

Entered
in Record
6-11-2025
SAC
Exhibit 1

CJL CONSTRUCTION, LLC VAR-0525-0000

Okaloosa County

Board of Adjustment
Public Hearing

June 11, 2025

APPLICANT'S PROFESSIONAL TEAM

- **Planning**
 - Ken Metcalf, AICP
- **Civil Engineering**
 - Cole Granger, P.E.
- **Owner**
- CJL Construction, LLC
- **Legal**
 - John Mead, Esq.
 - Michael Mead, Esq.



MEAD LAW & TITLE

Michael Wm. Mead ♦ Michael W. Mead, Jr. ♦ John S. Mead

Ken Metcalf, AICP



Director of Planning & Development Services

STEARNS WEAVER MILLER

- 40+ years of professional experience
 - 16 years with Florida Department of Community Affairs (DCA)
- Accepted as and served as expert witness in 50+ administrative and court proceedings
- Areas of expertise include:
 - Chapter 163 Implementation/ Development Order consistency
 - Urban and regional planning
 - Comprehensive planning
 - Developments of Regional Impact (DRI)
 - Assessment of development impacts

Cole Granger, P.E.



- Bachelor of Science in Civil Engineering, Florida State University (2007)
- 17 years of professional experience
 - 7 years - NFWFMD
 - 2 years – Jenkins Engineering
 - 8 year – SEAS Engineering
- Licensed as Professional Engineer (PE)



LDC Variance Provisions

Section 6.03.10 Variances: Where strict adherence to the provisions of this chapter would cause an unnecessary hardship due to topographical or other conditions peculiar to the site, the board of adjustment may grant a variance. Such a variance shall apply only to the requirements directly affecting the particular hardship, and shall not be detrimental to the intent of this chapter.

- Finding: Requested variances are to LDC Sections 6.03.04 and 6.04.14, which are part of LDC Chapter 6 and eligible for the variance pursuant to LDC Section 6.03.10.

LDC Section 11.02.09.3 sets forth required findings that the Board of Adjustment must make in order to approve a variance. This is a quasi-judicial proceeding. The Board's decision must be based on *competent substantial evidence*.

- Finding: The Application and this presentation/testimony provide competent substantial evidence in support of the requested variances.

Variance Application Exhibit “1”

- Variances from Sections 6.03.04 and 6.03.14 of the Land Development Code:
 1. Not require the developer to dedicate right-of-way or construct improvements to Garrett Mill Road to the east or west of the 666' of property frontage;
 2. Reduce the clear zone to 0' on the south side of Garrett Mill Rd. along the 666' of property frontage;
 3. Reduce the clear zone to 7-10' in width on the north side of Garrett Mill Rd. along to 666' of property frontage;
 4. Reduce the required right-of-way on Garrett Mill Rd. along the 666' of property frontage from 50' to between 43.3'+/- and 49.5'+/- as specified on Attachment 2 of the variance application;

Variance Application Exhibit "1"

5. Reduce the required lane width from 11' to 10' along the 666' of property frontage;
6. Modify the ditch design standards on the north side of Garrett Mill Rd. along the 666' of property frontage, subject to final design approval: from 1:5 front and back slopes (resulting in a 10' wide ditch section 1' deep) to 1:4 front and back slopes with a 1' wide bottom;
7. Modify the ditch standards on the south side of Garrett Mill Rd. along the 666' of property frontage to 0';
8. Reduce the shoulder width from 6-8' to 4' on north side of Garrett Mill Rd. along the 666' of property frontage and to 0' on the south side; and
9. Reduce the lateral offset from 4' from curb to 0' on the south side of Garrett Mill Rd. along the 666' of property frontage

LDC Section 6.03.04

Section 6.03.04 Connection of a Street or Driveway to a Public Roadway/Right-of-Way: When an application is made to Okaloosa County where a proposed connection is to be made by either a private or public roadway or driveway, adequate access (as required by 6.00.03) shall be defined as an existing public right-of-way that exists by way of plat or deed **AND the existing roadway surface shall be a hot-mix asphalt.** Excluding capacity improvements required to satisfy concurrency, improvements to the existing roadway may include turn lanes, deceleration lanes, acceleration lanes or signal improvements in order to accommodate the proposed development.

1. For developments proposed along roadways that do not comply with the requirements above, improvements to the public roadway shall be performed as part of the proposed development such that the roadway is consistent with the minimum standards stated herein; including, but not limited to right-of-way and lane width standards. Improvements shall be required to the extent where access to the proposed development is made to a roadway that provides adequate access as described above.

Variance #1 to Section 6.03.04

- LDC Section 6.03.04 requires the existing roadway surface to be *hot-mix asphalt*.
- LDC does not define the term “hot-mix asphalt.”
- The Federal Highway Administration describes “hot-mix asphalt” as
 - **HMA** is the traditional process for constructing asphalt pavements. HMA is manufactured in a central mixing facility (typically called a hot mix plant) and consists of high-quality aggregate and asphalt cement. The two are heated and mixed while hot to completely coat the aggregate with asphalt cement. The aggregates and asphalt cement are heated above 300°F during mixing and kept hot during transport by truck, placement (where it is spread on the roadway by an asphalt paving machine), and compaction (where it is compacted by a series of asphalt roller machines) of the asphalt mixture. The mixture cools after compaction to form the asphalt pavement.
- The Applicant and Public Works staff disagree as to whether hot-mix asphalt has been applied to GMR east of Pickens Circle.

Variance #1 to Section 6.03.04

The County applied hot-mix asphalt to Garrett Mill Road (GMR) in December 2023.

- The following photographs document the before and after condition of GMR.
- County documentation confirms all cold mix roads have been eliminated.
- Core samples confirm GMR asphalt is at least 2 inches in depth east of Pickens Circle.

Garrett Mill Road

Road Condition in 2022 Prior to Hot-Mix Asphalt.
(East Bound)



Current Road Condition with Hot-Mix Asphalt.
(East Bound)



RIGHT-OF-WAY

Garrett Mill Road (West Bound)

Road Condition in 2022 Prior to Hot-Mix Asphalt.



Current Road Condition with Hot-Mix Asphalt.



RIGHT-OF-WAY

Garrett Mill Road and Old Brown Road Insertion (West Bound)

Road Condition in 2022 Prior to Hot-Mix Asphalt.



Current Road Condition with Hot-Mix Asphalt.



RIGHT-OF-WAY

County Documentation

Okaloosa County, Annual Comprehensive Financial Report, Dated September 30, 2024:

OKALOOSA COUNTY, FLORIDA STATISTICAL SECTION SEPTEMBER 30, 2024

UNAUDITED

SCHEDULE 17

CAPITAL INDICATORS BY FUNCTION/PROGRAM - LAST TEN FISCAL YEARS

FUNCTION/PROGRAM	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
PARKS AND RECREATION										
COUNTY PARKS	19	19	19	18	18	18	18	18	18	18
UNINCORPORATED PARKS	35	36	37	38	39	39	40	40	40	41
TRANSIT										
BUSES/PASSENGER VAN	11	11	13	14	14	17	17	17	17	17
LIBRARY										
COLLECTION	320,095	316,684	327,913	331,790	330,790	325,474	307,744	306,372	326,331	352,364
PUBLIC WORKS										
PAVED ROADS MAINTAINED (MILES)	670	678	682	682	705	713	805	809	846	900
DIRT ROADS MAINTAINED (MILES)	199	196	196	185	171	171	200	96	61	26
COLD MIX ROADS MAINTAINED (MILES)	74	71	67	60	53	45	32	28	19	0

Core Samples on GMR

- NOVA Engineering and Environmental, LLC obtained core samples at three points along GMR.
 - Near Pickens Circle: 6" asphalt over 9" sand/clay base
 - 200' west of Old Brown Road (frontage of Property): 2" asphalt over 9" limestone over 18" sand/clay base
 - 200' west of Old River Road: 4" asphalt over 9" sand/clay base
- LDC Section 6.03.04.d states: "The surface course for flexible pavements will be an asphalt mix approved by the county engineer; thickness will be a minimum of one and one-half inches."
- We request that County staff either confirm that the 2"- 4" asphalt application in December 2023 constitutes a proper hot-mix asphalt application east of Pickens Circle or that the Board grant a variance to the hot-mix asphalt requirement as part of Variance #1 – to not require improvements to GMR to the east or west of the Property's 666' of frontage.

Variance #1 to Sections 6.03.04 and 6.03.14 Regarding Green Book Standards

- LDC Section 6.03.04 further requires that if the existing road has not received hot-mix asphalt, then the existing roadway must be improved to the standards in Chapter 6.
- LDC Section 6.03.14, Road and Street Design Standards

“All improvements and construction activities required under these regulations shall take place according to plans approved by the County Engineer. Design and construction must be consistent with the Florida Manual of Uniform Standards for Design, Construction and Maintenance for Streets and Highways. (Green Book).”

Variance #1 to Sections 6.03.04 and 6.03.14 Regarding Right of Way/Green Book Standards

- LDC Section 6.03.14.b.i states:

“ i. All roads and streets shall have sufficient right-of-way to conform to Green Book Standards for clear zones and other requirements and to accommodate drainage requirements. If such requirements exceed the minimum width specified in item b below [Table 6-03-01], that width shall be the acceptable minimum.”

- Table 6-03-01 requires a minimum right-of-way width of 50' for minor local roads and major local roads, except for major local roads servicing 50 or more lots, which requires a minimum of 66'.
- The applicant has proposed a variance (#4) to allow a right-of-way width ranging between 43.3' and 49.5', which includes a right-of-way dedication of 33' measured from the centerline of GMR north.

Variance #1 as to Right-of-Way

- LDC Section 6.03.14.1.b requires sufficient right-of-way to conform to Green Book standards and drainage.
- The County has not acquired right-of-way on Garrett Mill Road to allow for compliance with Green Book standards.
- Pursuant to § 95.361, Fla.Stat.: “When a road constructed by a county... has been maintained continuously and uninterruptedly for 4 years by the county,...the road shall be deemed to be dedicated to the public to the extent in width that has actually been maintained for the prescribed period...” (emphasis added)
- The applicant does not have legal authority to condemn land for right-of-way.
- The applicant contacted the property owner of Parcel 15-3N-24-0000-0004-0000, which comprises all of the frontage along GMR between the subject property and Old River Road. The owner refused to sell.

Variance #1 – Green Book Standards

- The applicant does not have legal authority to perform improvements to the east or west of its frontage beyond the edge of road pavement (i.e., beyond the right-of-way established pursuant to s. 95-361, Fla.Stat.)
- All other variances are requested to achieve consistency with the Green Book standards to the maximum extent feasible within the proposed right-of-way to be dedicated by the Applicant.

Creekside Subdivision Approval

- The County approved the Creekside Subdivision one-half mile to the west based on an “APPARENT 50’ R/W” as referenced on the approved subdivision plans.
- Actual right-of-way is limited to road width (approx. 20’) pursuant to § 95.361, Fla.Stat., except where specifically dedicated by plat or by deed.
- The County did not require right-of-way dedication for GMR or improvements for GMR from the Creekside Subdivision developer.
- The County apparently considered GMR to be a local minor road since the County approved subdivision plans referencing 50’ and not 66’, even though Creekside exceeded the 50 lot threshold otherwise requiring 66’.
- By comparison, CJL Construction proposes to dedicate right-of-way and construct improvements within its dedicated right-of-way.

21

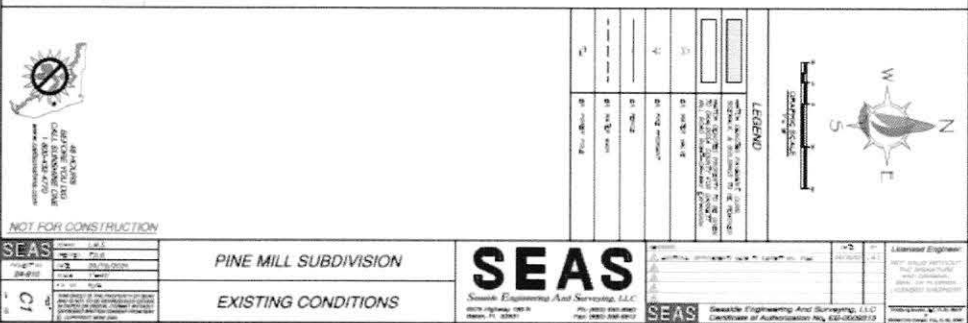
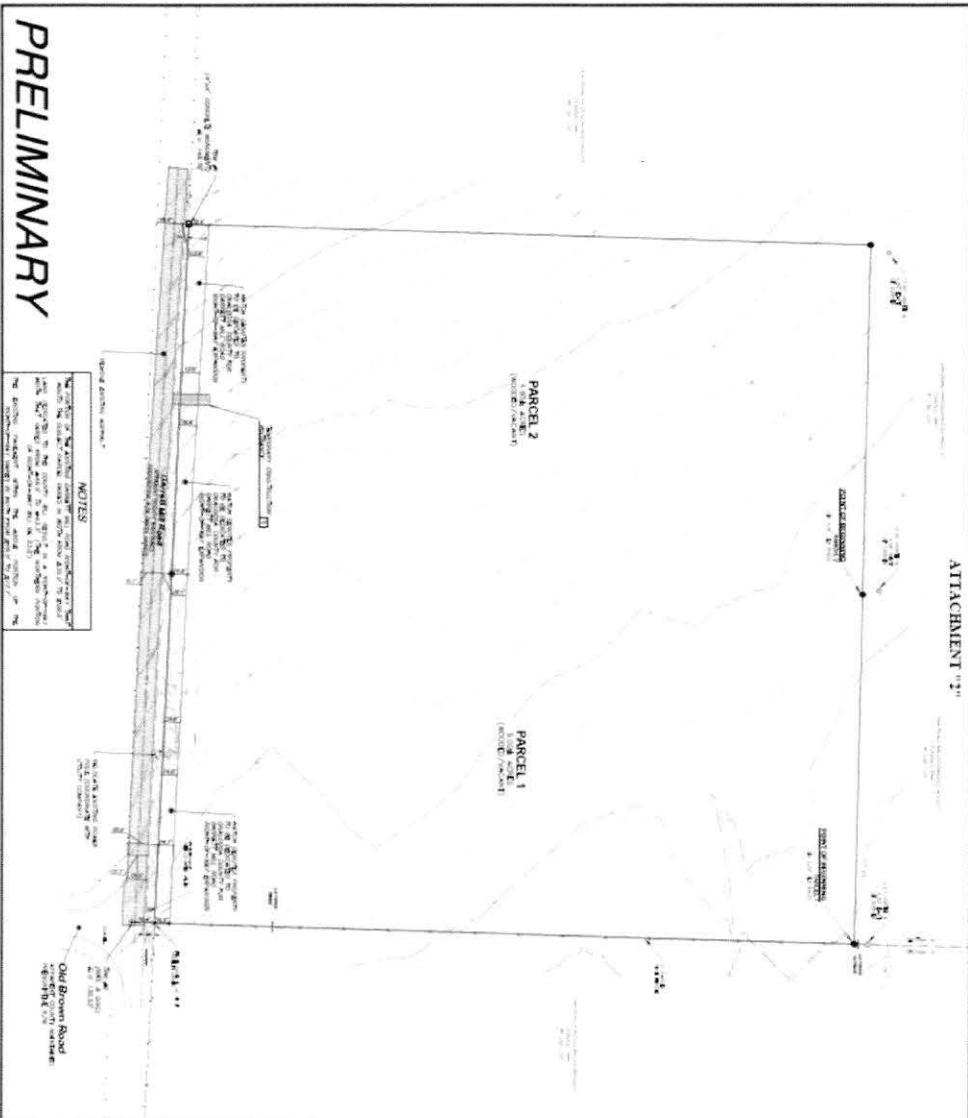


2018 FDOT Green Book Permits the Requested Variances

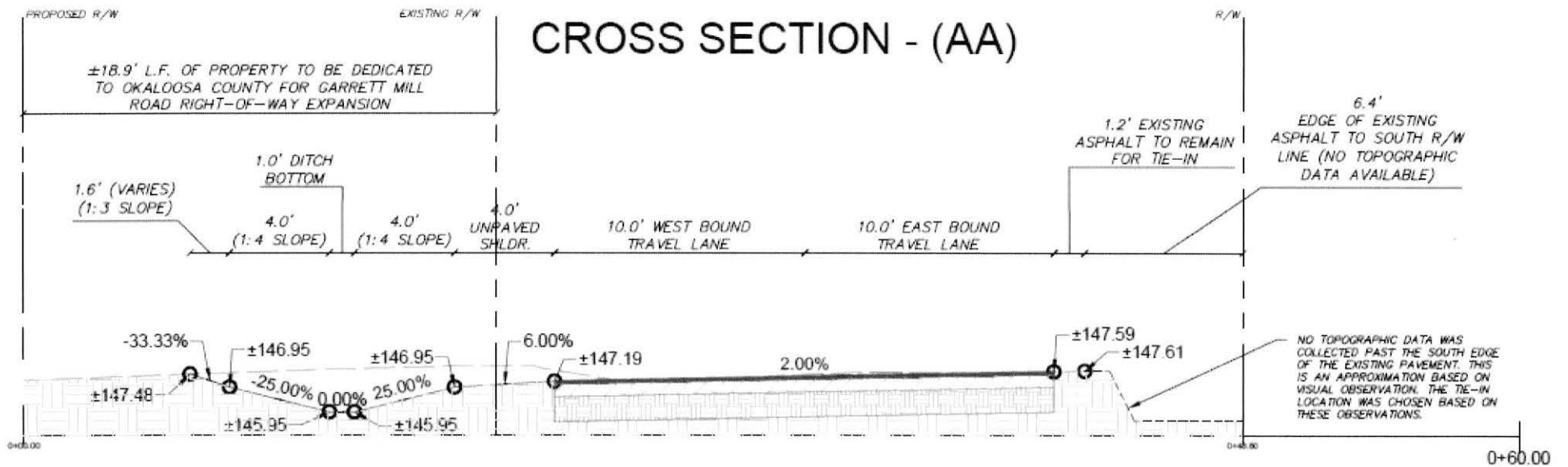
- Page iii – “A county or municipality may substitute standards and criteria... for some or all of portions of design, construction, and maintenance of their facilities.”
- Lane Width: Table 3-20, Footnote 3: For local rural roads with ADT of 401-1500 ADT: “In constrained areas where truck volumes are low and speeds are , 35 MPH, 10’ lanes may be used.” **Finding: The proposed 10’ lanes are consistent with Green Book.**
- Clear Zone: Table 4-1, Footnote 1.b: “Where constraints of cost, terrain, , right of way, or potential social/environmental impacts make the provision of a 6 feet clear zone impractical, clear zones less than 6 feet in width may be used, including designs with 0 feet clearance.” (emphasis added) **Finding: The proposed north side clear zone at 7-10’ in width exceeds the minimum 6 foot Green Book guideline. The Green Book permits the existing south side clear zone to remain at 0 feet due to right of way constraints.**
- Clear Zone/Shoulder: Section B.1.a.: “Clear zone is the unobstructed, traversable area beyond the edge of the traveled way for the recovery of errant vehicles. The clear zone includes shoulders and bicycle lanes.” **Finding: As confirmed above (footnote 1.b), the clear zone (including shoulders) may be 0 feet where right of way constraints exist. Green Book permits the existing south side clear zone/shoulder to remain at 0 feet due to right of way constraints.**

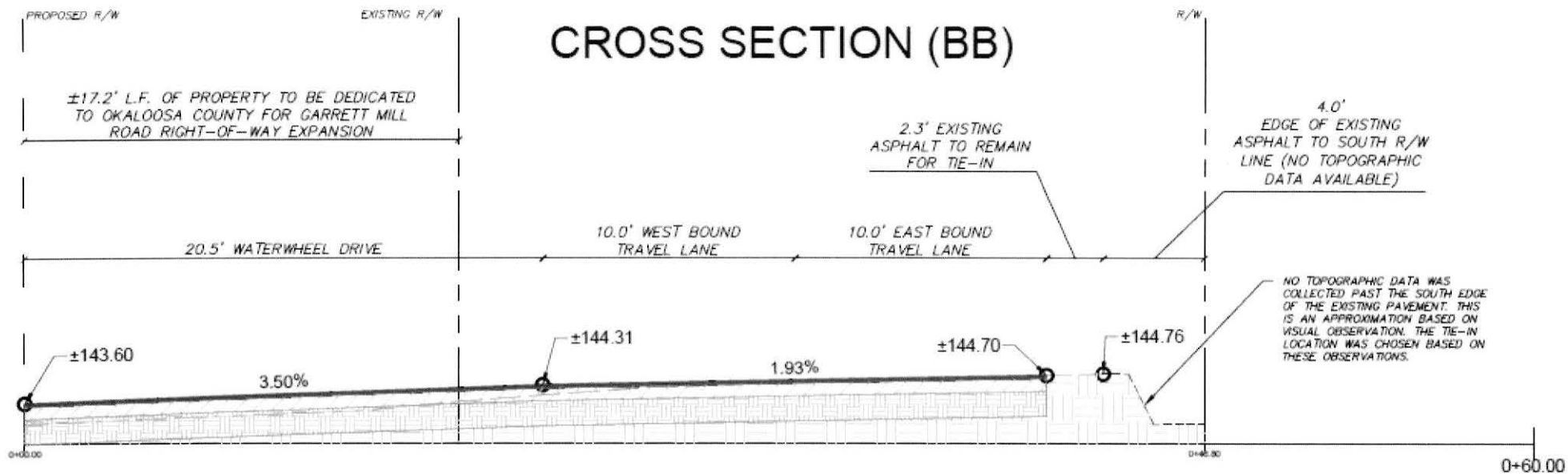
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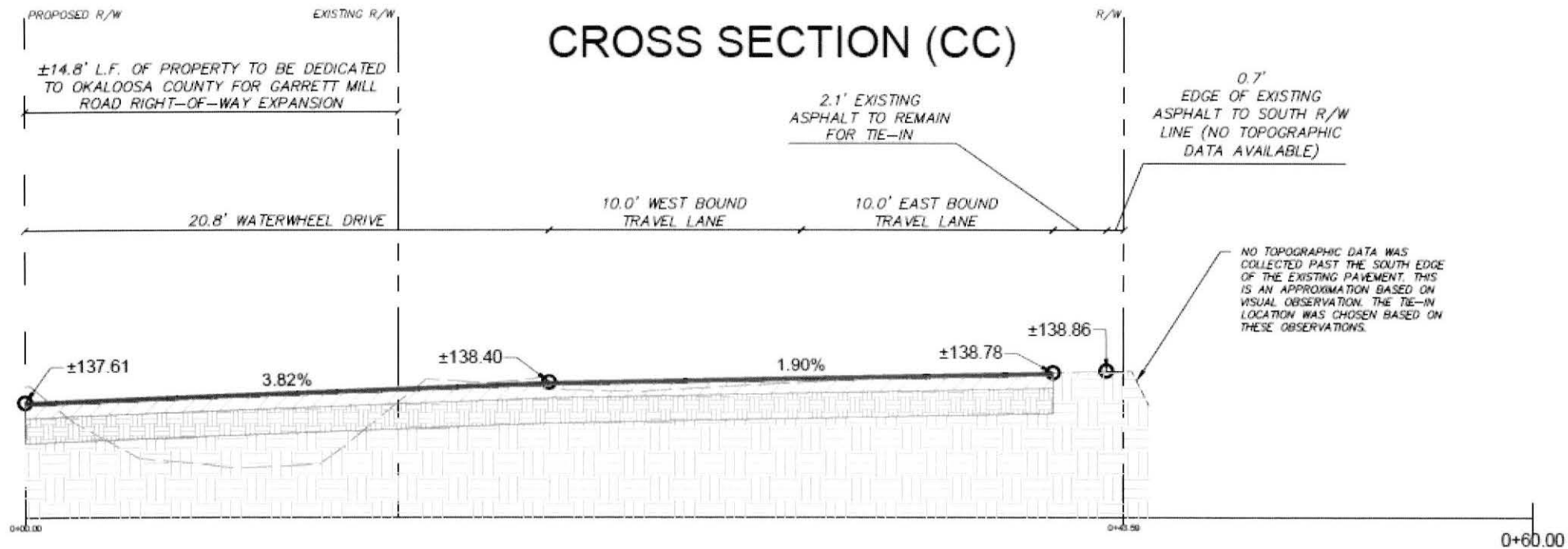
- **Shoulder:** Table 3-21: ADT 400-750 = 6 feet, ADT > 750 = 8 feet. **Finding:** Green Book (footnote 1.b above) permits the proposed shoulder of 4' on the north side due to right of way constraints.
- **Lateral Offset:** Table 4-2: For rural roads, lateral offset = clear zone Width. **Finding:** Green Book (footnote 1.b above) permits the existing lateral offset/clear zone to remain of 0 feet on the south side due to right of way constraints.
- **Drainage Swale** – Section B.2.b: “Drainage structures and their associated end treatments location along the roadside should be implemented using either a traversable design or located outside of the required clear zone.”
- **Section B.1.a.1:** “Recoverable Slope – Traversable Slope 1:4 or flatter. Motorists who encroach on recoverable foreslopes generally can stop their vehicles or slow them enough to return to the roadway safely.” **Finding:** The proposed foreslope of 1:4 on the north side is located within the clear zone and is traversable. The rearslope is 1:4 and is 9' from edge of pavement, which is 2' beyond the minimum 7' clear zone proposed for the north side. The Green Book permits the proposed 1:4 slope on the north side and permits the existing condition at 0' to remain on the south side due to right of way constraints.



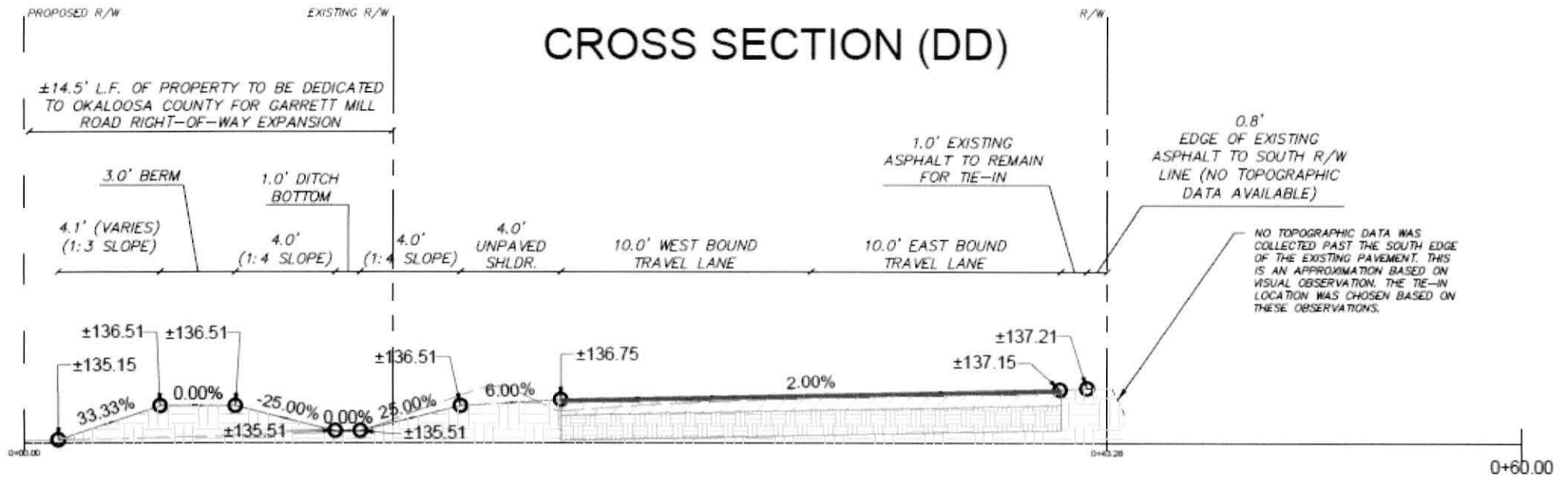








CROSS SECTION (DD)



Lane Width 11' to 10'

- Variance: Reduce the required lane width for GMR from 11' to 10' along the 666' of property frontage.
- LDC Section 6.03.14.1.d.i requires a lane width of 11' for major local roads and 10' for minor local roads.
- Creekside Subdivision was approved with 10' lane width.
- Green Book allows 10' wide lanes for rural roads with ADT < 1,500

Drainage Swale

- Variance: Modify the ditch design standards on the north side of Garrett Mill Road along the 666' of property frontage, subject to final design approval: from 1:5 front and back slopes (resulting in a 10' wide ditch section 1' in depth) to 1:4 front and back slopes with a 1' wide bottom (resulting in a 9' wide ditch section 1' in depth)
- The 1:4 proposed foreslope within the clear zone is traversable and within the range recommended by the Green Book.
- The 1:4 proposed rearslope is outside of the clear zone and is permitted by the Green Book.
- Modify the ditch standards on the south side of Garrett Mill Road along the 666' of property frontage to 0'. This is permitted by the Green Book based on the existing right-of-way constraint.
- The drainage swale and subdivision stormwater pond are designed to treat and store runoff from GMR flowing from west of the subject Property.

Shoulder

- Variance: Reduce the shoulder width from the 6-8' to 4 feet on the north side of GMR along the 666' of property frontage and to 0' on the south side.
- The shoulder is part of the clear zone and the reduced shoulder widths are permitted by the Green Book where right-of-way constraints exist.
- The applicant does not have legal authority to do work beyond the road edge of pavement, except where additional right-of-way dedication is proposed.

Lateral Offset

- Reduce the lateral offset from 4' from curb to 0' on the south side of GMR along the 666' of property frontage.
- The Green Book permits a reduction of the lateral offset/clear zone where right-of-way constraints exist.
- Applicant does not have legal authority to do work beyond the road edge of pavement, except where additional right-of-way dedication is proposed.

Variance Approval Criteria in LDC Section 11.02.09.03

- a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- b. That the special conditions and circumstances do not result from the actions of the applicant.
- c. That granting the variance requested will not confer on the applicant any special privilege that is denied by the Land Development Code to other lands, buildings or structures in the same zoning district.
- d. That literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant.
- e. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- f. That the grant of the variance will be in harmony with the general intent and purpose of the Land Development Code, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Special Circumstances peculiar to the land and which are not applicable to other lands in the same zoning district

- Proposed variances are permitted by the Green Book standards due to right-of-way limitations.
- Requested variances will maximize consistency with the Green Book standards to the extent feasible within the available right-of-way.
- Special conditions and circumstances are peculiar to this location as related to Green Book alternative standards based on the unique right-of-way constraints on GMR.
- Right-of-way constraints are peculiar to each road in the R-1 zoning district and the resulting ability to achieve consistency with Green Book alternative standards at any given location.

Special Conditions and circumstances do not result from the actions of the applicant

- Right-of-way constraints do not result from the actions of the applicant.
- Applicant has proposed the maximum extent of improvements possible within the proposed right-of-way to be dedicated.

Will not confirm on the applicant any special privilege that is denied by the LDC to the other lands in the same zoning district

- Granting variances will not confer any special privilege as each road differs in regard to right-of-way constraints that affect the extent to which an applicant can comply with Green Book standards or alternative standards based on right-of-way constraints.
- Green Book specifically recognizes that right-of-way constraints allow for the use of the alternative standards set forth in the Green Book.
- Applicant's proposed conditions impose obligations on the applicant for right-of-way dedication and road improvements.

Literal interpretation of the LDC would deprive applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work an unnecessary and undue hardship on the applicant

- Literal interpretation of the Land Development Code would deprive the applicant of the ability to proceed with a subdivision in accordance with the R-1 zoning standards.
- Requiring the applicant to comply with Green Book standards without sufficient right-of-way available would work an unnecessary and undue hardship on the applicant.

Minimum variance that will make possible the reasonable use of the land.

- The variances are the minimum required to allow for the reasonable use of the property based on the Low Density Residential future land use category and R-1 zoning district.
- The applicant's proposed Pine Mill subdivision is for just 27 lots at a density of 2.71 units per acre of 68% of the allowable density.

Will be in harmony with the general intent and purpose of the LDC and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare

- The requested variances are in harmony with the general intent and purpose of the Land Development Code, including Section 6.03.04(1), which specifies in part that “improvements shall be required to the extent where access to the proposed development is made....”
- The applicant has proposed conditions to require improvements within the segment where access to the proposed subdivision is proposed.
- Green Book provides alternative standards deemed acceptable where right-of-way constraints exist.
- The variances will not be injurious to the area or detrimental to the public or intent of Ch. 6. The proposed conditions require the maximum extent of improvements achievable within the proposed right-of-way.

CONCLUSIONS

- The requested variances are supported by competent substantial evidence demonstrating that the variances meet the review criteria set forth in LDC Sections 6.03.10 and 11.02.09.03.
- The variances are consistent with Green Book guidance for this type of road where right-of-way constraints exist.
- The applicant has proposed significant improvements to GMR, including drainage for GMR runoff from north to Pickens Circle.
- The variance application warrants approval.