



City of Fayetteville

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

Meeting Agenda - Final Zoning Commission

Tuesday, August 8, 2023

6:00 PM

FAST Transit Center

1.0 CALL TO ORDER

2.0 APPROVAL OF AGENDA

3.0 CONSENT

3.01 A23-28. Order of Approval - Findings of Fact - 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.

3.02 Approval of Minutes: July 11, 2023

4.0 EVIDENTIARY HEARINGS

4.01 A23-30. Variance to increase the height of a privacy fence in a Single Family Residential 10 (SF-10) zoning district, located at 425 Raynor Drive (REID # 0439862433000), containing 0.34 acres \pm and being the property of Cyndi Lee McKinney.

4.02 A23-31. Variance to reduce the required lot frontage for a property located on Wayne Lane (REID #9485900074000) containing 3.99 acres \pm and being the property of Phillip Martin Woods Sr. & Milliecent Cooper, represented by Jerry Wilson Woods Jr.

5.0 OTHER ITEMS OF BUSINESS

6.0 ADJOURNMENT



City of Fayetteville

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

City Council Action Memo

File Number: 23-3489

Agenda Date: 8/8/2023

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: August 8, 2023

RE:

A23-28. Order of Approval - Findings of Fact - 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:

- 1. Approval of Findings of Fact as submitted**

2. Remand Findings of Fact to staff for revisions

Recommended Action:

Approve findings as submitted.

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
8. Order of Findings of Fact

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.

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.:

Height of Sign Face : 0

The requested reduction in the side setback and spacing

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@gmrpe.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@gmrpe.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:

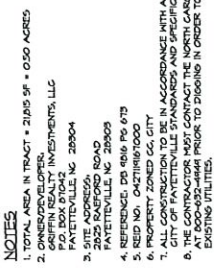
NC State Electrical Contractor #2 License Number:

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



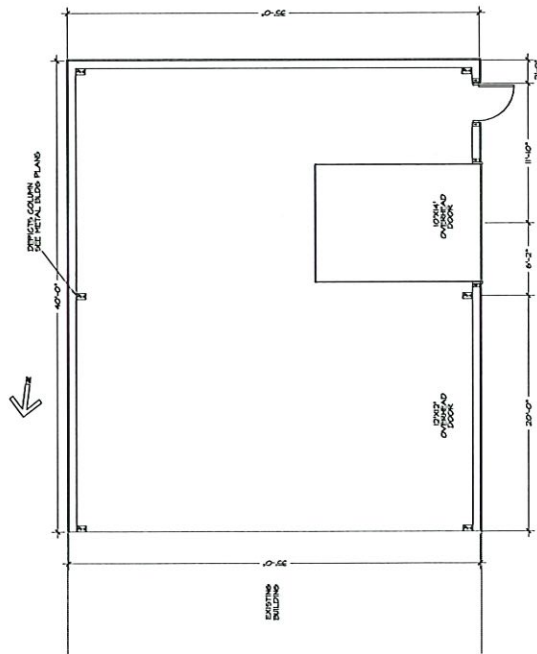


LEGEND

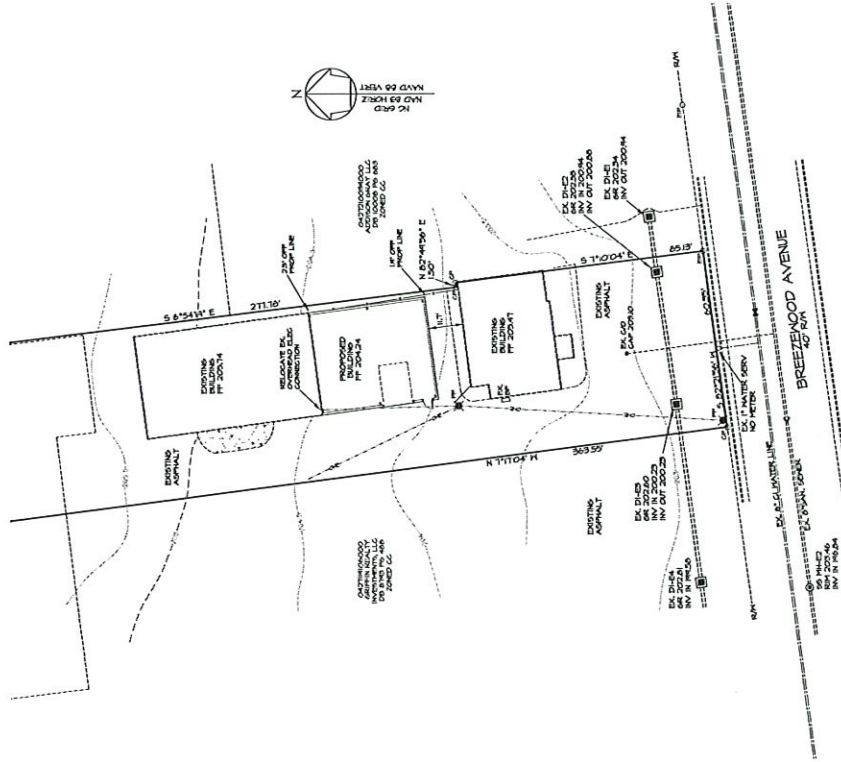
- CP COMPUTED POINT (PROPERTY CORNER)
EIP EXIST IRON PIPE (PROPERTY CORNER)
LP EXISTING LIGHT POLE
PP EXISTING POWER POLE
GUY EXISTING GUY WIRE
— OHE — EXISTING OVERHEAD ELECTRICAL
— CON — EXISTING CONTOUR

NOTES

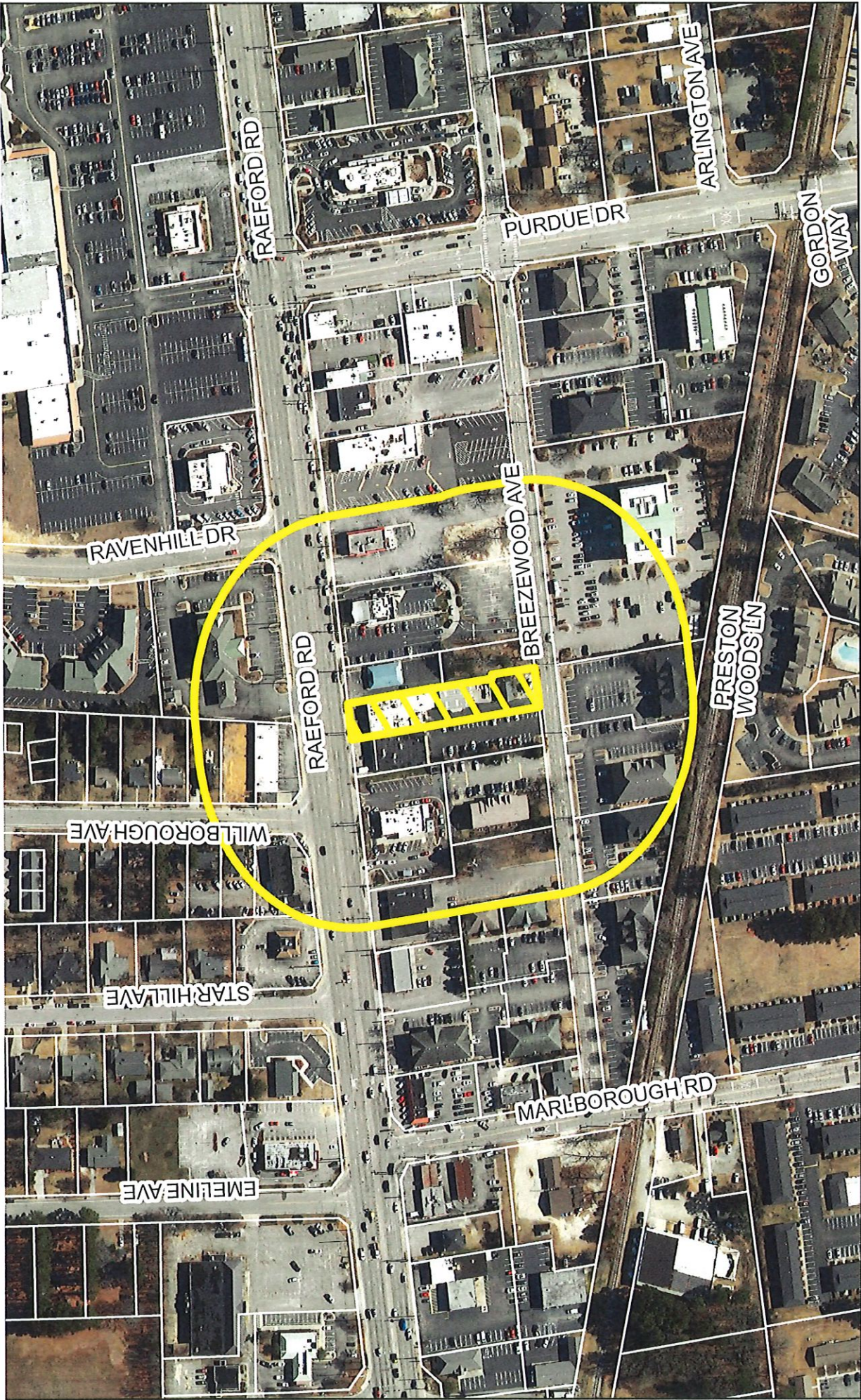
- TOTAL AREA IN TRACT = 210.95 ± = 0.50 ACRES
OWNER/DEVELOPER:
GARFIN REALTY INVESTMENTS, LLC
10000 W. STATE STREET
FAIRFAXVILLE, NC 28004
SITE ADDRESS:
10000 W. STATE STREET
FAIRFAXVILLE, NC 28009
REF. NO. 041916 PG 679
REED NO. 041916/1000
PROPERTY OWNED BY CC CITY
CITY OF FAIRFAXVILLE
CITY OF FAIRFAXVILLE IN ACCORDANCE WITH ALL
ORDINANCES AND SPECIFICATIONS.
THE CONTRACTOR MUST CONTACT THE NORTH CAROLINA CALL CENTERS
FOR THE PURPOSE OF PRIOR TO DIGGING IN ORDER TO LOCATE ALL
ENGINEERING UTILITIES.



PROPOSED BUILDING FLOOR PLAN
SCALE 1" = 5'



PLAN
SCALE 1" = 20'



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



Aerial Notification Map

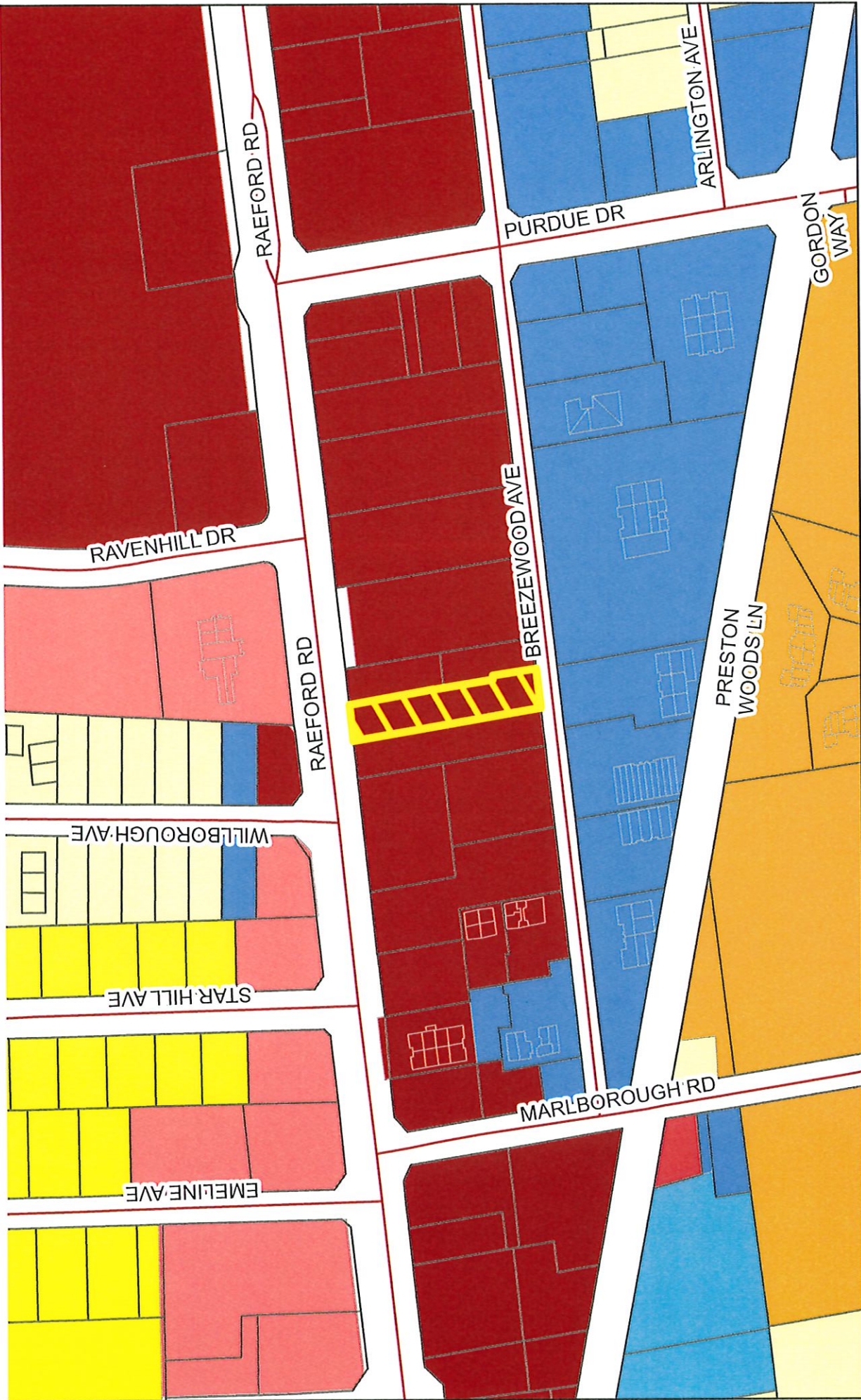
Case #: A23-28

Request: Variance
Reduce side yard setback
and Building Separation

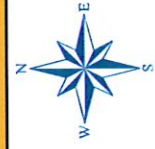
Location: 2825 Raeform Rd

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.



Legend

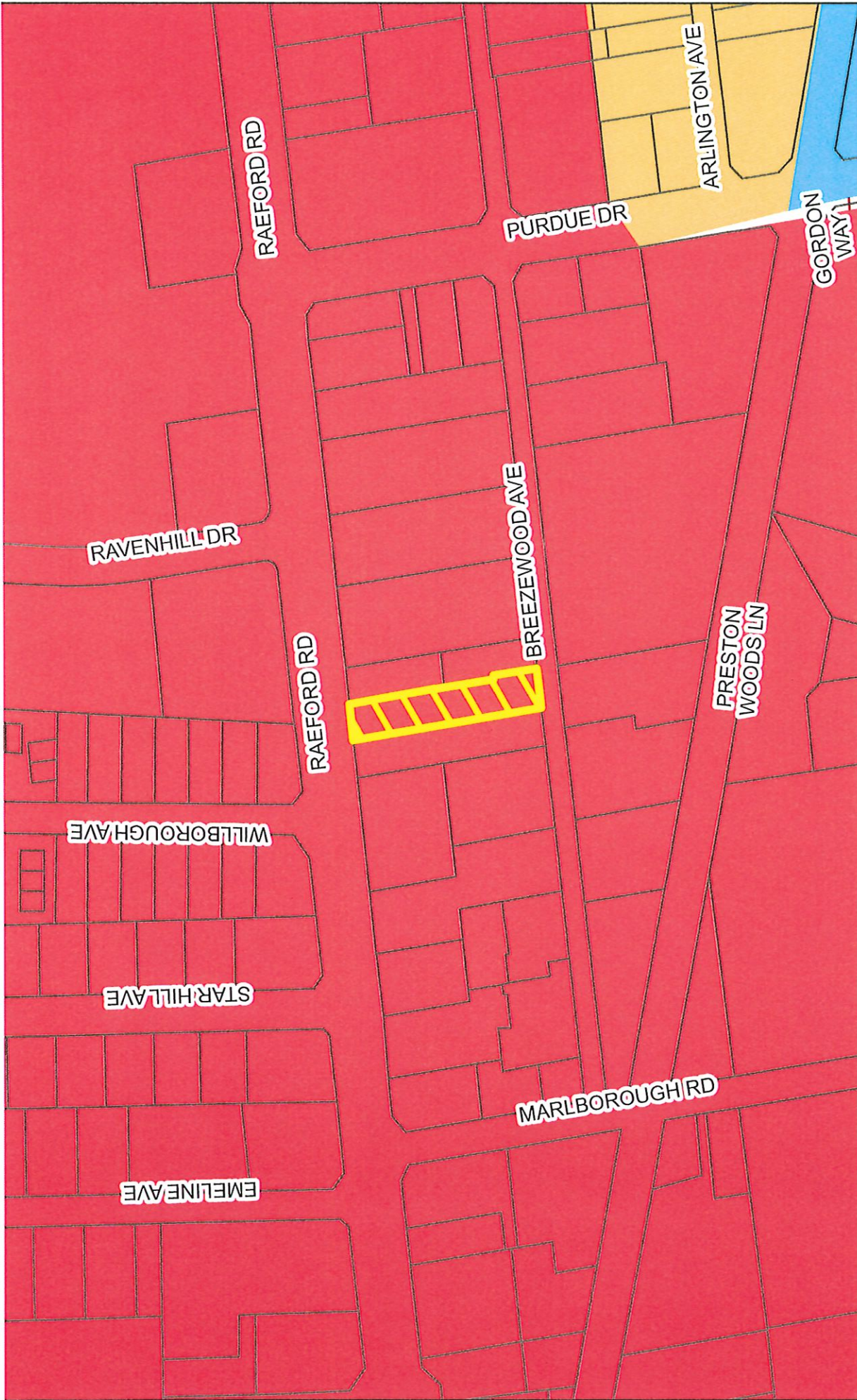
-  CC - Community Commercial
-  LC - Limited Commercial
-  LI - Light Industrial
-  MR-5 - Mixed Residential 5
-  NC - Neighborhood Commercial
-  OI - Office & Institutional
-  SF-6 - Single-Family Residential 6
-  SF-10 - Single-Family Residential 10

Zoning Map Case #: A23-28

Request: Variance
Reduce side yard setback
and Building Separation

Location: 2825 Raeferd Rd





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



Legend

 A23-28 Land Use Plan 2040

Character Areas

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

Land Use Map
Case #: A23-28

Request: Variance
Reduce side yard setback
and Building Separation

Location: 2825 Raeford Rd



Subject Property





Surrounding Properties



North



East



West

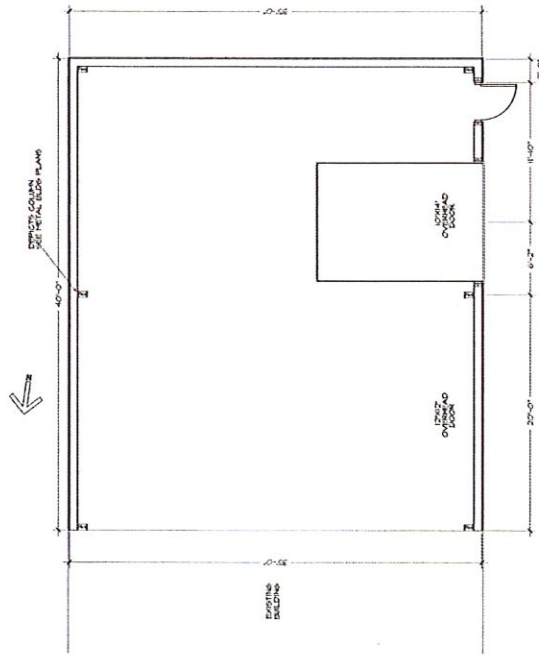


South

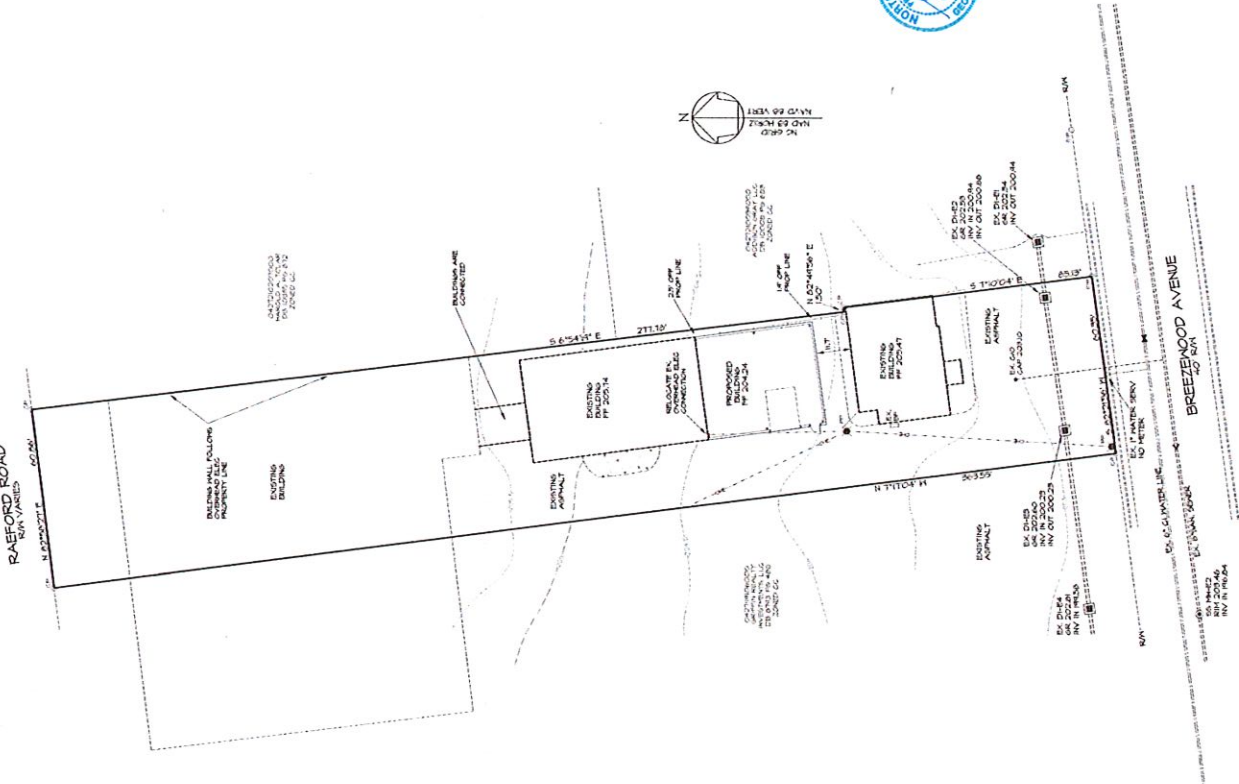


- LEGEND**
- CP COMBINED POINT (PROPERTY CORNER)
 - ESP EXISTING POINT (PROPERTY CORNER)
 - EXISTING LIGHT POLE
 - EXISTING POWER POLE
 - EXISTING FIRE HYDRANT
 - EXISTING DRAINAGE
 - EXISTING OVERHEAD ELECTRICAL
 - EXISTING CONTOUR

- NOTES**
1. TOTAL AREA IN TRACT = 2.815 SF = 0.20 ACRES
 2. OWNER/DEVELOPER: GEORGE M. ROSE, P.E. INVESTMENTS, LLC P.O. BOX 6341 FAYETTEVILLE, NC 28304
 3. SITE ADDRESS: 2825 RAEFORD ROAD FAYETTEVILLE, NC 28304
 4. REFERENCE: DB 456 PG 673
 5. RECD NO. 04/21/16/1000
 6. PROPERTY ZONED CC, CITY OF FAYETTEVILLE
 7. CITY OF FAYETTEVILLE STAFF COMMENTS AND SPECIFICATIONS.
 8. THE CONTRACTOR MUST CONTACT THE NORTH CAROLINA CALL CENTER AT 800-682-4466 PRIOR TO BEGINNING IN ORDER TO LOCATE ALL EXISTING UTILITIES.



PROPOSED BUILDING FLOOR PLAN
SCALE 1" = 3'



PLAN
SCALE 1" = 30'
SCALE IN FEET



DATE: JUN 2023
DRAWN BY: GMR
CHECKED: GMR
SCALE: NOTED
SHEET NO.

SP2

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

GEORGE M. ROSE, P.E.
P.O. BOX 6341
FAYETTEVILLE, NC 28304
FAX 910-455-5232 EMAIL george@mrpe.com

REVISIONS
DATE
BY
DESCRIPTION

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

**To reduce the side yard setback and spacing between buildings for a property located at
2825 Raeford Road**

VARIANCE A23-28

Property Address: 2825 Raeford Road
REID Number: 0427119167000
Property Owner: Griffin Realty Investments LLC

The Zoning Commission for the City of Fayetteville, NC, held an evidentiary hearing on July 11, 2023, to consider a Variance request filed by George Rose ("Applicant"), on behalf of Griffin Realty Investments LLC ("Property Owner"), to reduce the eastern side yard setback and spacing between buildings for the property located at 2825 Raeford Road ("Subject Property").

On June 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 June 28, 2023, a notice of public hearing sign was placed on the Subject Property. On June 30 and July 7, 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 E.5 of the City of Fayetteville's Code of Ordinances establishes the setback and separation requirements for structures in the Community Commercial zoning district.
2. Griffin Realty Investments LLC is the owner of a commercially zoned property located at 2825 Raeford Road, which contains approximately 0.52 acres \pm in the City of Fayetteville.
3. The Applicant filed an application for a Variance on June 12, 2023.
4. The Subject Property is zoned Community Commercial (CC).
5. The Property Owner is requesting to reduce the eastern side yard setback from 3 feet to 1.9 feet and reduce the separation between buildings from 20 feet to 11.7 feet.
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, west, and east. The properties to the south are zoned Office and Institutional (OI).

8. The Subject Property is approximately .52 acres located on Raeford Road.

9. The Subject Property is a structure that was constructed prior to the adoption of the Unified Development Ordinance and became legal non-conforming upon its adoption.

10. This Variance addresses the Ordinance requirement for a 3-foot side yard setback and a 20-foot separation between buildings.

11. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship because the structure is already non-conforming and the Variance is the minimum required to construct an addition to the structure without making changes to the design and appearance of the structure.

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 structure was likely built in the 1970s, property lines have not been moved, and the existing single-family structure will be removed.

13. The Variance is the minimum action that will make possible a reasonable use of land or structures and will allow the construction of the proposed addition with minimal issues or changes in the façade which would be unappealing.

14. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit because the Variance will allow the structure to keep the same appearance and elevations of the existing structure.

15. There is no evidence that the granting of this Variance would harm public safety and welfare, and substantial justice would be ensured. The structures will still be accessible to law enforcement and fire.

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 8th day of August, 2023.

PAVAN PATEL
Zoning Commission Chair



City of Fayetteville

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

City Council Action Memo

File Number: 23-3484

Agenda Date: 8/8/2023

Version: 3

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.02

TO: Zoning Commission

THRU: Will Deaton, AICP - Planning & Zoning Manager

FROM: Catina Evans - Office Assistant II

DATE: August 8, 2023

RE: Approval of Meeting Minutes: July 11, 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: July 11, 2023

**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION MEETING
FAST TRANSIT CENTER COMMUNITY ROOM
JULY 11, 2023 @ 6:00 P.M.**

MEMBERS PRESENT

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

STAFF PRESENT

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

MEMBERS ABSENT

Roger Shah

The Zoning Commission Meeting on Tuesday, July 11, 2023, was called to order by Chair Pavan Patel at 6:03 p.m.

I. APPROVAL OF THE AGENDA

MOTION: Kevin Hight made a motion to approve the agenda with one revision. Case P23-27 would be presented before case P23-26.
SECOND: Alex Keith
VOTE: Unanimous (4-0)

Ms. Harper inquired to the Staff how the alternates would vote during the hearings. The Staff decided that Clabon Lowe would vote during the variance case A23-28 and the rezoning case P23-27, replacing Alex Keith who needed to recuse himself from this case. Justin Herbe would vote during the rezoning cases P23-26 and P23-27.

II. APPROVAL OF CONSENT ITEMS TO INCLUDE THE MINUTES FOR THE JUNE 13, 2023, MEETING

MOTION: Kevin Hight made a motion to approve the consent items.
SECOND: Stephen McCorquodale
VOTE: Unanimous (4-0)

I. EVIDENTIARY HEARINGS

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 the case on the agenda for the evening. The commissioners did not have any partiality with the variance case or ex parte communication to disclose regarding

the case. Mr. Patel asked if there are anyone who would speak on case A23-28 and Ms. Harper had the speaker perform the oath.

Mr. Patel opened the evidentiary hearing for case A23-28.

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.

Heather Eckhardt presented case A23-28. She stated that the variance request for the property located at 2825 Raeford Road is for a variance to reduce the side yard setback and the required separation between buildings. The owners are Griffin Realty Investments and the applicant is George Rose. The subject property is Webb Carpet Company on Raeford Road. There is a Wendy's restaurant west of the property and a Taco Bell to the east. The property is currently zoned Community Commercial. The Future Land Use Plan designates the area to be developed as a Community Center. Ms. Eckhardt showed the Board a picture of the property from Raeford Road, pointing out that an existing single-family home (previously converted into a business) and a metal structure are located at the rear of the property. The owners want to build an addition to the metal structure. Ms. Eckhardt noted that the main structure could be seen from Raeford Road. In order to complete any proposed work on the property, the owners need the variance to address the existing nonconformities in the side yard setback and to reduce the separation from the single-family structure. The area is commercial in nature with some offices to the south.

Ms. Eckhardt showed the Board the general layout of the area on Raeford Road which included the proposed addition to the structure. She informed the Board that the Unified Development Ordinance (UDO) requires a 3 3-foot side yard setback from the property line, making the structure nonconforming. She said the site plan shows the proposed separation between buildings at 11.7 feet when the code requires a 20-foot separation. The variance request will allow for a reduction in the side yard setback from 3 feet to 1.9 feet and a reduction in the separation between buildings from 20 feet to 11.7 feet Ms. Eckhardt explained the voting options to the Board.

Mr. Patel opened the evidentiary hearing for speakers for case A23-28.

Speakers in favor:

George Rose, 1206 Longleaf Drive, Fayetteville, NC 28305

- George Rose said he is the site engineer for the project.
- Mr. Rose said the existing corner that is tied to the proposed addition is already noncompliant because it is 2.5 feet off the property line whereas the ordinance requires it to be 3 feet. In order to complete any additions that make sense from a construction standpoint, Mr. Rose said they would have to follow that same backline of the existing building so the roof lines match up and the interior walls match up. The distance that the owners propose to add will increase the nonconformity to 1.9 feet at that corner.
- He pointed out that on the Taco Bell side of the property, immediately opposite the proposed addition, there is a driveway into the Taco Bell adjacent to the building where the customers would not congregate. Mr. Rose described the area as an open space.
- He stated that by adding on to the building, they are encroaching on the normal 20 ft. spacing between the existing structures. The building is an old structure and it is currently leased for business. Eventually, that building will be torn down and they will continue with a more commercial, newer space. The owner plans on using this addition for storage space.

- The applicant plans to use the addition for storage of large carpets, large pieces of vinyl, and other flooring items. They need additional storage space for their growing business.
- Mr. Rose said he would be able to answer any questions.

Mr. Patel asked Mr. Rose for clarification concerning if the building would be extended to the existing house at the back of the property. Mr. Rose confirmed that the building will be extended in that direction so there will still be 11.7 feet separating the buildings, but the ordinance would normally require 20 feet. That is why the owner is requesting not only the side yard setback variance but a variance for the separation between buildings. Eventually, this building would be torn down and a commercial-type building would be built within this setback.

Mr. Patel closed the evidentiary hearing because there were no additional questions for Mr. Rose.

Ms. Harper informed the Commissioners that if they did not feel that they could apply what they heard during the hearing to one of the variance findings for the case, then the members could ask questions and get answers to satisfy the findings of fact.

Mr. Keith asked to reopen the hearing so he could ask Mr. Rose a question and Mr. Patel reopened the hearing.

Mr. Keith asked Mr. Rose if this proposed variance would be the minimum action necessary to make possible the reasonable use of the property. Mr. Rose explained to Mr. Keith that if the owners did not have that rear wall extended it would create an angle and an offset that would result in offset rooflines which would result in an offset in the interior of the building. Mr. Rose said it would not be practical for them to create a crazy angle in the building or match up different roof lines in that small amount of space. Mr. Rose said this is why the owners propose extending the line which creates a shortage in the setback and separation.

Mr. Hight asked when the original building was erected. Mr. Rose estimated that the building was probably thirty years old. Mr. Rose added that the community did not have any opposition to the proposed additions. The property owners have had the opportunity to come and speak to them about the proposed additions, but they have not received any complaints.

Mr. Herbe started to ask the Staff a question (acknowledging that he is not voting) and Ms. Harper clarified that he could not participate in this case. Mr. Herbe said he was not voting, but Ms. Harper clarified that he was not participating.

Mr. Keith acknowledged that the proposed variance would be in harmony with the surrounding area, but the area does not meet code regulations at this time. He asked Mr. Rose to clarify what he has seen at this time. Mr. Rose said the new materials would match the current design. It would be identical in style to the current building. Mr. Keith asked if there were public safety issues and Mr. Rose said there were no issues because there is adequate parking in the back of the building. Mr. Lowe asked Mr. Rose if there were any additional safety issues. Mr. Rose said the variance does not create any additional safety hazards. Mr. McCorquodale stated for clarity that if there was a fire emergency, vehicles such as fire trucks would have access to both sides of the building. Mr. Rose agreed.

Mr. Patel closed the evidentiary hearing for case A23-28.

MOTION: Stephen McCorquodale made a motion to approve the variance to reduce the side yard setback and separation between the buildings at 2825 Raeford Road which contains .52 acres and is the property of Griffin Realty Investments LLC based on the Staff presentation, Mr. Rose's presentation on behalf of the applicant, and on the following five 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. Rose stated the yard and configuration of the lot being nonconforming in that area as a structure with additional small property lines around it, the minimum setback reduction of 1.9 would allow the southeast corner additions to be constructed without having to go through and either drastically change the structure and the appearance of the building to offset it.
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: This was an older building probably constructed in the mid to late '70s and property lines have not changed since then. It (the Board) has been made aware of the possible improvement to the front structure, which would probably eventually be torn down to add on to a commercial-style structure as presented by Mr. Rose.
3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence: Based on Mr. Rose's presentation and the site plan, the variance would allow the construction as requested by the applicant it seems with minimum issues as far as having to change the total design of the building and offset where it would not look appealing aesthetically with all the other surrounding structures.
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: This kind of relates back to number three (3). We are trying to keep the roof elevation of the structure in line as is now so that it does not look like an eyesore if the variance is not granted.
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: I believe that it was established during the presentation that there are none (threats to public safety and welfare). The main thing is access (to the building) in case of an emergency, and now it (the building) can be accessed by any emergency response such as law enforcement if necessary.

SECOND: Clabon Lowe
VOTE: Unanimous (5-0)

II. LEGISLATIVE HEARINGS

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. Alex Keith stated that he needed to recuse himself from case P23-27.

Mr. Patel opened the legislative hearing for case P23-27.

MOTION: Stephen McCorquodale made a motion to recuse Alex Keith from the hearing for case P23-27 and allow Alternate Clabon Lowe to replace him for the vote.
SECOND: Kevin Hight
VOTE: Unanimous (4-0)

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.

Heather Eckhardt presented case P23-27. She stated that this is a rezoning request to amend an existing conditional zoning district on a portion of 1220 Bridgehead Circle for a total of 16.72 acres. The case is represented by Moorman, Kizer, and Reitzel, Inc. Ms. Eckhardt said the subject property is located at the corner of Sante Fe and the All American Freeway in the Military Business Park. The applicant is requesting to add some revisions to the existing conditional zoning. Ms. Eckhardt pointed out that the property has conditional zoning with commercial properties surrounding the area and apartments on the other side of the All American Freeway. The Future Land Use Plan calls for this area to be developed as an Employment Center. She said the land is currently undeveloped. Surrounding the area are commercial properties, undeveloped land, and apartments to the west. Ms. Eckhardt reiterated that the site plan shows the requested area is 16.72 acres. She stated the following conditions:

- The existing conditions that were placed on the property originally will remain (these are in addition to the requested amendment).
- The original conditions dealt primarily with a lot of appearance standards for development. In this request, the applicant is requesting that the additional uses be listed as permitted uses.
 - Mixed Use
 - Multi-family residential
 - Convenience store without Gas Sales
 - Personal Services Establishments
 - Brewpub
 - Parcel Services
- The key revision was to allow multi-family as a permitted use as the owner has a proposed multi-family and mixed-use development for the property.

Ms. Eckhardt stated that there are some additional standards that the applicant will have to address as follows:

- Increase allowable footprints for multi-family residential buildings from 20,000 square feet to 35,000 square feet
- Increase maximum façade length for a multi-family residential structure from 220 linear feet to 300 feet
- 1.8 spaces per dwelling unit for multi-family shall be applicable to the Mixed Use Buildings
- Allow for two buildings instead of three buildings to frame and enclose parking areas, public spaces, or other site amenities
- Remove specific language of the “Broadwell Big Oaks” (trees are unhealthy)

The Future Land Use Plan has designated this area as an Employment Center. Although the requested use does not align with what the Employment Center calls for which is business parks, the proposed use is at a scale that is complimentary to this area and also has uses that will support the existing businesses in the park and existing businesses in the area. Ms. Eckhardt added that additional housing is needed in Fayetteville as in other areas. Staff recommends approval of the provisions to the existing 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 Employment 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.

Ms. Eckhardt informed the Board concerning their voting options. Mr. Patel opened the legislative hearing for speakers for case P23-27.

Speakers in favor:

Jimmy Kizer, 115 Broadfoot Avenue, Fayetteville, NC 28305

- Mr. Kizer said the Military Business Park was originally purposed to be a place designed to draw military contractors. There are smaller and medium-sized lots, medium-sized office buildings, and testing facilities located in the park. Yet, these businesses did not come to fruition because the anticipated influx of military contractors to the area did not materialize, and a majority of contractors that did arrive took existing spaces instead of building new spaces. The park has been in existence for quite a while with few tenants.
- Mr. Kizer said the Amazon facility changed the development trajectory. It has taken up half the site and the remaining spaces were considered for another large distribution center and a large commercial facility.
- He stated that there is a high-pressure gas main that runs through the proposed site at the corner of Sante Fe and the All American Freeway. Therefore, it would be difficult to locate a commercial or industrial site on the property. The owners have considered multi-family and mixed-use as possible alternatives in that area.
- Mr. Kizer stated that this project is a big multi-family structure that will be of a scale that will complement the existing Amazon facility. It fits with the area and there are existing apartments in the area. One of the partners with the project built the Addison Ridge Apartments, which is a great complex. He said there is continuity in having individuals who know the market and how to produce a good product.
- Mr. Kizer said the owners are planning on having mixed-use components on the property.
- He said the applicants are not starting from scratch because the Military Business Park already has everything in place (stormwater, ponds, water, sewer, etc.).
- He said that a big piece of this project is looking at the oak trees in the area. There are two (2) huge oaks that were removed and two oaks are currently decaying, so they may have to be removed.
- Mr. Kizer said he would answer questions about their plans.
- Mr. Kizer stated the proposed developments would be a great addition to the Military Business Park. If and when the Amazon facility is up and running, people could live and work in the area, and from a military perspective, a spouse could work on the base and the other spouse could work right around the corner.
- Mr. Kizer pointed out that David Broadwell and Bob Avriett were present and could answer any questions.

Mr. Patel closed the legislative hearing for case P23-27.

MOTION: Pavan Patel made a motion to approve case P23-27 based on the Consistency and Reasonableness Statement provided by the Staff.
SECOND: Stephen McCorquodale
VOTE: Unanimous (5-0) (Alternates Clabon Lowe and Justin Herbe voted.)

MOTION: Stephen McCorquodale made a motion to allow Alex Keith back into the meeting.
SECOND: Pavan Patel
VOTE: Unanimous (4-0)

Mr. Patel opened the legislative hearing for case P23-26.

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

Demetrios Moutos presented case P23-26. He stated that this is an initial zoning of an about half-acre lot on Ladley Street owned by Jonathan N. Mitchell. The property is behind Mitchell's Towing, owned by the Mitchells. The intersection of Owen Drive and Camden Drive is located northwest of the property. Crystal Watercare is on Sandy Valley Road next to the towing company, and Stuart Moving and Storage and I-95 are located to the west. The property is zoned County Residential 6 (R-6). There are two properties to the south that are owned by the Mitchells along with community commercial-zoned properties to the north and northwest of the area. The Future Land Use Plan designates this area as Neighborhood Improvement. Mr. Moutos said properties along the area are also zoned Community Commercial. Therefore, it makes sense to rezone this area as Community Commercial. Mr. Moutos showed the Board pictures of the property. He mentioned that the owners have some nonconforming items on the property that must be addressed prior to annexing the land into the City. Residential areas surround the property to the west and northeast. Currently, this area is in violation of the Cumberland County ordinance because the applicants are using it for storage, which is prohibited by County regulations. Therefore, the owners are requesting the property be annexed into the City to facilitate easier management of the land and provide storage of automobiles. The owners will have to apply for a special use permit to allow for the planned wrecker service on the property. 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 Improvement (NIR) and the proposed zoning district allows for uses that fit this category.
- 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.
- The proposed zoning district promotes logical and orderly development that would make no substantial impact upon public health, safety, or general welfare.

Mr. Moutos informed the Board about their voting options.

Mr. Patel closed the legislative hearing for case P23-26 due to the owner not being present to speak as scheduled.

Mr. Patel clarified the non-conforming use and annexation of the property with the City. The owners will have to recombine the land in question with one of the properties in the front of the area in order for it to be a part of the wrecker business. Under the current Unified Development Ordinance, the owners would have to apply for a special use permit. Mr. Keith asked Mr. Moutos if they are planning to do a recombination of the property. Mr.

Moutos said the owners will eventually apply for recombination of the property once they have the City approved annexation. Mr. Keith asked Mr. Moutos about the owners expanding their use of the property. Mr. Moutos said the owners will use the additional space for storage. He said the owners have had the wrecker service for a while and they have not expressed that they will end the wrecker business any time soon. Mr. Hight inquired about the area description for Neighborhood Improvement, specifically noting “missing middle housing” in the description, and questioned how a Community Commercial zoning designation fits that description. Mr. Moutos addressed this by stating that the area description also references “higher density redevelopment” and that a CC zoning designation allows for uses that would provide just that type of redevelopment. Mr. Moutos also noted how “missing middle housing” is typically interpreted to mean two to four-family dwellings, single-family attached, and in some occasions, multi-family housing. Mr. Moutos stated that the Community Commercial zoning designation allows for the development of multi-family and single-family attached dwellings and thus fits within the character description of Neighborhood Improvement.

Mr. Patel closed the legislative hearing for case P23-26.

MOTION: Pavan Patel made a motion to approve the rezoning based on the Consistency and Reasonableness Statements provided by the Staff.
SECOND: Kevin Hight
VOTE: Unanimous (5-0) (Alternate Justin Herbe voted.)

III. OTHER BUSINESS

The Board discussed moving the time of the meetings to 4 p.m. The Board voted unanimously (4-0) to keep the meeting time at 6:00 p.m. as stated in the current bylaws.

MOTION: Kevin Hight made a motion to keep the meeting time as is.
SECOND: Alex Keith
VOTE: Unanimous (4-0) (Alternates Justin Herbe and Clabon Lowe did not vote.)

Mr. McCorquodale mentioned that he received a letter from the City in regard to his reapplying for his seat on the Zoning Commission. Ms. Harper and Mr. Harmon affirmed that Mr. McCorquodale should reapply if he wants to continue on the Board. Mr. Harmon stated to the Board that they should respond to the notice from the City to reapply for their Board seat.

IV. ADJOURNMENT

MOTION: Kevin Hight made a motion to adjourn the July 11, 2023, meeting.
SECOND: Pavan Patel
VOTE: Unanimous (4-0)

The meeting adjourned at 7:10 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: 23-3472

Agenda Date: 8/8/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Evidentiary Hearing

Agenda Number: 4.01

TO: Zoning Commission

THRU: Will Deaton, AICP - Planning & Zoning Manager

FROM: Demetrios Moutos - Planner I

DATE: August 8, 2023

RE: A23-30. Variance to increase the height of a privacy fence in a Single Family

Residential 10 (SF-10) zoning district, located at 425 Raynor Drive (REID

#0439862433000), containing 0.34 acres ± and being the property of Cyndi Lee

McKinney.

COUNCIL DISTRICT(S):

1 - Kathy Jensen

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:

The applicant is requesting a variance to increase the height of a privacy fence from 6 feet to 8 feet.

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: Cyndi Lee McKinney

Applicant: Owen McKinney

Requested Action: Increase the height of a privacy fence from 6 feet to 8 feet

Zoning District: Single Family Residential 10 (SF-10)

Property Address: 425 Raynor Drive

Size: 0.34 acres \pm or 14,810.4 square feet

Existing Land Use: Single Family Dwelling

Surrounding Zoning and Land Uses

- North: Single Family Residential 10 (SF-10) - Single Family Dwelling
- South: Single Family Residential 10 (SF-10) - Single Family Dwelling
- East: Single Family Residential 10 (SF-10) - Single Family Dwelling
- West: Single Family Residential 10 (SF-10) - Single Family Dwelling

Letters Mailed: 32

Issues/Analysis:

The property is 0.34-acres \pm and is located at 425 Raynor Drive. The site is currently being used for a single family dwelling and is located in the F. J. Raynor Subdivision. The current Unified Development Ordinance (UDO) was adopted in 2011. The property was platted in 1959 and the house was built in 1973.

The property owner received a notice of violation on December 7, 2022 for having a new privacy fence that is taller than 6 feet installed with no permit. Article 30-5.D.4. Height Requirements for Fences and Walls, states that a fence or wall serving individual single-family (attached or detached) and two- to four-family dwellings may be no more than 4 feet in the front yard, 6 feet in the corner side yard, and 6 feet in interior side and rear yards.

Article 30-5.D.4.b does make a few exemptions for safety as follows: "Major utilities, wireless communication towers, government facilities, and other public safety uses shall be allowed to increase maximum fence heights to eight feet in front, side, and rear yards, unless further increased through an approved Security Plan."

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 area for a single family house in the SF-10 zoning district is 10,000 square feet. This lot is 0.34 acres \pm or 14,810.4 square feet \pm . This lot meets the

minimum square footage for the SF-10 district and is comparable to other properties in the Wells subdivision regarding lot size and shape.

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:

- "1. Due to multiple factors- such as consideration that neighbors and prospective buyers in the neighborhood do not want to see vehicles and trailers parked in the rear of the property. Also wildlife and small children to be protected from harm being around the equipment and dog that I have in the backyard. The fence will add value and peace of mind for all adjacent neighbors as well as protect wildlife from getting stuck in backyard.
2. There is a large population of deer, foxes and coyotes in the area from the Cape Fear river and surrounding undeveloped areas. As well as elderly and young neighbors that can potentially be harmed if they were to come on the property or if the dogs were to get out. If wildlife unfortunately jump the 6 foot fence they will also be harmed- which would upset people in the community as they love seeing the deer. The large fence also acts as a buffer for sound when dogs are barking, or I am working on my equipment.
3. The fence will not be the only one in the area as to which will be taller than 6 feet. 406 Raynor and 417 Raynor also have fences taller than 6 feet. I understand they have been grandfathered in but it will not be first of its kind and none of adjacent neighbors have an issue- I asked their permission before constructing.
4. Allowing either the dog ear pickets to exceed 6 feet, or to put pickets at 6 feet and add 2 feet of lattice to the top of the fence.
5. The fence is not for my convenience but to protect wildlife and neighbors from any inconvenience or eye sore.
6. Neighbors, community, wildlife and prospective buyers would be satisfied to see the property and noise are properly contained."

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:

According to the application, "Elderly neighbors (65+ years old) on 2 adjacent properties and children under 10 on the other. Majority demographic of street is over 70 years old and retired."

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:

According to the applicant, "No."

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 "It would allow me to comply with city code Article 30-4 Section D Subsection 3 (T) (3) (B) and keep vehicles and trailers behind corner of structure closest

to the road.”

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 “Animals and neighbors will not be able to be harmed. Neighbors will not be inconvenienced by unsightly appearance of trailers and vehicles visible from the road. Children will be less prone to climb fence to retrieve balls/toys thrown over the fence. Less likely to be able to throw toys over it.”

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 for an increase in fence height in SF-10 from 6’ to 8’.

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. Survey
8. Table 30-5.D.4: Maximum Fence and Wall Height and Minimum Setback

Project Overview

#946270

Project Title: 425 Raynor Dr
Application Type: 5.4) Variance
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN: 425 RAYNOR DR (0439862433000) **Zip Code:** 28311

GIS Verified Data

Property Owner: Parcel
• 425 RAYNOR DR: MCKINNEY, CYNDILEE

Acreage: Parcel
• 425 RAYNOR DR: 0.34

Zoning District: Zoning District
• 425 RAYNOR DR: SF-10

Subdivision Name:

Fire District:

Airport Overlay District:

Hospital Overlay District:

Coliseum Tourism District:

Cape Fear District: Cape Fear District
• 425 RAYNOR DR: 0

Downtown Historic District:

Haymount Historic District:

Floodway:

100 Year Flood: <100YearFlood>

500 Year Flood: <500YearFlood>

Watershed:

Variance Request Information

Requested Variances: Fence/wall

Section of the City Code from which the variance is being requested.: Article 30-5.D.4

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

Requesting exemption on height from 6 feet to 8 feet.

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

all residential on all adjacent properties

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.:

1. Due to multiple factors- such as consideration that neighbors and prospective buyers in the neighborhood do not want to see vehicles and trailers parked in the rear of the property. Also wildlife and small children to be protected from harm being around the equipment and dog that I have in the backyard. The fence will add value and peace of mind for all adjacent neighbors as well as protect wildlife from getting stuck in backyard.
2. There is a large population of deer, foxes and coyotes in the area from the Cape Fear River and surrounding undeveloped areas. As well as elderly and young neighbors that can potentially be harmed if they were to come on the property or if the dogs were to get out. If wildlife unfortunately jump the 6 foot fence they will also be harmed- which would upset people in the community as they love seeing the deer. The large fence also acts as a buffer for sound when dogs are barking, or I am working on my equipment.
3. The fence will not be the only one in the area as to which will be taller than 6 feet. 406 Raynor and 417 Raynor also have fences taller than 6 feet. I understand they have been grandfathered in but it will not be first of its kind and none of adjacent neighbors have an issue- I asked their permission before constructing.
4. Allowing either the dog ear pickets to exceed 6 feet, or to put pickets at 6 feet and add 2 feet of lattice to the top of the fence.
5. The fence is not for my convenience but to protect wildlife and neighbors from any inconvenience or eye sore.
6. Neighbors, community, wildlife and prospective buyers would be satisfied to see the property and noise are properly contained.

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.:

Elderly neighbors (65+ years old) on 2 adjacent properties and children under 10 on the other. Majority demographic of street is over 70 years old and retired.

Please describe how the Variance is the minimum action that will make possible a reasonable use of land or structures.:
no

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

It would allow me to comply with city code Article 30-4 Section D Subsection 3 (T) (3) (B) and keep vehicles and trailers behind corner of structure closest to the road.

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

Height of Sign Face : 8

Animals and neighbors will not be able to be harmed. Neighbors will not be inconvenienced by unsightly appearance of trailers and vehicles visible from the road. Children will be less prone to climb fence to retrieve balls/toys thrown over the fence. Less likely to be able to throw toys over it.

Height of Sign Face:

Square Footage of Sign Face:

Square Footage of Sign Face:

Square Footage of Sign Face:

Square Footage of Sign Face:

Square Footage of Sign Face:

Square Footage of Sign Face:

Square Footage of Sign Face:

Height of Sign Face:

Square Footage of Sign Face :

Square Footage of Sign Face:

Square Footage of Sign Face:

Square Footage of Sign Face:

Square Footage of Sign Face:

Square Footage of Sign Face:

Square Footage of Sign Face:

Primary Contact Information

Contractor's NC ID#:

Project Owner

Owen McKinney

425 Raynor Dr

Fayetteville, NC 28311

P:9103911749

owenmckinney09@yahoo.com

Project Contact - Agent/Representative

Owen McKinney

425 Raynor Dr

Fayetteville, NC 28311

P:9103911749

owenmckinney09@yahoo.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:

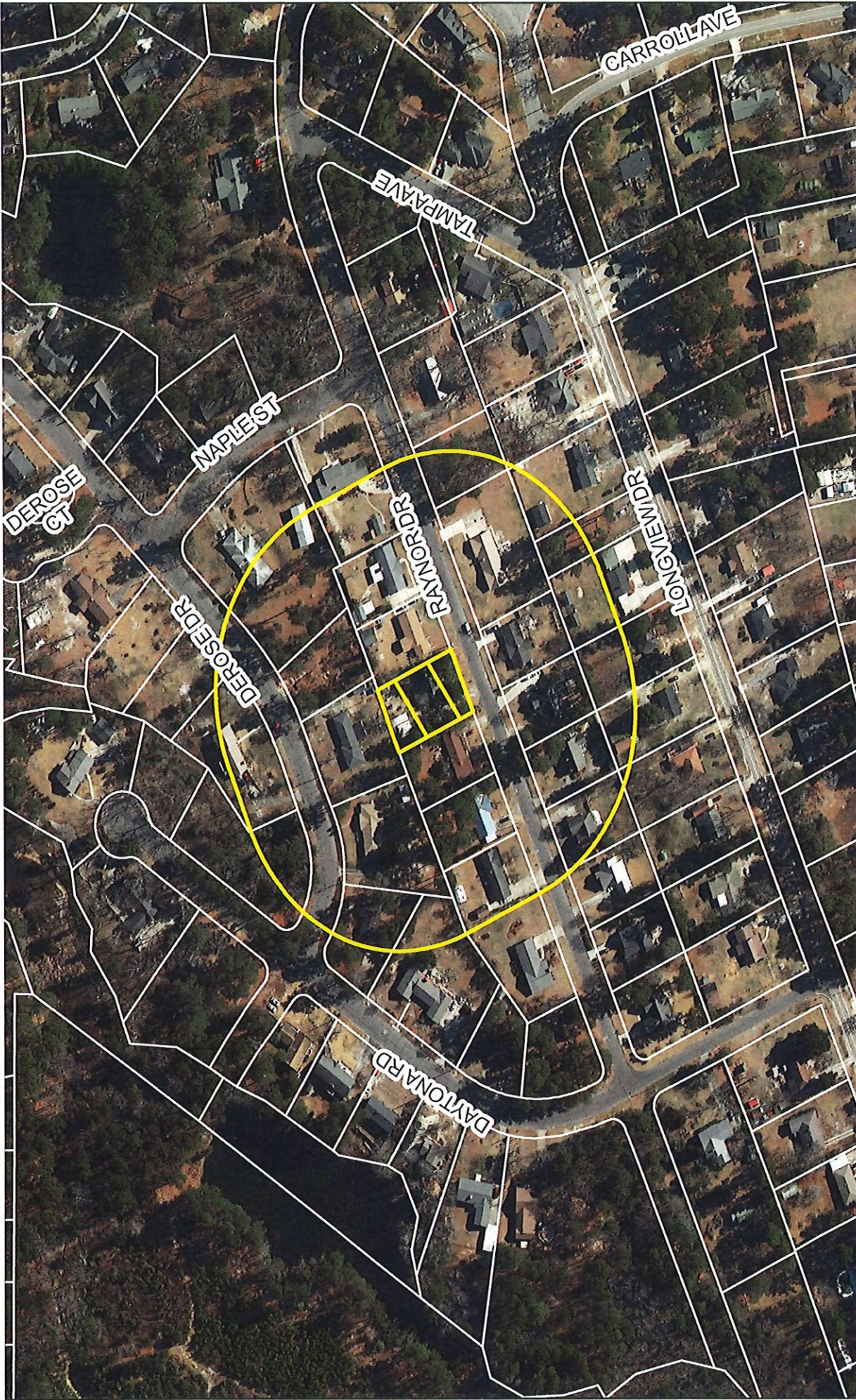
NC State Electrical Contractor #2 License Number:

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:



Aerial Notification Map

Case #: A23-30

Request: Variance

Increase Minimum Fence Height


Location: 425 Raynor Drive

0438624330000

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

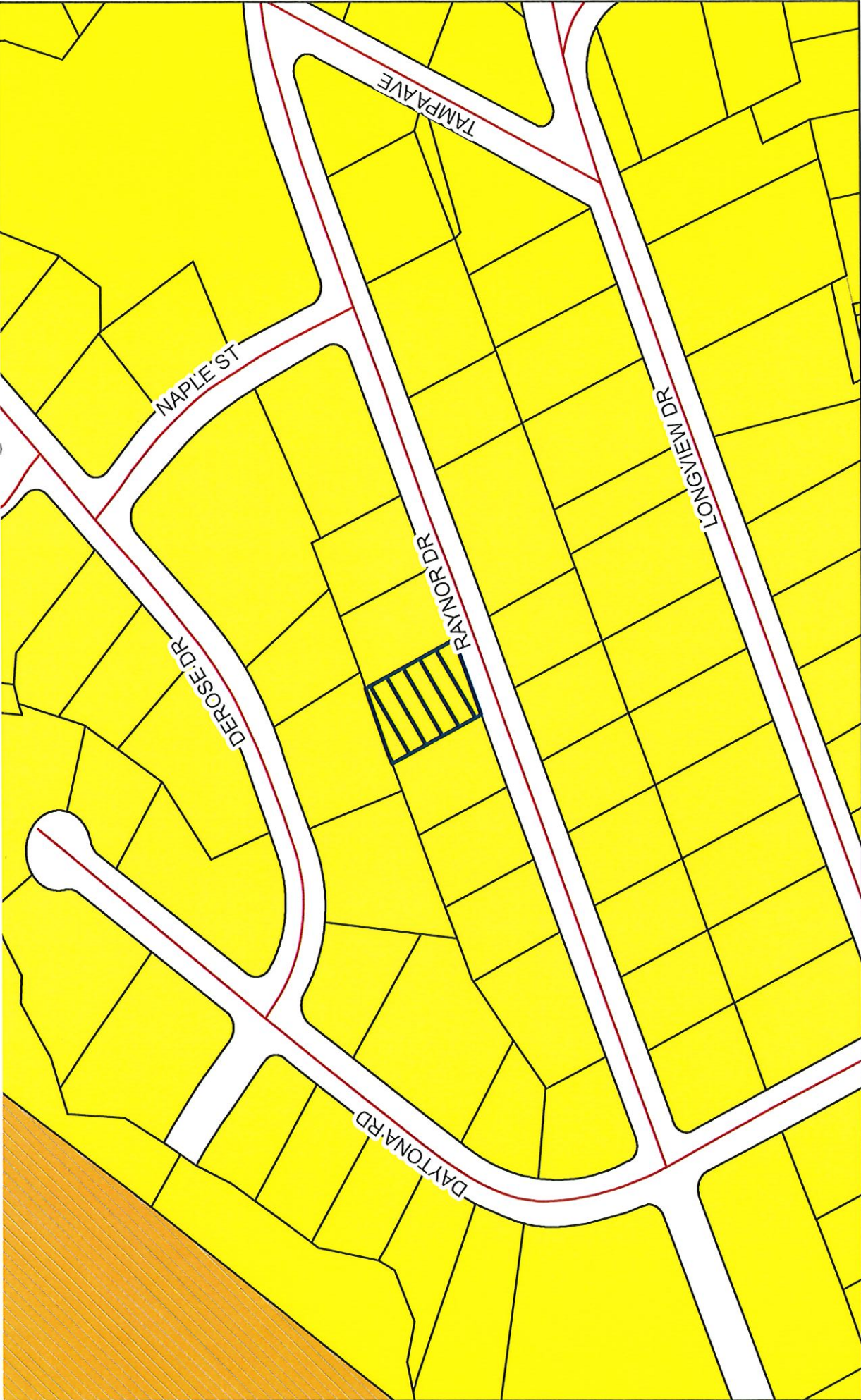


Legend

 A23-30 Buffer

 A23-30





Zoning Map

Case #: A23-30

Request: Variance

Increase Minimum Fence Height


Location: 425 Raynor Drive

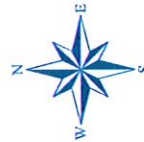
0438624330000

Legend

 A23-30

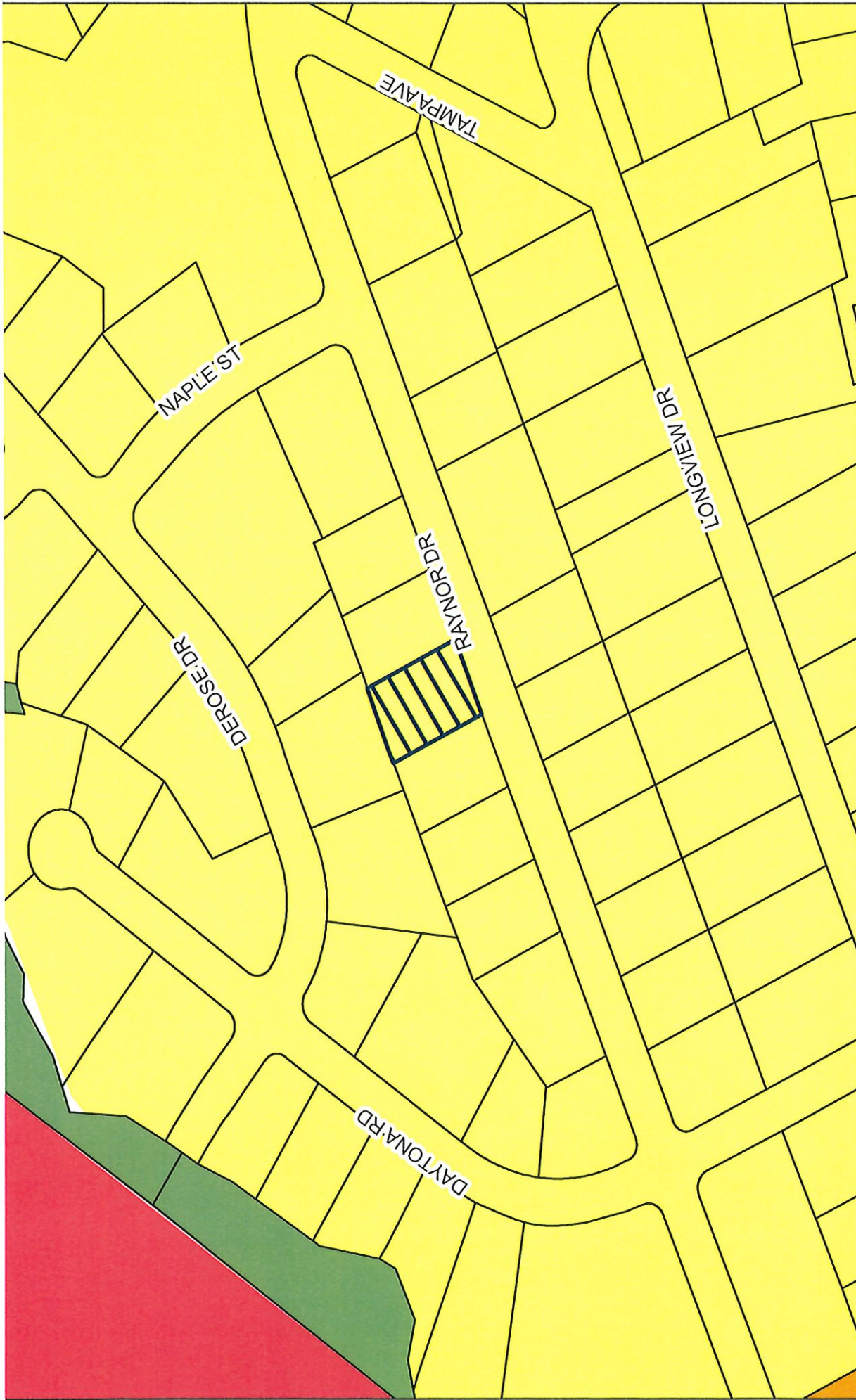
 MR-5/CZ - Conditional Mixed Residential 5

 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.





Future Land Use Map

Case #: A23-30

Request: Variance

Increase Minimum Fence Height

Location: 425 Raynor Drive

0438624330000

Legend



A23-30

Land Use Plan 2040

Character Areas

PARKOS - PARK / OPEN SPACE

LDR - LOW DENSITY

HDR - HIGH DENSITY RESIDENTIAL

CC - COMMUNITY CENTER

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





Subject Property





Surrounding Properties



Cathy Christenson
Cathy L. Christenson, PLS. L-3796

PART II - CODE OF ORDINANCES

CHAPTER 30 – UNIFIED DEVELOPMENT ORDINANCE

Article 30-5: Development Standards

30-5.D. Fences and Walls

30-5.D.4. Height Requirements for Fences and Walls

a. **General**

Fences and walls shall meet the standards in Table 30-5.D.4, Maximum Fence and Wall Height and Minimum Setback, except as provided in Section 30-5.D.5 Exemptions:

Table 30-5.D.4: Maximum Fence and Wall Height and Minimum Setback					
FENCE OR WALL TYPE [1][6]		MAXIMUM HEIGHT BY LOCATION [1], [3]		MINIMUM SETBACK [7]	
	IN FRONT AND CORNER SIDE YARDS (FEET) [4]	IN INTERIOR SIDE AND REAR YARDS (FEET)	IN SIGHT TRIANGLES	IN FRONT, INTERIOR SIDE AND REAR YARDS (FEET)	IN CORNER SIDE YARDS (FEET)
Fence or wall serving individual single-family (attached or detached) and two- to four-family dwellings [5]	4 Front yard; 6 Corner side yard	6	30 inches	0	0 for a fence or wall 36" or less in height. For others, the lesser of 5 feet or in line with corner side of dwelling
Fence or wall serving other individual development	4 Front yard; 6 Corner side yard	6		0	10
Chain link fence serving other development	4	6		0 interior and side 10 front	10
Fence or wall serving a development perimeter	6	6		0 interior and side 10 front	10
Screening fence or wall in accordance with Section 30-5.B.4.e, Screening	Minimum height necessary to achieve screening function up to 8 feet or as approved through site plan review			As approved through site plan review	
Recreational fencing [2]	N/A	N/A		As approved through site plan review	

Table 30-5.D.4: Maximum Fence and Wall Height and Minimum Setback

FENCE OR WALL TYPE [1][6]	MAXIMUM HEIGHT BY LOCATION [1], [3]			MINIMUM SETBACK [7]	
	IN FRONT AND CORNER SIDE YARDS (FEET) [4]	IN INTERIOR SIDE AND REAR YARDS (FEET)	IN SIGHT TRIANGLES	IN FRONT, INTERIOR SIDE AND REAR YARDS (FEET)	IN CORNER SIDE YARDS (FEET)

NOTES:

1. Measurement of Height: Fence and wall height shall be measured taking into account the purpose for the fence or wall. For example, a buffer fence erected on the top of a retaining wall shall have its height measured from the adjoining property, not the base of the retaining wall. Similarly, a fence or wall erected as a buffer between the property being developed at a lower elevation from the property being buffered shall have its height measured from the property being buffered, not the lower property being developed. Fences erected for security purposes shall have that purpose taken into account when determining how they are measured. Nothing herein, however, shall allow or require the erection of a buffer fence or wall taller than twelve feet as measured from the lower property side, unless erected on a retaining wall. Safety fencing required by the North Carolina building code is not regulated by these height provisions.
2. Only allowed as part of an approved tennis court, athletic field, or similar recreational amenity.
3. Reserved for future use.
4. Single-family (attached or detached) and two- to four-family dwellings on through lots shall be considered as having two front yards except as follows:
 - Where the lot adjoins a road with four or more lanes, the frontage adjoining this road may be considered a corner side yard with regard to fence height and setback
 - Where the fence or wall is part of a development perimeter.
5. For single-family (attached or detached) and two- to four-family dwellings, the following fence and wall materials are allowed for fences erected in the front yard:
 - a. Wrought iron or similar open-style metal fence (for these fences, the front yard height may be increased to five feet);
 - b. Picket, shadow box or other partially open fences (50% or more open); or
 - c. Solid fences or walls (less than 50% open) containing a minimum of three horizontal elements and two vertical elements if made of wood or a minimum of two vertical and horizontal elements if of masonry construction.
 - d. Chain link or other wire fences with or without slats or screens are not allowed.
6. For all properties having road frontage, a garden wall (Sec. 30-5.B.4(c)(5) d.) may be substituted for a fence or wall allowed in this section.
7. Where property lines extend into the right-of-way, the setback for fences and walls in front and corner side yards shall be measured from the edge of the sidewalk (if any) or 10 feet from the edge of the pavement, as applicable.
8. For development other than single-family, wrought iron or similar open-style fence, the height may be increased to five feet.

b. Exemption for Safety

Major utilities, wireless communication towers, government facilities, and other public safety uses shall be allowed to increase maximum fence heights to eight feet in front, side, and rear yards, unless further increased through an approved Security Plan (see Section 30-5.D.5 Exemptions).

(Ord. No. S2012-016, § 5.1, 9-10-2012; Ord. No. S2013-002, § 3, 2-11-2013; Ord. No. S2014-021, § 1c, 11-24-2014; Ord. S2015-008, § 2, 8-10-2015; Ord. No. S2019-019, 1, 04/23/2019; Ord. No. S2020-009, § 1, 09/28/2020)

Effective on: 9/28/2020



City of Fayetteville

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

City Council Action Memo

File Number: 23-3473

Agenda Date: 8/8/2023

Version: 2

Status: Agenda Ready

In Control: Zoning Commission

File Type: Evidentiary Hearing

Agenda Number: 4.02

TO: Zoning Commission

THRU: Will Deaton, AICP - Planning & Zoning Manager

FROM: Heather Eckhardt, CZO - Planner II

DATE: August 8, 2023

RE:

A23-31. Variance to reduce the required lot frontage for a property located on Wayne Lane (REID #9485900074000) containing 3.99 acres ± and being the property of Phillip Martin Woods Sr. & Milliecent Cooper, represented by Jerry Wilson Woods Jr.

COUNCIL DISTRICT(S):

6 - Derrick Thompson

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:

The applicant is requesting a variance to reduce the required lot frontage from 100 feet to 20 feet.

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: Phillip Martin Woods Sr & Milliecent Cooper Woods

Applicant: Jerry Wilson Woods Jr

Requested Action: Reduce required lot frontage

Zoning District: Agricultural Residential (AR)

Property Address: 0 Wayne Lane

Size: 3.99 acres ±

Existing Land Use: Vacant

Surrounding Zoning and Land Uses

- North: AR - Vacant
- South: AR - Vacant and single-family house
- East: AR - Single-family house
- West: AR - Single-family house

Letters Mailed: 17

Issues/Analysis:

The subject property is 3.99 acres at 0 Wayne Lane. The property was created in 1980 as part of an estate filing. As part of an estate filing, the land may or may not have met the subdivision standards of Cumberland County at the time. Since the initial subdivision, the property was annexed into the city limits of Fayetteville. Subsequently, any development of the property must meet the standards of the City of Fayetteville's Unified Development Ordinance. The UDO requires that lots within the Agriculture Residential (AR) zoning district have a minimum lot frontage of 100 feet (30-3.C.3). The property currently has a lot frontage of 20.09 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 applicant is requesting to reduce the required lot frontage from 100 feet to 20 feet. This reduction can allow for the future development of the property.

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 "Due to the rules and regulations imposed on me because of being annexed into the city limits I have endured difficulties and unnecessary hardships trying to get the parcel of land surveyed. Therefore I am applying for a variance to reduce lot width and extend easement to said property."

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 "There will be no difficulties or hardships to anyone. Property is family owned."

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 "It is the only way possible in order for me to get the land surveyed that my mother left me before she passed away and to get it surveyed and put in my name."

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 variance will not harm anyone or anything around it."

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 "My brother signed an affidavit in order for me to apply for the variance and get the land surveyed."

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 required lot frontage.

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:
-

Budget Impact:

None

Options:

1. Approve variance as requested.
2. Approve variance with conditions.
3. Deny variance as requested.

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

#1066284

Project Title: 2nd Acre**Application Type:** 5.4) Variance**Workflow:** Staff Review**Jurisdiction:** City of Fayetteville**State:** NC**County:** Cumberland**Project Location****Project Address or PIN:** 0 N/A DR (9485900074000)**Zip Code:** 28306**GIS Verified Data****Property Owner: Parcel**

- 0 N/A DR: WOODS, PHILLIP MARTIN SR;MILLIECENT, COOPER

Acreage: Parcel

- 0 N/A DR: 3.99

Zoning District: Zoning District

- 0 N/A DR: AR

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

Asking to extend 20 foot easement for access to other parcel of land and reduce Lot width

Section of the City Code from which the variance is being requested.: 30-3.C.3 - Agricultural-Residential (AR) District**Identify the zoning district designation and existing use of land for all adjacent properties, including those across the street.:**

Mobile home park and vacant land

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.:

Due to the rules and regulations imposed on me because of being annexed into the city limits I have endured difficulties and unnecessary hardships trying to get the parcel of land surveyed. Therefore I am applying for a variance to reduce lot width and extend easement to said property.

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.:

There will be no difficulties or hardships to anyone. Property is family owned

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

It is the only way possible in order for me to get the land surveyed that my mother left me before she passed away and to get it surveyed and put in my name

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

The variance will not harm anyone or anything around it.

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

My brother signed an affidavit in order for me to apply for the variance and get the land surveyed

Height 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

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

Jerry Woods

3160 Wayne Lane

Fayetteville , NC 28306
P:9108497435
woods.jared7@gmail.com

Project Contact - Agent/Representative

Jerry Woods

3160 Wayne Lane
Fayetteville , NC 28306
P:9108497435
woods.jared7@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

Jerry Woods

3160 Wayne Lane
Fayetteville , NC 28306
P:9108497435
woods.jared7@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


AFFIDAVIT OF OWNERSHIP


Milliecent Woods
I, Phillip Martin Woods Sr, being duly sworn, deposes and says:

1. That I am the owner of the property/properties located at
property adjacent to 3160 Wayne Lane in the City of Fayetteville, a political
subdivision of the State of North Carolina.

2. I do hereby give permission to Ferry Wilson Woods Jr 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
7 12 23.


Signature of Affiant


Signature of Affiant

Cumberland County, North Carolina

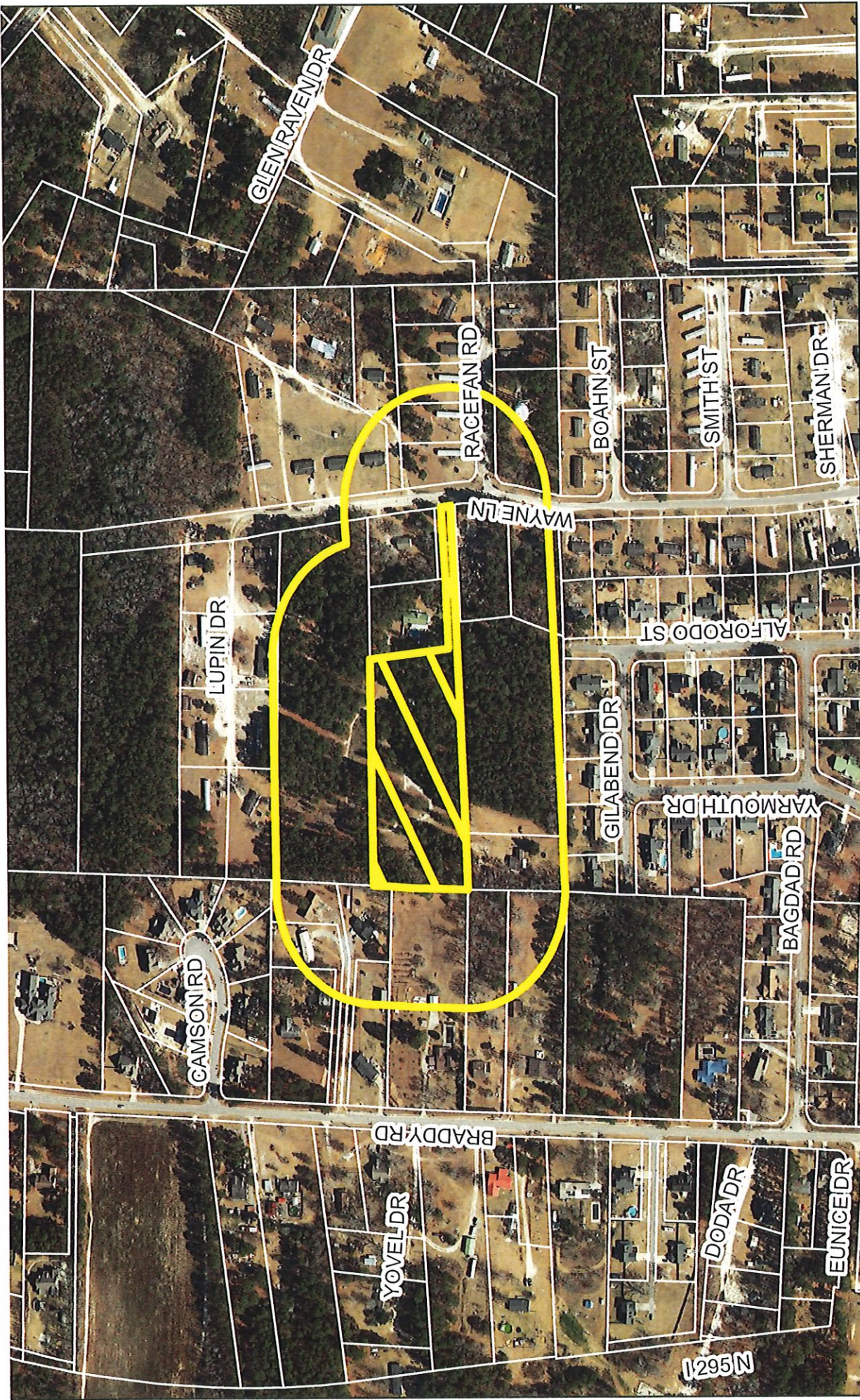
Sworn to and subscribed before me this day on the 23 day of June, 2023.


Signature of Notary Public

Abbie Carol Quick, Notary Public
Printed Name of Notary Public

My Commission Expires: 11-20-24





Aerial Notification Map Case #: A23-31

Request: Variance
Reduce required lot frontage

Location: 0 Wayne Lane
9485900074000



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

Legend

-  A23-31
-  A23-31 Notification Buffer












Zoning Map Case #: A23-31

Request: Variance
Reduce required lot frontage

Location: 0 Wayne Lane
9485900074000

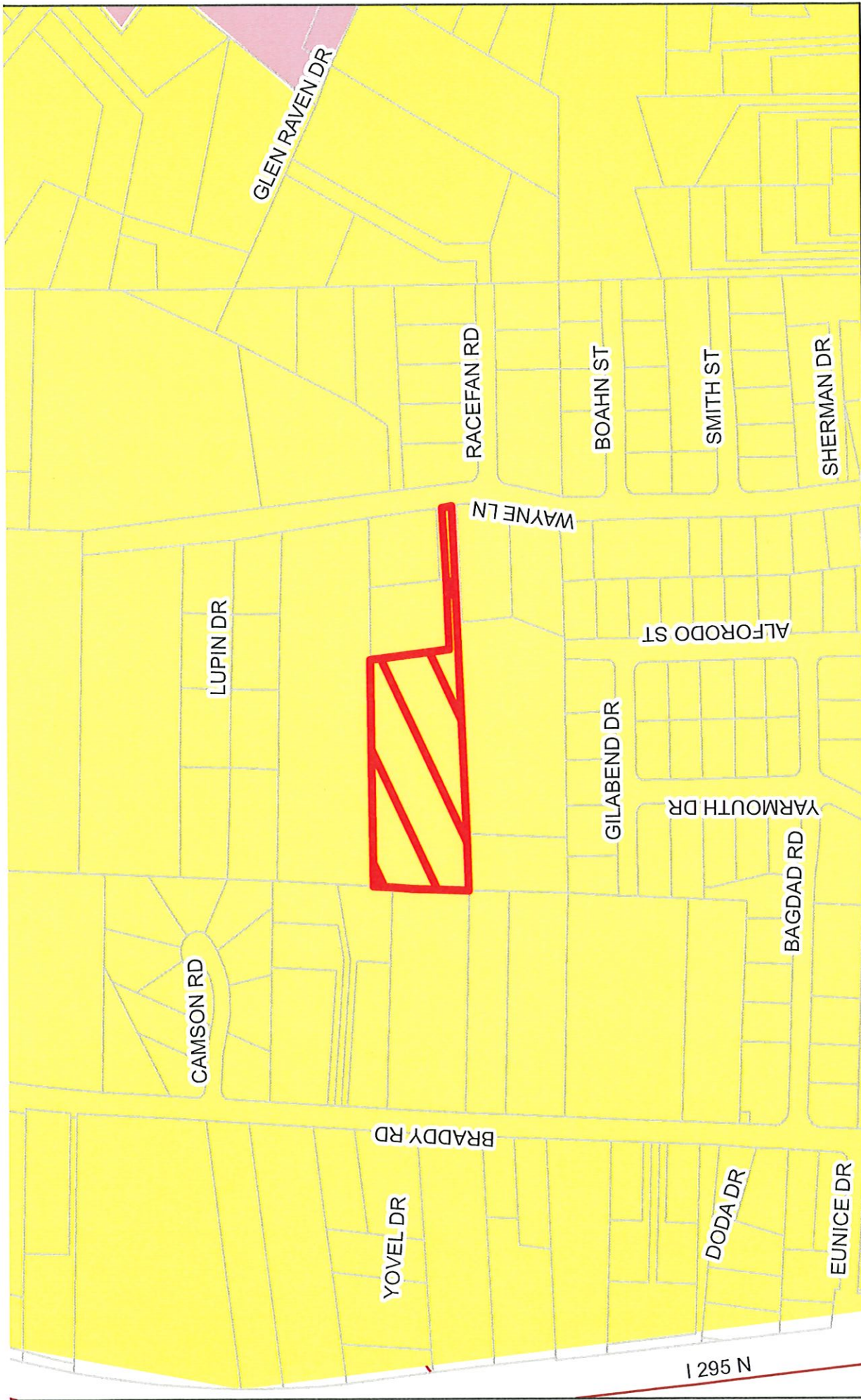
Legend

-  A23-31
-  AR - Agricultural-Residential
-  AR/MHO - Agricultural-Residential Manufactured Home Overlay
-  SF-6 - Single-Family Residential 6
-  SF-6/MHO - Single-Family Residential 6 Manufactured Home Overlay
-  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 Map Case #: A23-31

Request: Variance
Reduce required lot frontage

Location: 0 Wayne Lane
9485900074000

Legend



A23-31

Land Use Plan 2040

Character Areas

LDR - LOW DENSITY

NMU - NEIGHBORHOOD MIXED USE

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



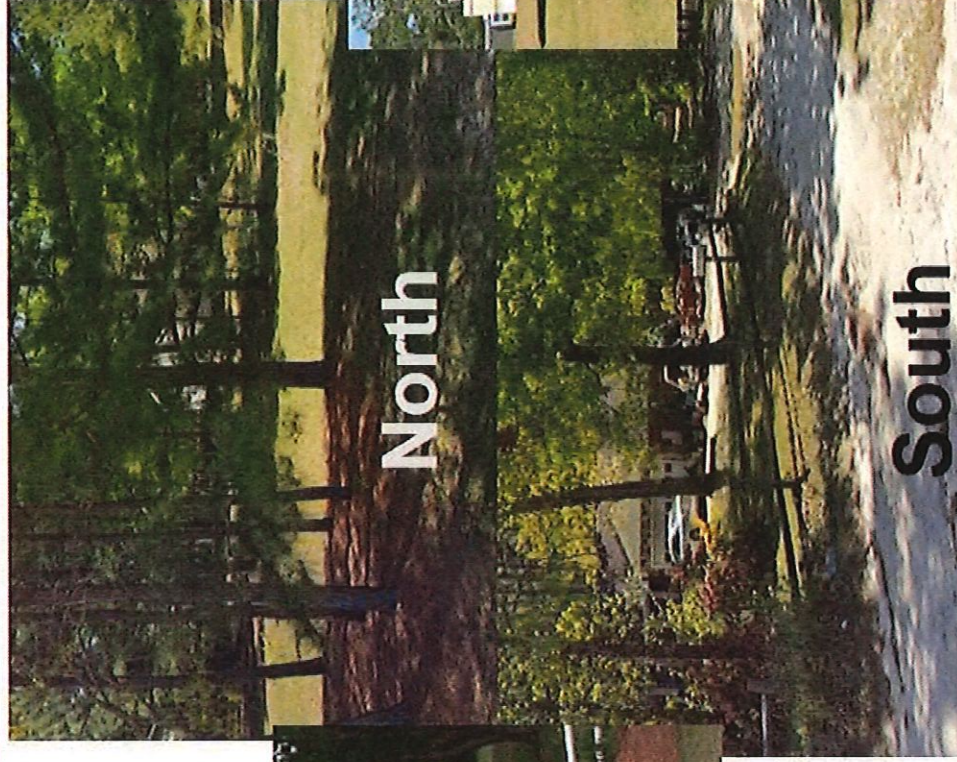




Surrounding Properties



West

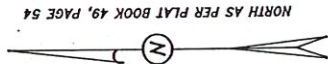


North

South



East



VICINITY SKETCH NOT TO SCALE

Leland D. Struther, Professional Land Surveyor, do hereby certify that this plat was prepared by me from a field survey performed under my direct supervision; that the boundaries not surveyed are clearly indicated as broken lines and drawn from information as shown; that the ratio of precision as calculated in this case is 10,000'; that this map was prepared in accordance with C.S. 47-30 as amended; witness my own right signature, registration number and seal this 23th day of January, 1990.

Leland D. Strother
Leland D. Strother, P.L.S. L-2708

L. Leland D. Stratner, Professional Land Surveyor, do hereby certify that this plat creates a division of land within the jurisdiction of the subdivision regulations of The County of Cumberland, North Carolina.

Leland D. Strehler
Leland D. Strehler, P.L.S. L-2768

The undersigned here acknowledges that the land shown on this plan is within the subdivision jurisdiction of Cumberland County and that this plat and allotment is my free act and deed and that I do hereby dedicate to public use all areas so shown on indicated on said plat.

Owner

No public agency is presently responsible for maintenance of the several private streets shown on this plat. Private streets are for the use of all owners of property within this subdivision. Their guests and all representatives of governmental agencies for ingress and egress, and for the construction, inspection and maintenance of street utilities and drainage.

Approved by the Cumberland County Planning Board on the _____ day of _____, 1992.

Chairman

State of North Carolina
County of Cumberland

b₆ _____, Review Officer of Cumberland County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date _____

ACREAGE DETERMINED BY COORDINATE GEOMETRY METHOD.

SURVEY FOR

GARY FREDRICK WOODS and
JERRY WILSON WOODS, Jr.

DIVISION OF TRACT No. 5, BLISS CULBRETH ESTATE

ROCKFISH TOWNSHIP, CUMBERLAND COUNTY
NORTH CAROLINA

January 25, 1999

STROTHER LAND SURVEYING

LELAND D. STROTHER, R.L.S. L-2768
120 EAST ELWOOD AVENUE

RAEFORD, NORTH CAROLINA 28376

PHONE: (916) 875-8081

Field Book 61, Page 44
FILE: CUMBERLAND COUNTY, ROCKFISH
TOWNSHIP
DISK FILE: C:\SUMMER\94\WOODS.W

**STROTHER
LAND SURVEYING
RAEFORD, N.C.**

GRAPHIC SCALE - FEET

LEGEND

Ex. denotes Existing
 Cn. conc. mon. denotes concrete monument
 P/VK nail denotes Parker-Kohn nail
 P/VK nail denotes the trademark name of magnetized nail
 R/S denotes raised spike
 P/VK denotes raised spike
 P/VK denotes pavement
 Cn. p. denotes cutaneous point
 R/V denotes right of way
 B.S. denotes building setback line
 P/VK denotes parking
 Twp. ped. denotes telephone pedestal
 SD denotes storm drain
 CB denotes catch basin
 SD denotes sidewalk sewer line
 Jnt denotes manhole
 SD + Vm denotes used in combination:
 30C2 + Vm curb curb basin
 Ex. conc. mon. = Existing concrete monument