

**CITY OF SKY VALLEY  
PLANNING AND ZONING COMMISSION  
PUBLIC HEARING AND REGULAR MEETING  
TUESDAY, MAY 27, 2025, AT 1:00 P.M.  
3608 HWY 246 (NEW CITY HALL) & VIA TELECONFERENCE (ZOOM)  
SKY VALLEY, GA 30537**

**AGENDA**

- 1. Call to Order**
- 2. Approval of Minutes**  
April 29, 2025 – Regular Meeting

**NEW BUSINESS**

- 3. Application of Harner Asset Management, LLC for a variance to the Sky Valley Zoning Ordinance (05-15) Sec: 803 Table 3 “Dimensional Requirements for Land Use District” – to vary the side yard setback from 15 feet to 5 feet on property located on property located on the East side of West Sugarbush Drive, 250 ± feet South of its intersection with East Sugarbush Drive. AKA 653 West Sugarbush Drive, Sky Valley, GA 30537. Tax Parcel #058A 285. Zoned SF (single Family Residential). Proposed use: to expand deck to existing home.**
- 4. Public Forum and General Comments on Variance Request**

**OLD BUSINESS**

- 5. Discussion – Tree Ordinance**

**OTHER BUSINESS**

- 6. Set next meeting date**
- 7. Adjournment**

**You may join the meeting at the following link:**  
<https://us02web.zoom.us/j/89392701135>

*Individuals with disabilities who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting or the facilities are required to call 706-746-2204 promptly to allow the City to make reasonable accommodations for those persons.*

**CITY OF SKY VALLEY  
PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
TUESDAY, APRIL 29, 2025, AT 1:00 P.M.  
3608 HWY 246 (CITY HALL) & VIA TELECONFERENCE (ZOOM)  
SKY VALLEY, GA 30537**

**MINUTES**

**THOSE PRESENT:** Chairman Dan McAfee, Members Tony Allred, Don Germano, Jim Pyburn, and Jim Phelps via Zoom; Mayor Steil, City Manager Streetman, City Clerk Fleming, and Communication Specialist Van Camp

**THOSE ABSENT:** Member David Spears

**Call to Order**

Dan called the meeting to order at 1:00 p.m.

**Adoption of the Agenda**

Don made a motion to approve the agenda as presented, seconded by Jim Pyburn, unanimously approved.

**Approval of Minutes**

**March 25, 2025**

Don made a motion to approve the minutes as written, seconded by Tony, unanimously approved.

**OLD BUSINESS**

**Discussion - Tree Ordinance**

Dan told the meeting attendees that the Committee would be discussing the Ordinance before opening the discussion up to them.

Jim Pyburn referenced section 3 second paragraph, "The City recognizes that property owners may wish to follow the guidelines outlined in the National Firewise program and that doing so may impact their ability to follow the density requirements outlined in this section. The City will cooperate with property owners to come as close as possible to achieving both of these goals." Jim asked how this could happen? Dan answered that it would be based on individual cases. Jim then asked who would be considered the City? Which Dan stated all involved, City Building Inspector, City Manager, and City Clerk. Jim Phelps asked if the City had a list of "specimen trees" as described under definitions? Jim Pyburn gave example of only one tree, that he knows

of in Sky Valley, that would be considered historical which is located at White Oak Ridge.

Jim Phelps referenced section 3 (C) Option 2 “Minimum 45 Percent Canopy Cover”. He questioned who could determine what a mature canopy cover would be? Jim Pyburn agreed and stated that the question would also be for section 3 (D) 1. “Arborist Standards Document”, who has that document? He believes all should be on the advice of an arborist. Jim Phelps stated that he would like this Ordinance to be sustainable and include clarification.

Dan stated that under Section 3 (E) 2. “All replacement tree selections are subject to review and changes by the City Building Inspector or City Manager”; in the event of a dispute, an arborist could be consulted. Jim Phelps pointed out that under Section 4 A. 1., in the paragraph the number “(4)” should be changed to (3). He also had questions concerning the “Penalties for Violation”. Jim Pyburn stated that violators have been issued citations but one case specifically, was mitigated out by our City Attorney.

Bryan Paul, 1803 Ridgepole, stated that the City needs to follow the guidelines that are recommended by FireWise. He went on to say that he feels Sky Valley dodged the bullet with the recent hurricane and wildfire as some of the homeowners need to look at the recommendations concerning underbrush, and white pines near structures as it jeopardizes neighborhoods. Dan stated that the City could give out these recommendations but not require them to be FireWise.

Don suggested putting the ANSI (American National Standards Institute) standards under the definitions for the “Arborist Standards Document”. He also suggested adding “Criteria for Evaluating Applications for Tree Cutting Permit” back into the newly drafted Ordinance. It reads: “In evaluating applications for a tree cutting permit, the City Marshal, City Manager, and City Council may consider but not be limited to, the Following criteria: 1. The number of trees to be cut, topped, or trimmed. 2. The value of the trees to be cut, topped, or trimmed. 3. The condition of the trees to be cut, topped, or trimmed, with consideration given to dead, diseased, hazardous or damaged trees. 4. The environmental impact of cutting, topping, or trimming on the applicant’s land and on adjacent lands. The impact on streams, soil, erosion, and surrounding vegetation is a part of the environmental impact. 5. Aesthetics for the surrounding property. 6. The applicant’s desires. 7. Any landscape plan if submitted. 8. Public safety considerations. 9. Other federal, state, or local ordinances or regulations. 10. Determination if a tree is a specimen tree.” Jim Pyburn stated that on the tree cutting application it states the “Procedure for Issuance of a Tree Permit” which reads very similarly. He also asked what determines the value of a tree? The committee discussed that thought and decided to remove from the criteria.

Don made a motion to add the “Criteria for Evaluating Applications for Tree Cutting Permit” back into the draft Ordinance under Section 4, minus “The value of the trees to be cut, topped, or trimmed”, seconded by Tony, unanimously approved.

Jim Phelps had some suggestions for the verbiage use in Section 3 (D) 1. And (E) 2. The following addition was emailed but reads as follows: "In the event of a disagreement between the property owner and the City regarding a permit application which provides for tree replacement for approval of the permit, an Arborist Standards Document will be submitted by an arborist at the property owner's expense which provides a complete set of guidelines and resources to meet tree replacement requirements."

Jim Pyburn made a motion to add the additional language to the Ordinance, seconded by Don, unanimously approved.

Don Rice, 1824 Ridgepole Drive, complimented the Committee for all the work that has been done on the draft Ordinance. He suggested on Section 8 "Penalties for Violation" to state that the homeowner would have to hire an arborist that would be acceptable with the City, for mitigation. He also talked about trimming and topping as some trees (i.e. cherry trees) may need to have branch height reduce to help save the tree, and applicants for a tree permit to indicate on the application if a crane will be used. Under Section 6 (B) suggested changing "clear cutting" to "under brushing". Other suggestions included: Section 9 (C) "critical root zone" to be capitalized "Critical Root Zone", (D) to reconsider "grade change prohibited" due to our terrain not being flat, and if a tree outside of footprint of new construction, is killed it needs to be mitigated on what kind of replacement tree to plant. Concerns also under Critical Root Zone as it would be hard to regulate due to changing of the grade of the lot, suggested stating prohibited outside of footprint.

Robert Smalley, 103 Buttermilk, suggested having a list of "specimen trees" when applicants apply for a permit. Suggested taking out Section 3 (E) 3. "A single species for variety may comprise no more than 20 percent of the full replacement schedule". He questioned Section 8 (D) with the word "or" being used and was told sometimes all involved may need to be cited.

Jim Pyburn made a motion to strike Section 3 (E) 3, seconded by Don, unanimously approved.

## **OTHER BUSINESS**

### **Set next meeting date**

The next meeting date was set for May 27<sup>th</sup> at 1:00 p.m. due to a variance request that was received and advertised. The public hearing concerning the request will be held first then the Regular Meeting will follow.

### **Adjournment**

Tony made a motion to adjourn the meeting, seconded by Don, unanimously approved.

The meeting adjourned at 2:35 p.m.

Respectfully submitted:

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Karen Fleming, City Clerk

Paid #250.  
check # 5049 on  
4-16-25

## APPLICATION FOR VARIANCE

City of Sky Valley, Georgia  
Planning & Zoning Commission  
3444 Highway 246  
Sky Valley, GA 30537

A notice shall be placed in a newspaper with general circulation within the territorial boundaries of the local government at least 15 but not more than 45 days prior to the date of the Planning & Zoning Hearing. The notice shall state the time, place, and purpose of the hearing.

A sign containing information required by local ordinance shall be placed in a conspicuous location on the property not less than 15 days prior to the date of the Planning & Zoning public hearing.

Letters by regular mail shall be sent to all adjoining property owners stating all pertinent facts of the variance request using the same time frame as the public notice in the local newspaper.

**This variance request application shall be submitted with all required information to the City Clerk by 12:00 PM on Thursday to be published in the following week's edition of the Clayton Tribune. The Planning & Zoning Commission can hold a public hearing on the request no earlier than 15 days following the notice in the newspaper. The Planning & Zoning Commission will then make a recommendation to the City Council to approve or deny the request at the next regularly scheduled council meeting. Regular monthly council meeting are held the fourth Tuesday of the month at 10:00 AM unless otherwise noticed.**

Date: 4/16/25

Property address: 653 W. Sugarbush

Subdivision Name & Part: \_\_\_\_\_ Lot Number: \_\_\_\_\_  
(Required if no property address.)

Owner of Property: Harner Asset Management LLC Stephen & Cheryl Harner

Address: 209 Louella Ln. Nokomis FL 34275

Telephone: 941 284 0009

Name of Applicant: S

Address: 941-284-0009 Stephen

Telephone: \_\_\_\_\_

*If the Owner and Applicant are not the same, signatures of both Owner and Applicant must appear on the application and be dated.*

Cheri 457@gmail.com  
Steve SLHARN22@GMAIL.COM

I hereby request that the property described in this application be given a variance as follows:

Allow deck extension to exceed 15' setback  
along south side of Home. New deck would  
encroach on set back from 10' to 1'. Also there is  
no current exit from deck to outside

#### SUMMARY OF VARIANCE REQUEST

Give a summary description of your proposed project in the space provided below. This summary should include purpose, type of construction (per Building Code Regulations), square footage, height, and any other pertinent information deemed necessary.

Add on to the existing 50x10 deck on EAST side  
with a 10' x 44' deck on south side. New deck  
of similar construction of old deck with addition  
of stainless steel cable railing. Approx 440 sf of  
new deck with exit from deck via steps

#### SITE PLAN

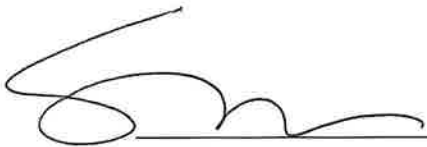
A current Registered Surveyor's site plan that shows the location of all corner pins (flagged), all easement and set-back lines, road right of way width, location of road (paved or gravel) with the right of way, all existing and or proposed buildings of the plan on which the variance is requested.

#### FEES

The fee for advertising and administrative costs is \$250.00 due at time of application.

#### AUTHORIZATION TO INSPECT PREMESIS

I hereby authorize the City of Sky Valley City Council and the Planning & Zoning Commission to inspect the premises which are the subject of this variance request.



\_\_\_\_\_  
Signature of Property Owner

4/16/25

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant (if other than Property Owner)

\_\_\_\_\_  
Date

THIS PLAT IS SUBJECT TO ANY RESTRICTIONS AND EASEMENTS CONTAINED IN PREVIOUS RECORDS. ANY SUBDIVISION MAY BE SPECIFIED IN DEEDS FROM TIME TO TIME.

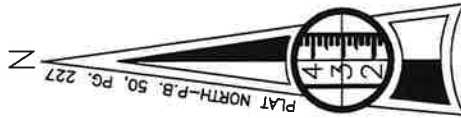
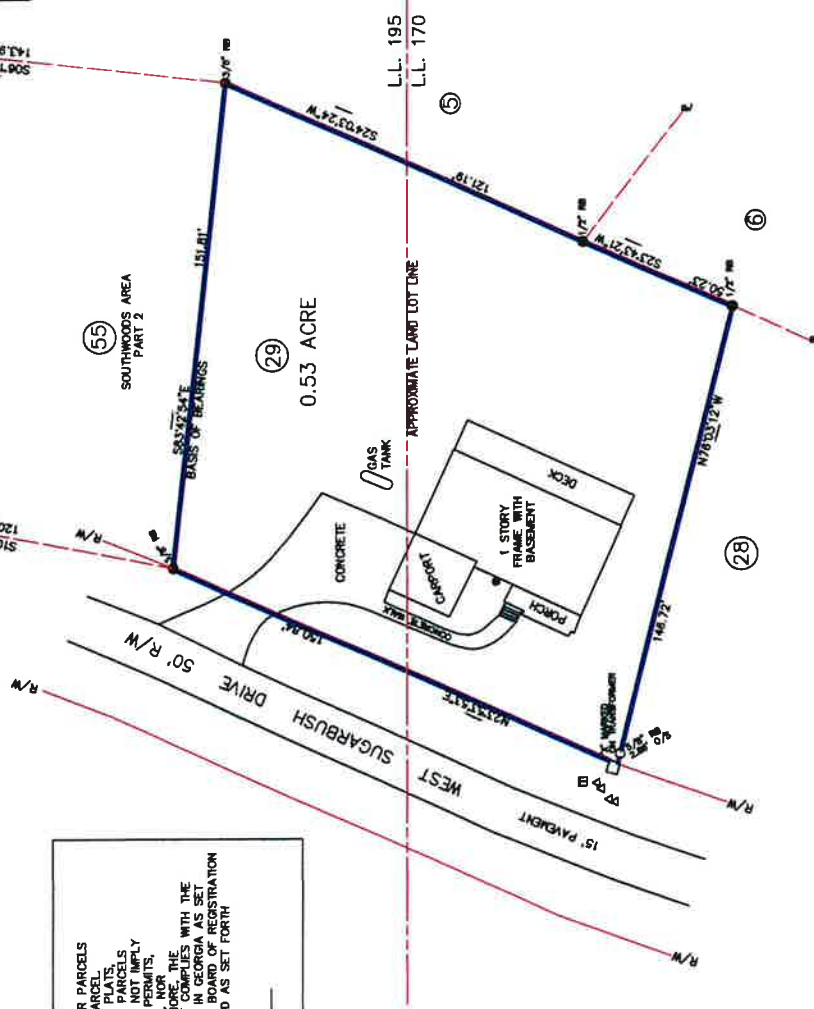
REFERENCE: D.B. 1330, PG. 25-28  
P.B. 50, PG. 227

THIS BLOCK RESERVED FOR THE CLERK  
OF THE SUPERIOR COURT.

THIS PLAT IS A RETRACTION OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT SUBDIVIDE OR CREATE A NEW PARCEL. THE RECORDING INFORMATION OF THE DOCUMENTS, MAPS, PLATS, OR OTHER INSTRUMENTS WHICH CREATED THE PARCEL OR PARCELS ARE STATED HEREON. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION A VARIATION FROM THE PERMITS, ORDINANCES, RULES, OR REGULATIONS OF THE SUPERIOR COURT. THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL SURVEYORS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-87.

W. JONATHAN ROLANDER RLS 3231

LEGEND	
●	IRON PIN FOUND (PPF)
○	IRON PIN SET WITH CAP (PS)
—	PROPERTY LINE
—	RIGHT OF WAY
—	FENCE
—	UTILITY POLE
—	POWER LINE
—	LAND LOT LINE
—	LAND LOT
—	CONC MONUMENT FOUND
—	BUILDING LINE
—	CENTER LINE
—	CLEAN OUT
—	OFF SET
—	DEED BOOK
—	PLAT BOOK
—	PAVE
—	OPEN TOP
—	ANGLE IRON
—	TELEPHONE PEDISTAL
—	WELL
—	PK NAIL SET
—	UNDERGROUND GAS TANK
—	WATER VALVE
—	WATER METER
—	SEWER MANHOLE
—	FIRE HYDRANT



A LEICA TS 10 TOTAL STATION  
WAS USED TO OBTAIN THE LINEAR AND  
ANGULAR MEASUREMENTS USED IN THE  
PREPARATION OF THIS PLAT.

THE FIELD DATA UPON WHICH THIS MAP  
OR PLAT IS BASED HAS A CLOSURE  
PERCENTAGE OF 0.0002  
PER ANGLE POINT, AND WAS ADJUSTED  
USING THE LEAST SQUARES RULE METHOD.

THIS MAP OR PLAT HAS BEEN CALCULATED  
FOR CLOSURE AND IS FOUND TO BE  
ACCURATE WITHIN ONE FOOT IN 397,257  
FEET.

THIS DOCUMENT ORIGINALLY ISSUED AND SEALED BY  
WILLIAM J. ROLANDER, RLS 3231, ON APRIL 14, 2025.  
"THIS MEDIUM SHALL NOT BE CONSIDERED A CERTIFIED DOCUMENT"

GRAPHIC SCALE



(IN FEET)  
1 inch = 30 ft

RETRACEMENT SURVEY FOR

HARNER ASSET MANAGEMENT, LLC

SCALE: 1" = 30'	0.53 ACRE - LOT 29	DRAWN: LGR 4/10/25
DATE: APR. 9, 2025	SOUTHWOODS AREA - PART 9	C.C. WAR
LOCATED IN LAND LOTS 170 & 185, 2nd LAND DISTRICT		
RABUN COUNTY, GEORGIA		
APPALACHIAN SURVEYING COMPANY, INC.		LSF000282
P.O. BOX 117		OWNED NUMBER
MOUNTAIN CITY, GEORGIA 30562 (706)746-2625		25-142



REFERENCE: D.B. H30, PG. 25-26  
P.B. 50, PG. 227

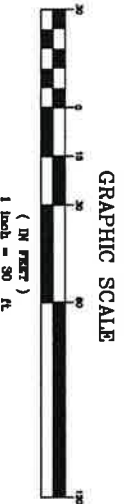
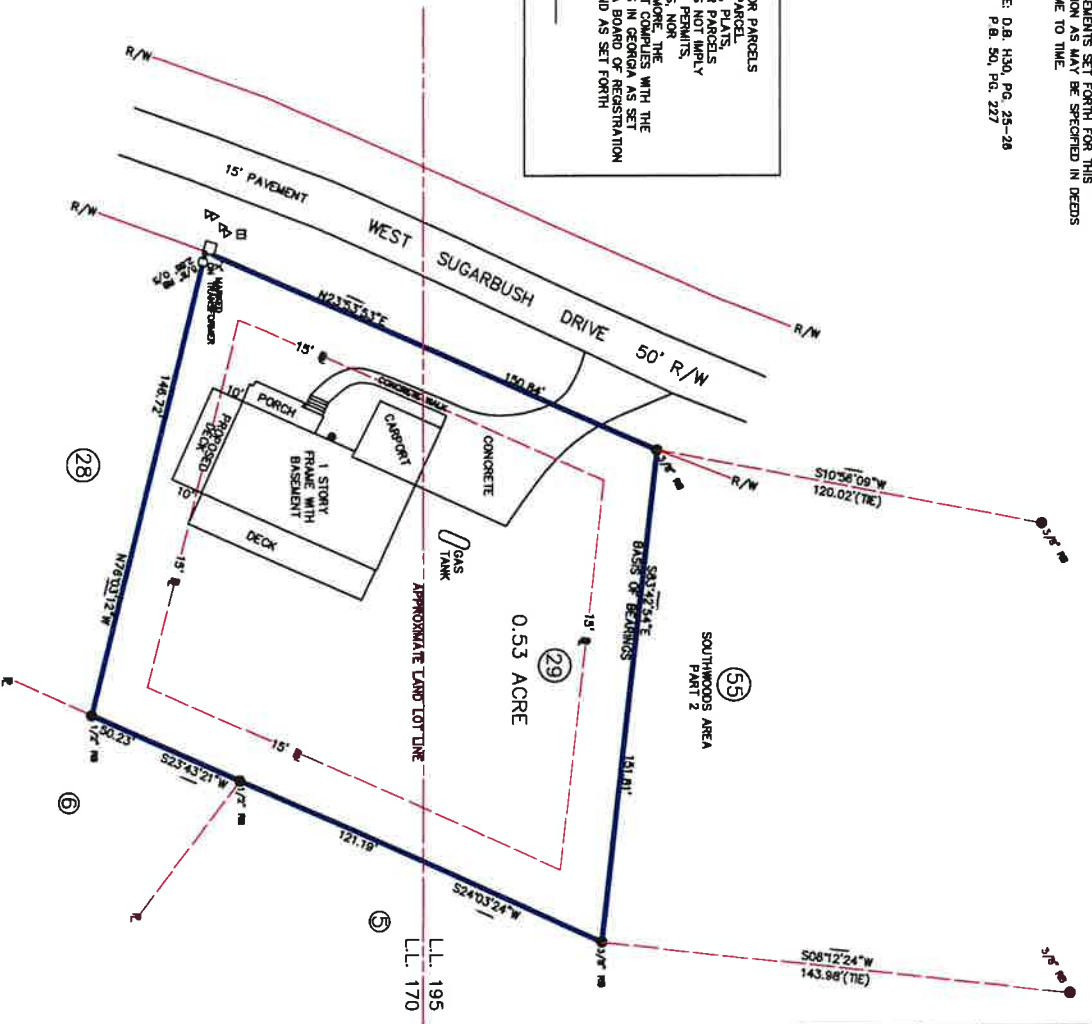
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W. JONATHAN ROLANDER RLS 3231

THE FIELD DATA UPON WHICH THIS MAP  
OR PLAT IS BASED HAS A CLOSURE  
PRECISION OF ONE FOOT IN 17,002  
FEET AND AN ANGULAR ERROR OF 03  
PER ANGLE POINT, AND WAS ADJUSTED  
USING THE LEAST SQUARES RULE METHOD.

THIS MAP OR PLAT HAS BEEN CALCULATED  
FOR CLOSURE AND IS FOUND TO BE  
ACCURATE WITHIN ONE FOOT IN 387.257  
FEET.

THIS DOCUMENT ORIGINALLY ISSUED AND SEALED BY  
WILLIAM J. ROLADER, RLS 3231, ON APRIL 14, 2025.  
"THIS MEDIAN SHALL NOT BE CONSIDERED A CERTIFIED DOCUMENT"



4053 WEST SUGARBUSH DRIVE

HARNER ASSET MANAGEMENT, LLC

SCALE: 1" = 30'	0.53 ACRE - LOT 29 SOUTHWOODS AREA - PART B IN THE CITY OF SKY VALLEY	DRAWN: LGR 4/10/25
DATE: APR. 9, 2025		C.C. WAR

LOCATED IN LAND LOTS 170 & 185, 2nd LAND DISTRICT

RABUN COUNTY, GEORGIA

APPALACHIAN SURVEYING COMPANY, INC. L  
P.O. BOX 117  
MOUNTAIN CITY, GEORGIA 30562 (706)746-2625

25-142

## LEGEND

- [illegible]



THIS PLAT IS SUBJECT TO ANY RESTRICTIONS AND EASEMENTS SET FORTH FOR THIS DEEDS SUBDIVISION AS MAY BE SPECIFIED IN DEEDS FROM TIME TO TIME.

REFERENCE: O.B. H30, PG. 25-26  
P.B. 50, PG. 227

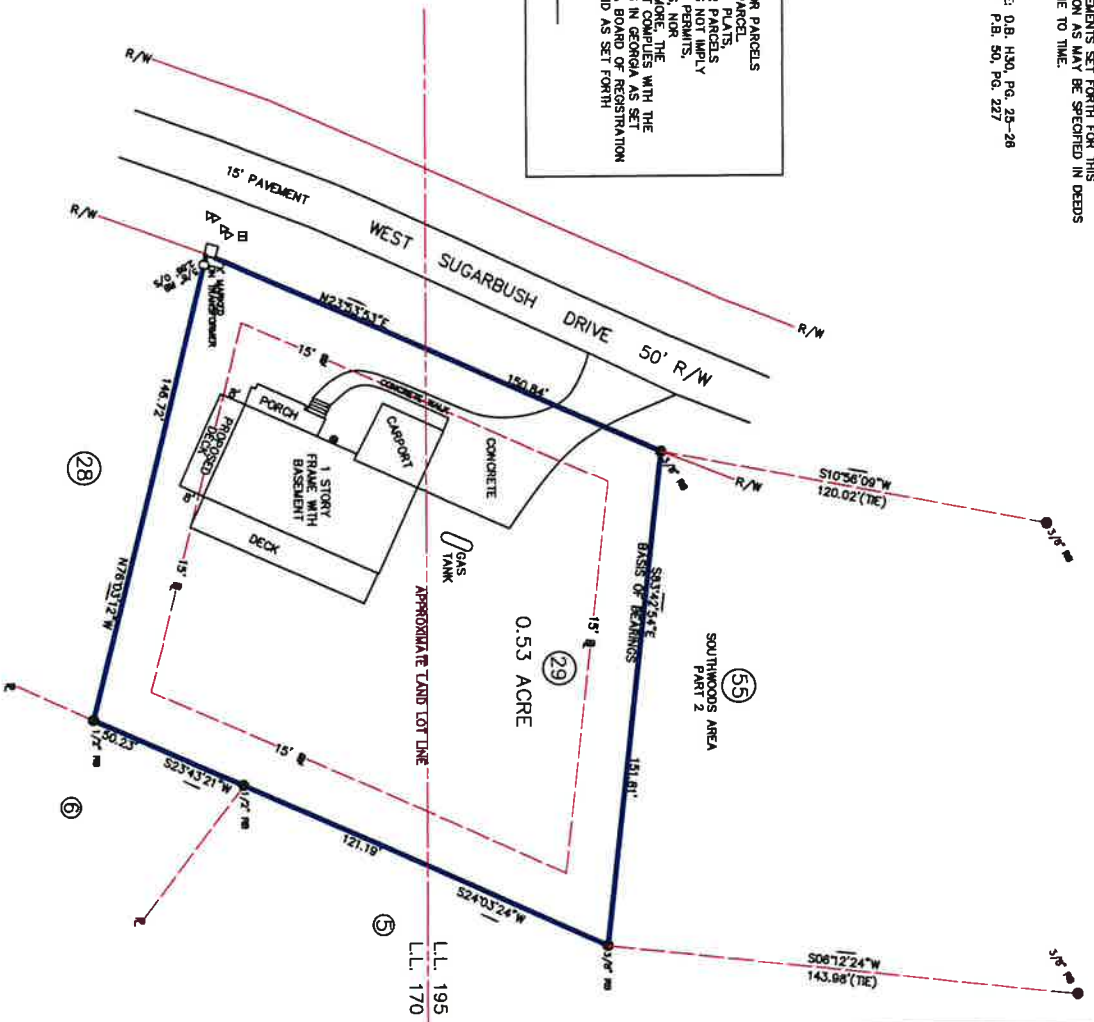
THIS BLOCK RESERVED FOR THE CLERK OF THE SUPERIOR COURT.

THIS PLAT IS A REPLACEMENT OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT SUBDIVIDE OR CREATE A NEW PARCEL. THE RECORDING INFORMATION OF THE DOCUMENTS, DEEDS, EASEMENTS, AND OTHER INSTRUMENTS AFFECTING THE PARCELS ARE STATED HEREON. RECORPTION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, NOR THE SUITABILITY FOR ANY PURPOSE OF THE LAND. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT WAS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-87.

W. JONATHAN ROLADER RLS 3231

A LEICA TS 10 TOTAL STATION WAS USED TO OBTAIN THE LINEAR AND ANGULAR MEASUREMENTS USED IN THE PREPARATION OF THIS PLAT. THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 17,692 FEET AND AN ANGULAR ERROR OF 0.3 PER ANGLE POINT, AND WAS ADJUSTED USING THE LEAST SQUARES RULE METHOD. THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 18,257 FEET.

THIS DOCUMENT ORIGINALLY ISSUED AND SEALED BY WILLIAM J. ROLADER, RLS 3231, ON APRIL 14, 2025. THIS MEDIUM SHALL NOT BE CONSIDERED A CERTIFIED DOCUMENT.



LEGEND	
●	IRON PIN FOUND (F.P.)
○	OFF SET
○	DEED BOOK
○	IRON PIN SET WITH CAP (F.P.)
○	P.B. - PLAT BOOK
○	PROPERTY LINE
○	R/W - RIGHT OF WAY
○	FENCE
○	UTILITY POLE
○	POWER & TELEPHONE
○	LAND LOT
○	LAND LOT LINE
○	CONIC MONUMENT FOUND
○	BUILDING LINE
○	CENTER LINE
○	CLEAN OUT
○	WATER VALVE
○	WATER METER
○	SEWER MANHOLE
○	FIRE HYDRANT

GRAPHIC SCALE



HARNER ASSET MANAGEMENT, LLC

SCALE: 1" = 30'  
DATE: APR. 9, 2025  
LOCATED IN LAND LOTS 170 & 185, 2nd LAND DISTRICT  
RABUN COUNTY, GEORGIA

APPALACHIAN SURVEYING COMPANY, INC. LST7000282  
MOUNTAIN CITY, GEORGIA 30562 (706)746-2825  
DRAWING NUMBER 25-142



April 24, 2025

The Clayton Tribune  
PO Box 425  
Clayton, GA 30525

Please run the following ad in the legal section of your paper for the May 1st edition.

**NOTICE OF PUBLIC HEARING**

A public hearing will be held before the Sky Valley Planning & Zoning Commission on May 27, 2025 at 1:00 p.m. The location of the public hearing will be:

Sky Valley City Hall Council Chambers  
3608 Highway 246

Sky Valley, GA 30537 and via Zoom link: <https://us02web.zoom.us/j/89392701135>

**Variance Request:**

Application of Harner Asset Management, LLC for a variance to the Sky Valley Zoning Ordinance (05-15) Sec: 803 Table 3 "Dimensional Requirements for Land Use District"- to vary the side yard setback from 15 feet to 5 feet on property located on the East side of West Sugarbush Drive, 250± feet South of its intersection with East Sugarbush Drive. AKA 653 West Sugarbush Drive, Sky Valley, GA 30537. Tax Parcel # 058A 285. Zoned SF (Single Family Residential). Proposed use to expand deck to existing home.

At this public hearing, interested parties may present data, make statements, or offer viewpoints verbally or in writing. Statements shall be concise to afford all an opportunity to be heard.

Dan McAfee

Chairman, Sky Valley Planning & Zoning Commission

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO REPEAL SKY VALLEY ORDINANCES 12-01 AND 14-06 AND TO ESTABLISH AN ORDINANCE FOR THE PROTECTION AND REPLACEMENT OF TREES WITHIN THE CITY OF SKY VALLEY**

Whereas, the City of Sky Valley recognizes that development in the city has resulted, and will continue to result, in the loss of trees and tree canopy and has contributed to a concept known by the U.S. Forest Service and the National Fire Protection Association (NFPA) as the wildland urban interface (WUI); and,

Whereas, the City of Sky Valley recognizes that trees contribute to the quality of life by producing oxygen, removing carbon from the atmosphere, filtering pollutants from the air, cooling the environment, reducing stormwater runoff, buffer noise and reduce glare, providing privacy screening and providing habitat for wildlife. Trees also increase property values and provide a vital component to the environmental and aesthetic well being of the city; and,

Whereas, it is in the best interest of the City of Sky Valley that regulations be adopted to address the preservation, protection and maintenance of trees in the city while simultaneously acknowledging the potential for loss due to wildfires.

The Council of the City of Sky Valley hereby ordains:

**Section 1. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in the section, except where the context clearly indicates a different meaning:

*Arborist* means a person who is professionally trained in the science of trees. The typical professional certification is by the International Society of Arboriculture (ISA).

*Buffer* means an area required to remain undisturbed or replanted where existing vegetation is sparse, as determined by the City manager or city building inspector.

*Canopy* means the branch spread of a tree or a tree stand.

*Canopy tree* is a species of tree that normally reaches a height at maturity of 40 feet or more and in which the layers of leaves and branches of the tree are so arranged or formed to provide shade.

*Critical root zone (CRZ)* means the minimum area beneath a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The critical root zone will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one and three-tenths (1.3) times the number of inches of the trunk diameter. EXAMPLE: The CRZ radius of a twenty (20) inch diameter tree is twenty-six feet

*Diameter at breast height (DBH)* means the standard measurement of tree size. The tree trunk is measured at a height of four and one-half (4.5) feet above the ground. If a tree splits into multiple trunks below four and one-half feet, then each trunk is measured as a separate tree.

*Drain field and septic tank* means that septic system and drain field to be used which must be identified and approved by the county health department prior to permitting.

*Firewise USA* is a program managed by the National Fire Protection Association (NFPA) that teaches people how to adapt to living with wildfire and encourages neighbors to work together and take action now to prevent losses.

*Footprint* includes the area covered by any approved building or structure plus 15 feet from the edges of the approved building or structure. (The additional 15 feet applies only to approved buildings or structures). The term "footprint", for the purposes of this article, also includes the specific area approved for the installation of a driveway, parking area, septic tank and drain field. All trees within an approved footprint may be removed upon the filing and approval of a tree-cutting permit.

*Permit* means a permit issued by the City pursuant to the terms of this article

*Specimen tree* means any tree defined as historical or endangered or group of trees which has been determined by the City Manager and City building inspector to be of high value because of its species, spread, size, age or other professional criteria.

*Top/topping* means reducing the height of any tree.

*Tree* means a tree exceeding eight inches in diameter (25 inches or more in circumference) at breast height as measured from the highest slope adjacent to the tree.

*Trim/trimming* means removing any limbs that are more than 12 feet above the ground.

*Under brushing* means removal of shrubs, bushes, small trees or native shrubbery.

## **Section 2. General Applicability**

A. Each property owner shall be responsible for the normal care of trees located on its premises.

B. Willful injury or disfigurement of any tree growing within the City shall be a violation of this Ordinance.

C. No person shall:

1. Cut, top, trim or remove any tree as herein defined, regardless of location or condition and including those trees located within the footprint, without first obtaining a tree cutting permit.

2. Attach any sign, notice or other object to any tree or fasten wires, cables, nails, or screws to any tree in a manner that could prove harmful to the tree.

3. Pour any material on any tree or on nearby ground which could be harmful to the tree.

4. Pile building material or equipment around any tree so as to cause injury thereto.

5. Kill or damage a tree due to neglectful operation of a vehicle or any construction equipment.

D. The trimming of a tree up to 12 feet from the ground level does not require a permit.

E. The cutting or removal of any tree or group of trees which has been designated by the City Manager and City Building Inspector as a specimen tree shall be avoided whenever possible.

F. This article applies to all property lying within the City.

### **Section 3. Minimum Tree Density and Canopy Cover Requirements.**

The intent and goal of these regulations is to ensure that a minimum density of trees is maintained on all properties and that a significant amount of tree canopy coverage and pervious soil area is maintained throughout the City.

The City recognizes that property owners may wish to follow the guidelines outlined in the National Firewise program and that doing so may impact their ability to follow the density requirements outlined in this section. The City will cooperate with property owners to come as close as possible to achieving both of these goals.

A. All properties within the City shall maintain or achieve a minimum tree density of 130 DBH inches per acre (Option 1) or a minimum canopy cover of 45 percent (Option 2) in perpetuity. All land development permits, and/or tree cutting permits, must apply one of the metrics to the density or canopy cover calculations; no combination of the two metrics is permitted.

B. Minimum tree density may be achieved by and must be compliant with these guidelines:

1. Preserving approved trees 8 inches or greater DBH.

2. Planting approved trees in accordance with the minimum standards of this Section, where tree removal or land development results in a deficit of minimum tree density or canopy cover.

3. No property permitted for new development activity may remove all existing trees.

4. No trees located within the City public right-of-way may be removed or destroyed by owners of abutting private property.

C. Calculations.

1. Option 1 – Minimum 130 DBH Inches Per Acre.

a. The calculations shall be for the net site area excluding the acreage required for buffers and infrastructure improvements (road, sidewalks, utility lines, retentions ponds, etc.). In no event shall a parking lot be considered an infrastructure improvement.



b. According to all requirements of this section, add the DBH inches of all trees preserved or planted on the property and multiply the total DBH inches by the acreage of the site: the total must equal this calculated rate or greater: For example, a 0.50-acre lot must have at least  $(0.50\text{-acre} \times 130'') = 65'$  of total DBH inches.

c. A portion of DBH inches from approved trees located within the City public right-of-way adjacent to the property may be counted towards the minimum density requirement.

## 2. Option 2 – Minimum 45 Percent Canopy Cover.

a. The calculations shall be for the net site area excluding the acreage required for buffers and infrastructure improvements (road, sidewalks, utility lines, retentions ponds, etc.). In no event shall a parking lot be considered an infrastructure improvement.

b. According to all requirements of this section, the total existing canopy cover over the property preserved and planted must calculate to be 45% or greater.

c. For replacement trees, half mature canopy cover is credited. For example, an overstory/large replacement tree will count for  $(0.5 \times 1,600 \text{ sq.} = 800 \text{ sq. ft.})$ .

d. The surveyed percent of canopy cover over private property from Approved Trees located within the City right-of-way adjacent to the property may be counted towards the minimum canopy cover requirement.

## D. Tree Replacement.

1. The Arborist Standards Document will provide a complete set of guidelines and resources to meet tree replacement requirements. Replacement trees must be on the approved tree list and must be installed according to the City tree planting guidelines.

2. The minimum for tree replacements shall be no shorter than ten feet high measured from the top of the ball to the tip, no less than two inches in diameter at a point one foot above the top of the ball and nursery grown in no less than a 15-gallon container or ball.

## E. For all replacement trees associated with a land development permit.

1. Species selected for planting shall be ecologically compatible with the intended growing site.

2. All replacement tree selections are subject to review and changes by the city building inspector or City manager. [In the event of a disagreement between the property owner and the City regarding a permit application which provides for tree replacement for approval of a permit, an Arborist Standards Document will be submitted by an arborist at the property owner's expense which provides a complete set of guidelines and resources to meet tree replacement requirements.](#)

3. At least 85 percent of trees selected for planting must be large or medium sized canopy trees.

## Section 4. Procedure for issuance of a tree cutting permit.

A. Any landowner in the city wanting to cut, trim, top, or remove a tree, or trees, must first complete an application for a tree cutting permit on forms designated by the city and file said application with the office the city clerk. The supplication should:

1. Identify by location on a plat or sketch each tree to be cut, topped, trimmed, or removed. In order to identify trees by location the applicant must, prior to submitting the application,, either mark each tree by placing a colored ribbon around the circumference of the tree at approximately three to four feet off the ground or arrange to meet with the city building inspector and the contractor identified as required in paragraph (3) below (unless waived by the city building inspector) to go over the proposed application. The applicant must designate on the plat or sketch whether each tree is to be cut, trimmed or topped and show where each tree is in correlation to the property line.

2. Be accompanied with the application fee.

3. Identify the person/business entity who will cut, top, and remove the tree including their insurance information. Tree cutters hired to perform work within the city must be insured with liability insurance coverage in an amount of not less than \$1,000,000 and workers' compensation insurance if required by law unless the homeowner signs an affidavit of responsibility for any damages.

4. Describe the purpose for cutting, topping, trimming or removing a tree.

5. Define the time for cutting, topping, trimming, and for removal of trees or debris.

6. Be signed by the applicant, property owner and the contractor.

B. In evaluating applications for a tree cutting permit, the city building inspector, city manager, and city council may consider, but not be limited to the following criteria:

1. The number of trees to be cut, topped, or trimmed.

2. The value of the trees to be cut, topped or trimmed.

3. The condition of the trees to be cut, topped, or trimmed, with consideration given to dead, diseased, hazardous or damaged trees.

4. The environmental impact of cutting, topping, or trimming on the applicant's land and on adjacent lands. The impact on streams, soil, erosion, and surrounding vegetation is a part of the environmental impact.

C. Applications for cutting, topping, trimming or removing trees on another person's property will require that said property owner also sign the application.

D. The applicant and the contractor, identified as per paragraph A (3) of this section, must certify familiarity with and understanding of the terms of this article and that the person performing the work is familiar with the terms of this article.

E. The city building inspector shall, within ten business days of the filing of the application, visit the property, confirm that the application is complete and make a written recommendation to the city manager that a permit be issued or denied.



F. The city manager shall, within five business days of receipt of the recommendation of the city building inspector, approve, partially approve, or disapprove the application. If the city manager disapproves the application, either in whole or in part, a written explanation outlining the reasons must be sent to the applicant by certified mail, return receipt requested.

## **Section 5. Appeal**

A. Any applicant dissatisfied with the recommendation of the city building inspector or the decision of the city manager may appeal such recommendation or decision to the city council, provided such appeal shall be in writing and filed with the city clerk within ten business days of receipt by the applicant(s) of the decision off the city manager.

B. If an appeal as provided in this section is filed with the city clerk seven days or more prior to the next regularly scheduled meeting of the city council, such appeal shall be placed on the agenda for consideration of the appeal at that meeting. If the appeal is filed six days or less prior to the next regularly scheduled meeting of the city council the appeal will be placed on the agenda of the following regularly scheduled meeting.

C. The city council, in considering an appeal, will hear from the applicant, the city building inspector, the city manager and other persons who may wish to provide information to the city council. In making a decision the city council will be governed at all times by the criteria outlined in the article.

## **Section 6. Clear Cutting and Undergrowth Removal.**

A. It shall be the policy of the City that native shrubbery and undergrowth such as mountain laurel, rhododendron, rare wildflowers, ferns, etc., shall be preserved insofar as practical and reasonable to retard surface runoff and soil erosion, and to protect their native species.

B. Clear cutting and the removal of native vegetation shall be prohibited, except as follows:

1. As necessary to conform with the guidelines of Firewise USA if so desired.
2. As necessary for placing public roads, utilities, structures and parking areas.

C. A permit shall be required for any such cutting or clearing. An application for clear cutting consistent with the policy enumerated in this section for clear cutting shall be established by the city manager and all applicable penalties and rights of appeal set forth in section \_\_\_\_\_ shall be applicable to this section.

## **Section 7. Permit Fees**

All trees that are cut, topped or trimmed as defined herein shall require a permit issued by the City. Fees charged by the City for cutting, topping, trimming and removing dead, diseased or hazardous trees shall be established from time to time by duly enacted ordinances of the City or by an appropriated resolution of the City.

## **Section 8. Penalties for Violation**

A. Any violation of this article shall subject the applicant and contractor jointly and severally to liability for monetary fines as provided in section 8, paragraphs C, D and E. A violation will occur for each tree cut, topped, or trimmed in violation of this article.

B. Replanting. In addition to the above, any person, firm, corporation or other entity or agents thereof violating this article will be required to replace each tree cut or removed in violation of this article with two hardwood trees. Each hardwood tree must be:

1. No shorter than ten feet high measured from the top of the ball to the tip;
2. No less than two inches in diameter at a point one foot above the top of the ball;
3. Nursery grown in no less than a 15-gallon container or ball; and
4. The replacement trees must be approved by the city manager or city building inspector prior to planting.

C. Failure to remove any trees cut or debris from trees topped or trimmed within 14 days of completion of the work will be considered a violation with a fine of \$100 per day. The fine shall continue for each day the cut trees or debris remain on the property.

D. All citations issued, and fines imposed herein shall be imposed individually or jointly upon the applicant, property owner and the contractor.

E. If the city building inspector determines that a required permit was not obtained or more trees were cut, topped, trimmed or removed than were included on the approved permit, the city manager and property owner shall be notified. If both the city building inspector and city manager agree that if proper procedures would have been followed, the application would have been approved for the number of trees actually cut, topped, trimmed or removed, that property owner shall pay a penalty to the City equal to double the normal permit fee (as provided in the current fee schedule) for the total number of trees that were improperly topped, trimmed or cut. The property owner shall have ten days from the date of the notice to pay the penalty and avoid a citation.

F. No consideration will be given to a property owner's claim of dead, diseased or hazardous trees if those trees are cut and removed without a proper permit and without verification by the City. In the case of an after-hours emergency which would involve the cutting of a tree, the city police department should be contacted to verify the hazard and make a report for the city building inspector. In an emergency, that has been verified by the police, no penalty shall be assessed.

## **Section 9. Protection of Existing Trees.**

A. Damage prohibited. No person shall:

1. Cut, carve or otherwise damage or remove any tree except in accordance with the provisions of this article;
2. Attach any wire, nails, advertising posters, or other contrivance harmful to any tree;

3. Allow any gaseous, liquid, or solid substance which is harmful to trees (such as concrete washout, fuel, lubricants, herbicides or paint) to come in contact with them; or

4. Set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree.

B. Fence required. During excavation, filling, construction or demolition operations, each tree or stand of trees to remain on the property shall be protected against damage to bark, roots, and low-hanging branches with a fence enclosing the critical root zone. Fencing shall be either plastic construction area fencing, silt fencing, 12-gauge two-inch by four-inch wire mesh, double one-inch by four-inch rails on two-inch by four-inch posts or high-visibility surveyors' tape on one-inch by two-inch posts. Height of the latter three fence types shall be four feet.

C. Compaction prohibited. All building materials, vehicles, construction equipment, dirt, debris or other objects likely to cause soil compaction or above-ground damage shall be kept outside the Critical root zone. Where a limited amount of encroachment is unavoidable and is approved by the City, the Critical root zone shall first be mulched with a four-inch layer of processed pine bark or wood chips or a six-inch layer of pine straw.

D. Grade change prohibited. There shall be no raising or lowering of the ground level within the critical root zone. Stripping of topsoil in the critical root zone shall not be permitted. Where necessary, the use of moderated fill is permitted only with prior installation of an aeration system approved by the City. Deposition of sediment in the Critical root zone shall be prevented by placement of sediment barriers, which shall be backed by two-inch wire mesh in areas of steep slope.

E. Ditches prohibited. No person shall excavate any ditch or trench within the critical root zone. Where such encroachment is unavoidable and is approved by the City, ditches or trenches shall be so located as to minimize root damage. If roots must be cut, root pruning procedures approved by the City must be employed.

F. Paving prohibited. No person shall pave with concrete, asphalt, or other impervious material within the critical root zone.