



City of Fayetteville

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

Meeting Agenda - Final Zoning Commission

Tuesday, September 12, 2023

6:00 PM

FAST Transit Center

1.0 CALL TO ORDER

2.0 APPROVAL OF AGENDA

3.0 CONSENT

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

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

3.03 Approval of Minutes: August 8, 2023

4.0 EVIDENTIARY HEARINGS

4.01 A23-37. Variance to allow a rear setback reduction, located at 343 Shawcroft Road (REID #0530580507000), and being the property of Todd and Jennifer Vick.

4.02 A23-38. Variance to allow a setback reduction, located at 225 Old Wilmington Road (REID #0437816735000), and being the property of Jarvora Duncan.

5.0 PUBLIC HEARINGS (Public & Legislative)

5.01 **Withdrawn by applicant** - P23-32. Rezoning of .23 acres ± from Mixed Residential 5 (MR-5) to Office and Institutional (OI), located at 1001 Southern Avenue (REID #0436278827000), and being the property of Eagle Eye Cleaning Solutions and Contracting LLC, represented by Khalil Hasan of Eagle Eye Cleaning Solutions and Contracting.

5.02 P23-33. Rezoning from Neighborhood Commercial (NC) to Limited Commercial (LC) located near the intersection of Raeford Road and Festival Drive and fronting on Raeford Road and Nexus Court (REID #s 9496570657000 and 9496571780000) totaling 1.95 acres ± and being the property of Rayconda Properties, represented by Longleaf Law Partners.

- 5.03** P23-34. Rezoning of 1.45 acres ± from Single-Family Residential 10 (SF-10) to Mixed Residential 5 (MR-5), located at 1010 Laurel Street (REID #0428235738000), and being the property of T & W Investments LLC, represented by George M. Rose, P.E.
- 5.04** P23-35. Conditional rezoning from Single-Family Residential 10 (SF-10) to Single-Family Residential 10 Conditional Zoning (SF-10/CZ) of 809 Johnson Street (REID #041971018000) totaling 2.19 acres ± and being the property of Abel Young, represented by Michael Adams of MAPS Surveying Inc.
- 5.05** P23-36. Conditional Rezoning of .25 acres ± from Mixed Residential 5 (MR-5) to Mixed Residential 5 Conditional Zoning (MR-5/CZ), located at 418 Old Wilmington Road (REID #0437709521000), and being the property of Combined Unified Service Inc., represented by Deborah Harris.

6.0 OTHER ITEMS OF BUSINESS

7.0 ADJOURNMENT



City of Fayetteville

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

City Council Action Memo

File Number: 23-3523

Agenda Date: 9/12/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.01

TO: Zoning Commission

THRU: Will Deaton, AICP - Planning & Zoning Manager

FROM: Demetrios Moutos - Planner I

DATE: September 12, 2023

RE: **A23-30. Order of Approval - Findings of Fact:** Variance to increase the height of a privacy fence in a Single Family Residential 10 (SF-10) zoning district, located at 425 Raynor Drive (REID #0439862433000), containing 0.34 acres ± and being the property of Cyndi Lee McKinney.

COUNCIL DISTRICT(S):

1 - Kathy Jensen

Relationship to Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal 4: Desirable Place to Live, Work and Recreate

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

Executive Summary:

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

30.2.C.14 Variance:

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

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

to relieve undue and unique hardships to the landowner. No change in permitted uses or applicable conditions of approval may be authorized by variance.

On August 8, 2023, the Fayetteville Zoning Commission heard an Evidentiary Hearing regarding this case. The Commission voted 5-0 to approve this variance.

Background:

Owner: Cyndi Lee McKinney

Applicant: Owen McKinney

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

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

Property Address: 425 Raynor Drive

Size: 0.34 acres ± or 14,810.4 square feet

Existing Land Use: Single Family Dwelling

Surrounding Zoning and Land Uses

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

Letters Mailed: 32

Issues/Analysis:

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

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

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

Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

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

Subsequent Development

The minimum lot area for a single family house in the SF-10 zoning district is 10,000 square feet. This lot is 0.34 acres ± or 14,810.4 square feet ±. This lot meets the minimum square footage for the SF-10 district and is comparable to other properties in the Wells subdivision regarding lot size and shape.

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

Findings of Fact Statements as reviewed by the Planning Staff:

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

The applicant states:

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

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

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

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

According to the applicant, “No.”

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

The applicant states “It would allow me to comply with city code Article 30-4 Section D Subsection 3

(T) (3) (B) and keep vehicles and trailers behind corner of structure closest to the road.”

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

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

Budget Impact:

There is no immediate budgetary impact.

Options:

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. Table 30-5.D.4 Maximum Fence and Wall Height and Minimum Setback
9. Order of Approval - Findings of Fact

Project Overview **#946270**

Project Title: 425 Raynor Dr	Jurisdiction: City of Fayetteville
Application Type: 5.4) Variance	State: NC
Workflow: Staff Review	County: Cumberland

Project Location

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

GIS Verified Data

Property Owner: Parcel • 425 RAYNOR DR: MCKINNEY, CYNDI LEE	Acreage: Parcel • 425 RAYNOR DR: 0.34
Zoning District: Zoning District • 425 RAYNOR DR: SF-10	Subdivision Name:
Fire District:	Airport Overlay District:
Hospital Overlay District:	Coliseum Tourism District:
Cape Fear District: Cape Fear District • 425 RAYNOR DR: 0	Downtown Historic District:
Haymount Historic District:	Floodway:
100 Year Flood: <100YearFlood>	500 Year Flood: <500YearFlood>
Watershed:	

Variance Request Information

Requested Variances: Fence/wall	Section of the City Code from which the variance is being requested.: Article 30-5.D.4
Describe the nature of your request for a variance and identify the standard(s)/requirement(s) of the City Code proposed to be varied.: Requesting exemption on height from 6 feet to 8 feet.	Identify the zoning district designation and existing use of land for all adjacent properties, including those across the street.: all residential on all adjacent properties

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

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

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

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

Expiration - Variance

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

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

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

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

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

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

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

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

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

Please describe how, in the granting of the Variance, the public safety and welfare have been assured and substantial justice has been done.: **Height of Sign Face : 8**

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

Height of Sign Face:
Square Footage of Sign Face:

Height of Sign Face:
Square Footage of Sign Face :
Square Footage of Sign Face:
Square Footage of Sign Face:

Primary Contact Information

Contractor's NC ID#:

Project Owner
Owen McKinney

425 Raynor Dr
Fayetteville, NC 28311
P:9103911749
owenmckinney09@yahoo.com

Project Contact - Agent/Representative
Owen McKinney

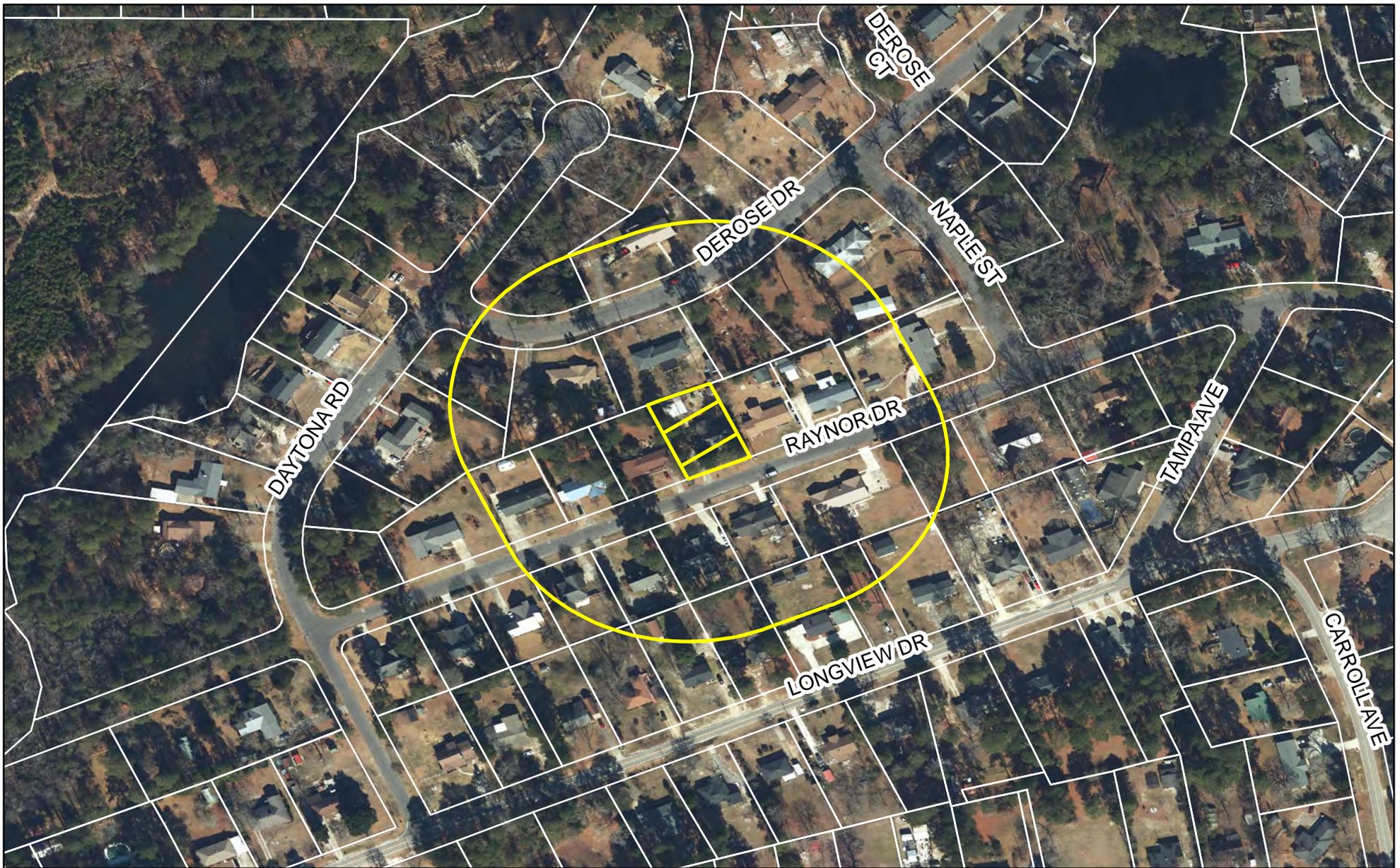
425 Raynor Dr
Fayetteville, NC 28311
P:9103911749
owenmckinney09@yahoo.com

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

NC State General Contractor's License Number:

NC State Mechanical Contractor's #1 License Number:
NC State Mechanical Contractor's #2 License Number:
NC State Mechanical Contractor's #3 License Number:
NC State Electrical Contractor #1 License Number:
NC State Electrical Contractor #2 License Number:
NC State Electrical Contractor #3 License Number:
NC State Plumbing Contractor #1 License Number:
NC State Plumbing Contractor #2 License Number:

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



Aerial Notification Map

Case #: A23-30

Request: Variance
Increase Minimum Fence Height

Location: 425 Raynor Drive
0438624330000

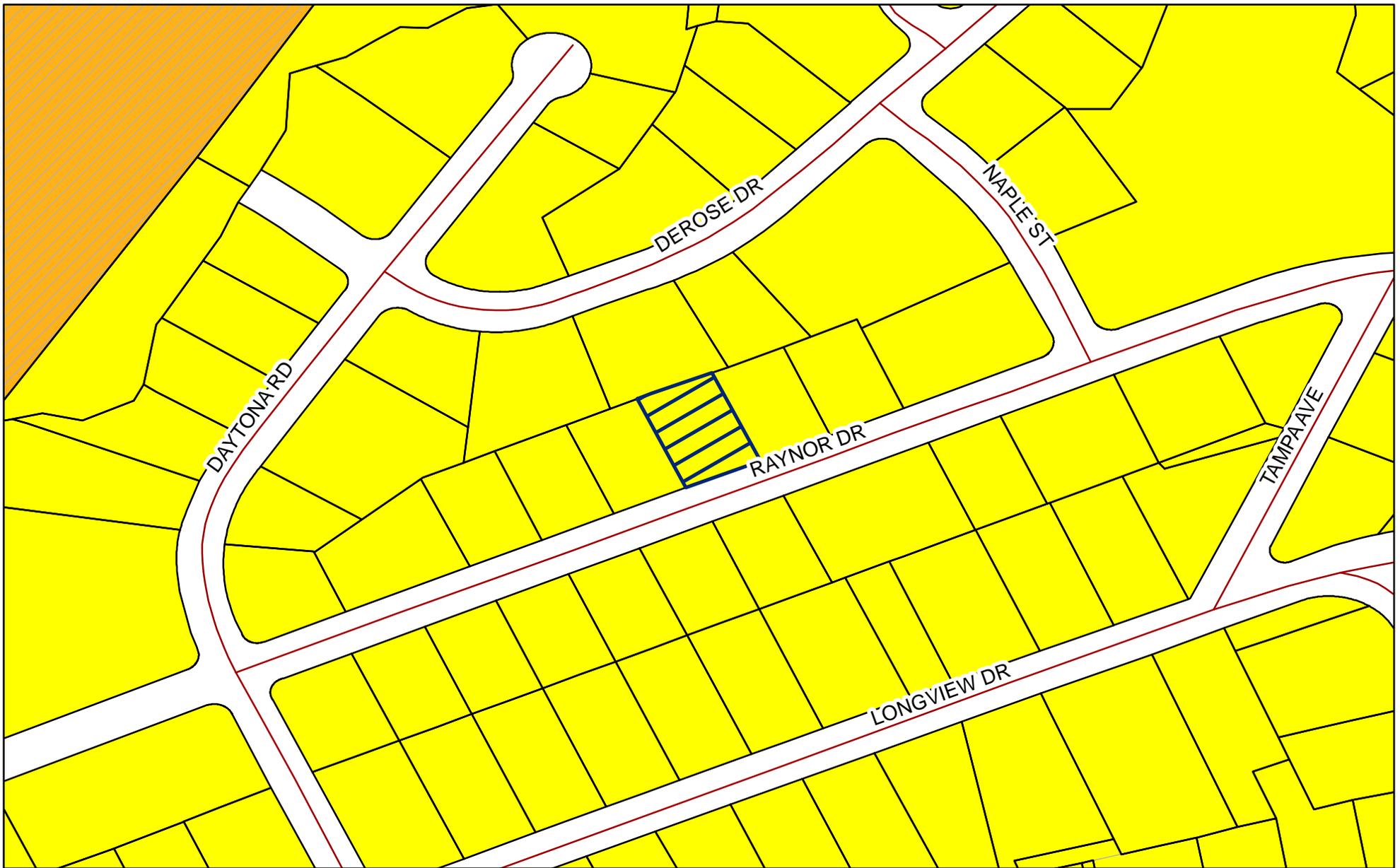
Legend

-  A23-30 Buffer
-  A23-30



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





Zoning Map

Case #: A23-30

Request: Variance
 Increase Minimum Fence Height

Location: 425 Raynor Drive
 0438624330000

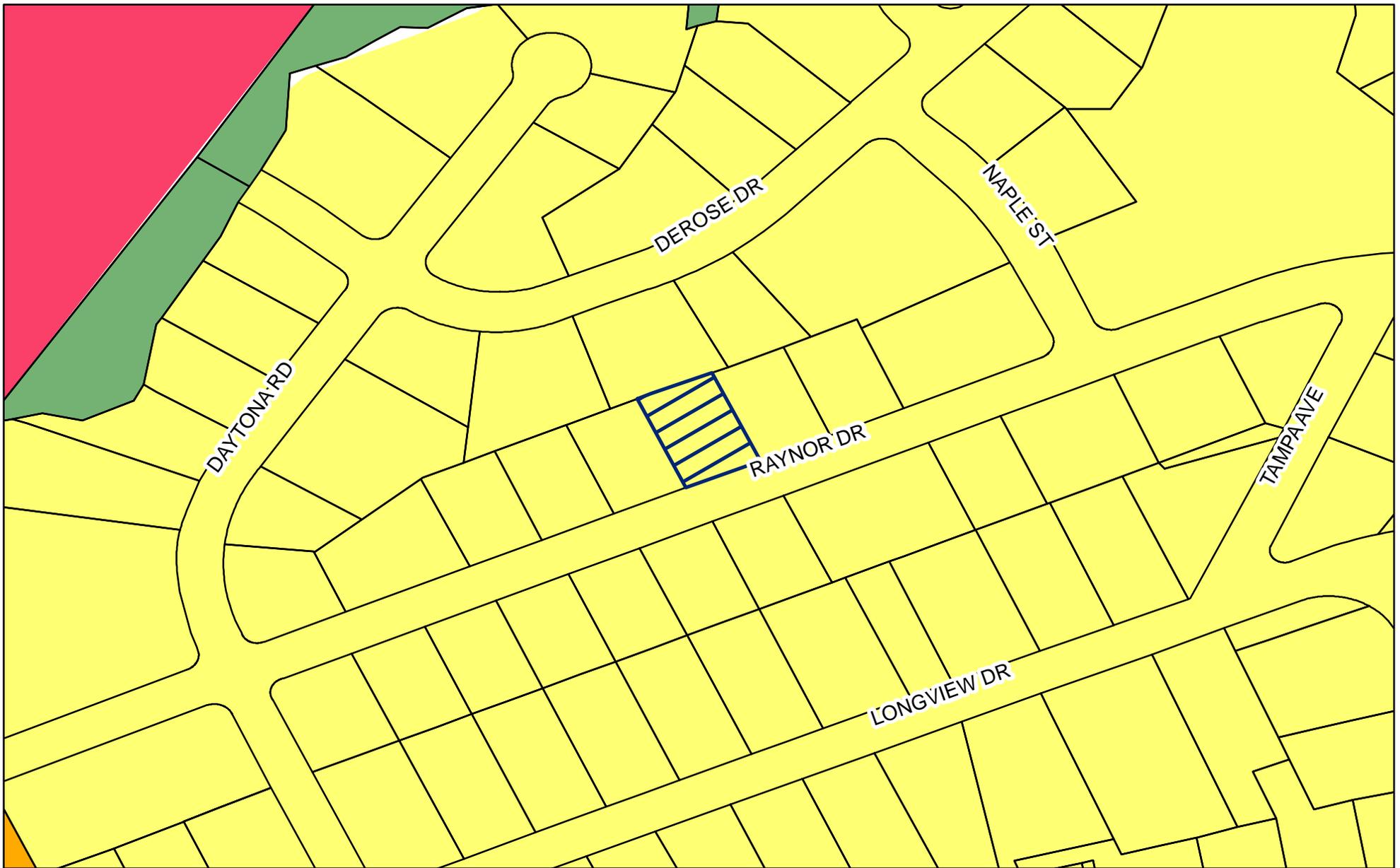
Legend

-  A23-30
-  MR-5/CZ - Conditional Mixed Residential 5
-  SF-10 - Single-Family Residential 10



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





Future Land Use Map

Case #: A23-30

Request: Variance
 Increase Minimum Fence Height

Location: 425 Raynor Drive
 0438624330000

Legend



A23-30

Land Use Plan 2040

Character Areas

-  PARKOS - PARK / OPEN SPACE
-  LDR - LOW DENSITY
-  HDR - HIGH DENSITY RESIDENTIAL
-  CC - COMMUNITY CENTER



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





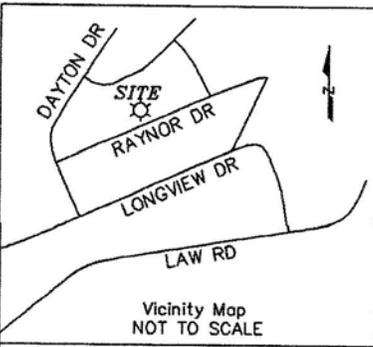
Subject Property





Surrounding Properties

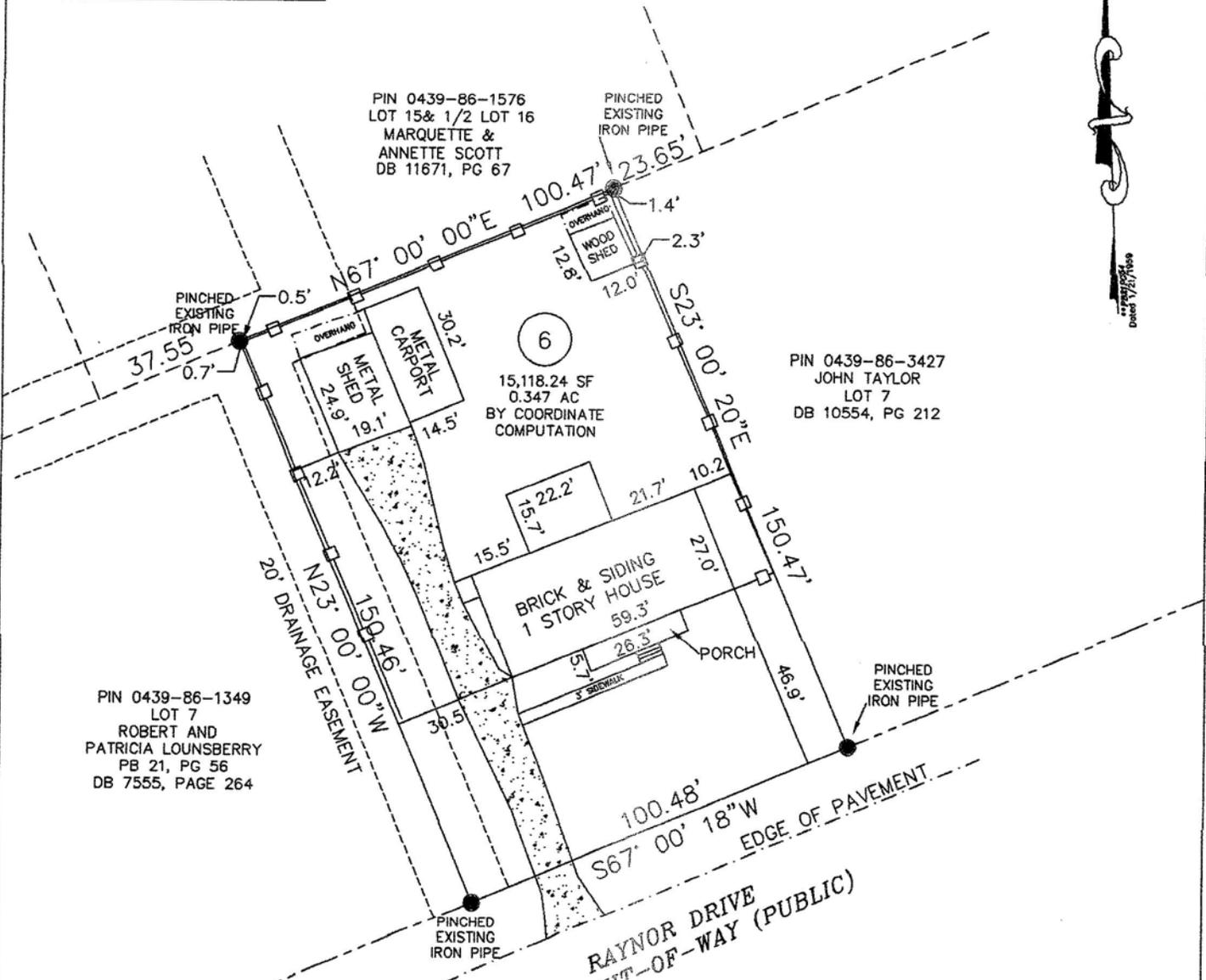




**** PRELIMINARY PLAT - NOT FOR RECORDATION, SALES OR CONVEYANCES ****

- BOUNDARY
- - - - PROPERTY NOT SURVEYED
- 8' WOOD PRIVACY FENCE
- - - - EXISTING EASEMENT
- - - - RIGHT OF WAY
- - - - EDGE OF PAVEMENT
- ▨ CONCRETE DRIVE
- SF- SQUARE FEET
- AC-ACRES
- DB-DEED BOOK
- PB-PLAT BOOK
- PG-PAGE
- PIN-PARCEL IDENTIFICATION NUMBER

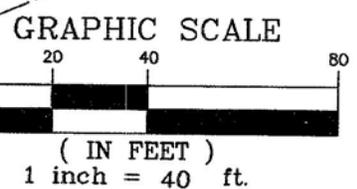
1. THIS PLAT IS FOR LOCATION PURPOSES ONLY.
2. THE EASEMENT INFORMATION SHOWN HEREON WAS OBTAINED FROM THE RECORDED PLAT. NO UPDATED TITLE SEARCH WAS PERFORMED BY THE SURVEYOR.
3. ALL DISTANCES ARE MEASURED IN FEET.



PIN 0439-86-1349
LOT 7
ROBERT AND
PATRICIA LOUNSBERRY
PB 21, PG 56
DB 7555, PAGE 264

PIN 0439-86-3427
JOHN TAYLOR
LOT 7
DB 10554, PG 212

15,118.24 SF
0.347 AC
BY COORDINATE
COMPUTATION



RAYNOR DRIVE
50' RIGHT-OF-WAY (PUBLIC)

LOCATION SURVEY

PIN 0439-86-2433
CYNDI LEE MCKINNEY
SECTION TWO BLOCK D
F.J. RAYNOR SUBDIVISION
PLAT BOOK 21, PAGE 54



North Carolina
Cumberland County
I, Cathy L. Christianson, certify that this map was drawn under my supervision from description recorded in Plat Book 21, Page 54, that the boundaries are plotted from information found in books referenced, that this map was NOT prepared in accordance with G.S. 47-30 as amended.

Witness my hand and official seal this 2th day of June, A.D., 2023.

Cathy Christianson
Cathy L. Christianson, PLS. L-3796

CUMBERLAND COUNTY
NORTH CAROLINA
CROSS CREEK TOWNSHIP
JUNE 2, 2023
SCALE 1" = 40'
CATHY L. CHRISTIANSON, PLS 3796
9912 W. REEVES BRIDGE ROAD
LINDEN, NC 28356
PHONE - (910) 850-0579

PART II - CODE OF ORDINANCES

CHAPTER 30 – UNIFIED DEVELOPMENT ORDINANCE

Article 30-5: Development Standards

30-5.D. Fences and Walls

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

a. **General**

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

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

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

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

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

NOTES:

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

b. Exemption for Safety

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

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

Effective on: 9/28/2020

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

To increase the height of a fence on a property located at 425 Raynor Drive

VARIANCE A23-30

Property Address: 425 Raynor Drive
REID Number: 0439862433000
Property Owner: Cyndi Lee McKinney

The Zoning Commission for the City of Fayetteville, NC, held an evidentiary hearing on August 8, 2023, to consider a Variance request filed by Owen McKinney (“Applicant”), on behalf of Cyndi Lee McKinney (“Property Owner”), to increase the maximum height of a fence on the property located at 425 Raynor Drive (“Subject Property”).

On July 21, 2023, a notice of public hearing was mailed to the Applicant and Property Owner, and all of the owners of property within 300 feet of the Subject Property. On July 20, 2023, a notice of public hearing sign was placed on the Subject Property. On July 28 and August 4, 2023, a notice of public hearing advertisement was placed in the legal section of *The Fayetteville Observer*.

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

Findings of Fact

1. Chapter 30, Article 5, Section D.4 of the City of Fayetteville’s Code of Ordinances establishes the height requirements for fences and walls.
2. Cyndi Lee McKinney is the owner of a residentially zoned property located at 425 Raynor Drive, which contains approximately 0.34 acres ± in the City of Fayetteville.
3. The Applicant filed an application for a Variance on February 1, 2023.
4. The Subject Property is zoned Single-Family Residential 10 (SF-10).
5. The Property Owner is requesting to increase the maximum fence height of a wood privacy fence from 6 feet to 8 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 Single-Family Residential 10 (SF-10) zoned property that is surrounded by Single-Family Residential 10 (SF-10) zoned properties to the north, south, east, and west.
8. The Subject Property is approximately 0.34 acres located on Raynor Drive.
9. The Subject Property is a single-family home that was constructed in 1973.
10. This Variance addresses the Ordinance requirement for a privacy fence to have a maximum height of 6 feet in the side and rear yards of a single-family dwelling.
11. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship because it would necessitate the Property Owner dismantle an addition they have already made to the fence, which is unnecessary.
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, again, removing the addition that has already been put on the fence is in and of itself an unnecessary hardship.
13. The Variance is the minimum action that will make possible a reasonable use of land or structures, due to the only nonconformity being the height of the fence, the fence already being installed, and the removal of the fence itself constituting an unnecessary hardship.
14. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit. This is because the fence, as mentioned by the Applicant, serves to protect neighbors and wildlife from potential harm caused by the Applicant's dogs, as well as shielding them from the sight and sound of his stored work equipment.
15. There is no evidence to suggest that the granting of this Variance would harm public safety and welfare; substantial justice would be ensured. The approval of the Variance would enhance public safety by shielding neighbors from potential harm or inconveniences caused by the sights and sounds of the Applicant's stored construction equipment, as well as protecting them from the Applicant's dogs.

Conclusions of Law

1. The City of Fayetteville adopted the Unified Development Ordinance (UDO), codified under Chapter 30 of the City Code, to establish that “This Ordinance consolidates the City’s zoning and subdivision regulatory authority as authorized by the North Carolina General Statutes”.
2. The Applicant submitted a timely application in compliance with the UDO.
3. Notice was properly given and an evidentiary public hearing was held by the City of Fayetteville’s Zoning Commission in compliance with the laws of North Carolina.
4. The City Development Services Department is responsible for the coordination and enforcement of the UDO.
5. All of the general and specific conditions precedent to the issuance of the requested Variance HAS been satisfied as:
 - a. The strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships.
 - b. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, and are not the result of the actions of the landowner.
 - c. The Variance is the minimum action that will make possible a reasonable use of land or structures.
 - d. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
 - e. The granting of the Variance assures the public safety and welfare and that substantial justice has been done.

WHEREFORE, BASED ON THE FOREGOING FINDINGS OF FACT 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 12th day of September, 2023.

PAVAN PATEL
Zoning Commission Chair



City of Fayetteville

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

City Council Action Memo

File Number: 23-3531

Agenda Date: 9/12/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Evidentiary Hearing

Agenda Number: 3.02

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Heather Eckhardt, CZO - Planner II

DATE: September 12, 2023

RE:

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

COUNCIL DISTRICT(S):

6 - Derrick Thompson

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

Goal 4: Desirable Place to Live, Work and Recreate

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

Executive Summary:

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

The Zoning Commission held an evidentiary hearing on August 8, 2023. The Zoning Commission voted unanimously to approve the variance.

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.

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

Background:

Owner: Phillip Martin Woods Sr & Milliecent Cooper Woods

Applicant: Jerry Wilson Woods Jr

Requested Action: Reduce required lot frontage

Zoning District: Agricultural Residential (AR)

Property Address: 0 Wayne Lane

Size: 3.99 acres ±

Existing Land Use: Vacant

Surrounding Zoning and Land Uses

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

Letters Mailed: 17

Issues/Analysis:

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

Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

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

Subsequent Development

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

This reduction can allow for the future development of the property.

The following findings are based on the responses submitted in the application by the

applicant and the best available information about the proposal without the benefit of testimony provided at the evidentiary hearing.

Findings of Fact Statements as reviewed by the Planning Staff:

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

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

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

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

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

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

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

The applicant states "The variance will not harm anyone or anything around it."

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

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

Budget Impact:

None

Options:

1. Approve Findings of Fact as drafted.
2. Remand Findings of Fact to staff for revisions.

Recommended Action:

Approval of the Findings of Fact as drafted.

Attachments:

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

Project Overview **#1066284**

Project Title: 2nd Acre	Jurisdiction: City of Fayetteville
Application Type: 5.4) Variance	State: NC
Workflow: Staff Review	County: Cumberland

Project Location

Project Address or PIN: 0 N/A DR (9485900074000)	Zip Code: 28306
---	------------------------

GIS Verified Data

Property Owner: Parcel	Acreage: Parcel
<ul style="list-style-type: none"> 0 N/A DR: WOODS, PHILLIP MARTIN SR;MILLIECENT, COOPER 	<ul style="list-style-type: none"> 0 N/A DR: 3.99
Zoning District: Zoning District	Subdivision Name:
<ul style="list-style-type: none"> 0 N/A DR: AR 	
Fire District:	Airport Overlay District:
Hospital Overlay District:	Coliseum Tourism District:
Cape Fear District:	Downtown Historic District:
Haymount Historic District:	Floodway:
100 Year Flood: <100YearFlood>	500 Year Flood: <500YearFlood>
Watershed:	

Variance Request Information

Requested Variances: Lot width	Section of the City Code from which the variance is being requested.: 30-3.C.3 - Agricultural-Residential (AR) District
Describe the nature of your request for a variance and identify the standard(s)/requirement(s) of the City Code proposed to be varied.:	Identify the zoning district designation and existing use of land for all adjacent properties, including those across the street.:
Asking to extend 20 foot easement for access to other parcel of land and reduce Lot width	Mobile home park and vacant land

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

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

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

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

Expiration - Variance

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

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

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

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

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

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

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

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

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

The variance will not harm anyone or anything around it.

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

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

Height of Sign Face : 0

Height of Sign Face: 0

Square Footage of Sign Face: 0

Height of Sign Face: 0

Square Footage of Sign Face : 0

Square Footage of Sign Face: 0

Primary Contact Information

Contractor's NC ID#:

Project Owner

Jerry Woods

3160 Wayne Lane

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

Project Contact - Agent/Representative

Jerry Woods

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

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

NC State General Contractor's License Number:

Project Contact - Primary Point of Contact for the Surveyor

Jerry Woods

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

NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor's #3 License Number:

NC State Electrical Contractor #1 License Number:

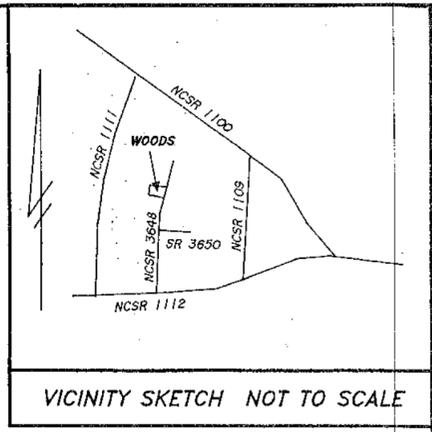
NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

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



I, Leland D. Strother, Professional Land Surveyor, do hereby certify that this plat was prepared by me from a field survey performed under my direct supervision; that the boundaries not surveyed are clearly indicated as broken lines and drawn from information as shown; that the ratio of precision as calculated is 1:10,000+; that this map was prepared in accordance with G.S. 47-30 as amended; witness my own original signature, registration number and seal this 25th day of January, 1999.

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

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

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

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

Owner

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

Approved by the Cumberland County Planning Board on the _____ day of _____, 1999.

Chairman

State of North Carolina
County of Cumberland

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

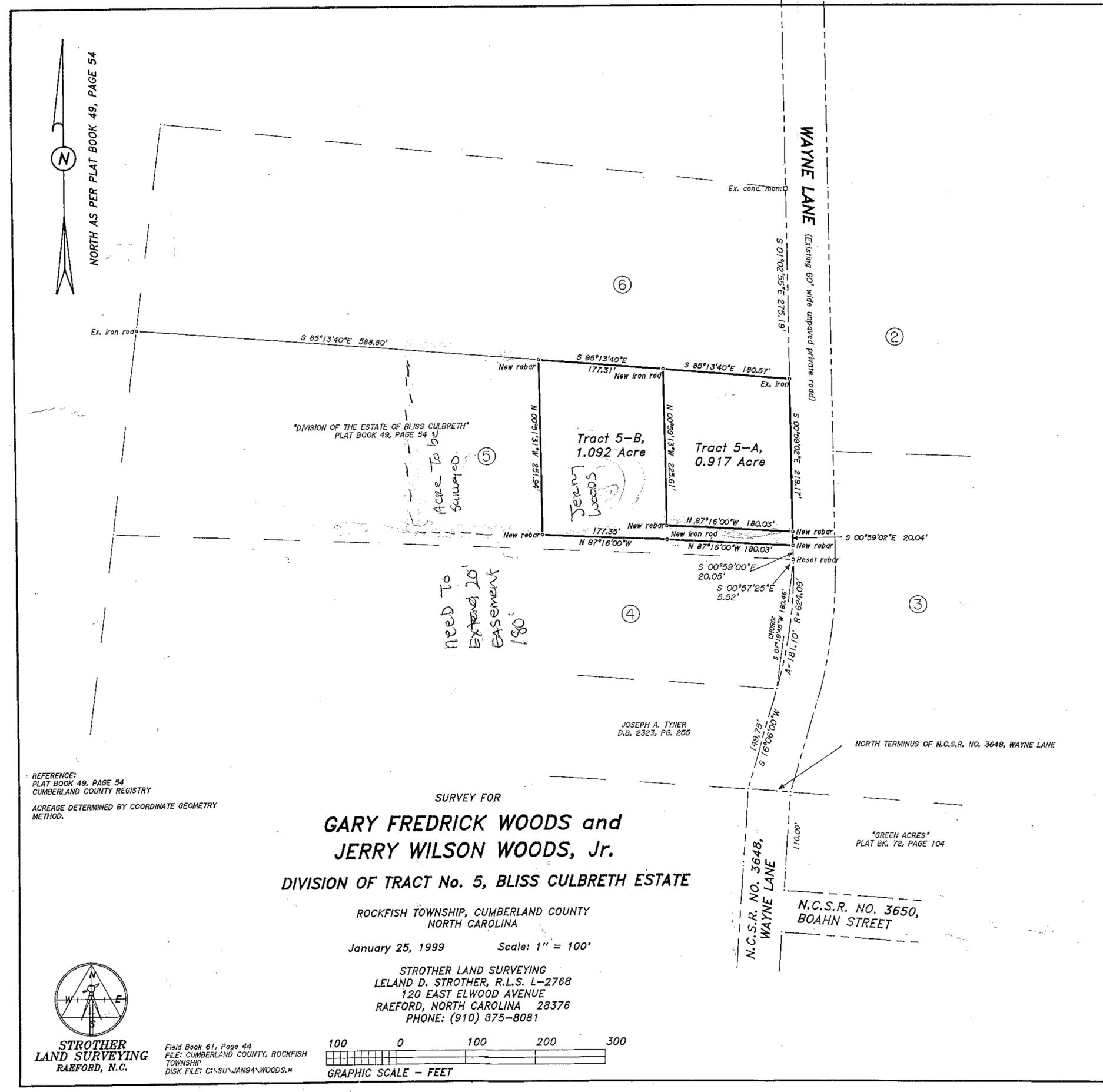
Review Officer

Date

Leland D. Strother
JAN 25, 1999

70.00
Thurs 1/25/99

- LEGEND
- Ex. denotes Existing
 - Conc. mon. denotes concrete monument
 - PK nail denotes Parker-Kalon nail
 - "MAG" nail is the trademark name of magnetized nail
 - RRS denotes railroad spike
 - CL denotes centerline
 - PVMT denotes pavement
 - Calc. pt. denotes calculated point
 - R/W denotes right of way
 - BSL denotes building setback line
 - Rwy. denotes railway
 - Tele. ped. denotes telephone pedestal
 - SD denotes Storm drain
 - CB denotes catch basin
 - SS denotes sanitary sewer line
 - MH denotes manhole
- Above may be used in combination:
SDCB = storm drain catch basin
Ex. conc. mon. = Existing concrete monument



REFERENCE:
PLAT BOOK 49, PAGE 54
CUMBERLAND COUNTY REGISTRY
ACREAGE DETERMINED BY COORDINATE GEOMETRY METHOD.

SURVEY FOR
**GARY FREDRICK WOODS and
JERRY WILSON WOODS, Jr.**
DIVISION OF TRACT No. 5, BLISS CULBRETH ESTATE

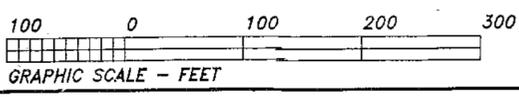
ROCKFISH TOWNSHIP, CUMBERLAND COUNTY
NORTH CAROLINA

January 25, 1999 Scale: 1" = 100'

STROTHER LAND SURVEYING
LELAND D. STROTHER, R.L.S. L-2768
120 EAST ELWOOD AVENUE
RAEFORD, NORTH CAROLINA 28376
PHONE: (910) 875-8081



Field Book 61, Page 44
FILE: CUMBERLAND COUNTY, ROCKFISH TOWNSHIP
DISK FILE: C:\SU\JAN94\WOODS.M



AFFIDAVIT OF OWNERSHIP

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

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

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

3. This authority is only granted for the application to be submitted on 7 12 23.

[Signature]
Signature of Affiant

Milliecent Woods
Signature of Affiant

Cumberland County, North Carolina

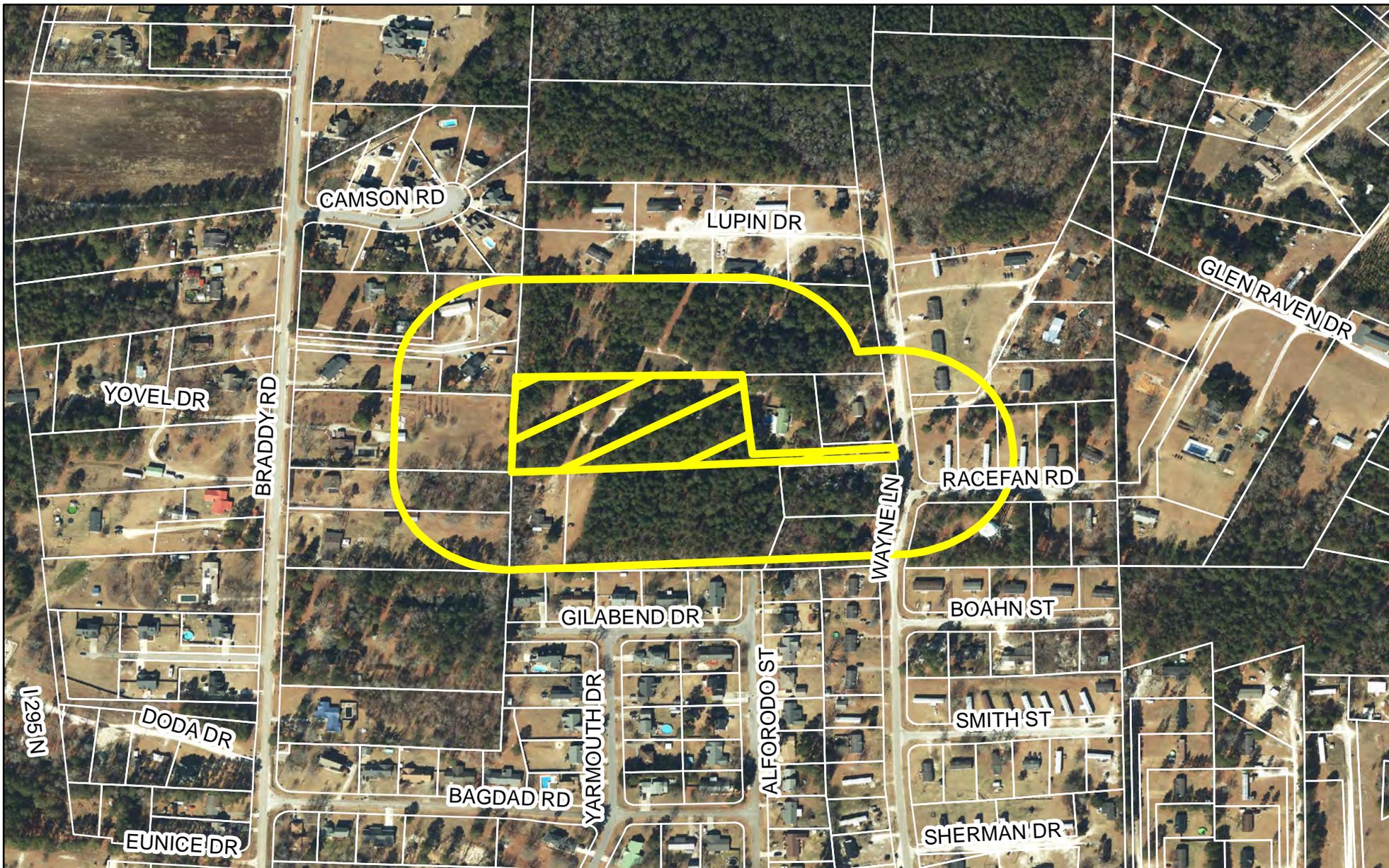
Sworn to and subscribed before me this day on the 23 day of June, 2023.



[Signature]
Signature of Notary Public

Athena Carol Quick, Notary Public
Printed Name of Notary Public

My Commission Expires: 11-20-24



Aerial Notification Map

Case #: A23-31

Request: Variance
Reduce required lot frontage

Location: 0 Wayne Lane
9485900074000

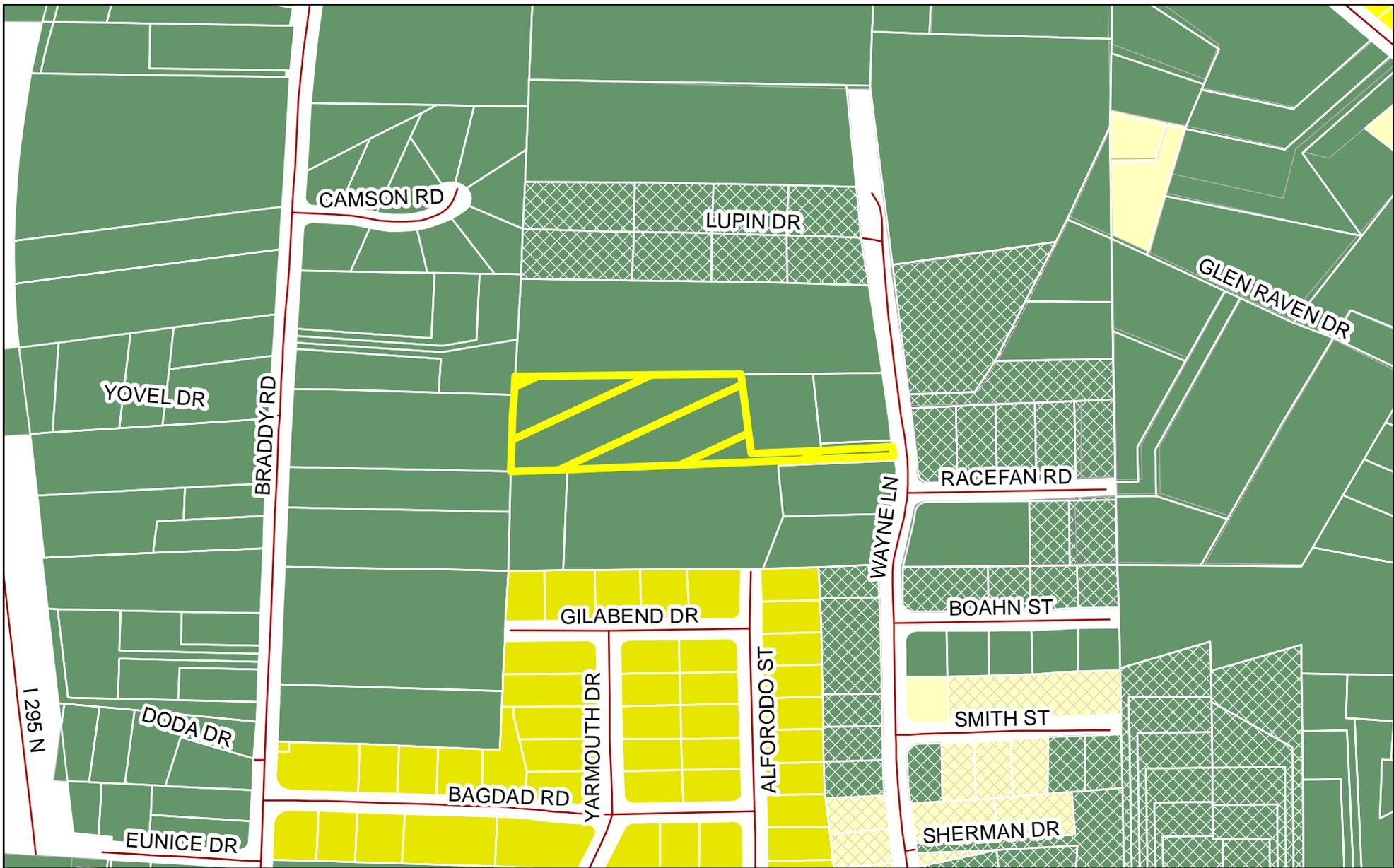
Legend

-  A23-31
-  A23-31 Notification Buffer



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





Zoning Map

Case #: A23-31

Request: Variance
Reduce required lot frontage

Location: 0 Wayne Lane
9485900074000

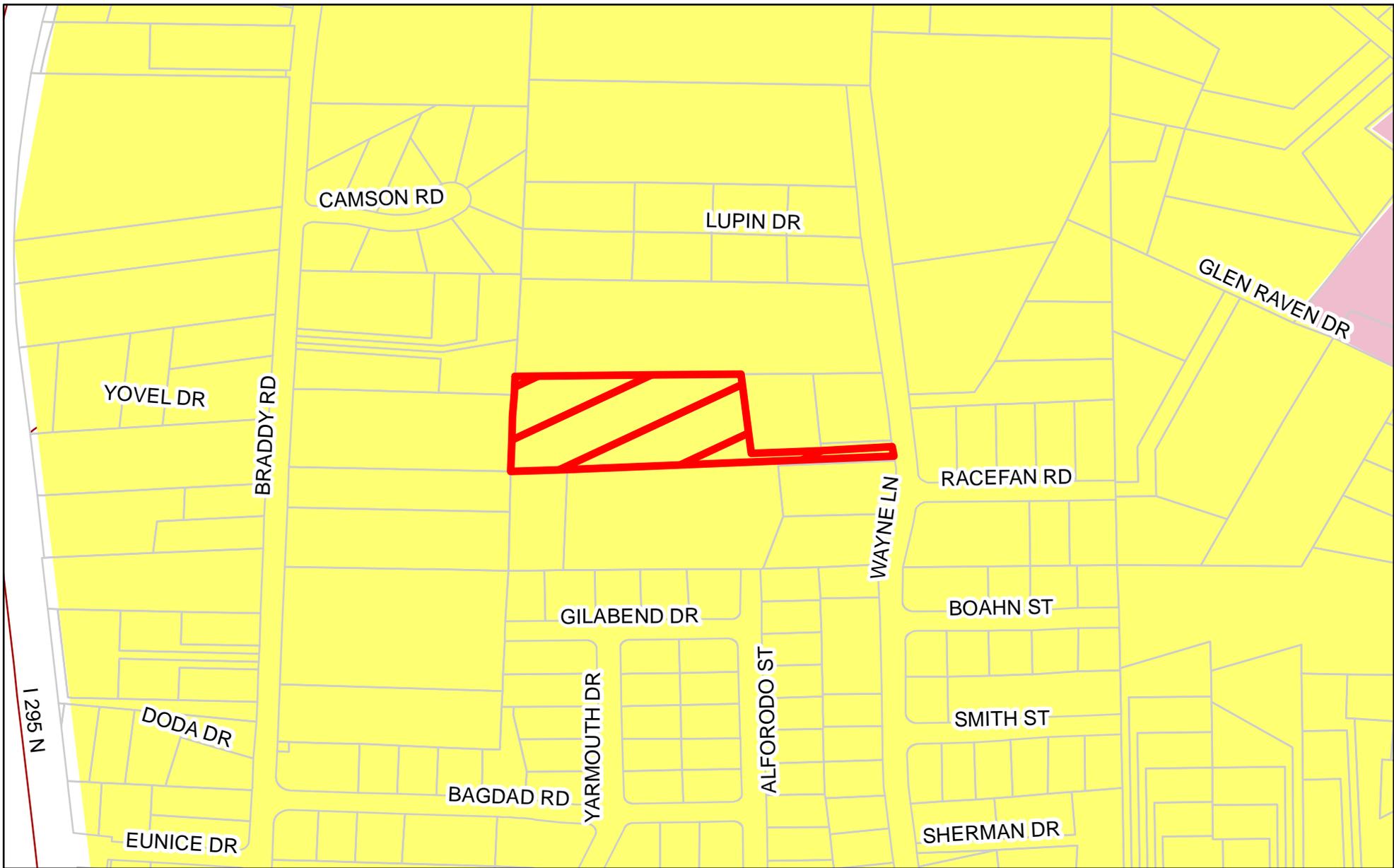
Legend

-  A23-31
-  AR - Agricultural-Residential
-  AR/MHO - Agricultural-Residential Manufactured Home Overlay
-  SF-6 - Single-Family Residential 6
-  SF-6/MHO - Single-Family Residential 6 Manufactured Home Overlay
-  SF-10 - Single-Family Residential 10
-  SF-15 - Single-Family Residential 15



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





Land Use Map

Case #: A23-31

Request: Variance
Reduce required lot frontage

Location: 0 Wayne Lane
9485900074000

Legend



A23-31

Land Use Plan 2040

Character Areas

 LDR - LOW DENSITY

 NMU - NEIGHBORHOOD MIXED USE



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







North



West

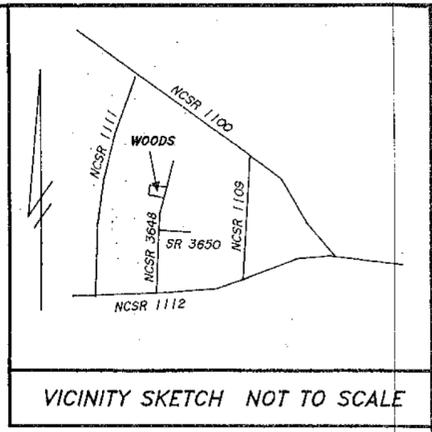


South



East





I, Leland D. Strother, Professional Land Surveyor, do hereby certify that this plat was prepared by me from a field survey performed under my direct supervision; that the boundaries not surveyed are clearly indicated as broken lines and drawn from information as shown; that the ratio of precision as calculated is 1:10,000+; that this map was prepared in accordance with G.S. 47-30 as amended; witness my own original signature, registration number and seal this 25th day of January, 1999.

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

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

Owner _____

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

Approved by the Cumberland County Planning Board on the _____ day of _____, 1999.

Chairman _____

State of North Carolina
County of Cumberland

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

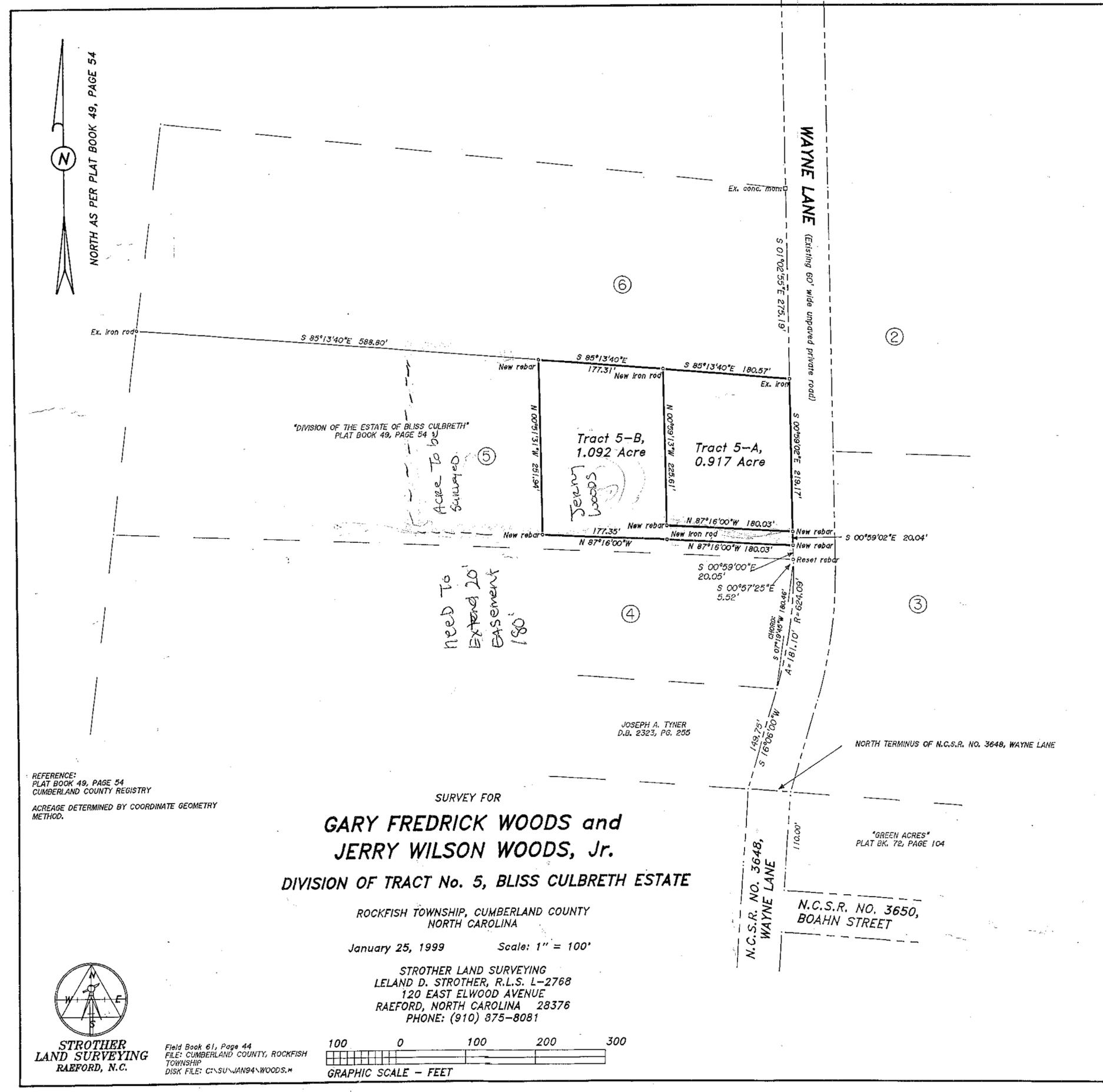
Review Officer _____

Date _____

Leland D. Strother
JAN 25 1999

70.00
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Ex. conc. mon. = Existing concrete monument



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ACREAGE DETERMINED BY COORDINATE GEOMETRY METHOD.

SURVEY FOR
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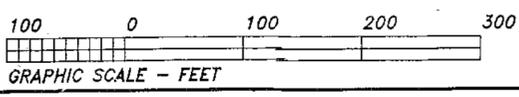
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January 25, 1999 Scale: 1" = 100'

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PHONE: (910) 875-8081



Field Book 61, Page 44
FILE: CUMBERLAND COUNTY, ROCKFISH TOWNSHIP
DISK FILE: C:\SU\JAN94\WOODS.M



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

**To reduce the required lot frontage for a property located at 0 Wayne Lane (REID
9485900074000)**

VARIANCE A23-31

Property Address: 0 Wayne Lane
REID Number: 9485900074000
Property Owner: Phillip Martin Woods, Sr., and Milliecent Cooper Woods

The Zoning Commission for the City of Fayetteville, NC, held an evidentiary hearing on August 8, 2023, to consider a Variance request filed by Jerry Wilson Woods, Jr. (“Applicant”), on behalf of Phillip Martin Woods, Sr., and Milliecent Cooper Woods (“Property Owners”), to reduce the required lot frontage for the property located at 0 Wayne Lane (REID 9485900074000) (“Subject Property”).

On July 21, 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 July 19, 2023, a notice of public hearing sign was placed on the Subject Property. On July 28 and August 4, 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 C.3 of the City of Fayetteville’s Code of Ordinances establishes the dimensional requirements for lots within the Agricultural-Residential (AR) District.
2. Phillip Martin Woods, Sr., and Milliecent Cooper Woods are the owners of a residentially zoned property located at 0 Wayne Lane (REID 9485900074000), which contains approximately 3.99 acres ± in the City of Fayetteville.
3. The Applicant filed an application for a Variance on July 14, 2023.
4. The Subject Property is zoned Agricultural-Residential (AR).
5. The Applicant is requesting to reduce the required lot frontage from 100 feet to 20 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 an Agricultural-Residential (AR) zoned property that is surrounded by Agricultural-Residential (AR) zoned properties to the north, south, east, and west.
 8. The Subject Property is approximately 3.99 acres located on Wayne Lane.
 9. The Subject Property is a parcel which was subdivided prior to the adoption of the City of Fayetteville's Unified Development Ordinance and prior to the parcel being annexed into the City Limits of Fayetteville.
 10. This Variance addresses the Ordinance requirement for a 100-foot lot frontage.
 11. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship because the Applicant is trying to maintain access to the lot.
 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 lot is an unusual flag shape.
 13. The Variance is the minimum action that will make possible a reasonable use of land or structures and will allow the Applicant to add an additional acre to the existing lot.
 14. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit because there are many other flag lots in the area.
 15. There is no evidence that the granting of this Variance would harm public safety and welfare, and substantial justice would be ensured.

Conclusions of Law

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

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

WHEREFORE, BASED ON THE FOREGOING FINDINGS OF FACT 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 12th day of September, 2023.

PAVAN PATEL
Zoning Commission Chair



City of Fayetteville

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

City Council Action Memo

File Number: 23-3533

Agenda Date: 9/12/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Consent

Agenda Number: 3.03

TO: Zoning Commission

THRU: Will Deaton, AICP - Planning & Zoning Manager

FROM: Catina Evans - Office Assistant II

DATE: September 12, 2023

RE: Approval of Meeting Minutes: August 8, 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: August 8, 2023

**MINUTES
CITY OF FAYETTEVILLE
ZONING COMMISSION MEETING
FAST TRANSIT CENTER COMMUNITY ROOM
AUGUST 8, 2023 @ 6:00 P.M.**

MEMBERS PRESENT

Pavan Patel, Chair
Stephen McCorquodale, Vice-Chair

Alex Keith
Justin Herbe, Alternate
Clabon Lowe, Alternate

MEMBERS ABSENT

Roger Shah
Kevin Hight

STAFF PRESENT

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

The Zoning Commission Meeting on Tuesday, August 8, 2023, was called to order by Chair Pavan Patel at 6 p.m.

I. APPROVAL OF THE AGENDA

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

II. APPROVAL OF CONSENT ITEMS TO INCLUDE THE MINUTES FOR THE JULY 11, 2023, MEETING

MOTION: Stephen McCorquodale made a motion to approve the consent items.
SECOND: Clabon Lowe
VOTE: Unanimous (5-0)

III. EVIDENTIARY HEARINGS

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

Mr. Patel opened the evidentiary hearing for case A23-30.

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

Demetrios Moutos presented case A23-30 regarding a fence located at 425 Raynor Drive. The applicant, Owen McKinney, has submitted a request for a variance to increase the fence height from 6 feet to 8 feet. The property owner is Cyndi Lee McKinney. The subject property is located to the east of Ramsey Street within the Raynor subdivision. This area is situated directly east of Lowe's, Cookout, and Weiner Works. The subject property and the surrounding area are classified as Single-Family Residential 10 (SF-10). Furthermore, as per the Future Land Use Map, the property is designated for low-density residential use. During the presentation, Mr. Moutos shared images of the front of the subject property. He illustrated how the fence encircles the rear of the property, originating from the front corners of the house and extending all the way around to the back. The purpose behind this variance request is to allow an increase in the fence height from the standard maximum of 6 feet, as dictated by the Unified Development Ordinance (UDO), to 8 feet. Additionally, Mr. Moutos informed the Board about their available voting options and presented the findings of fact statements for their consideration.

Mr. Patel opened the evidentiary hearing.

Speakers in favor:

Owen McKinney, 425 Raynor Drive, Fayetteville, NC 28311

- He purchased this home with the intention of upgrading the property to help make the community a better place. Mr. McKinney stated that his grandparents live two houses down.
- He purchased the home under unique circumstances because someone he knew had a family member pass away and he purchased the home from them.
- He renovated the inside of his home, removed trees off the property, replaced the roof, and rebuilt the fence. When he took ownership of the property there was a 4-foot, chain-link fence and a wooden privacy fence on the back of the property, and a section of a wooden privacy fence along the right side of the property.
- Mr. McKinney said he has a variety of business equipment on his property because he owns a construction company. Mr. McKinney told the Board he brought evidence of the types of equipment that are located on his property, and he listed a few of these items.
- Mr. McKinney stated that when he purchased the home and he went about building the fence, he looked at the building code or ordinance and he saw that there was a section about 8-foot fences. However, Mr. McKinney said he did not read the fine print that said it (an 8-foot fence) was only allowed at the beginning of the neighborhood. Mr. McKinney purchased a 6-foot and an 8-foot picket fence and (prior to building the fence) he talked to his adjacent neighbors.
- Mr. McKinney explained his options to his neighbors, and he informed them that the purpose of the fence was to keep his equipment and his dogs in the backyard. Many of his neighbors are elderly. The person to the right of him has children and they play in their backyard. He said there were instances where basketballs, drones, and footballs were thrown into his backyard, and unfortunately, Mr. McKinney has a dog that is aggressive even after he has taken this dog to training.
- The purpose of the fence was: 1. To keep the noise down from the dogs barking, 2. Keep the equipment in the backyard so that it is not an eyesore to all of the neighbors, and 3. Keep wildlife safe.
- Mr. McKinney said that there is a fence in a yard two houses down that is taller than 6 feet. He said he had pictures of the fence. He said this fence was more than 7 feet. He did not know that his fence would

be an issue after seeing the other fence and reading the ordinance. Mr. McKinney started pursuing the variance after receiving a violation from Code Enforcement.

Mr. McKinney showed the Board pictures of the fence and his property. The photographs were provided to staff to enter the evidence. Ms. Harper asked that Board pass the pictures around so that all members could see them.

Mr. Keith asked if the dogs could clear a 6-foot fence. Mr. McKinney said they could because they are Belgian Malinois. Mr. McCorquodale needed clarification concerning if the fence on the property two houses from Mr. McKinney comes up alongside the house and if it is an 8-foot fence. Mr. McKinney said it is an 8-foot fence all around. He stated that the fence was erected due to an argument between his grandfather and the previous owner of that home.

Mr. Herbe asked Mr. McKinney if only the fence height was the issue, and Mr. McKinney stated yes. Mr. Keith asked if Mr. McKinney's neighbors were aware of his need for a variance. Mr. McKinney discussed instances when he had helped his neighbors. Mr. McKinney said they were shocked to hear about his need for a variance because they did not have an issue with the fence. Mr. McKinney stated that he thought if someone had an issue with the fence, then they would appear at the hearing when they received the notice in the mail.

Mr. Patel asked Mr. McKinney if the variance would be the most reasonable action to avoid any hardships or difficulties. Mr. McKinney stated that the fence would be a great noise barrier if the dogs were playing in the backyard and started barking because a deer, coyote, or fox had come near the yard. The fence would also protect small children and elderly neighbors. He mentioned that one of his neighbors is wheelchair-bound and travels around the neighborhood in his chair. The fence would serve as a safety measure to protect his neighbor's small dogs when the owners walk the dogs in the neighborhood. Mr. McKinney said he has done everything possible to keep one of his dogs from being aggressive. He would like to avoid any situations where his dog or another animal or one of his neighbors could get hurt. Mr. McKinney said he works long hours and would like to be courteous to his neighbors by keeping his noise level down.

Mr. Herbe asked Mr. McKinney if a City Code Enforcement Administrator issued him a violation due to the height of the fence, which caused Mr. McKinney to request the variance after the fact. Mr. McKinney stated yes to this question.

Mr. Patel closed the evidentiary hearing for case A23-30.

Mr. Herbe started to make a motion to approve the variance and Ms. Harper had to clarify that he must read the five findings and state evidence to support them.

MOTION: Justin Herbe made a motion to approve the variance based on the following five findings of fact:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence: Following the strict application of the ordinance would require the property owner to remove the additions that he has already put on his fence. I do not think that should be necessary.
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: Once again, removing the additions he (the owner) has already put on the fence is an unnecessary hardship.

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence: As I asked the question earlier if the fence is in the right location, the variance for the height of the fence is the minimum action that should be taken. We are not talking about a location, and it is not a front yard fence. It is in his (the owner's) backyard and it is not an eyesore to anyone.
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: I think the fence being 8 feet tall is in harmony with the purpose of the neighborhood. It is good for the neighborhood, and it protects the neighbors from getting into his work equipment and dogs.
5. In the granting of the Variance, public safety and welfare have been assured and substantial justice has been done as shown by the following evidence: The welfare of the neighborhood is assured through this variance. The owner has construction equipment in the backyard. He is not only protecting his property, but he is protecting his neighbors.

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

Patel opened the evidentiary hearing for case A23-31.

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

Heather Eckhardt presented case A23-31. The applicant is Jerry Woods. The property owners are Phillip Martin Woods Sr. and Milliecent Cooper. The request is to reduce the lot frontage from 100 feet to 20 feet. The property is located on Wayne Lane and is roughly 3.99 acres. She showed the Board where the subject property travels into Wayne Lane. The property is north of King Road. Ms. Eckhardt showed the Board where Stoney Point Road was located to the north of the property just off the map. The property is zoned Agricultural-Residential (AR) as is the surrounding area. She said the Future Land Use Plan designates the area as low-density residential development. Ms. Eckhardt explained that the surrounding area is residential in nature with the occasional vacant lot. Within this zoning district, the Unified Development Ordinance would require the owner to reduce the lot by 80 feet to make it compliant with the ordinance. The owner is not planning to make any changes to the property. Ms. Eckhardt informed the Board regarding their voting options.

Mr. Patel opened the evidentiary hearing.

Speakers in favor:

Jerry Woods, 3160 Wayne Lane, Fayetteville, NC 28306

- Mr. Woods applied for the variance because his mother left him an acre of land before she passed away. The only way Mr. Woods could acquire the property or gain access to the acre of land is if he obtains the variance. With the variance, Mr. Woods would have access to this property and his brother would have access to his own property.

- Mr. Woods said he is not trying to build anything. He is just trying to gain access to his land.

Mr. Keith asked Mr. Woods if there is a road near the property. Mr. Woods said that there is a road located near the property. He explained how he and his brothers would have access to their prospective properties. Mr. Woods reiterated that he is not trying to change anything on the lot. He is just trying to obtain an acre of land for his property. Mr. Keith asked Mr. Woods if the flag lot was already subdivided. Ms. Eckhardt showed them the site plan, and Mr. Woods used the site plan to show the Board where his acre lot was located. He showed the Board the land his brother would sell him so he would have access to his property. Mr. McCorquodale asked if he would have an easement and Mr. Woods said he would have an easement.

Mr. Patel asked Mr. Woods for clarification that the land would be only accessible if he obtained the variance and Mr. Woods said yes to this statement. Mr. Keith asked if the existing parcel (on the site plan) is already subdivided. Mr. Woods showed the Board where his land and his brothers' land is located. The Board asked a few more questions for clarification. Mr. Keith asked Ms. Eckhardt for clarification on where the parcel was located and if it is subdivided. Ms. Eckhardt said that the land is already subdivided. The variance would bring the subject property into compliance with the ordinance and allow Mr. Woods to obtain the acre of land left to him by his mother. Mr. Keith asked if there was an easement to the property. Ms. Eckhardt explained that the properties are accessed via flags which are part of the existing parcels (not easements).

Mr. Patel closed the evidentiary hearing for case A23-31.

MOTION: Alex Keith made a motion to approve the variance based on the following five findings of fact:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence: The applicant indicated that he is trying to get portions of his property.
2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner as shown by the following evidence: This is evident in the flag-shaped land with the 20-inch sliver connecting it.
3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence: This is shown by the skinny flag shape and the fact that he (the owner) is trying to add on to his home as well.
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 seems that based on it (the evidence) there are plenty of lots that are flag shaped and he (the owner) will join the two lots to make them more in harmony.
5. In the granting of the Variance, public safety and welfare have been assured and substantial justice has been done as shown by the following evidence: There is nothing that indicates that there would be any public safety issues.

SECOND: Stephen McCorquodale

VOTE: Unanimous (5-0)

I. OTHER BUSINESS

Mr. Harmon stated there are six cases for the September 12th meeting (two variances and four rezoning cases).

II. ADJOURNMENT

MOTION: Stephen McCorquodale made a motion to adjourn the August 8, 2023, meeting.

SECOND: Clabon Lowe

VOTE: Unanimous (5-0)

The meeting adjourned at 6:34 p.m.

Respectfully submitted by Catina Evans

DRAFT



City of Fayetteville

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

City Council Action Memo

File Number: 23-3532

Agenda Date: 9/12/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Evidentiary Hearing

Agenda Number: 4.01

TO: Mayor and Members of City Council

THRU: Zoning Commission

**FROM: Will Deaton, AICP - Planning & Zoning Division Manager
Craig Harmon, CZO - Senior Planner**

DATE: September 12, 2023

RE:

A23-37. Variance to allow a rear setback reduction, located at 343 Shawcroft Road (REID # 0530580507000), and being the property of Todd and Jennifer Vick.

COUNCIL DISTRICT(S):

1 - Kathy Jensen

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022
Goals 2027

Goal 4: Desirable Place to Live, Work and Recreate

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

Executive Summary:

The applicant is requesting a variance to reduce the required rear yard setback from 35 feet to 24 feet.

30.2.C.14 Variance:

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

Variations 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: Todd and Jennifer Vick
Applicant: Todd Vick
Requested Action: Reduce required front yard setback
Zoning District: PND
Property Address: 343 Shawcroft Rd
Size: .41 acres ±
Existing Land Use: Vacant
Surrounding Zoning and Land Uses

- North: PND - Single-family house
- South: AR - Entrance to Club House
- East: AR - Golf Course
- West: AR - Single-family house

Letters Mailed: 18

Issues/Analysis:

The subject property is 0.41 acres located at 343 Shawcroft Road. The property was created as part of the Kings Grant Planned Neighborhood Development (PND). Since the initial subdivision, the property was annexed into the city limits of Fayetteville. Subsequently, any development of the property must meet the standards of the City of Fayetteville’s Unified Development Ordinance. The UDO requires that lots within this (PND) zoning district have a minimum rear yard setback of 35 feet. The owner looks to reduce this setback to 24 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 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 lot slopes 25 ft right to left and is located towards top of a tow sided hill, creating entrance egress safety concerns for the lot. It is one of the last lots left in the front of the neighborhood due to the slope and location. With the neighborhood only having one entrance/exit - this lot is located in potentially dangerous locations. The right side of the lot is also angled to reduce the depth of the rear of the lot on that side of the lot.

There is a home to the left of the lot on lower land. Water migration from the lot to the neighboring property also presents potential water flow control issues to the lower property.

Moving the (setback) back 11 feet allows a safer driveway loop to be installed allowing entrance and egress to the proper in safety locations. Moving to the back of the lot improves the ability to handle water flow away from the lower lot to a lower ditch behind that property that flows to a pond on the other side of that lot."

- 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 "Lot location and slope creates two issues: 1) Water flow control to lower property2) Safe entrance and egress to the lot due to traffic coming over a hill on the right side of the lot."

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

The applicant states "Allowing a variance of 10" allows room for a U- shape driveway to be installed and improves home location on the lot to minimizewater flow from this lot to the lower lot."

- 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 "Building a residence that is safe for entry and does not negatively impact surrounding properties is the basis for creating harmony in a neighborhood. At times, lots may have difficulty meeting that goal with standard ordinances. With this lot, that is the case. In addition, this lot is not rectangular creating additional issues. In addition, there is a small section of land 20-25 feet in width to the right of the land between the lot and road/entrance to the Golf course, making this lot a semi-corner lot. If considered a corner lot (although only visually) the requested variance would not be needed."

- 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 is preserved by reducing opportunity for both pedestrian/vehicle and vehicle/vehicle incident occurring by creating a safer egress from the lot."

Options:

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

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

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

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

If a member wishes to make a motion to approve the variance they should make a brief statement that recaps the evidence showing each of the five findings of fact.

Any discussion by the Board following a motion may include a recap of the evidence supporting each of the five (5) factual findings.

Possible Motions and Factual Findings:

Motion to approve a variance to reduce the required rear yard setback.

Findings of Fact Required to Approve this Request:

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

—

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

—

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

—

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

—

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

—

—

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

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

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

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

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

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

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

Motion to deny the variance as requested.

Findings of Fact Statements Required to Deny this Request:

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

—

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

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

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

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

Budget Impact:

None

Options:

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

Recommended Action:

Attachments:

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

Project Overview **#1087199**

Project Title: Kings Grant	Jurisdiction: City of Fayetteville
Application Type: 5.4) Variance	State: NC
Workflow: Staff Review	County: Cumberland

Project Location

Project Address or PIN: 343 SHAWCROFT RD (0530580507000)	Zip Code: 28311
--	------------------------

GIS Verified Data

Property Owner: Parcel	Acreage: Parcel
<ul style="list-style-type: none"> 343 SHAWCROFT RD: VICK, TODD E;VICK, JENNIFER S 	<ul style="list-style-type: none"> 343 SHAWCROFT RD: 0.41
Zoning District: Zoning District	Subdivision Name:
<ul style="list-style-type: none"> 343 SHAWCROFT RD: PD-R 	
Fire District:	Airport Overlay District:
Hospital Overlay District:	Coliseum Tourism District:
Cape Fear District:	Downtown Historic District:
Haymount Historic District:	Floodway:
100 Year Flood: <100YearFlood>	500 Year Flood: <500YearFlood>
Watershed:	

Variance Request Information

Requested Variances: Minimum yard/setback

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

I am requested a variance to the setback on the back of the lot from 35" to 24' The lot slopes 25' from right to left, The lot is also at the top of the hill at the entrance to the King's Grant Golf club where traffic is a danger coming up the street from the back of the neighborhood. A variance is being requested to improve the location of house on the lot to better control water flow to the property on the left side of the lot improving ability to move water to the back of the lots to a ditch taking water to a pond below the two lots. The variance will also ability to have a driveway exit at the top end of the lot for safe egress from the lot to oncoming traffic.

The driveway entrance is at the lower end of the lot to maximize

Section of the City Code from which the variance is being requested.: 30-3.d.2 Sinf-Family Residential 15 District

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

The property to the left and across the street are SF15 Zoning district. The land to the right of the lot is common area unbuildable.

Kings Grant Golf course is to the rear of the lot and is MU zoning district.

distance from the crest of the hill/road at the right end of the lot.

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

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

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

Expiration - Variance

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

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

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

The lot slopes 25 ft right to left and is located towards top of a tow sided hill, creating entrance egress safety concerns for the lot. It is one of the last lots left in the front of the neighborhood due to the slope and location. With the neighborhood only having one entrance/exit - this lot is located in potentially dangerous locations. The right side of the lot is also angle to reduce the depth of the rear of the lot on that side of the lot.

There is a home to the left of the lot on lower land. Water migration from the lot to the neighboring property also presents potential water flow control issues to the lower property.

Moving the how back 11 feet allows a safer driveway loop to be installed allowing entrance and egress to the proper in safety locations. Moving to the back of the lot improves the ability to handle water flow away from the lower lot to a lower ditch behind that property that flows to a pond on the other side of that lot.

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

Lot location and slope create two issues:

- 1) Water flow control to lower property
- 2) Safe entrance and egress to the lot due to traffic coming over a hill on the right side of the lot.

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

Allowing a variance of 10" allows room for a U- shape driveway to be installed and improves home location on the lot to minimize water flow from this lot to the lower lot.

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

Building a residence that is safe for entry and does not negatively impact surrounding properties is the basis for creating harmony in a neighborhood. At times, lots may have difficulty meeting that goal with standard ordinances. With this lot, that is the case. In addition, this lot is not rectangular creating additional issues. In addition, there is a small section of land 20-25 feet in width to the

right of the land between the lot and road/entrance to the Golf course, making this lot a semi corner lot. If considered a corner lot (although only visually) the requested variance would not be needed.

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

Public safety and welfare will be is preserved by reducing opportunity for both pedestrian/vehicle and vehicle/vehicle incident occurring by creating a safer egress from the lot

Height of Sign Face: 0

Square Footage of Sign Face: 0

Height of Sign Face : 0

Height 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

Todd Vick

517 Lionshead Rd, 10

Fayetteville, NC 28311

P:9103034311

CHIGGERVICK@GMAIL.COM

Project Contact - Agent/Representative

Todd Vick

517 Lionshead Rd, 10

Fayetteville, NC 28311

P:9103034311

CHIGGERVICK@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: Architect



Aerial Notification Map
Case #: A23-37

Request: Variance to Reduce Setbacks

Location: 343 SHAWCROFT RD

Legend

 Parcels_Buffer24



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



Zoning Map
Case #: A23-37

Request: Variance
Setback Reduction

Location: 543 Swawcroft Dr

Legend

- PND - Planned Neighborhood Development
- SF-10 - Single-Family Residential 10
- SF-15 - Single-Family Residential 15



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





Land Use Plan Map

Case #: A23-37

Request: Variance to Reduce Setbacks

Location: 343 SHAWCROFT RD

Legend

 Parcels

Future Land Use 2040

Character Areas

 LDR - LOW DENSITY



Letters are being sent to all property owners within the 100' buffer. Subject property is shown in the hatched pattern.









SKETCH - NOT TO SCALE

RESIDENCE FOR TODD & JENNIE VICK

SHEET LIST	
CS	COVERSHEET
SP1	SITE PLAN
A2.0	FLOOR PLAN
A2.1	FLOOR PLAN
A3.0	EXTERIOR ELEVATIONS
A3.1	EXTERIOR ELEVATIONS
A4.0	BUILDING SECTIONS
A6.0	ENLARGED FLOOR PLANS

DOOR SCHEDULE						
MARK	COUNT	WIDTH	HEIGHT	OPERATION	COMMENTS	
1	1	3'-0"	7'-0"	ENTRY		
2	2	9'-0"	8'-0"	GARAGE		
3	1	10'-0"	8'-0"	GARAGE		
4	1	9'-0"	8'-0"	TRIPLE FRENCH		
5	2	6'-0"	8'-0"	DOUBLE FRENCH		
6	3	6'-0"	7'-0"	DOUBLE FRENCH		
7	9	3'-0"	7'-0"	SWINGING		
8	3	2'-6"	7'-0"	POCKET		
9	1	2'-6"	7'-0"	SWINGING		
10	5	4'-0"	7'-0"	DOUBLE SWINGING		
11	1	3'-0"	7'-0"	DOUBLE SWINGING		
12	3	2'-6"	7'-0"	SWINGING		
13	2	3'-0"	7'-0"	POCKET		
14	1	5'-0"	7'-0"	DOUBLE SWINGING		

WINDOW SCHEDULE						
MARK	COUNT	WIDTH	HEIGHT	OPERATION	COMMENTS	
A	6	2'-4"	4'-0"	CASEMENT		
B	4	2'-0"	3'-0"	CASEMENT		
C	1	2'-8"	5'-0"	CASEMENT	WINDOWS C&D DIRECT MULLED	
D	1	2'-8"	2'-0"	AWNING		
E	5	5'-11"	5'-0"	CASEMENT	WINDOWS E&F DIRECT MULLED	
F	3	5'-11"	2'-0"	AWNING		
G	1	2'-7"	5'-0"	CASEMENT		
H	2	2'-6"	4'-0"	CASEMENT		

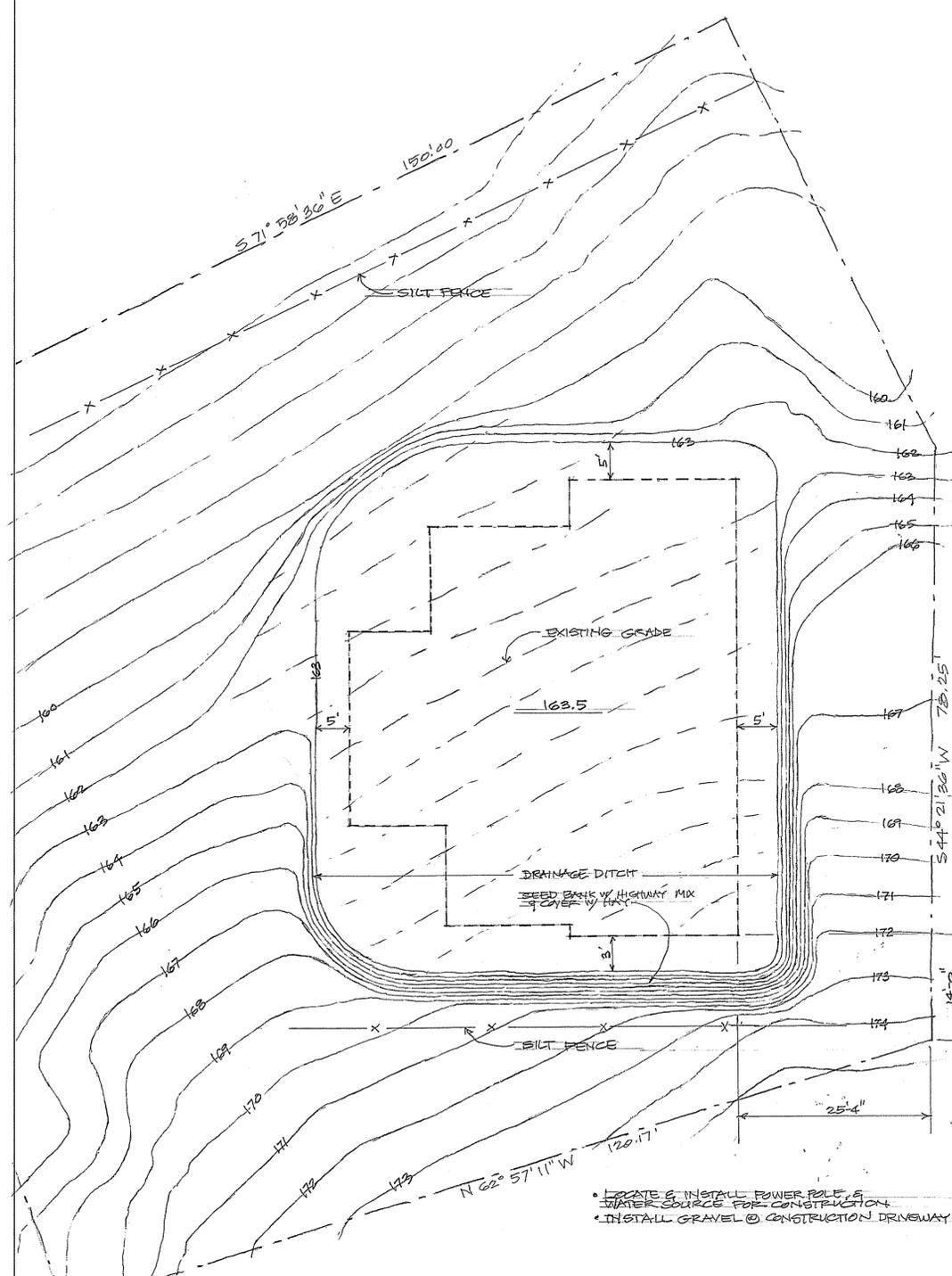
RESIDENCE FOR TODD & JENNIE VICK

343 SHAWCROFT RD.
FAYETTEVILLE, NC

COVERSHEET

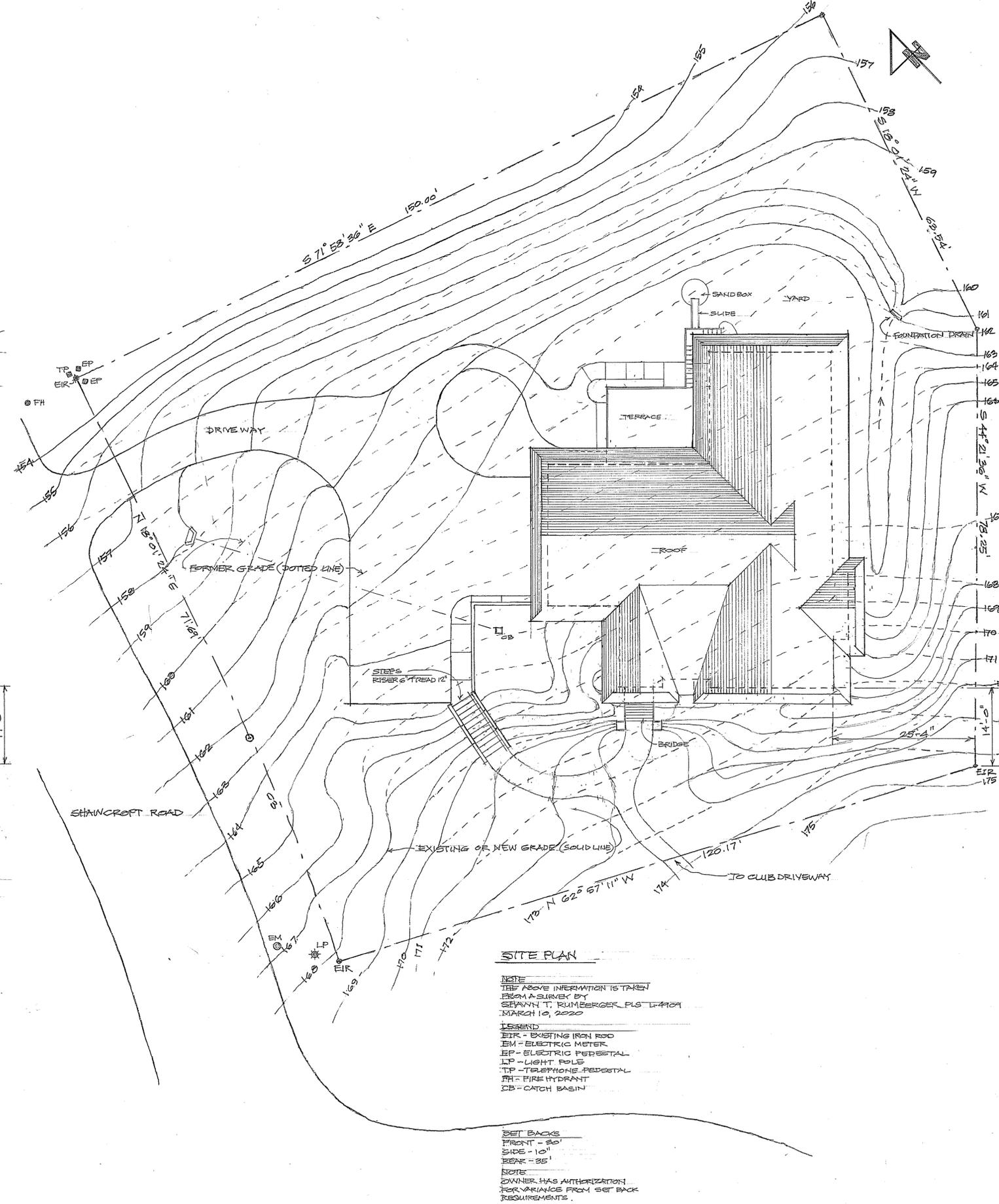
Issue Date
Project Status

CS



- LOCATE & INSTALL POWER POLES & WATER SOURCES FOR CONSTRUCTION
- INSTALL GRAVEL @ CONSTRUCTION DRIVEWAY

CONSTRUCTION GRADING PLAN
 * NOTE = STORE EXCAVATED SOIL ON SITE



SITE PLAN

NOTE
 THE ABOVE INFORMATION IS TAKEN FROM A SURVEY BY SPAWN T. RUMBERGER, PLS L#4904 MARCH 10, 2020

- LEGEND
- EIFR - EXISTING IRON ROD
 - EM - ELECTRIC METER
 - EP - ELECTRIC PEDIESTAL
 - LP - LIGHT POLE
 - TP - TELEPHONE PEDIESTAL
 - FH - FIRE HYDRANT
 - CB - CATCH BASIN

SET BACKS
 FRONT - 20'
 SIDE - 10'
 REAR - 25'

NOTE
 OWNER HAS AUTHORIZATION FOR VARIANCE FROM SET BACK REQUIREMENTS

RESIDENCE FOR TODD & JENNIE VICK
 343 SHAWCROFT RD.
 FAYETTEVILLE, NC

A-1

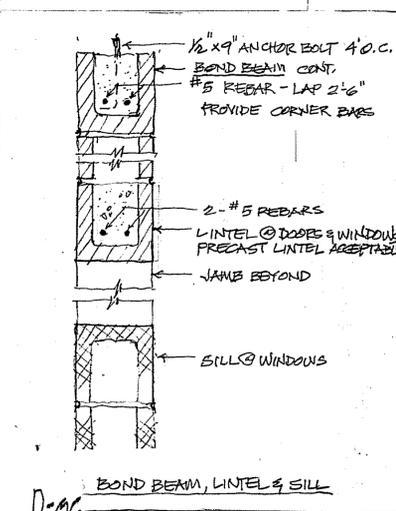
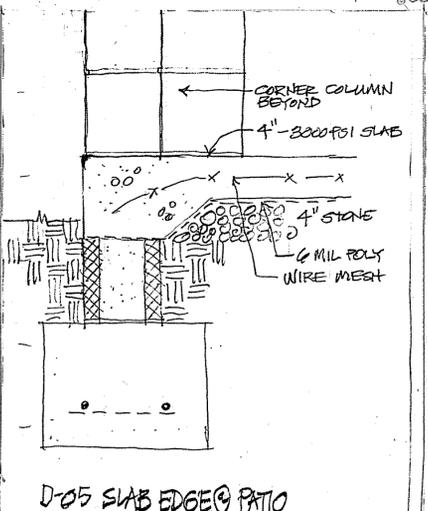
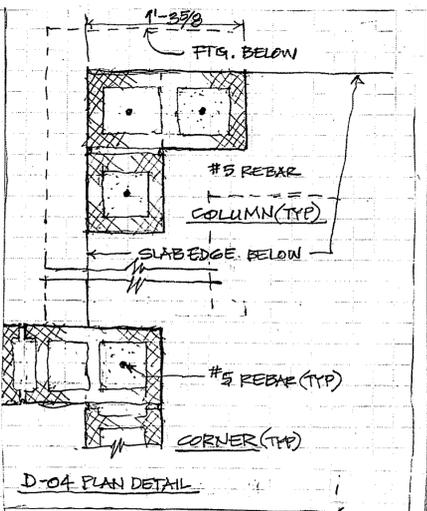
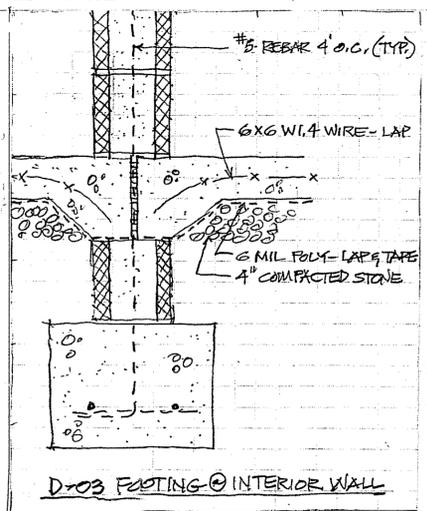
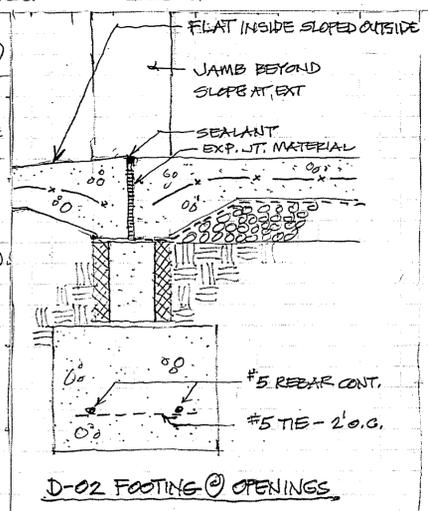
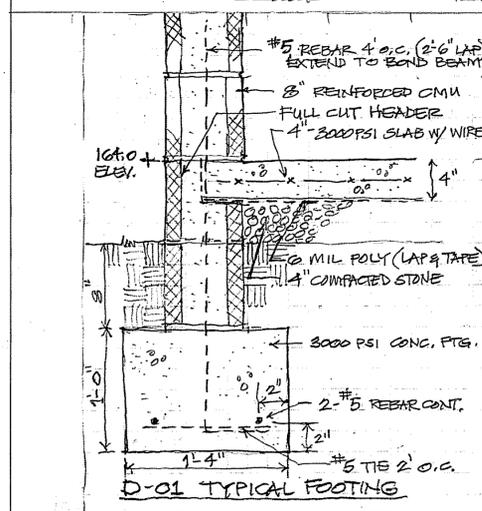
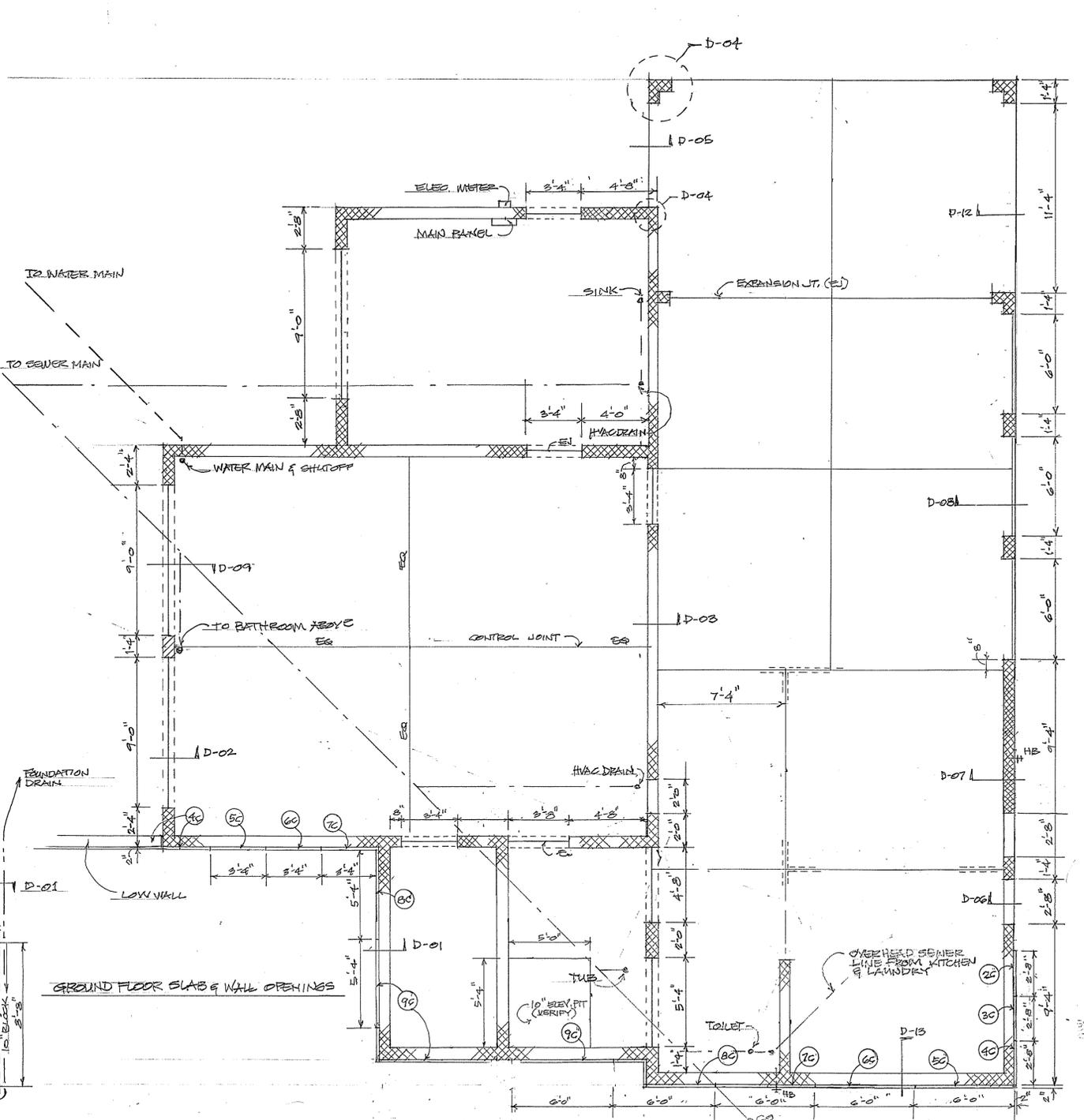
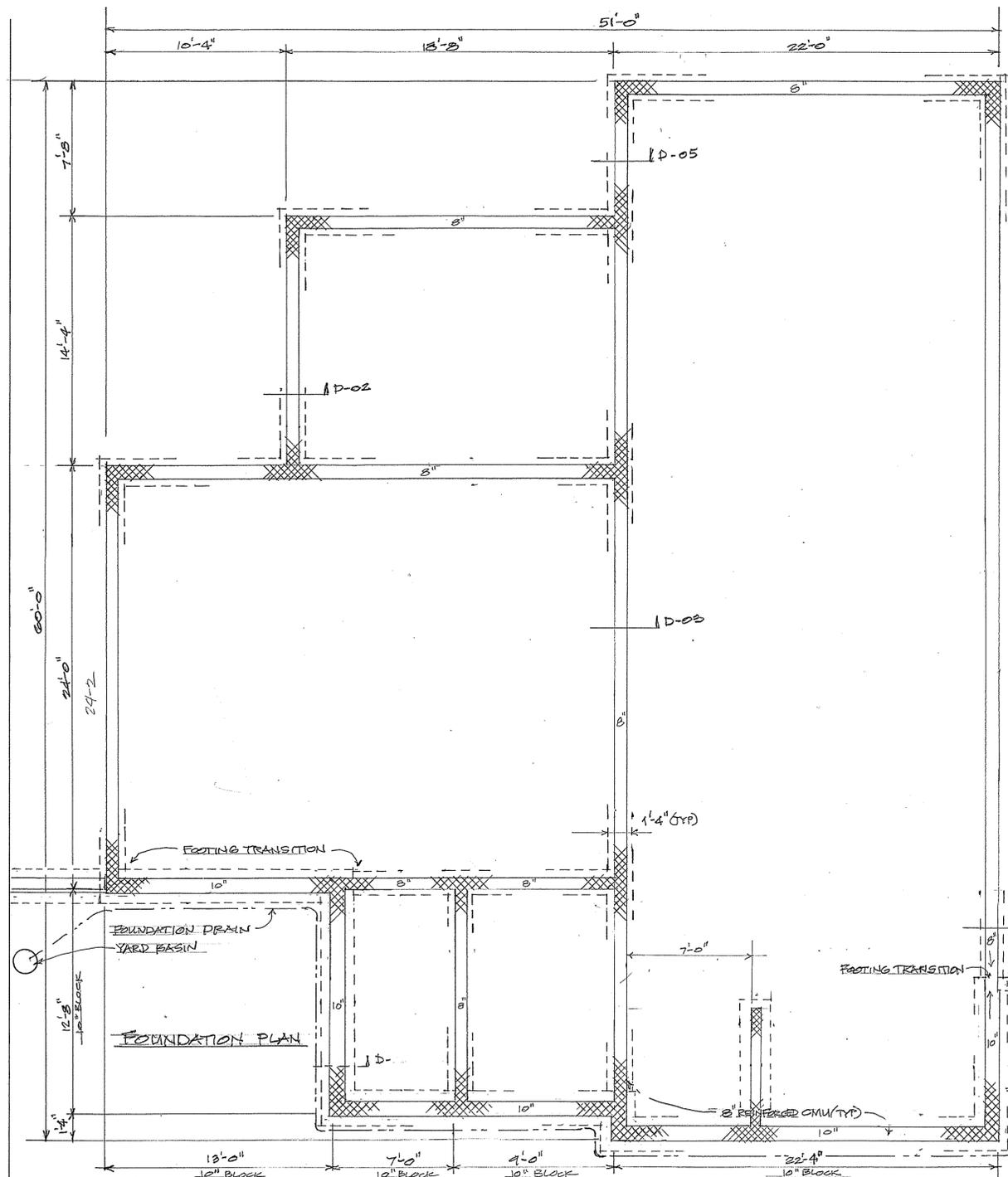
new construction - renovations
 design - landscape - specialists

redefine design
 Commercial - Residential - Professional

info@redefineinc.com

Issue Date
 Project Status
 Date Plotted

Do not scale drawings.



RESIDENCE FOR TODD & JENNIE VICK
 343 SHAWCROFT RD.
 FAYETTEVILLE, NC

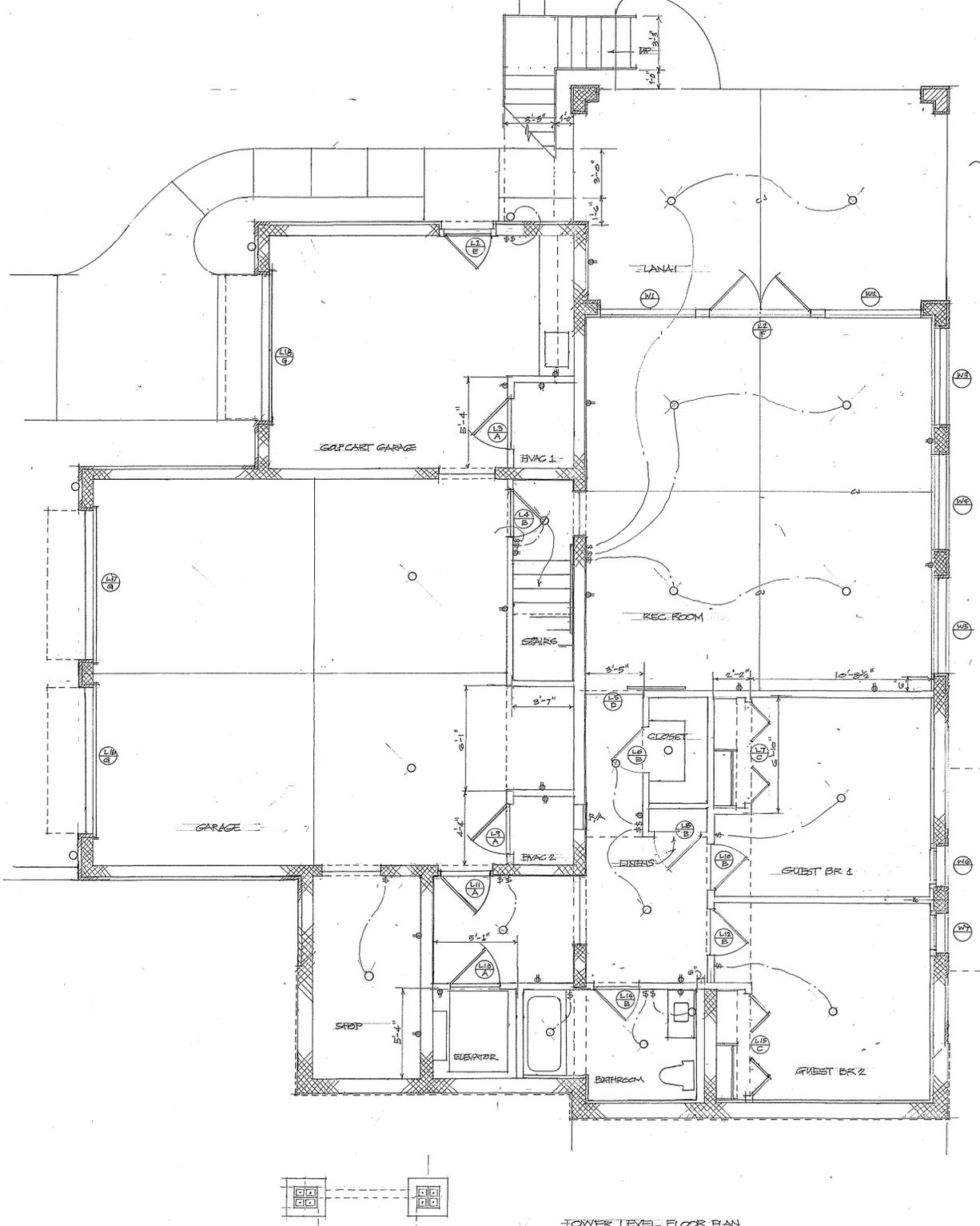
A-2

new construction, renovations
 drawings, specifications, construction
redefine design
 Commercial, Residential, Professional
 info@redefine.design,nc.com

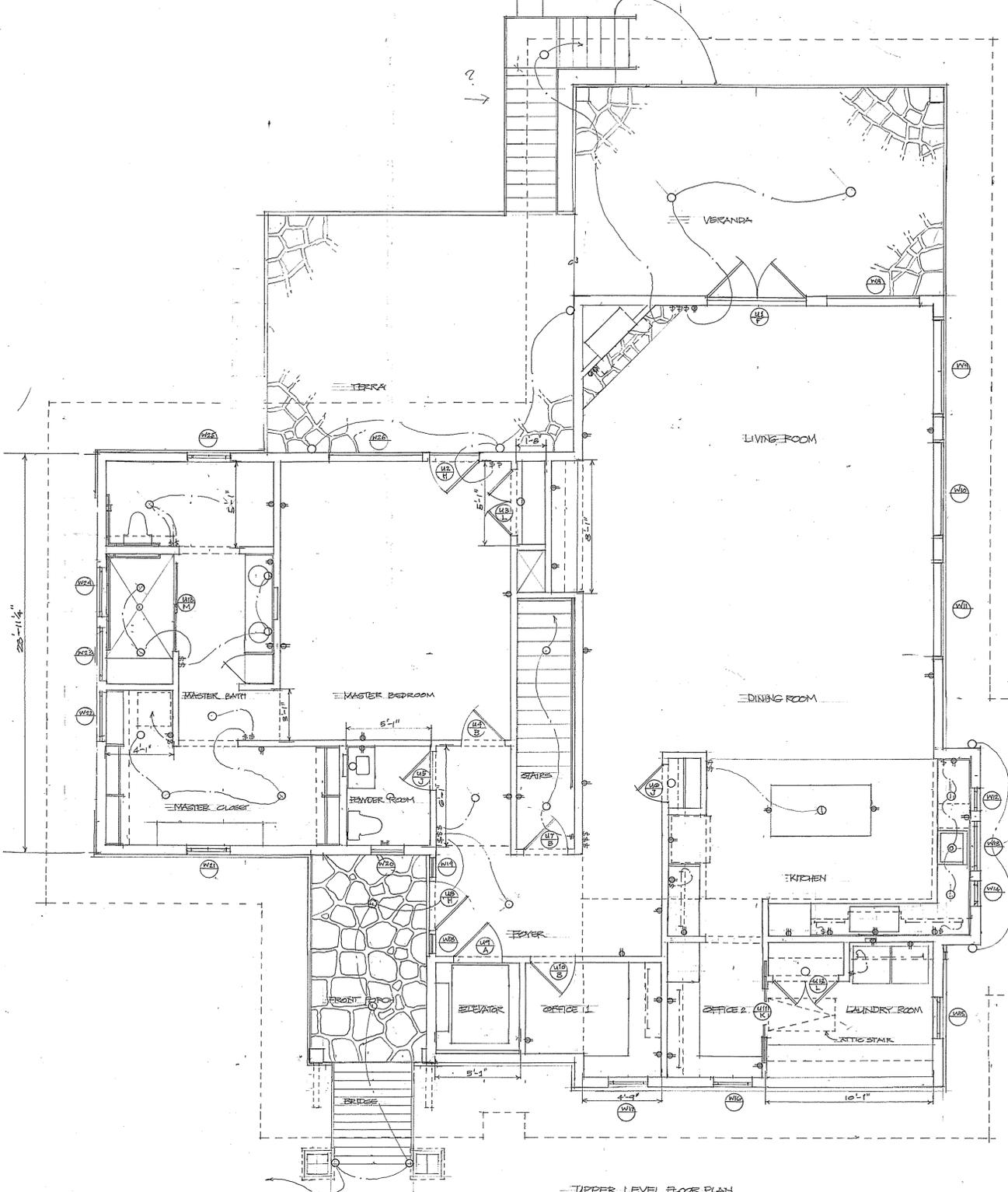
Issue Date: _____
 Project Status: _____

Do not scale drawings

All Federal, state and local codes, ordinances, regulations, etc. shall be considered as part of the contract for this house and shall take precedence when at variance and more extreme than what is shown, described or implied. Contractors and suppliers are responsible for determining and ensuring compliance with the applicable codes and manufacturers' requirements.



LOWER LEVEL FLOOR PLAN



UPPER LEVEL FLOOR PLAN

Do not scale drawings

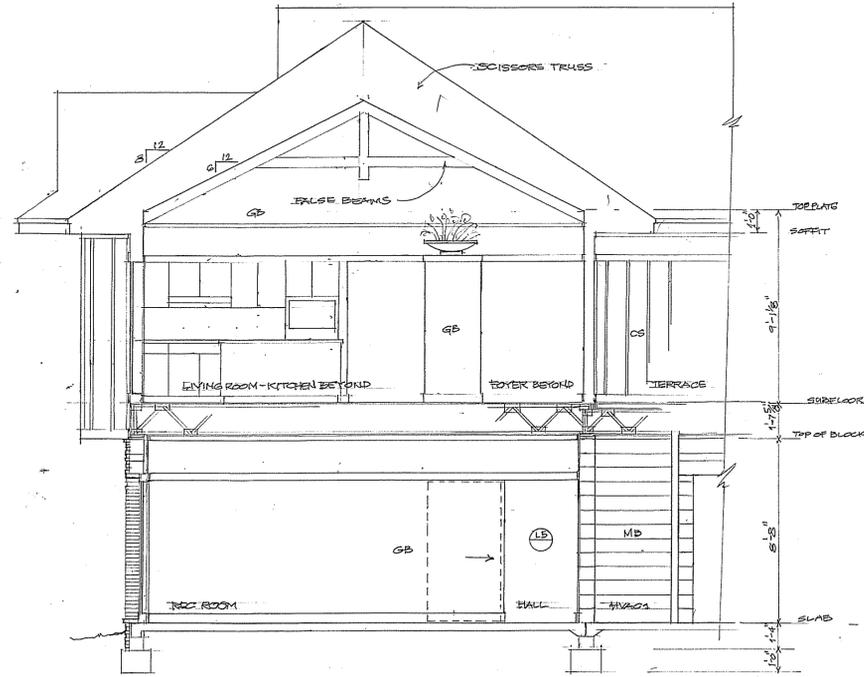
Issue Date
Project Status

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RESIDENCE FOR TODD & JENNIE VICK
343 SHAWCROFT RD.
FAYETTEVILLE, NC

A-3

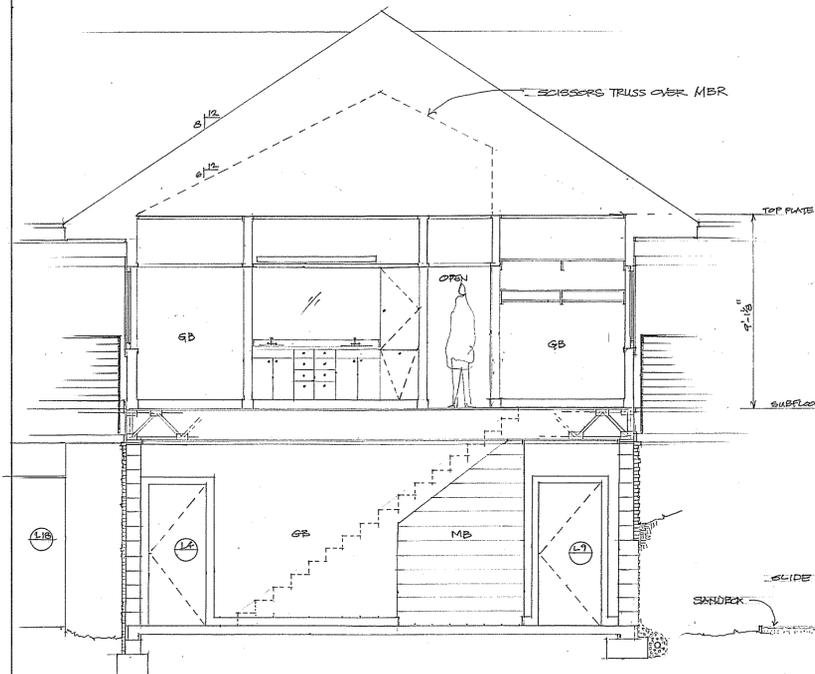
All federal, state and local codes, ordinances, regulations and manufacturers' instructions, etc. shall be considered as part of the specifications for this house and shall take precedence when at variance and more extreme than what is shown, described or implied. Contractors and suppliers are responsible for checking and ensuring compliance with the applicable code and manufacturers' requirements.



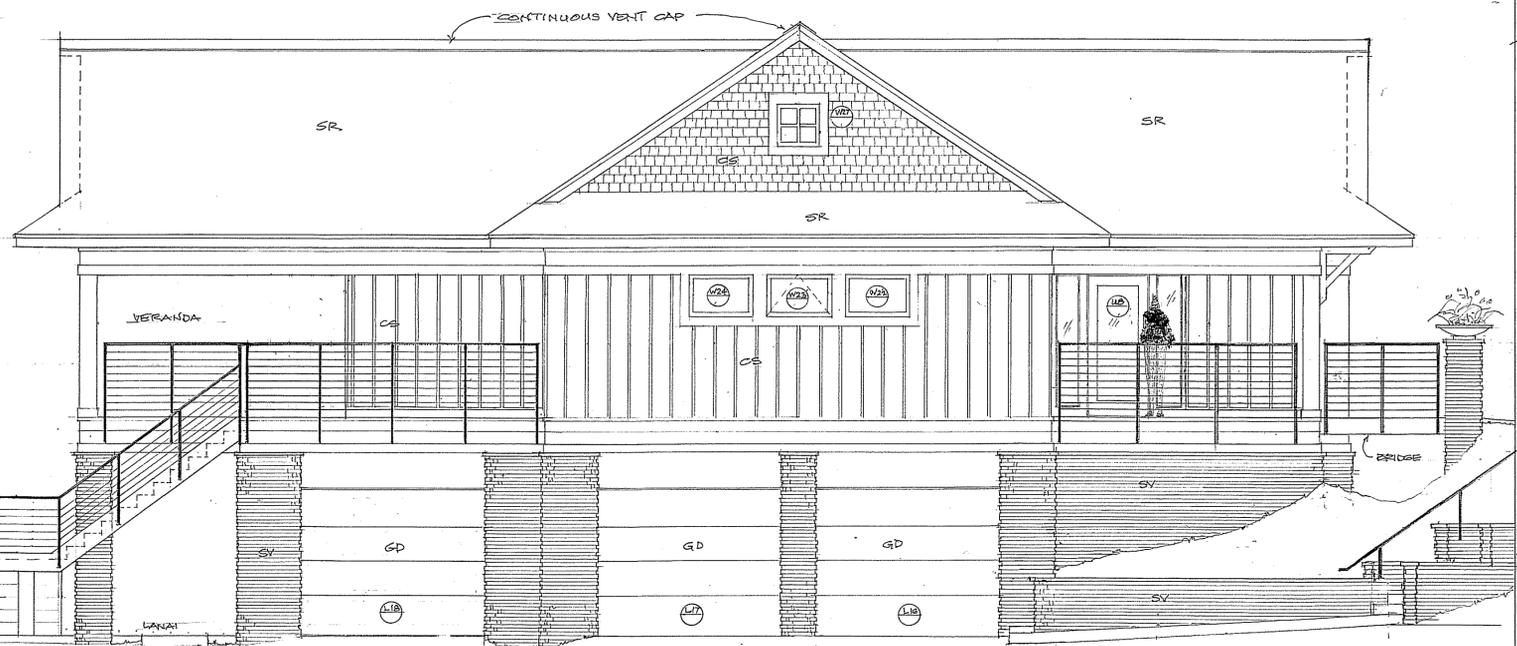
SECTION @ REC ROOM & LIVING ROOM



NORTH ELEVATION



SECTION @ GARAGE & MASTER BATHROOM



WEST ELEVATION

NOTE
ELEVATIONS VARY - FINAL
ARRANGEMENT OF SIDING
PER OWNERS INSTRUCTIONS

All federal, state and local codes, ordinances, regulations and manufacturers' instructions, etc. shall be considered as part of the specifications for this house and shall take precedence when at variance and more extreme than what is shown, described or implied. Contractors and suppliers are responsible for determining and ensuring compliance with the applicable codes and manufacturers' requirements.

RESIDENCE FOR TODD & JENNIE VICK
343 SHAWCROFT RD.
FAYETTEVILLE, NC

A.4

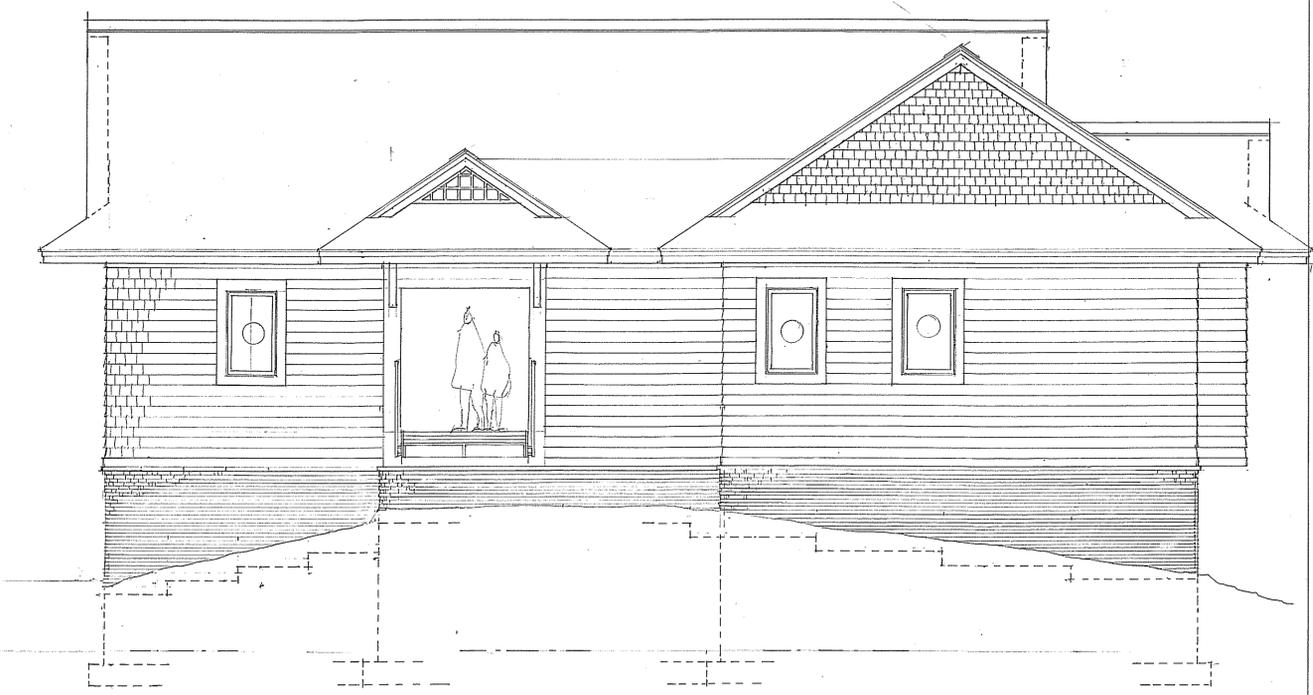
new construction - renovations
drawings - renderings - specifications
redefine design
Commercial - Residential - Professional
info@redefineinc.com

Issue Date
APRIL 2023
Project Status

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SOUTH ELEVATION



EAST ELEVATION

RESIDENCE FOR TODD & JENNIE VICK

343 SHAWCROFT RD.
FAYETTEVILLE, NC

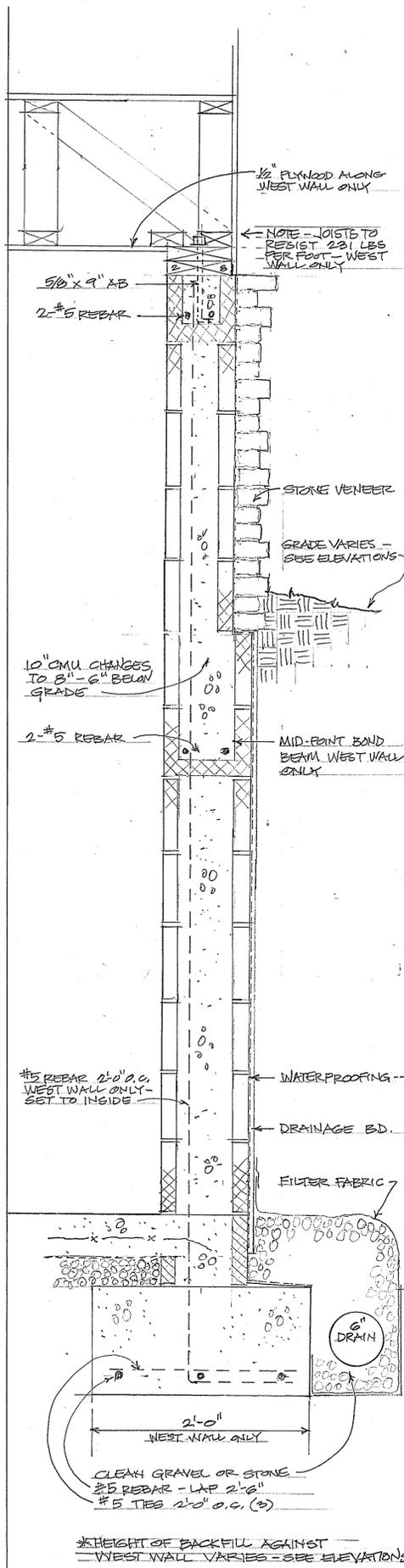
A-5

new construction - renovations
drawings - renderings - applications

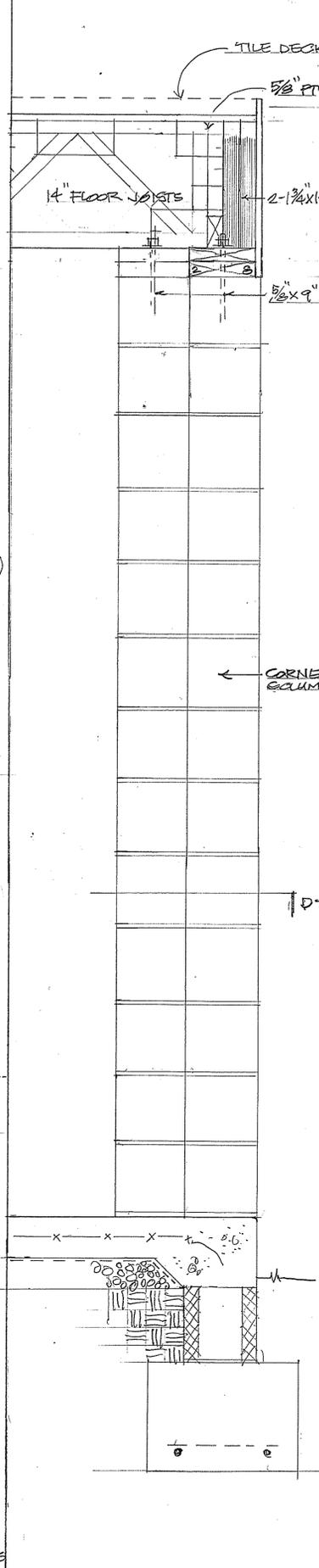
redefine design
Commercial - Residential - Professional

info@redefine.design

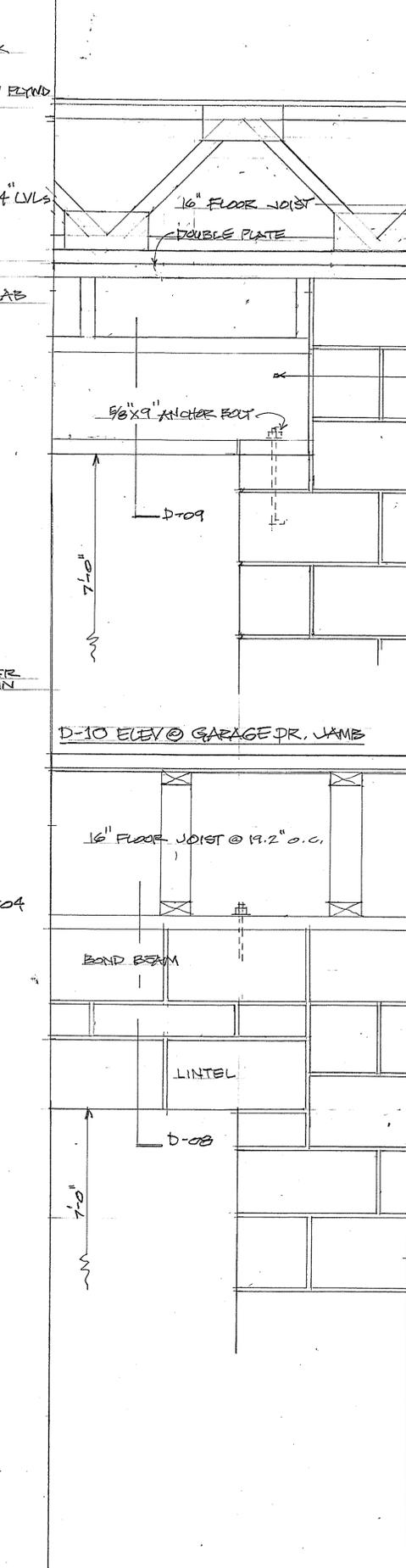
Issue Date
Project Status



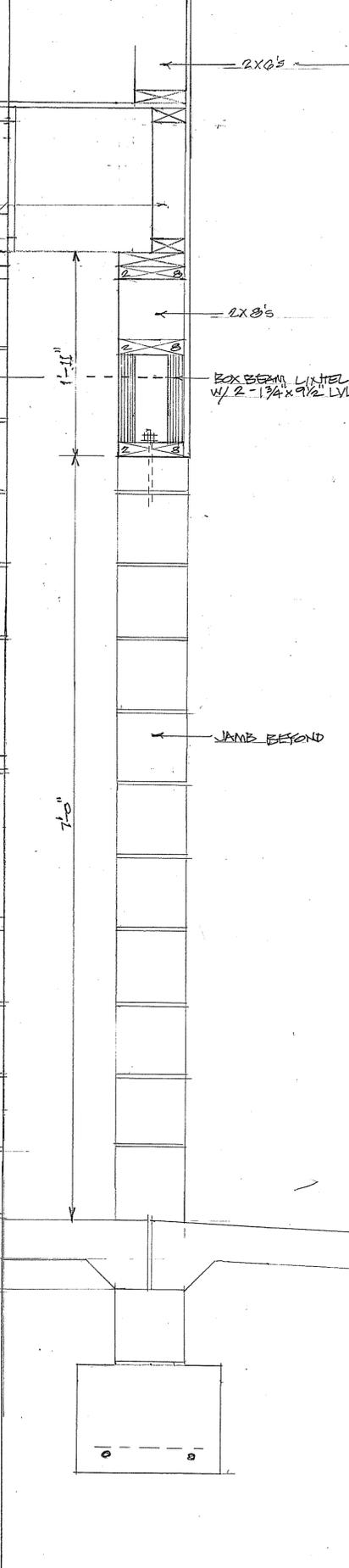
D-13 SECTION @ WEST WALL



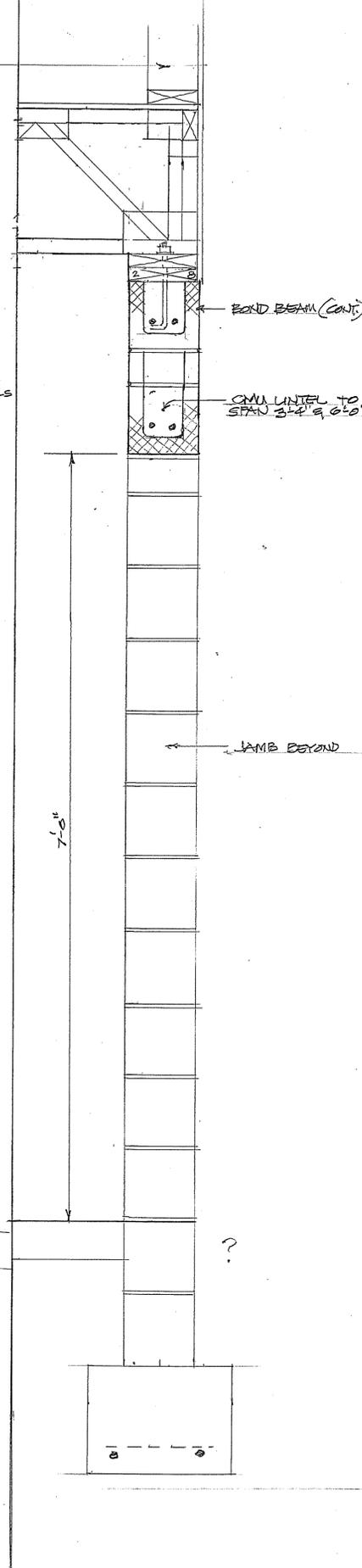
D-12 SECTION @ PORCH



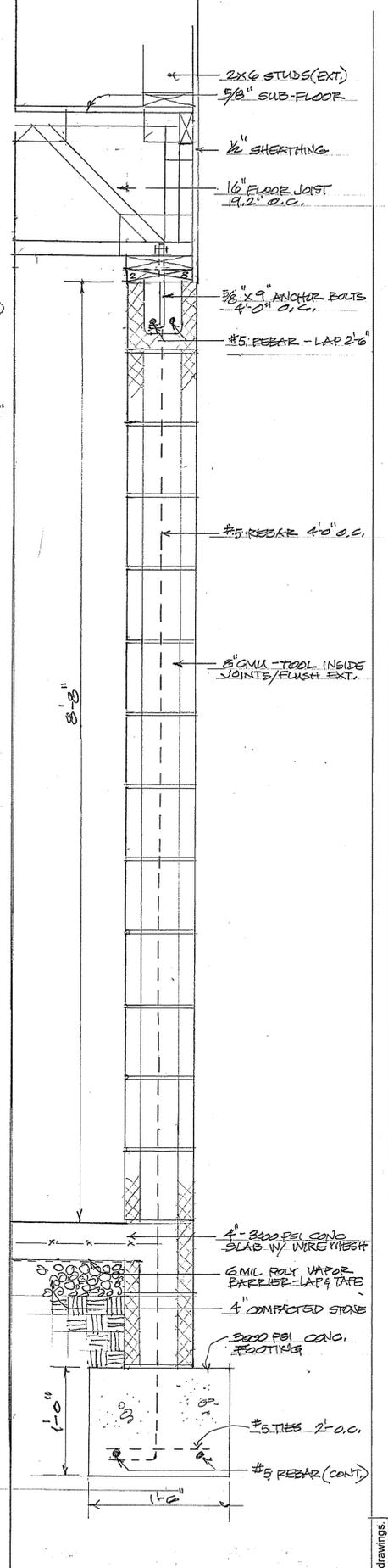
D-11 ELEV @ DOOR OR WINDOW JAMB



D-09 SECTION @ GARAGE DOORS



D-08 SECTION @ DOORS & WINDOWS



D-07 TYPICAL WALL SECTION

RESIDENCE FOR TODD & JENNIE VICK
343 SHAWCROFT RD.
FAYETTEVILLE, NC

A-6

new construction - renovations
drawings - renderings - specifications

reddefine design
Commercial - Residential - Professional

info@reddefinedesign.com

Issue Date: 08/22/2022
Project Status: []

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All federal, state and local codes, ordinances, regulations and manufacturers' instructions, etc. shall be considered as part of the specifications for this house and shall take precedence when at variance and more extreme than what is shown, described or implied. Contractors and suppliers are responsible for determining and ensuring compliance with the applicable codes and manufacturers' requirements.

Do not scale drawings.

PART II - CODE OF ORDINANCES

CHAPTER 30 – UNIFIED DEVELOPMENT ORDINANCE

Article 30-3: Zoning Districts

30-3.D. Residential Base Zoning Districts

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

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

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

NOTES:

[1] [Reserved].

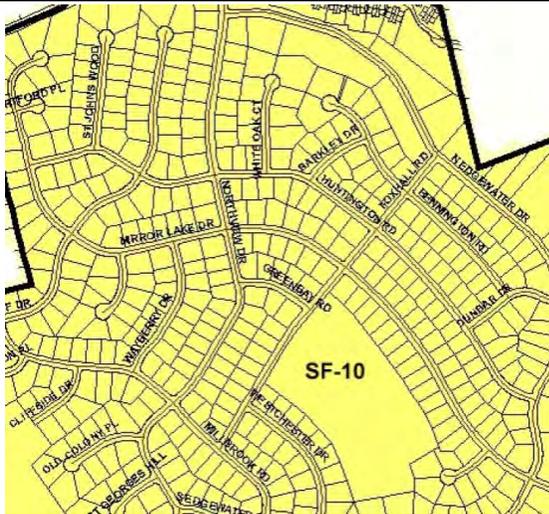
[2] Accessory structures/use areas shall not exceed 25 percent of the allowable lot coverage. However, with the exception noted in this footnote, accessory structures shall not exceed 1200 square feet in size, and any accessory structure with a footprint over 700 square feet must be set back an additional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

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

[3] [Reserved].

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

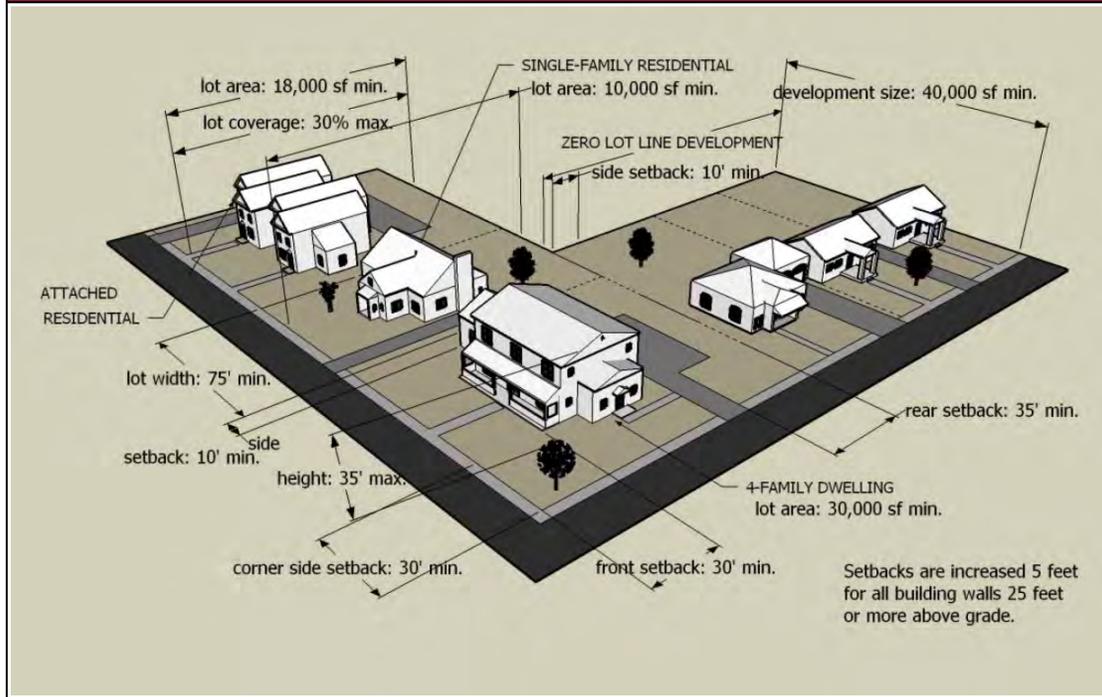
**Figure 30-3.D.3.a:
SF-10 Typical Lot Pattern**



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



Figure 30-3.D.3.c: SF-10 Typical Building/Lot Configuration



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

Effective on: 8/10/2015



City of Fayetteville

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

City Council Action Memo

File Number: 23-3543

Agenda Date: 9/12/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Evidentiary Hearing

Agenda Number: 4.02

TO: Mayor and Members of City Council

THRU: Zoning Commission

**FROM: Will Deaton, AICP - Planning & Zoning Division Manager
Craig Harmon, CZO - Senior Planner**

DATE: September 12, 2023

RE:

A23-38. Variance to allow a setback reduction, located at 225 Old Wilmington Road (REID # 0437816735000), and being the property of Jarvora Duncan.

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:

The applicant is requesting a variance to reduce the required front or side-yard setback from 25 feet to 10.5 feet.

30.2.C.14 Variance:

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

Variations 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: Jarvora Duncan

Applicant: Michael Adams, MAPS Surveying Inc.

Requested Action: Reduce required front or side-yard setback

Zoning District: Mixed Residential 5 (MR-5)

Property Address: 225 Old Wilmington Rd

Size: 0.17 acres ±

Existing Land Use: Vacant

Surrounding Zoning and Land Uses

- North: MR-5 - Single-family house
- South: MR-5 - Vacant and single-family house
- East: MR-5 - Single-family house
- West: MU/CZ - Apartments

Letters Mailed: 32

Issues/Analysis:

The subject property is 0.17 acres at 225 Old Wilmington Rd. As resented as 2001, Cumberland County's GIS Imagery shows a single family home existing on the property. Any new development must meet the standards of the City of Fayetteville's Unified Development Ordinance. The UDO requires that lots within the Mixed Residential 5 (MR-5) zoning district have a minimum front or side-yard setback of 25 feet. The owner wishes to reduce that setback to 10.5 feet.

Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

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

Subsequent Development

The applicant is requesting to reduce the required front or side-yard setback of 25 feet down to 10.5 feet. This reduction can allow for the future development of the property. The following findings are based on the responses submitted in the application by the applicant and the best available information about the proposal without the benefit of testimony provided at the evidentiary hearing.

Findings of Fact Statements as reviewed by the Planning Staff:

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

shown by the following evidence:

The applicant states that the “Current lot configuration makes the lot unbuildable with current standards. Lot is only 50' wide and was created that way.”

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

The applicant states “(The) size of the lot itself does not allow for any buildable structures.”

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

The applicant states that “Allowing the variance will allow the maximum usage for this lot and will be in harmony with the surrounding lots.”

- 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 that the variance would “Allows for the property to be utilized to its fullest potential without the encumbrances of the lot width.”

- 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 that the variance “Will allow for housing to be built that is in harmony with surrounding lots. Other lots in this area do not currently meet setback requirements.”

Budget Impact:

There is no immediate budgetary impact.

Options:

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

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

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

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

If a member wishes to make a motion to approve the variance they should make a

brief statement that recaps the evidence showing each of the five findings of fact. Any discussion by the Board following a motion may include a recap of the evidence supporting each of the five (5) factual findings.

Possible Motions and Factual Findings:

Motion to approve a variance as requested.

Findings of Fact Required to Approve this Request:

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

—

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

—

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

—

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

—

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

—

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

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

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

—

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

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

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

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

Motion to deny the variance as requested.

Findings of Fact Statements Required to Deny this Request:

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

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

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

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

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

the following evidence:

Budget Impact:

None

Options:

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

Recommended Action:

Attachments:

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

Project Overview **#1085770**

Project Title: Jarvora Duncan	Jurisdiction: City of Fayetteville
Application Type: 5.4) Variance	State: NC
Workflow: Staff Review	County: Cumberland

Project Location

Project Address or PIN: 225 OLD WILMINGTON RD (0437816735000)	Zip Code: 28301
---	------------------------

GIS Verified Data

Property Owner: Parcel	Acreage: Parcel
• 225 OLD WILMINGTON RD: DUNCAN, JARVORA B	• 225 OLD WILMINGTON RD: 0.17
Zoning District: Zoning District	Subdivision Name:
• 225 OLD WILMINGTON RD: MR-5	
Fire District:	Airport Overlay District:
Hospital Overlay District:	Coliseum Tourism District:
Cape Fear District:	Downtown Historic District:
Haymount Historic District:	Floodway:
100 Year Flood: <100YearFlood>	500 Year Flood: <500YearFlood>
Watershed:	

Variance Request Information

Requested Variances: Minimum yard/setback	Section of the City Code from which the variance is being requested.: 30-3-D
Describe the nature of your request for a variance and identify the standard(s)/requirement(s) of the City Code proposed to be varied.:	Identify the zoning district designation and existing use of land for all adjacent properties, including those across the street.:
Requesting a front yard setback reduction from 25' to 10.5' (see attached plot plan)	Properties to the north -east-and south are all zoned MR-5.
	Property to the west (other side of Old Wilmington Rd) is zoned MUCZ

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

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

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

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

Expiration - Variance

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

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

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

Current lot configuration makes the lot unbuildable with current standards.Lot is only 50' wide and was created that way.

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

Size of the lot itself does not allow for any buildable structures.

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

Allowing the variance will allow the maximum usage for this lot and will be in harmony with the surrounding lots.

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

Allows for the property to be utilized to its fullest potential without the encumbrances of the lot width.

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

Will allow for housing to be built that is in harmony with surrounding lots. Other lots in this are do not currently meet setback requirements.

Height of Sign Face : 0

Height 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

Primary Contact Information

Contractor's NC ID#:

Project Owner

Jarvora Duncan

PO Box 6525

Tampa, FL 33608
P:9104835353
jarvora@gmail.com

Project Contact - Agent/Representative

Michael Adams
MAPS Surveying Inc.
1306 Fort Bragg Road
Fayetteville, NC 28305
P:910-484-6432
maps@mapssurveying.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 #: A23-38

Request: Variance to Reduce Setbacks
Location: 225 OLD WILMINGTON RD

Legend

 Notification Buffer 300'



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





Land Use Plan Map

Case #: A23-38

Request: Variance to Reduce Setbacks

Location: 225 OLD WILMINGTON RD

Legend

 Parcels

Future Land Use 2040

Character Areas

 PARKOS - PARK / OPEN SPACE

 NIR - NEIGHBORHOOD IMPROVEMENT

 DTMXU - DOWNTOWN

 EC - EMPLOYMENT CENTER





Zoning Map

Case #: A23-38

Request: Variance to Reduce Setbacks

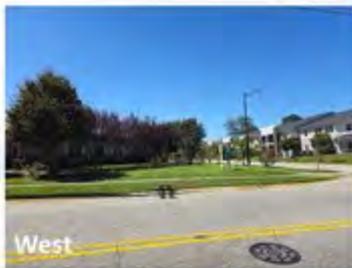
Location: 225 OLD WILMINGTON RD

Legend

- CC - Community Commercial
- MR-5 - Mixed Residential 5
- MU/CZ - Conditional Mixed-Use







PART II - CODE OF ORDINANCES

CHAPTER 30 – UNIFIED DEVELOPMENT ORDINANCE

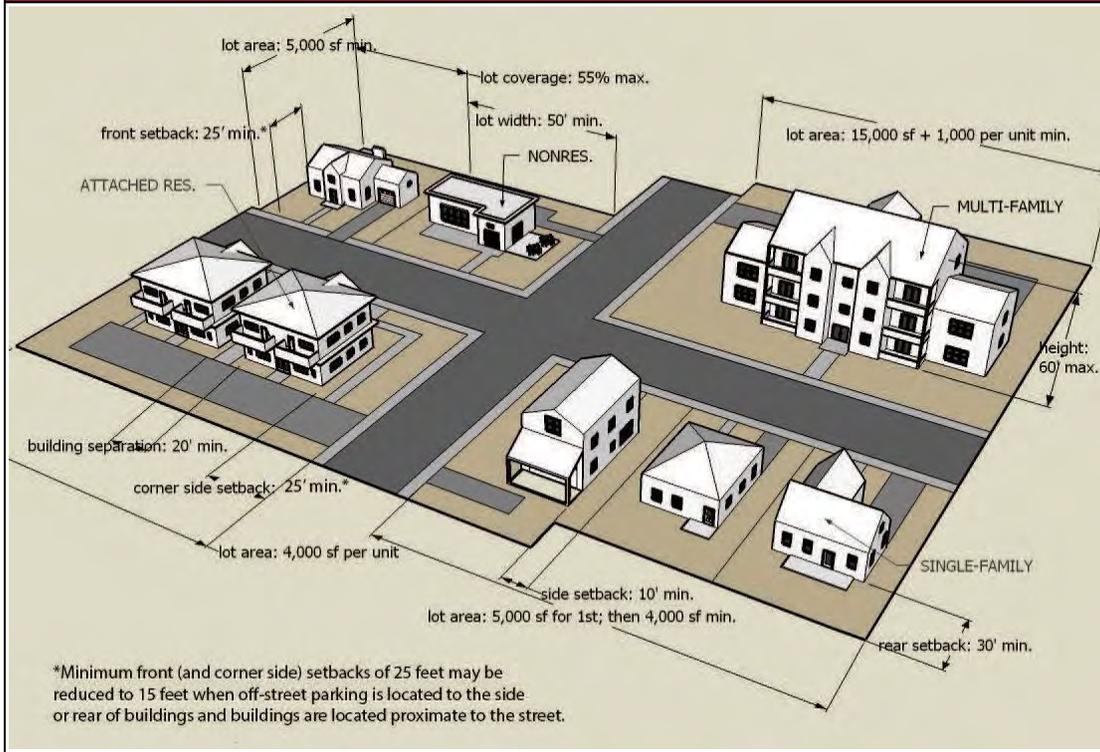
Article 30-3: Zoning Districts

30-3.D. Residential Base Zoning Districts

30-3.D.5. Mixed Residential 5 (MR-5) District

PURPOSE						
MR-5 MIXED RESIDENTIAL 5 DISTRICT	The Mixed Residential 5 (MR-5) district is established and intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities, including single-family detached dwellings, two- to four-family dwellings, multi-family dwellings, and other residential development that may include single-family attached dwellings, and zero lot line development subject to the requirements of this Ordinance. All development in the district shall comply with the design standards in Article 30-5: Development Standards . MR-5 districts may also include centrally-located open space, complementary institutional uses (e.g., religious institutions, post offices, police sub-stations), day care facilities, and limited small-scale neighborhood-serving convenience retail uses (See 30-4.D. Accessory Uses).					
	DIMENSIONAL STANDARDS					
DIMENSIONAL STANDARD	SINGLE- FAMILY DETACHED DWELLINGS	SINGLE- FAMILY ATTACHED DWELLINGS	TWO- TO FOUR- FAMILY DWELLINGS	MULTI- FAMILY DWELLINGS	ALL OTHER PRINCIPAL USES [1]	ACCESSORY STRUCTURES
Lot area per unit, min. (sq. ft.) [2]	5,000 for 1st unit, then 4,000	4,000		15,000+ 1,000 per unit	5,000	n/a
Lot width, min. (ft.)	50					n/a
Gross residential density, max. (dwelling units/ acre) [3]	20; 24 if property abuts an Arterial, Collector, or Major Street (as defined in Article 30-9, Definitions)					n/a
Lot coverage, max. (% of lot area)	55					[4]
Height, max. (ft.) [3]	Greater of six stories or 75 feet					25; 15 where abutting a single-family zoning district or use with setback less than 10 feet
Front and corner side setback, min. (ft.) [5]	25 feet or 50 feet from centerline of private streets					Not allowed in front or corner side setbacks

Figure 30-3.D.5.c: MR-5 Typical Building/Lot Configuration



(Ord. No. S2011-014, § 1.2, 11-28-2011; Ord. No. S2012-001, Pt. 3, § 3.1, 1-23-2012; Ord. No. S2012-018, § 1.0, 9-10-2012; Ord. No. S2014-002, § 6a, 1-13-2014; 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. S2019-018, 1, 04/23/2019; Ord. No. S2021-041, § 1, 10/25/2021)

Effective on: 8/10/2015



City of Fayetteville

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

City Council Action Memo

File Number: 23-3535

Agenda Date: 9/12/2023

Version: 2

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 5.02

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Heather Eckhardt - Planner II

DATE: September 12, 2023

RE:

P23-33. Rezoning from Neighborhood Commercial (NC) to Limited Commercial (LC) located near the intersection of Raeford Road and Festival Drive and fronting on Raeford Road and Nexus Court (REIDs 9496570657000 and 9496571780000) totaling 1.95 acres ± and being the property of Rayconda Properties, represented by Longleaf Law Partners.

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

Goal III: City invested in Today and Tomorrow

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

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

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

Goal VI: Collaborative Citizen and Business Engagement

- Objective 6.1 - To ensure collaborative relationships with the business community, local governments, military, and stakeholders

Executive Summary:

The applicant is seeking to rezone two parcels totaling 1.95 acres from Neighborhood

Commercial (NC) to Limited Commercial (LC).

Background:

Applicant: Worth Mills, Longleaf Law Partners

Owner: Rayconda Properties

Requested Action: NC to LC

REID #: 9496570657000 & 9496571780000

Council District: 6 - Derrick Thompson

Status of Properties: Undeveloped

Size: 1.95 acres

Adjoining Land Use & Zoning:

- North: SF-6 - Single family subdivision
- South: NC - Childcare center
- East: NC - Fast food restaurant
- West: LC - Grocery store

Annual Average Daily Traffic: Raeford Road near Rayconda Road: 33,000 (2021)

North Carolina Department of Transportation State Transportation Improvement Program (STIP): U-4405A - Raeford Road Widening Project

Letters Mailed: 156

Land Use Plans:

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

According to the Plan, it is recommended that this portion of the city should be developed as Neighborhood Mixed Use. Neighborhood Mixed Use is intended for neighborhood-scale commercial uses with smaller-scale multi-family, attached, and small lot single-family developments on the edges.

Issues/Analysis:

History:

The subject property was annexed into the city in 2005 as part of the Phase 5 Annexation Project. Prior to the adoption of the Unified Development Ordinance, the subject properties were zoned C1P. The C1P zoning district allowed uses such as automotive sales, clothing sales, eating and drinking establishments, and other retail sales. Once the UDO was adopted, the subject properties were rezoned to Neighborhood Commercial (NC).

Surrounding Area:

The area around the subject properties has a wide range of uses such as single-family and multi-family residential, restaurants, daycare centers, and a grocery store. The Hampton Oaks subdivision is located to the north, the Food Lion shopping center is located to the west, a Burger King is to the east, and a daycare center is to the south.

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 two parcels currently zoned Neighborhood Commercial (NC) to Limited Commercial (LC). The Limited Commercial zoning district is intended to accommodate a wider range of moderate-intensity general retail, business, and service uses that serve groups of neighborhoods instead of just an individual neighborhood (as intended with the NC zoning district).

Straight Zoning:

The request is for a straight zoning from Neighborhood Commercial (NC) to Limited Commercial (LC).

The Limited Commercial (LC) District is established and intended to accommodate a wider range of moderate-intensity general retail, business, and service uses that serve groups of neighborhoods instead of just an individual neighborhood-e.g., grocery stores, drugstores, large restaurants, gas stations, and higher order retail uses like specialty stores.

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

Land Use Plan Analysis:

According to the Future Land Use Map & Plan, it is recommended that this portion of the city should be developed as Neighborhood Mixed Use. Neighborhood Mixed Use is intended for neighborhood-scale commercial uses with smaller-scale multi-family, attached, and small lot single-family developments on the edges.

Consistency and Reasonableness Statements:

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

Analysis/Conclusion:

The subject properties are located on a major thoroughfare that carries traffic from the edge of the city limits at the Hoke County line to Downtown. The uses permitted in the Limited Commercial district are of a type and scale that not only suits the location on Raeford Road but is also complimentary to the variety of other uses in the area.

Budget Impact:

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

Options:

1. Recommends approval of the map amendment to LC as presented based on the evidence submitted and finds that the rezoning is consistent with the Future Land

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

Recommended Action:

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

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

Attachments:

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

Project Overview **#1086827**

Project Title: Raeford Road Restaurant
Application Type: 5.1) Rezoning (Map Amendment)
Workflow: Staff Review

Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN:

- 0 RAEFORD RD (9496570657000)
- 0 RAEFORD RD (9496571780000)

Zip Code: 28304

GIS Verified Data

Property Owner: Parcel

- 0 RAEFORD RD: RAYCONDA PROPERTIES
- 0 RAEFORD RD: RAYCONDA PROPERTIES

Zoning District: Zoning District

- 0 RAEFORD RD: NC
- 0 RAEFORD RD: NC

Fire District:
Hospital Overlay District:
Cape Fear District:
Haymont Historic District:
100 Year Flood: <100YearFlood>
Watershed:

Acreage: Parcel

- 0 RAEFORD RD: 0.93
- 0 RAEFORD RD: 1.02

Subdivision Name:

Airport Overlay District:
Coliseum Tourism District:
Downtown Historic District:
Floodway:
500 Year Flood: <500YearFlood>

General Project Information

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

Previous Amendment Case #:

Acreage to be Rezoned: 1.95

Water Service: Public

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

Previous Amendment Approval Date:

Proposed Zoning District: Limited Commercial District (LC)

Is this application related to an annexation?: No

Sewer Service: Public

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

North - Raeford Road / SF6 (Single-family detached)

East - NC (Restaurant with drive-thru service)

West - LC (Grocery Store)

South - NC (Child care center)

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 Future Land Use Map designates the parcels for Neighborhood Mixed Use, which recommends neighborhood-scale commercial uses and smaller-scale multifamily. The proposed rezoning to Limited Commercial accommodates moderate-intensity retail, business and service uses. Residential uses are permitted in this District as well. The size of the area to be rezoned is only 1.95 acres, and would not support some of the larger commercial uses envisioned in the Limited Commercial District. Thus, the proposed rezoning is consistent with the Future Land Use Map.

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

The Property is intended to be developed for a restaurant with drive-thru service, which is not permitted in the Neighborhood Commercial District.

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

The proposed rezoning will facilitate new commercial development on these two parcels along Raeford Road, in a manner consistent with existing commercial uses nearby. The development facilitated by this rezoning will help to serve the nearby residential communities to the north and south.

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.:

A three-parcel assemblage west of the Property is current zoned Limited Commercial. Additionally, the property at 6985 Raeford Road (east of the Property) is zoned Limited Commercial. The proposed rezoning to Limited Commercial will create a consistent zoning district along the area south of Raeford Road between Rayconda Road and Festival Drive. Additionally, uses within the aforementioned Limited Commercial Districts contain a Burger King and Exxon gas station, both of which are auto-oriented uses. Rezoning the Property to Limited Commercial to permit drive-thru facilities is consistent with existing zoning districts and uses.

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

Along the southern Raeford Road right-of-way, Limited Commercial is a common zoning district. Lots to the east and west of the Property are zoned LC and contain auto-oriented uses (gas station and restaurant with drive-thru services). The proposed rezoning to LC to develop another restaurant with drive-thru services would create a more uniform zoning district and bring a complimentary use to those existing uses along this stretch of Raeford Road.

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

The Property is prepared for development. It has been mass graded, and adjacent properties have developed for similar uses and under the same zoning district as proposed. Development here is not premature.

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

The Property are currently vacant outparcels of an existing Food Lion shopping center. The rezoning would facilitate development consistent with other outparcels, specifically a restaurant with outdoor seating and drive-thru services.

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 rezoning actually creates a more uniform zoning along this stretch of Raeford Road. Properties to both the east and west are zoned LC.

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

The proposed rezoning would not change the adjacent properties' values.

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

There are no environmentally sensitive features on the Property. The Property was previously mass graded, and can support development.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Clyde T. Wood, Jr.
Rayconda Properties, LLC
2149 Valleygate Drive, Suite 201
Fayetteville, NC 28304
P:910.491.2476
rebecca@rfperson.com

Project Contact - Agent/Representative

Worth Mills
Longleaf Law Partners
2235 Gateway Access Point, Suite 201
Raleigh, NC 27607
P:919.645.4317
wmills@longleaflp.com

Project Contact - Primary Point of Contact for the Developer

Allen Willis
Capital Construction & Contracting
5215 Beryl Road
Raleigh, NC 27606
P:919.400.8085
allen@capconstructnc.com

Project Contact - Primary Point of Contact for Engineer

Jordan Brewer
Kimley-Horn
300 S Main St, Suite 212
Holly Springs, NC 27540
P:919.653.6654
jordan.brewer@kimley-horn.com

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

NC State General Contractor's License Number:

NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor's #3 License Number:

NC State Electrical Contractor #1 License Number:

NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

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

28159

RECEIVED
6-24-2002 PM 2:19:53
GEORGE E. TATUM
REGISTER OF DEEDS
CUMBERLAND CO., N.C.

QUITCLAIM DEED

Prepared by and return to: Rebecca F. Person, P. O. Drawer 1358, Fayetteville, NC 28302
No Revenue

STATE OF NORTH CAROLINA

CUMBERLAND COUNTY

THIS QUITCLAIM DEED, made and entered into this 20th day of June, 2002 by and between KING MODEL HOMES CONSTRUCTION CO., INC., hereinafter called Grantor, and RAYCONDA PROPERTIES, LLC, hereinafter called Grantee;

WITNESSETH:

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00) to him in hand paid, the receipt of which is hereby acknowledged, Grantor has remised and released and by these presents does remise, release, convey, and forever quitclaim unto the Grantee, his heirs and/or successors and assigns, all right, title, claim and interest of the Grantor in and to a certain lot or parcel of land lying and being in Seventy-First Township, Cumberland County, North Carolina and more particularly described as follows:

- See Exhibit A attached hereto and incorporated herein by this reference.**
- LESS AND EXCEPT any portions of said property previously conveyed.**
- SUBJECT TO all valid easements and rights of way conveyances of record.**

20'

To have and to hold the aforesaid lot or parcel of land and all privileges thereunto belonging to him, the Grantee, his heirs and/or successors and assigns, free and discharged from all right, title, claim or interest of the Grantor or anyone claiming by, through or under him.

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.

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

KING MODEL HOMES CONSTRUCTION CO., INC.

By: *Clyde T. Wood, Jr.*
Clyde T. Wood, Jr., President

ATTEST:

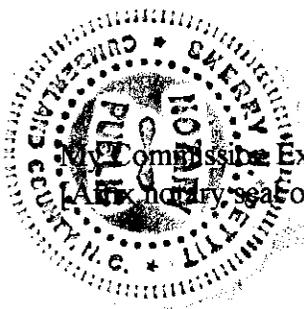
Michael H. Steadman
Michael H. Steadman, Secretary

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

I, Sherry H. Pettit, a Notary Public of said County and State, certify that MICHAEL H. STEADMAN, personally came before me this day and acknowledged that he is the Secretary of KING MODEL HOMES CONSTRUCTION CO., INC., a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, and attested by him/herself as its Secretary.

Witness my hand and notarial seal, this 20th day of June, 2002.

Sherry H. Pettit
Notary Public



My Commission Expires: Dec 20, 2004
[Notary seal or stamp]

The foregoing Certificate of Sherry H. Pettit

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

By George E. Tatum REGISTER OF DEEDS FOR CUMBERLAND COUNTY,
Bonnie R. Carter Deputy/Assistant - Register of Deeds

Exhibit "A"

BEGINNING at an existing rebar found at a point where the Eastern right-of-way margin of Rayconda Road (R/W varies) and the Northern boundary of Wells Place Subdivision, Section 9 (Pat Book 189, Page 189, Plat Book 83, Page 22; Plat Book 82, Page 12) as recorded in the Cumberland County Registry, intersect the Point of Beginning and running with the Eastern Right-of-Way margin of Rayconda Road, North 00 degrees 08 minutes 02 seconds West, 438.22' to an existing iron stake on said right-of-way margin, said existing iron stake being the Southwest corner of Holt Oil Company as recorded in Deed Book 2838, Page 839 Cumberland County Registry, thence leaving said Right-of-Way margin and running with the Southern boundary of Holt Oil Company, North 75 degrees 48 minutes 19 seconds East, 204.74' to an existing iron pipe, said point being the Southeast corner of Holt Oil Company, thence running with the Eastern boundary of Holt Oil Company, North 14 degrees 04 minutes 06 seconds West, 216.87' to a point in the Southern Right-of-Way margin of US Hwy. 401 (160' R/W), said point being the Northeast corner of Holt Oil Company; thence leaving the Northeast corner and running with said Right-of-Way margin, North 76 degrees 00 minutes 50 seconds East, 1770.65' to a point on said Right-of-Way margin; said point being the Northeast corner of this tract and the Northwestern corner of Wells Subdivision, Section IV; thence leaving the Right-of-Way margin of US Hwy. 401 and running with a common line with Wells Subdivision, Section IV, South 01 degrees 41 minutes 19 seconds East, 173.49' to a point in said boundary; thence continuing to run with said boundary line, South 01 degrees 42 minute 30 seconds East, 488.10' to the Southeast corner of this tract, and a common corner with Wells Subdivision, Section 9, thence running with the Northern boundary of Wells Place addition to Section 9, South 76 degrees 08 minutes 26 seconds West, 614.58' to a point; thence continuing with said boundary line, South 76 degrees 06 minutes 16 seconds West, 662.68 to a point; thence continuing with said boundary, South 76 degrees 05 minutes 44 seconds West, 661.99 to the POINT OF BEGINNING and containing 27.6844 Acres, more or less.

Above described tract being the major portion of a tract recorded in Deed Book 3796, Page 859, Cumberland County Registry.

Being the same property conveyed to Grantors by a deed dated March 26, 1996 and recorded in Book 4473, Page 100, Cumberland County, North Carolina Registry.

AFFIDAVIT OF OWNERSHIP

I, as manager of Rayconda Properties, LLC (hereinafter "Owner"), being duly sworn, deposes and says:

1. That I am the manager and authorized signatory of Owner being the owner of the properties located at 0 Raeford Road in the City of Fayetteville, a political subdivision of the State of North Carolina with the following PINs: 9496-57-0657 and 9496-57-1780.

2. I do hereby give permission to Frame Family LLC and/or its agents, employees or contractors, as applicable to submit a Rezoning application to the City of Fayetteville on Owner's behalf for the above referenced properties.

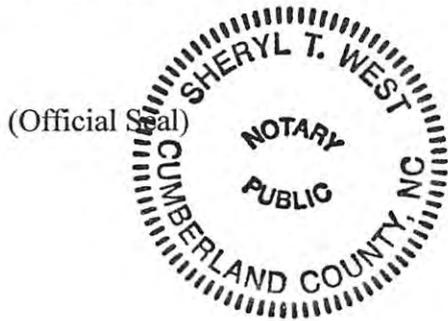
3. This authority is only granted for the application to be submitted on August 8, 2023.

Rayconda Properties, LLC
a North Carolina limited liability company

By: Clyde T. Wood, Jr.
Name: Clyde T. Wood, Jr.
Title: Manager

Cumberland County, North Carolina

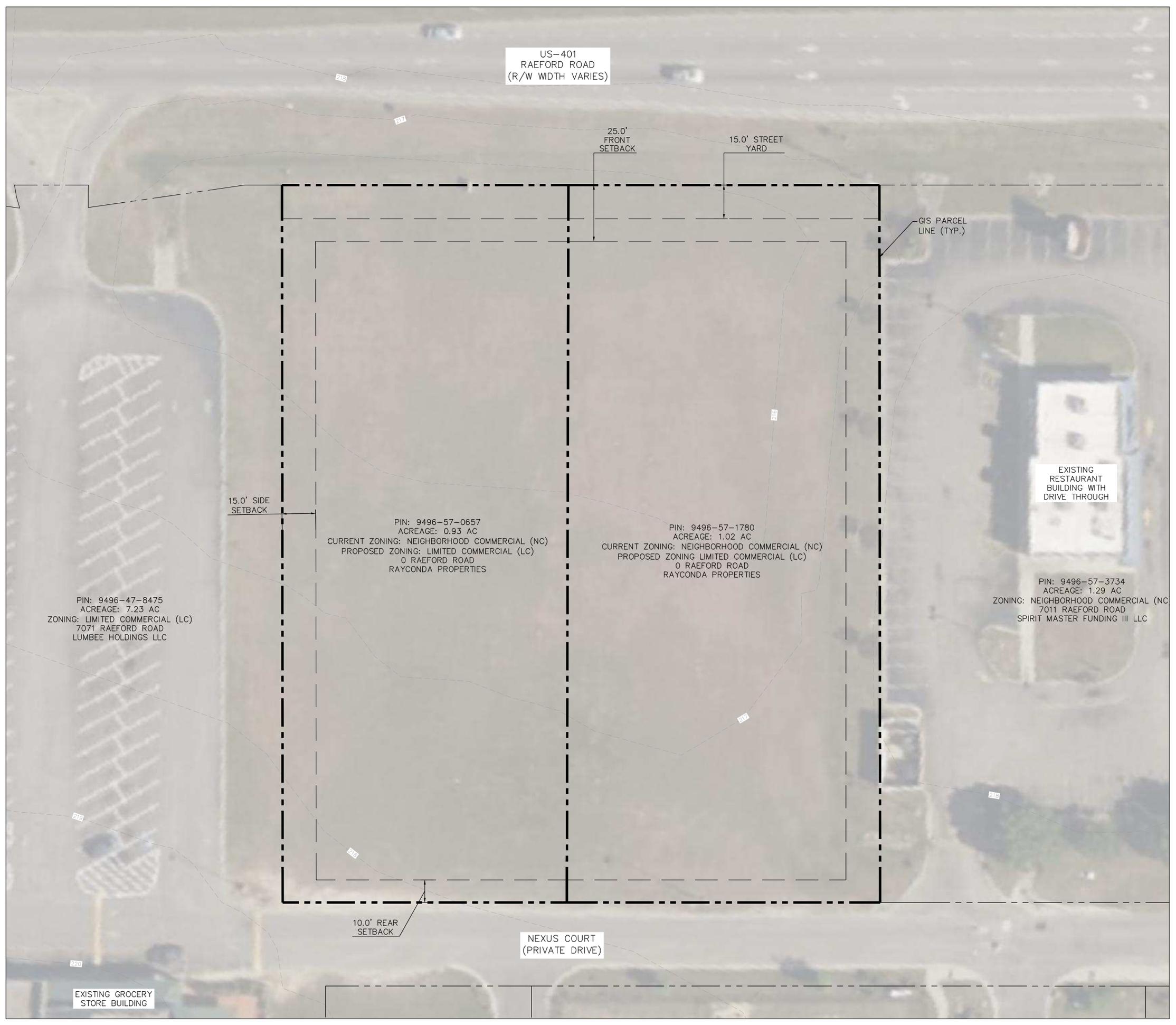
Sworn to and subscribed before me this day on the 17th day of August, 2023.



Sheryl T. West
Signature of Notary Public

Sheryl T. West, Notary Public
Printed Name of Notary Public

My Commission Expires: January 29, 2024



US-401
RAEFORD ROAD
(R/W WIDTH VARIES)

25.0'
FRONT
SETBACK

15.0' STREET
YARD

GIS PARCEL
LINE (TYP.)

15.0' SIDE
SETBACK

PIN: 9496-57-0657
ACREAGE: 0.93 AC
CURRENT ZONING: NEIGHBORHOOD COMMERCIAL (NC)
PROPOSED ZONING: LIMITED COMMERCIAL (LC)
0 RAEFORD ROAD
RAYCONDA PROPERTIES

PIN: 9496-57-1780
ACREAGE: 1.02 AC
CURRENT ZONING: NEIGHBORHOOD COMMERCIAL (NC)
PROPOSED ZONING LIMITED COMMERCIAL (LC)
0 RAEFORD ROAD
RAYCONDA PROPERTIES

EXISTING
RESTAURANT
BUILDING WITH
DRIVE THROUGH

PIN: 9496-57-3734
ACREAGE: 1.29 AC
ZONING: NEIGHBORHOOD COMMERCIAL (NC)
7011 RAEFORD ROAD
SPIRIT MASTER FUNDING III LLC

PIN: 9496-47-8475
ACREAGE: 7.23 AC
ZONING: LIMITED COMMERCIAL (LC)
7071 RAEFORD ROAD
LUMBEE HOLDINGS LLC

10.0' REAR
SETBACK

NEXUS COURT
(PRIVATE DRIVE)

EXISTING GROCERY
STORE BUILDING

PROPERTY AND TOPOGRAPHIC INFORMATION SHOWN
WAS OBTAINED FROM PUBLICLY AVAILABLE GIS
INFORMATION. ALTA AND TOPOGRAPHIC SURVEY
INFORMATION TO BE SUBSTITUTED UPON RECEIPT.

THIS MAP MAY NOT BE A CERTIFIED SURVEY AND
HAS NOT BEEN REVIEWED BY A LOCAL
GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY
APPLICABLE LAND DEVELOPMENT REGULATIONS AND
HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH
RECORDING REQUIREMENTS FOR PLATS.



No.	REVISIONS	DATE	BY

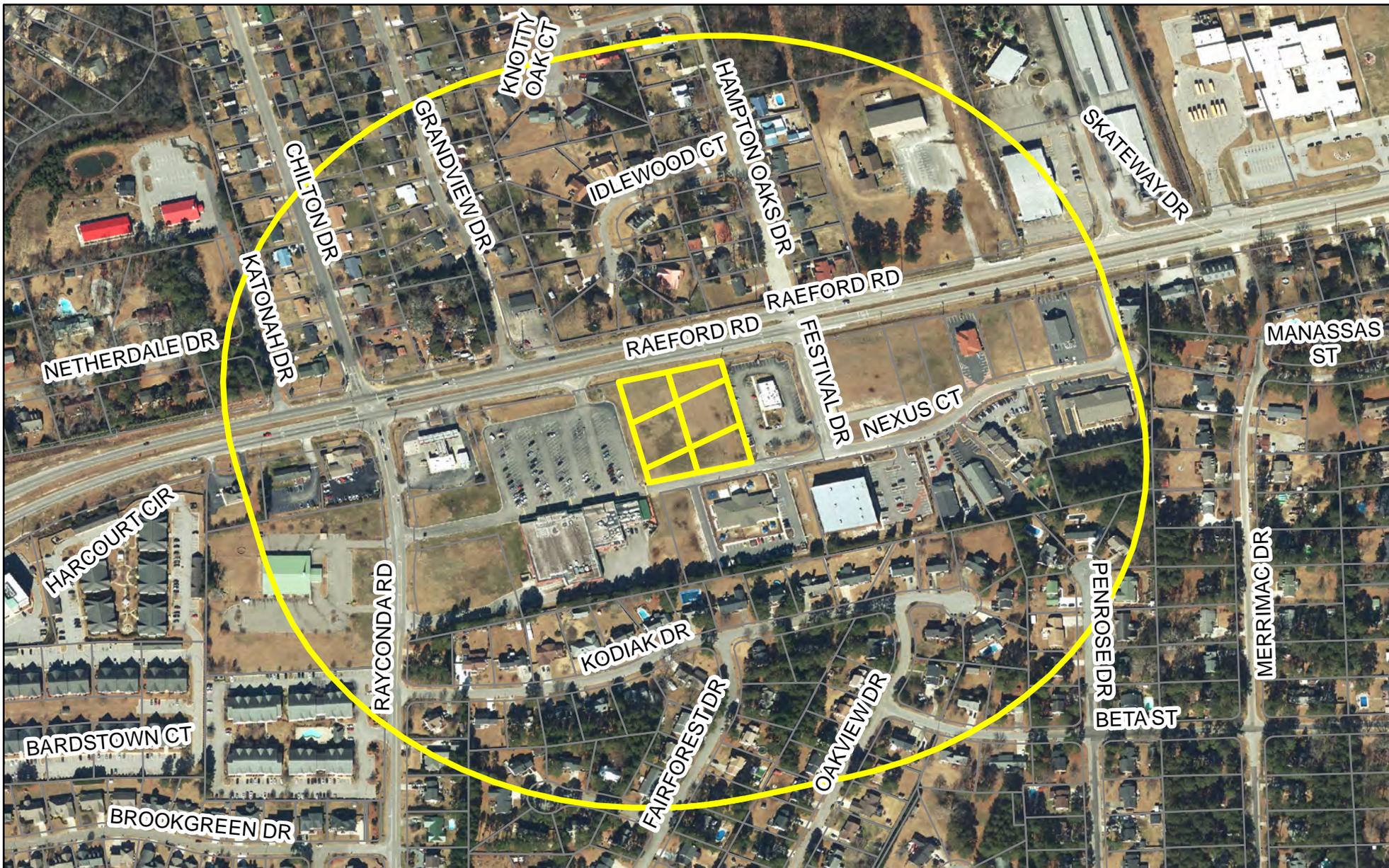
Kimley»Horn
© 2023 KIMLEY-HORN AND ASSOCIATES, INC.
300 SOUTH MAIN STREET, SUITE 212, HOLLY SPRINGS, NC 27540
PHONE: 984-212-4572
WWW.KIMLEY-HORN.COM
#F-0102

PRELIMINARY
NOT FOR CONSTRUCTION

KHA PROJECT	DATE	SCALE	DESIGNED BY	DRAWN BY	CHECKED BY
012960004	08/08/23	AS SHOWN	ZDT	AMK	WJB

**RAEFORD ROAD
SITE**

**RAEFORD ROAD SITE
PREPARED FOR
CAPITAL CONSTRUCTION**
FAYETTEVILLE NC



Aerial Notification Map

Case #: P23-33

Request: Rezoning
 Neighborhood Commercial (NC)
 to Limited Commercial (LC)

Location: 0 Raeford Rd & 0 Raeford Rd
 9496570657000 & 949657178000

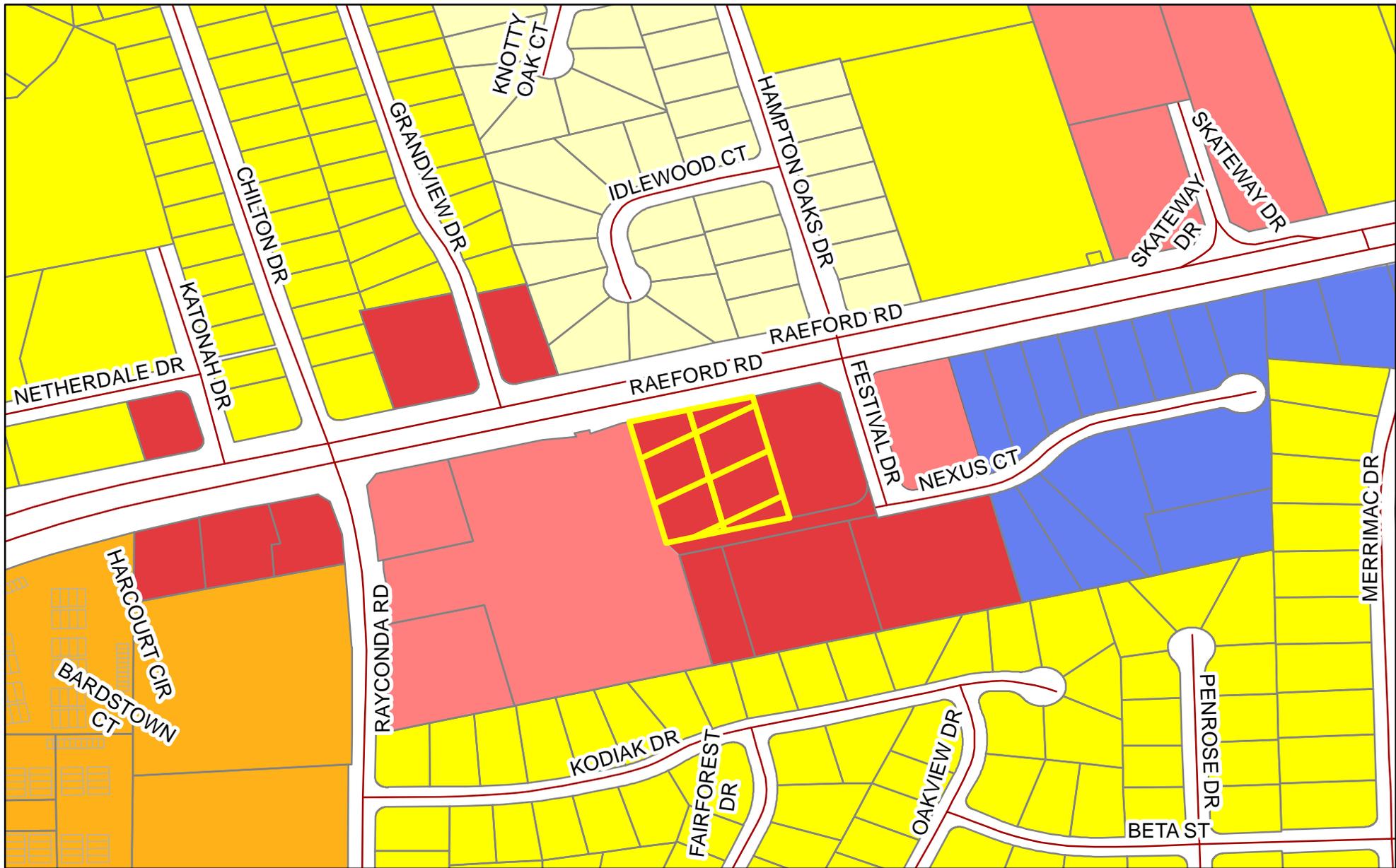
Legend

 P23-33  P23-33 Notification Radius



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





Zoning Map

Case #: P23-33

Request: Rezoning
 Neighborhood Commercial (NC)
 to Limited Commercial (LC)

Location: 0 Raeford Rd & 0 Raeford Rd
 9496570657000 & 949657178000

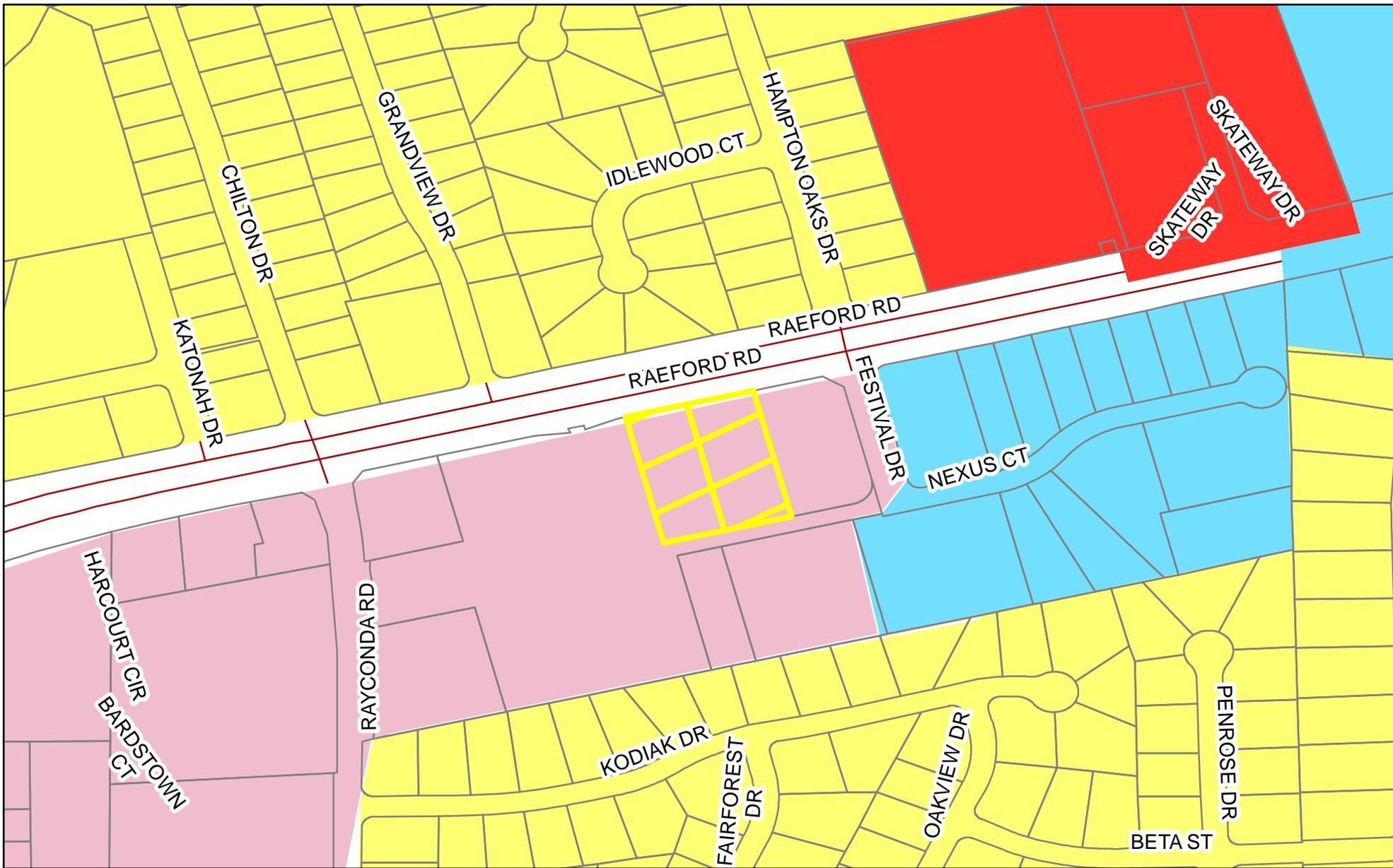
Legend

- P23-33
- LC - Limited Commercial
- MR-5 - Mixed Residential 5
- NC - Neighborhood Commercial
- OI - Office & Institutional
- SF-6 - Single-Family Residential 6
- SF-10 - Single-Family Residential 10



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





Land Use Map

Case #: P23-33

Request: Rezoning
 Neighborhood Commercial (NC)
 to Limited Commercial (LC)

Location: 0 Raeford Rd & 0 Raeford Rd
 9496570657000 & 949657178000

Legend

 P23-33 **Land Use Plan 2040**

Character Areas

-  LDR - LOW DENSITY
-  NMU - NEIGHBORHOOD MIXED USE
-  HC - HIGHWAY COMMERCIAL
-  OI - OFFICE / INSTITUTIONAL



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







Consistency and Reasonableness Statement

Map Amendments

Pursuant N.C.G.S. Sections 160D-604 and -605, the Zoning Commission finds that the proposed zoning map amendment in case P23-33 is consistent with the City of Fayetteville’s Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

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

2. LAND USE POLICES AND STRATEGIES:

LAND USE POLICES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.	X	
1.2: Encourage more intense uses, greater mix of uses and denser residential types in key focal areas.	X	
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 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods.	X	
3.1: Examine and identify target redevelopment and infill areas throughout the city.		

LUP 4: Create well-designed and walkable commercial and mixed-use districts	X	
4.1: Ensure new development meets basic site design requirements.	X	
4.2: Encourage context-sensitive site design	X	
LUP 5: Improve gateways	X	
5.1: Continue to require perimeter landscaping and planting islands in significant renovations and redevelopment along commercial corridors.	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 polices of the Comprehensive Plan as stated above and the Strategic Plan as stated in the Staff Report, and because: [select all that apply]

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

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

improves consistency with the long-range plan.

 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):

September 12, 2023

Date

Chair Signature

Print



City of Fayetteville

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

City Council Action Memo

File Number: 23-3526

Agenda Date: 9/12/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 5.03

TO: Mayor and Members of City Council

THRU: Zoning Commission

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

DATE: September 12, 2023

RE:

P23-34. Rezoning of 1.45 acres ± from Single Family Residential 10 (SF-10) to Mixed Residential 5 (MR-5), located at 1010 Laurel Street (REID # 0428235738000), and being the property of T & W Investments LLC, represented by George M. Rose, P.E.

COUNCIL DISTRICT(S):

Council District 2 - Shakeyla Ingram

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

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

- Objective 2.1 - To ensure a diverse City tax base
- 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 requesting to rezone 1.45 acres ± from Single Family Residential 10 (SF-10) to Mixed Residential 5 (MR-5), located at 1010 Laurel Street (REID # 0428235738000).

Background:

Applicant: George Rose

Owner: T&W Investments LLC

Requested Action: Rezoning from SF-10 to MR-5

REID: 0428235738000

Council District: 2 - Shakeyla Ingram

Status of Property: Vacant - Wooded

Size: 1.45 ± acres

Adjoining Land Use & Zoning:

- **North:** Single Family Residence on approximately 1.5 acres (SF-10)
- **South:** Single family homes (SF-6)
- **East:** Large, multi-family development of older, single story attached units on an approximately 22.65-acre site (Zoned MR-5)
- **West:** Undeveloped, wooded land (SF-10)

Letters Mailed: 126

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.

As indicated by the Future Land Use Map & Plan, this parcel has been earmarked for development featuring predominantly single-family residential neighborhoods characterized by small lots (3-6 dwellings per acre). Additionally, the plan includes the integration of duplexes, townhomes, and the potential for low-rise apartments. The development leans towards auto-oriented infrastructure, but with a consideration for the inclusion of walkable neighborhoods and key destinations, under the Medium Density Residential (MDR) designation.

Issues/Analysis:

History:

The subject property is located adjacent to the Eutaw Homes subdivision. In May 2023, T&W Investments, LLC assumed ownership of this parcel from J2M2 Holdings, LLC and Blue Kizer Investments, LLC. Aerial imagery provided by Cumberland County indicates that the property has remained both vacant and wooded since at least 2013. Previous aerial documentation suggests occasional placement of structures resembling mobile homes, dating back to at least 2001.

Surrounding Area:

The area surrounding the subject property features a variety of land uses and zoning designations. To the north, there is a single-family residence situated on approximately 1.5 acres of land, designated as SF-10 zoning. On the southern side, the landscape is characterized by single-family homes falling under the SF-6 zoning category. To the east, there exists a sizable multi-family development comprised of older, single-story attached units, occupying a 22.65-acre site that is zoned as MR-5. To the west lies undeveloped and wooded land, maintaining an SF-10 zoning designation.

Rezoning Request:

The applicant is seeking to rezone a parcel from SF-10 to MR-5. As stated by the

applicant, "The proposed amendment will allow for the development of new affordable housing that will enhance an area consisting of older, sometimes poorly-maintained rental properties. The amendment is consistent with the land use plan."

Straight Zoning:

Land within the city's corporate boundaries, as well as the Municipal Area of Influence, is classified into distinct base zoning districts established by the Unified Development Ordinance (UDO). The reclassification of land into equivalent zoning districts is feasible, adhering to the directives outlined in Section 30-2.C. The current rezoning petition seeks to reclassify a parcel into the Mixed Residential 5 (MR-5) category. The Mixed Residential 5 (MR-5) district is established and intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities, including single-family detached dwellings, two- to four-family dwellings, multi-family dwellings, and other residential development that may include single-family attached dwellings, and zero lot line development subject to the requirements of this Ordinance. All development in the district shall comply with the design standards in Article 30-5: Development Standards. MR-5 districts may also include centrally-located open space, complementary institutional uses (e.g., religious institutions, post offices, police sub-stations), day care facilities, and limited small-scale neighborhood-serving convenience retail uses (See 30-4.D. Accessory Uses). The initial zoning request is unconditional. Consequently, the governing board is precluded from considering conditions or restrictions on the range of admissible uses, utilization standards, developmental intensities, developmental criteria, and other pertinent regulations. In the event that the governing board intends to impose conditions, the applicant must retract their submission and subsequently submit a request for the parcel's conditional zoning. This action would necessitate scheduling a distinct legislative hearing to review the new proposal.

Land Use Plan Analysis:

As indicated by the Future Land Use Map & Plan, this parcel has been earmarked for development featuring predominantly single-family residential neighborhoods characterized by small lots (3-6 dwellings per acre). Additionally, the plan includes the integration of duplexes, townhomes, and the potential for low-rise apartments. The development leans towards auto-oriented infrastructure, but with a consideration for the inclusion of walkable neighborhoods and key destinations, under the Medium Density Residential (MDR) designation. The Mixed Residential 5 (MR-5) district accommodates activities that align with these particular land use types.

Furthermore, the persistent nationwide demand for housing applies seamlessly to Fayetteville as well. Notably, a substantial multi-family development already adjoins the subject property to the east. Initial proposals for the subject property suggest a significantly intensified land utilization compared to what would typically be allocated for single-family housing. Moreover, the subject property boasts its proximity to various amenities, including Cornerstone Christian Academy, Fayetteville Technical Community College, grocery stores, shopping outlets, and recreational facilities.

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.

Options:

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

Recommended Action:

The Professional Planning Staff recommends that the Zoning Commission move to recommend APPROVAL of the proposed map amendment to rezone a parcel to Mixed Residential 5 (MR-5) 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 Medium Density Residential (MDR) and the proposed zoning district allows for uses that fit this category; and
- The uses permitted by the proposed change in zoning district classification and the standards that apply to such uses will be appropriate in the immediate area of the land to be reclassified due to the existing zoning and the uses surrounding this property; and
- The proposed zoning district promotes logical and orderly development that would make no substantial impact upon the public health, safety, or general welfare.

Attachments:

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

Project Overview **#1083738**

Project Title: 1010 Laurel Street **Jurisdiction:** City of Fayetteville
Application Type: 5.1) Rezoning (Map Amendment) **State:** NC
Workflow: Staff Review **County:** Cumberland

Project Location

Project Address or PIN: 1010 LAUREL ST (0428235738000) **Zip Code:** 28303

GIS Verified Data

<p>Property Owner: Parcel</p> <ul style="list-style-type: none"> 1010 LAUREL ST: T & W INVESTMENTS LLC <p>Zoning District: Zoning District</p> <ul style="list-style-type: none"> 1010 LAUREL ST: SF-10 <p>Fire District:</p> <p>Hospital Overlay District:</p> <p>Cape Fear District:</p> <p>Haymount Historic District:</p> <p>100 Year Flood: <100YearFlood></p> <p>Watershed:</p>	<p>Acreage: Parcel</p> <ul style="list-style-type: none"> 1010 LAUREL ST: 1.45 <p>Subdivision Name:</p> <p>Airport Overlay District:</p> <p>Coliseum Tourism District:</p> <p>Downtown Historic District:</p> <p>Floodway:</p> <p>500 Year Flood: <500YearFlood></p>
---	--

General Project Information

<p>Has the land been the subject of a map amendment application in the last five years?: No</p> <p>Previous Amendment Case #:</p> <p>Acreage to be Rezoned: 1.45</p> <p>Water Service: Public</p> <p>A) Please describe all existing uses of the land and existing structures on the site, if any:</p> <p>Subject property is vacant and wooded. There are no existing structures on the site.</p>	<p>Previous Amendment Approval Date:</p> <p>Proposed Zoning District: MR5</p> <p>Is this application related to an annexation?: No</p> <p>Sewer Service: Public</p> <p>B) Please describe the zoning district designation and existing uses of lands adjacent to and across the street from the subject site.:</p> <p>Properties to the north and west are zoned SF10. The adjacent property to the west is undeveloped, wooded land. The adjacent property to the north is a single-family residence on approximately 1.5 acres. The adjacent property to the east is zoned MR5 and is a large, multi-family development of older, single-story attached units on an approximately 22.65 acre site. Properties to the south are developed single family homes with SF6 zoning.</p>
---	--

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 land use plan calls for medium-density residential and the property to the east is already zoned MR-5 with an existing large, multi-family development.

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

Site topography is better suited to multi-family units. The adjacent single-family homes to the south over time have become predominantly rental properties versus prior owner-occupied.

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

Proposed amendment will allow the development of the property into needed affordable housing.

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

Existing single-family homes to the south are predominantly rental properties - so development of vacant parcels in the area into owner occupied single-family homes is not practical. The land use plan calls for medium-density residential and the property to the east is already zoned MR-5. The shape and topography of the subject property will not support the maximum number of units allowed under the proposed zoning - so open space and buffer areas will be maintained on the property.

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

The general area of the site consists predominantly of rental properties with high-density multi-family units existing on the adjacent property to the east. Medium-density residential is an appropriate use of the subject property. New multi-family units will improve the value and appeal of the area where older, poorly maintained rental properties exist.

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

The proposed amendment does not encourage premature development in that adjacent properties are predominantly multi-family rental units.

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

Strip-style or any commercial development is not possible with the proposed amendment. The general area is all residentially zoned with no nearby commercial development.

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 does not create an isolated zoning district in that the adjacent property to the east is already zoned MR5.

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 allow for development of new affordable housing that will enhance an area consisting of older, sometimes poorly-maintained rental properties. The amendment is consistent with the land use plan.

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

There will be no adverse affects on the environment as a result of the proposed amendment. New development will be subject to the City stormwater ordinance, providing better stormwater management than currently exists.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Terry Miller
T&W Investments LLC
573 Porter Road
Hope Mills, NC 28348
P:910-494-5736

Project Contact - Agent/Representative

George Rose
George M. Rose, P.E.
P.O. Box 53441
Fayetteville, NC 28305
P:910-977-5822
george@gmrpe.com

Project Contact - Primary Point of Contact for Engineer

George Rose
George M. Rose, P.E.
P.O. Box 53441
Fayetteville, NC 28305
P:910-977-5822
george@gmrpe.com

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

NC State General Contractor's License Number:

NC State Mechanical Contractor's #1 License Number:

NC State Mechanical Contractor's #2 License Number:

NC State Mechanical Contractor's #3 License Number:

NC State Electrical Contractor #1 License Number:

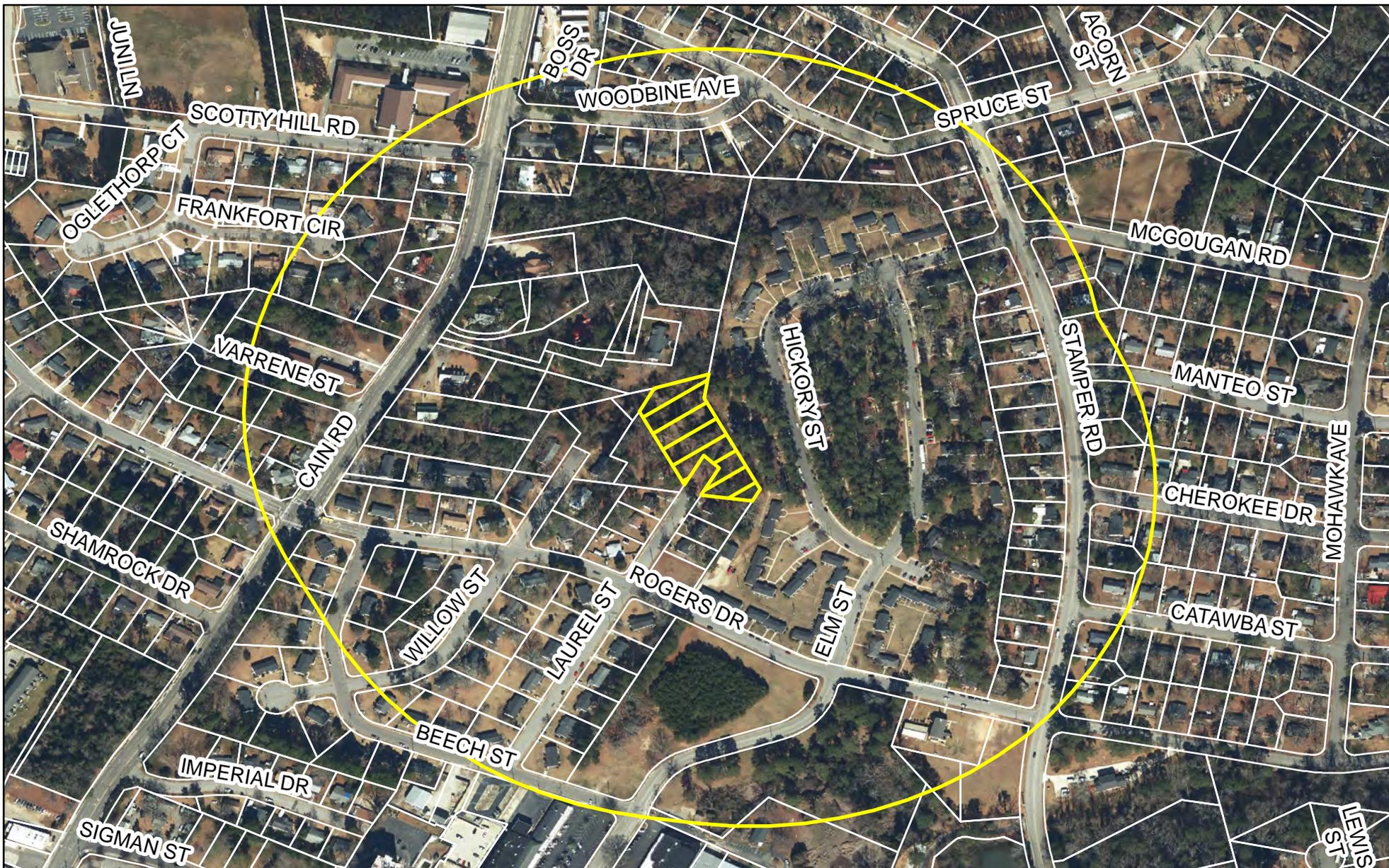
NC State Electrical Contractor #2 License Number:

NC State Electrical Contractor #3 License Number:

NC State Plumbing Contractor #1 License Number:

NC State Plumbing Contractor #2 License Number:

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



Aerial Notification Map

Case #: P23-34

Request: Rezoning Single Family Residential 10 (SF-10)
to Mixed Residential 5 (MR-5)

Location: 1010 Laurel Street

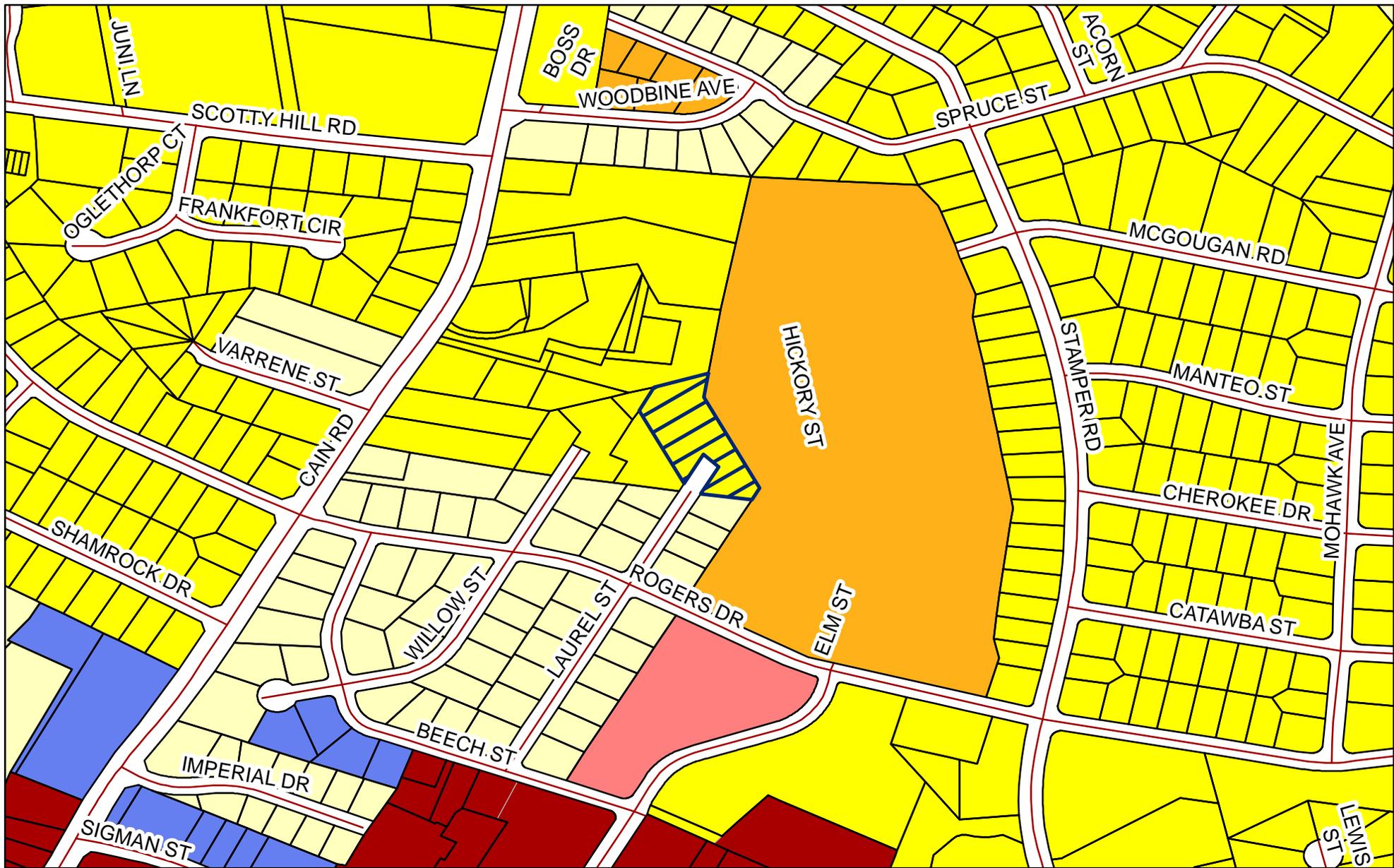
Legend

-  P23-34 Buffer
-  P23-34



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





Zoning Map

Case #: P23-34

Request: Rezoning Single Family Residential 10 (SF-10) to Mixed Residential 5 (MR-5)

Location: 1010 Laurel Street

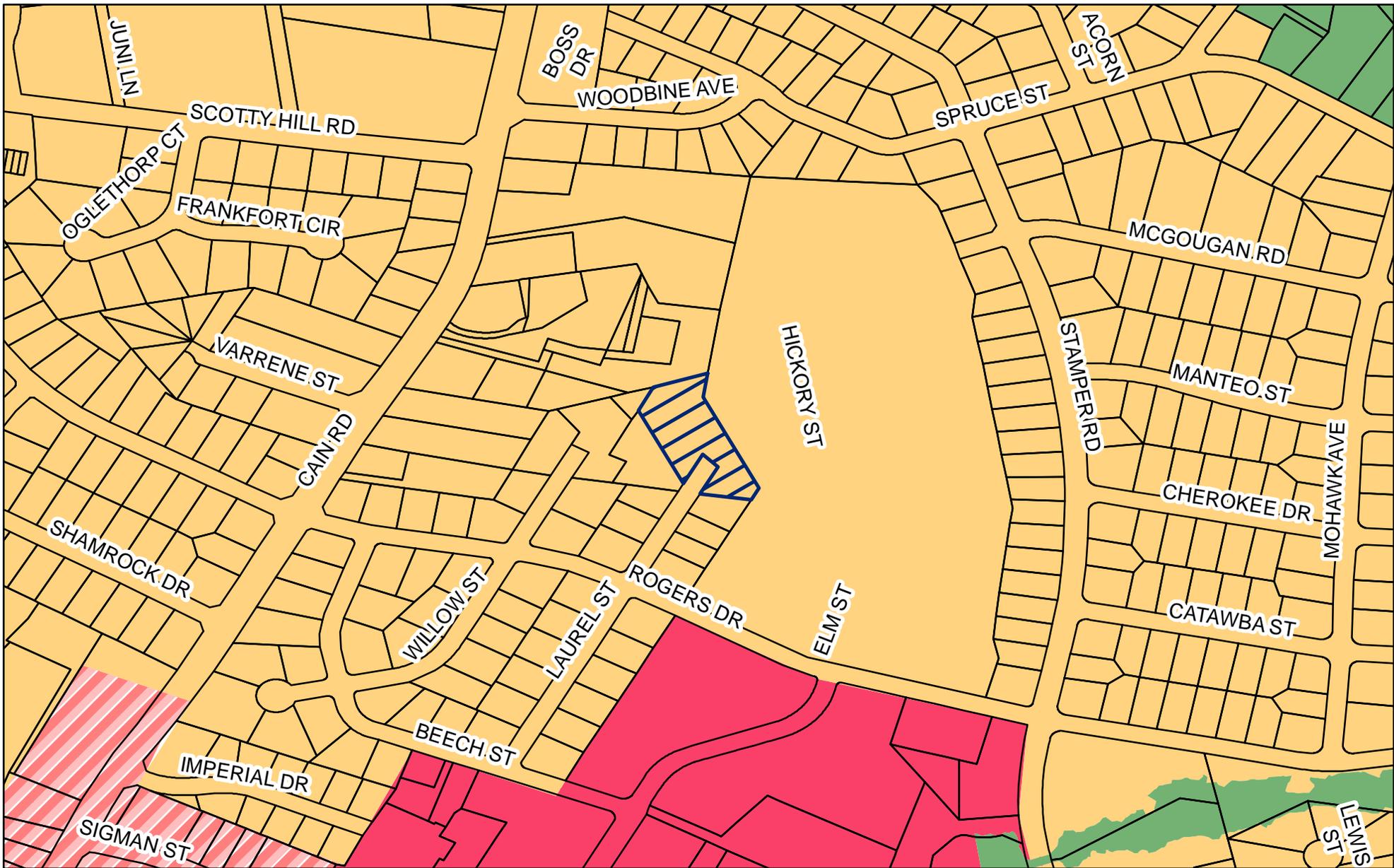
Legend

-  P23-34
-  OI - Office & Institutional
-  CC - Community Commercial
-  SF-6 - Single-Family Residential 6
-  LC - Limited Commercial
-  SF-10 - Single-Family Residential 10
-  MR-5 - Mixed Residential 5



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





Future Land Use Map

Case #: P23-34

Request: Rezoning Single Family Residential 10 (SF-10) to Mixed Residential 5 (MR-5)

Location: 1010 Laurel Street

Legend



P23-34

Land Use Plan 2040

Character Areas



PARKOS - PARK / OPEN SPACE



MDR - MEDIUM DENSITY



CSR - COMMERCIAL STRIP REDEVELOPMENT



CC - COMMUNITY CENTER



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





Surrounding Properties



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.5. Mixed Residential 5 (MR-5) District

PURPOSE						
MR-5 MIXED RESIDENTIAL 5 DISTRICT	The Mixed Residential 5 (MR-5) district is established and intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities, including single-family detached dwellings, two- to four-family dwellings, multi-family dwellings, and other residential development that may include single-family attached dwellings, and zero lot line development subject to the requirements of this Ordinance. All development in the district shall comply with the design standards in Article 30-5: Development Standards . MR-5 districts may also include centrally-located open space, complementary institutional uses (e.g., religious institutions, post offices, police sub-stations), day care facilities, and limited small-scale neighborhood-serving convenience retail uses (See 30-4.D. Accessory Uses).					
	DIMENSIONAL STANDARDS					
DIMENSIONAL STANDARD	SINGLE- FAMILY DETACHED DWELLINGS	SINGLE- FAMILY ATTACHED DWELLINGS	TWO- TO FOUR- FAMILY DWELLINGS	MULTI- FAMILY DWELLINGS	ALL OTHER PRINCIPAL USES [1]	ACCESSORY STRUCTURES
Lot area per unit, min. (sq. ft.) [2]	5,000 for 1st unit, then 4,000	4,000		15,000+ 1,000 per unit	5,000	n/a
Lot width, min. (ft.)	50					n/a
Gross residential density, max. (dwelling units/ acre) [3]	20; 24 if property abuts an Arterial, Collector, or Major Street (as defined in Article 30-9, Definitions)					n/a
Lot coverage, max. (% of lot area)	55					[4]
Height, max. (ft.) [3]	Greater of six stories or 75 feet					25; 15 where abutting a single-family zoning district or use with setback less than 10 feet
Front and corner side setback, min. (ft.) [5]	25 feet or 50 feet from centerline of private streets					Not allowed in front or corner side setbacks

Side setback, min. (ft.)	10		
Rear setback, min. (ft.)	30; 15 when corner side setback is 25 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. [6]		

NOTES:

- [1] Including live/work units and upper-story residential development.
- [2] In cases where lot area and gross density conflict, the standard resulting in the lesser number of dwelling units shall control.
- [3] Gross residential density and maximum height may be increased through provision of sustainable development features in accordance with Section 30-5.N, Incentives for Sustainable Development Practices.
- [4] 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.
- [5] Minimum front (and corner side) setbacks for multi-family and nonresidential uses may be reduced to 15 feet when off-street parking is located to the side or rear of buildings and buildings are located proximate to the street (or corner) rights-of-way.
- [6] 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).

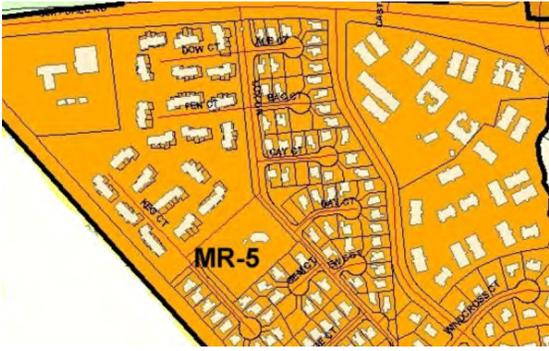
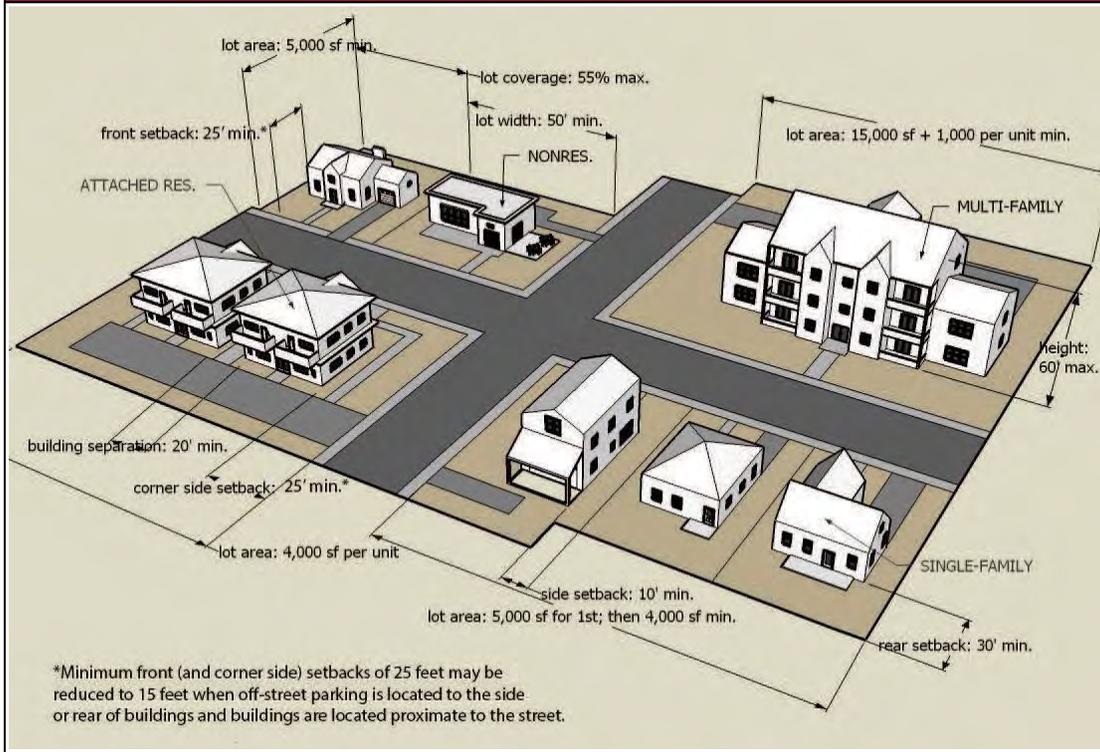
Figure 30-3.D.5.a: MR-5 Typical Lot Pattern	Figure 30-3.D.5.b: MR-5 Typical Building Form
	

Figure 30-3.D.5.c: MR-5 Typical Building/Lot Configuration



(Ord. No. S2011-014, § 1.2, 11-28-2011; Ord. No. S2012-001, Pt. 3, § 3.1, 1-23-2012; Ord. No. S2012-018, § 1.0, 9-10-2012; Ord. No. S2014-002, § 6a, 1-13-2014; 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. S2019-018, 1, 04/23/2019; Ord. No. S2021-041, § 1, 10/25/2021)

Effective on: 8/10/2015

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 P23-34 is consistent/inconsistent with the City of Fayetteville’s Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

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

2. LAND USE POLICES AND STRATEGIES:

LAND USE POLICES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 2: Encourage Strategic Economic Development	X	
2.1: Encourage economic development in designated areas <ul style="list-style-type: none"> • Encourage economic development in key areas including Downtown, Office/Institutional Areas, Industrial/Employment Areas, Regional and Community Centers, and Highway Commercial Areas 	X	
LUP 3: Encourage Redevelopment Along Underutilized Commercial Strip Corridors and Reinvestment in Distressed Residential Neighborhoods	X	
3.1: Examine and identify targeted redevelopment and infill areas throughout the city	X	
LUP 4: Create Well – Designed and Walkable Commercial and Mixed Use Districts	X	
4.1: Ensure new development meets basic site design standards	X	

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

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

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

Reasonableness

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

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

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

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

Additional comments, if any (write-in):

September 12, 2023

Date

Chair Signature

Print



City of Fayetteville

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

City Council Action Memo

File Number: 23-3536

Agenda Date: 9/12/2023

Version: 3

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 5.04

TO: Mayor and Members of City Council

THRU: Zoning Commission

FROM: Heather Eckhardt, CZO - Planner II

DATE: September 12, 2023

RE:

P23-35. Conditional rezoning from Single Family Residential 10 (SF-10) to Single Family Residential 10 Conditional Zoning (SF-10/CZ) of 809 Johnson Street (REID 041971018000) totaling 2.19 acres ± and being the property of Abel Young, represented by Michael Adams of MAPS Surveying Inc.

COUNCIL DISTRICT(S):

4 - D.J. Haire

Relationship To Strategic Plan:

Strategic Operating Plan FY 2022

Goals 2027

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

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

Goal III: City invested in Today and Tomorrow

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

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

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

Executive Summary:

The applicant is requesting to conditionally zone the property at 809 Johnson Street from Single Family Residential 10 (SF-10) to Single Family Residential 10 Conditional (SF-10/CZ). The subject property is 2.19 acres and has 6 buildings with a total of 16

dwelling units. The proposed conditions would allow for two-to-four family dwellings/multi-family dwellings in the SF-10 zoning district, an office for the maintenance of the existing dwellings, a density of 5,000 square feet per dwelling unit, and a reduction in setbacks to bring the existing dwellings into compliance (see attached site plan).

Background:

Applicant: Michael Adams of MAPS Surveying

Owner: Abel Young

Requested Action: Conditional rezoning to SF-10/CZ

REID #: 0419710180000

Council District: 4 - D.J. Haire

Status of Property: 6 residential structures

Size: 2.19 acres

Adjoining Land Use & Zoning:

- North: SF-10 - Mobile homes and vacant land
- South: SF-10 - Single-family house and vacant land
- East: SF-10 - Mobile homes
- West: SF-10 - Residential structure

Annual Average Daily Traffic: Bragg Boulevard: 31,000 (2021)

Letters Mailed: 89

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

Land Use Plans:

With the adoption of the 2040 Comprehensive Plan: Future Land Use Map & Plan on May 26, 2020, all properties within the city limits as well as properties identified as being in the Municipal Influence Area (MIA) are subject to this plan. According to the Plan, it is recommended that this portion of the city should be developed as Low Density Residential (LDR). Low Density Residential calls for single family residential with duplexes or townhomes intermixed.

Issues/Analysis:

History:

The subject property and surrounding area have been within the city limits of Fayetteville since 1998. All structures currently located on the subject property were in existence prior to the annexation of the property. Therefore, all structures on the site are legal non-conforming.

Surrounding Area:

The surrounding area is residential in nature with a focus on single-family houses. There are duplexes and mobile homes interspersed along Johnson Street. The area was largely developed prior to annexation or the adoption of the UDO. To the immediate north and east of the subject property, there are multiple mobile homes. While to the south and east, there are single-family houses and vacant land.

Rezoning Request:

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

Conditional Zoning:

The request is to rezone the subject property from Single Family Residential 10 (SF-10) to Single Family Residential 10 Conditional (SF-10/CZ).

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

Specifics of this Conditional Rezoning:

The conditions proposed by the applicant are intended to bring the site into compliance with the UDO in order to allow the site to be subdivided.

The proposed conditions are as follows:

1. Allow for two-to-four family/multi-family dwellings in the SF-10 zoning district
2. Allow for an office for the maintenance of the existing dwellings
3. Allow for a density of 5,000 square feet per dwelling unit
4. Reduce setbacks to those shown on the attached site plan

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). Low Density Residential calls for single-family residential with duplexes or townhomes intermixed. The Future Land Use Plan also sets forth written goals, policies, and strategies. This application follows the City’s strategic, compatible growth strategies and does meet the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

Conclusion:

The subject property was developed prior to annexation and the adoption of the UDO and as such all structures are legal non-conforming. The proposed rezoning and associated conditions will address these non-conformities - use type, density, and setbacks. Bringing the site into compliance with the ordinance will allow for the subdivision of the property and has the potential to spur improvements to the property and the existing structures. Additionally, the structures and density are of a size and scope that suit the surrounding area.

Budget Impact:

There is not an immediate budgetary impact but there will be an economic impact

associated with this rezoning that will occur due to taxes collected in the future.

Options:

1. Recommends approval of the amendment to the SF-10/CZ as presented based on the evidence submitted and finds that the rezoning is consistent with the Future Land Use Plan as demonstrated by the attached consistency and reasonableness statement (recommended)
2. Recommends approval of the map amendment to a more restrictive zoning district based on the evidence submitted and finds that the map amendment would be consistent with the Future Land Use Plan and an amended consistency statement.
3. Denies the map amendment request based on the evidence submitted and finds that the map amendment is inconsistent with the Future Land Use Plan.

Recommended Action:

The Professional Planning Staff recommends that the Zoning Commission move to recommend APPROVAL of the map amendment to the existing SF-10/CZ based on the following:

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

Attachments:

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

Project Overview **#1089273**

Project Title: Abel Young **Jurisdiction:** City of Fayetteville
Application Type: 5.2) Conditional Rezoning **State:** NC
Workflow: Staff Review **County:** Cumberland

Project Location

Project Address or PIN: **Zip Code:** 28303

- 838 ANITA RD (0419710180000)
- 809 JOHNSON ST (0419710180000)

GIS Verified Data

<p>Property Owner: Parcel</p> <ul style="list-style-type: none"> • 838 ANITA RD: YOUNG, ABEL • 809 JOHNSON ST: YOUNG, ABEL <p>Zoning District: Zoning District</p> <ul style="list-style-type: none"> • 838 ANITA RD: SF-10 • 809 JOHNSON ST: SF-10 <p>Fire District:</p> <p>Hospital Overlay District:</p> <p>Cape Fear District:</p> <p>Haymount Historic District:</p> <p>100 Year Flood: <100YearFlood></p> <p>Watershed:</p>	<p>Acreage: Parcel</p> <ul style="list-style-type: none"> • 838 ANITA RD: 2.19 • 809 JOHNSON ST: 2.19 <p>Subdivision Name:</p> <p>Airport Overlay District:</p> <p>Coliseum Tourism District:</p> <p>Downtown Historic District:</p> <p>Floodway:</p> <p>500 Year Flood: <500YearFlood></p>
---	--

General Project Information

Proposed Conditional Zoning District: SF-10/CZ - Conditional **Lot or Site Acreage to be rezoned:** 2.19
 Single-Family Residential 10
Was a neighborhood meeting conducted?: No **Date of Neighborhood Meeting:**
Number of Residential Units: 16 **Nonresidential Square Footage:** 0

Landowner Information

Landowner Name: Abel Young **Deed Book and Page Number:** 7046-483

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

<p>A) Describe the proposed use of the rezoned land, including the proposed types of site improvements, buildings, uses, proposed activities, hours of operation,</p>	<p>B) Describe the proposed conditions that should be applied.: Proposal to subdivide one quad unit building from the parent tract</p>
--	--

and operating characteristics.:

Existing acreage has 6 Buildings with 16 units total.

All units are single family housing (two-to-four family dwellings).

in order to receive grant money from the City of Fayetteville for Veteran Housing.

8/11/2023: Per email from applicant, conditions to be amended as follows:

- Allow for two-to-four family dwellings/multi-family dwellings in the SF-10 zoning district
- Allow for an office for the maintenance of the existing dwellings.
- Allow for a density of 5,000 square feet per dwelling unit
- Reduce setbacks to those shown on attached site plan

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

All properties surrounding subject property are currently zoned SF-10

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.:

Current plan does not meet current standards as all buildings were in place prior to the UDO being drafted.

No other residential buildings are being added.

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

no

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

One quad unit will be utilized for veteran housing which is needed within the city.

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.:

Other properties within the area have multiple units on them. This request is to use what is already existing and revising it since it does not meet current standards.

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

Housing units are already existing and were in place prior to the UDO. This proposal is to meet the request of the City of Fayetteville for funding to provide veteran housing for one of the quad units.

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

None. This proposal might actually revitalize the area and bring further growth as many of the surrounding properties are vacant.

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

None

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

None

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

None

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

environment.:

None

Primary Contact Information

Contractor's NC ID#:

Project Owner

Abel Young

3800 Sunchase Dr
Fayetteville, NC 28306
P:910-273-8292
yrentals@gmail.com

Project Contact - Agent/Representative

Michael Adams
MAPS Surveying Inc.
1306 Fort Bragg Road
Fayetteville, NC 28305
P:910-484-6432
maps@mapssurveying.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:

(N.P. SEAL)

12F 17

050890

RECEIVED

10-24-2005 AM 11:24: 7

CUMBERLAND COUNTY NC 10/24/2005 \$740.00



Real Estate Excise Tax

J. LEE WARREN JR. REGISTER OF DEEDS CUMBERLAND CO., N.C.

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$ 740.00

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

Mail/Box to: Thorp, Clarke & Neville, P.A., 3620 Legion Road, Hope Mills, NC 28348

This instrument was prepared by: Thorp, Clarke & Neville, P.A., 3620 Legion Road, Hope Mills, NC 28348

Brief description for the Index: _____

THIS DEED made this 14th day of October, 20 05, by and between

GRANTOR	GRANTEE
Rodney Buhrman and wife, Theresa M. Buhrman Herbert F. Witt and wife, Kenda Witt 3620 Legion Road Hope Mills, NC 28348	Abel Young 3800 Sunchase Drive Fayetteville, NC 28306

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

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

BEING all of Tract A, in a Subdivision known as RECOMBINATION OF LOTS 12-19 W. J. YARBOROUGH SUB. PROPERTY OF: RODNEY BUHRMAN A/W THERESA BUHRMAN HERBERT F. WITT A/W KENDA WITT (A RECOMBINATION OF LANDS RECORDED IN DB 5404, PAGE 380), according to a plat of same duly recorded in Book of Plats 113, Page 111, Cumberland County Registry, North Carolina.

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

A map showing the above described property is recorded in Plat Book 113 page 111.

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

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

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

(Entity Name)

Rodney Buhrman (SEAL)
Rodney Buhrman

By: _____
Title: _____

Theresa M. Buhrman (SEAL)
Theresa M. Buhrman

By: _____
Title: _____

Herbert F. Witt (SEAL)
Herbert F. Witt

By: _____
Title: _____

Kenda Witt (SEAL)
Kenda Witt

State of North Carolina - County of Cumberland

I, the undersigned Notary Public of the County and State aforesaid, certify that Rodney Buhrman and wife, Theresa M. Buhrman and Herbert F. Witt and Kenda Witt personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 14th day of October, 2005

My Commission Expires: 5-11-2009

Laura K Glass
Notary Public

State of North Carolina - County of _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that he is the _____ of _____ a North Carolina or _____ corporation/limited liability company/general partnership/limited partnership (Strike through the inapplicable), and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this _____ day of _____, 20____

My Commission Expires: _____

Notary Public

State of North Carolina - County of _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____

Witness my hand and Notarial stamp or seal, this _____ day of _____, 20____

My Commission Expires: _____

Notary Public

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

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

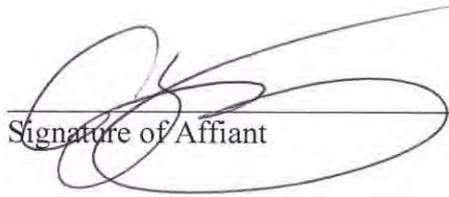
AFFIDAVIT OF OWNERSHIP

I, Abel Young, being duly sworn, deposes and says:

1. That I am the owner of the property/properties located at 808 Johnson St in the City of Fayetteville, a political subdivision of the State of North Carolina.

2. I do hereby give permission to MAPS Surveying 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 August 8, 2023.

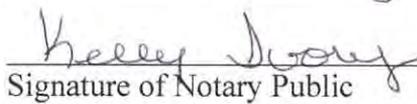


Signature of Affiant

Signature of Affiant

Cumberland County, North Carolina

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

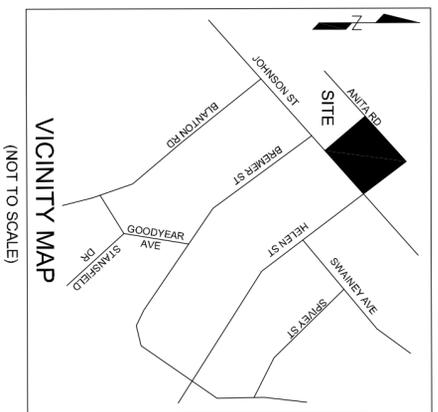


Signature of Notary Public

Kelly Ivory, Notary Public
Printed Name of Notary Public

My Commission Expires: 6/21/27





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 IDEED DESCRIPTION RECORDED IN PLAT BOOK 113, PAGE 111). THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN PLAT BOOK 110, PAGE 196; THAT THE RATIO OF PRECISION CALCULATED IS GREATER THAN 1:10,000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-20 AS AMENDED; WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND OFFICIAL SEAL THIS 9TH DAY OF AUGUST, 2023.

MICHAEL J. ADAMS
P.L.S. L481
C.F.S. NC-075

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

CONDITIONAL REZONING REQUEST

***A - BUILDINGS DO NOT MEET 20' MINIMUM REQUIRED (SECTION 30-3-D-3).**

*A1 - 16.24'
*A2 - 16.29'
*A3 - 14.49'

***B - BUILDINGS DO NOT MEET CURRENT SETBACK STANDARDS (SECTION 30-3-D-3).**

*B1 - 4.07' (10)
*B2 - 19.75' (30)
*B3 - 24.37' (30)
*B4 - 28.57' (30)
*B5 - 19.88' (30)
*B6 - 19.88' (30)
*B7 - 7.04' (30)

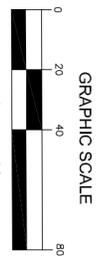
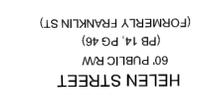
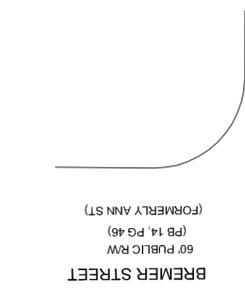
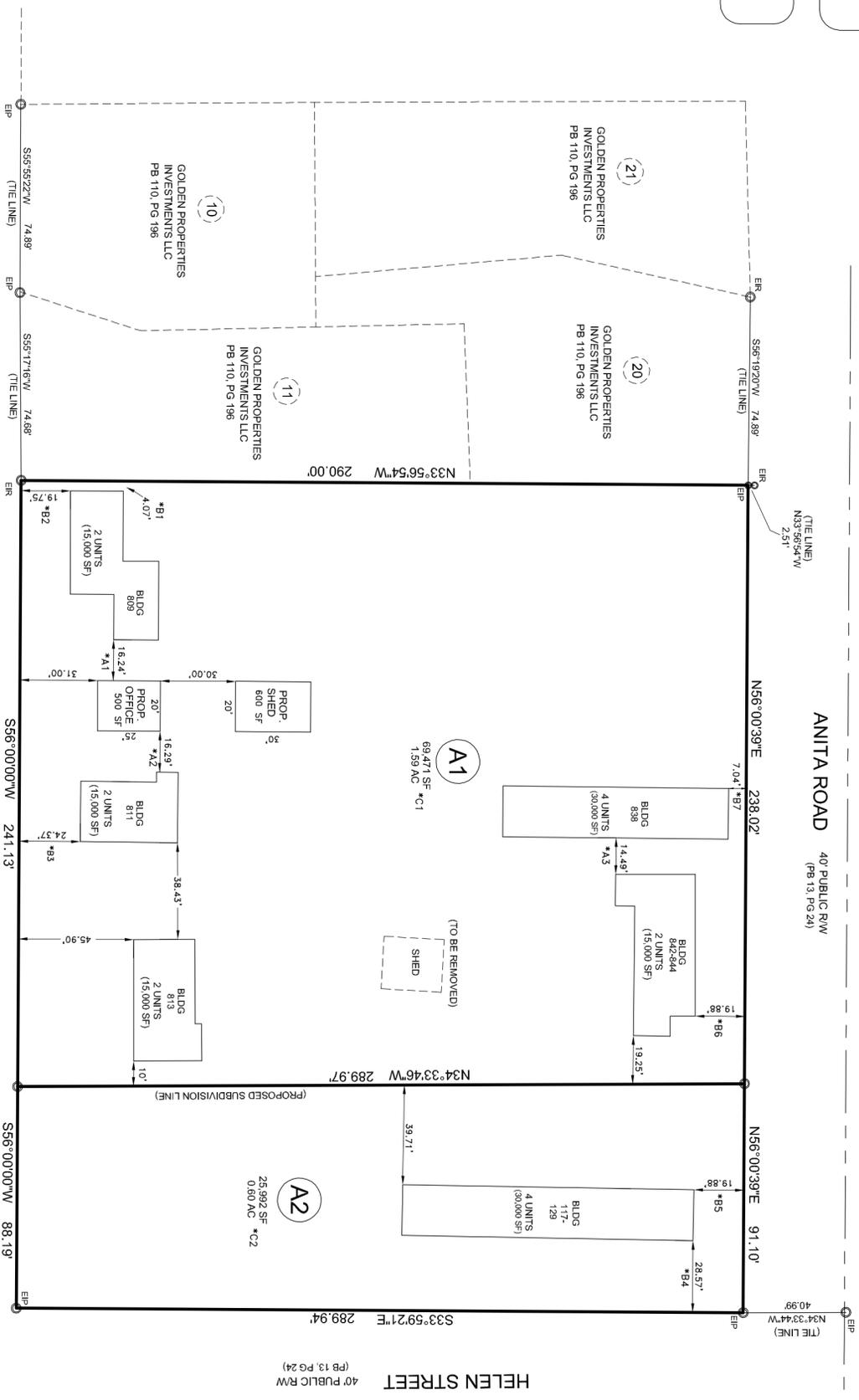
***C - LOTS DO NOT MEET CURRENT ZONING STANDARDS FOR NUMBER OF UNITS.**

*C1 - 69,471 SF (30,000 SF)
*C2 - 25,992 SF (30,000 SF)
FIGURES ARE BASED ON SF-10 ZONING OF 7,500 PER UNIT FOR 2-4 FAMILY DWELLINGS

PROPOSED REZONING: SF-10 (CUD)

NOTES

1. AREA COMPUTED BY COORDINATES.
2. SET IRON PIPES ON ALL CORNERS NOT MONUMENTED.
3. THE STRUCTURES WITHIN THIS RECOMBINATION DO NOT MEET CURRENT STANDARDS FOR THE DEVELOPMENT WITHIN THIS PROPERTY SHALL CONFORM TO THE CITY OF FAYETTEVILLE REGULATIONS.
4. SETBACKS - FRONT - 30'
REAR - 35'
SIDES - 10'
5. NO NCSS MONUMENT FOUND WITHIN 200' OF SUBJECT PROPERTY.
6. ALL DISTANCES ARE HORIZONTAL GROUND.



**M.A.P.S.
SURVEYING, INC.**
C-2589
216 MASON ST
FAYETTEVILLE, N. C. 28301
TELEPHONE: (910) 464-6432
maps@mapsurveying.com

SURVEYED BY: MIA/KBC/DA DRAWN BY: MIA
CHECKED & CLOSURE BY: MIA

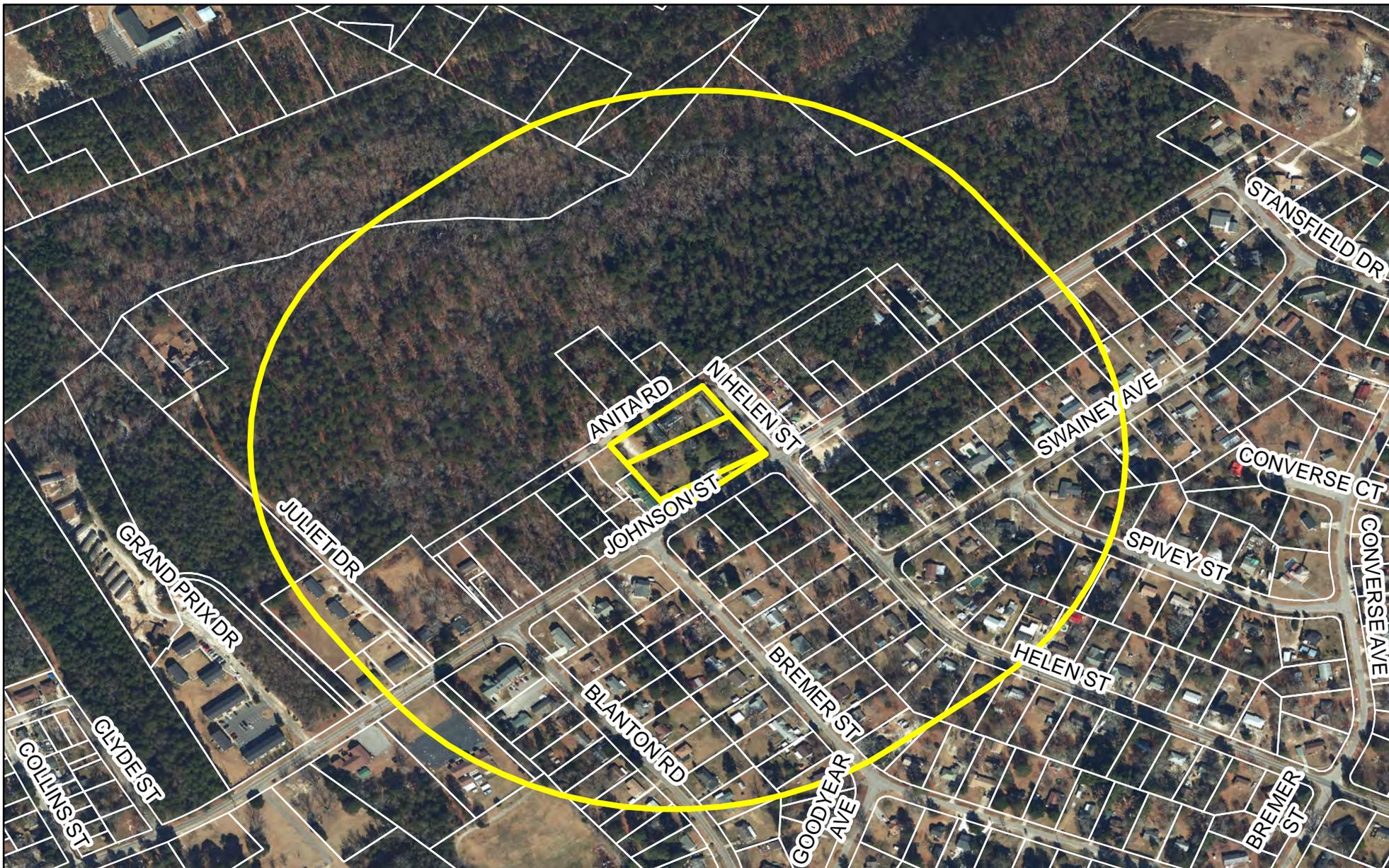
ABEL YOUNG

(PROPOSED DIVISION AND REZONING OF LOT A - PB 113, PG 111)

TOWNSHIP: CROSS CREEK
CITY: FAYETTEVILLE, NC
COUNTY: CUMBERLAND
ZONING: SF-10

SCALE: 1" = 40'
DATE: AUGUST 8, 2023

TAX PIN: 0419710180000



Aerial Notification Map

Case #: P23-35

Request: Conditional Rezoning
 Single Family Residential 10 (SF-10)
 to Single Family Residential 10
 Conditional Zoning District (SF-10/CZ)

Location: 809 Johnson Street

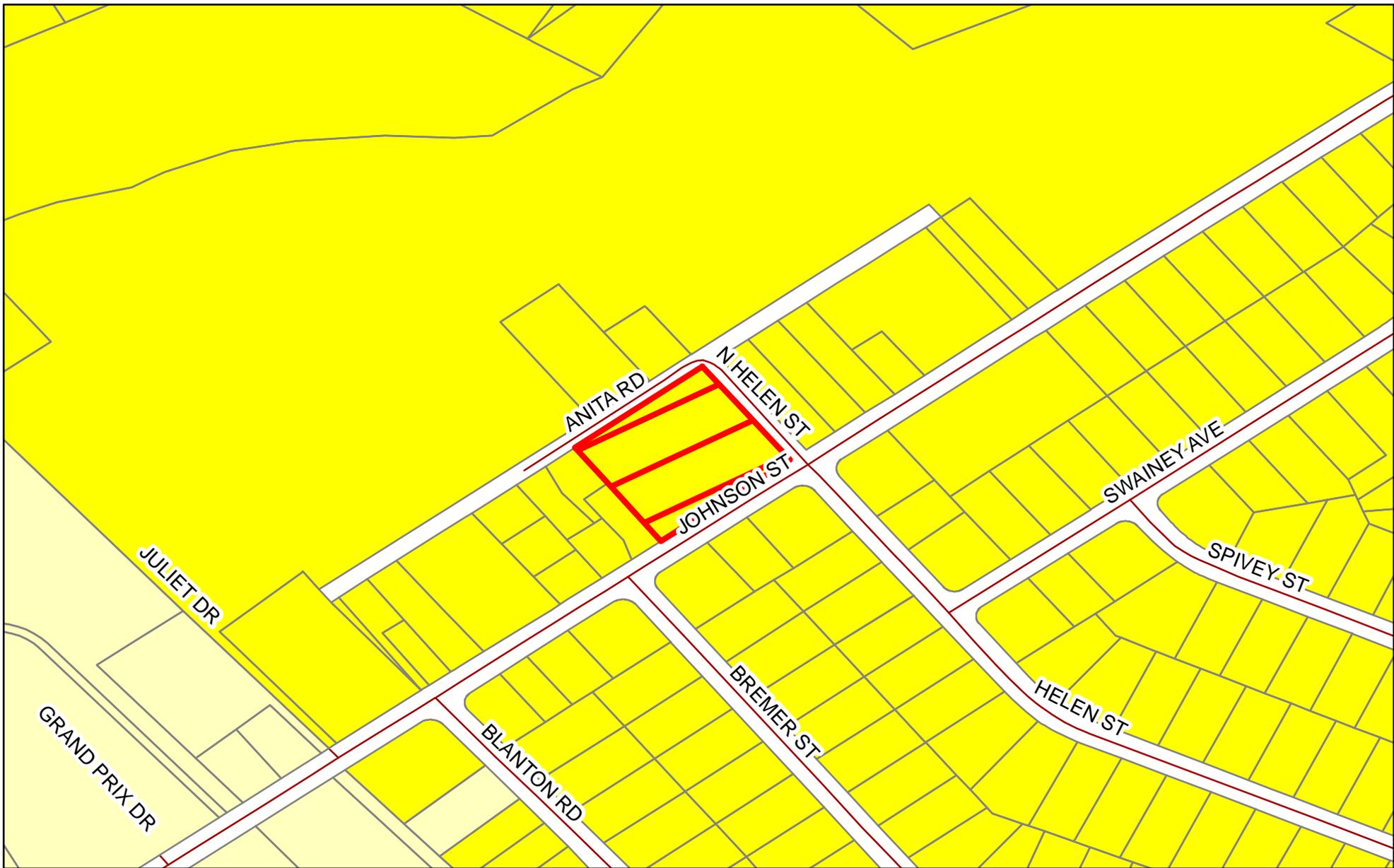
Legend

-  P23-35
-  P23-35 Notification Radius



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





Zoning Map

Case #: P23-35

Request: Conditional Rezoning
 Single Family Residential 10 (SF-10)
 to Single Family Residential 10
 Conditional Zoning District (SF-10/CZ)

Location: 809 Johnson Street

Legend



P23-35



SF-6 - Single-Family Residential 6

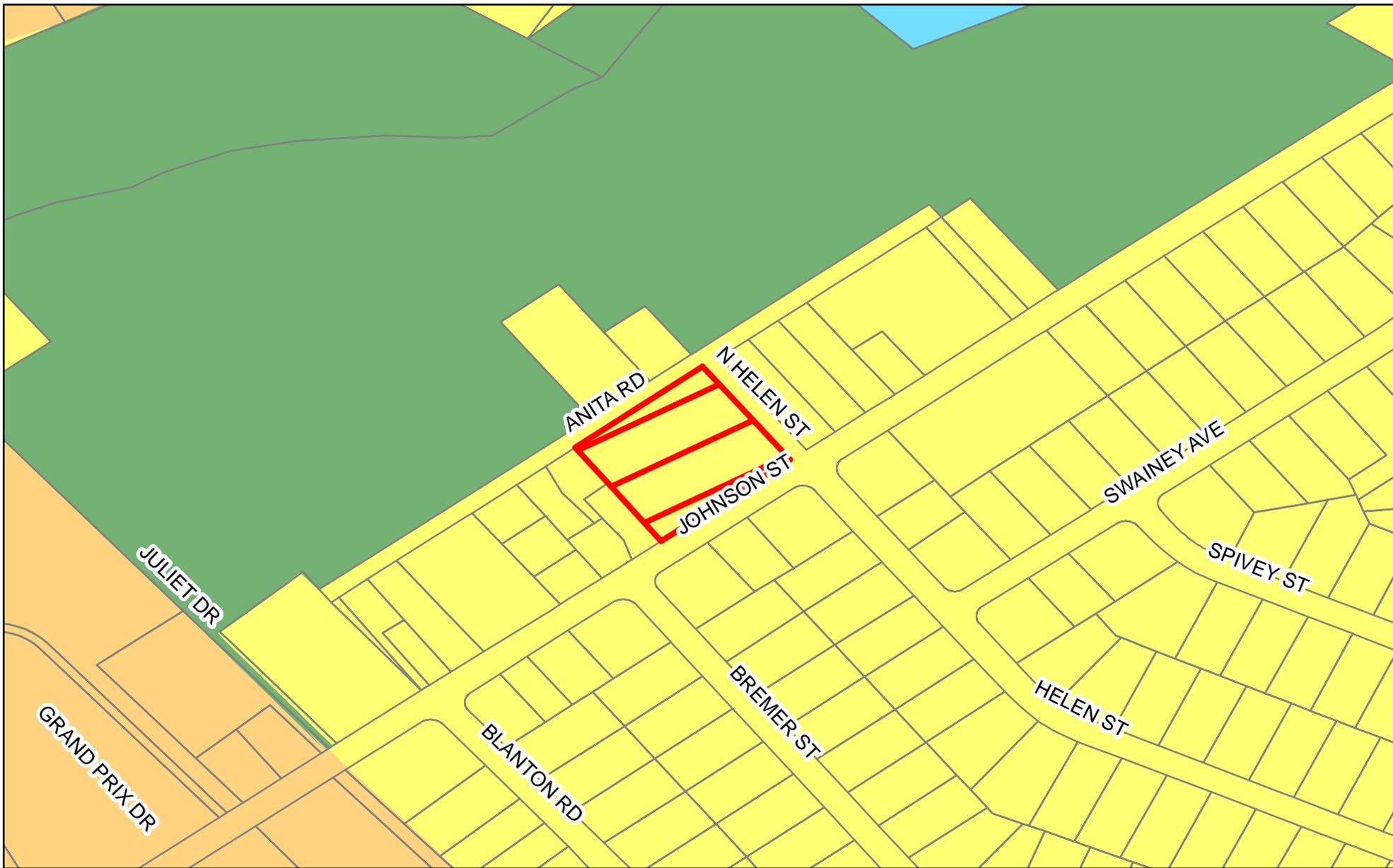


SF-10 - Single-Family Residential 10



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 #: P23-35

Request: Conditional Rezoning
 Single Family Residential 10 (SF-10)
 to Single Family Residential 10
 Conditional Zoning District (SF-10/CZ)

Location: 809 Johnson Street

Legend



P23-35

Land Use Plan 2040

Character Areas

-  PARKOS - PARK / OPEN SPACE
-  LDR - LOW DENSITY
-  MDR - MEDIUM DENSITY
-  OI - OFFICE / INSTITUTIONAL

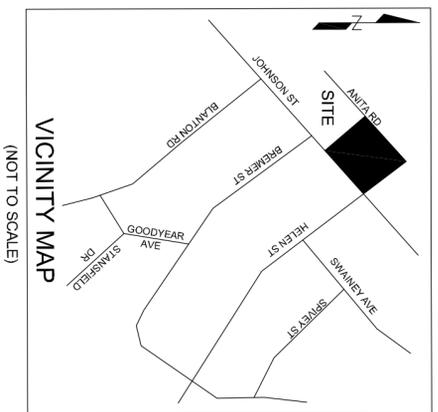


Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.









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 IDEED DESCRIPTION RECORDED IN PLAT BOOK 113, PAGE 111). THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN PLAT BOOK 110, PAGE 196; THAT THE RATIO OF PRECISION CALCULATED IS GREATER THAN 1:10,000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-20 AS AMENDED; WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND OFFICIAL SEAL THIS 9TH DAY OF AUGUST, 2023.

MICHAEL J. ADAMS
P.L.S. L481
C.F.S. NC-075

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

CONDITIONAL REZONING REQUEST

***A - BUILDINGS DO NOT MEET 20' MINIMUM REQUIRED (SECTION 30-3-D-3).**

*A1 - 16.24'
*A2 - 16.29'
*A3 - 14.49'

***B - BUILDINGS DO NOT MEET CURRENT SETBACK STANDARDS (SECTION 30-3-D-3).**

*B1 - 4.07' (10)
*B2 - 19.75' (30)
*B3 - 24.37' (30)
*B4 - 28.57' (30)
*B5 - 19.88' (30)
*B6 - 19.88' (30)
*B7 - 7.04' (30)

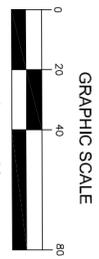
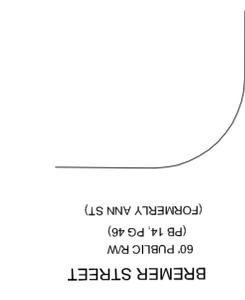
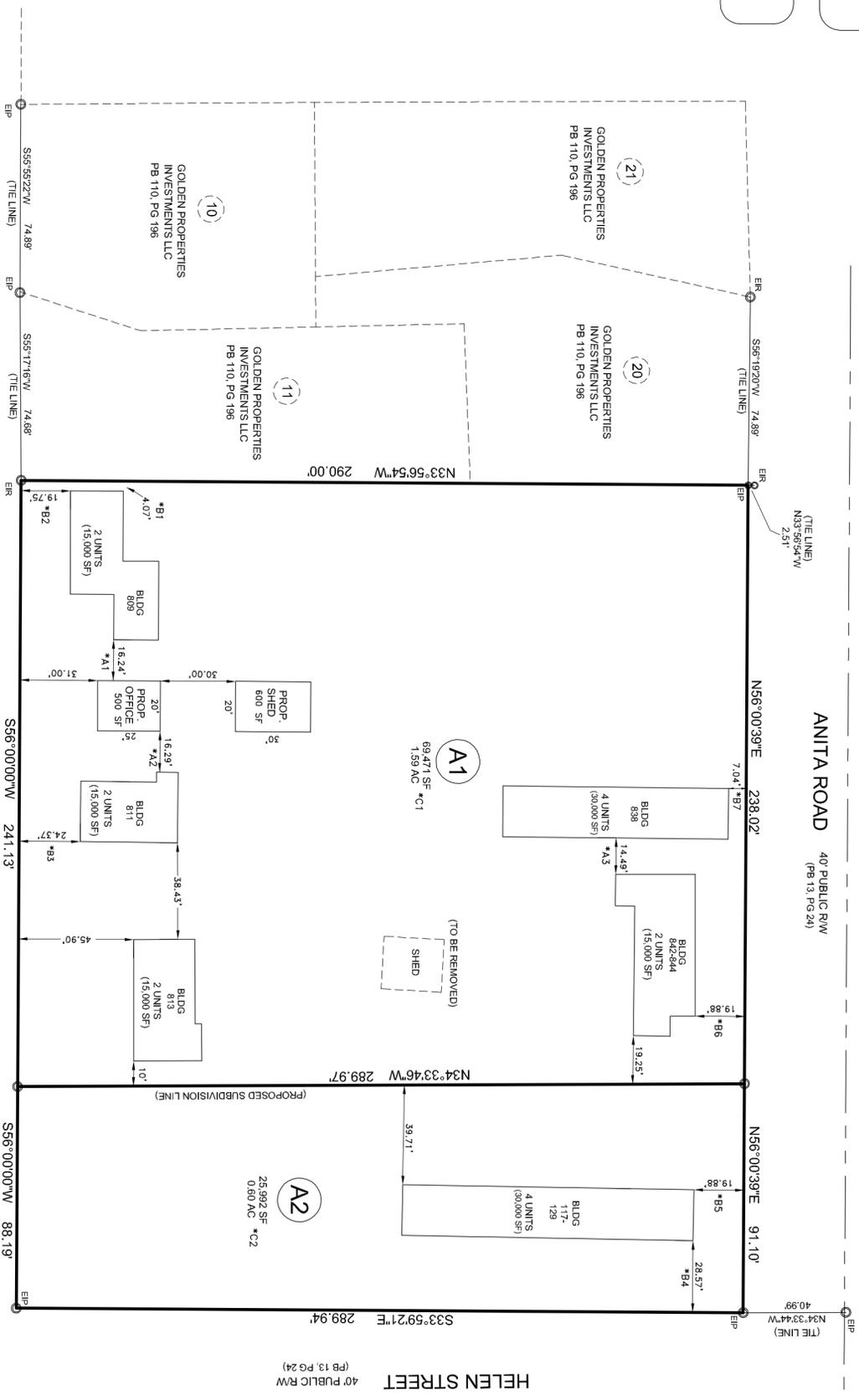
***C - LOTS DO NOT MEET CURRENT ZONING STANDARDS FOR NUMBER OF UNITS.**

*C1 - 69,471 SF (30,000 SF)
*C2 - 25,992 SF (30,000 SF)
FIGURES ARE BASED ON SF-10 ZONING OF 7,500 PER UNIT FOR 2-4 FAMILY DWELLINGS

PROPOSED REZONING: SF-10 (CUD)

NOTES

1. AREA COMPUTED BY COORDINATES.
2. SET IRON PIPES ON ALL CORNERS NOT MONUMENTED.
3. THE STRUCTURES WITHIN THIS RECOMBINATION DO NOT MEET CURRENT STANDARDS FOR THE DEVELOPMENT WITHIN THIS PROPERTY SHALL CONFORM TO THE CITY OF FAYETTEVILLE REGULATIONS.
4. SETBACKS - FRONT - 30'
REAR - 35'
SIDES - 10'
5. NO NCSS MONUMENT FOUND WITHIN 200' OF SUBJECT PROPERTY.
6. ALL DISTANCES ARE HORIZONTAL GROUND.



M.A.P.S.
SURVEYING, INC.
C-2589
216 MASON ST
FAYETTEVILLE, N. C. 28301
TELEPHONE: (910) 464-6432
maps@mapsurveying.com

SURVEYED BY: MAJ/KBC/DA DRAWN BY: MAJ
CHECKED & CLOSURE BY: MAJ

ABEL YOUNG

(PROPOSED DIVISION AND REZONING OF LOT A - PB 113, PG 111)

TOWNSHIP: CROSS CREEK
CITY: FAYETTEVILLE, NC
COUNTY: CUMBERLAND
ZONING: SF-10

SCALE: 1" = 40'
DATE: AUGUST 8, 2023

TAX PIN: 0419710180000

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 P23-35 is consistent with the City of Fayetteville’s Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

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

2. LAND USE POLICES AND STRATEGIES:

LAND USE POLICES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods.	X	
3.1: Examine and identify target redevelopment and infill areas throughout the city.	X	
3.2: Identify potential barriers for redevelopment and reinvestment and provide flexibility through modification to development regulations while maintaining high standards	X	
3.3: Coordinate efforts among departments to create synergistic opportunities for reinvestment in distressed 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 polices of the Comprehensive Plan as stated above and the Strategic Plan as stated in the Staff Report, and because: [select all that apply]

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

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

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

Additional comments, if any (write-in):

September 12, 2023
Date

Chair Signature

Print



City of Fayetteville

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

City Council Action Memo

File Number: 23-3539

Agenda Date: 9/12/2023

Version: 1

Status: Agenda Ready

In Control: Zoning Commission

File Type: Public Hearing
(Public & Legislative)

Agenda Number: 5.05

TO: Mayor and Members of City Council

THRU: Zoning Commission

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

DATE: September 12, 2023

RE:

P23-36. Conditional Rezoning of .25 acres ± from Mixed Residential 5 (MR-5) to Mixed Residential 5 Conditional Zoning (MR-5/CZ), located at 418 Old Wilmington Road (REID # 0437709521000), and being the property of Combined Unified Service Inc., represented by Deborah Harris.

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
- Objective 2.4 - To sustain a favorable development climate to encourage business growth

Goal III: City invested in Today and Tomorrow

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

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

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

Executive Summary:

The applicant is seeking conditional rezoning of approximately 0.25 acres ± to MR-5/CZ to introduce an extra permitted use (a day resource center). They are requesting an exemption from the mandatory 750 ft. separation from residential districts, a reduction of the rear yard setback from 30 ft. to 19.77 ft., and a reduction of the side setback from 10 ft. to 0.52 ft. The

proposal also includes the incorporation of a 10 ft. type D buffer featuring a 6 ft. solid fence along the rear property line. Furthermore, they are looking to decrease the minimum parking requirement from 36 spaces to 5 spaces.

Background:

Applicant: Deborah Harris

Owner: Combined Unified Service - INC.

Requested Action: Conditional Rezoning from MR-5 to MR-5/CZ

REID #: 0437709521000

Council District: 2 - Shakeyla Ingram

Status of Property: Vacant commercial concrete masonry building (built 1950)

Size: .25 acres ±

Adjoining Land Use & Zoning:

- North: MR-5 - Vacant
- South: MR-5 - Vacant
- East: MR-5 - Oak Run apartments
- West: MR-5 - Single Family dwelling

Annual Average Daily Traffic: Old Wilmington Road: 4,000 (2021)

Letters Mailed: 124

Land Use Plans:

Following the adoption of the 2040 Comprehensive Plan on May 26, 2020, all properties within the city limits and those designated in the Municipal Influence Area (MIA) are bound by this plan. As per the Plan's guidance, this section of the city is designated for High Density Residential (HDR) development. The HDR designation supports townhomes and apartments in 3-5 story structures, potentially including small single-family lots. Generally, this allows for 5-16 dwellings per acre, fostering active and compact neighborhoods with walkable access to nearby commercial centers.

Issues/Analysis:

History:

As per Cumberland County tax records, the current building was constructed in 1950. In 2012, the structure functioned as a church for Spiritual Awakening Ministries, but appears to have remained vacant since. In June 2023, Julius and Hadassah Toney conveyed the property to Combined Unified Service - INC.

Surrounding Area:

The majority of the surrounding area around the subject property is zoned MR-5, allowing for a variety of land uses. Towards the north, there's vacant land, while to the south, you'll find both vacant lots and a storage facility. Moving eastward, the Oak Run apartments are situated within the MR-5 zone. On the western side, there's a single-family dwelling, also within the MR-5 zoning designation. Most of the properties in the vicinity are residential. Notably, there are several churches situated within a quarter-mile radius, and a convenient barbershop is located just half a mile away from the property.

Rezoning Request:

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

Conditional Zoning:

The request is to conditionally rezone approximately 0.25 acres to MR-5/CZ. The purpose of the CZ zoning district is "intended to provide a landowner and the City an alternative to rezoning the land to a standard base zoning district, where the base zoning allows certain uses and

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

Specifics of this Conditional Rezoning:

The proposed conditions are as follows:

1. Add the following uses:

- Day Resource Center

2. Exemption from mandatory 750 ft. separation from residential districts.

3. Reduce the required rear yard setback from 30 ft. to 19.77 ft.

4. Reduce the required side yard setback from 10 ft. to 0.52 ft.

5. Incorporate a 10 ft. type D buffer featuring a 6 ft. solid fence along the rear property line.

6. Reduce the required minimum parking from 36 spaces to 5 spaces.

Land Use Plan Analysis:

According to the Future Land Use Map & Plan, this general area is recommended to be developed as High Density Residential. The Future Land Use Plan also sets forth written goals, policies, and strategies. This application follows the City’s strategic, compatible growth strategies and does meet the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

Conclusion:

A Day Resource Center is an excellent match for an area designated for high-density residential development due to its alignment with the evolving needs of the community. In these dynamic neighborhoods, characterized by active, compact living and convenient access to amenities, a Day Resource Center can play a vital role in providing essential services such as counseling, vocational training, and hygiene facilities. Its presence promotes community support and inclusivity, addressing the diverse needs of residents and contributing to an overall vibrant living environment. By facilitating access to vital services, fostering economic opportunities through skill development, and adopting a compassionate approach to homelessness, the Day Resource Center aligns seamlessly with the principles of high-density residential development.

Considering the building's age and the limited size of the lot, it becomes necessary to introduce conditions affecting dimensional standards. An older building might not conform to modern setback requirements or other zoning regulations, necessitating flexibility to accommodate the existing structure. Similarly, a small-sized lot might present challenges in meeting standard parking or setback requirements. By allowing reasonable adjustments to these standards, the Day Resource Center can be integrated effectively into the high-density residential area while respecting the constraints of the property. These conditions acknowledge the unique characteristics of the building and lot, ensuring a balanced approach that combines historical preservation with the area's future development goals.

Budget Impact:

There is not an immediate budgetary impact.

Options:

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

Recommended Action:

The Professional Planning Staff recommends that the Zoning Commission move to recommend APPROVAL of the map amendment to MR-5/CZ based on the following:

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

Attachments:

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

Project Overview **#1076401**

Project Title: Combined Unified Day Resource Center
Application Type: 5.2) Conditional Rezoning
Workflow: Staff Review
Jurisdiction: City of Fayetteville
State: NC
County: Cumberland

Project Location

Project Address or PIN: 418 OLD WILMINGTON RD
 (0437709521000) **Zip Code:** 28301

GIS Verified Data

Property Owner: Parcel <ul style="list-style-type: none"> 418 OLD WILMINGTON RD: COMBINED UNIFIED SERVICE-INC 	Acreage: Parcel <ul style="list-style-type: none"> 418 OLD WILMINGTON RD: 0.25
Zoning District: Zoning District <ul style="list-style-type: none"> 418 OLD WILMINGTON RD: MR-5 	Subdivision Name:
Fire District: Hospital Overlay District: Cape Fear District: Haymount Historic District: 100 Year Flood: <100YearFlood> Watershed:	Airport Overlay District: Coliseum Tourism District: Downtown Historic District: Floodway: 500 Year Flood: <500YearFlood>

General Project Information

Proposed Conditional Zoning District: MR-5/CZ - Conditional Mixed Residential 5
Was a neighborhood meeting conducted?: No
Number of Residential Units: 0
Lot or Site Acreage to be rezoned: .25
Date of Neighborhood Meeting:
Nonresidential Square Footage: 3150

Landowner Information

Landowner Name: Combined Unified Services
Deed Book and Page Number: Book of Plats 7, Page 111, Cumberland County Registry

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

<p>A) Describe the proposed use of the rezoned land, including the proposed types of site improvements, buildings, uses, proposed activities, hours of operation, and operating characteristics.:</p>	<p>B) Describe the proposed conditions that should be applied.: Proposed Conditions</p> <ol style="list-style-type: none"> 1. Allow for commercial kitchen appliances
--	---

Proposed Uses:

Site Improvements

1. Restore currently condemned building on property
2. Place a fence around back of property to contain a city dumpster to be placed on property
3. Pave parking area
4. Signage of the organization
5. As needed site enhancements e.g. shrubbery

Building Use

1. Preparing and serving meals twice weekly for low income and homeless populations
2. Food, clothing, and furniture distribution for low income and homeless populations
3. Resource services e.g. finding shelter, assisting with transportation and etc for low income and homeless populations
4. Educational support services, e.g. school supply distribution for low income school-aged children

Hours of Operation

1. Meal Service - 8:30 - 12:00 M, W
2. Food, Clothing and Furniture Distribution - 8:30 - 12:00 M, W or by appointment daily
3. Collection, organization, storage and distribution of items. M-F 8:00 - 2:00

Operating Characteristics

1. Large scale food preparation
2. Recipient lines, (approximately 25 steady flow people)
3. Recipient lingering to eat and select clothing
4. Uniformed volunteers (5-10 volunteers)
5. Hot Dog vendor once a week donating hot dogs
6. Increased vehicle parking

2. Permit serving of recipients which allows for limited time in the building (once repaired) and with outdoor eating options when necessary
3. Allow for increased vehicle parking
4. Allow dumpster
5. Allow Cargo container for extra storage
6. Occasional grilling of food

8/7/2023: Conditions amended per email from applicant.

Conditions as follows:

1. Allow day resource center as a permitted use
2. Reduce the required 750 foot separation from residential districts to 0 feet.

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

Current Zoning Designation - MR-5. (consist of residential, religious and small service organizations e.g. barber shops.

Existing Use - Majority of properties across and adjacent to the property are low income residential. Several churches are less than .25 miles away and a barbershop exist less than 1/2 mile away

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

A) State the extent to which the proposed amendment is consistent with the comprehensive plan and all other applicable

long-range planning documents.:

The comprehensive plan promises a "Focus on the Future for managing the City's future growth through a comprehensive land use plan".

The work of Combined Unified mirrors that commitment by focusing on the people who occupy and are most likely affected by how the land is used.

Often comprehensive plans acknowledge the potential benefit of an organizational growth plan but may not directly facilitate benefactor outcomes. This is especially true for low-income and homeless populations.

Our work promises:

1. The restoration of a "condemned building right in the middle of a beautifully restored residential area for low income families.
2. To foster a safe, stable and more attractive neighborhood (Goal 4) by providing resources essential to the surrounding communities (Oak Run Housing, Vanstory Housing, Meadows Place), especially given the food desert status of the Old Wilmington Road corridor.
3. Provide support services for the homeless who become protective of our services and less likely to intrude on the surrounding communities.

Per your implementation strategies, Combined Unified will seek to increase public engagement by ensuring the surrounding community recognizes the value of the comprehensive land use plan. Granting our conditional zoning request will directly benefit them. Many have expressed great concern that we may not be able to continue our services because of zoning challenges. We are certain if given the opportunity, they will speak in support of our conditional zoning request which will allow for the continuation of our service mission.

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

Yes. We were cited with code violations because our work was not permitted in an MR-5 zone. Specifically:

1. Because the building cannot be occupied, food preparation and serving was done on the outside which is a violation for this zone
2. A dumpster is not allowed in this zoning area but our work requires one
3. When building is renovated, commercial kitchen appliances will be necessary but it is not allowed in this zone.

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

The Old Wilmington Road corridor is a food desert which minimizes the ability to readily access grocery stores, etc. We distribute produce, can goods, dry goods and everyday staples on Monday and Wednesdays. Other days of the week are on an as need basis. We also provide food, clothes, furniture, etc to the surrounding community and homeless populations. We serve hundreds of people every week. . The location of our building is across from a bus stop which allows for ease of accessibility.

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.:

Several churches are located in the vicinity of 418 Old Wilmington Road. These churches typically have food distribution activities during Thanksgiving and Christmas holidays. For the most part, they are doing the same thing we are doing only less. If it is okay for them to sponsor such events 1-2 times a year, it would seem that our ministry should be able to serve on a more consistent basis which directly responds to the needs of the community.

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

Two points:

1. Prior to the building being condemned, we stored our goods in the building and served from the outside. We have had only one incident where a homeless man had not taken his medicine and became weak. An ambulance was called and he was back in line on the next serving day. Having to wait outside might have contributed to his weak spell. Changing the code so that we can offer inside options is a step in the right direction toward a more orderly developmental pattern of service to the community.
2. A small fire sparked from a grill resulted in the fire Marshall condemning the building. Albeit challenging, it is a blessing. We would have continued doing our work while we sought options for building repair. We now know the process and are fully engaged in ensuring adherence to all codes. As such, bringing the building to code as well as ensuring activities are not in violation aligns our efforts with the city's commitment to a logical and orderly development pattern. It also allows the opportunity to envision future possibilities.

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

The current request responds to an immediate need. It may however, lead to others engaging in more self-serving activities such as yard sells, etc. Additionally, some may have unreasonable expectations about what more we could do and make demands accordingly. We fully expect our services to expand but because this is a mission-driven work, we are hopeful about our ability to manage unexpected or unintended outcomes.

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

As a matter of fact, we do not look at this through the lens of a developer so our perspective may be limited. Nonetheless 2 points:

1. The property has only one empty lot next door which we would love to secure for parking. All other properties on both sides of us are residential.
2. Given our work, it is doubtful that others will perceive this as an opportunity to develop a strip-style commercial development.

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.:

Given other service related entities like churches, becoming an isolated zoning district seems unlikely. Instead, it may enhance the service potential of other such entities.

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

The majority of the residential properties are low-income public housing which will not be affected.

The property values of the single family homes in the vicinity might benefit from a Day Resource center as a part of the neighbor amenities.

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

Paving the parking lot and placing a fence around the back of the building will require the movement of several trees. Traffic flow will be greatly enhanced however.

Primary Contact Information

Contractor's NC ID#:

Project Owner

Deborah Harris
Combined Unified Services
418 Old Wilmington Road
Fayetteville, NC 28301
P:813-245-9779
combinedunified@gmail.com

Project Contact - Agent/Representative

Deborah Harris
Combined Unified Services
418 Old Wilmington Road
Fayetteville, NC 28301
P:813-245-9779
combinedunified@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:

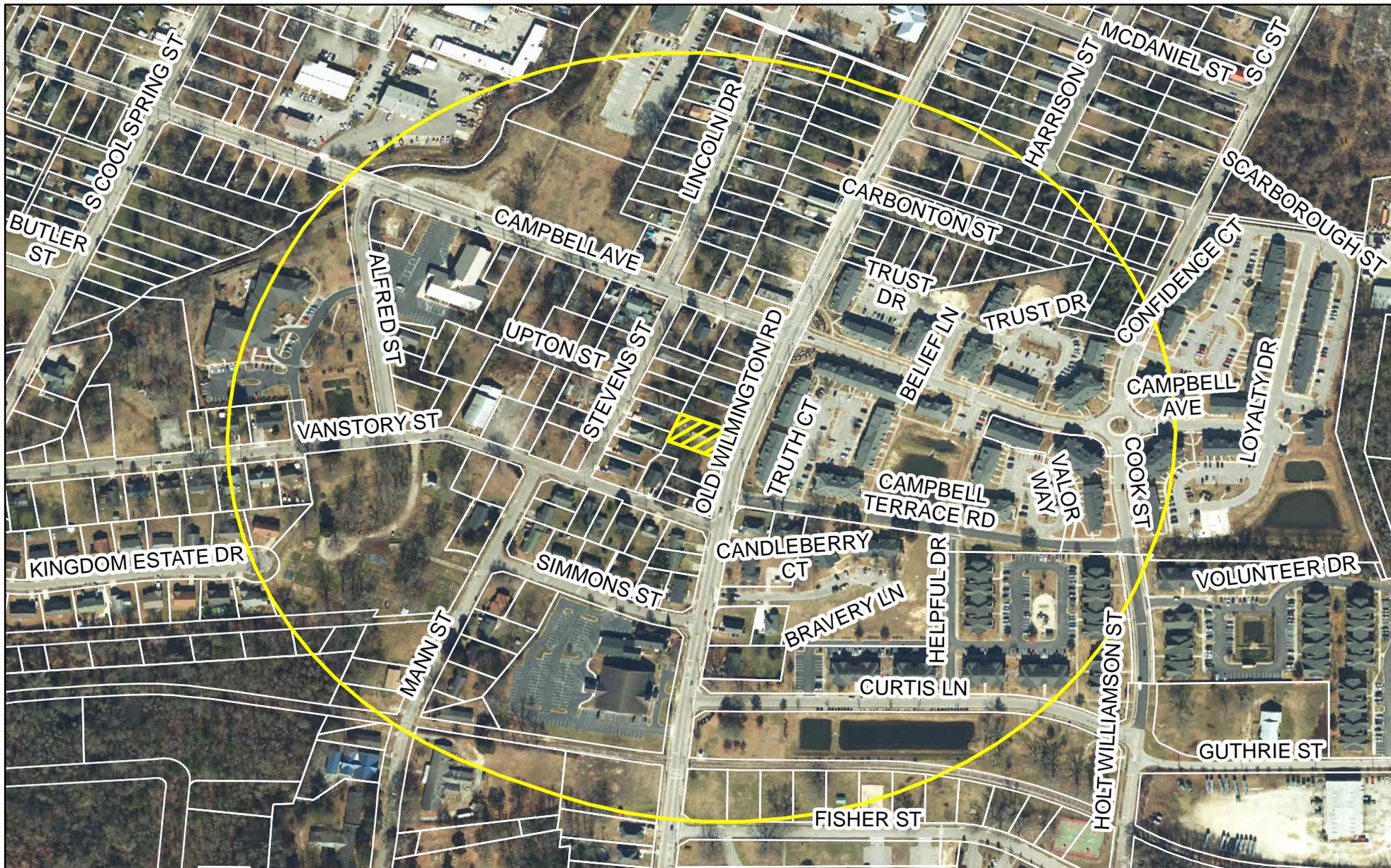
NC State Electrical Contractor #2 License Number:

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 #: P23-36

Request: Conditional Rezoning Mixed Residential 5 (MR-5) to Mixed Residential 5 Conditional Zoning (MR-5/CZ)

Location: 418 Old Wilmington Road (0437709521000)

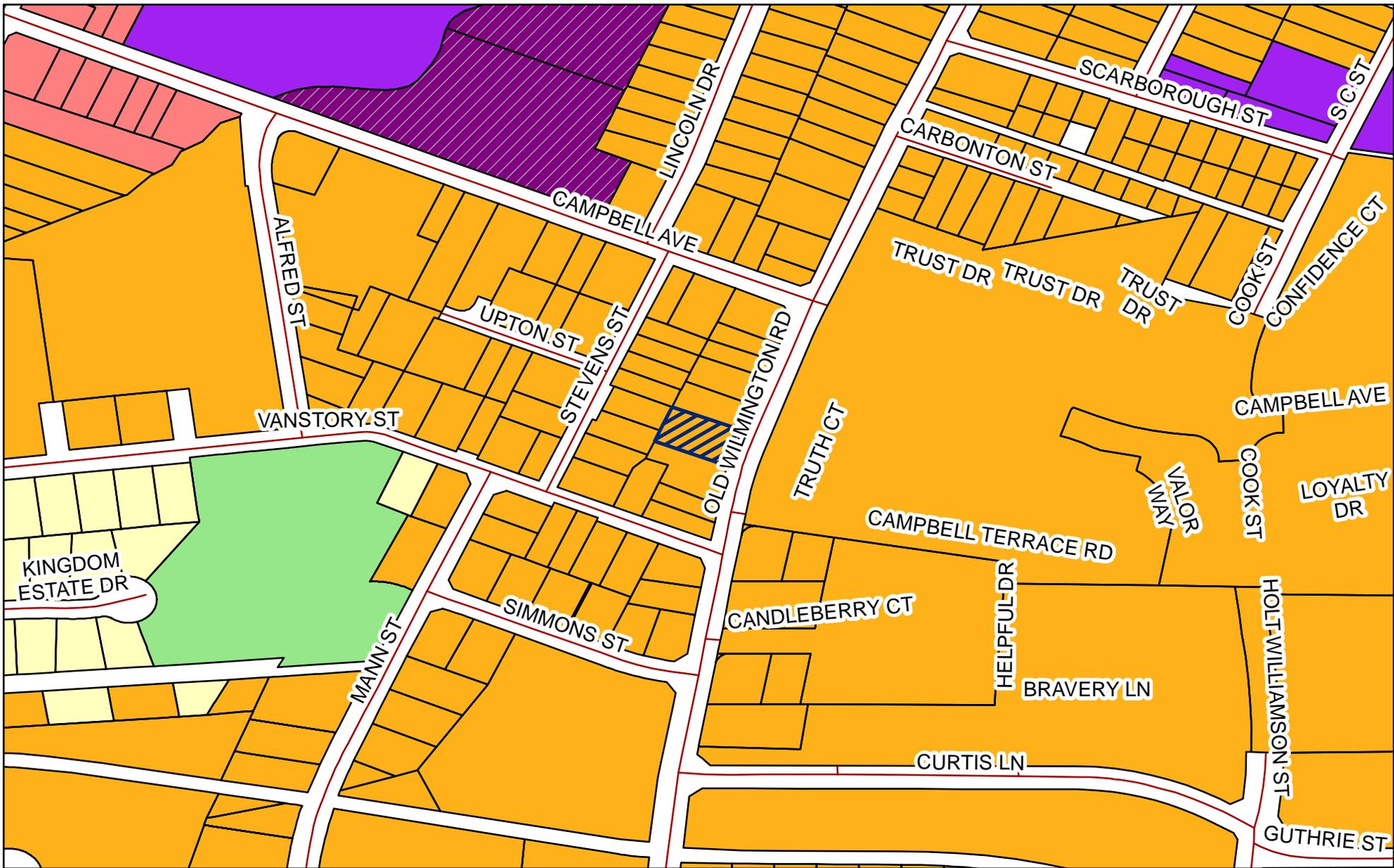
Legend

-  P23-36 Buffer
-  P23-36



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





Zoning Map

Case #: P23-36

Request: Conditional Rezoning Mixed Residential 5 (MR-5) to Mixed Residential 5 Conditional Zoning (MR-5/CZ)

Location: 418 Old Wilmington Road (0437709521000)

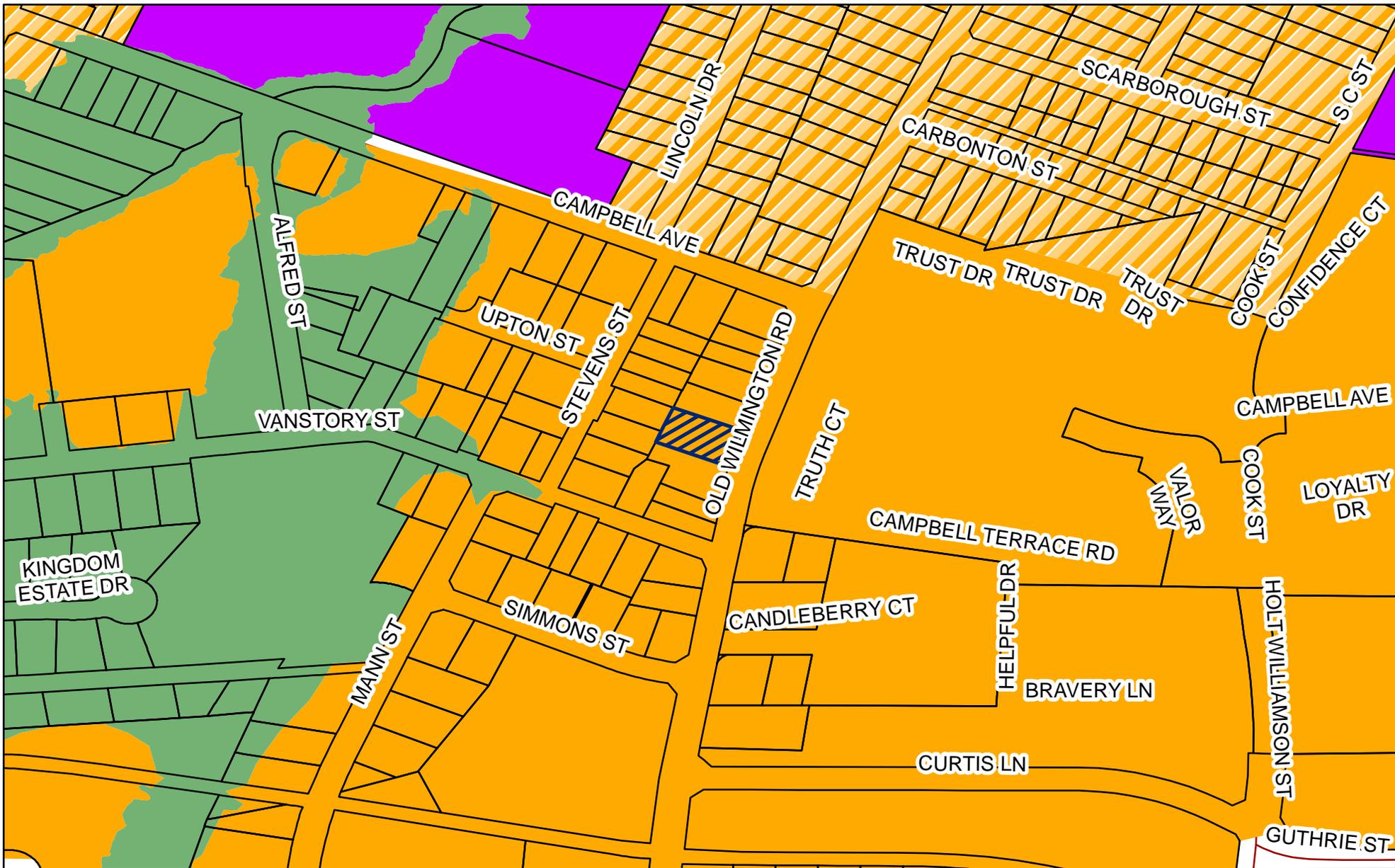
Legend

-  P23-36
-  CD - Conservation District
-  HI - Heavy Industrial
-  LC - Limited Commercial
-  MR-5 - Mixed Residential 5
-  MU/CZ - Conditional Mixed-Use
-  SF-6 - Single-Family Residential 6
-  County



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





Future Land Use Map

Case #: P23-36

Request: Conditional Rezoning Mixed Residential 5 (MR-5) to Mixed Residential 5 Conditional Zoning (MR-5/CZ)

Location: 418 Old Wilmington Road (0437709521000)

Legend



P23-36

Land Use Plan 2040

Character Areas

-  PARKOS - PARK / OPEN SPACE
-  NIR - NEIGHBORHOOD IMPROVEMENT
-  HDR - HIGH DENSITY RESIDENTIAL
-  EC - EMPLOYMENT CENTER



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





Surrounding Properties



West



North



South



East



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 P23-36 is consistent/inconsistent with the City of Fayetteville’s Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

Consistency

1. GOALS

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

2. LAND USE POLICES AND STRATEGIES:

LAND USE POLICES AND STRATEGIES	CONSISTENT	INCONSISTENT
LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.	X	
1.2: Encourage more intense uses, greater mix of uses and denser residential types in focal areas.	X	
LUP 2: Encourage Strategic Economic Development	X	
2.1: Encourage economic development in designated areas <ul style="list-style-type: none"> • Encourage economic development in key areas including Downtown, Office/Institutional Areas, Industrial/Employment Areas, Regional and Community Centers, and Highway Commercial Areas 	X	
LUP 3: Encourage Redevelopment Along Underutilized Commercial Strip Corridors and Reinvestment in Distressed Residential Neighborhoods	X	
3.1: Examine and identify targeted redevelopment and infill areas throughout the city	X	

LUP 4: Create Well – Designed and Walkable Commercial and Mixed Use Districts	X	
4.1: Ensure new development meets basic site design standards	X	
4.2: Encourage context sensitive site design	X	

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

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

Reasonableness

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

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

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

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

Additional comments, if any (write-in):

September 12, 2023

Date

Chair Signature

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