



CITY COUNCIL AGENDA FORM

REQUESTED COUNCIL MEETING DATE: 5/15/2007

SUBJECT: SUBDIVISION VARIANCE/ VICTOR VANLANCKER

965/975 McDonald Road
CASE NO. 07-9000001

DEPARTMENT: COMMUNITY DEVELOPMENT

RECOMMENDED MOTION:

To approve two subdivision variances from the Land Development Code for the following: 1) to waive the platting and review process for the subject property; and 2) to waive the requirement to dedicate land toward the ultimate 80' right-of-way for McDonald Road.

SUMMARY:

PLANNING COMMISSION ACTION: April 26, 2007


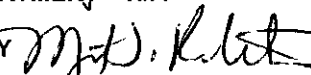

The Planning Commission recommended **approval**, 4-0, (Commissioners Atwood, Green, and Lasky excused) for two subdivision variances, to waive the major platting and review process for the subject property and the right-of-way dedication for the northern parcel (Parcel #1), subject to the following conditions:

1. The applicant must submit a minor subdivision application for a formal review by City staff. The City will not accept or approve any permits for the subdivided lot until the minor subdivision has been approved.
2. The minor subdivision submittal will need to indicate where and how the applicant intends to provide domestic water and sanitary sewer services to the proposed lot.
3. The applicant must address all remaining comments from the City Attorney's Office before the scheduling of this item for City Council.

If the variance requests are approved, the applicant is proposing to apply for a minor subdivision to officially subdivide 1.2 acres from a 4.3-acre parcel of land. The subject property is located at 965/975 McDonald Road.

ATTACHMENTS: Ordinance Resolution Budget Resolution

Other Support Documents/Contracts Available for Review in Manager's Office

DEPARTMENT HEAD		Wayne Clark Community Development Director	Date 5/4/07
FINANCE DEPARTMENT	N/A	Approved as to Budget Requirements	Date
CITY ATTORNEY		Approved as to Form and Legality	Date 5.4.07
CITY MANAGER		Approved Agenda Item For:	5/15/07

COUNCIL ACTION: Approved as Recommended Disapproved

Tabled Indefinitely Continued to Date Certain Approved with Modification



STAFF REPORT

CASE NO. 07-9000001

SUBDIVISION VARIANCE/LDC Chapter 5, Section 2(a) and Chapter 12, Section 9(b)

Request to waive the plat and plan process and roadway dedication requirements.

Victor Vanlankcer, applicant

975/965 McDonald Road

April 17, 2007

INTRODUCTION:

Victor Vanlankcer, applicant, requests approval of two subdivision variances from the Land Development Code for the following: 1) from Chapter 5, Section 2(a), to waive the requirement for the major plat and plan review process; and 2) from Chapter 12, Section 9(b), to waive the requirement to dedicate land toward the ultimate 80' right-of-way for McDonald Road. If the variance requests are approved, Victor Vanlankcer, applicant for the property owners Murray and Dennis McDonald, is proposing to apply for a minor subdivision to officially subdivide 1.2 acres from a 4.3-acre parcel of land. The subject property is located at 975/965 McDonald Road. (See attached location map – Exhibit "A")

BACKGROUND:

The original owners of the 4.3-acre parcel sold a 1.2-acre parcel to the applicant and his uncle on December 22, 2004 and recorded by the Volusia County Property Appraiser's Office on March 1, 2005 (Exhibit "B" & "C"). It is legal in the State of Florida to buy and sell property without subdividing it first. This means that the subject property is still a single 4.3-acre lot of which the applicant owns 1.2-acres. As of today the proposed parcel split has not been reviewed or approved by the City of Port Orange. Consequently, neither of the new parcels are recognized as buildable lots. The City cannot issue permits for either property until the 4.3-acre parcel had been subdivided.

Chapter 5, Section 2(a), of the Land Development Code (LDC) governs the requirements for a subdivision plat and provides for exceptions to the platting process. The subject property does not meet the requirements outlined in LDC for an exemption since the original property was greater than three (3) acres and the dedication of right-of-way is needed. Staff met with the applicant on numerous times and informed him that a major subdivision would be required; however, he did have the option to seek a subdivision variance to waive the plat requirement. Since the size of the original property and right-of-way dedication were the only issues preventing the subdivision from being exempt of the platting process, the applicant decided to submit for a variance. Please note that the variance to waive the dedication of land for the McDonald Road right-of-way only pertains to the parcel #1 (Exhibit "C"). The owner of the 1.2 acres parcel (Parcel #2) will be required to dedicate land toward the ultimate right-of-way for the McDonald Road (Exhibit "C"). The property owner of the northern parcel is currently in discussions with Volusia County regarding the sale of the northern parcel for the Madeline Avenue extension project, and as part of the project the Madeline Avenue/McDonald Road intersection will be redesigned. Therefore the

needed right-of-way for McDonald Road along the Parcel #1 will be obtained once the County purchases the northern parcel.

If the subdivision variances are granted, the applicant would be required to apply for a minor subdivision, which is reviewed at the staff level. During the minor subdivision review process, City staff would review the request to assure the proposed lots meet all of the requirements of the code. It is important to point out that if the original parcel was less than 3 acres and no additional right-of-way was needed, this case would qualify for the minor subdivision exemption provided by the LDC

The requested subdivision variances were routed to the Planning, Engineering, and Building Division of the Community Development Department for review, as well as to the Fire Department, the Public Utilities Department, and the City Attorney's Office. The comment made by the Public Utilities Department is regarding the need for the applicant to document how he intends to provide domestic water and sanitary sewer services to the proposed lot. The comment will be a condition to the approval of the variance and will need to be addressed prior to the approval of the minor subdivision.

Please note that if the subdivision variance and minor subdivision are approved the applicant, Mr. Vanlankcer, plans to eventually apply for another minor subdivision request to subdivide the 1.2-acre parcel into two 0.6-acre lots. However, in order for the second subdivision to be completed the applicant would need to obtain approval of an additional variance to reduce the lot minimum width requirement for the "R-2D" (Two-Family Residential) zoning district.

REVIEW OF VARIANCE CRITERIA:

Chapter 5, Section 9 of the LDC identifies special variance procedures and requirements to be used in lieu of the general variance requirements listed in Chapter 19 of the LDC. Variances from the plat and review process may be granted by the City Council upon recommendation from the Planning Commission. As such, the Planning Commission's vote on the subject variance is a recommendation to the City Council.

Chapter 5, Section 9(b)(3), of the LDC, lists the review criteria that shall be used to determine whether a subdivision variance request should be granted. These criteria, accompanied by staff's response, are as follows:

- a) *Required services are already available to the proposed lots without the construction of additional improvements.*

The Public Utilities Department has indicated that services are available to serve the construction of a duplex. As stated above, it will be the responsibility of the applicant to demonstrate how the newly create parcel (Parcel #2) will connect to the City's water and sewer services. Staff met with the applicant on April 3, 2007 to discuss the options and documents that will need to be submitted, as part of the

minor subdivision request, to demonstrate that water and sewer lines can be provided.

- b) *Levels of service can be reasonably provided through the site development review process or residential site plan review process for individual lots.*

The proposed subdivision would create one additional two-family lot (2 dwelling units). The subject property is surrounded by residential development currently being served; therefore, levels of service shall be maintained given the existing infrastructure.

- c) *Other methods can be arranged to assure construction of improvements, eliminating the need for a formal subdivision approval.*

The subject property fronts on McDonald Road; therefore, no new roads are required to be constructed for the applicant to access the proposed lot. The subject property is zoned "R-2D" (Two-Family Residential) and the resulting lot of the proposed subdivision would exceed the dimensional requirements set forth in Chapter 17, Section 27, of the LDC for the "R-2D" zoning district.

- d) *The granting of the variance is consistent with the overall intent of this Code, and will not be injurious to surrounding properties or detrimental to the public welfare.*

The LDC requires a subdivision plat for the division of any real property into two or more lots when the property does not meet the requirements identified in Chapter 5, Section 2(b), of the LDC. The purpose of this requirement is to ensure adequate services are available, that all required improvements are constructed to City standards, and to prevent piecemeal subdivision of land, which often results in land-locked and remnant parcels. Given that utility services are available to the subject property, the property fronts on an existing right-of-way and that the proposed subdivision would not result in any nonconforming lots, this variance request is consistent with the overall intent of the Code. Therefore, granting of this variance request will not be injurious to the surrounding properties or detrimental to the public welfare.

RECOMMENDATION:

In reviewing the variances requested it is staff's professional determination that the subdivision variance request meets the criteria listed above; therefore staff recommends **approval** of the request to waive the major platting and review process for the subject property and the right-of-way dedication for the northern parcel (Parcel #1) subject to the following requirements:

1. The applicant must submit a minor subdivision application for a formal review by City staff. The City will not accept or approve any permits for the subdivided lot until the minor subdivision has been approved.

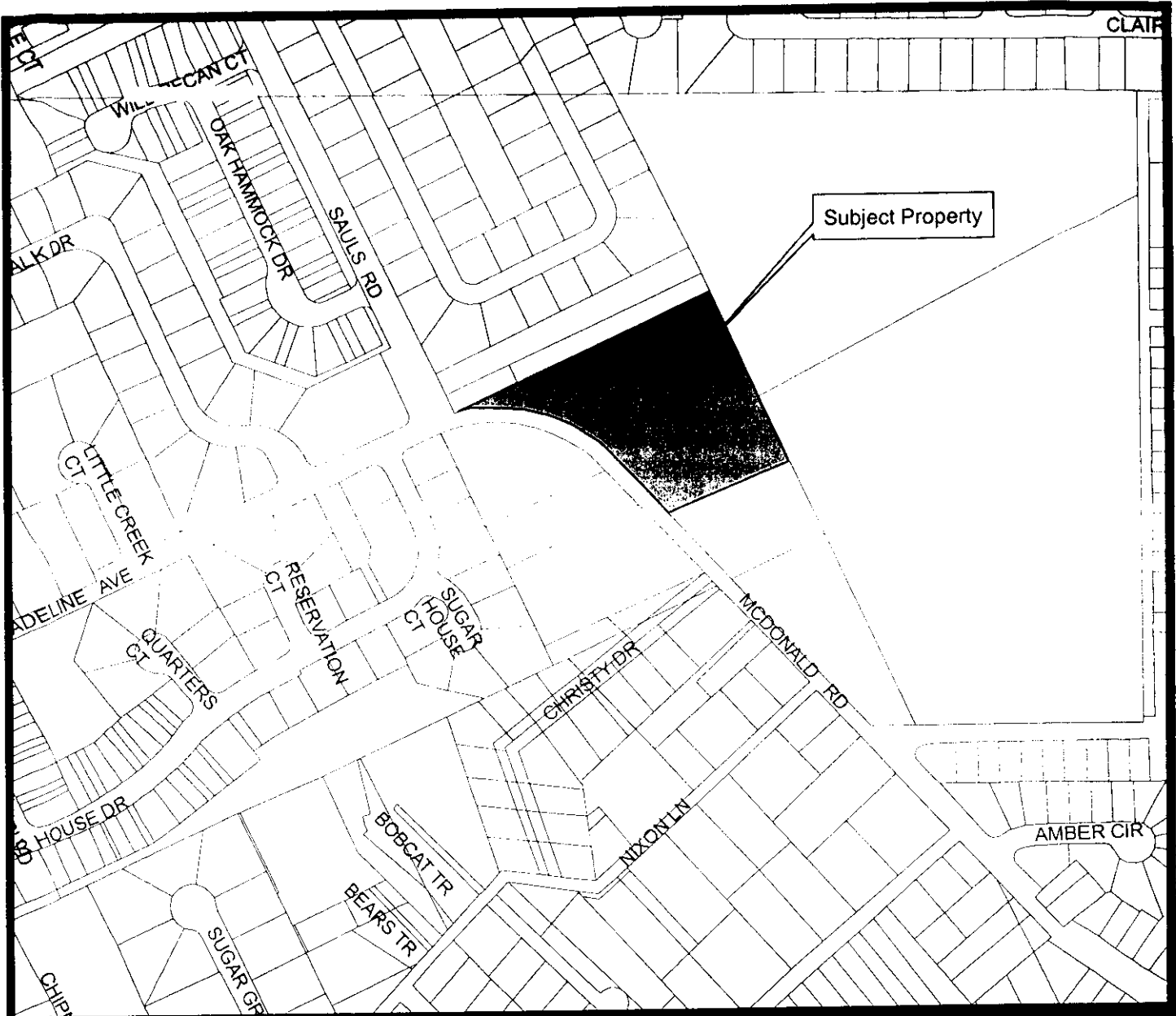
2. The minor subdivision submittal will need to indicate where and how the applicant intends to provide domestic water and sanitary sewer services to the proposed lot.

Prepared by: Tim Burman, Senior Planner
City of Port Orange Department of Community Development

(386) 506-5675
(386) 506-5600

PLANNING COMMISSION DATE:
CITY COUNCIL DATE:

April 26, 2007
May 15, 2007



Case No.: 07-90000001

Applicant: Victor Vanlancker

Location: East side of McDonald Road, south of Madeline Avenue

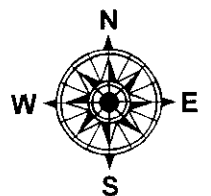
Requested Action:

Variations from Chapter 5, Section 2(a), of the LDC to waive the requirement for a plat and development plan review process and Chapter 12, Section 9(b), of the LDC to waive the requirement to dedicate land toward the ultimate 80' right-of-way for McDonald Road. If the variance requests are approved, Victor Vanlancker, applicant for the property owners, Murray and Dennis McDonald is proposing to apply for a minor subdivision to officially subdivide a 1.2-acre parcel from a 4.3-acre parcel.



LOCATION MAP - EXHIBIT A
CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT



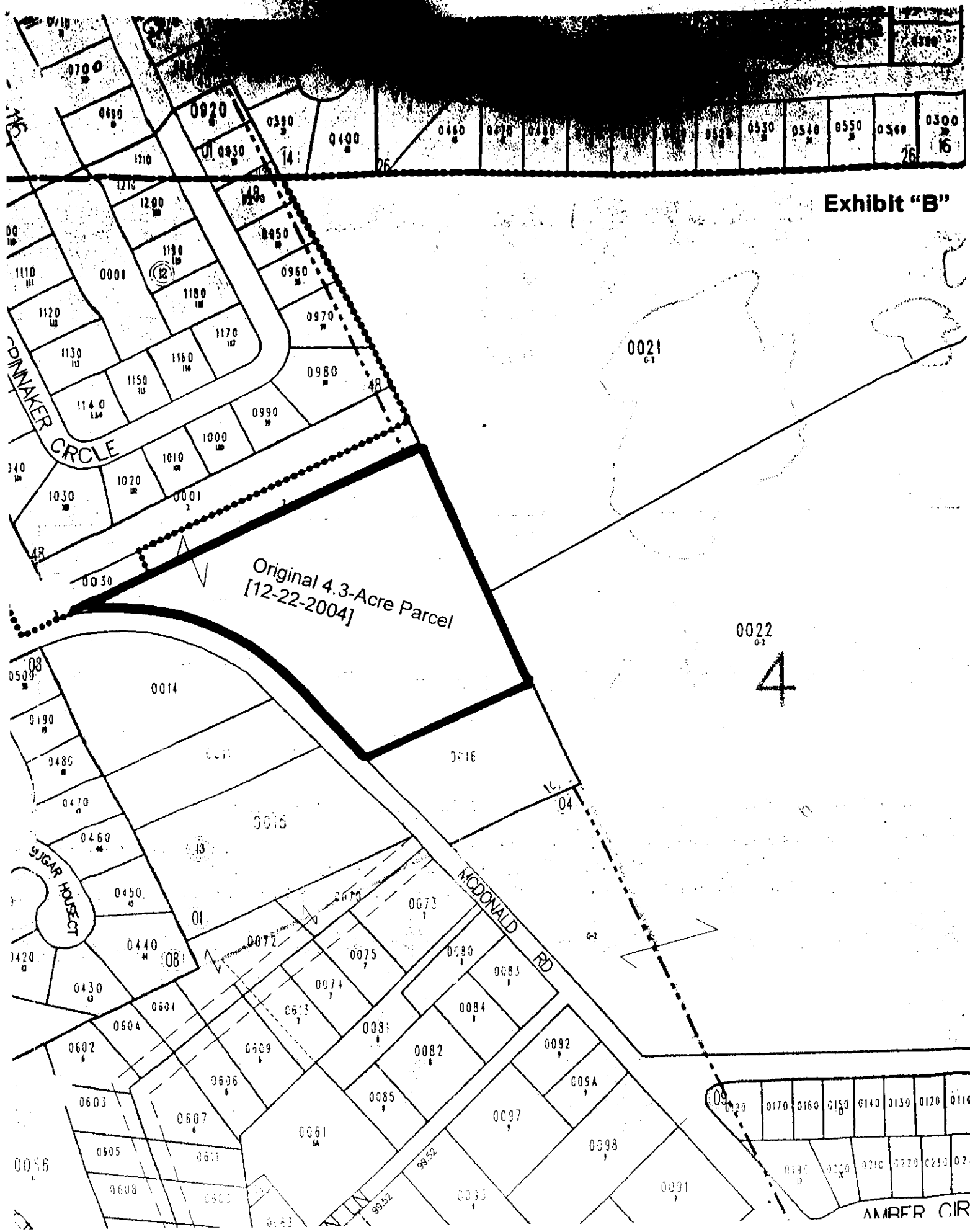


Exhibit "B"

Original 4.3-Acre Parcel
[12-22-2004]

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AMBER CIR

Exhibit "C"

