

RESOLUTION NO. 2020-R-071

CASE # 20-08-015

APPLICANT: Corey Nibert

A resolution concerning the following described property:

5.256 +/- acres located in Land Lot 64 of the 2nd District, 2nd Section of Cherokee County, Georgia, and indicated as Parcel 171 on Tax Map 02N01.

WHEREAS, it is hereby found and determined that Corey Nibert filed a petition to change the zoning of the property described above from R-80 (Estate Residential) to AG (General Agriculture) on April 3, 2020.

WHEREAS, the petition to change the zoning general agricultural practices, such as hay production and storage as shown on the site plan attached hereto as **Exhibit A**; and,

WHEREAS, O.C.G.A. 36-66-4 mandates any local government taking action which will result in a zoning decision shall provide for a hearing on the proposed action by causing to be published a notice in a newspaper of general circulation; and,

WHEREAS, the notice of public hearing, a copy of which is attached hereto as **Exhibit B** and incorporated herein by reference, was published more than 15 days prior to the public hearing; and,

WHEREAS, the Planning Commission held a public hearing on September 1, 2020 upon this request for change of zoning in the Cherokee County Administration Building; and,

WHEREAS, the recommendation of the Planning Commission, attached hereto as **Exhibit C**, has been received regarding the subject property as described in the legal description, a copy of which is attached hereto as **Exhibit D** and incorporated herein by reference; and,

WHEREAS, the Cherokee County Board of Commissioners have considered the proposed petition in contemplation of the Comprehensive Plan as adopted and interpreted by the Planning Commission; and, has examined the views expressed at the public hearing, the subject property and surrounding area, the statutory zoning criteria, and the need to modify the exercise of the police power with regard to this particular property as such exercise relates to the comprehensive exercise of that power throughout the unincorporated area of Cherokee County, Georgia.

NOW THEREFORE, be it resolved by the Cherokee County Board of Commissioners that the request to rezone the property is hereby declared to be **APPROVED AS GENERAL AGRICULTURE (AG)**.


SO RESOLVED, this 6th day of October, 2020.

CHEROKEE COUNTY BOARD OF COMMISSIONERS



Harry B. Johnston, Chairman

ATTEST:



Christy Black, County Clerk

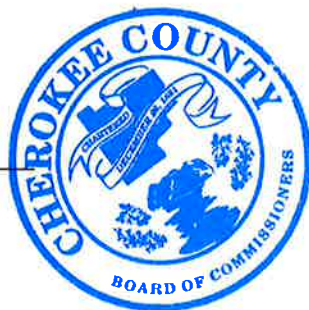


EXHIBIT A

NOW OF FORMERLY
ANDREW F. LAWANDALES, JR.
& DAWN N. LAWANDALES

GENERAL NOTES ~

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS AN ANGULAR ERROR OF 13 SECONDS PER ANGLE POINT AND A PRECISION RATIO OF 1 IN 18,330. IT HAS BEEN ADJUSTED USING THE COMPASS RULE.

EQUIPMENT USED TO OBTAIN THESE MEASUREMENTS A TOPCON GTS-303.

THE DATA SHOWN ON THIS PLAT HAS A CLOSURE PRECISION RATIO OF 1 IN 289,458.

ALL I.P.'s ARE 1/2" REBAR'S.

BEARINGS ARE CALCULATED FROM ANGLES TURNED FROM A SINGLE MAGNETIC OBSERVATION.

ACCORDING TO THE CURRENT "F.I.A. OFFICIAL FLOOD HAZARD MAP", COMMUNITY PANEL NO. 13057C 0235 B, DATED JULY 15, 1988, THIS PROPERTY IS NOT IN AN AREA HAVING SPECIAL FLOOD HAZARDS.

* PER DEED AND PLAT RECORDS;
NO MONUMENT FOUND.

ALL MATTERS OF TITLE ARE EXCEPTED.

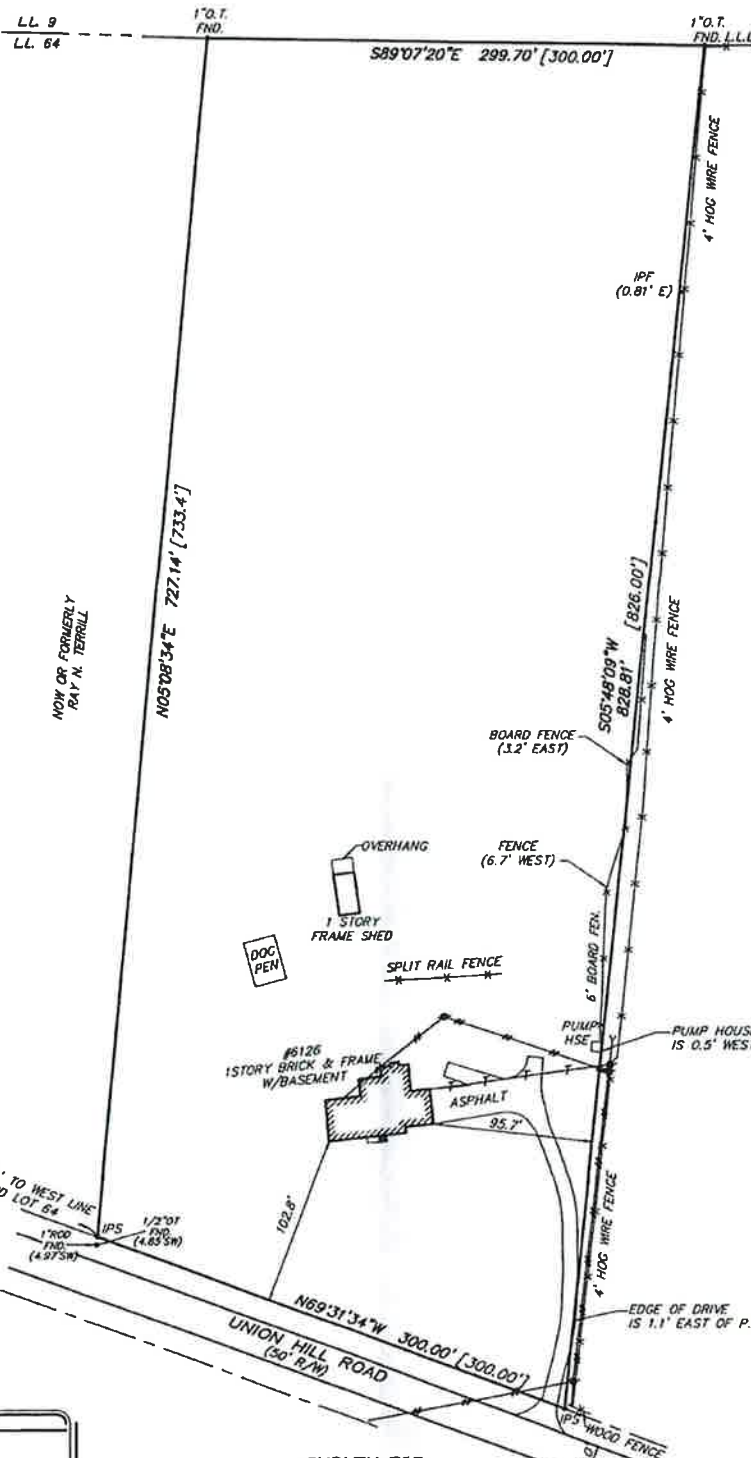
AREA = 228,930 sq. ft.
5.256 ACRES

REFERENCE; DB 84, PG. 283

[828.0'] = DISTANCE PER REFERENCE DEED, WHICH DOES NOT CLOSE MATHEMATICALLY.

50 FT. RIGHT OF WAY OF UNION HILL ROAD IS BASED ON THE FOLLOWING PLATS OF RECORD:

- 1) P.B. 25, PG. 100
- 2) P.B. 48, PG. 226
- 3) P.B. 49, PG. 170
- 4) P.B. 24, PG. 183
- 5) P.B. 13, PG. 199
- 6) P.B. 17, PG. 42



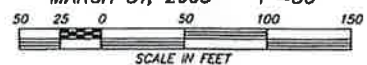
2-12-15: ADDED LOCATION OF 6' BOARD FENCE ALONG EAST PROPERTY LINE.

LEGEND

IPF	1/2" REBAR FND.
IPS	1/2" REBAR SET
R.R.	RIGHT OF WAY
SSE	SANITARY SEWER EASEMENT
DE	DRAINAGE EASEMENT
LL.L	LAND LOT LINE
CL	CENTERLINE
OT	OPEN TOP PIPE
CM	CORRUGATED METAL PIPE
RC	REINFORCED CONCRETE PIPE
DI	DROP INLET
J	JUNCTION BOX
M	MANHOLE
CB	CATCH BASIN
BM	BENCHMARK
PP	POWER POLE
PI	PIPE INCIDENT
CMF	CONCRETE MONUMENT FND.
B.C.	BACK OF CURB
E.P.	EDGE OF PAVEMENT
FEN	FENCE
O.H.	OVERHEAD ELEC. SERVICE LINE
BL	BUILDING LINE
U.G.	UNDERGROUND POWER LINE

SURVEY FOR COREY L. NIBERT & HAYLEY A. NIBERT

LOCATED IN LAND LOT 64
2nd DISTRICT, 2nd SECTION
CHEROKEE COUNTY, GEORGIA
MARCH 31, 2003 1"=50'



BARTON SURVEYING INC.
P.O. BOX 640
LEBANON, GEORGIA 30146
(770) 345-2810

Ad text :

TCT-3902

GPN-16

NOTICE OF PUBLIC HEARING

Corey Nibert

CASE# 20-08-015

Corey Nibert has submitted a petition to the Cherokee County Board of Commissioners requesting that the official zoning map of Cherokee County, Georgia be amended to rezone property from R-80 (Estate Residential) to AG (General Agriculture) for hay production and hay storage. The property owned by Corey L. Nibert and Hayley Anderson Nibert is located at 6126 Union Hill Road in Land Lot 64 of the 2nd District, 2nd Section of Cherokee County, Georgia and indicated as Parcel 171 on Tax Map 02N01. A total of 5.25 +/- acres is sought to be rezoned.

An exact legal description of the property is on file at the Cherokee County Department of Planning and Zoning, 1130 Bluffs Parkway, Canton, Georgia and may be reviewed along with any other information regarding this request, between 8:00 a.m. and 5:00 p.m. Monday through Friday. Information about this case is also available at www.cherokeega.com/cherokeestatus.

The Cherokee County Municipal Planning Commission will hold a Work Session at the Cherokee County Administration Building, 1130 Bluffs Parkway on Monday, August 17, 2020 at 6:30 p.m.

The Cherokee County Municipal Planning Commission will conduct a joint public hearing with the Cherokee County Board of Commissioners on the request at its meeting on Tuesday, September 1, 2020 at 7:00 p.m. at the Cherokee County Administration Building, 1130 Bluffs Parkway, Canton, Georgia. The Planning Commission will forward its recommendation to the Cherokee County Board of Commissioners based upon information presented at the public hearing.

The Cherokee County Board of Commissioners may consider this request at its meeting on Tuesday, October 6, 2020 at 6:00 p.m. at the Cherokee County Administration Building, 1130 Bluffs Parkway, Canton, Georgia.

Meetings of the Planning Commission and the Board of Commissioners are open to the public.

Note: Georgia Law requires that all parties who have made campaign contributions to any member of the Cherokee County Board of Commissioners in excess of two hundred fifty dollars (\$250) within two (2) years immediately preceding the filing of this request, and who desires to appear at the public hearing in opposition to the application, shall, at least five (5) days prior to the public hearing, file a campaign contribution disclosure with the Cherokee County Department of Planning and Zoning.

As set forth in the Americans with Disabilities Act of 1992, the Cherokee County Government does not discriminate on the basis of disability, and will assist citizens with special needs, when given seven (7) working days advance notice.

For information, please call 678-493-6101.

8:13-2020

EXHIBIT B

CHEROKEE TRIBUNE

521 East Main Street, Canton, Georgia 30114

PUBLISHER'S AFFIDAVIT

RECEIVED
SEP 4 2020
PLANNING & LAND USE

STATE OF GEORGIA - County of Cherokee

Before me, the undersigned; a Notary Public, this day personally came Otis A. Brumby III, who, being duly sworn, according to law, says that he is the Publisher of Times Journal, Inc., publishers of the CHEROKEE TRIBUNE, official newspaper published in said county and State, and that the publication, of which the annexed is a true copy, was published in said paper, as provided by law, on the following dates:

08/13/2020

Otis A. Brumby III

Subscribed and sworn to before me this

13th day of August, 2020

Teresa Reeves

Notary Public

My commission expires _____





**Department of Planning and Zoning
1130 Bluffs Parkway • Canton, Georgia 30114**

DATE: September 1, 2020

TO: Board of Commissioners
Jerry Cooper, County Manager
Angela E. Davis, County Attorney
Christy Black, County Clerk

FROM: Michael Chapman, Zoning Manager

RE: Recommendation of Planning Commission

CASE NUMBER: 20-08-015
APPLICANT: Corey Nibert
ZONING: R-80 to AG
LOCATION: 6126 Union Hill Road
MAP & PARCELS: 02N01, 171
ACRES: 5.256 +/-
PROPOSED USE: General Agricultural Practices, hay production and storage

COMMISSION DISTRICT: 2
FUTURE DEVELOPMENT MAP: Country Estates

As a result of the public hearing held on September 1, 2020, the Cherokee County Planning Commission voted to recommend **denial** of AG (General Agriculture) zoning for general agricultural practices, such as hay production and storage for property located at 6126 Union Hill Road consisting of 5.256 +/- acres.

BK ru
6153 012

EXHIBIT D

FULTON OFFICE
CLERK OF SUPERIOR COURT
CHEROKEE COUNTY, GA

03 MAY 16 PM 2:15

BOOK 6153 PAGE 012
Anne M. Pennington

CHEROKEE COUNTY, GA.
REAL ESTATE TRANSFER TAX
PAID \$ 202.50
DATE 5-16-03
Anne M. Pennington
CLERK OF SUPERIOR COURT

Return Recorded Document to:

Morris, Manning & Martin, LLP (MMM)
5780 Windward Parkway Suite 245 MORRIS, MANNING & MARTIN, LLP
Alpharetta, GA 30005 307 ATLANTA HIGHWAY
12 CUMMING, GEORGIA 30040

12.00 28887
JOINT TENANCY WITH SURVIVORSHIP
WARRANTY DEED

STATE OF GEORGIA

COUNTY OF FULTON

File #: F7968

This Indenture made this 11th day of April, 2003, between Jerry W. Brannon and Joan S. Brannon, of the County of Cherokee, State of Georgia; as party or parties of the first part, hereinafter called Grantor, and Corey L. Nibert and Hayley Anderson Nibert, as joint tenants with survivorship and not as tenants in common as parties of the second part, hereinafter called Grantees (the words "Grantor" and "Grantees" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipts whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantees, as joint tenants and not as tenants in common, for and during their joint lives, and upon the death of either of them, then to the survivor of them, in fee simple, together with every contingent remainder and right of reversion, and to the heirs and assigns of said survivor, the following described property:

All that tract or parcel of land lying and being in the 2nd District, 2nd Section, Cherokee County, Georgia, being a part of original Lot of Land No. 64 and being more particularly described on the attached Exhibit "A".

THIS CONVEYANCE is made subject to all zoning ordinances, easements and restrictions of record affecting said bargained premises.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoove of the said Grantees, as joint tenants and not as tenants in common, for and during their joint lives, and upon the death of either of them, then to the survivor of them in **FEE SIMPLE**, together with every contingent remainder and right of reversion, and to the heirs and assigns of said survivor.

THIS CONVEYANCE is made pursuant to Official Code of Georgia Section 44-6-190, and it is the intention of the parties hereto to hereby create in Grantees a joint tenancy estate with right of survivorship and not as tenants in common.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor has hereunto set grantor's hand and seal this day and year first above written.

Signed, sealed and delivered in the presence of:

Lester M. Bennett
Witness

Notary Public
My commission expires: _____



Jerry W. Brannon (Seal)
Jerry W. Brannon
Joan S. Brannon (Seal)
Joan S. Brannon

(Seal)

(Seal)

EXHIBIT "A"

LEGAL DESCRIPTION

All that tract of parcel of land lying and being in the 2nd District and 2nd Section of Cherokee County, Georgia, and being a part of original Lot of Land No. 64, and being more particularly described as follows:

Beginning at an iron pin located on the North right-of-way of the Union Hill and Canton Road, said iron pin being located 343 feet East of the intersection of the North right-of-way of said road with the West original line of Land Lot No. 64; thence North 05 degrees 15 minutes East 733.4 feet to an iron pin located on the North original line of Land Lot No. 64; thence South 89 degrees 30 minutes East along the North original line 300 feet to an iron pin and stake; thence South 06 degrees West 826 feet to an iron pin located on the North right-of-way of Union Hill and Canton Road; thence North 69 degrees 20 minutes West 300 feet to the iron pin at the beginning point, containing 6.03 acres, and being more particularly shown by plat made by Richard Williams, R. S., on October 29, 1965, and recorded in Plat Book 3, Page 329, of Cherokee County Plat Records, being Subdivision Lot # 1 of the property of Johnston and Townsend.

This being the same property deeded Dr. John C. Johnston and Dr. Alto B. Townsend by Warranty Deed from Mrs. Inez Ellis and Jewell Ellis, dated the 31st day of July, 1965 and recorded the 2nd day of August, 1965 in Deed Book 80, Page 265, Cherokee County Deed Records.

Rec 7-10-03