



# City of Fayetteville

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

## Meeting Agenda - Final Zoning Commission

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Tuesday, October 10, 2023

6:00 PM

FAST Transit Center

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### 1.0 CALL TO ORDER

### 2.0 APPROVAL OF AGENDA

### 3.0 CONSENT

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

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

**3.03** Approval of Minutes: September 12, 2023

### 4.0 PUBLIC HEARINGS (Public & Legislative)

**4.01** P23-39. Rezoning of 1.42 acres  $\pm$  from Mixed Residential 5 (MR-5) to Heavy Industrial (HI), located at 1009, 1015, & 0 North Street (REID #'s 0438700243000, 0438700340000, & 0438609391000), and being the property of DRA LLC, represented by Thomas Lloyd of Franklin Johnson Commercial Real Estate.

**4.02** P23-40. Rezoning of 6.00 acres  $\pm$  from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5), located at 1133 Berkshire Road (REID # 0427008217000), and being the property of Berkshire Beckham Capital Investments LLC, represented by Brad Schuler of Paramounte Engineering, Inc.

**4.03** P23-41. Rezoning from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5) located at 6677, 6655 Clifdale Road and an unaddressed parcel on Clifdale Road (REIDs 9497861260000, 9497863078000, and 9497862193000) totaling 2.8 acres  $\pm$  and being the property of Juan & Denise Macias and JFC LLC, represented by George M. Rose, P.E..

- 4.04** P23-42. Conditional rezoning from Single Family Residential 6 (SF-6) to Single Family Residential 6 Conditional Zoning (SF-6/CZ) located at 1708 Bragg Boulevard (REID 0428703150000) totaling 2.8 acres ± and being the property of Linda Kay Davis-Amos, represented by Thomas Neville of Yarborough, Winters, & Neville, P.A..
- 4.05** P23-43. Initial zoning of 13.84 acres ± from Planned Industrial District (M(P)/M(P) CZ) to Heavy Industrial (HI), located at 1416, 1446, and 1476 Middle River Loop (REID #'s 0447683174000, 0447673767000, 0447672620000), and being the property of Fulcher Real Estate, LLC, represented by Kenneth Smith of Smith Site Consultants, PLLC.

## 5.0 OTHER ITEMS OF BUSINESS

## 6.0 ADJOURNMENT





# City of Fayetteville

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

## City Council Action Memo

File Number: 23-3576

**Agenda Date:** 10/10/2023

**Version:** 1

**Status:** Agenda Ready

**In Control:** Zoning Commission

**File Type:** Consent

**Agenda Number:** 3.01

**TO:** Mayor and Members of City Council

**THRU:** Zoning Commission

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

**DATE:** October 10, 2023

**RE:**

**A23-37. Order of Approval - Findings of Fact: 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.

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



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

An Evidentiary hearing was held by the Zoning Commission regarding this case on September 12, 2023. After hearing all relevant testimony and receiving all evidence, the Commission voted 5-0 to approve this 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.”

**Budget Impact:**

None

**Options:**

1. Approve Findings as presented.
2. Approve Findings with specific changes.

**Recommended Action:**

Approve Findings as presented.

**Attachments:**

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

## Project Overview

#1087199

**Project Title:** Kings Grant  
**Application Type:** 5.4) Variance  
**Workflow:** Staff Review

**Jurisdiction:** City of Fayetteville  
**State:** NC  
**County:** Cumberland

## Project Location

**Project Address or PIN:** 343 SHAWCROFT RD  
(0530580507000)

**Zip Code:** 28311

## GIS Verified Data

**Property Owner: Parcel**

- 343 SHAWCROFT RD: VICK, TODD E;VICK, JENNIFER S

**Acreage: Parcel**

- 343 SHAWCROFT RD: 0.41

**Zoning District: Zoning District**

- 343 SHAWCROFT RD: PD-R

**Subdivision Name:**

**Fire District:**

**Hospital Overlay District:**

**Cape Fear District:**

**Haymount Historic District:**

**100 Year Flood:** <100YearFlood>

**Watershed:**

**Airport Overlay District:**

**Coliseum Tourism District:**

**Downtown Historic District:**

**Floodway:**

**500 Year Flood:** <500YearFlood>

## Variance Request Information

**Requested Variances:** Minimum yard/setback

**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

**Square Footage of Sign Face:** 0

**Square Footage of Sign Face:** 0

**Square Footage of Sign Face:** 0

**Square Footage of Sign Face:** 0

**Square Footage of Sign Face:** 0

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**Height of Sign Face :** 0

**Height of Sign Face:** 0

**Square Footage of Sign Face :** 0

**Square Footage of Sign Face:** 0

**Square Footage of Sign Face:** 0

**Square Footage of Sign Face:** 0

**Square Footage of Sign Face:** 0

**Square Footage of Sign Face:** 0

### Primary Contact Information

**Contractor's NC ID#:**

**Project Owner**

Todd Vick

517 Lionshead Rd, 10

Fayetteville, NC 28311

P:9103034311

[CHIGGERVICK@GMAIL.COM](mailto:CHIGGERVICK@GMAIL.COM)

**Project Contact - Agent/Representative**

Todd Vick

517 Lionshead Rd, 10

Fayetteville, NC 28311

P:9103034311

[CHIGGERVICK@GMAIL.COM](mailto: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

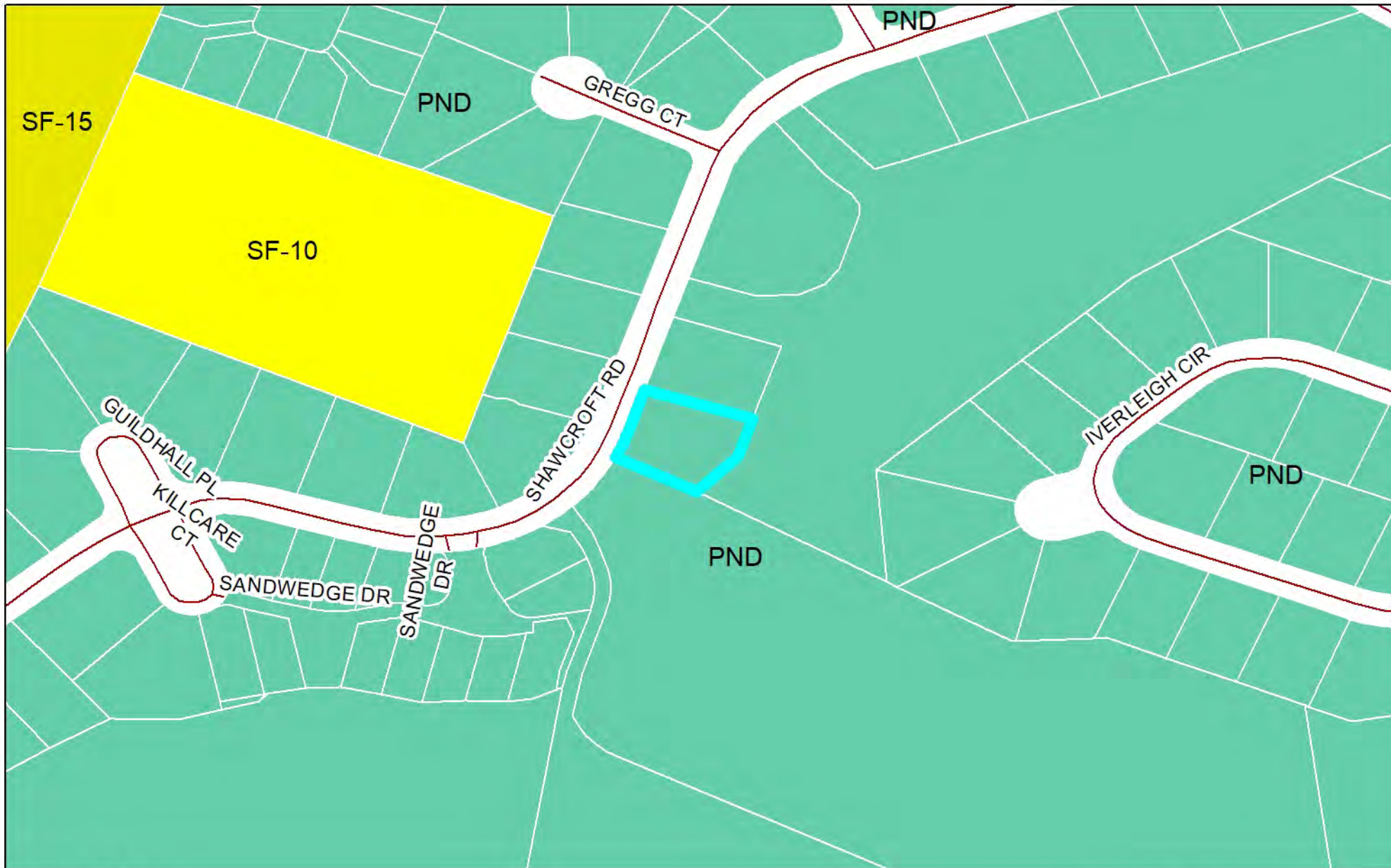
 Parcels\_Buffer24



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: 343 Shawcroft Dr

### Legend

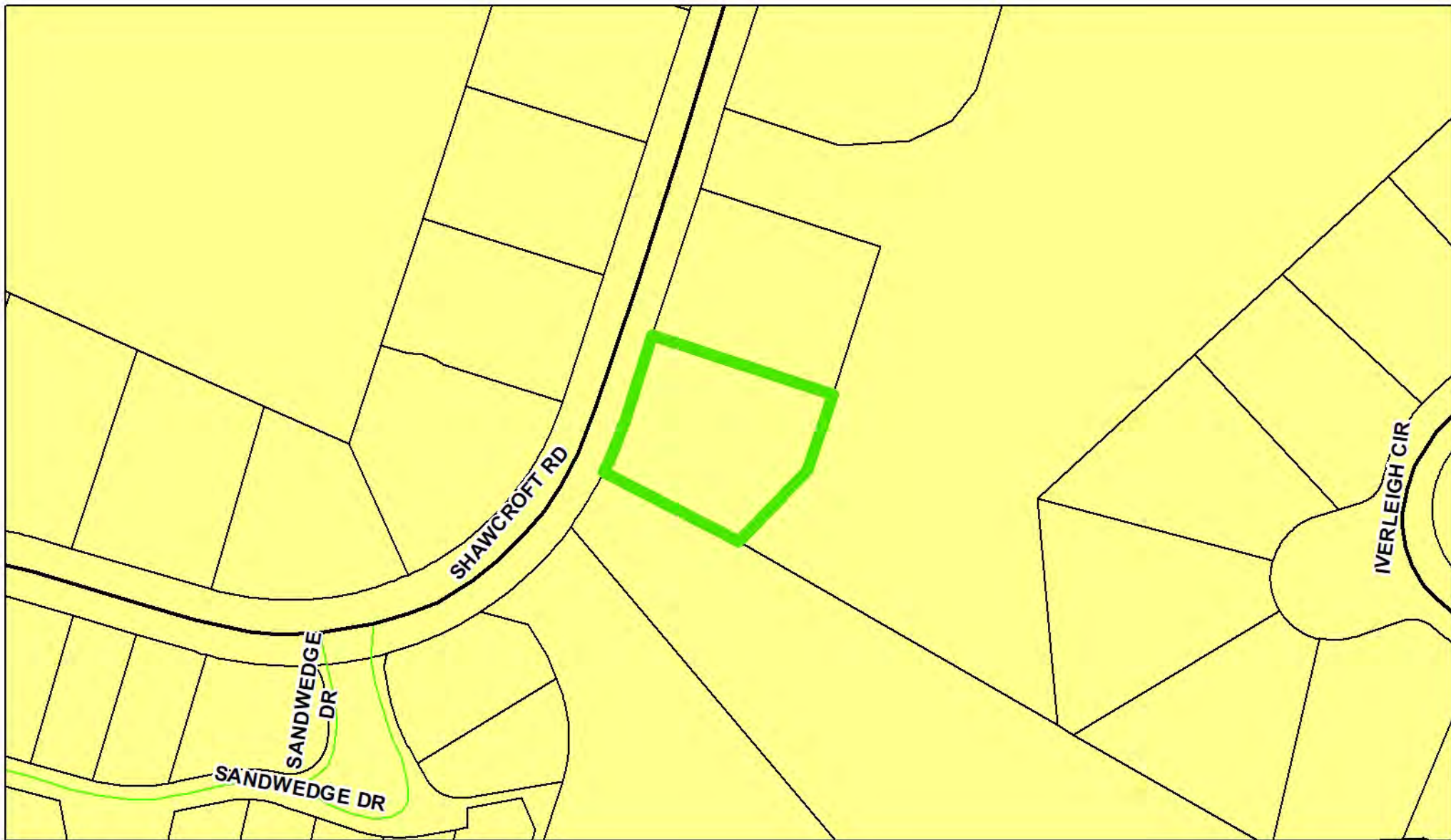
- PND - Planned Neighborhood Development
- SF-10 - Single-Family Residential 10
- SF-15 - Single-Family Residential 15



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



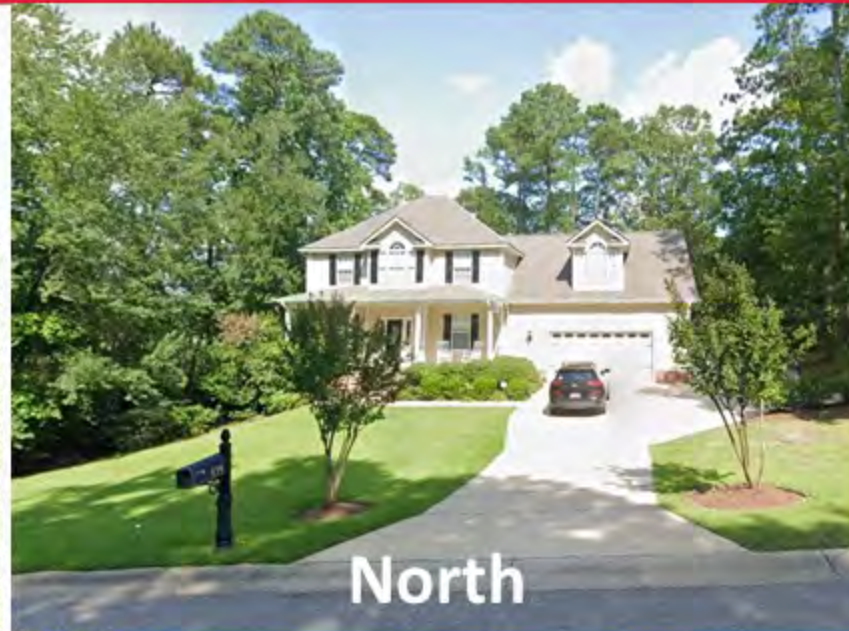
Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.















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'-9"	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

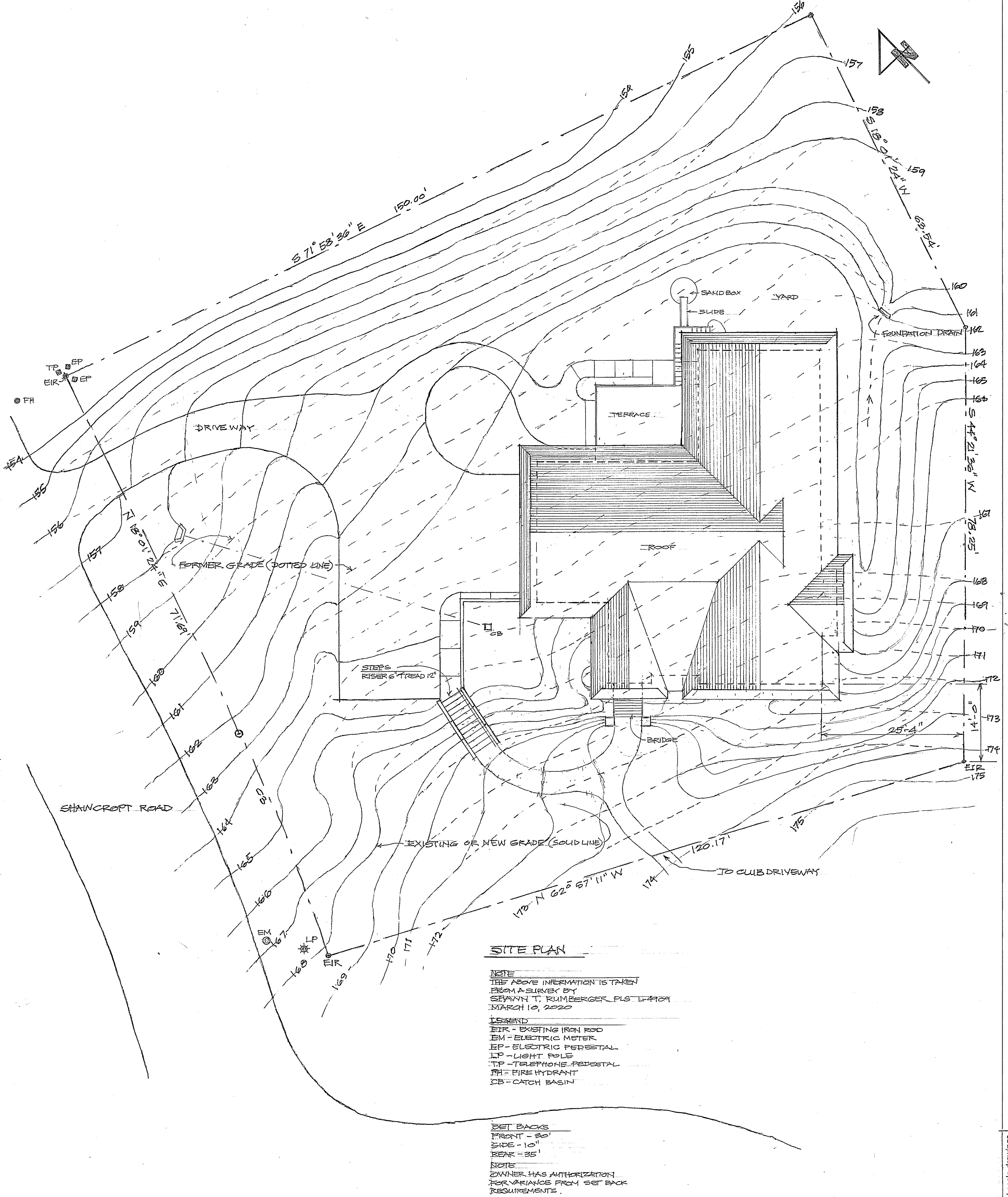
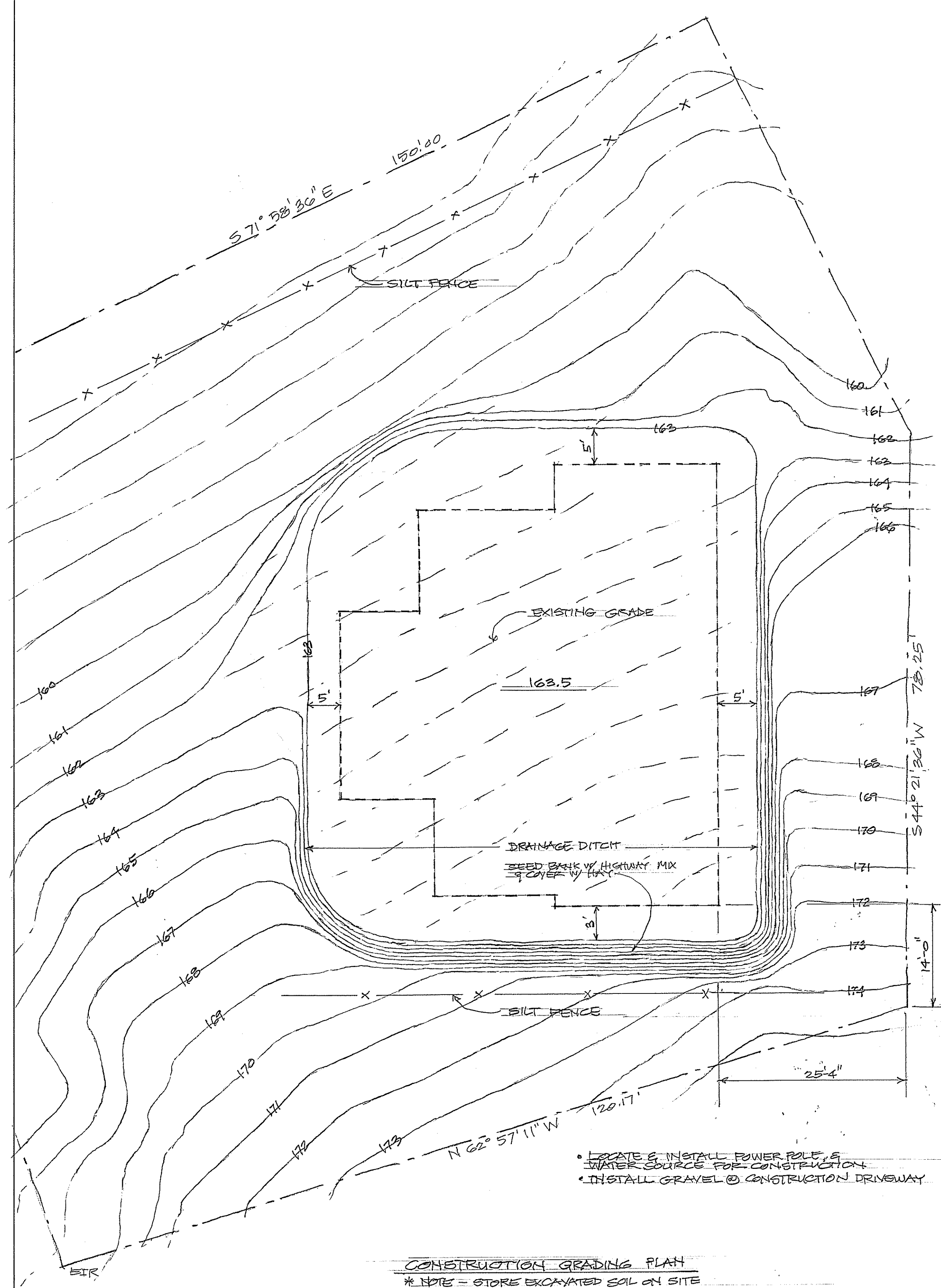
343 SHAWCROFT RD.  
FAYETTEVILLE, NC

COVERSHEET

Issue Date  
Project Status

CS





**SITE PLAN**

NOTE:  
THE ABOVE INFORMATION IS TAKEN  
FROM A SURVEY BY  
SEAWN T. RUMBERGER, PLS L#49109  
MARCH 10, 2020

LEGEND:  
EIR - EXISTING IRON ROD  
EM - ELECTRIC METER  
EP - ELECTRIC PERISTAL  
LP - LIGHT POLE  
TP - TELEPHONE PEDISTAL  
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  
change orders - specifications

**redesign design**  
Commercial • Residential • Professional

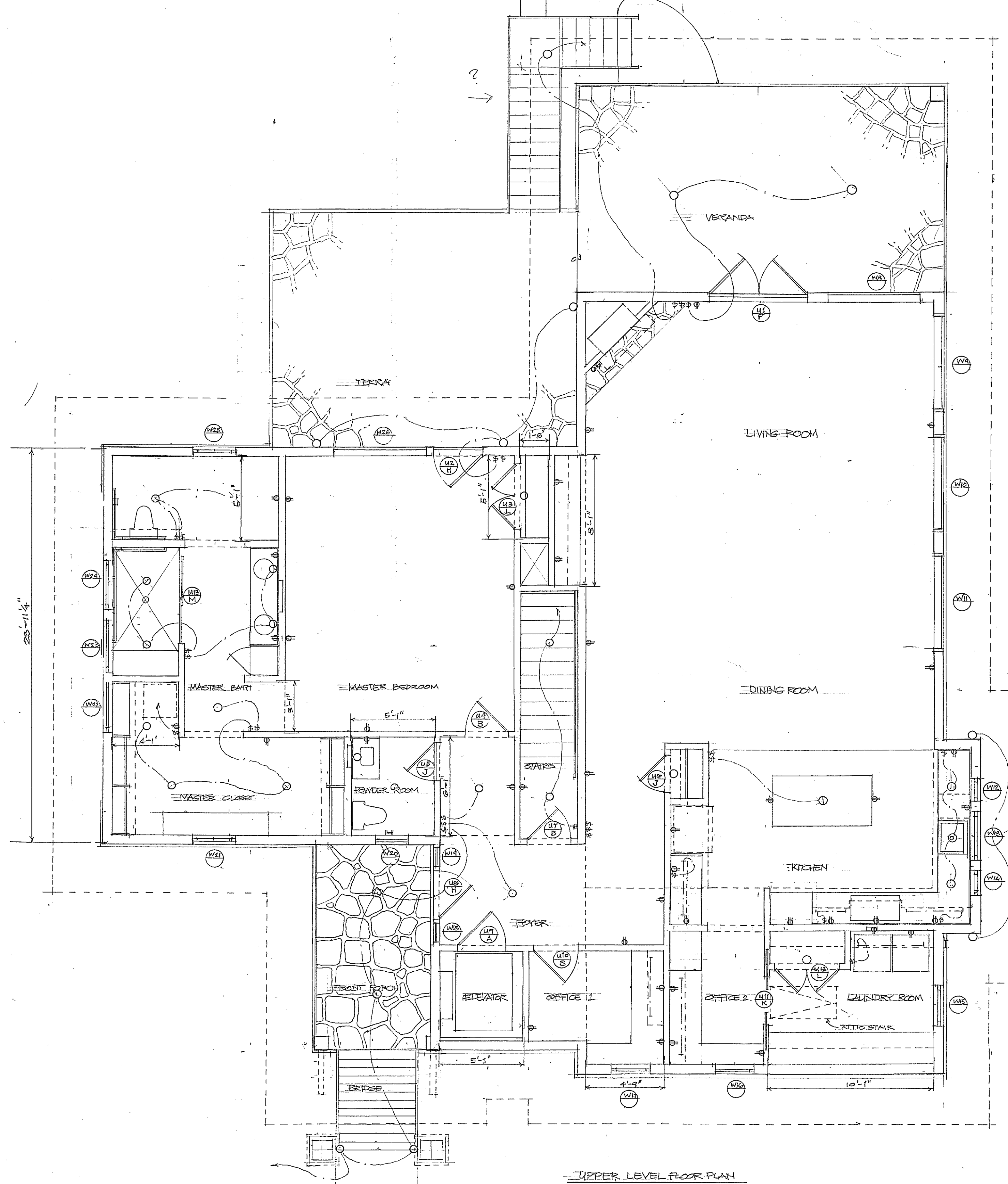
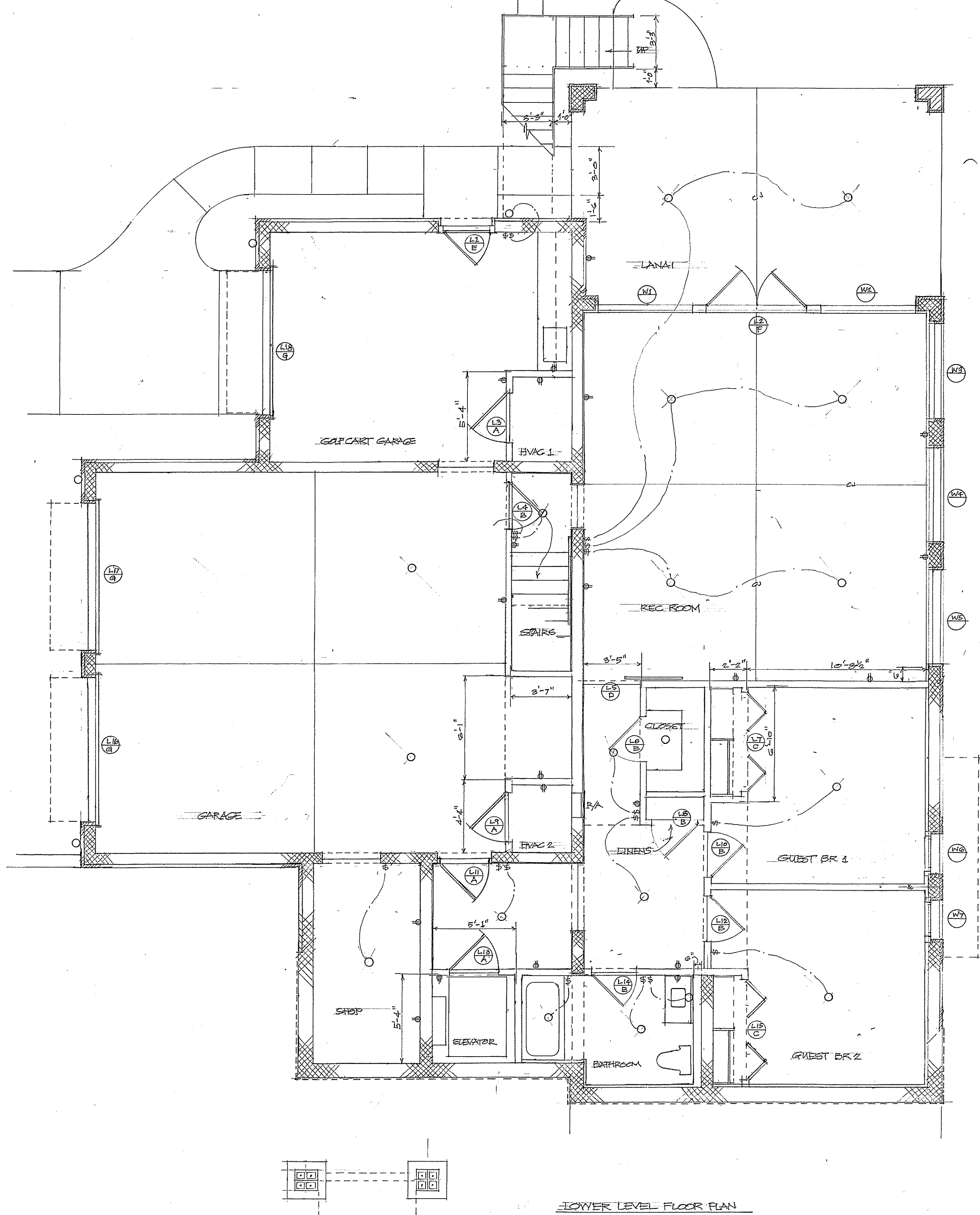
info@redesigndesign.com

Issue Date  
Project Status  
Drawings Set

Do not scale drawings.

**Do not scale drawings.**





RESIDENCE FOR TODD & JENNIE VICK

343 SHAWCROFT RD.  
FAYETTEVILLE, NC

A-3

Issue Date  
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 code and manufacturers' requirements.

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## RESIDENCE FOR TODD &amp; JENNIE VICK

343 SHAWCROFT RD  
FAYETTEVILLE, NC

A 4

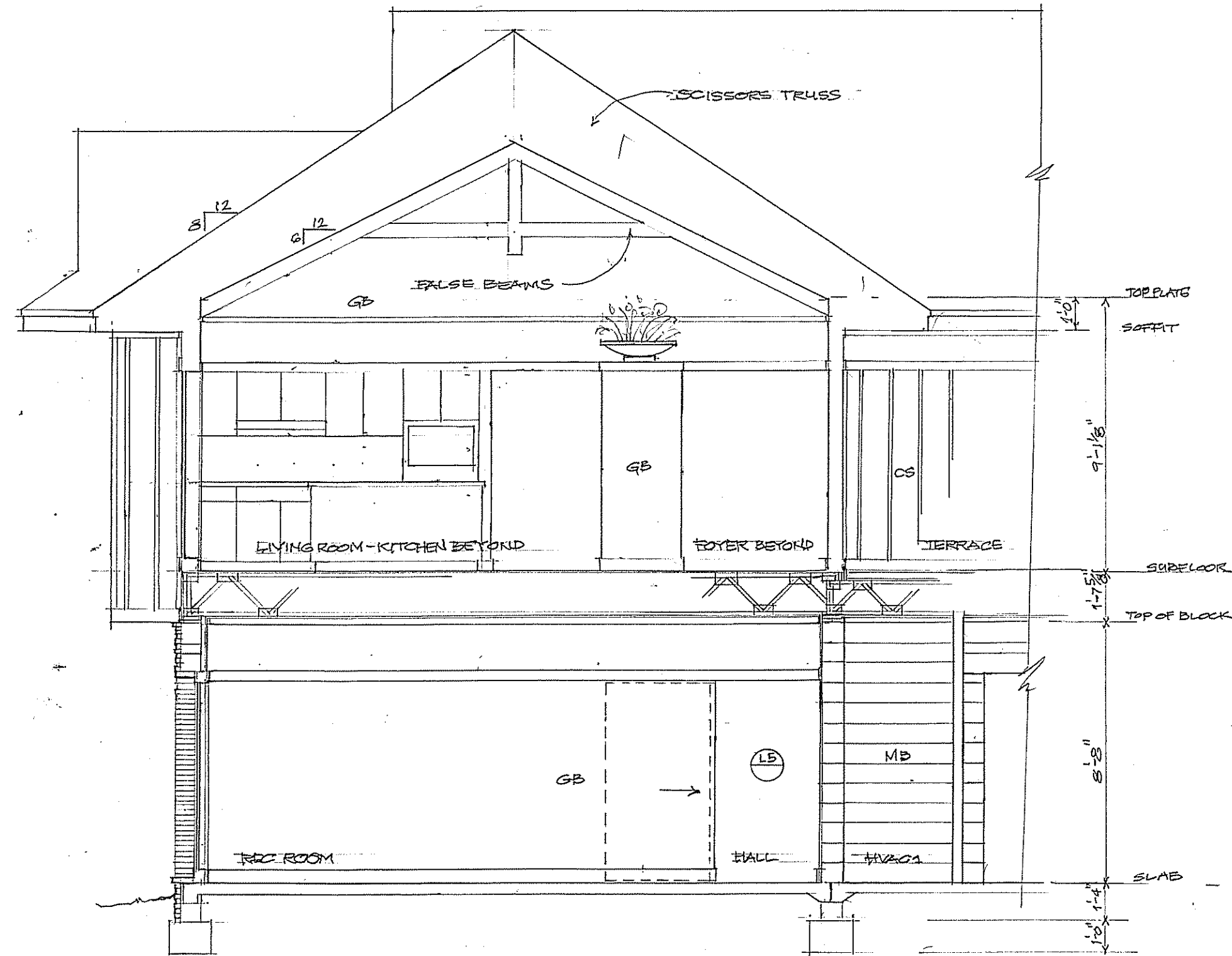
new construction • renovations  
drawings • renderings • specifications

**redefine design**  
Commercial • Residential • Professional

· [info@redefinedesignnc.com](mailto:info@redefinedesignnc.com)

Issue Date  
APRIL 2023  
Project Status

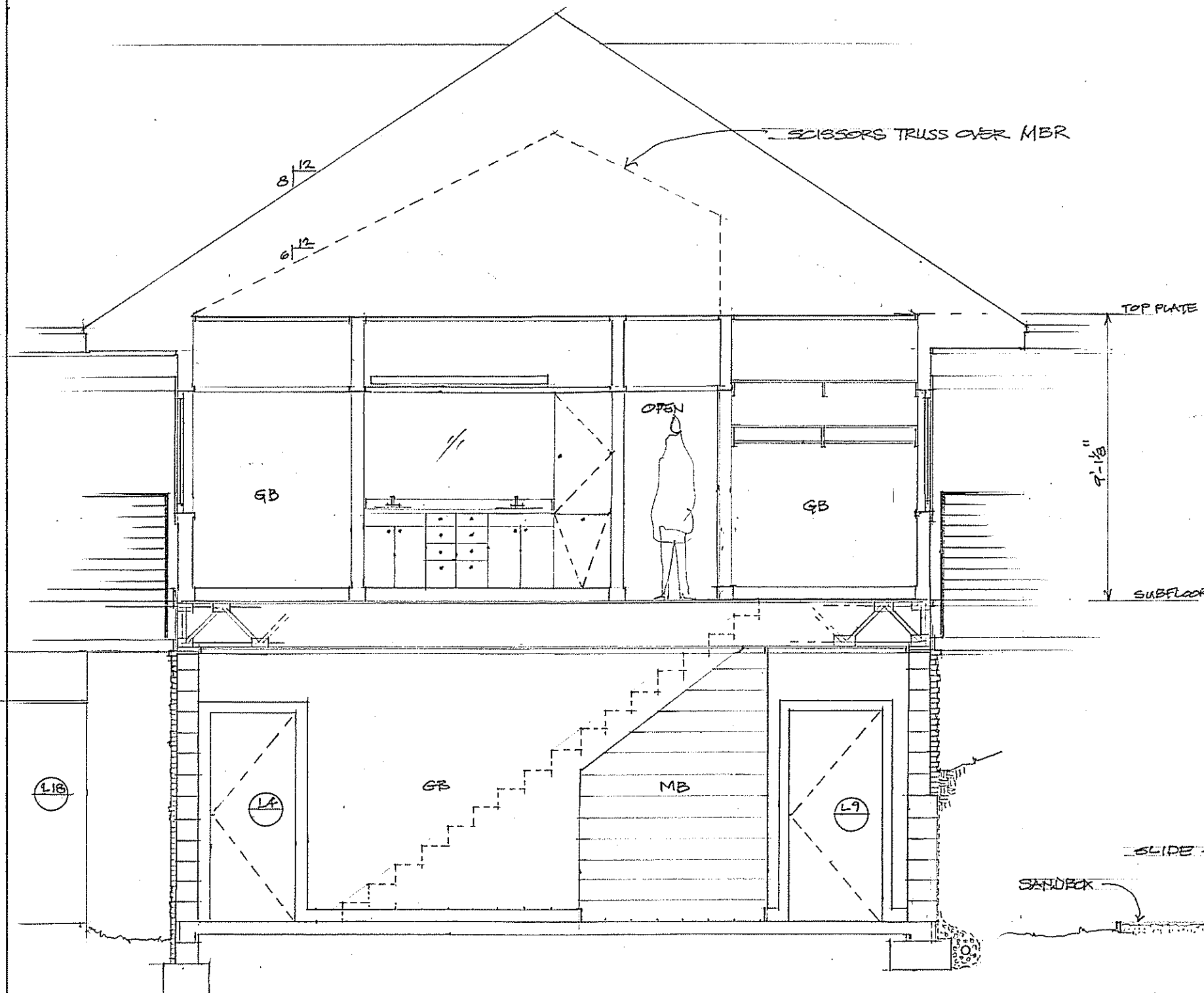
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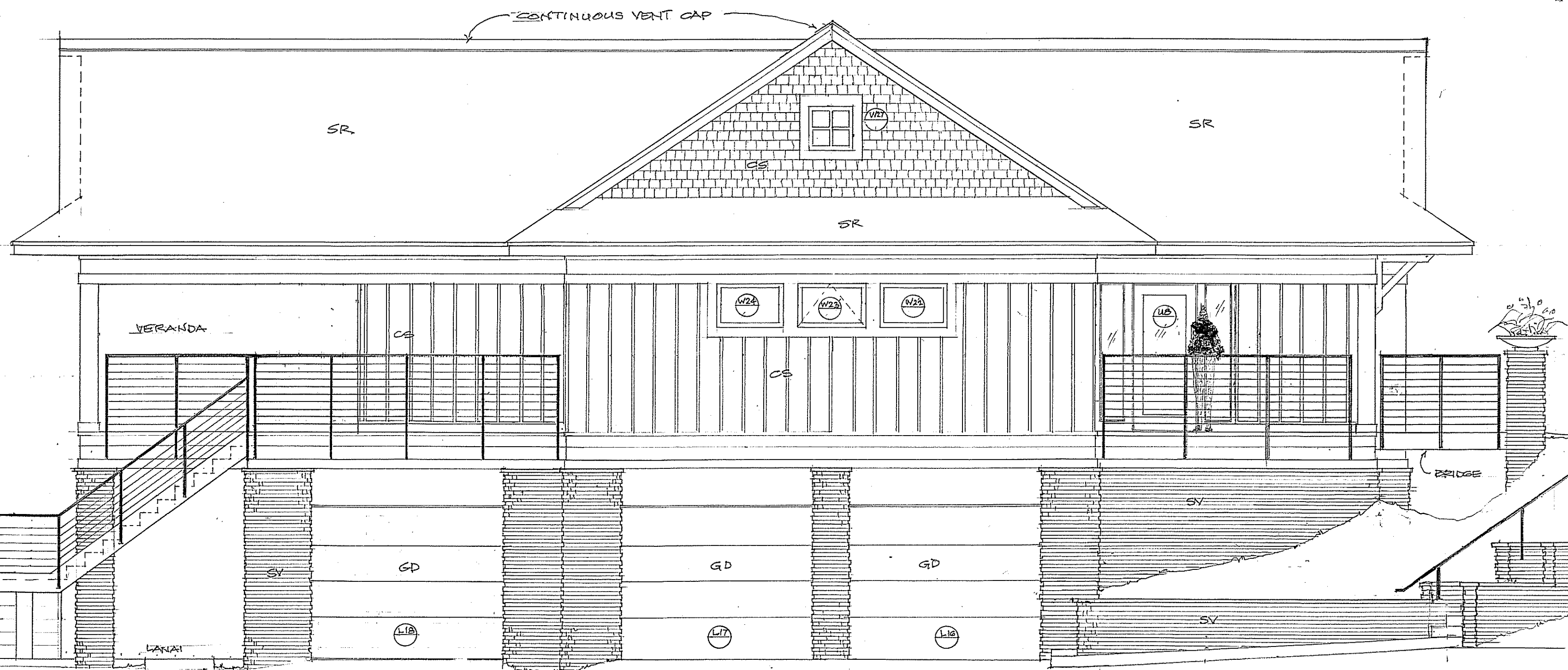
SECTION @ REC ROOM & LIVING ROOM



NORTH ELEVATION



SECTION @ GARAGE & MASTER BATHROOM



WEST ELEVATION

NOTE  
ELEVATIONS VARY - FINAL  
ARRANGEMENT OF SIDING  
PER OWNERS INSTRUCTIONS

**Do not scale drawings.**





## RESIDENCE FOR TODD & JENNIE VICK

343 SHAWCROFT RD.  
FAYETTEVILLE, NC

A-5

Issue Date  
Project Status

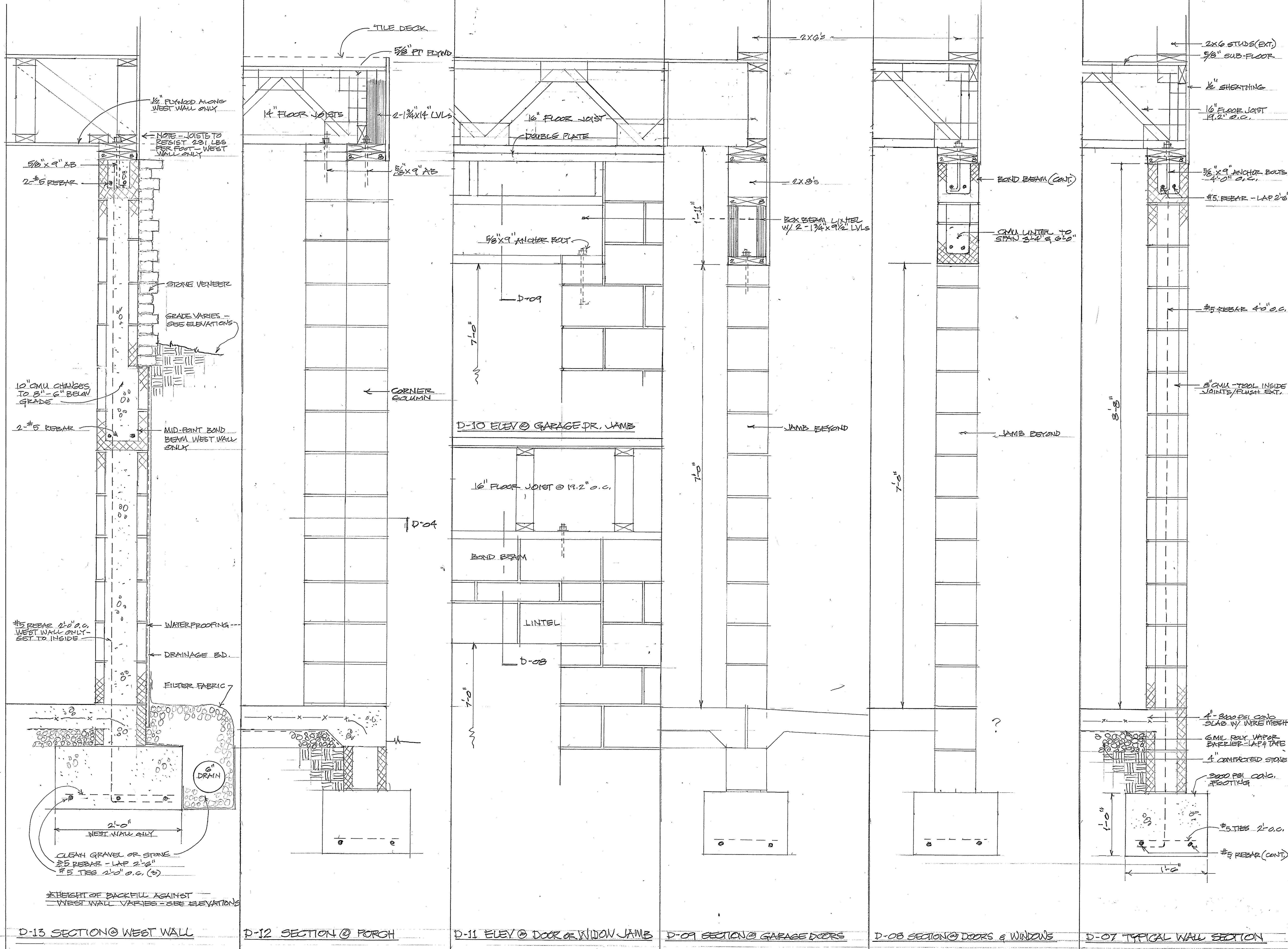
new construction • renovations  
drawings • renderings • applications

**redefine design**

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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 code and manufacturers' requirements.



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

A-6

new construction - renovations  
drawings - readings - specifications

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Issue Date  
Sept 2022  
Project Status

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



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

**NOTES:**

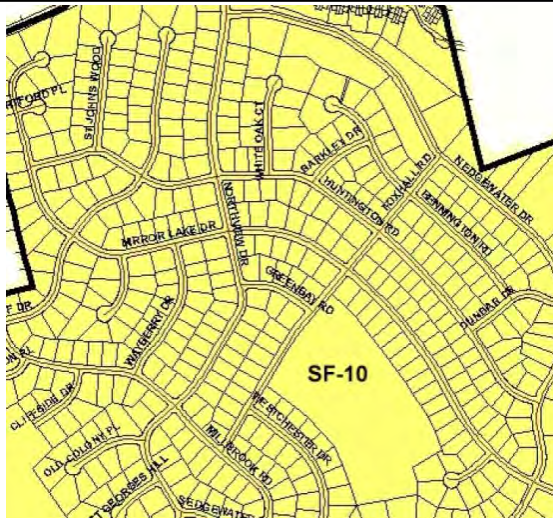
[1] [Reserved].

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

[3] [Reserved.]

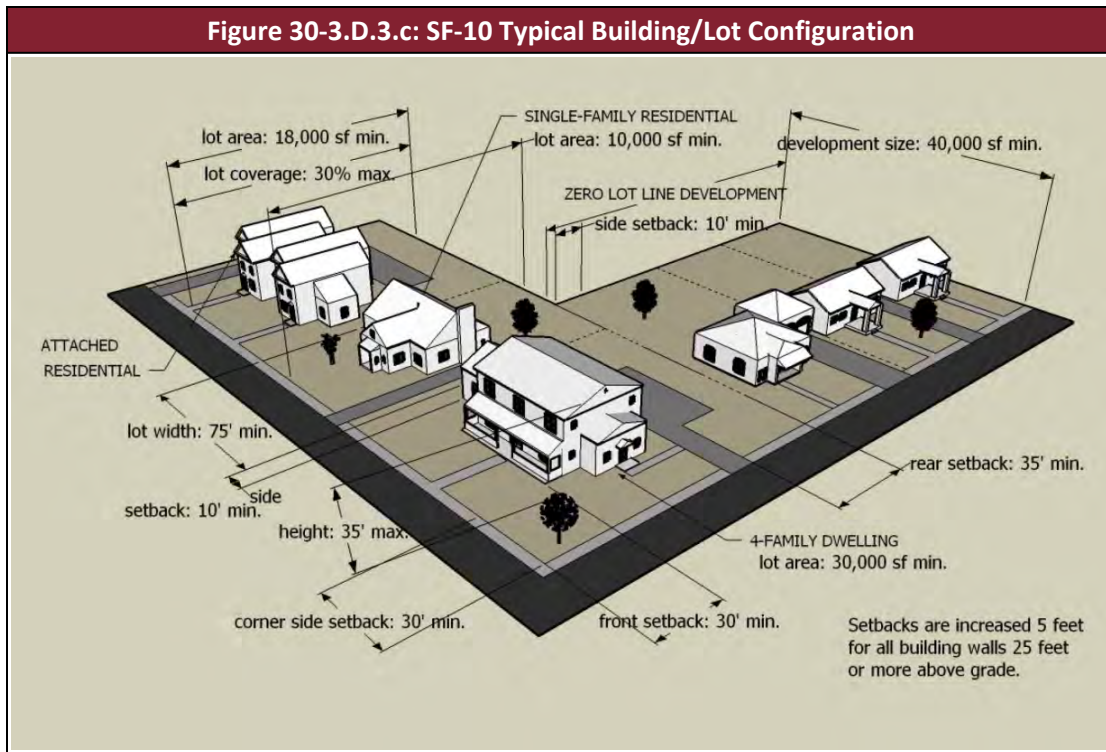
[4] Zero lot line development is subject to standards in Section 30-3.B.2 and, on a tract or site of three acres in area or less may require approval of a Neighborhood Compatibility Permit (see Section 30-2.C.21 Neighborhood Compatibility Permit).

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



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





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

Effective on: 8/10/2015

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

**To allow a rear setback reduction on a property located at 343 Shawcroft Road.**

**VARIANCE A23-37**

**Property Address:** 343 Shawcroft Road  
**REID Number:** 0530580507000  
**Property Owner:** Todd and Jennifer Vick

The Zoning Commission for the City of Fayetteville, NC, held an evidentiary hearing on September 12, 2023, to consider a Variance request filed by Todd Vick (“Applicant”), on behalf of Todd and Jennifer Vick (“Property Owner”), to reduce the rear-yard setback on the property located at 343 Shawcroft Road (“Subject Property”).

On August 28, 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 August 28, 2023, a notice of public hearing sign was placed on the Subject Property. On September 1 and 8, 2023, a notice of public hearing advertisement was placed in the legal section of *The Fayetteville Observer*.

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

**Findings of Fact**

1. Chapter 30, Article 3, Section D.3 of the City of Fayetteville’s Code of Ordinances establishes setbacks in the appropriate zoning district.
2. Todd and Jennifer Vick are the owners of a residentially zoned property located at 343 Shawcroft Road, which contains approximately 0.41 acres ± in the City of Fayetteville.
3. The Applicant filed an application for a Variance on August 6, 2023.
4. The Subject Property is zoned Planned Neighborhood Development (PND).
5. The Property Owner is requesting to reduce the required rear setback from 35 feet to 24 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 Planned Neighborhood Development (PND) zoned property that is surrounded by other Planned Neighborhood Development (PND) zoned properties.
8. The Subject Property is approximately 0.41 acres located on Raynor Drive.
9. The Subject Property is vacant and was originally platted as part of the Kings Grant Development.
10. This Variance addresses the Ordinance requirement for a 35-foot rear yard setback.
11. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship because:
- a. , The lot slopes 25 feet right to left and is located towards the top of a 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 a potentially dangerous location. 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.
  - b. There is a home to the left of the lot on the lower land. Water migration from the lot to the neighboring property also presents potential water flow control issues to the lower property.
  - c. Moving the (setback) back 11 feet allows a safer driveway loop to be installed allowing entrance and egress to the proper 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.
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 location and slope creates two issues: (a) water flow control to lower property and (b) safe entrance and egress to the lot due to traffic coming over a hill on the right side of the lot.
13. The Variance is the minimum action that will make possible a reasonable use of land or structures, as a variance of 11 feet allows room for a U-shaped driveway to be installed

and improves the home's location on the lot to minimize water flow from this lot to the lower neighboring lot.

14. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit because building a residence that is safe for entry and does not negatively impact surrounding properties creates harmony in a neighborhood. Additionally, 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.

15. There is no evidence to suggest that the granting of this Variance would harm public safety and welfare; substantial justice would be ensured as the Variance would enhance public safety and welfare by reducing the opportunity for both pedestrian/vehicle and vehicle/vehicle incidents occurring by creating a safer egress from the lot.

### **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 10th day of October, 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: 23-3577

**Agenda Date:** 10/10/2023

**Version:** 1

**Status:** Agenda Ready

**In Control:** Zoning Commission

**File Type:** Consent

**Agenda Number:** 3.02

**TO:** Mayor and Members of City Council

**THRU:** Zoning Commission

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

**DATE:** October 10, 2023

**RE:**

**A23-38. Order of Approval - Findings of Fact: 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.

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

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

On September 12, 2023, the Zoning Commission held an evidentiary hearing regarding this case. After hearing sworn testimony and receiving evidence, the Commission voted 5-0 for approval.

**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:**

None

**Options:**

1. Approve Findings as requested.
2. Approve Findings with specific changes.

**Recommended Action:**

Approve Findings

**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
9. Order of Approval - Findings of Fact

**Project Overview****#1085770**

**Project Title:** Jarvora Duncan  
**Application Type:** 5.4) Variance  
**Workflow:** Staff Review

**Jurisdiction:** City of Fayetteville  
**State:** NC  
**County:** Cumberland

**Project Location**

**Project Address or PIN:** 225 OLD WILMINGTON RD  
(0437816735000)

**Zip Code:** 28301

**GIS Verified Data**

**Property Owner: Parcel**  
• 225 OLD WILMINGTON RD: DUNCAN, JARVORA B

**Acreage: Parcel**  
• 225 OLD WILMINGTON RD: 0.17

**Zoning District: Zoning District**  
• 225 OLD WILMINGTON RD: MR-5

**Subdivision Name:**

**Fire District:**

**Airport Overlay District:**

**Hospital Overlay District:**

**Coliseum Tourism District:**

**Cape Fear District:**

**Downtown Historic District:**

**Haymount Historic District:**

**Floodway:**

**100 Year Flood:** <100YearFlood>

**500 Year Flood:** <500YearFlood>

**Watershed:**

**Variance Request Information**

**Requested Variances:** Minimum yard/setback

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

Requesting a front yard setback reduction from 25' to 10.5' (see attached plot plan)

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

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**

**Square Footage of Sign Face: 0**

**Square Footage of Sign Face: 0**

**Square Footage of Sign Face: 0**

**Square Footage of Sign Face: 0**

**Square Footage of Sign Face: 0**

**Square Footage of Sign Face: 0**

**Square Footage of Sign Face: 0**

**Height of Sign Face: 0**

**Square Footage of Sign Face : 0**

**Square Footage of Sign Face: 0**

**Square Footage of Sign Face: 0**

**Square Footage of Sign Face: 0**

**Square Footage of Sign Face: 0**

**Square Footage of Sign Face: 0**

### **Primary Contact Information**

**Contractor's NC ID#:**

**Project Owner**

Jarvora Duncan

PO Box 6525

Tampa, FL 33608  
P:9104835353  
[jarvora@gmail.com](mailto: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](mailto: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

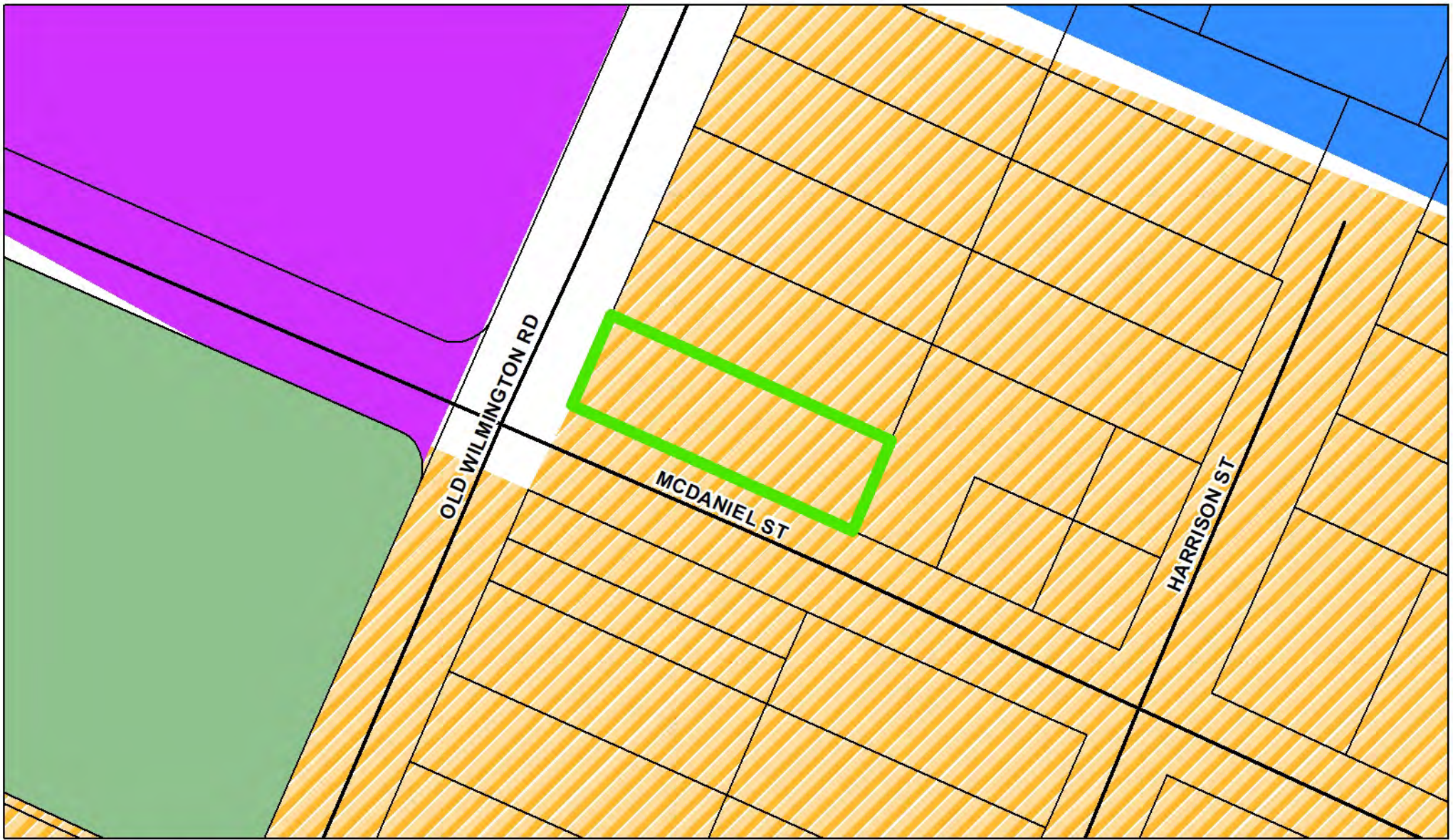
 Notification Buffer 300'



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

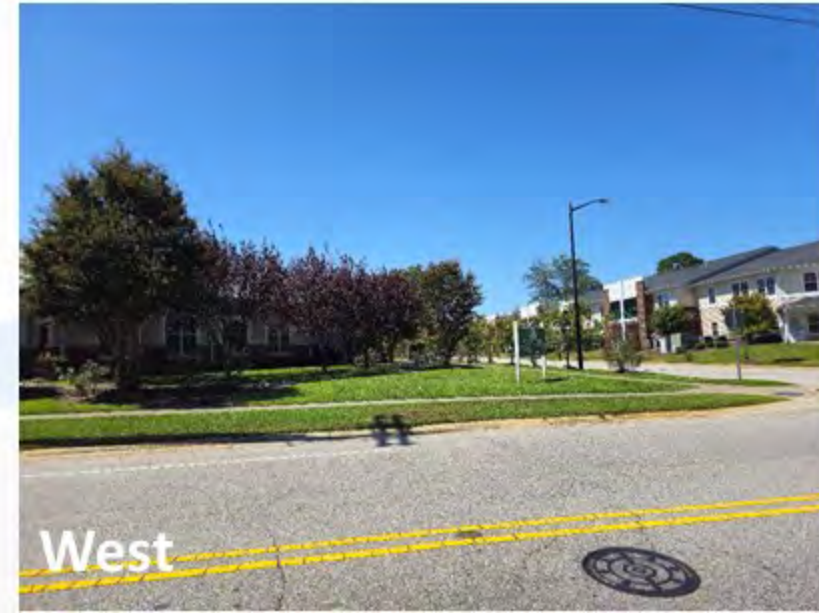
-  CC - Community Commercial
-  MR-5 - Mixed Residential 5
-  MU/CZ - Conditional Mixed-Use















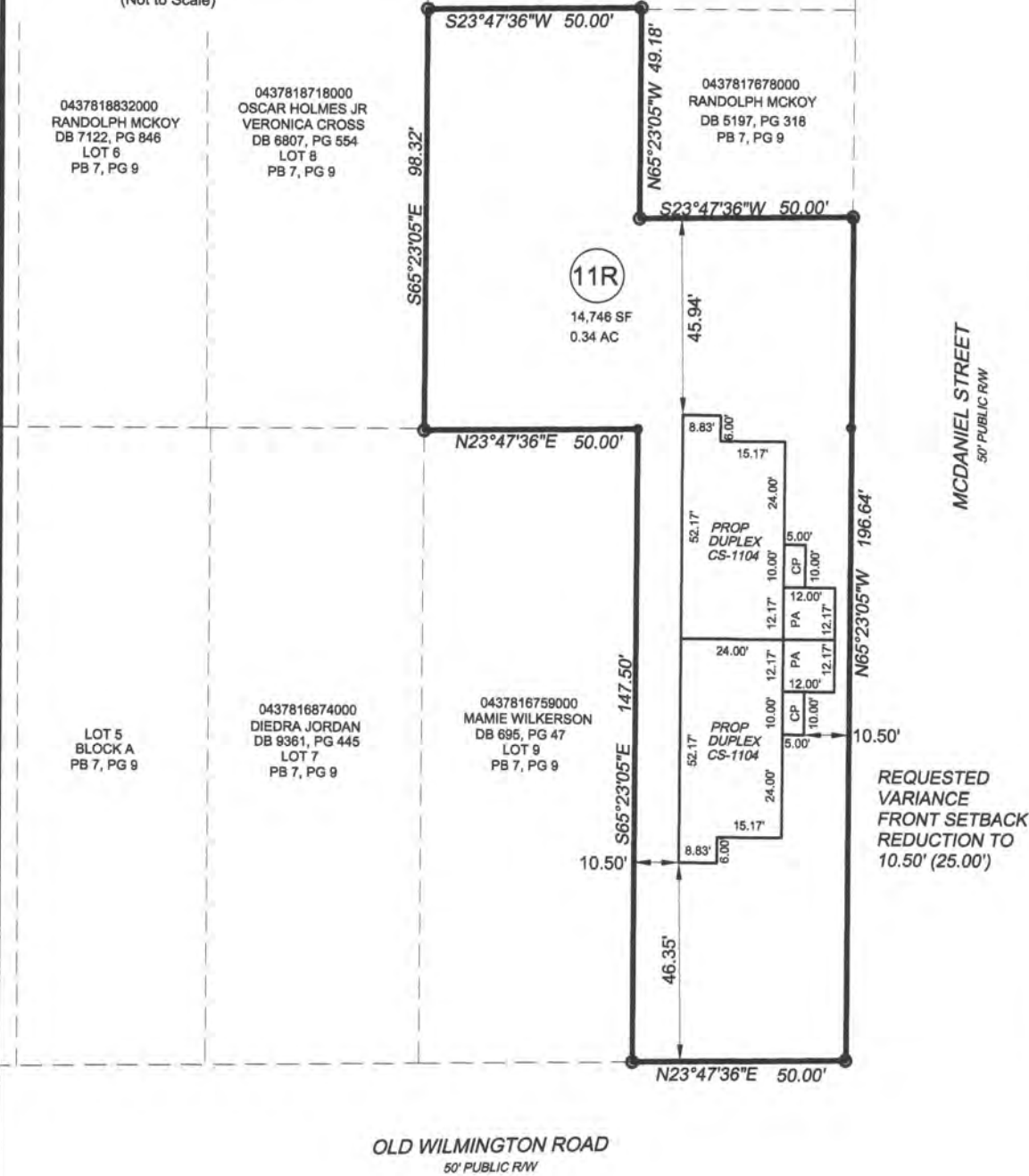
Vicinity Map  
(Not to Scale)



HARRISON STREET  
50' PUBLIC R/W

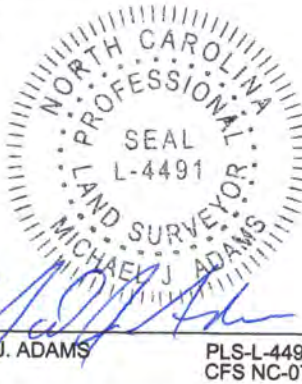
LEGEND

RW-RIGHT OF WAY  
DB-DEED BOOK  
PG-PAGE  
PROP-PROPOSED  
SF-SQUARE FEET  
AC-ACRE(S)  
CONC-CONCRETE  
ESMT-EASEMENT  
PL-PROPERTY LINE  
CP-COVERED PORCH  
PA-PATIO



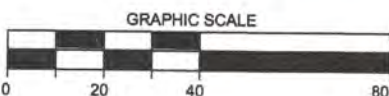
PLOT PLAN

PREPARED FOR: JARVORA B. DUNCAN  
PROPERTY OF: JARVORA B. DUNCAN  
ADDRESS: 225 OLD WILMINGTON RD  
CITY: FAYETTEVILLE, NC  
COUNTY: CUMBERLAND  
TAX PIN:  
ZONING: MR5



TOWNSHIP: CROSS CREEK  
DATE: JUNE 7, 2023  
SCALE: 1" = 40'  
REFERENCE: LOT 11R  
JARVORA DUNCAN  
PB 149, PG 170  
DB 10683, PG 469

MINIMUM SETBACKS:  
25'-FRONT/CORNER SIDE  
10'-SIDE  
30'-REAR; 15' WHEN CORNER SIDE IS 25'



MICHAEL J. ADAMS  
M.A.P.S. SURVEYING, INC.  
C-2589  
216 MASON STREET  
FAYETTEVILLE, NC 28301  
PHN: (910)484-6432  
DRAWN BY: LKH

NOTES

- 1) THIS MAP IS FOR PERMITTING PURPOSES ONLY
- 2) THIS MAP IS NOT DRAWN IN ACCORDANCE WITH G.S. 47-30
- 3) THIS MAP CAN NOT BE USED FOR RECORDATION OR ATTACHED TO A DEED TO BE RECORDED.

## 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

MR-5 MIXED RESIDENTIAL 5 DISTRICT	PURPOSE					
	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 <a href="#">Article 30-5</a> : 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 <a href="#">30-4.D</a> . 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 <a href="#">Article 30-9</a> , 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).

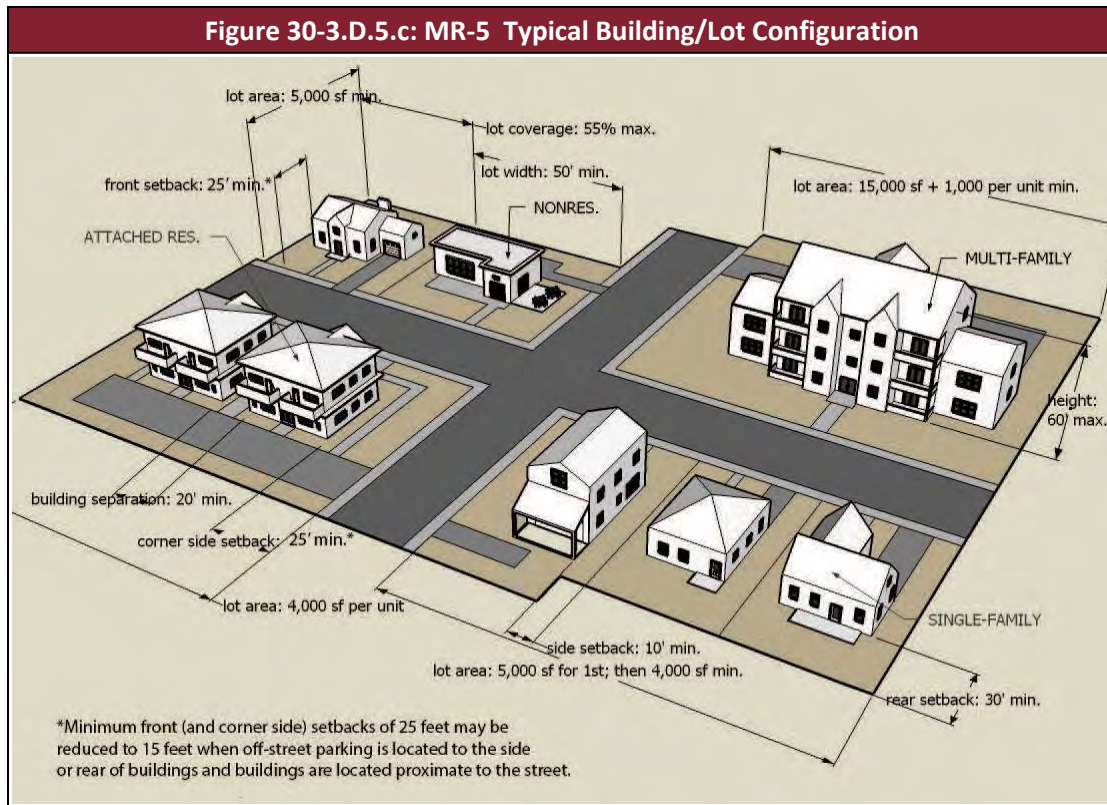
**Figure 30-3.D.5.a:  
MR-5 Typical Lot Pattern**



**Figure 30-3.D.5.b:  
MR-5 Typical Building Form**







(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  
STATE OF NORTH CAROLINA  
ORDER TO APPROVE A VARIANCE**

**To allow a front- or side-yard setback reduction on a property located at 225 Old  
Wilmington Road and 505 and 507 McDaniel Street.**

**VARIANCE A23-38**

**Property Address:** 225 Old Wilmington Road and 505 and 507 McDaniel Street  
**REID Number:** 0437816735000  
**Property Owner:** Jarvora Duncan

The Zoning Commission for the City of Fayetteville, NC, held an evidentiary hearing on September 12, 2023, to consider a Variance request filed by Michael Adams, MAPS Surveying Incorporated (“Applicant”), on behalf of Jarvora Duncan (“Property Owner”), to reduce the front- or side-yard setback on the property located at 225 Old Wilmington Road (“Subject Property”).

On August 28, 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 August 28, 2023, a notice of public hearing sign was placed on the Subject Property. On September 1 and 8, 2023, a notice of public hearing advertisement was placed in the legal section of *The Fayetteville Observer*.

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

**Findings of Fact**

1. Chapter 30, Article 3, Section D.5 of the City of Fayetteville’s Code of Ordinances establishes setbacks in the Mixed Residential 5 (MR-5) zoning district.
2. Jarvora Duncan is the owner of a residentially zoned property located at 225 Old Wilmington Road, which contains approximately 0.17 acres ± in the City of Fayetteville.
3. The Applicant filed an application for a Variance on August 6, 2023.
4. The Subject Property is zoned Mixed Residential 5 (MR-5).
5. The Property Owner is requesting to reduce the required front- or side-yard setback from 25 feet to 10.5 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 Mixed Residential 5 (MR-5) zoned property that is surrounded by other Planned Neighborhood Development (PND) zoned properties.

8. The Subject Property is approximately 0.17 acres located at the intersection of Old Wilmington Road and McDaniel Street.

9. The Subject Property is vacant and once held a store that was demolished sometime between 2001 and 2008.

10. This Variance addresses the Ordinance requirement for a 25-foot front or corner yard setback.

11. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardship because the current lot configuration makes the lot unbuildable under the current UDO standards. The lot is only 50' wide and was created that way prior to the City's current ordinances.

12. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner because the size of the lot itself does not allow for any buildable structures.

13. 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 in the area as these lots do not meet current setback requirements.

14. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit because the variance would allow for the property to be utilized to its fullest potential without the encumbrances of the lot width.

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 Variance will also allow for housing to be built that is in harmony with surrounding lots as the other lots in this area do not currently meet setback requirements.

### **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 10th day of October, 2023.

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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: 23-3603

**Agenda Date:** 10/10/2023

**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:** October 10, 2023

**RE:** Approval of Meeting Minutes: September 12, 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: September 12, 2023

**MINUTES  
CITY OF FAYETTEVILLE  
ZONING COMMISSION MEETING  
FAST TRANSIT CENTER COMMUNITY ROOM  
SEPTEMBER 12, 2023 @ 6:00 P.M.**

**MEMBERS PRESENT**

Pavan Patel, Chair  
Stephen McCorquodale, Vice-Chair  
Roger Shah  
Alex Keith  
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, September 12, 2023, was called to order by Chair Pavan Patel at 6 p.m.

**I. APPROVAL OF THE AGENDA**

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

**II. APPROVAL OF CONSENT ITEMS TO INCLUDE THE MINUTES FOR THE AUGUST 8, 2023, MEETING**

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

**III. EVIDENTIARY HEARINGS**

Mr. Patel discussed the aspects of the evidentiary hearing. Ms. Harper had the speakers for the two variance cases perform the oath. Mr. Patel asked if any of the Board members had any partiality (conflicts of interest) or any ex parte communication (site visits or conversations with parties to include staff members or the general public) to disclose regarding 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.

Mr. Patel opened the evidentiary hearing for case A23-37.

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

Craig Harmon presented case A23-37. Mr. Harmon stated that the owners are Todd and Jennifer Vick, and Mr. Vick is the applicant. They want to reduce the rear yard setback on the property at 343 Shawcroft Road. The



property is about 4/10 of an acre. Mr. Harmon showed the Board where the property is located in the Kings Grant subdivision. It is zoned Planned Neighborhood Development (PND) and the Future Land Use Plan designates the area as low-density residential. Mr. Harmon showed the Board pictures of the property and how it slopes (which is evident on the site plan). He showed the Board the surrounding area. He noted the surrounding area with housing types to the north, a golf course to east, and the entrance to the property to the south. Mr. Harmon pointed out on the site plan where the property slopes, which is why the owners are asking for a reduction in the rear yard setback from 35 to 24 feet. Mr. Harmon gave the Board their voting options, and he showed them the findings of fact statements.

Mr. Patel opened the evidentiary hearing for case A23-37.

Speaker in favor:

Todd Vick, 517 Lions Head Road Unit 10, Fayetteville, NC 28311

- Mr. Vick said that the architect has advised that we move the house up to the corner of the lot to allow for safe ingress egress when entering and exiting the home due to the odd angle of the home.
- Mr. Vick said that by moving the property in this direction, they can manage the water flow from the lot away from the property below them.

Mr. Shah asked Mr. Vick if he was trying to install another driveway on the lot. Mr. Vick pointed out that (if he had 10 feet of space) his lot would be considered a corner lot, but due to the fact that 20 feet of community land exist near the property, it is not considered a corner lot. They plan to construct a road in the future, making it a corner lot. Mr. Vick pointed out in the final plans that the architect wants to position the house so as to minimize the flow of water from the property into the surrounding area. He showed the Board where they plan to construct the driveway. The driveway will allow for a safe exit off of the property and reduce traffic issues in an area where a three-way stop sign is needed. Mr. Shah asked Mr. Vick if the Kings Grant Home Owners Association (HOA) would allow for these changes, and Mr. Vick stated that the HOA had approved it.

Mr. McCorquodale asked Mr. Vick about the area where the three-way stop is located in regard to the plans for a corner lot. Mr. Vick said that a road is currently the driveway through the clubhouse, but he pointed out that the HOA submitted plans to the Board in January 2022 to create a corner lot in this area.

Mr. Patel closed the evidentiary hearing for case A23-37.

**MOTION:** Alex Keith moved to approve the variance as requested 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: All the evidence is shown through the plans and the fact that the lot slopes 25 feet.
2. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land and are not the result of the actions of the landowner as shown by the following evidence: The same goes for that. You have the slope and they are trying to diminish the water flow going to the next lot over.

3. The Variance is the minimum action that will make possible a reasonable use of land or structures as shown by the following evidence: Based on this plan being performed by a professional—that makes it valid.
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: Being that it is only an 11-foot difference and is the best plan the engineer came up with.
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: Yes, there is no evidence to the contrary.

**SECOND:** Roger Shah  
**VOTE:** Unanimous (5-0)

Patel opened the evidentiary hearing for case A23-38.

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

Craig Harmon presented case A23-38. This is a variance request from the owner Jarvora Duncan and he is represented by Michael Adams. Mr. Duncan is out of the country serving his country. He is requesting to reduce the front side yard setback. This is a corner lot at 225 Wilmington Road, and the property is only .17 acres. This is a long narrow property. There is a space in the back of the property that the owner added to give the land more area, but due to the narrowness of the property the owner needs the variance to build on it. The area is zoned Mixed Residential 5 (MR-5). The Future Land Use Plan designates the area as neighborhood improvement. It is currently a vacant lot. Mr. Harmon showed the Board the surrounding structures. He pointed out in the site plan that to the right is Old Wilmington Road and at the top is McDaniel Street where the owner plans to build a duplex. The owner needs a variance to the setback on the one side at McDaniel Street because of the narrowness of the lot. They want to reduce the side yard setback from 25 to 10.5 feet. Mr. Harmon informed the Board of their voting options.

Mr. Patel opened the evidentiary hearing for case A23-38.

Speakers in favor:

Michael Adams, 216 Mitchell Street, Fayetteville, NC 28301

- Michael Adams stated that he is trying to utilize a bad lot.
- He said the area would be unbuildable as is. The owner purchased a second lot in order to build the duplex.
- The owner wants to put a duplex on the property, and this is the setup they came up with as the best option to allow for this.
- Mr. Adams stated that there is not a lot of traffic in the area since the street runs into a dead end.
- He said they have taken a pretty bad lot and done with it the best they could. They need help with the front lot.

Deanna Chavis, 731 Spy Glass Drive, Fayetteville, NC 28311

- Ms. Chavis said she is here to support the project. Mr. Duncan is her client and he looking to place a duplex on the property to provide more housing in the area. Mr. Duncan has owned the lot for quite some time. He wanted to find some way to use it and we narrowed it down to this opportunity. He is a member of the community and is looking for ways to support housing in the area.

Mr. Patel closed the evidentiary hearing for case A23-38.

Mr. Shah asked Mr. Adams if there were front and side yard setbacks and their location. Mr. Harmon stated there is one on McDaniel Street which is located on the front of the property. Mr. Shah asked Mr. Adams if the building would start 10 feet from McDaniels Street and Mr. Harmon said yes. Mr. Shah had a question about the parking lot. Mr. Adams showed the Board the location of the concrete patio area for parking. He stated they were asking for 10 feet from the covered porch to allow for the parking lot. Mr. Keith noted that they left 10 feet off the back of the property.

**MOTION:** Stephen McCorquodale made a motion in case A23-38 to approve the variance for the reduction of the setback to 10.5 feet located at 225 Wilmington Road based on the evidence presented by Staff and the following five findings of fact:

1. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships as shown by the following evidence: As shown by the evidence presented tonight, the lot without this variance makes it unbuildable based on Unified Development Ordinance (UDO) standards.
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: It goes back to number one as stated that the size of the lot would not allow them to build structures on 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: Based on the presentation, allowing the variance would be the minimum allowable usage for the lot.
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: With the allowing of the variance by the Board, the land can be used at its fullest potential.
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: Based on using McDaniel Street to construct the driveway, it shows that it will be the safest ingress and egress of the property.

**SECOND:** Roger Shah

**VOTE:** Unanimous (5-0)

Mr. Patel discussed the aspects of the legislative hearing. Mr. Patel asked if any of the Board members had any partiality (conflicts of interest) or any ex parte communication (site visits or conversations with parties to include staff members or the general public) to disclose regarding the case on the agenda for the evening. The

commissioners did not have any partiality with the variance cases or ex parte communication to disclose regarding the cases. Ms. Harper had the speakers perform the oath.

Mr. Patel opened the legislative hearing for case P23-33.

**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  $\pm$  and being the property of Rayconda Properties, represented by Longleaf Law Partners.

Heather Eckhardt presented case P23-33. This is a request to rezone two parcels on Raeford Road near Festival Drive from Neighborhood Commercial (NC) to Limited Commercial (LC). This request was submitted by Longleaf Law Partners, representing the owners of Rayconda Properties. The two subject properties are located on Raeford Road right next to Burger King and just east of the Food Lion shopping center. Currently, the area is zoned Neighborhood Commercial and properties to the west are zoned Limited Commercial (which is the zoning requested by the applicant). The Future Land Use Plan designates the land for neighborhood mixed-use. The property is currently undeveloped. To the north is a residential subdivision, to the east is Burger King, to the west is Food Lion, and to the south is a relatively new daycare center.

The subject property is located on a major thoroughfare, with traffic running from Hoke County into Downtown Fayetteville. The Limited Commercial zoning district allows uses that fit the scale of the area on Raeford Road while complementing the variety of other uses in the area. The staff is recommending approval of the rezoning to Limited Commercial. Ms. Eckhardt informed the Board concerning their voting options.

Speaker in favor:

J. Worth Mills, 4509 Creedmoor Road, Suite 302, Raleigh, NC 27612

- Mr. Mills said the main item that he wanted to bring to the Board's attention is the differences between these two parcels regarding residential properties when compared to other neighborhood commercial properties in this area. He stated the neighborhood commercial designation serves as a use buffer for residential communities for the distribution of everyday goods and services. The other neighborhood commercial districts are adjacent to residential communities, and they are situated on the corner of residential streets.
- The two properties are located on Raeford Road and on a private street, Nexus Court, to the rear. Similar to Burger King to the east, the owners expect all access to the area would be gained through Nexus Court and not Raeford Road.
- The sensitivities to residential that exist on other properties do not exist on these properties. We are adjacent to a Food Lion. There is an Exxon further west and a Burger King to the east.
- They will incur the same uses as on any other Limited Commercial-based property and the property allows for similar style uses as the surrounding area.

Mr. Patel closed the legislative hearing for case P23-33.

**MOTION:** Roger Shah made a motion to approve the rezoning from Neighborhood Commercial to Limited Commercial based on the consistency and reasonableness statement.

**SECOND:** Alex Keith

**VOTE:** Unanimous (5-0)

Mr. Patel opened the legislative hearing for case P23-34.

**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.

Demetrios Moutos presented case P23-34. He stated that T & W Investments, represented by George Rose, is requesting the rezoning of property at 1010 Laurel Street. It is approximately 1.45 acres to be rezoned from Single-Family Residential 10 (SF-10) to Mixed Residential 5 (MR-5). The subject property is right at the end of the cul-de-sac at Laurel Street and to the east of King Road. Cornerstone Christian Academy is to the west and Bragg Boulevard and the Eutaw Shopping Center are located to the south. The property is currently zoned Single-Family Residential 10, and the surrounding area to the south is zoned Single-Family Residential 6 (SF-6) and to the east is Mixed Residential 5 (MR-5). The Future Land Use Plan calls for most of this area to be designated as medium-density residential. The subject property is currently wooded and undeveloped. To the west is a duplex, to the east are multi-family residential developments, and to the south down Laurel Street are single-family developments.

The applicant needs to amend the current zoning to allow for the development of new affordable housing, which is consistent with the Future Land Use Plan. Mr. Moutos stated that Fayetteville is in need of new housing developments, and adjacent to the property is a substantial multifamily development. The location of the property is advantageous due to its proximity to places such as Fayetteville Technical Community College, Cornerstone Christian Academy, grocery stores, and outlet shopping facilities. The staff is recommending approval the rezoning to MR-5. Mr. Moutos informed the Board of their voting options.

Speaker in favor:

George Rose, 1206 Longleaf Drive, Fayetteville, NC 28305

- Mr. Rose said they are trying to rezone so that more units to be developed on the property. This zoning would allow several uses on the property.
- These will be townhouses with garages. They would be around \$260,000 dollars.
- Mr. Rose said this would bring a nice addition to that neighborhood which would attract quality buyers. They have done a preliminary site plan which shows a total of 11 units.
- He said he would answer any questions.

Mr. Patel closed the hearing for case P23-34.

Mr. Patel asked how many units with rezoning. The board members discussed the units allowed on the lot. Mr. Harmon said it could be 7 units based on the current zoning.

**MOTION:** Roger Shah made a motion to approve the rezoning of 1.45 acres from SF-10 to MR-5 based on the consistency and reasonable statement provided (in the packet).

**SECOND:** Alex Keith

**VOTE:** (4-1) (Kevin Hight opposed)

Mr. Patel opened the legislative hearing for case P23-35.

**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.

Heather Eckhardt presented case P23-35. Case P23-35 is a request to rezone the property at 809 Johnson Street from Single-Family Residential 10 (SF-10) to Single-Family Residential 10 Conditional (SF-10/CZ). The owner is Abel Young and he is represented by Michael Adams of MAPS Survey. The project is located at the corner of Johnson Street, which is located off Bragg Boulevard. Ms. Eckhardt showed the Board a picture of a portion of the property. The Future Land Use Plan calls for the land to continue as low-density residential. Ms. Eckhardt showed the Board a portion of the property which contains four duplexes and two quadplexes with a total of 16 units on the property. There are residential properties along with vacant lots interspersed in the area. She showed the site plan of the existing site as well as the proposed shed and office the applicant wants to build on the property.

The conditions will address the density and setbacks on the property and allow for an office to be built for the intended use. The applicant wants to bring the property into compliance with the current Unified Development Standards so it can be subdivided. Ms. Eckhardt said the conditions will allow for two-to-four family/multifamily dwellings, an office, a density of 5,000 square feet per unit, and a reduction of the setbacks. All of these conditions address the existing nonconformities since the site was developed prior to the annexation and prior to the Unified Development Ordinance. Bringing this into compliance will allow for that quadplex to be subdivided off and potentially spur development in that area. Staff is recommending approval of the rezoning to SF-10 Conditional Zoning. Ms. Eckhardt provided the Board with their voting options.

Mr. Patel opened the legislative hearing for case P23-35.

Speaker in favor:

Michael Adams, 216 Mason Street, Fayetteville, NC 28301

- Mr. Adams said the owner Mr. Young would have attended the meeting, but he was called out of town.
- Mr. Adams said the owner's ultimate plan for this quadplex is to use it for homeless veterans. He was working with the City to procure grant money for this project, and part of the City requirements for the grant was for the project to be built on a separate piece of property.
- Mr. Adams said that Mr. Young told him that his goal is to make the entire site for homeless veterans.
- Mr. Adams said they are trying to fix up the existing area as best they can. He showed the Board the conditions that are marked on the site plan.

Mr. Shah asked Mr. Adams if the buildings shown on the site plan (with the exception of the shed and the office) were currently located on the lot and Mr. Adams said yes. He asked Mr. Adams about the 15,000 square feet noted on the site plan and Mr. Adams said that this is the required land area for each unit as prescribed by the Unified Development Ordinance. Mr. Adams clarified that this is not the size of the building. Mr. Shah asked for clarification regarding subdividing the property. Mr. Adams said that based on a grant the owner is acquiring, subdividing the land is necessary.

Mr. McCorquodale asked Mr. Adams for clarification regarding the need for the setbacks, and Mr. Adams confirmed that the setbacks were needed to bring the requested parcel (with the specified conditions) into compliance with the Unified Development Ordinance.

Mr. Patel closed the hearing for case P23-35. The board discussed the case further.

**MOTION:** Alex Keith made a motion to approve the zoning with the conditions based on its consistency with the land use policies.  
**SECOND:** Roger Shah  
**VOTE:** Unanimous (5-0)

Mr. Patel opened the evidentiary hearing for case P23-36.

**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.

Demetrios Moutos presented case P23-36. The applicant Ms. Deborah Harris has requested a conditional rezoning of the property located at 418 Wilmington Road from MR-5 to MR-5/CZ. Friendship Missionary Baptist Church is located northwest of the subject property, and Oak Run Apartments and the Old Wilmington Resource Center are just across the road to the east of the property. He said the current zoning of the property is Mixed Residential 5 (MR-5) as is a majority of everything around it. The Future Land Use Plan calls for it to maintain a high-density residential status. Mr. Moutos showed the Board a picture of the subject property. The surrounding properties to the west and to the north are single-family homes, to the south is a plot, and to the east are apartments. Mr. Moutos showed the Board the site plan and explained the zoning conditions. The applicant is requesting a single use for the zoning district to allow for a day resource center, an exception from the 750-foot separation from residential districts, a reduction in the rear (from 30 feet to 19.77 feet) and side (from 10 feet to .52 feet) setbacks, the acquisition of a 10-foot buffer, and a reduction in the minimum parking requirement from 36 to 5 spaces. Mr. Moutos explained to the Board that the owner needs the setbacks due to the size of the property and its location near the property line.

The staff is recommending the Day Resource Center because it is an excellent match for an area marked for high-density residential development due to its alignment with the evolving needs of a community. The center will provide essential services such as counseling, vocational training, and hygiene facilities. Its presence promotes community inclusivity, addressing the diversity of the residents. Along with this, considering the age of the building and the size of the lot there is a need for conditions affecting dimensional standards. Similarly, the small size of the property can lend to parking issues. The day resource center can be integrated into a high-density area ensuring historical preservation and balance in the neighborhood. The hours of the center will be between 7 a.m. and 8 p.m. Mr. Moutos informed the Board regarding their voting options.

Mr. Patel opened the hearing for case P23-36.

Speaker in favor:

Deborah Harris, 8380 NC Highway 210 South, Autryville, NC 28318

- Ms. Harris works with Combined Unified Services to perpetuate a good thing. Ms. Harris said she is working with the leader Julie. Ms. Harris said Julie was born with a mission to help low-income people obtain the resources to create a better life for themselves.
- Julie found this building after working in a previous building on Wilmington Road. She was working out of that building when the owners decided that they wanted to do something else with the property, but this did not stop Julie. She pitched a tent and kept working until she found this building.
- Unfortunately, they were not aware that their activities were prohibited in that area under the current zoning ordinances, which opened up the door for them to get rezoned.



- Ms. Harris said they did not understand the entire rezoning process, but she commended the City Staff for being accessible and available to assist them. Ms. Harris said Julie is currently serving low-income populations in the Old Wilmington Road Corridor as well as across the city.
- Ms. Harris said they are excited about the opportunity to continue to work in the community and she would answer any questions.

Mr. Shah asked Ms. Harris to define the activities of a day resource center. She said they provide food, clothing, and hot meals. When the building is up and running, they will provide participants with transportation to resources. They will help people by providing tutoring for school students and anything that is necessary for individuals to live a better life. Their major service now is serving hot meals, produce, and food as well as the distribution of clothing. Mr. Shah asked Ms. Harris if these services would be provided out of the proposed building, and Ms. Harris answered yes. Mr. Keith asked if there was funding provided for them to renovate the building. Ms. Harris said they are working with the City, but due to some obstacles, the assistance they are receiving from the City has halted. Ms. Harris said their plan is to renovate the building in response to a question posed by Mr. Hight. Ms. Harris referred to Mr. Adams to address a question regarding the parking issue. Mr. Adams said there would be five or six permanently occupied spaces. The size of the lot is the biggest obstacle. The biggest challenge with this is to shrink the area as much as possible. They are constructing a water meter and are working with the Public Works Commission. Mr. Adams said the parking is a little challenging, but they may be able to gain a few more spaces.

Mr. Hight said that the area would allow for off-street parking. Ms. Harris pointed out that most participants take the bus or walk. The workers would occupy the parking spaces. Ms. Harris said the director and staff would use the parking. Mr. McCorquodale said the owners would need to have a dumpster placed on the property, and they would need to allow for ingress and egress of the lot. Mr. Hight asked where the dumpster would be located, and Mr. Adams showed the Board a location for the dumpster.

Mr. Shah wanted to know what was located to the right or left of the lot. Mr. Moutos noted that on either side were vacant lots. Mr. Hight asked Mr. Adams who owned the lots near the property. Julie stated that she had the name of the person. Ms. Harris stated that one person should speak at a time so they can obtain a correct record of what is occurring during the hearing. Mr. Keith asked the Staff to clarify the use of the property which would require them to have 35 parking spaces. Mr. Moutos began to answer the question and Ms. Harper stated that the Board should hold all staff questions until after the legislative hearing is closed.

Speaker in opposition:

William Simpson 406 Mann Street, Fayetteville, NC 28301

- Mr. Simpson grew up in the area near the property.
- Mr. Simpson expressed that he did not agree with the owners providing parking on the street.
- Mr. Simpson said the property should be torn down and rebuilt horizontally instead of vertically to allow for more parking. He thinks this should happen or the owner should not conduct this project at all. Mr. Simpson said his church, First Baptist Church, provides feeding and clothing to the people in the community.
- Mr. Simpson wants the structure built horizontally, but he is not opposed to the owner's mission (in response to Mr. Shah's question).

Mr. Patel closed the legislative hearing for case P23-36.

Mr. Shah asked if traffic was heavy in the area in question. Mr. Moutos stated that as of 2021, there was an average of 4,000 cars annually in the area. Mr. Hight said this number correlates with the schools in the area—when parents are dropping off and picking up children. Mr. Keith looked at the site plan and tried to figure out

the area parking on the road in front of the structure. Mr. Moutos said there is no parking in front of the building. Mr. Moutos noted that the property owners could build additional parking spaces if they had more land. He reiterated that few vehicles would park in the area. Mr. Moutos said that the lot is gravel right now.

Mr. Shah asked the Staff a question regarding the width of the parking lot and Mr. Moutos said that there is a required lane width in the UDO. Mr. Keith asked the Staff about the previous use of the building. Mr. Moutos said it was a church, but it has been vacant for a while. Mr. Patel noted that due to finances, this is the applicant's best option. Mr. McCorquodale said there would be a need for a variance if a new structure was built. Mr. Hight said he works in the area due to his day job teaching driver's education and he said he does not foresee crowds of people in the area. Before this service was available, Mr. Hight had seen people walking on the street that needed these services. Mr. Hight said this service is necessary in this part of town and the Board should support it.

**MOTION:** Alex Keith made a motion in the case of P23-36 to approve the MR-5 conditional zoning with the conditions represented and based on all the things we have seen here tonight as well as the consistency and reasonableness statements.  
**SECOND:** Roger Shah  
**VOTE:** Unanimous (5-0)

## **I. OTHER BUSINESS**

Mr. Harmon stated there are five cases, all rezoning, for the October 10 meeting.

## **II. ADJOURNMENT**

**MOTION:** Kevin Hight made a motion to adjourn the September 12, 2023, meeting.  
**SECOND:** Roger Shah  
**VOTE:** Unanimous (5-0)

The meeting adjourned at 7:23 p.m.  
Respectfully submitted by Catina Evans



# City of Fayetteville

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

## City Council Action Memo

File Number: 23-3597

**Agenda Date:** 10/10/2023

**Version:** 1

**Status:** Agenda Ready

**In Control:** Zoning Commission

**File Type:** Public Hearing  
(Public & Legislative)

**Agenda Number:** 4.01

**TO:** Mayor and Members of City Council

**THRU:** Zoning Commission

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

**DATE:** October 10, 2023

**RE:**

**P23-39.** Rezoning of 1.42 acres  $\pm$  from Mixed Residential 5 (MR-5) to Heavy Industrial (HI), located at 1009, 1015, & 0 North Street (REID #'s 0438700243000, 0438700340000, & 0438609391000), and being the property of DRA LLC, represented by Thomas Lloyd of Franklin Johnson Commercial Real Estate.

**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 1.42 acres  $\pm$  from Mixed Residential 5 (MR-5) to Heavy Industrial (HI), located at 1009, 1015, & 0 North Street (REID #'s 0438700243000, 0438700340000, & 0438609391000).

**Background:**

Applicant: Thomas Lloyd

Owner: DRA LLC

Requested Action: Rezoning from MR-5 to HI

REID: 0438700243000, 0438700340000, & 0438609391000

Prospective Council District: 2 - Shakeyla Ingram

Status of Property:

- 1009 North St. is currently vacant and covered with trees.
- 1015 North St. is partially wooded and also serves as outdoor storage for Fay Block Materials.
- 0 North Street is predominantly used for existing outdoor storage of Fay Block Materials.

Size: 1.42 ± total acres

Adjoining Land Use & Zoning:

- **North:** Industrial Material Storage (Zoned HI)
- **South:** Vacant/Wooded Property (Zoned MR-5)
- **East:** Industrial Material Storage (Zoned HI)
- **West:** Single Family Housing Zoned (MR-5)

Letters Mailed: 106

AADT\_2021 Ramsey Street: 20500

Land Use Plans:

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

According to the Future Land Use Map, these parcels are designated for development as follows: "Primarily single-family residential neighborhoods with small lots (3-6 dwellings per acre), with duplexes or townhomes interspersed, and the possibility of low-rise apartments. The area is mostly auto-oriented, but there are also some walkable neighborhoods and destinations." under the Medium Density Residential (MDR) designation.

### **Issues/Analysis:**

History:

This area has been inside the city limits since 1949. According to their website, Fay Black Materials, Inc. was established in 1945 and is a manufacturer of concrete masonry and other hardscape and landscape materials. According to aerial photography provided by Cumberland County GIS, they have been steadily increasing the area of their business since at least 1968, with the most recent expansions and improvements taking place between 2013 and 2017. DRA, LLC obtained ownership of tracts 1 & 2 from Walker Johnson, Jr. (also known as Walker Jr. Johnson) and his wife, Margaret Smith Johnson, in January 2012. Tract 3 was purchased by DRA, LLC in June 2023 from The Estate of William Vance Cain, who is also known as Billy V. Cain, a North Carolina Estate, as well as from Robert Goodrich and his wife, Edna B. Goodrich.

Surrounding Area:

The subject parcels are bordered by a range of different land uses and zoning designations. To the north, there's an area designated for storing industrial materials, which is zoned as Heavy Industrial (HI). To the south, there's a vacant and forested property with a zoning classification of MR-5. On the eastern side, there's another area allocated for industrial material storage, also

zoned as Heavy Industrial (HI). Lastly, to the west is single-family housing, zoned as MR-5.

**Rezoning Request:**

The applicant is seeking to rezone a parcel from MR-5 to HI. According to the applicant, the proposed amendment aligns with the comprehensive plan by conforming to existing land uses and designated as "High Suitability" for industrial activities. It addresses the need for expanding existing storage and supports a thriving local business while contributing to the city's tax base. The amendment is compatible with the surrounding vacant or applicant-operated uses, situated 110 feet from rail tracks, and follows the Long Range Plan's development pattern for the area. It won't encourage premature development, strip-style commercial development, or create an isolated zoning district. Moreover, it is not expected to have any significant adverse impacts on property values or the natural environment, given the nature of the stored goods and minimal traffic and noise associated with the use.

**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 Office and Institutional category. The Heavy Industrial (HI) District is established with the intention of accommodating heavy manufacturing, assembly, fabrication, processing, distribution, storage, research and development, and other industrial uses. These uses may vary in scale and involve significant exterior movement of vehicles, materials, and goods. They also have a greater potential for adverse environmental and visual impacts.

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:**

It is staff's professional opinion that the rezoning of the subject parcels from Mixed Residential 5 (MR-5) to Heavy Industrial (HI) is directly contrasting to protecting the community's well-being and maintaining alignment with the Future Land Use Map's designation. While proponents may argue that accommodating established industrial uses could potentially benefit the area economically, it's crucial to prioritize the long-term vision outlined in the Future Land Use Map. This designation specifies the parcels for single-family residential neighborhoods and low-rise apartments, which are in line with promoting a healthy and harmonious living environment.

Furthermore, the intended use of the subject parcels for dry goods storage of building materials raises significant concerns about potential environmental and health risks. The storage of such materials has the potential to introduce pollutants and hazards into the area, posing risks to the nearby population. These risks include air and water pollution, the release of harmful chemicals, and increased traffic associated with the transportation of these materials.

Deviating from the Future Land Use Map's plan could jeopardize the safety and well-being of residents, as well as the character of the neighborhood. Therefore, we should exercise caution in pursuing a rezoning that may compromise the community's health and disrupt the quality of life for those residing in the vicinity.

**Consistency and Reasonableness Statements:**

The Future Land Use Plan establishes goals, policies, and strategies. This application is out of step with the City's strategic compatible growth strategies and fails to meet 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 HI as presented based on the evidence submitted and finds that the rezoning is consistent with the Future Land Use Plan as demonstrated by the attached consistency and reasonableness statement;
2. 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).

**Recommended Action:**

The Professional Planning Staff recommends that the Zoning Commission move to **DENY** the proposed map amendment to rezone a parcel to Heavy Industrial (HI) based on the following:

- The proposed map amendment contradicts the policies adopted in the Future Land Use Plan, which designates the subject parcel for Medium Density Residential development. It is essential to uphold this designation to maintain the area's intended character and align with long-term planning goals. Deviating from the Future Land Use Plan may lead to an incongruous mix of land uses that could disrupt the neighborhood's harmony; and
- The proposed zoning change fails to ensure that the uses permitted in the new zoning district are suitable for the immediate area surrounding the land to be reclassified. This could result in an inappropriate and incompatible mix of land uses, potentially causing harm to the neighborhood's quality of life and safety; and
- The proposed zoning district lacks the characteristics necessary to promote a logical and orderly development pattern while preserving the public health, safety, and general welfare of the community. Approving this rezoning could lead to unpredictable and potentially adverse consequences for the area, undermining the community's well-being.

**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

#1098886

**Project Title:** North Street Rezoning  
**Application Type:** 5.1) Rezoning (Map Amendment)  
**Workflow:** Staff Review

**Jurisdiction:** City of Fayetteville  
**State:** NC  
**County:** Cumberland

## Project Location

**Project Address or PIN:**

- 1009 NORTH ST (0438700243000)
- 1015 NORTH ST (0438700340000)
- 0 NORTH ST (0438609391000)

**Zip Code:** 28301

## GIS Verified Data

### Property Owner: Parcel

- 1009 NORTH ST: DRA LLC
- 1015 NORTH ST: DRA LLC
- 0 NORTH ST: DRA LLC

### Acreage: Parcel

- 1009 NORTH ST: 0.35
- 1015 NORTH ST: 0.53
- 0 NORTH ST: 0.54

### Zoning District: Zoning District

- 1009 NORTH ST: MR-5
- 1015 NORTH ST: MR-5
- 0 NORTH ST: MR-5

### Subdivision Name:

### Fire District:

### Airport Overlay District:

### Hospital Overlay District:

### Coliseum Tourism District:

### Cape Fear District: Cape Fear District

### Downtown Historic District:

- 1009 NORTH ST: 0
- 1015 NORTH ST: 0
- 0 NORTH ST: 0

### Haymount Historic District:

### Floodway:

**100 Year Flood:** <100YearFlood>

**500 Year Flood:** <500YearFlood>

### Watershed:

## General Project Information

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

**Previous Amendment Approval Date:**

**Previous Amendment Case #:**

**Proposed Zoning District:** HI

**Acreage to be Rezoned:** 0.895

**Is this application related to an annexation?:** No

**Water Service:** Public

**Sewer Service:** Public

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

**B) Please describe the zoning district designation and existing uses of lands adjacent to and across the street**

- Site is vacant

**from the subject site.:**

- MR5, and HI, All adjacent parcels are used for outside storage for Fayblock, or are vacant. Parcels across the street are also vacant.

**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.:**

- Consistent with Long Range Plan, It conforms to existing uses in the area. The Long Range Plan shows this area as "High Suitability" for Industrial Suitability.

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

- expansion of existing storage

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

- Helps a viable existing, established business grow in volume and also increase the City's tax base.

**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.:**

- As previously stated, the only surrounding uses are either vacant, or those carried on by this applicant. Also, rail tracks are 110 feet away.

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

- As previously stated, the Long Range Plan calls for this development pattern in this particular area. It is orderly, as it extends the existing industry into an area of similar, vacant nature.

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

- It won't, development of this type already exist surrounding this location.

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

- It doesn't

**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.:**

- It doesn't

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

- It will not decrease property values adjacent to this; in fact it will increase their value.

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

- No adverse impact as all goods stored are dry, with no leaking of fluids, no traffic is generated, and there is no noise manifested from this use.

**Primary Contact Information**

**Contractor's NC ID#:**

**Project Owner**  
Kristen Allen

DRA, LLC  
130 Builders Blvd.  
Fayetteville, NC 28301  
P:9105743177  
[tom@franklinjohnsoncommercial.com](mailto:tom@franklinjohnsoncommercial.com)

**Project Contact - Agent/Representative**

Thomas Lloyd  
Franklin Johnson Commercial Real Estate  
2547 Ravenhill Drive, , Suite 100  
Fayetteville, NC 28303  
P:(910) 864-2626  
[tom@franklinjohnsoncommercial.com](mailto:tom@franklinjohnsoncommercial.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:**

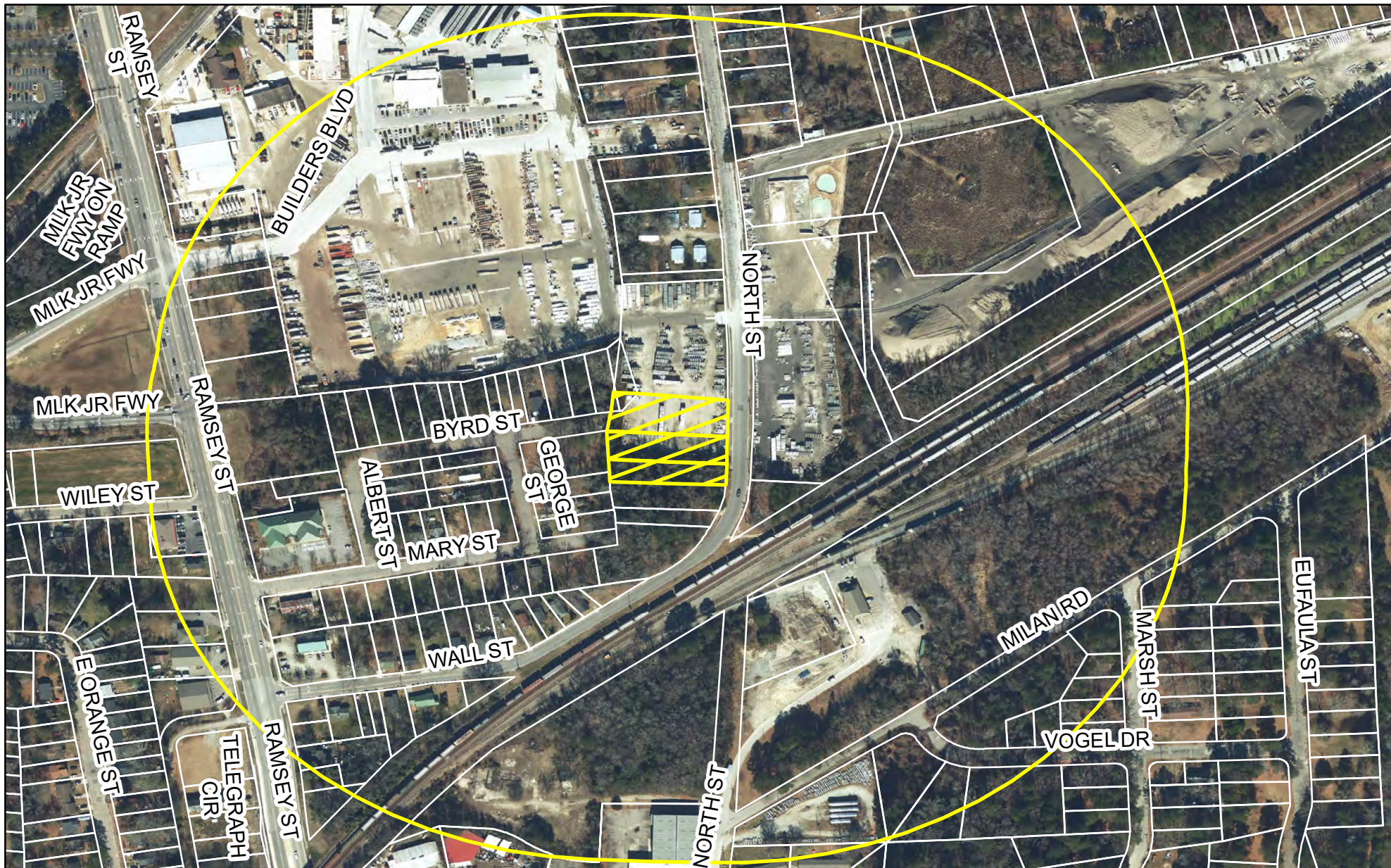
**NC State Electrical Contractor #3 License Number:**

**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 #: P23-39

Request: Rezoning Mixed Residential 5 (MR-5) to Heavy Industrial (HI)

Location: 1009, 1015, & 0 North St.

## Legend

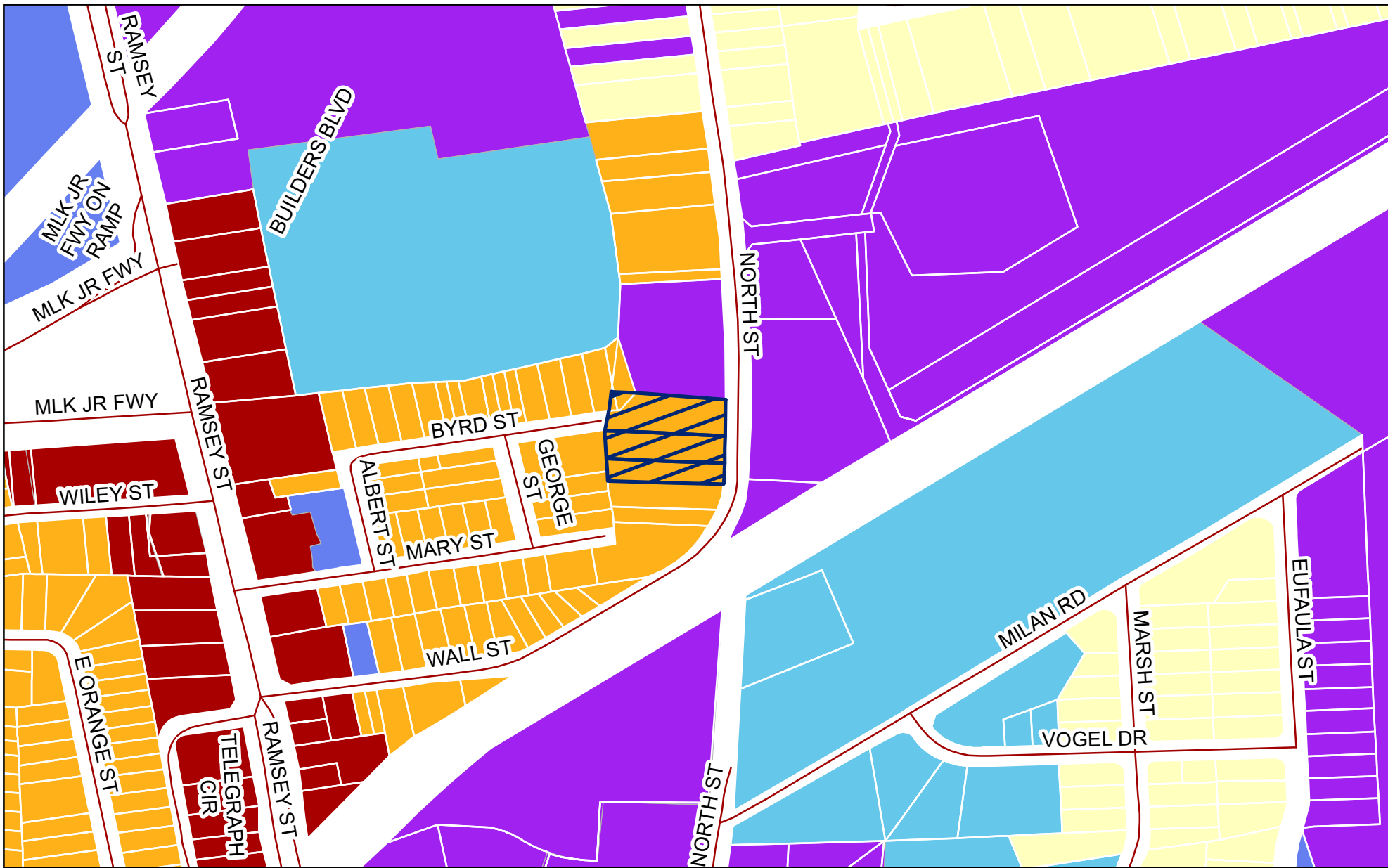
-  P23-39 Buffer
-  P23-39



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







## Zoning Map

Case #: P23-39

Request: Rezoning Mixed Residential 5 (MR-5) to Heavy Industrial (HI)

Location: 1009, 1015, & 0 North St.

### Legend



P23-39



CC - Community Commercial



HI - Heavy Industrial



LI - Light Industrial



MR-5 - Mixed Residential 5



OI - Office & Institutional

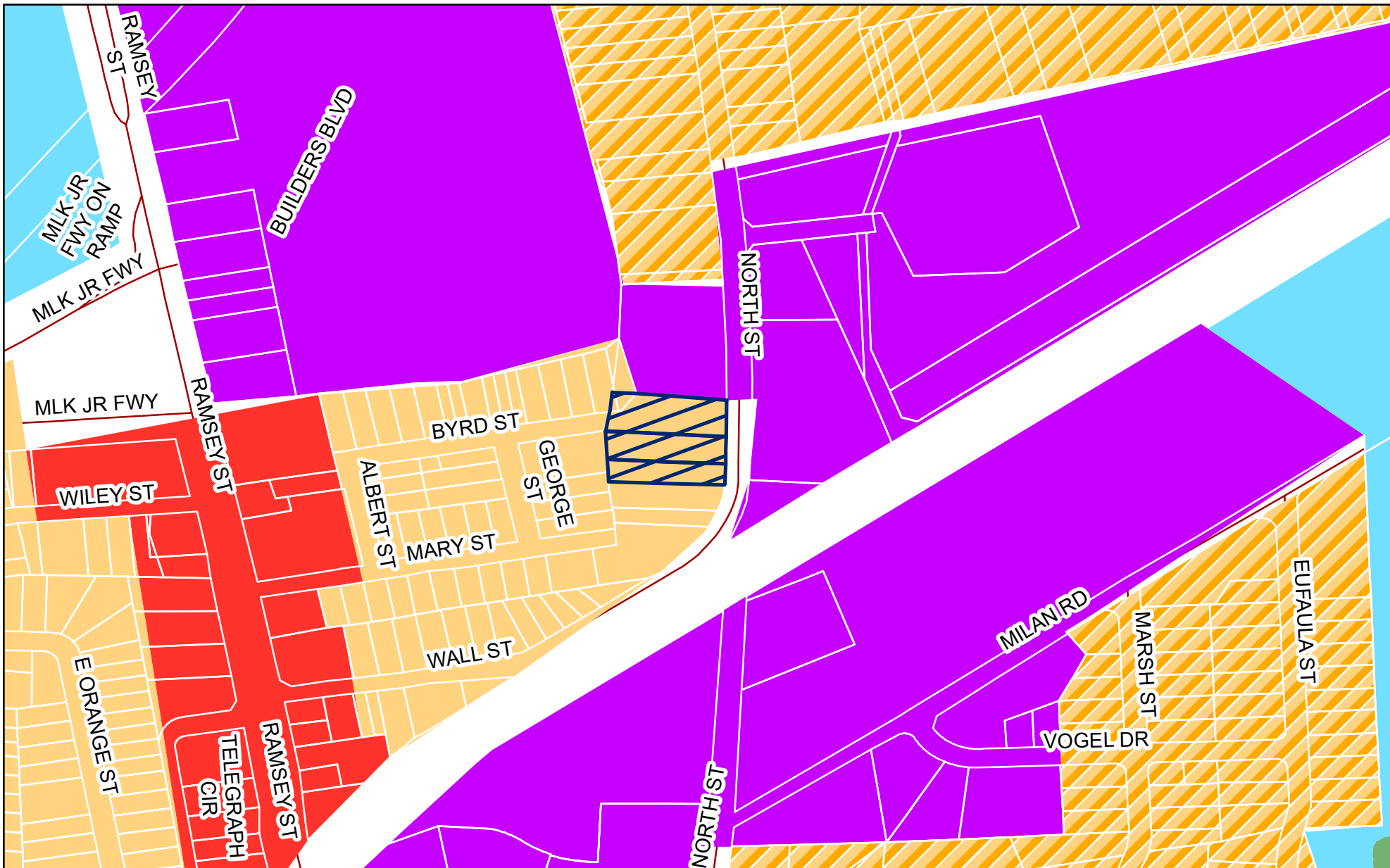


SF-6 - Single-Family Residential 6



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 #: P23-39

Request: Rezoning Mixed Residential 5 (MR-5) to Heavy Industrial (HI)

Location: 1009, 1015, & 0 North St.

### Legend



P23-39

### Land Use Plan 2040

#### Character Areas



PARKOS - PARK / OPEN SPACE



MDR - MEDIUM DENSITY



NIR - NEIGHBORHOOD IMPROVEMENT



HC - HIGHWAY COMMERCIAL



OI - OFFICE / INSTITUTIONAL



EC - EMPLOYMENT CENTER

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









# Surrounding Properties



## PART II - CODE OF ORDINANCES

### CHAPTER 30 – UNIFIED DEVELOPMENT ORDINANCE

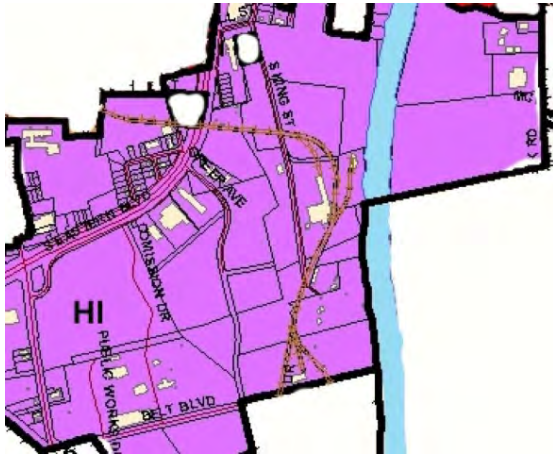
#### Article 30-3: Zoning Districts

#### 30-3.E. Business Base Zoning Districts

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

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

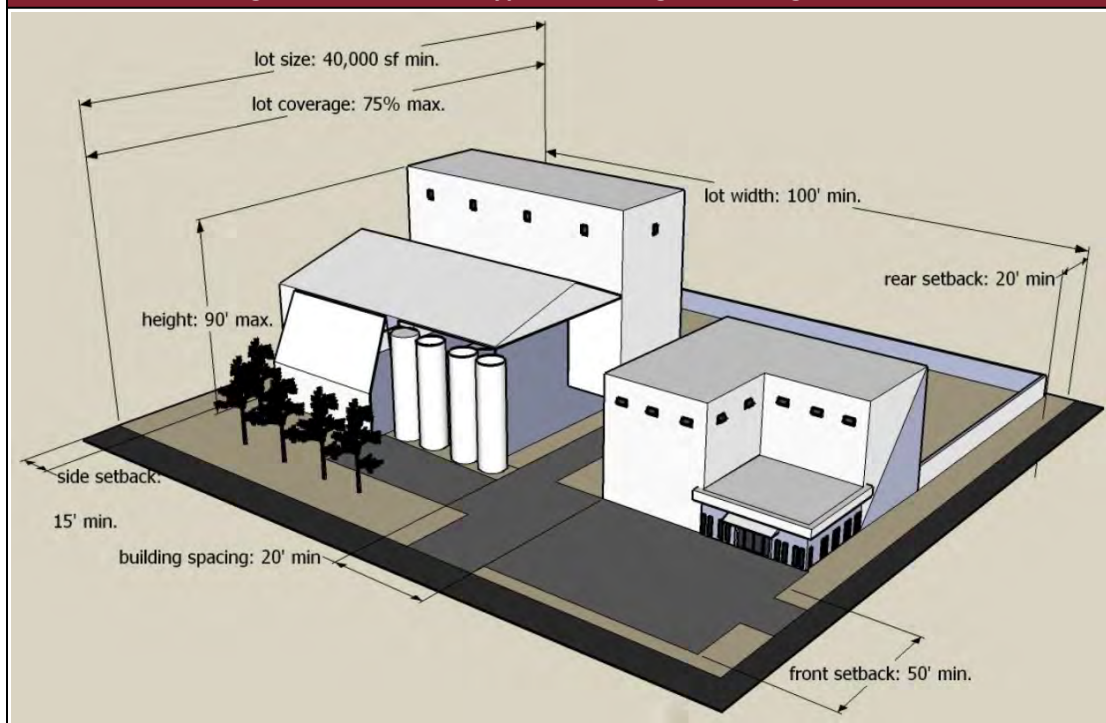
**Figure 30-3.E.9.a:  
HI Typical Lot Pattern**



**Figure 30-3.E.9.b:  
HI Typical Building Form**



**Figure 30-3.E.9.c: HI Typical Building/Lot Configuration**



*(Ord. No. S2011-014, § 1.3, 11-28-2011; Ord. No. S2012-001, Pt. 3, § 3.2, 1-23-2012)*

Effective on: 11/18/2013

# Consistency and Reasonableness Statement

## Map Amendments

Pursuant N.C.G.S. Sections 160D-604 and -605, the Zoning Commission finds that the proposed zoning map amendment in case P23-39 is inconsistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

### Consistency

#### 1. GOALS

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

#### 2. LAND USE POLICES AND STRATEGIES:

LAND USE POLICIES AND STRATEGIES	CONSISTENT	INCONSISTENT
<b>LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.</b>	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.		X
<b>LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods.</b>	X	
3.2: Identify potential barriers for redevelopment and reinvestment and provide flexibility through modification to development regulations while maintaining high standards.	X	
<b>LUP 4: Create well-designed and walkable commercial and mixed-use districts</b>	X	
4.2: Encourage context-sensitive site design	X	

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

<input type="checkbox"/>	The proposed land use is consistent and aligns with the area's designation on the FLU Map.	OR	<input checked="" type="checkbox"/>	The proposed land use is inconsistent and does not align with the area's designation on the FLU Map.
<input type="checkbox"/>	The proposed designation, as requested, would permit uses that are complimentary to those existing on adjacent tracts.	OR	<input checked="" type="checkbox"/>	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):

October 10, 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: 23-3599

**Agenda Date:** 10/10/2023

**Version:** 1

**Status:** Agenda Ready

**In Control:** Zoning Commission

**File Type:** Public Hearing  
(Public & Legislative)

**Agenda Number:** 4.02

**TO:** Mayor and Members of City Council

**THRU:** Zoning Commission

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

**DATE:** October 10, 2023

**RE:**

**P23-40.** Rezoning of 6.00 acres  $\pm$  from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5), located at 1133 Berkshire Road (REID # 0427008217000), and being the property of Berkshire Beckham Capital Investments LLC, represented by Brad Schuler of Paramounte Engineering, Inc.

**COUNCIL DISTRICT(S):**

Council District 5 - Mayor Pro Tem Johnny Dawkins

**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 6.36 acres  $\pm$  from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5), located at 1133 Berkshire Road (0427008217000).

**Background:**

Applicant: Brad Schuler

Owner: BERKSHIRE BECKHAM CAPITAL INVESTMENTS LLC

Requested Action: Rezoning from SF-6 to MR-5

REID: 0427008217000

Council District: 5 - Mayor Pro Tem Johnny Dawkins

Status of Property: Residential - Currently consists of 33 apartment units within 10 townhome style buildings.

Size: 6.36 acres ±

Adjoining Land Use & Zoning:

- **North:** Tallywood Arms apartments (zoned MR-5)
- **South:** Single-family housing within the Glendale Acres subdivision (zoned SF-6)
- **East:** Amora East apartments (zoned MR-5)
- **West:** Single-family housing within the Owen Village subdivision (zoned SF-6)

Letters Mailed: 199

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 per the Future Land Use Map, this parcel has been designated for development featuring "150,000-400,000 sqft of nonresidential leasable space, with a mix of uses spanning 3-5 stories. The ground floors are primarily allocated for nonresidential purposes, while the upper floors may house office spaces or possibly residential units. The plan includes high-density residential areas intertwined with multi-family structures, with single-family homes located at the perimeter of the area." This falls under the Community Center (CC) designation.

### **Issues/Analysis:**

History:

The property in question is situated within the Berkshire Apts. subdivision. Berkshire Beckham Capital Investments, LLC obtained the property from Alex J. Thompson, a free trader; Lisa M. Thompson f/k/a List T. Short, unmarried; and First Citizens Bank & Trust Company, Successor Trustee of the Irrevocable Life Insurance Trust executed on August 15, 1973 between Larry A. Thompson, as Grantor, and Wachovia Bank & Trust Company, N.A., as Trustee in May of 2022.

Surrounding Area:

The subject site is adjacent to both single-family and multi-family housing. It shares its northern border with the Tallywood Arms apartments (zoned MR-5). On the eastern side, it is neighbor to the Amora East apartments (zoned MR-5). To the south, there are single-family homes within the Glendale Acres subdivision (zoned SF-6). Lastly, to the west, the site faces single-family residences within the Owen Village subdivision (zoned SF-6).

Rezoning Request:

The applicant is seeking to rezone a parcel from SF-6 to MR-5. As stated by the applicant, "The proposed zoning amendment aligns with the 2040 Comprehensive Plan, which designates the subject site as a Community Center, encouraging mixed-use development and diverse housing types. Changing conditions and the need for more housing in Fayetteville support the amendment. It is compatible with

surrounding areas, consistent with the current development pattern, and doesn't encourage premature development or strip-style commercial development. The proposal connects to adjacent zoning districts and is unlikely to adversely impact property values or the natural environment, as it involves reclassification within residential districts."

**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 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 substations), day care facilities, and limited small-scale neighborhood-serving convenience retail uses (See 30-4.D. Accessory Uses).

The rezoning 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:**

The proposed rezoning for the subject parcel is backed by a thorough land use analysis for several compelling reasons. First, it is fully in harmony with the 2040 Comprehensive Plan, which designates the site as a Community Center. This classification promotes a diverse range of development, including high-density residential, multi-family housing, and single-family residences along the edges. The rezoning would actively facilitate a development pattern consistent with the comprehensive plan's vision, ensuring a variety of housing options for residents of all age groups and income levels.

Second, the changing conditions in the Fayetteville area necessitate this rezoning. As the population continues to grow, the demand for additional housing has become evident. The proposed rezoning provides a solution to this demand, allowing for more housing development in an area already well-served by infrastructure and services, effectively addressing the increasing need for housing alternatives.

The proposed rezoning is well-grounded in a comprehensive land use analysis that considers various factors. It is consistent with the city's long-term planning goals, responds to changing community needs, and ensures compatibility with existing developments. Moreover, it does not encourage premature development or negatively

impact property values and the natural environment. Overall, the rezoning represents a rational and beneficial step towards achieving the city's future development objectives.

**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 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 Community Center (CC) 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****#1085597****Project Title:** Fayetteville Apartments**Jurisdiction:** City of Fayetteville**Application Type:** 5.1) Rezoning (Map Amendment)**State:** NC**Workflow:** Staff Review**County:** Cumberland**Project Location****Project Address or PIN:** 1133 BERKSHIRE RD  
(0427008217000)**Zip Code:** 28304**GIS Verified Data****Property Owner: Parcel**

- 1133 BERKSHIRE RD: BERKSHIRE BECKHAM CAPITAL INVESTMENTS LLC

**Acreage: Parcel**

- 1133 BERKSHIRE RD: 6

**Zoning District: Zoning District**

- 1133 BERKSHIRE RD: SF-10

**Subdivision Name:****Fire District:****Airport Overlay District:****Hospital Overlay District:****Coliseum Tourism District:****Cape Fear District:****Downtown Historic District:****Haymount Historic District:****Floodway:****100 Year Flood:** <100YearFlood>**500 Year Flood:** <500YearFlood>**Watershed:****General Project Information****Has the land been the subject of a map amendment application in the last five years?:** No**Previous Amendment Approval Date:****Previous Amendment Case #:****Proposed Zoning District:** MR-5**Acreage to be Rezoned:** 6.36**Is this application related to an annexation?:** No**Water Service:** Public**Sewer Service:** Public**A) Please describe all existing uses of the land and existing structures on the site, if any:**

The subject 6.36-acre parcel, which is bisected by Berkshire Road, currently consists of 33 apartment units within 10 townhome style buildings.

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

The subject site abuts both single-family and multi-family housing. To the north, are the Tallywood Arms apartments (zoned MR-5). To the east, are the Amora East apartments (zoned MR-5). To the south, is single-family housing within the Glendale Acres subdivision (zoned SF-6). Finally, to the West, is single-family housing within the Owen Village subdivision (zoned SF-6).

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

The 2040 Comprehensive Plan classifies the subject site as Community Center. This classification promotes mixed-use development with high density residential and multi-family inter-mixed; and single-family along the edges. In addition, the proposed rezoning would encourage development in an area well-served by infrastructure and services and will help provide for a mix of housing types for all ages and incomes.

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

The proposed rezoning will better align with the adjacent development and 2040 Comprehensive Plan. It will also provide for more housing as the Fayetteville area continues to grow.

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

Per the City's Affordable Housing Study, the City's population has continued to grow over the last decade while the number of housing units constructed has declined, consequently constraining the housing supply. Economics theories tell us that when supply is low and demand is high, prices increase. The proposed rezoning will allow for needed housing for the growing Fayetteville region. In addition, the proposed zoning district is intended to provide for a diverse range of housing types, including Missing Middle housing. Per the study, two- to four-unit buildings make up just 7% of all housing types in the City and 0.3% of all new units developed.

**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.:**

Properties abutting the subject site to the north and east are currently zoned MR-5 and have been developed with apartments. In addition, the subject site has already been partially developed with 2- to 4-unit apartment buildings and the proposed MR-5 district would allow for this style of development to be continued on the site.

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

The subject site has already been developed with housing and needed infrastructure (roads, utilities). The proposal would allow for similar housing to be constructed on the site. In addition, the proposed zoning district is consistent with the Community Center classification recommended by the 2040 Comprehensive Plan.

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

The subject site and surrounding area have already been developed with housing and needed infrastructure. Therefore, the proposal would not encourage premature development, but expand the current development pattern of the area.

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

The proposed MR-5 district is a residential district and does not permit the uses typical of 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.:**

The proposed MR-5 zoning district is already located in the surrounding area and abuts the site to the north and east. The proposed rezoning would not create an isolated zoning district.

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

The site and surrounding area have been developed with a mixture of housing types. The proposed rezoning would allow for the site to be developed with housing similar to the existing housing located on the property and within the surrounding area. It is not expected to result in a significant adverse impact on property values.

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

This proposed amendment would simply rezone the subject site from one residential district to another residential district. When a development is proposed on the site, it must comply with all applicable local, state, and federal environmental regulations.

**Contractor's NC ID#:**

**Project Owner**

Michael Paschal  
Berkshire Beckham Capital Investments, LLC  
2533 Raeford Road, Suite A  
Fayetteville, NC 28305  
P:910-527-5990  
[paschal@nc.rr.com](mailto:paschal@nc.rr.com)

**Project Contact - Agent/Representative**

Brad Schuler  
Paramounte Engineering, Inc.  
122 Cinema Drive, Wilmington  
Wilmington, NC 28403  
P:9107916707  
[bschuler@paramounte-eng.com](mailto:bschuler@paramounte-eng.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:**

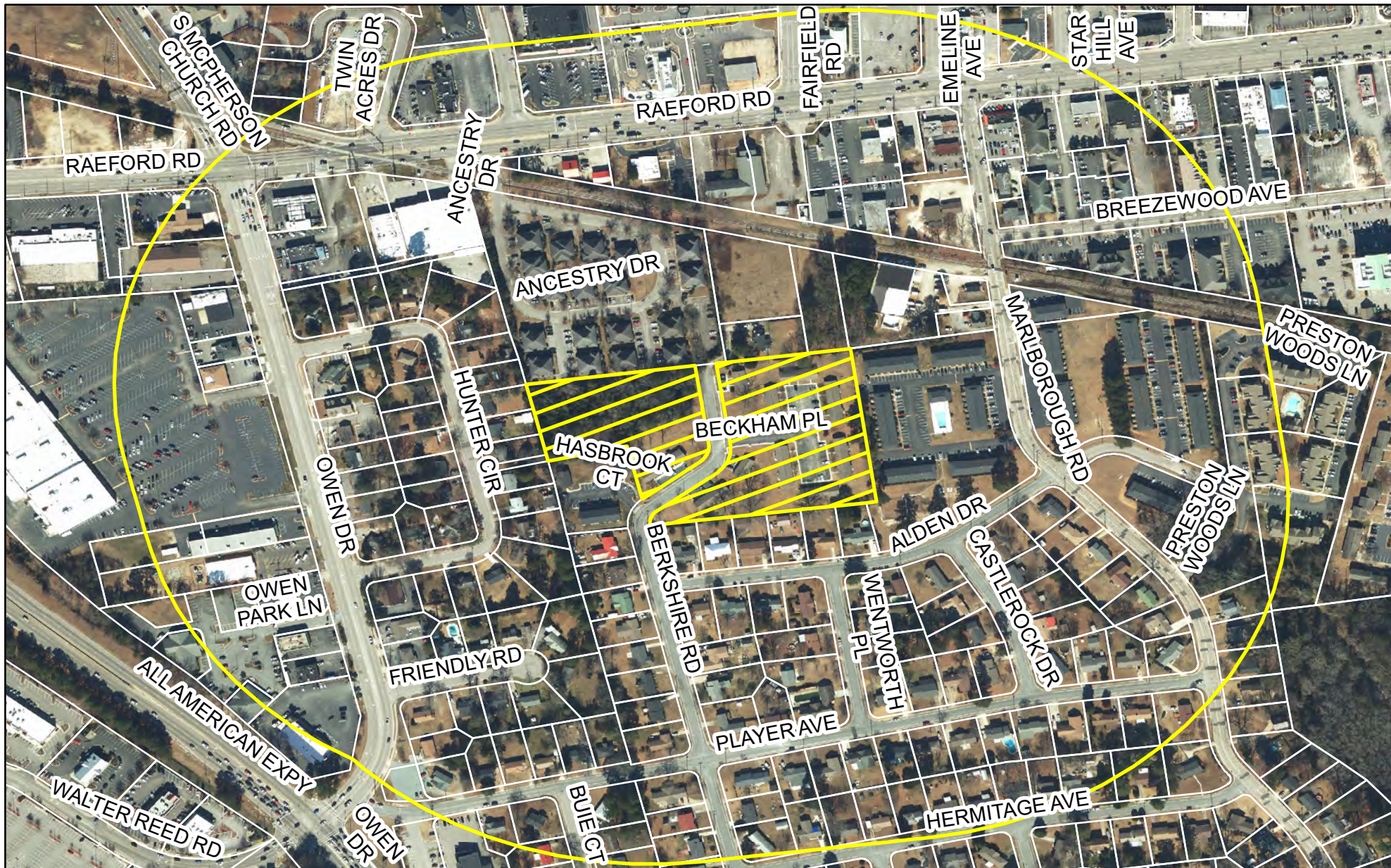
**NC State Electrical Contractor #3 License Number:**

**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 #: P23-40

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

Location: 1133 Berkshire Road

## Legend

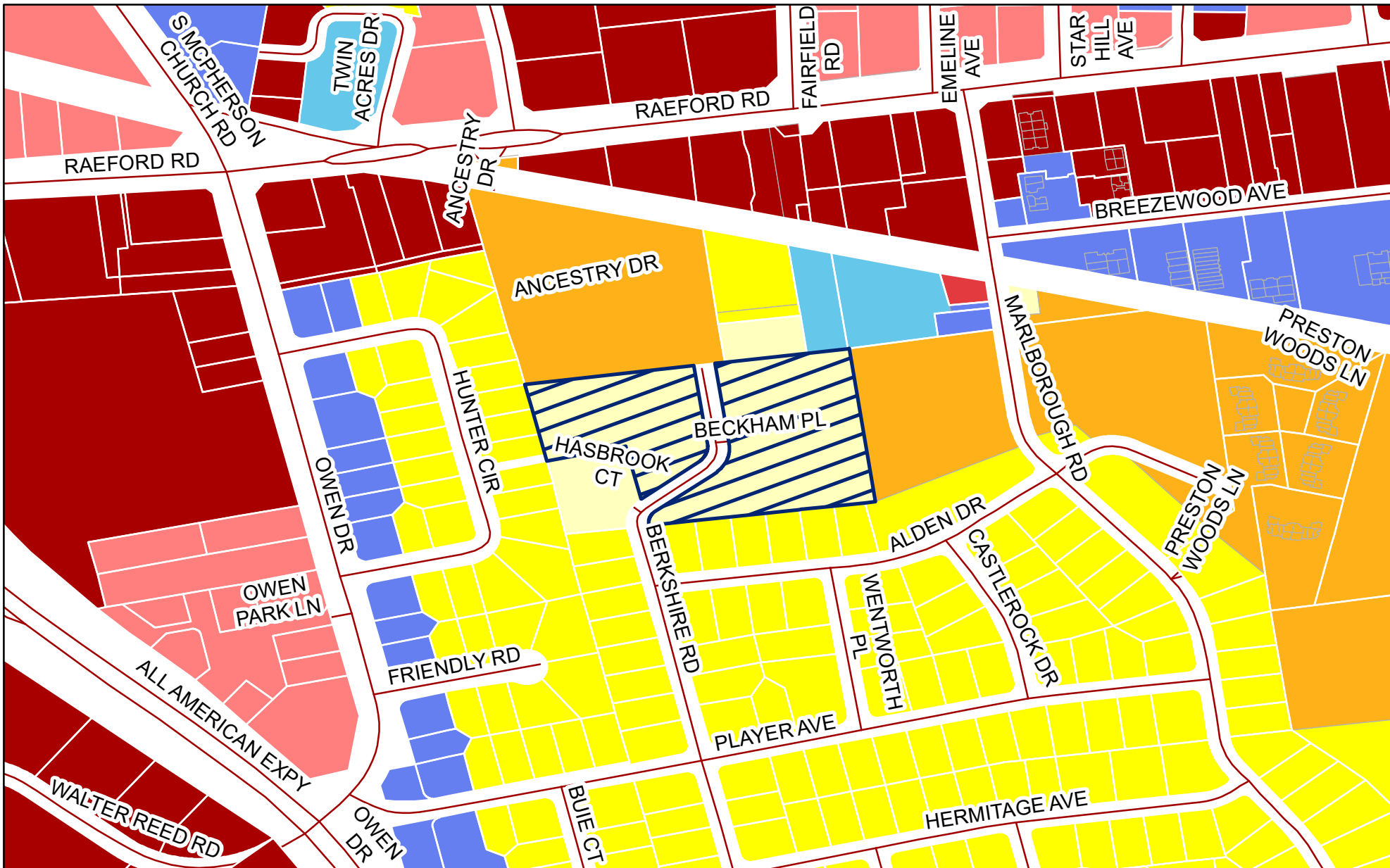
-  P23-40 Buffer
-  P23-40



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







## Zoning Map

Case #: P23-40

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

Location: 1133 Berkshire Road

### Legend



P23-40



CC - Community Commercial



LC - Limited Commercial



LI - Light Industrial



MR-5 - Mixed Residential 5



NC - Neighborhood Commercial



OI - Office & Institutional



SF-6 - Single-Family Residential 6



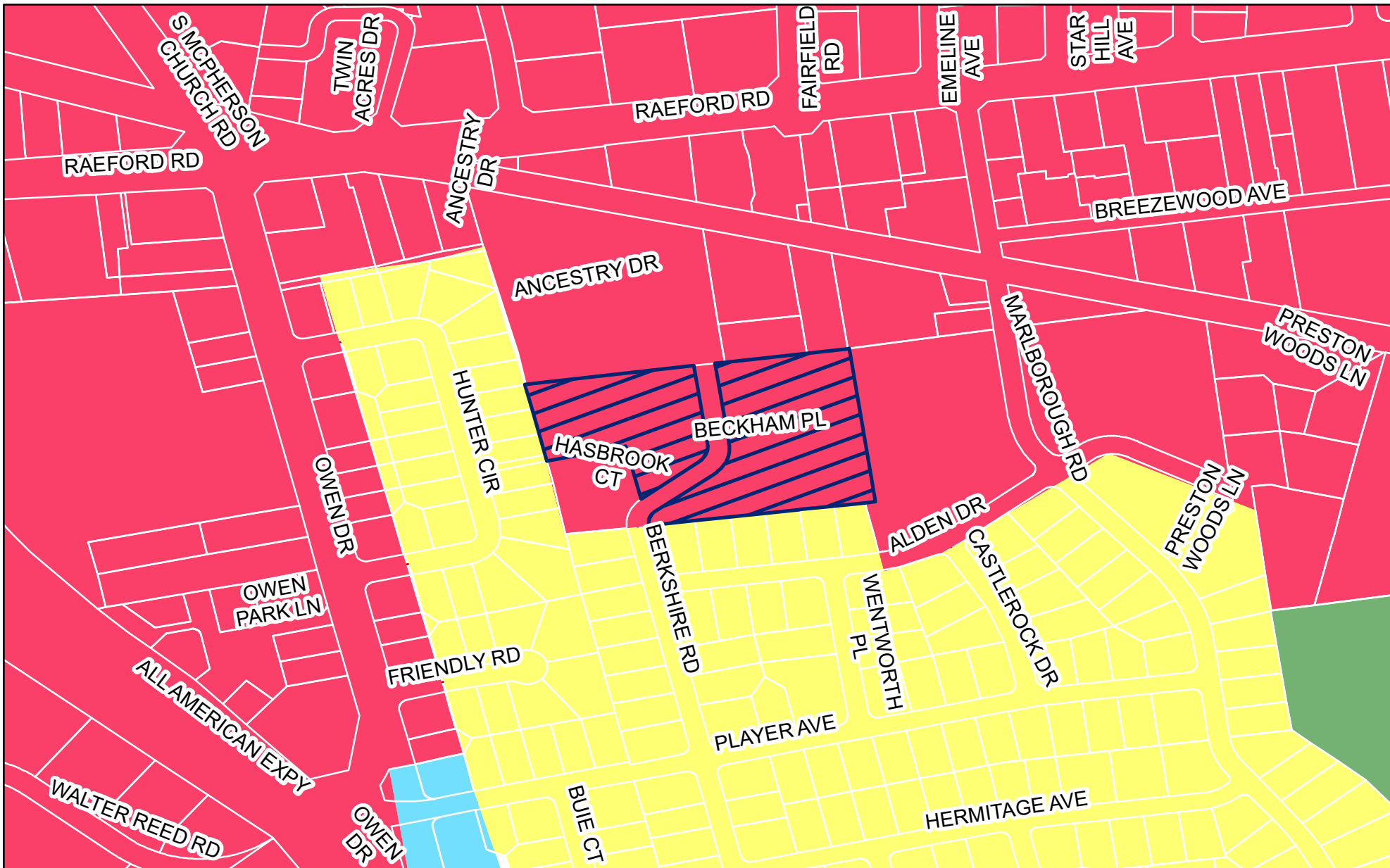
SF-10 - Single-Family Residential 10



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







## Future Land Use Map

Case #: P23-40

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

Location: 1133 Berkshire Road

### Legend



P23-40

### Land Use Plan 2040

#### Character Areas



PARKOS - PARK / OPEN SPACE



LDR - LOW DENSITY



CC - COMMUNITY CENTER



OI - OFFICE / INSTITUTIONAL



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



# Subject Property





# Surrounding Properties



## PART II - CODE OF ORDINANCES

### CHAPTER 30 – UNIFIED DEVELOPMENT ORDINANCE

#### Article 30-3: Zoning Districts

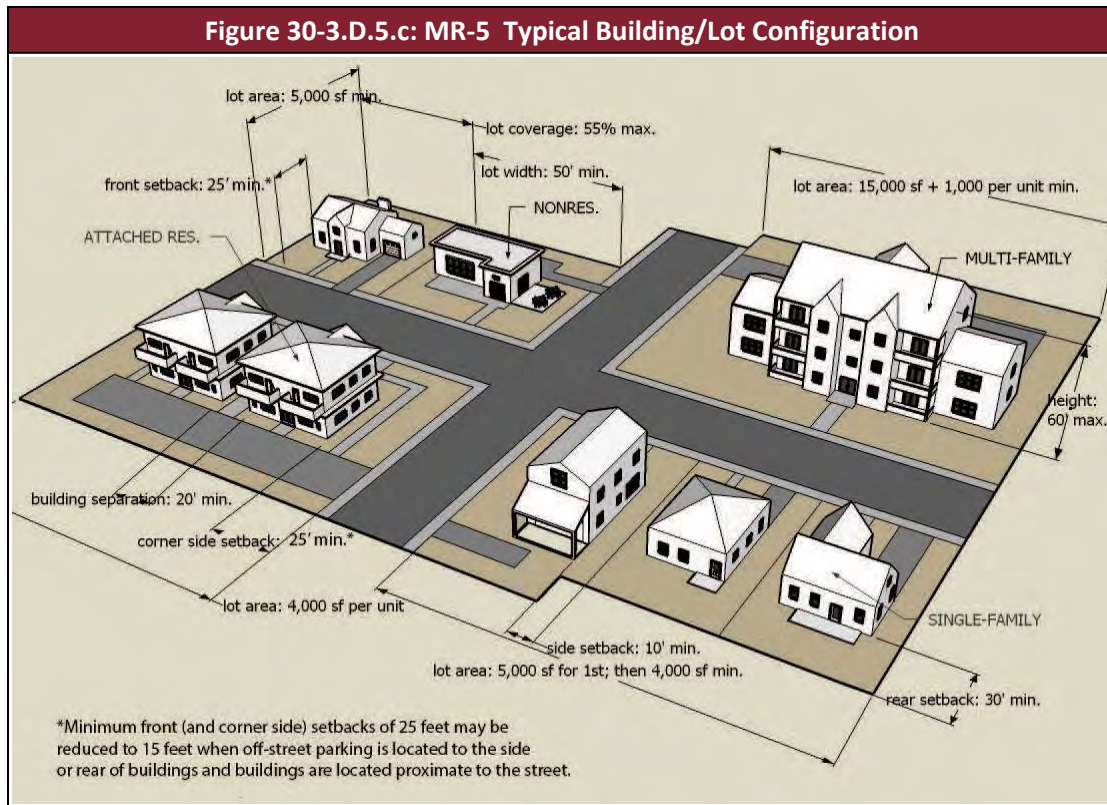
##### 30-3.D. Residential Base Zoning Districts

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

MR-5 MIXED RESIDENTIAL 5 DISTRICT	PURPOSE					
	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 <a href="#">Article 30-5</a> : 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 <a href="#">30-4.D</a> . 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 <a href="#">Article 30-9</a> , 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







(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 P23-40 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

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

2. LAND USE POLICES AND STRATEGIES:

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

4.2: Encourage context sensitive site design	<b>X</b>	
--	----------	--

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

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

### **Reasonableness**

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

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

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

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

Additional comments, if any (write-in):

October 10, 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: 23-3598

**Agenda Date:** 10/10/2023

**Version:** 1

**Status:** Agenda Ready

**In Control:** Zoning Commission

**File Type:** Public Hearing  
(Public & Legislative)

**Agenda Number:** 4.03

**TO:** Mayor and Members of City Council

**THRU:** Zoning Commission

**FROM:** Will Deaton, AICP - Planning & Zoning Division Manager  
Heather Eckhardt, CZO - Planner II

**DATE:** October 10, 2023

**RE:**

**P23-41.** Rezoning from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5) located at 6677, 6655 Cliffdale Road and an unaddressed parcel on Cliffdale Road (REIDs 9497861260000, 9497863078000, and 9497862193000) totaling 2.8 acres ± and being the property of Juan & Denise Macias and JFC LLC, represented by George M. Rose, P.E..

**COUNCIL DISTRICT(S):**

7 - Brenda McNair

**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 three parcels from Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5). The three parcels total 2.8 acres.



**Background:**

Applicant: George Rose, P.E.

Owner: JFC LLC and Juan & Denise Macias

Requested Action: SF-6 to MR-5

REID #: 9497861260000, 9497862193000 & 9497863078000

Council District: 7 - Brenda McNair

Status of Properties: Undeveloped

Size: 2.8 acres

Adjoining Land Use & Zoning:

- North: MR -5 - Multi-family dwellings
- South: MR-5 - Multi-family dwellings
- East: MR-5 - Multi-family dwellings
- West: MR-5 - Multi-family dwellings

Annual Average Daily Traffic: Cliffdale Road near Bunce Road: 38,000 (2021)

Letters Mailed: 32

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 High Density Residential (HDR). High Density Residential entails 3-5 story buildings with typically 5-16 dwellings per acre located in active, compact neighborhoods walkable to adjacent commercial centers.

**Issues/Analysis:**

History:

The subject property was annexed into the city in 1996. There were single-family houses on 6655 and 6677 Cliffdale Road until the early 2000s. Since the demolition of the structures, the properties have remained undeveloped. Aerial photography does not indicate any structures on the unaddressed parcel as far back as 1968.

Surrounding Area:

The area around the subject properties is primarily multi-family dwelling developments. The Hidden Creek Village Apartments development completely surrounds the subject properties to the east, west, and south. To the northeast of the subject properties, there is one undeveloped and wooded parcel. To the east, at the corner of Cliffdale Road and Bunce Road, there is a 365 Fast Mart convenience store.

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 three parcels currently zoned Single Family Residential 6 (SF-6) to Mixed Residential 5 (MR-5). The Mixed Residential 5 zoning

district is intended to meet the diverse housing needs of City residents by accommodating a wide variety of residential housing types and arrangements at moderate to high densities, including single-family detached dwellings, two-to-four family dwellings and multi-family dwellings.

**Straight Zoning:**

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

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

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

**Land Use Plan Analysis:**

According to the Future Land Use Map & Plan, it is recommended that this portion of the city should be developed as High Density Residential. High Density Residential calls for townhomes and apartments in 3-5 story buildings with some very small single-family lots possible, typically with 5-16 dwellings per acre.

**Consistency and Reasonableness Statements:**

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

**Conclusion:**

The subject properties are located on a major thoroughfare surrounded by existing multi-family dwellings. This area of Cliffdale Road is intended for high-density residential development. The requested MR-5 zoning district is more in keeping with the planned High-Density Residential district than the existing SF-6 zoning district. This rezoning will better align the zoning with the Future Land Use Plan and allow for the development of much-needed housing.

**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. 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:**

4. 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);
5. 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;
6. Deny the map amendment request based on the evidence submitted and finds that the map amendment is inconsistent with the Future Land Use Plan .

**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****#1113704**

**Project Title:** Macias property 6677 Cliffdale Road  
**Application Type:** 5.1) Rezoning (Map Amendment)  
**Workflow:** Staff Review

**Jurisdiction:** City of Fayetteville  
**State:** NC  
**County:** Cumberland

**Project Location****Project Address or PIN:**

- 6677 CLIFFDALE RD (9497861260000)
- 0 CLIFFDALE RD (9497862193000)
- 6655 CLIFFDALE RD (9497863078000)

**Zip Code:** 28303**GIS Verified Data****Property Owner: Parcel**

- 6677 CLIFFDALE RD: JFC LLC
- 0 CLIFFDALE RD: JFC LLC
- 6655 CLIFFDALE RD: MACIAS, JUAN;MACIAS, DENISE

**Acreage: Parcel**

- 6677 CLIFFDALE RD: 1.48
- 0 CLIFFDALE RD: 0.48
- 6655 CLIFFDALE RD: 0.84

**Zoning District: Zoning District**

- 6677 CLIFFDALE RD: SF-6
- 0 CLIFFDALE RD: SF-6
- 6655 CLIFFDALE RD: SF-6

**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****Has the land been the subject of a map amendment application in the last five years?:** No**Previous Amendment Case #:****Acreage to be Rezoned:** 2.17**Water Service:** Public**A) Please describe all existing uses of the land and existing structures on the site, if any:**

Cleared, vacant land. No structures exist on the site.

**Previous Amendment Approval Date:****Proposed Zoning District:** MR5**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.:**

Subject property is currently zoned SF6 and is completely surrounded by MR5 (Hidden Creek Village Apartments).



Property on the north side of Cliffdale Road directly across from the subject property is MR5 (The Village at Cliffdale apartments) and a 2.9 acre undeveloped tract zoned SF6.

**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.:**

Long range plan calls for higher density residential and commercial in the general vicinity of the subject property. Proposed amendment is consistent with the existing nearby MR5 zoning and high-density residential use.

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

The general area has been developed over time with apartment projects and the proposed amendment is consistent with that type of development. Single-family zoning and uses no longer appropriate for this heavily traveled and densely populated corridor.

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

There continues to be a need for affordable housing and the proposed amendment will allow for development that meets a community need.

**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.:**

Proposed MR5 zoning is consistent with the surrounding property on the south side of Cliffdale Road as well as other MR5 zoning and apartment developments on the north side of Cliffdale Road in the general vicinity.

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

The general area contains multiple apartment complexes (Hidden Creek Village, The Village at Cliffdale, Brookstone Apartments, The Regency Apartment Homes) so that the proposed amendment allows for development that is consistent with other uses in the area.

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

The proposed amendment does not encourage premature development in that the general area is mostly fully developed with high-density residential.

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

The proposed amendment is for residential uses and not strip-style commercial.

**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 changes an isolated single-family zone into a high-density residential zone that is consistent with surrounding zoning districts.

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

No adverse impacts on property values of adjacent properties will occur as a result of the proposed amendment since proposed zoning and uses will be similar.

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

The natural environment will not be adversely impacted. Development of the property will meet the requirements of the stormwater and landscaping/buffer ordinances.

**Primary Contact Information**

**Contractor's NC ID#:**

**Project Owner**  
Juan Macias

572 Executive Place  
Fayetteville, NC 28305  
P:910-484-4433  
[jm.macias.inc@gmail.com](mailto:jm.macias.inc@gmail.com)

**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](mailto: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](mailto: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

(N.P. SEAL) 006884

17/nt

CUMBERLAND COUNTY NC 02/14/2007  
\$330.00



Real Estate  
Excise Tax

RECEIVED  
2-14-2007 AM 10:35:15  
J. LEE WARREN JR.  
REGISTER OF DEEDS  
CUMBERLAND CO., N.C.

REVENUE \$330.00

Mail after recording to: Cooper, Davis & Cooper, PO Drawer 1598, Fayetteville, NC 28302-1598

This instrument was prepared by: Robert L. Cooper, Attorney at Law

Brief Description for the index 6651 Cliffdale Road, Fayetteville

**NORTH CAROLINA GENERAL WARRANTY DEED**

THIS DEED made this 12th day of February, 2006, by and between

**GRANTOR**

LARRY D. HOLMES and wife,  
DENISE D. HOLMES, and  
PATSY L. HAYES and husband,  
JUNIUS B. HAYES

**GRANTEE**

JUAN MACIAS and wife,  
DENISE MACIAS

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 their undivided interest in and to a certain lot or parcel of land situated near the City of **Fayetteville**, **Cumberland** County, North Carolina and more particularly described as follows:

Being the major portion of the property shown on a deed recorded in Book 3392, Page 559, Cumberland County Registry.

BEGINNING at an existing Concrete Monument in the northern line of a tract shown on a plat recorded in Book of Plats 68, Page 26, Cumberland County Registry;

THENCE South 66 degrees 08 minutes 29 seconds East for a distance of 128.89 feet to a new set iron pipe;

THENCE North 16 degrees 06 minutes 42 seconds East for a distance of 317.63 feet to a new set iron pipe on the Southern margin of said Cliffdale Road and running with said margin;

THENCE North 71 degrees 55 minutes 18 seconds West for a distance of 108.05 feet;

THENCE South 19 degrees 49 minutes 33 seconds West for a distance of 304.60 feet to the point of beginning and containing 0.84 acres more or less.

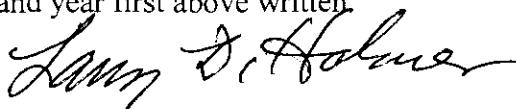
TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple. And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is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

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

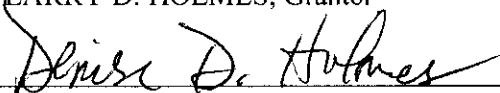
This property is made subject to any and all Ad Valorem taxes, rights-of-ways, restrictions, easements, and encumbrances of record in Cumberland County Registry.

Margaret R. Holmes and Patsy L. Hayes are the sole heirs at law of Annie B. Jackson. Larry D. Holmes and Denise D. Holmes were deeded Margaret R. Holmes' interest in the described property in Book 5228, at Page 532, Cumberland County Registry.

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



LARRY D. HOLMES, Grantor



DENISE D. HOLMES, Grantor



PATSY L. HAYES, Grantor



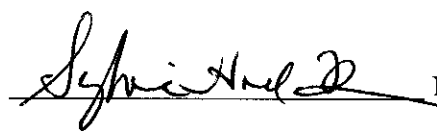
JUNIUS B. HAYES

SEAL-  
STAMP



NORTH CAROLINA, Cumberland County.

I, Sylvia Hall Nordeman, the undersigned, a Notary Public of the County and State aforesaid, certify that **LARRY D. HOLMES, DENISE D. HOLMES, PATSY L. HAYES and JUNIUS B. HAYES** personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 12<sup>th</sup> day of February, 2006.

My commission expires: 8-25-2010  Notary Public



8426  
0347

BK08426 PG0347

FILED  
CUMBERLAND COUNTY NC  
J. LEE WARREN, JR.  
REGISTER OF DEEDS  
FILED Jul 01, 2010  
AT 10:43:00 am  
BOOK 08426  
START PAGE 0347  
END PAGE 0351  
INSTRUMENT # 20553  
RECORDING \$31.00  
EXCISE TAX \$400.00  
KSJ

Excise Tax <del>\$500.00</del> 400.00	Return after recording to → J.D. Gilliam, Atty. at Law
Tax Map ID #	Prepared by 307 Person Street
Parcel ID # 9497-86-1260 & 9497-86-2193	J.D. Gilliam, Attorney at Law Fayetteville, NC 28301

BRIEF DESCRIPTION FOR INDEX → 1.32 AC H F BUNCE LD

STATE OF NORTH CAROLINA	DATE	GENERAL
COUNTY OF CUMBERLAND	June 28, 2010	WARRANTY DEED
Zeb Dee Jackson and wife, Mary W. Jackson, 8643 Cliffdale Road Fayetteville, NC 28314	JFC, LLC, a North Carolina limited liability corporation, 209 Tallywood Shopping Center Fayetteville, NC 28303	
"Grantor"	"Grantee"	

When reference herein is made to the GRANTOR and/or the GRANTEE, the singular shall include the plural, the neuter shall include the masculine as well as the feminine.

WITNESSETH

FOR VALUABLE CONSIDERATION RECEIVED, receipt of which is hereby acknowledged, the GRANTOR hereby has bargained sold and conveyed in fee simple unto the GRANTEE all that certain lot or parcel of land in the City of Fayetteville, Cross Creek Township of Cumberland County, North Carolina more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.

This property is not the primary residence of the Grantor.

TO HAVE AND TO HOLD this realty and all privileges and appurtenances thereto belonging unto the GRANTEE its heirs, successors and/or assigns 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 the title is marketable and free and clear of all encumbrances, and that GRANTOR will forever warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

- 1. All restrictions, encumbrances and rights-of-way as may appear of record.
- 2. 2010 ad valorem taxes which are not yet due and payable.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing on the DATE first above written.

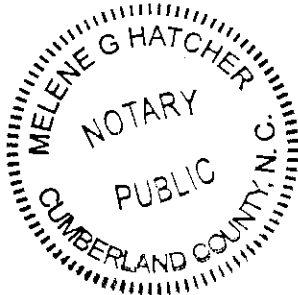
USE BLACK INK ONLY

Zeb Dee Jackson (Seal)  
Zeb Dee Jackson

Mary W. Jackson (Seal)  
Mary W. Jackson

Seal/Stamp

State of North Carolina  
County of Cumberland



I, a Notary Public, certify that **ZEB DEE JACKSON and MARY W. JACKSON**, as **GRANTOR** herein, personally appeared before me this day, identified themselves by driver's licenses, and acknowledged the due execution of this instrument. Witness my hand and Official Seal on this Date shown.

Melene G. Hatcher Date: June 28, 2010  
Notary Public  
My Commission Expires: February 27, 2010

(N.P. SEAL)

The foregoing certificate(s) of \_\_\_\_\_  
is/are certified to be correct. This instrument and this certificate are duly registered at the dated and time and at the Book and Page shown above.

\_\_\_\_\_ Register of Deeds for Cumberland County

by: \_\_\_\_\_ Deputy/Assistant Register of Deeds

**EXHIBIT A**

Deed from Zeb Dee Jackson and wife, Mary W. Jackson, to JFC, LLC

**FIRST TRACT:**

Cumberland County Parcel# 9497-86-1260, being more commonly known as 6653 Cliffdale Road, Fayetteville, NC, and being more particularly described according to a physical survey made by Roy J. Haddock, RLS# L-2420, dated May 25, 2010, by metes and bounds as:

BEGINNING at a flush existing 1/2" iron rod located in the southern right-of-way margin of S.R. Road 1400 - Cliffdale Road (said right-of-way margin having been established by a fee simple deed dated 02/14/1991, recorded in Book 3652, page 51, Cumberland County Registry, from Stacy T. Jackson and wife, Margaret T. Jackson, to the Department of Transportation), said iron rod being located in the northwestern line of the tract of land conveyed by John R. and Margaret Holmes to Stacy Jackson and wife, Margaret Jackson, by a deed dated 11/01/66, recorded 11/10/66 in Book 2004, page 631, Cumberland County Registry (First Tract)), said iron being also a corner of the tract of land conveyed by Jimmy Bunce and wife, Carol J. Bunce, to Hidden Creek Village Apartments, LLC, by a deed dated 05/27/04 recorded in Book 6539, page 128, Cumberland County Registry,

and runs thence from said point of BEGINNING along the southern right-of-way margin of S.R. Road 1400 - Cliffdale Road (total right-of-way of 100 feet), South 71 degrees 57 minutes 19 seconds East 190.25 feet to a flush existing 1/2" iron rod located in the southern right-of-way margin of S.R. Road 1400 - Cliffdale Road;

and runs thence along the eastern line of the tract of land conveyed by John R. and Margaret Holmes to Stacy Jackson and wife, Margaret Jackson, by a deed dated 03/24/67, recorded 03/28/67 in Book 2028, page 27, Cumberland County Registry, South 16 degrees 23 minutes 45 seconds West 258.20 feet to a flush set 1/2" iron rod, said iron rod being located in the southwestern line of the original 4.86 acre tract and being located in a northwestern line of Hidden Creek Village Apartments, LLC, deed Book 6539, page 128, Cumberland County Registry;

and runs thence along the southwestern line of the original 4.86 acre tract and along a line of Hidden Creek Village Apartments, LLC, deed Book 6539, page 128, Cumberland County Registry, North 34 degrees 39 minutes 49 seconds West 310.49 feet to an existing concrete monument (6" above ground);

and runs thence along the northwestern line of the Stacy Jackson and wife, Margaret Jackson, tract, deed Book 2004, page 631, Cumberland County Registry (First Tract)), and a southeastern line of Hidden Creek Village Apartments, LLC, deed Book 6539, page 128, Cumberland County Registry, North 54 degrees 02 minutes 42 seconds East to an existing iron rod, THE POINT OF BEGINNING.

Being the portions of the 4.86 acre tract conveyed by Purdie F. Bunce to Alonzo and Annie Belle Jackson by a deed dated 07/23/46, recorded 07/23/46, in Book 495, page 92, Cumberland County Registry, conveyed by the following deeds:

Deed from Annie Bell Jackson to John R. and Margaret Holmes by a deed dated 09/15/48, recorded 01/10/50 in Book 545, page 61, Cumberland County Registry, and conveyed by them to Stacy and Margaret Jackson by a deed dated 11/01/66, recorded 11/10/66 in Book 2004, page 631, Cumberland County Registry (First Tract).

Deed from Annie Bell Jackson to John R. and Margaret Holmes by a deed dated 05/09/52, recorded 05/19/52 in Book 549, page 142, Cumberland County Registry, and conveyed by them to Stacy and Margaret Jackson by a deed dated 11/01/66, recorded 11/10/66 in Book 2004, page 631, Cumberland County Registry (Second Tract).

Deed from Annie Bell Jackson to John R. and Margaret Holmes by a deed dated 02/17/67, recorded 02/20/67 in Book 2028, page 1, Cumberland County Registry, and conveyed by them to Stacy and Margaret Jackson by a deed dated 03/24/67, recorded 03/28/67 in Book 2028, page 27, Cumberland County Registry.

See also Will of Stacy T. Jackson in Cumberland County Estate File 02-E-297 and Will of Margaret T. Jackson in Cumberland County Estate File 08-E-599 devising the property to Zeb Dee Jackson.

SECOND TRACT:

Cumberland County Parcel# 9497-86-2193, being more commonly known as 6677 Cliffdale Road, Fayetteville, NC, and being more particularly described according to a physical survey made by Roy J. Haddock, RLS# L-2420, dated May 25, 2010, by metes and bounds as:

The POINT OF BEGINNING is a flush existing 1/2" iron rod located in the southern right-of-way margin of S.R. Road 1400 - Cliffdale Road (said right-of-way margin having been established by a fee simple deed dated 02/14/1991, recorded in Book 3652, page 51, Cumberland County Registry, from Stacy T. Jackson and wife, Margaret T. Jackson, to the Department of Transportation), said iron rod being located South 71 degrees 57 minutes 19 seconds East 190.25 feet measured along said right-of-way margin from a flush existing 1/2" iron rod in the northwestern line of the tract of land conveyed by John R. and Margaret Holmes to Stacy Jackson and wife, Margaret Jackson, by a deed dated 11/01/66, recorded 11/10/66 in Book 2004, page 631, Cumberland County Registry (First Tract)), said iron rod being also a corner of the tract of land conveyed by Jimmy Bunce and wife, Carol J. Bunce, to Hidden Creek Village Apartments, LLC, by a deed dated 05/27/04 recorded in Book 6539, page 128, Cumberland County Registry (the POINT OF BEGINNING being also the second (northeast) corner of the FIRST TRACT herein described and conveyed),

and runs thence from said POINT OF BEGINNING along the southern right-of-way margin of S.R. Road 1400 - Cliffdale Road (total right-of-way of 100 feet), South 71 degrees 54 minutes 06 seconds East 80.32 feet to a flush existing 1/2" iron stake located in the southern right-of-way margin of S.R. Road 1400 - Cliffdale Road, the northwest corner of the tract of land conveyed by Larry D. Holmes et al. to Juan Macias and wife, Denise Macias, by a deed dated 02/12/2006, recorded in Book 7501, page 499, Cumberland County Registry;

and runs thence along the western line of the Juan Macias and wife, Denise Macias, tract, deed Book 7501, page 499, Cumberland County Registry, South 19 degrees 48 minutes 42 seconds West 304.57 feet to an existing concrete monument (6" above ground), said iron concrete monument being located in the southwestern line of the original 4.86 acre tract and being located in a northwestern line of Hidden Creek Village Apartments, LLC, deed Book 6539, page 128, Cumberland County Registry;

and runs thence along the southwestern line of the original 4.86 acre tract and along a line of Hidden Creek Village Apartments, LLC, deed Book 6539, page 128, Cumberland County Registry, North 34 degrees 39 minutes 49 seconds West 79.86 feet to a flush set 1/2" iron rod;

and runs thence along the western line (reversed) of the FIRST TRACT herein described and conveyed (being the eastern line of the tract of land conveyed by John R. and Margaret Holmes to Stacy Jackson and wife, Margaret Jackson, by a deed dated 03/24/67, recorded 03/28/67 in Book 2028, page 27, Cumberland County Registry), North 16 degrees 23 minutes 45 seconds East 258.20 feet to a flush existing 1/2" iron rod in the southern right-of-way margin of S.R. Road 1400 - Cliffdale Road, the POINT OF BEGINNING.



Being the portion of the 4.86 acre tract conveyed by Purdie F. Bunce to Alonzo and Annie Belle Jackson by a deed dated 07/23/46, recorded 07/23/46, in Book 495, page 92, Cumberland County Registry, conveyed by the deed from Annie Bell Jackson to Margaret J. Holmes by a deed dated 10/18/68, recorded 10/23/68 in Book 2125, page 306, Cumberland County Registry.

Being the same property conveyed by John R. and Margaret J. Holmes to Stacy T. Jackson by a deed dated 10/23/68, recorded 10/23/68 in Book 2125, page 345, Cumberland County Registry.

See also Will of Stacy T. Jackson in Cumberland County Estate File 02-E-297 and Will of Margaret T. Jackson in Cumberland County Estate File 08-E-599 devising the property to Zeb Dee Jackson.

8430  
0278

BK 08430 PG 0278

FILED  
CUMBERLAND COUNTY NC  
J. LEE WARREN, JR.  
REGISTER OF DEEDS  
FILED Jul 08, 2010  
AT 02:12:00 pm  
BOOK 08430  
START PAGE 0278  
END PAGE 0280  
INSTRUMENT # 21263  
RECORDING \$25.00  
EXCISE TAX (None)  
DJ

This document prepared by: J. Duane Gilliam, Jr., Attorney  
Mail/Box to: Gilliam Law Firm Attorney Box

NORTH CAROLINA:  
CUMBERLAND COUNTY:

Revenue \$ None  
QUITCLAIM DEED

This quitclaim deed, made and entered into this 5th day of July 2010, by and between Larry D. Holmes and wife, Denise D. Holmes, 2921 Hybart St., Fayetteville, NC 28303, and Patsy L. Hayes and husband, Junius B. Hayes, 2120 Mango Circle, Fayetteville, NC 28304, all of Cumberland County, North Carolina, Grantors; and JFC, LLC, a North Carolina limited liability company, 209 Tallywood Shopping Center, Fayetteville, NC 28303-5365;

WITNESSETH:

That whereas, Grantee is the owner certain property conveyed to it by Zeb Dee Jackson and wife, Mary W. Jackson by a deed recorded in Book ~~8426~~, page 347, Cumberland County Registry, that includes that certain tract or parcel of land described as and acquired by Zeb Dee Jackson as follows:

PIN 9497-86-2193

NORTH CAROLINA: CUMBERLAND COUNTY: CROSS CREEK TOWNSHIP:

BEGINNING at a stake in the southern line of the tract of which this is a part, said stake being located South 40 degrees 10 minutes East 310 feet from the Southwest corner of Lot 7 allotted to Purdie Bunce as shown in Book 445, page 128, Cumberland County Registry, and thence for a first call North 11 degrees 09 minutes East 281.31 feet to a stake in the southern right of way margin of the Cliffdale Road; thence with the said right of way margin South 77 degrees 55 minutes East 80.31 feet to a stake to a stake; thence South 14 degrees 15 minutes West 330.42 feet to a stake in the southern line of the tract of which this is a part; thence with said line North 40 degrees 10 minutes West 79.89 feet to the point of beginning, and being .52 of an acre, more or less.

Being a portion of the 4.86 acre tract conveyed by Purdie F. Bunce to Alonzo and Annie Belle Jackson by a deed dated 07/23/46, recorded 07/23/46, in Book 495, page 92, Cumberland County Registry.

Being the same property conveyed by Annie Bell Jackson to Margaret J. Holmes by a deed dated 10/18/68, recorded 10/23/68 in Book 2125, page 306, Cumberland County Registry.  
Being the same property conveyed by John R. and Margaret J. Holmes to Stacy T. Jackson by a deed dated 10/23/68, recorded 10/23/68 in Book 2125, page 345, Cumberland County Registry, and devised by the Will of Margaret T. Jackson in Cumberland County Estate File 08-E-599 to Zeb Dee Jackson.

And whereas, the area of the aforesaid property of Zeb Dee Jackson was included in the metes and bounds description of a deed dated 06/15/88, recorded 06/16/88, in Book 3392, page 559, Cumberland County Registry, from Annie Bell Jackson to Patsy L. Hayes and Margaret R. Holmes, with the deed stating that the deed was intended to convey all remaining property owned by Anne Bell Jackson that had been conveyed to her by the deed recorded in Book 495, page 92, Cumberland County Registry.

And whereas, the Grantors have never been in possession of any part of the said property of Zeb Dee Jackson and now owned by the Grantee and claim no ownership interest in the said property, and Grantors at the request of Zeb Dee Jackson and Grantee desire to execute this quitclaim deed to Grantee to disclaim any ownership interest in the aforesaid property now owned by Grantee.

Now, therefore, said Grantors, in consideration of the premises and of the sum of Ten dollars (\$10.00), to each of them in hand paid by Grantee, the receipt and sufficiency of which are hereby acknowledged, do hereby bargain, sell, convey and quitclaim unto said Grantee, and its successors and assigns, the aforesaid property owned by Grantee and described as follows:

PIN 9497-86-2193

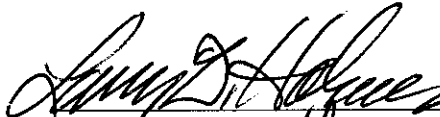
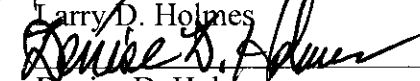
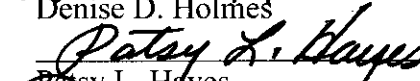
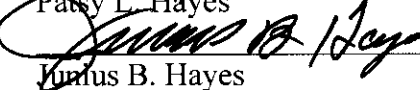
NORTH CAROLINA: CUMBERLAND COUNTY: CROSS CREEK TOWNSHIP:

BEGINNING at a stake in the southern line of the tract of which this is a part, said stake being located South 40 degrees 10 minutes East 310 feet from the Southwest corner of Lot 7 allotted to Purdie Bunce as shown in Book 445, page 128, Cumberland County Registry, and thence for a first call North 11 degrees 09 minutes East 281.31 feet to a stake in the southern right of way margin of the Cliffdale Road; thence with the said right of way margin South 77 degrees 55 minutes East 80.31 feet to a stake to a stake; thence South 14 degrees 15 minutes West 330.42 feet to a stake in the southern line of the tract of which this is a part; thence with said line North 40 degrees 10 minutes West 79.89 feet to the point of beginning, and being .52 of an acre, more or less.

To have and to hold said tract or parcel of land to Grantee and its successors and assigns in fee simple forever, free and discharged of any claim of ownership by Grantors under the deed recorded in Book 3332, page 559, Cumberland County Registry, or otherwise.

The property herein conveyed is not the principal residence of either of the Grantors.

In Testimony Whereof, Grantors have hereunto set their hands and seals the day and year first above written.

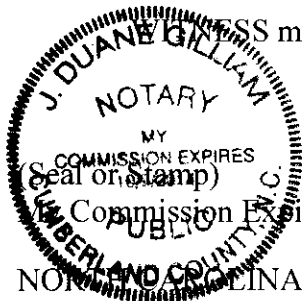
 (Seal)  
Larry D. Holmes  
 (Seal)  
Denise D. Holmes  
 (Seal)  
Patsy L. Hayes  
 (Seal)  
Junius B. Hayes

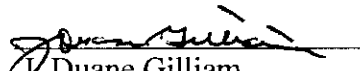
NORTH CAROLINA

CUMBERLAND COUNTY

I, a Notary public of North Carolina, certify that Larry D. Holmes and wife, Denise D. Holmes, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal, this 7th day of July, 2010.



  
J. Duane Gilliam  
Notary Public

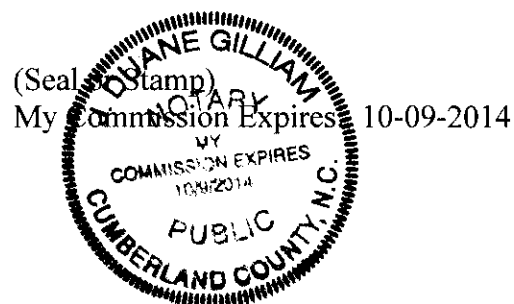
NORTH CAROLINA


(N.P. SEAL)

CUMBERLAND COUNTY

I, a Notary public of North Carolina, certify that Patsy L. Hayes and husband, Junius B. Hayes, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal, this 6th day of July, 2010.



  
J. Duane Gilliam  
Notary Public

(N.P. SEAL)




AFFIDAVIT OF OWNERSHIP

I, JUAN MACIAS, being duly sworn, deposes and says:

1. That I am the owner of the property/properties located at 6677 CLIFFDALE ROAD in the City of Fayetteville, a political subdivision of the State of North Carolina.

2. I do hereby give permission to GEORGE M. ROYE 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.

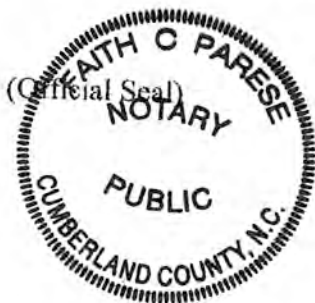
3. This authority is only granted for the application to be submitted on 9-07-23.

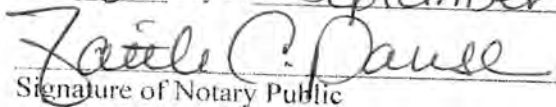
  
Signature of Affiant

\_\_\_\_\_  
Signature of Affiant

Cumberland County, North Carolina

Sworn to and subscribed before me this day on the 7th day of September, 2023

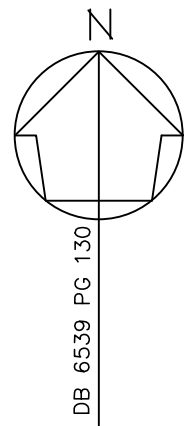


  
Signature of Notary Public

Faith C. Parese, Notary Public  
Printed Name of Notary Public

My Commission Expires: 8/16/2026

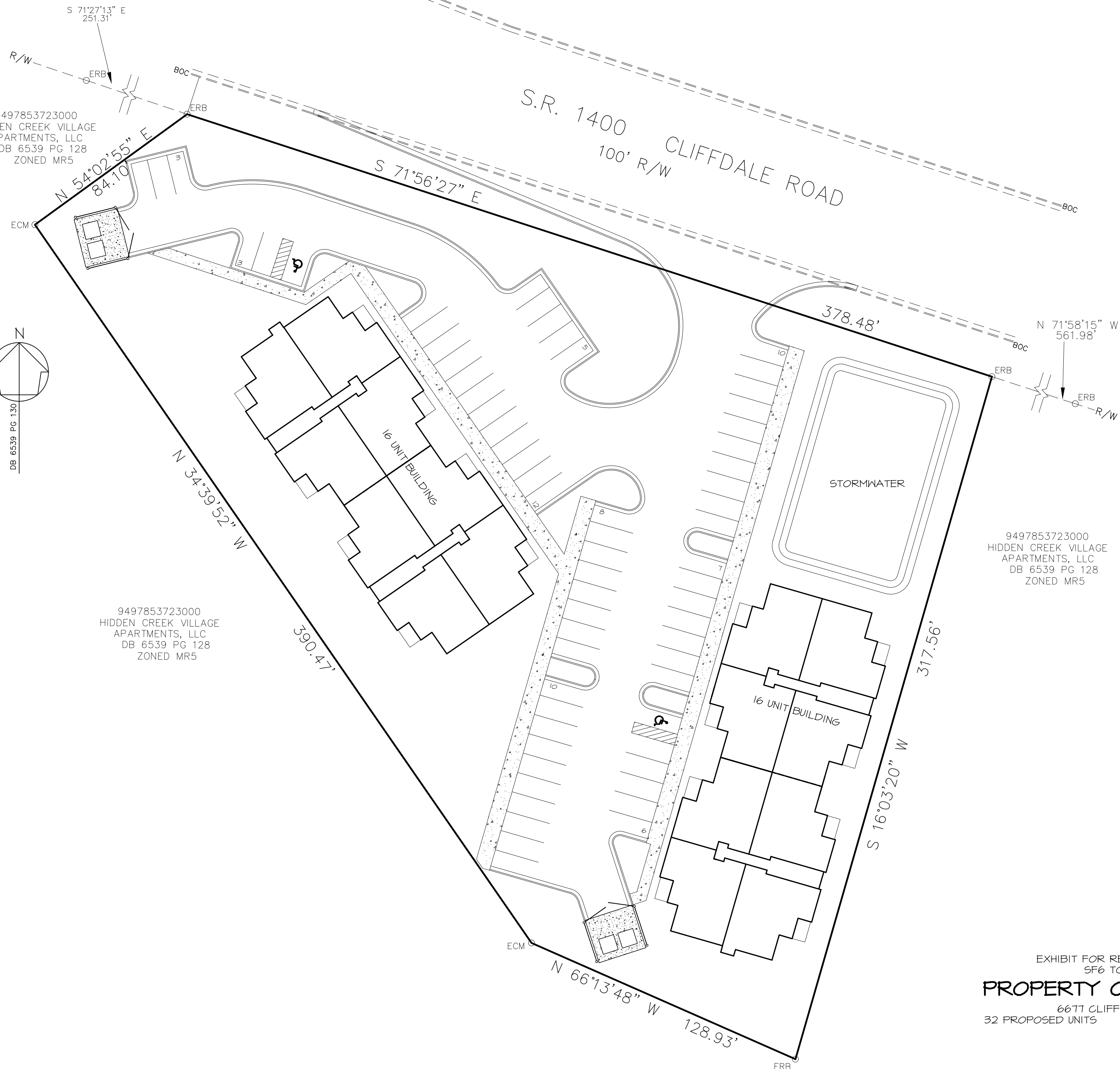
9497853723000  
HIDDEN CREEK VILLAGE  
APARTMENTS, LLC  
DB 6539 PG 128  
ZONED MR5



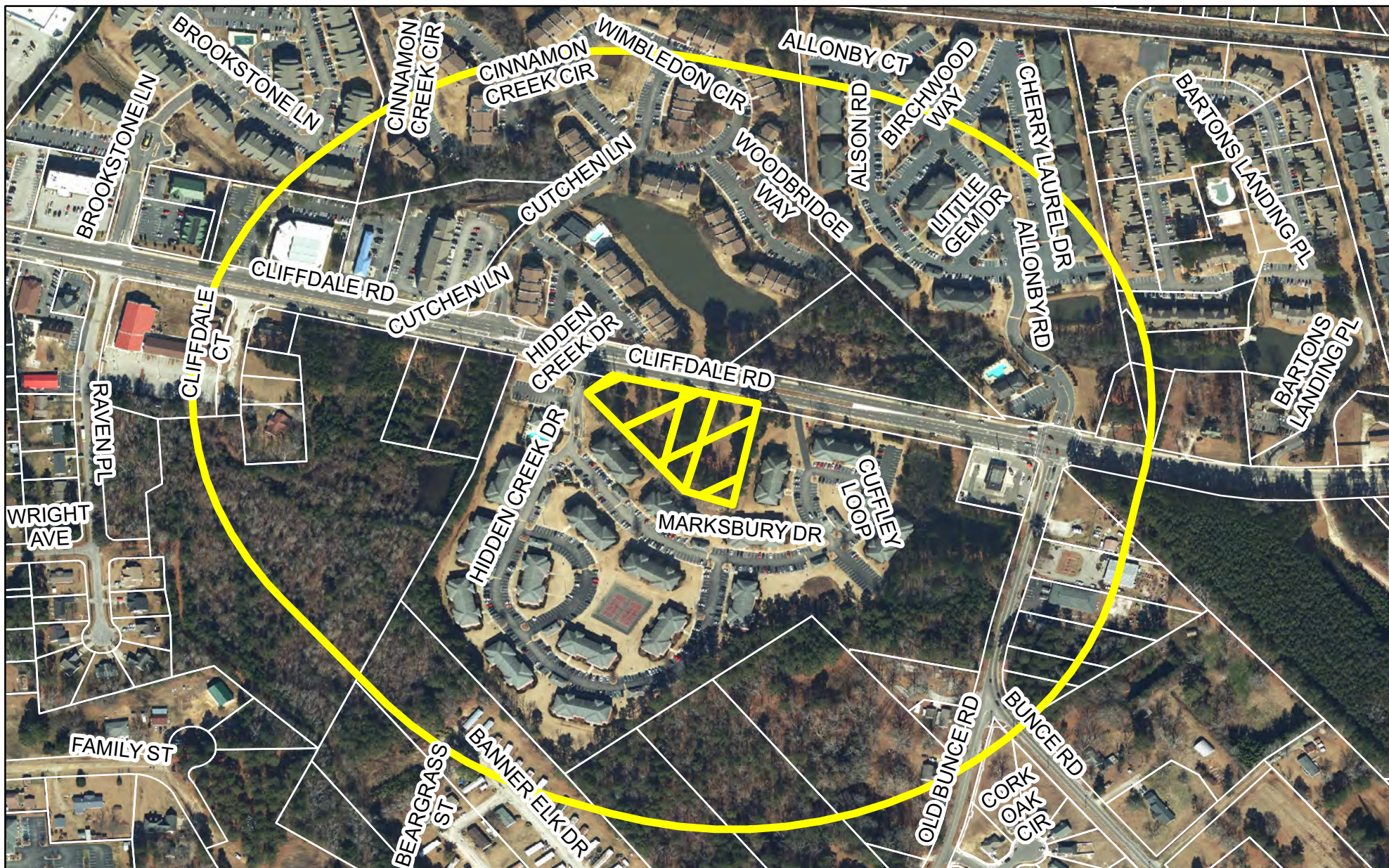
9497853723000  
HIDDEN CREEK VILLAGE  
APARTMENTS, LLC  
DB 6539 PG 128  
ZONED MR5

9497853723000  
HIDDEN CREEK VILLAGE  
APARTMENTS, LLC  
DB 6539 PG 128  
ZONED MR5

EXHIBIT FOR REZONING REQUEST  
SF6 TO MR5  
**PROPERTY OF JUAN MACIAS**  
6677 CLIFFDALE ROAD  
32 PROPOSED UNITS 64 PARKING SPACES SHOWN







## Aerial Notification Map

Case #: P23-41

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

Location: 0, 6655, and 6677 Cliffdale Rd

### Legend

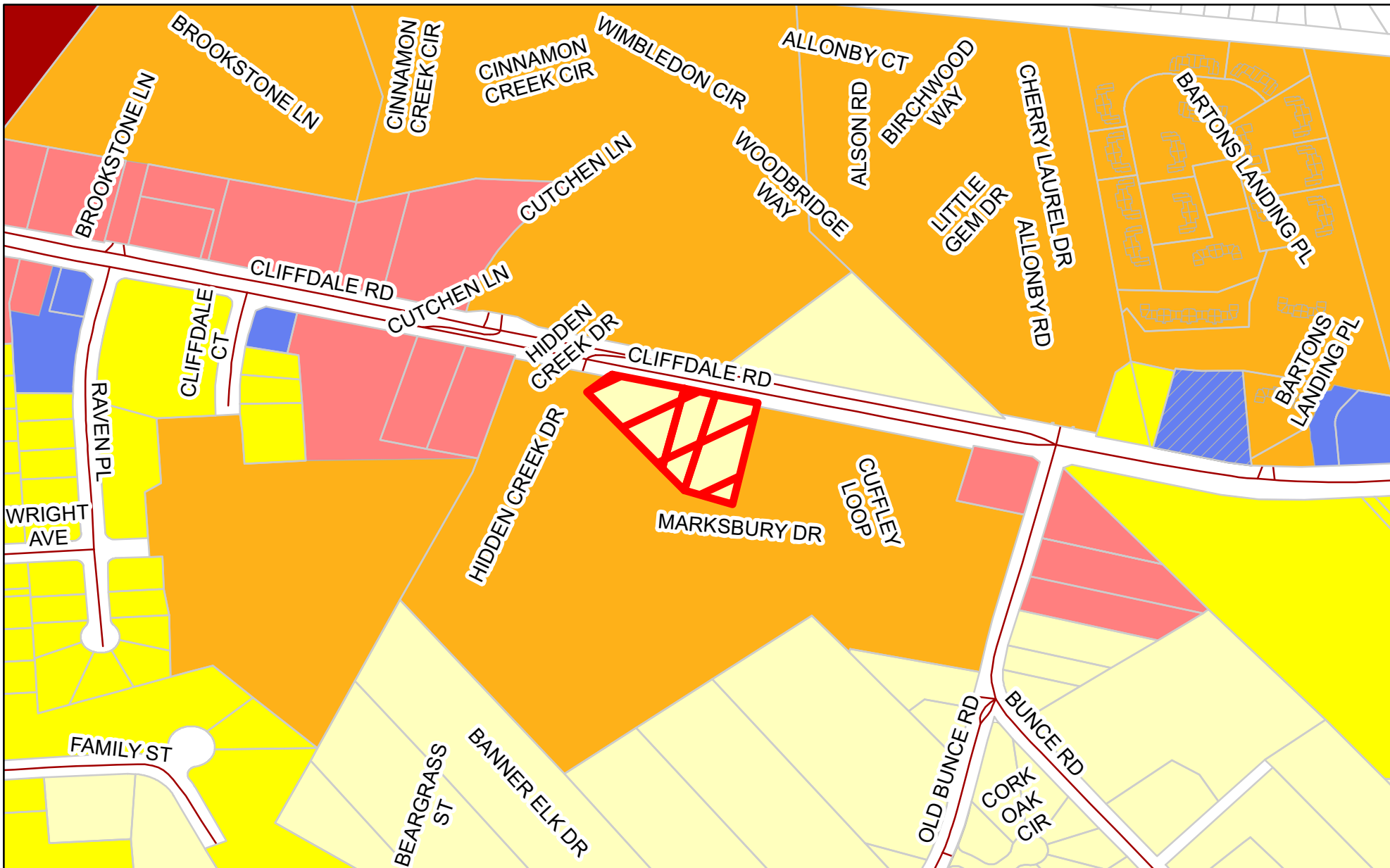
 P23-41  P23-41 Notification Buffer



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







## Zoning Map

Case #: P23-41

Request: Rezoning

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

Location: 0, 6655, and 6677 Cliffdale Rd

### Legend



P23-41

CC - Community Commercial

LC - Limited Commercial

MR-5 - Mixed Residential 5

OI - Office & Institutional

OI/CZ - Conditional Office & Institutional

SF-6 - Single-Family Residential 6

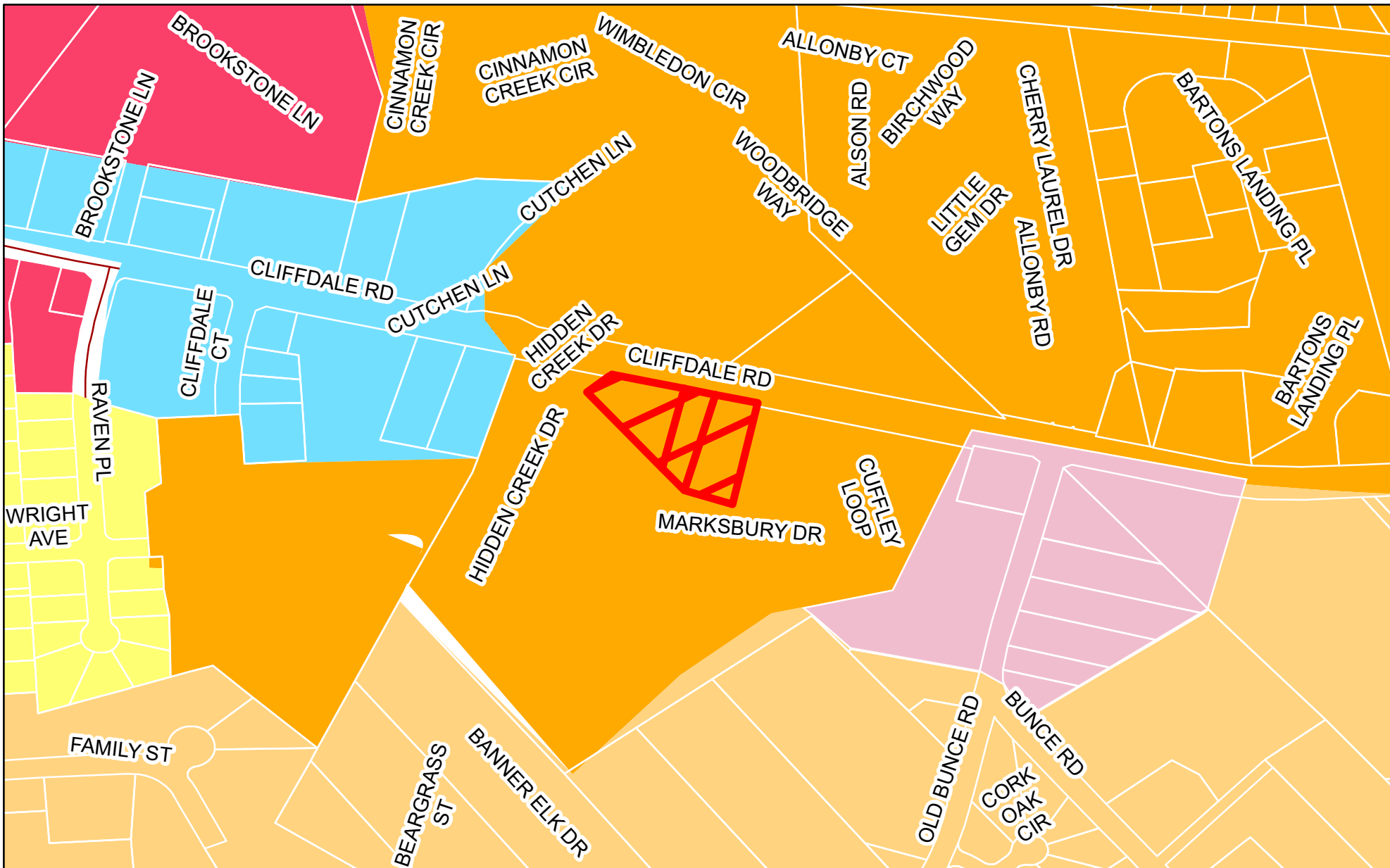
SF-10 - Single-Family Residential 10



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 #: P23-41

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

Location: 0, 6655, and 6677 Cliffdale Rd

### Legend

 P23-41

### Land Use Plan 2040

#### Character Areas

 LDR - LOW DENSITY

 MDR - MEDIUM DENSITY

 HDR - HIGH DENSITY RESIDENTIAL

 NMU - NEIGHBORHOOD MIXED USE

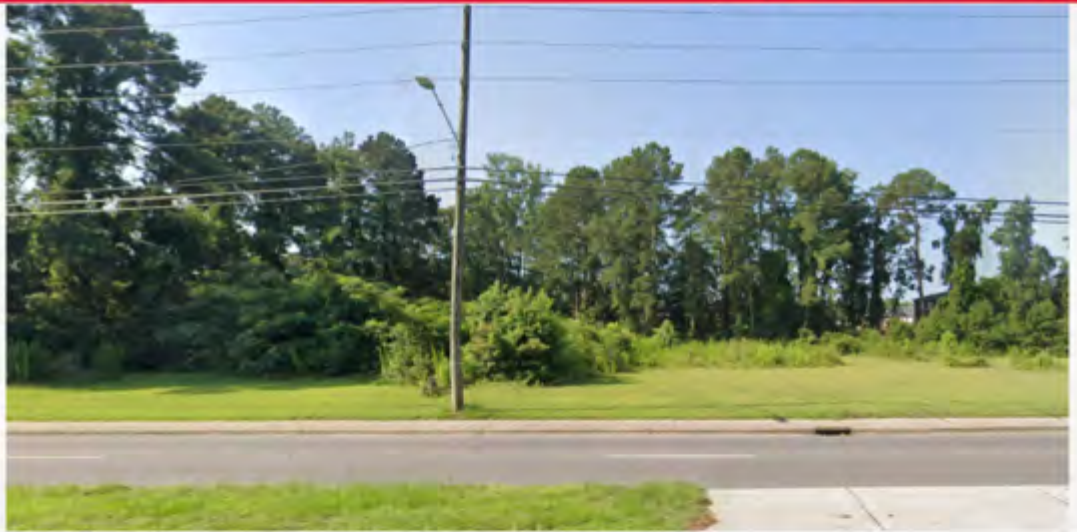
 CC - COMMUNITY CENTER

 OI - OFFICE / INSTITUTIONAL



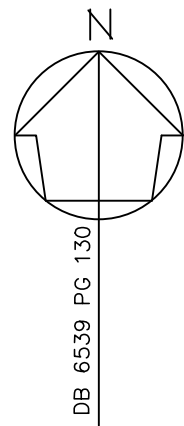
Letters are being sent to all property owners within the 1,000' buffer. Subject property is shown in the hatched pattern.







9497853723000  
HIDDEN CREEK VILLAGE  
APARTMENTS, LLC  
DB 6539 PG 128  
ZONED MR5



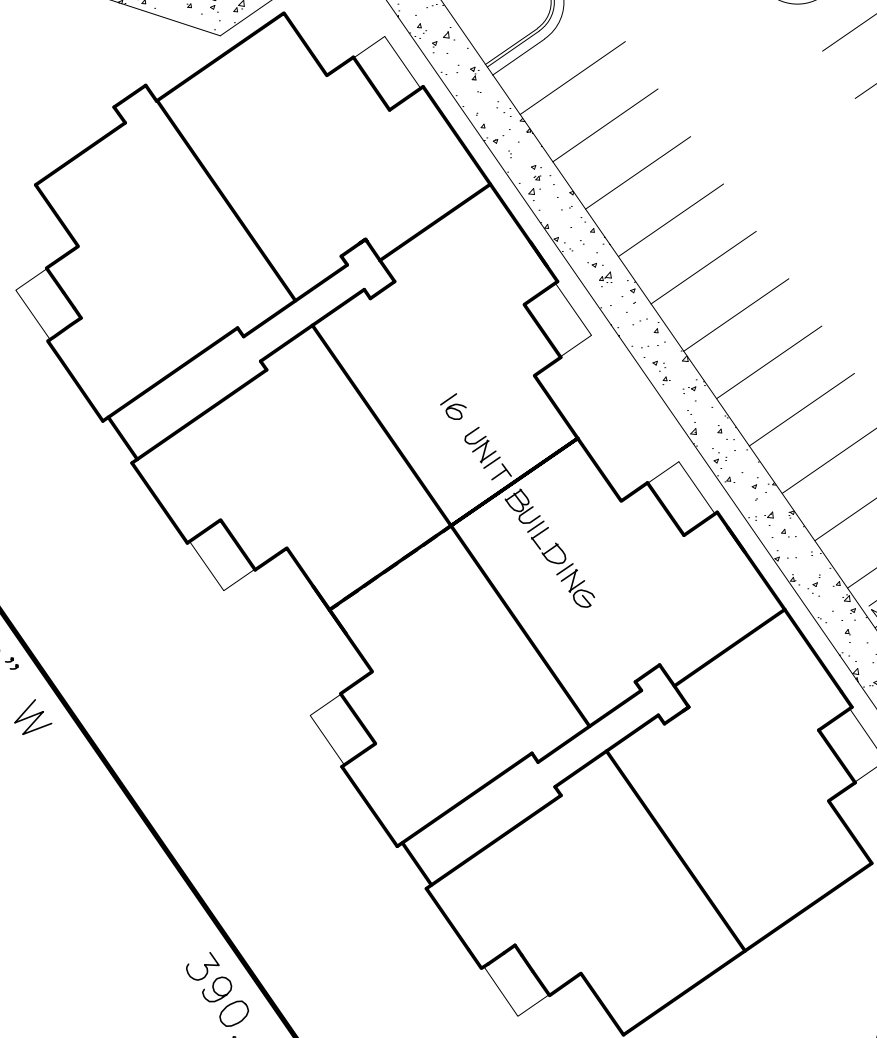
S 71°27'13" E  
251.31'  
R/W  
ERB  
BOC  
ERB

N 54°02'55" E  
84.10'

ECM

9497853723000  
HIDDEN CREEK VILLAGE  
APARTMENTS, LLC  
DB 6539 PG 128  
ZONED MR5

N 34°39'52" W  
390.47'



S 71°56'27" E

S.R. 1400  
CLIFFDALE ROAD  
100' R/W

ECM

N 66°13'48" W  
128.93'

16 UNIT BUILDING

STORMWATER

378.48'

317.56'

S 16°03'20" W

9497853723000  
HIDDEN CREEK VILLAGE  
APARTMENTS, LLC  
DB 6539 PG 128  
ZONED MR5

N 71°58'15" W  
561.98'  
R/W  
ERB  
BOC  
ERB

EXHIBIT FOR REZONING REQUEST  
SF6 TO MR5  
**PROPERTY OF JUAN MACIAS**  
6677 CLIFFDALE ROAD  
32 PROPOSED UNITS 64 PARKING SPACES SHOWN



# 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 P23-41 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	<b>X</b>	
GOAL #2: Promote compatible economic and commercial development in key identified areas	<b>X</b>	

#### 2. LAND USE POLICES AND STRATEGIES:

LAND USE POLICIES AND STRATEGIES	CONSISTENT	INCONSISTENT
<b>LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.</b>	<b>X</b>	
1.2: Encourage more intense uses, greater mix of uses and denser residential types in key focal areas.	<b>X</b>	
1.7: Encourage a logical progression of housing development and discourage "leapfrog" development	<b>X</b>	
<b>LUP 4: Create well-designed and walkable commercial and mixed-use districts</b>	<b>X</b>	
4.1: Ensure new development meets basic site design standards	<b>X</b>	
4.2: Encourage context-sensitive site design	<b>X</b>	

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

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

## Reasonableness

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

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

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

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

Additional comments, if any (write-in):

October 10, 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: 23-3604

**Agenda Date:** 10/10/2023

**Version:** 1

**Status:** Agenda Ready

**In Control:** Zoning Commission

**File Type:** Public Hearing  
(Public & Legislative)

**Agenda Number:** 4.04

**TO:** Mayor and Members of City Council

**THRU:** Zoning Commission

**FROM:** Will Deaton, AICP - Planning & Zoning Division Manager  
Heather Eckhardt, CZO - Planner II

**DATE:** October 10, 2023

**RE:**

**P23-42.** Conditional rezoning from Single Family Residential 6 (SF-6) to Single Family Residential 6 Conditional Zoning (SF-6/CZ) located at 1708 Bragg Boulevard (REID 0428703150000) totaling 2.8 acres ± and being the property of Linda Kay Davis-Amos, represented by Thomas Neville of Yarborough, Winters, & Neville, P.A..

**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 has requested to conditionally zone the property at 1708 Bragg Boulevard from Single Family Residential 6 (SF-6) to Single Family Residential 6 Conditional (SF-6/CZ). The proposed conditions are to allow an office use in the SF-6

zoning district, with a type B buffer along the adjoining residential lots, and allow a ground sign with a maximum of 20 square feet.

**Background:**

Applicant: Thomas Neville of Yarborough, Winters, & Neville, P.A.

Owner: Linda Davis Amos

Requested Action: Conditional rezoning to SF-6/CZ

REID #: 0428703150000

Council District: 2 - Shakeyla Ingram

Status of Property: One single family dwelling

Size: .22 acres

Adjoining Land Use & Zoning:

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

Annual Average Daily Traffic: Bragg Boulevard: 25,500 (2021)

Letters Mailed: 213

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 Medium Density Residential (MDR). Medium Density Residential calls for primarily single family residential neighborhoods with small lots with duplexes and townhomes interspersed.

**Issues/Analysis:**

History:

The subject property and immediate area have been within the city limits of Fayetteville since 1923. Per Cumberland County Tax records, the subdivision was platted in the 1920s and the structure was built in 1941. The subject property and surrounding area were initially developed as a single-family residential subdivision. The area has continued to develop in this manner with the occasional townhouse development interspersed.

Surrounding Area:

The surrounding area is residential in nature with a focus on single-family houses. There is a townhouse development located along Havilah Road to the northwest. There are a few parcels a block away that are zoned Office & Institutional (OI). These properties are located on Bragg Boulevard between Glenville Avenue and Pilot Avenue, the corner of Bragg Boulevard and Pilot Avenue, and the corner of Bragg Boulevard and Westmont Drive. The properties are hair salons, an attorney's office, an insurance agency, and other office-type uses.

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 6 (SF-6) to Single Family Residential 6 Conditional (SF-6/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. Allow for an office use in the SF-6 zoning district
2. Type B buffer abutting residential
3. Signage: a ground sign with a maximum of 20 square feet

**Land Use Plan Analysis:**

According to the Future Land Use Map & Plan, this general area is recommended to be developed as Medium Density Residential (MDR). Medium Density Residential calls for primarily single-family residential neighborhoods with small lots with duplexes and townhomes interspersed. The Future Land Use Plan also sets forth written goals, policies, and strategies. This application does not follow the City’s strategic, compatible growth strategies and does not meet the goals of the Land Use Plan found on the attached Consistency and Reasonableness form.

**Conclusion:**

The proposed use of the property as an event planning office does not match the Future Land Use Plan designation of Medium Density Residential. Medium Density Residential is intended for single-family subdivisions as well as townhomes. This area has developed in this manner and has retained this residential character. Approval of this conditional rezoning could open the door for future rezonings which could change the character of this residential corridor.

While the proposed use of the property as an office does not match the Future Land Use Plan designation of Medium Density Residential, the office type use will be a low impact business with limited hours of operation. Additionally, the owner intends to maintain the residential character and appearance of the structure while installing landscaping to buffer the site from the surrounding residential dwellings.

**Budget Impact:**

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

**Options:**

1. Deny the map amendment request based on the evidence submitted and finds that the map amendment is inconsistent with the Future Land Use Plan (recommended).
2. Recommend approval of the amendment to the SF-6/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.
3. Recommend approval of the map amendment to a more restrictive zoning district based on the evidence submitted and finds that the map amendment would be consistent with the Future Land Use Plan and an amended consistency statement.

**Recommended Action:**

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

- The proposed zoning map amendment does not implement the policies adopted in the Future Land Use Plan (FLUP), and those policies found in the Unified Development Ordinance (UDO). The Future Land Use Plan calls for the subject property to be developed as Medium Density Residential (MDR).
- The uses permitted by the proposed change in zoning district classification and standards apply to such uses are appropriate in the immediate area of the land to be reclassified due to the existing zoning and uses surrounding this property; and
- There are no other factors that will substantially affect public health, safety, morals, or general welfare.

**Attachments:**

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

**Project Overview****#1106528**

**Project Title:** Kays Unique Creations, LLC  
**Application Type:** 5.2) Conditional Rezoning  
**Workflow:** Staff Review

**Jurisdiction:** City of Fayetteville  
**State:** NC  
**County:** Cumberland

**Project Location**

**Project Address or PIN:** 1708 BRAGG BLVD  
(0428703150000)

**Zip Code:** 28303

**GIS Verified Data**

**Property Owner: Parcel**  
• 1708 BRAGG BLVD: DAVIS-AMOS, LINDA KAY

**Acreage: Parcel**  
• 1708 BRAGG BLVD: 0.22

**Zoning District: Zoning District**  
• 1708 BRAGG BLVD: SF-6

**Subdivision Name:**

**Fire District:**

**Airport Overlay District:**

**Hospital Overlay District:**

**Coliseum Tourism District:**

**Cape Fear District:**

**Downtown Historic District:**

**Haymount Historic District:**

**Floodway:**

**100 Year Flood:** <100YearFlood>

**500 Year Flood:** <500YearFlood>

**Watershed:**

**General Project Information**

**Proposed Conditional Zoning District:** LC/CZ - Conditional  
Limited Commercial

**Lot or Site Acreage to be rezoned:** 0.23

**Was a neighborhood meeting conducted?:** No

**Date of Neighborhood Meeting:**

**Number of Residential Units:**

**Nonresidential Square Footage:**

**Landowner Information**

**Landowner Name:** Linda Davis Amos

**Deed Book and Page Number:** Deed Book,10532; Page 10

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

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

Office space to meet with clients for event planning. No actual events to occur at site.

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

Conditions allowing for the use of the property as office use for business. Conditions as identified in site plan to include, but not limited to : 12 ft. driveway, 1 handicap parking space; handicap accessibility to bathroom; handicap entrance ramp and parking

Site Improvements: Handicap accessible entry to the property, handicap accessible parking and handicap accessible bathroom.

areas and set backs as identified.

Shrubbery in lieu of fencing

Hours of operation: 12 noon - 7 p.m.

Reasonable signage consistent with business use

Structure will retain its residential character and appearance.

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

Existing properties adjacent to and across the street from the site are SF6 and appear to be residential. Notwithstanding, there are a number of commercial properties zoned O&I in close proximity.

**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 amendment is consistent with good land use practices and planned future growth. Traffic and noise on Bragg Blvd. and development have created a need for a change in zoning designations and future land use such that the current land use plan should be revised to reflect the presence of a buffer zone to lessen the harmful impact of Bragg Blvd. upon residential areas.

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

Traffic and noise on Bragg Blvd. and development have created a changed condition such that a buffer zone is needed to lessen the harmful impact of Bragg Blvd. upon residential areas.

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

There is a demonstrated community need for a residential buffer area due to traffic, noise and development along Bragg Blvd.

**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.:**

As a result of the hereinabove described changes and/or issues resulted from Bragg Blvd., it is necessary to allow for office use, retaining a residential character, to better serve the residential areas along Bragg Blvd

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

As shown above, the proposed change allows for a logical and orderly development pattern.

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

The proposed change in zoning does not encourage premature development.

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

The proposed change in zoning would not encourage 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.:**

Many properties in very close proximity to the subject property are zoned O&I and MR5. Also, there are a number of business uses along Bragg Blvd, such that the requested zoning does not result in improper isolated zoning district unrelated to adjacent and surrounding land use.

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

The investment in the proposed property is expected to increase property values in surrounding properties.

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

The proposed change in zoning would not result in any significant impact on the natural environment.



## Primary Contact Information

### Contractor's NC ID#:

### Project Contact - Agent/Representative

Thomas Neville  
Yarborough Winters & Neville, P.A.  
115 East Russell Street  
Fayetteville, NC 28314  
P:9104334433  
F:910-433-2233  
[jtneville@ywnlaw.com](mailto:jtneville@ywnlaw.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:

### Project Owner

Linda Davis Amos  
Kay's Unique Creations, LLC  
917 Bashlot Place  
Fayetteville, NC 28303  
P:910-261-4003  
[kaysuniquecreations12@gmail.com](mailto:kaysuniquecreations12@gmail.com)

### Project Contact - Primary Point of Contact for the Attorney

Thomas Neville  
Yarborough Winters & Neville, P.A.  
115 East Russell Street  
Fayetteville, NC 28314  
P:9104334433  
F:910-433-2233  
[jtneville@ywnlaw.com](mailto:jtneville@ywnlaw.com)

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

NC State General Contractor's License Number:

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

## AFFIDAVIT OF OWNERSHIP

I, Linda Kay Davis-Amos, being duly sworn, deposes and says:

1. That I am the owner of the property/properties located at 1708 Bragg Boulevard, in the City of Fayetteville, a political subdivision of the State of North Carolina.

2. I do hereby give permission to J. Thomas Neville of Yarborough Winters & Neville, P.A. 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 1708 Bragg Boulevard, Fayetteville, NC 20303.

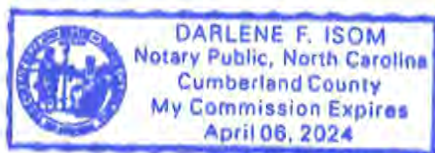
Linda Kay Davis-Amos  
Signature of Affiant

\_\_\_\_\_  
Signature of Affiant

Cumberland County, North Carolina

Sworn to and subscribed before me this day on the 29<sup>th</sup> day of August, 2023.

(Official Seal)

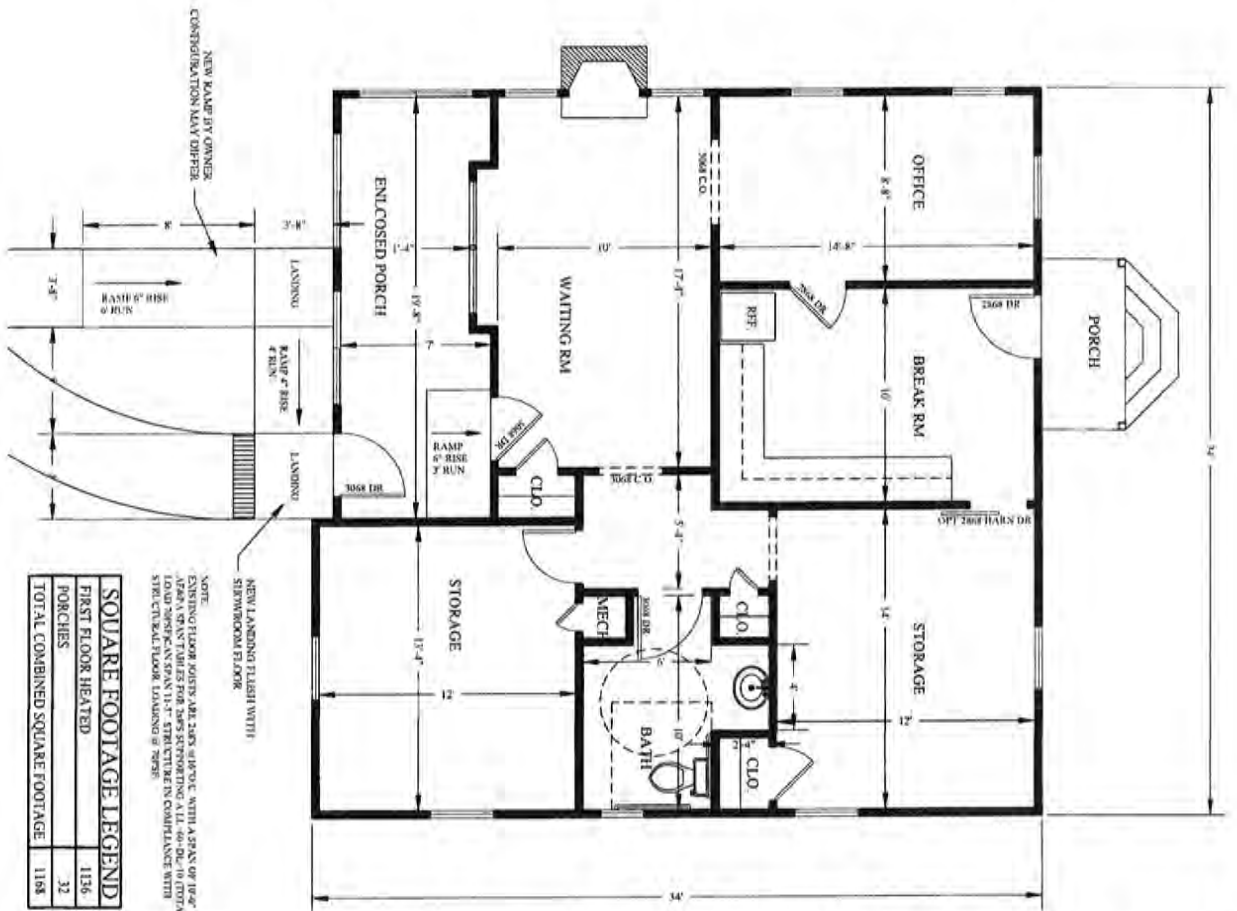
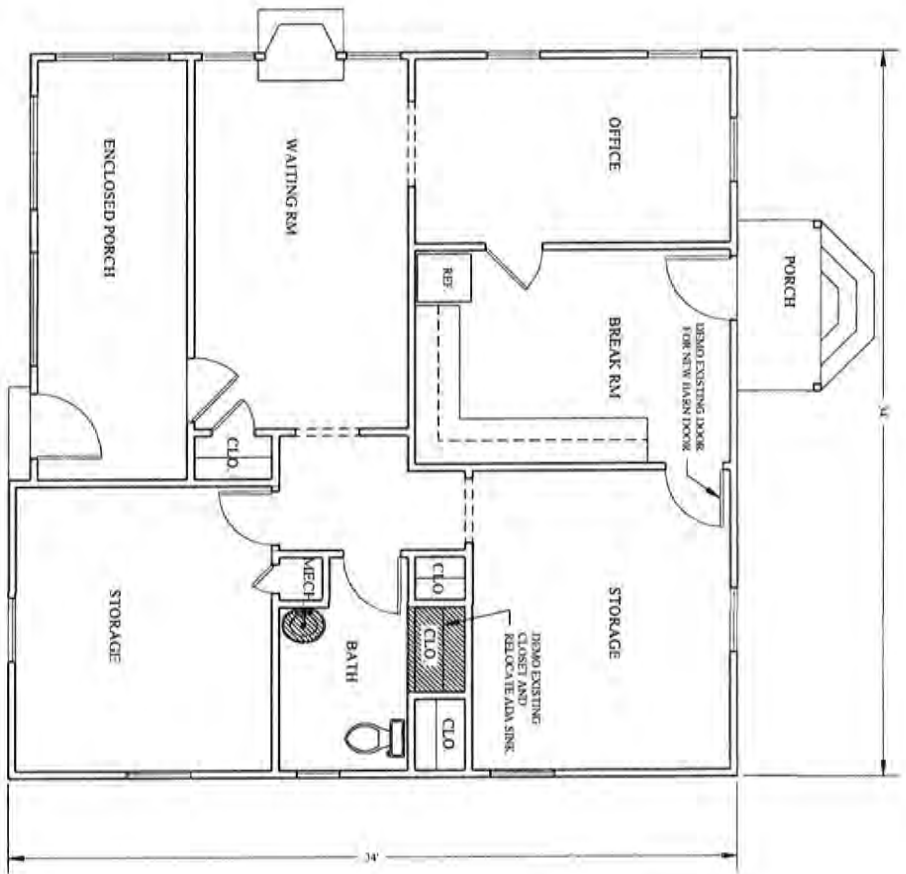


Darlene F. Isom  
Signature of Notary Public

DARLENE F. ISOM, Notary  
Public Printed Name of Notary Public

My Commission Expires: 4/6/24





SQUARE FOOTAGE LEGEND	
FIRST FLOOR HEATED	1136
PORCHES	32
TOTAL COMBINED SQUARE FOOTAGE	1168

NOTE: EXISTING FLOOR JOISTS ARE 2x8, SPACING 16" ON CENTER. ALL NEW FLOORING SHALL BE INSTALLED OVER EXISTING FLOOR JOISTS. ALL NEW FLOORING SHALL BE IN COMPLIANCE WITH STRUCTURAL FLOOR LOADINGS @ 75PSF.

DRAWN BY: LRW  
DATE: 11-Apr-23  
REVISED:  
SCALE: AS NOTED

WHITE HOUSE BUILDING ASSOCIATES  
RESIDENTIAL DESIGN, GENERAL CONTRACTING, CAD SERVICES

LARRY R. WHITE - DESIGNER  
PHONE: 910-576-5195  
E-MAIL: whitehousebuildingassociates@gmail.com  
FAYETTEVILLE, NORTH CAROLINA

## FLOOR PLANS

CONTRACTOR/BUILDER SHALL INSURE COMPLIANCE WITH MINIMUM BUILDING CODE. ALL EXISTING CONDITIONS SHALL BE BROUGHT TO THE ATTENTION OF THE DESIGNER BEFORE CONSTRUCTION. BUILD ALL LUMBER AND BEAM SPANS SHALL BE VERIFIED BY CONTRACTOR/BUILDER TO INCLUDE ENGINEER EVALUATION IF REQUIRED.

KAYS UNIQUE CREATIONS

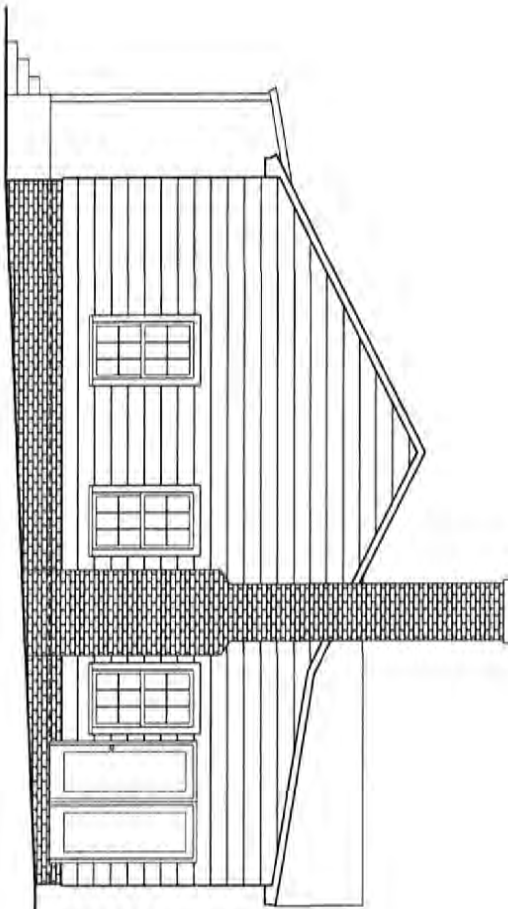
1708 BRAGG BOULEVARD  
FAYETTEVILLE, NORTH CAROLINA

G3

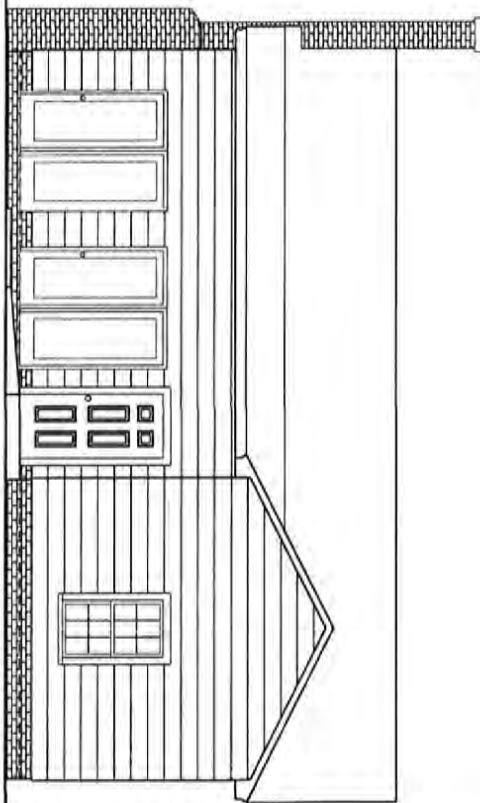
2 of 4



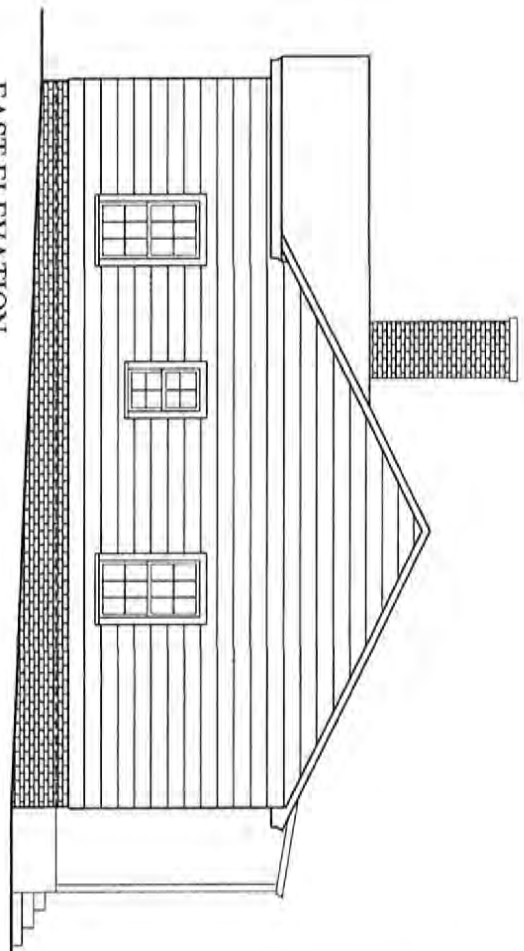
WEST ELEVATION  
1/8"=1'-0"



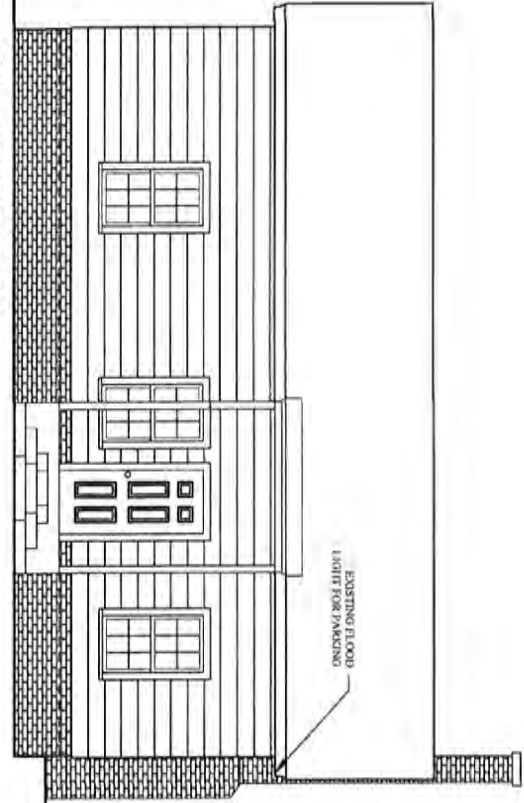
SOUTH ELEVATION  
1/8"=1'-0"



EAST ELEVATION  
1/8"=1'-0"



NORTH ELEVATION  
1/8"=1'-0"



G4

KAYS UNIQUE CREATIONS

1708 BRAGG BOULEVARD  
FAYETTEVILLE, NORTH CAROLINA

# ELEVATIONS

CONTRACTOR/BUILDER SHALL ENSURE COMPLIANCE WITH MUNICIPAL BUILDING CODE. ANY REVISIONS OR OMISSIONS SHALL BE BROUGHT TO THE ATTENTION OF THE DESIGNER BEFORE CONSTRUCTION BEGINS. ALL LAMBER AND DECK SPACING SHALL BE VERIFIED BY CONTRACTOR/BUILDER, TO INCLUDE ENGINEER'S EVALUATION IF REQUESTED.

DRAWN BY: LRW  
DATE: 11-Apr-23  
REVISED:  
SCALE: AS NOTED

WHITE HOUSE BUILDING ASSOCIATES

RESIDENTIAL DESIGN, GENERAL CONTRACTING, CAD SERVICES

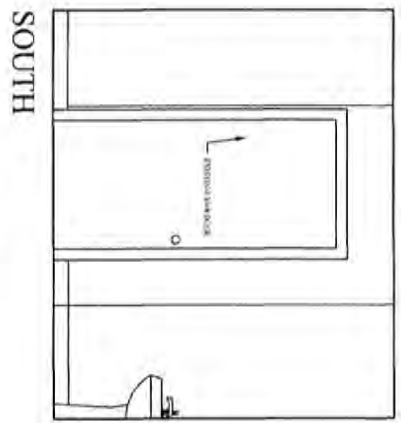
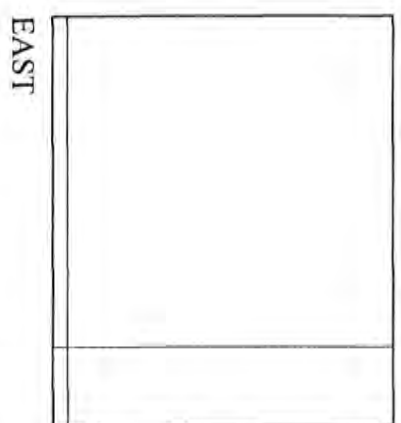
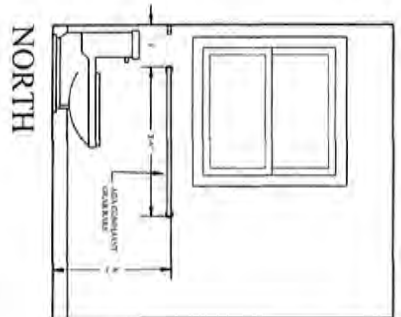
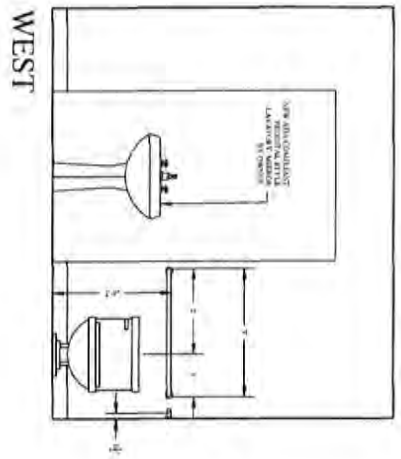
LARRY R. WHITE - DESIGNER

PHONE: 910-978-5195

E-MAIL: whitehousebidgassoc@gmail.com

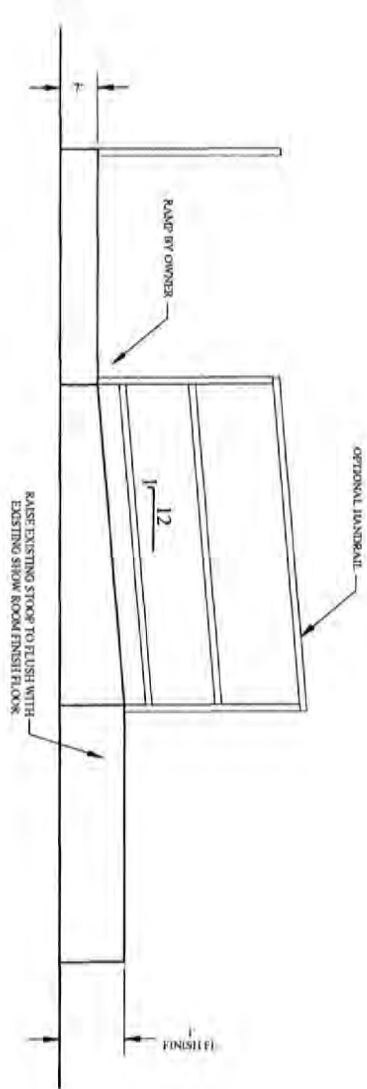
FAYETTEVILLE, NORTH CAROLINA

34



# ADA BATHROOM DETAILS

3/4"=1'-0"



# ADA RAMP DETAIL

3/4"=1'-0"

BK10532 PG0010

FILED  
CUMBERLAND COUNTY NC  
J. LEE WARREN, JR.  
REGISTER OF DEEDS

FILED Jun 28, 2019  
AT 12:02:35 pm  
BOOK 10532  
START PAGE 0010  
END PAGE 0012  
INSTRUMENT # 19567  
RECORDING \$26.00  
EXCISE TAX \$100.00

BLF

Prepared By and Return To: Attorney Steve Bunce ~~Bex~~

File # 48166-19

Revenue Stamps \$100.00

Tax Pin Number: 0428-70-3150

**NORTH CAROLINA  
CUMBERLAND COUNTY**

**GENERAL WARRANTY DEED**

THIS DEED made and entered into this 24th day of June, 2019, by and between **Mountain View International Group, LP, a Georgia Domestic Limited Partnership**, hereinafter called "Grantor," whose mailing address is 2140 S Dupont Hwy, Camden, GA 30046 and **Linda Kay Davis-Amos**, whose mailing address is 917 Bashlot Pl., Fayetteville, NC 28303, hereinafter called "Grantee".

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

**WITNESSETH:**

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 (with the exceptions hereinafter stated, if any), all the certain tract or parcel of land situated in the City of Fayetteville in Cross Creek Township, Cumberland County, North Carolina, and more particularly described as follows:

**BEGINNING** at the northeastern intersection of Fort Bragg Boulevard and Cape Fear Avenue, and running thence with the latter North 9 degrees 15 minutes East 130 feet; thence South 81 degrees 45 minutes East 75 feet; thence South 9 degrees 15 minutes West 130 feet to Fort Bragg Boulevard; thence with it North 81 degrees 45 minutes West 75 feet to the **POINT OF BEGINNING**.

Being the same property conveyed to Mountain View International Group, LP by deed recorded in Book 10455, Page 775

This property does not include the primary residence of the Grantor(s).

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

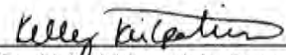
And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple; that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons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

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

- a. County and/or Municipal Zoning Ordinances, Rules and Regulations.
- b. Restrictive Covenants, Easements and Rights of Way of Record.
- c. County Ad Valorem Taxes.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals, the day and year first above written.

Mountain View International Group, LP

  
\_\_\_\_\_  
By, Kelly Kirkpatrick, General Partner

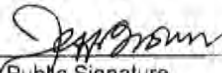


STATE OF TORONTO, ONTARIO, CANADA  
 CITY / PROVINCE / COUNTRY

COUNTY OF \_\_\_\_\_

I, certify that the following person(s) personally appeared before me this day  
 each acknowledging to me that he or she signed the foregoing document:  
 Kelly Kirkpatrick, General Partner of Mountain View International Group, LP

Date: 25 JUN 2019

x   
 Notary Public Signature

JEFFERY A. BROWN  
 TORONTO NOTARY PUBLIC  
 800 BATHURST ST. SUITE 402  
 TORONTO, ONTARIO, M5A 3M6  
 TEL: (416) 938-4158

Printed Name of Notary Public

NOTARY PUBLIC FOR  
 ONTARIO AND QUEBEC

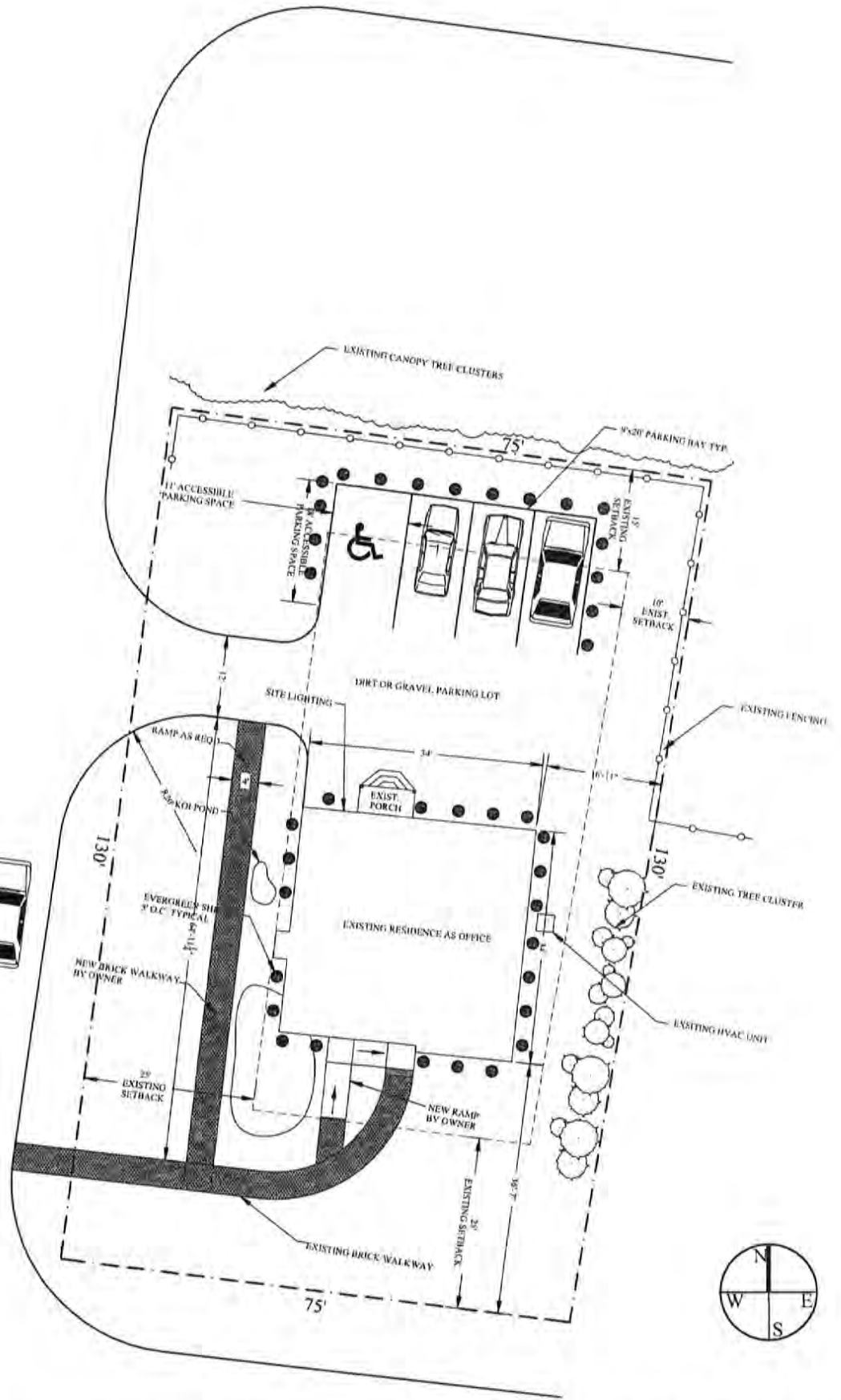
My Commission Expires: NO EXPIRATION DATE #517848

(N.P. SEAL)

1"=10'

# SITE PLAN

CAPE FEAR AVENUE



01  
1 OF 4

KAYS UNIQUE CREATIONS  
1708 BRAGG BOULEVARD  
FAYETTEVILLE, NORTH CAROLINA

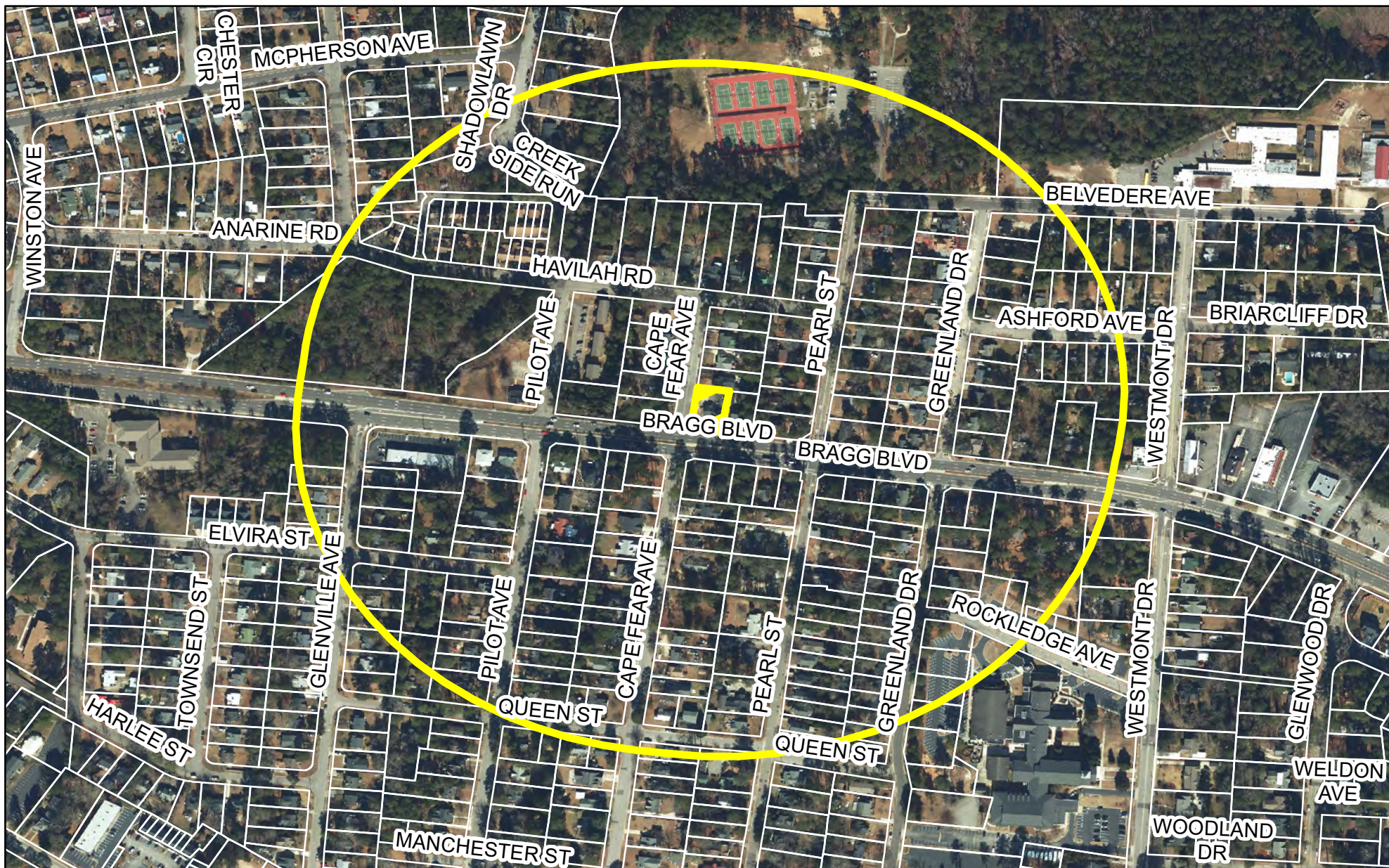
## SITE PLAN

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DRAWN BY: LRW  
DATE: 11-APR-23  
REVISED:  
SCALE: AS NOTED

WHITE HOUSE BUILDING ASSOCIATES  
RESIDENTIAL DESIGN, GENERAL CONTRACTING, CAD SERVICES  
LARRY R. WHITE - DESIGNER  
PHONE: 910-978-5195  
E-MAIL: whitehousebldgassoc@gmail.com  
FAYETTEVILLE, NORTH CAROLINA





## Aerial Notification Map

Case #: P23-42

Request: Conditional Rezoning

Single Family Residential 6 (SF-6) to

Single Family Residential 6

Conditional Zoning (SF-6/CZ)

Location: 1708 Bragg Blvd

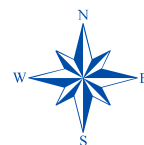
### Legend



P23-42



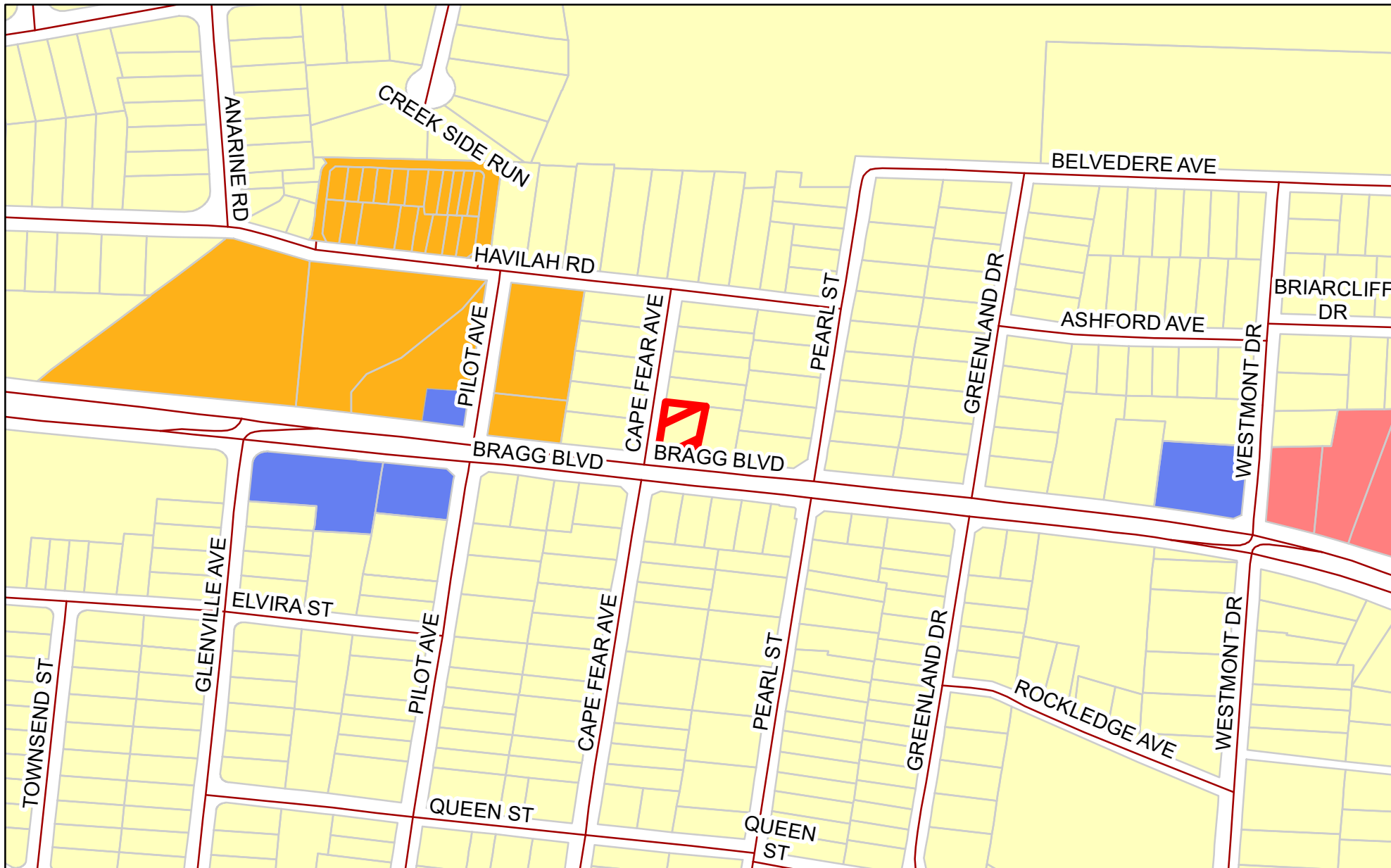
P23-42 Notification Radius



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







## Zoning Map

Case #: P23-42

Request: Conditional Rezoning

Single Family Residential 6 (SF-6) to

Single Family Residential 6

Conditional Zoning (SF-6/CZ)

Location: 1708 Bragg Blvd

### Legend



P23-42

LC - Limited Commercial

MR-5 - Mixed Residential 5

OI - Office & Institutional

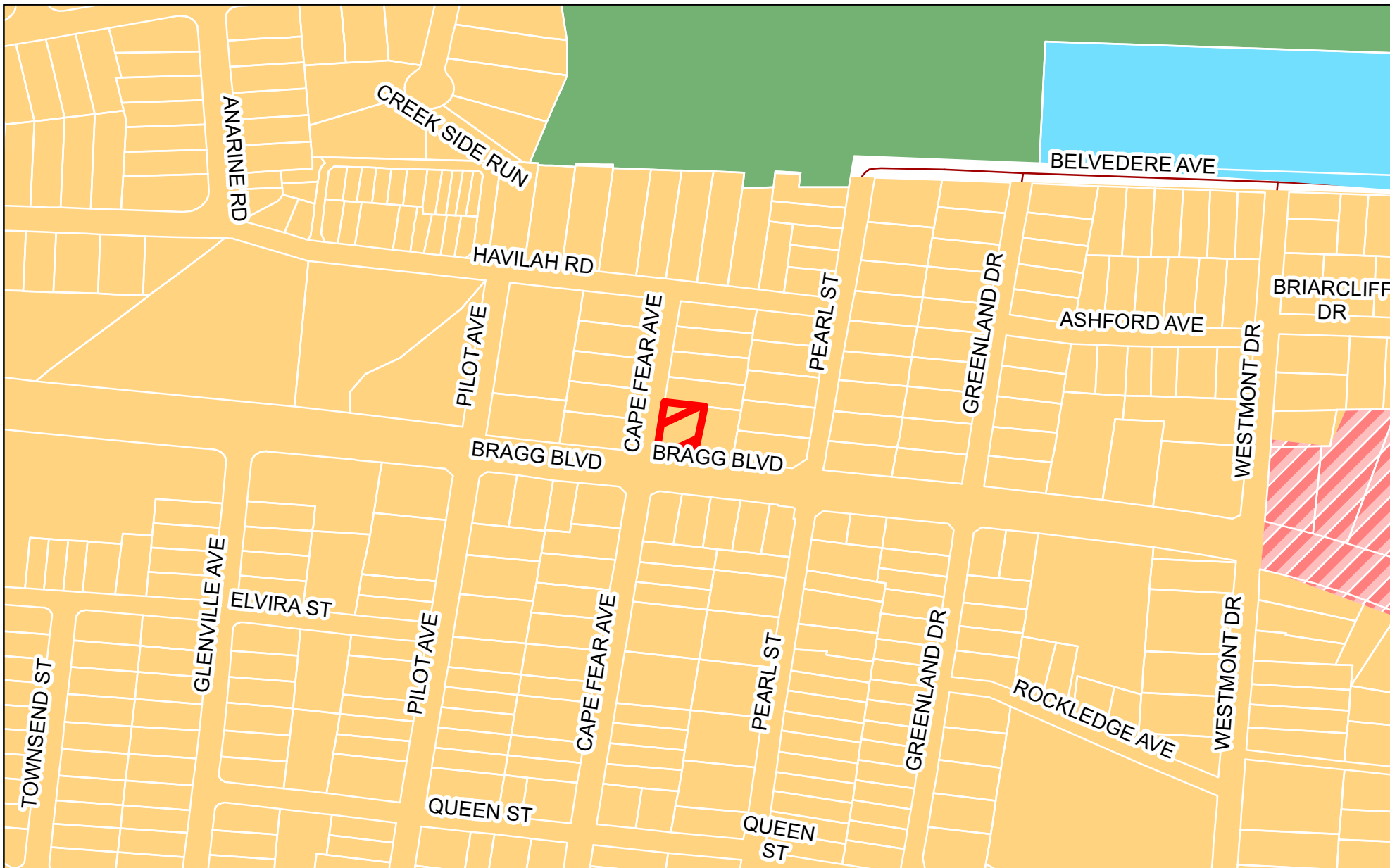
SF-6 - Single-Family Residential 6



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 #: P23-42

Request: Conditional Rezoning  
Single Family Residential 6 (SF-6) to  
Single Family Residential 6  
Conditional Zoning (SF-6/CZ)





Location: 1708 Bragg Blvd

### Legend



P23-42 Land Use Plan 2040

#### Character Areas

-  PARKOS - PARK / OPEN SPACE
-  MDR - MEDIUM DENSITY
-  CSR - COMMERCIAL STRIP REDEVELOPMENT
-  OI - OFFICE / INSTITUTIONAL



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



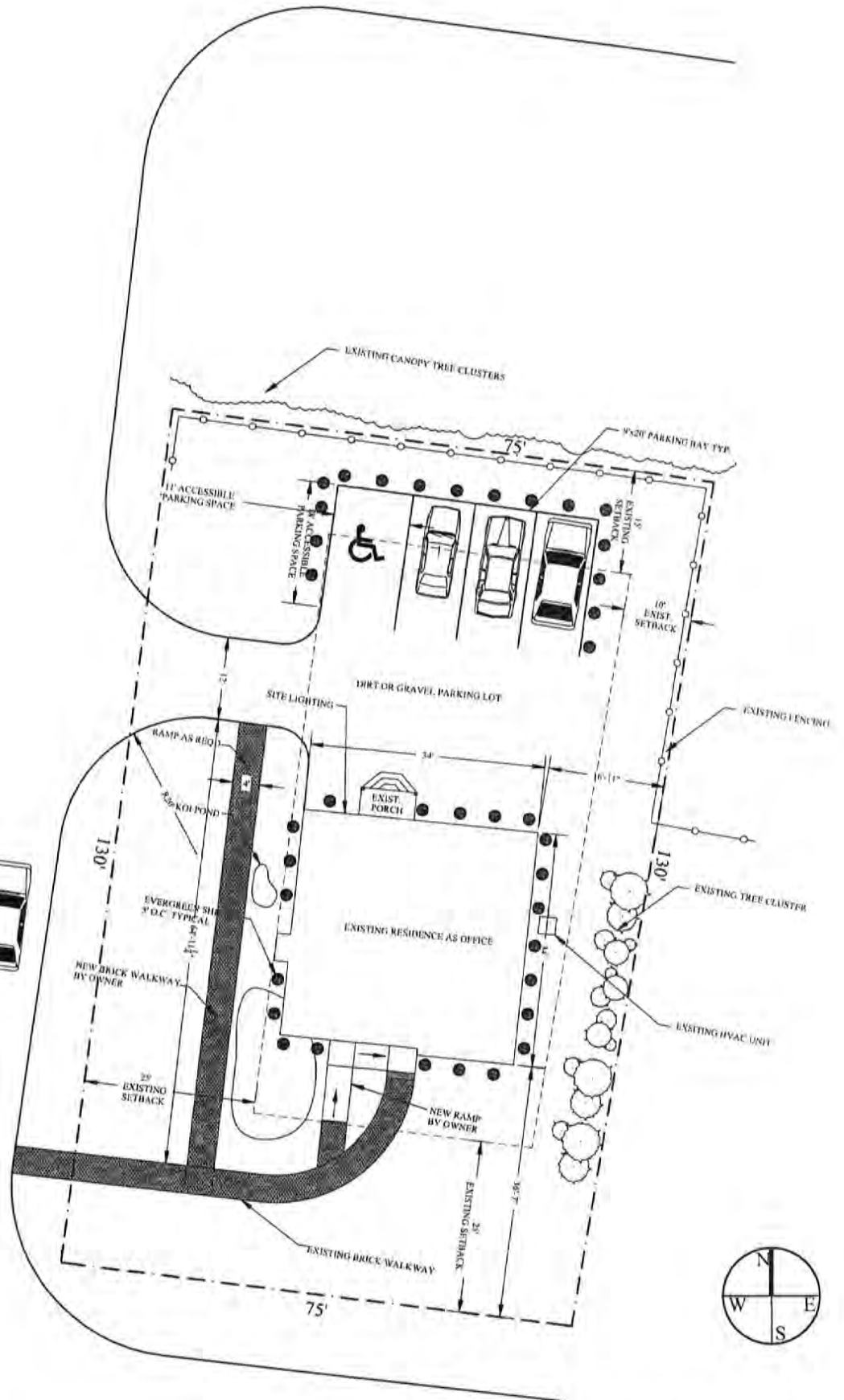




1"=10'

# SITE PLAN

CAPE FEAR AVENUE



01  
1 OF 4

KAYS UNIQUE CREATIONS  
1708 BRAGG BOULEVARD  
FAYETTEVILLE, NORTH CAROLINA

## SITE PLAN

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DRAWN BY: LRW  
DATE: 11-Apr-23  
REVISED:  
SCALE: AS NOTED

WHITE HOUSE BUILDING ASSOCIATES  
RESIDENTIAL DESIGN, GENERAL CONTRACTING, CAD SERVICES  
LARRY R. WHITE - DESIGNER  
PHONE: 910-978-5195  
E-MAIL: whitehousebldgassoc@gmail.com  
FAYETTEVILLE, NORTH CAROLINA



# 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 P23-42 is inconsistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

### Consistency

#### 1. GOALS

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

#### 2. LAND USE POLICES AND STRATEGIES:

LAND USE POLICIES AND STRATEGIES	CONSISTENT	INCONSISTENT
<b>LUP 1: Encourage growth in areas well-served by infrastructure and urban services, including roads, utilities, parks, schools, police, fire, and emergency services.</b>	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.		X
<b>LUP 3: Encourage redevelopment along underutilized commercial strip corridors and reinvestment in distressed residential neighborhoods.</b>	X	
3.2: Identify potential barriers for redevelopment and reinvestment and provide flexibility through modification to development regulations while maintaining high standards.	X	
<b>LUP 4: Create well-designed and walkable commercial and mixed-use districts</b>	X	
4.2: Encourage context-sensitive site design	X	

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

<input type="checkbox"/>	The proposed land use is consistent and aligns with the area's designation on the FLU Map.	OR	<input checked="" type="checkbox"/>	The proposed land use is inconsistent and does not align with the area's designation on the FLU Map.
<input type="checkbox"/>	The proposed designation, as requested, would permit uses that are complimentary to those existing on adjacent tracts.	OR	<input checked="" type="checkbox"/>	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):

October 10, 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: 23-3600

**Agenda Date:** 10/10/2023

**Version:** 1

**Status:** Agenda Ready

**In Control:** Zoning Commission

**File Type:** Public Hearing  
(Public & Legislative)

**Agenda Number:** 4.05

**TO:** Mayor and Members of City Council

**THRU:** Zoning Commission

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

**DATE:** October 10, 2023

**RE:**

**P23-43.** Initial zoning of 13.84 acres ± from Planned Industrial District (M(P)/M(P) CZ) to Heavy Industrial (HI), located at 1416, 1446, and 1476 Middle River Loop (REID #'s 0447683174000, 0447673767000, 0447672620000), and being the property of Fulcher Real Estate, LLC, represented by Kenneth Smith of Smith Site Consultants, PLLC.

**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 initially zone 13.84 acres ± from Planned Industrial (M(P)/M(P)/CZ) to Heavy Industrial (HI), located at 1416 MIDDLE RIVER LOOP (0447683174000), 1446 MIDDLE RIVER LOOP (0447673767000), 1476 MIDDLE RIVER RD (0447672620000).

**Background:**

Applicant: Kenneth Smith

Owner: FULCHER REAL ESTATE LLC

Requested Action: Rezoning from M(P)/M(P)CZ to HI

REID: 0447683174000, 0447673767000, 0447672620000

Prospective Council District: 2 - Shakeyla Ingram

Status of Property: Electrical Contractor - Carolina Power & Signalization

Size: 13.84 acres ±

Adjoining Land Use & Zoning:

- **North:** Vacant/Single Family Home - Zoned M(P), A1, and R40A
- **South:** Middle River Loop/I95 Bus S on ramp
- **East:** Vacant - Zoned A1
- **West:** Kubota - HI

Letters Mailed: 42

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 per the Future Land Use Map, this parcel has been designated for development featuring "High intensity nonresidential uses with high impact or likelihood for nuisance. Regional employment centers including larger industrial uses or business parks." This falls under the Industrial/Employment Center (EC) designation.

**Issues/Analysis:**

History:

Carolina Power & Signalization was established in 2008. The larger parcel was recombined in May of 2023 and a new deed made in June of 2023. The two smaller parcels came under the ownership of Fulcher Real Estate, LLC in August of 2023.

Surrounding Area:

The subject property is situated amidst a diverse array of adjoining land uses and zoning designations. To the north, the vicinity is characterized by vacant spaces and single-family homes, with zoning encompassing M(P), A1, and R40A designations. In contrast, to the south, the landscape is dominated by the Middle River Loop and the I-95 Business South on-ramp. Towards the east, the surrounding area remains vacant, primarily falling under the A1 zoning classification. Finally, the western border is adjacent to Kubota, an entity zoned as Heavy Industrial (HI). This amalgamation of land uses and zoning designations in the immediate vicinity highlights the varied nature of the area's development.

Rezoning Request:

The applicant is seeking to rezone a parcel from M(P)/M(P)CZ to HI. As stated by the applicant, "The proposed zoning amendment aligns with various long-range planning documents and the established industrial nature of the area, which has persisted for decades. This consistency is reinforced by the existing industrial zoning of the parcels and the surrounding industrial land uses. The amendment is necessitated by the



annexation process and interagency agreements for utility services, demonstrating its responsiveness to changing conditions and the need for service connections. Moreover, the amendment caters to the demonstrated community need by facilitating the expansion of Carolina Power & Signalization, boosting employment opportunities, and enhancing the city's tax base. The compatibility of the proposed amendment with adjacent and existing industrial uses underscores its appropriateness. The logical and orderly development pattern is preserved, reflecting the historical industrial nature of the area. Premature development is not a concern, given the area's long-standing industrial usage, and strip-style commercial development is not anticipated. The amendment avoids creating isolated zoning districts, maintains or enhances property values, and is unlikely to result in significant adverse environmental impacts due to the existing built-out nature of the parcels. The incorporation of landscaping further mitigates potential adverse effects."

**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 Heavy Industrial category. The Heavy Industrial (HI) District has been instituted to accommodate heavy manufacturing, assembly, fabrication, processing, distribution, storage, research and development, and other industrial uses that may be large-scale or otherwise have extensive exterior movement of vehicle, materials, and goods, and greater potential for adverse environmental and visual impacts.

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:**

The proposed rezoning of the subject property to Heavy Industrial (HI) presents several compelling arguments in its favor. To begin, the historical usage of this area has predominantly leaned towards industrial activities, with evidence dating back to the 1960s, as corroborated by GIS historical imagery and records documenting the operation of various industrial businesses within the vicinity. This rezoning aligns not only with the longstanding industrial character of the area but also ensures its consistency with the majority of surrounding parcels already zoned for industrial purposes, either as Heavy Industrial (HI) or Cumberland County's M(P) Industrial District.

Annexing this property and its subsequent rezoning would not precipitate premature development. Instead, it would facilitate the continuation of its existing industrial utilization, including housing an electrical contractor with outdoor storage facilities. This extension of established land use patterns contributes to a logical and methodical development sequence, which conforms to recent rezonings in the area, such as the Kubota Tractor dealership, which also necessitated annexation and rezoning for utility connections. Furthermore, the proposed rezoning is a response to the requirement for

annexing the property to access Fayetteville PWC's sanitary sewer system, which presents a significant advantage for future developments and business expansions. This aligns well with the City of Fayetteville's Comprehensive Plan, which promotes the extension of infrastructure and services to cater to the region's burgeoning needs. Additionally, the annexation and rezoning would bolster the economic prospects of the region by enabling Carolina Power & Signalization to expand its operations, potentially creating more job opportunities and boosting the city's tax base.

Concerning property values, the proposed rezoning is unlikely to have any considerable adverse effects on the values of neighboring properties. In fact, it could enhance the value of adjacent properties due to the advantages of annexation, industrial zoning, and improved infrastructure. In terms of environmental considerations, the expected impact remains minimal, as the parcels are already developed with structures and parking areas. Additionally, the incorporation of landscaping requirements will contribute to enhancing the site's visual appeal and mitigating potential adverse effects on the natural environment.

The rezoning of this property to Heavy Industrial (HI) is a judicious decision that harmonizes with historical land use patterns, addresses community needs, and aligns with adjacent zoning districts. It fosters economic growth, maintains compatibility with existing land uses, and augments the region's infrastructure, all while ensuring negligible adverse impacts on property values and the environment.

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

**Recommended Action:**

The Professional Planning Staff recommends that the Zoning Commission move to

recommend APPROVAL of the proposed map amendment to initially zone three parcels to Heavy Industrial (HI) based on the following:

- The proposed zoning map amendment adheres to the policies adopted in the Future Land Use Plan and can be made to conform with the provisions found in the Unified Development Ordinance (UDO). The Future Land Use Plan calls for the subject parcel to be developed as Industrial/Employment Center (EC) and the proposed zoning district allows for uses that fit this category; and
- The 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. Consistency and Reasonableness Statement

**Project Overview**

#1116531

**Project Title:** Carolina Power & Signalization - Building Expansion**Jurisdiction:** City of Fayetteville**Application Type:** 5.1) Rezoning (Map Amendment)**State:** NC**Workflow:** Staff Review**County:** Cumberland**Project Location****Project Address or PIN:****Zip Code:** 28312

- 1416 MIDDLE RIVER LOOP (0447683174000)
- 1446 MIDDLE RIVER LOOP (0447673767000)
- 1476 MIDDLE RIVER RD (0447672620000)

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

- 1416 MIDDLE RIVER LOOP: FULCHER REAL ESTATE LLC
- 1446 MIDDLE RIVER LOOP: GODWIN, LARRY R; GODWIN, REBA T
- 1476 MIDDLE RIVER RD: GODWIN, LARRY R; GODWIN, REBA T

- 1416 MIDDLE RIVER LOOP: 10.59
- 1446 MIDDLE RIVER LOOP: 1.5
- 1476 MIDDLE RIVER RD: 1.75

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

- 1416 MIDDLE RIVER LOOP: cnty
- 1446 MIDDLE RIVER LOOP: cnty
- 1476 MIDDLE RIVER RD: cnty

**Fire District:****Airport Overlay District:****Hospital Overlay District:****Coliseum Tourism District:****Cape Fear District:****Downtown Historic District:****Haymount Historic District:****Floodway:****100 Year Flood:** <100YearFlood>**500 Year Flood:** <500YearFlood>**Watershed:****General Project Information****Has the land been the subject of a map amendment application in the last five years?:** No**Previous Amendment Approval Date:****Previous Amendment Case #:****Proposed Zoning District:** Heavy Industrial (HI)**Acreage to be Rezoned:** 13.84**Is this application related to an annexation?:** Yes**Water Service:** Public**Sewer Service:** Public**A) Please describe all existing uses of the land and existing** **B) Please describe the zoning district designation and**



**structures on the site, if any:**

Carolina Power & Signalization is a business that serves as an electrical contractor with an existing office building and outdoor storage of line-trucks and various equipment for working on the projects of electrical/power providers such as Duke Energy, FayPWC, SREMC, LREMC and many others.

**existing uses of lands adjacent to and across the street from the subject site.:**

All parcels are currently zoned M(P) - Industrial district within Cumberland County's jurisdiction. The existing business operates on the parcels which the applicant seeks to annex and the intent is to rezone these parcels into a compatible district of the same nature within the city's limits. Heavy Industrial (HI) appears to be the most logical choice and it has been initially discussed and favored with City staff. The existing use of the lands are for an electrical contractor's office with outdoor storage and the intent is to continue this use with a future building expansion and future connection to FayPWC's sanitary sewer as well.

**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 site is consistent with all long range planning documents as this general vicinity has been industrial in nature for many decades, is already zoned industrial and the proposed rezoning will help keep the use of the land congruent with that as well as the other, surrounding parcels.

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

The applicant seeks to annex into the city for a future connection to FayPWC sanitary sewer and thus this condition of annexation requires the city rezoning due to the interagency agreement between the City of Fayetteville and FayPWC for service.

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

The community will be better served as this will allow for Carolina Power & Signalization to adequately serve this region of North Carolina and the electrical/power utility providers, by expanding their own business. They currently employ over 1100 individuals and with this annexation and rezoning, they can connect to FayPWC's sanitary sewer which will allow them to expand their buildings' and hire more employees. This also serves to increase the City of Fayetteville's tax base.

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

The parcels are already zoned M(P) industrial under Cumberland County's jurisdiction. And the adjoining parcels that surround these three are also industrial and being used in a similar nature for various industrial purposes along Middle River Loop & River Road. According to the City's UDO - Use Table Matrix - an electrical contractor with outdoor storage is permitted within the Heavy Industrial (HI) district. Again, the existing business and the proposed/continued use of the parcels will be for an electrical contractor with outdoor storage.

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

The proposed rezoning is in keeping with the same, recent rezoning for the Kubota Tractor dealership which is of an industrial nature and also required an annexation/rezoning for FayPWC's sanitary sewer. Plus, Cumberland County has all these parcels already zoned M(P) industrial.

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

This area is already completely developed for industrial use and therefore it will not encourage premature development as the land has been used for industrial uses since the 1960's from what can be gathered when looking at the GIS' historical imagery as well as the deeds of record which were for various industrial businesses to operate there.

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

The proposed rezoning will keep this area operating just the same as it always has and will only result in the city annexing the parcels with a like-kind/compatible zoning district.

**H) State the extent to which the proposed amendment results in the creation of an isolated zoning district unrelated to**

**adjacent and surrounding zoning districts.:**

This will not result in an island as the majority of the surrounding parcels are also industrially zoned with the city's Heavy Industrial (HI) district or the county's M(P) Industrial District.

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

The proposed rezoning will not result in any adverse impacts to adjacent parcels' values but rather will make them more valuable due to them being annexed, rezoned industrial and sanitary sewer eventually extended. This would only serve to benefit adjoining land owners.

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

The existing parcels are already completely built out with buildings and gravel or asphalt parking areas, so therefore any further development will not alter the environment. Furthermore, all extents of these parcels have been or will be required to be landscaped with trees, shrubs and bushes to beautify the site and help screen areas from adjacent parcels and streets.

**Primary Contact Information**

**Contractor's NC ID#:**

**Project Owner**

Garret Fulcher  
Fulcher Real Estate, LLC.  
1416 Middle River Loop Road  
Fayetteville, NC 28312  
P:9103235589  
[g.fulcher@ncpower.net](mailto:g.fulcher@ncpower.net)

**Project Contact - Agent/Representative**

Kenneth Smith  
Smith Site Consultants, PLLC.  
121 Bulittle Drive  
Linden, NC 28356  
P:9103915923  
[smithsiteconsultants@gmail.com](mailto:smithsiteconsultants@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:

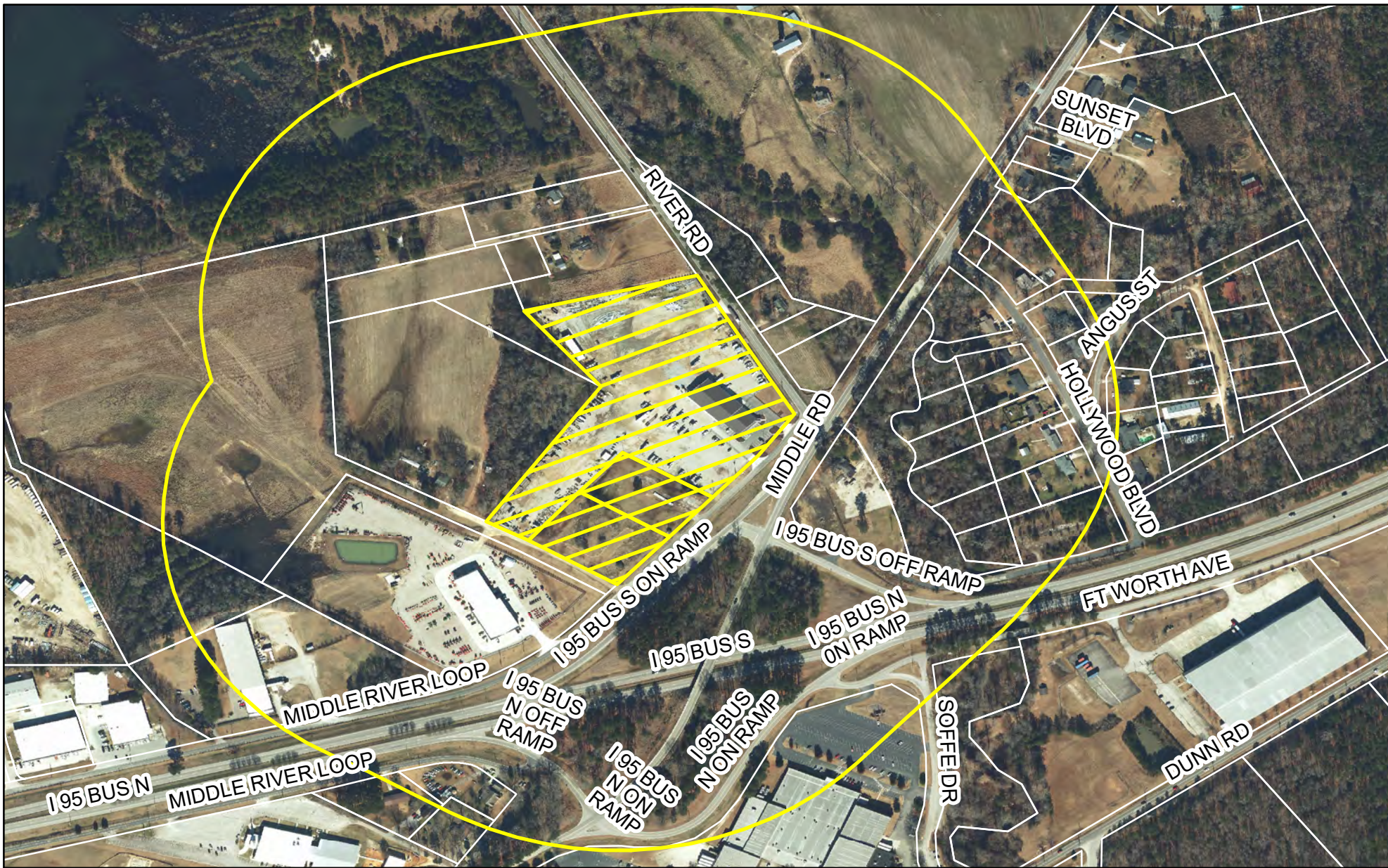
NC State Electrical Contractor #3 License Number:

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 #: P23-43

Request: Rezoning Planned Industrial (M(P))  
to Heavy Industrial (HI)

Location: 1416 Middle River Loop  
1446 Middle River Loop  
1476 Middle River Loop

## Legend

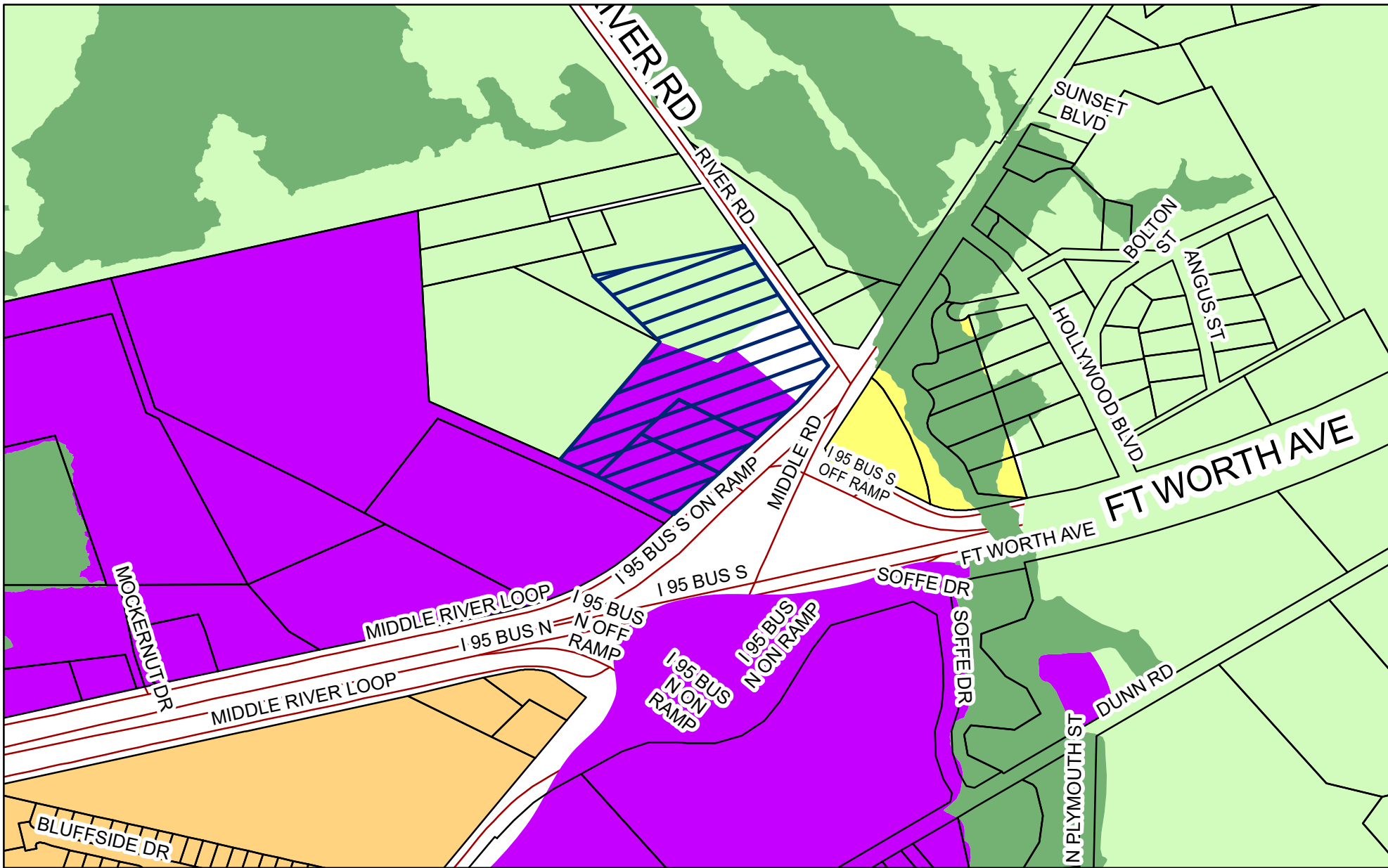
-  P23-43 Buffer
-  P23-43



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 #: P23-43

Request: Rezoning Planned Industrial (M(P))  
to Heavy Industrial (HI)

Location: 1416 Middle River Loop  
1446 Middle River Loop  
1476 Middle River Loop

### Legend

 P23-43

### Land Use Plan 2040

#### Character Areas

 RU - RURAL

 PARKOS - PARK / OPEN SPACE

 LDR - LOW DENSITY

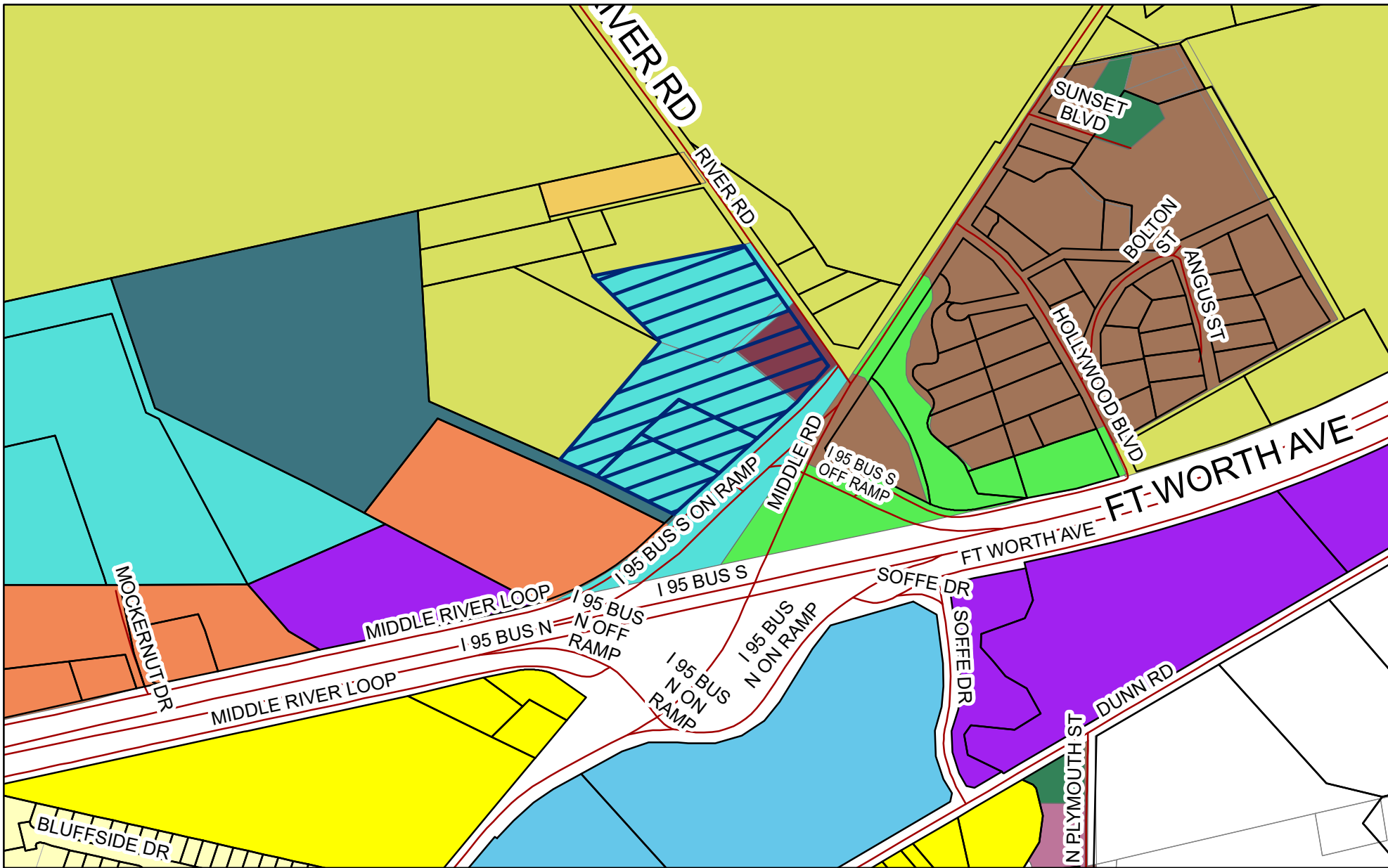
 MDR - MEDIUM DENSITY

 EC - EMPLOYMENT CENTER

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







## Zoning Map

Case #: P23-43

Request: Rezoning Planned Industrial (M(P))  
to Heavy Industrial (HI)

Location: 1416 Middle River Loop  
1446 Middle River Loop  
1476 Middle River Loop

### Legend



HI - Heavy Industrial

LI - Light Industrial

SF-6 - Single-Family Residential 6

SF-10 - Single-Family Residential 10

County

CCZoning

gis\_ware\_3

A1

C1P

C3

CD

CP

HSP

MP

R10

R40A

R5A

RR

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







# Surrounding Properties



# 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 P23-43 is consistent/inconsistent with the City of Fayetteville's Future Land Use Map and Plan (Comprehensive Plan). The following analysis examines the proposed amendment relative to the goals and land-use policies and strategies of the Comprehensive Plan:

### Consistency

#### 1. GOALS

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

#### 2. LAND USE POLICES AND STRATEGIES:

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



4.2: Encourage context-sensitive site design	X	
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3. The proposed amendment is consistent with the Future Land Use Map as follows:

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

### **Reasonableness**

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

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

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

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

Additional comments, if any (write-in):

October 10, 2023

Date

Chair Signature

Print