



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT  
100 WEST OGLETHORPE AVENUE  
SAVANNAH GEORGIA 31401

SAS-RD-C

2 July 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Pre-2015 Regulatory Regime  
Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322  
(2023),<sup>1</sup> SAS-2019-00349

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.<sup>2</sup> AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.<sup>3</sup> For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),<sup>4</sup> the Clean Water Act (CWA) implementing regulations published by the Department of the Army in 1986 and amended in 1993 (references 2.a. and 2.b. respectively), the 2008 *Rapanos-Carabell* guidance (reference 2.c.), and other applicable guidance, relevant case law and longstanding practice, (collectively the pre-2015 regulatory regime), and the *Sackett* decision (reference 2.d.) in evaluating jurisdiction.

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. The features addressed in this AJD were evaluated consistent with the definition of "waters of the United States" found in the pre-2015 regulatory regime and consistent with the Supreme Court's decision in *Sackett*. This AJD did not rely on the 2023 "Revised Definition of 'Waters of the United States,'" as amended on 8 September 2023 (Amended 2023 Rule) because, as of the date of this decision, the Amended 2023 Rule is not applicable in the state of Georgia due to litigation.

---

<sup>1</sup> While the Supreme Court's decision in *Sackett* had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

<sup>2</sup> 33 CFR 331.2.

<sup>3</sup> Regulatory Guidance Letter 05-02.

<sup>4</sup> USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

SAS-OD-RC

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), SAS-2019-00349

## 1. SUMMARY OF CONCLUSIONS.

- a. The review area is comprised entirely of dry land (i.e., there are no waters such as streams, rivers, wetlands, lakes, ponds, tidal waters, ditches, and the like in the entire review area and there are no areas that have previously been determined to be jurisdictional under the Rivers and Harbors Act of 1899 in the review area). Based on a review of desktop data resources listed in Section 9 of this memorandum and a field visit conducted on 18 June 2025, there are no aquatic resources on the identified project site that exhibit an Ordinary High Water-Mark, or the three (3) wetland parameters listed in the 1987 Corps of Engineers Wetland Delineation Manual or any of the applicable regional supplements. The project site consists of only dry land.

## 2. REFERENCES.

- a. Final Rule for Regulatory Programs of the Corps of Engineers, 51 FR 41206 (13 November 1986).
- b. Clean Water Act Regulatory Programs, 58 FR 45008 (25 August 1993).
- c. U.S. EPA & U.S. Army Corps of Engineers, Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in *Rapanos v. United States & Carabell v. United States* (2 December 2008)
- d. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)

## 3. REVIEW AREA.

- a. Project Area Size (in acres): 27.76 acres
- b. AJD Review Area Size (in acres, if different): same
- c. Center Coordinates of the Project Area (in decimal degrees):  
Latitude: 32.175540 Longitude: -81.263315
- d. Nearest City or Town: Savannah
- e. County: Chatham County
- f. State: Georgia
- g. Other associated Jurisdictional Determinations (including outcomes):

Regulatory File No.	Type	Outcome
SAS-2019-00349	ARDR	Evaluated 73.91 acres prior to the tract being subdivided. A total of 5.85 acres of wetland were determined to be aquatic resources under this ARDR, and 67.09 acres was determined to be upland. The wetland area identified in this ARDR is located offsite from the current AJD review area evaluated under this AJD. Verification for the 73.91-acre review area was issued on 25 October 2019.

- h. Any additional, relevant site-specific information: This project site has been historically managed for timber harvest (predating 1993 aerials). Residential development began in 2006 to the NE, new road alignment (Highlands Boulevard) w/ roundabouts constructed in 2018 that borders the NW site boundary, additionally industrial development began in 2018 to the SW and borders the site, and another residential development began construction in 2021 N of the site on the other side of Highlands Boulevard. Site has reverted to natural growth since 2011 (based on aerial review appears to be the last time the site was cleared of trees), as such the site has had significant prior manipulation due to silviculture practices.
- 4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED.
  - a. Name of nearest downstream TNW, Territorial Sea or interstate water: N/A, no resources within the review area are connected to a TNW.
  - b. Determination based on: This determination was made based on a review of desktop data resources listed in Section 9 of this memorandum and a field visit conducted on 18 June 2025.
- 5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS.  
N/A.
- 6. SECTION 10 JURISDICTIONAL WATERS<sup>5</sup>: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.<sup>6</sup>  
N/A.

---

<sup>5</sup> 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as “navigable in law” even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

<sup>6</sup> This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the pre-2015 regulatory regime and consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the pre-2015 regulatory regime. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.

- a. TNWs (a)(1): N/A.
- b. Interstate Waters (a)(2): N/A.
- c. Other Waters (a)(3): N/A.
- d. Impoundments (a)(4): N/A.
- e. Tributaries (a)(5): N/A.
- f. The territorial seas (a)(6): N/A.
- g. Adjacent wetlands (a)(7): N/A.

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified as "generally non-jurisdictional" in the preamble to the 1986 regulations (referred to as "preamble waters").<sup>7</sup> Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA as a preamble water.  
N/A.
- b. Describe aquatic resources and features within the review area identified as "generally not jurisdictional" in the *Rapanos* guidance. Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA based on the criteria listed in the guidance.  
N/A.

---

<sup>7</sup> 51 FR 41217, November 13, 1986.

- c. Describe aquatic resources and features identified within the review area as waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA. Include the size of the waste treatment system within the review area and describe how it was determined to be a waste treatment system. N/A.
  - d. Describe aquatic resources and features within the review area determined to be prior converted cropland in accordance with the 1993 regulations (reference 2.b.). Include the size of the aquatic resource or feature within the review area and describe how it was determined to be prior converted cropland. N/A.
  - e. Describe aquatic resources (i.e. lakes and ponds) within the review area, which do not have a nexus to interstate or foreign commerce, and prior to the January 2001 Supreme Court decision in “*SWANCC*,” would have been jurisdictional based solely on the “Migratory Bird Rule.” Include the size of the aquatic resource or feature, and how it was determined to be an “isolated water” in accordance with *SWANCC*. N/A.
  - f. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the pre-2015 regulatory regime consistent with the Supreme Court’s decision in *Sackett* (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water). N/A.
9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.
- a.
    - 1. Date of Office (desktop review): May 2025 and June 2025
    - 2. Date(s) of Field Review (if applicable): 18 June 2025, at connection points along Highlands Boulevard.
  - b. Data sources used to support this determination (included in the administrative record).
    - ☒ Maps, plans, plots, or plat submitted by, or on behalf of, the applicant: Approved Jurisdictional Determination request and exhibit submitted by Resource and Land Consultants (RLC).
    - ☒ Field data sheets submitted by, or on behalf of, the applicant: Dated 26 March 2025 and 14 May 2025, prepared by RLC.

SAS-OD-RC

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), SAS-2019-00349

- ☒ Previous Verification(s) addressing the same (or portions of the same) review area: USACE No. SAS-2019-00349 dated 25 October 2019.
- ☒ Photographs: provided by RLC.
- ☒ Aerial Imagery provided by, or on behalf of, applicant: 2023 Color Ortho Photograph (Figure No. 5), dated 24 June 2025 prepared by RLC; and Google Earth Aerial Imagery 2024 Airbus and Historical Aerial Imagery between 1985 and 2025.
- ☒ LIDAR provided by, or on behalf of, applicant: NOAA Topographic Lidar (Figure No. 7), dated 2 April 2025 prepared by RLC; and NOAA Lidar Elevation and Hillshade data, maps prepared from the National Regulatory Viewer (Georgia).
- ☒ USDA NRCS Soil Survey provided by, or on behalf of, applicant: NRCS Soil Survey (Figure No. 3), dated 2 April 2025 prepared by RLC.
- ☒ USFWS NWI maps provided by, or on behalf of, applicant: USFWS National Wetlands Inventory (Figure No. 4), dated 2 April 2025 prepared by RLC.
- ☒ USGS topographic maps provided by, or on behalf of, applicant: USGS Topographic Survey (Figure No. 2), dated 28 May 2025 prepared by RLC.
- ☒ USGS NHD data/maps: NHD-TNW data provided on the National Regulatory Viewer (Georgia).
- ☐ Section 10 resources used: N/A.
- ☒ Antecedent Precipitation Tool Analysis: Processed data for the 26 March 2025 survey and 14 May 2025 survey.
- ☐ Other sources of Information: N/A.

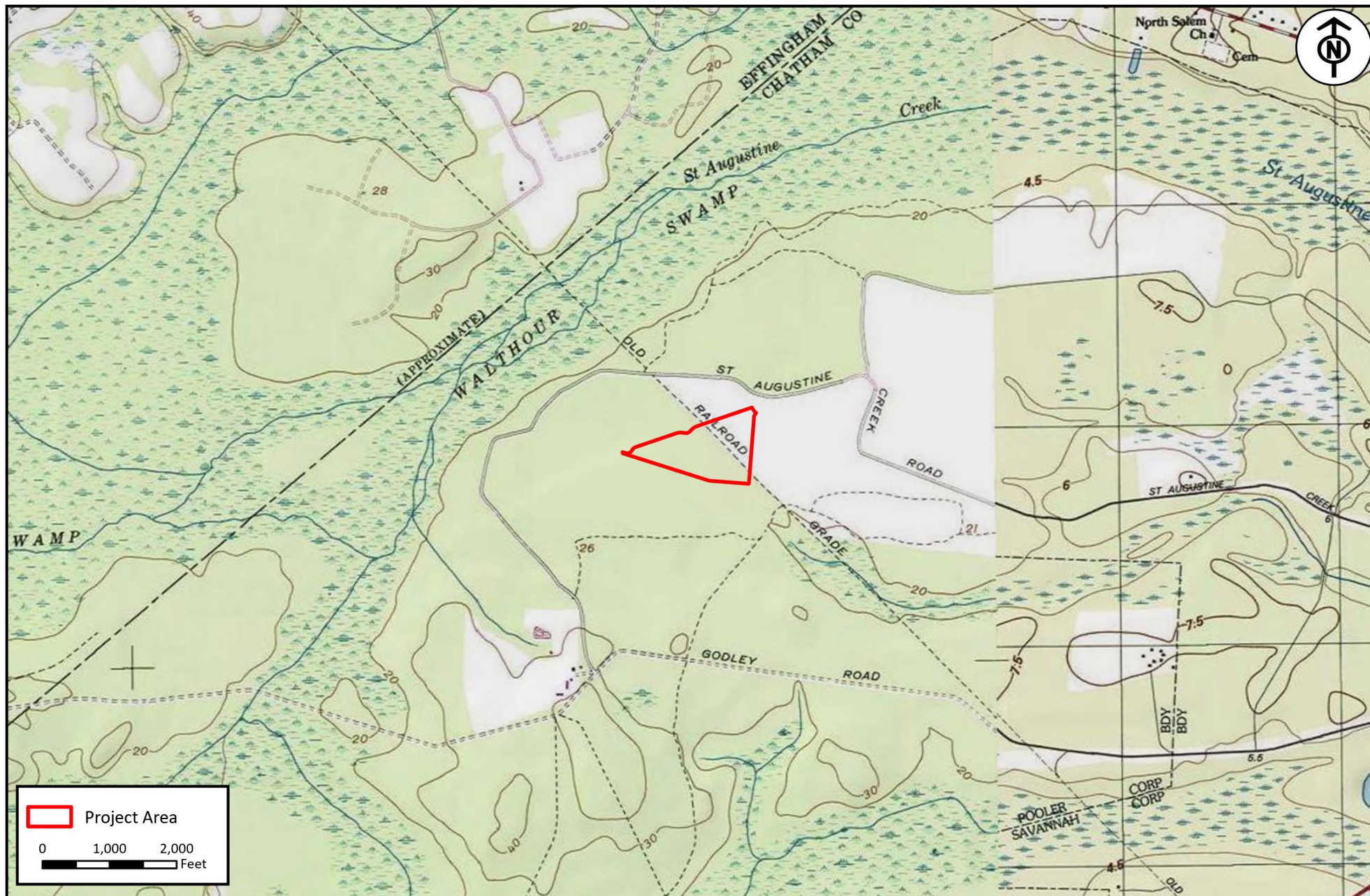
10. OTHER SUPPORTING INFORMATION. Shallow, abandoned ditches transect the property, remnants from the former silviculture practices that occurred historically within the area. These ditches are cut off in all directions by the surrounding developed areas (i.e., roads, residential neighborhoods, commercial properties) and whereas low points within the ditches may hold water for short periods following rain events (i.e., stormwater discharges from the adjacent commercial property), these ditches do not sustain water for extended periods to qualify as an aquatic resource or convey water flows to any requisite waters. Data sheets provided by the agent record no OHWM present within these ditch areas. Aerial imagery shows no signs of inundation or saturation visible within the review area. Additionally, SAS-2019-00349 Approved Aquatic Resources Delineation Review, dated 25 October 2019, evaluated these ditches and determined they did not qualify as aquatic resources, and the entire review area evaluated in this MFR consisted entirely of uplands. Based on a review of desktop data resources listed in Section 9 of this MFR, data sheets and site photographs provided by the agent along with other supplement information, it was determined the project site consists of only dry land.

SAS-OD-RC

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), SAS-2019-00349

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.





RLC Project No.: 10-112.2  
 Figure No.: 2  
 Prepared By: CS  
 Sketch Date: 5/28/2025  
 Map Scale : 1 inch = 2,000 ft

**Tract N Parcel 4-B2**  
 Chatham County, Georgia

**USGS Topographic Survey**  
 Prepared For: JMM Savannah Highlands LLC

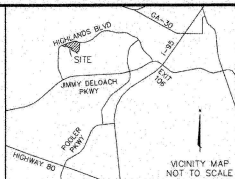


**RESOURCE+LAND  
 CONSULTANTS**

41 Park of Commerce Way, Ste 101  
 Savannah, GA 31405  
 tel 912.443.5896 fax 912.443.5898



Type: PLAT  
Recorded: 7/1/2024 3:38:00 PM  
Fee Amt: \$10.00, Page 1 of 1  
Chatham Co. Clerk Superior Court  
Tammie Mosley Clerk Superior Court  
Participant ID: 4542274128  
BK 54 PG 401



#### LEGEND

- BENCH MARK
- RF IRON ROD FOUND
- RF IRON PIPE FOUND
- IPS 1" IRON PIPE SET
- CMS CONCRETE MONUMENT SET
- CWF CONCRETE MONUMENT FOUND
- (D) DISTURBED
- R/W RIGHT-OF-WAY
- PB PLAT BOOK
- PN PARCEL IDENTIFICATION NUMBER

#### NOTES:

1. THIS PLAT SUBDIVIDES ONE LOT INTO TWO LOTS.
2. TOTAL AREA: 75.14 ACRES; 3,180,268 SQUARE FEET.
3. PARENT PROPERTY ADDRESS: 675 MORGAN LAKES INDUSTRIAL BLVD.
4. PARENT PARCEL IDENTIFICATION NUMBER: 2709-0000.
5. THESE PROPERTIES ARE CURRENTLY ZONED PG.
6. "Subdivision lots will be served by City of Savannah Water and Sewer Systems".
7. THE HORIZONTAL DATUM OF THIS PLAT IS BASED ON GRID NORTH, GEORGIA STATE PLANE, EAST ZONE, NAD 83.
8. BASED ON MY OBSERVATION THIS PROPERTY IS LOCATED IN ZONE X, NOT A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP NUMBER 1305000107G, EFFECTIVE DATE: 7/7/2004.
9. ALL BUILDING SETBACKS ARE TO CONFORM TO LOCAL ZONING ORDINANCES.
10. THIS PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS, COVENANTS, OR RESTRICTIONS EITHER RECORDED OR UNRECORDED.
11. ANY PROPERTY LINES SHOWN HEREON THAT ARE NOT LABELED WITH BEARINGS AND DISTANCES ARE NOT TO BE ASSUMED TO BE SURVEY GRADE, AND ARE FOR VISUAL REFERENCE ONLY.
12. THE SUBDIVISION IS LOCATED WITHIN THE AED (AIRPORT OVERLAY DISTRICT).
13. GPS WAS UTILIZED TO ESTABLISH THE HORIZONTAL AND VERTICAL CONTROL FOR THIS PROJECT. THE EQUIPMENT USED WAS A CARLOS BRAY DUAL FREQUENCY ROVER ON THE GPS NETWORK ADJUSTED REAL TIME KINEMATIC SYSTEM. HORIZONTAL PRECISION IS  $\pm 1$  CM + 1 PART PER MILLION AND VERTICAL PRECISION IS  $\pm 2$  CM + 1 PART PER MILLION.
14. THE SUBDIVISION IS LOCATED WITHIN THE AED (AIRPORT OVERLAY DISTRICT).
15. ALL STREETS, RIGHTS-OF-WAY, EASEMENTS, AND ANY SITES FOR PUBLIC USE AS NOTED ON THIS PLAT ARE HEREBY DEDICATED FOR THE USES INTENDED.

OWNER: BROOKHAVEN DEVELOPMENT LLC  
JACK WARDLAW

DATE

THE FOLLOWING GOVERNMENTAL BODIES HAVE APPROVED THIS MAP, PLAT, OR PLAN FOR FILING:

APPROVED BY THE CHATHAM COUNTY DEPARTMENT OF PUBLIC HEALTH, DIVISION OF ENVIRONMENTAL HEALTH

APPROVED BY THE CITY ENGINEER, CITY OF SAVANNAH, GEORGIA

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

APPROVED BY THE METROPOLITAN PLANNING COMMISSION

CURVE #	LENGTH	RADIUS	CHORD BEARING	CHORD LENGTH
C1	105.06'	205.00'	S37°35'30"E	103.92'
C2	85.03'	205.00'	S34°47'33"E	84.42'
C3	20.03'	205.00'	S49°28'34"E	20.02'
C4	354.88'	1385.00'	S76°10'11"E	353.91'
C5	33.42'	85.00'	S75°09'34"E	33.20'
C6	132.53'	84.50'	N71°10'24"E	119.36'
C7	66.86'	85.00'	N48°42'29"E	64.96'
C8	122.04'	206.00'	N88°08'39"E	120.26'
C9	62.38'	206.00'	N79°27'26"E	52.24'
C10	69.66'	206.00'	S84°34'19"E	69.33'
C11	100.12'	84.50'	N71°10'24"E	94.36'
C12	122.03'	206.00'	N54°17'08"E	120.26'

LINE #	LENGTH	DIRECTION
L1	50.00'	S37°43'29"W
L2	19.58'	N4°35'16"W

SURVEY DATE: 1/25/2024  
GPS EQUIPMENT USED: CARLOS BRAY ON EOPS RTK NETWORK  
CONVENTIONAL EQUIPMENT USED: ELECTRONIC TOTAL STATION  
ANGULAR ERROR PER "A" = 0"  
ADJUSTED BY COMPASS RULE  
PLAT ERROR OF CLOSURE: 1/854,917  
FIELD ERROR OF CLOSURE: 1/222,897

GRAPHIC SCALE: 1"=100'

#### REFERENCE:

1. PLAT BOOK 51, PAGE 344
2. PLAT BOOK 51, PAGE 498

THE HIGHLANDS AT GODLEY STATION  
N/P: 500 L. 6. INDUSTRIAL CA LLC  
500 MORGAN LAKES INDUSTRIAL BLVD  
SAVANNAH, GA 31406  
P.O. BOX 20728  
SAVANNAH, GA 31406

PARCEL 4B-2  
27.767 AC  
2,029,521 SF  
699 HIGHLANDS BLVD

LINE #	LENGTH	DIRECTION
E1	353.78'	S17°35'49"W
E2	490.56'	N72°24'11"W
E3	161.18'	N0°48'22"E
E4	783.02'	N72°24'11"W
E5	805.31'	S72°24'11"E
E6	155.30'	S0°49'22"W
E7	344.32'	S85°34'39"E
E8	595.78'	N4°25'21"E
E9	56.96'	N37°43'29"E

PARCEL 4B-1  
45.375 AC  
1,976,548 SF  
691 HIGHLANDS BLVD



A MINOR SUBDIVISION OF PARCEL 4B,  
BEING A PORTION OF TRACT N,  
THE HIGHLANDS AT GODLEY STATION,  
8TH G.M. DISTRICT, CITY OF SAVANNAH, CHATHAM COUNTY, GEORGIA  
PREPARED FOR BROOKHAVEN DEVELOPMENT LLC

JOB NUMBER: 23-150-002  
DATE: 2/14/2024  
DRAWN BY: JTP  
CHECKED BY:  
SCALE: 1"=100'

MINOR  
SUBDIVISION

SHEET:

1/1