



STAFF REVIEW

Variance Case #: V2020-07

Legistar #: 20191174

City Council Hearing: Wednesday, February 12, 2020 – 7:00 p.m.

Property Owner: Whitaker Investments, LLC
94 Church Street
Marietta, GA 30060

Applicant: Kevin Knox
87 Harold Street
Marietta, GA 30060

Agent: n/a

Address: 855 & 861 Kennesaw Ave

Land Lot: 1006 **District:** 16 **Parcels:** 0830 & 0840

Council Ward: 4A **Existing Zoning:** PRD-SF & R-2

Special Exception / Special Use / Variance(s) Requested:

1. Variance to allow a private road to not meet the minimum right of way width and pavement width required for by ordinance. [§726.03 (A.)]
2. Variance to waive the requirement that an applicant be required to improve an access point to insure proper access to the proposed subdivision. [§732.02]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



Driveway entrance on Kennesaw Avenue



Driveway on 861 Kennesaw Avenue looking westward



855 Kennesaw Avenue looking southward

Staff Review:

The applicant, Kevin Knox, is requesting variances that would allow the subdivision of 855 Kennesaw Avenue into two lots. This property is zoned R-2 (Single Family Residential – 2 units per acre), is 1.1 acres in size, and is currently undeveloped. This parcel and the parcel immediately to the south, which contains a single house, are both accessed from a driveway off of Kennesaw Avenue. The driveway is located on a long (~750 feet) and narrow (~28 feet) parcel addressed as 861 Kennesaw, which was platted as part of the Traditions at Cross Park, and zoned PRD-SF (Planned Residential Development – Single Family).

Driveways that provide access to three or more homes are required to be built to city street standards. City street standards include a minimum travel width of twenty (20) feet, excluding curb and gutter, with minimum compaction and topping standards. These standards are required in order to accommodate emergency services, general delivery, and sanitation service vehicles. In the past, there have been instances within the city where substandard roads have been built to service multiple homes and this has caused problems with emergency service access (i.e. East Maxwell Avenue Subdivision, Whitlock Pond Subdivision, and a subdivision off Sumter Drive).

A similar situation was heard by Planning Commission and City Council with the rezoning of 1765 & 1785 White Circle in 2017. The applicant wished to rezone seven acres to build three homes off a long, private driveway coming from White Circle. The property was rezoned but contained many stipulations to ensure a proper paved access for emergency and sanitation service vehicles, with a turnaround.

Staff allowed the subdivision of the two acres at 851 Kennesaw Avenue in 2013 with the understanding that there would not be more than two homes accessed off the private driveway. When the house at 851 Kennesaw Avenue was built in 2014, site development plans indicated the gravel driveway was to be upgraded to a fifteen (15) foot wide paved driveway. Recent field measurements indicate that the driveway has an average width of ten (10) feet for the entire 750-foot length from Kennesaw Avenue to the existing house.

The following are comments from the appropriate city departments regarding the request by the applicant to subdivide 855 Kennesaw Avenue, creating three homes served by a substandard driveway.

Fire Department:

*Accessibility for fire equipment on hard surfaced sub-base (subgrade plus an asphalt first layer or bound crushed stone) shall be maintained through all stages of construction from the time framing begins. Minimum width of private access driveways within a development, excluding parking, shall be 20 feet and the minimum turning radius shall be 35 feet. Fire hydrants and water service shall be installed to within 300 feet of units under construction before proceeding with framing.” (City Code 710.06). **Due to more than two structures AND a city-maintained fire hydrant, any road accessing this development needs to be built to the City Street Standards. Brick walls at entrance currently pose a concern for access.***



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Rusty Roth, AICP, Director

Public Works Engineering Division

The drive access must be built to City street standards.

Staff has also been made aware that existing drainage conditions from the undeveloped site are negatively impacting the adjacent Park Manor subdivision, which is downstream from the subject property. Drainage in this area is generally made more difficult due to rock located just below the surface. However, this situation should be addressed prior to any new development.

BLANK PAGE



Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Phone: 770-794-5440

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:
Application #: V2020-07 Legistar #: 20191174 BZA Hearing Dt:
City Council Hearing Dt (if applicable) #: 2-12-20 PZ #: 19-537

This is a variance/appeal application for:

Board of Zoning Appeals City Council

Owner's Name Whitaker Investments, LLC
EMAIL Address: whit@southernrealtypartners.com
Mailing Address 94 Church St, Marietta, GA Zip Code: 30060 Phone Number 770-403-7543

COMPLETE ONLY IF APPLICANT IS NOT OWNER:
Applicant: Kevin Knox
EMAIL Address: kevinnox1@mac.com
Mailing Address 87 Harold Street NE Marietta GA Zip Code: 30060 Phone Number 770-846-0907

Address of subject property: 855 Kennesaw Ave Marietta, GA Date of Acquisition: 02-01-2020
Land Lot (s) 1006 District 16 Parcel 2 Acreage 1.1 Zoned R-2 Ward 4A FLU: LDR
00840 1.3
List the variance(s) or appeal requested (please attach any additional information):
Driveway easements

- Required Information
1. Application fee (\$250)
2. Completed notarized application. The original application must be submitted with ALL original signature(s) - Copies of the application or signature(s) will NOT be accepted.
3. Copy of the deed that reflects the current owner(s) of the property.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. Site plan - drawn to scale. Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
Copies Required: One (1) - (8 1/2" x 11") -or- (11" x 17") drawn to scale.
Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 5 copies REQUIRED.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

CAMPAIGN CONTRIBUTIONS

The Owner and Applicant herein certify that he/she has has not made campaign contributions or gifts aggregating \$250.00 or more to the Mayor, any member of Council or any member of the Board of Zoning Appeals within the two (2) years preceding the filing of this application.

[Signature]
Signature of Owner

[Signature]
Signature of Applicant

Whit Smith
Print Name

Kevin Knox
Print Name

FINANCIAL INTEREST

The Applicant herein certifies that he/she has has not a financial interest in the property which is ten percent (10%) or more.

Kevin Knox
Print Name

[Signature]
Signature of Applicant

APPLICANT CERTIFICATION

- The Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.

[Signature]
Signature of Applicant

12-16-2019
Date

Kevin Knox
Please Print

OWNER CERTIFICATION

- The Owner certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Owners's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.
- The Owner hereby gives permission to enter on the property for inspection during the time application is pending.

[Signature]
Signature of Owner

Whitaker Smith
Please Print

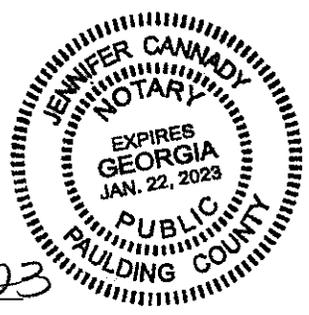
220 McCord Street, Marietta, GA 30064
Address

12-16-2019
Date

Signed, sealed and delivered in the presence of:

[Signature]

My Commission Expires: 1-22-2023



Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.

Reference: Board Of Zoning Appeals

To Whom It May Concern,

This letter is in conjunction with the application for variance submitted for the February 12, 2020 hearing. The property of topic is 855 Kennesaw Ave in Marietta. The current property has approximately a 24-foot easement from Kennesaw Ave to 851 Kennesaw Ave (lot 1 - .90 acres) and 855 Kennesaw Ave (lot 2 - 1.1 acres).

The submission is to split lot 2 into 2 separate lots under the current R-2 zoning. In doing so the driveway / easement would now be serving 3 residences versus 2 requiring that the driveway / easement road to be brought up to city street standards.

While the request is not to change zoning, it is a request of variance on the city street standards. To ensure access and provision for the city vehicles to serve the 3 residences I'd like to present the following.

1. Deed restrictions to be placed on all 3 lots for any future lot splits. (Please reference attached letter from owner of lot 1 agreeing to this)
2. Have the garbage pick up location be at the street of Kennesaw Ave at the entry of the easement driveway. (Please reference attached letter from lot 1 agreeing to this) This would make it easier on trash workers.
3. Add 2 expanded areas through out the driveway / easement to allow cars to pass. This will ensure that emergency vehicles needing to enter the property will have no barriers and it will allow an out going cars to pull off to the side, so that the emergency vehicles can pass.
4. The 2 new residences will have formal driveways off current road to allow Fire engines and emergency vehicles to turn around. (Currently there is already a fire hydrant on the property)

The current easement serving the properties is a nice buffer between Park Manor and The Tradition. It has many beautiful hardwood trees that contribute to the canopy of the City of Marietta. The above will preserve that canopy while still giving strong consideration to the needs of the emergency vehicles of the City of Marietta.

Below are a few developments in the area that are consistent with the above but have many more homes than the proposed lot(s).

1. Oakton Pond off Mountain View
2. The Retreat off Burnt Hickory
3. The Farm at Kennesaw Mountain off Burnt Hickory

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Knox', with a stylized, cursive script.

Kevin Knox

To Whom it May Concern,

This letter is in conjunction with the application for variance submitted for the February 12, 2020 hearing. My wife and I own lot 1 at 851 Kennesaw Avenue that connects to lot 2 at 855 Kennesaw Avenue.

In the letter submitted by Kevin Knox we are agreeable to the following:

1. A deed restriction to be placed on our land lot 1 at 851 Kennesaw Avenue.
2. We are agreeable to have our garbage picked up at the street of Kennesaw Avenue and the entrance of the easement to avoid city trash vehicles having any issues entering and or exiting the property.

Please don't hesitate to reach out to me directly with any or all questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mitch Hunter". The signature is stylized and cursive, with a long horizontal stroke extending to the right.

Mitch Hunter

TO: Marietta Daily Journal

FROM: City of Marietta

RUN AD DATE: January 17, 2020

**CITY OF MARIETTA
PUBLIC NOTICE OF REZONINGS, SPECIAL LAND USE PERMITS, and VARIANCES**

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following variance requests at the City Council meeting held on **Wednesday, February 12th, 2020, 7:00 p.m.**, City Hall, for a final decision to be made.

V2020-07 [VARIANCE] KEVIN KNOX (WHITAKER INVESTMENTS, LLC) are requesting variances for property located in Land Lot 1006, District 16, Parcels 0840 & 0830, 2nd Section of Cobb County, Marietta, Georgia and being known as 855 & 861 Kennesaw Avenue. Variance to allow a private road to not meet the minimum right of way width and pavement width required for by ordinance; variance to waive the requirement that an applicant be required to improve an access point to insure proper access to the proposed subdivision. Ward 4A.

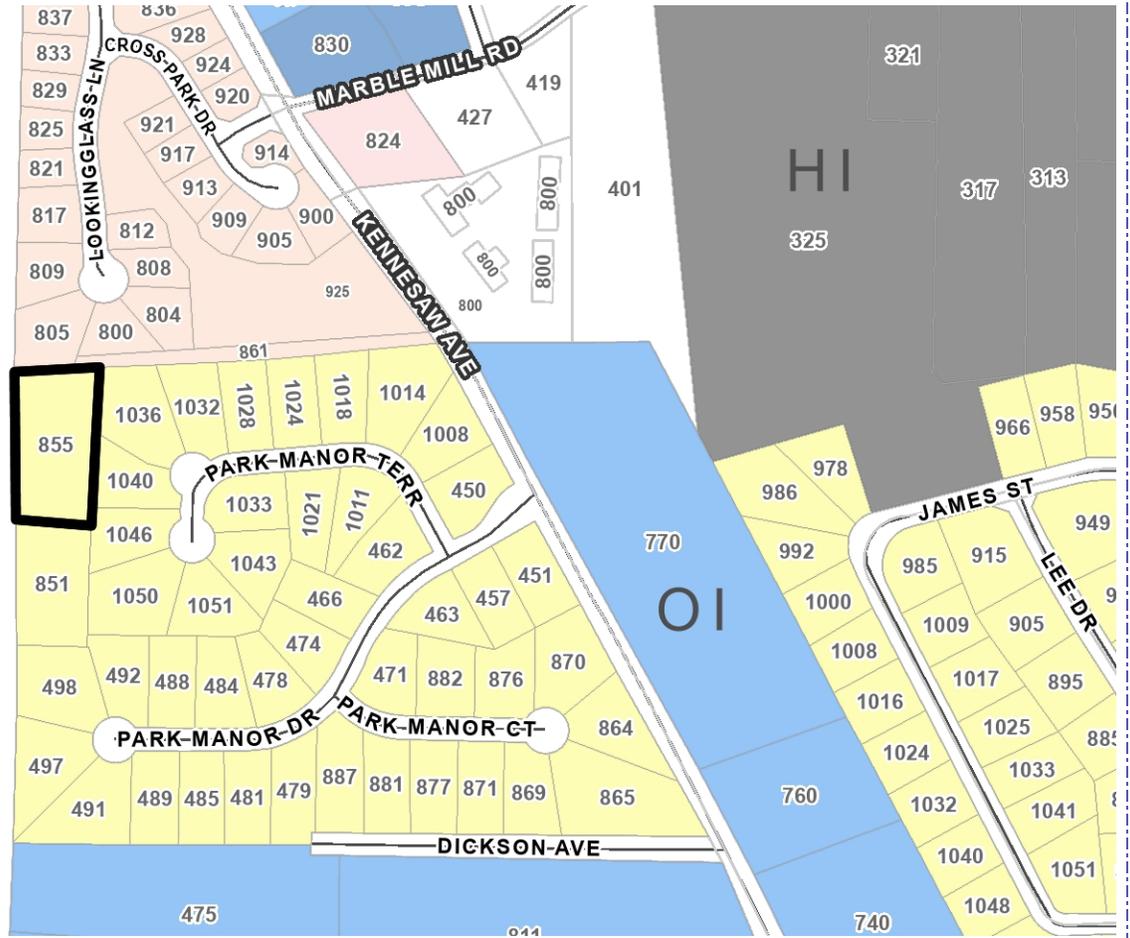
A description and plat of the property sought for the rezoning, special land use permit, and variances are on file in the Planning and Zoning Office, City Hall, and is available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the property file at www.mariettaga.gov and enter the case # in the search box.

For additional information please call the Planning and Zoning Office (770) 794-5669.

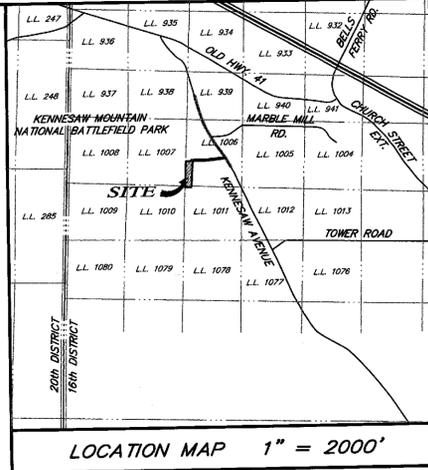
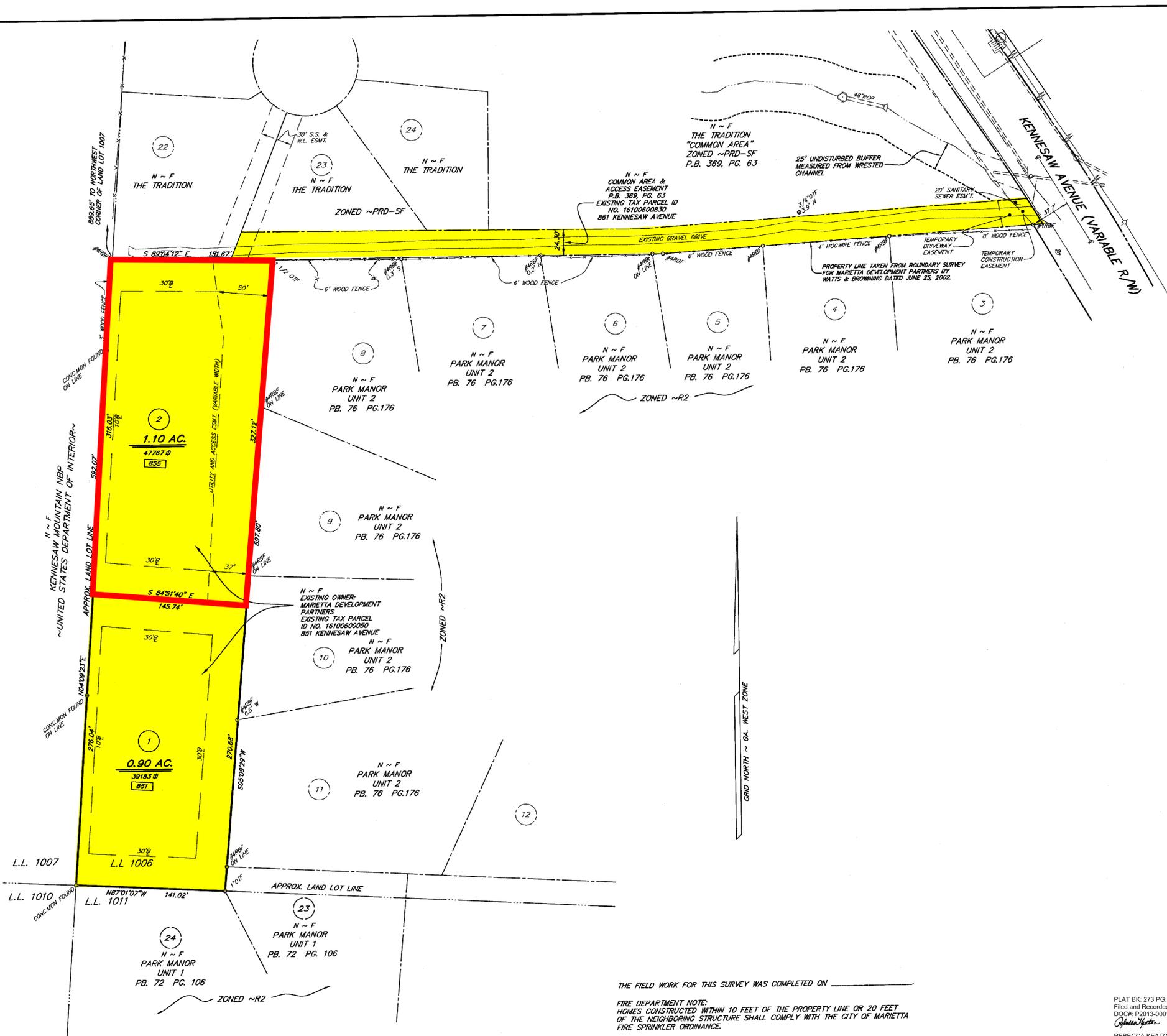
Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call ADA Coordinator at 770-794-5558 no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060

Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
855 KENNESAW AVE	16100600840	1.314	4A	R2	LDR
Property Owner:	Whitaker Investments, LLC		Zoning Symbols <ul style="list-style-type: none"> Railroads City Limits Cobb County Pockets NA R1 - Single Family Residential (1 unit/acre) R2 - Single Family Residential (2 units/acre) R3 - Single Family Residential (3 units/acre) R4 - Single Family Residential (4 units/acre) RA4 - Single Family Residential - Attached RA6 - Single Family Residential - Attached RA8 - Single Family Residential - Attached MHP - Mobile Home Park PRD-SF - Planned Residential Dev. Single Family RM8 - Multi Family Residential (8 units/acre) RM10 - Multi Family Residential (10 units/acre) RM12 - Multi Family Residential (12 units/acre) RHR - Residential High Rise PRD-MF - Planned Residential Dev Multi Family NRC - Neighborhood Retail Commercial CRC - Community Retail Commercial RRC - Regional Retail Commercial PCD - Planned Commercial Development LI - Light Industrial HI - Heavy Industrial PID - Planned Industrial Development MXD - Mixed Use Development CBD - Central Business District OIT - Office Institutional Transitional LRO - Low Rise Office OI - Office Institutional OS - Office Services OHR - Office High Rise 		
Applicant:	Kevin Knox				
City Council Hearing Date:	02/12/20				
Acquisition Date:					
Case Number:	V2020-07				
City of Marietta Planning & Zoning					



IT IS HEREBY CERTIFIED THAT THIS PLAT IS TRUE AND CORRECT, PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND.

[Signature] 8-23-13
 REGISTERED LAND SURVEYOR DATE
 CHRISTOPHER A. EVANS, RLS# 2748

THE UNDERSIGNED, AS PUBLIC WORKS DIRECTOR OF THE CITY OF MARIETTA, GEORGIA, HEREBY APPROVES THIS EXEMPTION PLAT FOR THE RECORDING OF SAME IN THE OFFICE OF THE CLERK OF THE SUPERIOR COURT OF COBB COUNTY.

[Signature] 8/23/13
 PUBLIC WORKS DIRECTOR DATE
 CITY OF MARIETTA

THE UNDERSIGNED, AS DEVELOPMENT SERVICES DIRECTOR OF THE CITY OF MARIETTA, GEORGIA, HEREBY APPROVES THIS EXEMPTION PLAT FOR THE RECORDING OF SAME IN THE OFFICE OF THE CLERK OF THE SUPERIOR COURT OF COBB COUNTY.

[Signature] 8/23/13
 DIRECTOR OF THE DEPARTMENT OF DEVELOPMENT SERVICES DATE
 CITY OF MARIETTA

OWNER'S SIGNATURE:
 MARIETTA DEVELOPMENT PARTNERS, LLC
 84 CHURCH STREET
 SUITE A
 MARIETTA, GA 30060
 770-429-8200

[Signature] 8/23/13
 OWNER'S SIGNATURE DATE

- NOTES:**
- THE PURPOSE OF THIS PLAT IS TO:
 1. DIVIDE TAX PARCEL 16-10060-0050 (851 KENNESAW AVENUE) INTO TWO PARCELS: LOT 1 AND 2.
 2. EXISTING ZONING: R-2 (SINGLE FAMILY RESIDENTIAL)
 - BULK AND AREA REGULATIONS FOR R-2:
 MINIMUM LOT SIZE 15,000 S.F.
 MAXIMUM DENSITY TWO DWELLING UNITS PER ACRE
 MINIMUM LOT WIDTH 100 FT/75 FT FOR A CUL-DE-SAC
 MAXIMUM BUILDING HEIGHT 35 FT.
 MINIMUM FLOOR AREA 1,600 S.F.
 MAXIMUM BLDG. COVERAGE 35%
 MAXIMUM IMPERVIOUS SURFACE 50%
 FRONT SETBACK (ARTERIAL) 40 FT.
 FRONT SETBACK (COLLECTOR) 35 FT.
 FRONT SETBACK (LOCAL) 30 FT.
 SIDE SETBACK (MAJOR) 25 FT.
 SIDE SETBACK (MINOR) 10 FT.
 REAR SETBACK 30 FT.

THE FIELD WORK FOR THIS SURVEY WAS COMPLETED ON _____

FIRE DEPARTMENT NOTE:
 HOMES CONSTRUCTED WITHIN 10 FEET OF THE PROPERTY LINE OR 20 FEET OF THE NEIGHBORING STRUCTURE SHALL COMPLY WITH THE CITY OF MARIETTA FIRE SPRINKLER ORDINANCE.

NOTE:
 THE APPROVAL OF THIS PLAT SHALL NOT CONSTITUTE A RELEASE OF ANY RIGHT, TITLE OR INTEREST CURRENTLY OR PREVIOUSLY HELD BY THE CITY OF MARIETTA, INCLUDING ANY EASEMENT, RIGHT-OF-WAY OR OTHER INTEREST IN THE REAL PROPERTY. THE CITY HEREBY RETAINS ANY AND ALL CURRENT OR PREVIOUS INTEREST IN SAID PROPERTY.

SURVEYOR NOTES:

- HORIZONTAL DATUM IS NAD 83. VERTICAL DATUM IS NAVD 88.
- THE NORTHING, EASTING, AND ELEVATION OF THE STARTING POINTS FOR THIS SURVEY WERE OBTAINED UTILIZING A TRIMBLE 5800 GPS RECEIVER WITH A TRIMBLE TSC2 DATA COLLECTOR RECEIVING RTK CORRECTIONS VIA A CELL PHONE FROM THE EGPS SOLUTIONS REAL TIME NETWORK. THE TECHNIQUE USED WAS RTK CORRECTED MEASUREMENTS FROM THE TRIMBLE VRS REAL TIME NETWORK OPERATED BY EGPS SOLUTIONS, INC. THE RELATIVE POSITIONAL ACCURACY OBTAINED ON THE POINTS UTILIZED IN THIS SURVEY WERE 0.04 FT. HORIZONTAL AND 0.07 FT. VERTICAL AT THE 95% CONFIDENCE LEVEL.

PLAT BK: 273 PG: 308-308
 Filed and Recorded Aug-28-2013 11:47 AM
 DCS#: P2013-000168
[Signature]
 REBECCA KEATON
 CLERK OF SUPERIOR COURT Cobb Cty, GA.

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67.



LEGEND	
⊕ P.P. - POWER POLE	⊕ C.B. - CATCH BASIN
⊕ L.P. - LIGHT POLE	⊕ R.C.P. - REINFORCED CONCRETE PIPE
⊕ F.H. - FIRE HYDRANT	⊕ C.M.P. - CORRUGATED METAL PIPE
⊕ M.H. - SANITARY SEWER MANHOLE	⊕ F.F.E. - FINISHED FLOOR ELEVATION
⊕ W.M. - WATER METER	⊕ W.V. - WATER VALVE
⊕ G.M. - GAS METER	⊕ S.C.O. - SEWER CLEAN OUT
⊕ R.B.S. - REINFORCING BAR SET	⊕ T.M. - TELEPHONE MANHOLE
⊕ R.B.F. - REINFORCING BAR FOUND	⊕ U.E.L. - UNDERGROUND ELECTRICAL LINE
⊕ C.T.F. - CRIMP TOP PIPE FOUND	⊕ O.P.L. - OVERHEAD POWER LINES
⊕ O.T.F. - OPEN TOP PIPE FOUND	⊕ H.W. - HEADWALL
⊕ R/W MON. - RIGHT-OF-WAY MONUMENT	⊕ P.B.X. - POWERBOX
⊕ - TYPE OF FENCE	⊕ W.L. - WATER LINE
⊕ J.B. - JUNCTION BOX	⊕ U.T.L. - UNDERGROUND TELEPHONE LINE
⊕ D.I. - DROP INLET / YARD INLET	⊕ G.L. - GAS LINE

LOCATION OF UTILITIES EXISTING ON OR SERVING THE SUBJECT PROPERTY IS DETERMINED BY OBSERVABLE EVIDENCE ONLY. THIS PROPERTY MAY BE SUBJECT TO EASEMENTS, CLAIMS, PRESCRIPTION AND SUBSURFACE CONDITIONS THAT ARE NOT VISIBLE OR RECORDED, THIS DEEMING THEM UNDETERMINED AND NOT SHOWN. THIS PLAT IS INTENDED FOR THE PARTIES STATED ON THE FACE OF SURVEY. USE OF THE SURVEY BY THIRD PARTIES IS AT THEIR OWN RISK.

THIS PARCEL OF LAND IS NOT IN THE 100 YEAR FLOOD PLAIN AND IS IN ZONE X; ACCORDING TO F.E.M.A. (F.I.A.) COMMUNITY NUMBER # 130226, MAP NUMBER # 13067 C 0102 H DATED MARCH 04, 2013.

THIS PLAT IS PREPARED FROM A FIELD SURVEY USING A FIVE SECOND DIGITAL THEODOLITE AND ELECTRONIC DISTANCE METER. LINEAR PRECISION OF TRAVERSE: 1/10,000; ANGULAR ERROR: 3" PER POINT. THE TRAVERSE WAS ADJUSTED USING THE COMPASS RULE. LINEAR PRECISION OF THIS PLAT: 1/74,472. MATTERS OF TITLE ARE EXCEPTED.

REVISIONS _____ _____ _____		<p>ENGINEERING • SURVEYING • PLANNING • CONSULTING • CONSTRUCTION MGMT</p> <p>Marietta Office 1266 Powder Springs Rd Marietta, Georgia 30064 Phone: (770) 424-7168</p> <p>LSFH 789 www.gksurvey.com</p> <p>Caston Office 2288 Marietta Highway Canton, Georgia 30114 Phone: (770) 479-9698</p>	EXEMPTION PLAT FOR: MARIETTA DEVELOPMENT PARTNERS
FIELD DATE: 3-10-05 OFFICE DATE: 8-08-13 SCALE: 1"=50'	DRAWN BY: SJJ CHECKED BY: CAE FILE: J.VH139		LOCATED IN L.L. 1006 16th DISTRICT, 2nd SECTION COBB COUNTY, GA.

