



License and Variance Board Meeting - Final

March 13, 2024

10:00 AM

F. V24-015 Public Hearing - Variance Request - V24-015 - Allow encroachment into the 75-foot impervious surface area setback - Land Lot 543 - 1362 Wynbrook Trace - James Lamar Lea



City of Smyrna

Issue Sheet

A Max Bacon
City Hall
2800 King Street
Smyrna, GA 30080

File Number: V24-034

Agenda Date: 3/13/2024

In Control: License and Variance Board

File Type: Variance Item

Agenda Section:
Formal Business

Agenda Number: F

Department: Community Development

Agenda Title:

Public Hearing - Variance Request - V24-015 - Allow encroachment into the 75-foot impervious surface area setback - Land Lot 543 - 1362 Wynbrook Trace - James Lamar Lea

Ward 7 Councilmember - Rickey N. Oglesby

ISSUE AND BACKGROUND:

The applicant is requesting a variance to allow encroachment into the City's 75-foot impervious setback to allow for the construction of a new swimming pool at 1362 Wynbrook Trace. The City's stream buffers are controlled by Chapter 46, Article VI.

RECOMMENDATION / REQUESTED ACTION:

The applicant is requesting relief from the City's 75-foot impervious surface area setback to install an inground swimming pool in the rear yard. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. After a review of the standards above, Community Development believes that the encroachment will not adversely affect surrounding residents; therefore, staff recommends approval of the requested variance with the following conditions:

1. Approval is conditioned upon substantial compliance with the mitigation plan submitted with the variance application.
2. A Stormwater Inspection and Maintenance Agreement must be completed and recorded with the Cobb County Superior Court and an as-built certification statement submitted to Community Development prior to issuance of the pool permit.

CITY OF SMYRNA

COMMUNITY DEVELOPMENT

MEMORANDUM

To: License and Variance Board

From: Rusty Martin, AICP, Community Development Director
Caitlin Crowe, Planner I

Date: March 1, 2024

RE: VARIANCE CASE V24-015
1362 Wynbrook Trace – Allow encroachment into the 75-foot impervious surface area setback

BACKGROUND

The applicant is requesting a variance to allow encroachment into the City's 75-foot impervious setback to allow for the construction of a new swimming pool at 1362 Wynbrook Trace. The City's stream buffers are controlled by Chapter 46, Article VI.

ANALYSIS

The subject parcel is a 0.46-acre lot located on the south side of Wynbrook Trace with a stream running to the south of the property (see Figure 1). The subject parcel and all adjoining parcels are zoned RDA and are occupied by single-family detached residences within the Vinings Estates subdivision, with the exception of the property to the south, which is occupied by Whitefield Academy, a private school.

The subject property is currently occupied by a 7,149 square foot single-family home with a stream to the south of the property. Due to the stream, the rear yard is encumbered by the City's 50-foot undisturbed stream buffer and the City's 75-foot impervious surface area setback. The applicant has designed the pool to stay out of the 50-foot undisturbed buffer but encroaches into the 75-foot impervious surface area setback by 1,104 square feet. The proposed pool is outside the stream buffers as much as possible without infringing on the house foundation. No other variances are needed as the property is just below their impervious coverage maximum of 45% and there are no additional accessory structures.

The applicant will require relief from the City's stream buffer ordinance in order to construct the pool and decking in the rear yard. The applicant will mitigate the encroachment by installing 3 flo-wells to the west side of the home. The City Engineer has reviewed the application and accompanying mitigation plan and supports the method used for buffer mitigation with the stipulation that a Stormwater Inspection & Maintenance Agreement be recorded prior to issuance of the pool permit.

Due to the existing stream buffers in the rear yard, Community Development believes this is the minimum variance needed to allow for any outdoor amenity. Due to the location of the pool in

the rear yard, Community Development believes the proposal will not adversely impact adjacent properties. Strict application of the ordinance would deny the applicant the ability to build any outdoor amenity in the rear yard due to the existing stream buffers. Similar variances have been approved throughout the city when an appropriate mitigation method has been included. At the time of this report, Community Development has not received any calls in opposition to the request.

STAFF COMMENTS

The applicant is requesting relief from the City's 75-foot impervious surface area setback to install an inground swimming pool in the rear yard. According to Section 1403 of the Zoning Ordinance, variances must be reviewed under the following standards: (1) Whether there are unique and special or extraordinary circumstances applying to the property; (2) Whether any alleged hardship is self-created by any person having an interest in the property; (3) Whether strict application of the relevant provisions of the code would deprive the applicant of reasonable use of the property; and (4) Whether the variance proposed is the minimum variance needed. After a review of the standards above, Community Development believes that the encroachment will not adversely affect surrounding residents; therefore, staff recommends **approval** of the requested variance with the following conditions:

1. Approval is conditioned upon substantial compliance with the mitigation plan submitted with the variance application.
2. A Stormwater Inspection and Maintenance Agreement must be completed and recorded with the Cobb County Superior Court and an as-built certification statement submitted to Community Development prior to issuance of the pool permit.

Figure – 1

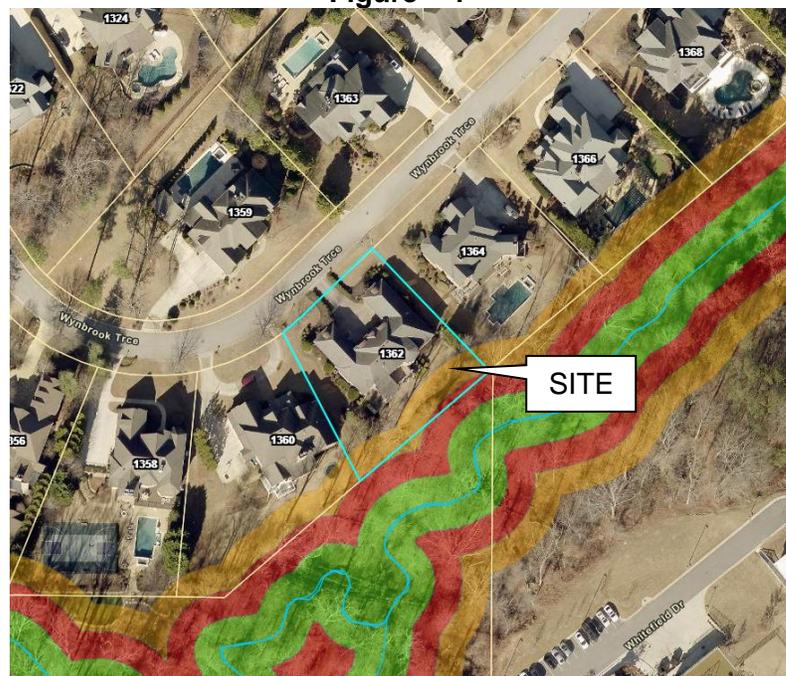


Figure – 2
Site Plan



Figure – 3
Subject Property



Figure – 4
Adjacent Property to the East



Figure – 5
Adjacent Property to the West



Figure – 6
Adjacent Property across Sadler Drive



Proposed Site (PAGE 1 OF 2)

1" = 20'

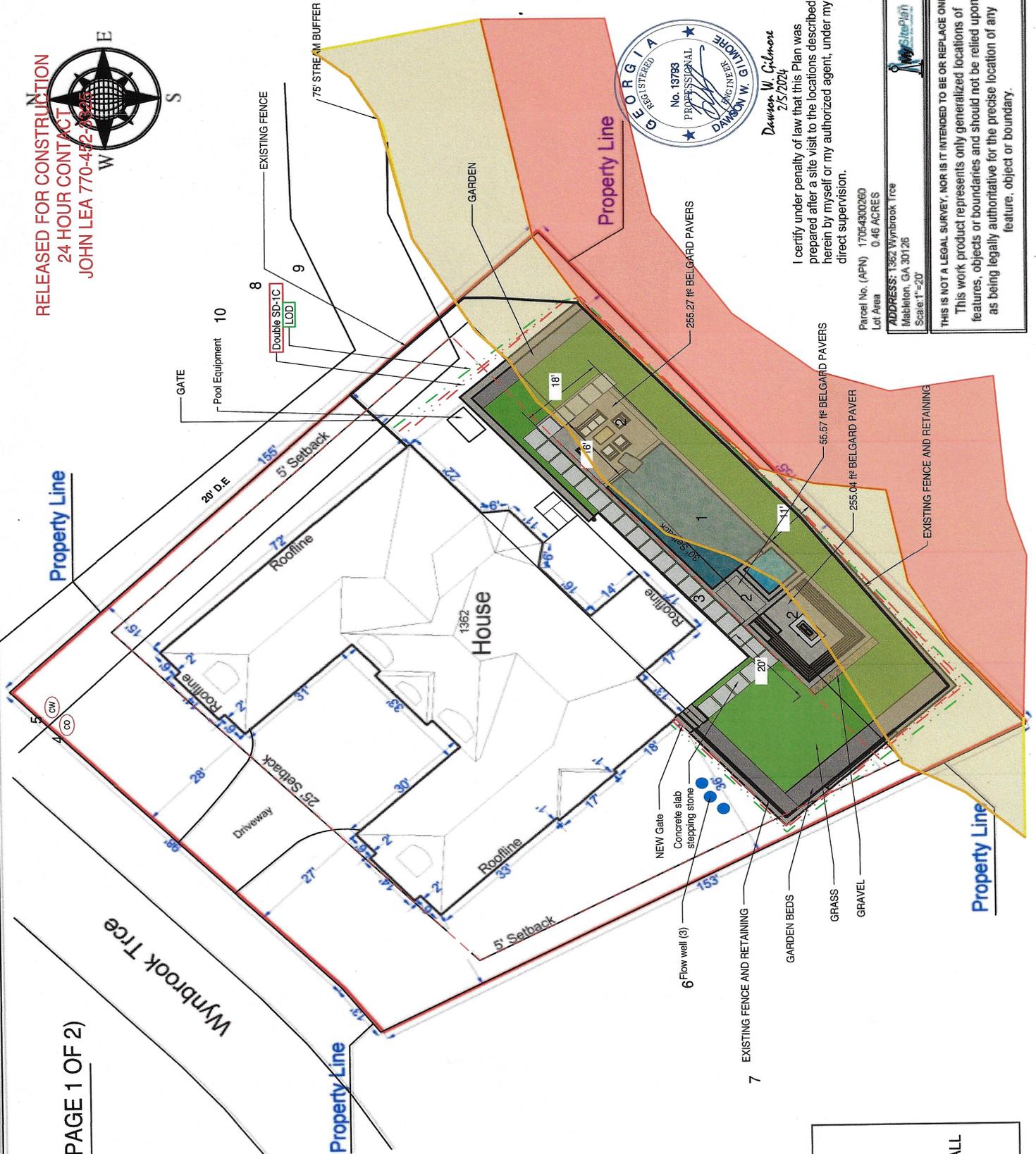
The escape of sediment from the site shall be prevented by the installation of erosion and sediment control measures and practices prior to any land disturbing activities. Erosion control measures will be maintained at all times. If full implementation of the approved Plan does not provide for effective erosion control, additional erosion and sediment control measures shall be implemented to control or treat the sediment source.

- Any disturbed area left exposed for a period greater than 14 days shall be stabilized with mulch or temporary seeding.
- Prevent tracking of mud onto all public rights-of-way. Immediately remove mud and debris tracked or spilled onto public roads.
- Leave silt fence in place until all areas are permanently stabilized.
- Washout of the concrete mixer drum at the construction site is prohibited.

1104sf in Buffer

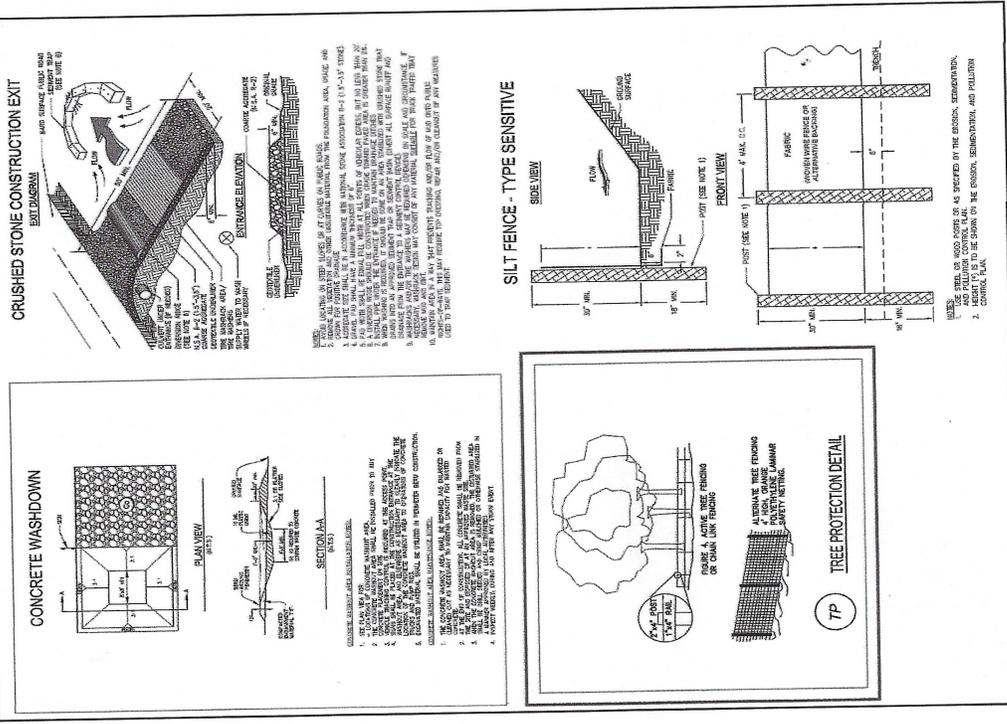
- LEGEND**
1. PROPOSED POOL
 2. PROPOSED PATIO
 3. PROPOSED WALL
 4. CO
 5. CW
 6. FLOW WELL
 7. EXISTING FENCE/RETAINING WALL
 8. SILT SD-1C
 9. TREE PROTECTION FENCE TPF
 10. POOL EQ

RELEASED FOR CONSTRUCTION
24 HOUR CONTACT
JOHN LEA 770-442-3645



Proposed Site (PAGE 2 OF 2)

1" = 20'



1104 SF STORMWATER MITIGATION

1. SF AREA TO BE MITIGATED	1104
2. COEFFICIENT OF RUNOFF FOR ROOF	1.0
3. RUNOFF IN/HR	1.25
4. DEPTH OF GRAVEL BACKFILL =	24"
5. THICKNESS OF GRAVEL AROUND=	12"
6. RUNOFF=	14.35 GPM
7. VOL WATER STORED=	430.50 GAL
	57.55 CU FT
8. # FLOW WELLS NEEDED=	3
9. AMOUNT OF GRAVEL NEEDED=	3.44 CU YDS
	92.88 CU FT.

Variance Application

Applicant

Primary Location

VAR-24-11

 James Lamar Lea

1362 WYNBROOK TRCE SE

 404-626-8303

SMYRNA, GA 30126

Submitted On: Feb 3, 2024

@ lamar@decksouth.com

Applicant Information

First Name

James Lamar

Last Name

Lea

Street Address

1465 Field Park Circle

City

Marietta

State

GA

Zip Code

30066

Email

lamar@decksouth.com

Phone Number

404-626-8303

Are you the titleholder of the subject property?

No

Titleholder Information

Full Name (i.e., First and Last Name, or Name of Entity)

Lecrae Moore

Street Address

1362 Wynbrook Trace

City

Mableton

State

Ga

Zip Code

30126

Email Address

leemoore303@gmail.com

Phone Number

470-371-7054

Property Information

Property Address

1362 Wynbrook Trace

Description of Requested Variances

Will be building a pool/patio that will encroach into the 75' stream buffer

Comprehensive Narrative

In rendering its decisions, the License and Variance Board shall consider the following factors:

1. Whether there are extraordinary and exceptional conditions applying to

the property in question, or to the intended use of the property, that do not apply generally to other properties in the same district.

2. Whether any alleged hardship which is self-created by any person having an interest in the property or is not the result of mere disregard for or ignorance of the provisions from which relief is sought.

3. Whether strict application of the relevant provisions of the zoning code would deprive the applicant of reasonable use of the property for which the variance is sought.

4. Whether the variance proposed is the minimum variance which makes possible the reasonable use of the property.

A comprehensive narrative detailing the extraordinary and exceptional conditions which will necessitate a nonconforming use.

Homeowner was unaware of the 75' stream buffer assigned to his property as it does not appear on the plat provided to him at time of closing of the property. The homeowner would like to have the same benefit as his neighbors on his street that enjoy the features of a pool in the back yard. Lot # 648 (subject of this variance application), is approximately 28% smaller than the average size of the other 15 lots on this street (27,455 sf vs 20003 sf). Additionally it is smaller by 1492 sf than the next largest lot in the 15. Homeowner did not contribute to this inequity in any way. Is a result of the original zoning.

If relief is not granted for this homeowner, he would not be able to enjoy the same outdoor amenities as his neighbors.

The proposed pool/patio project would encompass 1478 sf, of which 1104 sf would encroach into the buffer. There would not be enough usable space to accomplish the build and not encroach into the buffer.

Acknowledgement

Applicant further affirms they are aware that any knowingly false statement made in the permit application may subject said applicant to prosecution for violation of Georgia Criminal Code, Section 16-10-20 (False Swearing) and a possible fine of not more than \$1,000.00 or imprisonment for not less than one (1) nor more than five (5) years, or both.

Applicant Signature:

true



PROPERTY OWNER AUTHORIZATION

City of Smyrna Community Development Department, 3180 Atlanta Rd, Smyrna, GA 30080
Office Phone 678-631-5387 / Fax 770-431-2808

I, Lecrae Moore, swear that I am the Property Owner of the property located at 1362 Wynbrook Trace, Mableton, GA 30126 as shown in the records of Cobb County, Georgia, which is the subject property of the attached application.

I authorize the business named below to act as the Contractor of Record in pursuit of this permit.

Contractor Business Name (print clearly): Decksouth, Inc.

Business Contact Person: James Lamar Lea

Business Address: 1465 Field Park Cir., Bldg. 100, Marietta, GA 30066

Contact Telephone: 404-626-8303

Contact Email: lamar@decksouth.com

I have read, understood, and answered the aforementioned items to the best of my knowledge. If I am found to have misrepresented myself on this affidavit or the attached application, I am aware I may be in violation of the City Code and run the risk of being issued a citation for violation of the City of Smyrna Code of Ordinances.

(Must be signed by the property owner. If the landowner is a corporation, the form must be signed by an officer of the corporation.)

Signature of Property Owner

1362 Wynbrook Trace

Address

Lecrae Moore

Name of Property Owner (print clearly)

Mableton, GA 30126

City, State, Zip

NOTIFICATION OF CONTIGUOUS OCCUPANTS OR LANDOWNERS

By signature, it is hereby acknowledged that I have been notified by _____

LEORA MORRIS

Intends to make an application for a variance for the purpose of BUILDING A NEW

POOL + PATIO

on the premises described in the application.

NAME

ADDRESS

~~Lillian H. Clark~~ Lillian H. Clark
~~Sharon Johnson~~ John Sharon Johnson
~~Lillian H. Clark~~ Lillian H. Clark
 Chris and Rebel Sullay

~~1359 WYNBROOK TRACE~~
 1364 WYNBROOK TRACE
 1360 WYNBROOK TRACE
 1359 Wynbrook Trace

MAIL

WHITEFIELD ACADEMY

1 WHITEFIELD DR
MABLETON, GA 30126

Please have adjacent property owners sign this form to acknowledge they are aware of your variance request. You must also provide certified mail receipts of notification letters sent to adjacent properties. Notification letters shall include description of the requested variance, the License and Variance Board Meeting date and time, and a copy of the complete variance application. Adjacent and adjoining properties include any property abutting the subject property as well as any properties directly across a street.



**UNITED STATES
POSTAL SERVICE**

This Certificate of Mailing provides evidence that mail has been presented to USPS® for mailing
This form may be used for domestic and international mail

Certificate Of Mailing

To pay fee, affix stamps or meter postage here.

From: DECK SOUTH
1465 FIELD PARK CIR BLDG 100
MARIETTA, GA 30066

To: WHITEFIELD ACADEMY
1 WHITEFIELD DR
MABLETON, GA 30126



Postmark Here

PS Form 3817, April 2007 PSN 7530-02-000-9065

Expand Menu

Real Estate (Your House or Land)

View Bill

View bill image

As of	2/3/2024
Bill Year	2023
Bill	6516
Owner	GORDON MOTON NICOLE
Parcel ID	17054300260

View payments/adjustments

Installment	Pay By	Amount	Payments/Credits
1	11/15/2023	\$4,944.18	\$4,944.18
TOTAL		\$4,944.18	\$4,944.18



Real Estate (Your House or Land)

[Return to view bill](#)

Payments/Adjustments

As of 2/1/2024

Bill Year

2023

Bill

6516

Activity	Posted	Entered	Reference #	Paid By/Reference	Amount
Adjustment	11/20/2023	11/20/2023	298049		\$0.00
Payment	10/24/2023	10/25/2023	3251970	CORELOGIC	\$4,944.18

[Return to view bill](#)



Printed: 2/1/2024

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
Phone: 770-528-8600
Fax: 770-528-8679

Payer:
CENTRAL LOAN ADMINISTRATION

GORDON MOTON NICOLE

Payment Date: 10/12/2023

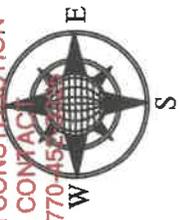
Tax Year	Parcel ID	Due Date	Appeal Amount	Taxes Due
2023	17054300260	10/15/2023	Pay: N/A or	\$0.00

Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$14,810.13	\$0.00

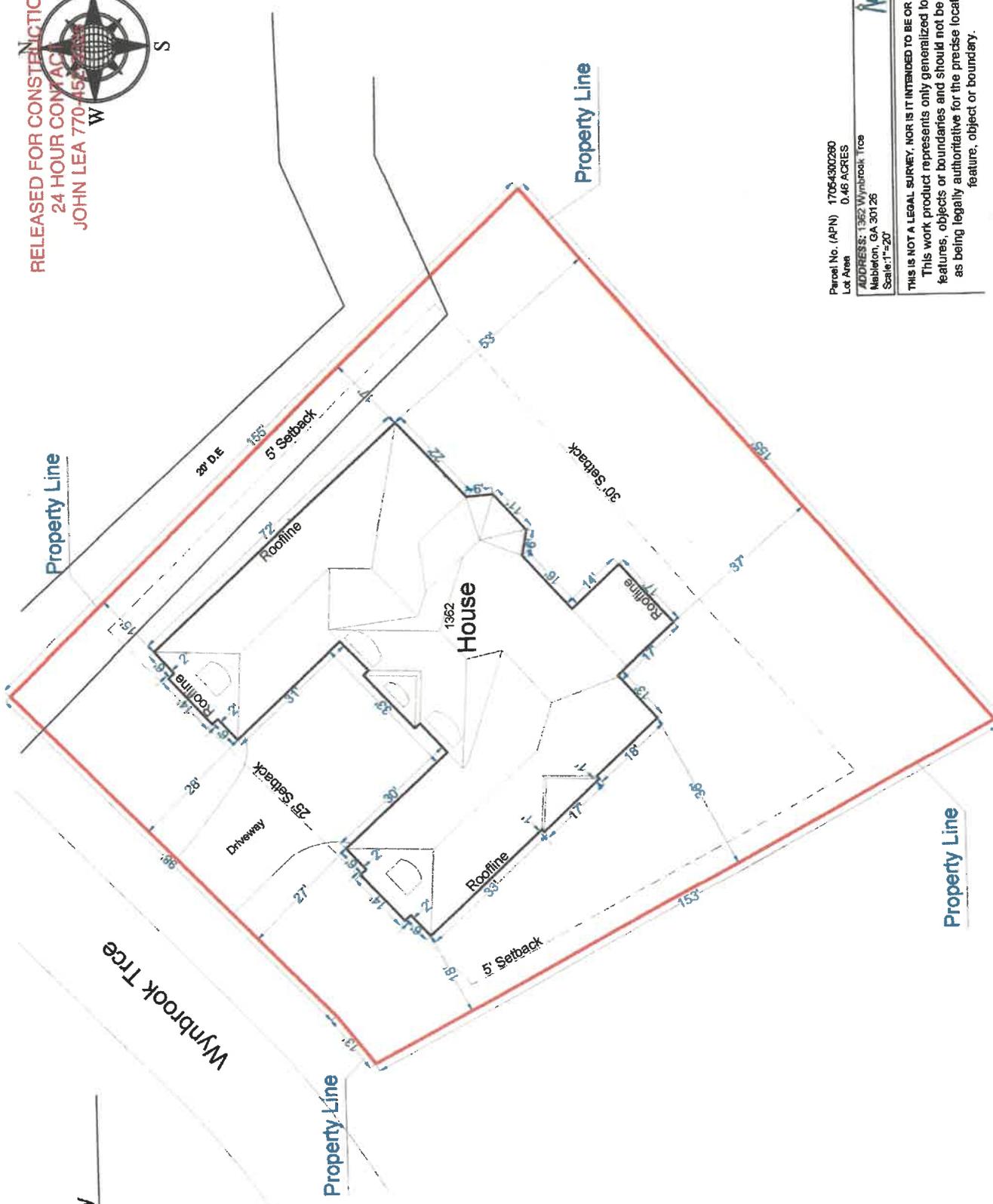


Scan this code with your
mobile phone to view this
bill

RELEASED FOR CONSTRUCTION
24 HOUR CONTACT
JOHN LEA 770-452-2255



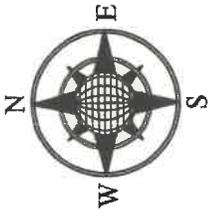
Existing Survey
1" = 20'



Parcel No. (APN) 17054300280
Lot Area 0.46 ACRES
ADDRESS: 1362 Wynbrook Trce
Mableton, GA 30126
Scale: 1"=20'



THIS IS NOT A LEGAL SURVEY, NOR IS IT INTENDED TO BE OR REPLACE OF
This work product represents only generalized locations of
features, objects or boundaries and should not be relied upon
as being legally authoritative for the precise location of any
feature, object or boundary.



Property Line

Property Line

Property Line

TREES ON PROPERTY & TREE CHART

1" = 20'



Wynbrook Trce

Driveway

House

TREE CHART

- | | | |
|-----|-----|-----------------|
| 1. | 10" | HOLLY |
| 2. | 6" | HOLLY |
| 3. | 6" | HOLLY |
| 4. | 7" | LEYLAND CYPRESS |
| 5. | 8" | LEYLAND CYPRESS |
| 6. | 8" | LEYLAND CYPRESS |
| 7. | 8" | LEYLAND CYPRESS |
| 8. | 8" | LEYLAND CYPRESS |
| 9. | 8" | LEYLAND CYPRESS |
| 10. | 16" | H/W |
| 11. | 8" | LEYLAND CYPRESS |
| 12. | 8" | LEYLAND CYPRESS |
| 13. | 8" | LEYLAND CYPRESS |
| 14. | 8" | LEYLAND CYPRESS |

Parcel No. (APN) 17054300260
 Lot Area 0.46 ACRES
 ADDRESS: 1362 Wynbrook Trce
 Mableton, GA 30126
 Scale: 1" = 20'



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 features, objects or boundaries and should not be relied upon
 as being legally authoritative for the precise location of any
 feature, object or boundary.

RENDERING W/ 75' BUFFER VARIANCE REQUEST

