



Michael L. Thurmond
Chief Executive Officer

DeKalb County Zoning Board of Appeals
Department of Planning & Sustainability
178 Sams Street
Decatur, GA 30030

Wednesday, October 12, 2022, at 1:00 PM

Planning Department Staff Analysis



Andrew Baker, AICP
Director

D1 Case No: A-22- 1245785 Parcel ID(s): 15-125-08-012

Commission District 03 Super District 07

Applicant: Anthony Rainwright
3797 Rainover Drive
Decatur, GA 30034

Owner: Anthony Rainwright
3797 Rainover Drive
Decatur, GA 30034

Project Name: 3797 Rainover Drive- Addition

Location: The property has approximately 116 feet of street frontage and is located on the south side of Rainover Drive, approximately 90-feet west of the intersection with Raindrop Court, at 3797 Rainover Drive, Decatur, GA 30034.

Request: Variance from Section 27.2 to reduce the rear yard setback within an RSM (Small Lot Residential Mix) zoning district from 20-feet to 0-feet to allow an addition to remain as constructed on the property.

Staff Recommendation: Denial.

The application was deferred at the June 8, 2022 meeting to allow the applicant time to update their plans based on Board feedback. Staff has not received any updates as of October 4, 2022.

STAFF FINDINGS:

Variance Analysis:

The applicant has applied for a building permit for an existing two-story rear addition (3106276). The zoning review was failed due to the location of the addition in the 20-foot rear yard setback. The applicant is seeking a variance to receive a permit and bring the existing addition into compliance. Applicant did not provide the measurement from the addition to the property line or the distance the deck extends into the adjacent property. The exact distance will not alter staff report or recommendation.

1. There is an extraordinary or exceptional physical condition(s) pertaining to the particular piece of property (such as, but not limited to, lot size, lot shape, specimen tree(s), steep slope(s), or preservation of historic characteristics of the property), which was not created by the current owner, previous owner, or applicant; by reason of a clearly demonstrable condition(s), the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district, as distinguished from a special privilege or convenience sought by the property owner.

The strict application of the requirements of this chapter may not deprive the property owner of rights and privileges enjoyed by other property owners. The subject property is located within the RSM (Small Lot Residential Mix) zoning district. This district requires a minimum of 5,000 square feet of lot area and a minimum width of 50-feet. The lot is more than 100 feet wide and has 12,494 square feet of area, it is larger than required by the zoning district. The applicant did not include site-specific hardships in the letter of intent. Although there is topographic change on the site, there do not appear to be extraordinary or exceptional physical conditions pertaining to this property.

2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located:

The requested variance may go beyond the minimum necessary to afford relief and may constitute a grant of special privilege inconsistent with the limitations upon other properties in RSM Zoning District. Given [the setbacks](#) and lot coverage allowances for single-family detached homes at this location within RSM, it appears an addition of similar size could be built within the setbacks on this property on the western side of the existing building.

3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located:

Granting the variance may be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district. The deck on the addition extends over the property line and the structure was completed without a permit, precluding any inspections during the construction process.

4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship:

Strict application of the provisions and requirements of this chapter may not cause an undue and unnecessary hardship. There appear to be other location on the property to locate an addition that would be within the required setbacks.

5. The requested variance would be consistent with the spirit and purpose of this Chapter and the DeKalb County Comprehensive Plan Text:

The future land use designation of this property is Suburban (SUB). The intent of the Suburban character area is to “recognize those areas of the county that have developed in traditional suburban land use patterns while encouraging new development to have increased connectivity and accessibility. These areas include those developed (built out) and those under development pressures. These areas are characterized by low pedestrian orientation, limited transit access, scattered civic buildings and curvilinear street patterns.” Approving the requested variance may undermine with this intent.

FINAL STAFF ANALYSIS:

While there are topographic issues on the lot, it appears there may be space in the side yard where an addition could be located and the strict application of the requirements of this chapter may not deprive the property owner of rights and privileges enjoyed by other property owners. In addition, the request may go beyond the minimum necessary and may be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district because the addition, as constructed, extends into an adjacent property.



RECEIVED
By Rachel Bragg at 3:20 pm, May 02, 2022

DeKalb County Department of Planning & Sustainability

Hon. Michael Thurmond
Chief Executive Officer

Andrew Baker, AICP,
Director

**ZONING BOARD OF APPEALS APPLICATION FOR PUBLIC HEARING
(VARIANCES, SPECIAL EXCEPTIONS, APPEALS OF ADMINISTRATIVE DECISIONS)**

BOA No. _____

Applicant and/or
Authorized Representative Anthony Rainwright

Mailing Address: 3797 Rainover Drive

City/State/Zip Code: Decatur, GA 30034

Email: awainwright1@gmail.com

Telephone Home: 404-797-3283 Business: _____

OWNER OF RECORD OF SUBJECT PROPERTY

Owner: Anthony Rainwright

Address (Mailing): 3797 Rainover Drive, Decatur, GA 30034

Email: awainwright1@gmail.com

Telephone Home: 404-797-3283 Business: _____

ADDRESS/LOCATION OF SUBJECT PROPERTY

Address: 3797 Rainover Drive City: Decatur, GA 30034 State: Georgia Zip: 30034

District(s): 15 Land Lot(s): 125 Block: _____ Parcel: 15 125 08 012

Zoning Classification: RSM Commission District & Super District: 3/7

CIRCLE TYPE OF HEARING REQUESTED:

- VARIANCE** (From Development Standards causing undue hardship upon owners of property.)
- SPECIAL EXCEPTIONS** (To reduce or waive off-street parking or loading space requirements.)
- OFFICIAL APPEAL OF ADMINISTRATIVE DECISIONS.**

*** PLEASE REVIEW THE FILING GUIDELINES ON PAGE 4. FAILURE TO FOLLOW GUIDELINES MAY RESULT IN SCHEDULING DELAYS. ***

TO BE COMPLETED BY PLANNING AND SUSTAINABILITY DEPARTMENT:

Date Received: _____

Fee Paid: _____



DeKalb County Department of Planning & Sustainability

Hon. Michael Thurmond
Chief Executive Officer

Andrew Baker, AICP,
Director

ZONING BOARD OF APPEALS APPLICATION FOR PUBLIC HEARING
(VARIANCES, SPECIAL EXCEPTIONS, APPEALS OF ADMINISTRATIVE DECISIONS)

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- VARIANCE (From Development Standards causing undue hardship upon owners of property.)
SPECIAL EXCEPTIONS (To reduce or waive off-street parking or loading space requirements.)
OFFICIAL APPEAL OF ADMINISTRATIVE DECISIONS.

* PLEASE REVIEW THE FILING GUIDELINES ON PAGE 4. FAILURE TO FOLLOW GUIDELINES MAY RESULT IN SCHEDULING DELAYS.*

TO BE COMPLETED BY PLANNING AND SUSTAINABILITY DEPARTMENT:

Date Received: _____ Fee Paid: _____



DeKalb County
GEORGIA

ZONING BOARD OF APPEALS APPLICATION

AUTHORIZATION TO REPRESENT THE PROPERTY OWNER

I hereby authorize the staff and members of the Zoning Board of Appeals to inspect the premises of the Subject Property

I hereby certify that the information provided in the application is true and correct.

I hereby certify that I am the owner of the property and that I authorize the applicant/agent to apply for a hearing to the Zoning Board of Appeals for the requests as shown in this application.

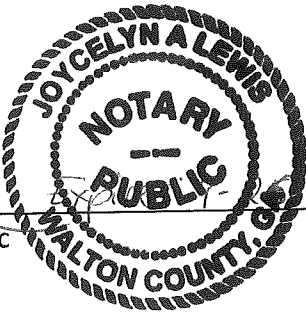
DATE: 5/5/2022

Applicant/Agent: [Signature]
Signature

TO WHOM IT MAY CONCERN:

(I)/ (WE) Anthony Wainwright
(Name of Owners)

being (owner/owners) of the property described below or attached hereby delegate authority to:

[Signature]
Notary Public


Anthony Wainwright
Owner

Notary Public

Owner

Notary Public

Owner



ZONING BOARD OF APPEALS APPLICATION

AUTHORIZATION OF THE PROPERTY OWNER

I hereby authorize the staff and members of the Zoning Board of Appeals
To inspect the premises of the Subject Property

I hereby certify that the information provided in the application is true and correct.

I hereby certify that I am the owner of the property subject to the application.

DATE:

4/18/2022

Applicant:
Signature

[Handwritten Signature]

DATE: _____

Applicant:
Signature

May 5, 2022

Dear DeKalb Board of Zoning Appeals:

I would like to request approval of the subject variance to allow the existing structure to remain as constructed. The current improvements encroach on the side and rear yards as well as the designated flood plain. These improvements were made during the 2022 and 2021 Pandemic when access to a lot of government officials were limited. Due to the lack of adequate communication and advisement. The work began before the actual permit was issued. The permit was submitted but was lost during the County's Planning Department relocation. Please find attached the site plan that show where the encroachments fall.

Should there be any additional information needed, please feel free to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony Wainwright", with a stylized flourish at the end.

Anthony Wainwright

© Copyright 2019
WLB ASSOCIATES, INC.
These drawings and their reproductions are the property of the surveyor and may not be reproduced, or used in any way without the written permission of this surveyor.

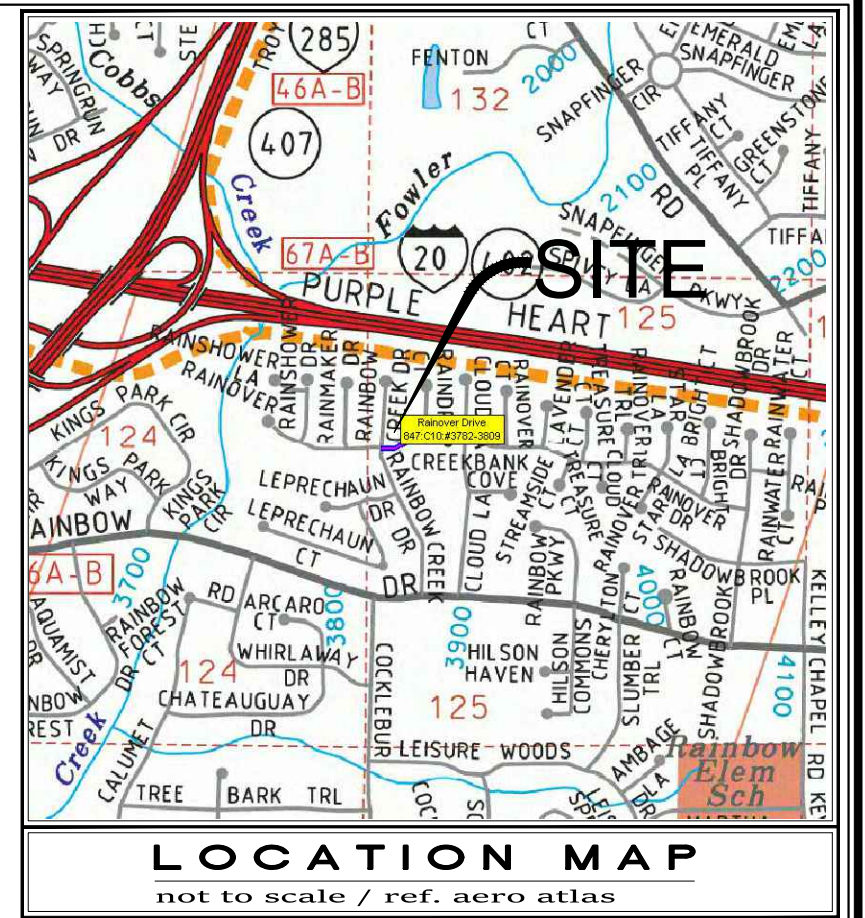
This plat was prepared for the exclusive use of the person, persons, or entity named in the title block. Said use does not extend to any unnamed person without express permission by the surveyor naming said person.

Zoning:

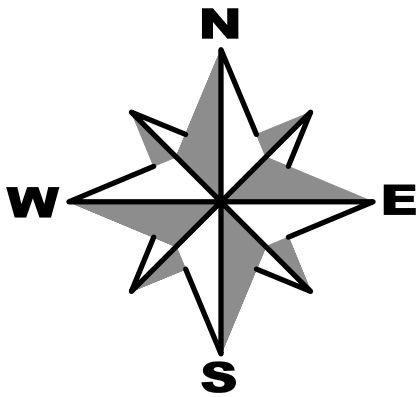
RSM/R-CH
CZ-82018
Front Yard: 30'
Side Yard: 0'
Rear Yard: NONE

24HR CONTACT:
WILLIE BRITAIN
3797 RAINOVER DR
DECATUR, GA 30034
(404)402-7450

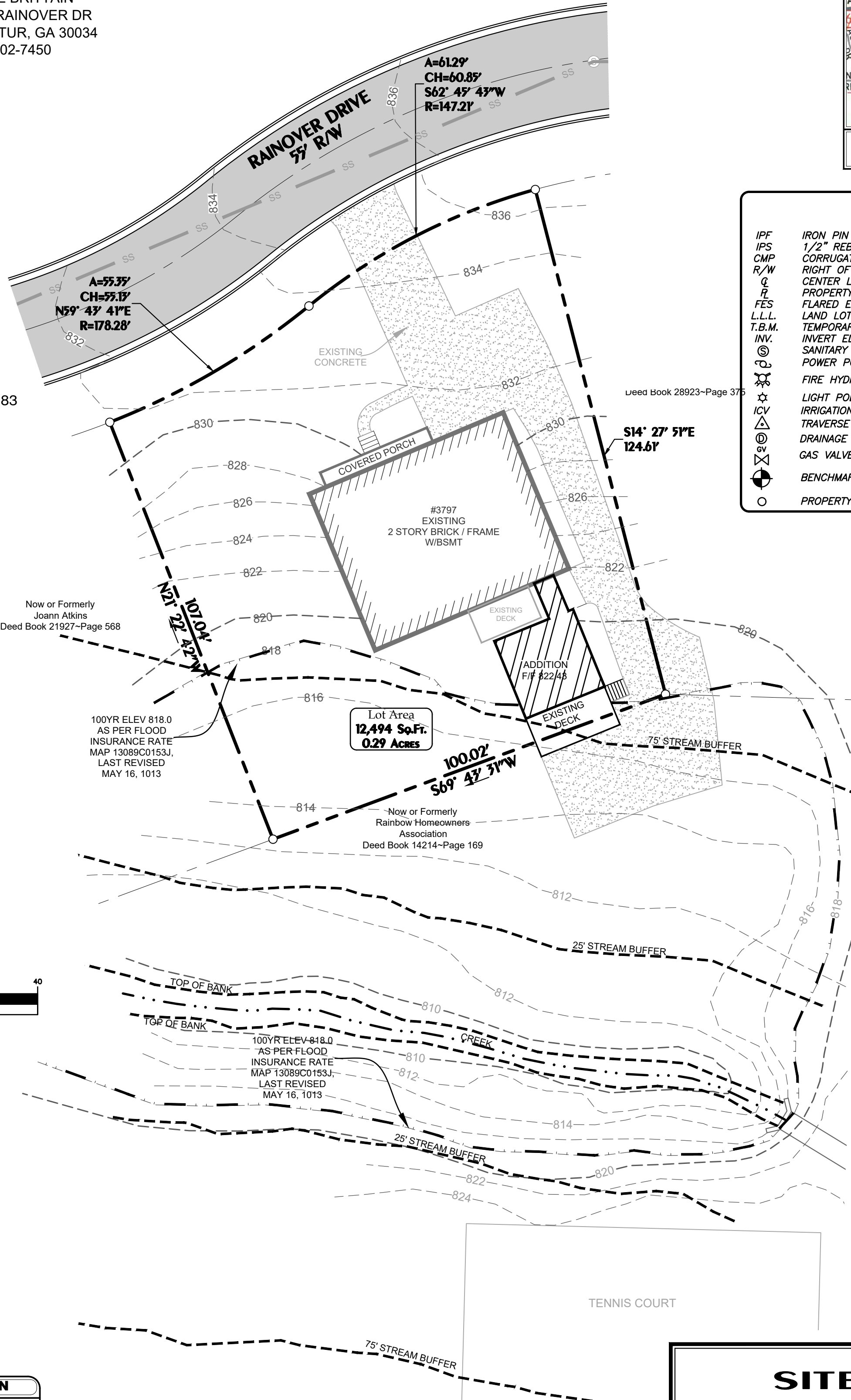
Utilities:
Information regarding the reputed presence, size, character and location of existing underground utilities and structures is shown hereon. There is no certainty of the accuracy of this information and it shall be considered in that light by those using this drawing. The location and arrangement of underground utilities and structures shown hereon may be inaccurate and utilities and structures not shown may be encountered. The owner, his employees, his consultants and his contractors or anyone else who relies upon this survey shall hereby expressly understand that the surveyor is not responsible for the correctness or sufficiency of this information.



GRID NORTH



GEORGIA WEST ZONE - NAD 83



LEGEND

IPF	IRON PIN FOUND	— X — X	PROPERTY LINE
IPS	1/2" REBAR SET	— T —	FENCE
CMP	CORRUGATED METAL PIPE	— G —	TELEPHONE LINE
R/W	RIGHT OF WAY	— W —	GAS LINE
CL	CENTER LINE	— SS —	WATER LINE
FL	FLARED END SECTION	— P —	SANITARY SEWER LINE
FES	FLARED END SECTION	— O —	POWER LINE
L.L.L.	LAND LOT LINE	— C —	OPEN TOP PIPE
T.B.M.	TEMPORARY BENCHMARK	— RB —	CRIMP TOP PIPE
INV.	INVERT ELEVATION	— Y.I. —	REBAR
SM	SANITARY SEWER MANHOLE	— D.I. —	YARD INLET
PP	POWER POLE	— S.M.H. —	DRAIN INLET
PH	FIRE HYDRANT	— CO —	SAN. SEWER MANHOLE
LP	LIGHT POLE	— W.M. —	CLEANOUT
ICV	IRRIGATION CONTROL VALVE	— GW —	WATER METER
TP	TEMPORARY BENCHMARK	— AC —	WATER VALVE
DM	DRAINAGE MANHOLE	— N/F —	GUY WIRE
GV	GAS VALVE	— PT —	AIR CONDITIONER
B	BENCHMARK	— RRT —	NOW OR FORMERLY
PC	PROPERTY CORNER		PERC. TEST (BOREHOLE)
			4x4 TRANSFORMER
			RAIL ROAD TIE WALL

LOT COVERAGE:

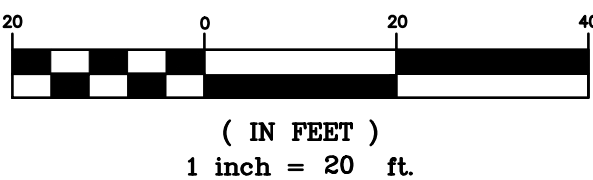
WALKWAY/DRIVE	2162 sq.ft.
PORCH	102 sq.ft.
HOUSE	1985 sq.ft.
EX-DECK	127 sq.ft.
ADDITION	438 sq.ft.
NEW DECK	124 sq.ft.
TOTAL	4938 sq.ft.

$\frac{4938}{12,494} = 39.5\%$

SURVEY NOTES:

1. THE FIELD DATA FOR THIS SURVEY WAS OBTAINED WITH A LEICA TOTAL STATION 12 AND A 100 FOOT TAPE.
2. THE FIELD DATA UPON WHICH THIS SURVEY IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 47,638 FEET AND AN ANGULAR ERROR OF 2 SECONDS PER ANGLE POINT AND WAS ADJUSTED USING COMPASS RULE.
3. THIS PLAT OR MAP HAS BEEN CALCULATED FOR CLOSURE AND HAVE A CLOSURE PRECISION RATIO OF 1:93,617
4. A PORTION OF THE PROPERTY DEPICTED HEREON DOES LIE WITHIN A FLOOD HAZARD AREA ACCORDING TO THE FLOOD INSURANCE RATE MAP.
5. UNDERGROUND UTILITIES AS SHOWN BY THIS SURVEY ARE APPROXIMATE AND SHOULD BE FIELD VERIFY PRIOR TO ANY CONSTRUCTION.
6. THE SURVEY SHOWN HEREON WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE; THEREFORE, THE UNDERSIGNED AND THIS FIRM MAKES NO GUARANTEES OR REPRESENTATIONS REGARDING INFORMATION SHOWN HEREON PERTAINING TO EASEMENTS, RIGHT-OF-WAYS, SETBACK LINES, AGREEMENTS, RESERVATIONS AND OTHER SIMILAR MATTERS.
7. THIS PLAT IS FOR THE BENEFIT OF THE PARTIES IN THE TITLE BLOCK. ANY USE BY THIRD PARTIES IS AT THEIR OWN RISK. THIS FIRM WILL NOT ACCEPT ANY RESPONSIBILITY OF LIABILITY FOR THE USE OF THIS SURVEY BY ANYONE OTHER THAN THE PERSON(S) NAMED IN THE TITLE BLOCK.

GRAPHIC SCALE



SURVEYORS CERTIFICATION

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.

"Flood Hazard Statement"

By graphic plotting only, A portion of the property shown on this plat does lie within a 100yr Flood Plain according to the flood insurance rate map (FIRM) map number **13089C0153J**. Last revised **May 16, 2013**.



Know what's below.
Call before you dig.

SITE PLAN OF:

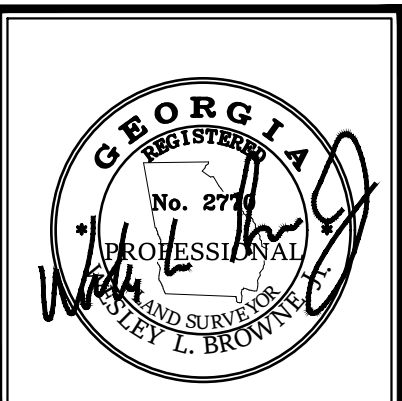
3797 Rainover Drive

FOR:

ANTHONY WAINWRIGHT

SHEET

1 of 1

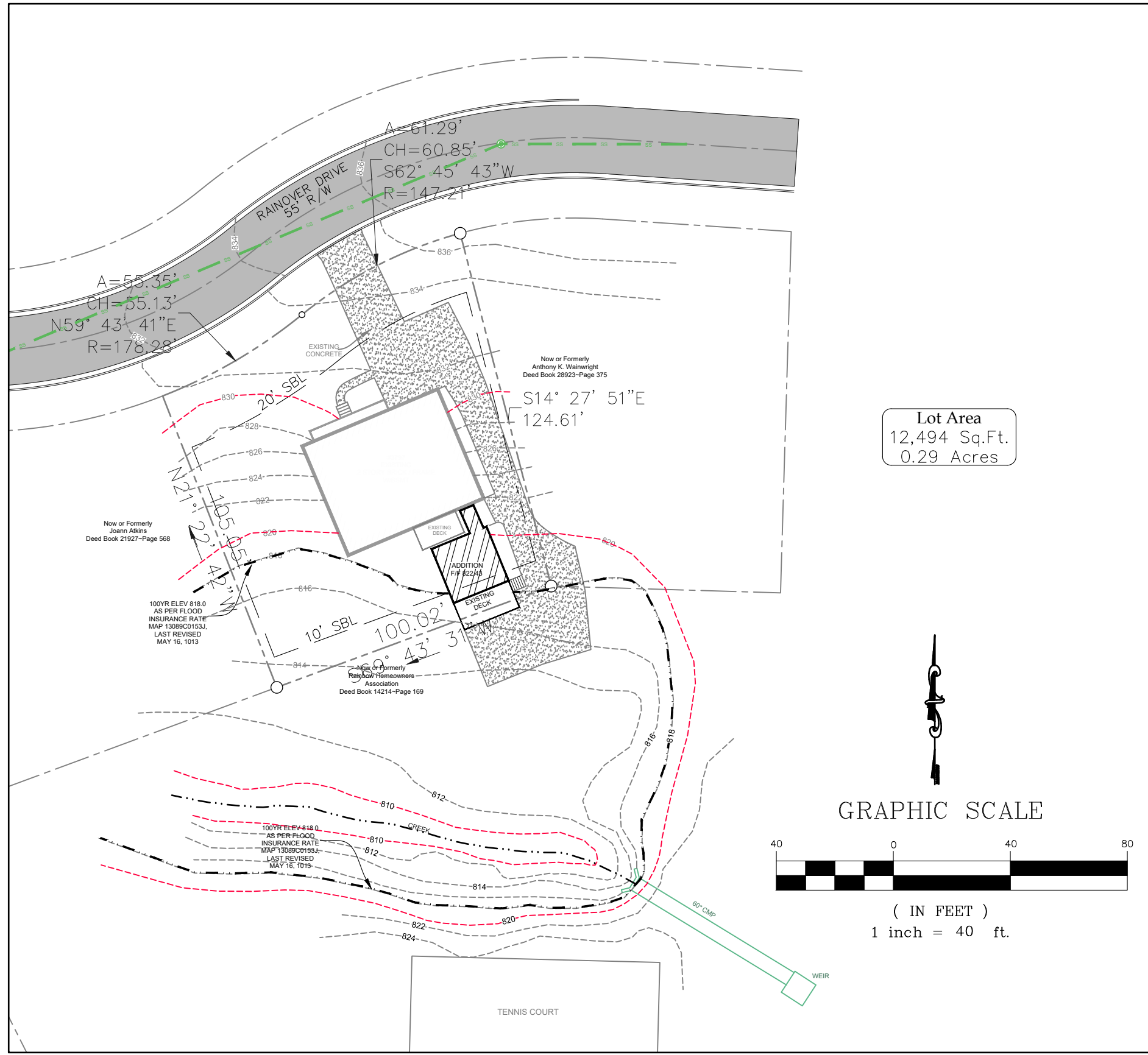


DATE	DESCRIPTION
REVISIONS	
SURVEY CREW	FIELD BK / PG L.L. DIST. SECTION COUNTY SCALE
WB, JL	201/5 125 15th N/A DEKALB 1"=20'
FIELD WORK	DRAWN BY DATE JOB No. APPROVED BY
9/28/2020	WB April 7, 2022 2020-941 WB

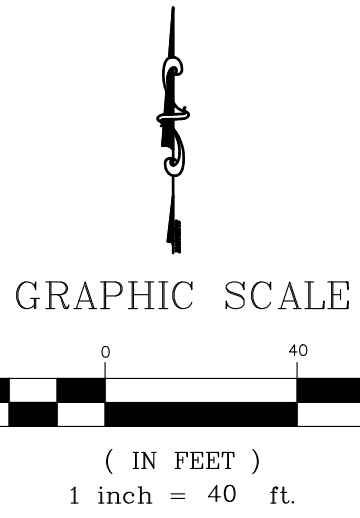
W.L.B ASSOCIATES, INC.



349 CHERYL COURT
JONESBORO, GA 30238
LAND SURVEYORS • SITE PLANNING
LAND DEVELOPMENT
Office: (678) 743-4665 Fax: (678) 298-9871
www.wlbassociates.com



Lot Area
12,494 Sq.Ft.
0.29 Acres



PROJECT INFORMATION

ZONING: RSM
 SETBACKS:
 FRONT = 20'
 SIDE = 3'
 REAR* = 20'
 MAX. LOT COVERAGE:
 LOT COVERAGE:
 *10' For detached accessory building



4/8/2022

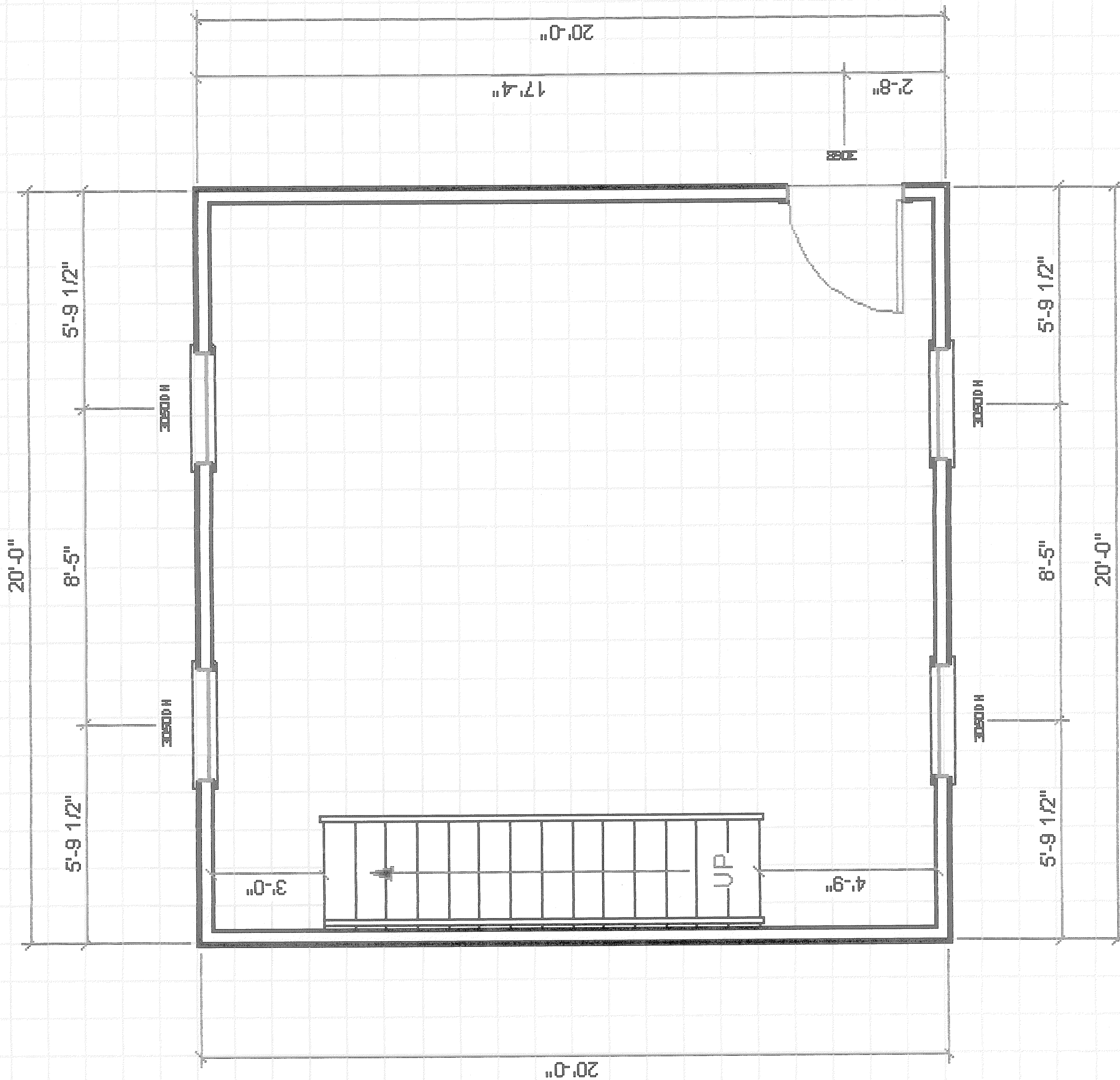
SITE PLAN

CIVITECH CONSULTING, LLC
 2302 PARKLAKE DR, N.E.
 SUITE 625
 ATLANTA, GA 30345
 ENGINEERS; PROJECT MANAGERS



FLOOD STUDY FOR
 3797 RAINOVER DRIVE
 DECATUR, GA 30034
 PARCEL ID: 15 125 08 012

SCALE	DESIGNED BY	DRAWN BY	APPROVED BY
DATE: 4/8/2022			



20'-0"

17'-4"

2'-8"

3088

5'-9 1/2"

20'-0"

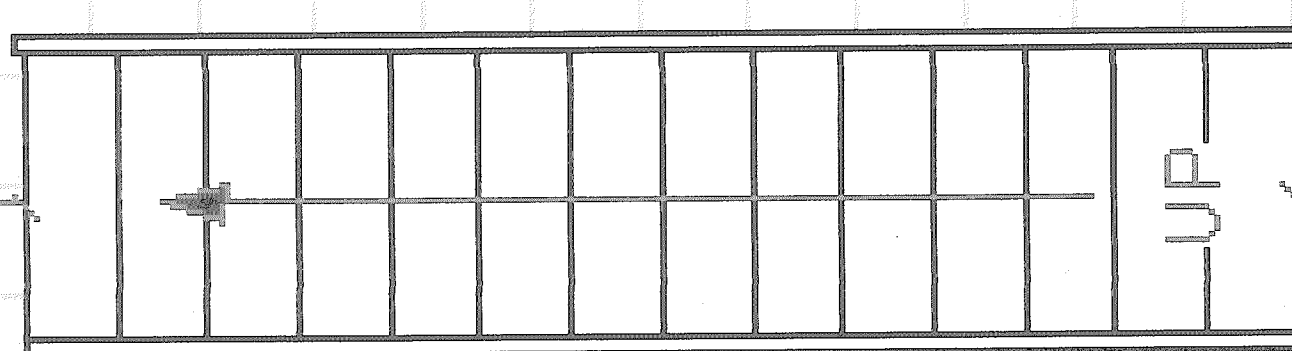
8'-5"

308500 H

308500 H

5'-9 1/2"

3'-0"



4'-9"

5'-9 1/2"

308500 H

8'-5"

308500 H

5'-9 1/2"

20'-0"

20'-0"

3797 Rainover Dr, Decatur, GA 30034



Low Risk

Current Flood Zone:	X	
*Probability of Flooding: (30-Year Period)	10% to 20%	1.2 ft
Base Flood Elevation:	Minimal	Minimal
Lowest Adj Grade:	818.3 ft	
Preliminary Flood Zone:	Not Available	Minimal
Flood Zone Change Type:	Not Available	

Location Information

Panel:	13089C0153J
Watershed:	Upper Ocmulgee
County:	DEKALB
Community ID:	13089C
Map Status:	EFFECTIVE

* Flood Depths shown on this report are derived from FEMA RiskMAP products and are rounded to the nearest tenth of a foot. These depths are calculated from HEC-RAS modeling and represent the best available data. Only areas within a RiskMAP studied watershed will have this data available. Please check back if your area is not currently available. For more information, please visit the FEMA Map Service Center at <https://msc.fema.gov/portal/resources/faq>

Nature Doesn't Read Flood Maps

Many people don't understand just how risky the floodplain can be. There is a greater than 26% chance that a non-elevated home in the SFHA will be flooded during a 30-year mortgage period.

The chance that a major fire will occur during the same period is less than 10%!

FOR MORE INFORMATION VISIT, PLEASE VISIT:



Legend with Flood Zone Designations

Flood Control Structures	1% Flood - Floodway (High Risk)	1% Flood - Zone VE (HighRisk)	Floodway Decrease
Base Flood Elevations	1% Flood - Zone AE (High Risk)	Area Not Included	Floodway Increase
Cross Sections	1% Flood - Zone A, AH, or AO (HighRisk)	Letters of Map Revision	100-Year Flood Zone Decrease
Coastal Transects	0.2% Flood - X-Shaded (Moderate Risk)	Coastal Barrier Resource Area	100-Year Flood Zone Increase
FIRM Panel Index	Area of Undertermined Flood Hazard	Limit of Moderate Wave Action	Zone Change

Disclaimer: This data is not to be used to determine any base flood elevations or flood zone designations for NFIP (National Flood Insurance Program) purposes. For NFIP flood insurance and regulation purposes, please refer to the published effective FIRM (Flood Rate Insurance Map) for your area of concern. Values displayed for Current Flood Zone, Preliminary Flood Zone, Flood Zone Change Type, and Probability of Flooding over a 30-year period based on center of dot location, not extent of structure(s).

Residential Additions Permit Guide

Three Step Process to Complete Your Residential Addition

This permit includes accessory structures, porches, decks, room additions, second story additions, garages, carports, and swimming pools



What to Know Before You Apply

- Contractor Registration:** Contractors must be licensed by the State of GA, have a GA business license, and must register with DeKalb Development Services, located on the 1st floor at 178 Sams Street Decatur, GA 30030.
- Zoning Requirements:** Do you know the zoning of the property, all the building setbacks, and the maximum impervious surface allowed? Visit the Division of Planning, located on the 3rd floor, or call **404-371-2155**
- Building Heights:** Are you in a Residential Infill Overlay District (RIOD)? To find out, visit the Division of Planning, located on the 3rd floor, or call **404-371-2155**
- Historic District:** Are you in an historic district? To find out, visit the Division of Planning, located on the 3rd floor, or call **404-371-2155**
- Proof of Ownership:** If you purchased the home in the past calendar year, and your name does not yet appear in the tax records, then you must provide a Warranty Deed or proof of ownership
- Floodplain or Flood Damage:** If a building is in the floodplain, flood damaged, or if you need to verify floodplain status, call **404-371-2012**, visit the 2nd floor, or go to www.georgiadfirm.com
- Demolition:** If you have demolished a structure on your property, have you called for a final inspection? If not, call **404-371-3010** to schedule a final inspection
- Stream Buffer:** If your proposed addition is within 75 feet of a stream, make sure your plans comply with the DeKalb County Stream Buffer Ordinance. To find out more information, call **404-371-4718** or ask for Land Development personnel on the 2nd floor
- Complete Applications:** Faster service is provided when customers submit complete applications. Knowing the information above ensures our staff will be able to provide excellent customer service

DEPARTMENT OF PLANNING & SUSTAINABILITY

STEP ONE – APPLICATION SUBMITTAL

Submit required documents, including **THREE COPIES OF YOUR SITE PLAN**, and all necessary fees to DeKalb Development Services

Required Documents

- Site Plan:** A site plan is prepared by an engineer or surveyor registered in the state of Georgia. A site plan or survey may be up to ten years old, as long as the survey reflects all current improvements on the property and changes to the flood map. The site plan should contain the location of building site, property lines, all setbacks, the location of the proposed addition, erosion control measures, tree locations, flood plain, state waters, easements, and location of dumpster and port-o-let, as applicable. *For assistance developing your site plan, see the attached checklist for Erosion and Sediment Control*
- Building Permit Application:** This form is used for a variety of permit types. Complete every section that pertains to you. If the work is a repair to an existing home, only this form is required
- Environmental Requirements for Building Permits:** This form describes job site requirements related to erosion control and tree protection. Please be sure to sign and date the form to acknowledge your understanding of the requirements
- Energy Checklist for Compliance with the 2009 International Energy Conservation Code:** The builder must complete this form to certify the use of energy saving building materials and appliances
- Tree Ordinance Exemption Form:** This form certifies that no trees will be removed during construction

Your project may also require the following documents:

- Are you a state licensed contractor?** You will need to register with DeKalb County. Please bring your state license, government-issued ID, and your valid business license. The names on all licenses must match
- Are you a specialty contractor?** You will need to bring a valid business license
- Performing the work yourself?** You will need to personally submit a *Homeowner's Affidavit* to verify that you own and occupy the property
- Applying for a permit on behalf of a contractor?** You will need to complete an *Authorized Permit Agent Form*
- Located in a historic district?** If so, you will need a *Certificate of Appropriateness* to ensure that your improvements are consistent with historic guidelines. Call **404-371-2155**, or visit the 3rd floor for more information
- Building a second story addition?** You will need an *Engineer's Letter* from a Georgia licensed engineer detailing the ability of the existing structure and foundation to support new construction. The engineer will need to perform a site inspection to evaluate your home. Additional engineering reports may be required during construction
- Building a Pool?** You will need Board of Health approval, appropriate fencing, and an electrical permit. To reach the Board of Health, call **404-508-7900**
- Finishing a basement?** You will need a sketch (to scale) of the basement that shows two manners of egress from the building
- Does your home utilize a septic tank?** The Board of Health will have to authorize any residential addition. Contact them at 404-508-7900 for more information

DEPARTMENT OF PLANNING & SUSTAINABILITY

- Repairing Fire Damage?** If you are repairing a building damaged in a fire, you will need the following:
 1. Copy of the Fire Incident Report. To obtain a copy of this fire report, you need to call 770-724-7740. The reports office is located at 1960 West Exchange Place, Room 203; Tucker, Georgia 30084
 2. An official letter showing the current tax assessed value of the fire damaged building. This letter can be secured from the DeKalb County Tax Assessors Office located at 120 West Trinity Place, Room 208 Decatur, GA 30030. Phone: 404-371-0841
 3. A letter showing the replacement cost of the damaged structure

Payment of Fees (all fees are due upon application submittal)

- DeKalb County accepts Visa, MasterCard, checks, money orders, and cashier's check. The County does not accept cash, American Express, Discover or counter checks (checks without your name printed on it). **Make checks payable to "DeKalb County"**

STEP TWO – REVIEW AND APPROVAL

- Zoning Review:** Zoning Officers will review your plans to ensure consistency with the Zoning Code. If your project is located in an Overlay District, your plans will be routed to the Planning Division, located on the 3rd floor. If your plans meet all zoning and overlay regulations, your plans will be routed to the Land Development Department, located on the 2nd floor
- Land Development Review:** The engineering staff at the Development Review Counter, located on the 2nd floor, will review your plan for buffers, floodplain, and other civil engineering issues
- Permit Approval:** When your permit is **APPROVED**, you can retrieve it at the DeKalb Development Services intake counter, located on the 2nd floor. If your plans are **NOT APPROVED**, make corrections and resubmit, with the redlined plans, to DeKalb Development Services

STEP THREE – INSPECTIONS AND CO

- POST YOUR PERMIT:** in a box, on-site and visible. If your permit or approved plan is not posted in the box, your inspection will not proceed. **If during construction you deviate from your original plans, you must apply for a Permit Revision, which requires plan sets, fees, and the process described above**
- Install your erosion control devices according to Best Management Practices (BMP's), as outlined in the Manual for Erosion and Sedimentation Control in Georgia
- Schedule BMP inspection prior to further land disturbance activity through the Inspection Request Line at **404-371-3010**
- After you have completed construction, schedule your required building inspections through the Inspection Request Line at **404-371-3010**
- Certificate of Occupancy (CO):** Bring your permit card to DeKalb Development Services with all required inspections signed and approved to receive your Certificate of Occupancy (CO) or Certificate of Completion (CC)

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

BUILDING PERMIT APPLICATION

Date: 04/02/2022

Shaded area for office use Building Permit Number	Check Applicable Type:		
	<input type="checkbox"/> Non-Residential	<input checked="" type="checkbox"/> Residential	<input type="checkbox"/> Apartment
<input type="checkbox"/> Condo Stack Flats <input type="checkbox"/> Condo Townhouse <input type="checkbox"/> Townhouse Fee Simple			

PROJECT NAME / TENANT NAME / SUBDIVISION NAME Anthony Wainwright / Rainbow Creek Submdivision	LDP NUMBER	NUMBER OF UNITS 1
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PROJECT ADDRESS 3797 Rainover Dr		City Decatur	State Ga	Zip 30034
Building #	Floor #	Apt #	Suite #	Lot #

PROPERTY OWNER'S NAME Anthony Wainwright		
Address 3797 Rainover Drive Decatur, Ga 30034		
Phone 404-797-3283	Mobile 404-797-3283	Fax
Email awainwright1@gmail.com		

APPLICANT	<input checked="" type="checkbox"/> Property Owner	<input type="checkbox"/> Tenant Leasing Commercial Space	<input type="checkbox"/> Contractor	<input type="checkbox"/> Authorized Agent	<input type="checkbox"/> Architect/Engineer
Applicant's Name Anthony Wainwright					
Company Name Southern Premier Developers					
Address 3797 Rainover Dr Decatur, Ga 30034					
Phone 404-797-3283	Mobile 404-797-3283	Fax			
Email awainwright1@gmail.com					

CONTRACTOR	<input type="checkbox"/> Property Owner	<input type="checkbox"/> To Be Determined	<input checked="" type="checkbox"/> State of Ga Licensed Contractor	<input type="checkbox"/> Specialty Contractor
Contractor's Name Willie Brittian				
Company Name Brittian Construction Company				
Address 2050 Enon Rd Atlanta, Ga 30331				
Phone 404-402-7450	Mobile 404-402-7450	Fax		
Email awainwright1@gmail.com			Business License Number 2022010071	
Individual / Authorized Agent's State License # Willie Brittian / RBI000615			Company's State License # RBI000615	

Type of Work: <input type="checkbox"/> New <input checked="" type="checkbox"/> Addition <input type="checkbox"/> Alteration <input type="checkbox"/> Repair <input type="checkbox"/> Fire Damage <input type="checkbox"/> Demo <input type="checkbox"/> Exterior Work <input type="checkbox"/> Driveway <input type="checkbox"/> Other		Estimated Cost \$ 35000
Please provide a full description of work: To add an detached workshop to the rear of the currenty home		
Construction Type: <input checked="" type="checkbox"/> IA <input type="checkbox"/> IIA <input type="checkbox"/> IIIA <input type="checkbox"/> IB <input type="checkbox"/> IIB <input type="checkbox"/> IIIB <input type="checkbox"/> IV <input type="checkbox"/> VA <input type="checkbox"/> VB		Occupancy Classification: workshop

Total Square Footage Include only areas pertaining to this scope of work. This should be a combined total of all of the items below (if applicable). 840			
Finished Floor Area Primary Structure 420 Finished Basement N/A	Unfinished Area Attic 0 Basement N/A	Garage 0 Detached garages require separate permits	Outdoor Areas Deck _____ Porch _____ Patio _____

Indicate additional permits required to complete this job <input checked="" type="checkbox"/> Mechanical <input type="checkbox"/> Electrical / Low Voltage <input type="checkbox"/> Plumbing <input type="checkbox"/> Other <input type="checkbox"/> None	Is there a sprinkler system? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Sanitary Facilities <input type="checkbox"/> Septic <input checked="" type="checkbox"/> Sewer	Elevators <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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# of Stories 2	# Total Rooms 2	# Bathrooms/Restrooms 1	# Kitchens	# Bedrooms
Exterior Finish Materials siding		Roofing Materials shingles		

Setbacks: Front _____ Rear _____ Left _____ Right _____	Impervious Area (Square Feet) _____	Lot Size: _____ Easement: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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THIS SECTION IS FOR NON RESIDENTIAL APPLICANTS ONLY

ADULT ENTERTAINMENT ESTABLISHMENT means a business or establishment where persons, employees, or patrons appear nude or in such attire, costume or clothing as to expose specified anatomical areas or engage in specified sexual activities, including, but not limited to, adult bookstores, adult businesses, adult motion picture theaters; adult mini-motion picture theaters, adult motion picture arcades; adult video stores, erotic entertainment/dance establishments; escort bureaus, introduction services. "Adult entertainment establishment" shall not include a traditional or mainstream establishment, which means a theater, movie theater, concert hall, museum, educational institution, or similar establishment which regularly features live or other performances or showing which are not distinguished or characterized by an emphasis on the depiction, display, or description or featuring is incidental to the primary purpose of any performance.

Is this business an adult establishment as defined above by the DeKalb County Code, or does it offer any form of adult entertainment?

Yes No

****Note: Only the Property Owner, Architect, Engineer, or General Contractor should sign this application. EXCEPTION: If a tenant is apply to move into a commercial space, the tenant may sign. Authorized Agents may also sign, when an Authorized Permit Agent Form is completed on behalf of a State of Georgia licensed contractor. Before signing, please carefully read the statements below.**

I, Anthony Wainwright, do solemnly swear that the information on this application is true, and that no false or misleading **Print Name**

statement is submitted herein to obtain a Building Permit or Certificate of Occupancy. I understand that if I provide false or misleading information in this application I may be subject to criminal prosecution and/or immediate revocation of any Building Permit or Certificate of Occupancy issued as a result of this application. I understand that I must comply with all County ordinances and regulations. I hereby agree to provide any clearance(s) and/or inspection report(s) required prior to the issuance of a Permit or Certificate of Occupancy.

I further agree that I shall be responsible from the date of this permit, or from the time of the beginning of the first work, whichever shall be earlier, for all injury or damage of any kind resulting from this work, whether from basic services or additional services, to persons or property. I agree to exonerate, indemnify and save harmless the County from and against all claims or actions, and all expenses incidental to the defense of any such claims, litigation, and actions, based upon or arising out of damage or injury (including death) to persons or property caused by or sustained in connection with any work performed under the Building Permit issued as a result of this application.

Signature 

Total Minimum Fees \$245 (\$195 Minimum Permit Fee; \$50 Certificate of Occupancy or Certificate of Completion). Some commercial projects require Fire Review & Inspection Fees (\$100 Fire Life Safety Review; \$100 Fire Site Review; \$100 Fire Inspection). Please note that additional fees may apply depending on the type of permit being submitted. Please contact us at (404) 371-2155 for the calculation of fees or refer to our fee schedule located at www.dekalbcountyga.gov/planning-and-sustainability/planning-sustainability

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

ENVIRONMENTAL REQUIREMENTS FOR BUILDING PERMITS

The following environmental measures must be in place before permits will be issued.

1. Erosion control measures shall be adequate to protect saved trees on site, state waters, intermediate regional floodplain, drainage systems, required buffers, and adjacent properties, including county or state right-of-ways. ALL EROSION CONTROL MEASURES ARE TO BE INSTALLED AND MAINTAINED AT ALL TIMES UNTIL FINAL LANDSCAPING.
2. All required buffers and floodplains shall be clearly demarcated using sediment barriers and/or tree protection fencing. All state waters, buffers, and floodplains shall have a double row of type "C" silt fence along entire limits.
3. Tree protection fencing will be installed prior to any land disturbing activities, and maintained until final landscaping. No parking, storage, or other construction activities to occur within tree protection areas. Removal or damaged trees designated as save will result in a court summons and will require recompense with 4 inch caliper trees (number to be determined per incident).
4. Tree protection fence will be installed in such a way to adequately protect the critical root zone of all saved trees. Critical root zone means an area of root space that is within a circle circumscribed around the trunk of a healthy tree using a radius of one (1) foot per once (1) of a DBH. Exceptions to strict adherence may be made with prior approval from Environmental Plans Review & Inspections.
5. Prior issuance of the Certificate of Occupancy (CO), all disturbed areas will have a minimum of 90 vegetative cover using sod or other approved landscape materials. Coverage will be determined by viewing any square yard on site.
6. Site is to comply with the requirements of the tree ordinance. Cal (4047) 371-4913 for the Environmental Development Inspector at least 72 hours prior to requesting a Certificate of Occupancy.
7. No finished grade on the lot shall exceed 3:1 slope without prior approval.
8. No trash, building debris, or construction waste will be buried inadvertently on any building site.

I acknowledge that I have received and will comply with the requirements listed above, or a court summons and/or a stop work order can be issued.

SIGNATURE  DATE 04/02/2022

PRINTED NAME Anthony Wainwright

SITE ADDRESS 3796 Rainover Dr Decatur, Ga 30034

Chief Executive Officer
Michael Thurmond

DEPARTMENT OF PLANNING & SUSTAINABILITY

Director
Andrew A. Baker, AICP

TREE ORDINANCE EXEMPTION CERTIFICATION

Section 14-39(c)(1) as adopted 2-9-99 and amended 12-14-99

Building permit # _____

Address 3797 Rainover Dr Decatur, GA 30034

Tax Parcel I.D. _____

This Tree Ordinance Exemption Certification applies only to owners of single family residences making additions to existing homes or adding accessory structures, or constructing a new house for the owner's personal residence.

I, Anthony Wainwright, the owner of the above property, hereby certify that the scope of construction as stated on this building permit will not require the removal of more than five (5) trees between the size of 8 inches in diameter at breast height (DBH) and 29 inches DBH.

I hereby certify that I have not removed more than five (5) trees between 8 inches DBH and 29 inches DBH in this calendar year. I fully understand that the removal of any trees pursuant to the above referenced building permit may require compliance with Section 14-39 of the Land Development Ordinance.

I fully understand that removal of any specimen overstory trees, 30" DBH and larger, or any specimen understory tree 10" DBH or greater is not permitted unless I have approval from the DeKalb County Arborist or the Zoning Board of Appeals. ***Sec. 14-39(g) (8) f***

Anthony Wainwright
Owner's signature

2/2/2022
Date

DEPARTMENT OF PLANNING & SUSTAINABILITY

Residential Zoning Review Checklist Addition to the Existing House

In an effort to improve our Zoning Review process and decrease the number of resubmittals in the Zoning Plans Review/Compliance Section, this checklist has been compiled. Please ensure that the information below is included on the site plan before submittal.

Please provide three (3) copies to an engineer's scale of the site plans with each house addition submittal.

- Complete the Building permit Application, Tree Form, Energy Form and Environment Form per the checklist.
- Write in the true owner (individual or entity) of the property. If the property has been sold recently, the Geographical Information Systems (G.I.S.) Department must update this information with a recorded or unrecorded deed. Staff will provide a handout with this information.

Note: Properties in an entity name would constitute having a contractor for the investment property. Moreover all investment properties require a contractor.

If you are a homeowner (i.e., own the house and live, or will live in the house), you must complete the Homeowner's Affidavit Form.
- Limited Specialty Contractors may perform certain jobs, and General Contractors are required for structural changes pursuant to State Law 43-41 implemented July 1, 2008 under the authority of the State of Georgia Secretary of State Office. General Contractors have the following designations: RBC, RBI, RBQ, RLC, RLI, RLQ, GCC, GCI or GCQ.
- N/A Basement finishes require a simple floor plan identifying the rooms (i.e., bedroom, bathroom, recreation room & etc.). Note: A section kitchen is not authorized.
- Converting an attached carport or garage to heated floor site require a review of the site per a site plan/survey to ensure the residential zoning district requirement of four (4) off-street parking spaces.
- Total square footage of the lot.*
- Actual addition to the house (size in square feet) should be entered on the Building Permit Application.

*** Note: Architectural plans are required in the field by the Building Inspectors, since the site plan/survey is only reviewed in the office.***
- A breakdown of the calculations for percentage of lot coverage (includes but not limited to buildings, driveways, decks, porches, etc.).
- Square footage of any accessory structures (existing or proposed).
- Existing easements and utilities.
- Average front setback based on adjacent lots within 75 feet of subject lot per Section 27-788(a).
- Actual height of proposed building(s).

DEPARTMENT OF PLANNING & SUSTAINABILITY

- _____ Accessory structures require a separate permit per Sections 7-30 and 27-731. Additionally, accessory structures height may not exceed 20 feet or the height of the existing principal structure, whichever is less, and shall comply with the requirements of the respective residential district.
- _____ Show the minimum lot standards required for the zoning districts in notes section.
- _____ Show sewer mains and sewer tap locations for the site. Indicate whether existing or proposed. If sewer main does not exist, please provide approval of a septic tank permit from the Health Department.
- _____ Show sidewalk locations and widths as approved on the final plat.
- _____ Note case number for any rezoning and rezoning conditions, special use or variances on the site that relate to proposed addition. Depict any conditions associated with the property on the site plan.
- _____ Indicate whether the lot is **INFILL OVERLAY** district next to the name of the Subdivision or lot number.
- _____ Architectural, Landscape Architect, Engineer (civil) and/or Land Surveyor's stamp, signature and date on the site plan along with 24-hour contact information.

*Indicates information that should be contained in the general notes section of the site plan.

For more information, you may contact the Department of Planning & Sustainability Zoning Plans Review/Compliance Section at (404) 371-4915.

CITY OF SOUTH FULTON - OCCUPATIONAL TAX CERTIFICATE

COSF Business License
5440 Fulton Industrial Blvd
Atlanta, GA 30331

License Id: 2022.01.0073 **Issued Date:** 1/28/2022
Effective Date: 01/01/2022 **Expiration Date:** 12/31/2022
License Type: New Single-Family Housing Construction (except Operative Builders)

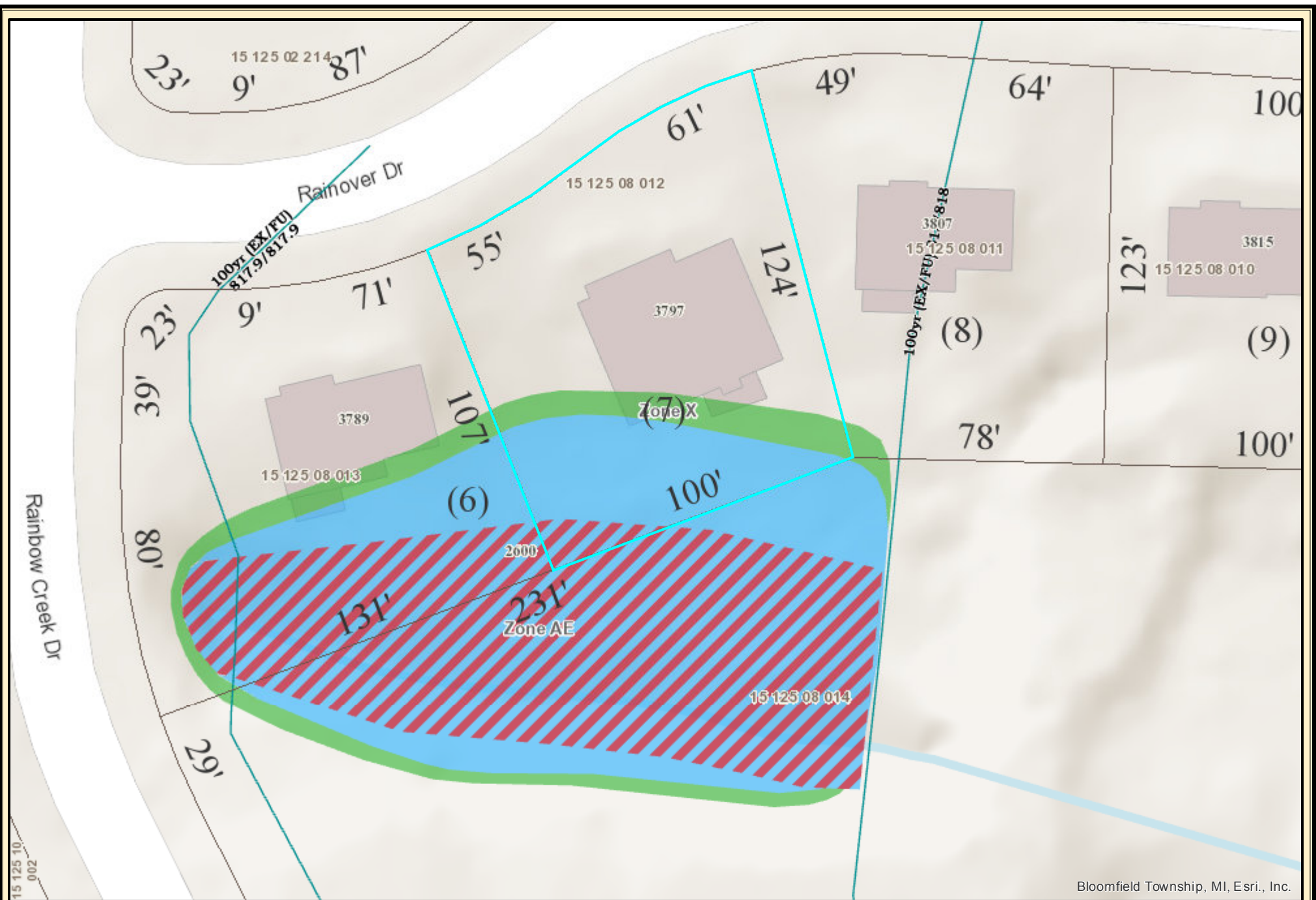


Business Name: BRITTIAN CONSTRUCTION COMPANY INC
Business Location: 2050 Enon Pines Drive SW, South Fulton, GA 30331
BRITTIAN CONSTRUCTION COMPANY
WILLIE BRITTAN
2050 ENON ROAD
ATLANTA, Georgia, 30331

2022

NON-TRANSFERABLE

TO BE PLACED IN A CONSPICUOUS PLACE



Bloomfield Township, MI, Esri., Inc.



DeKalb County Parcel Map



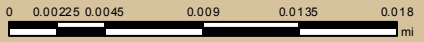
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Aerial Map - 3797 Rainover Drive

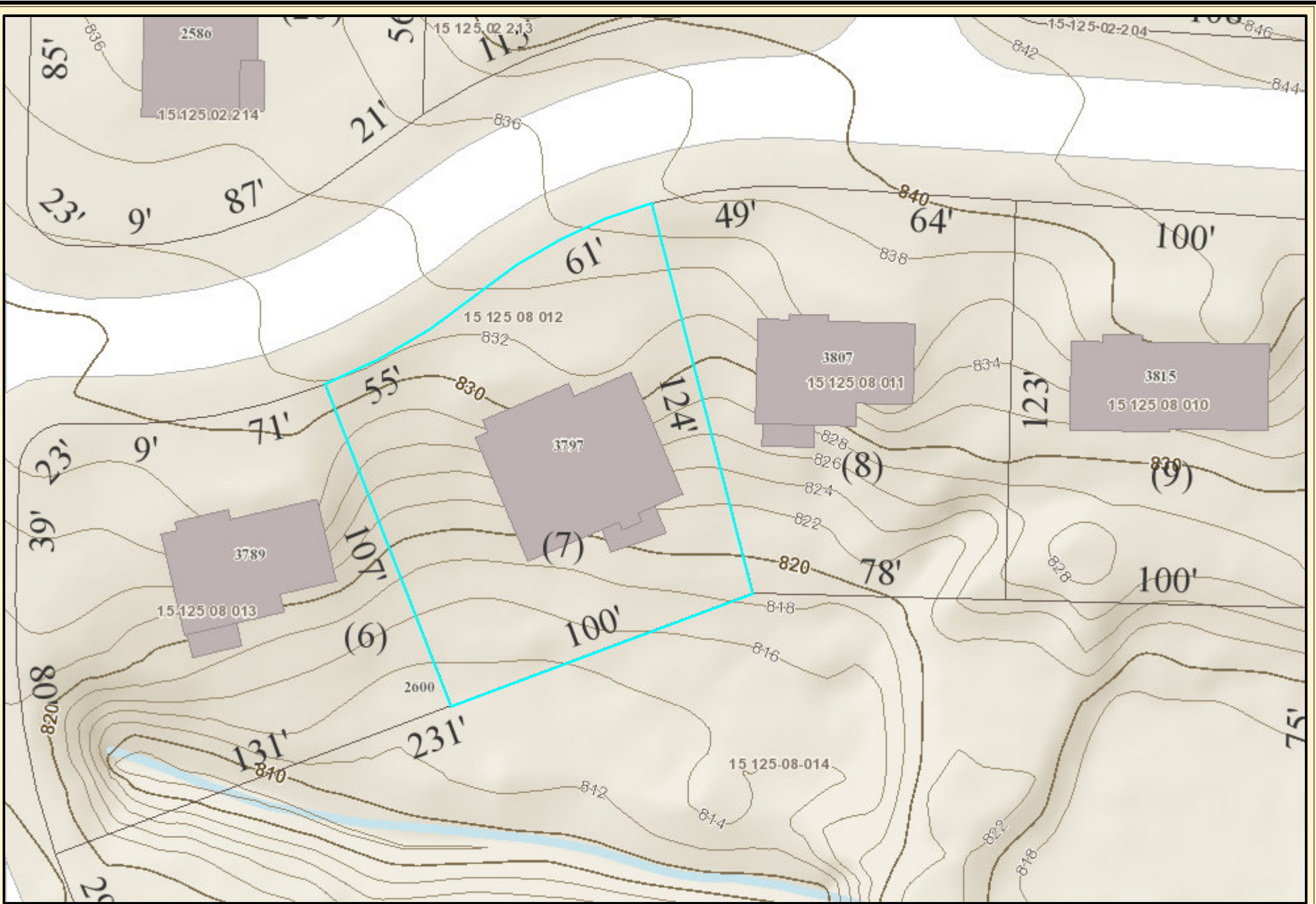


Date Printed: 5/13/2022

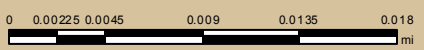


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3797 Rainover Drive

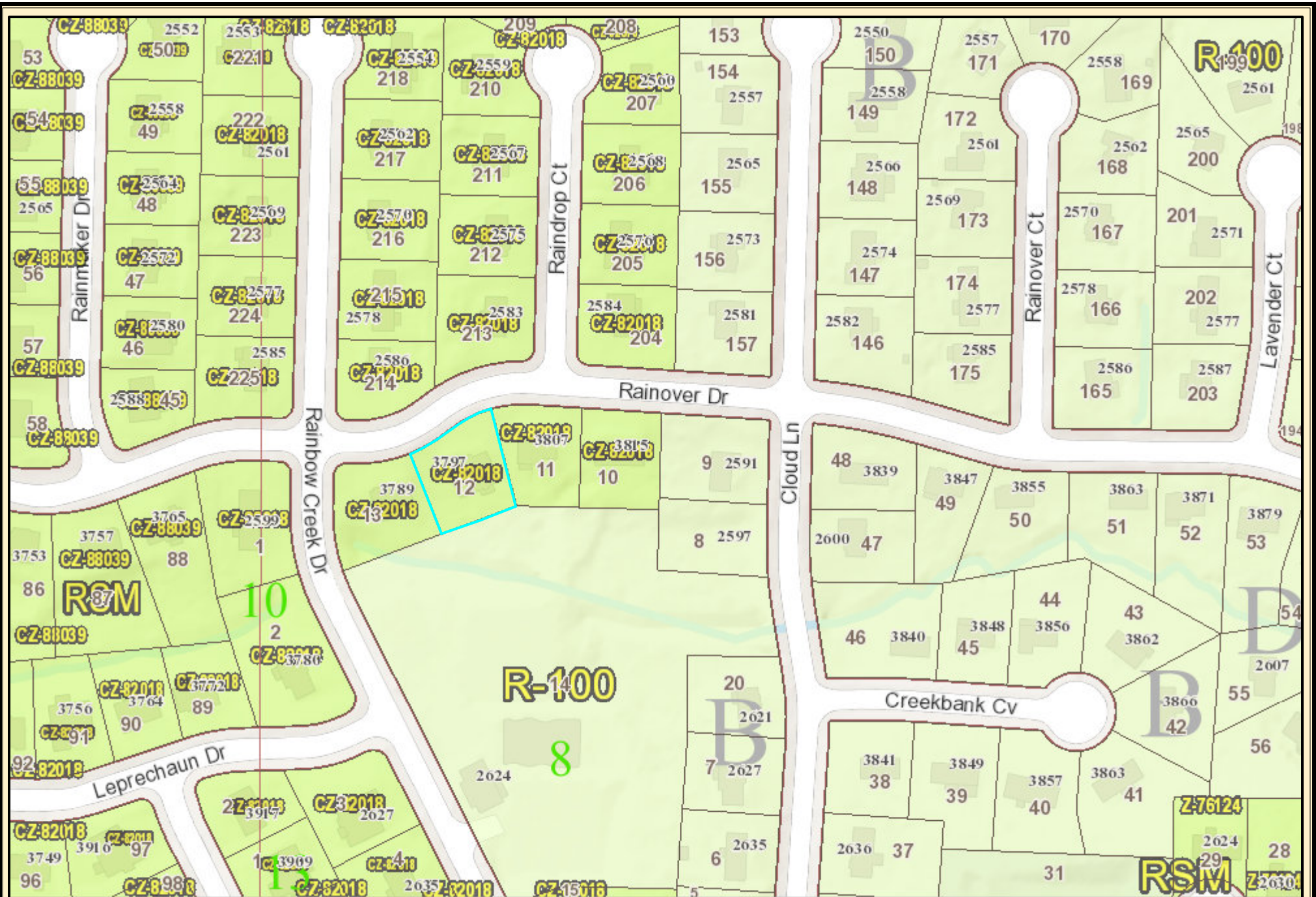


Date Printed: 5/13/2022

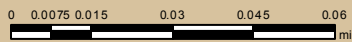


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3797 Rainover Drive



Date Printed: 5/13/2022



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April 25, 2022

Mr. Anthony Wainwright
3797 Rainover Drive
Decatur, GA 30034

Dear Anthony Wainwright:

Rainbow is an exceptional community that is a great place to raise and nurture our families. The Homeowners' Association is responsible for ensuring that each homeowner follows and adheres to the guidelines and conditions that are outlined in the Covenant, which can be located on the website. We all have a vested interest in this community. To that end, the HOA Board and the Architectural Control Committee (ACC) has found you to be in violation of the Covenant as defined and related to the provisions listed below 1.13, 5.2, 5.6, 5.7, 5.11, 6.1, 6.9, 6.11, 8.2, and 8.3. 1.13 Structure; 5.2 Purpose, Powers and Duties of the ACC; 5.6 Submission of Plans and Specifications; 5.7 Approval of Plans and Specifications; 5.11 Violations; 6.1 Application; 6.9 Setback; 6.11 Roads and Driveways; 8.2 Right of Abatement; 8.3 Specific Performance;

The (1) two story livable structure built sometime in 2020 in back of your primary dwelling was not submitted to the HOA board for the HOA ACC to approve; (2) The additional two story structure and deck violates the setback requirements from the HOA common property; (3) The extension of the driveway encroaches on to the HOA common property at 2624 Rainbow Creek Drive that was not approved and violates the HOA property rights; (4) The extension of the driveway encroaches on the next lot property at 3807 Rainover Drive in violation of the covenant and was not approved.

The Rainbow HOA board is aware of a pending DeKalb County Code Compliance case regarding violations on the property at 3797 Rainover Drive to include the following: (1) deck and addition are development without a permit (2) floodplain and stream buffer violation; (3) single family dwelling zoned as RSM Class R3 Zoning Condition CZ-82018 Acreage .29 violation; (4) construction of the two

story structure without a county building permit; (5) and that no county occupancy permit has been issued for the structure; (6) land disturbing activity (7) tree ordinance violation and removal of trees on HOA property without permission or approval.

You will have **30** days from receipt of this letter to provide a response. The HOA board requests that you comply with the covenant and the DeKalb County code. If the issue is not addressed the HOA will refer this matter to the Association's attorney for advisement and action to protect its interests and to enforcement of the covenant.

We appreciate your willingness to address the aforementioned matter and are hopeful for a resolution. As a reminder, copies of the Rainbow HOA Covenant are filed at the DeKalb County Courthouse and we can provide an electronic copy if desired.

Sincerely



Ed Williams
Rainbow HOA President and Board Chair

Rainbow HOA

RAINBOWCREEKHOBBOARD@GMAIL.COM
678 304-7736

[Rainbow HOA Covenant](https://drive.google.com/file/d/1SQIsH9P_1CKNzLHr9qQGChESqpV2Aewb/view)
https://drive.google.com/file/d/1SQIsH9P_1CKNzLHr9qQGChESqpV2Aewb/view

Rainbow HOA Covenant References

1.13 Structure. Structure means: a. any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of

illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, fence, curbing, paving, wall, tree, shrub, sign, signboard temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvements to such Lot;

5.2 Purpose, Powers and Duties of the ACC. The purpose of the ACC is to review and approve any proposed installation, construction or alteration of any Structure on any Lot. All plans shall be submitted to the ACC for the approval (i) as to whether the proposed installation, construction or alteration is in conformity and harmony of the external design and general quality with the existing standards of the neighborhood and with the standards of the Development, and (ii) as to the location of Structures with respect to topography, finished ground elevation and surrounding Structures. To the extent necessary to carry out such purpose, the ACC shall have all of the powers and duties to do each and everything necessary, suitable, convenient or proper for such purpose, including, without being limited to , the power and duty to approve or disapprove plans and specifications for any installation, construction or. alteration of any Structure on any Lot.

5.6 Submission of Plans and Specifications. No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot nor shall any existing Structure upon any Lot be altered in any way which materially changes the exterior appearance of the Structure or Lot, unless plans and specifications therefor shall have been submitted to and approved in writing by the ACC. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the ACC in the Design Standards.

5.7 Approval of Plans and Specifications. Upon approval by the ACC of any plans and specification submitted pursuant to this Declaration, two (2) copies of such plans and specifications, as approved, shall be deposited for permanent record with the ACC and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with the Lot or Structure of any plans and specifications shall not be deemed a waiver of the ACC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot or Structure. Approval of any such plans and specifications relating to any Lot or Structure, however, shall be final as to that Lot or Structure and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and

specifications, as approved, and any conditions attached to any such approval.

5.11 Violations. If any Structure shall be erected, placed, maintained or altered upon any Lot, otherwise than in accordance with the plans and specifications approved by the ACC pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article- and without the approval required herein. If in the opinion of the ACC such violation shall have occurred, the ACC shall notify the Association. If the Board shall agree with the determination of the ACC with respect to the violation, then the Board shall provide written notice to the Owner by certified mail, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the owner shall not have taken reasonable steps reasonable steps toward the required remedial action within thirty (30) days after the mailing of the aforesaid notice of violation, then the Association shall have the Right of Abatement as provided in section 8.2 hereof.

6.1 Application. The covenants and restrictions contained in this Article 6 shall pertain and apply to all Lots and to all Structures erected or place thereon.

6.9 Setbacks. (a) Each dwelling which is erected on a Lot shall be situated an such Lot in accordance with the building and setback line shown on the recorded plat, and in no event shall any dwelling be erected upon any Lot in any manner which violates such building and setback lines. For purposes of this requirement all porches, patios, decks, shutters, awnings, eaves, gutters and other such overhangs will not be considered in violation thereof, even though such structure shall extend beyond said building and setback lines if approved by the ACC. Notwithstanding the forgoing, the Declarant shall have the right to seek variances on a Lot or Lot setback requirements if Declarant deems necessary to do so. (b) In approving plans and specifications for any proposed Structure, the ACC may establish setback requirements for the location of such Structure. No Structure shall be erected or placed on any Lot unless its locations is consistent with such setbacks.

6.11 Roads and Driveways. No road or driveway shall be constructed or altered on any Lot without the prior written approval of the ACC of plans and specifications for such roads and driveways.

8.2 Right of Abatement. (a) Except where different notice provisions are provided in Sections 5.11 and 6.2, in the event of a violation or breach of any Restriction

contained in this Declaration the Association shall give written notice by certified mail to the Owner setting forth in reasonable detail the nature of such violation or breach and the specific action or actions needed to be taken to remedy such violation or breach. If the Owner shall fail to take reasonable steps to remedy such violation or breach within thirty (30) days after the mailing of such written notice, then the Association shall have the Right of Abatement. If any assessment, interest, cost or charge required by this Declaration is not paid within sixty (60) days after such assessment is due or such charge is imposed, the Association shall have the right to notify any or all mortgagees having a security interest in the Owner's Lot or Lots that such Owner is in default in the performance of his 'obligations under these Restrictions, and of those actions taken or proposed to be taken by the Association as a result of the default. (b) The Right of Abatement, as used in this Section and Sections 5.11 and 6.2 hereof, means the right of the Association, through its agents and employees, to enter at all reasonable times upon any Lot or Structure, as to which a violation, breach or other condition to be remedied exists, and to take the actions specified in the notice to the Owner to abate, extinguish, remove, or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason of such actions which are carried out in accordance with the provisions of this Section, and with the cost thereof, including the costs of collection and reasonable attorneys' fees, together with interest thereon at the lower of the highest rate permitted by law or 10% to be a binding personal obligation of such Owner enforceable in law, as well as a lien on such Owner's Lot enforceable pursuant to the provisions of Section 8.4 hereof. Such lien shall be superior to any and all charges, liens or encumbrances which may in any manner arise or be imposed upon the Lot after such entry whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt, or other instrument, excepting only (i) such liens for taxes or other public charges as are by applicable law made superior, (ii) the liens created by Section 4.1 and 8.4 hereof and (iii) all deeds to secure debt given to secure a loan, the proceeds of which are used (a) to purchase a Lot or Lots (together with any and all structures which may from time to time be placed or located thereon) and (b) to finance the construction, repair or alteration of Structures.

8.3 Specific Performance. Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Declarant, the Association or any Owner to enforce the Restrictions by appropriate judicial proceedings or to recover damages. However, it is hereby declared that it may be impossible to measure accurately in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform any of the

obligations provided by, this Declaration; and therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.