



City of Fayetteville

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

Meeting Agenda - Final Zoning Commission

Tuesday, December 12, 2023

6:00 PM

FAST Transit Center

1.0 CALL TO ORDER

2.0 APPROVAL OF AGENDA

3.0 CONSENT

3.01 A23-45. Order of Approval - Findings of Fact: Variance to reduce minimum lot size and minimum setbacks, located at 1804 Overlook Drive (REID 0438447528000), and being the property of Mark N. & Deborah D. Lynch.

3.02 Approval of Minutes: November 14, 2023

4.0 EVIDENTIARY HEARINGS

4.01 A23-50. Variance to reduce minimum rear yard setback, located at 1840 Ashton Road (REID 0416411779000), and being the property of Migdal Perez.

4.02 A23-51. Variance to increase maximum fence height in the front yard and reduce minimum required setback for a fence in the front yard, located at 325 Cumberland Street (REID: 0437582772000), and being the property of Ira Neil Grant.

4.03 A23-54. Variance to increase maximum fence height, located at 1010 Marlborough Road (REID 0427101984000), and being the property of Greg and Effie Kalevas.

5.0 PUBLIC HEARINGS (Public & Legislative)

5.01 P23-52. Rezoning from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5) located at 1319 Camden Road (REID 0436163935000) totaling .54 acres ± and being the property of Darren & LaAdah Demus represented by Lori Epler of Larry King & Associates.

5.02 P23-53. Rezoning from Single Family Residential 10 (SF-10) to Single Family Residential 6 (SF-6) located at 1040 Stamper Road (REID 0428335880000) totaling .25 acres ± and being the property of Rockfish Run Land and Development LLC.

- 5.03** P23-55. Conditional rezoning from Community Commercial (CC) to Light Industrial Conditional Zoning (LI/CZ) located at 716 Whitfield Street (REID 0436183799000) totaling 2.43 acres \pm and being the property of Food Properties LLC.

6.0 OTHER ITEMS OF BUSINESS

7.0 ADJOURNMENT



City of Fayetteville

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

City Council Action Memo

File Number: 23-3724

Agenda Date: 12/12/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.01

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Heather Eckhardt, CZO - Planner II

DATE: December 12, 2023

RE:

A23-45. Order of Approval - Findings of Fact: Variance to reduce minimum lot size and minimum setbacks, located at 1804 Overlook Drive (REID 0438447528000), and being the property of Mark N. & Deborah D. Lynch.

COUNCIL DISTRICT(S):

2 - Malik Davis

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 minimum lot size in the Single Family Residential 6 zoning district (SF-6) as well as the front, side, and rear yard setbacks for two structures on the subject property.

On November 14, 2023, the Zoning Commission held an Evidentiary Hearing regarding this case. After receiving all evidence and testimony, the Commission voted 4-0 to approve the Variance application.

Background:

Owner: Mark & Deborah Lynch

Applicant: Lori Epler of Larry King & Associates

Requested Action: Reduce minimum lot size and front, side, and rear yard setbacks

Zoning District: Single Family Residential 6 (SF-6)

Property Address: 1804 Overlook Drive and 116 Scott Avenue

Size: .23 acres ±

Existing Land Use: Two single family houses

Surrounding Zoning and Land Uses

- North: SF-6 - Single family house
- South: SF-6 - Vacant
- East: SF-6 - Single-family house
- West: SF-6 - Single-family house

Letters Mailed: 46

Issues/Analysis:

The two houses on the subject property were constructed in the early 1940s according to Cumberland County Tax records. Due to the age of the structures, the site is non-conforming. The Unified Development Ordinance outlines various standards regarding setbacks and minimum lot sizes. The UDO requires that lots within the SF-6 zoning district have a minimum lot size of 6,000 square feet and residential structures within the SF-6 zoning district must meet a minimum front yard setback of 25 feet, a minimum corner side yard setback of 25 feet, a minimum side yard setback of 10 feet, and a minimum rear yard setback of 30 feet.

The applicant has requested a variance from 4 standards of the UDO. The requested changes are as follows:

- Reduction in minimum lot size from 6,000 square feet to 3,447 square feet
- Reduction in multiple setbacks for two structures
 - 116 Scott Ave - Reduce front yard setback from 25 feet to 22 feet, reduce rear yard setback from 30 feet to 12 feet
 - 1804 Overlook Drive - Reduce front yard setback from 25 feet to 14 feet, reduce side yard setback from 10 feet to 9 feet, and reduce rear yard setback from 30 feet to 2 feet.

The owner purchased the property in its current state - two houses on one lot with nonconforming setbacks. The owner has requested these variances in order to bring the existing structures into compliance with the ordinance and allow the subdivision of the lot into two and sell one of the resulting lots in the current tenant of 1804 Overlook Drive.

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 minimum lot size and setbacks in order to subdivide the property. Once the property has been subdivided, the owner will be able to sell one of the houses to the current tenant. There is no intended development or construction associated with this variance request.

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 request for a variance is being made for existing structures, not for new construction. Strict application of the ordinance requirements would prevent this owner from selling a structure to a tenant who has made this their home and desires to become a homeowner as opposed to a renter. Denial of this request will present a difficulty and hardship for both parties."

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

The applicant states "The size location, and existence of two residential structures on one lot was present when the current owner purchased this property and had been the case for many years prior to his purchase."

- 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 "In order to allow the prospective buyer of 1804 Overlook Drive to purchase that home, a subdivision must take place. The size of the property would not support two lots without a variance. The conversation was had with city staff as to whether to request a rezoning or a variance. At the staff's advisement, a variance to the code is being requested."

- 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 "A variance would bring these two non-conforming structures into conformity with the code and would make them more harmonious with the other homes in the neighborhood in that they would be two lots and two houses."

- 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 two homes on this property have been operating as two separate residences for many years. And for public safety, have two separate addresses. A person who has not owned their own home would be able to purchase that home and have a more solid interest in the home and the neighborhood. With the need for affordable housing in our area, allowing a renter to purchase a home is definitely good for the welfare of that individual and a benefit to the community."

Budget Impact:

There is no immediate budgetary impact.

Options:

1. Approve Findings as submitted by staff.
2. Approve Findings with specific changes.

Recommended Action:

Staff recommends option 1 above.

Attachments:

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

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

**To reduce minimum lot size and minimum setbacks at 1804 Overlook Drive (REID
0438447528000)**

VARIANCE A23-45

Property Address: 1804 Overlook Drive and 116 Scott Avenue
REID Number: 0438447528000
Property Owners: Mark N. and Deborah D. Lynch

The Zoning Commission for the City of Fayetteville, NC, held an evidentiary hearing on November 14, 2023, to consider a Variance request filed by Lori Epler of Larry King & Associates (“Applicant”), on behalf of Mark N. and Deborah D. Lynch (“Property Owners”), to reduce the required minimum lot size and minimum front, side, and rear yard setbacks for the property located at 1804 Overlook Drive and 116 Scott Avenue (REID 0438447528000) (“Subject Property”).

On October 30, 2023, a notice of public hearing was mailed to the Applicant and Property Owners, and all of the owners of property within 300 feet of the Subject Property. On October 24, 2023, a notice of public hearing sign was placed on the Subject Property. On November 3 and 10, 2023, a notice of public hearing advertisement was placed in the legal section of *The Fayetteville Observer*.

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

Findings of Fact

1. Chapter 30, Article 3, Section D.4 of the City of Fayetteville’s Code of Ordinances establishes the dimensional requirements for lots within the Single-Family Residential 6 (SF-6) District.
2. Mark N. and Deborah D. Lynch are the owners of a residentially zoned property located at 1804 Overlook Drive and 116 Scott Avenue (REID 0438447528000), which contains approximately .23 acres ± in the City of Fayetteville.
3. The Applicant filed an application for a Variance on September 22, 2023.
4. The Subject Property is zoned Single-Family Residential 6 (SF-6).
5. The Applicant is requesting to reduce the minimum lot size and minimum front, side, and rear yard setbacks.
6. The Applicant has the burden of proof to show that the Variance meets the following statutory requirements:

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

7. The Subject Property is a Single-Family Residential 6 (SF-6) zoned property that is surrounded by Single-Family Residential 6 (SF-6) zoned properties to the north, south, east, and west.

8. The Subject Property is approximately .23 acres located at the northeast corner of Overlook Drive and Scott Avenue.

9. The Subject Property contains two separate houses. Both houses were constructed before the adoption of the Unified Development Ordinance.

10. This Variance addresses the Ordinance requirement for a minimum lot size of 6,000 square feet and a minimum front yard setback of 25 feet, minimum side yard setback of 10 feet, and minimum rear yard setback of 30 feet.

11. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship because the ordinance would prevent the property owner from selling a structure to a tenant who has made this their home and desires to become a homeowner as opposed to a renter.

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 size, location, and existence of two residential structures on one lot were present when the current owner purchased the property 40 years ago.

13. The Variance is the minimum action that will make possible a reasonable use of land or structures and will allow the property owner to subdivide the property and allow a tenant to purchase the house at 1804 Overlook Drive.

14. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit because the variance brings the two non-conforming structures into conformity with the code and makes them more harmonious with the other homes in the neighborhood in that they would be one house per lot.

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

Conclusions of Law

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

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

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

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

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

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

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

VOTE: 4 to 0

This the 14th day of November, 2023.

PAVAN PATEL
Zoning Commission Chair

Project Overview

#1012381

Project Title: LYNCH
Application Type: 5.4) Variance
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN: 1804 OVERLOOK DR
(0438447528000)

Zip Code: 28301

GIS Verified Data

Property Owner: Parcel

- 1804 OVERLOOK DR: LYNCH, MARK N;LYNCH, DEBORAH D

Acreage: Parcel

- 1804 OVERLOOK DR: 0.23

Zoning District: Zoning District

- 1804 OVERLOOK DR: SF-6

Subdivision Name:

Fire District:

Airport Overlay District:

Hospital Overlay District:

Coliseum Tourism District:

Cape Fear District:

Downtown Historic District:

Haymount Historic District:

Floodway:

100 Year Flood: <100YearFlood>

500 Year Flood: <500YearFlood>

Watershed:

Variance Request Information

Requested Variances: Lot area,Minimum yard/setback

Section of the City Code from which the variance is being requested.: 30-3.D.4. SINGLE-FAMILY RESIDENTIAL 6 (SF-6) DISTRICT DIMENSIONAL STANDARDS

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

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

THE CURRENT OWNER PURCHASED THIS PROPERTY IN 2016. AT THAT TIME IT CONSISTED OF ONE LOT AND TWO STRUCTURES. BOTH STRUCTURES WERE BEING USED AS RESIDENCES BY DIFFERENT PARTIES. THE OWNER HAS CONTINUED TO USE THEM AS RENTAL PROPERTIES.

ALL LOTS IN THE VICINITY ARE ZONED SF-6 AND APPEAR TO BE USED FOR RESIDENTIAL PURPOSES.

RECENTLY, ONE OF THE TENANTS HAS ASKED TO PURCHASE THE STRUCTURE THEY HAVE MADE THEIR HOME. THE OWNER WISHES TO SUBDIVIDE THE PROPERTY SO AS TO SELL THE HOUSE AT 1804 OVERLOOK DRIVE.

AS FAR AS THE CURRENT OWNER KNOWS, BOTH STRUCTURES WERE BUILT IN THE 1950'S.

THE CODE REQUIRES A LOT IN THIS ZONING DISTRICT TO BE A MINIMUM OF 6,000 SQUARE FEET. THE LOTS PROPOSED WILL BE 3447 SQUARE FEET AND 6898 SQUARE FEET.

THE CODE REQUIRES A FRONT YARD SETBACK OF 25 FEET. THE FRONT SETBACKS OF THE PROPOSED LOTS WILL BE 22.4 FEET (THIS IS EXISTING) AND 14.5 FEET.

THE CODE REQUIRES 10 FEET SIDE YARD SETBACKS. THE PROPOSED LOT 50 WOULD HAVE A SIDE YARD SETBACK OF 9.7.

THE CODE REQUIRES REAR SETBACKS OF 30 FEET. THE PROPOSED LOTS WOULD HAVE 12.9 AND 3.2 FEET SETBACKS.

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

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

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

Expiration - Variance

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

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

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

THE REQUEST FOR A VARIANCE IS BEING MADE FOR EXISTING STRUCTURES, NOT FOR NEW CONSTRUCTION.

STRICT APPLICATION OF THE ORDINANCE REQUIREMENTS WOULD PREVENT THIS OWNER FROM SELLING A STRUCTURE TO A TENANT WHO HAS MADE THIS THEIR HOME AND DESIRES TO BECOME A HOMEOWNER AS OPPOSED TO A RENTER.

DENIAL OF THIS REQUEST WILL PRESENT A DIFFICULTY AND HARDSHIP FOR BOTH PARTIES.

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

THE SIZE, LOCATION AND EXISTANCE OF TWO RESIDENTIAL STRUCTURES ON ONE LOT WAS PRESENT WHEN THE CURRENT OWNER PURCHASED THIS PROPERTY AND HAD BEEN THE CASE FOR MANY YEARS PRIOR TO HIS PURCHASE.

Please describe how the Variance is the minimum action that will make possible a reasonable use of land or structures.:
IN ORDER TO ALLOW THE PROSPECTIVE BUYER OF 1804 OVERLOOK TO PURCHASE THAT HOME, A SUBDIVISION MUST TAKE PLACE. THE SIZE OF THE PROPERTY WOULD NOT SUPPORT TWO LOTS WITH OUT A VARIANCE.

THE CONVERSATION WAS HAD WITH CITY STAFF AS TO WHETHER TO REQUEST A REZONING OR A VARIANCE. AT THE STAFF'S ADVISEMENT, A VARIANCE TO THE CODE IS BEING REQUESTED.

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

A VARIANCE WOULD BRING THESE TWO NON-CONFORMING STRUCTURES INTO CONFORMITY WITH THE CODE AND WOULD MAKE THEM MORE HARMONIOUS WITH THE OTHER HOMES IN THE NEIGHBORHOOD IN THAT THEY WOULD BE TWO LOTS AND TWO HOUSES.

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

THE TWO HOMES ON THIS PROPERTY HAVE BEEN OPERATING AS TWO SEPARATE RESIDENCES FOR MANY YEARS. AND FOR PUBLIC SAFETY , HAVE TWO SEPARATE ADDRESSES.

A PERSON WHO HAS NOT OWNED THEIR OWN HOME WOULD BE ABLE TO PURCHASE THAT HOME AND HAVE A MORE SOLID INTEREST IN THE HOME AND THE NEIGHBORHOOD.

WITH THE NEED FOR AFFORDABLE HOUSING IN OUR AREA, ALLOWING A RENTER TO PURCHASE A HOME IS DEFINITELY GOOD FOR THE WELFARE OF THAT INDIVIDUAL AND A BENEFIT TO THE COMMUNITY.

Height of Sign Face: 0

Square Footage of Sign Face: 0

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Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

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Square Footage of Sign Face: 0

Primary Contact Information

Contractor's NC ID#:

Project Owner
MARK LYNCH

PO BOX 53590
FAYETTEVILLE, NC 28305
P:910.494.0233
MARKNLYNCH@GMAIL.COM

Project Contact - Agent/Representative
LORIEPLER

Larry King & Assoc.
1333 Morganton Road, Fayetteville
Fayetteville, NC 28305
P:9104834300
LEPLER@LKANDA.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:

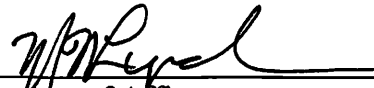
AFFIDAVIT OF OWNERSHIP

I, MARK N LYNCH, being duly sworn, deposes and says:

1. That I am the owner of the property/properties located at 116 SCOTT AVE AND 1804 OVERLOOK DR in the City of Fayetteville, a political subdivision of the State of North Carolina.

2. I do hereby give permission to LORI S EPLER OF LARRY KING & ASSOCIATES 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.

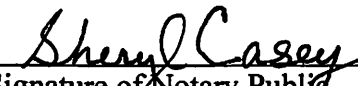
3. This authority is only granted for the application to be submitted on APRIL 21, 2023.


Signature of Affiant

Signature of Affiant

Cumberland County, North Carolina

Sworn to and subscribed before me this day on the 21ST day of APRIL, 2023.


Signature of Notary Public

(Official Seal)



Sheryl Casey, Notary Public
Printed Name of Notary Public

My Commission Expires: 7-8-2023

BK 4661 PG 0336

21709

017205

RECEIVED

97 MAY 16 PM 4:20

CUMBERLAND COUNTY NC 05/16/97

22

\$100.00



Real Estate
Excise Tax

Excise Tax \$ 100.00

Recording Time, Book and Page

(164)
GEORGE E. TATUM
REGISTER OF DEED
CUMBERLAND CO., N.

Tax Lot No. _____ Parcel Identifier No. _____
Verified by _____ County on the _____ day of _____, 19____
by _____

Mail after recording to **Barfield & Jenkins, P. O. Drawer 53515, Fayetteville, NC 28305**
This instrument was prepared by **Joel S. Jenkins, Jr.**

Brief Description for the index

841 Bragg Boulevard

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this **May 9th, 1997**, by and between

GRANTOR

GRANTEE

**HORACE T. PRICE and wife,
WILMA PRICE**

**MARK N. LYNCH and wife,
DEBORAH D. LYNCH**

**841 Bragg Boulevard
Fayetteville, NC 28303**

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in or near the City of **Fayetteville, Cross Creek Township, Cumberland County, North Carolina** and more particularly described as follows:

BEING all of Lots 50 and 51 in SUBDIVISION OF J. F. FISHER PROPERTY and the same being duly recorded in Book of Plats 10, at page 6, Cumberland County, North Carolina Registry.

This conveyance is made subject to that Deed of Trust dated May 12, 1994 in the amount of \$20,000.00 and being duly recorded in Book 4158, page 800, Cumberland County Registry, North Carolina. In accepting this deed, the Grantees herein, as part of the consideration for this transfer, hereby assume all obligations of the Note and Deed of Trust referred to above and executed by Horace T. Price and Wilma A. Price.

10 -

BK 4661 PG 0337

The property hereinabove described was acquired by Grantor by instrument recorded in Book 2501 , Page 432 .

A map showing the above described property is recorded in Plat Book 10, Page 6 .

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

Subject to restrictions, easements and rights of way of public record.

Subject to 1997 ad valorem taxes which are not yet due and payable.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

(Corporate Name)

Horace T. Price (SEAL)
Horace T. Price

By: _____

Wilma Price (SEAL)
Wilma Price

President

ATTEST:

(SEAL)

Secretary (Corporate Seal)

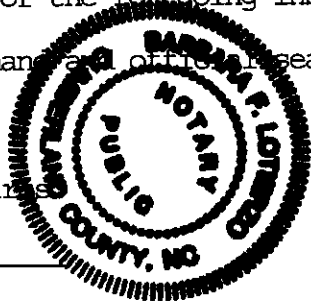
(SEAL)

State of North Carolina

County of Cumberland

I, Barbara F. Lotierzo, a notary public of said county and state, do hereby certify that Horace T. Price and Wilma Price personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes herein expressed.

Witness my hand and official seal this the 9th day of May, 1997.



Barbara F. Lotierzo
Notary Public

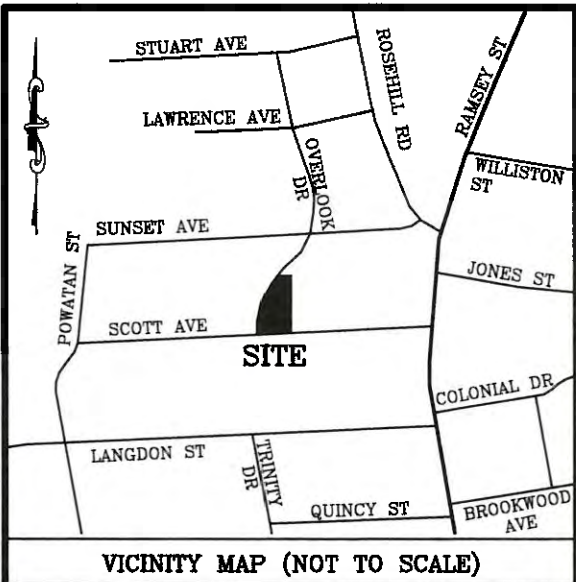
My commission expires

10/3/2000

The foregoing Certificate(s) of Barbara F. Lotierzo

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By George E. Tatum REGISTER OF DEEDS FOR CUMBERLAND COUNTY,
Rebim Jones Deputy/Assistant - Register of Deeds



CURVE TABLE				
CURVE	CHORD BEARING	RADIUS	ARC LENGTH	CHORD LENGTH
C1	N10°34'35"E	250'	88.23'	87.77'
C2	N29°00'43"E	250'	72.65'	72.40'

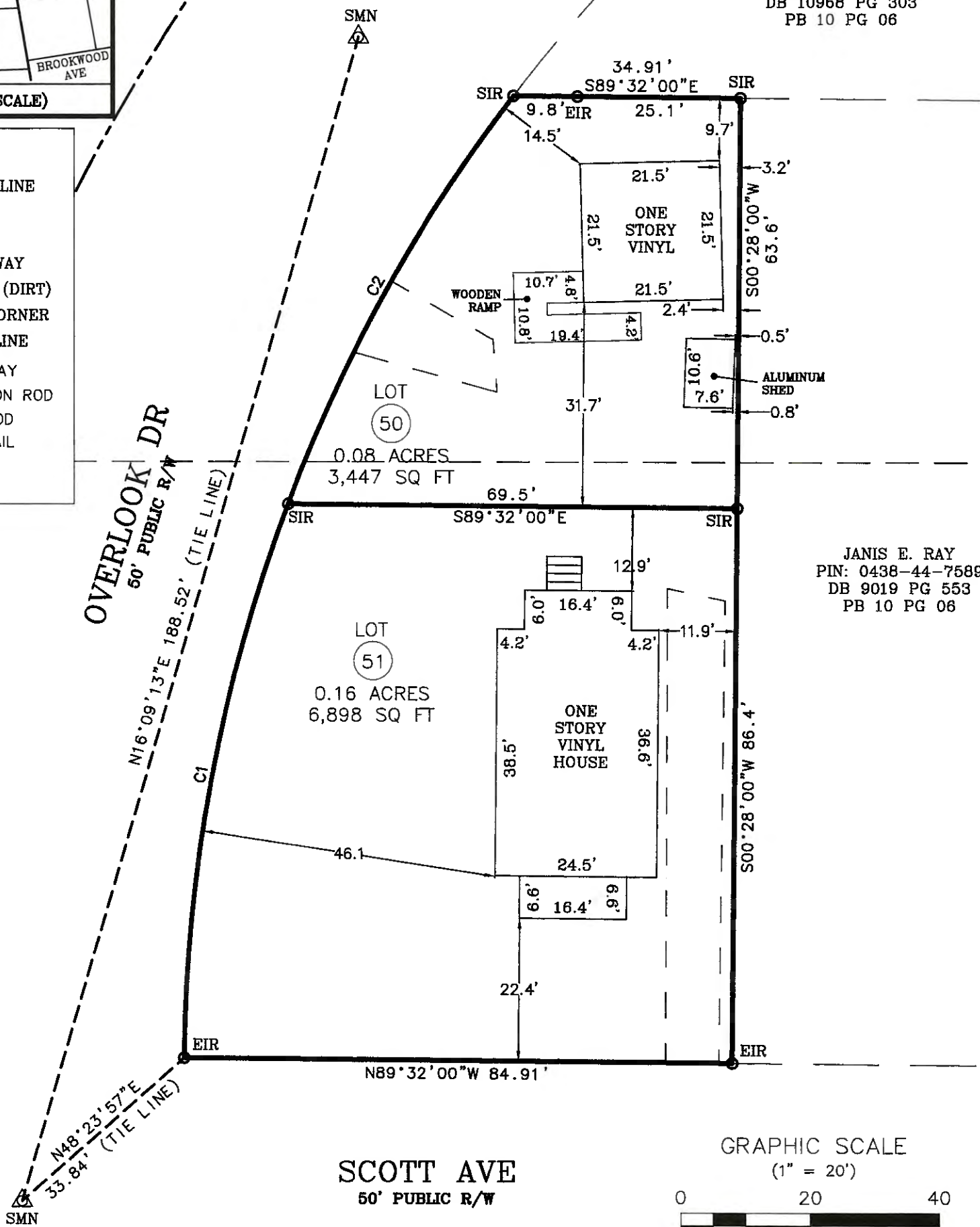
MARVELOUS TIMES PROPERTIES, LLC
PIN: 0438-44-8711
DB 10968 PG 303
PB 10 PG 06

LEGEND

- BOUNDARY LINE
- ADJOINERS
- TIE LINE
- RIGHT OF WAY
- DRIVE WAY (DIRT)
- CONTROL CORNER
- BREAK IN LINE

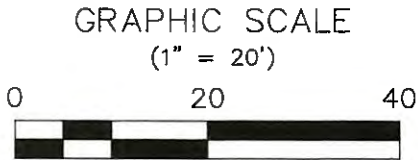
R/W = RIGHT OF WAY
EIR = EXISTING IRON ROD
SIR = SET IRON ROD
SMN = SET MAG NAIL
DB = DEED BOOK
PB = PLAT BOOK

PB 10 PG 06



JANIS E. RAY
PIN: 0438-44-7589
DB 9019 PG 553
PB 10 PG 06

SCOTT AVE
50' PUBLIC R/W
VARIANCE APPLICATION



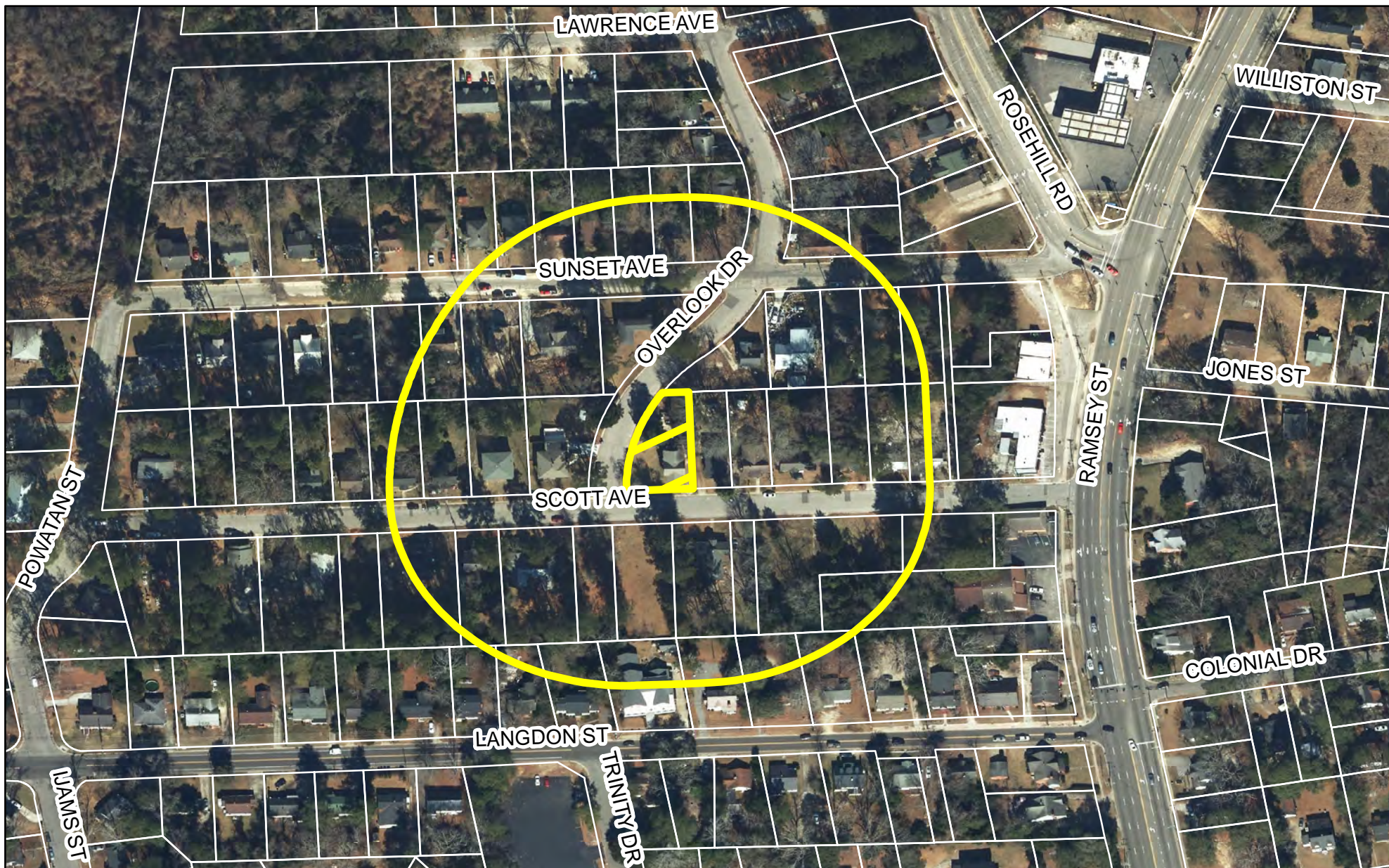
SURVEY FOR: MARK LYNCH
ADDRESS: 1804 OVERLOOK DRIVE &
116 SCOTT AVENUE.
CITY: FAYETTEVILLE, NC
COUNTY OF: CUMBERLAND

TOWNSHIP OF: CROSS CREEK
DATE: 6 JUNE 2023
SCALE: 1' = 20'
REFERENCE: DB 4661 PG 336
PB 10 PG 06, LOTS 50 & 51

Larry King & Associates, R.L.S., P.A.
P.O. Box 53787
1333 Morganton Road, Suite 201
Fayetteville, NC 28305
Phone: (910)483-4300
Fax: (910)483-4052
www.LKandA.com
NC Firm License C-0887

"I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN D.B. 4661, P.G. 336 OR OTHER REFERENCE SOURCE AS SHOWN); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN BOOK AND PAGE AS REFERENCED ABOVE THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS > 1:10,000; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600)."

W. Larry King
W. LARRY KING, PROFESSIONAL LAND SURVEYOR L-1339



Aerial Notification Map

Case #: A23-45

Request: Variance

Location: 1804 Overlook Drive

Legend



A23-45

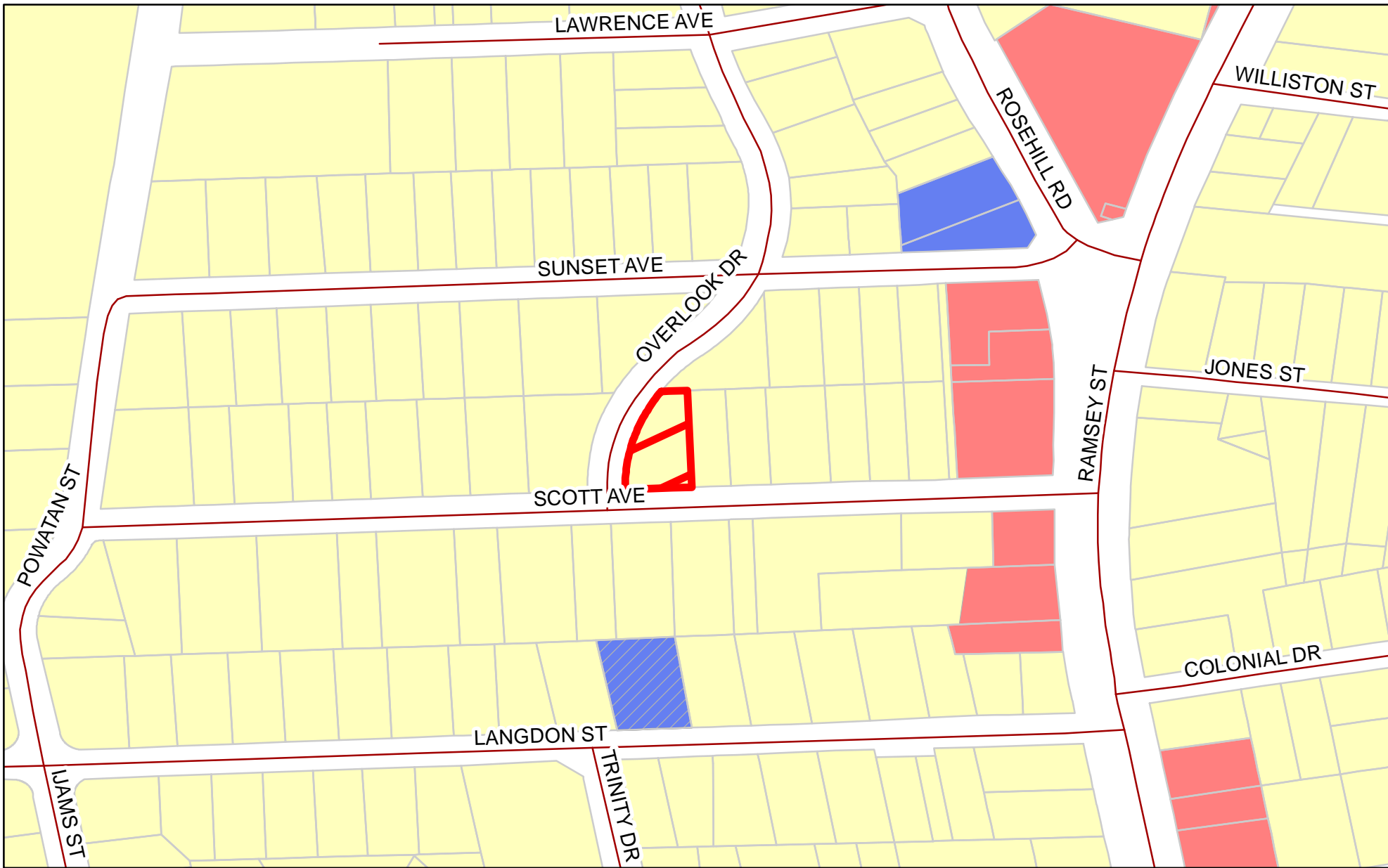


A23-45 Notification Buffer



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





Zoning Map

Case #: A23-45

Request: Variance

Location: 1804 Overlook Drive

Legend



A23-45



LC - Limited Commercial



OI - Office & Institutional



OI/CZ - Conditional Office & Institutional

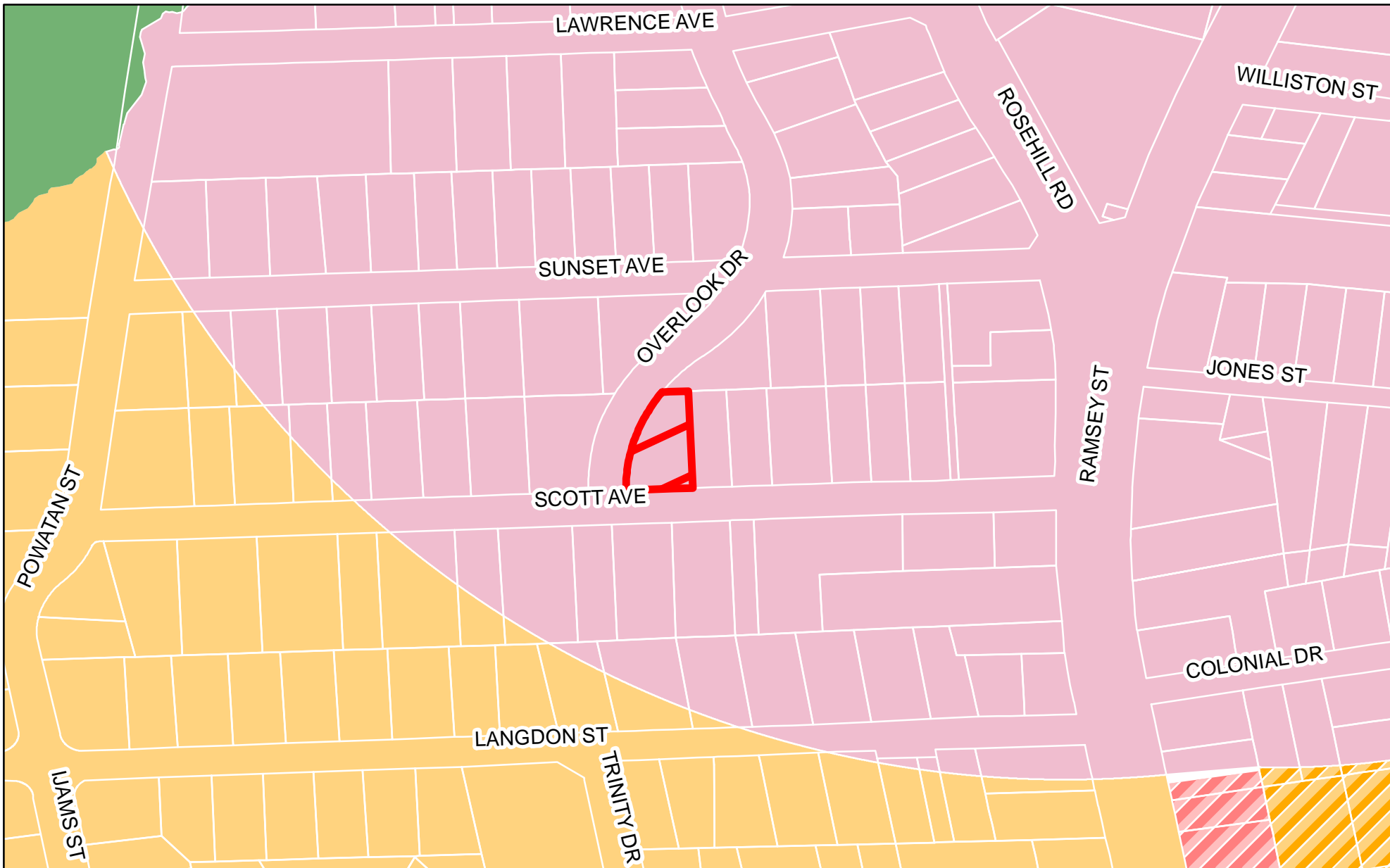


SF-6 - Single-Family Residential 6



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





Land Use Map

Case #: A23-45

Request: Variance

Location: 1804 Overlook Drive






Legend



A23-45

Land Use Plan 2040

Character Areas

-  PARKOS - PARK / OPEN SPACE
-  MDR - MEDIUM DENSITY
-  NIR - NEIGHBORHOOD IMPROVEMENT
-  NMU - NEIGHBORHOOD MIXED USE
-  CSR - COMMERCIAL STRIP REDEVELOPMENT



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



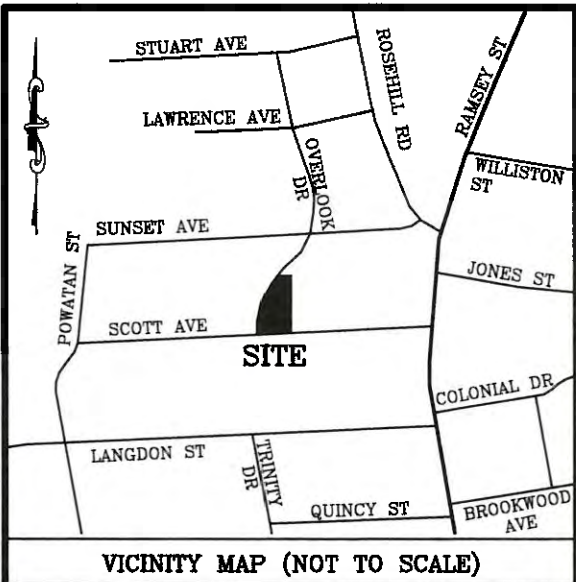


116 Scott Avenue



1804 Overlook Drive





CURVE TABLE				
CURVE	CHORD BEARING	RADIUS	ARC LENGTH	CHORD LENGTH
C1	N10°34'35"E	250'	88.23'	87.77'
C2	N29°00'43"E	250'	72.65'	72.40'

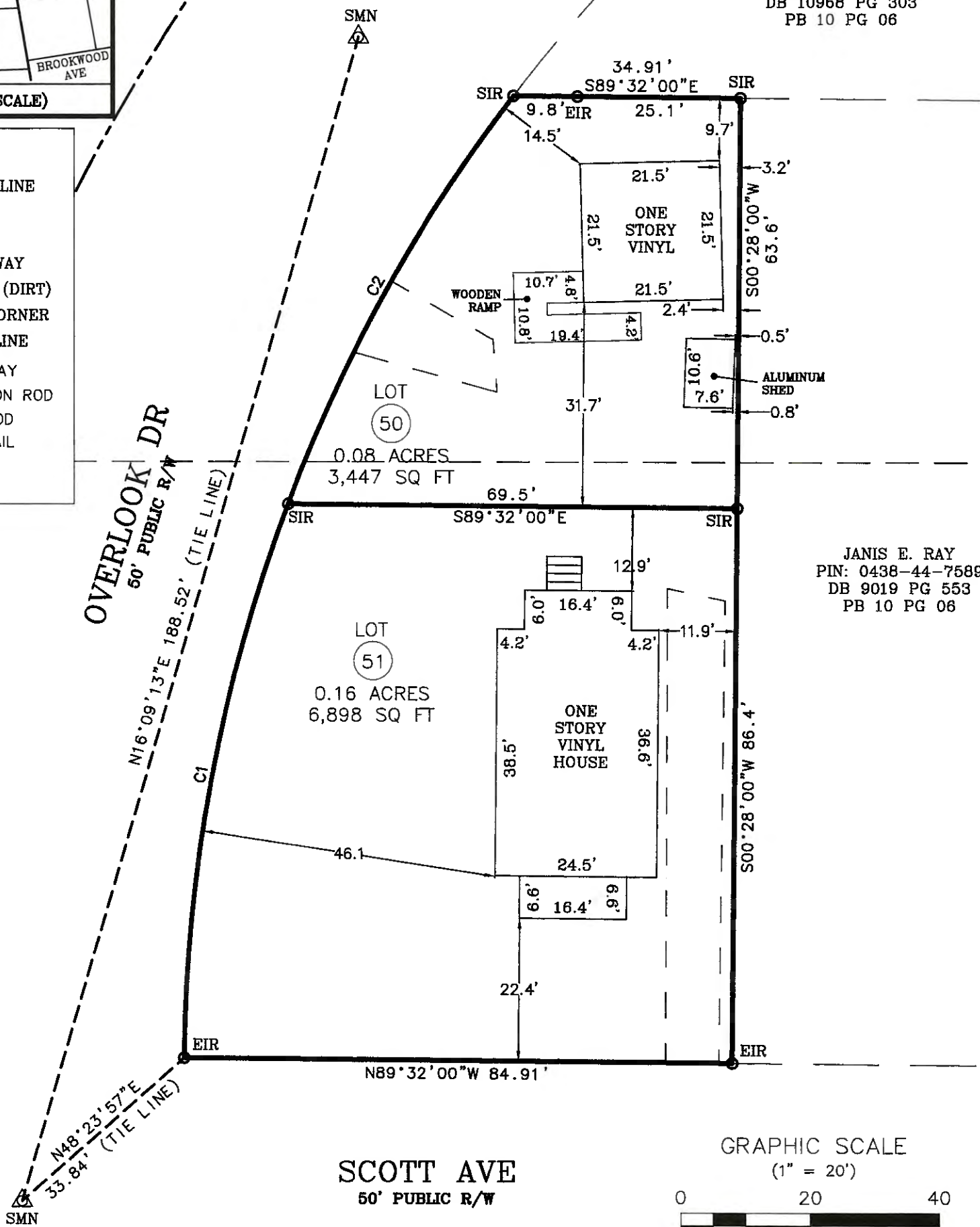
MARVELOUS TIMES PROPERTIES, LLC
PIN: 0438-44-8711
DB 10968 PG 303
PB 10 PG 06

LEGEND

- BOUNDARY LINE
- ADJOINERS
- TIE LINE
- RIGHT OF WAY
- DRIVE WAY (DIRT)
- CONTROL CORNER
- BREAK IN LINE

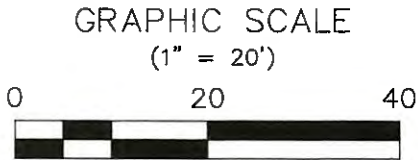
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EIR = EXISTING IRON ROD
SIR = SET IRON ROD
SMN = SET MAG NAIL
DB = DEED BOOK
PB = PLAT BOOK

PB 10 PG 06



JANIS E. RAY
PIN: 0438-44-7589
DB 9019 PG 553
PB 10 PG 06

SCOTT AVE
50' PUBLIC R/W
VARIANCE APPLICATION



SURVEY FOR: MARK LYNCH
ADDRESS: 1804 OVERLOOK DRIVE &
116 SCOTT AVENUE.
CITY: FAYETTEVILLE, NC
COUNTY OF: CUMBERLAND

TOWNSHIP OF: CROSS CREEK
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W. Larry King
W. LARRY KING, PROFESSIONAL LAND SURVEYOR L-1339



City of Fayetteville

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

City Council Action Memo

File Number: 23-3723

Agenda Date: 12/12/2023

Version: 1

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: December 12, 2023

RE: Approval of Meeting Minutes: November 14, 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: November 14, 2023

**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION MEETING
FAST TRANSIT CENTER COMMUNITY ROOM
NOVEMBER 14, 2023 @ 6:00 P.M.**

MEMBERS PRESENT

Pavan Patel, Chair
Stephen McCorquodale, Vice-Chair
Alex Keith
Tyrone Simon

STAFF PRESENT

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

MEMBERS ABSENT

Kevin Hight

The Zoning Commission Meeting on Tuesday, November 14, 2023, was called to order by Chair Pavan Patel at 6:07 p.m. The members introduced themselves.

I. APPROVAL OF THE AGENDA

MOTION: Alex Keith
SECOND: Tyrone Simon
VOTE: Unanimous (4-0)

II. APPROVAL OF CONSENT ITEMS TO INCLUDE THE MINUTES FOR THE OCTOBER 10, 2023, MEETING

MOTION: Alex Keith
SECOND: Stephen McCorquodale
VOTE: Unanimous (4-0)

III. EVIDENTIARY HEARING

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 cases or ex parte communication to disclose regarding the cases. Ms. Harper had the speakers perform the oath.

Mr. Patel opened the legislative hearing for case A23-45.

A23-45. Variance to reduce minimum lot size and minimum setbacks, located at 1804 Overlook Drive (REID #0438447528000), and being the property of Mark N. & Deborah D. Lynch.

Heather Eckhardt presented case A23-45. It is a variance request at 1805 Overlook Drive and 116 Scott Avenue. The owners are Mark and Deborah Lynch and the applicant is Larry King and Associates. The request is to reduce the lot size as well as front, side, and rear yard setbacks. The property is at the corner of Overlook Drive and Scott Avenue to the west of Ramsey Street at its intersection with Rosehill Road. The property is currently zoned Single-Family 6 (SF-6) as well as the surrounding area. The Future Land Use Plan calls for the area to be developed as Neighborhood Mixed Use. The houses currently on the property were built in the 1940s, and the applicant does not intend to make any changes to these structures. The surrounding area is residential. The site plan shows the proposed property line. The lot size for the house to the north will be reduced to 3,440 square feet. The front yard and rear yard setbacks will be reduced for both properties, and the side yard setback for 1805 Overlook Drive will have to be reduced. Ms. Eckhardt provided the Board with their voting options.

Mr. Patel opened the evidentiary hearing for case A23-45.

Speakers in favor:

Lori Epler, 1333 Morgantown Road Fayetteville, NC 28305

- Ms. Epler said the residence was in its current state when the owner bought it the property over 40 years ago. Both structures were there, and they have been used as two separate residences for many, many years.
- When Mr. Lynch bought the property, he intended the property for its current use.
- He has a renter who has lived in the Overlook house for several years. That renter now would like to purchase the property, so Mr. Lynch is doing what he can to help this person become a homeowner instead of a renter. Ms. Epler said Mr. Lynch would speak after she finished speaking. She said he can answer any questions about the property. Ms. Epler stated that she would provide their findings of fact for the record.
- The request for a variance is being made for an existing structure and not for new construction.
- The strict application of the ordinance would require prohibiting the owner from selling this structure to a tenant who had made this their home and desires to become a homeowner as opposed to a renter. Denial of this request would represent a difficulty and hardship for both parties.
- As to the practical difficulties and unnecessary hardships resulting from the unique circumstances, the size, location, and existence of the two residential structures were present when the current owner purchased the property and had been the case for many years before his purchase.
- This variance is the minimum action that would make possible the reasonable use of land or structures as shown by this ordinance to allow the prospective buyer of 1804 Overlook Drive to purchase that home, a subdivision must take place.
- The size of the property would not support two lots without a variance. The conversation that occurred with City Staff on whether to request a variance, at the Staff's advisement a variance is being requested. There is sufficient evidence that this variance is in harmony with the general purpose and intent of the ordinance.
- A variance would bring these two nonconforming structures into conformity with the code, and it would make them more harmonious with the other homes in the neighborhood because there would be two lots with two houses. And just to let you know if anything happened to either of these structures, and they were damaged by more than 50%, the owner would not be able to rebuild that structure.
- The evidence that by granting this variance public safety and welfare are assured and justice is done is such—The two homes on this property have been operating as two separate residences for many years and for public safety they have two separate addresses. A person who has not owned their own home would be able to purchase that home and have a more solid interest in the home and the neighborhood.

- With the need for affordable housing in our area, allowing the renter to purchase the home is good for the welfare of that individual and a benefit to the community.
- Allowing the owner to purchase the home benefits the community.

Mark Lynch, 305 Valley Road, Fayetteville, NC 28305

- Mr. Lynch said he owned the property for approximately 40 years.
- There has been no change to the property except the grass getting cut. The one renter has stated the desire to purchase the home. He has financing in place.
- This is a great opportunity for the existing tenant to become a homeowner and build equity for himself and his family.
- Mr. Lynch asked the board to approve the variance because it is the minimum variance that would facilitate the objective that this renter has in his quest to become a homeowner.

Mr. Simon asked Mr. Lynch if there were two homes, and one renter would purchase for clarity. Mr. Lynch stated that the other home would remain a rental property unless that renter (the brother of the renter who wants to purchase his home) wanted to purchase that home. There would be no difference in the appearance of the neighborhood with the approval of this variance. He hopes the Board will consider this the minimum action necessary to make the renter able to purchase the home in question. Mr. Lynch said the address was one address and the City split it into two addresses.

Mr. Keith asked Mr. Lynch if there was proper separate ingress and egress for each property. Mr. Lynch stated that currently there are separate driveways on each lot. Mr. Keith asked Mr. Lynch the year the structures were built, and Mr. Lynch stated the homes were built in 1940. He bought the property from Mr. and Ms. Price who were his friends.

Speaker in Opposition:

Tawanda Robinson, 1905 Overlook Drive, Fayetteville, NC 23805

- Ms. Robinson stated that she has only lived at her residence for a couple of years. She said a resident who lives on the corner in her neighborhood had expressed her concerns about the hearing and Ms. Robinson decided to come to the meeting to get information.
- She asked Mr. Lynch if he owned the property for clarification, and Mr. Lynch said he had owned the property for over 40 years. Ms. Harper told her that she must address the board members.
- Ms. Robinson asked the Board if there had been any modifications to the home. Mr. Patel said there had not been any modifications to their knowledge. She asked the board members if they had driven to and viewed the property. Ms. Harper noted that this is an evidentiary hearing and Ms. Robinson could ask the applicant questions, but she must refer her questions to the board. Ms. Harper asked Ms. Robinson if she had additional questions for the Board and the applicant.
- Ms. Robinson asked about the upkeep of the home and if this would affect the property value of her home. Mr. Keith said that if you have a renter, they may not have an incentive to keep up the home as a homeowner would have.
- Ms. Robinson asked Mr. Keith how long this process of homeownership would take. Mr. Keith said that was up to the property owner and the person seeking to buy the home.
- Ms. Harper asked Ms. Eckhardt if the applicant is requesting the variance for the reduction of lot size and setbacks and Ms. Eckhardt clarified yes.

Mr. McCorquodale clarified that the important fact is that the lots would not be able to be repaired if needed without the variance. Mr. Patel said he agreed.

Mr. Patel closed the evidentiary hearing for case A23-45.

MOTION: Tyrone Simon motioned to approve the variance to reduce the lot size and the front yard, corner side yard, side yard, and rear yard setbacks based on the five findings.

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence: The strict application of the ordinance would hinder this owner from selling this structure to a tenant who has made their home and their desire to become a homeowner as opposed to a renter.
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: The size and location of two existing structures on one lot were present when the current owner purchased the lot and had been the case for more than 40 years before the purchase.
2. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence: In order to allow the prospective buyer of the property to purchase the home, a subdivision must take place.
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: A variance would bring these two nonconforming structures into conformity with the code and would make them more harmonious with the other homes in the neighborhood.
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: The two homes on this property had been operating as separate residences for many years. As evident, the homes had already been there and had been operating as two separate homes and they have had two separate addresses.

SECOND: Stephen McCorquodale

VOTE: Unanimous (4-0)

IV. LEGISLATIVE HEARINGS

Mr. Patel discussed the aspects of the legislative 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 cases or ex parte communication to disclose regarding the cases. Ms. Harper had the speakers perform the oath.

Mr. Patel opened the legislative hearing for case P23-29.

P23-29. Initial zoning of one non-contiguous parcel totaling 21.05 ± acres, requesting annexation, to Mixed Residential 5 (MR-5) located at 0 Jossie Street (REID #0520795388000), being the property of Joseph Griffin Sr. Revocable Trust Agreement, represented by R. Jonathan Charleston of the Charleston Group.

Demetrios Moutos presented case P23-29. Mr. Moutos said this is an initial zoning and it is located at O Jossie Street and east of McArthur Road and north of Interstate 295. The zoning map currently has it zoned as Residential 6 (R6). The Future Land Use Plan has it developed as medium-density residential, and the subject property has been undeveloped for a while. To the north is a single-family subdivision, to the west are small single-family homes, and to the south is a defunct mobile home housing. To the east is a large vacant property, and to the northeast is single-family property. R6 zoning is in the area. The area is supported by strong infrastructure that encourages various housing types. Mr. Moutos provided the Board with their voting options.

Mr. Patel opened the legislative hearing for speakers for case P23-29.

Speaker in favor:

Jonathan Charleston, Charleston Group, 201 Hay Street, Fayetteville, NC 28301

- Mr. Charleston said the area should be multi-family based on the current zoning.
- He points out that property owners have the right to develop their property to the highest standards as long as it does not in material adversely affect the surrounding areas.
- The infrastructure will support the land use requirements. He asked that the request be granted.
- He said the MR-5 zoning fits in with the objectives of the Comprehensive Plan and the Future Land Use Plan. There is easy access to schools and the interstate, and there are public services present.
- The Public Works Commission has infrastructure in the area.
- The development allows for medium-density zoning and the plan allows for more than three-story units. This addresses the overall shortage of housing in the City and Cumberland County.
- There is a demand for housing in the area. They are requesting respectfully that the Board allow for the rezoning request.
- Mr. Charleston said he was present to answer any questions.

Mr. Patel closed the hearing for case P23-29.

Mr. McCorquodale asked Mr. Moutos for clarification that under the MR-5 the applicant is requesting that the entire area would have one zoning. Mr. Moutos said it will all be Mixed Residential 5 (MR-5) zoning.

MOTION: Pavan Patel made a motion to approve case P23-29 based on the Staff's consistency and reasonableness statements.

SECOND: Alex Keith

VOTE: Unanimous (4-0)

Mr. Patel opened the legislative hearing for case P23-44.

P23-44. Conditional rezoning from Downtown 2 (DT-2) to Downtown 2 Conditional Zoning (DT-2/CZ) located at 328 Person Street (REID #0437738057000) totaling 1.93 acres ± and being the property of 328 Person St LLC.

Heather Eckhardt presented case P23-44. Case P23-44 is for the property at 328 Person Street to be rezoned from Downtown 2 (DT-2) to Downtown 2 Conditional Zoning (DT-2/CZ). The property is on Person and Russell Street, and it was previously home to Kimbrell Furniture on Person Street. The property is currently zoned DT-2, and the Future Land Use Plan designates the area as downtown. This building was formerly Kimbrell's Furniture with the surrounding area being used for retail and vacant lots interspersed. The request is to allow for light manufacturing in the Downtown 2 zoning district. The applicant would like to put their sign-making business in this location. The Unified Development Ordinance defines sign-making as light manufacturing. The proposed use should have a limited impact on the surrounding area. Building plans submitted by the applicant indicate that large portions of the building will be for office space and sales areas. They do not intend to make any exterior changes to the structure. The Staff is recommending approval of this rezoning for all the reasons listed. Ms. Eckhardt gave the Board the voting options.

Mr. Patel opened the legislative hearing for case P23-44.

Speaker in favor:

Zeyad Musmar, 110 Maple Grove Lane Durham, NC 27703

- Mr. Musmar said his client owns 4D Signs.
- The business was previously a Kimbrell's Furniture. It consists of two buildings totaling a gross square footage of 26,000 square feet. 19,000 square feet will serve as sales space and storage, and 7,000 square feet will serve as light manufacturing.
- There are no exterior issues in the building and no updates to the building. He asked if there were any questions.
- Mr. Patel stated that there would not be any changes to the exterior for clarification and Musmar said yes. Mr. Simon asked if any hazardous materials were stored in the area and Mr. Musmar said no.

Mr. Patel closed the hearing for case P23-44.

Mr. Keith noted that it is good that the structure is being used. Mr. McCorquodale asked if the conditional rezoning is just for that area and Ms. Eckhardt said yes.

MOTION: Alex Keith made a motion to approve the conditional rezoning at 320 Person Street based on the evidence submitted that it finds the rezoning is consistent with the Future Land Use Plan as stated in the consistency statement.

SECOND: Tyrone Simon

VOTE: Unanimous (4-0)

P23-46. Rezoning of 4.03 acres \pm from Heavy Industrial (HI) to Community Commercial (CC), located at 328 Deep Creek Road (REID #0447302240000), and being the property of Cumberland County Community Action Program Inc., represented by Del Crawford of Crawford Design Company.

Demetrios Moutos presented case P23-46 for the property at 328 Deep Creek Road owned by the Cumberland County Community Action Program. They seek to rezone from Heavy Industrial to Community Commercial. The site is east of the Cape Fear River and north of the Second Harvest Food Bank. Currently zoned as Heavy Industrial, it borders Single-Family 6 zoned areas to the east according to the Zoning Map.

There exists a vacant area to the north and an old subdivision to the east. The property was annexed in 1988. Currently a daycare center, the owner's long-term plan is to continue the current use and replace two of the existing structures. Despite a nearby floodplain and Park/Open Space future land use designation, all structures on the property are within the OI future land use designation and proposed Community Commercial zoning area. Staff recommends approval of the rezoning to Community Commercial, and Mr. Moutos informed the Board of their voting options.

Mr. Patel opened the legislative hearing for speakers for case P23-46.

Speaker in favor:

Del Crawford, 116 North Cool Spring Street, Fayetteville, NC 28301

- Mr. Crawford said the property has been there since the 1980s.
- When the Unified Development Ordinance was adopted, this property was inadvertently rezoned for Heavy Commercial.
- It is a separate parcel, although it is part of the Action Pathways' Second Harvest Food Bank.
- He said the owners want the City to adopt the rezoning so that they can operate a daycare on this property.
- The owners plan to conduct some updates to the property as well. Mr. Crawford said he was there to answer any questions.

Mr. Patel closed the hearing for case P23-46.

Mr. Simon asked about the flood zone. Mr. Moutos said the larger property has a flood zone but not the property in question.

MOTION: Pavan Patel made a motion to approve case P23-46 in agreement with the Staff's consistency and reasonableness statement.

SECOND: Alex Keith

VOTE: Unanimous (4-0)

P23-47. Rezoning of 1.86 acres ± from Mixed Residential 5 (MR-5) to Downtown 2 Conditional (DT-2/CZ), located at 344, 348 352 Hawley Lane and unaddressed Plummers Lane (REID #s 0437848219000, 0437848347000, 0437848464000, 0437849540000), and being the property of Cumberland County Board of Education, Michael J Carpenter and Helen Kelly Heirs, represented by Jimmy Kizer, Moorman, Kizer & Reitzel, Inc. and Jermaine Walker, Cumberland County.

Craig Harmon presented case P23-27. Mr. Harmon said the next case that we have before you are several properties located on Fellows Street, Holly Lane, and one property on Plummers Lane. Altogether they equal about 1.8 acres. The properties are owned by the Cumberland County and one by the Cumberland County School System. He showed the Board where the property was located. Mr. Harmon said Holly Lane is between Grove Street and Cool Springs Street. Mr. Harmon showed the Board where Fayetteville Technical Community College (FTCC) is located. Currently, the properties are zoned Mixed Residential 5 (MR-5). The Future Land Use Plan calls for this area to be used as office or other commercial areas. The applicant wants to rezone properties to DT-2 conditional. The conditional change attached to this request is the change in the setback. The DT-2 zoned properties are required to be located close to roadways. The applicant has asked that the setback be taken out so the building can be built farther away from Holly Lane. He showed the Board pictures of the properties in question. To the west are Cross Creek and Holly Lane, and school properties are located to the south and east. Mr. Harmon said that the only condition is that the owner wants the setback to be increased from a minimum

setback of 20 feet up to 70 feet. The Future Land Use Plan calls for the area to have offices and some residential and other types of businesses. The Staff recommends approval from the Zoning Commission for the DT-2 conditional zoning based on the Future Land Use Plan and the Unified Development Ordinance. This zoning would fit with the current area. Mr. Harmon asked the Board to remember this is a rezoning, and this is about what can go in that zoning and if DT-2 is appropriate for the rezoning of these two properties no matter what the future use may be.

Mr. Patel opened the legislative hearing for case P23-47.

Speakers in favor:

Jimmy Kizer, 115 Broadfoot Avenue, Fayetteville, NC 28305

- Mr. Kizer said the staff did a good job speaking on the rezoning.
- He said the County would like to build another facility next to the school that Fayetteville Technical Community College (FTCC) is currently using. To do that would be a lot easier if the entire area is zoned the same.
- Mr. Kizer said the conditional request for setback space was made due to the current setup of the area. Mr. Kizer said they are trying to get more space and let the facility work with what is on the site. Mr. Kizer said the MR-5 zoning is not conducive to some of the current institutional uses that would be needed there.
- Mr. Kizer said he would answer questions.

Mr. Simon asked about the unshaded area on the site plan and Mr. Kizer said this is an existing lot with a house on it. Mr. Kizer added that the County would like to purchase this area in the future.

Jermaine Walker, 130 Gillespie Street, Fayetteville, NC 28301

Mr. Walker said everyone has already stated everything and he is present to answer questions from the Cumberland County perspective.

Speaker in opposition:

Pamela Carter, 505 Link Street, Fayetteville, NC 28301

- Ms. Carter said she owns property on B Street.
- She said three generations of her family reside in this area.
- Ms. Carter stated that this case is about the County trying to put a homeless shelter in the area.
- Ms. Carter said the City promised to revitalize the area. Housing and Urban Development (HUD) homes were built in the area and she and others (who bought property) were promised the area would be revitalized by the City.
- She said housing in areas like this are designed to enhance the area.
- Ms. Carter pointed to the area where Fayetteville Technical Community College (FTTC) is located and where Pauline Jones School once stood. She said the City wants to put a homeless shelter in a beautiful green space area that needs to be used for more housing.
- Ms. Carter said there have been two carjackings and a shooting has taken place in the area. She stated that two people were gunned down. There is prostitution and gunfire in that area.

- Ms. Carter asked why would the City want to put people in this type of area. A lot of low-income people live in the area, and they are shell-shocked due to the things going on in the neighborhood.
- There is currently a day resource center in the area and now the County wants to put a 24-hour homeless shelter and day center in the area. The people do not want a homeless shelter in the area. They want the revitalization and growth they were promised.
- Ms. Carter said those who have worked to rebuild the area deserve more. She said again that this a homeless shelter that will operate twenty-four hours.
- Ms. Carter asked the representative from the County to come up and state what this will be- a homeless shelter. She said Cape Fear BBQ had to leave the neighborhood after 30 years in the area due to the current conditions.
- Ms. Carter asked the Board why dilapidated buildings are allowed to be in their area along with a liquor store operated by the County. She said the residents in this town have dealt with enough. Ms. Carter said they do not have a good recreational center with good equipment and computers.
- She said the residents would love to have a pool in the neighborhood. She said the working people of this City are against this development and surrounding businesses would be against this as well.
- Ms. Carter said she just happened to find out on social media about the zoning meeting. She said they were not notified or asked how they felt.
- The people who have HUD homes in the area were not asked. She said this is their home and they should matter.
- Ms. Carter said the people in the area see people smoking crack.
- She said they cannot keep up with the trash in the area.
- There are only two trash cans at the end of the bus stop. They need positive uplifting things in the area. The residents do not want a homeless day shelter. Please do not approve this initial zoning— it is the start of a homeless shelter in the area.

Mr. Patel closed the hearing for case P23-47.

Mr. Simon asked the Staff about the transitional shelter. Mr. Harmon said it is partly a shelter and a location where they will run classes to acclimate people back into society. Mr. Simon asked Mr. Harmon what community college existed in the area and Mr. Harmon noted that it is Fayetteville Technical Community College (FTCC). Mr. Harmon clarified that this is not a halfway house for people coming out of prison in response to Mr. Simon's question.

Mr. Patel said the Board is voting on the rezoning. Mr. Harmon said the City Council will make a separate vote on the Special Use Permit. Mr. McCorquodale asked about the process for all this to happen. Mr. Keith noted they are just recommending the rezoning. Mr. Keith asked for clarification on the conditional part of the rezoning. Mr. Harmon explained that the setback must be within 20 feet maximum of any structure. The purpose of that was to get buildings closer to the setback on that road. Mr. Kizer said they want the setback increase to align with what is on the road. To answer Mr. Simon's question, the setback would be 70 feet max as presented by the Staff.

MOTION: Stephen McCorquodale made a motion to approve the rezoning of 1.8 acres from MR-5 to Downtown 2 with the conditional zoning stipulation located at 344, 348, 352 Hawley Lane and Plummers Lane. As presented by staff based on the authority that the Board has pursuant to N.C.G.S. Section 160D-604 and 60-5. The rezoning map amendment is consistent with the City of Fayetteville Future Land Use Plan and the Comprehensive Plan and the consistency and reasonableness statements.

SECOND: Alex Keith

VOTE: Unanimous (4-0)

P23-48. Rezoning from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5) located at 420 & 432 Cedric St, two unaddressed parcels on Cedric St, 678 Bonnie St, and one unaddressed parcel on Bonnie St (REID #s 0418195255000, 0418194262000, 0418192186000, 0418193169000, 0418193367000, and 0418193316000) totaling 1.59 acres ± and being the property of Nathan Echols.

Heather Eckhardt presented case P23-48. Case P23-48 is a rezoning request by the owner and applicant Nathan Echols for 6 parcels located on Cedric Street and Bonnie Street. The request is to rezone those parcels from Single-Family 6 (SF-6) to Mixed Residential 5 (MR-5). The majority of the six parcels are on Cedric Street and some are on Bonnie Street. The subject properties are located on the west side of Bragg Boulevard behind American Flag Storage. The land is currently vacant. The subject property is currently zoned SF-6 and some of that area has SF-6 zoning with single-family homes, but the areas zoned MR-5 have a combination of apartments, duplexes, triplexes, and quadplexes. The Future Land Use Plan calls for the area to develop as Neighborhood Improvement which calls for higher-density residential development in areas that are currently underdeveloped. The proposed MR-5 zoning district is for well suited for an area designated as Neighborhood Improvement. It would allow for the development of anything from single-family residences to townhomes, two and four-family homes, and multi-family dwellings. The rezoning would allow for the development of anything allowed in the MR-5 zoning because this is not a conditional rezoning. The rezoning keeps with the surrounding area and adds to the need for development in the area. Ms. Eckhardt said the Staff is proposing the approval of the rezoning to MR-5. She informed the Board of their voting options.

Mr. Patel opened the hearing for case P23-48.

Speaker in favor:

Nathan Echols, 224 Glen Canyon, Fayetteville, NC 28303

- Mr. Echols noted that he intended to speak about the impact that the development would have on the community.
- Mr. Echols said he moved to Fayetteville in 2021. He invested in real estate and put \$10,000 into their current home.
- He pointed out that they developed the land for this project and unfortunately, a woman in the area was killed and left on his property.
- Mr. Echols said the real issue is taking care of people's basic needs and housing is one of those basic needs like food. He thinks that there should be at least four to seven people who should be able to have a house through this development.
- Mr. Echols offers discounted rates for the houses. Mr. Echols said he would have reasonable rates. He has a combined 18 years of service to the military and he wants to retire in Fayetteville.
- Mr. Echols said his contractor is not here, but he is sure he can answer questions.

Mr. Simon asked Mr. Echols how many units he planned to build. Mr. Echols said they are planning to build 36 units. Mr. Simon asked Ms. Eckhardt about restrictions, and she clarified that the ordinance has restrictions concerning 20 units per acre in the MR-5 zoning district. Yet, this zoning is not a conditional rezoning like some of the other cases presented that evening which allow for setbacks.

Mr. Patel closed the hearing for case P23-48.

MOTION: Pavan Patel made a motion to approve case P23-48 in accordance with the consistency and reasonableness statements provided by City Staff.

SECOND: Alex Keith

VOTE: Unanimous (4-0)

P23-49. Conditional Rezoning of 1.42 acres ± from Mixed Residential 5 (MR-5) to Heavy Industrial Conditional Zoning (HI/CZ), located at 1009, 1015, & 0 North Street (REID #s 0438700243000, 0438700340000, & 0438609391000), and being the property of DRA LLC, represented by Thomas Lloyd of Franklin Johnson Commercial Real Estate.

Demetrios Moutos presented case P23-49. This last case is for a rezoning from MR-5 to Heavy Industrial Conditional Zoning at 1009, 1015, & 0 North Street. He said this property is east of Ramsey Street. The property is owned by Fayetteville Block Materials. The current zoning is Mixed Residential 5 (MR-5). The Future Land Use Map calls for this area to be medium-density residential. The property is heavily wooded. There is storage across the street to the east of the property, and to the north is storage and to the west is a single-family residential subdivision. The property dates to 1949 along with the subdivision. The proposed conditions are to include a 10-foot buffer on the west portion of the property and a 6-foot-high concrete wall. The expansion supports economic development. The staff supports the zoning commission's recommendation to approve the proposed rezoning to conditionally rezone the property from MR-5 to Heavy Industrial. Mr. Moutos showed the Board their options for voting.

The Board had to pause to wait for Mr. Simon who needed to excuse himself from the meeting. The Board commenced after Mr. Simon reentered the room.

Mr. Patel opened the legislative hearing for case P23-49.

Speaker in favor:

Thomas Lloyd, 100 Clarendon Street, Fayetteville, NC 28305

- Mr. Loyd noted that the Staff mentioned that the area is wooded.
- The owner wants to expand the outside storage on the property.
- There would be a 6-foot-high concrete fence wall around the western and southern border of the area with a 10-foot wooded buffer.
- The added condition would be that the owners would water the area to decrease the dust in the area.
- There would not be any noise in the area because no one is going to build on the site. Mr. Lloyd said he would be present to answer any questions.

Speaker in opposition:

Felice Lockamy, 1118 North Street, Fayetteville, NC 28301

- Ms. Lockamy has lived on North Street and her family has lived in the neighborhood for 65 years.
- There was a ditch that separated the neighborhood from the owner's business.
- She said the ditch was there so that was as far as he could develop. Now he encroaches on residential property. There was dust on their property and noise.

- The 12-foot wall does not stop the dust. This is on a residential street where trucks are entering now. He is going to the southeast of them and around it. He is trying to take the properties around them.
- She said around Mary George Street there were houses and they were torn down.
- Heavy Industrial should not be near a residential community, but he has encroached on the area. There was a problem with water when he started digging on the north side of the area.
- Ms. Lockamy said the owner broke all the zoning rules when he was allowed to develop. She said the people in the neighborhood have been treated unfairly in the last 25 years. She asked the Board, “what would you do if this was happening to you?”
- Ms. Lockamy said the people in the area care. She said they have been to zoning meetings before.
- She reiterated that the wall would not keep the dust out. People who have breathing problems have complained about it.
- Ms. Lockamy said that when you take an oath to serve you take an oath to protect the City and the people.
- Ms. Lockamy said that trucks drive through the area.
- She thought that the purpose of adapting zoning regulations was to preserve the residential areas.
- Ms. Lockamy said they have nuclear waste and ash in the area.
- She said the Board should put themselves in the residents’ shoes. Ms. Lockamy said heavy industrial uses should not be allowed in the area.

Mr. Patel closed the hearing for case P23-49.

Mr. Simon said that there may be public health issues to consider. Mr. Moutos said that he did not know of any health issues. Mr. Patel asked Mr. Loyd about measures to deal with health issues. Mr. Loyd said it would be a wall and not a fence. He said that the area would serve as storage, and there would not be any other activities taking place on the property. Mr. Loyd said they would water the yard to stop dust, but there would not be a lot of movement in the area. Mr. Loyd said code enforcement could deal with any dust issues. He noted that the most important issue is watering the yard.

Mr. Patel opened the hearing for case P23-49.

Ms. Lockamy said that there would be railroad tracks in the area and she asked where they would move the people. Ms. Lockamy noted that she has a house over in the area. She said that the owner waters the area, but it does not help. Ms. Lockamy discussed the dust issues. She said Mr. Loyd has encroached on the people enough. Ms. Lockamy said that although they are low-income residents, they are still people.

Mr. Simon asked Ms. Lockamy where her property was located, and Ms. Lockamy showed him. The property is on North Street. She is behind Fayetteville Block Materials. Ms. Lockamy said water would come out from his business onto their property.

Mr. Patel closed the hearing for case P23-49.

Mr. McCorquodale asked the owner about the cleared area and noted that the buffer would not be removed. Mr. McCorquodale stated that Mr. Lockamy and the people in the area do matter. Mr. McCorquodale said Ms. Lockamy’s opinion is considered. He noted that the noise and the wood lines would remain. Mr. McCorquodale stated that the properties to the north would be considered as well.

Mr. Patel noted that the noise from the main area would not be present in the area in question because it would be used for storage. Mr. Simon received clarification that the lot to the north may be where the dust is coming from. Mr. Keith said he is not worried about the present rezoning because it has nothing to do with the dust.

MOTION: Stephen McCorquodale made a motion to approve case P23-49 to rezone 1.2 acres from Mixed Residential 5 (MR-5) to Industrial due to information outlined in the agenda packet and as presented by the Staff and Mr. Loyd pursuant to the testimony they gave, and all the factors that were stated that the Board finds in the reasonableness statements.

SECOND: Pavan Patel

VOTE: (3-1) (Tyrone Simon opposed)

I. OTHER BUSINESS

II. ADJOURNMENT

MOTION: Stephen McCorquodale made a motion to adjourn the November 14, 2023, meeting.

SECOND: Alex Keith

VOTE: Unanimous (4-0)

The meeting adjourned at 7:35 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: 23-3719

Agenda Date: 12/12/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Evidentiary Hearing

Agenda Number: 4.01

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Demetrios Moutos - Planner I

DATE: December 12, 2023

RE:

A23-50. Variance to reduce minimum rear yard setback, located at 1840 Ashton Road (REID 0416411779000), and being the property of Migdal Perez.

COUNCIL DISTRICT(S):

5 - Lynne Bisette Greene

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 minimum rear yard setback in the Single Family Residential 10 zoning district (SF-10) for a room addition that was built and connected to the existing building.

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: Migdal Perez

Applicant: Migdal Perez

Requested Action: Reduce minimum rear yard setback

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

Property Address: 1840 Ashton Road

Size: .27 acres ±

Existing Land Use: Single Family Dwelling

Surrounding Zoning and Land Uses

- North: SF-10 - Single Family Dwelling
- South: SF-10 - Single Family Dwelling
- East: SF-10 - Single Family Dwelling
- West: SF-10 - Single Family Dwelling

Letters Mailed: 43

Issues/Analysis:

The house on the subject property was constructed in 1964, according to Cumberland County Tax records. There exists a 20-foot utility easement along the back of the property, according to the site survey that was conducted by Michael J. Adams of M.A.P.S. Surveying, Inc., and provided by the applicant. The Unified Development Ordinance outlines various standards regarding setbacks. The UDO requires that residential structures within the SF-10 zoning district must meet a minimum rear yard setback of 35 feet.

The applicant has requested a variance from 1 standard of the UDO. The requested change is as follows:

- **Reduction in the rear yard setback for the principle structure from 35 feet to 9.3 feet.**

The owner has requested this variance in order to bring the structure into compliance with the ordinance and obtain the proper after-the-fact residential building permit.

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 setback in order to obtain the proper after-the-fact residential building permit. There is no intended development or

construction known to be associated with this variance request.

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 "I was unaware I had to obtain approval to connect my house to an existing building in the back yard, I built an added space which would create a physical and financial hardship for my family if the property had to be demolished."

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 "This is a residential area and the back of the property cannot be seen by surrounding houses. The structure at the back of the property line was pre-existing when I purchased the home."

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 added space to the home will add square footage to the home which will increase the tax value."

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 planning department reviewed the plans and structure and stated a variance application was required."

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 "Issuing a variance will not cause any safety concerns as it is my personal property."

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 minimum rear yard setback from 35 feet to 9.3 feet.

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 as requested but with added conditions

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

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

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

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

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

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

Motion to deny the variance as requested.

Findings of Fact Statements Required to Deny this Request:

1. There is not sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

—

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

3. There is not sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

4. There is not sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

5. There is not sufficient evidence that in the granting of the Variance, the public safety and welfare has been assured and substantial justice has been done as shown by the following evidence:

Recommended Action:

Attachments:

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

Project Overview

#1118402

Project Title: 1840 ASHTON RD**Jurisdiction:** City of Fayetteville**Application Type:** 5.4) Variance**State:** NC**Workflow:** Staff Review**County:** Cumberland**Project Location****Project Address or PIN:** 1840 ASHTON RD (0416411779000) **Zip Code:** 28304**GIS Verified Data****Property Owner: Parcel**

- 1840 ASHTON RD: SANCHEZ, MIGDAL GRUSILA PEREZ

Acreage: Parcel

- 1840 ASHTON RD: 0.27

Zoning District: Zoning District

- 1840 ASHTON RD: SF-10

Subdivision Name:**Fire District:****Airport Overlay District:****Hospital Overlay District:****Coliseum Tourism District:****Cape Fear District:****Downtown Historic District:****Haymount Historic District:****Floodway:****100 Year Flood:** <100YearFlood>**500 Year Flood:** <500YearFlood>**Watershed:****Variance Request Information****Requested Variances:** Minimum yard/setback**Section of the City Code from which the variance is being requested.:** PLANNING DEPARTMENT**Describe the nature of your request for a variance and identify the standard(s)/requirement(s) of the City Code proposed to be varied.:****Identify the zoning district designation and existing use of land for all adjacent properties, including those across the street.:**

A ROOM ADDITION WAS BUILT AND CONNECTED TO AN EXISTING BUILDING AT THE BACK OF THE PROPERTY. WHEN TRYING TO OBTAIN A BUILDING PERMIT, THE RESIDENTIAL PLAN REVIEW STATED THE BACK OF THE BUILDING WAS TOO CLOSE TO THE PROPERTY LINE AND A VARIANCE MUST BE OBTAINED.

ALL RESIDENTIAL 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.:

UNAWARE I HAD TO OBTAIN APPROVAL TO CONNECT MY HOUSE TO AN EXISTING BUILDING IN THE BACK YARD, I BUILT AN ADDED SPACE WHICH WOULD CREATE A PHYSICAL AND FINANCIAL HARDSHIP FOR MY FAMILY IF THE PROPERTY HAD TO BE DEMOLISHED.

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.:

THIS IS A RESIDENTIAL AREA AND THE BACK OF THE PROPERTY CAN NOT BE SEEN BY SURROUNDING HOUSES. THE STRUCTURE AT THE BACK OF THE PROPERTY LINE WAS PRE-EXISTING WHEN I PURCHASED THE HOME.

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

THE ADDED SPACE TO THE HOME WILL ADD SQUARE FOOTAGE TO THE HOME WHICH WILL INCREASE THE TAX VALUE.

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

THE PLANNING DEPARTMENT REVIEWED THE PLANS AND STRUCTURE AND STATED A VARIANCE APPLICATION WAS REQUIRED.

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

ISSUING A VARIANCE WILL NOT CAUSE ANY SAFETY CONCERNS AS IT IS MY PERSONAL PROPERTY

Height of Sign Face : 12

Height of Sign Face: 15

Square Footage of Sign Face: 450

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: 12

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

Migdal Perez

1840 Ashton Rd

Fayetteville , NC 28304

P:9105125369

Migdalysanchez02@gmail.com

Project Contact - Agent/Representative

Migdal Perez

1840 Ashton Rd

Fayetteville , NC 28304

P:9105125369

Migdalysanchez02@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. :

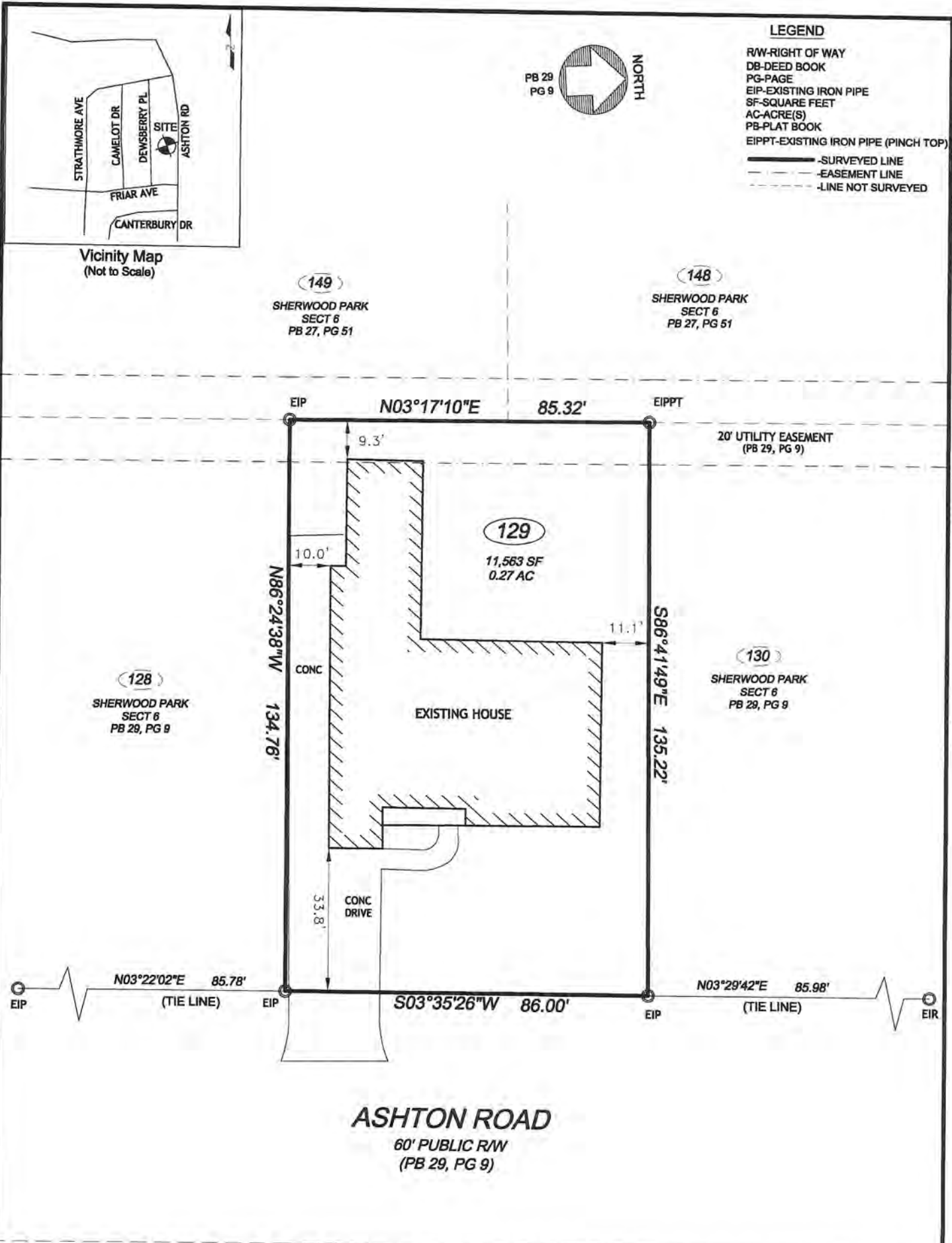
NC State General Contractor's License Number:

NC State Electrical Contractor #1 License Number:

NC State Mechanical Contractor's #1 License Number:

NC State Plumbing Contractor #1 License Number:

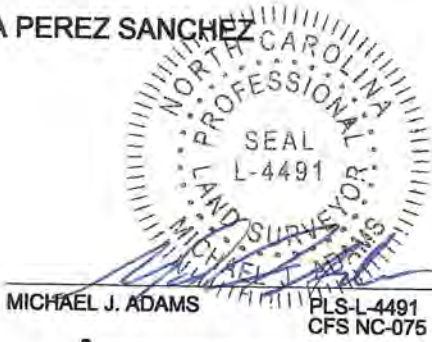
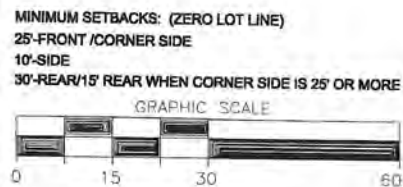
Indicate which of the following project contacts should be included on this project:



PHYSICAL SURVEY

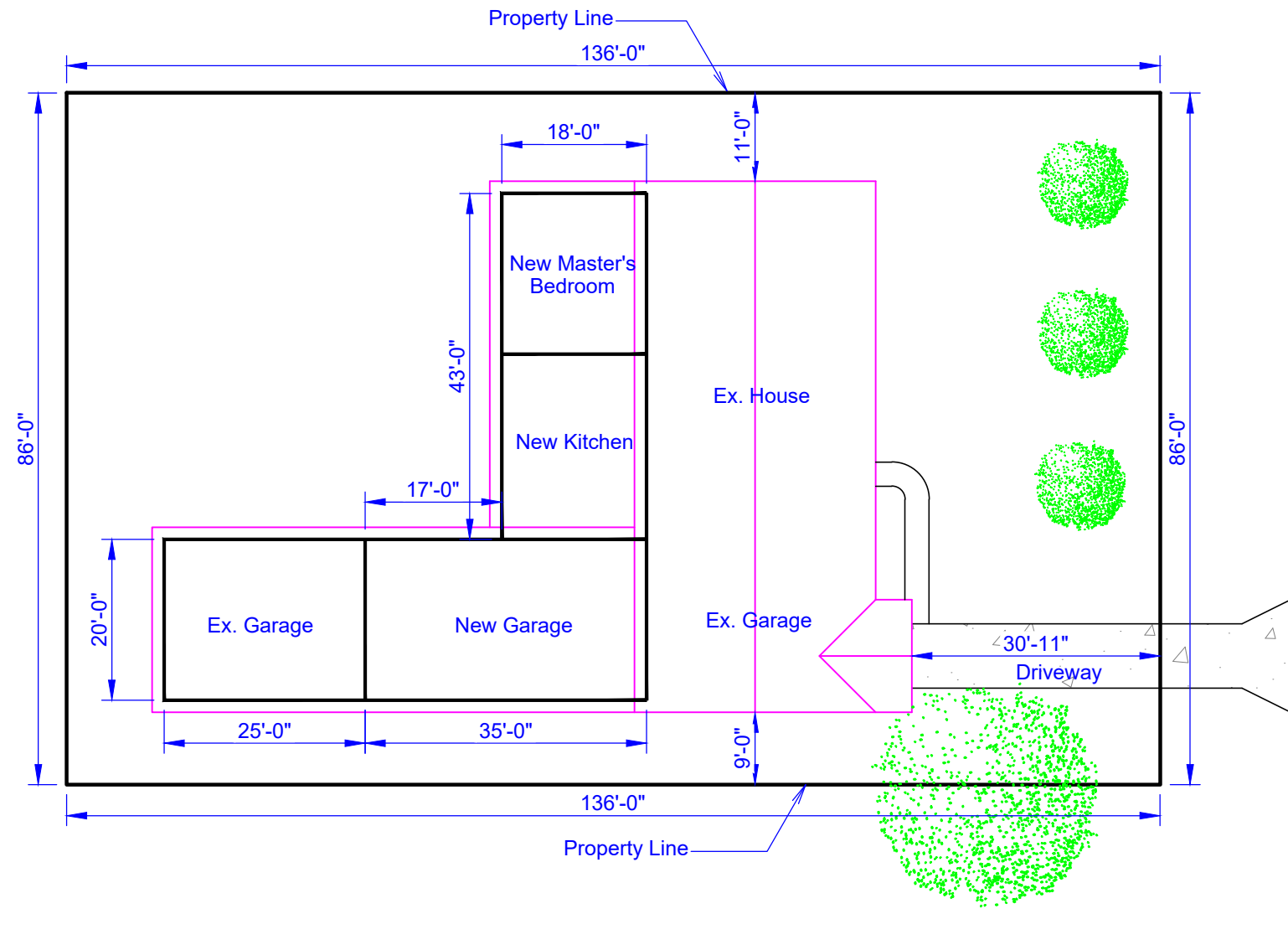
PROPERTY OF: MIGDAL GRUSILA PEREZ SANCHEZ
ADDRESS: 1840 ASHTON ROAD
CITY: FAYETTEVILLE, NC
COUNTY: CUMBERLAND
TAX PIN: 0416411779000

TOWNSHIP: ROCKFISH
DATE: NOVEMBER 8, 2023
SCALE: 1" = 30'
REFERENCE: LOT 129
SHERWOOD PARK
SECT 6
PB 29, PG 9



M.A.P.S. SURVEYING, INC.
C-2589
216 MASON ST
FAYETTEVILLE, NC 28301
PHN: (910)484-8432
MAPS@MAPSSURVEYING.COM
DRAWN BY: MJA

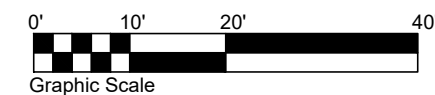
I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, DEED DESCRIPTION RECORDED IN PB 29, PG 9, THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN PB 29, PG 9; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS GREATER THAN 1:10,000; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600). THIS MAP IS NOT DRAWN IN ACCORDANCE WITH GS 47-30. THIS 8TH DAY OF NOVEMBER, 2023.



ASHTON ROAD

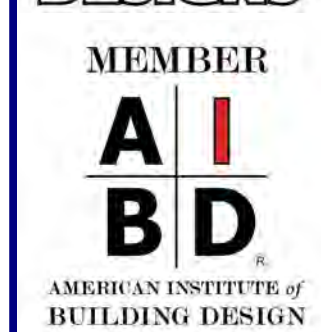
Parcel No. (APN) 0416-41-1779
Land Use RESIDENTIAL
SINGLE FAMILY RESIDENCE
Lot Area 11,761 SF (0.27 ACRES)

ADDRESS:
1840 ASHTON RD, FAYETTEVILLE, NC 2830
Scale: 1"=20'



THIS IS NOT A LEGAL SURVEY, NOR IS IT INTENDED TO BE OR REPLACE ONE
This work product represents only generalized locations of features, objects or boundaries and should not be relied upon as being legally authoritative for the precise location of any feature, object or boundary.

APPROVED BY	DATE



Frazier Designs
A Residential Design Company
(910) 818-2413
www.frazierplans.com

Project: Owners Suite, Kitchen, Bonus Room Addition
1840 Ashton Road Fayetteville NC

MODEL:
FD- 1959

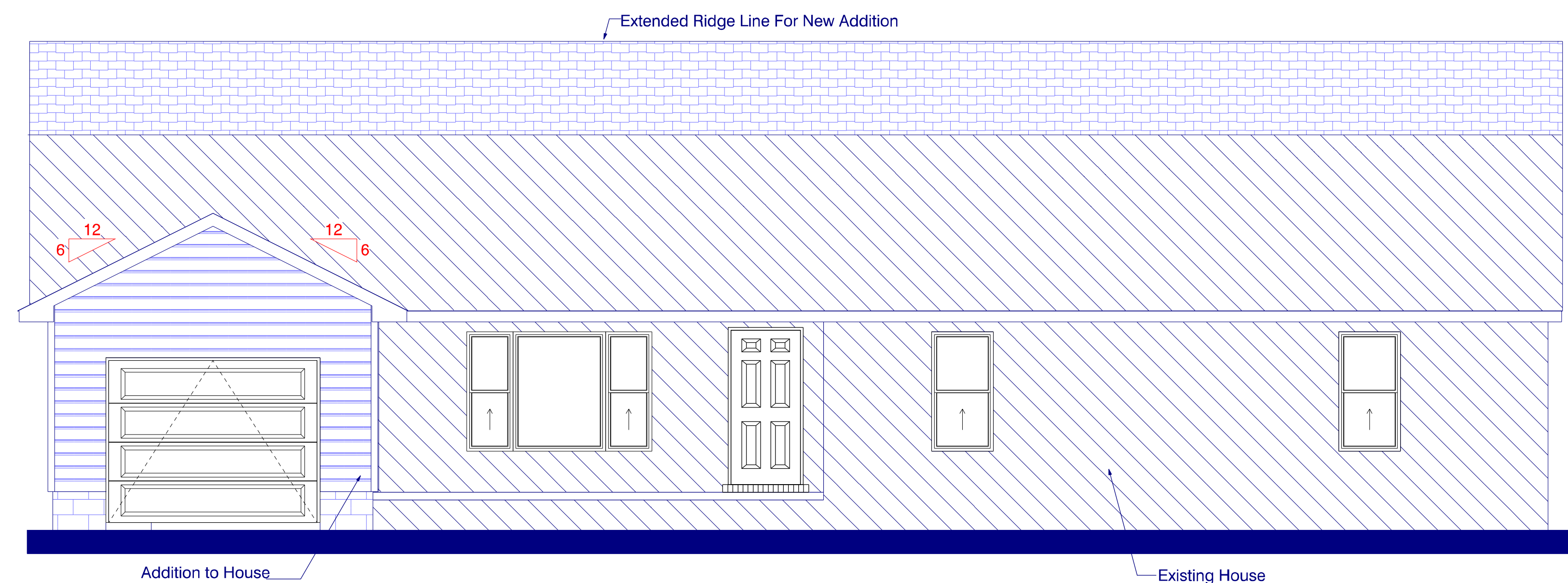
BUILDER:

DATE PRINTED:
AUG2023

DRAWN BY:
ATF

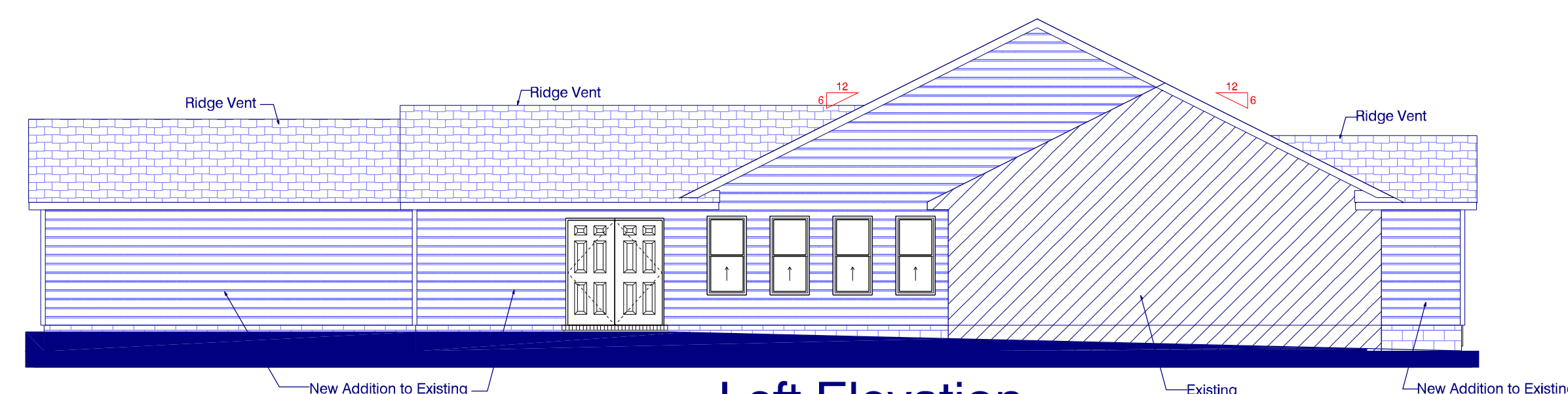
Elevations

SHEET
1

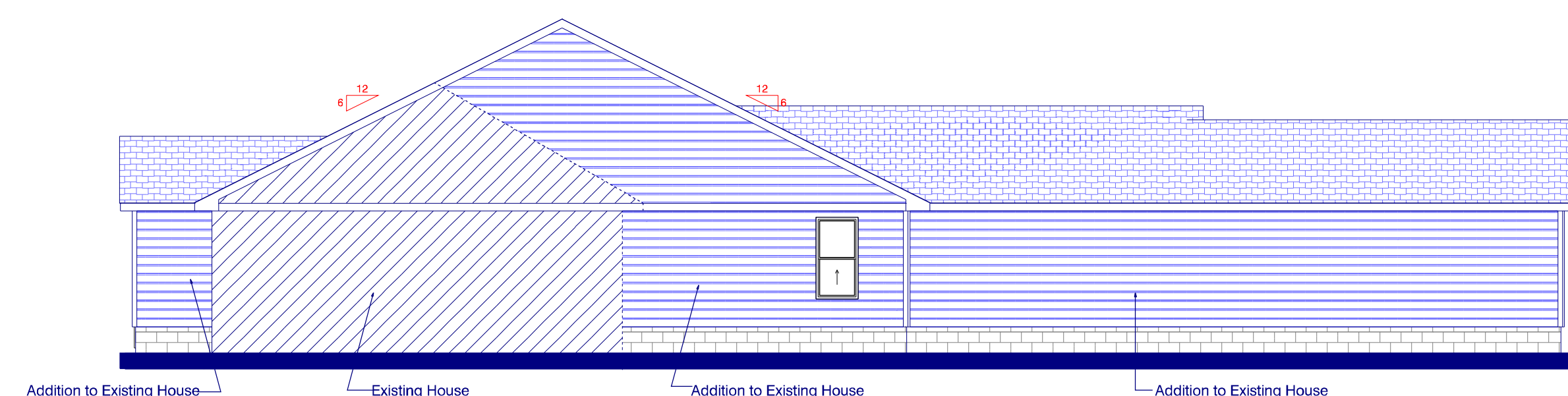


Front Elevation

Scale: 1/4" = 1'0"

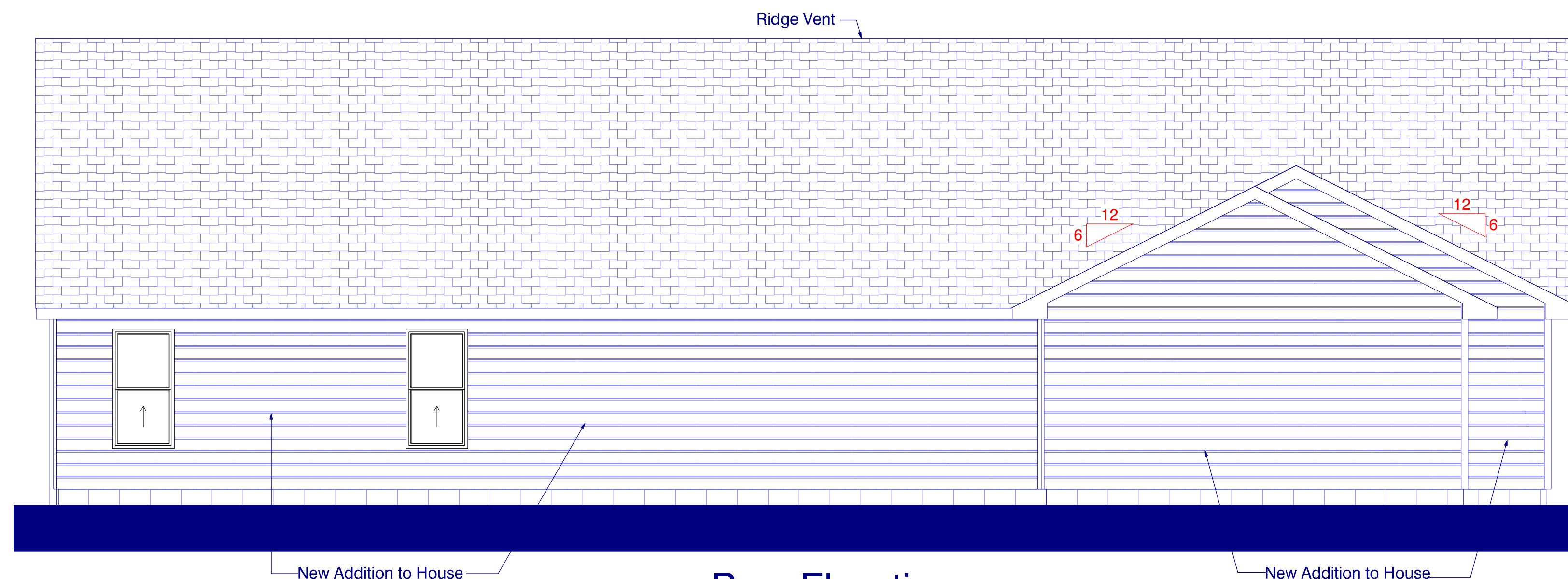


Left Elevation
Scale: 1/8" = 1'0"



Right Elevation

Scale: 1/8" = 1'0"



Rear Elevation

Scale: 1/4"=1'0"

CLIMATE ZONE	ZONE 3	ZONE 4	ZONE 5
FENESTRATION U-FACTOR	0.35	0.35	0.35
SKYLIGHT U-FACTOR	0.55	0.55	0.55
GLAZED FENESTRATION SHGC	0.30	0.30	NR
CEILING R-VALUE	38	38	38
WALL R-VALUE	15	15	19
FLOOR R-VALUE	19	19	30
*BASEMENT WALL R-VALUE	5/13	10/15	10/15
**SLAB R-VALUE	0	10	10
* CRAWLSPACE WALL R-VALUE	5/13	10/15	10/19

** Insulation Depth with Monolithic Slab 18" or From Inspection Gap to bottom of Footing; Insulation Depth with Stem Wall Slab 24" or to bottom of Foundation Wall

DESIGN PRESSURES FOR DOORS AND WINDOWS POSITIVE AND NEGATIVE IN PSF			
VELOCITY (MPH)	MEAN ROOF HEIGHT (FT)		
	15	25	35
115	15	17	19
120	20	23	25

Trusses, if used, to be designed and engineered in accordance with these drawings. Any variation with these drawings must be brought to Frazier Designs attention before contruction begins.

All required anchors for trusses due to uplift or bearing shall meet the requirements as specified on the truss schematics. Anchorage in the 120 and 130 MPH Wind Zones shall be Continuous from the Roof to the footing.

Vapor Retarder on Warm-In-Winter Side of Ceiling: 16.02 Sq.Ft.

Design Loads	Live Load	Dead Load	Deflection
USE	(PSF)	(PSF)	(LL)
Attics without storage	10	10	L/240
Attics with Limited storage	20	10	L/360
Attics with fixed stairs	40	10	L/360
Balconies and Decks	40	10	L/360
Fire Escapes	40	10	L/360
Guardrails and Handrails	200	--	--
Guardrail in-fill components	50	--	--
Passenger vehicle garages	50	10	L/360
Rooms other than sleeping	40	10	L/360
Sleeping rooms	30	10	L/360
Stairs	40	--	L/360
Snow	20	--	--

See Foundation Notes.

1/2" diameter anchor bolts embedded minimum 7" maximum 4'0" on center, within 12" of plate ends, and minimum two anchor bolts per plate.

Allowable soil bearing pressure assumed to be 2000 PSF. The Contractor must contact a geotechnical engineer and a structural engineer if unsatisfactory subsurface conditions are encountered. The surface area adjacent to the foundation wall shall be provided with adequate drainage, and shall be graded so as to drain surface water away from foundation walls.

1. Blocking and sealing floor/ceiling systems and under knee walls open to unconditioned or exterior space.
2. Capping and sealing shafts or chases, including flue shafts.
3. Capping and sealing soffit or dropped ceiling areas.

Frazier Designs

A Residential Design Company
(910) 818-2413
www.frazierplans.com

Project: Owners Suite, Kitchen, Bonus Room Addition
1840 Ashton Road Fayetteville NC

MODEL:

BUILDER:

DATE PRINTED:
AUG2023

DRAWN BY
ATF

SHEET

2

The information in these construction documents is for the use of the contractor and is not to be used for any other purpose. The contractor is responsible for obtaining all necessary permits and for complying with all applicable codes and regulations. The contractor shall hold harmless the Designer from all errors and omissions in these documents. The Designer shall not be responsible for any construction delays or costs incurred by the contractor due to any errors or omissions in these documents. The contractor shall be responsible for obtaining all necessary permits and for complying with all applicable codes and regulations. The contractor shall hold harmless the Designer from all errors and omissions in these documents. The Designer shall not be responsible for any construction delays or costs incurred by the contractor due to any errors or omissions in these documents.



MEMBER
A I B D
AMERICAN INSTITUTE OF
BUILDING DESIGN

Frazier Designs
A Residential Design Company
(910) 818-2413
www.frazierplans.com

Project: Owners Suite, Kitchen, Bonus Room Addition
1840 Ashton Road Fayetteville NC

MODEL:
FD-1959
BUILDER:

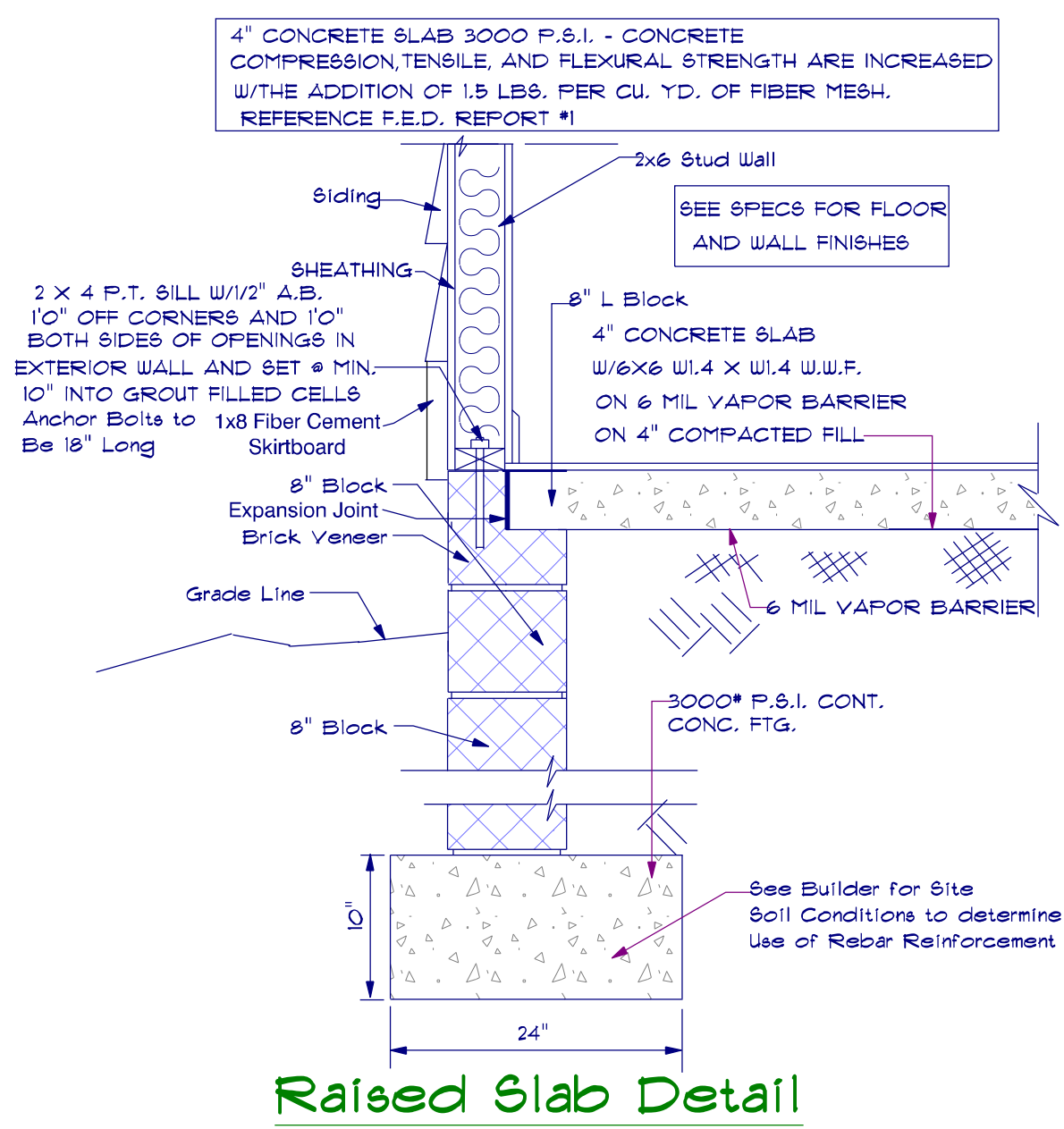
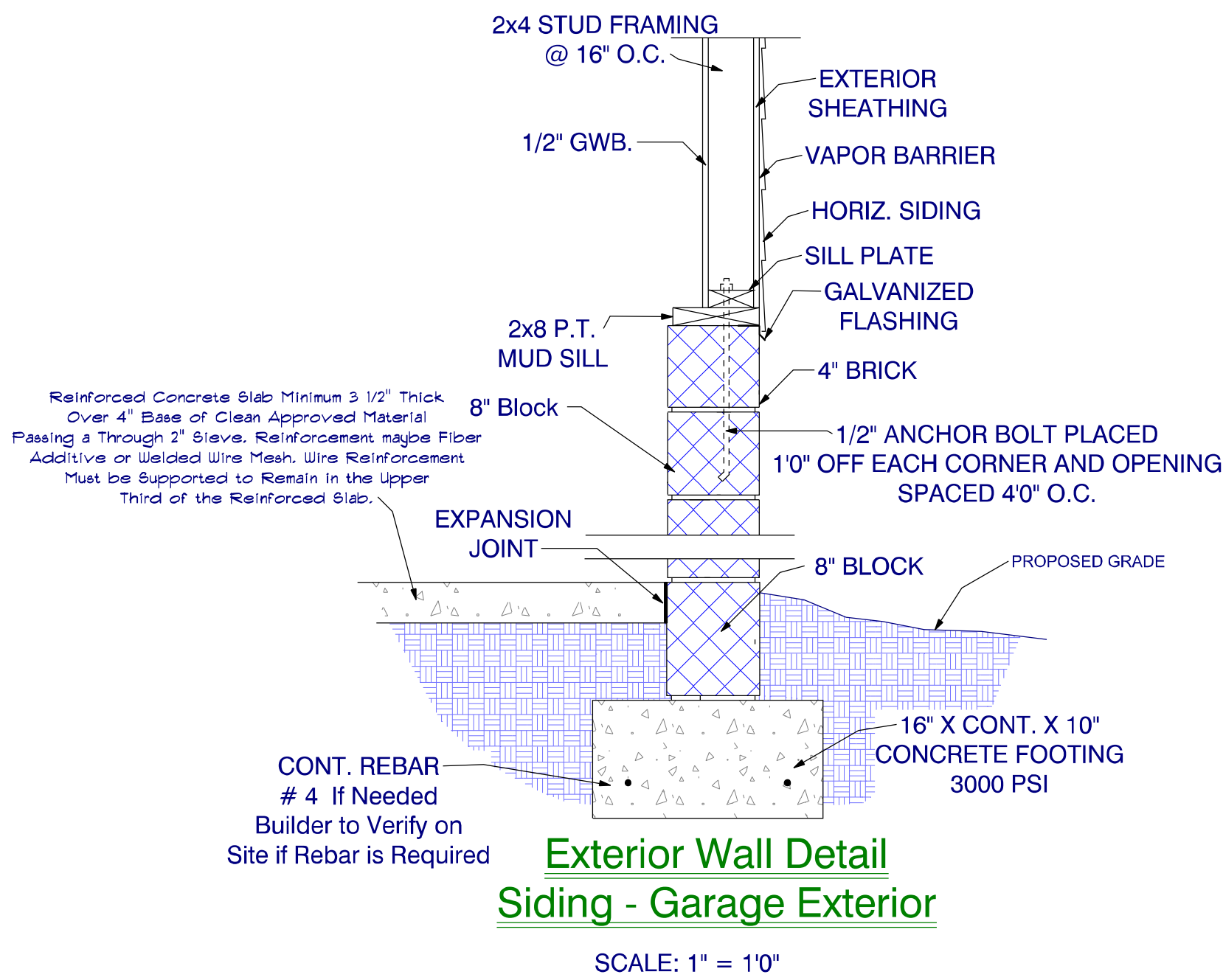
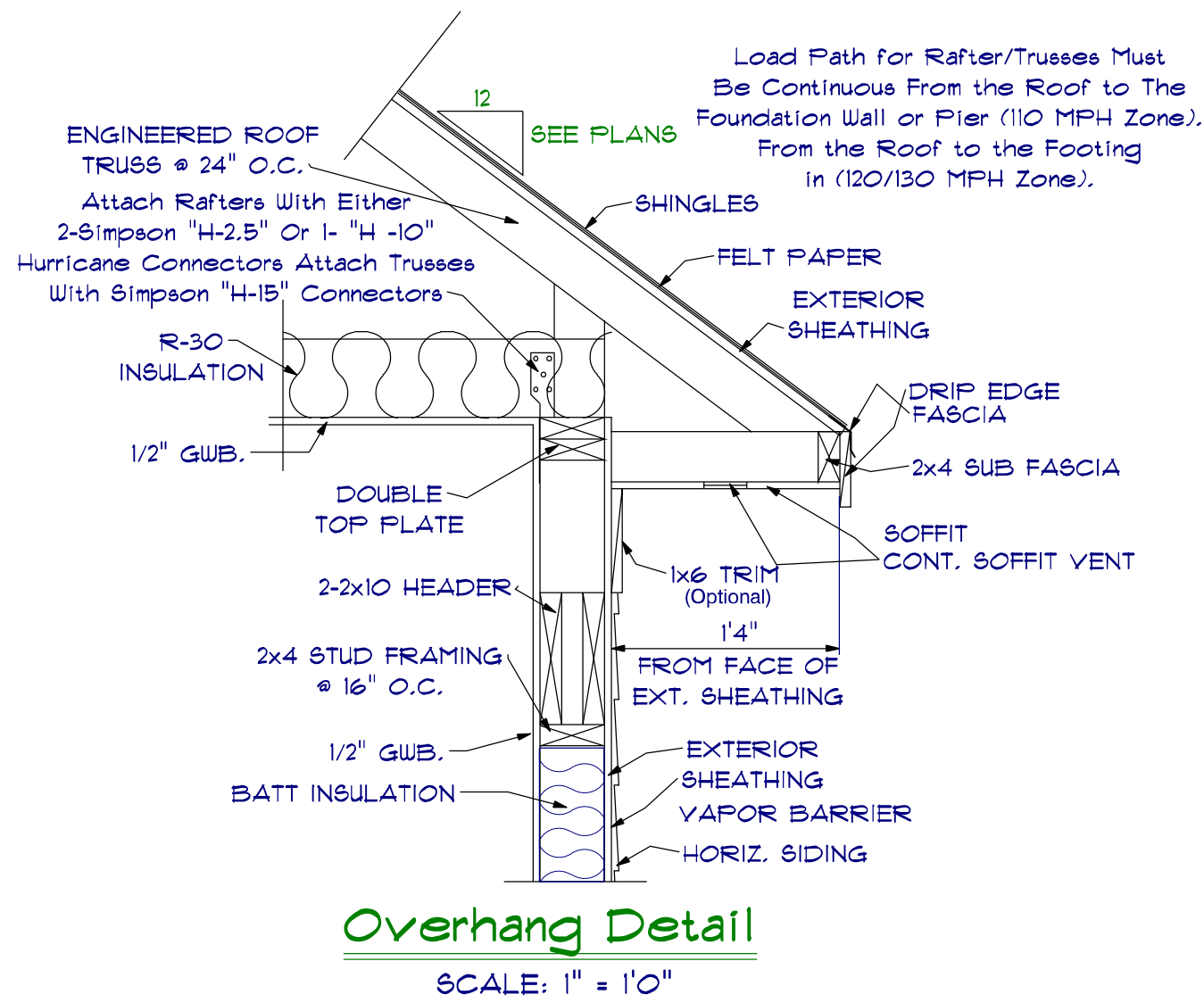
DATE PRINTED:
AUG2023

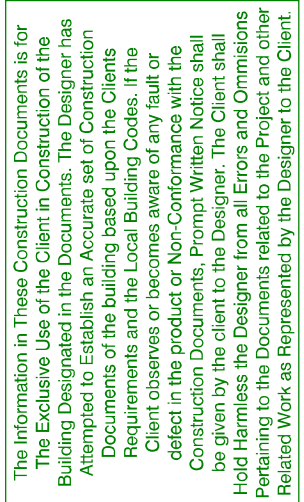
DRAWN BY:
RTF

Construction
Details

SHEET

3





Frazier Designs
A Residential Design Company
(910) 818-2413
www.frazierplans.com

APPROVED BY	DATE

Project: Owners Suite, Kitchen, Bonus Room Addition
1840 Ashton Road Fayetteville NC

MODEL:

FD-1939
BUILDER:

DATE PRINTED:
AUG2023

DRAWN BY
ATF

Foundation
Slab

SHEET

4



Aerial Notification Map



Case #: A23-50

Variance

Request: Minimum Yard/Setback

Location: 1840 Ashton Road

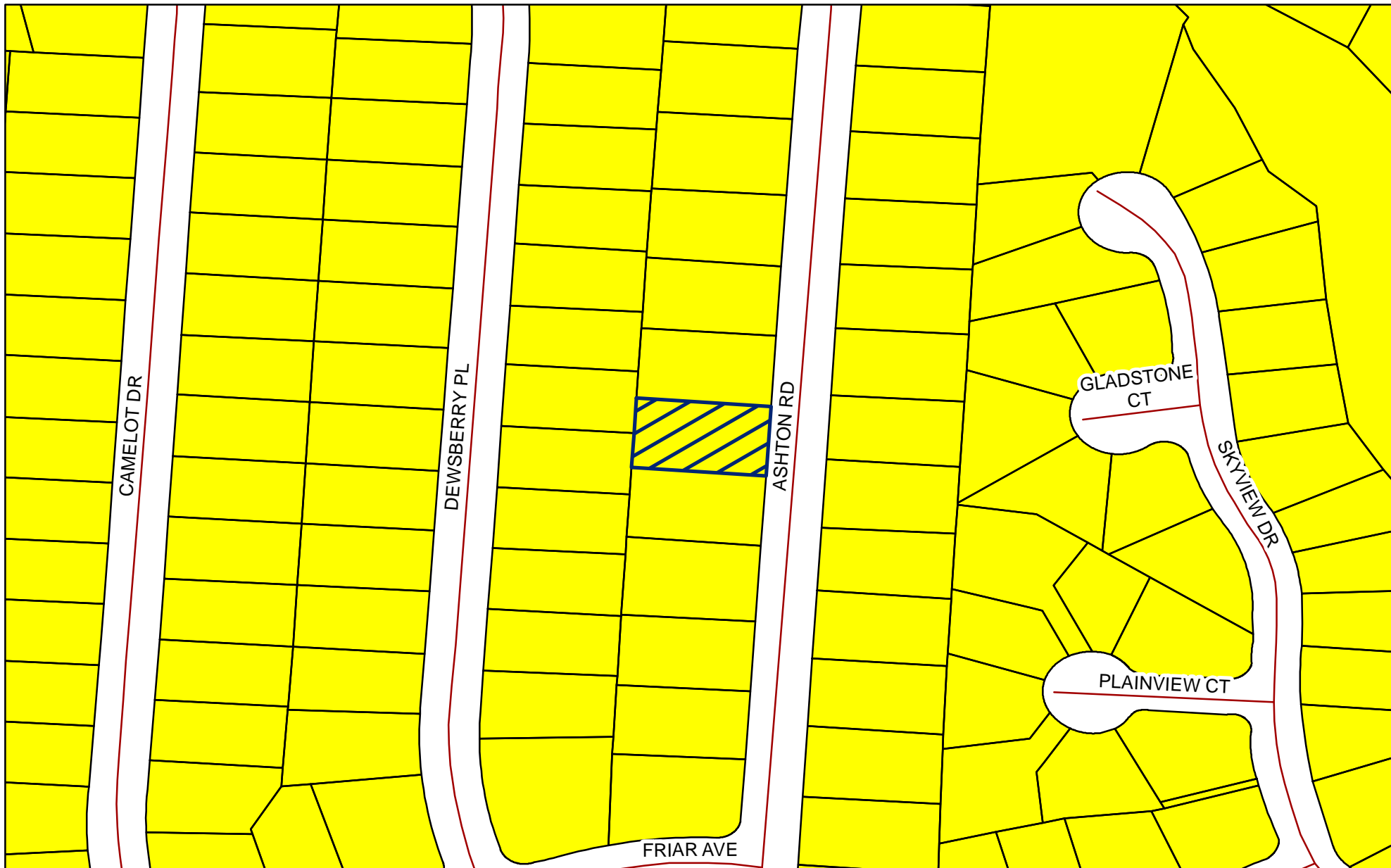
Legend

-  A23-50 Buffer
-  A23-50



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





Zoning Map

Case #: A23-50

Variance
Request: Minimum Yard/Setback

Location: 1840 Ashton Road

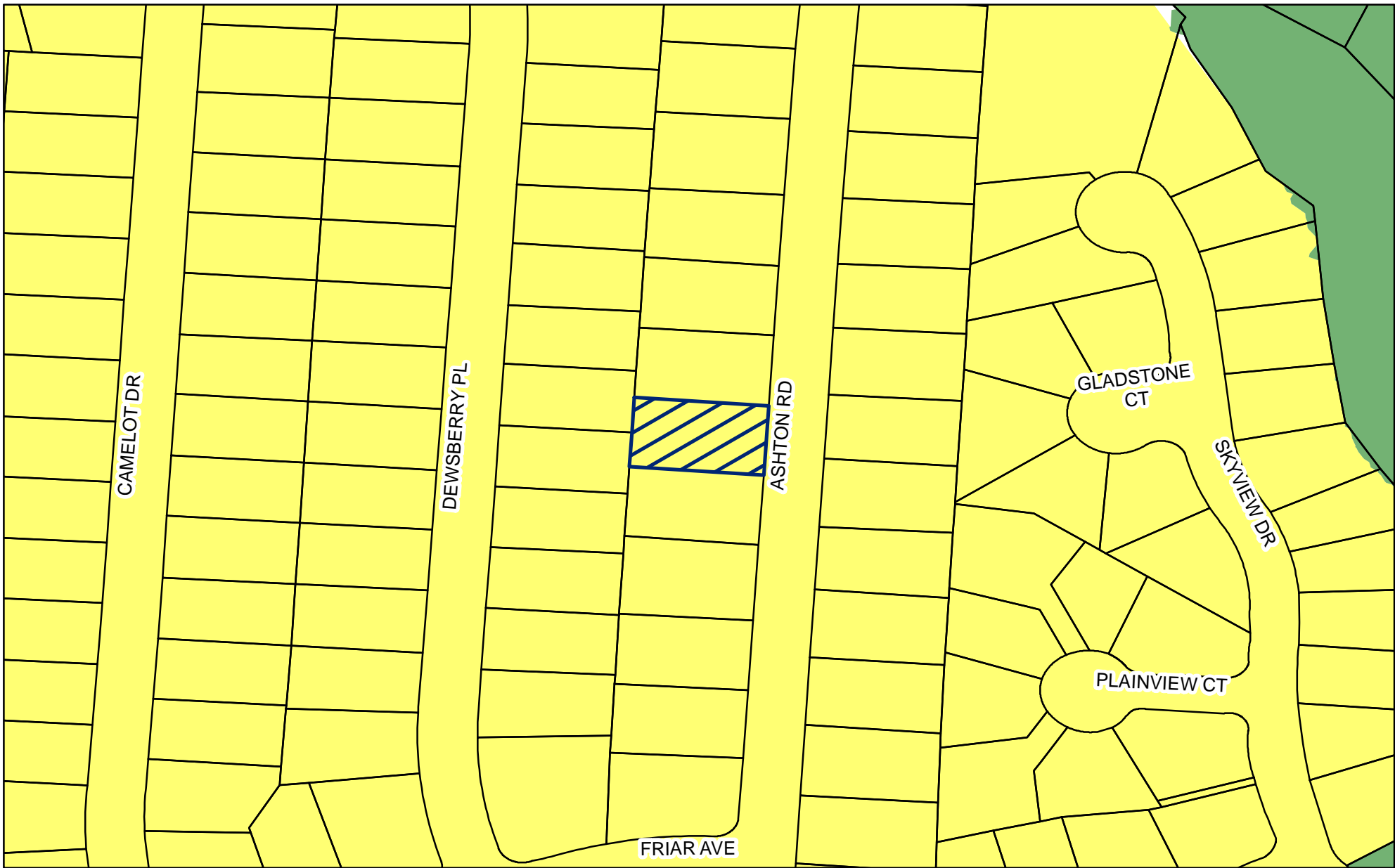
Legend

-  A23-50
-  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 #: A23-50

Variance

Request: Minimum Yard/Setback

Location: 1840 Ashton Road

Legend



A23-50

Land Use Plan 2040

Character Areas

PARKOS - PARK / OPEN SPACE

LDR - LOW DENSITY

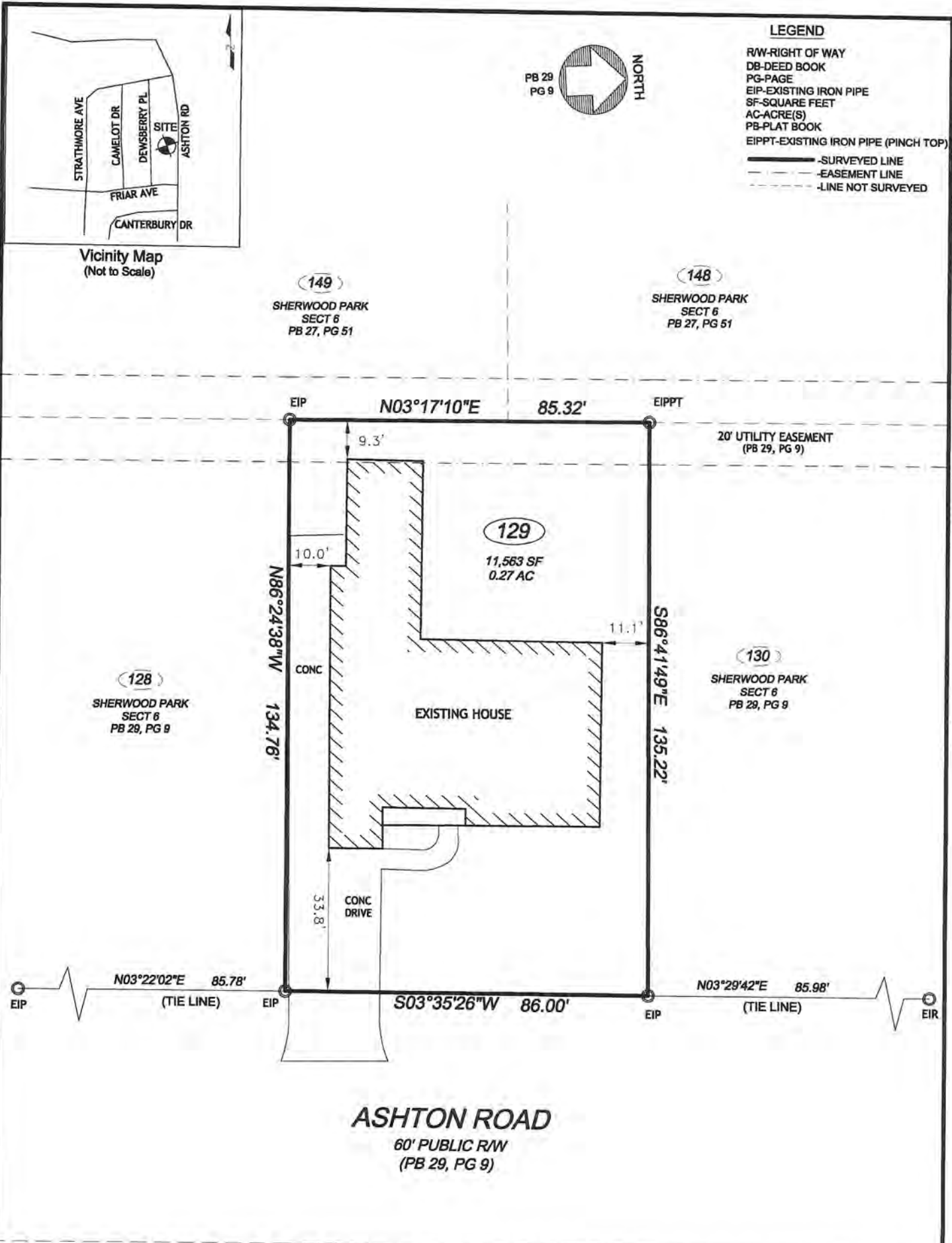


Letters are being sent to all property owners within the 300' buffer. Subject property is shown in the hatched pattern.





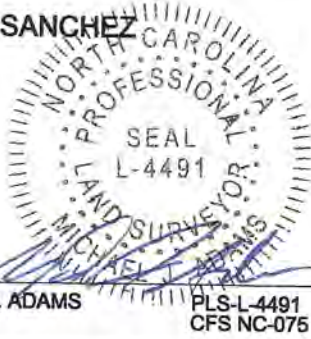




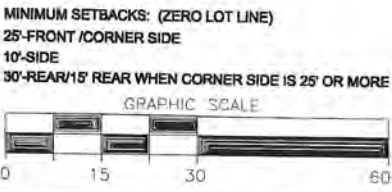
PHYSICAL SURVEY

PROPERTY OF: MIGDAL GRUSILA PEREZ SANCHEZ
ADDRESS: 1840 ASHTON ROAD
CITY: FAYETTEVILLE, NC
COUNTY: CUMBERLAND
TAX PIN: 0416411779000

TOWNSHIP: ROCKFISH
DATE: NOVEMBER 8, 2023
SCALE: 1" = 30'
REFERENCE: LOT 129
SHERWOOD PARK
SECT 6
PB 29, PG 9



MICHAEL J. ADAMS
PLS-L-4491
CFS NC-075
M.A.P.S. SURVEYING, INC.
C-2589
216 MASON ST
FAYETTEVILLE, NC 28301
PHN: (910)484-8432
MAPS@MAPSSURVEYING.COM
DRAWN BY: MJA



I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, DEED DESCRIPTION RECORDED IN PB 29, PG 9, THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN PB 29, PG 9; THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY IS GREATER THAN 1:10,000; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600). THIS MAP IS NOT DRAWN IN ACCORDANCE WITH GS 47-30. THIS 8TH DAY OF NOVEMBER, 2023.



City of Fayetteville

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

City Council Action Memo

File Number: 23-3720

Agenda Date: 12/12/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Evidentiary Hearing

Agenda Number: 4.02

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Demetrios Moutos - Planner I

DATE: December 12, 2023

RE:

A23-51. Variance to increase maximum fence height in the front yard and reduce minimum required setback for a fence in the front yard, located at 325 Cumberland Street (REID: 0437582772000), and being the property of Ira Neil Grant.

COUNCIL DISTRICT(S):

2 - Malik Davis

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 minimum fence height in a front yard and to reduce the required setback for a fence in a front yard, in the Community Commercial zoning district (CC).

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: Ira Neil Grant

Applicant: Barry White

Requested Action: Increase minimum fence height in front yard; reduce required setback for fence in front yard.

Zoning District: Community Commercial (CC)

Property Address: 325 Cumberland Street

Size: 0.71 acres ±

Existing Land Use: Custom Concepts Body Works

Surrounding Zoning and Land Uses

- North: MR-5 - Vacant/Duplex
- South: SF-10 - Single Family Dwelling
- East: CC - Vacant
- West: CC - Burkhead-De Vane Printing Co

Letters Mailed: 33

Issues/Analysis:

The building on the subject property was constructed in 1976, according to Cumberland County Tax records. The Unified Development Ordinance outlines various standards regarding fences. The UDO requires that chain link fences serving development other than single-family (attached or detached) and two- to four-family dwellings maintain a maximum height of 4 feet in front and corner side yards and 6 feet in interior side and rear yards. The UDO also requires that these chain link fences maintain a minimum setback of 0 feet in interior side and rear yards, and 10 feet in the front and corner side yards.

The applicant has requested a variance from 2 standards of the UDO. The requested changes are as follows:

- **Increase maximum fence height in the front yard from 4 feet to 6 feet.**
- **Reduce minimum setback for fence in front yard from 10 feet to 0 feet.**

The owner has requested this variance in order to bring the site into compliance with the ordinance and obtain the proper permits.

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

There is no intended development or construction known to be associated with this variance request.

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 6-foot fence installed assists in doing business in this high crime area. Since I have owned the property, there has been numerous times prostitutes and individuals running from the law have entered my property. Most recent two shootings that took place on the corner of Hillsboro & Cumberland Street. I have installed cameras, purchased security dogs, secured a Trespassing Agreement with the City and have encouraged Police Officers and Sherriff Deputy's to complete paperwork on the property to discourage the criminal activity."

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

The applicant states "The location of the body shop is in the center of criminal activity. Directly to my right on Orange Street is a shot house. To my left prostitutes align Chance and Frink Streets both day and night. Hillsboro Street has several Drug houses and homeless fill the area due to a close-by shelter. Since opening up the body shop after 2 years of it being vacant, I have invested in a lot of money and upgrades to better the neighborhood. The building is no longer an eyesore in the community but has uplifted and restored the surrounding area."

- 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 "Approving the variance will help keep the intruders out and delay them from jumping the fence. My business has been frequented by questioned people, begging for money, stealing my power and water mainly by homeless and prostitutes."

- 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 "I understand the City's idea of having 4-foot fencing in neighborhoods so it can be more attractive and inviting. However, this part of the city is where mostly low-income families reside and the criminal activity may not be reported as it should."

- 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 "Granting the variance will help to ensure my employees and

customers are safe while the shop is open. The fence will also help monitor who comes onto the property more closely.”

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 increase maximum fence height in the front yard from 4 feet to 6 feet and to reduce minimum setback for fence in front yard from 10 feet to 0 feet.

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 as requested but with added conditions

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

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:
- _____
2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence:
- _____
3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:
- _____
4. The Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:
- _____

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

Motion to deny the variance as requested.

Findings of Fact Statements Required to Deny this Request:

1. There is not sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:

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

3. There is not sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:

4. There is not sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:

5. There is not sufficient evidence that in the granting of the Variance, the public safety and welfare has been assured and substantial justice has been done as shown by the following evidence:

Recommended Action:

Attachments:

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

Project Overview

#970620

Project Title: 6 foot fence
Application Type: 5.4) Variance
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN: 325 CUMBERLAND ST
(0437582772000)

Zip Code: 28301

GIS Verified Data

Property Owner: Parcel
• 325 CUMBERLAND ST: GRANT, IRA NEIL

Acreage: Parcel
• 325 CUMBERLAND ST: 0.71

Zoning District: Zoning District
• 325 CUMBERLAND ST: CC

Subdivision Name:

Fire District:

Airport Overlay District:

Hospital Overlay District:

Coliseum Tourism District:

Cape Fear District:

Downtown Historic District:

Haymount Historic District:

Floodway:

100 Year Flood: <100YearFlood>

500 Year Flood: <500YearFlood>

Watershed:

Variance Request Information

Requested Variances: Fence/wall

Section of the City Code from which the variance is being requested.: 30-5.D.4. Height Requirements for Fences and Walls

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

The City's current code for the height of the front fence of the business is 4 feet with a setback of 10 feet. The business' surrounding 6 foot fence has been in place many years prior to me purchasing the property. The newly installed fence currently has 6 foot chain-link fencing with two sliding gates. The only installation that was completed was connecting the sides of the 6 foot fence to the front of the business.

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

The zoning district for the business is commercial. The entire Cumberland Street is commercial other than a few occupied homes. There adjacent property to the right is commercial in which I also own. At the time it is only a vacant lot which also has a 6 foot fence surrounding the proeprty. The property directly across the street is vacant land for sale and 1 refurbished home with a 6 foot fence.

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

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

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

Expiration - Variance

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

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

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

The 6 foot fence installed assists in doing business in this high crime area. Since I have owned the property, there has been numerous times prostitutes and individuals running from the law have entered my property. Most recent two shootings that took place on the corner of Hillsboro & Cumberland Street. I have installed cameras, purchased security dogs, secured a Trespassing Agreement with the City and have encouraged Police Officers and Sherriff Deputy's to complete paperwork on the property to discourage the criminal activity.

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

The location of the body shop is in the center of criminal activity. Directly to my right on Orange Street is a shot house. To my left prostitutes align Chance and Frink Streets both day and night. Hillsboro Street has several Drug houses and homeless fill the area due to a close-by shelter. Since opening up the body shop after 2 years of it being vacant, I have invested in a lot of money and upgrades to better the neighborhood. The building is no longer an eyesore in the community but has uplifted and restored the surrounding area.

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

Approving the variance will help keep the intruders out and delay them from jumping the fence. My business has been frequented by questioned people, begging for money, stealing my power and water mainly by homeless and prostitutes.

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Height of Sign Face : 6

Height of Sign Face: 6

Square Footage of Sign Face: 6

Height of Sign Face: 6

Square Footage of Sign Face : 6

Square Footage of Sign Face: 6
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Square Footage of Sign Face: 6
Square Footage of Sign Face: 6
Square Footage of Sign Face: 6

Primary Contact Information

Contractor's NC ID#:

Project Owner

Barry White
Custom Concepts Body Works
325 Cumberland Street
Fayetteville, NC 28301
P:9107480807
customconceptsbodyworks@gmail.com

Project Contact - Agent/Representative

Barry White
Custom Concepts Body Works
325 Cumberland Street
Fayetteville, NC 28301
P:9107480807
customconceptsbodyworks@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:

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:

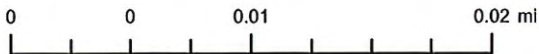
Indicate which of the following project contacts should be included on this project:



THE COUNTY OF CUMBERLAND AND ITS GIS DEPARTMENT
DISCLAIMS ACCOUNTABILITY FOR THIS PRODUCT AND MAKES NO
WARRANTY EXPRESSED OR IMPLIED CONCERNING THE ACCURACY
THEREOF. RESPONSIBILITY FOR INTERPRETATION OF THIS
PRODUCT LIES WITH THE USER.

Current Time: 10/17/2023 12:51 PM

Parcels	Lot Line
Parcel Line	Addresses
	Streets







CUSTOM CONCEPTS BODY WORKS



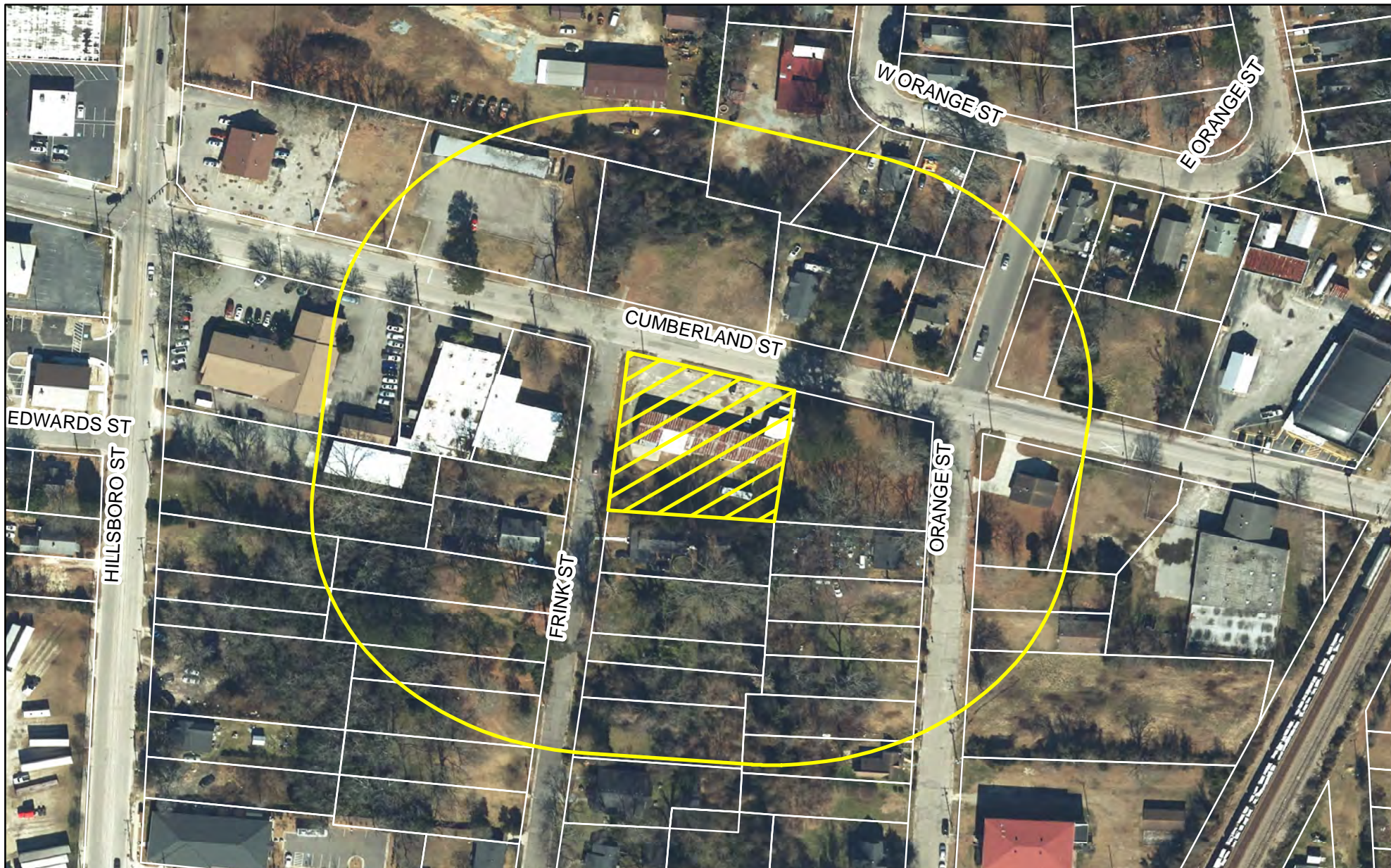






Frink St
Cumberland St







Aerial Notification Map
Case #: A23-51

Variance
Request: Fence Height/Location

Location: 325 Cumberland Street

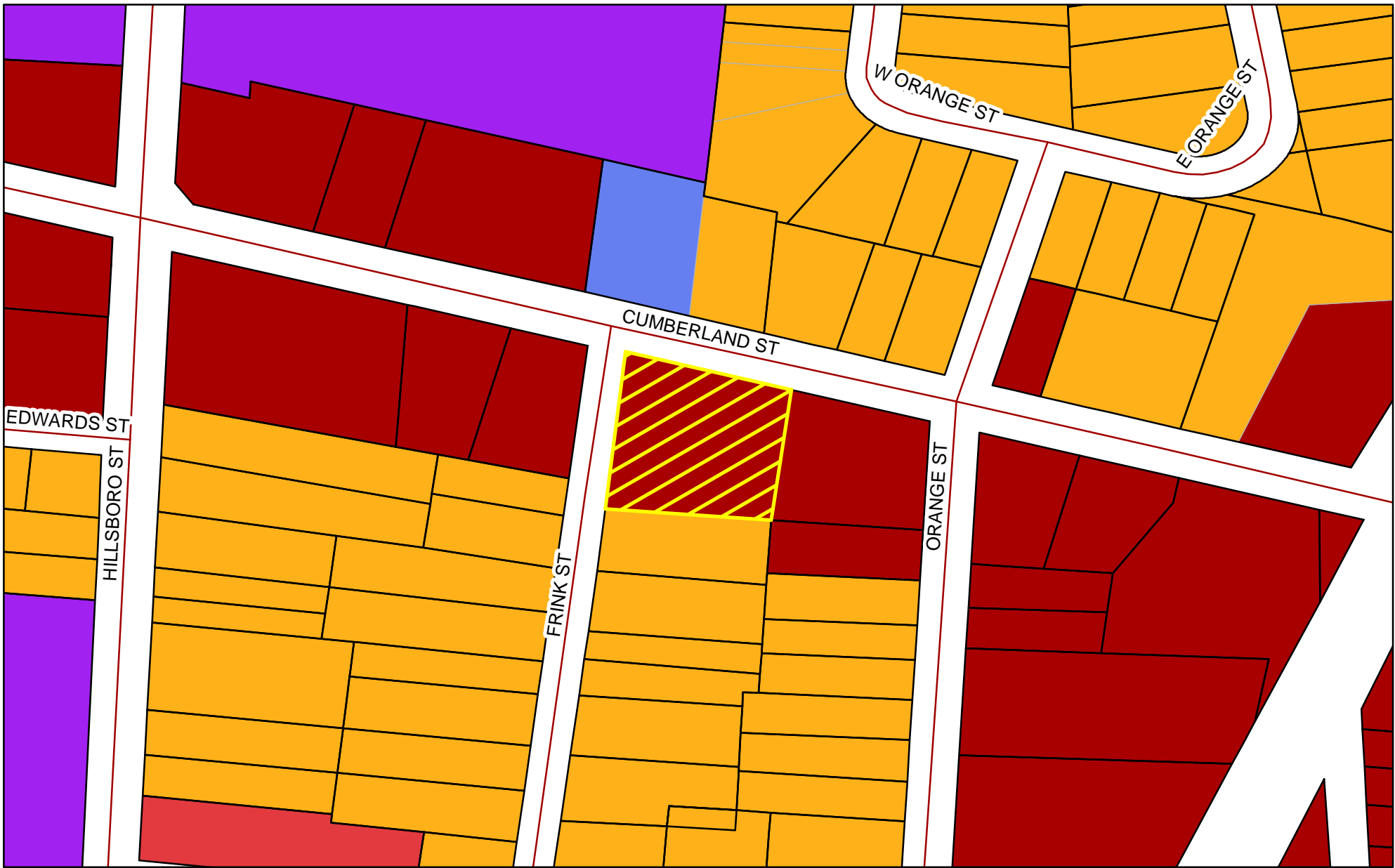
Legend

-  A23-51 Buffer
-  A23-51



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





Zoning Map







Case #: A23-51

Variance

Request: Fence Height/Location

Location: 325 Cumberland Street

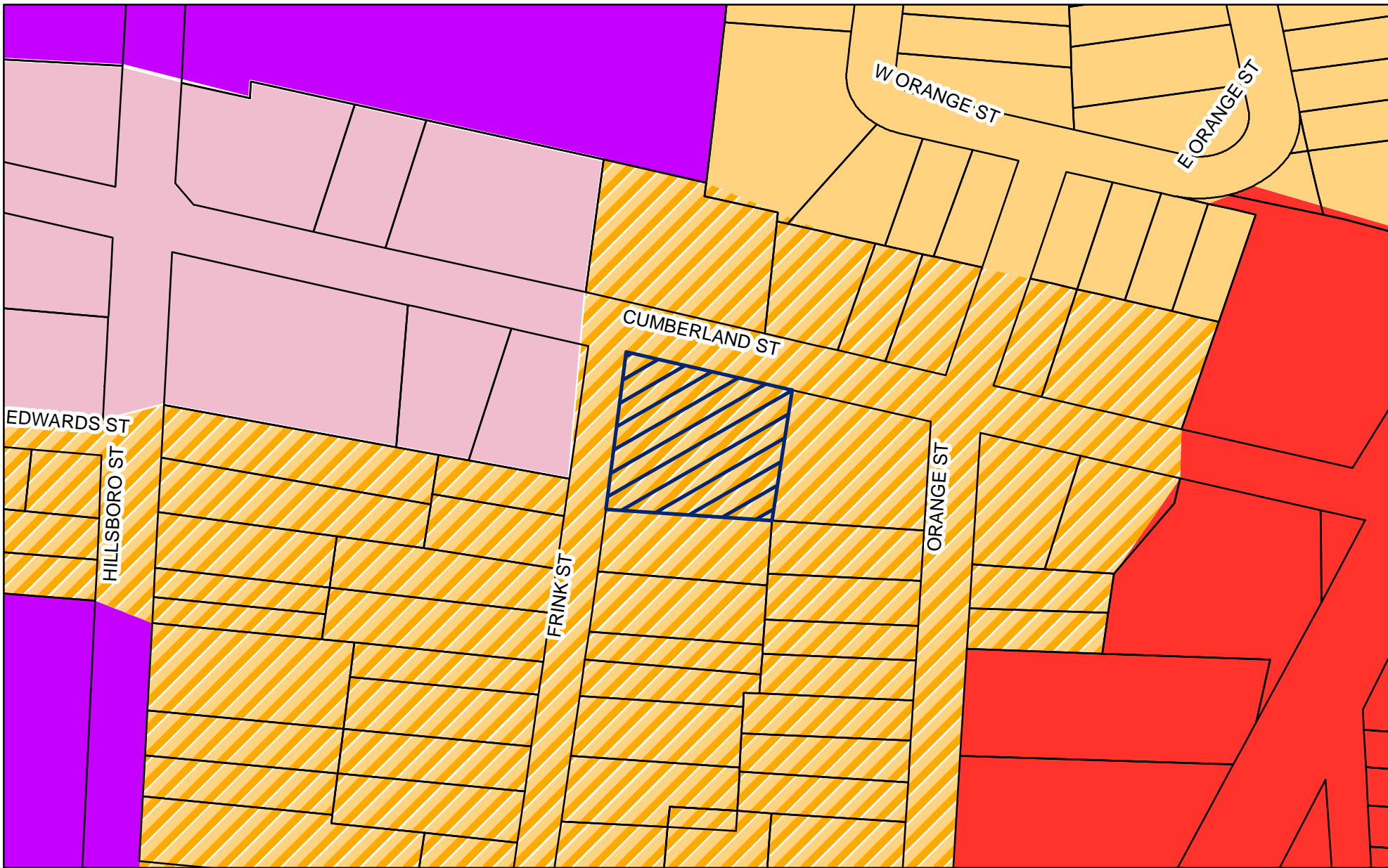
Legend

-  A23-51
-  CC - Community Commercial
-  HI - Heavy Industrial
-  MR-5 - Mixed Residential 5
-  NC - Neighborhood Commercial
-  OI - Office & Institutional



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 #: A23-51

Variance

Request: Fence Height/Location

Location: 325 Cumberland Street

Legend



A23-51

Land Use Plan 2040

Character Areas

- MDR - MEDIUM DENSITY
- NIR - NEIGHBORHOOD IMPROVEMENT
- NMU - NEIGHBORHOOD MIXED USE
- HC - HIGHWAY COMMERCIAL
- EC - EMPLOYMENT CENTER



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





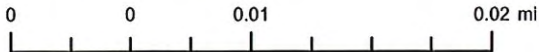




THE COUNTY OF CUMBERLAND AND ITS GIS DEPARTMENT
DISCLAIMS ACCOUNTABILITY FOR THIS PRODUCT AND MAKES NO
WARRANTY EXPRESSED OR IMPLIED CONCERNING THE ACCURACY
THEREOF. RESPONSIBILITY FOR INTERPRETATION OF THIS
PRODUCT LIES WITH THE USER.

Current Time: 10/17/2023 12:51 PM

Parcels	Lot Line
Parcel Line	Addresses
	Streets





City of Fayetteville

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

City Council Action Memo

File Number: 23-3721

Agenda Date: 12/12/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Evidentiary Hearing

Agenda Number: 4.03

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Demetrios Moutos - Planner I

DATE: December 12, 2023

RE:

A23-54. Variance to increase maximum fence height, located at 1010 Marlborough Road (REID 0427101984000), and being the property of Greg and Effie Kalevas.

COUNCIL DISTRICT(S):

2 - Malik Davis

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 maximum fence height in the Community Commercial zoning district (CC).

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: Greg and Effie Kalevas

Applicant: Bryan Fisher

Requested Action: Increase maximum fence height.

Zoning District: Community Commercial (CC)

Property Address: 1010 Marlborough Road

Size: 0.86 acres ±

Existing Land Use: Fishers Home Pros

Surrounding Zoning and Land Uses

- North: CC - Lindy's
- South: NC and LI - Salon 1026 and Saam's Party Tents
- East: CC - Single Family Dwelling and Preen Hair Boutique
- West: CC - William's Carpet Care

Letters Mailed: 20

Issues/Analysis:

The buildings on the subject property were constructed in 1984, according to Cumberland County Tax records. The Unified Development Ordinance outlines various standards regarding fences. The UDO requires that fences or walls that serve other individual development, apart from single family (attached or detached) and two- to four-family dwellings, maintain a maximum height of 4 feet in the front yard, 6 feet in corner side yards, and 6 feet in interior side and rear yards.

The applicant has requested a variance from 1 standards of the UDO. The requested changes are as follows:

- **Increase maximum fence height from 6 ft. to 8 ft.**

The owner has requested this variance in order to bring the site into compliance with the ordinance and obtain the proper permits.

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

There is no intended development or construction known to be associated with this variance request.

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 "Commercial property, security measures, theft will be eliminated."

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 "Security measures, commercial building, eliminating theft."

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 "I have lost 4k worth of equipment and had to spend money on tools, etc. I have nothing to lose than to complete this variance."

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 structure of the fence is nice gesture to the surrounding businesses within this area. The surrounding business owners have agreed that the safety of their establishment has or have improved."

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 "Not sure what this question is asking."

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 increase maximum fence height from 6 ft. to 8 ft.

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 as requested but with added conditions

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

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

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

the following evidence:

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

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

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

Motion to deny the variance as requested.

Findings of Fact Statements Required to Deny this Request:

1. There is not sufficient evidence that the strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence:
-

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

3. There is not sufficient evidence that the Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence:
-

4. There is not sufficient evidence that the Variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit as shown by the following evidence:
-

5. There is not sufficient evidence that in the granting of the Variance, the public safety

and welfare has been assured and substantial justice has been done as shown by the following evidence:

Recommended Action:

Attachments:

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

Project Overview

#1149929

Project Title: fishers home pros fence**Jurisdiction:** City of Fayetteville**Application Type:** 5.4) Variance**State:** NC**Workflow:** Staff Review**County:** Cumberland**Project Location****Project Address or PIN:** 1010 MARLBOROUGH RD
(0427101984000)**Zip Code:** 28304**GIS Verified Data****Property Owner: Parcel**

- 1010 MARLBOROUGH RD: KALEVAS, GREG;KALEVAS, EFFIE L.

Acreage: Parcel

- 1010 MARLBOROUGH RD: 0.86

Zoning District: Zoning District

- 1010 MARLBOROUGH RD: CC

Subdivision Name:**Fire District:****Airport Overlay District:****Hospital Overlay District:****Coliseum Tourism District:****Cape Fear District:****Downtown Historic District:****Haymount Historic District:****Floodway:****100 Year Flood:** <100YearFlood>**500 Year Flood:** <500YearFlood>**Watershed:****Variance Request Information****Requested Variances:** Fence/wall**Section of the City Code from which the variance is being requested.:** 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.:**

Request to maintain 8 ft tall fence in lue of 6 ft requirements

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

The current zoning of the property is CC (Community Commercial) with CC to the North & NC to the south. Other zoning near is LI,OI, & some SF10 AND SF6.

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.:

COMMERCIAL PROPERTY, SECURITY MEASURES , THEFT WILL BE ELIMINATED .

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.:

SECURITY MEASURES, COMMERCIAL BUILDING , ELIMINATING THEFT

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

I HAVE LOST 4K WORTH OF EQUIPMENT AND HAD TO SPEND MONEY ON TOOLS, ETC I HAVE NOTHING TO LOSE THAN TO COMPLETE THIS VARIANCE

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

THE STRUCTURE OF THE FENCE IS NICE GESTURE TO THE SURROUNDING BUSINESSES WITHIN THIS AREA . THE SURROUNDING BUSINESS OWNERS HAVE AGREED THAT THE SAFETY OF THERE ESTABLISHMENT HAS OR HAVE IMPROVED

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

NOT SURE WHAT THIS QUESTION IS ASKING

Height of Sign Face : 8

Height of Sign Face: 8

Square Footage of Sign Face: 8

Square Footage of Sign Face: 8

Square Footage of Sign Face: 8

Square Footage of Sign Face: 8

Square Footage of Sign Face: 8

Square Footage of Sign Face: 8

Square Footage of Sign Face: 8

Height of Sign Face: 8

Square Footage of Sign Face : 8

Square Footage of Sign Face: 8

Square Footage of Sign Face: 8

Square Footage of Sign Face: 8

Square Footage of Sign Face: 8

Square Footage of Sign Face: 8

Primary Contact Information

Contractor's NC ID#:

Project Owner

bryan fisher

fishers home pros

1010 Marlborough dr
fayetteville, NC 28304
P:9107231576
fishershomepros@gmail.com

Project Contact - Agent/Representative

bryan fisher
fishers home pros
1010 Marlborough dr
fayetteville, NC 28304
P:9107231576
fishershomepros@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:

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:

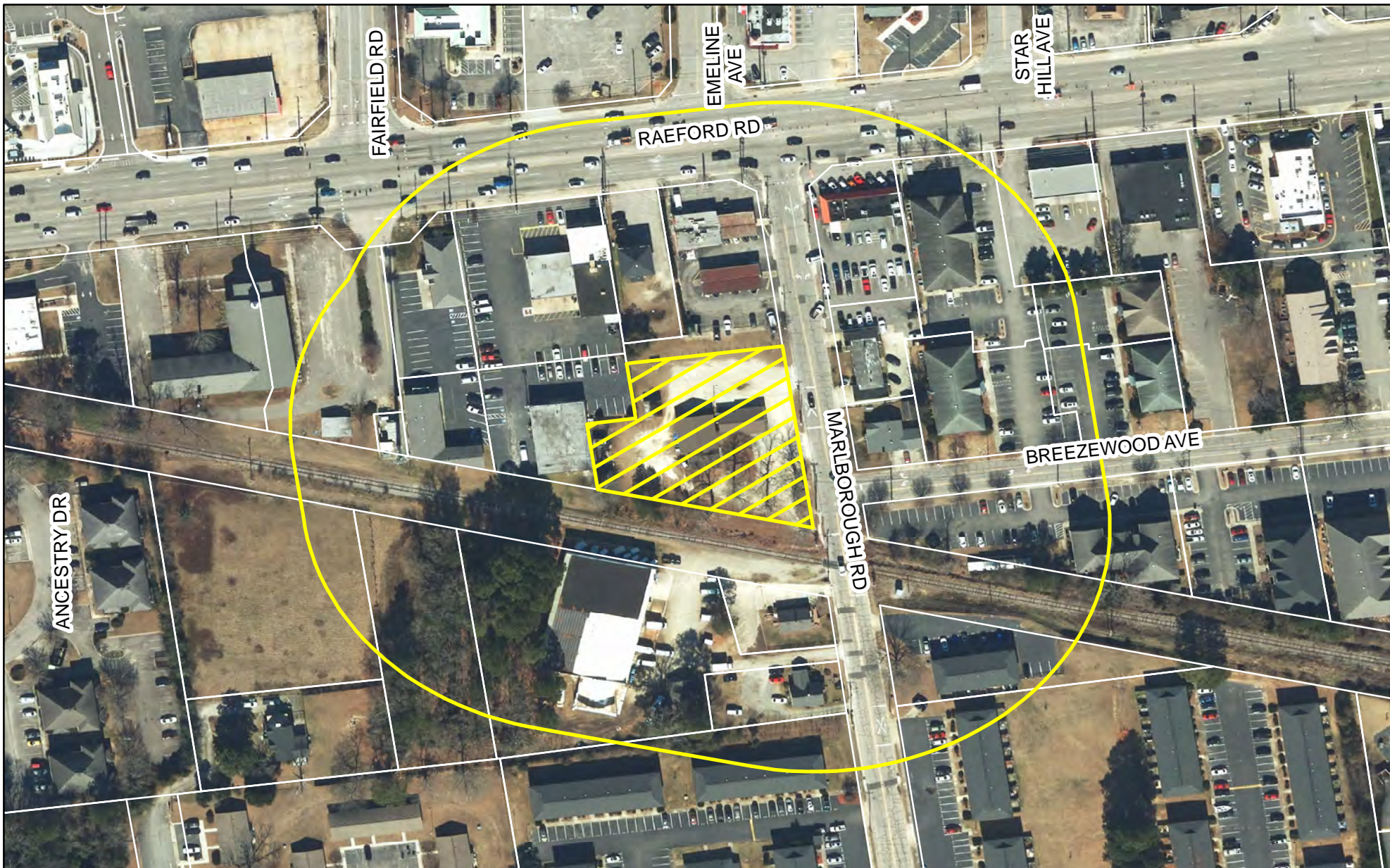
NC State Electrical Contractor #2 License Number:

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 #: A23-54

Variance

Request: Fence Height

Location: 1010 Marlborough Road

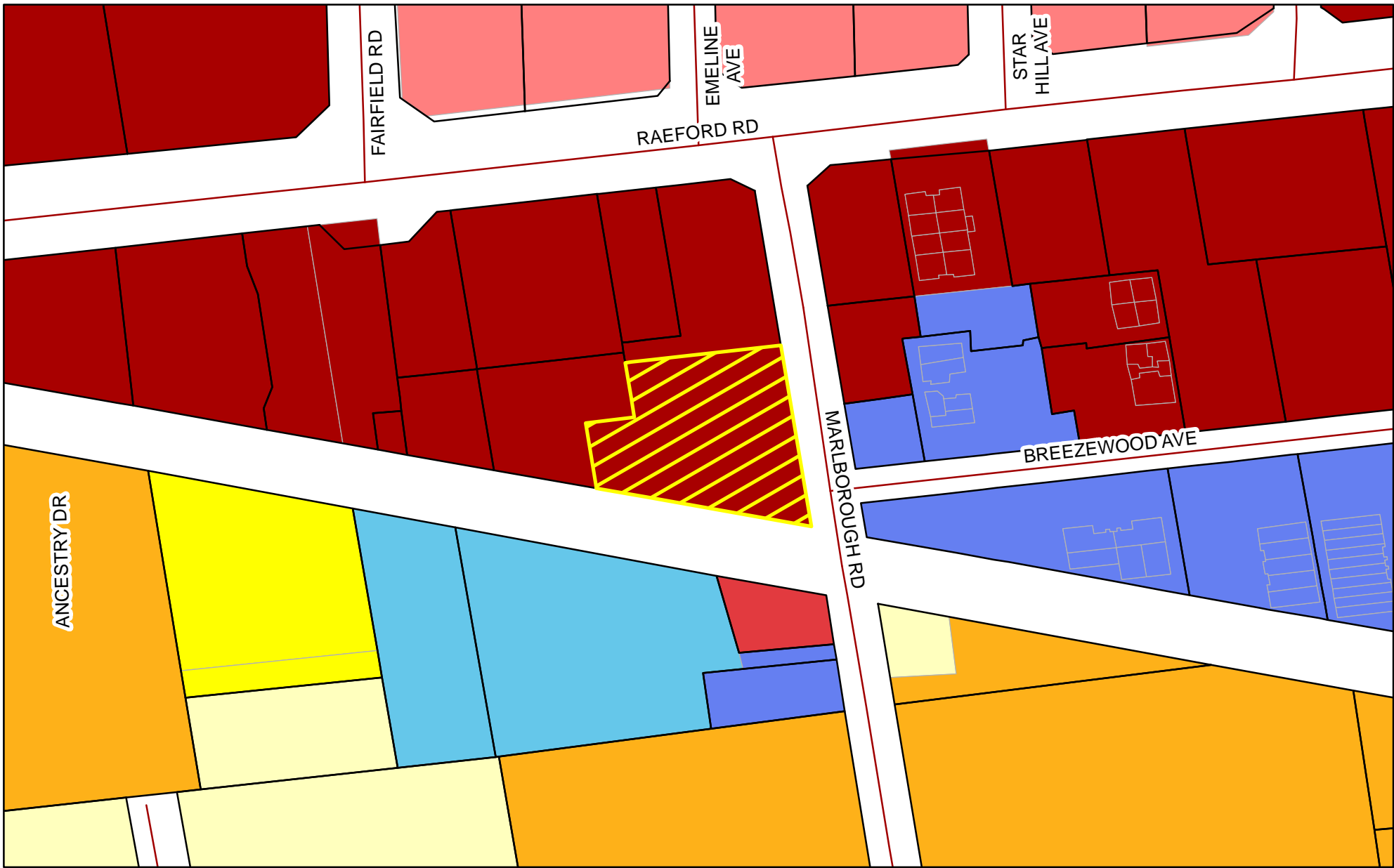
Legend

-  A23-54 Buffer
-  A23-54



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





Zoning Map


Case #: A23-54

Variance
Request: Fence Height

Location: 1010 Marlborough
Road

Legend


 A23-54

 CC - Community Commercial


 LC - Limited Commercial


 LI - Light Industrial

 MR-5 - Mixed Residential 5

 NC - Neighborhood Commercial

 OI - Office & Institutional

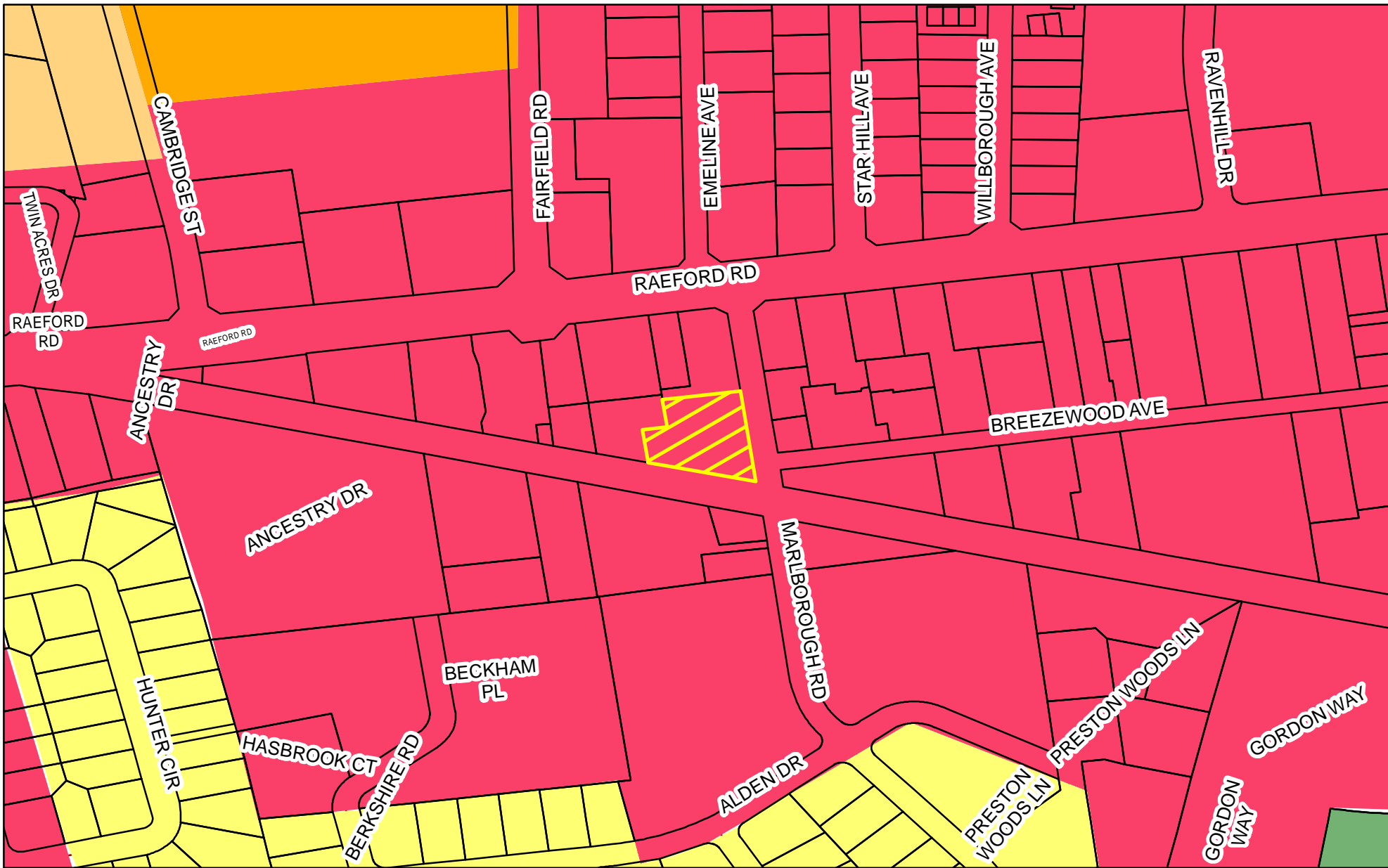
 SF-6 - Single-Family Residential 6

 SF-10 - Single-Family Residential 10



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 #: A23-54

Variance

Request: Fence Height

Location: 1010 Marlborough
Road






Legend



A23-54

Land Use Plan 2040

Character Areas

-  PARKOS - PARK / OPEN SPACE
-  LDR - LOW DENSITY
-  MDR - MEDIUM 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.











City of Fayetteville

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

City Council Action Memo

File Number: 23-3710

Agenda Date: 12/12/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 5.01

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Heather Eckhardt, CZO - Planner II

DATE: December 12, 2023

RE:

P23-52. Rezoning from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5) located at 1319 Camden Road (REID 0436163935000) totaling .54 acres ± and being the property of Darren & LaAdah Demus represented by Lori Epler of Larry King & Associates.

COUNCIL DISTRICT(S):

2 - Malik Davis

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

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

- Objective 2.1 - To ensure a diverse City tax base

Goal III: City invested in Today and Tomorrow

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

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

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

Executive Summary:

The applicant is seeking to rezone 1319 Camden Road from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5).

Background:

Owner: Darren & LaAdah Demus

Applicant: Lori Epler of Larry King & Associates

Requested Action: SF-6 to MR-5

REID #: 0436163935000

Council District: 2 - Malik Davis

Status of Properties: Undeveloped

Size: .54 acres

Adjoining Land Use & Zoning:

- North: MR -5 - Single-family dwellings
- South: SF-6 - Vacant
- East: SF-6 - Cemetery
- West: MR-5 - Single-family dwellings and church

Annual Average Daily Traffic: Southern Avenue: 7,400 (2021)

Letters Mailed: 71

Land Use Plans:

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

According to the Plan, it is recommended that this portion of the city should be developed as Neighborhood Mixed Use (NMU). Neighborhood Mixed Use calls for neighborhood-scale commercial uses in 1 - 3 story buildings alongside smaller-scale multi-family developments, single-family attached dwellings, and small lot single family developments.

Issues/Analysis:

History:

The subject property was annexed into the city in 1958 and has remained undeveloped since the late 1960's.

Surrounding Area:

The area around the subject property is a mixture of single-family dwellings and multi-family dwellings as well as a church, a cemetery, and a school. The parcels to the north have multiple single family houses. Temple of Faith Church is located to the west of the subject property. The parcel to the east is a long-standing cemetery. Massey Hill Classical High School is located to the south of the subject property.

Rezoning Request:

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

The applicant is requesting to rezone a single parcel from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5). The Mixed Residential 5 zoning district is intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities, including single-family detached dwellings, two-to-four family dwellings and multi-family dwellings.

Straight Zoning:

The request is for a straight zoning from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5).

The Mixed Residential 5 (MR-5) district is established and intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities, including single-family detached dwellings, two- to four-family dwellings, multi-family dwellings, and other residential development that may include single-family attached dwellings, and zero lot line development subject to the requirements of the Ordinance.

The reclassification of land to a base zoning district without conditions allows all of the uses that are shown on the attached Use Table taken from the UDO. The Zoning Commission may not consider conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other applicable regulations.

Land Use Plan Analysis:

According to the Future Land Use Map & Plan, it is recommended that this portion of the city should be developed as Neighborhood Mixed Use (NMU). Neighborhood Mixed Use calls for neighborhood-scale commercial uses in 1 - 3 story buildings alongside smaller-scale multi-family, attached, and small lot single family.

Consistency and Reasonableness Statements:

The Future Land Use Plan also sets forth written goals, policies, and strategies. This application does follow the City's strategic, compatible growth strategies and does meet the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

Conclusion:

The proposed MR-5 zoning district is an ideal zoning district for an area designated for Neighborhood Mixed Use by the Future Land Use Plan. The MR-5 zoning district would allow for the potential development of vacant land into higher-density residential structures such as single-family attached dwellings (townhouses) and two-to-four-family dwellings (duplex, triplex, quadplex). Additionally, a higher-density residential development would be a logical fit in an area surrounded by a variety of non-residential uses (church, cemetery, commercial).

Budget Impact:

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

Options:

1. Recommends approval of the map amendment to MR-5 as presented based on the evidence submitted and finds that the rezoning is consistent with the Future Land Use Plan as demonstrated by the attached consistency and reasonableness statement (recommended);
2. Recommends approval of the map amendment to a more restrictive zoning district based on the evidence submitted and finds that the map amendment would be consistent with the Future Land Use Plan and an amended consistency statement;

3. Denies the map amendment request based on the evidence submitted and finds that the map amendment is inconsistent with the Future Land Use Plan .

Recommended Action:

The Professional Planning Staff recommends that the Zoning Commission move to recommend APPROVAL of the map amendment to MR-5 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 Neighborhood Mixed Use (NMU).
- The uses permitted by the proposed change in zoning district classification and standards apply to such uses are appropriate in the immediate area of the land to be reclassified due to the existing zoning and uses surrounding this property; and
- There are no other factors that will substantially affect public health, safety, morals, or general welfare.

Attachments:

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

Project Overview

#1174421

Project Title: DEMUS**Jurisdiction:** City of Fayetteville**Application Type:** 5.1) Rezoning (Map Amendment)**State:** NC**Workflow:** Staff Review**County:** Cumberland**Project Location****Project Address or PIN:** 1319 CAMDEN RD (0436163935000) **Zip Code:** 28306**GIS Verified Data****Property Owner: Parcel**

- 1319 CAMDEN RD: DEMUS, DARREN;DEMUS, LAADAH

Acreage: Parcel

- 1319 CAMDEN RD: 0.54

Zoning District: Zoning District

- 1319 CAMDEN RD: SF-6

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

- 1319 CAMDEN RD: 1

Hospital Overlay District:**Coliseum Tourism District:****Cape Fear District:****Downtown Historic District:****Haymount Historic District:****Floodway:****100 Year Flood:** <100YearFlood>**500 Year Flood:** <500YearFlood>**Watershed:****General Project Information****Has the land been the subject of a map amendment application in the last five years?:** No**Previous Amendment Approval Date:****Previous Amendment Case #:****Proposed Zoning District:** MR-5**Acreage to be Rezoned:** 0.54**Is this application related to an annexation?:** No**Water Service:** Public**Sewer Service:** Public**A) Please describe all existing uses of the land and existing structures on the site, if any:****B) Please describe the zoning district designation and existing uses of lands adjacent to and across the street from the subject site.:**

VACANT

TO BOTH SIDES THE ZONING DISTRICT IS SF6. ONE PARCEL IS VACANT THE OTHER IS A CEMETERY.

BEHIND IS CC. CURRENTLY SIMMONS MASONRY SERVICE

ACROSS THE STREET IS ENTIRELY MR5. CURRENTLY THE LOCATION OF A CHURCH AND SINGLE FAMILY HOMES

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

needed).

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

THE COMPREHENSIVE LAND USE PLAN CALLS FOR MEDIUM DENSITY IN THIS LOCATION. THE ZONING REQUESTED IS IN FULL COMPLIANCE WITH THAT RECOMMENDATION.

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

NO

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

THIS LOCATION IS VERY CONDUCIVE TO MULTI FAMILY AND THERE IS A DIRE NEED FOR AFFORDABLE HOUSING.

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

THE AREA IS A COMBINATION OF SINGLE FAMILY ATTACHED AND DETACHED HOMES, INDUSTRIAL/COMMERCIAL AND CHURCHES. THIS LOCATION IS IDEAL FOR A SMALL MULTI-UNIT BUILDING.

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

THIS AMENDMENT IS LOGICAL AS THIS PROPERTY IS SERVED BY PUBLIC TRANSPORTATION AND IS LOCATED IN A MIXED USE AREA.

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

IN NO WAY WILL THIS AMENDMENT ENCOURAGE PREMATURE DEVELOPMENT.

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

NONE

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

IN NO WAY DOES THIS AMENDMENT CREATE AN ISOLATED ZONING DISTRICT. THE LAND ACROSS THE STREET IS ZONED THE SAME.

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

NONE. IT SHOULD INCREASE THE VALUES.

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

THERE ARE NO IMPACTS ON THE NATURAL ENVIRONMENT. THIS AREA IS NOT ENVIRONMENTALLY SENSITIVE.

Primary Contact Information

Contractor's NC ID#:

Project Owner

DARREN DEMUS

1319 CAMDEN RD

FAYETTEVILLE, NC 28306

P:910.922.6364

DARRENDEMUS@AOL.COM

Project Contact - Agent/Representative

LORIEPLER

Larry King & Assoc.

1333 Morganton Road, Fayetteville

Fayetteville, NC 28305

P:9104834300

LEPLER@LKANDA.COM

Project Contact - Primary Point of Contact for the Developer

JIM GRAVES

143 MEADOWCROFT DR
FAYETTEVILLE, NC 28311

P:910.237.5267

JGANDAINC@AOL.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 Electrical Contractor #1 License Number:

NC State Mechanical Contractor's #1 License Number:

NC State Plumbing Contractor #1 License Number:

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

FILED	Sep 16, 2022
AT	01:20:33 PM
BOOK	11573
START PAGE	0624
END PAGE	0626
INSTRUMENT #	37454
RECORDING	\$26.00
EXCISE TAX	\$16.00

**NORTH CAROLINA GENERAL WARRANTY DEED
PREPARED WITHOUT TITLE EXAMINATION**

Excise Tax: \$ 16.00

Parcel Identifier No. 0436-16-3935 Verified by _____ County on the ____ day of _____, 20__

By: _____

Mail/Box to: The Law Office of K. D. White

This instrument was prepared by: The Real Estate Law Firm, 2919 Breezewood Avenue, Suite 300, Fayetteville, NC 28303

Brief description for the Index: _____

THIS DEED made this 7th day of September, 2022, by and between

GRANTOR

Thaddeus Paul Downing, Trustee of Harold Dean Downing
Trust created on May 23, 2018
46507 Whitney Road
New London NC 28127

GRANTEE

Darren Demus and spouse, LaAdah Demus
1319 Camden Road
Fayetteville, NC 28306

Enter in appropriate block for each Grantor and Grantee: name, mailing address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context. WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot, parcel of land or condominium unit situated in the City of Fayetteville, Cross Creek Township, Cumberland County, North Carolina and more particularly described as follows:

See Exhibit "A"

Parcel ID: 0436-16-3935

Property Address: 1319 Camden Road, Fayetteville, NC 28306

The property hereinabove described was acquired by Grantor by instrument recorded in Book 10311 page 878.

All or a portion of the property herein conveyed X includes or _____ does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Book _____ page _____.

Submitted electronically by "The Law Office of K.D. White, PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Cumberland County Register of Deeds.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple. And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

Subject to restrictive covenants, easements and rights-of-way as they may appear of public record.
Subject to ad valorem taxes which are a lien but not yet due and payable.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

Harold Dean Downing Trust created on May 23, 2018

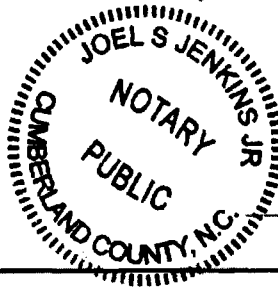
(Entity Name)

By: Thaddeus Paul Downing, Trustee
Print/Type Name & Title: Thaddeus Paul Downing, Trustee

State of North Carolina – County of Cumberland

I, the undersigned Notary Public of the County and State aforesaid, certify that Thaddeus Paul Downing, personally appeared before me this day and acknowledged that he is the Trustee of Harold Dean Downing Trust created on May 23, 2018 and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this 17th day of September, 2022.

My Commission Expires: 3-5-2026



Joel S. Jenkins, Jr.
Notary Public

The foregoing Certificate(s) of _____
is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By: _____ Register of Deeds for _____ County
Deputy/Assistant – Register of Deeds

EXHIBIT "A"

BEGINNING at a stake in the Eastern margin of Camden Road (40 foot right-of-way), the same being the Northwest corner of the lot conveyed to Reece Butler by Deed recorded in Book 468, Page 156, Cumberland County Registry, and subsequently conveyed to Linkous by Deed recorded in Book 2493, Page 175, Cumberland County Registry, and running thence with the Eastern margin of Camden Road North 22 degrees 55 minutes East 279.15 feet to a stake, the same being the Westernmost corner of the Holt Morgan Cemetery as shown on a plat thereof recorded in Plat Book 8, Page 89; thence with the Western line of said cemetery South 15 degrees East a distance of 320.94 feet to a stake in the Western line of Lot 64 of Puritan Weaving Company as shown on a plat thereof recorded in Plat Book 8, Page 89, Cumberland County Registry, the same being also the Northeast corner of Linkous lot herein above referred to; thence with Linkous' Northern line North 74 degrees 35 minutes West 198.80 feet to the place and point of BEGINNING, and being a actual survey of the two tracts conveyed to the Grantor herein by Deed from J. Floyd Ammons, Commissioner, as will appear of record in Book 2385, page 813, Cumberland County, North Carolina, Registry.

Parcel ID: 0436-16-3935

Property Address: 1319 Camden Road, Fayetteville, NC 28306

AFFIDAVIT OF OWNERSHIP

I, DARREN AND LAADAH DEMUS, being duly sworn, deposes and says:

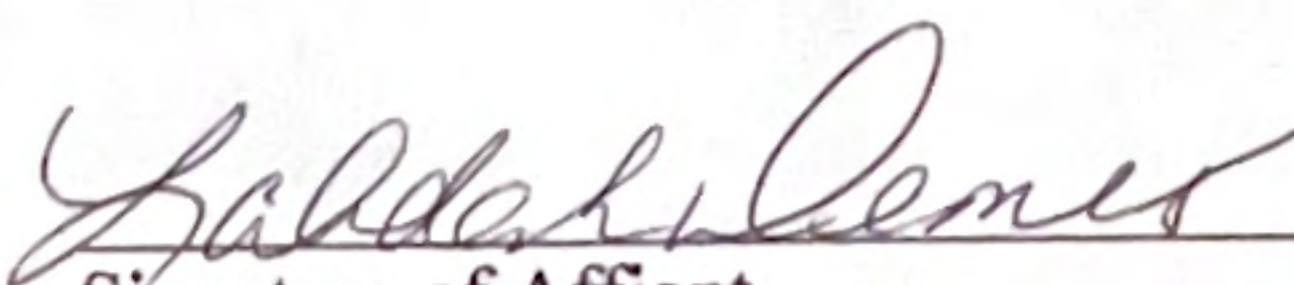
1. That I am the owner of the property/properties located at
1319 CAMDEN ROAD in the City of Fayetteville, a political
subdivision of the State of North Carolina.

2. I do hereby give permission to LORI S. EPLER 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
NOVEMBER 14, 2023.



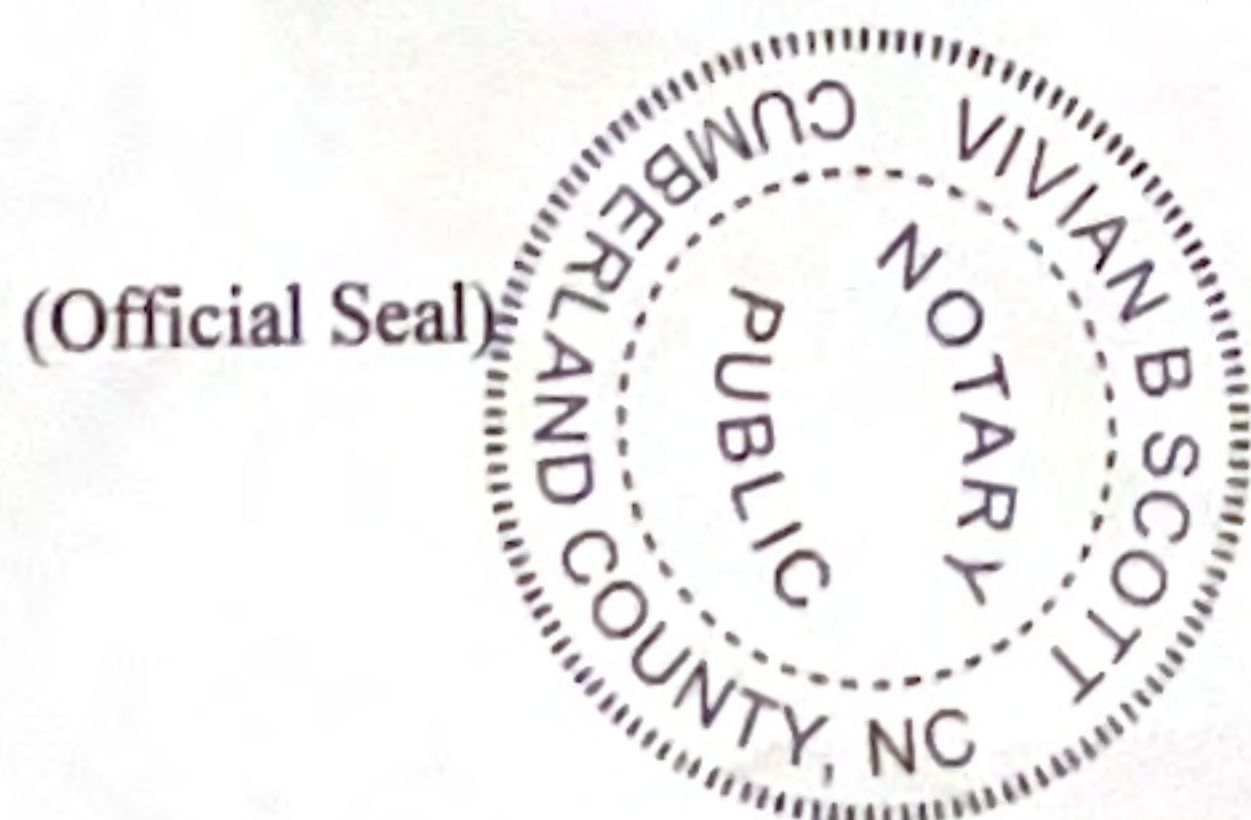
Signature of Affiant

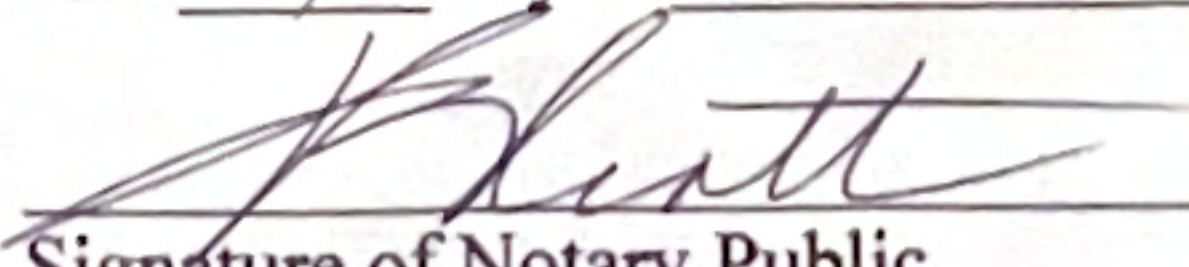


Signature of Affiant

Cumberland County, North Carolina

Sworn to and subscribed before me this day on the 14 day of November, 2023

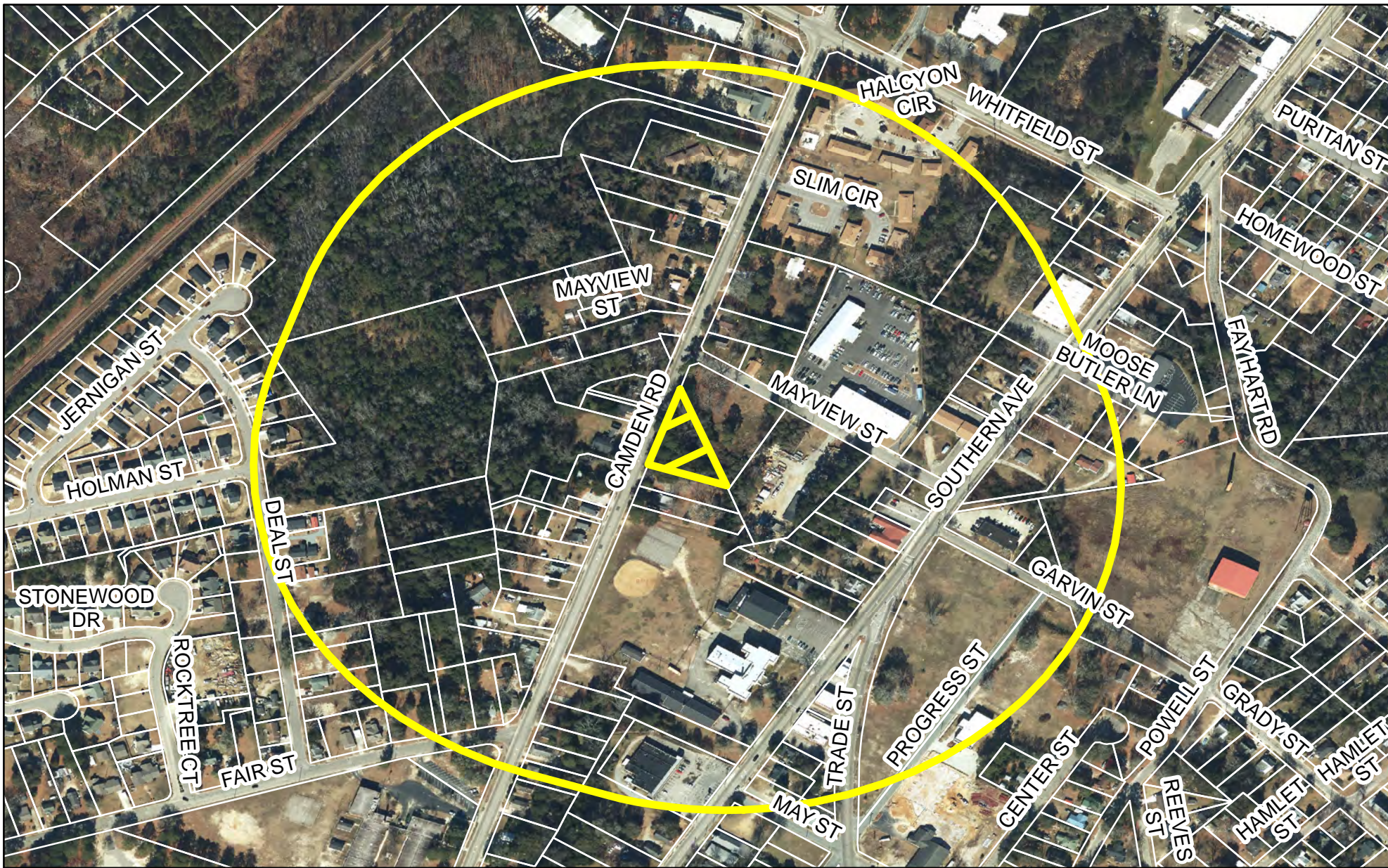




Signature of Notary Public

VIVIAN B SCOTT, Notary Public
Printed Name of Notary Public

My Commission Expires: 6-26-25



Aerial Notification Map
Case #: P23-52

Request: Rezoning
Single Family Residential 6 (SF-6) to
Mixed Residential 5 (MR-5)

Location: 1319 Camden Road
0436163935000

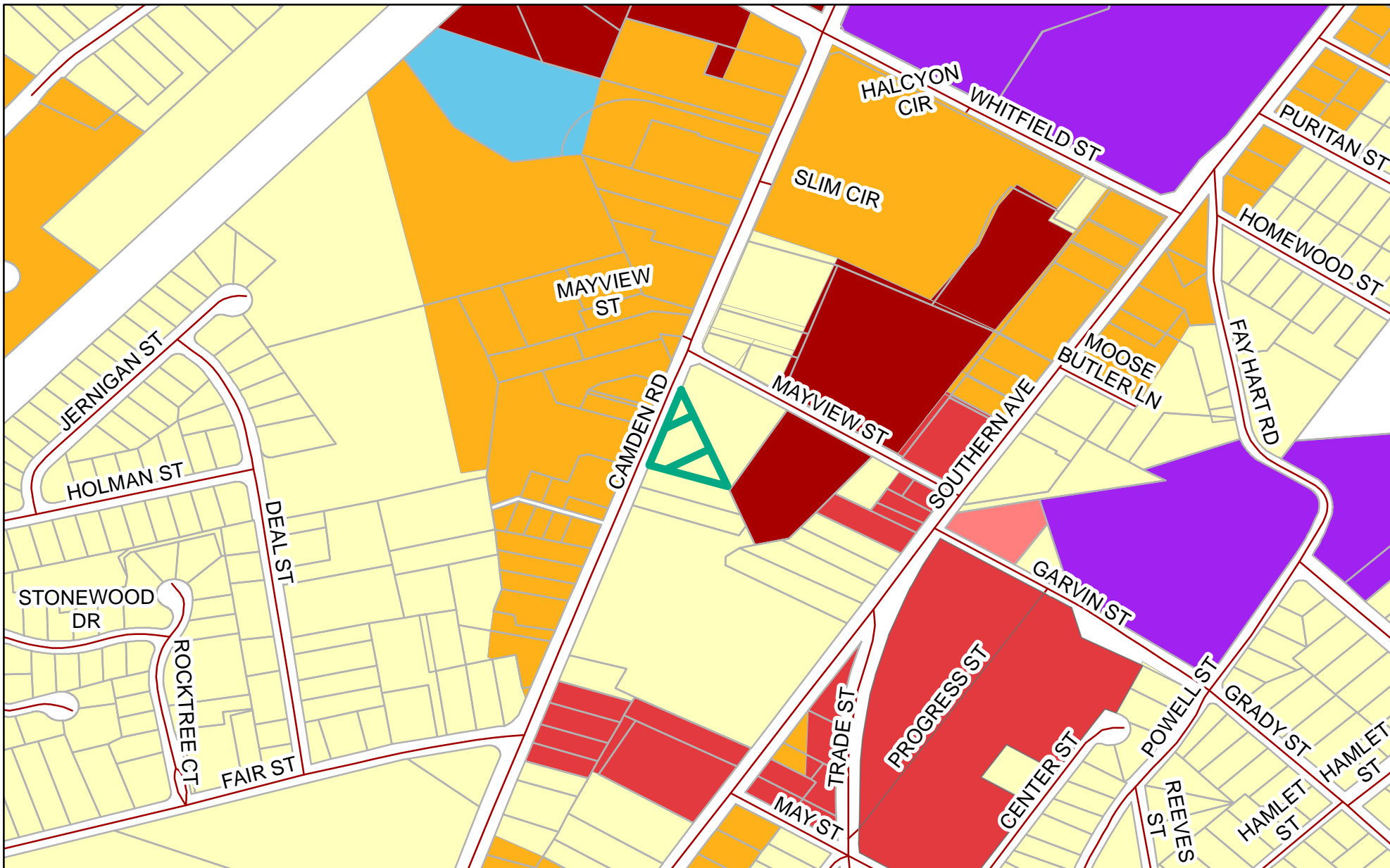
Legend

-  P23-52
-  P23-52 Notification Buffer



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





Zoning Map

Case #: P23-52

Request: Rezoning

Single Family Residential 6 (SF-6) to
Mixed Residential 5 (MR-5)

Location: 1319 Camden Road
0436163935000

Legend



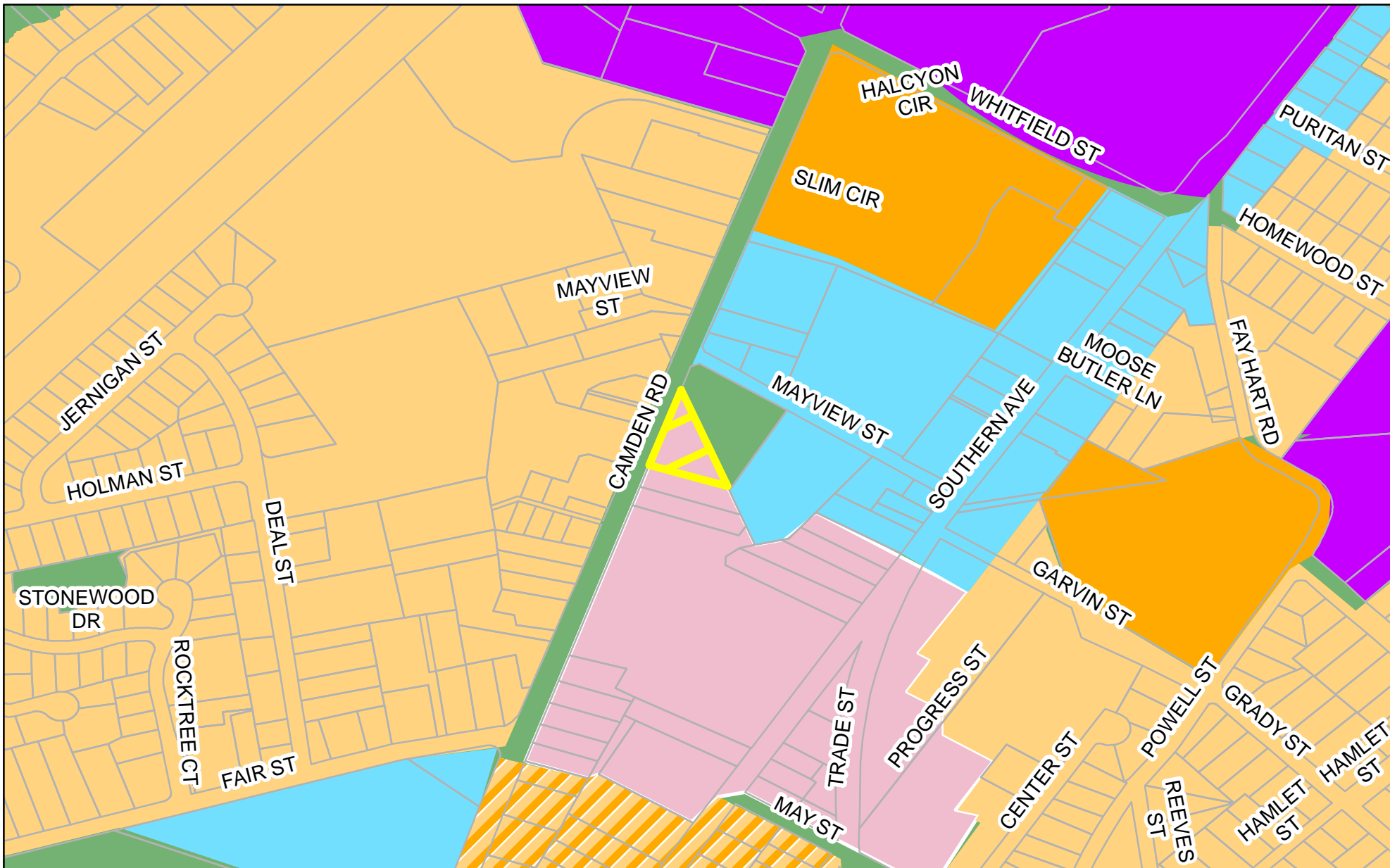
P23-52

- CC - Community Commercial
- HI - Heavy Industrial
- LC - Limited Commercial
- LI - Light Industrial
- MR-5 - Mixed Residential 5
- NC - Neighborhood Commercial
- SF-6 - Single-Family Residential 6
- County



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





Land Use Map

Case #: P23-52

Request: Rezoning
Single Family Residential 6 (SF-6) to
Mixed Residential 5 (MR-5)

Location: 1319 Camden Road
0436163935000

Legend



P23-52 Land Use Plan 2040

Character Areas

- PARKOS - PARK / OPEN SPACE
- MDR - MEDIUM DENSITY
- NIR - NEIGHBORHOOD IMPROVEMENT
- HDR - HIGH DENSITY RESIDENTIAL
- NMU - NEIGHBORHOOD MIXED USE
- OI - OFFICE / INSTITUTIONAL
- EC - EMPLOYMENT CENTER



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







Consistency and Reasonableness Statement

Map Amendments

Pursuant N.C.G.S. Sections 160D-604 and -605, the Zoning Commission finds that the proposed zoning map amendment in case P23-52 is consistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

GOAL(S)	CONSISTENT	INCONSISTENT
GOAL #1: Focus value and investments around infrastructure and strategic nodes	X	
GOAL #4: Foster safe, stable, and attractive neighborhoods	X	

2. LAND USE POLICES AND STRATEGIES:

LAND USE POLICIES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.	X	
1.2: Encourage more intense uses, greater mix of uses and denser residential types in key focal areas.	X	
LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods	X	
3.2: Identify potential barriers for redevelopment and reinvestment and provide flexibility through modifications to development regulations while maintaining high standards.	X	
LUP 4: Create well-designed and walkable commercial and mixed use districts.	X	
4.1: Ensure new development meets basic site design standards	X	

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

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

Reasonableness

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

 X The size, physical conditions, and other attributes of the proposed use(s) will benefit the surrounding community.

 The amendment includes conditions that limit potential negative impacts on neighboring uses.

 X The proposed uses address the needs of the area and/or City.

 X The proposal adapts the zoning code to reflect modern land-use trends and patterns.

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

 X improves consistency with the long-range plan.

 X improves the tax base.

 preserves environmental and/or cultural resources.

 X facilitates a desired kind of development.

 X provides needed housing/commercial area.

Additional comments, if any (write-in):

December 12, 2023

Date

Chair Signature

Print



City of Fayetteville

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

City Council Action Memo

File Number: 23-3711

Agenda Date: 12/12/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 5.02

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Heather Eckhardt, CZO - Planner II

DATE: December 12, 2023

RE:

P23-53. Rezoning from Single Family Residential 10 (SF-10) to Single Family Residential 6 (SF-6) located at 1040 Stamper Road (REID 0428335880000) totaling .25 acres ± and being the property of Rockfish Run Land and Development LLC.

COUNCIL DISTRICT(S):

2 - Malik Davis

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

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

- Objective 2.1 - To ensure a diverse City tax base

Goal III: City invested in Today and Tomorrow

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

Executive Summary:

The applicant is seeking to rezone 1040 Stamper Road from Single Family Residential (SF-10) to Single Family Residential 6 (SF-6).

Background:

Owner: Rockfish Run Land and Development, LLC.

Applicant: Tim Evans

Requested Action: SF-10 to SF-6

REID #: 0428335880000

Council District: 2 - Malik Davis

Status of Properties: Undeveloped

Size: .25 acres

Adjoining Land Use & Zoning:

- North: SF-10 - Single-family dwelling
- South: SF-10 - Single family dwelling
- East: SF-10 - Single family dwelling
- West: SF-10 - Single-family dwelling

Annual Average Daily Traffic: Bragg Boulevard: 22,000 (2021)

Letters Mailed: 161

Land Use Plans:

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

According to the Plan, it is recommended that this portion of the city should be developed as Medium Density Residential (MDR). Medium Density Residential calls for primarily single-family subdivisions on small lots with duplexes and townhomes interspersed.

Issues/Analysis:

History:

The subject property was annexed into the city in 1951. The subject property has remained undeveloped since the late 1960's.

Surrounding Area:

The surrounding area is primarily a subdivision consisting of single-family dwellings on 10,000-square-foot lots. The Cottages on Elm development is located to the west of the subject property. This development consists of two-to-four family dwellings. There is a city park located at the intersection of Stamper Road and McGougan Road. At the intersection of Stamper Road and Rogers Drive, there is a church and an adult day health center.

Rezoning Request:

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

The applicant has requested to rezone a single parcel from Single Family Residential 10 (SF-10) to Single Family Residential 6 (SF-6). The Single Family Residential 6 zoning district is intended to accommodate single family developments at a moderate density as well as two-to-four family dwellings, single family attached dwellings, and zero lot line development.

Straight Zoning:

The request is for a straight zoning from Single Family Residential 10 (SF-10) to Single Family Residential 6 (SF-6).

The Single-Family Residential 6 (SF-6) District is established and intended to

accommodate principally single-family detached residential development at moderate densities that are designed to respond to environmental and site conditions. It also accommodates two-to-four-family dwellings, single-family attached, and zero lot line development.

The reclassification of land to a base zoning district without conditions allows all the uses that are shown on the attached Use Table taken from the UDO. The Zoning Commission may not consider conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other applicable regulations.

Land Use Plan Analysis:

According to the Future Land Use Map & Plan, it is recommended that this portion of the city should be developed as Medium Density Residential (MDR). Medium Density Residential calls for primarily single-family subdivisions on small lots with duplexes and townhomes interspersed.

Consistency and Reasonableness Statements:

The Future Land Use Plan also sets forth written goals, policies, and strategies. This application does follow the City's strategic, compatible growth strategies and does meet the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

Conclusion:

The Medium Density Residential development recommended by the Future Land Use Plan includes a variety of residential developments - single family dwellings, duplexes, and townhomes. The Single Family 6 zoning district would allow for these types of uses (some with additional approvals required). Additionally, the Single Family Residential 6 zoning district allows for slightly more dense development. However, the small size of the subject property would limit expansive development that is not in keeping with the surrounding area.

Budget Impact:

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

Options:

1. Recommends approval of the map amendment to SF-6 as presented based on the evidence submitted and finds that the rezoning is consistent with the Future Land Use Plan as demonstrated by the attached consistency and reasonableness statement (recommended);
2. Recommends approval of the map amendment to a more restrictive zoning district based on the evidence submitted and finds that the map amendment would be consistent with the Future Land Use Plan and an amended consistency statement;
3. Denies the map amendment request based on the evidence submitted and finds that the map amendment is inconsistent with the Future Land Use Plan .

Recommended Action:

The Professional Planning Staff recommends that the Zoning Commission move to recommend APPROVAL of the map amendment to SF-6 based on the following:

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

Attachments:

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

Project Overview

#1157027

Project Title: Greenwood Homes

Jurisdiction: City of Fayetteville

Application Type: 5.1) Rezoning (Map Amendment)

State: NC

Workflow: Staff Review

County: Cumberland

Project Location

Project Address or PIN: 1040 STAMPER RD
(0428335880000)

Zip Code: 28303

GIS Verified Data

Property Owner: Parcel

- 1040 STAMPER RD: ROCKFISH RUN LAND AND DEVELOPMENT LLC

Acreage: Parcel

- 1040 STAMPER RD: 0.25

Zoning District: Zoning District

- 1040 STAMPER RD: SF-10

Subdivision Name:

Fire District:

Airport Overlay District:

Hospital Overlay District:

Coliseum Tourism District:

Cape Fear District:

Downtown Historic District:

Haymount Historic District:

Floodway:

100 Year Flood: <100YearFlood>

500 Year Flood: <500YearFlood>

Watershed:

General Project Information

Has the land been the subject of a map amendment application in the last five years?: No

Previous Amendment Approval Date:

Previous Amendment Case #:

Proposed Zoning District: SF6

Acreage to be Rezoned: 0.25

Is this application related to an annexation?: No

Water Service: Public

Sewer Service: Public

A) Please describe all existing uses of the land and existing structures on the site, if any:

Vacant lot

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

SF6 Multi family properties

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

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

Multiple rentals in area

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

No

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

Special use fits with same housing currently in the area

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

appropriate for rentals

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

Coincides with other properties in the area

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

Will encourage availability of affordable housing

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

Coincides with other properties in the area

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

to build duplex apartment

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

it would help values because in filled new construction

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

due to size of lot this would have no impact on natural environment in surrounding area

Primary Contact Information

Contractor's NC ID#:

Project Owner

Tim Evans
Rockfish Run Land and Development, LLC.
4239 Cameron Rd.
Fayetteville, NC 28306
P:9104230682
tim@longleafproperties.com

Project Contact - Agent/Representative

Tim Evans
Rockfish Run Land and Development, LLC.
4239 Cameron Rd.
Fayetteville, NC 28306
P:9104230682
tim@longleafproperties.com

Project Contact - Primary Point of Contact for the Developer

Tim Evans
Rockfish Run Land and Development, LLC.
4239 Cameron Rd.
Fayetteville, NC 28306
P:9104230682
tim@longleafproperties.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 Electrical Contractor #1 License Number:

NC State Mechanical Contractor's #1 License Number:

NC State Plumbing Contractor #1 License Number:

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

COPY

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$16.00

Parcel Identifier No. 0428-33-5880 Verified by _____ County on the ____ day of _____, 20____
By: _____

Mail/Box to: William E. Clark PLLC, 2850 Village Drive, Suite 204, Fayetteville, NC 28304

This instrument was prepared by: William E. Clark

Brief description for the Index: Lot 2 Greenwood Homes, Blk C, Sec. 3, PB 16, PG 13

THIS DEED made this 28 day of September, 2021, by and between

GRANTOR

PEDRO EMILIANO OSORNIO and spouse,
KELLY OSORNIO

PO Box 306
Fayetteville, NC 28302

GRANTEE

ROCKFISH RUN, LAND AND DEVELOPMENT LLC,
a North Carolina limited liability company

Mailing address: 4239 Cameron Road
Fayetteville, NC 28306

Enter in appropriate block for each Grantor and Grantee: name, mailing address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Fayetteville, Cumberland County, North Carolina and more particularly described as follows:

PIN: 042833-5880

BEING all of Lot 2, Block "C", Greenwood Homes Subdivision, Section III, as shown on plat of the same duly recorded in Plat Book 16, Page 13, Cumberland County, North Carolina Registry.

Property Address: 1040 Stamper Road, Fayetteville, NC 28303.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 6367, Page 52, Cumberland County. All or a portion of the property herein conveyed ____ includes or X does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Book 16, Page 13, Cumberland County.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

Kelly Osornio joins in this conveyance solely for the purpose of releasing any interest she now has or may hereafter acquire by virtue of her marriage to Pedro Emiliano Osornio.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

(Entity Name)

By: _____

Print/Type Name & Title: _____

By: _____

Print/Type Name & Title: _____

By: _____

Print/Type Name & Title: _____

Pedro Emiliano Osornio (SEAL)
Name: Pedro Emiliano Osornio

Kelly Osornio (SEAL)
Name: Kelly Osornio

Name: _____ (SEAL)

Name: _____ (SEAL)

State of North Carolina - County of Cumberland

I, the undersigned Notary Public of the County of Cumberland and State aforesaid, certify that Pedro Emiliano Osornio and Kelly Osornio personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 28 day of September, 20 .

My Commission Expires: 9-9-2022
(Affix Seal)

Mandalynn S Farley
Mandalynn S Farley Notary Public
Notary's Printed or Typed Name



AFFIDAVIT OF OWNERSHIP

I, Timothy B. Evans, being duly sworn, deposes and says:

1. That I am the owner of the property/properties located at 1040 Stampar Rd. in the City of Fayetteville, a political subdivision of the State of North Carolina.

2. I do hereby give permission to Rockfish Run Land Development, LLC 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 Nov. 9 - 2023.

Timothy B. Evans
Signature of Affiant

Signature of Affiant

Cumberland County, North Carolina

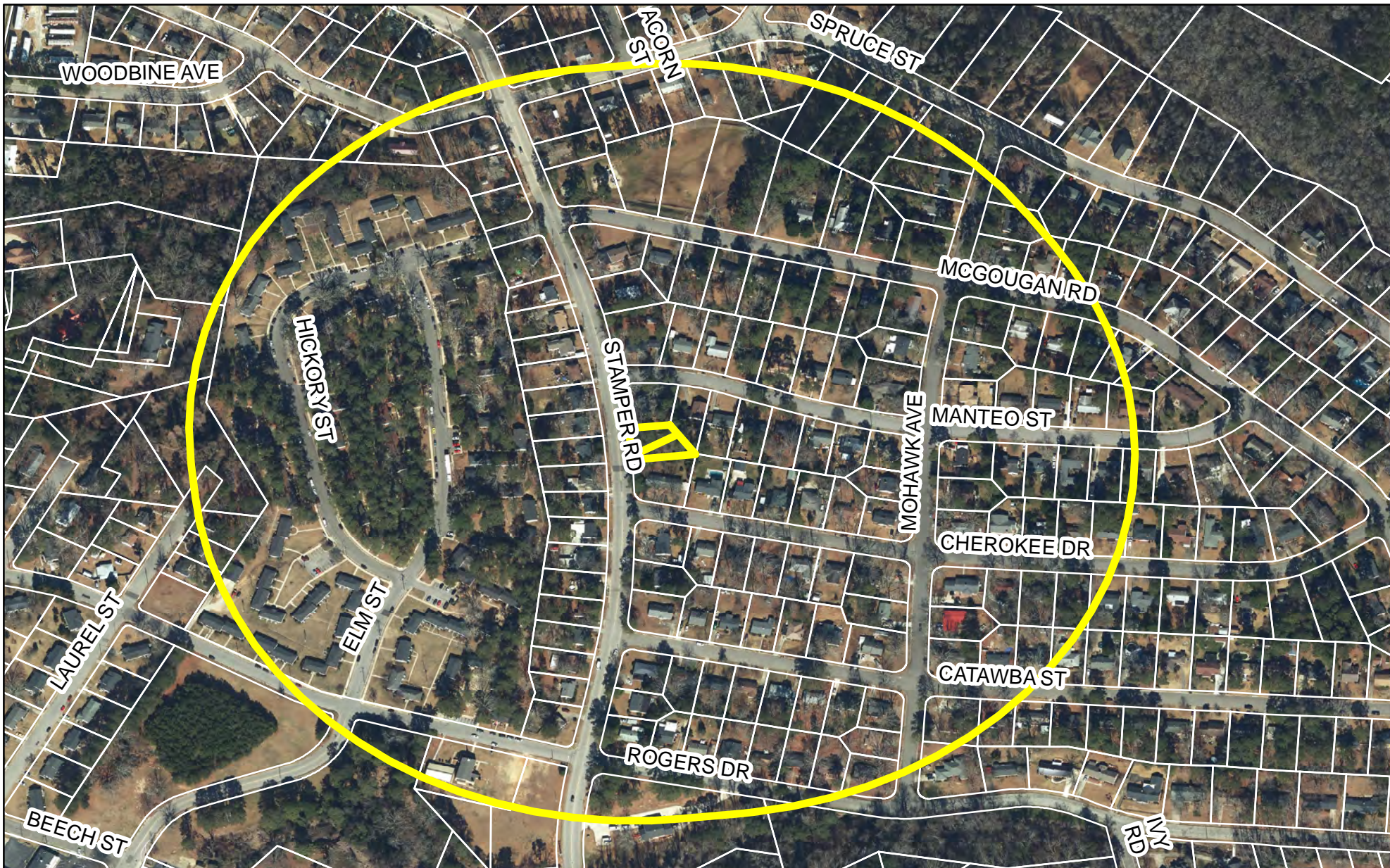
Sworn to and subscribed before me this day on the 9th day of Nov., 2023



Jacqueline J. Riddle
Signature of Notary Public

Jacqueline J. Riddle, Notary Public
Printed Name of Notary Public

My Commission Expires: 3-1-28



Aerial Notification Map

Case #: P23-53

Request: Rezoning
Single Family Residential 10 (SF-10) to
Single Family Residential 6 (SF-6)

Location: 1040 Stamper Road
0428335880000

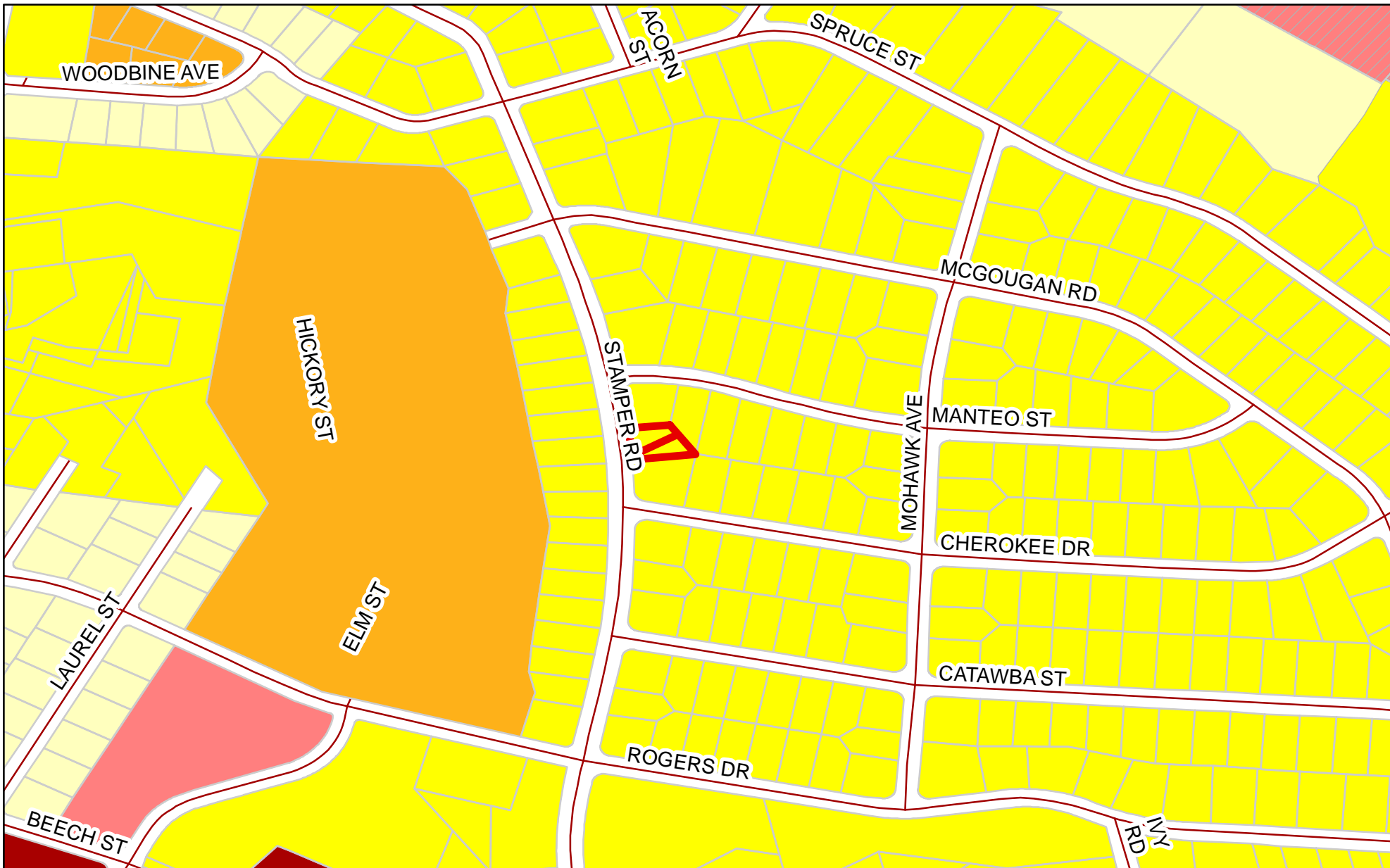
Legend

 P23-53  P23-53 Notification Buffer



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





Zoning Map

Case #: P23-53

Request: Rezoning
Single Family Residential 10 (SF-10) to
Single Family Residential 6 (SF-6)

Location: 1040 Stamper Road
0428335880000

Legend



P23-53



CC - Community Commercial



LC - Limited Commercial



LC/CZ - Conditional Limited Commercial



MR-5 - Mixed Residential 5



SF-6 - Single-Family Residential 6

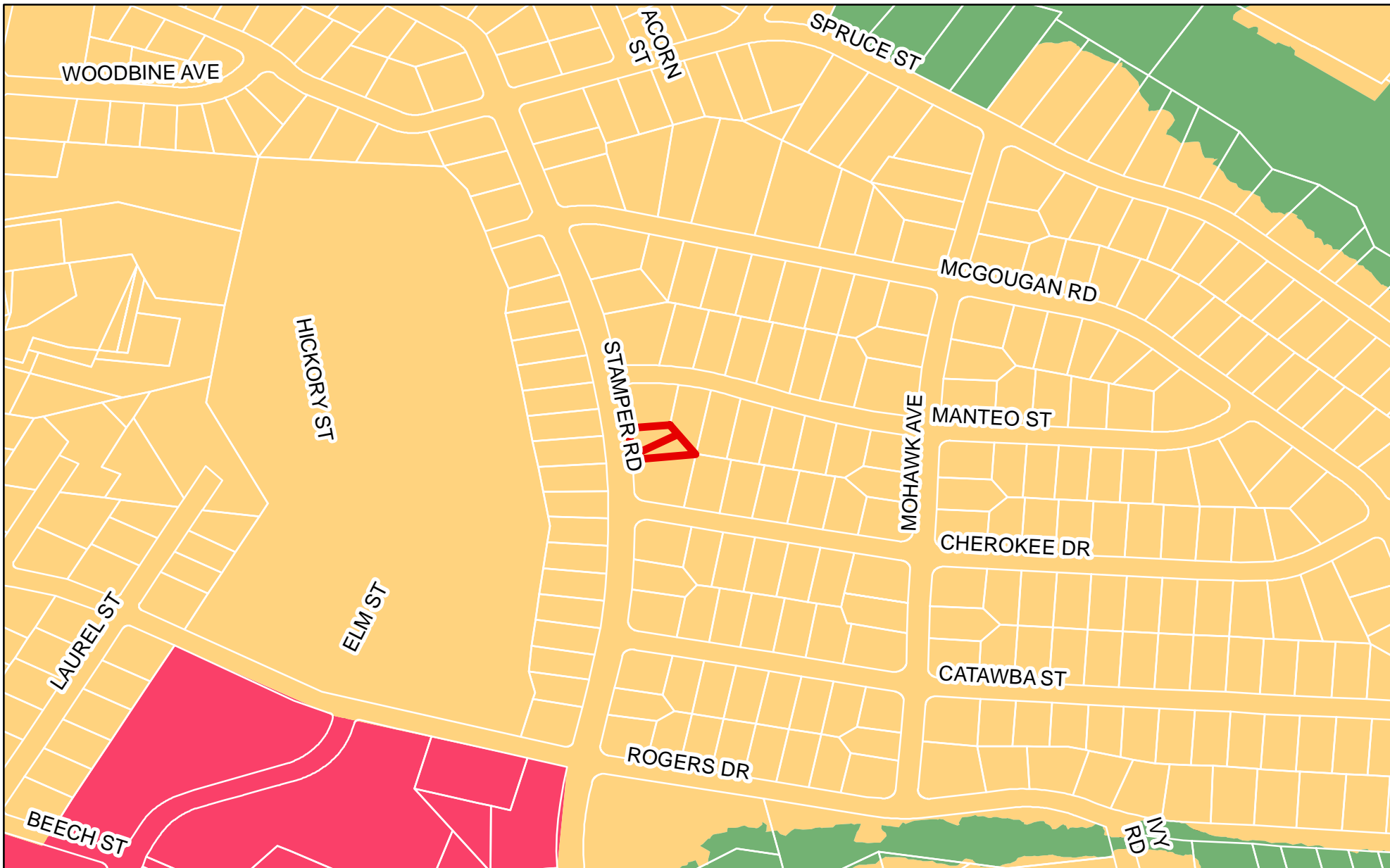


SF-10 - Single-Family Residential 10



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





Land Use Map

Case #: P23-53

Request: Rezoning
Single Family Residential 10 (SF-10) to
Single Family Residential 6 (SF-6)

Location: 1040 Stamper Road
0428335880000

Legend



P23-53 **Land Use Plan 2040**

Character Areas

- PARKOS - PARK / OPEN SPACE
- MDR - MEDIUM DENSITY
- CC - COMMUNITY CENTER



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







Consistency and Reasonableness Statement

Map Amendments

Pursuant N.C.G.S. Sections 160D-604 and -605, the Zoning Commission finds that the proposed zoning map amendment in case P23-53 is consistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

GOAL(S)	CONSISTENT	INCONSISTENT
GOAL #1: Focus value and investments around infrastructure and strategic nodes	X	
GOAL #4: Foster safe, stable, and attractive neighborhoods	X	

2. LAND USE POLICES AND STRATEGIES:

LAND USE POLICIES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.	X	
1.2: Encourage more intense uses, greater mix of uses and denser residential types in key focal areas.		X
LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods	X	
3.1: Examine and identify targeted redevelopment and infill areas throughout the city	X	
3.2: Identify potential barriers for redevelopment and reinvestment and provide flexibility through modification to development regulations while maintaining high standards.	X	
LUP 4: Create well-designed and walkable commercial and mixed use districts.	X	
4.1: Ensure new development meets basic site design standards	X	

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

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

Reasonableness

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

 X The size, physical conditions, and other attributes of the proposed use(s) will benefit the surrounding community.

 The amendment includes conditions that limit potential negative impacts on neighboring uses.

 X The proposed uses address the needs of the area and/or City.

 X The proposal adapts the zoning code to reflect modern land-use trends and patterns.

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

 X improves consistency with the long-range plan.

 X improves the tax base.

 preserves environmental and/or cultural resources.

 facilitates a desired kind of development.

 X provides needed housing/commercial area.

Additional comments, if any (write-in):

December 12, 2023

Date

Chair Signature

Print



City of Fayetteville

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

City Council Action Memo

File Number: 23-3712

Agenda Date: 12/12/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 5.03

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Heather Eckhardt, CZO - Planner II

DATE: December 12, 2023

RE:

P23-55. Conditional rezoning from Community Commercial (CC) to Light Industrial Conditional Zoning (LI/CZ) located at 716 Whitfield Street (REID 0436183799000) totaling 2.43 acres ± and being the property of Food Properties LLC.

COUNCIL DISTRICT(S):

2 - Malik Davis

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

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

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

Goal III: City invested in Today and Tomorrow

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

Executive Summary:

The applicant is seeking to rezone 716 Whitfield Street from Community Commercial (CC) to Light Industrial Conditional Zoning (LI/CZ). Vanguard Culinary Group is located on the subject property and the rezoning is intended to bring the use and the setbacks of the property into compliance.

Background:

Applicant: Jenkins Consulting Engineers, PA

Owner: Food Properties, LLC

Requested Action: CC to LI/CZ

REID #: 0436183799000

Council District: 2 - Malik Davis

Status of Property: Industrial food packaging

Size: 2.43 acres

Adjoining Land Use & Zoning:

- North: SF-6, MR-5, & LI - Single-family dwellings, vacant land, and railroad track
- South: CC - Vacant land and contractor supply
- East: SF-6 & HI - Single family dwellings, vacant land, and automotive repair
- West: LI - Vacant land and moving company warehouse

Annual Average Daily Traffic: Robeson Street: 30,500 (2021)

Letters Mailed: 72

Additional Reviews: This project was reviewed by the Technical Review Committee and standard comments were provided.

Land Use Plans:

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

According to the Plan, it is recommended that this portion of the city should be developed as Industrial/Employment Center (EC). Industrial/Employment Center calls for high intensity nonresidential uses with high impact or likelihood for nuisance.

Issues/Analysis:

History:

The subject property was annexed into the city in 1958 and subsequently developed in 1976. The site was developed as a cold storage facility and has continued as such until today. The subject property is used for food preparation and packaging of refrigerated and frozen foods. Due to the continued growth of the existing business, there have been multiple additions to the original structure.

Surrounding Area:

The surrounding area is a mixture of vacant land, single-family houses, automotive repair, and industrial warehouses. The existing single-family houses were built in the 1950s. The surrounding commercial and industrial developments began in the 1970s. The area to the immediate north has a few single-family houses and multiple vacant lots. There is a vacant lot and multiple commercial buildings located to the south of the site. To the east and west of the site, there are more vacant lots, warehouses, and commercial businesses.

Rezoning Request:

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

Conditional Zoning:

The request is to rezone the subject property from Community Commercial (CC) to Light Industrial Conditional Zoning (LI/CZ).

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

Specifics of this Conditional Rezoning:

The only proposed condition is to reduce all required setbacks to one foot. The front yard setback was previously reduced to one foot through the variance process. The use of the site as a cold storage plant is permitted in the LI zoning district.

Land Use Plan Analysis:

According to the Future Land Use Map & Plan, it is recommended that this portion of the city should be developed as Industrial/Employment Center (EC). Industrial/Employment Center calls for high intensity nonresidential uses with high impact or likelihood for nuisance.

Conclusion:

The subject property and surrounding area were developed long before the adoption of the Unified Development Ordinance. The subject property and surrounding single-family houses have existed in their current locations with little to no issues for many years. The requested rezoning will not only address a currently non-conforming use but will also address any non-conforming setbacks and allow for the future growth of the business and site.

Budget Impact:

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

Options:

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

- consistent with the Future Land Use Plan and an amended consistency statement;
3. Denies the map amendment request based on the evidence submitted and finds that the map amendment is inconsistent with the Future Land Use Plan.

Recommended Action:

The Professional Planning Staff recommends that the Zoning Commission move to recommend APPROVAL of the map amendment to LI/CZ 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 Industrial/Employment Center (EC).
- The uses permitted by the proposed change in zoning district classification and standards apply to such uses are appropriate in the immediate area of the land to be reclassified due to the existing zoning and uses surrounding this property; and
- There are no other factors that will substantially affect public health, safety, morals, or general welfare.

Attachments:

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

Project Overview**#1159440**

Project Title: Vanguard Culinary Group
Application Type: 5.2) Conditional Rezoning
Workflow: Zoning Commission Hearing

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN: 716 WHITFIELD ST (0436183799000) **Zip Code:** 28306

GIS Verified Data

Property Owner: Parcel
• 716 WHITFIELD ST: FOOD PROPERTIES LLC

Acreage: Parcel
• 716 WHITFIELD ST: 2.43

Zoning District: Zoning District
• 716 WHITFIELD ST: CC

Subdivision Name:

Fire District:

Airport Overlay District:

Hospital Overlay District:

Coliseum Tourism District:

Cape Fear District:

Downtown Historic District:

Haymount Historic District:

Floodway:

100 Year Flood: <100YearFlood>

500 Year Flood: <500YearFlood>

Watershed:

General Project Information

Proposed Conditional Zoning District: LI/CZ - Conditional
Light Industrial

Lot or Site Acreage to be rezoned: 4.46

Was a neighborhood meeting conducted?: No

Date of Neighborhood Meeting:

Number of Residential Units: 0

Nonresidential Square Footage: 35000

Landowner Information

Landowner Name: Food Properties, LLC

Deed Book and Page Number: 10359-0282, 950-0487,
11648-0485

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

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

The current site has a food prep area and packaging (refrigerated and frozen (facility with parking for employees in teh adjacent

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

The request is for 1' setbacks on all sides (front set back has already been approved (by others) at 1'.

(separate) lots. The business needs to expand their building, but will not be adding any new services.

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

Across Whitfield Street to the SW is Covan Moving Company, zoned CC.

Diagonally across Whitfield Street to the W is a vacant lot zoned LI.

Across the railroad tracks on Whitefield to the NW is a vacant lot zoned LI.

Adjacent to the SE is Urban Ministries, zoned CC.

Immediately adjacent to the E is a vacant lot zoned SF6.

Down Whitfield Street to the E across Camden Road is Fayetteville Publishing Company zoned HI.

Across Whitfield to the S. is Urban Ministries zoned CC.

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

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

At this time and to our knowledge and understanding, this proposed rezoning would not impact the comprehensive plan or any long range planning.

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

The owner of the building/company wishes to expand the footprint of the facility.

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

Supply for their services has increased.

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

The proposed zoning assignment will enable Vanguard to increase production in the planned addition.

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

Vanguard plans to build an addition on their building and will be in keeping with the current developments in the vicinity.

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

The proposed amendment will not change the dynamic that exists currently. It will not bring new industry to the area.

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

Strip-style development will not occur at this location. It would not serve the intended use of the facility.

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

There is LI in this area and thusly would not be isolated.

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

All UDO requirements for buffers will be strictly adhered to in an effort to not impact surrounding properties.

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

environment.:

There is no new impervious area at the rear of the building where the addition is planned for.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Peter Manis

716 Whitfield Street

Fayetteville, NC 28306

P:910-484-8999

petermanis@vanguardculinary.com

Project Contact - Agent/Representative

Buddy Jenkins

1582 McArthur Rd.

Fayetteville, NC 28311

P:910822-1724

buddyj@jenkinsce.pro

As an unlicensed contractor, I am aware that I cannot enter into a contract that the total amount of the project exceeds \$40,000. :

NC State General Contractor's License Number:

NC State Electrical Contractor #1 License Number:

NC State Electrical Contractor #2 License Number:

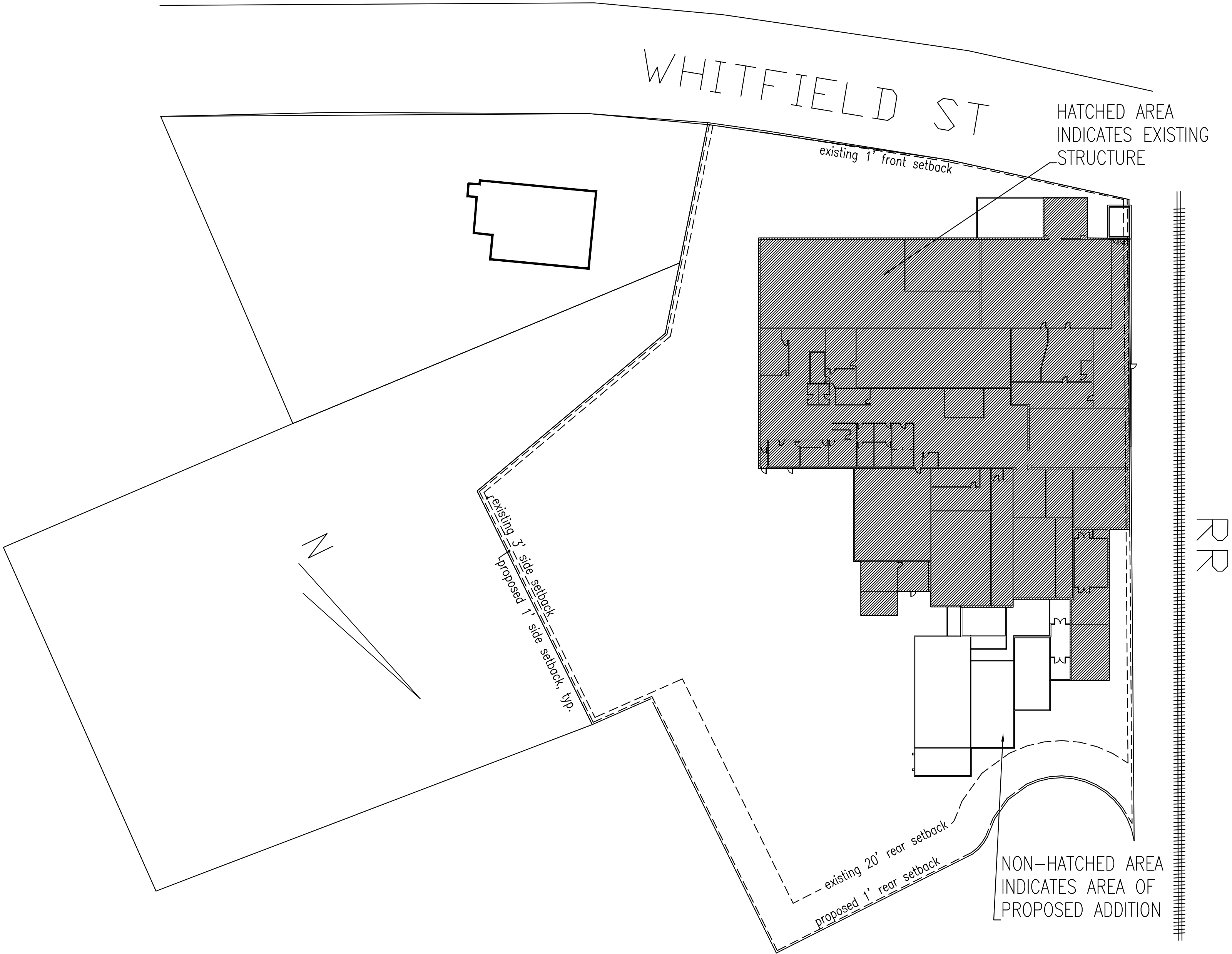
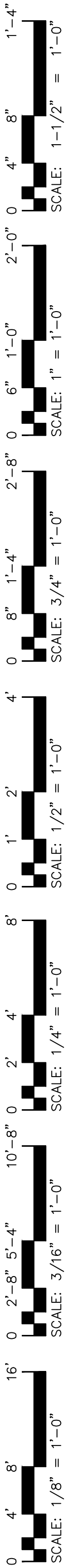
NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

NC State Plumbing Contractor #1 License Number:

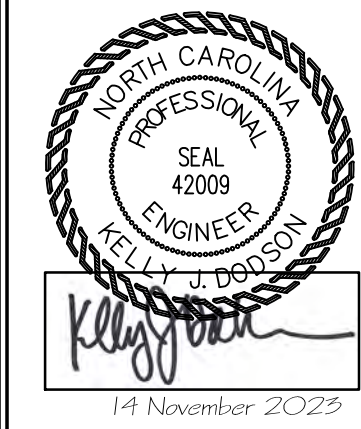
NC State Plumbing Contractor #2 License Number:

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



NOTE TO REVIEWER: THIS IS A SITE LAYOUT WITH THE BOUNDARY LINE BY STEVE CAIN, PLS. THE BOUNDARY IS ALL THAT HAS BEEN PERFORMED AT THIS TIME. THE BUILDING WAS PUT ONTO THE SITE BY JCE. THE SCALE OF THE BOUNDARY AND SCALE OF BUILDING IS TRUE, BUT THE BUILDING HAS NOT BEEN SURVEYED.

1 SITE LAYOUT
SP1 1" = 40'



DESIGNED/CHECKED BY: KJD
DRAWN BY: KJD
JCE PROJECT#: --
DATE: 14 NOV 2023

FINAL DRAWING ☐ FOR REVIEW PURPOSES ONLY
PRELIMINARY ☒ FOR DESIGN DEVELOPMENT ONLY
FINAL DRAWING ☐ FOR CONSTRUCTION
OWNER/TENANT:
CONTRACTOR/BUILDER:

PROJECT: VANGUARD CULINARY
716 WHITFIELD STREET FAYETTEVILLE, NC
SHEET: LANDSCAPE PLAN

SP1

WARRANTY DEED (A & C)

STATE OF NORTH CAROLINA,
CUMBERLAND COUNTY.

BOOK 950 PAGE 487

THIS DEED, Made this 20th day of September A.D. 1962 ,
by and between W. F. INMAN and wife, AGNES B. INMAN

of Cumberland County and
State of North Carolina , of the first part and INEZ B. HOLLAND

of Cumberland County, and State of North Carolina , of the second part:

WITNESSETH: That the said parties of the first part, in consideration of
Ten (\$10.00)-----DOLLARS,

to them paid by said party of the second part, the receipt of which
is hereby acknowledged, and for other good and valuable considerations, have bargained and sold, and by these
presents do bargain, sell and convey to said party of the second part

and her heirs and assigns, all of that certain tract
or parcel of land in Pearces Mill Township, Cumberland County,
State of North Carolina , adjoining the lands of

and others, and bounded as follows, viz:

BEGINNING at the intersection of the southern margin of Woodsdale Street
(formerly Hale Drive) and the eastern margin of Forest Street, and running
thence with the eastern margin of Forest Street, South 19 degrees 30 minutes
West 141.5 feet to a stake in the southern line of the subdivision; thence with it
South 83 degrees 37 minutes East 133 feet to a stake, the southwest corner of Lot
No. 1; thence North 19 degrees 30 minutes East 106 feet to a stake in the southern
margin of Woodsdale Street (formerly Hale Drive), the northwest corner of Lot
No. 3; thence with the southern margin of Woodsdale Street (formerly Hale Drive)
North 68 degrees West 130 feet to the Beginning, being Lots 19, 20, 21, 22 and 23
of Camden Road Heights, according to plat thereof recorded in Book of Plats 11,
Page 63, Cumberland County Registry.

The above described property is the same as described in deed from Frank Hutchinson
and wife, Brunell O. Hutchinson, dated June 15, 1959, to W. F. Inman and wife,
Agnes B. Inman, recorded in Book 781, Page 418, Cumberland County Registry.

TO HAVE AND TO HOLD, the aforesaid tract or parcel of land

BOOK 950 PAGE 488

and all privileges and appurtenances thereto belonging, to the said

party of the second part, her heirs and assigns, to
their only use and behoof forever.

And the said parties of the first part covenant

that they are seized of said premises in fee and have the right
to convey the same in fee simple, that the same are free and clear from all encumbrances,
and that they will warrant and

defend the said title to the same against the lawful claims of all persons whomsoever.

IN TESTIMONY WHEREOF, the said parties of the first part have hereunto set their
hands and seals, the day and year first above written.



W. F. Inman (SEAL)
W. F. INMAN

Agnes B. Inman (SEAL)
AGNES B. INMAN

NORTH CAROLINA, CUMBERLAND COUNTY.

I, Gertrude L. Murphy, a Notary Public, in and for said County and State,
do hereby certify that W. F. INMAN and wife, AGNES B. INMAN

personally appeared before me this day and acknowledged the due execution of the foregoing deed of conveyance.

Witness my hand and notarial seal, this 21st day of September, 1962

Gertrude L. Murphy Notary Public.

My commission expires on 7 Nov. 1962

NORTH CAROLINA, CUMBERLAND COUNTY

The foregoing certificate(s) of

Gertrude L. Murphy
Notary Public
of Cumberland County, N.C.

(is) (are each) adjudged to be correct. Let the instrument, and the certificate(s), be registered.

Witness my hand, this 28th day of

Sept., 1962
Wm. J. Bryant
Clerk Superior Court.

North Carolina: Cumberland County

Received 28 day of Sept. 1962 at 4:15 P.M.

Recorded 1st day of OCT 1962 Book 950 Page 487

Marion Clark, Register of Deeds

FILED
CUMBERLAND COUNTY NC
J. LEE WARREN, JR.
REGISTER OF DEEDS
FILED Aug 10, 2018
AT 02:47:48 pm
BOOK 10359
START PAGE 0282
END PAGE 0285
INSTRUMENT # 24519
RECORDING \$26.00
EXCISE TAX (None)
CHT

NORTH CAROLINA GENERAL WARRANTY DEED

This property is not Grantor's principal residence.

Excise Tax: \$ -0-

Parcel Identifier No. #0436-18-3799 Verified By _____ County on the _____ day of _____ 20____
By _____

~~Mail~~ to: Richard M. Wiggins, Esq., McCoy Wiggins PLLC, P.O. Box 87009, Fayetteville, NC 28304-7009

Return

This Instrument was prepared by: Richard M. Wiggins, McCoy Wiggins PLLC

Brief description for the Index: 716 Whitfield Street, Fayetteville, NC 28306

THIS DEED made this 9th day of August, 2018, by and between

GRANTOR	GRANTEE
FOOD SERVICE PROPERTIES, INC., a North Carolina corporation 135 Bayshore Drive Parkton, NC 28371	FOOD PROPERTIES LLC, a North Carolina limited liability company P.O. Box 65029 Fayetteville, NC 28306

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all his interest in those certain lots or parcels of land situated in the Cumberland County, North Carolina and more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.

The Property hereinabove described was acquired by Grantor by instrument recorded in Book 4444, Page 569, Cumberland County, North Carolina, Public Registry.

A map showing the above described property is recorded in Plat Book 16, Page 47, Cumberland County, North Carolina, Public Registry.

TO HAVE AND TO HOLD the aforesaid lots or parcels of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, the Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

1. 2018 Cumberland County ad valorem taxes;
2. County and/or Municipal Zoning Ordinances; and
3. Easements, restrictions and rights of way of record in the Cumberland County, North Carolina, Public Registry.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

FOOD SERVICE PROPERTIES, INC.

BY: Phillip R Taylor by (SEAL)
Phillip R Taylor, President

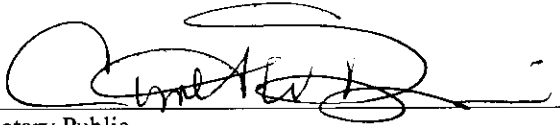
Charles G. Mann
attorney in fact

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

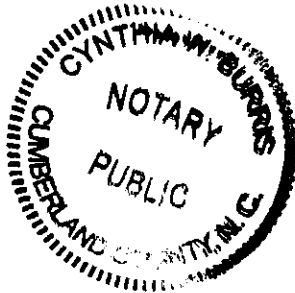
I certify that the following person(s) ("Principal") personally appeared before me this day and I have personal knowledge of the identity of the Principal(s) or have seen satisfactory evidence of the Principal's identity, by a current state or federal identification with the Principal's photograph in the form of a driver's license or a credible witness has sworn to the identity of the Principal(s), each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and is duly authorized to sign such document for FOOD SERVICE PROPERTIES, INC. in the capacity indicated: Name of Principals: CHARLES G. MANIS, ATTORNEY-IN-FACT FOR PHILLIP R. TAYLOR, PRESIDENT OF FOOD SERVICE PROPERTIES, INC.

Date: August 9, 2018.


Notary Public
Print Name: Cynthia W. Burris

My Commission Expires: 11/29/2018

[OFFICIAL SEAL]



(N.P. SEAL)

EXHIBIT A

LYING AND BEING SITUATED IN CUMBERLAND COUNTY, NORTH CAROLINA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHEASTERN MARGIN OF THE ONE HUNDRED FOOT RIGHT OF WAY OF WHITFIELD STREET WITH THE SOUTHEASTERN MARGIN OF THE RIGHT OF WAY OF THE SEABOARD COAST LINE RAILROAD, AND RUNNING THENCE WITH THE ONE HUNDRED FOOT RIGHT OF WAY OF WHITFIELD STREET, SOUTH 31 DEGREES 52 MINUTES EAST 100 FEET AND SOUTH 35 DEGREES 14 MINUTES EAST 100 FEET AND SOUTH 36 DEGREES 15 MINUTES EAST 31.80 FEET TO A MONUMENT; THENCE NORTH 53 DEGREES 41 MINUTES EAST 116.77 FOOT TO A MONUMENT; THENCE SOUTH 83 DEGREES 37 MINUTES EAST 138.22 FEET TO AN IRON PIPE; THENCE NORTH 19 DEGREES 30 MINUTES EAST 136.57, FEET TO A STAKE IN THE SOUTHERN MARGIN OF FOREST STREET; THENCE WITH THE SOUTHERN MARGIN OF FOREST STREET NORTH 68 DEGREES 00 MINUTES WEST 34.74 FEET TO A STAKE; THENCE WITH THE WESTERN MARGIN OF FOREST STREET NORTH 19 DEGREES 30 MINUTES EAST 153.46 FEET TO ITS INTERSECTION WITH THE SOUTHERN MARGIN OF IDLEWOOD STREET AS IT CURVES TO THE LEFT ON A RADIUS OF 25.00 FEET AN ARC DISTANCE OF 20.15 FEET TO THE END OF A CURVE: THENCE CONTINUING WITH THE SOUTHERN MARGIN OF IDLEWOOD STREET AS IT CURVES TO THE RIGHT ON A RADIUS OF 40.00 FEET AN ARC DISTANCE OF 107.87 FEET TO THE END OF THE CURVE IN THE SOUTHEASTERN MARGIN OF THE RIGHT OF WAY OF THE SEABOARD COAST LINE RAILROAD THENCE WITH IT SOUTH 45 DEGREES 23 MINUTES WEST 346.50 FEET TO THE POINT OF BEGINNING, CONTAINING 2.43 ACRES, MORE OR LESS.

PIN # 0436-18-3799

Street Address: 716 Whitfield Street, Fayetteville, NC 28306

FILED	Jan 05, 2023
AT	03:58:48 PM
BOOK	11648
START PAGE	0485
END PAGE	0487
INSTRUMENT #	00426
RECORDING	\$26.00
EXCISE TAX	\$200.00

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax \$200.00

P&L File # 7749-1

Parcel Identifier No.: 0436-18-4552

This instrument prepared by: Parker C. Lee, a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.

Return to: Person & Lee PLLC

Brief Description for the Index: .69 LD Cross Creek TWP

THIS DEED made this January 4, 2023 by and between:

GRANTOR	GRANTEE
PHILBERT BAYLESS and wife LINDA BAYLESS Mailing Address: 148 Bremer Street Fayetteville, NC 28303	FOOD PROPERTIES LLC, a North Carolina limited liability company Mailing Address: PO Box 65029 Fayetteville, NC 28306 Property Address: 702/704 Whitfield Street Fayetteville, NC 28306

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in or near the City of Fayetteville, Cross Creek Township, Cumberland County, North Carolina and more particularly described as follows:

SEE ATTACHED EXHIBIT "A"

The property hereinabove described was acquired by instrument recorded in Book 2842, Page 645, Cumberland County, North Carolina, Registry.

See Cumberland County Estate file 14-E-881 for the Estate of Goldie Willis. Grantor acquired title via Will of Goldie Willis.

Submitted electronically by "Person & Lee PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Cumberland County Register of Deeds.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions: restrictive covenants, utility easements, permits, and rights of way as the same may appear of record

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal effective the day and year first above written.

If initialed, the property includes the primary residence of at least one of the Grantors. (NC GS § 105-317.2) _____

Philbert C Bayless (SEAL)
Philbert Bayless

Linda Bayless (SEAL)
Linda Bayless

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

I certify that the following person(s) personally appeared before me this day and I have personal knowledge of the identity of the principal(s) or have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a driver's license or a credible witness has sworn to the identity of the principal(s); each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Name of Principal: Philbert Bayless and Linda Bayless

Date: 1/4/2023

Parker C. Lee
Printed Name of Notary Public

My Commission Expires: 5/7/2024

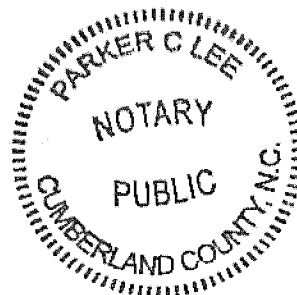


Exhibit A

Legal Description for 702/704 Whitfield St, Fayetteville NC

PIN: 0436-18-4552

TRACT ONE: IN PEARCE'S MILL TOWNSHIP, CUMBERLAND COUNTY, NORTH CAROLINA, about one mile South of the center of Fayetteville, and on the eastern side of the main line of the A.C.L. R.R., BEGINNING at a notch in the North margin of the pavement of a paved road leading from Robeson Street to the Camden Road, at a point 136.5 feet Eastwardly from the eastern rail of said A.C.L. R.R. track; runs thence North 83-30 East 89 feet to an iron pipe corner; thence South 67-30 East 314.5 feet to an iron pipe corner; thence South 20 West 221 feet to a notch in the North Margin of the paved road; thence North-westwardly with the North margin of the road 453.3 feet to the beginning, and being the Northern part of that certain second tract described in deed recorded in Book 558, page 276, Cumberland County Registry.

TRACT TWO: BEGINNING at the beginning point of that deed duly recorded in Book 971, page 415, Cumberland County, N. C. Registry; and running thence for a first call, South 53 degrees 35 minutes West 38.2 feet to a point; thence South 67 degrees 34 minutes East 15.7 feet to a point; thence North 29 degrees 32 minutes East 32.9 feet to the beginning.

For title references see deeds recorded in Book 2229, page 213, Book 994, page 293, Book 971, page 145 and Book 2463, page 695, all in the Cumberland County Registry.

EXCEPTED from the above two tracts is that parcel of land deeded to Godwin Building Supply Company, Inc. described as follows:

BEGINNING at a stake in the northern margin of Whitfield Street, which stake, measured along the northern margin of said Whitfield Street, is South 31 degrees 54 minutes East 123.3 feet from the eastern margin of Atlantic Coast Line Railroad right-of-way; and running thence for a first call South 83 degrees 37 minutes East 40.1 feet to an iron stake; thence South 67 degrees 34 minutes East 94.2 feet to an iron stake; thence South 53 degrees 35 minutes West 78.2 feet to an iron stake in the northern margin of Whitfield Street; thence, with the northern margin of Whitfield Street, as it curves to the right, on a general course of North 36 degrees 27 minutes West a distance of 108 feet to the beginning. For title reference see Book 718, page 267, Cumberland County Registry.

AFFIDAVIT OF OWNERSHIP

I, Charles Morris, being duly sworn, deposes and says:

1. That I am the owner of the property/properties located at 716 Whitfield Street in the City of Fayetteville, a political subdivision of the State of North Carolina.

2. I do hereby give permission to Kelly Dodson (Jenkins Consulting) (JCT) 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 11-13-23.


Signature of Affiant

Signature of Affiant

Cumberland County, North Carolina

Sworn to and subscribed before me this day on the 8 day of November, 2023

(Official Seal)




Signature of Notary Public

Nicolas Acosta, Notary Public
Printed Name of Notary Public

My Commission Expires: 11/26/23

AFFIDAVIT OF OWNERSHIP

I, Constantine Manis, being duly sworn, deposes and says:

1. That I am the owner of the property/properties located at 716 Whitfield in the City of Fayetteville, a political subdivision of the State of North Carolina.

2. I do hereby give permission to Kelly Dodson (JCE) (Jenkins Consulting) 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 11-13-23.

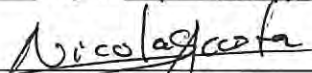


Signature of Affiant

Signature of Affiant

Cumberland County, North Carolina

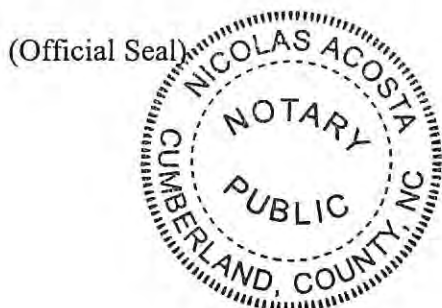
Sworn to and subscribed before me this day on the 8 day of November, 2023.



Signature of Notary Public

Nicolas Acosta, Notary Public
Printed Name of Notary Public

My Commission Expires: 11/26/2023





Aerial Notification Map

Case #: P23-55

Request: Conditional Rezoning
Community Commercial (CC) to
Light Industrial Conditional Zoning (LI/CZ)

Location: 716 Whitfield St

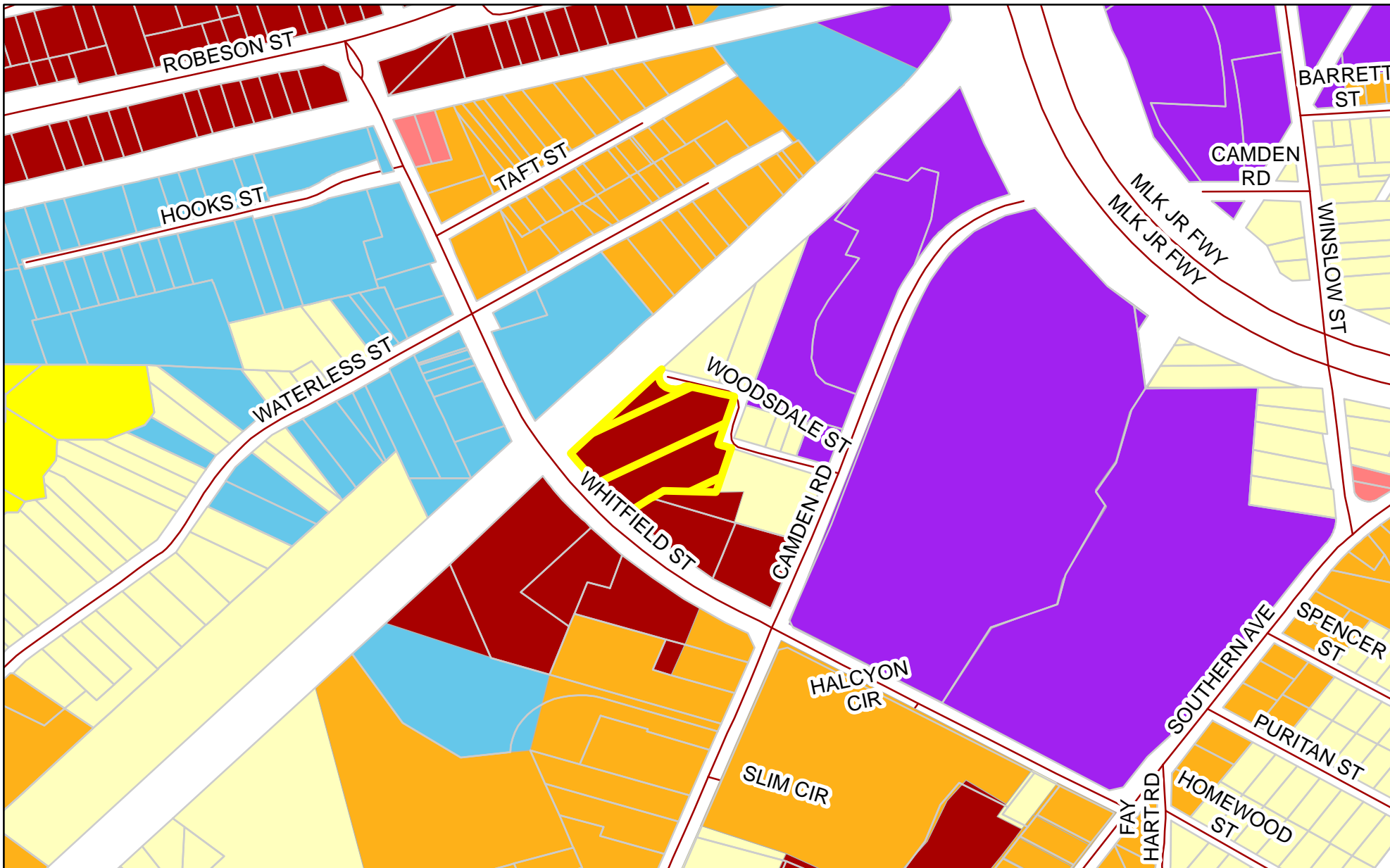
Legend

 P23-55  P23-55 Notification Buffer



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














Zoning Map

Case #: P23-55

Request: Conditional Rezoning
Community Commercial (CC) to
Light Industrial Conditional Zoning (LI/CZ)

Location: 716 Whitfield St

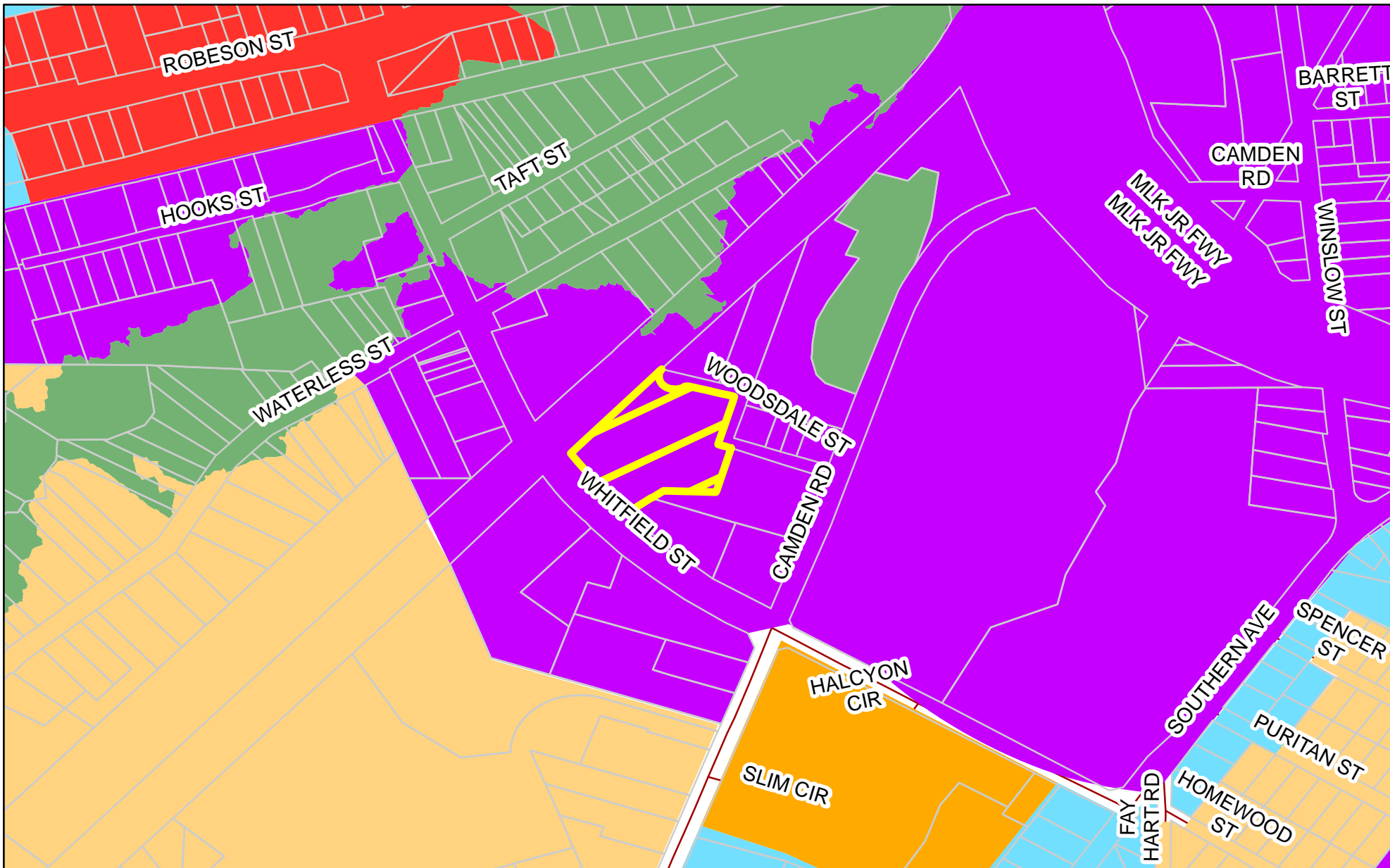
Legend

	P23-55		MR-5 - Mixed Residential 5
	CC - Community Commercial		SF-6 - Single-Family Residential 6
	HI - Heavy Industrial		SF-10 - Single-Family Residential 10
	LC - Limited Commercial		County
	LI - Light Industrial		



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





Land Use Map

Case #: P23-55

Request: Conditional Rezoning
Community Commercial (CC) to
Light Industrial Conditional Zoning (LI/CZ)


Location: 716 Whitfield St





Legend

 P23-55

Land Use Plan 2040

Character Areas

 PARKOS - PARK / OPEN SPACE
 MDR - MEDIUM DENSITY

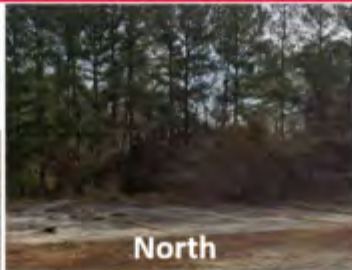
 HDR - HIGH DENSITY RESIDENTIAL
 HC - HIGHWAY COMMERCIAL
 OI - OFFICE / INSTITUTIONAL
 EC - EMPLOYMENT CENTER

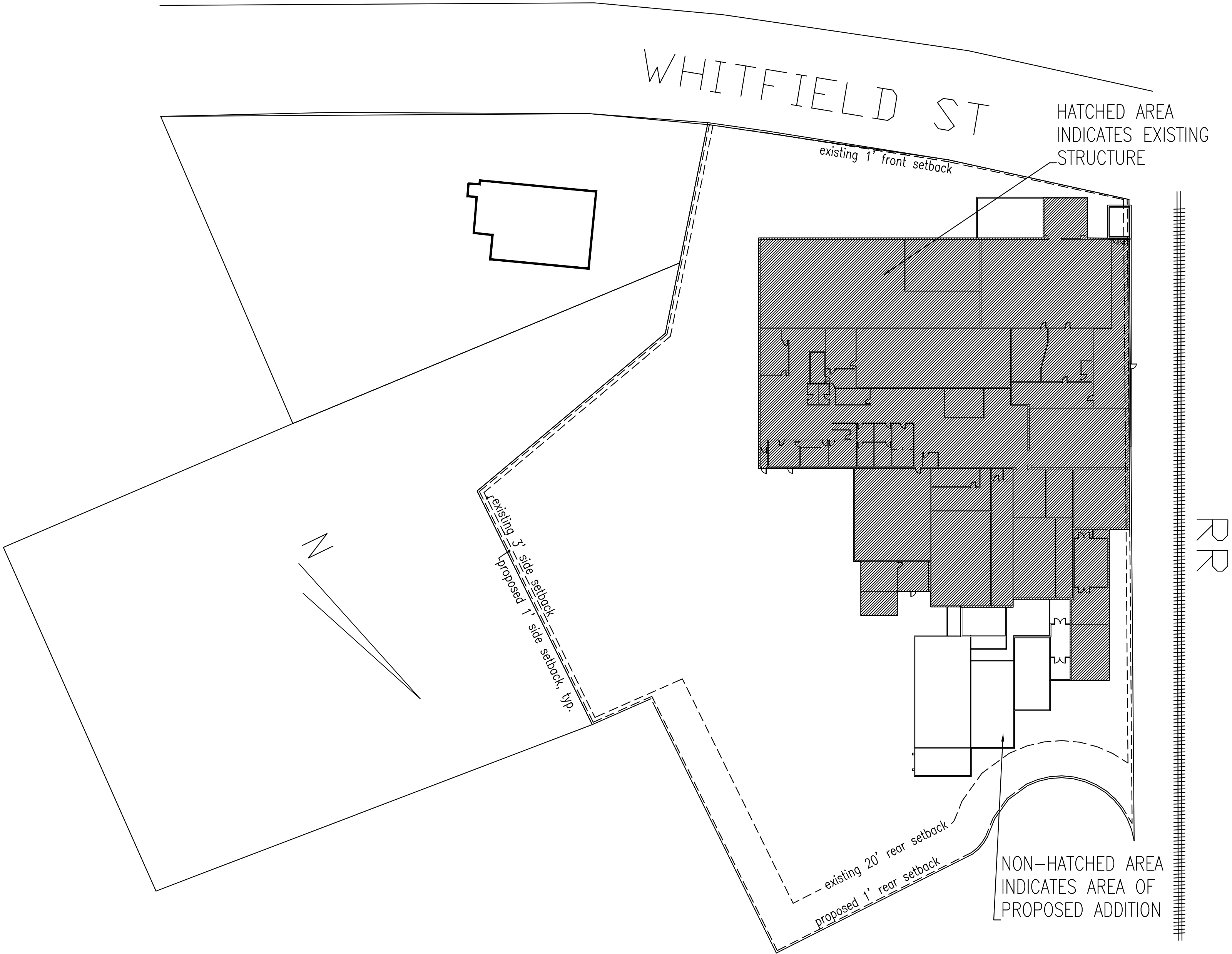
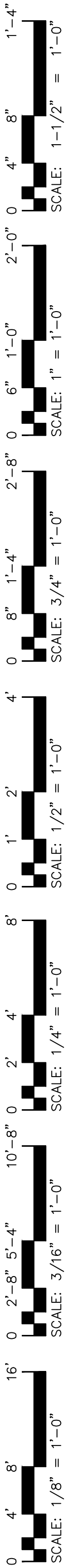


Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.









NOTE TO REVIEWER: THIS IS A SITE LAYOUT WITH THE BOUNDARY LINE BY STEVE CAIN, PLS. THE BOUNDARY IS ALL THAT HAS BEEN PERFORMED AT THIS TIME. THE BUILDING WAS PUT ONTO THE SITE BY JCE. THE SCALE OF THE BOUNDARY AND SCALE OF BUILDING IS TRUE, BUT THE BUILDING HAS NOT BEEN SURVEYED.

1 SITE LAYOUT
SP1 1" = 40'

PROJECT:
VANGUARD CULINARY
716 WHITFIELD STREET FAYETTEVILLE, NC
SHEET:
LANDSCAPE PLAN

SP1

FINAL DRAWING ☐ FOR REVIEW PURPOSES ONLY
PRELIMINARY ☒ FOR DESIGN DEVELOPMENT ONLY
FINAL DRAWING ☐ FOR CONSTRUCTION
OWNER/TENANT:
CONTRACTOR/BUILDER:

DESIGNED/CHECKED BY:
KJD
DRAWN BY:
KJD
JCE PROJECT#:
DATE:
14 NOV 2023



Consistency and Reasonableness Statement

Map Amendments

Pursuant N.C.G.S. Sections 160D-604 and -605, the Zoning Commission finds that the proposed zoning map amendment in case P23-55 is consistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

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

2. LAND USE POLICES AND STRATEGIES:

LAND USE POLICIES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 2: Encourage strategic economic development	X	
2.1: Encourage economic development in designated areas		
LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods	X	
3.1: Examine and identify targeted redevelopment and infill areas throughout the city	X	
3.2: Identify potential barriers for redevelopment and reinvestment and provide flexibility through modification to development regulations while maintaining high standards.	X	
LUP 4: Create well-designed and walkable commercial and mixed use districts.	X	
4.1: Ensure new development meets basic site design standards	X	

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

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

Reasonableness

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

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

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

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

Additional comments, if any (write-in):

December 12, 2023

Date

Chair Signature

Print