



TOWN OF TALLULAH FALLS
PO Box 56, Tallulah Falls, GA 30573
706-754-6040

APPLICATION FOR DETERMINATION OF VESTED RIGHTS CLAIM

General Information

Under certain circumstances, vested rights may be claimed under state law to allow an application to be reviewed under regulations that have been changed or are otherwise no longer in effect. All claims for vested rights shall be reviewed in accordance with controlling Georgia case law, statute, and/or constitutional provisions.

Pursuant to *Section 2213* of Article XXII in Appendix A of The Code of the Town of Tallulah Falls, Georgia, adopted by the Town of Tallulah Falls Council on July 23, 2020, applications for claiming vested rights shall adhere to the following process:

1. Submit a completed Vested Rights Petition to the Zoning Administrator(s);
2. An administrative hearing before the Town Council shall be scheduled to occur within the next sixty (60) days;
3. All evidence shall be presented to the Town Council by the applicant for consideration during this administrative hearing; and
4. The Town Council shall render a final written decision on the Vested Rights Petition within thirty (30) days of the administrative hearing.

Initial Information Required for a Vested Rights Petition:

1. **TITLE** A title opinion of a Georgia attorney, abstract of title or other evidence demonstrating property ownership interests in the real property described in the application, which opinion, abstract or other evidence of ownership is acceptable to the Town as of both the date of filing this petition and as of July 23, 2020.
2. **BOUNDARY SURVEY AND LEGAL DESCRIPTION** prepared by a surveyor registered by the State of Georgia under a surveyor's seal and certified to the Town for the parcel of land upon which the applicant claims to have vested rights.
3. **AFFIDAVIT** under penalty of perjury, executed by the applicant before a notary public attesting to the truth, accuracy and veracity of the application and all attachments thereto.
4. **DESCRIPTION OF VESTED RIGHTS CLAIM** Provide a detailed description of the vested rights claim for each individual property. Include any and all supporting documentation, including, but not limited to, deeds, land disturbance permits, building permits, other plans or approvals for the subject property for use under any previously existing conditions.
5. **Any Other Information Requested** by the Zoning Administrator.

Subject Property Address: _____ SEE ATTACHED FOR ALL INFORMATION _____

Subject Property Parcel ID: _____

Applicant _____ Applicant Contact No. _____

Applicant mailing address _____

Applicant e-mail address (if any) _____

APPLICATION FOR DETERMINATION OF VESTED RIGHTS CLAIM

AUGUST 19, 2020

APPLICANTS: **J & D IRVIN HOLDINGS, LLC**

S & B IRVIN PROPERTIES, LLLP

SUBJECT PROPERTY ADDRESS: **Hickory Nut Mountain lots 4, 17, 18, 18A, 19, 20, 20A, 21, 21A, 22A, 23, 24, and 58, River Street lots 15, 16, 17, and 18, and Cabin lots 36, 37, 38, 39, and 40, owned by J & D. S & B owns Hickory Nut Mountain lot 56.**

SUBJECT PROPERTY PARCEL ID:

Parcel 101A 015D

Hickory Nut Mountain Lot #4

Parcel 101A 003B

Hickory Nut Mountain Lots #17, #18, #18A, #19, #20, #20A, #21, #21A

Parcel 101A 003C

Lots 22A, 23, 24

Parcel 101A 007F

Top of Hickory Nut Mountain Lot #56

Parcel 101A 011B

Top of Hickory Nut Mountain Lot # 58

Parcel 101B 064

Lakefront Lots #15, #16, #17, #18

Parcel 101B 001B

Septic and Cabin Lots #36, #37, #38, #39, #40

APPLICANT MAILING ADDRESS: **P.O. Box 219, Tallulah Falls, GA 30573**

APPLICANT CONTACT NO.: **706-754-5464**

APPLICANT EMAIL ADDRESS: **brian.t.irvin@gmail.com;**

davidirvincpa@gmail.com; marciabrockngf@gmail.com

With a copy to **mreeves@atclawfirm.com** and **sadams@atclawfirm.com**

1. TITLE: Requested documents as of July 23, 2020 are attached.
2. BOUNDARY SURVEY AND LEGAL DESCRIPTION: Requested documents as of July 23, 2020 are attached.
3. AFFIDAVIT: sworn statement is provided below.
4. DESCRIPTION OF VESTED RIGHTS CLAIM: detailed description below and attached herewith.

DESCRIPTION OF VESTED RIGHTS CLAIM

J&D Irvin Holdings, LLC and S&B Irvin Properties, LLLP (the “Applicants”) in reliance on the Town’s then-current ordinances and communications, spent substantial time, funds and resources in furtherance of Short-Term Vacation Rental (“STVR”) use of their 23 lots in the Town of Tallulah Falls before the Town enacted its STVR Ordinance on July 23, 2020. Enclosed are detailed records per property relating to the Applicants’ vested STVR rights, including but not limited to deeds, land disturbance permits, building plans, and other plans for the subject property for use as STVR’s before the Town’s STVR ordinance was enacted.

Applicants obtained in furtherance of STVR use, engineering, surveys, a temporary driveway, gravel, architectural elevations of STVR cabins and homes, floor plans for STVR homes, marketing and due diligence with local realtors, soil tests, land disturbance permits, clearing, grading, equipment, vehicles, designs and renderings, inspections, software, tree cutting, stump removal, supplies, dump trucks, personnel time, corporate work, legal fees and other expenses, site underbrush clearing, and other expenditures of money and resources in furtherance of STVR, after reviewing the Town’s ordinances and communicating with Town elected and staff officials about Applicants’ pursuit of STVR use.

Applicants own 23 lots in the Town on which Applicants had expended substantial time and resources pursuing STVR use of their 23 lots, before July 23, 2020. Applicants have a track record of operating high-quality STVR’s in Rabun County and surrounding areas, which knowledgeable experts have informed the Town will increase property values substantially above property restricted from STVR use. Applicants have reason to believe that the Town acceded to the demands of certain individuals with personal conflicts of interest, who targeted Applicants’ 23 lots to be excluded from the STVR use which Applicants had expended time and resources in furtherance of, after speaking with Town elected and staff officials. Applicants had a vested right to use their 23 lots for STVR use before the STVR Ordinance was enacted. It is noteworthy as of July 9, 2020 some of J & D’s lots were marked white and showed no zoning on the Town’s zoning map.

The STVR Ordinance imposes a substantial detriment on Applicants’ 23 lots, is unconstitutional and otherwise violates Applicants’ legal rights, violates due process, and is otherwise objectionable and legally defective. The Town’s actions on July 9 and July 23, 2020 in enacting the zoning map and STVR ordinance (a new 9 page ordinance posted on the internet without discussion less than 24 hours before the meeting and then a “vested rights” paragraph not discussed until the meeting started and not even circulated in writing to all Council members) caused \$700,000 or more of expenses or resources to be wasted, and caused

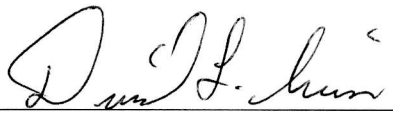
\$6,000,000 or more in damages to Applicants and their 23 lots. The Town's STVR ordinance followed a moratorium, revival and stacking with conflicted STVR opponents the Planning Commission, and other damaging and targeting actions by the Town. This Application follows and supplements Applicants' March, 2020 and August, 2020 Ante Litem Notices, July 9, 2020 constitutional objections, July 20, 2020 supplemental constitutional objections, and July 23, 2020 second supplemental constitutional objections, as well Applicants' constitutional objection to the July 9, 2020 zoning map. The foregoing previous communications are in the Town's records and are incorporated herein by reference.

In addition to the facts and damages reflected in the enclosed documents, Applicants are prepared, and request the opportunity, to present testimony in furtherance of their Application. Reserving all rights and claims, Applicants renew their request for the Town to allow Applicants to use their 23 lots for STVR uses.

Applicants have forbore from filing suit to date in a good faith effort to allow the Town to honor Applicants' private property and other legal rights relating to STVR use voluntarily pursuant to the new STVR Vested Rights Application process, and file this Application reserving all rights and under protest, subject to their previous Constitutional objections and Ante Litem Notices, as well as subject to Applicants' proposed revisions to the verbiage of the 9-page STVR Ordinance.


AFFIDAVIT

Personally appeared before the undersigned attesting officer authorized to administer oaths, David Irvin, who being duly sworn, deposes and says on oath that the facts contained in the APPLICATION FOR DETERMINATION OF VESTED RIGHTS CLAIM filed herein are true and correct based on his personal knowledge and that he is authorized to execute this Affidavit on behalf of J&D Irvin Holdings, LLC and S&B Irvin Properties, LLLP.

 8/19/20

David Irvin

Sworn to and subscribed before me,
this the 19th day of August, 2020



Notary Public

My Commission Expires: 10/17/22



JULY 9, 2020

ZONING MAP ENACTMENT

**TOWN OF TALLULAH FALLS
STATE OF GEORGIA
REGULAR COUNCIL MEETING
255 MAIN STREET, TALLULAH FALLS, GA 30573
WITH VIDEO CONFERENCE STREAMING AVAILABLE FOR THE PUBLIC
JULY 9, 2020, 6:00 PM**

AGENDA

- Call to Order**
- Moment of Silence**
- I. Approval of the Agenda**
- II. Public Hearings**
 - A. Budget for Year Ending 06-30-2021
 - B. Zoning Map Amendment
 - C. Zoning Ordinance to Allow and Regulate Short Term Vacation Rentals in Certain Zoning Districts
- III. Consent Agenda**
 - Minutes**
 - Council Meeting June 4
 - Council Budget Work Session June 18
 - Reports**
 - Water
 - Police Report
 - Fire Report
 - Financial Report
 - Volunteer Report
 - Habersham SPLOST Intergovernmental Agreement**
- IV. Attorney Report**
- V. Old Business**
 - A. Blue Line Solutions School Zone Automated Enforcement Program Contract
 - B. Document Security
- VI. New Business**
 - C. Main Street Grill & BBQ Alcohol License – Beer – Jeffrey Cope
 - D. Planning & Zoning Commission appointment – 4-year term ending July 28, 2024
 - E. Ratify DDA Appointment from Town Council
 - F. Ratify DDA Appointment Kristi Early
 - G. Emergency Water Repairs and Improvements
 - H. Zoning Map Amendment
 - I. Zoning Ordinance to Allow and Regulate Short Term Vacation Rentals in Certain Zoning Districts
 - J. 2020 Budget Amendment
- VII. Mayor's Comments**
- VIII. Public Comments**
- IX. Executive Session (if needed)**
- X. Adjournment**

The link to watch is: <https://www.youtube.com/channel/UCytr3V3naaBwBwizBlg-y8A>

The link to participate is: <https://mkearlydesigngroup.my.webex.com>

And the meeting number is: 794 499 414

JULY 23, 2020

PARAGRAPH ADDITION

Section 2213 – Applicability.

Any person or entity claiming a vested right to use or develop property for STVR purposes shall present such claim to the Town Council for a determination regarding its validity. Application for a determination shall be made to the Town through the Zoning Administrator on forms established by the Zoning Administrator. Within 60 days of the filing of an application, the Town Council shall hold an administrative hearing on the application in which all questions and evidence shall be presented for consideration. The Town Council shall render a final written decision on the application within 30 days of the hearing.

9 PAGE STVR
JULY 23, 2020

**TOWN OF TALLULAH FALLS
STATE OF GEORGIA
SPECIAL CALLED COUNCIL MEETING
255 MAIN STREET, TALLULAH FALLS, GA 30573
WITH ADDITIONAL VIDEO CONFERENCE STREAMING AVAILABLE
JULY 23, 2020, 6:00 PM**

AGENDA

Call to Order

I. Approval of the Agenda

II. Old Business

A. Ordinance to Allow and Regulate Short Term Vacation Rentals in Certain Zoning Districts

III. New Business

B. Budget FYE 06-30-2021

C. Paving Contractor bid award

Adjournment

The link to watch is: <https://www.youtube.com/channel/UCytr3V3naaBwBwlzBlg-y8A>

The link to participate is: <https://mkearlydesigngroup.my.webex.com>

And the meeting number is: 794 499 414

The Code of the Town of Tallulah Falls, Georgia, is hereby amended by adding an Article to Appendix A – ZONING, which such provisions reads as follows:

Article XXII – Regulations for Short Term Vacation Rentals

Section 2201 -- Purpose.

The purpose of this Ordinance is to: establish regulations for the use of property, including residential and business structures or any part thereof, for Short Term Vacation Rentals (“STVR”) in the Town of Tallulah Falls (the “Town”); minimize any negative, secondary effects on surrounding properties; promote harmony and protect the integrity of land uses and existing zoning classifications; ensure proper precautions are in place for the health and safety of those occupying properties on a short-term vacation rental basis; provide for the enforcement and redress of violations; and, facilitate the collection and payment of Room Taxes as authorized by Town ordinance and State law.

Section 2202 – Findings of Fact.

- 1.) The Town has the authority to promulgate rules, regulations, and ordinances applicable to activities and uses of properties within its jurisdiction.
- 2.) The Town further finds that, pursuant to its aforementioned authority, it has previously regulated the use of properties for what is now known in common parlance as Short Term Vacation Rentals (STVRs) by prohibiting this use in zoning districts other than the Business District and Highway Business District.
- 3.) The Town further finds that the advent of Internet-based Websites, such as Air BnB or VRBO, has proliferated the popularity of what is now commonly known as STVRs around the region, State, and World.
- 4.) The Town further finds that it is necessary to adopt additional rules and regulations applicable to the use of property for STVRs by this Ordinance for the purpose of protecting the health, safety, morals, and general welfare of its residents, property owners, guests, and visitors.
- 5.) The Town further finds that it is in the best interest of the public that this Ordinance be adopted after giving due consideration to the associated implications involved therewith.

Section 2203 – Definitions.

As used herein, the phrase Short Term Vacation Rental (“STVR”) shall mean and apply to the leasing of any property or structures located thereon, whether used in whole or in part, for a period of thirty days or less for residential purposes. It includes, without limitation, any apartment, condominium, room, house, tourist home, tourist cabin, lodginghouse, roominghouse, dormitory,

lodge, inn, or similar lodging accommodation known by another name of any kind whatsoever containing guest rooms that are occupied, intended or designed for occupancy by paying guests on a short-term basis for residential purposes, whether rent is paid in money, goods, labor, or otherwise.

Section 2204 – Prohibited Uses.

STVRs shall be prohibited on all property located within the Town's corporate limits, unless otherwise specifically permitted by the Town's zoning classifications applicable to any such property. As of the date this Ordinance is adopted, STVRs are a permitted use only in the Business District and Highway Business District zoning classifications.

Section 2205 – Certificate of Authority Required.

- 1.) It shall be unlawful for any person or entity to advertise, offer, operate, or use property located within the Town's corporate limits for STVR without first obtaining a valid Certificate of Authority to collect the Room Tax provided for in Chapter 18, Article IV, Sections 18-83 through 18-93, of The Code of the Town of Tallulah Falls, Georgia.
- 2.) Persons or entities that already have a valid Certificate of Authority to collect the Room Tax provided for in Chapter 18, Article IV, Sections 18-83 through 18-93, of The Code of the Town of Tallulah Falls, Georgia, as of the date this Ordinance is adopted shall not be required to re-apply for a Certificate of Authority; however, such persons or entities must nevertheless comply with any and all other requirements of this Ordinance. To the extent that any person or entity already has a valid Certificate of Authority, but does not presently satisfy the remaining requirements contained in this Ordinance, such person or entity shall come into compliance with the remainder of the requirements contained in this Ordinance within thirty days of the adoption hereof.
- 3.) To the extent that a person or entity maintains a separate location or office within the Town's corporate limits from which such location or office that person or entity is engaged in managing, maintaining, or operating other properties for use as STVRs, that person or entity may be required to apply for and receive a Business and Occupation License as provided for in Chapter 18, Article II, Sections 18-21 through 18-56, of The Code of The Town of Tallulah Falls, Georgia separate and apart from any requirement to receive a Certificate of Authority for the use of any property for an STVR.

Section 2206 – Applications.

- 1.) Certificates of Authority for advertising, offering, operating, or using property for STVRs shall comply with the provisions of Chapter 18, Article IV, Sections 18-83 through 18-93,

of The Code of the Town of Tallulah Falls, Georgia and those regulations set forth in this Ordinance.

- 2.) In addition to obtaining a Certificate of Authority as set forth hereinabove, all persons or entities intending to advertise, offer, operate, or use any property for STVRs within the Town's corporate limits must comply with the regulations set forth herein:
 - A.) The person or entity shall acknowledge that he, she, or it will keep the total number of guests allowed on any particular property so used as an STVR to that number which can safely stay on the property or premises located thereon;
 - B.) The person or entity shall acknowledge that he, she, or it is subject to the International Fire Code, Rules and Regulations for the State Minimum Fire Safety Standards, and Chapter 14, Article III, Sections 14-46 through 14-56 of The Code of the Town of Tallulah Falls, Georgia;
 - C.) The person or entity shall provide at their own expense a certification under oath by a qualified third-party inspector attesting that he or she has inspected the property that will be so used and did not find any visible or apparent violations of the Technical Codes provided for in Chapter 8, Section 8-1 of The Code of the Town of Tallulah Falls, Georgia, which pose a material risk to human health or safety;
 - D.) The person or entity shall certify under oath that there are no deed restrictions and/or covenants applicable to a property so used that prohibit the use of that property for STVR;
 - E.) The person or entity shall certify under oath that the owner has and will maintain continuously commercial or specific STVR insurance on the property and provide the Town with a copy of the declarations page for such policy;
 - F.) The person or entity shall further certify under oath that there are no unpaid financial obligations to the Town;
 - G.) The person or entity shall provide to the Town Clerk the name, address, telephone number, and e-mail for a local contact person or responsible individual of at least 18 years of age or older who is located within twenty five miles of the Town's corporate limits and is available twenty-four hours a day to respond within two hours regarding any complaint about the property or guest behavior;

- H.) The person or entity shall notify the Town Clerk within seventy-two hours of any changes to the information required by subparagraph (G) immediately above;
 - I.) The person or entity shall notify the Town Clerk within seven days when there is a change in property ownership or management of the property used for STVR;
- 3.) No Certificate(s) of Authority shall be transferred, assigned, or used by any person or entity other than the person or entity to which it was issued, or for any location other than the one for which it was issued.

Section 2207 – STVR Requirements, Rules, and Regulations.

- 1.) This section applies to all properties used for STVRs in the corporate limits of the Town and is in addition to any and all public or private covenants, ordinances, rules and regulations, or policies to which the property is subject, including but not limited to, any restrictive covenants, homeowner association covenants, subdivision rules, state or federal laws and regulations, or local ordinances.
- A.) *Parking* – Vehicles, trailers, and watercraft shall not be parked on the right-of-way so as to hinder access to such rights-of-way and shall not be parked along any roadway which could cause safety issues, hinder access to such roadways or be in violation of any laws, regulations, or ordinances;
 - B.) *Solid waste/trash* – Trash and refuse shall not be left or stored in such a way that would cause safety or sanitary issues or violate any local, State or Federal laws;
 - C.) *Certificate of Authority Displayed* – The required Certificate of Authority shall be prominently displayed at the property;
 - D.) *Occupancy* – The number of overnight guests shall not exceed the occupancy allowed under the most current version of International Fire Code, Rules and Regulations for the State Minimum Fire Safety Standards, and Chapter 14, Article III, Sections 14-46 through 14-56 of The Code of the Town of Tallulah Falls, Georgia;
 - E.) *Alarms and egress* – Each bedroom/sleeping quarters shall have a working smoke alarm and an emergency escape or exit complying with the requirements of the most current version in effect of the International Fire Code, Rules and Regulations for the State Minimum Fire Safety Standards, and Chapter 14,

Article III, Sections 14-46 through 14-56 of The Code of the Town of Tallulah Falls, Georgia, as applicable;

F.) *Animals* – Pets may run at large within the curtilage of the STVR property but are required to be on leash otherwise.

- 2.) Guidelines related to how guests must comply with the foregoing and other applicable requirements, rules, and regulations, including property specific instructions for how to comply therewith, must be made available to each guest by the owner or operator of any property used for STVRs. For purposes of this paragraph, an information sheet posted in a conspicuous place on the property shall be sufficient.

Section 2208 – Violations of this Ordinance.

Violations of this Ordinance shall be deemed an offense pursuant to Chapter 24 of The Code of the Town of Tallulah Falls, Georgia. Penalties may include a citation for ordinance violation and revocation or suspension of a Certificate of Authority. Citations for ordinance violations hereunder shall be referred to the Tallulah Falls Municipal Court or other court of competent jurisdiction for prosecution. Violators may be subject to civil and criminal penalties upon conviction as provided for herein and up to the maximum punishment for ordinance violations as set forth in Article IV, Section 4.13 of the Town of Tallulah Falls Charter regarding the jurisdiction and powers of the Tallulah Falls Municipal Court. The Town Council, however, shall remain the exclusive authority over matters involving the suspension or revocation of a Certificate of Authority.

Section 2209 – Enforcement Protocol.

- 1.) The Enforcement Protocol set forth herein shall be a guide regarding the intended process to address violations of this Ordinance. Nothing contained herein, however, shall be construed to limit or restrict valid governmental functions the Town or its agents may deem necessary or appropriate under the circumstances in light of unforeseeable situations that may arise in the future.
- 2.) Prior to the issuance of any citations for ordinance violations, the Town shall provide a written notice of any complaints received by the Town or its agents regarding a specific property used for STVR to the local contact person, owner, or both. Such written notice may be made electronically, such as by e-mail to the address on file with the Town that is required to be submitted upon application for a Certificate of Authority. The local contact person or owner is required to visit the STVR location within a reasonable time after receiving such written notice, the reasonableness of the time in which the local contact person or owner is required to visit the STVR location to be dependent on the circumstances surrounding the nature of the complaint. The local contact person or owner

shall thereafter ensure that compliance is obtained within a reasonable time under the circumstances depending on the nature of the complaint and/or violation. When a written notice of a complaint is given, verbal notifications regarding the complaint may also be made where feasible to facilitate acknowledgement of delivery for the written notice of complaint. In the event of an emergency requiring more immediate action in the discretion of the Town or its agents, however, a notice of complaint may be made orally, followed up by a written notice of complaint documenting the details concerning the oral notification and the nature of the emergency situation in addition to the other information normally required for initial written notices of complaint. Such written notifications issued following an emergency circumstance shall relate back to the date and time the oral notification was made as though the written notification had been provided at that time for purposes of determining the reasonableness in which corrective action as set forth herein is taken.

- 3.) Each person or entity owning property that is used for STVR is allowed one written notice of complaint per calendar year. Upon the Town receiving a second complaint or more regarding the same property used for STVR, then an investigation by the Town or its agent shall commence to determine whether a citation for ordinance violation shall issue.
- 4.) The Zoning Administrator or designee may also conduct inspections from time to time to ensure compliance with this Ordinance upon reasonable notice to the property owner or local contact person.
- 5.) The Zoning Administrator or designee may also conduct investigations whenever there is a reason to believe that the owner or local contact person has failed or refused to comply with the provisions of this Ordinance. The investigation may include an inspection of the property and premises, review of response and incident report(s), online searches, interview(s), or receipt of documentation from affected community members or guests to include photographs, video(s), and sound recording(s), all of which may constitute evidence of a violation of this Ordinance, other provisions of The Code of the Town of Tallulah Falls, Georgia, or State Law. Should the investigation support a finding that a violation has occurred, the Zoning Administrator or designee shall provide the owner, local contact person, or both, a written notice of violation or issue a citation of ordinance violation as may be appropriate.
- 6.) Nothing contained herein shall be construed to require the provision of a written notice of complaint as a prerequisite to, or in-lieu of, direct and immediate action by the Town or its agents, such as the Tallulah Falls police, fire, or public works professionals when appropriate under the circumstances. For example, the commission of a crime or violation of an ordinance by a guest on property used for STVR shall remain within the province of the appropriate law enforcement agency. Similarly, the appropriate fire and rescue agency or public works agency, as applicable, may take such action as they may deem necessary or appropriate under the circumstances without first giving notice and opportunity to correct the situation by the owner or local contact person.

Section 2210 - Suspension of a Certificate of Authority.

- 1.) For the reasons set forth herein, a Certificate of Authority for an STVR issued by the Town may be suspended until notice and an opportunity for a hearing upon the occurrence of the following:
 - A.) A Certificate of Authority shall be immediately suspended when a citation for ordinance violation has been issued and is pending in the Tallulah Falls Municipal Court;
 - B.) A Certificate of Authority shall be immediately suspended upon the Mayor or Town Clerk learning that an applicant furnished fraudulent or untruthful information in the application for a Certificate of Authority, omitted information required to be provided under this Ordinance, failed to pay all fees, taxes, utilities (water-sewer) and/or other charges imposed under the provisions of this Ordinance or other Town Ordinances as applicable, or failed to update information required to be provided to the Town in accordance with this Ordinance;
 - C.) A Certificate of Authority may be immediately suspended by the Mayor, Zoning Administrator, or their designee in situations where circumstances are present that may be construed as life-threatening or a danger to human life. Whether these circumstances are present in a particular situation shall be in the sole discretion of the Mayor, Zoning Administrator, or their designee; however, the Mayor, Zoning Administrator, or their designee may be guided by this Ordinance, the Technical Codes adopted by the Town pursuant to Chapter 8, Section 8-1 of The Code of the Town of Tallulah Falls, Georgia, the Fire Prevention Code adopted by the Town pursuant to Chapter 14, Article III, Section 14-46 of The Code of the Town of Tallulah Falls, Georgia, or any other State law or regulation applicable to such a situation including, but not limited to the Rules and Regulations for the State Minimum Fire Safety Standards or other public health guidelines and directives as the situation may warrant;

Section 2211 – Hearings on denial or revocation of a Certificate of Authority.

- 1.) A Certificate of Authority for an STVR issued by the Town shall not be revoked without notice and an opportunity for a hearing before the Town Council.
- 2.) *Hearings on Denials of Certificate(s) of Authority.* Upon the denial of an application for a Certificate of Authority, the applicant shall be entitled to a hearing before the Town Council at its next regularly scheduled meeting for the purpose of presenting evidence and argument regarding why the denial of the Certificate of Authority should be reversed. The applicant or his representative, including legal counsel, shall be entitled to participate in

the hearing contemplated by this paragraph. The hearing contemplated by this paragraph may also be rescheduled one time by the applicant of the denied Certificate of Authority to another date and time of a regularly scheduled meeting of the Town Council in the future, provided that the date and time so requested for the hearing to be continued to shall be reasonably acceptable to the Town Council. The Town Council may also reschedule the date and time of any such hearing for the purposes of complying with the Open Meetings Act. After the conclusion of the hearing contemplated by this paragraph, the Town Council shall render a decision regarding whether the Certificate of Authority should be granted or remain denied.

- 3.) *Hearings on Revocations of Certificate(s) of Authority.* Under circumstances in which the Town Council may revoke a Certificate of Authority, the holder of the Certificate of Authority that may be revoked shall be entitled to a hearing before the Town Council at its next regularly scheduled meeting for the purpose of presenting evidence and argument in opposition to the suspension or revocation. The holder of the Certificate of Authority that may be revoked or his representative, including legal counsel, shall be entitled to participate in the hearing contemplated by this paragraph. The hearing contemplated by this paragraph may be rescheduled one time by the holder of the Certificate of Authority that may be revoked to another date and time of a regularly scheduled meeting of the Town Council in the future, provided that the date and time so requested for the hearing to be continued to shall be reasonably acceptable to the Town Council. The Town Council may also reschedule the date and time of any such hearing for the purposes of complying with the Open Meetings Act. After the conclusion of the hearing contemplated by this paragraph, the Town Council shall render a decision regarding whether the Certificate of Authority should be revoked.
- 4.) *Notice of Hearings.* For all hearings provided for in this Section 2211, notice of the hearing shall be sent to the property owner at least ten days before any such hearing. Notice shall be given by certified mail sent to the last known address on file with the Town. In the event that no such address is for whatever reason on file with the Town, then the provisions of this Ordinance shall constitute a constructive notice of hearing. The Notice contemplated hereunder shall contain the date, time, and place for the hearing and reference the location and availability of this Ordinance. In the event that the notice contemplated herein is unable to be provided at least ten days prior to the next regularly scheduled council meeting, then the hearing provided for herein shall take place at the next regularly scheduled council meeting for which at least ten days' notice can be given.

Section 2212 – Reinstatement of a Certificate of Authority.

The property owner may apply for reinstatement of a suspended Certificate of Authority, or apply for a new Certificate of Authority following revocation, by providing proof satisfactory to the Town Council, or other person responsible for administering the Certificates of Authority, as to the correction, remediation, or mitigation of the reasons for which the Certificate of Authority was suspended or revoked, including the payment in full of any fines, penalties, or fees associated with the violation that prompted the suspension or revocation of the previous Certificate of Authority, if any.

Section 2213 – Relation to Other Ordinances and Supplemental Authority for Codification.

The Town Clerk is hereby authorized to take all actions necessary or convenient to codify this Ordinance with appropriate indexing and/or cross references to other ordinances that are related to this Ordinance as provided for in Chapter One of The Code of the Town of Tallulah Falls, Georgia.

Section 2214 - Severability.

- 1.) It is hereby declared to be the intention of the Mayor and Council of the Town of Tallulah Falls that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed to be fully valid, enforceable and constitutional.
- 2.) It is hereby declared to be the intention of the Mayor and Council of the Town of Tallulah Falls that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause, or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause, or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council of the Town of Tallulah Falls that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause, or phrase of this Ordinance.
- 3.) In the event that any section, paragraph, sentence, clause, or phrase of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council of the Town of Tallulah Falls that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional, or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance and that, to the greatest extent allowed by law, all remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 2215 – Effective Date.

This Article shall take effect and shall be enforced from and after the date of its adoption as provided for herein.

SO ORDAINED this _____ day of _____, 2020.

Mike Early, Mayor

(Signatures Continue on Next Page)

Attest:

Linda Lapeyrouse, Town Clerk

[seal]

Approved as to Form:

Warren Tillery, Town Attorney

CONSTITUTIONAL
OBJECTIONS LETTER

JULY 9, 2020

ANDERSEN | TATE | CARR

Shaun R. Adams
Email: sadams@atclawfirm.com

Telephone: 770.822.0900
Direct Dial: 678.518.6855
Direct Fax: 770.236.9702

July 9, 2020

VIA HAND DELIVERY AND EMAIL

The Honorable Mike Early, Mayor
Mr. Larry Hamilton
Ms. Deb Goatcher
Mr. Craig Weatherly
Mr. Joey Fountain
c/o Ms. Linda Lapeyrouse, City Clerk
255 Main Street
PO Box 56
Tallulah Falls, GA 30573
clerk@tallulahfallsga.gov

Warren Tillery Esq., City Attorney
Smith Welch Webb & White, LLC
2200 Keys Ferry Court
PO Box 10
McDonough, GA 30253
wtilley@smithwelchlaw.com

**Re: Objection to Planning Commission's June 10, 2020 Recommendation of
Short-Term Vacation Rental Regulations (STVR) Ordinance**

Dear Mayor, Council and City Attorney:

This letter is written on behalf of J and D Irvin Holdings, LLC to raise objections to the current draft of the STVR ordinance as recommended by the Town of Tallulah Falls Planning Commission during their June 10, 2020 meeting. My client proposed reasonable changes to the draft ordinance during the Planning Commission meeting (enclosed as Exhibit A) including multiple solutions to address the objections over prohibiting STVR in the R-1 zoning district. As stated in prior communications, excluding STVRs from the Town's only single family residential zoning district, R-1, has the effect of prohibiting STVRs in the Town because an STVR is a residential use of one's residence/home, not a business. Such a prohibition is an unreasonable restriction on one's right to use and enjoy their property and makes the STVR ordinance unconstitutional.

My client remains committed to being a good neighbor and working with the Town to pursue a mutually agreeable STVR ordinance that protects the vested rights in one's property while achieving the ordinance's purpose of providing a framework for licensing, tax collection, and operation of STVRs with the Town.

In light of the Planning Commission's recommendation to leave the prohibition of STVRs in R-1 zoning districts, my client continues their objection to the draft ordinance and offers the following alternatives for consideration by the Council:

1. Strike R-1 from Section 2203 of the draft ordinance thus removing the prohibition of STVRs in the R-1 zoning district as recommended in the proposed changes under Exhibit A; or
2. Expressly exempt the 24 parcels currently owned by the Irvin Family and identified as Exhibit B in order to honor their vested rights in those properties, by adding the parcel IDs to the permitted uses under Section 2203; or
3. Table the vote to allow for additional time to review alternative solutions that honor the vested rights of property owners and do not result in an unconstitutional restriction on one's right to use and enjoy their property.
4. Consider adopting the regulatory portion of the ordinance, which would require deleting Section 2203 from the draft, as my client, Town, and Community seem to agree that proper regulation of STVRs is important. The disagreement lies within the land use component of the ordinance under Section 2203 and could be reserved for further discussion and revisions without holding up the regulatory portion of the ordinance that is not the subject of the objection.

In addition to proposing to allow STVRs in R-1 by striking R-1 from Section 2203 of the draft ordinance, my client also proposed expressly exempting those R-1 properties with vested rights for use as STVR. My client has expended significant time and resources in reasonable reliance on their ability to construct single family cabins on their existing R-1 properties for use as STVRs under the Town's current ordinance prior to the adoption of the STVR moratorium. Such good faith reliance results in the vesting of my client's rights to use their 24 current properties in the R-1 zoning district as STVRs.

It has been suggested that STVRs are already prohibited within R-1 and R-2 zoning districts because the term "tourist home" occurs as a permitted use under the Business District zoning (Article X, Section 1002(24)). However, "tourist home" is not defined within the Town's ordinance, thus defaulting to the customary dictionary definitions as stated under Article III of the ordinance. Merriam-Webster dictionary defines a tourist home as a house in which rooms are available to rent to transients.¹ Tourist homes are akin to hostels, keeping rooms, or bed and breakfasts where individual rooms within the home are rented out and oftentimes the owner, or full-time resident, resides in the home as well to serve the occupants. Such communal housing arrangements are not single-family uses but are more fitting in a multi-family or more intense zoning classification.

On the other hand, STVRs are rented to a tenant who is granted a license for access to the whole property and is subject to the same occupancy limitations as single-family homes. The

¹ <https://www.merriam-webster.com/dictionary/tourist%20home>

difference between a single-family home and an STVR, as proposed by my client, is the duration of the tenant. The shorter duration provides additional protections and control for the property owner and the Town due to the limitations on the rights afforded a short-term tenant versus a long-term tenant. As stated previously, a tenant renting a property for 30 days or less is granted a revocable license to access the property and use it within the limitations provided by the owner. If the tenant violates any of the provisions of the license, the owner can revoke the license and require the tenant to vacate the property immediately. Also, the occupant turnover requires the owner to be more diligent with the maintenance of their property in order to attract quality tenants thus keeping the property in better condition and improving the aesthetic throughout the community.

A long-term tenant, however, is granted a leasehold estate and enjoys "ownership-like" rights to the property such as the right to possess and the right to quiet enjoyment. The tenant only needs to timely pay rent and avoid causing damage to property to avoid eviction. Failure of either must be proven by the landlord who must commence eviction proceedings to remove the tenant.

During the Planning Commission, comments were made regarding STVRs being prohibited in the Hickory Nut Mountain Estates area because the deed restrictions prohibit businesses. While there is question as to the applicability of the deed restrictions to my client's properties, that is a private matter and not subject to consideration by the Town in drafting or adopting the ordinance. Also, my client objects to this assertion as STVRs are not businesses with regard to land use. The manner by which the occupant uses the property determines the use, not the duration by which they use it. Families or individuals who rent a cabin for the purpose of sleeping, eating, or doing family activities while visiting the community are using the property in a residential manner. However, a homeowner operating a real estate or consulting business out of their home in which they make client calls, negotiate agreements, and conduct administrative operations for a business would be using their property for a business use.

While my statements above speak to the benefits and compatibility of STVRs within residentially zoned properties, my client would like to correct the record as it relates to comments made in a letter from Keith and Carol Nelms identified as Public Comment #1 in the Council Packet. In the letter, the Nelms assert that myself and my client made reference to Tybee Island as it relates to the increase in housing values when STVRs are allowed in residential zonings. The reference to Tybee Island was made in relation to the absence of a prohibition on STVRs in residential areas and the fact that the Town included it among the ordinances used as guidance in drafting the ordinance in question. With that said, my client maintains that other north Georgia communities similar to Tallulah Falls that allow STVRs in residential zonings do enjoy increased property values and a stronger local economy. My client has provided letters of support of this position and they are attached hereto as Exhibit C and D.

Traffic up Hickory Nut Mountain was another issue raised during the Planning Commission and within letters to the Town. My clients currently own 13 lots up Hickory Nut Mountain, all of which have the right to be developed as a single-family home. The plans (Exhibit F) and elevations (Exhibit E) proposed by my client for these properties for STVR depict single-family detached cabins that are smaller in size than what one could develop by right. Therefore, prohibiting the use of these cabins for STVRs will not lessen the affect of traffic on the road as those lots can be developed for use as residences which will likely result in more traffic since the

properties will be in continuous use. However, my clients have proposed a development plan to lessen the traffic impact of developing the parcels up Hickory Nut Mountain which is attached hereto as Exhibit G. If my clients retain the right to use the properties as STVRs, they would propose to develop them in accordance with the plans in Exhibit G. If STVRs are prohibited, the lots will be developed individually as single-family residents each with their own driveway fronting Hickory Nut Mountain Road.

In the letter from Kirk Warren identified as Public Comment #2 in the Council Packet, concerns were raised over the preservation of his rights to use and enjoy his property. That is what my client is seeking here. The portion of the draft ordinance that prohibits STVRs in a residential zoning district ignores my client's vested rights in their 24 parcels within the R-1 zoning classification and imposes an unconstitutional restriction on their right to use and enjoy their property.

My client and I plan to attend the Council Meeting on Thursday, July 9, 2020. We are glad to work with the Town to improve the draft STVR ordinance as to avoid its current Constitutional and other legal defects but submit this letter and accompanying exhibits for the record as our formal objection to the current draft of the STVR ordinance as recommended by the Town's Planning Commission on June 10, 2020.

In addition to our objections and proposed solutions provided above, as well as our objection letter dated March 12, 2020 (Exhibit H), my client raises the following Constitutional Objections and reserves their right to pursue further legal action should the Council proceed with the adoption of the draft STVR ordinance as objected to above.

Constitutional Objections

The portions of the draft STVR ordinance and the "Zoning Ordinance of the Town of Tallulah Falls, Georgia" (the "Zoning Ordinance") which classify or may classify the Irvin Properties ("Subject Properties"), which are the subject of the draft STVR ordinance, into any more or less intensive zoning classification, development and/or conditions other than as requested by the Applicant are, and would be, unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the STVR or Zoning Ordinance, as applied to the Subject Properties, which further restricts its use to than presently allowed in the R-1 zoning classification, is unconstitutional, illegal, null and void, constituting a taking of the Applicant's property in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia of 1983, and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States denying the Applicant any economically viable use of the Subject Properties while not substantially advancing legitimate

state interests. Under *Lathrop v. Deal*, the application of the STVR or Zoning Ordinance in a way that constitutes a taking shall be deemed a waiver of sovereign immunity.²

The Subject Properties are presently suitable for development under the R-1 classification with entitlements for use as STVR and is not economically suitable for development as a single-family residence under its present R-1 zoning classification with a prohibition on use as a STVR under the STVR or Zoning Ordinance. A denial my client's vested rights would constitute an arbitrary and capricious act by the Mayor and Council of the Town of Tallulah Falls without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Mayor and Council of the Town of Tallulah Falls to preserve my clients vested rights in the Subject Properties under the R-1 zoning classification, with only such additional conditions as agreed to by the Applicant, so as to permit the only feasible economic use of the Subject Property, would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the my client and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution.

Any further restriction of the Subject Properties within the R-1 classification, subject to conditions which are different from the requested conditions, to the extent such different conditions would have the effect of further restricting my client's utilization of the Subject Properties, would also constitute an arbitrary, capricious and discriminatory act in restricting the Subject Properties thus denying my clients their vested rights and would likewise violate each of the provisions of the State and Federal Constitutions as set forth hereinabove.

Accordingly, my client respectfully requests that the Mayor and Council consider the proposed solutions provided above, and honor the client's vested rights, by continuing to allow STVRs in the R-1 zoning classification or adopting the draft STVR ordinance without the land use provision in Section 2203 while committing to work with my client and the community on a mutually agreeable solution that would preserve vested rights and further the goal of the community.

Sincerely,

ANDERSEN, TATE & CARR, P.C.



Shaun R. Adams

Enclosures

Cc: J and D Irvin Holdings, LLC

² *Lathrop v. Deal*, 301 Ga 408, 880-881 S.E. 2d 867 (2017)

EXHIBIT A

EXHIBIT A

Read Only: Appendix A – ZONNG

Article XXII - Short Term Vacation Rental –regulations

Section 2201 – Purpose.

The purpose of this Article is to establish regulations for the use of a residential or business structure or any part thereof as a Short Term Vacation Rental (STVR) in the Town of Tallulah Falls while minimizing the negative, secondary effects on surrounding properties, to ensure proper precautions are in place, and to facilitate the collection and payment of hotel/motel taxes as allowed by state law and City ordinances.

Section 2202 – License required

- 1) It is unlawful for any person or corporation to operate or advertise a STVR within the Town limits without a valid business license and authorization to collect motel/hotel tax;
- 2) STVR properties that have a current occupational license and are remitting hotel/motel taxes in TF prior to this ordinance enactment will be *grandfathered* in from having to apply for conditional use permits, however, properties *grandfathered* in must comply with all other rules, regulations and provisions set forth in this ordinance.

Section 2203 - Permitted uses - STVRs are allowed in all Districts with the exception of R-1¹, Flood Hazard or Sensitive Land subject to compliance with applicable provisions of this Article;

Section 2204 – Applications

- 1) ~~STVR conditional use permits must comply with Chapter 18, sections 18-83 through 18-93;~~
- 2) Acknowledge that the applicant will keep the total number of guest to that number which can safely stay in the premises and that the applicant may be subject to the State of Georgia fire and safety code regulations;
- 3) Certify that there are no deed restrictions and/or covenants on a property that prohibit the use of the property as a STVR;
- 4) Certify that the owner has commercial or specific STVR insurance on the property;
- 5) Attest by the owner or third party inspector that the STVR meets all applicable International Building Code, International Fire Code regulations and NFPA Safety Codes;
- 6) Operator/owner information to be provided to the Town Clerk;

¹ As an alternative to permitting STVR in R-1, another solution would be to expressly exempt those parcels with vested rights for development as STVR, including the 24 parcels currently owned by the Irvins. Should this alternative be considered, parcel IDs will be provided for inclusion in the Ordinance.

EXHIBIT A

- a) Full contact information for a local (lives within 25 miles) contact person or responsible person 18 years of age or older who is available 24 hours a day to respond within two hours regarding any complaint about the property or guest behavior;
- b) The 911 address for all properties owned/operated by the occupational tax license owner or responsible management company;
- c) Certify that there are no unpaid financial obligations to Tallulah Falls;
- d) Notify the Town within seven days when there is a change in property ownership, management, agent or emergency contact;
- e) No STVR license issued under this Article shall be transferred, assigned or used by any other individual other the owner or local contact person for which it was assigned or upon any other location than the one for which it was issued.

Section 2205 – STVR requirements

- 1) This section applies to all STVR properties in the Town of Tallulah Falls, Georgia and is in addition to any rules and regulations to which the property is subject via any land covenants, homeowner association covenants, or subdivision rules-etc;
 - a) *Parking* – Vehicles, trailers and watercraft shall not be parked on the right – of – way so as to hinder access to such and shall not be parked along any roadway which would cause safety issues, hinder access to such roadways or be in violation of any laws, ~~subdivision rules-etc.~~;
 - b) *Solid waste/trash* – Trash and refuse shall not be left or stored in such a way that would cause safety or sanitary issues or violate any laws~~subdivision rules-etc.~~;
 - c) *Certificate display* - Business occupation tax certificate and hotel/motel tax authorization certificate must be prominently displayed at the property;
 - d) *Length of stay* – 30 days or less;
 - e) *Occupancy* – the number of overnight guest shall not exceed the occupancy allowed under the “bedroom occupancy standard” plus two additional persons~~State of Georgia Fire and Safety Code regulations.~~
 - f) *Alarms and egress* – Each bedroom/sleeping quarters shall have a working smoke alarm and an emergency escape or exit complying with the requirements of the life and safety Code;
 - g) *Animals* – Pets may run at large within the curtilage of the STVR property but are required to be on leash otherwise;

Section 2206 -Suspension or revocation of short-STVR license

Immediate suspension, revocation or forfeiture of a STVR license issued by the town of Tallulah Falls shall occur only after notice and opportunity for a hearing before the City Council except in events that may be construed as life-threatening or a danger to human life.

EXHIBIT A

(a) Any STVR license issued under this Ordinance for the operation of a STVR shall be immediately revoked in the case of bankruptcy, receivership or levy of ~~legal process~~judgment upon the owner or subject short-term rental property.

(b) A STVR rental license shall be immediately suspended or revoked by the City Council upon learning that an applicant furnished fraudulent or untruthful information in the application for permit, or omits information required in the application for permit, or fails to pay all fees, taxes, utilities (water-sewer) or other charges imposed under the provisions of this Article or City Codes.

(c) A STVR rental license may be suspended by the Zoning Administrator for a violation of the fire or the life safety requirements of this Article. Such violation shall be such that an unsafe condition exists where a fundamental safety precaution or device defined in this Article or adopted Codes is rendered inoperable or does not exist.

Section 2207– Violation of this Article

Except when defined in this Article requiring an appearance before City Council, Penalty(s) for violation of this Article shall be at the discretion of the Municipal Judge who possess the authority to fix punishment in accordance with the City Charter, Ordinances and State Law or by a Court of Competent Jurisdiction.

1) **Civil Penalty** - The City Council shall possess the authority to impose a civil penalty against any entity that is licensed for short-term rentals and may include up to suspension or revocation of licensure or additionally fine and forfeiture as determined for violations of this Article. Civil penalties shall not relieve the owner, individual, business organization or partnership from mitigating specified violations and may include fines and penalties as may be prescribed by the Municipal Court or a Court of Competent Jurisdiction;

2) **Enforcement** -

(a) Penalties, including notice of code violation or citation may be imposed and the STVR licensure may be suspended or revoked in the manner provided in this subsection:

(b) Any complaints or response by a City agency or other agencies as defined herein regarding short-term rental shall result in a notice of the complaint and shall be directed to the local contact person or owner if the local contact person cannot be determined or located and such notice may be made electronically or in writing. The local contact person or owner is required to visit the short-rental location and shall ensure that compliance is obtained within one verbal or written notice.

Additionally, notice may be delivered by emergency dispatch verbally to the owner or local contact person requiring the appropriate individual to respond to the STVR location or both as may be required by any law enforcement agency, fire department or Zoning Administrator;

(c) The Zoning Administrator or designee shall conduct an investigation whenever there is a reason to believe that the owner or local contact person is unsuccessful either by failure or refusal to comply with the provisions of this Article. The investigation may include an inspection of the premises, review of response and incident report(s), online searches, citations or notice(s) or interview and documentation of community members affected by the even to include photographs, sound recordings and video all of which may constitute evidence of a violation of this Article, Code or State Law. Should the investigation support a finding that a violation occurred, the Zoning Administrator shall issue written notice of the violation and the advance of the accusation to the City Council or Municipal Court as may be deemed appropriate. The notice shall be served by certified mail or personally, and shall specify which, in the opinion of the Zoning Administrator constitute grounds for the imposition of penalties or that the short-term rental licensure should be suspended or revoked.

EXHIBIT A

Section 2208 - Hearing on denial, suspension or revocation

Upon receipt of such notice, that shall contain a specific date, time and place of hearing the owner or local contact person may appear in person to present evidence either to deny, confirm or mitigate the accusation. A decision of the City Council or Municipal Court may be appealed to the Superior Court of Rabun County;

Section 2209 — License Reinstatement

The property owner may apply for reinstatement of existing, or a new, STVR license after providing proof of the resolution of the violation(s) and upon payment in full of any fines, penalties, or fees associated with the violation.

Section 2210-Severability Clause

Should any word, phrase, sentence, paragraph or Section of this Article, or the application thereof to any person, individual, business organization or partnership or circumstance be held invalid by a Court of Competent Jurisdiction, such invalidity shall not affect the other provisions of this Article. This Article is hereby declared severable.
Any modification of Federal or State Law or regulation which would effect a change in the provisions of this Article are hereby incorporated herein by reference made a part hereof.
This Article shall take effect and shall be enforced from and after the date of adoption.

EXHIBIT B

Tallulah Falls Property Deeds & Surveys Table of Contents

Page	Description	Related Lot #'s
2	Lot Listing Breakdown	All
3 - 5	Limited Warranty Deed - J & D Irvin Holdings, LLC	4, 17, 18, 18A, 19, 20, 20A, 21, 21A, 22A, 23, 24, 58
6	Hickory Nut Mountain Property Survey	Hickory Nut Mountain Lots (see listing breakdown)
7 - 9	Warranty Deed - J & D Irvin Holdings, LLC	Lakefront Lots (see listing breakdown)
10	Lakefront Property Survey	Lakefront Lots (see listing breakdown)
11 - 13	Agreement Signed by S&B Irvin Properties & Irvin Family Investments to Sell Septic and Cabin Lots to J & D Irvin Holdings, LLLC	Septic and Cabin Lots (see listing breakdown)
14 - 16	Quitclaim Deed - D.I. to S&B Irvin Properties, LLLP	Septic and Cabin Lots (see listing breakdown)
17	Memo Regarding Quitclaim Deed - J.I. to Irvin Family Investments, LLLP	Septic and Cabin Lots (see listing breakdown)
18 - 20	Quitclaim Deed - Irvin Properties to J.I. & D.I.	Septic and Cabin Lots (see listing breakdown)
21	Septic and Cabin Property Survey	Septic and Cabin Lots (see listing breakdown)
22 - 24	Quitclaim Deed - D.I. to S&B Irvin Properties, LLLP	56
25	Memo Regarding Deed for Lot #6	6
Hickory Nut Mountain Annexation		
26	Email from Linda Lapeyrouse (town clerk) to J.I. regarding Hickory Nut Mountain Annexation	
27 - 29	Minutes from Town of Tallulah Falls public hearing regarding Hickory Nut Mountain annexation	

Lot Listing & Breakdown

Hickory Nut Mountain Lots

4

6

17

18

18A

19

20

20A

21

21A

22A

23

24

56

58

Lakefront Lots

15

16

17

18

Septic and Cabin Lots

36

37

38

39

40

FILED & RECORDED
DATE: 12/27/2019
TIME: 9:00 AM
DEED BOOK: Y46
PAGES: 190-192
FT-61: 2019-001904
TRANSFER TAX: \$325.00
Holly E. Henry-Ferry, C.S.C.
Rabun County, GA

After recording return to:
David Irvin
P.O. Box 219
Tallulah Falls, GA 30573

LIMITED WARRANTY DEED
PREPARED WITHOUT TITLE EXAMINATION

STATE OF GEORGIA
COUNTY OF RABUN

THIS INDENTURE, Made this 27th day of Dec., 2019 between Johnny Clinton Irvin of the State of Georgia and County of DeKalb and Johnny Mark Irvin, of the State of Georgia and County of Rabun, (hereinafter collectively referred to as "Grantor"), and J & D Irvin Holdings, LLC of the State of Georgia and County of Rabun, (hereinafter referred to as "Grantee");

Whenever there is a reference herein to the Grantor or the Grantee, this singular includes the plural and the masculine includes the feminine and the neuter, and said terms include and bind the heirs, executors, administrators, successors and assigns of the parties hereto.

WITNESSETH: That the Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration in hand paid, at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has grated, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey unto Grantee the following described property:

Please see Exhibit "A" attached hereto and incorporated herein as a part hereof for a full and complete description of said property.

TO HAVE AND TO HOLD that said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anyway appertaining, to the only proper use, benefit and behoof of Grantee, his heirs and assigns, forever, in Fee Simple.



CLYDE IRVIN
L110. ST. O. IRVIN NO

AND THE Grantor, for their heirs, executors and administrators, will warrant and forever defend the right and title to the above described property, unto Grantee, his heirs and assigns, against the claims of all owning, holding or claiming by, through or under Grantor.

IN WITNESS WHEREOF, Grantor has hereunto set his hand and seal, the day and year above written.

[Signature] (L.S.)
JOHNNY CLINTON IRVIN

Signed, sealed and delivered in the presence of the undersigned Notary Public on 27 day of December, 2019:

Carolyn B. Simmons
Witness

Natalie McCracken
Notary Public
My Commission Expires: Jan 13, 2023



[Signature] (L.S.)
JOHNNY MARK IRVIN

Signed, sealed and delivered in the presence of the undersigned Notary Public on 27 day of December, 2019:

Carolyn B. Simmons
Witness

Natalie McCracken
Notary Public
My Commission Expires: Jan 13, 2023

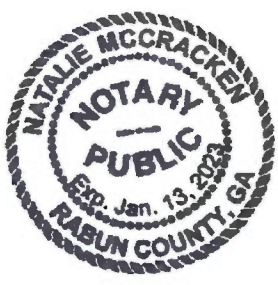


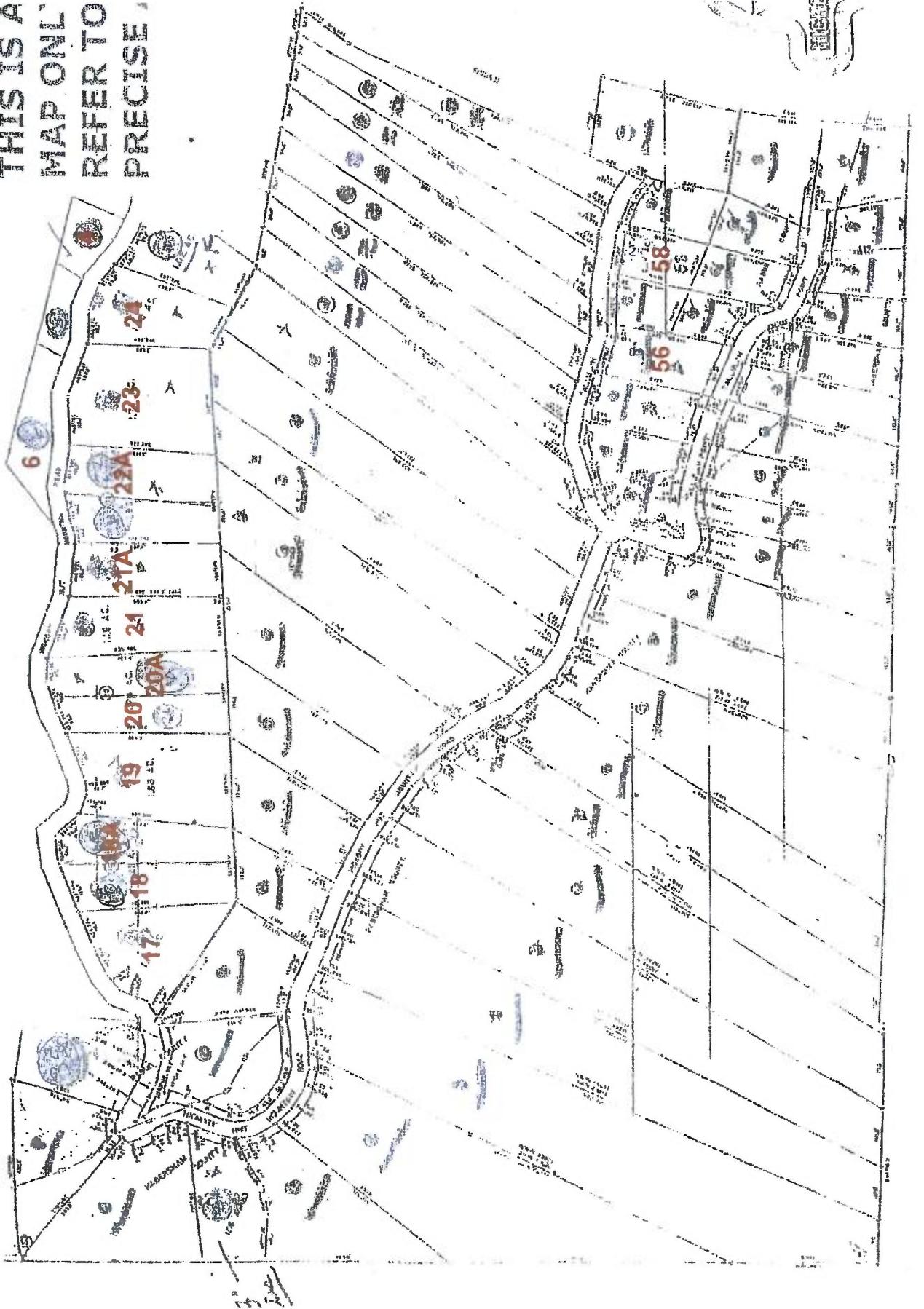
EXHIBIT "A"

All those tracts or parcels of land lying and being in Land Lot 163 of the Thirteenth Land District of Rabun County, Georgia and being designated as LOT 58 as depicted on a plat of survey of record in Plat Book 29, Page 283 in the office of the Clerk of Rabun County Superior Court; LOTS 18, 18A, 19, 20, 20A, 21, 21A, 22A, and 23 as depicted on a plat of survey dated February 19, 2008 and of record in Plat Book 59, Page 132, aforesaid records; LOT 4 as depicted on a plat of survey dated January 24, 2008 and of record in Plat Book 59, Page 131, aforesaid records; LOT 17 and LOT 24 as depicted on a plat of survey last revised December, 1986 and of record in Plat Book 24, Page 93, aforesaid records. Reference to said plats and the records thereof is for the express purpose of incorporating herein the description of said real property depicted thereon.

ALSO CONVEYED is a perpetual, non-exclusive easement for the use of the roads described in an Easement dated July 6, 1955 and of record in Deed Book U-9, Page 88 upon the public records of Rabun County, Georgia. Said Easement shall be an easement appurtenant to the property hereinabove described.

Said tracts or parcels of land are hereby conveyed SUBORDINATE to those certain Protective Covenants imposed by an instrument recorded in Deed Book U-9, Page 91 upon the public records of Rabun County, Georgia.

THIS IS A
MAP ONLY
REFER TO
PRECISE



7
FILED & RECORDED
DATE: 8/29/2016
TIME: 04:30PM
BOOK: F43
PAGE: 279-281
TRANSFER TAX: \$75.00
PT61: 2016-000999
Holly Henry-Perry, Clerk
Rabun County, GA

File #: 16-518
WD.dot
Return to:
ALBERT C. ENGLISH, LLC
ENGLISH, TUNKLE & SMITH, LLP
Attorneys at Law
17 Chechero Street
Clayton, Georgia 30525
(706) 782-4285

WARRANTY DEED

STATE OF GEORGIA COUNTY OF RABUN

This Indenture made this 19th day of August, 2016 between Katherine Cutler, as Personal Representative of the Estate of Garrett Hatcher Cutler, Katherine Cutler, Individually, of the County of Alachua, State of Florida and Elyssa Cutler, of the County of Washington, State of Oregon, as party or parties of the first part, hereinafter collectively called Grantor, and J & D Irvin Holdings, LLC, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" 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 DOLLARS (\$10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt 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 Grantee,

Part of Land Lot 175 in the 13th Section of Rabun County, Georgia, known as lots 15, 16, 17, and 18 of a certain plat made September 10, 1912, approved by M. Blanchard, Civil Engineer, said lots being bounded on the Northeast by the water front and on the Southwest by the right-of-way of the Tallulah Falls Railway and to extend from the right-of-way of said railroad to the edge of the lake.

This property is more fully described in a plat of survey made by James A. Long, Reg. Surveyor #1579 of record in Plat Bk. 9, Page 334. Recorded in Deed Book S-4, Page 516.

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 behoof of the said Grantee forever in FEE SIMPLE.

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

Signed, sealed and delivered in the presence of the undersigned notary public on this 25th day of August 2016:

[Signature]
Witness

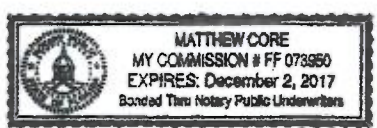
Katherine Cutler Per. Rep of
Estate of Garrott Hatcher Cutler
Katherine Cutler, as Personal Representative of the Estate of Garrott Hatcher Cutler

[Signature]
Notary Public

MY COMMISSION EXPIRES: 12/2/17

Katherine Cutler (Seal)
Katherine Cutler, Individually

Elyssa Cutler (Seal)



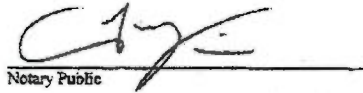
AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons whomsoever.

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

Signed, sealed and delivered in the presence of the undersigned notary public on this 22 day of

August 2016


(Seal)
Katherine Cutler, as Personal Representative of the Estate of Garrott Hatcher Cutler



Notary Public

(Seal)
Katherine Cutler, Individually

MY COMMISSION EXPIRES: 12/23/2017



Elyssa Cutler

OFFICIAL STAMP
JONG YUN KIM
NOTARY PUBLIC - OREGON
COMMISSION NO. 922957A
MY COMMISSION EXPIRES DECEMBER 23, 2017

Therefore we also request your approval for the partnerships to grant J & D Irvin Holdings, L.L.C. an option for a period of five years to purchase the remaining 4 tracts, of the 5 tracts (tracts #36 to #40) located on Hickory Nut Mountain, Tallulah Falls, Rabun County, Georgia for the sum of \$100,000.00.

Should you have any questions please call Johnny (706)490-4050, David (706)499 7694, or Robert Tritt (404)527-8130, and we will be happy to answer your questions.

By signing below you agree with our aforementioned plans.

Thank you,
David

I (we) hereby approve of the sale by the partnerships of approximately one acre (approximately one tract) of the 5 tracts (tract # 36 to # 40) located on Hickory Nut Mountain, Tallulah Falls, Rabun County, Georgia to J & D Irvin Holdings, L.L.C. for the sum of \$15,000.

I (we) also approve of the grant of a five year option by the partnerships to J & D Irvin Holdings, L.L.C. of the remaining 4 tracts of the 5 tracts (tracts #36 to #40) located on Hickory Nut Mountain, Tallulah Falls, Rabun County, Georgia for the price of \$100,000.00

Elizabeth Irvin-Barnwell



Stephanie Irvin



Melanie Silvestri

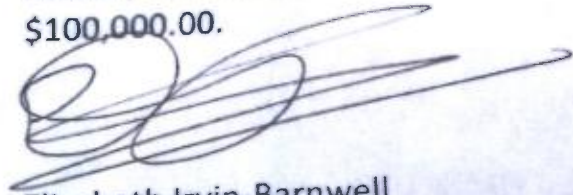
Clint Irvin



Brian Irvin

I (we) hereby approve of the sale by the partnerships of approximately one ¹² tract (approximately one tract) of the 5 tracts (tract # 36 to # 40) located on Hickory Nut Mountain, Tallulah Falls, Rabun County, Georgia to J & D Irvin Holdings, L.L.C. for the sum of \$15,000.

I (we) also approve of the grant of a five year option by the partnerships to J & D Irvin Holdings, L.L.C. of the remaining 4 tracts of the 5 tracts (tracts #36 to #40) located on Hickory Nut Mountain, Tallulah Falls, Rabun County, Georgia for the price of \$100,000.00.



Elizabeth Irvin-Barnwell

Melanie Silvestri

Clint Irvin

Stephanie Irvin

Brian Irvin

located on Hickory Nut Mountain, Tallulah Falls, Rabun County, Georgia¹³
to J & D Irvin Holdings, L.L.C. for the sum of \$15,000.

I (we) also approve of the grant of a five year option by the partnerships
to J & D Irvin Holdings, L.L.C. of the remaining 4 tracts of the 5 tracts
(tracts #36 to #40) located on Hickory Nut Mountain, Tallulah Falls,
Rabun County, Georgia for the price of \$100,000.00.

Elizabeth Irvin-Barnwell

Melanie Silvestri

Clint Irvin



Stephanie Irvin

Brian Irvin

CONFIDENTIALITY NOTICE: The information contained in this message is intended solely for the addressee and may contain private, confidential and/or legally privileged material. If you are the intended recipient, secure the contents in a manner that conforms to all applicable state and/or federal requirements related to privacy and confidentiality of such information. If you are not the intended recipient or have received this email in error, please notify the sender immediately and permanently delete all copies of this email including all attachments, any disclosure, copying, distribution or any action taken or omitted is prohibited by law.

①

14

①A
D.I. → S+B

RECORDING COUNTY GEORGIA

AUG 14 AM 9:52

AUG 14, 2003
W-24 199-201
[Signature] CLERK

RABUN County, Georgia
Real Estate Transfer Tax
Paid \$ -0-
Date AUGUST 14, 2003
[Signature]
Clerk of Superior Court

After Recording Return to:
Terri A. Herron, Esq.
McKenna Long & Aldridge LLP
Suite 5300; 303 Peachtree Street, N.E.
Atlanta, Georgia 30308

*****S&B Irvin Properties, LLLP
owns a 50% interest in lots 36-40**

STATE OF GEORGIA
COUNTY OF RABUN

QUITCLAIM DEED

THIS INDENTURE is made as of July 15, 2003, between DAVID L. IRVIN, a resident of the State of Georgia (hereinafter referred to as "Grantor") and S&B IRVIN PROPERTIES, L.L.L.P., a Georgia limited liability limited partnership (hereinafter referred to as "Grantee") ("Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH:

GRANTOR, for and in consideration of the sum of one dollar (\$1.00) and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby remise, convey and forever QUITCLAIM unto Grantee all that tract or parcel of land lying and being in the Land Lot 175 of the 13th District, Rabun County, Georgia, as more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein.

TO HAVE AND TO HOLD said described premises to Grantee, so that neither Grantor nor any entity or entities claiming under Grantor shall at any time, by any means or ways, have, claim or demand any right or title to said premises or appurtenances, or any rights thereof.

①

15

①
D.I. → S+B

IN WITNESS WHEREOF, Grantor has signed and sealed this deed, the day and year first above written.

Signed, sealed and delivered
in the presence of:

GRANTOR:

Jessie A. Devan

David L. Irvin (SEAL)

Unofficial Witness

DAVID L. IRVIN

Notary
Commission Expires
(NOTARIAL SEAL)
RUSSELL TOVE
NOTARY PUBLIC
DEKALB COUNTY
GA
EXPIRES 11/10

EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND lying and being in the Land Lot 175 of the 13th Land District in the City of Tallulah, of Rabun County, Georgia, designated as Lot 36, containing 1.028 acres, more or less, Lot 37, containing .957 acre, more or less, Lot 38, containing .888 acre, more or less, Lot 39, containing .871 acre, more or less, and Lot 40, containing .824 acre, more or less, of the Tallulah Old Town Subdivision as shown on a plat of survey prepared for the Sherrell Jackson Estate by Peter Pietraszuk, R.L.S., under date of April 30, 1996, a copy of said plat being of record in the Office of the Clerk of Superior Court of Rabun County, Georgia, in Plat Book 37, Page 323, to which said plat and the record thereof reference is hereby made for a more complete description.

TOGETHER WITH a non-exclusive easement for ingress and egress via the course of existing subdivision roads shown on the plat referred to above.

*****Irvin Family Investments, LLLP
owns a 50% interest in lots 36-40**

**Quitclaim from Johnny M. Irvin to Irvin
Family Investments, LLLP (Not Found)**

18
① ②
D.I. → 5+B

RECORDING COUNTY GEORGIA
FILED

AUG 14 AM 9:52

RECORDED AUG 14, 2003
BOOK W-24 PAGE 193-195
[Signature] CLERK

①
RABUN County, Georgia
Real Estate Transfer Tax
Paid \$ -0-
Date AUGUST 14, 2003
[Signature]
Clerk of Superior Court

After Recording Return to:
Terri A. Herron, Esq.
McKenna Long & Aldridge LLP
Suite 5300; 303 Peachtree Street, N.E.
Atlanta, Georgia 30308

STATE OF GEORGIA
COUNTY OF RABUN

QUITCLAIM DEED

THIS INDENTURE is made as of July 15, 2003, between IRVIN PROPERTIES, a Georgia general partnership, which consists of Johnny M. Irvin and David L. Irvin as the general partners (hereinafter referred to as "Grantor") and JOHNNY M. IRVIN, a resident of the State of Georgia, as to a 1/2 interest, and DAVID L. IRVIN, a resident of the State of Georgia, as to a 1/2 interest (hereinafter referred to as "Grantee") ("Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH:

GRANTOR, for and in consideration of the sum of one dollar (\$1.00) and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby remise, convey and forever QUITCLAIM unto Grantee all that tract or parcel of land lying and being in the 82nd G.M. District of Jefferson County, Georgia, as more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein.

TO HAVE AND TO HOLD said described premises to Grantee, so that neither Grantor nor any entity or entities claiming under Grantor shall at any time, by any means or ways, have, claim or demand any right or title to said premises or appurtenances, or any rights thereof.

IN WITNESS WHEREOF, Grantor has signed and sealed this deed, the day and year first above written.

Signed, sealed and delivered in the presence of:

GRANTOR:

IRVIN PROPERTIES, a Georgia general partnership

By: [Signature] (SEAL)
JOHNNY M. IRVIN, General Partner

[Signature]
Unofficial Witness

[Signature]
Notary Public

Commission Expiration Date: 6-14-07

(NOTARIAL SEAL)

Signed, sealed and delivered in the presence of:

IRVIN PROPERTIES, a Georgia general partnership

By: [Signature] (SEAL)
DAVID L. IRVIN, General Partner

[Signature]
Unofficial Witness

[Signature]
Notary Public
Commission Expires: [Date]
(NOTARIAL SEAL)



EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND lying and being in the Land Lot 175 of the 13th Land District in the City of Tallulah, of Rabun County, Georgia, designated as Lot 36, containing 1.028 acres, more or less, Lot 37, containing .957 acre, more or less, Lot 38, containing .888 acre, more or less, Lot 39, containing .871 acre, more or less, and Lot 40, containing .824 acre, more or less, of the Tallulah Old Town Subdivision as shown on a plat of survey prepared for the Sherrell Jackson Estate by Peter Pietraszuk, R.L.S., under date of April 30, 1996, a copy of said plat being of record in the Office of the Clerk of Superior Court of Rabun County, Georgia, in Plat Book 37, Page 323, to which said plat and the record thereof reference is hereby made for a more complete description.

TOGETHER WITH a non-exclusive easement for ingress and egress via the course of existing subdivision roads shown on the plat referred to above.

22 ②
D.I. → S+B

RABUN COUNTY GEORGIA

AUG 14 AM 9:52

AUG 14, 2003
W-24 DE 208-210
Clerk

RABUN County, Georgia
Real Estate Transfer Tax
Paid \$ -0-
Date AUGUST 14, 2003
[Signature]
Clerk of Superior Court

After Recording Return to:
Terri A. Herron, Esq.
McKenna Long & Aldridge LLP
Suite 5300; 303 Peachtree Street, N.E.
Atlanta, Georgia 30308

STATE OF GEORGIA
COUNTY OF RABUN

QUITCLAIM DEED

THIS INDENTURE is made as of July 15, 2003, between DAVID L. IRVIN, a resident of the State of Georgia (hereinafter referred to as "Grantor") and S&B IRVIN PROPERTIES, L.L.L.P., a Georgia limited liability limited partnership (hereinafter referred to as "Grantee") ("Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH:

GRANTOR, for and in consideration of the sum of one dollar (\$1.00) and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby remise, convey and forever QUITCLAIM unto Grantee all that tract or parcel of land lying and being in Land Lot 163 of the 13th Land District of Rabun County, Georgia, as more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein.


TO HAVE AND TO HOLD said described premises to Grantee, so that neither Grantor nor any entity or entities claiming under Grantor shall at any time, by any means or ways, have, claim or demand any right or title to said premises or appurtenances, or any rights thereof.

②

23②
D.I. → 5+B

IN WITNESS WHEREOF, Grantor has signed and sealed this deed, the day and year first above written.

Signed, sealed and delivered in the presence of:

GRANTOR:


DAVID L. IRVIN (SEAL)


Unofficial Witness

Notary Public
Commission Expires _____
(NOTARIAL SEAL) 

9
10
11
12

②

EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 163 of the 13th Land District of Rabun County, Georgia, and being Lot 56 of Hickory Nut Mountain Estates consisting of .76 acre as shown upon that certain plat of survey prepared by T. Lamar Edwards, Georgia Registered Land Surveyor, No. 1837, dated June 20, 1985, revised November 11, 1991, and recorded in the office of the clerk of Rabun Superior Court in Plat Book 29, page 283. Said survey is incorporated herein by reference for a full and complete description of the above-described lands.

There is also conveyed a perpetual, non-exclusive easement for the use of the roads described in an easement executed by Johnny Irvin and Sherrell Jackson to R. Wayne Harris dated July 6, 1985, and recorded in the office of the clerk of Habersham Superior Court in Deed Book 207, page 394, and recorded in the office of the clerk of Rabun Superior Court in Deed Book U-9, pages 88-99. Said easement shall be an easement appurtenant to the property hereinabove described and shall inure to the benefit of the Grantee, its heirs, successors and assigns.

**Deed for Lot #6 Owned by Johnny
Clinton Irvin and Johnny Mark Irvin
(Not Found)**

CAROLYN SIMMONS

From: Linda Lapeyrouse <clerk@tallulahfallsga.gov>
Sent: Wednesday, November 20, 2019 1:07 PM
To: jirvin
Subject: Hickory Nut Mountain Annexation
Attachments: Hickory Nut 2004.pdf

Good afternoon.

See attached information on the Hickory Nut Mountain Annexation. If you need me to make a copy, please let me know.

It would be \$8.00 for the copies.

Sincerely,

Linda Lapeyrouse, CMC
Town Clerk/Municipal Court Clerk
Town of Tallulah Falls
PO Box 56
Tallulah Falls, GA 30573
706.754.6040

www.tallulahfallsga.gov

**TOWN OF TALLULAH FALLS
STATE OF GEORGIA**

**PUBLIC HEARING
NOVEMBER 19, 2004**

A Public Hearing of the Town Council of Tallulah Falls, Georgia, for the purposes of Zoning on Main Street; Annexation and Zoning of Hickory Nut Mountain Estates Subdivision was called to order at 5:02 p.m. by Mayor Carl Seaman..

PRESENT WERE:

**Mayor Carl Seaman
Councilperson Larry Hamilton
Councilperson Deb Goatcher
Councilperson Bill Coldren
Councilperson Don Bundrick
Attorney Lee Hicks
Clerk, Marcia McKean**

OTHERS PRESENT:

See Attached List

Attorney Lee Hicks stated that the Public Hearing has been properly advertised in the legal organs of Rabun and Habersham counties and opened the floor for public comments on the annexation either for or against.

Scott Miller of AMSCO, Inc. briefly explained the letter given to the Council Members regarding a Water Agreement Proposal between AMSCO, Inc. and the Town. A copy of same is attached hereto and made a part hereto. Mr. Hicks is to prepare a Contract to be signed by AMSCO, Inc. and the Town.

Councilperson Bundrick asked if anyone in the audience was against the annexation. There was no negative response; everyone in attendance was in the affirmative and supportive of annexation.

A short discussion was held regarding impact fees. Mr. Hicks is to forward to us the legal requirements for imposing same.

A brief discussion was held with reference to Hickory Mountain Road and for the present it will remain a private Road. Scott Miller stated that a future date would be determined for turning over the road, with a properly executed Contract, to the Town.

Public Hearing

Page Two

November 19, 2004

Mr. Hicks stated that the next item to be discussed is the zoning, which was properly advertised in the newspapers, of Hickory Nut Mountain Estates.

It was determined that the zoning would remain Single Family Residential and the current Covenants would remain in place.

Mr. Hicks suggested that the Council go forward with the first reading of the Annexation Ordinance subject to the execution of the Contract regarding the water system.

Councilperson Bundrick made the Motion to accept the Petition for Annexation subject to receiving a properly executed Contract between AMSCO, Inc. and the Town for the water system and the adoption of an Annexation Ordinance. The Motion was seconded by Councilperson Goatcher and passed unanimously.

Mayor Seaman read the Annexation Ordinance.

Councilperson Goatcher made the Motion to accept the first reading of the Annexation Ordinance, seconded by Councilperson Bundrick. The Motion passed unanimously.

Mayor Seaman declared a five (5) minute break at 5:35 p.m.

Mayor Seaman called the meeting back to order at 5:40 p.m. and announced the next item for discussion, properly advertised in the newspapers, is the zoning/parking spaces on Main Street in Tallulah Falls and opened the floor for public comments.

Following a discussion Councilperson Bundrick made the Motion to amend the current zoning for Offices, Professional, Business or Public, including Banks - "One (1) space for every two hundred (200) square feet of total floor area, plus one (1) space for each two (2) employees"; and Retail Business - "One (1) space for every one hundred (100) square feet of total floor area, plus one (1) space for each employee"; to read as follows: For Offices, Professional, Business or Public, including Banks - "One (1) space for every two hundred fifty (250) square feet of total floor area, plus one (1) space for each two (2) employees", and for Retail Business - "One (1) space for every two hundred (200) square feet of total floor area, plus one (1) space for each employee". The Motion was seconded by Councilperson Hamilton and passed unanimously.

Councilperson Goatcher made the Motion to adjourn, seconded by Councilperson Coldren. The Motion passed unanimously.

Public Hearing

Page Three

November 19, 2004

The Public Hearing adjourned at 6:33 p.m.

Carl Seaman

MAYOR

Marcia A. McLean

CLERK

Don Bundrick

COUNCIL MEMBER

John Zaccaro

COUNCIL MEMBER

Danny Hamilton

COUNCIL MEMBER

Bill Collier

COUNCIL MEMBER

EXHIBIT C



CENTURY 21
Community Realty

Claudia Lyle

103 W. Waters Street

Clarkeville, Ga. 30523

Dear Mr. Irvin,

Recently you ask me a question as to my opinion on the issue of short term rentals verses long term rentals, and their effect on property values in the neighborhood or subdivision. In neighborhoods with short term rentals there are more people, thus more opportunities for potential interest in the area. The more people competing for a property or area, the more the value increases. With more use restrictions of properties in a subdivision or neighborhood, the property values seem to lower. This is attributed to the fact that with more use restrictions, fewer people have interest in the properties, thus decreasing the demand. This recently happened in a popular subdivision in our N. E. Ga. area that decided to stop short term rentals. Comparable properties in surrounding areas, that still allow short term rentals, have sold for higher values. Even though a property owner may not be contemplating selling in the near future, at some point most properties will be sold by owners or their heirs. Therefore, one should consider what will protect, and increase value

With short term rentals, the properties and grounds are usually kept in better condition because owners have the ability to do regular cleaning and maintenance. In long term rentals, there is often clutter and neglect of homes and grounds. More property rights for owners are given up in long term rentals. It is much easier for an owner to ask a short term rental to leave the property because of rule violations, than going thru the lawful eviction process of a long term renter. Pets of long term renters tend to be more obnoxious in neighborhoods than short term rentals. This is because with more familiarity to an area, pets are more likely to freely roam, as opposed to pets of short term renters who are uncertain about letting pets loose to roam.

Short term rentals also boost the economic growth of towns because of bringing in more revenue potential for the businesses in a town. They also increase the tax revenue of towns

and cities. Added revenue benefits the entire community, as it helps with improvements to the infrastructure.

In short, it is my opinion, as a real estate associate, that properly managed, and carefully planned short term rentals are a benefit to a community.

Regards,

Claudia Lyle

Claudia Lyle

EXHIBIT D

Jerry Harkness
P.O. Box 1616
Demorest, GA 30535

706.949.3747
JerryHarkness@kw.com



JULY 6, 2020

I have been asked to write this letter, and outline my opinion of "Short-Term Rentals" or "Vacation Rentals". As a local Real Estate Professional in Northeast Georgia we have seen a large increase in tourists looking to stay in short-term rentals, and home owners / investors looking to turn this into a profit. A recent survey from the National Association of Realtors stated that 42% of buyers purchasing a home in a vacation area intend on using the short-term rental model during ownership. With such a high percentage of these buyers looking to generate revenue or offset the cost of this investment, property values are affected by the ability of the owners to rent the properties. Demand and property values increase on properties that are in well managed areas that allow short-term rentals, vs. areas that use local ordinances to prohibit owners from providing this service.

Warm regards,

A handwritten signature in black ink, appearing to be 'JH', written over the printed name 'Jerry Harkness'. The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.

Jerry Harkness

EXHIBIT E

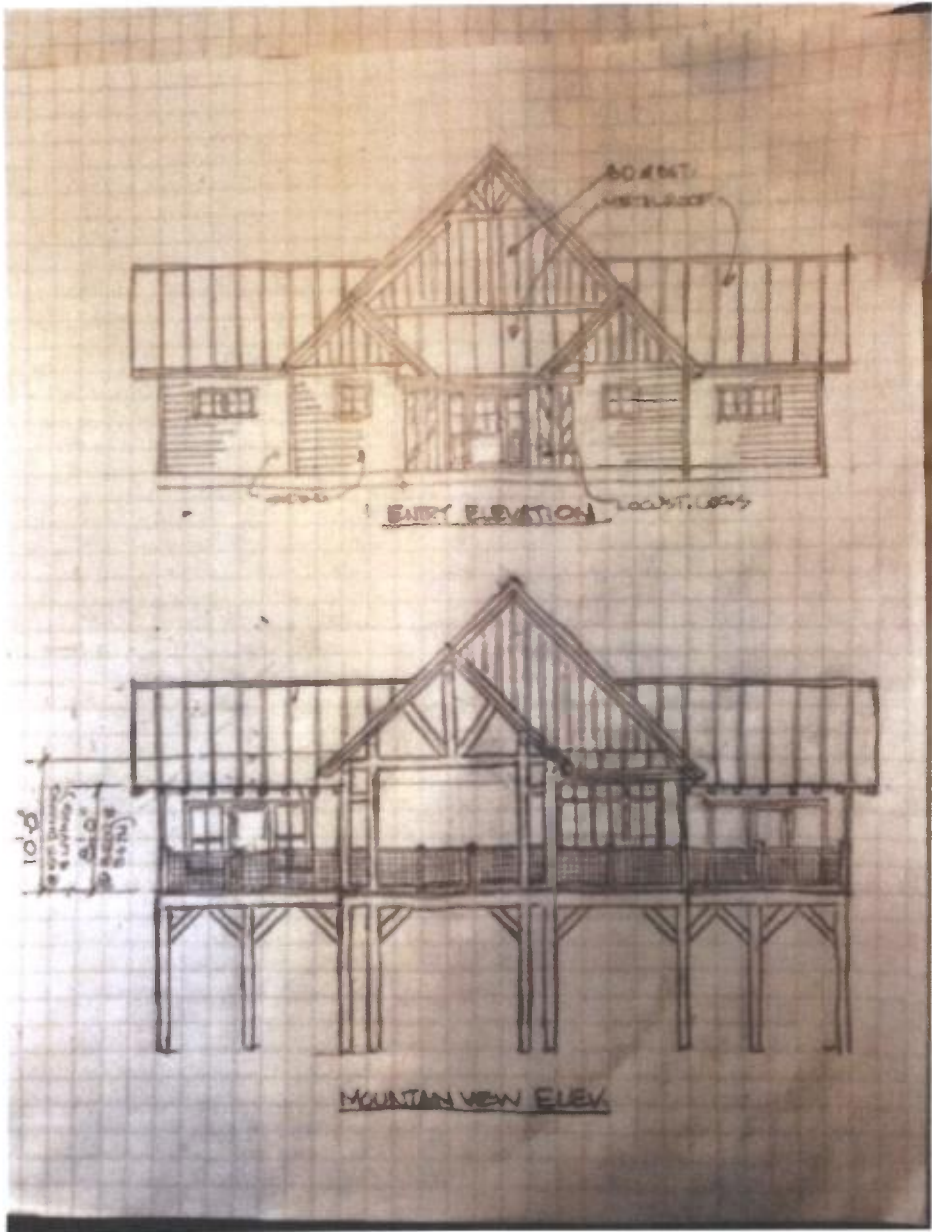


EXHIBIT F

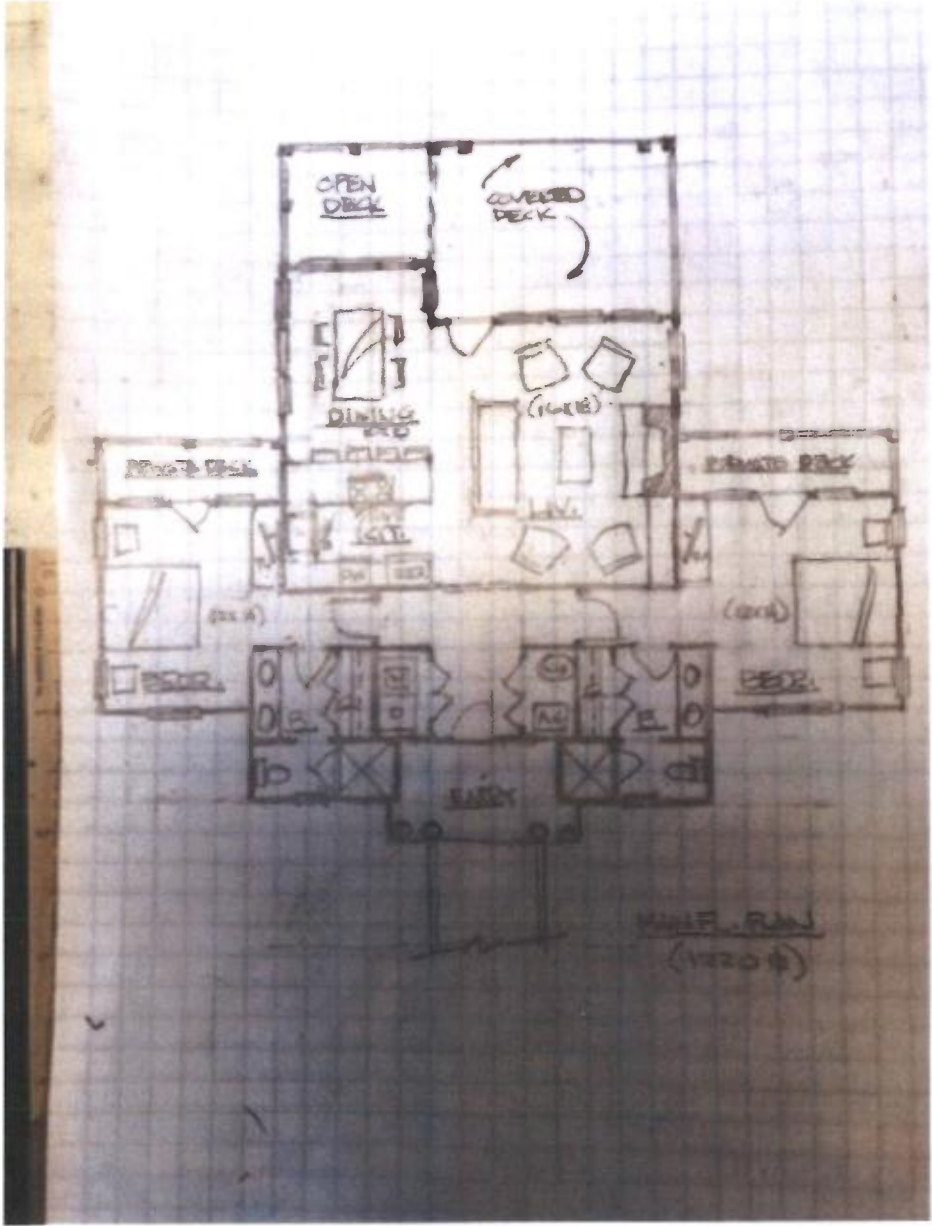
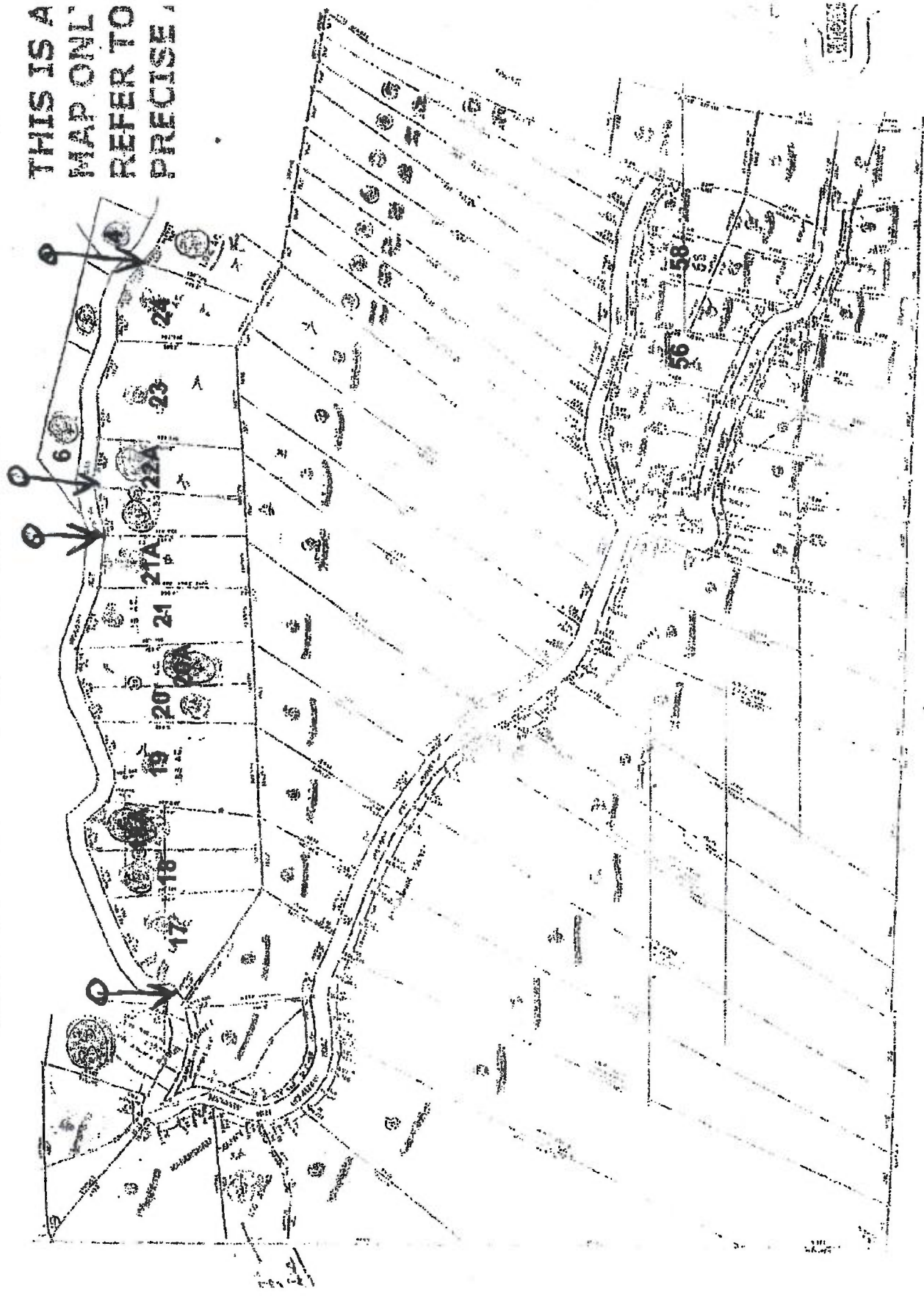


EXHIBIT G

6/15/80 NEED EXTREME POINTS FOR LOTS
#17, #21A, #20A, AND #24 IN ORDER TO BUILD
ACCESS ROADS TO TRAVERSE THE LOTS.

P. 1072
6

THIS IS A
MAP ONLY
REFER TO
PRECISE

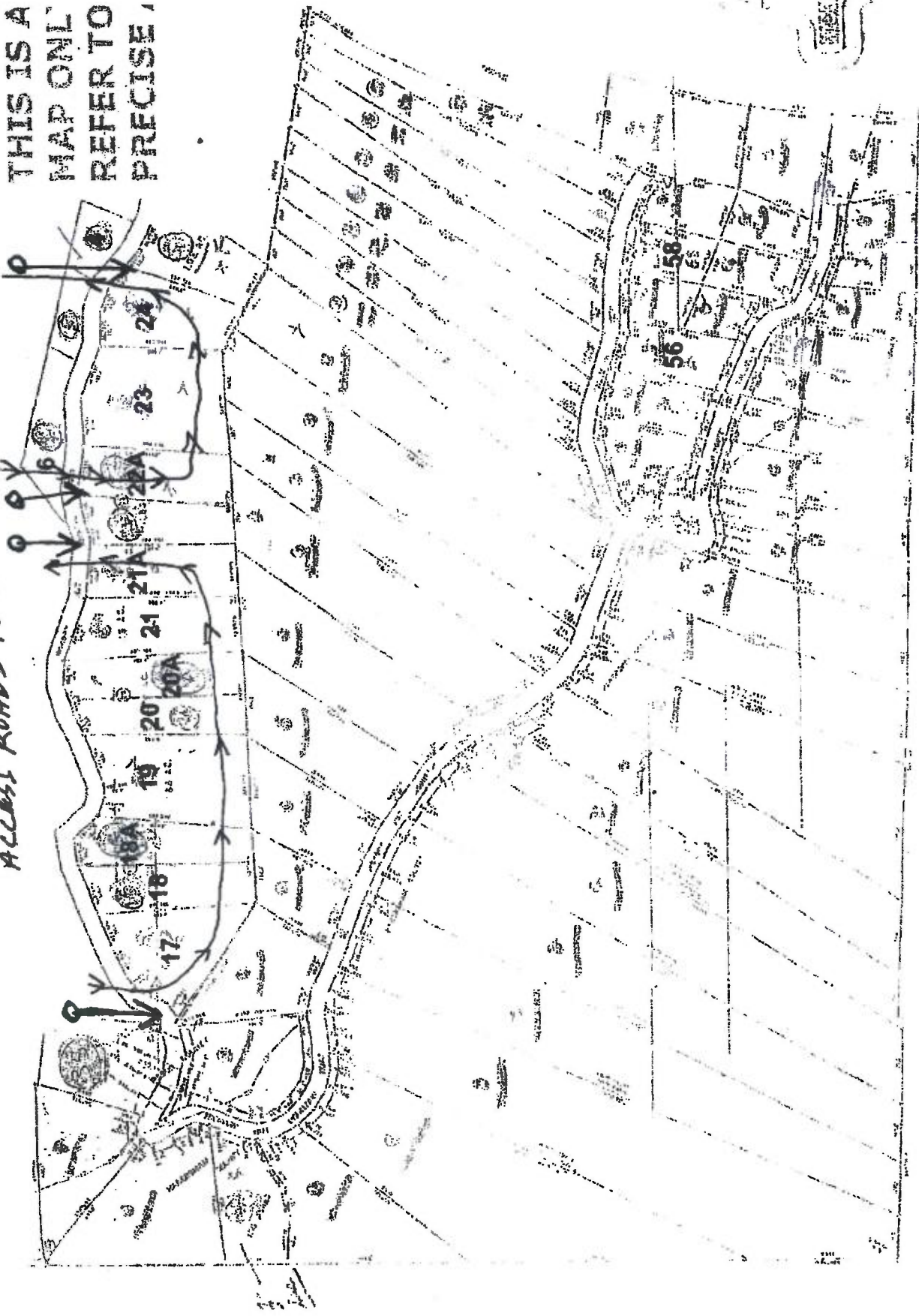


P. 1072

6/15/20 NEED EXTREME POINTS FOR LOTS P. 2042
17, # 21A, # 20A, AND # 24 IN ORDER TO BUILD
ACCESS ROADS TO TRAVERSE THE LOTS.



THIS IS A
MAP ONLY
REFER TO
PRECISE



P. 2042

THIS IS A
MAP ONLY
REFER TO
PRECISE

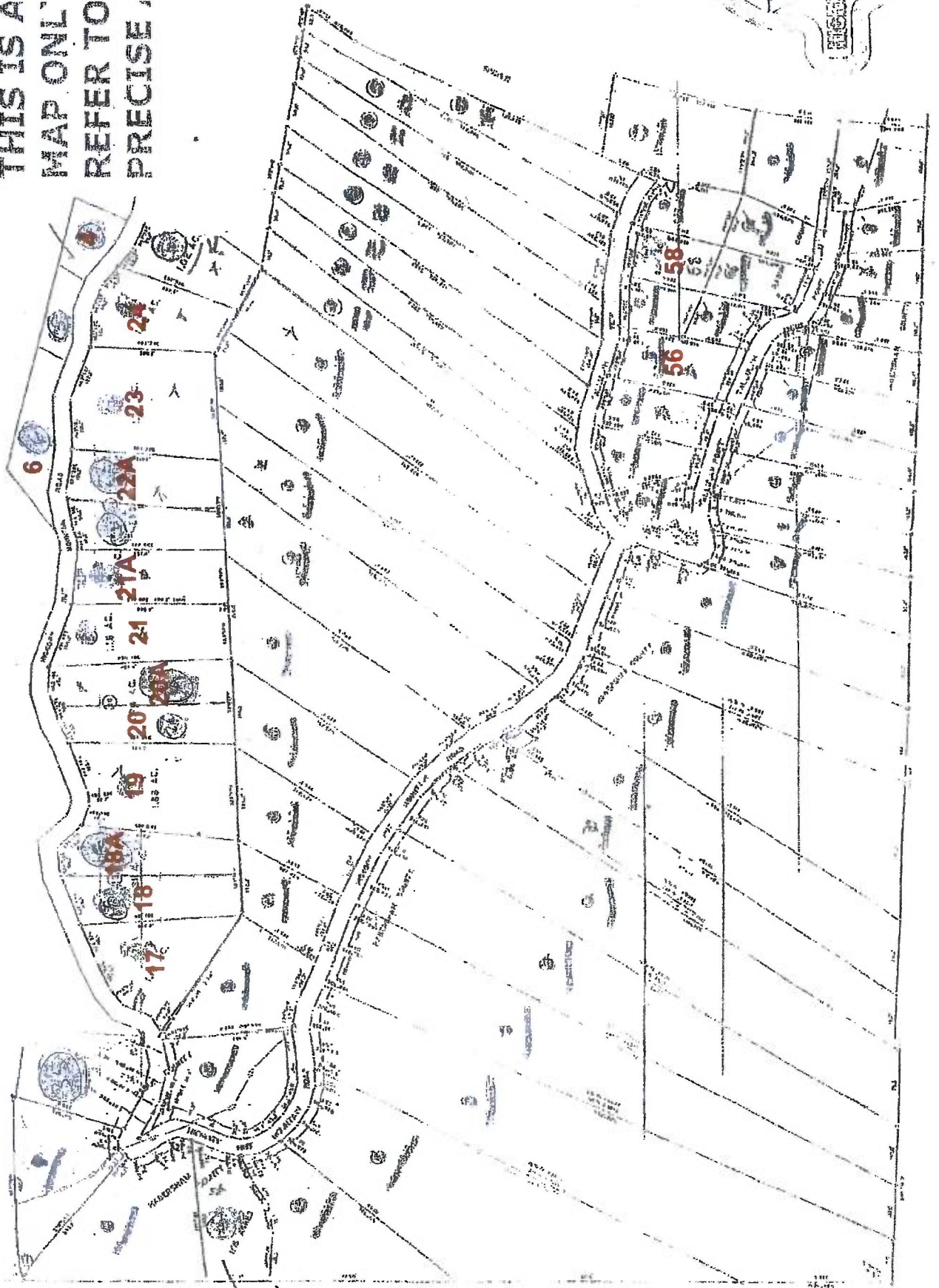


EXHIBIT H

ANDERSEN | TATE | CARR

R. Matthew Reeves
Email: mreeves@atclawfirm.com

Telephone: 770.822.0900
Direct Dial: 770.236.9768
Direct Fax: 770.236.9778

March 12, 2020

Via Hand Delivery and Email

The Honorable Mike Early, Mayor
Mr. Larry Hamilton
Ms. Deb Goatcher
Mr. Craig Weatherly
Mr. Joey Fountain
c/o Ms. Linda Lapeyrouse, City Clerk
255 Main Street
PO Box 56
Tallulah Falls, GA 30573
clerk@tallulahfallsga.gov

Warren Tillery Esq., City Attorney
Smith Welch Webb & White, LLC
2200 Keys Ferry Court
PO Box 10
McDonough, GA 30253
wtillery@smithwelchlaw.com

**Re: Objection to current proposed Short-Term Vacation Rental Regulations
(STVR) ordinance**

Dear Mayor, Council and City Attorney:

This letter is written on behalf of J and D Irvin Holdings, LLC to raise Constitutional and legal objections to the current draft of the STVR ordinance. My client is glad to work with the Town of Tallulah Falls to pursue a mutually agreeable STVR ordinance.

Excluding STVR's from R-1, the Town's residential zoning district, practically excludes STVR's from the Town, because STVR's are in residences/homes. This was not the Town's original proposal, and was a change that makes the STVR ordinance unconstitutional. That would be like excluding retail stores from the commercial zoning district. J and D requests that STVR's be allowed in its R-1 property.

Adopting a conditional use process which requires signatures from a majority of the homeowners association members is an improper delegation of zoning power, and also entangles the Town into private association matters which can often be contentious and would never include the type of quasi-judicial due process that Georgia requires when making a conditional use permit decision. Creating future association majority votes on zoning matters would impair

private contracts and alter relationships between neighbors within associations. The draft STVR unnecessarily steps into legal and other hornet's nests.

Mr. David Irvin has a conflict and cannot attend tonight, but Brian Irvin and Marcia Brock plan to be present at the meeting and you are authorized to communicate with them and any other J and D representatives directly despite the pendency of this legal objection. Again, we are glad to work with the City to try to improve the STVR ordinance to avoid its current Constitutional and other legal defects, but write to object to the current proposed STVR.

Sincerely,

ANDERSEN, TATE & CARR, P.C.

A handwritten signature in blue ink that reads "Matt Reeves" with a date "1/10" written at the end.

R. Matthew Reeves

RMR:tfb

cc: J and D Irvin Holdings, LLC

SUPPLEMENTAL
OBJECTIONS
JULY 20, 2020

ANDERSEN | TATE | CARR

R. Matthew Reeves
Email: mreeves@atclawfirm.com

Telephone: 770.822.0900
Direct Dial: 678.236.9768

July 20, 2020

VIA EMAIL

The Honorable Mike Early, Mayor
Mr. Larry Hamilton
Ms. Deb Goatcher
Mr. Craig Weatherly
Mr. Joey Fountain
c/o Ms. Linda Lapeyrouse, City Clerk
255 Main Street
PO Box 56
Tallulah Falls, GA 30573
clerk@tallulahfallsga.gov

Warren Tillery Esq., City Attorney
Smith Welch Webb & White, LLC
2200 Keys Ferry Court
PO Box 10
McDonough, GA 30253
wtillery@smithwelchlaw.com

**Re: Supplemental Objection Letter to Proposed Short Term Vacation Rental
("STVR") Ordinance and July 9, 2020 Town Council Meeting**

Dear Mayor, Council and City Attorney:

This letter is written on behalf of J and D Irvin Holdings, LLC to supplement the record and raise objections based on actions of the Town's attorney and the Council in relation to the proposed STVR ordinance during the Town Council meeting on July 9, 2020 (the "Meeting").

Prior to the Meeting on July 9, 2020, we submitted a letter raising objections to the draft STVR Ordinance as recommended by the Planning Commission and preserving our Constitutional rights to object and appeal the decision of the Council should the decision result in an unreasonable restriction of my client's property rights and ignore their vested rights. The letter also contained proposed solutions that could potentially resolve our objections in addition to exhibits pointing the substantial resources my client has spent in furtherance of developing their 24 parcels for STVR cabins. Copies of the letter and corresponding exhibits were sent to the Clerk, Attorney and Members of the Council electronically in advance of the Meeting and physical copies were delivered prior to the start of the Meeting.

At the beginning of the Meeting, Council made a motion to move the Executive Session from the end of the meeting to the beginning and moved to go into Executive Session which

ultimately lasted for about one hour. The stated reason for the change was to discuss potential litigation. While the Council retains the right to amend the order of the agenda, such action to hold an extensive Executive Session prior to a public hearing in which a written objection was provided combined with the subsequent actions taken by the Town's attorney after the close of the public hearing reeks of a predetermined decision by the Council prior to my client's, and others, opportunity to voice their objections and possible solutions. Such predetermined decision runs afoul of the requirement of Council to act independently of each other and the public's right to be heard before a decision is made.

Further, it was made clear at the start of the public hearing that it would not be a question and answer session and that it was a time for the public to make their comments and/or presentations related to the proposal, but questions would not be asked. The process of the Town is to close the public hearing but not hold discussion or a vote the end of the meeting under the "Old or New Business" portion of the agenda, depending on the matter. However, after the close of the public hearing in which six people spoke in opposition to the proposal's restriction of STVR in the R-1 zoning district, the Town's attorney called one of the speakers, Claudia Lyle, up to "clarify her statements for the Council." Claudia is an experienced real estate agent who submitted a letter for the record speaking to the impacts of STVR prohibitions in residential areas. Her opinion, supported by her statements for the record, was that communities that recently prohibited STVRs saw a decline in housing values since the prohibition over similar communities that chose to continue allowing STVRs which saw an increase in value.

Upon Claudia's return to the podium, the Town's attorney proceeded to ask questions under the auspice of clarifying her statements. We object to the attorney's line of questioning as it went beyond seeking clarification and gave rise to cross-examining Claudia after the close of the public hearing. While Section 1912 of the Town Ordinance authorizes members of the body to call on a petitioner or other interested parties to clarify points made, the Ordinance does not authorize the Town's staff or attorney to make such a request. Moreover, Sec. 2-88 which defines the duties of the Town attorney do not delegate such authority to the Town attorney.

After asking Claudia to clarify her statement as to whether regulations on STVRs resulted in increased or decreased values of impacted properties, the Town attorney proceeded with a line of questioning seeking to discredit Claudia's remarks. We object to the Town attorney's questioning of Claudia after the close of the public hearing as it is out of order with the meeting process in the Town's Ordinance and object to its inclusion into the record and it therefore should be inadmissible as evidence in the event further legal action is taken.

At the end of the meeting, the Town Council chose to table the matter to allow time for the Town attorney to review it for potential litigation. This action furthers the notion that the Council has predetermined their decision prior to the public hearing. Further, while my client has remained dedicated to working with the Town on a reasonable solution to their concerns that would honor their property rights while serving the Town's goal, efforts to follow up with the Town's attorney to review certain options have gone unanswered.

This process began when my clients submitted a rezoning application for a property along the lake and next door to a then sitting councilmember, Mary Beth Hughes (who has been vocal

in her support of prohibiting STVR in R-1 zonings) on July 11, 2019. During that evening's Town Council meeting, an immediate motion was made to request a moratorium on short term rentals in residential zoning districts. Upon the guidance of the Town attorney reminding Council that such action requires advertising in the legal organ and cannot be completed during that meeting, another motion was made by Councilman Nelms (another vocal supporter of prohibiting STVR in R-1) to authorize the Town attorney to research putting an ordinance in place to restrict STVR in residential districts. Motion was seconded by Mary Beth Hughes.

On July 29, 2019, a special called meeting was held to reestablish the Planning Commission and on August 8th, Councilman Nelms asked for a six-month moratorium on STVRs in residential districts until the Council can consider a draft ordinance prohibiting STVRs in residential areas. The public hearing for my client's rezoning request to build a townhome community for use as STVR on the lake was scheduled to be held the next day on August 9th. The Applicant had previously withdrawn their application (prior to the proposed moratorium) to address items raised by the Town such as related to stormwater management, with the intent of refiling the revised application per recommendations of the Town Clerk (Zoning Administrator). The subsequent adoption of the STVR moratorium precluded my client from resubmitting their application. The moratorium has been extended and remains in place to date.

Prior to my client's rezoning application, the Town had not provided any indication of an intent to consider an amendment to their Ordinance related to STVRs. Such action occurred as a direct response to my client's application for an STVR development and the timing and subsequent actions taken by the Town Council further show the intent of the Ordinance to be directed at my client's efforts to construct cabins and other developments for use as STVR in residential zoning districts. Our objections to the draft ordinance have been submitted for the record prior to the public hearing and can be referenced in our letter dated July 9, 2020.

When combining the timeline of events above with the actions of the Council and the Town attorney during the July 9, 2020 Council meeting/public hearing, it is without question that the proposal is in direct response to my client's efforts to develop STVR properties in R-1 zonings in the Town and such actions disregard their vested rights on the 24 parcels they currently hold around the Town.


It is worth noting that there were serious questions about the Town's Zoning Map all the way up to the July 9, 2020 council meeting/public hearing at which the STVR ordinance issues outlined herein were discussed. This is in conjunction with concerns about downzoning of Mr. Johnny Irvin's and his partners' properties. There also was an unusual discussion of STVR's at the Planning Board meeting on January 8, 2020.

My client maintains their willingness to work with the Town to find a reasonable solution that protects their vested rights and offers regulatory control over STVRs within the Town. However, we object to the line of questioning conducted by the Town attorney in violation of the Town's Ordinance on meeting process in addition to further objecting to the current proposed STVR ordinance as it violates my client's vested rights and was drafted in direct response to their efforts to develop STVR properties within the Town. We continue to reserve our right to object

and pursue further legal action should the Council choose to adopt the proposed STVR ordinance as currently recommended by the Planning Commission.

Sincerely,

ANDERSEN, TATE & CARR, P.C.


R. Matthew Reeves

RMR/tb

cc: J and D Irvin
Shaun Adams, Esq.

SECOND SUPPLEMENTAL
OBJECTIONS
JULY 23, 2020

Matt Reeves

From: Matt Reeves
Sent: Thursday, July 23, 2020 3:44 PM
To: Warren M. Tillery; clerk@tallulahfallsga.gov
Cc: Tammy F. Brewer; Shaun R. Adams; Jaletta Smith
Subject: RE: J and D Irvin supplemental objection

Warren:

Here is a further revised exemption/carve-out draft with tax parcels included:

Reserving all rights, one proposed revision to Section 2204 would be to add an exemption or carve-out at the end:

“, and for the 24 lots in the R-1 district referenced in J and D Irvin Holdings, LLC’s letter dated July 9, 2020 and referenced as Hickory Nut Mountain Lots 4, 6, 17, 18, 18A, 19, 20, 20A, 21, 21A, 22A, 23, 24, 56, and 58, Lakefront Lots 15, 16, 17, and 18, and Septic and Cabin Lots 36, 37, 38, 39, and 40, which are tax parcels 101A 015D, 101A 007, 101A 003B, 101A 003C, 101A 007F, 101A 011B, 101B 064, and 101B 001B.”

The corresponding tax parcels are the following:

Parcel 101A 015D

Hickory Nut Mountain Lot #4

Parcel 101A 007

Hickory Nut Mountain Lot #6

Parcel 101A 003B

Hickory Nut Mountain Lots #17, #18, #18A, #19, #20, #20A, #21, #21A

Parcel 101A 003C

Lots 22A, 23, 24

Parcel 101A 007F

Top of Hickory Nut Mountain Lot #56

Parcel 101A 011B

Top of Hickory Nut Mountain Lot # 58

Parcel 101B 064

Lakefront Lots #15, #16, #17, #18

Parcel #101B 001B

Septic and Cabin Lots #36, #37, #38, #39, #40

Sincerely,
Matt Reeves

From: Matt Reeves
Sent: Thursday, July 23, 2020 2:29 PM
To: Warren M. Tillery <wtillery@smithwelchlaw.com>; clerk@tallulahfallsga.gov
Cc: Tammy F. Brewer <tbrewer@atclawfirm.com>; Shaun R. Adams <sadams@atclawfirm.com>; Jaletta Smith <jsmith@atclawfirm.com>
Subject: RE: J and D Irvin supplemental objection

Warren:

Correction of a typo, from 27 to 37:

Reserving all rights, one proposed revision to Section 2204 would be to add an exemption or carve-out at the end:

, and for the 24 lots in the R-1 district referenced in J and D Irvin Holdings, LLC's letter dated July 9, 2020 and referenced as Hickory Nut Mountain Lots 4, 6, 17, 18, 18A, 19, 20, 20A, 21, 21A, 22A, 23, 24, 56, and 58, Lakefront Lots 15, 16, 17, and 18, and Septic and Cabin Lots 36, 37, 38, 39, and 40.

Sincerely,
Matt Reeves

From: Matt Reeves

Sent: Thursday, July 23, 2020 12:02 PM

To: 'Warren M. Tillery' <wtillery@smithwelchlaw.com>; clerk@tallulahfallsga.gov

Cc: Tammy F. Brewer <tbrewer@atclawfirm.com>; Shaun R. Adams <sadams@atclawfirm.com>; Jaletta Smith <jsmith@atclawfirm.com>

Subject: RE: J and D Irvin supplemental objection

Dear Mayor, Council, Clerk and Warren:

This email is written on behalf of J and D Irvin Holdings, LLC in further supplement to their objections to the currently proposed STVR ordinance.

Last night, the Irvins were upset to find a new 9 page proposed STVR ordinance in the July 23 agenda packet. The last draft of the STVR ordinance was only 4 pages long, and was the product of work from March of 2020 for the ensuing 4 months. The Mayor and Council just two weeks ago, the Planning Board before them, the Irvins, and the public had a 4 page draft in front of them during the previous public hearings, and it is wrong to hold a vote on the more extensive and substantive 9 page draft tonight without further vetting and public hearings. The new jumbo-sized 9 page draft should be remanded to the Planning Board to hold an explanation and public hearings on this new proposal, which has many new substantive provisions which have never been the subject of public notice and hearing. Neither the Mayor and Council, public, nor Irvins should be expected to make decisions on the 9 page proposal on the fly. Also, having such a big change after the public hearing process is closed is not right. J and D Irvin Holdings, LLC objects to the procedure and substance of the new 9 page proposal, on Constitutional and other legal grounds.

Reserving all rights, one proposed revision to Section 2204 would be to add an exemption or carve-out at the end:

" , and for the 24 lots in the R-1 district referenced in J and D Irvin Holdings, LLC's letter dated July 9, 2020 and referenced as Hickory Nut Mountain Lots 4, 6, 17, 18, 18A, 19, 20, 20A, 21, 21A, 22A, 23, 24, 56, and 58, Lakefront Lots 15, 16, 17, and 18, and Septic and Cabin Lots 36, 27, 38, 39, and 40."

Regarding two matters that you and I discussed, among many grounds for J and D Irvin Holdings, LLC's vested rights are that multiple Irvins did in fact discuss their STVR work on the 24 lots with multiple City elected officials and at least one City staff member. Among the discussions by City officials was former Council Member Mary Beth Hughes during her tenure, when she attempted to negotiate a fence installation to her benefit in conjunction with the Irvins' STVR work. On the second question, 20 of the 24 Irvin lots are single-family detached residences. Only Lots 15-18, the Lakefront Lots, relate to the STVR lodge.

Warren, the Irvins and I remain willing to discuss this important matter to search for a mutually agreeable way to proceed regarding STVR's.

Sincerely,
Matt Reeves

HUGHES LETTER

JULY 22, 2020

Mary Beth Hughes
455 River St.
PO Box 22
Tallulah Falls, GA 30573

July 22nd, 2020

Johnny Irvin

PO Box 93

Tallulah Falls, GA 30573

Dear Johnny:

Rest assured that I am well aware of what was at the Point when we began our residency there 26 years ago. I know what belongs to you, and I know what belongs to me. I have no intention, nor desire, to "strip" your building. I will be taking what is mine, and leaving what is yours. Fortunately, I have a good memory and if I have any questions or doubts, I consult with Don, as his memory is even better than mine.

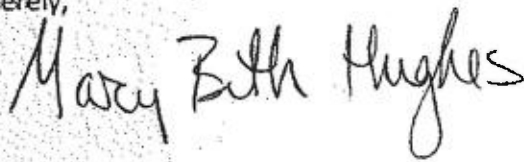
As I have been packing up and moving, I have been storing your things in the back corner of the stockroom. You will find everything either packed in boxes back there, or stored on the shelves. I have done this so as to leave a totally blank slate, so to speak, on which you will be able to develop your own store concept on. I'm sure that you do not wish to look like Tallulah Point Overlook, and would much rather create your own establishment and style. I will also leave a folder with information and instruction manuals for items we purchased for the Point as well as other notes providing you useful information. You will also find that on the shelf in the back corner of the stock room. Should you have any questions about anything, please do not hesitate to contact me.

Also rest assured that I will leave the premises in good condition. To do otherwise is unacceptable.

I wish to apologize to you for my anger this evening in the parking lot at the Point. It was very childish of me to "slap" your truck as you left. That is behavior that I am not proud of. Please accept my apologies.

Please advise as to how you wish for me to give you the keys when I vacate on the 31st. I wish you and yours the best as you begin a new chapter at the Point.

Sincerely,

A handwritten signature in cursive script that reads "Mary Beth Hughes". The signature is written in dark ink and is positioned to the right of the typed name.

Mary Beth Hughes

ADDITIONAL REALTOR
OPINION



CENTURY 21
Community Realty

Claudia Lyle

103 W. Waters Street

Clarkesville, Ga. 30523

Dear Mr. Irvin,

I have done some additional research on the short term rental issue. As we both know, our small rural area has not been affected by this issue as much as in larger, more popular second home, vacation areas. Because we are just now starting to face some of these issues, our market statistics, are just beginning to show the results. I did, however, find some interesting numbers that I would like to share.

In a popular area that recently stopped allowing short term rentals, I was able to find some interesting statistics. Please note that the numbers will reflect the lowering of prices in each of the categories.

- Active Residential Homes:

<u>Property</u>	<u>Original List Price</u>	<u>Current List Price</u>
12 Pine	\$399,900	\$329,000
320 Muir	\$249,000	\$229,000
516 Woodbrier	\$749,000	\$599,900
863 Blue Ridge	\$289,000	\$259,900
707 Laurel Wood	\$184,900	\$164,000

- Active Lots:

Sautee Trail	\$49,900	\$40,000
Woodland	\$79,900	\$49,900
Indian Tr.	\$24,900	\$20,900
Pinecrest	\$34,900	\$15,000
Sautee Tr.	\$19,900	\$14,900

- 2020 Residential Sales:

<u>Property</u>	<u>Original List Price</u>	<u>Sold Price</u>
1361 Woodbrier	\$375,000	\$342,000

466 Woodbrier	\$329,000	\$238,500
42 Woodbrier	\$329,900	\$240,000
72 Hawk Nest	\$248,000	\$220,000
168 Cherokee	\$219,900	\$183,000
114 Rockridge	\$285,000	\$202,500

If you will notice, each of these properties had a significant reduction in price. In fact, the properties that sold were 21% below original list price. I pulled all the other 2020 sold properties, in the comparable price range, and there was only a 4% difference. In my opinion, not allowing short term rentals definitely reflected a reduction in value.

I read an article where on Hilton Head Island similar results have occurred. Several realtors reported that in Sea Pines, where a ban was not placed on short term rentals, properties were selling much higher than in Hilton Head Plantation, where a ban was placed. Rental potential properties sell for more than those that do not.

According to a recent news release from a National Association of Realtors panel of experts meeting, a chairman on the committee made a statement that was very interesting. He said that owning property comes with a "bundle of rights", including the opportunity to rent owned property to another individual. It also noted that Fundamental Property Rights state that you should be able to buy, rent, or sell a property, and limiting renting is taking away one of those three rights and further regulations beyond registration and inspection can be dangerous. The panel agreed that renting for less than 30 days is still a residential activity, and that just because you lease your home overnight doesn't necessarily make it a commercial property.

Again, as a real estate associate, my objective is to help preserve property values, and I can only conclude that properly managed short term rentals do increase property values.

Regards,

Claudia Lyle

Claudia Lyle