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## MEMORANDUM

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**To:** Members of the Walden Board of Zoning Appeals

**Cc:** Mariah Prescott, Town Administrator

**From:** Ashley Gates, Senior Planner

**Date:** January 19, 2024

**Subject:** Variance Request for 734 High Pasture Road

### Summary

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**Owner:** Crosby Riles

**Applicant:** Brian Powell

**Address:** 734 High Pasture Rd.

**Parcel Number:** 089K A 011.04

**Zoning:** A-1

**Request:** Construct driveway in unopened right-of-way to connect via private road to High Pasture Road

**Staff Recommendation:** Approve

### Analysis

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#### Background

734 High Pasture Road is a 2-acre lot that is zoned A -1 Agriculture. Platted in 1999, this lot has frontage on two right-of-ways, High Pasture Road and McClean Road, which are both unopened along this lot. The plat for this lot states that Board of Zoning Appeals must approve access via the private road and unopened right-of-way. Staff could not locate a record of any BZA approval. The applicant is requesting to connect to the existing driveway on High Pasture Road, an unopened right-of-way that has been improved in order to access the adjacent lot.

## 2022 Aerial Imagery, Hamilton County GIS



- 3.03 Required Access for Residential Lots.** All residential lots in the Town of Walden must have frontage on an existing town accepted and publicly maintained street or road. Lots whose only access is a private road or easement are not permitted unless a Special Permit is granted by the Board of Mayor and Aldermen.
- 3.04 No Permit for Building on Lots Without Publicly Accepted Access.** No permit shall be issued for a building or use on a lot which does not abut on an existing town accepted and publicly maintained street or road unless a Special Permit for access to such lot by a private road or easement has been granted by the Board of Mayor and Aldermen.

### Zoning Ordinance

The Zoning Ordinance requires a special use permit to access a lot via private drive. The Zoning Ordinance does not have any specific regulations in reference to using an unopened public right-of-way. While the existing driveway does utilize a private road to connect to the main portion of High Pasture Road, the application is for improvements to the public right-of-way to connect to that driveway.

## Standards for Variances

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The Walden Zoning Ordinance sets standards for the approval of variance requests in Section 9.03(a).

### **9.03 Power and Duties of the Board of Appeals.**

- (a) Power to Grant Variance in Site and Area Regulations.
- (1) The Board of Appeals shall have the power to grant variances and adjustments in the area and building site regulations of this Ordinance in cases where strict application of the regulations would result in practical difficulty or unnecessary hardship which is not attributable to the actions of the applicant or predecessors in title; but only in harmony with the spirit and intent of this Ordinance and in such a manner as to grant relief without substantial injury to the public interest and rights.
  - (2) No variation in the application of the provisions of this Ordinance or grant of a temporary permit shall be made unless after a public hearing, as provided for in this section, the Board of Appeals shall find that such variation will not:
    - a) Impair an adequate supply of light and air to adjacent property;
    - b) Increase the hazard from fire and other dangers to said property;
    - c) Diminish value of land and buildings throughout the surrounding area;
    - d) Increase the congestion or traffic hazards in the public streets or highway; and
    - e) Otherwise impair the public health, safety, comfort, morals, and general welfare of the inhabitants of the Town of Walden.The Board of Appeals may impose such conditions as will lessen any injury to the character of the subject Zone.

### **13-7-207. Powers of board of appeals.**

(3) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the zoning regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this part and part 3 of this chapter would result in peculiar and exceptional practical difficulties to or exception or undue hardship upon the owner of such property, authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship; provided, that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

## **Recommendation**

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Staff recommends approval of the variance pending review by utility providers and engineers.

Approval is recommended for the following reasons:

- The lot with access via unopened right-of-way was legally platted approved by the Town of Walden
- The Town of Walden has permitted other property owners to access their lot via this unopened portion of right-of-way
- Denying the proposed access would create significant practical difficulty, requiring the applicant to pave more than 800 feet of right-of-way to town standards

TOWN OF WALDEN  
Board of Zoning Appeals  
VARIANCE APPLICATION

Date 12/21/23

Address of Subject Property 734 High Pasture, Signal Mtn, TN 37377  
Block No. \_\_\_\_\_ Subdivision \_\_\_\_\_ Tax Map \_\_\_\_\_

Name of Applicant Crosby Riles  
Mailing Address 642 Wayside Place, Signal Mtn, TN 37377  
Daytime Telephone Number [REDACTED] Fax Number \_\_\_\_\_  
E-mail Address [REDACTED]  
Name of Business (if applicable) \_\_\_\_\_

Name of Property Owner Crosby Riles  
Mailing Address 642 Wayside Place, Signal Mtn, TN 37377  
Daytime Telephone Number [REDACTED] Fax Number \_\_\_\_\_  
E-mail Address [REDACTED]

VARIANCE APPROVED:

\_\_\_\_\_  
\_\_\_\_\_

VARIANCE DENIED:

Date \_\_\_\_\_ Signature \_\_\_\_\_

Town of Walden  
1836 Taft Highway, P.O. Box 335 \*Signal Mountain, Tennessee 37377 Telephone (423) 886-4362  
Fax (423) 886-7953

TOWN OF WALDEN  
*Board of Zoning Appeals*

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Acknowledgement

It is understood that approval of the proposed development is conditioned upon full compliance with all applicable regulations and ordinances of the Town of Walden and conditions imposed by the applicable Boards of the Town.

In cases where the applicant is not the property owner, it is also hereby acknowledged by the property owner that he or she is in full agreement with the content of this application.

Crosby Riles  
Signature of Applicant

\_\_\_\_\_  
Signature of Owner if different from Applicant

12/21/23  
Date

In general, the Board of Zoning Appeals meets on an as needed basis at Town Hall, at 1836 Taft Highway.

The submission deadline is the 10th of the month to be heard the following month.

Copies of all required materials and a non-refundable filing fee shall be submitted to the Town Recorder by the application deadline.

Contact the Town of Walden to confirm deadline and meeting dates and times.

Town of Walden  
1836 Taft Highway, P.O. Box 335 \*Signal Mountain, Tennessee 37377 e Telephone (423) 886-4362  
Fax (423) 886-7953

# TOWN OF WALDEN

## Board of Zoning Appeals

11

### Variance Attachment

Address of Subject Property 1734 High Pasture Rd, Signal Mtn, TN 37377

**Please read Article 9. Board of Appeals for Variances, section 9.03, 9.04, & 9.05 of the Town of Walden Zoning Ordinance, attached to this application.**

1. Provide a description of the requested Variance.

We are trying to build a home on a private road

2. Describe the situation creating the hardship.

According to the Walden zoning code our house needs a variance approval to build on a private road

3. Describe the conditions associated with this situation that make your property different from the conditions of the surrounding lots or

N/A - all other lots and homes are on private road

4. Describe the effect that granting this variance would have on adjoining streets or public or private property.

No effect in granting this variance as the three homes built on this road are relatives in support of us building.

5. What other alternatives could solve the problem caused by the situation?

None. We must build off of private road to access our lot.

The petition for a variance was granted.

The petition for a variance was denied.

Date \_\_\_\_\_

Signature/ Town of Walden \_\_\_\_\_

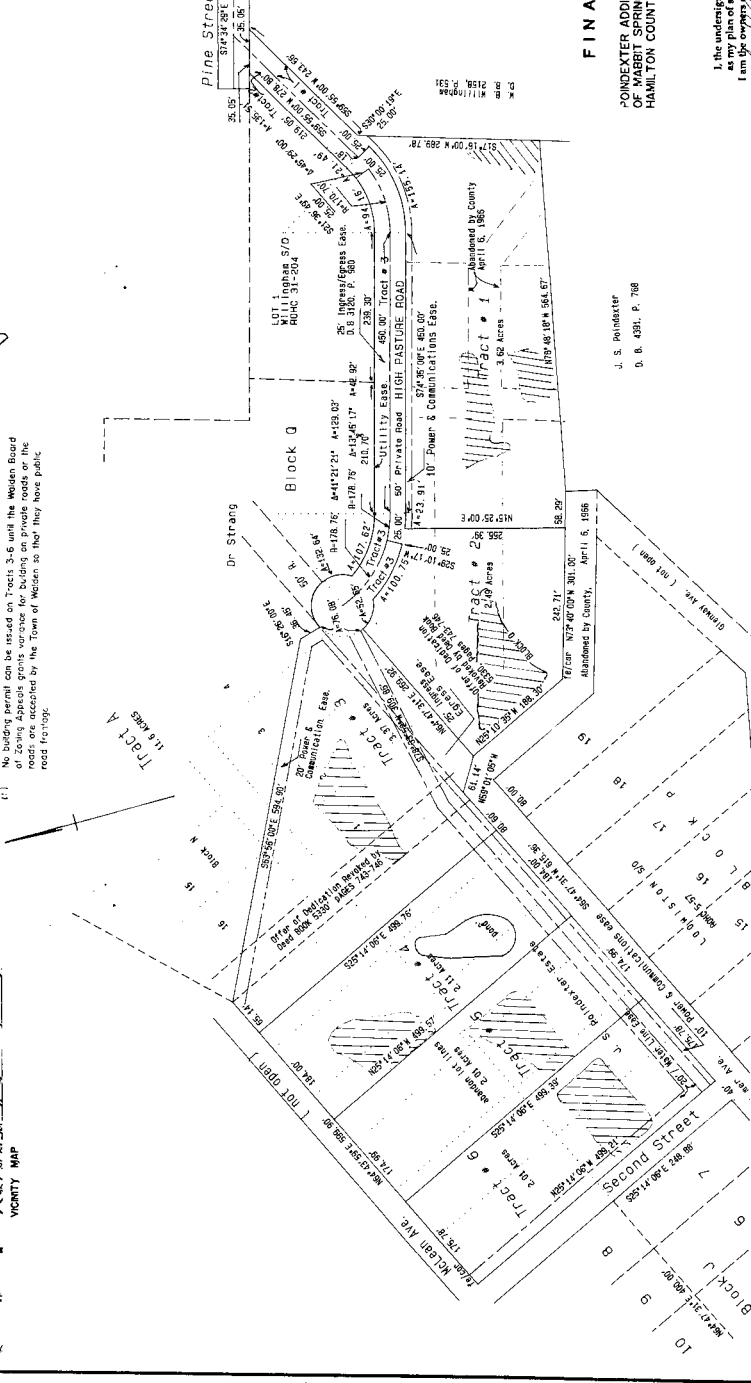
Town of Walden  
1836 Taft Highway, P.O. Box 335 \*Signal Mountain, Tennessee 37377 e Telephone (423) 886-4362  
Fax (423) 886-7953

APPROVED FOR RECORDING  
 CHATTAUGOHAM COUNTY HEALTH DEPT.  
 DATE: 5/13/99  
 BY: [Signature]  
 TOWN OF WALDEN  
 REGISTERED PLANNING COMMISSIONER  
 INSTRUMENT: 15000000055  
 BOOK: 95-698-3  
 PAGE: 20  
 RECORD: 15000000055  
 DATE: 5-13-99  
 COUNTY: HAMILTON COUNTY, TENNESSEE

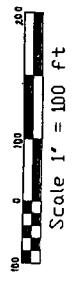
- 12) Hatched area is a subsurface sewerage disposal system and duplication area statement. No action in this area without prior written approval from the Health Department and recording of a corrective plat may render this lot unmarketable.
- 13) The subsurface sewerage disposal system statement and duplication area statement may only be shown on a plat with high intensity soils map and the recording of a corrective plat to show the soil information.
- 14) Tract 1 is approved for a maximum number of three (3) bedrooms.
- 15) Tracts 2-6 are approved for a maximum of four (4) bedrooms.
- 16) No pools without written approval from the Health Department.
- 17) All items regarding the subsurface sewerage disposal system will become null and void if the home is connected to a public sanitary sewer system.



- 1) Present zoning classification, 3-1, 3-2, 3-3, 3-4, 3-5, 3-6, 3-7, 3-8, 3-9, 3-10, 3-11, 3-12, 3-13, 3-14, 3-15, 3-16, 3-17, 3-18, 3-19, 3-20, 3-21, 3-22, 3-23, 3-24, 3-25, 3-26, 3-27, 3-28, 3-29, 3-30, 3-31, 3-32, 3-33, 3-34, 3-35, 3-36, 3-37, 3-38, 3-39, 3-40, 3-41, 3-42, 3-43, 3-44, 3-45, 3-46, 3-47, 3-48, 3-49, 3-50, 3-51, 3-52, 3-53, 3-54, 3-55, 3-56, 3-57, 3-58, 3-59, 3-60, 3-61, 3-62, 3-63, 3-64, 3-65, 3-66, 3-67, 3-68, 3-69, 3-70, 3-71, 3-72, 3-73, 3-74, 3-75, 3-76, 3-77, 3-78, 3-79, 3-80, 3-81, 3-82, 3-83, 3-84, 3-85, 3-86, 3-87, 3-88, 3-89, 3-90, 3-91, 3-92, 3-93, 3-94, 3-95, 3-96, 3-97, 3-98, 3-99, 3-100.
- 2) No building permit can be issued on Tracts 3-5 with the Walden Board of Zoning Appeals grants variance for special use. The variance is for the use of the lots as shown on the plat. The variance is for the use of the lots as shown on the plat.
- 3) This plat subdivides the property described in Deed Book 353/488.
- 4) This subdivision has been developed according to the Subdivision Regulations of the Town of Walden.
- 5) Purpose of this plat is to abandon the original lot lines as shown, and show new lot lines.
- 6) Map parcel # 89K-A-11.
- 7) Water by Walden Ridge Utility District.
- 8) The Town of Walden is not responsible to construct or maintain any road or any other road shown on this plat, except the road or any other road shown on this plat.
- 9) The owner/owners responsible to provide any desired utilities or services beyond the R.O.W. of Pine Street.
- 10) Private road frontage services beyond the R.O.W. of Pine Street.
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STREET ADDRESS
Tract # 1 700 High Pasture Road
Tract # 2 672 High Pasture Road or 544 Palmer Ave.
Tract # 3 543 Palmer Ave.
Tract # 4 647 Palmer Avenue
Tract # 5 735 Palmer Avenue
Tract # 6 777 Palmer Avenue



DRAWING NO. 1098-477-2C  
 FIELD BOOK  
 SEE 95-698-3

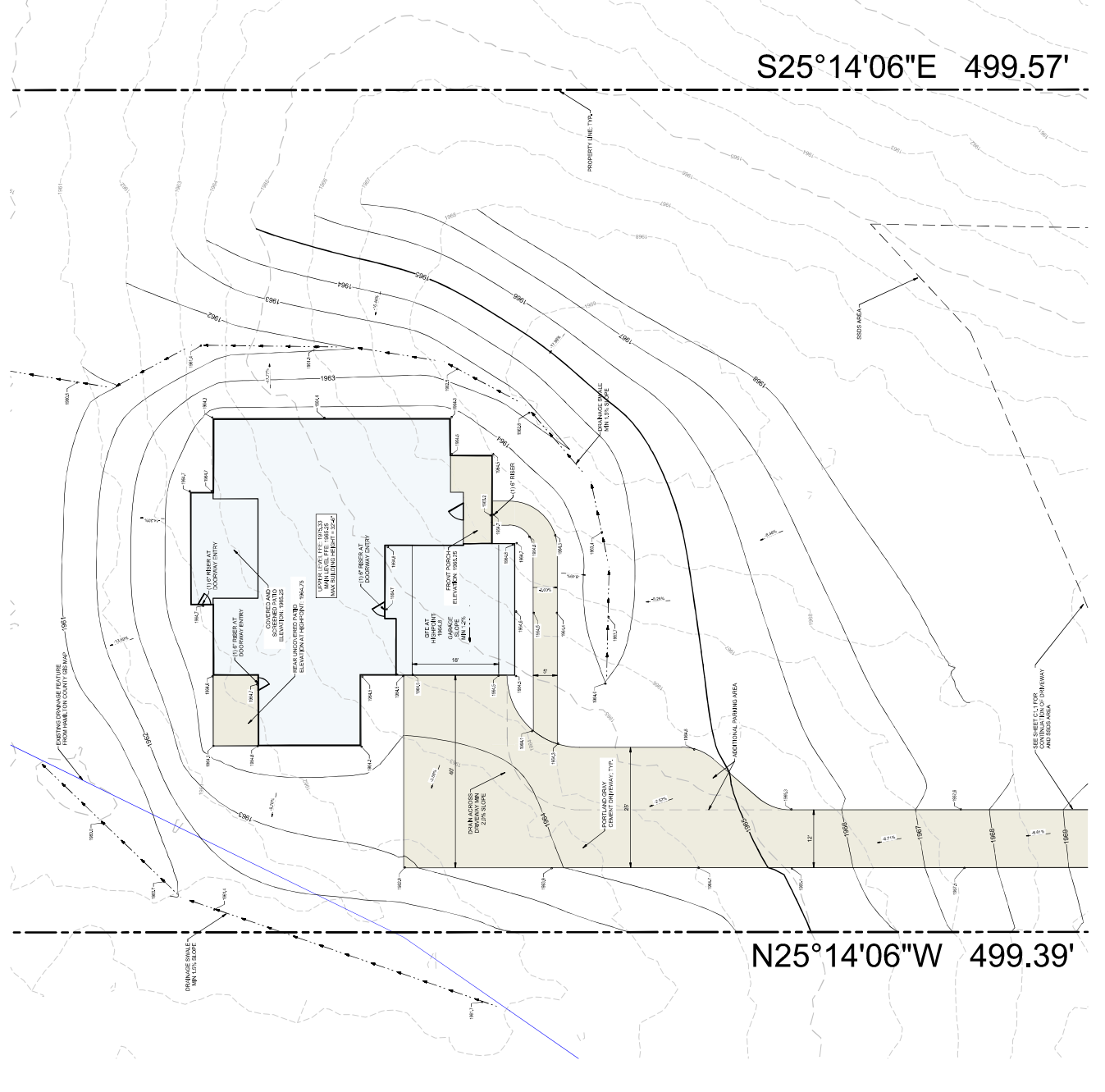
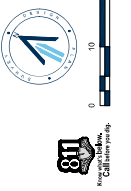


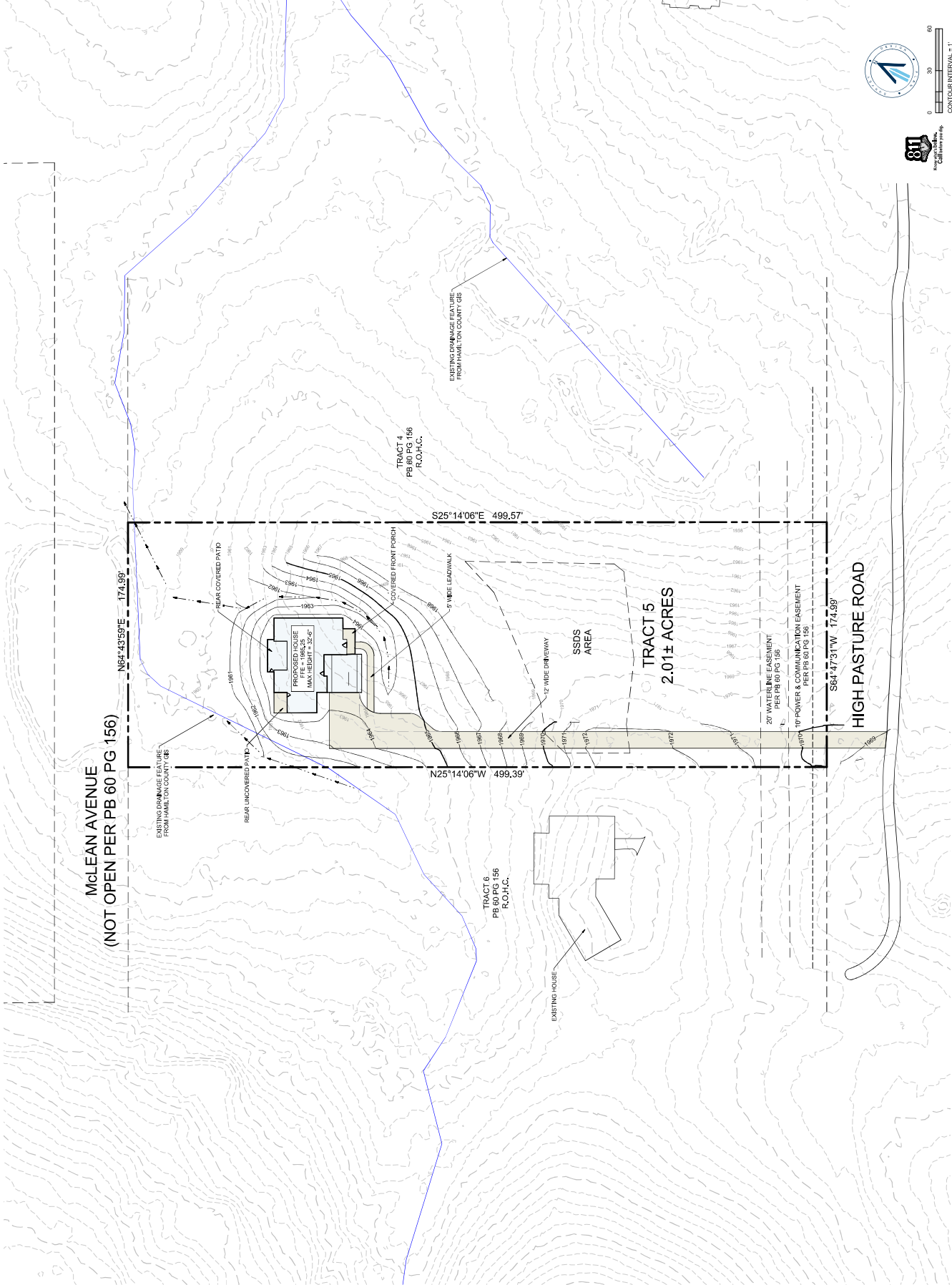
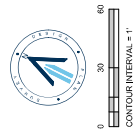
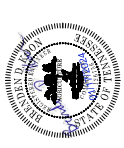
**GRADING, DRAINAGE & ROADWAY NOTES:**

1. Boundary and easements were provided by the Tennessee State L&E Database, Contour interval is 1'.
2. Topographic survey provided by the Tennessee State L&E Database, Contour interval is 1'.
3. All grading and drainage features to be built and installed as per the City of Walden Construction Standard Ordinance. Before any surface treatment is put down, aggregate must be provided and accepted by the downtown Council.
4. All grading and drainage features to be built and installed as per the City of Walden Construction Standard Ordinance. Before any surface treatment is put down, aggregate must be provided and accepted by the downtown Council.
5. The contractor will place and store in stockpiles construction material, including but not limited to crushed stone, gravel, sand, etc. on the site. The contractor will be responsible for the placement of this material on the site. The contractor shall not place any material on the site that is not the property of the contractor. The contractor shall not place any material on the site that is not the property of the contractor. The contractor shall not place any material on the site that is not the property of the contractor. The contractor shall not place any material on the site that is not the property of the contractor.
6. The filling and spreading of any fill material is to be done in the lowest part and brought up in horizontal layers of 6 inches thickness. Soil fill material is to be soil that is free of stones, roots, frozen soil or any other decomposable material. The contractor shall not place any material on the site that is not the property of the contractor. The contractor shall not place any material on the site that is not the property of the contractor. The contractor shall not place any material on the site that is not the property of the contractor.
7. Any work excavation shall be removed from the site as directed by the owner and civil engineer.
8. The contractor shall protect all existing trees, vegetation and other adjacent utility or materials deemed "unrecoverable" by the soils engineer. The contractor shall be responsible for the installation of any such materials. The contractor shall not place any material on the site that is not the property of the contractor. The contractor shall not place any material on the site that is not the property of the contractor. The contractor shall not place any material on the site that is not the property of the contractor.
9. Arrows on grade area indicate direction of flow of surface drainage.
10. Unless specified otherwise, all road grades for the site shall be prepared to provide a base four inch (4") layer beneath the road grade from base rock and large stones to allow for the installation of utility services and building foundations for existing and/or new removal. Rock should be 6" or less in diameter below lowest part of foundation for the road.

**GENERAL NOTES**

1. The contractor shall provide all necessary permits and obtain all permits, and pay all fees and construction testing fees. The contractor shall be responsible for the safety of the site during construction. The contractor shall not place any material on the site that is not the property of the contractor. The contractor shall not place any material on the site that is not the property of the contractor. The contractor shall not place any material on the site that is not the property of the contractor.
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THIS PLAN IS THE PROPERTY OF RAGAN SMITH, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF RAGAN SMITH, INC.