks subdivision requires a thirty-foot (30') rear setback. The existing deck is legal non-conforming as it currently encroaches the platted rear setback by approximately thirteen feet (13'). The site plan proposes an approximately 316 square foot covered porch and an approximately 236 square foot deck expansion with steps, totaling 552 square feet. A 15-foot rear setback is proposed for this addition.

There are several examples of similar variance and building permit approvals in the Broadwell Oaks subdivision. The average size of porch and deck additions in the Broadwell Oaks subdivision since 2017 is approximately 326 square feet.

- Table with Variances in the Broadwell Oaks Subdivision and Building Permits in the Broadwell Oaks Subdivision.

Variance Requirements:

Application of the ordinance would not allow the expansion of the existing deck and creation of a covered porch. The property has an unusual shape given its location on a cul-de-sac. The location on the cul-de-sac required the home to be setback further than other homes on the same street. Additionally, the structure is legal non-conforming as the deck currently encroaches the rear setback by approximately 13 feet. The proposed covered porch and deck will only encroach the rear setback by two (2) additional feet. Furthermore, there are examples of similar construction and variances being approved in the Broadwell Oaks subdivision.

Staff has reviewed the applicant's proposal and generally supports the rear setback variance for the covered porch and deck rear addition. The property has an unusual shape given its location on a cul-de-sac. The location on the cul-de-sac required the home to be setback further than other homes on the same street. In addition, the structure is legal non-conforming as the deck currently encroaches the rear setback by approximately 13 feet. The proposed covered porch and deck will only encroach the rear setback by two (2) additional feet. There are examples of similar construction and variances being approved in the Broadwell Oaks subdivision. And furthermore, the applicant contacted the adjacent properties and Broadwell Oaks HOA and received no objections.

Staff's recommendation is to approve V-24-19 Kaplan/120 Broadwell Oaks Court, subject to the following condition:

1. Deck shall be permitted as depicted on the site plan labeled Exhibit A, and with a 15-foot rear setback.

There was discussion from the Board:

- Existing deck.

  Hannah and Michael Kaplan presented for the Applicant.

  There was no public comment.

  - Board Member Shippel offered a motion to approve based on Staff's conditions.
    - Board Member Holcombe seconded the motion.
    - Motion carried (7-0)

7. ADJOURNMENT

BOARD OF ZONING APPEALS MEETING
STAFF REPORT

SUBMITTING DEPARTMENT: COMMUNITY DEVELOPMENT
SUBMITTED BY: KATHI COOK
DRAFTED BY: MICHAEL WOODMAN

I. AGENDA ITEM TITLE: V-25-01 12539 DARVISH LANE

BOARD OF ZONING APPEALS: JANUARY 16, 2025

II. RECOMMENDATION:

Approve V-25-01 12539 Darvish Lane, subject to the following conditions:

1. Swimming pool shall be permitted as depicted on the submitted site plan with a 10' rear setback.

III. REPORT IN BRIEF:

The applicant, Dinesh Senanayake, are requesting consideration of a variance to reduce the rear setback from twenty feet (20') to ten feet (10') to accommodate a swimming pool. The subject property is located at 12539 Darvish Lane in The Pearl subdivision.

DISCUSSION

The submitted request, if approved, would allow for a swimming pool at the rear of a single-family home with a reduced rear pool setback of ten feet (10'). The subject property is located at 12539 Darvish Lane in The Pearl subdivision.

The 0.27-acre property is zoned CUP (Community Unit Plan) and is developed with a two story, 3,832 square foot single-family detached home. Surrounding properties are zoned CUP. Residential lots in The Pearl subdivision are located to the west, south and east, and residential lots in Linkside subdivision are located to the north.

Unified Development Code (UDC) Subsection 2.3.3(B) and 2.3.3(C)(7) require that a swimming pool have a twenty-foot (20') setback from the rear and side property lines, or the same setback as the principal structure, whichever is less. The platted rear setback in The Pearl subdivision is 35'; therefore, a twenty-foot (20') rear setback is required for the proposed swimming pool.

The applicant proposes to reduce the rear setback by 50% to ten feet (10') to accommodate a 511 square foot swimming pool with spa at the rear of the existing home. There are two (2) properties in The Pearl subdivision with existing swimming pools, including at 5260 Nasser Avenue which has a 480 SF pool and at 12535 Darvish Lane which has a 396 square foot pool. The applicant does not propose any tree removal with the construction of the swimming pool.

VARIANCE REQUIREMENTS

The City of Alpharetta Unified Development Code Article IV, Section 4.5.3 outlines the criteria set forth for granting a hardship variance. The ordinance specifically states…"a variance may be granted in whole or in part, or with conditions, in such individual case of unnecessary hardship upon a finding that":

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; or

Response: The property has an unusual shape given its location on a cul-de-sac. The location on the cul-de-sac required the home to be set at an angle to the rear property boundary.

2. The application of the Ordinance to this particular piece of property would create an unnecessary hardship; or

Response: Application of the ordinance would significantly reduce the footprint of the pool and/or push the pool closer to the neighbor to the east. The property has an unusual shape given its location on a cul-de-sac. The location on the cul-de-sac required that the home be set at an angle to the rear property boundary.

3. There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned; or

Response: The property has an unusual shape given its location on a cul-de-sac. The location on the cul-de-sac required that the home be set at an angle to the rear property boundary. Furthermore, the applicant provided letters of no objection from all adjacent properties and the Pearl HOA. In addition, there are examples of similar variance requests being approved to reduce setbacks for a swimming pool on lots with an unusual shape and located on a cul-de-sac. Most recently, the Board of Zoning Appeals approved rear setback reductions for swimming pools at 1060 Gramercy Lane on November 16, 2023, and at 550 Ebley Place on October 19, 2023.

CONCURRENCES

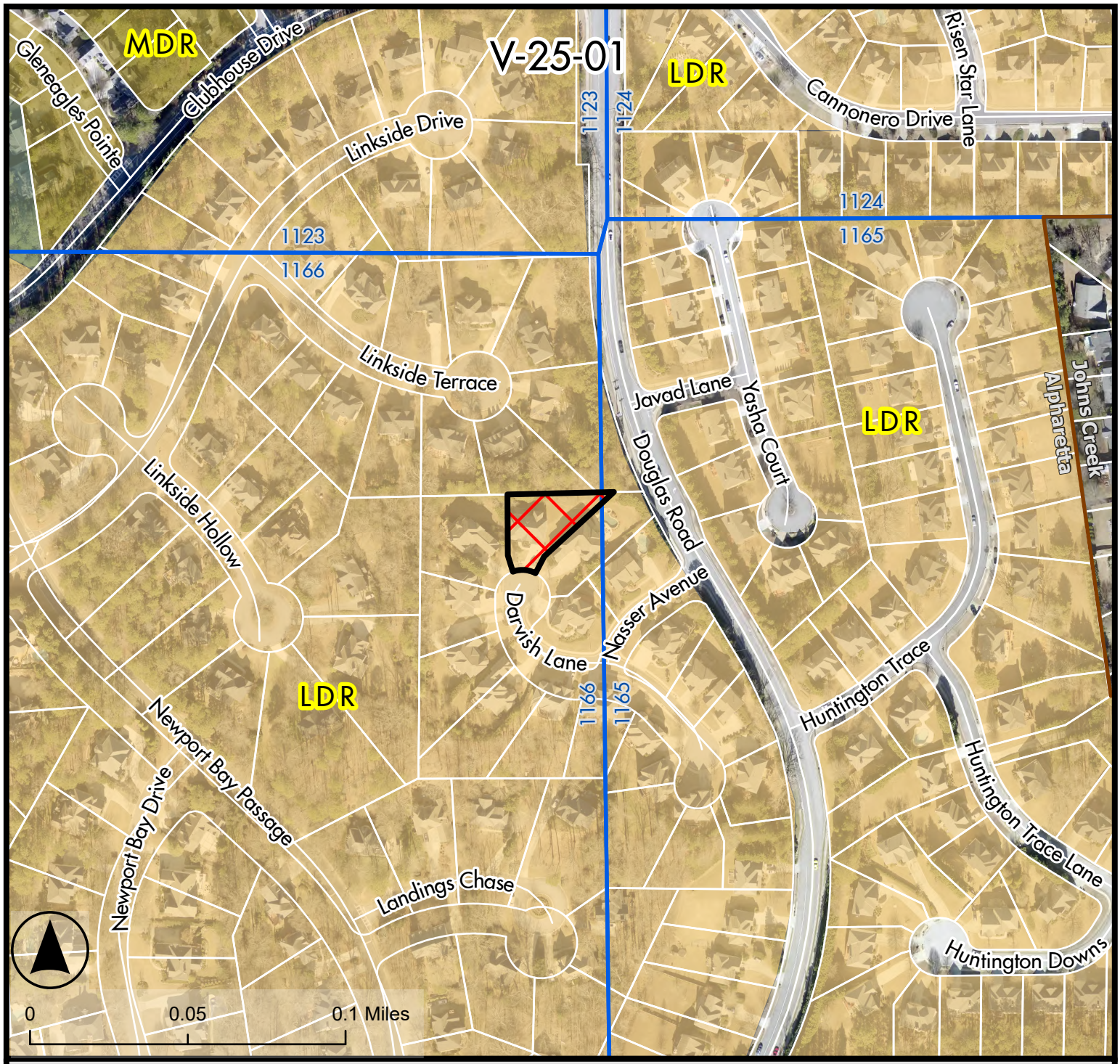
Staff has reviewed the applicant's proposal against the review criteria for a variance. The property has an unusual shape given its location on a cul-de-sac. The location on the cul-de-sac required that the home be set at an angle to the rear property boundary. Furthermore, the applicant provided letters of no objection from all adjacent properties and the Pearl HOA. In addition, there are examples of similar variance requests being approved to reduce setbacks for a swimming pool on lots with an unusual shape and located on a cul-de-sac. Most recently, the Board of Zoning Appeals approved rear setback reductions for swimming pools at 1060 Gramercy Lane on November 16, 2023, and at 550 Ebley Place on October 19, 2023.

CITIZEN PARTICIPATION PLAN

The applicant notified adjacent property owners of the variance request and intent for the property. The applicant provided letters of no objection from adjacent property owners and from The Pearl HOA.

IV. ATTACHMENTS:

- Map Series
- Citizen Part B
- Application



Legend

- Alpharetta City Limits
- V-25-01
- Land Lots
- Tax Parcels

Future Land Use 2040

- Low Density Residential
- Medium Density Residential
- Parks, Recreation, Open Space

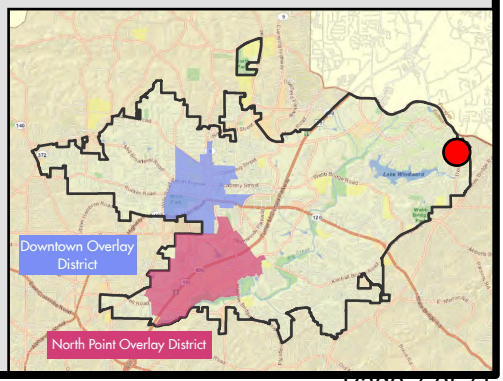
Future Land Use Map

12539 Darvish Lane Setback Variance

12539 Darvish Lane

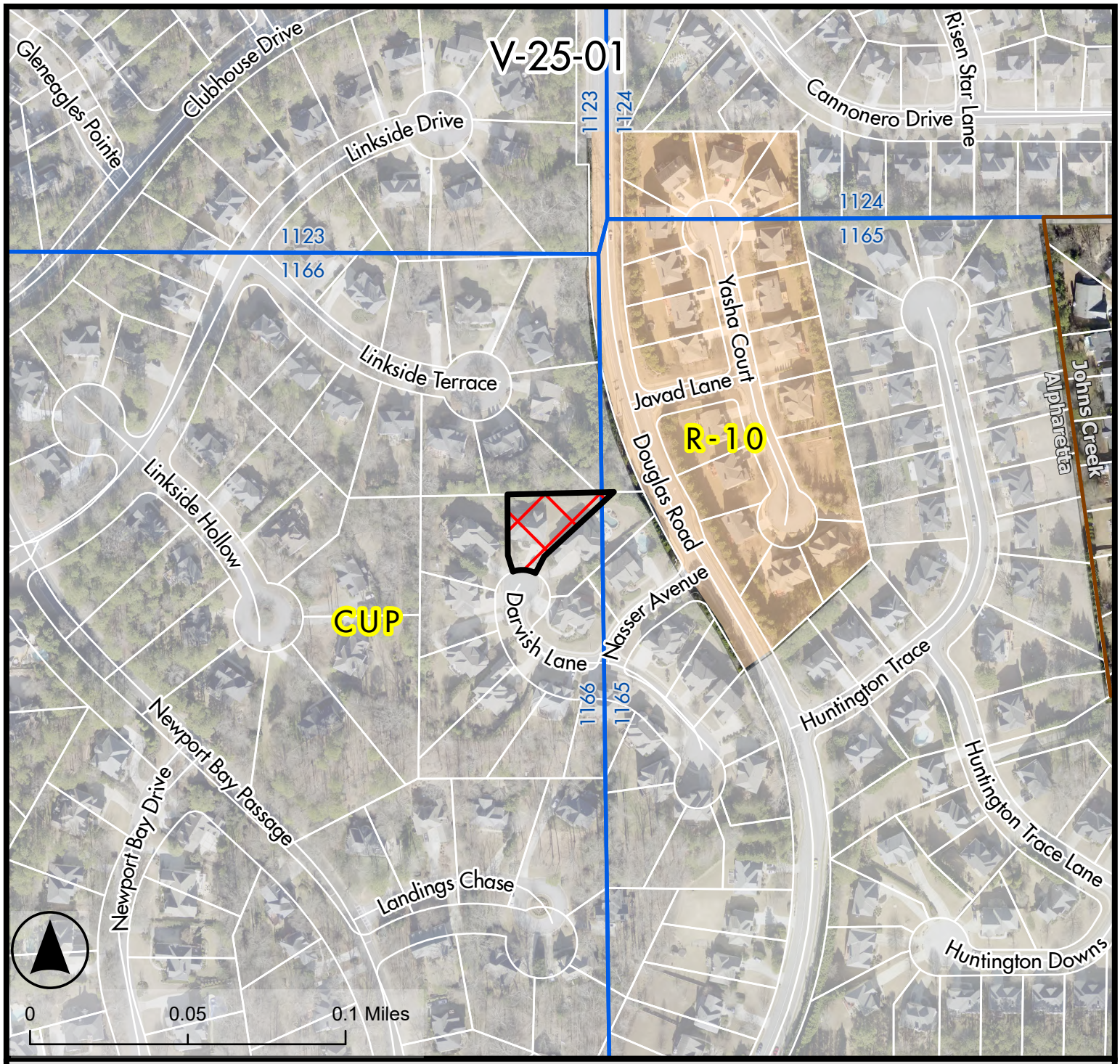
V-25-01
D/LL: 2/1/1166
BZA: 1/16/2025

THE CITY OF ALPHARETTA GEORGIA



Credit: City of Alpharetta, Fulton County, GA; Pictometry International.

Location Map Provided by: Community Development - GIS



Legend

- Alpharetta City Limits
- V-25-01
- Land Lots
- Tax Parcels

Zoning District

- CUP Community Unit Plan
- R-10 Single Family Detached Residential

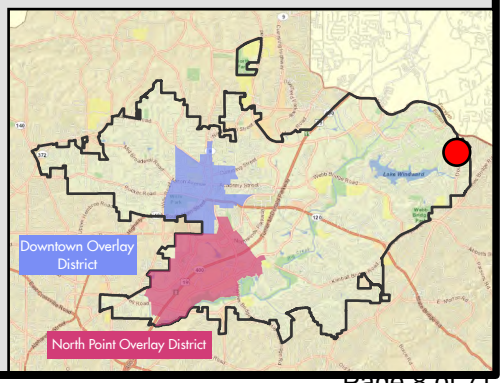
Zoning Map

12539 Darvish Lane Setback Variance

12539 Darvish Lane

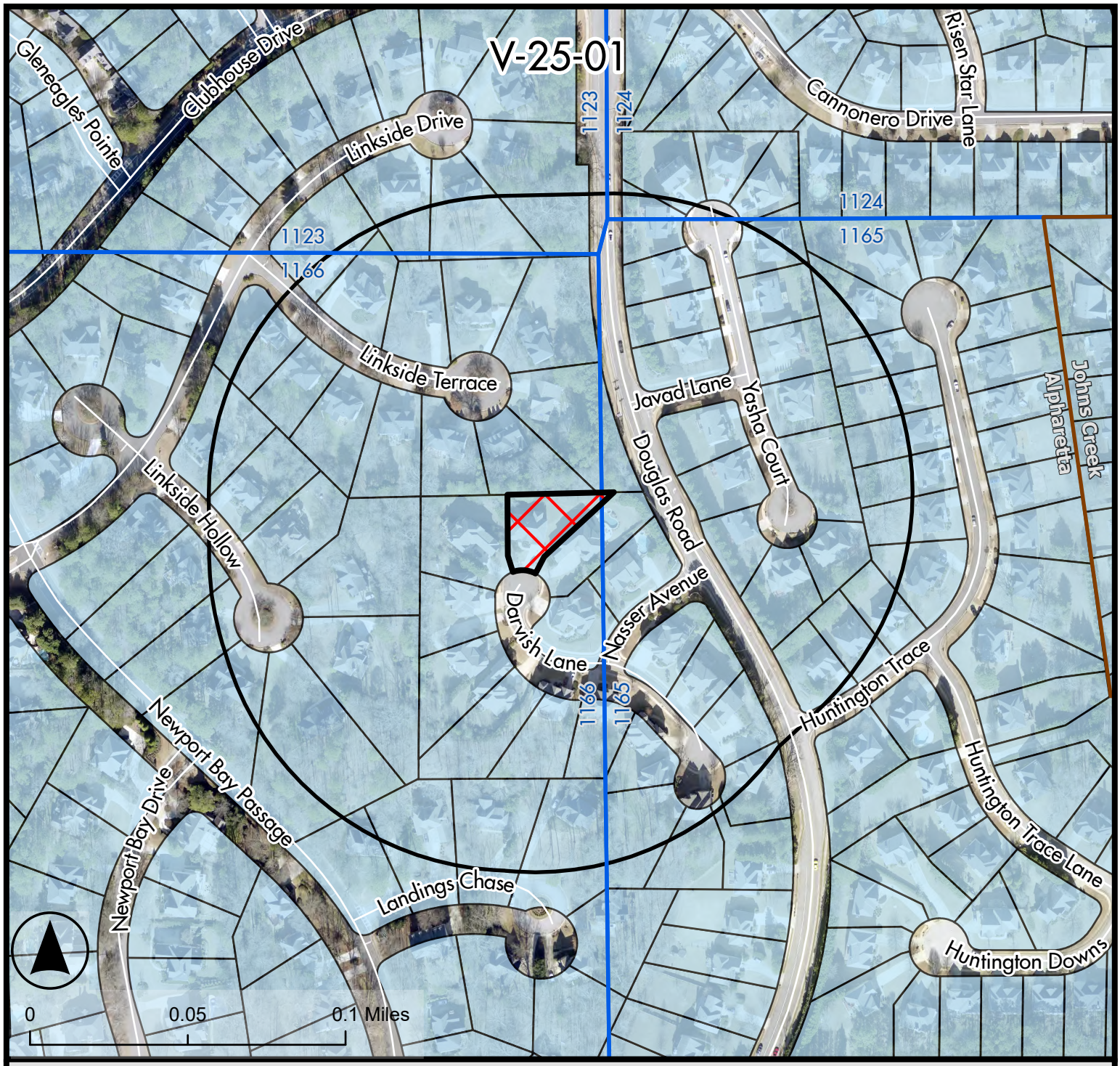
V-25-01
D/LL: 2/1/1166
BZA: 1/16/2025

THE CITY OF ALPHARETTA GEORGIA



Credit: City of Alpharetta, Fulton County, GA; Pictometry International.

Location Map Provided by: Community Development - GIS



Legend

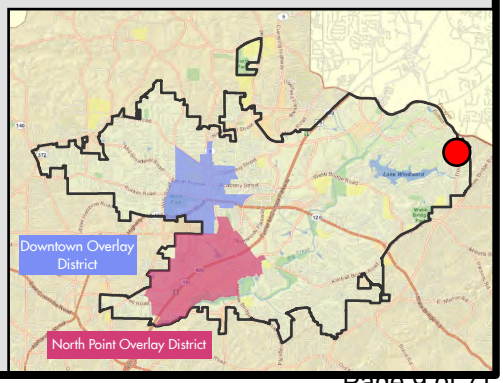
- Alpharetta City Limits
- V-25-01
- 500 ft Buffer
- Land Lots
- Tax Parcels

Location and Buffer Map

12539 Darvish Lane Setback Variance

12539 Darvish Lane

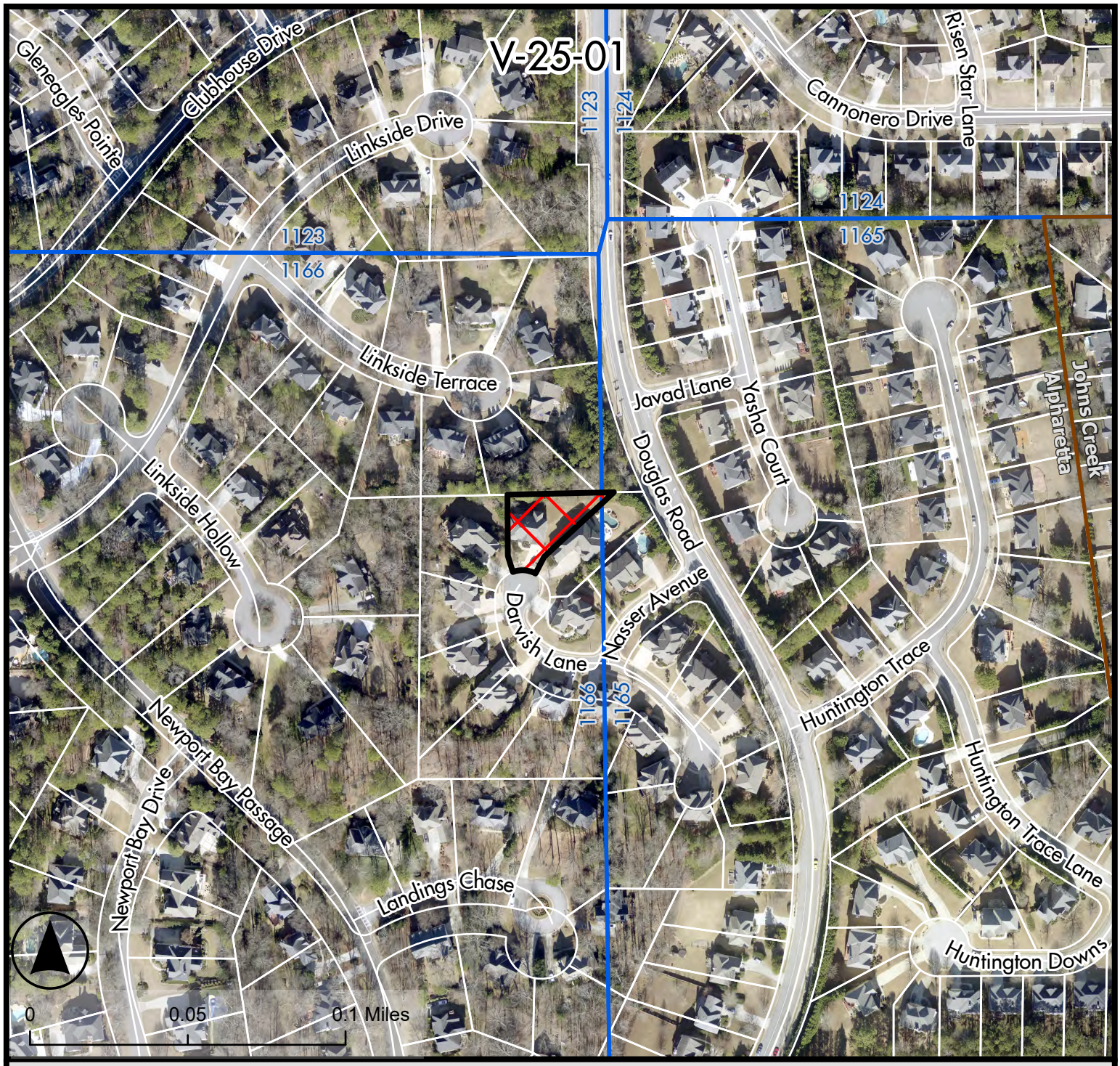
V-25-01
D/LL: 2/1/1166
BZA: 1/16/2025



THE CITY OF ALPHARETTA GEORGIA

Credit: City of Alpharetta, Fulton County, GA; Pictometry International.

Location Map Provided by: Community Development - GIS



Legend

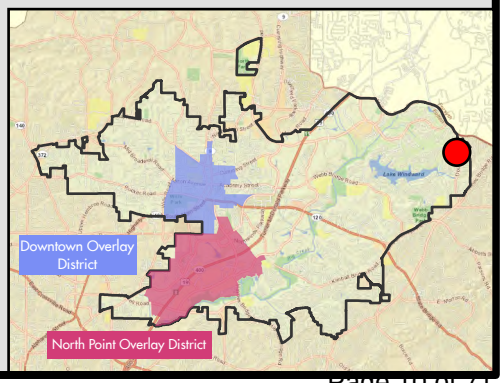
- Alpharetta City Limits
- V-25-01
- Land Lots
- Tax Parcels

Aerial Map

12539 Darvish Lane Setback Variance

12539 Darvish Lane

V-25-01
D/LL: 2/1/1166
BZA: 1/16/2025



THE CITY OF ALPHARETTA GEORGIA

Credit: City of Alpharetta, Fulton County, GA; Pictometry International.

Location Map Provided by: Community Development - GIS

CITIZEN PARTICIPATION FORM - PART B

This form must be completed and submitted to the City of Alpharetta Community Development Department a minimum of twenty (20) working days prior to the scheduled Public Hearing. Failure to do so will result in cancellation of the scheduled hearing.

Public Hearing or Project Name: Installation of pool at 12539 Darvish Ln. Alpharetta GA 30005

Contact Name: Dinesh Senanayake

Telephone: 770-401-6906

Please describe comments and concerns provided by any and all individuals contacted as part of the the Citizen Participation Program. If any individuals provided written correspondence, please attach copies of same to this report.

No concerns or comments. All were very supportive.

Method by which these individuals were contacted. Please mark all that apply. *Please provide samples of any and all written communications used to provide notification.*

- [ ] Letter
- [x] Personal Visits
- [ ] Telephone
- [ ] Group Meeting
- [ ] Email
- [ ] Other *(Please Specify)* _____

Attach a list of people who have been notified of this application and provided information describing the subject proposal. Please note that ALL adjoining property owners MUST be notified.

I, the undersigned, as an authorized representative of the applicant and Public Hearing item identified above, do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in this Citizen Participation Form - Part B and in any and all documents provided in support of this report are true and accurate. I further understand that any false statements provided by representatives of the applicant as part of this report may result in penalties up to and including denial of the subject application.

Signature of Authorized Agent: _____

Date: 12/19/2024

Print Form

Monday, November 18, 2024
Dinesh Senanayake
12539 Darvish Lane
Alpharetta, GA 30005

RE: V-25-01 12539 Darvish Lane Setback Variance

Dear Property Owner:

Please allow this letter to serve as public notice for consideration of variances from Unified Development Code (UDC) Subsection 2.3.3 (B) and UDC Subsection 2.3.3 (C) to reduce a swimming pool setback from 20′ to 10′. The property is located at 12539 Darvish Lane and is legally described as being located in Land Lots 1165 & 1166, 2nd District, 1st Section, Fulton County, Georgia.

This item will be considered by **the Board of Zoning Appeals on Thursday, January 16, 2025, at 5:30 PM**. The meeting will be held in the Council Chambers at City Hall, 2 Park Plaza, Alpharetta, GA 30009.

If you have any questions regarding the request, please feel free to contact me at your convenience. I can be reached at chums77@gmail.com and/or 770-401-6906.

Sincerely,

Dinesh Senanayake

November 21, 2024

Pearl of Alpharetta HOA
Ms. Cheryl Smith
12532, Darvish Lane
Alpharetta GA 30005

Dinesh Senanayake & Monika Senanayake
12539 Darvish Lane
Alpharetta GA 30005

Dear Dinesh & Monika,

<u>Construction of pool and set back variance at 12539 Darvish Ln.</u>

We have received notice of your request for consideration of variances from Unified Development Code (UDC) Subsection 2.3.3 (B) and UDC Subsection 2.3.3 (C) to reduce a swimming pool setback from 20' to 10'. The property is located at 12539 Darvish Lane and is legally described as being located in Land Lots 1165 & 1166, 2nd District, 1st Section, Fulton County, Georgia.

We confirm that we have no objection and fully support the installation of the pool in your property and the variance you have requested from the City of Alpharetta to reduce the rear property set back from 20ft to 10ft.

Regards,

Cheryl B Smith

Cheryl Smith
Pearl of Alpharetta HOA

November 21, 2024

Wu Ting Ting Tai
12544 Darvish Lane
Alpharetta GA 30005

Dinesh Senanayake & Monika Senanayake
12539 Darvish Lane
Alpharetta GA 30005

Dear Dinesh & Monika,

Construction of pool and set back variance at 12539 Darvish Ln.

We have received notice of your request for consideration of variances from Unified Development Code (UDC) Subsection 2.3.3 (B) and UDC Subsection 2.3.3 (C) to reduce a swimming pool setback from 20' to 10'. The property is located at 12539 Darvish Lane and is legally described as being located in Land Lots 1165 & 1166, 2nd District, 1st Section, Fulton County, Georgia.

We confirm that we have no objection and fully support the variance you have requested from the City of Alpharetta to reduce the rear property set back from 20ft to 10ft.

Regards,

Wu Ting Ting Tai

November 21, 2024

Wu Ting Ting Tai
12544 Darvish Lane
Alpharetta GA 30005

Dinesh Senanayake & Monika Senanayake
12539 Darvish Lane
Alpharetta GA 30005

Dear Dinesh & Monika,

Construction of pool and set back variance at 12539 Darvish Ln.

We have received notice of your request for consideration of variances from Unified Development Code (UDC) Subsection 2.3.3 (B) and UDC Subsection 2.3.3 (C) to reduce a swimming pool setback from 20' to 10'. The property is located at 12539 Darvish Lane and is legally described as being located in Land Lots 1165 & 1166, 2nd District, 1st Section, Fulton County, Georgia.

We confirm that we have no objection and fully support the variance you have requested from the City of Alpharetta to reduce the rear property set back from 20ft to 10ft.

Regards,

Wu Ting Ting Tai

November 21, 2024

Christopher R Delahanty & Kristin E Delahanty
12535 Darvish Lane
Alpharetta GA 30005

Dinesh Senanayake & Monika Senanayake
12539 Darvish Lane
Alpharetta GA 30005

Dear Dinesh & Monika,

<u>Construction of pool and set back variance at 12539 Darvish Ln.</u>

We have received notice of your request for consideration of variances from Unified Development Code (UDC) Subsection 2.3.3 (B) and UDC Subsection 2.3.3 (C) to reduce a swimming pool setback from 20' to 10'. The property is located at 12539 Darvish Lane and is legally described as being located in Land Lots 1165 & 1166, 2nd District, 1st Section, Fulton County, Georgia.

We confirm that we have no objection and fully support the variance you have requested from the City of Alpharetta to reduce the rear property set back from 20ft to 10ft. We are happy with your decision to place your pool more towards the back of your property allowing more free space at the East and Northeast of your property between our houses.

Regards,

Christopher R. Delahanty & Kristin E. Delahanty

November 21, 2024

Joel Blackburn & Sarah Blackburn
955 Linkside Terace
Alpharetta GA 30005

Dinesh Senanayake & Monika Senanayake
12539 Darvish Lane
Alpharetta GA 30005

Dear Dinesh & Monika,

<u>Construction of pool and set back variance at 12539 Darvish Ln.</u>

We have received notice of your request for consideration of variances from Unified Development Code (UDC) Subsection 2.3.3 (B) and UDC Subsection 2.3.3 (C) to reduce a swimming pool setback from 20' to 10'. The property is located at 12539 Darvish Lane and is legally described as being located in Land Lots 1165 & 1166, 2nd District, 1st Section, Fulton County, Georgia.

We confirm that we have no objection and fully support the variance you have requested from the City of Alpharetta to reduce the rear property set back from 20ft to 10ft.

Regards,

Joel Blackburn & Sarah Blackburn

November 21, 2024

Fagan Joanie Diaz
950 Linkside Terace
Alpharetta GA 30005

Dinesh Senanayake & Monika Senanayake
12539 Darvish Lane
Alpharetta GA 30005

Dear Dinesh & Monika,

<u>Construction of pool and set back variance at 12539 Darvish Ln.</u>

We have received notice of your request for consideration of variances from Unified Development Code (UDC) Subsection 2.3.3 (B) and UDC Subsection 2.3.3 (C) to reduce a swimming pool setback from 20' to 10'. The property is located at 12539 Darvish Lane and is legally described as being located in Land Lots 1165 & 1166, 2nd District, 1st Section, Fulton County, Georgia.

We confirm that we have no objection and fully support the variance you have requested from the City of Alpharetta to reduce the rear property set back from 20ft to 10ft.

Regards,

Fagan Joanie Diaz

CITY OF ALPHARETTA

PUBLIC HEARING APPLICATION

FOR OFFICE USE ONLY
Case #: PHA240049
PH #:
☐ Property Taxes & Code Violations Verified
☑ Fee Paid Initial: ERC

COMMUNITY DEVELOPMENT DEPARTMENT • 2 PARK PLAZA • ALPHARETTA, GA 30009

1. This page should be the first page in each of your completed application packets.
2. It is preferred that all responses be typed. Illegible applications will not be accepted.
3. Prior to signing and submitting your application, please check all information supplied on the following pages to ensure that all responses are complete and accurate. Incomplete applications will not be accepted.
4. Payment of all applicable fees must be made at the time of application. Payment may be made via cash, credit card (American Express, Master Card or Visa), or check made payable to "City of Alpharetta." Please note that a 3% convenience fee will be added to all credit card transactions.
5. Applications will be accepted on the designated submittal dates between the hours of 8:30 AM and 3:30 PM.
6. If you have any questions regarding this form, please contact the Community Development Department by calling 678-297-6070.

Contact Information:

Contact Name: Dinesh Senanayake Telephone: 770-401-6906

Address: 12539 Darvish Lane Suite:

City Alpharetta State: GA Zip: 30005 Fax:

Mobile Tel: 770-401-6906 Email: chums77@gmail.com

Subject Property Information:

Address: 12539 Darvish Lane Current Zoning: CUP

District: 2nd Section: 1st Land Lot: 165&1166 Parcel ID: 21-5700-1166-094-9

Proposed Zoning: N/A Current Use: Residential

This Application For *(Check All That Apply)*:

☐ Conditional Use ☐ Master Plan Amendment ☐ Comprehensive Plan Amendment

☐ Rezoning ☐ Master Plan Review

☒ Variance ☐ Public Hearing

☐ Exception ☐ Other *(Specify)*:

Applicant Request And Intent

What is the proposed use(s) of the property?

To Install a pool in the back yard.

Applicant's Request (Please itemize the proposal):

Seeking a 50% variance to the set back at the back of the property to reduce set back from 20 feet to 10 feet.

Applicant's Intent *(Please describe what the proposal would facilitate).*

To facilitate the installation of a pool adjacent to the main dwelling for ease of access and for privacy from neighbor on the east.

PROPERTY OWNER AUTHORIZATION

Property Owner Information:

Contact Name: The Senanayake Family Living Trust, Dinesh Senanayake Telephone: 770-401-6906

Address: 12539 Darvish Lane Suite:

City Alpharetta State: GA Zip: 30005 -

Authorization:

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of Fulton County, Georgia, of the property identified below, which is the subject of the attached Application for Public Hearing before the City of Alpharetta, Georgia.

As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Public Hearing in request of the items indicated below.

- ☐ Annexation
- ☐ Special Use
- ☐ Rezoning
- ☐ Conditional Use
- ☒ Variance
- ☐ Master Plan
- ☐ Land Use Application
- ☐ Other

Property Owner's Authorized Applicant (if applicable):

Name of Authorized Applicant: Same as above Telephone:

Address: Suite:

City State: Zip: -

So Sworn and Attested:

Owner Signature: Date: 10/31/2024

Notary:

Notary Signature: P. Madhavi Date: 10/31/2024

MADHAVI PONUGUPATI FORSYTH County Notary Public Expires 04-01-2028 STATE OF GEORGIA

DISCLOSURE FORM

The Official Code of Georgia Annotated requires disclosure of campaign contributions to government officials by an applicant or opponent of a rezoning or public hearing petition (O.C.G.A. 36-67 A-1).

Applicants must file this form with the City of Alpharetta Community Development Department within ten (10) days after filing for rezoning or public hearing. Opponents to a rezoning or public hearing petition must file this form five (5) days prior to the Planning Commission meeting at which the subject rezoning or public hearing petition is scheduled to be heard.

Name of Applicant or Opponent: Dinesh Senanayake

Subject Public Hearing Case: 12539 Darvish Lane, Alpharetta GA 30005

Campaign Contribution Information:

Please provide the requested information for each contribution with a dollar amount or value of $250 or more made within the past two (2) years to an Alpharetta Official by the individual identified above. Please use a separate form for each Alpharetta Official to whom such a contribution as been made.

If the individual identified above has made no such contributions to an Alpharetta Official within the past two (2) years, please indicate this by entering "N/A" on the appropriate lines below.

Name of Official: N/A Position: _____

Description of Contribution: _____ Value: $0

Description of Contribution: _____ Value: _____

Description of Contribution: _____ Value: _____

Description of Contribution: _____ Value: _____

Description of Contribution: _____ Value: _____

Campaign Contribution Information:

I do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in this Disclosure Form is true and accurate and that I have disclosed herein any and all campaign contributions made to an Official of the City of Alpharetta, Georgia in accordance with O.C.G.A. 36-67 A-1.

Signature: _____ Date: 10/31/2024

Board Of Zoning Appeals Review Criteria

Please respond to the following ONLY if you are applying for a zoning variance.

Are there extraordinary and exceptional conditions pertaining to the subject property because of its size, shape, or topography? Please describe them.

Yes, there are extraordinary conditions pertaining to the subject property because of its size, shape and topagraphy. The available sqft. at the back coupled with the shape due to being a cul-de-sac and significant elevation change causes significant limitations. We prefer that the pool be adjacent to the dwelling away from Eastern neighbors' large ground level windows, as this is also the wish of our neighbor to the East.

Would the application of the Zoning Code standards as they relate to the subject property create an unnecessary hardship? Please explain.

Yes, the zoning as they relate currently creates unnecessary hardship as it would place the pool away from the house causing safety concerns for small children, and drawing the pool too close to the neighbors property to the East, which is sub-optimal for both us and the neighbor to the East.

Are there conditions that are peculiar to the subject property? Please describe them in detail.

Yes, the Northeast coner is too close to Douglas road and is very noisy. The back neighbors' fence is more than 30 feet away from our property line giving them ample space and privacy due to the much higher elevation and distance of their property. In otherwords, the variance causes zero disruption to the rear neighbor.

Would relief, if granted, cause substantial detriment to the public good or impair the purpose and intent of the Zoning Code? Please defend your response.

None whatsoever. As stated above, the significant distance between our rear property line and back neighbor's fence allows for ample space for the variance.
Moreover, moving the pool to the East of our property would cause sub-optimal conditions to the neighbor to the East, as we'd have to plant privacy trees closer to our property boundary to the East that would block their view.

On a separate sheet or sheets, please provide any information or evidence that supports your request and the statements that you have provided in this application.

CITIZEN PARTICIPATION FORM - PART A

This form must be completed and submitted with the applicant's completed Public Hearing Application. Applications submitted to the City of Alpharetta without a completed Citizen Participation Form - Part A will not be accepted.

Public Hearing or Project Name: Installation of pool at 12539 Darvish Lane, Alpharetta GA 30005

Contact Name: Dinesh Senanayake Telephone: 770-401-6906

The following people will be notified of this application and provided information describing the subject proposal. Please note that ALL adjoining property owners MUST be notified. Use additional pages as needed.

12544 Darvish Ln. - Wu Ting Ting Tai

12535 Darvish Ln. - Delahanty Christopher & Kristin

955 Linkside Terr. - Blackburn Joel & Sarah

HOA

Method by which these individuals will be contacted. Please mark all that apply. *If you select "Other," please provide a description of the method of contact that will be used.*

- [ ] Letter
- [x] Personal Visits
- [ ] Telephone
- [ ] Group Meeting
- [ ] Email
- [ ] Other *(Please Specify)*

Please describe the method(s) by which these individuals will have the opportunity to respond or contact the applicant with questions or concerns about the proposal.

In person, by phone, via email, via regular mail/post.

Scale: 1/20" = 1 ft

AS-BUILT SURVEY PREPARED FOR: DINESH SENANAYAKE

TAX PARCEL ID: 21 570011660949
ZONING DISTRICT: CUP
TOTAL AREA:
11,670 SQ. FT.
0.268 ACRES

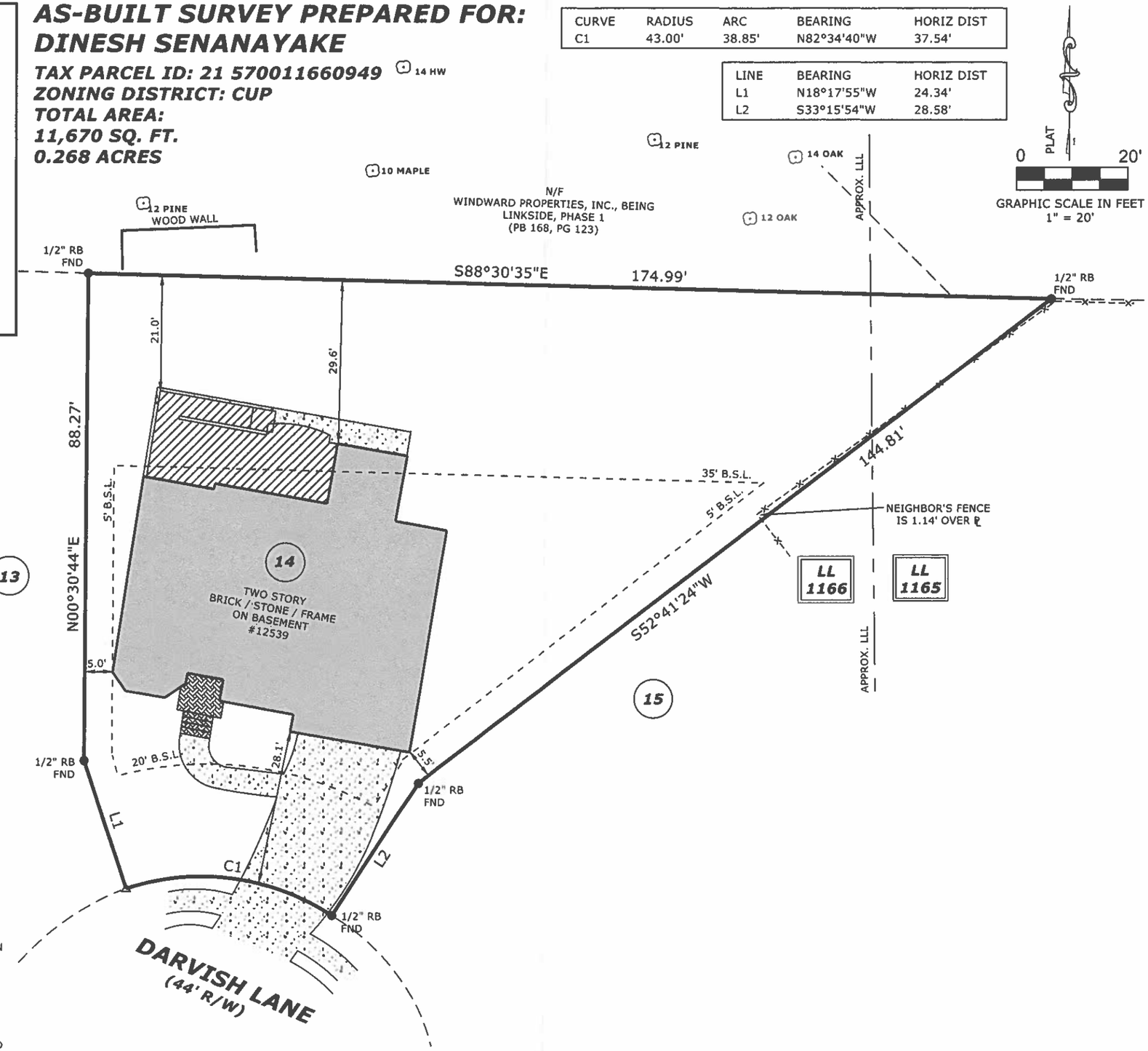
CURVE	RADIUS	ARC	BEARING	HORIZ DIST
C1	43.00'	38.85'	N82°34'40"W	37.54'

LINE	BEARING	HORIZ DIST
L1	N18°17'55"W	24.34'
L2	S33°15'54"W	28.58'

THIS BLOCK RESERVED FOR THE CLERK OF SUPERIOR COURT

LEGEND

- ● Iron Pin Found
- △ Computed Point
- B.S.L. Building Setback Line
- RB Rebar
- Concrete
- Wood Decking
- Brick



LAND LOTS: 1165, 1166
DISTRICT: 2ND
SECTION: 1ST
COUNTY: FULTON
CITY OF ALPHARETTA
PROPERTY ADDRESS:
12539 DARVISH LANE
ALPHARETTA, GA 30005
DATE(S) OF FIELD WORK: 10/10/2024
DATE OF DRAWING: 10/18/2024
SURVEY #:24-1290
SURVEY PREPARED FOR:
DINESH SENANAYAKE
LEGAL DESCRIPTION:
LOT 14, THE PEARL SUBDIVISION, PHASE 1, PER PLAT BOOK 262, PAGE 3, FULTON COUNTY, GEORGIA OFFICIAL RECORDS.

EQUIPMENT USED: LEICA TS16 ROBOTIC TOTAL STATION. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,825 FEET, AND AN ANGULAR ERROR OF 05' PER ANGLE POINT. ADJUSTMENT FOR CLOSURE WAS BY THE COMPASS RULE.
THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 165,114 FEET.

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SEARCH AND IS SUBJECT TO ANY DISCLOSURES SAID TITLE SEARCH MAY PRODUCE.

PLAT
0 20'
GRAPHIC SCALE IN FEET
1" = 20'

GEORGIA REGISTERED PROFESSIONAL LAND SURVEYOR No. 3258 ANTHONY P. FAILLA
10-18-24

ACCURATE SURVEYING AND PLANNING, INC.
4955 BLOOMING CT.
CUMMING, GA 30028
OFFICE (770) 888-9880 CELL (678) 595-0994
WWW.ASP-GA.COM - EMAIL: TONY@ASP-GA.COM
GEORGIA REGISTERED LAND SURVEYING FIRM #1128

SURVEYOR'S CERTIFICATE:
THIS PLAT IS A RETRACEMENT OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT SUBDIVIDE OR CREATE A NEW PARCEL OR MAKE ANY CHANGES TO ANY REAL PROPERTY BOUNDARIES. THE RECORDING INFORMATION OF THE DOCUMENTS, MAPS, PLATS, OR OTHER INSTRUMENTS WHICH CREATED THE PARCEL OR PARCELS ARE STATED HEREON. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

10-18-24

ANTHONY P. FAILLA, GA RLS #3258 DATE
GSWCC LEVEL II CERTIFIED DESIGN PROFESSIONAL #64608

Traverse PC

BOARD OF ZONING APPEALS MEETING
STAFF REPORT

SUBMITTING DEPARTMENT: COMMUNITY DEVELOPMENT
SUBMITTED BY: KATHI COOK
DRAFTED BY: BRIAN BORDEN

I. **AGENDA ITEM TITLE:** PH-24-21 4098 BIG CREEK OVERLOOK – APPEAL TO ADMINISTRATIVE DECISION

BOARD OF ZONING APPEALS: DECEMBER 19, 2024

II. **REPORT IN BRIEF:**

The appellant, Moshe Bachar, is requesting consideration of an appeal to an administrative determination related to a fine associated with a Violation Notice, dated July 25, 2024. The administrative decision resulted in a fine of $2,500 being issued with additional requirements to bring the property back into compliance with land development and floodplain management regulations. The notice and fine cites a violation of the outlined Unified Development Code (UDC) sections:

- Article III, Section 3.1.1D2 Working without the required City of Alpharetta Land Disturbance Permit.
- Article III, Section 3.1.1D3 Failure to provide minimum erosion and sedimentation control measures.
- Article III, Section 3.1.1C3 and Section 3.3.2 Disturbance of stream buffers along state waters.
- Article III, Section 3.4.4C Development within regulatory areas of special flood hazard.

The appellant requests the $2,500 fine to be waived. He argues the work was completed without his prior knowledge. Further, he states, "the financial implications of the required corrective measures are significant," and he is working with limited resources.

The City had the option of issuing a fine to the appellant of up to $10,000 based on the 5 code sections that were violated. Without seeking to issue a fine in this amount, staff reduced the fine to $2,500 in order to encourage compliance and allow the appellant to utilize those funds to correct the code violations rather than collect them. However, staff does believe a fine is warranted as a deterrent to repeated future offenses. The subject property is located at 4098 Big Creek Overlook in the Webb Bridge Crossing subdivision.

DISCUSSION

The appeal to administrative determination is related to a Violation Notice, dated July 25, 2024. The notice cites violations of multiple sections of the Unified Development Code (UDC) within Article III. The city received a complaint by a resident who noticed numerous truckloads of dirt being brought to the subject property located at 4098 Big Creek Overlook. The dirt was then emptied from the trucks and spread with construction machinery, as seen in pictures taken by city staff. This location in floodplain and stream buffers, as well as the scope of development activity, would have triggered a Land Disturbance Permit. As such, the appellant received notice of a violations of UDC Article III as shown in the following table.

Code Section	Violation
Section 3.1.1D2	A land disturbance permit would be required due to proximity to Big Creek and the floodplain. Also, the size of the area of work would have required a permit.

Section 3.1.1D3	The additional soil brought to the site and spread. No efforts were made to stabilize the soil to prevent erosion, and no erosion control fencing was installed to ensure soil remained onsite.
Section 3.1.1C3 and Section 3.3.2	The area filled with dirt is located within a perennial stream buffer which requires a 25' state mandated buffer, a 100' city buffer and a 150' impervious setback. Buffer areas cannot be disturbed without prior authorization from the city.
Section 3.4.4C	The project did not follow the proper process for development within a regulatory area of special flood hazard. The newly placed soils raised the ground elevation of the appellant's rear yard which is mostly within the 100-Year Floodplain of Big Creek. A project of this nature would have required approval of a "No-Rise" or a "Compensatory Cut" study which would have to show the addition of the dirt either had no effect on flood elevations or was being off-set elsewhere where soils were removed.

The appellant was informed in the violation notice that:

1) Work bringing additional soil or rock volumes must cease on the property immediately.
2) Within 5 days the roadway had to be swept of from the road surface, collected and hauled to a property site for disposal.
3) Within 5 days, the area had to be stabilized and have erosion control measures placed around the perimeter of the site.
4) Within 15 days a $2,500 fine had to be paid.
5) Within 30 days, an engineer must be hired and a meeting scheduled with the city to discuss the scope of the project. At a minimum, the engineer will need to:
    a. Determine the amount of fill added to the site.
    b. Prepare a plan for erosion control during removal of fill.
    c. Provide a plan for stream buffer replanting/restoration.
    d. Certify at the end of the project that all fill has been removed from the floodplain.
    e. Must apply for a Land Disturbance Permit.
6) Within 14 days of the city approval of your engineer's plans, you must begin removing the soil, sediment, dirt, rock or other materials added to the property. Additional fines may be accrued for failure to comply.
7) At the conclusion of the project, your engineer must certify the floodplain is restored to its previous condition, all stabilization is complete and all stream buffers have been restored.

Items 1 and 2 were complied with quickly. The appellant has stated to staff that he has had difficulty stabilizing the site, as he has tried mulch which later gets washed away by the water in the area. A site inspection in August revealed that grass had begun to take hold, but a follow up inspection in mid-September revealed signs of the grass growing were gone and the site was found to be covered in bare dirt again. If followed, Item 5 would have required a meeting with an engineer before the end of August. Staff agreed with the appellant that having an engineer on board and prepared to discuss the site may take longer than 30 days. However, a meeting was not scheduled with city staff until a second letter was sent to the appellant on October 10th. Following the subsequent letter, a November 6th meeting was scheduled with his engineer. We are now at Item 6 in the above list while waiting to learn the results of the appellant's engineer's efforts. While waiting on a report from his engineer, the appellant has informed staff that 67 truckloads of dirt and 10 truckloads of additional fill have been removed, and he believes all

excess soil has been removed. However, due to the sensitive nature of floodplain management, we must first see a report from his engineer addressing the matter.

Prior to the issuance of the violation, city staff was aware of the appellant and his desire to bring additional soil into the floodplain of Big Creek. Staff has email exchanges with the appellant dating back to February 2022 where the appellant described his desire to fill the area in to make the "area manageable and usable for agricultural purposes." In response, the appellant was informed that he could not bring fill material or soils to the area which was largely floodplain, and he was referred to the City's Stormwater Engineer who further instructed the process by which the appellant could seek to modify the mapped floodplain with the Federal Emergency Management Agency (FEMA). The last communication found related to infilling the floodplain was in August 2022. As a result, staff believed the appellant had decided to stop pursuing the idea.

The appellant has stated in his request to appeal the $2,500 fine that he was unaware the soil was being placed on his property and did not provide consent for anyone to place the soil on his property. Further, he states that the corrective measures outlined by city staff will have significant financial implications, and he is operating under limited resources to complete those measures. Based on this, he requests the fine be waived in its entirety.

III. ATTACHMENTS:

- Map Series
- Notice of Violation, dated July 26, 2024
- Notice of Violation Follow-up, dated October 10, 2024
- Notice of Appeal, dated August 20, 2024
- Staff Email Exchanges, dated from February 2022 through August 2022
- Code Enforcement Photographs, dated July 25, 2024

Moshe Bachar
4098 Big Creek Overlook
Alpharetta GA 30005

City of Alpharetta
Community Development Department

Subject: Response to Allegation Regarding Land Disturbance and Appeal of Fine

Dear Committee Members,

I am writing in response to the Violation Notice dated July 25, 2024, regarding land disturbance and unauthorized dumping at my property located at 4098 Big Creek Overlook. I appreciate the opportunity to address the matter and provide clarification.

First, I want to state that I was out of town for two weeks during the time the alleged dumping and soil disturbance took place. I had no prior knowledge of, nor did I authorize, the placement of fill material on my property. Unfortunately, unauthorized trucks falsely claimed to neighbors that they were operating on behalf of the city, and the area's ongoing construction activities made my property an easy target for illegal dumping.

Upon becoming aware of the issue, I acted swiftly and expended significant resources to correct the problem:

1. **Corrective Actions:**
    - All unauthorized soil and fill materials have been removed from the site.
    - The area has been restored to its original condition in accordance with the city's requirements.
2. **Restoration Efforts:**
    - We engaged engineers, surveyors, and contractors to evaluate and remediate the site.
    - A total of 67 truckloads of dirt and 10 additional truckloads of other fill materials were removed, at a cost of approximately $75,000. This included grading, erosion control, and restoration of the stream buffer.
3. **Compliance Measures:**
    - A police report was filed to document the unauthorized activities and deter future illegal dumping.
    - Grass and other stabilization measures were implemented, though progress was temporarily affected by environmental factors.

I deeply regret the disturbance caused by this unauthorized activity and remain committed to working with the city to ensure full compliance with local regulations. I respectfully request that my appeal for waiving the $2,500 fine be reconsidered in light of the following:

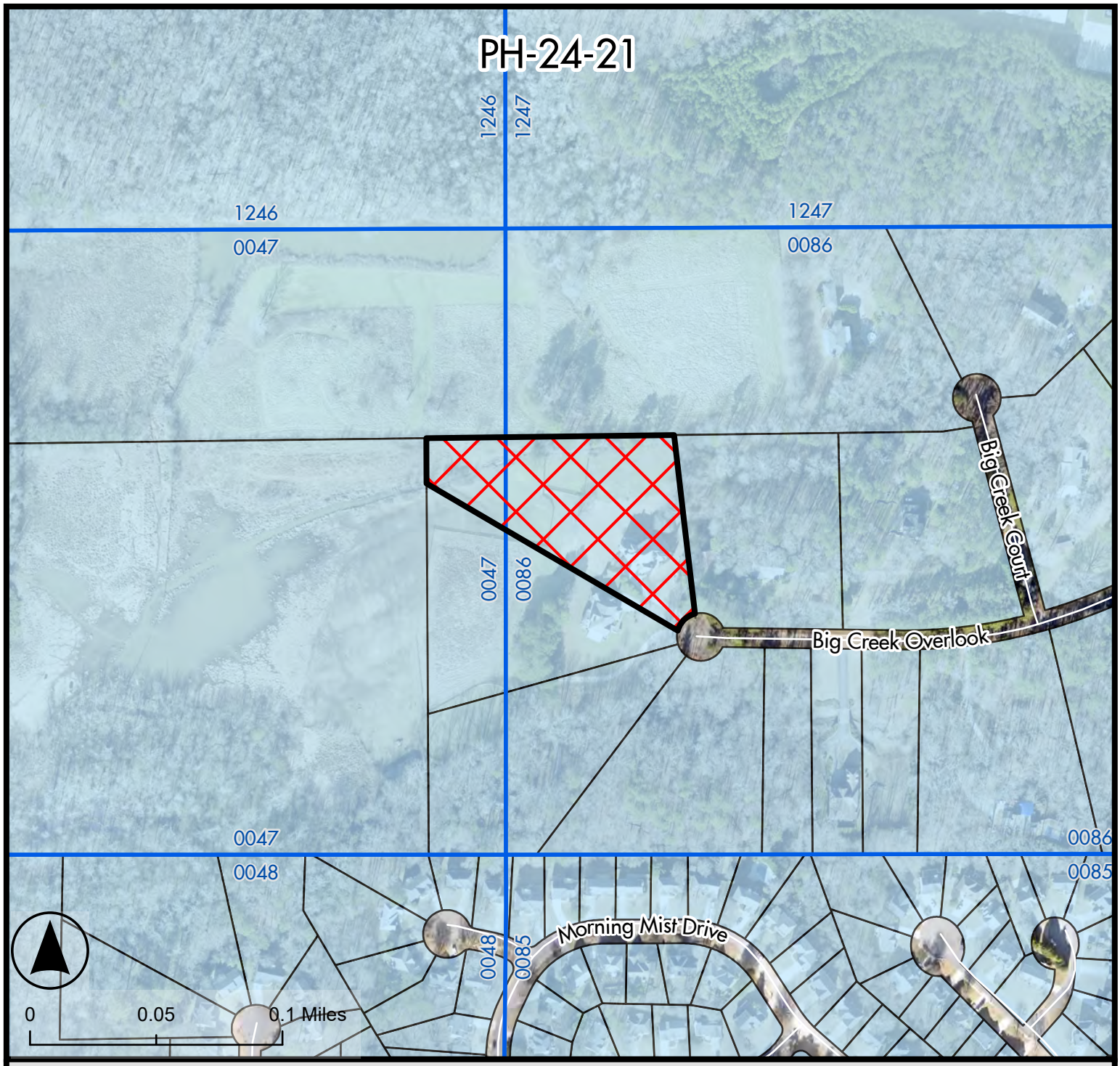
- The incident occurred while I was out of town and without my knowledge or consent.
- Substantial corrective actions have been taken at significant financial expense to restore the property.
- Measures have been implemented to prevent future incidents, including filing a police report and engaging with experts to oversee compliance.

If additional information or documentation is required, I am more than willing to provide it. Please feel free to contact me at [your phone number] or [your email address].

Thank you for your understanding and for considering this request.

Sincerely,

Moshe Bachar



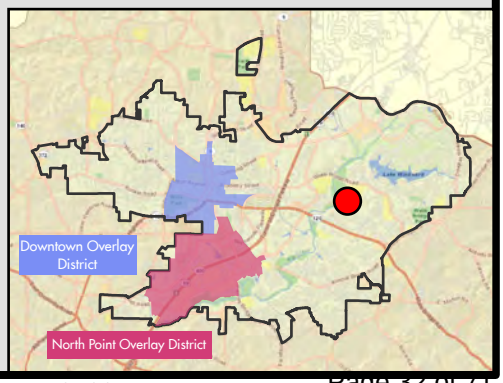
Legend

- PH-24-21
- Land Lots
- Tax Parcels
- Alpharetta City Limits

Location Map

4098 Big Creek Overlook Appeal

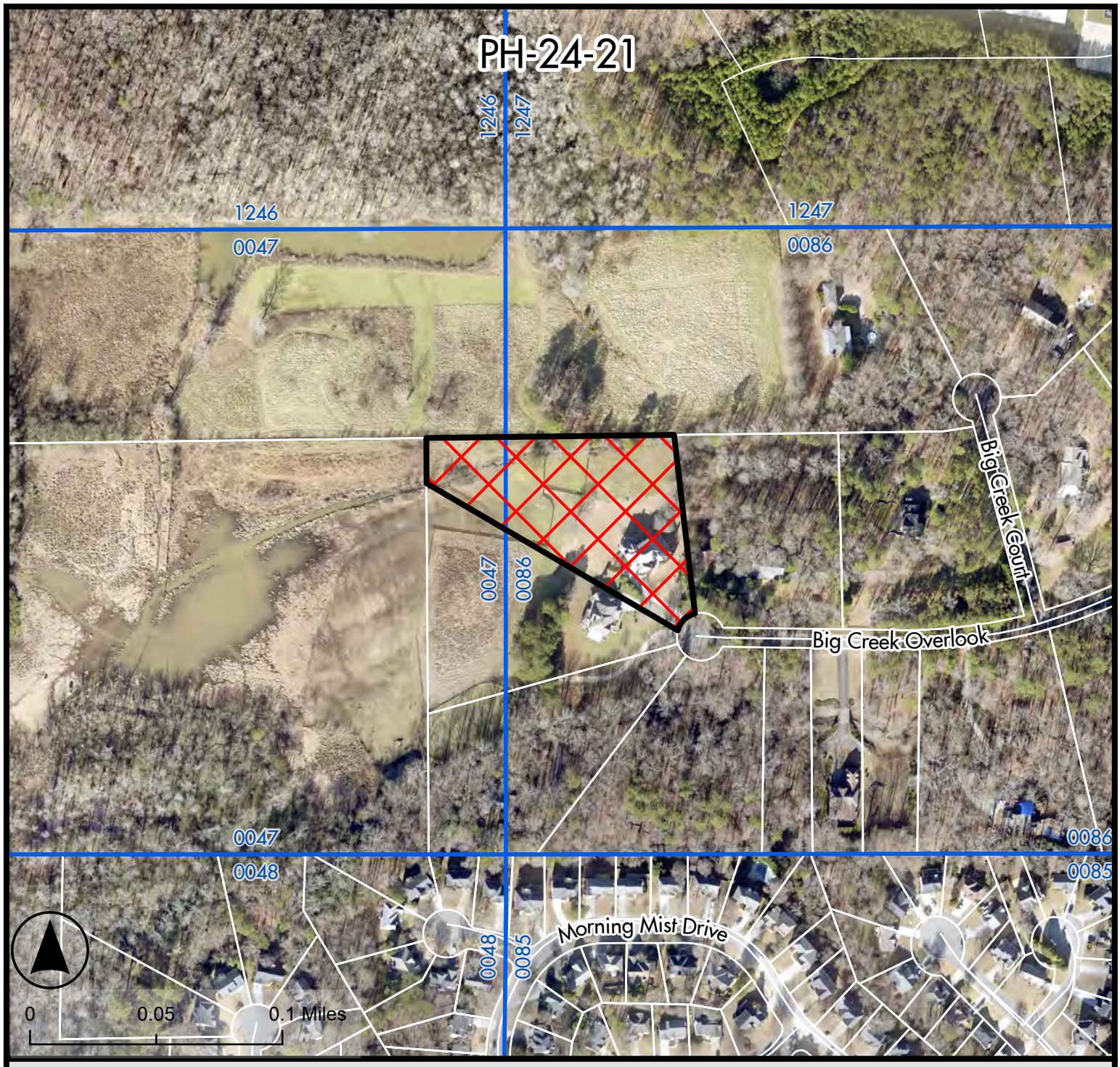
PH-24-21
D/LL: 1/1/0086
BZA:12/19/2024



THE CITY OF ALPHARETTA GEORGIA

Credit: City of Alpharetta, Fulton County, GA; Pictometry International.

Location Map Provided by: Community Development - GIS



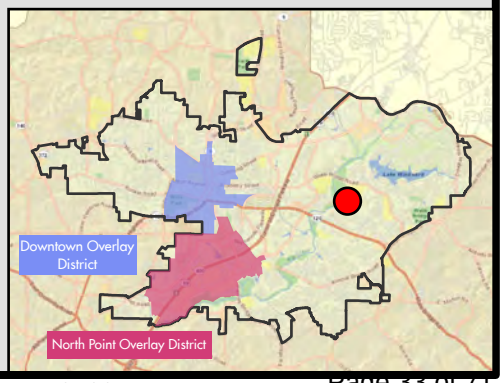
Legend

- PH-24-21
- Land Lots
- Tax Parcels
- Alpharetta City Limits

Aerial Map

4098 Big Creek Overlook Appeal

PH-24-21
D/LL: 1/1/0086
BZA:12/19/2024



THE CITY OF ALPHARETTA GEORGIA

Credit: City of Alpharetta, Fulton County, GA; Pictometry International.

Location Map Provided by: Community Development - GIS

THE CITY OF
ALPHARETTA
GEORGIA

2 PARK PLAZA
ALPHARETTA, GA 30009
PHONE: 678.297.6000
WWW.ALPHARETTA.GA.US

July 26, 2024

Dr. Moshe Bachar
4098 Big Creek Overlook
Alpharetta, Georgia 30005

Dear Dr. Bachar:

On July 25, 2024, the city of Alpharetta became aware of a land disturbance project at 4098 Big Creek Overlook. This address located at the end of Big Creek Overlook extends back to the banks of Big Creek and includes three additional streams (state waters with buffers), sanitary sewer easements, and regulatory floodplain (special flood hazard area).

In February and August of 2022, when you inquired about adding soil and rock to floodplain area on your property, city staff explained that land disturbance permits were required because of the proximity to floodplain and stream buffers.

During the July 25 site visit, the following activities and occurrences were observed:

- Mud and dirt were found on the roadway leading to the property access driveway to the barn.
- Multiple dump trucks hauling and dumping what appeared to be dirt or sediment to the yard between 4090 Big Creek Overlook and Big Creek.

Upon visiting the property, seeing the work, and confirming that no permits had been issued by the city, city staff issued a stop work order on the property owner.

This letter is to formally inform you of the stop work order and violation, measures necessary to bring your property back into compliance, and a timeline for the work to bring you into compliance.

MAYOR
JIM GILVIN

MAYOR PRO TEM
DAN MERKEL

COUNCIL MEMBERS
FERGAL M. BRADY
DOUGLAS J. DERITO
JOHN HIPES
DONALD F. MITCHELL
BRIAN WILL

CITY ADMINISTRATOR
CHRIS LAGERBLOOM

The violations:

1. Working without the required city of Alpharetta Land Disturbance Permit. (Unified Development Code Article III Section 3.1.1D2)
2. Failure to provide minimum erosion and sedimentation control measures. (Unified Development Code Article III Section 3.1.1D3)
3. Disturbance of stream buffers along state waters. (Unified Development Code Article III Section 3.1.1.C3 and 3.3.2)
4. Development within regulatory areas of special flood hazard. (Unified Development Code Article III Section 3.4.4C)

Measures necessary to bring property back into compliance:

There will be a multi-stage process for bringing the property back into compliance with city regulations.

1. First, no additional work including but not limited to hauling soil, fill, sediment, rock or other materials into the site and placed into the property may occur without written permit approval from the city. The only allowable work on site until city permits are approved and issued are the erosion control measures outlined in #2 and #3 below.

2. Within 5 days, all sediment in the roadway must be swept out of the road, collected, and hauled off site for proper disposal.

3. Within 5 days, installation of erosion control measures to prevent additional sediment from leaving the site and site stabilization must be installed. This will include a double row of waddles (per the current edition of the Manual for Erosion and Sediment Control in Georgia) which must be installed around the entire area where trucks have accessed, where soil is exposed, or where materials have been placed. If you have questions about the limits of this area, please contact the city so that an inspector can provide guidance at your property. In addition, all areas of exposed dirt, soil, and materials must be stabilized with mulch or seed and straw in accordance with Ds1 and 2 as shown in the current edition of the Manual for Erosion and Sediment Control in Georgia.

4. Within 15 days of this letter, you must pay your fine of $2500.

5. Within 30 days, you must hire an engineer and set up a meeting with the city to discuss the scope of your project. We expect that at a minimum the engineer will need to evaluate the amount of fill added to the site, draw a plan for erosion control during removal of the fill, provide a plan or final stabilization when you are done with removal, provide a plan for stream buffer replanting, and provide a plan for how the engineer will certify that all fill has been removed from the floodplain at the end of the project. A construction exit or other method must be shown on the to prevent future tracking on the roadway. Your engineer must apply for a Land Disturbance Permit. Failure to comply with this measure may result in additional fines.

6. Within 14 days of the city approval of your engineer's plan, you must begin removing the soil, sediment, dirt, rock, or other materials added to the property. Failure to begin the process within 14 days can lead to additional fines.

7. At the conclusion of the project your engineer must certify to the city that the floodplain is restored back to its previous condition, all stabilization is complete, and all stream buffers have been restored.

Th city does allow for appeals to the fines that have been issued. The floodplain violation requires written notice of appeal within 15 days of this letter. Should you choose to apply for this appeal, please notify Mr. Brian Borden at bborden@alpharetta.ga.us or at 2 Park Plaza, Alpharetta, Georgia 30009 of your intent. You will be given specific instructions of the format of your appeal and of the public hearing dates and process.

Should you have follow-up questions or should your engineer need additional information about the plans required, please contact me at jbazinet@alpharetta.ga.us or 678-297-6070.

Respectfully,

Jill Bazinet, PE CFM
City of Alpharetta Community Development

THE CITY OF
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GEORGIA

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ALPHARETTA, GA 30009
PHONE: 678.297.6000
WWW.ALPHARETTA.GA.US

October 10, 2024

Dr. Moshe Bachar
4098 Big Creek Overlook
Alpharetta, Georgia 30005

Dear Dr. Bachar:

This letter is a follow up to the July 2024 letter concerning the land disturbance and violations on your property.

In the July letter there were a number of steps outlined to bring your property back into compliance.

- Items 1 and 2 have been completed.
- Item number 3 has been partially completed.
    - The site is currently exposed soil with no stabilization. As required by this item, grass or 3"-4" thick mulch must be placed on the soil to cover the dirt so that the site is fully stabilized.
- Item number 4 is ongoing.
    - The latest hearing date has been pushed to December 19, 2024 at your request.
- Items 5-7 have not been completed.
    - You have indicated that is it your intent to show that you have removed all of the soil that was brought into the property. To do this you will need to provide a certification along with backup documentation from an engineer showing that the floodplain has been restored to its previous volume, all stabilization is complete, and all stream buffers have been restored.
    - On July 31, 2024 you asked for additional time to hire an engineer to complete items 5-7. It has now been 75 days. This is more than double the original deadline provided in the July letter.

MAYOR
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MAYOR PRO TEM
DAN MERKEL

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CITY ADMINISTRATOR
CHRIS LAGERBLOOM

As a reminder, you must continue to move forward with compliance while you wait for your December hearing on the fine.

To avoid additional fines, we need to see progress made on the remaining items. This includes stabilization with 3 – 4" thick mulch or grass coverage on the exposed soil within 2 weeks and an update from your engineer on the status of the certification and investigation into the floodplain capacity.

Respectfully,

Jill Bazinet, PE CFM
City of Alpharetta Community Development

Enclosure:
July 2024 4098 Big Creek Overlook Letter

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July 26, 2024

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4098 Big Creek Overlook
Alpharetta, Georgia 30005

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In February and August of 2022, when you inquired about adding soil and rock to floodplain area on your property, city staff explained that land disturbance permits were required because of the proximity to floodplain and stream buffers.

During the July 25 site visit, the following activities and occurrences were observed:

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4. Development within regulatory areas of special flood hazard. (Unified Development Code Article III Section 3.4.4C)

Measures necessary to bring property back into compliance:

There will be a multi-stage process for bringing the property back into compliance with city regulations.

1. First, no additional work including but not limited to hauling soil, fill, sediment, rock or other materials into the site and placed into the property may occur without written permit approval from the city. The only allowable work on site until city permits are approved and issued are the erosion control measures outlined in #2 and #3 below.

2. Within 5 days, all sediment in the roadway must be swept out of the road, collected, and hauled off site for proper disposal.

3. Within 5 days, installation of erosion control measures to prevent additional sediment from leaving the site and site stabilization must be installed. This will include a double row of waddles (per the current edition of the Manual for Erosion and Sediment Control in Georgia) which must be installed around the entire area where trucks have accessed, where soil is exposed, or where materials have been placed. If you have questions about the limits of this area, please contact the city so that an inspector can provide guidance at your property. In addition, all areas of exposed dirt, soil, and materials must be stabilized with mulch or seed and straw in accordance with Ds1 and 2 as shown in the current edition of the Manual for Erosion and Sediment Control in Georgia.

4. Within 15 days of this letter, you must pay your fine of $2500.

5. Within 30 days, you must hire an engineer and set up a meeting with the city to discuss the scope of your project. We expect that at a minimum the engineer will need to evaluate the amount of fill added to the site, draw a plan for erosion control during removal of the fill, provide a plan or final stabilization when you are done with removal, provide a plan for stream buffer replanting, and provide a plan for how the engineer will certify that all fill has been removed from the floodplain at the end of the project. A construction exit or other method must be shown on the to prevent future tracking on the roadway. Your engineer must apply for a Land Disturbance Permit. Failure to comply with this measure may result in additional fines.

6. Within 14 days of the city approval of your engineer's plan, you must begin removing the soil, sediment, dirt, rock, or other materials added to the property. Failure to begin the process within 14 days can lead to additional fines.

7. At the conclusion of the project your engineer must certify to the city that the floodplain is restored back to its previous condition, all stabilization is complete, and all stream buffers have been restored.

Th city does allow for appeals to the fines that have been issued. The floodplain violation requires written notice of appeal within 15 days of this letter. Should you choose to apply for this appeal, please notify Mr. Brian Borden at bborden@alpharetta.ga.us or at 2 Park Plaza, Alpharetta, Georgia 30009 of your intent. You will be given specific instructions of the format of your appeal and of the public hearing dates and process.

Should you have follow-up questions or should your engineer need additional information about the plans required, please contact me at jbazinet@alpharetta.ga.us or 678-297-6070.

Respectfully,

Jill Bazinet, PE CFM
City of Alpharetta Community Development

From: Cook, Kathi
To: MB
Cc: Woodman, Michael
Subject: Re: appeal for 4098 big creek overlook
Date: Monday, August 26, 2024 11:35:08 AM
Attachments: Outlook-i1oclzef.png

Moshe,
The BZA board is made up of members of the community and they will hear a staff presentation regarding our findings and then allow you to speak. They will also open up the meeting to allow any public comment. It is best for you to put a brief letter/memo together that we can send to the board stating your reasons for the appeal, a brief summary.

GEORGIA'S CONNECTED CITY

Kathi Cook
Director
Community Development, City of Alpharetta
2 Park Plaza, Alpharetta, GA 30009
Ph. 678-297-6073
Cell: 678-206-6051

From: MB <mbachar@gmail.com>
Sent: Monday, August 26, 2024 11:27 AM
To: Cook, Kathi <Kcook@alpharetta.ga.us>
Subject: Re: appeal for 4098 big creek overlook

This message could be suspicious
• This is an obscure personal email address.
Mark as Safe Report this Email Powered by Mimecast

Dear Mrs. Cook thank you so much for helping me out. In preparation, can you let me know the standard procedure for these types of proceedings. Can you give me the format. How many people are on the panel with there be a city solicitor present. Will there be people testifying? Can I bring people to testify ? Is this done in the court room ? I know officer Wayne was there on the day of the event and he spoke to the people on site can I get their information as well and the. Any pictures and photograph video or other internal communications ?

Thank you Moshe
Sent from my iPhone

On Aug 26, 2024, at 10:27 AM, Cook, Kathi <Kcook@alpharetta.ga.us> wrote:

Moshe,

In response to your request we will schedule a day and time for you to appear before the Board of Appeals. We will send you the date within the next few days.
Thanks

<Outlook-2aob3ra3.png>

From: M B <mbachar@gmail.com>
Sent: Tuesday, August 20, 2024 9:39 AM
To: Cook, Kathi <Kcook@alpharetta.ga.us>
Subject: appeal for 4098 big creek overlook

Dear Mrs. Cook,
I hope this message finds you well. I am writing to seek your assistance regarding the recent violation notice we received concerning our property at 4098 Big Creek Overlook.
As you may be aware, the situation arose without my knowledge or consent, and we are actively taking steps to rectify the issue. However, the financial implications of the required corrective measures are significant, and we are operating under limited resources.
In light of this, I respectfully request your help in arranging an appeal hearing for the fine that has been imposed. We are eager to work with the city to ensure compliance, and a hearing would provide us the opportunity to present our case and seek a resolution that acknowledges the efforts we are making to address the violations.
I appreciate your understanding and support in this matter, and I look forward to your guidance on how to proceed. If you are available I would welcome a call to discuss this further.
Thank you for your attention and assistance.
Sincerely,
Moshe Bachar
404-667-4774

Outlook

[Draft] Re: 4098 big creek

From
Draft saved Tue 12/10/2024 9:27 AM
To Bazinet, Jill <jbazinet@alpharetta.ga.us>

From: Bazinet, Jill <jbazinet@alpharetta.ga.us>
Sent: Tuesday, August 9, 2022 1:36 PM
To: MB <mbachar@gmail.com>
Subject: Re: 4098 big creek

You should email engpermit@alpharetta.ga.us. In your email include an attachment of your revised plan, an attachment explaining the updates or changes, copies of any new tree documents or stormwater calculations (and hydrology reports - if applicable).

In the subject line indicate your address, ENG permit number and that you are proposing a revision.

This will put your revision into the queue for review.

Sincerely,

Jill

From: MB <mbachar@gmail.com>
Sent: Tuesday, August 9, 2022 1:32 PM
To: Bazinet, Jill <jbazinet@alpharetta.ga.us>
Subject: Re: 4098 big creek

[CAUTION: This email originated from outside the City. Do not click links or open attachments unless you recognize the sender and know the content is safe.]
Hi Jill,

We currently have a land disturbance permit in place and water to get it modified slightly. What is the procedure to get it done ?
Thanks

Moshe

Sent from my iPhone

On Aug 4, 2022, at 4:34 PM, Bazinet, Jill <jbazinet@alpharetta.ga.us> wrote:

Unfortunately, any grading in the floodplain does require this so that we can prove no flood impacts on other parcels. If it is small enough it likely won't have the process with FEMA.

Sincerely,
Jill

image001.png

From: MB <mbachar@gmail.com>
Sent: Thursday, August 4, 2022 2:07 PM
To: Bazinet, Jill <jbazinet@alpharetta.ga.us>
Subject: Re: 4098 big creek

CAUTION: This email originated from outside the City. Do not click links or open attachments unless you recognize the sender and know the content is safe.

We are talking about 5 feet
Sent from my iPhone

On Aug 4, 2022, at 1:43 PM, Bazinet, Jill <jbazinet@alpharetta.ga.us> wrote:

Moshe-

To move the floodplain line, you will need to hire a professional engineer to draw up plans and provide the city with calculations and potentially floodplain models showing your impacts and compensatory cut and fill areas. Please note that they will be required to meet all other regulations such as staying out of stream buffers and out of critical root zones of trees.

If your plans show significant changes to the mapped floodplains, you would need to go through an approval process with FEMA.

Sincerely,
Jill

image001.png

From: MB <mbachar@gmail.com>
Sent: Tuesday, February 15, 2022 12:18 PM

To: Bazinet, Jill <jbazinet@alpharetta.ga.us>
Subject: Re: 4098 big creek

CAUTION: This email originated from outside the City. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Amazing!!!! Thank you!

Sent from my iPhone

On Feb 15, 2022, at 11:57 AM, Bazinet, Jill <jbazinet@alpharetta.ga.us> wrote:

Moshe-

I will give you a call tomorrow at 3:00 at 404-667-4774. If that time doesn't work for you, please let me know.

Thank you-
Jill

From: MB <mbachar@gmail.com>
Sent: Monday, February 14, 2022 9:18 PM
To: Bazinet, Jill <jbazinet@alpharetta.ga.us>
Subject: Re: 4098 big creek

CAUTION: This email originated from outside the City. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Jill,

I am definitely available, just let me
Know the time and I will be there.

Thanks

Moshe

Sent from my iPhone

On Feb 14, 2022, at 1:42 PM, Bazinet, Jill <jbazinet@alpharetta.ga.us> wrote:

Moshe-

Lets set up a time to talk this week.

I have Wednesday afternoon available. Does any time Wednesday afternoon work for you?

Floodplain regulations can be quite tricky, so we want to make sure we keep you in compliance and work with your request. Based on the location within regulatory floodplain, it is likely that we will need you to work with a civil engineer to draw up a plan of what you are proposing and provide calculations to show that you are not impacting floodplain volumes. We can talk about your project and discuss if this is necessary.

Thank you-
Jill

From: MB <mbachar@gmail.com>
Sent: Friday, February 11, 2022 2:17 PM
To: Bazinet, Jill <jbazinet@alpharetta.ga.us>
Subject: Re: 4098 big creek

CAUTION: This email originated from outside the City. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Jill,

This is not a cut and dry situation as this is an area that is zoned agriculture land and also has a barn in the area that requires maintenance to insure its safety and the safety of the structure and keep the value of my home and the community. Currently my question is that the barn is located in an area that Does not flood and need dirt around the barn. We need to fill this area in and we require gravel. Also there is an area next to it that I would like to use for riding and gardening that I would like to level and use fill dirt to fill it. How do I get a variance or request an exception due to the extenuating circumstance. I have a special needs child and we use this barn to help with therapy and riding therapy. Our understanding prior to purchase was that this was zoned agriculture and that we would be able to create a desirable area to ensure it's usability. If you have a solution for this situation that would be great. I would also love a chance to discuss this further while working on a solution. I am available next week.

Thanks

Moshe

Sent from my iPhone

On Feb 11, 2022, at 2:07 PM, Bazinet, Jill <jbazinet@alpharetta.ga.us> wrote:

Moshe-

Thank you for reaching out. I am booking out appointments into next week at this point. We can set up a call for Wednesday or Thursday or if you have specific questions, please feel free to email those to me. That will be much faster.

I understand you are trying to work in your backyard. There are limitations on bringing in dirt as this area is floodplain and filling in soil is not allowed without removing the same volume of soil from other areas within the floodplain.

Sincerely,
Jill

From: MB <mbachar@gmail.com>
Sent: Friday, February 11, 2022 10:15 AM
Cc: Bazinet, Jill <jbazinet@alpharetta.ga.us>
Subject: Re: 4098 big creek

CAUTION: This email originated from outside the City. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Jill,

Nice to meet you. Can you give me a call please 404-667-4774

Thanks

Moshe

Sent from my iPhone

On Feb 11, 2022, at 9:48 AM, Graves, Eric <egraves@alpharetta.ga.us> wrote:

Good morning. The area outside the location of the homes is all floodplain in the area (see Below). No fill material or

soil is allowed to be added to the area. In addition, there are several streams on the property that will have buffers you need to stay out. You could potentially till in some soil amendments to area outside of stream buffers, but this would need to be minimal volume. I've copied Jill Bazinet from my team. Due to the floodplain issue, we will require a plan (even though Agricultural Activity potentially exempt from land disturbance requirements).

Please let us know if you have additional questions.

image002.png

Eric Graves, PE
678-297-6220

From: MB <mbachar@gmail.com>
Sent: Friday, February 11, 2022 9:19 AM
To: Graves, Eric <egraves@alpharetta.ga.us>
Subject: 4098 big creek

CAUTION: This email originated from outside the City. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning mr. Graves,

Thank you for taking the time to talk to me today. As we discussed the area behind my house next to our barn needs some dirt filled in to make the area manageable and usable for agricultural purposes. I would like to create an area for planting and gardening and would like to bring in top soil/fill dirt etc... to help ensure that I can continue maintaining the property. I have attached the area in question where I propose to fill in this is likely on to help condition the soil and improve drainage. Let me know the next steps. I have marked the area in red of the proposed

planting area for cultivation and management. Let me know the next steps.

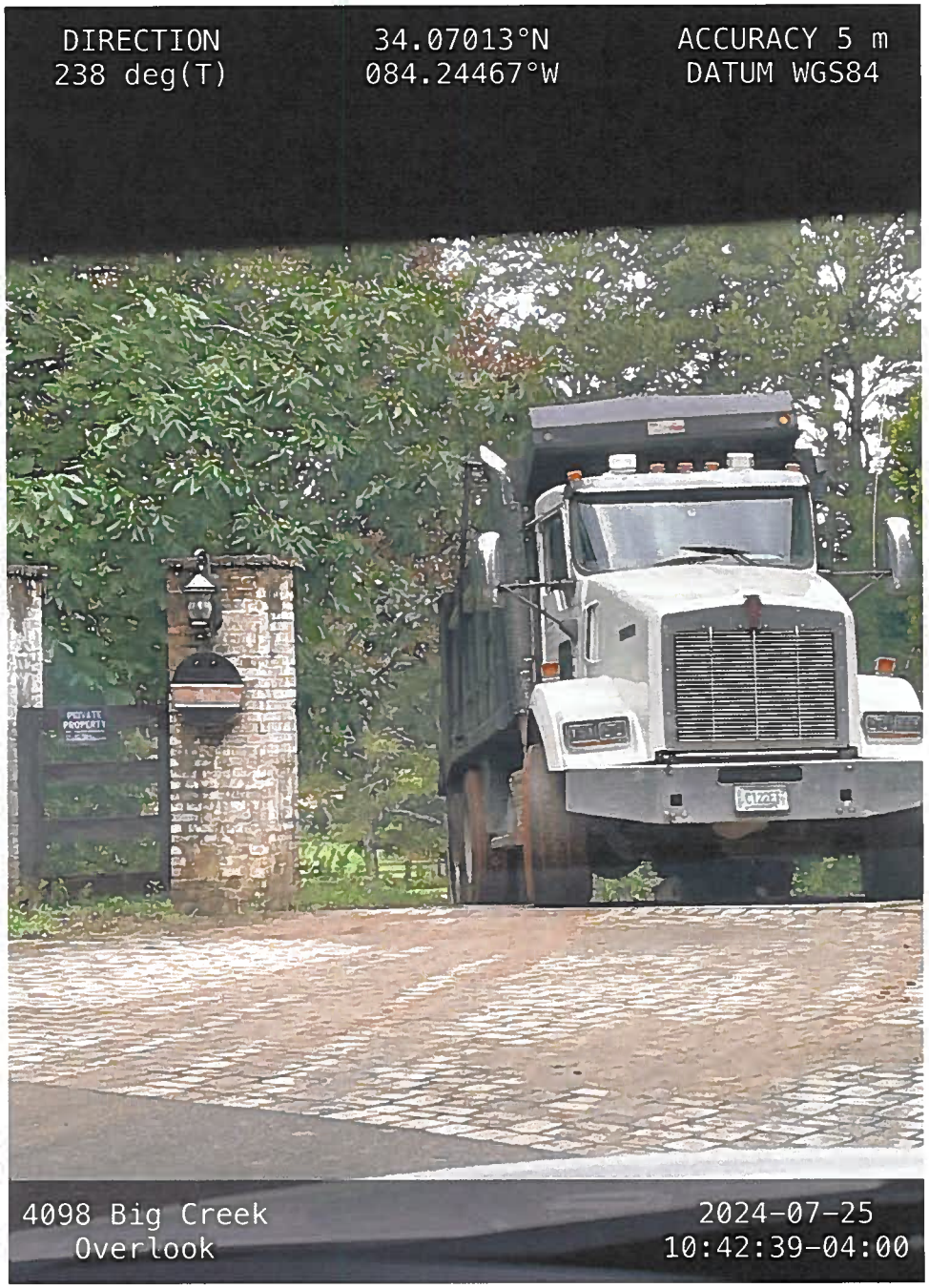
Thanks

Moshe

image003.jpg

Sent from my iPhone

DIRECTION
235 deg(T)
34.07013°N
084.24467°W
ACCURACY 5 m
DATUM WGS84
PRIVATE PROPERTY
4098 Big Creek
Overlook
2024-07-25
10:42:36-04:00


DIRECTION
238 deg(T)
34.07013°N
084.24467°W
ACCURACY 5 m
DATUM WGS84
PRIVATE PROPERTY
4098 Big Creek
Overlook
2024-07-25
10:42:39-04:00

DIRECTION
235 deg(T)
34.07013°N
084.24467°W
ACCURACY 5 m
DATUM WGS84
4098 Big Creek
Overlook
2024-07-25
10:42:43-04:00

DIRECTION
193 deg(T)
34.07014°N
084.24466°W
ACCURACY 5 m
DATUM WGS84
4098 Big Creek
Overlook
2024-07-25
10:42:56-04:00

DIRECTION
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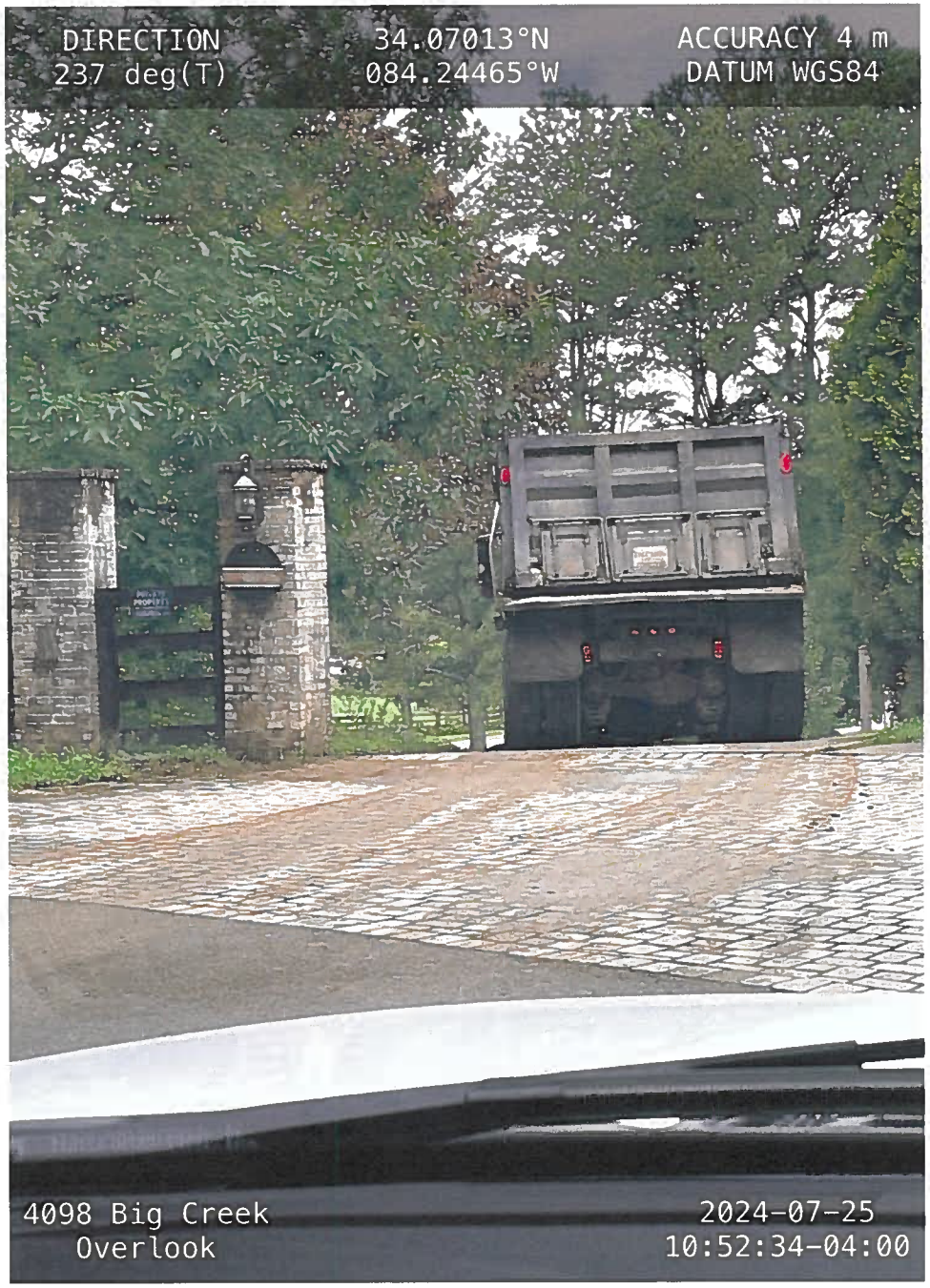
34.07012°N
084.24467°W
ACCURACY 5 m
DATUM WGS84
4098 Big Creek
Overlook
2024-07-25
10:49:39-04:00

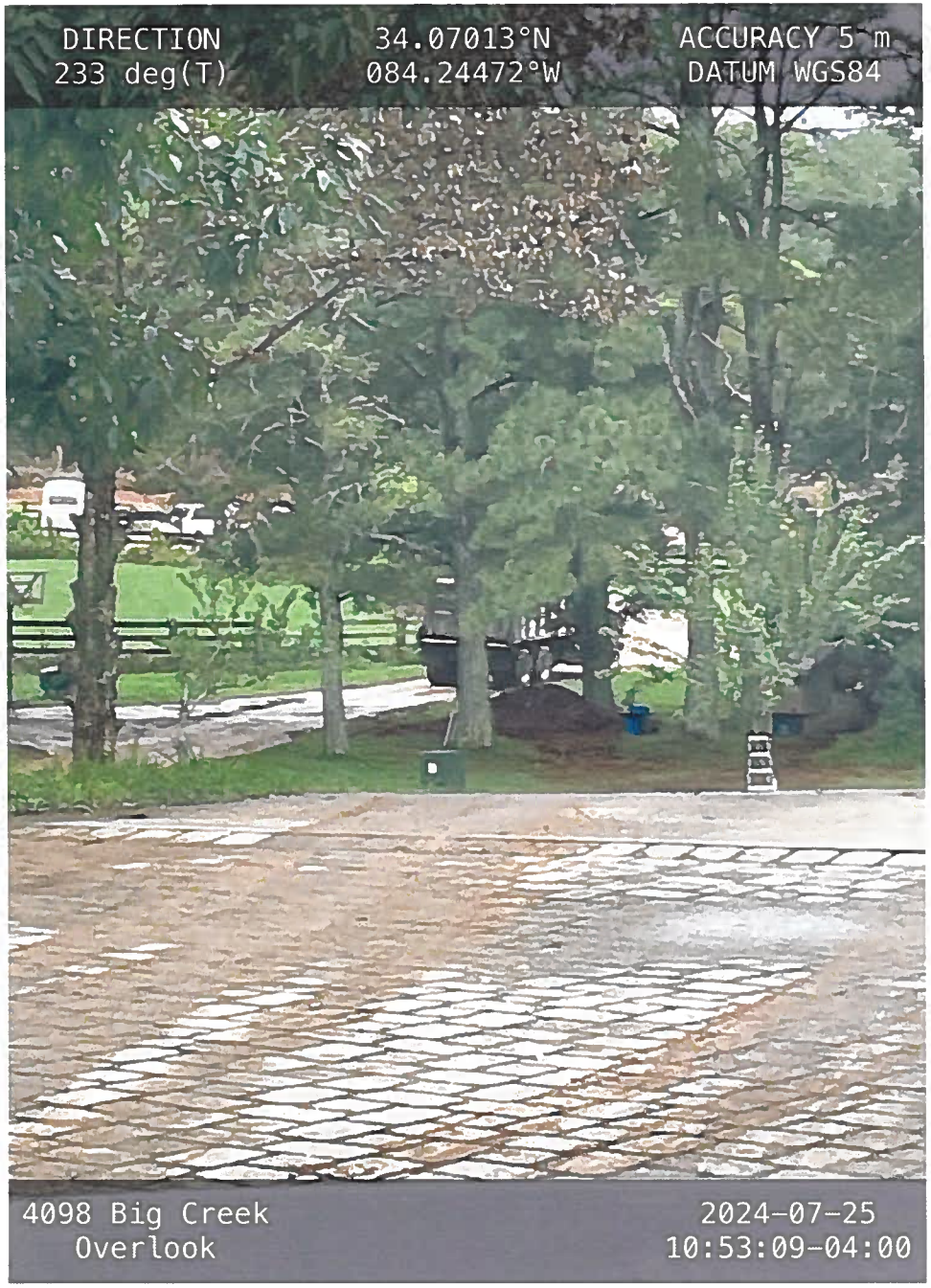
DIRECTION
193 deg(T)
34.07011°N
084.24467°W
ACCURACY 5 m
DATUM WGS84
GRANITE
4098 Big Creek
Overlook
2024-07-25
10:50:46-04:00

DIRECTION
237 deg(T)
34.07013°N
084.24467°W
ACCURACY 4 m
DATUM WGS84
4098 Big Creek
Overlook
2024-07-25
10:52:28-04:00


DIRECTION
237 deg(T)
34.07013°N
084.24465°W
ACCURACY 4 m
DATUM WGS84
4098 Big Creek
Overlook
2024-07-25
10:52:34-04:00

DIRECTION
232 deg(T)
34.07013°N
084.24464°W
ACCURACY 5 m
DATUM WGS84
JUST HAULING &
GRADING LLC
USDOT 3772480
4098 Big Creek
Overlook
2024-07-25
10:52:44-04:00

DIRECTION
239 deg(T)
34.07015°N
084.24465°W
ACCURACY 5 m
DATUM WGS84
NAPA
NAPA
4098 Big Creek
Overlook
2024-07-25
10:52:56-04:00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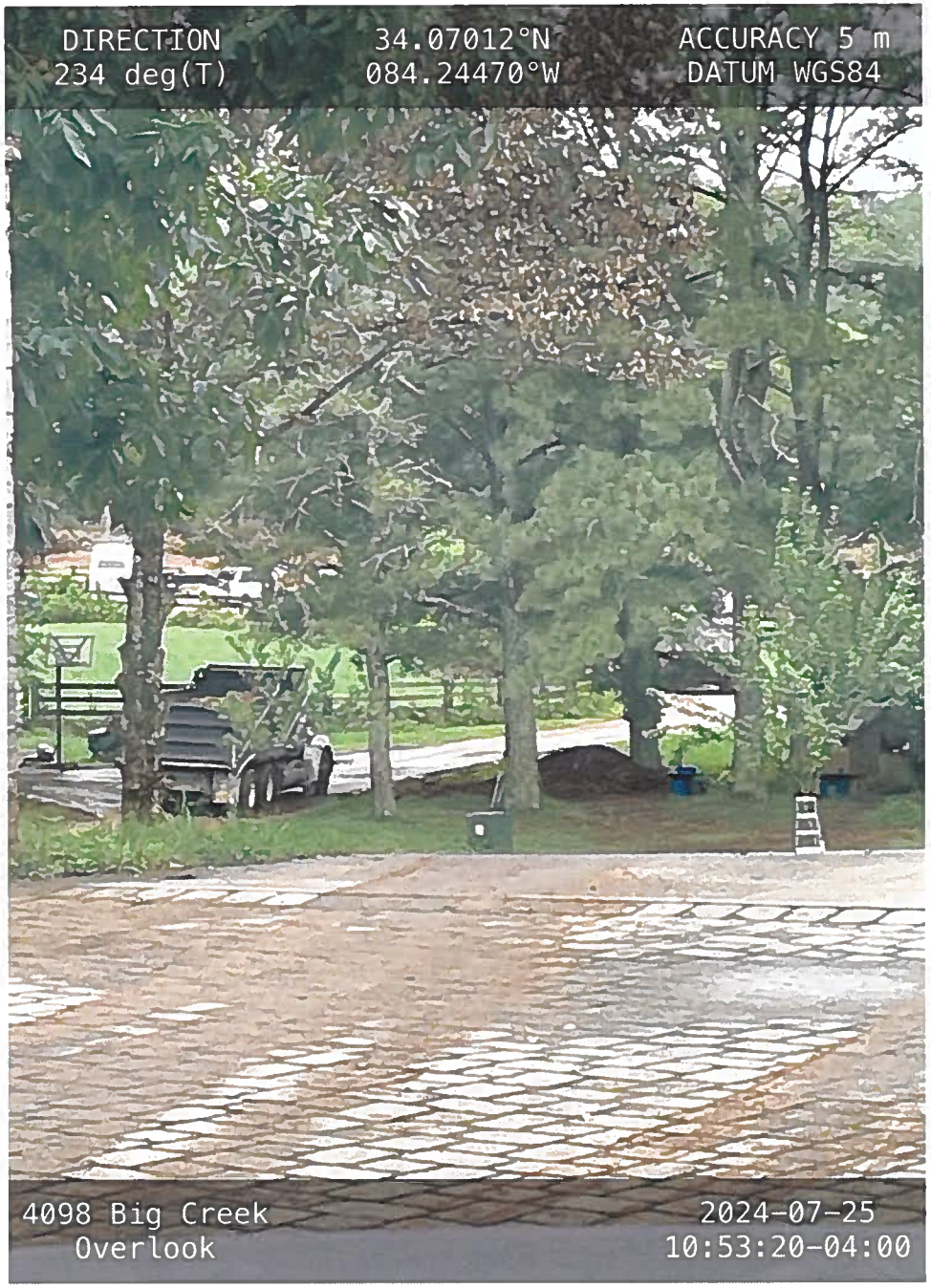
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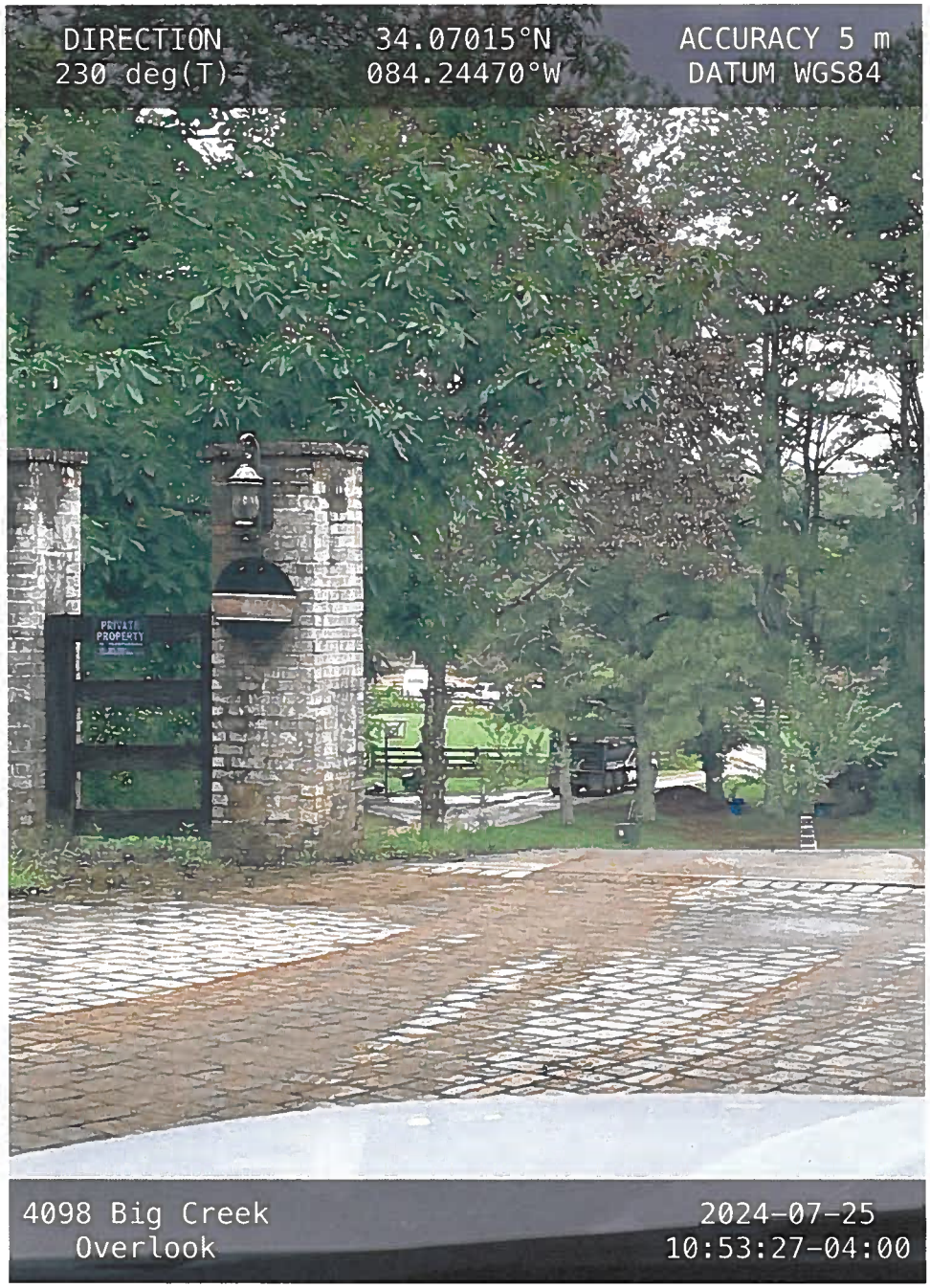
DIRECTION
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34.07015°N
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ACCURACY 5 m
DATUM WGS84
PRIVATE PROPERTY
4098 Big Creek
Overlook
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DIRECTION
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34.07009°N
084.24468°W
ACCURACY 4 m
DATUM WGS84
PRIVATE PROPERTY
4098 Big Creek
Overlook
2024-07-25
10:55:14-04:00

DIRECTION
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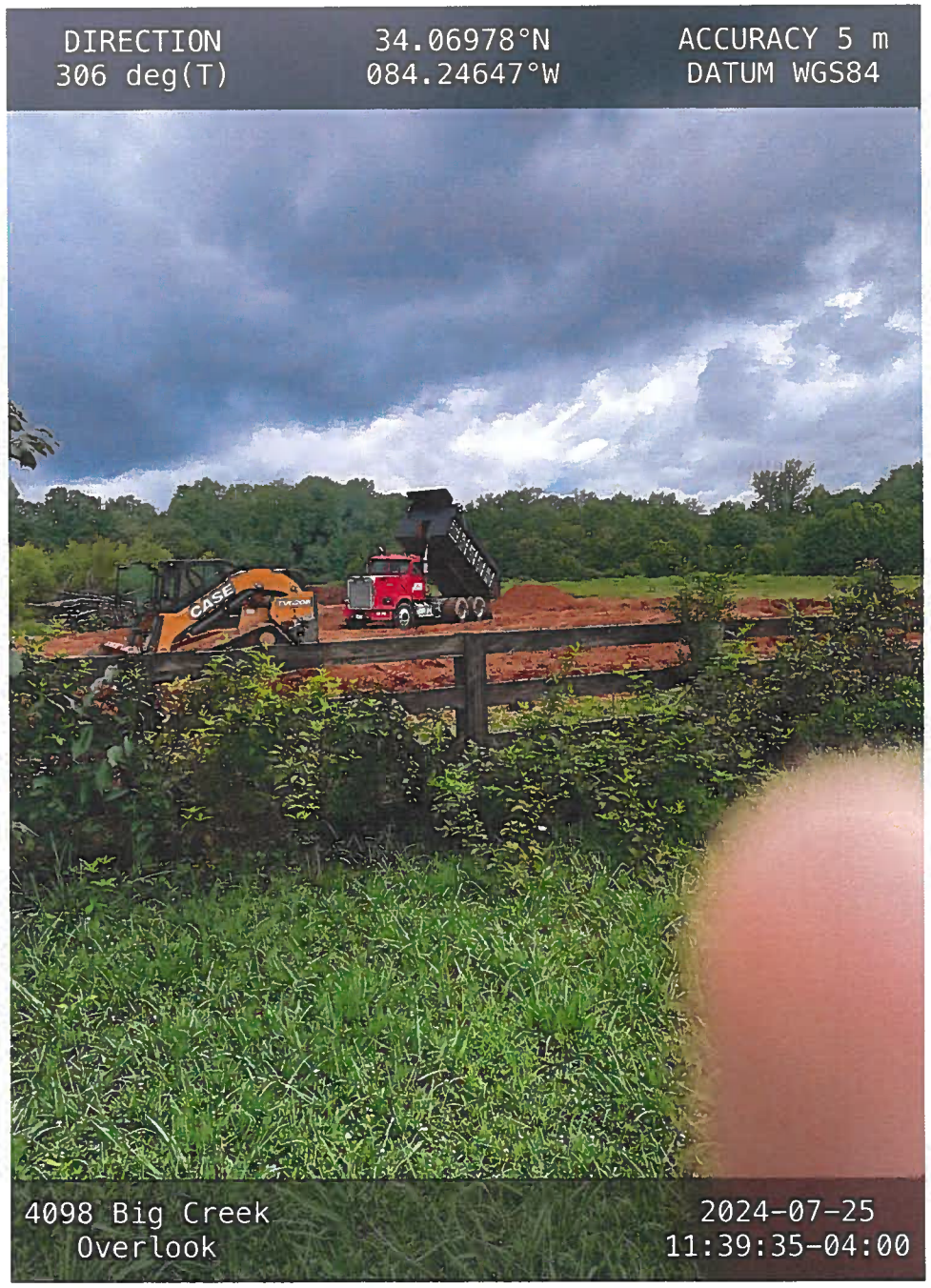
10:55:35-04:00


DIRECTION
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ACCURACY 5 m
DATUM WGS84
CASE
4098 Big Creek
Overlook
2024-07-25
11:39:35-04:00

281 deg(T)
084.24654°W
DATUM WGS84
CASE
4098 Big Creek
2024-07-25

252 deg(T)
084.24653°W
DATUM WGS84
CASE
4098 Big Creek
2024-07-25

286 deg(T)
084.24652°W
DATUM WGS84
SED 315
4098 Big Creek
2024-07-25

253 deg(T)
084.24653°W
DATUM WGS84
4098 Big Creek
2024-07-25

228 deg(T)
084.24652°W
DATUM WGS84
4098 Big Creek
2024-07-25

275 deg(T)
084.24648°W
DATUM WGS84
4098 Big Creek
2024-07-25

336 deg(T)
084.24691°W
DATUM WGS84
4098 Big Creek
2024-07-25

286 deg(T)
084.24693°W
DATUM WGS84
4098 Big Creek
2024-07-25

21 deg(T)
084.24693°W
DATUM WGS84
4098 Big Creek
2024-07-25

103 deg(T)
084.24690°W
DATUM WGS84
4098 Big Creek
2024-07-25

209 deg(T)
084.24690°W
DATUM WGS84
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2024-07-25

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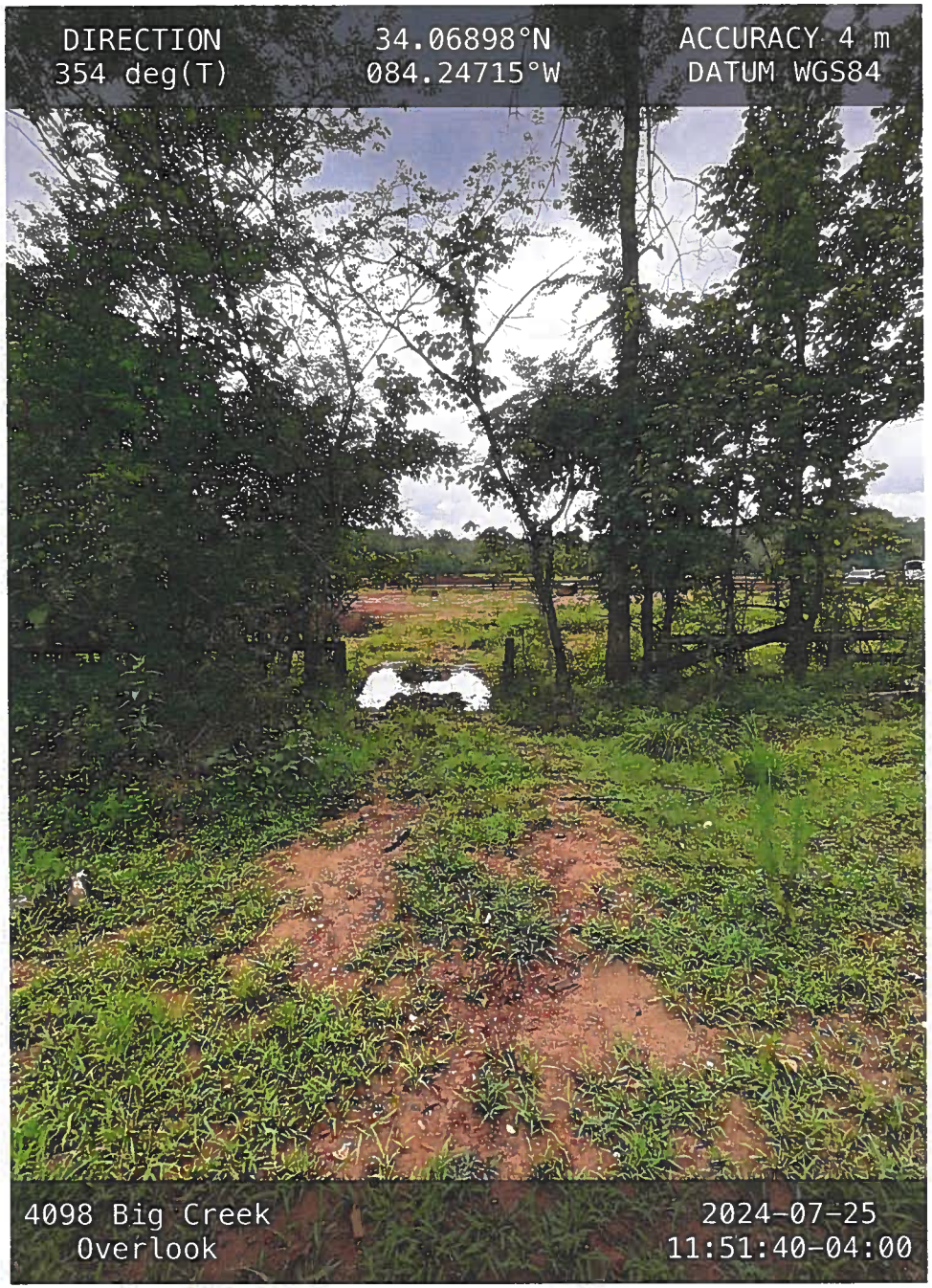
DATUM WGS84
4098 Big Creek
2024-07-25


DIRECTION
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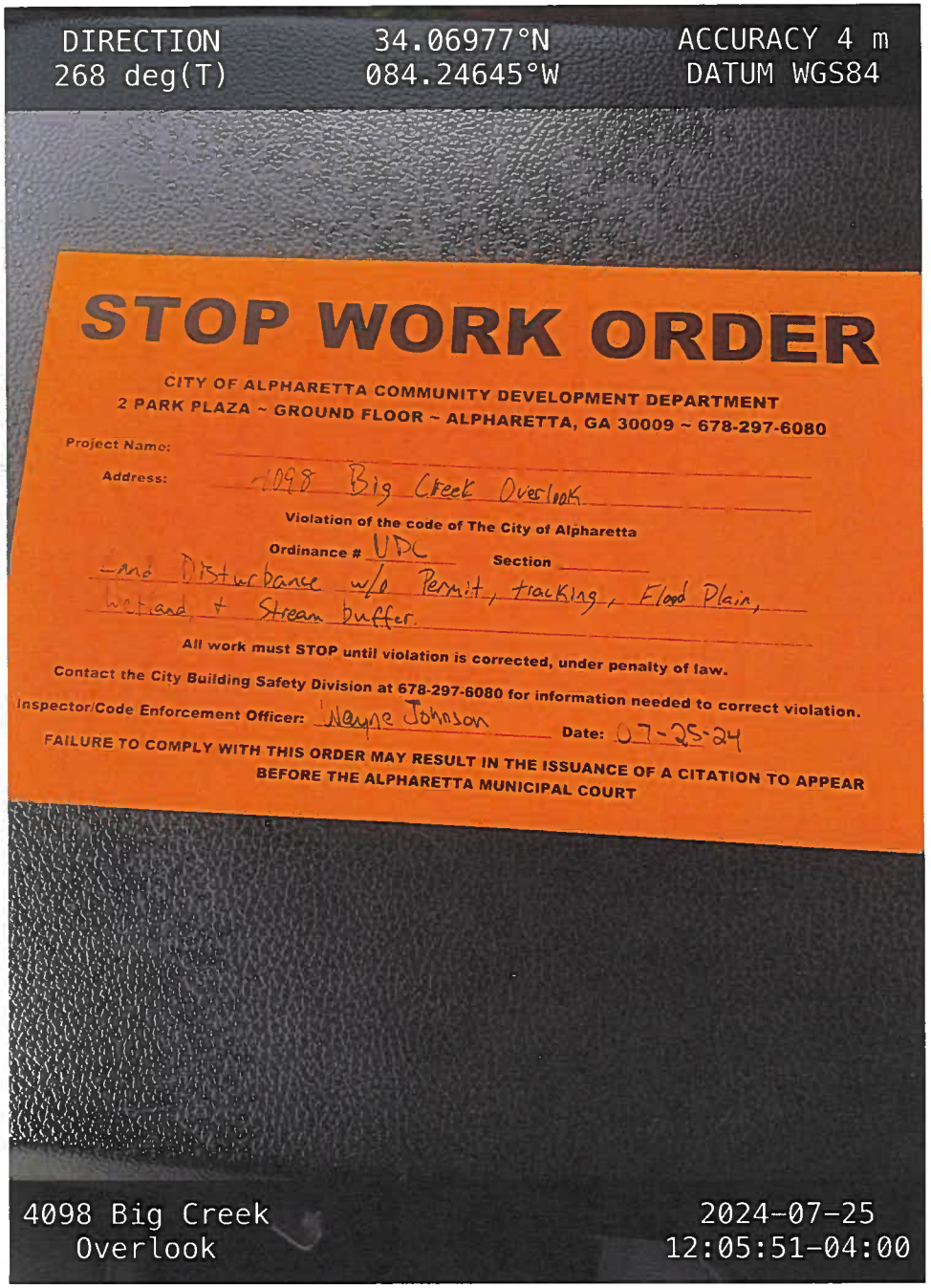
084.24715°W
ACCURACY 4 m
DATUM WGS84
4098 Big Creek
Overlook
2024-07-25
11:51:40-04:00

DIRECTION
36 deg(T)
084.24661°W
DATUM WGS84
CASE
TV620
4098 Big Creek
2024-07-25

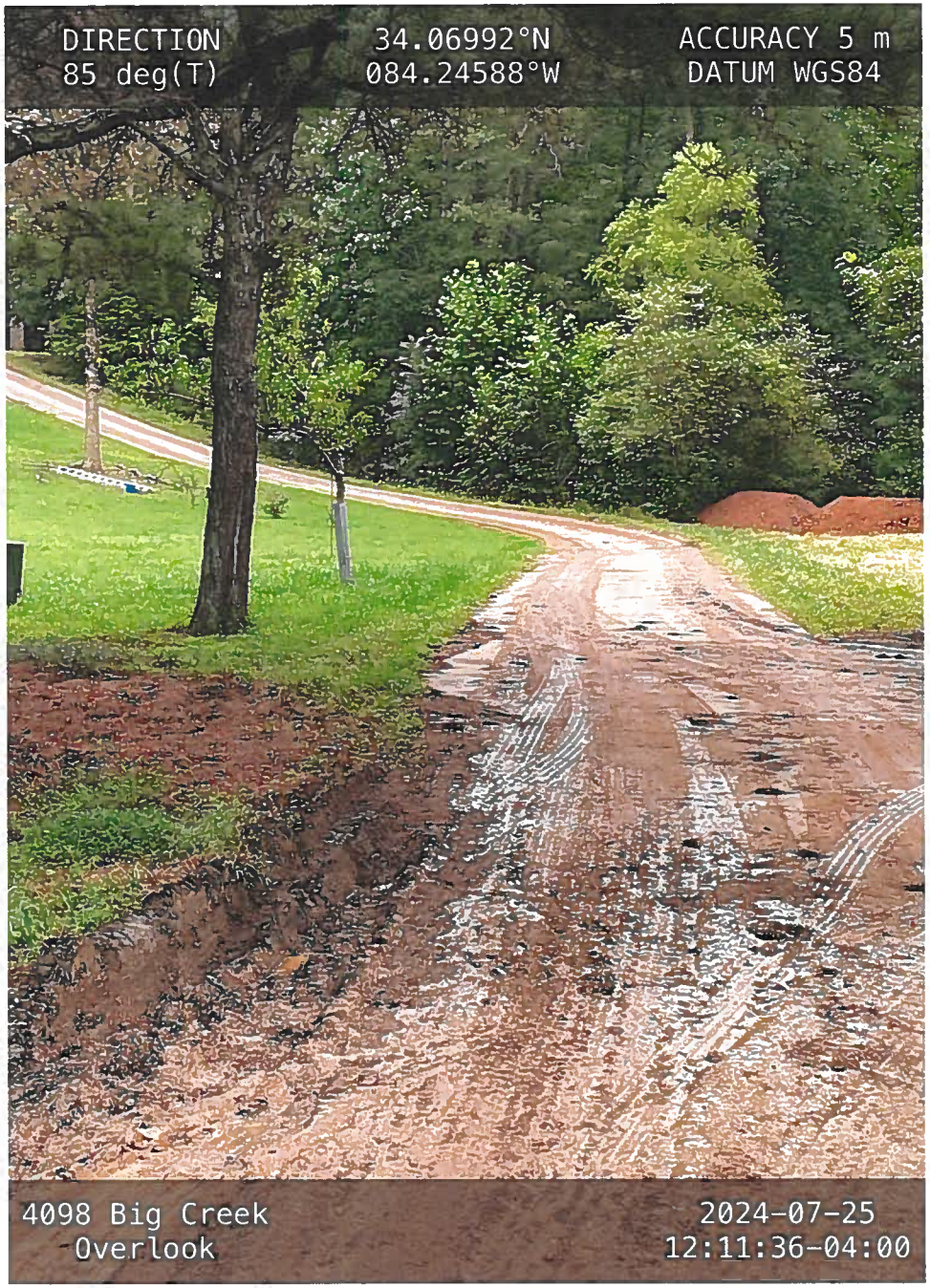
246 deg(T)
084.24621°W
DATUM WGS84
4098 Big Creek
2024-07-25

72 deg(T)
084.24622°W
DATUM WGS84
4098 Big Creek
2024-07-25


DIRECTION
268 deg(T)
34.06977°N
084.24645°W
ACCURACY 4 m
DATUM WGS84
STOP WORK ORDER
CITY OF ALPHARETTA COMMUNITY DEVELOPMENT DEPARTMENT
2 PARK PLAZA ~ GROUND FLOOR ~ ALPHARETTA, GA 30009 ~ 678-297-6080
Project Name:
Address: 4098 Big Creek Overlook
Violation of the code of The City of Alpharetta
Ordinance # UDC Section
Land Disturbance w/o Permit, tracking, Flood Plain, wetland + Stream buffer.
All work must STOP until violation is corrected, under penalty of law.
Contact the City Building Safety Division at 678-297-6080 for information needed to correct violation.
Inspector/Code Enforcement Officer: Wayne Johnson Date: 07-25-24
FAILURE TO COMPLY WITH THIS ORDER MAY RESULT IN THE ISSUANCE OF A CITATION TO APPEAR BEFORE THE ALPHARETTA MUNICIPAL COURT
4098 Big Creek
Overlook
2024-07-25
12:05:51-04:00

DIRECTION
244 deg(T)
34.06969°N
084.24651°W
ACCURACY 5 m
DATUM WGS84
NO
TRESPASSING
PRIVATE PROPERTY
VIOLATORS WILL BE
PROSECUTED
STOP WORK ORDER
CITY OF ALPHARETTA COMMUNITY DEVELOPMENT DEPARTMENT
2 PARK PLAZA ~ GROUND FLOOR ~ ALPHARETTA, GA 30009 ~ 678-297-6080
Project Name: 4098 Big Creek Overlook
Address:
Violation of the code of The City of Alpharetta
Ordinance # Section
LAND DISTURBING w/o Permit
+ TRACKING , FLOOD PLAIN, wetland, AND stream BUFFER
All work must STOP until violation is corrected, under penalty of law.
Contact the City Building Safety Division at 678-297-6080 for information needed to correct violation.
Inspector/Code Enforcement Officer: Wayne Johnson Date: 7/25/24
FAILURE TO COMPLY WITH THIS ORDER MAY RESULT IN THE ISSUANCE OF A CITATION TO APPEAR BEFORE THE ALPHARETTA MUNICIPAL COURT
4098 Big Creek
Overlook
2024-07-25
12:06:23-04:00

DIRECTION
242 deg(T)
084.24649°W
DATUM WGS84
PRIVATE PROPERTY
NO TRESPASSING
4098 Big Creek
2024-07-25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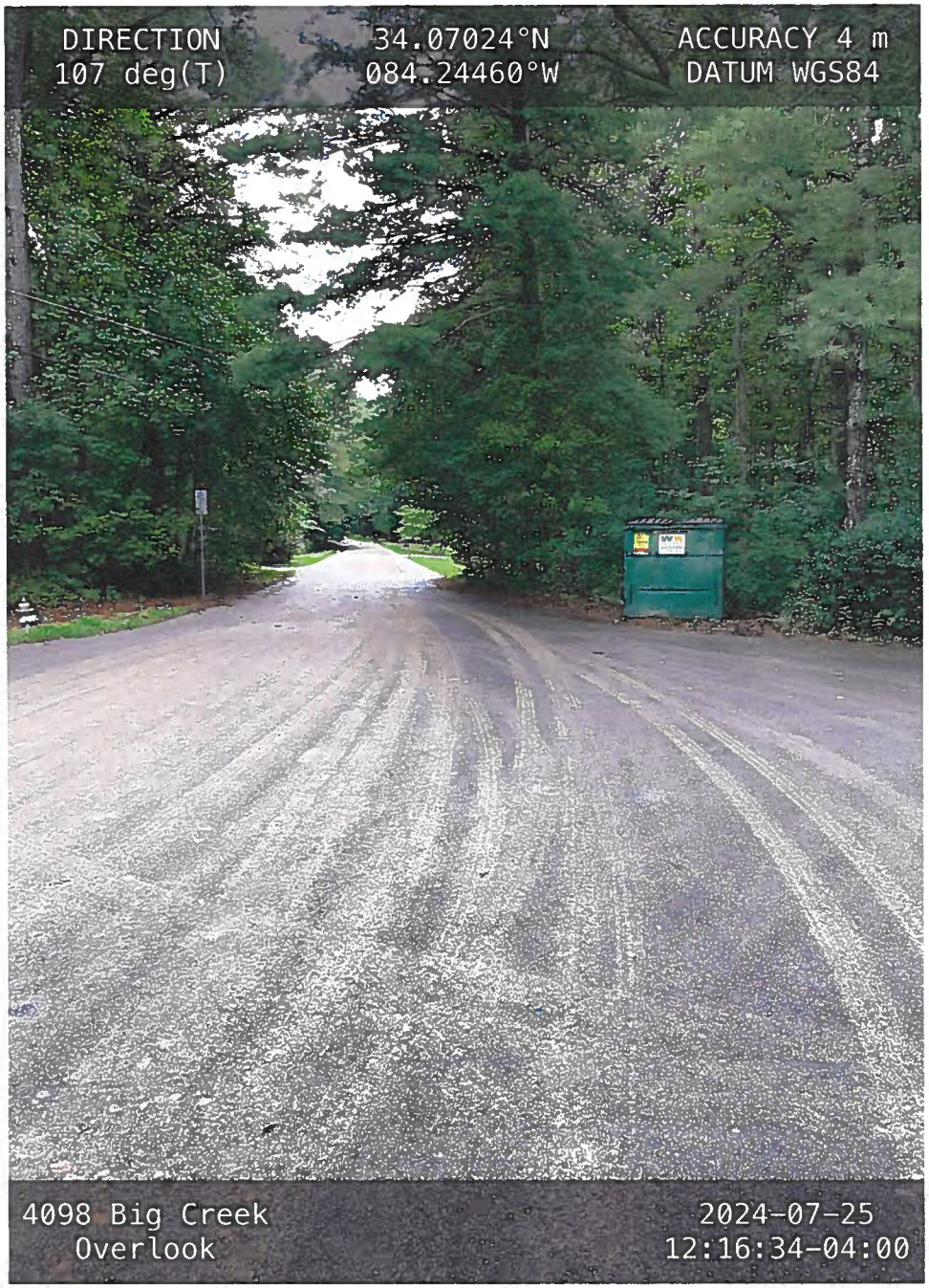
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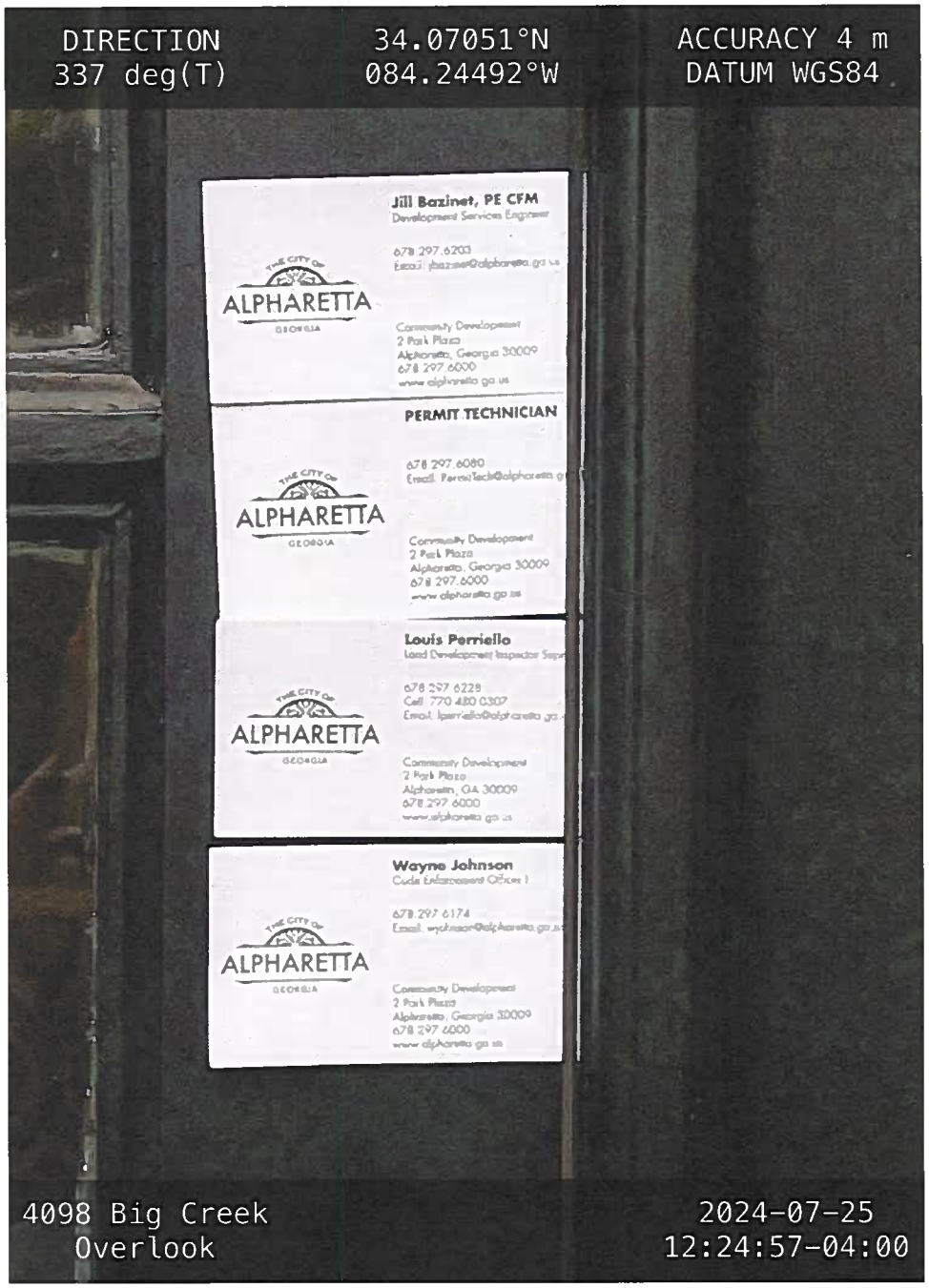
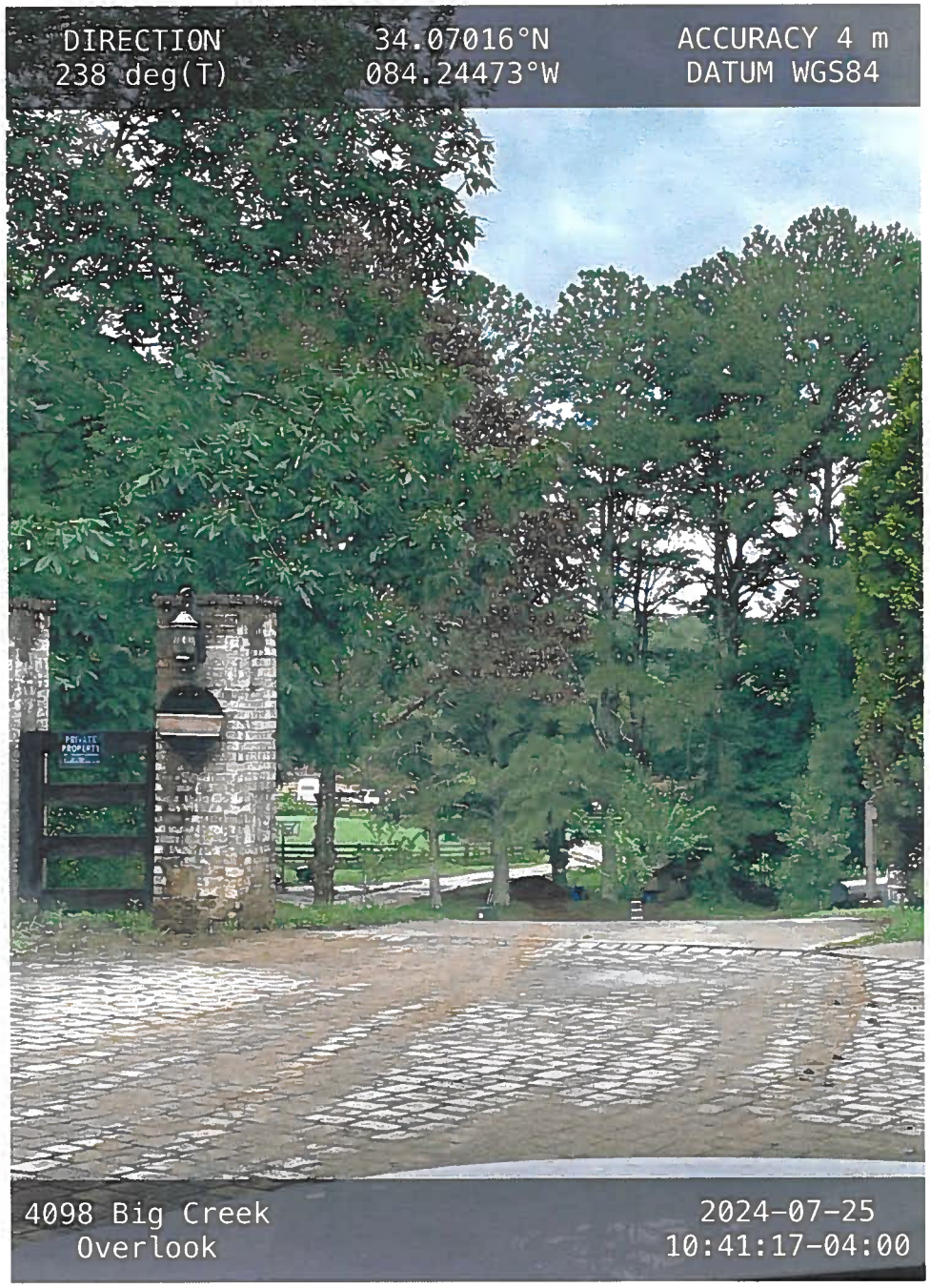
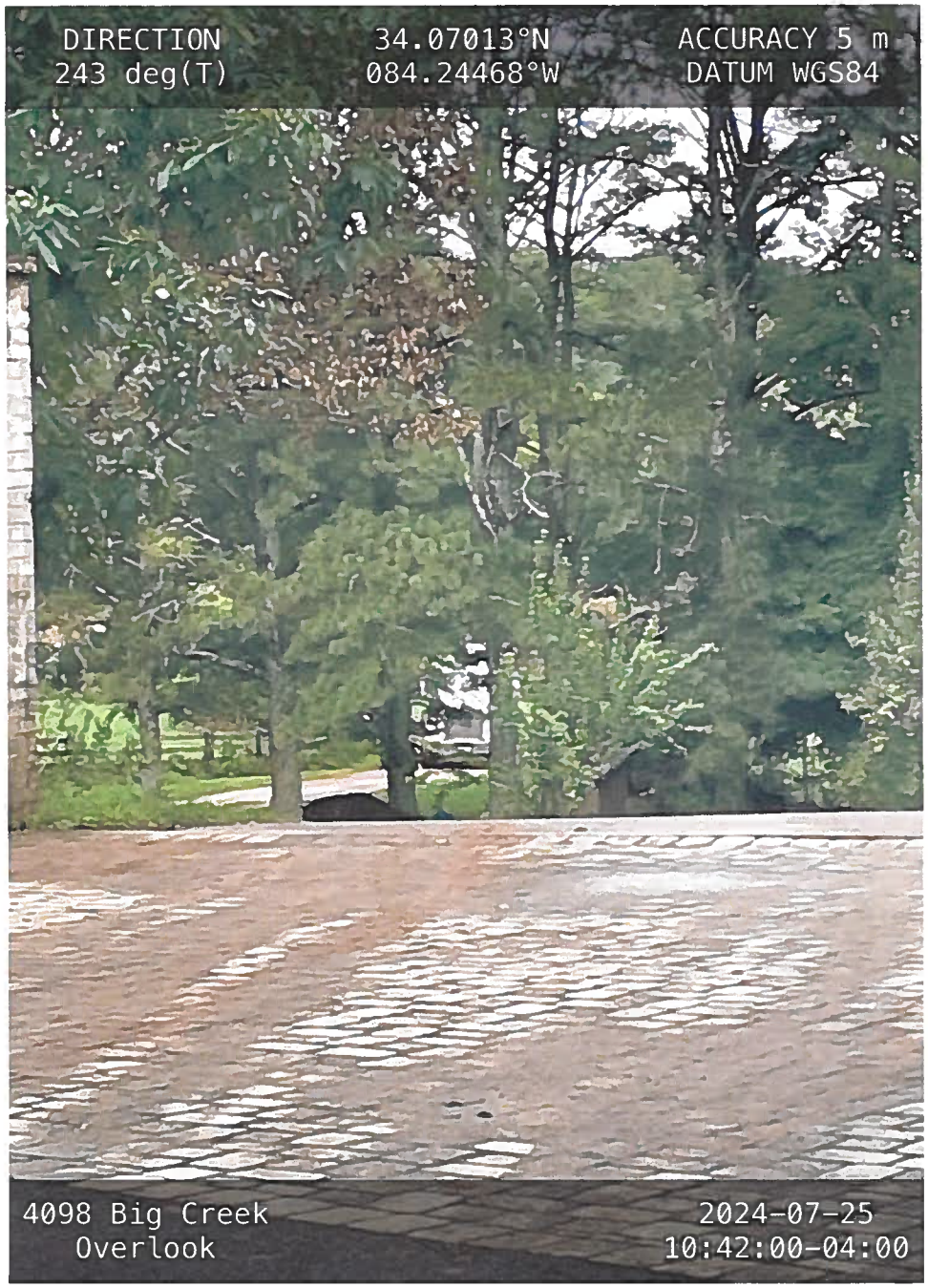

DIRECTION
337 deg(T)
34.07051°N
084.24492°W
ACCURACY 4 m
DATUM WGS84
Jill Bazinet, PE CFM
Development Services Engineer
678.297.6203
ALPHARETTA
Community Development
2 Park Plaza
Alpharetta, Georgia 30009
678.297.6000
www.alpharetta.ga.us
PERMIT TECHNICIAN
678.297.6080
ALPHARETTA
Community Development
2 Park Plaza
Alpharetta, Georgia 30009
678.297.6000
Louis Perriello
678.297.6228
Cell 770.480.0307
ALPHARETTA
Community Development
2 Park Plaza
Alpharetta, GA 30009
678.297.6000
Wayne Johnson
Code Enforcement Officer I
678.297.6174
ALPHARETTA
Community Development
2 Park Plaza
Alpharetta, Georgia 30009
678.297.6000
4098 Big Creek
Overlook
2024-07-25
12:24:57-04:00

DIRECTION
333 deg(T)
34.07053°N
084.24495°W
ACCURACY 4 m
DATUM WGS84
4098 Big Creek
Overlook
2024-07-25
12:25:05-04:00


DIRECTION
238 deg(T)
34.07016°N
084.24473°W
ACCURACY 4 m
DATUM WGS84
4098 Big Creek
Overlook
2024-07-25
10:41:17-04:00


DIRECTION
243 deg(T)
34.07013°N
084.24468°W
ACCURACY 5 m
DATUM WGS84
4098 Big Creek
Overlook
2024-07-25
10:42:00-04:00

DIRECTION
240 deg(T)
34.07013°N
084.24466°W
ACCURACY 5 m
DATUM WGS84
4098 Big Creek
Overlook
2024-07-25
10:42:06-04:00