



City of Fayetteville

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

Meeting Agenda - Final Zoning Commission

Tuesday, March 14, 2023

6:00 PM

Festival Park

1.0 CALL TO ORDER

2.0 APPROVAL OF AGENDA

3.0 CONSENT

- 3.01** A23-06. Order of Approval - Findings of Fact: Variance to reduce the corner side yard setback for an accessory use/structure and a privacy fence in a Single Family Residential 10 (SF-10) zoning district, located at 1917 Partridge Court (REID # 9496761688000), containing 0.59 acres ± and being the property of Eric & Tracy Bass.
- 3.02** A23-07. Order of Approval – Findings of Fact - Variance to reduce the front, rear, and southern side yard setback for a principal structure located at 105 S Broad Street (REID # 0447126041000), containing 0.63 acres ± and being the property of Hudson & Hudson Investments LLC, represented by Mickey Hudson.
- 3.03** Approval of Minutes: February 14, 2023

4.0 PUBLIC HEARINGS (Public & Legislative)

- 4.01** P23-09. Initial zoning of a 10± acre parcel currently zoned Planned Commercial C(P) to Heavy Industrial (HI), located at 1530 Middle River Loop (REID#0447576483000), and being the property of Carolina Sun Investments, LLC, represented by Scott Brown of 4D Site Solutions.
- 4.02** P23-10. Rezoning from Single-Family Residential 10 (SF-10) to Community Commercial (CC), located at 0 Bingham Drive (REID #0406541854000), totaling 7.61 acres ± and being the property of Tarek Gayed and Antwan Awad, represented by The Charleston Group.

5.0 OTHER ITEMS OF BUSINESS

6.0 ADJOURNMENT



City of Fayetteville

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

City Council Action Memo

File Number: 23-3264

Agenda Date: 3/14/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Evidentiary Hearing

Agenda Number: 3.01

TO: Zoning Commission

THRU: Craig Harmon - Senior Planner

FROM: Demetrios Moutos - Planner I

DATE: February 14, 2023

RE: **A23-06. Order of Approval - Findings of Fact:** Variance to reduce the corner side yard setback for an accessory use/structure and a privacy fence in a Single Family Residential 10 (SF-10) zoning district, located at 1917 Partridge Court (REID # 9496761688000), containing 0.59 acres ± and being the property of Eric & Tracy Bass.

COUNCIL DISTRICT(S):
6 - Derrick Thompson

Relationship to Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal 4: Desirable Place to Live, Work and Recreate

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

Executive Summary:

The 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: Eric S. Bass, Tracy M. Bass

Applicant: Eric S. Bass

Requested Action: Reduction in corner side yard setback for both an accessory use/structure and a fence in a Single Family Residential 10 (SF-10) zoning district.

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

Property Address: 1917 Partridge Court

Size: 0.59 acres ± or 25,700.4 square feet

Existing Land Use: Single Family Dwelling

Surrounding Zoning and Land Uses

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

Letters Mailed: 29

Issues/Analysis:

The property is 0.59-acres ± and is located at 1917 Partridge Court. The site is currently a single family dwelling and is located in the Wells subdivision. The current Unified Development Ordinance (UDO) was adopted in 2011. The property was platted in 1981, the house was built in 1982, and the property was annexed into the City of Fayetteville in 2005.

According to Article 30-3.D.3 of the UDO, accessory structures are “not allowed in front, side, or corner side setbacks”. This means that any accessory uses/structures in a corner side yard area need to meet the same setbacks that are required of a principle structure. In the Single Family Residential 10 (SF-10) zoning district, the setbacks for a principle structure are 30 feet on the front and corner side, 10 feet on the side, and 35 feet at the rear (or 20 feet when the corner side setback is 30 feet or more). Setbacks are measured from property lines. Permits for the pool were sought after at the same time as the excavation of the site took place. Permits were denied because the pool did not meet the minimum setback requirements. The applicant is requesting to reduce the setback minimum for the pool from 30 feet to 15 feet from the property line.

Additionally, a six foot wood privacy fence was permitted along the corner side and side yard property lines in June of 2022. Article 30-5.D.4 of the UDO states that the “minimum setback for a fence or wall serving individual single-family (attached or detached) and two-to four-family dwellings in the corner side yard is 0 feet for a fence or wall 36 inches or less in height, and for others the lesser of 5 feet or in line with the corner side of the dwelling”. The approved permit application showed the fence being 25 feet off the corner side property line, but due to a misunderstanding on the location of the property line that wasn’t made apparent until after a survey was conducted, the fence was erected 3 feet from the corner side property line. The applicant is requesting a reduction in the required 5 foot setback to a 3 foot setback to rectify this mistake and bring the property into compliance.

Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

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

Subsequent Development

The minimum lot area for a single family house in the SF-10 zoning district is 10,000 square feet. This lot is 0.59 acres \pm or 25,700.4 square feet \pm . This lot meets the minimum square footage for the SF-10 district and is comparable to other properties in the Wells subdivision regarding lot size and shape.

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

Findings of Fact Statements as reviewed by the Planning Staff:

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

The applicant states “We obtained 3 quotes for a pool installation on the north east corner of our lot. We hired Green State Landscaping to install a pool on our property with the understanding they would be obtaining the necessary permits before beginning the construction of the pool. We were first notified of an issue after the pool was installed (AUG 2022): The permit had not been approved. We were informed that our septic had to be brought up to code via nitrate line relocation or connection to city sewer. We connected to city sewer to meet that requirement code. Work was completed in OCT 2022 and passed inspection. After that, we were informed of the setback issue by Green State Landscaping. At this point, construction has halted with 75% of the pool complete and installed. We are unable to finish the pool, fence to go around the pool, or remove the dirt piled up on our property.”

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

According to the application, “We are a corner lot with very limited backyard space. After we factor in the 30ft set back we lose 5520 sq. ft. Our property already has an existing building on the same side area. Shown in attachment.”

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

According to the applicant, “No other neighboring property affects the regulation in request.”

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 “There was no intent to violate the code in the process of the pool construction. We believed Green State Landscaping did their dual diligence before beginning the project and followed proper procedure with the city of Fayetteville. There is no safety or rain water concerns for decreasing the setback to 15ft.”

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 "There is no impact to surrounding areas for decreasing to a 15ft set back. We will still have the 20ft right of way plus the additional 15ft setback distance from the property line."

Budget Impact:

There is no immediate budgetary impact.

Options:

1. Approve findings as written by staff.
2. Remand back to staff for specific changes.

Recommended Action:

Staff recommends approval of the findings of fact as written.

Attachments:

1. Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Map
5. Subject Property Photos
6. Surrounding Property Photos
7. Site Plan
8. SF-10 Dimensional Standards Table
9. Order of Findings of Fact



Planning & Zoning

433 Hay Street
Fayetteville, NC 28301
910-433-1612
www.fayettevillenc.gov

Project Overview

#924008

Project Title: Wells Place Pool

Application Type: 5.4) Variance

Workflow: Staff Review

Jurisdiction: City of Fayetteville

State: NC

County: Cumberland

Project Location

Project Address or PIN: 1917 PARTRIDGE CT
(9496761688000)

Zip Code: 28304

GIS Verified Data

Property Owner: Parcel

- 1917 PARTRIDGE CT: BASS, ERIC S;BASS, TRACY M

Acreage: Parcel

- 1917 PARTRIDGE CT: 0.59

Zoning District: Zoning District

- 1917 PARTRIDGE CT: SF-10

Subdivision Name:

Fire District:

Hospital Overlay District:

Cape Fear District:

Haymount Historic District:

100 Year Flood:

Watershed:

Airport Overlay District:

Coliseum Tourism District:

Downtown Historic District:

Floodway:

500 Year Flood:

Variance Request Information

Requested Variances: Minimum yard/setback

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 property falls under the SF-10 District requiring a front and corner side setback of 30 ft. We are requesting a variance to have a pool permit approved to complete construction that was done by Green State Landscaping. We are requesting a 15ft setback to complete this project.

Section of the City Code from which the variance is being requested.: 30.3.D

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

This neighborhood is zoned for SF-10 and all properties have the same requirements.

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.

Provide a written description of any hardship(s) and how such hardship(s) is not self-imposed.:

We obtained 3 quotes for a pool installation on the north east corner of our lot. We hired Green State Landscaping to install a pool on our property with the understanding they would be obtaining the necessary permits before beginning the construction of the pool. We were first notified of an issue after the pool was installed (AUG 2022): The permit had not been approved. We were informed that our septic had to be brought up to code via nitrate line relocation or connection to city sewer. We connected to city sewer to meet that requirement code. Work was completed in OCT 2022 and passed inspection. After that, we were informed of the setback issue by Green State Landscaping. At this point, construction has halted with 75% of the pool complete and installed. We are unable to finish the pool, fence to go around the pool, or remove the dirt piled up on our property.

Indicate if the property has exceptional topographic conditions or some other extraordinary situation or condition that makes it unlike other properties in the immediate vicinity.:

We are a corner lot with very limited backyard space. After we factor in the 30ft set back we loose 5520 sq.ft. Our property already has an existing building on the same side area. Shown in attachment.

Is there some particular condition, situation, or development on the property immediately adjacent to the subject property that affects the subject property's ability to comply with the regulations?:

No other neighboring property affects the regulation in request.

Describe how the variance is in harmony with the general purpose and intent of the City Code, and preserves the spirit.:

There was no intent to violate the code in the process of the pool construction. We believed Green State Landscaping did their dual diligence before beginning the project and followed proper procedure with the city of Fayetteville. There is no safety or rain water concerns for decreasing the setback to 15ft.

Explain any potential negative external impacts that may result from the proposed variance, and how they will be mitigated. Financial hardship cannot be considered for a reason to grant a variance.:

There is no impact to surrounding areas for decreasing to a 15ft set back. We will still have the 20ft right of way plus the additional 15ft setback distance from the property line.

Height of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Height of Sign Face : 0

Square Footage of Sign Face : 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Primary Contact Information

Contractor's NC ID#:

Project Owner

Eric Bass

1917 Partridge Ct

Fayetteville, NC 28304

P: (Phone)2542588523

ericbass@gmail.com

Project Contact - Agent/Representative

Eric Bass

1917 Partridge Ct

Fayetteville, NC 28304

P: (Phone)2542588523

ericbass@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:

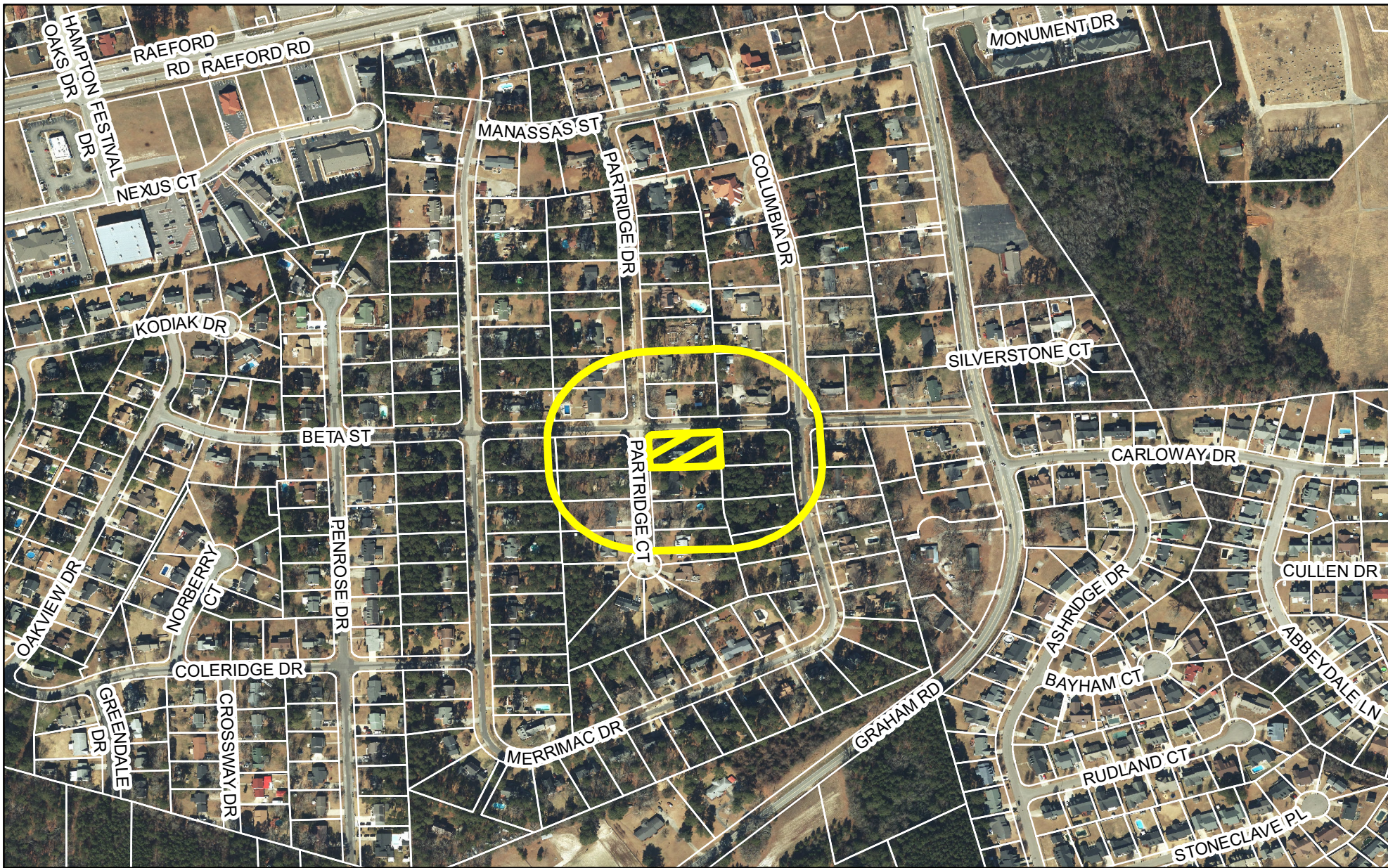
NC State Electrical Contractor #2 License Number:

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 #: A23-06

Request: Variance to reduce required setbacks.
Location: 1917 Partridge Ct.

Legend

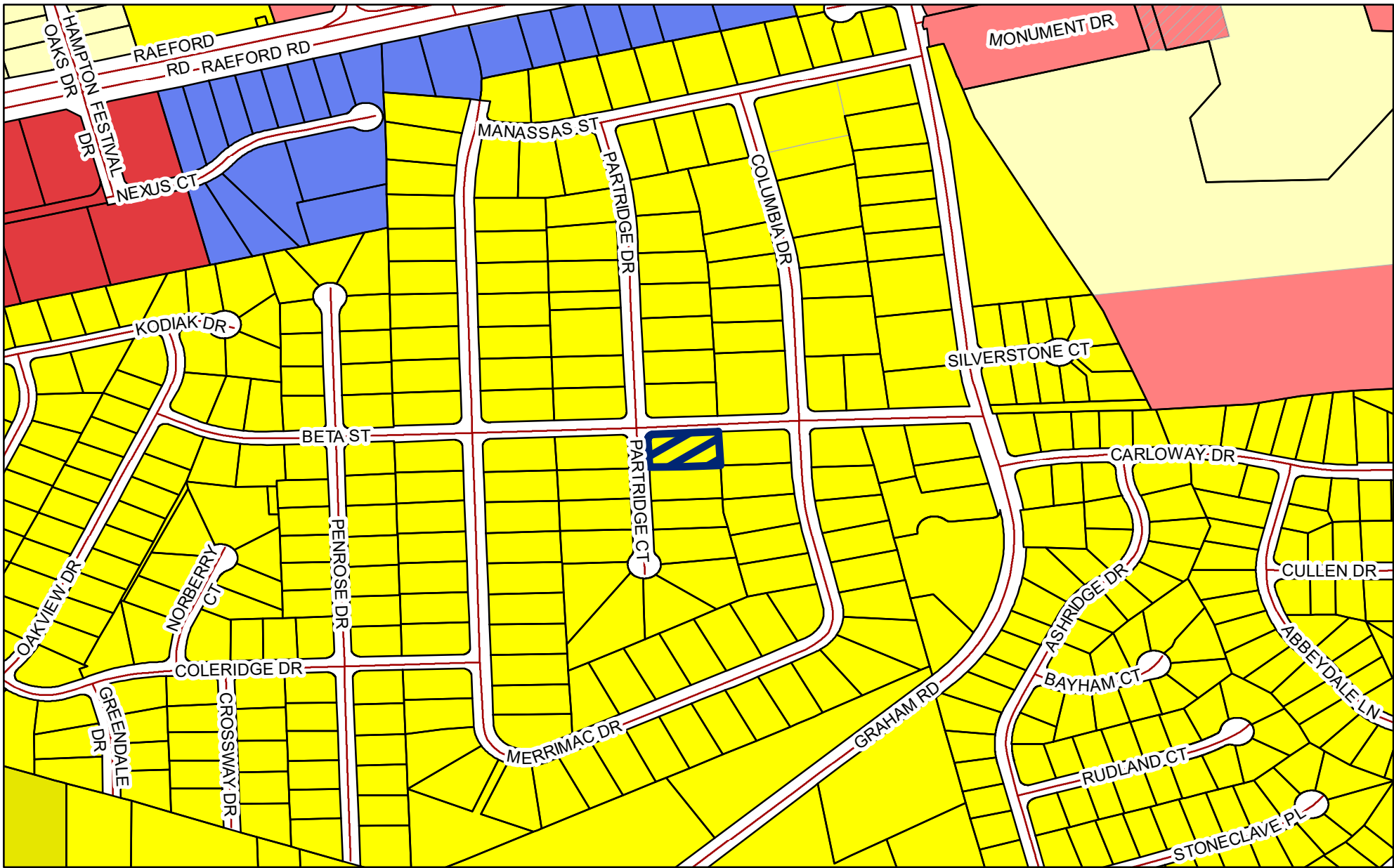
A23-06 Buffer

A23-06



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













Zoning Map Case #: A23-06

Request: Variance to reduce required setbacks.

Location: 1917 Partridge Ct.

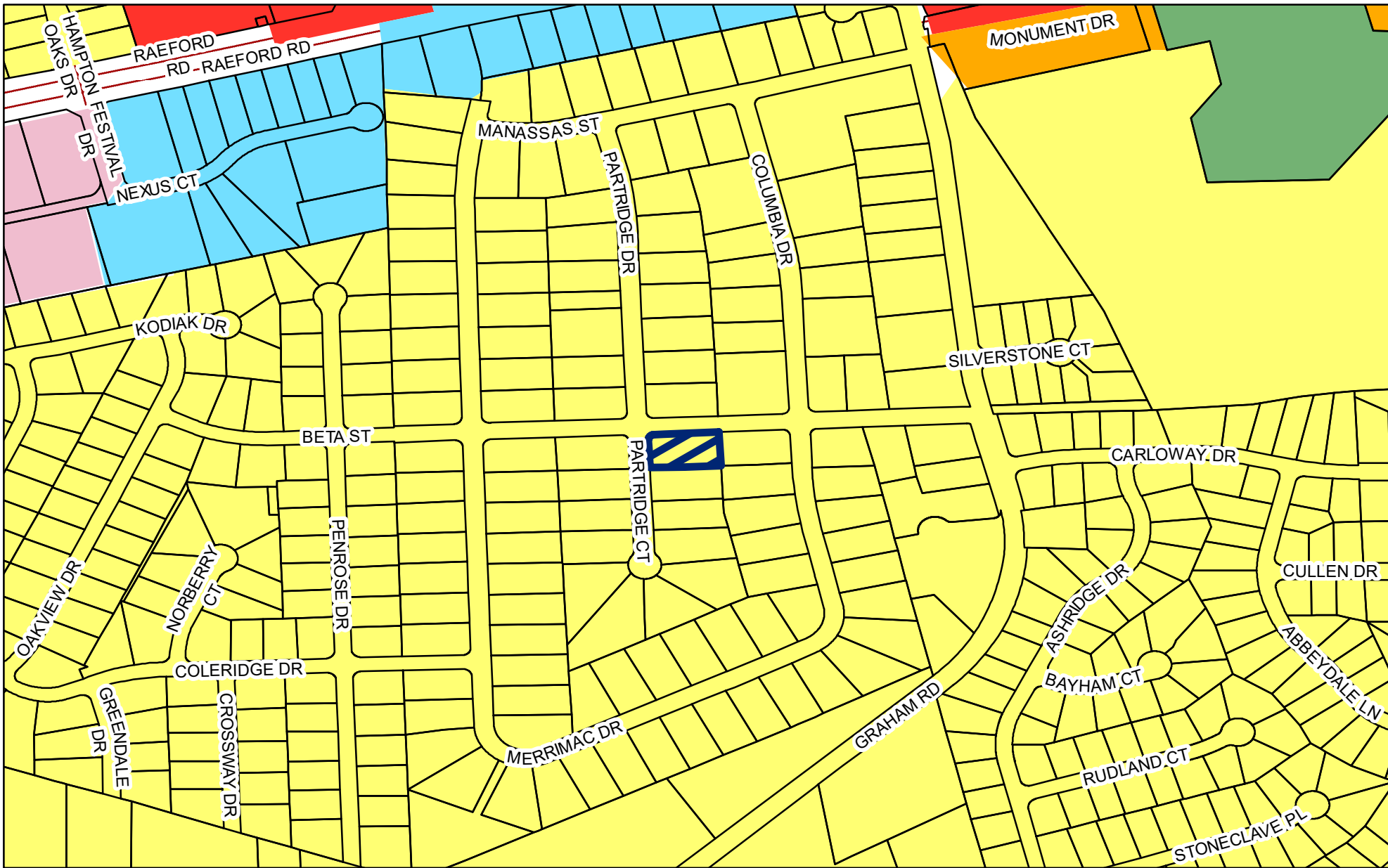
Legend

-  A23-06
-  LC - Limited Commercial
-  LC/CZ - Conditional Limited Commercial
-  NC - Neighborhood Commercial
-  OI - Office & Institutional
-  SF-6 - Single-Family Residential 6
-  SF-10 - Single-Family Residential 10
-  SF-15 - Single-Family Residential 15



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





Future Land Use Map

Case #: A23-06

Request: Variance to reduce required setbacks.

Location: 1917 Partridge Ct.

Legend



A23-06

Land Use Plan 2040

Character Areas

- PARKOS - PARK / OPEN SPACE
- LDR - LOW DENSITY
- HDR - HIGH DENSITY RESIDENTIAL
- NMU - NEIGHBORHOOD MIXED USE
- HC - HIGHWAY COMMERCIAL
- OI - OFFICE / INSTITUTIONAL



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





Subject Property









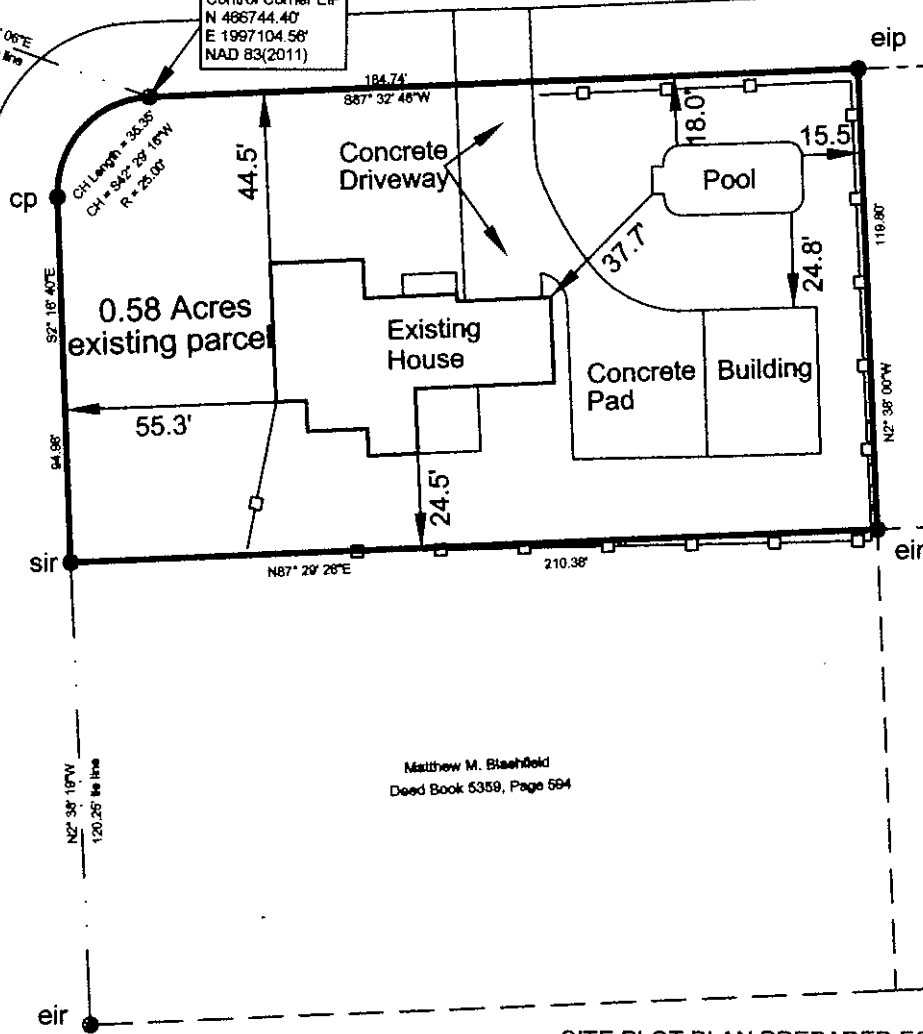


EMN at PI
N 466765.27'
E 1997045.188'
NAD 83(2011)

Control Corner EIP
N 466744.40'
E 1997104.56'
NAD 83(2011)

Partridge Court 60' Right-of-Way

Beta Street 60' Right-of-Way



Derrick Luron and
Tanya Sabrina Broughton
Deed Book 10477, Page 366

Andrew C. Gatschet
Deed Book 10152, Page 296

Matthew M. Blashfield
Deed Book 5359, Page 594

SITE PLOT PLAN PREPARED FOR

Eric Bass

CITY OF FAYETTEVILLE

CUMBERLAND COUNTY NORTH CAROLINA

AUGUST 1, 2022 SCALE 1"= 50'

TITLE REFERENCE: DEED BOOK 9771, PAGE 529

LOT 54, PLAT BOOK 49, PAGE 67

REID: 9496761688000

I, JOHN D. POWERS JR., PLS L-3719, CERTIFY THAT
THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL
SURVEY MADE UNDER MY SUPERVISION, DEED AND DESCRIPTION
RECORDED IN PLAT BOOK 49, PAGE 67, THAT THE RATIO OF
PRECISION AS CALCULATED BY LATITUDE AND DEPARTURES IS 1/10,000'+-
THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN AS BROKEN LINES
PLOTTED FROM INFORMATION FOUND IN BOOKS REFERENCED, THAT THIS
MAP WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED
WITNESS MY HAND AND SEAL THIS 1ST DAY OF AUGUST, A.D., 2022

LEGEND

- sir - set iron rod
- eir - existing iron rod found
- cp - calculated point (no stake set)
- eip - existing iron pipe found
- — — — — tie line surveyed
- — — — — right of way line plotted
- — — — — surveyed line
- - - - - line plotted (not surveyed)

GRAPHIC SCALE



(IN FEET)

JOHN D. POWERS JR. PROFESSIONAL LAND SURVEYOR L-3719

PART II - CODE OF ORDINANCES

CHAPTER 30 – UNIFIED DEVELOPMENT ORDINANCE

Article 30-3: Zoning Districts

30-3.D. Residential Base Zoning Districts

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

SF-10 SINGLE-FAMILY RESIDENTIAL 10 DISTRICT	PURPOSE				
	The Single-Family Residential 10 (SF-10) District is established to accommodate principally single-family detached residential development at low densities, and to accommodate flexibly-designed residential development that provides variable housing types and arrangements that respond to environmental and site conditions. Uses within the district are subject to the design standards in Article 30-5: Development Standards . The district accommodates two- to four-family dwellings designed to appear as single-family detached homes and zero lot line development subject to the requirements of this Ordinance. District regulations discourage any use that substantially interferes with the development of single-family dwellings and that is detrimental to the quiet residential nature of the district. Also allowed are complementary uses usually found in residential zoning districts, such as parks, open space, minor utilities, accessory dwellings of up to 800 square feet in size, schools, and places of worship.				
DIMENSIONAL STANDARDS					
DIMENSIONAL STANDARD	SINGLE- FAMILY DETACHED DWELLINGS	SINGLE- FAMILY ATTACHED DWELLINGS	TWO- TO FOUR- FAMILY DWELLINGS	ALL OTHER PRINCIPAL USES	ACCESSORY STRUCTURES
Lot area per unit, min. (sq. ft.)	10,000	9,000	7,500	10,000	n/a
Lot width, min. (ft.)	75				n/a
Lot coverage, max. (% of lot area)	30				[2]
Height, max. (ft.)	35				25; 15 where abutting a single- family district or use and the setback is less than 10'
Front and corner side setback, min. (ft.) [3]	30 feet or 55 feet from centerline of private streets				Not allowed in front, side, or corner side setbacks
Side setback, min. (ft.) [3]	10				

Rear setback, min. (ft.) [3]	35; 20' when corner side setback is 30' or more		5
Spacing between buildings, min. (ft.)	n/a	20	5
Zero lot line development standards	Zero lot line development shall comply with the maximum gross residential density standards. Setbacks and lot area for lots abutting the perimeter of the development shall meet the district minimums; otherwise no setbacks, lot area, lot coverage, or building spacing requirements shall apply. [4]		

NOTES:

[1] [Reserved].

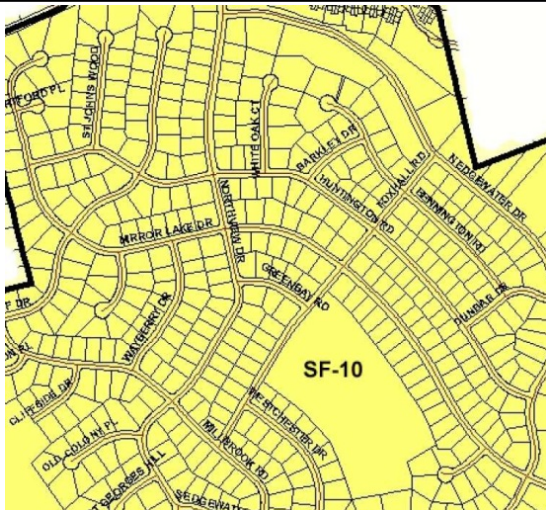
[2] Accessory structures/use areas shall not exceed 25 percent of the allowable lot coverage. However, with the exception noted in this footnote, accessory structures shall not exceed 1200 square feet in size, and any accessory structure with a footprint over 700 square feet must be set back an additional 5 feet from any lot line. When the accessory structure is adjacent to a business zoning district the additional setback requirement shall not apply and the only size limitation is the 25 percent of the allowed building coverage.

Notwithstanding the foregoing, accessory uses/structures on lots of at least one acre and that exceed the maximize size above shall comply with the footprint and setback requirements of Section 30-4.D.3.w, Accessory uses/structures on large residential lots.

[3] Minimum setbacks for all other principal uses shall be increased by five feet for all building walls 25 feet or more above grade.

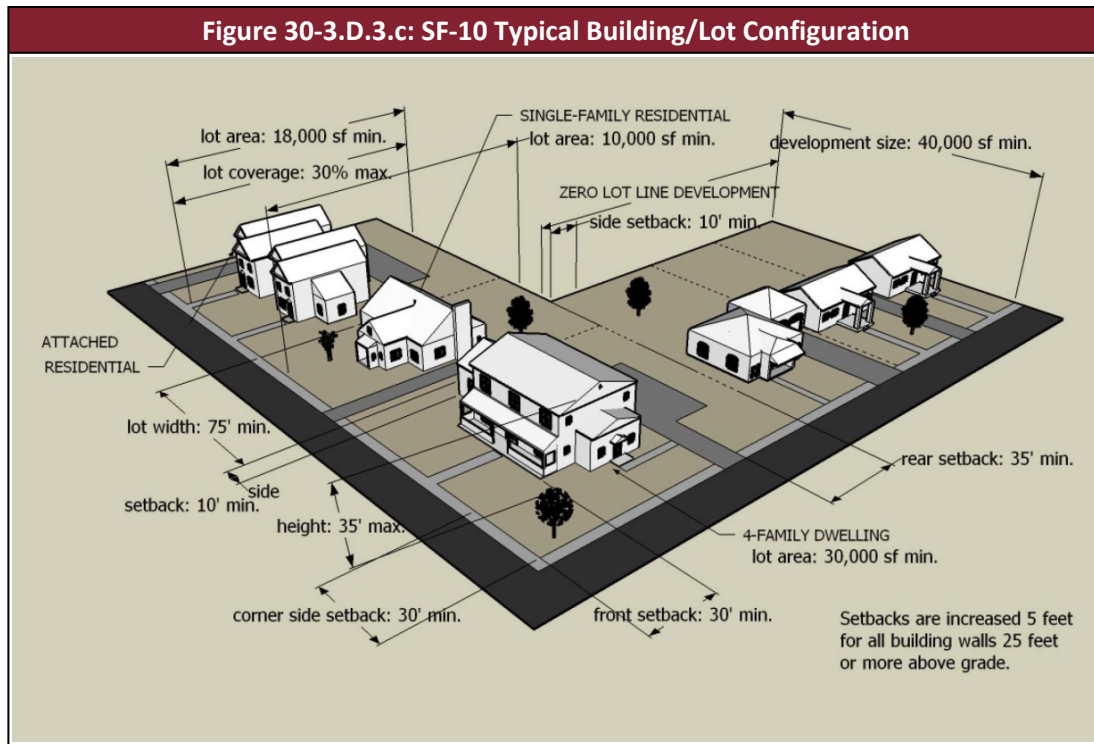
[4] Zero lot line development is subject to standards in Section 30-3.B.2 and, on a tract or site of three acres in area or less may require approval of a Neighborhood Compatibility Permit (see Section 30-2.C.21 Neighborhood Compatibility Permit).

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



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





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

Effective on: 8/10/2015

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

To reduce the corner side yard setback for an accessory structure to fifteen (15) feet and the corner side yard setback for a fence to three (3) feet in a Single-Family Residential 10 (SF-10) zoning district.

VARIANCE A23-06

Property Address: 1917 Partridge Court
REID Number: 9496761688000
Property Owner: Eric and Tracy Bass

The Zoning Commission for the City of Fayetteville, NC, held an evidentiary hearing on February 14, 2023, to consider a Variance request filed by Tracy Bass (“Applicant”) on behalf of Eric and Tracy Bass (Property Owners) to reduce the corner side yard setback to fifteen (15) feet for an accessory structure, and to reduce the corner side yard setback for a fence to three (3) feet on the property located at 1917 Partridge Court (“Subject Property”).

On January 30, 2023, a notice of public hearing was mailed to the Applicant and all the owners of property within 300 feet of the Subject Property. On February 2, 2023, a notice of public hearing sign was placed on the Subject Property. On February 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.3., of the City of Fayetteville's Code of Ordinances establishes the required setbacks for accessory structures in the Single Family Residential 10 (SF-10) zoning district.
2. Chapter 30, Article 5, Section D.4., of the City of Fayetteville's Code of Ordinances establishes the required setbacks for fencing.
3. Eric and Tracy Bass are the owners of a residentially zoned property located at 1917 Partridge Court, which contains approximately 0.59 acres \pm in the City of Fayetteville.
4. The Applicant filed an application for a Variance on December 26, 2022.
5. The Subject Property is zoned Single-Family Residential 10 (SF-10).
6. The Property Owners are requesting to reduce the corner side yard setback for accessory structures from 30 feet to 15 feet, and to reduce the corner side yard setback for a fence from 5 feet to 3 feet.
7. 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.
8. The Subject Property is a Single-Family Residential 10 (SF-10) zoned property that is surrounded by Single-Family Residential 10 (SF-10) zoned property on all sides.
9. The Subject Property is currently a single-family residence.
10. The Subject Property is approximately 0.59 acres and is on the corner of Partridge Court and Beta Street.
11. This Variance addresses the Ordinance requirement for an accessory structure to meet a 30-foot setback from the corner side property line and for a fence to meet a 5-foot setback from the corner

side property line. This Variance will allow for a reduction to a 15-foot corner side yard setback for an accessory structure and a reduction to a 3-foot corner side yard setback for a fence.

12. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship because the Subject Property is a corner lot with two setback requirements thus reducing the placement of the accessory structure. and, because the work has already begun and requiring the Property Owners to remove the work would create an unnecessary hardship.

13. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner because the property is a corner lot and being a corner lot you have to abide by two different setbacks which puts the property owner at a disadvantage versus regular lots and the disadvantage was not created by the landowner.

14. The Variance is the minimum action that will make possible a reasonable use of land or structures because, according to the site plan, there is no other place for the pool to be installed, 60 to 70 percent of the pool has already been installed. That is the minimum action that will make possible for the pool to be a completely built structure.

15. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit because the width of the public right-of-way places the property line far enough back to ensure that the pool and fence do not obstruct the view of motorists approaching the intersection.

16. There is no evidence that the granting of this Variance would harm public safety and welfare, and substantial justice would be ensured. Public safety and welfare is assured. The pool is being constructed by a professional company, the setback from the street to the pool is significant, a privacy fence has been installed, and other regulations will be followed.

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 HAVE 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.

6. **Pursuant to Section 30-2.C.14.e.5, this Variance 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.**

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

VOTE: 5 to 0

This the 14th day of March, 2023.

PAVAN PATEL
Zoning Commission Chair

Cumberland County, North Carolina

Sworn to and subscribed before me this day by Pavan Patel

on the ____ day of _____, 2023.

(Official Seal)

Signature of Notary Public

_____, Notary Public
Printed Name of Notary Public

My Commission Expires: _____



City of Fayetteville

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

City Council Action Memo

File Number: 23-3263

Agenda Date: 3/14/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Evidentiary Hearing

Agenda Number: 3.02

TO: Zoning Commission

THRU: Craig Harmon, CZO - Senior Planner

FROM: Heather Eckhardt, CZO - Planner II

DATE: March 14, 2023

RE: **A23-07.** Order of Approval - Findings of Fact - Variance to reduce the front, rear, and southern side yard setback for a principal structure located at 105 S Broad Street (REID # 0447126041000), containing 0.63 acres ± and being the property of Hudson & Hudson Investments LLC, represented by Mickey Hudson.

COUNCIL DISTRICT(S):
2 - Shakeyla Ingram

Relationship to Strategic Plan:

Strategic Operating Plan FY 2022
Goals 2027

Goal 4: Desirable Place to Live, Work and Recreate

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

Executive Summary:

30.2.C.14 Variance:

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

Variances are to be sparingly exercised and only in rare instances or under exceptional circumstances to relieve undue and unique hardships to the landowner. No change in

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

Background:

Owner: Hudson & Hudson Investments LLC

Applicant: Mickey Hudson

Requested Action: Reduce front yard, rear yard, and southern side yard setback

Zoning District: Heavy Industrial (HI)

Property Address: 105 S Broad St

Size: 0.63 acres \pm or 27,442.8 square feet

Existing Land Use: Light Manufacturing

Surrounding Zoning and Land Uses

- North: HI - Vacant
- South: HI - Heating and air contractor
- East: HI - Heating and air contractor
- West: CC & DT - Church

Letters Mailed: 11

Issues/Analysis:

The property is 0.63-acres \pm and is located at 105 S Broad Street. The site is a manufacturing facility for Morty Pride located near the corner of Person Street and S Broad Street. According to aerial photography, the development of the site began before 1982. The site was inside the city limits of Fayetteville at the time development began and was initially developed prior to the adoption of the Unified Development Ordinance (UDO) in 2011. There have been numerous additions to the building over the last 30 years.

According to Article 30-3.E.9, Heavy Industrial District, of the UDO, principal structures must meet a front yard setback of 50 feet, a side yard setback of 15 feet, and a rear yard setback of 20 feet. These setbacks can differ if the property abuts a residential zoning district.

However, the subject property does not abut residential and is surrounded by other industrially zoned properties.

The structure on the subject property does not meet the front, side, or rear setbacks required by the UDO. However, the initial development of the site and many additions took place prior to the adoption of the UDO. The adoption of the UDO resulted in the site becoming nonconforming. There have been other additions to the building which have taken place since the adoption of the UDO and those additions do meet the required setbacks. The subject property obtained a variance for the front yard setback in 2006. The front yard setback is being addressed in this variance for cohesiveness.

The rear portion of the building has suffered foundation damage due to erosion. The variance is needed in order for the applicant to remove and replace this damaged section of the building. Approval of the variance for the front, rear, and side yard setbacks will allow the applicant to address the damage and also bring the site into compliance.

The specific measurements for the requested variances are as follows:

1. Reduction in front yard setback from 50 feet as required by the UDO to 22.79 feet
2. Reduction in southern side yard setback from 15 feet as required by the UDO to .64 feet
3. Reduction in rear yard setback from 20 feet as required by the UDO to 1.29 feet

Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

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

Subsequent Development

The minimum lot size for the HI zoning district is 40,000 square feet. This lot is 0.63 acres \pm or 27,442.8 square feet \pm . This lot does not meet the minimum square footage for the HI district. However, the lot is comparable to other properties in the area regarding lot size and shape. The site was initially developed between 1968 and 1982 long before the adoption of the UDO. The initial development of the site would have met the standards of the previous ordinance. Additional development has taken place since the adoption of the UDO and those developments have been compliant with the ordinance. The site is currently non-conforming due to changes in the ordinance.

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 existing “buildings are over setbacks”.

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 that there is an “erosion problem in rear of building. Existing walls and floor on right rear need taking down and rebuilding”. The applicant “would like existing building to be conforming with set backs and to be in compliance.”

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

According to the application, there is “ground erosion in the rear of existing building” and the applicant “would like to correct problem with retaining wall and replace existing rear wall and floor.”

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

The applicant states the variance “will allow property to be conforming with city setbacks.”

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 public safety and welfare will be assured.

Budget Impact:

There is no immediate budgetary impact.

Options:

1. Motion to approve the findings of fact as presented
2. Motion to remand the findings of fact to staff for corrections

Recommended Action:

Staff recommends approval of the findings of fact as presented.

Attachments:

1. Application
2. Aerial Notification Map
3. Zoning Map
4. Land Use Map
5. Subject Property Photos
6. Surrounding Property Photos
7. Site Plan
8. Applicant Photos
9. Order of Finding of Facts

**Planning & Zoning**

433 Hay Street
 Fayetteville, NC 28301
 910-433-1612
www.fayettevillenc.gov

Project Overview**#930413****Project Title:** 105 S. Broad St Fayetteville NC 28301**Jurisdiction:** City of Fayetteville**Application Type:** 5.4) Variance**State:** NC**Workflow:** Zoning Commission Hearing**County:** Cumberland**Project Location**

Project Address or PIN: 105 S BROAD ST
 (0447126041000)

Zip Code: 28301**GIS Verified Data****Property Owner: Parcel**

- 105 S BROAD ST: HUDSON & HUDSON INVESTMENTS LLC

Acreage: Parcel

- 105 S BROAD ST: 0.63

Zoning District: Zoning District

- 105 S BROAD ST: HI

Subdivision Name:**Fire District:****Airport Overlay District:****Hospital Overlay District:****Coliseum Tourism District:****Cape Fear District: Cape Fear District****Downtown Historic District:**

- 105 S BROAD ST: 0

Haymount Historic District:**Floodway:****100 Year Flood:****500 Year Flood:****Watershed:****Variance Request Information****Requested Variances:** Minimum yard/setback

Section of the City Code from which the variance is being requested.: 30-3 section E of section 9

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

Requesting variance on existing building to be in compliance .

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

HI,CC,

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

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

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

Expiration - Variance

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

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

Provide a written description of any hardship(s) and how such hardship(s) is not self-imposed.:

Present adjacent buildings are over set backs. requesting variance to be in compliance .

Indicate if the property has exceptional topographic conditions or some other extraordinary situation or condition that makes it unlike other properties in the immediate vicinity.:

Have ground erosion in rear of existing building. Would like correct problem with retaining wall and replace existing rear wall and floor.

Is there some particular condition, situation, or development on the property immediately adjacent to the subject property that affects the subject property's ability to comply with the regulations?:

Erosion Problem in rear of building, Existing walls and floor on right rear need taking down and rebuilding . Also would like existing building to be conforming with set backs and to be in compliance.

Describe how the variance is in harmony with the general purpose and intent of the City Code, and preserves the spirit.:

Will allow property to be conforming with to city set backs .

Explain any potential negative external impacts that may result from the proposed variance, and how they will be mitigated. Financial hardship cannot be considered for a reason to grant a variance.:

None

Height of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Height of Sign Face: 0

Square Footage of Sign Face : 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

Square Footage of Sign Face: 0

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

Mickey Hudson

Morty Pride Meats Inc

3603 Clinton Rd

FAYETTEVILLE, NC 28312

P: (Phone)9104836004

mHUDSON@mortypride.com

Project Contact - Agent/Representative

Mickey Hudson

Morty Pride Meats Inc

3603 Clinton Rd

FAYETTEVILLE, NC 28312

P: (Phone)9104836004

mHUDSON@mortypride.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:

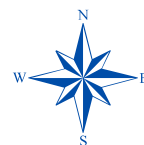


Aerial Notification Map

Case #: A23-07

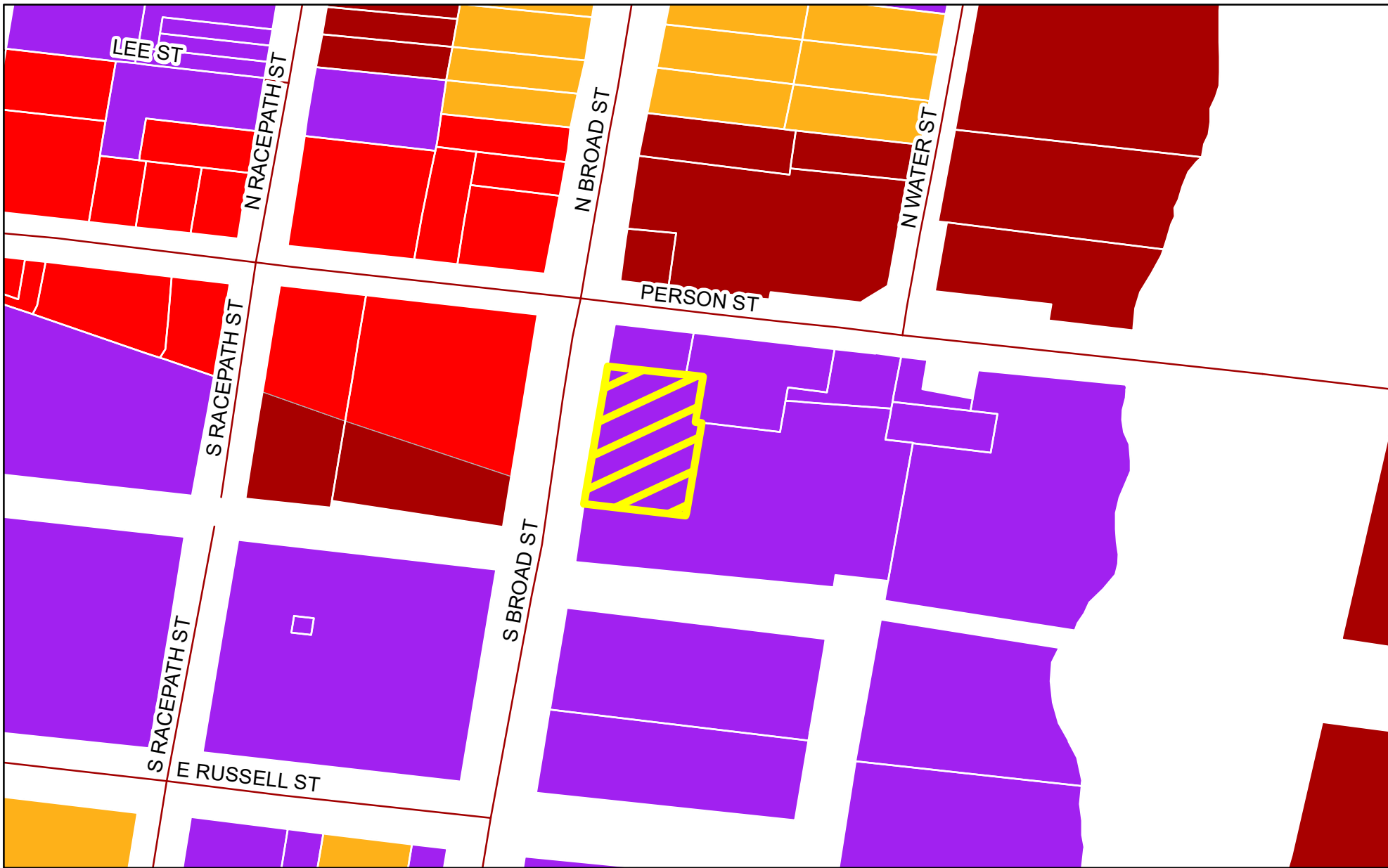
Request: Variance to reduce required setbacks

Location: 105 S Broad Street



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










Zoning Map
Case #: A23-07

Request: Variance to reduce required setbacks

Location: 105 S Broad Street

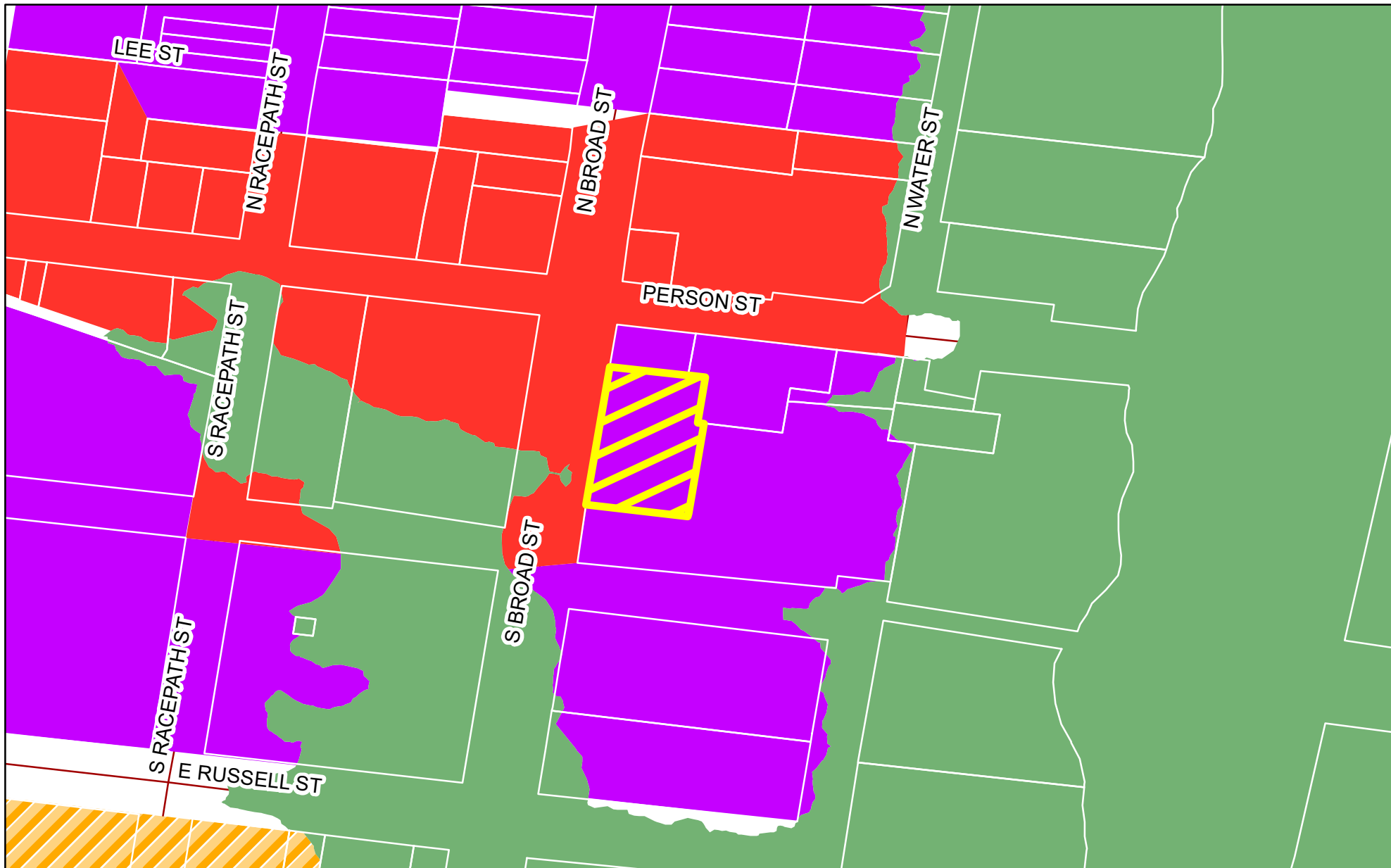
Legend

-  A23-07
-  CC - Community Commercial
-  DT - Downtown
-  HI - Heavy Industrial
-  MR-5 - Mixed Residential 5



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





Future Land Map

Case #: A23-07

Request: Variance - Setbacks - Front Yard, Southern Side Yard, and Rear Yard

Location: 105 S Broad Street

Legend



A23-07

Land Use Plan 2040

Character Areas

 PARKOS - PARK / OPEN SPACE

 NIR - NEIGHBORHOOD IMPROVEMENT

 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.









LEGEND

- ELR-EXISTING IRON REBAR
- ELR-EXISTING IRON NAIL
- CP-COMPUTED POINT
- CLF-CHAIN LINK FENCE
- WM-WATER METER
- CONC-CONCRETE
- PP-POWER POLE
- CB-CATCH BASIN
- SW-SIDEWALK
- TRANS-TRANSFORMER
- PB-PLAY BOOK
- PG-PAGE
- R/W-RIGHT OF WAY
- DB-DEED BOOK
- ST-SQUARE FEET
- AC-ACRES
- AS-ABOVE GROUND
- AS-ABOVE GROUND

PLANTING LEGEND

- BRADFORD PEAR - CANOPY - 2" - MIN 8' HEIGHT
- WAX MYRTLE - UNDERSTORY - 1.5" - MIN 8' HEIGHT
- DWARF NANDINA - EVERGREEN - MIN 18"
- (HALF OF SHRUBS MUST BE AT LEAST 5 GALLON SHRUBS)

LANDSCAPING NOTES

EXISTING - 3 BUSHES
NEW (RECENTLY PLANTED) - 53 BUSHES / 23 DECORATIVE TREES
TOTAL (EXISTING) - 56 BUSHES / 23 DECORATIVE TREES
PROPOSED (IF NEEDED) - 24 BUSHES / 6 DECORATIVE TREES
PROPOSED (IF NEEDED) - 1 SHADE TREE (IN R/W)
TOTAL-80 BUSHES (BUSHES WILL BE SMALL ORNAMENTAL BUSHES
SPACED 2-3' APART)
TOTAL-29 DECORATIVE TREES (TREES WILL BE 4-6' TALL SPACED
APPROXIMATELY 10' APART WHERE APPLICABLE)

CERTIFICATE OF SURVEY AND ACCURACY

I, MICHAEL J. ADAMS, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK 6959, PAGE 113; AND PLAT BOOK 136, PAGE 118); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN REFERENCES SHOWN; THAT THE RATIO OF PRECISION CALCULATED IS GREATER THAN 1:10,000; THAT THIS PLAT WAS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION, AND I AM A LICENSED SURVEYOR IN THE STATE OF NORTH CAROLINA; I HAVE SIGNED AND DATED THIS PLAT, AND I HAVE MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND OFFICIAL SEAL THIS 10TH DAY OF MAY, 2018

MICHAEL J. ADAMS
P.L.S. L-4491
C.S. NC-075

**PRELIMINARY
NOT FOR RECORDATION,
CONVEYANCE, OR SALES**

NOTES

1. AREA COMPUTED BY COORDINATES.
2. SET IRON PIPES ON ALL CORNERS NOT MONUMENTED
3. ALL DISTANCES ARE HORIZONTAL GROUND.
4. MINIMUM SETBACKS: (HI ZONING)
- 50'-FRONT (75' FROM CENTERLINE OF PRIVATE STREETS)
- 15'-SIDE (100' WHEN ABUTTING A RESIDENTIAL DISTRICT)
- 20'-REAR (50' WHEN ABUTTING A RESIDENTIAL DISTRICT)
5. LINES NOT SURVEYED ARE SHOWN AS DASHED LINES
6. THIS SURVEY WAS DONE WITHIN THE BENEVOLENT TITLE SEARCH AND IS BASED ON THE RECORDS OF THE PUBLIC RECORDS. OTHER RECORDS MAY EXIST WHICH COULD AFFECT THIS PROPERTY. NO RESPONSIBILITY IS ASSUMED BY THE SURVEYOR FOR ANY CONDITIONS WHICH MAY PRESENTLY EXIST BUT ARE UNKNOWN OR REFERENCED HEREON, SUCH AS BUT NOT LIMITED TO HAZARDOUS WASTE MATERIALS, EASEMENTS, CENTERLINES, AND FLOOD AREAS.
7. SUBJECT PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA PER FEMA FIRM 3720044700K, DATED JUNE 18, 2007.
8. TOTAL EXISTING LANDSCAPING - 2 SHADE TREES
-16 DECORATIVE TREES
-60 DECORATIVE BUSHES

PERSON STREET
PUBLIC R/W VARIES



MCH INVESTMENTS, LLC
0447-12-7182
DB 7885, PG 102
PB 1382, PG 118
HI ZONING

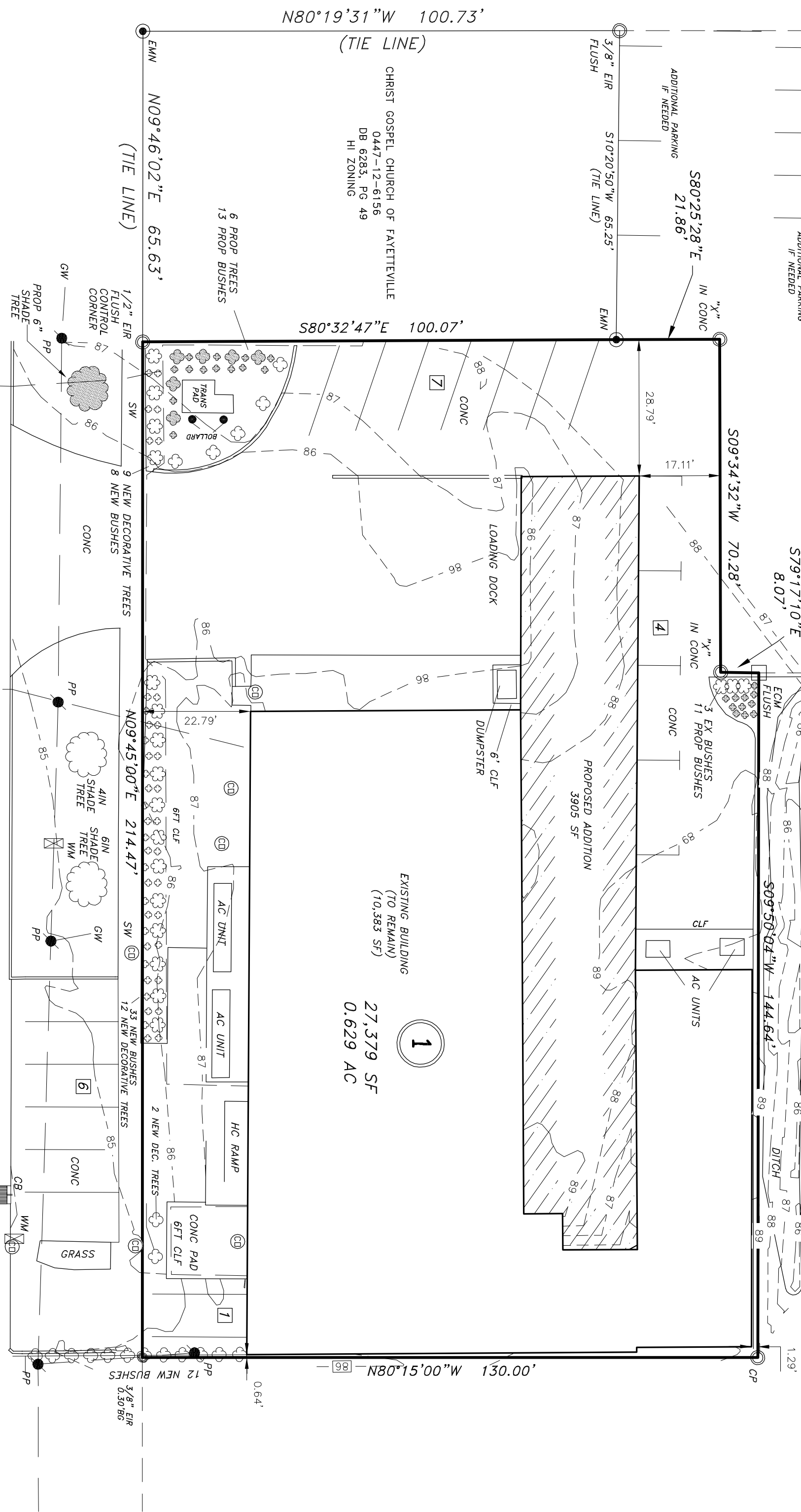
2



SYMBOLS

- ELP/ELPP
- 60d NAIL
- ⊙-POWER POLE
- ⊕-CLEANOUT
- SHADE TREE
- ⊗-DECORATIVE TREE
- ⊗-DECORATIVE BUSH
- SURVEYED LINE
- LINE NOT SURVEYED (ADJOINER)
- TIE LINE
- UNDERGROUND GAS
- CONTOUR LINE
- OVERHEAD POWER LINES
- FENCELINE

LEONARD LYNCH
0447-11-8902
DB 4955, PG 95
HI ZONING

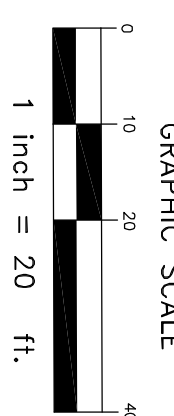


PARKING NOTES

PROPOSED (ONSITE) - 12 PARKING SPACES
EXISTING (IN R/W) - 6 PARKING SPACES

**M.A.P.S.
SURVEYING, INC.**
C-2589
1306 FORT BRAGG ROAD
FAVETTEVILLE, N. C. 28305
TELEPHONE: (910) 484-6432
EMAIL: MAPSSURVEYING@NC.EDU

DRAWN BY: SFP
CHECKED & CLOSE BY: MJA



**SITE PLAN FOR:
MCH INVESTMENTS LLC**

LOT 1-PLAT BOOK 136, PAGE 118
ADDRESS: 105 S BROAD ST
TOWNSHIP: CROSS CREEK
TAX PINKS: 0447-12-8041
COUNTY: CUMBERLAND

SCALE: 1" = 20'
DATE: SEPTEMBER 10, 2015
ZONING: HI
CITY: FAVETTEVILLE, NC

REVISED: MAY 10, 2018 - ADDED PARKING AND LANDSCAPING
REVISED: AUG 7, 2018 - ADDED PLANTING LEGEND







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

To reduce the front, rear, and southern side yard setback for a principal structure located at 105 S. Broad Street.

VARIANCE A23-07

Property Address: 105 S. Broad Street
REID Number: 0447126041000
Property Owner: Hudson & Hudson Investments LLC

The Zoning Commission for the City of Fayetteville, NC, held an evidentiary hearing on February 14, 2023, to consider a Variance request filed by Mickey Hudson (“Applicant”), on behalf of Hudson & Hudson Investments LLC (“Property Owners”), to reduce the front yard setback to 22.79 feet, reduce the southern side yard setback to .64 feet, and reduce the rear yard setback to 1.29 feet for the property located at 105 S. Broad Street (“Subject Property”).

On January 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 February 2, 2023, a notice of public hearing sign was placed on the Subject Property. On February 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 E.9, of the City of Fayetteville's Code of Ordinances establishes the required setbacks for structures in the Heavy Industrial District (HI).

2. Hudson & Hudson Investments LLC is the owner of an industrially zoned property located at 105 S. Broad Street, which contains approximately 0.63 acres \pm in the City of Fayetteville.

3. The Applicant filed an application for a Variance on January 10, 2023.

4. The Subject Property is zoned Heavy Industrial (HI).

5. The Property Owner is requesting to reduce the front yard setback to 22.79 feet, reduce the southern side yard setback to .64 feet, and reduce the rear yard setback to 1.29 feet.

6. The Applicant has the burden of proof to show that the Variance meets the following statutory requirements:

a. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship.

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

c. The Variance is the minimum action that will make possible a reasonable use of land or structures.

d. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.

e. In granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.

7. The Subject Property is a Heavy Industrial (HI) zoned property that is surrounded by Heavy Industrial (HI) zoned property on all sides.

8. The Subject Property is currently an industrial meat processing facility.

9. The Subject Property is approximately 0.63 acres and is near the corner of S. Broad Street and Person Street.

10. This Variance addresses the Ordinance requirement for a structure to meet a 50-foot setback from the front property line, a 15-foot setback from the side property line, and a 20-foot setback from the rear property line.

11. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship because based on the applicant's testimony, the structure was in place prior to the adoption of the UDO and the existing building is over the setbacks.

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 building was present when the Property Owners bought the building, the erosion problem needs to be addressed and the building will need to be in compliance in order to do so.

13. The Variance is the minimum action that will make possible a reasonable use of land or structures because the erosion issue needs to be corrected.

14. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit because the variance will make the existing setbacks compliant.

15. There is no evidence that the granting of this Variance would harm public safety and welfare, and substantial justice would be ensured. Public safety and welfare is assured. The safety will be improved by repairing the foundation which will prevent possible future collapse or harm to employees and prevent water from flowing to the neighboring property.

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.

6. Pursuant to Section 30-2.C.14.e.5, this Variance 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.

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 March, 2023.

PAVAN PATEL
Zoning Commission Chair

Cumberland County, North Carolina

Sworn to and subscribed before me this day by Pavan Patel

on the ____ day of _____, 2023.

(Official Seal)

Signature of Notary Public

_____, Notary Public
Printed Name of Notary Public

My Commission Expires: _____



City of Fayetteville

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

City Council Action Memo

File Number: 23-3274

Agenda Date: 3/14/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.03

TO: Zoning Commission

THRU: Development Services, Planning and Zoning Division

FROM: Catina Evans - Office Assistant II

DATE: March 14, 2023

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

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

MEMBERS PRESENT

Pavan Patel, Chair
Stephen McCorquodale, Vice-Chair
Roger Shah
Alex Keith

STAFF PRESENT

Craig Harmon, Senior Planner
Heather Eckhardt, Planner II
Demetrios Moutos, Planner I
Joseph Senn, Zoning Administrator
Lisa Harper, Assistant City Attorney
Catina Evans, Office Assistant II

MEMBERS ABSENT

Kevin Hight
Clabon Lowe, Alternate

The Zoning Commission Meeting on Tuesday, February 14, 2023, was called to order by Chair Pavan Patel at 6:01 p.m. The members of the Board stated their names for the record.

I. APPROVE THE AGENDA

MOTION: Stephen McCorquodale made a motion to approve the agenda with the exception of presenting the evidentiary hearing for cases A23-06 and A23-07 after the legislative hearing for case P23-08.

SECOND: Roger Shah

VOTE: Unanimous (4-0)

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

MOTION: Stephen McCorquodale made a motion to approve the consent items.

SECOND: Roger Shah

VOTE: Unanimous (4-0)

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

I. LEGISLATIVE HEARINGS

Mr. Patel opened the legislative hearing for case P23-08.

P23-08. Rezoning from Single-Family Residential 10 (SF-10) to Office & Institutional (OI), located at 3017 Ramsey Street (REID #0439614406000), totaling 0.46 acres ± and being the property of Paul and Theresa Williams, represented by Greg Spears of Grant Murray Real Estate LLC.

Demetrios Moutos presented case P23-08. The property is located across from Reid Ross Classical School. The land is surrounded by mostly Single-Family Residential 10 (SF-10) with some Office Institutional (OI) and Limited Commercial (LC) zoned properties to the south. Mr. Moutos noted that although the Future Land Use Plan calls for the area to be developed as Low-Density Residential (LDR), Office Institutional zoning would suit this property because it would coincide with the character of the surrounding area. Mr. Moutos showed the Board pictures of the property. He stated that Office Institutional zoning is not conducive to building a strip mall which would not be compatible with the area. Mr. Moutos stated that rezoning to Office Institutional (OI) will help retain the development intensity that is compatible with the surrounding area and is the least intense upzoning for this area.

The Staff recommended approval of the proposed rezoning 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 uses permitted by the proposed change in zoning district and the standards that apply to such uses will be appropriate in the immediate area.
- There are no other factors that will substantially affect public health, safety, morals, or general welfare.

Speakers in favor:

Paul Williams, Owner, 812 Southern Avenue, Fayetteville, NC 28306

Mr. Williams stated the following:

- He advised the Board to avoid relying on the information from the Future Land Use Map because it is subjective and does not take into account the traffic patterns.
- Mr. Williams stated that their property has been vacant for two years, and he wants to lease it out for commercial use. Currently, he just cannot do this.

Mr. Patel closed the legislative hearing on case P23-08.

Mr. Keith began to make a motion to approve the rezoning, but Ms. Harper interjected and told Mr. Keith that he should read the approval statement provided (listed in the staff report for case P23-08) as part of his motion.

MOTION: Alex Keith made a motion to recommend approval of the rezoning from Single-Family Residential 10 (SF-10) to Office Institutional (OI) 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.

SECOND: Roger Shah

VOTE: Unanimous (4-0)

Mr. Harmon informed the applicants that one of the commissioners was absent, leaving four members to vote on the Variance. Therefore, a vote in favor of the Variance would have to be unanimous. Ms. Harper added that the statute requires that there must be a one-fourth vote of the Board. With less than five commissioners present, the vote on the Variance would need to be unanimous. The applicants for case A23-06 decided to deliberate before

deciding if they wanted to proceed with their case. The applicants for case A23-07 chose to present their case before the Board.

Mr. Patel stated that the Staff would administer the oath to all participants who planned to provide testimony. Ms. Harper had the speakers for both cases stand and perform the oath. Mr. Patel asked if any of the Board members had any partiality (conflicts of interest) or any ex parte communication (site visits or conversations with parties to include staff members or the general public) to disclose regarding any of the cases on the agenda for the evening. The commissioners did not have any partiality or ex parte communication to report for any of the cases.

III. EVIDENTIARY HEARINGS

Mr. Patel opened the evidentiary hearing for case A23-07. Ms. Harper had the speakers take the oath.

A23-07. Variance to reduce the front yard, rear yard, and southern side yard setback for a principal structure located at 105 S. Broad Street (REID #0447126041000), containing 0.63 acres \pm and being the property of Hudson & Hudson Investments LLC, represented by Mickey Hudson.

Heather Eckhardt presented case A23-07. The subject property is located at the corner of South Broad Street and Person Street near a church and a Weiner Works. The property is currently zoned Heavy Industrial (HI) along with other properties on that block. The church is zoned Downtown (DT) and Community Commercial (CC) and the area across from the property on Person Street is zoned Community Commercial. The Future Land Use Plan calls for the area to continue to be developed as an Industrial/Employment Center area.

Ms. Eckhardt showed the Board pictures of the property that were submitted by the applicant. She stated that the building was erected prior to the adoption of the Unified Development Ordinances. Therefore, it sits less than a foot from two property lines. The current structure is suffering from erosion and in order to remove the existing freezer and rebuild the applicant is requesting the Variance to reduce the setbacks. As seen on the site plan, the rear yard setback is 1.29 feet from the rear property line (which was developed prior to the UDO). The side yard setback is .64. The front yard setback is 22.79 feet.

Ms. Eckhardt stated that these are the three setbacks that the applicant is requesting a Variance from in order to bring the building into compliance and address the current structural damage. Ms. Eckhardt showed the Board that an entire area in the back of the building would have to be removed and replaced. Once the owners remove this area, it removes a nonconformity and the area cannot be rebuilt without being in compliance with the current ordinance. The property was developed prior to the adoption of the current Unified Development Ordinance.

Ms. Eckhardt stated that more recent developments have met the standards of the current ordinance. The previous ordinance did not require a side or rear yard setback. By allowing the owners to address the front, side and rear yard setbacks in this one Variance, the applicants can address the current issues as well as any future concerns that may arise as the buildings continue to age. Ms. Eckhardt informed the Board that the applicant Mickey Hudson was present to speak, and Mr. Hudson has provided the Board with a copy of the information that he will present.

Mr. Patel opened the evidentiary hearing for case A23-07.

Speakers in favor:

Mickey Hudson, Owner, 3603 Clinton Rd, Fayetteville, NC 28312

Mr. Hudson stated the following:

- Mr. Hudson stated that Ms. Eckhardt covered a majority of the information that he wanted to present to the Board.
- He stated that he submitted a letter to the Board detailing the work that he wants to do on his property.
- Mr. Hudson said he needs to fix the eroded area at the rear of the building to avoid it collapsing. His goal is to tear the rear portion out and put up a retaining wall, which will help their neighbor behind them as well.
- He said they inherited the issues with the building when they bought the property.

Mr. McCorquodale asked the applicant how long he has owned the property. Mr. Hudson said he has owned the property for fifteen years. Mr. Shah asked Mr. Hudson if he is planning to construct a retaining wall, and Mr. Hudson said he planned to build a retaining wall that would help alleviate the runoff that his neighbor is receiving from his property. Mr. Shah asked if the retaining wall would be located on the back of the property, and Mr. Hudson replied yes to this question. Mr. Hudson stated that he would have freezer panels 44 inches wide built that would slide together. He added that he plans to install a fireproof panel since his property is located close to his neighbor.

Mr. Patel asked Mr. Hudson if he had prepared the information for the Board. Mr. Hudson said his son prepared the written information that he presented to the Board. Ms. Harper said that Mr. Hudson's son would need to sign the statement and present the item to the Board.

Mr. Hudson stated to Mr. Keith that he would be better, in the long run, to receive this Variance and be in compliance with the Unified Development Ordinance. Mr. McCorquodale added that by completing this process, Mr. Hudson could avoid coming before the Board with a Variance request if future repairs were necessary for that side of the property.

Matt Hudson, 3603 Clinton Rd, Fayetteville, NC 28312

Mr. Hudson stated the following:

- Mr. Patel asked Mr. Hudson if he prepared the information for the Board. Mr. Hudson replied that he did prepare the documents.
- Mr. Patel asked Mr. Hudson to sign a copy of the written statement that was presented by his father to the Board, and Mr. Hudson complied with the request.

Mr. Patel closed the evidentiary hearing for case A23-07.

MOTION: Stephen McCorquodale made a motion to approve the Variance as requested by the applicant and the City Staff for all three Variances (a reduction in the front yard setback from 50 feet as required by the UDO to 22.79 feet, a reduction in the southern side yard setback from 15 feet as required by the UDO to .64 feet, and a reduction in the rear yard setback from 20 feet as required by the UDO to 1.29 feet) based on the presentation by the applicant and the City Staff (and the following findings of fact):

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence: The structure itself based on the footprint of the building being in place prior to the UDO has not been at the applicant's own standing. The applicant said the building existed before the requirement for the setbacks.

2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner as shown by the following evidence: As presented tonight, the erosion problem in the rear portion of the building with the existing walls in the rear need to be taken down and rebuilt and the proper foundation needs to be put up under. This would need to be done to conform to the setbacks. In order for them to complete the project, it is more important for the future.

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence: According to the application and presented, as it shows again that the amount of erosion that exists in the rear of the building. However, to correct this problem as presented a retaining wall and the foundation footer and rebuilding this unit to match the existing building as stated by the applicant.

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: It will allow the property to be in all conforming. This Variance will allow this property to conform to the setbacks set forth in the Variance.

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: There is no public safety adverse effect and welfare. This will actually improve the safety in the event of rebuilding the footers and structures to make the area and freezer in that part of the building a more solid foundation to prevent any type of structural collapse.

SECOND: Roger Shah
VOTE: Unanimous (4-0)

A23-06. Variance to reduce the corner side yard setback for an accessory use/structure and a privacy fence in a Single-Family Residential 10 (SF-10) zoning district, to be located at 1917 Partridge Court (REID #9496761688000), containing 0.59 acres \pm and being the property of Eric & Tracy Bass.

Demetrios Moutos presented case A23-06. This property is located in the middle of the Wells Place subdivision. The current zoning is Single-Family Residential 10 (SF-10). The Future Land Use Plan calls for the area to be developed as Low-Density Residential (LDR). The owner hired a contractor to build a pool on the property. The contractor informed the property owners that they were not in compliance with the Unified Development Ordinance regarding the minimum setback requirement for an accessory structure after the contractor had applied for a permit. The applicants had a fence constructed (June 2022). Upon completion of the fence, there was confusion over where the property line existed. Therefore, the fence is 3 feet instead of 5 feet off the property line as required by the UDO guidelines.

Mr. Moutos showed the Board pictures of the property. According to the Unified Development Ordinance, any accessory uses/structures in a corner side yard area must meet the same setbacks that are required of a principal structure. The setbacks for a principal structure in a Single-Family Residential 10 zoning district are 30 feet on the front and corner side. The applicant is requesting a Variance to allow for the setback to be 15 feet instead of 30 feet and for the fence to be 3 feet instead of 5 feet off the property line as required by the Unified Development Ordinance.

Mr. Patel opened the evidentiary hearing for case A23-06.

Speakers in favor:

Eric Bass, Owner, 1917 Partridge Ct, Fayetteville, NC 28304

Mr. Bass stated the following:

- Mr. Bass said he thought he went through the proper process when he contacted the contractor to build the pool.
- The side yard where the pool was located was a wooded area with a well. He thought it would be a good idea to put the pool in this area for his children to play in.
- He was not informed about the 30-foot setback (for the front and corner side). He would have changed the entire process had he known about this information beforehand.
- This is the only location on his property where he can build the pool.
- Mr. Bass is asking for 15 feet off the side yard setback. The setback takes up about a fourth or a third of his yard and limits the space he has to utilize the yard.
- Mr. Bass said he started work on the property last June. In August, he was told that he needed a septic tank expansion. Mr. Bass decided to connect to PWC sewer in lieu of a septic tank expansion.

Mr. Shah asked Mr. Bass if the landscaping company mentioned the issue to him. Mr. Bass said the pool company did not raise any concerns about the 30-foot requirement for the setback. Mr. Bass said he has invested \$50,000 into this project. Mr. Bass said he would not have done this if he had known about the setback issue.

Mr. Shah asked Mr. Bass if he had a septic tank. Mr. Bass said he had a septic tank that is no longer in use. Mr. Bass stated that the electrical had been set up and there is water in the pool.

Mr. McCorquodale said the setbacks are on a corner lot which creates an issue that is not the fault of the owner.

Mr. Patel closed the evidentiary hearing for case A23-06.

MOTION: Roger Shah made a motion for #1 to approve the Variance for the reduction in the corner side yard for the accessory use structure in Single-Family 10 from 30 feet to 15 feet and a reduction in the corner yard setback for a fence from 5 feet to 3 feet (based on the following findings of fact):

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence: Based on the applicant's testimony, I do think that yes it falls in that practical difficulty category because of being a corner lot—also because of the work that has already been started, and now it will be an unnecessary hardship to remove all the stuff that has been done so far.

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: For the landowner, it is a corner lot—being a corner lot you have to abide by two different setbacks, which gives you a disadvantage versus a regular lot. This said; this is not created by the landowner.

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence: We saw on the map that there is no other place to actually put the pool. The pool has already been installed—almost 60-70 percent, and this

Variance will make it happen, and that's the minimum action that will make possible the use of this land or structure.

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: The Variance is in harmony with the corner lot, which is as the applicant has stated. That will be my point that the Variance is in harmony.

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: The public safety and welfare is assured. The pool is being constructed by a professional company and it will be in regulation with public safety and welfare.

SECOND: Stephen McCorquodale
VOTE: Unanimous (4-0)

II. OTHER BUSINESS

Mr. Harmon stated that the City Staff would present two cases next month (at the meeting on Tuesday, March 14, 2023).

III. ADJOURNMENT

MOTION: Patel Pavan made a motion to adjourn the February 14, 2023, meeting.
SECOND: Roger Shah
VOTE: Unanimous (4-0)

The meeting adjourned at 6:59 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: 23-3265

Agenda Date: 3/14/2023

Version: 2

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 4.01

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Lauren Long - Planner II

DATE: March 14, 2022

RE:

P23-09. Initial zoning of a 10± acre parcel currently zoned Planned Commercial C(P) to Heavy Industrial (HI), located at 1530 Middle River Loop (REID#0447576483000), and being the property of Carolina Sun Investments, LLC, represented by Scott Brown of 4D Site Solutions.

COUNCIL DISTRICT(S):

2 - Shakeyla Ingram

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

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

- Objective 2.1 - To ensure a diverse City tax base

Goal III: City invested in Today and Tomorrow

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

Executive Summary:

Initial zoning of a 10± acre parcel currently zoned Planned Commercial C(P) to Heavy Industrial (HI), located at 1530 Middle River Loop (REID#0447576483000), and being the property of Carolina Sun Investments, LLC, represented by Scott Brown of 4DSitesolutions.

Background:

Applicant: Scott Brown, 4D Site Solutions

Owner: Carolina Sun Investments, LLC

Requested Action: Initial zoning to Heavy Industrial (HI)

REID: 0447576483000

Prospective Council District: 2 - Shakeyla Ingram

Status of Property: Parcel is currently developed with an engineered steel frame building, a concrete and gravel parking area surrounded by a chain link/ barbed wire fence, and a retention pond. The existing use on site is heavy equipment sales, rental, or storage.

Size: 10.0 ± acres

Adjoining Land Use & Zoning:

- North: Cumberland County Zoning R5A Residential District (allowing multi-family dwelling units and manufactured homes)
- South: Cumberland County Zoning M(P) (allowing industrial uses)
- East: Cumberland County Zoning A1 (allowing agricultural uses); Cumberland County Zoning M(P) (allowing industrial uses)
- West: Heavy Industrial (HI)

Letters Mailed: 17

Land Use Plans:

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

According to the Future Land Use Map, this parcel has been identified for development with regional employment centers, including larger industrial uses or business parks under the Industrial/Employment Center (EC) designation.

Issues/Analysis:

History:

This parcel recently transferred ownership in 2018 from AOM II, LLC to Carolina Sun Investments in the same year it was subdivided from a larger tract of 33.41 acres. This resulted in the 10 acre tract that was developed as the site of a Kubota of Fayetteville (Cumberland Tractor).

Surrounding Area:

There is a vacant lot to the north, also under the ownership of Carolina Sun Investments, LLC. To the northeast is low density agricultural and residential. Due east is a private utilities contractor as well as two undeveloped tracts. As this site fronts Middle River Loop and is adjacent to I-95, it does not directly abut any development to the south. West of the site is a meat processing/distribution facility.

Rezoning Request:

The applicant is requesting to initially zone a parcel to Heavy Industrial (HI) in conjunction with a petition to annex into the city's corporate limits. The request is to zone the parcel Heavy Industrial (HI) in order to accommodate the existing use of heavy equipment sales, rental, or storage. This use is a by-right use in the HI zoning district.

Straight Zoning:

Land within the corporate limits of the city as well as land that falls within the Municipal Area of Influence is classified under one of the base zoning districts established by the

Unified Development Ordinance (UDO). Land may be reclassified to one of several comparable zoning districts in accordance with Section 30-2.C. This rezoning request is to initially zone a parcel in conjunction with annexation to Heavy Industrial. The Heavy Industrial District was established to accommodate heavy manufacturing, assembly, fabrication, processing, distribution, storage, and other large scale industrial uses that require extensive movement of outdoor vehicles, materials, and goods. Examples of specific uses that fit this description are warehouses, manufacturing facilities, machine shops, and automobile repair.

The proposed zoning would accommodate the existing use, however, the existing site is not in conformance with the development standards of the Heavy Industrial (HI) zoning district. When a parcel is annexed into corporate limits any existing development or site work that conformed to the standards under which it was originally developed will be considered an existing non-conformity under the provisions for non-conformities in the UDO, Article 30-7. As such, a specific set of provisions apply to the existing site and all buildings/ structures. 30-7.F.1 provides that interior and exterior remodeling would require correction of on site deficiencies to meet the existing standards for off street parking, landscaping, perimeter buffers, screening, and open space standards. 30-7.F.2 provides that additions and expansions to structures or non-conforming sites shall require correction of existing site deficiencies as they relate to street parking, landscaping, perimeter buffering, screening, and open space standards. These two provisions are based on a graduated system whereby the degree of compliance has a direct relationship to the extent of the remodel, addition, and/or expansion. 30-7.F.3 requires that should any change of use occur, the entire site must be brought into compliance with the standards for off street parking, landscaping, perimeter buffers, screening, and open space. Should any further expansion, development, or change of use occur on the site, it will require degrees of conformance with the current development standards in order to gradually bring the site into compliance.

The initial zoning request is not conditional. Therefore, the governing board may not consider conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other applicable regulations. If the governing board wishes to impose conditions then the applicant must withdraw their application and resubmit a request to conditionally zone the parcel and a date for a separate legislative hearing to hear the new request must be set. As this site is currently not conforming to the development standards for the Heavy Industrial Zoning district, the governing board may request that the applicant resubmit their request for a map amendment to include a request to conditionally zone the parcel with conditions that would bring the parcel into greater conformance with current development standards. Although no existing site conditions plan has been submitted, aerial photography of the site would suggest the site does not comply with the development standards for parking, UDO 30-5.A; landscaping, perimeter buffers, and screening, UDO 30-5.B; open space, UDO 30-5.C; sidewalks, UDO 30-5.F.9; signage, 30-5.L; and the barbed wire security fence surrounding the site is a prohibited fence, UDO 30-5.D.8.a. The site is also not compliant, based upon the existing use, with the use specific standards for heavy equipment sales, rental, or storage, UDO 30-4.C.5.b..If the governing board wishes to request a conditional zoning district to impose standards that bring the site into greater conformance, a special use permit to address the separation requirements under UDO 30-4.C.5.b may also be required in

accordance with UDO 30-4.C.

Land Use Plan Analysis:

According to the Future Land Use Map, this parcel has been identified for development with regional employment centers, including larger industrial uses or business parks under the Industrial/Employment Center (EC) designation. The Heavy Industrial district allows for uses that fit within this category of land uses.

Consistency and Reasonableness Statements:

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

Budget Impact:

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

Options:

1. Recommend approval of the map amendment to HI 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.;
2. Deny the map amendment request based on the evidence submitted and finds that the map amendment is inconsistent with the Future Land Use Plan (recommended).
3. Recommend approval of the map amendment to a more restrictive zoning district based on the evidence submitted and finds that the map amendment would be consistent with the Future Land Use Plan and an amended consistency statement.

Recommended Action:

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

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

welfare.

Attachments:

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

Project Overview**#944350****Project Title:** Kubota of Fayetteville**Jurisdiction:** City of Fayetteville**Application Type:** 5.1) Rezoning (Map Amendment)**State:** NC**Workflow:** Staff Review**County:** Cumberland**Project Location****Project Address or PIN:** 1530 MIDDLE RIVER LOOP
(0447576483000)**Zip Code:** 28306**GIS Verified Data****Property Owner: Parcel**

- 1530 MIDDLE RIVER LOOP: CAROLINA SUN INVESTMENTS LLC

Acreage: Parcel

- 1530 MIDDLE RIVER LOOP: 10

Zoning District: Zoning District

- 1530 MIDDLE RIVER LOOP: cnty

Subdivision Name:**Fire District:****Airport Overlay District:****Hospital Overlay District:****Coliseum Tourism District:****Cape Fear District: Cape Fear District**

- 1530 MIDDLE RIVER LOOP: 0

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:** HI**Acreage to be Rezoned:** 10.0**Is this application related to an annexation?:** Yes**Water Service:** Public**Sewer Service:** Private**A) Please describe all existing uses of the land and existing structures on the site, if any:**

The site is a Kubota tractor and equipment sales and service center.

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

The property to the west is zoned HI and is a sausage plant. The adjoining property to the north and east is zoned residential and is currently undeveloped. The property to the south across the Middle River Loop is the I-95 ramp.

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 property is adjacent to HI property that is located in the city limits. This is an existing industrial corridor. The subject property is already developed and is consistent with the comprehensive plan.

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

The subject property must be annexed into the city limits prior to rezoning.

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

Industrial property is needed within the city limits. The owner wishes to connect to PWC sewer. In order to connect to PWC sewer, the property must be annexed into the city limits.

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 property is consistent with the adjacent property. The property is developed and is being used as industrial property. The annexation and rezoning are to allow for public sewer to service the property.

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

The amendment results in a logical and orderly development pattern. The property is already developed and is consistent with the surrounding property.

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

N/A

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

N/A. The property is already developed.

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.:

An isolated zoning district will not be created. The property is adjacent to a HI zoned tract located in the city limits.

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

The property is already developed. No significant adverse impacts on the surrounding property values are anticipated.

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

No significant adverse impacts will result from the proposed annexation and rezoning.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Charles Horne
Carolina Sun Investments, LLC
1662 Middle River Loop
Fayetteville, NC 28312
P:910-489-2771
charleshorne@hbc-inc.com

Project Contact - Agent/Representative

Charles Horne
Carolina Sun Investments, LLC
1662 Middle River Loop
Fayetteville, NC 28312
P:910-489-2771

Project Contact - Primary Point of Contact for Engineer

Scott Brown
4D Site Solutions, Inc
409 Chicago Drive, Suite 112
Fayetteville, NC 28306
P:(910) 4266777
sbrown@4dsitesolutions.com

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

NC State General Contractor's License Number:

NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor's #3 License Number:

NC State Electrical Contractor #1 License Number:

NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

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

PART II - CODE OF ORDINANCES

CHAPTER 30 – UNIFIED DEVELOPMENT ORDINANCE

Article 30-3: Zoning Districts

30-3.E. Business Base Zoning Districts

30-3.E.9. Heavy Industrial (HI) District

HI HEAVY INDUSTRIAL DISTRICT	PURPOSE	
	The Heavy Industrial (HI) District is established and intended to accommodate heavy manufacturing, assembly, fabrication, processing, distribution, storage, research and development, and other industrial uses that may be large-scale or otherwise have extensive exterior movement of vehicle, materials, and goods, and greater potential for adverse environmental and visual impacts.	
DIMENSIONAL STANDARDS		
DIMENSIONAL STANDARD	PRINCIPAL USES	ACCESSORY STRUCTURES
Lot area, min. (sq. ft.)	40,000	n/a
Lot width, min. (ft.)	100	n/a
Lot coverage, max. (% of lot area)	75	[1]
Height, max. (ft.)	90; 50 when abutting a single-family residential district	
Front and corner setback, min. (ft.)	The lesser of: 50 feet or 75 feet from street centerline of private streets	Not allowed in front, side, or corner side yard areas
Side setback, min. (ft.)	15; 100 where abutting a residential zoning district	
Rear setback, min. (ft.)	20; none where abutting a railroad right- of-way; 50 where abutting a residential zoning district	5; 75 where abutting a residential zoning district
Spacing between buildings, min. (ft.)	20	5
NOTES:		
[1] Accessory structures/use areas shall not exceed the lesser of: 5,000 square feet in size or 30 percent of the allowable lot coverage.		

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 P23-09 is consistent/inconsistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

GOAL(S)	CONSISTENT	INCONSISTENT
GOAL #1: Focus value and investment around infrastructure and strategic nodes	X	
GOAL #3 Promote compatible economic and commercial development in key identified areas	X	

2. LAND USE POLICES AND STRATEGIES:

LAND USE POLICIES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 1: Encourage growth in areas well- served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire and emergency services.		
1.1: Work with Public Works Commission (PWC) and other utility provider to ensure that public facilities and services are planned in a coordinated manner	X	
1.3: Consider the costs and benefits of future extensions of utility service	X	
LUP 2: Encourage strategic economic development		
2.1: Encourage economic development in designated areas	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]

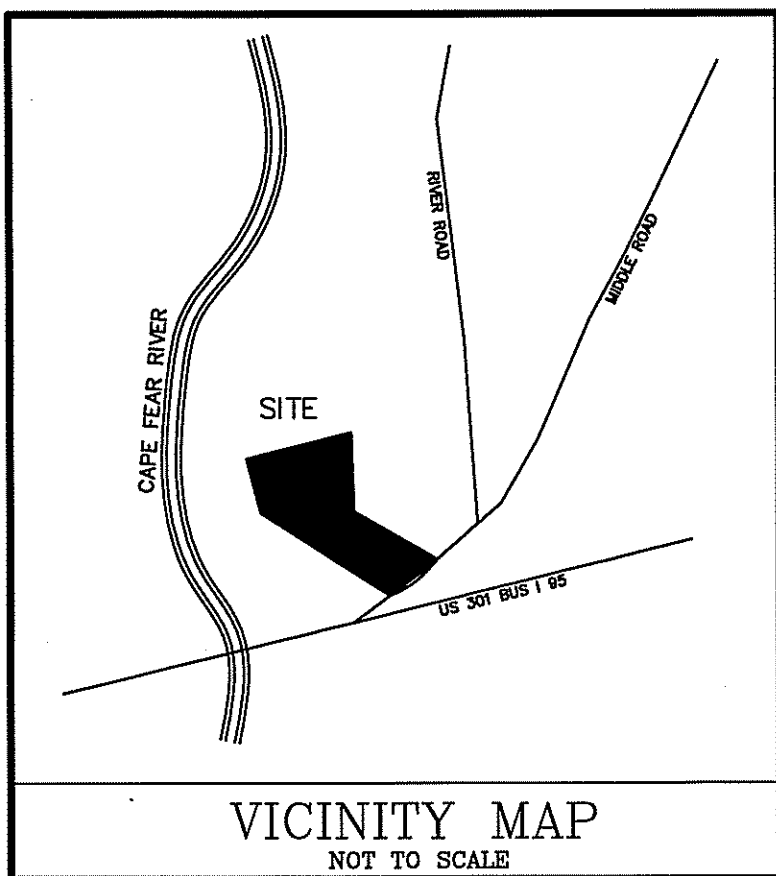
- X improves consistency with the long-range plan.
- X improves the tax base.
- preserves environmental and/or cultural resources.
- X facilitates a desired kind of development.
- X provides needed housing/commercial area.

Additional comments, if any (write-in):

March 14, 2023
Date

Signature

Print



THIS SURVEY FOR BOUNDARY PURPOSE ONLY.
IMPROVEMENTS MAY OR MAY NOT EXIST BUT WERE
NOT LOCATED.

N/F
VORDER BRUEGG, WILLIAM F. &
WIFE JULIA E. LITTLE
DEED BOOK 8444, PAGE:0470
PLAT BOOK 127, PAGE 008
0447-49-6446-

N/F
ELLIS, ROGERS ALLEN HEIRS DEED
BOOK 2574, PAGE:0495
0447-58-5771-

N/F
ELLIS, JACK CALVIN
DEED BOOK 4009, PAGE:0235
0447-58-7508-

N/F
EDGE, FRANK T.
DEED BOOK 9971, PAGE:0409
0447-58-6071-

CAROLINA SUN INVESTMENTS, LLC
PLAT BOOK 140, PAGE 102
DEED BOOK 10273, PAGE:0422
0447-57-1990-
Area = 33.41 ACRES
10.00 ACRES
REMAINING = 23.41 ACRES

I, W. LARRY KING, CERTIFY THAT THIS PLAT WAS
DRAWN UNDER MY SUPERVISION FROM AN
ACTUAL SURVEY MADE UNDER MY SUPERVISION
(DESCRIBED IN DEED BOOK 10273, PAGE 422);
THAT THE BOUNDARIES NOT SURVEYED ARE
CLEARLY INDICATED AS DRAWN FROM
INFORMATION FOUND IN BOOK AS PAGE
SHOWN; THAT THE RATIO OF PRECISION AS
CALCULATED IS 1:10,000; THAT THIS PLAT WAS
PREPARED IN ACCORDANCE WITH G.S. 47-30 AS
AMENDED. WITNESS, MY ORIGINAL SIGNATURE
LICENSE NUMBER AND SEAL, THIS 22 DAY
OF AUG A.D., 2018.

W. Larry King
PROFESSIONAL LAND SURVEYOR
LICENSE NUMBER L-1339

I, W. LARRY KING, HEREBY CERTIFY THAT THE
CHECKED ITEM(S) BELOW APPLY TO THIS MAP.

- (A) THAT THE SURVEY CREATES A SUBDIVISION
OF LAND WITHIN THE AREA OF A COUNTY OR
MUNICIPALITY THAT HAS AN ORDINANCE
THAT REGULATES PARCELS OF LAND.
- B. THAT THE SURVEY IS LOCATED IN A PORTION
OF A COUNTY OR MUNICIPALITY THAT IS
UNREGULATED AS TO AN ORDINANCE THAT
REGULATES PARCELS OF LAND.
- C. 1. THAT THE SURVEY IS OF AN EXISTING
PARCEL OR PARCELS OF LAND OR ONE
OR MORE EXISTING EASEMENTS AND DOES
NOT CREATE A NEW STREET OR CHANGE
AN EXISTING STREET.
2. THAT THE SURVEY IS OF AN EXISTING
FEATURE, SUCH AS A BUILDING OR OTHER
STRUCTURE, OR NATURAL FEATURE SUCH
AS A WATERCOURSE.
3. THAT THE SURVEY IS A CONTROL SURVEY.
4. THAT THE SURVEY IS OF A PROPOSED
EASEMENT FOR A PUBLIC UTILITY AS
DEFINED IN G.S. 62-3.
- D. THAT THE SURVEY IS OF ANOTHER CATEGORY,
SUCH AS THE RECOMBINATION OF EXISTING
PARCELS, A COURT-ORDERED SURVEY, OR
OTHER EXEMPTION OR EXCEPTION TO THE
DEFINITION OF SUBDIVISION.
- E. THAT THE INFORMATION AVAILABLE TO THE
SURVEYOR IS SUCH THAT THE SURVEYOR IS
UNABLE TO MAKE A DETERMINATION TO THE
BEST OF THE SURVEYOR'S PROFESSIONAL
ABILITY AS TO PROVISIONS CONTAINED IN (A)
THROUGH (D) ABOVE.

THE UNDERSIGNED HEREBY ACKNOWLEDGE THAT
THE LAND SHOWN ON THIS PLAT IS WITHIN THE
SUBDIVISION REGULATION JURISDICTION OF
CUMBERLAND COUNTY AND THAT THIS PLAT
IS OUR FREE ACT AND DEED. I DO HEREBY
DEDICATE FOR PUBLIC USE OF ALL RIGHTS-
OF-WAY AND EASEMENTS AS SHOWN ON THIS MAP.

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND
I, Victoria R. Campbell, a Notary of the
COUNTY AND STATE AFORESAID, CERTIFY THAT
LARRY KING, the undersigned, is a duly
qualified and acting Notary Public.
WITNESS MY HAND AND OFFICIAL SEAL, THIS 22 DAY OF AUGUST, 2018.

MY COMMISSION EXPIRES Aug. 17, 2019



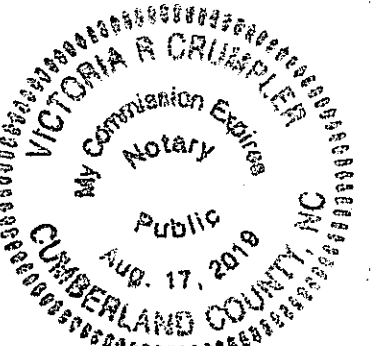
ANY PARCELS OR EXCLUDED AREAS
ARE TO BE SHOWN INTERNALLY WITHIN
THE PLAT. NO ACCESS OR TO DEPARTMENTAL
RIGHT OF WAY.

ONLY NORTH CAROLINA DEPARTMENT
OF TRANSPORTATION APPROVED
STRUCTURES ARE TO BE
CONSTRUCTED ON PUBLIC
RIGHT OF WAY.

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION
DIVISION OF HIGHWAYS
APPROVED FOR RECORDATION

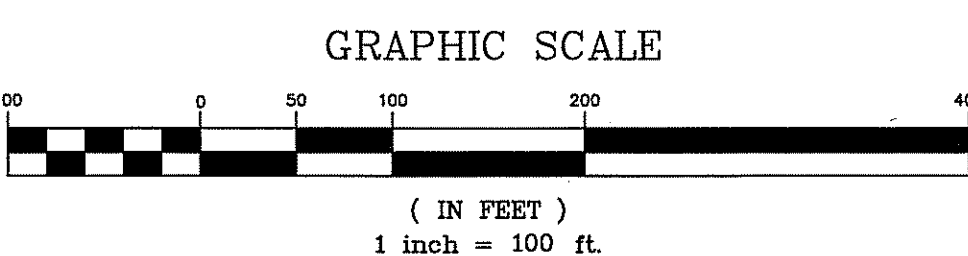
By: *Rickie Hise*
AUG 23, 2018
DATE

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND
I, Annie Melvin, Review Officer
of Cumberland County, certify that the map
or plat to which this certificate is affixed
meets all statutory requirements for recording.
Annie Melvin
Review Officer
Date: 8-23-18



- LEGEND
- DENOTES REBAR OR BREAK IN LINE
 - CONTROL CORNER
 - ◻ ECM (EXISTING CONCRETE MONUMENT)
 - EIR EXISTING IRON REBAR
 - SIR SET IRON REBAR
 - EPK EXISTING PK NAIL
 - SPK SET PK NAIL
 - NOTE - IRON REBAR SET AT ALL PROPERTY
CORNERS UNLESS OTHERWISE NOTED.

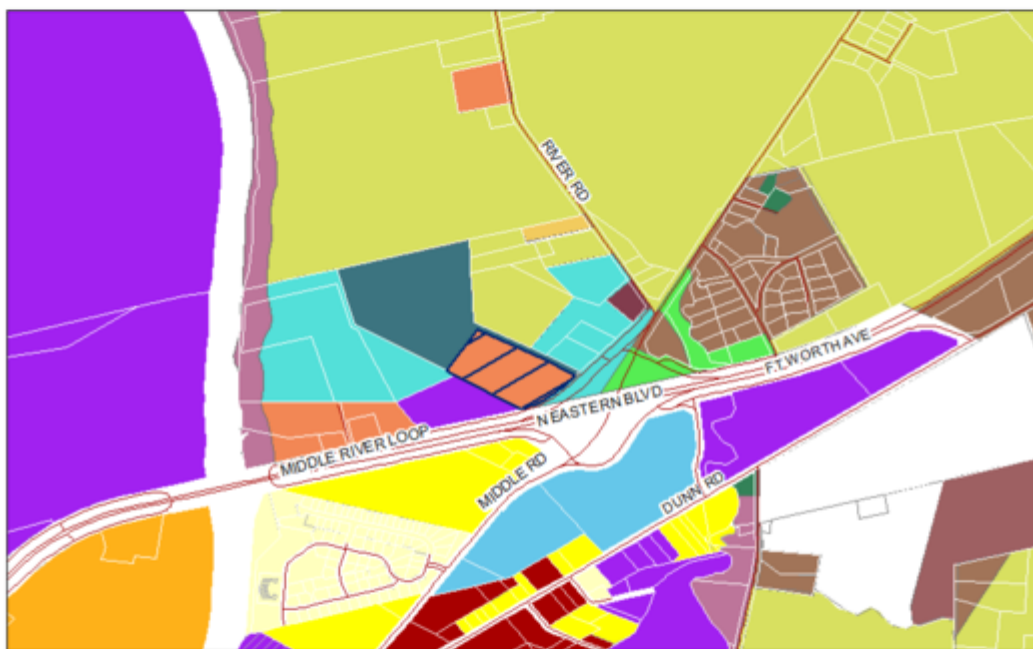
LINE TABLE	
—	BOUNDARY LINE
—	ADJOINER
---	RIGHT OF WAY
- - -	ELECTRIC LINE
- - -	GAS LINE



REVISIONS	
BOUNDARY SURVEY FOR CAROLINA SUN INVESTMENTS, LLC	
PIN 0447-57-1990-	
TOWNSHIP: EASTOVER	COUNTY: CUMBERLAND
STATE: NORTH CAROLINA	
PROPERTY OF: CAROLINA SUN INVESTMENTS, LLC	
LARRY KING & ASSOCIATES, P.L.S., P.A. 1333 MORGANTON ROAD, SUITE 201 FAYETTEVILLE, N. C. 28305 TELEPHONE: (910) 483-4300 FAX: (910) 483-4052	
NO FIRM LICENSE C-0887	DATE: 08/21/18 SURVEYED BY: LKA FIELD BOOK: SCALE: 1"=100' DRAWN BY: LTC FILE REF: HBC CHECKED & CLOSURE BY: LARRY KING DRAWING NO: McCauley

- NOTES:
1. PROPERTY SUBJECT TO ALL EASEMENTS, RIGHTS-OF-WAY
AND RESTRICTIVE COVENANTS OF RECORD.
 2. AREAS COMPUTED BY COORDINATE METHOD.
 3. RATIO OF PRECISION 1:10,000
 4. DASHED LINES NOT SURVEYED.
 5. TAX PIN - 0447-57-1990-
 6. ANY LOCATION OF UNDERGROUND UTILITIES AS SHOWN ARE BASED ON VISIBLE EVIDENCE AND
DRAWINGS IF PROVIDED TO THE SURVEYOR. LOCATION OF UNDERGROUND UTILITIES AND STRUCTURES
MAY VARY FROM LOCATIONS SHOWN HEREON, AND ADDITIONAL BURIED UTILITIES MAY EXIST. CONTACT
THE APPROPRIATE UTILITY COMPANIES FOR INFORMATION REGARDING BURIED UTILITIES.
 7. EXCEPT AS SPECIFICALLY STATED OR SHOWN, THIS SURVEY DOES NOT REPORT ANY OF THE
FOLLOWING: EASEMENTS, OTHER THAN THOSE VISIBLE DURING FIELD EXAMINATION OR AS IN
DOCUMENTATION PROVIDED BY THE CLIENT OR ATTORNEY, BUILDING SETBACKS, RESTRICTIVE
COVENANTS, ZONING OR LAND USE REGULATIONS AND ANY FACTS WHICH A TITLE SEARCH
MAY DISCLOSE.
 8. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
 9. THIS SURVEY WAS DONE WITHOUT A TITLE SEARCH AND IS BASED ON REFERENCED INFORMATION.
THERE MAY EXIST OTHER DOCUMENTS OF RECORD, WHICH COULD AFFECT THIS PROPERTY. ALL
RESEARCH DATA CURRENT AS OF 08/21/2018.
 10. ALL BUILDINGS, SURFACE AND SUBSURFACE IMPROVEMENTS ON AND ADJACENT TO THIS
PROPERTY ARE SHOWN, IF REQUIRED.
 11. BUILDING SETBACKS ARE AS SHOWN HEREON. IF NO SETBACKS ARE SPECIFIED, ANY
STRUCTURES OR IMPROVEMENTS PLACED ON THIS SUBJECT PROPERTY MUST COMPLY WITH
RESTRICTIVE COVENANTS, ZONING, DOCUMENTS OF RECORD GOVERNING SUCH IMPROVEMENTS AND
ANY BINDING AGREEMENT BETWEEN THE DEVELOPER AND THE BUILDER/OWNER.
 12. IF THIS PLAT IS OF THE CATEGORY DETERMINED TO BE A RECOMBINATION OF PREVIOUSLY
PLATTED OR RECORDED PROPERTY, ANY RESTRICTIONS AND SPECIFICS APPLICABLE TO THAT
PREVIOUSLY FILED DOCUMENT APPLY TO THIS SUBJECT PROPERTY ALSO, EXCEPT AS ALLOWED FOR
BY THE ORDINANCE FOR THE JURISDICTION THAT OVERSEES AND GOVERNS THIS SUBJECT PROPERTY.
 13. UNLESS OTHERWISE NOTED, THIS PROPERTY HAS NOT BEEN INVESTIGATED WITH REGARDS TO
WETLANDS AND NO DETERMINATION HAS BEEN MADE AS TO THE EXISTENCE OF WETLANDS WITHIN
THE BOUNDARIES SHOWN HEREON.
 14. IF WETLAND AREAS ARE SHOWN ON THIS SUBJECT PROPERTY, THOSE AREAS WERE STAKED AND
DETERMINED TO BE SUCH BY OTHERS. THE SURVEYOR'S CERTIFICATION HEREON CERTIFIES TO THE
LOCATION OF THOSE AREAS, AS STAKED BY OTHERS, BUT LOCATED UNDER THIS
SURVEYOR'S SUPERVISION AND PLATTED HEREON.
 15. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED DURING
THIS SURVEY. NO STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND CONTAINERS,
WHICH MAY AFFECT THE USE OF THIS TRACT.
 16. NON-CONFORMING STRUCTURES HAVE NOT BEEN CREATED BY THIS SUBDIVISION.
 17. UNLESS NOTED OTHERWISE, THERE WERE NO U.S.G.S., N.C.G.S. OR OTHER GOVERNMENTALLY
RECOGNIZED HORIZONTAL CONTROL MONUMENTATION FOUND WITHIN 2,000 FEET OF THIS SUBJECT
PROPERTY.
 18. IF THIS PLAT IS LABELED "ZERO LOT LINE" THERE ARE, IN ADDITION TO OTHER EASEMENTS
SHOWN, MAINTENANCE EASEMENTS ON ALL INTERIOR LOT LINES, SAID EASEMENTS BEING 10 FEET IN
WIDTH AND UNLESS OTHERWISE NOTED, 5 FEET EACH SIDE OF SAID INTERIOR LOT LINE.
 19. IF THE STREETS AND ROADS SHOWN ON THIS MAP ARE LABELED AS PRIVATE STREETS, THE
FOLLOWING NOTICE APPLIES TO THOSE STREETS: NO PUBLIC AGENCY IS PRESENTLY RESPONSIBLE
FOR MAINTENANCE OF THE PRIVATE STREETS SHOWN ON THIS PLAT. PRIVATE STREETS ARE FOR
THE USE OF ALL OWNERS OF PROPERTY WITHIN THIS SUBDIVISION, THEIR GUESTS AND ALL
REPRESENTATIVES OF GOVERNMENTAL AGENCIES FOR INGRESS AND EGRESS, AND FOR THE
CONSTRUCTION, INSPECTION AND MAINTENANCE OF PUBLIC STREETS, UTILITIES, AND DRAINAGE
STRUCTURES. THE STREETS ARE THE SOLE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION.





Zoning Map Case #: P23-09

Initial Zoning
Request: Heavy Industrial (HI)

Location: 1530 Middle River Loop

Legend

P23-09

CC - Community Commercial

HI - Heavy Industrial

HI/CZ - Conditional Heavy Industrial

LI - Light Industrial

SR-5 - Single-Family Residential 5

SR-6 - Single-Family Residential 6

SR-10 - Single-Family Residential 10

County

CCZoning

gis_ware_3

A1

C1P

C3

C4

CP

HSP

SR

R10

R40A

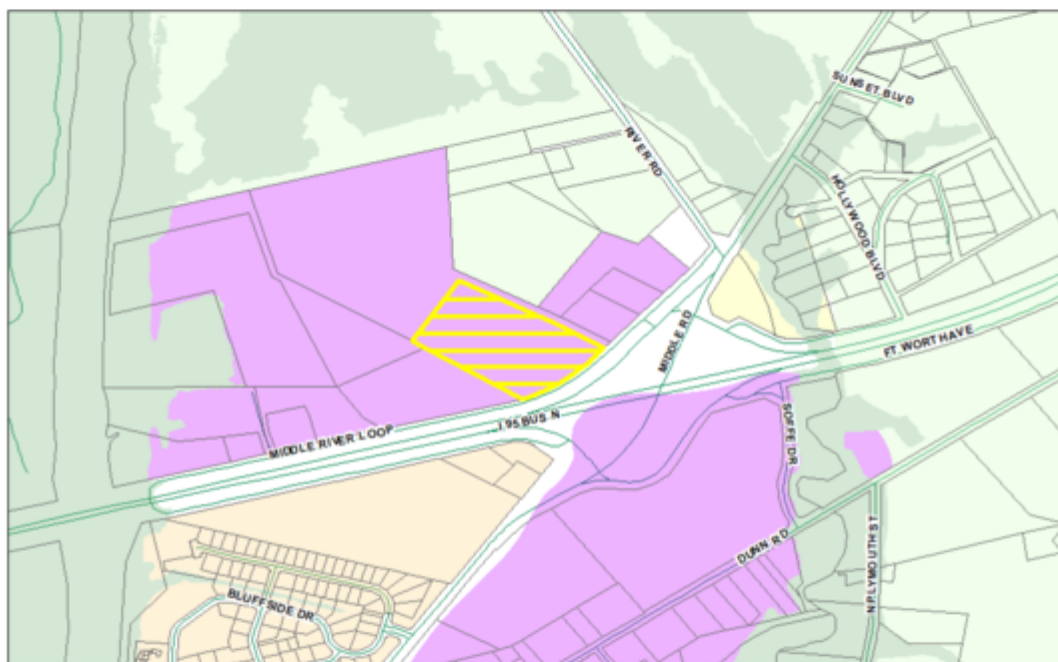
R50A

RK



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





Land Use Map

Case #: P23-09

Initial Zoning

Request: Heavy Industrial (HI)

Location: 1530 Middle River Loop

Legend


 1530 Middle River Loop

Land Use Plan 2040

Character Areas

 RU - RURAL

 PARKOS - PARK / OPEN SPACE

 LDR - LOW DENSITY

 MDR - MEDIUM DENSITY

 EC - EMPLOYMENT CENTER



Project Overview**#944350****Project Title:** Kubota of Fayetteville**Jurisdiction:** City of Fayetteville**Application Type:** 5.1) Rezoning (Map Amendment)**State:** NC**Workflow:** Staff Review**County:** Cumberland**Project Location****Project Address or PIN:** 1530 MIDDLE RIVER LOOP
(0447576483000)**Zip Code:** 28306**GIS Verified Data****Property Owner: Parcel**

- 1530 MIDDLE RIVER LOOP: CAROLINA SUN INVESTMENTS LLC

Acreage: Parcel

- 1530 MIDDLE RIVER LOOP: 10

Zoning District: Zoning District

- 1530 MIDDLE RIVER LOOP: cnty

Subdivision Name:**Fire District:****Airport Overlay District:****Hospital Overlay District:****Coliseum Tourism District:****Cape Fear District: Cape Fear District**

- 1530 MIDDLE RIVER LOOP: 0

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:** HI**Acreage to be Rezoned:** 10.0**Is this application related to an annexation?:** Yes**Water Service:** Public**Sewer Service:** Private**A) Please describe all existing uses of the land and existing structures on the site, if any:**

The site is a Kubota tractor and equipment sales and service center.

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

The property to the west is zoned HI and is a sausage plant. The adjoining property to the north and east is zoned residential and is currently undeveloped. The property to the south across the Middle River Loop is the I-95 ramp.

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 property is adjacent to HI property that is located in the city limits. This is an existing industrial corridor. The subject property is already developed and is consistent with the comprehensive plan.

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

The subject property must be annexed into the city limits prior to rezoning.

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

Industrial property is needed within the city limits. The owner wishes to connect to PWC sewer. In order to connect to PWC sewer, the property must be annexed into the city limits.

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 property is consistent with the adjacent property. The property is developed and is being used as industrial property. The annexation and rezoning are to allow for public sewer to service the property.

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

The amendment results in a logical and orderly development pattern. The property is already developed and is consistent with the surrounding property.

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

N/A

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

N/A. The property is already developed.

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.:

An isolated zoning district will not be created. The property is adjacent to a HI zoned tract located in the city limits.

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

The property is already developed. No significant adverse impacts on the surrounding property values are anticipated.

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

No significant adverse impacts will result from the proposed annexation and rezoning.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Charles Horne
Carolina Sun Investments, LLC
1662 Middle River Loop
Fayetteville, NC 28312
P:910-489-2771
charleshorne@hbc-inc.com

Project Contact - Agent/Representative

Charles Horne
Carolina Sun Investments, LLC
1662 Middle River Loop
Fayetteville, NC 28312
P:910-489-2771

Project Contact - Primary Point of Contact for Engineer

Scott Brown
4D Site Solutions, Inc
409 Chicago Drive, Suite 112
Fayetteville, NC 28306
P:(910) 4266777
sbrown@4dsitesolutions.com

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

NC State General Contractor's License Number:

NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor's #3 License Number:

NC State Electrical Contractor #1 License Number:

NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

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



433 Hay Street, Fayetteville, North Carolina 28301
910-433-1612 Fax: 910-433-1776

Petition Requesting Annexation (Contiguous)

Date Received: _____ Received by: _____

Action by City Council: _____

_____ Approved by City Council (Date Approved: _____)

_____ Denied by City Council (Date Denied: _____)

Who Should Use This Form:

This form should be used by a property owner who is requesting annexation of a contiguous property into the City of Fayetteville.

This form is based on the North Carolina General Statutes governing contiguous voluntary annexations [G.S. 160A-31(a) and (b)].

Statement of the Request:

To the Mayor and City Council of the City of Fayetteville, North Carolina:

1. We the undersigned owners of real property respectfully request that the area described in the attached metes and bounds legal description be annexed to the City of Fayetteville.
2. The area to be annexed is contiguous to the City of Fayetteville and the boundaries of such territory are shown in the attached metes and bounds legal description and in the attached map.

1. General Property Information

Property Address:	1530 Middle River Loop	
Parcel Identification Number:	0447576483000	
Please identify the City of Fayetteville zoning district you are requesting for your property after it is annexed.	HI	Lot Area/Acreage: 10.0

Have you obtained a vested right from the County Planning Department for any proposed development at this location?

☐ Yes ☐ No **If marked yes, please attach evidence.**

2. Submittal Requirement Checklist

(Submittal should include 1 copy of listed items, unless otherwise stated.)

<input checked="" type="checkbox"/>	A <u>metes and bounds legal description</u> of the proposed annexation area is attached.
<input checked="" type="checkbox"/>	A deed of the property is attached indicating the deed book and page number.
<input type="checkbox"/>	A map showing the proposed annexation area in relation to the existing City Limits is attached.
<input type="checkbox"/>	Evidence of vested rights obtained from County Planning Department (if applicable).
<input checked="" type="checkbox"/>	The area to be annexed is contiguous to the City Limits and a map indicating the boundaries of such territory is attached.

3. Primary Contact Information & Signatures

If the property is owned by an individual (or individuals), please fill in the Individual section below. If the property is owned by a Corporation, Limited Liability Corporation (LLC), or Partnership, please fill in the appropriate section below. Be sure to provide names, signatures, and titles, as specified below.

INDIVIDUALS

<u>ALL</u> Owner Signatures Required *	Print Name	Phone Number	Mailing Address

CORPORATION

NAME OF CORPORATION:

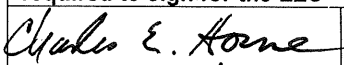
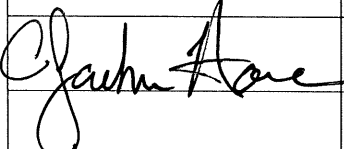
Signature of ALL individuals, and their Title, who are required to sign for the Corporation *

	Print Name and Title	Phone Number	Mailing Address

LIMITED LIABILITY CORPORATION LLC

NAME OF LLC: Carolina Sun Investments, LLC

Signature of ALL individuals, and their Title, who are required to sign for the LLC *

	Print Name and Title	Phone Number	Mailing Address
	Charles E. Horne - Member	910-489-2771	PO Box 205 Fayetteville, NC 28302
	C. Jackson Horne - Member	910-309-8844	PO Box 205 Fayetteville, NC 28302

PARTNERSHIP

NAME OF PARTNERSHIP:

Signature of ALL individuals and their Title, who are required to sign for the Partnership *

	Print Name and Title	Phone Number	Mailing Address

*Please use additional paper if necessary.

AFFIDAVIT OF OWNERSHIP

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

1. That I am the owner of the property/properties located at 1530 Middle River Loop in the City of Fayetteville, a political subdivision of the State of North Carolina.

2. I do hereby give permission to 4D Site Solutions, Inc to submit a Conditional Rezoning/Rezoning/Variance/Special Use (circle one) application to the City of Fayetteville on my behalf for the above referenced property/properties.

3. This authority is only granted for the application to be submitted on January 31, 2023.

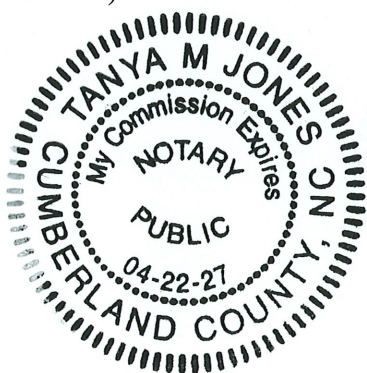
Charles E. Horne
Signature of Affiant

Signature of Affiant

Cumberland County, North Carolina

Sworn to and subscribed before me this day on the 31st day of January, 2023

(Official Seal)



Tanya M. Jones
Signature of Notary Public

Tanya M. Jones, Notary Public
Printed Name of Notary Public

My Commission Expires: 4/22/2027

FILED Mar 22, 2018
AT 04:00:04 pm
BOOK 10273
START PAGE 0422
END PAGE 0424
INSTRUMENT # 08573
RECORDING \$26.00
EXCISE TAX \$1,974.00

AH

NORTH CAROLINA GENERAL WARRANTY DEED

TITLE NOT CERTIFIED

Excise Tax \$ 1,974.00

RFP File # 522-11

Parcel Identifier No.: 0447-57-1990

Prepared by: Rebecca F. Person, 2401 Robeson St., Fayetteville, NC 28305

Return to: Steve Bunce File # 46114-18

Brief Description for the Index: Middle Road parcel

THIS DEED made this March 21, 2018 by and between:

GRANTOR	GRANTEE
AOM II, LLC, a North Carolina limited liability company	CAROLINA SUN INVESTMENTS, LLC, a North Carolina limited liability company
Mailing Address: PO BOX 361 Fayetteville, NC 28302	Mailing Address: PO BOX 205 Fayetteville, NC 28302

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, Cumberland County, North Carolina and more particularly described as follows:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

The property hereinabove described was acquired by instrument recorded in Book 10228, Page 176, Cumberland County, North Carolina, Registry.

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

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) _____

AOM II, LLC

BY: _____

Name: Albert O. McCauley

Title: Manager

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: Albert O. McCauley, Manager

Date: _____

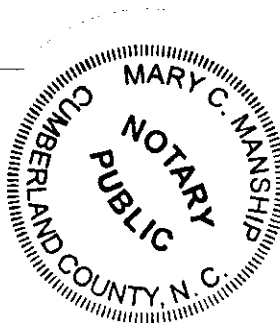
3/21/18

Mary C. Manship

Mary C. Manship

Printed Name of Notary Public

My Commission Expires: 03/29/22



(N.P. SEAL)

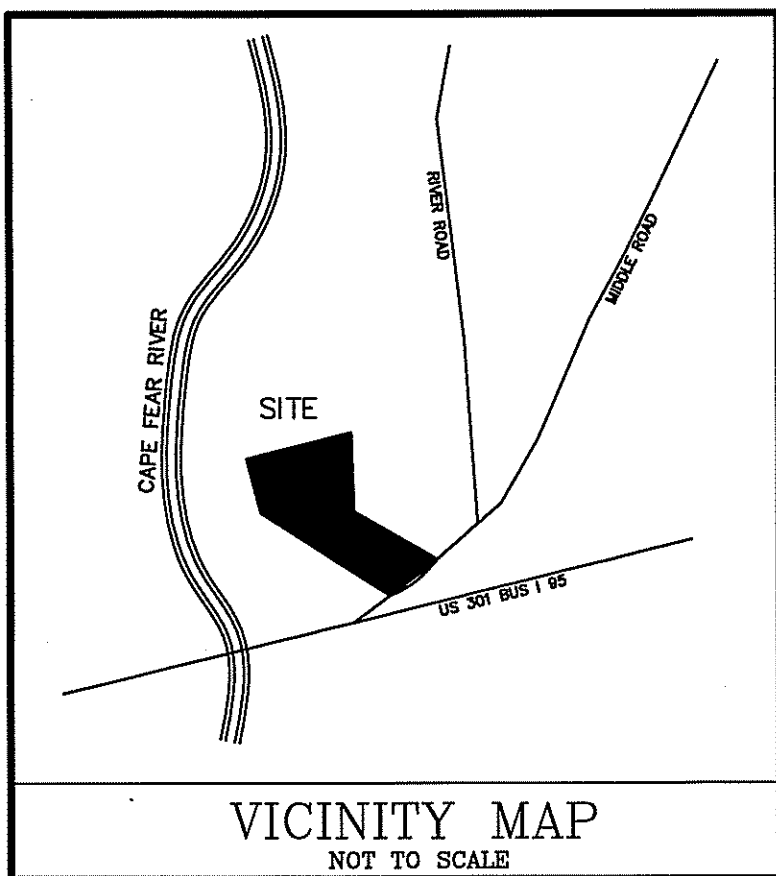
EXHIBIT A

PIN: 0447-57-1990

BEGINNING at an iron pin located in the northwest margin of the service road of U.S. Highway 301 North (Interstate 95), said beginning point being also in the southern margin of a 40 foot right of way which intersects with the western margin of said service road; running thence with the western margin of said service road South 46 degrees 44 minutes West 115.81 feet to a point; thence on a radius of 957.98 feet as said service road curves to the right in a southwesterly direction an arc distance of 477.87 feet to an iron pin; thence North 53 degrees 30 minutes West 1582.91 feet to an iron pin; thence North 10 degrees 41 minutes West 573.38 feet to an iron pin; thence North 79 degrees 22 minutes East 1123.19 feet to a monument; thence South 01 degrees 58 minutes West 820.76 feet to an iron pin; thence along a fence and hedgerow, South 53 degrees 57 minutes East 990.74 feet to the Beginning, containing 32.87 acres, more or less, and being the same property described in deed dated May 29, 1974, to Albert O. McCauley and Richard L. Irving, of record in Book 2443, Page 383, in the Office of the Register of Deeds of Cumberland County, North Carolina Registry.

SUBJECT TO an easement to the City recorded in Book 3651, Page 794 and a memorandum of lease recorded in Book 7884, Page 228, Cumberland County, North Carolina Registry.

Being the same property as conveyed to Albert O. McCauley in Deed Book 2695, Page 127, Cumberland County, North Carolina Registry.



THIS SURVEY FOR BOUNDARY PURPOSE ONLY.
IMPROVEMENTS MAY OR MAY NOT EXIST BUT WERE
NOT LOCATED.

N/F
VORDER BRUEGG, WILLIAM F. &
WIFE JULIA E. LITTLE
DEED BOOK 8444, PAGE:0470
PLAT BOOK 127, PAGE 008
0447-49-6446-

N/F
ELLIS, ROGERS ALLEN HEIRS DEED
BOOK 2574, PAGE:0495
0447-58-5771-

N/F
ELLIS, JACK CALVIN
DEED BOOK 4009, PAGE:0235
0447-58-7508-

N/F
EDGE, FRANK T.
DEED BOOK 9971, PAGE:0409
0447-58-6071-

CAROLINA SUN INVESTMENTS, LLC
PLAT BOOK 140, PAGE 102
DEED BOOK 10273, PAGE:0422
0447-57-1990-
Area = 33.41 ACRES
10.00 ACRES
REMAINING = 23.41 ACRES

I, W. LARRY KING, CERTIFY THAT THIS PLAT WAS
DRAWN UNDER MY SUPERVISION FROM AN
ACTUAL SURVEY MADE UNDER MY SUPERVISION
(DESCRIBED IN DEED BOOK 10273, PAGE 422);
THAT THE BOUNDARIES NOT SURVEYED ARE
CLEARLY INDICATED AS DRAWN FROM
INFORMATION FOUND IN BOOK AS PAGE
SHOWN; THAT THE RATIO OF PRECISION AS
CALCULATED IS 1:10,000; THAT THIS PLAT WAS
PREPARED IN ACCORDANCE WITH G.S. 47-30 AS
AMENDED. WITNESS, MY ORIGINAL SIGNATURE
LICENSE NUMBER AND SEAL, THIS 22 DAY
OF AUG A.D., 2018.

W. Larry King
PROFESSIONAL LAND SURVEYOR
LICENSE NUMBER L-1339

I, W. LARRY KING, HEREBY CERTIFY THAT THE
CHECKED ITEM(S) BELOW APPLY TO THIS MAP.

- (A) THAT THE SURVEY CREATES A SUBDIVISION
OF LAND WITHIN THE AREA OF A COUNTY OR
MUNICIPALITY THAT HAS AN ORDINANCE
THAT REGULATES PARCELS OF LAND.
- B. THAT THE SURVEY IS LOCATED IN A PORTION
OF A COUNTY OR MUNICIPALITY THAT IS
UNREGULATED AS TO AN ORDINANCE THAT
REGULATES PARCELS OF LAND.
- C. 1. THAT THE SURVEY IS OF AN EXISTING
PARCEL OR PARCELS OF LAND OR ONE
OR MORE EXISTING EASEMENTS AND DOES
NOT CREATE A NEW STREET OR CHANGE
AN EXISTING STREET.
2. THAT THE SURVEY IS OF AN EXISTING
FEATURE, SUCH AS A BUILDING OR OTHER
STRUCTURE, OR NATURAL FEATURE SUCH
AS A WATERCOURSE.
3. THAT THE SURVEY IS A CONTROL SURVEY.
4. THAT THE SURVEY IS OF A PROPOSED
EASEMENT FOR A PUBLIC UTILITY AS
DEFINED IN G.S. 62-3.
- D. THAT THE SURVEY IS OF ANOTHER CATEGORY,
SUCH AS THE RECOMBINATION OF EXISTING
PARCELS, A COURT-ORDERED SURVEY, OR
OTHER EXEMPTION OR EXCEPTION TO THE
DEFINITION OF SUBDIVISION.
- E. THAT THE INFORMATION AVAILABLE TO THE
SURVEYOR IS SUCH THAT THE SURVEYOR IS
UNABLE TO MAKE A DETERMINATION TO THE
BEST OF THE SURVEYOR'S PROFESSIONAL
ABILITY AS TO PROVISIONS CONTAINED IN (A)
THROUGH (D) ABOVE.

THE UNDERSIGNED HEREBY ACKNOWLEDGE THAT
THE LAND SHOWN ON THIS PLAT IS WITHIN THE
SUBDIVISION REGULATION JURISDICTION OF
CUMBERLAND COUNTY AND THAT THIS PLAT
IS OUR FREE ACT AND DEED. I DO HEREBY
DEDICATE FOR PUBLIC USE OF ALL RIGHTS-
OF-WAY AND EASEMENTS AS SHOWN ON THIS MAP.

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND
I, Victoria R. Campbell, a Notary of the
COUNTY AND STATE AFORESAID, CERTIFY THAT
LARRY KING, Notary Public
SUBJECT PROPERTY
OWNER PERSONALLY APPEARED BEFORE ME
THIS DAY AND ACKNOWLEDGED THE SIGNATURE
OF THE FOREGOING INSTRUMENT. WITNESS MY
HAND AND OFFICIAL SEAL, THIS 22 DAY OF
AUGUST, 2018.

MY COMMISSION EXPIRES Aug. 17, 2019



ANY PARCELS OR EXCLUDED AREAS
ARE TO BE SHOWN INTERNALLY WITHIN
THE ACCESS OR TO DEPARTMENTAL
RIGHT OF WAY

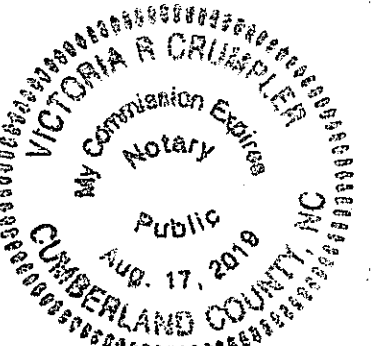
ONLY NORTH CAROLINA DEPARTMENT
OF TRANSPORTATION APPROVED
STRUCTURES ARE TO BE
CONSTRUCTED ON PUBLIC
RIGHT OF WAY.

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION
DIVISION OF HIGHWAYS
APPROVED FOR RECORDATION

By: Rickie Hise
AUG 23, 2018

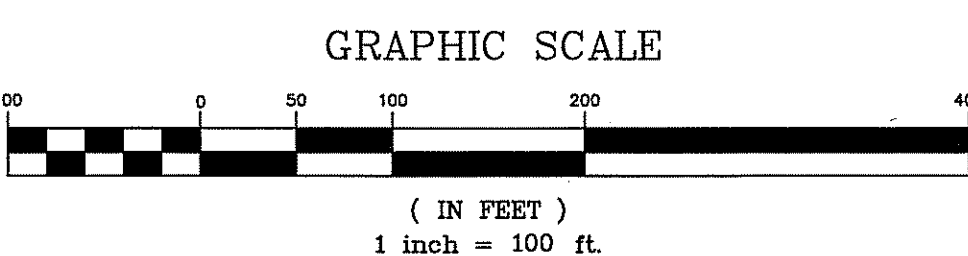
STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND
I, Annie Melvin, Review Officer
of Cumberland County, certify that the map
or plat to which this certificate is affixed
meets all statutory requirements for recording.

Annie Melvin
Review Officer
8-23-18



- LEGEND
- DENOTES REBAR OR BREAK IN LINE
 - CONTROL CORNER
 - ◻ ECM (EXISTING CONCRETE MONUMENT)
 - EIR EXISTING IRON REBAR
 - SIR SET IRON REBAR
 - EPK EXISTING PK NAIL
 - SPK SET PK NAIL
 - NOTE - IRON REBAR SET AT ALL PROPERTY
CORNERS UNLESS OTHERWISE NOTED.

LINE TABLE	
—	BOUNDARY LINE
—	ADJOINER
---	RIGHT OF WAY
- - -	ELECTRIC LINE
- - -	GAS LINE



REVISIONS	
BOUNDARY SURVEY FOR CAROLINA SUN INVESTMENTS, LLC	
PIN 0447-57-1990-	
TOWNSHIP: EASTOVER	COUNTY: CUMBERLAND
STATE: NORTH CAROLINA	
PROPERTY OF: CAROLINA SUN INVESTMENTS, LLC	
LARRY KING & ASSOCIATES, P.L.S., P.A. 1333 MORGANTON ROAD, SUITE 201 FAYETTEVILLE, N. C. 28305 TELEPHONE: (910) 483-4300 FAX: (910) 483-4052	
NO FIRM LICENSE C-0887	DATE: 08/21/18 SURVEYED BY: LKA FIELD BOOK: SCALE: 1"=100' DRAWN BY: LTC FILE REF: HBC
CHECKED & CLOSURE BY: LARRY KING	DRAWING NO: McCauley

- NOTES:
1. PROPERTY SUBJECT TO ALL EASEMENTS, RIGHTS-OF-WAY
AND RESTRICTIVE COVENANTS OF RECORD.
 2. AREAS COMPUTED BY COORDINATE METHOD.
 3. RATIO OF PRECISION 1:10,000
 4. DASHED LINES NOT SURVEYED.
 5. TAX PIN - 0447-57-1990-
 6. ANY LOCATION OF UNDERGROUND UTILITIES AS SHOWN ARE BASED ON VISIBLE EVIDENCE AND
DRAWINGS IF PROVIDED TO THE SURVEYOR. LOCATION OF UNDERGROUND UTILITIES AND STRUCTURES
MAY VARY FROM LOCATIONS SHOWN HEREON, AND ADDITIONAL BURIED UTILITIES MAY EXIST. CONTACT
THE APPROPRIATE UTILITY COMPANIES FOR INFORMATION REGARDING BURIED UTILITIES.
 7. EXCEPT AS SPECIFICALLY STATED OR SHOWN, THIS SURVEY DOES NOT REPORT ANY OF THE
FOLLOWING: EASEMENTS, OTHER THAN THOSE VISIBLE DURING FIELD EXAMINATION OR AS IN
DOCUMENTATION PROVIDED BY THE CLIENT OR ATTORNEY, BUILDING SETBACKS, RESTRICTIVE
COVENANTS, ZONING OR LAND USE REGULATIONS AND ANY FACTS WHICH A TITLE SEARCH
MAY DISCLOSE.
 8. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
 9. THIS SURVEY WAS DONE WITHOUT A TITLE SEARCH AND IS BASED ON REFERENCED INFORMATION.
THERE MAY EXIST OTHER DOCUMENTS OF RECORD, WHICH COULD AFFECT THIS PROPERTY. ALL
RESEARCH DATA CURRENT AS OF 08/21/2018.
 10. ALL BUILDINGS, SURFACE AND SUBSURFACE IMPROVEMENTS ON AND ADJACENT TO THIS
PROPERTY ARE SHOWN, IF REQUIRED.
 11. BUILDING SETBACKS ARE AS SHOWN HEREON. IF NO SETBACKS ARE SPECIFIED, ANY
STRUCTURES OR IMPROVEMENTS PLACED ON THIS SUBJECT PROPERTY MUST COMPLY WITH
RESTRICTIVE COVENANTS, ZONING, DOCUMENTS OF RECORD GOVERNING SUCH IMPROVEMENTS AND
ANY BINDING AGREEMENT BETWEEN THE DEVELOPER AND THE BUILDER/OWNER.
 12. IF THIS PLAT IS OF THE CATEGORY DETERMINED TO BE A RECOMBINATION OF PREVIOUSLY
PLATTED OR RECORDED PROPERTY, ANY RESTRICTIONS AND SPECIFICS APPLICABLE TO THAT
PREVIOUSLY FILED DOCUMENT APPLY TO THIS SUBJECT PROPERTY ALSO, EXCEPT AS ALLOWED FOR
BY THE ORDINANCE FOR THE JURISDICTION THAT OVERSEES AND GOVERNS THIS SUBJECT PROPERTY.
 13. UNLESS OTHERWISE NOTED, THIS PROPERTY HAS NOT BEEN INVESTIGATED WITH REGARDS TO
WETLANDS AND NO DETERMINATION HAS BEEN MADE AS TO THE EXISTENCE OF WETLANDS WITHIN
THE BOUNDARIES SHOWN HEREON.
 14. IF WETLAND AREAS ARE SHOWN ON THIS SUBJECT PROPERTY, THOSE AREAS WERE STAKED AND
DETERMINED TO BE SUCH BY OTHERS. THE SURVEYOR'S CERTIFICATION HEREON CERTIFIES TO THE
LOCATION OF THOSE AREAS, AS STAKED BY OTHERS, BUT LOCATED UNDER THIS
SURVEYOR'S SUPERVISION AND PLATTED HEREON.
 15. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED DURING
THIS SURVEY. NO STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND CONTAINERS,
WHICH MAY AFFECT THE USE OF THIS TRACT.
 16. NON-CONFORMING STRUCTURES HAVE NOT BEEN CREATED BY THIS SUBDIVISION.
 17. UNLESS NOTED OTHERWISE, THERE WERE NO U.S.G.S., N.C.G.S. OR OTHER GOVERNMENTALLY
RECOGNIZED HORIZONTAL CONTROL MONUMENTATION FOUND WITHIN 2,000 FEET OF THIS SUBJECT
PROPERTY.
 18. IF THIS PLAT IS LABELED "ZERO LOT LINE" THERE ARE, IN ADDITION TO OTHER EASEMENTS
SHOWN, MAINTENANCE EASEMENTS ON ALL INTERIOR LOT LINES, SAID EASEMENTS BEING 10 FEET IN
WIDTH AND UNLESS OTHERWISE NOTED, 5 FEET EACH SIDE OF SAID INTERIOR LOT LINE.
 19. IF THE STREETS AND ROADS SHOWN ON THIS MAP ARE LABELED AS PRIVATE STREETS, THE
FOLLOWING NOTICE APPLIES TO THOSE STREETS: NO PUBLIC AGENCY IS PRESENTLY RESPONSIBLE
FOR MAINTENANCE OF THE PRIVATE STREETS SHOWN ON THIS PLAT. PRIVATE STREETS ARE FOR
THE USE OF ALL OWNERS OF PROPERTY WITHIN THIS SUBDIVISION, THEIR GUESTS AND ALL
REPRESENTATIVES OF GOVERNMENTAL AGENCIES FOR INGRESS AND EGRESS, AND FOR THE
CONSTRUCTION, INSPECTION AND MAINTENANCE OF PUBLIC STREETS, UTILITIES, AND DRAINAGE
STRUCTURES. THE STREETS ARE THE SOLE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION.





PART II - CODE OF ORDINANCES

CHAPTER 30 – UNIFIED DEVELOPMENT ORDINANCE

Article 30-4: Use Standards

30-4.A. Use Table

30-4.A.1. Explanation of Use Table Structure

a. General

1. Table 30-4.A, Use Table, lists land uses and indicates whether they are allowed by right, allowed as a special use, allowed in a planned development zoning district, or prohibited in each base zoning district and planned development district. The use table also includes references to any additional requirements or regulations applicable to the specific use type.
2. The status of a use in a conditional zoning district shall be the same as in the parallel base zoning district unless such status is modified by conditions imposed as part of the Conditional Rezoning designating the conditional zoning district.

b. Organization of Uses

The use table organizes allowable uses by use classifications, use categories, and use types. The use table and Section 30-4.B, Use Classifications, Categories, and Use Types, together provide a systematic basis for identifying and consolidating or distinguishing unidentified land uses to determine whether a particular land use is allowable in a particular zoning district and in addressing future land uses.

1. *Use Classifications*

The use classifications identify broad general classifications of land use and include residential uses, institutional uses, agricultural uses, commercial uses, and industrial uses. Use classifications are further broken down into a series of general "use categories" and specific "use types."

2. *Use Categories*

The use categories describe the major sub-groups of the respective use classifications and are based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. For example, the Residential Use Classification is divided into the Household Living and Group Living use categories. Use categories are further broken down into a series of individual use types.

3. *Use Types*

The specific use types are included in the respective use category. They identify the specific principal uses that are considered to fall within characteristics identified in the use category. For example,

live/work dwellings, single-family detached dwellings, duplex dwellings, attached residential, multi-family dwellings, and manufactured homes are use types in the Household Living Use Category.

c. Permitted Uses

A "P" in a cell of the use table indicates that the corresponding use category or use type is allowed by right in the corresponding base zoning district or parallel conditional zoning district, subject to compliance with the use-specific standards referenced in the final column of the use table (and conditions imposed as part of a Conditional Rezoning, if applicable). An "MP" is used in the columns for the planned development districts, and specifies the allowable use types in a particular planned development district provided the use type is set out in an approved master plan. Permitted uses are subject to all other applicable regulations of this Ordinance, including those set forth in [Article 5: Development Standards](#), and [Article 6: Subdivisions](#).

d. Special Uses

An "S" in a cell of the use table indicates that the corresponding use category or use type is allowed in the corresponding base zoning district or parallel conditional zoning district, only upon approval of a Special Use Permit in accordance with [Section 30-2.C.7](#), Special Use Permit, any use-specific standards referenced in the final column of the use table, and any conditions imposed as part of a Conditional Rezoning (if applicable). Uses subject to a Special Use Permit are subject to all other applicable regulations of this Ordinance, including those set forth in [Article 30-5: Development Standards](#), and [Article 30-6: Subdivisions](#).

e. Allowed Uses Subject to a Planned Development District Classification

An "MP" in a cell indicates that a use category or use type is allowed by right in a planned development district, subject to compliance with the use-specific regulations set forth in the final column of the table and provided the use is set out as a possible use type in an approved planned development master plan. Allowed uses are subject to other applicable regulations in this Ordinance, including those set forth in [Section 30-3.G](#), Planned Development Zoning Districts. Use types that are blank are not allowable in a particular planned development district, and shall not be included in a master plan.

f. Prohibited Uses

A cell with a slash "/" sign or that is blank in the use table indicates that the use type is prohibited in the corresponding zoning district.

g. Use-Specific Standards

When a particular use category or use type is permitted in a zoning district, there may be additional regulations that are applicable to a specific use. The existence of these use-specific standards is noted through a section reference in the last column of the use table titled "Additional Requirements." References refer to [Section 30-4.C](#), Use-Specific Standards. These standards shall apply to a particular use regardless of the base zoning district where it is proposed unless otherwise specified.

h. Use Restricted or Prohibited by Overlay Zoning District

Regardless of whether the use table identifies a particular use type as a permitted use, allowed use, or special use in a zoning district, or references additional requirements for the use type, the use type may be restricted or prohibited, or subject to more restrictive additional requirements, in accordance with applicable overlay district provisions in [Section 30-3.H](#), Overlay Zoning Districts.

i. Unlisted Uses

The City Manager shall determine whether or not an unlisted use is part of an existing use category or use type defined in [Section 30-4.B](#), Use Classifications, Categories, and Types, or is substantially similar to an already defined use type, using the standards in [Section 30-4.B.1.d](#), Interpretation of Unlisted Uses. Uses that are not part of or substantially similar to an existing use type are prohibited.

j. **Review of Uses near Fort Bragg/Pope Airfield**

Within five miles of Fort Bragg and Pope Airfield any use over 200 feet in height proposed to be constructed or reconstructed, altered or expanded in ways that would aggravate or intensify a violation of requirements of [G.S. 143.151.70 to 77](#) must first be endorsed by the State Building Code Council, following review and endorsement procedures specified in the referenced General Statutes sections.

(Ord. No. S2011-008, § 11.1, 7-25-2011; Ord. No. S2014-002, § 1, 1-13-2014; Ord. No. S2014-004, § 7, 1-13-2014)

Effective on: 11/18/2013

30-4.A.2. Use Table

Table 30-4.A.2 Use Table																								
P = Permitted Use S = Special Use																								
MP = Allowed Subject to a Planned Development Master Plan																								
"/" = Prohibited Use [1]																								
USE CATEGORY	USE TYPE	ZONING DISTRICTS																				ADDITIONAL REQUIREMENTS		
		SPECIAL		RESIDENTIAL						BUSINESS										PLANNED DEVELOPMENT				
		C D	A R	SF - 15	SF - 10	SF -6	M R- 5	M H	O I	N C [3]	L C	C C	M U	D T- 1	D T- 2	U C	B P ⁴	L I	H I	PD -R	PD -EC		PD - TN	
AGRICULTURAL USE CLASSIFICATION																								
Agriculture	Plant nursery	S	P	/	/	/	/	/	/	/	/	/	/	/	/	/	/	P	P	MP	/	MP	30-4.C.1.a	
	All other agriculture	P	P	S	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	MP	/	MP		
	Urban Agriculture	/	/	/	/	/	/	/	/	S	P	P	/	/	/	/	/	P	/	/	/	/	30-4.C.1.c	
Agricultural Support and Services	Equestrian facility	/	P	S	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	MP	/	MP	30-4.C.1.b.1	
	All other agricultural support and services	/	P	/	/	/	/	/	/	/	/	S	/	/	/	/	/	P	/	/	/	/	30-4.C.1.b.2	
RESIDENTIAL USE CLASSIFICATION																								
Household Living [1]	Cottage developments	/	P	P	P	P	P	/	/	/	/	/	/	/	P	/	/	/	/	/	/	/	30-4.C.2.a.5	
	Dwelling/Unit, live/work	/	/	/	/	S	P	/	P	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	30-4.C.2.a.1	
	Dwelling, multi-family	/	/	/	/	S	P	/	P	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	30.5.H	
	Dwelling, single-family attached [3]	/	/	/	S	S	P	/	P	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	30-5.H	
	Dwelling, single-family detached	/	P	P	P	P	P	P	P	P	S	/	P	S	P	/	/	/	/	MP	/	MP	30-5.G	
	Dwelling, multi-unit single-family, detached on one	/	/	/	/	/	P	/	P	P	/	/	/	/	/	/	/	/	/	/	/	/	30-5.P	

Table 30-4.A.2 Use Table																							
P = Permitted Use S = Special Use																							
MP = Allowed Subject to a Planned Development Master Plan																							
"/" = Prohibited Use [1]																							
USE CATEGORY	USE TYPE	ZONING DISTRICTS																				ADDITIONAL REQUIREMENTS	
		SPECIAL		RESIDENTIAL						BUSINESS										PLANNED DEVELOPMENT			
		C D	A R	SF - 15	SF - 10	SF -6	M R- 5	M H	O I	N C [3]	L C	C C	M U	D T- 1	D T- 2	U C	B P ⁴	L I	H I	PD -R	PD -EC		PD - TN
	lot																						
	Dwelling, two- to four-family	/	/	S	S	S	P	/	P	P	S	/	P	/	P	/	/	/	/	MP	/	MP	30-4.C.2.a.2
	Dwelling, upper story	/	/	/	/	P	P	/	P	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	
	Manufactured home, Class A [2]	/	/	/	/	/	/	P	/	/	/	/	/	/	/	/	/	/	/	/	/	/	30-4.C.2.a.3
	Manufactured home park (Class A or B homes)	/	/	/	/	/	/	P	/	/	/	/	/	/	/	/	/	/	/	/	/	/	30-4.C.2.a.4
Group Living	Dormitory	/	/	/	/	/	P	/	P	/	P	/	P	P	P	P	/	/	/	MP	MP	MP	30-4.C.2.b.1
	Therapeutic home	/	P	P	P	P	P	P	P	P	S	/	P	S	P	/	/	/	/	MP	MP	MP	30-4.C.2.b.5
	Fraternity or sorority house	/	/	/	/	/	S	/	P	/	P	/	P	/	P	P	/	/	/	MP	MP	MP	
	Group home, Large	/	/	/	/	S	/	/	S	S	S	S	S	S	S	/	/	/	/	MP	/	MP	30-4.C.2.b.2
	Group home, Small	/	/	P	P	P	P	P	P	P	S	P	P	P	P	/	/	/	/	MP		MP	30-4.C.2.b.3
	Rooming or boarding house	/	/	/	/	S	P	/	P	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	30-4.C.2.b.4
	Transitional housing								S	S	S	S	S	S	S	/	/						30-4.C.2.b.6
PUBLIC AND INSTITUTIONAL USE CLASSIFICATION																							
Community Services	Community center	S	P	S	S	P	P	P	P	P	P	P	P	P	P	P	/	/	/	MP	MP	MP	
	Cultural facility	/	/	/	/	S	S	/	P	P	P	P	P	P	P	P	/	/	/	MP	MP	MP	
	Day Resource Center	/	/	/	/	/	/	/	/	/	/	S	S	/	S	/	/	S	P	/	/	/	30-4.C.3.d.3
	Library	/	/	S	S	S	P	/	P	P	P	P	P	P	P	P	/	/	/	MP	MP	MP	
	Museum	/	/	/	/	S	S	/	P	P	P	P	P	P	P	P	/	/	/	MP	MP	MP	
	Youth club facility	/	/	/	/	S	P	/	/	S	P	P	P	P	P	P	/	/	/	MP	/	MP	
Day Care	Adult day care center	/	/	S	S	S	S	S	P	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	
	Child care center	/	/	S	S	S	S	S	P	P	P	P	P	P	P	P	S	/	/	MP	MP	MP	30-4.C.3.a

Table 30-4.A.2 Use Table
P = Permitted Use S = Special Use
MP = Allowed Subject to a Planned Development Master Plan
"/" = Prohibited Use [1]

USE CATEGORY	USE TYPE	ZONING DISTRICTS																				ADDITIONAL REQUIREMEN TS	
		SPECIA L		RESIDENTIAL						BUSINESS										PLANNED DEVELOPME NT			
		C D	A R	SF - 1 5	SF - 1 0	SF -6	M R- 5	M H	O I	N C [3]	L C	C C	M U	D T- 1	D T- 2	U C	B P ⁴	L I	H I	PD -R	PD -EC		PD - TN
Educational Facilities	College or university	/	/	/	/	/	/	/	P	P	P	P	P	P	P	P	/	/	/	MP	MP	MP	
	School, elementary	/	S	S	S	S	S	/	P	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	30-4.C.3.b
	School, middle	/	S	S	S	S	S	/	P	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	30-4.C.3.b
	School, high	/	S	S	S	S	S	/	P	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	30-4.C.3.b
	Vocational or trade school	/	/	/	/	/	/	/	/	P	P	P	P	P	P	P	P	P	P	MP	MP	MP	30-4.C.3.b
Governmental facilities	Government maintenance, storage, or distribution facility	/	S	/	/	S	S	/	S	S	S	P	S	P	/	P	P	P	P	/	MP	/	
	Government office	/	/	/	/	S	S	/	P	P	P	P	P	P	P	P	P	P	/	MP	MP	MP	
	Post office	/	/	/	/	/	S	/	P	P	P	P	P	P	P	P	/	P	/	MP	MP	MP	
Health Care Facilities	Blood/tissue collection facility	/	/	/	/	/	/	/	/	/	/	P	/	P	P	/	/	P	/	/	MP	MP	
	Drug or alcohol treatment facility	/	/	/	/	/	/	/	/	/	P	P	S	/	S	/	/	P	/	MP	MP	MP	30-4.C.3.c.3
	Hospital	/	/	/	/	/	/	/	P	/	/	P	P	P	P	/	/	P	/	/	MP	/	30-4.C.3.c.1
	Medical or dental clinic [3]	/	/	/	/	/	/	/	P	P	P	P	P	P	P	S	P	/	MP	MP	MP		
	Medical or dental lab	/	/	/	/	/	/	/	P	/	P	/	P	P	P	/	P	P	/	/	MP	/	(Reserved)
	Medical treatment facility	/	/	/	/	/	/	/	P	P	P	P	P	P	P	/	/	P	/	/	MP	/	30-4.C.3.c.2
	Outpatient facility	/	/	/	/	/	/	/	P	P	P	P	P	P	P	/	/	P	/	/	MP	/	
Institutions	Assisted living facility	/	/	S	S	S	S	/	P	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	
	Auditorium	/	/	/	/	/	/	/	P	P	P	P	P	P	P	P	/	/	/	MP	MP	MP	30-4.C.3.d.1
	Club or lodge	/	/	/	/	/	S	/	P	P	P	P	P	P	P	P	/	/	/	MP	MP	MP	
	Convention center	/	/	/	/	/	/	/	P	/	/	P	P	P	P	P	/	/	/	/	MP	/	30-4.C.3.d.1
	Halfway house	/	/	/	/	/	S	/	S	/	S	S	S	S	S	/	/	/	/	MP	/	MP	30-4.C.3.d.2
	Nursing home	/	/	/	/	S	S	/	P	P	P	P	P	S	S	/	/	/	/	MP	MP	MP	

Table 30-4.A.2 Use Table P = Permitted Use S = Special Use MP = Allowed Subject to a Planned Development Master Plan "/" = Prohibited Use [1]																							
USE CATEGORY	USE TYPE	ZONING DISTRICTS																			ADDITIONAL REQUIREMENTS		
		SPECIAL		RESIDENTIAL					BUSINESS										PLANNED DEVELOPMENT				
		C D	A R	SF - 1 S	SF - 1 O	SF - 6	M R- 5	M H	O I	N C [3]	L C	C C	M U	D T- 1	D T- 2	U C	B P ⁴	L I	H I	PD -R		PD -EC	PD - TN
	Psychiatric treatment facility	/	/	/	/	/	/	/	S	/	S	S	/	/	S	/	/	/	/	/	MP	/	
	Religious institution	/	P/S	P/S	P/S	P/S	P	P	P	P	P	P	P	P	P	P	/	P	P	MP	MP	MP	30-4.C.3.g
Parks and Open Areas	Arboretum or botanical garden	P	P	P	P	P	P	/	P	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	
	Cemetery	S	S	S	S	S	S	/	S	S	S	P	P	/	/	/	/	/	/	/	/	/	30-4.C.3.e.1
	Columbaria, mausoleum	P	P	P	P	P	P	/	P	P	P	P	P	P	P	/	P	/	/	/	/	/	
	Community garden	P	P	P	P	P	P	P	P	P	P	P	P	/	P	P	/	/	/	MP	MP	MP	
	Golf course, public	S	P	P	P	S	P	/	P	/	P	P	P	/	/	/	/	/	/	MP	MP	MP	
	Greenway	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	MP	MP	MP	
	Park, public or private	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	MP	MP	MP	
	Public square or plaza	/	/	P	P	P	P	P	P	P	P	P	P	P	P	/	P	P	P	MP	MP	MP	
Public Safety	Correctional facility	/	S	/	/	/	/	/	/	/	/	/	/	S	/	/	/	S	P	/	/	/	30-4.C.3.f.1
	Fire or EMS facility	/	S	S	S	S	S	S	P	P	P	P	P	P	P	P	P	P	P	MP	MP	MP	
	Police substation	/	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	MP	MP	MP	
	Police station	/	P	S	S	S	P	S	P	P	P	P	P	P	P	/	/	P	P	MP	MP	MP	
Transportation / Communication	Airport	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	S	/	MP	/	
	Helicopter landing facility	/	/	/	/	/	/	/	S	/	S	S	S	S	S	S	P	/	/	/	MP	/	30-4.C.3.h.1
	Passenger terminal, surface transportation	/	/	/	/	/	S	/	P	S	P	P	P	P	P	/	P	P	P	MP	MP	MP	
	Small Wireless Facilities	/	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	MP	MP	MP	30-4.C.3.i.7
	Telecommunications antenna, collocation on existing tower	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	MP	MP	MP	30-4.C.3.i.1

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USE CATEGORY	USE TYPE	ZONING DISTRICTS																				ADDITIONAL REQUIREMENTS	
		SPECIAL		RESIDENTIAL						BUSINESS										PLANNED DEVELOPMENT			
		C D	A R	SF - 15	SF - 10	SF -6	M R- 5	M H	O I	N C [3]	L C	C C	M U	D T- 1	D T- 2	U C	B P ⁴	L I	H I	PD -R	PD -EC		PD - TN
	Telecommunications antenna, placement on existing building	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	MP	MP	MP	30-4.C.3.i.1
	Telecommunications tower, freestanding	/	S	S	S	S	S	/	S	S	S	S	S	/	/	P	S	S	S	MP	MP	MP	30-4.C.3.i.1
	Utility, major	/	S	S	S	S	S	/	S	S	S	P	S	S	/	/	P	P	P	/	MP	/	30-4.C.3.j.2
	Utility, minor	S	P	P	P	P	P	P	P	P	/	P	P	P	P	P	P	P	P	MP	MP	MP	
COMMERCIAL USE CLASSIFICATION [1]																							
Adult Entertainment	Adult entertainment	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	P	P	/	/	/	30-4.C.4.a
Animal Care	Animal grooming	/	/	/	/	/	/	/	/	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	30-4.C.4.b
	Animal shelter	/	S	/	/	/	/	/	/	/	/	S	/	/	/	/	/	P	P	/	/	/	
	Kennel, indoor	/	S	/	/	/	/	/	S	S	S	P	S	/	S	/	/	P	/	/	MP	/	
	Kennel, outdoor	/	S	/	/	/	/	/	/	/	S	S	/	/	/	/	/	P	/	/	MP	/	
	Veterinary clinic	/	S	/	/	/	/	/	P	S	P	P	S	P	P	/	/	/	/	/	MP	/	
Conference and Training Centers	Conference or training center	/	/	/	/	/	/	/	P	P	P	P	P	P	P	/	P	/	/	MP	MP	MP	30-4.C.4.d
Eating Establishments	Dinner theater	/	/	/	/	/	/	/	P	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	
	Restaurant, with indoor or outdoor seating [4]	/	/	/	/	/	S	/	S	P	P	P	P	P	P	P	P	/	/	MP	MP	MP	30-4.C.4.e.1
	Restaurant, with drive-through service [4]	/	/	/	/	/	/	/	/	/	P	P	S	/	/	/	P	/	/	/	MP	/	30-4.C.4.e.2
	Specialty eating establishment [4]	/	/	/	/	/	S	/	/	P	P	P	P	P	P	P	P	/	/	MP	MP	MP	30-4.C.4.f
	Food truck court	/	/	/	/	/	/	/	/	S	P	P	P	P	P	/	/	P	P	/	/	/	30-4.B.5.e
Offices	Business services	/	/	/	/	/	/	/	P	P	P	P	P	P	P	/	P	S	/	MP	MP	MP	30-4.C.4.f
	Corporate headquarters	/	/	/	/	/	/	/	/	/	P	P	P	P	P	/	P	P	P	/	MP	MP	
	Financial services	/	/	/	/	/	/	/	P	P	P	P	P	P	P	P	P	/	/	MP	MP	MP	
	Professional services	/	/	/	/	/	/	/	P	P	P	P	P	P	P	/	P	S	/	MP	MP	MP	

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USE CATEGORY	USE TYPE	ZONING DISTRICTS																		ADDITIONAL REQUIREMEN TS			
		SPECIA L		RESIDENTIAL					BUSINESS										PLANNED DEVELOPME NT				
		C D	A R	SF - 1 5	SF - 1 0	SF -6	M R- 5	M H	O I	N C [3]	L C	C C	M U	D T- 1	D T- 2	U C	B P ⁴	L I	H I		PD -R	PD -EC	PD - TN
	Radio and television broadcasting studio	/	/	/	/	/	/	/	P	/	S	P	S	P	P	/	P	/	/	/	MP	/	
	Sales (including real estate)	/	/	/	/	/	/	/	P	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	
Parking, Commercial	Parking lot	/	/	/	/	/	/	/	P	S	P	P	P	P	P	P	/	P	/	/	MP	/	30-4.C.4.g.1
	Parking structure	/	/	/	/	/	/	/	S	S	P	P	P	P	P	P	P	P	/	MP	MP	MP	30-4.C.4.g.2
	Parking Tractor Trailers etc.	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	P	P	/	/	/	30-4.C.4.g.3
Recreation/ Entertainment, Indoor	Commercial recreation, indoor	/	/	/	/	/	/	/	/	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	
	Theater	/	/	/	/	/	/	/	/	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	
Recreation/ Entertainment, Outdoor	Arena, amphitheater, or stadium	/	/	/	/	/	/	/	/	/	S	P	S	P	P	P	P	/	/	/	MP	/	30-4.C.4.h.1
	Golf course, private	S	S	S	S	S	S	/	P	/	S	P	S	/	/	/	/	/	/	MP	MP	MP	
	Athletic field and clubhouse	P	P	S	S	S	P	P	P	P	P	P	P	/	P	/	P	/	/	MP	MP	MP	
	Golf driving range	S	S	/	/	/	/	/	P	/	P	P	/	/	/	/	/	/	/	MP	MP	MP	
	Swimming pool, private	/	P	P	P	P	P	P	P	P	P	P	P	/	P	/	/	/	/	MP	MP	MP	30-4.C.4.h.2
	Swimming pool, non-profit	/	P	P	P	P	P	P	P	P	P	P	P	/	P	/	P	/	/	MP	MP	MP	30-4.C.4.h.2
	Tennis court	/	P	P	P	P	P	P	P	P	P	P	P	/	/	/	P	/	/	MP	MP	MP	30-4.C.4.h.3
	Other commercial recreation, outdoor	/	/	/	/	/	S	/	P	S	S	P	P	P	P	/	/	P	P	MP	MP	MP	
Retail Sales & Services	Bar, nightclub, or cocktail lounge	/	/	/	/	/	/	/	/	/	P	P	P	P	P	/	/	P	/	MP	MP	MP	30-4.C.4.i.1
	Entertainment establishment	/	/	/	/	/	/	/	/	S	P	P	P	P	P	P	/	/	/	MP	MP	MP	
	Gasoline sales	/	/	/	/	/	/	/	/	S	P	P	S	S	P	/	/	/	/	MP	MP	MP	30-4.C.4.i.7
	Crematory	/	/	/	/	/	/	/	/	/	S	S	/	/	/	/	/	P	P	/	/	/	
	Financial	/	/	/	/	/	S	/	P	P	P	P	P	P	P	P	P	/	/	MP	MP	MP	

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USE CATEGORY	USE TYPE	ZONING DISTRICTS																				ADDITIONAL REQUIREMEN TS	
		SPECIA L		RESIDENTIAL					BUSINESS										PLANNED DEVELOPME NT				
		C D	A R	SF - 1 5	SF - 1 0	SF -6	M R- 5	M H	O I	N C [3]	L C	C C	M U	D T- 1	D T- 2	U C	B P ⁴	L I	H I	PD -R	PD -EC		PD - TN
	institution, without drive- through service [4]																						
	Financial institution, with drive-through service [4]	/	/	/	/	/	/	/	P	S	P	P	P	S	P	P	P	/	/	/	MP	/	30-4.C.4.i.5
	Funeral home	/	/	/	/	/	/	/	/	/	P	P	S	P	P	/	/	/	/	/	MP	/	
	Laundromat	/	/	/	/	/	P	P	/	P	P	P	P	P	P	P	/	/	/	MP	MP	MP	
	Personal services establishment	/	/	/	/	/	P	/	P	P	P	P	P	P	P	P	/	P	/	MP	MP	MP	30-4.C.4.i.9
	Tattoo parlor/body piercing establishment	/	/	/	/	/	/	/	/	/	P	P	P	P	P	/	/	P	/	/	MP	/	
	Repair establishment	/	/	/	/	/	/	/	/	P	P	P	P	P	P	/	/	P	/	MP	MP	MP	30-4.C.4.i.10
	Convenience store, without gas sales	/	/	/	/	/	P	/	/	P	P	P	P	P	P	/	/	/	/	MP	MP	MP	
	Convenience store, with gas sales [4]	/	/	/	/	/	/	/	/	S	P	P	S	S	P	/	P	/	/	MP	MP	MP	30-4.C.4.i.3
	Drug store or pharmacy, without drive- through service [4]	/	/	/	/	/	P	/	/	P	P	P	P	P	P	/	P	/	/	MP	MP	MP	
	Drug store or pharmacy, with drive-through service	/	/	/	/	/	/	/	/	S	P	P	P	S	P	/	P	P	/	/	MP	/	30-4.C.4.i.4
	Flea market	/	/	/	/	/	/	/	/	/	S	S	/	/	/	/	/	P	/	/	/	/	30-4.C.4.i.6
	Grocery store	/	/	/	/	/	/	/	/	P/S	P	P	P	P	P	/	/	/	/	MP	MP	MP	30-4.C.4.i.8
	Liquor store	/	/	/	/	/	/	/	/	/	P	P	P	P	P	/	/	/	/	MP	MP	MP	
	Retail sales establishment,	/	/	/	/	/	/	/	/	/	P	P	P	P	P	/	S	S	/	/	MP	/	30-4.C.4.i.11

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USE CATEGORY	USE TYPE	ZONING DISTRICTS																				ADDITIONAL REQUIREMENTS		
		SPECIAL		RESIDENTIAL						BUSINESS										PLANNED DEVELOPMENT				
		C D	A R	SF - 15	SF - 10	SF -6	M R- 5	M H	O I	N C [3]	L C	C C	M U	D T- 1	D T- 2	U C	B P ⁴	L I	H I	PD -R	PD -EC		PD - TN	
	large [4]																							
	Electronic gaming operation	/	/	/	/	/	/	/	/	/	P	S	/	/	/	/	/	S	/	/	/	MP	30-4.C.4.i.13	
	Other retail sales establishments [3], [4]	/	/	/	/	/	/	/	/	P/S	P	P	P	P	P	/	P	/	/	MP	MP	MP		
	Brewpub	/	/	/	/	/	/	/	/	/	S	P	P	P	P	P	/	/	/	/				30-4.C.4.i.2
Self-Service Storage	Mini-warehouse (with external access)	/	/	/	/	/	/	/	/	/	S	P	P	/	/	/	/	P	P	/	MP	/	30-4.C.4.j	
	Mini-warehouse (internal access only)	/	/	/	/	/	/	/	/	/	P	P	P	P	P	/	/	P	P	/	MP	/		
Vehicle Sales and Services, Heavy	Aircraft parts, sales, and maintenance	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	P	P	/	MP	/		
	Automotive painting/body shop	/	/	/	/	/	/	/	/	/	/	S	/	/	S	/	/	P	P	/	/	/	30-4.C.4.k.1	
	Automotive wrecker service	/	/	/	/	/	/	/	/	/	/	S	/	/	/	/	/	P	P	/	/	/	30-4.C.4.k.5	
	Transmission shop	/	/	/	/	/	/	/	/	/	/	S	/	/	P	P	/	P	P	/	MP	/	30-4.C.4.k.7	
	Boat and marine rental and sales	/	/	/	/	/	/	/	/	/	/	P	P	/	/	/	/	P	P	/	MP	/		
	Truck stop	/	/	/	/	/	/	/	/	/	/	/	S	/	/	/	/	/	P	P	/	/	/	
Vehicle Sales and Services, Light	Automotive parts and installation	/	/	/	/	/	/	/	/	/	/	P	P	/	S	S	/	/	P	/	/	/	30-4.C.4.k.2	
	Automobile repair and servicing (without painting/body-work)	/	/	/	/	/	/	/	/	/	/	S	P	S	/	S	/	/	P	P	/	MP	/	30-4.C.4.k.3
	Automobile sales or rentals	/	/	/	/	/	/	/	/	/	/	P	P	S	P	P	P	/	P	/	/	MP	/	30-4.C.4.k.4
	Car wash or auto-detailing	/	/	/	/	/	/	/	/	/	/	P	P	/	/	/	/	/	P	/	MP	MP	MP	30-4.C.4.k.6

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USE CATEGORY	USE TYPE	ZONING DISTRICTS																				ADDITIONAL REQUIREMENTS		
		SPECIAL		RESIDENTIAL						BUSINESS										PLANNED DEVELOPMENT				
		C D	A R	SF - 15	SF - 10	SF -6	M R-5	M H	O I	N C [3]	L C	C C	M U	D T-1	D T-2	U C	B P ⁴	L I	H I	PD -R	PD -EC		PD - TN	
	Taxicab service	/	/	/	/	/	/	/	/	/	/	S	P	P	P	P	/	/	/	/	/	MP	/	
	Tire/muffler sales and mounting	/	/	/	/	/	/	/	/	/	/	P	P	/	/	P	/	/	P	P	/	MP	/	30-4.C.4.k.7
Visitor Accommodations	Bed and breakfast inn	/	/	S	S	S	S	/	P	P	P	P	P	P	P	/	/	/	/	MP	MP	MP		30-4.C.4.l.1
	Hotel or motel [4]	/	/	/	/	/	/	/	P	/	P	P	P	P	P	/	P	/	/	/	MP	/		30-4.C.4.l.2
	Hotel or motel, extended stay [4]	/	/	/	/	/	/	/	P	/	P	P	P	P	P	/	P	/	/	/	MP	/		30-4.C.4.l.2
	Tourist Home	/	/	/	/	/	S	/	/	P	P	P	P	P	P	/	/	/	/	MP	MP	MP		30-4.C.4.l.3
INDUSTRIAL USE CLASSIFICATION [1]																								
Extractive Industry	All uses	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	S	P	/	/	/		30-4.C.5.a
Industrial Services	Building, heating, plumbing, or electrical contractor with outside storage	/	/	/	/	/	/	/	/	/	/	S	/	/	/	/	/	P	P	/	MP	/		
	Electric motor repair	/	/	/	/	/	/	/	/	/	/	S	/	/	/	/	/	P	P	/	MP	/		30-4.C.5.b.1
	Fuel oil/bottled gas distributor	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	P	P	/	/	/		
	General industrial service	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	P	P	P	/	MP	/		
	Heavy equipment sales, rental, or storage	/	/	/	/	/	/	/	/	/	/	S	/	/	/	/	/	P	P	/	MP	/		30-4.C.5.b.2
	Heavy equipment servicing and repair	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	P	P	P	/	/	/		
	Laundry, dry cleaning, and carpet cleaning plants	/	/	/	/	/	/	/	/	/	/	P	/	/	/	/	/	P	P	/	/	/		30-4.C.5.b.3
	Machine shop	/	/	/	/	/	/	/	/	/	/	S	/	/	/	/	/	P	P	/	MP	/		30-4.C.5.b.1
	Office-warehouse	/	/	/	/	/	/	/	/	/	/	P	P	P	P	P	/	P	P	P	/	MP	MP	
Repair of scientific or	/	/	/	/	/	/	/	/	S	P	P	P	/	P	/	P	P	P	/	MP	/		30-4.C.5.b.1	

Table 30-4.A.2 Use Table																							
P = Permitted Use S = Special Use																							
MP = Allowed Subject to a Planned Development Master Plan																							
"/" = Prohibited Use [1]																							
USE CATEGORY	USE TYPE	ZONING DISTRICTS																			ADDITIONAL REQUIREMENTS		
		SPECIAL		RESIDENTIAL					BUSINESS										PLANNED DEVELOPMENT				
		C D	A R	SF - 15	SF - 10	SF - 6	M R- 5	M H	O I	N C [3]	L C	C C	M U	D T- 1	D T- 2	U C	B P ⁴	L I	H I	PD -R		PD -EC	PD - TN
	professional instruments																						
	Research and development	/	/	/	/	/	/	/	P	P	P	P	P	P	P	/	P	P	P	/	MP	/	
	Tool repair	/	/	/	/	/	/	/	/	/	/	P	P	/	P	/	P	P	P	/	/	/	30-4.C.5.b.1
Manufacturing and Production	Manufacturing, heavy	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	P	/	P	/	MP	/	
	Manufacturing, high impact/hazardous	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	S	/	P	/	MP	/	30-4.C.5.c.1
	Manufacturing, light	/	/	/	/	/	/	/	/	/	/	S	/	/	/	/	P	P	P	/	MP	/	
	Research and Technology Production	/	/	/	/	/	/	/	/	S	P	P	/	/	P	/	/	P	P	/	/	/	
	Microbrewery	/	/	/	/	/	/	/	/	/	P	P	P	/	P	/	P	/	/	MP	MP	MP	30-4.C.5.c.2
	Microdistillery	/	/	/	/	/	/	/	/	/	P	P	P	/	P	/	P	/	/	MP	MP	MP	30-4.C.5.c.2
Warehouse and Freight Movement	Cold storage plant	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	P	P	/	MP	/	
	Outdoor storage (as a principal use)	/	/	/	/	/	/	/	/	/	/	S	/	/	/	/	P	P	P	/	MP	/	30-4.C.5.d.1
	Parcel services	/	/	/	/	/	/	/	/	/	/	P	/	S	P	/	/	P	P	/	MP	/	30-4.C.5.d.2
	Truck or freight terminal	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	P	P	/	MP	/	
	Warehouse (distribution)	/	/	/	/	/	/	/	/	/	/	S	/	/	/	/	P	P	P	/	MP	/	
	Warehouse (storage)	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	P	P	P	/	MP	/	
Waste-Related Services	Energy recovery plant	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	S	S	S	/	/	/	30-4.C.5.f.1
	Hazardous waste collection sites	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	S	/	/	/	
	Incinerator	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	S	S	P	/	/	/	
	Land application of wastes	/	S	/	/	/	/	/	/	/	/	/	/	/	/	/	/	S	S	/	/	/	
		Landfill, land	/	S	/	/	/	/	/	S	/	/	S	S	/	/	/	/	S	S	/	/	/

Table 30-4.A.2 Use Table
P = Permitted Use S = Special Use
MP = Allowed Subject to a Planned Development Master Plan
"/" = Prohibited Use [1]

USE CATEGORY	USE TYPE	ZONING DISTRICTS																		ADDITIONAL REQUIREMENTS
		SPECIAL		RESIDENTIAL						BUSINESS										PLANNED DEVELOPMENT
		C D	A R	SF - 15	SF - 10	SF - 6	MR - 5	M H	O I	NC [3]	LC	CC	M U	DT - 1	DT - 2	UC	BP ⁴	LI	HI	
	clearing and inert debris or construction debris																			
	Landfill, sanitary	/	S	/	/	/	/	/	/	/	/	/	/	/	/	/	/	S	S	/
	Recycling center	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	S	S	/
	Recycling drop-off center	/	/	/	/	S	S	S	P	P	P	P	P	/	P	/	/	P	P	MP
	Salvage and junkyard	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	S	/	/
	Tire disposal or recycling	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	/	S	S	/
	Waste composting	/	S	/	/	/	/	/	/	/	/	/	/	/	/	/	/	S	S	/
Wholesale sales	All uses	/	/	/	/	/	/	/	/	/	/	S	S	/	/	/	S	P	/	MP

NOTES:

[1] Some commercial, mixed-use, and industrial uses require additional separation or buffer standards or may require special use permit approval when located adjacent to or across a local street or alley from single-family residential development in accordance with Section Transitional Standards. Cottage developments may require a Neighborhood Compatibility Permit (see Section 30-2.C.21).

[2] Individual manufactured homes located outside of a manufactured home park may only be established on lots located within the Manufactured Home Overlay district.

[3] New construction for individual retail uses over 2,500 square feet in the NC zoning district must be approved through the Special Use Permit process.

[4] In the BP district not more than a cumulative total of 40% of the developable area or 30% of the total area, whichever is less, of each Business Park development shall be used for uses in the following use categories: visitor accommodation, eating establishment, and retail sales and services. Such uses as a park or recreational facility within the BP development shall not be counted toward this commercial use or supportive use limitation. Restaurants with drive-thru service and Convenience Stores with gas sales and drive-thru service shall be limited to the periphery of the BP and within the greater of 1500 feet from an interstate centerline or 1250 feet from the nearest access road to that interstate. All other commercial uses shall be located on the periphery of the Business Park development or at a major internal intersection. These use types in a BP Business Park district must meet the standards for commercial, office and mixed use in Table 30-5.C.3 Required Open Space/Parkland Dedication and Article 30-5.1 Commercial, Office and Mixed Use Design Standards.

[5] In MR-5 districts, permitted uses shall be established only on parcels abutting and accessed by an Arterial, Collector, or Major Street, as defined in Article 30-9, Definitions.

(Ord. No. S2011-008, §§ 7, 12.2a, 7-25-2011; Ord. No. S2011-013, §§ 1.5, 1.8, 2.2a, 8.3, 11-28-2011; Ord. No. S2011-014, § 3, 11-28-2011; Ord. No. S2012-001, § 5.1, 1-23-2012; Ord. No. S2012-011, § 1, 5-29-2012; Ord. No. S2012-024, §§ 5—7, 11-13-2012; Ord. No. S2012-025, § 16, 11-13-2012; Ord. No. S2013-002, § 11, 2-11-2013; Ord. No. S2014-002, § 2, 3a, 5b, 1-13-2014; Ord. No. S2014-012, § 2, 8-11-2014; Ord. S2014-015, §§ 2b, 4, 8-11-2014; Ord. S2016-007, § 2, 6-27-2016; Ord. S2017-004, § 1a-c, 6-26-2017; Ord. No. S2019-008, 1, 04/23/2019; Ord. No. Ord. No. S2020-011, § 2, 11/23/2020; Ord. No. S2021-004, § 3, 04/15/2021; Ord. No. S2021-042, § 1, 10/25/2021; Ord. No. S2021-043, § 1, 10/25/2021; Ord. No. S2021-044, § 1, 10/25/2021; Ord. No. S2019-009, § 1, 04/23/2019; Ord. No. S2022-003, § 1, 03/28/2022; Ord. No. S2022-023, § 1, 09/26/2022)

Effective on: 4/15/2021



City of Fayetteville

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

City Council Action Memo

File Number: 23-3256

Agenda Date: 3/14/2023

Version: 2

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 4.02

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Heather Eckhardt - Planner II

DATE: March 14, 2023

RE:

P23-10. Rezoning from Single-Family Residential 10 (SF-10) to Community Commercial (CC), located at 0 Bingham Drive (REID #0406541854000), totaling 7.61 acres ± and being the property of Tarek Gayed and Antwan Awad, represented by The Charleston Group.

COUNCIL DISTRICT(S):

6 - Derrick Thompson

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 a single property from Single Family Residential 10 (SF-10) to Community Commercial (CC). The property to be rezoned is 7.61 acres ±. The subject property is located along Bingham Drive across from Crestwood Avenue. The subject property is currently vacant and undeveloped.

Background:

Applicant: The Charleston Group

Owner: Tarek Gayed and Antwan Awad

Requested Action: SF-10 to CC

REID #: 0406541854000

Council District: 6 - Derrick Thompson

Status of Property: Undeveloped

Size: 7.61 acres

Adjoining Land Use & Zoning:

- North: SF-10 - Single Family Dwelling
- South: SF-10 - Religious Institution
- East: SF-10 - Single Family Dwelling & Vacant lot
- West: SF-6 and LC/CZ - Mobile home park and vacant land

Annual Average Daily Traffic: Bingham Drive: 21,000

Letters Mailed: 232

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 Low Density Residential (LDR) and Park/Open Space (PARKOS). The area designated for Park/Open Space is located within the regulatory flood hazard area located at the rear of the property.

Low Density Residential is best described as mainly single family residential with some accessory dwellings; occasionally with duplexes (if isolated) or townhomes. These areas will typically have 1-4 dwellings per acre and have a suburban, auto-oriented character with utility services. Areas designated for Park/Open Space are areas generally not suited for development due to site constraints or environmental/cultural importance.

According to the Plan, the areas to the north, east, and south are also designated for Low Density Residential. The area to the west is designated for Neighborhood Improvement which calls for higher-density redevelopment and "missing middle" housing to increase private reinvestment and revitalize neighborhoods.

Issues/Analysis:

History:

The subject property was annexed into the city in 2005 as part of the Phase 5 Annexation Project. Based on aerial photography, there was a single-family house on the property which was demolished between 2006 and 2008. The property is currently vacant and undeveloped. In 2017, a rezoning request was submitted by the owner to rezone the subject property from Single Family Residential 10 (SF-10) to Office and Institutional (OI). The request was denied citing a need to maintain the residential character along Bingham Drive and prevent Bingham Drive from becoming another Hope Mills Road. Hope Mills Road was once a residential area that has now been converted into a commercial corridor. In 2021, a rezoning request was submitted for a

property across Bingham Drive to rezone 2.56 acres from Single Family Residential 6 (SF-6) to Limited Commercial Conditional Zoning (LC/CZ). The rezoning was approved to allow for all uses permitted in the LC zoning district except for bars, nightclubs, and cocktail lounges.

Surrounding Area:

The Arran Lakes subdivision is located to the north and east of the subject property. The subdivision is separated from the subject property, in part, by the special flood hazard area surrounding Arran Lake. Miracle Temple Holy Deliverance Church of God was built to the south of the subject property in 2017. The area on the west of Bingham Drive is divided by Crestwood Ave. To the north of Crestwood Avenue is the Hilcrest Homes subdivision which includes a mobile home park. To the south of Crestwood Avenue are four parcels that were conditionally rezoned for commercial use in 2021. The site previously housed a mobile home park. The mobile home park has since been removed however, the site remains undeveloped.

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 an area currently zoned Single Family Residential 10 (SF-10) to Community Commercial (CC) which would allow the development of a diverse range of medium- to high-intensity retail, service, and office uses that provide goods and services servicing the residents and businesses in the community at large.

Rezoning this parcel to Community Commercial will allow for types of development that are much more intense than the surrounding residential zoning districts. The only exception to this would be the four parcels across Bingham Drive which were rezoned to Limited Commercial Conditional Zoning in 2021.

The Community Commercial zoning district is intended for uses that serve the City of Fayetteville at large rather than uses that focus on serving the neighborhood where it is located. These uses have the potential to draw citizens from across the City of Fayetteville to an area that is primarily residential in nature.

Properties in the Community Commercial zoning district are intended to be located along arterials and the intersections of arterials. While the subject property is not located at an intersection or existing commercial area, the North Carolina Department of Transportation has identified Bingham Drive as a minor arterial.

Additionally, four parcels on the west side of Bingham Drive, across from the subject property, were rezoned from SF-6 to LC/CZ in 2021. The rezoning in 2021 may become a catalyst for this area to become more commercial in nature and provide services to the surrounding neighborhoods as well as the City of Fayetteville as a whole.

Straight Zoning:

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

The Community Commercial (CC) District is established and intended to accommodate a diverse range of medium- to high-intensity retail, service, and office uses that provide goods and services serving the residents and businesses in the

community at large-e.g., shopping centers, convenience stores, retail sales establishments, and heavier commercial uses

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, this general area is recommended to be developed as Low Density Residential (LDR) and Park/Open Space (PARKOS). The requested rezoning is not in keeping with the Future Land Use Map & Plan. Low Density Residential is intended for residential developments with one to four dwellings per acre. Community Commercial does not allow for this type of low density residential development. Additionally, the surrounding area is intended for primarily low density residential and has been developed in this manner.

However, the subject property is located along an arterial road that carries citizens from the multitude of residential subdivisions in the area to other residential and commercial districts across Fayetteville. Additionally, four parcels on the west side of Bingham Drive were successfully rezoned to a commercial district in 2021.

This project was brought before the Technical Review Committee. The TRC provided standard comments regarding the site. The applicant provided renderings of the building facades. The applicant hopes to have the building facades resemble residential structures such as townhomes or apartments.

Conclusion:

Should the Commission recommend a rezoning for commercial uses, staff suggests a more restrictive zoning such as OI - Office and Institutional or NC - Neighborhood Commercial. These options, along with conditional zoning have been discussed with the applicant. These commercial districts allow for a variety of commercial uses without allowing the most intense commercial uses. Community Commercial is the City's most intense commercial district. It allows many uses that are incompatible with the residential uses that surround this site.

Consistency and Reasonableness Statements:

The Future Land Use Plan also sets forth written goals, policies, and strategies. This application does not follow the City's strategic, compatible growth strategies and does not meet the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

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

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

Recommended Action:

The Professional Planning Staff recommends that the Zoning Commission move to DENY the map amendment to CC or APPROVE a more appropriate more restrictive zoning district based on the following:

- The proposed zoning map amendment does not implement the policies adopted in the Future Land Use Plan (FLUP), and those policies found in the Unified Development Ordinance (UDO). The Future Land Use Plan calls for the subject property to be developed Low-Density Residential (LDR) and Park/Open Space (PARKOS).
- The uses permitted by the proposed change in zoning district classification and standards apply to such uses will not be 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.
 - * Note: Should the Commission recommend rezoning for commercial uses, based on the changes and growth along Bingham Drive, staff suggests a more restrictive zoning such as OI - Office and Institutional or NC - Neighborhood Commercial.

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 & façade renderings
8. Consistency and Reasonableness Statements

Project Overview**#923116****Project Title:** Bingham Drive**Jurisdiction:** City of Fayetteville**Application Type:** 5.1) Rezoning (Map Amendment)**State:** NC**Workflow:** Staff Review**County:** Cumberland**Project Location****Project Address or PIN:** 0 BINGHAM DR (0406541854000)**Zip Code:** 28304**GIS Verified Data****Property Owner: Parcel**

- 0 BINGHAM DR: GAYED, TAREK FAHIM;ANTWAN, REFAAT AWAD

Acreage: Parcel

- 0 BINGHAM DR: 7.61

Zoning District: Zoning District

- 0 BINGHAM DR: 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: FloodWay**

- 0 BINGHAM DR: AE

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:** Community Commercial**Acreage to be Rezoned:** 7.61**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:**

There are no existing uses or structures on the site.

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

The properties to the north are zoned SF-10 and contain single family homes. The property to the south is zoned SF-10 and is the site of Holy Deliverance Church of God. The property to the northeast is zoned SF-10 and contains a single family home. The property to the southeast is zoned SF-10 and is vacant. The properties to the northwest, across Bingham Drive, are zoned SF-6 and are the sites for a portion of Hilcrest Homes, a

manufactured home park. The properties to the west and southwest, across Bingham Drive, are zoned LCCZ, and are the sites for a portion of Hilcrest Homes, a manufactured home park.

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

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

The proposed amendment is not consistent with the 2040 Comprehensive Plan.

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

The subject property owners have received interest from various business owners within the City to open health care facilities, restaurants, and other retail facilities to support the neighborhood and the City's population.

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

This portion of the city has minimal health care facilities, restaurants, and retail facilities in the area. Rezoning to Community Commercial will provide opportunities to provide these services to 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.:

The subject property is currently zoned SF-10 which does not allow for any health care facilities, retail services, or restaurants. A CC zoning will allow for the development of these services in the area.

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

The proposed amendment will allow for an extension of health care facilities, restaurants, and retail services into the area.

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

The proposed amendment will not encourage premature development. The surrounding properties are established according to their zoning districts.

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

The proposed amendment may result in partial strip-style development, however, the subject property owners intend to build out the site with a mix of strip-style and stand-alone buildings/spaces.

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

The proposed amendment will creased an isolated CC zoning district, however, there are several adjacent properties (across Bingham Drive) to the west zoned as LC.

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

The proposed amendment will not result in significant adverse impacts on the property values of the surrounding lands.

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

The proposed amendment will not result in significant adverse impacts on the natural environment.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Tarek Gayed

4325 Glenwood Avenue, Suite 1040

Raleigh, NC 27612

P:8046155232

Project Contact - Agent/Representative

R. Jonathan Charleston, Esq.

The Charleston Group

201 Hay Street, Suite 2000

Fayetteville, NC 28301

P:910-485-2500

F:910-485-2599

jcharleston@charlestongroup.com

Project Contact - Primary Point of Contact for the Attorney

Catherine R. Iwashita Bamba, Esq.

The Charleston Group

201 Hay Street, Suite 2000

Fayetteville, NC 28301

P:910-485-2500

F:910-485-2599

cbamba@charlestongroup.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:

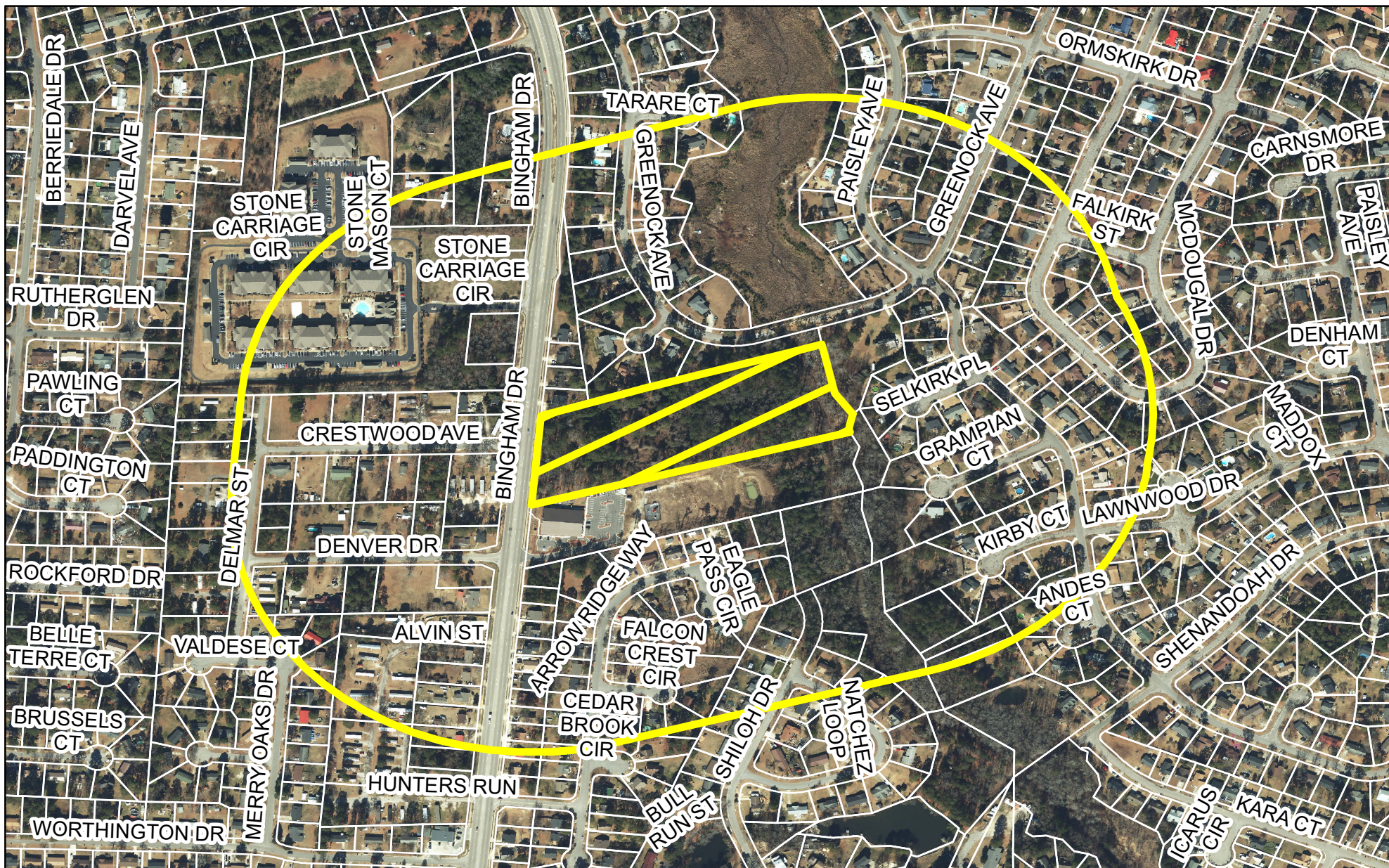
NC State Electrical Contractor #2 License Number:

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: Attorney





Aerial Notification Map

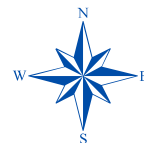
Case #: P23-10

Request: Rezoning
SF-10 to CC

Location: 0 Bingham Drive

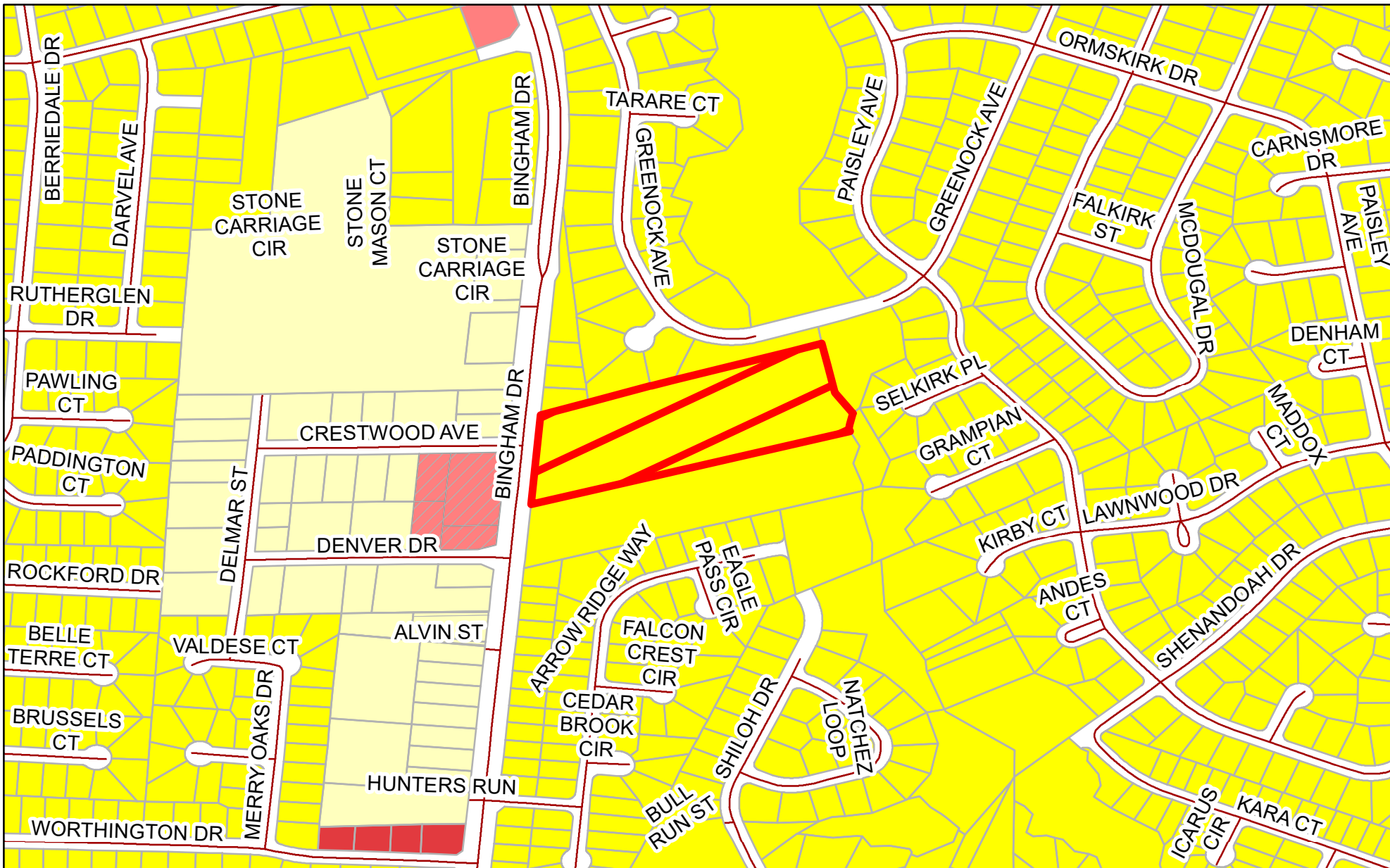
Legend

-  P23-10 Buffer
-  P23-10



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






Zoning Map

Case #: P23-10

Request: Rezoning
SF-10 to CC

Location: 0 Bingham Drive

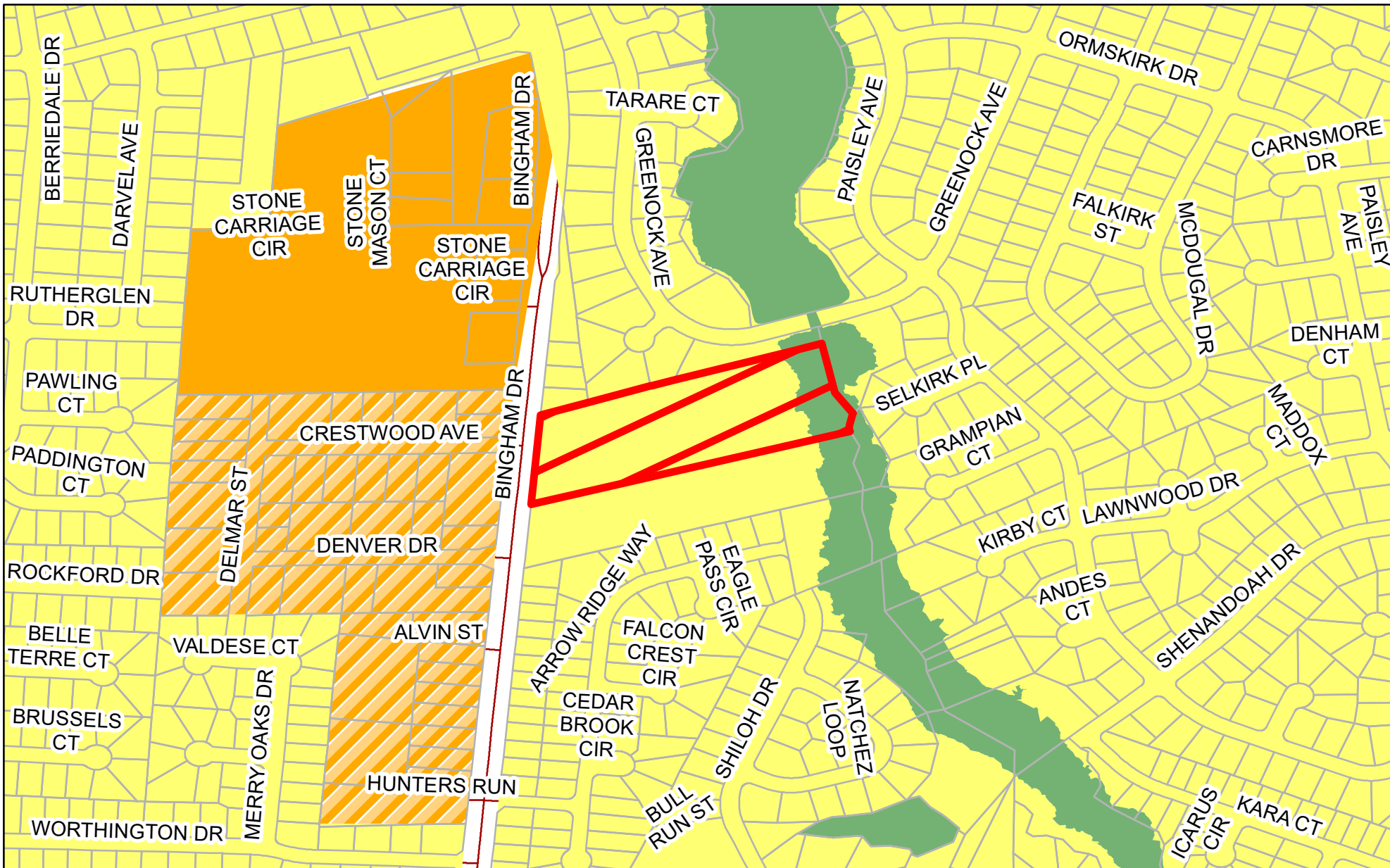
Legend

-  P23-10
-  LC/CZ - Conditional Limited Commercial
-  LC - Limited Commercial
-  NC - Neighborhood Commercial
-  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 #: P23-10

Request: Rezoning
SF-10 to CC

Location: 0 Bingham Drive





Legend

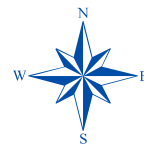


P23-10

Land Use Plan 2040

Character Areas

-  PARKOS - PARK / OPEN SPACE
-  LDR - LOW DENSITY
-  NIR - NEIGHBORHOOD IMPROVEMENT
-  HDR - HIGH DENSITY RESIDENTIAL



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





Subject Property







ZEYAD MUSMAR ARCHITECT
zmmarchitect@gmail.com
919.985.9922

DESCRIPTION

PROPOSED SITE PLAN

SAINT GEORGE SHOPPING CENTER

1455 BINGHAM DR
FAYETTEVILLE, NC 28304

NOT FOR CONSTRUCTION

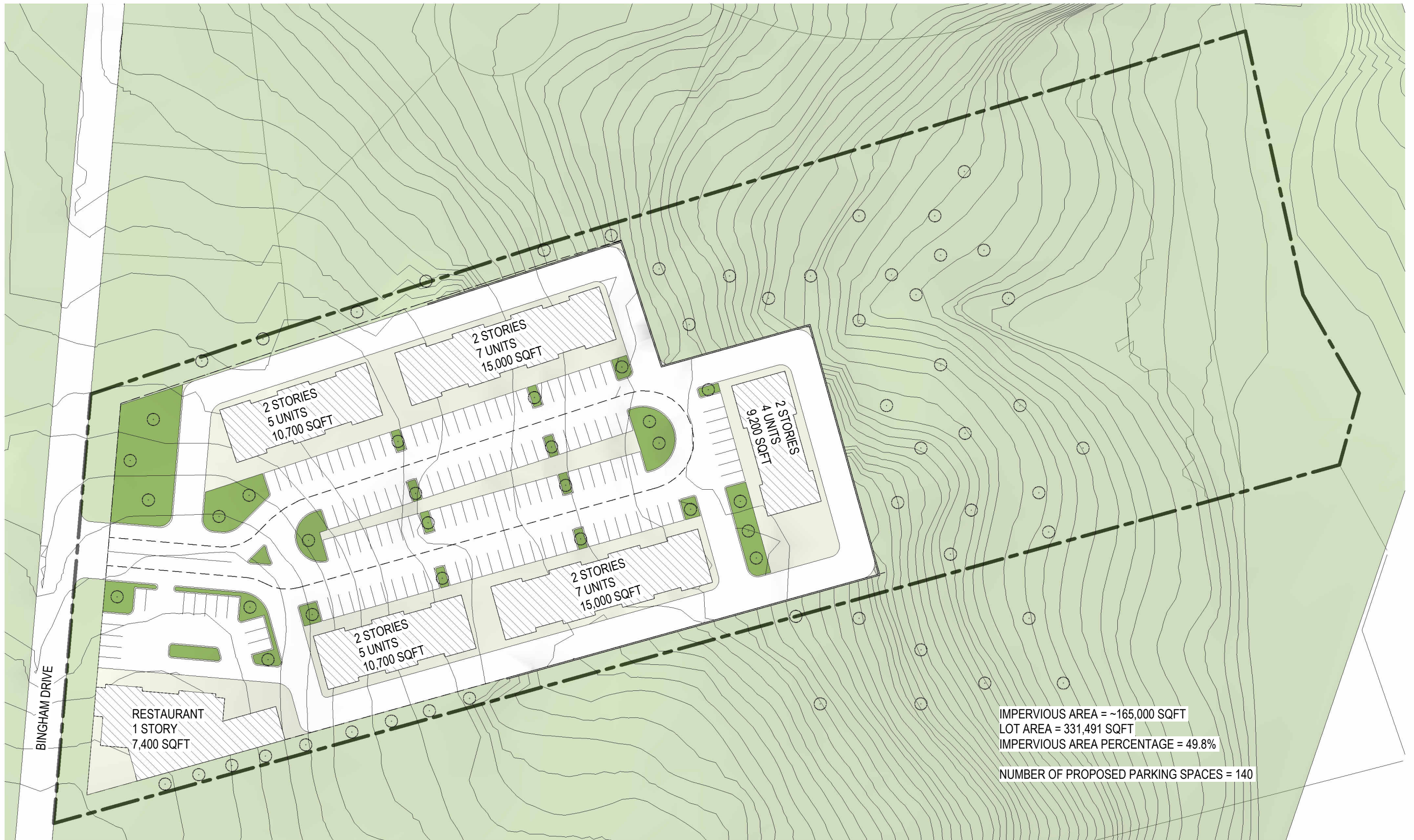
DATE 02/13/23

SCALE 1" = 80'-0"

DRAWN BY ZMM

JOB 23003

SHEET
S001



ZEYAD MUSMAR ARCHITECT
zmmarchitect@gmail.com
919.985.9922

DESCRIPTION

SITE ANALYSIS

SAINT GEORGE SHOPPING CENTER
1455 BINGHAM DR
FAYETTEVILLE, NC 28304

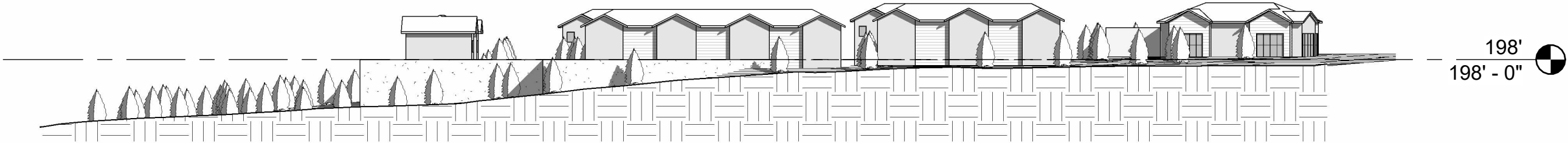
NOT FOR CONSTRUCTION

DATE 02/13/23
SCALE 1" = 80'-0"
DRAWN BY ZMM
JOB 23003
SHEET S002



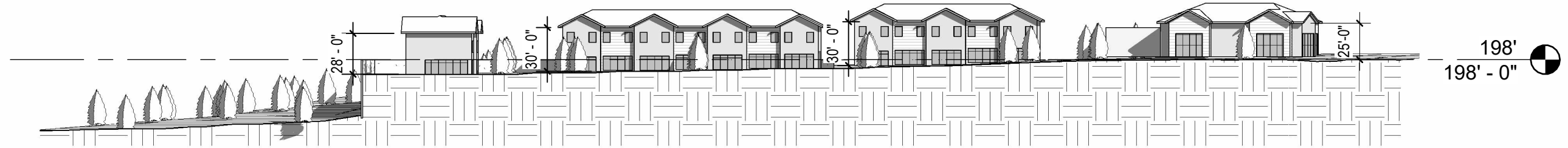
3
S003

Section 3
1" = 80'-0"



2
S003

Section 2
1" = 80'-0"



1
S003

Section 1
1" = 80'-0"



ZEYAD MUSMAR ARCHITECT
zmmarchitect@gmail.com
919.985.9922

DESCRIPTION

SITE VIEWS

SAINT GEORGE SHOPPING CENTER
1455 BINGHAM DR
FAYETTEVILLE, NC 28304

NOT FOR CONSTRUCTION

DATE 02/13/23

SCALE 1" = 80'-0"

DRAWN BY ZMM

JOB 23003

SHEET
S003



ZEYAD MUSMAR ARCHITECT
 zmmarchitect@gmail.com
 919.985.9922

DESCRIPTION
 PERSPECTIVES

SAINT GEORGE SHOPPING CENTER
 1455 BINGHAM DR
 FAYETTEVILLE, NC 28304

NOT FOR CONSTRUCTION

DATE 02/13/23
 SCALE
 DRAWN BY ZMM
 JOB 23003
 SHEET
S004



ZEYAD MUSMAR ARCHITECT
zmmarchitect@gmail.com
919.985.9922

DESCRIPTION
PERSPECTIVES

SAINT GEORGE SHOPPING CENTER
1455 BINGHAM DR
FAYETTEVILLE, NC 28304

NOT FOR CONSTRUCTION

DATE 02/13/23
SCALE
DRAWN BY ZMM
JOB 23003
SHEET S005

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 P23-10 is inconsistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

GOAL(S)	CONSISTENT	INCONSISTENT
GOAL #2: Responsive City Government Supporting a Diverse and Viable Economy	X	
GOAL #3: City invested in Today and Tomorrow		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	
1.6: Require adequate infrastructure to be in place prior to or in tandem with new development. This includes road infrastructure such as roads, turn lanes, and sidewalks as well as public services such as parks, schools, water/sewer, police, fire, and emergency services.	X	
1.7: Encourage a logical progression of housing development and discourage "leapfrog" development. Leapfrog development is development that occurs in areas away from existing development and in areas currently not served by infrastructure or adjacent to services, esp. water/sewer. This type of growth can lead to higher costs of providing urban services.		X
LUP 2: Encourage Strategic Economic Development		X
2.1: Encourage economic development in designated areas.		X

LUP 4: Create well-designed and walkable commercial and mixed-use districts	X	
4.1: Ensure new development meets basic site design requirements.	X	

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

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

Reasonableness

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

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

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

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

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

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

_____ improves consistency with the long-range plan.

X _____ 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):

Date

Print

Chair Signature