

From: Emily Yao [mailto:emilyyao@bellsouth.net]
Sent: Monday, October 01, 2007 6:16 PM
To: Mulkey, Alisha Spears; McCaleb Joe
Cc: Hastings, D Mark; Bishop, Bradley N LRN; McMahan, Joseph A LRN; Bean, Benjamin Josheb; Anderson, Donald W
Subject: Re: FW: Public hearing: Jagger Branch (Publ. Not. 06-115) & Shady Oaks (Publ. Not. 06-65)

Hi Alisha,

Thank you for your response, and I will forward your email to our clients so that they will be aware of the hearing format.

Regarding coordination with the State of AL--

Both you and Brad indicated that there has been no further attempt to coordinate with ADEM concerning the Shady Oaks application. I would like to request, however that ADEM be specifically notified of the upcoming public hearing, and that Keith Hudson of the Alabama Department of Conservation and Natural Resources be specifically notified (as he seems to be the expert on bald eagle nesting and habitat in the area, as well as other T&E species).

Also, I expect that TVA and the Corps will be available to clarify facts, if not to give other opinion or to answer formal Q&A. Since the Shady Oaks application has changed since it was originally submitted, I believe that there is a considerable amount of confusion about the actual proposed project. I'm assuming that the applicant seeks to clarify any confusion, by giving a presentation, and I hope that he will be open to any questions about the proposed project if the citizens are still unclear as to the scope of his proposed activities.

Lastly, you indicated that Mr. Crowder/Shady Oaks has not submitted any additional information. However, I was previously informed by the Corps that TVA was conducting a GPS assessment of the Jagger Branch embayment, to determine actual extent of the wetlands, and possibly to better assess the true-depth and contours of the embayment? Please advise if this GPS information (or other information) is available to the public, or when it will be available to the public. I want to thank you (TVA) for engaging the public in two separate public hearings, however, I also want to stress the importance of considering the cumulative impacts of these separate applications (Shady Oaks and Jagger Branch Homeowners Association). It is HCA's contention that an accurate assessment of "impacts" of either project is not possible without this additional information.

Thank you for your time and consideration, and please advise as to obtaining the GPS mapping/studies, and other additional information as it becomes available.

Also, please include this correspondence as part of the public record for both applications.

Sincerely,

Emily

--

Emily Yao
Attorney at Law
emilyyao@bellsouth.net

Joe W. McCaleb and Associates
315 West Main Street, Suite 112
Hendersonville, Tennessee 37075
Office: (615) 826-7245
Office: (615) 826-7823
Fax: (615) 824-1068

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----- Original message from "Mulkey, Alisha Spears" <asmulkey@tva.gov>: -----

Emily,

Thank you for your questions and the opportunity to clarify the public hearing. We look forward to your participation.

Below are the answers to your questions. ...let me know if you need additional information.

1. Currently, TVA plans to hold a separate public hearing for the Wes Long /Jagger Branch application. The date will likely be in mid-December .
2. The Corp has addressed this question
3. The format for the public hearing will allow registered parties to become Parties of Record. Registered parties must provide their name and correct mailing address to be considered. Parties choosing to make oral comments will be limited to 5 minutes by the Facilitator. Written comments will also be collected at the conclusion of the hearing. The

hearing will be transcribed by a court reporter, and the applicant will make a brief presentation of the proposal prior to the oral comments.
No, TVA and Corp will not be available for Q&A during the evening, or answer questions posed during the comment period.

4. No additional information has been requested of Mr. Crowder/Shady Oaks applicants. The public meeting scope in May was not to include their project

5. No knowledge of any change in the project scope

6. No additional coordination with ADEM concerning this project

Thank you,

Alisha S. Mulkey

Watershed Representative
3696 Alabama Hwy 69
Guntersville, AL 35976
(256) 571-4295

From: Emily Yao [mailto:emilyyao@bellsouth.net]
Sent: Friday, September 28, 2007 2:06 PM
To: Mulkey, Alisha Spears; Pilarski-Brand, Kim; Bishop Brad
Cc: McCaleb Joe; Quarles Mark; Leberte Kathy; Nast David; League Will
Subject: Public hearing: Jagger Branch (Publ. Not. 06-115) & Shady Oaks (Publ. Not. 06-65)
Importance: High

Hi Alisha, Kim, and Brad,

Our office just received notice of the upcoming public hearing that will be held on October 16, regarding the Crowder and Gilliland (Shady Oaks) proposed community boathouses. Thank you for this additional opportunity to participate in the permitting process.

I do have a few questions and points of clarification, though.

1. First, will there be a subsequent and separate public hearing for the Wes Long (Jagger Branch Homeowner's Association) proposed community boathouse? If so, will this be a joint hearing, or will TVA and the Corps hold separate hearings? If the Corps does not intend to hold a public hearing pursuant to the requirements of 33 CFR 327, is there a "denial" letter forthcoming?

2. Is the permit issued by the Corps still valid, or is the Corps reconsidering their permit issuance in light of the additional information submitted at and after the TVA Open House Meeting held on May 8, 2007, and in light of the continued GPS and wetlands studies?

3. What will be the format of the October 16 public hearing? In particular, will there be Corps and TVA representatives available to answer questions posed during the public

speaking session? Will these Q&A be video-taped or otherwise recorded/transcribed? How long will individuals be allowed to speak? Will the applicants be making a presentation?

4. It is my understanding that after the TVA Open House Meeting held in May, the Corps and TVA both requested additional information from the applicants (for both (1) Jagger Branch Homeowners Association, and (2) Shady Oaks)). Also, Honeycomb Community Association (HCA) requested that additional studies be conducted, concerning, GPS of the area, further studies of the wetlands area and reach, a depth analysis of the embayment, considerations of boating capacity, surveys of T&E species, etc. If any additional information has been submitted or otherwise assembled, please inform me. I would like a copy of any additional information, pursuant to my previous FOIA requests, prior to the public hearing.

5. Has there been any changes to the plan specifications for the boat docks and associated structures/activities (including dredging activities), since the May Open House Meeting?

6. And lastly, has there been any additional coordination with ADEM concerning water quality issues, and/or federal or state-listed T&E species?

Thank you for your assistance, and I look forward to seeing you at the public hearing.

Sincerely,

Emily

--

Emily Yao

Attorney at Law

emilyyao@bellsouth.net

Joe W. McCaleb and Associates
315 West Main Street, Suite 112
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anyone, using them for any purpose, or storing or copying the information on any medium.

I want to comment against approval of the proposed community boathouse at Jagger Branch at Honeycomb.

This area is very congested. I feel that additional community boathouses will create safety issues in Honeycomb creek.

This is also a sensitive area for wildlife and wetlands. The proposed community boathouses will negatively affect wildlife and wetlands.

Michael Kirkpatrick
Executive Vice President
DESE Research, Inc.
(256) 837-8004 voice
(256) 722-7966 fax
mkirkpatrick@dese.com

Emily,

Let me answer as they relate to the Corps, and I'll let TVA address their issues.

1. The Corps has not made a decision on whether to hold a hearing on the Jagger Branch (06-115). I'm not sure whether TVA intends to hold a hearing. Those who requested a hearing will be notified of our decision when made.

2. The Corps permit is still valid concerning Shady Oaks. At this time, we do not intend to reevaluate our decision on that action.

3. The October 16 hearing is a TVA hearing. We may attend, but we won't be official participants in the hearing.

4. I don't think we asked for any additional information on the Shady Acres project. Looking through the file of the Jagger Branch project, I do see where David asked for some additional info in late June, but I do not see where we have received any additional information from the applicant since the May open meeting.

5. No changes that I'm aware of and I don't see any in the file.

6. No additional coordination with ADEM

Brad

Hi Alisha, Kim, and Brad,

Our office just received notice of the upcoming public hearing that will be held on October 16, regarding the Crowder and Gilliland (Shady Oaks) proposed community boathouses. Thank you for this additional opportunity to participate in the permitting process.

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Thank you for your assistance, and I look forward to seeing you at the public hearing.

Sincerely,

Emily

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Emily Yao
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Crowder/Shady Oaks Proposal Comment Form

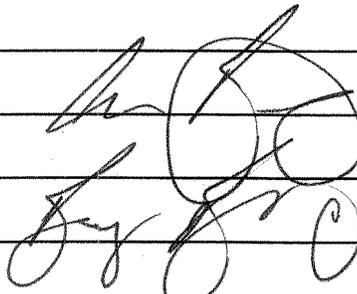
Public Hearing
October 16, 2007

Name Alice Bentley

Mailing Address 1310 SIERRA BLVD HUNTSVILLE, AL 35801

Comments ~~There is no need to~~

There are so many reasons that I oppose the community
boat house in Tager Branch. Our home is located at 1106 ^{honeycomb}
Road. We already deal with shallow water - ~~at~~
Road to ~~be~~ SAFETY is a huge issue. I second all
the great points my neighbors made.



Amy S. Epps
650 Honeycomb Road
Grant, AL 35747

October 16, 2007

Tennessee Valley Authority

Dear Sirs,

I am here today to **protest** the recent **Application Number 2006-01175** "**Shady Acres**". I have four events in which to participate tonight and I have chosen to make this event a priority over other events. This is VERY important to my family and me.

I think I am safe in saying that none of the property owners in the Jagger Branch area are opposed to the development of single family dwellings with traditional boathouses built to the policies that have already been established in this area in the past by the Tennessee Valley Authority. All of the existing homes and boathouses have had to conform to established requirements for the area. The policies applied in this neighborhood are very suitable for an area that is bound on 3 sides and shallow and because of the restrictive size, these standards have served the area well. I believe I can also speak for the majority of the residents that we ARE opposed to over-development of these resources and relaxing of the policies that have been in place for all these years. Safety and pollution issues will surely follow if this application is approved. Why would TVA even consider waiving their own Watershed Team Shoreline Management Policy for one or two individuals to profit? The new TVA regulations that have been published for new subdivisions indicate a downward trend on boathouse footprints of no more than 1000 square feet. This

neighborhood is "grandfathered in" with a larger boathouse footprint (generally allowing 2 boatslips) because it is an existing neighborhood. However, the community boathouse that is proposed is MUCH larger than any other residents has been allowed in this area. This developer has asked for special dispensation and it seems that TVA is considering allowing this special treatment for just one person! TVA has already established with their new policy that larger boathouses are not desirable—why are you considering one that dwarfs all other boathouses in this area? What if all boathouse owners ask permission to build much larger boathouses and rent the slips? Would TVA then allow 30 community boathouses with the possibility of up to 600 boatslips? Of course, not, you say, that is ridiculous! No, we have just one (and now two) developers who have asked permission to do what no one else will be allowed. The property owners and current users of this area are asking TVA to provide **balanced and reasonable** use of the Jagger Branch area.

Allowing 20 new boat slips on one lot that would normally house no more than 2 boat slips is an order of magnitude of over-development for the area. TVA and the Army COE have a responsibility given to them by the taxpayers of the country to protect our natural resources at the same time allowing a **balanced** use of those resources. Please, we strongly support the development of the restricted-size boathouses that have been TVA policy in the past and applied to ALL other boathouses previously approved in Jagger Branch—but in this small slew, with limited resources—it is a travesty to allow anyone to implement the massive developments such as the ones that are proposed and may very likely ruin the slew for everyone. It is not environmentally responsible or physically safe to divide resources beyond reasonable levels of use.

Marine motors can dump so much byproduct into the water (up to 30% of fuel usage for some engines) that they significantly impact the ecosystem. While most ecosystems can tolerate reasonable use, over-development of a small area such the Jagger Branch estuary is sure to have adverse effects on the wildlife and the ecosystem that exist there today. According to the Department of Planning and Natural Resources, Division of Fish and Wildlife, "The high level of oil and fuel released from vessels with two-stroke motors poses a serious threat to aquatic ecosystems, fish populations"; and in addition, "Fuel and oil released from two-stroke motors float on the surface of the water and settle within the shallow ecosystems of bays, lakes, rivers, and seas, where aquatic life is youngest and most vulnerable. Chromosomal damage, reduced growth and high mortality rates among fish occur at extremely low levels of fuel and oil pollution." While this study focused on two-stroke engines, all watercraft discharge some level of toxins and pollutants into the environment.

And boating isn't the only environmentally-damaging effect with these two developments. Runoff is considered to be the "Number one source of water pollution" according to the San Mateo County *Renews* (a newsletter published with information about recycling, pollution prevention and less toxic products). Both of the developments being proposed for the Jagger Branch area (especially Shady Acres due to the topography of the development) will have a much higher percentage of runoff than the single-family developments around them, because of the nature of the building (parking lots and easy access for too many people in too small of an area).

I contacted Mr. Kim Elverun of the Minnesota Department of Natural Resources (the land of 10,000 lakes!), after hearing of our situation he said we are facing the following considerations (for this development, there are others when you consider the proposal for the back of the slew):

- Surface use zoning
- A comprehensive plan for the entire area needs to be built that takes into account the new developments, looking at public use (1 boat/10 acres), use issues (tubing, skiing, etc.), use of the 431 overpass, activities allowed in the slew, safety, environmental concerns, dredging issues, and accommodation of the current users.

Runoff from parking lots is a HUGE problem because of solvents and oils that pour into the waterway. This must be considered for this application. With all of the extra runoff and watercraft pollution, the Jagger Branch Estuary is not large enough, nor powerful enough to flush toxins through the slew, through Snug Harbor, and out to the more swiftly running channel.

I would like to request that the Environmental Protection Agency (EPA) be brought in for an evaluation of the development of the lots to evaluate for runoff and other hazards. **Specifically, I would like to request that 404 Statement (Wetlands Protection Act) by the EPA be done and the results considered BEFORE approving this application and the other application for 2 community boathouses at the back of the slew.**

Safety is a very important issue in our area with the consideration of 20 new boat slips becoming available (and 44 more on top of that for the OTHER development). We presently have 103 boat slips directly in the Honeycomb Slew/Jagger Branch—increasing our number of slips by 20 will completely overpopulate our small area. This doesn't count the numbers of boats launched from Erwin Marina (formerly known as Sunrise Marina, just around the corner) or the public launch within Jagger Branch area. Just for the Jagger Branch alone—that is a potential 20% increase for our boating population in just one

development. This past summer I noted that there were many instances of 'near-misses' in our slew. In addition to the boats that 'live' in our slew, many people who don't live in the immediate area, launch their boats from the Public Launch and then come back into the slew to tube, ski, and use personal watercraft (Waverunners, Seadoos, and Jetskis). An increase in the number of watercraft living in the slew, past that of regular-sized boathouses, puts safe navigation over the edge into dangerous territory! There were times this summer when we either declined to get our boat out or brought it in due to the over-crowding in the area.

There are many more places on the huge body of water known as Guntersville Lake, and the river that flows through it, that are more appropriate for this concentrated development than Jagger Branch. The entire Jagger Branch area, as defined by the area north of the causeway (Hwy 431) to the east (old Grant Hwy Bridge), is approximately **362 acres**. The actual area of the portion of the slew for which the two developments will occupy is only **100 acres**. Mr. Elverun, from Minnesota, who I mentioned earlier, states that they have had to regulate their lakes to ensure the integrity of their natural resources. In a conversation with Mr. Elverun, an expert in this area, he said, 'Minnesota's allowed boat usage varies, but 1 boat per 10 acres is considered crowded and most lakes will not allow anything exceeding that. At 1 boat/10 acres, people will look out and say 'let's do something else today!'' We will have 123 boats for 362 acres - that is 30% of what should be required for the number of boats that are intended to be housed in that area. It is actually less than the present boat population needs today! That doesn't even count the public launch or any boats coming in from other areas. And it CERTAINLY doesn't include the other proposal that would add 44 MORE boat slips in one fell swoop!

During the fall and winter, and during drought-like conditions that have plagued us for the past few years, this area becomes increasingly more shallow, thus making navigation difficult at best and impossible in certain areas. The only reason I can see that this area is attractive to developers is because the lots must have been relatively inexpensive compared to other available areas on Gunterville Lake due to the shallow water and limited egress.

I spoke with the Marine Police last week about safety issues and while they state that they will not oppose the development of these community boathouses, they will continue to assess the area and consider either "No Ski" or "No Wake" zones as appropriate. As Mr. Whitaker, a neighbor of ours, pointed out to me—TVA is considering making a "recreational area into a no-wake zone! That does NOT serve the public interest!" I have heard words like "we must serve as many people as possible." I would like to point out that it serves no one to push the resources past the point of reasonable utilization.

In summation, I would like to protest any and all community boathouses in this limited area. **I boldly and vehemently request that the TVA disapprove Application 2006-01175 on the grounds that this is an over-development of the Jagger Branch area and violates policies previously established by TVA and adhered to by all current residents.** Not only will this area face a huge adverse, environmental impact, but it will be a hazard to the citizens that already boat in this area (property owners or not), and the geography of the area is not conducive to safe boating traffic for that many boats in such a small area with no more egress than is available. Community boat houses may serve "more people", but they are really all about more money for a couple of people. The result of community boathouses in Jagger Branch will be a slew that no one wants to use because of over-population, safety issues, and polluted water.

Sincerely,

Amy S Epps

Amy S. Epps

Crowder/Shady Oaks Proposal Comment Form

Public Hearing
October 16, 2007

Name Barry Jones
Mailing Address 2504 Jordan Mill Rd. Guntersville, AL 35976

Comments I am in favor of the 20-slip boathouse, for several reasons:

- (1) This is consistent with new developments and development trends (See St. Christopher Point, Peninsula, Floating Condos, Swan Harbor proposed development, Lindsey Harbor, etc) and also older community boathouses (Meadowood & Lake Guntersville Estates)
- (2) The development meets TVA guidelines, Marshall County rules and all other legal requirements, and developers bought land and planned development based upon these rules. It would be unfair to take action that diminishes the value of developers property.
- (3) Nothing said at hearing was different than Public Comments received, and every comment made could be made in opposition to any proposed development, NIMBY's.
- (4) NEPA survey has already been done.
- (5) Projects like this are the only way most people will ever be able to afford a lake house, as almost everything on lake is now over \$500,000.
- (6) Project has HOA for future maintenance, and
- (7) There is demand for more boathouse slips, and market factors prove that is so.



Crowder/Shady Oaks Proposal Comment Form

Public Hearing
October 16, 2007

Name Charlotte Schlittler

Mailing Address 1400 Sierra Blvd Huntsville, AL 35801

Comments _____

I am opposed to the additional boats the boat house would cause in the small cove because of safety issues, environmental issues.

There are a lot of young people skiing, wake boarding, etc and the additional boats would be very dangerous.

Emily Anne Epps
650 Honeycomb Road
Grant, AL 35747

October 16, 2007

To: Tennessee Valley Authority

Dear Sirs,

I am sending this letter to protest the **Application Number 2006-01175**
"Shady Acres".

I am 15 years old and enjoy boating in the Honeycomb area. There are a lot of other young people that boat in our area, too. I have friends that also live over there, plus friends that put their boats or Waverunners in at the Honeycomb Public Launch. This past summer and in other summers I noticed that people don't always boat responsibly and adding even more boats will increase the problems I have seen in the past. I see a lot of people boating in the area that come from other areas, so I know that a lot of people come over to tube, ski, and use personal watercraft in our small area. If this application is approved, then those people will be hurt as well as the people that already live there. Did you know that there are a lot of boathouses in our area for people that live across the street, as well as the people who actually have houses on the water? Our small area has been very crowded lately and I can't imagine how bad it will be for 20 more boats to be able to come in from just one boathouse! It will be punishing everyone!

The laws in Alabama allow for people to begin boating alone at the age of 14, if they pass the boating license test. Because so many young people use

boats, it makes it more dangerous than driving a car! It is very scary to try and drive through a small area and having other boats coming in your direction on both sides! You never know where they are going to go, or if they are going to cut in front of you.

Please do not allow this application or any other applications for community boathouses in the Honeycomb area, because it is not large enough to have all those boats in such a small area. I am also afraid that the Marine Police will have to make it a no-ski or no-wake zone because of the danger. That won't really help anybody.

Sincerely,

Emily Epps

Emily Epps

Many people we talk to confuse the area of Honeycomb Creek, a wide body of water bordered by Snug Harbor and the 431 causeway, with Jagger Branch, a very narrow finger cove of water nestled between Honeycomb Road on the West bank and White Elephant Road on the East bank. My husband and I have lived on the West bank for nearly three years. When we first moved here, all we could see across the water was trees. The little cove was quiet in the day time and dark enough at night to see all the stars. We watched Egrets fish and nest in the tress across the water. Now many of those trees have been taken down for private property and five single family piers have been built this summer. They are, as I am writing this, building boat houses on those piers. Funny, but when I first moved to Lake Guntersville, back in 1983, people were always saying things like "I wanted to build a boathouse, but TVA wouldn't give me a permit."

We aren't people who are against "progress." We know people need housing and places to live. But I was very impressed with TVA's guardianship of the Lake and its shorelines back in the 1980's.

Perhaps, as the studies so far have indicated, the one community boathouse wouldn't cause a huge environmental impact. But if this one is allowed, the one being planned at the end of our tiny strip of water will also have to be permitted. Dredging will be requested and the large crop of water plants at the end of the branch -- now serving as a habitat for many species -- will be destroyed. Too many of these water plant fields have been dredged out of existence since I first moved here. Lindsay Cove is a prime example of a small cove's vegetation being completely demolished. I don't see how this can have a small impact on the ecology and environment of our lake area as a whole.

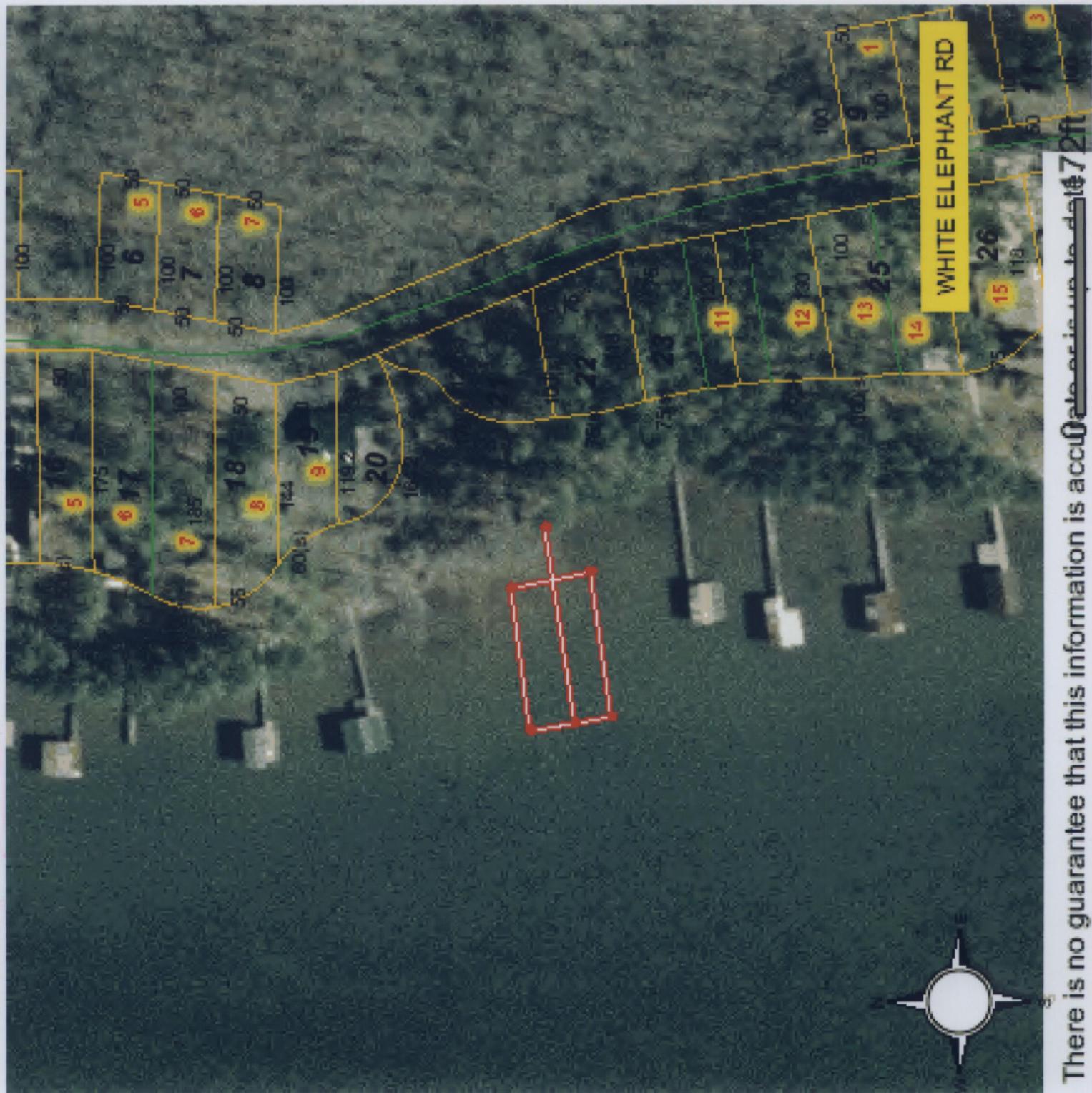
To put Jagger Branch into perspective as a "waterway," our grandchildren...even when the water level is fairly high, can walk out many yards into the lake. (We live close to where the Wes Long Boathouses would be built) My husband has walked to nearly the mid-point. It is NOT a huge body of water. There is no place for the gasoline and diesel spillage of additional boats and recreational vehicles to go. Our little finger of water is a virtually closed environment and as such, we would think, would need more protection than areas of water that are open to the main channel. .

We ask TVA to look hard at the real and long-term impact of these proposed boathouses. Private enterprise and profit shouldn't always trump the environmental and aesthetic properties of an area. In fact, developers who address these issues... building smaller units and leaving smaller footprints on the existing plants, trees and shorelines, will no doubt see their bottom line go up enormously. You can help them to do that. The public is becoming much more environmentally savvy and if TVA keeps allowing commercial development where ever it is requested, it will be helping to kill the goose that is laying the golden egg. Good land and water use consistent with keeping environmental and aesthetic principles in mind will only increase the value of land here in Marshall and Jackson counties, for everyone.

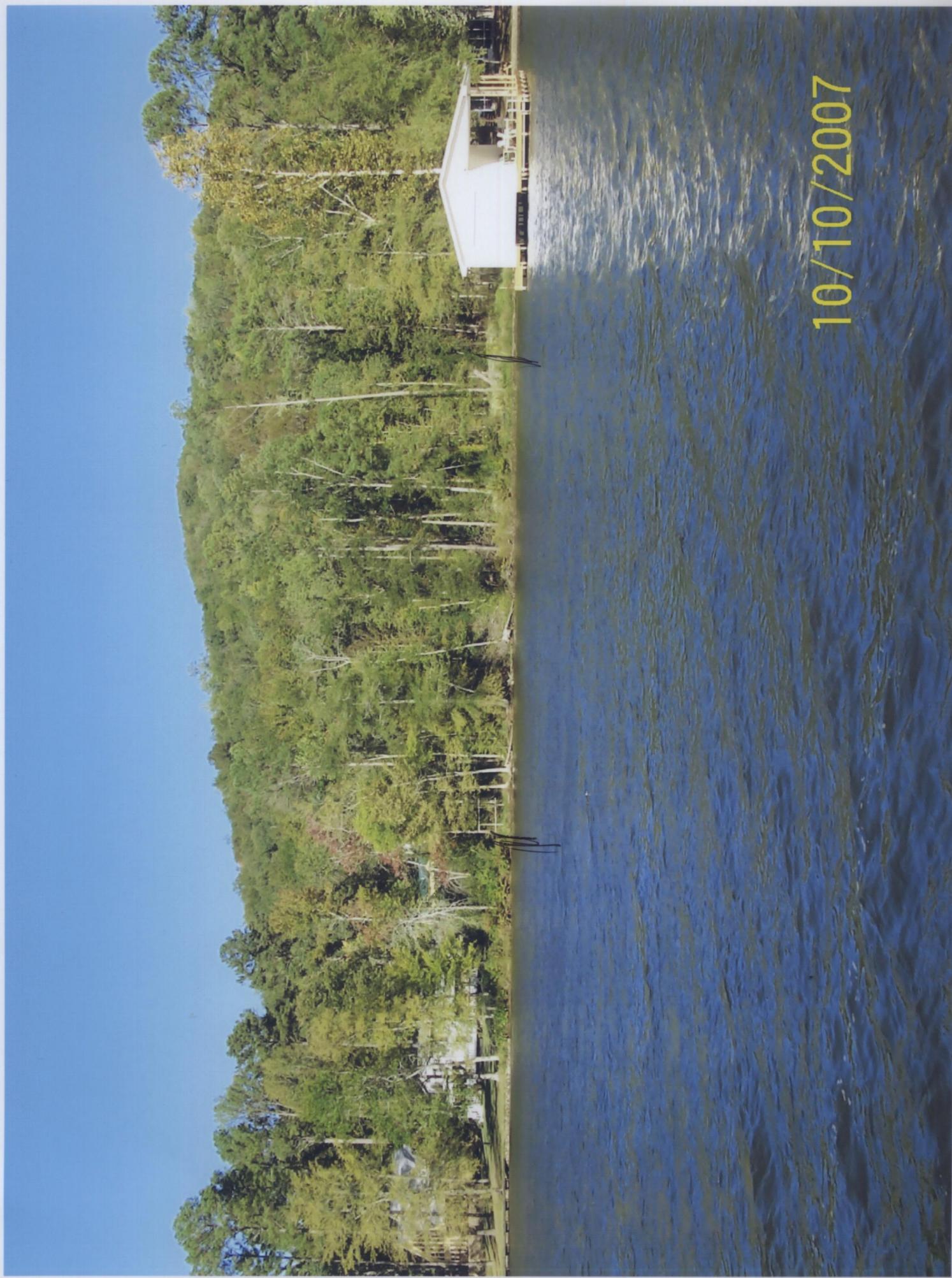
Please continue to serve as the guardians of all our waterways... and help us to preserve Jagger Branch from rampant human and mechanical encroachment.

Thank you,

Jennie McBride Goshorn
Jim Goshorn
Residents of Jagger Branch
1042 Honeycomb Rd
Grant, AL 35747
256-571-0375



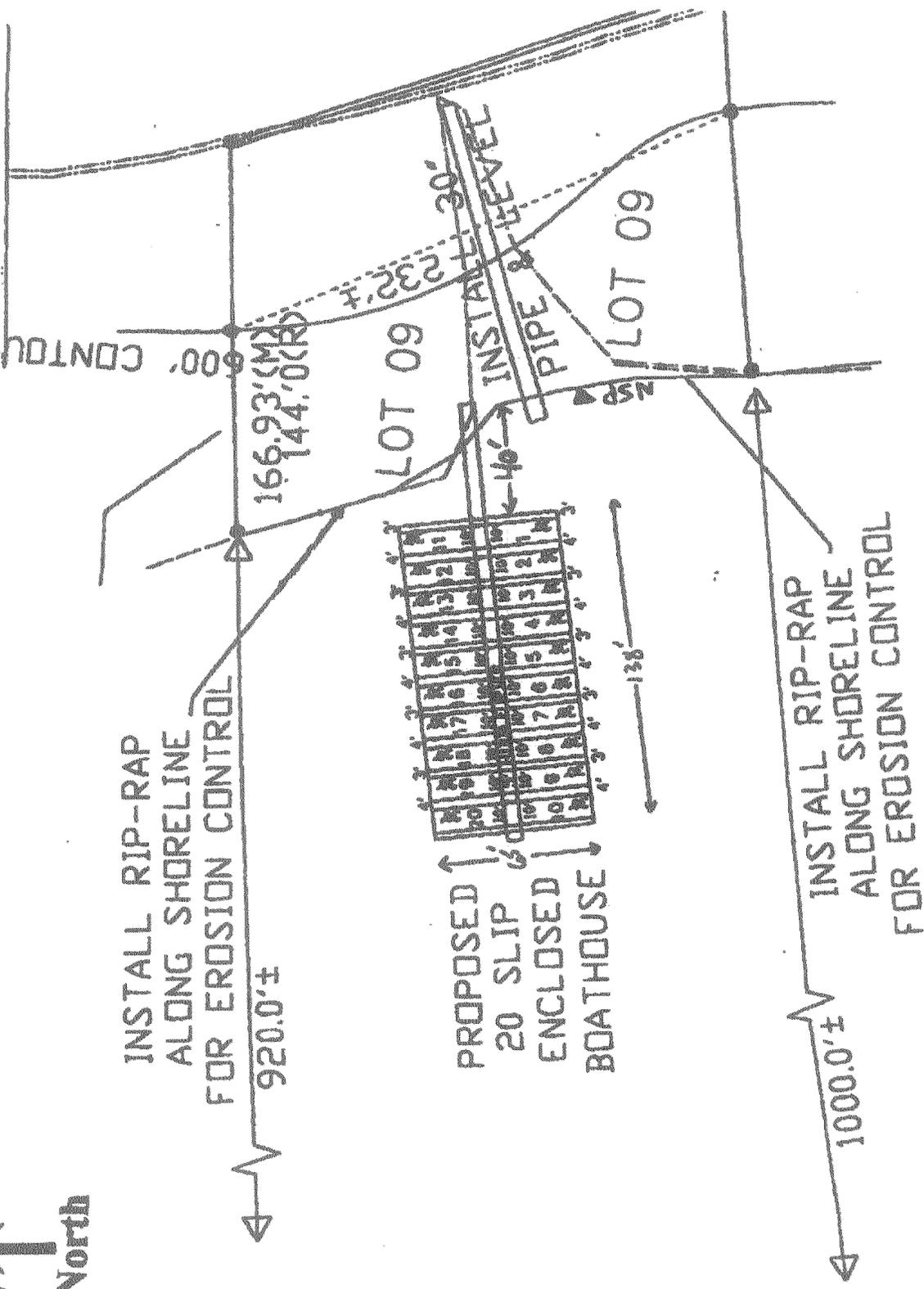
There is no guarantee that this information is accurate as of the date of this report. 0 to 72ft



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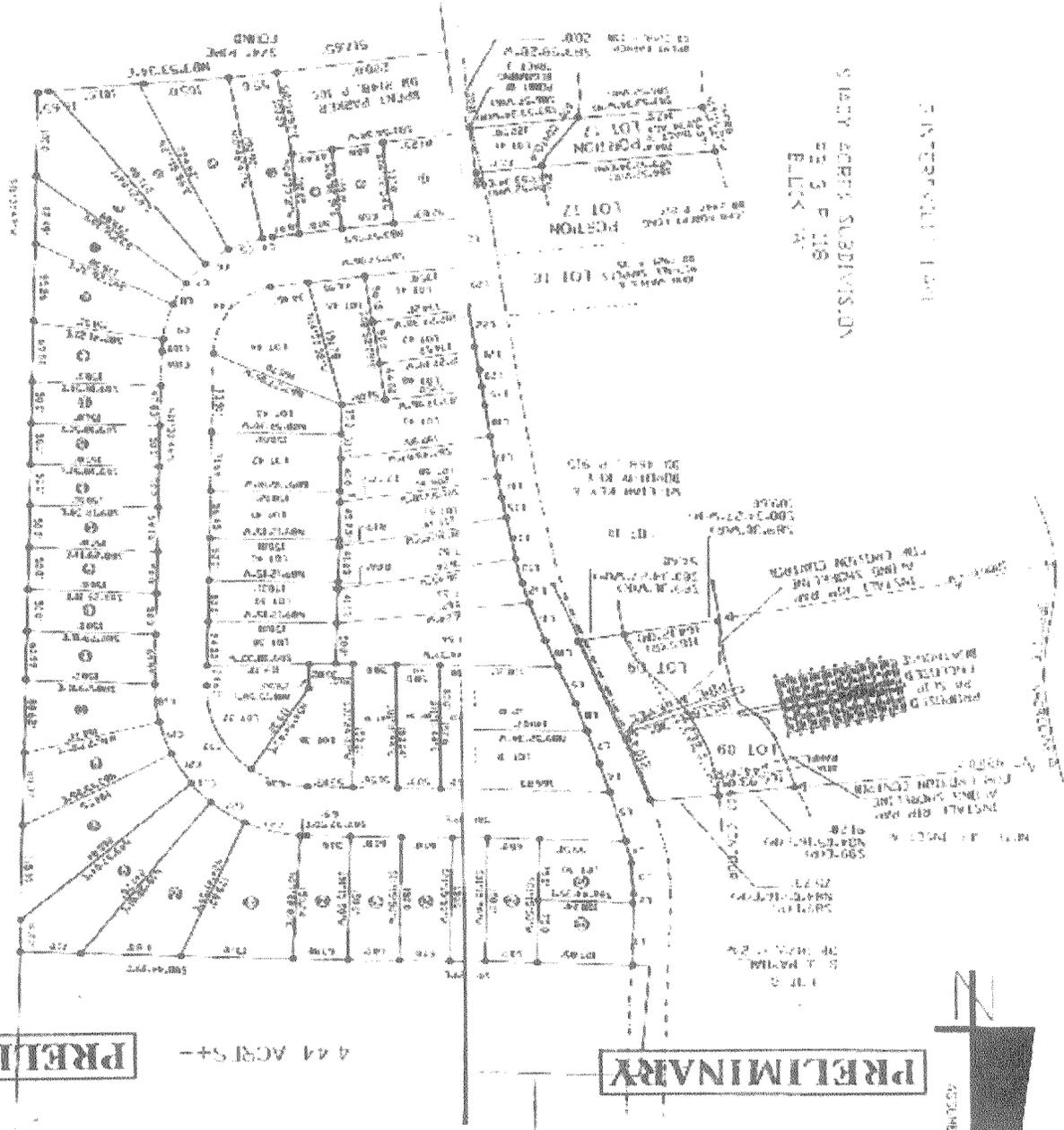
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PN 06-65
EXHIBIT B



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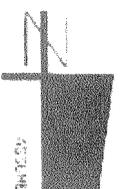
ST. CLAIR
KARL J.
A. BRAY,
SHERIFF
COUNTY
OF
ALABAMA
PLANT IN
FRONT OF
COUNTY
CLERK'S
OFFICE



PRELIMINARY

4.44 ACRES ±

PRELIMINARY



Received from Bob Partridge
 Marshall County Engineer
 apt. 3 p.m. 7-13-06
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