



City of Fayetteville

433 Hay Street
Fayetteville, NC
28301-5537
(910) 433-1FAY (1329)

Meeting Agenda - Final Zoning Commission

Tuesday, July 11, 2023

6:00 PM

FAST Transit Center

1.0 CALL TO ORDER

2.0 APPROVAL OF AGENDA

3.0 CONSENT

- 3.01** A23-22. Order of Approval - Findings of Fact - Variance to increase the maximum height for a fence located at 600 Orange Street (REID #0437586252000), containing 1.2 acres \pm and being the property of Orange St School Restoration & Historical Assoc, Inc., represented by Anthony Ramsey.
- 3.02** A23-23. Order of Approval - Findings of Fact: Variance to allow increases in the maximum lot coverage and maximum size of accessory structures, located at 374 Valley Road (REID #0427834026000), containing .75 acres \pm and being the property of David W. & Molly H. Alderman.
- 3.03** Approval of Minutes: June 13, 2023

4.0 EVIDENTIARY HEARINGS

- 4.01** A23-28. Variance to reduce the side yard setback and spacing between buildings for a property located at 2825 Raeford Road (REID #0427119167000), containing .52 acres \pm and being the property of Griffin Realty Investments LLC, represented by George Rose.

5.0 PUBLIC HEARINGS (Public & Legislative)

- 5.01** P23-26. Initial zoning of one contiguous parcel totaling 0.48 \pm acres, requesting annexation, to Community Commercial (CC) located at 401 Ladley Street (0426807452000), being the property of Jonathan N. Mitchell.
- 5.02** P23-27. Amendment to Business Park Conditional Zoning (BP/CZ), for a portion of 1220 Bridgehead Circle, (REID #0409925221000), totaling 16.72 acres \pm and being the property of Military Business Park Inc represented by Moorman, Kizer, and Reitzel, Inc.

6.0 OTHER ITEMS OF BUSINESS

7.0 ADJOURNMENT



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 23-3457

Agenda Date: 7/11/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.01

TO: Zoning Commission

THRU: Will Deaton, AICP - Planning & Zoning Manager

FROM: Heather Eckhardt, CZO - Planner II

DATE: July 11, 2023

RE: A23-22. Order of Approval - Findings of Fact - Variance to increase the

maximum height for a fence located at 600 Orange Street (REID #0437586252000),

containing 1.2 acres ± and being the property of Orange St School Restoration & Historical

Assoc, Inc., represented by Anthony Ramsey.

COUNCIL DISTRICT(S):

2 - Shakeyla Ingram

Relationship to Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal 1: Safe and Secure Community

- Objective 1.3 - Ensure low incidence of property and violent crime

Goal 2: Responsive City Government Supporting a Diverse and Viable

Economy

- Objective 2.2 - Invest in community places to ensure revitalization and increase quality of life

Goal 4: Desirable Place to Live, Work and Recreate

- Objective 4.5 - Ensure a place for people to live in great neighborhoods.

Executive Summary:

30.2.C.14 Variance:

The purpose of a variance is to allow certain deviations from the dimensional standards of this Ordinance (such as height, yard setback, lot coverage, or similar numeric standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the

public interest.

Variances are to be sparingly exercised and only in rare instances or under exceptional

circumstances to relieve undue and unique hardships to the landowner. No change in

permitted uses or applicable conditions of approval may be authorized by variance.

On June 13, 2023, the Fayetteville Zoning Commission acting as the Board of Adjustments

held an evidentiary hearing regarding this case. After being presented with all evidence and

having heard all sworn testimony, the Commission voted 5-0 to approve the requested

variance.

Background:

Owner: Orange St School Restoration & Historical Assoc, Inc.

Applicant: Anthony Ramsey

Requested Action: Increase maximum height for a fence

Zoning District: Community Commercial (CC)

Property Address: 600 Orange Street

Size: 1.2 acres ±

Existing Land Use: Educational building of historic significance under renovation

Surrounding Zoning and Land Uses

- North: CC - Vacant lot
- South: CC - Vacant commercial building
- East: CC - Railroad tracks and automotive repair business
- West: MR-5 - One single-family house and multiple vacant lots

Letters Mailed: 24

Issues/Analysis:

The subject property, The Orange Street School, is on 1.2 acres at 600 Orange Street. The Orange Street School was built in 1915 as a public school and is believed to be the oldest public education structure remaining in Fayetteville. The Orange Street School is a Local Historic Landmark and has received the required Certificate of Appropriateness for the work. The site is undergoing various site improvements including a new fence. The building was previously encompassed with a combination of wrought iron and chain link fencing. This fencing has been removed. The owner would like to enclose the site with a combination of 6-foot and 7-foot wrought iron fencing with 6.5-foot brick columns.

Section 30-5.D.4 of the City of Fayetteville's Unified Development Ordinance outlines the height limitations of fencing within the city. The UDO limits fencing in the front yard of individual developments to a maximum of 4 feet in height. However, the height may be increased to five feet when wrought iron or similar open-style fencing is used. The maximum height for fencing the corner side and rear yards is 6 feet.

If approved, the variance will result in a fence height increase from 5 feet to 6.5 feet in the front yard and from 6 feet to 7 feet around the remainder of the site.

Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

1. The siting of other nonconforming or conforming uses of land or structures in the same or other districts;
2. The request for a particular use expressly, or by inference, prohibited in the district; or
3. Economic hardship or the fact that property may be utilized more profitably with a Variance.

Subsequent Development

The subject property is currently under restoration/renovation by the Orange Street School Restoration & Historical Association, Inc. The intent is to restore the school and then further develop the site into a commercial business.

The following findings are based on the responses submitted in the application by the applicant and the best available information about the proposal without the benefit of testimony provided at the evidentiary hearing.

Findings of Fact Statements as reviewed by the Planning Staff:

1. **There is sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:**
The application states "The request for this variance is to protect the property and public."
2. **There is sufficient evidence that any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:**
The application states "Due to the neighborhood the vandalized and theft problem, this cause the land hardship."
3. **There is sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:**
The application states "The fence will replace an old 6 ft fence with a 6.5 ft fence with brick columns."
4. **There is sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:**
The application states "Black wrought iron fence will be with the same harmony the general purpose and intent."
5. **There is sufficient evidence that in the granting of the Variance, the public safety and welfare has been assured and substantial justice has been done as shown by the following evidence:**
The application states the "fence will keep the public safe during all events."

Budget Impact:

There is no immediate budgetary impact.

Options:

Approve Findings of Fact

Remand Findings of Fact to staff

Recommended Action:

Approve Findings of Fact

Attachments:

1. **Order of Approval - Findings of Fact**
2. Application
3. Aerial Notification Map
4. Zoning Map
5. Land Use Map
6. Subject Property Photos
7. Surrounding Property Photos
8. Site Plan

**CITY OF FAYETTEVILLE
STATE OF NORTH CAROLINA
ORDER TO APPROVE A VARIANCE**

To increase the maximum height for a fence located at 600 Orange Street

VARIANCE A23-22

Property Address: 600 Orange Street
REID Number: 0437586252000
Property Owner: Orange St School Restoration & Historical Assoc, Inc.

The Zoning Commission for the City of Fayetteville, NC, held an evidentiary hearing on June 13, 2023, to consider a Variance request filed by Anthony Ramsey (“Applicant”), on behalf of Orange St School Restoration & Historical Assoc, Inc. (“Property Owner”), to increase the maximum fence height for the property located at 600 Orange Street (“Subject Property”).

On May 26, 2023, a notice of public hearing was mailed to the Applicant and Property Owner, and all of the owners of property within 300 feet of the Subject Property. On May 24, 2023, a notice of public hearing sign was placed on the Subject Property. On June 2 and 9, 2023, a notice of public hearing advertisement was placed in the legal section of *The Fayetteville Observer*.

Having considered all of the sworn testimony, evidence, and oral arguments submitted at the hearing by the parties, the Zoning Commission makes the following FINDINGS OF FACT and CONCLUSIONS OF LAW:

Findings of Fact

1. Chapter 30, Article 5, Section D.4 of the City of Fayetteville’s Code of Ordinances establishes the standards for fencing. The standards pertain to materials and height.
2. Orange St School Restoration & Historical Assoc, Inc., is the owner of a commercially zoned property located at 600 Orange Street, which contains approximately 1.2 acres ± in the City of Fayetteville.
3. The Applicant filed an application for a Variance on May 8, 2023.
4. The Subject Property is zoned Community Commercial (CC).
5. The Property Owner is requesting to increase the maximum fence height from 5 feet to 6.5 feet in the front yard and from 6 feet to 7 feet in the corner side, side, and rear yards.
6. The Applicant has the burden of proof to show that the Variance meets the following statutory requirements:
 - a. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship.

- b. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner as shown.
- c. The Variance is the minimum action that will make possible a reasonable use of land or structures.
- d. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
- e. In granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.

7. The Subject Property is a Community Commercial (CC) zoned property that is surrounded by Community Commercial (CC) zoned properties to the north, south, and east. The properties to the west are zoned Mixed Residential 5 (MR-5).

8. The Subject Property is approximately 1.2 acres and is at the intersection of Orange Street and Chance Street.

9. The Subject Property is a Local Landmark that is currently vacant but is being renovated. The property received the required Certificate of Appropriateness on May 26, 2023.

10. This Variance addresses the Ordinance requirement for a wrought-iron or similar open-style fence to be no taller than 5 feet in the front yard and for any fence to be no taller than 6 feet in the corner side, side, and rear yards.

11. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship because the property was built prior to the UDO and the fence needs to be replaced at the requested height to provide security for the landmark property.

12. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner because based on the age of the property and the Historic Resources Commission recommendation there is sufficient evidence to allow the requested fence heights.

13. The Variance is the minimum action that will make possible a reasonable use of land or structures to allow the fence to be contiguous and to provide security for the structure.

14. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit as the property is a historic landmark and the fence will provide necessary updates and security.

15. There is no evidence that the granting of this Variance would harm public safety and welfare, and substantial justice would be ensured.

Conclusions of Law

1. The City of Fayetteville adopted the Unified Development Ordinance (UDO), codified under Chapter 30 of the City Code, to establish that “This Ordinance consolidates the

City's zoning and subdivision regulatory authority as authorized by the North Carolina General Statutes".

2. The Applicant submitted a timely application in compliance with the UDO.
3. Notice was properly given and an evidentiary public hearing was held by the City of Fayetteville's Zoning Commission in compliance with the laws of North Carolina.
4. The City Development Services Department is responsible for the coordination and enforcement of the UDO.
5. All of the general and specific conditions precedent to the issuance of the requested Variance HAS been satisfied as:
 - a. The strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships.
 - b. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner.
 - c. The Variance is the minimum action that will make possible a reasonable use of land or structures.
 - d. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
 - e. The granting of the Variance assures the public safety and welfare and that substantial justice has been done.

WHEREFORE, BASED ON THE FOREGOING FINDINGS OF FACTS AND CONCLUSIONS OF LAW, it is ORDERED by the City of Fayetteville's Zoning Commission that the application for the issuance of the Variance be APPROVED with no conditions.

VOTE: 5 to 0

This the 11th day of July, 2023.

PAVAN PATEL
Zoning Commission Chair

Project Overview**#1004610**

Project Title: 600 Orange st
Application Type: 5.4) Variance
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN: 600 ORANGE ST (0437586252000) **Zip Code:** 28301

GIS Verified Data**Property Owner: Parcel**

- 600 ORANGE ST: ORANGE ST SCHOOL RESTORATION & HISTORICAL ASSOC, INC

Acreage: Parcel

- 600 ORANGE ST: 1.2

Zoning District: Zoning District

- 600 ORANGE ST: CC

Subdivision Name:**Fire District:****Hospital Overlay District:****Cape Fear District:****Haymount Historic District:**

100 Year Flood: <100YearFlood>

Watershed:**Airport Overlay District:****Coliseum Tourism District:****Downtown Historic District:****Floodway:**

500 Year Flood: <500YearFlood>

Variance Request Information**Requested Variances:** Height

Describe the nature of your request for a variance and identify the standard(s)/requirement(s) of the City Code proposed to be varied.:

Replace wrought iron fence with Brick columns. Higher than zoning code require.

Section of the City Code from which the variance is being requested.: 30-4.C.4. Commercial Uses

Identify the zoning district designation and existing use of land for all adjacent properties, including those across the street.:

MR5 and CC

Justification for Variance Request - Use this and the following pages to answer the questions (upload additional sheets if necessary).

The Variance Standards states: A variance application shall be approved only upon a finding that **all** of the following standards are met.

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships; it shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. Any practical difficulties or unnecessary hardships result from unique
3. circumstances related to the land, such as location, size, or topography, and are not the result from conditions that are common to

- the neighborhood or the general public be the basis from granting a variance;
4. The Variance is the minimum action that will make possible a reasonable use of land or structures;
 5. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; and
 6. In the granting of this Variance, the public safety and welfare have been assured and substantial justice has been done.

Expiration - Variance

30-2.C.14.e.5.- Variance approval shall automatically expire if the applicant does not record the Variance with the Cumberland County Register of Deeds within 30 days after the date the Variance is approved.

Please complete the following five (5) questions to verify the evidence that all the required standards are applicable to your property and/or situation.

Please describe how strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.:

The request for this variance is to protect the property and public. during the daily event.

Keep the property safe from be Vandalize. The variance will be in harmony with the general purpose and intent of this Ordinance and preserves its spirits.

Please describe how any practical difficulties or unnecessary hardships result from unique circumstances related to the land, such as location, size, or topography, and are not the result of the actions of the landowner, nor may hardships resulting from personal circumstances as well as hardships resulting from conditions that are common to the neighborhood or the general public be the basis for granting a variance.:

Do to the neighborhood the vandalized and theft problem. This cause the land hardship.

Please describe how the Variance is the minimum action that will make possible a reasonable use of land or structures.:

The Fence will replace old 6 ft fence with a 6.5 ft. fence with Brick Columns

Please describe how the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit.:

Black wrought iron Fence will be with the same harmony the general purpose and intent.

Please describe how, in the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.:

Fence will keep the puplic safe during all events.

Height of Sign Face : 6

Height of Sign Face: 6

Square Footage of Sign Face: 200

Square Footage of Sign Face: 200

Square Footage of Sign Face: 200

Square Footage of Sign Face: 200

Square Footage of Sign Face: 200

Square Footage of Sign Face: 200

Square Footage of Sign Face: 200

Height of Sign Face: 6

Square Footage of Sign Face : 200

Square Footage of Sign Face: 200

Square Footage of Sign Face: 200

Square Footage of Sign Face: 200

Square Footage of Sign Face: 200

Square Footage of Sign Face: 200

Primary Contact Information

Contractor's NC ID#:

Project Owner

Theolive Washington

orange St Shcool Restoration and Historical Assoc. Inc.

600 Orange St

Fayetteville, NC 28302
P:910 5786859
theolive1334@gmail.com

Project Contact - Primary Point of Contact for the Architect

Anthony Ramsey
City of Fayetteville
433 Hay St.
Fayetteville, NC 28301
P:9104331329
AnthonyRamsey@FayettevilleNC.gov

Project Contact - Agent/Representative

Anthony Ramsey
City of Fayetteville
433 Hay St.
Fayetteville, NC 28301
P:9104331329
AnthonyRamsey@FayettevilleNC.gov

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

NC State General Contractor's License Number:

NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor's #3 License Number:

NC State Electrical Contractor #1 License Number:

NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

Indicate which of the following project contacts should be included on this project: Architect



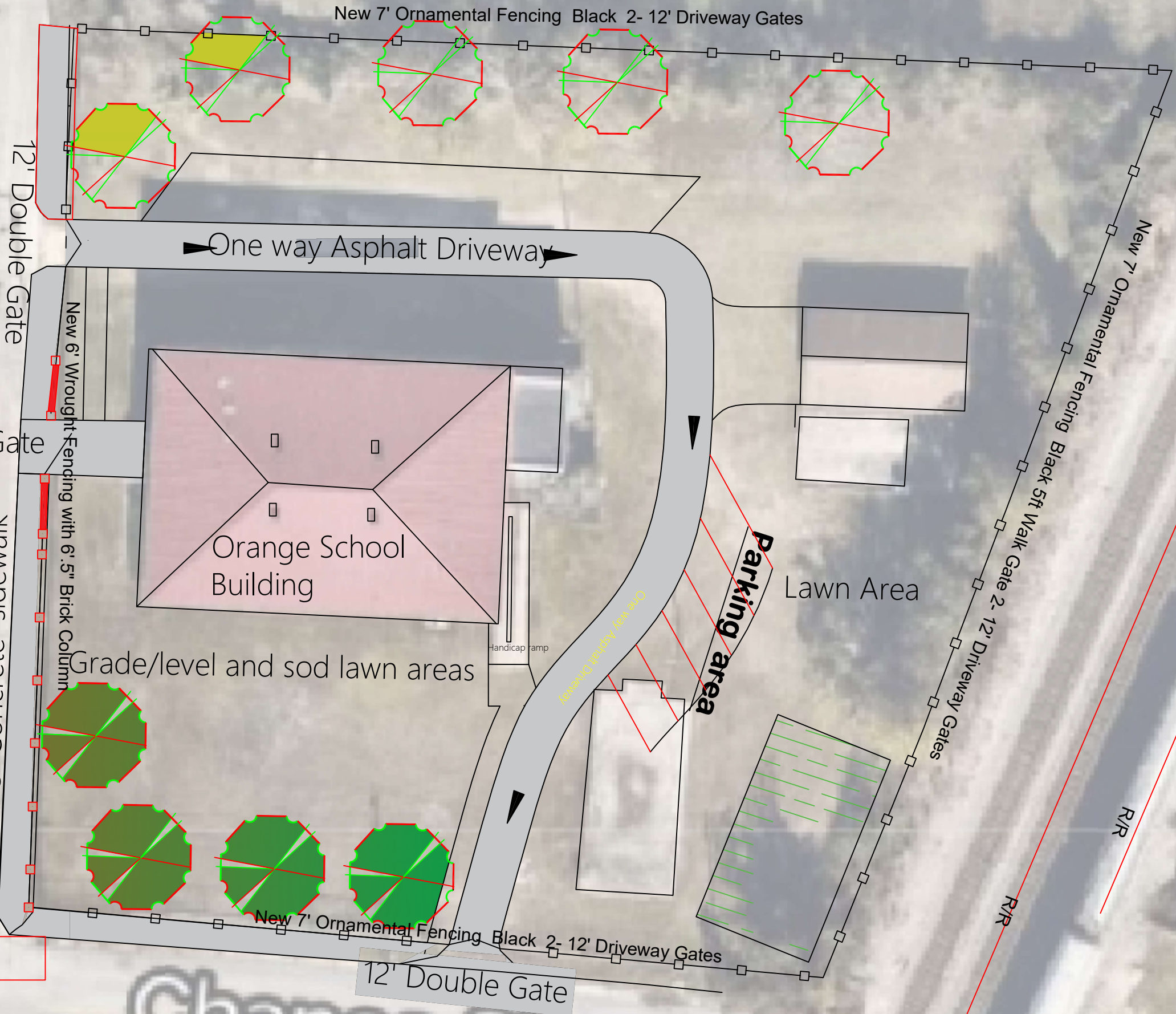
Proposed Ornamental Fencing around site with 2-12' vehicles gate



New 6' Wrought Fencing With 6'.5" brick Column



0 25 50
SCALE IN FEET



Orange Street Project Improvements FENCE IMPROVEMENT

AFFIDAVIT OF OWNERSHIP

Theodine Washington being duly sworn, deposes and says:

1. That I am the owner of the property/properties located at 600 Orange Street School in the City of Fayetteville, a political subdivision of the State of North Carolina.

2. I do hereby give permission to Anthony Ramsey to submit a Conditional Rezoning/Rezoning/Variance/Special Use (circle one) application to the City of Fayetteville on my behalf for the above referenced property/properties.

3. This authority is only granted for the application to be submitted on 5-11-23.

Theodine Washington
Signature of Affiant

Signature of Affiant

Cumberland County, North Carolina

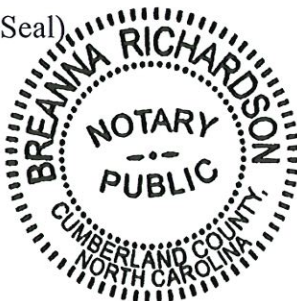
Sworn to and subscribed before me this day on the 11 day of May, 2023

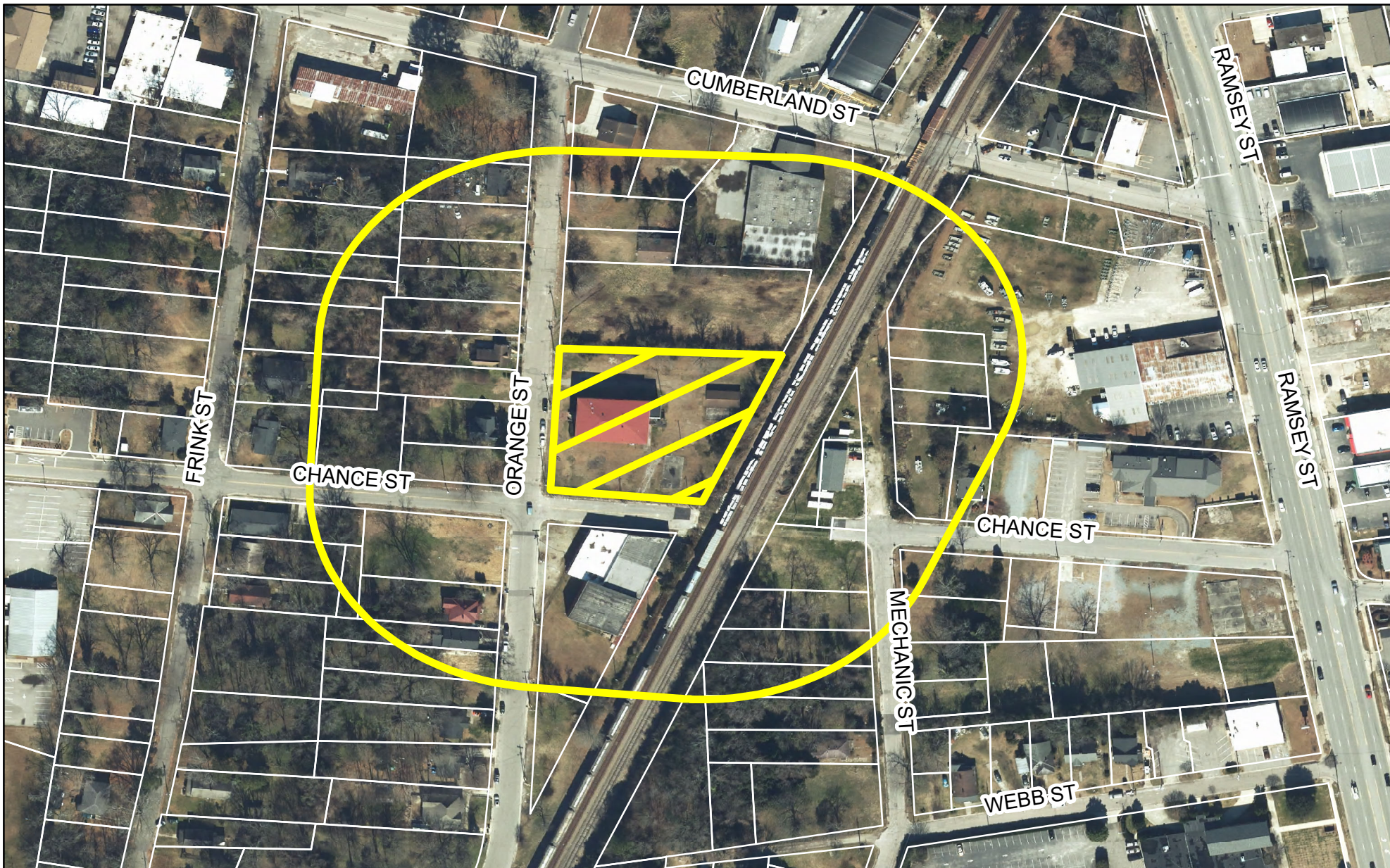
Breanna Richardson
Signature of Notary Public

Breanna Richardson, Notary Public
Printed Name of Notary Public

My Commission Expires: 10/30/2027

(Official Seal)







Aerial Notification Map

Case #: A23-22

Request: Variance
Fence

Location: 600 Orange Street

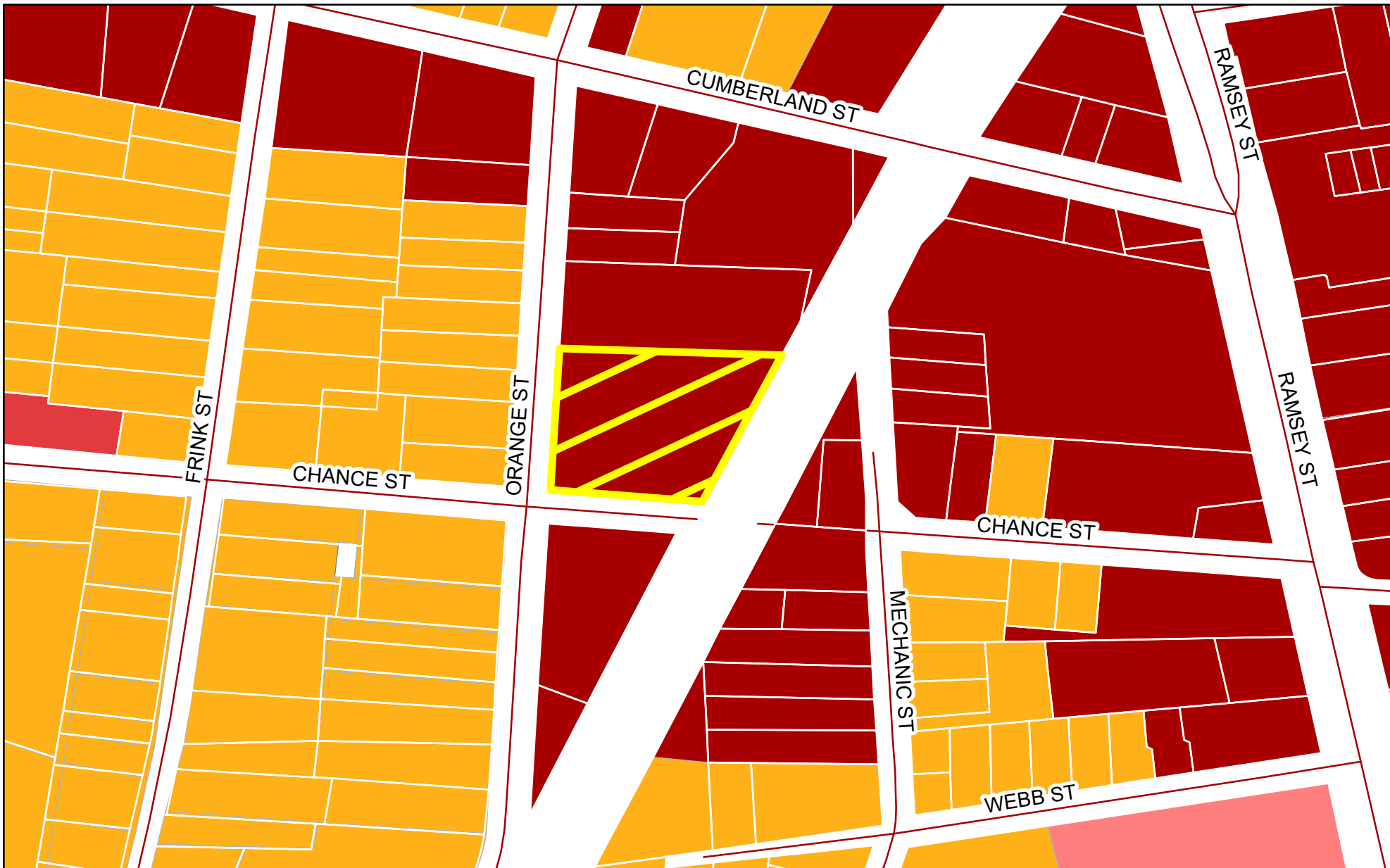
Legend

-  A23-22
-  A23-22 Notification Area



Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.











Zoning Map

Case #: A23-22

Request: Variance
Fence

Location: 600 Orange Street

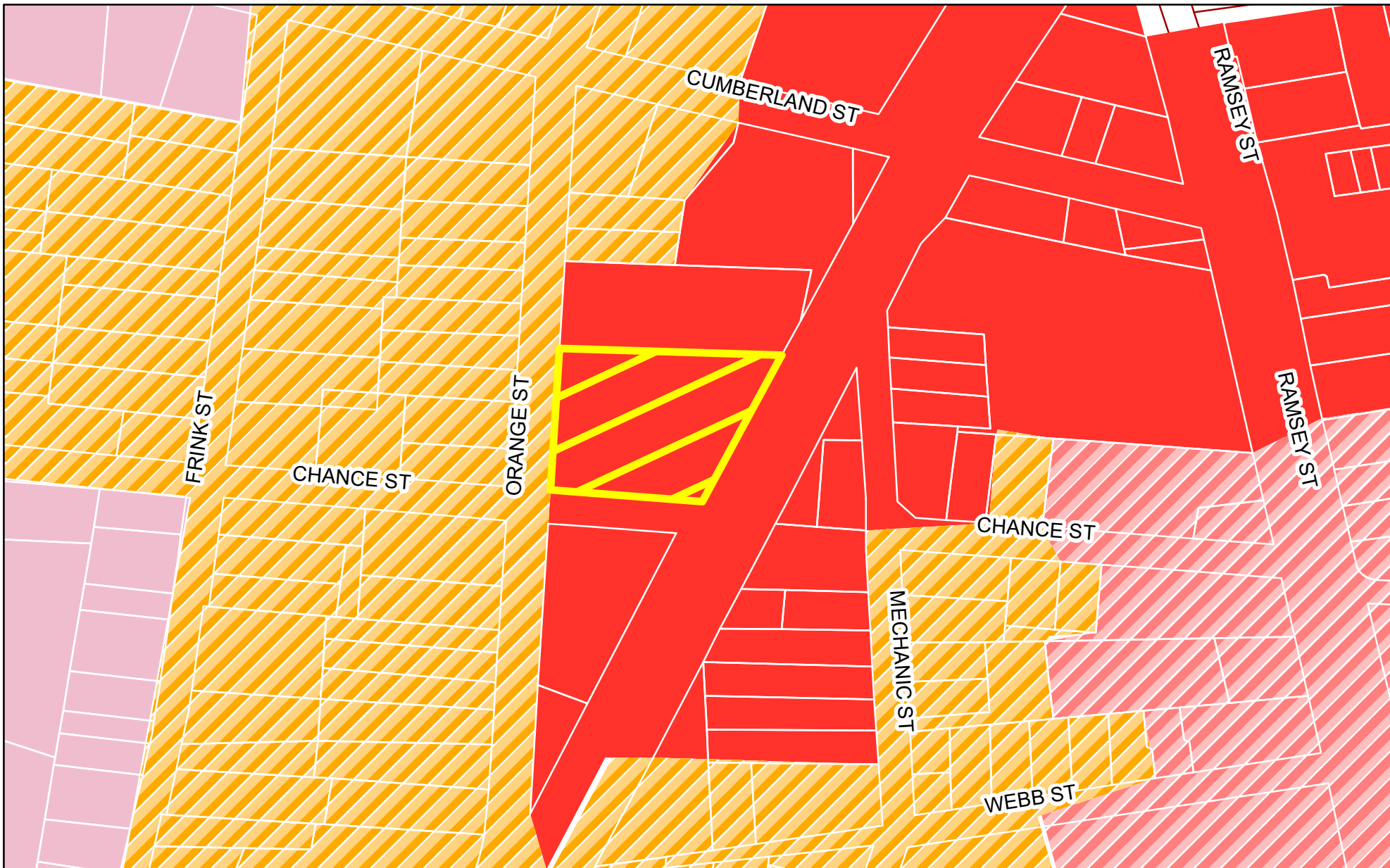
Legend

-  A23-22
-  CC - Community Commercial
-  LC - Limited Commercial
-  MR-5 - Mixed Residential 5
-  NC - Neighborhood Commercial
-  County



Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.





Land Use Map

Case #: A23-22

Request: Variance
Fence

Location: 600 Orange Street





Legend



A23-22

Land Use Plan 2040

Character Areas

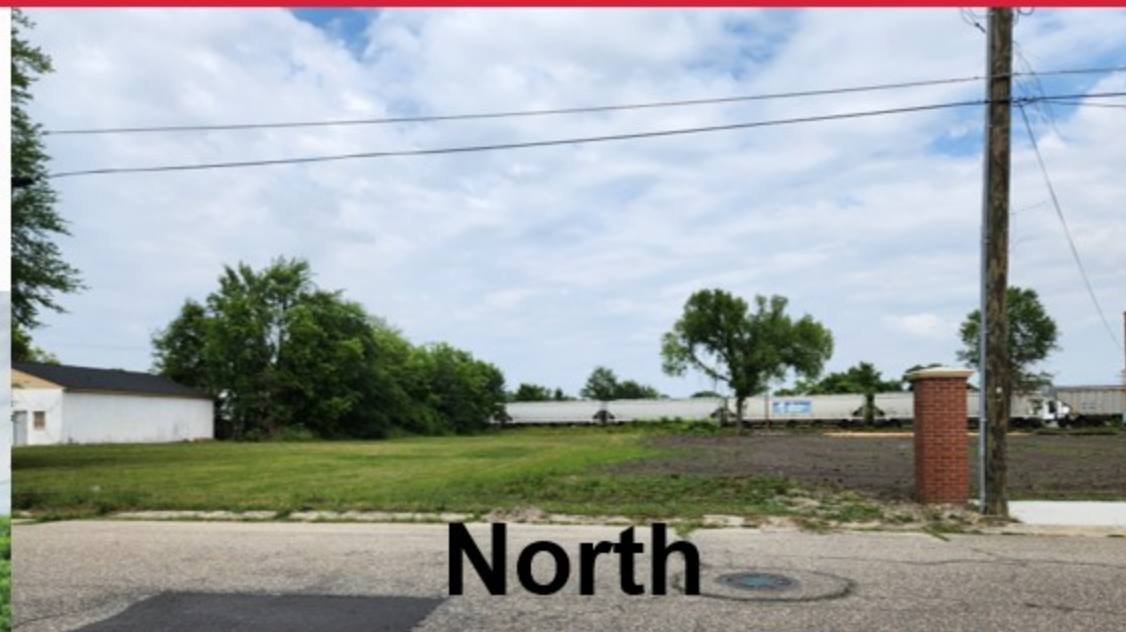
-  NIR - NEIGHBORHOOD IMPROVEMENT
-  NMU - NEIGHBORHOOD MIXED USE
-  CSR - COMMERCIAL STRIP REDEVELOPMENT
-  HC - HIGHWAY COMMERCIAL



Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.

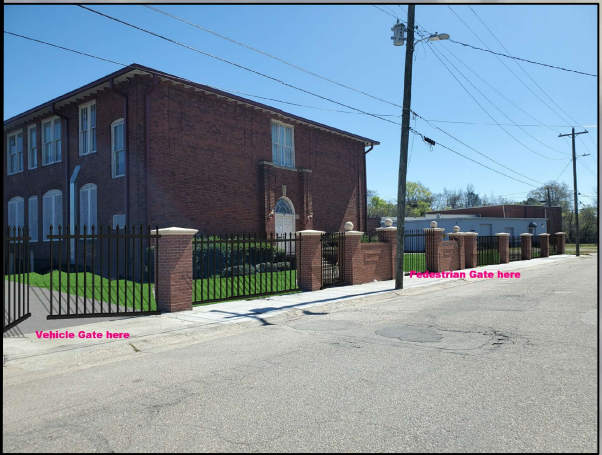








Proposed Ornamental Fencing
around site with 2-12' vehicles gate

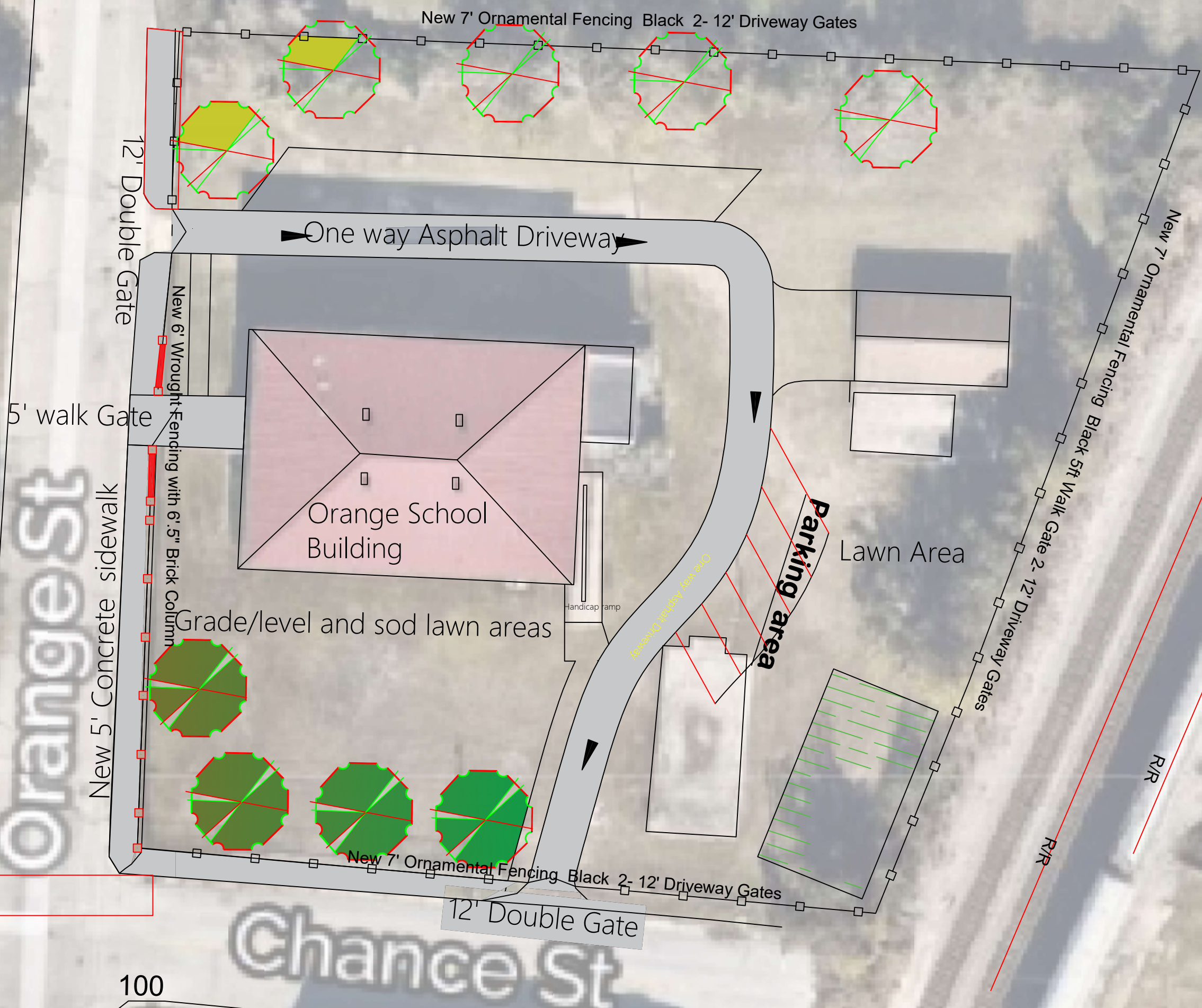


New 6' Wrought Fencing
With 6'.5" brick Column



0 25 50
SCALE IN FEET

100



Orange Street Project Improvements FENCE IMPROVEMENT



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 23-3456

Agenda Date: 7/11/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.02

TO: Zoning Commission

THRU: Will Deaton, AICP, CZO - Planning & Zoning Manager

FROM: Craig M. Harmon, CZO - Senior Planner

DATE: June 13, 2023

RE: A23-23. Order of Approval - Findings of Fact: Variance to allow increases in the maximum lot coverage and maximum size of accessory structures, located at 374 Valley Road (REID #0427834026000), containing .75 acres ± and being the property of David W. & Molly H. Alderman.

COUNCIL DISTRICT(S):
2 - Shakeyla Ingram

Relationship to Strategic Plan:

Strategic Operating Plan FY 2022
Goals 2027

Goal 4: Desirable Place to Live, Work and Recreate

Objective 4.5 - Ensure a place for people to live in great neighborhoods.

Executive Summary:

30.2. C.14 Variance:

The purpose of a variance is to allow certain deviations from the dimensional standards of this Ordinance (such as height, yard setback, lot coverage, or similar numeric standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

Variances are to be sparingly exercised and only in rare instances or under exceptional circumstances to relieve undue and unique hardships to the landowner. No change in permitted uses or applicable conditions of approval may be authorized by variance.

On June 13 the Zoning Commission held an Evidentiary Hearing regarding this case. There were no speakers in opposition. The Commission voted 5-0 to approve this Variance.

Background:

Applicant: Stephen Jackson
Owner: Wells and Molly Alderman
Architect: Charles Smith, Charles Smith Associates
Requested Action: Variance to allow increases in the maximum lot coverage and maximum size of accessory structures
Zoning District: Single Family 10 (SF-10)
Property Address: 374 Valley Road
Size: 0.75 acres ±
Existing Land Use: Single-family house
Surrounding Zoning and Land Uses

- North: SF-10 & 15 - Vacant & Single-family
- South: SF-10 & 15 - Single-family
- East: SF-10 - Single-family
- West: SF-15 - Single-family

Letters Mailed: 22

Issues/Analysis:

The property is .75 acres ± and is located at 374 Valley Road. A single-family house and garage are currently on the property, with a swimming pool under construction.

According to the application submitted, the owner is requesting variances to allow for the construction of a 540-square-foot cabana beside their pool. This is in addition to the 1,416-square-foot, 2-story garage that is already located on the property. The construction would consist of a concrete pad, a roof, and one wall. The other three sides will be open.

In 2021, a staff-initiated text amendment increased the permitted square footage of accessory structures on lots over an acre. This lot however is less than one acre and according to Section 30-3.D.3 NOTE 2 must meet the following size restrictions for an accessory structure.

“Accessory structures/use areas shall not exceed 25 percent of the allowable lot coverage. However, with the exception noted in this footnote, accessory structures shall not exceed 1200 square feet in size, and any accessory structure with a footprint over 700 square feet must be set back an additional 5 feet from any lot line. When the accessory structure is adjacent to a business zoning district the additional setback requirement shall not apply and the only size limitation is the 25 percent of the allowed building coverage. Notwithstanding the foregoing, accessory uses/structures on lots of at least one acre and that exceed the maximize size above shall comply with the footprint and setback requirements of Section 30-4.D.3.w, Accessory uses/structures on large residential lots.”

According to this same section of the UDO (30-3.D.3), lot coverage is limited to a maximum 30% of the lot area. While it does not appear that the proposed use will cause the lot to exceed this 30% maximum, the applicant has included it in their request as a precaution. The current request creates a total of 1,956 square feet of accessory structures. This exceeds the square footage allowed by the UDO by 756 square feet.

Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

1. The siting of other nonconforming or conforming uses of land or structures in the same or other districts;
2. The request for a particular use expressly, or by inference, prohibited in the district; or
3. Economic hardship or the fact that property may be utilized more profitably with a Variance.

Subsequent Development

The minimum lot size for the SF-10 zoning district is 10,000 square feet. This lot is .75 acres +/-, which is 3 times the minimum lot size in this zoning district.

The following findings are based on the responses submitted in the application by the applicant and the best available information about the proposal without the benefit of testimony provided at the evidentiary hearing.

Findings of Fact Statements as reviewed by the Planning Staff:

1. There is sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

The applicant states:

"We have a 5,400 square foot house and a 1,416 square foot 2 story garage. The variance request is not to build another structure as such but a cabana beside a pool. The construction would consist of a concrete pad, a roof, and one wall. The other three sides will be open."

2. There is sufficient evidence that any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

The applicant states:

"The practical difficulty in this case is that a cabana as described earlier, should not be considered a structure. It is not an enclosed space. "

3. There is sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

The applicant states:

"With the installation of a pool for the enjoyment of our three young children and extended family, we would also like to have a shaded area we they can supervise and enjoy our children out of the sun. It is also reasonable in that it allows our more sun-sensitive parents a space to comfortably enjoy family times."

4. There is sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

The applicant states:

"The Ordinance should not only be a guide for development but also a protection of the right of property owners to reasonably enjoy the investment(s) they make in their home and property. The spirit of the ordinance is also to enhance the quality of life for citizens"

5. There is sufficient evidence that in the granting of the Variance, the public safety and welfare has been assured and substantial justice has been done as shown by the following evidence:

The applicant states:

"If the variance is denied, it will be an injustice to our family as most of the homes in this neighborhood with detached structures do not conform to the current ordinance as they were built before the current limitations on accessory structures were adopted."

"Granting or not granting this variance is not going to affect the public at all. It will only determine whether we as homeowners can provide the most enjoyable recreation space for our family possible on our own property."

Budget Impact:

There is no immediate budgetary impact.

Options:

1. Approve the Findings as presented by the staff.
2. Approve the Findings with specific changes.

Recommended Action:

Approve the Order of Approval - Findings of Fact.

Attachments:

1. Order of Approval - Findings of Fact
2. Application
3. Aerial Notification Map
4. Zoning Map
5. Land Use Map
6. Subject Property Photos
7. Surrounding Property Photos
8. 374 Valley Site Plan
9. Elevation Base
10. Floor Plan
11. Variance Questions - 374 Valley Road
12. 30-3.D.3 - Single-Family Residential 10 (SF-10) District

**CITY OF FAYETTEVILLE
STATE OF NORTH CAROLINA
ORDER TO APPROVE A VARIANCE**

To allow increases in the maximum lot coverage and maximum size of accessory structures, located at 374 Valley Road.

VARIANCE A23-23

Property Address: 374 Valley Road
REID Number: 0427834026000
Property Owner: David W. and Molly H. Alderman

The Zoning Commission for the City of Fayetteville, NC, held an evidentiary hearing on June 13, 2023, to consider a Variance request filed by Stephen Jackson (“Applicant”), on behalf of David W. and Molly H. Alderman (“Property Owners”), to allow increases in the maximum lot coverage and maximum size of accessory structures, located at 374 Valley Road (“Subject Property”).

On May 24, 2023, a notice of public hearing was mailed to the Applicant and Property Owners, and all of the owners of property within 300 feet of the Subject Property. On May 24, 2023, a notice of public hearing sign was placed on the Subject Property. On June 2 and June 9, 2023, a notice of public hearing advertisement was placed in the legal section of *The Fayetteville Observer*.

Having considered all of the sworn testimony, evidence, and oral arguments submitted at the hearing by the parties, the Zoning Commission makes the following FINDINGS OF FACT and CONCLUSIONS OF LAW:

Findings of Fact

1. Chapter 30, Article 3, Section D.3, of the City of Fayetteville’s Code of Ordinances establishes the standards for properties located in the Single-Family Residential 10 (SF-10) District.
2. David W. and Molly H. Alderman are the owners of a residentially zoned property located at 374 Valley Road, which contains approximately 0.75 acres ± in the City of Fayetteville.
3. The Applicant filed an application for a Variance on April 28, 2023.
4. The Subject Property is zoned Single-Family Residential 10 (SF-10).
5. The Property Owners are requesting increases in the maximum lot coverage and maximum size of accessory structures.
6. The Applicant has the burden of proof to show that the Variance meets the following statutory requirements:

- a. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship.
 - b. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner as shown.
 - c. The Variance is the minimum action that will make possible a reasonable use of land or structures.
 - d. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
 - e. In granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.
7. The Subject Property is a Single-Family Residential 10 (SF-10) zoned property that is surrounded by Single-Family Residential 10 (SF-10) zoned properties to the east and south and Single-Family Residential 15 (SF-15) to the north and west.
8. The Subject Property is currently a single-family residence.
9. The Subject Property is approximately 0.75 acres and is near the intersection of Valley Road and Forest Lake Road.
10. This Variance addresses the Ordinance requirement for accessory structures not to exceed a total of 1,200 square feet on each property and that the maximum lot coverage for structures in the Single-Family Residential 10 (SF-10) zoning district do not exceed 30 percent.
11. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship because the property and existing accessory structures were built and developed prior to the adoption of the Unified Development Ordinance and that the requested structure, a cabana, is not enclosed and will be built with only one wall.
12. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner because the property was developed prior to the adoption of the Unified Development Ordinance and that a cabana is not an enclosed space and should not be considered a structure.
13. The Variance is the minimum action that will make possible a reasonable use of land or structures because the cabana will allow for better use of the owner's back yard.
14. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit because the proposed development will match the development of the existing neighborhood.
15. There is no evidence that the granting of this Variance would harm public safety and welfare, and substantial justice would be ensured. The cabana will not harm the public safety

and welfare, and substantial justice would be ensured since the structure will not be seen from the adjoining properties.

Conclusions of Law

1. The City of Fayetteville adopted the Unified Development Ordinance (UDO), codified under Chapter 30 of the City Code, to establish that “This Ordinance consolidates the City’s zoning and subdivision regulatory authority as authorized by the North Carolina General Statutes”.

2. The Applicant submitted a timely application in compliance with the UDO.

3. Notice was properly given and an evidentiary public hearing was held by the City of Fayetteville’s Zoning Commission in compliance with the laws of North Carolina.

4. The City Development Services Department is responsible for the coordination and enforcement of the UDO.

5. All of the general and specific conditions precedent to the issuance of the requested Variance HAS been satisfied as:

- a. The strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships.
- b. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner.
- c. The Variance is the minimum action that will make possible a reasonable use of land or structures.
- d. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
- e. The granting of the Variance assures the public safety and welfare and that substantial justice has been done.

WHEREFORE, BASED ON THE FOREGOING FINDINGS OF FACTS AND CONCLUSIONS OF LAW, it is ORDERED by the City of Fayetteville's Zoning Commission that the application for the issuance of the Variance be APPROVED with no conditions.

VOTE: 5 to 0

This the 13th day of June, 2023.

PAVAN PATEL
Zoning Commission Chair

Cumberland County, North Carolina

Sworn to and subscribed before me this day by Pavan Patel

on the ____ day of _____, 2023.

(Official Seal)

Signature of Notary Public

_____, Notary Public
Printed Name of Notary Public

My Commission Expires: _____

A Variance application shall be approved only upon a finding that all of the following standards are met:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships; it shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property; ~~and~~
 - We have a 5400 square feet house and a 1416 square feet 2 story garage. The variance request is not to build another structure as such but a cabana beside a pool. The construction would consist of a concrete pad, a roof and one wall. The other three sides will be open.
2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, such as location, size, or topography, and are not the result of the actions of the landowner, nor may hardships resulting from personal circumstances as well as hardships resulting from conditions that are common to the neighborhood or the general public be the basis for granting a variance; ~~and~~
 - The practical difficulty in this case is that a cabana as described earlier, should not be considered a structure. It is not an enclosed space.
3. The Variance is the minimum action that will make possible a reasonable use of land or structures; ~~and~~
 - With the installation of a pool for the enjoyment of our three young children and extended family, we would also like to have a shaded area we they can supervise and enjoy our children out of the sun. It is also reasonable in that it allows our more sun-sensitive parents a space to comfortably enjoy family times.
4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; ~~and~~
 - The Ordinance should not only be a guide for development but also a protection of the right of property owners to reasonably enjoy the investment(s) they make in their home and property. The spirit of the ordinance is also to enhance the quality of life for citizens.
5. In the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.
 - If the variance is denied, it will be an injustice to our family as most of the homes in this neighborhood with detached structures do not conform to the current ordinance as they were built before the current limitations on accessory structures was adopted.
 - Granting or not granting this variance is not going to affect the public at all. It will only determine whether we as homeowners can provide the most enjoyable recreation space for our family possible on our own property.

PART II - CODE OF ORDINANCES

CHAPTER 30 – UNIFIED DEVELOPMENT ORDINANCE

Article 30-3: Zoning Districts

30-3.D. Residential Base Zoning Districts

30-3.D.3. Single-Family Residential 10 (SF-10) District

SF-10 SINGLE-FAMILY RESIDENTIAL 10 DISTRICT	PURPOSE				
	The Single-Family Residential 10 (SF-10) District is established to accommodate principally single-family detached residential development at low densities, and to accommodate flexibly-designed residential development that provides variable housing types and arrangements that respond to environmental and site conditions. Uses within the district are subject to the design standards in Article 30-5 : Development Standards. The district accommodates two- to four-family dwellings designed to appear as single-family detached homes and zero lot line development subject to the requirements of this Ordinance. District regulations discourage any use that substantially interferes with the development of single-family dwellings and that is detrimental to the quiet residential nature of the district. Also allowed are complementary uses usually found in residential zoning districts, such as parks, open space, minor utilities, accessory dwellings of up to 800 square feet in size, schools, and places of worship.				
DIMENSIONAL STANDARDS					
DIMENSIONAL STANDARD	SINGLE- FAMILY DETACHED DWELLINGS	SINGLE- FAMILY ATTACHED DWELLINGS	TWO- TO FOUR- FAMILY DWELLINGS	ALL OTHER PRINCIPAL USES	ACCESSORY STRUCTURES
Lot area per unit, min. (sq. ft.)	10,000	9,000	7,500	10,000	n/a
Lot width, min. (ft.)	75				n/a
Lot coverage, max. (% of lot area)	30				[2]
Height, max. (ft.)	35				25; 15 where abutting a single- family district or use and the setback is less than 10'
Front and corner side setback, min. (ft.)	30 feet or 55 feet from centerline of private streets				Not allowed in front, side, or corner side setbacks
Side setback, min. (ft.)	10				

Rear setback, min. (ft.)	35; 20' when corner side setback is 30' or more		5
Spacing between buildings, min. (ft.)	n/a	20	5
Zero lot line development standards	Zero lot line development shall comply with the maximum gross residential density standards. Setbacks and lot area for lots abutting the perimeter of the development shall meet the district minimums; otherwise no setbacks, lot area, lot coverage, or building spacing requirements shall apply. [4]		

NOTES:

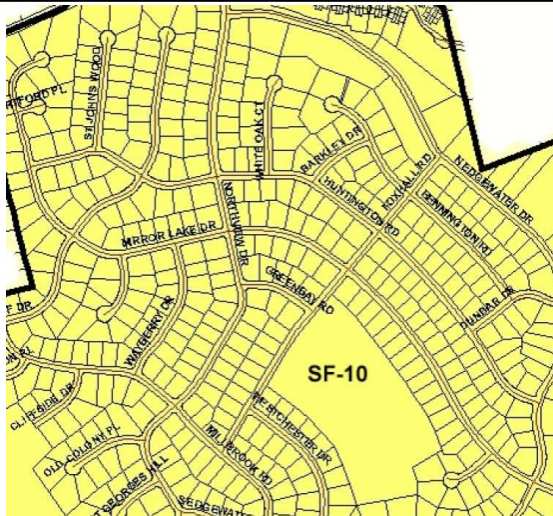
[1] [Reserved].

[2] Accessory structures/use areas shall not exceed 25 percent of the allowable lot coverage. However, with the exception noted in this footnote, accessory structures shall not exceed 1200 square feet in size, and any accessory structure with a footprint over 700 square feet must be set back an additional 5 feet from any lot line. When the accessory structure is adjacent to a business zoning district the additional setback requirement shall not apply and the only size limitation is the 25 percent of the allowed building coverage. Notwithstanding the foregoing, accessory uses/structures on lots of at least one acre and that exceed the maximize size above shall comply with the footprint and setback requirements of Section 30-4.D.3.w, Accessory uses/structures on large residential lots.

[3] [Reserved.]

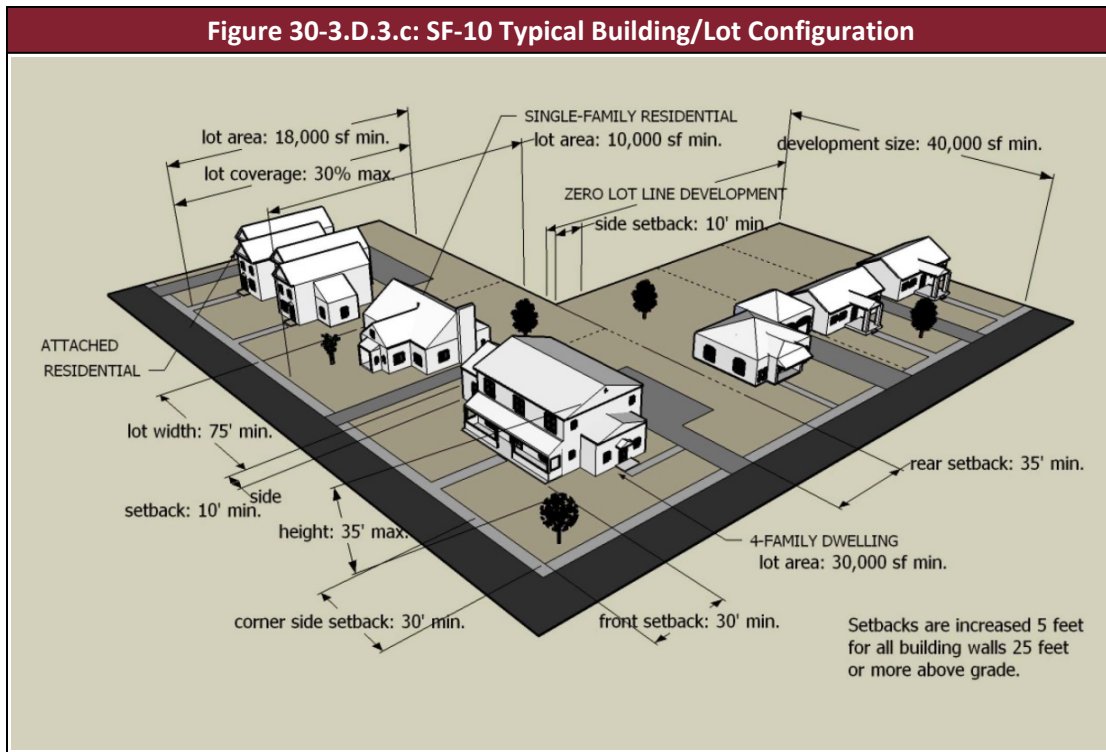
[4] Zero lot line development is subject to standards in Section 30-3.B.2 and, on a tract or site of three acres in area or less may require approval of a Neighborhood Compatibility Permit (see Section 30-2.C.21 Neighborhood Compatibility Permit).

**Figure 30-3.D.3.a:
SF-10 Typical Lot Pattern**



**Figure 30-3.D.3.b:
SF-10 Typical Building Form**





(Ord. No. S2011-014, § 1.2, 11-28-2011; Ord. No. S2012-001, Pt. 3, § 3.1, 1-23-2012; Ord. No. S2012-025, § 9, 11-13-2012; Ord. No. S2014-015, § 5, 8-11-2014; Ord. No. S2014-005, § 3, 1-27-2014; Ord. No. S2014-015, § 5, 8-11-2014; Ord. No. S2015-008, § 4, 8-10-2015; Ord. No. S2021-038, § 2, 10/25/2021; Ord. No. S2023-016, § 1, 03/23/2023)

Effective on: 8/10/2015

Project Overview**#1011067****Project Title:** 374 Valley Road Fayetteville, NC 28305**Jurisdiction:** City of Fayetteville**Application Type:** 5.4) Variance**State:** NC**Workflow:** Staff Review**County:** Cumberland**Project Location****Project Address or PIN:** 374 VALLEY RD (0427834026000)**Zip Code:** 28305**GIS Verified Data****Property Owner: Parcel**

- 374 VALLEY RD: ALDERMAN, DAVID WELLS IV;ALDERMAN, MOLLY H

Acreage: Parcel

- 374 VALLEY RD: 0.75

Zoning District: Zoning District

- 374 VALLEY RD: SF-10

Subdivision Name:**Fire District:****Airport Overlay District:****Hospital Overlay District:****Coliseum Tourism District:****Cape Fear District:****Downtown Historic District:****Haymount Historic District:****Floodway:****100 Year Flood:** <100YearFlood>**500 Year Flood:** <500YearFlood>**Watershed:****Variance Request Information****Requested Variances:** Lot coverage,maximum Size Accessory Structures**Section of the City Code from which the variance is being requested.:** 30-3.D.3**Describe the nature of your request for a variance and identify the standard(s)/requirement(s) of the City Code proposed to be varied.:**

Exceeding maximum lot coverage for new pool house

Identify the zoning district designation and existing use of land for all adjacent properties, including those across the street.:

SF-10

Exceeding maximum Size Accessory Structures

Justification for Variance Request - Use this and the following pages to answer the questions (upload additional sheets if necessary).

The Variance Standards states: A variance application shall be approved only upon a finding that **all** of the following standards are met.

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships; it shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. Any practical difficulties or unnecessary hardships result from unique

3. circumstances related to the land, such as location, size, or topography, and are not the result from conditions that are common to the neighborhood or the general public be the basis from granting a variance;
4. The Variance is the minimum action that will make possible a reasonable use of land or structures;
5. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; and
6. In the granting of this Variance, the public safety and welfare have been assured and substantial justice has been done.

Expiration - Variance

30-2.C.14.e.5.- Variance approval shall automatically expire if the applicant does not record the Variance with the Cumberland County Register of Deeds within 30 days after the date the Variance is approved.

Please complete the following five (5) questions to verify the evidence that all the required standards are applicable to your property and/or situation.

Please describe how strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.:

Need lot coverage variance for pool house

Please describe how any practical difficulties or unnecessary hardships result from unique circumstances related to the land, such as location, size, or topography, and are not the result of the actions of the landowner, nor may hardships resulting from personal circumstances as well as hardships resulting from conditions that are common to the neighborhood or the general public be the basis for granting a variance.:

The lot coverage variance will meet all setbacks

Please describe how the Variance is the minimum action that will make possible a reasonable use of land or structures.:

The variance will meet all setbacks and allow for a pool house

Please describe how the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit.:

The variance will meet all codes and setbacks

Please describe how, in the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.:

It meets all the codes required by Fayetteville NC Development

Height of Sign Face : 16

Height of Sign Face: 16

Square Footage of Sign Face: 540

Square Footage of Sign Face: 540

Square Footage of Sign Face: 540

Square Footage of Sign Face: 540

Square Footage of Sign Face: 540

Square Footage of Sign Face: 540

Square Footage of Sign Face: 540

Height of Sign Face: 16

Square Footage of Sign Face : 540

Square Footage of Sign Face: 540

Square Footage of Sign Face: 540

Square Footage of Sign Face: 540

Square Footage of Sign Face: 540

Square Footage of Sign Face: 540

Primary Contact Information

Contractor's NC ID#:

Project Owner

Wells and Molly Alderman

374 Valley Road

Fayetteville, NC 28305

P:910-739-0405

wells@agresidentialnc.com

Project Contact - Agent/Representative

Wells and Molly Alderman

374 Valley Road
Fayetteville, NC 28305
P:910-739-0405
wells@agresidentialnc.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

NC State General Contractor's License Number:

Indicate which of the following project contacts should be included on this project: Architect

Project Contact - Primary Point of Contact for the Architect

Charles Smith
Charles Smith Associates
907 S. McPherson Church Road
Fayetteville, NC 28303
P:910-484-5924
csassociates@nc.rr.com

NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor's #3 License Number:

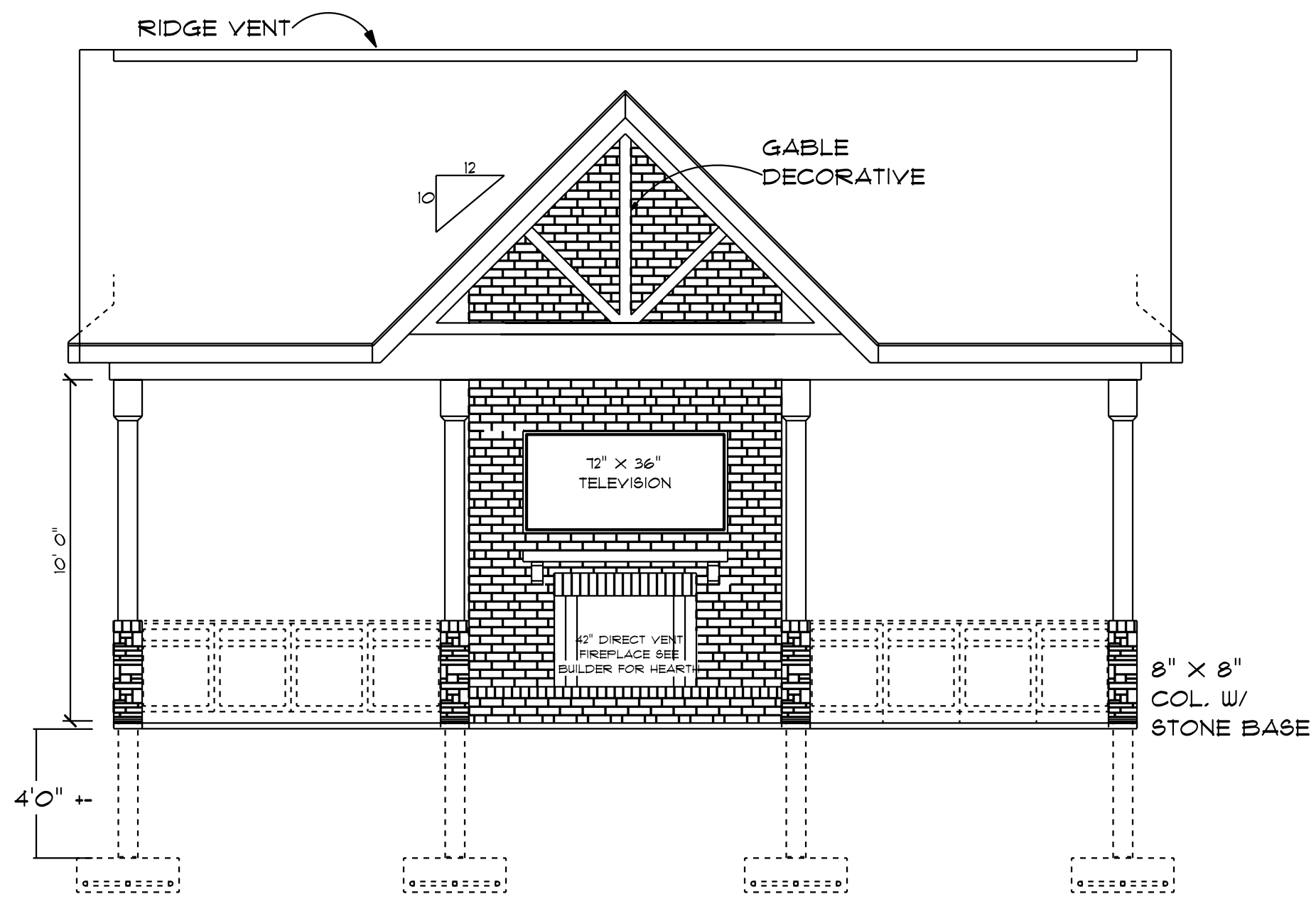
NC State Electrical Contractor #1 License Number:

NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

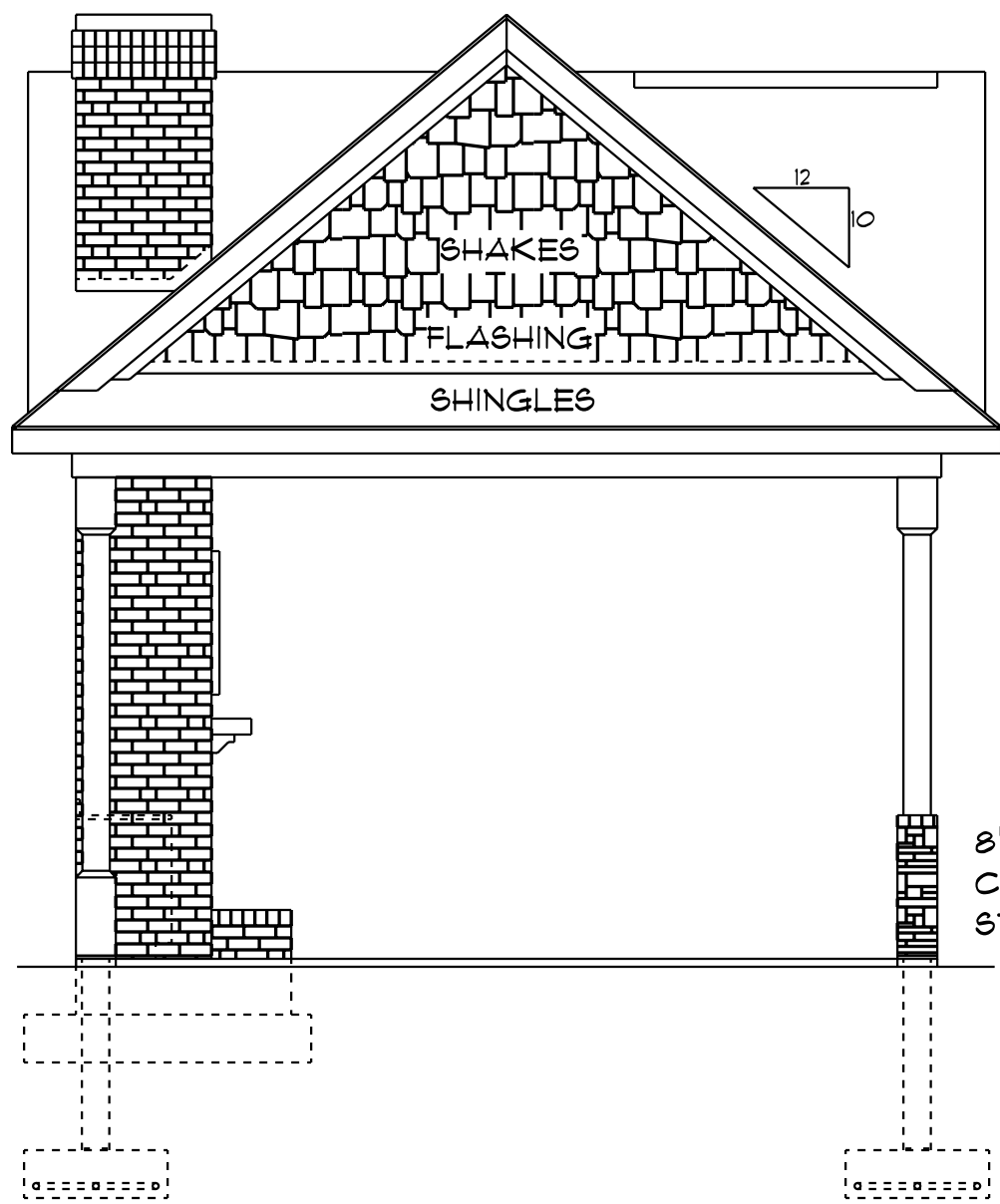
NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:



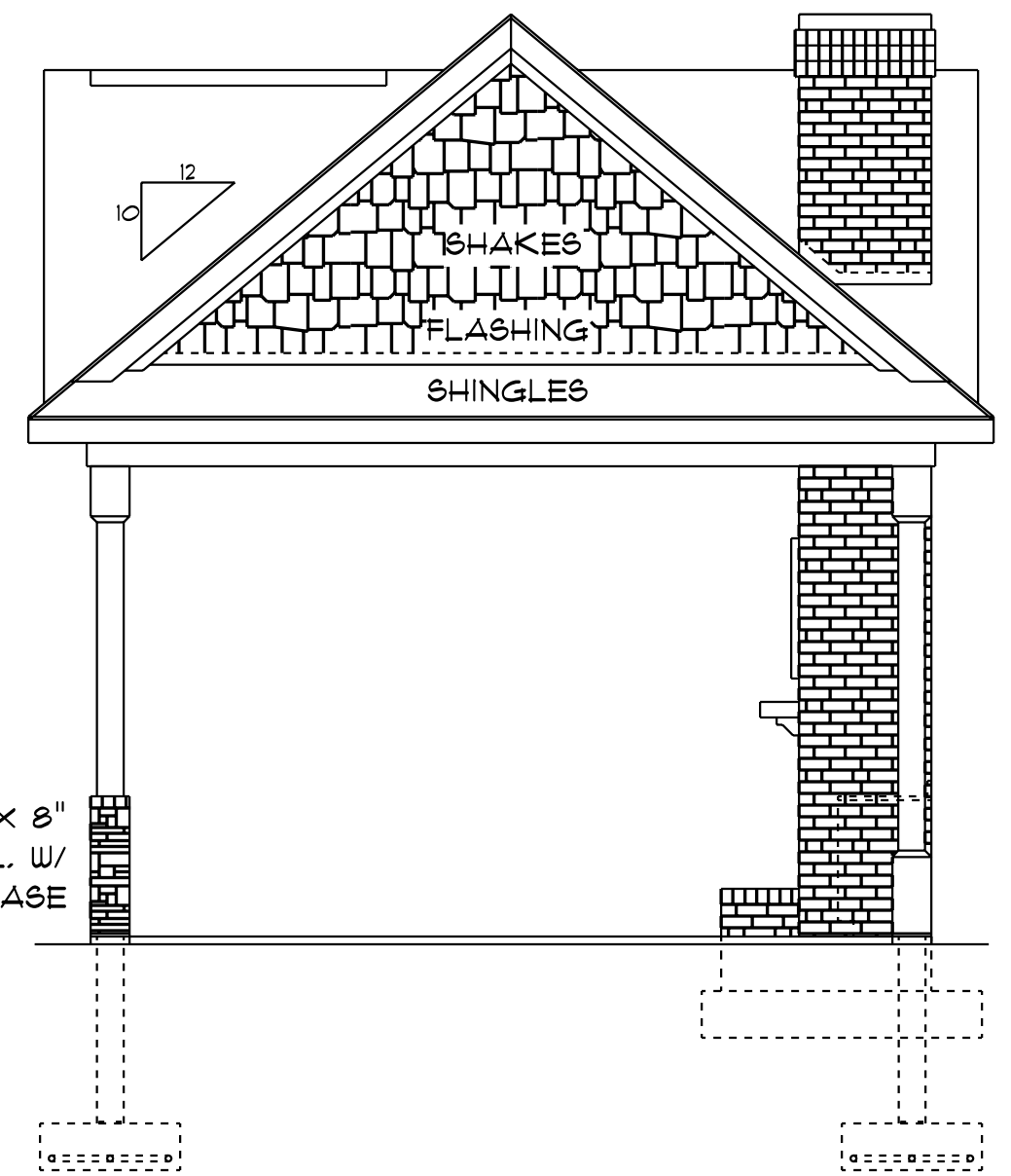
FRONT ELEVATION

SCALE: 1/4" = 1'0"



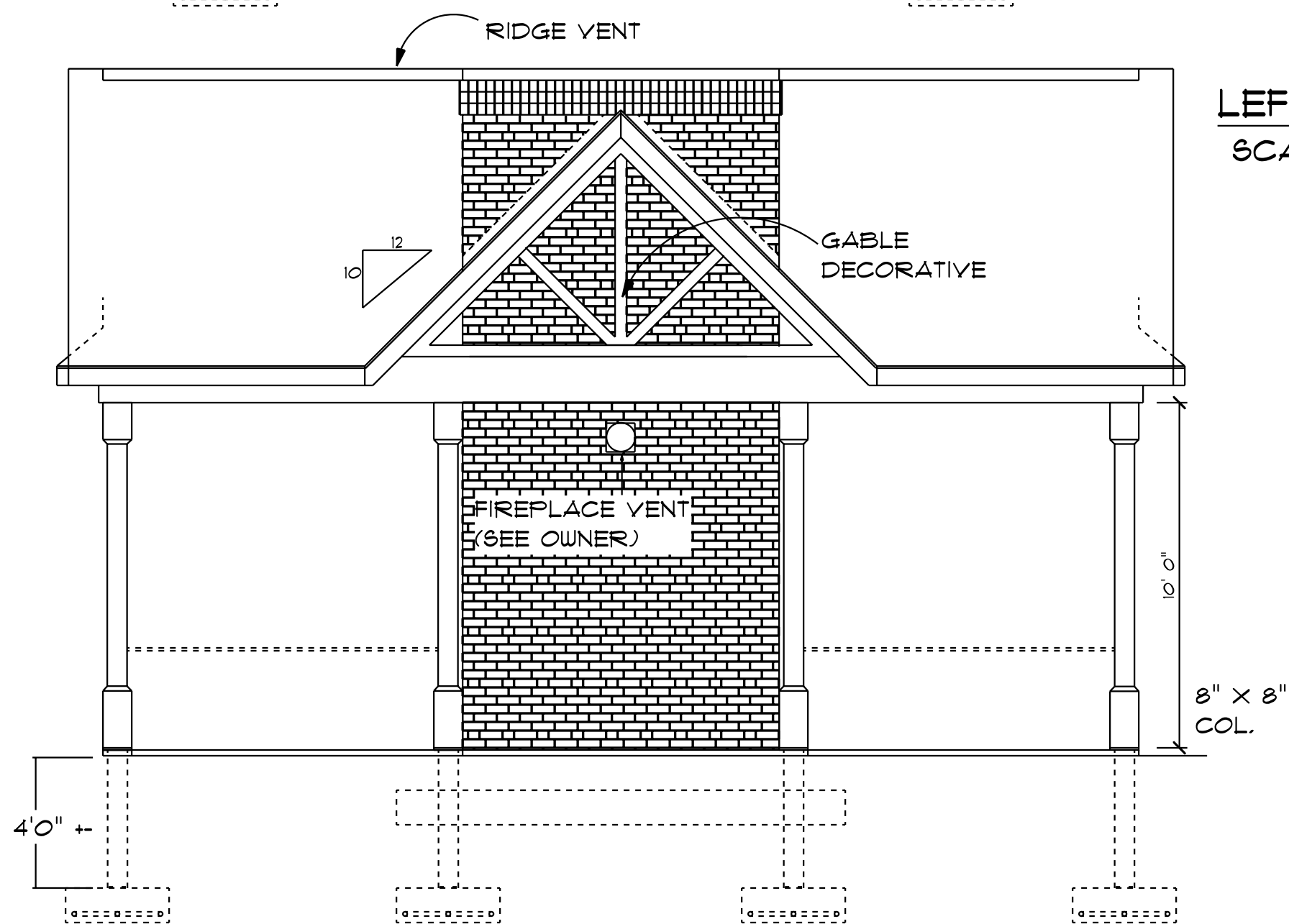
RIGHT ELEVATION

SCALE: 1/4" = 1'0"



LEFT ELEVATION

SCALE: 1/4" = 1'0"



REAR ELEVATION

SCALE: 1/4" = 1'0"

540 S/F TOTAL AREA

"I DO HEREBY CERTIFY THAT THIS DRAWING OR PLAN AND RELATED SPECIFICAT
MEET ALL LOCAL REQUIREMENTS AND ARE IN SUBSTANTIAL CONFORMITY WITH VA
MINIMUM PROPERTY REQUIREMENTS INCLUDING THE ENERGY CONSERVATION STAND
OF THE 1992 COUNCIL OF AMERICAN BUILDING OFFICIALS (CABO) MODEL ENERGY

CHARLES SMITH ASSOCIATES
© copyright 2023

SCALE: AS NOTED

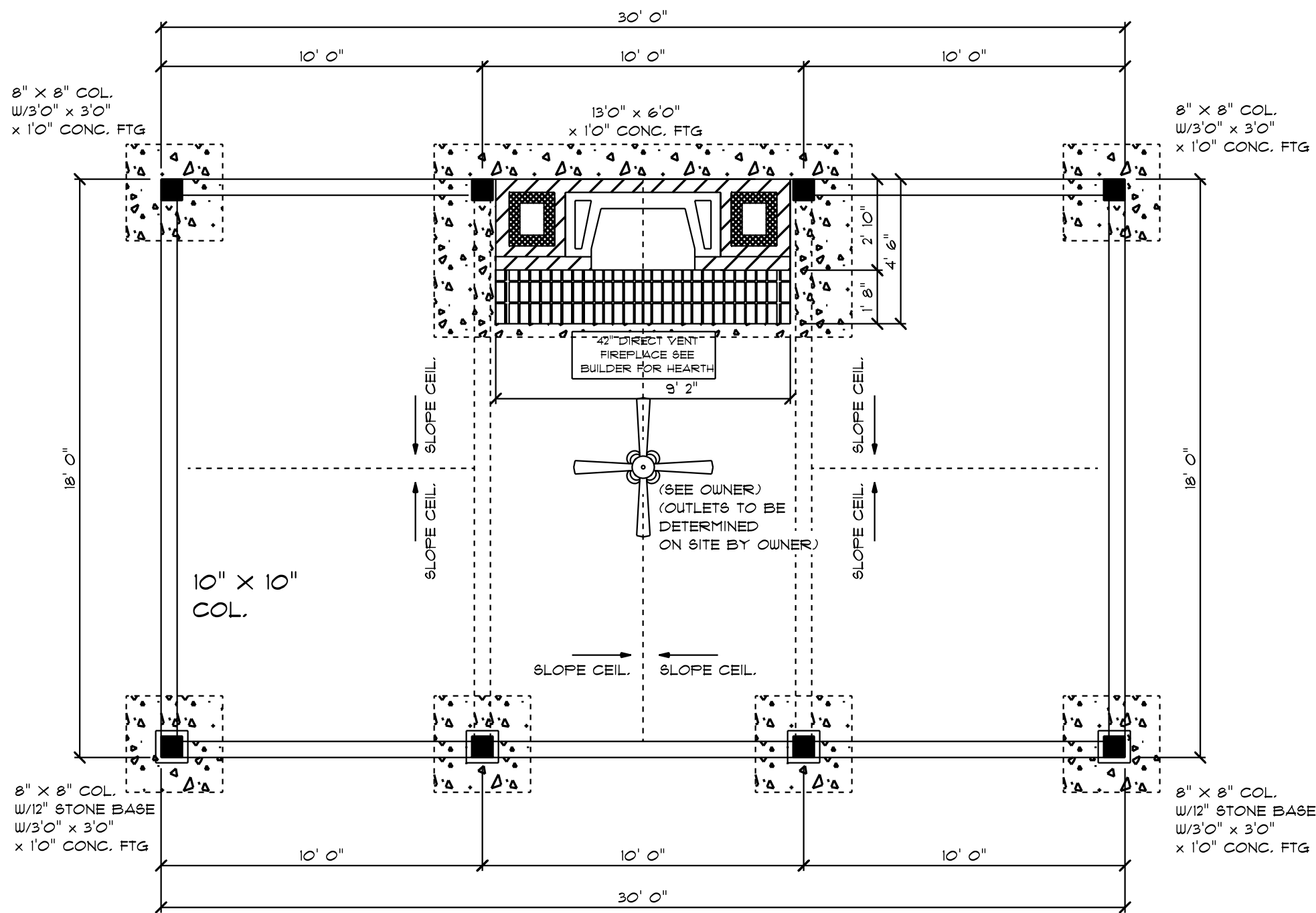
DATE: FEB. 2023

DRAWN BY: ECL

CHARLES SMITH ASSOC.
RESIDENTIAL DESIGNER
FAYETTEVILLE, NC
PHONE: (910) - 484 - 5924
WWW.CSAPLANS.COM

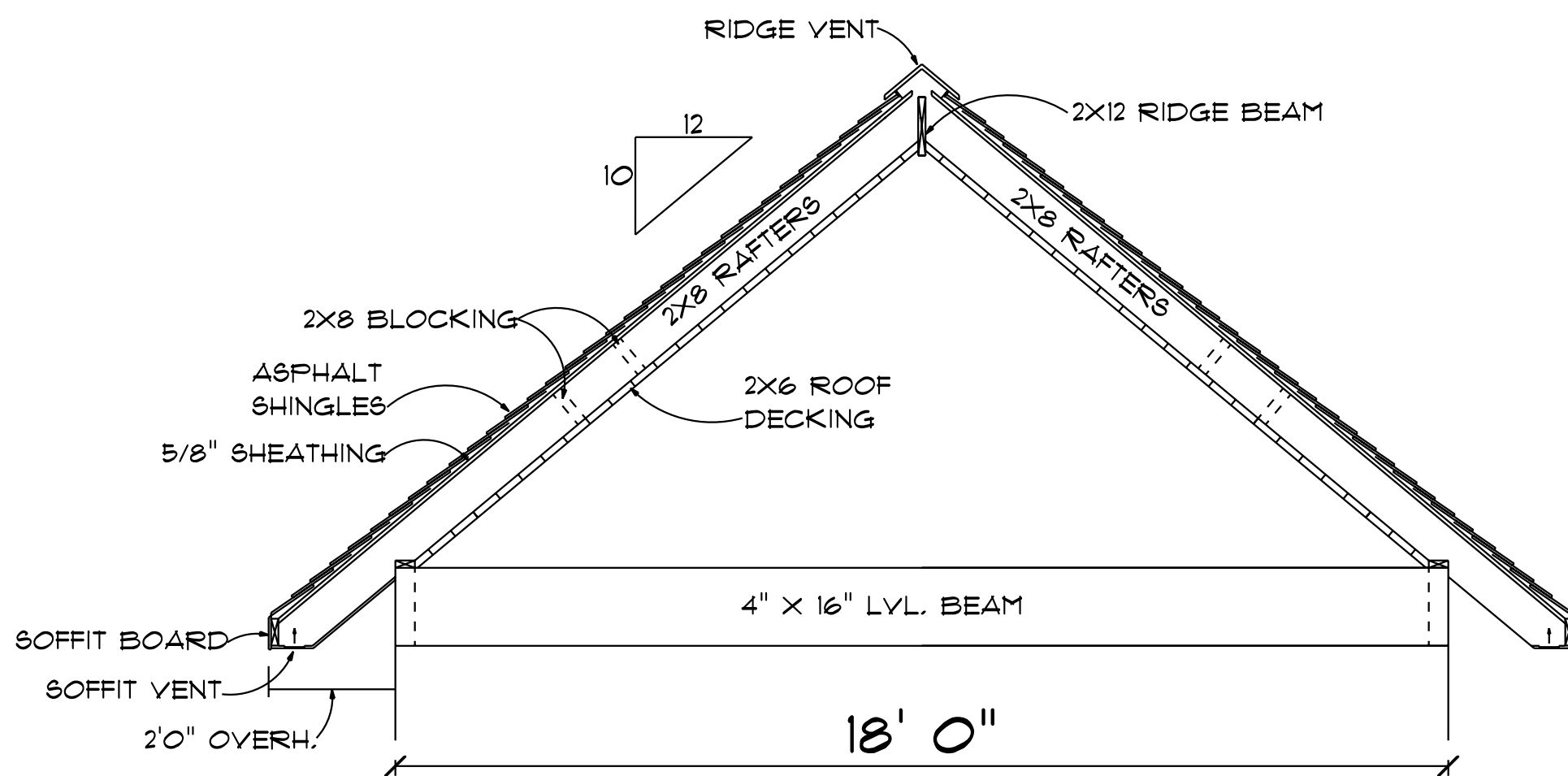
**PROPERTY OF
WELLS & MOLLY ALDERMAN**

WMA-540



FLOOR PLAN/FOUNDATION

SCALE: 1/4" = 1'0"



ROOF DETAIL

NO SCALE

540 S/F TOTAL AREA

"I DO HEREBY CERTIFY THAT THIS DRAWING OR PLAN AND RELATED SPECIFICAT
MEET ALL LOCAL REQUIREMENTS AND ARE IN SUBSTANTIAL CONFORMITY WITH VA
MINIMUM PROPERTY REQUIREMENTS INCLUDING THE ENERGY CONSERVATION STAND
OF THE 1992 COUNCIL OF AMERICAN BUILDING OFFICIALS (CABO) MODEL ENERGY

CHARLES SMITH ASSOCIATES
© copyright 2023

SCALE: AS NOTED

DATE: FEB. 2023

DRAWN BY: ECL

CHARLES SMITH ASSOC.
RESIDENTIAL DESIGNER
FAYETTEVILLE, NC
PHONE: (910) - 484 - 5924
WWW.CSAPLANS.COM

PROPERTY OF
WELLS & MOLLY ALDERMAN

WMA-540



Affidavit of Workers' Compensation Coverage
(N.C.G.S. Chapter 97)

FOR PROJECTS OF \$30,000 OR MORE

The undersigned applicant for the job located at 394 Valley Road, being the:

☒ Contractor
☐ Owner
☐ Officer/Agent of the Contractor or Owner

does hereby aver/affirm under penalties of perjury that the person(s), firm(s), or corporation(s) performing the work set forth in the permit:

N.C.G.S. Chapter 97

☒ has/have three (3) or more employees and have obtained workers' compensation insurance to cover them while working on the project for which this permit is sought.

☐ has/have one or more sub-contractor(s) and has obtained workers' compensation insurance covering them while working on the project for which this permit is sought.

☐ has/have one or more sub-contractor(s), who has/have no employees and has waived, in writing, their right to coverage by their right to coverage by their contractor or have their own policy of workers compensation covering themselves while working on the project for which this permit is sought.

☐ has/have not more than two (2) employees and no subcontractors while working on the project for which this permit is sought.

It is understood that the Development Services Department issuing the permit may require certificates of coverage and/or waivers of workers' compensation insurance coverage or copies of other license and taxes prior to issuance of the permit and at any time during the permitted work form any person, firm or corporation carrying out the work.

Firm Name: TAYLOR, Inc. DBA Greenstate LANDSCAPING
Print: ROGER TAYLOR Signature: Roger Taylor
Title: Sec. / Treasurer Date: 4/25/2023


DO NOT REMOVE!

Details: Appointment of Lien Agent

Entry #: 1905370

Filed on: 04/25/2023

Initially filed by: Myra

Designated Lien Agent	Project Property	Print & Post
<p>Chicago Title Company, LLC</p> <p>Online: www.liensnc.com (http://www.liensnc.com)</p> <p>Address: 223 S. West Street, Suite 900 / Raleigh, NC 27603</p> <p>Phone: 888-690-7384</p> <p>Fax: 913-489-5231</p> <p>Email: support@liensnc.com (mailto:support@liensnc.com)</p>	<p>374 Valley Road Fayetteville, NC 28305 Cumberland County</p> <p>Property Type</p> <p>1-2 Family Dwelling</p>	 <p>Contractors: Please post this notice on the Job Site.</p> <p>Suppliers and Subcontractors: Scan this image with your smart phone to view this filing. You can then file a Notice to Lien Agent for this project.</p>
Owner Information	Date of First Furnishing	
<p>Wells Alderman 374 Valley Road Fayetteville, NC 28305 United States Email: greenstate@ncrbiz.com Phone: 910-739-0405</p>	<p>04/25/2023</p>	

[View Comments \(0\)](#)

Technical Support Hotline: (888) 690-7384



Affidavit of Workers' Compensation Coverage
(N.C.G.S. Chapter 97)

FOR PROJECTS OF \$30,000 OR MORE

The undersigned applicant for the job located at 394 Valley Road, being the:

☒ Contractor
☐ Owner
☐ Officer/Agent of the Contractor or Owner

does hereby aver/affirm under penalties of perjury that the person(s), firm(s), or corporation(s) performing the work set forth in the permit:

N.C.G.S. Chapter 97

☒ has/have three (3) or more employees and have obtained workers' compensation insurance to cover them while working on the project for which this permit is sought.

☐ has/have one or more sub-contractor(s) and has obtained workers' compensation insurance covering them while working on the project for which this permit is sought.

☐ has/have one or more sub-contractor(s), who has/have no employees and has waived, in writing, their right to coverage by their right to coverage by their contractor or have their own policy of workers compensation covering themselves while working on the project for which this permit is sought.

☐ has/have not more than two (2) employees and no subcontractors while working on the project for which this permit is sought.

It is understood that the Development Services Department issuing the permit may require certificates of coverage and/or waivers of workers' compensation insurance coverage or copies of other license and taxes prior to issuance of the permit and at any time during the permitted work form any person, firm or corporation carrying out the work.

Firm Name: TAYLOR, Inc. DBA Greenstate LANDSCAPING
Print: ROGER TAYLOR Signature: Roger Taylor
Title: Sec. / Treasurer Date: 4/25/2023


DO NOT REMOVE!

Details: Appointment of Lien Agent

Entry #: 1905370

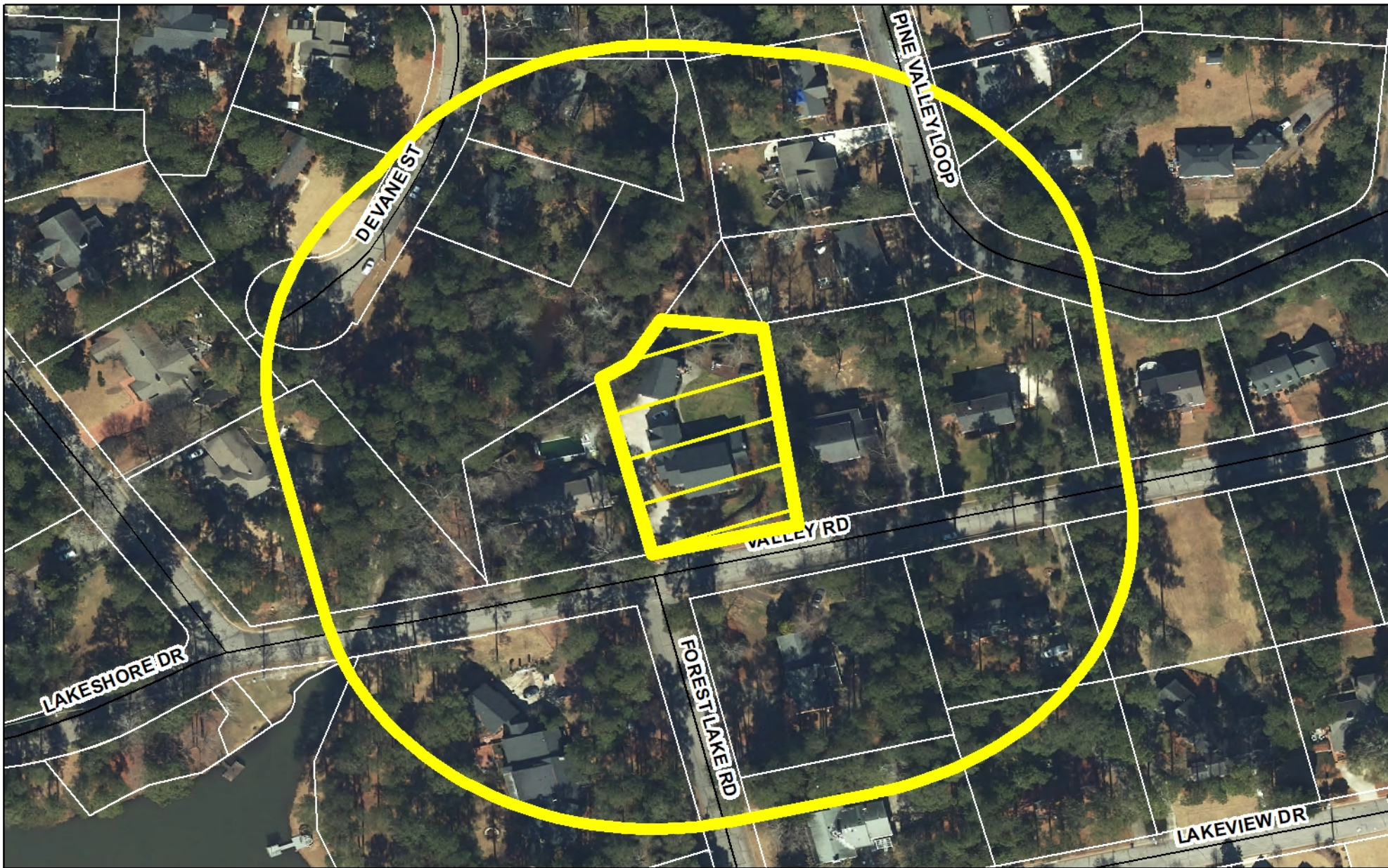
Filed on: 04/25/2023

Initially filed by: Myra

Designated Lien Agent	Project Property	Print & Post
<p>Chicago Title Company, LLC</p> <p>Online: www.liensnc.com (http://www.liensnc.com)</p> <p>Address: 223 S. West Street, Suite 900 / Raleigh, NC 27603</p> <p>Phone: 888-690-7384</p> <p>Fax: 913-489-5231</p> <p>Email: support@liensnc.com (mailto:support@liensnc.com)</p>	<p>374 Valley Road Fayetteville, NC 28305 Cumberland County</p> <p>Property Type</p> <p>1-2 Family Dwelling</p>	 <p>Contractors: Please post this notice on the Job Site.</p> <p>Suppliers and Subcontractors: Scan this image with your smart phone to view this filing. You can then file a Notice to Lien Agent for this project.</p>
Owner Information	Date of First Furnishing	
<p>Wells Alderman 374 Valley Road Fayetteville, NC 28305 United States Email: greenstate@ncrbiz.com Phone: 910-739-0405</p>	<p>04/25/2023</p>	

[View Comments \(0\)](#)

Technical Support Hotline: (888) 690-7384



Aerial Notification Map

A23-23

Request: Variance

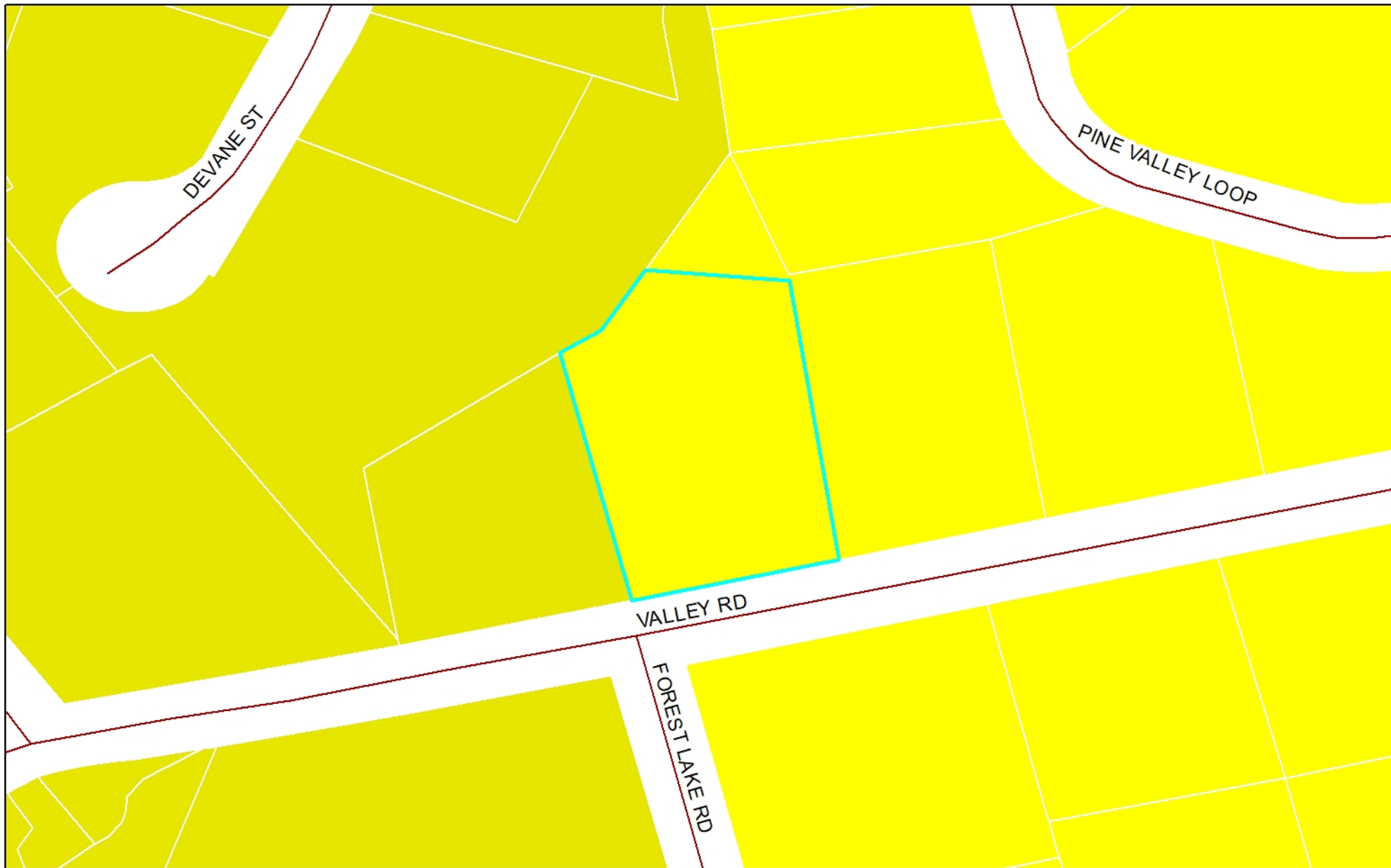
Address: 374 Valley Rd

Legend

-  300' Notification Area
- Parcels



Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.





Zoning Map

A23-23

Request: Variance

Address: 374 Valley Rd

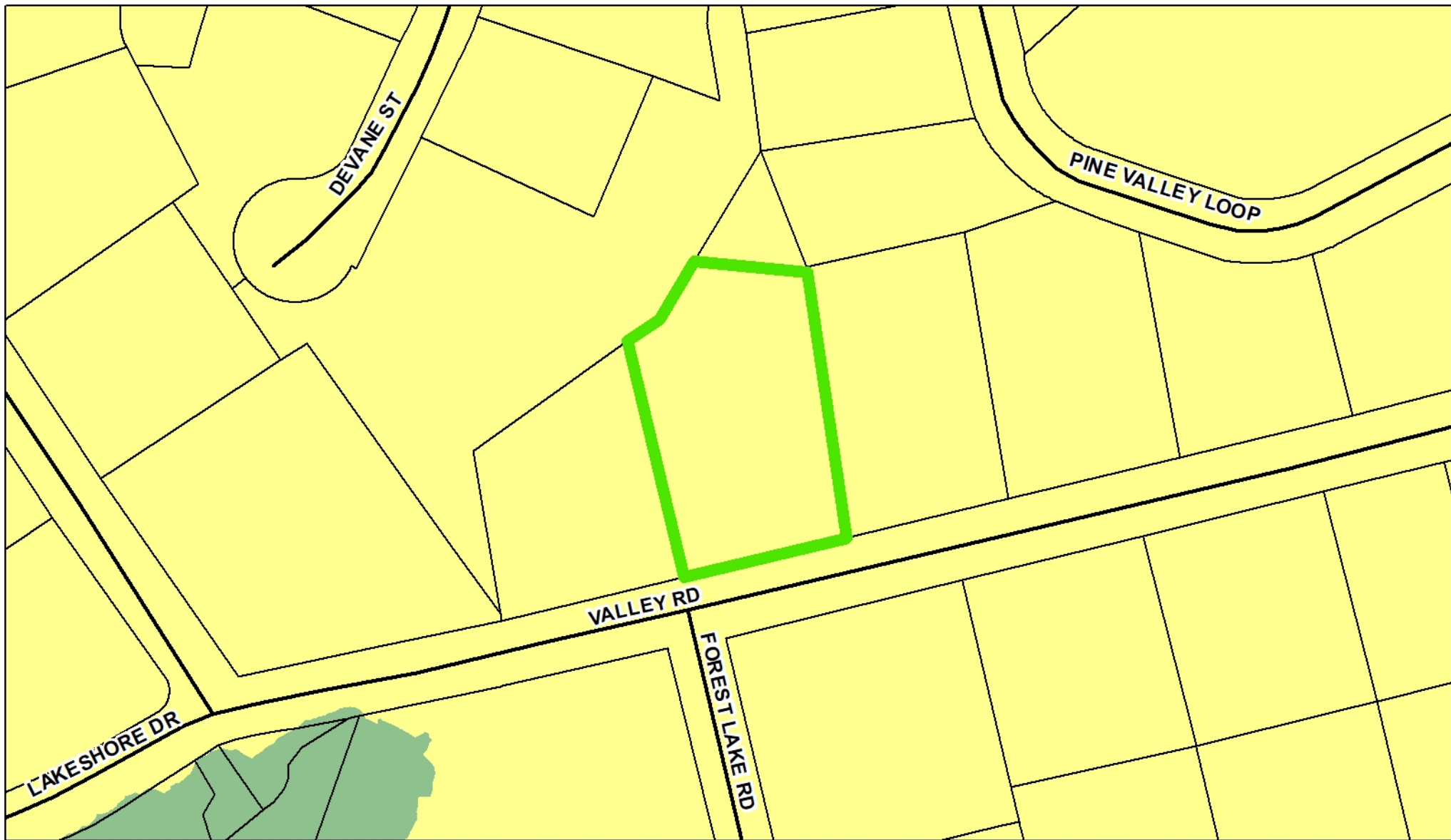
Legend

-  SF-10 - Single-Family Residential 10
-  SF-15 - Single-Family Residential 15



Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.





Land Use Plan Map

A23-23

Request: Variance

Address: 374 Valley Rd


Legend




Parcels

Future Land Use 2040

Character Areas

 PARKOS - PARK / OPEN SPACE

 LDR - LOW DENSITY



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.

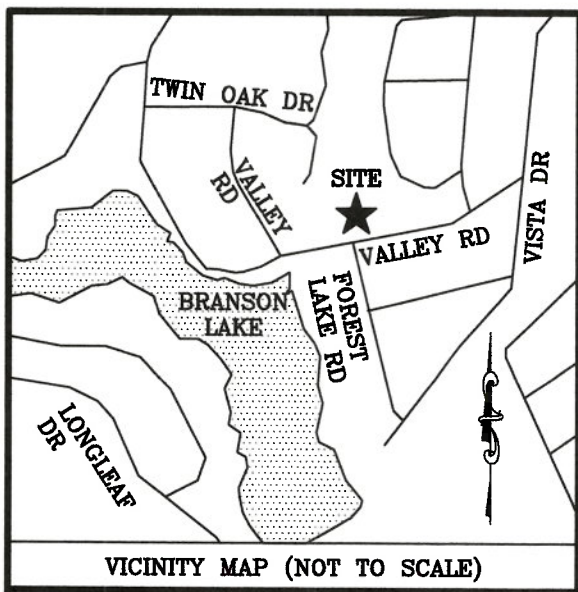




NORTH



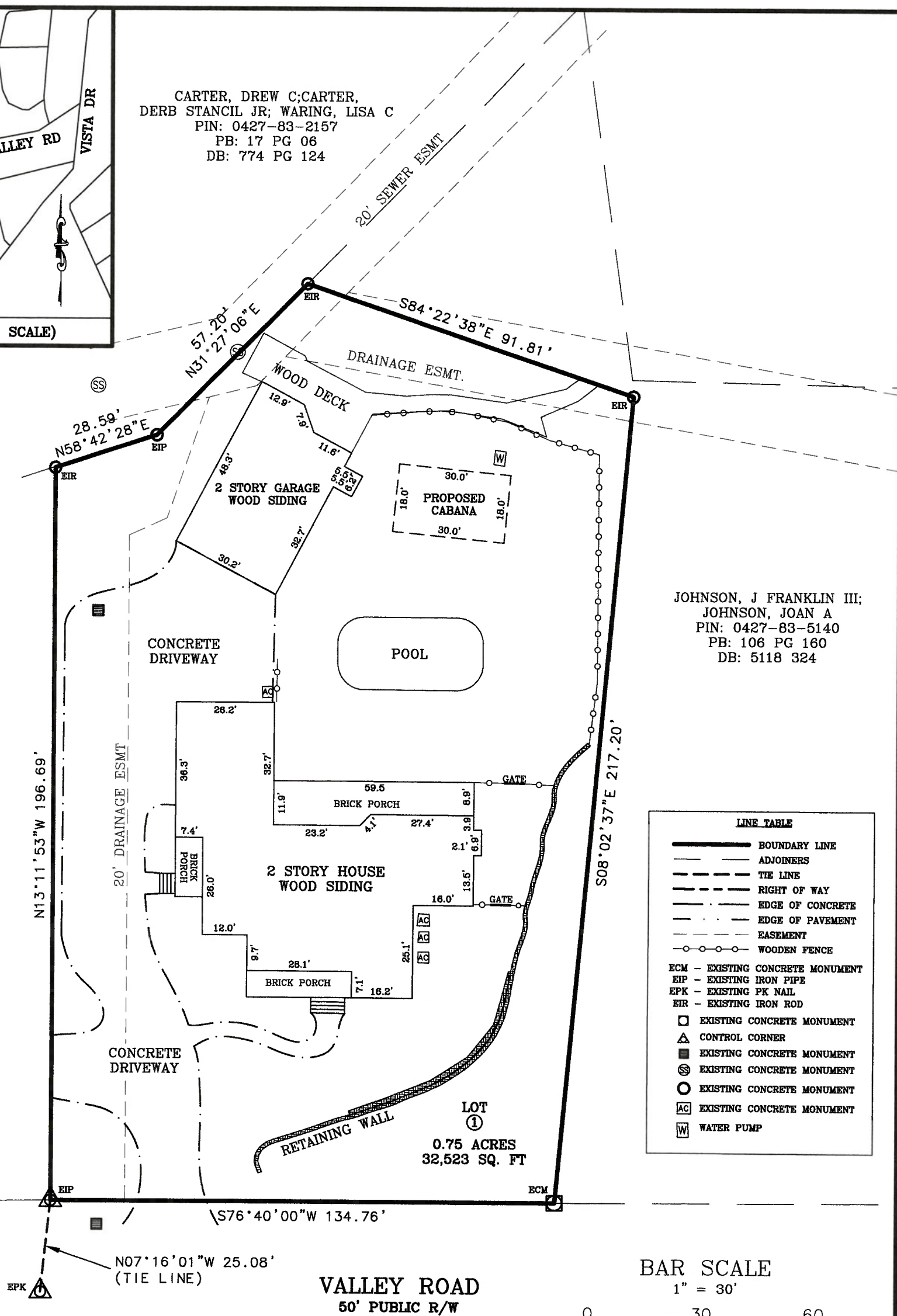
K:\sds\proj\VALLEY RD\CAD\CIVIL\Project Folder\DWG\374 VALLEY RD CLOSING PLAT.dwg



CARTER, DREW C; CARTER,
DERB STANCIL JR; WARING, LISA C
PIN: 0427-83-2157
PB: 17 PG 06
DB: 774 PG 124

MORFESIS, F ANDREW;
MORFESIS, GAIL
PIN: 0427-82-2999
DB: 5358-493

JOHNSON, J FRANKLIN III;
JOHNSON, JOAN A
PIN: 0427-83-5140
PB: 106 PG 160
DB: 5118 324



PLOT PLAN

SURVEY FOR: DAVID & MOLLY ALDERMAN

ADDRESS: 374 VALLEY ROAD

CITY: FAYETTEVILLE, NC

COUNTY OF: CUMBERLAND

TOWNSHIP OF: SEVENTY-FIRST

DATE: 23RD MAY, 2023

SCALE: 1' = 30'

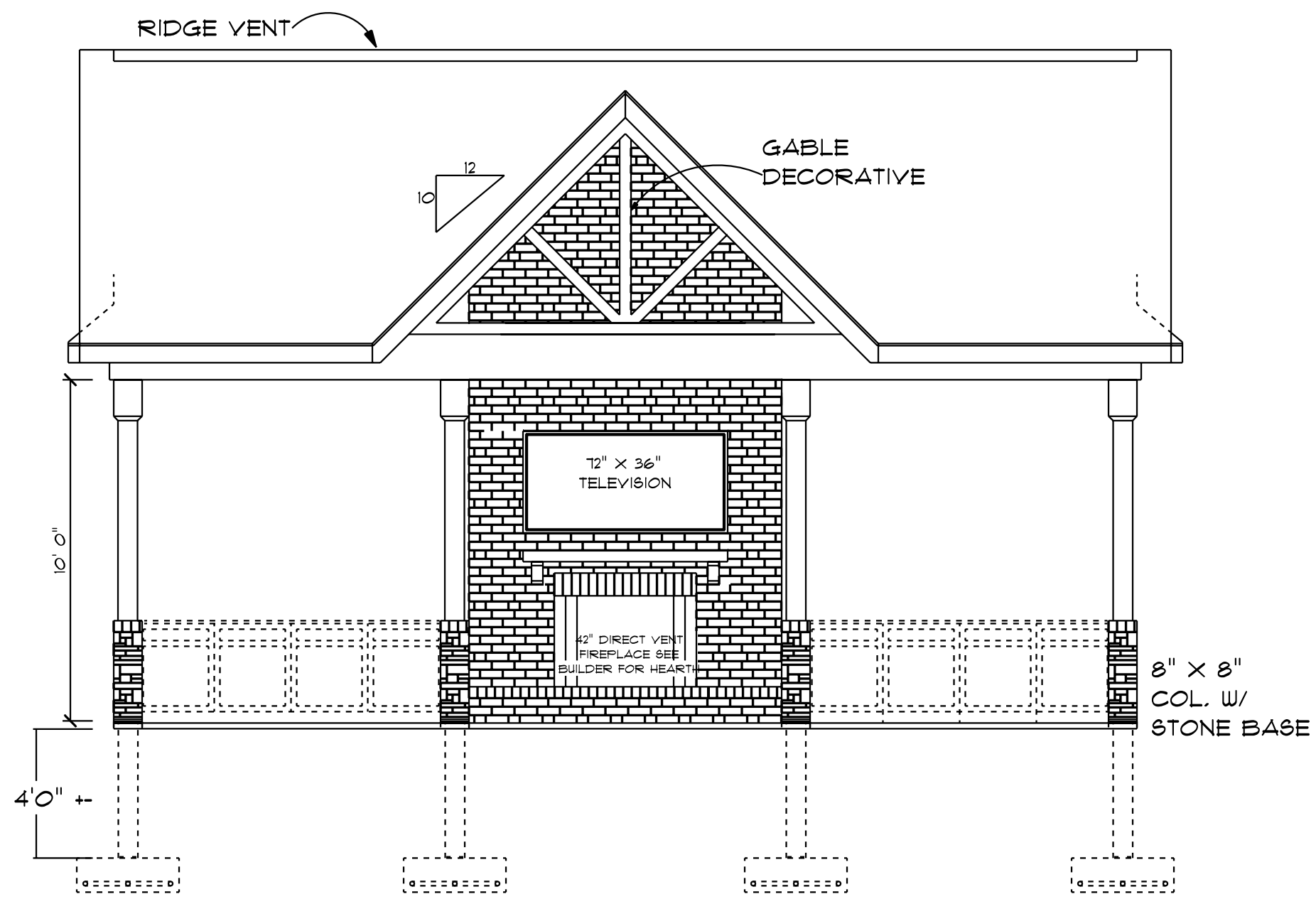
REFERENCE: PB 106 PG 160, LOT 1
DB 8869 PG 170

Larry King & Associates, R.L.S., P.A.

P.O. Box 53787
1333 Morganton Road, Suite 201
Fayetteville, NC 28305
Phone: (910)483-4300
Fax: (910)483-4052
www.LKandA.com
NC Firm License C-0887

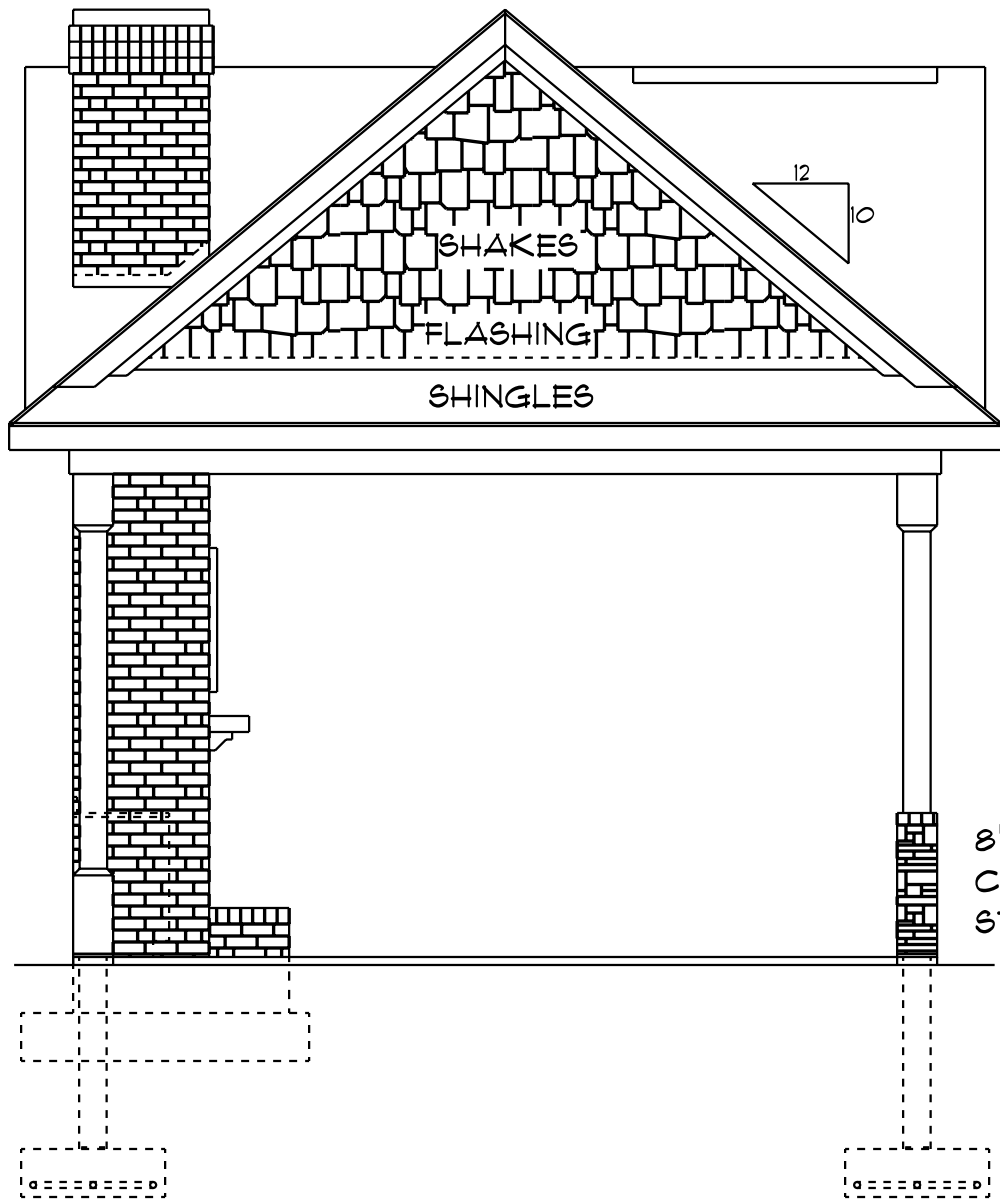
"I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN D.B. 8869, P.G. 170 OR OTHER REFERENCE SOURCE AS SHOWN); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN BOOK AND PAGE AS REFERENCED ABOVE THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS > 1:10,000 ; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56. 1600)."
5/23/23
W. LARRY KING, PROFESSIONAL LAND SURVEYOR L-1339

W. LARRY KING, PROFESSIONAL LAND SURVEYOR L-1339



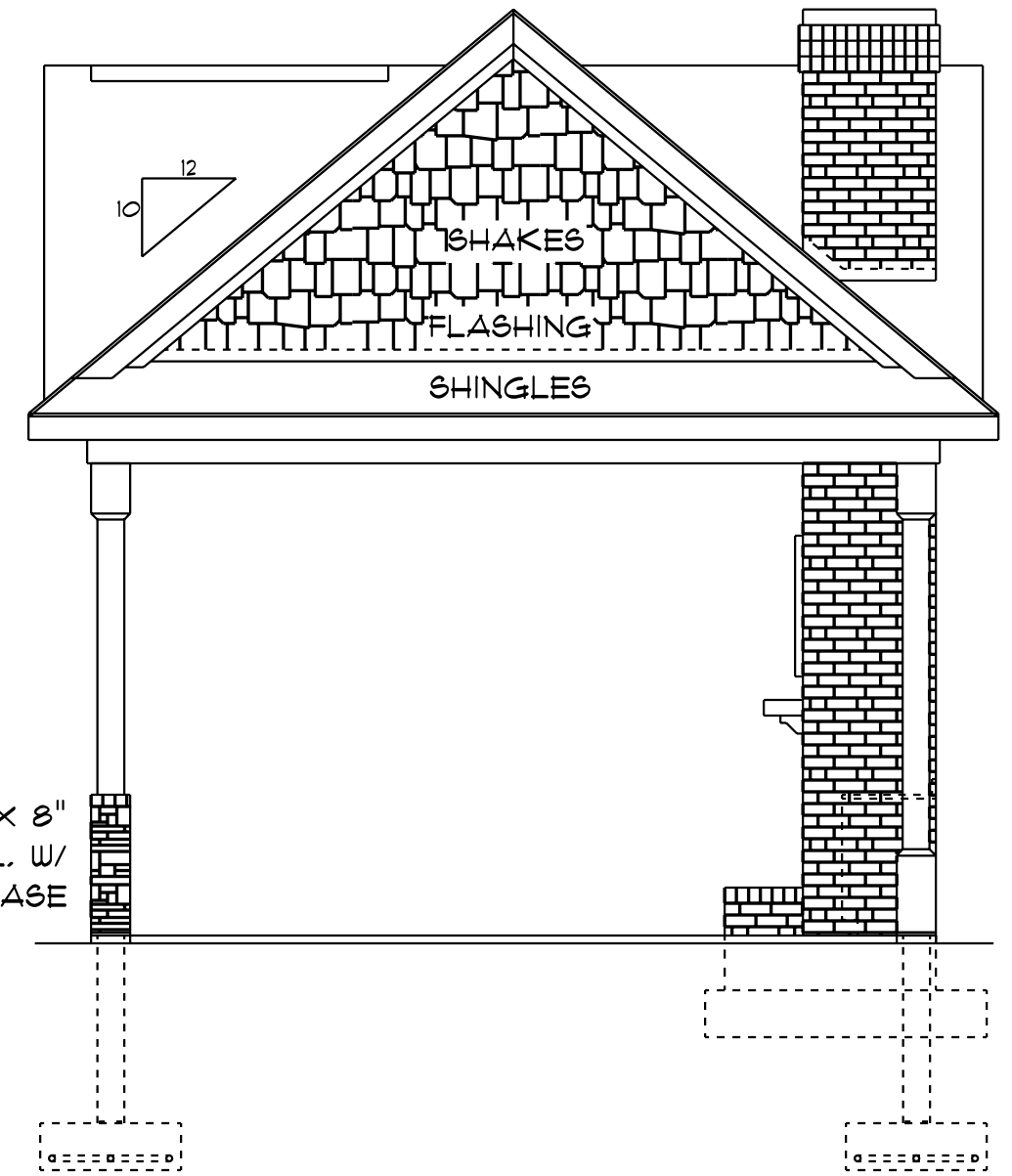
FRONT ELEVATION

SCALE: 1/4" = 1'0"



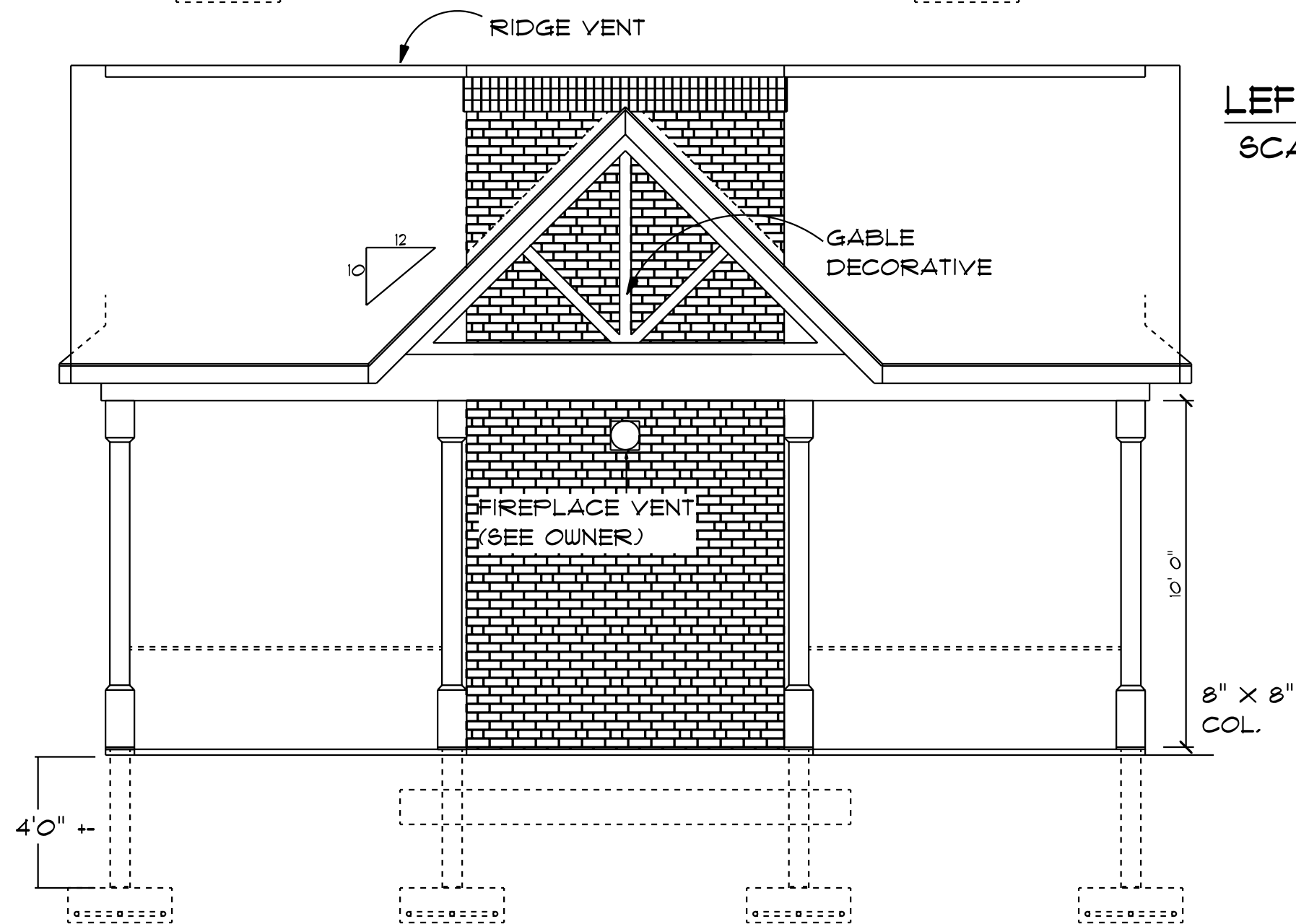
RIGHT ELEVATION

SCALE: 1/4" = 1'0"



LEFT ELEVATION

SCALE: 1/4" = 1'0"



REAR ELEVATION

SCALE: 1/4" = 1'0"

540 S/F TOTAL AREA

"I DO HEREBY CERTIFY THAT THIS DRAWING OR PLAN AND RELATED SPECIFICAT MEET ALL LOCAL REQUIREMENTS AND ARE IN SUBSTANTIAL CONFORMITY WITH VA MINIMUM PROPERTY REQUIREMENTS INCLUDING THE ENERGY CONSERVATION STAND OF THE 1992 COUNCIL OF AMERICAN BUILDING OFFICIALS (CABO) MODEL ENERGY

CHARLES SMITH ASSOCIATES
© copyright 2023

SCALE: AS NOTED

DATE: FEB. 2023

DRAWN BY: ECL

CHARLES SMITH ASSOC.
RESIDENTIAL DESIGNER
FAYETTEVILLE, NC
PHONE: (910) - 484 - 5924
WWW.CSAPLANS.COM

PROPERTY OF
WELLS & MOLLY ALDERMAN

WMA-540



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 23-3442

Agenda Date: 7/11/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.03

TO: Zoning Commission

THRU: Will Deaton, AICP - Planning & Zoning Manager

FROM: Catina Evans - Office Assistant II

DATE: July 11, 2023

RE: Approval of Meeting Minutes: June 13, 2023

COUNCIL DISTRICT(S):

All

Relationship to Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2026

Goal VI: Collaborative Citizen & Business Engagement

- Objective 6.2 - Ensure trust and confidence in City government through transparency & high-quality customer service.

Executive Summary:

The City of Fayetteville Zoning Commission conducted a meeting on the referenced date, which they considered items of business as presented in the draft.

Background:

NA

Issues/Analysis:

NA

Budget Impact:

NA

Options:

1. Approve draft minutes;

2. Amend draft minutes and approve draft minutes as amended; or
3. Do not approve the draft minutes and provide direction to Staff.

Recommended Action:

Option 1: Approve draft minutes.

Attachments:

Draft Meeting Minutes: June 13, 2023

**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION MEETING
FAST TRANSIT CENTER COMMUNITY ROOM
JUNE 13, 2023 @ 6:00 P.M.**

MEMBERS PRESENT

Pavan Patel, Chair
Stephen McCorquodale, Vice-Chair
Justin Herbe, Alternate
Clabon Lowe, Alternate
Alex Keith
Kevin Hight

STAFF PRESENT

Will Deaton, Planning and Zoning Division Manager
Craig Harmon, Senior Planner
Heather Eckhardt, Planner II
Demetrios Moutos, Planner I
Joseph Senn, Zoning Administrator
Lisa Harper, Assistant City Attorney
Catina Evans, Office Assistant II

MEMBER ABSENT

Roger Shah

The Zoning Commission Meeting on Tuesday, June 13, 2023, was called to order by Chair Pavan Patel at 6 p.m. The members of the Board stated their names for the record. Mr. Hight asked which alternate would vote during the meeting since the Board totaled six (6) members with the two (2) alternates present. Ms. Harper stated that the alternates would take turns voting on cases.

I. APPROVE THE AGENDA

MOTION: Kevin Hight made a motion to approve the agenda.
SECOND: Alex Keith
VOTE: Unanimous (5-0)

II. APPROVAL OF CONSENT ITEMS TO INCLUDE THE MINUTES FOR THE MAY 9, 2023, MEETING

MOTION: Kevin Hight made a motion to approve the consent items.
SECOND: Alex Keith
VOTE: Unanimous (5-0)

Mr. Patel discussed the aspects of the evidentiary hearing. Mr. Patel asked if any of the Board members had any partiality (conflicts of interest) or any ex parte communication (site visits or conversations with parties to include staff members or the general public) to disclose regarding any of the cases on the agenda for the evening. The commissioners did not have any partiality with any of the cases or ex parte communication to disclose regarding the cases.

I. EVIDENTIARY HEARINGS

Mr. Patel opened the evidentiary hearing for case A23-22. Ms. Harper had the speakers for case A23-22 perform the oath.

A23-22. Variance to increase the maximum height for a fence located at 600 Orange Street (REID #0437586252000), containing 1.2 acres ± and being the property of Orange Street School Restoration & Historical Association, Inc., represented by Anthony Ramsey.

Heather Eckhardt presented case A23-22. She stated that case A23-22 is a Variance request for 600 Orange Street by Anthony Ramsey for the Orange Street School Restoration and Historical Association. He is requesting to increase the maximum height of a fence. She pointed out that the property is located off of Ramsey Street, and to the rear of the property there are railroad tracks. Ms. Eckhardt stated that the area has a combination of commercial and industrial uses intermixed as well as vacant lots. The property is currently zoned Community Commercial (CC). The Future Land Use Plan has designated this area for development as Highway Commercial. She showed the Board a current picture of the subject property. The property is a Local Landmark in Fayetteville with the Orange Street School believed to be the oldest public education building still standing in Fayetteville. The applicant requested and was granted a Certificate of Appropriateness from the Historical Resources Commission to construct a fence on the property during their meeting last month (Tuesday, May 23, 2023). Ms. Eckhardt pointed out where columns were in place on the property and where the fence would be placed between the columns. She showed the Board pictures of the surrounding area including vacant land, the railroad tracks, commercial buildings, and a few residential structures. Ms. Eckhardt pointed out on the site plan where the fence would be installed. She informed the Board that the requested variance would allow for the fence height to be extended from 5 ft. to 6 1/2 ft. in the front yard and from 6 feet to 7 feet at the fence corner side, side, and rear yards. Ms. Eckhardt informed the Board about their voting options.

Mr. Patel opened the evidentiary hearing for case A23-22 for speakers.

Speakers in favor:

Anthony Ramsey, City of Fayetteville Parks and Recreation, 433 Hay Street, Fayetteville, NC 28301

- Mr. Ramsey asked the Board if they had any questions for him. The Board did not have any questions.

Mr. Patel closed the evidentiary hearing for case A23-22. Mr. Patel asked for a motion.

MOTION: Pavan Patel made a motion to approve the Variance for case A23-22 because of the following findings of fact:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence: The fence obviously needs to be put back in place.
2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner as shown by the following evidence: Based on the age of the property and the Historic Resources Commission's recommendation, there is sufficient evidence for the variance.
3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence: They need the fence around the school property.
4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence: Obviously with it (the property) being historical, this fence would provide some necessary updates.

5. In the granting of the Variance, public safety and welfare have been assured and substantial justice has been done as shown by the following evidence: There is no evidence that it (the variance to increase the maximum height of a fence) will harm public safety and welfare.

SECOND: Alex Keith

VOTE: Unanimous (5-0) Alternate Justin Herbe voted

A23-23. Variance to allow increases in the maximum lot coverage and maximum size of accessory structures, located at 374 Valley Road (REID #0427834026000), containing .75 acres ± and being the property of David W. & Molly H. Alderman.

Craig Harmon presented case A23-23. He stated that case A23-23 is a Variance request. He informed the Board that this variance allows for an increase in the maximum lot coverage and maximum size of accessory structures. The owners are Wells and Molly Alderman. The property is located at 374 Valley Road. Mr. Harmon showed the Board the location of the property along Valley Road. He stated that the property is zoned Single-Family Residential 10 (SF-10). To the left of the property is land zoned Single-Family Residential 15 (SF-15) and to the right is SF-10 zoned property. Mr. Harmon showed the Board the front of the subject property and surrounding properties on the eastern, western, and southern sides of the property. Mr. Harmon displayed to the Board the site plan with structures that currently exist on the property including a garage building, the pool area, and the proposed cabana. The applicant wants additional room for the cabana (an accessory structure). He mentioned the lot elevations and that three sides of the structure are open and the back side of the structure is closed in with a fireplace (as seen from an aerial view of the floor plan). Mr. Harmon pointed out that this request is for maximum lot coverage as needed and an increase in the maximum size of the accessory structures of about 760 sq. ft. He said the ordinance will currently allow for about 1,200 sq. ft. on the property. With the existing accessory structures, the owner will need the 760 sq ft. After visiting the site and viewing the aerial (site maps), Mr. Harmon conferred that only one neighbor would be able to see the cabana from their home because of its location on the property.

Mr. Patel opened up the evidentiary hearing for case A23-23 for speakers.

Ms. Harper requested that the individuals who planned to speak should raise their right hand and perform the oath.

Speakers in favor:

Wells Alderman, 374 Valley Road, Fayetteville, NC 28305

- Mr. Alderman said he would answer questions after Ms. Epler discussed the case.

Lori Epler, 1333 Morganton Road, Fayetteville, NC 28305

Ms. Epler provided the Board with their findings of fact as follows:

- (Under #1) These owners have a 1,500 sq. ft. house and a 1,416 sq. ft. two-story garage. The variance request is not to build another structure, but a cabana beside the pool. The construction would consist of a concrete path, a roof, and one wall and a fireplace. The other three sides would be open as Mr. Harmon stated.
- (Under #2) The practical difficulty in this case is that a cabana as described earlier should not be considered a structure. It's not even an enclosed space because there is only one wall.

- (Under #3) With the installation of the pool for the enjoyment of their three young children and extended family, this couple wants to also have a shaded area where they can supervise and enjoy their children out of the sun. It is reasonable that it also provides their sun-sensitive parents with a space to comfortably enjoy family times in this space.
- (Under #4) The ordinance should not only be a guide for development but also a protection of the right of property owners to reasonably enjoy the investments they make in their homes and property. The spirit of the ordinance is also to enhance the quality of life for others.
- (Under #5) If the variance is denied it would be an injustice to this family. Most of the homes in their neighborhood with detached structures do not conform to the current ordinance in that they were constructed before the current limitations on accessory structures were adopted.
- Ms. Epler stated that granting or not granting this variance would not affect the public at all. It would rather only determine whether these homeowners can provide the most enjoyable recreational space for their family and themselves on their own property.
- She asked the Board if they had any questions for her and there were none.

Mr. Keith asked Mr. Alderman (in relation to the age of the houses in the area) how many were built before 1968. Mr. Alderman said his house was built in 2002 before the UDO was adopted. He noted that the house to the right was built in the 50s, and the house across the street was built in the 60s.

Mr. Patel closed the evidentiary hearing for case A23-23.

Mr. Keith agreed that the owners need the variance. Mr. Patel asked for a motion.

MOTION: Alex Keith made a motion to approve the variance for case A23-23 to increase the maximum lot coverage and the maximum size of accessory structures based on the following findings of fact:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence: As Mr. Alderman discussed, his house was built before the Unified Development Ordinance code, so having to stick to that standard is pretty difficult, and almost impossible and also the cabana is only a one-walled structure.
2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence: As I just discussed as well, the practical difficulty, in this case, is that the cabana should not be considered a structure and the fact that it is in a neighborhood that was developed prior to the Unified Development Ordinance.
3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence: They (the owners) would like to have the cabana and would like to have the variance so they will be able to use it (the cabana).
4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence: As we discussed the age of the subdivision, this is shown by the houses around here having accessory buildings or extra dwellings on the side that do not meet the code.

5. In the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done as shown by the following evidence: A three-wall structure is not a safety concern.

SECOND: Kevin Hight

VOTE: Unanimous (5-0) Alternate Clabon Lowe voted

Mr. Patel discussed the aspects of the legislative hearings. Mr. Patel asked if any of the Board members had any partiality (conflicts of interest) or any ex parte communication (site visits or conversations with parties to include staff members or the general public) to disclose regarding any of the cases on the agenda for the evening. The commissioners did not have any partiality with any of the cases or ex parte communication to disclose regarding the cases.

II. LEGISLATIVE HEARINGS

Mr. Patel opened the legislative hearing for case P23-19.

P23-19. Initial zoning of one non-contiguous parcel totaling 2.95 ± acres, requesting annexation, to Community Commercial (CC) located at 133 Bethune Drive (REID #0541297074000), being the property of John N. Bantsolas and Lloyd S. Goodson, represented by Michael Adams of MAPS Surveying Inc.

Demetrios Moutos presented case P23-19. He said the case is an initial zoning of a non-contiguous parcel totaling 2.95 acres and requesting annexation to Community Commercial, located at 133 Bethune Drive being the property of John N. Bantsolas and Lloyd S. Goodson, represented by Michael Adams of MAPS Surveying. Mr. Moutos showed the Board a picture of the subject property and he noted that undeveloped land is to the north of the property. Goodyear Tire and Rubber Plant is located on a large property to the south. Kelly Hill Residential Subdivision lies to the east and notable landmarks to the west include Mt. Hebrew AME Zion Church. Further behind the church is a Dollar General. The property is currently zoned Cumberland County Planned Commercial District (C(P)). The applicant is asking to annex their property into the City as Community Commercial (CC). The Future Land Use Plan calls for the land to be designated Neighborhood Mixed-Use. The subject property is currently undeveloped. There is a church to the west and to the north is a vacant property. To the east is a residential subdivision, and to the south is the Goodyear Tire and Rubber Plant. The applicant wants to initially zone this property as Community Commercial in conjunction with his petition to annex it into the City's corporate limits. The purpose of this request is to designate the parcel as Community Commercial to accommodate a plethora of uses. This rezoning, in alignment with the annexation, aims to support growth and development along the northern portion of the Ramsey Street corridor. The initial zoning request is not conditional. This is a straight rezoning request. The Future Land Use Plan designates commercial-scale uses in this area. The Community Commercial zoning fits this designation. Staff recommends approval of the initial zoning based on the following:

- The proposed zoning map amendment adheres to the policies adopted in the Future Land Use Plan and can be made to conform with the provisions found in the Unified Development Ordinance (UDO). The Future Land Use Plan calls for the subject parcel to be developed as Neighborhood Mixed Use (NMU) and the proposed zoning district allows for uses that fit this category.
- The proposed zoning district already exists west of the site and would promote compatible economic and commercial development consistent with Goal #2 of the Future Land Use Goals.

- The proposed zoning district promotes logical and orderly development that would make no substantial impact upon the public health, safety, or general welfare.

Mr. Moutos stated that the Community Commercial zoning district is to the west of this site and the requested zoning would match that area. He showed the Board two properties in the area that are already Community Commercial.

Speakers in favor:

Michael Adams, 216 Mason Street, Fayetteville, NC 28301

- Mr. Adams said that according to the plan the owners want to place two buildings to utilize as flex space (typically offices in the front with open storage area in the rear).
- The annexation is needed because the owners have Public Works Commission (PWC) water and sewer directly in front of the property and the sewer line on the property runs into the Kelly Hill subdivision sewer which is in the County jurisdiction.
- The owners decided that PWC should handle their water and sewer needs.
- They could develop the property as is within the County jurisdiction.

Mr. Herbe asked if there can be residential lots with the Community Commercial designation. Mr. Moutos said he would have to check the Unified Development Ordinance chart. Mr. Herbe expressed his concern regarding multi-family housing being built in that area. Mr. Herbe asked if people could live next to the factory on the subject property. Mr. Adams said they have no intention of having multi-family residences in the area. Mr. Keith wanted confirmation of what was in the area on the corner of Slocomb Road and Ramsey Street and Mr. Moutos said a church was located in the area.

Tom Lloyd, 1100 Clarendon Street, Fayetteville, NC 28306

- Mr. Lloyd said he is a retired Planning Director who worked for the County for six (6) years. He knows the County and City regulations.
- Mr. Lloyd said the owner's land does not have to be annexed but he needs the property annexed for City sewer access.
- Mr. Lloyd said it is in everyone's best interest (the owner and anyone in opposition) if the owner has the land annexed. If you look (at the City versus the County requirements), the requirements needed by the Technical Review Committee (with the City) are stricter than the County guidelines.
- Mr. Lloyd said the property is Heavy Commercial under the County. It is better for him to come under the City, even though the requirements are stricter with the City than the County.

Deno Hondros, Franklin Johnson Commercial Real Estate, 2547 Ravenhill Drive, Fayetteville, NC 28303

- Mr. Hondros stated he is a City Council member however, he is representing the buyers.
- He stated the prospective buyers want to do the flex space. There would be office space in the front and a warehouse in the back. There could be businesses such as contractors, sign contractors, etc.
- Currently, the property is vacant and zoned C(P) in the County. This is the highest zoning or hardest zoning so the owners could do what they want to do without annexation. There are two reasons for prospective buyers to want to annex the property into the City – city staff is easy to work with and utilities.
- It is in the Municipal Influence Area (MIA), so it makes sense for them to develop the property to the City standards for future annexation into the City.

- The owners could tie into Kelly Hill Residential Subdivision for the County or tie into the City.
- Mr. Hondros spoke of this annexation from a City Council member standpoint. He said this area is currently undeveloped land and the owners only pay County taxes. If this property is annexed into the City not only will the City get initial tax money, but once the owners develop the land in the City limits they will pay more City taxes.
- Mr. Hondros stated that from a City standpoint, it makes sense (to annex the property into the City).

The speakers in opposition did not attend the meeting. Mr. Patel closed the legislative hearing. Mr. Patel asked if the Board had any questions for the Staff.

Mr. Herbe wanted to know if they could change the zoning to Community Commercial and place a restriction that people could not live near the flex space as allowed by Community Commercial zoning. Mr. Herbe wanted to recommend a condition for this, but Ms. Harper said he could not because this is a straight zoning. Mr. Patel asked about County requirements and Mr. Moutos said he is not familiar with the County guidelines.

Mr. Herbe asked the Staff what would be the next more restrictive zoning above Community Commercial to avoid housing in the area. Mr. Hondros said they wanted Community Commercial zoning because it is more lenient than what the County would allow. Mr. Harmon noted that Limited Commercial zoning would still allow for multi-family residences. Mr. Hondros said that the applicant does not intend to have multi-family housing in the area. Mr. Herbe said he agrees with annexing, but he does not want intentions to change as the housing shortage increases causing the flex space to become a housing area. He knows there is a solution that the Staff would have to consider.

Mr. Keith said that no developer would develop multi-family housing on a lot this size. It is not feasible for them to buy and develop on a corner site. Mr. Keith said they have to look at what is in harmony with the area. Mr. Herbe agreed it should be commercial space but not loose commercial space that would be free range for any type of development. Mr. Patel said that the owners can do what they are proposing without the annexation, so the Board should vote for this (initial zoning) so that the property can be annexed and the owners can provide money to the City. Mr. Hondros added that single and multi-family housing was not considered for this site.

Mr. Patel asked for a motion.

MOTION: Pavan Patel made a motion to approve the map amendment for case P23-19 for the initial zoning of one non-contiguous parcel totaling 2.95 acres requesting annexation to Community Commercial located at 133 Bethune Drive. He recommended approval of the map amendment based on Staff recommendation and the Consistency and Reasonableness statement.

SECOND: Kevin Hight

VOTE: Unanimous (5-0) Alternate Justin Herbe voted

Mr. Patel opened the legislative hearing for case P23-21.

P23-21. Rezoning from Single-Family Residential 10 (SF-10) to Mixed Residential 5 Conditional Zoning (MR-5/CZ), located at 0 Carvers Falls Road (REID #0530996236000), totaling 3.32 acres ± and being the property of TG Ventures LLC, represented by Michael Adams of MAPS Surveying Inc.

Heather Eckhardt presented case P23-21. She said case P23-21 is located at 0 Carvers Fall Road. The owner of the property is also represented by Michael Adams. Ms. Eckhardt stated that this is a parcel located off Ramsey Street and a little south of Interstate 295. She noted that those who are familiar with this area will know that a majority of this area is within the Fayetteville City limits with a portion of the area within the County jurisdiction.

Ms. Eckhardt said this is a conditional rezoning that involves conditions in regard to the use and the density of the parcel. She said the property is currently zoned Single-Family Residential 10 (SF-10). Ms. Eckhardt provided the Board with a zoning map. She pointed out that the area to the north is Mixed-Residential 5 (MR-5) with apartment complexes to the north. Residential properties are located to the east and west of the subject property and there are County properties to the south. The area in red along Ramsey Street is marked as a commercial zoning district. The Future Land Use Plan calls for the area to be developed as a Community Center. She showed the area around the 295 Interchange on Ramsey Street which was circled on a map along with the low-density areas marked yellow on the map. The subject property is a 3.32-acre vacant parcel. Ms. Eckhardt included the site plan for reference. The proposed conditions would limit the owners to constructing two-to-four-family dwellings that would be duplexes. She said the Mixed Residential zoning district will allow for a variety of residential uses, but the owners are limiting themselves to building duplexes in the area. The owners are also limiting the number of units to 22 total units for a total of 11 duplex buildings. The proposed development and the conditions will act as a buffer between current structures along Carvers Fall Road and the commercial corridor near Ramsey Street. The proposed conditions will ensure that the development is of a scale and density that aligns with the area. Staff is recommending approval of the rezoning to Mixed Residential 5/Conditional Zoning based on the following:

- The proposed zoning map amendment implements the policies adopted in the Future Land Use Plan (FLUP), and those policies found in the Unified Development Ordinance (UDO). The Future Land Use Plan calls for the subject property to be developed as Community Center.
- The uses permitted by the proposed change in zoning district classification and the standards that apply to such uses would be appropriate in the immediate area.
- There are no other factors that will substantially affect public health, safety, morals, or general welfare.

Mr. Patel opened the legislative hearing for case P23-21 for speakers.

Speakers in favor:

Michael Adams, MAPS Surveying Inc., 1306 Fort Bragg Road, Fayetteville, NC 28305

- Mr. Adams said the owner is proposing 11 buildings and 22 units. The goal is to maximize this property. Carvers Falls Road is a dead-end street, so this area is not a high-traffic road.
- Multi-family zoning is necessary to maximize the housing units. The design fits this size property.
- The sewer runs along the property and Public Works Commission sewer will be used.
- The applicants attended a Technical Review Committee preliminary review.

Mr. Patel closed the legislative hearing with no speakers.

MOTION: Alex Keith made a motion to approve the zoning change for case P23-21 rezoning the property from Single-Family Residential 10 (SF-10) to Mixed Residential 5/Conditional Zoning (MR-5/CZ) with conditions that apply as presented based on the evidence presented which is consistent with the Future Land Use Plan and the attached consistency and reasonableness statements.

SECOND: Clabon Lowe

VOTE: Unanimous (5-0) Alternate Clabon Lowe voted

Mr. Patel opened the legislative hearing for case P23-24.

P23-24. Conditional Rezoning from Single-Family Residential 6 (SF-6) to Mixed Residential 5 Conditional Zoning (MR-5/CZ) to add three more dwelling units to the subject properties and address the front and rear setbacks on 0.73± acres, located at 812 Ridge Road (REID #0429672563000), and being the property of Tawfik Sharifi, represented by Michael Adams of MAPS Surveying Inc.

Demetrios Moutos presented case P23-24. He stated that case P23-24 is a conditional rezoning from Single-Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5)/Conditional Zoning. The owner wants to add three more dwelling units to the subject properties and to address the front and rear setbacks on .73 acres located at 812 Ridge Road being the property of Mr. (Tawfik) Sharifi and represented by Michael Adams. The subject property is located at the corner of Rosehill Road and Ridge Road. The area around the subject property is residential. There are two parcels abutting the subject property to the northwest and they are zoned Single-Family Residential 6 (SF-6). One of the parcels is vacant and wooded. On the other property is a single-family dwelling. There are three duplexes that were built in the 1970s to the south of the property. The Dogwood Apartments and the Rosehill Apartments are located off Ridge Road to the southeast and to the northwest are Single-Family Residential 6 zoned areas. Across from Rosehill Road are single-family residences along with Single-Family Residential 15 (SF-15) zoning in that area. The Future Land Use Plan calls for Medium-Density Residential in this area. Mr. Moutos showed the Board pictures of the subject property and surrounding properties. The property to the south and the east have duplexes and there is single-family residential zoning to the west. The owners have two separate properties that will be combined when the land is approved. He stated that in regard to the front and rear setbacks, the owner is requesting that the rear setback of 15 ft. be reduced to 11 ft. and the front setback be reduced from 25 ft. to 17 ft. The owners are asking to meet what is already consistent on the property. Mr. Moutos stated that Staff recommends approval of the rezoning and conditions based on the following:

- The proposed zoning map amendment implements the policies adopted in the Future Land Use Plan (FLUP), and those policies found in the Unified Development Ordinance (UDO). The Future Land Use Plan calls for the subject property to be developed as Medium Density Residential.
- The uses permitted by the proposed change in zoning district classification and standards that apply to such use and will be appropriate in the immediate area of the land to be reclassified due to the existing zoning and uses surrounding this property.
- There are no other factors that will substantially affect public health, safety, morals, or general welfare.

Mr. Patel opened the legislative hearing for speakers.

Speakers in favor:

Michael Adams, 216 Mason Street, Fayetteville, NC 28301

- This property is challenging because it is only 61 feet deep.
- The owners want to combine the two properties to maximize the square footage.
- The two units that they plan to build on the property are exact replicas of the units that currently exist on the property.
- In regard to the setback, Mr. Adams noted that if one was to look at the setback lines, it is about 5 feet wide. We are trying to maximize this property for additional housing.

Tom Lloyd, 1100 Clarendon Street, Fayetteville, NC 28305

- The owner is here for this conditional rezoning hearing. He has agreed to the conditions.
- The two separate lots will be combined.

- The owner has existing affordable housing on the property and the proposed structures will be the same. He will not build any closer to the road than the setback of the existing houses.
- The owner is requesting the Mixed Residential 5 (MR-5) zoning to allow for the medium density that the Staff said is necessary according to the Future Land Use Plan.

Deno Hondros, 2547 Ravenhill Drive, Fayetteville, NC 28303

- Mr. Hondros said he is a character witness and he has known Tawfik Sharifi for 35 years.
- During the pandemic, Mr. Sharifi made sure that tenants were working or drawing unemployment so they could pay rent. If tenants were not working, he would work with them to avoid eviction.
- In regard to the housing market, Mr. Hondros said (from a realtor's perspective) we are 5 million units short across the country. We are 300,000-400,000 housing units short in the State of North Carolina and in our local market, we are about 20,000 housing units short. This case if approved is going to help the nature of development.
- Mr. Hondros talked about how it is hard to turn around a housing deficit. Therefore, he is in favor of any housing developments in Fayetteville.

Mr. Herbe asked if the case was publicized to the community. Mr. Moutos said that the community was notified through letters and he showed the notification letter that was sent to residents within 1,000 feet of the property.

Mr. Patel closed the hearing for case P23-24.

MOTION: Justin Herbe motioned to recommend approval of the map amendment rezoning as presented and based on the evidence presented. The conditional rezoning is consistent with the Future Land Use Plan as presented.

SECOND: Pavan Patel

VOTE: Unanimous (5-0) Alternate Justin Herbe voted

Mr. Patel opened the legislative hearing for case P23-25.

P23-25. Rezoning from Downtown (DT) to Mixed Residential 5 (MR-5), Community Commercial (CC), and Light Industrial (LI) of 0 and 117 N Broad Street, 115 N Racepath Street, 120 Pepsi Lane, 801, 802, 804, 805, 810, 815, 820, 821, 901, 902, 913, 914, 915, and 0 Person Street (REIDs 0447124493000, 0447124479000, 0447120488000, 0447028593000, 0447028452000, 0447028277000, 0447028248000, 0447029460000, 0447029274000, 0447120349000, 0447120281000, 0447121308000, 0447122490000, 0447122137000, 0447123398000, 0447123193000, 0447124375000, and 0447028209000) totaling 6.16 acres ± and being the property of Wiener King of Cumberland County Inc, Hurtado, Max Tobias, Sutton, M Keith; Sutton, Deborah C, Racepath Investments LLC, Evans Properties of Fay LLC, Beatty, Jerry; Beatty, Janice D, Hayner LLC, Geddie, James W Sr; Geddie, Berthina; Geddie, Tom, Melvin, Sharon Samona, Christ Gospel Church of Fayetteville NC, City of Fayetteville, Christ Gospel Church of Fay, and Hubbard, Vivian S.

Heather Eckhardt presented case P23-25. She stated that there are multiple parcels along Person Street. She said the parcels will be rezoned from Downtown (DT) zoning (which no longer exists) to a combination of Mixed Residential 5 (MR-5), Community Commercial (CC), and Light Industrial (LI) zoning. She noted that the public (property and business owners) were notified by letter of the rezoning case. In 2021, the City rezoned the core downtown area from Downtown (DT) to a combination of Downtown 1 (DT-1) and Downtown 2 (DT-2) in order to expand the downtown area. This area is between the river and N Eastern Boulevard outside that core area. Ms. Eckhardt said this rezoning would serve as a cleanup measure to get this area appropriately rezoned. She showed

the Board the Future Land Use Map and noted the area designated for commercial and open space. She informed the Board that the surrounding area is primarily commercial and industrial in nature and to the north are residential areas. Using a color-coded map, Ms. Eckhardt explained how the Staff has divided the zoning area. Staff is proposing the red area represent Community Commercial zoning because it suits the area and the uses in those structures and light blue designates Light Industrial zoning based on the uses on those sites. The one lot is designated Mixed Residential 5 (MR-5) because there is a single-family house or duplex on that site. Eighteen parcels are involved in this proposed rezoning. All of the selected zoning districts will fit the area as well as the use of the property. Staff is recommending approval of this rezoning.

There were no speakers in favor or opposition to case P23-25. Mr. Patel closed the hearing.

Mr. Keith stated that he assumes this puts all the existing owners basically in legal conforming use. Ms. Eckhardt stated that the uses would be conforming but it is possible that some structures may become legal nonconforming however, they may have already been nonconforming as this area was developed prior to the adoption of the UDO.

MOTION: Pavan Patel made a motion to approve case P23-25 rezoning from Downtown (DT) to Mixed-Residential 5 (MR-5), Community Commercial (CC), and Light Industrial (LI) based on the consistency and reasonableness statement as presented by Staff.

SECOND: Kevin Hight

VOTE: Unanimous (5-0) Alternate Clabon Lowe voted.

III. OTHER BUSINESS

Mr. Harmon said that they have one more piece of business. City management is trying to get the Zoning Commission meetings back into City Hall, but the only thing with that is that security would have to be available in the building. This would require a change in the meeting time. Mr. Harmon inquired if the Board would be willing to meet at 4 p.m. instead of 6 p.m. on the second Tuesday of the month.

The Board discussed changing the time of the Zoning Commission meetings to 4 p.m. so that the Board could meet in City Hall. Mr. Patel asked if they could wait and vote. Mr. Harmon stated that the Board must vote during this meeting if they want to meet at the new location next month (Tuesday, July 11, 2023). Mr. Herbe expressed that he was concerned that working people would not be able to make the meetings at 4 p.m. Mr. Harmon stated that the Historic Resources Commission already meets at 4 p.m. Mr. Herbe mentioned that there were people present during the meeting that evening that wanted to speak. The Board further expressed concerns about residents not being able to come to the meeting at 4 p.m.

Ms. Harper stated that safety is her concern because often the meetings start at dusk during the fall season. She noted that she felt unsafe because there were outside disturbances and the doors were open so people could enter the building. She has voiced her concerns to management. Mr. Herbe and Mr. Hight agreed that her points were valid. Mr. Herbe suggested that security stay late, but Ms. Harper said they are contracted so they cannot stay after a certain time. Ms. Harper mentioned the years when the staff did and did not have security and then the Staff requested security. She said that now security is contracted. Mr. Herbe asked if there was room in City Hall during their current meeting time. Mr. Harmon said there was room but no security.

The Board continued to discuss the matter in regards to who would need to make the final decision, and Mr. Harmon said if the Board has questions they can email them to the Staff and they can relay them to City Hall management. Mr. Hight stated that he understands the time issue, but he is concerned about allowing citizens

access to the meetings. The Chair offered to speak with City Management, but Ms. Harper stated that the correct protocol would be for the Staff to approach City Management with the Board's concerns.

Mr. Herbe said he could change his schedule, but he added that things could change so it might be hard for him to come at 4 p.m. Mr. Herbe said he could dedicate himself to coming at 5 p.m. and working people could maybe arrive at 5 p.m., but 4 p.m. is too early. Mr. Herbe said there has to be a room available with security after this time. Mr. Harmon said that no decision is going to be made that night during the meeting. The Staff will take the Board's concerns to City Hall and the Board will discuss this matter during the next meeting (on Tuesday, July 11, 2023).

IV. ADJOURNMENT

MOTION: Pavan Patel made a motion to adjourn the June 13, 2023, meeting.

SECOND:

VOTE: Unanimous (5-0) Alternate Justin Herbe voted.

The meeting adjourned at 7:28 p.m.

Respectfully submitted by Catina Evans



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 23-3459

Agenda Date: 7/11/2023

Version: 2

Status: Agenda Ready

In Control: Zoning Commission

File Type: Evidentiary Hearing

Agenda Number: 4.01

TO: Mayor and Members of City Council

THRU: Will Deaton, AICP - Planning & Zoning Division Manager

FROM: Heather Eckhardt, CZO - Planner II

DATE: July 11, 2023

RE:

A23-28. Variance to reduce the side yard setback and spacing between buildings for a property located at 2825 Raeford Road (REID #0427119167000), containing .52 acres ± and being the property of Griffin Realty Investments LLC, represented by George Rose.

COUNCIL DISTRICT(S):

2 - Shakeyla Ingram

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal 1: Safe and Secure Community

- Objective 1.3 - Ensure low incidence of property and violent crime

Goal 2: Responsive City Government Supporting a Diverse and Viable

Economy

- Objective 2.2 - Invest in community places to ensure revitalization and increase quality of life

Goal 4: Desirable Place to Live, Work and Recreate

- Objective 4.5 - Ensure a place for people to live in great neighborhoods.

Executive Summary:

The applicant is requesting a variance to reduce the side yard setback and separation requirement between buildings in order to build an addition on the existing nonconforming structure.

30.2.C.14 Variance:

The purpose of a variance is to allow certain deviations from the dimensional

standards of this Ordinance (such as height, yard setback, lot coverage, or similar numeric standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

Variances are to be sparingly exercised and only in rare instances or under exceptional circumstances to relieve undue and unique hardships to the landowner. No change in permitted uses or applicable conditions of approval may be authorized by variance.

Background:

Owner: Griffin Realty Investments LLC

Applicant: George Rose

Requested Action: Reduce side yard setback and spacing between buildings

Zoning District: Community Commercial (CC)

Property Address: 2825 Raeford Road

Size: .52 acres ±

Existing Land Use: Retail

Surrounding Zoning and Land Uses

- North: LC & CC - Strip-style shopping center and bank
- South: OI - Office building
- East: CC - Insurance office and vacant lot
- West: CC - Salon and retail

Letters Mailed: 19

Issues/Analysis:

The subject property is .52 acres at 2825 Raeford Road. There are two structures located on the subject property. The main structure is Webb Carpet at 2825 Raeford Road which consists of the main structure which was constructed in 1966 and an attached metal structure which was constructed in 1988. The second structure is 2926 Breezewood Avenue which was constructed in 1937 as a single-family house. Subsequently, the structure has been converted for use as an office.

The subject property was developed prior to the adoption of the Unified Development Ordinance in 2011. As such, all structures on the site are non-conforming in their setbacks. Section 30-7.C.3., Enlargement, states a "nonconforming structure shall not be enlarged or expanded in any way that increases the nonconformity". The existing structure is currently 2.5 feet from the eastern property line. The proposed addition would increase this nonconformity as the proposed structure will be 1.9 feet from the eastern property line. The addition will also reduce the separation between the structure at 2825 Raeford Road and the structure at 2926 Breezewood Avenue. In order to address this nonconformity, the applicant is requesting a reduction in the side yard setback and the separation between buildings. Section 30-3.E.5., Community Commercial (CC) District, requires a side yard setback of a minimum of 3

feet and a separation between buildings of a minimum of 20 feet. The proposed addition results in a side yard setback of 1.9 feet and a separation of 11.7 feet.

The applicant is requesting a variance for the following:

1. Reduction in side yard setback from 3 feet to 1.9 feet
2. Reduction in spacing between buildings from 20 feet to 11.7 feet

Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

1. The siting of other nonconforming or conforming uses of land or structures in the same or other districts;
2. The request for a particular use expressly, or by inference, prohibited in the district; or
3. Economic hardship or the fact that property may be utilized more profitably with a Variance.

Subsequent Development

The owners of the subject property have proposed an addition to the existing building. Due to the size of the property and existing development, the owners are limited on locations for the proposed addition.

The following findings are based on the responses submitted in the application by the applicant and the best available information about the proposal without the benefit of testimony provided at the evidentiary hearing.

Findings of Fact Statements as reviewed by the Planning Staff:

- 1. There is sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:**

The applicant states "The proposed project is an addition to an existing building that is currently non-conforming in that the side setback to properties to the east is currently 2.5'. The addition extends the same plane of the rear wall of the existing building, resulting in a further reduced side setback of 1.9' at the southeast corner of the addition. Offsetting the addition from the existing building to provide the minimum setback would result in construction hardships related to roofline connections and layout of the interior space. The property immediately to the east of the proposed addition is being used for driveway access to the Raeford Road - facing Taco Bell. No existing buildings are located on the Taco Bell property that would be affected by the variance request."

- 2. There is sufficient evidence that any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:**

The applicant states "Landowner for the proposed project is forced to extend the same plane of the rear wall of the existing building, which results in a further reduced side setback of 1.9' at the southeast corner of the addition. Offsetting the addition from the existing building to provide the minimum setback would result in construction hardships related to roofline connections and layout of the interior space. Hardships due to the setback requirement are not related to personal circumstances of the landowner."

- 3. There is sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the**

following evidence:

The applicant states “The only practical way to construct the proposed addition is to extend the same plane of the rear wall of the existing building. This is the minimum action that will result in the reasonable use of the land for the addition. The overall site for the addition is extremely narrow and limited in terms of options for locating the addition so that it will be functionally compatible with the existing building.”

- 4. There is sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:**

The applicant states “Standard side setbacks in CC zoning result in buildings being located close to side property lines. This condition exists throughout the block bounded by Raeford Road to the north, Purdue Drive to the east, Breezewood Avenue to the south and Marlborough Road to the west. A minimal side setback is in harmony with the general purpose and intent of the ordinance.”

- 5. There is sufficient evidence that in the granting of the Variance, the public safety and welfare has been assured and substantial justice has been done as shown by the following evidence:**

The applicant states the “The requested reduction in the side setback and spacing between buildings does not affect the safety and welfare of the public.”

Budget Impact:

There is no immediate budgetary impact.

Options:

The Board's Authority: The board has the authority to approve or deny the request and must base its decision on the answers to the following five required findings of fact:

If a member believes that the evidence presented is substantial, competent, and sufficient to meet the required findings of fact then the member may make a motion to approve the variance and the members must state all of the following five findings of fact along with the evidence that was presented to satisfy each finding.

If the members cannot find specific supporting facts under all five findings of fact, the members must consider a motion of denial. A motion of denial should indicate which of the five (5) of the findings of fact cannot be met.

The board can also place reasonable conditions on any variance approval.

If a member wishes to make a motion to approve the variance they should make a brief statement that recaps the evidence showing each of the five findings of fact. Any discussion by the Board following a motion may include a recap of the evidence supporting each of the five (5) factual findings.

Possible Motions and Factual Findings:

Motion to approve a variance to reduce the side yard setback and minimum building separation.

Findings of Fact Required to Approve this Request:

1. Strict application of the Ordinance requirements results in practical difficulties and

unnecessary hardships as shown by the following evidence:

—

2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

—

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

—

4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

—

5. In the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:

—

Motion to approve the variance(s) as requested but with added conditions

Findings of Fact Required to Approve this Request with added conditions:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

—

2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:

—

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

—

4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

-
5. In the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done as shown by the following evidence:
-

Motion to deny the variance as requested.

Findings of Fact Statements Required to Deny this Request:

1. There is not sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:
-
-
2. There is not sufficient evidence that any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:
-
3. There is not sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:
-
4. There is not sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:
-
5. There is not sufficient evidence that in the granting of the Variance, the public safety and welfare has been assured and substantial justice has been done as shown by the following evidence:
-

Recommended Action:

Attachments:

1. Application

2. Aerial Notification Map
3. Zoning Map
4. Land Use Map
5. Subject Property Photos
6. Surrounding Property Photos
7. Site Plan

Project Overview**#1044577**

Project Title: Webb Carpet
Application Type: 5.4) Variance
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN: 2825 RAEFORD RD
(0427119167000)

Zip Code: 28303

GIS Verified Data**Property Owner: Parcel**

- 2825 RAEFORD RD: GRIFFIN REALTY INVESTMENTS LLC

Acreage: Parcel

- 2825 RAEFORD RD: 0.52

Zoning District: Zoning District

- 2825 RAEFORD RD: CC

Subdivision Name:**Fire District:****Hospital Overlay District:****Cape Fear District:****Haymount Historic District:****100 Year Flood:** <100YearFlood>**Watershed:****Airport Overlay District:****Coliseum Tourism District:****Downtown Historic District:****Floodway:****500 Year Flood:** <500YearFlood>**Variance Request Information**

Requested Variances: Minimum yard/setback, Minimum spacing between buildings

Describe the nature of your request for a variance and identify the standard(s)/requirement(s) of the City Code proposed to be varied.:

Side yard setback in CC zone is 3 feet. Project involves an addition to an existing building with current southeast corner being 2.5 feet from the eastern property line. The proposed 40' building addition results in the southeast corner of the new building being 1.9' from the eastern property line.

Minimum required separation between buildings is 20 feet. The proposed addition results in the separation from an existing building (which was originally a residence, now leased to a business but ultimately will be demolished) of approximately 11.7'.

Section of the City Code from which the variance is being requested.: 30-3.E.5

Identify the zoning district designation and existing use of land for all adjacent properties, including those across the street.:

Zoning district on the north side of Breezewood Avenue is CC, including adjacent properties to the east and west. Existing land uses are offices to the west and a rear driveway to a Taco Bell on Raeford Road to the east. Zoning district to the south across Breezewood Avenue is OI. Land uses along the south side of Breezewood Avenue are offices.

Justification for Variance Request - Use this and the following pages to answer the questions (upload additional sheets if necessary).

The Variance Standards states: A variance application shall be approved only upon a finding that all of the following standards are met.

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships; it shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. Any practical difficulties or unnecessary hardships result from unique
3. circumstances related to the land, such as location, size, or topography, and are not the result from conditions that are common to the neighborhood or the general public be the basis from granting a variance;
4. The Variance is the minimum action that will make possible a reasonable use of land or structures;
5. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit; and
6. In the granting of this Variance, the public safety and welfare have been assured and substantial justice has been done.

Expiration - Variance

30-2.C.14.e.5.- Variance approval shall automatically expire if the applicant does not record the Variance with the Cumberland County Register of Deeds within 30 days after the date the Variance is approved.

Please complete the following five (5) questions to verify the evidence that all the required standards are applicable to your property and/or situation.

Please describe how strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.:

The proposed project is an addition to an existing building that is currently non-conforming in that the side setback to properties to the east is currently 2.5'. The addition extends the same plane of the rear wall of the existing building, resulting in a further reduced side setback of 1.9' at the southeast corner of the addition. Offsetting the addition from the existing building to provide the minimum setback would result in construction hardships related to roofline connections and layout of the interior space. The property immediately to the east of the proposed addition is being used for driveway access to the Raeford Road - facing Taco Bell. No existing buildings are located on the Taco Bell property that would be affected by the variance request.

Please describe how any practical difficulties or unnecessary hardships result from unique circumstances related to the land, such as location, size, or topography, and are not the result of the actions of the landowner, nor may hardships resulting from personal circumstances as well as hardships resulting from conditions that are common to the neighborhood or the general public be the basis for granting a variance.:

Landowner for the proposed project is forced to extend the same plane of the rear wall of the existing building, which results in a further reduced side setback of 1.9' at the southeast corner of the addition. Offsetting the addition from the existing building to provide the minimum setback would result in construction hardships related to roofline connections and layout of the interior space. Hardships due to the setback requirement are not related to personal circumstances of the landowner.

Please describe how the Variance is the minimum action that will make possible a reasonable use of land or structures.:

The only practical way to construct the proposed addition is to extend the same plane of the rear wall of the existing building. This is the minimum action that will result in the reasonable use of the land for the addition. The overall site for the addition is extremely narrow and limited in terms of options for locating the addition so that it will be functionally compatible with the existing building.

Please describe how the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit.:

Standard side setbacks in CC zoning result in buildings being located close to side property lines. This condition exists throughout the block bounded by Raeford Road to the north, Purdue Drive to the east, Breezewood Avenue to the south and Marlborough Road to the west. A minimal side setback is in harmony with the general purpose and intent of the ordinance.

Please describe how, in the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.:

The requested reduction in the side setback and spacing

Height of Sign Face : 0

between buildings does not affect the safety and welfare of the public.

Height of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Height of Sign Face: 0

Square Footage of Sign Face : 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Primary Contact Information

Contractor's NC ID#:

Project Owner

Kathryn Griffin

Griffin Realty Investments, LLC

2825 Raeford Road

Fayetteville, NC 28303

P:910-805-8332

larry@webbcarpet.net

Project Contact - Agent/Representative

George Rose

George M. Rose, P.E.

P.O. Box 53441

Fayetteville, NC 28305

P:910-977-5822

george@gmripe.com

Project Contact - Primary Point of Contact for Engineer

George Rose

George M. Rose, P.E.

P.O. Box 53441

Fayetteville, NC 28305

P:910-977-5822

george@gmripe.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

NC State General Contractor's License Number:

NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor's #3 License Number:

NC State Electrical Contractor #1 License Number:

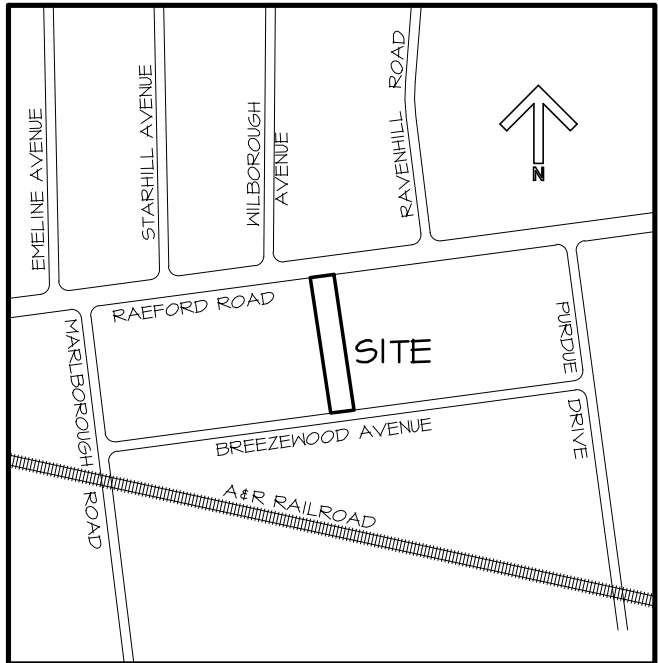
NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

Indicate which of the following project contacts should be included on this project: Engineer



VICINITY MAP
NO SCALE

LEGEND

- CP COMPUTED POINT (PROPERTY CORNER)
EIP EXIST IRON PIPE (PROPERTY CORNER)
LP EXISTING LIGHT POLE
PP EXISTING POWER POLE
GUY EXISTING GUY WIRE
OHE EXISTING OVERHEAD ELECTRICAL
204 EXISTING CONTOUR

NOTES

- TOTAL AREA IN TRACT = 21,815 SF = 0.50 ACRES
- OWNER/DEVELOPER:
GRIFFIN REALTY INVESTMENTS, LLC
P.O. BOX 87042
FAYETTEVILLE, NC 28304
- SITE ADDRESS:
2825 RAEFORD ROAD
FAYETTEVILLE, NC 28303
- REFERENCE: DB 9816 PG 673
- REID NO: 0421119167000
- PROPERTY ZONED CC, CITY
- ALL CONSTRUCTION TO BE IN ACCORDANCE WITH ALL CITY OF FAYETTEVILLE STANDARDS AND SPECIFICATIONS.
- THE CONTRACTOR MUST CONTACT THE NORTH CAROLINA CALL CENTER AT 800-632-4444 PRIOR TO DIGGING IN ORDER TO LOCATE ALL EXISTING UTILITIES.



REVISIONS:

GEORGE M. ROSE, P.E.
P.O. BOX 53441
FAYETTEVILLE, NC 28305

910-977-5822 FAX 910-485-5823 EMAIL george@gmrpe.com

NEW BUILDING FOR
WEBB CARPET COMPANY
2825 RAEFORD ROAD
FAYETTEVILLE, NC

EXISTING CONDITIONS

DATE: JUN 2023

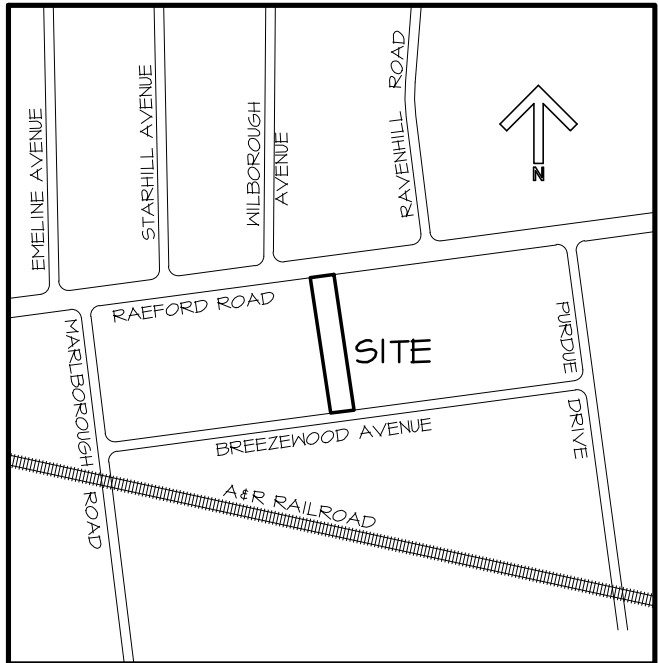
DRAWN BY: GMR

CHECKED: GMR

SCALE: NOTED

SHEET NO.

SP1



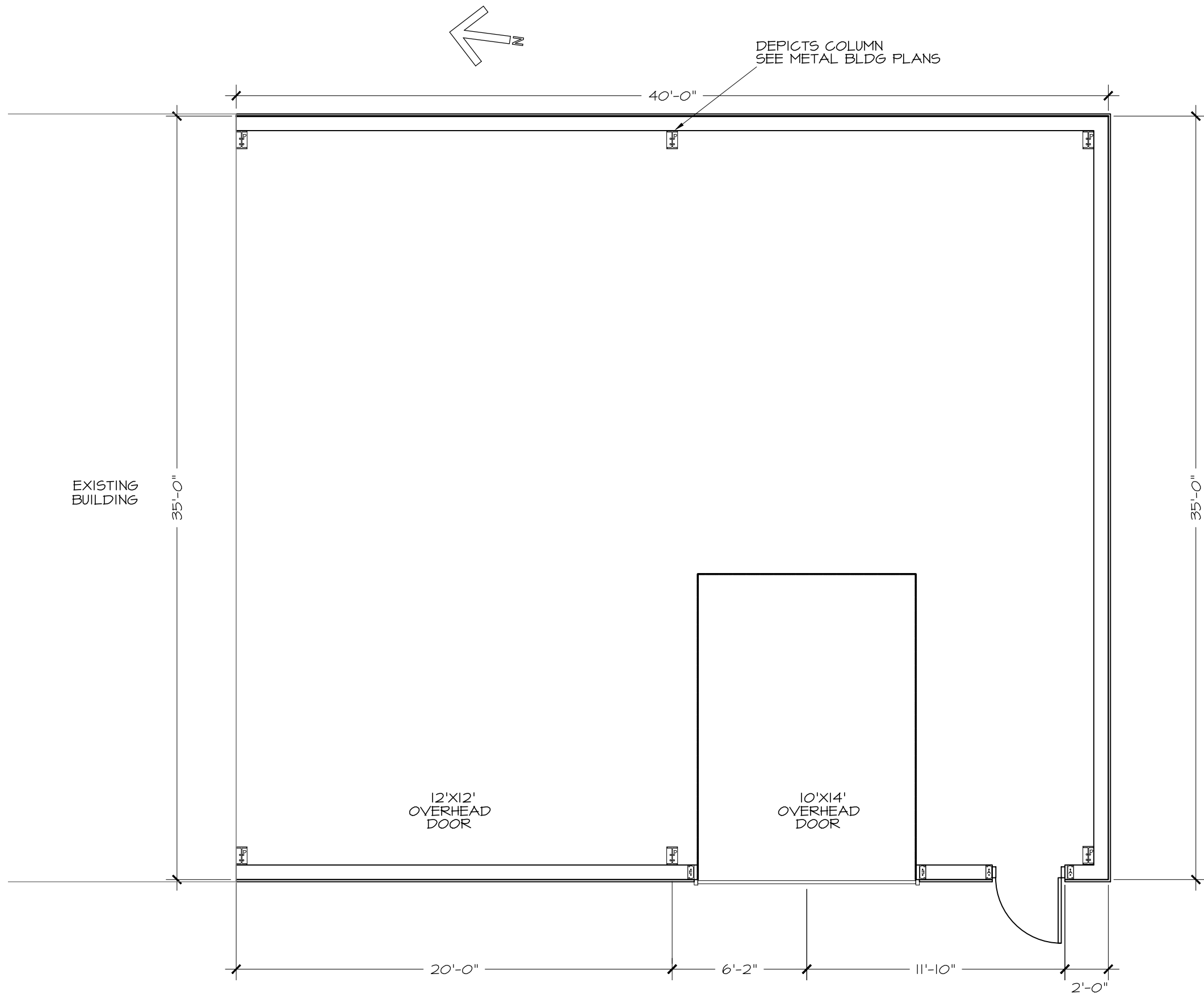
VICINITY MAP
NO SCALE

LEGEND

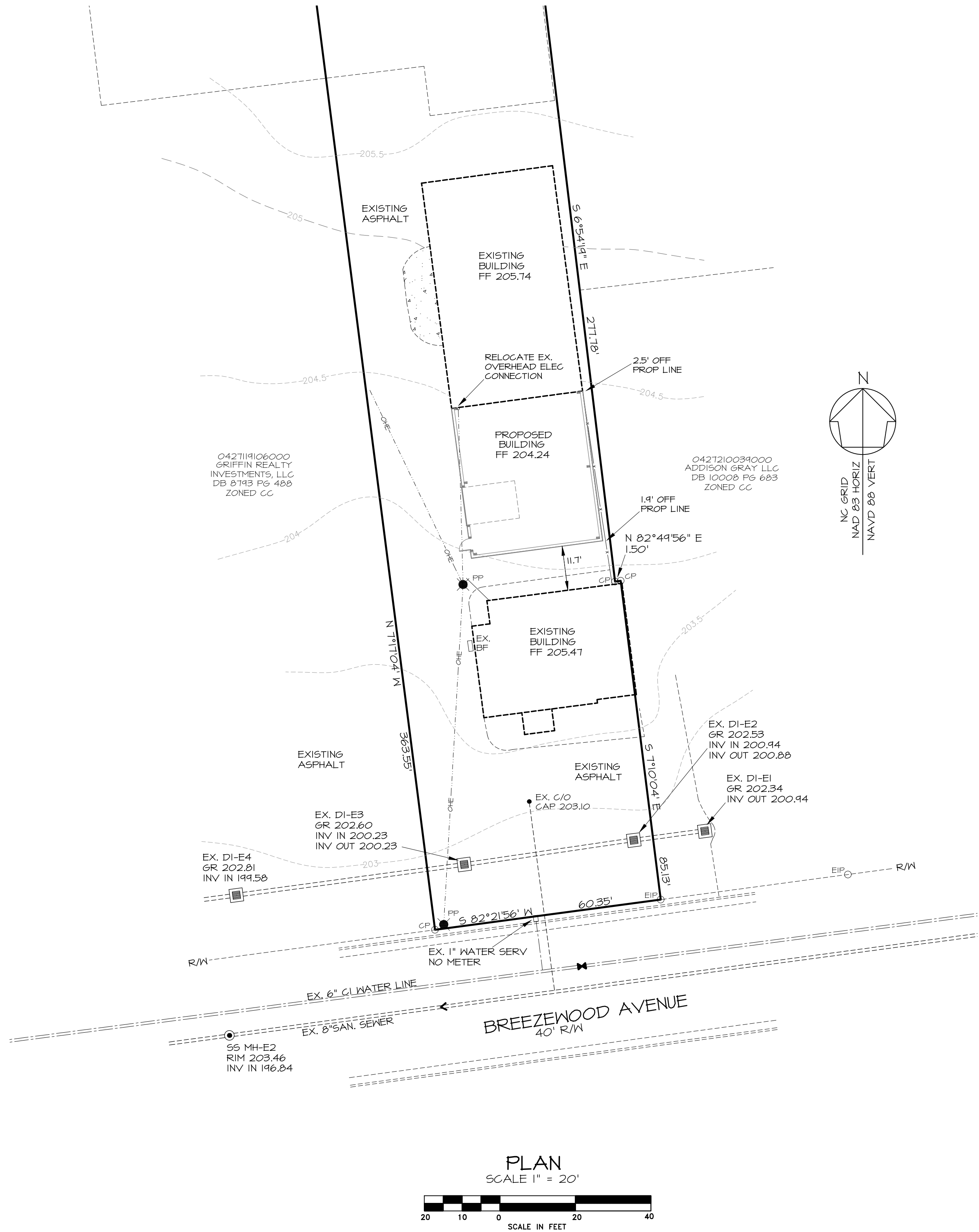
- CP COMPUTED POINT (PROPERTY CORNER)
EIP EXIST IRON PIPE (PROPERTY CORNER)
LP EXISTING LIGHT POLE
PP EXISTING POWER POLE
GUY EXISTING GUY WIRE
OHE EXISTING OVERHEAD ELECTRICAL
204 EXISTING CONTOUR

NOTES

- TOTAL AREA IN TRACT = 21,815 SF = 0.50 ACRES
- OWNER/DEVELOPER:
GRIFFIN REALTY INVESTMENTS, LLC
P.O. BOX 87042
FAYETTEVILLE, NC 28304
- SITE ADDRESS:
2825 RAEFORD ROAD
FAYETTEVILLE, NC 28303
- REFERENCE: DB 9816 PG 673
- REID NO: 0421119161000
- PROPERTY ZONED CC, CITY
- ALL CONSTRUCTION TO BE IN ACCORDANCE WITH ALL CITY OF FAYETTEVILLE STANDARDS AND SPECIFICATIONS.
- THE CONTRACTOR MUST CONTACT THE NORTH CAROLINA CALL CENTER AT 800-632-4444 PRIOR TO DIGGING IN ORDER TO LOCATE ALL EXISTING UTILITIES.



PROPOSED BUILDING FLOOR PLAN
SCALE 1" = 5'



REVISIONS:

GEORGE M. ROSE, P.E.
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FAYETTEVILLE, NC 28305

910-977-5822 FAX 910-485-5823 EMAIL george@gmrpe.com

NEW BUILDING FOR
WEBB CARPET COMPANY
FAYETTEVILLE, NC
2825 RAEFORD ROAD

SITE PLAN

DATE: JUN 2023

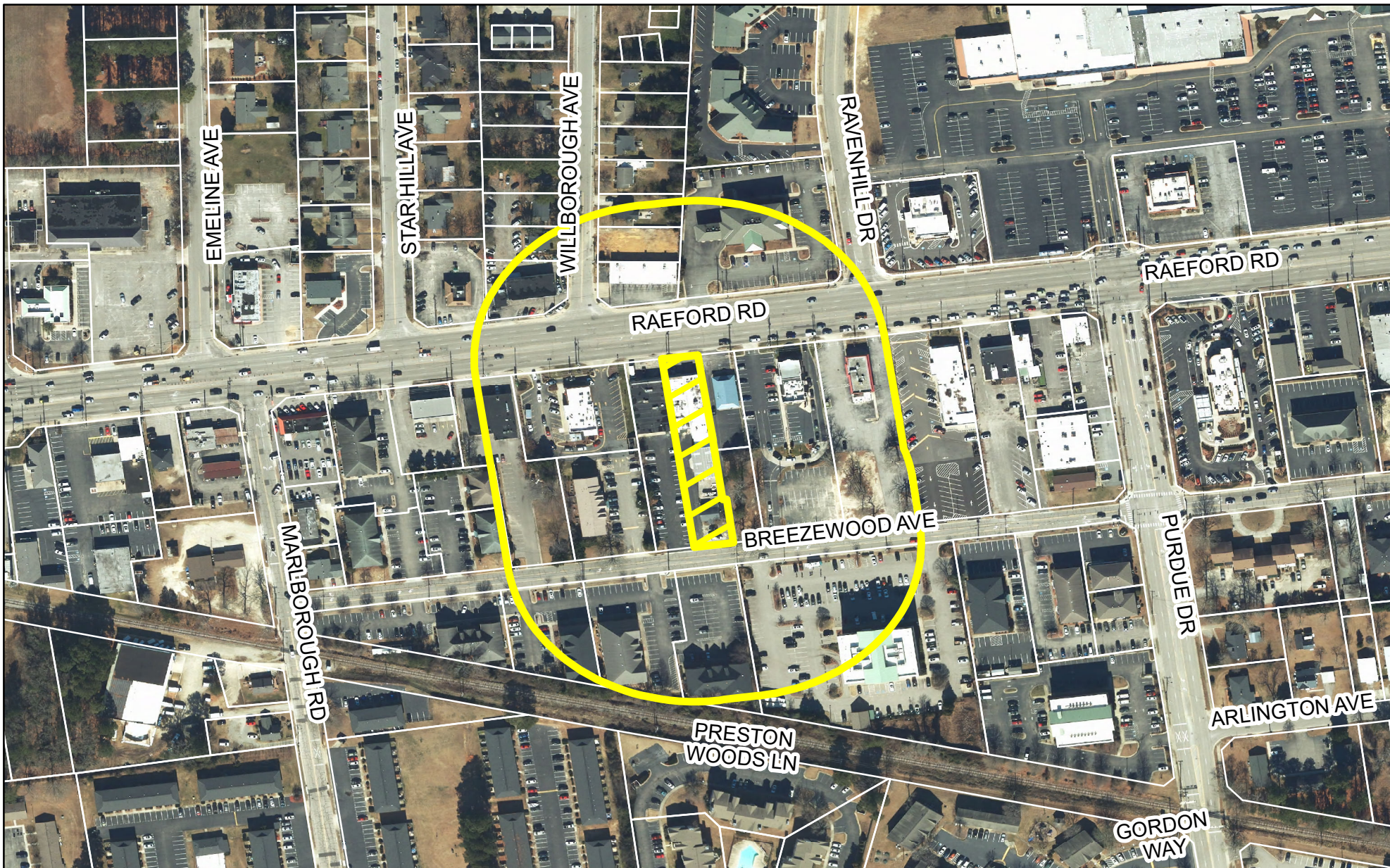
DRAWN BY: GMR

CHECKED: GMR

SCALE: NOTED

SHEET NO.

SP2



Aerial Notification Map

Case #: A23-28

Request: Variance
Reduce side yard setback
and Building Separation

Location: 2825 Raeform Rd

Legend



A23-28

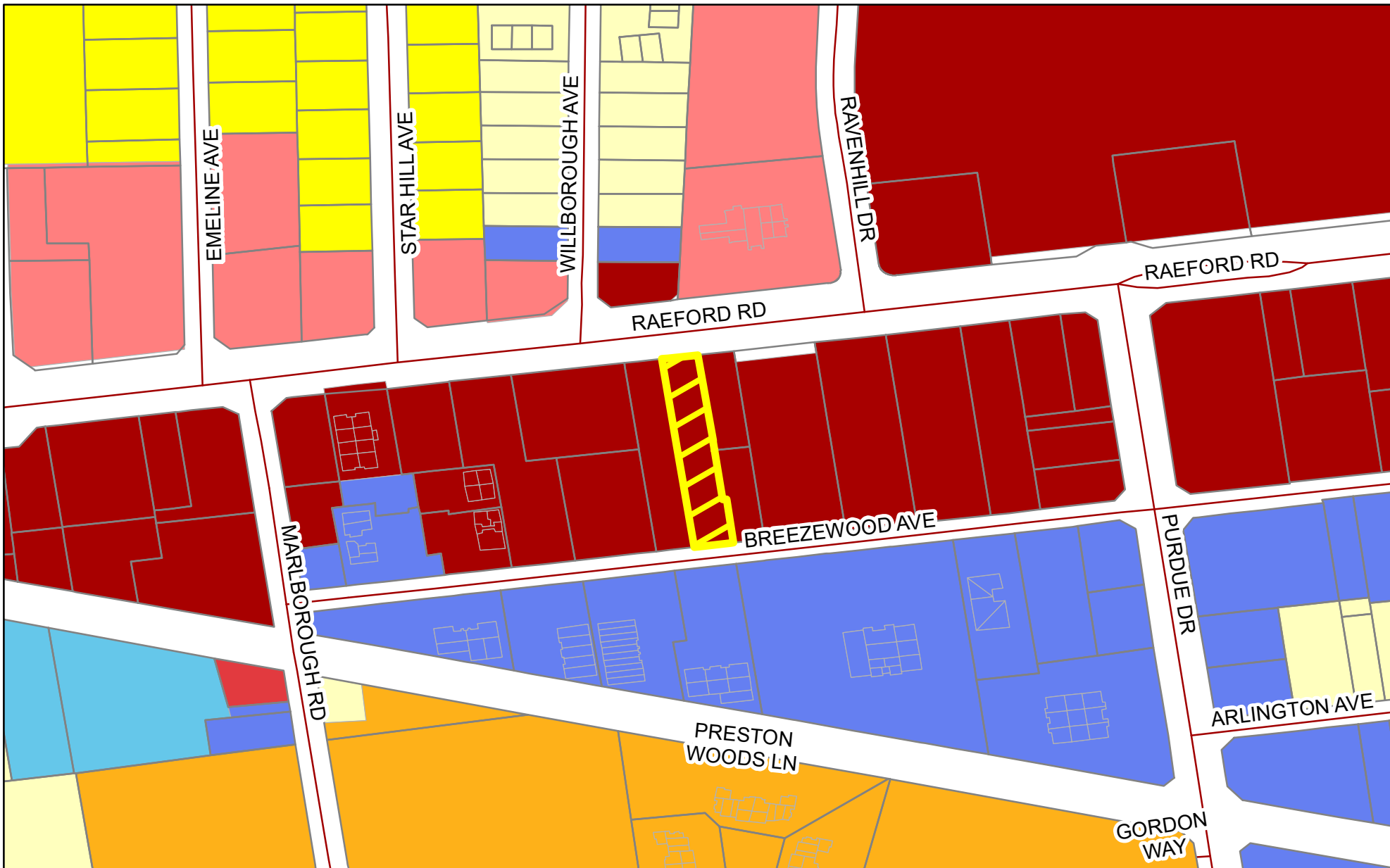


A23-28 Notification Buffer



Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.














Zoning Map

Case #: A23-28

Request: Variance
Reduce side yard setback
and Building Separation

Location: 2825 Raeford Rd

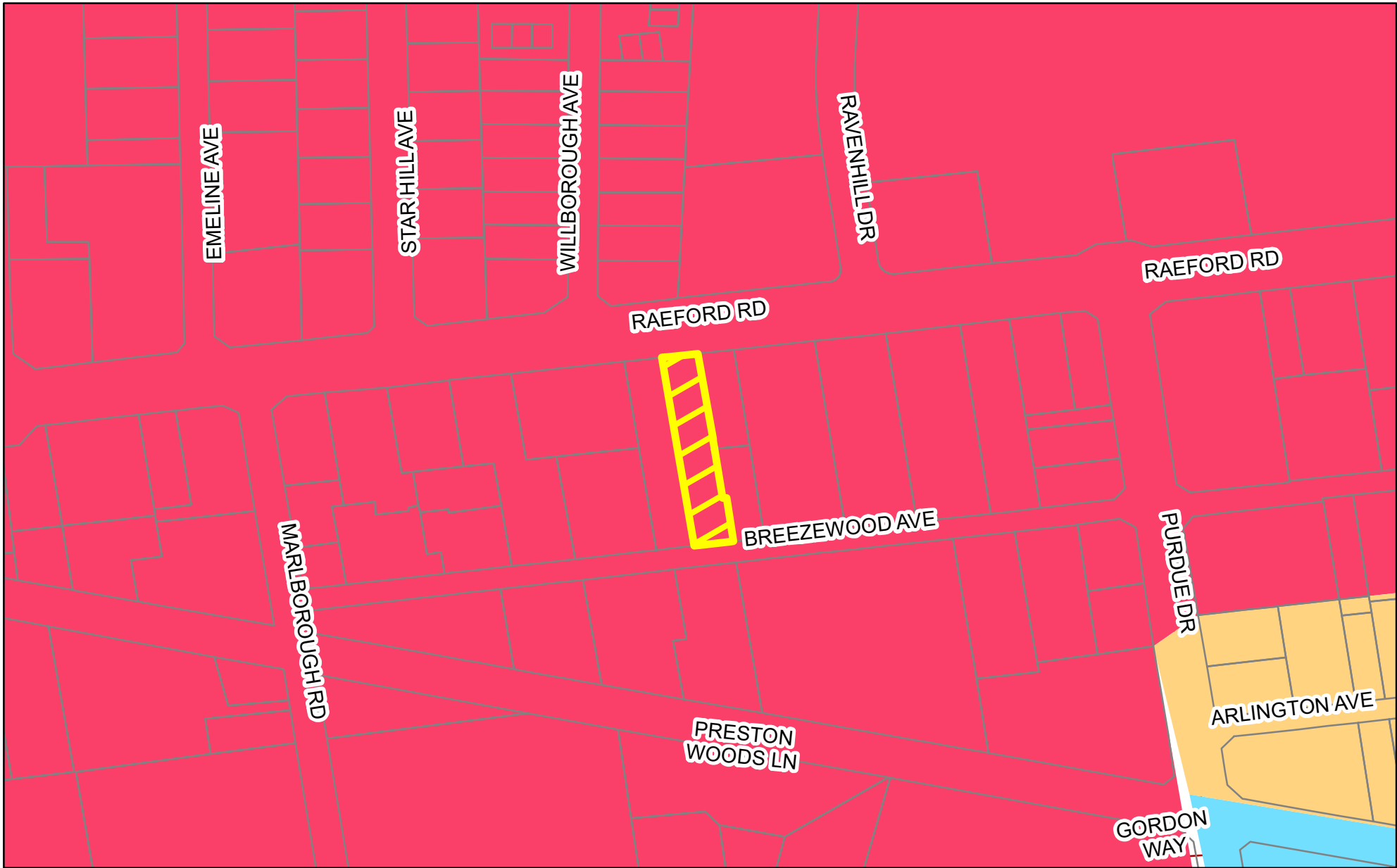
Legend

	A23-28		CC - Community Commercial
			LI - Light Industrial
			MR-5 - Mixed Residential 5
			NC - Neighborhood Commercial
			OI - Office & Institutional
			SF-6 - Single-Family Residential 6
			SF-10 - Single-Family Residential 10



Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.





Land Use Map
Case #: A23-28

Request: Variance
Reduce side yard setback
and Building Separation

Location: 2825 Raeform Rd




Legend



A23-28

Land Use Plan 2040

Character Areas

-  MDR - MEDIUM DENSITY
-  CC - COMMUNITY CENTER
-  OI - OFFICE / INSTITUTIONAL



Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.







Surrounding Properties





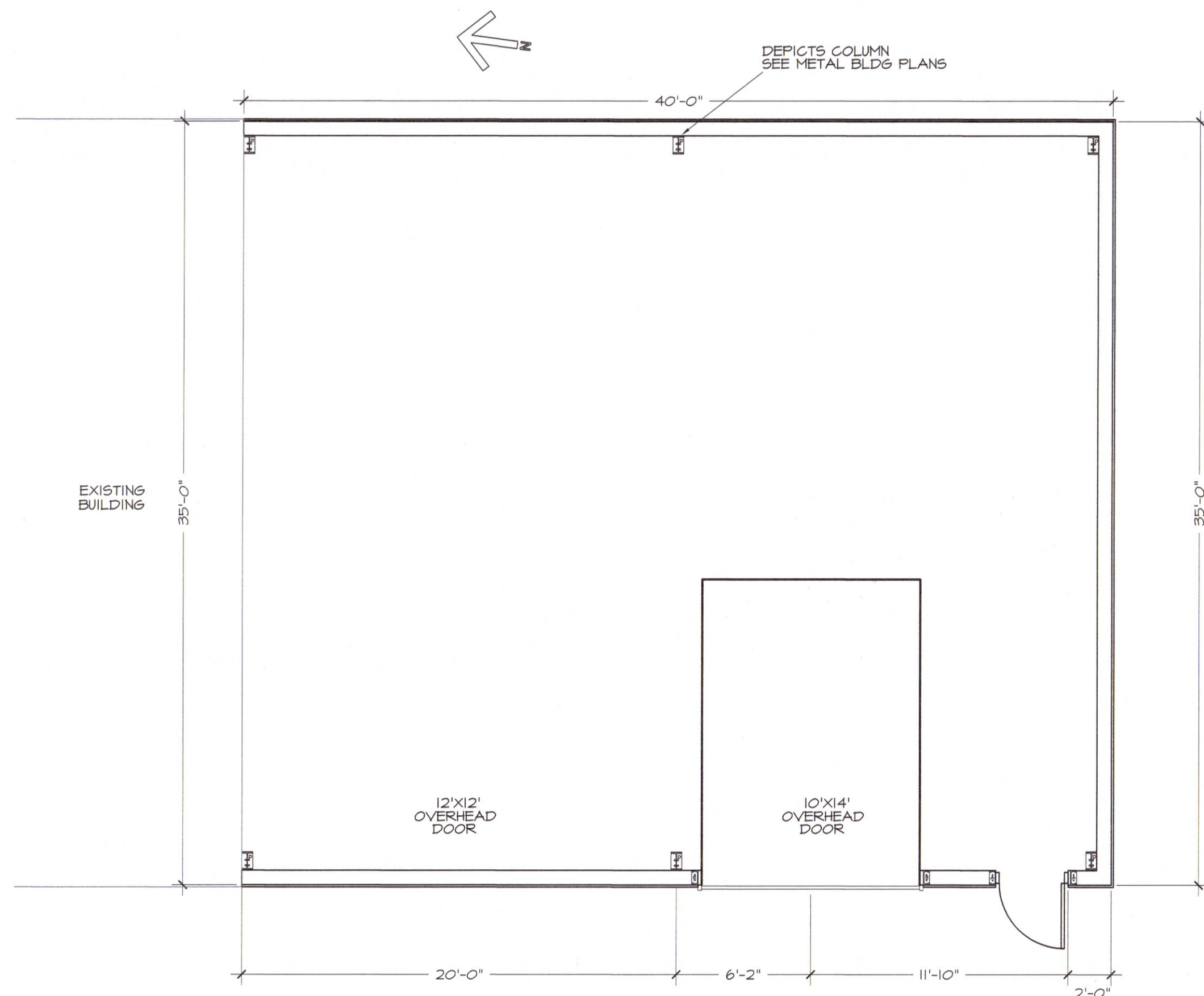
VICINITY MAP
NO SCALE

LEGEND

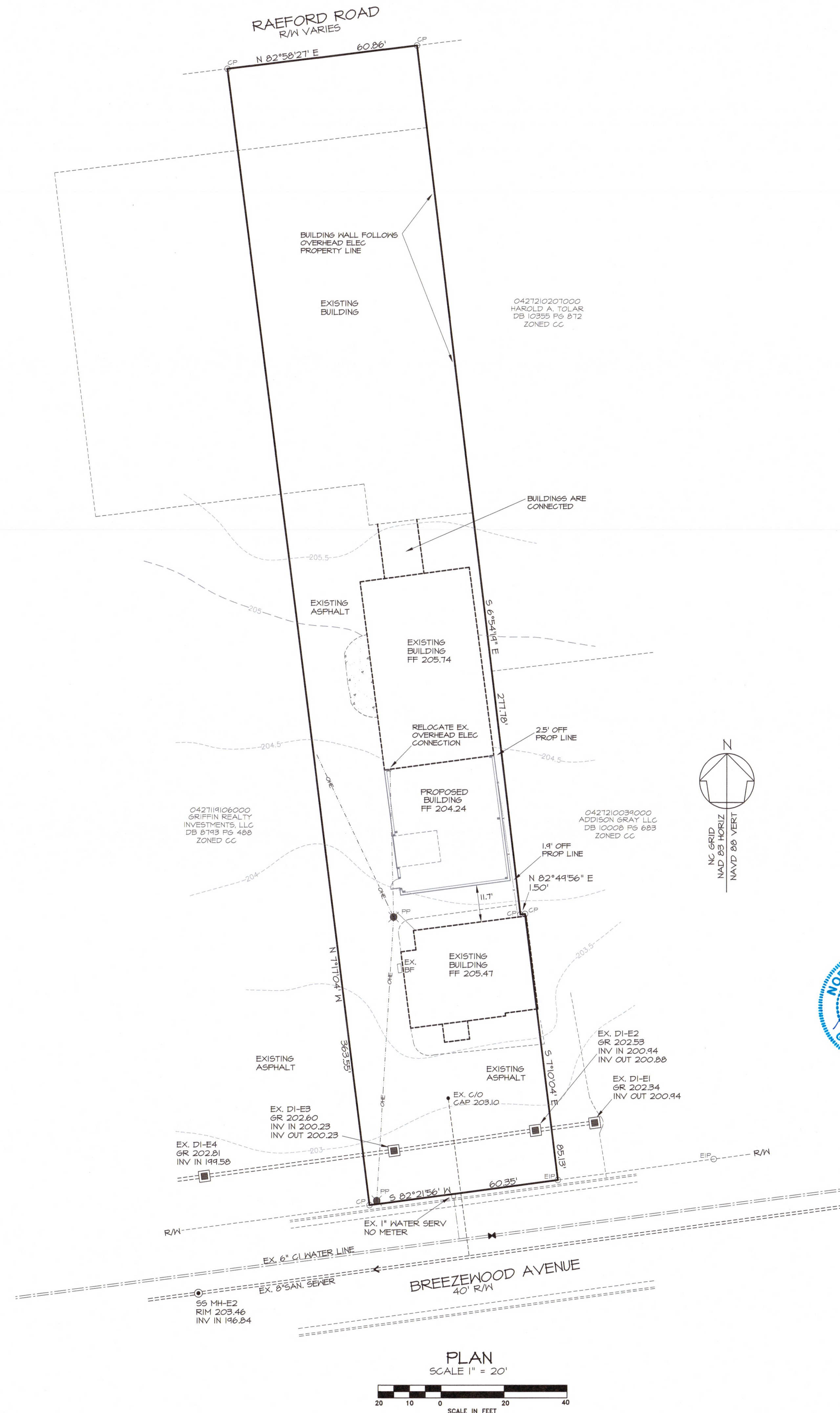
- CP COMPUTED POINT (PROPERTY CORNER)
EIP EXIST IRON PIPE (PROPERTY CORNER)
LP EXISTING LIGHT POLE
PP EXISTING POWER POLE
GUY EXISTING GUY WIRE
OHE EXISTING OVERHEAD ELECTRICAL
204 EXISTING CONTOUR

NOTES

- TOTAL AREA IN TRACT = 21,815 SF = 0.50 ACRES
- OWNER/DEVELOPER:
GRIFFIN REALTY INVESTMENTS, LLC
P.O. BOX 87042
FAYETTEVILLE, NC 28304
- SITE ADDRESS:
2825 RAEFORD ROAD
FAYETTEVILLE, NC 28303
- REFERENCE: DB 9816 PG 613
- REID NO: 0427119161000
- PROPERTY ZONED CC, CITY
- ALL CONSTRUCTION TO BE IN ACCORDANCE WITH ALL CITY OF FAYETTEVILLE STANDARDS AND SPECIFICATIONS.
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PROPOSED BUILDING FLOOR PLAN
SCALE 1" = 5'



REVISIONS:
6-28-23 BLDG CONNECTION

GEORGE M. ROSE, P.E.
P.O. BOX 53441
FAYETTEVILLE, NC 28305

910-977-5822 FAX 910-485-5823 EMAIL george@gmrpe.com

NEW BUILDING FOR
WEBB CARPET COMPANY
FAYETTEVILLE, NC
2825 RAEFORD ROAD

SITE PLAN

DATE: JUN 2023

DRAWN BY: GMR

CHECKED: GMR

SCALE: NOTED

SHEET NO.

SP2



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 23-3458

Agenda Date: 7/11/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 5.01

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Will Deaton, AICP - Planning & Zoning Division Manager
Demetrios Moutos - Planner I

DATE: July 11, 2023

RE:

P23-26. Initial zoning of one contiguous parcel totaling 0.48 ± acres, requesting annexation, to Community Commercial (CC) located at 401 Ladley Street (0426807452000), being the property of Jonathan N. Mitchell.

COUNCIL DISTRICT(S):

Prospective Council District 2 - Shakeyla Ingram

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal II: Responsive City Government Supporting a Diverse and Viable Economy

- Objective 2.1 - To ensure a diverse City tax base.

Goal III: City Invested in Today and Tomorrow

- Objective 3.2 - To manage the City's future growth and strategic land use.

Executive Summary:

Initial zoning of one contiguous parcel totaling 0.48 ± acres, requesting annexation, to Community Commercial (CC) located at 401 Ladley Street (0426807452000), being the property of Jonathan N. Mitchell.

Background:

Applicant: Jonathan Mitchell

Owner: Jonathan Mitchell

Requested Action: Initial zoning to Community Commercial (CC)

REID: 0426807452000

Prospective Council District: 2 - Shakeyla Ingram

Status of Property: Undeveloped with the exception of a 7 ½ foot tall chain link fence lining the east, west, and north property lines.

Size: 0.48 ± acres

Adjoining Land Use & Zoning:

- **North:** Single Family Dwellings (County Zoning R6 Residential District)
- **South:** Mitchell's Rollback & Wrecker Service LLC (Zoned City CC)
- **East:** Two Single Family Dwellings on a Single Large Parcel (County Zoning R6A Residential District)
- **West:** Single Family Dwelling (County Zoning R6 Residential District)

Letters Mailed: 106

Land Use Plans:

With the adoption of the 2040 Comprehensive Plan: Future Land Use Map & Plan on May 26, 2020, all parcels within the city limits as well as parcels identified as being in the Municipal Influence Area (MIA) are subject to this plan.

According to the Future Land Use Map, this parcel has been identified for development with "higher density redevelopment and 'missing middle' housing to increase private reinvestment and revitalize neighborhoods", under the Neighborhood Improvement (NIR) designation.

Issues/Analysis:

History:

Jonathan and Kathleen Mitchell became the owners of the subject property in July of 2021. A single family dwelling and accessory structure existed on the property since at least 1968 and was demolished sometime between 2021 and 2023, according to aerial photography and Cumberland County records.

Jonathan and Kathleen Mitchell also own the two adjacent properties to the south under Mitchells Rollback & Wrecker Service LLC, which was granted in December of 2016. Those two properties are currently within the City Limits of Fayetteville under the Community Commercial (CC) zoning designation and were annexed in 2005 when the property was still under the ownership of Mark Norton and being operated as Norton's Wrecker Service.

The property is currently in violation of Cumberland County ordinance. Motor vehicle wrecking yards and junkyards/motor vehicle storage yards are a prohibited use type under county zoning designation Residential 6 (R6). While the current use on the two adjacent properties within the city limits is legal non-conforming, the use of the annexing property as an extension of the wrecker service in a Community Commercial (CC) zoning district will require an additional application and approval of a Special Use Permit under the current Unified Development Ordinance.

Surrounding Area:

The areas to the east, west, and north of the subject property are residential in nature, with single family residences as part of the Southlawn, Carter Heights, and Homeland Acres subdivisions. Mitchells Rollback & Wrecker Service LLC abuts the subject

property to the south. Commercial properties in the area include Crystal Water Care along Sandy Valley Street to the southwest and D&D Customs and Stewart Moving and Storage to the Southeast along W Mountain Drive.

Rezoning Request:

The applicant is requesting to initially zone a parcel as Community Commercial (CC) in conjunction with a petition to annex into the city's corporate limits. The purpose of this request, according to the applicant, is to facilitate easier management of land, taxes, and regulations for their thriving business, which is part of the Fayetteville wrecker rotation. As the business is growing and serving customers who are unable to retrieve their vehicles immediately, additional storage space is needed to accommodate longer-term storage for customers facing personal circumstances.

Straight Zoning:

Land falling within the city's corporate limits, as well as the Municipal Area of Influence, is categorized under specific base zoning districts established by the Unified Development Ordinance (UDO). Reclassification of land to comparable zoning districts is possible, following the guidelines stated in Section 30-2.C. In line with an annexation process, this rezoning request aims to initially zone a parcel as Community Commercial. The Community Commercial (CC) District is specifically designed to accommodate a diverse range of medium- to high-intensity retail, service, and office uses. Its purpose is to provide goods and services that serve the needs of the wider community, such as shopping centers, convenience stores, retail sales establishments, and potentially heavier commercial uses (subject to the approval of a Special Use Permit as outlined in Section 30-2.C.7). Typically, this district is located along major arterial roads, at intersections of arterials, and along growth corridors identified in City plans. Encouraging higher-density residential uses on the upper floors of nonresidential buildings is a goal within the Community Commercial District. Additionally, stand-alone buildings for higher-density residential purposes can be incorporated as part of larger horizontal mixed-use developments. The district adheres to standards intended to ensure development compatibility with surrounding uses, as well as design standards outlined in Article 30-5: Development Standards.

The initial zoning request is not conditional. Therefore, the governing board may not consider conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other applicable regulations. If the governing board wishes to impose conditions, then the applicant must withdraw their application and resubmit a request to conditionally zone the parcel and a date for a separate legislative hearing to hear the new request must be set.

Land Use Plan Analysis:

According to the Future Land Use Map, this parcel has been identified for development with "higher density redevelopment and 'missing middle' housing to increase private reinvestment and revitalize neighborhoods", under the Neighborhood Improvement (NIR) designation. The Community Commercial (CC) district allows for uses that fit within this category of land uses.

Consistency and Reasonableness Statements:

The Future Land Use Plan establishes goals, policies, and strategies. This application looks to follow the City's strategic compatible growth strategies by meeting the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

Budget Impact:

There are no immediate budgetary impacts to rezoning this parcel but there will be an economic impact associated with the annexation of this parcel.

Options:

1. Recommend approval of the map amendment to Community Commercial (CC) as presented based on the evidence submitted and finds that the rezoning is consistent with the Future Land Use Plan as demonstrated by the attached consistency and reasonableness statement (recommended);
2. Recommend approval of the map amendment to a more restrictive zoning district based on the evidence submitted and finds that the map amendment would be consistent with the Future Land Use Plan and an amended consistency statement;
3. Deny the map amendment request based on the evidence submitted and finds that the map amendment is inconsistent with the Future Land Use Plan.

Recommended Action:

The Professional Planning Staff recommends that the Zoning Commission move to recommend APPROVAL of the proposed map amendment to initially zone a parcel to Community Commercial (CC) based on the following:

- The proposed zoning map amendment adheres to the policies adopted in the Future Land Use Plan and can be made to conform with the provisions found in the Unified Development Ordinance (UDO). The Future Land Use Plan calls for the subject parcel to be developed as Neighborhood Improvement (NIR) and the proposed zoning district allows for uses that fit this category; and
- The proposed zoning district already exists south of the site and would promote compatible economic and commercial development consistent with Goal #2 of the Future Land Use Goals; and
- The proposed zoning district promotes logical and orderly development that would make no substantial impact upon the public health, safety, or general welfare.

Attachments:

1. Plan Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Plan Map
5. Subject Property
6. Surrounding Property Photos
7. District Standards
8. Consistency and Reasonableness Statement

Project Overview**#1044334****Project Title:** Mitchells Towing**Jurisdiction:** City of Fayetteville**Application Type:** 5.1) Rezoning (Map Amendment)**State:** NC**Workflow:** Staff Review**County:** Cumberland**Project Location****Project Address or PIN:** 401 LADLEY ST (0426807452000)**Zip Code:** 28306**GIS Verified Data****Property Owner: Parcel**

- 401 LADLEY ST: MITCHELL, JONATHAN N.

Acreage: Parcel

- 401 LADLEY ST: 0.48

Zoning District: Zoning District

- 401 LADLEY ST: cnty

Subdivision Name:**Fire District:****Airport Overlay District: Airport Overlay District**

- 401 LADLEY ST: 1

Hospital Overlay District:**Coliseum Tourism District:****Cape Fear District:****Downtown Historic District:****Haymount Historic District:****Floodway:****100 Year Flood:** <100YearFlood>**500 Year Flood:** <500YearFlood>**Watershed:****General Project Information****Has the land been the subject of a map amendment application in the last five years?:** No**Previous Amendment Approval Date:****Previous Amendment Case #:****Proposed Zoning District:** CC Community Commercial**Acreage to be Rezoned:** .48**Is this application related to an annexation?:** Yes**Water Service:** Public**Sewer Service:** Public**A) Please describe all existing uses of the land and existing structures on the site, if any:****B) Please describe the zoning district designation and existing uses of lands adjacent to and across the street from the subject site.:**

When we purchased the land we did so with the expatiation of expanding our existing lot for storage of wrecked vehicles. There os only a fence on the property and we where in the process of putting up a walled fence due to people breaking in and steeling catalytic converters.

We have 412 A&B lots that is adjacent to the 401 Ladley street which is in the county. we would like to have them rezoned and annexed so that they are all under the City. I have attached the lots so that you can see how they are Adjacent to one another.

Amendment Justification - Answer all questions on this and all pages in this section (upload additional sheets as needed).

A) State the extent to which the proposed amendment is consistent with the comprehensive plan and all other applicable long-range planning documents.:

We would like to join all our lots together, we have 412 West Mountain Drive Lots A&B and would like for 401 Ladley street to be Rezoned and added with our existing lots. This way it's just easier with land and taxes and rules and regulations. Attached is the deed. The plans for this lot is for storage.

B) Are there changed conditions that require an amendment? :

Not that I know of.

C) State the extent to which the proposed amendment addresses a demonstrated community need.:

We are a thriving Business that is on the Fayetteville rotation, We are growing, we have customers that can't come and get their vehicles right away. we need additional storage because its gives us the room to store vehicles longer for members that are unable to get there vehicles due to personal circumstances.

D) State the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and why it is the appropriate zoning district for the land.:

We already have two lots that is adjacent to this lot, we purchased it for that reason. to expand and grow our business and to have more room for more vehicles.

E) State the extent to which the proposed amendment results in a logical and orderly development pattern.:

They are adjacent lots it makes sense to have all three with the city, and not mixed up between the county and city.

F) State the extent to which the proposed amendment might encourage premature development.:

There is no development on this lot of land its just for storage of city rotation calls.

G) State the extent to which the proposed amendment results in strip-style commercial development.:

We are a community commercial listing, we just want this lot listed as the same.

H) State the extent to which the proposed amendment results in the creation of an isolated zoning district unrelated to adjacent and surrounding zoning districts.:

this doesn't apply.

I) State the extent to which the proposed amendment results in significant adverse impacts on the property values of surrounding lands.:

This is just for storage. don't think it will impact anyone around the area.

J) State the extent to which the proposed amendment results in significantly adverse impacts on the natural environment.:

it doesn't

Primary Contact Information

Contractor's NC ID#:

Project Owner

Jonathan Mitchell
Mitchell's Towing
412 West Mountain Drive
Fayetteville, NC 28306
P:910-258-1838
mitchellstowing0216@gmail.com

Project Contact - Agent/Representative

Jonathan Mitchell
Mitchell's Towing
412 West Mountain Drive
Fayetteville, NC 28306
P:910-258-1838
mitchellstowing0216@gmail.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

NC State General Contractor's License Number:

Project Contact - Primary Point of Contact for the Surveyor

Jonathan Mitchell
Mitchell's Towing
412 West Mountain Drive
Fayetteville, NC 28306
P:910-258-1838
mitchellstowing0216@gmail.com

NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor's #3 License Number:

NC State Electrical Contractor #1 License Number:

NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

Indicate which of the following project contacts should be included on this project: Surveyor



Aerial Notification Map



Case #: P23-26

Initial Zoning

Request: Community Commercial (CC)

Location: 401 Ladley Street

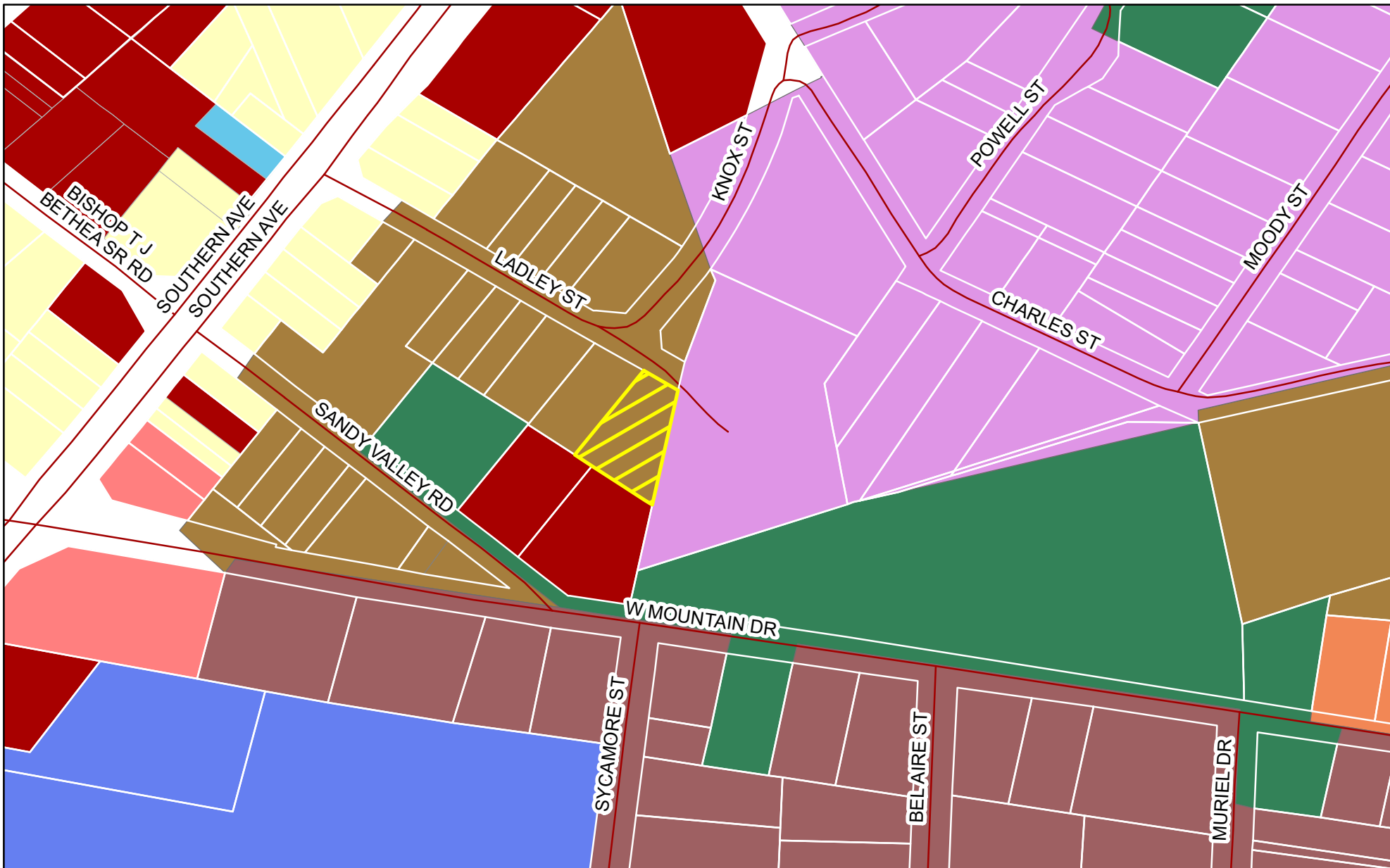
Legend

-  P23-26 Buffer
-  P23-26



Letters are being sent to all property owners within the 1000' buffer. Subject property is shown in the hatched pattern.





Zoning Map

Case #: P23-26

Initial Zoning

Request: Community Commercial (CC)

Location: 401 Ladley Street

Legend



P23-26



CC - Community Commercial



LC - Limited Commercial



LI - Light Industrial



OI - Office & Institutional



SF-6 - Single-Family Residential 6



County

CCZoning

gis_ware_3

C3

CP

R10

R6

R6A

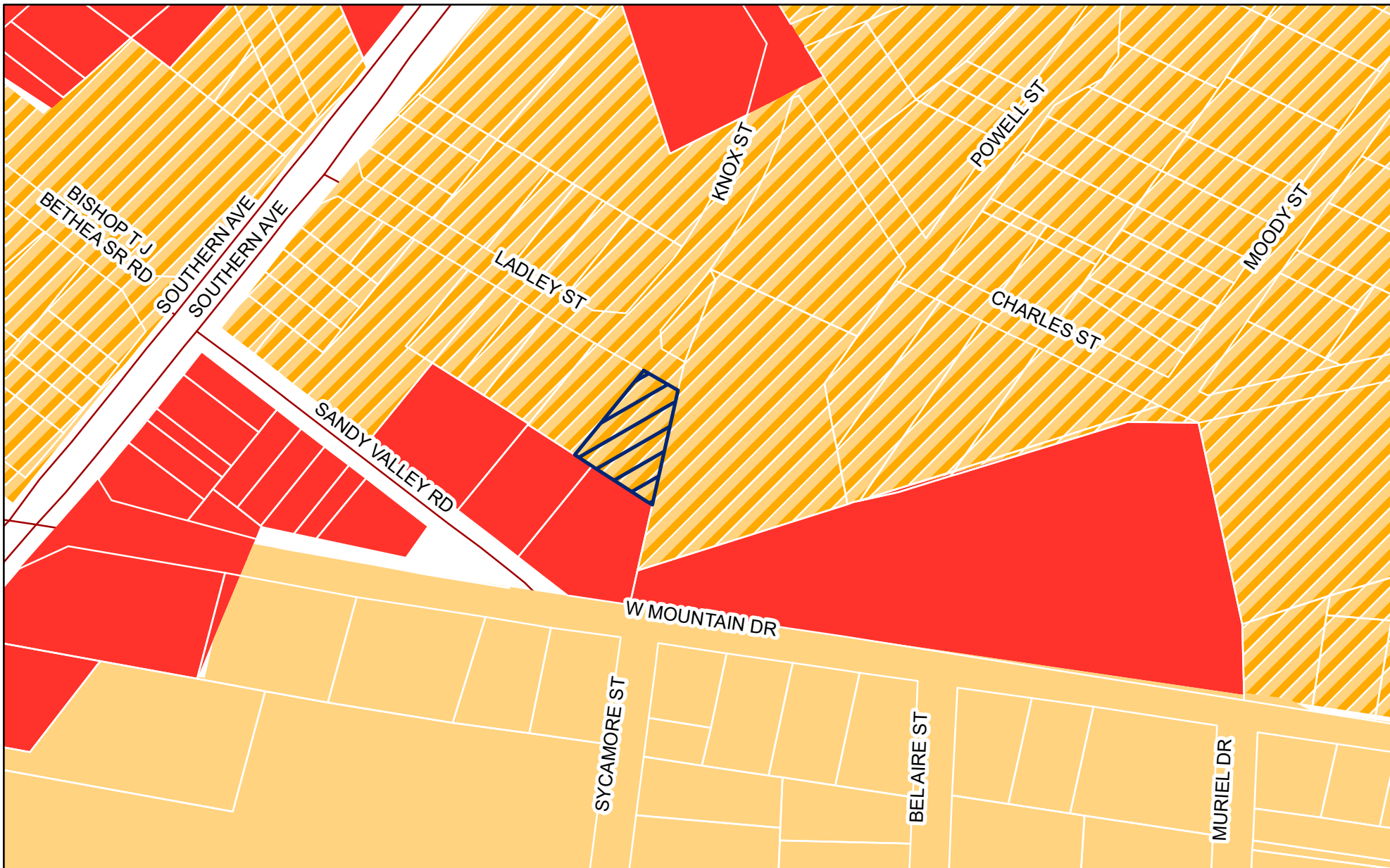
Letters are being sent to all property owners within the 1000' buffer. Subject property is shown in the hatched pattern.



FAYETTEVILLE NC

AMERICA'S CAN DO CITY





Future Land Use Map

Case #: P23-26

Initial Zoning
Request: Community Commercial (CC)

Location: 401 Ladley Street

Legend



Land Use Plan 2040

Character Areas

 MDR - MEDIUM DENSITY

 NIR - NEIGHBORHOOD IMPROVEMENT

 HC - HIGHWAY COMMERCIAL



Letters are being sent to all property owners within the 1000' buffer. Subject property is shown in the hatched pattern.





Subject Property





unding Properties



PART II - CODE OF ORDINANCES

CHAPTER 30 – UNIFIED DEVELOPMENT ORDINANCE

Article 30-3: Zoning Districts

30-3.E. Business Base Zoning Districts

30-3.E.5. Community Commercial (CC) District

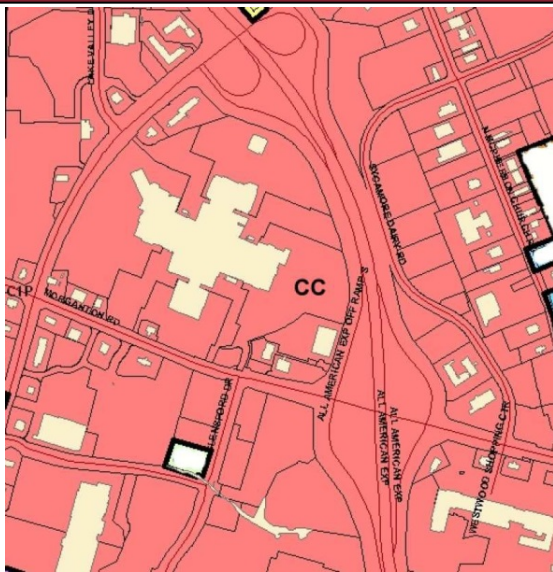
CC COMMUNITY COMMERCIAL DISTRICT	PURPOSE			
	The Community Commercial (CC) District is established and intended to accommodate a diverse range of medium- to high-intensity retail, service, and office uses that provide goods and services serving the residents and businesses in the community at large—e.g., shopping centers, convenience stores, retail sales establishments, and heavier commercial uses (subject to approval of a Special Use Permit (see Section 30-2.C.7)). The district is typically located along major arterials, at the intersection of arterials, and along growth corridors identified in City plans. Higher-density residential uses are encouraged on the upper floors of nonresidential establishments, and may exist as stand-alone buildings as part of a larger horizontal mixed- use development. The district is subject to standards intended to ensure development is compatible with surrounding uses as well as the design standards in Article 30-5: Development Standards.			
DIMENSIONAL STANDARDS				
DIMENSIONAL STANDARD	NONRESIDENTIAL	MIXED-USE	ALL OTHER USES	ACCESSORY STRUCTURES
Lot area, min. (sq. ft.)	10,000	8,000	15,000	n/a
Lot width, min. (ft.)	45			n/a
Gross residential density, max. (dwelling units/acre)[1]	24			n/a
Lot coverage, max. (% of lot area)	65			[2]
Height, max.	the greater of six stories or up to 75 feet			25; 15 where abutting a single-family zoning district or use with setback less than 10 feet
Front and corner side setback, min. (ft.) [3]	The lessor of 25 ft. or 60 ft. from centerline of private streets			Not allowed in front, corner side, or side yard areas
Side setback, min. (ft.)	3; 15 where abutting a single-family zoning district or use			

Rear setback, min. (ft.)	3; 20 where abutting an alley or single-family zoning district or use	5
Spacing between buildings, min. (ft.)	20	5
Zero lot line development standards	Zero lot line development shall comply with the applicable maximum gross residential density standards. Setbacks and lot area for lots abutting the perimeter of the development shall meet the district minimums; otherwise no setbacks, lot area, lot coverage, or building spacing requirements shall apply. [4]	

NOTES:

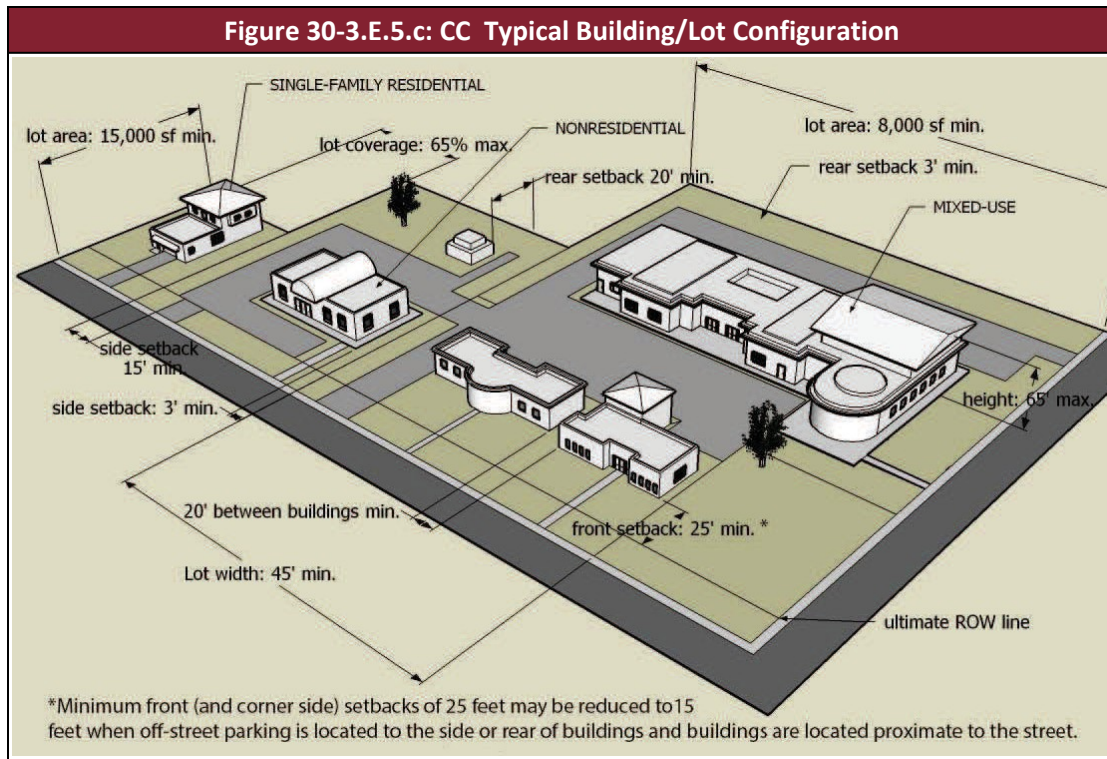
- [1] A maximum density of 36 is allowed in priority redevelopment areas as may be designated by City Council.
- [2] Accessory structures/use areas shall not exceed the lesser of: 1,500 square feet in size or 30 percent of the allowable lot coverage.
- [3] Minimum front (and corner side) setbacks for nonresidential, multi-family, and mixed-uses may be reduced to 15 feet when off-street parking is located to the side or rear of buildings and buildings are located proximate to the street (or corner) rights-of-way.
- [4] Zero lot line development is subject to standards in Section 30-3.B.2 and, on a tract or site of three acres in area or less may require approval of a Neighborhood Compatibility Permit (see Section 30-2.C.21 Neighborhood Compatibility Permit).

**Figure 30-3.E.5.a:
CC Typical Lot Pattern**



**Figure 30-3.E.5.b:
CC Typical Building Form**





(Ord. No. S2011-008, §§ 6, 14.2, 7-25-2011; Ord. No. S2011-014, §§ 1.3, 1.4, 11-28-2011; Ord. No. S2012-001, Pt. 3, § 3.3, 1-23-2012; Ord. No. S2012-018, § 2.4, 9-10-2012; Ord. S2014-003, § 1c, 1-13-2014; Ord. No. S2014-015, § 5, 8-11-2014; Ord. No. S2021-040, § 1, 10/25/2021)

Effective on: 11/18/2013

Consistency and Reasonableness Statement

Map Amendments

Pursuant N.C.G.S. Sections 160D-604 and -605, the Zoning Commission finds that the proposed zoning map amendment in case P23-26 is consistent/inconsistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

GOAL(S)	CONSISTENT	INCONSISTENT
GOAL #1: Focus value and investment around infrastructure and strategic nodes	X	
GOAL #2 Promote compatible economic and commercial development in key identified areas	X	

2. LAND USE POLICES AND STRATEGIES:

LAND USE POLICIES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 1: Encourage growth in areas well- served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire and emergency services.	X	
1.1: Work with Public Works Commission (PWC) and other utility provider to ensure that public facilities and services are planned in a coordinated manner	X	
1.3: Consider the costs and benefits of future extensions of utility service	X	
LUP 2: Encourage strategic economic development	X	
2.1: Encourage economic development in designated areas	X	
LUP 4: Create Well-Designed and Walkable Commercial and Mixed-Use Districts	X	
4.1: Ensure new development meets basic site design standards	X	

4.2: Encourage context-sensitive site design	X	
--	---	--

3. The proposed amendment is consistent with the Future Land Use Map as follows:

X	The proposed land use is consistent and aligns with the area's designation on the FLU Map.	OR		The proposed land use is inconsistent and does not align with the area's designation on the FLU Map.
X	The proposed designation, as requested, would permit uses that are complimentary to those existing on adjacent tracts.	OR		The proposed designation, as requested, would permit uses that are incongruous to those existing on adjacent tracts.

Reasonableness

The proposed zoning amendment is reasonable and in the public interest because it supports the policies of the Comprehensive Plan as stated above and the Strategic Plan as stated in the Staff Report, and because: [select all that apply]

- X The size, physical conditions, and other attributes of the proposed use(s) will benefit the surrounding community.
- The amendment includes conditions that limit potential negative impacts on neighboring uses.
- X The proposed uses address the needs of the area and/or City.
- X The proposal adapts the zoning code to reflect modern land-use trends and patterns.

The amendment is also in the public interest because it: [select all that apply]

- X improves consistency with the long-range plan.
- X improves the tax base.
- preserves environmental and/or cultural resources.
- X facilitates a desired kind of development.
- X provides needed housing/commercial area.

Additional comments, if any (write-in):

July 11, 2023

Date

Chair Signature

Print



City of Fayetteville

433 Hay Street
Fayetteville, NC 28301-5537
(910) 433-1FAY (1329)

City Council Action Memo

File Number: 23-3460

Agenda Date: 7/11/2023

Version: 2

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 5.02

TO: Mayor and Members of City Council

THRU: Will Deaton, AICP - Planning & Zoning Division Manager

FROM: Heather Eckhardt, CZO - Planner II

DATE: July 11, 2023

RE:

P23-27. Amendment to Business Park Conditional Zoning (BP/CZ), for a portion of 1220 Bridgehead Circle, (REID #0409925221000), totaling 16.72 acres ± and being the property of Military Business Park Inc represented by Moorman, Kizer, and Reitzel, Inc.

COUNCIL DISTRICT(S):

3 - Mario Benavente

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal II: Responsive City Government Supporting a Diverse and Viable Economy

- Objective 2.1 - To ensure a diverse City tax base
- Objective 2.4 - To sustain a favorable development climate to encourage business growth

Goal III: City invested in Today and Tomorrow

- Objective 3.2 - To manage the City's future growth and strategic land use.

Goal IV: Desirable Place to Live, Work, and Recreate

- Objective 4.5 - To ensure a place for people to live in great neighborhoods

Executive Summary:

The applicant is requesting to amend the existing conditions of the Business Park Conditional Zoning district located at the Military Business Park. The applicant is requesting to add additional permitted uses such as multi-family and personal services establishments. Additionally, the applicant would like to adjust specific design standards required by the Unified Development Ordinance.

Background:

Applicant: Moorman, Kizer, and Reitzel, Inc.

Owner: Military Business Park LLC

Requested Action: Amend Business Park Conditional Zoning

REID #: 0409925221000

Council District: 3 - Mario Benavente

Status of Property: Vacant

Size: 16.72 acres

Adjoining Land Use & Zoning:

- North: BP/CZ - Vacant
- South: CC - Vacant and storage facility
- East: BP/CZ - Vacant
- West: MR-5/CZ - Vacant and apartments

Annual Average Daily Traffic: Santa Fe Drive: 42,500 (2021)

Letters Mailed: 48

Land Use Plans:

With the adoption of the 2040 Comprehensive Plan: Future Land Use Map & Plan on May 26, 2020, all properties within the city limits as well as properties identified as being in the Municipal Influence Area (MIA) are subject to this plan. According to the Plan, it is recommended that this portion of the city should be developed as Employment Center (EC). Employment Center is intended for high-intensity uses including business parks. Areas to the south and west are intended for high-density residential as well as office/institutional.

Issues/Analysis:

History:

The Business Park Conditional Zoning district for Military Business Park was established in 2013. The original conditions primarily pertained to exterior façade standards, open space, buffers, fencing, lighting, signage, and the ratio of “core” uses to “supportive” uses in the park. The original conditional zoning did not address permitted uses. Therefore, those uses permitted in the BP district were permitted in the Military Business Park. In 2019, the conditional zoning district was amended to allow veterinary clinics and reduce the required setbacks for outdoor runs/play areas for the veterinary clinics. The Military Business Park has seen a variety of development including a large warehouse/distribution center, emergency veterinary clinic, and office buildings.

In 2021, the land immediately to the east of the Military Business Park was rezoned from Single Family 6 to Mixed Residential 5. The Future Land Use Plan also called for that land to be developed as an Employment Center.

Surrounding Area:

The subject property is surrounded by Military Business Park to the north and east. To the east of the Military Business Park, there are 25.2 acres which were rezoned in 2021 to MR-5 to allow for the construction of apartments. Multiple apartment

complexes are located on the west of the All American Expressway which bounds the subject property to the west. These complexes are zoned a combination of MR-5 and MR-5/CZ. There are two commercially zoned properties to the south - one is vacant the other has been developed as a storage facility.

Rezoning Request:

Land within the City is generally classified by the Unified Development Ordinance (UDO) to be within one of many base zoning districts. Land may be reclassified to one of several comparable zoning districts in accordance with Section 30-2.C.

Conditional Zoning:

The request is to amend the existing Business Park Conditional Zoning district.

The proposed conditions in this request will be in addition to the original conditions.

The purpose of the CZ zoning district is “intended to provide a landowner and the City an alternative to rezoning the land to a standard base zoning district, where the base zoning allows certain uses and development that may be appropriate but also allow uses and development that may not conform to City plans or would have adverse impacts on public facilities or surrounding lands. Reclassification of land to a conditional zoning district allows a landowner to propose, and the City Council to consider, additional conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other regulations applicable in the parallel base zoning district. This enables the City to tailor a zoning classification to accommodate desirable development while avoiding or addressing anticipated problems that may arise from development otherwise allowed by the base zoning district.”

Specifics of this Conditional Rezoning:

The applicant is requesting an amendment to the existing Business Park Conditional Zoning district. The proposed conditions are as follows:

1. Add the following uses:
 - a. Mixed Use
 - b. Multi-family Residential
 - c. Convenience Store without Gas Sales
 - d. Personal Services Establishments
 - e. Brewpub
 - f. Parcel Services
2. Individual multi-family residential building footprints shall be allowed up to 35,000 square feet (30-5.H.4.b.1 allows for building footprints up to 20,000 square feet)
3. Maximum length of any façade of any multi-family residential structure shall not exceed 300 linear feet (30-5.H.4.b.2 allows for façade lengths of 220 linear feet)
4. Minimum Parking Standards per Table 30-5.A.4.b of 1.8 spaces per dwelling unit for multi-family shall be applicable to the Mixed Use buildings.
5. Allow for multi-building developments to have buildings framing and enclosing at least two sides of parking areas, public spaces, or other site amenities (30-5.I.3.a.2.a.4 requires buildings to frame/enclose on three sides)
6. Remove specific language of the “Broadwell Big Oaks” on Lot 1A. (Trees located to the north eastern edge of area to be rezoned are unhealthy).

Land Use Plan Analysis:

According to the Future Land Use Map & Plan, this general area is recommended to be developed as Employment Center (EC). Employment Center calls for high intensity uses such as business parks. The Future Land Use Plan also sets forth written goals, policies, and strategies. This application follows the City's strategic, compatible growth strategies and does meet the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

Conclusion:

While the proposed conditions would allow for uses that are not directly aligned with the Land Use map, the uses will be of a size and scale that is complimentary to the area and the existing business park. Additionally, the proposed development will include uses that support the existing businesses in the area, the proposed multi-family development, and future development within and around the Military Business Park. The proposed multi-family development will add to the housing stock which is needed in Fayetteville.

Budget Impact:

There is not an immediate budgetary impact but there will be an economic impact associated with this rezoning that will occur due to taxes collected in the future.

Options:

1. Recommends approval of the amendment to the BP/CZ as presented based on the evidence submitted and finds that the rezoning is consistent with the Future Land Use Plan as demonstrated by the attached consistency and reasonableness statement (recommended)
2. Recommends approval of the map amendment to a more restrictive zoning district based on the evidence submitted and finds that the map amendment would be consistent with the Future Land Use Plan and an amended consistency statement.
3. Denies the map amendment request based on the evidence submitted and finds that the map amendment is inconsistent with the Future Land Use Plan.

Recommended Action:

The Professional Planning Staff recommends that the Zoning Commission move to recommend APPROVAL of the map amendment to the existing BP/CZ based on the following:

- The proposed zoning map amendment does implement the policies adopted in the Future Land Use Plan (FLUP), and those policies found in the Unified Development Ordinance (UDO). The Future Land Use Plan calls for the subject property to be developed as Employment Center (EC).
- The uses permitted by the proposed change in zoning district classification and standards apply to such uses are appropriate in the immediate area of the land to be reclassified due to the existing zoning and uses surrounding this property;

and

- There are no other factors that will substantially affect public health, safety, morals, or general welfare.

Attachments:

1. Plan Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Plan Map
5. Subject Property
6. Surrounding Property Photos
7. Site Plan
8. Consistency and Reasonableness Statement

Project Overview**#1044005****Project Title:** Military Business Park**Jurisdiction:** City of Fayetteville**Application Type:** 5.2) Conditional Rezoning**State:** NC**Workflow:** Staff Review**County:** Cumberland**Project Location****Project Address or PIN:****Zip Code:** 28303

- 1220 BRIDGEHEAD CIR (0409925221000)
- 2755 PROCUREMENT CIR (0409838983000)
- 0 NO ADDRESS (0409829909000)
- 0 NO ADDRESS (0409934615000)

GIS Verified Data**Property Owner: Parcel****Acreage: Parcel**

- 1220 BRIDGEHEAD CIR: MILITARY BUSINESS PARK INC
- 2755 PROCUREMENT CIR: WAVERLY BROADWELL FAMILY LLC;BROADWELL BROTHERS LLC
- 0 NO ADDRESS: WAVERLY BROADWELL FAMILY LLC;BROADWELL BROTHERS LLC
- 0 NO ADDRESS: MILITARY BUSINESS PARK INC
- 1220 BRIDGEHEAD CIR: 38.53
- 2755 PROCUREMENT CIR: 28.37
- 0 NO ADDRESS: 2.24
- 0 NO ADDRESS: 1.04

Zoning District: Zoning District**Subdivision Name:**

- 1220 BRIDGEHEAD CIR: BP/CZ
- 2755 PROCUREMENT CIR: BP/CZ
- 0 NO ADDRESS: BP/CZ
- 0 NO ADDRESS: BP/CZ

Fire District:**Airport Overlay District:****Hospital Overlay District:****Coliseum Tourism District:****Cape Fear District:****Downtown Historic District:****Haymount Historic District:****Floodway:****100 Year Flood:** <100YearFlood>**500 Year Flood:** <500YearFlood>**Watershed:****General Project Information****Proposed Conditional Zoning District:** BP/CZ - Conditional Business Park**Lot or Site Acreage to be rezoned:** 70.98**Was a neighborhood meeting conducted?:** No**Date of Neighborhood Meeting:****Number of Residential Units:****Nonresidential Square Footage:****Landowner Information**

Written Description of Request - Answer all the questions under this section (upload additional sheets as needed).

A) Describe the proposed use of the rezoned land, including the proposed types of site improvements, buildings, uses, proposed activities, hours of operation, and operating characteristics.:

The Military Business Park (MBP) was initially laid out and designed to house small to medium sized military contractors along with offices, testing facilities, industrial uses, research facilities, assembly facilities, warehouses, and other similar uses. The lot sizes anticipated with the original MBP layout were based on feedback received from other communities located near large military installations, which indicated small to medium sized lots were desired, but also needed to have the flexibility to combine the lots into larger parcels to accommodate various uses. The anticipated influx of potential tenants for the MBP associated with the BRAC realignment process did not materialize, so it has been necessary to repurpose the site to include a broader range of potential uses.

The construction of the Amazon facility at the MBP has had a dramatic effect on the site layout and the potential development options for the remainder of the site. The Amazon facility encompasses 91.93 acres and is located in the middle of the overall 235.88 acre MBP project site, necessitating the realignment of proposed roads and lots throughout the MBP property. These changes have limited the flexibility initially envisioned for the site and how those areas can be marketed and developed.

Currently 134.14 acres of the overall MBP site have been developed, sold or incorporated into the stormwater ponds installed at the site. This leaves 101.74 acres for future development. A previous large company looked at a portion of the remaining area at the site for a large distribution center that would take up another 40.66 acres. This would leave 61.08 acres at the site, but there are other anticipated commercial type uses that would impact another 9 acres, leaving 52 acres for future development.

Out of the remaining 52 acres, there is a 16.5 acre area at the corner of Santa Fe Drive and the All American Freeway that was anticipated for a future retail, commercial and hotel site. The changes in the traffic patterns associated with I-295 have significantly reduced the traffic along Santa Fe, and subsequently the interest in a hotel site for this location. The main focus of the traffic from the Amazon facility appears to be directed towards Bragg Blvd., pushing the need for the hotel and some of the commercial uses to that side of the MBP site. The interest in the corner of Santa Fe and the All American has thus been reduced, and is further complicated by the location of the existing high

B) Describe the proposed conditions that should be applied.:

Add Multi-Family Dwellings and Mixed Use Development to the permitted uses allowed within the BP/CZ for the MBP site.

The current dimensional and development standards that apply for Mixed Residential 5 (MR-5) District as found in Chapter 30-3.D.5 and 30-5.H shall be applicable for the multi-family dwelling development within the MBP BP/CZ with the exception of the following recommended changes:

1. Front and corner yard setbacks for the MR-5 District found in Chapter 30-3.D.5 shall meet the minimums set forth in the MBP BP/CZ District, which are 40 instead of 25.
2. Side yard setbacks for the MR-5 District found in Chapter 30-3.D.5 shall meet the minimums set forth in the MBP BP/CZ, which are 30 instead of 10.
3. Accessory buildings are not allowed in the front, side or corner yard setback areas per the BP District as found in Chapter 30-3.E.7.A and as applicable with the MBP BP/CZ.
4. Individual building footprints shall be increased to 35,000 square feet instead of the 20,000 square feet outlined in the MR-5 District Development Standards as found in Chapter 30-5.H.4.b.1. The larger building size will allow for the apartment buildings to blend better with the existing facilities within the MBP and meet the anticipated urban design for the four story buildings being proposed.
5. The maximum length of any faade of a multi-family structure shall not exceed 300 linear feet instead of the 220 linear feet outlined in the MR-5 District Development Standards as found in Chapter 30-5.H.4.b.2. The larger building size will allow for the apartment buildings to blend with the existing facilities within the existing MBP and meet the anticipated urban design for the four story buildings being proposed.

The current dimensional and development standards that apply for Mixed Use (MU) District as found in Chapter 30-3.E.6 and 30-5.I.3 shall be applicable for mixed use development within the MBP BP/CZ with the exception of the following recommended changes:

1. Front and corner yard setbacks for the MU District found in Chapter 30-3.E.6 shall meet the minimums set forth in the MBP BP/CZ District, which are 40 instead of 10.
2. Side yard setbacks for the MU District found in Chapter 30-3.E.6 shall meet the minimums set forth in the MBP BP/CZ, which are 30 instead of 10.

pressure gas transmission main that runs diagonally through the middle of the site. With these changes in mind, it has been necessary to reconsider how this corner of the MBP site can best be marketed and developed.

There has been interest expressed through time to locate a multi-family project on the 16.5 acre site, since that would fit in with the surrounding uses at the Santa Fe and All American interchange and support some limited commercial uses for this side of the MBP site. The site is suitable for multi-family development since the placement of buildings and parking areas can work around the existing gas main. Multi-family however is currently not a permitted use within the BPCZ zoning for the MBP, so the Owners would like to amend the uses associated with the conditional zoning for the site to include multi-family and mixed use development.

This proposed additional use at the MBP site, which is zoned BP/CZ Conditional Business Park, is to include multi-family mixed use residential. The multi-family residential area would include a 350 unit mixed use apartment and commercial/retail project on a 16.5 acre parcel of land at the corner of Santa Fe Drive and the All American Freeway. Some commercial and office uses would be incorporated in some of the apartment buildings and there would be additional area on the site for standalone commercial or offices. The site would contain extensive amenities for the residents, and the design of the commercial uses would be integrated with the apartments to create a distinctive community look. The mixed use approach should align well with the overall concept of the MBP site.

It is anticipated that the commercial and office uses would have normal working hours, with a restaurant type use staying open longer. The Multi-family area will have activity throughout the day and into the evening, with resident movements tapering off overnight.

C) Please describe the zoning district designation and existing uses of lands adjacent to and across the street from the subject site.:

The overall MBP site is bounded by major thoroughfares and road corridors to include Santa Fe Drive, The All American Freeway, Bragg Boulevard and I-295. The area within the MBP intended for the MR-5 and MU uses is bounded by Santa Fe Drive, the All American Freeway, Coalition Blvd. and the proposed extension of Bridgehead Circle. Within the MBP, all of the parcels adjacent to the site are currently undeveloped and are zoned BP/CZ. Further down Coalition Blvd. there are existing buildings with various uses within the BP/CZ zoning district. Across Santa Fe is existing commercial property to include an office and mini-warehousing, with the properties being zoned CC. Across the All American are existing apartments and commercial uses that are zoned MR-5, MR-5/CZ and LC

3. Rear yard setbacks for the MU District found in Chapter 30-3.E.6 shall meet the minimums set forth in the MBP BP/CZ which are 30 instead of 10.

4. Change the Multi-Building Development Design Standards options as found in Chapter 30-5.1.3.a.2.a.4 to allow for buildings framing and enclosing at least **TWO** sides of parking areas, public spaces, or other site amenities instead of the currently required three sides.

Based upon discussions with the owners of the Military Business Park, and evaluation of the trees located in the Broadwell Big Oaks tree save area on Lot 1A, the preservation of these trees needs to be removed from the MBP BP/CZ requirements. One of the trees appears to be dead, and the other two large trees are not healthy. Upon assessment of an arborist, it is anticipated that these trees will be deemed unhealthy and in need of removal. With this in mind, the Owners would like to go ahead and remove the specific language of the Broadwell Big Oaks on Lot 1A from the MBP BP/CZ district.

In order to provide coverage for all of the potential uses in the mixed use portions of the development, the Owners would like to add the following uses to the BP/CZ for the MBP as follows:

- a. Convenience Store Without Gas Sales
- b. Personal Services Establishments
- c. Brewpub
- d. Parcel Services

Amendment Justification - Answer all questions on this and all pages in this section (upload additional sheets as needed).

A) State the extent to which the proposed amendment is consistent with the comprehensive plan and all other applicable long-range planning documents.:

The proposed amendment is consistent with the development patterns that are taking place in the area around the MBP. The Amazon facility at the MBP has impacted how the remaining portions of the site can be developed and limited some of the previously planned development flexibility. The proposed amendment will permit some of the remaining property to address a current market need that should help to promote further growth within the overall MBP site.

B) Are there changed conditions that require an amendment? :

Yes, it is requested that multi-family residential be added to the list of approved uses within the BP/CZ zoning designation.

C) State the extent to which the proposed amendment addresses a demonstrated community need.:

There is still a need for quality multi-family units in the City of Fayetteville. The proposed concept for this project is unique compared to existing multi-family complexes in the City, and the look will be very distinctive but in scale with the other existing and planned facilities in the MBP.

D) State the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and why it is the appropriate zoning district for the land.:

Please see previous comments for reference. There are currently multi-family complexes across the All American Freeway on both sides of Santa Fe Drive as well as some commercial uses. Directly across from the site on Santa Fe are existing commercial uses, and surrounding the site within the MBP property are existing and proposed BP/CZ uses. There is also another multi-family project starting construction further down Santa Fe Drive. The addition of multi-family to the existing allowed uses in the BP/CZ at the MBP would be appropriate considering the development patterns on the surrounding parcels.

E) State the extent to which the proposed amendment results in a logical and orderly development pattern.:

The area around the interchange of Santa Fe Drive and the All American Freeway is well suited for multi-family development. The area provides easy access to Fort Liberty as well as the food, commercial and entertainment venues around Cross Creek Mall. The proximity to I-295 also provides a quick and easy access to reach other areas of the City in a reasonable amount of time. This proposed change would allow an extension of the multi-family development pattern already present in the area and would be a logical development use for this portion of the MBP site.

F) State the extent to which the proposed amendment might encourage premature development.:

The addition of multi-family to the permitted uses for the MBP BP/CZ zone would not result in or encourage premature development in the area.

G) State the extent to which the proposed amendment results in strip-style commercial development.:

The proposed multi-family and commercial project at the corner of Santa Fe Drive and the All American would not result in a strip style center. The proposed multi-family structures will be large 4-story buildings that will have an urban look and feel to them. This would fit in with the existing development within the MBP site. The integrated commercial areas within the site will be complimentary commercial/retail/restaurant uses that would support the multi-family project as well as other uses in the overall MBP site and other areas. The intended look is to have the commercial provide an urban look from the street, with no parking planned between the commercial buildings and the adjacent streets.

H) State the extent to which the proposed amendment results in the creation of an isolated zoning district unrelated to adjacent and surrounding zoning districts.:

The proposed multi-family and commercial development would fit in with the existing surrounding uses, which include multi-family, commercial, and business uses.

I) State the extent to which the proposed amendment results in significant adverse impacts on the property values of surrounding lands.:

There would not be any adverse impacts on the value of the surrounding property.

J) State the extent to which the proposed amendment results in significantly adverse impacts on the natural environment.:

NONE

Primary Contact Information

Contractor's NC ID#:

Project Owner

Dohn Broadwell
Broadwell Land Company
903 Hay Street
Fayetteville, NC 28305
P:910-484-5193
dbbwell@gmail.com

Project Contact - Agent/Representative

Cynthia Smith
Moorman, Kizer & Reitzel, Inc.
115 Broadfoot Avenue
Fayetteville, NC 28306
P:910-484-5191
csmith@mkrinc.com

Project Contact - Primary Point of Contact for the Developer

Bob Avriett
Truong Properties LLC
2543 Ravenhill Drive, C
Fayetteville, NC 28303
P:910-850-1041
bob@truongprop.com

Project Contact - Primary Point of Contact for Engineer

Jimmy Kizer
Moorman, Kizer & Reitzel, Inc.
115 Broadfoot Avenue
Fayetteville, NC 28305
P:910-484-5191
jkizerjr@mkrinc.com

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$30,000. :

NC State General Contractor's License Number:

NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor's #3 License Number:

NC State Electrical Contractor #1 License Number:

NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

Indicate which of the following project contacts should be included on this project: Developer, Engineer

The Military Business Park (MBP) was initially laid out and designed to house small to medium sized military contractors along with offices, testing facilities, industrial uses, research facilities, assembly facilities, warehouses, and other similar uses. The lot sizes anticipated with the original MBP layout were based on feedback received from other communities located near large military installations, which indicated small to medium sized lots were desired, but also needed to have the flexibility to combine the lots into larger parcels to accommodate various uses. The anticipated influx of potential tenants for the MPB associated with the BRAC realignment process did not materialize, so it has been necessary to repurpose the site to include a broader range of potential uses.

The construction of the Amazon facility at the MBP has had a dramatic effect on the site layout and the potential development options for the remainder of the site. The Amazon facility encompasses 91.93 acres and is located in the middle of the overall 235.88 acre MBP Project site, necessitating the realignment of proposed roads and lots throughout the MBP Property. These changes have limited the flexibility initially envisioned for the site and how those areas can be marketed and developed.

Currently 134.14 acres of the overall MBP site have been developed, sold or incorporated into the stormwater ponds installed at the site. This leaves 101.74 acres for future development. A previous large company looked at a portion of the remaining area at the site for a large distribution center that would take up another 40.66 acres. This would leave 61.08 acres at the site, but there are other anticipated commercial type uses that would impact another 9 acres, leaving 52 acres for future development.

Out of the remaining 52 acres, there is a 16.72 acre area at the corner of Santa Fe Drive and the All American Freeway that was anticipated for a future retail, commercial and hotel site. The changes in the traffic patterns associated with I-295 have significantly reduced the traffic along Santa Fe Drive, and subsequently the interest in a hotel site for this location. The main focus of the traffic from the Amazon facility appears to be directed towards Bragg Blvd., pushing the need for the hotel and some of the commercial uses to that side of the MBP site. The interest in the corner of Santa Fe Drive and the All American has thus been reduced, and is further complicated by the location of the existing high pressure gas transmission main that runs diagonally through the middle of the site. With these changes in mind, it has been necessary to reconsider how this corner of the MBP site can best be marketed and developed.

There has been interest expressed through time to locate a multi-family project on the 16.72 acre site, since that would fit in with the surrounding uses at the Santa Fe Drive and All American interchange and support some limited commercial uses for this side of the MBP site. The site is suitable for multi-family development since the placement of buildings and parking areas can work around the existing gas main. Multi-family however is currently not a permitted use within the BPCZ zoning for the MBP, so the Owners would like to amend the uses associated with the conditional zoning for the site to include Multi-family and Mixed Use Development.

Answers to Zoning Application Questions

A. Describe the proposed use of the rezoned land, including the proposed types of site improvement, buildings, uses, proposed activities, hours of operation and operating characteristics:

This proposed additional use at the MBP site, which is zoned BP/CZ – Conditional Business Park, is to include Multi-family Mixed Use Residential. The Multi-family Residential area would include a 350 unit mixed use apartment and commercial/retail project on a 16.72 acre parcel of land at the corner of Santa Fe Drive and the All American Freeway within the MBP. Some commercial and office uses would be incorporated in some of the apartment buildings and there would be additional area on the site for standalone commercial or offices. The site would contain extensive amenities for the residents, and the design of the commercial uses would be integrated with the apartments to create a distinctive community look. The Mixed Use approach should align well with the overall concept of the MBP site.

It is anticipated that the commercial and office uses would have normal working hours, with a restaurant type use staying open longer. The Multi-family area will have activity throughout the day and into the evening, with resident movements tapering off overnight.

B. Describe the proposed conditions that should be applied:

In order to provide coverage for all of the potential uses in the proposed 16.72 acre Mixed Use/Multi Family site, the Owners would like to add the following uses to the BP/CZ for the MBP as follows:

- a. Mixed Use
- b. Multi-family Residential (Mixed Residential)
- c. Convenience Store Without Gas Sales
- d. Personal Services Establishments
- e. Brewpub
- f. Parcel Services

The current dimensional and development standards that apply for to the BP/CZ District as found in Chapter 30-3.E.7.A shall be applicable for the Mixed Residential dwelling development and Mixed Use within the MBP BP/CZ with the addition of the following recommended changes:

1. Individual Mixed Residential building footprints shall be allowed up to 35,000 square feet.
2. The maximum length of any façade of a Mixed Residential structure shall not exceed 300 linear feet instead of the 220 linear feet.
3. Minimum Parking Standards per Table 30-5.A,4.b: 1.8 per dwelling unit for multi-family shall be applicable for the Mixed Residential.
4. Change the Multi-Building Development Design Standards options as found in Chapter 30-5.I.3.a.2.a.4 to allow for buildings framing and enclosing at least **TWO** sides of parking areas, public spaces, or other site amenities.

Based upon discussions with the owners of the Military Business Park, and evaluation of the trees located in the "Broadwell Big Oaks" tree save area on Lot 1A, the preservation of these trees needs to be removed from the MBP BP/CZ requirements. One of the trees appears to be dead, and the other two large trees are not healthy. Upon assessment of an arborist, it is anticipated that these trees will be deemed unhealthy and in need of removal. With this in mind, the Owners would like to go ahead and remove the specific language of the "Broadwell Big Oaks" on Lot 1A from the MBP BP/CZ district. No trees will be removed until an Arborist has confirmed the health of an identified tree.

C. Please describe the zoning district designation and existing uses of lands adjacent to and across the street from the subject site:

The overall MBP site is bounded by major thoroughfares and road corridors to include Santa Fe Drive, The All American Freeway, Bragg Boulevard and I-295. The area within the MBP intended for the MR-5 and MU uses is bounded by Santa Fe Drive, the All American Freeway, Coalition Blvd. and the proposed extension of Bridgehead Circle and contains 16.72 acres. Within the MBP, all of the parcels adjacent to the site are currently undeveloped and are zoned BP/CZ. Further down Coalition Blvd. there are existing buildings with various uses within the BP/CZ zoning district. Across Santa Fe is existing commercial property to include an office and mini-warehousing, with the properties being zoned CC. Across the All American are existing apartments and commercial uses that are zoned MR-5, MR-5/CZ and LC.

Amendment Justification

A) State the extent to which the proposed amendment is consistent with the comprehensive plan and all other applicable long-range planning documents:

The proposed amendment is consistent with the development patterns that are taking place in the area around the MBP. The Amazon facility at the MBP has impacted how the remaining portions of the site can be developed and limited some of the previously planned development flexibility. The proposed amendment will permit some of the remaining property to address a current market need that should help to promote further growth within the overall MBP site.

B) Are there changed conditions that require an amendment:

Yes, it is requested that multi-family residential be added to the list of approved uses within the BP/CZ zoning designation.

C) State the extent to which the proposed amendment addresses a demonstrated community need:

There is still a need for quality multi-family units in the City of Fayetteville. The proposed concept for this project is unique compared to existing multi-family complexes in the City, and the look will be very distinctive but in scale with the other existing and planned facilities in the MBP.

D) State the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and why it is the appropriate zoning district for the land:

Please see previous comments for reference. There are currently multi-family complexes across the All American Freeway on both sides of Santa Fe Drive as well as some commercial uses. Directly across from the site on Santa Fe are existing commercial uses, and surrounding the site within the MBP property are existing and proposed BP/CZ uses. There is also another multi-family project starting construction further down Santa Fe Drive. The addition of multi-family to the existing allowed uses in the BP/CZ at the MBP would be appropriate considering the development patterns on the surrounding parcels.

E) State the extent to which the proposed amendment results in a logical and orderly development pattern: The area around the interchange of Santa Fe Drive and the All American Freeway is well suited for multi-family development. The area provides easy access to Fort Liberty as well as the food, commercial and entertainment venues around Cross Creek Mall. The proximity to I-295 also provides a quick and easy access to reach other areas of the City in a reasonable amount of time. This proposed change would allow an extension of the multi-family development pattern already present in the area and would be a logical development use for this portion of the MBP site.

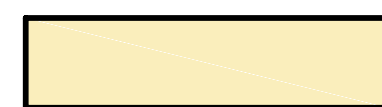
F) State the extent to which the proposed amendment might encourage premature development: The addition of multi-family to the permitted uses for the MBP BP/CZ zone would not result in or encourage premature development in the area.

G) State the extent to which the proposed amendment results in strip style commercial development: The proposed multi-family and commercial project at the corner of Santa Fe Drive and the All American would not result in a strip style center. The proposed multi-family structures will be large 4-story buildings that will have an urban look and feel to them. This would fit in with the existing development within the MBP site. The integrated commercial areas within the site will be complimentary commercial/retail/restaurant uses that would support the multi-family project as well as other uses in the overall MBP site and other areas. The intended look is to have the commercial provide an urban look from the street, with no parking planned between the commercial buildings and the adjacent streets.

H) State the extent to which the proposed amendment results in the creation of an isolated zoning district unrelated to adjacent and surrounding zoning districts: The proposed multi-family and commercial development would fit in with the existing surrounding uses, which include multi-family, commercial, and business uses.

I) State the extent to which the proposed amendment results in significant adverse impacts on the property values of surrounding lands: There would not be any adverse impacts on the value of the surrounding property.

J) NONE



NAD-88/2011
NAVJ-88

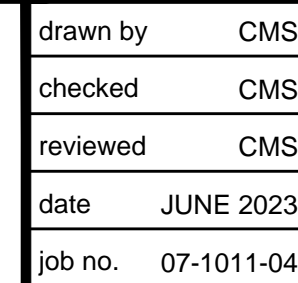
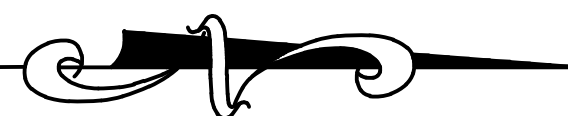


EXHIBIT MAP FOR BPCZ MODIFICATION

MILITARY BUSINESS PARK

DEVELOPMENT BY
BROADWELL LAND AND COMPANY
Fayetteville, NC

no.	revision	by	date

1115 Broadfoot Ave.
P.O. Box 53774
Fayetteville, N.C., 28304
Phone 910-484-5199
License #: F-0106

W&R
ENGINEERS
PLANNERS
SURVEYORS
MOORMAN, KIZER & REITZEL, INC.

scale
1=200
Field Book No.
N/A
SHEET
1 OF 1

AFFIDAVIT OF OWNERSHIP

I, Dohn Broadwell, Jr., being duly sworn, deposes and says:

1. That I am the owner of the property/properties located at Military Business Park (PIN 0409-83-8983; 0409-93-4615; 0409-82-9909; 0409-92-5221) in the City of Fayetteville, a political subdivision of the State of North Carolina.

2. I do hereby give permission to Moorman, Kizer & Reitzel, Inc. to submit a Conditional Rezoning/Rezoning/Variance/Special Use (circle one) application to the City of Fayetteville on my behalf for the above referenced property/properties.

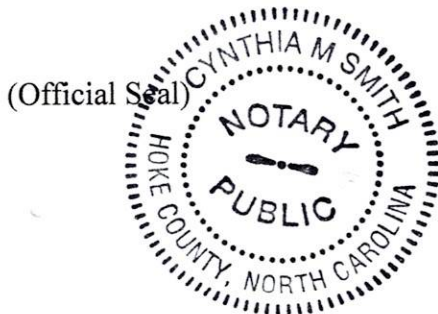
3. This authority is only granted for the application to be submitted on 6/12/2023.

Dohn Broadwell, Jr.
Signature of Affiant

Signature of Affiant

Cumberland County, North Carolina

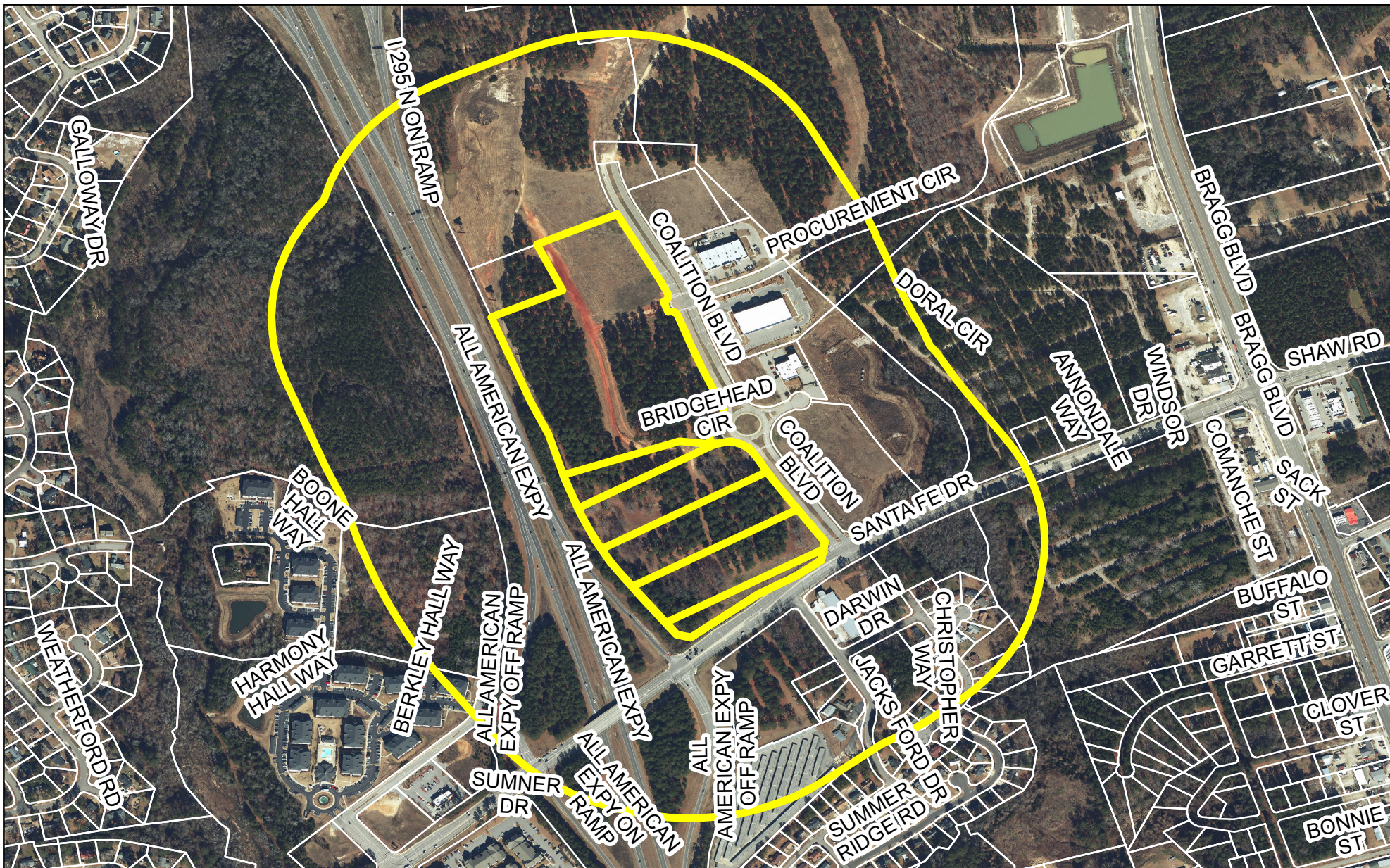
Sworn to and subscribed before me this day on the 12th day of June, 2023



Cynthia M. Smith
Signature of Notary Public

Cynthia M. Smith, Notary Public
Printed Name of Notary Public

My Commission Expires: May 24 2025





Aerial Notification Map

Case #: P23-27

Request: Conditional Rezoning
Modifications to existing Conditional Zoning

Location: 1220 Bridgehead Cir

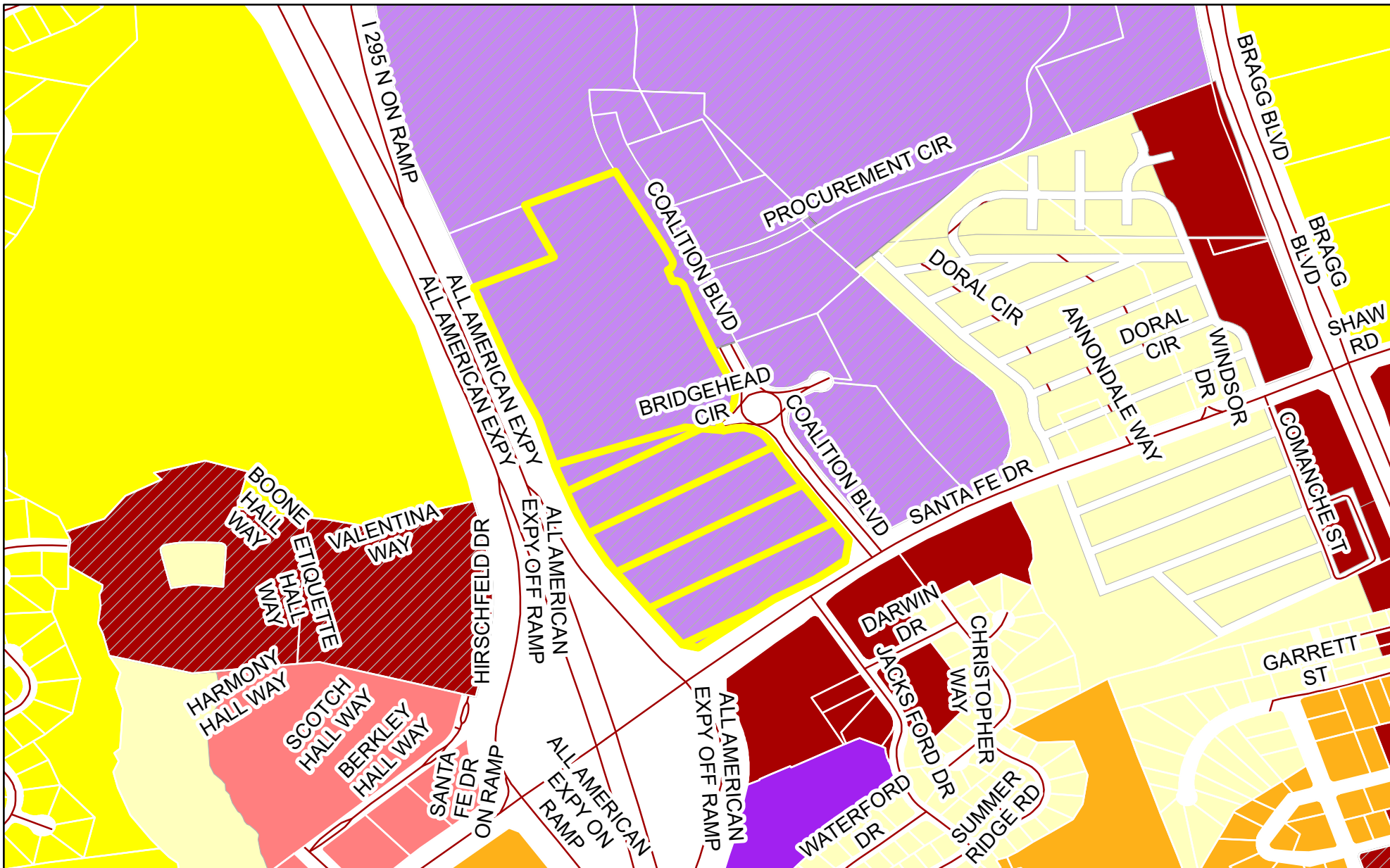
Legend

-  P23-27
-  P23-27 Notification Buffer



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.














Zoning Map

Case #: P23-27

Request: Conditional Rezoning
Modifications to existing
Conditional Zoning

Location: 1220 Bridgehead Cir

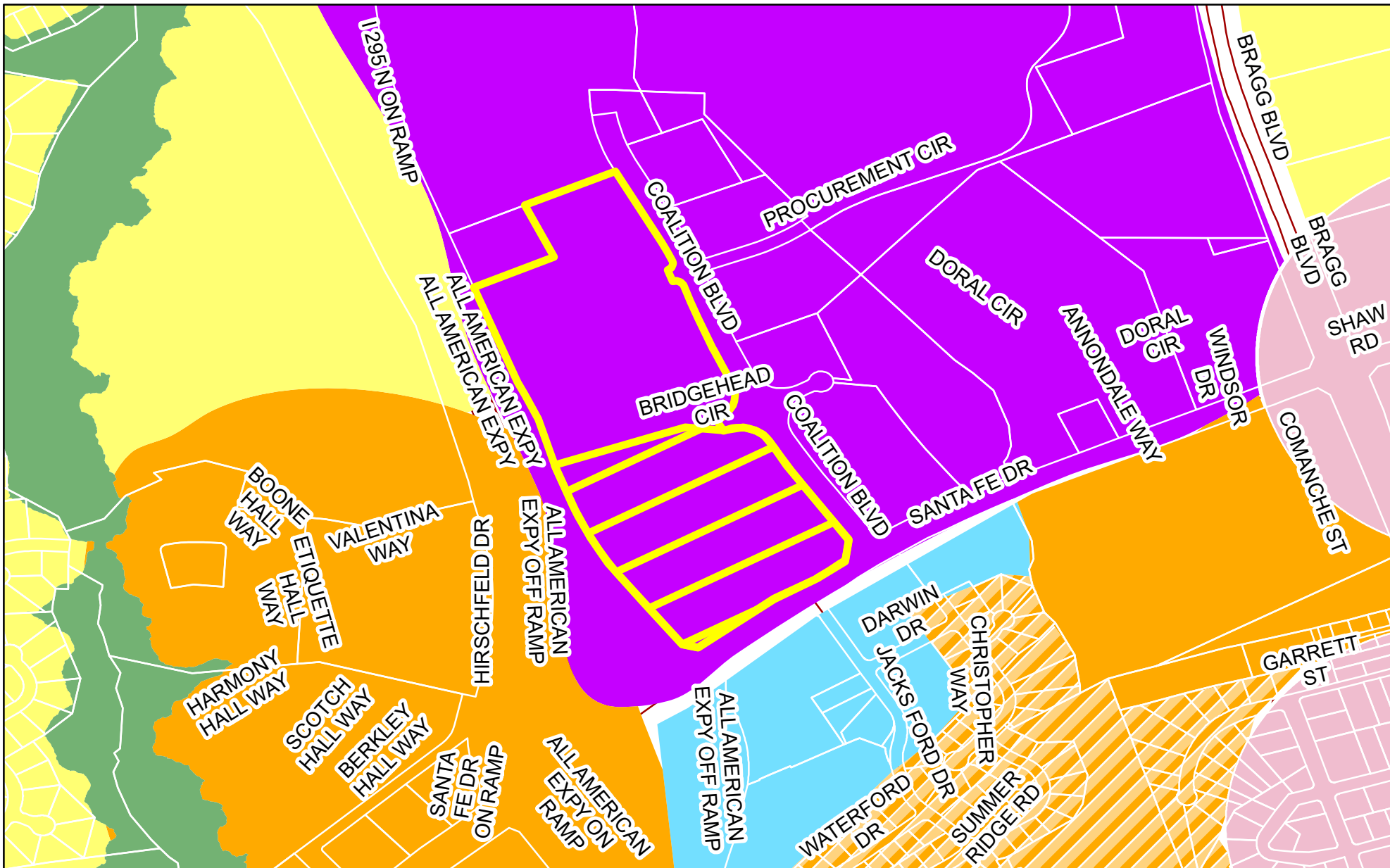
Legend

 P23-27	 LC - Limited Commercial
 BP/CZ - Conditional Business Park	 MR-5 - Mixed Residential 5
 CC - Community Commercial	 SF-6 - Single-Family Residential 6
 CC/CZ - Conditional Community Commercial	 SF-10 - Single-Family Residential 10
 HI - Heavy Industrial	



Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.





Land Use Map

Case #: P23-27

Request: Conditional Rezoning
Modifications to existing
Conditional Zoning

Location: 1220 Bridgehead Cir

Legend

 P23-27


Land Use Plan 2040

Character Areas

 RU - RURAL


 PARKOS - PARK / OPEN SPACE

 OSS - OPEN SPACE SUBDIVISIONS

 LDR - LOW DENSITY

 MDR - MEDIUM DENSITY

 NIR - NEIGHBORHOOD IMPROVEMENT


 HDR - HIGH DENSITY RESIDENTIAL

 NMU - NEIGHBORHOOD MIXED USE

 CSR - COMMERCIAL STRIP REDEVELOPMENT

 CC - COMMUNITY CENTER

 RC - REGIONAL CENTER

 DTMXU - DOWNTOWN

 HC - HIGHWAY COMMERCIAL

 OI - OFFICE / INSTITUTIONAL

 EC - EMPLOYMENT CENTER



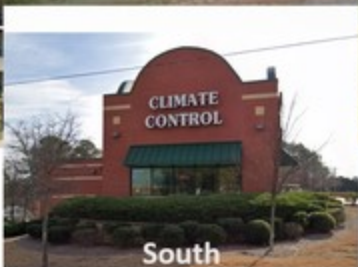
Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.

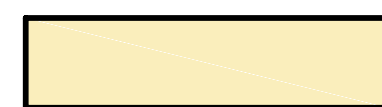






Surrounding Properties





NAD-88/2011
NAVJ-88

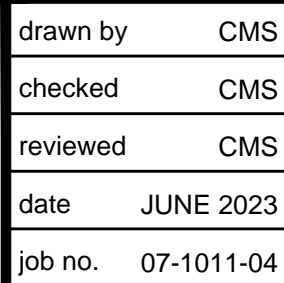


EXHIBIT MAP FOR BPCZ MODIFICATION

MILITARY BUSINESS PARK

DEVELOPMENT BY
BROADWELL LAND COMPANY
Fayetteville, NC

no.	revision	by	date

1115 Broadfoot Ave.
P.O. Box 53774
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Phone 910-484-5196
License #: F-0106

**ENGINEERS
PLANNERS
SURVEYORS**

M&R

MOORMAN, KIZER & REITZEL, INC.

scale	1=200
Field Book No.	N/A
SHEET	
1 OF 1	

Consistency and Reasonableness Statement

Map Amendments

Pursuant N.C.G.S. Sections 160D-604 and -605, the Zoning Commission finds that the proposed zoning map amendment in case P23-27 is consistent/inconsistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

GOAL(S)	CONSISTENT	INCONSISTENT
Goal # 1: Focus Value and Investment around infrastructure and strategic nodes	X	
Goal # 2: Promote compatible economic and commercial development in key identified areas.	X	

2. LAND USE POLICES AND STRATEGIES:

LAND USE POLICIES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.	X	
1.2: Encourage more intense uses, greater mix of uses and denser residential types in focal areas	X	
1.7: Encourage a logical progression of housing development and discourage "leapfrog" development.	X	
LUP 2: Encourage strategic economic development.	X	
2.1: Encourage economic development in designated areas.	X	
2.2: Identify opportunity sites for manufacturing and technology industry based on transportation access, nearby land uses, environmental constraints, and other considerations.		X
LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods.	X	
3.1: Examine and identify targeted redevelopment and infill areas throughout the city.	X	

LUP 4: Create well-designed and walkable commercial and mixed-use districts	X	
4.1: Ensure new development meets basic site design standards	X	
4.2: Encourage context-sensitive site design	X	

3. The proposed amendment is consistent with the Future Land Use Map as follows:

	The proposed land use is consistent and aligns with the area's designation on the FLU Map.	OR	X	The proposed land use is inconsistent and does not align with the area's designation on the FLU Map.
X	The proposed designation, as requested, would permit uses that are complimentary to those existing on adjacent tracts.	OR		The proposed designation, as requested, would permit uses that are incongruous to those existing on adjacent tracts.

Reasonableness

The proposed zoning amendment is reasonable and in the public interest because it supports the policies of the Comprehensive Plan as stated above and the Strategic Plan as stated in the Staff Report, and because: [select all that apply]

- ☒ The size, physical conditions, and other attributes of the proposed use(s) will benefit the surrounding community.
- ☒ The amendment includes conditions that limit potential negative impacts on neighboring uses.
- ☒ The proposed uses address the needs of the area and/or City.
- ☐ The proposal adapts the zoning code to reflect modern land-use trends and patterns.

The amendment is also in the public interest because it: [select all that apply]

- ☐ improves consistency with the long-range plan.
- ☒ improves the tax base.
- ☐ preserves environmental and/or cultural resources.
- ☒ facilitates a desired kind of development.
- ☒ provides needed housing/commercial area.

Additional comments, if any (write-in):

July 11, 2023

Date

Chair Signature

Print