



SAVANNAH ZONING BOARD OF APPEALS

STAFF REPORT

PETITIONER: Kimberly Ciarletta Floyd
MPC FILE No: 26-001332-ZBA
ADDRESS: 5718 Skidaway Rd
PIN: 20149 03017
DATE: April 23, 2026
MPC Staff: Ken Gorski & Ely Zarka

Nature of Request – 1) Re-establish non-conforming single-family use.
2) Increase allowable Home Occupation floor area from 500 SF to 1,056 SF

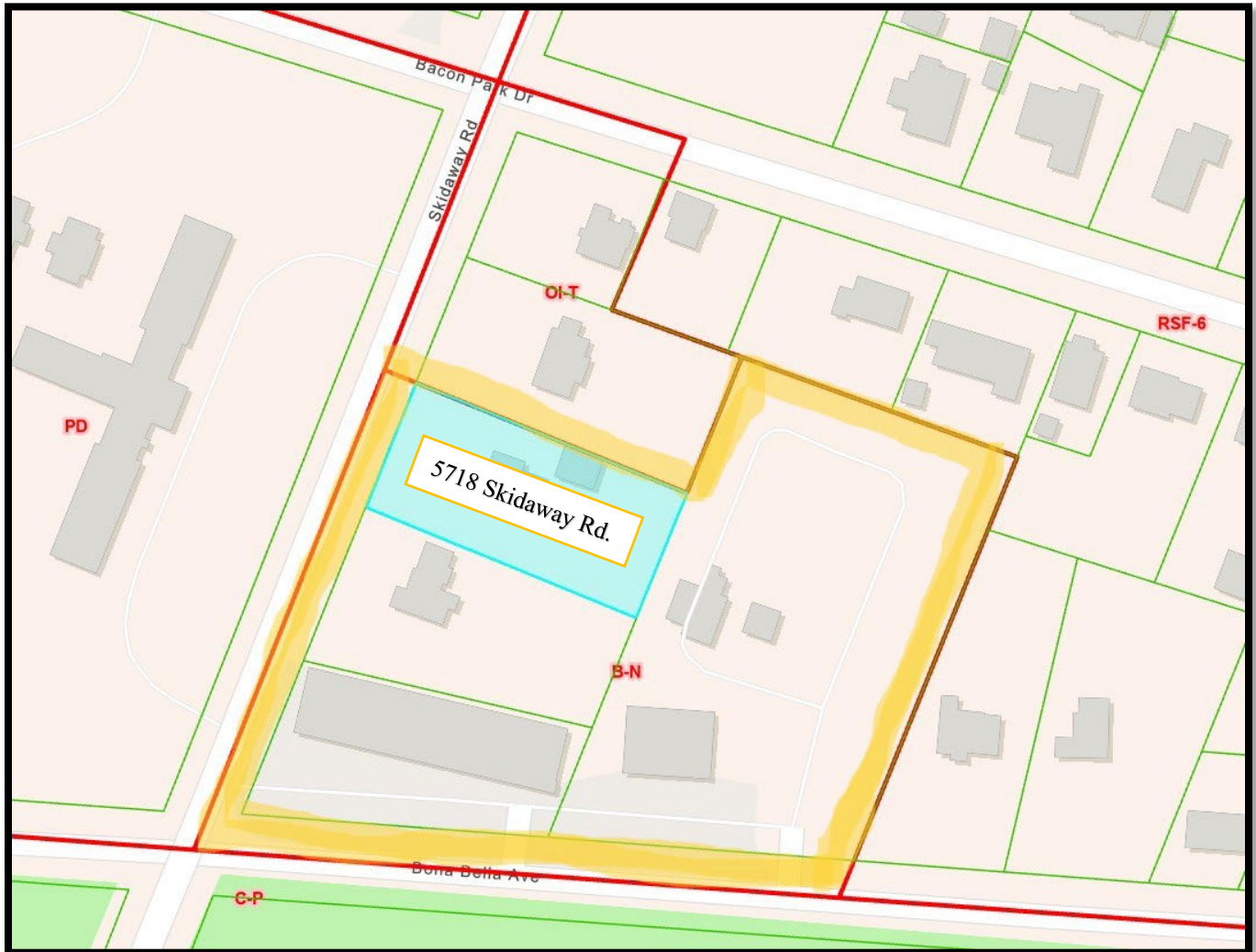
The Petitioner would like to re-establish the previous non-conforming single-family residence within a Business-Neighborhood (B-N) zoning district. A secondary request is to increase the maximum allowable area for a Home Occupation from 500 SF to 1,056 SF, per the application.



The exhibit above indicates the subject property and surrounding vicinity.

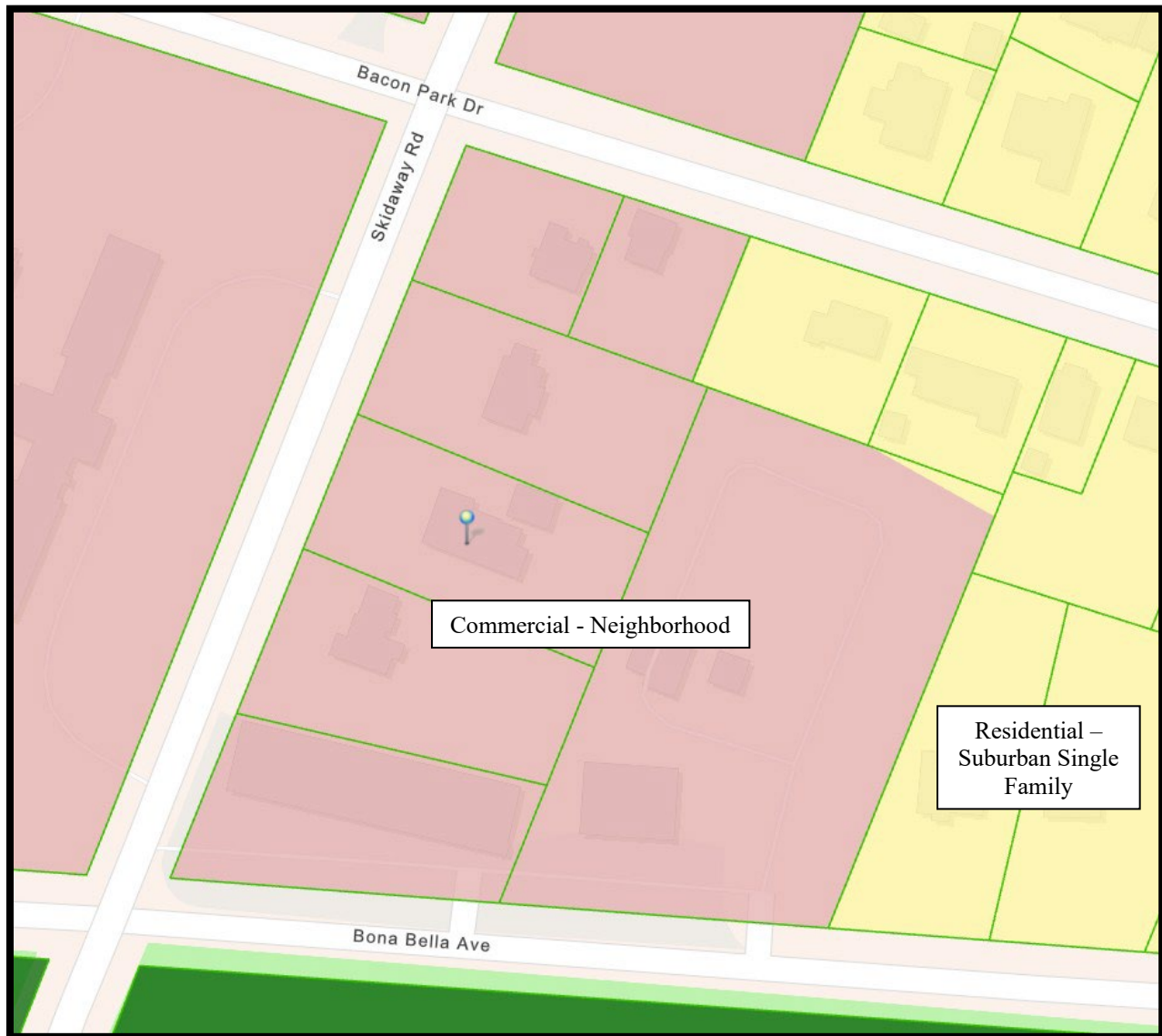
Facts & Findings

1. Subject property is on Skidaway Road across from Cohen's Retreat midway between the cross streets of Bacon Park Drive and Bona Bella Avenue.



Current Zoning map for 5718 Skidaway Road

2. The property is within a cluster of four parcels that are zoned Business – Neighborhood (B-N) with adjacent properties that are zoned Planned Development (PD), Office and Institutional – Transition (OI-T) and Residential Single-Family – 6 (RSF-6). Along Skidaway Road, the prevalent development pattern has been commercial or residences that have been converted to business uses. The Future Land Use for this area is Commercial – Neighborhood and is consistent with the current zoning designation.



Future Land Use Map for 5718 Skidaway Road

3. The property has public water and sewer services available from the City of Savannah.
4. The parcel has direct street access to Skidaway Road with one curb-cut towards the northern property line and a second drive towards the south that Traffic Engineering has declared to be unpermitted and must be abandoned. The current and proposed horseshoe driveway is not acceptable nor allowable per Traffic Engineering comments. The property is along the CAT Skidaway/Sandfly bus route with a bus stop about 150' south of the parcel.

Meeting Notes

The MPC staff had lengthy discussions with the applicant during a pre-application meeting and several other phone call and email correspondences. During those conversations she provided the following information about her plans, goals and objectives for this property:

- Applicant is retiring and plans to grow her private practice as a dietician and counselor.
- 5718 Skidaway was purchased to develop a space to operate the expanding practice.
- The goal is to build a house with office and kitchen space for consulting, recipe demonstrations, cooking classes, and similar training seminars.
- There are to be bedrooms upstairs to accommodate out-of-town family and guests when they visit.
- She wants an outbuilding/accessory structure for therapy, classes, counseling and more office space.
- She is currently operating this business out of her house nearby.
- Her goal is to move all business activities out of her current house into this new property.
- Despite comments to the contrary, the applicant chose to demolish the existing residence that was on the property rather than trying to reconfigure it to match the needs of the new commercial use.
- The applicant has made it clear on multiple occasions that she will reside in her existing house and has no intention of living at 5718 Skidaway Road. It is for business purposes and for out-of-town guests.
- It should also be noted that the requested increase in the “Home Occupation” area calculation only constitutes the accessory structure and does not include the kitchen, dining, office or related support areas within the primary structure.

MPC Staff and the Zoning Administrator advised the applicant that her proposals would violate multiple ordinances and zoning regulations and recommended several solutions or alternatives that would meet her goals while complying with planning and zoning requirements.

Standards at Issue:

1. The proposed mix of residential and commercial uses as proposed by the applicant does not comply with B-N zoning per section 5.16.1.b:

Section 5.16.1.b. Neighborhood Business (B-N)

The B-N district is established to permit small-scale, neighborhood-oriented nonresidential uses and upper story residences. This district is intended to provide for limited commercial opportunities in a walkable environment and to reduce or prevent impacts on adjacent or nearby residential uses. Uses in this district are intended to be located primarily on collector or arterial streets within convenient traveling distance from neighborhoods which they will serve.

The application is requesting a single-family house with an accessory structure to serve both residential and business functions that do not comply with the definition of B-N above. Residences are only allowed on upper stories and the principal use must be commercial in nature.

Having a single-family principal use with a Home Occupation that includes an oversized accessory structure within a B-N zoning district completely contradicts the definition, character and intended function of the base zoning district.

2. Excerpts of Section 5.4 Principal Use Table shows the variety of allowable uses:

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PRINCIPAL USES	C	C-M	C-P	A-1	R-S-F-E	R-S-F-0	R-S-F-1	R-S-F-2	R-S-F-3	R-S-F-4	R-T-F-1	R-T-F-2	R-T-F-3	R-T-F-4	R-T-F-5	R-T-F-6	R-T-F-7	R-T-F-8	R-T-F-9	R-T-F-10	R-T-F-11	R-T-F-12	R-T-F-13	R-T-F-14	R-T-F-15	R-T-F-16	R-T-F-17	R-T-F-18	R-T-F-19	R-T-F-20	R-T-F-21	R-T-F-22	R-T-F-23	R-T-F-24	R-T-F-25	R-T-F-26	R-T-F-27	R-T-F-28	R-T-F-29	R-T-F-30	R-T-F-31	R-T-F-32	R-T-F-33	R-T-F-34	R-T-F-35	R-T-F-36	R-T-F-37	R-T-F-38	R-T-F-39	R-T-F-40	R-T-F-41	R-T-F-42	R-T-F-43	R-T-F-44	R-T-F-45	R-T-F-46	R-T-F-47	R-T-F-48	R-T-F-49	R-T-F-50	R-T-F-51	R-T-F-52	R-T-F-53	R-T-F-54	R-T-F-55	R-T-F-56	R-T-F-57	R-T-F-58	R-T-F-59	R-T-F-60	R-T-F-61	R-T-F-62	R-T-F-63	R-T-F-64	R-T-F-65	R-T-F-66	R-T-F-67	R-T-F-68	R-T-F-69	R-T-F-70	R-T-F-71	R-T-F-72	R-T-F-73	R-T-F-74	R-T-F-75	R-T-F-76	R-T-F-77	R-T-F-78	R-T-F-79	R-T-F-80	R-T-F-81	R-T-F-82	R-T-F-83	R-T-F-84	R-T-F-85	R-T-F-86	R-T-F-87	R-T-F-88	R-T-F-89	R-T-F-90	R-T-F-91	R-T-F-92	R-T-F-93	R-T-F-94	R-T-F-95	R-T-F-96	R-T-F-97	R-T-F-98	R-T-F-99	R-T-F-100	R-T-F-101	R-T-F-102	R-T-F-103	R-T-F-104	R-T-F-105	R-T-F-106	R-T-F-107	R-T-F-108	R-T-F-109	R-T-F-110	R-T-F-111	R-T-F-112	R-T-F-113	R-T-F-114	R-T-F-115	R-T-F-116	R-T-F-117	R-T-F-118	R-T-F-119	R-T-F-120	R-T-F-121	R-T-F-122	R-T-F-123	R-T-F-124	R-T-F-125	R-T-F-126	R-T-F-127	R-T-F-128	R-T-F-129	R-T-F-130	R-T-F-131	R-T-F-132	R-T-F-133	R-T-F-134	R-T-F-135	R-T-F-136	R-T-F-137	R-T-F-138	R-T-F-139	R-T-F-140	R-T-F-141	R-T-F-142	R-T-F-143	R-T-F-144	R-T-F-145	R-T-F-146	R-T-F-147	R-T-F-148	R-T-F-149	R-T-F-150	R-T-F-151	R-T-F-152	R-T-F-153	R-T-F-154	R-T-F-155	R-T-F-156	R-T-F-157	R-T-F-158	R-T-F-159	R-T-F-160	R-T-F-161	R-T-F-162	R-T-F-163	R-T-F-164	R-T-F-165	R-T-F-166	R-T-F-167	R-T-F-168	R-T-F-169	R-T-F-170	R-T-F-171	R-T-F-172	R-T-F-173	R-T-F-174	R-T-F-175	R-T-F-176	R-T-F-177	R-T-F-178	R-T-F-179	R-T-F-180	R-T-F-181	R-T-F-182	R-T-F-183	R-T-F-184	R-T-F-185	R-T-F-186	R-T-F-187	R-T-F-188	R-T-F-189	R-T-F-190	R-T-F-191	R-T-F-192	R-T-F-193	R-T-F-194	R-T-F-195	R-T-F-196	R-T-F-197	R-T-F-198	R-T-F-199	R-T-F-200	R-T-F-201	R-T-F-202	R-T-F-203	R-T-F-204	R-T-F-205	R-T-F-206	R-T-F-207	R-T-F-208	R-T-F-209	R-T-F-210	R-T-F-211	R-T-F-212	R-T-F-213	R-T-F-214	R-T-F-215	R-T-F-216	R-T-F-217	R-T-F-218	R-T-F-219	R-T-F-220	R-T-F-221	R-T-F-222	R-T-F-223	R-T-F-224	R-T-F-225	R-T-F-226	R-T-F-227	R-T-F-228	R-T-F-229	R-T-F-230	R-T-F-231	R-T-F-232	R-T-F-233	R-T-F-234	R-T-F-235	R-T-F-236	R-T-F-237	R-T-F-238	R-T-F-239	R-T-F-240	R-T-F-241	R-T-F-242	R-T-F-243	R-T-F-244	R-T-F-245	R-T-F-246	R-T-F-247	R-T-F-248	R-T-F-249	R-T-F-250	R-T-F-251	R-T-F-252	R-T-F-253	R-T-F-254	R-T-F-255	R-T-F-256	R-T-F-257	R-T-F-258	R-T-F-259	R-T-F-260	R-T-F-261	R-T-F-262	R-T-F-263	R-T-F-264	R-T-F-265	R-T-F-266	R-T-F-267	R-T-F-268	R-T-F-269	R-T-F-270	R-T-F-271	R-T-F-272	R-T-F-273	R-T-F-274	R-T-F-275	R-T-F-276	R-T-F-277	R-T-F-278	R-T-F-279	R-T-F-280	R-T-F-281	R-T-F-282	R-T-F-283	R-T-F-284	R-T-F-285	R-T-F-286	R-T-F-287	R-T-F-288	R-T-F-289	R-T-F-290	R-T-F-291	R-T-F-292	R-T-F-293	R-T-F-294	R-T-F-295	R-T-F-296	R-T-F-297	R-T-F-298	R-T-F-299	R-T-F-300	R-T-F-301	R-T-F-302	R-T-F-303	R-T-F-304	R-T-F-305	R-T-F-306	R-T-F-307	R-T-F-308	R-T-F-309	R-T-F-310	R-T-F-311	R-T-F-312	R-T-F-313	R-T-F-314	R-T-F-315	R-T-F-316	R-T-F-317	R-T-F-318	R-T-F-319	R-T-F-320	R-T-F-321	R-T-F-322	R-T-F-323	R-T-F-324	R-T-F-325	R-T-F-326	R-T-F-327	R-T-F-328	R-T-F-329	R-T-F-330	R-T-F-331	R-T-F-332	R-T-F-333	R-T-F-334	R-T-F-335	R-T-F-336	R-T-F-337	R-T-F-338	R-T-F-339	R-T-F-340	R-T-F-341	R-T-F-342	R-T-F-343	R-T-F-344	R-T-F-345	R-T-F-346	R-T-F-347	R-T-F-348	R-T-F-349	R-T-F-350	R-T-F-351	R-T-F-352	R-T-F-353	R-T-F-354	R-T-F-355	R-T-F-356	R-T-F-357	R-T-F-358	R-T-F-359	R-T-F-360	R-T-F-361	R-T-F-362	R-T-F-363	R-T-F-364	R-T-F-365	R-T-F-366	R-T-F-367	R-T-F-368	R-T-F-369	R-T-F-370	R-T-F-371	R-T-F-372	R-T-F-373	R-T-F-374	R-T-F-375	R-T-F-376	R-T-F-377	R-T-F-378	R-T-F-379	R-T-F-380	R-T-F-381	R-T-F-382	R-T-F-383	R-T-F-384	R-T-F-385	R-T-F-386	R-T-F-387	R-T-F-388	R-T-F-389	R-T-F-390	R-T-F-391	R-T-F-392	R-T-F-393	R-T-F-394	R-T-F-395	R-T-F-396	R-T-F-397	R-T-F-398	R-T-F-399	R-T-F-400	R-T-F-401	R-T-F-402	R-T-F-403	R-T-F-404	R-T-F-405	R-T-F-406	R-T-F-407	R-T-F-408	R-T-F-409	R-T-F-410	R-T-F-411	R-T-F-412	R-T-F-413	R-T-F-414	R-T-F-415	R-T-F-416	R-T-F-417	R-T-F-418	R-T-F-419	R-T-F-420	R-T-F-421	R-T-F-422	R-T-F-423	R-T-F-424	R-T-F-425	R-T-F-426	R-T-F-427	R-T-F-428	R-T-F-429	R-T-F-430	R-T-F-431	R-T-F-432	R-T-F-433	R-T-F-434	R-T-F-435	R-T-F-436	R-T-F-437	R-T-F-438	R-T-F-439	R-T-F-440	R-T-F-441	R-T-F-442	R-T-F-443	R-T-F-444	R-T-F-445	R-T-F-446	R-T-F-447	R-T-F-448	R-T-F-449	R-T-F-450	R-T-F-451	R-T-F-452	R-T-F-453	R-T-F-454	R-T-F-455	R-T-F-456	R-T-F-457	R-T-F-458	R-T-F-459	R-T-F-460	R-T-F-461	R-T-F-462	R-T-F-463	R-T-F-464	R-T-F-465	R-T-F-466	R-T-F-467	R-T-F-468	R-T-F-469	R-T-F-470	R-T-F-471	R-T-F-472	R-T-F-473	R-T-F-474	R-T-F-475	R-T-F-476	R-T-F-477	R-T-F-478	R-T-F-479	R-T-F-480	R-T-F-481	R-T-F-482	R-T-F-483	R-T-F-484	R-T-F-485	R-T-F-486	R-T-F-487	R-T-F-488	R-T-F-489	R-T-F-490	R-T-F-491	R-T-F-492	R-T-F-493	R-T-F-494	R-T-F-495	R-T-F-496	R-T-F-497	R-T-F-498	R-T-F-499	R-T-F-500	R-T-F-501	R-T-F-502	R-T-F-503	R-T-F-504	R-T-F-505	R-T-F-506	R-T-F-507	R-T-F-508	R-T-F-509	R-T-F-510	R-T-F-511	R-T-F-512	R-T-F-513	R-T-F-514	R-T-F-515	R-T-F-516	R-T-F-517	R-T-F-518	R-T-F-519	R-T-F-520	R-T-F-521	R-T-F-522	R-T-F-523	R-T-F-524	R-T-F-525	R-T-F-526	R-T-F-527	R-T-F-528	R-T-F-529	R-T-F-530	R-T-F-531	R-T-F-532	R-T-F-533	R-T-F-534	R-T-F-535	R-T-F-536	R-T-F-537	R-T-F-538	R-T-F-539	R-T-F-540	R-T-F-541	R-T-F-542	R-T-F-543	R-T-F-544	R-T-F-545	R-T-F-546	R-T-F-547	R-T-F-548	R-T-F-549	R-T-F-550	R-T-F-551	R-T-F-552	R-T-F-553	R-T-F-554	R-T-F-555	R-T-F-556	R-T-F-557	R-T-F-558	R-T-F-559	R-T-F-560	R-T-F-561	R-T-F-562	R-T-F-563	R-T-F-564	R-T-F-565	R-T-F-566	R-T-F-567	R-T-F-568	R-T-F-569	R-T-F-570	R-T-F-571	R-T-F-572	R-T-F-573	R-T-F-574	R-T-F-575	R-T-F-576	R-T-F-577	R-T-F-578	R-T-F-579	R-T-F-580	R-T-F-581	R-T-F-582	R-T-F-583	R-T-F-584	R-T-F-585	R-T-F-586	R-T-F-587	R-T-F-588	R-T-F-589	R-T-F-590	R-T-F-591	R-T-F-592	R-T-F-593	R-T-F-594	R-T-F-595	R-T-F-596	R-T-F-597	R-T-F-598	R-T-F-599	R-T-F-600	R-T-F-601	R-T-F-602	R-T-F-603	R-T-F-604	R-T-F-605	R-T-F-606	R-T-F-607	R-T-F-608	R-T-F-609	R-T-F-610	R-T-F-611	R-T-F-612	R-T-F-613	R-T-F-614	R-T-F-615	R-T-F-616	R-T-F-617	R-T-F-618	R-T-F-619	R-T-F-620	R-T-F-621	R-T-F-622	R-T-F-623	R-T-F-624	R-T-F-625	R-T-F-626	R-T-F-627	R-T-F-628	R-T-F-629	R-T-F-630	R-T-F-631	R-T-F-632	R-T-F-633	R-T-F-634	R-T-F-635	R-T-F-636	R-T-F-637	R-T-F-638	R-T-F-639	R-T-F-640	R-T-F-641	R-T-F-642	R-T-F-643	R-T-F-644	R-T-F-645	R-T-F-646	R-T-F-647	R-T-F-648	R-T-F-649	R-T-F-650	R-T-F-651	R-T-F-652	R-T-F-653	R-T-F-654	R-T-F-655	R-T-F-656	R-T-F-657	R-T-F-658	R-T-F-659	R-T-F-660	R-T-F-661	R-T-F-662	R-T-F-663	R-T-F-664	R-T-F-665	R-T-F-666	R-T-F-667	R-T-F-668	R-T-F-669	R-T-F-670	R-T-F-671	R-T-F-672	R-T-F-673	R-T-F-674	R-T-F-675	R-T-F-676	R-T-F-677	R-T-F-678	R-T-F-679	R-T-F-680	R-T-F-681	R-T-F-682	R-T-F-683	R-T-F-684	R-T-F-685	R-T-F-686	R-T-F-687	R-T-F-688	R-T-F-689	R-T-F-690	R-T-F-691	R-T-F-692	R-T-F-693	R-T-F-694	R-T-F-695	R-T-F-696	R-T-F-697	R-T-F-698	R-T-F-699	R-T-F-700	R-T-F-701	R-T-F-702	R-T-F-703	R-T-F-704	R-T-F-705	R-T-F-706	R-T-F-707	R-T-F-708	R-T-F-709	R-T-F-710	R-T-F-711	R-T-F-712	R-T-F-713	R-T-F-714	R-T-F-715	R-T-F-716	R-T-F-717	R-T-F-718	R-T-F-719	R-T-F-720	R-T-F-721	R-T-F-722	R-T-F-723	R-T-F-724	R-T-F-725	R-T-F-726	R-T-F-727	R-T-F-728	R-T-F-729	R-T-F-730	R-T-F-731	R-T-F-732	R-T-F-733	R-T-F-734	R-T-F-735	R-T-F-736	R-T-F-737	R-T-F-738	R-T-F-739	R-T-F-740	R-T-F-741	R-T-F-742	R-T-F-743	R-T-F-744	R-T-F-745	R-T-F-746	R-T-F-747	R-T-F-748	R-T-F-749	R-T-F-750	R-T-F-751	R-T-F-752	R-T-F-753	R-T-F-754	R-T-F-755	R-T-F-756	R-T-F-757	R-T-F-758	R-T-F-759	R-T-F-760	R-T-F-761	R-T-F-762	R-T-F-763	R-T-F-764	R-T-F-765	R-T-F-766	R-T-F-767	R-T-F-768	R-T-F-769	R-T-F-770	R-T-F-771	R-T-F-772	R-T-F-773	R-T-F-774	R-T-F-775	R-T-F-776	R-T-F-777	R-T-F-778	R-T-F-779	R-T-F-780	R-T-F-781	R-T-F-782	R-T-F-783	R-T-F-784	R-T-F-785	R-T-F-786	R-T-F-787	R-T-F-788	R-T-F-789	R-T-F-790	R-T-F-791	R-T-F-792	R-T-F-793	R-T-F-794	R-T-F-795	R-T-F-796	R-T-F-797	R-T-F-798	R-T-F-799	R-T-F-800	R-T-F-801	R-T-F-802	R-T-F-803	R-T-F-804	R-T-F-805	R-T-F-806	R-T-F-807	R-T-F-808	R-T-F-809	R-T-F-810	R-T-F-811	R-T-F-812	R-T-F-813	R-T-F-814	R-T-F-815	R-T-F-816	R-T-F-817	R-T-F-818	R-T-F-819	R-T-F-820	R-T-F-

There are several options listed above that would allow for the business functions as requested in the application. Instead, the applicant is requesting to re-establish the previous non-conforming residential use and then create a Home Occupation that would require a variance that greatly exceeds the allowable limits. This appears to be the most difficult and indirect path to achieve functions that are otherwise achievable by-right within the regulations of the zoning district.

3. The variances are inconsistent with the following aspects of City of Savannah Code of Ordinances **Section 8.7 Accessory Structures & Uses:**

Section 8.7.2 Generally

Accessory structures and uses shall:

- a. Be accessory and clearly incidental and subordinate to a permitted principal use. No accessory use may be established on a site prior to the establishment of a permitted principal use.*
- b. Be located on the same property as the principal use or structure.*
- c. Not involve uses or structures not in keeping with the character of the principal use or principal structure served.*
- d. Be located within a district that permits the principal use.*
- e. Not be erected in any required setback area, except as expressly set forth in this Ordinance.*

Item “a” is an issue since the accessory structure and use would not be “clearly incidental and subordinate to a permitted principal use”. Further, single-family residential is not a “permitted principal use” and the size, scale, and location of the accessory use includes large areas within both structures. Another key item is “d”, since a single-family residence is not allowed within the B-N zoning district, an accessory structure or use for a Home Occupation would not be appropriate.

Section 8.7.11 Home Occupations

The intent of a home occupation use is to permit very limited nonresidential activity within a residential dwelling or any building accessory to the dwelling, provided that such activity does not detract from nor is incompatible with the surrounding residential uses.

The following standards shall apply:

b. General Standards

All home occupation uses that comply with the following standards shall be permitted. Some home occupations uses, as specified in Sec. 8.7.11.c. below, have additional standards.

- i. The use of a residential dwelling and any accessory buildings for a home occupation use shall be clearly incidental and subordinate to its use for residential purposes and shall under no circumstances change the residential character of the dwelling or premises.*

[MPC Comment: it is not clear that the Home Occupation would be incidental and subordinate since it will be implemented in multiple locations within both the primary and accessory buildings. The Home Occupation use has a clear impact on the character and purpose of the dwelling and overall premises.]

- ii. If operated inside a residential dwelling, such use shall not have an external entrance serving only such use.*

[MPC comment: both structures have dedicated entrances that are specific to the Home Occupation use contrary to this code.]

- iii. In Residential zoning districts, only persons residing on the premises shall work onsite. In all other zoning districts, no more than one (1) person not residing on the premises shall be permitted to work onsite.*

[MPC comment: the applicant mentioned during the pre-app meeting and on other instances that she planned to have assistants, chefs, counselors and other dieticians participate in the business operations, which would exceed the one-person non-resident limit.]

- iv. The operation and storage space for such use shall not exceed 25% of the total floor area of the dwelling or 500 square feet, whichever is less.*

[MPC comment: the application requests an increase to 1,056 SF which is more than double the amount allowed. This requested number is artificially low, since it does not account for the spaces within the primary structure which will also be used for business functions.]

- v. Clients coming to the dwelling to conduct business shall not be permitted except as provided in Sec. 8.7.11.c. below.*

Section 8.7.11.c Specific Standards

The uses listed below shall comply with the following specific use standards in addition to the standards provided in Sec. 8.7.11.b. above.

iii. Instruction

In Residential zoning districts, no more than two (2) pupils can receive instruction at one time.

In all other zoning districts, no more than four (4) pupils can receive instruction at one time.

[MPC comment: the applicant described offering cooking classes, dietary counseling and recipe demonstrations to groups of clients and organizations that would exceed the four-person limit.]

viii. Professional Counseling Services

2. Counseling services shall be provided only by a medical doctor (MD), psychologist, clinical social worker (LCSW), professional counselor (LPC) or marriage and family therapist who maintains a valid license in the state of Georgia.

[MPC Comment: not sure if a dietician or nutritionalist would fall into this classification.]

4. No more than one (1) client shall be permitted on the premises at one time. For the purposes of this use, client shall be an individual, couple or family, but not a group.

[MPC Comment: applicant mentioned the ability to have multiple dieticians, counselors or support staff to serve multiple clients within both structures on the property.]

The intent of the applicant to have a “Home Occupation” as this business concept is incompatible with numerous regulations as detailed above as well as the base zoning and future land use designation.

4. Per Article 3 *Section 3.21.9(a)*, the Zoning Board of Appeals may authorize a variance in an individual case upon finding that:

A. General Consistency

The variance shall be consistent with the intent of this Ordinance and the Comprehensive Plan, and shall not be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare.

MPC Comment: Both requested variances are inconsistent with the Ordinance, current zoning and future land use. The proposed use and Home Occupation do not align with the current zoning of B-N, the future land use of Commercial Neighborhood, nor the regulations that define a Home Occupation.

B. Special Conditions

- i. *Special conditions and/or circumstances exist which are peculiar to the land, buildings or structures involved and which are not applicable to other lands, buildings or structures in the same zoning district.*

MPC Comment: The property had an existing non-conforming residence that might have been reconfigured or allowed to be used as this application described. However, the applicant demolished that residence and is now starting from an empty lot. As such, there are no special conditions that prevent the applicant from developing the lot as prescribed by zoning, ordinance and development standards.

- ii. *The special conditions and/or circumstances do not result from the actions of the applicant.*

MPC Comment: The special conditions or circumstances in this case seem to be that the applicant is trying to avoid various business/commercial ordinances and guidelines by using a lesser residential function that is not compatible with the B-N zoning and violates multiple other regulations. In many ways, the applicant is creating or fabricating the special circumstances.

- iii. *The special conditions and/or circumstances are not purely financial in nature so as to allow the applicant to use the land, buildings or structures involved more profitably or to save money.*

MPC Comment: The reasons seem to be completely financial in nature. The applicant does not want to build a business/commercial structure due to the additional regulations and requirements for site development, parking, landscape, buffers and other issues.

C. Literal Interpretation

Literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Ordinance and would result in unnecessary and undue hardship on the applicant.

MPC Comment: The literal interpretation of the regulations would not deny the applicant of rights commonly enjoyed by other property owners. Adjacent properties are subject to the same ordinances that result in the analysis and conditions herein.

D. Minimum Variance

The variance, if granted, is the minimum variance necessary to make possible the reasonable use of land, buildings or structures.

MPC Comment: The requested variances are inappropriate for the zoning and uses as described by the applicant. There is not a variance that would resolve the issues proposed within this application. The applicant should redesign the buildings and uses to comply with the current zoning or find a property that better suits her goals and priorities.

E. Special Privilege Not Granted

The variance would not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings or structures in the same zoning district.

MPC Comment: The variance would convey a special privilege to the Petitioner. They would be granted a use and building configuration that is expressly prohibited within the B-N zoning district and multiple other sections of the Ordinance. This is the purest definition of a special privilege.

Summary:

The request to re-establish the previous non-conforming single-family residential use should not be considered since the applicant knowingly demolished said structure and as such has created that condition as a self-imposed hardship. In addition, the applicant has openly proclaimed that this property will not be a primary residence and would be used strictly for business purposes and to occasionally host out-of-town family and guests.

The request to increase the allowable area for a Home Occupation has multiple deficiencies:

- The basis of the Home Occupation is flawed because it assumes a principal residential use, which is not allowed within the B-N zoning. Even if a rezoning was requested, it would conflict with the current development pattern and future land use designation. Rezoning this parcel to a residential district would be a prime example of spot-zoning.
- The home occupation would not be incidental or subordinate to a residential use since the principal use is not intended to be a primary residence as stated by the applicant.
- The home occupation has multiple dedicated entrances in violation of the regulations.
- The applicant has expressed that multiple people would be employed or present to serve client needs, while the ordinance only allows for one non-resident employee.
- The area used for the home occupation would greatly exceed the allowable limits and would not be subordinate or incidental to a permitted principal use.
- Only four clients would be allowed at a time as an instructional function. The applicant has expressed intent to serve larger groups of clients, and the proposed facilities can accommodate much larger groups of people.
- A counselor or therapist needs to be state recognized and licensed as described in the ordinance.
- As a counseling service, only one client may be on the premises at a time. The proposed facilities have multiple offices and class areas that could serve multiple clients or groups by multiple counselors, therapists or instructors simultaneously.

Other concerns raised by this application include:

- The proposed buildings and property configuration would violate multiple sections of the Ordinance as mentioned above and would be contrary to the directives of traffic engineering.
- The primary approach taken in this proposed structure and site development seems to purposely avoid following the business/commercial zoning regulations and development standards. Allowing this concept would permit a substandard and inappropriate development for the zoning district and the community in general.

Recommendation:

MPC staff recommends **denial** of the requested variances due to incompatibility with the current zoning, the future land use, and inconsistencies with numerous sections of the Ordinance.

MPC staff recommends that the applicant and their design professionals reconfigure the building development plan to align with B-N zoning regulations and general Ordinance compliance. We see no path for this proposal to continue as presented.

Note: This recommendation could change subject to new information provided at the Zoning Board of Appeals meeting. Final decisions will be made by the Zoning Board of Appeals at the public hearing based on information provided at the meeting, as well as information submitted for the staff report.