



REAL ESTATE DEPARTMENT
M E M O R A N D U M

TO: JAY GOGUE, President *MB*
THROUGH: RONALD BURGESS, Executive Vice President *RS*
THROUGH: DAN KING, Associate Vice President for Facilities *DK*
THROUGH: BILL HARDGRAVE, Provost *Bill Hardgrave*
THROUGH: PAUL PATTERSON, Dean of the College of Agriculture *PMP*
FROM: MARK STIRLING, Director of Real Estate *#*
SUBJECT: PROPERTY AND FACILITIES COMMITTEE

**PROPERTY EXCHANGE WITH USDA AGRICULTURAL RESEARCH SERVICE
AND AMENDED DECLARATION OF COVENANTS FOR RESEARCH PARK**

DATE: OCTOBER 9, 2020

This is to request that the following item be presented to the Board of Trustees and be included on the agenda of the specially called meeting scheduled for October 16, 2020.

Proposal:

It is proposed that Auburn University enter into a transaction to exchange property with the Agricultural Research Service of the United States Department of Agriculture ("ARS"). ARS owns a 6.29-acre parcel located at the corner of West Samford Avenue and South Donahue Drive ("Tillage Farm Site"), which ARS currently uses for soil dynamics research. The Tillage Farm Site is identified in the map attached to the accompanying resolution.

As described below, the Tillage Farm Site is a strategic location for the University and would offer significant development opportunities if acquired.

To acquire the Tillage Farm Site, the University would exchange the following package that, taken together, is equal in value to the Tillage Farm Site:

- (i) Convey to ARS 5.0 acres owned by the University in Auburn Research Park on the southwest corner of Devall Drive and Camp Auburn Road, adjacent to the former poultry research farm;
- (ii) Convey to ARS 4.26 acres owned by the University in the Longleaf Field Laboratory, adjacent to field operations of the College of Agriculture and the College of Veterinary Medicine, along West Longleaf Drive;
- (iii) Convey to ARS the 53.5 acre University property on Lee County Road 27, known as the South Auburn Fisheries Research Lab, which currently is leased and used by ARS; and
- (iv) Provide ARS with funding in an amount necessary to equalize the value of the parties' respective offers.

Maps depicting the proposed parcels are included in the exhibit to the accompanying resolution. The Research Park and Longleaf parcels are vacant, with the Longleaf parcel used as pastureland. The lease of the South Auburn Fisheries parcel to ARS expires in 2028. The University does not currently envision any other alternative uses for these properties. Note that the exact shape and orientation of the Research Park parcel may change slightly based on ARS's design, but in no event will it exceed five acres.

Following the proposed property exchange, the University would lease the Tillage Farm Site back to ARS for a temporary period, not to exceed 48 months (including extensions), while ARS designs and constructs its new facility in Research Park and transitions its Tillage Farm Site operations. ARS would be charged nominal rent during the term (\$1/year), except rent would be fair market value during the final six-month extension period.

The proposed exchange also would involve release of the Research Park covenants from the site that ARS would acquire in the Park, as described below.

Review and Consultation:

The proposed exchange results from joint efforts and consultation among the University, ARS, and other stakeholders. With leadership from Senator Richard Shelby and the University's support, in 2019 Congress appropriated \$43 million to ARS to fund construction of new facilities in Auburn and facilitate its relocation from the Tillage Farm Site. This, in turn, offers a unique opportunity to the University. The close proximity of the Tillage Farm Site to the core of campus, in conjunction with the relocation of housing facilities from the Hill Residence Hall Complex, will enable future expansion of the campus core and the growth and development of new academic, research, administrative, and housing facilities along the southern axis of the Auburn University campus. For these reasons, this transaction is recommended by the Provost, the Dean of the College of Agriculture, the Associate Vice President for Facilities, and the Director of Real Estate.

Appraisals have been obtained, as required by Board of Trustees Policy D-8, Real Property Exchange Policy. The policy provides that "[t]he appraised fair market value of the property to be acquired by Auburn University shall equal or exceed the value of real property to be exchanged by Auburn University, plus any cash paid by Auburn University." Where the estimated property value exceeds \$1 million, two MAI appraisals must be obtained. Here, the University and ARS each obtained one appraisal of all parcels on an as-is basis. The value of the Tillage Farm Site exceeds the combined value of the University parcels, and the additional monetary consideration paid by the University equalizes the value of the respective offers. The final valuation represents a negotiated midpoint between the parties' appraisals. Note that real property exchanges wherein the value of property received by the state is equal to or exceeds the value of state property exchanged are exempt from the requirements of the Land Sales Act.

The proposed transaction also is expected to benefit ARS, an important University research partner. ARS intends to build new research facilities supporting its National Soil Dynamics Laboratory ("NSDL") on the sites it would acquire from the University. ARS would develop a modern office and research laboratory building on the Research Park site and would maintain supporting operations on Longleaf Drive (*e.g.*, processing soil and plant sample materials and storage of field equipment). ARS also would continue its current research activities on the South Auburn Fisheries parcel, which it currently leases from the University.

Thus, the transaction would further the long-standing research collaboration between the University and the NSDL, which began in 1933, and complement the University's other relationships with USDA, including the College of Veterinary Medicine's work with ARS's Aquatic Animal Health Laboratory. ARS scientists at those laboratories serve as affiliate University faculty members and help advance research, support graduate education, and serve producers in Alabama and the Southeastern United States. With the proposed transaction, ARS is expected to strengthen its ties with the University and expand its activities in the Auburn community.

To finalize the transaction, ARS also requires that the University modify the scope of property covenants applying to land within Research Park. That property is governed by a Declaration of Protective Covenants, Conditions, Restrictions, Reservations, and Easements ("Covenants"), which specifies permitted uses of the land, requires building design approvals, and provides for assessments of common area maintenance costs and similar expenses. The Covenants currently apply to the Research Park site that ARS would acquire. But as a federal government agency, ARS states that it cannot accept the site if it is subject to the Covenants. Instead, ARS has committed to work in good faith with the University to ensure that the design of its Research Park facility is consistent with the aesthetic of surrounding buildings. Accordingly, as part of the transaction, the University would amend the Covenants to remove the ARS Research Park site from the scope of the covered property. The accompanying resolution reflects this Board's approval of that item.

Stakeholders in Research Park also have consented to this amendment. The Covenants may be amended by the University upon consent of at least one-quarter of the ground lessees in Research Park. Both the Auburn Research and Technology Foundation and all other ground lessees within Research Park have approved and consented to this amendment.

Recommendation: The property exchange and related transactions described above are recommended for your approval and consideration whether they should be presented to the Board of Trustees at the specially called meeting scheduled for October 16, 2020.

AUBURN UNIVERSITY BOARD OF TRUSTEES

RESOLUTION

PROPERTY EXCHANGE WITH USDA AGRICULTURAL RESEARCH SERVICE AND AMENDED DECLARATION OF COVENANTS FOR RESEARCH PARK

WHEREAS, Auburn University and the Agricultural Research Service of the United States Department of Agriculture (ARS) have a long-standing, productive research collaboration; and

WHEREAS, ARS currently owns a 6.29-acre parcel at the corner of West Samford Avenue and South Donahue Drive (Tillage Farm Site); and

WHEREAS, Auburn University supported a \$43 million federal appropriation to allow ARS to develop new research facilities and relocate from the Tillage Farm Site, which is adjacent to the core of campus and occupies a strategic location for future University development; and

WHEREAS, Auburn University wishes to acquire the Tillage Farm Site in exchange for the following package of real property and monetary consideration (parcels depicted on the attached exhibit):

- Convey to ARS 5.0 acres owned by the University in Auburn Research Park on the southwest corner of Devall Drive and Auburn Camp Road, adjacent to the former poultry research farm (final shape and orientation of parcel subject to ARS's design);
- Convey to ARS 4.26 acres owned by the University in the Longleaf Field Laboratory, adjacent to field operations of the College of Agriculture and the College of Veterinary Medicine, along West Longleaf Drive;
- Convey to ARS the 53.5 acre University property on Lee County Road 27, known as the South Auburn Fisheries Research Lab, which currently is leased and used by ARS; and
- Provide ARS with funding in an amount necessary to equalize the value of the parties' respective offers; and

WHEREAS, Board of Trustees Policy D-8, Real Property Exchange Policy, allows the exchange of real property when the transaction is in the best interest of the University and the existing University property is no longer required to carry out its mission, so long as the value of the property to be acquired by the University is equal to or exceeds the value of the property to be conveyed; and

WHEREAS, two MAI appraisals of the Tillage Farm Site and other relevant parcels have been obtained, the value of the Tillage Farm Site exceeds the combined value of the University parcels, and the additional monetary consideration paid by the University equalizes the value of the respective offers, as determined by the parties' appraisals and subsequent negotiation; and

WHEREAS, ARS intends to develop new research facilities on the sites conveyed by the University, including a site in Auburn Research Park, which will benefit the University, ARS, and the Research Park; and

WHEREAS, in order to accommodate federal government requirements and at ARS's request, the University agrees to remove the ARS Research Park site from the scope of the Research Park restrictive covenants and acknowledges that the Auburn Research and Technology Foundation and current ground lessees within Research Park have consented to such removal; and

WHEREAS, to facilitate ARS's transition from the Tillage Farm Site, the University agrees to lease that site back to ARS at nominal rent for a temporary period, not to exceed 48 months, with rent escalating to fair market value during the final six months of that period; and

WHEREAS, Board of Trustees Policy D-7, Real Estate Sale and Lease Policy, permits the lease of University property for appropriate purposes and according to specific procedures approved by the Board of Trustees; and

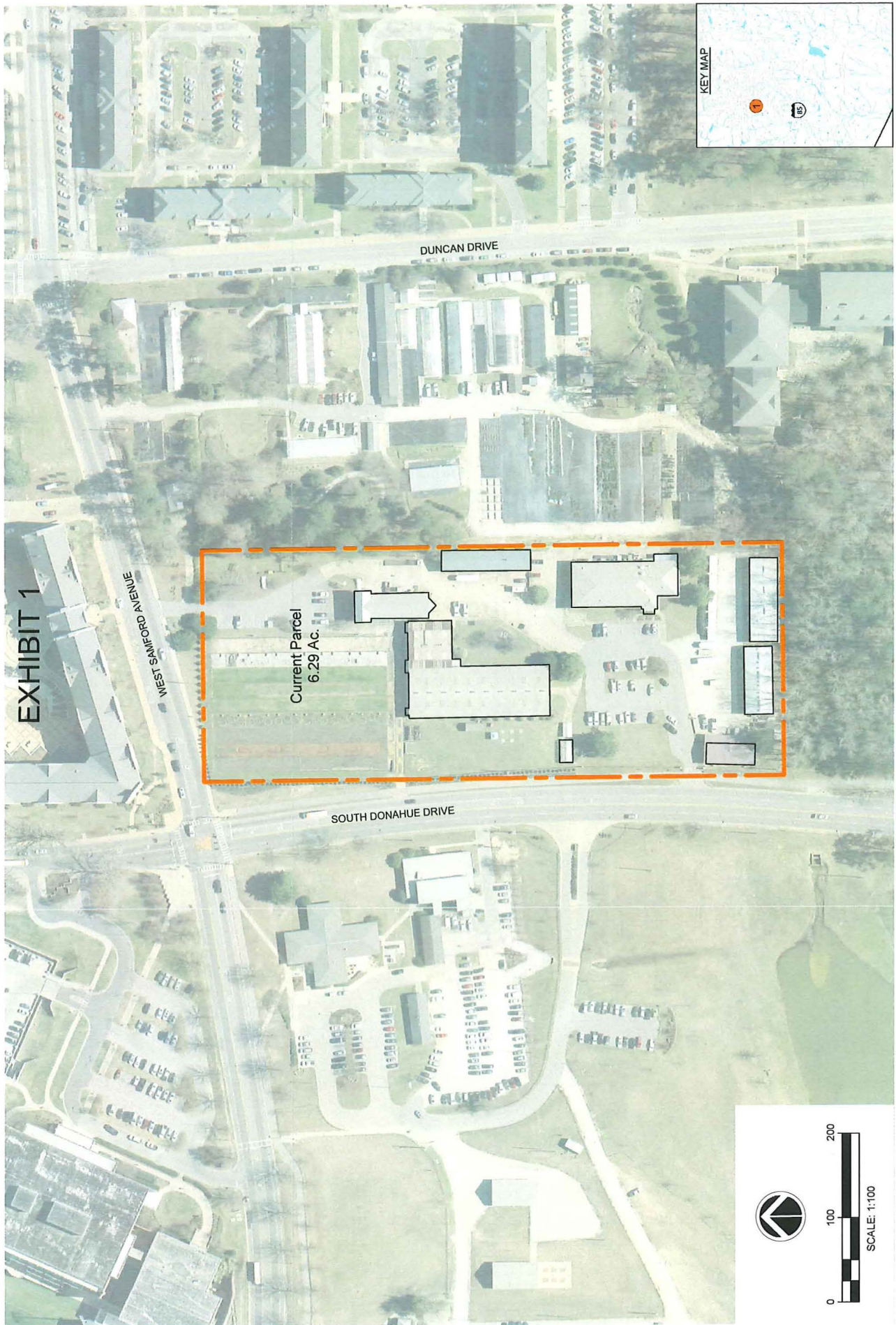
WHEREAS, for the reasons described herein, the property exchange and related transactions are in the best interest of Auburn University, are being undertaken for institution-related purposes, and comply with applicable Board of Trustees policies.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Auburn University that the property exchange and related transactions described herein are approved, declared to be for institution-related purposes and in the best interest of Auburn University, and that Jay Gogue, or such other person as may be acting as President, is authorized and empowered to negotiate and execute the deeds and lease, in accordance with the terms stated herein, as well as other legal documents necessary to effectuate the transactions and convey to ARS the parcels and monetary consideration described below in exchange for the University receiving title to the Tillage Farm Site:

1. Convey to ARS 5.0 acres owned by the University in Auburn Research Park on the southwest corner of Devall Drive and Auburn Camp Road, adjacent to the former poultry research farm;
2. Convey to ARS 4.26 acres owned by the University in the Longleaf Field Laboratory, adjacent to field operations of the College of Agriculture and the College of Veterinary Medicine, along West Longleaf Drive;
3. Convey to ARS the 53.5 acre University property on Lee County Road 27, known as the South Auburn Fisheries Research Lab, which currently is leased and used by ARS; and
4. Provide ARS with funding in an amount necessary to equalize the value of the parties' respective offers.

The conveyance to Auburn University may be accomplished by quitclaim deed. All documents consummating this transaction shall be reviewed as to form by the General Counsel.

BE IT FURTHER RESOLVED by the Board of Trustees of Auburn University that the Declaration of Protective Covenants, Conditions, Restrictions, Reservations, and Easements for the Auburn Research Park shall be amended to remove the ARS Research Park site from the scope of those covenants, and that Jay Gogue, or such other person as may be acting as President, is authorized and empowered to execute all documents necessary to effectuate that transaction, with such documents reviewed as to form by the General Counsel.



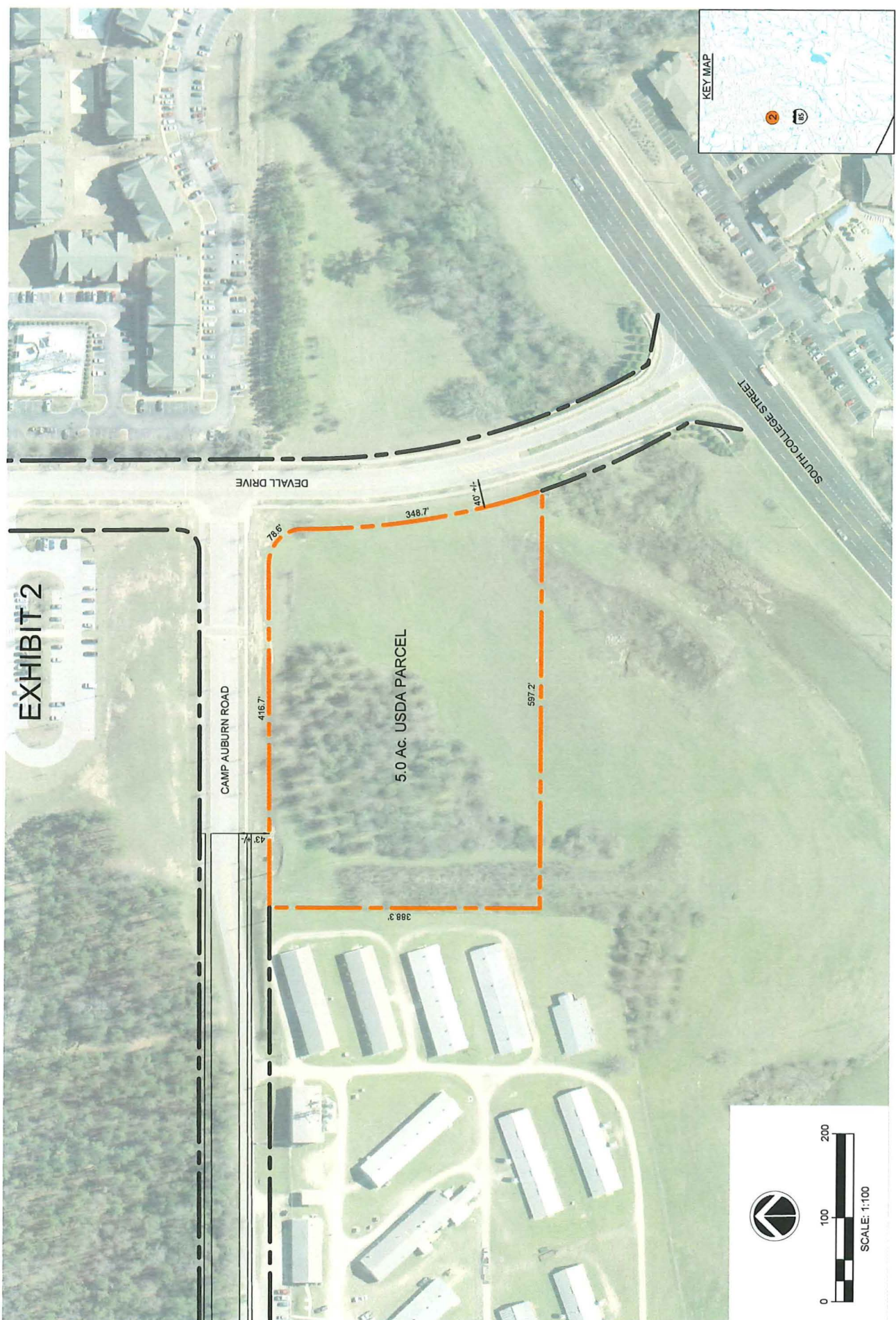


EXHIBIT 2

CAMP AUBURN ROAD

DEVALL DRIVE

SOUTH COLLEGE STREET

5.0 AC. USDA PARCEL

416.7'

348.7'

597.2'

368.3'

KEY MAP



SCALE: 1:100

EXHIBIT 3

4.26 Ac.
Parcel



SCALE: 1:100

LONGLEAF DRIVE

KEY MAP



EXHIBIT 4

