

Meeting – January 10, 2019  
Location - City Council Chambers, Third Floor, City Hall  
Time - 2:00PM  
Pre-Meeting - 1:00PM  
Department of Planning Engineering & Permits Conference Room, Fifth Floor

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North Titusville  
00063

ZBA2018-

Request: Variance  
Applicant: Johnny Hembree  
Owner: DC Blox  
Site Address: 600 4<sup>th</sup> Ave S  
Zip Code: 35233  
Description: Variance to allow an 8 FT fence in the front yard of a property abutting a residential district instead of the 4 FT maximum pursuant to Title 1, Chapter 4, Article V, Section 5, Subsection 3.A.1  
Property Zoned: MUM Mixed Use Medium  
Parcel Information: Parcel #012900021015001000, NE ¼ of Section 02, Township 18 S, Range 3 W

**Variance**

The subject location at 600 4<sup>th</sup> Ave S is the site of the proposed DC Blox data facility. The applicant for this development is requesting a variance to allow 8 FT fencing in the required front yard. This property is zoned such that would allow an 8 FT fence in the front yard, but it abuts a residential district across the street which makes it subject to the residential fence height regulations.

**Neighborhood**

The North Titusville Neighborhood Association met on October 20<sup>th</sup> and voted 7-0 in support of the requests.

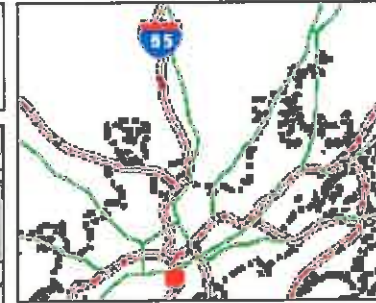
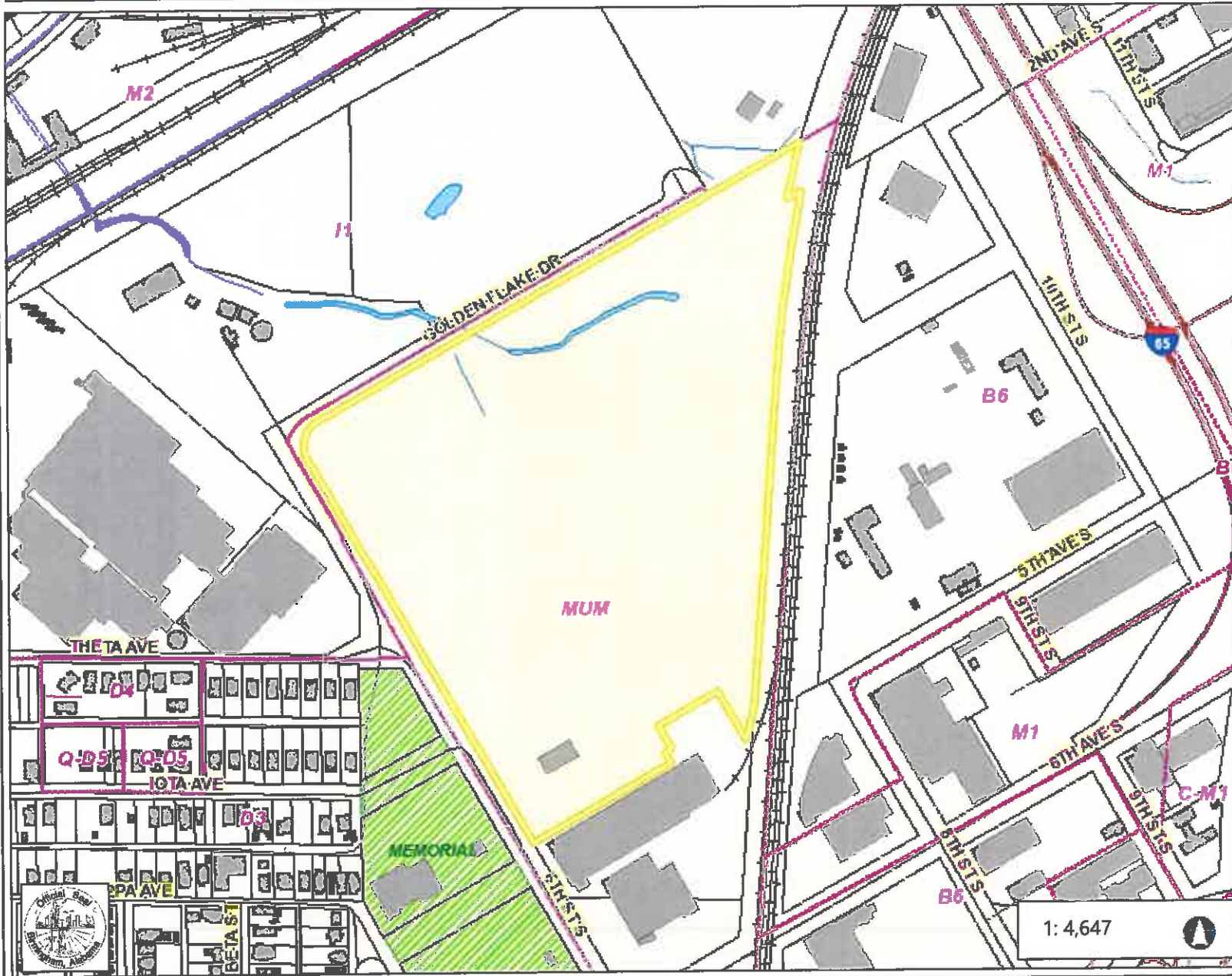
**Applicant's Justification**

The applicant stated that the requested fence is necessary for the security of this data center. The applicant also stated that this site has a unique characteristic in that the fencing would be allowed without the need for a variance with the current zoning if it did not abut a residential district across the street.

**Staff Recommendation**

Staff feels that the variance request for the 8 FT fence in the required front yard merits a favorable decision due to the necessity of providing security and as such should be **GRANTED** subject to the following conditions:

1. Review by the appropriate zoning inspector to insure compliance with the Board's decision.
2. Applicant must obtain all permits associated with the approval of this request within two years from the date of approval.



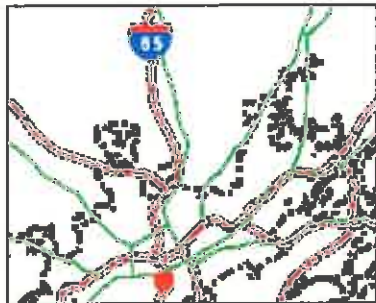
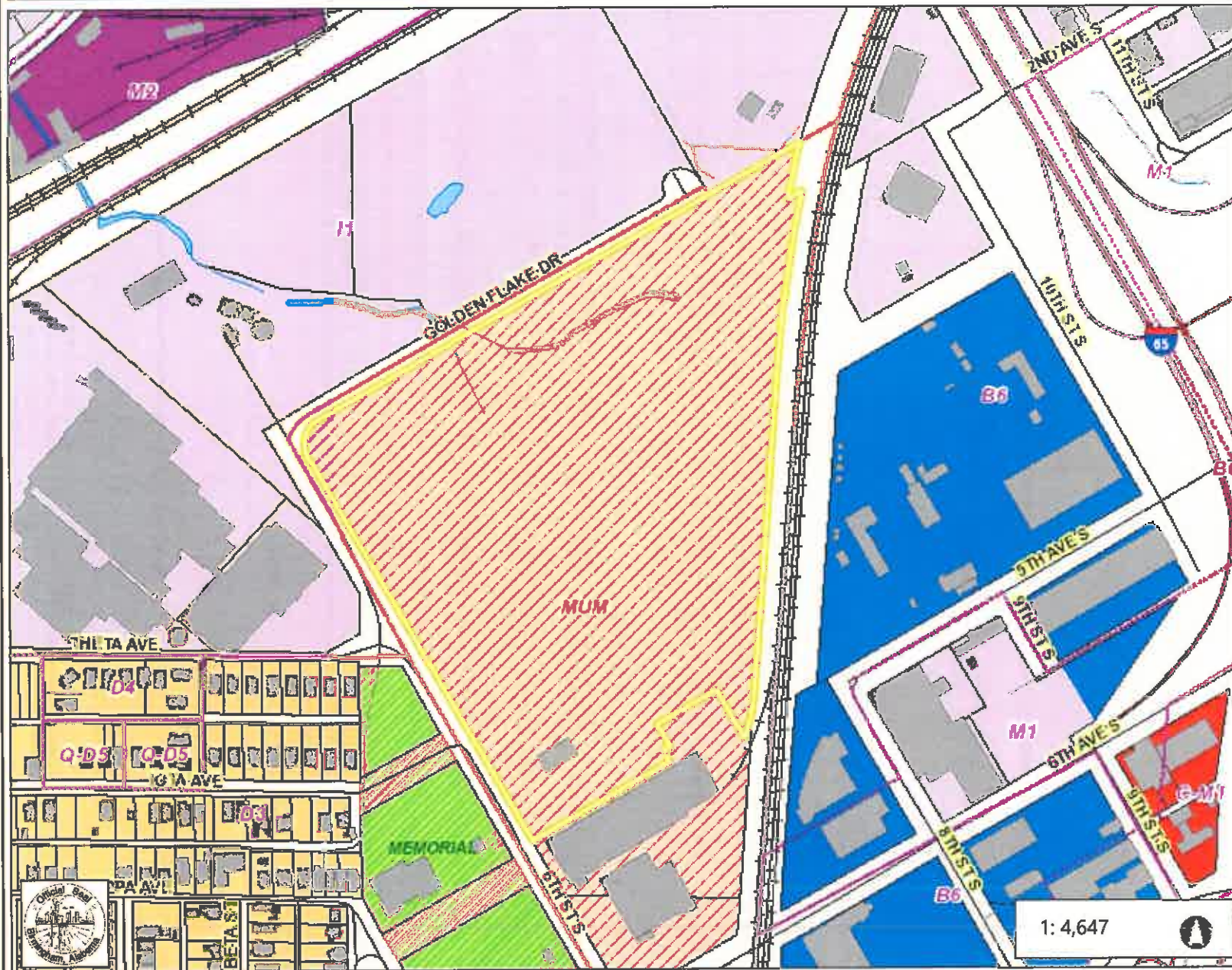
**Legend**

- Centerline Labels
- Zoning Outline
- Railroad
- Alleys
- Local Roads
- Arterials
- County Highways
- State Highways
- US Highways
- Interstates
- Limited Access
- Ramp
- Buildings
- Hydrology Lines
- Hydrology Areas
- Parcels
- City Parks
- Airport
- City Limits (solid)

Notes

774.5 0 387.23 774.5 Feet

The City of Birmingham makes no warranty, expressed or implied, as to the accuracy of the information represented herein. This map is a user generated static output from an internet mapping site and is for general reference only.  
**THIS MAP IS NOT TO BE USED FOR NAVIGATION**



Legend

- Centerline Labels
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- Adopted LandUse Plan
  - Residential-Low
  - Residential-Medium
  - Residential-High
  - Neighborhood Commercial
  - General Commercial
  - MXU-Low
  - MXU-Medium

1: 4,647

774.5 0 387.23 774.5 Feet

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Notes



**JOHNNY  
C  
HEMBREE**  
ARCHITECT

MEMBER OF THE NATIONAL ARCHITECTS ASSOCIATION  
REGISTERED PROFESSIONAL ARCHITECT  
STATE OF ALABAMA  
NO. 14879  
148 W. PELHAM AVENUE, SUITE 100  
BIRMINGHAM, AL 35226  
205.850.9600



RELEASED FOR CONSTRUCTION

DRAWN BY: *AJH*  
CHECKED BY: *CHS*

REV	DATE	DESCRIPTION	BY

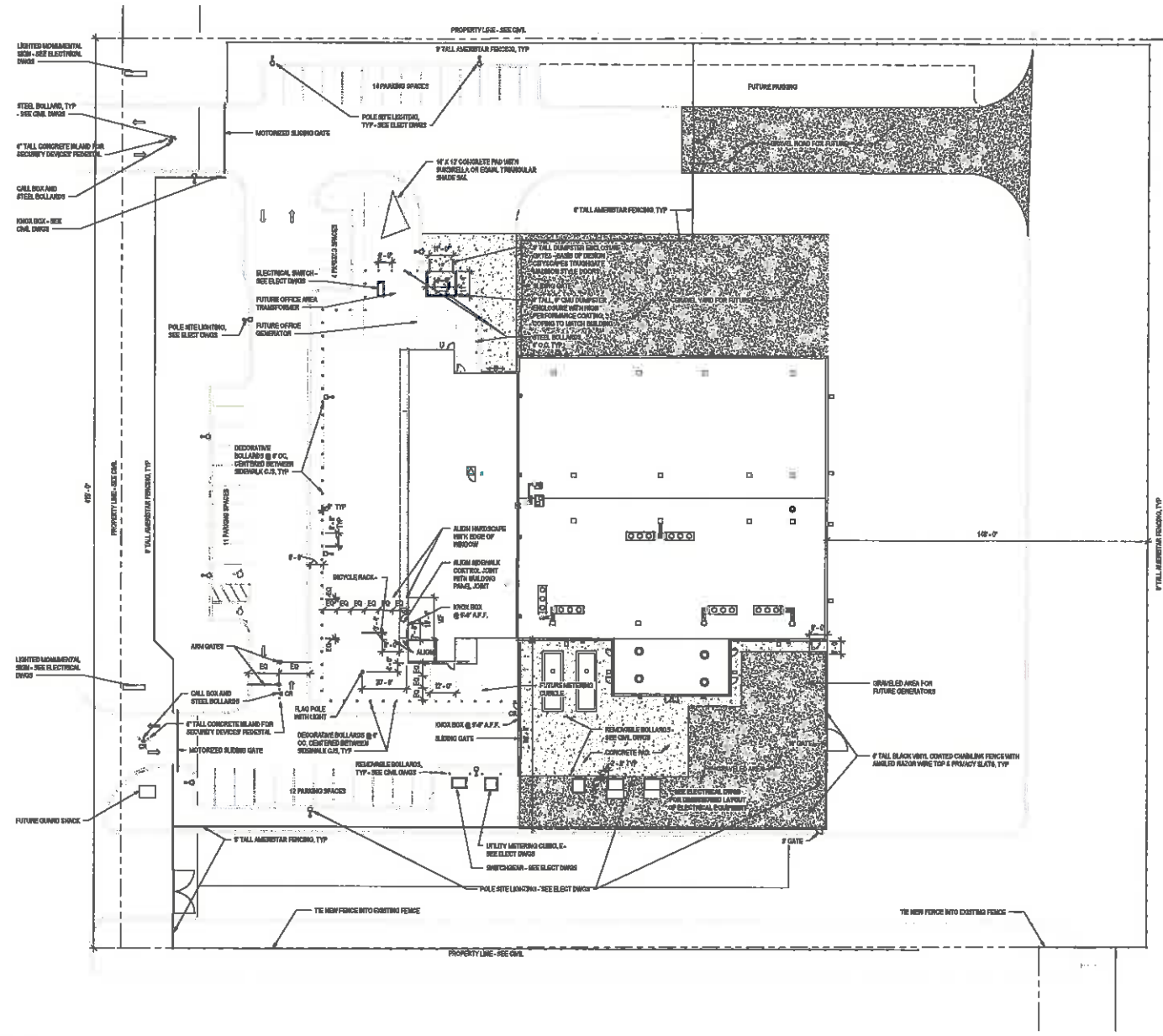


600 4TH AVENUE SOUTH  
BIRMINGHAM, AL 35233

PROJECT NO. 20-18004  
DATE 13 NOV 2018

SHEET TITLE  
SITE PLAN

SHEET NO. **A2**



11/12/2018 4:38:42 PM

1 SITE PLAN  
A2 1" = 20'-0"

**ZBA2018-00063**



Five Points South

ZBA2018-00078

Request: Special Exception and Variance  
Applicant: Brian Wolfe  
Owner: Canton Properties Inc  
Site Address: 10 14<sup>th</sup> St S  
Zip Code: 35233  
Description: Special exception to allow the use of a communal living facility (70 CLF units) pursuant to Title 2, Chapter 9, Article V, Section 3 and a variance to allow a communal living facility approximately 750 FT from an existing communal living facility pursuant to Title 1, Chapter 9, Article VI, Section 5  
Property Zoned: M1 Light Industrial District  
Parcel Information: Parcel #012200363041001000, SW ¼ of Section 36, Township 17 S, Range 3 W

**Special Exception & Variance**

The applicant is requesting a special exception to allow a communal living facility and a variance to allow a CLF to be located within 1,000 FT of another existing CLF for a proposed development at 10 14<sup>th</sup> St S. The proposed project is a student housing facility with a mixed use component.

**Neighborhood**

The applicant attended the Five Points South Neighborhood Association meeting on November 26<sup>th</sup>. Staff has yet to receive any feedback from the neighborhood.

**Applicant's Justification**

The applicant stated that this development is needed to support UAB's growing student population. The applicant also stated that UAB is leaning on the private sector to fill the gap in student housing.

**Staff Recommendation**

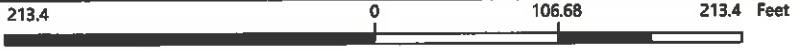
Staff believes that the applicant has provided sufficient evidence to support the requests. Therefore, staff believes this request does have merit for approval and as such, should be **GRANTED** subject to the following conditions:

1. Review by the appropriate zoning inspector to insure compliance with the Board's decision.
2. Applicant must obtain all permits associated with the approval of this request within two years from the date of approval.



### Legend

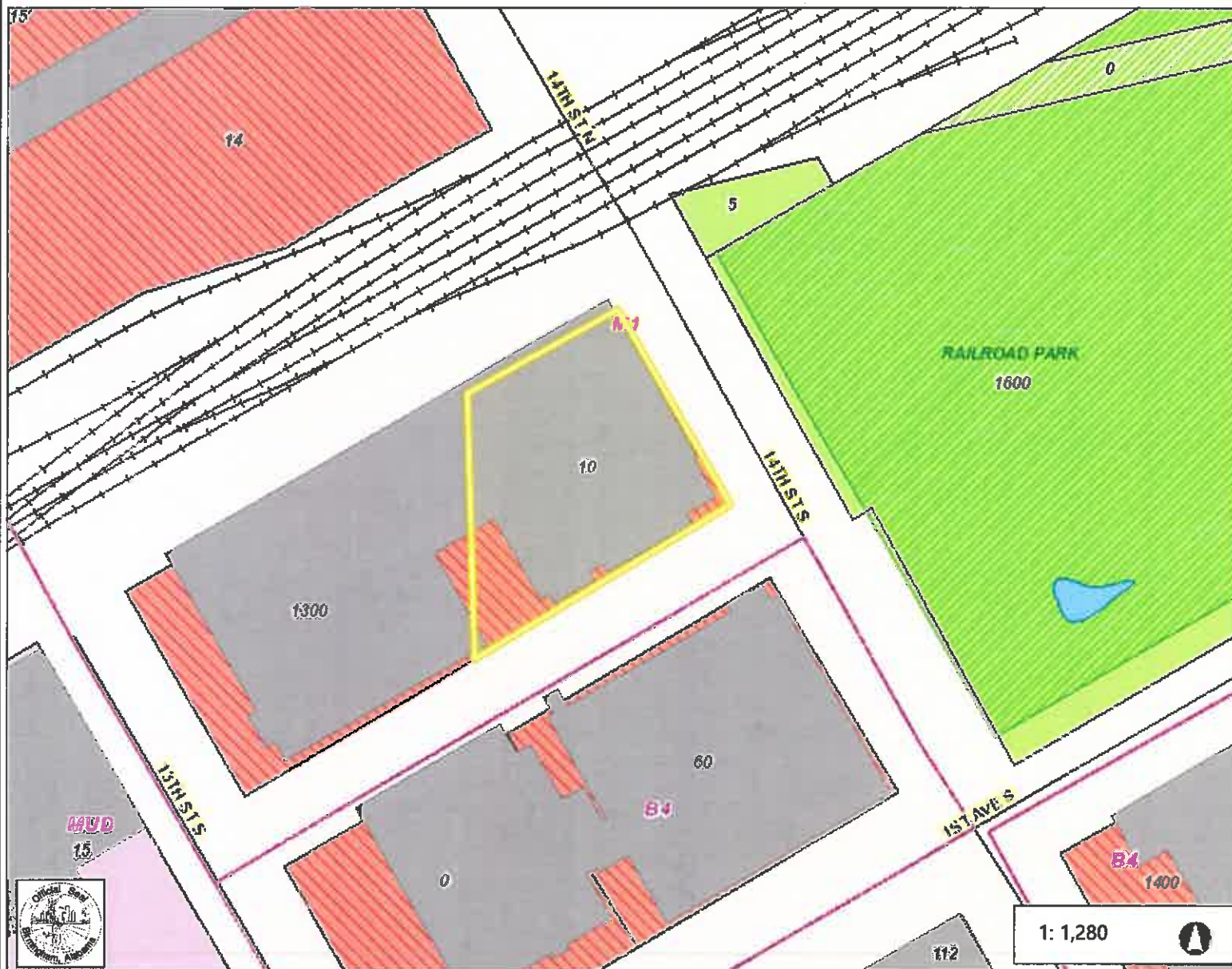
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1: 1,280

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### Notes



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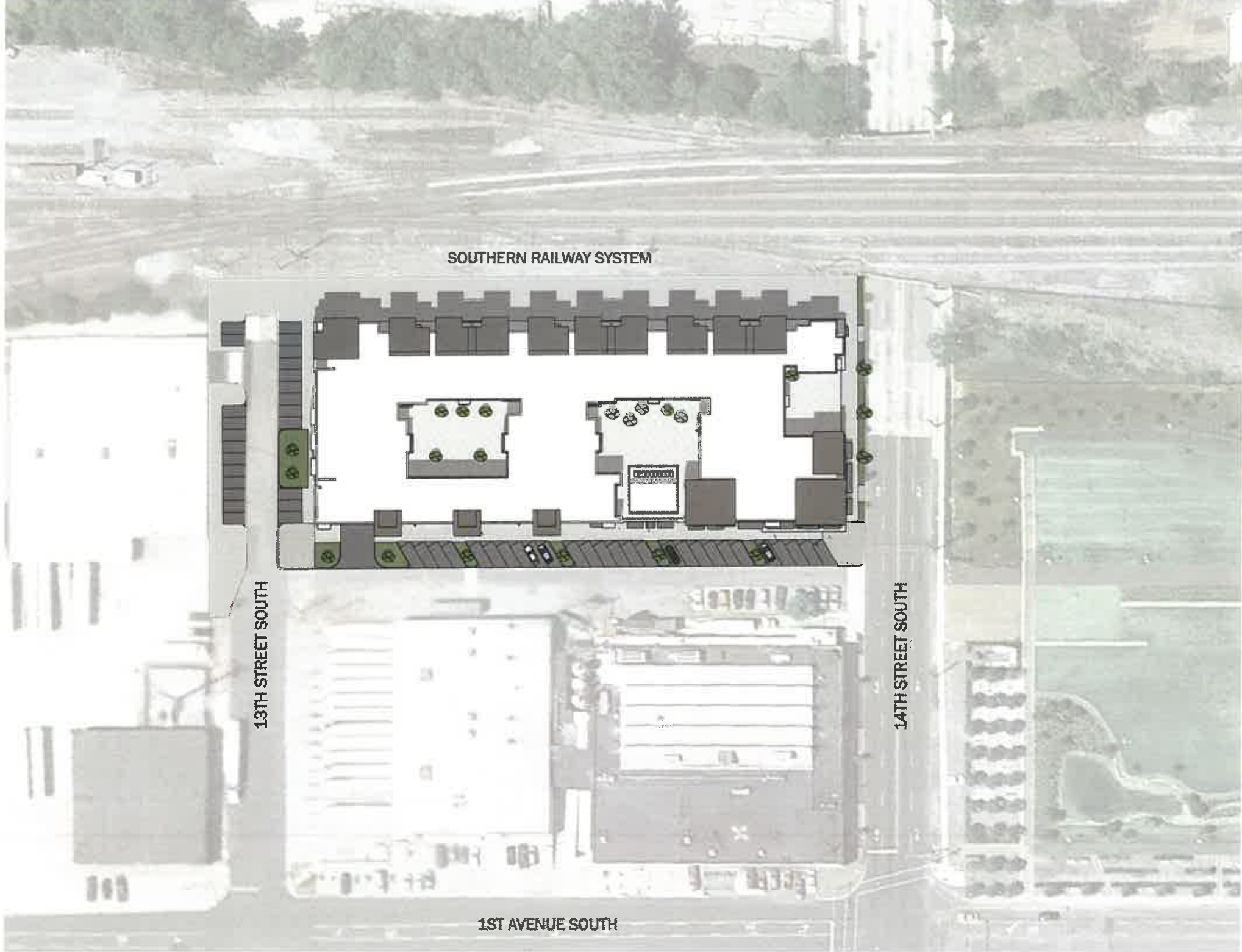
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  - General Commercial
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  - MXU-Medium

Notes

213.4 0 106.68 213.4 Feet

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SOUTHERN RAILWAY SYSTEM

13TH STREET SOUTH

14TH STREET SOUTH

1ST AVENUE SOUTH

**PROJECT DATA**

PROPOSED REZONING:	M (LIGHT INDUSTRIAL) TO MLD (MIXED-USE DOWNTOWN)
ADDRESS:	10 14TH ST S BIRMINGHAM, ALABAMA 35233-1413
LEGAL DESCRIPTION:	ALL OF BLOCK 111, ACCORDING TO THE ELYTON LAND COMPANY'S SURVEY OF THE CITY OF BIRMINGHAM, LESS AND EXCEPT THE SOUTH 196.5 FEET OF SAID BLOCK HERETOFORE CONVERTED TO LIVING REALTY COMPANY BY DEEDS RECORDED IN VOLUME 3029, PAGE 201 AND VOLUME 3677, PAGE 485, IN THE PROBATE OFFICE OF JEFFERSON COUNTY, ALABAMA CONTAINING 81,644 SQUARE FEET OR 1.874 ACRES
BUILDING:	FIVE STORES OVER TWO STORY PODIUM, OVER A 1/2 STORY BELOW GRADE GARAGE PARKING STRUCTURE APPROX. 378,300 SF
HEIGHT:	85 FEET
BETACKS:	0 FEET ON ALL 4 SIDES
PARKING:	<ul style="list-style-type: none"> <li>* 342 SPACES PROVIDED IN GARAGE WITH CONTROLLED ACCESS FOR APARTMENTS &amp; VISITORS</li> <li>* 38 SURFACE PARKING SPACES PROVIDED</li> <li>* 381 TOTAL SPACES PROVIDED</li> </ul>



architecture | interiors | planning | graphics  
6070 Park Lane, Ste. 300 | Dallas, Texas 75221  
Tel 972.701.9000 | Fax 972.991.3009  
www.bokapowell.com

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Arch: Donald R. Powell, Jr. Reg. No.: 4281

co-owner/developer  
CORPORATE REALTY  
60 14TH STREET SOUTH  
SUITE 104  
BIRMINGHAM, AL 35233

co-owner/developer  
PARALLEL CO, LLC  
201 WEST 5TH STREET  
SUITE 1100  
AUSTIN, TEXAS 78701

civil  
WALTER SCHOLZ ENGINEERING CO.  
1001 22ND STREET SOUTH  
BIRMINGHAM, ALABAMA 35205

landscape architect  
NATIONALLY LAND DESIGN  
4000 3RD AVENUE SOUTH  
SUITE 101  
BIRMINGHAM, AL 35222

structural engineer  
RLG CONSULTING ENGINEERS  
12001 NORTH CENTRAL EXPRESSWAY  
SUITE 300  
DALLAS, TX 75243

map engineer  
SCHMIDT & STACY  
400 CITY PLACE  
2711 NORTH HASKELL AVE, LB 28  
DALLAS, TEXAS 75220

interior designer  
SIXTH RIVER  
1601 S. MIDPAC EXPRESSWAY  
BARTON SKYWAY TWO, SUITE 100-D  
AUSTIN, TX 78746

project  
BAKERS ROW STUDENT HOUSING  
10 14TH ST S  
BIRMINGHAM, AL 35233-1413

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ZONING APPLICATION 10.28.2018

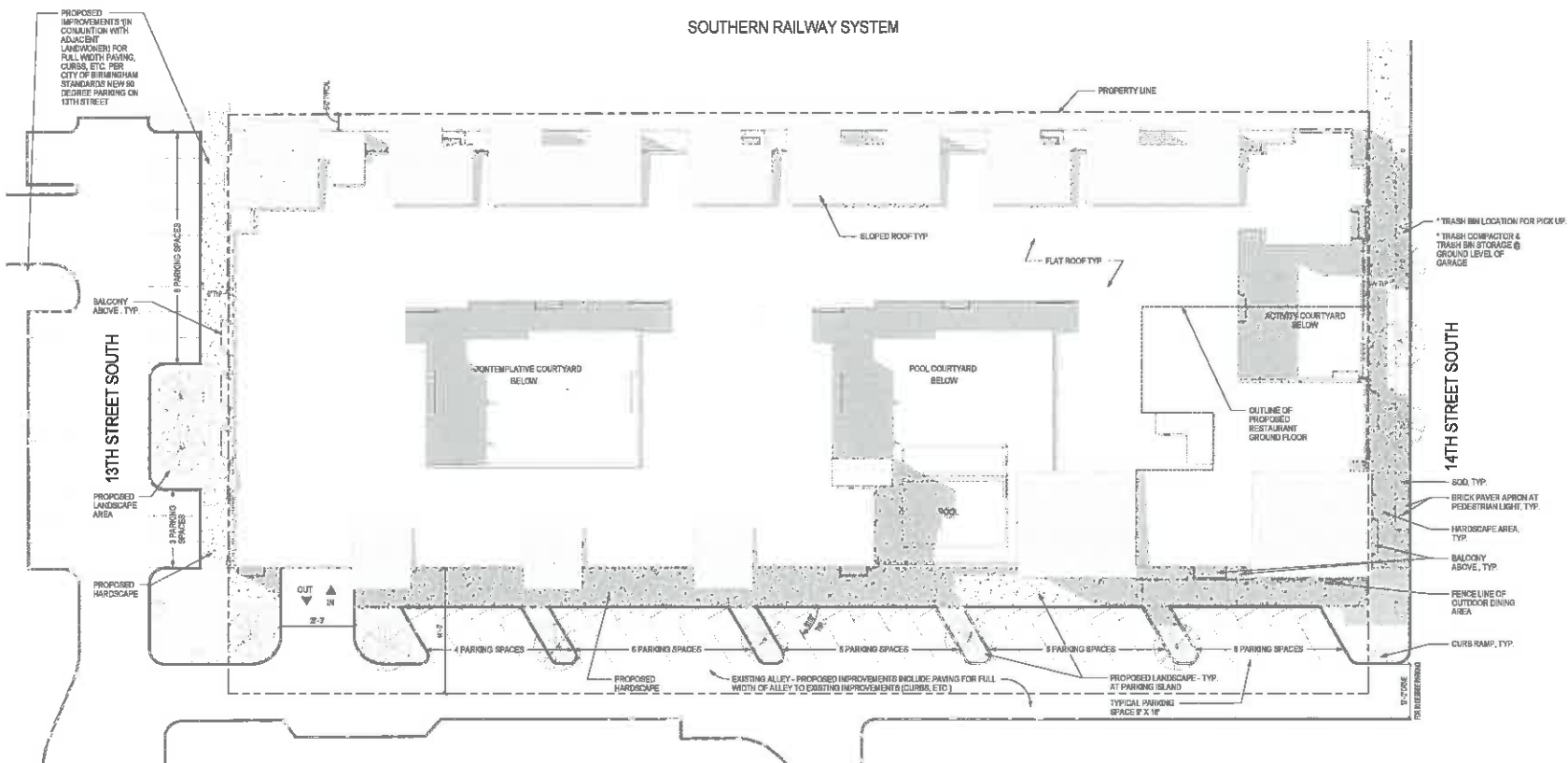
ref: none

**ZONING SITE PLAN**

project number 18072.100  
date 10.28.2018

sheet  
**Z1.00**

**SOUTHERN RAILWAY SYSTEM**



01 ZONING SITE PLAN  
SCALE 1/16" = 1'-0"



SOUTHWEST AERIAL



PERSPECTIVE 1

Crestwood South

ZBA2018-00079

Request: Special Exception  
Applicant: Stan Huner  
Owner: Dobbins Estate LLC  
Site Address: 7040 Crestwood Blvd  
Zip Code: 35213  
Description: Special exception to allow the resumption of legal non-conforming use (restaurant) pursuant to Title 1, Chapter 9, Article V, Section 4  
Property Zoned: CB2-R2 (split zoned)  
Parcel Information: Parcel #012300271002001000, NE ¼ of Section 27, Township 17 S, Range 2 W

**Special Exception**

The subject location of 7040 Crestwood Blvd is a split zoned property with half of the parcel and building being zoned CB2 and the other half R2. The applicant is requesting a special exception to allow the resumption of a legal non-conforming restaurant use for the portion of the site zoned R2. The same request was granted in 2016, but the condition requiring all permits to be acquired within 2 years was not met.

**Neighborhood**

The Crestwood South Neighborhood Association President called staff to say that the neighborhood supports this request and the applicant does not need to attend one their meetings.

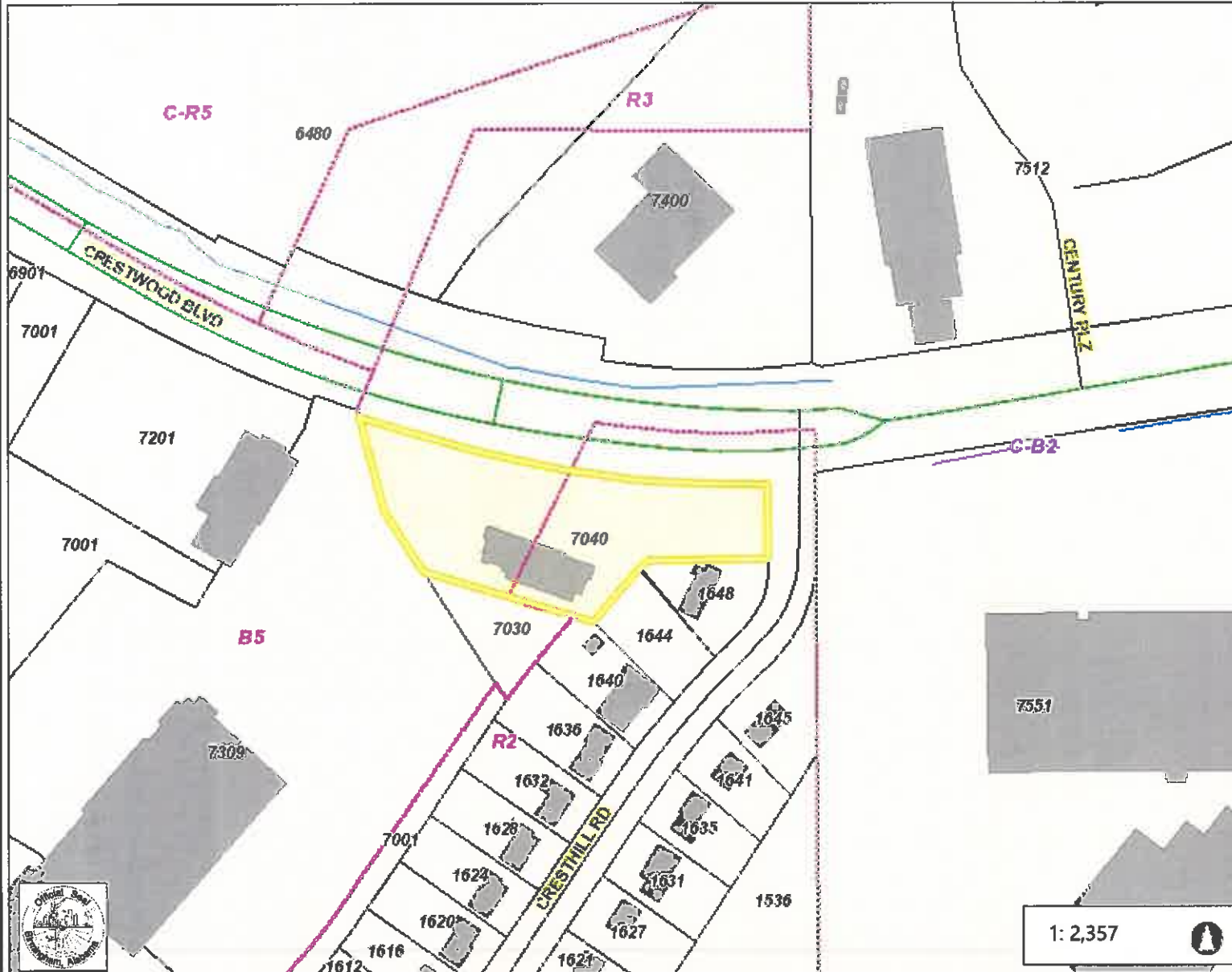
**Applicant's Justification**

The applicant stated that the property was not converted or conformed to its current zoning classification requirements. The applicant also stated that this request would not impair the health, safety, convenience or comfort of the public.

**Staff Recommendation**

Staff feels that the applicant has met the conditions required for this special exception for a resumption of a legal non-conforming use and as such this request should be **GRANTED** subject to the following conditions:

1. Review by the appropriate zoning inspector to insure compliance with the Board's decision.
2. Applicant must obtain all permits associated with the approval of this request within two years from the date of approval.



Legend

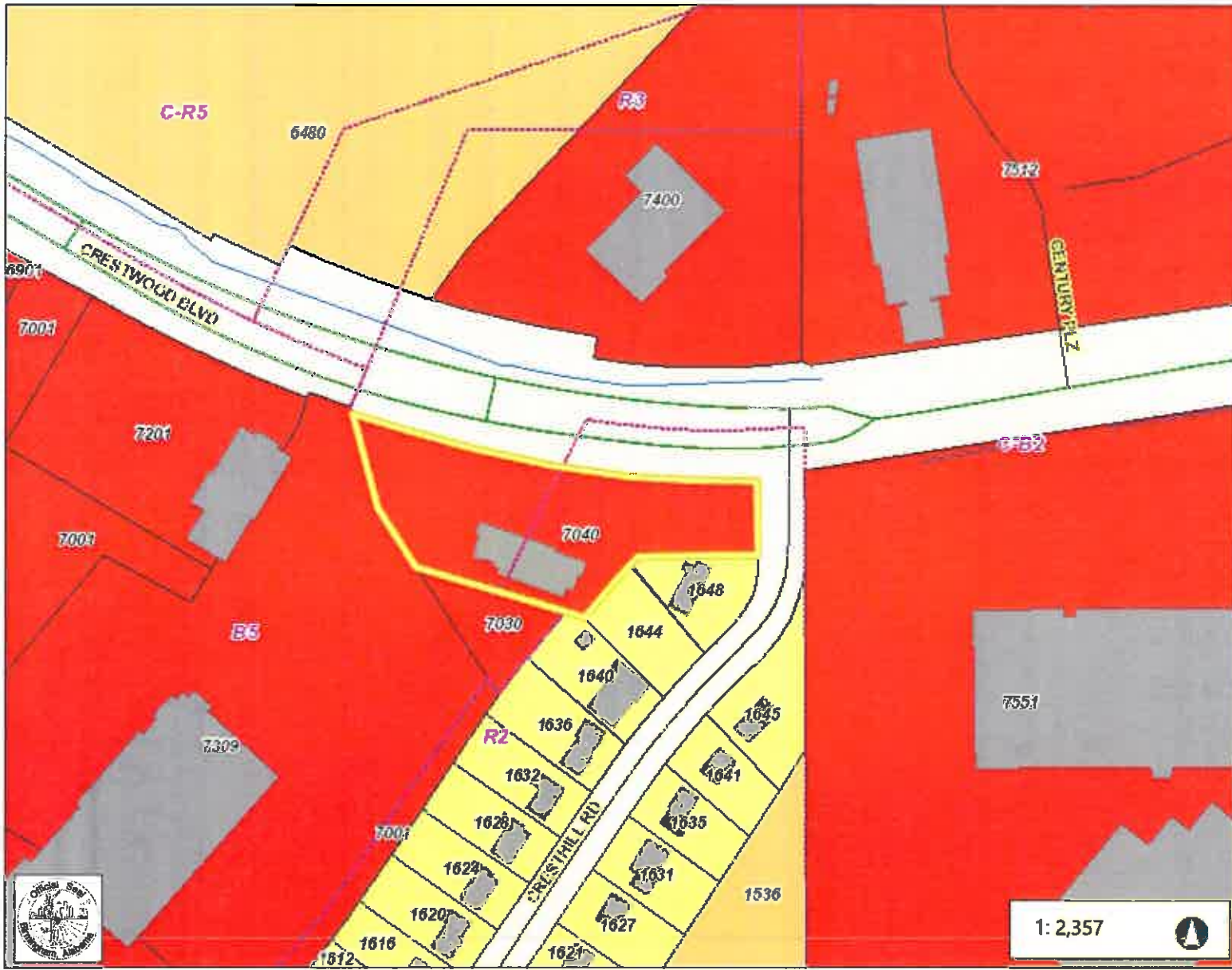
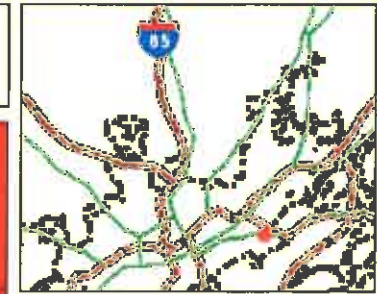
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1: 2,357



392.8 0 196.42 392.8 Feet

Notes



**Legend**

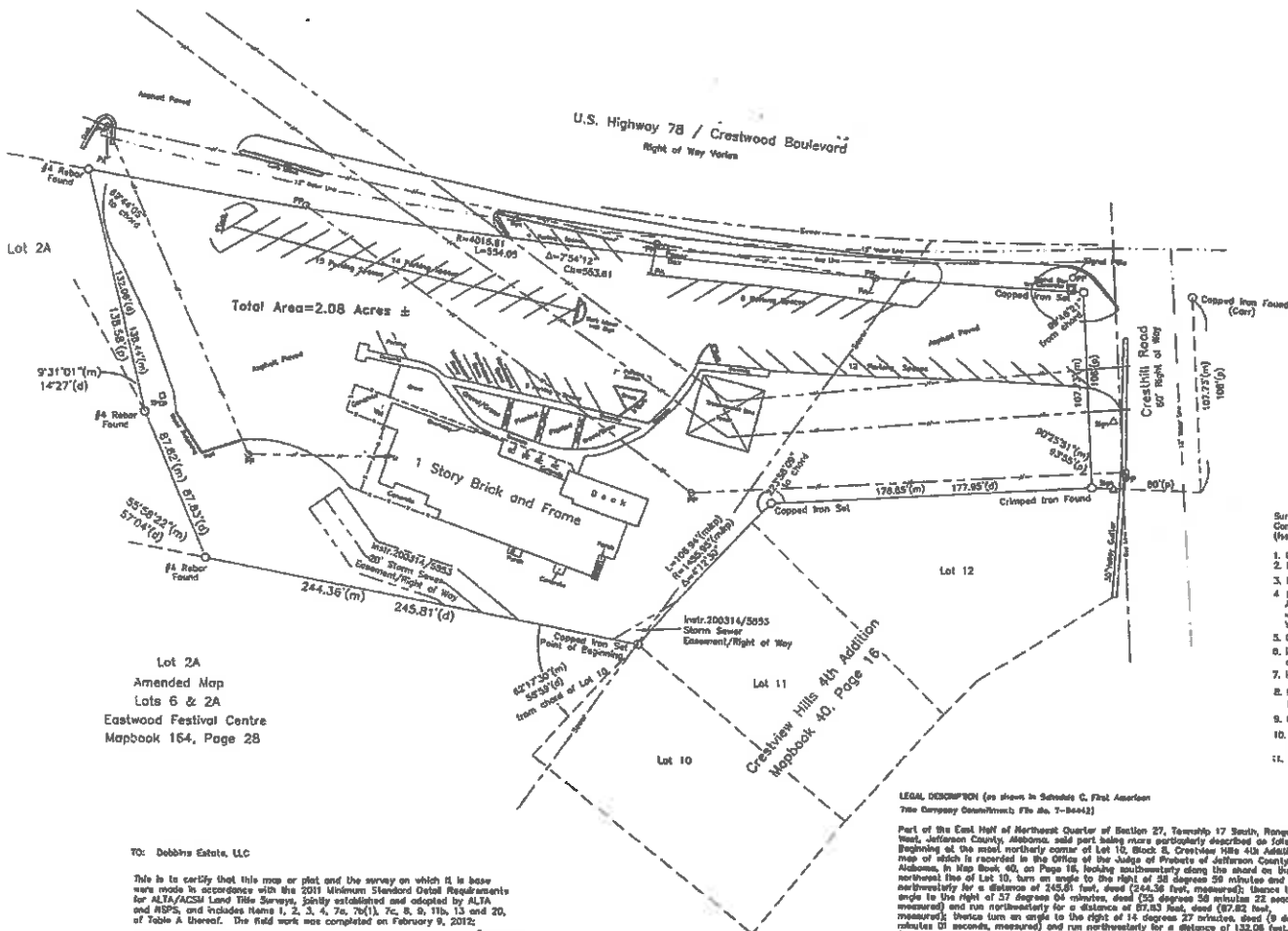
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1: 2,357



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Notes



**LEGEND**

- 1/2" POWER POLE
- 1/2" FIRE HYDRANT
- 1/2" 4" WATER METER
- 1/2" 6" WATER METER
- 1/2" 8" WATER METER
- 1/2" 10" WATER METER
- 1/2" 12" WATER METER
- 1/2" 14" WATER METER
- 1/2" 16" WATER METER
- 1/2" 18" WATER METER
- 1/2" 20" WATER METER
- 1/2" 22" WATER METER
- 1/2" 24" WATER METER
- 1/2" 26" WATER METER
- 1/2" 28" WATER METER
- 1/2" 30" WATER METER
- 1/2" 32" WATER METER
- 1/2" 34" WATER METER
- 1/2" 36" WATER METER
- 1/2" 38" WATER METER
- 1/2" 40" WATER METER
- 1/2" 42" WATER METER
- 1/2" 44" WATER METER
- 1/2" 46" WATER METER
- 1/2" 48" WATER METER
- 1/2" 50" WATER METER
- 1/2" 52" WATER METER
- 1/2" 54" WATER METER
- 1/2" 56" WATER METER
- 1/2" 58" WATER METER
- 1/2" 60" WATER METER
- 1/2" 62" WATER METER
- 1/2" 64" WATER METER
- 1/2" 66" WATER METER
- 1/2" 68" WATER METER
- 1/2" 70" WATER METER
- 1/2" 72" WATER METER
- 1/2" 74" WATER METER
- 1/2" 76" WATER METER
- 1/2" 78" WATER METER
- 1/2" 80" WATER METER
- 1/2" 82" WATER METER
- 1/2" 84" WATER METER
- 1/2" 86" WATER METER
- 1/2" 88" WATER METER
- 1/2" 90" WATER METER
- 1/2" 92" WATER METER
- 1/2" 94" WATER METER
- 1/2" 96" WATER METER
- 1/2" 98" WATER METER
- 1/2" 100" WATER METER

**NOTES:**

1. Date of Field Work: August, 2014;
2. All utilities visible on the surface have been shown however underground utilities shown are taken from available utility company drawings; other underground utilities may exist, and their location should be verified prior to excavation;
3. All evidence of easements and/or rights of way have been shown hereon;
4. Property is located in Zone X, defined as outside of 500-year floodplain, per Flood Insurance Rate Map 01075C04130, Panel 413 of 735, dated 9/29/2006;
5. Specified parking spaces are shown on the survey;
6. Total Area of Survey = 2.08 Acres, more or less;

Surveyor's Comments on Exception to Title as listed in Schedule B - Part 2 of Commitment for Title Insurance provided by First American Title Insurance Company (Issuing Office File No: T-94442) effective at 6:00 AM on July 8, 2014;

1. Item 1, 2, 3, 5, 6 and 7, cannot be addressed by a surveyor;
2. Item 4 refers to this survey;
3. Item 8, Real 540, Page 421 cannot be plotted;
4. Item 9, Real 1032, Page 523, and Real 1072, Page 664, apply to site and give Alabama Power Co. the right to install, maintain and construct canals and guy wires on a portion of the site; cannot be accurately plotted on survey; Volume 8308, Page 383, does not apply to site;
5. Item 10 is addressed by the survey owner;
6. Item 11 is an agreement for the 40 acre quarter-quarter containing the site, and cannot be plotted on the survey;
7. Item 12: Volume 4723, Page 420, cannot be plotted;
8. Item 13: the Gulch Property to not defined in Real 1172, Page 29, and cannot be plotted; Documentation describing the Gulch Property was not provided to surveyor;
9. Item 14: storm sewer easements/rights of way are shown on survey;
10. Item 15: the Alabama Power Company easement is not defined in Real 1172, Page 29, and cannot be plotted;
11. Item 16 cannot be addressed by a surveyor;

**LEGAL DESCRIPTION** (as shown in Schedule C, First American Title Company Commitment File No. T-94442)

Part of the East Half of Northeast Quarter of Section 27, Township 17 South, Range 2 West, Jefferson County, Alabama, said part being more particularly described as follows: Beginning at the most northerly corner of Lot 10, Block 8, Crestview Hills 4th Addition, a map of which is recorded in the Office of the Judge of Probate of Jefferson County, Alabama, in Map Book 40, on Page 16, looking southeasterly along the abut on the northerly line of Lot 10, turn an angle to the right of 28 degrees 50 minutes and run northeasterly for a distance of 245.01 feet, deed (244.56 feet measured); thence turn an angle to the right of 27 degrees 04 minutes, deed (250 degrees 38 minutes 22 seconds, measured) and run northeasterly for a distance of 87.83 feet, deed (87.82 feet, measured); thence turn an angle to the right of 14 degrees 27 minutes, deed (9 degrees 31 minutes 01 seconds, measured) and run northeasterly for a distance of 132.08 feet, deed (132.44 feet, measured), more or less, to a point on the south line of the right of way of U.S. Highway 78; thence right and easterly along said south right of way line to the north line of Lot 12, in said Block 8; thence west for 177.95 feet, deed (178.25 feet, measured) along the north line of said Lot 12; thence south along the northerly line of Lots 12 and 11, in said Block 8, to the Point of Beginning.

Less and Except that portion known as Gulch Property as referenced in that deed recorded in Real Volume 1172, Page 29;

Lot 2A  
Amended Map  
Lots 6 & 2A  
Eastwood Festival Centre  
Mapbook 164, Page 28

TO: Debbins Estate, LLC

This is to certify that this map or plat and the survey on which it is base were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 7a, 7b(1), 7c, 8, 9, 11b, 13 and 20, of Table A thereof. The field work was completed on February 9, 2014.

I hereby state that all parts of this survey and drawing have been completed in accordance with the Standards of Practice for Land Surveyors of the State of Alabama to the best of my knowledge, information, and belief.

Date 8-19-14

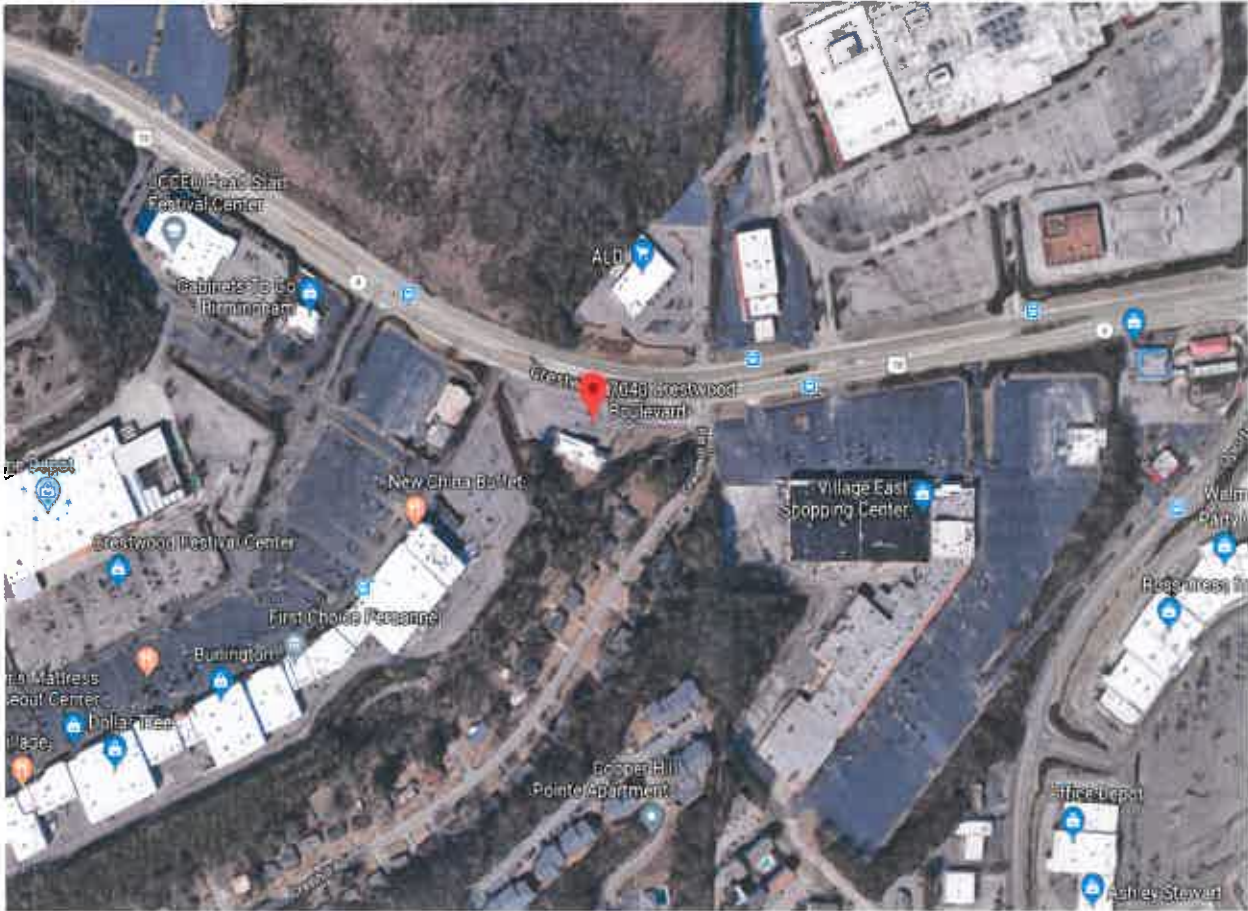
*[Signature]*  
Rowland Jenkins, Ala. PLS No. 18399



**ALTA/ACSM LAND TITLE SURVEY**  
Property Located at 7040 Crestwood Boulevard;  
Birmingham, Alabama 35213  
In a Portion of the Northeast Quarter of  
Section 27, Township 17 South, Range 2 West,  
Jefferson County, Alabama  
Scale: 1 inch = 30 Feet August 2014  
SURVEYING-GEOLOGY  
3430 INDEPENDENCE DRIVE, SUITE 30  
BIRMINGHAM, ALABAMA 35209  
(205) 870-3390



**ZBA2018-000**





Via Email - [Kassandra.Brundidge@birminghamal.gov](mailto:Kassandra.Brundidge@birminghamal.gov)

November 13, 2018

Kassandra Brundidge, J.D.  
ZBA Planner  
City of Birmingham  
Room 210, City Hall  
710 N 20<sup>th</sup> Street  
Birmingham, AL 35203

**RE: Resumption of legal non-conforming use - 7040 Crestwood Boulevard, Birmingham, AL 35210**

Dear Ms. Brundidge:

As the managing agent and applicant for Grants Mill Shopping Center, LP & Goldwynn Grants Mill, LLC the owner of 7040 Crestwood Boulevard, Birmingham, AL 35210, please accept this letter as the request for the resumption of legal non-conforming use back to allow for a commercial restaurant. At no time did the owner intend for the non-conforming use zoning to be changed. We ask that the Board grant a special exception to reestablish legal nonconforming use. We confirm that the use of the subject property has not converted or conformed to its current zoning classification requirements.

We further believe the will not tend to impair the health, safety, convenience or comfort of the public, including that portion of the public occupying the property. The building and property were used as a restaurant for many years without any know incidents or disruption to the surrounding area and see no reason why it should not be reinstated to be a restaurant once again.

If you need anything further to proceed with this effort, please do not hesitate to ask. You can contact me at [shuner@southeastcommercial.net](mailto:shuner@southeastcommercial.net) if you have any questions.

Thank you,

A handwritten signature in black ink, appearing to read 'Stan Huner', is written over a horizontal line.

Stan Huner, CPM<sup>®</sup>, CCIM<sup>®</sup>  
Managing Agent for Grants Mill Shopping Center, LP & Goldwynn Grants Mill, LLC

714 29<sup>th</sup> Street South • Birmingham, AL 35233  
205.623.0055  
[www.southeastcommercial.net](http://www.southeastcommercial.net)

Crestline

ZBA2018-00082

Request: Variance  
Applicant: Dean Robinson  
Owner: Spencer Mobley  
Site Address: 1002 Sims Ave  
Zip Code: 35213  
Description: Variance to allow an accessory structure in a yard other than the required rear yard pursuant to Title 1, Chapter 3, Article 1, Section 6.A; Variance to allow a structure to be built with a 20 Ft front yard setback instead of the required 25 FT pursuant to Title 2, Chapter 1, Section 4, Subsection 3  
Property Zoned: R3 Single Family  
Parcel Information: Parcel #012300342010009000, NW ¼ of Section 34, Township 17 S, Range 2 W

**Variance**

The applicant is requesting the variances to allow the construction of a detached garage beside a single family home located at 1002 Sims Ave.

**Neighborhood**

The Crestline Neighborhood Association has not responded to date.

**Applicant's Justification**

The applicant stated that the lot is a corner lot and the house is built at an angle. The applicant stated that what is the backyard is defined as a front yard by the Zoning Ordinance.

**Staff Recommendation**

Staff does not feel that the applicant provided evidence that meets the variance standards of review demonstrating a hardship and as such this request should be **DENIED**. If the Board chooses to grant this request it should be subject to the following conditions:

1. Review by the appropriate zoning inspector to insure compliance with the Board's decision.
2. Applicant must obtain all permits associated with the approval of this request within two years from the date of approval.



**Legend**

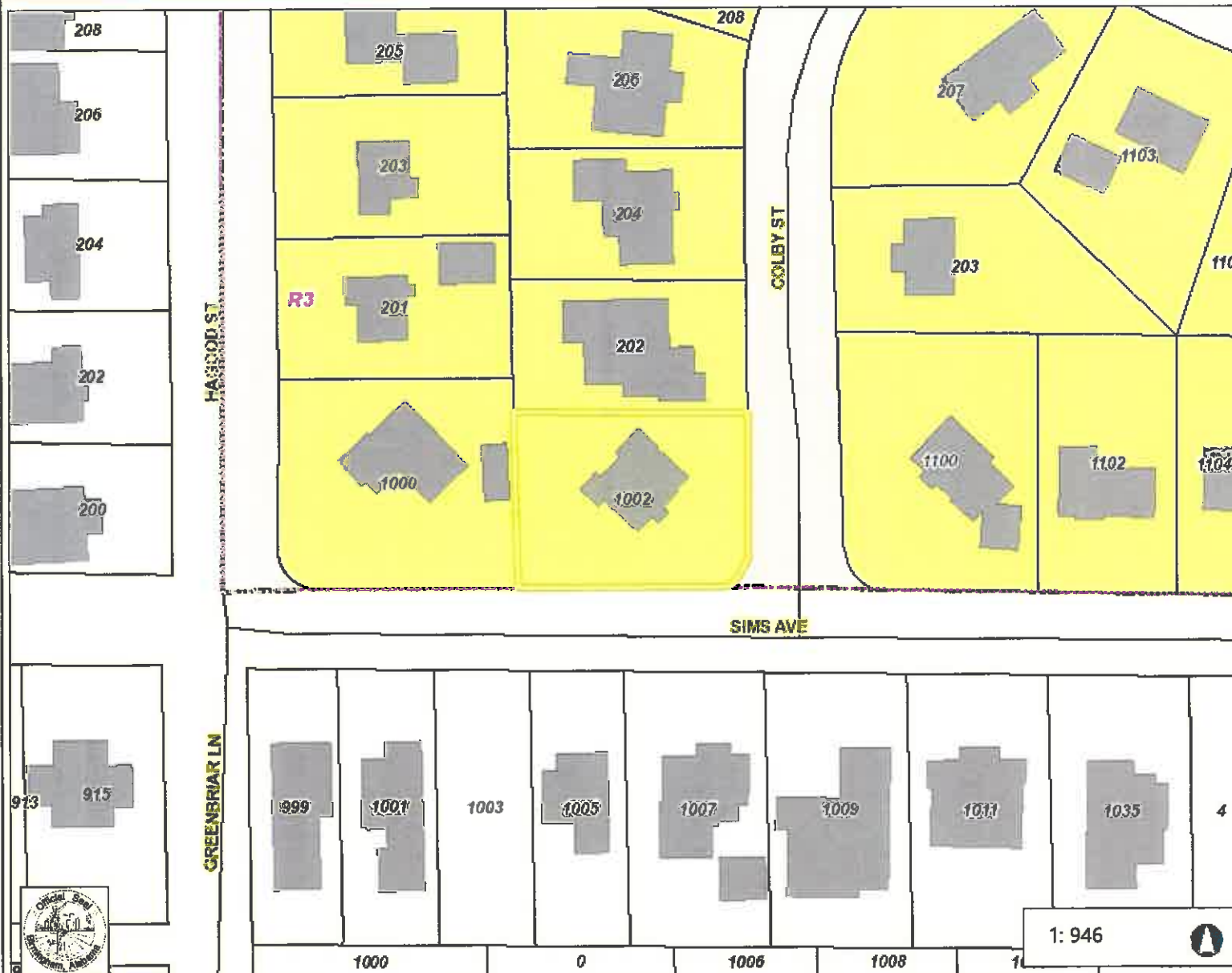
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- Parcels
- City Parks
- Airport
- City Limits (solid)

1: 946



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**Notes**



**Legend**

- Centerline Labels
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- Railroad
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- Arterials
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- State Highways
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- Interstates
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  - Residential-Low
  - Residential-Medium
  - Residential-High
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  - General Commercial
  - MXU-Low
  - MXU-Medium

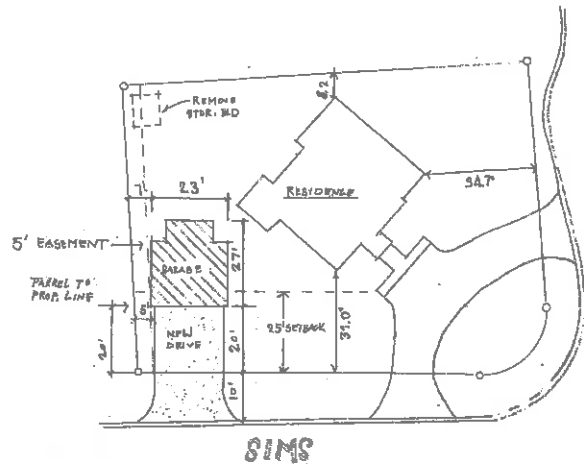


1: 946

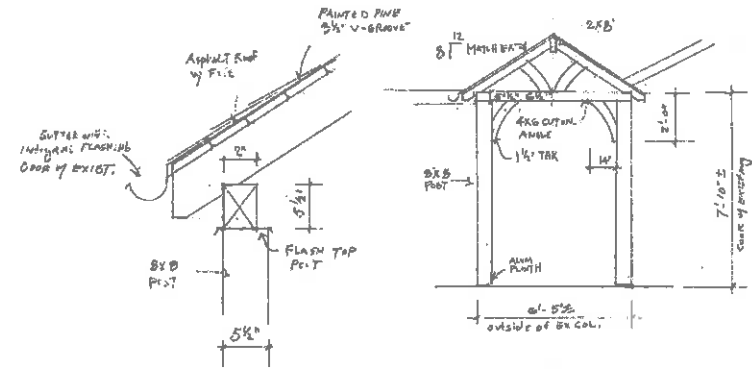


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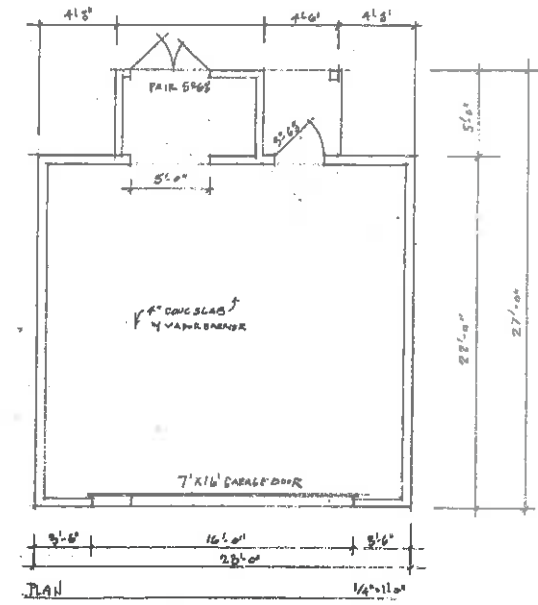


SITE PLAN  
1:20

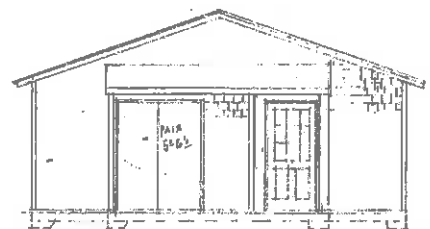


SECTION  
1/8\"/>

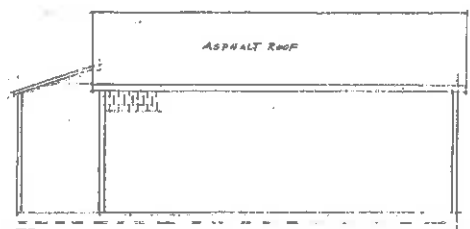
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3/8\"/>



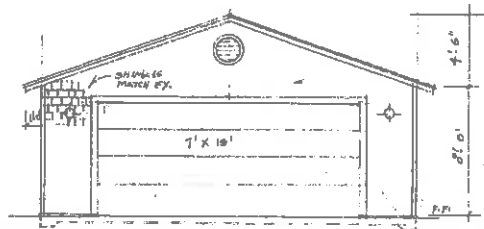
PLAN  
1/4\"/>



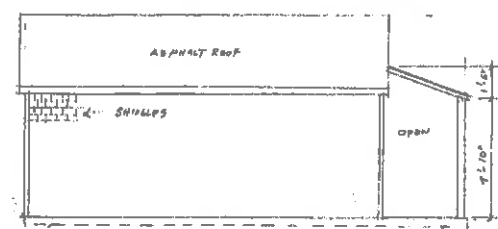
ELEVATION - REAR  
1/4\"/>



ELEVATION - LEFT SIDE  
1/4\"/>



ELEVATION - SIMS  
1/4\"/>



ELEVATION - RIGHT SIDE  
1/4\"/>

Robinson Architects  
4932 Alton Road Birmingham, AL  
205.229.0877 - [dsosack@robinsonak.net](mailto:dsosack@robinsonak.net)

THE GARAGE ADDITION AND RENOVATIONS  
FOR  
SHERAL PARIS

BIRMINGHAM

ALC 2014 350/3

SHEET

1

**ZBA2018-00082**



Central Park

ZBA2018-00083

Request: Variance  
Applicant: Randall Minor  
Owner: City of Birmingham  
Site Address: 4825 Avenue W  
Zip Code: 35208  
Description: Variance to allow a 127 FT front setback instead of the 15 FT maximum allowed in a MUH district pursuant to Title 1, Chapter 3, Article I, Section 5.C; Variance to allow a building to have the front building façade extend approximately 36 percent of the lot width instead of the required 75 percent pursuant to Title 1, Chapter 3, Article I, Section 3.B; Variance to allow parking in front of the building instead of the side or rear only in a mixed use district pursuant to Title 1, Chapter 3, Article I, Section 3.B.  
Property Zoned: MUH Mixed Use High  
Parcel Information: Parcel #012900054002002000, SE ¼ of Section 05, Township 18 S, Range 3 W

**Variance**

The subject location at 4825 Ave W is the proposed location of the new A.G. Gaston Boys & Girls Club. The applicant for this proposed development is requesting multiple variances for a front setback, façade width and parking in the front for a Mixed Use High zoning district.

**Neighborhood**

The Central Park Neighborhood Association President informed staff that they will not be holding their regularly scheduled meeting for January.

**Applicant's Justification**

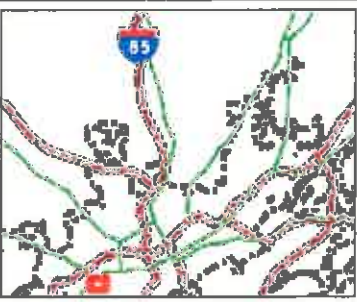
The applicant stated that the site is burdened by a combination of extraordinary and exceptional conditions, including, but not limited to, utility easements, adjacency to a railroad right of way, location partially within a flood plain and ingress/egress constraints imposed by the existing road network within the Crossplex campus, that create exceptional practical difficulties or exceptional or undue hardship in complying with the strict requirements of the Ordinance.

**Staff Recommendation**

Staff believes that the applicant has provided sufficient evidence to support the requests. Therefore, staff believes the requests have merit for approval and as such, should be **GRANTED** subject to the following conditions:

1. Review by the appropriate zoning inspector to insure compliance with the Board's decision.
2. Applicant must obtain all permits associated with the approval of this request within two years from the date of approval.





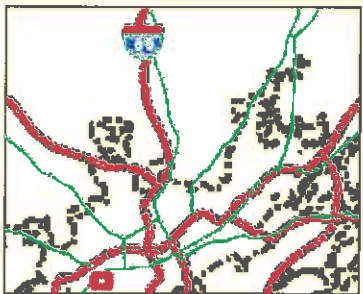
**Legend**

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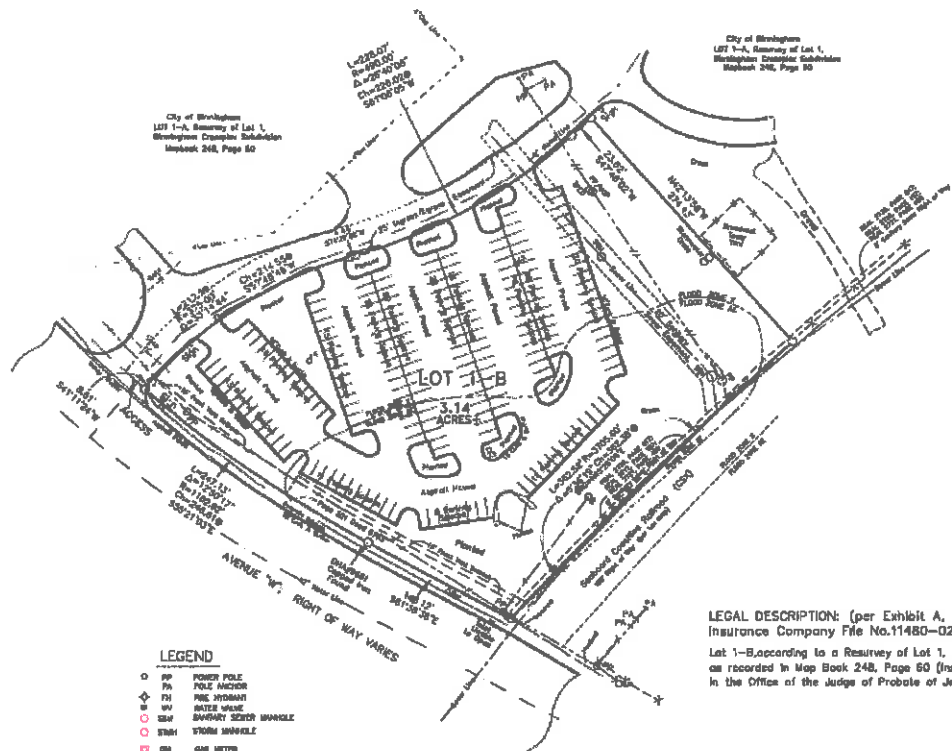


DATE: DECEMBER 21, 2018  
 SCALE: 1" = 100'

g:/18/169/Civil/Exhibit/18169\_LOMR Exhibit\_wSite

SCHIDEL  
 Civil  
 Surveying  
 Environmental  
 Water Resources  
 Laser Scanning + Model 3D  
 1001 22nd Street South  
 Birmingham, Alabama 35205  
 205.323.6166

PROPOSED SITE PLAN  
 A.G. GASTON BOYS & GIRLS CLUB  
 CROSSPLEX CAMPUS  
 BIRMINGHAM, ALABAMA



City of Birmingham  
 LOT 1-B, Survey of Lot 1,  
 Birmingham Crossplex Subdivision  
 Mapbook 248, Page 80

City of Birmingham  
 LOT 1-B, Survey of Lot 1,  
 Birmingham Crossplex Subdivision  
 Mapbook 248, Page 80

- LEGEND**
- PP POWER POLE
  - △ FH FIRE HYDRANT
  - WV WATER VALVE
  - SWM SWAYWAY SEWER MANHOLE
  - STMH STORM MANHOLE
  - GW GAS METER
  - MV GAS VALVE
  - //— POWER LINE
  - F— FENCE
  - LF LIGHT STAND
  - CO CEMENT
  - GR GRANITE
  - SW SWIMMING POOL
  - SM SIGN
  - VM VALVE METER
  - PB POWER BOX ON CONCRETE
  - LP LIGHT STAND
  - SWM STORM WATER MANHOLE
  - UB UTILITY BOX
  - TP TELEPHONE POLE
  - PF PAVEMENT
  - RP RAILROAD POLE
  - MM MANHOLE-TYPE UNDERMIN
  - MC HANDICAPPED PARKING SPACE
  - MB UNDESIGNATED POWER

**LEGAL DESCRIPTION:** (per Exhibit A, First American Title Insurance Company File No.11480-0231)  
 Lot 1-B, according to a Survey of Lot 1, Birmingham Crossplex Subdivision, as recorded in Map Book 248, Page 80 (Instrument Number 2018105800), in the Office of the Judge of Probate of Jefferson County, Alabama.

A.G. Gaslon Boys & Girls Club, Inc., an Alabama non-profit corporation;  
 Hope New Markets II, LLC, a Mississippi limited liability company;  
 AGGBC Great Futures, an Alabama nonprofit corporation,  
 First American Title Insurance Company,  
 Maynard, Cooper & Gale, P.C.

This is to certify that this map or plot and the survey on which it is based were made in accordance with the 2018 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 2, 3, 4, 7(a), 8, 9, 11, 12, 13, 14, 16, 17, 18, 19 and 20 of Table A hereof. The field work was completed in October, 2018. I hereby state that all parts of this survey and drawing have been completed in accordance with the Standards of Practice for Land Surveying in the State of Alabama to the best of my knowledge, information, and belief.

November 15, 2018  
 Date

Rowland Jackson, A.S. PLS No. 18309



Comments on Exception to Title as listed in Schedule B-Part B,  
 First American Title Insurance Company File # 11480-0231,  
 Commitment Date October 15, 2018:

1. Items 1, 2, 3, 4, 6, 7, 8, 9, 11, 13, 15, 16, 17, 20, 22 and 24 through 29 cannot be addressed by a surveyor.
2. Item 6 refers to this survey.
3. Item 10: Volume 4687, Page 246, describes a general agreement between the Birmingham Electric Company and the Birmingham Gas Company. It does not specify the subject property as being a part of the agreement therefore its effect cannot be determined.
4. Item 12: Real 3624, Page 371 describes property acquired as right of way by the State of Alabama. Its location or potential effect cannot be determined because the referenced right of way map (Project No. W-9802(26)) was not provided.
5. Item 14: "Intentionally Deleted";
6. Item 18: Volume 2092, Page 394 is a plat document affecting the subject property but which cannot be graphically represented on a survey drawing.
7. Item 19: Real 2712, Page 157 affects the subject property and is shown on the survey drawing.  
 Real 2721, Page 436 affects the subject property and is shown on the survey drawing.  
 Real 2739, Page 817 affects the subject property and is shown on the survey drawing.
8. Item 21: Volume 311, Page 452 describes conditions associated with the construction of a sanitary sewer within the Southeast quarter of Section 5, Township 18 South, Range 3 West, which affects the subject property. The precise location of this sewer is not specified within the document;  
 Volume 444, Page 581 describes conditions associated with the construction of a sanitary sewer within the East half of the Southeast quarter of Section 5, Township 18 South, Range 3 West, which affects the subject property. The precise location of this sewer is not specified within the document;
9. Item 23: affects the subject property, but is not plottable based on the documents provided.

**NOTES**

1. All utilities visible on the surface have been shown hereon; underground gas, water and sewer lines shown are scaled from available utility company drawings; any underground utilities location should be considered approximate and verified prior to excavation.
2. All evidence of easements and/or rights of way visible on the surface has been shown hereon; other easements, rights of way, or matters affecting title may exist.
3. Property is located in Zone X, defined as outside of 500-year floodplain, per Flood Insurance Rate Map 01073003796, Panel 551 of 755, dated 8/29/2008, except where shown on survey of portion of site in Zone AE, Special Flood Hazard Area (SFHA) subject to inundation by the 1% Annual Chance Flood (100-year flood); Note: Flood Zone limits shown on survey have been scaled from FEMA panel;
4. Date of Fieldwork: October and November, 2018
5. Parking Spaces, Lot 1 Birmingham Crossplex Subdivision  
 Regular Parking Spaces = 204;  
 Handicapped Parking Spaces = 0;
6. Total Acreage, Lot 1-B, Birmingham Crossplex Subdivision = 3.14 Acres,
7. All boundary corners for Lot 1-B are "Capped Iron Set", unless in pavement; corners in pavement are "PK Nails Set".
8. The property has physical and legal access to Avenue "W" by virtue of the 25 Foot Ingress/Egress shown on this survey, and created by the plat. It is not known if additional access may be obtained to Avenue "W".
9. Property is zoned MU-M, Mixed-Use High District, per letter from City of Birmingham Dept. of Planning, Engineering & Permits, dated October 11, 2018; Zoning requirements are a minimum lot area of 500 square feet, minimum lot width of 25 feet, a front yard maximum setback of 15 feet, and a maximum height of 60 feet; subject property is located in the Five Points West Commercial Revitalization District.
10. Revised 11/28/18 to add Access label to area of 25' Ingress/Egress easement coming off of Avenue "W" and allowing access to property;
11. Revised 12/4/18 re: certifications.

**ALTA/ACSM LAND TITLE SURVEY**  
 Lot 1-B, Birmingham Crossplex Subdivision  
 Recorded in Map Book 248, Page 80  
 Located at 4817 Avenue W, Birmingham, Alabama  
 Judge of Probate Office, Jefferson County, Alabama  
 in a Portion of  
 Section 5, Township 18 South, Range 3 West,  
 Jefferson County, Alabama;  
 Scale 1 inch = 50 Feet November, 2018

JACKSON, BUTLER & ADAMS, INC.  
 SURVEYING-GEODESY  
 2420 BROADBENT DRIVE, SUITE 302  
 BIRMINGHAM, ALABAMA 35209  
 (205) 878-3300  
 File 8-1081/18-P Drawing 1



Justification Statement / Statement of Purpose  
Variance Application by AGGBGC Great Futures

This is an application on behalf of AGGBGC Great Futures, which is the ground sub-lessee of the parcel listed in the accompanying application (the "Property"), for a variance pursuant to Article VI of Chapter 9 of Title 1 of the Zoning Ordinance (the "Ordinance") to allow a new clubhouse facility (as described in more detail below, the "Clubhouse") with a front yard setback of more than 15 feet along Avenue W, a front façade less than 75% of the width of the frontage of the Property and parking in front of the Clubhouse in a MU-H (Mixed-Use High) district located in the Five Points West community. Fee title to the Property, which forms part of the former "Alabama State Fairgrounds", is vested in the City of Birmingham (the "City").

Description of the Subject Property and Surrounding Area

The Property is an irregularly shaped, corner lot on the north side of Avenue W, directly behind the Bill Harris Arena and across Avenue W from the Birmingham Public Library's Five Points West location. It is bounded on its west by a 100' CSX right of way and a tributary to Valley Creek.

Until recently, the Property was used as an overflow parking lot for (i) Bill Harris Arena, (ii) the adjacent Birmingham CrossPlex, a multi-million dollar amateur athletics facility owned and operated by the City, and (iii) the privately owned and developed, retail shopping center and hotel development known as CrossPlex Village (collectively, the "CrossPlex Campus").

This portion of Five Points West is predominantly characterized by retail and other commercial uses, due in large part to its desirable location at the intersection of Ensley Avenue (which connects Five Points West to I-20/59 and Downtown Ensley) and Bessemer Road (a/k/a Bessemer Super Highway or Highway 11). This area is one of the highest trafficked retail corridors in the entire City and has a long history of serving as a convening point for the local and surrounding community.

For these reasons, the City has invested millions in the area to ensure its continued success as a primary retail corridor in the western portion of the City and has established comprehensive guidelines for business operations and development in this important area. In particular, development of the Property, which as noted above is owned by the City, is subject to the terms and conditions of that certain Redevelopment Agreement dated as November 30, 2018 between the City and A.G. Gaston Boys & Girls Club, Inc. (the "Redevelopment Agreement"), which among other things, establishes rigid design standards for the development of the Property that require careful consideration and coordination with the vehicular/pedestrian movements and physical infrastructure within the CrossPlex Campus and the adjacent road network.

The Proposed Development

It is proposed that a new, approximately 24,500 sf boys and girls club facility (the "Clubhouse") be constructed on the Property. As depicted on the enclosed site plan, the Clubhouse would be set back more than 15 feet from Avenue W and would be oriented in order to better align with the pedestrian and vehicular traffic flows within the CrossPlex Campus.

The final design of the proposed development is subject to Design Review.

Justification Statement / Statement of Purpose  
Variance Application by AGGBGC Great Futures

Review Standards

*To authorize in specific cases a variance from the terms of this Ordinance such as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, but where the spirit of the Ordinance shall be observed and substantial justice done. The Board shall not grant a variance without an affirmative finding of fact on each of the following standards based on evidence presented by the applicant.*

1. *Physical Characteristics of the Property. The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owner of such property upon the strict application of any regulation enacted by the ordinance codified in this Ordinance.*

**As can be seen on the accompanying survey and site plan, the Property is burdened by a combination of extraordinary and exception conditions, including, but not limited to, utility easements, adjacency to a railroad right of way, location partially within a flood plain and ingress/egress constraints imposed by the existing road network within the CrossPlex Campus, that create exceptional practical difficulties or exceptional or undue hardship in complying with the strict requirements of Section 3 of Chapter 3 of the MU-H district regulations. Moreover, consistent with national design characteristics, the Clubhouse has been designed with the safety of children at the forefront. In particular, the Clubhouse is sized and configured such that all visitors and staff are in a central gathering space (increasing collectively safety) and has been setback from Avenue W in order to minimize potential conflicts between children and vehicular traffic generated by other users of the CrossPlex Campus.**

2. *Unique Characteristics. The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area, that the granting of the application is necessary for the preservation and enjoyment of a property right, and not merely to serve as a convenience to the applicant.*

**As noted above, the Property is burdened by a unique set of conditions that are specific to the Property. As a practical matter, the Clubhouse cannot, consistent with other applicable building codes, be constructed in a manner consistent with the front setback requirements contemplated under the MU-H district regulations.**

3. *Hardship Not Self-Imposed. The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property.*

**The applicant acquired its leasehold interest in December 2018 after the Property was rezoned to MU-H.**

4. *Financial Gain Not Only Basis. Financial gain is not the sole basis for granting the variance.*

**The requested variance would facilitate the construction of a development that is more in line with the existing pedestrian and vehicular context within the CrossPlex Campus.**

Justification Statement / Statement of Purpose

Variance Application by AGGBGC Great Futures

5. *No Injury to Neighboring Property. The granting of the variance will not be injurious to other property or improvements in the area, impair an adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.*

**The proposed use is compatible with the predominant uses in this area. The height of the proposed development is consistent with the heights of existing structures that surround it. The existing condition is a parking lot, so there is no reasonable basis to conclude that the development would substantially diminish or impair property values within the area.**

6. *No Harm to Public Welfare. The granting of the variance will not be detrimental to the public welfare, increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of the City of Birmingham, and will not substantially impair the intent and purpose of this Ordinance.*

**There is no reasonable basis to believe that the granting of the variance would lead to any of the harms cited above. The proposed use is compatible with existing and planned uses on the CrossPlex Campus. The design includes adequate off-street parking accessed from an access road to Avenue W. The proposed development will comply with applicable fire and building code requirements so there is no reasonable basis to believe that it would increase the danger of fire, or imperil the public safety. Finally, the proposed development furthers the intent and purpose of the Zoning Ordinance and the Redevelopment Agreement in that the Building will be setback from Avenue W approximately to the same extent that the Bill Harris Arena is.**